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THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDING

OF

THE FIRST SESSION

OF

THE THIRTY-EIGHTH CONGRESS.

BY JOHN C. RIVES.

CITY OF WASHINGTON:
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THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

TUESDAY, DECEMBER 15, 1863.

NEW SERIES... No. 1.

THIS is the first number of THE CONGRESSIONAL GLOBE for this session—the first of the Thirty-Eighth Congress. It is stereotyped, and therefore the back numbers can be supplied at any time. Missing numbers, containing sixteen pages, will be sent to subscribers at three cents a number.

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THIRTY-EIGHTH CONGRESS. FIRST SESSION.

IN SENATE.

MONDAY, December 7, 1863.

This being the day prescribed by the Constitution of the United States for the meeting of Congress, the Senators assembled in the Senate Chamber at twelve o'clock, meridian.

SENATORS PRESENT.

The following Senators were present. From the State of

Maine—Hon. Lot M. Morrill and Hon. William Pitt Fessenden.

New Hampshire—Hon. Daniel Clark and Hon. John P. Hale.

Vermont—Hon. Solomon Foot and Hon. Jacob Collamer.

Massachusetts—Hon. Henry Wilson and Hon. Charles Sumner.

Rhode Island—Hon. Henry B. Anthony and Hon. William Sprague.

Connecticut—Hon. James Dixon and Hon. Lafayette S. Foster.

New York—Hon. Ira Harris and Hon. Edwin D. Morgan.

New Jersey—Hon. John C. Ten Eyck.

Pennsylvania—Hon. Edgar Cowan and Hon. Charles R. Buckalew.

Delaware—Hon. James A. Bayard and Hon. Willard Saulsbury.

Maryland—Hon. Reverdy Johnson and Hon. Thomas H. Hicks.

Virginia—Hon. John S. Carlile and Hon. Lemuel J. Bowden.

Kentucky—Hon. Lazarus W. Powell and Hon. Garrett Davis.

Ohio—Hon. John Sherman and Hon. Benjamin F. Wade.

Indiana—Hon. Henry S. Lane and Hon. Thomas A. Hendricks.

Illinois—Hon. Lyman Trumbull.

Michigan—Hon. Zachariah Chandler.

Iowa—Hon. James Harlan and Hon. James W. Grimes.

Wisconsin—Hon. James R. Doolittle and Hon. Timothy O. Howe.

California—Hon. James A. McDougall.

Minnesota—Hon. Morton S. Wilkinson and Hon. Alexander Ramsey.

Kansas—Hon. Samuel C. Pomeroy and Hon. James H. Lane.

Oregon—Hon. James W. Nesmith and Hon. Benjamin F. Harding.

SENATORS ABSENT.

The following Senators were absent:

Hon. JACOB M. HOWARD, of Michigan; Hon. WILLIAM A. RICHARDSON, of Illinois; and Hon. WILLIAM WRIGHT, of New Jersey.

PRAYER.

Rev. BYRON SUNDERLAND, D.D., (Chaplain to the Senate during the Thirty-Seventh Congress,) offered the following prayer:

Glory be to Thee, O God, the Father of men and the Ruler of nations, that, though the storm drives on, the Republic still lives. Not yet has foundered our ship of State. Glory be to Thee, Thou great Pilot of our fearful voyage, that hast upheld him who holds the helm, and with him all that have watched with him through the long and dreary night of our country's disasters—the Cabinet, the Congress, the judges and counselors, the

Army and Navy, and the great loyal people, all behind them. Glory be to Thee for this free city in which their representatives this day meet. Glory be to Thee for the flying folds of the starry banner which Thou didst give for an ensign to our fathers, still streaming above the Capitol and the conclave now here assembled; and we do beseech and pray Thee that the statue of Liberty that now crowns this temple of the nation, uplifted in the utmost majesty of human undertaking, as it shall greet all eyes, may betoken forever that grander and mightier spirit which shall walk in the air we breathe, and march upon the mountains and the plains, upon the streams and lakes of all the land, and dwell in all the households and hearts of the people—the spirit of a nobler justice and a freer franchise towards all the tribes of men. We beseech Thee, O Lord, to recover the President from his present illness again to health. Bless Thy servant presiding in this Hall. Prepare the Senators and Representatives for the great work which is before them. Be sword and shield to our men in battle; succor them that suffer in camp, or hospital, or prison, or that hide away from bitter persecution in the wilds and solitudes of nature; and solace all that weep and pray for them in their distance and separation; and be Thou still our Advocate and Defender before the kingdoms of the world, to redeem us from sin, to purify, exalt, and perpetuate us to the honor of Thy name in all the earth. Through Jesus Christ. Amen.

The VICE PRESIDENT. The time specified in the Constitution for the assembling of Congress having arrived, the Senate will now please come to order.

CREDENTIALS OF NEW SENATORS.

Mr. COLLAMER. I desire to present the credentials of the Senators elect from the State of West Virginia, and to announce to the Chair that they are present.

The VICE PRESIDENT. The credentials will be read.

The Secretary read the credentials of Hon. WILKINSON T. WILLEY and Hon. PETER G. VAN WINKLE, elected by the Legislature of West Virginia for such terms in the Senate as they may be respectively assigned to according to the Constitution.

Mr. NESMITH. I desire to present the credentials of Hon. JOHN CONNESS, Senator elect from the State of California. I ask that they be read and placed on the files, and that the oath of office be administered to him.

The Secretary read the credentials of Mr. CONNESS, elected by the Legislature of the State of California for the term of six years, commencing on the 4th of March, 1863.

Mr. FOOT. I offer the following resolution and order in respect to the classification of the Senators from West Virginia; it is in the usual form—

The VICE PRESIDENT. If the Senators are present whose credentials have been presented, they will please come forward and be qualified by taking the required oath of office.

Messrs. WILLEY, VAN WINKLE, and CONNESS advanced to the President's desk.

Mr. DAVIS. I will inquire what motion is before the Senate?

The VICE PRESIDENT. There is no motion before the Senate.

Mr. DAVIS. I will inquire what proceeding the President of the Senate proposes now to take?

The VICE PRESIDENT. The Chair suggested that the Senators whose credentials had been presented should come to the Chair and take the oath required to enable them to enter upon the discharge of their official duties; and they, as the Chair now understands, are present, and ready to take the oath.

Mr. DAVIS. Mr. President, in relation to the Senators from West Virginia I object to such a proceeding, and upon that I ask for a division of the Senate. I hold that there is, legally and constitutionally, no such State in existence as the

State of "West Virginia," and consequently that no Senators from such a State—

The VICE PRESIDENT. Will the Senator from Kentucky suspend his remarks for a moment, and allow the Chair to administer the oath of office to the Senator from California, to whom his objection does not apply?

Mr. DAVIS. I have no objection to that. I was going to propose that the proceedings should be separate.

The VICE PRESIDENT administered the oath to support the Constitution of the United States, and also the oath of office prescribed by the act of July 2, 1862, to Mr. CONNESS, and he took his seat in the Senate.

Mr. FOOT. Before proceeding to the consideration of the question raised by the Senator from Kentucky, I desire to present the credentials of Mr. HENDERSON, Senator elect from the State of Missouri; and I ask that they be read, and the oath administered to him.

The VICE PRESIDENT. The credentials will be read, the Senator from Kentucky waiving his right to the floor.

Mr. DAVIS. Certainly

The Secretary read the credentials of Hon. JOHN B. HENDERSON, elected by the Legislature of Missouri a Senator from that State for the term of six years, from the 4th of March, 1863.

The VICE PRESIDENT. If the Senator from Missouri will come forward to the Chair, the proper oath of office will be administered to him.

Mr. HENDERSON advanced to the desk, and the oath to support the Constitution of the United States, and the oath of office prescribed by the act of July 2, 1862, having been administered to him, he took his seat in the Senate.

The VICE PRESIDENT. The Senator from Kentucky is now entitled to the floor.

Mr. DAVIS. Mr. President, it is not my purpose on making this objection to occupy any great portion of the time of the Senate. My object is simply to raise a question to be put upon the record, and to have my name as a Senator recorded against the recognition of West Virginia as a State of the United States. I have been taught to believe, and I am still of the opinion, that as yet there is but one State of Virginia, legally and constitutionally. I do not believe that the Old Dominion, like a polypus, can be separated into different segments, and each segment become a living, constitutional organism, in this mode. The question of erecting West Virginia into a separate State was mooted some twenty years ago in the other House of Congress, of which at that time it was my fortune to be a member. To that proposition I was always friendly, and I still believe that that portion of our common country ought to constitute a separate and independent State; but I believe that that State ought to be created in strict conformity to the Constitution, and that the present State of "West Virginia," as it has been organized, and as it is seeking representation on the floor of the Senate, is in flagrant violation of the Constitution. I therefore call for a division of the Senate, and ask for the yeas and nays upon the question of admitting the gentlemen who present themselves as Senators from the State of West Virginia, to take their seats as members of this body.

Mr. COLLAMER. Mr. President, what is the question before the Senate?

The VICE PRESIDENT. In the impression of the Chair, there is no question before the Senate.

Mr. COLLAMER. Then let the gentlemen be sworn.

The VICE PRESIDENT. The object of the Senator from Kentucky may be reached by a specific motion; but there is no motion before the Senate now. The ordinary course is to administer the oath to Senators elect whose credentials have been presented, and that is the duty of the Chair; but if a resolution prescribing a different course be interposed, it then becomes the duty of the Chair to present that resolution to the Senate. Nothing of the kind is before the Senate now; there is now no motion before the body.

Mr. DAVIS. I then move to refer the question—

The VICE PRESIDENT. Of administering the oath?

Mr. DAVIS. Yes, sir; the matter of administering the oath to those gentlemen, I move to refer to the Committee on the Judiciary.

The VICE PRESIDENT. That brings the question before the Senate.

Mr. COLLAMER. Will the Chair state the question?

The VICE PRESIDENT. The question before the Senate is on the motion to refer to the Committee on the Judiciary the subject of administering the oath of office to the Senators elect.

Mr. COLLAMER. We have no committee.

Mr. TRUMBULL. I wish to inquire of the Chair if there is any such committee yet organized?

The VICE PRESIDENT. There is no such committee.

Mr. HALE. Mr. President, this is not a new question in the Senate. I do not pretend to remember all the cases; but my recollection is that whenever any credentials are presented it is usually the course to move that they be received and read, and that the oath of office be administered to the member. If I remember aright, that is the ordinary mode; and I think, without any other motion made, that raises the question of right. If my recollection is correct, there was a very contested question, somewhat similar to this, when General Shields presented himself as a Senator from the State of Illinois. The question was raised whether he was eligible, and I think it was raised on the motion to administer the oath and admit him to his seat. If that is a precedent, and I think it is, it seems to me that this is the most orderly way of raising the question. There is necessarily a motion that the credentials be received, read, put on file, and the oath administered.

Mr. DAVIS. Mr. President, I would inquire whether two gentlemen professing to represent a State of the United States can offer themselves here to become members of this body, without a question, without a motion. It seems to me that a business so grave and so important as that cannot take place without a distinct motion; and I think the suggestion of the honorable Senator from New Hampshire is correct, that no man can present himself to this body, and ask to be qualified and received as a member of it, without a distinct motion to that effect. If the Chair should concur in opinion with the Senator from New Hampshire, I would propose to lay upon the table the motion to receive the credentials.

Mr. FESSENDEN. I wish to suggest that the motion to refer to a committee is allowable. I made such a motion myself in the case of the late Senator from Oregon, (Mr. Stark,) when his credentials were submitted to the Senate, and, if I recollect aright, that course was taken. The credentials were sent to the Committee on the Judiciary, and it was some time before the oath was administered, and not until a final decision by the Senate upon the question. This, therefore, is not a new course; and it strikes me, without prejudging this case, that there ought to be some mode in which a question of this kind might be reached, or a question of any kind affecting the right of a Senator to take his seat; otherwise we should be merely at the mercy of a custom. I objected then—and I have certainly no disposition to withdraw now what I then said—to the idea that the mere presentation of credentials should entitle any man to take the oath and his seat on this floor and act with us, if the Senate chose to investigate the subject. Now, the Senator from Kentucky raises a question. I suppose, if there is no Committee on the Judiciary, a motion to refer to a select committee of the Senate may answer, or a motion to postpone the consideration of the matter until the Committee on the Judiciary shall have been raised. Certainly there are divers modes in which the question may be reached. All that I rose for was simply to say that I agree entirely with what seems to be the opinion of the Senator from New Hampshire, that there should be some mode in which the question can be presented; and that the mere presentation of credentials does not entitle any gentleman to take his seat on the floor.

Mr. COLLAMER. Mr. President, the usual and ordinary course was taken in presenting the

credentials of these gentlemen. I have never known any question put to the body as to whether a man should be sworn in agreeably to his credentials; and therefore the mere presentation of the credentials raises no question. When men are presented to be sworn in according to their credentials, that raises no question before the body. I do not mean to suggest by this that a question may not be made. There may be one made by a proper motion; and I inquired of the Chair what was the question about it; and I again desire to inquire how the Chair understands the question now. What is the question before the body?

The VICE PRESIDENT. The question before the body, in the impression of the Chair, is now on referring this matter to the Committee on the Judiciary. There is no such committee, it is suggested; but the effect of the passage of such an order at this time, in the impression of the Chair, would be that the question would necessarily go to that committee when it shall have been organized.

Mr. COLLAMER. Then the question is about referring these credentials.

The VICE PRESIDENT. With the permission of the Senate, the Chair will state that its ruling it believes is in accordance with the practice of the Senate. The usual course, when credentials have been presented, has been for the gentleman presenting them to announce that the Senator elect is now ready to take and subscribe the oath of office prescribed by the Constitution. Evidently there should be a period of time when the question of right can be presented to the Senate. It is equally evident to the Chair that the question can be as well presented when the person so claiming to have the oath of office administered to him presents himself, by moving to postpone the whole subject for a day, or, as in this case, to refer it to a select committee or to a standing committee. The question may be just as well raised by a specific motion of that kind, as by assuming that there is a necessary motion in the preliminary stage. The Chair has thus ruled because this course is in accordance with the practice of the Senate; not that it does not give an opportunity of raising the question equally as well as if you presume that a question should be originally put, which I think the Senator from Vermont is right in saying has never been put to the Senate.

Mr. TRUMBULL. It seems to me that there is a very easy way of obviating any difficulty here. I apprehend there can be no necessity for a reference of this question. I do not presume that the Senator from Kentucky desires that, or anything more than an expression of the Senate upon a matter which has already been discussed and determined really in the Senate at a former session. When credentials are presented and it is asked that the Senators elect be sworn, the ordinary practice is, without putting any motion, to swear the Senators; but here an objection is interposed. It seems to me that raises a question whether the oath of office shall be administered to the Senators elect; and on that we may vote and dispose of the question at once, unless some Senator should desire an investigation and to have it go to a committee. It is analogous to the course pursued when a petition or other paper is presented and objected to. A paper is presented to the Senate. Some Senator thinks there is something in the character of the paper which should forbid its reception. He raises the question; objects to its being received. The question is put to the Senate, "Shall the paper be received?" Questions have been raised in that way in this body. Although I am quite willing that this question should be raised—it is the right of any Senator to raise it—I do not think it involves, in the shape in which it is now presented here, the point about which we have had great controversy in the Senate; and that was, whether a person presenting a *prima facie* case should first be sworn in, and his right to a seat subsequently investigated, and the Senator turned out if the Senate should be of opinion that he was not entitled to occupy a seat here. This is a question of administering the oath, not because there is anything beyond which should turn the Senators out after the oath is administered, but because, in the opinion of the Senator from Kentucky, these parties could not under any circumstances be Senators, because there is no such State as that which they profess

to represent. It seems to me the question may be put to the Senate in that simple form, Shall the oath be administered? and I hope the Senate will acquiesce in that suggestion, and we can dispose of it at once.

Mr. COLLAMER. I suppose the Senator from Kentucky having made the question he desires, that is all he cares for, unless to have a vote. The sending a matter to a committee is for the purpose of obtaining and laying before that committee, and having that committee report to the body, some facts not already known and understood. You want the intervention of a committee for that purpose. Certainly, then, in this case, when no such purpose exists, when no occasion of that kind is before us, the sending to a committee must be entirely a mere matter of form. The Senator from Kentucky does not propose to go to that committee and show any new matter of objection to these gentlemen personally, or to their election, or to the form and manner of its certification; but his objection is that the State itself which they come here purporting to represent in this body has not been constitutionally created. The Judiciary Committee know no more about that question than the whole body knows already.

Mr. President, it seems to me to be a singular idea that we can raise a question in relation to the constitutionality of a State organization after it has been organized by a law adopted by this body and by the House of Representatives, and approved by the President. It being matter of law, for us to entertain a question as to the constitutionality of that law, and to decide it in one body here, without our action going to either of the others, is a manner of undertaking to judge of the qualifications of our own members which I think inconsistent with the Constitution itself. It seems to me that it is a settled question. If the gentleman wishes to raise it again in this form, I think we may as well take the vote now, as a test question, whether we will refer this matter for the purpose which the gentleman has in view. He states his object and his purpose. Now, the question is, will we entertain a motion of that kind, to send this matter to a committee for such a purpose? If not, vote it down, and let the Senators elect be sworn in. I take it that is all the gentleman desires, to have a vote.

Mr. DAVIS. Mr. President, all I desired was, at the threshold that the Senate should divide upon the question of receiving the two gentlemen who have been named as Senators to this body from the new State of West Virginia. Notwithstanding my respect for the ability of my learned friend from Vermont, who disputes the power of the Senate, at this time, to raise this question, I do not entertain a doubt upon that point. Although this State has been organized by a *pro forma* act of Congress, and that act has been passed according to all the forms required by the Constitution, still, if the Senate believe that that act is a nullity, that it is in direct contravention to the Constitution, and therefore void and inoperative in creating a new State, it is perfectly competent and regular that every Senator entertaining that opinion should vote in accordance with it.

The honorable Senator from Vermont is right in relation to the object which I have in view. I had no design or purpose that the attention of the Senate should be occupied thus long in relation to this matter. All I desired was a division of the Senate upon some material question that would test the principle whether it recognized the new State of West Virginia as one of the United States, or not. With a view to reach that object as speedily as possible, I move that the oath which the Constitution prescribes shall be administered to Senators, be not administered to the two gentlemen who present themselves as Senators from the new State of Virginia.

The VICE PRESIDENT. That, then, (the Senator so modifying his motion,) is the question before the Senate: Shall the oath of office be administered to the persons claiming to be Senators elect from the State of West Virginia? Is the Senate ready for that question?

Mr. DOOLITTLE. I understood the Senator from Kentucky to make a motion that the oath be not administered.

The VICE PRESIDENT. That was the motion.

Mr. DOOLITTLE. Then those who are in

favor of administering the oath will vote in the negative on this motion.

THE VICE PRESIDENT. That would be the impression of the Chair.

MR. DOOLITTLE. I wish to understand the question.

MR. WADE. If the Senator from Kentucky will withdraw his motion, I will put it in the affirmative shape, that they be admitted to their seats and have the oath administered to them. That would put the question in a better shape. It would be the same question.

MR. DAVIS. I think so, and I accept the suggestion.

THE VICE PRESIDENT. The Senator from Ohio, then, submits, affirmatively, a motion that the oath of office be administered to the Senators elect from the State of West Virginia.

MR. DAVIS. I ask for the yeas and nays on that question.

The yeas and nays were ordered, and taken with the following result:

YEAS.—Messrs. Anthony, Bowden, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harding, Harlan, Harris, Henderson, Hicks, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson of Massachusetts—36.

NAYS.—Messrs. Buckalew, Davis, Hendricks, McDougal, and Powell—5.

MR. HALE. Before the result is announced, I wish to inquire if the name of Mr. Wilson, of Missouri, was called. I think I heard it called. I do not know of any such member.

THE VICE PRESIDENT. The Senator from Missouri was called. He was appointed to this body, and holds his seat here until a successor appears and qualifies.

MR. WILSON, of Massachusetts. It is a Governor's appointment.

MR. HALE. That is not the law.

THE VICE PRESIDENT. A successor has been elected, but has not appeared.

MR. FOOT. Another question intervenes. In the case of a former colleague of mine, Judge Phelps, the Chair will well recollect, it was decided that after the Legislature of the State had convened and failed to elect, as in that case, the appointee under the Executive of the State no longer held under that appointment.

THE VICE PRESIDENT. The Chair recollects that very well.

MR. FOOT. The Legislature of Missouri, as I understand, have been together and have elected a successor. Even if no successor had been elected, under the decision in the case of Judge Phelps, and confirmed subsequently in the case of a member, Mr. Williams, from New Hampshire, after the rising of that Legislature the executive appointment falls, terminates.

MR. GRIMES. I suspect, Mr. President, that the Legislature of Missouri has not yet adjourned. If it has not, I take it that Mr. Wilson holds, under the Constitution and laws, until the adjournment of the General Assembly of that State, or until a successor shall appear and present his credentials.

MR. COLLAMER. I take it, Mr. President, he does not hold the seat if the Legislature have elected a man to his place.

MR. GRIMES. But we do not know that the Legislature has done any such thing, and we shall not know it until the credentials of that man shall be presented, or the Legislature adjourns. I think the Legislature has not adjourned.

MR. HENDERSON. The General Assembly of my State, elected in November, 1862, met in December, 1862, and adjourned in March, 1863, to a future day, the second Tuesday in November, 1863. The General Assembly, before the adjournment in March, 1863, called a joint session for the purpose of electing Senators, which joint session was to meet on the Thursday succeeding the second Tuesday in November of 1863. On the 13th day of November last the General Assembly elected Mr. Brown in the place of my colleague. I am not familiar with the cases referred to by the Senator from Vermont. I do not know whether in the cases referred to the Legislature adjourned *sine die*, or whether they adjourned to a day fixed.

MR. GRIMES. Is the Legislature of Missouri still in session?

MR. HENDERSON. The Legislature is still in session in my State.

MR. TRUMBULL. The Legislature adjourned in March last, after the executive appointments were made by the Governor of Missouri. The Legislature of the State of Missouri having convened, and having at that session failed to elect members to the Senate, nothing can be clearer to me than that the executive appointments fell with the adjournment of that Legislature. The Constitution does not mean that the Legislature may adjourn from year to year, and that the Executive appointee can hold. The language of the Constitution is, that in case of vacancy the executive may make an appointment to continue until the—

MR. JOHNSON. End of the next session.

MR. TRUMBULL. Not until the end of the Legislature.

MR. CLARK. "Until the next meeting."

MR. TRUMBULL. Until the next meeting of the Legislature. Has the Senator from New Hampshire the clause before him?

MR. CLARK. Yes, sir. These are the words of the Constitution:

"If vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies."

MR. TRUMBULL. Yes, sir, "until the next meeting of the Legislature." The Legislature had its meeting and adjourned without electing any Senators at all—adjourned for six months. That certainly is to my mind conclusive that the appointees of the Governor could not hold their offices after that time, whether the Legislature at its present session had elected Senators or not.

MR. HALE. I think that the view presented by the Senator from Illinois is entirely correct. That word "meeting" has been construed over and over again, and the most liberal construction that has ever been claimed for it is that it extends to the adjournment of the first meeting of the Legislature. The attempt has been made to hold over in this way, as the Senator from Vermont has expressed it, in the case of one gentleman from Vermont, and also in a case from my own State, where Mr. Williams insisted upon having his seat here after the Legislature had met and adjourned; but I believe he was finally ejected by the Sergeant-at-Arms from a secret session of the Senate.

But, sir, there is a case stronger than that, which occurred here in the history of the Senate. I refer to the case of Mr. Robert C. Winthrop, of Boston, who held an appointment under the Executive of the State of Massachusetts for the same term for which these appointments are always conferred. While he was here in the Senate he received news through the newspapers that Mr. Robert Rantoul had been elected by the Massachusetts Legislature in his place, and he suggested to the Senate the propriety of his acting any longer. I do not remember that any action was had upon it; but I think that the advice of several of the older members of the Senate was taken, Judge Butler, who was then at the head of the Judiciary Committee, among others, who suggested that there was a manifest impropriety in the Senator holding over, and Mr. Winthrop, I think, packed up his books in his seat, and left the Hall immediately. That was a case where the Legislature was in session and had never had an adjournment; but here I understand there was a meeting and an adjournment, and if the Constitution has any meaning at all, it applies to this case.

THE VICE PRESIDENT. The Senator from New Hampshire will excuse the Chair for calling attention to the fact that the Senator whose name is referred to has not voted on this call of the roll, and therefore his name being there does not affect this question. That being the case, and as the Senators elect from the State of West Virginia are waiting to take the oath of office, the Chair suggests that they be allowed to do so, and this question can be settled afterwards. Is there any objection to announcing the vote?

MR. HALE. I think the fact that the Senate sit by and recognize his being called by the Secretary without objection would be a tacit admission of his right to sit. I think the name should be taken out, but I have no particular desire to press the question now.

THE VICE PRESIDENT. On the question of administering the oath of office to the Senators elect from West Virginia the yeas are 36, and the nays 5. The Senators from West Virginia will now present themselves and take the oath of office prescribed by the Constitution.

The oath to support the Constitution of the United States, and the oath prescribed by the act of July 2, 1862, were administered to Messrs. WILLEY and VAN WINKLE, and they took their seats in the Senate.

THE VICE PRESIDENT. A resolution was submitted by the Senator from Vermont, [Mr. Foot,] which will be read.

The Secretary read, as follows:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of West Virginia shall be inserted, in conformity with the resolution of the 14th of May, 1860, and as the Constitution requires.

Ordered, That the Secretary put into the ballot-box two papers of equal size, one of which shall be numbered one, and the other shall be a blank. Each of the Senators of the State of West Virginia shall draw out one paper, and the Senator who shall draw the paper numbered one shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1869. That the Secretary then put into the ballot-box two papers of equal size, one of which shall be numbered two, and the other shall be numbered three. The other Senator shall draw out one paper. If the paper drawn be numbered two, the Senator shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1865; and if the paper drawn be numbered three, the Senator shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1867.

MR. McDOUGALL. Mr. President, I desire to say, by way of memorandum simply, that I hold this all to be exceedingly wrong, for I believe you cannot make a State of Western Virginia.

The resolution was considered by unanimous consent, and agreed to.

THE VICE PRESIDENT. The Senators from West Virginia will now advance to the Secretary's desk for the purpose of drawing terms, in accordance with the resolution just adopted.

Two papers, one a blank and the other numbered one, being put by the Secretary into the ballot-box, Hon. W. T. WILLEY drew the blank, and Hon. P. G. VAN WINKLE the paper numbered one; and the latter gentleman is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1869. Two other papers, numbered two and three, being then put into the ballot-box by the Secretary, Hon. W. T. WILLEY drew the paper numbered two, and is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1865.

HOOR OF MEETING.

On motion of Mr. WILSON, of Massachusetts, it was

Ordered, That the hour of the daily meeting of the Senate be twelve o'clock, meridian, until otherwise ordered.

SEAT OF HON. ROBERT WILSON.

Mr. SHERMAN submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire and report whether Hon. Robert Wilson is still a Senator from the State of Missouri.

Mr. FOOT. It lies on the table.

NOTIFICATION TO THE PRESIDENT.

Mr. FOOT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee, consisting of three members, be appointed to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States, and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

On motion of Mr. FOOT, and by unanimous consent, the Vice President was authorized to appoint the committee; and he appointed Messrs. FOOT, TRUMBULL, and NESMITH.

MR. HALE. Is it not usual to notify the House of Representatives that the Senate are in session?

MR. FOOT. This is a permanent body, and the custom is, and the courtesy is, to wait until we are notified that there is a House of Representatives.

MR. HALE. Very well.

NOTICES OF BILLS.

MR. LANE, of Indiana. I wish to give notice that I shall ask leave to-morrow, or upon some subsequent day, to introduce the following bills: A bill to repeal the \$300 exemption clause in

the "Act for enrolling and calling out the national forces, and for other purposes," passed at the last session of Congress;

A bill to increase the pay of non-commissioned officers and privates in the Army of the United States fifty per cent.; and also

A bill to provide for the safe and speedy allotment and transfer of officers' and soldiers' pay in the Army to their families or to other persons.

Mr. POWELL, (after a pause.) There seems to be nothing before the body, and I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 7, 1863.

This being the day set apart by the Constitution for the meeting of Congress, the members of the House of Representatives assembled in their Hall; and at twelve o'clock, m., were called to order by Hon. EMERSON ETHERIDGE, of Tennessee, Clerk of the last House.

ORGANIZATION OF THE HOUSE.

The CLERK said: This being the hour fixed by law for the first meeting of the Thirty-Eighth Congress of the United States, the Clerk of the last House of Representatives will now, if it be the pleasure of the members present, proceed to call the roll of the members elect thereto, calling the names of such persons, and such persons only, whose credentials show that they have been regularly elected in accordance with the laws of the States respectively, and with the laws of the United States. The Clerk will first call the members elect from the State of Maine, and those who may be present are requested to respond to their names when they are called.

The following members answered to their names:

MAINE.

Lorenzo D. M. Sweat, John H. Rice,
Sidney Perham, Frederick A. Pike.
James G. Blaine,

NEW HAMPSHIRE.

Daniel Marcy, James W. Patterson.
Edward H. Rollins,

VERMONT.

Frederick E. Woodbridge, Portus Baxter.
Justin S. Morrill,

MASSACHUSETTS.

Thomas D. Eliot, Daniel W. Gooch,
Oakes Ames, George S. Boutwell,
Alexander H. Rice, John D. Baldwin,
Samuel Hooper, William B. Washburn,
John B. Alley, Henry L. Dawes.

RHODE ISLAND.

Thomas A. Jenckes, Nathan F. Dixon.

CONNECTICUT.

Henry C. Deming, Augustus Brandegee,
James E. English, John H. Hubbard.

NEW YORK.

Henry G. Stebbins, Calvin T. Hulbard,
Martin Kalbfleisch, James M. Marvin,
Mosos F. Odell, Samuel F. Miller,
Benjamin Wood, Ambrose W. Clark,
Fernando Wood, Francis Kernan,
Elijah Ward, De Witt C. Littlejohn,
John W. Chanler, Thomas T. Davis,
James Brooks, Theodore M. Pomeroy,
Anson Herrick, Daniel Morris,
William Radford, Giles W. Hotchkiss,
Charles H. Winfield, Robert B. Van Valkenburgh,
Homer A. Nelson, Freeman Clarke,
John B. Steele, Augustus Frank,
John V. L. Pruyn, John B. Ganson,
John A. Griswold, Reuben E. Fenton,
Orlando Kellogg,

NEW JERSEY.

John F. Starr, Andrew J. Rogers,
George Middleton, Nehemiah Perry,
William G. Steele,

PENNSYLVANIA.

Samuel J. Randall, Henry W. Tracy,
Charles O'Neill, William H. Miller,
Leonard Myers, Joseph Bailey,
William D. Kelley, Alexander H. Coffroth,
M. Russell Thayer, Archibald McAllister,
John D. Stiles, James T. Hale,
John R. Broomall, Glenn W. Scofield,
Sydenham E. Ancona, Amos Myers,
Thaddeus Stevens, John L. Dawson,
Myer Strouse, James K. Moorhead,
Philip Johnson, Thomas Williams,
Charles Dennison, Jesse Lazear.

DELAWARE.

Nathaniel B. Smithers.

LOUISIANA.

A. P. Field, Thomas Cottman.

OHIO.

George H. Pendleton, Wells A. Hutchins,
Alexander Long, William E. Finck,
Robert C. Schenck, John O'Neill,
J. F. McKinney, George Bliss,
Frank C. LeBlond, James R. Morris,
Chilton A. White, Joseph W. White,
Samuel S. Cox, Ephraim R. Eckley,
William Johnson, Rufus P. Spaulding,
Warren P. Noble, James A. Garfield,
James M. Ashley,

KENTUCKY.

Lucien Anderson, Green Clay Smith,
George H. Yeaman, Brutus J. Clay,
Henry Grider, William H. Randall,
Aaron Harding, William H. Wadsworth,
Robert Mallory,

INDIANA.

John Law, Daniel W. Voorhees,
James A. Cravens, Godlove S. Orth,
Henry W. Harrington, Schuyler Colfax,
William S. Holman, Joseph K. Edgerton,
George W. Julian, James F. McDowell,
Ebenezer Dumont,

ILLINOIS.

Isaac N. Arnold, John T. Stuart,
John F. Farnsworth, Lewis W. Ross,
Elihu B. Washburne, Anthony L. Knapp,
Charles M. Harris, James C. Robinson,
Owen Lovejoy, William R. Morrison,
Jesse O. Norton, William J. Allen,
John R. Eden, James C. Allen.

MISSOURI.

John G. Scott, James S. Rollins.
Austin A. King,

MICHIGAN.

Fernando C. Beaman, Francis W. Kellogg,
Charles Upson, Augustus C. Baldwin,
John W. Longyear, John F. Driggs.

IOWA.

James F. Wilson, J. B. Grinnell,
Hiram Price, John A. Kasson,
William B. Allison, A. W. Hubbard.

WISCONSIN.

James S. Brown, Charles A. Eldridge,
Ithamar C. Sloan, Ezra Wheeler,
Amasa Cobb, Walter D. McIndoe.

CALIFORNIA.

Thomas B. Shannon, Cornelius Cole.
William Higby,

MINNESOTA.

William Windom, Ignatius Donnelly.

Mr. STEVENS. If the Clerk has concluded the reading of the list which he proposes to read, I ask that, for the information of the House, he will now read the names which he has omitted to call.

The CLERK. The Clerk asks first to be indulged in reading the names of the Delegates from the Territories.

Mr. STEVENS. Certainly.

The CLERK then called the following Delegates, who responded to their names:

DELEGATE FROM NEW MEXICO.

Francisco Perea.

DELEGATE FROM UTAH.

John F. Kenney.

DELEGATE FROM WASHINGTON.

George E. Cole.

DELEGATE FROM NEBRASKA.

Samuel G. Daily.

DELEGATE FROM COLORADO.

Hiram P. Bennett.

DELEGATE FROM DAKOTA.

J. B. S. Todd.

Mr. LOVEJOY. Did Mr. Todd file his credentials?

The CLERK. He did.

Mr. LOVEJOY. I wish to give notice that at the proper time I will move an amendment.

The CLERK. There were two credentials filed, and on the internal evidence the Clerk decided to call the name of Mr. Todd on the roll of Delegates. Both papers are upon file for any future action of the House.

The Clerk will now state that other gentlemen from different States have filed credentials, and that he has not placed their names upon the roll

for the reason that those credentials did not show, or rather in his opinion did not show, what they ought to have shown, according to the act of the 3d of March, 1863. The Clerk will now submit these credentials to the House, with the names of the members referred to.

Mr. WASHBURN, of Illinois. I desire to ask a question.

The CLERK. The gentleman's colleague [Mr. LOVEJOY] has the floor.

Mr. LOVEJOY. I understand that what I propose in reference to the Delegate from Dakota Territory can be as well done when members and Delegates are sworn in, and I therefore withdraw my motion for the present.

Mr. WASHBURN, of Illinois. Let me ask the Clerk whether, so far as is known, there are any contestants for the seats of the members whose names he has omitted to call with the other members of the House?

The CLERK. Some are contested, others are not contested.

Mr. WASHBURN, of Illinois. Will the Clerk, for the information of the House, state the names of the members whose seats are contested?

Mr. BROWN, of West Virginia. I desire to present my credentials to a seat upon this floor from the second congressional district of the State of West Virginia.

The CLERK. From proof on file in the office of the Clerk, if it be proper to state it, three or four of the Missouri members have contestants for their seats upon this floor. Who they are the Clerk does not now recollect. There are so many seats contested from that State that the Clerk would probably make a mistake if he undertook to specify them. They are the only contested seats, with the exception of one from West Virginia.

Mr. STEVENS. I ask the Clerk to read the credentials of the members whose names have not been called.

The CLERK. The Clerk intends to do that in submitting the matter to the consideration of the House.

Mr. PENDLETON. Mr. Clerk, is there any law which requires contestants to submit notice of contest to be put upon file in the Clerk's office of the House of Representatives?

Mr. STILES. I ask for the reading of the law of the 3d of March, 1863, which has been indicated by the Clerk.

The CLERK. What the Clerk has said about contested seats he has drawn from papers on file in his office. There has been no notice of contest filed there. The Clerk will read the law of the 3d of March, 1863. It is as follows:

An Act to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before the first meeting of the next Congress, and of every subsequent Congress, the Clerk of the next preceding House of Representatives shall make a roll of the Representatives elect, and place thereon the names of all persons, and of such persons only, whose credentials show that they were regularly elected in accordance with the laws of their States respectively, or the laws of the United States.

Mr. NOBLE. I do not know that it is necessary to now give notice who are contestants, but I will say that the seat of Mr. Grinnell, from Iowa, is contested by Mr. Hugh M. Martin. I do not understand what the object of the Clerk is in stating what seats are contested. Mr. Martin's papers, I believe, are upon file in the Clerk's office. If they are not, they ought to be.

The CLERK. The Clerk will state that he has taken no notice of contest in making out the roll of members, but that he has been governed entirely by the papers before the House. He has not felt himself authorized to take notice of contested seats. The Clerk will read the credentials on file from the State of Missouri.

Mr. DAWES. Read those from the State of Maryland; they seem to be the first upon the list.

The Clerk read, as follows:

STATE OF MARYLAND, EXECUTIVE DEPARTMENT:

Whereas an election was held in this State on the 4th of November, 1863, for five members in the Congress of the United States, and the constitution and laws of the State make it the duty of the Governor in case of such elections to ascertain the number of votes given for each person voted for from the returns of the judges of election, certified to him for that purpose, and also provide that in all elections the person having the greatest number of votes shall be declared elected; and whereas, by the returns of said judges, certified as required, and an enumeration made therefrom

of the votes given for the several candidates for said office, it appears that, in the first congressional district, JOHN A. J. CRESWELL had the greatest number of votes; in the second congressional district, EDWIN H. WEBSTER had the greatest number of votes; in the third congressional district, HENRY WINTER DAVIS had the greatest number of votes; in the fourth congressional district, FRANCIS THOMAS had the greatest number of votes; and in the fifth congressional district, BENJAMIN G. HARRIS had the greatest number of votes:

Now, therefore, I, AUGUSTUS W. BRADFORD, Governor of the State of Maryland, do certify and declare that the said JOHN A. J. CRESWELL, EDWIN H. WEBSTER, HENRY WINTER DAVIS, FRANCIS THOMAS, and BENJAMIN G. HARRIS are duly elected members of the House of Representatives to represent this State in the Thirty-Eighth Congress of the United States.

In testimony whereof I have hereunto set my hand, and caused the great seal of the State to be hereto affixed, at the city of Annapolis, this 4th day of December, 1863.

A. W. BRADFORD.

Mr. DAWES. Mr. Clerk, I offer the following resolution; and upon it I demand the previous question:

Resolved, That the names of JOHN A. J. CRESWELL, EDWIN H. WEBSTER, HENRY WINTER DAVIS, FRANCIS THOMAS, and BENJAMIN G. HARRIS be placed on the roll of this House as Representatives from Maryland.

Mr. J. C. ALLEN. I move to lay the resolution upon the table; and on that motion I demand the yeas and nays.

Mr. STILES. I rise to a point of order. I would inquire if that resolution is in order?

The CLERK. The Clerk is of opinion that it is in order, as being pertinent to the organization of the House.

The yeas and nays were ordered.

Mr. COX. Before the roll is called I desire to ask a question of the Clerk. I hope it may please the Clerk to state the reasons why he has not placed the names of the Maryland members on the roll.

Mr. ASHLEY. I object to that, if it is not in order.

The CLERK. It is not in order if objection be made.

The question was taken; and it was decided in the negative—yeas 74, nays 94; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, Chanler, Coffroth, Cottman, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Harding, Harrington, Charles M. Harris, Herlick, Holman, Hutchins, Philip Johnson, William Johnson, Kathfisch, Kernan, King, Knapp, Law, Lazenar, Le Bond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Voorhees, Wadsworth, Ward, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, and Fernando Wood—74.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Brandegee, Broomall, James S. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Colfax, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Field, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Hutchins, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Lovejoy, Marvin, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburne, Wheeler, Williams, Wilson, Windom, and Woodbridge—94.

So the House refused to lay the resolution upon the table.

The announcement of the result of the vote was received with loud applause from the galleries.

Mr. WASHBURN, of Illinois. I hope the rules will be enforced. I understand that the rules of the last House are the rules of this, and that they give the Clerk special power to enforce order.

The CLERK. The demonstration is made by those who know the rules, and know that the Clerk has no power to enforce them. If he had the power he would do so.

The previous question was seconded, and the main question ordered; and, being put, the resolution was adopted, amid renewed applause from the galleries.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. DAVIS, of Maryland. I now ask for the

reading of the credentials of the Missouri members whose names are not included on the roll.

The CLERK. The Clerk was just about to report them to the House. The Clerk would state that, as the credentials are all in the same form, he presumes the reading of one of them will be satisfactory.

Mr. DAVIS, of Maryland. Certainly.

The CLERK. The Clerk will read the credentials of HENRY T. BLOW, from the second congressional district of Missouri, which is substantially if not precisely the same as the others. It is as follows:

UNITED STATES OF AMERICA, STATE OF MISSOURI,
OFFICE OF SECRETARY OF STATE,
CITY OF JEFFERSON, MISSOURI:

I, Mordecai Oliver, secretary of state of the State of Missouri, do hereby certify that, at an election held in pursuance of law in the several counties comprising the second congressional district in the State of Missouri, on the 4th day of November, 1862, Hon. HENRY T. BLOW, having received the highest number of votes cast at said election as a candidate for Congress, was duly elected a member of the House of Representatives of the Thirty-Eighth Congress of the United States of America from the said second congressional district.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Missouri.
[L. s.] Done at the city of Jefferson, on the 10th day of November, 1862.

M. OLIVER.

Mr. DAVIS, of Maryland. I offer the following resolution; and upon it I demand the previous question:

Resolved, That the names of FRANCIS P. BLAIR, JR., HENRY T. BLOW, JOHN W. MCCLURG, S. H. BOYD, BENJAMIN LOAN, and WILLIAM A. HALL be placed on the roll as Representatives from the State of Missouri.

Mr. HOLMAN. I raise a question of order on that resolution. It is, that by a resolution of the House it is proposed to instruct the Clerk to do an act which he is expressly prohibited from doing by an act of Congress, the Clerk being the exclusive judge as to the sufficiency of the certificates under that act.

The CLERK. The Clerk would state that the effect of this resolution would be simply to place these gentlemen in the same position as others. While the Clerk would have no power to amend the roll, the effect of this resolution would be that the names of these gentlemen would be called in the organization of the House, and the Clerk thinks the resolution is in order.

Mr. YEAMAN. I rise to a question of privilege. It is this: I have a very distinct opinion as to the legal effect of these certificates, and also in reference to those from the State of Maryland. I remained silent, however, in the case of the Maryland members, from a sense of delicacy and propriety, because my own seat is contested. I ask now to be excused from voting on this resolution.

The motion was agreed to.

The previous question was seconded, and the main question ordered; and, being put, the resolution offered by Mr. DAVIS, of Maryland, was adopted.

Mr. DAVIS, of Maryland, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. GARFIELD. I now ask for the reading of the credentials of the member from Oregon.

The Clerk read, as follows:

STATE OF OREGON, to wit:
This certifies that at an election held within and for the State aforesaid, on the 2d day of June, A. D. 1862, John H. McBride received 6,509 votes, and R. E. Waitt received 3,632 votes, for member of Congress. Therefore the said John H. McBride, having received a majority of all the votes cast at the said election, is hereby declared duly elected to represent the State of Oregon in the Thirty-Eighth Congress of the United States.

In testimony whereof I have hereunto signed my name, and affixed the seal of said State, at Salem, this 30th day of June, 1862.

JOHN WHITEAKER.

By the Governor:

LUCIEN HEATH, Secretary of State.

By Chester N. Terry, Assistant Secretary of State.

Mr. GARFIELD. I offer the following resolution, and demand the previous question upon it:

Resolved, That the name of JOHN R. MCBRIDE be placed on the roll as Representative from the State of Oregon.

The previous question was seconded, and the main question ordered; and, being put, the resolution was agreed to.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also

moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. PIKE. I now call for the reading of the credentials of the Representative from Kansas.

The Clerk read, as follows:

STATE OF KANSAS, EXECUTIVE DEPARTMENT,
SECRETARY OF STATE'S OFFICE,
TOPEKA, December 25, 1862.

This is to certify that the board of State canvassers, assembled at the city of Topeka on Monday, December 15, A. D. 1862, under authority given by law, did declare and determine that A. C. WILDER was duly elected, on the 4th day of November, A. D. 1862, to the office of Representative in the Thirty-Eighth Congress of the United States for the State of Kansas.

[L. s.] In testimony whereof I have hereunto set my hand and seal this 25th day of December, 1862.

S. E. SHEPHERD, Secretary of State.

Mr. PIKE. I submit the following resolution; and upon it I demand the previous question:

Resolved, That the name of A. CARTER WILDER be placed on the roll as member of the House of Representatives from the State of Kansas.

The previous question was seconded, and the main question ordered; and, being put, the resolution was agreed to.

Mr. PIKE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. STEVENS. I ask for the reading of the credentials of the members from West Virginia.

The CLERK. The credentials of the members from West Virginia are all in the same form; and unless the reading of all of them be called for, the Clerk will simply read the credentials of Mr. KELLIAN V. WHALEY.

The credentials of Mr. WHALEY were read, as follows:

STATE OF WEST VIRGINIA, to wit:

I, Arthur J. Boreman, Governor of said State, pursuant to the act of the Legislature thereof in such case made and provided, do hereby certify that KELLIAN V. WHALEY, Esq., of the county of Mason, was duly chosen on the 22d day of October, in the year 1863, a Representative in the Congress of the United States for the third congressional district of this State, composed of the counties of Kanawha, Jackson, Mason, Putnam, Cabell, Clay, Wayne, Logan, Boone, Braxton, Nicholas, Boone, McDowell, Wyoming, Raleigh, Fayette, Mercer, Monroe, and Greenbrier, for the term ending on the 3d day of March, in the year 1865.

Given under my hand, and the great seal of the said State of West Virginia, this 23d day of November, in the [L. s.] year of our Lord 1863, and of the State the first.

A. J. BOREMAN.

By the Governor:

J. EDGAR BAYERS, Secretary of State.

Mr. STEVENS. I submit the following resolution; and on its adoption I call the previous question:

Resolved, That the names of JACOB B. BLAIR, WILLIAM G. BROWN, and KELLIAN V. WHALEY be placed upon the roll as the Representatives from West Virginia.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. STEVENS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS. I ask to have the credentials of the persons claiming to be Representatives from the so-called State of Louisiana read.

The CLERK. The Clerk will gratify the curiosity of the gentleman. [Laughter.]

The credentials were read, as follows:

I, John Leonard Riddell, Governor of the State of Louisiana, duly and legally elected by the voters of said State, in pursuance of the constitution and laws of said State, do hereby certify that at an election begun and held in said State on the 2d day of November, 1863, in accordance with the laws of said State, for the purpose of electing five Representatives from said State to the Thirty-Eighth Congress of the United States, the following named persons were regularly elected to represent said State in said Congress for the term of two years from the 4th of March, 1863; namely:

From the first congressional district, A. P. FIELD.

From the second congressional district, THOMAS COTTMAN.

From the fifth congressional district, composed of the whole State of Louisiana, JOSHUA BAKER.

All of whom were regularly elected in accordance with the constitution and laws of said State of Louisiana.

In testimony whereof, I, John Leonard Riddell, Governor, elected as aforesaid, and duly sworn, do hereby commission said persons, so elected as aforesaid, to represent said State in the said Thirty-Eighth Congress of the United States, and do hereby give these credentials in evidence of their legal and regular election as aforesaid; and I do hereby affix my name and private seal of office (the public seal thereof

being forcibly kept in the possession of the public enemies of the State) on this 20th day of November, in the year of our Lord 1863, and the eighty-eighth year of the independence of the United States of America.

[L. S.] J. L. RIDDELL,
Governor of the State of Louisiana.

Mr. STEVENS. I offer the following resolution; and on it I call the previous question:

Resolved, That the names of A. P. FIELD, THOMAS COTTMAN, and JOSHUA BAKER be stricken from the roll of the members of this House.

Mr. HOLMAN. I rise to a question of order on that resolution. I submit that before the organization of the House the law of Congress expressly defines what shall be the duties of the Clerk in respect to the members whose names shall be placed on the rolls of the House; that this resolution is in conflict with that enactment, and cannot, therefore, be entertained by the Clerk, inasmuch as it directs an act to be done in violation of an act of Congress.

The CLERK. The Clerk will sustain the point of order, but upon another ground. The resolution virtually directs the expulsion of members, which the Clerk decides cannot be done before the organization of the House.

Mr. STEVENS. I appeal from the decision of the Clerk.

Mr. COX. I move to lay the appeal on the table.

Mr. DAWES. On that motion I call for the yeas and nays.

The yeas and nays were ordered.
Mr. BROOKS. Let me say to the gentleman from Pennsylvania that this is all a waste of time. You can elect your Speaker without it.

Mr. STEVENS. Well, having placed on record my protest against the appearance of the names of these gentlemen on the rolls of the House, I am willing to withdraw my resolution until the members have been sworn in.

Mr. LOVEJOY. I ask that the credentials of the members from the State of Virginia may be read.

The CLERK. The credentials of Mr. CHANDLER and Mr. SEGAR will be read. Those of Mr. KITCHEN are similar in form.

The credentials were read, as follows:

STATE OF VIRGINIA:

I, John B. Allworth, clerk of the county court of Accomac county, do certify that on the thirtieth day from the commencement of the election for a member of Congress for the first congressional district of Virginia, held on the 28th day of May last, I, in the presence of two freeholders, opened and examined the certified copy, by the clerk of the county court of Northampton county, of the result of said election in said county of Northampton, and have compared the returns from the respective counties comprising said district; and it is hereby certified that at an election held on the 28th day of May, in the year 1863, in the counties comprising the first congressional district of Virginia, JOSEPH SEGAR was duly elected to represent the same in the Congress of the United States.

Given under my hand this 27th day of June, A. D. 1863.

Attest: J. B. ALLWORTH,
Clerk Accomac Court.

Mr. LOVEJOY. I offer the following resolution:

Resolved, That the names of LUCIUS H. CHANDLER, JOSEPH SEGAR, and BETHUEL M. KITCHEN be placed on the roll as Representatives from the State of Virginia.

Mr. J. C. ALLEN. I move to lay that resolution on the table; and on that motion I call the yeas and nays.

Mr. LOVEJOY. If there is going to be a contest about it, I will withdraw the resolution.

Mr. BLAIR, of West Virginia. I renew the resolution.

Mr. J. C. ALLEN. I renew the motion to lay the resolution on the table, for the reason that these men are certified to only by some county clerk.

Mr. WASHBURN, of Illinois. With the permission of my colleague, I desire to ask whether these gentlemen are not certified to in the manner and form required by the laws of Virginia?

The CLERK. In response to the gentleman from Illinois, the Clerk will, if permitted, say that his attention is called to a law passed by the Legislature of Virginia, sitting at Wheeling, requiring that the election of members of Congress from that State shall be certified to by the clerk of the county first named in the law describing the congressional district, and that these credentials are perhaps in conformity to that law.

Mr. FARNSWORTH. Is there an official seal?

The CLERK. There is not.

Mr. LOVEJOY. If the credentials are in accordance with law, I do not withdraw my resolution.

Mr. BLAIR, of West Virginia. They are strictly in accordance with law.

Mr. J. C. ALLEN. I do not yield further. I understand these gentlemen purport to come from the State of Virginia, not from the State of Kanawha, or West Virginia, as it is called. I ask for the vote on my motion to lay the resolution on the table.

Mr. FARNSWORTH. I ask that the law of Virginia under which these credentials come may be read.

Mr. KALBFLEISCH. Is that a law of Virginia, or of West Virginia?

Mr. BLAIR, of West Virginia. For the information of the gentleman I will say to him that it is not a law of West Virginia, but of the State of Virginia previous to the formation of West Virginia. It was passed by a Legislature the validity of which was fully recognized by the last Congress.

Mr. KALBFLEISCH. Then it was by the Legislature of that State before its division, and therefore of another State.

Mr. BLAIR, of West Virginia. No, by the State of Virginia.

The law was read, as follows:

"1. *Be it enacted by the General Assembly*, That in all cases of elections for election districts, or senatorial or congressional districts, the commissioners superintending the elections at the court-houses of the several counties or corporations forming such districts shall, within three days after such election is concluded, deliver a certified statement of the result of the election in said county (to be ascertained in the manner now prescribed by law) to the clerk of the county court of such county, whose duty it shall be, as soon as he may be able, to record such result in a book for that purpose to be kept in his office, and transmit a certified copy of such result (which shall be written in words and not in figures) to the clerk of the county court of the county first named in the law describing such district, whose duty it shall be, on a certain day, appointed by law, from the commencement of such election—which certain day, if an election from a district of a Delegate, shall be the fifteenth of a Senator, the twentieth; of a Representative in Congress, shall be the thirtieth after such commencement—in the presence of two freeholders to open and examine such copies so transmitted, and compare the returns from the respective counties, and declare the person having the greatest number of votes in the whole district duly elected in the manner and form now prescribed by law; and shall record the same in his office, and transmit a copy thereof to the person so elected, and a like copy to the Clerk of the House to which such person is elected, to be preserved by him; which certified copy shall be sufficient evidence of his election, and entitle him to his seat."

Mr. J. C. ALLEN. What is the date of that law?

The CLERK. The title-page of the book is, "Acts of the General Assembly, passed at the regular session, held December 2, 1861, at the city of Wheeling."

Mr. J. C. ALLEN. If it was passed by that Legislature, the reason is still stronger. I ask for the vote on laying on the table.

Mr. STEVENS. I should be very glad to learn from the gentleman from West Virginia how many counties were represented in that Legislature?

Mr. BLAIR, of West Virginia. About fifty, as I understand. However, the question as to the validity of that Legislature was fully settled in the last Congress.

The yeas and nays were ordered.

The question was taken upon the motion to lay upon the table, and it was decided in the affirmative—yeas 100, nays 73; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Al-ley, Allison, Ancona, Ashley, Augustus C. Baldwin, Beaman, Bliss, Boutwell, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Creswell, Henry Winter Davis, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Asahel W. Hubbard, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kelley, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Longyear, Mallory, Marcy, McAlister, McDowell, McIndoe, McKenney, Middleton, William H. Miller, James K. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Orth, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Schenck, Scofield, Scott, Sloan, Smithers, Stebbins, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweat, Upson, Voorhees, Wadsworth, Ward, William B. Washburn, Wheeler, Chilton A. White, Joseph W. White, Wilson, Windom, Winfield, Benjamin Wood, and Fernando Wood—100.

NAYS—Messrs. Anderson, Arnold, Bailey, John D. Baldwin, Baxter, Blaine, Jacob B. Blair, Blow, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Colfax, Cottman, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Farnsworth, Fenton, Frank, Garfield, Gooch, Higby, Hotchkiss, John H. Hubbard, Hulburd,

Jenckes, Julian, Francis W. Kellogg, Orlando Kellogg, Loan, Lovejoy, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Shannon, Smith, Spaulding, Starr, Thayer, Thomas, Van Valkenburgh, Elihu B. Washburne, Webster, Whaley, Williams, Wilder, and Woodbridge—73.

So the resolution was laid upon the table.

Mr. J. C. ALLEN moved to reconsider the vote by which the resolution was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois. Mr. Clerk, have a quorum of members answered to their names?

The CLERK. A quorum have answered to their names.

LOUISIANA MEMBERS.

Mr. KELLEY. I rise for the purpose of asking a question. I want to know whether there has been any notice of contest received as to the members from Louisiana, or any protest against their admission from any official personages?

The CLERK. The Clerk of the House of Representatives has received a letter from a gentleman styling himself attorney general, appointed by the military governor; and he has also received a memorial signed by some fifty or sixty gentlemen representing themselves as the "Free State Committee of the State of Louisiana," which, not being a close corporation, he has laid away; still, the gentleman can have them if he wants them. [Laughter.]

ELECTION OF SPEAKER.

Mr. WASHBURN, of Illinois. Mr. Clerk, I move that the House now proceed *viva voce* to the election of a Speaker of the House of Representatives for the Thirty-Eighth Congress.

The motion was agreed to.

Mr. WASHBURN, of Illinois, nominated Mr. COLFAX, of Indiana. [Applause.]

The CLERK. The Clerk cannot preserve order. Those who make the disorder know that he has no power to put it down.

Mr. PENDLETON nominated Mr. COX, of Ohio.

Mr. ANCONA nominated Mr. DAWSON, of Pennsylvania.

Mr. WADSWORTH nominated Mr. MALLORY, of Kentucky.

Mr. STEELE, of New York, nominated his colleague, Mr. STEBBINS.

Mr. RADFORD nominated Mr. KING, of Missouri.

The Clerk appointed Messrs. DAWES, PENDLETON, POMEROY, and WADSWORTH tellers.

Mr. COTTMAN nominated Mr. BLAIR, of Missouri.

The House proceeded to vote *viva voce* for Speaker, with the following result, which was announced by Mr. PENDLETON on behalf of the tellers:

Whole number of votes cast, 181; necessary to a choice, 91; of which—

Mr. Colfax received.....	101
Mr. Cox.....	42
Mr. Dawson.....	42
Mr. Mallory.....	10
Mr. Stebbins.....	8
Mr. King.....	6
Mr. Blair, of Missouri.....	2
Mr. Stiles.....	1

The following is the vote in detail:

For Mr. Colfax—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, William G. Brown, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge.

For Mr. Cox—Messrs. James C. Allen, William J. Allen, Augustus C. Baldwin, Bliss, James S. Brown, Cravens, Dawson, Eden, Edgerton, Eldridge, English, Finck, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, William Johnson, Kalbfleisch, Knapp, Law, Le Blond,

Long, Marcy, McDowell, McKinney, Middleton, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Perry, Robinson, Rogers, Ross, William G. Steele, Sweat, Voorhees, Wheeler, Chilton A. White, and Joseph W. White.

For Mr. Dawson—Messrs. Ancona, Baily, Coffroth, Cox, Dennison, Philip Johnson, Lazear, McAllister, William H. Miller, Samuel J. Randall, Stiles, and Strouse.

For Mr. Mallory—Messrs. Brooks, Grider, Harding, Benjamin G. Harris, King, James S. Rollins, Stuart, Wadsworth, Ward, and Yeaman.

For Mr. Stebbins—Messrs. Ganson, Griswold, Kernan, Nelson, Odell, Pruyn, John B. Steele, and Winfield.

For Mr. King—Messrs. Chanler, Hall, Mallory, Radford, Scott, and Fernando Wood.

For Mr. Blair, of Missouri—Messrs. Cottman and Field.

For Mr. Stiles—Mr. Benjamin Wood.

The CLERK then announced that SCHUYLER COLFAX, one of the Representatives from the State of Indiana, having received a majority of all the votes given, was duly elected Speaker of the House of Representatives for the Thirty-Eighth Congress. [Applause.]

Whereupon, at the suggestion of the Clerk, Messrs. DAWSON, of Pennsylvania, and COX, of Ohio, conducted Mr. COLFAX to the chair, when he addressed the House as follows:

Gentlemen of the House of Representatives: To-day will be marked in American history as the opening of a Congress destined to face and settle the most important questions of the century; and during whose existence the rebellion, which has passed its culmination, will, beyond all question, thanks to our Army and Navy and Administration, die a deserved death. Not only will your constituents watch with the strictest scrutiny your deliberations here, but the friends of liberty, to the most distant lands, will be interested spectators of your acts in this greater than Roman forum. I invoke you to approach these grave questions with the calm thoughtfulness of statesmen, freeing your discussions from that acerbity which mars instead of advancing legislation, and with unshaken reliance on that divine Power which gave victory to those who formed this Union, and can give even greater victory to those who are seeking to save it from destruction by the hand of the parricide and traitor. I invoke you also to remember that sacred truth, which all history verifies, that "they who rule not in righteousness shall perish from the earth." Thanking you with a grateful heart for this distinguished mark of your confidence and regard, and appealing to you all for that support and forbearance by the aid of which alone I can hope to succeed, I am now ready to take the oath of office, and enter upon the duties you have assigned me.

Mr. WASHBURN, of Illinois, then administered to the Speaker elect the following oath:

I, Schuyler Colfax, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

The speech of the Speaker was interrupted by applause; and there was applause when the oath was administered, and during the vote.

The SPEAKER. The Chair, invested by the rules with the authority for the preservation of the order and decorum of the House, appeals to members not to indulge in manifestations of approval or disapproval. The Chair will state to the spectators in the gallery that this is a deliberative assembly, and that no manifestation of applause or dissent can be allowed. Each doorkeeper will promptly take such persons from the galleries, for the order of the House must be maintained at all hazards.

The Speaker then proceeded to administer the oath to the members elect.

When the names of the Representatives from Louisiana [Messrs. BAKER, COTTMAN, and FIELD] were called—

Mr. STEVENS said: I object to the swearing in of the members from Louisiana. I understand that it is the last State to be called, but, as there

are several Territories, I move to postpone the question on swearing them in until to-morrow, so that the territorial Delegates may be sworn in.

Mr. COX. I demand the yeas and nays on that motion.

The SPEAKER. The names of three Representatives from Louisiana appearing on the roll as made out by the Clerk of the last House of Representatives, and their names being called for the purpose of their presenting themselves at the Speaker's desk to be sworn, the gentleman from Pennsylvania moves that their names be passed over until to-morrow morning.

Mr. BROOKS. Mr. Speaker, I wish the honorable gentleman from Pennsylvania would permit the House to go on in the ordinary course of organization. He sees from the numerous votes given to-day that he and his party friends have control of the House; that there has been little or no opposition to them, except in mere form, and I think the public interests and the convenience of all of us will be best consulted by following the ordinary precedents of organization.

I know nothing of the right of these Representatives from Louisiana to seats upon this floor otherwise than from these credentials; but it is very evident from them that they come here with the same right as other gentlemen holding seats upon this floor, and the introduction of extraordinary motions now can only tend to hinder and delay the organization.

The gentleman is sure of the Clerk; he is sure of all the other officers of the House; he is sure of the Committee of Elections, to whom the credentials of the honorable gentlemen from Louisiana will be referred. Why not, then, if only in the exercise of party magnanimity, follow the precedents, which are of the highest importance to the organization of the House and to the country, especially in revolutionary times? Why not wait until the Committee of Elections shall be appointed, and let the credentials of the honorable members from Louisiana take the usual course of reference at the proper time to that committee? and if they have a right to seats upon this floor it will be accorded to them, and if not they will be rejected.

I submit to the honorable gentleman that it is not worth while to interrupt the organization of the House by pressing this matter to-day. He knows, as an old parliamentarian, as a member of many years' standing, that it is not in his power to settle great questions and principles, which may perchance affect the existence of States, on mere motions of this sort.

I appeal to the honorable gentleman once more, as I did before, when he yielded with great good sense, to let these credentials take the usual course, and let these gentlemen take the oath, and then let us go on and choose the other officers of the House.

Mr. STEVENS. This is not an extraordinary motion, but a very ordinary one. Where a member believes from the face of the documents read that they are in truth no credentials, as in this instance, where the papers are signed by a man whom nobody in the United States ever heard of as Governor, and with his private seal attached, and where I am also well assured no pretense of an election was ever held, it has not been customary to swear in the members until it has been determined that they are entitled to seats. A large amount of mileage and per diem is involved, and many a man, I am sorry to say, has come here from far distant parts of this nation under the pretense of claiming a seat, when he knew he had no claim at all to one, for the mere purpose of getting the mileage.

I do not say that that is the case with these gentlemen. But I say that last year, when two gentlemen came from Louisiana and claimed seats here, who, in my judgment, had no right here—but which judgment was wrong, I presume, for the House overruled it—the same course was pursued with regard to them that I now propose. They were two Republican members. I mention that because something has been said about party power in the House. They were not permitted to be sworn in until they had exhibited their credentials to the Committee of Elections, and that committee had passed upon them. I propose the same course now with reference to these gentlemen.

Mr. COX. The gentleman from Pennsylvania

says that it has been the custom of the House heretofore to exclude members coming in this way at the beginning of the organization, and not to allow them to be sworn. I well remember that at the opening of the last Congress, at the extra session, when Mr. Upton, of Virginia, came here, and when I objected to his being sworn because he was not a citizen of Virginia, because he was a citizen and voter in Ohio, and for other reasons, the gentleman from Pennsylvania, and the members on the other side of the House, thought that he ought to be sworn in, and the question of his right to a seat passed over until the organization of the House should be completed. That was done, and Mr. Upton remained here acting as a member of the House for six months, and drawing his pay for that time, and then was turned out of the House, there not being a shadow of a pretense that he had ever been elected a member. That is one precedent. There may be precedents on both sides of the question. We had better lean to the side of fairness, and let the credentials go to the Committee of Elections, as they appear to be fair on their faces.

I would ask the gentleman, what was the condition of things in the case of the Representatives from Louisiana in the last Congress? When they came here at the end of the session there was no objection made to them. I believe their credentials came in and were sent to the Committee of Elections.

Gentlemen on the other side of the House voted for the admission of these Louisiana members at the last session. All we ask is that the question may be investigated fairly by the proper committee of the House, and that the House may have the opportunity of deciding upon the facts as they are presented.

Mr. DAWES. That is all we ask.

Mr. STEVENS. The gentleman from Ohio, I think, is mistaken in two of the facts which he states. I think the members from Louisiana came here at very nearly the commencement of the last session, and that they went off and stumped New England for two months before they came back and had their case decided.

Mr. COX. Yes, they went off and stumped New England, and that brought them in speedily. [Laughter.]

Mr. STEVENS. And then we took the same course with them that it is proposed to take now. The other fact stated by the gentleman, to which I referred, is in regard to the precedents. He may refer to this side of the House as setting the precedents he speaks of, but not to me.

Mr. MALLORY. I wish to ask the gentleman from Pennsylvania whether, in case these gentlemen go to New England, and stump it for four months, he will then agree to admit them. [Laughter.]

Mr. STEVENS. If they would go and stump Kentucky for emancipation I do not know but I might. [Laughter and applause in the galleries.]

The SPEAKER. The Chair will remind gentlemen in the galleries that these manifestations of applause, which are permitted in tumultuous assemblages, cannot be tolerated here. The Chair will endeavor to enforce the rules strictly, and hopes the House will sustain him in it.

Mr. STEVENS. I was going on to say, when the gentleman from Kentucky interrupted me by his *argumentum ad hominem*, that because this side of the House acquiesced in the admission of any members from the State of Louisiana, or from any other State which by its Legislature had gone into rebellion, he must not say that I acquiesced in such a precedent. I have never been guilty of anything of the kind.

I will now modify my motion so as to refer these credentials to the Committee of Elections, and that the swearing in of the members be postponed until some other day; and on that I call the previous question.

Mr. COX. I will make a suggestion, if the gentleman will allow me. I do not care to raise a question of order.

Mr. STEVENS. I should be very glad to hear the gentleman's suggestion, but I think I had better not yield. I will hear it privately.

Mr. COX. I raise the question of order, then, that there is no Committee on Privileges and Elections to which the credentials can be referred.

The SPEAKER. The Chair overrules the point of order. The uniform practice of the House

has been to refer matters to committees before they were raised.

Mr. WASHBURN, of Illinois. I will suggest to the gentleman from Pennsylvania that he modify his motion so as to refer the credentials to the Committee of Elections, when appointed.

Mr. STEVENS. I will modify my motion in that way, though it is entirely unnecessary. The standing rules of the House provide for a Committee of Elections. I have no wish to be discourteous to the gentleman from Ohio, and will withdraw my demand for the previous question, and hear his suggestion.

Mr. COX. I do not suppose anything I can say will change the intentions of gentlemen on the other side of the House. I was going to correct the gentleman from Pennsylvania in one or two particulars. I think it is not the fact that the members from Louisiana came here at the organization of the last Congress.

Mr. STEVENS. I said near the commencement of the last session.

Mr. COX. It was not until after the organization.

Mr. STEVENS. Oh, no; certainly not; but they came here at the last session early in December. While I am up I will state one fact—I am sorry I am obliged to—which may have some effect. It is, that these gentlemen from Louisiana have already been to the Sergeant-at-Arms to draw their mileage and per diem. I renew the demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. J. C. ALLEN. I move to lay the resolution on the table; and on that motion demand the yeas and nays.

The yeas and nays were ordered.

Mr. BROOKS. I rise to a question of order. Is it in order to move to adjourn?

The SPEAKER. It is, at any time.

Mr. BROOKS. I make that motion, and demand the yeas and nays.

The yeas and nays were not ordered.

The motion was disagreed to.

The question recurred on the motion of Mr. J. C. ALLEN; and being put, it was decided in the negative—yeas 74, nays 101; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Clay, Coffroth, Cox, Gravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hall, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kableisch, Kernan, King, Knapp, Law, Lazear, LeBlond, Long, Mallory, Marcy, McDowell, McKenney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scott, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—74.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale Benjamin G. Harris, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulbard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Lovejoy, McBride, McClurg, Melndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—101.

So the motion was not laid on the table.

The question recurred on the adoption of the motion of Mr. STEVENS.

Mr. PENDLETON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 101, nays 71; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale Benjamin G. Harris, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulbard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, Melndoe, Samuel F. Miller, Moorhead, Morrill,

Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wilder, Wilson, Windom, Benjamin Wood, and Woodbridge—101.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Brooks, James S. Brown, Chanler, Clay, Coffroth, Cox, Gravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hall, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kableisch, Kernan, King, Knapp, Law, Lazear, LeBlond, Long, Mallory, Marcy, McAllister, McDowell, McKenney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scott, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Winfield, and Fernando Wood—71.

Mr. STEVENS moved to reconsider the vote by which the motion was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The following Delegates from the Territories were then sworn in:

From New Mexico—FRANCISCO PEREA.

From Utah—JOHN F. KINNEY.

From Washington—GEORGE E. COLE.

From Nebraska—SAMUEL G. DAILY.

From Colorado—HIRAM P. BENNET.

From Nevada—GORDON N. MOTT.

Mr. LOVEJOY. I see that the Clerk has placed the name of Mr. Todd on the roll as Delegate from Dakota. If there are any credentials of Mr. Todd here, I should like to have them read, and in the mean time I send up credentials of Mr. Jayne, which I ask the Clerk to read.

Mr. COX. I ask that Mr. Todd's credentials may first be read.

Mr. STEVENS. I understand that the Clerk has sent for them, and they have not yet been brought in. I suppose there has not been time enough to prepare them. [Laughter.]

Mr. LOVEJOY. Well, I will simply say that I do not think there are any such credentials that are in form, and I believe the Clerk so admitted.

Mr. JOHNSON, of Pennsylvania. Is there any motion now pending before the House? If there is not, the gentleman from Illinois is not in order.

Mr. LOVEJOY. I move to substitute the name of Mr. Jayne for that of Mr. Todd.

Mr. MALLORY. I ask that the credentials of both claimants be read to the House before any vote is taken.

The Clerk read, as follows:

DAKOTA TERRITORY, EXECUTIVE OFFICE:

I, John Hutchinson, secretary and acting Governor of the Territory of Dakota, do hereby certify that, according to the canvass made by the territorial canvassers on the 24th day of October, 1862, of the votes for Delegate to Congress, William Jayne had a majority over J. B. S. Todd of sixteen votes, and that, subsequent to said canvass, returns were made to this office in due form of votes from Pembina district as follows, to wit: number of votes cast for J. B. S. Todd, one hundred and twenty-five; for William Jayne, nineteen; which said votes were not included in the canvass made by the territorial canvassers, but are now on file in this office.

Witness my hand, and the great seal of the Territory. Done at Yankton, this 15th August, A. D. 1863.

[L. s.]

JOHN HUTCHINSON,

Secretary and Acting Governor.

DAKOTA TERRITORY, SECRETARY'S OFFICE:

I hereby certify that I have not issued a certificate of election to any person as Delegate to Congress from this Territory; that there is no record in this office of any having been issued by any person, and that I have no official knowledge of the territorial seal having been affixed to any such certificate.

Witness my hand, and the great seal of the Territory. Done at Yankton, this 26th day of September, A. D. 1863.

[L. s.]

JOHN HUTCHINSON, Secretary.

PROCLAMATION
To the People of Dakota Territory.

I, John Hutchinson, secretary and acting Governor of the Territory of Dakota, do hereby proclaim:

That at a general election held on the 1st day of September, 1862, in said Territory, William Jayne received a majority of the votes cast for Delegate to Congress, and was therefore duly elected Delegate to the Thirty-Eighth Congress of the United States; that Justus Townsend received a majority of the votes cast for territorial Auditor, and was duly elected as such; and that S. G. Ingh received a majority of the votes cast for territorial Treasurer, and was therefore duly elected as such.

In testimony whereof I have hereunto subscribed my name and affixed my official seal. Done at Yankton, this 20th day of November, A. D. 1863.

[L. s.]

JOHN HUTCHINSON,
Secretary and Acting Governor.

DAKOTA TERRITORY, SECRETARY'S OFFICE:

I, John Hutchinson, secretary of the Territory of Dakota, do hereby certify that the foregoing is a true and correct copy of the Proclamation issued by me on the 29th day of November, A. D. 1862, and by me recorded, and now on record in this office.

Witness my hand, and the great seal of the Territory. Done at Yankton, this 17th day of June, A. D. 1863.

[L. s.]

JOHN HUTCHINSON.

Mr. LOVEJOY. That is sufficient to show that Mr. Jayne is entitled to his seat. I therefore move that his name be substituted for that of Mr. Todd; and on that motion I call for the previous question.

Mr. COX. I think that the whole subject had better be referred to the Committee of Elections.

Mr. MALLORY. Before that is done I would ask whether a certificate was not sent to the Clerk before the one last read?

Mr. LOVEJOY. I understand the state of the case to be this: Mr. Jayne was Governor of the Territory, and it was made his duty to certify the election. He did certify to his own election, and the certificate is in the hands of the Clerk.

Mr. MALLORY. It has not been read, and it seems to me that it ought to be.

The certificate was read, as follows:

EXECUTIVE OFFICE, YANKTON, DAKOTA TERRITORY:

William Jayne, Governor of said Territory, to all whom these presents shall come, sends greeting:

William Jayne, having received the largest number of votes cast at the general election for Delegate in the Thirty-Eighth Congress of the United States from the Territory of Dakota, held on the 1st day of September, A. D. 1862, is hereby declared duly elected said Delegate in Congress from the Territory aforesaid.

This certificate shall be, and is, the certificate of the said election as Delegate in Congress from this Territory in the Thirty-Eighth Congress of the United States.

In witness whereof I have hereunto set my hand, and caused to be affixed the great seal of the Territory of Dakota. Done at Yankton, this 5th day of January, in the year of our Lord 1863.

[L. s.]

WILLIAM JAYNE,

Governor of Dakota Territory.

Mr. MALLORY. Is that countersigned by the secretary of the Territory?

Mr. LOVEJOY. The law does not require any such signature. I move that the whole subject be referred to the Committee of Elections.

The motion was agreed to.

Mr. LOVEJOY moved to reconsider the vote by which the motion was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

RULES OF THE HOUSE.

Mr. WASHBURN, of Illinois. I send to the Clerk's table a resolution, which I ask may be adopted. The 47th rule provides that the rules of the last House shall remain as the rules of the House, unless otherwise ordered. My resolution will put the question beyond doubt, and reserve the privilege of amendment.

The Clerk read, as follows:

Resolved, That the rules of the House of Representatives of the Thirty-Seventh Congress shall be the rules of the House of Representatives until otherwise ordered.

Resolved further, That a committee of five, to consist of the Speaker and four members to be named by him, be appointed, to whom shall be referred the rules of the House, who shall have the right to report at any time such amendments on the revision of the same that they may think proper; and such report, when made, shall be considered by the House as a special order.

Mr. PENDLETON. I object to making anything a special order at this early day of the session.

Mr. WASHBURN, of Illinois. I think that the objection cannot prevail.

The SPEAKER. It is a valid objection to that part of the proposition providing for a special order.

Mr. WASHBURN, of Illinois. That assumes that the House is governed by the rules of the last House.

The SPEAKER. The gentleman can only attain his object by moving a suspension of the rules, this being Monday.

Mr. COX. The gentleman from Illinois, I suppose, is aware that the 47th rule provides that "these rules shall be the rules of the House of Representatives for the present and succeeding Congresses until otherwise ordered."

Mr. WASHBURN, of Illinois. The question arises whether the last Congress can make rules for this Congress. I will modify my resolution by striking out the part in reference to its being made a special order.

The resolution was adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MAJOR GENERAL GRANT.

Mr. WASHBURNE, of Illinois. I give notice that at some future day I will introduce a bill to revive the grade of Lieutenant General in the United States Army; and also a joint resolution providing for striking a medal for Major General Grant, and for a vote of the thanks of Congress to him and to the officers and men serving under him.

PUNISHMENT OF SLAVEHOLDING.

Mr. LOVEJOY. And I give notice that I shall introduce a bill, at an early day, providing for the punishment of slaveholding in the United States and throughout the Territories thereof.

RECIPROCITY TREATY WITH GREAT BRITAIN.

Mr. MORRILL. I give notice that I shall introduce a joint resolution terminating the reciprocity treaty with Great Britain.

And then, on motion of Mr. WASHBURNE, of Illinois, (at ten minutes to four o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, December 8, 1863.

Rev. D. V. McLEAN, D. D., of New Jersey, offered the following prayer:

Most high and holy God! We adore Thee as God over all, blessed forever and ever, and with humble reverence we bow in Thy presence and worship Thee. We come to Thee as sinners, but we rejoice in the precious truth that God's dear Son died for sinners. Oh, for His sake, look down upon us and bless us. Bless the Senate of the United States now convened, its Presiding Officer, and all its members, present or absent, their families from whom they may be separated, and grant to each one of them that wisdom that cometh down from above, that whatever is done by this body may tend to promote God's glory and the best interests of this great nation. Bless the House of Representatives; make them all wise men, that they may know, like the sons of Issachar, what Israel ought to do. We humbly pray for the President of the United States, that God would in mercy preserve his life and his health. Restore him to health, we beseech Thee, if it please Thee, and so replenish him with heavenly wisdom that in all the difficult and trying circumstances in which he may be placed he may faithfully discharge his duty to God and to this great people. We pray, heavenly Father, for Thy special blessing to rest upon our country in this the time of our trouble and of our tribulation. In all our difficulties and in all our dangers, blessed God, we apply to Thee. Stretch out thine almighty arm and save us, O Thou who savest by Thy right hand all them that put their trust in Thee, against those that rise up against them. We pray for God's blessing upon our Army and our Navy, upon all who are appointed to devise means for the pacification of this land and for the perpetuity of our Union. We pray for firmness and decision in those whose duty it is to execute these measures; and humbly beseech God to spare the effusion of human blood. Grant us, O Lord, again the blessings of union and peace and prosperity. We humbly pray God to bless our wounded and sick soldiers; have them in Thy holy keeping; support and comfort and sustain them in their sufferings. Bless the stricken hearts throughout our land that are mourning the slain, and raise them up friends and helpers. We pray Thee, O God, to guide us all by Thy counsel, and afterwards receive us to glory, for Jesus' sake. Amen.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. NESMITH. I desire to present the memorial of Patrick W. Douglas, praying for a pension; and I ask that it be referred to the Committee on Pensions.

The VICE PRESIDENT. There is no such committee at this time. The Chair will suggest to Senators that perhaps it would be more desirable that they should retain their memorials

until the committees shall be announced. The memorials can, however, be received, and lie upon the table.

Mr. NESMITH. Very well. Let that be done.

The VICE PRESIDENT. It will lie on the table, to be referred at the appropriate time.

Mr. COLLAMER afterwards said: I desire to present a memorial signed by the Governor, lieutenant governor, judges of the supreme court, and members of the Legislature of Vermont, praying for an examination of the ambulance system of the armies of the United States, and the adoption of such improvements (if any are needed) as will promote its efficiency and usefulness; which I ask to have referred to the Committee on Military Affairs and the Militia.

The VICE PRESIDENT. It will be so referred when the committee shall have been announced. It will lie on the table until that time.

Mr. JOHNSON. I beg leave to present the memorial of Mrs. Evelina Porter, widow of the late Commodore David Porter, praying to be allowed arrears of pension; which I ask to have referred to the Committee on Pensions when that committee shall be appointed.

The VICE PRESIDENT. That reference will be made at that time.

NOTICES OF BILLS.

Mr. WILKINSON gave notice of his intention to ask leave to introduce a bill granting pensions to those who were wounded in the late Indian massacres in the State of Minnesota.

Mr. HALE gave notice of his intention to ask leave to introduce a bill granting a pension to Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, of the United States Army.

Mr. WILSON, of Massachusetts, gave notice of his intention to ask leave to introduce a bill to increase the bounty to volunteers, and make an appropriation for the same.

BILLS INTRODUCED.

Mr. CLARK asked, and by unanimous consent (previous notice not having been given) obtained, leave to introduce a bill (S. No. 1) granting a pension to John L. Burns, of Gettysburg, Pennsylvania; which was read twice by its title, and ordered to lie on the table.

MONEYS DUE TO DECEASED SOLDIERS.

Mr. WILSON, of Massachusetts, submitted the following resolution for consideration:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire what legislation is necessary to facilitate the payment of the back pay, bounties, and pensions of deceased soldiers.

EXCHANGE OF PRISONERS.

Mr. DAVIS. I offer the following resolution, and ask that it lie on the table for the present:

Resolved, That the refusal of the rebel authorities to exchange negro soldiers, or their officers, or any class of prisoners from the United States Army, should not prevent or suspend exchanges by our military authorities for any other class of prisoners; and justice, policy, and humanity demand that, as fast as it can be done, our brave and suffering countrymen should be delivered from their captivity.

SEAT OF HON. ROBERT WILSON.

Mr. SHERMAN. If there is no other morning business, I ask for the consideration of the resolution offered by me yesterday.

The VICE PRESIDENT. The resolution will be read.

The Secretary read the resolution, as follows:

Resolved, That the Committee on the Judiciary be instructed to inquire and report whether Hon. Robert Wilson is still a Senator from the State of Missouri.

The VICE PRESIDENT. If there be no objection, the resolution will be regarded as before the Senate. The Chair hears none.

Mr. FESSENDEN. What disposition is made of the resolution? I did not hear.

Mr. SHERMAN. It is a resolution of inquiry, directing the Committee on the Judiciary to report the facts. I will state to the Senator from Maine that the question of the right of Mr. Wilson to a seat involves also the question of pay and mileage, and it is important to have the matter decided in order to guide the course of the officers of the Senate. There may be many questions arising in similar cases, and therefore I thought we ought to have the opinion of the Committee on the Judiciary to settle the matter. As far as the right

to the seat is concerned, it is a matter of comparatively small importance, as Mr. Brown will no doubt be here in a day or two, but it involves the question of pay and mileage.

Mr. FESSENDEN. So far as I am concerned, I object entirely to recognizing Mr. Wilson as a Senator even until his successor comes, and I think that the Senate is in full possession of all the facts, and may decide the case without a reference to the committee. There are some things of which we must take cognizance anyhow, and I am unwilling to establish what would seem to be a very bad precedent, or (if not establishing it) to recognize any former one that I believe to be entirely unfounded in right. I do not know that I shall object to letting the matter go to the Committee on the Judiciary to be inquired into; though I hardly see any necessity for that; but I do seriously object to the appearance or recognition of Mr. Wilson as a Senator from Missouri, even until his successor appears. I believe that matter has been settled too often to admit of any dispute.

Mr. SHERMAN. I agree with the Senator from Maine in regard to the precedent, if I am correctly informed; but I thought it better, as the right of a member, or an alleged member, was involved, that the Committee on the Judiciary should give their opinion, not to settle the matter for us, but for the accounting officers of the Senate. I have no objection, however, if the Senate so desires, to taking a vote directly on the right of Mr. Wilson to a seat.

Mr. HALE. I did not happen to have the good fortune to hear the remarks of the Senator from Maine or the Senator from Ohio. In regard to this matter I have but one feeling. I do not see what will be gained by referring it to the Committee on the Judiciary to have a report made and voted upon. That has been done, and done repeatedly, and I do not see how another report on the same facts will mend the record as it now stands. This question was raised in the case of the gentleman alluded to by the honorable Senator from Vermont, in the case of Judge Phelps, and was elaborately considered. It so happened at that time that the Committee on the Judiciary, to whom the subject was referred, contained a member who would shortly after be situated in a condition exactly like that of Judge Phelps, and who was then expected soon to be in that condition. A committee, made up of members one of whom it was known would soon be in the same situation—I allude to Mr. Williams—presented a report in favor of Judge Phelps's right. The Senate reversed the decision of the committee; and presently the same question precisely did come up in the case of Mr. Williams who made that report, and it was again voted upon almost unanimously by the Senate. The question has been referred, considered, deliberated upon, acted upon, and if the Senate can make a solemn judgment that will bind themselves, they have done it repeatedly in this case, and I think that a proper degree of self-respect requires of the Senate, until there is some new consideration presented, to adhere to their own repeated decision.

Mr. McDUGALL. Mr. President, as a personal friend of the late Senator from Missouri, and for whom I entertain great respect, I desire to make one remark. The law of this question has been settled for a long time. All old Senators know that this gentleman has not a present right. I am very sorry that he thinks he has; but all persons who have studied parliamentary law as it has been administered in this Republic for years and years, know that he has not a right to a place in the Senate.

Mr. POWELL. Mr. President, I am, perhaps, not sufficiently advised of the facts in this case to form an opinion. I think the whole question, however, depends upon a single fact, and that is whether the Legislature of Missouri has adjourned or whether it is now in session. If the Legislature of Missouri only took a recess last spring, and has never adjourned *sine die*, I think that the Senator from Missouri is entitled to his seat until his successor shall appear here to be sworn. I think the precedents are that way. I think the precedents are that when the Executive of a State appoints a Senator, he holds that position until the Legislature meets and elects his successor, or the Legislature adjourns. If the Legislature adjourns without having elected a Senator, the presump-

tion is that that sovereign State waives its right to have a Senator on this floor; but until the Legislature has a session and adjourns, I believe that the Senator appointed by the Executive holds his place here. Now, if I understood the Senator from Missouri [Mr. HENDERSON] yesterday, he said that the Legislature was now in session; that in March last it adjourned to a then future day. I understood by that adjournment to a day, that it took a recess. If it were only a recess, the Senator from Missouri (Mr. Wilson) is entitled to his seat until the person elected by the Legislature to fill the vacancy, Mr. Brown, presents his credentials here. I confess that I should like to have this question go to the Committee on the Judiciary, that they may have an opportunity of investigating and reporting the whole facts, or the single fact to which I have referred, for there is but one that is of any weight to my mind.

Mr. FESSENDEN. Mr. President, I am really quite indifferent about it. I simply rose for the purpose of saying that I considered the matter very clear, though not upon grounds that other gentlemen assume. I was one of the twelve that voted in favor of the right of Mr. Phelps to a seat in the Senate under the appointment of the Governor until his successor was appointed, whether the Legislature in the mean time had adjourned or not. I listened very carefully to the debate in that case. I think the argument of Judge Phelps was about the ablest I ever heard upon any question, and it convinced me of his right; that the true construction of the Constitution was, that a person appointed a Senator by the Governor of a State to fill a vacancy occurring during the recess of the Legislature, held until his successor was elected by the Legislature. That was my opinion; it remains so. But, sir, the Senate by a very large majority decided otherwise; they decided that if the Legislature had met and adjourned without an election, the right of the person appointed by the Governor ceased; he ceased to be a Senator. I understand further, (and of that I am not fully aware; I am so informed by a Senator,) that in the subsequent case of Mr. Williams, from New Hampshire, the Legislature had met and adjourned over without electing a successor, but had not finally adjourned, and that that distinguishes his case. But the Senate held in that case that the meeting of the Legislature, and an adjournment to another day, a distant day, without an election, operated in the same way. I state this on information, but I do not know whether it is correct or not—

Mr. FOOT. It is.

Mr. FESSENDEN. The Senator from Vermont informs me that that is the case. That would apply, if there had been no election, in the case before us of Mr. Wilson. But, sir, I put it upon another ground. I hold that the Senator thus appointed is entitled to his seat until his successor is elected; and that is this case. We know (and gentlemen, in settling these questions, must be understood to know such things,) we know very well, at least as well as we know that there was an adjournment of the Legislature, that a successor was chosen. We know that there is no dispute about that fact. We know that before this Congress met, in November last, the Legislature elected Mr. Brown to fill this very place. That is a matter of common information. Notwithstanding that, Mr. Wilson, knowing that fact, and knowing, too, that the gentleman thus elected would be here in a short time, not knowing but that he would be here on the first day of the session to take his seat, chose to travel on here from the State of Missouri to take a seat in this body. With what view? Simply and solely—I can put no other construction upon it—that he might put into his pocket the amount of money allowed for the travel from the State of Missouri, on the technical ground that his successor has not appeared. Now we see how, if we could suppose such a thing possible between honorable gentlemen—I do not suppose it—that these two gentlemen might come on here both at the same time to take their seats, and that Mr. Brown, to accommodate Mr. Wilson, who has not been elected, might say, "Go in, sir, take your seat on the first day, and I will stand back; draw your pay and travel, and I will come in on the second day." Such things might be if they were not honorable men.

But you see, sir, the ground upon which I put it is this: when Mr. Wilson knew perfectly well,

as we all know, as everybody knows, that his successor was elected before this Congress met, the idea that he should come here on any technicality to take his seat in this body is entirely conclusive with me as to any right whatever to draw his pay for doing so. I resist to the utmost the precedent; we ought never to establish it. It is an entirely new case, so far as that is concerned, for there has been none before in the history of this body, where a gentleman, knowing that his successor was elected and about to take his seat, undertook to come on and hold a seat here for a day, or two until the successor appeared. The thing is unknown to the parliamentary history of this body, and we ought never to give any sanction to it under any circumstances. I presume Mr. Wilson has acted under what seems to me a misapprehension in regard to it; but the facts as they stand, known to everybody, known to every member of the Senate, are enough to show that we ought to be very careful how we give any sanction to such a thing under any circumstances.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) The question is on the passage of the resolution.

Mr. TRUMBULL. I should like to hear the resolution read.

The resolution was again read.

Mr. TRUMBULL. I apprehend that it will be premature to refer the question to the Committee on the Judiciary, the committees not having been formed as yet. It really does seem to me that this is a question which can be settled in the Senate at once; and, by way of getting at the sense of the Senate, I move to amend the resolution by striking out all after the word "Resolved," and inserting "that Hon. Robert Wilson is not entitled to a seat in the Senate."

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from Illinois.

Mr. SAULSBURY. I wish to ask whether the credentials of Mr. Brown have been presented to this body and filed. I believe he is not present personally. Is there any evidence here of his election?

The PRESIDING OFFICER. The Chair understands that the credentials have not been presented here.

Mr. McDOUGALL. I desire to say, by way of being understood exactly in my position, that I understand it has been the rule in all bodies of this high order, that they must understand things historically as well as by the presentment of evidence. If a Senator knows by proper testimony that another Senator is not entitled to his place, he is bound to affirm it by his action in the Senate. This is no court of law, where the technicalities of the common law obtain, nor is it any inferior organization. It is a body where the right has to be maintained in its highest form. We know there is another Senator entitled to this place, and we cannot ignore that fact; we have no right to do so.

The amendment was agreed to; and the resolution, as amended, was adopted, as follows:

Resolved, That Hon. Robert Wilson is not entitled to a seat in the Senate.

ELECTION OF A CHAPLAIN.

Mr. FOOT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That at one o'clock, p. m., to-morrow, the Senate will proceed to the election of a Chaplain for the Thirty-Eighth Congress.

WITHDRAWAL OF PAPERS.

Mr. CONNESS. I offer the following resolution, and ask for its present consideration:

Resolved, That leave be granted P. Hickey to withdraw his petition and papers from the files of the Senate.

The VICE PRESIDENT. Is there any objection to the consideration of this resolution?

Mr. TRUMBULL. I should like to inquire if there has been any adverse report in that case?

Mr. CONNESS. I will state, for the information of the Senate, that the petition and papers referred to were presented in 1858. There was no adverse report on the subject. They are now in the hands of the Secretary of the Senate. The petitioner desires to possess them, in order to present his claim to the Court of Claims. That is the purpose in asking leave of the Senate to withdraw them.

Mr. SUMNER. There is no objection to that. The VICE PRESIDENT. The Chair is inclined to think that the party has the right to withdraw his papers under the rule of the Senate. The Chair, however, will put the question on the resolution.

The resolution was considered by unanimous consent, and agreed to.

ORGANIZATION OF CONGRESS.

A message was received from the House of Representatives, by Hon. EDWARD McPHERSON, its Clerk, announcing that a quorum of the House of Representatives had assembled, and had elected SCHUYLER COLFAX, one of the Representatives from Indiana, Speaker, and were now ready to proceed to business.

The message also announced that the House had appointed a committee of three, to join the committee appointed on the part of the Senate, to wait upon the President of the United States and inform him that a quorum of the two Houses of Congress had assembled, and that Congress was ready to receive any communication he might be pleased to make; and that the committee consisted of Mr. ELIHU B. WASHBURNE of Illinois, Mr. F. A. PIKE of Maine, and Mr. J. A. GRISWOLD of New York.

NOTIFICATION TO THE HOUSE.

Mr. FOOT submitted the following order; which was considered by unanimous consent, and agreed to:

Ordered, That the Secretary inform the House of Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

RECESS.

Mr. HALE. Is there any business before the Senate?

The VICE PRESIDENT. There is not.

Mr. HALE. Then I move that the Senate take a recess for half an hour.

The motion was agreed to.

PRESIDENT'S MESSAGE.

The committee appointed to wait on the President of the United States having returned, the Vice President resumed the chair.

Mr. FOOT. Mr. President, the committee appointed for that purpose have, according to order, waited upon the President of the United States, and informed him of the presence of a quorum of each House of Congress, and of the organization of the House of Representatives, and that the two Houses were ready to receive any communication which the President might be pleased to make to them. The committee received for answer from the President that he would communicate his annual message to the two Houses of Congress to-morrow, at half past twelve o'clock.

Mr. ANTHONY. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES

TUESDAY, December 8, 1863.

The House met at twelve o'clock, m. The Journal of yesterday was read and approved.

ORGANIZATION OF THE HOUSE.

Mr. WASHBURNE, of Illinois, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That a committee of three be appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States and inform him that a quorum of the two Houses is assembled, and that Congress is ready to receive any communication he may make.

The SPEAKER. The Senate must be informed of the organization of the House as well as the President of the United States.

Mr. LOVEJOY. I make the usual motion, that the Clerk of the House be requested to inform the Senate that the House has organized and is ready to proceed with the transaction of the public business.

The motion was agreed to.

ELECTION OF CLERK.

The SPEAKER stated that the next business in order was the election of officers to complete the organization of the House.

Mr. MOORHEAD nominated EDWARD McPHERSON, of Pennsylvania, for the position of Clerk of the House of Representatives for the Thirty-Eighth Congress.

Mr. MALLORY. I ask leave to present the name of Hon. EMERSON ETHERIDGE, of Tennessee. He has been in that position, and I think ably, during the last Congress. I do not believe that the breath of calumny has even whispered a charge against him. He has been guilty of no dereliction of office; but, on the contrary, has, I understand, saved to the Government at least one third of the expenditures of the Clerks of the two preceding Houses of Representatives. I believe that fidelity at a time like this should be rewarded; and I think that gentlemen upon the other side will agree with me in that belief, and that they will at once withdraw their nominee. I give them this chance to be magnanimous, perhaps the last one they will have.

Mr. LOVEJOY. Mr. Speaker, it certainly requires a great deal—I hardly know how to characterize the appeal just made to us—but I was going to say that it required a good deal of brass to make it. We owe no magnanimity to a man whose recent action connected with the organization of this House could only proceed from motives the most unworthy, I may almost say infamous.

Mr. STEVENS. Is this levity on the part of the gentleman from Kentucky allowable, according to the rules of the House?

Mr. MALLORY. The gentleman is mistaken if he supposes that I indulged in levity, for I was in earnest when I nominated Hon. EMERSON ETHERIDGE. I was only in jest when I expected magnanimity from the gentleman from Pennsylvania. [Laughter.]

The SPEAKER appointed Messrs. MOORHEAD, MALLORY, SPAULDING, and GOOCH as tellers.

The House then proceeded to vote *viva voce* for Clerk, with the following result: whole number of votes, 171; necessary to a choice, 86; of which—

Edward McPherson received.....	102
Emerson Etheridge.....	69

The following is the vote in detail:

For Mr. McPherson—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge.

For Mr. Etheridge—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chanler, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scott, William G. Steele, Stiles, Strouse, Stuart, Sweat, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman.

EDWARD McPHERSON, of Pennsylvania, having received a majority of all the votes cast, was declared duly elected Clerk of the House of Representatives for the Thirty-Eighth Congress, and took the oath of office prescribed by law.

OTHER OFFICERS OF THE HOUSE.

Mr. DAWES. Mr. Speaker, I have prepared a resolution which, if there be no objection, I will propose for adoption, containing the names of gentlemen for the other offices of the House. Of course it can only be offered by unanimous consent. I do not desire to press it if any one objects. I ask that it be read for information.

The Clerk read the resolution, as follows:

Resolved, That William S. King, of Minnesota, be declared elected Postmaster; Nehemiah G. Ordway, of New Hampshire, be declared elected Sergeant-at-Arms; and Ira Goodenow, of New York, be declared elected Doorkeeper of the House of Representatives of the Thirty-Eighth Congress.

Mr. COX. I object to that.

Mr. DA WES. I will not press the resolution.

CONTESTANTS.

Mr. STILES, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the several gentlemen who shall have contests for seats pending before this House shall have the privilege of the floor during such contests, with the right to speak with regard to their respective cases.

Mr. STILES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that a quorum of the Senate had appeared and were ready to proceed to business; also, that Mr. Foor, Mr. TRUMBULL, and Mr. NESMITH had been appointed a committee on the part of the Senate to join such committee as should be appointed on the part of the House to wait on the President of the United States and notify him that the two Houses were organized and ready to proceed to business.

ELECTION OF SERGEANT-AT-ARMS.

The SPEAKER stated that the next business in order was the election of Sergeant-at-Arms, and that nominations were now in order.

Mr. ROLLINS, of New Hampshire. I nominate Nehemiah G. Ordway, of New Hampshire.

Mr. HOLMAN. I nominate that sterling patriot, Hon. Edward Ball, of Ohio.

Mr. RANDALL, of Pennsylvania. I nominate Adam J. Glossbrenner, of Pennsylvania.

Mr. HOLMAN. At the request of Mr. Ball I withdraw his name.

The SPEAKER appointed the following gentlemen tellers to count the votes: Messrs. ROLLINS of New Hampshire, RANDALL of Pennsylvania, SMITH, and BEAMAN.

The House then proceeded to vote *viva voce* for Sergeant-at-Arms, with the following result: whole number of votes, 169; necessary to a choice, 85; of which—

Nehemiah G. Ordway received.....	100
Adam J. Glossbrenner.....	45
S. C. Benton.....	14
Edward Ball.....	10

The following is the vote in detail:

For Mr. Ordway—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge.

For Mr. Glossbrenner—Messrs. William J. Allen, Ancona, Augustus C. Baldwin, Brooks, Coffroth, Dawson, Dennison, English, Finck, Ganson, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Philip Johnson, William Johnson, Kernan, King, Knapp, Long, Marcy, McDowell, William H. Miller, Morrison, Nelson, Noble, Odell, John O'Neill, Perry, Samuel J. Randall, Robinson, Rogers, Ross, Scott, Stebbins, John B. Steele, Stiles, Strouse, Voorhees, Ward, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood.

For Mr. Benton—Messrs. James C. Allen, Baily, James S. Brown, Cox, Eden, Edgerton, Eldridge, Hutchins, Le Blond, McKinney, Middleton, Pendleton, William G. Steele, and Wheeler.

For Mr. Ball—Messrs. Cravens, Grider, Harding, Holman, Kalbfleisch, Law, Mallory, James S. Rollins, Wadsworth, and Yeaman.

NEHEMIAH G. ORDWAY, of New Hampshire, having received a majority of all the votes cast, was declared duly elected Sergeant-at-Arms of the House of Representatives for the Thirty-Eighth Congress, and took the oath of office prescribed by law.

ELECTION OF DOORKEEPER.

The SPEAKER. The next business in order is the election of Doorkeeper, for which nominations are now in order.

Mr. FENTON nominated Ira Goodenow, of New York.

Mr. NELSON nominated Felix McCluskey, of New York.

Mr. RADFORD nominated Robert Wilson, of New York.

The SPEAKER appointed Messrs. FENTON, NELSON, RADFORD, and RANDALL of Kentucky, tellers to count the votes.

The House then proceeded to vote for a Doorkeeper of the House of Representatives, with the following result: whole number of votes cast, 156; necessary to a choice, 79; of which—

Ira Goodenow received.....	98
Felix McCluskey.....	30
Robert Wilson.....	12
William Murphy.....	11
John W. Pruitt.....	5

The following is the vote in detail:

For Mr. Goodenow—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge.

For Mr. McCluskey—Messrs. James C. Allen, Augustus C. Baldwin, Brooks, James S. Brown, Chanler, Cox, Dennison, Eldridge, Finck, Benjamin G. Harris, Herrick, Hutchins, William Johnson, Kernan, King, Long, Marcy, McKinney, Middleton, William H. Miller, James R. Morris, Nelson, John O'Neill, Samuel J. Randall, Stebbins, John B. Steele, William G. Steele, Strouse, Joseph W. White, and Winfield.

For Mr. Wilson—Messrs. Ancona, Coffroth, English, Ganson, Kalbfleisch, Noble, Odell, Perry, Radford, Rogers, Ward, and Fernando Wood.

For Mr. Murphy—Messrs. William J. Allen, Eden, Charles M. Harris, Knapp, Morrison, Pendleton, Robinson, Ross, Scott, Stiles, and Chilton A. White.

For Mr. Pruitt—Messrs. Harding, Holman, Law, Mallory, and Wadsworth.

IRA GOODENOW having received a majority of all the votes cast, was declared duly elected Doorkeeper of the House of Representatives for the Thirty-Eighth Congress, and took the oath of office prescribed by law.

ELECTION OF POSTMASTER.

The SPEAKER. The next business in order is the election of Postmaster to the House, for which nominations are now in order.

Mr. WINDOM nominated William S. King, of Minnesota.

Mr. VOORHEES nominated Burwell H. Cornwell, of Indiana.

The House then proceeded to vote for Postmaster of the House of Representatives for the Thirty-Eighth Congress, with the following result: whole number of votes cast, 166; necessary to a choice, 84; of which—

William S. King received.....	103
Burwell H. Cornwell.....	59
George B. Felton.....	2
Charles Y. Kidd.....	2

The following is the vote in detail:

For Mr. King—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brooks, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dennison, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Stuart, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, Woodbridge, and Yeaman.

For Mr. Cornwell—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Eden, Edgerton, Eldridge, English, Finck, Ganson, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Philip Johnson, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Samuel J. Randall, Robinson, Ross, Scott,

John B. Steele, William G. Steele, Stiles, Strouse, Sweat, Voorhees, Wadsworth, Ward, Chilton A. White, Joseph W. White, and Fernando Wood.

For Mr. Pelton—Messrs. Nelson and Stebbins.
For Mr. Kidd—Messrs. Radford and Winfield.

WILLIAM S. KING, of Minnesota, having received a majority of the votes cast, was declared duly elected Postmaster of the House of Representatives for the Thirty-Eighth Congress, and took the oath of office prescribed by law.

COMMUNICATION FROM THE PRESIDENT.

Mr. WASHBURN, of Illinois, from the joint committee of both Houses appointed to wait upon the President of the United States and inform him that both Houses were organized and prepared to receive any communication he desired to make, reported that the committee had performed that duty, and that the President had stated that he would, at half past twelve o'clock to-morrow, send his annual message to Congress.

REPRESENTATIVES FROM VIRGINIA.

Mr. DAWES presented the credentials of Messrs. SEGAR, KITCHEN, and CHANDLER, Representatives elect from the State of Virginia, and moved that they be referred to the Committee of Elections.

The motion was agreed to.

MEDAL TO GENERAL GRANT.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced a joint resolution of thanks to Major General Ulysses S. Grant, and the officers and soldiers under his command, during the rebellion, and providing that the President of the United States shall cause a medal to be struck, to be presented to Major General Grant in the name of the people of the United States of America.

The joint resolution received its several readings, and was passed unanimously.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the House to reconsider on the table.

The latter motion was agreed to.

WITHDRAWAL AND REFERENCE OF PAPERS.

Mr. FENTON asked and obtained unanimous consent to have withdrawn from the files of the House, and referred to the Court of Claims, the Court of Claims report, and bill (C. C. H. R. 256) accompanying it.

DRAWING FOR SEATS.

Mr. PIKE offered the usual resolution for the drawing of seats by members.

UNION PRISONERS OF WAR.

Mr. COX. Before taking a vote on that resolution, I ask leave to offer the following resolution:

Resolved, That the President of the United States be respectfully and urgently requested to take immediate steps for the exchange of such of our prisoners as are now confined in the prisons of the South; and that he be requested to communicate to this House all correspondence in the War Department with reference to the exchange of prisoners.

Mr. WASHBURN, of Illinois. I think that resolution should lie over for a day.

Mr. COX. I think not. The matter is very urgent. These prisoners need our care more than we do ourselves. I will say to the gentleman from Illinois—

The SPEAKER. This debate can only be indulged by unanimous consent.

Mr. STEVENS. I ask the gentleman from Ohio whether he doubts that they have been taken care of as much as they can be.

Mr. COX. I think not.

Mr. STEVENS. That is a question of delicacy.

Mr. COX. It can do no harm to urge upon the President of the United States action in this matter. At the beginning of this contest there was no cartel for the exchange of prisoners. I introduced a resolution here which passed this House almost unanimously, and which also passed the Senate, to facilitate that exchange. The pirates who were imprisoned in Philadelphia were at once given up by the President; and our soldiers who had been detained in retaliation for their imprisonment were also released. That was an act of humanity which Congress did properly attend to at that time. I know, Mr. Speaker, that the condition of some of these soldiers even yet, notwithstanding the attention and charity of men at the North, is almost too horrible to be conceived.

Mr. WASHBURN, of Illinois. Is debate in order?

The SPEAKER. The Chair stated it could only be indulged in by unanimous consent.

Mr. WASHBURN, of Illinois. I objected to the introduction of the resolution.

Mr. COX. Only one word more—

Mr. WASHBURN, of Illinois. I desire to say that the gentleman knows very well the Administration has done everything that could be done, consistent with honor, to effect an exchange of prisoners.

Mr. COX. Have I impugned anything the Administration has done? Cannot one express some earnestness, some anxiety about this matter, without gentlemen telling us, "Oh, you impugn the Administration?" The gentleman is too swift in making his charges.

The SPEAKER. The Chair must remind the gentleman that debate cannot be indulged in, objection being made.

Mr. COX. Well, I wish simply to say that I think that before members adopt a resolution to draw for seats, and provide for our own convenience, we had better see if we cannot do something for our suffering prisoners.

DRAWING FOR SEATS—AGAIN.

The resolution submitted by Mr. PIKE was agreed to.

In execution of the order of the House, the members and delegates retired outside the Hall, and, as their names were drawn, reappeared and selected their seats.

THE ENROLLMENT ACT.

Mr. SPAULDING. I give notice to the House that I will on to-morrow, or some subsequent day, introduce a bill to amend the act entitled "An act for enrolling and calling out the national forces, and for other purposes," by repealing the commutation clause and the clause that provides for distinction of classes.

The SPEAKER. The Chair will state to the gentleman that, under the rules, notices of bills must be filed with the Clerk; and if they wish to have them appear in the Globe, a memorandum should be handed to the reporters.

CONTESTED ELECTIONS.

Mr. RANDALL, of Pennsylvania, presented the memorial of C. W. Carrigan, contesting the seat of M. Russell Thayer.

Also, the memorial of John Kline, contesting the seat of Leonard Myers; which were referred to the Committee of Elections.

On motion of Mr. STROUSE, (at ten minutes after three o'clock, p. m.) the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, December 9, 1863.

Prayer by Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter of the Treasurer of the United States, communicating, in obedience to law, a certified copy of his account of receipts and expenditures for the service of the Post Office Department for the fiscal year ending June 30, 1863; which was ordered to lie on the table.

The VICE PRESIDENT also laid before the Senate a letter of the Treasurer of the United States, communicating, in obedience to law, copies of his accounts with the United States for the third and fourth quarters of the fiscal year 1861, and the first and second quarters of the year 1862, as adjusted by the accounting officers of the Treasury; which was ordered to lie on the table.

MEMORIALS.

Mr. FOSTER presented a resolution of the General Assembly of the State of Connecticut in favor of such a modification of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," that town organizations in that State may have credit for the number sent on former calls for men; which was ordered to lie on the table, and be printed.

NOTICES OF BILLS.

Mr. LANE, of Kansas, gave notice of his intention to ask leave to introduce a bill providing

for the payment of the officers of the 4th and 5th Indian regiments.

He also gave notice of his intention to ask leave to introduce a bill providing for auditing the claims for losses of property in the recent raid upon the city of Lawrence, Kansas.

Mr. POWELL gave notice of his intention to ask leave to introduce a bill to prevent officers and soldiers of the Army of the United States from interfering with elections in the States.

BILL INTRODUCED.

Mr. HALE, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 2) granting a pension to Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, of the United States Army; which was read twice by its title, and laid on the table temporarily until the organization of the standing committees.

PRESIDENT'S MESSAGE.

At half past twelve o'clock, Mr. JOHN G. NICOLAY, Secretary to the President of the United States, appeared below the bar and announced that he was directed by the President to deliver to the Senate a message in writing.

The President's annual message was delivered to the Chair, and the Secretary read it and the accompanying proclamation. [The message will be published in the Appendix.]

Mr. FOOT. I move that the message and accompanying documents lie on the table, and that the usual number of copies be printed for the use of the Senate. A motion for an extra number will be in order when the Committee on Printing shall have been formed.

The motion was agreed to.

ELECTION OF A CHAPLAIN.

Mr. FOOT. The Senate will now proceed, I suppose, to the execution of the order of yesterday, to elect a Chaplain.

The VICE PRESIDENT. The Senate will now proceed to execute the order of yesterday for the election of a Chaplain. Senators will be kind enough to provide themselves with ballots, and the pages will pass the ballot-boxes on each side of the Senate Chamber.

The ballots having been deposited, collected, and canvassed, the result was announced, as follows:

Whole number of votes, 42; necessary to a choice, 22; of which—

Rev. Byron Sunderland, D. D., received.....	21
Rev. D. V. McLean, D. D.....	17
Rev. John H. Hopkins, D. D.....	1
Rev. R. A. Arthur.....	1
Rev. P. D. Gurley.....	1
Rev. Thomas P. Durbin, D. D.....	1

And there were four blanks, which were not regarded.

There being no choice, the Senate again proceeded to ballot, with the following result:

Whole number of votes, 40; necessary to a choice, 21; of which—

Rev. Byron Sunderland, D. D., received.....	21
Rev. D. V. McLean, D. D.....	16
Rev. L. B. Dennis.....	1
Rev. T. P. Durbin.....	1
Rev. P. D. Gurley.....	1

Mr. SUNDERLAND having received a majority of the votes cast, was declared to be duly elected Chaplain to the Senate for the Thirty-Eighth Congress.

THANKS TO GENERAL GRANT.

During the ballot for Chaplain, a message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 1) of thanks to Major General Ulysses S. Grant and the officers and soldiers who have fought under his command during the rebellion, and providing that the President of the United States shall cause a medal to be struck to be presented to Major General Grant in the name of the people of the United States of America.

Mr. DOOLITTLE. I move that the Senate concur in the resolution.

The VICE PRESIDENT. The Senate is now dividing, and no motion is in order at this time.

When the election of a Chaplain was consummated—

Mr. DOOLITTLE. I made a motion to take up and concur with the resolution just presented from the House of Representatives; but it is more

in accordance with the proceedings in the Senate that all matters of this kind should go to a committee. Although I have no doubt whatever that we shall arrive at the same result, I move now, instead of concurring in the resolution, that it lie on the table until the Committee on Military Affairs shall have been appointed, and I shall then move its reference to that committee.

The VICE PRESIDENT. The joint resolution from the House of Representatives will have its first reading.

The joint resolution (H. R. No. 1) of thanks to Major General Ulysses S. Grant and the officers and soldiers who have fought under his command during this rebellion, and providing that the President of the United States shall cause a medal to be struck to be presented to Major General Grant in the name of the people of the United States of America, was read twice by its title.

Mr. TRUMBULL. I hope the Senator from Wisconsin will not bury the resolution. The whole country knows, without its being repeated, what General Grant has done; the history of his transactions is before the world; and I presume every Senator is ready, without investigation, to vote for the resolution. I think it would be much more appropriate to pass it at once as it has come from the House of Representatives, and unanimously; and I hope we may have the unanimous consent of the Senate—that, of course, is the only way in which it can be done—to its consideration and passage now.

The VICE PRESIDENT. Does the Senator ask the unanimous consent of the Senate for the further consideration of this resolution at the present time?

Mr. TRUMBULL. I do.

The VICE PRESIDENT. Is there any objection?

Mr. FESSENDEN rose.

The VICE PRESIDENT. Does the Senator from Maine rise to object?

Mr. FESSENDEN. I rise to make a remark.

The VICE PRESIDENT. The whole thing is out of order unless the subject is before the Senate; and it is not before the Senate unless they consent to consider it. The Chair hears no objection. The Senator from Maine.

Mr. HALE. The Senator from Maine took the floor, and of course, while he had the floor, nobody else had a right to rise. The Chair now says nobody has risen to object. Nobody had a right to rise.

The VICE PRESIDENT. The Senator from Maine was not recognized for the purpose of addressing the Senate. The Chair inquired if he rose to address the Senate; but if another Senator had risen to interpose an objection, the Chair would have recognized in that Senator a preliminary right.

Mr. FESSENDEN. If the President had allowed me to be heard, he would have perceived that I rose for the purpose of asking unanimous consent to make a remark in the present stage of proceedings before the resolution was taken up.

The VICE PRESIDENT. The Senator will proceed, if there be no objection.

Mr. FESSENDEN. I did not say that I intended to object, but I rose to ask the unanimous consent of the Senate to make a single remark in response to what was said by the Senator from Illinois, and, if there is no objection, I suppose I can do it.

The VICE PRESIDENT. The Chair hears no objection; the Senator will proceed.

Mr. FESSENDEN. What I wished to say was this: I presume there is no Senator who is not perfectly ready to vote for this resolution. I am, for one. I acknowledge and feel the services of General Grant and his army as sensibly as any man present, and I certainly shall not put myself in the attitude of interposing a single objection to the present consideration of the resolution, because that would be invidious; but I rose simply for the purpose of saying that in my judgment it will be quite as acceptable to General Grant and that army to have the regular course of proceeding taken, the resolution referred to and reported back from the committee with the unanimous recommendation that it pass, and then a unanimous vote upon it, as to take it now on the instant, on the ground that nobody will object to it. The reason why, in my judgment, that would be quite as compli-

mentary and better, is this: although we may have no doubt about it in this particular case, there may be other cases in which we may doubt. It will be quite as complimentary, I say, and we shall thus gain. How gain? By not setting a bad precedent, and not having it said to us hereafter with reference to these matters, "You did it in the case of General Grant; why withhold it now?" and having everything go contrary to the rule and order of a dignified body which has recognized modes of doing business. I cannot conceive of anything that is to be gained by breaking over the ordinary and customary rule, while I can see that much may be lost by exposing ourselves to the precedent that we shall have thus established in the beginning of the session. I am opposed to it on principle, because I have seen the evil effects, time and again, of our acting like a town meeting, thinking because there is no dispute on a particular subject we must therefore push it at the instant. Still, sir, I shall not put myself in the position of objecting to the consideration of the resolution.

Mr. TRUMBULL. I presume that the Senator from Maine, as well as myself, desires to express this compliment in the most gratifying way to General Grant and the brave soldiers under his command. I thought it would be, perhaps, more acceptable to have passed the resolution at once, by the unanimous consent of the Senate, without its reference to a committee. If, however, it will be more agreeable to the feelings of a single Senator, who I know feels, as I do, a great debt of gratitude to General Grant and the brave soldiers he has led, I shall not ask unanimous consent for its consideration to-day. I shall not press that, if the other course is thought more agreeable, for I wish to put no Senator in the position of objecting to a resolution which I know in his heart he is for.

Mr. FESSENDEN. Certainly; I am for it with all my heart.

Mr. TRUMBULL. I withdraw my motion.

The VICE PRESIDENT. Then the resolution will lie on the table, for reference at the appropriate time.

USE OF CONGRESSIONAL LIBRARY.

Mr. WADE. I ask the unanimous consent of the Senate to introduce a joint resolution, and if there be no objection I shall ask for its present consideration.

Leave was granted to introduce a joint resolution (S. No. 1) allowing the use of the Congressional Library to the justices of the supreme court of the District of Columbia; and it was read the first time.

Mr. FESSENDEN. Let that lie on the table, and go to a committee when the committees shall have been appointed.

The VICE PRESIDENT. It being objected to, the resolution will lie over.

Mr. HALE. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 9, 1863.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER. The Chair desires to state to the House that, unless there be objection, he will present to the House each morning such executive communications as may be upon the Speaker's table, to be disposed of unless they give rise to debate; in which case they will be withdrawn and taken up in order.

No objection was made.

TREASURER'S ACCOUNTS.

The SPEAKER laid before the House a communication from the Treasury Department, transmitting the accounts of the Treasurer of the United States for the third and fourth quarters of 1861, and the first and second quarters of 1862; which was laid on the table, and ordered to be printed.

POST OFFICE EXPENDITURES.

The SPEAKER also laid before the House a communication from the Treasury Department, transmitting the accounts of the Treasurer of the United States, of the receipts and expenditures of

the Post Office Department for the year 1863; which was referred to the Committee on Expenditures of the Post Office Department, and ordered to be printed.

VISIT TO RUSSIAN FLEET.

The SPEAKER also laid before the House the following communication from the Secretary of State:

[Unofficial.]

DEPARTMENT OF STATE,
WASHINGTON, December 8, 1863.

SIR: Admiral Lessowski has intimated to me a wish, on his part and that of the other officers of the Russian naval vessels now here, to receive on board of them members of Congress and the ladies of their families. I will consequently thank you to ascertain and let me know when it would be agreeable to members to make the visit.

I have the honor to be, sir, your obedient servant,
WILLIAM H. SEWARD.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

Mr. POMEROY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the invitation of Admiral Lessowski be accepted, and that Saturday of this week, at noon, be fixed for such reception, and that the Clerk be requested to communicate the action of the House to the Secretary of State.

ADJOURNMENT OVER.

Mr. STEVENS. I rise to make the privileged motion, that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. HOLMAN. That is longer than we can adjourn under the Constitution.

Mr. STEVENS. It has frequently been done. There are only three working days intervening. However, if there is objection made, I will withdraw the resolution.

Mr. HOLMAN. I object.

EXCHANGE OF PRISONERS.

The SPEAKER stated the business in order to be the consideration of the following resolution, yesterday submitted by Mr. Cox, and laid over for one day under the rules:

Resolved, That the President of the United States be respectfully and urgently requested to take immediate steps for the exchange of such of our prisoners as are now confined in the prisons of the South; and that he be requested to communicate to this House all correspondence in the War Department with reference to the exchange of prisoners.

Mr. WASHBURN, of Illinois. I move to amend that resolution by striking out all after the word "resolved," and inserting the following:

That this House approve of the constant and statesmanlike efforts of the Administration to secure the exchange of our prisoners now in the hands of the rebels; and that it is hereby recommended that such efforts be continued to secure the exchange of our prisoners now in southern prisons.

Upon that amendment I ask the previous question.

Mr. STEVENS. As this is all unnecessary, I move to lay the whole subject on the table.

Mr. COX. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENS. If there is to be any difficulty about this matter, I withdraw my motion.

Mr. COX. I think I was entitled to the floor upon this resolution when it came up this morning.

The SPEAKER. The gentleman was entitled to the floor; but he did not claim it, and the Chair awarded it to the gentleman from Illinois.

Mr. LOVEJOY. I suggest to my colleague that he modify his substitute by adding after the word "statesmanlike" the word "humane."

Mr. WASHBURN, of Illinois. I will accept that amendment, and now renew the demand for the previous question.

Mr. MALLORY addressed the Speaker.

The SPEAKER. No debate is in order.

Mr. MALLORY. I raise the question of order that the gentleman having withdrawn his demand for the previous question to introduce his amendment, debate is now in order.

The SPEAKER. The gentleman from Illinois renewed the demand for the previous question.

Mr. COX. I do not think there was any renewal of the demand for the previous question.

The SPEAKER. The Chair states that he heard the gentleman from Illinois renew the demand for the previous question, and that settles the question.

The previous question was seconded, and the main question ordered to be put.

Mr. LOVEJOY demanded the yeas and nays on the adoption of the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 73; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spaulding, Starr, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—94.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Knibbsch, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, Robinson, Rogers, Scott, Stebbins, William G. Steele, Stiles, Strouse, Sweet, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—73.

So the amendment was agreed to.

Mr. LOVEJOY demanded the yeas and nays on the adoption of the resolution as amended.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 46; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Lazear, Loan, Longyear, Lovejoy, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, and Woodbridge—106.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Brooks, Chanler, Cox, Eden, Eldridge, Finck, Ganson, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Philip Johnson, Knibbsch, Kernan, King, Knapp, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, Middleton, James R. Morris, Morrison, Nelson, Noble, Pendleton, Perry, Samuel J. Randall, Robinson, Rogers, Scott, Stiles, Strouse, Sweet, Voorhees, Wadsworth, Chilton A. White, Joseph W. White, and Fernando Wood—46.

So the resolution, as amended, was adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was here received by Mr. NICOLAY, Private Secretary of the President.

The message was taken from the Speaker's table, and read. [It will be published in the Appendix.]

The reading of the message was frequently interrupted by applause.

PRINTING OF THE MESSAGE.

Mr. STEVENS. I move that the message be referred to the Committee of the Whole on the state of the Union, and that fifty thousand copies be printed for the use of the House.

The SPEAKER. The motion for the printing of fifty thousand extra copies of the message will, under the rules, be referred to the Committee on Printing.

The motion to refer and print the usual number of copies was adopted.

And then, on motion of Mr. STEVENS, (at ten minutes to two o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, December 10, 1863.

Prayer by the Chaplain, Rev. Dr. SONDERLAND. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with law, the accounts of the superintendent of Indian affairs for the southern superintendency, for the first and second quarters of the year 1863, of disbursements for certain Indian tribes; and also the accounts of the said superintendent of disbursements for the third quarter of 1863; which was ordered to lie on the table.

PETITIONS.

Mr. SUMNER. I present a petition from the president and students of the Meadville (Pennsylvania) Theological School, in which they earnestly pray that Congress will pass, at the earliest practicable day, an act emancipating all persons of African descent held to involuntary service or labor in the United States. I move that it lie on the table.

The motion was agreed to.

Mr. FOSTER. I present the petition of H. Gould Rogers, grandson of Edward Rogers, an officer of the revolutionary Navy, praying compensation for the revolutionary services of his grandfather, and for moneys expended by him during the revolutionary war. I ask that it may lie on the table until the committee appropriate to the subject shall have been announced.

The VICE PRESIDENT. That course will be pursued.

Mr. RAMSEY. I present a petition from paymasters' clerks, in the several pay districts throughout the United States, and also a petition from certain paymasters on the same subject, respectfully requesting that the act of Congress, approved August 12, 1848, be so amended as to increase the annual pay of paymasters' clerks to \$1,400. The petitioners suggest that, in consideration of their duties, expenses, and risks of life, they are entitled to remuneration at least equal to that of clerks in similar positions in the civil departments of the Government. I move that it lie on the table.

The motion was agreed to.

Mr. JOHNSON. I present the petition of Commodore William D. Porter in behalf of himself and the officers and crew of the gunboat Essex, asking for bounty for the destruction of the rebel iron-clad ram Arkansas, under the act of Congress in relation to that subject; and I move that it be laid on the table until the committees shall have been appointed.

The motion was agreed to.

NOTICES OF BILLS.

Mr. GRIMES gave notice of his intention to ask leave to introduce a bill entitled an act to encourage enlistments in the naval service of the United States, and to credit such enlistments upon the military quotas of the respective States.

Mr. SUMNER gave notice of his intention to ask leave to introduce a bill to repeal all acts of Congress for the rendition of fugitive slaves.

ADJOURNMENT TO MONDAY.

On motion of Mr. FOOT, it was

Ordered, That when the Senate adjourns to day, it be to meet on Monday next.

Mr. LANE, of Kansas. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 10, 1863.

The House met at twelve o'clock, m. The Journal of yesterday was read and approved.

INDIAN DISBURSEMENTS.

The SPEAKER laid before the House a communication from the Department of the Interior, transmitting accounts of the superintendent and agents of Indians in the southern superintendency, as required by act of Congress, for disbursements made for various Indian tribes; which was referred to the Committee on Indian Affairs, and ordered to be printed.

INVITATION TO VISIT THE RUSSIAN FLEET.

The SPEAKER also laid before the House the following unofficial letter from the Secretary of State:

Unofficial.]

DEPARTMENT OF STATE,

WASHINGTON, December 9, 1863.

SIR: The Russian minister has intimated to me that the Admiral will be ready to receive members of Congress and the ladies of their families on Saturday next. Boats will be ready at the navy-yard at twelve o'clock, noon, on that day, to take them on board.

I have the honor to be, your obedient servant.

WM. H. SEWARD.

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives.

Mr. WASHBURN, of Illinois. What disposition has been made of the letter?

The SPEAKER. It was only read for the information of the House.

ADJOURNMENT OVER.

Mr. WASHBURN, of Illinois, moved that when the House adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

Mr. HOLMAN. I call for the regular order of business.

BILLS UNDER THE RULES.

Mr. FENTON. I desire to give notice of the introduction of a bill.

The SPEAKER. Under the rules the notice of the introduction of bills can be sent, in writing, to the Clerk's desk, and will be entered upon the Journal. Otherwise the Clerk will not be able to know what bills and joint resolutions it is proposed to present. The Chair deems it necessary to make this statement at this time.

States will now be called for resolutions, under which bills on leave may be presented, beginning with the State of Maine.

Mr. WASHBURN, of Illinois. Are bills to be introduced for reference?

The SPEAKER. Yes, sir.

Mr. WASHBURN, of Illinois. But there are no committees.

Mr. PENDLETON. That does not matter; the committees will be appointed. I call for the regular order of business.

Mr. WASHBURN, of Illinois. I move that the House do now adjourn. [Cries of "No!" "No!"]

Mr. PENDLETON. Let us introduce bills and joint resolutions, for reference.

The House refused to adjourn.

MISSOURI CONTESTED SEAT.

Mr. HALL. I rise to a privileged question. I present the memorial of Thomas L. Price, contesting the seat of Hon. Joseph W. McClurg, Representative from the fifth congressional district of Missouri, and move that it be referred to the Committee of Elections.

The motion was agreed to.

ELECTION OF CHAPLAIN.

Mr. COX. I call for the regular order of business, which is the call of States for the introduction of bills and joint resolutions.

Mr. LOVEJOY. We have not yet elected a Chaplain for this Congress.

The SPEAKER. If that be urged it will be first in order, as it has been held to be a question of privilege connected with the organization of the House.

Mr. STEVENS. I move that the House do now proceed to the election of a Chaplain for the Thirty-Eighth Congress.

The motion was agreed to.

The SPEAKER. Nominations are now in order.

Mr. STEVENS. I nominate Rev. Thomas H. Stockton, who was the Chaplain of the last Congress.

Mr. SPAULDING nominated Rev. Frederick T. Brown.

Mr. MILLER, of Pennsylvania, nominated Rev. Daniel Gans.

Mr. GRINNELL nominated Rev. W. W. Wood, of Iowa.

Mr. ROGERS nominated Rev. N. Pettit, of New Jersey.

Mr. DRIGGS nominated Parson Brownlow, of Tennessee.

Mr. O'NEILL, of Ohio, nominated Rev. B. A. Maguire.

Mr. COX nominated Bishop Hopkins, of Vermont.

Mr. STEVENS nominated Rev. Nathan Lord, of New Hampshire.

Mr. WILDER nominated Rev. Mr. Channing, of Washington.

Mr. LOVEJOY nominated Rev. Henry Ward Beecher.

Mr. WASHBURNE, of Illinois. I nominate Rev. Mr. Channing.

The SPEAKER. He has been nominated already.

Mr. LOVEJOY. I withdraw my nomination, and go with my colleague for Rev. Mr. Channing.

The SPEAKER appointed Messrs. MILLER, of Pennsylvania, SPAULDING, GRINNELL, and ROGERS, as tellers.

Mr. WASHBURNE, of Illinois. I ask the Clerk to read the 134th rule.

The Clerk read it, as follows:

"No person except members of the Senate, their Secretary, heads of Departments, the President's Private Secretary, foreign ministers, the Governor for the time being of any State, Senators and Representatives elect, and judges of the Supreme Court of the United States and of the Court of Claims, shall be admitted within the Hall of the House of Representatives."

The SPEAKER. The notice of the House being called to this matter, the Doorkeeper will see that the rule just read is enforced.

The House then proceeded to vote *viva voce* for Chaplain. Before the result was announced, a large number of members changed their votes, concentrating on the two highest candidates.

The tellers made the following report:

Whole number of votes, 163; necessary to a choice, 82; of which—

Rev. William Henry Channing received	83
Rev. Bishop Hopkins	54
Rev. Thomas H. Stockton	14
Rev. B. A. Maguire	5
Rev. W. G. Brownlow	4
Rev. N. Pettit	2
Rev. Daniel Gans	1

The following is the vote in detail:

For Mr. Channing—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Dumont, Eckley, Eliot, Farnsworth, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seefeld, Shannon, Sloan, Smithers, Spaulding, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge.

For Mr. Hopkins—Messrs. James C. Allen, William J. Allen, Ancona, Bliss, James S. Brown, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Gridler, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hoffman, William Johnson, Kalbfleisch, King, Knapp, Law, Lazear, Le Blond, Mallory, Marcy, McAllister, McDowell, McKinney, William H. Miller, James R. Morris, Nelson, Noble, Pondleton, Samuel J. Randall, Robinson, James S. Rollins, Ross, Scott, Stebbins, John B. Steele, Voorhees, Wadsworth, Ward, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman.

For Mr. Stockton—Messrs. William G. Brown, Freeman Clarke, Clay, Fenton, Frank, Haie, Hutchins, Moorhead, Odell, William H. Randall, Stevens, Stuart, Thomas, and Webster.

For Mr. Maguire—Messrs. Chanler, Finck, Kernan, Long, and John O'Neill.

For Mr. Brownlow—Messrs. Augustus C. Baldwin, Brooks, Driggs, and Whaley.

For Mr. Pettit—Messrs. Ganson and Rogers.

For Mr. Gans—Mr. Griswold.

Rev. WILLIAM HENRY CHANNING, of the District of Columbia, having received a majority of all the votes cast, was declared duly elected Chaplain of the House of Representatives for the Thirty-Eighth Congress.

CONTESTED ELECTION.

Mr. RANDALL, of Kentucky. I rise to a question of privilege. I present the memorial of John P. Bruce, contesting the election of Benjamin Loan, from the seventh congressional district of Missouri. I move that it be referred to the Committee of Elections.

The motion was agreed to.

REPORT OF THE SECRETARY OF THE TREASURY.

The SPEAKER, by unanimous consent, laid before the House the annual report of the Secretary of the Treasury; which was referred to the

Committee of Ways and Means, and ordered to be printed.

ORDER OF PROCEEDING.

Mr. J. C. ALLEN. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of States for resolutions, under which bills of which previous notice has been given may be introduced on leave.

Mr. FENTON. I ask for the reading of the 115th rule.

The Clerk read the rule, as follows:

"Every bill shall be introduced on the report of a committee, or by motion for leave. In the latter case, at least one day's notice shall be given of the motion in the House, or by filing a memorandum thereof with the Clerk, and having it entered on the Journal; and the motion shall be made, and the bill introduced, if leave is given, when resolutions are called for; such motion, or the bill when introduced, may be committed."

Mr. FENTON. I have accomplished all I desired by the reading of the rule.

The SPEAKER. The Clerk will read from Barclay's Digest, page 20, the comment on this rule.

The Clerk read, as follows:

"The notice above referred to is rarely given in the House, (it being in order to give it there only when resolutions are in order,) but is usually given to the Clerk by sending to him a written memorandum in this form: 'Mr. — gives notice that to-morrow or on some subsequent day he will ask leave to introduce a bill; here insert its title.'"

The SPEAKER. Although the 115th rule allows members the alternative of giving notice of bills in the House, or by filing it with the Clerk, really no member has the right to rise and give such notice, without unanimous consent, except when his State is called for resolutions. This morning the gentleman from Indiana [Mr. HOLMAN] demanded the regular order of business, which was the call of States for resolutions. When the State of New York was reached, the gentleman from New York [Mr. FENTON] would have been in order in giving his notice, but at the time he proposed to give it was not in order, and could not be indulged in without unanimous consent.

Mr. FENTON. I supposed that, as no objection was made in the House, that consent was given.

The SPEAKER. Objection was made by the gentleman from Indiana demanding the regular order of business twice, which shut out everything but the regular order, except questions of privilege and privileged questions.

Mr. FENTON. I presume that the notice I gave was properly entered, but whether it was or was not, I now move that the House adjourn.

The House divided, and there were—ayes, 78; noes, 68:

So the motion was agreed to; and thereupon (at half past one o'clock, p. m.) the House adjourned until Monday next.

IN SENATE.

MONDAY, December 14, 1863.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Thursday last was read and approved.

CREDENTIALS.

Mr. MORGAN (in the temporary absence of Mr. HENDERSON) presented the credentials of Hon. B. GRATZ BROWN, chosen by the Legislature of Missouri a Senator from that State to fill the vacancy occasioned by the expulsion of Waldo Porter Johnson, for the term ending March 3, 1867. The credentials were read, the oaths prescribed by law were administered to Mr. Brown, and he took his seat in the Senate.

FINANCE REPORT.

The VICE PRESIDENT laid before the Senate the annual report of the Secretary of the Treasury on the finances; which, on motion of Mr. FESSENDEN, was ordered to be printed, and a motion by him to print extra copies was referred to the Committee on Printing.

APPOINTMENT OF COMMITTEES.

Mr. ANTHONY. I move that the Senate proceed to the election of the standing committees of the body.

The VICE PRESIDENT. It will require the

unanimous consent of the Senate. Is there any objection? The Chair hears none.

Mr. ANTHONY. I ask that the Senate, by unanimous consent, dispense with the rule which requires that the committees shall be elected by ballot.

The VICE PRESIDENT. Is there any objection?

Mr. POWELL. I believe it has been the custom—with a single exception I know it has been since I have had a seat on this floor—for the majority, in forming the committees, to make out a list assigning to their own members the places desired for them, and leaving blanks for the places to be filled by the minority. The list of committees was passed to the minority for the purpose of filling the blanks, and then the election occurred in the mode indicated by the Senator from Rhode Island. I do not know whether any gentleman on our side has seen this list of committees or not. I merely wished to inquire of the Senators in the majority if they had exhibited their list to the Senators on this side, in order that we might, in accordance with the custom which has prevailed since I have been here, with the single exception of the last Congress, have an opportunity of designating those whom we wish to be upon the committees on our side.

Mr. ANTHONY. Perhaps if the Senator will allow the list to be read—

Mr. POWELL. I do not ask that the list be read; I merely wish to know if Senators on the other side of the Chamber have conferred with any of the Senators on this side.

Mr. ANTHONY. I am not aware of any communication having passed between the majority and minority.

Mr. POWELL. I merely wished to make that inquiry; that was all.

The VICE PRESIDENT. Is there any objection to the suspension of the rules? The Chair hears none.

Mr. TRUMBULL. I should like to reply to the suggestion of the Senator from Kentucky. I served in a minority in the Senate for a number of years; and I am quite sure that the majority at that time, with whom the Senator from Kentucky now acts—I do not remember that he himself was here—presented no list of committees to the minority to fill up.

Mr. CLARK. It was done once or twice.

Mr. TRUMBULL. It was done sometimes, but it was not the uniform practice of the majority of the Senate. I served here for two years without seeing a committee in session. I believe I was placed on some committee, but it never met; and I was placed there not by any action of the minority with whom I acted, and which at that time, I think, constituted fifteen members of the Senate. I merely wish to correct the statement of the Senator from Kentucky, as to its having been the uniform practice, with the exception, perhaps, of the last Congress, to submit a list of committees to the minority of the Senate, leaving blanks for them to fill. Such was not the practice uniformly when the Democrats were in power. They sometimes did so, and sometimes did not.

Mr. POWELL. Mr. President, the Senator from Illinois desired to correct my statement. My statement was in every particular correct. I did not state what had been the custom before I entered this body. My statement was, that since I had been a member of the Senate, the Democratic party, each session, sent to the opposition a list of committees, leaving blanks for their party, and they filled them. What the custom had been anterior to that time I did not state, for I knew nothing about it. That was the courtesy extended to Senators on that side when I served in this Chamber with the majority; and I think as a matter of courtesy it was proper in itself. I think the majority ought, on all occasions, to extend that courtesy to the minority. I was pleased that the party to which I belonged, when in the majority, thus acted. I thought it right; and I think now it would be a matter of courtesy, and it would be eminently proper on the part of the majority, to allow the minority to place their members on such committees as they chose. Let the majority make out their committees, leaving blanks for the gentlemen on this side of the Chamber, and let this side fill up and pass back the list.

Mr. HALE. May I be allowed a word, sir? I do not know what the question is; but I think

if there be a member here who has a right to speak of the experiences of being in a minority on this floor, I am that man. I have been here for many years; and I think it is within a very short period that ever I or anybody with whom I ever acted was consulted in regard to the formation of the committees. I remember, on one occasion—I think, sir, you will remember the same—a list of committees was reported here, got up I do not know how, and I was omitted altogether from any committee, and so was my excellent friend on my left, [Mr. SUMNER,] and so was the distinguished gentleman who now stands at the head of the Treasury of the United States. We were omitted altogether; and on instituting some little inquiry of the Democratic oligarchy that ruled the Senate as to why it was done, we were politely informed that we did not belong to a healthy political organization, and therefore we had been left off the committees entirely. But, sir, finally my health got so, politically, that this same party did put me at the tail end of the Committee on Private Land Claims, [laughter,] where I served without remonstrance or reproach. I could not render much service. A good many of those claims were found to rest in old Spanish grants; and, not being entirely conversant with the language, I had to trust to other agencies to find out what was intended. But I want to say, sir, that a claim to anything of this sort comes with an ill grace from a party who thus ruled the Senate when they had power. In this connection, too, permit me to say, that in the long period of my service here, I have never asked of my friends or enemies any place on any committee at any time. I have always served as well as I knew how on committees, and when I was off I served off as well as I knew how, without any rebuke or reproach to anybody. If it is practicable to let the gentlemen who now constitute the minority be consulted, I should be perfectly willing to agree to it; and I suppose if they raise the objection, they have a right to do so.

Mr. FESSENDEN. I do not understand the honorable Senator from Kentucky as objecting to the proposed mode of proceeding, but rather as making an inquiry. It is the fact that at different times different modes have been adopted with reference to this matter. When I first came into the Senate, very little attention was paid in any way to the gentlemen, to use the honorable Senator's expression, "on this side of the Chamber;" that is to say, to the few gentlemen who were in the minority at that time. Afterwards, when a party they became quite large and strong, places were left upon the committees for them. The reason given, as I understood it, was that there were so few of them that it was as well for the majority to make up the committees, instead of expending a great deal of time in choosing them. That course was adopted at the last Congress, for the reason that there were very few gentlemen in the Senate—an exceedingly small number—who in any way placed themselves in opposition to the course the Government had taken; consequently the committees were made up by the majority; and I think the honorable Senator himself said to me that they were very fairly and liberally made up. I understood him to say so; and certainly, if I did not hear it from him, I heard the remark from a late Senator from Indiana, at any rate, who was placed on some of the committees.

Our difficulty in relation to this matter is simply this, that it is hard for us to understand what is meant by gentlemen on that side of the Chamber. Most of the Senators on that side act with the majority, and claim so to act. It left, therefore, only a very small number who were supposed in any degree to be in opposition; and instead of leaving particular places to be filled up, it was thought best to appoint the committees in this way. It never was the custom to leave places for the minority on all the committees; but on just such committees as the majority chose. Instead of leaving a small number of places on various committees to be filled up, it was thought best, as the gentlemen are very well known, to fill them up; and I believe it has been done in this list with such a degree of liberality, or rather of justice extended to all gentlemen, that there can be no complaint about it. I think the Senator will find it to be so when he comes to hear the list read.

Mr. POWELL. The Senator from Maine is certainly correct as to the fact that I only made a

statement by way of inquiry. I made no objection, and do not intend to make any, to the mode of appointment of the committees. The mode, though, in which the committees seem to have been appointed since the Democrats have been out of power here, differs from the mode in which they were appointed while I served in this body when we were in the majority. I merely made an inquiry. Some Senators, the Senator from New Hampshire and others, have indicated by their remarks that this was asking a favor. Sir, I never intended for a moment to ask any favor in the matter of committees or anything else from gentlemen on that side of the Chamber. All we have a right to hope for is simple justice, if we can get that. I merely suggested that I thought, in courtesy, it would be eminently proper for the majority to make up the committees in the manner in which they have been usually heretofore made. That is all I wish to say on the subject. I am indifferent personally about the matter. I really had no objection to the committees on which I was placed at the last session, and I presume I shall have none this time. Even if they leave me off entirely, I assure the Senate I shall not complain. I certainly shall not ask to be put on any committee.

The VICE PRESIDENT. No objection is made to suspending the rule, as proposed by the Senator from Rhode Island.

Mr. ANTHONY. I offer the following nominations, and I think the Senator from Kentucky and his friends on the other side of the Chamber will find that they are treated in this list with great liberality.

The VICE PRESIDENT. The list will be read.

The Secretary read, as follows:

On Foreign Relations—Messrs. Sumner, (chairman,) Foster, Doolittle, Harris, Davis, Johnson, and McDougall.
On Finance—Messrs. Fessenden, (chairman,) Sherman, Howe, Cowan, Clark, Van Winkle, and Conness.
On Commerce—Messrs. Chandler, (chairman,) Morrill, Ten Eyck, Morgan, Sprague, Bowden, and Saulsbury.
On Agriculture—Messrs. Sherman, (chairman,) Harlan, Wilson, Lane of Kansas, and Powell.
On Military Affairs and the Militia—Messrs. Wilson, (chairman,) Lane of Indiana, Howard, Nesmith, Morgan, Sprague, and Brown.
On Naval Affairs—Messrs. Hale, (chairman,) Grimes, Anthony, Willey, Ramsey, Harding, and Hicks.
On the Judiciary—Messrs. Trumbull, (chairman,) Foster, Ten Eyck, Harris, Howard, Bayard, and Powell.
On the Post Office and Post Roads—Messrs. Collamer, (chairman,) Dixon, Ramsey, Henderson, Bowden, Conness, and Buckalew.
On Public Lands—Messrs. Harlan, (chairman,) Pomeroy, Foot, Harding, Carlile, Hendricks, and Wright.
On Private Land Claims—Messrs. Harris, (chairman,) Sumner, Howard, Bayard, and McDougall.
On Indian Affairs—Messrs. Doolittle, (chairman,) Wilkinson, Lane of Kansas, Harlan, Nesmith, Brown, and Buckalew.
On Pensions—Messrs. Foster, (chairman,) Lane of Indiana, Pomeroy, Bowden, Van Winkle, Saulsbury, and Buckalew.
On Revolutionary Claims—Messrs. Wilkinson, (chairman,) Chandler, Wilson, Nesmith, and Wright.
On Claims—Messrs. Clark, (chairman,) Howe, Pomeroy, Anthony, Morrill, Hicks, and Hendricks.
On the District of Columbia—Messrs. Grimes, (chairman,) Dixon, Morrill, Wade, Willey, Henderson, and Richardson.
On Patents and the Patent Office—Messrs. Cowan, (chairman,) Ten Eyck, Sherman, Ramsey, and Saulsbury.
On Public Buildings and Grounds—Messrs. Foot, (chairman,) Trumbull, Grimes, Henderson, and Hendricks.
On Territories—Messrs. Wade, (chairman,) Wilkinson, Hale, Lane of Kansas, Carlile, Davis, and Richardson.
To Audit and Control the Contingent Expenses of the Senate—Messrs. Dixon, (chairman,) Clark, and Harding.
On Engrossed Bills—Messrs. Lane of Indiana, (chairman,) Sumner, and Willey.
On Printing—Messrs. Anthony, (chairman,) Morgan, and Powell.
On Enrolled Bills—Messrs. Howe, (chairman,) Cowan, and Hicks.
On the Library—Messrs. Collamer, (chairman,) Fessenden, and Johnson.

The question being put, the list, as read, was adopted.

REFERENCE OF MEMORIALS AND BILLS.

The VICE PRESIDENT. If there be no objection on the part of the Senate, the several memorials which have been presented by Senators will be taken from the files and referred to the appropriate committees.

Mr. HALE. And bills.

The VICE PRESIDENT. Bills and joint resolutions which have had their first and second readings will also be included in the reference.

PETITIONS AND MEMORIALS.

Mr. FESSENDEN presented a petition of seamen in the United States revenue cutter service,

attached to the cutter Caleb Cushing, praying for remuneration for loss of property sustained by them in the destruction by the rebels of that vessel; which was referred to the Committee on Commerce.

He also presented the petition of J. S. Merrill, praying for the passage of an act to enable the accounting officers of the Treasury to settle his accounts as quartermaster and commissary of the fifth regiment of Maine volunteers; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of George Henry Preble, commander in the United States Navy, praying for relief from what he considers the unjust decision of the accounting officers of the Treasury Department, in refusing to allow his account as commander afloat from the 16th of July to the 12th of October, 1862, and as commander "waiting orders" from October, 1862, to the date of his present commission as commander; which was referred to the Committee on Naval Affairs.

Mr. WILKINSON presented the memorial of A. J. Campbell, praying for relief under the second article of the treaty with the Sioux Indians, made June 19, 1858; which was referred to the Committee on Indian Affairs.

He also presented additional papers in relation to the claim of Richard G. Murphy, late agent for the Sioux Indians, praying relief for certain vouchers erroneously given; which, with the papers already on file, were referred to the Committee on Claims.

Mr. SUMNER presented the petition of Dr. F. G. Hunt, and other inhabitants of Brookline, Massachusetts, praying for the passage of a law providing for a uniform ambulance and hospital system for the armies of the United States; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Jane B. Carver, widow of the Rev. Robert Carver, of Taunton, Massachusetts, chaplain of the seventh regiment of Massachusetts volunteers, who died of disease contracted in the service of the country. The petitioner represents that on application for a pension she was informed that no provision was made for the widows and families of chaplains, according to the existing laws, and she therefore prays that a pension be granted her, the same as is granted to widows of officers of like rank in the Army. The petition was referred to the Committee on Pensions.

He also presented the memorial of Franklin Eliot Felton, of Philadelphia, Pennsylvania, suggesting several propositions of amendment to the existing patent laws; which was referred to the Committee on Patents and the Patent Office.

Mr. NESMITH presented a petition of citizens of Portland, Oregon, praying that Portland may be made a port of entry; which was referred to the Committee on Commerce.

Mr. DIXON presented a petition of assistant assessors under the excise laws of the United States for the State of Connecticut, praying for an increase of their compensation; which was referred to the Committee on Finance.

Mr. HOWE presented the petition of Susan W. Dunmore, widow of Rev. George W. Dunmore, chaplain to the first regiment Wisconsin cavalry, who, while discharging the duties of that office, was detailed upon guard duty by the colonel of the regiment, and was killed in a skirmish with the enemy at La Anguille Ferry, on the 3d of August, 1862. The petitioner prays that a suitable pension may be granted to her. The petition was referred to the Committee on Pensions.

Mr. POMEROY. I present the memorial of Berendt A. Froiseth, praying for the enactment of suitable laws for the encouragement and protection of foreign immigrants arriving within the jurisdiction of the United States, which would render more effective the national homestead act of May 20, 1862. The memorial is of considerable interest, and I ask that it may be printed, and referred to the Committee on Agriculture.

The VICE PRESIDENT. The memorial will be referred to the Committee on Agriculture, and the motion to print will be referred to the Committee on Printing.

Mr. WILSON presented resolutions of the Legislature of Massachusetts in favor of an in-

THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 1ST SESSION.

WEDNESDAY, DECEMBER 16, 1863.

NEW SERIES.....No. 2.

crease of pay of the soldiers in the service of the United States; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented resolutions of the Legislature of Massachusetts in favor of the men of Massachusetts who are now in the naval service being counted as part of her military contingent; also, that the non-commissioned officers and privates of the fifty-fourth and fifty-fifth regiments of Massachusetts volunteers are entitled to and should receive from the national Government the same pay and allowances as other troops; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HARRIS, it was

Ordered, That the petition and other papers in relation to the compensation of the inspectors of customs for the port of New York be taken from the files of the Senate, and referred to the Committee on Finance.

On motion of Mr. GRIMES, it was

Ordered, That the papers in relation to the claim of John Egenoff be taken from the files of the Senate, and referred to the Committee on Claims.

PRINTING OF MESSAGE AND DOCUMENTS.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be instructed to inquire into the propriety of printing the message of the President and the reports of the heads of Departments, without the accompanying documents, and what number, if any, should be printed for the use of the Senate; also, to report what, if any, additional number should be printed with a part of the accompanying documents.

NAVY REPORT.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Superintendent of Public Printing be authorized to print, in addition to the number now authorized by law, fifteen hundred copies of the report of the Secretary of the Navy, and appendix, for the use of the vessels of the Navy, and five hundred copies of the report proper for the office of the Secretary of the Navy.

LIBRARY OF THE SENATE.

Mr. FOOT submitted the following resolutions; which, with a communication on the subject from the Chief Clerk of the Senate, were referred to the Committee on the Library, and ordered to be printed:

Resolved, That one copy of each of the books and sets of books, maps, charts, atlases, and printed bound documents, in the possession of the Senate, be collected together by the Secretary from the various rooms and apartments set apart for the use of the Senate, so as to form one complete set or copy of each and all of the same, which shall be properly arranged in classes and sections, and which, together with such other books and matters as may from time to time be directed to be procured by the Committee on the Library of the Senate for that purpose, shall be formed into a Library of the Senate, for the special use of its members and committees and the business of the Senate and Secretary's office, under such regulations as may be prescribed by the Committee on the Library of the Senate, for the time being, which regulations shall be printed and furnished to the members, committees, and officers of the Senate at the commencement of each session, and shall be observed and conformed to by them, until modified or changed by the committee or by the order of the Senate.

Resolved, That a librarian shall be appointed by the Secretary of the Senate to take charge of the said library, whose duty it shall be to keep a complete and faithful record of every book, map, atlas, and article received or placed in such library, and diligently to make himself acquainted with the same, so as to be able, whenever called upon by a member, or on the part of a committee of the Senate, or the office of the Secretary, to furnish any such book or other article for use in the library, or any information in tabular or other form that may be required from them, and to take a particular account of every book or other article delivered out of the library to any member, or committee, or the Secretary, and to require its return into the library according to the regulations prescribed by the said Committee on the Library, or the Senate, and also to perform such other duties in the said library as may be prescribed by the said committee, the Senate, or the Secretary of the Senate; and the compensation of the said librarian shall be \$2,000 per annum, with the same official qualification under oath, and subject to the same penalties for neglect or violation of the rules, as are the other officers of the Senate.

Resolved, That the arrangement made for the occupation of the rooms of the north extension of the Capitol, set apart for the Senate by the resolution of the 18th of January, 1858, be so far changed that the rooms numbered 99, 100, and 101, shall be appropriated for this library, and the rooms

numbered 87, 89, and 111, shall be appropriated for the use of select committees, and such other committees not already occupying separate rooms as may be assigned to them by the Presiding Officer of the Senate, for the time being, unless otherwise ordered by the Senate.

NOTICES OF BILLS.

Mr. WILKINSON gave notice of his intention to ask leave to introduce a joint resolution relative to a certain grant of land for railroad purposes in the State of Minnesota.

Mr. DIXON gave notice of his intention to ask leave to introduce a bill to amend the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, in such manner as to exempt clergymen of all religious denominations from the operation of said act.

Mr. NESMITH gave notice of his intention to ask leave to introduce a bill providing for the establishment of a branch mint of the United States at Portland, Oregon.

Mr. HENDRICKS gave notice of his intention to ask leave to introduce a bill to extend the time within which the States and Territories may accept the grant of lands for the benefit of agricultural colleges made by the act of July 2, 1862.

BILLS INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 3) more effectually to suppress the rebellion; which was read a first time by its title.

Mr. HALE. As the bill is very short, and it is important, I wish that it may be read at length on its second reading.

The Secretary read it a second time at length, as follows:

Be it enacted, &c., That hereafter all persons within the United States of America are equal before the law; and all claims to personal service, except those founded on contract and the claim of a parent to the service of a minor child, and service rendered in pursuance of sentence for the punishment of crime, be and the same are hereby forever abolished, anything in the constitution or laws of any State to the contrary notwithstanding.

Mr. HALE. Let it lie on the table for the present. I should like to have it printed. I shall call it up at some future time.

The VICE PRESIDENT. The bill will lie on the table, and the order to print will be made, if there be no objection.

Mr. WILKINSON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 4) to extend the act of Congress granting pensions, to persons wounded in the Indian massacres in Minnesota in the years 1862 and 1863; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LANE, of Indiana, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 5) to amend the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

He also, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 6) to increase the pay of the rank and file of the Army; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 7) to increase the bounty for volunteers and the pay of the Army; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce the following joint resolutions; which were severally read twice by their titles, and referred to the Committee on Military Affairs and the Militia:

A joint resolution (S. No. 2) expressive of the thanks of Congress to Major General Nathaniel P. Banks, and the officers and soldiers under his command at Port Hudson; and

A joint resolution (S. No. 3) expressive of the thanks of Congress to Major General Joseph Hooker and Major General George G. Meade, and the officers and soldiers of the army of the Potomac.

Mr. GRIMES, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 8) to encourage enlistments into the naval service of the United States, and to credit enlisted men to the military quotas of the States of which they may be citizens; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

TERRITORIAL LAWS.

The VICE PRESIDENT laid before the Senate duplicate copies of the laws of Dakota Territory for 1862-1863; of the laws of Nevada Territory for 1862; and of the laws of the Territory of Utah for the year 1862-1863; one copy of each of which was referred to the Committee on Territories, and the others ordered to be placed upon the files of the Senate.

REFERENCE OF THE MESSAGE.

On motion of Mr. SUMNER, it was

Ordered, That so much of the President's message as refers to our foreign relations be referred to the Committee on Foreign Relations.

On motion of Mr. HALE, it was

Ordered, That so much of the President's message and the accompanying documents as relates to the Navy and naval affairs, and the annual report of the Secretary of the Navy, be referred to the Committee on Naval Affairs.

On motion of Mr. CLARK, the Senate then adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 14, 1863.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING; as follows:

Being of beings, Spirit of spirits, Life of life, God and Father of angels and men, our God and Father: We are Thy creatures, we would adore Thee. We are Thy subjects, we would obey Thee. We are Thy children, we would love Thee. Oh, make the influences of Thy Spirit and of Thy providential power felt in this assembly of statesmen, to whom Thou hast, in so large a measure, intrusted the destinies of this Republic in this awful crisis of its fate. Enlighten their consciences, we pray Thee, our Father; with wisdom from on high, to see and choose a policy fitted to restore liberty and union, one and inseparable, throughout the bounds of this re-integrated Republic. Give, we pray Thee, that disinterestedness of purpose and devotedness to Thee, that true patriotism, which shall make them the instruments of Thy good pleasure to redeem their native land.

Be with the head of this Republic; be with all the officers of his Cabinet, severally and unitedly. Endow them with a sagacity worthy of a Christian commonwealth; give them that rectitude of will to serve their nation through all sacrifices and at any cost, that may make them the brain and heart of this nation, vitalizing it throughout.

Be, we pray Thee, with our armies, our soldiers and leaders in the field. Give to the leaders sagacity, promptitude, energy, indomitable courage, and a will to serve Thee and their fellow-men. Give to our soldiers heroism, fortitude, indomitable purpose, God willing, to be the servants of this redeemed Republic.

Be, O our Father, with those who are stretched in hospitals, who are suffering for the toils, suffering with wounds they have borne for the restoration of the freedom of this Republic; solace their sorrows; raise them up to health; restore them once more to their true places in society in the midst of their fellow-citizens. And be with the widows and orphans in many homes; God of consolation, give them Thy comfort, and lift upon them the light of eternal life.

Be, O our Father, with our prisoners, our brethren in captivity, in this hour; give them, we pray Thee, the hope of redemption and restoration; give them mutual disinterestedness and mutual service. Touch the hearts of the brutal tyrants who hold them in captivity, with honor, with humanity, and with some sense of their obligation to the common conscience of Christendom.

Be, we pray Thee, with the oppressed and the enslaved, to ransom them and lead them out of their house of bondage. Be with the freedmen, to raise them to be fellow-citizens with us in the high privileges of this Republic.

Finally, be with our enemies; crush and humble tyrants in the dust, and disenthral a people maddened by partisan passions. Father, we pray Thee, by Thine influences, to restore them in loyal service once more to this Republic.

And now, with a spirit of universal equity, give us universal freedom. May Thy kingdom come and Thy will be done. We ask it for and in the name and as the disciples of Thy beloved Son, our Lord Jesus Christ, through whom we ascribe praise and glory to Thee forever. Amen.

The Journal of Thursday last was read and approved.

OATH OF CHAPLAIN.

Rev. W. H. CHANNING, Chaplain of the House of Representatives for the Thirty-Eighth Congress, came forward and took the oath of office prescribed by law.

CONTESTED-ELECTION CASES.

The SPEAKER laid before the House the papers in the contested-election cases of the third and sixth congressional districts of Missouri, and of the seventh congressional district of Virginia; which were severally referred to the Committee of Elections.

TREASURY DEPARTMENT ACCOUNTS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the disbursements of the contingent fund for the year ending June 30, 1863; which was referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

Also, a letter from the same, transmitting a statement of receipts and expenditures for the year ending June 30, 1862; which was referred to the Committee of Ways and Means, and ordered to be printed.

TERRITORIAL LAWS.

The SPEAKER also laid before the House copies of the territorial laws of Utah and Dakota; which were referred to the Committee on Territories.

STANDING COMMITTEES.

The SPEAKER announced the standing committees of the House, as follows:

Committee of Elections—Henry L. Dawes of Massachusetts, Daniel W. Voorhees of Indiana, Portus Baxter of Vermont, Green Clay Smith of Kentucky, John Ganson of New York, Glenni W. Scofield of Pennsylvania, Nathaniel B. Smithers of Delaware, Charles Upson of Michigan, and James S. Brown of Wisconsin.

Of Ways and Means—Thaddeus Stevens of Pennsylvania, Justin S. Morrill of Vermont, George H. Pendleton of Ohio, Reuben E. Fenton of New York, Samuel Hooper of Massachusetts, Robert Mallory of Kentucky, Henry T. Blow of Missouri, John A. Kasson of Iowa, and Henry G. Stebbins of New York.

Of Claims—James T. Hale of Pennsylvania, William S. Holman of Indiana, Edwin H. Webster of Maryland, James M. Ashley of Ohio, William J. Allen of Illinois, Giles W. Hotchkiss of New York, William G. Brown of West Virginia, John V. L. Pruyn of New York, and Alexander Long of Ohio.

On Commerce—Elihu B. Washburne of Illinois, Thomas D. Eliot of Massachusetts, Elijah Ward of New York, Nathan F. Dixon of Rhode Island, John A. J. Creswell of Maryland, Nehemiah Perry of New Jersey, Charles O'Neill of Pennsylvania, John W. Longyear of Michigan, and Wells A. Hatchins of Ohio.

On Public Lands—George W. Julian of Indiana, James E. English of Connecticut, William Higby of California, William B. Allison of Iowa, William H. Wadsworth of Kentucky, Ithamar C. Sloan of Wisconsin, Fernando Wood of New York, John F. Briggs of Michigan, and Samuel F. Miller of New York.

On the Post Office and Post Roads—John B. Alley of Massachusetts, Jesse O. Norton of Illinois, Aaron Harding of Kentucky, Ignatius Donnelly of Minnesota, James G. Blaine of Maine, James Brooks of New York, Cornelius Cole of Cali-

fornia, Josiah B. Grinnell of Iowa, and William E. Finck of Ohio.

For the District of Columbia—Owen Lovejoy of Illinois, Ebenezer Dumont of Indiana, John B. Steele of New York, Lucien Anderson of Kentucky, James W. Patterson of New Hampshire, James R. Morris of Ohio, Thomas T. Davis of New York, Henry W. Tracy of Pennsylvania, and Ezra Wheeler of Wisconsin.

On the Judiciary—James F. Wilson of Iowa, George S. Boutwell of Massachusetts, Francis Kernan of New York, Francis Thomas of Maryland, Thomas Williams of Pennsylvania, Austin A. King of Missouri, Frederick E. Woodbridge of Vermont, Daniel Morris of New York, and George Bliss of Ohio.

On Revolutionary Claims—Hiram Price of Iowa, John D. Siles of Pennsylvania, Jesse O. Norton of Illinois, Martin Kalbfleisch of New York, Oakes Ames of Massachusetts, Charles A. Eldridge of Wisconsin, Ebenezer Dumont of Indiana, William Johnson of Ohio, and John G. Scott of Missouri.

On Public Expenditures—Calvin T. Hulburt of New York, John M. Broomall of Pennsylvania, Francis C. Le Blond of Ohio, George W. Julian of Indiana, Jesse Lazear of Pennsylvania, Jacob B. Blair of West Virginia, Edward H. Rollins of New Hampshire, Andrew J. Rogers of New Jersey, and Charles M. Harris of Illinois.

On Private Land Claims—M. Russell Thayer of Pennsylvania, Giles W. Hotchkiss of New York, Anthony L. Knapp of Illinois, Daniel W. Gooch of Massachusetts, John O'Neill of Ohio, Charles H. Winfield of New York, Ephraim R. Eckley of Ohio, Lorenzo D. M. Sweat of Maine, and Henry W. Harrington of Indiana.

On Manufactures—James K. Moorhead of Pennsylvania, Orlando Kellogg of New York, Sydenham E. Ancona of Pennsylvania, Isaac N. Arnold of Illinois, Freeman Clarke of New York, Chilton A. White of Ohio, Oakes Ames of Massachusetts, John F. Starr of New Jersey, and Benjamin G. Harris of Maryland.

On Agriculture—Brutus J. Clay of Kentucky, Kellian V. Whaley of West Virginia, Joseph Baily of Pennsylvania, Calvin T. Hulburt of New York, John Law of Indiana, William D. Kelley of Pennsylvania, Sidney Perham of Maine, Augustus C. Baldwin of Michigan, and George Middleton of New Jersey.

On Indian Affairs—William Windom of Minnesota, Walter D. McIndoe of Wisconsin, James C. Allen of Illinois, John R. McBride of Oregon, A. Carter Wilder of Kansas, Homer A. Nelson of New York, Sempronius H. Boyd of Missouri, Thomas B. Shannon of California, and Charles Dennison of Pennsylvania.

On Military Affairs—Robert C. Schenck of Ohio, John F. Farnsworth of Illinois, George H. Yeaman of Kentucky, James A. Garfield of Ohio, Benjamin Loan of Missouri, Moses F. Odell of New York, Henry C. Deming of Connecticut, Francis W. Kellogg of Michigan, and Archibald McAllister of Pennsylvania.

On the Militia—Robert B. Van Valkenburgh of New York, Green Clay Smith of Kentucky, Sydenham E. Ancona of Pennsylvania, Edwin H. Webster of Maryland, Orlando Kellogg of New York, William R. Morrison of Illinois, James G. Blaine of Maine, Amasa Cobb of Wisconsin, and John F. McKinney of Ohio.

On Naval Affairs—Alexander H. Rice of Massachusetts, James K. Moorhead of Pennsylvania, John A. Griswold of New York, Frederick A. Pike of Maine, William D. Kelley of Pennsylvania, James S. Rollins of Missouri, Rufus P. Spaulding of Ohio, Augustus Brandegee of Connecticut, and Joseph K. Edgerton of Indiana.

On Foreign Affairs—Henry Winter Davis of Maryland, Daniel W. Gooch of Massachusetts, Samuel S. Cox of Ohio, Theodore M. Pomeroy of New York, Godlove S. Orth of Indiana, William H. Randall of Kentucky, John L. Dawson of Pennsylvania, Asahel W. Hubbard of Iowa, and John T. Stuart of Illinois.

On the Territories—James M. Ashley of Ohio, Fernando C. Beaman of Michigan, James A. Cravens of Indiana, Owen Lovejoy of Illinois, John H. Rice of Maine, Henry Grider of Kentucky, James M. Marvin of New York, Joseph W. McClurg of Missouri, and Philip Johnson of Pennsylvania.

On Revolutionary Pensions—Dewitt C. Little-

john of New York, John Law of Indiana, Walter D. McIndoe of Wisconsin, Anson Herrick of New York, Rufus P. Spaulding of Ohio, John R. Eden of Illinois, Brutus J. Clay of Kentucky, Daniel Marcy of New Hampshire, and Alexander H. Coffroth of Pennsylvania.

On Invalid Pensions—Kellian V. Whaley of West Virginia, Benjamin Wood of New York, Sidney Perham of Maine, James F. McDowell of Indiana, William B. Washburn of Massachusetts, William H. Miller of Pennsylvania, Freeman Clarke of New York, Lewis W. Ross of Illinois, and J. A. J. Creswell of Maryland.

On Roads and Canals—Isaac N. Arnold of Illinois, Dewitt C. Littlejohn of New York, William A. Hall of Missouri, Fernando C. Beaman of Michigan, William B. Washburn of Massachusetts, Elijah Ward of New York, Ephraim R. Eckley of Ohio, William B. Allison of Iowa, and Myer Strouse of Pennsylvania.

On Patents—Thomas A. Jenckes of Rhode Island, Leonard Myers of Pennsylvania, Warren P. Noble of Ohio, John H. Hubbard of Connecticut, and John W. Chanler of New York.

On Public Buildings and Grounds—John H. Rice of Maine, Jacob B. Blair of West Virginia, Samuel J. Randall of Pennsylvania, John F. Starr of New Jersey, and William Radford of New York.

On Revisal and Unfinished Business—Sempronius H. Boyd of Missouri, Homer A. Nelson of New York, John F. McKinney of Ohio, Charles Upson of Michigan, and James C. Allen of Illinois.

Of Mileage—James C. Robinson of Illinois, Augustus Frank of New York, Amos Myers of Pennsylvania, Benjamin Wood of New York, and Joseph W. White of Ohio.

Of Accounts—Edward H. Rollins of New Hampshire, John M. Broomall of Pennsylvania, William G. Steele of New Jersey, Ambrose W. Clark of New York, and John R. Eden of Illinois.

On Expenditures in the State Department—Frederick A. Pike of Maine, James C. Robinson of Illinois, Robert B. Van Valkenburgh of New York, John D. Siles of Pennsylvania, and James E. English of Connecticut.

On Expenditures in the Treasury Department—Amos Myers of Pennsylvania, Martin Kalbfleisch of New York, Joseph W. White of Ohio, Thomas D. Eliot of Massachusetts, and James W. Patterson of New Hampshire.

On Expenditures in the War Department—Henry C. Deming of Connecticut, John B. Steele of New York, Charles M. Harris of Illinois, Ithamar C. Sloan of Wisconsin, and Glenni W. Scofield of Pennsylvania.

On Expenditures in the Navy Department—Portus Baxter of Vermont, William Higby of California, Anson Herrick of New York, Daniel Marcy of New Hampshire, and Henry W. Tracy of Pennsylvania.

On Expenditures in the Post Office Department—Theodore M. Pomeroy of New York, Chilton A. White of Ohio, Leonard Myers of Pennsylvania, William A. Hall of Missouri, and John H. Hubbard of Connecticut.

On Expenditures in the Interior Department—Thomas B. Shannon of California, George Middleton of New Jersey, Alexander H. Coffroth of Pennsylvania, Ignatius Donnelly of Minnesota, and Augustus C. Baldwin of Michigan.

On Expenditures on the Public Buildings—John W. Longyear of Michigan, Jesse Lazear of Pennsylvania, John D. Baldwin of Massachusetts, William Johnson of Ohio, and Augustus Brandegee of Connecticut.

Joint Committee on the Library—Augustus Frank of New York, Elihu B. Washburne of Illinois, and William H. Wadsworth of Kentucky.

Joint Committee on Printing—Ambrose W. Clark of New York, Joseph Baily of Pennsylvania, and John D. Baldwin of Massachusetts.

Joint Committee on Enrolled Bills—Amasa Cobb of Wisconsin, and William G. Steele of New Jersey.

COMMITTEE ON RULES.

The SPEAKER stated that the committee on rules would be announced to-morrow.

BILLS ON LEAVE.

The SPEAKER stated that the first business in order was the call of States for bills on leave, and joint resolutions, commencing with the State of Maine.

RECIPROCITY TREATY.

Mr. MORRILL introduced a joint resolution authorizing the President of the United States to give to the Government of Great Britain the notice required for the termination of the reciprocity treaty of June 5, A. D. 1854; which was read a first and second time.

Mr. MORRILL. I move its reference to the Committee of Ways and Means.

Mr. WARD. I ask the gentleman from Vermont to allow that joint resolution to go to the Committee on Commerce. It is well known to members of the old House that this subject was very fully and very elaborately considered in the Committee on Commerce last session; and it would seem much more appropriate to permit the subject to remain there than to send it now to the Committee of Ways and Means. The honorable gentleman will have an opportunity to discuss the question when it comes up.

Mr. MORRILL. Mr. Speaker, this question has been hitherto considered rather as a foreign than as a domestic question. It is really a question of a domestic character, relating to the revenues, and I therefore desire its reference to the Committee of Ways and Means. By the existence of the present commercial treaty with Great Britain we are deprived of the privilege of revising our tariff or of levying an internal tax according as our own wisdom and judgment may dictate. I move that the joint resolution be referred to the Committee of Ways and Means; and on that question I move the previous question.

Mr. WASHBURNE, of Illinois. After the gentleman from Vermont has had his say I hope he will give me a moment.

The SPEAKER. By the rules of the House debate is not allowed during the morning hour. All bills introduced must be referred without debate.

Mr. WASHBURNE, of Illinois. I was aware of that; but as the gentleman from Vermont has taken occasion to state the reasons why this matter should be referred to the Committee of Ways and Means, I wish to show why it should rather go to the Committee on Commerce.

Objection was made.

Mr. WARD. I move to amend by referring to the Committee on Commerce.

The SPEAKER. The motion is not in order after the previous question being called.

Mr. MORRILL demanded tellers on seconding the previous question.

Tellers were not ordered.

The previous question was not seconded.

Mr. MORRILL. Is it in order to withdraw the joint resolution?

The SPEAKER. It is not, it having been read a first and second time.

Mr. WARD. I now move to amend, by referring the joint resolution to the Committee on Commerce.

The amendment was agreed to; and the motion, as amended, was agreed to.

BUREAU OF EMANCIPATION.

Mr. ELIOT introduced a bill to establish a Bureau of Emancipation; which was read a first and second time, referred to a select committee of five, and ordered to be printed.

ELECTIONS IN TENNESSEE AND LOUISIANA.

Mr. DAWES introduced a bill to provide for the election of Representatives in Congress from the States of Tennessee and Louisiana; which was read a first and second time, and referred to the Committee of Elections.

COMMUTATION LAW.

Mr. BRANDEGEE, by unanimous consent, presented the joint resolutions of the Legislature of Connecticut, instructing Senators and requesting Representatives to obtain a modification of the conscription act, so as that towns and subdivisions of enrollment districts shall be credited with their respective quotas; which were referred to the Committee on Military Affairs, and ordered to be printed.

NEW RECIPROCITY TREATY.

Mr. WARD introduced a bill to authorize the appointment of commissioners to negotiate a new treaty with the British provinces of North America, based upon the true principles of reciprocity;

which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

STATEMENT OF FINANCES.

Mr. WARD also introduced a joint resolution directing the Secretary of the Treasury to furnish a semi-monthly statement of the financial condition of the Government during each session of Congress; and monthly during the recess; which was read a first and second time, and referred to the Committee on Commerce.

CHARLES M. POTT.

Mr. ANCONA introduced a bill granting a pension to Charles M. Pott; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MAJOR WILLIAM S. HENRY.

Mr. ANCONA also introduced a bill for the relief of the heirs at law of Major William S. Henry; which was referred to the Committee of Claims.

LOSSES ON THE MONITOR.

Mr. MILLER, of Pennsylvania, introduced a joint resolution to compensate the crew of the United States steamer Monitor for clothing and property destroyed in the public service; which was read a first and second time, and referred to the Committee on Naval Affairs.

PEOPLE'S PACIFIC RAILROAD.

Mr. STEVENS introduced a bill granting public lands to the People's Pacific Railroad Company, to aid in the construction of a railroad and telegraph line to the Pacific coast by the northern route; which was read a first and second time.

Mr. STEVENS. I move that the bill I have just introduced be referred to a special committee.

The SPEAKER. That will be done, if there be no objection.

There was no objection.

The SPEAKER. Of how many shall the committee consist?

Mr. STEVENS. Of thirteen.

The motion was agreed to.

Mr. STEVENS. I do not know whether I am at liberty to introduce more than one bill.

The SPEAKER. The gentleman from Pennsylvania can introduce as many as he desires.

PAY OF COLORED TROOPS.

Mr. STEVENS also introduced a bill to fix the pay of colored officers, soldiers, chaplains, and musicians; which was read a first and second time, and referred to the Committee on Military Affairs.

REPEAL OF CONFISCATION ACT AMENDMENT.

Mr. STEVENS also introduced a bill to repeal joint resolution No. 63, approved July 17, 1862; which was read a first and second time.

Mr. COX. Read it.

The bill was read through. It provides for the repeal of the joint resolution (No. 63) explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862. The bill was referred to the Committee on the Judiciary.

REPEAL OF FUGITIVE SLAVE ACT.

Mr. STEVENS also introduced a bill to repeal the fugitive slave act approved February 12, 1793, and the act amendatory thereto, approved September 18, 1850; which was read a first and second time, and referred to the Committee on the Judiciary.

ELECTIONS OF REPRESENTATIVES, ETC.

Mr. STEVENS also introduced a bill to fix the time for holding elections for Representatives in Congress, and to enable soldiers in the service of the United States to vote for said officers; which was read a first and second time, and referred to the Committee of Elections.

Mr. COX. I have a resolution which I desire to offer for adoption.

The SPEAKER. It is not in order at this time.

AMENDMENT OF ENROLLMENT ACT.

Mr. SPAULDING introduced a bill to amend the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; which was read a first

and second time, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. STEVENS. Are not the bills which have been introduced ordered to be printed without a motion?

The SPEAKER. They are not.

Mr. STEVENS. I move, then, that the bills which I have presented be ordered to be printed.

Mr. WASHBURNE, of Illinois. It has never been the practice of the House to order the printing of bills when introduced for reference.

Mr. STEVENS. I suppose not, and therefore withdraw my motion.

The SPEAKER. Bills and joint resolutions are ordered to be printed when they are reported from the committees.

ADMISSION OF COLORADO.

Mr. ASHLEY introduced a bill to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; which was read a first and second time, and referred to the Committee on Territories.

AMENDMENT OF CONFISCATION ACT.

Mr. ASHLEY also introduced a bill to amend the confiscation act, and for other purposes. It was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

REPEAL OF THE FUGITIVE SLAVE ACT.

Mr. ASHLEY also introduced a bill to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

AMENDMENT OF THE CONSTITUTION.

Mr. ASHLEY also introduced a bill to provide for the submission to the several States of a proposition to amend the national Constitution prohibiting slavery, or involuntary servitude, in all of the States and Territories now owned or which may be hereafter acquired by the United States; which was read a first and second time.

Mr. W. J. ALLEN. Read the bill.

The Clerk read the bill *in extenso*.

Mr. ASHLEY. I move that it be referred to the Committee on the Judiciary.

Mr. HOLMAN. I object to the second reading of that bill.

The SPEAKER. That is not in order under the rule.

Mr. HOLMAN. I believe, if objection be made, the question comes up on the second reading of the bill.

The SPEAKER. The Clerk will read the rule, from page 32 of Barclay's Digest.

The Clerk read, as follows:

"And the Speaker shall first call the States and Territories for bills on leave; and all bills so introduced during the first hour after the Journal is read shall be referred, without debate, to their appropriate committees."

Mr. HOLMAN. I ask for the reading of the 117th rule.

The Clerk read the rule, as follows:

"The first reading of a bill shall be for information, and if opposition be made to it, the question shall be, 'Shall this bill be rejected?' If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question."

The SPEAKER. The Chair would state to the gentleman from Indiana that the 117th rule applies to bills presented in a condition to be passed. Of course, in such a case the gentleman would have a right to object to the second reading, and the bill might be rejected on its first reading. Subsequently, however, to the adoption of that rule—which was adopted at the foundation of the Government in 1789—this rule which has been read was adopted, that on alternate Mondays an hour should be devoted to the consideration of bills for reference only, and the language of that rule is that the bills shall be referred without debate.

The bill was referred to the Judiciary Committee.

ADMISSION OF NEBRASKA.

Mr. ASHLEY, in pursuance of previous notice, introduced a bill to enable the people of Nebraska to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original

States; which was read a first and second time, and referred to the Committee on Territories.

TERRITORY OF MONTANA.

Mr. ASHLEY also, in pursuance of previous notice, introduced a bill to provide a temporary government for the Territory of Montana; which was read a first and second time, and referred to the Committee on Territories.

ENLISTMENT OF COLORED PERSONS.

Mr. ASHLEY also, in pursuance of previous notice, introduced a joint resolution to authorize the enlistment of colored citizens in the rebellious districts; which was read a first and second time.

Mr. ASHLEY. I desire to have that joint resolution read and put upon its passage.

Mr. COX. I object to that.

Mr. ASHLEY. Then I move that it be referred to the Committee on Military Affairs, and printed.

Mr. COX. I ask that the joint resolution be reported.

The joint resolution was read. The preamble recites that the President of the United States, by his proclamation of October 17, 1863, has called upon the several States to furnish their quota of three hundred thousand additional troops on or before the 5th of January, 1864, notifying them that unless their quotas shall be then full, the remainder will be supplied by draft; and that there are probably five hundred thousand colored citizens within the military lines subject to military duty by the laws of the United States, and residing in districts of country declared to be in rebellion against the national Government.

The joint resolution provides that the officers duly empowered by the President in the States called upon to furnish their quotas be authorized to enlist such able-bodied colored citizens, between the ages of eighteen and forty-five, as they can induce by State bounties, or otherwise, to volunteer in the military service of the United States, which colored troops shall be accepted in accordance with the rules and regulations of the War Department; and that the persons so entering the service from districts of country in rebellion shall be credited to the respective quotas of the States procuring their enlistment.

The resolution further provides that the troops so enlisted, and all other colored troops who have been or may hereafter be mustered into the service of the United States, shall receive the same monthly pay, rations, &c., as soldiers in like arms of the service of the United States, and it repeals all acts and parts of acts inconsistent with its provisions.

The joint resolution was referred to the Committee on Military Affairs, and ordered to be printed.

NOTICE OF A BILL.

Mr. ECKLEY gave notice of a bill to allow a pension to Christian Winger, who was wounded while in the service of the United States, called into the service by the State of Ohio.

COURT OF CLAIMS.

Mr. YEAMAN introduced a bill to amend an act to establish a court for the investigation of claims against the United States, approved February 24, 1855, and to amend subsequent acts concerning said court; which was read a first and second time, and referred to the Committee on the Judiciary.

INSURRECTIONARY DISTRICTS.

Mr. YEAMAN also introduced a joint resolution concerning the restoration of the civil authority of certain States and of the United States within regions once under the control of the existing rebellion; which was read a first and second time, and referred to the Committee on the Judiciary.

POST ROADS.

Mr. MALLORY, in pursuance of previous notice, introduced a bill to amend an act entitled "An act to establish certain post roads;" which was read a first and second time, and referred to the Committee on Roads and Canals.

ADJOURNMENT FOR HOLIDAYS.

Mr. MALLORY. I offer the following resolution as a privileged question.

The SPEAKER. No privileged question can intervene during the morning hour.

Mr. MALLORY. Is there any time when a privileged question can be acted on?

The SPEAKER. After the morning hour it will be in order.

Several MEMBERS. Let the resolution be read.

The resolution was read, as follows:

Resolved, (the Senate concurring,) That when the House adjourns on Friday next, 18th December, it adjourn to meet on the second Monday of January, 1864.

Mr. WASHBURN, of Illinois. That resolution cannot certainly be in order at this time.

Mr. MALLORY. I understand that it was held during the last Congress that a motion to adjourn was always in order as a privileged question.

Mr. WASHBURN, of Illinois. I believe it was held that no motion was in order during the call of States for bills on leave.

The SPEAKER. The object of the rule would be entirely defeated if privileged questions were to be entertained during the morning hour. Therefore the Speaker of last Congress decided, and the House concurred in the decision, that every other business was excluded during the call of States; but after the morning hour it will be in order.

MILITARY EXEMPTIONS.

Mr. HOLMAN introduced a bill to repeal so much of the thirteenth section of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, as authorizes exemption from military service by the payment of \$300, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

DEARBORN AND HAMILTON COUNTIES.

Mr. HOLMAN also introduced a bill for the relief of the county of Dearborn, Indiana, and the county of Hamilton, Ohio; which was read a first and second time, and referred to the Committee of Claims.

FUGITIVE SLAVE LAW.

Mr. JULIAN introduced a bill to repeal the third and fourth sections of the act respecting fugitives from justice and persons escaping from the service of their masters, approved February 12, 1793, and the act to amend and supplementary to the aforesaid act, approved September 18, 1850; which was read a first and second time, and referred to the Committee on the Judiciary.

RIGHTS OF COLORED MEN.

Mr. LOVEJOY introduced a bill to give effect to the Declaration of Independence, and also to certain provisions of the Constitution of the United States.

Mr. HOLMAN. I demand the reading of the bill.

The bill was read. It recites that all men were created equal, and were endowed by the Creator with the inalienable right to life, liberty, and the fruits of honest toil; that the Government of the United States was instituted to secure those rights; that the Constitution declares that no person shall be deprived of liberty without due process of law, and also provides—article 5, clause 2—that "this Constitution, and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, and the judges in each State shall be bound thereby, anything in the constitution and laws of any State to the contrary notwithstanding;" that it is now demonstrated by the rebellion that slavery is absolutely incompatible with the union, peace, and general welfare, for which Congress is to provide. It therefore enacts that all persons heretofore held in slavery in any of the States or Territories of the United States are declared freed men, and are forever released from slavery or involuntary servitude, except as punishment for crime, on due conviction. The second section enacts that all persons declared free by the first section shall be protected, as all other free citizens are protected, from unreasonable search and seizure, and shall be allowed to sue and be sued, and to testify in cases in the courts of the United States. The third section enacts that if any person shall hereafter seize or arrest, or cause to be seized or arrested and imprisoned, any slave declared free by the act, with intent to reduce such slave to involuntary servitude or bondage, every person so offending shall be guilty of a high misdemeanor, and shall be subject to indictment and trial in any court of the United States

having competent jurisdiction, and, on conviction thereof, shall be punished by imprisonment for not less than one year or more than five years, and by fine of not less than \$1,000 or more than \$5,000.

The bill was read a first and second time.

Mr. MALLORY. Will the Chair entertain a motion to lay that bill on the table?

The SPEAKER. That motion is not in order. It can be made when the bill is reported back.

Mr. LOVEJOY. I am informed that there is to be a special committee—

The SPEAKER. Debate is not in order.

Mr. LOVEJOY. Then let the bill go to the Committee on the Judiciary.

It was so referred.

PROTECTION OF FREEDMEN.

Mr. LOVEJOY also introduced a bill to protect freedmen, and to punish any one for enslaving them.

Mr. HARDING called for the reading of the bill.

The bill was read in full.

It was then read a second time, and referred to the Committee on the Judiciary.

COMMUTATION LAW.

Mr. ARNOLD introduced a bill to repeal so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," as authorizes the discharge of a person drafted, on payment of \$300; which was read a first and second time, and referred to the Committee on Military Affairs.

PROCLAMATION OF EMANCIPATION.

Mr. ARNOLD also introduced a bill to aid the President of the United States to carry into immediate execution the proclamation of emancipation of January 1, 1863, and prohibiting the holding of certain persons as slaves in all that portion of the United States designated therein.

Mr. HARDING called for the reading of the bill.

The bill was read, as follows:

A bill to aid the President of the United States in carrying into more immediate execution the proclamation of emancipation issued by him on the 1st day of January, A. D. 1863, prohibiting the holding of certain persons as slaves in all that portion of the United States designated therein.

Whereas the President of the United States, by his proclamation issued on the 1st day of January, in the year 1863, as Commander-in-Chief of the Army thereof, did, as a fit and lawful means of suppressing the rebellion, in accordance with the laws of war and with the dictates of justice and humanity, order, proclaim, and declare that all persons held as slaves within the limits of certain States and parts of States therein designated were, and should thereafter and forever be, free; and that the executive, military, and naval authorities would and should therefore recognize and maintain the freedom of all such persons; and whereas by said proclamation and order the President has guaranteed to all such persons their freedom, and has pledged the faith and honor of the country that their freedom shall be recognized and forever maintained; and whereas it is the right and the duty of Congress to make all laws which may be necessary and proper for carrying into execution all the powers, whether civil or military, vested by the Constitution in the President as Commander-in-Chief of the Army and Navy; and among such military powers is that of making and executing the proclamation aforesaid; and whereas all persons heretofore held as slaves, as aforesaid, within said designated States or parts of States are now of right free, and ought to be hereafter forever unmolested in the enjoyment of that freedom which the Government of the United States is bound to "recognize and maintain;"

Now, therefore, for the purpose of carrying into more complete and immediate execution the aforesaid proclamation, and to secure forever the recognition and maintenance of the freedom of all persons designated therein, and thereby to provide more effectually for the suppression of the rebellion, the securing of domestic tranquility, the maintaining of the common defense, and the preservation of the liberties of the people;

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all States and parts of States designated in said proclamation as in rebellion, the re-enslaving or holding, or attempting to hold, in slavery or in involuntary servitude of any person who shall have been made or declared to be free by said proclamation, or any of their descendants, from and after the date of said proclamation, otherwise than in punishment of crime whereof the accused shall have been duly convicted, is and shall be forever prohibited, any law or regulation of either of such States to the contrary notwithstanding.

The bill was read a second time, and referred to the Committee on the Judiciary.

ILLINOIS LEGISLATION.

Mr. ARNOLD also introduced a bill declaring the assent of Congress to an act of the State of Illinois; which was read a first and second time, and referred to the Committee on Commerce.

LIEUTENANT GENERAL.

Mr. WASHBURN, of Illinois, introduced a bill reviving the grade of lieutenant general in the United States Army.

Mr. COX asked that the bill be read.

The bill was read. It revives the grade of lieutenant general of the United States Army, and gives the President the power, by and with the advice and consent of the Senate, to confer it, during war, upon the officer of the regular or volunteer forces, of a rank not below that of major general, most distinguished by courage, skill, and genius, in his profession. It also extends to the officer so selected the pay and emoluments provided for that grade by acts heretofore passed.

The joint resolution was read a second time, and referred to the Committee on Military Affairs.

MICHIGAN LAND GRANT.

Mr. KELLOGG, of Michigan, introduced a joint resolution extending a grant of public lands from the city of Grand Rapids to the southern line of the State of Michigan; which was read a first and second time, and referred to the Committee on Public Lands.

PROHIBITION OF SLAVERY.

Mr. WILSON introduced a joint resolution submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States.

Mr. F. WOOD called for the reading of the joint resolution.

The joint resolution was read. It provides for submitting, in the usual form, to the Legislatures of the several States the following amendments to the Constitution of the United States:

Sec. 1. Slavery, being incompatible with a free government, is forever prohibited in the United States; and involuntary servitude shall be permitted only as a punishment for crime.

Sec. 2. Congress shall have power to enforce the foregoing section of this article by appropriate legislation.

The joint resolution was read a second time, and referred to the Committee on the Judiciary.

THIRTY-SEVENTH IOWA.

Mr. WILSON also introduced a bill for the relief of the members of the thirty-seventh Iowa volunteer infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

ROBERT STEVENSON.

Mr. WILSON also introduced a bill for the relief of Robert Stevenson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BOUNTIES TO SOLDIERS.

Mr. WILSON also introduced a bill to provide for the payment of bounties to soldiers in certain cases; which was read a first and second time, and referred to the Committee on Military Affairs.

POST OFFICE CODE.

Mr. KASSON introduced a bill to revise and codify the laws relating to the Post Office Department; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

PORTLAND NAVAL DEPOT.

Mr. SWEAT introduced a bill to authorize the Secretary of the Navy to appoint a board of competent officers to survey the harbor of Portland, Maine, and its surroundings, in reference to its fitness for a naval depot; which was read a first and second time, and referred to the Committee on Naval Affairs.

SELECT COMMITTEE.

On motion of Mr. ELIOT, by unanimous consent, the select committee this morning ordered to be raised on the subject of a Bureau of Emancipation was directed to consist of nine members instead of five.

KENTUCKY CONTESTED ELECTION.

Mr. DAWES presented the memorial of John H. McHenry, contesting the seat of George H. Yeaman as a member of this House; which, with all papers on file relating to contested elections in the present House, was referred to the Committee on Elections.

INTRODUCTION OF RESOLUTIONS.

The SPEAKER stated the business next in order to be the call of the States and Territories for resolutions.

PRINTING OF TREASURY REPORTS.

Mr. HOOPER submitted the following resolution; which was read, considered, and referred to the Committee on Printing:

Resolved, That two thousand five hundred copies of the report of the Secretary of the Treasury, with the accompanying documents; two thousand five hundred of the report, without the accompanying documents; two hundred and fifty copies of the estimates of appropriations; and one hundred and fifty copies of receipts and expenditures, be printed for the use of the Treasury Department.

DICTIONARY OF CONGRESS.

Mr. DEMING submitted the following resolution:

Resolved, That there be printed, for the use of the members of the House, the regular number of copies of the work prepared by the Librarian, entitled "Dictionary of the United States Congress," and that the Clerk of the House shall pay a suitable copyright, provided that the same shall not exceed \$2 50 per copy.

Mr. HOLMAN. I propose to debate that resolution.

The SPEAKER. It will then lie over under the rule.

IMMIGRANT BUREAU.

Mr. WARD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Agriculture be, and is hereby, requested to inquire into the expediency of establishing an Immigrant Bureau, in connection with the Department of the Interior, with leave to report by bill or otherwise.

PEACE.

Mr. F. WOOD submitted the following resolution; which was read by the Clerk:

Whereas the President, in his message delivered to this House on the 9th instant, and in his recommendation to the people to assemble at their places of worship and give thanks to God for recent victories, claims that the Union cause has gained important and substantial advantages; and whereas, in view of these triumphs, it is no longer beneath our dignity, nor dangerous to our safety, to evince a generous magnanimity becoming a great and powerful people by offering to the insurgents an opportunity to return to the Union without imposing on them degrading or destructive conditions: Therefore,

Resolved, That the President be requested to appoint three commissioners, who shall be empowered to open negotiations with the authorities at Richmond, to the end that this bloody, destructive, and inhuman war shall cease, and the Union be restored on terms of equity, fraternity, and equality under the Constitution.

Mr. WASHBURN, of Illinois. Mr. Speaker—

Mr. F. WOOD. I have the floor. Is discussion now in order on that resolution?

The SPEAKER. It is not.

Mr. F. WOOD. I ask for its adoption; and on that call for the previous question.

Mr. WASHBURN, of Illinois. I move that the resolution be laid upon the table; and on that motion call for the yeas and nays.

The yeas and nays were ordered.

Mr. LOVEJOY. Mr. Speaker, I have a word to say.

The SPEAKER. Debate is not in order.

Mr. LOVEJOY. Is it in order to raise a point on the reception of the resolution?

The SPEAKER. The Chair thinks not.

Mr. LOVEJOY. I think that it is an outrage. [Laughter.]

Mr. VOORHEES. I call the gentleman to order.

Mr. F. WOOD. Mr. Speaker—

The SPEAKER. The Chair must arrest debate on both sides of the House.

The question was taken; and it was decided in the affirmative—yeas 98, nays 59; as follows:

YEAS—Messrs. Alay, Allison, Anderson, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Ganson, Garfield, Gooch, Grinnell, Griswold, Hilly, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Samuel F. Miller, Moorehead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perlman, Pike, Pomroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Spaulding, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Stevens, Thayer, Thomas, Tracy, Epton, Van Valkenburgh, Ward, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, Woodbridge, and Yeaman—98.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldon, English, Finck, Grider, Harding, Harrington,

Benjamin G. Harris, Charles M. Harris, Herrick, Holman, William Johnson, Kernan, King, Knapp, Law, Lazar, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Robinson, James S. Rollins, Ross, Scott, Stebbins, John B. Steele, Stuart, Sweet, Voorhees, Wadsworth, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—59.

So the resolution was laid upon the table.

During the vote—

Mr. A. W. CLARK stated that his colleague, Mr. LITTLEJOHN, was detained in his room by sickness.

Mr. FRANK, not being within the bar when his name was called, asked leave to vote.

Mr. HOLMAN gave notice that he would hereafter object to all such requests. Either the rule must be repealed or enforced.

Mr. VOORHEES objected.

Mr. MOORHEAD stated that his colleague, Mr. KELLEY, was detained at home by illness in his family.

The vote was then announced as above recorded.

COURTS IN NORTHERN NEW YORK.

Mr. GANSON introduced a bill to regulate the sessions of the circuit and district courts for the northern district of New York, and for other purposes; which was read a first and second time, and ordered to be printed.

AMENDMENT OF ENROLLMENT ACT.

Mr. MILLER, of New York, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be requested to inquire into the justice and expediency of so amending the enrollment act as to place all persons enrolled under said act in one class, from which class all drafts that are now ordered, or shall hereafter be ordered, shall be made; and that said committee shall have leave to report by bill or otherwise.

INCREASE OF SOLDIERS' PAY.

Mr. DENNISON submitted the following resolution:

Resolved, That the Committee on Military Affairs be instructed to report a bill to increase the pay of all private soldiers now in the service of the United States to thirty dollars per month, and in all cases where a soldier has a family to pay one half of said sum to his family.

Mr. WASHBURN, of Illinois. If the resolution be amended so as to request the committee to inquire into the expediency of so amending the law, I will not object.

Mr. DENNISON. I prefer it as it is.

Mr. WASHBURN, of Illinois. I move the amendment I have indicated, and demand the previous question.

The previous question was seconded, and the main question ordered.

The amendment was adopted; there being, on a division—yeas 79, nays 49.

The resolution, as amended, was then adopted.

CONDUCT OF THE WAR.

Mr. FINCK. I offer the following preamble and resolution:

Whereas, in the opinion of this House, the Federal Government is invested by the Constitution of the United States with all necessary power and authority to suppress any resistance to the due execution of the laws thereof, and to employ the Army and Navy in aid of the civil authority to disperse all armed resistance to the rightful power and jurisdiction of the United States; and whereas, in the judgment of this House, the Army and Navy cannot be rightfully used to subjugate and hold as conquered territory any of the States of this Union: Therefore,

Be it resolved, That in this national emergency Congress will forego all feeling of mere passion or resentment, and will recollect only its duty to the country; that this war should not be waged on our part in any spirit of oppression, nor in any spirit of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of the States, but to defend and maintain the supremacy of the Constitution, and preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and as soon as these objects are attained the war ought to cease.

Mr. STEVENS. I desire to debate that resolution.

The SPEAKER. The resolution then goes over.

REPORT OF GENERAL M'CLELLAN.

Mr. COX. I offer the following resolution, upon which I demand the previous question:

Resolved, That the Secretary of War be directed to communicate to this House the report made by Major General George B. McClellan concerning the organization and operations of the army of the Potomac while under his command, and of all Army operations while he was commander-in-chief.

Mr. WASHBURN, of Illinois. I suppose that resolution lies over for one day, under the rule.

Mr. COX. I have moved the previous question. We treated the gentleman from Illinois very kindly the other day in the case of his favorite general. All we ask in this case is justice.

Mr. WASHBURN, of Illinois. I only ask that the rules of the House shall be enforced.

The SPEAKER. The Chair decides, according to uniform usage, that the resolution must lie over for one day, inasmuch as it is a resolution asking for information.

Mr. COX. Does the gentleman from Illinois object to the consideration of the resolution now?

Mr. WASHBURN, of Illinois. I do not object. I only ask that the rules be enforced.

Mr. COX. Very well.

SECEDED STATES.

Mr. HARDING. I offer the following resolution, upon which I demand the previous question:

Resolved, That the Union has not been dissolved, and that whenever the rebellion, in any one of the seceded States, shall be put down and subdued, either by force of the Federal arms or by the voluntary submission of the people of such State to the authority of the Constitution, then such State will be thereby restored to all its rights and privileges as a State of the Union, under the constitution of such State and the Constitution of the United States, including the right to regulate, order, and control its own domestic institutions according to the constitution and laws of such State, free from all congressional or executive control or direction.

Mr. STEVENS. I want to debate that resolution.

The SPEAKER. The gentleman from Kentucky has demanded the previous question.

Mr. WASHBURN, of Illinois. I rise to a question of order. If the previous question be not sustained, what will be the condition of the resolution?

The SPEAKER. It will go over for one day. The House divided on the demand for the previous question; and there were—ayes 60, noes 88.

So the House refused to second the previous question, and, Mr. STEVENS desiring to debate the resolution, it lies over for one day.

LOSSES OF LOYAL CITIZENS.

Mr. GRIDER. I offer the following resolution: *Resolved*, That the Committee of Claims be instructed to report a bill, at their earliest convenience, providing a commission or agency to ascertain and assess the damage done to loyal citizens by the Army of the United States, where no pay has been received, nor sufficient and legal vouchers given the citizen upon which pay can be had and received.

Mr. STEVENS. I move that the resolution be so amended as merely to instruct the committee to inquire into the expediency of reporting such a bill.

The amendment was adopted; and the resolution, as amended, was agreed to.

STATE RIGHTS.

Mr. WADSWORTH. I offer the following resolution, upon which I demand the previous question:

Resolved, That the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people, and the Federal Executive can neither directly nor indirectly exercise any of the powers thus reserved, or lawfully restrict or obstruct the exercise thereof by the people.

Mr. LOVEJOY. I ask that that resolution may go over.

Mr. STEVENS. I wish to debate it.

Mr. WADSWORTH. I have demanded the previous question.

Mr. J. C. ALLEN. I ask for tellers on seconding the previous question. Tellers were ordered; and Messrs. WADSWORTH and BEAMAN were appointed.

The House divided, and the tellers reported—ayes 62, noes 83.

So the House refused to second the call for the previous question; and the resolution, giving rise to debate, lies over under the rule.

PAY OF THE ARMY.

Mr. VOORHEES offered the following resolution, and moved the previous question on its adoption:

Whereas the increased prices attached to all the commodities of life render the expense of living and of supporting families almost, if not quite, double what sufficed for such purposes at the commencement of the war in which we are now engaged: Therefore,

Be it resolved, That the Committee on Military Affairs be instructed to prepare and report, at as early a day as practi-

cable, a bill providing for the increase of the pay of the white private soldiers now or hereafter in the Army of the United States to the sum of twenty-five dollars per month; also providing for the increase of the pay of all commissioned and non-commissioned officers and musicians, now or hereafter in said Army, forty per cent. on the amount now paid them by law; and also providing for the payment to the soldiers who have heretofore been enlisted, including those who have been honorably discharged by reason of disability or other cause, of an amount of bounty money equal to the highest amount now being paid by the Government for volunteers.

Mr. STEVENS. I ask the gentleman from Indiana to amend his resolution by directing the Committee on Military Affairs to inquire into the expediency of reporting such a bill. It ought to be so in all these cases. There will then be no objection to the resolution.

Mr. VOORHEES. I accept the modification. The resolution was modified accordingly. The previous question was seconded, and the main question ordered, and under its operation the resolution was adopted.

STATES IN INSURRECTION.

Mr. HOLMAN. I offer the following resolution, and on them I demand the previous question:

Resolved, That the doctrine recently announced, that the States in which an armed insurrection has existed against the Federal Government have ceased to be States of the Union, and shall be held, on the ultimate defeat of that insurrection, as Territories or subjugated provinces, and governed as such by the absolute will of Congress and the Federal Executive, or restored to the Union on conditions unknown to the Constitution of the United States, ought to be rebuked and condemned as manifestly unjust to the loyal citizens of those States, tending to prolong the war and to confirm the treasonable theory of secession; and, if carried into effect, must greatly endanger the public liberty and the constitutional powers and rights of all the States, by centralizing and consolidating the powers of the Government, State and national, in the Federal Executive.

Resolved, That the only object of the war ought to be to subjugate the armed insurrection which, for the time being, suspends the proper relations of certain States with the Federal Government, and to reestablish the supremacy of the Constitution; and the loyal citizens of those States, and the masses of the people thereof, submitting to the authority of the Constitution, ought not to be hindered from restoring the proper relations of their respective States with the Federal Government, so far as the same is dependent on the voluntary act of the people, by any condition, except unconditional submission to the Constitution and laws of the United States. In the language heretofore solemnly adopted by Congress, the war ought not to be waged on our part for any purpose of conquest or subjugation or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired, and as soon as those objects are accomplished the war ought to cease.

Resolved, That all necessary and proper appropriations of money ought to be promptly made by this Congress for the support of the military and naval forces of the Government, and all measures of legislation necessary to increase and promote the efficiency of the Army and Navy and to maintain the public credit, ought to be adopted, that, through a vigorous prosecution of the war, peace on the basis of the union of the States and the supremacy of the Constitution may be the more speedily obtained.

Mr. STEVENS. I move to lay the resolutions on the table.

Mr. COX. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 66; as follows:

YEAS—Messrs. Alley, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brundage, Broomall, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomerooy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spaulding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—68.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Baily, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, William G. Brown, Chandler, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, William Johnson, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Robinson, Rogers, Ross, Scott, Smith, John B. Steele, Stuart, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—66.

So the resolutions were laid on the table.

LOSSES FROM REBEL RAIDS.

Mr. CRAVENS offered the following resolution; which was read, considered; and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for the payment to loyal citizens for the horses and other property taken from them by the Union or rebel forces during the rebel raid of John H. Morgan into the States of Indiana and Ohio, in July, 1863, and to report at an early day by bill or otherwise.

FUGITIVE SLAVE LAW.

Mr. JULIAN. I submit the following resolution, and demand the previous question on its adoption:

Resolved, That the Committee on the Judiciary be instructed to report a bill to refile the third and fourth sections of an act respecting fugitives from justice and persons escaping from the service of their masters, approved February 12, 1793, and the act to amend and supplementary to the aforesaid act, approved September 18, 1850.

Mr. HOLMAN. I move to lay that resolution on the table, and call for the yeas and nays on the motion.

Mr. STEVENS. I will suggest to the gentleman from Indiana that he modify his resolution so as to make it one of inquiry, or we shall be compelled to vote against it.

Mr. HOLMAN. Debate is not in order, I believe. I call for the yeas and nays on my motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 73; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Anderson, Baily, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, James S. Brown, William G. Brown, Clay, Cobb, Coffroth, Cox, Cravens, Creswell, Dawson, Denning, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Higby, Holman, Hutchins, William Johnson, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, Marvin, McBride, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, William H. Randall, Robinson, Rogers, John S. Rollins, Ross, Scott, Smith, Smithers, Stebbins, John B. Steele, Stuart, Sweat, Thomas, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, Williams, Winfield, Fernando Wood, and Yeaman—82.

NAYS—Messrs. Alley, Allison, Ames, Arriold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brundage, Broomall, Ambrose W. Clark, Freeman Clarke, Cole, Henry Winter Davis, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Pike, Pomerooy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Spaulding, Thayer, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Wilder, Wilson, Windom, and Woodbridge—73.

So the resolution was laid on the table.

Mr. HOLMAN moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CLERKS TO COMMITTEES.

Mr. WASHBURN, of Illinois, submitted the following resolution:

Resolved, That the several committees of this House who were authorized to appoint clerks during the last Congress be authorized to employ them during this Congress, at the usual compensation of four dollars per day while actually employed.

Mr. LOVEJOY. I would like to know which committees those are?

Mr. WASHBURN, of Illinois. I ask for the previous question on the adoption of the resolution.

Mr. PENDLETON. I move to lay the resolution on the table. I am willing, however, to withdraw that motion, if the gentleman from Illinois will give us the information asked for.

Mr. WASHBURN, of Illinois. I am entirely willing to do that, and will withdraw the demand for the previous question for that purpose. I think the committees which were authorized to employ clerks during the last Congress were the Committee of Elections, the Committee on Commerce, the Committee on the Post Office and Post Roads, the Committee on the Judiciary, the Committee on Military Affairs, the Committee on Naval Affairs, the Committee on Territories, and the Committee on Indian Affairs. These, I think, are all the committees that would be embraced in

my resolution. The Committee of Ways and Means, the Committee of Claims, and the Committee on Public Lands have clerks permanently employed under special resolutions.

Mr. HOLMAN. Then why not name them in the resolution?

Mr. WASHBURN, of Illinois. Very well, I will modify the resolution so as to name these committees, and now renew the demand for the previous question.

Mr. COX. I would ask the gentleman whether the Committee on Foreign Affairs has not usually had a clerk?

Mr. WASHBURN, of Illinois. Very well; at the request of the gentleman from Ohio, I will include the Committee on Foreign Affairs.

Mr. LOVEJOY. I ask the gentleman from Illinois also to include the Committee for the District of Columbia.

Mr. WASHBURN, of Illinois. That committee has not heretofore, I believe, been allowed a clerk.

Mr. LOVEJOY. Then I move to amend.

The SPEAKER. No amendment is in order pending a demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CAIRO NAVY-YARD.

Mr. W. J. ALLEN submitted the following resolution; which was read, considered, and agreed to:

Whereas the President of the United States, in his annual message of December 8, 1863, has recommended the establishment of a yard and depot for naval purposes upon one of the western rivers: Therefore,

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of locating such yard and depot for naval purposes at Cairo, Illinois, and to report by bill or otherwise.

PAY OF VOLUNTEERS.

Mr. LOVEJOY. I offer a resolution which has been made necessary by other action already taken by the House. I submit the following:

Resolved, That the Committee on Military Affairs be instructed, in any bill or bills they may report on the subject, to place all regularly enlisted soldiers on the same footing as to pay, without distinction of color.

Mr. COX. I move that the resolution be laid upon the table.

Mr. HOLMAN. And on that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. LOVEJOY. Mr. Speaker, although I prefer the resolution as it now stands, still I am willing to yield to the request of my friends and modify it so that it will instruct the committee to inquire into the expediency of doing what is proposed. I therefore make that modification of my resolution.

Mr. COX. I object.

The SPEAKER. The gentleman has the right to modify his resolution; no vote having been taken.

The question was taken; and it was decided in the negative—yeas 68, nays 87; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Hutchins, William Johnson, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McDowell, McKimney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, William H. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, Stebbins, John B. Steele, Stuart, Sweet, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—68.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boyd, Brundage, Broomall, Cobb, Coffroth, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Goach, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spaulding, Stevens, Thayer, Thomas,

Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—87.

So the resolution was not laid upon the table.

During the vote—

Mr. ORTH, not being within the bar when his name was called, asked leave to vote.

Mr. WASHBURN, of Illinois, objected.

The vote was then announced as above recorded.

The question then recurred on the demand for the previous question.

Mr. COX. Is amendment in order?

The SPEAKER. It is not during the call for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

CLERK FOR COMMITTEE OF ACCOUNTS.

Mr. ROLLINS, of New Hampshire. The resolution adopted in reference to clerks for committees does not provide for a clerk for the Committee of Accounts, which was authorized to employ a clerk at the last session of Congress. I ask that the omission be supplied, and that that committee be authorized to employ a clerk, like other committees which have been indicated.

Mr. WASHBURN, of Illinois. I will state that it was by inadvertence that the Committee of Accounts was not included in the resolution. That committee has to adjust the accounts of the House, and needs a clerk perhaps more than any other. I move that it also be authorized to employ a clerk.

The motion was agreed to.

UNEMPLOYED GENERALS.

Mr. FARNSWORTH submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the Secretary of War be requested to inform this House the names and number of major generals and brigadier generals of volunteers and of the regular Army respectively not on duty, and the length of time which has elapsed since each of them has been relieved from duty, and which of them, and how many, are not now on duty in consequence of wounds or disability incurred in the service.

Mr. COX. I have no objection to the adoption of the resolution if it be so modified as to ask for the amount of pay and allowances unemployed generals are receiving. The resolution goes over, under the rules, if objection be made.

Mr. FARNSWORTH. I have no objection to make that modification.

Mr. HOLMAN. I suggest another modification: that the resolution shall also ask for the names and number of the staff officers of unemployed generals, and their pay and allowances.

Mr. FARNSWORTH. I accept that modification of my resolution.

Mr. COX. By pay and allowances I mean what is received as pay proper and for forage, subsistence, &c., &c., by major generals and brigadier generals who are and have been unemployed.

Mr. FARNSWORTH. Certainly.

The resolution, as modified, was adopted.

RECIPROCITY TREATY.

Mr. ARNOLD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the practical workings of the reciprocity treaty between the United States and Great Britain; and, if experience has developed defects and inequalities in the operations and working of said treaty, the committee report whether it is not expedient, for the mutual advantage of the parties to said treaty, to alter and amend the same in such manner as to remove such objections, and render the same reciprocally beneficial to both parties thereto.

ADJOURNMENT OVER THE HOLIDAYS.

Mr. MALLORY submitted the following resolution:

Resolved, (the Senate concurring,) That when the House adjourns on Friday next, the 18th of December, it adjourn to meet on Wednesday, the 6th of January, 1864.

Mr. SPAULDING. I move that the resolution be laid upon the table.

Mr. MALLORY. Oh, no.

Mr. SPAULDING. I withdraw that motion, and call for the yeas and nays on the adoption of the resolution.

Mr. MALLORY. I call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN demanded tellers on the yeas and nays.

Mr. MORRILL. The time proposed is too long.

Mr. MALLORY. It is not too long, in my opinion, for members, who wish to go home during the holidays, to do so and return. We can do no business between this and that time. The committees have yet to report, and until they do so we can have no profitable legislation.

Mr. SPAULDING. I object to debate unless we can be heard on this side.

The SPEAKER. Debate is not in order.

Tellers were not ordered, and the yeas and nays were not ordered.

Mr. SPAULDING (at ten minutes past three o'clock, p. m.) moved that the House adjourn.

The motion was disagreed to.

The question recurred on the adoption of the concurrent resolution.

Mr. FARNSWORTH demanded tellers.

Tellers were ordered; and Messrs. MALLORY and FARNSWORTH were appointed.

The House divided, and the tellers reported—ayes 90, nays 44.

So the resolution was agreed to.

Mr. MALLORY moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider upon the table.

Mr. WILSON demanded the yeas and nays on the latter motion.

The yeas and nays were ordered.

Mr. FARNSWORTH (at a quarter past three o'clock, p. m.) moved that the House adjourn.

The motion was not agreed to.

The question was taken on Mr. MALLORY's motion, and it was decided in the affirmative—yeas 93, nays 57; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Blaine, Jacob B. Blair, Bliss, Blow, Boutwell, Brooks, Chanler, Ambrose W. Clark, Freeman Clarke, Clay, Cox, Cravens, Thomas T. Davis, Dawes, Dawson, Dennison, Dixon, Eckley, Eden, Eldridge, English, Fenton, Finck, Frank, Ganson, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Higby, Hotchkiss, Asahel W. Hubbard, Hulburd, Hutchins, Jenckes, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, Marvin, McBride, McIndoe, McKimney, William H. Miller, Moorhead, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Odell, Charles O'Neill, John O'Neill, Pendleton, Perham, Pomeroy, Alexander H. Rice, Robinson, Rogers, Schenck, Scott, Shannon, Sloan, Smithers, Stebbins, Stuart, Thayer, Thomas, Wadsworth, Ward, Elihu B. Washburne, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Windom, Winfield, Fernando Wood, and Woodbridge—93.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boyd, Brundage, Broomall, Cobb, Coffroth, Cole, Creswell, Henry Winter Davis, Denning, Donnelly, Driggs, Dumont, Eliot, Farnsworth, Garfield, Goach, Holman, Hooper, John H. Hubbard, William Johnson, Julian, Orlando Kellogg, Loan, Longyear, Lovejoy, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Noble, Norton, Orth, Pike, Price, William H. Randall, John H. Rice, Edward H. Rollins, Ross, Scofield, Smith, Spaulding, John B. Steele, Tracy, Upson, Van Valkenburgh, William B. Washburn, Williams, and Wilson—57.

So the motion to reconsider was laid upon the table.

And then, on motion of Mr. ANCONA, (at half past three o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, December 15, 1863.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved. Hon. WILLIAM WRIGHT, of New Jersey, appeared in his seat to-day.

ADJOURNMENT OVER THE HOLIDAYS.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a resolution, that when the House adjourns on Friday next, the 18th of December, it adjourn to meet on Wednesday, the 6th of January, 1864, provided the Senate concur, and asking for the concurrence of the Senate therein.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented the petition of Mary Ann Watson, widow of Alexander Watson, of the fourth regiment United States artillery, who was killed by the bursting of a cannon on the 24th of May, 1843, praying for a pension; which was referred to the Committee on Pensions.

Mr. WILSON presented a petition of hospital stewards of the United States Army on duty in the city of Nashville, department of the Cumberland, praying for promotion and increase of pay; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of paymasters' clerks, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of paymasters in the United States Army, praying for an increase of the salaries of paymasters' clerks; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of soldiers who volunteered and enlisted in the service of the United States for the period of nine months, praying that a bounty of twenty-five dollars be granted to them, according to the act of Congress, approved July 17, 1862; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of J. E. Dawley, Barthol Wood, J. Dewey, jr., and J. W. Andrew, inspectors of the Boston and Charlestown district of customs, praying for an increase of their compensation; which was referred to the Committee on Finance.

Mr. HENDERSON presented the petition of Joseph R. Winchell and others, citizens of Missouri, praying for a commodious and speedy line of railway communication between Washington city and the city of New York; which was ordered to lie on the table.

Mr. RAMSEY presented the petition of Berendt A. Froiseth, praying for the payment to him of fifty dollars, which he alleges to be due him as assignee of Charles Colter, on a voucher dated May 10, 1861, against the Government of the United States, issued by the quartermaster and approved by the colonel, W. A. Gorman, of the first regiment Minnesota volunteers, to Charles Colter; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WADE, it was

Ordered, That the papers in the case of Marshal O. Roberts and others, trustees of A. G. Sloo, contractor for carrying the mails between New York, New Orleans, Havana, and Chagres, praying compensation for extra mail facilities on that route, be taken from the files of the Senate and referred to the Committee on the Post Office and Post Roads.

REPORT FROM A COMMITTEE.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print additional copies of the report of the Secretary of the Navy, and appendix, have instructed me to report back the same with a recommendation that it pass.

REFERENCE OF THE PRESIDENT'S MESSAGE.

On motion of Mr. DOOLITTLE, it was

Ordered, That so much of the President's message as relates to affairs with the Indian tribes be referred to the Committee on Indian Affairs.

On motion of Mr. GRIMES, it was

Ordered, That so much of the President's message as relates to the benevolent institutions established or patronized by the Government in the District of Columbia be referred to the Committee on the District of Columbia.

On motion of Mr. FESSENDEN, it was

Ordered, That so much of the President's message as relates to the financial affairs of the United States be referred to the Committee on Finance.

On motion of Mr. COLLAMER, it was

Ordered, That so much of the President's message as relates to the Post Office Department be referred to the Committee on the Post Office and Post Roads.

On motion of Mr. WILSON, it was

Ordered, That so much of the President's message as relates to military affairs be referred to the Committee on Military Affairs and the Militia.

On motion of Mr. CHANDLER, it was

Ordered, That so much of the President's message as relates to the commercial interests of the United States be referred to the Committee on Commerce.

On motion of Mr. SHERMAN, it was

Ordered, That so much of the President's message as relates to the agricultural interests of the United States be referred to the Committee on Agriculture.

On motion of Mr. HARLAN, it was

Ordered, That so much of the President's message as relates to the public lands of the United States be referred to the Committee on Public Lands.

NAVAL ACTING APPOINTMENTS.

Mr. HALE submitted the following resolution;

which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the propriety and expediency of providing by law that appointments in the naval service, commonly called "acting appointments," be submitted to the Senate for confirmation, in all cases where similar appointments in the regular Navy are required to be submitted to the Senate.

REVISION OF THE STATUTES.

Mr. SUMNER. I offer the following resolution, which is identical with one which I first offered in this body twelve years ago, and I ask for its immediate consideration:

Resolved, That the Committee on the Judiciary be directed to consider the expediency of providing by law for the appointment of commissioners to revise the public statutes of the United States; to simplify their language; to correct their incongruities; to supply their deficiencies; to arrange them in order; to reduce them to one connected text; and to report them thus improved to Congress for its final action, to the end that the public statutes, which all are presumed to know, may be in such form as to be more within the apprehension of all.

Mr. FESSENDEN. I think that resolution had better lie over for the present.

Mr. SUMNER. It is a resolution of inquiry.

Mr. FESSENDEN. Then I have no objection.

Mr. JOHNSON. Is it a resolution of inquiry altogether?

Mr. SUMNER. It is a resolution of inquiry. It is one that I have had the honor of offering in this body at every Congress for twelve years, and I hope during the present Congress to obtain some final action upon it.

Mr. McDUGALL. I object to it.

The PRESIDING OFFICER, (Mr. CLARK.)

Objection being made, it lies over under the rule.

Mr. McDUGALL subsequently said: I raised an objection a short time since to the consideration of a resolution introduced by the Senator from Massachusetts. I desire now to withdraw that objection, understanding the resolution more distinctly than I did when it was first read.

Other business intervening, the withdrawal of the objection did not bring up the resolution for consideration.

NOTICES OF BILLS.

Mr. HALE gave notice of his intention to ask leave to introduce a bill to amend the act entitled "An act to establish and equalize the grade of line officers of the United States Navy," approved July 16, 1862.

BILLS INTRODUCED.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 9) prohibiting speculative transactions in gold, silver, and foreign exchange; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

He also, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 10) for the relief of the officers of the fourth and fifth Indian regiments; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. FOOT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 11) granting public lands to the People's Pacific Railroad Company, to aid in the construction of a railroad and telegraphic line to the Pacific coast by the northern route; which was read twice by its title.

Mr. FOOT. I move that the bill lie on the table, and I beg leave to remark in a word, that it is not improbable that a special committee may be raised on the whole subject of a Pacific railroad, but I do not wish to bring myself within the rule of courtesy for a place on such committee by moving its appointment; but I will say that if such a committee shall be raised, I shall then move the reference of this bill to that committee; otherwise to some of the standing committees of the body. I move that the bill be printed.

The bill was laid on the table and ordered to be printed.

Mr. HENDRICKS, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 12) extending the time within which the States and Territories may accept the grant of lands made by the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862; which was read twice by its title.

Mr. HENDRICKS. I move the reference of the bill to the Committee on Public Lands, though I believe the measure originated with the Committee on Agriculture. It seems to me more properly to belong to the Committee on Public Lands, and I therefore move that reference.

The motion was agreed to.

Mr. LANE, of Indiana, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 13) to amend an act entitled "An act to define and punish certain conspiracies," passed July 31, 1861; as also the twenty-fourth section of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," passed March 3, 1863; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. LANE, of Kansas, in pursuance of previous notice, asked and obtained leave to introduce a joint resolution (S. No. 4) authorizing the Secretary of War to appoint a board of officers to audit the accounts of the citizens of Lawrence, Kansas; which was read twice by its title.

Mr. LANE, of Kansas. As I desire to submit some remarks to the Senate before this resolution shall be referred to a committee, I move that it lie on the table for the present.

The motion was agreed to.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 5) of thanks to Major General Ambrose E. Burnside, and the officers and men who have fought under his command; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

EXCHANGE OF PRISONERS.

Mr. DAVIS. Mr. President, I propose to call up the resolution which I submitted a few days ago on the subject of the exchange of prisoners, and I propose to occupy the attention of the Senate for a few minutes upon that resolution. I ask that the resolution be read.

The Secretary read the following resolution, which was submitted by Mr. DAVIS on the 8th instant:

Resolved, That the refusal of the rebel authorities to exchange negro soldiers, or their officers, or any class of prisoners from the United States Army, should not prevent or suspend exchanges by our military authorities for any other class of prisoners; and justice, policy, and humanity demand that, as fast as it can be done, our brave and suffering countrymen should be delivered from their captivity.

Mr. DAVIS. Mr. President, I understand from the report of the Secretary of War that there are in the rebel prisons in Richmond, and that neighborhood, about thirteen thousand white prisoners captured from the armies of the United States; that "well-authenticated statements show that our troops held as prisoners of war were deprived of shelter, clothing, and food, and some have perished from exposure and famine;" and that those prisoners "are now supplied with food and raiment by this Government, and by our benevolent and charitable associations and individuals." We have it from numerous and reliable sources of information, and from many of the captives themselves, that there is a state of great destitution in Richmond, and that their own sufferings for want of food, clothing, and proper prison apartments are very great; that from these causes many have already died, and others are daily dying. If those brave martyrs to their country's cause had been exchanged early in their captivity, many of them had not now perished from gaunt want and disease in loathsome prisons, but would have lived to return to their homes, their families, and their friends.

Why were not these true and heroic men exchanged within a reasonable time after their captivity? The Secretary of War, in his report, has spoken upon this subject, but not explicitly as to some points. He says:

"When the Government commenced organizing colored troops, the rebel leader, Davis, by solemn and official proclamation, announced that the colored troops and their white officers, if captured, would not be recognized as prisoners of war, but would be given up for punishment by the State authorities."

As I understand, here lies the chief difficulty between the United States and the rebels in relation to this matter of exchanging prisoners: they are required to treat negroes, captured by them with arms in their hands, and their officers, as prisoners of war, and to exchange them for white

soldiers of their army captured by ours. General Hitchcock, our commissioner for the exchange of prisoners, says in a letter on this subject:

"It is generally known that when the Congress of the United States proceeded to authorize by law the employment of colored troops for the suppression of the rebellion, there was throughout the whole length and breadth of the South one universal cry of real or well-affected indignation, accompanied with the wildest threats of vengeance against such officers as might be captured with colored troops, while the colored soldiers themselves it was everywhere believed should be either 'returned or sold into slavery.' It was everywhere published throughout the South that this class of troops were not entitled to, and should not receive, the protection of the laws of war, and the strongest terms which infuriate madness could devise or invent were used in condemnation of the measure authorized by the United States Government."

When the Constitution, by express words, directs any operation of Government, and names the department or officer by which it is to be performed, and also the instrumentality and mode of performance, all other departments, officers, modes, and instrumentalities are excluded, and those named only can be legitimately used. This rule of construction is universally applied to all constitutions, and every other instrument of writing. Another undeniable principle, which has been often recognized by the Supreme Court, is, that when the Constitution vests in the United States any power, or charges them to do any act, all such provisions create legislative powers, and Congress alone can execute them.

The United States Government wholly, and, *a fortiori*, its departments and officers, singly or in any combination, cannot exercise any powers whatever but such as are conferred upon them by the Constitution. Many unenumerated auxiliary powers are positively necessary to enable the legislative, executive, and judicial departments to execute the powers which the Constitution by its language confers upon them respectively; but the whole of that indefinite mass of powers is expressly vested in Congress by this provision:

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or any department or officer thereof."

So far as the language of the Constitution, expressly in words or by their implication, vests powers in any department or officer, the department or officer named can exercise only them without legislation; and all other powers, however indispensably necessary to execute those conferred by the language of the Constitution, are vested exclusively in Congress, to be executed by itself, or by the particular department or officer to which they relate, or some other agency, as Congress by its law may name. Until it expressly by its law authorizes the President, or the judiciary, or any officer of the Government to exercise the auxiliary power, it would be usurpation and violation of the Constitution for either to assume it. This important principle is clearly embodied in that instrument, and is distinctly recognized by the Supreme Court, in these words:

"Moreover, the Constitution of the United States, as far as it has provided for an emergency of this kind, and authorized the General Government to interfere in the domestic concerns of a State, has treated the subject as political in its nature, and placed the power in the hands of that department."

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and, on the application of the Legislature or of the Executive, (when the Legislature cannot be convened,) against domestic violence."

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding on every other department of the Government, and could not be questioned in a judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue; and as no Senators or Representatives were elected under the authority of the government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. Yet the right to decide is placed there, and not in the courts nor in the Executive."

"So, too, as relates to the clause in the above-mentioned article of the Constitution, providing for cases of domestic violence. It rested with Congress, too, to determine upon the means proper to be adopted to fulfill this guarantee. They might, if they had deemed it most advisable to do so, have placed it in the power of a court to decide when

the contingency had happened which required the Federal Government to interfere. But Congress thought otherwise, and no doubt wisely; and, by the act of February 28, 1795, provided, that 'in case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State or States as may be applied for as he may judge sufficient to suppress such insurrection.'"—7 *Howard's Reports*, p. 42, *Luther vs. Borden*.

Now, sir, that provision of the Constitution, and this decision of the Supreme Court in the important Dorr case, establish that the only legitimate power under our Constitution and our system of government to recognize what is and what is not a proper government of a State, to determine when the contingency of a disturbance in the State or an insurrection has happened, and to call out the proper agency to meet the case, is Congress, and Congress alone. The President cannot intervene in any such state of case until Congress by its law, as it did by the act of 1795, vests the power so to intervene in the initiatory in the President of the United States; and the court expressly and emphatically declared that Congress, if it had thought proper, might have vested this important discretion in the courts as well, but that they had acted wisely and practically in vesting it in the President of the United States.

By the Constitution Congress, and Congress alone, has power "to raise and support armies," "to provide and maintain a navy," "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions." To Congress exclusively, and not to the President, belongs the authority to recognize a state of resistance to the execution of the laws, of insurrection, or invasion, which requires the calling forth the military power. To devise measures and a policy to meet either of those conditions belongs to Congress, and not to the President. He has no authority to recognize even the existence of those states of case, and to put a military force in motion to meet them, without a law of Congress vesting him with that power. To Congress also belongs the authority to determine when the resistance to the execution of the laws has ceased, when the insurrection has been suppressed, and when the invasion has been repelled. The President cannot take cognizance of either of those questions without the authority of a law of Congress, and, in relation to insurrections, it has not passed such a law.

The questions whether Congress could employ or authorize the raising of any other forces to suppress the existing insurrection than militia, and whether negroes could properly constitute a part of that militia, might well be made. Numerous tribes of Indian savages of a great aggregate number, at the time of the adoption of the Constitution, resided, and still reside, in the United States; would it be competent for Congress to authorize the organization of those savages as part of the military power to suppress the existing insurrection? I hold that the true principle of the Constitution is that insurrections are to be put down by citizens alone, and that negroes are not and cannot be made citizens. White men alone made our Government, and are the only parties to it. All our political partners are equal, and negroes cannot be admitted to that equality. The colonies had all held Africans as slaves and property from about 1650; and those that were brought from their country were imported and sold into the colonies principally by New England traders in that traffic. The rebellion against George III was first to resist aggression on the rights and liberties of the white man, and ultimately for his independence and self-government, and not of the negro. The old Articles of Confederation were made by the white man for his own defense and protection; the negro took no part in the work; nothing was assured to him by it, nor was he in any way its subject, or even thought of by the men who performed it.

When independence was declared, all the colonies before, and States afterwards, still held slaves; and that great transaction was by white men, related to and was for the benefit only of white men; and the status, rights, and privileges of no negro in America, slave or free, were conferred, enlarged, or in any way affected by it. When the Constitution was formed and adopted, no movement had been made by the States, except two,

to abolish slavery; and it was formed by white men alone, as their Government, to secure only their rights and liberties, without conferring or intending to confer or recognize any in the negro, or touching in the remotest degree the condition of any one, bond or free, of that race. The negro slave is recognized by the Constitution as property, and provision is made by it for his rendition when he escapes from his owner into another State. The whole subject of slavery and the manumission of slaves was retained by the people of the several States as matter of their domestic and local policy, to be regulated exclusively by their own governments and themselves; and in these primary depositories the Constitution left the whole subject. But waiving, and even conceding, the power of Congress to authorize the enlistment of free negroes and slaves also, would it not have been the best policy not to have made soldiers of them? The slaves being property, the United States had the right to use them for labor on the same conditions as other property. As teamsters, laborers on military works, and in other ways, many more of them than have been enlisted could have been advantageously used, and the white men so employed could have been put in the field. They would then have been of more value than they will be as soldiers; and another cause of intense aversion and of united and desperate resistance by the rebels, and of deep dissatisfaction of the loyal slaveholders everywhere, would have been avoided. The obloquy of taking from loyal and true men their property by the Government which they were striving to uphold, would not have fixed its indelible stain on our national character. The difficulty of the rebels having negroes taken prisoners in battle, with arms in their hands, fighting against their owners, and refusing to exchange for them as prisoners of war, would not have arisen.

But conceding, for the argument, that it was both legally right and wise policy to enlist negro slaves in the armies of the United States, the present question is, shall ten times as many white soldiers languish in want and destitution in loathsome prisons, and many of them die of consequent starvation and disease, to force the rebels to exchange their negro prisoners? I have seen in the papers within the last few months this statement about this matter: Mr. Lincoln was written to, and requested to suspend all exchanges of prisoners until the rebels would exchange the white officers of negro troops who had been captured by them. The President was represented as refusing to take that position, because, first, there were not many prisoners of the class of officers of negro corps, and it would be unjust to the greatly more numerous class of white prisoners who were not in that category. Second, the white officers who undertook to command negro forces got quicker promotion than if they had remained or joined the service in white corps. Third, those officers knew this hazard of their service before they assumed it, by the previous threats of Jeff. Davis and the rebel authorities, published in the newspapers.

Every person will concede that the United States authorities, having enlisted negro soldiers, whether rightfully or wrongfully, are bound to make all reasonable efforts to protect them as captives; but not by continuing white men in prison where they are in a perishing condition for want of raiment and food, and many of them are dying from diseases thereby engendered. If this protraction of their sufferings, this loss of health and mortality of many of the white captives, would prolong the lives or give increased health and strength or comforts to the negro prisoners, then there might be a seeming pretext, for those who give the first place in their sympathies to that race, for white men to be continued in torture, and even to die by starvation, for their good. But when the protraction of the sufferings of the white prisoners brings no alleviation to the negroes, what is the motive with our authorities to continue them? It is, that the wasting forms, the waning health, and the dying groans of our heroic white captive soldiers in Libby and other rebel prisons shall continue, until they create a moral force to constrain the rebel authorities to deliver from captivity at the same time the prisoners of both races. If the rebels, in this matter, violate the usages of modern warfare, punish them, and not citizens and white men, who volunteered in the cause of the Union, the Con-

stitution, and the laws, and who are so unfortunate as to be prisoners. If the officials who thus continue them in miserable captivity could be sent to take their places, I would not interpose a word of objection. But, according to my conception of justice, humanity, and policy, I insist that early and energetic efforts should have been made, should now and should continue to be made, for their exchange. If every man in captivity from our armies were white, and the rebel authorities were willing to exchange for part, and not for all, those that could be should be delivered from such a horrid captivity. Our Government should make every effort for the liberation of all; but failing as to part, it would be cruel injustice for it to decide that the others should remain until their captors would consent that all should go forth. Brave and magnanimous men would never ask that their companions in prison should be held there to languish and die because they could not get out, but in the realization of its horrors, and the nobleness of their own hearts, they would exclaim, "let all who can go free."

This is another point of collision in the war between the two races that has been slowly arising for many years, that was destined in the ordinary course of events to increase in extent and fierceness, and which fanatics and demagogues are recklessly urging forward, even though it should become demoniac in its character. The abolitionists are the original architects of this great civil war. Slavery and property in African slaves was established by the practice of the civilized world, upheld by the laws of nations, protected by the laws of the original thirteen States, and recognized by the Federal Constitution, and, where it existed in any State, declared by Mr. Lincoln himself to be outside of the pale of his authority as President, and also of Congress. The people of one State had no right to assail slavery in another State, because the subject belonged exclusively to the State and its people. But some of the people of the free States, as far back as 1832, began to agitate against slavery in other States. They established newspapers to labor in that work. They proclaimed, "no union with slaveholders." They denounced the Constitution, because it recognized slavery and gave some protection to the owners of that property, as "a covenant with death and an agreement with hell." They, for that cause, made incessant war upon the Constitution for its overthrow, and were impelled, by their malignant and frenzied hate of it, publicly to burn a copy of it. The glorious ensign of the United States, the creation of the Constitution, they scoffed and denounced as a flaunting lie. By sermons, lectures, and public addresses, in tracts and treatises, in the family circle, the school-house, and the pulpit, by printing and pictorial representations, they circulated thousands of flagitious falsehoods against slaveholders. With daring impiety they declared that "if the Bible recognized slavery it was not their Bible; if God sanctioned slavery he was not their God."

The members of the churches North cut off from their religious fellowship members of the same churches South. The execution of the fugitive slave law was resisted by armed mobs in several of the free States, by acts of outrageous violence and murder; and by an insurrection in Massachusetts, which made war and committed treason against the United States, and murdered a citizen employed in the execution of its law. The first fugitive slave law had been passed by Congress under Washington's administration and approved by him; and the constitutionality of it, and of the law of 1850, had been sustained by the unanimous judgment of the Supreme Court and all the district courts of the United States; and yet some half dozen of the free States passed laws avowedly to antagonize with and defeat their provisions. Those who executed or assisted in the execution of the fugitive slave laws of Congress were declared felons by the laws of those States, and subject to be punished by confinement in their penitentiaries. The personal liberty law of Ohio was framed specially to defeat the fugitive slave law in that State, and to punish as felons all who executed or aided in its execution. The two laws were in direct conflict; and if one was executed the other was thereby nullified; and the present Secretary of the Treasury, when Governor of Ohio, issued his proclamation, declaring that the law of Ohio should be executed if it required all

the forces of that State to execute it. It was by these infractions of the Constitution and these outrages that so many of the southern people were prepared to be beguiled by their ambitious and corrupt leaders into a rebellion against a Government that had never oppressed them, and that was the best hope of their country and of mankind.

Secession was no remedy for any evil, but was certain to aggravate all existing evils, and to introduce a thousand more, inestimably more grievous. Instead of protecting or adding a tittle to the security of slave property, it has, as I declared in my public addresses before it came, damaged slavery a thousand times more than all the causes that were then actively working against it. Yea, I then said that slavery would be in danger of utter subversion from northern demagogues and fanatics, presidential and congressional usurpations of power, and the quickened cupidity and passions of millions of people. Before the rebellion the abolitionists were but a small and impotent faction. Their achievements had been extensively to poison and frenzy the minds and hearts of the people of the free States against all slaveholders, and to get up sporadic riots and murders, and the Boston insurrection, which was suppressed by President Fillmore; to prevent the execution of the fugitive slave law; and the raid of John Brown into Virginia. But the rebellion has given that faction tremendous force, and the present possession of the Government, a soldiery counted by hundreds of thousands, and millions of good people who previously rejected their projects as unconstitutional, revolutionary, and destructive. It enabled that faction to conscript the last Congress, the President and his Cabinet, the armies and navies of the United States, and the entire Republican party, which it dyed very black, into its service; and with those mighty forces and allies it seems to be sweeping triumphantly on, over the prostrate Constitution of the United States and the liberties of the people, to the utter annihilation of slavery, and the overthrow of the constitutions, laws, and social organization of all the slave States. They are now reveling and frantic in the possession and exercise of unlimited power. They may bring down ruin upon slavery and the rebel States; they may subvert our system of government, consisting of a divided sovereignty between the nation and the States; they may, for the time, override all the rights and the liberties of the people, guaranteed to them in their Constitution, by a military despotism; but sooner or later the freemen of America, around whom they are throwing chains which they hope to rivet at the next presidential election, will arouse themselves from their lethargy, and, in the potential vindication of free speech, of a free press, and free elections, they will rescue their Constitution and popular liberty from these destructives, and restore the Union as it was, raise aloft a prostrate Constitution, enforce the laws to our utmost limits, assure all the people, North and South, the practical enjoyment of all their rights, privileges, and liberties, and thus bring back to our torn and bleeding country security, peace, fraternity, and happiness.

But if this glorious regeneration should be defeated by the destructives interposing by the bayonet, and by that mode getting lease of power another term, they would bring down upon the whole country a civil war more extensive, bloody, and frightful than the world has ever witnessed, and before the glowing, baleful fires of which those now burning would pale. The raging storm would sweep over the feeble men in power; and another Cromwell or Bonaparte, for whom they had prepared the way, would be called up by the heaving and tumbling of the whole social fabric, and would sweep them in their utter helplessness from their unstable places and power into sudden ruin and eternal infamy.

At the beginning of the rebellion, the exhibition of unity and devotion by the people of the loyal States to their Union and their Constitution and Government was sublime, while the dissension of the people of the seceded States gave bright omen of their early submission. Then was the time to move upon the insurrection under the canopy of the Constitution and laws, with the sword in the one hand and the olive branch in the other. If the United States authorities had moved into any of the rebel States, except South Carolina, and taken possession with an army sufficient to hold it, and to give protection and security to all

its people, two thirds of them would have acknowledged and would have adhered faithfully to their country and its symbol, "the stars and the stripes."

Congress and the President began a right the suppression of the insurrection. He declared that he had "neither the power nor the inclination to interfere with slavery in the States;" that if he possessed himself of land, and another man of slaves, they "both had an equal and the same guarantee of Constitution and law for their property." In communication to the Emperor of the French, through Secretary Seward and Minister Dayton, he said:

"The rights of the States and the condition of every human being in them will remain precisely the same, whether the revolution shall succeed or whether it shall fail. In one case the States would be federally connected with the new confederacy; in the other they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions, in either case will remain the same."

The Senate, within four days after the first battle of Bull Run, except three Senators, and the House of Representatives I believe with entire unanimity, passed Mr. Crittenden's just, wise, and imperishable resolution. That resolution cannot be too often read by the American people; it cannot be too deeply graven on their memories and their hearts and their minds, and I therefore again read it:

"Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

Sir, if there were ever words of truth and wisdom conceived or written or spoken by man since he was created, they are embodied in that wise and statesmanlike resolution. If that had remained the law of the war to put down this rebellion, and competent leaders and sufficient force had been thrown into the field to conduct it, the war would long ago have ceased by the submission of the rebel States, and the reconstruction of the Union under our glorious Constitution.

But by the next session, the party in power in the two Houses, who had resolved upon the destruction of slavery, *fas aut nefas*, commenced systematic and well-considered operations to effectuate their fixed and cherished object; but the President proceeded with characteristic caution and address. But not only the numbers but the purposes of this party have grown and expanded. Their first phase was to sever the States and to subvert the Constitution by making many years' war upon both, because they protected slavery. But having forced Congress and the President to disregard all the guards and restraints of the Constitution, and usurp the necessary powers to effect it, the *entente cordiale* is established between them by which one of the contracting parties is to have all power, constitutional and usurped, for another term, leaving the future thereafter to take care of itself; and the other party is to have the utter extinction of slavery, not with the sudden and revolutionary violence they desired, but if more slowly more surely, and with less danger of a reaction that would be fatal to both parties.

The original abolitionists, and many of their new converts, now boldly declare for negro equality; and their most eloquent orator goes the whole figure, "liberty, equality, brotherhood, and amalgamation." The President, in a public speech in this city, on the occasion of a great rejoicing for the great and important successes of our arms on the Mississippi, said:

"Eighty-old years since, the 4th day of July, for the first time in the world, a union body of representatives declared, as a self-evident truth, that all men were created equal."

"Another of our Presidents, fifty years afterwards, was called from the stage of existence, and on the same day of the month; and now, on this 4th day of July just passed, when a gigantic rebellion has risen in the land, precisely at the bottom of which is an effort to overthrow that principle, that all men are created equal, we have a surrender of one of their most powerful positions and powerful armies forced upon them that very day."

And more recently, at the consecration of the Soldiers' Cemetery at Gettysburg, he spoke to

the same effect upon the point of equality. So he, too, has not only surrendered constitutional and legal slavery to the abolitionists, but he has declared publicly for white and negro and universal equality. Equality without amalgamation is impossible; but I venture this opinion, that any amalgamation he may declare for will be theatrical. Indeed, I have yet to learn that any of them teach by example as well as by precept. The President goes for this equality upon the self-evident law of nature. The practice of the world for three thousand five hundred years, the laws of nations, the constitutions and laws of all the States at one time, and still of a large number of them, the Constitution of the United States, the judgments of the Supreme Court, of the whole American judiciary, recognize and establish property in slaves, which is expressly guaranteed to the owners by the amendatory provisions of the Constitution; and yet the President, by his edict, attempts to deprive their owners of that property, and at one swoop at many States declares that the loyal as well as disloyal owners are deprived of them. He asserts that his proclamation, and their enlistment in the military service, not only frees but makes citizens of them at the end of their service. Citizens of one State, by the Constitution, have all the rights and privileges of citizens in the other States.

I suppose, then, that under the magic power which I believe the President deduces from military necessity, he is authorized to issue his imperial edict to override the Constitution of the United States, the laws and constitutions of all the slave States, to nullify the decisions of the Supreme Court and of all its justices; and by his word, by his mighty fiat, in the remote absence as well as the immediate presence of armies, to knock the fetters from the slaves, and proclaim them to be free. Sir, if the President of the United States has that imperial power, he is the greatest of living autocrats; the greatest of all the autocrats that have ever lived. The Czar of all the Russias and the leaden despot of Austria have tame and impotent powers when contrasted with this imperial emperor of this western world.

Sir, there are many States, free States, in the Union that prohibit free negroes from settling within their limits; they have positive laws to prohibit their intermarriage with the whites; and those laws obtain in slave and in free States. It is a law of my own State; and in addition to that, although in Kentucky a man may liberate his slaves, he is required by our constitution to take them outside the limits of the State. And yet this potent edict, this proclamation of Abraham I, this imperial ukase looms up with a vigor and a power that no man two years ago ever imagined or dreamed of; overrides the Constitution of the United States, all its guarantees of liberties, rights, and privileges; all its restrictions and limitations of power; overturns the laws and constitutions of the sovereign States of the United States, because, except within the limited scope of the powers of the United States, the States and their governments are sovereign. Within the scope of its powers, the Government of the United States is paramount, supreme. Every constitution and law of a State, every judicial decision, every principle announced by any State governmental authority that comes in conflict with the powers of the General Government, as conferred by the Constitution, falls to the ground. But, then, so far as that Constitution does not vest the original power of the States, the original political sovereignty of the States and the people of the States, it remains to them; and it is an essential and vital principle of our system that the limits between the two governments shall be kept separate and distinct, and it is as much unauthorized and unconstitutional for the President and the authorities of the United States to encroach upon their portion of the divided sovereignty, the reserved rights of the States and the people, all, indeed, that is not conferred by the language of the Constitution on the General Government, as it is for the States or their authorities or people to encroach upon the Federal power. The officers of either, when they attempt by an array of armed men to resist the execution of the laws of the other, are respectively guilty of the crime of treason against the United States, or against the particular State whose laws are thus opposed and attempted to be overthrown by military men.

* My State does not recognize any political, much less social equality on the part of the negro with the white man, whether the negro be bond or free. I think it never will. It makes it a penal offense for any clergyman to intermarry between the races. The free negroes have no eligibility to office, no right of suffrage, and I trust never will have any with us. And yet, sir, in my State there is as much humanity, as much of kind treatment to the negro population, as there is in the vaunted North, or anywhere beside. But this presidential proclamation looms up. It conscripts all the negroes that the military officers may choose, whether they are slave or free, whether they belong to the loyal or disloyal, into the armies of the United States. It declares that from thenceforth they are and shall be free; and the President says, in addition, that when they have served out their time of service they become citizens of the United States. Mr. President, [Mr. FOSTER in the chair,] you are a lawyer, you are a constitutional lawyer, you are a conservative statesman. You know, and I know, that there are but two classes of citizenship in the United States. We might differ upon the broad principle whether citizenship was restricted exclusively to the white race, which is my principle, but upon this subordinate question, I know, sir, that you and I would accord in opinion. There are but two modes by which citizenship of the United States can be obtained. The one is by birth, the other is by a uniform rule of naturalization prescribed by Congress. The whole subject of acquiring citizenship, except by birth, is, by express provision of the Constitution, vested in Congress. That provision necessarily excludes from the President, or from any other functionary of the Government, all power to interfere with the subject. It shares this power with no other officer or authority in this Government; and yet here comes up the President's proclamation and annuls, annihilates that principle of the Constitution. As I before said, it sweeps away all the State constitutions and State laws that conflict with it. The portals of the State governments and all their honors, trusts, and offices are thus, *volens volens*, in defiance of their constitutions and laws, opened to the negroes, who are thus to become freedmen, and then citizens, by the President's proclamation. The Constitution declares expressly that the citizens of one State shall have all the rights and privileges of citizens of the other States; and therefore no State constitution, no State laws, would make any discrimination as to rights and privileges between these citizens of African descent, thrown off from the presidential mint, and its white citizens. They thus become eligible to all the offices of the States. Their Legislatures, their judicial departments, their Executives, are all opened to them by this new and all-dominating power. What is its effect in relation to the Government of the United States? It also opens all the offices of the United States to them. They thereby become eligible to seats in the two Houses of Congress, to the supreme and inferior courts. They may be appointed to foreign embassies, and become candidates for the Presidency and Vice Presidency. It produces all these mighty changes in the organization of our Government in its great and fundamental principles, and the harmony, like that of the spheres, between the Federal and State Governments, is broken up by the President bringing into active operation the undefined and undefinable, but tremendous, powers conferred upon him by "military necessity." There is no restriction, no limit, to this, *his power*, in time of war, but it reigns supreme over everybody and everything. Such is *his novel but imperial theory*.

Sir, I, for one, protest, and intend to protest as long as I have reason and voice, against such a monstrous and destructive revolution as the Executive is striving to consummate. The Constitution of the United States is supreme. The President of the United States has but limited powers, and they are expressly named and conferred by that instrument. Every power which is included by name and necessary implication in the language used in conferring those powers upon him is certainly carried with it; but those unnumbered, auxiliary powers which are necessary and proper and indispensable to organize our Government, and to put its departments in complete operation, are, by express language, vested in Congress, and the President can no more touch one of them, until

he is authorized to do so by an express act of Congress, than he can establish a monarchy and place a crown upon his head.

Mr. President, this war of races is urged on. It is urged on by infatuated reason or by sinister design. Be the cause the one or the other, its effects to the country and to our system of government are the same. Whatever the motive may be for these reckless innovations, these outrageous usurpations of power and infractions of the Constitution, their consequences are the same. I admit that a great many men abhor the rebellion. I do, myself, from my deepest soul. I believe that its authors have committed the greatest crime of which the records of the world make any mention; but, sir, even if it were necessary, I would not permanently give up the Constitution of my country, and the liberties which it secures to the people, to prevent this division of the Union; I would not give up the freedom and the charter of freedom which was fabricated by Washington and his immortal associates. What would a great and extended country be worth to men who love freedom, if it be ruled by a consolidated military despotism? I adhere to the Constitution; I will fight under it and for it, and in avoiding the Scylla of secession, I never will willingly rush into the destroying gulf, the Charybdis of abolition military centralization and despotism; and yet, while so many people are avoiding the one source of destruction, they are rushing heedlessly on to the other.

Sir, there is but one definition of loyalty, and that is, fidelity to the Constitution and to all its agents, whether legislative, executive, or judicial, in the constitutional and legal performance of their duties. All the officers of those three classes, and no part of them, form the administration of it. The Government is the Constitution and laws of the United States. When that Government is assailed by open and audacious rebels, or by those who are administering, conspiring to, or by ignorance or maladministration subverting it, whether from Congress, or the President, or the Army, there is no true loyalty but to defend it, the Constitution and the laws, against any or all those assailants.

Mr. President, how infinitely better it would have been for the South, and the whole United States, had they never seceded and never reared the standard of rebellion! If their military power in every field could have been stricken down and annihilated by the armies of the Union within six or twelve months after the firing on Fort Sumter, by wise and constitutional administration, the great mass of the southern people would have yielded long since to the Constitution, laws, and authority of the United States; the Union would have been restored, and a united country would now be progressing in a career of peace and prosperity. Sir, if my fiat could prevail, if my aspiration to Omnipotence could be heard and granted, it would be for the defeat of the rebel armies everywhere to-morrow, not only for the good of my own State, for my own Government, for the loyal States, but especially for the rebel States, the deluded and misguided masses. The longer this war continues, the worse it will be for the people in rebellion, and how infinitely worse for the slave institution of those States! The abolitionists are as deeply impressed with these truths as I am. The great mass of the moderate, conservative Republicans, at one time did not act with them, but they and that party, and hundreds and thousands of others who did not belong to either organization, and the whole Government of the United States, are now combined to put down slavery there now, and ultimately everywhere.

But, sir, the party in power has modified its purposes and its policy since the commencement of this war. With the abolitionists proper, then and now, the avowed object was to wipe out slavery; but the politicians of the party in power, the Administration, which Mr. Phillips declared to be only a committee located in Washington for the management of the next presidential canvass, have, as I conceive, three objects at this time, and their objects are in this order: the first and paramount is to perpetuate their own party power at all hazards, and, by all the means which the people of the United States will tolerate them to use, to continue themselves and their friends in office, to have the distribution of the greatest and richest

amount of spoils, of the largest patronage of offices civil and military, and the disbursement of a revenue, that the world has ever known. Their second purpose is to annihilate slavery everywhere in the United States; and their third one is, after the constitutions and the liberties of the States are subverted by their usurpations of power, to hold the States together upon the fragments of a shattered Constitution by the despotic, military, imperial power which they intend to found upon the revolution and ruin of our entire system.

Sir, in relation to the particular subject before the Senate, I would ask, how many negro soldiers are now in the service of the United States, and how many of them are prisoners? The Secretary of War reports some fifty thousand, if I recollect aright. I believe there is no such number. I doubt whether there are, in actual service, half that number fit and armed for military duty; but they say they will go on conscripting and enlisting and organizing until they raise a negro force of three hundred thousand. The Secretary of War, as I understand, says that he intends to commence enlistments of the negro population, free and slave, into the regular Army for five years. The General-in-Chief proclaimed months ago—I give the substance and meaning of his language—that we would carry on this war triumphantly to the subjugation of the rebels, and when it closed we would plant our feet upon the necks of the sneaks (to use his phrase) who had dared to oppose the war policy of the President. Sir, you could never enlist a white force to do that work of despotism, of crime, and of cruelty. The general-in-chief for such a work must have a force of Janizaries, such as the Ottoman Porte had, or of Mamelukes, like that force of the Pacha of Egypt, to execute his vile and diabolical behests. But even those palace guards of half barbarian despots became so intolerable that they were exterminated by their employers.

But, sir, do these high military dignitaries contemplate that this war is to continue five years from this time? It would seem so, from the reported declarations of policy by Mr. Stanton. A distinguished man in the West, who was at one time a member of the other House of Congress, told me that a major general in the service of the United States now in command, who has rendered distinguished service in the field, told him that if Mr. Lincoln was defeated at the next presidential election, he would not yield his seat of power to his successor, but would hold on it, and this he could only do by the Army. I suppose these negro Janizaries and Mamelukes who are now about to be enlisted into the regular Army, under such leaders as Fremont and Hunter and other negro generals, are to be organized as the imperial guards or pretorian bands, to enable them to retain the power which they contemplate, if necessary, to continue by usurpation, by the force and power of the Army, if they do not succeed in electing a successor to the President by the interference of the military at the polls to control the elections.

Sir, here is another phase of the spasmodic attempt of "the powers that be" to repeal the unalterable law of the God of our common nature, which has decreed the negro to occupy a subordinate condition to the white man. All the false philanthropy, all the hypocritical pretensions, all the best devised schemes that shallow statesmen and pretended philanthropists and loud hypocrites and demagogues may make to repeal this unalterable law of Jehovah, and to bring up the negro to social and political equality with the white man, will fail. Weak men have arisen to force this equality on the white race, and measure strength with the Omnipotent upon this great question of races, but their utter discomfiture will prove to them how powerless is puny man when he would interfere with the providence of the Eternal. There is upholding that law of our Creator the sentiments, organizations, and revulsion of the white race. It never has, and I believe never will, accept any such equality. Why, then, shall the miserable authorities at the other end of Pennsylvania avenue insist that the languishing, starving, diseased, and dying white man shall still remain in Libby prison, merely to keep the negro out of it? Was there anything in the policy or administration of men ever so absurd, so inhuman, and so wicked?

Sir, a good many of us probably have kindred

in Libby prison. I have. I know the nature and nobleness of my nephew there, and I know that if he was in a class of white men which the rebel authorities would refuse to exchange, and even the negroes could be exchanged without the white men, he would say to the negroes, and with how much more alacrity and emotion would he say to his white comrades, "though I cannot follow you to the home of my fathers, to my loved native land, to glorious old Kentucky, let the prison door swing wide open, and you who can go free as the mountain air."

Sir, in conclusion, this policy is eminently insulting as well as cruel to the white prisoners. It marks the incapacity, the dogged obstinacy, and the heartless cruelty of the Secretary of War and of the General-in-Chief. I have no doubt that it was with them that this policy originated of no exchange of white prisoners unless the negroes too are exchanged. It will be rejected and corrected by the great and generous and true people of America. No, Mr. President, I say away with all negro equality. It is impossible; and when it is sought to bring that visionary and mischievous principle to the continuance of white men in a starving, diseased, and languishing prison, until the negroes can also go free, it is cruel and outrageous.

Mr. WILSON. Mr. President, I move the reference of the resolution to the Committee on Military Affairs and the Militia.

Mr. JOHNSON. Will the Senator from Massachusetts waive his motion for a moment?

Mr. WILSON. Certainly.

Mr. JOHNSON. Mr. President, I need not say to the honorable member from Kentucky that I hold his opinions upon all questions, either of law or of morals, in high respect; and therefore, when I rise to express a difference of opinion as to some of the legal propositions which he has stated, he will understand me as doing it under the influence of that very sincere respect.

His resolution, if I understand it correctly, declares that the refusal of the rebel authorities to exchange negro soldiers whom they have captured, or the officers who may have been in command of colored soldiers, is no reason why the exchanging should not go on as to other classes. He may not only apply his principle to colored soldiers and the officers of colored soldiers, but to any other class whom the rebel authorities may refuse to exchange. It is due to myself to say that in that opinion I entirely concur. Whether in point of fact the exchanges have been arrested upon the ground assumed hypothetically in the resolution offered by the member from Kentucky, I am not advised; but assuming that ground to be the correct one, I submit to the Senate, as in my judgment perfectly clear, that policy, and humanity, which is always the highest policy, would demand that exchanges should, notwithstanding, be permitted to go on. There are, I suppose, now in the hands of the rebel government, or I will assume that there are in the hands of the rebel government, some one hundred or two hundred colored soldiers, with some two or three officers commanding them—white men; and it is said that the rebel government refuse, and mean to insist upon that refusal, to deliver them up at any time hereafter; that they will hold them responsible to the authorities of the respective States from which the negroes may have come or in which the negroes may be, or responsible to the authority of the confederate government. Now, all that I think would be necessary, in order to meet a proposition of that sort, would be to keep in our own hands the like number of their prisoners, and treat such number precisely in the same mode in which they are treating or may hereafter treat the negro soldiers and their white commanders. We have done that in an instance which is quite familiar of course to the Senate. The rebel authorities thought proper, for some cause which they said justified it, but in my opinion clearly did not, to seize upon two of our officers, men of high repute, unquestioned loyalty to us, especially dear to the States from which they respectively came, with a determination that they should be hung; and, instead of refusing to exchange the prisoners generally that we had at that time, all that the Executive did was to place in close confinement, with a declaration of a purpose to deal with them thereafter as our own men should be dealt with by the rebel

government, two of the rebel officers in our possession—a General Lee and somebody else; but notwithstanding that, the exchanges went on in the usual way.

I repeat, therefore, that assuming as true the facts stated in the resolution proposed by the member from Kentucky, I think he is right in saying that policy and humanity demand that the exchange, with such exceptions as may be necessary to meet the particular exigency, should go on. Unless all reports are false, we have thousands and thousands of soldiers, dear to us all, now in the prisons in Richmond and elsewhere, who are almost in a state of starvation. If we adhere to this principle of refusing to exchange until we can get included within the privilege of exchange the black soldiers and their white officers, the few who are in possession of the rebels, nobody can tell how many of these good men of ours, patriotic men, gallant men, who at the very tap of the drum rallied to support the Constitution, may have fallen victims to the barbarity of the rebels. Hence, as far as the particular resolution is concerned, provided the fact be as the Senator from Kentucky supposes in the resolution it to be, I should vote in favor of his resolution.

But I hope sincerely that the fact is not correctly stated in the resolution. I can hardly believe that the President of the United States, the Secretary of War, or the General-in-Chief would go to the extent of refusing to exchange the thousands and thousands of prisoners who are in our possession, when, by doing so, they could get absolved from their captivity the thousands who are in the possession of the rebels, upon the mere ground that the rebel government has refused to release some one hundred or two hundred prisoners of a certain class, for reasons peculiar to that class. I suppose, although perhaps it is not distinctly stated, that what the Senator means is that there should be an exchange of man for man, if the rebel government are willing to exchange man for man, and of course the exchanges will stop whenever they refuse to deliver man for man; and when we come to ask for the exchange of these negro soldiers and their officers, if they refuse to include them in the exchange, we will retain in our own hands a number of their prisoners equivalent to the number of that class who may be in their possession.

But I did not rise, Mr. President, so much for the purpose of expressing concurrence in the object which the Senator has in view, as disclosed by his particular resolution, as to express with all becoming deference a difference of opinion upon one or two of the questions which he has so ably presented to the Senate. I am not sure that I exactly caught the argument by the member from Kentucky, and if I state it incorrectly I beg that he will put me right. If I understood him aright, he denies not only to the President the authority to call upon soldiers of African descent, whether free or slave at the time they may be called upon, but he denies to Congress the authority to authorize the President to call soldiers of that class.

Mr. DAVIS. If the honorable Senator from Maryland will permit me—

THE PRESIDING OFFICER, (Mr. FOSTER.) Does the Senator from Maryland give way to the Senator from Kentucky?

Mr. JOHNSON. Certainly.

Mr. DAVIS. I merely suggested that question; and while I expressly declared my concurrence in the affirmative, yet in my argument I forbore to make and to press the question.

Mr. JOHNSON. I do not think, then, Mr. President, that I have in substance misapprehended the honorable member. The power of the President of the United States to put down insurrection or invasion is altogether an executive power; the power to provide for the manner in which it shall be done is a legislative power. The latter is, by the Constitution of the United States, devolved upon Congress; the other upon the President. The language of the two clauses of the Constitution—the one designating the legislative department and the powers which the department shall exercise, and the other designating the executive department and the powers which that department shall exercise—is not the same. The honorable member will find, I am sure, that I am right in this. If he look to the first article of the

Constitution he will find that it is preceded by a preamble, which says that Congress shall have the powers "herein granted;" and those words necessarily exclude the possession of any powers except such as are delegated expressly, or as may reasonably be implied from such as are expressly delegated. The clause which confers the executive power is yet more sweeping, and has been held to be more sweeping by many of the most enlightened constitutional jurists of the country. It declares that "the executive power" shall be vested in the President, and the opinion has been entertained by very many very able men that every power which belongs to the Government, and which is in its nature executive, (irrespective of the question whether the particular power is designated or not as a power to be exercised by the President,) is in the President by virtue of the general designation that "the executive power" shall be in the President of the United States.

Now, the Senate will of course remember that so far as the objection of the honorable member from Kentucky is concerned, as to the authority to call out soldiers of African descent, the prohibition upon the legislative department of the Government must be the same as the prohibition upon the executive department of the Government, if there be any in either. The language of the particular clause which gives to Congress the authority to provide for insurrections, in so many words and in the same words, gives them the authority to provide for repelling invasion. Not to be at all in error as to the words used, it is better that I should read the words of the clause itself: "Congress shall have power" "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

Thus the honorable member will see that the authority of Congress with reference to the exercise of the military power conferred upon Congress to suppress insurrection is identical with, and consequently of the same extent as, the power with which they are clothed to repel invasion. Everything, therefore, that Congress could do by legislation in order to repel an invasion actually existing or anticipated, they can do to suppress an insurrection; and the consequence, therefore, is (if the honorable Senator is right in his view of the power conferred upon Congress) that if we were now being invaded or about to be invaded by a foreign foe, the Congress of the United States could not authorize the employment of soldiers of African descent. Why not? Who is to constitute the militia is not stated in the Constitution at all, so far as the congressional power is concerned. That depends upon the States.

But Congress has another power independent of that. Congress has the power, and without any limitation as to the mode of its exercise, of raising armies. How? Of what materials? The Constitution does not say that the armies are to consist of white men; it does not say that it is to be done by volunteering; but the power is a general and a sweeping one, to raise armies. What for, among other things? To put down insurrection as far as our domestic concerns are concerned in the first place, and in the second place to repel a foreign foe. Could not Congress employ black troops to repel a foreign foe, provided they were free? I steer clear now of the question of slavery. My friend will pardon me for saying that I never heard it doubted before.

The extent of the power with reference to the men who are to constitute the armies to be raised by the United States, is no greater than the power conferred upon Congress to provide for a navy; and who has ever heard that black men may not be enlisted in the Navy? There is not a ship afloat carrying the naval flag of the United States that has not a portion of the crew black. There was not a ship afloat during the war of 1812, that gave such undying honor to the American naval flag, that had not more or less sailors of African descent on board; and no one ever questioned the validity of such an enlistment. Consequently, unless Congress has been wrong from the beginning of the Government up to the present hour with reference to the Navy, it necessarily follows that, although the policy until now has not been expressly adopted of providing for the recruiting of soldiers of African descent in the Army, they must have the power; and if they come to the conclusion that they have not the power, then they

must repeal all the laws existing upon the statute-book which provide, and which have been practically carried out from the beginning of the Government to the present day, for the enlistment of negro seamen on board our ships-of-war.

If I understood the honorable member from Kentucky aright in another particular, he places his negation of the power upon the ground that these negroes are not citizens within the meaning of the Constitution of the United States. What is the influence of that proposition, if it be true in point of law, upon the question before us? In the case of Dred Scott, a majority of the Supreme Court decided that, with reference to the judiciary clause in the Constitution, which gives to the courts of the United States jurisdiction in certain cases, in which it makes the existence of the jurisdiction dependent upon the character of the litigants, they are not citizens, whether free or not. But that is a very different question from the question which arises under the two clauses of the Constitution to which I have adverted. They may not be citizens entitled to call upon the United States, through its judiciary, to do them justice as between themselves and others; but they are subject to the laws of the United States, protected by the power of the United States, owing allegiance to the United States; I speak now of the free. One would be inclined to think, as a necessary inference, that he who is bound by the laws, protected by the power of the Government, he who commits treason if he violates the laws by force, is bound, when called upon, to fly to the standard of the country, and protect it against civil insurrection or invasion from abroad.

But again, if my honorable friend is right, this would follow: the man of African descent is not to be enlisted, according to his theory, because he is not a citizen of the United States. How many are in the Army of the United States now, white men, who are not citizens? Has it ever been suggested that we cannot take as a recruit into the Army, now or at any time, him who, flying from what he supposes to be the oppression of the Old World, and coming here for the enjoyment of the liberty which is promised him by our institutions, offers to volunteer in advance of his citizenship, or that he cannot be called upon in advance of his citizenship to rally around the Government of his proposed adoption? Certainly not. The fact, therefore, that the particular recruit is not a citizen, whether it is because of his color, because of his descent, or because of his birthplace, is no objection to the right of Congress to call upon him to defend the country in a case of exigency. I think, therefore, and I submit it with entire respect to my friend, the Senator from Kentucky, that he is mistaken in supposing that Congress has no authority to call upon troops of African descent.

That brings me, in the second place, to inquire whether the President, independently of the exercise of its power by Congress, has that authority. Why not? It is unnecessary to argue it, as I will show the Senator in a moment; but why not? Let me suppose as barely possible—and, for the purpose of testing the principle, I have a right to make the supposition—that there are no armies provided by Congress, and no navy. The Constitution does not of itself create an army or create a navy. The power potentially is vested in the Congress of the United States, but it is practically nugatory until exercised. Then I have a right to assume that Congress may not exercise it. Well, suppose they have not done so; what follows? The President, under another clause of the Constitution, is bound to see that the laws are faithfully executed, bound to provide for the faithful execution of the laws, or rather, to use the words of the Constitution, "he shall take care that the laws be faithfully executed." What laws? All the laws, organic or legislative; and consequently, if a foreign foe is about to put his foot in a hostile attitude upon the soil of the United States, which by the Constitution is ours as against all nations, and Congress have not furnished him with an army to repel and drive him out; or if insurrection raises its horrid front and seeks to destroy the Government, is he not at liberty to call around him, at once, the whole power of the United States, the whole physical power of the United States, irrespective of color? Congress can do so, as I think I have shown. Then he can do so.

If Congress have not furnished him with the

particular means by which Congress thinks he would be enabled to take care that the laws shall be faithfully executed, and to discharge the duty imposed upon him by that clause of the Constitution, then he must look elsewhere. He cannot force men to his standard; but he can call for volunteers. Who can doubt that? And if volunteers rally around the standard of the country in virtue of the call, are they not legally and constitutionally in the service of the United States, although brought into that service merely by the executive proclamation? I submit, Mr. President, as perfectly clear, that such must be the result.

Now, sir, there is but one other matter to which I wish to advert. The honorable member from Kentucky seems to suppose that the President, in what he has been doing and is now doing with reference to the enlistment of slaves, is violating a clear constitutional duty. Sir, it is not necessary to contend that in the absence of congressional legislation the President would have no authority to call upon the male slave population of the United States to protect the United States against insurrection or invasion. Congress has clothed him with the power; so that the question which the honorable member will have to meet, before he can succeed in making good his proposition, is whether Congress has not the power to call upon the slave population to take part in a war which is striking at the very existence of the Government. Why not? This population, as we all know, has a double character. They are to be regarded as men as well as property. They are called "persons" in the Constitution itself. The representation in Congress is regulated upon the hypothesis that they are persons. They are called property for the purpose of taxation, and nothing is more clear than that as the Constitution stands they are to be considered as property, provided they are made such by the laws of the States in which that population may be found. But does that prevent the Congress of the United States from calling them to their aid? Why? In the character of persons they are clearly liable to the power. Nobody can doubt that. Though not citizens, they are men bound to allegiance to the United States, and receiving from day to day all the protection that the United States promised them. What that is it is immaterial to inquire; but whatever they have and can have of protection under the Constitution of the United States, they have; and, as an equivalent for the allegiance which they owe because of the protection they have, they are bound, when legitimately called upon, to support the Government, either to put down insurrection or to repel invasion.

There is a limitation, Mr. President. I am not prepared to say that, as against that limitation, the legislation of Congress has not gone a step too far, or perhaps whether Congress has not disregarded it altogether, and whether the President, in the execution of the particular power, has not disregarded it. Those persons being property in the several States in which the institution of slavery exists, if they are taken, according to my judgment—but different opinions are entertained, I know; and I am equally sure they are honestly entertained—they must be paid for; but that is the only limitation. The Government of the United States has a right to appropriate individual property for public use, with no other limitation than that of making compensation. The compensation made, the private property becomes public property disengaged of the contracts under which it may have been held by the private citizen. If, therefore, the United States call upon these slave men to act as soldiers in the armies of the United States, and pay the owner, that of itself—and it would be most dishonorable to the United States if it were otherwise—emancipates the slave. It would be a reproach, a blasting reproach, even more acute and bitter than that which the learned Senator's resolution assumes in the case to which the resolution refers, if the United States should use these men for the purpose of putting down this insurrection and maintaining the Government in its existence and restoring it to its power, and were then to permit them to be used as slaves thereafter; and I therefore individually have never had a doubt that whenever these slaves are called into the service of the United States, either into its armies or into its navies, and render the service, they are, by the fact of the service, free; and once

free, thank God, they can never again be made slaves.

Mr. President, a word or two more, and I shall have done. Having all proper confidence in the honesty of the President of the United States—if it may not even be considered as disrespectful to him to assert that he is honest; he cannot well be otherwise—I have said that I doubted exceedingly, and that doubt has not been removed, his authority to issue the proclamation declaring the freedom of slaves throughout the rebellious States named in the proclamation. I doubt the authority; and I would not have adopted the policy which he has adopted, because I thought it would be, and I think it has been, productive of no practical good result. Slaves that may be brought within the power of the United States by its armies are free, not under the proclamation, but by laws paramount to the proclamation. The slaves who may not have been within the scope of the military power of the United States, and may not be found within that scope at the period when the Union may be restored to its original condition, will not be made free, in my judgment, by virtue of that proclamation; and the President of the United States in his recent message, and in his declaration of amnesty with which the message concludes, seems rather to be of that opinion, or rather he states hypothetically that it may turn out after all that his proclamation was of no avail; and he, therefore, and as I think very properly—I would have gone to a greater extent than he has done; it is not necessary in this connection to state to what extent I would have gone—has stated in his proclamation of amnesty that the question of the effect of the acts of Congress of confiscation, and the effect of the acts Congress has passed in relation to the institution of slavery and the use of slaves in the armies and navies of the United States, and the effect of his own proclamations in the past and in the present, is to be left finally, at last, first to such legislation as Congress may hereafter think proper to adopt, and secondly to the decision of the Supreme Court of the United States.

Sir, it may not be amiss, in the condition in which we find the country, to say—and the letters to which I refer are now in the possession of the President, placed there by myself—that I have two letters from two of the largest slaveholders in the State of Mississippi, men holding from a thousand to two thousand slaves, making a clear income of some one hundred and fifty or two hundred thousand dollars, written with solicitude, begging me to see the President upon the subject, in which they have stated substantially, both agreeing in the statement, that Mississippi—that State which its once favored son has so ruined, to every house in which he has brought calamity unspeakable, upon every foot of whose soil he has brought desolation—would return by a very large majority to the Union if that proclamation could be suspended, could be recalled, could be modified, and that she would agree, by the same overwhelming vote, to pass a law for the prospective and gradual abolition of slavery within her limits. Sir, the people have grown wiser than they were before. The opinion of one is offered, as I am upon that subject, and entitled to no particular weight; but I have some little pride in remembering that when I had before the honor of a seat in this body, in 1847, when I participated in a debate relating to this very subject of slavery, I stated what I had ever believed from the time I was able to read and to think—that it was an institution which could not be defended, if the question was whether it should be introduced among us, either upon moral or Christian grounds, and still less upon economical grounds. It is the dearest labor known, certainly in those slaveholding States in which free white labor can be employed.

But, Mr. President, participating as I do in the desire of my friend, the honorable member from Kentucky, that this rebellion should be arrested and the Union restored, much as I question and deny the power of the Congress of the United States, and of course the power of the President, to interfere with slavery in the States, except in the contingencies to which I have adverted, I would see the institution arrested at once, let the country be subjected to all the present calamities which I think would flow from the abolition of the institution in all these States for a time, rather than see this rebellion live an hour longer. I go further, even further than the honorable member

from Kentucky. He has stated that deep as is his conviction that the rebellion should be suppressed, that the honor of the nation demands it, that the power and the happiness of the people invoke it, yet he would not like to see it done provided any of the grand securities of liberty—

Mr. DAVIS. Will the honorable Senator from Maryland permit me to correct him?

Mr. JOHNSON. Certainly.

Mr. DAVIS. He misconceives my position. It was this: I asserted, and I now reiterate it, that sooner than our system of constitutional government and liberty should be overthrown permanently by the usurpations of the Executive, I would rather risk a separation, or any other event.

Mr. JOHNSON. I understood the honorable member differently. I understood the honorable member as saying, speaking with reference to the actions of the Executive and of Congress, which he designated—and I am not prepared to say that he designated them improperly—as in some respects unconstitutional and destructive of liberty for a time, that he would not submit to them; he would rather let rebellion go on. I stand corrected. I was about to say, Mr. President, that I would see them suspended during the whole of this rebellion if I believed their suspension was necessary to bring about the destruction of the rebellion and the restoration of the Union. The honorable member agrees with me. I know, we all know, I have reason to know it more particularly in my own State, that some acts are being done by the Executive, or under the apparent protection of the Executive, to my mind exceedingly objectionable, because exceedingly tyrannical; but upon that account I shall not raise my voice in this Chamber or my arm elsewhere for the purpose of weakening the powers of the Government in the accomplishment of the great end that we all have at heart, the suppression of the rebellion. The time will come, that end accomplished, when the Constitution will be returned to us in all its original excellence, and the men who have thought proper, without necessity, to violate it, will be called upon to account for such violation; but until that time does come I pray to God that we may with one heart and one voice unite in planting the whole physical and moral power of the Government to put an end now and forever to this embarrassing, unprovoked, unreasonable attempt to destroy this Government, the freest and happiest ever vouchsafed to man, and, by destroying it, perhaps to destroy forever constitutional liberty itself.

Mr. DAVIS. Mr. President, do I understand that the honorable Senator from Maryland assumes as a principle of our Government that the preamble to the Constitution establishes and confers any power upon the Government? That question has been expressly before the Supreme Court of the United States, and it has received this interpretation, that the preamble neither creates nor confers any power whatever, but only points to the ends for which the powers that are vested by the body of the Constitution itself are to be executed. The honorable Senator, I presume, will not deny that that principle has been so announced by the Supreme Court. [Mr. JOHNSON nodded assent.] The honorable Senator adverted to the difference between great men and statesmen on the question of the powers vested in the executive department, and that difference, if I recollect aright, first sprang up in a series of published papers between Messrs. Hamilton and Madison, over the signatures of Helvidius and Pacificus, and that are appended to the ordinary editions of the Federalist; Hamilton maintaining that a general, indefinite executive power was vested by the Constitution of the United States in the President. Mr. Madison contended that it was only the executive power that was named and established by the Constitution which was vested in the President. Do I understand the honorable Senator from Maryland that he takes the position of Mr. Hamilton in relation to that mooted question?

Mr. JOHNSON. I do.

Mr. DAVIS. Then I propound this further question to the honorable Senator: is it not the right, is it not the business and duty of every intelligent man in the United States to know the principles and powers of his Government, and how those principles and powers are divided, and to what departments and officers they are assigned, how much and what powers vested in all and each

one? Then I ask him, with his assent to the position of Mr. Hamilton, to inform me and the people how and where we can learn the number, nature, and extent of the powers of the President. He refers to this language of the Constitution, "the executive power shall be vested in a President of the United States of America," and argues that this language imports a more extensive investment of power than is conferred by the Constitution on Congress, as the language used for the latter purpose is, "all legislative powers herein granted shall be vested in Congress," &c. "The executive power" cannot mean all the executive powers of all the Governments, free, limited, and despotic, of the whole world, ancient and modern. According to the Senator's principle, I ask him if it is the executive power of the Grand Seigneur, or of the Czar of Russia, of the Emperor of Austria, or of the then King of France, of George III, or of the republic of Switzerland, or of all combined, that our Constitution vests in the President? The words, "the executive power," clearly, to my mind, point to some certain and definite executive power. The great men who formed our Constitution, so full of experience and wisdom, would never have established as broad and illimitable, or as vague and indefinite a power, as that contended for by the Senator. The language, "the executive power," to my mind, clearly points to some particular and defined executive power; otherwise in a Government of limited powers generally, and in which those vested in the other departments are limited by particular enumeration, the powers vested in the chief executive officer would be unlimited. "The executive power" refers to and means that to be established by the Constitution, also by enumeration. It comprehends that amount of and those executive powers; and that it means nothing more is further confirmed by the provision that—

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

And this position is further confirmed by the tenth amendment, in these words:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The oppressions of the American colonies were principally from the king; and the idea that soon after their long struggle against an enormous executive power, the great men who framed our Constitution should clothe our Executive with general, undefined, and unlimited executive power seems to me to be utterly preposterous.

Mr. President, I dissent wholly from the positions of the honorable Senator from Maryland. I avow that all the powers of the United States Government are conferred by its Constitution, and that there are no powers vested in that Government, or in any of its departments or officers, except such as are conferred by the language of that Constitution. The Supreme Court have asserted that principle in more than a score of cases. It was the principle of Hamilton, and Madison, and Jay, and the men who formed the Constitution, and whose triumphant vindication of its principles and provisions to give liberty, security, and self-government to the American people, induced its adoption by the conventions of the several States. I maintain, with all due respect to the ability and fame of the honorable Senator, that his principle in relation to that power is eminently heretical and dangerous, and was so pronounced by Mr. Madison, who was said to be the Father of the Constitution.

There is a difference between us *toto calo* in relation to other points and principles adverted to by the honorable Senator; and I will now state one of them: the power of declaring war in Great Britain, and in the despotic Governments of Europe, is an executive power. In our Government it is legislative, and vested expressly in Congress, and the Executive in no degree shares it with Congress. In England, the power to support armies is a legislative power; but to raise armies is an executive power. In our country, both are changed to legislative powers, expressly vested in Congress; and the President has no right to touch them, and he cannot without usurpation.

The power to recognize a state of case where the execution of the laws is resisted to such a degree as to require the interposition of military

force, the power to suppress an insurrection, and the power to repel an invasion, and to determine when each and all those states of case arise, is vested, by the language of the Constitution, in Congress; and therefore the President is excluded from them. The well-known case of *Luther vs. Borden*, which arose in Rhode Island under the Dorr constitution, decides expressly in relation to two of these points in the paragraphs of the report from which I read, and which seem for the occasion to have escaped the attention of the honorable Senator. The court in that case decide expressly that the President has no right, by the Constitution, nor until he is authorized by the law of Congress to do so, to declare that there is domestic violence in a State. It says expressly that the decision of those questions is rendered political by the Constitution, and they are referred to the political power of the Government, to wit, Congress; and that Congress alone can recognize and make provision for such a condition of the country. These powers are analogous to the power to declare war, and therefore were they also vested in Congress. The court decided further, that Congress, if it had chosen to do so, could have vested this discretion of recognizing such a state of case, and putting the troops in motion to meet it, in the courts as well as in the President; but, by the act of 1795, the court says Congress expressly vested that power in the President, and had acted wisely.

Now, sir, I say that my position on this question of difference between the honorable Senator and myself is fortified by the decisions of the Supreme Court; that his positions are met, refuted, overthrown by the decisions of that court. What power, then, has the President over the subject? When the forces are ordered into the field by Congress, he has simply the power of commander-in-chief, and has no more power in the premises than if the Constitution had declared that the senior general in the United States Army should be commander-in-chief; and I defy the honorable Senator or any other gentleman to refute that proposition.

Then the honorable Senator assumes another position, which is, in my judgment, heretical and eminently dangerous. The power to declare war, to raise and support armies, to call out the militia to execute the laws of the Union, to suppress insurrection, and repel invasion, being vested by the Constitution in Congress, the Senator assumes that if Congress was to neglect or refuse to exercise these necessary powers, the President himself might assume their execution. In my judgment, a more unsound and a more dangerous position was never taken by an American Senator or statesman. It is true that that neglect or refusal of Congress to do its duty would bring the Government to a dead-lock or its dissolution. In like manner, if the judiciary department was to refuse to perform its duties and its functions, under the Constitution, the Government would also be brought to its dissolution. If the President was to refuse to perform his duties, so likewise would the Government be brought to a dissolution. But the theory and structure of our Government is upon the principle that the great functionaries who fill those high offices would execute their trusts. If they fail to do so, though it might produce temporary confusion, there is a power behind them all, to reform the threatened anarchy, and to put the great machine of State again in motion; and that is the people of the United States and the State governments.

But the Senator argues that the Constitution makes it the duty of the President to take care that the laws be faithfully executed. That is true, but it is by the officers and means which Congress may organize, and not by any that he may devise. I never heard it contended before that this provision of the Constitution conferred powers on the President, and especially the great powers deduced from it by the Senator from Maryland, or the power to organize any measures to put down an insurrection, or execute the resisted laws of the Union.

There is no man more familiar with the decisions of our Supreme Court, or more competent to understand them, than the honorable Senator from Maryland. I appeal to him, if the Supreme Court have not decided this principle in relation to the Constitution: that all the language and every provision of that instrument is to be understood and

construed according to the meaning and purpose of those who made it, and that, in giving construction to it, it is the duty of the statesman and the judge to throw himself back into the circumstances and condition of the men who made the Constitution, and to construe it from that standpoint, according to the circumstances that then existed and upon which they framed that instrument, and to take the meaning and import of its language as its framers understood it. With this general rule of construction, will the member from Maryland announce in this Chamber that the Constitution and the executive powers conferred by it on the President were understood by the members of the Convention who formed it as he has deduced and announced them upon the present occasion? Will any man throw himself back to the condition and circumstances in which those great statesmen and legislators were, and maintain the powers assumed by the Senator for the President?

I have argued against the expediency, the policy, and the power both of the Executive and of Congress to incorporate negroes into the United States Army as a part of it.

Proceeding upon the principle which I have thus stated, that in giving interpretation to the Constitution we must throw ourselves back to the age in which it was made, to the condition of the country at that time, and to the circumstances in which those who made it were acting, I ask the honorable Senator now, whether, adopting that mode of interpretation, he can candidly come to the conclusion that the framers of the Constitution ever intended that negro slaves should be a part of the militia or military force of the United States? No, sir; no. If such a proposition had been made in that illustrious convocation of statesmen and patriots, it would have been rejected, or, if not rejected, it would have defeated at once and forever all attempts to frame a Constitution for the United States.

The Senator speaks of his desire to strengthen the executive arm of the Government in this rebellion. He has no deeper or more sincere desire to that effect than I have; but I tell him that, according to my humble judgment, the strength and power of this Government is not in the provisions of its Constitution alone, but in the protection, the security, the liberties, privileges, and rights, which it guarantees to the American people, and the fidelity with which it is administered by all men engaged in its administration, whether in the legislative or executive department. Its greatest strength is in the love and confidence of the people. Sir, if you want to strengthen the Government, or if the Government desires to strengthen itself, it must adhere to the law of its creation, the Constitution; it must exercise its powers within the pale of that instrument; it must respect its compromises, its prohibitions of power; and just in proportion as it transcends these great principles, it will become weak and strengthen the rebellion.

Sir, I have no more doubt now, that if Mr. Lincoln and the Administration had, in good faith and with firmness and consistency of purpose, adhered strictly to the Crittenden resolution which passed this body almost unanimously, and I think passed the House of Representatives, on the motion of the honorable Senator from Ohio, [Mr. SHERMAN,] who was then in the House, unanimously, and the two principal departments of the Government had been so administered, the rebellion would have been put down long, long ago. It is by the departure of the Executive and of Congress from the great principles of the Constitution that the unity of the American people has been destroyed. It is in this mode that the Government itself has been weakened and the enemy strengthened. The way to regain the lost strength which existed in the unity of the people at the commencement of the rebellion, is to compel the Executive to retrace his steps and to assume a constitutional basis in carrying on the war.

Mr. President, I am one of those who believe that the present party in power know that its gigantic power has resulted from this war, and the extreme odium in which the rebellion is justly held by the masses of the American people, and by none more than myself. The unparalleled patronage which the war has given to the Administration, and the power that it has over the Army,

which enables it to establish a practical military despotism wherever it may choose, and extended it in the Senator's own State, in Delaware, in a part of my State, and in some parts of the State of Missouri, at their elections, are the fruits of this war. Mr. Hamilton himself says, in his immortal numbers in the *Federalist*, that it is a law of executive power to encroach continually upon the power of the legislative branch of the Government and upon the rights of the people; that it is an inherent law of executive power, in time of war, greatly to augment and enhance itself. We have deplorably experienced that truth.

The administration of the executive department is as deeply impressed with these truths as was Mr. Hamilton. It knows, and all intelligent gentlemen know, that if the war had been brought to an end twelve months ago abolitionism would have collapsed; the Union would have been restored as it was; the power of the Constitution would have again become dominant, and the laws would have been executed to our utmost confines. The party in power knows that this war and all its vast patronage is necessary to its continuance in power and to the election of its nominees for the next Presidency and Vice Presidency; and it is determined that this war shall continue until the presidential election.

Sir, this war could have been brought to a close long, long ago. If the Administration had been singly and in good faith devoted to the principles announced in the Crittenden resolution; if they had not selected commanders because of their hostility, not to rebellion, but to slavery; if they had selected them for their military capacity, and their ability to put down the rebellion, instead of their hostility to slavery and their willingness to be used for its overthrow regardless of the constitutional prohibitions; if able commanders had been selected irrespective of that, and the President and his Cabinet and General-in-Chief had sustained them steadily and constantly in the field, and sent to them sufficient forces, the insurrection would have been put down early, and the Union would have been speedily restored. That committee, which Wendell Phillips said was sitting at the other end of the avenue to regulate the next presidential campaign, knows the truth of all the propositions which I have stated. It is working with a view to their truth and their operation upon the public mind. If the question was put to-day to some honorable Senators in this Hall, which would you prefer, that the union of the States with slavery in them, as they existed before, subject only to the abrasions of the war, should be restored, or that the southern confederacy should become permanently separate and independent? I believe many of them would accept the latter proposition.

I believe it is that the war may destroy slavery utterly that the Administration has caused this war to languish and to be inefficiently prosecuted, and with a full determination that it shall run into the next presidential election, to enable them to control that important event, upon which hangs the fate and the destinies of this country, and by patronage or by the intervention of military power to appoint the electors for the Presidency and Vice Presidency in the various States, and thus secure their continuance in power. In the honorable Senator's zeal to support this war, is he in favor of the policy which I have just stated? If he is, I am not. I want every freeman in America, with all the fervor of his heart, and all the strength of his arm, to resist such an election of President as that of Louis Napoleon in France. I declare that in war and in peace the freemen of America should have the right of free speech, a free press, and free election by which to canvass the acts of the Administration, of the legislative or the executive department, by which to inform the public mind, and to bring the peaceful but conquering numbers to the polls to reform all the abuses of the Government.

Sir, when those great rights are put down, revolution is an accomplished fact. We may maintain the forms of free government, but its rights and liberties are as completely gone as when Augustus declared himself emperor and perpetual tribune of Rome, and placed himself at the head of all the forces of that mighty empire, just then passing into the state of an imperial military despotism.

Mr. President, it seems to me that we are on

the eve of such a change; that the Administration are doing their utmost to hasten it and to secure it for their own advantage; that if the people would maintain the Constitution and the liberties for which our fathers fought through seven years of blood, they must arouse themselves from their lethargy, and they must show that while they have the mind and courage and will and fortitude to put down secessionism and rebellion, they have also the same great qualities to prevent the President of the United States and his Cabinet from usurping, permanently at least, despotic military power.

One word more to the honorable Senator from Maryland, and I have done. Franklin said, in the Revolutionary war, that a nation that would sacrifice essential liberty for temporary advantage would shortly have neither. I believe in the truth, and the permanent truth, of that political maxim. I am against such a sacrifice, not only permanently or for the continuance of the war, but even for a day or an hour. As a woman, when she yields her virtue once, loses it forever, so the people who consent to the sacrifice of their liberties, their Constitution, and all the rights it secures to them, for temporary advantage, will never regain what they thus lose.

Mr. HALE. Mr. President, nothing on earth was further from my intention or my expectation when I came into the Senate Chamber to-day than to take part in this debate. I do not now intend to trespass long on the attention of the Senate; but a statement has been made by the honorable Senator from Kentucky that I never will hear anywhere without entering my indignant denial of it; and that is, that the party in power and its representatives on this floor do not desire peace, but desire a continuation of this war to influence the next presidential election. A more atrocious allegation against honorable men I think I never listened to from the beginning of time to the present moment.

Mr. DAVIS. If the honorable gentleman will permit me one moment, I heard him make a much more atrocious allegation than that within the last two years, when he avowed that the army of plunderers that were marching upon the Treasury under this administration of the Government exceeded the number of soldiers in the field.

Mr. HALE. If the Senator ever heard me make such a statement as that, I will admit it; but I never made such a remark, or anything like it.

Mr. DAVIS. I think the Globe will prove it.

Mr. HALE. The Senator cannot show that I ever made any such remark, or anything like it; but I will tell him what I did say, and what I will repeat. I said I thought the liberties of the country were more in danger from the profligacy that was practiced upon the Treasury than they were from the rebels in the field.

Now, to return to the subject: if the allegation of the honorable Senator be true, I would sooner take the hand of a man from a charnel-house, covered with pestilence, than that of one of the honorable gentlemen around me. If that allegation be true, every Senator upon this floor that supports this Administration is stamped with the foulest treason and perjury that human nature can be guilty of.

Mr. DAVIS. If the Senator will allow me—

Mr. HALE. No, sir; I do not wish to be interrupted. The country is at war. The tremendous issues of national life and death tremble in the balance. Treason, with its red right hand, aims a fell blow at the national life. The destinies of the country are committed to the honorable gentlemen who surround me, who are bound by every obligation that can bind honorable men, and by the sanctions of an oath, to sustain their country and their Constitution, and to defend the firesides and homes that are threatened with invasion by lawless traitors. But the Senator from Kentucky tells them they are hypocrites; that they do not desire the termination of this war.

Mr. DAVIS. I did not allude to any one in the Senate. I said "this Administration."

Mr. HALE. "The party in power." This is the party in power. It is true the Senator made no direct personal application to any Senator, but it is an allegation which embraces every one of us; and the allegation is that of all the men that disgrace God's footstool, of all the criminals that fill the penitentiaries, there are none so base, none so worthy of the detestation and scorn of men

and the judgments of God, as these Senators who sit here, members of this dominant party. Their country is at stake. God, in His providence, is trying now an experiment, the great question of ages, the question of free government for the world; and, in the progress of events and the course of His providence, the destinies of this country and of this war to no inconsiderable degree are intrusted to the men who surround me; and, sir, are we to sit here and silently hear a member of this body, before the country, before the world, before heaven and earth, bring such allegations against us that, if true, every inmate of the penitentiaries might scorn to give us the hand of friendly recognition? Hypocrisy such as this which has been charged upon us can hardly be delineated in fitting terms and character; and yet in that the President of the United States, by express designation, is also implicated.

Now, sir, let me say a word in regard to that. I am not a eulogist of the President, nor of hardly anybody else; but I believe if there may be one thing said of Mr. Lincoln to which almost everybody will assent, it is that he is eminently an honest and patriotic man. I confess that to-day is the first time in my whole life that I ever heard the honesty and the patriotism of Mr. Lincoln questioned. I have congratulated my fellow-citizens, when, in my poor and feeble way, it has been my lot to address them, that in one thing the country, in this terrible emergency, was eminently fortunate, and that was, in the personal character of the Chief Magistrate; that he was a man of such integrity that it spoke not only to his friends, but extorted the unwilling concession of his enemies; and that, amidst all the vituperation of political calumny, the personal integrity and patriotism of the President, thus far, had stood unscathed and unquestioned.

Sir, I apprehend the honorable Senator from Kentucky did not appreciate the character of the accusation which he brought against those who surrounded him. I have seen him, I have met him tendering the courtesies of social intercourse to men who are not worthy to unloose his shoe-latchets, if they be what he tells them they are to-day. They are the vilest hypocrites that the world bears up. They are the foulest traitors that ever the sun of heaven shone on.

Why, sir, what are we to-day, and what is our condition? It seems to me that in the purposes of Providence we occupy the climacteric position between the eternities of the past and the future. We have to settle for ourselves, for all posterity, for all coming time, the great question whether liberty upon the whole be a boon desirable for humanity, and whether man is capable of self-government. The hopes, the sympathies, the fears of the world look upon us. Who is it that can strike an effective blow against his country equal to him who loosens in the public mind all confidence in the integrity, the patriotism, and the honesty of those to whom the public destinies are intrusted? No, sir; that allegation ought not to be listened to for a single moment without an indignant denial from every man who feels that it is, to say the least, cruel and unjust. I know the Senator from Kentucky has such a habitual flow of words that he cannot stop, and sometimes he lets out words without carefully measuring the idea that follows them, and it must have been something of that sort which influenced him when he made the declaration that he uttered here to-day.

I have not heard all the discussion; I do not know what are the merits of the particular propositions upon which the Senator has commented; I have not had the pleasure of listening to them; but in this connection I will say this: if the Government of the United States have called upon black soldiers, have taken them into their armies, and carried them out to fight the battles of the country, they are bound to protect them at all hazards by every agency they can put forth; and if the Government, having done that, and having used them, and they having become prisoners, abandon them to their fate, they would be guilty of a baseness unparalleled in history. What do we want? Do we want to look carefully at the complexion, the race, or the color of those who fight the battles of the country? I apprehend not; but let that question be as it may, when the Government take a soldier, put their uniform on him and send him out to battle, they are bound by

every consideration which can rest upon a Christian Government to protect him at all events and at all hazards; and by no questions of expediency, by no questions of the effects which are to result from this plain, undeniable, palpable duty, are they to be deterred from doing what they ought.

Having said this much, I shall leave the subject; but I confess, before I sit down, that I was not a little astonished to hear this charge so deliberately, apparently, made against the Government, against the Administration, and against the Senate. I believe that the party in power, with Mr. Lincoln at its head, has but one aim, and that aim is the welfare of the country. I believe that he has but one purpose, and that is the salvation of his country. I believe that those who are associated with him are, in this respect, in full union and sympathy with him.

The idea that these men, that this party, that this Senate, could desire a continuation of this cruel, this ferocious, this bloody war; that our ears are not yet sufficiently filled with the wail of mourners; that the desolation of domestic hearthstones is not universal enough to satisfy our ferocious spirit; that we are willing that our young men shall be given to slaughter, our widows to mourning, and our orphans to destitution, for some paltry political advantage to be gained at the next presidential election, is an insinuation so base that I can only wonder that by any accident it found its way into the fertile brain of the Senator from Kentucky. [Manifestations of applause in the galleries.]

The VICE PRESIDENT. Order!

Mr. HALE. The country is at war—such a war as the world has never seen. The country is engaged in a war in which all the elements of civil liberty that have been gained in the progress of all the bloody centuries of the past are at stake; and at this time, when the question is nothing more nor less than life or death to the nation, to believe that a set of men, "the party in power," can be so utterly base, so reckless to everything that should bind them—nay, that they should be so callous to the grief and the woe that is already over the land, that they should be so deaf to the pleadings of humanity, to the mournings of a desolated land, as to desire, for some paltry political end, the continuation of such a scene of woe, is a picture too revolting for the contemplation of a civilized people.

Mr. LANE, of Indiana. Mr. President, without any purpose or desire to enter into this debate, I wish to ask the Senator from Kentucky the name of the major general in the Army of the United States to whom he referred. I understood my distinguished friend the Senator from Kentucky to say that a major general commanding in the armies of the United States had said that it was the purpose of the President to retain his power, even though an election should go against him, by the Army of the United States. If that be true, the Administration does not deserve the confidence of the country. If it be false, the informer should be mustered out of the service of the United States, as unworthy of the commission he bears. If there is no indelicacy or impropriety in the question, I should like to know the name of the officer.

Mr. DAVIS. Mr. President, I reply to the honorable Senator from Indiana. This was my statement: that a gentleman who had formerly been a member of the other House told me that a major general now in the service of the United States had said to him, if Mr. Lincoln was defeated at the next presidential election, he would not surrender the office, but would hold on to it. Now, I tell the honorable Senator that if he will come to me in the strictest confidence of a man of honor, as I know he is, I will give the names both of the general and of my informant.

Mr. LANE, of Indiana. Mr. President, I have only this to say, that it seems to me any commanding officer who makes any such statement is unworthy the service of the Government, if that statement be false; if it be true, the Government is unworthy of the support of the people; and for the Government, as one of the humblest supporters of that Government, I deny that any such purpose or allegation has ever been made.

The VICE PRESIDENT. The question is on the motion to refer the resolution to the Committee on Military Affairs and the Militia.

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State, in compliance with the requirements of the sixteenth and eighteenth sections of the act to regulate the diplomatic and consular systems of the United States, approved August 18, 1856; which was referred to the Committee on Foreign Relations, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a message from the President of the United States, recommending that Captain John Rodgers, of the Navy, receive a vote of thanks from Congress for the eminent skill and gallantry exhibited by him in the engagement with the rebel armed iron-clad steamer Fingal, *alias* Atlanta, while he was in command of the United States iron-clad steamer Weehawken, and also for his zeal, bravery, and general good conduct on many occasions. This recommendation is made in compliance with the ninth section of the act of July 16, 1862, which enacts that any line officer of the Navy or Marine corps may be advanced one grade, if, upon the recommendation of the President by name, he receives the thanks of Congress for highly distinguished conduct in conflict with the enemy, or for extraordinary heroism in the line of his profession.

The message was referred to the Committee on Naval Affairs.

EXECUTIVE SESSION.

Several messages of an executive character were received from the President of the United States, by Mr. NICOLAY, his Secretary.

On motion of Mr. LANE, of Kansas, the Senate proceeded to the consideration of executive business; and after some time engaged therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 15, 1863.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

MESSAGES FROM THE PRESIDENT.

Several messages in writing were received from the President of the United States, by Mr. NICOLAY, his Private Secretary.

COMMITTEE ON RULES.

The SPEAKER. The Chair announces the committee on rules, and desires to state that the reason why his name appears first on the committee is because the House so ordered it, and not of his own volition.

The committee is as follows: The SPEAKER, Messrs. WASHBURN of Illinois, MALLORY, LITTLEJOHN, and COX.

VOTE OF THANKS TO CAPTAIN RODGERS.

The SPEAKER laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

In conformity to the law of the 16th July, 1862, I most cordially recommend that Captain John Rodgers, United States Navy, receive a vote of thanks from Congress for the eminent skill and gallantry exhibited by him in the engagement with the rebel armed iron-clad steamer Fingal, *alias* Atlanta, while in command of the United States iron-clad steamer Weehawken, which led to her capture on the 17th June, 1863, and also for the zeal, bravery, and general good conduct shown by this officer on many occasions. This recommendation is specially made in order to comply with the requirements of the ninth section of the aforesaid act, which is in the following words, namely:

"That any line officer of the Navy or Marine corps may be advanced one grade, if, upon recommendation of the President by name, he receives the thanks of Congress for highly distinguished conduct in conflict with the enemy, or for extraordinary heroism in the line of his profession."

ABRAHAM LINCOLN.

WASHINGTON, D. C., December 8, 1863.

The message was referred to the Committee on Naval Affairs, and ordered to be printed.

DIPLOMATIC AND CONSULAR REPORT.

The SPEAKER also laid before the House a message from the President of the United States,

transmitting a report dated 9th instant, with the accompanying papers received from the Secretary of State, in compliance with the requirements of the sixteenth and eighteenth sections of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

PUBLIC PRINTING.

The SPEAKER also laid before the House letters from the Superintendent of Public Printing, submitting estimates of additional appropriations for public printing, binding, &c., for the year ending June 30, 1864; which were referred to the Committee of Ways and Means, and ordered to be printed.

THOMAS COTTMAN.

The SPEAKER. The Chair finds on his table a communication dated "Washington city," signed by J. L. Riddell, not as Governor, but as Governor elect, of Louisiana, transmitting the resignation of Thomas Cottman as member of Congress. The Chair does not see the name of Thomas Cottman on the list of members.

Mr. STEVENS. I move that the communication be not received.

Mr. COX. I move that it be referred to the Committee of Elections.

The SPEAKER. The Chair will not submit the paper. He merely presents it for the information of the House.

REPORTS OF COMMITTEES.

The SPEAKER stated the business in order to be the call of committees for reports, beginning with the Committee of Elections.

INVALID PENSION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1865; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

MILITARY ACADEMY BILL.

Mr. STEVENS also, from the same committee, reported a bill making appropriations for the support of the Military Academy for the year ending June 30, 1865; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

REFERENCE OF PRESIDENT'S MESSAGE.

Mr. STEVENS also, from the same committee, reported the following resolutions:

Resolved, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session, together with the accompanying documents, as relates to the finances, to the deficiencies in the revenues of the Post Office Department, to the receipts into the Treasury, and public expenditures, the organization of banking institutions, and provision for a uniform currency, to the provision of additional revenue, to taxing consuls residing abroad, and the ways and means for supporting and meeting all public liabilities of the Government, be referred to the Committee of Ways and Means.

Resolved, That so much of said message and accompanying documents as relates to commerce be referred to the Committee on Commerce.

Resolved, That so much of said message and accompanying documents as relates to the public domain be referred to the Committee on Public Lands.

Resolved, That so much of said message and accompanying documents as relates to the subject of telegraphs, and to the Post Office Department, be referred to the Committee on the Post Office and Post Roads.

Resolved, That so much of said message and accompanying documents as relates to the Constitution and laws of the United States, and judicial proceedings, be referred to the Committee on the Judiciary.

Resolved, That so much of said message and accompanying documents as relates to the public expenditures be referred to the Committee on Public Expenditures.

Resolved, That so much of said message and accompanying documents as relates to agriculture and the Department of Agriculture be referred to the Committee on Agriculture.

Resolved, That so much of said message and accompanying documents as relates to our intercourse with the Indian tribes and to remodeling the whole Indian system, be referred to the Committee on Indian Affairs.

Resolved, That so much of said message and accompany-

ing documents as relates to the Army of the United States, the exchange of prisoners, to additional provisions for the enrolling and calling out the national forces, and to coast and lake defenses, be referred to the Committee on Military Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Navy of the United States be referred to the Committee on Naval Affairs.

Resolved, That so much of said message as relates to our foreign affairs, together with the accompanying correspondence in relation thereto, be referred to the Committee on Foreign Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Territories of the United States be referred to the Committee on Territories.

Resolved, That so much of said message and accompanying documents as relates to pensions and the Pension Bureau be referred to the Committee on Invalid Pensions.

Resolved, That so much of said message and accompanying documents as relates to the expenditures in connection with the State Department be referred to the Committee on Expenditures in the State Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Treasury Department be referred to the Committee on Expenditures in the Treasury Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the War Department be referred to the Committee on Expenditures in the War Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Navy Department be referred to the Committee on Expenditures in the Navy Department.

Resolved, That so much of said message and accompanying documents as relates to the expenditures in connection with the Post Office Department be referred to the Committee on Expenditures in the Post Office Department.

Resolved, That so much of said message and accompanying documents as relates to the militia be referred to the Committee on the Militia.

Resolved, That so much of said message as relates to a Pacific railroad be referred to a special committee of thirteen, to be appointed by the Speaker, to which committee all documents and resolutions in relation to Pacific railroads shall be referred.

Resolved, That so much of said message and accompanying documents as relates to roads and canals be referred to the Committee on Roads and Canals.

Resolved, That so much of said message and accompanying documents as relates to any arrangement for the freed people be referred to the select committee of nine ordered by the House on the 14th instant.

Resolved, That so much of the President's message as is contained in the proclamation, and as refers to the condition and treatment of the rebellious States, be referred to a special committee of nine, to be appointed by the Speaker.

Mr. COX. I have an amendment to offer to those resolutions.

The SPEAKER. They will be open to amendment unless the previous question be moved.

Mr. DAVIS, of Maryland. I do not design to interfere with the right of the gentleman from Ohio, but I wish to make a suggestion to the chairman of the Committee of Ways and Means, which, I am sure, he will allow me to do.

Mr. COX. Certainly.

Mr. DAVIS, of Maryland. I desire to ask the chairman of the Committee of Ways and Means whether he will accept as a substitute for the last resolution an amendment which points more directly to the purpose that he has in view.

The amendment was read, as follows:

That so much of the President's message as relates to the duty of the United States to guaranty a republican form of government to the States in which the governments recognized by the United States have been abrogated or overthrown, be referred to a select committee of nine, to be named by the Speaker; which shall report the bills necessary and proper for carrying into execution the foregoing guarantee.

Mr. STEVENS. Although I cannot accept the amendment, on account of reporting the resolutions from a committee, if the gentleman moves it as a substitute I shall not object to it.

Mr. DAVIS, of Maryland. Then I offer it as a substitute for the last resolution.

Mr. MALLORY. It seems to me, Mr. Speaker, that the two propositions look to two distinct things, and I see no reason why both cannot be entertained. The resolution reported by the chairman of the Committee of Ways and Means contemplates one thing; that of the gentleman from Maryland another. One committee is to take cognizance of one matter, and the other committee of a totally distinct matter.

The SPEAKER. The Chair thinks that the amendment is germane to the original resolution. The one refers to the condition and treatment of the rebel States; the other refers to the fact that

the governments recognized by the Government of the United States have been abrogated or overthrown. The verbiage is different, but the Chair thinks that the subject-matter is the same.

Mr. BROOKS. The essential difference between the two propositions I take to be this: the first proposition leaves it to the discretion of the committee to take what action it may deem proper. It is optional to it to report a bill or not. If it find that a republican form of government does not exist in some of the States, it may report the necessary bill. The substitute, as I understand it, proposes special instructions that this committee shall report some bill. I do not know what object the gentleman from Maryland has in view. I shall be happy to hear from him, and will give way to him for an explanation.

Mr. DAVIS, of Maryland. The object which I had in view in submitting the resolution as a substitute for that proposed by the Committee of Ways and Means was simply this: the language of the resolution reported by the Committee of Ways and Means is very general, and perhaps does not point precisely to the object the gentleman who drew it had in his own mind. It would cover the whole subject of the war. So much, I think it says in substance, of the President's message as relates to the condition and treatment of the rebel States shall be referred to a select committee. What does not relate to the condition and treatment of the rebel States? It includes the conduct of the war; the treatment of the people not in arms in the rebellious districts, and the policy the military governors shall pursue; it includes, in a word, the whole treatment of the States which are the theater of the rebellion.

I take it that that was not what the Committee of Ways and Means contemplated. I presume they intended to point to what, in the very inaccurate phraseology of the day, is known as the question of reconstruction.

Now, as I think there has been no destruction of the Union, no breaking up of the Government, I carefully avoid the use of any such word. The fact, as well as the constitutional view of the condition of affairs in the States enveloped by the rebellion, is that a force has overthrown, or the people, in a moment of madness, have abrogated the governments which existed in those States, under the Constitution, and were recognized by the United States prior to the breaking out of the rebellion.

The Government of the United States is engaged in two operations. One is the suppression of armed resistance to the supreme authority of the United States, and which is endeavoring to suppress that opposition by arms. Another—a very delicate and perhaps as high a duty—is to see, when armed resistance shall be removed, that governments shall be restored in those States republican in their form.

The substitute that I offer points the investigation of the committee to that one point, using carefully the language of the Constitution throughout—"that so much of the President's message as relates to the duty of the United States to guaranty republican forms of government in those States in which governments recognized previously by the United States have been abrogated or overturned, be referred to a select committee, whose duty it shall be to report such bills as are necessary and proper to carry into execution the foregoing guarantees." It is not intended, as the gentleman from New York [Mr. Brooks] apparently supposes, as a peremptory instruction to the committee to report any particular measure. There is no measure which has been indicated that the resolution proposes they shall report; nor are they instructed necessarily to report any bill; but it is taken for granted, when a matter of that kind within the legitimate sphere of the legislation of Congress is referred to a committee, they will report such measures relative to the subject as their wisdom shall dictate. That is all that is contemplated by this resolution.

Mr. BROOKS. As I now understand the gentleman from Maryland—so far as I do understand him—I am much more disposed to follow the lead of the gentleman from Pennsylvania, [Mr. STEVENS,] who introduced the original resolution, rather than the lead of the gentleman from Maryland. I think his formula is a better one. In this particular condition of the House, I am opposed to the construction of a special committee

But if the proposition of the gentleman from Maryland shall be persisted in, I should be disposed to add that this committee be instructed to inquire also whether republican governments have not been abrogated and overturned north of the Potomac as well as south of the Potomac since this revolution began.

A MEMBER. That is right.

Mr. BROOKS. I am not disposed, however, to enter into any controversy on this subject at this early period of the session; but I repeat that it seems wiser for us at this point and at this hour to follow the lead of the chairman of the Committee of Ways and Means, and leave the whole broad subject untrammelled to the investigation of that committee on the principles he stated, rather than to instruct, or seem to instruct by the use of the word "shall," the committee to report any series of measures.

Mr. LOVEJOY. Mr. Speaker, I do not know that this subject is to be discussed, but I think that we ought to congratulate ourselves that, despite the effort of certain individuals, there is fortunately a republican government in the States north of the Potomac, and that there likely will continue to be without infringement or abatement. I think that the gentleman from New York can set his heart at ease on that point, it having been settled by the recent elections.

Now, Mr. Speaker, I do not know that this is the point to take our departure one way or the other; still, so far as I have heard the debate, I shall follow the lead of the gentleman from Maryland, [Mr. DAVIS,] unless I take it myself. [Laughter.] At any rate, I shall follow the principles indicated by his resolution, and the remarks with which he has accompanied it. I do not believe, strictly speaking, that there are any rebel States; I know that there are States which rebels have taken possession of and overthrown the legitimate governments for the time being; and I hold, with the gentleman from Maryland, as I understood him, that those governments still remain; and that as soon as we can get possession of them we will breathe into them the spirit of republican life—a free soul once again. I am for the Constitution as it is and the Union as it was. [Laughter.] Yes, I am for the Constitution as it is, and not as it has been falsely interpreted, and for the Union as it was before it was taken possession of by slaveholding tyrants, as the steamer Chesapeake recently has been by pirates. I want to dispossess the ship of State of her piratical crew, and to put in their place loyal men, to sail her as our forefathers sailed the old Union. That is what I want.

Mr. WASHBURNE, of Illinois. Are the resolutions open to amendment?

The SPEAKER. They are.

Mr. WASHBURNE, of Illinois. I desire to move an additional resolution when the call for the previous question has been voted down.

The SPEAKER. It is in order to call for the previous question on a single resolution or amendment. The previous question has not yet been called for.

Mr. WASHBURNE, of Illinois. I will now move my additional resolution.

Mr. COX. I have a chance at that first.

The SPEAKER. The gentleman from Ohio indicated a like intent.

Mr. WASHBURNE, of Illinois. The gentleman seems to be behindhand this morning.

Mr. COX. I yielded to the gentleman from Maryland out of courtesy.

The question recurred on the amendment of Mr. DAVIS, of Maryland, and on a division there were—ayes 80, noes 74.

Mr. STILES demanded the yeas and nays.

The yeas and nays were ordered.

The vote was taken, and it was decided in the affirmative—yeas 91, nays 80; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulbard, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spauld-

ing, Stevens, Thayer, Thomas, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—91.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Baily, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, James S. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Macy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, Smith, Stebbins, John B. Steele, William G. Steele, Stiles, Srouse, Stuart, Tracy, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—80.

So the amendment was adopted.

During the roll call,

Mr. DAWES stated that his colleague, Mr. BOUTWELL, was absent from the House on account of indisposition.

Mr. A. W. CLARK stated that Mr. LITTLEJOHN was still confined to his room by sickness.

Mr. BEAMAN stated that Mr. UPSON was detained from the House by indisposition.

The result was then announced as above recorded.

Mr. COX. I offer the following amendment to come in at the close of the resolutions reported by the gentleman from Pennsylvania:

Resolved, That the seven additional standing committees appointed under rules numbered 103 and 103 b be directed at once to perform the duties prescribed by said rules, and examine into the state of the accounts and expenditures of the several Departments respectively submitted to them, and report particularly, as specified in rule No. 103, so that the appointment of said committees may not become, as heretofore, nugatory; and further, that, to carry into effect this resolution, the said committees have all the powers of committees of investigation.

I ask for the reading of rule No. 103.

The Clerk read, as follows:

"It shall be the duty of the several Committees on Public Expenditures to inquire whether any offices belonging to the branches or Departments, respectively, concerning whose expenditures it is their duty to inquire, have become useless or unnecessary; and to report, from time to time, on the expediency of modifying or abolishing the same; also, to examine into the pay and emoluments of all offices under the laws of the United States; and to report, from time to time, such a reduction or increase thereof as a just economy and the public service may require."

Mr. COX. I demand the previous question on the amendment.

Mr. STEVENS. I hope the gentleman will withdraw that for a single moment.

Mr. COX. If the gentleman wishes to make any suggestion, I withdraw it for the present.

Mr. STEVENS. I wish to suggest that while probably I should not object to that resolution as an independent proposition—although, perhaps, the latter part of it is hardly proper—yet it does not seem to me to be pertinent to the resolutions distributing the President's message. I hope the gentleman will withdraw it as an amendment. As a separate resolution I should probably have no objection to it.

Mr. COX. If the amendment of the gentleman from Maryland [Mr. DAVIS] was pertinent at all, then, for a still stronger reason, this would be pertinent. This amendment proposes to instruct the committees to whom are referred parts of the message to act at once and promptly, so that their appointment may be of some force and effect, and it also gives them some additional powers.

Mr. STEVENS. And then it goes on in a censorious manner to say that heretofore these committees have been nugatory. That is what Mr. Benton would have called "a stump speech in the belly of the resolution." I think that had better be left out, and that if the resolution is passed it should be passed as a separate resolution.

Mr. COX. I will strike out the word "nugatory," as it seems to be objectionable to the gentleman. I did not intend really to censure any former committees; but it has been the habit of the House to neglect this business year after year. There has been no time when it has been more important than it is at present to have the standing committees of the House investigate all the accounts of the Departments; and they should have power to send for persons and papers, like committees of investigation, so that we may have some force and effect given to this valuable rule. I know that the gentleman from Pennsylvania is in favor of it. I cannot see that it disturbs his resolutions at all. It really carries out the intention of his resolutions as to these committees.

Mr. WASHBURN, of Illinois. I raise the question of order that the amendment offered by the gentleman from Ohio is out of order, as not being consistent with the series of resolutions to distribute certain portions of the President's message. This amendment has nothing whatever to do with that subject.

The SPEAKER. The Chair thinks the amendment is in order, for when business is sent to a committee the House is competent to instruct that committee.

Mr. WASHBURN, of Illinois. The resolution merely instructs the committees named to do their duty.

Mr. COX. Yes; and gives them power to send for persons and papers.

Mr. WASHBURN, of Illinois. It assumes that these committees would not do their full duty unless specially instructed.

The SPEAKER. When matters are referred to committees it is competent for the House to instruct them.

Mr. COX. I will modify my resolution by striking out the words "so that the appointment of such committees may not become, as heretofore, nugatory."

Mr. STEVENS. I hope the gentleman from Ohio will also strike out the concluding part of his resolution. I think it too early to begin to authorize committees to send for persons and papers. If they find obstructions in their way it will be time enough then to give them that authority. We have had experience of the bad effect of this thing. I hope that part of the resolution will be stricken out; and I will have no objection to the rest of it.

Mr. COX. I really think that that is the essence of the resolution. I want to give these committees power to investigate these matters. Let them go to the Departments, lop off these corruptions, if there be any; and if there be none, there is no harm done. Let them have power to investigate these matters fully, not half way. I understand the gentleman from Pennsylvania to be in favor of the fullest investigation. These are not to be roving committees.

Mr. STEVENS. I understand that the proposition is to give these committees authority to send for persons and papers. I have no objection to the fullest examination. If it be necessary for the committees to have this authority, they can come here and ask for it; but I think that at present it is better not to give it.

Mr. COX. I would like to oblige the gentleman from Pennsylvania in that regard, but I would rather withdraw the resolution at once.

Mr. STEVENS. Well, I shall be obliged to vote against it.

Mr. COX. I insist on my resolution; and move the previous question on its adoption.

The previous question was seconded, and the main question ordered; and, under its operation, the amendment was agreed to.

Mr. COX moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois. I move the following as an amendment, and move the previous question on the whole series:

Resolved, That so much of the President's message as refers to foreign immigration be referred to a select committee, to consist of five members.

The previous question was seconded, and the main question ordered; and under its operation the amendment was agreed to; and the resolutions, as amended, were adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolutions were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CAPTAIN M. M. HAWS.

Mr. ELIOT asked and obtained leave to have withdrawn from the files of the House, and referred to the Committee on Naval Affairs, the papers in the case of Captain M. M. Haws.

MAJOR GENERAL BLUNT'S REPORT.

Mr. BOYD, from the Committee on Indian Affairs, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to furnish to Congress, if in his opinion it is com-

patible with the public interest, a copy of the report of Major General Blunt, filed by Gilpatrick, on the matter of peculating from the Government in the subsistence, clothing, and transporting the refugee Indians.

REPORT OF GENERAL M'CLELLAN.

The SPEAKER stated that the next business in order was the consideration of the following resolution, offered yesterday by Mr. Cox, and laid over under the rule:

Resolved, That the Secretary of War be directed to communicate to this House the report made by Major General George B. McClellan concerning the organization and operations of the army of the Potomac while under his command, and of all Army operations while he was commander-in-chief.

Mr. COX moved the previous question.

The previous question was seconded, and the main question ordered; and, under its operation, the resolution was adopted.

Mr. COX moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MASSACHUSETTS CONTESTED ELECTION.

Mr. DAWES presented the memorial of George S. Sleeper, contesting the seat in this House of Alexander H. Rice as a Representative in the Thirty-Eighth Congress of the third district of Massachusetts; which, together with all papers on file relating to said contest, was referred to the Committee of Elections.

CALL OF STATES.

The SPEAKER. The business in order is the call of the States and Territories for resolutions, commencing with the State of Illinois.

DISTRIBUTION OF DOCUMENTS.

Mr. J. C. ALLEN submitted the following resolution:

Resolved, That all public documents of which extra copies have been ordered to be printed for distribution, and which have not been delivered to the persons entitled thereto under the resolution of the last House of Representatives, shall now be delivered by the officer having possession of the same to the Representatives in this House of those districts whose former Representatives have not drawn the documents to which such districts were respectively entitled according to the rate of distribution established.

The resolution was adopted.

CLERK TO DISTRICT COMMITTEE.

Mr. LOVEJOY submitted the following resolution:

Resolved, That the Committee for the District of Columbia be authorized to employ a clerk, with a compensation of four dollars a day, during the time he is actually employed.

Mr. LOVEJOY. I will simply say that I am unanimously instructed by the Committee for the District of Columbia to report that resolution, asking for authority to employ a clerk. The committee so instructed me at a meeting held this morning.

The House is already aware that this committee has the entire supervision of the business of this District, local as well as general—the sewerage of the streets, and everything. If members have read the report of the Secretary of the Interior, they will have noticed that there are a great many important subjects of legislation recommended by that officer to be attended to by this House, and which must of course come before it through this committee.

Mr. HOLMAN. I wish to inquire of the gentleman from Illinois whether it has been usual for this committee to employ a clerk—whether they had authority to employ one in the last Congress?

Mr. LOVEJOY. They have asked for a clerk for several sessions, but it has not been accorded them.

Mr. HOLMAN. I move that the resolution be laid on the table.

The SPEAKER. The gentleman from Illinois is entitled to the floor, and the motion is not, therefore, in order.

Mr. LOVEJOY. The gentleman, I think, is a little hasty. I simply wish to state these facts, and that it is the unanimous request of the committee. There are some members of the present committee who have been members of it heretofore. The gentleman from New York [Mr. STEELE] was a member of the committee in the last Congress, and he is decidedly of the opinion that we actually and honestly need a clerk. I

demand the previous question on the adoption of the resolution.

Mr. HOLMAN. I now move to lay the resolution on the table.

Mr. ASHLEY. I ask the gentleman to withdraw that motion for a moment.

Mr. HOLMAN. I will withdraw it if the gentleman will renew it.

Mr. ASHLEY. I will. I have served on this committee in a former Congress, and, although I am not now a member of it, I desire to say to the House what must be apparent to every gentleman of experience here, that every member of Congress, or at least of this House, ought to have a clerk. [Laughter.] It is impossible for a man to do his business at all here, attend to his committee duties, and answer the letters of his constituents, and much less can a committee of this importance get along without a clerk. The Committee for the District of Columbia ought not to be required to get along without one, and I hope the request of the gentleman from Illinois will at once be granted. In accordance with my promise, I now renew the demand to lay the resolution on the table.

Mr. LOVEJOY. The demand for the previous question is pending.

The motion to lay on the table was decided in the negative—ayes 22, noes 85.

The previous question was seconded, and the main question was ordered to be put.

Mr. MORRILL. Is this a resolution to increase the number of appointees of the House?

The SPEAKER. No debate is in order.

Mr. MORRILL. I call for the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 114, nays 36; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Anderson, Arnold, Ashley, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Cobb, Coffroth, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Daves, Deming, Dixon, Driggs, Dumont, Eckley, Edgerton, Eldridge, Elliot, Gauson, Garfield, Gooch, Grinnell, Griswold, Hale, Benjamin G. Harris, Charles M. Harris, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knapp, Law, Lazear, Loan, Long, Longyear, Lovejoy, Marvin, McAllister, McBride, McEugene, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Scott, Shannon, Sloan, Smith, Smithers, Stebbins, John B. Steele, Strouse, Stuart, Sweat, Thayer, Thomas, Tracy, Van Valkenburgh, Ward, Elihu B. Washburne, William B. Washburn, Wainey, Wheeler, Williams, Wilson, Windom, Winfield, Fernando Wood, Woodbridge, and Yeaman—114.

NAYS—Messrs. Ancona, Augustus C. Baldwin, John D. Baldwin, Bliss, Freeman Clarke, Cox, Dawson, Denison, English, Finck, Harding, Harrington, Holman, Hutchins, Kernan, Le Blond, Mallory, Marcy, McDowell, McKinney, William H. Miller, Morrill, Noble, John O'Neill, Orth, Pendleton, Radford, Ross, Seafield, Spaulding, William G. Steele, Stevens, Stiles, Wadsworth, Chilton A. White, and Joseph W. White—36.

So the resolution was adopted.

Mr. LOVEJOY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DISTRIBUTION OF DOCUMENTS.

Mr. BEAMAN. Is a motion to reconsider a privileged question?

The SPEAKER. It is.

Mr. BEAMAN. I move, then, to reconsider the vote by which the House adopted the resolution offered by the gentleman from Illinois, [Mr. J. C. ALLEN,] in reference to the distribution of documents.

Mr. COX. How did the gentleman vote?

The SPEAKER. There was no vote by yeas and nays, and in such a case any member can move to reconsider. Does the gentleman propose to call up the motion to reconsider at this time?

Mr. BEAMAN. Not until the call of the States has been gone through with.

The SPEAKER. It will be entered upon the Journal.

Mr. J. C. ALLEN. I move that it be laid upon the table.

The resolution was read by the Clerk. On a division, there were—ayes 81, noes 23.

Mr. BEAMAN demanded the yeas and nays.

The yeas and nays were not ordered.

The motion to reconsider was then laid upon the table.

Mr. FRANK. What will be the effect of the resolution?

The SPEAKER. The Chair cannot say. It was adopted by the House, and speaks for itself.

RAILROAD TO NEW YORK.

Mr. FARNSWORTH submitted the following resolution, and demanded the previous question:

Resolved, That a select committee of five members be appointed by the Speaker of this House, to whom shall be referred all petitions or other communications having reference to an increase of railway communications and facilities between New York city and Washington, and whose duty it shall be to consider and report upon that subject; and that said committee shall have power to report by bill or otherwise.

The previous question was seconded, and the main question ordered.

Mr. BROOKS moved that the resolution be laid upon the table.

On a division, there were—ayes 60, noes 57.

Mr. FARNSWORTH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 59; as follows:

YEAS.—Messrs. James C. Allen, William J. Allen, Alley, Allison, Ames, Augustus C. Baldwin, Blaine, Bliss, Brooks, Broomall, James S. Brown, Chanler, Freeman Clarke, Clay, Cox, Creswell, Henry Winter Davis, Dawson, Dennison, Edens, Edgerton, Eldridge, English, Finck, Ganson, Gooch, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Philip Johnson, William Johnson, Julian, Kelley, Kernan, King, Knapp, Law, Lazar, Le Blond, Long, Marey, McAllister, McBride, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Moorhead, James B. Morris, Morrison, Amos Myers, Leonard Myers, Noble, Odell, Charles O'Neill, John O'Neill, Pendleton, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, James S. Rollins, Scheuck, Seofield, Scott, Smith, Smithers, John B. Steele, William C. Steele, Stiles, Strouse, Stuart, Thayer, Thomas, Tracy, Voorhees, Ward, Webster, Whaley, Joseph W. White, Williams, Fernando Wood, and Yeaman—91.

NAYS.—Messrs. Ancona, Anderson, Ashley, Bailey, John D. Baldwin, Baxter, Benjamin, Jacob B. Blair, Blow, Boyd, Brundage, William G. Brown, Cobb, Coffroth, Cole, Deming, Dixon, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Garfield, Grinnell, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jencks, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McClurg, Morrill, Daniel Morris, Norton, Orth, Paterson, Pike, Pomeroy, Price, Radford, Ross, Shannon, Sloan, Spaulding, Stebbins, Stevens, Van Valkenburgh, Elihu B. Washburne, William D. Washburn, Wilder, Wilson, Windom, and Woodbridge—59.

So the resolution was laid upon the table.

And then, on motion of Mr. STEVENS, (at twenty minutes past two o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, December 16, 1863.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. WADE presented two petitions of citizens of the State of Michigan, praying for the passage of a law emancipating all persons of African descent held to involuntary service or labor in the United States; which were referred to the Committee on the Judiciary.

Mr. GRIMES presented the memorial of George W. Riggs, jr., president of the Washington Gas-Light Company, praying for the repeal of that portion of the act of Congress of July 11, 1863, which fixes the price of gas; which was referred to the Committee on the District of Columbia.

Mr. HICKS presented a petition of the inspectors of customs for the port of Baltimore, praying for an increase of their compensation; which was referred to the Committee on Finance.

He also presented the petition of Samuel L. Linat, praying that he may be allowed the difference between his account rendered for subsisting soldiers in Baltimore, Maryland, and the amount allowed him by the War Department; which was referred to the Committee on Claims.

Mr. POMEROY presented papers relating to the naval services of Captain S. B. Bissell, of the United States Navy; which were referred to the Committee on Naval Affairs.

Mr. MORRILL presented a memorial of citizens of the United States, approving of the abolition of slavery in the District of Columbia and

the Territories, the emancipation and confiscation acts, the enrollment of slaves in the Army, and the suspension of the *habeas corpus*; and praying "that those measures may be vigorously enforced, carried forward, and perfected," and that "colored soldiers be placed on the same footing, as to pay and privileges, as the white soldiers," and that none but officers in favor of these measures be appointed to the command of the Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented the memorial of Colonels Samuel A. Duncan and J. W. Ames, and fifty-nine other officers of the fourth and sixth regiments United States colored troops, praying for additional legislation relative to the bounty, pay, and allowances of colored troops; which was referred to the Committee on Military Affairs and the Militia.

Mr. HENDRICKS presented the memorial of Mary Ann Sands, legatee of Joseph Gideon, praying for relief; which was referred to the Committee on Naval Affairs.

Mr. CHANDLER presented a memorial of the board of supervisors of Cass county, Michigan, representing "that the provisions of the 'conscript act,' so called, whereby persons liable to do military duty are divided into two classes, the first of which is to be exhausted before the second shall be called out, as also the \$300 exemption clause, are unjust," and praying that they be repealed; which was referred to the Committee on Military Affairs and the Militia.

Mr. SAULSBURY. I have been requested to present the petition of Rev. John Pleasanton Du Hamel, rector of St. Thomas's church, Newark, Delaware, praying Congress to amend the act for enrolling and calling out the national forces. The petitioner declares the incompatibility of the ministerial office with that of a soldier, and that the requirement of such service of a minister would be asking him to violate his ordination vows.

In moving the reference of this petition to the Committee on Military Affairs and the Militia, which I now do, I wish to state, as my own opinion, that a gentleman circumstanced like the petitioner, who attends to the duties of his holy office by preaching "peace on earth and good will to men," ought to be exempted from the liabilities of that act. That class of preachers who do not confine themselves to the discharge of such duties, but convert their churches into meetings for other purposes, ought, in my judgment, to be placed in the front rank of the Army and made to fight until this war is over.

The VICE PRESIDENT. The petition will be referred to the Committee on Military Affairs and the Militia.

REPORTS FROM COMMITTEES.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred the motion to print the petition of Berendt A. Froiseth; to ask to be discharged from the further consideration of the same. The committee do not think it is advisable to enter upon the practice of printing memorials, and there seems to be no special reason why this should form the first exception to the rule.

The report was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 7) to increase the bounty for volunteers and the pay of the Army, reported it with amendments.

THANKS TO GENERAL GRANT.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 1) of thanks to Major General Ulysses S. Grant and the officers and soldiers who have fought under his command during this rebellion, and providing that the President of the United States shall cause a medal to be struck, to be presented to Major General Grant in the name of the people of the United States of America, to report it back unanimously to the Senate with the recommendation that it pass; and if there be no objection, I ask that it be put on its passage now.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the joint resolution. It directs that the thanks of Congress be presented to Major General Ulysses S. Grant, and through him to the officers and

soldiers who have fought under his command during this rebellion, for their gallantry and good conduct in the battles in which they have been engaged; and requests the President of the United States to cause a gold medal to be struck, with suitable emblems, devices, and inscriptions, to be presented to Major General Grant. When the medal shall have been struck, the President is to cause a copy of the joint resolution to be engrossed on parchment, and to transmit it, together with the medal, to Major General Grant, to be presented to him in the name of the people of the United States of America. A sufficient sum of money to carry this resolution into effect is appropriated out of any money in the Treasury not otherwise appropriated.

Mr. FESSENDEN. I should like to inquire of the Military Committee whether they have made any examination to ascertain what sum may be necessary to carry the resolution into effect. It is not usual to make an unlimited appropriation in the way here proposed.

Mr. WILSON. The committee did not know what sum it would be necessary to appropriate; and it was thought best by those interested in passing this resolution, or those who took a deep interest in it, to leave the matter to the discretion of the authorities. We do not know what the cost will be; it will be but a very small sum, at any rate; but it is difficult to tell precisely what is fitting for them to do. It is a very small matter, and I think it had better be left to the discretion of the Department.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AMENDMENT OF THE JOINT RULES.

Mr. FOOT. I give notice that to-morrow or on some future day I shall move to amend or modify the first joint rule of the two Houses of Congress, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That the first joint rule of the two Houses be amended to read as follows:

When amendments are made by either House to a bill, joint resolution, or concurrent resolution from the other, the course of proceeding shall be as follows:

1. The House originating the bill, &c., may, in whole or in part, agree to such amendments, agree to such amendments with amendments, or disagree to them.

2. The House making the amendments may, in like manner, proceed to act upon these proceedings of the originating House.

3. Should this last action not be agreed to by the originating House, and thereby produce a disagreement between the two Houses, either may recede from its disagreement, thereby passing the bill, &c., or may insist upon it and ask a free conference on the point or points of such disagreement, appoint a committee of conference on its part, and send the bill, papers, &c., to the other House.

4. The latter House may also insist upon its disagreement, agree to the conference, and appoint a committee on its part.

5. The joint committee of conference may then proceed freely to confer upon the point or points of disagreement between the two Houses, but shall not be at liberty to affect any other part or parts of the bill, &c., already agreed to by both Houses; and shall promptly make report of the result of such conference to their respective Houses, the bill, papers, &c., being brought into the House first proposing the conference.

6. This latter House shall first act upon the report of the committee. Its action upon the report shall then be sent, with the bill, papers, &c., to the other House, which may then also act upon it.

7. Should the committees respectively report a disagreement between themselves, second committees may be appointed, who shall proceed in like manner as the first.

8. Should the second committees agree to a common report for settling the disagreement between the two Houses, it will be made to the respective Houses, upon which the Houses will act as stated in the sixth article of this rule.

9. Should the second committees disagree, the fact will be reported to the respective Houses as in the first instance, and the House asking the second conference shall first act upon this second report.

10. The term of conference being then passed, this House may recede from its disagreement, which will pass the bill, &c., or by a simple resolution it may state its reasons and adhere to its disagreement, or it may simply adhere to its disagreement and send the bill, papers, &c., to the other House.

11. The other House may then proceed in the same manner, and should this House recede from its disagreement, the bill, &c., will be passed; but should this House also adhere, with a statement of its reasons or not, the bill, &c., will then be lost.

12. Should a bill, &c., be thus lost or defeated, such parts of the same, *verbatim et literatim*, as may have been agreed to by both Houses, and have not been affected by any disagreement between the two Houses, may in either House be immediately introduced as a new bill, &c., by any member thereof, and shall take precedence of all other business, and be acted upon in all its readings and stages immediately and without debate, and, if passed, shall forthwith be sent to the other House for concurrence, which House shall in like manner as the first immediately proceed to act upon the said

bill, &c., and should this House also pass this bill, &c., notice thereof shall immediately be sent to the first House, and the bill, &c., may immediately be signed by the Presiding Officers of the two Houses, as other bills, &c., are signed, and presented to the President of the United States for his approval or disapproval, as in other cases.

The resolution was ordered to be printed. The first joint rule now reads thus:

"1. In every case of an amendment of a bill agreed to in one House, and dissented to in the other, if either House shall request a conference, and appoint a committee for that purpose, and the other House shall also appoint a committee to confer, such committees shall, at a convenient hour, to be agreed on by their chairmen, meet in the conference chamber, and state to each other, verbally or in writing, as either shall choose, the reasons of their respective Houses for and against the amendment, and confer freely thereon."

REVISION OF THE STATUTES.

Mr. SUMNER. I wish the Senate would be good enough to take up and adopt the resolution which I offered yesterday. It is simply a resolution of inquiry addressed to the Committee on the Judiciary. The Senator from California, who objected to its consideration yesterday, afterwards withdrew his objection.

The resolution was taken up and agreed to, as follows:

Resolved, That the Committee on the Judiciary be directed to consider the expediency of providing by law for the appointment of commissioners to revise the public statutes of the United States; to simplify their language; to correct their incongruities; to supply their deficiencies; to arrange them in order; to reduce them to one connected text; and to report them thus improved to Congress for its final action, to the end that the public statutes, which all are presumed to know, may be in such form as to be more within the apprehension of all.

NAVY REPORT.

Mr. ANTHONY. I ask the Senate to take up the resolution which I reported yesterday from the Committee on Printing, relative to printing additional copies of the report of the Secretary of the Navy.

The motion was agreed to; and the resolution was adopted, as follows:

Resolved, That the Superintendent of Public Printing be authorized to print, in addition to the number now authorized by law, fifteen hundred copies of the report of the Secretary of the Navy, and appendix, for the use of the vessels of the Navy, and five hundred copies of the report proper for the office of the Secretary of the Navy.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, communicating, in answer to a resolution of the Senate of the 11th of March last, information relating to certain persons in the service of the Government; which was referred to the Committee on the Judiciary.

The VICE PRESIDENT also laid before the Senate a letter of the Second Auditor of the Treasury, communicating copies of all accounts of persons charged with the disbursement or application of moneys, goods, or effects, for the benefit of the Indians, from July 1, 1862, to June 30, 1863, with the balances under each specific head of appropriation still remaining in their hands.

Mr. FESSENDEN. I wish to inquire whether that report comes here in consequence of any resolution of the Senate?

The VICE PRESIDENT. In pursuance of law.

Mr. FESSENDEN. Is the Second Auditor required to make a communication directly to Congress?

The VICE PRESIDENT. That is the language of the communication. It refers to the act of Congress of June 30, 1834.

Mr. FESSENDEN. It is rather anomalous. Communications to Congress ordinarily come from the heads of Departments.

The VICE PRESIDENT. What disposition shall be made of the communication and accompanying papers?

Mr. GRIMES. I move that they lie on the table.

The motion was agreed to.

BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 14) to provide for the ascertainment and satisfaction of claims of American citizens for spoliation committed by the French prior to the 31st day of July, 1801; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. POMEROY asked, and by unanimous con-

sent obtained, leave to introduce a bill (S. No. 15) to incorporate the Washington City Savings Bank; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILKINSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 16) to establish a post route from Mankato, in Minnesota, to the Winnebago agency, on the Missouri river, in Dakota Territory; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. HALE, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 17) to amend the act entitled "An act to establish and equalize the grades of line officers of the United States Navy," approved July 16, 1862; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 18) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

ADJOURNMENT OVER THE HOLIDAYS.

The VICE PRESIDENT laid before the Senate the following resolution of the House of Representatives, which was passed by that body on the 14th instant:

Resolved, (the Senate concurring,) That when the House adjourns on Friday next, the 18th of December, it adjourn to meet on Wednesday, the 6th of January, 1864.

Mr. FESSENDEN. I move that that resolution be laid on the table.

Mr. GRIMES. It seems to me we had better take a vote directly on the proposition, and if we are against it vote it down. If it lies on the table, it may be called up to-morrow or at some time when many gentlemen disposed to vote against it may not have an opportunity to do so. I want to record my vote against it.

Mr. FESSENDEN. I withdraw my motion if the resolution is to be voted down, as I think it ought to be, unquestionably.

Mr. WADE. I ask for the yeas and nays on the resolution.

The yeas and nays were ordered.

Mr. WILSON. I propose that Friday be stricken out, and next Tuesday or Wednesday be inserted.

Mr. FESSENDEN. No. Let us vote it right down at once.

Mr. WILSON. I think we may be able to adjourn at that time.

Mr. FESSENDEN. We cannot adjourn at all.

Mr. COLLAMER. Is the question on concurrence in the resolution?

The VICE PRESIDENT. That is the question.

The question being taken by yeas and nays, resulted—yeas 4, nays 35; as follows:

YEAS—Messrs. Buckalew, Henderson, Powell, and Wright—4.

NAYS—Messrs. Brown, Chandler, Clark, Collamer, Conness, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harding, Harlan, Harris, Hendricks, Hicks, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Ramsey, Salisbury, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Willey, and Wilson—35.

So the Senate refused to concur in the resolution.

REBEL TREATMENT OF KANSAS TROOPS.

Mr. LANE, of Kansas. I offer the following resolution:

Whereas it is publicly stated by respectable parties, returned prisoners from the rebel States, that the volunteers from the State of Kansas taken prisoners by the rebels are and have been, since the commencement of the rebellion, invariably put to death when recognized as such: Therefore,

Resolved, That the President of the United States be requested to communicate to Congress any information in his possession on this subject.

I desire to state from my place here that at the commencement of the summer—

The VICE PRESIDENT. Does the Senator ask for the present consideration of the resolution?

Mr. LANE, of Kansas. I do; and I wish to make a statement.

The VICE PRESIDENT. A statement is not in order now without the unanimous consent of the Senate. The Senator asks the unanimous

consent of the Senate to consider this resolution at the present time. Is there any objection? The Chair hears none. The resolution is before the Senate.

Mr. LANE, of Kansas. At the commencement of the summer Captain Brown, of the gunboat Osceola, who had been taken prisoner, came to me in this city and said that in one of the prisons in the rebel States he had found seven Kansas soldiers in irons among the prisoners of other States not in irons; that they told him to find me and inform me that they were to be put to death. I immediately communicated the information in writing to the Secretary of War. He communicated with the commissioner on the exchange of prisoners; but from the fact that Captain Brown did not locate the point where they were held in prison, Mr. Ould was unable to give him any information on the subject. Recently a chaplain or a physician—I forget which—has published a communication in this city, which I have seen in the papers, in which he says that it is distinctly understood at Richmond and elsewhere in rebel-dom that Kansas soldiers are murdered wherever and whenever captured. It is within my own observation that Colonel Quantrell, who bears a commission from the confederate government, murdered all the soldiers that he captured in his raid upon Lawrence, Kansas; and since in his raid upon Major General Blunt, where he captured some ninety soldiers, and murdered them all. So far as I know, the Kansas soldiers, when captured by the rebels, have been put to death. I am also cognizant of the fact that the troops of Kansas have captured large numbers of rebel soldiers, and that they have invariably treated them with the utmost kindness and consideration.

The resolution was agreed to.

Mr. GRIMES, (after a pause.) As there appears to be no business before the Senate, I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 16, 1863.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

CONTESTED-ELECTION CASES.

The SPEAKER laid before the House papers in the following contested-election cases; which were referred to the Committee of Elections: Birch vs. King, sixth district of Missouri; Samuel T. Knox vs. Blair, first district of Missouri; Scott vs. Noell, third district of Missouri; Bruce vs. Loan, seventh district of Missouri; Kline vs. Myers, third district of Pennsylvania; Martin vs. Grinnell, fourth district of Iowa; McKenzie for a seat from the seventh district of Virginia; Todd vs. Jayne, Dakota Territory; Price vs. McClurg, fifth district of Missouri; McHenry vs. Yeaman, second district of Kentucky; Carrigan vs. Thayer, fifth district of Pennsylvania.

SELECT COMMITTEES.

The SPEAKER announced the appointment of the following select committees:

On *Emigration*—Messrs. Washburne of Illinois, Grinnell, Law, Baldwin of Massachusetts, and Rollins of Missouri.

On *Emancipation*—Messrs. Eliot, Kelley, Knapp, Orth, Boyd, Kalbfleisch, Cobb, Anderson, and Middleton.

On *Rebellious States*—Messrs. Davis of Maryland, Gooch, J. C. Allen, Ashley, Fenton, Holman, Smithers, Blow, and English.

On *Pacific Railroad*—Messrs. Stevens, Wilder, Steele of New York, Price, Cole of California, Noble, Donnelly, McBride, Steele of New Jersey, McClurg, Ames, Yeaman, and Sweat.

LAWS OF NEBRASKA.

The SPEAKER laid before the House the laws of the Territory of Nebraska; which were referred to the Committee on Territories.

CALL OF COMMITTEES.

The SPEAKER then proceeded to call the committees for reports.

Mr. SCHENCK. I ask the unanimous consent of the House to introduce a bill of which I

gave previous notice a few days since, for reference only.

Mr. HOLMAN. I call for the regular order of business.

NATIONAL CANAL CONVENTION.

Mr. ARNOLD, from the Committee on Roads and Canals, reported the following resolution; which was referred, under the law, to the Joint Committee on Printing:

Resolved, That there be printed for the use of this House ten thousand copies of the memorial of the national canal convention communicated to this House by the President.

PRINTING OF TREASURY REPORT.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That twenty-five hundred copies of the report of the Secretary of the Treasury, with the accompanying documents, twenty-five hundred copies of the report without the accompanying documents, two hundred and fifty copies of the estimates of appropriations, and one hundred and fifty copies of the receipts and expenditures, be printed for the use of the Treasury Department.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The call of committees having been completed, The SPEAKER proceeded to call the States for resolutions, commencing with the State of Illinois.

IRON-CLAD SHIPS.

Mr. NORTON submitted the following resolution, upon which he demanded the previous question:

Whereas it seems probable that warfare on the ocean will in great measure depend in the future on armored vessels, whose form, structure, and armament must be determined by experience in action; and the attacks on Forts Darling and McAllister, the combats between the Monitor and Merrimack and the Weehawken and Atlanta, and the first great naval battle delivered by armored vessels in the harbor of Charleston, have at once illustrated the American name and furnished the only information from experience in battle respecting the powers of resistance and aggression of armored vessels which exists to aid the deliberations of Congress in directing further constructions of such vessels; but the Secretary of the Navy, while conveying the gratifying intelligence that during the "vigorous assault on Fort Sumter" "but comparatively slight injury was sustained by these vessels," though "no ships ever before sustained such a concentrated fire," has not communicated with his report the official and detailed dispatches and reports of the officers in command of the armored vessels executing those attacks, from which alone exact and reliable information of the real capacity of those vessels for resistance, aggression, speed, maneuvering, and keeping the sea, as shown by experience, can be obtained, and without such information Congress must grope in the dark in ordering or refusing further construction of armored vessels: Therefore,

Resolved, That the Secretary of the Navy be directed to communicate to this House all official reports, dispatches, and papers in the Navy Department relating to those actions; that is to say: the report of Captain Worden of the combat between the Monitor and Merrimack; the report of Captain John Rodgers of the attack on Fort Darling, or the action near Drury's bluff on the James river; the reports of Captain Worden and Captain Drayton of the two attacks on Fort McAllister on the Ogeechee, with the dispatches of Rear Admiral Du Pont transmitting them to the Department; the reports of Rear Admiral Du Pont of the attack of the 7th of April, 1863, on the defenses of Charleston harbor, together with the reports of Captain Drayton of the Passaic, Commander Rhind of the Keokuk, Commander Downes of the Nahant, Captain John Rodgers of the Weehawken, Captain Worden of the Montauk, Commander Fairfax of the Nantucket, Commander George W. Rogers of the Catskill, Commodore Turner of the New Ironsides, and Commander Ammen of the Patapsco, touching their several vessels during that attack; and also the reports of any investigations, after the action, into the condition of any of the armored vessels engaged in it, or respecting the repairs found to be necessary on any of those vessels after the action, made by those officers or any of them, or any official statement respecting those vessels in connection with the said action, or respecting experiments to test the value of rafts for the removal of obstructions, made by those officers or any of them, or by Engineers Lovering, Robie, or Stimers; and also the report of the action between the Weehawken and Atlanta, by Captain John Rodgers, together with the dispatches of Rear Admiral Du Pont transmitting it; and all other official correspondence with any of these officers in the Navy Department respecting or relating to those actions; also, the report of the sinking of the Weehawken within the bar off Charleston.

The previous question was seconded, and the main question ordered.

Mr. RICE, of Massachusetts. Is it in order to move the reference of that resolution to the Committee on Naval Affairs?

The SPEAKER. Not at this time, the previous question having been seconded.

Mr. DAVIS, of Maryland. I call for tellers on the resolution.

Tellers were ordered; and Messrs. DAVIS, of Maryland, and Cox, were appointed.

The House divided; and the tellers reported—ayes 42, noes 55.

So the resolution was rejected.

Mr. COX. I move that the resolution be referred to the Committee on Naval Affairs.

The SPEAKER. The resolution is not before the House.

Mr. NORTON. I move to reconsider the vote just taken, for the purpose of having the resolution referred to the Committee on Naval Affairs.

The motion to reconsider prevailed; and the resolution was then referred to the Committee on Naval Affairs.

HABEAS CORPUS.

Mr. LOAN introduced a joint resolution explanatory of the first section of an act entitled "An act relating to *habeas corpus*." It recites that doubts have arisen as to the true intent and meaning of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863; and it resolves that the suspension of the writ of *habeas corpus*, as provided for in the first section of said act, does not apply to any case arising in consequence of any action on the part of a State government to compel the citizens of such State to render military services for the State under the laws thereof, notwithstanding the commanding officer of such State militia may also be the commanding officer, under Federal authority, of the Federal forces within such State.

The joint resolution was read a first and second time, and referred to the Committee on the Judiciary.

MISSOURI CONTESTED ELECTION.

Mr. BLOW presented the memorial of James Lindsay, contesting the right of James G. Scott to represent the third election district of Missouri; which was referred to the Committee of Elections.

DEPARTMENT OF MISSOURI.

Mr. MCCLURG introduced a bill to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri; which was read a first and second time, and referred to the Committee of Ways and Means.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had unanimously concurred in the joint resolution of thanks to Major General Grant and his army; and had non-concurred in the concurrent resolution providing that when the House adjourns on Friday next, it be to meet on the 6th of January, 1864.

OBJECT OF THE WAR.

Mr. ROLLINS, of Missouri, offered the following resolution, and moved the previous question on its adoption:

Resolved by the House of Representatives of the Congress of the United States, That, prompted by a just patriotism, we are in favor of an earnest and successful prosecution of the war, and that we will give a warm and hearty support to all those measures which will be most effective in speedily overcoming the rebellion, and in securing a restoration of peace, and which may not substantially infringe the Constitution and tend to subvert the true theory and character of the Government; and we hereby reiterate that the present deplorable civil war has been forced upon the country by the disunionists now in revolt against the constitutional Government; that in the progress of this war Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease.

Mr. WASHBURNE, of Illinois. I propose to debate that resolution.

The SPEAKER. Then it will lie over, under the rule.

Mr. ROLLINS, of Missouri. I have moved the previous question.

Mr. WASHBURNE, of Illinois. If the previous question be not seconded, will not the resolution go over for debate?

The SPEAKER. It will.

Mr. LOVEJOY. Is it in order to move its reference?

The SPEAKER. It is not.

Mr. ROLLINS, of Missouri. I held the floor, and expressly moved the previous question.

The SPEAKER. The Chair did not hear the gentleman move the previous question.

Mr. HOLMAN demanded tellers on seconding the previous question.

Tellers were ordered; and Messrs. HOLMAN and GRINNELL were appointed.

The House divided; and the tellers reported—ayes 64, noes 80.

So the previous question was not seconded.

Mr. LOVEJOY. I move that the resolution be laid upon the table.

Mr. HOLMAN. On that I call for the yeas and nays.

Mr. WASHBURNE, of Illinois. The House having refused to second the demand for the previous question, the resolution has gone over till to-morrow, and is not now before the House.

The SPEAKER. The point of order is not well taken, because if no gentleman rose to debate the resolution the House would go on and vote upon it. The object of the previous question is to cut off the right to debate.

Mr. WASHBURNE, of Illinois. I rose to debate it.

The SPEAKER. Not at the proper time.

Mr. LOVEJOY. I think the resolution ought to go to the table as being a secession document, but I withdraw the motion.

Mr. WADSWORTH. I renew the motion to lay the resolution on the table, and I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 52, nays 114; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Ashley, Baxter, Beaman, Blow, Boutwell, Boyd, Brandegee, Broome, Cole, Thomas T. Davis, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Garfield, Gooch, Grinnell, Hooper, Hotchkiss, Hulburd, Julian, Kelley, Francis W. Kellogg, Loan, Longyear, Lovejoy, McClurg, McIndoe, Moorhead, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pomeroy, Price, Schenck, Sloan, Spaulding, Stevens, Upson, Van Valkenburgh, William B. Washburn, Whaley, and Wilder—52.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Bailly, Augustus C. Baldwin, John D. Baldwin, Blaine, Jacob B. Blair, Bliss, Brooks, James S. Brown, Chandler, Ambrose W. Clark, Clay, Cobb, Coffroth, Cox, Cravens, Creswell, Henry Winter Davis, Dawes, Dawson, Deeming, Dennison, Eden, Edgerton, Eldridge, English, Farnsworth, Fenton, Finck, Frank, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Higby, Holman, Asahel W. Hubbard, Hutchins, Philip Johnson, William Johnson, Kasson, Orlando Kellogg, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, Marvin, McAllister, McBride, McDowell, McKinney, Middleton, Samuel F. Miller, William H. Miller, Morrill, Daniel Morris, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Patterson, Pendleton, Perry, Pike, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Scofield, Scott, Shannon, Smith, Smithers, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Swart, Thayer, Tracy, Voorhees, Wadsworth, Warr, Elihu B. Washburne, Webster, Wheeler, Chilton A. White, Joseph W. White, Wilson, Winfield, Fernando Wood, Woodbridge, and Yeaman—114.

So the House refused to lay the resolution on the table.

Messrs. BROWN, of West Virginia, and WILLIAMS, not having been within the bar when their names were called, severally asked leave to vote.

Objection was made.

Mr. MORRILL. I move that the resolution be referred to a select committee.

Mr. WASHBURNE, of Illinois. I propose to debate the resolution.

The SPEAKER. It goes over, then, under the rules.

Mr. COX. I demand the yeas and nays on the reference of the resolution.

The SPEAKER. That will be in order when it is called up.

Mr. COX. When will that be?

The SPEAKER. The Chair cannot tell.

ADJOURNMENT OVER THE HOLIDAYS.

Mr. DRIGGS submitted the following resolution, and demanded the previous question:

Resolved, (the Senate concurring,) That when this House adjourns on Monday, the 21st instant, it shall be until Tuesday, the 5th day of January, 1864.

Mr. MORRILL. I suggest that it should be from "Wednesday of next week, the 23d of December, to the 5th of January, 1864."

Mr. DRIGGS. I accept that as a modification

of my resolution—that the adjournment shall be from the 23d of December to the 5th of January.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

AMENDMENT OF ENROLLMENT ACT.

Mr. LONGYEAR submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of so amending section two of the act to provide for enrolling and calling out the national forces, and for other purposes, that the right of aged and infirm persons to select one of two or more sons liable to military duty under said act to be exempt shall depend upon the fact that such aged and infirm persons are dependent upon the labor of such son for their support.

CARMACK AND RAMSAY.

Mr. KASSON. I have a joint resolution to present, on which I shall ask the action of the House at this time. When it is read by the Clerk I will explain it in a few words.

The Clerk read the resolution. It provides that all of the papers and evidence touching the claim of Carmack and Ramsay submitted to the First Comptroller of the Treasury shall, together with all the questions relating thereto, be transferred to the Court of Claims for adjustment and determination.

Mr. KASSON. I ask leave to say a few words in explanation of that joint resolution, and then that it be put on its passage.

The SPEAKER. That can only be done by unanimous consent.

Mr. DAWES. I object.

Mr. MORRILL. I hope objection will be withdrawn, as the gentleman from Iowa proposes to occupy a few moments only.

Mr. KASSON. The subject demands early action.

Mr. HULBURD. I object.

Mr. KASSON. I move that the joint resolution be referred to the Committee of Claims.

Mr. DAWES. The subject was fully considered at the last session by the Committee on the Post Office and Post Roads, and I think that it should now go to the same committee. I make that motion.

Mr. KASSON. I consulted with the chairman of the Committee on the Post Office and Post Roads, and he specially requested that it should not again be referred to that committee. In a few words I can explain the whole matter.

The SPEAKER. Debate is not in order.

Mr. KASSON. I want to speak on the question of reference.

The SPEAKER. That is not debatable.

Mr. DAWES. I do not want to force the resolution on the Committee on the Post Office and Post Roads if that committee does not want it, and I therefore withdraw my motion.

The joint resolution was read a second time, and referred to the Committee of Claims.

INCREASE OF SALARIES.

Mr. KASSON introduced a bill to equalize the salary of certain officers therein named, which was read a first time.

The bill provides that the Assistant Secretary of State, the Assistant Secretary of War, the Assistant Secretary of the Interior, the Assistant Attorney General, and the First Assistant Postmaster General, from the commencement of the present fiscal year shall be paid the same salary as is now by law paid respectively to the Assistant Secretary of the Treasury and the Assistant Secretary of the Navy; provided, however, that no extra compensation shall be paid to such assistants for services heretofore or hereafter rendered when acting as the head of their respective Departments during the absence, sickness, or other disability of that officer.

Mr. WASHBURNE, of Illinois. I object to the second reading of the bill. It proposes to raise salaries.

The SPEAKER. The question is, "Shall the bill be rejected?"

The bill was rejected; there being, on a division—ayes 80, noes 51.

Mr. WASHBURNE, of Illinois, moved to re-

consider the vote by which the bill was rejected; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

INHUMANITY OF THE ENEMY.

Mr. KASSON submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire and report the facts respecting the alleged inhumanity of the enemy in their treatment of our dead and wounded soldiers on the battle-field, and of the prisoners of war in their hands; and that they report as early as possible, with such recommendations for the action of the House as they think necessary.

CLAIMS OF DECEASED AND DISABLED SOLDIERS.

Mr. KASSON also submitted the following resolution:

Resolved, That the Committee of Claims be instructed to inquire into the causes of the delay at the offices of the Paymaster General and of the Second Auditor in the adjustment and payment of the accounts and claims of deceased and disabled soldiers, and report what legislation, if any, is necessary to facilitate such adjustment and payment.

Mr. LOVEJOY. I move to amend the resolution by striking out "Committee of Claims," and inserting "Committee on Military Affairs."

Mr. KASSON. I think the Committee of Claims will have more leisure to investigate the matter, and that we shall have an earlier report from them.

The SPEAKER. Debate is not in order.

The amendment was rejected.

Mr. WASHBURNE, of Illinois. I ask that the rule may be read which prescribes the duties of the Committee of Claims; it will show that they have no jurisdiction of this subject whatever.

The Clerk read the rule, as follows:

"78. It shall be the duty of the Committee of Claims to take into consideration all such petitions and matters or things touching claims and demands on the United States as shall be presented, or shall or may come in question, and be referred to them by the House; and to report their opinion thereupon, together with such propositions for relief therein as to them shall seem expedient."

Mr. WASHBURNE, of Illinois. And now I would like to have the resolution again read, in the light of that rule.

The resolution was again read.

The SPEAKER. The Chair thinks that as the resolution, by its very terms, refers to claims against the United States, and as the rule authorizes everything referring to claims against the United States to be referred to the Committee of Claims, the resolution is in order; but it is a matter for the House to determine, whether that is the proper committee to which to refer it.

The resolution was then agreed to.

COMMITTEE ON COINAGE, ETC.

Mr. KASSON submitted the following resolution; which was referred to the select committee on rules:

Resolved, That an additional standing committee shall be appointed at the commencement of the first session of each Congress, whose duties shall continue until the first session of the ensuing Congress, to consist of five members, to be entitled the Committee on National and International Coinage, Weights, and Measures; and to that committee shall be referred bills, resolutions, and communications to this House upon the subjects named in the title of the committee.

PRISONERS IN REBEL HANDS.

Mr. GRINNELL submitted the following resolution; upon which he demanded the previous question:

Whereas since the breaking out of the rebellion prisoners held by the United States have been treated under the rules of war with most humane consideration; and whereas on learning that our soldiers held at Richmond were suffering unto death for food and clothing by the confession of their captors—in the language of Mr. Foote of the rebel congress, the commissary general having starved the enemy's prisoners—the friends of the prisoners and the soldiers' aid societies continued to forward food and clothing until forbidden by the rebel authorities: Therefore,

Resolved, That this is a wanton act of cruelty unprecedented in modern warfare, at war with the humane sentiments of the age, and meets the protest and execration of this House, and can but consign the authors of such infamous deeds to the reprobation of the Almighty.

The previous question was seconded, and the main question ordered.

Mr. COX. Is it in order to move an amendment to that resolution?

The SPEAKER. Not at this stage.

Mr. MALLORY. I rise to a question of order. Is it in order in this House to allude to the language or expressions of gentlemen in the rebel congress?

The SPEAKER. The Chair cannot answer that question, not being acquainted with the rule in regard to that subject.

Mr. MALLORY. I submit it as a point for the decision of the Chair.

Mr. GRINNELL. I will gratify the gentleman—

The SPEAKER. No debate is in order.

Mr. COX. I hope the gentleman from Iowa will be allowed to modify his resolution, if he desires to do so.

Mr. GRINNELL. I will strike out the name of Mr. Foote, if that will please the gentleman.

Mr. COX. I hope the gentleman will be allowed to amend his resolution. We do not want any recognition of the rebel congress.

The resolution was agreed to.

MISSISSIPPI RAPIDS.

Mr. WILSON submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of constructing a canal around the rapids in the Mississippi river commencing at Keokuk, Iowa; and that the committee have leave to report by bill or otherwise.

Mr. WASHBURNE, of Illinois. Will the gentleman admit an amendment to include the upper rapids?

Mr. HOLMAN. I propose to debate the resolution.

The SPEAKER. No debate is in order; the previous question is demanded.

The previous question was seconded, and the main question ordered; and, being put, the resolution was agreed to.

RANK OF PROVOST MARSHAL GENERAL.

Mr. COBB submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing for increasing the rank of the Provost Marshal General of the United States.

The previous question was seconded, and the main question ordered.

The question was taken on the resolution; and there were—ayes 58, noes 62.

Mr. COBB called for tellers.

Tellers were not ordered.

Mr. COBB demanded the yeas and nays.

The yeas and nays were ordered.

Mr. SCOFIELD. As this is a proposition to increase the pay of certain officers, I ask whether it is in order to move to amend by including the boys who are in the field?

The SPEAKER. Debate is not in order.

Mr. J. C. ALLEN. I move to lay the resolution on the table.

The question was taken, and the motion was agreed to.

RAILROAD TO NEW YORK.

Mr. SLOAN offered the following resolution, and moved the previous question on its adoption:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of authorizing, by act of Congress, the construction of a through line of railway between the cities of Washington and New York; and to report by bill or otherwise at the earliest convenience.

Mr. HOLMAN. I move that the resolution be laid upon the table.

The House divided; and there were—ayes 69, noes 60.

The Speaker voted in the affirmative, and the resolution was laid on the table.

RESOLUTIONS OF CALIFORNIA LEGISLATURE.

Mr. COLE, of California, presented joint resolutions of the State of California; which were ordered to be printed, and referred as indicated below:

Relative to the boundary line. Referred to the Committee on Territories.

Relative to a weekly mail into Tehama county, California. Referred to the Committee on the Post Office and Post Roads.

Relative to a weekly mail in Tulare county, California. Referred to the Committee on the Post Office and Post Roads.

Relative to Indian supplies and reservations. Referred to the Committee on Indian Affairs.

Relative to tax on native wine. Referred to the Committee of Ways and Means.

POST ROUTE IN UTAH, ETC.

Mr. McBRIDE offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of establishing a post route from Fort Ridgway, Utah Territory, by way of Baunock City, Idaho Territory, from Auburn to Dalles City, in the State of Oregon, and providing for the conveyance of mails along the same by daily service in four-horse coaches, and to report to this House thereon.

TROOPS IN UTAH.

Mr. KINNEY offered the following resolution:

Whereas the Government is involved in a terrible struggle for its existence, forced upon our great and hitherto unprecedentedly prosperous nation, without cause or justification, by men in armed rebellion against the most enlightened and liberal Government in the world; and whereas the Government is in need of the services of all the soldiers that have been raised since the breaking out of the rebellion; and whereas a number of companies of California volunteers are now stationed at Camp Douglas, within the city limits of Great Salt Lake City, Utah Territory, far removed from usefulness and the scenes of war: Therefore,

Resolved, That the Committee on Military Affairs be instructed to inquire into the causes which have led to the stationing of a large standing army among a peaceful and loyal people.

The question being on the adoption of the resolution—

Mr. KINNEY said: I desire to say a word in explanation of the resolution.

The SPEAKER. Debate is not in order.

Mr. KINNEY called for the yeas and nays.

The yeas and nays were not ordered.

The resolution was not adopted.

Mr. HOLMAN. I move to reconsider the vote by which the resolution was rejected.

The motion was not agreed to.

UNIVERSITY OF WASHINGTON TERRITORY.

Mr. COLE, of Washington, introduced a bill to endow a military professorship in the University of Washington Territory; which was read a first and second time, and referred to the Committee on Military Affairs.

AGRICULTURAL COLLEGES.

Mr. COLE, of Washington, introduced a bill to amend an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862; which was read a first and second time, and referred to the Committee on Public Lands.

SALARIES OF TERRITORIAL JUDGES.

Mr. BENNET offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Territories be instructed to consider the justice, necessity, and propriety of equalizing the salaries of the United States judges in the Territories of Colorado, New Mexico, and Idaho, and to report by bill or otherwise.

ENROLLMENT OF SAILORS.

Mr. SPAULDING, by unanimous consent, introduced a bill explanatory of the act entitled "An act for the enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The bill directs that the twelfth section of the act recited shall be construed to mean sailors as well as soldiers.

The bill was read a first and second time, and referred to the Committee on Military Affairs.

BUSINESS IN ORDER.

The call of States and Territories for resolutions being completed, the Speaker announced that the business next in order was the consideration of a resolution offered by Mr. DEMING on Monday last, in relation to the Congressional Dictionary, laid over under the rule.

BUREAU OF MILITARY JUSTICE.

Mr. SCHENCK asked leave to introduce a bill to create a Bureau of Military Justice.

Mr. HOLMAN objected.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the President's annual message.

Mr. COX. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at ten minutes past two o'clock p. m.) the House adjourned.

IN SENATE.

THURSDAY, December 17, 1863.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

Hon. JACOB M. HOWARD, from the State of Michigan, appeared in his seat to-day.

IMPUTATION ON A SENATOR.

Mr. HALE. Mr. President, I rise to a privileged question. I send to the Chair a newspaper with a paragraph marked, which I wish the Secretary to read.

The Secretary read, as follows:

"A CASE OF BRIBERY.—A prominent New England Senator is compromised by evidence going to show that he received \$3,000 for his influence in getting a person out of the Old Capitol prison, who had been confined there on a charge of defrauding the Government, and for rendering to the same person other services of a similar nature. The affair has created the utmost astonishment among those who have heard of it. The difficulty of putting a stop to public plundering is greatly enhanced by the high influences which can so often be retained for a small percentage of the ill-gotten gains to screen the culprits from justice after their fraudulent practices have been discovered."

Mr. HALE. Mr. President, information received from another quarter, from my colleague who has very kindly called upon me, has left no doubt upon my own mind that I am the individual alluded to in that paragraph. The crime charged is one of a very high character, and I must throw myself upon the indulgence of the Senate for a few minutes to state the facts, and all the facts that I know, and then I shall leave the matter with the Senate. I shall offer a resolution on the subject when I have concluded.

During the last summer I was called upon professionally to aid in the defense of two individuals who were confined in what was called the Old Capitol prison on charges of fraud practiced upon the War Department, or some portion of it. The first was the case of Dr. Bliss, the superintendent of the Armory Square hospital. He was a gentleman with whom I was well acquainted, and to whom I felt under obligations. I came on immediately to Washington, and found how the situation of things was. He was confined a prisoner in his own house. I called on the Secretary of War, and stated to him that I thought he was doing Dr. Bliss injustice, and that he ought to be liberated, at least so far as to be allowed to go about the city. That liberty was given to him, and arrangements were made for his trial, which took place some three or four weeks afterwards, I do not remember particularly how long. I was here at his trial, and stated to the court that I was present as the friend and counsel of Dr. Bliss to render him what aid I could in the trial which was being had. The trial resulted in his honorable acquittal, and in the recommendation of the court that he be restored to the place from whence he was arbitrarily removed.

Immediately after that I started for my home. I think I had been in this city some three weeks. The fact that I had been in Washington attending to this case, and defending Dr. Bliss, was known in my own neighborhood and to my friends. As I went through Boston, I met a friend of mine, with whom I was intimately acquainted, and who knew the result of the trial which I had been attending; and he said to me that there was another prisoner in the Old Capitol prison, charged in the same manner, and that his friends were very desirous that I should undertake his defense. There were very large sums depending upon the acquittal or conviction of this prisoner, for the reason that he had been the agent of a large number of steamboats, and the pay that was due to the owners of the steamboats was withheld on account of his alleged fraudulent transactions. They were therefore exceedingly anxious that he should have a trial, because they said that when a trial was had it would result in his acquittal. They offered me, as an inducement to come back to Washington and undertake his defense, the sum of \$2,000 as a retainer. I told the gentlemen that it was a large transaction, and I had some doubt about the propriety and delicacy of my undertaking the duty. I told them, however, that I would postpone that question, and take time to deliberate and consult with some friends on whose judgment I could rely.

The thing was dropped there. I went home and stated the case to a number of my friends, and among others to a couple of counselors of

the bar of Stafford county, with whom I had been on intimate terms for a great many years. I explained the case to them, and told them they would do me a favor if they would examine the law and the legislation of Congress on the subject, and then inform me whether or not it would be proper and right for me to undertake this defense. After waiting a week or two, they furnished me with answers in writing—I think they were both in writing—and although neither of them knew that the other was consulted, they gave me substantially the same answer, with this exception: one of them stated that he thought it was not only my right, but my duty to undertake it.

With this advice I went to Boston, saw the gentleman who had made the application to me, and told him I was ready to undertake the case. He paid and secured to me the amount stipulated, and I came to Washington. While I was on my way to Washington, and after I got here, it occurred to me that it might be an indelicate business. I knew the exceeding jealousy of the public mind against a member of Congress receiving pay for anything. It occurred to me, however, that there was a gentleman with whom I was acquainted, who had a very high social position and a high professional position, and a member of the bar; and I thought I would go and see him before I entered into it, stating to him the whole case, and asking his opinion upon it. That gentleman was Hon. REVERDY JOHNSON, of Maryland.

I called at Mr. JOHNSON'S house and told him I wanted to consult him upon a personal matter, and I stated this case to him very much as I have stated it here. I told him that there was a prisoner in the Old Capitol prison on a charge of fraudulent practices upon the War Department, that I had been applied to to defend him, and that before entering upon it I came to him, as a friend who was competent to advise and who was conversant with what was proper, to ask him if there was any objection to my taking up the case, if there was any indelicacy in my doing so growing out of the fact that I held the office of Senator of the United States. Mr. JOHNSON looked at me as if he thought I was rather green to ask such a question, and replied with great promptness and great emphasis, "not the least objection under heaven." "Well," said I, "Mr. JOHNSON, that accords with my own opinion of what the law is and the right is; but in a matter of this kind, I want to ask still further, is there anything indelicate in such an engagement?" "Not the slightest in the world," said he. He then went on to give at some length (not very long) his views of what the rights of counsel were; that they had been limited by Congress in one particular which he thought an unwise restriction, and that was, restraining members of Congress from appearing before the Court of Claims; "but," said he, "as to this matter you are asking me about, I am doing it every week;" I do not know that he did not say every day in the week.

Being thus relieved, and feeling, on the authority that I acted upon, that there could no longer be a question in regard to that subject, I went to the Secretary of War, called his attention to the case, and asked him what the man was accused of, for it was not yet known. He told me that he had furnished charges against the individual to Mr. Brady of New York, who had been retained as counsel. I told him that all that Mr. Hunt wanted (for that was the gentleman's name) was a fair trial and a speedy trial. The Secretary said that was what he intended to give him, and he should have it. I asked him how long it was likely to be before he would have a trial. He was not able to say. He stated that he had a number of courts-martial sitting, and his time was taken up with them, but he mentioned, I think, that there was one particular court before whom a man by the name of Belger was being tried, and when that trial was concluded he would take up Mr. Hunt's case. From this conversation, and from the fact that that trial was then on, and, I supposed, would soon be finished, I concluded the time would be from one to three weeks before this trial would come on. I then said to Mr. Stanton, "I want to make another suggestion to you: do you think that the purposes of justice require that this man should be kept in close jail up to the day he is to be put on trial? Would not the purposes of justice be answered equally as well by giving him a parole?

that he may go out and prepare himself for trial?" Mr. Stanton said he saw no sort of objection to that course; he would consult with the Judge Advocate General, and if there was no exception to it it should be done; and it was done. I then left town. By the way, I should say that it was done in this way: the prisoner was relieved from the Old Capitol prison and sent to New York, and ordered to confine himself to New York, and report to the provost marshal, I think once in forty-eight hours.

After I returned home, I received one or two communications, either direct or indirect—I do not remember which now—from Mr. Hunt, that he wanted to see me in New York. I went to New York to see him. I had a conversation with him, and I told him what his friends had done, the retainer they had given me in his case, with which he expressed himself perfectly satisfied, and said that he wanted, by all means, that I should stick by him to the end. I said to him: "Mr. Hunt, if that is what you want, we had better have a perfectly fair understanding about it, and settle this thing now instead of hereafter. I will hold myself ready during the summer and autumn"—for I had no idea at the time that it would go beyond that—"to attend this trial, for which you must pay me \$1,000 additional, and if the trial does not extend beyond ten days, that shall be a full satisfaction of all claims that I have upon you for it." He said he was perfectly satisfied with that arrangement, but he had not the money in his pocket, but would send me a draft soon. He sent me a draft for \$1,000, and I sent back a receipt stating what the money was for, how it was to be applied, and how far it was to go; and that is all the connection that I had with him. I had several applications through some of his friends to know when the trial would come on. I told them that I could not tell; that I had done in the case all I could to bring it to trial; that when I saw Mr. Stanton I asked him repeatedly when the trial would come on, and he uniformly gave me the same answer, that it would come on as soon as he could get it ready.

These, sir, are the facts and all the facts there are in the case, that I am aware of. If this be bribery, or if it be anything inconsistent with what is due to my character as a man and a Senator, I will say this: it was not done inadvertently; I never did anything more deliberately in my life; never did anything more cautiously. Before I close, I ask the honorable Senator from Maryland, who is now present, if his own recollection of what occurred between himself and me is as I have stated it, to be so kind as to give that information to the Senate. I offer the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire whether JOHN P. HALE, a member of this body, in connection with the case of one Hunt, charged with crime by direction of the War Department, has been guilty of any conduct inconsistent with his duties as a Senator; and that they have power to send for persons and papers.

Mr. JOHNSON. Mr. President, if the honorable member from New Hampshire had not requested me to confirm what he has stated, I should have deemed it unnecessary. His own word to this body, in any matters of fact of which he must have personal knowledge, would, I am sure, be sufficient to place him right before his brother Senators. But as he has called upon me, and the charge as against him, or which he supposes to be referable to him, has been made public, it is proper that I should answer his request.

I recollect very distinctly his calling upon me, as he states, at my own residence in this city and putting to me the question precisely as he has stated it. I did, perhaps, in words, certainly in manner, give him reason to believe that I thought he was not as well acquainted with the rights and the obligations of his profession as he should be. The question which he propounded to me was, whether his situation as a Senator of the United States excluded him from the right of appearing as counsel before a military court, either a court-martial or a military commission, which, as I understood him, was about to be convened for the purpose of trying a person, who had applied to him, for an alleged fraud upon the Government. I at once told him that I could not imagine any legal impediment in his way, and I was just as much at a loss to conceive how there could be any indelicacy in it. I may be wrong, Mr. Presi-

dent, but if I am wrong it by no means follows that the Senator from New Hampshire has acted wrong in his own opinion. He evidently trusted to mine, which confirmed his original impression, and what he did afterwards I have no doubt was done in part upon the opinion which I gave him. But it is due to myself to add a word or two for the purpose of showing why it is that the opinion I gave him is in my judgment a correct one.

The Senators of the United States, by virtue of their office, such of them as are physicians and lawyers, do not cease to be physicians and lawyers; and if they are called upon, after they become Senators of the United States, to exercise their profession, whether it be medical or legal, I see no possible objection to their complying with the request, unless—and that is an exception not included in the Senator's statement to me—unless they could not do so without neglecting their public duties. I did tell him, and I repeat with perfect confidence, that I had a right to do what I have done and what I shall continue to do until I am better advised: that is, from time to time as I was called upon by parties who were charged with offenses to be tried before a military court, I have never hesitated to give them the benefit of my advice, and of my services; and I have done it, as I know is common to the profession in all such cases where, in justice to themselves it can be done, in a majority of cases without any compensation at all, the parties not being able, as they stated and as I believed, to pay any compensation.

The only question, therefore, that could possibly arise, as I think, there being no difficulty growing out of the relation in which the Senators stand to the Government, is whether there is any legislation to prohibit it. I know of no legislation before the act, I think, of 1853; I am not sure that I am right as to the date of the act. That act was passed for the purpose of prohibiting members of Congress, whether Senators or members of the other House, from prosecuting any claim upon the Government, either for a compensation agreed upon in advance, or, if there was no compensation agreed upon or paid before, and the claim should be liquidated by the Government, from receiving any gratuity thereafter. The same law which contains that prohibition, a prohibition as I think right in itself, as far as that particular act is concerned—I speak from recollection, but I cannot be mistaken—excepts cases depending before the courts, and leaves to members who may be counselors the right to go into any of the courts of the United States for the purpose of prosecuting any pecuniary demand. Although that exception does not include cases of a criminal nature, still cases of a criminal nature are cases in which counsel may be employed, because cases of that description are not placed within the prohibition contained in the other part of the law to which I have alluded.

Now, if it be, notwithstanding that law, or rather, to speak more correctly, if by virtue of the express authority given by that law by the exception which takes cases before the courts out of the operation of the prohibitory clause, the prohibition on the part of members of Congress to go before the courts professionally was not the purpose of the act, it would seem necessarily to follow that such counsel have a right to go before any court. The practice of the Government now—I am not clear as to the question of its legality—is to try all these cases before military courts. I think they are mistaken in point of law; but that is their conviction, and they are acting upon that conviction. Every man who is charged with a fraud upon the Government, if he has had a contract with the Government, and the fraud is alleged to have been committed in the mode in which he has executed that contract, is brought before a military tribunal, and if a party is convicted, as has sometimes been the case, he has been sentenced to imprisonment, I believe in one instance for life, during the war in a great many cases, in such place as the Secretary of War may deem proper to designate; and the Secretary of War in two or three cases has designated the common penitentiary.

That being the case, Mr. President, in my judgment, counsel, who happen to be members of Congress, have no more right to deny to render their services to parties charged before a tribunal of that description with offenses of that description, than they would have a right to refuse their assistance to a man who was charged with robbery

or murder before the ordinary courts of justice. I may be mistaken as to the obligation of the profession. So deeply rooted, however, is the conviction, the result of a familiarity with the biography of most of the eminent men who have heretofore belonged to the profession, that I am still of opinion that counsel has not only the right but is bound to render services in all such cases; that if a party is unable to pay him for the labor and trouble and loss of time he would have, he is bound to render his services gratuitously.

The resolution was considered by unanimous consent, and agreed to.

ADJOURNMENT OVER THE HOLIDAYS.

A message from the House of Representatives by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a resolution that when the House adjourns on Wednesday the 23d instant, it shall be until Tuesday the 5th day of January, 1864, provided the Senate concur therein.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 1) of thanks to Major General Ulysses S. Grant, and the officers and soldiers who have fought under his command during this rebellion, and providing that the President of the United States shall cause a medal to be struck to be presented to General Grant in the name of the people of the United States of America; and it was signed by the Vice President.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Treasury, transmitting, in answer to a resolution of the Senate of March 3, 1863, the report of Thomas Brown, special agent of the Treasury, in relation to alleged abuses in the custom-house and mint at San Francisco; which was ordered to lie on the table.

COAST SURVEY REPORT.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a report of the Superintendent of the Coast Survey, showing the progress of that work during the year ending November 1, 1863, accompanied by an engraved sketch illustrating the general progress which has been made in the survey of the coast; also, a manuscript map of progress, brought up to the same date, in conformity with the act of Congress, approved March 3, 1853.

Mr. FESSENDEN. I offer a resolution with regard to printing that document, which I believe is identical with the resolution passed by the Senate last year:

Resolved, That there be printed, of the report of the Coast Survey for the year 1863, twelve hundred extra copies for the use of the Senate, and three thousand for distribution by the Superintendent of the Coast Survey.

The resolution was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. COWAN presented additional papers in the case of E. F. Wood & Co., which, in addition to the papers already on the files of the Senate relating to the claim, were referred to the Committee on Claims.

He also presented the petition of Commander John Colhoun, of the United States Navy, protesting against the action of the late advisory board, and praying for relief; which was referred to the Committee on Naval Affairs.

Mr. SUMNER presented a petition of citizens of New York, and a petition of citizens of Michigan, praying for the repeal of the act of Congress commonly called the fugitive slave act; which were referred to the Committee on the Judiciary.

Mr. SUMNER. I present also a petition of citizens of Vermont, in which they set forth that the "Government, in time of war or insurrection, may remove whatever is dangerous to the public safety, or prevents the restoration of peace," and that they therefore earnestly pray Congress "not to spend the energies of the country in merely lopping off the branches, but to destroy slavery, the root of them all." I ask that that petition lie on the table, as there is not as yet any committee constituted to which it may properly be referred.

The petition was ordered to lie upon the table.

Mr. JOHNSON. I present the petition of

William Clark, of Tennessee, who asks of the Senate, that the papers in his case which were sent to the Senate by the Court of Claims at a former session, be returned to the court. He states that there was no report adverse to his claim, and no report in favor of the claim, because the judges were divided as to the amount they thought he should receive. Under these circumstances, I suppose it would be proper that the matter should be referred back to the court.

The VICE PRESIDENT. That order will be made if there be no objection. The Chair hears none.

NOTICE OF A BILL.

Mr. RAMSEY gave notice of his intention to ask leave to introduce a bill making an appropriation of the public lands to aid in the construction of a railroad from Lake Superior, in the State of Minnesota, by the way of St. Paul, to Sioux City in the State of Iowa.

BILLS INTRODUCED.

Mr. NESMITH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 19) for the relief of L. F. Cartee; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 20) for the relief of justices of the Supreme Court of the United States in cases therein described; which was read twice by its title.

Mr. JOHNSON. I ask for the reading of the bill before it is referred.

The Secretary read the bill. It provides that whenever the chief justice or any associate justice of the Supreme Court of the United States shall have attained the age of seventy years, and shall signify to the President of the United States his desire, on account of physical infirmity, to retire from his office, the President may place his name on a retired list of justices of the Supreme Court of the United States. A judge thus retired is to receive compensation, to be paid in the manner now provided for the payment of the salaries of justices of the Supreme Court, to the end of his natural life, namely: if it shall appear that he has, at the date of his retirement, served as chief or associate justice for a period not exceeding fifteen years, \$4,000 per annum; if for a period greater than fifteen and not exceeding twenty years, \$4,500 per annum; if for a period greater than twenty and not exceeding twenty-five years, \$5,000 per annum; if for a period greater than twenty-five and not exceeding thirty years, \$5,500; and if for a period greater than thirty years, he shall receive \$6,000 per annum. It is also provided that whenever a vacancy shall thus occur in the office of the chief justice or associate justice of the Supreme Court of the United States, it shall be filled as provided by the Constitution and laws of the United States in case of a vacancy from other causes.

The bill was referred to the Committee on the Judiciary.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 6) in relation to a grant of land heretofore made to the State of Michigan to aid in the construction of railroads in that State; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 21) granting land to the State of Kansas to indemnify her citizens for losses; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 22) supplementary to "An act to promote the progress of the useful arts;" which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

BILL RECOMMENDED.

On motion of Mr. SPRAGUE, it was

Ordered, That the bill (S. No. 7) to increase the bounty for volunteers and the pay of the Army be recommended to the Committee on Military Affairs and the Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HALE, it was

Ordered, That the petition and other papers of Albert Brown, praying for an investigation of the contract made by him with Major Morris S. Miller, quartermaster of the United

States Army, for the manufacture and delivery of wagons, and that the said contract may be fulfilled on the part of the United States, on the files of the Senate, be referred to the Committee on Claims.

Mr. FOOT. I move that the memorial and papers of the Mayor of Washington city, praying that certain privileges be granted to the "Guardian Society" of the District of Columbia, which accompanied Senate bill No. 466 of the last Congress, be taken from the files of the Senate with the view that they may be placed in the hands of the chairman of the Committee on Public Buildings of the House of Representatives, at his request.

The motion was agreed to.

TELEGRAPHIC REPORTS.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be instructed to inquire as to the best mode of securing accurate synopses of the debates and proceedings of the Senate, to be reported by telegraph for the associated press.

POST ROAD IN KANSAS.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads be instructed to inquire into the propriety of establishing what is now known as the new military road from Lawrence to Fort Scott as a post road.

ADDITIONAL CLERKS.

Mr. WADE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be instructed to inquire whether any additional force of clerks or messengers is needed in the executive office, and to report by bill or otherwise.

ARMORED VESSELS.

Mr. WADE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to communicate to the Senate all official reports and dispatches and papers in the Navy Department relating to actions in which any of the armored vessels have been engaged, and especially the report of Captain Worden of the combat of the Monitor with the Merrimack, and the report of Captain John Rodgers of the attack on Fort Darling, together with the dispatches of Rear Admiral Goldsborough transmitting them; the reports of Captain Worden and Captain Drayton of the two attacks on Fort McAllister on the Ogeechee, with the dispatches of Rear Admiral Du Pont transmitting them to the Department; the reports of Rear Admiral Du Pont of the attack of the 7th of April, 1863, on the defenses of Charleston harbor, together with the reports of Captain Drayton of the Passaic, Commander Rhind of the Keokuk, Commander Downes of the Nahant, Captain John Rodgers of the Weehawken, Captain Worden of the Montauk, Commander Fairfax of the Nantucket, Commander George W. Rogers of the Catskill, Commodore Turner of the New Ironsides, and Commander Ammen of the Patapsco, touching their several vessels during that attack; and also the reports of any investigations after the action into the condition of any of the armored vessels engaged in it, or respecting the repairs found necessary on any of those vessels after the action, made by those officers or any of them, or any official statement respecting those vessels in connection with the said action, or respecting experiments to test the value of rafts for the removal of obstructions, made by those officers or any of them, or by Engineers Lovering, Koble, or Sumers; and also the report of Captain John Rodgers of the action between the Weehawken and Atlanta, together with the dispatch of Rear Admiral Du Pont transmitting it; and all other official correspondence with any of those officers in the Navy Department respecting or relating to those actions; and also the official report of the sinking of the Weehawken inside the bar off Charleston, and the official report of the springing a leak of the Sangamon at the Washington navy-yard on the eve of departing on a cruise.

OATH OF OFFICE.

Mr. SUMNER. I submit a resolution proposing a new rule of the Senate. I ask that it be read now and printed; and I give notice that I shall call it up at the next meeting of the Senate.

The Secretary read, as follows:

Resolved, That the following be added to the rules of the Senate:

The oath or affirmation prescribed by act of Congress of July 2, 1863, to be taken and subscribed before entering upon the duties of office, shall be taken and subscribed by every Senator in open Senate before entering upon his duties. It shall also be taken and subscribed, in the same way, by the Secretary of the Senate; but the other officers of the Senate may take and subscribe it in the office of the Secretary.

The resolution was ordered to lie on the table, and be printed.

ADJOURNMENT OVER THE HOLIDAYS.

Mr. FOOT. I move that when the Senate adjourns to-day it be to meet on Monday next.

Mr. ANTHONY. If it is understood that the

resolution which has passed the House of Representatives for a recess of a fortnight is to be adopted by the Senate, I think we should hardly want to adjourn over two days, and I therefore suggest to the Senator from Vermont that he withdraw his motion until we act on that resolution.

Mr. FOOT. I withdraw the motion.

The VICE PRESIDENT laid before the Senate the following resolution passed by the House of Representatives on the 16th instant:

Resolved, (the Senate concurring,) That when this House adjourns on Wednesday the 23d instant, it shall be until Tuesday the 5th day of January, 1864.

Mr. DOOLITTLE. I move to strike out "Wednesday" and insert "Thursday;" and to strike out "Tuesday" and insert "Monday." I am disposed to give the adjournment over the week embracing the holidays.

Mr. LANE, of Kansas. I hope eastern Senators will bear in mind that we of the West cannot visit our homes during an adjournment of less than two weeks; and we are as anxious to go home as they are.

Mr. DOOLITTLE. I am nearly as far West as the honorable Senator, and I do not propose to go home at all.

Mr. LANE, of Kansas. Fortunately for the Senator from Wisconsin he has his family with him.

Mr. DOOLITTLE. The gentleman is entirely mistaken as to that.

Mr. LANE, of Kansas. I so understood, but I stand corrected. His age perhaps precludes his having as strong a desire to visit his home as some of the rest of us. [Laughter.] I ask, Mr. President, that the eastern Senators will take us, west of the Mississippi, somewhat into consideration. We voted with them yesterday against the three weeks, but we do ask for two weeks.

Mr. DOOLITTLE. Mr. President, at the suggestion of gentlemen around me, I am willing to withdraw the first amendment I suggested to insert "Thursday" in place of "Wednesday," but I shall insist on the other, that "Monday" be inserted in place of "Tuesday" as the day of re-assembling.

The amendment was rejected.

Mr. FESSENDEN. I ask for the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

Mr. FESSENDEN. I wish simply to say that I shall vote against this resolution, as I have voted invariably against all such propositions. We have just come here, away from our families; those of us who have families certainly have not been absent from them for a long while. A very large portion of the members will not leave the city, and cannot leave the city, in order to go home to their families, though they may go to New York, or Philadelphia, or around generally. But I wish to notify the Senate, and have them understand, that just so much time as you take from this end of the session you must put on to the other end, and, in my judgment, it is very much better for Congress to sit here now, rather than go into the hot weather of the summer. I do not suppose it makes any very great difference, so far as the expense is concerned. We are paid by a salary, and therefore it cannot make much difference in that respect, one way or the other. But I see no reason why Senators or Representatives who live near their homes, quite near, should have an adjournment for their accommodation, when a large number will be obliged to stay in this city during the whole period of time, doing nothing. I shall therefore vote against the resolution.

Mr. SHERMAN. If I understand the resolution as it stands, the effect of it will be simply to adjourn the House of Representatives and the Senate will remain. That ought not to be. My own experience has been that an attempt to hold a session either of the Senate or of the House of Representatives during the holidays, is an idle ceremony. Those of us who will stay in the city, as I probably shall, will march up here and then march back again; no business will be done. I doubt whether any business has been done for years during the holidays. At the last session of Congress, although it was the short session, we adjourned over the holidays, and came back and resumed our business promptly and conducted it with rapidity. In my judgment, before the adjournment is had, we should pass upon the amendment to the law enrolling the national forces. It

is the only important subject that I now know of, that ought to be disposed of before the holidays. The 5th of January has been fixed by the executive authorities as the day for the draft, and we ought to act upon that subject before the adjournment. It seems to me we can do so before Wednesday next, and then adjourn. I believe that it is impossible to retain a quorum of either House during the holidays. I move to amend the resolution by striking out all after the word "that," and inserting, "when the two Houses of Congress adjourn on Wednesday the 23d instant, it shall be until Tuesday the 5th day of January, 1864."

Mr. TEN EYCK. It is hardly worth while to add a word to what has been said on this subject of adjournment; but still I desire to say that I have never voted for an adjournment of this kind, and in fact I may say I have never moved an adjournment of any kind. I have been impressed with the idea that when we are appointed to meet by law at this place, we should continue our attendance here without regard to any other business, or any extraneous influences. I now add my voice to that of other gentlemen who have opposed this adjournment. If I were to consult my own personal convenience, I should desire exceedingly an adjournment for two weeks. It would be to my personal advantage, for it so happens that there is a term of a court in my own town where I am somewhat extensively engaged in professional business; but I am happy to forego that, for the purpose of being here in attendance on the discharge of my public duties. If all the Senators do not meet here, as has been suggested, those who are willing to meet can come, and if those who do meet are compelled to come and go away again, it is no fault of theirs; they tender themselves ready to discharge the public business. I shall vote against the resolution?

Mr. GRIMES. It is very true, as stated by the Senator from Ohio, that during the holidays very little business is transacted by the Senate; but my experience and observation during the time I have been here—that is not very long, it is true—are, that whenever we do not adjourn over, at least about half of the Senators and members of the House of Representatives remain in the city of Washington, and they prepare business for the transaction of the two bodies when they assemble for business; but when we do absolutely adjourn, almost everybody goes away, and when we meet after the expiration of the holidays we find our tables and our drawers in just as nude a state, so far as relates to the public business and what we propose to do in relation to the public business, as they were when we came here on the first Monday in December. It does not follow, I think, that because we are not always able to get a quorum, or because we do not actually transact much business under the rules of the Senate during the holidays, that the question of adjournment may not be of much importance to the country. I think that really the country will be as much benefited by the men who remain, as if there was a quorum actually in the Senate, by the preparation which those men will make of the public business to be transacted by the Senate when it reassembles.

Mr. DOOLITTLE. I think it is premature at least to act now on this resolution fixing the day of adjournment; action on it ought to be postponed until we see whether the bill amending the law for the enrollment of soldiers in the Army will come from the House of Representatives and can be passed into a law; for until that is done I am opposed to adjourning at all. I think this resolution should be postponed, and therefore I move to lay it on the table.

Mr. SHERMAN. I hope the Senator will allow my amendment to prevail, if he has no objection.

Mr. DOOLITTLE. I have no objection to the amendment making the resolution apply to both Houses.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Ohio.

The amendment was agreed to.

Mr. DOOLITTLE. Now I move that the resolution do lie on the table.

The motion was not agreed to.

Mr. GRIMES. Let us have a vote on the passage of the resolution, and see what the temper of the Senate is.

Mr. FESSENDEN. I do not rise to oppose anything; but I merely wish to suggest that if the bill referred to by the Senator from Wisconsin is of as much consequence as he supposes, he cannot anticipate, nobody can anticipate what opposition may be made to it in the other House; and if that measure is of pressing public importance, the result may be that by fixing a day of adjournment now, which we cannot recall without the consent of the other House, we may lose an important measure in our anxiety to go somewhere else to get our Christmas dinner; and I do not think that is dealing properly with the business of the country.

Mr. SHERMAN. It strikes me that the suggestion to postpone this matter until at least Tuesday, is a wise one. I do not think we ought to take this adjournment over unless we can act upon the bill which I have mentioned. I am told that the Committee on Military Affairs, to whom it has been referred, will be ready to report it at the next meeting of the Senate. There is no doubt, I think, that there is a majority in both Houses in favor of the adjournment over if that important bill can be passed; and I think it would be just as well to hold the resolution up until Tuesday. I shall vote, therefore, to lay it on the table for the present.

Mr. GRIMES. That question has been taken. The VICE PRESIDENT. The question now is on the passage of the resolution.

Mr. SHERMAN. I move to postpone it until Tuesday next.

Mr. DAVIS. If the Senator from Ohio will withdraw his motion, or if an amendment is now in order, I move to strike out the last day named in the resolution, and in lieu thereof to insert, "Tuesday, the 30th instant."

Mr. SHERMAN. I will state to the Senator from Kentucky that if the resolution be postponed until Tuesday next, it will be open to amendment, and he can then submit his proposition.

The VICE PRESIDENT. The motion of the Senator from Kentucky is not now in order. The question is on the motion of the Senator from Ohio, to postpone the further consideration of the resolution until Tuesday next.

Mr. DOOLITTLE. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOOLITTLE. Mr. President, I judge from what transpires in the Senate that probably there may be a majority of the Senate who are in favor of the passage of this resolution when it comes to be acted upon; but, sir, I appeal to the Senate that it will not do to fix the day of adjournment now until we see whether we can pass the important measure of legislation in reference to the Army, to which allusion has been made. It must be done before we adjourn. I cannot consent to fix a day which may put us in the power, perhaps, of an opposition in the other House, or in this House, even, to prevent the passage of such a bill. I appeal to the Senate to let this resolution be postponed until Tuesday next, which will allow ample time for the majority to concur in this resolution to adjourn the next day if they are determined to do it. I therefore have felt called upon to insist upon the yeas and nays.

Mr. LANE, of Kansas. It requires some preparation for those who are going so far as I have to go in order to reach my home, and to postpone action here until Tuesday, if we are to adjourn on Wednesday, gives us no time whatever for preparation. I hope, if the postponement is had, it will not be beyond Monday, so that we can have one day to spare.

Mr. GRIMES. It occurs to me that the plan proposed by the Senator from Wisconsin is exactly the plan calculated to defeat the passage of the bill he has so much at heart. If he will vote with me against the passage of this resolution, and let the House of Representatives and the members of this body and the country understand that we came here for the transaction of public business, and not to adjourn to attend holiday recreations, the members of the two bodies will remain here, and we shall be able to pass his bill; but let it be hung up here on your table in abeyance, and you will find that at the end of this week many of the members of the House, and, perhaps, of this body, will go to their homes, and the first thing you know you will be without a quorum in

the House of Representatives, and perhaps in this body. Now, sir, I do not insist on our refusing to adjourn because I expect to keep a quorum in either body; but I do not like, in the first place, to be placed in the attitude before the country of coming here, and after being in session ten days, agreeing to adjourn for two weeks; and then I believe that the business of the Senate and of the country will be advanced by our refusing to adjourn, even if we cannot keep a quorum here. I say again, the plan conceived by the Senator from Wisconsin for the purpose of saving his bill, will, I predict, be the very one, if adopted, that will prevent the passage of it before the 1st of January.

Mr. DOOLITTLE. My honorable friend from Iowa mistakes me. If the question is voted on now, I shall vote against the resolution; I shall vote with him; but I foresee, from what transpires around me, very strong evidence to my mind that if you press this resolution to a direct vote now, it will pass.

Mr. GRIMES. I do not know it.

Mr. DOOLITTLE. I think, from the evidence I see around me, that it is likely to pass, and therefore I desire to appeal to the Senate to postpone action on the resolution until Tuesday next. Then if the legislation does take place which is so much desired, there will not be such objection to the adjournment. If it does not take place, then I, for one, shall be opposed to the adjournment. I will not consent to an adjournment until that measure can be acted upon, for the 5th day of January, the day named in this resolution for Congress to meet again, I believe is the very day that the Government have resolved upon in relation to the draft, and this legislation ought to be done before that time, that preparation may be made for it.

Mr. WILSON. The Government has called for three hundred thousand men, and has offered bounties of \$400 for veterans, and \$300 for other persons. The money that has already been paid to persons who have enlisted under this call has come out of the sum of about twelve million dollars that was raised from persons who paid the commutation when drafted. That sum is exhausted; and there are persons already enlisted under this call who are entitled to receive their bounty, but there is no money to pay them, and we must before we adjourn pass an act to appropriate a sum of money to pay the bounty. Then, there are calls for changing the enrollment act; and it is proposed to make a few modifications of that act that experience has proved to be necessary, and it will take a short time to do that. Nearly all this business is prepared now, I think, and so prepared as to be satisfactory generally, but not quite so. I hope, therefore, that we shall not fix a time to adjourn, until, at any rate, a day or two hence, until we see the condition of affairs; for it is certain that whatever we do in regard to the enrollment act, must be done before the holidays, because, under the call for troops, the 5th of January is fixed for drafting. I hope, therefore, that we shall not agree to this adjournment for a day or two yet. I think we can pass these bills between now and Monday night.

Mr. LANE, of Kansas. We on this side of the Chamber who favor an adjournment are just as anxious to transact the public business as the Senator from Iowa; we would not postpone public business for the purpose of participating in the festivities of the holidays; but experience has taught us that no business of a legislative character can be transacted during those days. We oppose the postponement for that reason, knowing that it will not interfere with the transaction of the public business.

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio, to postpone the further consideration of the resolution until Tuesday next.

The question being taken by yeas and nays, resulted—yeas 31, nays 11; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Conness, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Harding, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Nesmith, Pomeroy, Ramsey, Sherman, Sumner, Trumbull, Van Winkle, Wade, Wiley, and Wilson—31.

NAYS—Messrs. Buckalew, Davis, Grimes, Hendricks, Hicks, Lane of Kansas, Powell, Saulsbury, Ten Eyck, Wilkinson, and Wright—11.

So the motion was agreed to.

CONDITION OF THE FREEDMEN.

The VICE PRESIDENT laid before the Senate a message from the President of the United States transmitting to Congress a letter addressed to him by a committee representing the Freedmen's Aid Societies in Boston, New York, Philadelphia, and Cincinnati. The subject is regarded by the President as one of great magnitude and importance; but not having time to form a mature judgment of his own as to the plan they suggest, he submits the whole subject to Congress, attention to it being most imperatively demanded.

Mr. SUMNER. I move that the message be printed, and laid on the table. I make the suggestion that it seems to me there should be a special committee constituted to take into consideration that whole subject; but I make no such proposition.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. FOOT. I renew the motion I made a little while ago, that when the Senate adjourn to-day, it be to meet on Monday next.

Mr. SHERMAN. Before that question is put, I should like to inquire of the chairman of the Committee on Military Affairs whether he will have the bill referred to ready to be reported to-morrow.

Mr. WILSON. The bill was recommitted to-day to make a slight change in it, by adding a proposition which came up on another bill, but it was thought best to put it on this; and as we could do it better in committee than here in the Senate, we had it recommitted. We can report it back to-morrow morning, for we intend to have a meeting this afternoon, and our object in meeting is to examine that subject. But one Senator can prevent its consideration to-morrow.

Mr. SHERMAN. That will carry it over to Saturday.

Mr. WILSON. I think, myself, we had better try to get that bill through this week. The Paymaster General has been twice to see me about it, and he says they are very badly off.

Mr. TRUMBULL. I would suggest to the Senator from Massachusetts that one objection would prevent the consideration of the bill on Monday, if we adjourn over to Monday.

Mr. SHERMAN. I trust, therefore, that the Senate will not adjourn over till Monday, but will meet to-morrow. It will not take long, probably.

The VICE PRESIDENT. The question is on the motion of the Senator from Vermont.

The motion was not agreed to.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 17, 1863.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

MARYLAND CONTESTED-ELECTION CASE.

The SPEAKER laid before the House the memorial of John W. Crisfield, protesting against the interference of the military forces of the United States with the election in the first congressional district of Maryland, and contesting the right of Hon. J. A. J. Creswell to a seat in the House as a member thereof from said district, with the accompanying documents; which were referred to the Committee of Elections.

COAST SURVEY REPORT.

The SPEAKER also laid before the House the annual report of the Superintendent of the Coast Survey for 1863; which was laid upon the table, and ordered to be printed.

Mr. WASHBURN, of Illinois, submitted the following resolution; which was read, considered, and, under the rules, referred to the Committee on Printing:

Resolved, That there be printed five thousand extra copies of the annual report of the Superintendent of the Coast Survey for 1863; three thousand of which shall be for distribution by the Superintendent, and two thousand for the use of the House.

DIPLOMATIC APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for the consular and diplomatic expenses of the

Government for the year ending the 30th of June, 1865; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

THANKS TO CAPTAIN RODGERS.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported a joint resolution tendering the thanks of Congress to Captain John Rodgers, of the United States Navy, for eminent skill and zeal in the discharge of his duties; which was read a first and second time.

Mr. RICE, of Massachusetts, demanded the previous question.

Mr. COX. If it be in order, I move an amendment to that joint resolution. I move to insert the name of David D. Porter, commander of the Mississippi squadron, for efficient aid in opening the Mississippi river. I think it due to a gallant and able officer that it should be done.

Mr. RICE, of Massachusetts. I insist on the call for the previous question, and ask that the resolution be now put on its passage.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

THANKS TO GENERAL GRANT.

Mr. STEELE, of New Jersey, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (H. R. No. 1) of thanks to Major General Ulysses S. Grant, and the officers and soldiers who have fought under his command during this rebellion, and providing that the President of the United States shall cause a medal to be struck, to be presented to Major General Grant in the name of the people of the United States of America; when the Speaker signed the same.

DIPLOMATIC CORRESPONDENCE.

Mr. DAVIS, of Maryland, from the Committee on Foreign Affairs, reported the following resolution; which, under the rules, was referred to the Committee on Printing:

Resolved, That ten thousand additional copies of papers on the subject of foreign affairs, which accompany the President's annual message, be printed for the use of this House.

ADJOURNMENT OVER.

Mr. WASHBURN, of Illinois, moved that when the House adjourns to-day, it adjourn to meet on Monday next.

The motion was agreed to.

JUDICIAL DISTRICT IN WEST VIRGINIA.

Mr. BROWN, of West Virginia, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary inquire into the expediency of constituting West Virginia into a judicial district, and that they report by bill or otherwise.

EXPENSES OF IDAHO TERRITORY.

Mr. MCBRIDE submitted the following resolution; which was read, considered, and agreed to:

Whereas no appropriation was made at the last session of Congress to pay the expenses of the territorial government of Idaho Territory: Therefore,

Resolved, That the Committee of Ways and Means be requested to report a bill at an early day providing for the same.

PENSIONS, ETC.

Mr. WILSON submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be instructed to inquire what legislation is necessary to secure to the widows and legal representatives of persons who have died, or may hereafter die, after discharge from military service, of wounds received or disease contracted in said service and in the line of duty, the same pension and bounty allowed in other cases, and to report by bill or otherwise.

HOMESTEADS FOR SOLDIERS.

Mr. WILSON also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire what legislation is necessary to enable

persons in the military or naval service of the United States to avail themselves, while engaged in said service, of the benefits of the homestead act, and to report by bill or otherwise.

CANAL ENLARGEMENT.

Mr. PRICE submitted the following resolution, upon which he demanded the previous question:

Whereas, by treaty and stipulations now existing, this Government is prohibited from establishing or maintaining an armament of any kind on our northern lakes; and whereas a vast extent of fertile country, and an immense and constantly increasing commerce is thus exposed, in the event of a war with Europe, to invasion and destruction; and whereas the rapidly increasing surplus agricultural products of the Northwest require an outlet by water to the Atlantic seaboard; and whereas it is believed that the increased stimulus which would be given to commerce and agriculture by opening a water communication between the Mississippi river and the East, by the way of the great lakes, would, by cheapening the cost of transportation to and from the West and East, so far increase the foreign commerce of the country that the import duties on return cargoes would far exceed the interest on the cost of the proposed work, and provide a sinking fund for its liquidation: In view, therefore, of the great necessity which exists, both in a military and commercial point of view, for the construction of this work,

Be it therefore resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency and necessity of constructing and enlarging such canals as shall be necessary to connect the waters of the Hudson and Mississippi rivers with the great lakes, and that they be required to report by bill or otherwise.

Mr. HOLMAN moved to lay the resolution on the table.

Mr. ANCONA demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 56, nays 95; as follows:

YEAS—Messrs. Ancona, Bliss, Broomall, James S. Brown, Chanler, Cox, Creswell, Dawson, Dennison, Donnelly, Edgerton, Eldridge, English, Finck, Hall, Harding, Harrington, Holman, William Johnson, Kelley, King, Law, Lazear, Le Bond, Long, Mallory, McAllister, McDowell, McKinney, Middleton, William H. Miller, Moorhead, James R. Morris, Amos Myers, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Orth, Pendleton, Perry, Samuel J. Randall, Rogers, Scofield, William G. Steele, Stiles, Strouse, Thayer, Tracy, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, and Williams—56.

NAYS—Messrs. James C. Allen, Alley, Allison, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Braudette, Brooks, William G. Brown, Ambrose W. Clark, Freeman Clarke, Coffroth, Cole, Thomas T. Davis, Dawes, Deming, Dixon, Driggs, Dumont, Eckley, Eden, Eliot, Farnsworth, Fenton, Frank, Ganson, Garfield, Grinnell, Charles M. Harris, Herlick, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John F. Hubbard, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Loan, Longyear, Lovejoy, Marey, Marvin, McBride, McClurg, Melhuze, Samuel F. Miller, Morrill, Daniel Morris, Morrison, Nelson, Norton, Odell, Patterson, Perham, Pomeroy, Price, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Schenck, Shannon, Sloan, Smith, Smithers, Spaulding, John B. Steele, Stevens, Stuart, Van Valkenburgh, Ward, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, Windom, Winfield, Fernando Wood, and Yeaman—95.

So the House refused to lay the resolution on the table.

The previous question then received a second, and the main question was ordered; and, being put, the resolution was agreed to.

Mr. PRICE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PENSIONS TO CHAPLAINS.

Mr. HUBBARD, of Iowa, submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the expediency of providing by law for the payment to the widows and orphans of chaplains of the Army, who have heretofore died, or may hereafter die in the service, the same pensions as are now paid to the widows and orphans of captains of the Army.

The previous question was seconded, and the main question ordered; and, being put, the resolution was agreed to.

RAPIDS OF THE MISSISSIPPI.

Mr. ALLISON offered the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency and necessity of improving the upper rapids of the Mississippi river by a canal commencing at Davenport, at the foot of said rapids, with leave to report by bill or otherwise.

Mr. HOLMAN moved to lay the resolution on the table.

The motion was not agreed to.

The previous question was seconded, and the

main question ordered; and under the operation thereof the resolution was agreed to.

FRANKING PRIVILEGE TO SOLDIERS.

Mr. GRINNELL submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of amending the postal laws so as to allow the letters of soldiers in actual service to pass through the mails free of postage.

The previous question was seconded, and the main question ordered; and, being put, the resolution was agreed to.

DEPARTMENT OF MISSOURI.

Mr. McCLURG offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be, and heroby is, directed to furnish, at as early a day as convenient, to the House the report of the commissioners appointed by the President to examine and report the claims of officers and men actually employed in the Western department, or department of Missouri, in conformity with the joint resolution approved February 16, 1863; and that said report be printed.

CENSURE OF THE ADMINISTRATION.

Mr. EDGERTON offered the following resolution, and demanded the previous question on its adoption:

Whereas the proclamations of the President of January 1, 1863, and December 8, 1863, in relation to emancipation, impose conditions of pardon and amnesty to the persons who have participated in the existing rebellion, as well as conditions precedent to the establishment and recognition of State government in the States to which said proclamations apply, which, in the judgment of a large number of faithful citizens, have a tendency to give to the rebellion "the advantage of a changed issue," and "to reinvigorate the otherwise declining insurrection in the South," and to prolong the war; and whereas this House cannot but regard with anxiety the unprecedented and extraordinary claims and assumption of high prerogative by the President in said proclamations, especially in view of the fact that the President, in his inaugural address of the 4th day of March, 1861, declared, "I have no purpose directly or indirectly to interfere with the institution of slavery in the States where it exists; I believe I have no right to do so, and I have no inclination to do so;" Therefore,

Resolved, As the judgment of this House, that the maintenance inviolate of the constitutional powers of Congress, and the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to the balance of power on which the perfection and endurance of our political fabric of Federal union depends; and we denounce, as among the gravest of crimes, the invasion or occupation, by armed force, of any State, under the pretext for the purpose of coercing the people thereof to modify or abrogate any of their laws or domestic institutions that are consistent with the Constitution of the United States; and we affirm the principle declared in this resolution to be a law, alike to the President and the people of the United States.

Mr. GRINNELL. I move to lay the resolution on the table.

Mr. COX. On that I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 66; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Beman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, William C. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Driggs, Grinnell, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Bulbard, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Anos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Periam, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seofield, Shannon, Sloan, Smith, Smithers, Spaulding, Stevens, Thayer, Tracy, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—90.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Griswold, Hall, Harding, Harrington, Charles M. Harris, Herick, Holman, William Johnson, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Mary, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—66.

So the resolution was laid upon the table.

During the call of the roll,

Mr. MORRILL stated that his colleague, Mr. BAXTER, was confined to his room by indisposition.

Mr. BEAMAN stated that his colleague, Mr. Urson, was still detained at his room by sickness.

Mr. COFFROTH, not having been within the bar when his name was called, asked leave to vote. Objection was made.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, through Mr. NICOLAY, his Private Secretary.

ARBITRARY ARRESTS.

Mr. HARRINGTON offered the following resolutions, and demanded the previous question on their adoption:

Whereas the Constitution of the United States (article one, section nine) provides: "The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it;" and whereas such provision is contained in the portion of the Constitution defining legislative powers, and not in the provisions defining executive powers; and whereas the Constitution (article four of amendments) further provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated," &c.; and whereas the Thirty-Seventh Congress did by act claim to confer upon the President of the United States the power at his will and pleasure to suspend the privilege of the writ of *habeas corpus* throughout the United States, without limitation or conditions; and whereas the President of the United States, by proclamation, has assumed to suspend such privileges of the citizen in the loyal States; and whereas the people of such States have been subjected to arbitrary arrests without process of law, and to unreasonable search and seizures, and have been denied the right to a speedy trial and investigation, and have languished in prisons at the arbitrary pleasure of the Chief Executive and his military subordinates: Now, therefore,

Resolved, by the House of Representatives of the United States, That no power is delegated by the Constitution of the United States, either to the legislative or executive power, to suspend the privileges of the writ of *habeas corpus* in any State loyal to the Constitution and Government, not invaded, and in which the civil and judicial powers are in full operation.

2. *Resolved*, That Congress has no power under the Constitution to delegate to the President of the United States the authority to suspend the privilege of the writ of *habeas corpus*, and imprison at his pleasure, without process of law or trial, the citizens of the loyal States.

3. *Resolved*, That the assumption of the right by the Executive of the United States to deprive the citizens of such loyal States of the benefits of the writ of *habeas corpus*, and to imprison them at his pleasure, without process of law, is unworthy the progress of the age, is consistent only with a despotic power unlimited by constitutional obligations, and is wholly subversive of the elementary principles of freedom upon which the Government of the United States and of the several States is based.

4. *Resolved*, That the Judiciary Committee be instructed to prepare and report a bill to this House protecting the rights of the citizens in the loyal States, in strict accordance with the foregoing provisions of the Constitution of the United States.

Mr. LOVEJOY. Mr. Speaker—

The SPEAKER. Debate is not in order.

Mr. LOVEJOY. I want to state a fact—

The SPEAKER. Debate is not in order.

Mr. LOVEJOY. Would it be in order to move to refer these resolutions to a committee on Buncombe when it shall be appointed? [Laughter.]

The SPEAKER. It would not.

Mr. FENTON. I move to lay the resolutions on the table.

Mr. DAVIS, of Maryland. I beg that gentlemen will allow us to have a direct vote on the resolutions and reject them, so as to get done with this work of laying resolutions on the table.

Mr. FENTON. I withdraw the motion to lay on the table.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN called for the yeas and nays on the resolutions.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 90; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chauler, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Herick, Holman, William Johnson, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, Mary, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Sweat, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—67.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Beman, Blaine, Blow, Boutwell, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs,

Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Bulbard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Anos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Periam, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seofield, Shannon, Sloan, Smith, Smithers, Spaulding, Stevens, Thayer, Tracy, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—90.

So the resolutions were rejected.

During the call of the roll,

Mr. A. W. CLARK stated that Mr. LITTLEJOHN was still confined to his room by indisposition.

Mr. PATTERSON, not having been within the bar when his name was called, asked leave to vote. Objection was made.

The result of the vote was announced as above recorded.

BOUNTY LAND.

Mr. LAW presented a bill granting bounty land to the officers and soldiers engaged in the military service of the United States during the present rebellion; which was read a first and second time, and referred to the Committee on Military Affairs.

GUARDIANS OF LUNATICS.

Mr. HOOPER introduced a bill to enable guardians and committees of lunatics appointed in the several States and other countries to act within the District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

TRANSPORTATION OF TROOPS, ETC.

Mr. HOLMAN submitted the following resolution:

Resolved, That the Secretary of War be directed to inform the House whether any payments have been made to either of the following named railroad companies, namely: the Illinois Central Railroad Company, the Burlington and Missouri Railroad Company, or the Mississippi and Missouri Railroad Company, for transporting property or troops of the United States since the 25th day of February, 1862, and if any such payments have been made, the amount paid to each company; and also the amount paid to each of said companies prior to the above date, and the basis on which said payments have been made; and that he also inform the House why payments have been made to said companies in disregard of their obligation to transport property and troops of the United States "free of toll or other charge whatsoever."

Mr. LOVEJOY. That resolution goes over under the rules.

Mr. HOLMAN. It goes over if the gentleman objects. I hope that he will not object, as the resolution only asks for information.

Mr. LOVEJOY. I object.

Mr. HOLMAN. I withdraw my resolution.

RECIPROCITY TREATY.

Mr. MORRILL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to furnish this House with any statistical information relative to the practical operation of the so-called reciprocity treaty with Great Britain which may be in his possession.

EXCUSED FROM COMMITTEE SERVICE.

Mr. ASHLEY. Mr. Speaker, I rise to a privileged question. I see that I am appointed on the select committee on the rebellious States. I am already on two of the standing committees of the House, and I therefore ask to be excused from one of them, for it is not possible for me to serve on them all. I have just been speaking to the former chairman of the Committee of Claims, and he tells me that no man can do justice to claimants, to himself, and to the Government, unless he gives up all his time to the business of that committee. As I am on the select committee and on the Committee on Territories, I ask that I may be excused from service on the Committee of Claims.

It was ordered accordingly.

PROVISIONAL MILITARY GOVERNMENTS.

Mr. ASHLEY. I ask the unanimous consent of the House for leave to introduce a bill to provide for the establishment of provisional military governments over the district of country declared by the President's proclamation to be in rebellion against the Government of the United States, and to authorize the loyal citizens thereof to organize State governments, republican in form, and for other purposes.

Mr. HOLMAN. I call for the reading of the bill.

Mr. ASHLEY. If there be objection, I withdraw my request.

SUTLIFF AND CASE.

Mr. SPAULDING introduced a bill for the relief of Milo Sutliff and Levi H. Case; which was read a first and second time, and referred to the Committee of Claims.

AMENDMENT OF THE VOLUNTEERS ACT.

Mr. KELLOGG, of New York, introduced a bill to amend the act entitled "An act to authorize the employment of volunteers to aid in the enforcement of the laws and to protect public property," approved July 22, 1861; which was read a first and second time, and referred to the Committee on Military Affairs.

THANKS TO ADMIRAL PORTER.

Mr. COX introduced a joint resolution, tendering the thanks of Congress to Admiral Porter; which was read a first and second time, and referred to the Committee on Naval Affairs.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on one of the appropriation bills.

On a division, there were—ayes 66, noes 17; no quorum voting.

Mr. MORRILL demanded tellers.

Tellers were ordered; and Messrs. SLOAN and STEELE, of New York, were appointed.

The motion was agreed to, the tellers having reported—ayes 88, noes 30.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair.)

PENSION BILL.

The CHAIRMAN stated that the first business in order was the consideration of the President's annual message.

Mr. STEVENS. I move to lay that aside, and to take up House bill No. 33.

Mr. HOLMAN. Has that bill been made a special order?

The CHAIRMAN. The Chair understands that it has not been made a special order, and it is therefore open to general debate.

Mr. STEVENS's motion was agreed to; and the committee accordingly proceeded to the consideration of bill of the House No. 33, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1865.

The bill was read through, and no amendments were proposed.

Mr. STEVENS then moved that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly bill of the House No. 33, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1865, and had directed him to report the same to the House without amendment, and with the recommendation that it do pass.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. HOLMAN. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of States for resolutions.

VIRGINIA CONTESTED ELECTION.

Mr. DAWES. I rise to a question of privilege. I present certain papers in the contested-election case from the seventh congressional district of Virginia, and move that they be referred to the Committee of Elections.

The motion was agreed to.

JOHN E. BOULIGNY.

Mr. STEVENS, by unanimous consent, introduced a bill for the relief of John E. Bouligny;

which was read a first and second time by its title, and referred to the Committee on Private Land Claims.

COASTWISE SLAVE TRADE.

Mr. JULIAN, in pursuance of previous notice, introduced a bill to repeal portions of the act of Congress, approved March 2, 1807, relative to the coastwise slave trade; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

WILLIAM C. WALKER AND OTHERS.

Mr. HOLMAN, in pursuance of previous notice, introduced a bill for the relief of William C. Walker and others; which was read a first and second time by its title, and referred to the Committee of Claims.

WAR RESOLUTIONS.

Mr. SMITH submitted the following resolutions, upon which he demanded the previous question:

1. *Resolved*, That as our country, and the very existence of the best Government ever instituted by man, are imperiled by the most causeless and wicked rebellion that the world has seen, and believing, as we do, that the only hope of saving this country and preserving this Government is by the power of the sword, we are for the most vigorous prosecution of the war until the Constitution and laws shall be enforced and obeyed in all parts of the United States; and to that end we oppose any armistice, or intervention, or mediation, or proposition for peace, from any quarter, so long as there shall be found a rebel in arms against the Government; and we ignore all party names, lines, and issues, and recognize but two parties in this war—patriots and traitors.

2. *Resolved*, That we hold it to be the duty of Congress to pass all necessary bills to supply men and money, and the duty of the people to render every aid in their power to the constituted authorities of the Government in the crushing out of the rebellion, and in bringing the leaders thereof to condign punishment.

3. *Resolved*, That our thanks are tendered to our soldiers in the field for their gallantry in defending and upholding the flag of the Union, and defending the great principles dear to every American patriot.

Mr. CRAVENS. Cannot we divide the resolutions?

The SPEAKER. There can be a separate vote on their adoption.

Mr. GRIDER. Is it in order to move that the resolutions lie over and be printed?

The SPEAKER. It is not, the gentleman from Kentucky having demanded the previous question.

Mr. W. J. ALLEN. Is it in order to amend the resolutions?

The SPEAKER. Not unless the previous question be voted down.

The House divided on the demand for the previous question, and there were—ayes 80, noes 6; no quorum voting.

Mr. STEVENS called for tellers.

Tellers were ordered; and Messrs. COLE, of California, and BLISS, were appointed.

Mr. MALLORY. I hope the resolutions will be again read, and then I think if the vote be taken again there will be a quorum.

The resolutions were again read.

Mr. HOLMAN. I suggest that there be a recount without tellers.

The SPEAKER. That can be done only by unanimous consent. If there be no objection, the Chair will again count the House.

No objection was made.

The House again divided; and there were—ayes 99, noes 12.

So the previous question was seconded.

The main question was then ordered.

Mr. HOLMAN called for a division of the question.

The SPEAKER stated that the question would be on the adoption of the first resolution.

Mr. LOVEJOY demanded the yeas and nays.

The yeas and nays were ordered.

The Clerk proceeded to call the roll.

During the call,

Mr. MALLORY said: I rise to a point of order. The resolution on which the House is voting is not the one that is called the first resolution by the gentleman who introduced them.

The SPEAKER. The Chair is informed that by mistake the second resolution has been reported by the Clerk instead of the first.

Mr. HOLMAN. I raise the point of order that the first, though called a resolution, is really in the nature of a preamble, and should be voted on last.

The SPEAKER. It is not, however, a preamble. It commences with the word "resolved."

Mr. HOLMAN. I suppose that the vote now can only be set aside by unanimous consent.

The SPEAKER. The Chair supposes there can be no objection to setting aside the roll-call.

Mr. HOLMAN. I object.

The SPEAKER. The Chair will take the responsibility of ordering the roll-call to be suspended, subject to the censure of the House if he be wrong in doing so.

The Clerk reported the first resolution.

Mr. CRAVENS. I move to lay the resolution on the table.

Mr. WASHBURN, of Illinois. On that I call for the yeas and nays.

Mr. CRAVENS. I withdraw the motion to lay on the table.

Mr. ANCONA. I renew it.

Mr. WASHBURN, of Illinois. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 60, nays 100; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bliss, Brooks, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, William Johnson, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, John B. Steele, Siles, Strouse, Stuart, Sweat, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—60.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Ganson, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Lovejoy, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Stebbins, Stevens, Thayer, Tracy, Van Valkenburgh, Ward, Elihu B. Washburn, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—100.

So the House refused to lay the resolution on the table.

During the roll-call,

Mr. KELLEY stated that Mr. STARR was detained at home, and had been for some days, by serious illness.

Mr. STILES, (at half past two o'clock, p. m.) I move that the House do now adjourn; and on that I call for the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the motion was not agreed to.

The question recurred on the adoption of the first resolution.

The yeas and nays were demanded, and ordered.

The question was taken; and it was decided in the affirmative—yeas 93, nays 65; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Stevens, Thayer, Tracy, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, Woodbridge, and Yennan—93.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, Chanler, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, William Johnson, Kernan, Knapp, Law, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Siles, Strouse, Stuart, Voorhees, Wadsworth, Ward, Wheeler,

Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—65.

So the first resolution was adopted.

Mr. LOVEJOY. I rise to a question of order. I ask for the reading of the rule which requires all members who are in their seats to vote; and I call the attention of the House to the fact that the member from Indiana [Mr. HOLMAN] has not voted on this resolution.

The SPEAKER. The rule requires that all members who are in their seats shall vote.

Mr. LOVEJOY. I ask the Chair to enforce the rule.

The SPEAKER. The Chair cannot do that. It is a matter for the House itself.

The result of the vote was announced as above recorded.

The question recurred on the second resolution.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 152, nays 1; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Bliss, Blow, Boutwell, Boyd, Brandegee, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Coffroth, Cole, Cox, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Deming, Dennison, Dixon, Donnelly, Driggs, Dumont, Eckley, Edgerton, Eldridge, Eliot, English, Farnsworth, Fenton, Fluck, Frank, Ganson, Garfield, Gooch, Grider, Grinnell, Griswold, Hale, Hall, Harding, Charles M. Harris, Herriek, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Jenckes, William Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Law, Lazear, Le Blond, Loan, Lovejoy, Mallory, Marvin, McAllister, McBride, McClurg, McIndoe, McKinney, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Peabody, Perry, Pike, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Scheuch, Scofield, Scott, Shannon, Sloan, Smith, Smithers, Spaulding, Stebbins, John B. Steele, William G. Steele, Stevens, Strouse, Stuart, Sweat, Thayer, Thomas, Tracy, Van Valkenburgh, Wadsworth, Ward, Elihu B. Washburn, William B. Washburn, Whaley, Wheeler, Joseph W. White, Williams, Wilder, Wilson, Windom, Winfield, Woodbridge, and Yeaman—152.

NAY—Mr. Benjamin G. Harris—1.

So the resolution was agreed to.

During the vote,

Mr. BLOW, not being within the bar when his name was called, asked leave to vote.

Mr. WASHBURN, of Illinois, would not object now, but would in all future cases.

Mr. MORRIS, of Ohio, moved that the reading of the names be dispensed with.

Objection was made.

The vote was then announced as above recorded.

The question recurred on the third resolution.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 166, nays 1; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Ames, Ancona, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Bliss, Blow, Boutwell, Boyd, Brandegee, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Coffroth, Cole, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Deming, Dennison, Dixon, Donnelly, Driggs, Dumont, Eckley, Eden, Edgerton, Eldridge, Eliot, English, Farnsworth, Fenton, Fluck, Frank, Ganson, Garfield, Gooch, Grider, Grinnell, Griswold, Hale, Hall, Harding, Harrington, Charles M. Harris, Herriek, Higby, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Jenckes, William Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Knapp, Law, Lazear, Le Blond, Loan, Long, Longyear, Lovejoy, Mallory, Marvin, McAllister, McBride, McClurg, McDowell, McIndoe, McKinney, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Peabody, Perry, Pike, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Scheuch, Scofield, Scott, Shannon, Sloan, Smith, Smithers, Spaulding, Stebbins, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweat, Thayer, Thomas, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Ward, Elihu B. Washburn, William B. Washburn, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, Winfield, Fernando Wood, Woodbridge, and Yeaman—166.

NAY—Mr. Benjamin G. Harris—1.

So the resolution was adopted.

And then, on motion of Mr. COFFROTH, (at twenty minutes past three o'clock, p. m.) the House adjourned until Monday next.

IN SENATE.

FRIDAY, December 18, 1863.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Secretary, in the absence of the Vice President, called the Senate to order.

Mr. HALE. Mr. Secretary, in the absence of the Vice President, I move that Hon. SOLOMON FOOT, of Vermont, be chosen President *pro tempore* of the Senate.

The Secretary put the motion, and it was agreed to; and Mr. FOOT took the chair.

The Journal of yesterday was read and approved.

COMMITTEE SERVICE.

Mr. GRIMES. I ask the Senate to excuse me from further service on the Committee on Naval Affairs.

Mr. ANTHONY. I should like to know why the Senator wishes to be excused. I hope the Senator will consent to serve where his colleagues have placed him.

Mr. GRIMES. I could assign numerous reasons for desiring to be excused from service on that committee; but I apprehend it is enough for me to say that I am on two other committees, one of which I know to be a very laborious and difficult committee, and of which I have the misfortune to be chairman—the Committee on the District of Columbia—which, I apprehend, has about as many annoyances as any two committees in the Senate. Then I had the fortune to be placed on another committee, of which you, sir, [Mr. FOOT in the chair] are chairman. I do not know how laborious that may be; but the two together are quite as much as I think I can attend to. I must, therefore, respectfully beg leave to decline serving on the Committee on Naval Affairs.

Mr. ANTHONY. I hope the Senator will withdraw his request for the present.

Mr. HARRIS. I really hope that the Senator from Iowa will withdraw his request; or, if not, that the Senate will decline to excuse him. We all know the importance of that Senator serving on that committee, and for one, I am quite unwilling that he should leave the Committee on Naval Affairs. I really desire that he should not now be excused.

Mr. FOSTER. I suppose the practice has become so well established in the Senate, to excuse a gentleman who asks to be excused from a committee, that it almost amounts to a rule; at least I have not known it refused where the Senator has persisted in requesting to be excused from service on a committee. If, therefore, the honorable Senator from Iowa should persist in asking to be excused, I suppose the Senate, exercising towards him the courtesy which has been uniformly exercised towards other members, will excuse him. I sincerely hope, however, that the Senator will withdraw his request. I am persuaded that the Senate would ask him to serve, almost as persistently as he asks to be excused. If his labors on other committees are so arduous as that he cannot consistently with his own judgment perform his appropriate duties on the Committee on Naval Affairs, I, for one, deem his services on that committee so important that I would cheerfully excuse him from service on some other committee rather than lose his services on that one; for I do believe that his services on that committee are important to the interests of the Navy, and therefore highly important to the best interests of the country.

Mr. CLARK. Mr. President, so much do I regard the services of the Senator from Iowa on the Committee on Naval Affairs, feeling as I do that the country needs his services on that committee, that although it may be the rule of the Senate to excuse a man from committee service when he desires to be excused, I for one shall vote not to excuse him; and I think the Senate will do its duty in voting the same way.

Mr. DAVIS. I shall vote in strict conformity to the sentiments so well expressed by the Senator from Connecticut. I feel every point that he made in his remarks to be strictly and faithfully true; and if the honorable Senator from Iowa desires to be excused from service on the Naval Committee, with the highest regard for him personally and as a Senator, I shall vote in the affirmative.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on excusing the Senator

from Iowa from further service on the Committee on Naval Affairs?

The question being put, there were, on a division—yeas 21, nays 12; no quorum voting.

Mr. SHERMAN. I will ask for the yeas and nays. There is a quorum present, I think.

The yeas and nays were ordered.

Mr. ANTHONY. I think the best way to extricate the Senate from this difficulty is for the Senator from Iowa to comply with the universal wish of his colleagues, and withdraw his request, at least for the present. I think his services on that committee are important to the country; and, with great respect to him, I say he has no right to refuse to serve.

Mr. HALE. As I am chairman of the Committee on Naval Affairs I do not know but that I ought to say a word on the subject, and I shall say honestly what I have to say upon it very briefly. There is nobody on the committee on whom I have uniformly relied with more confidence, or to whom I have listened with more respect, than I have to the honorable Senator from Iowa; and although we have not always agreed entirely in every suggestion that he has made, I know that his services have been of very great importance, and I should very much regret his loss to that committee. I should regret it more at this session than I should at any previous time. I think there is at present great necessity for vigilance and reform in that Department, and my duty compels me to say that I think the Department is in a somewhat anomalous condition. I know that some of the older and best officers of the Navy feel it to be rather a singular state of things that the acting and actual Secretary, as his friends on this floor have sometimes called him, should be an officer no higher than a passed midshipman. Rear admirals and distinguished officers feel that there is an incongruity in that respect which is unpleasant. It produces a state of things which requires a good deal of forbearance and judgment on the part of the Legislature; and there is nobody in the Senate certainly, in whom the Senate have more confidence on naval matters than they have in the Senator from Iowa, and I shall regret his loss very much indeed.

Mr. FOSTER. Hoping that we may arrive at a result hereafter which will be more satisfactory to us than I fear a vote at the present time would be, I move that the decision of this question be postponed until Tuesday next.

The motion was agreed to.

Mr. McDOUGALL. I desire to ask the Senate to excuse me from service upon the Committee on Private Land Claims. It happened to be the pleasure of the Senate, on my first introduction into the Senate, to place me upon the Committee on Finance and the Committee on Naval Affairs. It occurred to me that it was my duty to study those things that belonged to finance, so far as they could be administered by Congress, and to study our interests in connection with our Navy, so far as they could be administered by Congress. I am very much pleased with the action of the Senate in placing me upon the Committee on Foreign Relations at this session; but all the studies I have heretofore bestowed on the business of the Senate have been misbestowed, for I applied myself to those subjects appropriated to the committees to which I was assigned when I first took my place on this floor. I think it a bad rule to change members from committee to committee; but so far as the Committee on Private Land Claims is concerned, it is a matter with which I do not wish to have anything to do, and about which I know nothing. I hope the Senate will excuse me from serving on that committee.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California, that he be excused from further service upon the Committee on Private Land Claims of this body.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. CONNESS. I have a memorial to present from the wine-growers of the State of California, respectfully asking Congress to make a reduction in the tax on native wines, the products of that State. I ask that the memorial be referred to the Committee on Finance; and as it relates to a subject perhaps not generally understood here, I hope the Senate will order it to be printed.

The PRESIDENT *pro tempore*. The memorial

will be referred to the Committee on Finance. The Senator from California moves that it be printed.

Mr. SUMNER. I think that question should naturally go to the Committee on Printing.

Mr. CONNESS. I am willing it should have that reference.

The PRESIDENT *pro tempore*. It does not go to the committee, under the rule, without a motion; but it is moved that the motion to print the memorial be referred to the Committee on Printing.

The motion was agreed to.

Mr. HOWE presented the petition of J. J. Pettit and others, citizens of Wisconsin, praying Congress "to take such constitutional action, with all convenient dispatch, so to amend the Constitution of the United States as to incorporate a provision prohibiting slavery in all the States and Territories of the United States;" which was referred to the Committee on the Judiciary.

Mr. GRIMES presented the petition of J. Stebbins and others, citizens of Clayton county, Iowa, representing that they believe slavery to be the cause of all our existing troubles, and praying that some action may be taken by which it shall be abolished; which was referred to the Committee on the Judiciary.

NOTICE OF A BILL.

Mr. HOWE gave notice of his intention to ask leave to introduce a joint resolution for the relief of the State of Wisconsin.

ADJOURNMENT TO MONDAY.

On motion of Mr. DOOLITTLE, it was

Ordered, That when the Senate adjourn to-day, it be to meet on Monday next.

BILLS INTRODUCED.

Mr. HARDING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 23) granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the southern or eastern boundary of said State; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 24) granting lands to the State of Oregon to aid in the construction of a military road from the Dalles of Columbia river to a point at or near the mouth of Owyhee river; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 25) to authorize the President to negotiate a treaty with the Klamath, Modoc, and other Indian tribes in southeastern Oregon; which was read twice by its title, and referred to the Committee on Indian Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 33) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1865; and

A joint resolution (No. 12) tendering the thanks of Congress to Captain John Rodgers of the United States Navy, for eminent skill and zeal in the discharge of his duties.

REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was recommended a bill (S. No. 7) to increase the bounty for volunteers and the pay of the Army, reported it with amendments.

Mr. WILSON. I am also directed by the same committee, to whom was referred a bill (S. No. 18) to amend the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, to report it back to the Senate with several amendments. I beg leave to say that among the amendments is a section repealing the \$300 commutation clause of the act of last March, and in regard to that I have very serious doubts. On every other question I believe the committee were unanimous. I suppose the bill will be printed without a motion.

The PRESIDENT *pro tempore*. It will be printed under the general rule without a special motion.

Mr. DIXON. I have an amendment which I wish at a proper time to offer to that bill, and I ask that it may be printed.

The proposed amendment was received informally, and ordered to be printed.

Mr. DIXON. I ask for the reading of my proposed amendment, merely for information, as it is very brief.

The Secretary read; as follows:

In section two, line thirty-one, insert:

7th. All persons recognized as clergymen or religious ministers, by the ecclesiastical authority of the denomination or communion of which they are members, shall be exempt.

Mr. HENDRICKS submitted a proposed amendment to the bill, which was ordered to be printed.

HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (No. 33) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1865—to the Committee on Finance.

A joint resolution (No. 12) tendering the thanks of Congress to Captain John Rodgers, of the United States Navy, for eminent skill and zeal in the discharge of his duties—to the Committee on Naval Affairs.

SUPPRESSION OF THE REBELLION.

The PRESIDENT *pro tempore*. The first business in order on the Calendar is Senate bill No. 3, more effectually to suppress the rebellion.

Mr. HALE. I should like to inquire whether that bill has been printed.

The PRESIDENT *pro tempore*. There is a printed copy before the Chair.

Mr. HALE. I wish that that bill might lie on the table a little longer. It has been suggested that there would probably be a committee appointed to whom the kindred subjects relating to that in the message would be referred; and if there is to be such a committee as that raised, I should prefer to have this bill go to them. If it be the pleasure of the Senate, therefore, I should prefer to have this bill lie over for the present.

The PRESIDENT *pro tempore*. At the suggestion of the Senator from New Hampshire, no objection being made, the bill will lie on the table for the present.

OATH OF OFFICE.

The PRESIDENT *pro tempore*. The Chair will call from the table for consideration the following resolution, offered by the Senator from Massachusetts, [Mr. SUMNER:]

Resolved, That the following be added to the rules of the Senate: "The oath or affirmation prescribed by act of Congress of July 2, 1862, to be taken and subscribed before entering upon the duties of office, shall be taken and subscribed by every Senator in open Senate, before entering upon his duties. It shall also be taken and subscribed in the same way by the Secretary of the Senate; but the other officers of the Senate may take and subscribe it in the office of the Secretary."

Mr. SAULSBURY. I presume the Senate is aware that my colleague is the only person in this body who is at present to be affected by the adoption of the proposed rule. I think, sir, that he has a right to ask that there shall be a judicial decision of this body as to whether the oath prescribed by the act of Congress is in conformity or not with the Constitution of the United States. With the view of having that question solemnly decided by this body, I offer the following as a substitute for the resolution before the Senate:

Resolved, That the Committee on the Judiciary be instructed to inquire whether Senators and Representatives in Congress are included within the provisions of the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862; and whether the said act is in accordance or in conflict with the Constitution of the United States.

I do not propose to enter into any discussion of this question now; I simply offer this as a substitute for the resolution. I have no doubt in my own mind as to the extent to which the act of Congress goes. It was decided by the Senate, on a solemn vote, in the early history of this Government, that a Senator is not a civil officer under the Government of the United States; and the act

of Congress simply provides that this oath shall be taken by officers in the civil or military service of the United States.

Again, sir, the oath requires that a Senator (if it be held to apply to Senators) shall purge himself, that he has not been in the past guilty of certain acts. Just as competent is it for the Senate to require that when a man presents himself here with all the constitutional qualifications for a seat on this floor, he shall purge himself that he has never been guilty of the commission of an assault and battery, or any other offense against either State or Federal law.

But as I said, sir, I will not enter upon the discussion of this question now. I propose the substitute simply for this purpose: that the Senate may formally decide, and decide, too, after the judgment of the Committee on the Judiciary upon that point, whether the act of Congress passed July 2, 1862, does include members of the Senate and members of the House of Representatives. I think that in justice to my colleague and in justice to gentlemen who may hereafter present themselves as members, it is proper, it is right, that there shall be a formal judgment of the Senate upon this matter.

Mr. TRUMBULL. Mr. President, the Senator from Delaware proposes a substitute for the rule which is proposed as an additional one, requiring Senators to take an oath in open Senate prescribed by an act of Congress; and he gives two reasons for offering that substitute and moving a reference of it to the Committee on the Judiciary. The first is that he desires a judicial decision by the Senate of the United States as to the constitutionality of the law which requires this oath to be administered. I do not know, sir, that another decision upon that subject will be any more satisfactory than the one which has already been made. The law referred to could not have been enacted without the sanction of this body; and when that law was under consideration, it was objected to as being unconstitutional. It was argued in the Senate; that point was presented; and the Senate, notwithstanding the arguments that were presented against the constitutionality of the proposed law, thought proper to pass the bill. The House of Representatives concurring, and the President approving the bill, it became the law of the land. The Senate has decided that this law is constitutional, by its passage; and it is a novel proceeding, when it becomes the duty of Senators to execute a law of the land, that in the first place they are to refer the question whether the law is the law of the land or not, to one of the committees for consideration. It is as much our duty to obey a law, as it is the duty of any other citizen in any portion of the country to do so.

We have decided that question, sir: It is not competent for the Senate of the United States to say that an act of Congress is no law. We may, it is true, so far as this branch of the legislative department is concerned, pass a bill to repeal a law, but of ourselves we cannot repeal an act of Congress. We must have the concurrence of the House of Representatives and the approval of the Executive. It would be a novel, and it seems to me an unheard of proceeding, to refer this proposition to a committee to determine whether it is a law or not.

Another proposition stated by the Senator from Delaware is, that he wants to know whether this law embraces Senators and Representatives in Congress; and he repeats what has been said several times in the Senate, and I fear will come to be taken as a fact, that it has been decided that Senators and Representatives in Congress are not civil officers. Sir, I should like to see that decision. I should like to know when and where any court or any legislative body ever decided that Senators and Representatives were not civil officers. I know of no such decision, and I undertake to say there is no such decision. I know it has been decided that Senators and Representatives are not liable to impeachment; that they are not civil officers in the sense of being liable to an impeachment. There is a very obvious reason for that. All the parts of the Constitution of the United States are to be construed together, so as to give effect to all its provisions; and one portion of that Constitution provides for the expulsion of Senators by a two-thirds vote; and inasmuch as another mode of depriving a Senator of his seat is provided by the Constitution than that of im-

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peachment, it was presumed that the provision relating to the impeachment of officers did not embrace Senators; but that decision by no means goes the length of deciding that Senators are not civil officers. But, sir, whether they are civil officers or not, it is competent for the Senate, by a rule, to require its members to take an oath. Therefore there can be no impropriety in adopting this rule, even if the law does not embrace Senators.

I trust that this amendment will not be adopted, and that the proposition will not be referred to the Committee on the Judiciary. For one, sir, I should be unwilling to enter upon an investigation to determine whether a law which we had passed was constitutional or not, and to report to this body, for them to decide whether it was constitutional or unconstitutional, after we had passed the act. What would it amount to? Would that make it unconstitutional? Would anybody be authorized to disregard the law, because the Senate of the United States, by a resolution, or a report of one of its committees, had determined that the law was unconstitutional? That would not repeal the act. We have no authority, in my judgment, to enter upon such an investigation; and I trust that the motion will not prevail.

Mr. SAULSBURY. Mr. President, the unwillingness of the chairman of the Committee on the Judiciary to enter into the investigation of this subject, cannot be any reason why the Senate may not call upon him to enter upon that investigation. When the right to a seat on this floor of a member is questioned, he has the right certainly to have the judgment of the body as to whether he is entitled to his seat or not. Now, sir, it has never been decided by the Senate of the United States, by the House of Representatives, or by any other tribunal, that this act of Congress does include members either of the Senate or the House of Representatives. Admit, for the sake of the argument, that the act is entirely constitutional; to whom the act extends, who are the persons that come within the provisions of the act, has nowhere been determined by the Senate, by the House of Representatives, by the judiciary, or by any other tribunal.

My colleague [Mr. BAYARD] at the last session appeared in this body, took the constitutional oath, entered upon his duties as a Senator, was here in open session, was here in secret session, was here acting as a Senator, after the statement deliberately made by the Senator from Illinois, the chairman of the Judiciary Committee, that those who chose to take the additional oath might take it, and those who chose not to take it need not take it. That was at a time when a debate sprang up which threatened to last several days, on the obligatory character of this oath. Then, sir, at the present session, after my colleague has acted in this body, both in public and in secret session, this order is introduced. All that my colleague asks, all that I ask, is that before he is required to take the oath, some committee of this body, or the body itself, decide that the act applies to members of the Senate and members of the House of Representatives. Is there anything unreasonable in this?

Mr. TRUMBULL. The Senator from Delaware will allow me to say that that is the very object of the resolution. If we pass the resolution, it will settle it; the body will have decided the question. The rule, as proposed by the Senator from Massachusetts, decides the very question, that each member of the Senate shall take the oath.

Mr. SAULSBURY. But, Mr. President, without the judgment of the Judiciary Committee, that a Senator comes within the meaning of the act, why should there be any such haste in this matter? Are the interests of this country or of this Government to suffer by having this question calmly looked into and investigated by the Committee on the Judiciary? Will a few more days of delay injure the interests of any department of the Government, or the whole of them combined? Why such haste to have this question decided

simply upon a motion to make a new rule, without the judgment of the Committee on the Judiciary that the members of this body are constitutionally bound to take this oath?

Mr. President, perhaps I may be justified, in stating—and I do it without any consultation with my colleague upon this matter—that the opposition which I have to the enforcement of this oath upon members of Congress, or the passage of this order by the Senate, does not arise on account of any matter or thing in the oath contained. There is nothing contained in it that I could not take, if necessary, every morning before breakfast; and I doubt not there is nothing in it contained that my colleague could not take. It is from no such consideration that we oppose the adoption of this order; but it is because in our solemn judgment a Senator or Representative in Congress does not come within the provisions of the act, and that a Senator or Representative in Congress is not constitutionally bound to take this oath.

The Senator from Illinois says that it has never been decided by the Senate or by any other tribunal that a member of the Senate is not a civil officer of the United States. I am surprised, Mr. President, at that declaration, when, as far back as 1798 or 1799, in the case of Blount, a Senator in Congress, it was, in express terms, decided that a Senator was not a civil officer under the Government of the United States. The words of the resolution proposed on that occasion declared that he was a civil officer, and that was negatived by a formal vote of the Senate. I have not the case before me, but it will be presented to the Senate before this discussion closes.

Is he a civil officer under the Government of the United States? How does he hold his place in this body? What department of the General Government confers upon him his office? That office, if office it be, is conferred upon him by his State; and although, in these times, it may be considered that there are no such things as States, or that there ought not to be any such things as States, yet the framers of this Government thought that there were such political communities as States; they recognized them as possessing certain rights, and the Constitution gave them the power of appointing their Senators as representatives, not of the mass of the people, but as the representatives of their States in the Senate of the United States; and all the authority that they have to act in this body, as derived under the Constitution of the United States, is through the action of their States, and not through any action of the Federal Government or any of its departments.

But, sir, I will not discuss the question. There is nothing unreasonable in my proposition that this subject be referred to the Committee on the Judiciary, and that they inquire into this simple question—that is the only question which the substitute proposes that they shall inquire into—whether a Senator or Representative is included in the provisions of the act referred to?

Mr. JOHNSON. Mr. President, as the Senate are aware, on my entrance into this body, I took the oath prescribed, but made some remarks at the time rather in the nature of a protest, the object of which was to exclude the conclusion that might otherwise be drawn that I admitted the right to impose such an oath of office upon a Senator.

I think the honorable member from Illinois perhaps is mistaken, and I very respectfully suggest it to him, in supposing that the subject itself is not one fit to be considered by the Committee on the Judiciary. As I understand the resolution offered by the honorable member from Massachusetts, and the substitute proposed by the honorable member from Delaware, two questions are presented. The first is, what is the true meaning of the act of Congress—does it, or does it not embrace members of Congress? The other is, if it does embrace members of Congress, whether Congress had the constitutional power to pass that act? Now, with reference to the first of these questions, there can be no possible objection, that I can see, to our having from the Judiciary Committee a well-considered opinion. I do not know that the

proposed rule has been before any committee of the body heretofore; and I think it will tend, perhaps, to establish the construction of that act the one way or the other, so as to terminate all further controversy upon the subject, if the Judiciary Committee will take the matter into consideration, and express their own opinion, after considering, as to the true operation of the act as it stands.

Upon the other question, to which the honorable member from Illinois has referred as one over which, as he supposes, the committee has no right, and the body can give the committee no right, I submit that perhaps the chairman of the committee is mistaken. He thinks there is no authority to refer to a committee the question whether an act upon the statute-book is constitutional or not. I beg him to reconsider that opinion, and if he does I incline to think he will come to a different conclusion. The act, as long as it stands upon the statute-book, is in one sense obligatory; it is apparently the law of the land; but if, in point of law, it be repugnant to the Constitution of the United States, then it is not the law of the land; and if it should, upon investigation, be found that Congress had not authority to pass this act, Congress owes it to itself that it should repeal it.

The question presented by the propositions which are now before the Chair is perhaps substantially the same as would be raised by a proposition offered by any member of the Senate, to introduce a bill repealing that act upon the ground of its unconstitutionality. If a bill of that description should go, as it necessarily would go, to the Committee on the Judiciary, the committee would be compelled to decide it. I do not see how in principle it makes any difference; but the question substantially is presented in the form in which it is, as I suppose, now before the Senate.

But there is another reason that occurs to me which renders it advisable that it should take the course indicated by the honorable member from Delaware. The Senate have, I think, already seen that it is very probable that this discussion may occupy a great many days of the time of the Senate, now very precious for reasons stated yesterday; and as this is a privileged question, and the only member of the Senate to whom the proposition applies [Mr. BAYARD] cannot, as long as that remains, properly perhaps take any part in the discussions of the Senate, or at least he may feel it indelicate to do so as long as he thinks it possible that he may be decided not to be a member of the Senate, the debate will be carried on by others, and upon that particular question the debate will be carried on by himself, and we may be here some week, perhaps, discussing the question whether the Senator is or is not a member of this body, until he takes that oath. Now, I rather believe—I am not authorized to say so in so many words—that the Senator from Delaware would prefer stating what he proposes to say upon the question of the power of the Senate to impose that oath, to a committee, rather than to discuss it in the Senate at the sacrifice of the very important business which is now before us. It certainly is due to the Senator from Delaware, who entertains an opinion I believe adverse to the power of Congress to pass the act, as also, upon the question of the constitutionality of the act, an opinion different from the honorable member from Massachusetts who proposes this rule, that he should be heard. The question for the Senate to decide is, whether it is not better that it should go before a committee and be discussed there, than that the business of the Senate should be arrested, perhaps for a week or more than a week, by a discussion here.

Now, as to the Senator from Delaware: he will not consider it as indelicate in me to express the opinion—I do not know, and of course, therefore, I am not considered as stating it upon any information derived from him—I do not know what will be his ultimate course in the event that the Senate shall decide that he must take that oath; but from what I know of his opinion, often and often expressed to me, upon the great question which is involved in this rebellion, he can take that oath

with perfect propriety. I do not think there is any member of the Senate—I speak now from opinions that I have heard him express over and over again, in advance of the rebellion and since the rebellion commenced—who more decidedly condemns as wholly illegal and unconstitutional the doctrine of secession. Whatever he may have said or thought as to the policy which the Government has pursued towards those who have abused their constitutional privileges and violated their obligations under the Constitution, I know not; but, so far as relates to the question of the right of secession, his opinion I know—unless he has changed it in the last week or two—coincides with the very decided opinion that I have on the same subject.

Mr. COLLAMER. Mr. President, the proposed rule now under consideration gives a practical construction to the statute as applied to this body. It proposes that the oath prescribed in this recent statute shall be administered to the members in the body and before taking their seats. I understand that the Senator from Delaware [Mr. BAYARD] considers that two questions are involved in this. In the first place, he thinks that the terms of the statute, "civil officers," do not include members; and he insists that the statute, in its terms, does not include members of the Senate. The rule proposed goes upon the ground and declares that it does extend to members of the Senate. That is a question of law upon the construction of the statute—a very legitimate subject for the consideration of the Judiciary Committee. In the next place, I understand him to insist that, by the Constitution, if the statute is construed to extend to and include Senators, it is beyond the power of Congress to make such a statute.

Now, Mr. President, this last question is necessarily involved in the first one, because, if the Judiciary Committee of this body should be of opinion that no such law could be constitutionally made extending to Senators, and requiring such an oath of them, then the construction given to the statute by every judicial body would be, that it does not include Senators, for the very good reason that it could not constitutionally include them. If it could not constitutionally include them, the construction must be given to these general words, "civil officers," that it did not mean to include them. Therefore the question of the constitutionality of the law as applied to Senators is involved in the other question, whether the act extends to Senators, or the converse of these propositions; they stand necessarily involving each other.

The rule proposed is to give a practical construction to the act by saying that it extends to Senators, and that they shall take the oath. I at present have no opinion to express in relation to that question. That is the question, and that being the question, I understand that the Senator from Delaware desires that it may go to the Judiciary Committee. What can be the objection to that, seriously?—the question of the construction of that statute, the practical construction involved in the rule he desires to have referred to the Judiciary Committee? Should anybody betray any unreasonable sensitiveness about it, and try to get it away from examination? If any member has any interest in having that question considered before what he deems the proper functionaries of this body, and then before the body itself, why should he be deprived of it? I see no necessity for it.

I make these remarks without any sort of intimation of my own opinion, if I entertained one, as to the constitutionality or the practical construction to be given to the statute as applied to Senators, one way or the other. That being the question, I desire to hear upon it all that is proper to hear. I see no serious objection to the reference of the proposed rule, if the Senator from Delaware desires that that course be taken. I can see no reason, however, for the substitute that is offered. If the proposed rule be sent to the Judiciary Committee, they will express an opinion whether that is the right, practical, and legal construction of the statute. If they say that it is, it will then be for the Senate to say whether they will pass it or not. If the committee express to us the opinion that that is not the right practical construction of the statute under the Constitution, I should like to hear their opinion. At any rate, I see no reason why a gentleman whose seat is involved should

be deprived of the ordinary privilege of having the case considered by a committee.

Mr. TRUMBULL. It seems to be assumed by my friend, the Senator from Vermont, and by other Senators who have spoken upon the other side of the Chamber, that this is an accusation against the Senator from Delaware; that one of the Senators from Delaware has a right, if he thinks proper, to have it referred—

Mr. COLLAMER. If he desires it. It is a courtesy always yielded.

Mr. TRUMBULL. It is a courtesy due to the Senator from Delaware that this proposed rule should go to a committee. Now, I do not know what the Senator from Delaware has to do with this proposed rule more than any other Senator in this body; and I do not know why there should be any sensitiveness (to use the language of my friend from Vermont) on the part of the Senator from Delaware, or on his part, in reference to the Senator from Delaware. Why that sensitiveness, let me ask, that out of courtesy to him a proposed rule to operate upon all Senators who shall enter this body should be referred to a committee?

Mr. COLLAMER. Indulge me one moment. The reason is, that the rule does not apply to all. He is one of those to whom it does apply, having been elected after the adoption of the act.

Mr. TRUMBULL. It may be so; and there are a good many others who have been elected since the passage of the act, and who have had no hesitation in coming to your chair, sir, and making oath that they have not been engaged in this wicked rebellion against the Government; and I might well ask, why this sensitiveness on the part of the Senator from Vermont, that this resolution should go to a committee out of deference to the Senator from Delaware? Is there any feeling that this oath of allegiance to the country cannot be taken? Certainly no allusion is made in the proposed rule to the Senator from Delaware. I certainly made no allusion to him; and if there is any sensitiveness anywhere, it seems to me that it is on the part of those who wish to shuffle this matter off to a committee to inquire, not whether a law should be repealed—and I am sorry that the honorable Senator from Maryland, who thinks that upon consideration I would come to a different conclusion as to the duty of the committee, has left his seat. He says it is very proper to refer to a committee the question whether a law should be repealed because of its unconstitutionality. Most assuredly it is; but is that the proposition here? Sir, the proposition here is that this committee shall be instructed to inquire "whether the said act is in accordance or in conflict with the Constitution of the United States." That is what we are to inquire into, not for the purpose of repealing it. No proposition is introduced by the Senator from Delaware to repeal the act, but it is a proposition to instruct the committee to inquire whether an act is constitutional or in conflict with the Constitution of the United States. That is the subject that we are to inquire into and report upon to the Senate. I think that is a novel proceeding, with all due respect to the Senator from Maryland, who insisted that this should go to a committee for the purpose of making such an inquiry as that. It is a very different question from the one whether a bill shall be passed to repeal a law because of its unconstitutionality. The Thirty-Seventh Congress thought proper, at its second session, to enact that—

"Hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, whether in the civil, military, or naval departments of the public service, except the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath:

"I, A. B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto," &c.

I will not read the whole oath; but after prescribing the form the statute goes on to declare:

"Which said oath, so taken and signed, shall be preserved among the files of the court, House of Congress, or Department to which the said office may appertain."

Mr. SAULSBURY. Will the Senator allow me to interrupt him for a moment? I understood the Senator to say that the only matter which the substitute asked should be referred to the committee was the constitutionality of that act. The

Senator will see that the question whether the act includes members of the Senate and House of Representatives is also included in the substitute, and as a matter to be referred to the Committee on the Judiciary. It is a decision on both these questions that the substitute asks shall be had from the Committee on the Judiciary.

Mr. TRUMBULL. I am aware that there is more than this simple requirement in regard to the law; but it was in regard to that portion of the instruction to which I spoke, and about which the Senator from Maryland differed with me, and supposed that it was an appropriate function of the committees of this body to inquire and report to the body whether laws were constitutional or unconstitutional, without reference to any bill to repeal any existing statute, which I think is an unusual proceeding.

Now, sir, I do not propose to go into an argument to show that this law was intended to be applicable to members of Congress; but the very exception which is made in the act of the President of the United States, and the subsequent provision which requires that the oath shall be taken and signed, and preserved among the files of the House of Congress where it is taken, would seem to point very clearly to the understanding of Congress that it was intended to embrace members of Congress as well as others. It would be rather a singular provision to file the oaths of officers not connected with Congress, with the papers belonging to Congress; and the exception of the President, also, would seem to point to the necessity of the oath being administered to all other persons.

That a proposed new rule should be referred to a standing committee of this body ordinarily, or that it may be proper enough to refer a proposed rule, I would readily admit. I should have no objection to a reference of a proposed rule to a committee of this body before we were called upon to vote on its adoption or rejection; but the rule suggested here is proposed to be referred for a purpose and with instructions; and that purpose is to inquire into two specific facts: one of which is, whether this oath is applicable to Senators, when nearly every Senator has taken it. I believe the Senator from Delaware [Mr. BAYARD] is not the only one who has not taken it. If my recollection is not incorrect, there is more than one Senator elected since this law went into operation who has not taken and subscribed the oath of allegiance to his country. The rule, therefore, I presume, is not entirely applicable to the Senator from Delaware.

But, sir, I do not wish to be drawn off into a discussion as to what is to be done in reference to the Senator from Delaware, or any other Senator, in case he does not take this oath. This is a general rule intended to apply to all cases; and I do not know that the Senator from Delaware is any more interested in it than any other Senator in this body. After the Senators very generally, perhaps, with one or two exceptions—two or three at most—have come up and voluntarily and cheerfully, as I am happy to say, subscribed the oath that they were not engaged in this wicked attempt to destroy the Government, before they were permitted to take their seats here, I think it is rather late to inquire whether this oath properly embraces members of the Senate or not.

As I said when this bill was under discussion, this is no new question in the Senate of the United States. It was argued here and insisted, when the bill was under consideration, that Congress had no right to pass such an act. A reference to the files of the Globe will show the debate upon it. The Senator from Delaware, [Mr. BAYARD], and the Senator from Kentucky, [Mr. DAVIS], spoke upon it. There was quite a discussion on the subject as to the authority of Congress to pass a law requiring any other oath than the oath which the Constitution of the United States requires of all officers. The provision of the Constitution is in these words:

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

Now, it is insisted that you cannot administer to a Senator or a Representative any other oath than an oath or affirmation to support this Constitution. If that be so, it must be because this

provision of the Constitution of the United States is exclusive; that that having required an oath to support the Constitution, no other oath can be required of the party, and nothing beyond that. If that is true in reference to Senators and Representatives, it is true in reference to "members of the several State Legislatures and all executive and judicial officers, both of the United States and of the several States," because it is precisely the same language, in the very same words, that requires an oath to support this Constitution that applies to judicial officers, to members of State Legislatures, and to all officers of the States. But, sir, from the foundation of this Government it has been the practice to require from members of our State Legislatures an oath to support the constitution of their respective States. It has been the practice, from the foundation of the Government, to require an oath, in addition to that to support the Constitution of the United States, from the judges not only of the State courts, but of the United States courts; and the very first Chief Justice of the Supreme Court of the United States who was ever appointed, and every Chief Justice and every associate justice from 1789, when the First Congress met and organized the judiciary department, to this day, has taken an oath not only to support the Constitution of the United States, but to administer justice fairly and equally to the poor and the rich. The form of the oath is given in the statute of 1789, and has been taken by every justice of the Supreme Court from that day to the present. If we can require no other oath than simply an oath to support the Constitution of the United States from a Senator or Representative, neither can we require any other oath from any of the officers throughout the United States, State or national; and that would be a change of the practice of the Government from its very foundation.

Sir, the very object of the statute passed, if I recollect aright; in 1862, was to keep from this body traitors in arms against the Government. I voted for that act upon consideration, and I voted for it for the very purpose of preventing the men whose hands are covered with the blood of our citizens, in attempting to destroy this Government, from coming and taking a seat here, reeking all over with treason and blood. I do not want the Toombses and Wigfalls and Davises to come here as representatives, and, on swearing to support the Constitution of the United States, to take seats in this body; and I claim the right, as one of the representatives of the States of this Union, to say they never should have seats here; and the Constitution gives them no right to seats here; and I would prescribe the oath of allegiance to them. I would require them to swear that they had not been engaged in this red-handed rebellion, and if they swore they had not when they had, I would, under that statute, convict them of perjury, in case they should be pardoned for their treason.

These, sir, are the reasons why I thought there was no necessity for the reference of this proposition, and certainly a reference, with such instructions as these, I think would be setting a new precedent in the Senate.

Mr. SUMNER. Mr. President, I was called for a moment out of my seat when this resolution was taken up, so that I had not the advantage of hearing what was said by the Senator from Delaware who began the discussion.

Mr. SAULSBURY. I will state to the Senator from Massachusetts, that I offered a substitute to the proposition he has presented, and then moved that the proposed rule and substitute be referred to the Committee on the Judiciary.

Mr. SUMNER. I have read the substitute offered by the Senator. The question for the Senate, as I understand it, is whether the rule which I had the honor of proposing, shall be referred to the Judiciary Committee for consideration and report thereupon. The reasons assigned for the reference are twofold: first, that the act of Congress which the rule undertakes to carry out, is unconstitutional; and, secondly, assuming that it may be constitutional, that it is not applicable to Senators. Now, I ask Senators, who on this floor entertains any doubt on either of those questions? Is there any Senator who is not ready at this moment to vote on the question of the constitutionality of that act of Congress? The Senate in passing the act has already given its opinion upon its constitutionality. Is there any Senator who is not ready to vote at this moment on the ques-

tion whether or not that act of Congress is applicable to Senators and members of the House of Representatives? I doubt if there is any single Senator who needs any light on this question. I doubt if there is any one who has a particle of doubt upon it. There are Senators, I dare say, who have already made up their minds that the act is not constitutional, or that it is not applicable to members of this body; and there are other Senators who have made up their minds just the contrary; but I ask if there is any Senator who will confess any real doubt on the question. Some few may be one way, and others may be the other way. But whether one way or the other way, their minds are made up.

What, then, are we to gain by a reference to the Committee on the Judiciary? A committee of this body, according to familiar language, is in the nature of "eyes and ears." Its duty is to see and hear for the Senate, and to obtain information which may affect the opinion of Senators; but is it possible that any report of that committee, learned as it is, and justly entitled to confidence, will affect the opinion of a single Senator on this subject? I believe that every Senator now present is just at this moment as competent to decide on this rule as he will be when the committee has made its report. If the rule were one that entered into details, or if it were not perfectly simple, so that he who runs may read and understand it, then there might be occasion for a reference to a committee. There are matters which are proper for a committee; there are others on which the labors and report of a committee are essential. But this is not the case always. There are matters on which a committee is not needed; and permit me to say, this is one of them.

But even if the rule had something of doubt upon its face—which it has not—Senators cannot forget that it has already been amply discussed in this body. During the called session it underwent a protracted debate, which is spread over several columns of the Globe, and not a single objection has been started by learned Senators to-day which was not started then, and answered. It was then objected that the act of Congress was unconstitutional. It was also objected that the act was not applicable to Senators; and yet in the face of those objections, pressed with no small pertinacity, the oath was taken by the Presiding Officer, and it was administered by him to other Senators. Do Senators now propose to go back on their past conduct? Will they disparage or condemn what was then done? Are they going by their present conduct to declare that their Presiding Officer, who, in their presence, took that oath, and then administered it to Senators, went through a vain ceremony, superfluous at least, under the act of Congress, even if it were not unconstitutional? I think not.

There can be then no occasion for this reference. On the contrary, there is occasion for action. I believe that every moment that this Senate delays, or that it doubts on a question like this, is injurious to the best interests of the country. I cannot doubt that it belongs to us to set an example of patriotism and of alacrity in the support of the laws which we ourselves have enacted. How can we expect promptitude from others, if we ourselves hesitate? It is not here that dilatory propositions should be brought forward against the enforcement of an act of Congress passed to carry out the loyal sentiments of the people.

The cry from every quarter is for the "vigorous prosecution of the war." Senators are not soldiers in the field; but they have civic duties not less important than those of the field. But how can we expect soldiers to strike the enemy promptly in the field, if Senators do not strike disloyalists promptly, especially in the Senate. For weal or woe, we are an example to the country. Delay here will be an apology for delay elsewhere. Alacrity here will help quicken the pulses of the people everywhere; aye, sir, it will quicken the pulses of our generals and soldiers in camp.

Mr. CLARK. I do not propose to go into the discussion of the general merits of the question; but I want to call the attention of the Senate to the precise question now before the Senate, as I understand it.

I do not understand that the Senator from Delaware proposes to refer this rule with instructions to the Committee on the Judiciary. He proposes to strike out the rule entirely, and to insert a sub-

stitute. If then the rule be stricken out and the substitute adopted, the rule passes away from the Senate, and it is the substitute on which the Senate acts. The substitute is simply to direct the Judiciary Committee to inquire as to two questions? They are to inquire on those questions and report, and when they have made their report, be it the one way or the other, we shall have nothing before us. We shall have no rule upon which to act, even if their report is favorable to the adoption of the rule. The whole proceeding must be gone into *de novo*. The Senator from Massachusetts, or some other Senator, may then bring in the rule again. The adoption, therefore, of the substitute proposed by the Senator from Delaware, as I understand it, effectually kills the object of the Senator from Massachusetts. The proposition is not to refer the rule to the Committee on the Judiciary, but to refer a substitute directing them to inquire so and so. If we want to refer the rule, we must reject the substitute. The proposition is not to refer the whole.

Mr. BAYARD. It ought to be.

Mr. CLARK. The Senator says it ought to be. I am only calling the attention of the Senate to what it is. Perhaps the gentleman from Delaware [Mr. SAULSBURY] meant to refer the whole question, to refer the rule with instructions; but that is not his motion. It is to adopt a substitute and refer two questions to the committee. It seems to me, therefore, that we must vote down the substitute, whatever may be our opinions in regard to the rule.

And now, while I am up, I will say that I do not see any benefit to be derived from referring this rule, because, with all deference to the Senator from Delaware [Mr. BAYARD], he will be heard in the Senate, and the discussion will go on. Whatever may be the report of that committee, one way or the other—the committee may report *pro* or *con*—still the discussion must go on in the Senate afterwards. Can we gain anything in time? May we not as well have the discussion now as at any other time? We may be disposed to postpone it, or if the Senator from Delaware, [Mr. BAYARD], who is supposed to be affected by it, has any particular object to be stated to the Senate, there may be a reason for its reference; but I do not see any now.

Mr. BAYARD. Mr. President, I did not intend, and I do not now intend, to enter into any discussion of this question; though perhaps I am the only Senator who will be personally affected at all by the operation of the rule. Some remarks have been made, however, that seem to be founded in an oversight of what has occurred, and therefore I wish the facts to be placed rightly before the Senate.

The proposition, as I understand it, is to refer the rule, together with the proposed substitute, to the Committee on the Judiciary. Is not that the ordinary course of legislative action on grave questions? Senators may choose to assume that these matters are very clear; that all the Senate have considered both these questions and made up their minds about them, and that therefore it would be idle to have a reference of the subject. Sir, that is an extraordinary mode of objection on the facts connected with this matter.

The law referred to was passed on the 2d of July, 1862. It went into effect on that day. At the last session of the Senate of the United States, Mr. Field, of New Jersey, Mr. Wall, of New Jersey, and Mr. Arnold, of Rhode Island, all took their seats without reference to that law or the oath it prescribes, and held them, without a word from any Senator, or any objection in connection with it, until the end of their respective terms. At the organization of the Senate at the present Congress, Senators were admitted to their seats and sworn in without reference to it. The question was raised afterwards by the Senator from Massachusetts. So far from there being a five days' debate upon it, when that question was first raised I made a proposition to postpone it until the present session on account of what I considered to be the gravity of the questions involved, both of which I stated would have to be decided, declining to argue them then. I stated that that being a special session of the Senate, it could not necessarily be thoroughly considered and decided; that there were many new members who were elected but were not yet in attendance, who had the right of decision on the question just as much as those

who were in attendance and had formerly been members, and I thought, therefore, it would be wiser and better to wait until the present session of the Senate to decide the question. On the succeeding day only—I think the succeeding day certainly, and no more—the debate was cut short by a proposition under which the motion for the rule was withdrawn and the voluntary action of Senators who were present taken. I was not present. I only saw the report in reference to it. By voluntary action they took the oath. That they had the undoubted right to do. But the question whether it was obligatory, whether, in other words, it included members of Congress, and whether, if it included them, it was within the constitutional power of Congress to pass such a law, was certainly not passed upon by the Senate.

Considering the action of the Senate, therefore, in suffering three distinct members of this body to hold their seats for long periods of time, who were within the law as much as any member can be now; considering also its action in not making such a question during the whole of the last session of the Senate, and waiving as it did, by voluntary agreement, any decision of the question at the commencement of the called session, I took it for granted that the Senate thought the question had better be decided at some subsequent time, if it became necessary in consequence of any member declining to take the oath. That is the state of the facts. The opinions of gentlemen may be made up upon it, but it cannot be that every member of this body, especially the Senators who have taken their seats only at this term, have made up their minds on questions like this. My own conviction is made up, and it is because it is made up, and made up as the result of investigation, that I am unwilling, without a decision of the Senate, voluntarily to take that oath.

I am perfectly aware that there are many men—some from partisan feeling, some from personal distrust, or what you will—who will suppose that it is want of patriotism in me, and that I will not take that oath because my acts and conduct would not permit me to take it. Sir, I should be sorry that any respectable man should so judge of me. I think my past life and conduct ought to be a sufficient answer to that. But I can say without hesitation that, barring my views of the dangerous unconstitutionality of the law, I could take that oath without a moment's hesitation as readily as any member of this body. That is all I have to say or mean to say in reference to that part of the subject.

The Senate can decide for themselves whether they choose to refer this matter, which is the ordinary course of action on questions of this kind, or whether they choose to precipitate action by requiring the debate to go on without any reference to or report from a committee on questions, one of which is certainly now raised for the first time, and the other was raised and decided in terms by the Senate over sixty years ago, against the law of 1862. In terms, the Senate, in the case of Blount's impeachment, on a resolution, propounded by those who favored the sustaining of the impeachment, that a Senator is a civil officer under the United States, decided that he was not, by a vote of 14 to 11.

Mr. McDUGALL. I trust this matter may be referred to the Committee on the Judiciary; for I know of no more grave matter that can come before the Senate than the question which is now presented to us. It has been discussed, it is true, before; but while I have what I might call my own convictions, I am prepared to be advised by the counsel of the Senate. I can see no reason why the Senate should refuse to refer this matter that it may be presented in the most grave form by a committee reporting their opinion. I have an opinion myself upon it, and my opinion almost amounts to a conviction; but I should like very well to have a report of the Committee on the Judiciary on this subject, for they might correct the opinion I have which I think amounts to conviction. It is my opinion that a Senator of the United States is a constitutional officer, and that in occupying his place, he is not subject to anything except what the Constitution dictates. That is my opinion, and it is very near my conviction; but I am prepared to be informed by the Judiciary Committee. It is a subject so grave that it should not be determined except upon good advice, and I think we had better be counselors about grave

matters than dispose of things at a jump. I trust it may be referred.

Mr. POWELL. It is not my purpose at this time to enter into a discussion of the merits of this case. It strikes me, however, as eminently proper that this question should be referred to the Committee on the Judiciary, and receive its careful and elaborate investigation. The Senator from Massachusetts has indicated that every Senator on this floor has formed an opinion on the subject. That may be so. Of that matter I am not advised. I have looked a little into this question, and I am as clearly of the opinion that the law of 1862, referred to by the Senator in this proposed rule, does not embrace or include a Senator of the United States, as I ever was of the truth of any legal proposition. I am fully aware, however, that other Senators have not investigated it, for I have talked with some Senators about it, and indicated some authorities that I have read, and they told me they had not seen them.

But, sir, even if Senators have formed their opinions, that is no reason why there should not be an elaborate investigation on a subject of such grave importance as this rule proposed by the Senator from Massachusetts. Senators, like other men, often form opinions without minute scrutiny, without that elaborate investigation that entitles their opinions to much weight. I take the liberty now of saying, with all due deference to the Senator from Massachusetts and others who stated otherwise, that at the proper time I believe I can make it appear to any and every lawyer in this Chamber that the law of 1862 does not embrace a Senator. I think it will be made to appear from the very language of the Constitution itself, supported by the authority of the most learned commentaries upon that instrument. I think I could be able to show that it has been solemnly adjudicated by this Senate that a civil officer of the Government of the United States does not include a Senator. However, I shall not enter into that discussion now.

Mr. SUMNER. Will the Senator allow me to interrupt him at that point for one moment?

Mr. POWELL. Certainly.

Mr. SUMNER. He says it has been solemnly adjudged by this body that the term "civil officer" does not include a Senator. Allow me to suggest to the Senator that the judgment of this body, so far as it bears on that question at all, was simply that a Senator is not a civil officer for purposes of impeachment; that is all. There was no judgment that a Senator was not a civil officer.

Mr. POWELL. With due deference to the Senator, I beg to differ from him. I think otherwise. I am not now discussing the question. I am merely indicating what I believe on full investigation will appear. I think in the case of Blount, by special plea, the question was directly made, and upon rejoinder of that issue the Senate did so hold. But I shall not now discuss it. At the proper time, if this case shall go before the Committee on the Judiciary, when their report shall come in, I shall undertake to show that the Senator is mistaken about the issue there tried, and the finding of this body in its judicial capacity.

Sir, I do hope that this matter may be referred, that it may be investigated, and that the Senate may decide it upon the most elaborate investigation and consideration. It is one of grave and great importance. Many of us held that this law, when passed, was unconstitutional. I was of that number. Many of us hold now that it does not embrace a Senator. The rule proposed by the Senator from Massachusetts directs the execution of that law on Senators. If it does not embrace them, that should not be done.

I hope that this whole subject, the rule proposed of the Senator from Massachusetts and the substitute offered by the Senator from Delaware, may be referred to the Committee on the Judiciary. I hope the Senator from Delaware will so modify his motion as to carry the whole subject to that committee. Let them make their report, and then let the Senate decide the case.

Mr. SAULSBURY. Will my friend allow me a moment?

Mr. POWELL. Certainly.

Mr. SAULSBURY. I see that my motion is misapprehended. I thought I stated it distinctly. I offered that amendment by way of substitute to this order, and moved that the whole matter, by which I meant the order and the amendment, be

referred to the Committee on the Judiciary, that they might report to the body upon the whole subject. I did not wish a vote in the Senate now upon the adoption of the substitute, but I proposed it as a matter for the consideration of the Committee on the Judiciary, together with the original order as presented by the Senator from Massachusetts; and I wish it to be put in that form.

The PRESIDENT *pro tempore*. The Senator modifies his motion; and the question now is on his motion that the original resolution, or proposed amendment to the Senate rules, together with an amendment to that proposition moved by him, be referred to the Committee on the Judiciary. That motion prevailing would carry the whole subject, the original proposition and the proposed amendment, to the Judiciary Committee; otherwise the adoption of the amendment for the original proposition would set aside, if carried, the original proposition, and leave the naked question of instruction to the Judiciary Committee to inquire into the constitutionality of the act of July 2, 1862; and if constitutional, whether it applied to Senators as civil officers of the Government. The question now is on referring the whole subject, the original resolution or proposed amendment to the rules, together with the amendment offered by the Senator from Delaware, to the Committee on the Judiciary. That is now the question—it is a question of reference.

Mr. POWELL. I was about to observe that I could see no possible detriment to the public interest to arise from referring this question and having it properly investigated by the Judiciary Committee and adjudicated by this Senate. The Senator from Delaware, I believe, is the only Senator to whom this rule would apply, who has not taken the oath prescribed by the law of 1862. As that distinguished Senator himself has stated, there were three or four Senators who filled seats in this Chamber for a long time without having taken it. The Senator himself has been acting as a Senator without taking it.

The Senator from Massachusetts seems to be in hot haste about this matter. I can see no necessity for that. To my mind one of the gravest and most serious subjects that can be brought before this Senate is, whether or not we shall observe the Constitution, the fundamental law of the land. That certainly is a matter of the gravest import. It may turn out, when this question shall be fully elaborated, that the Senator from Massachusetts may yield his opinions. It may possibly turn out, notwithstanding, I admit, that my convictions are very firm and very decided, that on a full and elaborate argument of the question, I may be induced to change my opinions. There can be no possible detriment to the public service in having this question referred to the Judiciary Committee, and in having a full and elaborate consideration of it. That being done, the Senator from Delaware, if the decision was against his views, no doubt would subscribe to that oath. About that, however, I have no personal knowledge except what he said himself a moment ago. I believe he would. I do hope, therefore, that this question may be referred, that it may be calmly and dispassionately considered and adjudicated by this body.

Mr. TEN EYCK. Mr. President, I do not mean to enter at all into the discussion of the merits of the question before us. The Senator from Kentucky states that it is a grave question, and it is important for the public good that it should be referred to the Judiciary Committee. I can see no earthly good whatever to arise from such a reference. When the law requiring this oath to be taken was referred to the Judiciary Committee, that committee was composed of the identical members of which it is now composed, without a single exception, and the very question in relation to its applicability to members of Congress was raised before that committee. Now it is proposed to refer the question, so far as regards the proposition submitted by the Senator from Massachusetts in the first instance, back to that committee—for what purpose? They may re-examine it, and they may perhaps change their minds upon the subject. I think the committee were divided upon that point. I doubt not that our opinions remain the same to-day as they were two years ago; and it is admitted on all hands that let that report be as it may, when it comes back

before this body it must lead to an extended discussion.

Now, there is a possibility that great public harm may be done by postponing questions of this kind any longer. It may be that loyal men are required to take this oath. No harm can arise from that. If disloyal men are not required to take the oath, then great injury and detriment may accrue to the public service. It does not strike my mind with any force at all, that because certain Senators have taken seats on this floor, and have acted in this body, and have retired with the expiration of their terms of service without taking the oath, that therefore no man in time to come is to be required to take this oath of allegiance to the Government, which he may pretend to serve outwardly, but which he is the enemy of in his heart. My remarks, however, are intended to apply to the utility of postponing this matter or referring it to a committee, which has already adjudged the case and decided upon it, it being distinctly and directly brought up before them.

Mr. POWELL. The Senator from New Jersey thinks this question should not be referred to the Committee on the Judiciary, because he says that committee is composed of the same individuals now as it was during the last session of Congress. That I believe is true. He says they investigated and decided this whole question. With deference to my friend from New Jersey, I think he is slightly mistaken. I do not believe the question was ever mooted in the Judiciary Committee as to whether, in respect to this oath, it embraced a Senator or not. The question as to whether it was constitutional or not was. That is my recollection. However, perhaps it is wrong for me to say what occurred in committee.

But, sir, even if the Judiciary Committee had considered and settled the whole matter at the last session, is there any propriety in asking that committee to reconsider their action? I believe it is a common practice for the most august judicial tribunals to reconsider cases; and very often after they have solemnly adjudicated a case, I have known them, upon a petition for a rehearing, to reconsider it, and reverse their former opinion. That is common with all the superior and inferior courts of this country. I do not believe that the point as to whether that law applied to or embraced Senators was under discussion in that committee. In that, however, I may be mistaken. But whether it was or not, there certainly can be no impropriety in asking the committee to reconsider the case. If they adhere to and affirm the opinion they made heretofore on both these points—for there are but two in the rule—that will perhaps satisfy the Senate that they were correct before; but whether they reverse or affirm their decision heretofore made, it will be left then to the Senate to decide the question. I really do not see, therefore, any force in the position taken by my friend from New Jersey. Even if the committee had settled both points, there could be no impropriety in asking them to reconsider their decision, and again giving us their opinion on this subject. I say that after one of the committees of this body have patiently investigated a case and have made a report referring to all the authorities *pro* and *con.*, it very much aids the Senate in coming to a conclusion; it at least puts them on the line of investigation, and facilitates them in that line; and the opinions of the committee have great weight and force with this body. Certainly in a grave matter of this kind we have a right to the benefit of the opinion of the committee, and have a right to ask them to reconsider the case if they have heretofore decided it.

Mr. SUMNER. It seems to me that the discussion in which we have been engaged has had this advantage: it has shown the Senate precisely how little occasion there is for any reference of this proposition to a committee. I have listened, I believe, to all the arguments in favor of such a reference. Most of them I have already answered; but a new one has been adduced by the Senator from Kentucky, [Mr. POWELL.] I think it was also presented by the Senator from Delaware, [Mr. BAYARD.] to the effect that certain Senators have been allowed to occupy their seats and continue in the discharge of their duties without taking and subscribing this oath. It is true that there has been such remissness on the part of the Senate; but to my mind this is a reason for immediate action. We must see to it that no such re-

missness occurs again. The incident tells in favor of action and not of postponement.

The Senator says that some of us—and he alludes to me particularly—are in "hot haste." Sir, he has a strange idea of "hot haste." This proposition was brought forward on the 5th day of March last, nine months ago, and now, when I ask the Senate to vote upon it, I am met by the objection that I am in "hot haste." Well, sir, I am glad to be in "hot haste" when the good cause is to be served against disloyalty in any form. The Senator cannot hurt me by any such charge. To my mind—and I speak plainly—the Senate is justly obnoxious to the charge of delay in this matter. It has shown no just sense of its responsibility. It has been inattentive and tardy. It only remains that, by prompt action and without any parliamentary postponements, it should do what it can to remedy the past remissness.

But to come to the point of law, I believe it all resolves itself into one single objection: it is, that a Senator is not a "civil officer" under the Constitution of the United States, and therefore is not embraced by the language of this act of Congress. Change it, disguise it as much as you please, the question always comes round to this single point. Now, I ask again, who is there that at this moment entertains any doubt on this question? The Senator from Kentucky has made up his mind that a Senator is not a "civil officer." I suppose he regards him as a "military officer," or a "naval officer," for those are the other classes. He is entirely satisfied that he is not a "civil officer." I do not know if there is another Senator in this body who is ready to avow this opinion. He is alone or in a very small minority, while I am sure there is not a single Senator whose opinion on the question will be altered by any postponement of the debate.

Mr. McDUGALL. Will the Senator from Massachusetts allow me to make one remark?

Mr. SUMNER. Certainly.

Mr. McDUGALL. The term "civil officer" was not intended to define a Senator of the United States.

Mr. SUMNER. I understand the Senator from California to say that the term "civil officer" was not intended to define a Senator of the United States. But that is not the question. The question is, whether the words in the statute were intended to embrace Senators.

Mr. SHERMAN. With the leave of my friend, I will say there is no such word as "civil officer" in the law. The language of the law is much broader than even the Senator has supposed:

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval department of the public service," &c.

Mr. SUMNER. I was aware of that.

Mr. McDUGALL. And therefore I say it was not intended to define a Senator of the United States, who holds his office under the Constitution.

Mr. SUMNER. That is the very question which the Senate is to pass upon; and now we have two Senators who are ready to vote that a Senator is not included under the term "civil department of Government." We have two Senators who will record themselves in favor of this paradoxical opinion. I do not know that there are not others. I think that every Senator, however, has made up his mind on the question, and does not need any assistance from a committee of this body. Think of it, sir, a committee—a learned committee—a grave committee—to sit on the question whether a Senator belongs to the "civil," the "military," or the "naval" department. Do Senators intend a jest?

But we are constantly carried back to the conclusion of the Senate on a former occasion—long ago. It is said that the Senate has decided this question. How? At the close of the last century a member of this body was impeached. An objection was raised to the impeachment, that, being a Senator, he was not included in the terms of the Constitution authorizing impeachment. At that time the deliberations of this body, as is well known, were in secret; the body itself was small; and we have no means of knowing what was the debate on the question; but we do know from the record what was the vote. It was by a vote of 14 against 11—being a very small majority in a very small Senate—that this body decided that

one of its own number was not, under the words of the Constitution, liable to be impeached by an associate branch of the Legislature. That was all that was then decided. And now he good enough to observe how this is treated by the distinguished commentator on the Constitution, Mr. Justice Story. In his Commentaries he says:

"This decision, upon which the Senate itself was greatly divided, seems not to have been quite satisfactory, as may be gathered, to the minds of some learned commentators."

And he refers in his note to Tucker and Rawle, both of whom, it will be remembered, were contemporaries of the decision. And now it is that this little precedent, at an early period, in a small Senate, adopted by a small majority, declaring that a member of this body is not liable to impeachment, is brought forward to control the interpretation of an act of Congress which distinctly declares that every member of the "civil" department of the Government shall take this oath. I think Senators are as competent to determine now whether this precedent is applicable, as they will be after a debate for a fortnight on the report of a committee. But this weak and inapplicable precedent is the whole stock of Senators who seek delay. Admit that the precedent is valid against the impeachment of a Senator, it is absurd to stretch it beyond the case out of which it rose. Especially is it absurd to say that a Senator does not belong to the "civil" department of Government. Pray, sir, if not to this department, to what department does he belong? And yet this is the question which it is proposed to hand over to the incubation of a committee.

Mr. McDUGALL. Before this matter is finally determined, I shall beg leave to present my opinions on the subject, and I trust that I shall have the courtesy of the Senate for that purpose. The conclusion of this question at once seems to be urged by the Senator from Massachusetts, and by the chairman of the Judiciary Committee. I differ with them in opinion on the subject. They may change my opinions; but it is certainly a proper subject for grave discussion. I should like to have an opportunity to present my opinions, and to have them correct when presented; and I hope that the question will not be urged on the present consideration of the Senate. I do not care particularly about a reference to a committee, but I should like to have an opportunity to present my opinions in careful form.

Mr. DOOLITTLE. If the Senator will give way I will move an executive session. It is necessary, as I understand, for some messages to be referred.

Mr. SUMNER and Mr. TRUMBULL. Oh, no; there is time enough for that.

Mr. McDUGALL. If the Senator from Wisconsin will allow me, I will move that the present subject be laid on the table. It can be resumed hereafter.

The PRESIDENT *pro tempore*. The Senator from California moves that the original proposition and the amendment lie on the table.

Mr. SUMNER and Mr. TRUMBULL. I hope not.

Mr. McDUGALL. I call for the yeas and nays on the motion.

The yeas and nays were not ordered.

The motion was not agreed to.

Mr. DOOLITTLE. I now renew the motion to go into executive session, as I understand it is important that some references should be made.

Mr. SUMNER. Will the Senator be good enough to look at the clock? It is only twenty minutes after two o'clock.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves that the Senate now proceed to the consideration of executive business.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on referring the resolution, with the proposed amendment, to the Committee on the Judiciary.

Mr. POWELL. The Senator from Massachusetts and I were at issue as to what was said in the case of Blount. I will now read a part of the plea filed by Mr. Ingersoll and Mr. Dallas, who appeared as counsel for Blount:

"That proceedings by impeachment are provided and permitted by the Constitution of the United States only on charges of treason, bribery, or other high crimes and misdemeanors, alleged to have been committed by the President, Vice President, or any civil officer of the United States in the execution of their offices held under the United States, as appears by the fourth section of the second article,

and the seventh clause of the third section of the first article, and other articles and clauses contained in the Constitution of the United States. That although true it is, that he, the said William Blount, was a Senator of the United States from the State of Tennessee, at the several periods in the said articles of impeachment referred to, yet that he, the said William, is not now a Senator, and is not, nor was at the several periods so as aforesaid referred to, a civil officer of the United States, nor is he, the said William, in and by the said articles, charged with having committed any crime or misdemeanor in the execution of any civil office held under the United States, nor with any mal-conduct in a civil office, or abuse of any public trust in execution thereof.²²

That was the plea. There was a replication to that, and thereupon issue was joined, and upon that the Senate decided. It is clear, therefore, that the Senator was utterly mistaken about the issue in that case.

Mr. SUMNER. It is perfectly well understood that it was on a trial of impeachment; and I believe history records also that one objection to the proceeding by impeachment was, that this person being a Senator was liable to be judged by his own body; that the Constitution had provided a specific mode by which the offense of a Senator could be punished; that is, by expulsion from the body, so that the proceeding by impeachment was superfluous.

Mr. McDOUGALL. Mr. President, when the question of this oath was brought before the Senate originally I took occasion to say that there was no oath of allegiance to our flag, to our Constitution, and to our laws, that could be administered, which I was not ready to take. It was not required of me at the time to take this oath, the law having been passed after I had taken my place in the Senate; but I have never seen the time when I was unwilling to take any oath that swore allegiance to our Constitution or our laws. When, however, the law of 1862 was passed, I did not think, and I do not now think, that under it it can be demanded of a Senator to take the oath. I think it one of the simplest things in true constitutional law, that a person who is clothed with authority to come here to the Federal Senate, and who comes here and takes the oath as prescribed by the Constitution, has a right to his seat, and no other oath can be demanded from him. He may take another if he pleases.

So far as the Senator from Delaware is concerned, I think, as he has stated to-day, he has no objection to the form of the oath as a mere matter of affirmation, on his part, but he excepts to it technically; that is, that there is no right to demand it; and if there is any rule of law or any rule of logic, it cannot be demanded of him. His right to a seat here is governed absolutely by terms established not by us, but by our fathers. The Senate of the United States was not made by a legislative body. It was made by a constitutional body, a body established to organize a Government and lay down fundamental laws. Our business is simply legislation with administration. If I were requested to take such an oath I would take it with pleasure if it would do the country any good; but, as a Senator, clothed with my commission, and having the right to keep my place, I would not do it upon compulsion, if reasons were as plenty as blackberries. I should have been pleased if the Senator from Delaware had deemed it agreeable to take the oath, to which he says he has no exception; but he having been inclined otherwise, I do not doubt, and I feel, I know, that he has just the same right to his place here that I have, or any other Senator.

I regret that this matter should be a subject of discussion. I think there must be a disposition on the part of some persons to deny to the little State of Delaware its rights under the Constitution. There is a power in the Senate that may produce such results, and probably will. I do not know; but I would say to Senators who have that present power, be careful how you exercise it. There are such things as playing fantastic tricks before high heaven which, it is said, sometimes make the angels weep.

I warn those who have the power to exercise it gently. I do not know but what the time may have come, a time somewhat similar to that of Noah, when the fountains of the great deep were broken up, and the windows of heaven were opened. It may be so; this may be a time of intense revolution; but those who undertake revolutionizing must undertake the consequences.

The PRESIDENT *pro tempore*. Is the Senate

ready for the question on referring the whole subject to the Committee on the Judiciary?

Mr. SAULSBURY and Mr. McDOUGALL called for the yeas and nays, and they were ordered.

Mr. DOOLITTLE. If this whole question in the beginning, without any discussion, could have been referred silently to the committee to get their opinion on the question raised here, I should have preferred its reference; but a debate has arisen involving the merits of the question, and probably a considerable portion of the debate that is to occur upon it has already transpired. If it goes to the committee, and comes back again, we shall have the debate all over again. As we have got on pretty well in the debate, I hope we shall go on with it till the debate closes. I shall therefore vote against the reference, though I would have voted for the reference in case it could have gone to the committee in the morning.

The question being taken by yeas and nays, resulted—yeas 15, nays 26; as follows:

YEAS—Messrs. Buckalew, Collamer, Cowan, Davis, Foot, Harding, Harris, Henderson, Hendricks, Mc Dougall, Nesmith, Powell, Saulsbury, Sherman, and Wright—15.

NAYS—Messrs. Anthony, Brown, Clark, Conness, Dixon, Doolittle, Fessenden, Foster, Grimes, Hale, Harlan, Hicks, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomerooy, Ramsey, Sumner, Ten Eyck, Trumbull, Van Winkle, Willey, and Wilson—26.

So the Senate refused to refer the resolution to the Committee on the Judiciary, and the question recurred upon Mr. SAULSBURY's amendment.

Mr. SAULSBURY. I move that the further consideration of this subject be postponed until Tuesday next; and I will state simply what my object is. My colleague wishes to be heard before a decision is made upon this question; I know the fact; and there are other Senators, one of whom is unwell, who desire to address the Senate upon the subject. We have already heard that the Senator from California wishes to address the Senate. It was stated yesterday by the Senator from Wisconsin that it was very important that the Senate should proceed to the consideration of a certain matter—I believe a bill amending the conscription law. I propose that the further consideration of this subject be postponed until Tuesday next, in order to give my colleague an opportunity to be heard before the Senate. He certainly did not expect that the question would come up this morning, and in the shape in which it has been brought before the Senate. I think this is nothing unusual.

Mr. SUMNER. I hope it will not be postponed. I think every argument against a reference to the committee is equally strong against a postponement till Tuesday next. A Senator near me says, "Give the Senator a chance." Why, sir, every Senator in this body has had a chance for nine months. It is nine months since the chance began. We have not been in session very much of that time, but the Senate was in session at a called session for several days, and this is the second week of the present session. I see no occasion for a postponement. Every such proposition is in the nature of a dilatory motion, and I think the Senate owes it to itself to act promptly on a matter like this, with regard to which there can be no real question.

Mr. SAULSBURY. Mr. President, I cannot imagine the cause of the extreme anxiety which is manifested here for what is called prompt action in reference to this matter. I presume there is nobody who, in the heat and zeal of his patriotism, thinks the existence of this Government depends upon the immediate decision of this question. It is not probable, at least, that the institutions of the country will be overthrown, that the Constitution will be subverted, that the Union will be destroyed, that universal anarchy will ensue if the Senate does not proceed at once to act upon this matter.

Nothing will be gained, certainly, by persistence in this course of forcing on a decision this afternoon. The question will be debated, and more time will be saved perhaps by allowing Senators an opportunity to present their views in a connected and well digested form, than by forcing them into a debate thus hurriedly without giving them an opportunity so to arrange their argument as to confine it strictly to the matter before the Senate. I hope, therefore, the motion to postpone will prevail.

Mr. FESSENDEN. I voted against referring this resolution to the Committee on the Judiciary

for the reason that the matter had been once very thoroughly argued as I thought; all the considerations that could be presented again were once presented to the Senate; and Congress on full deliberation passed a law, with the approval of the President, which is upon the statute-book. I thought, therefore, that it was entirely unnecessary, and would only lead to a waste of time, to refer the question to the same committee to come back with the same views, having my opinion very definitely formed on the subject, and being ready to vote upon it when it should arrive at the proper stage for a vote.

This is a different question entirely. It is a mere question of postponement, and it is put upon such grounds that I do not feel myself at liberty to refuse it so far as I am individually concerned. It certainly is a very interesting question to the Senator from Delaware, [Mr. BAYARD.] His colleague states that he wishes to be heard before the Senate, that he is unwell, and is not quite ready; and that other gentlemen wish to be heard upon it. We have always acceded, unless in cases of very great emergency, to requests of that kind. It certainly is a question of great importance to the Senator from Delaware, because if he declines to take the oath there then comes the further question what course the Senate is to adopt, and that question becomes a very important one to him, because, as I understand the facts, he has already proceeded in the face of the law itself, which provides expressly that no payment shall be made to a Senator for his service until he has taken the oath.

More than all that; there is some excuse for the Senator. He says here himself that he took it for granted, as the Senate allowed other gentlemen to go through a whole session and to receive their compensation, and to go away without applying the oath to them, or requiring that they should take it, that the Senate perceived and had come to the decision in its own mind, unexpressed in any other way, that the law did not apply to Senators; and perhaps he was justified in coming to that conclusion.

Under these circumstances, with reference to a question so important to the individual as well as to the Senate and the country, for I accede to its importance, although I am not disposed myself to go over the whole ground again in regard to a matter which has been solemnly decided, if gentlemen on the other side are disposed to do so, I can see no impropriety in it; and I do not see how, without a violation of the ordinary course of proceeding in the Senate, we can refuse a delay of a day or two to the Senator if he wishes to be heard upon the question. I shall, therefore, vote for the postponement; and although I do not usually give the reasons for voting upon questions merely of postponement, yet, in consequence of the strong statement of the Senator from Massachusetts, that it is only delay which ought not to be granted, I have felt inclined to give the reasons for my differing from him.

Mr. SUMNER. It seems to me that there is a middle course which, perhaps, we can all unite upon. The Senator from Wisconsin has already suggested the importance of an executive session. There are papers, it is well known, now upon the table in executive session, which ought to be referred; and if there is no objection, I will make a motion for an executive session, leaving this as the pending business to be resumed on Monday. It will come up then, of course, on Monday. I think that, perhaps, would satisfy the idea of the Senator from Maine. My only objection to the postponement till Tuesday is that it is possible that the Senate may adjourn over from Tuesday till after the holidays, and that might be in the way of our getting a final decision on this question before the adjournment. I think the Senate ought not to leave for any holidays until it has decided this question. While I assent to the suggestion of the Senator from Maine, and certainly shall not stand in the way of any reasonable request for time, if any Senator desires it in any discussion in this body, yet I do think, on the other hand, with reference to the public interests, we ought to endeavor to have a decision at as early a day as possible. If there is no objection, I will now interpose a motion for an executive session. The PRESIDENT *pro tempore*. If no objection be made, the Chair will entertain that motion, and put the question.

Mr. DAVIS. I will make a single remark to facilitate the motion made by the Senator from Massachusetts. Gentlemen have said that this whole subject has been considered by the present Senate. That is a mistake in fact. There is some new material, and there are some able members of this body who have never yet had an opportunity of considering or discussing the question. The new members of the Senate who took their seats at the commencement of this Congress and at the last extra executive session, have not had the opportunity of debating or considering the question. I think they ought to have it.

The PRESIDENT *pro tempore*. It is moved that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

IN SENATE.

MONDAY, December 21, 1863.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Navy, transmitting, in answer to a resolution of the Senate of February 25, 1863, a copy of the record of the proceedings of a naval general court-martial, convened at the Boston navy-yard in January, 1863, in the case of Commander Charles Hunter, of the Navy; which was referred to the Committee on Naval Affairs.

PETITIONS AND MEMORIALS.

Mr. DIXON presented six petitions of bishops of the Protestant Episcopal Church in the United States, praying for such a modification of the enrollment act that clergymen and candidates for the ministry, engaged in clerical studies, shall be regarded as non-combatants, and employed as chaplains or in hospitals; or that a certain sum shall be levied upon every clergyman and candidate for the ministry liable to draft, unless he chooses to be enrolled; which were referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER presented a petition of citizens of Sanilac county, Michigan, praying for the establishment of a mail route from Stevens's Landing to Maple Valley in that county, and also for the establishment of post offices in Fremont and Maple Valley townships; which was referred to the Committee on Post Offices and Post Roads.

Mr. HARLAN presented a petition of citizens of Iowa, praying for the passage of an act emancipating all persons of African descent held to involuntary service or labor in the United States; which was ordered to lie on the table.

Mr. GRIMES presented a petition of citizens of Des Moines, and two petitions of citizens of Burlington, Iowa, praying for the establishment of a uniform ambulance and hospital system for the armies of the United States; which were referred to the Committee on Military Affairs and the Militia.

Mr. COWAN presented the petition of Charles F. Swallow and other hospital stewards of the United States Army general hospital at Chester, Pennsylvania, praying that their rank and grade may be raised to that of a first lieutenant of infantry; which was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Indiana. I ask leave to present a petition of all the commissioned officers of the first brigade in the regular Army, praying that tobacco rations may be issued to the soldiers. My fondness for tobacco is such that I may not be considered an impartial witness; but I am inclined to think that the prayer of the petition should be granted. I move that the petition be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. JOHNSON presented the memorial of F. B. Groff, of Maryland, praying that he be allowed payment of his account for subsisting recruits for the first regiment of Maryland volunteers; which was referred to the Committee on Claims.

Mr. WILLEY presented additional papers in support of the claim of J. O. Armes, praying compensation for property destroyed by United States

troops; which, with his papers already on file, were referred to the Committee on Claims.

Mr. MORRILL presented the petition of Samuel Pickard and others, citizens of Maine, praying that the surviving officers and soldiers of the war of 1812 and the Mexican war, who have been paid for only a part of the time since their services were rendered, may be allowed back pay up to the time their pensions commenced; which was referred to the Committee on Pensions.

Mr. VAN WINKLE presented a memorial of a committee of citizens of Parkersburg, West Virginia, and also a petition of citizens of the States of Ohio and West Virginia, praying that the city of Parkersburg may be made a port of entry; which were referred to the Committee on Commerce.

Mr. SUMNER. I ask leave to offer the petition of William W. Thayer, of Boston, praying that a pension may be granted to the son of the late Alexander Hichborn, who lost his life in the service of his country, and who was a contract surgeon. By our existing laws pensions are not allowed to contract surgeons, and this petition prays that one be allowed in this case. I ask that it be referred to the Committee on Pensions.

It was so referred.

Mr. MORGAN. I am requested to lay before the Senate a series of resolutions unanimously adopted at a mass meeting of the citizens of New York to promote volunteering, asking that the pay of the privates in the military service may be increased to twenty dollars a month, and approving of the call of the President for more volunteers. I ask that the resolutions be laid upon the table and printed.

The VICE PRESIDENT. The resolutions will lie on the table, and the motion to print will go to the Committee on Printing.

Mr. WILSON presented the petition of the bishop and assistant bishop of the Protestant Episcopal Church in Pennsylvania, praying for such a modification of the enrollment act as will provide that clergymen and candidates for the ministry may be regarded as non-combatants; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of J. M. Johnson and others, hospital stewards of the United States Army, praying for an increase of their rank and pay; which was referred to the Committee on Military Affairs and the Militia.

He also presented two petitions of soldiers, who volunteered and enlisted in the service of the United States for the period of nine months, praying that a bounty of twenty-five dollars may be given them; which were referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. COWAN, it was

Ordered, That the petition and other papers in relation to the claim of John C. Magill for payment for horses delivered to Shields's division of the United States Army, in May, 1862, be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. SUMNER, it was

Ordered, That the memorial of Henry P. Blanchard, praying compensation for services rendered as United States marshal of the consular court of the United States at Canton be taken from the files of the Senate and referred to the Committee on Foreign Relations.

On motion of Mr. SUMNER, it was

Ordered, That all memorials and other papers referring to the subject of French spoils of American commerce be taken from the files of the Senate and referred to the Committee on Foreign Relations.

REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print the memorial of the Wine Growers' Association of California, praying for a reduction of the tax on the production of native wines, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, who were instructed by a resolution of the Senate to inquire what number of copies of the President's message with the reports of the heads of Departments should be printed, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be printed for the use of the Senate five thousand additional copies of the President's message and the reports of the heads of Departments.

ARMY DESERTIONS TO REBELS.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to report to the Senate the names of all the officers, non-commissioned officers, (and privates, if any,) in the regular Army, who, between the 1st day of December, 1860, and the 1st day of December, 1863, left the service, either by resignation or desertion, stating which, to engage in the rebellion against the Government of the United States, giving the grade or rank of the officers, and also designating such (if any) as have been formally dismissed by the President.

NAVY DESERTIONS TO REBELS.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to report to the Senate the names of all the officers of the Navy and of the marine corps who, between the 1st day of December, 1860, and the 1st day of December, 1863, left the service, either by resignation or desertion, stating which, to engage in the rebellion against the Government of the United States, giving the grade or rank, and also designating such, if any, as have been formally dismissed by the President.

NOTICE OF A BILL.

Mr. WILSON gave notice of his intention to ask leave to introduce a bill making it illegal for a member of Congress to act as counsel in any case in which the United States is concerned.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 26) to amend an act to provide for the public instruction of youth in primary schools throughout the county of Washington, in the District of Columbia, without the limits of the cities of Washington and Georgetown, approved May 20, 1860; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILKINSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 7) authorizing the Secretary of the Interior to cause surveys, plans, and estimates to be made for the purpose of improving the drainage and sewerage of the city of Washington, and supplying the Insane Asylum with Potomac water; which was read twice by its title, and referred to the Committee on the District of Columbia.

OATH OF OFFICE.

The VICE PRESIDENT. The unfinished business of the last sitting, which now comes up, and which is also the subject-matter before the Senate after the expiration of the morning hour, is the following resolution, submitted by the Senator from Massachusetts, [Mr. SUMNER,] amending the rules of the Senate:

Resolved, That the following be added to the rules of the Senate: "The oath or affirmation prescribed by act of Congress of July 2, 1862, to be taken and subscribed before entering upon the duties of office, shall be taken and subscribed by every Senator, in open Senate, before entering upon his duties. It shall also be taken and subscribed in the same way by the Secretary of the Senate; but the other officers of the Senate may take and subscribe it in the office of the Secretary."

The question before the Senate is on agreeing to the amendment proposed by the Senator from Delaware [Mr. SAULSBURY] to strike out all after the word "resolved," and in lieu thereof to insert:

That the Committee on the Judiciary be instructed to inquire whether Senators and Representatives in Congress are included within the provisions of the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, and whether the said act is in accordance or in conflict with the Constitution of the United States.

Mr. SAULSBURY. Mr. President, the question now before the Senate is not upon the adoption either of the rule or of the amendment, but on the motion which I made that the further consideration of the whole subject be postponed until Tuesday next. That was the question pending at the time the Senate adjourned on Friday.

The VICE PRESIDENT. The Senator is correct. The present occupant was not occupying the chair at that time. The question is on postponing the further consideration of this subject until Tuesday.

Mr. SUMNER. I hope not.

Mr. BAYARD. I wish to make a few brief remarks to the Senate, to explain my own position in reference to this subject, before the vote is taken on that motion. It is my desire, whenever the

question comes up for the decision of the Senate, to express my views fully, and to explain the grounds on which I consider this law unconstitutional. I believe I am the only member of the Senate who has not taken the new oath, as it is called. The usual oath was administered to me when I took my seat in the Senate at its last session. I wish to recall the recollection of Senators to the facts of this case, that they may then determine whether they consider it right and proper that I should be forced immediately to defend the position which I have assumed, (and, as it is one which I assume alone, it is one of responsibility,) or whether they will give me some further time for preparation for the argument that I desire to submit to the Senate.

The facts are these: the bill prescribing this oath for officers of the United States came from the House of Representatives in the month of June, 1862. Without noticing all the proceedings, I will state that I think it came on the 6th of June and was reported back from the Judiciary Committee on the 10th of June, and it was taken up in a few days afterwards, and, during the morning hour, taken up on several occasions. In the short discussions which took place in reference to the bill, the honorable Senator from Kentucky [Mr. Davis] opposed it from its first introduction to the Senate, and my colleague made a suggestion that clearly the President of the United States ought to be excepted. To that suggestion the chairman of the Committee on the Judiciary yielded. But it was also pressed by the honorable Senator from Kentucky that Senators and Representatives could not within the Constitution have any other oath propounded to them than an oath to support that Constitution. That was his position. When the bill came to its discussion, before the vote of the Senate was taken on its first passage here, the honorable Senator from Illinois, the chairman of the Committee on the Judiciary, as I stated, yielding to the suggestion of my colleague, proposed, himself, (though the bill had then passed without argument or discussion to its third reading,) a motion for a rehearing, and moved an amendment excepting the President of the United States, not in words, but excepting such officers for whom the form of oath was prescribed in the Constitution. That was his doctrine. The honorable Senator from Kentucky, I think, I am almost sure—at all events a Senator moved to amend that amendment by excepting also members of Congress. The debate went on upon that ground. No reason was assigned except that the act would be unconstitutional if it included members of Congress. After a discussion, in which the honorable Senator from Illinois contended that it was not unconstitutional, and in which my colleague, the honorable Senator from Kentucky, and the honorable Senator from Virginia, [Mr. CARLILE,] argued against the constitutionality of such legislation, the vote of the Senate was taken, and there could be no other inference drawn from that decision than that they considered the bill unconstitutional if members of Congress were included in it, because by a vote of 20 to 18 they did amend it by excepting members of Congress from the operation of the law, and that was after discussion.

The mode in which the bill then progressed was this: there were several other amendments offered by other Senators—I forget what number; I think four or five; nor can I recall what the character of those amendments was which were adopted by the Senate. I was not present at the time the vote was taken on the amendment of the honorable Senator from Kentucky, which prevailed, and with which the Senate passed the bill, and I did not vote upon it; I was not present at the debate; but the bill passed in that shape. When it went to the House of Representatives, the House rejected all the amendments of the Senate, and asked for a committee of conference. The Senate insisted on their amendments, and authorized a committee of conference to be appointed by the Chair. The Chair appointed the honorable Senator from New York, (Mr. King,) not now a member of the Senate, the chairman of the Committee on the Judiciary, the honorable Senator from Illinois, [Mr. TRUMBULL,] and a third Senator whose name does not appear to the report, (and I have been unable to find it,) who dissented from the report. That committee met the committee of the House, and I think about the middle of June, the 15th or 16th,

the committee of conference reported back that the committee of the House agreed to recede from their disagreement to all the amendments of the Senate except one, and that one they agreed to modify by excepting the President of the United States, but throwing out the exception of members of Congress. That was the report that came back to us.

Thus the views of the honorable Senator from Illinois were certainly carried out in that report. The question, though, which came before the Senate was simply the question of agreeing to the report of the committee of conference; and, as you well know, our practice requires that it must be rejected as a whole or must be accepted as a whole. One of the honorable Senators whom I have now in my eye objected to that practice and usage of the Senate as not being parliamentary. I think he was right. I think it would be wiser and better if the Senate could adopt some of the recommendations of a conference committee on different propositions which are distinct in themselves, and reject others; but such had not been its practice. The honorable Senator made no motion, though he made a somewhat long argument, and a very strong one, in favor of the position he assumed in reference to the true character of parliamentary law. Under this vote on acceding to the report of the committee, the Senate did accede to the report, and so the bill became a law.

Now, sir, the second question which is involved here was not before Congress at all. I have a right to assume that at least this is a gravely doubtful constitutional question, when, on the argument of the question, this body decided against the inclusion of members of Congress—the very body that subsequently agreed to the law, in the mode in which I have stated, only by agreeing to the report of the committee of conference in order to save some amendments. That would be perfectly consistent with the fact that, having previously decided that members of Congress could not be constitutionally included in the law, it would make no difference if they got their other amendments in by agreeing to that report, because they would be excepted by the operation of the Constitution. That would be but a fair inference. I drew that inference. As I tell you, I was not present at the debate, but I read it.

After this law was passed, four members of the Senate, who were here at the last session, were elected. It went into effect at once. Three of those four members held out during the terms for which they were appointed, and acted as Senators, just as I have been acting since my reelection, under the ordinary oath. The fourth—I think I am not mistaken—the honorable Senator from Illinois that is not now in his seat, [Mr. RICHARDSON,] also acted under the ordinary oath, for no other oath was administered during that session by the body which passed the law. At the special session of the Senate, I think, the honorable Senator from Illinois, now absent, was not present, and I presume that he and I alone have not taken the oath. What his action would be, whether he would take it under protest, or whether he would desire first the decision of the Senate, I have no means of knowledge, for I have had no communication with him since the Senate adjourned at the former session.

Under these circumstances, sir, the honorable Senator from Massachusetts, for the first time, brought up the question of an order of the Senate after all the new members had been sworn in. That order, I supposed, would bring up the decision of the question. I thought it unwise to decide it with a Senate which then had but about thirty-seven members present, and I suggested a postponement, but I made no motion. Finding that the debate was going on, I retired for the purpose of consulting those works which I thought necessary, and making that preparation to submit my views which I intended to do, if it was the pleasure of the Senate then to persist in the determination of the question. The next day, or certainly if not the next day the next day but one, under some sort of voluntary arrangement honorable Senators, under protest, took this oath, and the motion was withdrawn. Of course I had no right to consider it in any other mode than the determination of the Senate that the action was purely voluntary. If the motion had been suffered to remain until every Senator had taken the oath

voluntarily, I should then have understood it was the intention again to raise the question at this session; but it was withdrawn, not on any vote of the Senate, but by a kind of understanding to which I was no party, not being present when it took place.

The consequence of this was that I drew the conclusion from all these facts that that was the determination at which the Senate had arrived, that it would be left to my own option. During the present session no motion was made until Thursday last. I was not then in the city. The order was then introduced, and I came up on Thursday evening. I had not been well, and had not attended in my place in the Senate. I came up to the Senate on Friday, and the motion was pressed then; a reference of it was refused. The reason why I desired a reference was, that it was my determination not to trouble the Senate further if the Judiciary Committee, when it was referred to them, excepting, of course, my honorable friend from Kentucky, [Mr. POWELL,] whose opinions I knew, should be unanimous in their decision that the law was constitutional and obligatory. If, on the contrary, there were divided opinions in the committee, it would then come properly before the Senate on the decision of a constitutional question of the gravest character.

Under these circumstances, sir, of course I must be prepared to present my views for the course which I have taken of refusing, or declining, if you please, to take this oath, whenever it may be the pleasure of the Senate that it shall be done; and I say to you, with entire frankness and sincerity, that if the motion that was made at the called session of the Senate had been suffered to remain, and had not been withdrawn, I should, in the vacation, during the recess of the Senate, have prepared myself for the argument. I did not do so, because the view I took of it was that it was left to voluntary action. But, as the question is now brought up, and the Senate seem to be determined to have it decided, I must leave it to them to say whether, on such a question, which has been but partially debated in the body, and in which the only direct vote taken was against the constitutionality of the law by the very body that adopted it, I shall have an opportunity for preparation. If it is the pleasure of the Senate that I must say what I have to say, or make my exposition of my views here, to-morrow or the next day, of course I shall be bound by their decision, whether I be prepared or not. I have thought of this question; I have read sufficiently to make up my own mind; but every honorable member will understand that on an argument of a question of this kind, authorities must be referred to, facts must be collected, in order to present the subject in such a manner as will conduce to impress the body.

Now, sir, I leave it to the decision of the Senate altogether. I have no personal motive whatever for delay in this proceeding. On the contrary, for myself, individually, I would a great deal rather (as I find now it is the sense of the Senate to make the determination) it were made at an early day; but I do want to be heard on full preparation, I admit. If the Senate, after what I have stated to them, deem that the time proposed is sufficient, since this motion was brought in on Thursday, and that it is my duty to be ready at once to express my views, of course I must obey their mandate, and go on at once, though my argument may be more imperfect than I could desire to make it; though I may be obliged to leave out some references which I should wish to make. I am in the hands of the Senate in that respect. I leave the matter entirely to the decision of the Senate, with the statement I have made; but it does seem to me that it cannot be assumed, as I think it was assumed in the debate of Friday, that the Senate has made up its mind on this question. There are many new Senators elected. In the old body there was serious division of opinion on this very question, and when the direct question was up, a majority were against the measure so far as they voted. The members who have become members of the Senate for the first time since, of course cannot be supposed to be acquainted with this question, or to have investigated it so as to give to such a constitutional question a proper decision; yet there can be no doubt that the Senate is the proper tribunal in this case, in reference to its own members, judicially

to determine whether the law is valid, obligatory, and constitutional, or not. I do not doubt for a moment that that decision will be obligatory upon me or upon any other member; and although I consider myself just as fully a Senator now as any member of this body, still, in deference to the decision of the Senate, I should feel that I had but one alternative—either to obey their order and take the oath, or to relinquish the seat that I hold here. What course I shall take is of course a matter for subsequent determination; and it would be unwise and improper, in my judgment, for me now to indicate or state what will be my action after the Senate shall have arrived at a decision. I leave the matter of the disposition of this question entirely to the sense and judgment of the Senate. It is a grave question, which involves not my rights alone, but the rights of those who may subsequently come to this body who may entertain opinions similar to my own.

Mr. SUMNER. Mr. President, I suppose the remarks which the Senator from Delaware has now made may be considered as foreshadowing the speech which he desires to make hereafter. Now, if I have been able to understand those remarks, they come under two heads: first, objections which may be called in the nature of objections of fact, referring to the origin of this act of Congress; and secondly, objections of law.

But it seems to me that the objections of fact which the Senator has made, so far as they may be regarded as shedding any light upon the origin of the statute in question, might properly be brought forward if there were any question of legislation, as, for instance, if it were proposed to introduce a new statute to amend or repeal the old one; but that they cannot have any weight when the question is whether the Senate shall obey an existing statute. I therefore think the Senator's objections of fact, so far as they have been developed, are not entitled to any weight.

Then what are his objections of law? Why, sir, precisely what this Senate discussed now nearly a year ago, and what it discussed on Friday last—nothing new, nothing different. And yet the Senator asks us to postpone the consideration of this question, in order to give him an opportunity of discoursing at length. Now, since there is nothing of fact to which he has referred which is justly pertinent to the existing question, and since there is nothing of law which is not already familiar to the Senate, I submit that there is really no occasion for any postponement, and that, considering the character of the question, and the long time that it has been before this body, we ought to proceed with its consideration at once, and to come to a vote.

Mr. BAYARD. Mr. President, the honorable Senator from Massachusetts misapprehends entirely the object of my statement. I do desire a postponement of this question till I can have further time to prepare for the argument. I suppose the honorable Senator will perfectly well understand that a man may have investigated a question fairly and fully, and yet when he is to argue it and present his views in a matter which involves his action in contradiction to the majority of the body of which he is a member, he feels that there is a grave responsibility imposed on him; and it is not an unreasonable desire on his part to wish that a postponement should take place for the purpose of preparing for that argument, and for that purpose alone. I have no more desire to hold my seat in the Senate after the decision of this question, without taking that oath, than the Senator from Massachusetts can have; but I have my conscientious convictions.

I have made a statement of the facts, not with a view that they would prevent the law from being operative, but to show the course of legislation which led me to believe that this Senate had not arrived at any final conclusion in reference to the constitutionality of the law in question, or that, if they had, the conclusion was adverse to its constitutionality. That was the object of the statement—no more. As to the other two points, the points of law which are involved in the question of the obligatory character of this law upon members of Congress, one of them was debated cursorily, and only cursorily, the Senator from Massachusetts never having taken any part in that debate so far as I have been able to trace, and no other Senator in favor of its constitutionality, ex-

cept the honorable Senator from Illinois; a vote was taken, and that vote decided against its constitutionality. Subsequently there was simply a vote on agreeing to the report of the committee of conference which embodied five or six amendments, most of which by the report of the committee were agreed to, and the Senate concurred in the report of the committee of conference.

Mr. FESSENDEN. The Senator will allow me to ask him a question. The pending motion is to postpone till to-morrow. Will that be satisfactory to the Senator from Delaware?

Mr. BAYARD. I shall not be ready to-morrow; and I thought my statement would have satisfied the Senate why I could not be ready to-morrow.

But a few words more: I do not wish to detain the Senate. The honorable Senator from Massachusetts is certainly under a misapprehension in supposing that these questions are familiar to the Senate. Most certainly, in the former discussion, when the bill was before the Senate anterior to its passage, no allusion was made to the second question, whether members of Congress were civil officers within the contemplation and language of the Constitution of the United States; and therefore, (whether excepted or not,) whether they could be included in a law which did not name them. No such question was made.

Mr. President, if it will suit the convenience of the Senate that I should go on, prepared or unprepared, of course I must go on. I should prefer a longer period to make preparation; but, if the Senate prefer, I shall go on with what I have to say, ready or not ready, on Tuesday or Wednesday.

Mr. SUMNER. Mr. President, it is difficult to resist an application from a Senator urged with so much determination as that of the Senator from Delaware; and yet I must say that I think his application is without precedent in this body. Never since I have been here have I known an application under such circumstances—where a Senator has had such ample and protracted time for preparation on a question which, I beg to say, is absolutely trivial.

The request is more inexcusable when it is considered that practically the substantial question which occupies his mind is whether he shall take this oath of loyalty. Permit me to say, sir, that a Senator who for nine months has had the opportunity of taking the oath of loyalty and has refused, does not come before this body with any strong claims for indulgence. He asks delay in obeying the law of the land; but the Senate owes it to itself to see that the law of the land which it has helped to establish is enforced.

If the Senate is disposed to allow the question to go over till to-morrow, that we may to-day proceed with the military bill, I shall not object to allow the Senator from Delaware that indulgence; but the Senate ought not to go so far as to allow this question to be thrown over the holidays. But it is obvious that the proposition of the Senator from Delaware points in that direction. I wish to have it decided before any Senators go to their homes for Christmas or for New Year's. The country expects it of us.

I say, therefore, if my colleague from Massachusetts [Mr. WILSON] is disposed to take up the military bill, I shall make no further objection. I understand now from my colleague that he does desire to take up the military bill. This is enough for me. But I wish the Senator from Delaware to take notice that to-morrow I shall deem it my duty to press the question to a vote. On such a question procrastination is kindred to disloyalty. It is a bad example to the country.

Mr. WILSON. I move that the Senate now proceed to the consideration of the bill to increase the bounty for volunteers and the pay of the Army.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The Senator from Massachusetts moves to postpone the further consideration of the pending motion until to-morrow, and to proceed now to the consideration of the bill indicated by him.

The motion was agreed to.

SOLDIERS' BOUNTY AND PAY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 7) to increase the bounty for volunteers and the pay of the Army.

It provides that there shall be paid, in such installments as the Secretary of War may determine, to such persons as have enlisted under the proclamation of the President of the United States, dated October 17, 1863, calling for three hundred thousand volunteers, and to such persons as may hereafter voluntarily enlist in the regular or volunteer service of the United States for the term of three years, the following bounties, namely: To veterans who have been in the military service of the United States for nine months, and have been honorably discharged, and to those veterans in service under enlistments for three or more years who may reenlist for three or more years or during the war in the companies or regiments to which they belong, and who may have at the date of such reenlistment less than one year to serve, \$400; to all other persons, \$300. The Secretary of War is to be authorized also to pay a premium not exceeding \$25, under such regulations as he may deem expedient, for the enlistment of a veteran volunteer, and a premium of not more than \$15 for the enlistment of any other volunteer; and the sum of \$20,000,000 is to be appropriated by this act in payment of the bounties which it authorizes. From and after the 1st day of January, 1864, the pay per month of non-commissioned officers and privates in the regular Army and volunteer forces in the service of the United States is to be as follows: sergeant majors of cavalry, artillery, and infantry, \$23; quartermaster sergeants of cavalry, \$23; of artillery and infantry, \$20; first sergeants of cavalry, artillery, and infantry, \$23; sergeants of cavalry, artillery, and infantry, \$19; sergeants of ordnance, sappers and miners and pontoniers, \$34; corporals, \$20; privates, first class, \$18; second class, \$16; corporals of cavalry, artillery, and infantry, \$17; chief buglers of cavalry, \$23; buglers, \$15; farrier and blacksmiths of cavalry, and artificers of artillery, \$18; privates of cavalry, artillery, and infantry, \$16; principal musicians of artillery and infantry, \$22; musicians of artillery and infantry, and musicians of sappers and miners and pontoniers, \$14. All enlisted persons of African descent who have been or may be mustered into the military service of the United States are to have the same uniform, clothing, arms, equipments, camp equipage, rations, medical and hospital attendance, and pay as soldiers of the regular or volunteer forces of the United States of like arm of the service.

Whenever the President shall call upon the several States for such number of men for the military service of the United States as the exigencies of the country may require, the quota of each ward of a city, town, or township, or of a county, where the county is not divided into wards, towns, or townships, is to be, as nearly as possible, in proportion to the number of men therein liable to render military service, taking into account, as far as practicable, the number which has been previously furnished therefrom; and in ascertaining and filling such quota, there must be taken into account, as far as practicable, the number of men that have entered or may enter the naval service of the United States. Chaplains, when absent from duty by reason of wounds or sickness, are to be allowed full pay without rations, and half pay with rations during absence on leave occasioned by other causes; and chaplains who have been absent from duty by reason of wounds or sickness, are to be entitled to receive full pay without rations during such absence.

The first amendment of the Committee on Military Affairs and the Militia was in section one, line eight, after the word "may" to strike out "hereafter," and insert "prior to the 5th day of January, 1864," so that it would read, "prior to the 5th day of January, 1864, voluntarily enlist," &c.

The amendment was agreed to.

The next amendment was in section one, line sixteen, after the word "war," to strike out "in the companies or regiments to which they belong."

Mr. HARRIS. I am not in favor of striking out those words. In my judgment, one of the most promising features of the present day is the inclination of the regiments of three years' men to reenlist. They are beginning to do so pretty freely; and if there is anything which gives promise of success for the ensuing year, it is the fact that those regiments are about to reenlist. Now, sir, strike out this provision in this section, and you

throw the whole matter open, and instead of reenlisting in their own organizations you will find that the soldiers now in the field who are authorized to reenlist will be going from the infantry to the artillery and to the cavalry, and scattering about and breaking up the present organizations. This, in my judgment, would be most disastrous to the Army. I hope, sir, that this feature will be left in the bill, and that it will be understood that those three years' men whose term is about expiring will reenlist in the same organizations in which they are now found. I regard this as a valuable feature of the bill, and I hope it will not be stricken out.

Mr. CLARK. The Senator from New York will allow me to inquire, if that is kept in, what he will do with those veteran soldiers who have been in regiments which have been disbanded entirely?

Mr. HARRIS. Provision is made in a previous part of the section for them.

Mr. CLARK. I think it does not touch them at all.

Mr. WILSON. In the original bill as it was introduced, we confined the bounty to veteran soldiers reenlisting, to those reenlisting in their companies and regiments. I did it with some considerable reluctance, and after consulting with the Secretary of War. The committee, however, thought otherwise. The great object was to get men, and there are a great many men who are willing to reenlist who will not reenlist in their own companies or regiments. We had facts presented to us showing, in some cases, that there were two or three hundred men in a regiment that would not do it. Still, evils may grow out of striking out these words from the bill. Soldiers who are infantry soldiers may desire to go into the artillery or into the cavalry, and perhaps too many of them desire to go into those arms of the service, and in that respect it may make some little difficulty. Then it will occasion some movement from one part of the country to another. Men being in one section of the country may reenlist to go into a regiment several hundred miles away. That may add to the expense somewhat. That we shall obtain the reenlistment of more men by striking out these words, I have not a doubt. That it may put a heavier burden, more expense on the Government, and make some little disturbance of organizations, is admitted. I think the committee saw that; but they thought the object was to get men, and therefore they have moved to strike out this limitation. I am not strenuous about it myself, however.

Mr. HARRIS. Mr. President, so far as I know the present condition of the Army, and the wishes and purposes of the three years' men—I speak particularly with reference to those from my own State—applications are being repeatedly made now for leave to return home for a short time upon condition of reenlistment, and there are many regiments of three years' men prepared to reenlist in the same organizations in which they are now found, upon condition that they have a brief furlough, and arrangements are being made for that; whereas if this provision is stricken out of this bill, and it is understood that they may reenlist in any organization they please, infantry, cavalry, artillery, the whole thing, in my judgment, will be very much endangered. It seems to me of great importance that the present organization of the regiments should be maintained, and my belief is that we shall secure more of these three years' men by retaining that organization than we shall by throwing it entirely open.

The amendment was agreed to.

The next amendment was in line eighteen of section one, after the word "persons," to insert "except as provided in the fifth section of this act;" and after the word "dollars," in line twenty, to insert:

"And after the 5th day of January, 1864, there shall be no bounties paid by the United States Government to substitutes, and none to enlisted or drafted men, except the bounty of \$100 now provided by law;" so that the clause would then read:

To all other persons, except as provided in the fifth section of this act, \$300; and after the 5th day of January, 1864, there shall be no bounties paid by the United States Government to substitutes, &c.

Mr. GRIMES. I move to amend that by adding:

And there shall be paid to each person who shall enlist into the marine corps of the United States the sum of \$300.

Mr. COLLAMER. The gentleman hardly means that, because that would provide for paying \$300 to the marine on his enlistment, when the others get but \$100.

Mr. GRIMES. I do not mean that. I mean to put them on the same footing.

Mr. COLLAMER. Then say that they shall receive the same bounty as volunteers in the Army.

Mr. GRIMES. Very well; I will put it in that shape.

Mr. SHERMAN. It seems to me that the laws in relation to the Army and Navy should be kept separate and distinct. I do not like to vote on this amendment until I know the effect of it. What necessity is there for it in regard to enlistments in the marine corps? Is it not easier to get persons for the marine corps? The subjects, I think, should be kept separate and distinct. I hope the Senator from Iowa will defer his amendment, involving a very important question and a considerable sum of money, and propose to attach it to some bill relating to the Navy.

Mr. GRIMES. It has been my effort ever since I have been in the Senate to have the marine corps connected with one branch or the other of the public service, but I have never been able to succeed. Whenever the marine corps is on land it is governed by the laws regulating the Army of the United States, and the Army regulations exclusively pertain to it. The moment it goes afloat, it is governed by the naval laws and regulations of the United States. The officers and men in the marine corps of the United States receive the same pay, the same emoluments, are governed by the same laws, controlled by the same regulations, as the officers and men in the Army of the United States.

We are authorized by law to have three thousand five hundred marines. I believe we have somewhere in the neighborhood of one third that number. Congress has decided that it is necessary for the public interests that we should have three thousand five hundred. How are we going to be able to secure them if every man that is conscripted is put into the Army, and all the bounties that are paid for enlistments are paid to those who shall go into the Army?

I propose to add to this bill, which relates to bounties and pay of the Army, (with the approbation of the chairman of the Committee on Military Affairs,) a clause giving simply the same bounties to marine soldiers who shall enlist as is now given to volunteers in the Army of the United States. The Senate should remember, too, that marines, under our present system, get no prize money. The blockade vessels that have been fortunate, of late, in catching blockade runners have no marines on board. The marines are kept exclusively for fighting purposes on board the real ships-of-war; and one battalion of them, almost all there are now, are performing the duty of soldiers at Charleston, connected with the Army. It seems to me that there is no impropriety in attaching it to this bill.

Mr. FESSENDEN. Will the Senator inform me whether, if there happened to be a corps of marines on board a vessel that took a prize, they would not be entitled to prize money?

Mr. GRIMES. They would be, if they were on board.

Mr. FESSENDEN. Then they are on the same footing as the mariners.

Mr. GRIMES. The only difference is that every mariner stands his chance of being shipped to a vessel on the blockade, and almost all of them are employed, at some time or other, on the blockade; but the marine soldiers are not put on board those vessels thus employed; they are used at navy-yards, they are used as infantry and connected with the Army, as at Charleston, and are used on the heavy fighting vessels; for instance, on the Pensacola, which stands as a fort in front of the city of New Orleans, dominating over the rebels in that city. If you desire to reenlist those men to man the Pensacola, how are you going to reenlist them when you give them a bounty for stepping ashore and enlisting into the Army, but refuse to give them bounty if they remain in the service in which they are employed?

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The amendment, as modified by the Senator from Iowa, will be read.

The Secretary read it.

Insert at the end of the amendment of the committee the following:

And there shall be paid to each person who shall enlist in the marine corps of the United States the same amount as shall be paid to each of the volunteers or soldiers of the Army.

Mr. FESSENDEN. I do not know that I am particularly opposed to the proposition, but I wish to see if I understand it. As it strikes me, there is no particular difference between the marines and the sailors on board our ships-of-war. It may be that the marines do not stand quite as good a chance of prize money as some of the seamen do; but they stand an equally good chance with those sailors that are on board the same vessels with them.

There is a manifest difference between the naval and the military service. In the first place, the exposure in the Navy is not nearly so great. The military service is attended with very great exposure with reference to the health of the soldiers; and, as is well known, we lose more probably by disease than we do by being wounded or killed while in actual conflict. These sailors, &c., on board their vessels, and the marines, if they are employed in the navy-yards, have certainly very light work, have quarters or barracks provided for them, and are well taken care of. Then, again, there is the chance of prize money, which the soldiers do not have. Those considerations—the smaller degree of exposure, the greater degree of comfort which exists in the naval service particularly, and the chance of prize money which exists there, and which does not in the military service—have been held to make the great distinction between the two arms of the service with regard to bounty. If the Senate adopt this provision, that the bounties are to be paid to marines also, I do not see how they can very well avoid voting a bounty to all the sailors on board our ships-of-war, thus carrying the system into the naval service; and I presume that the Senator from Iowa, if he succeeds in this proposition, will make the other motion, predicated upon the ground that there is really no very great distinction between the two arms of the service.

Mr. GRIMES. No, sir; I do not propose to do any such thing.

Mr. FESSENDEN. Well, sir, I am very glad the Senator does not propose to do any such thing. I presume he has considered the subject, and if he has come to the conclusion that the other proposition is not proper or necessary, so much the better; but for myself, I am not able to see any great difference. I do not know that I object to his amendment particularly, but I deem it advisable that the attention of members of the Senate should be called to it, and that they should understand the difference between the two arms of the service, and see in fact whether this necessity does apply to the marines. If it does, and we cannot get them in any other way, I shall not object to the amendment.

Mr. GRIMES. I am not going to say that the Senate and House of Representatives decided correctly when they decided that the public interest required the establishment of a marine corps to the extent of thirty-five hundred men. I find it to be the fact that they have so decided. Now the question is, how are we going to keep that marine corps full? You first say that you will offer inducements to all the men who can be induced to leave their homes and go into the public service, to go into the Army but not into the marine corps; and then such as cannot be induced by bounties to enter the public service you propose to conscript, and thus force them into the Army, and you leave nobody at all to go into the marine corps, either under the operation of your bounty laws or in consequence of your conscriptions.

The Senator says that he cannot conceive of the difference between the case of a seaman and the case of a marine. I thought I made that tolerably plain. The reason is, that almost every sailor at some time or other during the period of his enlistment is in a condition to participate in the profit arising from blockade captures, but hardly any marine soldier is ever in that condition during the whole time of his enlistment.

Mr. FESSENDEN. Then he must be on shore. Mr. GRIMES. He is on shore, to be sure; on shore, as a battalion of them are now, in the

face of the enemy at Charleston, where they have been for months doing the same duty precisely as the soldiers to whom you propose to give a bounty; on shore as they were down at Port Hudson; on shore as they were at the first battle of Bull Run, where they did certainly as good service as any other portion of the United States Army. I have no particular interest in the marine corps—

Mr. HOWE. Will the Senator from Iowa allow me to ask him what efforts, if any, are being made to recruit that branch of the service; whether there has been an attempt, and it has failed?

Mr. GRIMES. Yes, sir. I was called upon by the commandant of marines to-day, who told me it was absolutely necessary that this should be done in order to keep the corps reasonably full; and he told me that he called upon me with the advice and after consultation with other gentlemen connected with the department who thought it was necessary that something should be done in order to fill up the Army. I will state what the Senator already knows, I presume, that there is to-day, and has been during the whole summer and fall, a recruiting rendezvous in each one of the large cities, for the marine corps.

Mr. FESSENDEN. The Senator says he expresses no opinion on the point whether or not the corps as provided by law is or is not unnecessarily large. I should like to have the Senator express his opinion on that point; because, if it is the fact that the corps is too large, it would be well to attach a proviso to this proposition, that the corps shall not exceed at any time so many men. I do not wish to give a bounty to raise a number of men whom we do not want, and who are unnecessary. The Senator unquestionably has an opinion on that subject.

Mr. SHERMAN. I think reflection will convince the Senator from Iowa that his amendment will be inoperative, for another reason: marines are not included in the proclamation referred to in this section—the proclamation of the President of the United States of October 17. This section limits the bounty to all who shall enlist before the 5th day of January.

Mr. FESSENDEN. After that we give a bounty to everybody.

Mr. SHERMAN. Of \$100 only.

Mr. GRIMES. My amendment will give them only \$100—that is all.

Mr. SHERMAN. But there might be some question or doubt about it. They would probably claim the bounty of \$300, and ask to be put on the same footing with those in the military service. At any rate, I shall now say what I desire to say in regard to this section. I think—and, indeed, I believe we all think—that the assumption by the authorities of the power to give bounties was without law. It was probably the greatest stretch of power that has been exercised during this war. I do not know whether it was necessary or not. I think it was not necessary. I believe that if the authorities had in good faith, commencing last March, enforced the law which was provided for them according to the terms of the law, by the month of July they would have had the Army filled up. There is no doubt of it, in my judgment. They seem to have delayed action, to have put it off from day to day, showing timidity, anxiety, fear of the people; deterred at one moment by the mob in New York, at another by threatened political movements in other parts of the country; and finally, in October last, they fell upon the measure of offering bounties without law.

This section of the bill, if it passes, will, in my judgment, involve the expenditure of over one hundred million dollars. There are three hundred thousand soldiers called for. The bounty offered to veterans is \$400 each; to other persons \$300 each. Counting one hundred and fifty thousand, or one half the number required, as veterans—Senators can figure it up for themselves—and it amounts to over one hundred million dollars—an immediate demand on the Treasury of the United States. This money has not been paid out; no portion of it has been raised except the \$12,000,000 paid in as commutation money. I ask Senators whether, under the present condition of affairs, they ought not to look a little into the subject before they legalize what may amount to an immediate demand on the Treasury of the

United States for over one hundred million dollars.

I have made up my mind to acquiesce in the increase of the pay of the soldiers, because the increased price of living to their families renders it necessary to make that increase; but, in my judgment, this system of bounties was not necessary. I do not know that there is any hope of resisting it. I presume that the people of the United States, who have shown their trust and faith in the Government, will raise this money; but I believe it would have been wiser if the War Department had left the matter to the people at home. There is not a community in the United States where they have not voluntarily, by their own action, raised the necessary bounty. In some portions of the country, where there is an accumulation of wealth, as in Massachusetts, they gave very large bounties, and they raised them by the voluntary offerings of the people. In the West, where money is not so easily had, where the price of labor is not so high, the bounty is not so large, but it has been uniformly raised by the people through their own organizations, either by voluntary subscriptions, or by counties or States or communities. The little city in which I live has already raised by voluntary bounties every soldier demanded under this last draft, and the passage of this bill will not add one particle to their ability to make up their quota.

It seems to me, under the circumstances, we ought to hesitate a little about sanctioning this enormous bounty system. I shall vote for the bill in any shape it may assume, but I shall vote against this first section, because I believe the men could be raised by the fair enforcement of the conscription law with such amendments as the wisdom of Congress may devise, and without burdening the Treasury with the enormous demand of over one hundred million dollars. I know it is said—and the remark, I believe, has been made by the Senator from Massachusetts, [Mr. WILSON]—that the three hundred thousand men will not be raised by the 5th of January, and consequently all the bounty will not be paid, but the amendment proposed by the committee will save a large sum. In my judgment, a very large portion of the three hundred thousand men called for by the President in his proclamation of October last has already been raised, and this bill is the only legal authority that authorizes the payment of bounty to those that have been raised. Whether we can, under the circumstances, refuse to pay men who have enlisted on the faith of the proclamation is a different question. Perhaps we cannot refuse, because in a time of war we admit that the executive authorities must often exercise plenary powers, and go beyond the limits and terms of the law. I think there are cases of that kind where they may be justified by the necessity of the case. I do not believe, however, that this is such a case; but I think from a timidity, from a fear to enforce the law as it was prescribed by Congress, the executive authorities have made it necessary to call upon the Secretary of the Treasury for a large sum of money, which no doubt he may be able to raise, but it adds very much to the burden already thrown on that Department of the Government.

Mr. WILSON. Mr. President, I think the passage of the first section of this bill, with the limitation put upon it, that it is only to continue till the 5th day of January next, will save money to the Treasury of the United States. I agree with the Senator from Ohio that the offer of these bounties by the Government was made without authority of law. The Government had no authority to offer bounties for any persons to enlist beyond the extent of the amount already received as commutation. But, sir, there had been a great deal of misrepresentation in the country in regard to the enrollment act, or conscription act, as some choose to call it. Its results as well as the act itself had been misrepresented. It was said to be a failure. Sir, it was not a failure. If not a great and eminent success, it was no failure. The Government made a draft of about one fifth of the persons enrolled between the ages of twenty and thirty-five years in some of the States. The Government undertook to raise a class of very perfect men. The Government said that in the volunteer service a great many men had been enlisted who had broken down after a few months' service, and that we ought to have nothing but per-

fect men. They made, I think, one hundred and twenty-four causes of exemption, and I undertake to say that any enrolling board could let off nearly every drafted man under these exemption clauses. About one fourth of all the persons drafted throughout the United States were held to service. About sixty thousand men were placed in the service, either as drafted men or as substitutes, and about forty thousand men paid the commutation, and the Government was authorized to offer bounties to that extent, which would raise forty thousand men, and no more.

The Government then, instead of going on and making another draft, in which, beyond all doubt, in drawing the same number of men, they would have obtained at least twice the number of soldiers or twice the amount of money obtained by the previous draft, called, on the 17th of October, for three hundred thousand men, promising to pay veterans a bounty of \$400 and other persons \$300. Supposing they obtained the men, one half from each class, here was a promise of \$105,000,000 as bounties. The Government had then about nine million dollars paid in as commutation; the Government has now about twelve millions. That was all the money the Government had to pay the bounties promised.

Now, sir, the first section of this bill undertakes to legalize and to fulfill the pledge made by the Government to the people of the country and to the States. The proposition of the Government is limited to the 5th day of January next. The promise was that persons enlisting before that day, the 5th day of January, should have these bounties. We propose to accept the proposition and to fulfill the promise; but we propose to close it on that day and fall back upon the bounty of \$100 for persons who are drafted or who volunteer after that day, not allowing it, however, to substitutes. We require the man who is drafted to pay the whole sum himself to get a substitute.

I agree with the Senator from Ohio that we ought to have great care in regard to our expenditures and to the condition of our Treasury. From the first hour of this war I have felt that our great danger, if we had any danger at all, was in obtaining money and not in obtaining men, and I am more convinced of that to-day than ever. As long as our currency is sound, as long as we can meet our obligations promptly, as long as the general business of the country is prosperous, we can maintain and prosecute this war. Had the Treasury failed, had the currency of the country broken down and interrupted the trade and productive industry of the country, then we should have had at once a strong opposition to the Government. The condition of the treasury of the confederate States is full evidence to the whole world that they must go down, that they cannot succeed. They are weaker in that than in their armies. I agree, therefore, with the Senator from Ohio that it is very important to be careful as to what sums, either for bounties or anything else, we pay in carrying on the war. It is important that we should be careful to keep the credit of the Government sound, the Treasury full, the currency solid, and the productive industry of the country prosperous.

The Senator says that, in his judgment, the larger portion of the three hundred thousand men called for by the proclamation of the President of October 17 have been raised. I think the Senator must be greatly mistaken. I do not believe that one third of the number have been raised, or that more than one third of the number will be raised by the 5th day of January next. The Government asks now for \$20,000,000. That \$20,000,000 will only pay the bounties for between fifty and sixty thousand men. It is said that we have expended the greater portion of the \$12,000,000 derived from the commutation, and it is very important before the adjournment of Congress to give the Government this sum of \$20,000,000, which it asks for, in order to pay the promised bounties. That is all they ask; and the opinion of the Secretary is that that sum will be sufficient up to the time indicated, the 5th of January. However, that is all a matter of judgment. It may be that between now and the 5th day of January there will be a great number of enlistments if this bill should pass in this form; but I believe we had better run that risk and fulfill to the States, and to the people of the country, and to the Army, the pledges made by the Government on the 17th day of October

last. If we refuse to make this appropriation, the result will be that we have made promises which we have not fulfilled, and it will create dissatisfaction in the country. It is said that we have now men enlisted who have been enlisted for two or three weeks, and that there is no money appropriated to pay them. I think we had better fulfill the pledge of the Government, and to do it we must stand by the first section of this bill.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Iowa to the amendment of the committee.

Mr. HENDRICKS. I desire to hear the amendment read.

The PRESIDING OFFICER. It will be read again.

The Secretary read it.

Mr. HENDRICKS. Mr. President, the debate which has sprung up does not really seem to me to be upon that amendment, but upon the question which has been raised between the Senator from Ohio and the chairman of the Committee on Military Affairs. Upon that question I desire to express the opinion that Congress ought to encourage volunteering, rather than to rely upon what, of necessity, must be an unpopular measure of the Government—the draft. I think we have had evidence enough in the country that the Army can be supplied with men by volunteering; and although the Senator from Massachusetts will not admit that the draft has been a failure thus far, he will hardly claim that it has been a success. Out of 125,000 drafted men, there went into the service about 6,000; about 20,000 paid the \$300 commutation; and 37,394 were exempted for physical disability. The Senator says that the Department made a mistake in the number of causes of exemptions for physical disability. I am not prepared to discuss that question with the Senator. He is better informed on the subject, unquestionably, than I can be; but that is a very large exemption for physical causes. According to this report, there paid commutation money, 20,138; furnished substitutes, 10,402; failed to report, 17,940; exempted for other causes, about 32,319. Under the draft, therefore, in New England, Pennsylvania, New York, and perhaps a portion of Wisconsin, up to the 1st day of November, the Government realized about 6,000 troops who were drafted; 10,000 substitutes; and perhaps 20,000 volunteers, who were induced to volunteer under the policy adopted by the Administration in paying \$300 bounty—the \$300 that were paid by those who were drafted.

Mr. HOWE. If the Senator will allow me to interrupt him for a moment, I think he included the State of Wisconsin in the list of those States which had made up this number. I believe that up to the 1st of November no draft had been made in any part of Wisconsin. That is my recollection about it.

Mr. HENDRICKS. I dare say the Senator is right. I had an impression that there was one district, perhaps, in the State of Wisconsin in which a draft had been made prior to the 1st day of November. Then the draft was only enforced in part of New England, New York, Pennsylvania, and the District of Columbia; and this is the showing made by the report of the Provost Marshal General—that there were secured to the Government under the draft 6,000 men who were drafted, 10,000 substitutes, and perhaps 20,000 who were induced to volunteer by the \$300 bounty that was paid in by the parties who were drafted and who did not go. Thus the draft up to the 1st of November resulted in securing to the service between 30,000 and 40,000 troops. Sir, can it be claimed as a success that out of 125,000 drafted men we secured but 6,000 men who were in fact drafted, 10,000 substitutes, and 20,000 volunteers who were encouraged to volunteer by the payment of \$300 bounty? I think that cannot be claimed as a success.

But, sir, from the commencement of this war every effort on the part of the Administration to secure troops by appeals to the patriotism of the people, by appeals to their desire to provide for their families before they enter the service by giving them bounties, has been a success. At least, prior to the issuance of a proclamation by the President, which I shall not now discuss, there was no failure in the volunteer system. I claim that it was a success; and I may venture to say an army of volunteers is a better army than

an army of conscripted men. They go freely, cheerfully, and they serve freely and cheerfully. You can hardly expect an army composed of men who are forced to go, when their interests will scarcely allow them to go, when the condition of their families will scarcely allow them to go, to be as valuable an army in the field as one made up of volunteers. I claim, therefore, that the effort on the part of the Government to obtain its troops by volunteering has been a success, and the effort to raise troops by draft has been a failure.

What then is the plain duty of Congress? With these facts before us, is it not our plain duty to undertake to fill up the Army by volunteering rather than by a draft? I do not ask that the draft law be repealed, for I know that such a motion in this body would not prevail; but it were better that it were repealed, in my judgment, and that the Government should pay liberal bounties to the soldiers in advance of their going into the field, in order that they might well provide for their families during their absence. It is proposed to give them \$300 bounty up to the 5th day of January. At the proper time I intend to move to strike out that limitation of time. I say that it ought to be the permanent policy of the Government to fill up the Army by volunteers and not by drafted men, and my votes on this subject shall be governed by that policy.

Senators have criticised the course of the Administration in offering this bounty of \$300. Of course I am not going to say that the Department did right in offering a bounty of \$300 beyond the amount of money received from those who paid commutation money instead of going into the service under the draft, for in that they did not act according to law; but the purpose of the Administration was right, and that purpose of the Administration Congress ought to indorse by giving liberal bounties, instead of enforcing what must be an unpopular law in the country—the drafting law.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Iowa to the amendment of the committee.

Mr. HOWE. Mr. President, in looking at that amendment as modified, I am inclined to think it does not express the idea of the Senator from Iowa, though I am not certain about that. I am inclined to think that, as modified, the amendment would authorize any veteran to enlist into the marine service and receive his \$400 any time before the 5th of January. I understood the Senator to disclaim any such purpose.

Mr. GRIMES. I have no such purpose. I do not think there are many veterans who will enlist under this law, or that the law will pass before then.

Mr. HOWE. It strikes me if the Senator means to limit the bounty to \$100, he had better say so.

Mr. GRIMES. Very well; make it to suit yourself.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Iowa to the amendment of the committee.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now is on the amendment proposed by the committee.

Mr. HARRIS. Mr. President, I have not much expectation that the report of the Committee on Military Affairs will be changed by the Senate; but I am at a loss to understand the policy which has governed the committee in reporting some of the provisions of this bill. The bill as it now stands might very properly be called "a bill to stop all recruiting after the 5th day of January next." If that is the policy of the Committee on Military Affairs, they have reported a bill which will carry out their wishes. Does any Senator suppose that after the Government shall have stopped paying this bounty of \$300 offered by the proclamation of the 17th of October, any citizen disposed to enter the Army will enlist? After bounties of \$300 and \$400 have been offered, \$400 to veterans and \$300 to other citizens, and that has been withdrawn, will there be any volunteering after that? I apprehend the Committee on Military Affairs does not expect it. Their policy, therefore, seems to be to stop recruiting after the 5th day of January. I am opposed to that policy. I agree with the Senator from Indiana, that it is far better that we should fill up our Army with volunteers, if it be possible. If it be not possi-

ble, then I say draft, but first let us try volunteering.

The Senator from Ohio has criticised the conduct of the Government in offering these large bounties on the 17th of October last. Sir, I think, if any one measure that has been adopted by the Government recently has met with general approbation, it is that measure. The Government had in hand some twelve million dollars received from commutation money. What was to be done with it? How was it to be appropriated? Of course to the raising of soldiers. And how was that to be effected? By offering a bounty. If by offering the same bounty the drafted men had paid as commutation the Government have done wrong, I am unable to perceive it.

But it is said the bounties that they offered amounted to a larger sum than the amount of the commutation money. Well, sir, if that be so, it is the good fortune of the country that it has furnished us with more soldiers than the number of drafted men who paid their commutation. In my judgment, if by going on with this system of recruiting we could expend \$100,000,000 in raising three hundred thousand men by the 1st of March next, so that on the 1st of March we could send into the field an army of three hundred thousand men, it would be the best possible investment which this Government could make. Is there a Senator here who would not to-day cheerfully vote to pay \$100,000,000 for an army of three hundred thousand men to be put in the field on the 1st of March? I apprehend there is not a patriotic man in the country who would not indorse such an appropriation as that; and yet the effect of this bill is to stop just that process on the 5th of January. Sir, I am opposed to the whole policy of this measure.

Mr. FESSENDEN. Mr. President, I agree measurably with what was said by the Senator from Ohio. I believe there has been rather a mistake in the policy of the authorities with reference to this subject, and a mistake, too, on our part. I believe that the continued offer of bounties, and the continued increase of bounties—and they have been increasing almost geometrically from the beginning—instead of having a tendency to increase and promote the patriotism of the people, has had a tendency to diminish and destroy it. The effect has been, in my judgment, carried on at such a rate as it has been, especially in my section of country, to turn the attention of the people from the fact and the consideration that every man owed to the Government when necessary his personal service, which as a citizen he was bound to render, to the question, "how much can we make by holding off a little longer before we volunteer?" And the system, as now proclaimed, going on as it does, must necessarily be one that increases and enlarges from day to day.

We began by calling for seventy-five thousand volunteers. That was the President's first call. They were furnished readily, for the patriotism of the country was awakened. Nobody thought of paying a bounty at that time, except, perhaps, a month's additional pay, or something of that kind. The time came, and came very soon, when a certain other large number was called for. The bounty was then increased. There was no difficulty then, although the bounty was small, in filling up the ranks of the Army. Naturally there would be more difficulty on that subject the longer a war lasts. As a matter of course, as people become more acquainted with the hardships of campaigning, and see the difficulties before them, there will be more trouble in raising troops. But what has been the course adopted in my section of the country? The moment a certain number of men are called for, one set of politicians, thinking to make something out of it, says, "why, these poor fellows must have so much bounty; they ought not to go unless they are paid so much." Another set of politicians, not to be outdone, says, "that is not enough; we will go a little further." In fact, the question how much bounty should be raised has been carried into party politics, and politicians have vied with each other as to which should be the loudest in calling for bounties. The result has been that we have discarded the really patriotic feeling at the bottom, which would have given us men enough had we adhered to any regular system, and put the matter upon the right ground and the correct principle from the beginning, and that is, that every man who is able to

render it owes his personal service to the country in its hour of peril, and every one has had his attention called off to the question of how much he can get if he waits a little longer before he enlists. That has been the result and the effect of it. There was patriotism enough to begin with, and there is patriotism enough among our soldiers and our citizens now, but we are eternally prating upon this question of how we shall accomplish this thing.

Now, sir, although it will operate hardly upon many persons, unquestionably, yet the only question, or the great question, after all, is, what can the country engaged in this struggle bear? That is the first question. How much can it bear? After all, it comes back to where my friend from Massachusetts placed it, how long and how much can we pay to carry on this war? How long can we sustain the credit of the Government, and how long will the people be able to bear these burdens? How long will their patriotism last under them? I trust they would be willing to bear them as long as there is a dollar or a man left, and I believe they would; but, after all, a wise Government looks at the question, what is the capacity of the Government to sustain and conduct a conflict? That being ascertained, and we being called upon to operate and act within the limits of that capacity, the next question is, how shall we equalize the burden? How shall we render it equal upon the community? It is not rendering it equal by running a race of bounties in one section and another, to see how much each section, or each State, or each division, or each town, would pay to accomplish this purpose or that; but what is equal? Sir, I have held almost from the beginning the unpopular doctrine that the sooner we pass a fair law providing for a draft, when soldiers were wanted, the better, and the closer we adhered to it after we had passed it the better still. A draft operates equally upon all. If it becomes my turn in the revolution of the wheel to go into the field, I must go, or procure somebody to go in my stead, if the law allows me to do it. It may be hard upon me, but it is fair. I say again distinctly, and I call the attention of Senators to it, that we have lost ground in the country, and our patriotism has been cooled, by the effort to put down the idea which lies at the bottom of all, and that is, that no man has a right to refuse his personal service when it is called for by the country. That is the proper system and principle, which we should always stand by.

But, sir, we have adopted the principle of paying bounties and of bidding bounties to induce men who are able to serve their country to enlist. The question then is, not with what we are to begin, but how far we are to go, and that returns upon us. It is not a trifling consideration whether we are to pay \$100,000,000 more or less this week, and \$100,000,000 six months hence, and another \$100,000,000 twelve months hence. It is very easy to stand here and talk about what the system should be; that it should be to offer bounties. It is another question to raise the money to pay them; and I ask my friend from New York, who is a financier, if he is able to tell me how long we may go on at the rate of a thousand millions a year, and the country will be content with it. He has undoubtedly considered such a question, and perhaps can answer me; but it is a point upon which I am in the dark. The Secretary of the Treasury tells us that at the end of the coming fiscal year we shall be indebted something over \$2,000,000,000. Is the war to end then? I pray God it may, and before that time, and I trust it will; but suppose it does not. How long can we continue it? As I said before, I believe we can continue longer than any other Government and any other people on the face of the earth could, and that such is the spirit of our people that they would do so; but after all, we, as legislators, are bound to consider those questions, and what is to be the result.

I believe with my friend from Ohio, if I understood him rightly, that the Government should adhere to the law. We provided for a draft of so many men, and we provided an exemption clause, on the payment of a certain sum of money, for the purpose of enabling the Government to supply the places of those who paid that commutation. So far as money was paid in for that purpose, the Government had a right to apply it for bounties. They reasoned in this way, I suppose—it is the excuse I make for them—"if we do not succeed

in getting the number required, enough will pay commutation to make up the difference, and therefore we run no risk in making the offer, because it will be paid out of this commutation money;" but they did not make their figures right. They got a great many more men who were to be paid bounties than they got of men who paid the exemption; and that is precisely the difficulty now, and precisely the reason why there is a large sum of money due or promised and nothing to pay it with.

Well, sir, that was an oversight; but what did they do? They made the offer. The result has been that men have gone into the service. They were promised by the executive authorities—not by our permission, not with our permission, yet acting unquestionably in good faith, and doing what they supposed to be the best thing they could do—a given sum of money, and they have enlisted. Now, what do you propose to do? You must pay that sum, or, if you are honest men, you must discharge them from their enlistment—one or the other you ought to do. We cannot, with any sense of justice between man and man, accede to any such doctrine as that we may make a promise to men to enlist and then hold them to service without performing our promise. We must therefore pay what has been promised.

The question then arises, do you mean to keep up that system and abandon your law? The law either ought to be enforced or abandoned. We ought to have a draft or else strike the law from our statute-book. We adopted the policy. Why? Because we foresaw that after this war had continued so long the result would be that we should find it difficult to obtain men. With all the patriotism that exists in the community, when it comes to the individual case it is found hard to raise the number of men required. Now, will you abandon at once the idea, and say to the people that you have abandoned it; that there is no such thing in the United States of America as an obligation resting on every able-bodied citizen to serve his country, when his country needs his services? Sir, we cannot do so. It is the idea upon which that law was predicated, upon which it was passed, to give the Government the power to command the services of our citizens; and, in my judgment, it should be enforced. Spend the money you get from exemptions in bounties for the purpose of filling up the ranks; but, sir, there is no seeing how long the credit of this country can continue what it is if we are to go on recklessly and spend money as if we had a profusion of it and more than we knew what to do with. If gentlemen will take charge of the Treasury Department and provide the funds and make the people easy on the subject, they may offer just as much bounty as they please for volunteering.

I do not undertake to say that the draft, so far as it has gone, has been a success exactly. I do not think it has; but I think its want of success has been owing to the blundering manner in which it was attempted to be carried out, rather than to anything in the law itself. It may be found, more than anything else, in what was alleged by the honorable Senator from Massachusetts—in the fact that there was such a list of causes of exemption from service that it was exceedingly difficult to find anybody who did not come within some provision of them.

Mr. COWAN. I should like to ask the honorable Senator if he knows why, after the first drawing had failed to fill the quota, there was not another drawing to fill it up afterwards; and whether, if there had been one, they might not have raised money enough to redeem the pledges of the Government to pay these bounties?

Mr. FESSENDEN. No, sir; I really do not know anything about it. I do not know what process of reasoning the Government went through. I suppose that it might possibly be because the Democracy, as they call themselves—and I call them what they call themselves—had made such an—I was about to say an infernal howl about the draft in order to frighten the people, that they frightened the Government; but I think the Government, after it had found out that the people were not at all frightened, but were willing to sustain it, should have recovered their courage and gone on with the draft. That is my opinion. I may be all wrong about the logic and cause of it, but I think that is it.

Now, sir, I repeat what I said before; that, in my judgment, the failure of the draft, so far as it has been a failure, has been owing to the very clumsy manner in which the thing was attempted to be carried out, arising out of these exemptions for cause more than anything else. I know it was so in my section of the country, and that the boards were compelled to discharge able-bodied men, under those rules thus made, and did so, and said they were compelled to discharge able-bodied men who were fit to go into the field, because they had some little defect which did not impair their efficiency as soldiers in a very great degree. My opinion is that they should have repealed their rules, made a better set of regulations, and gone on with the law. It is not their business—and I say it to the executive Government—and to the people—to say whether a law is good, bad, or indifferent; whether it works well or otherwise. Their business and duty is to proceed under it, and not to adopt a new system which is not provided for by law at all. I give all credit to the motive, to the intention; it was done with the very best; on the idea that we must have these men, and we must take a shorter way to get them. I sustain the Government thoroughly in all its acts; although they may make mistakes, for I believe they arise from a devotion to the true interests of the country, and a desire to accomplish the great purpose which we all have so much at heart. I do not undertake to quarrel with them; but I say that the duty of the Government is in all cases to carry out the law as it is made; and if Congress says they are to raise men in a given way, let them take that way, or wait, if it is possible to wait, until Congress shall say in its turn that they have provided or will provide a better.

I say therefore, sir, that I shall vote for this provision as a matter of course. We must discharge our obligations to these men that are already enlisted, or discharge the men themselves, if we will act fairly; but, sir, if this war is to continue, I do not believe that the country can sustain itself by a system of constantly increasing bounties to induce men to enter into the service of the Government, and by trying all we can to make our people forget that there is a first high duty, next to their duty to God, and a part of their duty to God; and that is, to render their services to the country when the country demands them; but every man should stand upon equal ground, and have a fair chance with his neighbors with regard to it, and when that is done all is done.

Mr. LANE, of Indiana. The motion pending before the Senate, I believe, is to add a clause to the first section of the bill providing that after the 5th of January this increased bounty to your soldiers shall cease.

THE VICE PRESIDENT. That is the motion. Mr. LANE, of Indiana. Mr. President, there are but two modes of raising an army: one is by volunteering, and the other by a draft. It seems to me that much of the difficulty of our situation has been incurred by attempting to carry on at the same time two systems independent of each other, and in some respects antagonistic to each other. The very theory upon which the conscription bill of the last session was passed was that by voluntary enlistments the Army could not be filled in sufficient numbers and with sufficient promptitude. Upon that basis the conscription act of the last session was passed—that the volunteer system would not fill your armies in time to meet the public emergencies, and hence it was deemed necessary to resort to the draft.

Much has been said in reference to the operation of that draft and to the \$300 exemption clause under it. If you rely upon the system of volunteering alone, then you should offer sufficient bounties to induce the voluntary enlistment of soldiers in the Army of the United States; but if you rely upon the draft, then it seems to me you should carry it out; but both systems cannot be carried on at the same time, for at every point they antagonize with each other. What has been the effect of this \$300 exemption clause? The conscription act was passed as a military measure to raise men, and not as a financial measure. It is considered here mainly as a financial measure, as it seems to me. In other words, it is said that although it did not bring men into the service, it brought money into the Treasury. We need men more than money. If we could print soldiers as fast as we can print greenbacks, there

would be something in this argument; but it cannot be done.

What was the effect of this conscription law, and how has it been successful or unsuccessful? Under that conscription law any man drafted or prior to the draft could procure an exemption by paying \$300. That fund, by the provisions of the law, the Secretary of War was authorized to apply to the enlistment of soldiers, or, under the terms of the law, as I think, to hire substitutes. It is said, and upon very high authority, and I have no doubt truly said, that under the operation of the conscription law some \$12,000,000 have been brought into the Treasury; and it is furthermore said that the Government has lost nothing in men, because for every \$300 paid as commutation a soldier has been brought into the service. That, I apprehend, is not founded in fact. I have high authority, nay more, the very highest authority, for saying that such is not the fact. Of the \$12,000,000 paid in as commutation money, more than two thirds of that sum now remain in the hands of the Secretary of War, to be administered under the direction of the Provost Marshal General; so that they have really received but one third of the men which the \$12,000,000 would hire at \$300 per man. This \$300 exemption, as it seems to me, operates in this wise simply: to raise money to the Treasury upon the enforcement of the draft, and not to bring the drafted men into the service of the country; for no man who can raise the \$300 will go into the service, and there are very few who by themselves or friends cannot raise the \$300 exemption. In addition to that, many cities, towns, and townships have entertained seriously the proposition of taxing the whole people to raise the \$300, so as to buy off the whole quota under the conscription law. If this \$300 exemption clause is suffered to remain in any conscription law, I promise you that you will get but few soldiers under it in the future, as you have in the past.

It was said, and I have no doubt the law was passed with that view, that the \$300 exemption clause was passed for the benefit of the poor man, and therefore any poor man who could raise the \$300 was not compelled to go into the service. The operation of that clause has been not in favor of the poor man, because the poor man had to go at all events; he could not raise the \$300; but it has operated, perhaps, beneficially upon the middle classes, and has exempted the rich entirely, for they could all pay the \$300 exemption. At the time the law was passed there was much objection made to that clause in the Senate, and much objection throughout the country. It was held up as an odious feature, a discrimination in favor of the rich and against the poor. That, I have no doubt, was utterly unfounded and false; and yet it was used to create an odium against this law, and in many instances such an odium as almost to prevent its execution in many districts of the United States; so much so that in my own State one of the best and purest men upon earth was assassinated in his attempt to execute this law. This provision was denounced throughout the whole country as an odious law, as class legislation in favor of the rich and against the poor; and, strange to say, many of the very men who denounced that \$300 exemption clause are now engaged in denouncing the repeal of that clause all over the country.

But, Mr. President, suppose we resort to a draft alone, and retain the \$300 exemption clause. I show you that we cannot, by any possibility, raise an army under any system of draft which retains that clause. We cannot fill our armies under any conscription law which retains the \$300 exemption clause. If we rely upon volunteering alone, we may, and perhaps will, fill our armies; but it is just, is it fair and honest to the whole people, that the loyal, the true, the patriotic, the Union-loving shall be called again and again to volunteer and to shed their blood in defense of the flag, and to find martyrs' graves upon the battle-field, while the disloyal, the traitorous, and the sympathizers with treason refuse to go into the Army, and remain at home to denounce every measure of the Administration calculated to suppress the rebellion? It is time that the people, and the whole people, should be called upon to defend the country in this hour of its extremest need and peril.

Now, sir, what is to be the result of a draft,

supposing we resort to it? If we take an arithmetical view of this question, what have we? Under the last draft, when the enrollment shall have been completed, in round numbers there are three million men subject to draft in the country. The proportion of men held to service, exempted, &c., in the late draft, will perhaps hold good through any subsequent draft. Under the late draft, one third were rejected as physically and mentally unfit for service. There goes one third of your three millions. One third were exempted under the second section of the act in reference to unsuitableness of age, &c. There are two thirds stricken from your enrollment, the other third being held by the boards of enrollment as subject to military duty. This reduces our capital to draw from to only one million men. Now what becomes of it? Taking the experience of the draft so far as it has been enforced, only one seventh of the million is held to personal service; two sevenths furnish substitutes, pay commutation money, &c.; that is to say, if we draft all the men in the nation, we shall have only the following result: original drafted men put in service, 142,000; substitutes, 284,000. The total number of men that we can get from the whole nation under the present law, with its most rigid enforcement, is only 426,000; exempted by the commutation clause, 568,000, taking the proportion of men who have paid commutation with those who have gone into the service. It is therefore seen that, after all the labor, and vexation, and expense of drafting and examining the whole nation, we will at last get but 426,000 men, and not that, for a large proportion of these men do not report for duty, and are reported as deserters. Perhaps some 20,000 or 30,000 out of this number would be a fair proportion for those who would be reported as deserters.

The present law allows but one surgeon in a congressional district. Supposing each district to consist of ten thousand men, and remembering that the examination of one hundred men a day is the largest amount of work a surgeon can possibly do, and that after being examined himself, the drafted man may have his substitute also examined, and that Sundays are counted out, and the exact number will not always be in readiness for a full day's work, it will be found that it will take more than one year to get through with the physical examination alone under the present law. We wish an army in the field, and in the field immediately, and not at the end of one year. If this law is not amended, and if you intend to carry it out as it stands, it will take more than one year to go through with the examinations alone which you provide for in your bill. At the end of the year we find that we have got four hundred and twenty-six thousand men, less the number who may be reported as deserters; but the astounding fact is also found that to all who furnish substitutes, or who have paid commutation money, six sevenths of the million men in the country ascertained to be fit for duty have been granted certificates giving a pledge that the Government will not call upon them for military service for three years. If this law is enforced, and the war is to last more than one year—which God forbid—you will find that your draft leaves you standing without an army. Then you must rely, as it seems to me, upon a rigid enforcement and the most rigid enforcement of the draft law; and there is nothing unequal in it, nothing improper in it.

Mr. President, I am proud to make the avowal which I now do, that the State of Indiana, from the very moment the rebellion commenced, has been in advance of her quota. Every single call has been answered, and promptly answered, and more than answered. It is true that in the fall of 1862 we had a draft in Indiana, carried on under the auspices and direction of our able and efficient Governor, for some four thousand men; but at the same time, by a letter from the Secretary of War, it is shown that we were two thousand in excess of our quota at that time; but our Governor, from patriotic motives, did not choose at that time to raise the question. We have been in advance of every draft and every quota; and let this bill fail or let it pass, I am proud to assure the Senate that there will in all probability be no draft in the State of Indiana even under the last call; that prior to the 5th of January, when you propose that this law shall go into operation, In-

diana, by voluntary enlistment, will have filled her full quota. I have no doubt of it.

But, sir, the operation of the \$300 exemption clause upon volunteering in our State is found to be just this: those who are indisposed to go into the Army, as long as they can shield themselves under the \$300 exemption clause will not volunteer. If you repeal that clause, there is an additional inducement held out to them to go into the service of the country. I understand that when notice was given in the Senate of the intention to ask leave to introduce a bill to repeal that clause, volunteering was wonderfully accelerated in that State. It was thought that within one week the whole list would be filled up; but when some busy telegrapher telegraphed to the West what I doubt not is untrue, that that clause would not be repealed, that moment volunteering ceased.

I ask you then either to carry out the conscription law in its terms, or to abandon it altogether and rely upon volunteering. Those two systems do not harmonize; they do not go together. You must make sufficient inducements by bounties and increased pay to fill up your armies by volunteering, or you must fall back upon the draft. I believe that from the beginning the draft would have been the more just, the more economical, and the more proper way of filling your armies. So far as the proud State which I in part represent is concerned, I have only this to say, that under any and all circumstances she will fill her quota, whether you decide for a draft or for volunteering. In either event, her quota will be filled as required by the President and the Secretary of War.

Mr. DAVIS. I will ask my honorable friend from Indiana a question. He belongs to the Committee on Military Affairs, and is a very faithful and able member of that committee. The question I ask the honorable Senator is this: if there was a clause introduced in this or some other bill that every office-seeker should be conscripted into the Army, would it not raise a very considerable force?

Mr. LANE, of Indiana. I have no doubt that my distinguished friend speaks more particularly in reference to Kentucky, and I doubt not the number of our forces would be greatly increased, if the Commonwealth of Kentucky was embraced. [Laughter.]

Mr. DAVIS. How would it be if my honorable friend included Massachusetts?

Mr. LANE, of Indiana. Perhaps with Massachusetts it would work well; but in Indiana we have no office-seekers; they have all gone into the Army. [Laughter.]

Mr. DAVIS. I will say to the Senator from Indiana, he has struck the point. It was in special reference to some men in Kentucky who are coming on or sending to this city to sell themselves for office, that I directed my inquiry to him.

Mr. HOWE. I wish to inquire whether the pending question is to strike out or to adopt the clause at the end of the first section?

The VICE PRESIDENT. It is on inserting the words in italics.

Mr. HOWE. From the twentieth line?

The VICE PRESIDENT. The question is on inserting all the words printed in italics at the end of the section.

Mr. HOWE. Yes, sir, I understand it. So much of this section, then, as precedes the word "dollars," in the twentieth line, I suppose to be absolutely necessary to enable the Government to settle up fairly and honorably with men who have been enlisted into the service during the past summer and fall; and I agree with the Senator from Maine, that we have no honorable way of evading the provisions contained in that part of the section. I am in hopes that the amendment proposed in the latter part of the section will not be adopted at present. I have listened to the debate, so far as it has proceeded, with a great deal of interest, and I would not add a word to it but for the fact that I have considered this subject considerably, and I have a view which has not yet been suggested by any Senator, and therefore I suppose it is one that no Senator entertains, and perhaps that no Senator will entertain.

The Senator from Maine has announced a principle here which I welcome with my whole heart, as it is about the first distinct enunciation of it I have heard in the Senate of the United States since I have had the honor of a seat here. I was particularly gratified with it. It was this, that

every citizen of this Republic owes to its Government the utmost of his ability for the maintenance of the Government during this war, whether of money or of personal service. It is not a matter of choice, but it is a matter of duty. It is a debt due, and it ought to be paid, and the Government, as the agent of the whole people, ought to insist on the payment of it. I am glad to hear that doctrine. It is a very late day to proclaim it. It is not exactly the first enunciation of it made in the United States. I think General Butler intimated some such principle as that during his administration of affairs in the city of New Orleans. I offered myself, Mr. President, allow me to say, a year ago, to incorporate a modification of that principle in a bill which I had the honor of introducing here, and which had the honor of getting referred to the Committee on the Judiciary, and which had the honor of dying there. I have never heard from it since. But other departments of the Government, I believe, have acted on a very different principle, to wit: upon the principle that it was a mere matter of choice on the part of any one and every one, whether he would fight for the Republic or fight against it; whether he would support it or oppose it; stand by it or stand against it; and so far have they carried that principle in some departments of the Government, that you have seen repeatedly, during the progress of this war, our military commanders, in districts in rebellion against the Government of the United States, calling citizens of the United States up before them, one after the other, and proposing to them to declare for or against us, inviting them to take an oath in accordance with their duty to this Government, submitting it to their choice, giving them the utmost freedom of election. If they took the oath and professed their allegiance to the Government, it has been administered, and they have been received into full fellowship. If they refused to take that oath, but preferred to declare their friendship and their allegiance to that government, or that pretended government, which is in arms against the Government of the United States, they have been sent forward at our expense to reinforce the armies of our enemies, and to make war against us. That has been done, not in individual instances only, but it has been done with hundreds and hundreds from New Orleans, from Memphis, from every point on the Mississippi between the two, where our armies have taken possession.

During the very last summer it happened that a very distinguished citizen of the State of Ohio declared that he had not the slightest disposition, the slightest intention, to pay allegiance to the Government of the United States, and the Government became satisfied that he told the truth in that instance, and they sent him down within the rebel lines. I believe they did not actually take him into the army; they thought they had a better use for him, and they sent him back to our other frontier.

Now, I hold that this duty thus announced by the Senator from Maine is one resting with primal force upon every citizen of the United States, and it is the first duty of the Government of the United States to enforce that duty, and not to relax in reference to any one citizen. The man who professes a willingness to pay that debt, and pay it promptly and cheerfully, is a loyal citizen of the United States and should be treated as such, and have all his rights and all his protections under its Government. The man who does not profess it, or professes the contrary, is the enemy of the United States, and should be treated as the enemy of the United States by the Government and by all its agents.

But now, sir, if this is a correct principle—and I do not think it will be controverted here when it is once stated as clearly and as forcibly as it has been by the Senator from Maine—this follows, that whether you want an army of five hundred thousand or five million of men, it is the duty of every man to contribute to the composition of that army equally in proportion to his ability. How shall that be done? The Senator from Indiana has argued that the most popular if not the most equitable (I think he said the most equitable) way of doing it was to leave it to the choice of every man whether he would become a soldier in that army or not. Now, I must differ from that proposition. I do not think it is the most equitable, and I do not

think it is the most popular method of raising an army. We have seen both methods tried, and that has proved the most successful, I am very willing to admit, so far; but it has had the most thorough trial; the latter method has not had a thorough trial by any means, not even a fair one.

I think that the first is not the most equitable. I suppose every Senator on this floor has witnessed the efforts made to fill the calls for volunteers which have been made by the Executive during the past years of this war, and you have seen how far those efforts have been equally distributed among the people of your several communities. I dare say there is not a Senator here whose observation has not corresponded with mine to this extent, that while he has seen men unfavorably circumstanced so far as worldly fortune is concerned, men of small means, men with families dependent upon them, men having as many ties to home as any others in the community, severing all these ties and stepping into the ranks of the Army as soldiers of the Union promptly and cheerfully and ungrudgingly; and he has seen other men, under no sort of legal obligation by reason of age or of disability to enter the military service of the United States, contributing liberally, largely, bountifully, from their means to induce others to go into the Army, or to support the families of those who did go; he has also seen other men, able-bodied and single men of large means, who not only would not enlist as soldiers, but who constantly and obstinately refused, time and again, and continually, to contribute a dime to encourage anybody else to go.

I think every Senator here has witnessed all these things; and I think every Senator here has heard complaints because of them. Generous men, brave men, patriotic men, have bled freely and cheerfully; but illiberal men, unjust men, and sneaks have not bled at all. So that the operation of the volunteer system has not been equitable. I do not think it is so equitable as the system proposed in the law we enacted last winter.

The Senator from Indiana says that however that may be, it has been more popular. I respectfully submit that he is mistaken on that point also. Up to last winter we had tried no other expedient to fill up our armies but that of volunteering. We had tried no other expedient up to the time the elections were held in the fall of 1862. The result of those elections did not declare the utmost satisfaction on the part of the people of the United States, either with the war or with our mode of carrying it on. During the last winter we changed that system; we announced, in a modified form, the principle to-day declared by the Senator from Maine, that it was the duty of every man to step forward at the call of his Government and to defend the flag of the Union; and since that law was enacted, we have had other elections throughout all these States, the results of which the Senator from Indiana will agree with me have signified that at least the people are much better satisfied with the mode of conducting this war than they were the year before. So I conclude from this evidence that the last mode of filling up the armies of the United States is a more popular as well as a more equitable one than that which we tried before.

But I cannot quite coincide with the opinion submitted here by the Senator from Maine, that a draft, an inexorable, inflexible lottery among all the men of the country of certain classes, is a strictly equitable mode of executing the principle which he has announced, and to which I assent. I say that it does not operate equitably; it does not operate equally and justly. You must take communities as they stand. You will have seen under the draft just made, in some instances every member of a business firm doing a large amount of business, amounting to thousands per year, drafted into the Army. Now, if it is made a duty by law for them to leave their business and to step into the ranks, and there is no mode whatever of avoiding that obligation, what is the effect upon them? That business is destroyed, at a sacrifice of thousands and thousands per annum to that firm.

Mr. FESSENDEN. The Senator will understand me. I did not attempt to define what should be the particular provisions. I did not declare myself as opposed to the idea of receiving substitutes. On the contrary, I believe that should always be allowed. I expressed no opinion on the subject of paying money for exemption. That

question I have not sufficiently considered to vote upon it now. I spoke of the general system, without proper limitations, of course.

Mr. HOWE. I am entirely in accord with the Senator in reference to the merits of the system as a general system; but if I was mistaken as to the particular view submitted by the Senator from Maine, I think that view has been submitted by other Senators; I am not sure but that the Senator from Indiana enforced it in the remarks he has just submitted to the Senate.

While in such cases as those to which I have just alluded the draft operates disastrously, you must know that every man in the United States is not so fortunately circumstanced. Unfortunately for the country, there are a great many men in the United States who cannot earn \$1,000 a year if left to attend to their own business and to employ their own judgments, their own intellects, and their own capacities. Unfortunately, there is a class of men who could do better for themselves pecuniarily, and better for their families pecuniarily, by entering into the service of the United States for reasonable pay, in its armies, than they could do at home in the unrestricted and free use of their own faculties. Now, what has been the real difficulty with this \$300 exemption clause? As I conceive, it has been this: there were a great many men drafted under the law who could not raise the \$300, and they got no benefit from the payment of the \$300 by those who did pay it. The lot fell upon them. They had no inducement to go into the Army except the payment of thirteen dollars per month, and the bounty of \$100 which I think was continued to men drafted. That was all the inducement. Wages had increased. It was a sacrifice to them to accept this service upon these terms; but the law gave them no alternative except that of paying the \$300, and that they could not avail themselves of by reason of their poverty; whereas they saw men right above them who could leave their homes with less detriment than they could, who were better able to leave home, who had fewer ties binding them to home, but who had a fortune which enabled them to avail themselves of this \$300 clause by the payment of \$300; and under the construction placed upon it by the War Office, they were allowed to pay \$300 into the Treasury, and were thus exempted from all military service for three years, while the less fortunate neighbor, not being able to raise the \$300, was obliged to go into the service and serve three years for thirteen dollars a month.

That has seemed to me to be the real difficulty, and it has seemed to me that it might be avoided to a great extent, perhaps not to the full extent, by providing for the exemption of those who are willing to contribute money and prefer to contribute money rather than personal service, and at the same time lighten the burden which falls on those who must give service because they have not the money. The provision which I would make is this: allow any man to be exempted on the payment of \$300, if that is thought to be the proper sum, but allow him only to be exempted from service under the draft for which he pays the \$300, and do not place that money in the hands of the Government to buy substitutes, but let it constitute a fund to be distributed equally among those who do choose to go into service under the draft.

Mr. COWAN. Will the Senator from Wisconsin allow me to ask him a question? Has the War Department decided that by payment of \$300 commutation money the person paying it is exempt for the term for which the men were called out under that draft, or only for that drawing itself?

Mr. HOWE. I understand that they have made three decisions. First they decided that the payment of the \$300 exempted a man from service during the term for which the draft was made. On revision of the subject, they decided that it exempted only from the particular draft; and on a re-revision of it, they reaffirmed their first decision, and so I understand stands the law as construed by the Department at the present day. I do not understand this from any authentic source, perhaps.

Mr. COWAN. If the honorable Senator will allow me, I will say that the decision, as I understand it, is only that the party is exempted from service under that call. The President called for three hundred thousand men. Until that number

is raised and another call made for other three hundred thousand men, the party paying the commutation money is exempted.

Mr. HOWE. I will not undertake to contradict the Senator from Pennsylvania on that point. My attention was called to it by a provost marshal in my State, and I gave him my own opinion of what the law ought to be, and what I supposed it was. It was that he should only be exempted from the particular draft made, but should be still liable to any subsequent draft.

Under the operation of the provision I have suggested, if a call is made for three hundred thousand men, and they are drawn from the box, and one hundred and fifty thousand choose to pay whatever is the sum fixed for commutation, say \$300, they are exempt from that draft, and you only get half the number you want; but that fund is distributed among those who enter the service, and they get a bounty from the hands of those who are exempted from that burden, who owed it equally with them to the Government, taking it from them, and not a part of it from those parties who are drawn and go. They get \$300 apiece. You pay a bounty to all these men of \$300, and the men who serve, who go into the Army, pay a part of it. Let it come out of the pockets of those who are exempt from the service, and then they pay the whole of it.

I think such a provision would be satisfactory; and while I am speaking, as I do not propose to speak again on any of the points in this bill, I wish to say that it seems to me, whether a substitute is provided, or a sum of money is paid by way of commutation, it should exempt only from that particular draft. This bill, I notice, provides that the furnishing of a substitute exempts for the whole term of service specified in the call. The result of that is, that if your whole military force amounts to a million men absolutely liable to do military duty, and the President sees fit to call for five hundred thousand, and you make a draft of the five hundred thousand, and the five hundred thousand drawn, instead of going, hire the other five hundred thousand to go as substitutes for them, on a single draft of half a million men you have exhausted the whole military force, amounting to a million; and whatever may be the precise numbers, under this rule of action, every man who employs a substitute actually uses up two men belonging to the military force of the United States. It seems to me that that is prodigality, that it is improvident, and I hope that provision will be amended; and if the chairman of the Military Committee is at all disposed to adopt the provision which I have suggested here, then I should hope he would forego, at the present time, the adoption of this last clause to the first section.

Mr. WILSON. What is your proposition?

Mr. HOWE. This last proposition, at the close of the first section is, that after the 5th day of January there shall be no bounties paid by the United States Government to substitutes, and none to enlisted or drafted men, except the bounty of \$100 provided by law. That would not be absolutely necessary anywhere, because if that be struck out there will be no law after the 5th of January authorizing the payment of any bounty to either of these classes of men. Being there it will be somewhat repugnant to the provision I propose to offer, which is not that there shall be no bounties paid, but no bounties paid by the Government, only a distribution of the commutation money paid by those who pay for exemption; that that shall be distributed among the men who go in. It does not come out of the Treasury, but comes out of the pockets of those who owed the same duty that these men paid, but who chose to pay money rather than to pay the duty.

Then, as I said, under the illustration that I gave of the operation of it, you do not get on the first draft the number of men you called for, but you have only reduced or weakened the military force by the exact number of men you get in the service, and all the rest still remain liable to duty, and if you want one hundred thousand more, you have only to turn the wheel again and they come up. In that way you certainly can fill up your Army to any number which the whole military force of the United States will warrant.

Mr. WILSON. Mr. President, I will say to the Senator from Wisconsin that the question of repealing the \$300 commutation clause is in another bill that I intend to call up after this.

Mr. HOWE. I know it.

Mr. WILSON. This is a simple bill making legal the bounties offered by the Government, making an appropriation for their payment, increasing the pay of the Army, and equalizing the pay of the colored troops. That is the substance of this bill, which we would like to get through at once. Out of this bill and the other has been framed a small bill in which is included an appropriation that I hope to welcome from the House of Representatives to-day or to-morrow morning, and that we shall be pretty sure to get through, I think, before the adjournment over the holidays.

Mr. HOWE. The Senator will allow me to say that I was aware that that subject belonged to another bill, and I had prepared the proper amendments to move to it; but, indulging in the course of discussion indulged in by others, I made my remarks with a view of suggesting to the Senate the propriety of waiving this amendment for the present.

Mr. WILSON. In regard to this amendment, the committee, as I have before said, went upon the theory that the pledge of the Government should be redeemed; that we should stop there and leave matters as they now are, with the exception of substitutes; and it was thought best that persons drafted and employing substitutes should pay them in full, and that would relieve the Government.

I think, sir, from what has been said here to-day, that there is a great deal of misapprehension in regard to the history of recruiting the troops we have raised. As was said by the Senator from Maine, when the rebellion sprang upon the country, our people leaped to arms. We raised very readily a large number of men. At that time all kinds of employments were checked; the price of labor was very low. That fact undoubtedly had its effect, in addition to the spontaneous enthusiasm and patriotism of the people. But, sir, in the month of January, 1862, recruiting began to wane; and in January, February, and March, of 1862, we had very few men enlisted. At that time we had scattered through the country about one hundred and fifty unfilled regiments. Regiments had been started here and there all over the country; and we had several hundred recruiting officers out at enormous expense, and we were raising very few men. Those regiments could not be filled by the officers that had undertaken to raise them.

The Senator from Maine in March, 1862, called our attention to the reported number of men and the expenses of the recruiting system. He referred to the large number of men we were then supposed to have. We had not and could not obtain at the War Office evidence of the number we did have, but we were told that we had some seven to eight hundred thousand men. The Government stopped that mode of recruiting for about thirty days, and forced the consolidation of these fragments of regiments, scattered over the country, and ascertained what number of troops we actually had. Finding that we had fewer troops than had been represented, the Government immediately commenced an improved system of recruiting. I have no doubt, sir, that this action of the Government, instead of checking recruiting in the spring of 1862, really added to the military force of the country on the 1st of July of that year. I had no doubt of it then. I have none now.

In the middle of the summer of 1862 we began to feel, as the active campaigns progressed, that we required more men, and Congress passed an act providing for the calling out of the militia for nine months. I believe the Senator from Vermont [Mr. COLLAMER] was anxious to fix it at that time, as he thought nine months was long enough for militia to serve. We passed that act authorizing the Government to call upon the Governors of the States for militia for the term of nine months, and they were to be drafted under the militia laws of the States. While we were making that law, and just as we were about adjourning, there came to us from all parts of the country a call for an act of Congress providing for drafting men. The Albany Argus, the New York Express, and the World, the Illinois Register, and many of the leading journals of the Opposition, all maintained that drafting was the only equal way of getting troops. Then, sir, under the power

to call out the militia, there was an enrollment begun in the various States, and by drafting and by volunteering under the bounties of the Government, and the bounties offered by the States and by towns and by individuals, we raised then something like four hundred thousand of the six hundred thousand men called for.

At the last session of Congress we began to feel what every nation feels that carries on a war any length of time: we began to realize that war is a great drain upon the labor of a country. The wages of labor everywhere rose, especially of skilled labor. Business revived, and has since been exceedingly active. Men who could earn, a few weeks after the rebellion broke out, but fifteen or twenty dollars a month, were able to earn forty or fifty dollars a month, and that fact has continued so to this time. This general prosperity is a check upon the filling up of the ranks of the Army. Besides that, many of our communities have already had immense drafts upon them. I live in a little town of five thousand three hundred inhabitants, and we have sent over five hundred men to the war for three years. It is so in many other places, and it is now very hard to get men to go at all unless they are drafted or paid enormous bounties.

Then, sir, we passed the enrollment act, and we desired to make that act just as humane as possible, and to correct the inequalities that existed in all the draft laws of the States. The burdens imposed by the State laws were upon the toiling poor, and those who were exempted were the more privileged portion of the community. In our enrollment law we exempted four or five classes of persons who were poor or had poor relatives dependent upon them. We inserted the commutation provision, of which so much has been said, which has been so much misrepresented and misunderstood. That provision was put into the act for no earthly reason but to make that law bear as lightly as possible upon the poor and the laboring portion of the people. We thought if that provision was not in the bill, it would be found when the draft was made that there would be an immense rise in the price of substitutes; that there would be great speculation, that the price of substitutes would go up to \$1,200 or \$1,500 or \$2,000 in a few days; that the mechanics, the small farmers, the laboring men of the country, no matter what might be their condition, could not obtain substitutes; that thus the law would bear with great weight upon the poorer portion of the people. We thought \$300 was a fair sum to fix; that the effect would be to keep down the price of substitutes, and that the Federal Government, having the whole country to recruit from, especially the rebel States, would relieve the loyal portion of the country to some extent, and put some of the burden upon the portion of the country in rebellion. We were right in our opinions.

This section of the act was misrepresented, I think very wickedly misrepresented. I think if that provision had not been in the law the same outcry would have been made against substitutes; that when we came to put the law into effect, and the price of substitutes had been very high, then the cry would have had great effect, from the fact that no man could get a substitute without paying away a small fortune. Nobody but rich men could obtain substitutes. Now it is proposed to strike out that clause. It is said by the Senator from Indiana, who made the proposition early in the session, and who has addressed us to-day against the provision, that it has not furnished the number of men needed. I believe the more we study it, we shall find that the enrollment act needs a few amendments of detail, but very few, and the main, leading features of it must be retained. I think all the trouble in the act was that it was not at once promptly and energetically put in force and kept in force until it brought into the field the required number of men or the money to recruit the required number of men. Now, sir, what is the fact? The Senator from Indiana has referred to the report up to the 1st day of November; but I have been told—in fact, it has been published—that we have obtained from fifty to sixty thousand men from the draft, and that we have now about twelve million dollars from the commutation. If it be \$12,000,000, forty thousand men have paid the commutation. Now, it is said that we have not the men. Sir, with this money that was raised, the Secretary of War

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early in the summer made a special and particular effort to enlist veterans; and veteran regiments were authorized to be raised in nearly all the States. They have three in my State, I think; they have one or two in Maine; I believe seven or eight or ten were authorized in Indiana; and so of other States. These veterans were promised the sum of \$400; that is, the \$300 coming from the commutation, and the \$100 bounty provided by the existing law. We have raised some of those men with the money thus obtained from the commutation.

On the 17th day of October the President called for three hundred thousand volunteers, making this promise of \$400 to veterans and \$300 to other persons enlisting. It may be that the draft produced but fifty or sixty thousand men. I shall not dispute as to the number. The fact that the act existed on the statute-book fired the towns, the counties, and the States to renewed energy to fill up the ranks of the Army by volunteers, and we have got many thousand men because we had the law pressing upon the people. We obtained fifty or sixty thousand drafted men, or substitutes. About forty thousand men paid the commutation money, and the Government offered that money for veterans. Although the money is not all paid out, it is all promised, and more too; for instead of paying all the money to the recruit at once, the Government only pays him a certain portion of it, divides the sum into installments so as to cover the three years of his service, and in that way we have got more men absolutely enlisted by the use of this money than the number of men who paid the commutation.

I agreed, Mr. President, to report the amendatory bill with a provision striking out the commutation clause. The committee were against me on that question. It may be that I am mistaken, but I have looked upon that as a humane provision in regard to the poor and toiling men of the country, a provision in favor of the loyal sections of the Union, a provision that enables us to retain at home the skilled labor necessary to carry on the industrial pursuits of the country, and to furnish the money to carry on this war. I have regarded that provision as in favor of the people, in favor of the country, as furnishing the means that would enable us to raise troops in Tennessee, in Texas, in Arkansas, in Mississippi. Wherever our armies open the way, the poor, the utterly poor Union men who have lost their all, and who are willing to fight the battles of our country, may, by the use of this money, be induced to enlist, and it will also serve to put the black men of that section of the country into our service. We have raised in East Tennessee since Burnside entered it, I am told, thirty-five hundred men with this \$300 bounty furnished by the mechanics, the laboring men, the business men scattered over the loyal States. We have raised some two or three thousand men in Arkansas, and report says that we have raised nearly two regiments in Texas now.

Sir, I say to you, if I had my way, instead of allowing substitutes to be received, I would do what the experience of the best military nations of the earth has shown to be proper—I would have every man drafted go himself or pay a reasonable commutation, and let the Government, with the money thus furnished, raise the men, and thus break up the demoralizing recruiting system that prevails. I believe, upon my conscience, that if the draft commences on the 5th day of January, and Congress repeals the \$300 exemption clause, the price of substitutes before the 1st day of February will go up to \$1,200 or \$1,500. The poor laboring men, the small farmers, the mechanics, will have no mode on earth to relieve themselves. The men who enlist as substitutes will be able to obtain a large sum of money, and that is so much in favor of men who have little means. If I had the power to do it, if I had the entire arrangement of the law, I would amend the enrollment act so that if a man of means was drafted and he could render any military service to the country, if he could go into a fort and do duty on the sea-coast, or if he could be put into the fortifications to de-

fend Washington, I would put him into that service or make him pay the commutation.

What we want to do, I take it, is, in the first place, to fill up the ranks of our armies, and keep them full; and in the next place we want to make the law bear as evenly as we can on the men upon whom it falls, for you cannot make perfect equality. You cannot, in this world of inequality, have any law that will operate equally upon all men. Make it as nearly equal as you can, let its burdens fall as lightly as possible upon the toiling and laboring poor men of the country, and at the same time let us look to it that we take care of the productive industry of the country, of our farms, our workshops, our manufactories, our ships, everything that is necessary to earn the means that shall keep up the credit of the Government and fill the Treasury, to put down this rebellion.

I would put another provision in this act, and I want to make the suggestion here now, and that is, that the States, or individuals of the States, or the officers of States, should be permitted, wherever our armies go or wherever they can go in the rebel States, to enlist black men or white men. In the department under General Grant there are some seventy regiments from the State of Illinois. We have the Mississippi river open. I would let the officers of the army from Illinois; I would let the authorities of Illinois, State, town, or county; I would let the people of Illinois or Indiana or any of the western States, or any other State, enlist white men in the disloyal States and put them into the ranks of their old regiments. We do not want to raise regiments of militia down there that would be good for nothing for a year. Put them into the old regiments, and let them count to the States enlisting them. I would raise black men there, and I would let those authorities or individuals go there if they choose and send fifty or sixty or one hundred miles into the country in the rebel States and bring in, and encourage to come in, the colored men, and put them into companies and regiments by themselves. We could thus pick up from the rebel States within the next two or three or four months tens of thousands of white men and black men, and relieve our own people from the great burdens that are pressing upon us; and for that purpose, if I had my way, I would let the commutation stand at some rate or in some form, and have this work go on.

The Senator from Indiana has spoken of the devotion of his own State, and of the manner in which her people have filled all the calls made upon them. Well, sir, we all acknowledge that the State of Indiana has been surpassed by no State, not only in filling the quotas called for, but in fighting the battles of the country in the field, and a great deal of this is due to the energy and organizing power of Governor Morton, the chief magistrate of that State, and a great deal of it is due to the patriotism and ability of that people. I would not say a word that should detract anything from the State of Indiana, or any other State, especially any western State; for if there be a sentiment that ought to be trampled down and stamped out, it is a sentiment that would foster hostility between the eastern and western States. The man who, in public or private life, fosters hatred between the East and the West, is not only a demagogue, but an enemy of his country and of the human race. I wish simply to say, sir, as far as concerns my own State, that in proportion to the men liable to do military duty, we have furnished for the Army and for the Navy our full share called for during the war. Senators from the West, when they speak, as they have a right to speak, not only of the patriotism of their people that crowd the ranks of our armies, but of their valor in the field, and, above all, the glorious opportunities that they have had over any other portion of the country in proving their valor in the field, should remember that in proportion to their population they have more men, and especially young men, than we have in our portion of the country. The State of Indiana has one hundred and eighteen thousand more people than the

State of Massachusetts, and of these one hundred and eighteen thousand, one hundred and three thousand are males. Our young men emigrate, go to sea, go West; thousands of them are in the ranks of those very regiments of the West that have won so much honor. Many of our young men are officers, and many of them have been the leaders of those regiments and those brigades in the West.

I was in the State of Maine last autumn canvassing over five or six of her counties, and I was surprised to notice how few young men attended the meetings. The young men of that State are in other States, engaged in the active pursuits of life, or in the ranks of the Army. It is so all through our portion of the country. When you ask a State in New England in proportion to its population to furnish the same number of men that you ask of the States of the West, you are putting upon it a much greater burden than you put on the western States; because in the West you have more men according to population, and especially more young men fitted for military duty. Then there is another thing to be considered. We send an immense number of men into the Navy—a much larger number than any other section of the country. I have a letter from one town of my State saying we have furnished over six hundred men for the Navy of the United States, and we get no credit for that; and they called on us the other day to help make up a crew for one of our war vessels, and sixty-two men have been raised at an expense of \$3,500, subscribed by the citizens, and we get no credit for that; and we are now called upon to fill our portion of the Army. That is our condition in New England; and I only state it that Senators, when they speak, as they have a right to speak, of the patriotism of their people, of their prompt response to the calls of the country, shall not here assail or misstate the patriotism or devotion of other sections of the country.

THE PRESIDING OFFICER. (Mr. Foot.) The question is on the amendment reported by the Committee on Military Affairs.

MR. COLLAMER. I take it that if any one desires to amend this amendment before it is adopted, now is the time.

THE PRESIDING OFFICER. Now is the time.

MR. COLLAMER. I propose to amend the amendment by striking out the words, "5th day of January, 1864," and inserting "commencement of the next draft," so that it will read: "and after the commencement of the next draft there shall be no bounties paid by the United States Government," &c.

MR. PRESIDENT, I frequently hear gentlemen here from different States say that their States will fill up the quota the President has called for, and are now doing it. I think that is probably true; but how are we doing it? We are filling up that quota by offering the men additional bounties by towns, by counties, by States, and by individuals, in addition to the bounties that the Government pays. That is the way we are doing it. I take it that whenever you repeal the \$300 and \$400 bounties we cannot do anything of that kind then, and we shall not fill up the quota at all under those circumstances. The bill proposes to strike off the Government bounties after the 5th of January. Now, I believe the Executive will receive such assurances and such evidences of the filling up of the Army under the present call as will induce him to give a little more time in which to do it; and the effect of this bill, if we pass it, when the people can be informed of it, will very much further that. The bill, if we pass it and publish it, will tell them this: "now you see if you will come in and volunteer and fill up the quota that is asked for, you may have these bounties; but you will understand that if you do not take these bounties and do not fill up the quota which has been called for, when the time comes for making another draft, you will not get any bounties at all unless it may be the \$100 already provided for," and that, I believe, is not to be given to substitutes.

Now, I say that if the people are once informed of this bill, and especially of the other bill which the honorable chairman has reported in relation to the draft law, which tells those who have been out for nine months and less than two years that they too are to be enrolled, and that they now, being veterans, can come in and take the \$400 bounty, and that unless they do it they may be subject hereafter to draft without any bounty, it will make a very great difference, and this call of the President may be filled up.

Then gentlemen say to me, "what if you put in these words and the authorities do not make any draft?" When will the Government cease to make a draft? Only when their calls upon the people fill up the Army, so that they do not need recruits. I am perfectly willing that they should fill up the Army under the system of bounties, notwithstanding what some gentlemen in other quarters may say.

Mr. President, it is not to be disguised that the burdens in this war upon the people of this country consist in two things: one is in rendering personal service, and the other is in paying money. Now it is attempted to separate these things altogether. The men who are of that age and ability to be subject to the performance of military duty and capable of it, owe their services to the Government, and as many of them as the Government needs should be called out, and they should render the service. All that is very well; I find no fault with it; but let us see how it works.

Here you repeal all essential bounties; you say to the men between twenty and forty-five years of age, "you owe duties to this Government by the way of service, and you shall render them; and another thing you see, too; you shall render them without the rest of us who should pay money paying much of anything to you." It will not do, say gentlemen, to go on giving bounties; it will be so expensive that we cannot do it. What is it, then? Essentially that we will put the whole duties upon the men between twenty and forty-five—the duties of rendering service without any compensation, without our contributing anything. I do not like that. I prefer to bear my part of what shall be an honorable and fair bounty to these men. Almost any of them can earn infinitely more at home than we pay them. Can you expect that people are so patriotic that they are more willing to be shot at for twenty dollars a month than to stay at home and receive fifty dollars for common labor? Is it a reasonable request? Not at all. Now, I say that in the form of bounties, or in the form of pay, (and it is not very material to me which, though I believe bounties will quickest fill the Army,) we should take measures to fill up the ranks. I am willing that the Government should fill the Army by offering these bounties. I do not like the idea of saying, in this bill, "you may continue the bounties to enable you to fill up your quota, but you shall not do it after the 5th of January." What if the Executive finds that the Army is being filled up rapidly, and will, under these laws, fill up rapidly, and he chooses to extend the time for the draft? Should he not have that privilege? Should not the influence of such a law be upon the people to enable them to fill up their quota? I think so.

Mr. President, I am unable, in the condition of my voice, as well as in other respects generally, to add anything to the advantage of what I have already said, but I still persist in having my amendment tried.

Mr. FESSENDEN. Mr. President, the Congress, on full deliberation, fixed the bounty that they would give, in addition to the ordinary pay, &c., at \$100. That is the way the law stood, and the way the law stands at this day. The Executive Government chose to offer of its own accord \$400 to veterans, and \$300 to other volunteers. Under that offer of the Government (made without law so far as it goes beyond the amount they received as commutation money) many men have enlisted. The object of the bill now before the Senate, as I understand it, is simply to declare that, as to all those who have enlisted under that offer of the Government, thus made without law, and as to all who may enlist under it previous to a given time, we will pay the bounties thus offered by the Government; we will make good their offer; but that after that time expires we will then revert to what Congress fixed upon as a proper bounty to be paid, to wit, \$100. That is the

amount of it. In that view of the law, the Senator from Vermont proposes to change the day fixed, and to say that these bounties may be paid until the beginning of the next draft. The effect is, substantially, to say to the Executive Government, "you may vary from what we have fixed upon at \$100, and as long as you please, without our interference, go on and pay the \$300 and the \$400 which you fixed, and not we." That is the amount of it. It is not striking out any bounties which the Government has ever authorized—that is to say, the proper authority, Congress, has ever authorized—but it is simply making good what has been done. The honorable Senator from Vermont proposes to change entirely the system which Congress has adopted, and to put into the hands of the Executive the power to judge how long they shall continue to pay the bounties. They have already offered to men to enlist three or four times as much as Congress thought sufficient; and in addition the bill contains a clause for raising the pay of the soldiers to which I will not now advert.

Then it becomes a question of money. As I said before, it is very easy indeed for us to declare that we will pay this, or pay that, or pay the other. The sum may be limited, or may be almost unlimited. It is very easy to say that they ought to have it, or ought not to have it. But the question which I put before comes, how long can we continue to put into the hands of the Executive Government the power to offer just as much as they please in the shape of bounties, and have us indorse it, and let them have an unlimited time in which to act upon it? because it amounts to that. It is simply taking it out of our hands and saying that as to the law which we have passed providing for a draft, they may enforce it or not at their pleasure; if they choose to do it, do it; if they do not like it, they may offer just such sums as they please, within a certain limit, and keep it going. That is a state of the law I do not like. I want to have a day fixed one way or the other. If Congress is ready to offer a bounty of \$400 to veterans and \$300 to raw recruits, say so and disperse with your draft; but do not say to the War Department, "manage this thing to suit yourself, put off the draft or not, just as you think right, and pay bounties of three or four times the amount originally fixed by law; give as much as you please."

I think that is not a safe mode in which to leave it. I agree with the honorable Senator from Vermont, that under such circumstances the result would be precisely what he says: they could raise more men undoubtedly by these very large bounties than in any other way. Very likely they can for the present, and therefore if recruiting goes on at that large rate, they will defer the draft, and they will defer it indefinitely, so that the result of his motion is simply to change the law from what it now stands, \$100 bounty, to \$400 and \$300, and the question is whether we are prepared to offer that as the law of the land, and offer it indefinitely, just as long as the Executive Government choose to authorize it.

I am opposed to that. Let us settle it one way or the other. I do not think it is just to the soldiers now in the field, the men who have not received these bounties or anything like them, but have gone there to fight. I do not think the system operates equally; to go on from day to day and month to month, increasing, as the war draws near its close, as I think it does, the bounties to be paid for services which at the most cannot begin to equal the services rendered for small bounties or for no bounties at all by the soldiers in the field. Besides, it has the other effect of which I spoke, to make men stop and consider and wait to see how much money they can get, instead of coming forward in defense of their country.

But it is stated here that the men can make more at home. That is true in some cases, but true in very few cases, so far as my observation goes. Throughout New England the counties and the towns pay very large bounties, and the States pay a bounty in addition; and I undertake to say, so far as my observation goes, that the great majority of men who go into the field, if they live and preserve their health, come out of it, if they are prudent, temperate, and careful, very much better off than they would be as a general rule if they had staid at home. There are exceptions, of course; but unless wages are very much higher and every-

thing else much higher, as I dare say is the case, in Vermont than in Maine, the effect of which the Senator speaks in reference to that matter can hardly be considered as a just result, in my judgment.

Now, sir, I hope the bill will pass substantially as it is. I am not particular about the time; it may be enlarged if Senators think better; but a definite time should be fixed, and Congress should say when the payments of these large sums shall cease, and not the Executive Government.

Mr. WILSON. Suppose you put it the 1st day of February.

Mr. FESSENDEN. In order to make it just, it has been suggested to me that the draft must commence at the same time in all the States, or it would operate differently. I do not know—I am not familiar enough with military affairs; I defer to the judgment of my honorable friend who stands at the head of that committee—what time is the best, but I hold that this matter should be kept within the control of Congress. They should settle these questions, how much they are to pay and how long they are to pay it, and not be legislated out of their own legislation by the War Department. I will agree, as I stated before, to make good all the pledges they have given to men, or else I would have those men discharged and not deceived; but, for the future, let us proceed upon a system. I hope the amendment will not be adopted.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Vermont to the amendment reported by the Committee on Military Affairs.

Mr. COLLAMER. I will modify my amendment to suit the views of other gentlemen rather than my own by saying "the commencement of the next draft, not later than the 1st of February, 1864." I believe other gentlemen are well enough satisfied with that, and therefore I put it in that shape. Now I wish merely to say a single word in reply to the honorable Senator from Maine. I am free to acknowledge that I would rather contribute my portion to pay the bounties which are now given, if they will fill the Army and produce the number of men wanted, than to resort to a draft. My judgment is that it would be best. It is said that it is unjust to those now in the service. They never make any complaint about it. All they ask is, "do send us help." But it is further to be remarked that according to this very bill we have before us, all the men in the Army now will soon have an opportunity to avail themselves of these bounties. Most of them have the opportunity to-day. Their three years are nearly out, and when the time is about out they will have an opportunity to reenlist and receive these bounties. I do not know, however, but that this limitation to the 1st of February will cut some of them off.

Mr. WILSON. I will say to the Senator from Vermont that the idea of the committee was that the soldiers in the field would be reenlisted as substitutes by bounties offered by persons who were drafted. If the Senator fixes it the 1st day of February, it will give us an opportunity, after the holidays, to make a few corrections in the enrollment law that we want to provide for, and make the draft commence on the 1st day of February.

Mr. COLLAMER. I am willing to let it stand in that way with that qualification for the present, though I must say again that I think a resort to a draft is not advisable if those who contribute to the taxes will pay their portion of the expenses of the war by paying the proper bounties.

Mr. SAULSBURY. On the latter clause of the amendment I have a word to say; that is that I object to that, being opposed to drafting, in fact being no particular friend to war anyhow; yet I wish as far as my State is concerned that the longest time possible shall be given to her, and that the citizens in my State shall not be forced to enter into this war on any particular day. I am perfectly willing to vote for any amount of bounty to volunteers, and I am not only willing to vote for any amount of money to volunteers, but I am willing, as far as I am individually concerned, to contribute out of my own private purse to recruit the armies of the United States. I am opposed to making it obligatory upon any citizen in my State, by force of a draft or otherwise, to enter into the armies of the United States; I wish to leave it to his own voluntary action. I therefore move, if it is in order, to amend the amendment of the

Senator from Vermont, by allowing these bounties to be paid till the 4th day of March instead of the 1st of February.

THE PRESIDING OFFICER. The amendment moved by the Senator from Vermont being an amendment to an amendment, the Senator's motion is not now in order. The question is on the amendment moved by the Senator from Vermont to the amendment reported by the Committee on Military Affairs.

MR. HICKS. If it be in order—I am not sure that it is—I would move now to strike out—

THE PRESIDING OFFICER. The Chair will state that no amendments are in order while an amendment to an amendment, which is an amendment in the second degree, is pending.

MR. HICKS. The motion I desire to make is to strike out the latter part of the first section, commencing after the word "dollars" in the twentieth line.

THE PRESIDING OFFICER. That motion is not now in order. The question is on the amendment of the Senator from Vermont to the amendment reported by the Committee on Military Affairs.

The amendment to the amendment was rejected.

THE PRESIDING OFFICER. The motion of the Senator from Maryland will now be in order.

MR. HICKS. I move to strike out all that part of the first section after the word "dollars" in the twentieth line. I do so because experience has satisfied me that volunteers in the Army are infinitely superior to forced men. I prefer to retain the \$300 clause because it is a sum which many a man in moderate circumstances is able to raise, or, if he cannot raise it himself, his friends may contribute it for him. I think the money obtained in that way can be well spent as a bounty to induce men to enlist. We have among our people many soldiers who have left the field, having served out their terms and returned to their homes, single men, who would gladly take a bounty of \$300 or \$400 and go back, ready for service, drilled, disciplined, and in condition to enter immediately upon the service of the Government.

Besides, sir, I do not know how it is elsewhere, but these drafts, so far as the State of Maryland is concerned, have been very heavy. Many of our young men who have been drafted, before they could be forced to the rendezvous, have gone over to the confederates, and a great deal of confusion has been produced by it. I am induced to think that it is better to offer a bounty to those who will go and volunteer. Some honorable Senator has spoken of the amount of money that it will require. Why, sir, the money involved is but a small matter compared with the importance of putting down at the earliest day this unholy rebellion. The sooner we do it, the better; and we should so act as to raise the necessary forces as soon as possible. I feel exceedingly anxious that this bounty shall be continued. When this rebellion is put down and the machinery of this great Government is again put in motion, millions and millions of dollars will be raised without any inconvenience to the people at large. I move to strike out all after the word "dollars" in line twenty to the end of the section.

MR. GRIMES. We have not adopted the portion of the section which the Senator proposes to strike out.

THE PRESIDING OFFICER. Let the proposed amendment be reported, and the Chair will then pass upon the question.

THE SECRETARY. The amendment of the committee is to insert after line eighteen the words "except as provided in the fifth section of this act," and after the word "dollars," in line twenty, to insert, "and after the 5th day of January, 1864, there shall be no bounties paid by the United States Government to substitutes, and none to enlisted or drafted men except the bounty of \$100 now provided by law."

THE PRESIDING OFFICER. The proposition of the Senator from Maryland is simply to strike out a clause which has not yet been inserted, and therefore it is not in order. The question is an affirmative one upon inserting the words which have been read as reported by the committee.

MR. HOWE. Do I understand the pending question to be on the adoption of both the clauses in italics?

THE PRESIDING OFFICER. The question

is on inserting all the words in italics in this section after the eighteenth line.

MR. HOWE. The proposition of the Senator from Maryland is to strike out the words in italics after the word "dollars" in the twentieth line.

THE PRESIDING OFFICER. The Chair so understands it; but the words, as printed, form an entire proposition to be inserted, and that amendment has not yet been adopted. The equivalent question and the direct question, in the affirmative form, is upon inserting these words.

MR. HOWE. The question in the affirmative is on inserting these and the preceding words in italics, as I understand it. That is what I am trying to understand. The words in italics embrace these words and a good deal more preceding.

MR. JOHNSON. May I ask how the bill will read if amended as proposed by my colleague?

THE PRESIDING OFFICER. The Chair thinks that these separate words in italics are separate propositions; and the first question—and that will divest it of all complicity—is upon agreeing to the amendment reported by the Committee on Military Affairs to insert after the eighteenth line the words, "except as provided in the fifth section of this act." That is now the proposition directly before the Senate, not connected with the latter clause. The question is on this amendment.

The amendment was agreed to.

THE PRESIDING OFFICER. Now the question is upon inserting the words printed in italics after the word "dollars" in the twentieth line to the close of the section. The proposition to strike out those words before they have been inserted is not in order. The question is upon agreeing to the amendment proposing to insert those words.

MR. JOHNSON. What are the words?

THE PRESIDING OFFICER. Let them be read again.

The Secretary read them, as follows:

And after the 5th day of January, 1864, there shall be no bounties paid by the United States Government to substitutes, and none to enlisted or drafted men except the bounty of \$100 now provided by law.

MR. LANE, of Indiana. Is it now in order to move an amendment to the motion of the Senator from Maryland?

THE PRESIDING OFFICER. The question is on inserting these words.

MR. LANE, of Indiana. What I want to get is to fix the 1st or 2d day of February, as proposed by the Senator from Vermont, instead of the 5th of January.

MR. HOWE. That has been negatived.

THE PRESIDING OFFICER. That question has been decided in the negative on a direct vote.

MR. LANE, of Indiana. I move the 2d of February, then.

MR. CLARK. You can move the same amendment in the Senate. It is now in committee.

THE PRESIDING OFFICER. The Senator from Indiana moves to amend the amendment reported by the committee by inserting "2d of February" instead of "5th day of January."

MR. SAULSBURY. I will ask my friend, the honorable Senator from Indiana, if he will not agree to substitute the 5th day of March?

MR. LANE, of Indiana. Probably the 2d of February will do. I do not think the Senate understood the question when the vote was taken on the motion of the Senator from Vermont.

MR. JOHNSON. I would suggest to the friends of the bill as it is proposed to be amended by the committee, whether it is advisable to keep in the 5th day of January. It is a question whether the bill can be passed by that day.

MR. WILSON. I thought the suggestion was to fix the 2d of February.

MR. JOHNSON. I mention that as a reason why you should change the day.

MR. COLLAMER. My proposition was rejected without any vote that anybody could count.

MR. CLARK. We can have it tried again in the Senate.

MR. JOHNSON. Try it now.

THE PRESIDING OFFICER. The question is on the amendment moved by the Senator from Indiana to the amendment reported by the committee to insert "2d day of February" instead of "5th day of January."

The amendment to the amendment was agreed to; there being, on a division—ayes 24, noes 16.

THE PRESIDING OFFICER. The question

now is on agreeing to the amendment of the Committee on Military Affairs as amended.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Military Affairs and the Militia was to strike out "twenty-five," in line three of section two, and to insert "fifteen;" and in like six of section two to strike out "fifteen" and insert "ten;" so as to make the section read:

That the Secretary of War be, and he is hereby, authorized to pay a premium not exceeding fifteen dollars, under such regulations as he may deem expedient, for the enlistment of a veteran volunteer not now in the service, and a premium of not more than ten dollars for the enlistment of any other volunteer.

MR. HOWARD. I move to amend that amendment by striking out "fifteen" and inserting "twenty;" and in the second place, striking out "ten" and inserting "fifteen."

MR. FESSENDEN. I should like to inquire of the committee what particular necessity there is for paying this premium at all to persons who are enlisted men? It must amount of course to a very large sum, and I should like to have an explanation as to whether it is absolutely necessary.

MR. WILSON. In answer to the inquiry I will say that the Government have authorized the payment of twenty-five dollars in the case of veterans, and fifteen dollars in other cases, as a premium for the purpose of encouraging enlistments. They provide, however, that no expenses are to attend it except this sum; that is, when a man obtains a recruit, if he be a veteran, he is paid twenty-five dollars. He may, in bringing the man to the point where he is to be recruited, have to pay several dollars; he has to pay that himself. The committee cut down the sum the Government is now paying from twenty-five to fifteen dollars in the case of veterans, and from fifteen to ten dollars in other cases. We had the impression that we ought to cut it down.

MR. COLLAMER. I wish to ask the chairman a practical question. Is not this necessarily so much additional to the bounty? If the man has made up his mind to enlist, will not the result be that he will get his neighbor to take him in to get the money? No man will be enlisted who has not somebody to carry him forward. This is just adding so much to the bounty money. Is not that all there is to it?

MR. HOWARD. Not all. If I understand it rightly, this is a premium which is given to the recruiting officer for the time, trouble, and care which he is compelled to bestow in the discharge of his duties.

MR. TRUMBULL. He gets his regular pay.

MR. HOWARD. He gets his regular pay besides this, to be sure, but there are a thousand incidental expenses which he is compelled to submit to, and which cannot be foreseen.

MR. TRUMBULL. The Government pays them.

MR. HOWARD. Oh, no. In many cases recruiting officers have been reduced almost to poverty in consequence of these incidental expenses which they are compelled to pay out of their own pockets if their friends in the neighborhood do not assist them. I know of one particular case of this kind, in my own State, where the burden has been absolutely insupportable; and it is not an isolated case by any means, as I have been informed. It strikes me that this is not, by any means, an unreasonable compensation by way of indemnifying the recruiting officer for these unforeseen expenditures which are required at his hands. The Government, it seems, have been allowing twenty-five dollars premium for each veteran recruit, and fifteen dollars for every recruit not a veteran. This committee have reduced the sum down to fifteen dollars in the one case, and ten dollars in the other. It strikes me that that is not sufficient, but it ought to be twenty dollars and fifteen dollars for these respective classes.

MR. GRIMES. I should like to be sure that I understand the Senator from Michigan. Do I understand him to say that the Government has been paying twenty-five dollars to each recruiting officer for every recruit that has been enlisted by him?

MR. HOWARD. I have been so informed. It has been done under the order of the Department; there is no law for it, I believe.

Mr. GRIMES. Then I should like to make another inquiry. Has anything been paid, under any regulation of the Department or otherwise, to any person presenting a recruit? The Senator is aware probably that even in time of peace any person might bring up a man to be enlisted, and the person who brought him up to the enlisting officer was paid a small compensation—a couple of dollars.

Mr. HOWARD. Certainly it is the commonest thing. It is an indispensable portion of the expense.

Mr. GRIMES. What I want to know now is whether, in addition to the twenty-five dollars to the recruiting officer, there is any corresponding or other sum paid to a person who brings in a recruit?

Mr. HOWARD. Ordinarily, if you are a recruiting officer, and employ a man to bring recruits to you, you must pay him; and it is quite immaterial whether the payment comes from the special compensation of twenty-five dollars or fifteen dollars or your own pocket. The man whom you employ must be paid.

Mr. GRIMES. The Senator does not understand me. I want to know whether, by authority of the Department, any money goes from the Treasury to pay the person who presents the recruit?

Mr. HOWARD. I fancy not. That would be an oddity.

Mr. WILSON. I understand the fact to be this: there was a bounty of two dollars that was paid to a man who brought in a recruit.

Mr. FESSENDEN. That was authorized by law.

Mr. WILSON. That was authorized by law; and when the Government called for these three hundred thousand men, they authorized the payment of sums not exceeding twenty-five dollars for a veteran, and fifteen dollars for any other person; and if a man brings in a dozen recruits whom he can pick up about the country, he gets this sum of money; and we have proposed to cut it down because we thought the price was too large.

Mr. GRIMES. I should like to know from the chairman of the Committee on Military Affairs, whether this compensation has been paid for recruiting colored troops?

Mr. WILSON. I understand they have been paying lately only ten dollars for colored troops.

Mr. GRIMES. How lately?

Mr. WILSON. I do not know whether it has been done in any other part of the country but General Butler's department. Some time in this month, I think, General Butler issued an order in his department for the raising of colored troops, and he agreed to pay a bounty of ten dollars, and I understand that that has been sanctioned by the War Department. In the section of this bill raising the pay of the colored troops to an equality with that of white troops, we do not give them any bounty. I was told by the Secretary of War that a bounty of ten dollars was thought to be ample to find and bring in those men.

Mr. JOHNSON. Will the Senator permit me to ask under what authority the Secretary of War authorizes a premium of ten dollars or twenty-five dollars? Is it under any existing law?

Mr. WILSON. I do not think there is any law for it.

Mr. JOHNSON. The law limits it to two dollars.

Mr. WILSON. I do not think there is any law authorizing either the twenty-five dollars for veterans or the fifteen dollars for other recruits, or the ten dollars for colored troops; but they have a recruiting fund appropriated to them. I do not know how much they have got on hand of it. Out of that fund they thought it was necessary to pay these sums in order to hurry up the recruiting.

Mr. JOHNSON. Do I understand the Senator from Massachusetts to suppose that there is any law which places that recruiting fund entirely in the discretion of the War Department, that the Secretary of War can do with it what he pleases?

Mr. WILSON. I do not mean to say that that is so. I think that in this matter of raising the three hundred thousand men under the last call, the Government have not stood strictly according to the letter of the law. That is my view of it, and I want to fix the thing if we can, and hold them to the law. I thought the sum ought to be reduced.

Mr. ANTHONY. I understand that the effect of this section is precisely as suggested by the Senator from Vermont. This sum of twenty-five dollars is paid to any person who shall present a recruit. The result is that when a man makes up his mind to enlist, he makes an arrangement with some one to go with him and divide the money. It has worked so in our State, but my colleague knows more about it than I do. That has been the effect of it, I think. There was a premium of this kind paid by our State authorities, and the effect was, not to increase the enlistments, but to add a little to the bounty.

Mr. FESSENDEN. I wish to suggest that, taking the average between twenty-five dollars and fifteen dollars, and calling the amount of the premium twenty dollars, supposing the recruits are one half veterans and one half other persons, the amount for three hundred thousand men would be \$6,000,000—\$6,000,000 paid in premiums for raising the three hundred thousand men! It is substantially, as the Senator from Vermont says, adding just so much to the bounties. There ought to be some consideration about it. I may state one fact that I am told is true in reference to Maine, for instance. They are raising there two veteran regiments, and the towns also are offering bounties for recruits, but no premium whatever is paid for bringing men to the veteran regiment, not a dollar; but the twenty-five dollars and the fifteen dollars have been offered generally for bringing men to go into the other regiments in the field; and yet the veteran regiments fill up very much faster than the others, with nobody to bring them forward at all.

Mr. HOWARD. Is it not quite clear, then, that as a veteran is a better soldier than a raw recruit, you should hold out an additional inducement for procuring him? That is the policy of the provision, if I understand it rightly.

Mr. FESSENDEN. I do not know that I understand the Senator exactly.

Mr. HOWARD. I say that a veteran soldier is better than a raw recruit, and it is therefore desirable to have a veteran, if you can procure him, and hence you must hold out some additional inducement to the recruiting officer.

Mr. FESSENDEN. That I do not dispute; but I am speaking of the policy of offering these large premiums at all. I believe the effect, in nine cases out of ten, is precisely what was stated by the Senator from Vermont; it is just adding so much to the bounty. A man knows that the premium is offered, and he takes care to secure the premium by going with some friend who brings him in as a recruit. In my judgment, that is the effect of it in many cases. I was stating that fact, that although they are raising two veteran regiments in Maine, they offer no premiums whatever to any individual to bring a man up. The veteran regiments are composed of one half veterans and one half new troops; but the premiums are confined to bringing men who enlist in the old regiments, and are sent to the regiments in the field; and notwithstanding the premium, I say those veteran regiments, where no premium is given for procuring enlistments, fill up very much faster than the others. They are now very nearly full, having something over eight hundred men in each of them.

Mr. HOWE. I have listened to the discussion so far with a single view of ascertaining who gets this premium that is offered. I understand the Senator from Michigan to say it is the recruiting officer; I understand the Senator from Massachusetts to say it goes to the man who brings in the recruit.

Mr. FESSENDEN. They pay it to anybody that brings in a recruit.

Mr. HOWE. There are very different parties in interest: the agent who looks up the soldier, the recruiting officer who enlists him and swears him into the service.

Mr. FESSENDEN. But the Senator will observe by the language of this section that it is to be paid to anybody, for the second section provides "that the Secretary of War be, and he is hereby, authorized to pay a premium not exceeding twenty-five dollars, under such regulations as he may deem expedient, for the enlistment of a veteran volunteer not now in the service, and a premium of not more than fifteen dollars for the enlistment of any other volunteer." A man comes with a recruit, either a veteran or otherwise, and offers him for enlistment, and claims his twenty-

five dollars or fifteen dollars, as the case may be, and he gets it because he has obtained him for enlistment. In a majority of cases, I believe, there is an arrangement between the recruit and the person who brings him in.

Mr. HOWE. I was confused upon that point for two considerations. The first was that the chairman of the committee [Mr. WILSON] and the Senator from Michigan, [Mr. HOWARD], who is a member of the committee, I believe, differed as to who was the party to receive the money.

Mr. GRIMES. We know who the party is that pays.

Mr. HOWE. We know who the party is that pays. Then I was confused from another consideration: that, looking at the section as a lawyer, if I was a disbursing officer I could not, for my life, tell to whom to pay the money, whether to pay it to the soldier, to the recruiting officer, or to the agent who brought him in, the minister of the parish, or the poor-fund of the town.

Mr. HOWARD. That is a matter of regulation under this section.

Mr. HOWE. It does not regulate it.

Mr. HOWARD. The section reads, "under such regulations as he" (the Secretary of War) "may deem expedient."

Mr. SHERMAN. I suppose the chairman of the Military Committee does not expect to get through with this bill to-night. I think we had better adjourn, and I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, December 21, 1863.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Thursday was read and approved.

COMMITTEE OF CLAIMS.

The SPEAKER announced that he had appointed Mr. WINDOM as a member of the Committee of Claims, in place of Mr. ASHLEY, excused.

FREEDMEN'S AID SOCIETIES.

The SPEAKER also laid before the House a message of the President of the United States, transmitting to Congress a letter addressed to him by a committee representing the Freedmen's Aid Societies in Boston, New York, Philadelphia, and Cincinnati. The subject is regarded by the President as one of great magnitude and importance; but not having time to form a mature judgment of his own as to the plan they suggest, he submits the whole subject to Congress, attention to it being most imperatively demanded; which was referred to the select committee on emancipation, and ordered to be printed.

RELIEF OF AMERICAN SEAMEN.

The SPEAKER also laid before the House a communication from the Secretary of State, in compliance with the act of 1799, transmitting an abstract of returns of collections of customs, pursuant to the act of 1796, for the relief and protection of American seamen, &c.; which was referred to the Committee on Commerce, and ordered to be printed.

UNITED STATES COAST SURVEY.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting a statement of the number and names of the persons employed in the coast survey during the last fiscal year, their compensation, &c., and the expenditures under the direction of the Superintendent of the Coast Survey; which was laid upon the table, and ordered to be printed.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. NICOLAY, his Private Secretary, informed the House that the President had approved and signed a joint resolution (H. R. No. 1) of thanks to Major General Ulysses S. Grant, and the officers and soldiers who have fought under his command during this rebellion, and providing that the President of the United States shall cause a medal to be struck to be presented to Major General Grant in the name of the people of the United States of America.

ORDER OF BUSINESS.

The SPEAKER stated that the regular order

of business was the call of committees for the first hour, to be committed without debate, and not to be again brought before the House by motions to reconsider.

CONTESTED ELECTIONS.

Mr. DAWES. Before the regular order is taken up, I offer the following resolution:

Resolved, That there be printed so much of the documentary and other evidence in the several cases of contested elections, already referred to the Committee of Elections as, in the judgment of said committee, will be necessary for a proper understanding of each case.

The resolution was agreed to.

VOTES RECORDED.

Mr. ANDERSON. I rise to a privileged question. I had some business on Thursday last which called me from my seat at half past one o'clock. During my absence, my colleague, Mr. SMITH, introduced a series of resolutions, upon which the vote was taken in my absence. I have examined those resolutions, and I indorse them fully, and I ask the consent of the House to have my vote recorded in favor of each of those resolutions.

No objection being made, Mr. ANDERSON's votes were recorded as requested by him.

REPORTS OF COMMITTEES.

The SPEAKER then proceeded to call the committees for reports, under the rule.

Mr. STEVENS. I would like the consent of the House to report from the Committee of Ways and Means, and have put upon its passage, a joint resolution making two appropriations which it is necessary should be made before the holidays.

The SPEAKER. The Chair would state to the gentleman from Pennsylvania that this call will probably be completed in a few moments, and then unanimous consent can be asked. It has been the practice heretofore not to interrupt this call by requests for unanimous consent.

Mr. WOODBRIDGE. The Judiciary Committee, to whom were referred joint resolutions touching the restoration of the civil authority in various States, have instructed me to report the same back to the House, and to ask that they be recommitted, and ordered to be printed.

The SPEAKER. That cannot be done under this call.

The call of committees was then continued and completed, no reports being made.

DEFICIENCY BILL.

Mr. STEVENS. I ask the unanimous consent of the House to report from the Committee of Ways and Means a joint resolution to supply in part a deficiency in the appropriation for the public printing, and to supply a deficiency in the appropriations for bounties and premiums for volunteers.

Mr. HOLMAN. I ask that the joint resolution be read for information.

Mr. STEVENS. With the permission of the House I desire to make a brief statement. The first item of this joint resolution is necessary to pay the hands in the Public Printing Office. The money was due on Saturday, and they cannot very well get on without it.

The second item is for the pay of the bounties to volunteers; and the Secretary of War says the money will be required before the recess or holidays. If those two items are passed, the Committee of Ways and Means will not offer any further appropriation bills until after the recess. These two items are required now.

The joint resolution was read a first and second time. It appropriates \$50,000 to supply deficiencies, in part, for public printing. It also appropriates \$20,000,000, or so much thereof as may be required, for the payment of bounties and advance pay and premiums for soldiers volunteering or enlisting in the service of the United States.

The SPEAKER. Is there objection to the proposition made by the gentleman from Pennsylvania?

Mr. STROUSE. I desire to ask my colleague whether this appropriation is to be applied only to the payment of men volunteering from this time forward?

Mr. STEVENS. Yes.

Mr. BROOKS. I think, Mr. Speaker, that an important bill like this, appropriating over twenty million dollars, ought to receive the usual kind of reference to the Committee of the Whole on the

state of the Union. It can be disposed of there without unnecessary delay. There are many questions to be asked on the subject.

The SPEAKER. Does the gentleman from New York object?

Mr. BROOKS. I object.

Mr. STEVENS. I move to refer the joint resolution to the Committee of the Whole on the state of the Union, and to make it a special order for two o'clock to-day.

The motion was agreed to.

DEPARTMENT OF MISSOURI.

Mr. BLOW, from the Committee of Ways and Means, reported back a bill to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri, and asked unanimous consent to have it considered in the House at this time, and to have the privilege of making a few remarks.

Mr. COX. I would like to have the bill read, first. I shall object to any such course unless there be something extraordinary about the matter.

The bill was read. It appropriates \$700,612 13 to carry into effect the act approved March 25, 1862, to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pensions.

Mr. COX. I object. I think the bill ought to take the usual course.

Mr. BLOW. Will the gentleman from Ohio do me the favor to hear me for a few moments?

Mr. COX. I have no objection to hear the explanation.

Mr. BLOW. This bill appropriates over seven hundred thousand dollars for the payment of the home guards of the State of Missouri. The last Congress appointed a commission to examine and settle their claims; and that commission has made its report, finding that the sum appropriated in this bill is due to these men, the noblest body of men that have ever taken up arms in defense of their country. They are the men who responded to the call of General Nathaniel Lyon, in the darkest hour of our country's trial. Since that time the pay to which they are entitled has been withheld, and their families have been exposed to want. The action of the commission is final, and therefore there can be no doubt about the propriety of passing this bill. It has been duly considered in the Committee of Ways and Means, and has been found to be correct in all particulars.

Mr. HARDING. Will the gentleman from Missouri permit me to make a suggestion?

Mr. BLOW. With pleasure.

Mr. HARDING. I have no objection to the consideration of this bill now, provided the gentleman from Missouri will consent to its being so amended as to extend its provisions to the State of Kentucky, where there are men situated similarly to those in Missouri, and who are entitled to the same measure of relief. If the gentlemen do not consent to that, I will move to refer the bill back to the Committee of Ways and Means, with instructions to inquire whether it should not be so amended as to include Kentucky as well as Missouri, so that equal justice may be done.

The SPEAKER. The motion is not in order at present.

Mr. BLOW. I would cheerfully consent, if a commission had been appointed in the case of Kentucky and made a report, as in the case of Missouri.

Mr. COX. Will the gentleman from Missouri please have the law read, raising that commission?

The joint resolution to revive an act to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pensions, and for other purposes, was read. It revives the provisions of the joint resolution approved July 12, 1862, and allows the commission therein provided for, six months after its passage within which to make its report.

Mr. BLOW. I repeat, sir, that the report was made in strict accordance with the joint resolution, and has undergone, as I have said, the investigation of the Committee of Ways and Means. I hope, therefore, that the gentleman from Ohio will withdraw his objection.

Mr. COX. I ask the gentleman from Missouri whether there has been any appropriation made to carry out the award of the commissioners?

Mr. BLOW. One hundred thousand dollars were appropriated. The allowed claims amounted to \$800,612 15; that is, the claims allowed by the commission. The original claims were \$1,500,000. If millions were paid by this Government, it would not remunerate those men for the service which they rendered.

Mr. COX. I do not seek any issue with the gentleman about the merits of the soldiers of Missouri. I know very well the service that they rendered. I do not think that we ought to set a precedent, at this early day of the session, of passing appropriation bills in the House without the usual consideration in the Committee of the Whole on the state of the Union. If the Committee of Ways and Means are to pass these bills at once, without proper investigation by the committee, and the House is simply to follow them as a flock of sheep follows their leader, we might dispense with the Committee of the Whole altogether.

I think that this matter will probably pass on a full consideration by the Committee of the Whole, and it had much better be referred to that committee. Nothing will be lost by the reference. I think that it can be done to-day, if the gentleman pleases; or to-morrow. The soldiers of Missouri can lose nothing by this postponement of a day or two, or, if gentlemen please, for a few hours, that this appropriation may be looked into in the light of the papers with which it is accompanied. Gentlemen are not making a factious opposition. It is not extraordinary to ask that an appropriation bill involving nearly a million dollars should be considered in the Committee of the Whole on the state of the Union.

Mr. BLOW. I will make the motion that the bill be referred to the Committee of the Whole on the state of the Union; but before doing so I desire to assure this House that this is a case of pressing necessity. I am astonished at the gentleman from Ohio, for he was a member of the last Congress, and is familiar with the whole course of legislation on this subject. These men, sir, have suffered for over two years from the want of this money, which is justly due to them. Their families, if God Almighty had not taken care of them last winter by the unusual mildness of the season, would have been subjected to untold suffering. I think that it is our imperative duty to take care of them at once. I now submit the motion to refer the bill to the Committee of the Whole on the state of the Union, and also the motion that the bill be made the special order for one o'clock to-day.

Mr. STEVENS. Three o'clock.

Mr. BLOW. Very well, then; three o'clock.

The SPEAKER. Objection being made, the bill is referred, under the rules, to the Committee of the Whole on the state of the Union.

Mr. KING. I ask the unanimous consent of the House to say a few words.

There was no objection.

Mr. KING. Mr. Speaker, I have not conferred with my colleague in reference to the proposition now before the House, but it is one of those cases with which I profess to be somewhat familiar. There is no class of soldiers in Missouri which has been so badly treated and so much neglected as the class now sought to be provided for by this bill. A number of the officers who commanded these men received their pay, but when the paymaster came to look at the pay rolls and the muster-in rolls, owing to the ignorance, or carelessness, or something else of those who had them in charge, they were so objectionable that he refused to pay on them. So, then, when the men gathered together for their pay, they were turned away because of this defect in the rolls. The men were discharged, and since that time they have remained without their pay. Last Congress passed a law for the creation of a board of commissioners, to be appointed by the Secretary of War, to which their claims should be submitted.

As my colleague has remarked, the claims presented before the commission were largely in excess of the amount allowed by them. The men who performed these services in Missouri, and for whom this appropriation is now asked, are really in need of the money. So far as I know, their necessities absolutely demand it, and it is

as just an appropriation as has ever been brought before Congress.

I have no objection that the bill shall be referred to the Committee of the Whole on the state of the Union, as I understand that is the regular course of legislation here, but I could not refrain from giving my indorsement to the remarks which have been made by my colleague in reference to the merits of these claims, and the propriety of their prompt payment by the passage of the appropriation now asked.

Mr. HOLMAN. I desire to make a suggestion in reference to this matter. There was a very long report made by the commissioners to whom these claims were referred under the act of Congress, showing the amount found due to the various classes of officers and soldiers. It seems to me that the gentleman from Missouri, unless he proposes to press this measure to a very early decision, ought to consent that the report of the commissioners should be printed for the consideration of the House.

Congress merely authorized the commissioners to ascertain the amount due the claimants. They have performed that duty, and it seems to me that their report ought to be published before any appropriation is made. I will not make any motion on the subject; I merely call the attention of the gentleman from Missouri to it.

Mr. BLOW. I would remark that we made a strong effort to have the report of the commissioners printed and laid upon the desks of members this morning, but it could not be done. However, when we get into Committee of the Whole, it will take but fifteen minutes to read the report, and I trust the gentleman from Indiana and my friend from Ohio will give fifteen minutes to such an urgent claim upon this Congress.

Mr. COX. I suggest to the gentleman from Missouri that he move to make this bill the special order for to-morrow, and in the mean time have these papers printed.

At the last session of Congress we appropriated \$100,000 to pay these Missouri soldiers, and if I remember rightly that was considered at the time rather a large sum for the purpose. I was therefore somewhat surprised to find the amount of this appropriation to be \$700,000, making \$800,000 in all.

The gentleman will understand that I make no captious objection to his bill; but I think the report had better be printed and examined, and then his bill will probably go through with more facility.

Mr. KASSON. There was a single fact that appeared to the committee, to which reference has not been made, and which may satisfy the gentleman from Ohio of the absence of the necessity for printing this report. In the joint resolution, which required the commissioners to report in three months, there was this clause: "whereupon" (that is, upon the report of the commissioners,) "the amount found due by them shall be paid;" in other words, the report of the commissioners was made final.

That being the fact, the Committee of Ways and Means found that there was nothing to do except to make an appropriation to satisfy the claims already established in accordance with the preëxisting law; and they therefore reported the bill unanimously as a legal necessity.

Mr. COX. I suppose the gentleman from Iowa knows that the \$100,000 already appropriated has been paid?

Mr. KASSON. But the law itself required absolutely the payment by the Secretary of War upon the facts as found by the commission. There is no question before Congress except to find what the commission have reported to be due, and upon that an appropriation is to be made.

The question was then taken on Mr. Blow's motion, and it was agreed to.

ENROLLMENT ACT.

Mr. SCHENCK asked unanimous consent to report from the Committee on Military Affairs a bill to repeal section three, and part of section ten, of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

Mr. HOLMAN called for the reading of the bill. The bill was read. It repeals section three of the act recited, and so much of section ten as provides for the separate enrollment of each class;

and it consolidates the two classes mentioned in the third section of the act.

Mr. STILES. I object.

Mr. SCHENCK. I ask leave to make a brief explanation on behalf of the committee.

Mr. STROUSE. I object.

WAR RESOLUTIONS.

Mr. WARD, by unanimous consent, presented a series of resolutions adopted at a war meeting held in the city of New York; which were laid on the table, and ordered to be printed.

CALL FOR RESOLUTIONS.

Mr. HOLMAN. I demand the regular order of business.

The SPEAKER. The first business in order is the call of States for resolutions, commencing with the State of Kentucky, under which call bills on leave may be presented.

REBEL STATES.

Mr. YEAMAN offered the following resolutions, and moved the previous question on their adoption:

Resolved, That a conspiracy of persons, combined together, and assuming the name of a State, or a confederation of States, for levying war upon the United States, or for withdrawing such States from the Union; does not extinguish the political franchises of the loyal citizens of such States; and such loyal citizens have the right, at any time, to administer, amend, or establish a State government without other condition than that it shall be republican in form.

2. That a formal return or readmission of any State into the Union is not necessary. It is sufficient that the people, or those who are loyal in any State, and qualified by the election laws thereof in force before the rebellion, shall, at any time, resume the functions of a State government compatible with the Union, and with the Constitution and laws of the United States; and doing this is sufficient evidence of loyalty for the purpose of doing it.

3. That all questions touching property-rights and interests, arising out of confiscation and emancipation, and the effect and validity of any law, proclamation, military order, emergency of war, or act of rebellion, upon the title to any property, or upon the status of any persons heretofore held to service or labor in any State under the laws thereof, are left for the judicial determination of the courts of the United States.

Mr. LOVEJOY. I hope the previous question will not be seconded, and that the resolutions will be referred to the special committee.

The SPEAKER. Debate is not in order.

The previous question was not seconded.

Mr. LOVEJOY. I now move that the resolutions be referred to the select committee on the rebellious States; and on that motion I move the previous question.

Mr. YEAMAN. I hope the gentleman from Illinois will withdraw the previous question, to enable me to move an amendment to the motion of reference.

Mr. LOVEJOY declined to withdraw the previous question.

The previous question was seconded, and the main question ordered; and under its operation the motion was agreed to.

Mr. LOVEJOY moved to reconsider the vote by which the resolutions were referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

KENTUCKY CONTESTED ELECTION.

Mr. YEAMAN submitted, as a privileged question, the motion that the Committee of Elections be authorized to summon Colonel J. W. Foster, 65th Indiana mounted infantry, fourth cavalry brigade, army of the Ohio, to testify on behalf of himself in the matter of the contested election now pending before the House, wherein he [Mr. YEAMAN] was the returned member for the second congressional district of Kentucky, and J. H. McHenry was contestant.

Mr. WASHBURN, of Illinois. I think that that matter should be referred to the Committee of Elections; and I move that it be so referred.

The motion was agreed to.

NATIONAL BANKRUPT ACT.

Mr. SPALDING moved the following resolution, and demanded the previous question on its adoption:

Resolved, That a select committee of nine be constituted to consider the subject of a national bankrupt act, and to report thereon by bill or otherwise.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN. I move that the resolution be laid upon the table; and on that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 69, nays 86; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Blaine, Jacob B. Blair, Bliss, Broomall, William G. Brown, Freeman Clarke, Cox, Gravens, Dawson, Dennison, Dumont, Eden, Edgerton, Eldridge, English, Finck, Grider, Hale, Hall, Harding, Harrington, Charles M. Harris, Holman, Philip Johnson, William Johnson, Knapp, Law, Lazear, Le Blond, Loan, Long, Marey, McBride, McClung, McKinney, Middleton, Samuel F. Miller, William H. Miller, James R. Morris, Amos Myers, Noble, John O'Neill, Orth, Patterson, Pendleton, Perham, Price, Samuel J. Randall, Robinson, Rogers, Edward H. Rollins, Ross, Scofield, Scott, Smith, John B. Steele, William G. Steele, Stiles, Strouse, Swent, Tracy, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Wilson—69.

NAYS—Messrs. Alley, Anderson, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Blow, Boutwell, Boyd, Bragg, Brooks, James S. Brown, Ambrose W. Clark, Cobb, Coffroth, Cole, Creswell, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Elliot, Farnsworth, Fenton, Frank, Ganson, Gooch, Grioulet, Herrick, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Jencks, Julian, Knason, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Longyear, Lovejoy, Marvin, McIndoe, Moorhead, Morrill, Daniel Morris, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Perry, Pike, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Schenck, Shannon, Sloan, Smithers, Spalding, Stebbins, Stevens, Stuart, Thayer, Thomas, Van Valkenburgh, Ward, Elihu B. Washburne, William B. Washburn, Webster, Williams, Wilder, Windom, Winfield, Fernando Wood, Woodbridge, and Yeaman—86.

So the resolution was not laid upon the table.

During the call of the roll,

Mr. BEAMAN stated that his colleague, Mr. UPSON, was still detained at his room by sickness.

Mr. MALLORY was stated to have paired off with Mr. POMEROY.

The question recurred on the resolution, and it was adopted.

Mr. SPALDING moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSCRIPTION ACT.

Mr. COX. I submit the following resolution, and demand the previous question on its adoption:

Resolved, That the Committee on Military Affairs inquire into the expediency of a total repeal of the act of March 3, 1863, for enrolling and calling out the national forces, and for other purposes; and that, in lieu thereof, they report a bill calling forth the militia of the States to "execute the laws of the Union, and to suppress insurrection," in pursuance of the eighth section, article one, of the Constitution; and providing for the organization, arming, disciplining, and governing of the said militia, reserving to the States respectively the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress. Or, if that be not expedient, that said committee inquire, further, into the expediency of repealing so much of said act as allows substitutes, or exemption for money; so that all citizens owing allegiance shall be liable to serve the Government, without regard to their pecuniary ability to obtain discharge therefrom by the procurement of substitutes or the payment of money; provided, however, that said substitution and exemption shall not be repealed so far as it relates to the present call for troops in States where the law, under that call, has not been executed.

The previous question was not seconded; there being, on a division—yeas 41, noes 65.

Mr. LOVEJOY. I propose to debate that resolution.

The SPEAKER. Then it goes over, under the rules.

PROVISIONAL MILITARY GOVERNMENTS.

Mr. ASHLEY introduced a bill to provide for the establishment of provisional military governments over the districts of country declared by the President's proclamation to be in rebellion against the Government of the United States, and to authorize the loyal citizens thereof to organize State governments, republican in form, and for other purposes; which was read a first and second time, and referred to the select committee on rebellious States.

Mr. WASHBURN, of Illinois, objected to a motion to print.

BUKEAU OF MILITARY JUSTICE.

Mr. SCHENCK introduced a bill to create a Bureau of Military Justice; which was read a first and second time, and referred to the Committee on Military Affairs.

WESTERN NAVY-YARD.

Mr. HUTCHINS submitted the following resolution:

Whereas the President of the United States, in his recent message, recommends the establishment of a yard and de-

pot for naval purposes upon one of our western rivers: Therefore,

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing such naval yard and depot, and locating the same at Portsmouth, or Ironton, or some other feasible point on the Ohio river within the Hanging Rock iron region of southern Ohio, and that they report by bill or otherwise.

Mr. LOVEJOY. I think that that resolution ought to go to an investigating committee to ascertain where the place is that is referred to. [Laughter.]

The resolution was adopted.

FREEDMEN'S ASSOCIATION.

Mr. ASHLEY. I submit the following resolution:

Resolved, That the use of this Hall be granted to the National Freedmen's Relief Association, for a public meeting, to be held on some evening early in January, to be designated by the officers of the association.

Mr. Speaker, I want to say a word. The Freedmen's Relief Association passed a resolution asking for the use of this Hall, and the Chaplain of the House, who is a member of it, requested that I should present this resolution for adoption.

Mr. PENDLETON. Debate arising, the resolution goes over. I propose also to debate it.

Mr. ASHLEY. Dr. King, of New York—

The **SPEAKER**. Debate is not in order. The resolution goes over if the resolution be debated.

Mr. COX. It will give rise to long debate.

Mr. ASHLEY. I withdraw the resolution.

CONSCRIPTION—AGAIN.

Mr. SCHENCK. Has the morning hour expired?

The **SPEAKER**. It has.

Mr. SCHENCK. I ask leave to report, from the Committee on Military Affairs, a bill to repeal section three and part of section ten of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

Objection was made.

Mr. SCHENCK. I move, then, that the rules be suspended for the purpose I have indicated.

The motion was disagreed to, two thirds not voting in favor thereof.

Mr. HOLMAN. I call for the regular order of business.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the deficiency appropriation bill referred to it this morning.

Mr. LOVEJOY. I ask leave first to introduce a proposition.

Mr. HOLMAN. I object.

The House refused to go into committee; there being, on a division—ayes 61, noes 65.

EXCHANGE OF PRISONERS.

Mr. MILLER, of Pennsylvania, submitted the following resolution, and demanded the previous question on its adoption:

Whereas the entire people of the States still adhering to the Federal Union are sorely exercised by reason of the reported suffering of their brethren now prisoners of war in the confederate States; and whereas the commonest promptings of humanity should induce the Executive representative of the nation to exhaust every proper effort to alleviate their distressed condition and restore them to their homes; and whereas we are well informed that the number of confederate prisoners in our hands is vastly in excess of the number of Federal prisoners in theirs, and that exchange could be made, excluding the question of color, that would restore our white brethren to liberty without prejudicing what may be supposed to be the rights of colored Federal soldiers now prisoners of war: Therefore,

Resolved, That the President of the United States be respectfully requested to promptly instruct those having in charge the matter of the exchange of prisoners between the United States and the so-called confederate States to propose an exchange of white men for white men, leaving other questions to be disposed of when the suffering white sons of the Republic shall have been restored to the service of the Government, their friends, and firesides.

Mr. WASHBURNE, of Illinois. If the previous question be not seconded, will not amendment be in order?

The **SPEAKER**. It will.

The previous question was not seconded; there being, on a division—ayes 56, noes 75.

Mr. O'NEILL, of Ohio, moved that the resolution be laid upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 73, nays 85; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Beaman, Blaine, Blow,

Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, John H. Hubbard, Hulburd, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Pike, William H. Rice, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Spaulding, Stevens, Thayer, Van Valkenburgh, William B. Washburn, Williams, Wilder, Windom, and Woodbridge—73.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, William G. Brown, Cox, Cravens, Creswell, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herriek, Holman, Hutchins, Philip Johnson, William Johnson, Kasson, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Marcy, McAllister, McBride, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Amos Myers, Nelson, Noble, Odell, John O'Neill, Orth, Pendleton, Perry, Price, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scofield, Scott, Smith, Smithers, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Tracy, Ward, Elihu B. Washburne, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilson, Winfield, and Fernando Wood—85.

So the resolution was not laid upon the table.

During the roll-call,

Mr. MORRILL stated that his colleague, **Mr. BAXTER**, was confined to his room by indisposition.

The result of the vote was then announced as above recorded.

Mr. WASHBURNE, of Illinois. I move to amend the resolution by striking out all after the word "resolved," and inserting the following; and upon that motion I demand the previous question:

That this House approve of the measures taken by the Administration for the exchange of prisoners now held by the enemy in southern prisons, and that it is hereby recommended that the same be persisted in, to the end that a just and fair exchange may be had for all our prisoners now held by the rebels.

The previous question was seconded, and the main question ordered.

Mr. J. C. ALLEN demanded the yeas and nays on agreeing to the substitute.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 63; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Ashley, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Cobb, Cole, Cravens, Henry Winter Davis, Dawes, Deading, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Stevens, Thayer, Tracy, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—87.

NAYS—Messrs. James C. Allen, Augustus C. Baldwin, Brooks, James S. Brown, William G. Brown, Coffroth, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Hall, Harrington, Benjamin G. Harris, Herriek, Holman, Hutchins, William Johnson, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Perry, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Ward, Webster, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—63.

So the substitute for the resolution was agreed to.

The question recurred on agreeing to the preamble of the resolution.

Mr. WASHBURNE, of Illinois. I offer the following as an amendment to the preamble, upon which I demand the previous question:

Strike out all after the word "now," in the fourth line, and insert the following:

Held in rebel prisons, and that this House has witnessed with approbation the humane, patriotic, and statesmanlike efforts of the Government for a speedy exchange of all of said prisoners upon terms honorable, fair, and just: Therefore be it.

Mr. LOVEJOY. I ask my colleague to withdraw his amendment, and allow me to move to lay the preamble on the table.

Mr. WASHBURNE, of Illinois. I will withdraw my amendment, to enable my colleague to make that motion.

Mr. LOVEJOY. I move to lay the preamble on the table. It seems that gentlemen want to recognize the confederate States.

Mr. MILLER, of Pennsylvania. I demand the yeas and nays on the motion of the gentleman from Illinois.

The yeas and nays were ordered.

Mr. FENTON. I desire to inquire whether the effect of laying the preamble on the table will not be to carry the resolution with it.

The **SPEAKER**. It will not. The preamble is not covered by the previous question, which was ordered on the passage of the resolution, but it is subject to a separate demand for the previous question.

The question was taken; and it was decided in the affirmative—yeas 79, nays 55; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Beaman, Blaine, Blow, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Dawes, Dixon, Donnelly, Driggs, Dumont, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, William H. Randall, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Stevens, Thayer, Thomas, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, and Windom—79.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Brooks, James S. Brown, Coffroth, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Hutchins, Philip Johnson, William Johnson, Kernan, King, Knapp, Lazear, Le Blond, Long, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, Rogers, Ross, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Ward, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—55.

So the preamble was laid on the table.

During the call of the roll,

Mr. J. C. ALLEN stated that his colleague, **Mr. W. J. ALLEN**, was confined to his room by sickness.

PACIFIC RAILROAD.

Mr. BOYD, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be, and he is hereby, requested to furnish to Congress, at his earliest convenience, if compatible, in his opinion, with the public interest, all the official information and correspondence which he may have received respecting the extension of the southwest branch of the Pacific railroad, as a war measure, as well as any order he may have made respecting the same, and the causes of revoking said order.

DEFICIENCY BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. FENTON in the chair), and proceeded to the consideration of the joint resolution to supply, in part, deficiencies for public printing, &c.

The joint resolution was read. It appropriates \$50,000 to supply deficiencies, in part, in the appropriation for public printing, and \$20,000,000 for the payment of bounties, advance pay, and premiums, for soldiers volunteering or enlisting in the service of the United States.

The joint resolution was read by clauses for amendment.

Mr. BROOKS. I trust the gentleman from Pennsylvania and this House will excuse me if, not having been in this House for some years past, and being somewhat startled by these appropriations of millions and millions, I inquire of him whether this \$20,000,000 of bounties is in the estimates either of the Secretary of War or of the Secretary of the Treasury. The Secretary of War reports that there has been already deposited in the Treasury, or in the hands of provost marshals, subject to his order, \$10,000,000, to which \$2,000,000 has since been added, making in all \$12,000,000. And here is an appropriation of \$20,000,000 more. I doubt not that it is all correct, and I mean to throw no obstacle whatsoever in the way of the appropriations which the chairman of the Committee of Ways and Means reports from his committee. But, for my own instruction and the instruction of the House, guided, as I intend to be, by the estimates of the War Department and of the Treasury Department, I

should like to know whether this \$20,000,000 has been estimated for by either of those Departments. I should also like to know from the honorable gentleman, if it be within his power to give us the information, in what manner the \$12,000,000 raised under the \$300 commutation clause has been expended.

I hope the honorable gentleman will understand me, and therefore I repeat it, that I ask only information and light. The responsibility of all appropriations is on the other side of the House. I accept and comprehend my position and the position of those gentlemen with whom I am associated. But I beg also to be thoroughly informed. I want the House to be well informed, and the country to be well informed, of all disbursements that are made, and of the manner in which they are made.

Mr. STEVENS. Mr. Chairman, the information sought for is very proper. The section appropriating \$20,000,000 is drawn up in the handwriting of the Secretary of War himself. It was handed by him to the chairman of the Military Committee, who handed it to me this morning, informing me that the Secretary would require nothing more before the holidays were ended, but that this was indispensable. I put the clause in this deficiency bill, as being the quickest way of getting it through both Houses. I suppose, although I have no definite information on the subject, that the ten or twelve millions paid for commutations has gone, as a matter of course, into the public Treasury. I should think so, although I have heard nothing from the Secretary of War on the subject. It is probable, however, that the gentleman from Ohio, [Mr. SCHENCK,] the chairman of the Committee on Military Affairs, is able to give the information that is sought.

Mr. BROOKS. The gentleman from Pennsylvania having given the House such information as he possessed, I feel it my duty, as a representative of a commercial city whose first interest it is to know what are to be the expenditures of the Government, to ask the honorable gentleman, the chairman of the Committee of Ways and Means, whether, in our future appropriations, we are to be guided by the estimates submitted by the Secretary of the Treasury, from which commercial men derive knowledge as to the public debt and the volume of currency afloat, or whether we are to be guided by occasional letters sent to the Committee of Ways and Means now and then, demanding, not thousands nor hundreds of thousands, which once would have startled the whole country, but millions and tens of millions. And I should like to know how often we are to have such applications.

If the Secretary of War and the Secretary of the Treasury have exhibited to the country their estimates, upon which they intend Congress should act, I claim, then, that it is those which should be our guide. If they are wrong, they should be revised. The honorable gentleman from Pennsylvania [Mr. STEVENS] will remember that when we served in this House some years ago, no man remonstrated more than he was in the habit of remonstrating—that was when we acted together in the old Whig party; no man, I say, remonstrated more than he did against the reports which happened to be made now and then by the Committee of Ways and Means on occasional letters received from the Secretary of War or the Secretary of the Treasury.

Now, the Secretary of War must have known ten or twenty days ago, as well as he does now, that \$20,000,000 of appropriation was necessary for bounties. Why was it not inserted in the annual estimates? Why was not the country informed? Why were not the banks of the country given that information at an early period? If we go on to make appropriations in this way, by occasional calls from the Secretary of War, then estimates from the Secretary of the Treasury or from the Secretary of War will not be worth the paper upon which they are printed. Estimates hitherto made at the beginning of each session have been worth something. We have been guided by them during the session in the deliberations of Congress. We ought to be guided by them now. Is it not best for gentlemen on the other side, as well as for those on this side, that the Secretary of War and the Secretary of the Treasury shall be held strictly to the estimates? I do not mean that they shall be rigidly held to

hundreds, but to hundreds of thousands and millions at least. I speak this in no partisan feeling, but I believe that it is indispensably necessary for the interests of the great city which I in part represent, for its manufacturing and for its commercial interests to know in some degree what are to be the annual expenditures of the Government. It is necessary in order that those great interests of the country should act accordingly.

Mr. SCHENCK. Mr. Chairman, the gentleman who is chairman of the Committee of Ways and Means has stated correctly what has taken place between him and myself in reference to the subject now under consideration. I called last evening on the Secretary of War and had a conversation with him in reference to the legislation it may be expedient to pass before the adjournment for the holidays. I explained to him I thought that, with the present disposition of the House, it would be impossible for the Committee on Military Affairs to get through any general legislation which should embrace an entire revision of the enrollment act, or any considerable number of amendments, or any legislation looking generally to appropriations for military purposes. He told me that if he could get, so far as appropriations were concerned, a single section appropriating what was necessary, or what might become necessary to meet the bounties, premiums, and advances to be given to volunteers and enlisted men, it would be all that is now essentially required, and that then everything would go on until after the holidays with that help. He sat at his table and drew the section which is now part of the deficiency bill. It was incorporated in that bill by the Committee of Ways and Means on my suggestion. My question to the Secretary of War was this: was that amount contained in the estimates submitted by him? He said that it was. I learned afterwards from the Committee on Military Affairs of the Senate that they had a bill pending, embracing, among other things, this same appropriation of \$20,000,000, and he told me that it was in accordance with the estimates for the necessities of the Government in reference to that expenditure. I objected that it was not proper that an appropriation of that kind should come in a bill from the Senate, but that it should originate in this House. It was on information derived from these quarters that the Committee on Military Affairs examined the subject and submitted the section to the Committee of Ways and Means to be added to the bill now under consideration.

Mr. STEVENS. In the estimates the Secretary speaks of having \$10,000,000 already in his hands, which we think ought to be properly appropriated by Congress, and then he asks for \$10,000,000 more, on page 156 of the estimates, for advanced bounties, premiums, and so on.

Mr. COX. I would like to ask the chairman of the Committee of Ways and Means whether the \$10,000,000 in the Treasury arising from the exemption money is included in this proposed appropriation, or whether that sum requires re-appropriation?

Mr. STEVENS. My understanding is that it does. There is no law appropriating the amount. It has been paid into the Treasury, but has never been appropriated by Congress.

Mr. BROOKS. I think the bill ought to be so amended as to state that fact. I ask the Clerk to read the second clause.

The Clerk again read the second clause.

Mr. BROOKS. Does the chairman of the Committee of Ways and Means understand that the ten or twelve millions commutation money are included in this appropriation?

Mr. STEVENS. That is my understanding. I have had no communication with the Secretary of War, but I suppose this sum includes the ten or twelve millions.

Mr. BROOKS. I move to amend the appropriation by adding to the clause the following words:

Which shall include all the sums hitherto paid into the Treasury, or to be hereafter paid into the Treasury, for commutation money under the enrollment act.

Mr. STEVENS. I do not know that I have any objection to that amendment, though I do not precisely see the necessity for it. If this money is in the Treasury, of course we have to make the appropriation to take it out.

Mr. COX. I think there is some confusion springing out of this matter. The Secretary of War, I remember, states in his report that he has

raised fifty thousand men under the enrollment act. Now, as I understand it, only about five thousand men have been raised by this extorted service. Forty-five thousand, I suppose, were raised by the money paid in as exemption money; and the Secretary says in his report that the fund of \$10,000,000 raised under the enrollment act as commutation money is deposited with the United States Assistant Treasurers, and is being applied to procuring substitutes by the payment of bounty and premium. I suppose he is now paying out that very \$10,000,000, and therefore no appropriation is required, so far as his action is concerned. He is using the money now. I do not, therefore, see the use of this amendment.

Mr. STEVENS. If the gentleman considers that that use of the money by the Secretary is strictly legal without any act of Congress appropriating it, I have no objection to reducing this appropriation to \$10,000,000, and letting it stand as it is.

Mr. COX. I think it had better be done in that way.

Mr. LOVEJOY. If I understand the gentleman from Ohio, [Mr. Cox,] he supposes that the \$10,000,000 is already being paid out. I understand the Secretary of War to ask for \$20,000,000 now, whether that sum has been paid out or not. I do not know how that is; but, if that money has been paid out, I do not think \$10,000,000 will meet the demands of the present hour; and I think that consequently the bill should remain as it is.

Mr. STEVENS. My idea is that the ten millions commutation money having been paid into the Treasury, it ought to be appropriated by Congress, and if it has been paid out, we should appropriate it as a deficiency. There is some doubt in my mind about the right to pay it out without such an appropriation. I know it has been done, but I suppose it is included in this deficiency.

Mr. GARFIELD. Mr. Chairman, from what I know of this matter, I am inclined to agree with my colleague that the money already received for commutation has been paid out for the volunteering service. I am not sure that it is so. I have not looked into the matter definitely so as to know certainly, but my impression is that that money has been already paid out, and that the Secretary now asks \$20,000,000 in addition. Whether the money has been properly or legally paid I do not presume to decide, but it seems to me that the peculiar pressure of our volunteering interests at this moment makes it unwise to reduce this amount from \$20,000,000 to \$10,000,000.

It is very true, as my colleague also said, that we are to rely chiefly on the volunteer system for recruiting our Army, rather than on conscription. There is a very great activity in volunteering at this time; but that cannot continue unless we can have a supply of money on hand to pay bounties and advance pay as inducements to volunteer. It seems to me that we ought not to block the operations of the Government by skimping it in the matter of money. It is my opinion, from all that I know, that we should not allow the volunteering system to be checked at this time for want of money. I am therefore opposed to the amendment of the gentleman from New York; and I trust the Government will be given the \$20,000,000 it asks.

Mr. COX. Mr. Chairman, I have not made any opposition to the appropriation of this \$20,000,000. I believe that the only way to raise the proper force to carry on this war is by the volunteer system. The conscription law passed at the last session, lashed through this House, has proved an utter failure. The Secretary of War himself confesses it. What, then, have we to do? I believe it to be the policy of the Government to offer the largest pecuniary inducements for the purpose of getting volunteers, and not, by any unreplicable system, extort military service. I shall therefore vote for the appropriation of \$20,000,000. But in doing so, I do not wish to be understood as expressing my approbation of the conduct of the Secretary of War in paying out the money received for commutations without the authority of Congress. He has been paying it out, as he says in his report, not alone for white soldiers, but for black soldiers, for slaves in Maryland and elsewhere.

Several MEMBERS on the Republican side. That is all right.

Mr. COX. Gentlemen say that that is all right. Well, we differ about that. [Laughter.]

Mr. KASSON. The law provides that the person drawn may furnish an acceptable substitute to take his place in the draft, or may pay, to such person as the Secretary of War may authorize to receive it, such sum, not exceeding \$300, as the Secretary may determine, for the procurement of such substitute. It then provides that the Secretary of War shall fix the sum at the time he orders the draft. The law expressly provides that the payments are not to be made into the Treasury, but are to be under the control of the War Department.

Mr. COX. I do not agree with the gentleman from Iowa as to the effect of the law. These moneys came properly into the Treasury, and could not be drawn from thence without specific appropriation. They ought at least to be within the control of the national Legislature.

I repeat, I would not throw any impediment in the way of the Secretary in regard to this \$20,000,000. Let him have it, and let the country escape, if possible, the disgrace and degradation of this drafting business on the 5th of January.

As to the \$12,000,000 raised by commutation, let the Military Committee mature some measure by which to reach it. I do not think that my criticism on the conduct of the Administration or any of its members is worth much just now, especially after the repeated violations of law and Constitution which have characterized the Administration. It has become almost a habit to disregard laws. Perhaps that is incident to war times. Power tends to aggrandize itself in times like these. But we, at least, as the people's representatives, ought to keep a proper clench upon them at the proper times—and this is one of them.

Let the Committee of Ways and Means and the Committee on Military Affairs examine whether or not this \$12,000,000 in the Treasury shall be reappropriated, or shall be directed in a proper course hereafter. I would not place any obstacle in the way of this \$20,000,000 bill. Let it pass. The people of all parties in the country will welcome such an act.

Mr. LOVEJOY. I hope the amendment of the gentleman from New York will not prevail. I fail to see any necessity for it. I hope the bill will be passed as it is, especially if we are determined to adjourn for the holidays, as this money will be needed between now and the 5th of January.

Now, Mr. Chairman, I suppose that this matter need not be very much discussed now; but I want to express my dissent from some statements and theories advanced here. In the first place, I think that, as a nation, we ought to be educated up to the point of holding ourselves in readiness for a draft, or for any other purpose necessary to save the life of the nation. But as we have succeeded so admirably, in spite of the strenuous efforts of the party to which gentlemen on the other side belong, in securing volunteers, I am desirous of carrying out that plan. I therefore hope that all possible inducements will be held out to volunteers, and, consequently, that the Secretary of War will be clothed with power, by this appropriation, to offer them.

Now, Mr. Chairman, I must enter my protest against this constant and persistent slandering of the Administration. I will not allow any such declarations to pass without a decided denial that this Administration ever was in the habit of violating the Constitution or laws, and that they are hardly conscious of doing it. Now, sir, if anybody knows anything about it, he knows that such statements are utterly untrue. There never was an Administration since the organization of the Government so cautious and sensitive in regard to the obligations of the Constitution and laws of the United States. [Laughter on the Democratic side.] No, sir, never. Those gentlemen would have laughed in a different style if the law and Constitution had been enforced against them as they ought to have been. [Applause in the galleries.] And it comes with an ill grace for gentlemen to come here now, after an appeal has been made to the people, who are the ultimate arbitrators, and to put questions whether the Administration has been obedient to the law and the Constitution. Those gentlemen come here after having made an appeal to the people against the Administration as not obeying the law and the Constitution; they

come here without a constituency—with the decision of the people in favor of the Administration. With an unprecedented and unblushing effrontery they come here and make this allegation, as if anybody would believe them. Sir, I am opposed to the amendment.

Mr. SPALDING. Mr. Chairman, I shall hold myself ready to vote for every dollar of money needed by the Administration to carry on the war for the suppression of this rebellion. No man shall go before me in that matter. But, sir, when I am voting money to the Government I would like to know—my constituents would like to know, and have the right to know—what that money is for. It does seem to me perfectly reasonable that we should require from the chairman of one or other of the committees some explanation. Does this \$20,000,000 include the \$10,000,000 of commutation money, or does it not? If the \$20,000,000 be necessary, in addition, I will vote for it; but let us vote understandingly. All I ask is information on the subject, and to that I am entitled. Now, sir, as I am impressed at this moment, I shall sustain the amendment offered by the gentleman from New York, [Mr. Brooks,] because I think it reasonable and proper in itself.

Mr. BLAINE. I desire to read, for the information of the House, a paragraph of the report of the Secretary of the Treasury, which settles, I think, this whole matter. It is as follows:

"The important and responsible duty of securing and keeping, under the direction of the President and War Department, commutation money from drafted citizens, has been assumed by the collectors of internal revenue, at the instance of the Secretary of War. In the judgment of the Secretary of the Treasury this money should be paid directly into the Treasury and drawn out upon requisitions for the purposes to which it is appropriated by Congress. The Secretary of War thought, however, that the other mode of collection and disbursements would be less burdensome to drafted men and more convenient for the payment of substitutes. His wishes were promptly complied with, and the whole matter is now submitted to Congress."

Mr. SCHENCK. The commutation money that has been paid has nothing to do with the matter before the House. As I said before, the Secretary of War informed me that \$20,000,000 would be needed to cover the requirements for bounties and premiums advanced. I inquired whether that was his estimate, and he replied that it was. I find an estimate for pay of advanced bounty to volunteers and drafted men under the acts of July 5, 1862, and March 3, 1863, \$5,000,000, and for a deficiency for the year ending June 30, 1864, another \$5,000,000. That does not include anything except bounty. The premiums are included in a subsequent item upon the same page, making an aggregate for deficiencies for the year expiring June 30, 1864, of \$10,000,000, and the estimate for the year ending June 30, 1865, is \$15,700,000, or an aggregate of \$25,700,000. What the Secretary asks now is that we make an appropriation of \$20,000,000, leaving \$5,700,000 to cover a number of other items that may be required. The advanced pay not included in the bounties and premiums here estimated for is included in the \$177,000,000 for the payment of the Army. If that be the case, this is only anticipating out of that \$177,000,000 so much as may be necessary to be expended at once for advanced pay, and therefore will be so much, when we come to appropriate for the payment of the Army, to be deducted from the \$177,000,000.

With this explanation, this bill, it will be found, does not call for as much as the Secretary has estimated for under these different heads, but leaves a margin of \$5,700,000 to cover items not included in the present section.

I think, therefore, with this explanation made to the Military Committee, and through that committee communicated to the Committee of Ways and Means, leaving the responsibility for the application of the money to the Administration, the House ought to pass upon this particular section, and allow the \$20,000,000.

I believe, in reference to some little that has been said by a colleague of mine upon this floor, [Mr. Cox,] that the people of this country may be classified into three great divisions: those who are for carrying on this war to crush out this rebellion and of affording all the means necessary to accomplish that end; those who are not for putting down the rebellion at all; and a third class who are for putting down the rebellion, but are opposed to all the means for accomplishing that object. Now, belonging as I do exclusively to the first class

upon this side of the House, I think we should do well to give what is now asked, and gentlemen upon the opposite side will see the propriety of it, if they do not approve of either of the other classifications.

Mr. BROOKS. Mr. Chairman, I do not, if it is possible to avoid it, intend to enter into any party debate on this appropriation. I mean, if it be within my power, to avoid it. But I hold it to be the first duty—and therefore I listened with the greatest pleasure to the remarks of the honorable gentleman from Ohio [Mr. SPALDING]—I hold it to be the first duty of the representatives of the people to know where every dollar of the public money goes. If I wanted to oppose the honorable gentlemen upon the other side of the House, and to break down their party, I would give them full length in all their appropriations; I would pour forth upon them millions upon millions, until the currency was so expanded that their Treasury notes would not be worth as much as the assignats of France, or the continental notes of the old Revolution. It is because I am their friend, or the friend of principle, that I desire to know how the money goes, and in what manner every dollar of the public money is to be appropriated. If this be opposition to the Administration, then I am in opposition; but I hold it to be the best friendship that a public man can exhibit to an Administration to look to its disbursements, to look to its economy.

Here are \$10,000,000 afloat, pronounced so to be by the Secretary of War; the amount received as commutation money is known to be \$12,000,000, and, perhaps, going on to fifteen or twenty million dollars. Where is it? Who knows? Who can tell? In whose pockets is it? Who has appropriated it? What Representative of the people has voted to appropriate it? Where are those twelve or fifteen million dollars? I have not only a right to know, but every honorable gentleman upon the other side of the House has a right to know where this money is. If the honorable member from Ohio [Mr. SCHENCK] wants to appropriate thirty or thirty-five million dollars, why does not he say so? If, in addition to these \$20,000,000 for bounties, he wants the commutation money besides, let him report an appropriation bill for that purpose, and I will throw no obstruction whatsoever in his way.

The object of my amendment, and the sole object, is to sanction legally the disbursement by the Secretary of War or the Secretary of the Treasury of what seems to me at present an illegal appropriation for bounties. I have no other object in view, no other desire. I desire so to comport myself in this House as to support the Administration in all honest measures for carrying on the Government; but I desire also to know, and I mean to know, if the rules and orders of this House will permit it, where every dollar of the public money is going.

The gentleman from Ohio has the advantage over me in having a book of estimates before him, which have not been laid before members on this side of the House. We have not had an opportunity to look into these documents from which he has read, and therefore we are not so well informed as he is. But, if I understand the reading of the honorable gentleman, there are \$10,000,000 wanted for past appropriations of bounties, and \$15,000,000 additional for the fiscal year 1864-5. The fiscal year does not commence till June 30; and the usual, ordinary, and proper way is, when the annual appropriation bill is reported to insert this \$15,000,000 there. That is the way in which we were accustomed to do business in this House when one dollar was a dollar, and proper consideration was given to a dollar, not only in time of peace, but in time of war. In our war with Mexico, and in our Indian difficulties, it has been to the honor of both sides of this House that it has demanded from the then Administration, of whatsoever party it might be, a proper understanding of all the appropriations on estimates reported in a proper way and at the proper time. I do not feel that this application for \$20,000,000 has come to us in a proper way; but if the honorable gentleman from Ohio, [Mr. SCHENCK,] or the honorable gentleman from Pennsylvania, [Mr. STEVENS,] wants \$30,000,000, \$40,000,000, or \$50,000,000 for these bounties, he has but to say so, and I will throw no obstacle in the way. All they ask for at present is a little appropriation of \$20,000,000, of

which no report has been made, and of which there is no record now before the country.

Mr. KELLEY. Mr. Chairman, the responsibilities of our action on this and all other bills rest with this side of the House; and I think—judging by the results of the recent elections—that it is to the actions and opinions of this side of the House that the people of the country, merchants, bankers, and people of all classes, look, and look with confidence. I remember to have once seen a beggar craving a sixpence. The good lady from whom he asked the boon declined making the gift, but proposed to give him, instead thereof, some advice: "Thank you, madam," said he, "I am full of it." I feel, I must confess, a little that way now—I have had quite enough of such advice as we have been getting to-day.

What is asked of us, and how is it asked? The proper committee of the House, that of Ways and Means, moved thereto by the proper committee for the purpose, that on Military Affairs, reports a bill to appropriate a certain sum of money—a sum within the estimates submitted by the Secretary of War, the proper officer. And on the proposition to appropriate money thus called for, the House is to receive a lecture on the danger of expanding the currency to the proportion of the French assignats, and other matters equally foreign to the subject. There is no proposition to expand the currency of the country before the House; nor is there any disposition on the part of the majority to make an appropriation which shall not be legitimate, well advised, and in support of the great ends of the Government. The recent elections have told the men who hold the interests of the country in their hands that the first great object, that nearest to the heart of the people, is the immediate suppression of the rebellion. This bill, so well timed, is important for the promotion of that desirable end. We are on the eve of an adjournment which may last for a fortnight. The Secretary of War tells us he wants money on the eve of the draft now seeming to be imminent, while volunteering is yet active, for bounties, advance pay, and premiums, wherewith to promote voluntary enlistments. How shall we say to the people that we are supporting the war and crushing the rebellion if, instead of passing the bill, we call upon the Secretary of War to come up and tell us how he is expending the \$12,000,000 placed in his hands, by the express language of the act under which that sum accrued, for the purpose of procuring substitutes?

I shall not vote for the amendment of the gentleman from New York; and I hope that, before we adjourn, we will so vote on this question that every loyal man in the country will feel that he did right in voting for the men who are here, because of their manifest disposition to vote all the men and money that the war requires without equivocation or dodging, or holding to accountability, on suggested suspicion, the heads of Departments.

A word, now, as to the anti-republican means of replenishing our Army, denounced by the gentleman from Ohio, [Mr. Cox.] I voted for the conscription bill, and am in favor of a draft, if necessary to make our Army adequate to its great work. I have not yet seen the man in the country who is too good to owe it the utmost allegiance, even to the laying down of his life for it. And I have yet seen no fairer way of getting an army than by putting all the names of the able-bodied men of the country in the wheel and drawing therefrom those whom Providence shall designate as its soldiers. I take the responsibility of standing by the draft. True, I would rather see the youth of the country doing as the regiments from my own district, veterans who have borne the brunt and shocks of war for well-nigh three years, are doing, cheerfully and enthusiastically volunteering again, determined to fill up the ranks and move on to perfect conquest. But when there comes a pause in volunteering, during which the country needs soldiers, enforce the draft. Let the richest and the poorest, the humblest and the proudest, march together in obedience to the laws of our country to the support of its institutions. I have failed to discover wherein it is anti-republican to make all stand equal before the law in their liability to perform, even to the utmost, their duty to the country.

Mr. COX. I can tell the gentleman where he can find it laid down. If he will look in the work of Dr. Lieber, called Civil Liberty, he will find it

laid down as against the genius of republican institutions, as against our traditional policy as inherited from Great Britain, against our history as Anglo-Saxons, against the English and American Constitutions. And that authority of Dr. Lieber is now being used by the Secretary of War in codifying the laws of war for this Government. I refer the gentleman, very respectfully, to that authority.

Mr. KELLEY. I have never seen the man who was so wise that he was not liable to be mistaken on some point. And from the gentleman's high authority I appeal to my own instincts, and to the genuine republicanism of my countrymen. [Applause in the galleries.]

The CHAIRMAN. The Chair must remind the galleries that if these demonstrations are repeated, he will be compelled to ask the Doorkeeper to clear the galleries.

Mr. STEVENS. I trust the committee is now ready to come to a vote upon this joint resolution without further discussion. I confess, that as this matter did not come originally from the Committee of Ways and Means, they had not had an opportunity to examine the estimates before reporting it, and that I was therefore led into an error in the reply I made to the inquiry very properly made by the gentleman from New York, [Mr. Brooks.] Upon the examination I have since made, I do not find this \$20,000,000 in the estimates of the Secretary of the Treasury as a deficiency. I do not find that amount carried into the present year by any of the officers of the Government. The estimate, however, was yesterday or the day before sent to the Committee on Military Affairs, stating that he wanted these \$20,000,000 immediately for bounties.

I was therefore mistaken in supposing that the commutation money was included in this appropriation, because that commutation money, as we are informed by the Secretary of the Treasury, has never gone into the Treasury at all, but has been used, as it very properly could be used under the law, by the Government to procure substitutes for those who took this method to avoid procuring substitutes for themselves. That money has therefore already been paid out to procure substitutes for drafted men to go into the Army.

That fund is then out of the question, and the amendment of the gentleman from New York [Mr. Brooks] is not, as I supposed, an amendment proper to be adopted.

Again, I do not find the \$10,000,000 I referred to before, in the estimates, properly applicable to this appropriation. That applies to the year ending 30th of June, 1865, and therefore cannot properly be taken into account in any appropriation for this year.

There is the sum of \$177,000,000 required for the whole pay of volunteers. Now, it will be recollected that under the present law we are to pay \$100 bounty to each man who volunteers, and the sum of \$30,000,000 is therefore required to pay the bounties of the three hundred thousand men now ordered out, to save the draft. It is necessary that this amount should be paid before the 5th of the next month if the whole number is raised, and it is to provide for the voluntary enlistments between this time and the time the draft is ordered that this \$20,000,000 is wanted. Only \$20,000,000 is called for instead of \$30,000,000, because it is not estimated that the whole number will be obtained, and it will be observed that only so much of that sum is appropriated as shall be found necessary.

I now, therefore, understand fully the estimates sent to the Committee on Military Affairs; and hoping that the entire \$20,000,000 will be required before the 5th of January to pay the bounties of the men who shall enlist, I trust the bill will pass without opposition, and that the amendment of the gentleman from New York will not be adopted, because, as I have stated, the commutation money has not gone into the Treasury at all, as I inadvertently supposed it had, and does not require appropriation by us to enable the Government to avail itself of it.

I have no time and no taste, upon a mere question of appropriation, to enter into a political discussion. We shall have ample time hereafter to discuss every matter, Buncombe included, and I hope that upon a mere question of appropriation, like this, the discussion will be confined to the simple question very properly put by the gentleman from New York, and to the appropriation of

\$20,000,000, or so much thereof as may be necessary for this purpose.

Mr. KERNAN. I entirely concur with the gentleman who has just taken his seat in his desire that we should waive, on this question, all party and political discussion. And I want to say further, that although I am not able, from the explanation of the chairman of the Committee of Ways and Means, and of the chairman of the Committee on Military Affairs, to understand in precisely what condition the fund which has been raised by commutation money now remains, yet it seems to me that we need not at all, in deciding upon the proposed appropriation, hesitate to vote for it because we do not know in what way precisely or how that money is situated, or what portion, if any, of it has been used.

I feel a great desire that we should vote with unanimity, and entire unanimity, for appropriating the necessary money asked for by the Secretary of War to aid in filling up our armies with volunteers. I will not now be tempted to say one word in reference to the other mode that has been alluded to for raising troops. We all know that throughout the country, in every gentleman's district, I doubt not—I know it is so in my own—the people of all parties are united in an effort to bring forth the necessary men as we would desire to have them come, voluntarily, to uphold our flag, maintain the authority of the Constitution, and suppress those who have risen in arms to overthrow the Constitution and Government under which we have all so long and so happily lived.

It seems to me, therefore, that while, in accordance with the suggestions which have been made, we will all do our duty to our constituents in looking carefully after the expenditures of money, yet, on the present occasion, when we all know large sums of money are needed and will be properly applied, when all parties agree in the propriety of applying them to the raising of volunteers, we should with entire unanimity appropriate this sum now called for, or so much of it as may be necessary to pay this bounty to volunteers. I hope it will all be required by the volunteers who will come forward, and that we shall thus have our armies filled up to an extent that will result in bringing to a speedy close this rebellion against our Government.

Mr. STROUSE. I am in favor of the amendment submitted by the gentleman from New York, [Mr. Brooks.] We know that upwards of \$10,000,000 have been raised by what is called commutation money under the conscription bill. There is nothing improper or wrong in appropriating this money to aid in raising volunteers, because it was raised for that purpose. And I will say here, that whatever our individual opinions may be in regard to the conduct of the war or the acts of the Administration, I solemnly protest, upon the part of this side of the House, against the aspersions made by certain gentlemen upon the other side as regards a factious spirit, throwing impediments in the way of the Administration, and to prevent the wheels of the Government from rolling smoothly. Something has been said by the gentleman from Illinois [Mr. Lovejoy] about the recent elections, charging us on this side of the House with having no constituencies. I desire to say that I represent here one of the largest districts in the United States, and that I am not opposed to favoring the Administration in all just, legal, and constitutional demands. I have the honor to represent a district which sent the first company of volunteers to this capital for its defense in the dark days of April, 1861. And we have sent from that district since the commencement of the war seven thousand able-bodied men for the support of the Government, the Union, the Constitution, and the enforcement of the laws.

I am in favor of appropriating as large a sum of money as may be necessary for the purpose of paying liberal bounties to the men who volunteer, and thus avoid all drafting or conscripting of our citizens. I am opposed to the principle of conscription. I most solemnly protest against the attacks which are made here on the exercise of the right to criticise the acts and conduct of the Administration. It is a privilege we have and will maintain. We are the trustees of the people. We are sent here as the representatives of all classes, and not to represent factions. I trust, therefore, that gentlemen now, in this hour and in this crisis of our country, will rise

above the mere politician and make some effort, at least, at statesmanship. I trust they will occupy a platform that lifts them above the mere local parlious, to a position that will enable them to look North, South, East, and West, to do the best we can for our whole country, and for all classes of the people.

I stand here in no spirit of faction. I do not care whether I am designated as a Democrat or as a Copperhead. It should be beneath the dignity of a national legislator to indulge in partisan epithets. Let us be men, and not slaves to faction. Let us be patriots, in the true sense of the term. Let us restore the country to its former position among the nations of the earth. Let us act in the best possible manner for the interests of the people and for all sections of the country. Let us show to the potentates of Europe and to all foreign Governments that the problem of self-government is not a failure, that there is still some wisdom in the national councils of America.

What is the amendment of the gentleman from New York, [Mr. Brooks?] Here we have a waif of \$10,000,000 of commutation money. It is so much *flotsam*.

Here is \$10,000,000 of money somewhere, and why not apply that sum first to raising volunteers before making the appropriation of \$20,000,000? I am willing to appropriate the \$10,000,000 raised under the conscription act, commonly known as commutation money, because the act provides that that money shall be used "for the procurement of substitutes." I want to pay those who volunteer liberally, so as to avoid all drafts. Let us fill the Army, if it must be done, with volunteers, for one volunteer is worth five drafted men; one volunteer is worth at least five of these compelled soldiers of the draft. It is said that we will have to pay these men. Of course we will. But we do not pay them bounty for the purpose of infusing patriotism into them. You do not put patriotism into a man because you pay him a few dollars. That money is necessary to keep their families whom they leave behind them when they go to suffer the hardships and dangers of the battle-field. We ought to be more than just—we ought to be generous to our volunteers. If necessary, we can raise a large army of volunteers. Let us give bounties for that purpose, and avoid odious conscriptions. Let us vote these \$10,000,000, raised by commutation, first to that purpose. All we ask is that the money shall be placed under the control of some competent authority. Let us know how much is needed, and who is to expend it, and how it is to be disbursed. I trust that this money, now in the hands of the agents of the Administration, will be appropriated. Let us unite to restore our country to its former greatness, and the Government, under the Constitution, to its former glory and renown.

Mr. MORRILL moved that the committee rise to terminate the debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FENXON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the deficiency appropriation bill, and had come to no resolution thereon.

Mr. MORRILL moved that the debate in the Committee of the Whole on the state of the Union on the pending amendment be closed in one minute after its consideration shall be resumed.

The motion was agreed to.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. FENXON in the chair.)

Mr. BROOKS. As my amendment has elicited, by the discussion which has taken place, the information needed, I now withdraw it.

Mr. HARDING. I move to add the following proviso:

Provided, That no part of the money aforesaid shall be applied to raising, arming, equipping, or paying of negro soldiers.

The amendment was rejected.

Mr. STEVENS moved that the committee rise, and report the bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FENXON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the deficiency appropriation bill, and had directed him to report the same back with the recommendation that it do pass.

The question being upon ordering the joint resolution to be engrossed and read a third time,

Mr. HARDING submitted the following amendment:

Provided, That no part of the money aforesaid shall be applied to the raising, arming, equipping, or paying of negro soldiers.

Mr. STEVENS. Is that amendment in order?

The SPEAKER. It is; the joint resolution is open to amendment, no demand having been made for the previous question.

Mr. STEVENS. I now move the previous question.

The previous question was seconded, and the main question ordered.

Mr. SCHENCK demanded the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 41, nays 105; as follows:

YEAS—Messrs. Ancona, Bliss, James S. Brown, Cof-froth, Cox, Dawson, Dennison, Eden, Edgerton, Eldridge-Finck, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Philip Johnson, William Johnson, King, Knapp, Law, Long, Marey, McKlincy, Wil-liam H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Samuel J. Randall, Rogers, Ross, Scott, Stiles, Strouse, Stuart, Chilton A. White, Joseph W. White, and Yeaman—41.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Bailey, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Lloyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, De-ming, Dixon, Donnelly, Driggs, Dunont, Eckley, Eliot, Eng-lish, Farnsworth, Fenton, Frank, Gauson, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asael W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Loan, Longyear, Lovejoy, Marvia, McClurg, Mc-Indoe, Samuel F. Miller, Moorhead, Morrill, Daniel Mor-ris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Perry, Pike, Price, Rad-ford, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Stebbins, Shannon, Sloan, Smith, Smithers, Spalding, Stebbins, William G. Steele, Stevens, Thayer, Thomas, Tracy, Van Valken-burgh, Ward, Elihu B. Washburne, William B. Washburn, Webster, Wabley, Williams, Wilder, Wilson, Windom, Winfield, Fernando Wood, and Woodbridge—105.

So the amendment was rejected.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PAY OF MISSOURI TROOPS.

Mr. BLOW. I move that the rules be sus-pended, and the House resolve itself into the Com-mittee of the Whole on the state of the Union for the purpose of taking up the bill to pay the home guards of Missouri.

Mr. SPALDING. I move that the House do now adjourn.

Mr. BLOW. I hope the gentleman will with-draw that motion. It will not take five minutes to pass the bill.

Mr. COX. I suggest to my friend from Mis-souri that it will take more time than that. The report of the commissioners will have to be read. He had better let his bill come up the first thing to-morrow morning.

Mr. BLOW. Well, I yield.

Mr. SPALDING's motion was agreed to; and thereupon (at four o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, December 22, 1863.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. ANTHONY presented a memorial of mid-shipmen at the United States Naval Academy at Newport, Rhode Island, remonstrating against the promotion of volunteer naval officers to cor-

responding grades in the regular service; which was referred to the Committee on Naval Affairs.

Mr. COWAN. I present a petition of officers and soldiers of Pennsylvania volunteers, praying for an increase of the pay of the non-commissioned officers and privates of the Army of the United States. As that subject is now under consideration, I move that the petition lie on the table.

The motion was agreed to.

Mr. DIXON. I offer a petition from Bishop Eastburn, of the diocese of Massachusetts. It is very brief, and I ask leave to read it.

To the honorable the Senate and House of Representatives of the Congress of the United States of America.

This petition of the subscribers, bishops of the Protestant Episcopal Church in the United States, humbly sheweth:

That your petitioners are charged, by the laws of their church, with the oversight and care of the clergy and can-didates for holy orders of their several dioceses; and feel under obligations the most imperative to provide, as far as possible, that they be confined to their appropriate work, and encouraged to pursue it with all simplicity and dili-gence. They cannot speak in behalf of members of other communions, but they would hope and pray that the privi-lege which, in a certain contingency, they most respect-fully invoke at your hands, may be extended to all those who, in any communion, are commissioned to minister in holy things.

It is proposed, they understand, to repeal the commu-tation clause in the late law ordering a draft for the military service of the Government at this most important crisis of the nation's history. The effect of this repeal, if unac-companied with any alternative provision, would be to subject all clergymen and candidates for holy orders to the necessity of bearing arms, unless they were able to pur-chase substitutes, a thing far beyond the pecuniary ability of the great majority of their number. This necessity is at variance with their fundamental duties and vows as min-isters and students for the ministry of the Prince of peace, and ought not, as your petitioners conceive, to be laid upon them, except, perhaps, in case of the direst extremity. They have beheld, with inexpressible grief, one of their own order gridding on the sword in the cause of the rebel-lion, and have seen, with shame, his example followed by others of different grades in the ministry.

They pray your honorable body that the law, if altered, shall provide that clergymen, and candidates for the min-istry, formally recognized as such by the authorities of their respective denominations, and actually engaged in clerical studies, shall be regarded as non-combatants, and employed as chaplains, or in hospitals, or some kindred occupations; or else that a certain sum shall be levied upon every clerg-yman and candidate for the ministry, as above described, or every denomination liable to draft, unless he chooses to be enrolled.

I have a similar petition from Bishop Chase, of New Hampshire, and one of the same character from Bishop Whittingham, of Maryland. I ask that they be referred to the Committee on Military Affairs and the Militia.

They were so referred.

Mr. WILSON presented the petition of George S. P. Bradford, an ordnance sergeant in the Army, praying that the pay of ordnance sergeants may be defined and fixed by law; which was referred to the Committee on Military Affairs and the Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HOWARD, it was

Ordered, That the petition of John Walters, on the files of the Senate, be referred to the Committee on Claims.

Mr. FOOT. I move that leave be given to with-draw the petition and papers on the files of the Senate in relation to the claim of Charles F. An-derson, in order to have them presented to the House of Representatives. I make the motion at the request of a member of that House.

The motion was agreed to.

REPORTS FROM COMMITTEES.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 33) making appropriations for the payment of invalid and other pensions for the year ending the 30th of June, 1865, reported it without amend-ment.

Mr. ANTHONY, from the Committee on Print-ing, to whom was referred a motion to print addi-tional copies of the report of the Secretary of the Treasury on the finances, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That ten thousand copies of the report of the Secretary of the Treasury on the national finances be print-ed for the use of the Senate.

Mr. CLARK. I am instructed by the Com-mittee on Claims, to whom was referred the claim of J. O. Armes, to ask to be discharged from the further consideration of that claim, with a view of the petitioner presenting the papers to the

House of Representatives, where a part of the papers already are.

The motion was agreed to.

Mr. MORGAN, from the Committee on Printing, to whom was referred a motion to print resolutions adopted at a mass meeting of the citizens of New York to promote volunteering, and asking that the pay of privates in the Army may be increased to twenty dollars a month, reported in favor of printing the resolutions; and the report was agreed to.

PACIFIC RAILROAD.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be added to the standing committees of the Senate a Committee on the Pacific Railroad, to consist of nine members.

WASHINGTON AND NEW YORK MAILS.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be requested to communicate to the Senate the reason of the frequent failure of the mails between New York and Washington; also what legislation is necessary in order to remedy the existing evils; and especially if a new railroad be not required for the necessities of the postal service.

INDIAN REGIMENTS.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be instructed to report to the Senate the names of the officers of the fourth and fifth Indian regiments, the date of their several appointments, and the date they were severally mustered out of the service of the United States.

NOTICES OF BILLS.

Mr. SUMNER gave notice of his intention to ask leave to introduce a bill to provide for the revision and consolidation of the statutes of the United States.

Mr. POMEROY gave notice of his intention to ask leave to introduce a bill to authorize the Government to assume and reimburse the State of Kansas for moneys paid for territorial indebtedness, and have the same applied to the liquidation of the direct tax of the State.

Mr. ANTHONY submitted informally an amendment to the bill (S. No. 18) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; which was ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed a joint resolution (No. 14) to supply, in part, deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties and premiums to volunteers; in which it requested the concurrence of the Senate.

BILLS INTRODUCED.

Mr. WILSON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 27) concerning members of Congress; which was read, and passed to a second reading, and ordered to be printed.

Mr. HOWE, in pursuance of previous notice, asked and obtained leave to introduce a joint resolution (S. No. 8) for the relief of the State of Wisconsin; which was read twice by its title, and referred to the Committee on Claims.

COMMITTEE SERVICE.

The VICE PRESIDENT. If there is no other morning business to be submitted, the question before the Senate in the morning hour is on excusing the Senator from Iowa [Mr. GRIMES] from further service upon the Committee on Naval Affairs.

Mr. ANTHONY. I move that the further consideration of that question be postponed.

The VICE PRESIDENT. To any particular time?

Mr. ANTHONY. No, sir.

The VICE PRESIDENT. Indefinitely?

Mr. ANTHONY. I move that it be indefinitely postponed.

The motion was agreed to.

DEFICIENCY APPROPRIATIONS.

Mr. WILSON. A joint resolution has just come from the House of Representatives which I should like to have taken up and acted upon at once.

The joint resolution (H. R. No. 14) to supply in part deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties and premiums to volunteers, was read twice by its title.

Mr. WILSON. This is a very simple proposition. It is a resolution which contains one of the sections of the bill which we had under consideration yesterday. It is very important that it should be acted upon at once, and I do not think it is necessary to refer it to any committee. I should like to have it read in full for the information of Senators.

The joint resolution was read. It proposes to appropriate \$50,000 to supply deficiencies in part in the appropriations for the public printing; and also to appropriate \$20,000,000, or so much of that sum as may be required, for the payment of bounties, advance pay, and premiums for soldiers volunteering or enlisting in the service of the United States.

Mr. WILSON. I understand that the small appropriation in the first item of the joint resolution is needed to pay a deficiency in the printing appropriation. That is right; the obligation has been incurred. The other portion of the resolution, making an appropriation of \$20,000,000, is substantially the same as the third section of the bill which was before us yesterday. There is in it, however, a provision applying the money to bounties, advance pay, and premiums for recruiting. It was thought yesterday that it was rather doubtful whether we ought to pass the second section of the bill then under consideration, authorizing these premiums; and if Senators so believe, we can strike out the word "premiums" from this resolution; pass it with that amendment, and let it go back to the other House to be acted upon. In order to make the matter certain, I move to strike out the word "premiums."

Mr. FESSENDEN. The first question, I suppose, is on taking up the resolution for consideration now.

Mr. WILSON. I ask that it be now taken up.

The VICE PRESIDENT. The Senator from Massachusetts asks the unanimous consent of the Senate to proceed to the consideration of this joint resolution at the present time. Is there any objection? The Chair hears none. The joint resolution is before the Senate as in Committee of the Whole, and the Senator from Massachusetts proposes an amendment, which will be read.

Mr. FESSENDEN. Before the amendment is presented I will state that in regard to the first item of this resolution, which appropriates \$50,000 for the purpose of printing, the Superintendent states that, owing to the enormous quantity of printing that was called for by the Departments, the appropriation has been exhausted, and he is now absolutely without money to pay the workmen in his office; and it is necessary, therefore, that an appropriation be made immediately. I see no objection to it, and I do not see any necessity for a reference to a committee in order to understand it. It is very simple, and I presume the chairman of the Committee on Printing is aware of the state of facts. The case is as I have stated it.

Mr. ANTHONY. It is so.

Mr. FESSENDEN. In regard to the other part of the resolution, the Senate has already become familiar with it from the fact that we had it under discussion yesterday. It is merely an appropriation of \$20,000,000, instead of the \$105,000,000, to meet the obligations already incurred. I do not know that there is any objection to that. So far as I am individually concerned, I stated yesterday that I was willing the obligations incurred by the Government so far should be met. I see no other way, in fact, than either to pay what they have promised to pay, or in good faith discharge the soldiers enlisted under it, which nobody thinks of doing, I suppose, and therefore we must meet the other alternative. As to the premium, the Senate will of course judge for itself about that. It is very easy to amend the resolution by striking that out, if it be desired, and sending the resolution back to the House of Representatives in that shape.

The VICE PRESIDENT. The proposed amendment will be read.

The SECRETARY. The proposed amendment is in lines eleven, twelve, and thirteen; to strike out—

"and premiums for soldiers volunteering or enlisting in the service of the United States;"

so that the clause will read:

That the sum of \$20,000,000, or so much thereof as may be required, be, and the same is hereby, appropriated for the payment of bounties and advance pay.

Mr. SHERMAN. It is always unpleasant and invidious to oppose this class of legislation; but this resolution involves a great deal more than even the \$20,000,000 appropriated by it. If this resolution be passed, the bill that was under consideration yesterday need not be and probably will not be passed for some time. By this resolution we not only appropriate \$20,000,000, but we legalize the proclamation of the Secretary of War of last October, and we authorize the payment of \$105,000,000 in bounties, \$6,000,000 in premiums, and other incidental expenses. Now, I tell Senators seriously that it is impossible to raise this sum of money within the time contemplated by this scheme. It is easy for us to appropriate the money; we may appropriate \$100,000,000; and Senators seem to think that is the cheapest and the best way; but I wish to call their attention to the difficulty, under the circumstances by which we are surrounded, of raising this money. Suppose you pledge the Government to pay this large bounty; what then? You may make the pledge; but suppose the money is not on hand at the time the pledge is to be redeemed; what then becomes of the credit of the Government? Is it safe or is it right for us to put these serious burdens on the Government? I do not speak my own opinions alone on this subject; I speak the opinions of those who know better than I the condition of our financial system. I say to Senators that if they contemplate raising an army of three hundred thousand men by the payment of national bounties out of the Treasury of the United States under the system proposed yesterday, we cannot pay the money, and we shall induce men to enter our armies under false pretenses. We might as well look at it plainly and fairly in the face. To require within three months the payment of so large a sum of money, without providing any mode of taxation, I say is impossible.

Mr. FESSENDEN. Put on a proviso there.

Mr. SHERMAN. You may do that. So far as the pledge of the Government to those who have enlisted under the faith of that proclamation is concerned, I do not see very well how we can avoid it.

Mr. FESSENDEN. I think we had better put on a proviso limiting it.

Mr. SHERMAN. But if it is proposed to extend this system further, and raise our armies by national bounties, I say that we shall meet with financial difficulties, and we shall make a pledge that we cannot redeem; and I, for one, prefer to choose the unpopular attitude of opposing these national bounties at the outset, rather than to deceive any class of men by promising what I fear we shall not be able to perform.

Mr. JOHNSON. I rise for the purpose of inquiring of the chairman of the Committee on Military Affairs whether the resolution, as it stands, appropriating \$20,000,000, was not intended, as it came from the House of Representatives, to pay what is called the "premium." It is so, in so many words, as I understand it. The aggregate of the premium, as I have understood, would be about six million dollars; and if we strike out the premium, we have \$6,000,000 more for bounties than are necessary.

Mr. WILSON. I will say, in regard to this sum of money, that it was suggested that we should appropriate \$30,000,000; and the bill we had up yesterday was originally prepared for \$30,000,000. It was thought that would be necessary to cover the case; but on further consultation with the Secretary of War and other persons, it was thought best to put the sum at \$20,000,000, which is provided for in the third section of the bill which was under consideration yesterday:

That the sum of \$20,000,000, or as much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, in payment of the bounties and premiums authorized by this act.

We can amend it so as to make it read. "that

\$20,000,000, or so much thereof as may be necessary, shall be used for the purpose of paying bounties."

Mr. JOHNSON. It would avoid the difficulty, if those words were in.

Mr. FESSENDEN. I wish to make a suggestion. I think the question made by the Senator from Ohio ought to be met, and met here at once. I fully concur in all that he has said. I propose, if the amendment which has been suggested by the Senator from Massachusetts shall be adopted, as I hope it will be, to move another amendment, to add a proviso to the section:

Provided, That no part of the amount herein appropriated shall be paid to any persons who may be enlisted after the 5th day of January next.

That will bring it within the principle of the bill yesterday.

Mr. JOHNSON. The effect of that would be to confine the bounties to those already enlisted?

Mr. FESSENDEN. To those already enlisted and those who may be enlisted before the 5th of January.

The amendment of Mr. WILSON was agreed to.

Mr. FESSENDEN. I now propose to amend the resolution by adding this proviso:

Provided, That no part of the amount herein appropriated shall be paid to any persons who may be enlisted after the 5th day of January next.

The amendment was agreed to.

Mr. FESSENDEN. I will ask that the joint resolution may be laid aside for a moment. I do not know but that it may need another amendment.

The VICE PRESIDENT. It will be laid aside informally, if there be no objection.

Subsequently Mr. FESSENDEN said: I move a reconsideration of the vote by which the amendment I offered was adopted, for the purpose of presenting another in lieu of it.

The VICE PRESIDENT. The Senator from Maine proposes to modify the amendment which has just been agreed to by the Senate. It will be regarded as before the Senate, if there be no objection. The Chair hears none. The amendment, as modified, will be read.

The Secretary read it, as follows:

Provided, That no bounties, except such as are now provided by law, shall be paid to any person enlisted after the 5th day of January next.

Mr. HENDRICKS. I object to that modification, if the objection be in time. That will involve the very question discussed yesterday, and will surely delay the passage of this resolution.

The VICE PRESIDENT. The question, then, is on reconsidering the vote of the Senate by which it agreed to the amendment in its original form. The motion to reconsider was agreed to.

The VICE PRESIDENT. The Senator from Maine now proposes to amend his original amendment so that it will read:

Provided, That no bounties, except such as are now provided by law, shall be paid to any person enlisted after the 5th day of January next.

The question is on agreeing to that amendment to the amendment.

Mr. HARRIS. If it is in order, I will move to amend that, by striking out the "5th day of January" and inserting the "2d day of February."

The VICE PRESIDENT. This is an amendment to an amendment. The Senator from Maine moves to amend his original amendment, and no further amendment is in order.

Mr. HARRIS. He modifies his amendment, as I understand.

The VICE PRESIDENT. The Senator from Indiana was understood as objecting to the modification, and it therefore required a vote. Is the Chair right?

Mr. HENDRICKS. Yes, sir.

Mr. FESSENDEN. The proposition of the Senator from New York brings us back to the question, whether we are prepared to say that we will pay \$100,000,000 for bounties, as we shall probably have to do if we extend the time to February; and if so, where we are to raise the money to discharge our obligations. I will only say to the Senate that if we propose to go on in that way we shall involve our Treasury in difficulties from which it will be impossible to extricate it. That is my judgment.

Mr. HARRIS. Mr. President, I see that the

chairman of the Committee on Finance, and other members of that committee, are alarmed, and I have no doubt they are sincerely alarmed, with reference to the means of paying these bounties. But, sir, it seems to me that we are approaching a point where we may as well look the thing squarely in the face. The question is, whether we shall dispense with recruiting; whether we shall say to the three years' men whose times are about expiring, "we cannot give you the bounty promised in the proclamation of the 17th of October;" we must arrest all volunteering; we must say to the country and the world, "we have not the means to pay bounties any more; we must rely entirely upon drafting;" for that is the object of this proposition. As soon as Congress passes it, if I understand its effect, it immediately arrests all volunteering. Are we prepared to say that to the country? I do not understand finances very well; but, in my judgment, the cheapest mode of raising an army will be by bounties.

We all agree that we must have our Army replenished; we must have a large portion of these three hundred thousand men, and we ought to have them, within the next sixty days. Sir, we can get them by going on with this system of recruiting. We all know that recruiting is now going on rapidly in most parts of the country, and if it can be continued even until the 2d of February, we shall get a very respectable army; but if we arrest it now, and turn the Government over to the system of drafting, we know from experience that we have little to expect for several months at any rate from that source. We may as well look this question in the face. If we have not the means and cannot raise the means for paying bounties to enlisted soldiers, let us say so to the country, and stop recruiting; but depend upon it, our Army is not to be filled up in time for the spring campaign by a draft. I am in favor of going on with recruiting. We have just got well started with that system. Let it go on for thirty days more, and let us replenish our armies. I have no doubt myself but what the means can be obtained for paying these bounties.

Mr. SHERMAN. Mr. President, if this was simply a question as to which was the cheaper mode of raising an army, I might agree with the Senator from New York that it was cheaper and better to raise soldiers by the payment of large bounties; but that is not the question. The question is, whether we are probably able to raise the money we pledge by this law. What means are in the hands of the Secretary of the Treasury? He has no authority to issue any more greenbacks, as they are called. That authority is limited to the \$400,000,000 now outstanding. Indeed, if he had the authority, it would not be wise to exercise it, for the simple reason that a larger inflation of our currency would tend to raise prices and increase the expenses of the war. The experience of the rebels and the experience of all nations show that it is unwise to increase the national circulation, or increase the national debt in the form of circulation.

The only way, then, to raise this money is by borrowing, by selling our bonds in the market. Experience has shown that only a certain amount of those bonds can be sold. No security can possibly be better than what is called the fifty-two loan. It is a loan that is secure, and every one feels that to its ultimate payment the last dollar and the last cent is secured. We pay six per cent. interest in gold upon it; it yields a large return to those who invest in it; and yet that loan, the most favorable one we could possibly issue, is only absorbed in the ordinary operations of the Treasury Department at the rate of about \$6,000,000 per week. That, then, is the extent to which we can borrow money probably. How else would you borrow money? Would you throw your bonds in the market and force loans? In that you would depreciate the sale of your bonds and destroy your national credit. There is a limit beyond which neither a nation nor an individual can go in the expenditure of money. It is easy for men or nations to say, "it is cheaper to do so and so;" but they must have the means to do what they propose to do. I say, as a question of plain finance—it is not a question of difficulty—that we must not increase our expenditures one dollar beyond our ability to raise the money to pay, and I do not see at present how it is possible to get more in the way of loans than

the amount we are now receiving, probably from \$6,000,000 to \$9,000,000 per week, sufficient, with the ordinary income of the Government, to carry on the ordinary operations of the Government.

This proposition, limited as it is by the Senator from Maine, will probably be paid by \$20,000,000; but if it is left unlimited, and you rely upon large bounties to fill up your armies, the three hundred thousand men called for will confessedly cost \$105,000,000, the great portion of which must be paid in hand by the terms of the proclamation, and then \$6,000,000 are required for this premium fund, together with other sums for other matters. Now, where can we raise this money? If we had the money in the Treasury, I would agree that it would be better for the nation at large to pay these bounties. If, on the other hand, we pursue the policy that has been heretofore adopted, of paying but small bounties, localities, counties, towns, and States will raise these bounties. In every community they are doing it. They have done it in the past. When this war commenced we raised enormous levies, you may say, without any bounties at all. Even the \$100 bounty promised them was not to be paid until the end of the war.

I say, therefore, we have arrived at that condition when we must appeal to the physical resources of the country by means of a draft; and I believe this war will never end until the people of the United States are willing to see enforced a fair conscription law, or an enrollment law, or a militia law; I do not care what you call it. It seems to me that the War Department, in the execution of the law passed by Congress at the last session, delayed and procrastinated it, and excited the very opposition which they complained of against that law. It took them three months to appoint the agents to execute that law. If I remember correctly, we were hurried in the passage of that law by the honorable chairman of the Committee on Military Affairs, because it was necessary to put it into immediate operation. We passed it before the close of the session, and it was nearly three months before they had the agents appointed to execute the law. It seems to me they might have selected the provost marshals and the various agents to execute the law in thirty days, because they had here the means of information as to the best persons to execute the law; but it was delayed nearly three months, and then one locality was taken. Instead of having the draft universal all over the country at the same time, they first took the city of New York—I believe that was the first place taken—the place where the draft was the most severe, where it was the most unpopular, where the political sentiments of a portion of the community were most obnoxious to the execution of the law; and then, when it was resisted in New York, they delayed and hesitated. Why, sir, in the State of Ohio, while we were engaged in an animated canvass, the people everywhere asked, "why do they not enforce the draft?" Nobody complained of it. It might have been enforced in Ohio—my colleague will agree with me in this remark—to the last man without resistance. That is my deliberate judgment; but it was delayed and delayed, until in October last they promised these large bounties.

Well, sir, if we have the money, I am willing to pay them. I am willing to pay the last dollar and to give the last man to carry on the war; but the question is whether we have the ability to pay; whether we ought to make promises until we know we have the money. We have the power by enforcing the conscription law to raise men. We have not the power to borrow money faster than the people will lend it to us. If Senators are willing to come forward and say, I am willing to lend you this sum of money, or I will raise this sum of money in this or that way, or propose some way by which it can be raised, then I will agree with them, but until then I am not in favor of these large bounties. Perhaps the view this subject presents to me is rather limited. I never like to indulge in promises until I have the money to pay them, and then I am willing to be as munificent as any one; but until we have this money, or until I see a place where we can borrow it, I do not like to promise soldiers large bounties, involving so large an expenditure.

Mr. NESMITH. Mr. President, it seems to me that the embarrassments under which we labor grow out of the effort to pursue a mixed sys-

tem for the raising of troops. During the last session of Congress, I favored what was called the conscription bill, or rather the enrollment bill, because I believed that was the most equitable and just mode of raising troops. The Administration, instead of applying the law, as proposed by Congress, for raising troops, set off to mix it up with another system of paying enormous bounties: hence the difficulty which is now presented to Congress to reconcile the two systems. I believed at the commencement of the war, as I now do, that if it was necessary to raise men for the defense of the country, all men and all portions of the country should contribute equally; and I have been opposed to this system of subsidy in paying enormous bounties. I do not believe that the question ever has been in relation to the men; I believe it has been purely a money question; and I think to-day that the success of the prosecution of this war depends more upon our ability to carry the country through the financial crisis than it does upon the question of raising men.

I have been opposed to mixing up the two systems. When this matter was before the Military Committee, I voted for the third section of the bill yesterday under consideration, which appropriates \$20,000,000 for the payment of the bounty, and the premium, up to the 5th day of January next, simply to redeem a pledge which had been made by the Government to the men who had enlisted. There was no authority on the part of the executive authorities to make any such pledge, or to bind the Government to pay men \$400 bounty, without any recognition of law for such an act; yet, inasmuch as they had seen proper to adopt it, to prevent difficulty and complaints in the Army, I went to the extent of voting the \$20,000,000. An amendment was adopted yesterday extending the time to the 2d of February, and if the result is to be what Senators on this floor claim for the volunteer system, by the 2d of February three hundred thousand men will have been raised. They say that we should resort to and depend upon volunteering entirely, notwithstanding that we have upon our statute-book the enrollment act, and all the cumbersome and expensive machinery for its execution all over the country; and although we are to keep that in operation, we are to turn round and pay from \$300 to \$400 bounty. One system or the other should be abolished; one or the other should be relied upon; and, as I stated before, I have been in favor of the system which conscripts a certain number from the community who owe service to the Government.

Now, if, as is proposed, and if the principle which is initiated by Senators here is true, the Army can be filled up under a system of bounties, the next question which recurs is, what amount is to be required to carry that system out? I have made a calculation—to be sure, not upon any very correct data, but upon what I suppose will be something near a correct result. Suppose that by the 2d day of February, as these Senators claim, the Army will be filled under the volunteer system which has been adopted by the Department; suppose that one hundred thousand veterans reenlist at a bounty of \$400 each. You have there \$40,000,000 to commence with. Suppose that you enlist two hundred thousand others at \$300 each, you have there \$60,000,000 additional. Then, under the clause which was in the bill under consideration yesterday, and which has not been stricken out of the resolution coming to us from the other House, you have a premium of fifteen dollars for veterans, which amounts to \$1,500,000 more, and you have a premium of ten dollars for other recruits, amounting to \$2,000,000 more. Thus, in the aggregate, the sum which is necessary to be appropriated, and which must be incorporated in this bill, if this system is relied upon, is \$103,500,000.

I have voted steadily against these propositions, and I am disposed to vote against them to-day. I defer very much to the judgment and experience of older and much abler Senators here; but I do not believe that the two systems can be successfully mixed up, neither do I believe it is good policy to adopt this expensive system while we have a provision upon our statute-book with a cumbersome and expensive machinery for raising troops. The effect of bringing the two systems in conflict will be damaging, and I do not believe that the resources and the revenue of the country at this time will warrant the disburse-

ment of so large an amount as \$103,500,000. I shall vote against all such measures as mere financial questions, and shall vote for, and continue to support, the enforcement of the enrollment act, believing that that is the most fair, just, and equitable way of raising men, and at the same time relieving the Treasury.

Mr. HOWE. I want to cooperate with the Senator from Maine and the Senator from Ohio in the purpose they seem to be driving at; and, after all, I wish the Senator from Maine would allow his amendment to stand as he originally proposed it. I understand this is an appropriation bill, and the amendment, as proposed by the Senator from Maine, restricts the Treasury in the disbursement of the appropriation, and restricts them sufficiently. The modification of the amendment conflicts with a purpose that I have in view, and which I stated yesterday. When the proper bill comes up, I want to submit to the Senate amendments which I think will enable the Government to pay bounties and relieve the burden which they throw upon the soldier, and not put any burden upon the Treasury, not take the money out of the Treasury; and I stated yesterday how I designed to have this done; and the amendment, as it is now proposed by the Senator, conflicts with that. It seems to me the bill will be abundantly safe if we put to it the amendment which was first proposed. There is now no law for paying these bounties, and the Government will be disgraced and dishonored if we do not appropriate this amount; and after we have intimated to the Government, as we do by the amendment first proposed, that it is our purpose, after the 5th of January, that no bounties shall be paid, and certainly not out of this appropriation, I do not think they will promise any bounties. I do not think there is the slightest danger of their laying the people of the United States under any further obligations in that direction.

Mr. FESSENDEN. I had precisely that idea when I drew the first amendment; and it does effectively, as the Senator from Wisconsin observes, prevent the appropriation or the use of any part of these \$20,000,000 for the purpose of paying bounties to persons enlisted after the 5th day of January next. The difficulty, however, that struck my mind is this: the order from the Department is general, a continuing order; it is a promise to pay to all persons who may be enlisted. Now, if they do not choose to revoke that order, or let it stand, they will go on after the 5th day of January enlisting persons, and we are then precisely in the condition that we are in now. The promise has been made by the executive Government, and we are called upon to fulfill it. It is impossible to say how long it would take to mature and pass a bill through both branches, with the contest that exists on this question, which should effectually provide for all these cases. It may linger on, and enlistments keep going on, until the 2d day of February, or after that time, for aught we can know. Now, sir, I do not know how far the Government would feel itself bound, or would take any hint from our simple language, that no part of this money shall be used to pay for future enlistments. Probably no part of it would be so used in any case, for the simple reason that there would not be enough of it to meet more than existing obligations. We should be left therefore precisely as we were before, and as we are now. They may go on, and before we can pass a bill these same obligations may be incurred to a very much larger extent than they are now, so that we gain nothing. If my friend's bill will accomplish the purpose, and he can come under any pledge to get it through before the 5th day of January, I should accede to his logic and be prepared to act according to his wishes. But, sir, I want the executive Government to understand, and I think it is very reasonable that they should be made to understand, that when there is a law upon the statute-book, and a particular course pointed out for raising men, and a particular sum fixed to be paid for men, in the absence of a very pressing emergency, it is not a part of the duty of the executive Government to make laws overturning ours, and adopting new ones of their own suggestion, and to make promises that they cannot perform and that will bind us. That is my notion about it. It is what Congress owes to itself in almost any position of things in the country.

I say, moreover, that I think the Government in this particular were led into this course by a simple error of calculation. When the promise was first made, or the order passed, it was their idea the \$300 paid in as commutation would meet the other enlistments, so that they would not be contravening any law at all. I presume that was the idea on which they went; but the enlistments coming in so much faster than the exemptions has occasioned the difficulty in which we are now placed. Hence I do not find any fault with the Government, either with the President or the Secretary of War. I am not disposed to throw blame upon them in any way in reference to it. The country needs the men, and they acted, according to the best of their judgment, for the good of the country and to accomplish the purpose. I have therefore no particular fault to find. I only say that the event has shown that they did not make their calculations correctly; and now we are brought to this position.

Laws should exist in regard to all these things; matters of this kind should be left to the discretion of no department on the face of the earth; we, the Congress of the United States, are the body to settle all these questions, in the absence of any great and pressing emergency calling for action before Congress can meet; and in that case I hold, as I have held before, that it is the duty of the Executive, in defense of the Constitution and the laws, to meet such an emergency and take the consequences. He would not be doing his duty if he did not do so without reference to particular rules; but in all other cases they are bound to defer to what the wisdom or the folly of the Congress of the United States shall say is the proper course to take. In reference to this matter I want them to act under the law of the land, and when we say that we appropriate this money to enable them to discharge these obligations, or such as may be incurred previous to the 5th day of January next, we say at the same time there is no law in existence for paying these bounties beyond that day, and you must not contravene the laws of the land in that respect.

The only question, then, is whether we can say it safely. If we cannot say it safely, let us stay here and legislate, instead of being in a hurry to eat our Christmas dinners somewhere else than in Washington, and place a law on the statute-book that will give them leave to pay this money. If we are willing to pay \$400 to veterans and \$300 to persons who are not veterans, let us place such a provision on the statute-book, and let them act under law, and not adjourn or take a recess, and let the Departments feel themselves at liberty to go on and make laws for the occasion during the time that Congress is absolutely not only in existence but in session, or ought to be in session. If gentlemen are not prepared to do this, and say that the law shall not be contravened, then let them stay here and make a law to meet it, and not leave it at loose ends in this way.

Now, sir, as to the main question, I say to the Senate that, in my humble judgment—and I pretend to no exemption from error on all these questions—if they go on legislating upon this principle with regard to paying these enormous bounties, they will find that they are exhausting the fountain and coming nearer to the point where they are obliged to stop than they are aware of. Gentlemen may talk here about paying these great bounties, and may say that you cannot get the men in any other way. Very well; if that is true, if the men must be had, and there is no other way in which you can get them, pay them; but pay them by statute, give laws for it, and let it not be done by the exercise of individual authority at one end of the avenue or the other. But, sir, in my judgment there is another way; Congress deliberately decided that there was another mode, and I have believed from the beginning, and believe now, that it is the best mode, the most equal, the most just upon the community; and that is by draft, calling upon all persons who are subject to it to take their chance; and by enforcing that with vigor and determination you will accomplish your purpose. The reason why you fail is because you show to the country that you have not nerve enough to carry out what you decide to be the best thing to be done. Show that you have the courage, and the people will sustain you; because, in my judgment, drawn from some experience and observation, the American people trust no

men more than those who they see not only have calmness enough to devise a plan, but courage enough to execute it after they have devised it.

Mr. HOWE. Mr. President, I agree entirely with the Senator from Maine that it is our business to enact laws, and it is the business of those agents at the other end of the avenue to execute laws when they are enacted. I will stand by him as long as he pleases to stand; in doing battle for the utmost line and letter of the prerogatives of this body, and I defer entirely to his judgment. If he thinks this express enactment is necessary to prevent the executive department of the Government from pledging the credit of the nation to these extravagant bounties, notwithstanding the very pregnant suggestion made by the amendment as first proposed, I have not a word to say against it. I desire to rescue the nation from the liability to be incumbered with this mountain of debt without any provision made for it by their representatives; and if this express enactment is thought by any Senator here to be necessary, I submit to it entirely. I thought we might get along without it; it will not embarrass us next week; it will not embarrass the very legislation that I propose. That I admit; and if it will protect us in any direction I waive the request I made.

The PRESIDING OFFICER, (Mr. CLARK.) The question is on the adoption of the amendment to the amendment.

Several SENATORS. Let it be read.

The PRESIDING OFFICER. It is proposed to strike out all after the word "provided," and to insert "that no bounties, except such as are now provided by law, shall be paid to any persons enlisted after the 5th day of January next."

Mr. GRIMES called for the yeas and nays, and they were ordered.

Mr. COWAN. I should like to inquire from some gentleman who has given this subject care and attention, in what way it is proposed to procure the reentry into the Army of those veterans whose term of service will expire in June and July next. As I understand, it is a *sine quâ non* that these men should be retained, and I desire now to attract the attention of the Senate to that question, how it is possible to procure their reenry or reenlistment into the service at the time that their present term of service will expire; whether the offer of large bounties such as were contemplated by the War Department was not calculated to secure that object, and whether it can be secured in any other way.

Mr. SHERMAN. In reply to the Senator from Pennsylvania, I will state that I believe the time of the earliest of those regiments expires in August.

Mr. COWAN. The time of some of ours will expire in June.

Mr. SHERMAN. We had, at first, all three months' men, for some time, and I think it was July or August, 1861, before the three years' men came in. Between now and next July or August, we shall have ample time to legislate in regard to those veteran regiments.

Mr. GRIMES. I will state, furthermore, for the information of the Senator from Pennsylvania, (though I cannot speak as to the troops of the Potomac army,) that there is a very small portion of the western troops whose terms expire next year. Of the older regiments who went into the service two years ago last fall, a very large portion, probably eight out of ten, are already out of the service in some way or other, from casualties or from discharges. The majority of the regiments which we raised one year ago last fall are much fuller, and their time does not expire for two years.

Mr. COLLAMER. My State has none but three years' troops in the field, and has never sent any two years' men. Our first regiment of those in service for three years was in the Bull Run fight in July, 1861, and the term of that regiment will expire next June. There is one whole brigade, in which that regiment is, whose time will expire next summer from June to August. There are five regiments in that brigade.

Mr. GRIMES. How many men?

Mr. COLLAMER. According to the last report of them, made about a month ago, they averaged about five hundred to a regiment. Then we have six more regiments that are in different departments—not in the same brigade, but scattered about the country—who were raised in the

fall, in September, October, and November. About half our men go out in the summer, and the others in the fall.

Mr. FESSENDEN. In reply to the suggestion of the Senator from Pennsylvania, I will simply state that the object of this proviso is merely to declare that nothing further shall be done without law. If the Congress of the United States shall be asked to decide upon the terms on which the veterans shall reenlist, let a fair opportunity be given for legislation on that subject, and we can do in regard to it what Congress thinks proper. This proviso is only saying that in regard to this present thing, as the law stands now, they must stop where they are.

Mr. COWAN. I heartily agree with that sentiment. I have long been impressed with the importance of confining the several departments of this Government strictly within the sphere of their operations according to law; and I believe that the failure of the first draft under the act of 1861 was entirely owing to the fact that they disregarded a section of that law which, in my judgment at the time, was material, and one which was calculated to insure success.

Mr. JOHNSON and others. What was that?

Mr. COWAN. I will state. It was given out by the Department, though plainly not in the enactment, that any one who refused to appear at the rendezvous after having been drafted would be compelled absolutely to go at once and fill out the term of service, and would not have an opportunity of applying to be exempted. The consequence was, that the timid men, the men not fit to be soldiers, those who would not be worth anything in the Army if they were soldiers, were obliged, under the pressure of this decision, to pay immense sums for substitutes. It begat a new class of merchant in the country, called the "substitute broker;" brought the law into odium; brought the service into odium; and prevented the proper number of men being obtained under that draft.

The same mischief substantially has occurred under the present draft. Under the first draft, having found that there was a deficiency in the quota called for, instead of going on and drawing and filling it up and finding the recusants, they stopped, and they sent, say if you please one hundred thousand men, upon an errand which they alleged would require three hundred thousand for its proper execution. So it was under the present law. I could never see any reason, for my part, why, under the present draft, when it was found that after the first drawing there was a deficiency in the quota, an additional number should not have been immediately drawn, and a sufficient number drawn in order to fill it up. But it seems the Department after having made one drawing supposed that exhausted their authority; and when they came to count up their exemptions and those who paid the commutation money, there was a very small result remaining.

I think that all the laws we have passed would have been efficient if, as has been remarked by the Senator from Maine, they had been carried out manfully and boldly, and the people had been trusted with them. They could have been executed everywhere that I know of, except perhaps in the city of New York, and there the disturbance was soon quelled when the proper means were made use of to quell it. I think it unfortunate that we did not have in the first place some uniform mode, whether it might be one mode or two modes, of filling up the Army, but I think it should have been uniform, and that it should have been fair. I think it would be exceedingly unfair now to the veteran who has borne the heat and the burden of this struggle, that his place should be replaced in the Army by one who had to be tolled there by excessive bounties and increased pay. I think that if it took us ten days, we ought to endeavor by some means or other to place the old soldiers of the Army on an equal footing with those who now propose to go in at the eleventh hour. I should like some plan to be devised by which that could be done. I should feel very reluctant to vote for any measure which was calculated to make a distinction between those who have borne our arms so long and with so much credit to the Government.

Mr. WILSON. Mr. President, this debate clearly shows us the importance of being very careful how we act. We are warned by the Sen-

ator from Ohio, who is on the Committee on Finance, [Mr. SHERMAN,] that the Government has not the means to redeem the pledges the Government has made, and that we ought not to extend this time beyond the 5th day of January. Sir, we want men; we want our armies filled; but we ought not to make pledges for bounties or increase of pay, if we have not the means to redeem our pledges. If we increase our expenses in raising men, or in paying men, we ought to provide the means to meet the promises we make to them. Sir, it seems to me that we ought to put upon the country a direct tax, a tax upon the property of the country, to fill up the ranks of our armies, to increase the pay we give our soldiers who sustain the cause of the country. There is no reason, in my judgment, why we should not have such a tax early and promptly imposed, and thus sustain the Treasury and the credit of the Government.

The Senator from Ohio tells us that we ought not to consult popularity in our action here. I agree with the Senator that we ought to pay no attention whatever, in this crisis of the country, to the question whether our course here shall be popular or unpopular. Let us for the sake of popularity to-day commit a grave error, let us involve the country in difficulty, and in six or twelve months hence the popularity won to-day will turn into dishonor and disgrace. For myself, sir, I do not care a farthing what the people of my State or of any portion of the country choose to say in regard to our action here; in this great crisis of the nation. We should take the responsibility, and do our duty with a single eye to saving our country and preserving our institutions. The soldier may as well shrink from danger in the hour of trial, as for the public man to shrink from the duty of this hour of responsibility.

I suppose the War Department, in the pledge it made in the call for three hundred thousand volunteers, supposed, that by fixing a time and notifying the people of the States that they wanted three hundred thousand men by the 5th day of January, a great effort would be made by the States, the cities, counties, and towns, and by the people to enlist men, and that a portion of those men would be thus raised—not the whole three hundred thousand, for I take it the Government did not dream of raising three hundred thousand volunteers in the present condition of the country, to go into the Army. The Government thought that a great effort would be made, and that we should get several thousand volunteers. We had then I think about nine million dollars, when the call was made, and we provided that a small sum of this bounty should be paid when the recruit was taken into the service, and so much at different periods afterwards through the three years. It was thought that the sum of money then on hand, derived from the commutation clause of the enrollment act, would enable the Government to pass along until the meeting of Congress. The Government intended on the 5th day of January to commence the draft, and expected to derive from that draft many million dollars to pay for recruiting.

The committee propose to fix the 5th day of January, the day the Government itself had fixed for the draft. We propose to arrest the payment of this bounty on that day, and that is the amendment now proposed upon this House resolution. It is proposed by some Senators to go on until the 2d day of February. When we have the fact before us clear and plain that we need some legislation in regard to the enrollment act and in regard to filling up the armies, it seems to me a stern public duty to remain in our seats and pass the necessary legislation. But, sir, unless we do it, I think we ought to extend the time from the 5th of January until the 20th of the month, so that when we come back here after the 5th day of the month we shall have a few days in which to pass the necessary legislation to amend the enrollment act.

The Senator from Pennsylvania is troubled very much in regard to how we are to retain the old veterans in the service if the Government does not offer this bounty. I take it, if we were to make a draft for half a million of men, commencing early next month or on the 1st day of February, we should hold two hundred thousand or two hundred and fifty thousand or three hundred thousand of those men. At least one half of those men, if we do not repeal the commutation clause, would pay the \$300, and a large and overwhelm-

ing majority of them at any rate, would get substitutes, and they would obtain substitutes from the Army. The townships, the counties, the States, the men drafted, would look to the ranks of the Army, to the old veterans, from among whom to obtain substitutes. That is already authorized by the Department, and we can legalize it if it be necessary; we can authorize the old veterans in the Army who have served over two years to be substitutes. We are doing that now. A veteran in the Army now, that has served more than two years, may enlist in that way, and they are enlisting. There is a regiment from my State, directly across the river, in which several hundred of them have already enlisted for a bounty of \$727—the bounty promised them by the nation is \$402, and our State bounty is \$325, making \$727. Those from my State who have been in the Army over two years, to the number of ten or twelve thousand, can reenlist and receive a bounty of \$727.

Mr. HARRIS. How will it be after the 5th of January?

Mr. WILSON. After the 5th of January they will receive the bounty of \$325 from the State, and just as much as anybody who is drafted chooses to pay them, if it is \$2,000.

Mr. HARRIS. There is no law now allowing them to become substitutes.

Mr. WILSON. There is a regulation of the Department under which they do it now, and we can pass such a law, if it be necessary to do so, to retain these old veterans in the service. I have no sort of fear about the reenlistment of the veterans in the service. They will have offered to their sufficient inducements to reënter the Army if high bounties can do it, especially if we repeal the \$300 clause of the enrollment act. I venture to say that if we do repeal that clause, and the Government allows veteran soldiers who have been in the Army two years or more to reenlist as substitutes, the average bounty offered to these men will be, within thirty days after the draft commences, at least twelve hundred dollars. A great many of them will reenlist and go into the service under the enormous bounties paid for substitutes if you repeal the \$300 clause, which, however, I do not think you will do, although I know that is now the idea in the country. Nineteen twentieths of the people of this country would vote against the repeal of that clause. The public sentiment of this nation is for that \$300 clause by an overwhelming majority. The people have learned that it has operated practically as a relief for the poor, toiling, laboring man, and that all that was said against it as a measure in favor of the rich and against the poor was either misconception or intentional misrepresentation or misrepresentation. I hope it is not to be repealed.

Sir, I think the true way is to fix a reasonable limit to the payment of this money, making it say about the 20th day of January. Appropriate the money, and then stay here and amend the enrollment act and pass all other acts necessary by way of legislation to fill up the Army, and then I would let the \$300 clause stand in the act. It will keep down the wild speculation for substitutes. I would go on drafting until I had drafted seven hundred thousand or eight hundred thousand men if necessary, and I would hold every man drafted if he was not absolutely physically unfitted for the service. If he was able to contribute to the support of the Government in any way, I would make him do so; I would make him serve or pay his \$300; and then I would allow the States, the counties, the towns, and individuals, to raise, wherever our armies go, black men and white men as recruits, and if they pay them bounties, put the white men into the ranks of our old regiments wherever they go in the field, making good soldiers of them at once, and let them serve our country. I would take the black men and organize them into companies and regiments. I would thus put all the burden I could on that section of the country.

I tell you, sir, our conscription act has done more to raise and elevate the sentiment of this nation than any other act we have passed. When that act was passed, you had a wild, unreasoning prejudice against using a black man to fight the battles of our country. But when people who were filled with these prejudices saw that they must go themselves, and bare their bosoms to the shot and shell of the enemy, they learned that the

black man's blood was no more sacred than their own, and that they would as soon have a black man stand up and fight the battles of the country as to do it themselves. The most popular thing to-day is to crowd black men into our armies. Sir, there would be a shout of joy throughout the nation, in which our whole people would participate, if the intelligence should go out to them that we had a quarter of a million black men organized and armed to fight the battles of our country.

Mr. TEN EYCK. Mr. President, although the whole question in regard to the advantages of the two different systems is not really involved in this discussion, yet it is so intimately connected with it, that I trust I may be pardoned for adding a word to this very extended debate.

The chairman of the Committee on Military Affairs desires that authority should be given to the Government to extend the power of giving bounties over the period fixed by the proposed amendment of the Senator from Maine; and he thinks if that is suffered to stand, and the \$300 commutation clause is permitted to stand in the enrollment bill, that will furnish a specific for all our evils. Sir, I would to heaven that it would, but I have no such feeling. I think we have tried this plan of volunteering long enough and effectually enough; and as disagreeable as the other mode may be, there are times in the history of legislators, as well as of all other men, when they are bound to march up to the solemn responsibility of public exigencies. We see and learn from the united voice of the Committee on Finance that it is not in the power of the Government to extend these facilities, even if the citizens of the country are ready to come forward, accept these bounties, and step into the ranks.

I do not know, sir, who is entitled to the credit of the idea, or who was its first discoverer, or how old or new it may be, that we now do not need money so much as we need men, bone and muscle. I am inclined to adopt that opinion, and although I know that it will involve immense sacrifices, although I know many men will be driven to the ranks who as yet have not gone there, still this is a cause worthy of the best blood of the country; and I believe that if the loyal portion of this nation had gone into the Army as the inhabitants of that portion of it in rebellion did, this huge conspiracy would have been crushed long ago.

Sir, I profess to no extraordinary feelings of patriotism, but I think each Senator and each citizen of this country should thank God that he lives in a day and in an hour filled as the present day and the present hour are with such vast and grand events, and that he has the opportunity of participating in transactions so great and ennobling. We may fly to this expedient, we may fly to that expedient; we may offer, as we have offered in some States, and as has been offered and paid in some portions of the State which I have the honor in part to represent, as high as \$1,000 already, and yet we are deficient to a small degree in furnishing the quota that has been required of us. We here—I trust I say it respectfully—must take the initiative; we must march up to the position of demanding that the armies of the Republic shall be filled, and filled although it may be at the sacrifice of the best blood in the country. It seems to me that no evasion, no temporizing, no extending of the period, no shrinking, no squirming, will relieve us from the responsibility which we have to assume, and will be compelled to assume in a very short time, be it sooner or be it later. This huge insurrection, in my opinion, will never be quelled until the northern portion of this Union, with their bone and sinew, and not with their money, enter into the ranks and smell the smoke of battle.

Sir, I shall vote for the amendment as proposed by the Senator from Maine, as being upon a line with the idea I entertain, as to the duty we should pursue upon the present occasion.

The VICE PRESIDENT. The question is upon the amendment of the Senator from Maine to the amendment.

The question being taken by yeas and nays, resulted—yeas 35, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Colamer, Conness, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harding, Harlan, Henderson, Howard, Howe, Johnson, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—35.

NAYS—Messrs. Buckalew, Davis, Harris, Hendricks, Hicks, Lane of Indiana, Powell, Sausbury, and Wright—9.

So the amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

Mr. WILSON. I now offer the following amendment as a new section:

And be it further resolved, That the money paid by drafted persons under the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall be paid into the Treasury of the United States, and shall be drawn out on requisitions, as in the case of other public moneys. The money so paid shall be kept in the Treasury as a special deposit, applicable only to the expenses of draft and for the procurement of substitutes.

It was my purpose to move this amendment to the bill which was pending yesterday, but I fear from present appearances that we shall not be able to get that bill through before the holidays. This provision has the sanction of the Secretary of War and the Secretary of the Treasury. It only legalizes the arrangement made for taking care of the money received from the commutation.

Mr. COLLAMER. I propose to amend the amendment by adding, "for which the same is hereby appropriated." It is intended, of course, to have the money drawn out according to law, and our law is that no money shall be drawn out unless it is appropriated. I therefore wish to include the appropriation in the section.

Mr. WILSON. I accept that modification.

The amendment, as modified, was agreed to.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time. The resolution was read the third time and passed. Its title was amended, by striking out the words "and premiums," so as to read: A joint resolution to supply in part deficiencies in the appropriations for the public printing; and to supply deficiencies in the appropriations for bounty to volunteers.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (No. 11) in relation to the claim of Carmack & Ramsey; in which it requested the concurrence of the Senate.

THANKS TO CAPTAIN JOHN RODGERS.

Mr. GRIMES. The Committee on Naval Affairs, to whom was referred the joint resolution (H. R. No. 12) tendering the thanks of Congress to Captain John Rodgers, of the United States Navy, for eminent skill and zeal in the discharge of his duties, have instructed me to report it back with a recommendation that it do pass. As I presume there will be no opposition to it, I ask that it be considered now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes (in pursuance of the recommendation of the President of the United States, and to enable him to advance Captain Rodgers one grade, in pursuance of the ninth section of the act of Congress of July 16, 1862) to tender the thanks of Congress to Captain John Rodgers "for the eminent skill and gallantry exhibited by him in the engagement with the rebel armed iron-clad steamer *Fingal*, alias *Atlanta*, whilst in command of the United States iron-clad steamer *Weebawken*, which led to her capture on June 17, 1863; and also for the zeal, bravery, and general good conduct shown by this officer on many occasions."

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ADJOURNMENT OVER THE HOLIDAYS.

The VICE PRESIDENT. The unfinished business of yesterday is Senate bill No. 7, relative to the bounties and pay of volunteers.

Mr. WILKINSON. I move to take up the resolution of the House of Representatives in relation to adjournment.

The VICE PRESIDENT. The Senator from Minnesota moves to postpone the further consideration of the question before the Senate.

The motion was agreed to.

The VICE PRESIDENT. The question now is on the motion of the Senator from Minnesota,

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to take up the concurrent resolution of the House of Representatives in relation to an adjournment till the 5th of January.

Mr. SUMNER. Before the question is put on that, I should like to know if the Senator from Delaware [Mr. BAYARD] is in the building to-day; and if he is, I should propose to proceed to the consideration of the other resolution on which the Senate was engaged yesterday morning. His colleague, I suppose, can say whether the Senator from Delaware, not now in his seat, is within reach, so that he can be had.

Mr. SAULSBURY. I do not know the fact. I know that he was here this morning. I think it very likely that he is in some room in the building, but it can be ascertained in a moment.

Mr. SUMNER. I think the Senate ought to proceed with the consideration of that resolution and have a vote on it before it concludes to adjourn over.

Mr. WILKINSON. The passage of this resolution will not affect that.

Mr. SUMNER. I beg the Senator's pardon. The Senator says the passage of the resolution he proposes to call up will not affect the other resolution. Suppose we vote to adjourn over, then we may not be able to reach the other question. It seems to me that the Senate ought to finish the other question before it goes to play. I should rather interpose a motion, therefore, if the Senator from Minnesota makes no objection, to proceed with the consideration of the other resolution.

Mr. ANTHONY. If the Senator from Delaware is not present?

Mr. SUMNER. I do not wish to do it if the Senator from Delaware is not here.

Mr. POWELL. The Senator from Massachusetts will allow me to state that I saw the Senator from Delaware this morning, and he was complaining of being very unwell; and he desires time to prepare his argument in this case. He is not ready, and I can really see no impropriety in letting it go over till after the holidays. No injury can result to anybody. He will then be ready to make his argument.

Mr. SUMNER. Do I understand that he will be ready to-morrow?

Mr. POWELL. No, sir. I did not say to-morrow, but after the holidays are over.

Mr. SUMNER. After the holidays! That is the point. The question ought to be settled before the holidays.

Mr. WILKINSON. Mr. President, I do not suppose that a vote can be obtained upon the resolution of the Senator from Massachusetts before the holidays.

Mr. SUMNER. Why not, pray?

Mr. WILKINSON. I do not think that on a question of that kind it is perfectly fair to press a man to a vote at once who is in the situation of the Senator from Delaware. I am as anxious to have that matter determined as the Senator from Massachusetts; but I must say that it looks a little harsh to force a Senator to appear here upon twenty-four hours' notice to argue a proposition that probably may involve his right to a seat; and I do not think it is unreasonable to give him a few days in order that he may be prepared to make his argument to the Senate, and therefore I shall be obliged to insist upon the calling up of the resolution to which I have referred.

Mr. SUMNER. The Senator is entirely mistaken when he supposes that the Senator from Delaware is asked to go on at twenty-four hours' notice. He has had nine months' notice, and the Senate understands all his objections. He himself has announced his objections, and I have no hesitation, speaking with all possible respect, in saying that they are of the most trivial character. I do not think them worthy of discussion in the Senate, especially after the consideration they have received. At the same time, if the request is made that this question shall go over until to-morrow and that we shall then proceed to a vote upon it, and especially if my friend from Minnesota makes that request, who knows my disposition to go with him always, I shall yield to what would seem

to be the desire of the body, but I do think that there ought not to be delay in the matter.

The VICE PRESIDENT. The question is on agreeing to the motion submitted by the Senator from Minnesota.

The motion was agreed to.

The VICE PRESIDENT. The resolution has been amended by the Senate. It originally applied only to the House. It will be read as amended.

The Secretary read it, as follows:

Resolved, (the Senate concurring.) That when the two Houses of Congress adjourn on Wednesday, the 23d instant, it shall be until the 5th day of January, 1864.

Mr. FESSENDEN. I will suggest that that resolution had better lie on the table for the present. We cannot adjourn, or agree to anything of the sort, until we know the fate of the bill passed this morning, and which has gone back with amendments to the House. When that has been disposed of and provided for we can act upon this subject; but until then it will not be safe to do so. I move that it lie on the table.

The motion was agreed to; there being, on a division—ayes 22, noes 14.

CARMACK AND RAMSEY.

The VICE PRESIDENT. The Chair will lay before the Senate a joint resolution from the House of Representatives for reference.

The joint resolution (H. R. No. 11) in relation to the claim of Carmack & Ramsey was read twice by its title.

Mr. COLLAMER. In order to understand to what committee that resolution should be referred, we desire to know the subject to which it relates. I therefore ask that the resolution be read.

The VICE PRESIDENT. It will be read.

The Secretary read the resolution, which directs that all the papers and evidence touching the claim of Carmack & Ramsey, submitted to the First Comptroller of the Treasury under the sixth section of the act of Congress approved August 18, 1856, entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1857," together with all the questions relating thereto, shall be transferred to the Court of Claims for adjustment and determination, and the Comptroller is to cause the papers to be transferred to the Court of Claims accordingly.

The VICE PRESIDENT. To what committee shall the joint resolution be referred?

Mr. WADE. I suppose it ought to go to the Committee on Post Offices and Post Roads.

The VICE PRESIDENT. That reference will be made if there be no objection.

AMENDMENT OF THE ENROLLMENT LAW.

Mr. WILSON. The resolution that came from the House of Representatives this morning, and which has been amended and sent back to the House, disposes of three or four sections of the bill we had under consideration yesterday to increase the bounty for volunteers and the pay of the Army; I therefore propose to lay that bill on the table and take up the bill to amend the act for enrolling and calling out the national forces, and for other purposes. The committee propose some amendments to that bill, and I think we can make some progress in its consideration to-day.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 18) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863. The bill authorizes the President of the United States, whenever he shall deem it necessary, to call upon the several States for such number of men for the military service of the United States as the public exigencies may require.

It proposes to amend the second section of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, by striking out all of the section after the word "enacted," and inserting the following, to wit: "That the following persons be, and they are

hereby, excepted and exempted from the provisions of this act, and shall not be liable to military duty under the same, to wit: such as are rejected as physically or mentally unfit for the service; also, first, the Vice President of the United States, the judges of the various courts of the United States, the heads of the various Executive Departments of the Government, and the Governors of the several States; second, the only son liable to military duty of a widow wholly dependent upon his labor for support; third, the only son of aged or infirm parent or parents wholly dependent upon his labor for support; fourth, where there are two or more sons of aged or infirm parents wholly dependent upon their labor for support, all of which sons shall have been drafted, the father, or, if he be dead, the mother may elect which son shall be exempt; fifth, the only brother of children not twelve years old, having neither father nor mother, wholly dependent upon his labor for support; sixth, the father of motherless children under twelve years of age wholly dependent upon his labor for support; seventh, where there are a father and sons in the same family and household, and two of them are in the military service of the United States, or have deceased or become permanently disabled in said service, as non-commissioned officers, musicians, or privates, the residue of such family and household, not exceeding two, shall be exempt; and no persons but such as are herein excepted shall be exempt; provided, however, that no person who has been convicted of any felony shall be enrolled or permitted to serve in said forces."

It also proposes to repeal section three of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and so much of section ten of that act as provides for the separate enrollment of each class; and it is to be the duty of the board of enrollment of each district to consolidate the two classes mentioned in the third section of the act. If any State shall fail to furnish, within the time designated by the President, the number of men required therefrom, the provost marshal of the district within which any ward of a city, town, or township, or county, where the same is not divided into wards, towns, or townships, which is deficient in its quota, is situated, is, under the direction of the Provost Marshal General, to make a draft for the number deficient therefrom; but all volunteers who may enlist after the draft shall have been ordered, and before it shall be actually made, are to be deducted from the number ordered to be drafted in such ward, town, township, or county.

Any person enrolled who shall remove from any ward of a city, town, or township, or from a county, where the same is not divided into wards, towns, or townships, may, on application to the proper board of enrollment, be enrolled in the place of residence to which he shall have removed, and may, upon proof of such enrollment, have his name stricken from the rolls of his former place of residence; and boards of enrollment are to have power to enroll any person whose name shall have been omitted by the proper enrolling officer. Any person enrolled under the provisions of the act of March 3, 1863, or who may hereafter be so enrolled, may furnish, at any time, an acceptable substitute, and such person so furnishing a substitute shall be exempt from draft during the time for which such substitute shall have been accepted.

Provost marshals, boards of enrollment, or any member thereof, acting by authority of the board, are to have power to summon witnesses and enforce their attendance by attachment in any case pending before them, or either of them, and the same witness fees and costs are to be allowed as may be allowed in the district courts of the United States, and they are to have power to administer oaths and affirmations; and any person who shall swear or affirm falsely before any provost marshal, or board of enrollment, or member thereof, acting by authority of the board, or before any civil magistrate, to any affidavit to be used in any case pending before any provost mar-

shal, or board of enrollment, shall, on conviction, be fined not exceeding \$500, and imprisoned not less than six months, nor more than twelve months.

Copies of any record of a provost marshal or board of enrollment, or of any part thereof, certified by the provost marshal, or a majority of the board of enrollment, are to be deemed and taken as evidence in any civil or military court in like manner as the original record; but if any person shall knowingly certify any false copy or copies of such record, he is to be subject to the pains and penalties of perjury.

All claims to exemption are to be verified by the oath or affirmation of the party claiming exemption, to the truth of the facts stated, and the testimony of any other party filed in support of a claim to exemption is also to be made upon oath or affirmation.

If any person drafted and liable to render military service shall procure a decision of the board of enrollment in his favor upon a claim to exemption, by any fraud practiced by himself, or by any other person with his knowledge or consent, or by any false statement or representation willfully made by himself, or by any other person with his knowledge and consent, or with the intent to evade military service by giving or agreeing to give to the provost marshal, or any member of the board of enrollment, or to any other person for their use or benefit, directly or indirectly, any bribe, pecuniary consideration, or other inducement, or by holding out or offering to them any gain or advantage of any kind, such decision or exemption is to be of no effect, and the person exempted, or in whose favor the decision may be made, is to be deemed a deserter, and may be arrested, tried by court-martial, and punished as such, and is to be held to service for the full term for which he was drafted, reckoning from the time of his arrest.

Any person who shall procure, or attempt to procure, a false report from the surgeon of the board of enrollment concerning the physical condition of any person drafted and liable to render service, or a decision in favor of such person by the board of enrollment upon a claim to exemption, by any such means, upon conviction in any district or circuit court of the United States, is to be punished by imprisonment for the period for which the party was drafted.

Any person who shall represent, directly or indirectly, to a drafted man that he has any understanding or secret influence with the provost marshal, or any member of the board of enrollment, or with any other person through whom he can procure, or aid in procuring, the exemption of such drafted man for physical disability, or the decision in his favor of any claim to exemption, or who shall promise to procure, or aid in procuring, such exemption or decision through any such understanding or influence, or by any similar means, or who shall receive any money or other consideration for procuring, or aiding to procure, or for promising to procure, or to aid in procuring, such exemption or decision through any such understanding or influence, or by any similar means, upon conviction in any district or circuit court of the United States, is to be punished by imprisonment for the period for which the person was drafted.

The fees of agents and attorneys for making out and causing to be executed any papers in support of a claim for exemption from draft, or for any services that may be rendered to the claimant, are not, in any case, to exceed five dollars; and surgeons furnishing certificates of disability to any claimant for exemption from draft are not to be entitled to any fees or compensation therefor. Any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act, and any surgeon who shall, directly or indirectly, demand or receive any compensation for furnishing certificates of disability, is to be deemed guilty of a high misdemeanor, and, upon conviction, for every such offense is to be fined not exceeding \$300, or be imprisoned at hard labor not exceeding twelve months, or both, according to the circumstances and aggravation of the offense.

The Committee on Military Affairs reported the bill with several amendments. The first amendment of the committee was in section one, lines four and five, after the word "call," to strike out

the words, "upon the several States;" so that it will read:

That the President of the United States shall be authorized to call for such number of men, &c.

The amendment was agreed to.

The next amendment of the committee was in section two, line sixteen, after the word "support" to insert the words, "and actually supported by him;" so that the clause will read:

Second, the only son liable to military duty of a widow wholly dependent upon his labor for support, and actually supported by him.

The amendment was agreed to.

The next amendment of the committee was in section two, line eighteen, after the word "support" to insert the words, "and actually supported by him."

The amendment was agreed to.

The next amendment of the committee was in section two, line twenty, after the word "support" to insert the words, "and actually supported by them."

The amendment was agreed to.

The next amendment of the committee was in section two, line twenty-two, after the word "dead" to insert the words, "or absent."

The amendment was agreed to.

The next amendment of the committee was in section two, line twenty-five, after the word "support" to insert the words, "and actually supported by him."

The amendment was agreed to.

The next amendment of the committee was in section two, line twenty-eight, after the word "support" to insert the words, "and actually supported by him."

The amendment was agreed to.

The next amendment of the committee was in section two, lines thirty-five, thirty-six, and thirty-seven, to strike out the following proviso:

Provided, however, That no person who has been convicted of any felony shall be enrolled or permitted to serve in said forces.

The amendment was agreed to.

The next amendment of the committee was in section five, line ten, after the word "officer" to insert the following words:

And any person arriving at the age of twenty years, and also any person who has not been in the military or naval service of the United States two years and honorably discharged therefrom; and said boards of enrollment shall release and discharge from draft any person who, between the enrollment and the draft, shall have arrived at the age of forty-five years, and shall strike the name of such person from the enrollment.

The amendment was agreed to.

The next amendment of the committee was in section six, line two, after the word "enrolling" to strike out the word "or" and insert the word "and."

The amendment was agreed to.

The next amendment of the committee was in section seven, line four, after the word "attachment" to insert the words "without previous payment of fees."

The amendment was agreed to.

The next amendment of the committee was in section ten, line seven, after the word "knowledge" to strike out the word "and," and to insert the word "or;" so that it will read:

That if any person drafted and liable to render military service shall procure a decision of the board of enrollment in his favor upon a claim to exemption, by any fraud practiced by himself, or by any other person with his knowledge or consent, or by any false statement or representation willfully made by himself, or by any other person with his knowledge or consent, &c.

Mr. HENDRICKS. I do not think that change ought to be made. In legal statutes the mere knowledge of the fact ought not to make the party liable to punishment. If he has knowledge of and consents and concurs in the act, it is sufficient to punish that, as it seems to me. To punish because of a mere knowledge of the act of another is going too far. I think the change ought not to be made.

The amendment was rejected.

The next amendment of the committee was in section thirteen, line five, before the word "surgeons" to insert the words "physicians or."

The amendment was agreed to.

Mr. GRIMES. I offer what I send to the Chair

as independent sections, to come in between the thirteenth and fourteenth sections of the bill.

The VICE PRESIDENT. The amendments of the committee are first in order, as perfecting the sections, and then the Senator's amendment to strike them out or insert others will be in order.

Mr. GRIMES. I understood the Senator from Massachusetts to say that he did not expect to get through with the fourteenth section to-day. There is only one amendment of the committee yet remaining, and that is an independent section proposed to be incorporated in the bill as the fourteenth section. I propose to insert three or four sections in advance of that section. The Senator from Massachusetts does not care about entering on the discussion of the fourteenth section, which is to be a controverted point, at present.

The VICE PRESIDENT. The order of the business in the Senate is to dispose first of the committee's amendments. If there be no objection, however, the Chair will entertain the motion of the Senator to interpose his amendments before concluding action upon the amendments of the committee. The Chair hears no objection to that course. The Senator from Iowa proposes an amendment, which will be read.

The Secretary read the amendment, to insert the following as new sections:

And be it further enacted, That whenever a mariner or able seaman shall be drafted under the act approved March 3, 1863, entitled "An act for enrolling and calling out the national forces, and for other purposes," he shall have the right, within eight days of the notification of such draft, to enlist in the naval service as a seaman; and a certificate that he has so enlisted being made out in conformity with regulations which may be prescribed by the Secretary of the Navy, and duly presented to the provost marshal of the district in which such mariner or able seaman shall have been drafted, shall exempt him from such draft: *Provided,* That the period for which he shall have enlisted into the naval service shall not be less than the period for which he shall have been drafted into the military service: *And provided further,* That the said certificate shall declare that satisfactory proof has been made before the naval officers showing the same that the said person so enlisted in the Navy is a mariner by vocation, or an able seaman.

And be it further enacted, That whenever any such mariner or able seaman shall have been exempted from such draft into the military service by such enlistment into the naval service, under such due certificate thereof, then the district or locality from which such person has been drafted shall be credited with his services to all intents and purposes as if he had been duly mustered into the military service under such draft.

And be it further enacted, That any mariner or able seaman who is mustered into the military service, or who shall hereafter be mustered into the military service, may, on his application requesting to be transferred to the Navy, be so transferred under such regulations as the President shall establish: *Provided,* That such mariner or able seaman shall, at the time of such transfer, enlist into the naval service for not less than three years.

And be it further enacted, That no pilot, engineer, yeoman, master-at-arms, or other person having an appointment or acting appointment authorized by law, and being actually in the naval service, shall be subject to military draft while holding such appointment, and forming one of a ship's complement.

And be it further enacted, That all enlistments into the naval service of the United States that may be hereafter made of persons liable to service under the act of Congress entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall be credited to the State, district, or locality in which such enlisted men were or may be enrolled and liable to duty under the act aforesaid, under such regulations as the Provost Marshal General of the United States may prescribe.

The VICE PRESIDENT. The question before the Senate is on agreeing to the amendment which has just been read.

Mr. GRIMES. I simply desire to say that the amendment which I propose is, in substance, somewhat similar to a bill which I submitted to the Senate, and which was referred to the Committee on Naval Affairs, excepting that this amendment does not propose, as that bill did, to grant bounties to persons who may be enlisted into the naval service. This proposition simply provides, in the first place, that whenever, under the operation of the enrollment and conscription law, any person who is an able-bodied seaman or mariner shall be drafted, that he may be and shall be transferred from the military service, where he could probably perform no very efficient duty to the Government, to the naval service of the United States. It then authorizes, in another section, the President of the United States, under such rules, and through the agency of such officers as he may determine, to cause persons who are found to be able-bodied seamen, and in the military service of the United States, to be transferred from that service, and connected with the naval service.

I will observe here, with regard to all these sections except the last, that I had a conference with the Provost Marshal General of the United States Army, and they met his approval. The last section which I have added, and about which he was not consulted, as it did not come particularly within the line of his duties, proposes to give to the States a credit for all mariners that may hereafter enlist into the Navy of the United States, upon the respective military quotas of those States. I have always believed it was proper that each of the States that furnish men to the naval service should be credited with them upon its military quota; and I have sought to discover some method by which this rule could be made retrospective, so that the State of Maine, for instance, or Massachusetts, if she has furnished a greater amount of seamen than some other States, should have that allowance made to her; but after examining the records of the Navy Department, and noticing the manner in which enlistments are made, I am satisfied it is utterly impossible for it to be done.

In order to inform myself on this subject I asked the chief *ad interim* of the Bureau of Recruiting to furnish me a statement of the number of enlistments into the Navy of the United States during the first eleven months of this year, commencing on the 1st of January, 1863, and ending on the 30th of November last. I find that during that time there were enlisted into the naval service nineteen thousand five hundred and thirty-seven persons. There is no record in the Department, nor at any of the naval rendezvous where these men are recruited, showing, or tending to show, of what States they are citizens. If there were, it would be a very easy matter to determine what States should be credited with the enlistments that have been made. But the records of the Department only show the nativity of these persons. The record shows that of these nineteen thousand five hundred and thirty-seven seamen, eight thousand one hundred and sixty-one—almost one half—are foreign born, and that sixty-one nations or independent provinces of nations furnish their contributions to make up the Navy of the United States. I find by reference to this table that there were enlisted, for instance, in the State of New York, nine thousand six hundred and ninety-four persons, of whom four thousand eight hundred and sixty were foreigners. Shall we assume that New York is entitled to be credited with those four thousand eight hundred and sixty foreigners? Have we any right to presume that they were naturalized, or were subject to be drafted in that particular place? If we did credit the city or the State of New York with those four thousand eight hundred and sixty persons, should we not be doing perhaps great injustice to other portions of the Union?

If you would not be justified in crediting that amount to the State of New York, with what reason could you credit to her the four thousand eight hundred and thirty-four persons who were born within the jurisdiction of the United States, and who were recruited in the State of New York? For instance, had I enlisted into the naval service of the United States in the city of New York six months ago, I should be found entered on this table as having been born in the State of New Hampshire. Now, would it be just that the State of New Hampshire should be credited with my enlistment? Should not the State of Iowa, of which I have been a citizen for the last twenty-seven years, be entitled to it?

Looking at the subject in this light, I drafted the proposition as it is now submitted to the Senate. I thought at first there might possibly be some way in order to ascertain the citizenship, or the residency, or the inhabitancy of the persons as were already in the naval service; but when I reflected upon it, I found that that would be utterly impossible. Some of our vessels are in the China seas; several of them are in the Pacific ocean. They are scattered all along on the Atlantic coast and in the Gulf of Mexico. It would be utterly impracticable for us to send a commission or to ascertain from these persons in any proper and authentic way where their citizenship or their residency was; and while we were attempting to ascertain that, all operations under our conscription or enrollment law must stand in abeyance.

Mr. WILSON. I think we ought to amend the last section of the amendment proposed by the

Senator from Iowa. It seems to me that we can at any rate give credit for all persons who were enrolled under the act of the 3d of March last, and who have since gone into the naval service. I propose to amend it so that it will read:

That all enlistments into the naval service of the United States that have been or may be hereafter made of persons liable to service under the act entitled, &c.

That will go back, then, until the time of the enrollment. There are great many places where, during the last six or seven months, a large number of persons liable to do military duty have enlisted into the Navy, and enlisted, too, by large bounties. I think we can reach most of those cases, and I think we ought to do it. I therefore propose to amend the sixth section of the amendment as I have indicated.

Mr. GRIMES. If the Senator desires to defeat his bill, he had better insist on that amendment; for such would be the effect of it. I think I have attempted to investigate this subject as thoroughly as possible. How are you going to determine as to the enlistments that have already been made? If the Senator will look at the table that I have here, he will see that there have been, in the State of Missouri, over a thousand enlistments in the naval service. Not one of those men was born in the State of Missouri. If you refer to the table you will see that they were born in Pennsylvania, Massachusetts, and in foreign countries. What criterion will the Senator take for determining as to what State those persons shall be credited to? Will he take the places of their birth? That would be unjust to the State of Missouri. Will he go to each one of those persons and try to ascertain from him of what State he is a citizen? That is preposterous and absurd on the face of it. It cannot be done. It would take twelve months to do it, in the first place, even if you had the means, and could reach the men. You could not reach them in twelve months. You have got three or four ships in the East Indies. One State, for instance, the State of Maine, insists upon it that she has got one hundred and fifty citizens on one of the ships in the Pacific ocean, and she says that great injustice will be done to her unless she is allowed that credit, and here is a controversy immediately got up between the State of Maine and the authorities here, and the State of Massachusetts, which perhaps claims them as having been natives of that State, and in the mean time your conscription law remains to be enforced. The Senator from Massachusetts and the gentlemen from his section had better be content with furnishing the excess which they have furnished in consideration of the bounties which this Government has lavished upon that portion of the country in the shape of fishing bounties for the purpose of making these very seamen during the last sixty years of this Government. I am willing to give those States credit from this time forward for these enlistments; but let us not go back and attempt to accomplish that which it is utterly impossible, in the very nature of things, for us to accomplish.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Massachusetts, in line two of the last section of the amendment offered by the Senator from Iowa, after the word "that" to insert the words "have been or;" so that it will read:

That all enlistments into the naval service that have been or may be hereafter made, &c.

The amendment to the amendment was not agreed to; there being, on a division—ayes nine, noes not counted.

The VICE PRESIDENT. The question now recurs upon agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. WILSON. I now move an amendment in the shape of an additional section, to come in after the third section of the bill.

The VICE PRESIDENT. There is an additional amendment proposed by the committee, to come in as section fourteen, which will first be acted on.

Mr. WILSON. I would rather defer the fourteenth section for the present, until we perfect the bill, as that section may lead to some debate.

The VICE PRESIDENT. If there be no objection, further action on the fourteenth section of the bill will be postponed at the present time. The Chair hears no objection. The Senator from Mas-

sachusetts now proposes an amendment in the form of an additional section to the bill, which will be read.

The Secretary read it, as follows:

And be it further enacted, That whenever the President shall call upon the several States for such number of men for the military service of the United States as the exigencies of the country may require, the quota of each ward of a city, town, or township, or of a county, where the county is not divided into wards, towns, or townships, shall be as nearly as possible in proportion to the number of men resident therein liable to render military service, taking into account, as far as practicable, the number which has been previously furnished therefrom.

Mr. WILSON. The committee unanimously agreed to this amendment on the bill we had under consideration yesterday, and I do not think there is anybody opposed to it. It simply proposes to equalize the burdens of the draft. There has been a great deal of complaint in the country on that point. There will be no difficulty in carrying it out practically, because the amendment merely provides that the thing shall be done as far as it is practicable to do it. Perhaps it cannot be fully carried out in all the States, though it can be in nearly all of them, because the records show what each town, ward, and section of a district has furnished. I think it will lead to no sort of difficulty at all. They are perfectly satisfied with it at the War Office. Great complaint has been made heretofore from all the States of the inequalities between the number required from different towns and sections.

Mr. COLLAMER. I have no objection to the amendment in its general purposes, but I wish to have the phraseology of the first part of it a little altered. It requires the President to make the call "upon the several States." I wish to insert the words, "for their respective quotas." I do not agree to this idea of calling on one State for its quota, and leaving another out. The effect of it is to give the people of one State great advantages in obtaining substitutes, and it produces an unfairness. I wish them to call on the several States for their respective quotas.

Mr. WILSON. We struck out the words "upon the several States" from the first section of the bill by a vote of the Senate.

Mr. FOSTER. This only refers to the calling out of the proportionate number.

Mr. WILSON. I am told it simply refers to the calling out of the proportionate number from each State. I suppose nobody will object to that.

Mr. COLLAMER. That is what I want. I desire them to call for the proportionate number from the States.

Mr. HENDERSON. I believe the amendment as proposed by the Senator from Massachusetts reads, "that whenever the President shall call," &c. I believe there are certain calls now that have not been answered, in some of the States, and a certain number of men have been ordered to be drafted from those States. Would it not be well to make this provision applicable to the present draft? If we use the words, "under all calls of the President," that would include the present call. The phraseology may be altered in the first part of the section.

Mr. WILSON. If the Senator thinks it does not cover the present call, he can, if he chooses, amend the amendment so as to include all drafts to be hereafter made.

Mr. HENDERSON. Very well; I will do so.

Mr. WILSON. On a suggestion that has been made to me I will withdraw that amendment for the present. I shall offer it at some future time. I suppose we may now take up the fourteenth section.

Mr. COLLAMER. I have an amendment to offer before you come to that section.

The VICE PRESIDENT. The Senator from Massachusetts withdraws his amendment, and the question now is on agreeing to the amendment to add section fourteen to the bill, which will be read.

Mr. COLLAMER. Before proceeding to the fourteenth section, with the leave of gentlemen, I wish to call attention to the second section of the bill. One clause of that section is in these words:

"Seventh, where there are a father and sons in the same family and household, and two of them are in the military service of the United States, or have deceased or become permanently disabled in said service, as non-commissioned officers, musicians, or privates, the residue of such family and household, not exceeding two, shall be exempt."

What two? Here is the case of a father and son who have gone into the service. There are three more sons, and all of them may be drafted. The bill says, if there are two in the service, then the rest of the family, not exceeding two, shall be exempt. Now I want to know which two. How is that to be arranged? The two oldest, or the two first drafted? The clause is imperfect; it is incapable of execution as it stands, and it needs amendment. For the purpose of making it plainer, I will move to strike out the words "not exceeding two," so that where two of a family are in the service, or have been killed, the rest of the family shall be exempt from the draft.

THE VICE PRESIDENT. The Senator's amendment will be in order after the amendments of the committee have been gone through with, and then the bill will be open to further amendment.

Mr. COLLAMER. I thought the Senator from Massachusetts desired to have the rest of the bill amended before we took up the fourteenth section.

THE VICE PRESIDENT. The Senator gave way to add a specific section.

Mr. COLLAMER. He then proceeded to put in an amendment of his own.

Mr. WILSON. I have no objection.

THE VICE PRESIDENT. It can be done by unanimous consent.

Mr. COLLAMER. I withdraw it altogether.

Mr. POWELL. Mr. President—

Mr. WILSON. I renew the amendment offered by the Senator from Vermont. I have no objection, however, to waiving it for the present.

THE VICE PRESIDENT. The Senator from Kentucky was recognized by the Chair.

Mr. POWELL. If it is in order, I should like to offer an amendment to the bill as an independent section.

THE VICE PRESIDENT. It is in order first to dispose of the amendments of the committee. The committee propose to amend the bill by adding an additional section; which will be read.

The Secretary read it, as follows:

Sec. 14. And be it further enacted, That so much of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1853, as authorizes the discharge of any drafted person, upon payment of a sum not exceeding three hundred dollars, from further liability under that or any subsequent draft, be, and the same is hereby, repealed.

Mr. HOWE. I move to amend the amendment by striking out the words "that or," in the sixth line, so that it will read, "from further liability under any subsequent draft, be, and the same is hereby, repealed."

The amendment to the amendment was agreed to.

THE VICE PRESIDENT. The section is still open to amendment.

Mr. HENDRICKS. I think the other portions of the bill ought to be considered before we consider the last section proposed by the committee. With that view, I ask the consideration of the amendment which I proposed to the third section, as I wish to base upon that another amendment which I shall desire the Senate to consider before they consider the section proposed by the Committee on Military Affairs. I offered an amendment to the third section the other day, which I will ask to have reported to the Senate and considered at the present time.

THE VICE PRESIDENT. The Senator from Indiana proposes to amend the third section of the bill, and asks the unanimous consent of the Senate to consider it at this time.

Mr. SHERMAN. It seems to me it is always more methodical and regular to consider the amendments of the committee first. The Senator can undoubtedly speak to his amendment, if he wishes to do so, on the committee's amendment, as it is connected with this subject-matter, but it seems to me we ought to dispose of this fourteenth section first, as it is the most important subject of controversy.

Mr. HENDRICKS. I will explain to the Senator from Ohio why I prefer the course I have suggested. I think it is proper that we should have two classes: first, those who are not married, who should be called upon first; and secondly, all persons who are married and liable to military duty. Then, if that be agreed to, I have no objection, if it be insisted on by the Senate, that persons who are not married and who shall be drafted shall not be allowed to pay the \$300. I think, however, that the Senate should stand

by that proposition until the present draft is executed, and married men at least should be allowed to pay the commutation money. It is impossible to get at these points on the section proposed by the committee. I move, therefore, that the consideration of the section proposed by the committee be postponed until the amendment proposed to the other sections shall be considered. It seems to me that that would be the better course, and we should perfect the bill more satisfactorily.

Mr. WILSON. That can be done by unanimous consent. I do not know that there would be any objection to it. The proposition contained in the fourteenth section is a distinct proposition that stands out by itself; we all understand what it means. We may perfect the bill and then take that up afterwards. I certainly have no objection to the course proposed by the Senator from Indiana.

THE VICE PRESIDENT. If there be no objection on the part of the Senate, the amendment proposed by the Senator from Indiana will be entertained. The Chair hears none. It will be read.

The Secretary read the amendment, in section three, line four, after the word "sixty-three" to strike out the following words:

And so much of section ten of said act as provides for the separate enrollment of each class, be, and the same is hereby, repealed; and it shall be the duty of the board of enrollment of each district to consolidate the two classes mentioned in the third section of said act.

And to insert in lieu thereof the following:

That the national forces of the United States not now in the military service, enrolled under this act, shall be divided into two classes; the first of which shall comprise all persons subject to do military duty between the ages of twenty and forty-five years, and who are unmarried; the second class shall comprise all other persons subject to do military duty; and the persons of the second class shall not, in any district, be called into the service of the United States until those of the first class shall have been called.

Mr. HENDRICKS. Mr. President, the classification which we find in the original law has not much reason perhaps for its support. I will read that section, and then the Senators can understand the proposed change. Section three of the law, as it stands, is as follows:

"That the national forces of the United States not now in the military service, enrolled under this act, shall be divided into two classes: the first of which shall comprise all persons subject to do military duty between the ages of twenty and thirty-five years, and all unmarried persons subject to do military duty above the age of thirty-five and under the age of forty-five; the second class shall comprise all other persons subject to do military duty, and they shall not, in any district, be called into the service of the United States until those of the first class shall have been called."

Which amounts to just this, that unmarried persons between twenty and forty-five, and married persons between twenty and thirty-five, constituted one class, and married persons between thirty-five and forty-five another class. Of course it very often occurred that it was quite as difficult for married persons between twenty and thirty-five to go to the service as for those between thirty-five and forty-five. The obligations to the family are the same; but with a family of small children it is frequently more difficult for the father to leave that family when he is between twenty and thirty-five than is the case with men between the ages of thirty-five and forty-five. In that class of cases children are frequently able to some extent to provide for themselves, but where the father is between twenty and thirty-five he frequently has to leave a family of very small children.

Now, I propose by the amendment that instead of that classification there shall be just the distinction between married and unmarried persons; that all unmarried persons shall constitute the first class, and that class shall be exhausted before married persons shall be called into the service at all; and then I care not whether the unmarried persons be allowed to pay the commutation money or not; whether they be the sons of poor men or rich men, if you please, let them go to the service; but for the married men, I hope the clause will be continued, allowing them to pay the commutation money. This distinction is a fair one, between married and unmarried persons.

As I had occasion to say during the discussion yesterday, a conscription law cannot be very popular. Perhaps what I said was not well understood, or was misconceived by the Senator from Massachusetts in his remarks this morning. He said that we ought not to have any reference to the question of popularity in our legislation. In respect

to the effect of my vote upon myself, I do not propose to look to the question whether it be a popular measure or not; but in respect to the public mind, whether a law shall fall favorably upon that public mind or not, it is the duty of statesmen to consider that question. And when we are legislating upon so delicate a question as this, forcing men into the military service, to leave their families in many cases unprepared, we ought to have in our minds all the while, whether the measure is as acceptable to the public as it can be made; and it is our duty to the country, to the people, and to the Administration, to make this measure as palatable to the public as we can make it.

Now, sir, if we first require the unmarried men of the country to enter the military service, and will not call upon the married men until that class is exhausted, we shall have stripped this legislation of one very objectionable feature. It is a hard thing for a man to leave his family; and the Senate need not be surprised that in the country there is much prejudice excited in the public mind by legislation which forces a man to leave his wife and his children. It is a very powerful sentiment; and when a man is forced to leave the children whom he longs to provide for when he cannot well do it, we need not be surprised that that law is unpopular; but if we first require the unmarried men of the country to go into the service, and do not call upon the married men at all until that class is exhausted, we have certainly accommodated the law to a very great extent to the popular sentiment. I think that, in view of the efficiency of the law and the success of the Administration, we ought to do this.

Mr. HOWE. Mr. President, I submit that if we adopt the amendment proposed by the Senator from Indiana, we ought to amend the title of the bill so that it will be, a bill to amend the enrollment act and also to encourage matrimony; for the effect of his amendment, if adopted, I think, would inevitably be to drive all unmarried men in the country into matrimony, and the first class would be absorbed in the second before the very first draft was commenced under the amended act. In the State of Wisconsin, the Legislature provided for paying a certain additional sum, I think five dollars a month, to the families of married persons who volunteered into the Army. The result has been that very many persons have volunteered on one day and got married on the next; and very many such marriages have taken place, I am told, between parties who were not entire strangers, but who never had certainly contemplated, either of them, matrimony the day before the enlistment.

I should seriously apprehend that if this amendment be adopted we should have all the magistrates and clergymen of the country applying for relief. They would want clerks to relieve them from the press of business on their hands, matrimony would be so popular and so frequent.

THE VICE PRESIDENT. The question is on the amendment of the Senator from Indiana.

The amendment was rejected—ayes ten, noes not counted.

Mr. DIXON. As the fourteenth section will probably cause considerable discussion, I ask leave to introduce at this time the amendment which I proposed the other day, and which has been printed.

The Secretary read the amendment, as follows:

In section two, line thirty-four, after the word "two," insert:

Eighth, all persons recognized as clergymen or religious ministers by the ecclesiastical authority of the denomination or communion of which they are members.

Mr. DIXON. Mr. President, I gave notice a few days since of my intention, with the leave of the Senate, to introduce a bill exempting ministers of religion, of all communions, from the operation of the enrollment act. The amendment which I have now offered furnishes me an earlier opportunity to test the opinion of the Senate on the subject.

The original bill, which is now proposed to be amended by the bill of the Senator from Massachusetts, and which I propose still further to amend, was passed near the end of the last session of the Thirty-Seventh Congress, when there was little time for deliberation and discussion. It was then proposed to exempt clergymen; but the question was but briefly discussed, and was not very deliberately considered. The public mind has since

been called to it. So far as I can speak of public sentiment, it is strongly in favor of the exemption proposed. This is a consideration that, in a war like that now waged, which is eminently the people's war, is not without weight.

But again, in all wars, and in all countries, ministers of religion have been exempted from military service. No Christian country on the globe now demands such service from them. Never before, so far as I am informed, have the laws of any civilized or Christian country called into the field those consecrated to sacerdotal duties. What is there in the condition of this country, at this time, which should cause us now to adopt a different policy? Those who would be obtained as soldiers are few in number, and physically or numerically would scarcely be felt. To subject them to enforced military duty is therefore totally unnecessary, and seems an utter disregard of the expressed opinion of mankind and a violation of the sanctity of their religious duties. Even in the dire extremity of the rebel authorities, their clergy are exempted from conscription.

The clergy minister to the wants of the families of our brave soldiers during their absence, comforting them in their sorrows, and in death giving them Christian burial. They save the lives of thousands of our brave soldiers by bringing before their congregations the claims of the various noble charities devoted to their aid.

They are, with rare exceptions, loyal; and a loyal clergy at home is needed to counteract the baneful influence of a disloyal press. Many other reasons might be enumerated; but not now desiring to occupy the time of the Senate, I content myself with one final reason, which to my mind is superior to all others. It is this: the ministers of the Christian religion cannot, in my judgment, consistently with the duties of their sacred calling, engage in the bloody work of war. The Master whom they serve, and by whose authority they are consecrated to minister in holy things, has said that His kingdom is not of this world. The war now waged by this Government against the traitors who in armed force are leagued against its very existence, is in my opinion the holiest war in which any portion of mankind have ever been engaged. Yet I do not wish to see its battles fought by the ministers of religion. I shrink from the sight of men devoted to its high and holy duties acting in our armies as the executioners of traitors. They have a higher, a holier duty. Not for them to wield the sword of vengeance; not for them "the battle of the warrior, with confused noise, and garments rolled in blood."

The fact to which I have already alluded, that in every nation and among every people, Pagan, Jewish, and Christian, the ministers of religion have been exempted from every obligation which involved the shedding of human blood in hostile encounter, shows that this exemption rests on something so like an instinct that it springs to its conclusion without an argument; for I am not aware that the justice and propriety of the exemption have ever been made matters of formal disquisition. Yet precedents and authority are not wanting. I ask leave to read to the Senate an extract from Bingham's *Christian Antiquities*, volume one, page 374:

"SECTION I.—No Soldier to be ordained.

"A third inquiry was made into men's outward state and condition in the world. For there were some callings and states of life which debared men from the privilege of ordination, not because they were esteemed absolutely sinful vocations, but because the duties attending them were commonly incompatible and inconsistent with the offices of the clergy. Of this nature were all those callings which come under the general name of *militia Romana*, which we cannot so properly English the military life as the service of the empire. For it includes several offices, as well civil as military; the Romans, as Gothofred and other learned persons have observed, calling all inferior offices by the name of *militia*. So there were three sorts of it, *militia palatina*, *militia castrensis* or *armata*, and *militia presidialis* or *cohortalis*; the first including the officers of the emperor's palace; the second the armed soldiery of the camp; and the third the apparitors and officials of judges and governors of provinces; all of which were so tied to their service that they could not forsake their station. And for that reason the laws of the State forbade any of them to be entertained as ecclesiastics or ordained among the clergy. Honorius, the emperor, particularly made a law to this purpose: 'that none, who were originally tied to the military life, as some were even by birth, should, either before or after they were entered upon that life, take upon them any clerical office, or think to excuse themselves from their service, under the notion of becoming ecclesiastical persons.' The canons of the Church seem to have carried the matter a little further; for they forbade the ordination of any who had been soldiers after baptism, because they might

perhaps have imbrued their hands in blood. This appears from the letters of Innocent I, who blames the Spanish churches for admitting such persons into orders, alleging the canons of the Church against it. The first council of Toledo forbids any such to be ordained deacons, though they had never been concerned in 'shedding of blood,' because, though they had not actually shed blood, yet by entering upon the military life they had obliged themselves, if occasion had so required, to have done it. Which seems to import that soldiers might be allowed in the inferior services, but were not to be admitted to the sacred and superior orders of the Church."

I will quote also from Waddington's *History of the Church*, page 166. To a petition that ecclesiastics should be exempted from military service the Emperor Charlemagne replied as follows:

"In our desire both to reform ourselves and to leave an example to our successors, we ordain that no ecclesiastic shall join the army, except two or three bishops chosen by the others, to give the benediction, preach, celebrate mass, take care of the sick, and give the unction of holy oil and the viaticum. But these shall carry no arms, neither shall they go to battle nor shed any blood, but shall be contented to carry relics and holy vessels, and to pray for the combatants. The other bishops who remain at their churches shall send their vassals well armed with us or at our disposal, and shall pray for us and our army. For the people and the kings who have permitted their priests to fight along with them have not gained the advantage in their wars, as we know from what has happened in Gaul, in Spain, and in Lombardy. In adopting the contrary practice we hope to obtain victory over the pagans, and finally everlasting life."

In the Christian church the principle finally resolved itself into the maxim, "*Ecclesia abhorret a sanguine*." *Ecclesia* here being equivalent to *clerici*—the ecclesiastical functionaries. To evade the force of this rule in a darkened age, when life was to be taken by an ecclesiastical sentence, there was a formal making over of the victim to the secular arm. This rule remains so absolute in England that the bishops withdraw when there is a question touching human life.

Perhaps these authorities and precedents may not tell with much effect on the advocates of the provision subjecting ministers of religion to enforced military service; but I am sure that the taste, judgment, and feeling of the people of this country revolt against it, and accord with the ancient and universal practice. Whether men be imbued with religious feeling themselves or not, it is shocking to them that the hands which distribute the commemorative and symbolic signs of man's redemption should be compelled to wield swords and muskets raised in deadly conflict.

In this age of the world the strength and power of a nation are not resolved merely into the physical and material elements of either. Among moral elements, religion has confessedly a place. Who will venture to assert that the influence of religion is not vitally connected with the character of the ministers of religion as a class? Any law which forces clergymen, not only into the actual commingling and participation with deeds of violence and bloodshed, but into associations with men who may need their instructions, yet without any facilities for doing among these men the only work they are fitted to do; nay, which deprives them by its provisions of the power of discharging the obligations by which they have bound themselves to God and man; any such law, I say, must operate to the serious detriment, if not the overthrow, of religion and the religious sentiment, as a great moral power in the nation.

I do not see any force in the argument that any exemption which would apply to the clergy may be equally claimed by any individuals or sect alleging conscientious scruples. A clergyman's profession is a fact—a fact with certain consequences, recognized by the common judgment of mankind. The other claim of exemption is grounded on an opinion, which not only may be wrong, but in the common judgment of mankind is wrong.

Should clergymen be exempted by the amendment which I have offered, it will be necessary to guard against one difficulty which may lead to an abuse of the exemption. The title minister of the gospel is in this country a very vague one. In the hope of escaping military service the vaguely applied appellation of "reverend" may be assumed. I suppose there is in every religious body some responsible authority. Some rule, therefore, ought to be specified by which the real status of any person claiming exemption as a clergyman might be ascertained and proved. I have therefore so drawn my amendment as to exempt only those recognized as religious ministers by the ecclesiastical authority of the denomination of

which they are members. I ask that the question on my amendment be taken by yeas and nays.

The yeas and nays were ordered.

Mr. LANE, of Indiana. I shall certainly say but a very few words, and I should not speak at all if the yeas and nays had not been called.

In my State the clergymen are among the most patriotic class we have in the whole State, and I have heard no complaint against this provision of the conscription law. They preach for the Union, and pray for the Union, and I am perfectly willing that they shall fight for the Union. In order to maintain the power and efficiency of the clergy, they should bear the burdens of their flock; and any man who goes into the military service under this conscription law will have more power afterwards than he has ever had before to lead the people into the right way. The precedent drawn from the history of Charlemagne, tender-hearted and Christian as he was, shall not influence my vote. I am willing and anxious that every minister shall stand his chance to be conscripted, equally with his flock.

Mr. HARLAN. Mr. President, the Senator from Indiana has stated a fact which is equally true in the State which I have the honor of representing in part. I have never heard a minister in my State complain of the law as it now stands. I have heard them in their ecclesiastical organizations thank God that their manhood had been recognized at least by Congress. I do not think the law, as it stands, is complained of anywhere by those who are officiating as clergymen; and I hope, therefore, the law may remain as it is.

Mr. SHERMAN. I trust the Senator from Connecticut will withdraw his amendment, or that we shall postpone the vote on his proposition until after the question of the fourteenth section is disposed of. It may be right enough to make special provision for clergymen in case we refuse commutation to citizens generally. I say the question had better be taken after that. ["Oh, no!"]

The question being taken by yeas and nays, resulted—yeas 9, nays 33; as follows:

YEAS—Messrs. Anthony, Dixon, Doolittle, Hicks, Morrill, Saulsbury, Sumner, Van Winkle, and Willey—8.

NAYS—Messrs. Buckalew, Chandler, Clark, Colamer, Conness, Cowan, Davis, Fessenden, Foot, Foster, Grimes, Harding, Harlan, Harris, Henderson, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Pomeroy, Powell, Ramsey, Sherman, Sprague, Ten Eyck, Trumbull, Wade, Wilkinson, Wilson, and Wright—33.

So the amendment was rejected.

Mr. WILSON. I send to the Chair an amendment that I intend to offer at the proper time. I ask that it be read, and if we do not act on the bill to-night I should like to have it printed. It is an important proposition, and I want Senators to consider it carefully.

The VICE PRESIDENT. The proposed amendment will be read for the information of the Senate.

The Secretary read, as follows:

And be it further enacted, That any persons resident in the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, or Arkansas, who may voluntarily enlist in the military service of the United States for the term of three years, shall be entitled to the benefits and privileges of this act; and such persons shall be mustered into the regiments or other organizations of whatsoever States they may elect; and the States into whose regiments or other organizations they may be mustered shall receive credit for such persons the same as though they were enlisted in such States: Provided, That persons of African descent shall be mustered only into regiments or other organizations composed or to be composed of such persons.

Mr. WILSON. I do not move that amendment now, but I merely give notice that I shall offer it hereafter.

Mr. JOHNSON. Will the Senator from Massachusetts inform me whether persons in the several States designated have not now a right, without the passage of any law, to enlist in the service of the United States? I understand the amendment to be proposed upon the hypothesis that as the laws now stand, citizens of the several States named in the amendment, or, in other words, citizens of the seceded States, would not be received into the service of the United States. I do not understand that to be the law.

Mr. WILSON. In reply to the Senator, I will state that I understand the practice and law to be this: we are raising some twenty regiments, I think, in the State of Tennessee, for instance. Since General Burnside entered into East Ten-

nessee, we have enlisted about thirty-five hundred men. So it is reported to me. We are enlisting men now in Arkansas; we are enlisting men in Louisiana; and General Banks, it is reported, has enlisted some in Texas. I suppose we can enlist all the black men and the white men in the region of country in rebellion, if we can get them into our ranks. The difficulty is to get them, to offer motives for them to go. It will require some expense to reach them, because in a great many of those States, where we hold military possession, and appear to cover a large section of the country, no man can go ten miles off the guarded lines without being shot down or exposing his life; running the risk of it, at any rate.

Now, what I wish to accomplish by this amendment is, to allow the States, the counties, the towns, or the officers of the States having regiments in the field, or individuals, to enlist any persons in the rebel States; to let the white men go into their regiments, and let the colored men be organized into companies and regiments. I think that if we allow it we can weaken the conscription there, and weaken the rebellion thus much, and we can raise many thousand men in the next three or four months. I see no reason in the world why we should not do it, why that country should not be open to us to enlist all the men we can; and as a motive to it, let the States in whose regiments the white men go, have the credit of them. We shall thus induce a great many men to offer bounties to these persons to go into the service—not bounties by the Federal Government, but bounties will be offered by individuals, by towns, by counties, by States. I think we ought to do it. I do not propose, however, to press it now. I only call attention to it now as an amendment intended to be offered.

Mr. SHERMAN. I understand that the House of Representatives has acted on our amendments to the joint resolution we had up this morning, adopting them all. We may therefore as well now take up the resolution in regard to a recess, and determine that question one way or the other. I move to lay aside the pending bill with a view to take up that resolution.

Mr. POWELL. Before that question is put, I desire to submit informally an amendment to the pending bill for the purpose of having it printed.

The VICE PRESIDENT. That order will be made if there be no objection.

Mr. TRUMBULL, Mr. HOWE, Mr. DIXON, and Mr. HENDRICKS also submitted amendments, which were received informally, and ordered to be printed.

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio to postpone the pending bill, and take up the resolution indicated by him.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (No. 35) to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri; in which the concurrence of the Senate was requested.

ADJOURNMENT OVER THE HOLIDAYS.

The VICE PRESIDENT. The resolution has been amended, and is now before the Senate for concurrence as amended.

Mr. JOHNSON. I ask that it be read as it now stands.

The Secretary read, as follows:

Resolved, (the Senate concurring,) That when the two Houses of Congress adjourn on Wednesday the 23d instant, it shall be until Tuesday the 5th day of January, 1864.

Mr. FESSENDEN called for the yeas and nays on the adoption of the resolution, and they were ordered; and being taken, resulted—yeas 27, nays 15; as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Davis, Dixon, Doolittle, Foster, Harris, Henderson, Hendricks, Hicks, Howard, Howe, Johnson, Lane of Indiana, Morgan, Nesmith, Pomeroy, Powell, Ramsey, Salisbury, Sherman, Sprague, Van Winkle, Wilkinson, Willey, and Wright—27.

NAYS—Messrs. Chandler, Clark, Collamer, Conness, Fessenden, Foot, Grimes, Harding, Harlan, Morrill, Sumner, Ten Eyck, Trumbull, Wade, and Wilson—15.

So the resolution was agreed to, as amended.

HOUSE BILL REFERRED.

On motion of Mr. HENDERSON, the bill (H. R. No. 35) to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri, was taken up, read twice by its title, and referred to the Committee on Military Affairs and the Militia.

GENERALS WITHOUT COMMANDS.

Mr. TRUMBULL submitted the following resolution:

Resolved, That the Secretary of War be directed to furnish the Senate with the names of all of the major and brigadier generals who are without commands equal to a brigade, stating how long each has been without such command, and whether each has a staff; and if so, how numerous, and of what rank, and what amount of pay, including commutations and rations, each, including those of his staff, has been receiving while so without a command; and also that he inform the Senate how many major and brigadier generals are in command of departments, districts, and posts in the loyal States; and whether any necessity exists that requires that these departments, districts, and posts should be commanded by officers of such high rank, with their numerous and expensive staffs.

Mr. COLLAMER. I think the resolution ought to be addressed to the President, instead of the Secretary of War.

The VICE PRESIDENT. Does the Senator from Illinois ask for the present consideration of the resolution?

Mr. TRUMBULL. Yes, sir.

Mr. JOHNSON. I think the resolution had better lie on the table for the present. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 22, 1863.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved. The SPEAKER stated that the first business in order was the call of committees for reports.

PERSONAL EXPLANATION.

Mr. BROWN, of Wisconsin. I rise to a privileged question. I wish to make an explanation of my vote yesterday on the amendment of the gentleman from Kentucky [Mr. HARDING] to the joint resolution appropriating money for bounties to soldiers.

The SPEAKER. That is not a privileged question; nor is it a question of privilege. It requires unanimous consent. Is there any objection?

Mr. WASHBURN, of Illinois. I object.

The SPEAKER then proceeded to call the committees for reports.

POST OFFICE APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for the service of the Post Office Department during the fiscal year ending 30th June, 1865; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEVENS. I move that the bill be made a special order for the 6th day of January next.

The motion was agreed to.

CARMACK AND RAMSEY.

Mr. HOLMAN, from the Committee of Claims, reported the following resolution, upon which he demanded the previous question:

Resolved, That the First Comptroller of the Treasury be requested to suspend further proceedings in reference to the claim of Carmack & Ramsey against the United States, referred to him by the sixth section of an act of Congress, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending 30th June, 1857," approved August 18, 1856, until further action of Congress touching the same.

Mr. COX. I desire to say to the gentleman from Indiana that I saw the Comptroller last evening.

The SPEAKER. Debate is not in order.

Mr. COX. I want to make an explanation for his benefit. The First Comptroller has already suspended action on that case.

Mr. HOLMAN. Well, I would rather have that done by the authority of the House.

The SPEAKER. Does the gentleman withdraw the demand for the previous question?

Mr. HOLMAN. No, sir, except for the purpose of saying a few words. It has been well

understood that the First Comptroller of the Treasury was required by law to examine and settle this claim. It is desirable now that before he acts finally on it Congress should have an opportunity of expressing itself again with reference to the merits of the act of 1856. This resolution can do no possible injury, and will, at least, have the effect of justifying the First Comptroller of the Treasury in suspending further proceedings.

Mr. COX. The only reason of my remark was that I did not think the action of the Comptroller justified any reflection on his character.

Mr. HOLMAN. This resolution does not reflect upon him, nor has anything been said here or elsewhere reflecting on his conduct. This is merely to request him to suspend action on the claim until further action of Congress. Neither the integrity nor ability of the First Comptroller of the Treasury has been called in question.

Mr. DAWES. I wish to inquire from the gentleman from Indiana, at whose suggestion it is that this matter is now proposed to be taken from the control of the First Comptroller of the Treasury, before whom it has been already argued on written agreement between the parties.

Mr. HOLMAN. There is a joint resolution before the House, which has been referred to the Committee of Claims, on which I presume there will be a report referring the whole subject to the Court of Claims. It will be remembered that this whole question arises under the sixth section of the act of 1856, authorizing the First Comptroller of the Treasury to adjust the claim of Carmack & Ramsey against the Government for the transportation of mails on a certain mail route, on which no service was ever actually performed. The purpose of the joint resolution is to refer the whole subject from the First Comptroller of the Treasury to the Court of Claims, where it can be more properly investigated by a full court. It is for the purpose of suspending proceedings until that joint resolution can be acted on that this resolution has been reported.

Mr. DAWES. One word more. I did not hear the gentleman distinctly. I want to know whether I understand the case right or not. I wish to know whether it is a fact that this matter has been heard before the Comptroller, on a written agreement between the parties—the Government on one side and the claimants on the other—whether this resolution does not come in just as the Comptroller is about to make up his judgment, and whether it does not come from the same parties who agreed to submit it to the Comptroller, and who have been heard by counsel before the Comptroller. I only wish to ask the gentleman if I understand it right.

Mr. HOLMAN. I do understand that this subject has been before the First Comptroller of the Treasury. I understand, too, that certain testimony has been taken before him. I do not understand, however, that the case has been finally heard, and that he is prepared to render his judgment. But I do understand, from the correspondence which has come before the House, that he regards the sixth section of the act of 1856 as settling the question that the contract under which these parties assert their claim was a valid contract against the Government, and that it is his duty under that section to determine simply the amount of damages which these parties should receive.

It will be recollected by my friend from Massachusetts that this subject has been before former Comptrollers of the Treasury. A report has been made, adverse to this claim entirely, since the passage of the act of 1856. And I am probably violating no confidence in saying, for I only know what is generally known by members of the House, that it is well understood that the Post Office Department, believing that these parties have no just claim whatever against the Government—and such has been the basis of the action of this House—has been disposed to favor, I will not say a suspension of the act of 1856, but a reference of the subject to a tribunal before which it can be more properly heard. The First Comptroller of the Treasury is not a very appropriate tribunal to try a great case against the Government, involving millions of dollars. The Court of Claims is certainly a more appropriate tribunal; and the purpose is to refer the whole subject to that tribunal.

Mr. DAWES. I wish to know from my friend whether the Post Office Department did not obtain from the Comptroller the basis on which this was to be settled before the case was submitted to him; and whether the Post Office Department did not after that agree with the claimants to submit this question to the Comptroller precisely as it had been to his predecessor. And I ask whether my friend is not aware of the fact that the Comptroller of the Treasury, just before his death, had this matter submitted to him by the Post Office Department with the consent of the claimants, and that he had prepared a report, but was stricken down the day before he had made it up and entered judgment in this matter? Does he not know that the matter came before Congress after that? Why, sir, it was heard here in this House; and subsequently to that the Post Office Department had these claimants enter into a written agreement, after learning from the Comptroller upon what basis he proposed to hear this case, to submit it to them. I want to know if my friend does not know, further, that, in a written stipulation filed by their attorney, both the Post Office Department and the claimants agreed that they had submitted all of the evidence and all of the arguments that they desired?

Now, I do not know what the judgment is to be. I do not care what it is to be. I only say that, after the Government has chosen its own tribunal and gone before it with these claimants, and because it suspects that the judgment is not going to be in its favor, or because it thinks that the decision will be unfavorable, it now proposes to transfer it to another tribunal more favorable to its interest. It is the last party in the world that ought to distrust its own tribunal, and come in here, after procuring adjournment after adjournment before the trial—to come in here as it is proposed, take it away from the Comptroller, and refer it to the Court of Claims. I do not want, for one, that the Government should be placed in that position.

Mr. HOLMAN. Mr. Speaker, I know this, so far as the point made by the gentleman from Massachusetts is concerned, that this subject was referred to the Comptroller of the Treasury. Mr. Medill, the then Comptroller of the Treasury, investigated the whole subject, and he made an able report to Congress. That report has probably been examined by every gentleman who hears my voice. It establishes the fact, beyond cavil, that not a single dollar was due from the Government of the United States to these claimants—not one single cent. There has never been any pretense that the Government realized any benefit from the contract, or that the contract was ever consummated. By this decision it is established that these parties have not the shadow of a claim against the Government of the United States.

This was the only adjudication on this subject by which the Government of the United States should be bound. It was the final determination of the whole question. After this, I admit that the question was brought again, as these questions are brought constantly, to the consideration of a succeeding Comptroller of the Treasury, the late Mr. Whittelsey, and it is said that he was prepared to make a report, which was prevented by his death. What the substance of that report was we are not informed, although some on the other side seem to have been. That is the report of the Comptroller to which my friend refers. That the Post Office Department consented to refer this matter to the Comptroller—if such is the fact, and I have no information on that subject—does not, in the most equitable view of the case, preclude the further action of Congress.

Mr. KASSON. I ask the gentleman to yield to me for a moment.

Mr. HOLMAN. In one moment. Whether it has been referred by the present Postmaster General to this tribunal or not cannot be a question of consequence. The question is now, the subject having been acted on by one Comptroller and ably reported against, whether this claim should be passed on again, or whether it should be referred, in justice to all of the parties concerned, to a tribunal sufficiently numerous in its elements of judicial qualities as the Court of Claims? It is a mere question of policy. In allowing this question to come before one of the officers of the Government, I think that the Government of the United States has shown extraordinary

favor to these claimants. They ought to see, when there has been one adjudication on this subject by one officer, to whom it was referred by law, that that should be final and conclusive. This proposition is to suspend this proceeding until Congress shall act on the resolution to refer the whole subject to the Court of Claims, whose decision must necessarily be final. I will now yield to the gentleman from Iowa, [Mr. Kasson,] as I propose to call the previous question.

Mr. KASSON. Mr. Speaker, when I offered the other day the resolution on this subject—

Mr. SPALDING. I object to yielding the floor.

Mr. MORRILL. If the gentleman from Indiana will yield to me, I will renew the demand for the previous question.

Mr. SPALDING. I object.

Mr. HOLMAN. It is well known that if objection be made to my yielding the floor, and I yield it without moving the previous question, I lose the right to the floor.

Mr. MORRILL. I will renew the demand for the previous question if the gentleman will yield to me.

Mr. HOLMAN. I yield the floor to the gentleman with that understanding.

Mr. MORRILL. I do not know anything about the special merits of this controversy between the Post Office Department and these contractors, but I do know something about the character of the First Comptroller, and I know that he is as well qualified to decide this question as any member of the Court of Claims, either as to professional capacity or as to integrity; and if the question is now taken out of his hands it will be a personal imputation upon that officer which I think this House, if they knew him, would be reluctant to cast. I have nothing further to say.

Mr. STEVENS. I would ask the gentleman, before he moves the previous question, how many million dollars this claim is supposed to involve?

Mr. MORRILL. It involves, at the utmost, \$113,000.

Mr. STEVENS. I understand it amounts to about two millions.

Mr. KASSON. I can state to the gentleman that it involves \$1,800,000.

Mr. DAWES. I think I am authorized to say that no such claim has ever been made.

Mr. KASSON. I have seen it.

Mr. MORRILL. In response to the gentleman from Pennsylvania, I say that the claim, at the utmost, involves only \$113,000. I now renew the demand for the previous question, and move to lay the resolution upon the table.

Mr. LOVEJOY. I hope I shall be allowed to ask one question by common consent. I would like to know how long this claim has been pending?

Mr. STEVENS. Since I was a boy. [Laughter.]

Mr. WASHBURN, of Illinois. I object to debate.

The SPEAKER. Debate is not in order.

The question was taken on Mr. MORRILL's motion; and the House refused to lay the resolution on the table.

The House then divided on seconding the previous question, and there were—ayes 32, noes 14; no quorum voting.

Mr. STEVENS called for tellers.

Tellers were ordered, and Messrs. HOLMAN and SLOAN were appointed.

The House divided, and the tellers reported—ayes 65, noes 30.

So the previous question was seconded.

The main question was then ordered.

Mr. SPALDING demanded the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 109, nays 25; as follows:

YEAS—Messrs. William J. Allen, Allison, Ames, Ancona, Arnold, Bailey, John D. Baldwin, Beaman, Jacob B. Blair, Bliss, Blow, Boutwell, Boyd, Brooks, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Cobb, Coffroth, Cravens, Creswell, Dawson, Denning, Denison, Donnelly, Driggs, Dumont, Edgerton, Eldridge, Elliot, English, Farnsworth, Fenton, Finck, Frank, Carson, Grider, Grinnell, Hale, Hall, Harding, Charles M. Harris, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Hutchins, Philip Johnson, William Johnson, Julian, Kasson, Kernan, King, Law, Le Blond, Loan, Long, Lovejoy, McAllister, McClure, McDowell, McIndoe, Middleton, Samuel F. Miller, William H. Miller, Moothead, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Pendleton, Per-

ham, Pike, Price, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, Edward H. Rollins, Ross, Scofield, Smith, Smithers, Stebbins, John B. Steele, William G. Steele, Stevens, Sutes, Strouse, Tracy, Upson, Van Valkenburgh, Elihu R. Washburne, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Windom, Winfield, Fernando Wood, and Yeaman—109.

NAYS—Messrs. Alley, Anderson, Ashley, Augustus C. Baldwin, Blaine, Brundage, Cole, Cox, Henry Winter Davis, Dawes, Dixon, Eckley, Garfield, Gooch, John H. Hubbard, Knapp, McKinney, Morrill, Daniel Morris, Noble, Shannon, Sloan, Spalding, William B. Washburn, and Williams—25.

So the resolution was agreed to.

During the roll-call,

Mr. ALLISON stated that Mr. WILSON was detained at his room by indisposition.

Mr. HOLMAN stated that his colleague, Mr. HARRINGTON, was detained at his room by sickness.

The result of the vote having been announced as above recorded,

Mr. HOLMAN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. HALE, from the Committee of Claims, reported back, with a recommendation that it do pass, joint resolution No. 11, in relation to the claim of Carmack & Ramsey, and moved the previous question on its engrossment and third reading.

The joint resolution directs that all the papers and evidence touching the claim of Carmack & Ramsey, submitted to the First Comptroller of the Treasury under the sixth section of the act of Congress, approved August 18, 1856, entitled "An act making appropriations for the service of the Post Office Department during the year ending June 30, 1857," together with all the questions relating thereto, shall be transferred to the Court of Claims for adjustment and determination.

The previous question was seconded, and the main question ordered; and under its operation, the joint resolution was engrossed and read the third time.

The question was taken on the passage of the joint resolution, and it was passed.

Mr. HALE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

STATE GOVERNMENT FOR COLORADO.

Mr. ASHLEY, from the Committee on Territories, reported back a bill (H. R. No. 11) to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; which was ordered to be printed, and recommitted.

STATE GOVERNMENT FOR NEBRASKA.

Mr. ASHLEY also, from the same committee, reported back a bill (H. R. No. 14) to enable the people of Nebraska to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; which was ordered to be printed, and recommitted.

CLERK TO COMMITTEE.

Mr. WHALEY, from the Committee on Invalid Pensions, reported the following resolution:

Resolved, That the Committee on Invalid Pensions be authorized to employ a clerk, at the usual compensation of four dollars per day for the time he shall be actually employed as such clerk.

Mr. WHALEY. I desire to state that the resolution offered the other day by the gentleman from Illinois [Mr. Washburne] did not include the Committee on Invalid Pensions. That committee was allowed a clerk at last Congress, and I do not think that any member of it is willing to perform the duties of clerk.

Mr. WASHBURN, of Illinois. I will state that when I introduced a resolution authorizing clerks to committees, I omitted inadvertently the Committee on Invalid Pensions. That committee had a clerk at last Congress; and certainly I think it requires a clerk more than any other committee of the House, on account of the amount of business which comes before it. I trust the resolution will pass.

The question was put; and the resolution was adopted.

NATIONAL CANAL CONVENTION.

Mr. A. W. CLARK, from the Joint Committee on Printing, reported the following resolution:

Resolved, That there be printed for the use of this House ten thousand copies of the memorial of the National Canal Convention communicated to this House by the President.

Mr. HOLMAN. I move to lay the resolution upon the table.

Mr. LOVEJOY. I hope the gentleman from Indiana will withdraw the motion to lay on the table. It is not a very large number to have printed.

The motion was not withdrawn.

Mr. STILES called for the yeas and nays on the motion to lay on the table.

Mr. LOVEJOY. I suggest—

The SPEAKER. Debate is not in order.

Mr. LOVEJOY. Then I ask unanimous consent.

Several MEMBERS objected.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 52, nays 74; as follows:

YEAS—Messrs. Jacob B. Blair, Bliss, Broomall, James S. Brown, Cox, Cravens, Dawson, Dennison, Donnelly, Edgerton, Eldridge, English, Finck, Grider, Hale, Hall, Harding, Holman, Philip Johnson, William Johnson, Kelley, Le Blond, Long, McDowell, McKinney, Middleton, William H. Miller, Moorhead, Amos Myers, Leonard Myers, Nelson, Noble, Charles O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, Rogers, Scofield, Smith, Spaulding, William G. Steele, Stevens, Stiles, Strouse, Thomas, Tracy, Wheeler, Chilton A. White, Joseph W. White, Williams, and Wilder—52.

NAYS—Messrs. James C. Allen, Alley, Allison, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Brooks, Ambrose W. Clark, Cobb, Coffroth, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Driggs, Dumont, Eden, Eliot, Farnsworth, Frank, Ganson, Garfield, Gooch, Grinnell, Charles M. Harris, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jencks, Julian, Kasson, Francis W. Kellogg, Kerian, Loan, Lovejoy, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Norton, Orth, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Shannon, Sloan, Smithers, Stebbins, John B. Steele, Upson, Van Valkenburgh, Ellihu B. Washburne, William B. Washburn, Webster, Windom, Winfield, and Fernando Wood—74.

So the House refused to lay the resolution on the table.

During the call of the roll,

Mr. BROOMALL stated that his colleague, Mr. THAYER, was unavoidably absent.

The question recurred on the resolution.

Mr. A. W. CLARK. I ask unanimous consent to make a statement. I believe that some members of the House understand the resolution as covering the whole report of the proceedings of the canal convention at Chicago. It is not so. It is merely to print the memorial sent to the President, which covers only ten or twelve pages.

The question was taken; and the resolution was adopted.

WASHINGTON AQUEDUCT REPORT.

Mr. A. W. CLARK submitted the following resolution; which, under the rules, was referred to the Committee on Printing:

Resolved, That the Superintendent of Public Printing be authorized and directed to print for the use of the Washington aqueduct department five hundred copies of the annual report of the chief engineer of the Washington aqueduct to the Secretary of the Interior.

Mr. WASHBURN, of Illinois. I do not think that that resolution should be adopted. It sets a bad precedent.

The SPEAKER. The resolution has been referred to the Committee on Printing, under the rules.

BUREAU OF EMANCIPATION.

Mr. ELIOT, from the select committee on emancipation, reported a bill to establish a Bureau of Emancipation; which was read a first and second time, ordered to be printed, and re-committed to the same committee.

MISSOURI HOME GUARDS.

Mr. BLOW. Mr. Speaker, I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, to take up the bill appropriating money to pay the home guards of Missouri, which was made the special order for this morning.

The SPEAKER. It was made the special order for yesterday, and not from day to day until disposed of. It seemed to be understood by the remarks that were made that the bill should be made

the special order for to-day, and if there be no objection it will be so considered.

There was no objection.

Mr. BLOW. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. LOVEJOY in the chair.)

The CHAIRMAN stated the first business in order to be House bill No. 35, to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri.

Mr. BLOW. Mr. Chairman, I will yield the floor to my colleague, [Mr. McClurg,] who has been closely identified with the home guards of Missouri, in order that he may explain this bill.

Mr. McCLURG. Mr. Chairman, I ask the attention of the committee but for a few moments. Nothing but the importance of the immediate passage and approval of this bill induces me to make the few remarks I shall now attempt. For, sir, I can assure this House I fully appreciate and realize the delicate situation of a new member, who is in danger, on the one hand, of sacrificing the interests of his constituents to too great a deference to the rules of courtesy which should properly be extended to more experienced members, and, on the other hand, of manifesting, from an excess of zeal, an improper forwardness tending to impair the means of usefulness incident to his position. I shall not, therefore, attempt a lengthy speech. Neither is it necessary. I shall confine myself to what I conceive to be strictly and legitimately my duty, and make a few points bearing directly upon the bill before the House. I have been requested to do so by a portion of the Committee of Ways and Means, to whom the bill was referred, for a more satisfactory understanding of the questions involved by those who have not been informed, as I am probably better acquainted with the facts than any member present. I shall not attempt embellishments, as every member can add them at his leisure.

It will be seen that this bill is to provide for a "deficiency" in a certain appropriation. It bears on its face, therefore, evidence that a former Congress made an appropriation for the same object. This is an argument in favor of the justness of the bill. It is "to pay officers and men actually employed in the Western department, or department of Missouri." The history of the case, in few words, is this: when slavery attacked our Government, and our noble President, who has inscribed his name upon the roll of the immortal great, called for volunteers to drive back the threatening invaders, the State of Missouri had at the head of the executive department a disloyal Governor, Claiborne F. Jackson, who refused to furnish even one man for that "diabolical" purpose. The attempt was made by this Governor and a disloyal Legislature to carry Missouri out of the Union under the operations of a military bill requiring all to swear to obey all orders of officers placed over them by a traitorous Governor. It became necessary for loyal men to prepare for self-defense and the defense of the Government. The rush to arms was sudden. Organizations were hastily made by those unaccustomed to military affairs. They were without due form—not in accordance with the written law. Where the population was nearly equally divided, the first organized companies would maintain the rule. The urgency required prompt action.

At this critical period in the history of Missouri we had in command a Nathaniel Lyon. The loyal heart of Missouri's sons found a sympathetic chord in his breast, which was but too soon and too boldly bared to the traitorous foe. He realized his situation. He was surrounded by an active, numerous, designing enemy, attempting to mature plans for the overthrow of both the State and General Governments. He had but a force at his command of a few hundred regulars. He responded favorably to the inquiries of the loyal men, and encouraged organizations of what were called home guards. He gave commissions; he promised arms and distributed them so far as was in his power, and pledged, so far as he could, the Government for the pay for services. It was a contest between loyalty and disloyalty in Missouri, and a Lyon thought it better to set aside, for a mo-

ment, the forms of law than the Government itself. Informal organizations were made, and history tells the result. Those home guard organizations, under the leadership of General Lyon, shaped and preserved the loyal sentiment of Missouri, and maintained her in her true position, which she now occupies in the Union. The home guards of St. Louis, and to the credit of the Germans be it said, enabled General Lyon to capture the encampment known as Camp Jackson, which will go down to all coming generations as one of traitors. That capture saved St. Louis, the St. Louis arsenal and arms, and opened the way to the overthrow of the traitorous State government, and proved to be the salvation of the State. Other incidents and fields are not wanting that testify to the valor of those home guard forces. Jefferson City, Boonville, Lexington, Carthage, and the bloody field of Wilson's Creek, where the immortal Lyon fell, all give evidence of their bravery. At Wilson's Creek they fought side by side with the regularly drilled troops in the hottest of the fight. They are those who first bore the hardships and privations incident to the troubles in Missouri, in the work of hunting rebel bands, when not too numerous, in the country, and betaking themselves to the brush when pursued by overpowering numbers, and in capturing the powder and lead which had been distributed by Governor Jackson throughout the State for concealment and use by disloyal agents. This was when these organizations were being made. When organized into companies, or battalions, or regiments, the service, so far as I know, was performed in such manner as required of similar organizations regularly in the service. And for this service only, after organization, have claims been allowed, which it is proposed to pay from this appropriation. Valuable services were rendered, which would have required the same number of regular volunteers to have performed. Their services were accepted, not only by General Lyon, but by General Frémont. Many were armed and equipped under orders from General Frémont, and treated as though the Government valued their loyalty and services. As for the seventeen companies over which I was honored with the command as colonel by General Frémont, he ordered their rolls to be recognized, and the paymaster to pay. His order was not respected. After his removal, as they were not recognized as regularly in the service, and therefore not to be paid, it became necessary to disband. The result was, men in destitute circumstances were returned to destitute families, whose homes, in very many instances, had been robbed of the very necessities of life, having served, some one, some two, others three or six months, without pay. To many it appeared to be wrong treatment, and would have driven men less loyal into the ranks of the enemy. But I must say I have known but two or three to have gone over to the traitors. They had confidence in the ultimate just action of a Government that needs not the services of her people without reward, and their respect was such for the old flag that had ever protected them that their eyes were not bedimmed when beholding it, although filled with tears at the sad picture before them of children suffering for the necessities of life. They indulged the hope that the promises of a Lyon and a Frémont would be verified by the action of a just Government, to protect which at least one half of those home guards went into the regular volunteer service, and from among them many heads of distressed families have been offered as sacrifices to freedom on the battle-fields of Corinth, Iuka, and Vicksburg.

The justness of the claims of these men was recognized by the Thirty-Seventh Congress. An act "to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pension," was approved March 25, 1862; and the Secretary of War was authorized and required to pay officers and men who had been actually employed in the military service of the United States, whether mustered into actual service or not, where their services had been accepted and actually employed by the generals who had been in command of the department of the West, or the department of Missouri, as in cases of regular enlistments. On the 14th day of May, 1862, \$100,000 were appropriated for such purpose. Difficulties at once presenting themselves to the Secretary of War in deciding on the numerous informal claims that were

presented, caused the passage and approval of a joint resolution on July 12, 1862, suspending the payment, and requiring the appointment of three commissioners to examine all claims arising under the provisions of the act of 25th March, 1862, and report the same to the Secretary of War. As the advice and consent of the Senate were necessary in the appointment of the commissioners, there was a failure to appoint from an oversight of the law, and the time in which they could act expired before the last session of Congress. Therefore that joint resolution of 12th July, 1862, was revived by a joint resolution approved February 16, 1863, and in accordance therewith three commissioners—Hon. Hawkins Taylor of Iowa, Hon. Charles T. Sherman of Ohio, and Colonel Francis Russell of Missouri—were appointed. They have faithfully and ably, and no man will read their report without saying honestly, discharged the duties that devolved upon them. That report is a tribute of respect that reflects luster upon the character of those loyal men known as "home guards," and credit upon the candor and patriotism of those who bestowed it. It is more valuable from the fact that two of the commissioners reside in other States than Missouri, and could not be suspected of the operation of undue influences. Indeed, a perusal of their report will convince you that they have made themselves liable to the remark "that they discriminated rather nicely in favor of the Government;" for they have taken no latitude, but allowed only for services of persons, and not of horses, although services were proved to have been performed, in most cases, by mounted men. But they inform us in their report that they have only allowed for services of horses in a few cases where the companies were actually organized and accepted as cavalry, refusing in other cases on the ground that the horses were foraged by the Government, when otherwise they would have been left exposed to the enemy, and have fallen into their hands. The Government cannot complain.

They furthermore inform us that "no claim was allowed unless it was strictly for personal service in military service," and that "from proof other than the claimants';" "all were not only required to show that they were called out or accepted by proper authority, but performed actual military service in the field, as distinguished from services in organizing, drilling, recruiting, or in camp;" and that claims "only were allowed where their existing organizations had been regularly called out and actually served in the field under proper authority, and in regular military capacity or service."

Surely no argument or language is necessary to show that such claims should be paid. It is a self-evident proposition. Indeed, by the law now existing that is acknowledged, and payment is required to be made, as recommended by said commissioners, and as required by act of 25th of March, 1862. All that is now wanting is an appropriation of the money for which this bill provides. The claims allowed, as you will see in the report of the commissioners, as well as in the report of the Secretary of War, amount to \$800,612 13. As I have before stated, \$100,000 were appropriated 14th May, 1862. The deficiency is, therefore, the amount asked for and set forth in this bill, \$700,612 13. The reasons for urging the passage of this bill now without delay are these. As I have stated, many of the families of the claimants are very destitute. They live in a country, many of them, that has been overrun by the rebel army and made desolate. Many of them were in active service, in companies of the enrolled militia of Missouri, last spring, at the very time they should have planted corn to bread their children, and were prevented from so doing. By the organization of provisional regiments in the summer and fall, seven eighths of these men were furloughed home. They have lost the crops of the spring, and are without even the dependence of a soldier's pay, in State bonds, at twenty per cent. discount. And, again, some unprincipled claim agents, who would enrich themselves from the poverty of others, and fill their cup of pleasure from the tears of starving children, are now endeavoring to take advantage of the credulity and necessity of these unfortunate men, and, by inducing them to believe that, according to the tardy course of legislation, a bill for the appropriation

will not be passed before midsummer, and that they cannot receive their pay for twelve months, buy their claims at thirty to fifty per cent. discount. Our prompt action will stop this genteel swindling. The appropriation being made, our efficient Secretary of War will provide, without unnecessary delay, for the payment of the claims. Two years have expired since the last of the service was rendered. These true men need our help, and the Government owes it. I hope, therefore, there will be no opposition.

It is my request that, as Hon. HENRY T. BLOW, of Missouri, is upon the Committee of Ways and Means, and was one among others specially appointed to investigate the facts connected with this bill, he will make such remarks as he may feel the occasion requires.

Mr. COX. I offer the following proviso, to come in at the end of the bill:

Provided, however, That in the payment of the money hereby appropriated, such payments shall be made directly to the officers or soldiers by whom the services were rendered, or to their personal representatives, or to their agents appointed by powers of attorney; and no assignment of any sum due to any officer or soldier shall be valid.

Mr. BOYD. Mr. Chairman, I do not know that I have any serious objection to the amendment that has been proposed by the gentleman from Ohio. Still I do not think that it is necessary. I know something of these early troubles in the West, having been closely connected with the management of the seventeen hundred men under the command of Colonel McClurg. I served under Colonel McClurg as major. I do not think that you will find any man from the State of Missouri, any man from Missouri who is an attorney-at-law or a professional man, who will ask that this money shall be paid to any other person than the person who directly should have the benefit of it. I ask the gentleman from Ohio, in all the kindness of my heart, that he will, for the benefit of the men who served with me, and the men who fought as home guards the dreadful battle at Wilson's Creek, withdraw his amendment, and let the bill go through as it has been presented to the consideration of the House. These home guards were rejected by General Harney, but they were instituted and recognized by Generals Lyon, Frémont, and Curtis, and of all the commanders of that department. They were driven from their homes, and they have fought the battles of the country without having received a dollar from the Government of the United States for their services. In Kentucky you will find the same men as the home guards of Missouri. You will find the same men in Maryland and Kentucky and Missouri. I ask, therefore, that the gentleman will withdraw his amendment.

Mr. COX. I understood, when he first rose, that the heroic and gallant gentleman from Missouri had no objection to my amendment. Now he wishes me to withdraw it. I understood that his colleague had no objection to it. I do not think that it will embarrass, but rather will facilitate the passage of the bill. It is a proper amendment to provide for claims of this nature.

Mr. BOYD. Let it pass.

Mr. COX. I am more of the opinion that it ought to pass since I heard the gentleman's remarks. He says that if this bill is not passed at once these sharpers will cut under the soldiers—that they will be cut out of their pay by a sort of genteel swindling. Many of these claims have been lying for a year and more, and, *non constat*, some of these swindlers have been at them. My proposition is in good faith to protect these brave and gallant soldiers. I was touched; my sensibilities were aroused, by his appeal, and I want to have this matter well considered. I want to see this money, when appropriated, go to the proper parties, and for that purpose I have submitted my amendment.

One word more about the bill itself. I think that it would have been better to have had the report read before any discussion took place. I have examined into it. I confess I was surprised when I saw the amount of \$800,000 passed upon by these commissioners. I have no doubt they were fair men. But it was astonishing to members of this House who remembered what the distinguished gentleman from Missouri [Mr. BLAIR] said on the subject, and what we understood was the fact from the Secretary of War, that instead of \$800,000, these claims would not amount to

more than \$100,000. If, as my gallant friend says, these soldiers did not expect anything for their defense of the State, why did not the Secretary of War adjudicate these claims in his own Department? I am told that he is opposed to their payment.

Mr. BLOW. Mr. Chairman, it seems hardly understood yet that in the serious difficulties that we had in Missouri at the outbreak of the rebellion forty thousand men sprang to arms. Had it not been for those forty thousand men, Missouri would have been a rebel State. Twenty-seven thousand men, as is shown by this report of the commissioners, were organized, and twenty-four thousand and upwards have been found worthy of pay after the strictest scrutiny on the part of the commissioners. It was a big thing. It saved Missouri. They were the men who intervened between the rebels in Missouri and the freemen of Illinois, Indiana, and Ohio; and if they had not thus sprung to arms the battles fought at Springfield and Carthage and Boonville would have been fought upon the free soil of Illinois, and that with rebels from the State of Missouri.

I know, sir, that these facts were never known, and were never presented to Congress, as they ought to have been, and these twenty-seven thousand men have gone unpaid for that reason, and their families are suffering; and if it had not been, as I said yesterday, that an all-kind Providence smiled upon them, and for the action of our county court, which appropriated several hundred thousand dollars to sustain them, there would have been no end to the sufferings they would have endured.

Gentlemen have only to refer to the report of the commissioners to see the magnitude of this organization, and that, instead of \$100,000, it would have more nearly required \$2,000,000 to pay them justly; for, in addition to the twenty-seven thousand men that claimed something from your Government, there were thirteen or fourteen thousand men who have never made a claim for a single dollar up to this hour.

Mr. KING. Mr. Chairman, I have no objection that there should be a rigid scrutiny into the claims made on behalf of these soldiers of Missouri. When we see millions called for here every day, I look upon it as the bounden duty of this House to scrutinize every claim that may be presented; and if these claims now before the committee will not stand the closest scrutiny, then I am prepared to say there are very few demands here for appropriations that will.

Two years ago Congress thought proper to pass a law, and the working of that law shows that no wrong can be perpetrated against the Government if it is perfectly carried out. Before reading the law, however, I will say that with very little military experience in the great mass of the people, there was a great demand for men in Missouri. General Frémont sent his recruiting officers all over the State to raise what was called, or what they chose to term themselves, the home guards. Colonel White, of St. Louis, was authorized by General Frémont to raise a regiment. Colonel White came up into my section of the State. He came into my county, and into the adjoining counties. I went with him to aid him in the matter. I went among the people with him. I heard his promises and statements, and he was successful in that and the adjoining counties in putting a regiment into the field when it was absolutely needed. Colonel White claimed to have authority to muster the men in and to make out the proper mustering-in rolls. I did not know but what he had such authority; nor did anybody else. And so it was all over the State. Men were irregularly brought into the service, yet they did perform signal services in the State.

Sir, there was scarcely a soldier within the walls of Lexington, at the time it was besieged and captured by Price, except these home guards, with the exception of the commands of Colonel Mulligan and of Colonel Marshall, of Illinois. Besides those troops, there were none but home guards there. Some of them were killed, and others wounded. Colonel White himself was wounded, and, if not already dead, now languishes upon the bed of death. Colonel Grover, who was lieutenant colonel of the regiment raised in my county and the surrounding counties, was also wounded, and has long since died from his wounds. A dozen

or more of the men living immediately around me were killed at the siege of Lexington, and their wives and orphans are not the persons who have sold their claims. I know not a single one who has sold the claim. It is the wives and orphans of those men who are now asking this pittance at the hands of the Government, and it will be a very small pittance to each. I remember, from investigating the claims of those who had been recruits in my neighborhood, that none of them exceeded between fifty and sixty dollars. And why? Because the men were recruited and put into the service irregularly, in the month of June and in the month of September, Price captured all of them from that part of the State, because they were inside the fortifications of Lexington; and after they were captured, they were, of course, dismissed from the service.

The law authorizes and requires the Secretary of War to allow pay to the officers, non-commissioned officers, musicians, and privates who have been heretofore actually employed in the military service of the United States, whether mustered into actual service or not, where their services were accepted. If they were irregularly mustered into service, that would not give them any claim for pay under this law; but if, with the irregular mustering in, the commander of the department of Missouri accepted their services, and if they actually did serve under his command, then they were to be paid. There is no chance of any one being paid under this law who does not show, by proper muster-roll and proper certificate, that he had been not only mustered in, irregularly though it might be, but that he had actually performed military service.

As to the amount of the claims, I do not know how they came to accumulate to so much; but I am fully satisfied, from the general rush that was made by men to serve their country at the time the call was made, that the whole State was alive with troops. Whether men were mustered into service regularly or irregularly was a matter which very few knew anything about. The Secretary of War found it difficult, under these circumstances, to ascertain who were entitled to pay. Finally Congress passed a joint resolution suspending the action of the Secretary of War, and authorizing the President to appoint commissioners to examine and settle the claims of officers and men. For some cause, I know not what, the time was limited to six months. The commission was not organized within that time. The time lapsed. It then became necessary to pass a second resolution. That was passed at last session of Congress. It directs that after the commission shall have examined into the question submitted to them, it shall report within sixty days on all such claims as may be presented by persons claiming to have been organized or to have performed services according to the provisions of the act, whereupon (here is the language of the resolution) "payment shall be made as recommended by the said commissioners, and as required by said act."

Now, will this House refuse to make an appropriation under those circumstances? I have really heard no gentleman say that he is opposed to paying these men. But it is objected that the amount is too large. I cannot say anything about that. The commissioners appointed by the President have examined the matter. The opinion in Missouri is that they did not allow very many claims which were just and proper, and which should have been allowed. But we make no complaint about that. I will vote for that part of the amendment of the gentleman from Ohio which directs that the money shall not be paid to anybody except the soldier himself or his wife or children. I want that in the bill, and care not how many sharpers it may injure. But there is another part of that amendment to which I do object on account of the hardship it would work. It provides that the money shall not be paid upon any power of attorney from the party unless it be signed after the passage of this act. I can cite a dozen of cases in my own county where the men entitled to pay under this act are now serving in distant parts of the country, having left powers of attorney for the collection of their claims for the benefit of their wives and families. If the amendment prevails, it will produce much trouble in all such cases. I hope, therefore, that that part

of it will be stricken out, and that the joint resolution will be passed.

MESSAGE FROM THE SENATE.

The committee rose informally, (the Speaker having resumed the chair,) and a message from the Senate, by Mr. FORNEY, its Secretary, notified the House that the Senate had concurred in the joint resolution giving the thanks of Congress to Captain John Rodgers.

MISSOURI HOME GUARDS—AGAIN.

The committee resumed its session.

Mr. COX. If that part of my amendment which the gentleman objects to be stricken out, the Secretary of War will pay to all who present powers of attorney, no matter whether signed before or after the passage of this act. It will enable every one of these sharpers to purchase up these claims, and to come in and get the money.

Mr. KING. I think that it is right, and I will vote for it. There is an amendment which I wish that the gentleman would adopt. It ought to provide that where the money is drawn by power of attorney the person holding the power of attorney shall make an affidavit, and file it, together with the power of attorney, with the paymaster, that he does not draw it for any other than the soldier or his widow or children who are entitled to it.

Mr. COX. I hope that my distinguished friend will put that in writing, and move it as an amendment to my amendment.

The CHAIRMAN. Does the gentleman accept it as a modification of his amendment?

Mr. COX. I will wait until I see it in writing. My only object, Mr. Chairman, is to secure those officers and soldiers who have served, and their families, the use of this money. I am informed by the gentleman from Missouri, since this debate opened, that a large amount of these claims has been purchased by persons in St. Louis and elsewhere, and that consequently there will be no benefit to the soldiers.

Mr. ODELL. The statement made by the gentleman from Ohio is an important one, and one that we ought thoroughly to understand. Now, is it so, that these claims amounting to \$800,000 are in the hands of claims agents? I hope that we will have an answer to the question.

Mr. BLOW. I understand that the amendment of my colleague is accepted by the gentleman from Ohio, as a modification of his own. I also understand that the amendment as modified has been accepted. If that be so, I move then that the committee rise and report the bill.

Mr. COX. I have not yielded the floor to be out off in that way. I only yielded the floor for the purpose of hearing an answer to the question of the gentleman from New York. I want to know, with him, whether we are appropriating this money for the soldiers or for speculators.

Mr. ODELL. I ask the gentleman from Missouri, [Mr. McClurg,] who addressed us at length on this subject this morning, whether it is true, as stated by the gentleman from Ohio, that this appropriation is to pay the claims agents who have purchased these claims from the soldiers, or their widows and children? It is proper that we should understand whether this money, which we are going to vote, is to go into the hands of those who have bought these claims at fifty or seventy-five per cent. discount, or into the hands of the soldiers to whom it is due. It is necessary that the question should be answered, and that the House should know.

Mr. McCLURG. Will the gentleman yield to me?

Mr. COX. Certainly.

Mr. McCLURG. Mr. Chairman, I will cheerfully answer the question of the gentleman from New York as far as I am able. I cannot give a definite answer so far as figures are concerned. I know that claims agents have been traveling through Missouri—that is, as far as it is safe for them to travel—trying to make the impression upon the minds of the soldiers who served as home guards that it would be a long time before an appropriation would be made to pay them for that service; trying to discourage them, and then to purchase their claims at a heavy discount. I have known claims worth forty or fifty dollars to have been sold for five or ten dollars. I can name an important firm of claims agents in St. Louis who have been engaged in the purchase of these claims.

I am willing to assume the responsibility, as the question has come up, of naming them. I refer to the firm of Mason & Clements. They are engaged in sending claims agents throughout the State for that purpose. In the early part of this month an editorial appeared in the St. Louis Republican, induced, I have no doubt, by statements made by that firm, that it would be twelve months before these claims would be paid. At the same time they were engaged in buying up those claims. I cannot say what amount is in the hands of claims agents—probably not more than one quarter. It may amount to one half. I have no data to govern me.

Mr. BOYD. I represent twenty-seven counties of the State of Missouri. They are counties that we are, in part, fighting to-day. When home guards came to my office in Springfield, Missouri, and asked me whether they should sell their claims, I told them no; that I was a home guard; that I was a field officer with them when that infernal rebel flag was raised in the town, and which we took down. I told them not to sell their claims, because the Government of the United States had ever been grateful for our service, and that it would at once pay us the money that was due to us. I tell you that the claims of the home guards in my district have not been sold. I know that exertions have been made by parties in New York city to buy the home guard claims of Missouri. I tell you, further, that you have never seen an assigned claim from my district. That district has not gone that far to win this appropriation now asked for. I know that these claims ought to have been paid twelve months ago. I know that speculators have tried to purchase the claims of the brave men who have bled and died for their country, but they have not succeeded.

Mr. DAVIS, of Maryland. I ask the attention of the gentleman from Ohio to the following section of law which makes these assignments void:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all transfers and assignments hereafter made of any claim upon the United States, or any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or any part or share thereof, shall be absolutely null and void, unless the same shall be freely made and executed in the presence of at least two attesting witnesses, after the allowance of such claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof."

Mr. COX. I was aware of what the law is in that regard; and if every soldier out there and every soldier's widow were a lawyer, there would be no difficulty at all about stopping the payment of claims after assignment. But, sir, the soldiers who may have assigned these claims would never raise the question; they would rather acquiesce in the receipt of the money by these claims agents. Although the assignment is absolutely null and void, yet I do not think that fact would have any practical operation to benefit the soldier.

My friend from Wisconsin has drawn up an amendment in conformity with the suggestion of the distinguished gentleman from Missouri, [Mr. KING,] and if it meets the approbation of the House, as I suppose it will, I will accept it as a part of my amendment, to come in at the end of my amendment. I ask the Clerk to read it.

The Clerk read, as follows:

Provided further, That any person holding a power of attorney authorizing the receipt by him of the amount to be paid any officer or soldier, may, by making and filing an affidavit to the fact that he is acting in the premises as agent without personal interest, and that he will pay over the amount received, either to the soldier or to his widow or children, for their benefit, be entitled to receive such amount.

Mr. HOLMAN. I desire to make a single suggestion to my friend from Ohio. The report of these commissioners of course embodies all the facts upon which they have acted. It is not a very voluminous document, and will probably furnish more information upon the subject than could be furnished in any other way. I therefore ask my friend from Ohio to call for the reading of that paper.

Mr. COX. I have already occupied the floor longer than I expected, but I see the necessity of guarding this bill in order to direct the money to the right hands. I should be obliged—and I have no doubt the gentleman from Missouri would be

obliged—for any suggestions from any quarter looking to the accomplishment of that purpose. I will now yield the floor to the gentleman from Missouri over the way, [Mr. BLOW,] asking that at the proper time the report shall be read.

Mr. BLOW. I move that the committee rise and report the bill to the House.

The CHAIRMAN. That motion is not in order while there are amendments pending.

Mr. WASHBURN, of Illinois. I would inquire if the amendment of the gentleman from Ohio is still pending?

Mr. COX. It is. I have not withdrawn it. I accepted a modification of it.

Mr. WASHBURN, of Illinois. Well, I presume it is not desired to debate it any more, and I hope we shall take the vote; and then, whether it shall be voted down or adopted, let the committee rise and report the bill to the House.

Mr. HOLMAN. I rise for the purpose of calling for the reading of the report of the commissioners. It is not voluminous, and that is the only way of obtaining the necessary information. If it had been read when the bill was first taken up, we should have understood the matter much better.

Mr. WASHBURN, of Illinois. I hope that the gentleman from Indiana will not consume the time of the committee by having the whole of that report read. I move that the committee rise.

The CHAIRMAN. Does the gentleman from Indiana yield the floor for that purpose?

Mr. HOLMAN. No, sir; not at this time.

Mr. HARDING. Will the gentleman from Indiana yield to me for a few moments?

Mr. HOLMAN. I will.

Mr. WASHBURN, of Illinois. I object to the floor being yielded.

Mr. HOLMAN. Then I ask that the report be read.

Mr. WASHBURN, of Illinois. I object.

The CHAIRMAN. The gentleman from Indiana is entitled to the floor, and has a right to have it read as a part of his remarks.

The Clerk proceeded to read the report.

Mr. JOHNSON, of Pennsylvania. I move to dispense with the reading of the report. It is a useless consumption of time. No one can hear it.

The CHAIRMAN. The gentleman from Indiana has a right to have it read as a part of his speech.

Mr. HOLMAN. If gentlemen desire to take the responsibility of appropriating \$700,000 without any consideration of the paper on which the appropriation is founded, I am not inclined to be captious. I should like to know what we are voting on; but inasmuch as there seems to be so much noise in the Hall as to render it impossible to understand the reading of the report, I withdraw the request.

Mr. HARDING. Mr. Chairman, while it may be wholly unavailing, yet I desire to call the attention of the committee to the fact that Kentucky stands precisely in the same situation as Missouri in regard to these claims. There are quite a number of men in the State of Kentucky who have precisely the same claims, resting upon the same basis, as those of the Missouri home guards. They were called into the service as home guards. Many of these men rendered very arduous services. Some of them were wounded, some killed, without their having been regularly mustered into the service of the United States. Their claims stand precisely on the same ground as, and even call louder for relief than, the claims of the men who served under like circumstances in the department of Missouri. I think it improper, therefore, to proceed with this sort of partial and discriminating legislation. It is partial. It discriminates in favor of the soldiers of Missouri and against those of Kentucky. It is unjust in that respect.

I think, Mr. Chairman, that this whole subject ought to be referred to the proper committee, the Committee of Ways and Means, with instructions to report a bill extending the provisions of this law to the State of Kentucky. I know, myself, numerous cases where men fell or were wounded in the service without their having been regularly mustered in. The exigencies of the circumstances were such that imperfect companies, not completed or organized, were hurried into the United States service. Many men of those companies were killed in battle, and others wounded or disabled for life.

Mr. ASHLEY. I rise to a question of order. The gentleman from Kentucky is not speaking to the question before the committee at all. This matter of the Missouri home guard has been referred to a commission, which has reported upon it; but no such commission has been sent to Kentucky.

The CHAIRMAN. The Chair thinks the question of order well taken. The debate must be confined to the bill before the committee.

Mr. HARDING. I am confining my remarks to that. I say this appropriation ought not to be made. I oppose the appropriation. And I oppose it for the reason that it is partial and unjust discrimination against a class of men in Kentucky who have as high claims upon the Government as the same class in Missouri. I intend, at the proper time, to move to refer the whole subject to the Committee of Ways and Means, with instructions to report a bill extending the provisions of the law to Kentucky.

Mr. FENTON. I desire to remark to the gentleman from Kentucky, that I have just learned that the Senate has, within the last few minutes, amended the deficiency bill, so as to pay the troops who were irregularly mustered into service in Kentucky, covering the position for which the gentleman contends.

Mr. HARDING. If that be so, then the action of this House ought to correspond with the action of the Senate, and the whole matter ought to be suspended until equal justice can be done to the citizens of Kentucky and the citizens of Missouri. If I properly understood one of the gentlemen who spoke on this subject yesterday, the sum of \$100,000 has been already paid to these soldiers in Missouri, whereas not a dime has been paid to any man similarly situated in Kentucky.

I desire also to state that when this matter was originally moved last Congress, I had a conference with the gentleman from Missouri who introduced it. I told him that it was unjust and impartial in excluding Kentucky; and he promised me that he would himself introduce an amendment extending its provisions to Kentucky. If the Senate is about to remedy this thing, let our action wait upon and conform to the action of the Senate. The thing is right in itself, but to discriminate between soldiers in Missouri and soldiers in Kentucky—paying the claims of the former and rejecting those of the latter—is absolutely unjust. There is no fear of claim agents operating with these men in Kentucky. The claims of these men have not even been recognized as existing claims. Equal justice should be done the soldiers of Kentucky and of Missouri. Both ought to be paid, or neither ought to be paid.

Mr. BLOW. I move that the committee do now rise.

Mr. HARDING. I desire to submit the motion I have indicated—that the matter be referred to the Committee of Ways and Means, with instructions to amend the law so as to make it include Kentucky.

The CHAIRMAN. That motion is not in order at this time.

Mr. COX. What will become of my amendment if the committee rise?

The CHAIRMAN. The bill still remains in Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LOVEJOY reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill No. 35, to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri, and had come to no conclusion thereon.

Mr. HARDING. I now submit my motion to refer with instructions.

The SPEAKER. The motion is not in order, the bill being still in Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. I move that all further debate on the bill and pending amendments be closed in one minute after the committee shall have resumed their consideration.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I now move that the rules be suspended, and that the House

resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. LOVEJOY in the chair,) and resumed the consideration of House bill No. 35, to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri; the question being on Mr. Cox's amendment.

Mr. Cox's amendment was adopted.

Mr. WASHBURN, of Illinois, moved that the bill and amendment be reported to the House, with the recommendation that they do pass.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LOVEJOY reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly a bill to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri, and had directed him to report the same back with an amendment, in which he was directed to ask the concurrence of the House.

Mr. BLOW demanded the previous question on the amendment.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the amendment was concurred in.

The bill, as amended, was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time and passed.

Mr. BLOW moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, to take up one of the appropriation bills.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. LOVEJOY in the chair.)

The CHAIRMAN stated the first business in order to be the President's annual message.

Mr. STEVENS moved that that be laid aside, and the committee take up the Military Academy appropriation bill.

The motion was agreed to; and the committee proceeded to the consideration of House bill No. 34, making appropriations for the support of the Military Academy for the year ending June 30, 1865.

The bill was read a first time for information, and then by paragraphs for amendment.

Mr. STEVENS. I move to amend the bill by striking out these words:

For warming apparatus for academic and other buildings, \$22,830.

And in lieu thereof to insert:

For warming barracks, \$15,000.

The estimates sent to the Committee of Ways and Means contained the amount of the printed bill, but on examination by the officers connected with that Academy, General Totten and others, it was deemed sufficient to appropriate \$15,000 for warming the barracks, the other buildings being allowed to stand as they were. For that reason the Committee of Ways and Means have reported in favor of reducing the amount. As it is a reduction, I suppose that there will be no objection to it.

Mr. SCHENCK. Mr. Chairman, being in the Committee of the Whole on the state of the Union, I rise, not for the purpose of discussing the amendment offered by the chairman of the Committee of Ways and Means, or to go into any general inquiry of the merits of the bill, but I desire to say, and I put it in this form that it may be brought to the notice of the House, that when this bill shall be reported back to the House, I hope that it will not be put on its passage under the previous question. If that be not done, I will move that it be referred to the Committee on Military Affairs. I intend to make that motion for this reason: the Committee on Military

Affairs of this House have before them memorials and petitions more or less connected with this subject, which involve an inquiry how far the operations of the Military Academy at West Point may be secured elsewhere, by aid and encouragement to the States. That is, how far military schools can be carried on, without the assistance of the Federal Government, on private account. It may be that some legislation to be undertaken by this House will be hereafter submitted from the Committee on Military Affairs that may approach in some degree what is desired. With the view of having the whole subject considered by the Committee on Military Affairs, I intend to submit that motion at the proper time, if the bill be not hastily passed under the demand for the previous question.

The amendment was agreed to

The Clerk read as follows:

For enlargement of chapel, \$6,000.

Mr. STEVENS. Supposing that they will be able to get along with the old chapel a little longer, I move to strike that out.

The amendment was agreed to.

Mr. STEVENS. I only wish to say in answer to the gentleman from Ohio, [Mr. SCHENCK,] who is the chairman of the Committee on Military Affairs, that it seems to me that this, during a great war, is a bad time to reconstruct the Military Academy. I cannot agree that it should be suspended now. These appropriations are necessary to carry it on for next year, and I hope that the gentleman and his committee will prepare their bill to take effect in the future. These appropriations are necessary for the present organization of the Academy.

Mr. SCHENCK. I simply desire to call the attention of the gentleman to the fact that there would be a great deal of force in his objection if this appropriation were not for the year ending the 30th of June, 1865. The application of this appropriation will not commence for a period of six months. During that time we may agree on some other plan. This being so, I do not think that the remarks of the gentleman are applicable.

Mr. STEVENS. I move that the committee rise and report the bill and amendments to the House. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LOVEJOY reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the Military Academy appropriation bill, and had instructed him to report the same back to the House with amendments, and with the recommendation that it do pass.

Mr. STEVENS. I move the previous question on the bill.

Mr. SCHENCK. I hope we shall vote that down.

The question was put; and the House refused to second the call for the previous question.

Mr. SCHENCK. I move that the bill be referred to the Committee on Military Affairs; and on that motion I demand the previous question.

The previous question was seconded.

Mr. WASHBURN, of Illinois. I rise to a question of order. If the motion of the gentleman from Ohio be voted down, will not the question recur on the passage of the bill?

The SPEAKER. The previous question will not be exhausted until the bill has been engrossed and read a third time, if the motion of the gentleman from Ohio shall be voted down.

The main question was then ordered; being first upon Mr. SCHENCK's motion.

Mr. RICE, of Maine, demanded the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the motion was disagreed to.

The amendments reported from the Committee of the Whole on the state of the Union were severally read and agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. SPALDING demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The SPEAKER then proceeded, as the regular order of business, to call the States for resolutions, commencing where the call was last left off, with the State of Pennsylvania.

EXEMPTION EXAMINATIONS.

Mr. COFFROTH. I offer the following resolution:

Resolved, That the Military Committee be directed immediately to inquire into the expediency of amending the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, to compel the provost marshals of the different congressional districts to hold their examinations for physical disability, or any other cause of exemption, at the county town of each county in the respective congressional districts.

I want to say but a single word upon this question.

The SPEAKER. If the gentleman debates the resolution it goes over, under the rule.

Mr. COFFROTH. Then I move the previous question, and I ask permission of the House to say a single word.

Several MEMBERS objected.

The previous question was not seconded.

The question was then taken on the resolution, and it was agreed to.

CONSTITUTIONALITY OF CONSCRIPTION ACT.

Mr. JOHNSON, of Pennsylvania, submitted the following preamble and resolution, upon which he demanded the previous question:

Whereas the supreme judicial tribunal of the State of Pennsylvania has solemnly decided that the act of Congress, approved March 3, 1863, commonly called the conscription act, is, in its provisions, contrary to and in violation of the Constitution of the United States, and therefore null and void; *Therefore*,

Resolved, That it is the sworn duty of the executive department of the Government to either acquiesce in that decision within that State, or to bring the question involved before the Supreme Court of the United States for final adjudication, to the end that, if Congress shall deem such legislation necessary, a bill may be prepared which shall not be subject to constitutional objections.

Mr. STEVENS. I hope my colleague will withdraw that resolution. He must know that since that decision was made Pennsylvania has overruled the decision. [Laughter.]

The SPEAKER. Debate is not in order.

Mr. BRANDEGEE moved to lay the resolution on the table.

Mr. JOHNSON, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 43; as follows:

YEAS—Messrs. Alloy, Allison, Ames, Anderson, Arnold, Ashley, Bailey, John D. Baldwin, Beaman, Boutwell, Boyd, Brundage, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Crockett, Henry Winter Davis, Dawes, Denney, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Ganson, Gooch, Grinnell, Hale, High, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kasson, Longyear, Lovejoy, McClurg, Melndoe, Samuel P. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Windom, and Winfield—80.

NAYS—Messrs. Ancona, Augustus C. Baldwin, Bliss, Brooks, Coffroth, Cox, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Grider, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Holman, Philip Johnson, William Johnson, Le Blond, Long, McDowell, McKinney, Middleton, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Rogers, Ross, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Sweat, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—43.

So the resolution was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed joint resolution No. 14, to supply, in part, deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties to volunteers, with amendments; in which he was directed to ask the concurrence of the House.

SPEAKER'S TABLE.

Mr. WASHBURN, of Illinois. I ask whether the morning hour has expired?

The SPEAKER. It has.

Mr. WASHBURN, of Illinois. I move to proceed to the business on the Speaker's table.

The motion was agreed to.

MISSOURI HOME GUARD—AGAIN.

The business first in order on the Speaker's table was a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of Representatives of the 17th instant, the report of the commissioners appointed to examine and report upon the claims of the officers and men employed in the Western department, or department of Missouri; which was laid on the table, and ordered to be printed.

DEFICIENCY BILL.

The next business in order on the Speaker's table was joint resolution H. R. No. 14, to supply, in part, deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties to volunteers, with Senate amendments.

The first amendment of the Senate was reported, to strike out all after the word "pay," in line nine, and insert as follows:

Provided, That no bounties except such as are now provided by law shall be paid to any persons enlisted after the 5th of January next.

And be it further resolved, That the money paid by drafted persons under the act for enrolling and calling out the national forces, and for other purposes, approved 3d March, 1863, shall be paid into the Treasury of the United States, and shall be drawn out on requisition, as in the case of other public moneys; and the money so paid shall be kept in the Treasury as a special deposit applicable only to the expenses of the draft and the procurement of substitutes, and for that purpose it is hereby appropriated.

Mr. STEVENS. I move that the House concur in the Senate amendment; and on that I move the previous question.

The previous question was seconded, and the main question ordered; and under its operation the first amendment of the Senate was concurred in.

The second amendment of the Senate was to amend the title by striking out the words "and premiums."

Mr. STEVENS. I move that the House concur in this amendment.

The question was taken; and the amendment to the title was concurred in.

Mr. STEVENS moved to reconsider the votes by which the Senate amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

IMPROVEMENT OF THE OHIO.

Mr. MOORHEAD offered the following resolution, and moved the previous question on its adoption:

Whereas the value and usefulness of the Ohio river, which passes through seven States of the Union, is frequently interfered with by a scarcity of water, so as to render it un navigable for large or heavy boats: *Therefore*,

Resolved, That the Committee on Naval Affairs be instructed to inquire into the propriety and expediency of improving the navigation of said stream, and report by bill or otherwise.

Mr. WASHBURN, of Illinois. I move to amend by inserting the Committee on Commerce in lieu of the Committee on Naval Affairs.

The SPEAKER. The previous question is pending, and no amendment is in order.

Mr. WASHBURN, of Illinois. I trust the gentleman from Pennsylvania does not mean to take jurisdiction of this subject from the Committee on Commerce.

Mr. MOORHEAD. No, sir; but I think this is a very proper subject for the Committee on Naval Affairs.

Mr. WASHBURN, of Illinois, demanded tellers on the previous question.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and MOORHEAD, were appointed.

The House divided; and the tellers reported—ayes 50, noes 44.

So the previous question was seconded, and the main question ordered.

Mr. WASHBURN, of Illinois, called for the yeas and nays on adopting the resolution.

The yeas and nays were ordered.

Mr. STEVENS. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at twenty minutes to four o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, December 23, 1863.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.
The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. DIXON presented the petition of Henry W. Lee, bishop of the Protestant Episcopal Church of the diocese of Iowa; and the petition of B. B. Smith, bishop of the diocese of Kentucky, and G. T. Bedell, assistant bishop of Ohio, praying that such a modification of the enrollment act may be made as will provide that clergymen and candidates for the ministry shall be regarded as non-combatants, and employed as chaplains or in hospitals; which were ordered to lie on the table.

He also presented a petition of citizens of Buffalo, New York, members of the Lutheran church, praying that such a modification of the enrollment act may be made as will exempt clergymen from draft; which was referred to the Committee on Military Affairs and the Militia.

Mr. COWAN presented the petition of John R. Barber and others, inspectors of customs and revenue agents, connected with the port of Philadelphia, praying for an increase of their compensation; which was referred to the Committee on Finance.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORRILL, it was

Ordered, That the petition and other papers of B. C. Bailey, praying for remuneration for expenses and damages sustained by him in consequence of the seizure and detention of the ship *Argo*, in May, 1861, by the commanding naval officer of the United States in Hampton Roads, be taken from the files of the Senate and referred to the Committee on Commerce.

On motion of Mr. HARRIS, it was

Ordered, That the heirs of John Chamberlain have leave to withdraw their petition and other papers from the files of the Senate.

On motion of Mr. MORGAN, it was

Ordered, That the memorials and documents of the owners and captains of the ships *Three Bells* and *Antarctic* and the bark *Kilby*, which three vessels succeeded in rescuing the passengers, officers, and crew of the steamer *San Francisco*, that foundered at sea in the month of December, 1853, having then on board more than five hundred officers and soldiers of the United States Army, be taken from the files of the Senate, and referred to the Committee on Naval Affairs.

BILLS INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 28) relating to members of Congress; which was read twice by its title.

Mr. JOHNSON. I ask for the reading of the bill.

The Secretary read it. It directs that no member of the Senate or of the House of Representatives of the United States shall, during his continuance in office, hereafter appear or act as counsel, attorney, or agent in any case or proceeding, civil or criminal, in any court, civil, criminal, military, or naval, or before any commission, in which the United States is a party, or directly or indirectly interested; or receive any compensation, of any kind, directly or indirectly, for services of any description rendered by himself or another, in relation to any such cause or proceeding. It further provides that no member of the Senate or House of Representatives shall, during his continuance in office, receive, or agree to receive, any compensation whatsoever, directly or indirectly, for any services rendered to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party, or directly or indirectly interested, before any Department, bureau, office, or any civil, military, or naval commission whatever. Any person offending against any provision of this act is, on conviction thereof, to be deemed guilty of a misdemeanor, and to be punished by a fine of not less than — dollars, and by imprisonment for a term not less than — years, and is to be forever thereafter incapable of holding any office of honor, trust, or profit under the Government of the United States.

Mr. WADE. I move that the bill be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. WADE. I also ask that it be printed.

The VICE PRESIDENT. The order to print will be made, if there be no objection.

Mr. SUMNER, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 29) to provide for the revision and consolidation of the statutes of the United States; which was read twice by its title.

Mr. SUMNER. I ask the reference of the bill to the Committee on the Judiciary; and at the same time, considering the character of the bill, I move that it be printed for the use of the Senate.

The VICE PRESIDENT. That reference will be made, and it will be ordered to be printed if there be no objection.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 30) to establish a uniform system of ambulances in the armies of the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

BILL REFERRED.

Mr. LANE, of Kansas. On my motion some days since, a joint resolution, which was introduced by me, on the subject of auditing the accounts for losses in the city of Lawrence, was laid on the table with a view of allowing me to make some remarks upon it previous to its reference. I now move to take it up with a view to refer it to the committee, so that they may act upon it.

The motion was agreed to; and the Senate proceeded to consider the joint resolution (S. No. 4) authorizing the Secretary of War to appoint a board of officers to audit the accounts of the citizens of Lawrence, Kansas.

The VICE PRESIDENT. What committee shall it go to?

Mr. LANE, of Kansas. The Committee on Military Affairs. I also ask to have it printed.

The VICE PRESIDENT. It will be so referred, and the order to print will be made if there be no objection.

EXECUTIVE COMMUNICATION.

Mr. CONNESS. While I was out of the Senate Chamber for a few minutes the other day, a report was received from the Treasury Department concerning matters relating to the customhouse in San Francisco, which was laid on the table. I desire to have that communication taken from the table and referred to the Committee on Finance.

The VICE PRESIDENT. That reference will be made, if there be no objection.

ENROLLMENT OF SLAVES.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to inform the Senate whether persons held to service or labor by the laws of Delaware, Maryland, West Virginia, Kentucky, and Missouri, have been enrolled according to the provisions of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and if not, the cause why such enrollment has not been made.

GENERALS WITHOUT COMMANDS.

Mr. TRUMBULL. I laid a resolution on the table yesterday, which I ask to have taken up and acted upon at the present time.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Secretary of War be directed to furnish the Senate with the names of all of the major and brigadier generals who are without commands equal to a brigade, stating how long each has been without such command, and whether each has a staff; and if so, how numerous, and of what rank, and what amount of pay, including commutations and rations, each, including those of his staff, has been receiving while so without a command; and also that he inform the Senate how many major and brigadier generals are in command of departments, districts, and posts in the loyal States; and whether any necessity exists that requires that these departments, districts, and posts should be commanded by officers of such high rank, with their numerous and expensive staffs.

The resolution was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had concurred in the amendment of the Senate to the concurrent resolution of the House, providing for an adjournment of the two Houses of Congress from Wednesday, December 23, 1863, to Tuesday, January 5, 1864.

The message further announced that the House

had passed a bill (No. 34) making appropriations for the support of the Military Academy for the year ending June 30, 1865; in which the concurrence of the Senate was requested.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the joint resolution of the House (No. 14) to supply, in part, deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties and premiums to volunteers.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following joint resolutions; which thereupon received the signature of the Vice President:

A joint resolution (H. R. No. 12) tendering the thanks of Congress to Captain John Rodgers, of the United States Navy, for eminent skill and zeal in the discharge of his duties; and

A joint resolution (H. R. No. 14) to supply, in part, deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties to volunteers.

HOUSE BILL REFERRED.

The bill (H. R. No. 34) making appropriations for the support of the Military Academy for the year ending June 30, 1865, was read twice by its title, and referred to the Committee on Finance.

EXECUTIVE SESSION.

Several messages in writing were received from the President of the United States, by Mr. HAY, his Secretary.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business. There are some executive matters that should be disposed of.

The motion was agreed to; and, after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 23, 1863.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.
The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by WILLIAM HICKEY, its Chief Clerk, notifying the House that that body had concurred in the resolution of the House for adjournment over the holidays, with an amendment; in which he was directed to ask the concurrence of the House.

The amendment of the Senate was read, as follows:

Strike out the words, "this House," and insert the words, "two Houses of Congress;" so that it will provide for the adjournment of the two Houses of Congress from Wednesday, December 23, to January 5, 1864.

The amendment was concurred in.

ENROLLED JOINT RESOLUTIONS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 12) tendering the thanks of Congress to Captain John Rodgers, of the United States Navy, for eminent skill and zeal in the discharge of his duties; and

Joint resolution (H. R. No. 14) to supply, in part, deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties to volunteers.

SMITHSONIAN INSTITUTION.

The SPEAKER announced that this being the day fixed for the appointment of three regents for the Smithsonian Institution, he had appointed Messrs. COX, DAVIS of Maryland, and PATTERSON.

BANKRUPT LAW.

The SPEAKER also announced that he had appointed the following as the select committee on the national bankrupt law: RUFUS P. SPALDING, of Ohio, WILLIAM D. KELLEY, of Pennsylvania, JAMES A. CRAVENS, of Indiana, SAMUEL HOOPER, of Massachusetts, AUGUSTUS FRANK, of New York, WILLIAM R. MORRISON, of Illinois, FRANCIS THOMAS, of Maryland, THOMAS A. JENCKES,

of Rhode Island, and JOHN W. CHANLER, of New York.

CARMACK AND RAMSEY.

The SPEAKER also laid before the House the following letter of the Comptroller of the Treasury, in answer to a resolution of the House, adopted yesterday; which was read, laid upon the table, and ordered to be printed:

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
WASHINGTON, December 23, 1863.

Sir: I have the honor to acknowledge the receipt of the House resolution, adopted the 22d instant, requesting the Comptroller to suspend further proceedings in reference to the claim of Carmack & Ramsey, until the further action of Congress touching the same.

And I have the honor to inform the House that the case was argued and submitted for decision on the 15th instant by counsel of the claimants, and counsel representing the Post Office Department; but on the 16th instant, and before further consideration of the case, upon being informed of the introduction of a resolution on the subject in the House, I immediately announced to counsel of the claimants that the decision of the claim would be postponed, and await the action of Congress. This course I thought due to the House, without special request on the part of that body.

I am, very respectfully, your obedient servant,
R. W. TAYLOR, Comptroller.
Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

REPORT OF GENERAL McCLELLAN.

The SPEAKER also laid before the House a letter of the Secretary of War, transmitting, in compliance with the resolution of the House, the report of Major General George B. McClellan of the organization and operations of the army of the Potomac when under his command; which was laid upon the table, and ordered to be printed.

Mr. COX submitted the following resolution:
Resolved, That ten thousand copies of the official report of Major General McClellan, not including the accompanying documents, be printed for the use of the members of the present House.

A MEMBER. How many?
Mr. COX. Ten thousand copies. It is the same number as that of General Pope's report which was ordered to be printed.
The resolution was adopted.

IMPROVEMENT OF THE OHIO.

The SPEAKER stated that the next question in order was the consideration of the following resolution, submitted by the gentleman from Pennsylvania, [Mr. MOORHEAD,] the pending question being to strike out "Committee on Naval Affairs" and insert "Committee on Commerce:"

Whereas the value and usefulness of the Ohio river, which passes through seven States of the Union, is frequently interfered with by a scarcity of water, so as to render it un-navigable for large or heavy boats: Therefore,

Resolved, That the Committee on Naval Affairs be instructed to inquire into the propriety and expediency of improving the navigation of said stream, and report by bill or otherwise.

Mr. MOORHEAD. To do away with the necessity for the previous question, and for the yeas and nays, which have been ordered, I will modify the resolution so that it shall have reference only to naval and other purposes. That, I think, will remove the objection of the gentleman from Illinois, [Mr. WASHBURN.]

Mr. WASHBURN, of Illinois. If the House agrees to that modification, I will withdraw my motion to refer to the Committee on Commerce. I objected yesterday because I thought that the Committee on Naval Affairs had no jurisdiction of the subject; and further, because I did not think that it was right to take it away from the Committee on Commerce, where it properly belonged.
The resolution, as modified, was adopted.

ARREARS OF PAY.

Mr. FENTON introduced a bill to facilitate the payment of bounties and arrears of pay due for the services of wounded and deceased soldiers; which was read a first and second time, and referred to the Committee on Military Affairs.

REPORT ON INTERNAL REVENUE.

Mr. LOVEJOY. I ask the unanimous consent of the House to introduce a joint resolution to provide for the printing of the report made by the Superintendent of Internal Revenue to the Secretary of the Treasury.

I would simply say, Mr. Speaker, with the consent of the House, that previous to the establishment of this Department, we have ordered the reports of the Indian Bureau, of the Pension Bureau, and of some other bureau—I forget which of them

—to be printed. This report in reference to internal revenue is of great interest throughout the country, and there is no provision for having the report printed. I hope the House will pass the resolution.

The joint resolution received its first and second readings, was ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, and passed.

Mr. LOVEJOY moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

HEIRS OF DR. SYLVESTER NASH.

Mr. SLOAN, by unanimous consent, introduced a bill for the relief of the heirs of Dr. Sylvester Nash and Betsy Nash; which was read a first and second time by its title, and referred to the Committee on Invalid Pensions.

Mr. FENTON. I hope the committees may be called, and that then there may be unanimous consent for the introduction of bills for reference only.

Mr. WASHBURN, of Illinois. I think we had better have the regular order of business.

Mr. LAW. I wish the gentleman would withdraw that call for one moment.

Mr. HOLMAN. I ask leave to submit a resolution.

Mr. DAVIS, of Maryland. I call for the regular order of business.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports.

BUREAU OF MILITARY JUSTICE.

Mr. SCHENCK, from the Committee on Military Affairs, reported back, with an amendment in the nature of a substitute, bill of the House No. 49, to create a Bureau of Military Justice.

The bill was referred to the Committee of the Whole on the state of the Union, and the substitute was ordered to be printed.

THE ENROLLMENT ACT.

Mr. SCHENCK, from the Committee on Military Affairs, reported a bill to repeal section three, and part of section ten, of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The bill was read a first and second time.

The first section of the bill repeals the third section of the conscription act, and so much of the tenth section of that act as provides for a separate enrollment of two classes, and provides that the two classes mentioned in the third section of said act shall be consolidated.

The second section provides that the bill shall take effect and be in full force from and after its passage.

Mr. SCHENCK. I desire to explain, with the permission of the House, that the whole effect of this bill is simply to abolish the distinction of classes, and to make the draft operate upon all between the ages of twenty and forty-five. That is the whole scope of the bill. There is nothing else in it. That is the one amendment in regard to which the Committee on Military Affairs were unanimous, and it seems important that it should be acted on at once. I ask that the House will now consider the bill.

Mr. STEVENS. I should like a little longer time to think of this bill. It proposes to make a very important change in the law. The law now allows married men between the ages of thirty-five and forty-five to be exempt from the first class, and provides that not only the married men under that age shall go into that class, but all single men up to the age of forty-five. That is the law now, as I understand it.

But there were nine months' men who were out in service at the time the law was passed, who have been in many battles. I know that the Pennsylvania nine months' men have lost about one half the number that they took out, and this amendment will affect them. They are now in the second class; but if this bill passes, they will be enrolled in the same class with those who have never been out at all, and who have never served the country in any degree.

Now, I am not very well satisfied that that should take place. I think it better that the law should stand as it is, for the present at least, and

that it should be so arranged that those who have already been in service shall not be drafted until the others shall be drafted who have not been in the service at all. But the bill, as it now stands, will bring those who have just got out of the service right back on to the enrollment list, and make them liable to draft. I think that wrong.

Mr. FERNANDO WOOD. Mr. Speaker, if the chairman of the Committee on Military Affairs had reported a bill to repeal entirely the law referred to, I should have been in favor of his proposition to consider the subject at this time; but as it is merely a proposition to amend that law, which is full of defects, and which requires such a general amendment and modification to make it effective, either as a revenue measure or as a measure to recruit our failing armies, I am in favor of time to deliberate upon it, and to give it the consideration which it requires. Therefore I hope that we shall not act on the proposition of the gentleman from Ohio at this time. I move that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. FARNSWORTH called for the reading of the third and tenth sections of the enrolling act.

The sections were read by the Clerk.

Mr. STEVENS. If it is in order, I will move an amendment to the bill.

The SPEAKER. It is not in order now. The pending question is to refer the bill to the Committee of the Whole on the state of the Union, which is not debatable.

Mr. SCHENCK. I ask leave to make a remark in reply to the objections made by the gentleman from Pennsylvania, [Mr. STEVENS.] Considering the bill in its various effects on persons between the ages and of the classes provided for in the original bill, it will be seen that there is a good deal to be said on both sides. So far as married men between the ages of twenty and thirty-five are concerned, they are subject now to the draft. It will be remarked that, notwithstanding the early marriages in this country, such men, in the ordinary course of nature, cannot well be called into the field without leaving young children behind them. And if you consider the married men between the ages of thirty-five and forty-five, that objection does not apply with the same force; for in most instances, and especially as regards that class of men in the interior of the country, farmers and other working men, to be affected by this bill, they are usually in such condition, as regards the ages of their families, as to be better able to leave home than are those married men between the ages of twenty and thirty-five, who constitute the first class.

I do not, however, propose to occupy the time of the House now by discussing a matter which, it seems to me, lies so plainly on the surface that every one must have made up his mind as to the propriety of abolishing or not abolishing this distinction of classes. As I said before, that was the only subject on which the committee seemed to be unanimous. The gentleman on the other side [Mr. FERNANDO WOOD] objects to the whole enrolling act, and would rather see a bill introduced for its entire repeal. I may say to him that while, perhaps, no such bill will be introduced, certainly no such bill will be reported by the Committee on Military Affairs. And yet that committee has been assiduously engaged in a revision of that whole act, with a view to its amendment in several other particulars, regarding questions of exemption and other matters. This, however, was an amendment for which there appeared to be urgency now, before the adjournment of both Houses; and being instructed accordingly to present a bill embracing this one feature at this time, and no other, reserving everything else for future report and consideration of the House, I hope that the House will vote down the motion to refer it to the Committee of the Whole on the state of the Union, and that this bill will receive, as I believe will be the next consequence, a vote upon its merits, and will be passed. I move the previous question on its engrossment and third reading.

Mr. STEVENS. I hope the gentleman will allow me to propose an amendment before he moves the previous question. It is to provide that this act shall not affect the condition of those persons who were in military service at the time the act was passed to which this is an amendment.

Mr. SCHENCK. No, sir. The bill, as it

stands, will probably induce all these men to volunteer. We had better leave the bill as it is.

Mr. STEVENS. Then I will vote against the whole.

The question being on the previous question, the Speaker ordered tellers; and Messrs. GRINNELL, and STEELE, of New York, were appointed.

The House divided, and the tellers reported—ayes 47, noes 50.

So the previous question was not seconded.

The question recurred on the motion to refer the bill to the Committee of the Whole on the state of the Union.

Mr. COFFROTH. I move that the House do now adjourn.

The motion was not agreed to.

The bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

IOWA CONTESTED ELECTION.

Mr. GRINNELL. I rise to a question of privilege. Finding in the room of the Committee of Elections papers purporting to relate to a contest of my seat in this House, which I had been informed would not be brought into the House, I desire to present papers in this case to the Committee of Elections, and have the same considered with reference to printing.

The papers were referred to the Committee of Elections.

CALL OF COMMITTEES.

Mr. STEVENS. There is barely a quorum present, and I think we had better adjourn. I move that the House do now adjourn.

Mr. FENTON. I appeal to the gentleman from Pennsylvania to withdraw that motion until we shall have had a call of States for bills for reference only. It can be done by consent.

Mr. STEVENS. Well, I have no objection. The call of committees for reports was proceeded with and concluded.

COAL OIL.

Mr. A. MYERS introduced a bill to reduce the tax on coal oil, to repeal so much of the present law as permits exportation of oil free of duty, and to classify coal-oil distillers; which was read a first and second time, and referred to the Committee of Ways and Means.

CONSCRIPTION.

Mr. A. MYERS also introduced a bill to amend the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; which was read a first and second time, and referred to the Committee on Military Affairs.

BOUNTIES.

Mr. A. MYERS also introduced a bill granting bounties, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

POSTAL MONEY ORDERS.

Mr. ANCONA introduced a bill to establish a postal money order system; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CONSCRIPTION.

Mr. ANCONA submitted the following resolution:

Whereas the act of Congress, approved March 3, 1863, commonly called the conscription law, is oppressive, unjust, and unconstitutional; because, 1st, it takes from the States the control of their own militia; 2d, it subjects the rights of the States and the liberties of the people to the unlimited power of the Federal Government; 3d, it is calculated to create and build up a central military despotism which may be used for the worst and most dangerous purposes; 4th, it falsely imputes the crime of desertion to every man whose name is drawn in the "lottery of death," and who fails to join the Army, and subjects him to trial, condemnation, and capital punishment, without a jury of his peers, contrary to the fundamental law of the land: Therefore,

Be it resolved, That the Committee on Military Affairs be instructed to bring in a bill for the unconditional repeal of said act of Congress, and substitute in its place some constitutional and just mode of raising armies for the service of the United States.

Mr. STEVENS. I propose to debate that resolution.

The SPEAKER. Then it goes over, under the rules.

And then, on motion of Mr. STEVENS, (at ten minutes to one o'clock, p. m.,) the House adjourned until Tuesday, January 5, 1864.

IN SENATE.

TUESDAY, January 5, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Wednesday, December 23, 1863, was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a communication from the Commissioner of the General Land Office, transmitting, in obedience to law, the report of the recorder of land titles at St. Louis, Missouri, relative to the claim of Augustin Amiot or his legal representatives to a lot in the city of St. Louis; which was referred to the Committee on Private Land Claims.

The VICE PRESIDENT also laid before the Senate a communication from the Secretary of War, transmitting, in answer to a resolution of the Senate of the 22d of December, 1863, a roster of the fourth and fifth Indian regiments; which was ordered to lie on the table.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of the Navy, transmitting, in answer to a resolution of the Senate of the 21st of December, 1863, a list of officers of the Navy and of the marine corps who, between the 1st day of December, 1860, and the 1st day of December, 1863, left the service; which, on motion of Mr. MORGAN, was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. TEN EYCK presented a petition of regular branch pilots of the Delaware bay and river, praying for the passage of such a law as will exempt them from the operations of the draft, on account of their services; which was ordered to lie on the table.

Mr. RAMSEY. I present a memorial of the common council of the city of St. Paul, praying for a grant of lands to aid in the construction of a railroad from St. Paul to the head of Lake Superior. I ask that it be referred to the Committee on Public Lands and printed.

The VICE PRESIDENT. The petition will be so referred; and the motion to print will be referred to the Committee on Printing.

Mr. CLARK presented two petitions of citizens of Temple, New Hampshire, praying for the establishment of a uniform ambulance and hospital system for the armies of the United States; which were referred to the Committee on Military Affairs and the Militia.

Mr. GRIMES. I present a petition from the comrades-in-arms of Captain Frederick S. Washburn, who commanded the ninth Iowa regiment and fell at the head of it at the battle of Black River, near Vicksburg, praying that a pension be granted to his widow and children. I move that it be referred to the Committee on Pensions. The motion was agreed to.

Mr. GRIMES. I also present the memorial of Henry P. Scholte, a foreign-born citizen of Iowa, who has resided in that State for the last twenty-five years, who proposes some modifications and changes in the enrollment law. He states that the British theory, "once a citizen, always a citizen," is not a theory known to the civil law, or adopted by any of the nations of continental Europe, and that it ought not to be adopted by this country as the true doctrine upon which to act, but that every foreign-born person who is a resident of this country should be compelled to bear arms in behalf of the Government. I move the reference of the memorial to the Committee on Military Affairs and the Militia. The motion was agreed to.

Mr. GRIMES. I present, also, the petition of sundry citizens of Iowa and of Erie county, in the State of New York, known as the trustees and members of a society called the Amana Society. They state, in their memorial, that their society was organized about 1717-20, in Europe; that some twenty-five or thirty years ago they came to this country and established a society called the Ebenezer Society in the vicinity of Buffalo, in the State of New York; that one of the tenets of their faith is non-resistance. In their memorial they express no indisposition to pay a commutation for military service, but they protest against the repeal of that portion of the conscription law which authorizes the payment of \$300 in lieu of military service. I move that

it be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. LANE, of Indiana, presented a memorial of the religious Society of Friends, residing in the eastern part of Indiana and the western part of Ohio, represented by their meeting held at Richmond, Indiana, praying that they may be exempted from military duty; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the commissioner's court held in Laporte, Indiana, praying for an increase of the pay of non-commissioned officers and privates in the Army of the United States; which was referred to the Committee on Military Affairs and the Militia.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 31) making a grant of lands to the Lake Superior and Mississippi Railroad Company, in the State of Minnesota, to aid in the construction of the railroad of said company from St. Paul to Lake Superior; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 32) granting lands to the State of Michigan for the construction of a wagon road for postal and military purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. NESMITH, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 33) providing for the establishment of a branch mint of the United States at Portland, Oregon; which was read twice by its title, and referred to the Committee on Finance.

Mr. FOOT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 34) in favor of the legal representatives of Israel C. Wait; which was read twice by its title, and referred to the Committee on Claims.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 35) to increase the bounty of volunteers; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

MILITARY INTERFERENCE WITH ELECTIONS.

Mr. POWELL, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States; which was read twice by its title.

Mr. POWELL. I move that the bill be referred to the Committee on the Judiciary, and be printed.

The motion to print was agreed to.

Mr. GRIMES. The Committee on Military Affairs is the proper committee, I think.

The VICE PRESIDENT. The first question is on referring it to the Committee on the Judiciary.

Mr. GRIMES. The bill which the Senator has introduced relates purely, according to its title, to military officers in the service of the United States; and manifestly the proper committee to have charge of a bill of that kind is the Military Committee. It would be interfering with the prerogatives of that committee, it seems to me, to send such a bill to another committee.

Mr. CLARK. No question of law arises.

Mr. GRIMES. No, sir; no question arises connected with any of the laws of Congress now in existence, or the Constitution, as far as I know.

Mr. POWELL. I take it that the Judiciary Committee is the proper committee to which this bill should be referred. It is a bill prescribing penalties against officers of the Army and Navy for interfering with elections. I think it is emi-

nently proper that it should go to the Judiciary Committee and be there perfected. The bill does not contemplate anything to regulate the Army, but to prevent officers of the Army and Navy from interfering with the rights of citizens in holding elections. I hope it may be sent to the Committee on the Judiciary.

THE VICE PRESIDENT. The question is on the motion to refer the bill to the Committee on the Judiciary.

The question being put, a division was asked for.

Mr. McDUGALL called for the yeas and nays; and they were ordered.

Mr. WILSON. I move that it lie on the table for the present. We can take it up to-morrow morning.

Mr. POWELL rose.

THE VICE PRESIDENT. That motion is in order, and is not a matter of debate.

The question being put, the Vice President declared that the yeas appeared to have it.

Mr. POWELL. I ask for the yeas and nays.

Mr. WILSON. If you divide, you break up the Senate.

Mr. POWELL. Let it break up. If I cannot get a bill of this importance sent where I want it, I am willing to break up.

The yeas and nays were ordered.

ENROLLMENT LAW.

Mr. SUMNER. Before the vote is taken, as it is possible it may result in showing that there is no quorum, I should like to give notice of an amendment which I desire to move to the Senate bill No. 18, entitled "An act to amend an act for enrolling and calling out the national forces, and for other purposes," it being in the nature of an additional section.

THE VICE PRESIDENT. It will be received by unanimous consent.

Mr. SUMNER. I offer it now, and ask that it be printed for the use of the Senate.

THE VICE PRESIDENT. The Chair hears no objection to its reception. The order to print will be made, if no objection is interposed.

Before taking the vote on Mr. POWELL's motion, other business was interposed by unanimous consent, namely:

SANITARY CONDITION OF THE DISTRICT.

Mr. MORRILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the District of Columbia be directed to inquire whether additional legislation is necessary to improve the sanitary condition of the cities of Washington and Georgetown, and for the prevention of contagious diseases.

APPOINTMENTS OF CADETS.

Mr. CLARK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to furnish to the Senate the names of all persons appointed cadets at the United States Military Academy during the year 1863, specifying the State of which they were citizens, or resident, at the time of their appointment, and the residence of their parents or guardians; and where such appointments were made upon the designation of a member of the House of Representatives, that he furnish the name of the member by whom the designation was made; and where made from the Army, that he state the regiment from which such appointments were made.

SOLOMON KOHNSTAMM.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate any information in his possession relative to the case of Solomon Kohnstamm, of New York, charged with obtaining money upon false and fraudulent claims for collecting, drilling, organizing, and subsisting volunteers.

RETURN OF ORIGINAL PAPERS.

On motion of Mr. WILSON, it was

Ordered, That the Secretary of the Senate transmit to the Secretary of War the original papers accompanying his report of the 28th of June, 1862, in relation to the battles at Pittsburg Landing.

PRESIDENTIAL POWER.

Mr. DAVIS submitted the following resolutions for consideration; which were laid over, and ordered to be printed:

1. *Resolved,* That the Government of the United States be established by the people of States which had before been

separate, sovereign, and independent; and they formed their common national government by a written Constitution, and delegated to it so much of their sovereign political power as they adjudged to be necessary and proper to enable it to manage all their affairs with foreign nations and among the several States; and, both by its leading principle and an express provision, they reserved "to the States respectively, or to the people," all "powers not delegated to the United States, nor prohibited by it to the States."

2. *Resolved,* That our system consists of a limited national government for the whole United States, of supreme authority as to all the powers with which the Constitution has invested it; and State governments for each State, formed by the people thereof, and holding the entire residuum of political sovereignty within their respective States, each government, within its sphere, being alike supreme. And as the Governors, and all other civil and military officers of the States, as other individuals, may commit treason against the United States, by levying war against them, or in adhering to their enemies, giving them aid and comfort," so the President of the United States, and the civil and military officers thereof, may commit treason against any State whose government is in the performance of its duties under the Federal Constitution, by levying war against it, or in adhering to its enemies, giving them aid and comfort, as resisting with an armed force the execution of its laws, or adhering to such armed force, giving it aid and comfort.

3. *Resolved,* That in all the States and parts of States where the laws of the United States and the States can be executed, the military authorities should not be brought into conflict with the civil power, but should be strictly held to be, as they rightfully are, in subordination to it.

4. *Resolved,* That all elections to civil offices, Federal or State, should be in strict accordance with the Constitution and laws of the United States, and of the States respectively, and be conducted by officers appointed by the proper authorities for that purpose; and where, from the presence or apprehension of force, violence, or other cause, any election cannot be so conducted, it ought not to be held at all; and every election at which any military force may interfere by imposing additional oaths or qualifications of the electors, or regulations for conducting the said election, or by changing or modifying the oaths and qualifications of the electors or regulations to govern it as provided by law, or to constrain, control, or direct the officers of such election in conducting it, should be held to be void and of no effect.

5. *Resolved,* That the experience of the world proves that there can be neither security nor liberty in any country without wise and just laws firmly sustained and uniformly executed. That is the life, the spirit, the soul of this nation; and all neglect and departure from law, and particularly from constitutional law, by agents appointed to administer it, although sometimes attended with seeming advantage, are sure to produce always, sooner or later, much greater and more enduring mischief. Wherefore a disregard of law by such agents is never tolerated by a wise and free people.

6. *Resolved,* That the powers of the Government of the United States are derived wholly from and limited by the Constitution, and by it are divided into legislative, executive, and judicial, and each class of those powers is vested in a separate department; that the President is the chief of the executive department, and has no legislative or judicial power whatever, and only such executive powers as are enumerated in the second and third sections of the second article of the Constitution, and such other powers as may be, from time to time, conferred upon him by Congress in virtue of this provision: "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

7. *Resolved,* That the President cannot be divested of any of the powers with which he is directly invested by the Constitution, nor controlled nor interfered with in their execution; but all powers conferred on him by law of Congress he holds in subordination to that department, which may supervise, modify, and correct his execution of them, or resume them by repealing the laws intrusting their execution to him.

8. *Resolved,* That the power of the President to recognize the existence of a state of case amounting to "an invasion, or imminent danger of invasion, of the United States," or "an insurrection in any State against the government thereof," or "obstruction to the execution of the laws of the United States by combinations too powerful to be suppressed by the ordinary course of judicial proceedings," and to call forth the military power to meet such conditions, is conferred on him by the laws of Congress, and the repeal of those laws would withdraw from the President all that power.

9. *Resolved,* That Congress is invested with the power "to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defense and general welfare of the United States;" "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;" "to raise and support armies;" "to provide and maintain a navy;" "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;" "to provide for arming, organizing, and disciplining the militia, and governing such part of them as may be employed in the service of the United States;" "to guaranty to every State in the Union a republican form of government, and to protect each of them against invasion;" and thus the entire war power, and quasi war power, external and internal, of the Government, is vested by the Constitution in Congress, and no part of it whatever in the President.

10. *Resolved,* That whenever there is an insurrection in the United States, Congress is vested with the power to suppress it and with no other power whatever over the insurrection; and when it is suppressed, either by the arms of the United States, or by the submission of the insurgents to the Constitution, laws, and authorities thereof, thereupon the power of Congress is exhausted, and the insurgents are immediately remitted to all their rights, liberties, privileges, and duties of citizens, subject to such forfeiture

thereof as may have been declared by law, after it shall have been adjudged by the civil courts in the mode prescribed by the Constitution; and Congress, much less the President, has no power to impose upon them any other terms or conditions.

11. *Resolved,* That the whole power and duty of the President in the existing insurrection is to grant pardons to those engaged in it, and, as Commander-in-Chief of the Army and Navy, to direct their operations for its suppression; and, as such, his powers are strictly military, and are not different or greater than would be those of the senior general in the service, if the Constitution had designated him to be the Commander-in-Chief; the power to devise a policy or measures for its suppression is legislative, to which the President is incompetent, whether as the first executive officer of the Government, or Commander-in-Chief of the Army and Navy.

12. *Resolved,* That the law of military necessity is not established, but only tolerated, in the United States. It does not, nor cannot, in peace or war, abrogate or suspend the Constitution, in whole or in part. It cannot authorize arbitrary arrests and imprisonment, or in any way interfere with the person of the citizen, but only with his property. It does not appertain to the President, or to the Commander-in-Chief, unless he be in the actual command of a military force, and then only under particular circumstances. It results from a present and urgent need of an army, or military corps, which is so pressing that it cannot await other modes, but must be supplied anywhere within its reach by its own power and action. It is not an expediency but a necessity of a military body, and creates a law and confers a power, for the occasion only, on its commander, of whatever grade he may be, to supply that necessity by taking property with summary military force, without depriving the owner of his right to be compensated for it by the United States. Each case of military necessity makes its own law, adapted to its own peculiar circumstances, and expiring with that particular necessity. There is not, and cannot be, any uniform, permanent, or even continuing law of military necessity. The idea that a law always accidental, evanescent, and in truth so inconsiderable, should have the magic force to enable Abraham Lincoln to bound over the Constitution and all its limitations and restrictions, and clutch the vast powers which he claims under it, is a gigantic absurdity.

13. *Resolved,* That at the beginning, under the panic of the defeat of Bull Run, the party in power professed to carry it on for the constitutional end to put down the rebellion and vindicate the laws and authority of the United States in the insurgent States, and when that was effected it was to cease. But more than a year ago, another and paramount and unconstitutional end, the total subversion of slavery, was inaugurated by them; and, at length, to carry on the war in this perverted and augmented form, the annual expenditure on the part of the United States has swollen to one hundred thousand lives, a much larger amount of personal disability, and a thousand millions of money, and yet the wisest cannot see the end of the war. Verily, the people North and the people South ought to revolt against their war-leaders, and take this great matter into their own hands, and elect members to a national convention of all the States, to terminate a war that is enriching hundreds of thousands of officers, plunderers and spoilers, in the loyal States, and threatens the masses of both sections with irretrievable bankruptcy and indefinite slaughter, and to restore their union and common government upon the great principles of liberty and compromise devised by Washington and his associates.

14. *Resolved,* That the present Executive Government of the United States has subverted, for the time, in large portions of the loyal States, the freedom of speech, the freedom of the press, and free suffrage, the constitutions and laws of the States and the United States, the civil courts and trial by jury. It has ordered, *ad libitum*, arbitrary arrests by military officers, not only without warrant, but without any charge or imputation of crime or offense, and has hurried the persons so arrested from home and vicinity to distant prisons, and kept them incarcerated there for an indefinite time, some of whom it discharged without trial and in utter ignorance of the cause of their arrest and imprisonment, and others it caused to be brought before courts created by itself, and to be tried and punished without law; in violation of the constitutional guarantee to the citizen of his right to keep and bear arms, and of his rights of property, it has forcibly deprived, as well the loyal as the disloyal, of both; it has usurped the power to suspend the writ of *habeas corpus*, and to proclaim martial law, and has established military tribunals in States and parts of States where there was no obstruction to the due administration of the laws of the United States and the States, by the civil courts and authorities; and ordered many citizens, who were not connected with the Army or Navy, to be dragged before its drum-head courts, and to be tried by them for new and strange offenses, declared by itself, and by an undefined and indefinite law, being but the arbitrary will of the court; ordained at pleasure a military despotism in the loyal States by means of courts-martial, provost marshals, and military forces, governed neither by law, principles, nor rules, from whose tyranny and oppressions no man can claim immunity; all of which must be repudiated and swept away by the sovereign people.

15. *Resolved,* That a free press, free speech, and free elections are the great and peaceful forces by which the maladministration of our Government, whether in the legislative or executive department, is prevented, reformed, or reversed, and its authors brought to public condemnation and punishment; and those bulwarks of constitutional government and popular liberty are formidable to malversators, usurpers, and tyrants only, and they must be upheld by the people at all hazards.

16. *Resolved,* That as the Constitution and laws afford no means to exclude from the office of President a man appointed to it by military power, or who is declared to be chosen to it by reason of the suppression of the freedom of election, or by the exclusion of legal voters from the polls, or by any other means, the people of the United States would be incompetent to defend and unworthy to have received the rich heritage of freedom bequeathed to them

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by their fathers, if they permit that great office so to be filled, or in any other mode than by their own free suffrages.

17. *Resolved*, That the scheme of the President to bring back the insurgent States is open to many and insuperable objections. The pardon and amnesty offered by him is upon the condition that those who accept it shall renounce their right to their slave property, and swear to support his unconstitutional proclamation and unconstitutional acts of Congress, which attempted to take it from them. He must have intended to put this condition in a form so obnoxious as to secure its rejection by most of those to whom it was offered. He affects the position that ten of the insurgent States have forfeited or dissolved their State governments, and requires that they be reconstructed on a condition prescribed by himself; and this against the true principle, which he and the legislative department of the Government had previously recognized—that all the acts of the insurgent States and people tending to their secession, separation, and independence were void; and when the inauguration with which their insurrection covered over the authority of the Constitution and laws of the United States in them passed away, it would leave the constitutions, laws, property, and institutions of those States in every respect the same that they were previously, excepting only the changes that were produced by the mere shock of arms, the principle *status ante bellum* being applicable. He ignores the constitutions of Tennessee, Arkansas, and others that have not been altered in any particular, but are the same that they were before their revolt; and he requires those States to repudiate their constitutions that governed them many years peacefully in the Union, and to form new ones. He has no right to take cognizance in any way of the governments and constitutions of those States, or any other States: to the extent that such a power is vested in the Government of the United States, it is congressional, not presidential. He has no authority whatever to impose any conditions on the insurgents, and they are subject to none but what are prescribed by the Constitution and laws of the United States, to be determined by their courts. What right has the President to proclaim that one tenth of as many of the voters of those States as voted at the last presidential election may pull down and revolutionize their State governments, and erect new ones for the other nine tenths, which he will recognize and uphold with the armies and navies of the United States? His project is to continue the war upon slavery by his further usurpations of power, and to get together and buy up a desperate faction of mendicants and adventurers in the rebel States, give them possession of the polls by interposing the bayonet, as in Maryland, Delaware, and portions of Missouri and Kentucky, and to keep off loyal pro-slavery voters; and thus to form bastard constitutions to abolitionize those States.

18. *Resolved*, That the impending destiny of our country can no longer be blinked. The people of the loyal States are resolved into two great parties, the *destructives* and the *conservatives*. The first consists of Abraham Lincoln, his office-holders, contractors, and other followers; the second of all men who are for ejecting Lincoln and his party from office and power. The professed objects of the first are to *preserve the Union* and to *abolish slavery in all the States*; they have about ceased to make a pretense of supporting the Constitution and the laws; their real objects are to perpetuate their party power, and to hold possession of the Government to continue the aggrandizement of their leaders, great and small, by almost countless offices and employments, by myriads of plundering contracts, and by putting up to sale the largest amount of spoils that were ever offered to market by any Government on earth. Their object is not to eradicate slavery, but only to abolish its form and the mastery. To subjugate wholly the rebel States, and utterly to revolutionize their political and social organization; to destroy or banish and strip of their property all the pro-slavery people, secessionists, anti-secessionists, loyal and disloyal, combatants and non-combatants, old men, women, and children, the decrepit and the *non compos mentis*, all whom they cannot abolish, and to distribute the lands of the subjugated people among their followers, as was done by the Roman conquerors of their own countrymen; to proclaim a mock freedom to the slaves, but by military power to take possession of the freedmen and work them for their own profit; to do all this, and also to enslave the white man by trampling under foot the Constitution and laws of the United States and the States, by the power of a subsidized Army, and, lest it should falter, by hundreds of thousands of *negro janitorians*, organized for that purpose by the Secretary of War and the Adjutant General. The first and paramount object of the conservatives is to preserve their own liberties by saving the Union, the Constitution, and the laws from utter and final overthrow by the destructives, not themselves to be enslaved under pretext of giving a fictitious freedom to the negro; and to restore and perpetuate the Union, and to bring back the people in revolt by renewed and sufficient guarantees of all their constitutional rights. There is no choice left to any man but to be a destructive or conservative!

MILITARY INTERFERENCE WITH ELECTIONS.

The VICE PRESIDENT. The question before the Senate is the motion of the Senator from Massachusetts to lay the bill of the Senator from Kentucky [Mr. POWELL] upon the table.

Mr. WILSON. I ask unanimous consent to withdraw the motion to lay upon the table. I made the motion in order, if possible, to avoid dividing the Senate; but I find that will not do it, and I therefore ask unanimous consent to with-

draw the motion. Let the vote be taken upon the reference.

The VICE PRESIDENT. Is there any objection to the withdrawal of the motion? The Chair hears none. That motion is withdrawn; and the question before the Senate is on referring the bill to the Committee on the Judiciary, upon which the yeas and nays have been ordered.

The yeas and nays were taken, with the following result:

YEAS—Messrs. Buckalew, Carlile, Collamer, Davis, Harding, Harris, Henderson, Hendricks, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Nesmith, Powell, Saulsbury, Sherman, Ten Eyck, Van Winkle, and Wilson—20.

NAYS—Messrs. Chandler, Clark, Conness, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Howard, Morgan, Ramsey, Sumner, and Wade—15.

RECONSTRUCTION OF THE UNION.

Mr. TEN EYCK. As there does not seem to be much business to be done just now, and probably in the course of a few minutes a Senator may come in, so that we shall have a quorum, I desire now, with the unanimous consent of the Senate, to make a motion, and submit a few remarks upon it.

The VICE PRESIDENT. The Senate is now dividing.

Mr. FOSTER. It may be done by unanimous consent. I hope the gentleman will have leave of the Senate.

The VICE PRESIDENT. The Senator from New Jersey asks the unanimous consent of the Senate at this stage of the proceedings to introduce a proposition and make remarks upon it. If there be no objection, it will be entertained. The Chair hears no objection.

Mr. TEN EYCK. Mr. President, I move that so much of the annual message of the President of the United States as relates to the subject of reconstruction in several of the States be referred to the Committee on the Judiciary. The President of the United States in his last annual message speaks as follows:

"Looking now to the present and future, and with reference to a resumption of the national authority within the States wherein that authority has been suspended, I have thought fit to issue a proclamation, a copy of which is herewith transmitted."

And again:

"The suggestion in the proclamation as to maintaining the political framework of the States, on what is called reconstruction, is made in the hope that it may do good, without danger of harm. It will save labor and avoid great confusion."

The proclamation thus referred to contains these words:

"And I do further proclaim, declare, and make known, that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican, and in no wise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or the Executive, (when the Legislature cannot be convened,) against domestic violence.'"

Bills have been already introduced upon this subject, providing provisional governments for these rebellious States; and at a former session bills were reported and partly acted on to reduce them to the territorial state. I wish to make a few remarks upon the subject.

The Constitution reads as follows:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land."

This supreme authority cannot now be questioned; for although the States, in many respects, still remain sovereign and independent, yet as regards the powers expressly delegated to the Fed-

eral Government or conferred by necessary implication, they are subordinate.

The source from which this power springs is unimpeachable, even by the fiercest stickler for the rights of States; for the State governments derive their being from the very source which has conferred this supreme authority on the General Government, namely, from the people. Did the people of the several States frame or adopt their State governments? So did the people, through their appointed agents, frame and adopt the Constitution of the United States.

It was not a league, confederation, or, as some have called it, a copartnership of States, but a fundamental constitution of government for the whole people of all the States, for the purposes therein declared, and to the extent therein designated; a sort of *imperium in imperio*, so far at least as regards all matters made subject to its power, and yet limited in its scope, so far as not to interfere with matters of internal, individual, and domestic concern reserved to the several States or to the people of the States. The instrument itself declares that "we, the people of the United States"—not we the States, nor yet we the people of the several States—"in order to form a more perfect union, do ordain and establish this Constitution for the United States of America."

As regards the States existing at the time of the adoption of the Constitution, the instrument itself declares that "the ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same." It was ratified by all the people of the original States through their conventions, and thus became to these a Government, obligatory and supreme, acting on each as individuals, directly and immediately, not simply on the States, as under the Confederation.

As regards other and future States to be admitted in the Union, it was, in the second article, declared: "New States may be admitted by the Congress into this Union." Under this provision many different communities and many teeming millions have found a mild, benignant Government, and have grown great and prosperous and happy.

Thus full provision was made for each class of States, the old States and the new, "to enter into the Union"—to enter into the Union in order that justice might be established, that domestic tranquillity might be insured, provision be made for the common defense, the general welfare promoted, and the blessings of liberty secured to the framers and their posterity, and that a more perfect union might be formed, more perfect than had before existed under the Articles of Confederation; a perpetual union, an everlasting bond of union; not temporary or evanescent, to fade away or perish from the earth; not to be broken, severed, set at naught, but to last, to last forever, to bless the coming years and all the people of the western world.

And so provision was also made "to enter in the Union," exempt from change or alteration, save and except in the quiet, peaceful way provided by amendment, in the mode and manner furnished by the instrument itself. There was no provision framed to break or terminate the bond, suggesting dissolution or an end; there was no lurking clause hinting at it, even. No backward step was contemplated, but always forward, onward to perpetuity—perfection! This was the noble purpose, thought, design. Men might die and pass away, the noble framers of the Government might sink to honored graves, but the institutions they had founded were to live, to live forever, and grow and flourish with succeeding ages. A State was born amidst the nations of the earth to live and last forever. The Constitution opened wide its portals to admit new States into the Union, but it closely barred the door against all exit from its fond embrace.

Now, what do we see? An effort to destroy this Union; a rebellion, causeless, unprovoked, and cruel; a struggle to disrupt and utterly de-

stroy it; the plea, "a right to end the partnership," so called; secession from the Union claimed to be a right, and plunder, war, and bloodshed agents to accomplish it; armed rebels in the States striving to cast aside their sworn allegiance; ordinances of secession hurried swiftly through by force or fraud, while fierce revolt has raised its wicked hand and loosed for months the horrors of a civil war. The struggle has been long and fierce; but the progress of the Union arms has steadily advanced. Districts have been wrested from insurgents. Whole States have been reclaimed. Civil officers, who broke their oaths and entered in rebellion have fled from posts made forfeit by their treason, and government in many States has found an end or fallen in abeyance.

What shall now be done? Shall we reduce these States to Territories? Shall we appoint their judges, governors, and other officers? Shall we, in common with insurgents, ignore their status in the Union, and sink their loyal people to a state of pupillage? Would that be constitutional? Go search the text for the authority. Shall we admit this heresy at last? Shall many thousand millions have been spent in vain, and many hundred thousand precious lives been sacrificed, to crush this thing accursed, and we acknowledge it a fact accomplished? Shall we, by taking such a course ourselves, do that which secret rebel conclaves and traitors in the field have wholly failed to do? What right have we to say to Tennessee, to Mississippi, or to Texas—the loyal people there—"You no longer constitute a State, but are the people of a Territory—your State governments are gone?" The loyal people of a State, although controlled by traitors, still represent the State; it is the people, not the soil, that constitute the State. Have all the people gone away and left it uninhabited? Then, indeed, the State is gone. But if there are loyal, patriotic hearts within the State still clinging to the Union, the fact must be acknowledged. All true and loyal citizens have claims to be respected. The Government is bound by law to guaranty their rights. The functions of State governments may have been suspended, and law and order for a time ignored; still the doctrine of the Constitution is, "once a State, always a State." It would be as false against our Government to say these are no longer States because their action has been thus suspended, as it would to common sense to say, because a man is hindered of his freedom he no longer is a man, or that if palsied for a length of time, his whole humanity is gone.

Although insurgents, for a time, have beaten back legitimate authority, these States are in the Union; and as the Government asserts its rule, the true and loyal people in these States, and such as may avail themselves of proffered amnesty, should have their rights secured. It is true it will not be precisely as it was before the war began. You could as well call back to life the soldiers slain in battle. Where other rights have intervened, arising from a state of war, and under laws enacted, pending the rebellion, to bring it to a close, some rights have passed away. I refer to those affected by emancipation, and the acts of Congress confiscating rebel property. For confiscation of the property of rebels is expressly granted by the Constitution; and emancipation of the slave is based upon a state of war, in which the spoiling of the foe is lawful and legitimate—it breaks his force of power and destroys his strength. Where rights have intervened under such enactments, they must be protected; where property has changed, the title must hold good. This is the doctrine of all public law.

And as regards the slaves of loyal masters in rebellious States; surely, if their goods and chattels may be taken for the public use, (their horses and their other property, their houses taken or destroyed,) making a just compensation, the Government may free their slaves, or use them in the Army, making satisfaction for the loss, and free the slave himself, by way of guerdon for his public service.

But to return. Resistance to the rightful power of the Union can no more take a State out of the Union than can resistance in a county destroy the jurisdiction of the State. The laws may be contemned; resistance may be made by force of arms; rebellion run its wicked course, and, for a time, authority cast off; but once the force subdued, "the head and front" destroyed, the laws will then resume their former sway without re-creation. In-

deed, there could be none. It is a county still, and needs the passage of no law to reestablish or create it. It only reassumes its former lawful functions.

So in the case before us. The President, with practical good sense, has, in his message and accompanying proclamation, "hit the nail upon the head," and opened up a way. There needs no new creation. Destroy the rebel arms, the counteracting forces. Drive armed insurgents from the rebel States. Let loyal men assert their former rights. The Government is theirs. Let them proceed to organize; events will shape the mode. Let them elect their officers; let them revive suspended government, and let us here, with all our powers, protect them in the movement. This will solve the question; this will meet the issue. The plan proposed by the Executive is wise and just, far-reaching, statesmanlike, and patriotic. It is a sound and good suggestion, and should be regarded. It is hard to see how any other course could even be adopted. It just suits a State where treason has been crushed. It is an easy, quiet mode, free from shock and strife, dispute and controversy; it "sets the ball in motion," reanimates suspended life, and starts the State anew upon the road to greatness.

Why should it not be so? Should not the loyal people of a State, devoted in their hearts, enjoy this privilege? Are not one tenth the former voters in the States sufficient for the purpose? Their numbers are as great as those of many of the States when taken in the Union; as great as other States now asking for admission.

Two years ago a bill was pending in the Senate creating governments for the rebellious States. In July, 1862, I made a few remarks upon the bill and its amendments. They were, in part, as follows:

"I doubt the expediency of this bill. I think it will do more harm than good, and am inclined to vote against it on its passage." * * * "In my judgment we cannot so amend this bill as to steer clear of the embarrassing difficulties that rise up in our path as we progress. In our efforts to do a thing which is to be of benefit to the country, we are stumbling into errors which will result to its disadvantage. I think the whole policy of the bill is false upon its basis. In my view, States in rebellion, as the southern States now are, are still States of this Union, as much to-day as they were when they became so by their admission in the Union, and that no act of insurrectionists or rebels can change the legal character or status of these States from that which they were entitled to or enjoyed prior to the commencement of rebellion; and that to recognize any other doctrine, acknowledges at least the power, if not the right, of secession." * * * "Under our frame of Government there can be no such thing. The Union was meant to be perpetual; and if such a thing, in fact, exists, it is because the Federal Government has not sufficient strength to force obedience to its powers.

"In my view, the people of a State constitute the State; that a State is not constituted by a mere ideal line or boundary of territory; for if the territory be devoid of men, it cannot be a State. The people constitute the State. If there be a hundred loyal Union men in one of these rebellious States, and all the rest are rebels and deserve destruction, they constitute the State, and are entitled to the blessings and immunities of their State governments. Nay, more; the Government of the Union, under the Constitution, is bound to protect them in their State governments, and to secure to them a government republican in form. This can be done; and by the course which may be now pursued, and has already been pursued, we steer clear of all these constitutional and other difficulties; all those difficulties respecting policy; all those matters that affect our feelings, sympathies, our sense of justice and of right. We may assert control over these rebellious States, as we already have begun to do, and successfully are doing in the State of Tennessee, by the appointment of a military governor, who, armed with the whole power of the General Government, as the agent of the Government in a state of war, puts down rebellion and maintains the laws, so far as they can be enforced under such a state of things."

"Sir, the remedy should be summary, speedy, and also temporary in its character. This bill provides for a provisional government in a State, against the State government. It frames and organizes an antagonistic government to the one which the true and loyal people living in these States have a right to have maintained for their protection. I cannot see my way in voting for a bill establishing a separate antagonistic government to the one established by the people of the State, and which the Government of the United States has guaranteed to maintain and perpetuate for the benefit of the people living in those States where, so far as I know and now believe, there are hundreds and doubtless thousands of Union-loving men who desire to return to their allegiance, and who will hail the day when the power of the Government shall be established over them, to protect them in their rights, to protect them from the wrongs which have been heaped on them at home, to the scandal of a Christian people, and to the scandal of the Christian world."

In States where the rebellion still holds sway, other means must be adopted, other steps must be resorted to. They are not ripe for this, as Louisiana is. There the tramp of armed men

must still be heard; there the battle still must fiercely rage; there the fight must still go on; necessity requires it; the safety of us all demands it. We cannot live thus side by side in peace, two rival, angry Powers. Could a truce take place, peace would not long continue; mutual jealousies and hates would quickly breed contentions; there could not be "two Richmonds in the field." No; rebellion must be crushed; the limits of the nation's right must be its former border; the ancient landmarks must be reestablished; authority and sway must be reasserted; and the flag of the Union wave on spots now blasted by rebellion. We cannot stop short of this. Stop short of this, and we prove traitors to our bounden duty. Stop short of this, and we do wrong to those who now are in, or have been in, the service, on land and sea; prove traitors to our country, which has done so much, borne so much, and endured so much; to the sick and wounded in the hospitals, or moving round on crutches; to the many maimed and mangled; to the honored dead; to homes of desolation; to the orphan and the widow; to the bereaved and desolate of the whole land!

Sir, I feel that I have had no hand in setting this fierce war on foot; but I, for one, will not consent that it shall ever cease until each rebel hand against the Government is brought beneath its undisputed sway.

This is being fast accomplished; events swift hurry on. Secession has been cut in two, and now is seared on all its outward borders. The Union force is moving forward, and though the current may from time to time, by temporary checks, be eddied on its surface, still the volume, sweeping on, moves eddies, ripples, everything before it. The progress of our arms, by land and sea, by river and by lake, has been successful. The victories of Vicksburg, New Orleans, and Hudson have opened up the river of the West, and Murfreesboro', Donelson, and Chattanooga have secured the valley. Antietam and Gettysburg have hurled rebellion back, and the cannon of our navies boom down along the coast. Kentucky, Mississippi, Missouri, Arkansas, Texas, Tennessee, Louisiana, West Virginia, and a part of North Carolina have been reclaimed, and loyal thousands held in abject thrall have hurried forth to meet the great restorer.

To some the work seems slow. Never did so great a work move forward with such swiftness. Never has so much been done within so short a time. Treason, for thirty years plotted and contrived, deep-rooted, wide-extended, unsuspected, unprovided for, has been driven back and forced within contracted limits, and destitution, want, and death have fallen backward with it.

There is no cause to fear. Blockade-running has been broken up. Charleston soon will fall. Rebel armies soon must dwindle, by dissolving causes, (the pardon now held out will greatly aid the thing,) and though for months there may be show of fighting, like broken clouds, when the main storm is passed the effort will be feeble, unimportant, fitful.

There can be no other end. The people of the North have so resolved it. The loyal people of the middle States are equally determined. No matter how they strive on less important topics, in this one great, absorbing thing, the safety of the Union, they one and all unite. No matter what their differences, no matter how they jar on other points, in this they all agree—an earnest, energetic conduct of the war. This is in the mouths of all, and in the hearts of all. I say of all: the sneaking, wretched few who sympathize with traitors are harmless as to power. The late elections prove this to be so. The million voters speak a voice that cannot be denied. They will produce the men to fight, and, more than that, they will advance the means to keep them in the service. They send their sons and neighbors to the field; they go themselves; they freely offer up their choicest gifts. They take the public loans; sustain the public credit; supply the nation's fisc; support its able head, who strikes the rock whence flow the streams by which the public wants are all supplied. It is the people's war; springs from devotion to the public good; the memory of the past—their fathers' deeds; their fondest future hopes; their duty to their kind; their duty to their God. They feel it to be so, and feeling, act upon it. The young go in the ranks; the aged lend their means; all give a helping hand. The rich advance

their thousands, the poor invest their pittance; the trust is universal, the spectacle sublime. The Government directs the war; men, children, widows, orphans, rich and poor, supply the ready means; their faith is firmly fixed; they do not hesitate; they venture all they have, (they now have all at stake.) They act on due reflection; they never will turn back. The day the people took the public loan, that day the end was sure.

Nor can interference from another source prevent it. No foreign aid or sympathy, no recognition as a State or nation, no calculating policy of gain, no chronic hate of institutions, no jealousy of greatness, no anxious wish of absolute exclusives, ever can prevent it. English "noble lords," the friends of ancient privilege; English merchant traders, angry with our tariffs; English manufacturers, calling slavery once our damning sin, now forging chains to get a bale of cotton—alike are doomed to grievous disappointment.

They may ignore all comity, may violate the law of nations, may furnish iron-clads and men, may aid by stealth in many ways a subtle course can always set on foot, may catch at points, and in our darkest day may seek to pick a quarrel with us; but all these steps are sure to end in utter, total failure.

The Emperor of France may plant an empire on our borders, may seek to meddle on the golden coast, may lend his dock-yards for the use of pirates, but that will not avail. His movement is a costly one already; has cost him many men and francs, and in the end will cost him many more. He will find he has enough to do to build a throne in Mexico; it seems to be no less a task to find an emperor.

We have no cause to fear. The day of fear has passed, if ever it existed. The nation now is fully used to war. Too many men have nobly served in camps, on battle-fields, in armored ships, to yield the matter now. They are sure to meet whatever comes, and meet it as they may.

But no such strife will come. There is a throbbing of sympathy abroad. Russia is our friend. Imperial Russia sends us words of comfort. She is our ancient ally. She sympathizes with our struggle. She is awake to honor and the issues of the day. Absolute herself, she liberates her serfs. She will not aid to keep the chain on limbs now struggling to be free.

Nay, more; the feeling of the mass abroad is also in our favor. It is so in Britain. It is so on the Continent. The vast, great, middle classes, the men of toil and industry, hold up their hands for us and wish us all success. The struggle is a strife of classes—a part of one great whole—involves the freedom of the masses, the cause of human progress; and yet how strange it is that some are found at home who, fleeing from despotic rule, unite in sympathy with those whose object is to keep them always down!

But one thing more is needed. The Army must be filled; filled up with earnest men. Each one who can must enter the service. Let all the ranks be filled; let volunteering and the draft go on; let three hundred regiments renew the spring campaign, and many months will not elapse before this fungus state, whose corner-stone and boast is slavery, will cease forever from the earth.

The VICE PRESIDENT. The question is on the motion of the Senator from New Jersey, to refer so much of the President's message as has been indicated by him, to the Committee on the Judiciary.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (No. 15) to provide for the printing annually of the report of the Commissioner of Internal Revenue.

HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (No. 15) to provide for the printing annually of the report of the Commissioner of Internal Revenue, was read twice by its title, and referred to the Committee on Printing.

The VICE PRESIDENT. The Secretary will call the names of the absentees upon the vote on the motion of the Senator from Kentucky, [Mr. POWELL.]

The list of absentees was called, and the result announced—yeas 20, nays 15.

The VICE PRESIDENT. The vote shows the Senate to be without a quorum.

Mr. DOOLITTLE. I move an adjournment. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 5, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of the last day's session, December 23, was read and approved.

CONTESTED-ELECTION CASES.

The SPEAKER laid before the House additional testimony in the following contested-election cases, namely:

J. H. McHenry vs. George H. Yeaman, second district of Kentucky; J. B. S. Todd vs. William Jayne, Dakota Territory; and James Lindsay vs. John G. Scott, third district of Missouri.

MESSAGES FROM THE PRESIDENT.

Several messages in writing were received from the President of the United States, by Mr. NICOLAY, his Private Secretary. Also, a message notifying the House that he had approved and signed joint resolutions of the following titles, namely:

Joint resolution (H. R. No. 14) to supply in part deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties due to volunteers; and

A joint resolution (H. R. No. 12) tendering the thanks of Congress to Captain John Rodgers, of the United States Navy, for eminent skill and zeal in the discharge of his duties.

EXCHANGE OF PRISONERS.

The SPEAKER. The first business is the call of committees for reports.

Mr. COX. I ask the unanimous consent of the House for leave to submit a resolution of no partisan character, but in reference to the exchange of prisoners. I ask that it be read.

Mr. WASHBURNE, of Illinois. I ask that the House be counted to see whether we have a quorum present.

Mr. STEVENS. I hope there will be no objection to the introduction of resolutions.

Mr. COX. I appeal to the gentleman from Illinois to withdraw his objection. He would not object if he received, as I do daily, letters from men who are suffering as prisoners of war.

Mr. WASHBURNE, of Illinois. This is the third resolution that has been introduced on this subject.

Mr. COX. Yes; and I voted for the resolution introduced by myself in the first place.

Mr. STEVENS. I ask the gentleman from Ohio to withdraw it.

Mr. COX. If the gentleman will hear the resolution read, I think he will not object to it.

Mr. WASHBURNE, of Illinois. I insist upon a count of the House.

Mr. COX. I withdraw the resolution for the present.

Mr. WASHBURNE, of Illinois. Then I withdraw my call for a count.

DEPARTMENT OF OHIO, ETC.

Mr. SMITH, by unanimous consent, introduced a bill to secure to the officers and men actually employed in the department of the Ohio, or the department of Kentucky, their pay, bounty, and pension; which was read a first and second time, and referred to the Committee on Military Affairs.

THE OLD HALL OF THE HOUSE.

Mr. MORRILL asked unanimous consent to introduce a joint resolution requesting the Committee on Public Buildings to examine and report as to the expediency of setting apart the old hall of the House of Representatives as a hall for statutory; and also as to the cost of a new flooring and bronze railing on each side of the passage-way through the hall, for the reception of such works of art.

Mr. WASHBURNE, of Illinois. I object; and the reason is that I propose to introduce a resolution to remove the seat of Government from this barren and isolated country at the earliest moment.

THREE HUNDRED DOLLARS BOUNTY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Presi-

dent of the United States, recommending that the law of Congress, approved December 23, 1863, in reference to the pay of bounties to veteran volunteers, be so amended as to allow the bounties to be paid as they now are at least until the ensuing 1st day of February; which was referred to the Committee on Military Affairs.

CLAIMS BETWEEN PERU AND UNITED STATES.

The SPEAKER, by unanimous consent, also laid before the House a copy of the report to the Secretary of State of the commissioners on the part of the United States, under the convention with Peru of the 12th of January last, on the subject of claims; which was referred to the Committee of Ways and Means.

PAYMENTS TO RAILROADS.

Mr. HOLMAN. I have sought opportunity to obtain some information from the War Department heretofore; and I ask leave now to offer the following resolution, to which I trust there will be no objection:

Resolved, That the Secretary of War be directed to inform the House whether any payments have been made to either of the following-named railroad companies, namely: the Illinois Central Railroad Company, the Burlington and Missouri Railroad Company, or the Mississippi and Missouri Railroad Company, for transporting property or troops of the United States since the 25th day of February, 1862, and if any such payments have been made, the amount paid to each company; and also the amount paid to each of said companies prior to the above date, and the basis on which said payments have been made; and that he also inform the House why payments have been made to said companies in disregard of their obligation to transport property and troops of the United States "free of toll or other charge whatsoever."

Mr. GRINNELL. I object.

INTERNAL REVENUE REPORT.

Mr. STEVENS, by unanimous consent, introduced the following resolution; which was referred to the Committee on Printing:

Resolved, That six thousand extra copies of the report of the Commissioner of Internal Revenue, and the accompanying tables, of which one thousand copies shall be for the use of the Internal Revenue office, be printed.

BOUNTIES.

Mr. CRAVENS asked leave to introduce the following resolution:

Resolved, That the Committee of Ways and Means be instructed to report a bill at the earliest possible day making appropriation to pay the \$100 bounty to non-commissioned officers, privates, and other persons, who have been discharged from the Army of the United States within two years from the date of their enlistment by reason of wounds received in battle, as authorized by the act approved the 3d of March, 1863.

Mr. STEVENS. The gentleman from Indiana will find that our appropriations cover all that matter.

Mr. CRAVENS. I was not aware of that fact. If that is so, I am satisfied, and will withdraw the resolution.

CALL OF COMMITTEES FOR REPORTS.

Mr. CHANLER asked leave to introduce a resolution.

Mr. BRANDEGEE called for the regular order of business.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports; when no reports were made.

The business next in order was the call of States for resolutions in the reversed order, beginning, where the call was last suspended, with the State of Pennsylvania.

JAY COOKE AND COMPANY.

Mr. COFFROTH submitted the following resolution:

Resolved, That the Secretary of the Treasury be requested to report to this House what have been the services of Jay Cooke & Co. to the Government in the sale of Government securities, and what has been the rate and the whole amount of compensation therefor. Also, whether said services might not have been as successfully performed by the Treasury Department itself. Also, what sums of money, if any, have been paid out of the Treasury for advertisements ordered by Jay Cooke & Co.

The SPEAKER. Under the rules, the resolution, being a call for information, will have to lie over one day if objected to.

Mr. WASHBURNE, of Illinois. Let it pass. There being no objection to the resolution, it was considered and agreed to.

THE DUTY ON COAL.

Mr. CHANLER submitted the following resolution:

Resolved, That the Committee of Ways and Means be

and are hereby instructed to report to this House a bill amending the act entitled "An act to provide internal revenue to support the Government and pay interest on the public debt," so as to reduce the duty on all mineral coals from three and a half cents to one and a half cents per ton.

Mr. HOLMAN. Is that resolution imperative?

The SPEAKER. It is.

Mr. HOLMAN. I move to amend it so as to instruct the committee to inquire into the expediency of so amending the act.

Mr. STEVENS. If that amendment is agreed to, I will not object to the resolution.

The amendment was agreed to; and the resolution as amended was adopted.

THE WASHINGTON AQUEDUCT.

Mr. FENTON offered the following resolution; which was referred to the Committee on Printing:

Resolved, That five hundred extra copies of the annual report of the chief engineer of the Washington aqueduct be printed for the use of the aqueduct office.

DUTIES ON COAL AND ENVELOPES.

Mr. NELSON, in pursuance of previous notice, introduced a bill to repeal the duties now imposed by law on the importation of coal and paper envelopes; which was read a first and second time by its title, and referred to the Committee of Ways and Means.

RAILROAD TO NEW YORK.

Mr. BRANDEGEE submitted the following resolution, upon which he demanded the previous question:

Resolved, That a select committee of nine members of this House be appointed by the Speaker, with authority to examine into the expediency of the establishment of a new route for postal and other purposes between New York and Washington, to whom shall be referred all petitions and papers on that subject, and who shall have leave to report by bill or otherwise.

The House divided on seconding the previous question; and there were—ayes 50, noes 40; no quorum voting.

Mr. BRANDEGEE. Rather than adjourn the House for want of a quorum, I will withdraw the resolution for the present.

Mr. WASHBURN, of Illinois. I hope the gentleman from Connecticut will hold on to his resolution. There is evidently no quorum here to do business.

Mr. BRANDEGEE. Very well; I will insist on it.

Mr. FARNSWORTH. I move that there be a call of the House.

Mr. STEVENS. I call for tellers on seconding the previous question. Perhaps there is a quorum here.

Mr. WASHBURN, of Illinois. I suggest that the Speaker count the House, and ascertain if there is a quorum here.

Mr. FARNSWORTH. All I desire is to ascertain whether there is a quorum in the House. If the Speaker will count the House and ascertain that fact, I will withdraw my motion for a call.

The SPEAKER. That object can be attained quite as easily by a call of the roll as by the Speaker counting the House.

Mr. FARNSWORTH. Then I insist on my motion.

The motion was agreed to.

So it was ordered that there be a call of the House.

The roll was accordingly called, and the following members failed to answer to their names:

Messrs. James C. Allen, William J. Allen, Ames, Ancona, Ashley, Bailey, Augustus C. Baldwin, Blaine, Jacob B. Blair, Bliss, Ambrose W. Clark, Clay, Thomas T. Davis, Dawes, Dawson, Dennison, Dixon, Driggs, Dumont, Bekley, Edgerton, Eldridge, English, Finck, Frank, Ganson, Garfield, Griswold, Hale, Hall, Benjamin G. Harris, Herrick, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulbard, Hutchins, Jenckes, Philip Johnson, William Johnson, Kabbelfisch, Orlando Kelllogg, Kernan, Lazarus, Le Blond, Littlejohn, Long, Lovejoy, Mallory, Marcy, McAllister, McDowell, McIndoe, McKinney, Samuel F. Miller, William H. Miller, Moorhead, Daniel Morris, James R. Morris, Amos Myers, Noble, Norton, John O'Neill, Patterson, Pendleton, Perlman, Perry, Pomeroy, Radford, Alexander H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Schebeck, Seefeldt, Scott, Sloan, Starr, Stiles, Strouse, Stuart, Thayer, Tracy, Van Valkenburgh, Wadsworth, Ward, William B. Washburn, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Benjamin Wood, and Fernando Wood.

The names of the absentees having been called over, the Speaker stated that the doors would now be closed, and the names of the absentees would be called for excuses.

Mr. WINDOM. I move to suspend all further proceedings in the call, for the reason that there is now practically no communication between this city and the North, and I think that is a sufficient excuse for the absentees. I was myself sixty hours coming from New York to this city, making about four miles an hour.

The SPEAKER. Debate is not in order.

Mr. WINDOM's motion was agreed to, and all further proceedings in the call were dispensed with.

Mr. WASHBURN, of Illinois. Is there a quorum present?

The SPEAKER. There is not; only eighty-six members have answered to their names.

Mr. DAVIS, of Maryland. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at a quarter to one o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, January 6, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States:

Gentlemen of the Senate and House of Representatives:

By a joint resolution of your honorable bodies, approved December 23, 1863, the paying of bounties to veteran volunteers, as now practiced by the War Department, is, to the extent of \$300 in each case, prohibited after the 5th of the present month. I transmit, for your consideration, a communication from the Secretary of War, accompanied by one from the Provost Marshal General to him, both relating to the subject above mentioned.

I earnestly recommend that the law be so modified as to allow bounties to be paid as they now are at least until the ensuing last day of February.

I am not without anxiety lest I appear to be importunate in thus recalling your attention to a subject upon which you have so recently acted; and nothing but a deep conviction that the public interest demands it could induce me to incur the hazard of being misunderstood on this point. The executive approval was given by me to the resolution mentioned, and it is now by a closer attention and a fuller knowledge of facts that I feel constrained to recommend a reconsideration of the subject.

January 4, 1864.

ABRAHAM LINCOLN.

The message was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a message from the President of the United States, transmitting a copy of the report to the Secretary of State of the commissioners on the part of the United States, under the convention with Peru of the 12th of January last, on the subject of claims; which was referred to the Committee on Foreign Relations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. DIXON presented a petition of mail route agents on railroads running through New England, praying for the passage of an act requiring that all letters offered to a route agent for mailing be prepaid by stamps at double rates, and authorizing route agents to carry into the offices at the end of their routes all letters reaching them for mailing which have not such double prepayment, there to be rated at double rates on the excess unpaid; which was referred to the Committee on Post Offices and Post Roads.

He also presented the petition of J. R. Fairchild, and other mail route agents, praying for an increase of compensation; which was referred to the Committee on Post Offices and Post Roads.

Mr. JOHNSON presented a memorial of the religious Society of Friends within the limits of the Baltimore Yearly Meeting, embracing Maryland, Virginia, and the adjacent parts of Pennsylvania, praying that they may be exempted from performing military duty; which was referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON. I present the petition of Mrs. Susan W. Harris, the wife of Mr. Arnold Harris, stating that she was the owner, in her own right, of four or five slaves in this District; that she made her claim before the board of commissioners appointed under the act of Congress to settle claims for slaves emancipated in the District; that her claim was disallowed on the ground of the alleged disloyalty of her husband; and she prays

that an act may be passed allowing her the sum which the commissioners would have awarded but for that fact. I move its reference to the Committee on Claims.

The motion was agreed to.

Mr. MORRILL presented the petition of R. H. Brigham, and others, citizens of Castine, Maine, praying for a uniform ambulance and hospital system throughout the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented a memorial of the religious Society of Friends in the State of New York, praying for exemption from military duty; which was referred to the Committee on Military Affairs and the Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CHANDLER, it was

Ordered, That the petition of the American Shipmasters' Association, praying that the Government of the United States furnish to their seamen hydrographic books and charts, at the cost of paper and printing, be taken from the files of the Senate, and referred to the Committee on Commerce.

On motion of Mr. HARRIS, it was

Ordered, That the petition and other papers in relation to the claim of Henry A. Brigham be taken from the files of the Senate, and referred to the Committee on Claims.

REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, reported it with amendments.

Mr. WILSON. The same committee have directed me to report a joint resolution (S. No. 9) to extend the time for paying bounties to veteran and other volunteers. I ask the unanimous consent of the Senate to have the resolution considered at this time.

Mr. SHERMAN. I prefer that it should go over until to-morrow.

Mr. WILSON. Let it be printed.

Mr. SHERMAN. I have no objection to its being printed.

The VICE PRESIDENT. Objection being made, the joint resolution cannot be considered to-day, under the rules. It will be printed, as a matter of course. The joint resolution will now receive its first reading.

The joint resolution (S. No. 9) to extend the time for paying bounties to veteran and other volunteers was read a first time by its title.

Mr. FOOT. Let it be read at length.

The Secretary read the resolution. It proposes to authorize the Secretary of War to extend, from the 5th day of January to the 5th day of February, 1864, the time of paying, in such installments as he may determine, the following bounties: to veterans who have been in the military service of the United States for nine months and have been honorably discharged, and to those veterans in service under enlistment for three or more years who may reenlist for three years or during the war in the companies or regiments to which they belong, and who may have at the time of such reenlistment less than one year to serve, \$400 each; to other persons who may voluntarily enlist in the regular or volunteer service of the United States for the term of three years or during the war, and who may be accepted for such service, \$300 each.

BILL INTRODUCED.

Mr. HARDING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 38) to authorize the settlement of the accounts of A. Bush, late public printer for the Territory of Oregon; which was read twice by its title, and referred to the Committee on Printing.

CONSTRUCTION OF CONFISCATION ACT.

Mr. HOWARD. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on the Judiciary be instructed to consider the propriety of repealing the joint resolution of July 17, 1862, relative to the construction of the confiscation act, and particularly so much of said joint resolution as purports to prohibit a forfeiture of real estate beyond the natural life of the offender.

Mr. McDOUGALL. I object to the consideration of the resolution.

The VICE PRESIDENT. Objection being made, it lies over under the rule.

PACIFIC RAILROAD COMMITTEE.

Mr. ANTHONY. I move that the Senate proceed to the election of a Committee on the Pacific Railroad—the standing committee that was ordered just before the recess.

The motion was agreed to.

The VICE PRESIDENT. Senators will prepare themselves with ballots.

Mr. ANTHONY. I ask the unanimous consent of the Senate to dispense with the rule which requires the election of standing committees to be by ballot, and that this committee be elected by nomination.

The VICE PRESIDENT. It requires the unanimous consent of the Senate to suspend the rule requiring the election to be by ballot. The Chair hears no objection, and that course will be pursued.

Mr. ANTHONY. I nominate the following Senators to compose the committee: Mr. HOWARD, chairman; Mr. COLLAMER, Mr. JOHNSON, Mr. HARLAN, Mr. TRUMBULL, Mr. SHERMAN, Mr. MORGAN, Mr. CONNESS, and Mr. BROWN.

The nominations were agreed to.

REFERENCE OF A BILL.

Mr. FOOT. Some days ago I introduced a bill (S. No. 11) granting lands to the People's Pacific Railroad Company to aid in the construction of a railroad and telegraphic line to the Pacific coast by the northern route, which has been lying on the table pending the appointment of this committee. I now move that it be taken from the table and referred to the Committee on the Pacific Railroad.

The VICE PRESIDENT. That order will be made, if there be no objection. The Chair hears none.

STEAMER NIAGARA.

Mr. MORRILL. I submit the following resolution, and ask for its present consideration:

Resolved, That the Secretary of War be directed to inform the Senate whether the steamer Niagara, chartered by the quartermaster's department in 1853, and reported by a committee of the Senate unfit for the service, has since been purchased for the Government, and if so, when, by whom, and for what price, and whether any claim is made for the original charter, and if so, what, and particularly what is the situation of the claim.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRIMES. I do not rise to oppose the adoption of the resolution. I know something about this steamship Niagara, and I think it exceedingly important that the resolution should be adopted, and that it should be adopted at once. But, sir, I rise for the purpose of calling the attention of the Committee on Finance of the Senate to what I think is a most extraordinary decision that has been made by one of the Cabinet officers of this Government, and which may have a very important bearing upon this case. I find it stated in the summary of news in the Globe, which generally is very correct as well as succinct in its statements, that

"The Attorney General has lately decided that where an allowance has been made by any Cabinet officer, and the money paid over accordingly, it is not competent for the Comptroller to disallow it in the accounts of disbursing officers, upon the supposition on his part that there is want of authority of law for the payment in question."

If it be true that such a decision has been made by the Attorney General, I suppose the reason of the rule would extend to an order to pay made by a Cabinet officer as well as to the actual payment of money; and if that is to be the rule hereafter, I see not otherwise than that the Treasury of the whole Government of the United States is in the control of the Cabinet officers of the Government.

Mr. FOSTER. Any one of them.

Mr. GRIMES. Any one of the Cabinet officers of the Government. I do not know whether this decision has been made; I find it here recorded in the Globe; and I merely rose for the purpose of calling the particular attention of the Committee on Finance to the importance of looking into it, because it is a question which may and does very intimately connect itself with the resolution that has just been submitted by the Senator from Maine.

The resolution was adopted.

MILITARY INTERFERENCE WITH ELECTIONS.

The VICE PRESIDENT. The unfinished business of yesterday is the motion to refer the bill (S. No. 37) to prevent officers of the Army

and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States, introduced by the Senator from Kentucky, [Mr. POWELL,] to the Committee on the Judiciary; and upon that question the yeas and nays were ordered.

Mr. GRIMES. Mr. President, it seemed to be the impression on the part of some gentlemen yesterday that any Senator who introduced a bill was entitled, as a matter of courtesy, to have it referred to any committee he saw fit to designate. Such has not been the rule since I have been a member of this body. There has always been an unwritten law, a common law of this body, as there is of all other bodies, which defines with a great deal of particularity the character of bills that shall be referred to each particular committee; and I very well remember, during the time the party of which the Senator from Kentucky was a member had the ascendancy in this body, that the Senate was divided several times as to the committee to which particular bills should be referred.

The distinction in regard to the reference of this bill to the Committee on Military Affairs or to the Committee on the Judiciary is this: this bill relates to the *personnel* of the military service; it relates to these men as officers of the military service; it does not relate to them in their character as private citizens. If it did, it ought to go to the Committee on the Judiciary. The Judiciary Committee has referred to it every bill which defines a crime that can be committed by any citizen outside of the particular profession to which he is recognized as belonging. But if we want to pass a bill of pains and penalties in regard to the military or naval service, we do not think of referring it to the Judiciary Committee to define the character of those penalties. If we want to establish new rules and articles of war, we do not think of referring it to the Judiciary Committee, but to the Military Committee.

Now, what is the character of the bill which is proposed by the Senator from Kentucky? It is to prohibit, as he says, military officers, not as individuals, but in their character as military officers, from interfering with or mingling in elections in the States. I have this remark to make in regard to that, which it seems to me is conclusive: if these men interfere with the elections as private individuals, they are amenable to the laws of the States where they perpetrate the offense; but if they interfere with them as military men, they should be amenable as military men before a military tribunal. They may act in obedience to the mandate of a superior military authority. That superior military authority may not be recognized by the judicial tribunal before which the Senator's bill may send them. I cannot conceive of a wider departure from the rules that have hitherto been enforced in regard to the reference of bills in the Senate than this would be, if this bill should be taken from the Committee on Military Affairs and sent to the Committee on the Judiciary. It is a matter that relates solely to the officers of the Army as officers of the Army, and not as individuals—relating to the *personnel* of the service. If it related to the general affairs of the country, I admit it should properly be sent to the Judiciary Committee.

Mr. POWELL. Mr. President, it is manifest to my mind that this bill should go to the Judiciary Committee. The object of the bill is to protect the purity and the freedom of the elective franchise. It prescribes punishments for certain persons engaged in the public service who shall in any way interfere with the freedom of election. The Senator from Iowa says that those persons ought to be tried before military tribunals. While I had this bill under consideration, I looked well to that point, and, on due reflection, I was clearly of opinion that in order to effect the object desired, we should try these persons for this infraction of the rights of the voter before the civil tribunals of the country.

It strikes me that all bills the object of which is to prescribe, define, or provide punishment for crime should go to the Committee on the Judiciary. This bill, if it shall become a law, will not punish these persons by courts-martial, but will subject them to indictment and punishment in the civil courts, where, in my judgment, the jurisdiction should be vested. The evil sought to be remedied by this bill is one of startling import. We

know, sir, that elections have been carried in States of this Union at the point of the bayonet against the will of a majority of qualified voters of States and of districts, and I have been amazed to find that we have no law upon our statute-book punishing a soldier for interfering in elections. Under the laws of Great Britain, the harshest penalties are prescribed against persons for such offenses, and they are punished in the civil courts of that kingdom. If I am not mistaken, bribery and all such interference with elections was by the common law a crime punishable by fine and imprisonment, after indictment and conviction in the courts of law. The penal statutes of that country prescribe heavy penalties against those who interfere in elections. In order that the Senate may see the character of the bill before the vote is taken, I ask that it be read.

The VICE PRESIDENT. If there be no objection, the bill will be read. The Chair hears no objection.

The Secretary read the bill, as follows:

A bill to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men within one mile of the place where any general or special election is held in any State of the United States of America. And that it shall not be lawful for any officer of the Army or Navy of the United States to prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State of the United States of America, or in any manner to interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State of the United States. Any officer of the Army or Navy of the United States, or other person engaged in the civil, military, or naval service of the United States, who violates this section of this act, shall, for every such offense, be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction thereof shall pay a fine of not less than \$300, and not exceeding \$30,000, and suffer imprisonment in the penitentiary not less than two years, nor more than twenty years, at the discretion of the court trying the same; and any person convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit, or trust under the Government of the United States: *Provided*, That nothing herein contained shall be so construed as to prevent any officer, soldier, sailor, or marine from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified, according to the laws of the State in which he shall offer to vote.

Sec. 2. And be it further enacted, That any officer or person in the military or naval service of the United States who shall order or advise, or who shall directly or indirectly, by force, threat, menace, intimidation, or otherwise, prevent or attempt to prevent any qualified voter of any State of the United States of America from freely exercising the right of suffrage at any general or special election in any State of the United States, or who shall in like manner compel, or attempt to compel, any officer of an election in any such State to receive a vote from a person not legally qualified to vote, or who shall impose or attempt to impose any rules or regulations for conducting such election different from those prescribed by law, or interfere in any manner with any officer of said election in the discharge of his duties, shall for every such offense be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction thereof shall pay a fine of not exceeding \$20,000, and suffer imprisonment in the penitentiary not exceeding five years, at the discretion of the court trying the same, and any person convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit, or trust under the Government of the United States.

Mr. POWELL. Mr. President, it is apparent from the reading of this bill that the object is to punish in the civil courts certain offenses which may be committed against the freedom of election. It has nothing to do with courts-martial. I think it must be evident to all that the Judiciary Committee is the proper committee to which the bill should go.

Mr. GRIMES. Mr. President, let me illustrate to the Senator from Kentucky what his bill proposes to do. It declares that it shall be a penal offense against the laws of the United States for any troops to be kept within one mile of any voting place. An officer in command of a regiment, a colonel, a major, or a captain, is commanded by his superior officer to occupy a post in the city of Baltimore. The Senator's bill would render that captain, or major, or colonel who obeyed the command of his superior officer amenable to the law, if this bill should be enacted into a law, and liable to be incarcerated in the penitentiary and forever disqualified from holding any office of honor or profit, civil or military.

Mr. POWELL. It is true that is the penalty prescribed; but that is by no means unusual in free Governments. If the Senator will look to a statute passed during the reign of George II, he will find that all soldiers quartered in any city, borough, or town are to be removed from their camps or barracks, at every election of a member of Parliament, two miles from the place of voting. That was the law of our English ancestors. But, sir, if a superior officer should give the order referred to, in violation of the law, if this bill should become a law, that superior officer would be subject to indictment and punishment by fine and imprisonment in the penitentiary, and be ever afterwards ineligible to hold an office of honor or profit under this Government. It was made so intentionally. It would not be the officer who executed the command alone, but the officer who gave the command, who would be punished under this bill, and it is proper that he should be punished. So far, then, as the Senator's remark is concerned, it seems to me to have no weight whatever. Yes, sir, if the General-in-Chief of the Army were to give such an order, if this bill be passed, that General-in-Chief would be punished by fine and imprisonment in the penitentiary, and he would richly deserve to be so punished. The object of the bill is to have freedom of election, not only in theory but in fact. I can tell the Senator that unless we have freedom of election we have not free Government. We must have free speech, a free press, and freedom of elections, or we shall not maintain the liberties of the people.

Mr. DAVIS. Mr. President, I do not consider that the merits of the bill are now open for debate. I concede the principle laid down by the Senator from Iowa in his first remarks, that in matters of general and public interest it does not come within the scope of the courtesy of the Senate to refer a subject or a bill of such a character merely according to the wishes of the person who introduces it. According to my observation of parliamentary usage and courtesy, where there is a particular and a peculiar subject that requires a special investigation, it is usual and courteous to refer such a subject to its friends, and not to a step-mother, to use a phrase that is sometimes heard in relation to parliamentary proceedings. I agree, then, that the position taken by the Senator from Iowa is correct, that in regard to a matter of this character, or any other matter of general, public, national interest, no rule of courtesy requires that such a measure shall be referred merely according to the wishes of the Senator who may introduce it.

The question here, then, is one of propriety as to which committee this bill shall be referred to, the Committee on Military Affairs or the Committee on the Judiciary. I concede that if the bill related to the ordinary military duties of officers or soldiers in the Army, the appropriate reference would be to the Committee on Military Affairs; but this is a bill which introduces topics of a totally different character. The question here is whether certain acts when performed by military men, officers or privates, shall be a civil offense or not. What does the bill introduced by my colleague propose to do? Not to regulate the duties of the soldiery, but to prevent a perversion of the duties of the soldiery, to prevent the action and interference of the soldiery from being brought into conflict with the freedom of suffrage and with the purity and independence of the Government. That, sir, is the object of the bill. It proposes to declare that when there is a certain line of conduct adopted by the soldiery in relation to freedom of elections, those acts shall constitute a penal civil offense, not a military offense, not an offense to be tried by martial law, if there is such a law, and there is no such law in this country or in England. But the object of the bill is to declare that certain acts on the part of the military of the country, if done, shall constitute a civil offense to be tried in civil courts, according to a law of Congress that is now proposed to be passed.

Sir, there could not be a more appropriate subject for reference to the Judiciary Committee. What has the Judiciary Committee cognizance of properly? It is the general subject of the laws of Congress. Now, where there is a bill or a proposition to create a new penal offense, and to impose grievous punishment upon that offense, what so proper, what so reasonable, as that such a bill should be referred to the Judiciary Com-

mittee, to receive its consideration and its mature investigation? I am at a loss to conceive how there can be any objection to the reference of this bill to the Judiciary Committee on account of its inappropriateness. It would certainly be inappropriate to refer it to the Committee on Military Affairs, I think, although it does relate to the military. If a bill were introduced in reference to the sailors, the marines, or the civil officers of the United States Government in any of its departments, and there was a proposition to make any conduct on their part a civil offense, and to punish it by law in civil courts, it ought to be referred to the Committee on the Judiciary, whether it related to one class of public employes or another, or to private citizens.

The VICE PRESIDENT. The question is on the motion to refer the bill to the Committee on the Judiciary.

The Secretary proceeded to call the roll.

Mr. HENDRICKS, (when Mr. HENDERSON's name was called.) I am desired by the Senator from Missouri to say that he is detained from the Senate Chamber by sickness.

Mr. LANE, of Indiana, (when his name was called.) Mr. President, I shall vote to refer this bill to the Committee on the Judiciary, believing that the proper committee—

The VICE PRESIDENT. No debate is now in order.

Mr. LANE, of Indiana. Then I shall simply vote yea.

The calling of the roll being concluded, the result was announced—yeas 16, nays 21; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Davis, Harding, Hendricks, Hicks, Johnson, Lane of Indiana, Nesmith, Powell, Saulsbury, Sherman, Sprague, Van Winkle, and Willey—16.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Howard, Howe, Lane of Kansas, Morrill, Ramsey, Sumner, Ten Eyck, Wade, and Wilson—21.

The VICE PRESIDENT. The motion of the Senator from Kentucky is disagreed to; and the question now recurs on the motion of the Senator from Iowa, to refer the bill to the Committee on Military Affairs and the Militia.

Mr. LANE, of Indiana. I will state now what I intended to say before. I voted for the reference of this bill to the Judiciary Committee, believing that the subject-matter is one which belongs properly to that committee, and not for the reasons assigned by the Senator from Kentucky, for I have seen nothing to induce me to believe that there has been any improper interference with elections upon the part of the military. I think they have guaranteed the full and free right of suffrage to every loyal man who had a right to vote, and have only prevented the voting of traitors and rebel sympathizers, whose votes could not advance the public interest in any State or district.

Mr. SAULSBURY. Mr. President, as the Senator from Indiana has taken occasion to express his opinions as to the propriety of the interference of the military with the freedom of elections in the States—

Mr. LANE, of Indiana. The Senator will pardon me; I do not admit any such thing.

Mr. SAULSBURY. Well, then, since the Senator has chosen to deny that there has been any impropriety on the part of the military in their interference with the freedom of elections in the States, I cannot sit quietly as a Senator from what was once a State of the American Union, and the first to adopt the Constitution under which we live, without saying to that Senator that I have seen the armed soldiery (acting under the command, I suppose, of "the powers that be") appear at the polls at which I myself had a right, according to the constitution and laws of my State, to vote, and there, by positive interference, drive men from the polls, take some men who had done naught in violation of the law of the land either Federal or State, and incarcerate them in the county prison; and no longer ago, sir, than last November, in the county in which I live, as soon as the voters arrived on the ground, before they had offered to vote, before they had approached the polls, the soldiery seized them, fastened them up, and kept them confined.

Sir, a majority of the legal voters of the State of Delaware were, during the last special election in our State—an election called to fill a vacancy

which had occurred in the other branch of Congress—disfranchised, not allowed to cast their votes in that State; and why? Because a majority of the legal voters of that State did not approve of the action of this Administration. But, says the Senator, nobody has been interfered with by the military power of this country in reference to his right to vote, who was not either a rebel or a rebel sympathizer. Sir, I mean no disrespect to that Senator, for I know the kindness of his heart, but such expressions have become so common that they can have no weight, even when uttered by a Senator.

Take my own State. From the commencement of these unfortunate troubles, in which brother is found arrayed against brother, has there been any attempt in that State, by any political organization, or even by a mob, even by two persons united together, to violate any law of this Government, to give any aid or encouragement, by act or deed, to those who are in revolt against the Government? I defy that Senator, or any other Senator on this floor, to show where any attempt has been made by any political organization in that State to tear down the fabric of this once proud and glorious Union. No such effort has been made; and yet, sir, the party in power finding, before the last special election in that State, that they could not send a Representative to the other branch of Congress, a fellow, formerly living in a neighboring State to that in which the Senator resides, clothed with a little military brief authority, publishes an order that no citizen of that State should be allowed to vote unless he would take such an oath as his almightiness should prescribe. The brave hero of the blood-stained battlefield of Vienna, the hero of military operations in a railroad car, makes his will the supreme law of a sovereign State, and says to the majority of the legal voters, "You shall not vote at the election in your State for a Representative in Congress, though you have every qualification prescribed by the Constitution and laws, unless you become a humble servant of the military hero of the blood-stained field of Vienna." And, sir, to execute his order, what does he do? He sends his military forces to every election poll in the State; he has them stationed there, his order posted up, his men at the polls advertised beforehand what they must do, and a sovereign State becomes a plaything in the hands of an epauletted officer who has never illustrated his devotion to the good of his country by any great heroic achievements, but who, "clothed with a little brief authority," has "played such fantastic tricks before high Heaven" as, if they have not "made angels weep," have made good citizens mourn. And at the previous election in my State, I, sir, had to vote under crossed bayonets; soldiers were stationed at the polls, and at some of the voting places at that election peaceable citizens were assaulted by your soldiery. At one of the voting places the judges of the election, who declined to take the vote of an unnaturalized foreigner, who, according to the constitution and laws of our State, had not a right to vote, were threatened that if they did not take that vote the ballot-box should be broken; and the vote was taken. This whole subject has been investigated by a committee of the Legislature of our State, and if the gentleman will take the trouble to look through the pages of their report, he will find innumerable instances of such unlawful acts.

The Senator says there has been no interference except where there have been rebels or rebel sympathizers. Mr. President, is it not somewhat singular, somewhat strange, that the entire members of one political party in one of the States of this Union should all be rebels or rebel sympathizers, no patriot to be found in their midst, no person who loves his country, or cherishes the institutions of that country, to be found within that political organization; and that all the patriots, all the gentlemen who cherish a fondness for the institutions of their fathers, are found to be members of the opposite political organization? But the Senator and others may say, "You could have had the privilege of voting if you had gone forward and taken the oath prescribed by this military officer." Not so, sir. If every member of the political organization to which I belong, and to which I am proud to belong, had gone and offered to deposit his vote, and professed himself willing to take that prescribed oath, still, the de-

sign, the purpose, for which that military was sent to our polls being to carry the election by this Administration, they would not have allowed—I am justified in saying that they would not have allowed a sufficient number of the members of that party to vote to defeat their cherished object. Why do I say so? I say so, sir, because it had a practical test at the last election. I refer now to a fact capable of the clearest proof, that in one of the hundreds in the county in which I live, and at one of the voting places, the opposition, not knowing that the members of the Democratic party did not intend to vote, but supposing that they would offer their votes, as soon as they arrived on the ground had numbers of them arrested.

I am proud to say, sir, that the majority of the legal voters of my State, not choosing to have any conflict with the national authorities, choosing rather to be disfranchised than to have their soil stained with blood, or to give the pretext to this Administration to say that they were not peaceable, law-abiding citizens, refrained from voting, and throughout the whole State there were but twelve or fourteen votes cast for the Democratic candidate. But suppose, sir, they could have had a right to vote, suppose they had been allowed to vote by taking the oath prescribed, what right has any military officer in a State not in revolt, in a State where there has been no attempt at revolution, in a State where no political organization has ever avowed any hostility to the Union, to step in and say, "You, you, the proud citizen of a State and of the United States shall hold from me your right of voting for a member to represent you in Congress, or (as at the election before) for members to represent you in your own State Legislature; you shall have a right to vote, if you do my bidding and swear to what I shall dictate to you?"

Sir, I did not vote at the last election in my State, and I would never vote again if I had to vote either as the military, or as an Administration, or as any man might dictate. When the exercise of the right of suffrage ceases to be free, I do not wish to go through the mockery of attempting to exercise it.

But, sir, I will give the Senator from Indiana another proof of interference. About a week before the election recently held in Maryland, I passed through two of the lower counties of the first congressional district of that State, and was in the town where resides the Honorable Mr. Crisfield, who during the last Congress represented his district in the House of Representatives, and who this last fall was a candidate for reelection. I believe that he was the regular nominee of what was called the Union party; but another candidate—and I shall say nothing against that gentleman, certainly, for I have no unkind feelings toward him—was brought out in opposition, whose views it was supposed accorded more with those of the Administration, although Mr. Crisfield, when representing his district in Congress, was universally conceded to be a perfectly loyal and good Union man. But, sir, on the day of the election in his district, the military were placed, I believe, at every poll in those counties, and gentlemen were denied the privilege of voting, even Mr. Crisfield himself, unless he would take an oath prescribed by the military authorities, because it was more desirable to elect another gentleman in his place. The Senator from Indiana may say that this is no interference by the military; but if he will take up the papers published at the time and read the evidence disclosed in that case, he will find that as the citizen went to vote for Mr. Crisfield in that district, even when he offered to take the oath, that was not sufficient without his being questioned by a military officer who stood at the polls, to know whether his political views and opinions accorded with those of that officer, acting, I suppose, according to instructions which he had received. If that be not interference, if that be not unjust interference, I know not what would be. Interference, I presume, is not confined to bodily seizing hold of a man and dragging him from the polls. Any act of intimidation, any restraint placed on the free exercise of the right of suffrage, is an interference. Why, sir, yesterday, while I was listening to the honorable Senator from New Jersey, [Mr. TEN EYCK,] in his opening remarks, in which I understood him to dissent from some views expressed by the President in his proclamation or in his message, I began

to feel a little serious as to what would be his condition, for I saw, directly after that proclamation and that message appeared, that some of the Administration papers—and one in this town—made conformity to the views of that message a test of loyalty.

Mr. TEN EYCK. Mr. President, I ask the indulgence of the Senator for a moment, he having made reference to what occurred yesterday; and I do it because the matter is personal to myself.

I see in a New York paper, the Evening Post, a reference to my few remarks, as follows:

"Mr. TEN EYCK moved that so much of President Lincoln's message as refers to his plan for reconstruction be referred to the Judiciary Committee. Mr. TEN EYCK then addressed the Senate at length in opposition to Mr. Lincoln's plan."

A reference to the Globe will show what I did say. After referring to the constitutional question, and submitting remarks upon that subject, I added:

"The President, with practical-good sense, has, in his message and accompanying proclamation, 'hit the nail upon the head,' and opened up a way. There needs no new creation. Destroy the rebel arms, the contracting forces. Drive armed insurgents from the rebel States. Let loyal men assert their former rights. The Government is theirs. Let them proceed to organize; let them revive suspended government, and let us here, with all our powers, protect them in the movement. This will solve the question; this will meet the issue. The plan proposed by the Executive is wise and just, far-reaching, statesmanlike, and patriotic. It is a sound and good suggestion, and should be regarded. It is hard to see how any other course could even be adopted. It just suits a State where treason has been crushed. It is an easy, quiet mode, free from shock and strife, dispute and controversy; it 'sets the ball in motion,' reanimates suspended life, and starts the State anew upon the road to greatness."

Yet, sir, the reporters in the gallery have stated what is directly the reverse as having fallen from me. I do not expect to have the few remarks I submit here reported at length; but I have a right to expect that I shall not be flatly misrepresented. I may have been unfortunate in not making myself understood; but if I understood myself or knew my motive, it was to speak in support of the Executive and the Administration, and not to oppose it or array myself against it.

Mr. SAULSBURY. I hope the gentleman will take it kindly when I say that I do not suppose there is any danger of his being removed from the orthodox political church, orthodoxy being determined, however, on presidential views.

But, sir, I will not extend these remarks in reference to military interference. Perhaps I have already extended them too long. I should not have said a word had it not been for the remark of the Senator from Indiana, that he knew of no instance where this had been done, or that, where there had been any interference, it was only to prevent traitors and sympathizers with treason from voting.

In conclusion, I will suggest in all kindness that in discussing questions of this sort, it is more kind, to say the least of it, to admit that there is room for honest difference of opinion between members of the different political organizations, than to claim for one the possession of all the spirit of patriotism, and all the love of country, and to attribute to the members of all other political organizations contrary feelings and motives.

Mr. LANE, of Indiana. Mr. President, the very few remarks I made seem to have had a very unfortunate effect. This is a question simply of reference, whether this bill shall now be referred to the Committee on Military Affairs, the Senate having decided not to refer it to the Committee on the Judiciary. My vote being given in favor of that proposition, I stated simply, in one sentence, the reason why I voted for that reference, and why I found myself differing from friends and Senators, for whose opinions I have the utmost respect, believing that the question properly belonged to the Committee on the Judiciary.

I shall not be drawn into any discussion on the merits of this bill until a report shall have been made, and until the subject is properly before the Senate. I made no asseveration on this subject—none whatever—except this, that I had seen no evidence convincing me of any improper interference with elections on the part of the military. I am not so familiar with the scenes which transpired either in the State of Delaware or Maryland, at their recent elections, as the Senator

doubtless is, and of course raise no question with him on that subject. I only remarked that I had seen no evidence to satisfy me that there had been any improper interference; nor do I believe that the order of General Schenck, so much decried, was such an improper interference with elections as characterized by the Senator from Delaware.

The Senator from Delaware was somewhat mistaken in geography, if not in his recollection of this interference, for at no time did General Schenck reside in my State.

Mr. SAULSBURY. I said a State near the State represented by the Senator.

Mr. LANE, of Indiana. That is true; a State of which I and my whole State are justly proud—the great Commonwealth of Ohio.

The order issued by General Schenck, as I understand it, was just this: in voting in the State of Delaware, the voter was required to swear that he had not given aid and comfort to the enemy during the rebellion, and, perhaps, that he would not give such aid and comfort; I am not sure in reference to that. Will the honorable Senator inform me if that was substantially the character of the order?

Mr. SAULSBURY. I have a copy of the order at my room, but have not got it here. It was a lengthy oath, and I cannot remember all that was in it. The Senator will observe that the point of my objection is not so much to what was in the oath, as the attempt by military interference to undertake to prescribe the qualifications of voters.

Mr. LANE, of Indiana. I understand, then, the true objection is not to the substance of the oath, but that any such test oath was required at all. Now, I will ask the Senator from Delaware this question: suppose a citizen of Delaware, or Maryland, had gone into the service of the rebellion, had fought for one or two years in the ranks of the rebels, and had returned to Delaware, and, under their constitution, was a legal voter, was there any power, except this order, to exclude his vote?

Mr. SAULSBURY. I will answer the Senator with pleasure. He would not be a legal voter under the constitution of the State of Delaware, because, if he had gone into the territories of any Power, either real or assumed, independent of the Government to which the United States belonged, he would have lost his domicile, and would not have been a legal voter under our constitution and laws.

Mr. LANE, of Indiana. If I understand the question of residence, as decided by the Supreme Court of the United States and by all the local courts having jurisdiction and cognizance of that question, they decided this: that a mere temporary absence, with no intention to change the residence, never does change the residence or the domicile; and I suppose that under that decision a service of eighteen months or two years in the rebel army would not change the residence of a citizen of Delaware.

Mr. SAULSBURY. The Senator is mistaken. Even with a floating intention of returning to the State, he still is not, under our laws, entitled to vote. But the point I make is this: the party going into rebellion goes there claiming it to be a distinct and independent country. He leaves his State and joins what he says is a different government from that to which he belongs under our law. Were I sitting as the judge of the election I would not take his vote with my interpretation of the law of the State.

Mr. LANE, of Indiana. Then, with that peculiar provision of the constitution of Delaware, with which I was not familiar and to the construction of which I do not assent, I will ask the gentleman if the same provision applies to the States of Kentucky and Maryland? I am somewhat familiar with the constitution of Kentucky, and I think no such test as that is applied to their voters, but the simple question is one of residence; and that is a question of intention, and intention alone. No temporary absence, however prolonged, will ever destroy the residence of a citizen, either in Maryland or Kentucky, if I understand their constitutions aright. If there is no provision under the laws of Maryland or Kentucky on the subject—for I leave Delaware out of the question with that construction of her constitution—I ask if there is any means by which a rebel soldier, having served in the rebel army, could

be denied his vote at an election in either of those States?

Mr. POWELL. If the Senator from Indiana will allow me, I will speak for Kentucky. While I am up I will make a single remark, with the permission of the Senator, not intending to discuss this bill at present. So far as the constitutional question put by the Senator is concerned, there is no provision in the constitution of Kentucky by which a man will lose his residence for any temporary absence whatever. Our constitution, which is the fundamental law, prescribes the qualifications of a voter in all cases. If he has lived in the State of Kentucky two years, or in the county one year, and sixty days in the election precinct, he is entitled to vote there. That is the provision of the constitution of Kentucky on the subject. He must claim and prove that to be his home, and then he can vote.

But I will inform my friend from Indiana that at the session before the last, at all events since the war broke out, in 1861, I think, the Legislature of Kentucky passed a law by which they authorized the judges of the election, on a voter being challenged by anybody, to administer an oath to him that he had not borne arms against the Government of the United States and had not given aid and comfort to the rebellion. He had to swear that he had not done either of these things before he was qualified to vote. That is the law as it stands to-day. I give it substantially. I do not pretend to quote the words.

Mr. DAVIS. With the permission of my colleague I will add another provision, which he has forgotten, to that law. The law makes the joining of the rebel army or of the rebel Government a forfeiture of the right of suffrage.

Mr. POWELL. That is correct. Mr. President, it is not my purpose to enter into the merits of this bill. I feel deeply indebted to my friend from Indiana for the courtesy that he has extended to me in voting to give it the reference I desired. There is no Senator on this floor for whom I have a higher personal regard. He is never wanting in courtesy and civility toward a Senator, no matter on which side of the Chamber he may sit. But on this occasion he was governed by another reason: that the subject-matter of this bill was of such a nature that the Judiciary Committee was the proper one to which it should be referred. However, I have been outvoted in that matter, and do not care very much about it. Still, with great deference to my brother Senators, I must say, I think their decision wrong. I know it is irrevocable, and that I have to submit to it, and I am going to do it without any growling about it.

But I thought my friend from Indiana, in the remarks he made, tried to throw the wet blanket on my bill before it came up for consideration. He says he thinks the soldiers have not interfered in elections. That he thinks so I have no doubt; but I know that he is mistaken. It strikes me that wise men, whether the thing proposed to be prohibited by a law has ever been done or not, would act with circumspection, with prudence, with caution, and with eminent wisdom in passing penal laws to prevent offenses being committed, and to punish persons who commit offenses. I suppose no State in this Union, no civilized Government on the face of the earth, when they framed their penal codes had citizens in their eye who had committed the offenses proposed to be punished. Whether there are any laws on the statute-book on this subject or not is a question that we should look to. If we find there are none, then, as wise lawgivers, the question is, whether we should or should not make such a law. The naked fact that we have had no soldier in the Army of the United States heretofore who has ever interfered in elections is no reason why this law should not be passed. If that practice was common, and they had so interfered, the importance of passing the law would be eminent and immediate. But, sir, a wise people, particularly a people like ours, who are the sovereigns, and where that sovereignty rests upon the ballot-box, should provide against all interference with the freedom of election by officers of the Government; and it is eminently wise that we should pass every law to protect the freedom of suffrage.

But, sir, without regard to the fact whether soldiers interfere in elections or not, we should pass some law like this. I confess I was amazed, when I looked into our statutes, to find no law of

Congress on the subject. We have laws there punishing soldiers of the Army of the United States with death for pillaging and plundering, and almost a hundred other things, and prescribing milder punishments for milder offenses; but I could find none on the subject of interfering with elections or the elective franchise. I thought that perhaps the statute-books had been so badly indexed that I was unable to find it, and I asked a celebrated military man if there was such a law. He told me there was none; and hence I have deemed it my duty to introduce such a bill here.

But I can state to my friend from Indiana that if he thinks there has been no military interference with the freedom of elections he is greatly mistaken. I have seen an officer of the gentleman's own State, with the rank of colonel—his name is John W. Foster; for when I assault an individual or censure his conduct I shall give his name—I saw him in the county of Henderson, where I live, arrest two citizens for exercising the right of suffrage, and put them in prison; and he kept them there until the next day, and then they were turned out without any charge being made against them, so far as I was advised. I saw some four or five other persons arrested by this same individual, and carried to headquarters, and there interrogated and allowed to go free—all for the purpose of intimidation.

I will tell my worthy friend that officers of that sixty-fifth regiment of Indiana located at that time in other precincts of that county went and took their pens and struck from the poll-book every Democratic candidate. They would allow no man to cast his vote unless he voted for the other ticket. That ticket of the Democratic party was headed by Mr. Wickliffe, my honorable colleague during the last Congress in the other end of the Capitol, and I never heard anybody accuse him of disunionism.

I will tell the Senator further—and these facts, at the proper time, I will have proved, if necessary, in the Senate, for in a contested election going on in that district the matter has been proved and is now being printed—that in one voting place in that district they sent a chaplain to supervise the election; and he, with his own hand, scratched out the names of certain candidates, and then stood by and himself administered the oath to voters prescribed by the proclamation of the military commander.

These things occurred in the town and county in which I reside. I will tell the worthy Senator, further, that I have in my possession proclamations defining the qualifications of voters, and prescribing oaths to be taken by voters, in the State of Kentucky, issued by military commanders, in conflict with the qualifications and oaths prescribed by the constitution and laws of Kentucky. These interferences should not have taken place; but, as I have before said, even if no interference ever had taken place, I should still hold this to be a wise law. I do not intend to stake the passage of my bill on what has been done. I know it could have no retroactive effect to punish those persons who have violated the law; but I want it held up in *terrorem* and to punish its violators in all future time. I want the freedom of the press, the freedom of speech, and the freedom of suffrage protected in the country, and, if I could, I would visit with the harshest punishments any officer of this Government who undertook, in any way, to interfere with the freedom of suffrage in any State of this Union. The bill expressly says that a qualified voter must be interfered with to make a person amenable to it. If a person is a rebel, under the laws of Kentucky he is not a qualified voter. I do not desire those who are not qualified to vote at all; neither do I wish those who are entitled to vote to be deprived of that privilege. I believe I shall have the concurrence of my friend from Indiana for the passage of the bill whenever it comes up; for the proof that I have, and will adduce to him, will be such as to cause him to banish from his mind any idea he may have that no interference has taken place.

Mr. LANE, of Indiana. The remarks of my friend from Kentucky were somewhat prolonged; so much so, that I have almost forgotten the precise question to which I was speaking.

Mr. POWELL. If my friend will allow me, I only intended them as an answer to his remarks.

Mr. LANE, of Indiana. The question was simply in reference to the constitutional provis-

ion as to voters in the State of Kentucky. That, if I understand my distinguished friend, was precisely as I have stated it. In addition to that the Legislature of Kentucky have passed a law disqualifying rebels and rebel sympathizers from voting.

Mr. POWELL. "Aiders and abettors."

Mr. LANE, of Indiana. "Aiders and abettors" from voting, and disfranchising them from voting forever. In addition, then, to the constitutional provision the Legislature of Kentucky have done precisely what General Schenck undertook to do by his orders; and I feel that my argument in favor of the order is very much strengthened by showing that the Legislature of Kentucky, not relying upon their constitutional provision, found it necessary to go outside of that and pass an additional law in words and terms precisely equivalent to General Schenck's order; and a very wise legislation it seems to me it was, too.

Mr. POWELL. With the permission of the Senator I will remark that I did not intend to say a word about General Schenck, and have not done it. Let me say, further, that the Legislature of Kentucky certainly had the power to place any qualification not prohibited by the constitution of the State upon the voter. Whether that law of the Legislature of Kentucky is constitutional or not—and I have great doubts on that point; I incline to the opinion that it is not constitutional—certainly General Schenck has no power to prescribe the qualification of a voter in any part of this Union. If General Schenck had been a member of the Legislature of Ohio, his own State, he and his brother members, if not in violation of the constitution of Ohio, could have done it in that State, but he could not do it as a general commanding a department. Has General Schenck a right to go to the proud and noble State of Indiana and prescribe oaths and tests and qualifications to the voters there? If he could not prescribe the qualification of voters in Indiana, he could not in Maryland. That is the point.

Mr. LANE, of Indiana. I have understood, as a lawyer, that the qualification of voters was established by the constitution of a State, not by the Legislature of a State at all. But we will not argue that question.

Mr. POWELL. That will depend upon the action of the constitutional convention.

Mr. DAVIS. Will the Senator permit me to say a word?

Mr. LANE, of Indiana. Certainly.

Mr. DAVIS. I suppose the State of Indiana, and every other State in the Union, has the right to declare the forfeiture of the right of suffrage upon the commission of crime. I presume that the constitution of the enlightened State of Indiana authorizes that scope of legislative action; ours does; and it is that provision and that power in our constitution which give to our Legislature the right to define crime; and the Legislature having declared that adhesion to the rebel government or joining the rebel arms is a crime which produces the forfeiture of the right of suffrage, that declaration deprives them of it, and authorizes, of course, the judges of elections who exercise quasi judicial functions, to propound the question.

Mr. LANE, of Indiana. I am not to be drawn into a discussion of the constitutionality of the Kentucky law. I think it a very wise provision, and probably very correct; but when we proposed lately, under the same provision in the Constitution of the United States, to make a test disqualifying disloyal men from becoming members of this body, I heard the power doubted on the floor of the Senate. But I do not rise now to address myself to that subject.

I understood my distinguished friend from Delaware to speak of a certain order issued by a military commander. He did not name any one; but I suppose we all know he alluded to General Schenck, for he was the military commander who issued the order; and inasmuch as the speech of the Senator from Delaware was drawn out by a mere casual remark of mine, and the conduct of General Schenck has been brought into controversy before the Senate, I think it perhaps necessary to say one word in reference to that order, and to the disparaging remark which has been made in reference to General Schenck, "the hero of the bloody battle of Vienna."

Sir, what was the history of that "bloody battle of Vienna?" General Schenck took a portion

of his force out to the front, and was waylaid by the rebels, and attacked at Vienna, and some ten or fifteen of his men were killed, and perhaps twenty-five wounded. It was an unfortunate affair where blame properly attached to no one, as I understand it; and I understand that to have been the decision of the military authorities of the country, for shortly after that battle General Schenck, instead of being reprimanded, was promoted and made a major general in the armies of the United States.

My distinguished friend from Delaware has not seen fit to refer to any other military services of General Schenck except that one. Is he not advised of the fact that General Schenck has fought nobly in many battles since? Is he not apprised of the fact that his arm is paralyzed to-day from a wound received on the bloody battle-field of the second Bull Run? Is he not apprised of the further fact that since all these things he has been triumphantly elected to Congress in the Vallandigham district in the State of Ohio, and that he is now one of the most honored members of the other House? I am not here to undertake the idle task of pronouncing a eulogy on General Schenck. If the history of the country is not sufficient praise, any words of mine surely would not add to it; and I only say thus much because incidentally my remarks have been the occasion of this seeming attack upon him.

Mr. SAULSBURY. If the Senator from Indiana will allow me, I am not here to make any assault upon General Schenck, or anybody else, for any acts not warranted by facts within my knowledge. If General Schenck has acquired any laurels in this war, I would not detract from them. If he has acquired any fame in this war, I would not lessen that fame. But if, in speaking of his government in his department, I have spoken with some degree of heat, it is because I recollect—and that recollection is fresh in my memory—the gross oppression to which a portion of the people of my State have been unwarrantably subjected by his orders and by his conduct.

One word more, and I have done, for I do not wish unnecessarily to prolong this debate. I will state to the Senator that the evil from these orders results not so much from the making of the orders themselves as from the mode in which they are carried out. A military officer knows very well that, in making these unconstitutional and unwarrantable orders, he intrusts their execution to comparatively irresponsible men, and the grossest oppression has resulted in their execution. I will state one fact to the Senator from Indiana. I know his frankness and his candor, and should like to have his opinion of it. In one of the voting districts of the county in which I live, at the opening of the polls the judge of the election announced that the military had made this order, and that he intended faithfully to execute it, and that he should administer this oath to every voter at that poll. One party in the State did not vote at all. Ninety-five persons appeared and took the oath, and nineteen belonging to the party to which the gentleman belongs refused to take the oath, although prescribed by the military, and offered to be administered by the judge of the election, and thereupon a provost marshal was sent for, who appeared upon the ground and threatened to arrest the judge of election if he administered that oath to those persons. They were, I presume, assumed to be loyal.

Mr. LANE, of Indiana. I will only detain the Senate one moment further. I understood the Senator from Kentucky to say that Colonel Foster, of Indiana, had been guilty of very many improprieties in conducting the election in Kentucky. I will ask the Senator if Colonel Foster was not then acting under a general order of General Boyle, commanding the department of Kentucky, in carrying out that election?

Mr. POWELL. I do not think General Boyle ever issued any such orders. He may have acted under General Shackleford.

Mr. LANE, of Indiana. Did not General Boyle issue an order on the subject of elections?

Mr. POWELL. He did issue an order, but not such a one as this.

Mr. LANE, of Indiana. And Colonel Foster was proposing to carry it out.

Mr. POWELL. I suppose he was acting under General Shackleford.

Mr. WILSON. The motion is to refer this bill to the Committee on Military Affairs. I am certainly willing that it should go to my committee, if the Senate so order; but I wish distinctly to say, before the vote is taken, that I am opposed to any action whatever on the subject-matter embraced in it. I am opposed to action for the reason that I am in favor of what the Government has done. I shall stand by this action of the Government here, elsewhere, and at all coming times. It is a fact, and we know it, that in the States of Delaware and Maryland there are traitors as bitter and hostile to the Government of the United States as there are in the States of Virginia and South Carolina. They have manifested it on more than one occasion. The Legislature of Delaware passed a series of resolutions that had the taint and odor of moral treason about them. No truly loyal man could have voted for the resolutions that passed that Legislature but a short time ago. These men in Delaware are quite as reluctant to take the oath of allegiance as is the Senator from Delaware not now present [Mr. BAYARD] to take the oath required by the Senate. I am in favor of administering the oath of allegiance to members of the Senate, and of the Government, and of requiring men to swear loyalty to their country. I am in favor of keeping from the ballot-boxes of the country any man who is not willing to take the oath of allegiance to the country in this hour of its trial. We know that in Delaware, in Maryland, in Kentucky, and in Missouri, there are men who, throughout this rebellion, have been for the rebellion, and have been more or less active in the cause of the rebellion.

I justify the action of the Government, and I hope it will continue so to act till the close of the rebellion; for I see plainly that the men who cannot succeed by bloody war, will, when baffled and defeated by our brave soldiers in the field, rush to the ballot-box, hoping there to win what they could not conquer in the field. I hope the policy of the nation will be to require those men, when they approach the ballot-box to take part in the government of the country, to swear before Almighty God fidelity to the country. The Government is false and recreant if it allows a traitor who shrinks from taking such an oath to put a vote in the ballot-box. I happen to know something about the late election in Delaware as well as the Senator from that State, though he is better entitled to speak for that State than I am. But I know what the order was. It simply required an oath of allegiance to be taken. That is all.

Who shrank from it? Was there a loyal man in Delaware who shrank from taking the oath of allegiance in this crisis of our country? Was there a man whose heart was for his country, who favored the crushing out of this rebellion, and who favored the keeping from the ballot-box the men whose hearts were in the rebel States, who shrank from it? No, sir. There were men there who were reluctant to take upon their lips the oath of allegiance to their country; and in order to make an outcry about it they declined to go to the polls. They knew that whether they took the oath or not they would be defeated in the election, so they made a virtue of necessity. Even if they had voted, there is no doubt of what would have been the result in that State. It was a foregone conclusion last autumn, and it will be so in the next election, for that State is taking her position, as other States are, by the Government of the country, and for the Government of the country, and against the cause, the only cause, of this rebellion, and of all this crime and bloodshed that have stained our country.

General Schenck on the battle-field has devotedly fought for his country, and he now bears, and is to bear while he lives, the evidence of it upon his person. His administration of the affairs of the department of Maryland were conducted with great ability, and won the confidence and admiration of the loyal men of that department and of the country. His wise and statesmanlike policy in that department is before the country; and yet, sir, he is denounced here. General Burnside and other generals are denounced for their action in Kentucky; and so it has been wherever an effort has been made to preserve the ballot-boxes of the country for the patriotic and loyal men of the country of all parties. Sir, I have no respect for these efforts to protect rebels and rebel sympathizers.

Mr. POWELL. I should like to ask the Senator who denounced General Burnside? I have not heard his name mentioned before.

Mr. WILSON. I did not hear the Senator denounce him in this debate. He referred, however, to the action of the military authorities in Kentucky, and we know that General Burnside issued an order in regard to the last election in Kentucky, for which his name has been branded from one end of the country to the other, if not in the Senate to-day. So in the State of Missouri, the loyal men of that State asked the Government to interfere by military force to keep disloyal men, the men who are fighting for the rebellion, from the ballot-box. It may be that some officers employed may have made mistakes; there may have been some improper action; but that is incident to all matters of government, civil or military. But the general object, the general purpose was well intended, patriotic, and right. I stand by it now, and I demand that the Government shall stand by it in the future, and that as these rebel States are broken down by the military power of the country, the men who have the blood of loyal men on their hands and on their souls shall not go to the ballot-box and control the destinies of those States or affect the policy of the Government unless they take an oath of allegiance to the country, and swear to Almighty God to stand by the country they have striven to destroy. I know that many of these rebels will swear, and swear falsely. It seems that these men who have raised their hands against their country have lost all sense of honor and all fear of God. I have little confidence in the men who take the oath of allegiance, but I would require it of them, and no one of them should ever be permitted to approach the ballot-box without taking that oath of allegiance to their country.

Mr. POWELL. If the Senator will allow me, I should like to ask him a question. He has spoken very denunciatorily of those persons whose hearts he says are in the rebel States, and he speaks very approvingly of the military orders about elections. I wish to ask the honorable Senator from Massachusetts this question: has the military commander of a department in one of the loyal or adhering States the power to issue an order prescribing the qualifications of voters in that State—I am speaking of a loyal State, a State that adheres to the Union—when those qualifications are in conflict with the constitution and laws of that State, and enforced by test oaths? That is a question I should like him to answer.

Mr. WILSON. I cannot think there is any doubt about it at all in a State like Kentucky—a State that has had thousands of its men in the ranks of the rebellion; a State over a large portion of which there has been civil war. I do not think there can be any question that the officer who has command in the State of Kentucky has a right to enforce the laws of that State and protect loyal men in voting, and keep disloyal men out, unless those disloyal or suspected men are willing to take an oath of allegiance to the country.

Mr. POWELL. With great deference to the Senator, he has not answered my question. I asked him if the commander of a military department in the loyal States, a State like Massachusetts, for instance, or Ohio, or Indiana, has the right to prescribe qualifications for a voter, by proclamation or order, when that proclamation or order is in violation of the constitution and laws of the State? The Senator says they had a right to enforce the laws in Kentucky. I am able to show to the Senator that the military commanders there, notwithstanding our law is very stringent on this subject, have issued proclamations outside of the law, prescribed qualifications for voters, and made them take test oaths, and went far beyond our law in some respects. I want to know where they get the power to do this?

I have been taught to believe that under our system of government the people of each State had the right to fix the qualifications of its voters. So says the Constitution of the United States in the clause in which it fixes the qualification for voters for officers of the Federal Government. It says they shall be qualified who are qualified by the laws of the States to vote for members of the most numerous branch of the State Legislature, indicating clearly that it is with the States to fix the qualification of voters. I repeat, I have been taught to believe that this was a power that be-

longed to the States, and I have not heard it doubted.

Why, sir, if the proposition of the Senator from Massachusetts be true, the commander of the department to which Massachusetts belongs would have a right on the eve of an election to prescribe a qualification to a voter just as much as he would in Kentucky; for Kentucky is a loyal and adhering State. While some of our people have gone off to the rebellion, the State has never faltered in its loyalty to the Union. I put it to that Senator to know whether he would be willing for one of the officers of the Army of the United States in command of the State of Massachusetts, and on the eve of an election, to prescribe the qualifications of voters, when those qualifications were in violation of the qualifications prescribed by the constitution and laws of Massachusetts? Would he as a freeman submit to it for a moment? If the Senator's proposition be correct, if they can make one test they can make another. If they have the power to fix the qualifications of voters, they have the power to fix them just as they please. If they have the power to demand in the State of Delaware, for instance, an oath of allegiance to the Constitution of the country from the man who has never been in rebellion, they have a right in Massachusetts to demand that he swear before he votes that he has never been an abolitionist, or never belonged to the Democratic party or the old Whig party. If you grant the power, you acknowledge a principle that will overthrow your Government.

Sir, the Commonwealth of Kentucky has on her statute-books laws, which it is unnecessary for me to state again, on this very subject. The judges of the election or any bystander has the right to demand of every man who approaches the polls, that he should take an oath that he has not borne arms in this rebellion, or given aid and comfort to it; and if he refuses, the law provides that his vote shall not be taken; and yet, notwithstanding that qualifications larger than those are prescribed by the military, other test oaths are required.

I am not speaking of States that have attempted to secede. I am alluding to the adhering States of the Union. If the Senator admits the principle in one State, he admits a principle that will allow the military throughout this country, at the point of the bayonet, to propose such qualifications as will always elect the candidates of the party they are in favor of. Sir, the elections, if conducted in that way, would be as much a mockery as they were in England in the time of Cromwell, when he laid off that country into twelve districts, and placed twelve major generals over them, clothed with absolute power.

I wish Senators to look this question squarely in the face as it is, not to throw off on a State here or there, the people of which are unfortunately divided in this contest; but I demand to know from whence they derive this power. I hold that no officer of this Government, high or low, has any power except that with which he is clothed by the Constitution, and the laws made in pursuance thereof; and whenever he transcends the power conferred by the Constitution and laws, be he President, major general, Congressman, Senator, or any other official, he is a usurper, and a liberty-loving people will treat him as such. All are usurpers who do not administer the functions of their office in obedience to the laws, or who exercise powers with which they are not clothed by the Constitution and laws. This, Mr. President, is a weighty question, and one that lies at the very foundations of our liberties; and I wish gentlemen to meet it fairly; I wish them to show the clause in the Constitution upon which they predicate this great power of a commander-in-chief. He does not have it, sir; he is not clothed with it; and he who executes the order, and he who makes it, are alike usurpers, and deserve to be treated as such, and in all time to come will be so considered.

You may prate of human liberty as you please; but there is no liberty save in the supremacy of the laws. The laws are supreme and above all. All the magistracy are or should be obedient to the laws. They are the creatures of the law. They can exercise no function not conferred by the law.

Mr. President, I think when the time shall come to discuss this bill; I shall be able to show, not

only from reason, but from analogy and precedent, that it ought to be passed. While I am up, sir, in consequence of the declaration of the Senator from Massachusetts, I will move a reconsideration of the vote by which the Senate declined to refer this bill to the Judiciary Committee, for the reason, among others, that that Senator, the chairman of the Committee on Military Affairs, has proclaimed hostility to the measure. I do not think a bill of this importance should be handed over to a committee who are ready to strangle it. The Senator—and I admire the manliness with which he has done it—has avowed his hostility to it, and I hope the Senate will reconsider its vote. I will not again enter into the argument on the subject-matter of the bill to show that it properly belongs to the Judiciary Committee, but I do hope the Senate will not send a matter of this importance to a committee who are ready to murder it in cold blood.

Mr. WILSON. Mr. President—

The VICE PRESIDENT. The Chair would suggest to the Senator from Kentucky that as he voted, according to the recollection of the Chair, with the minority, it is not competent for him to move a reconsideration.

Mr. POWELL. That is true, sir. I acknowledge the rule and withdraw the motion; but I do hope some Senator who voted with the majority will make that motion.

Mr. WILSON. Mr. President, I said very frankly to the Senator from Kentucky that I was opposed to his bill. If the Senate choose to send it to the committee of which I am a member, very well; if they choose to send it anywhere else, the same. I have no desire to have it go to my committee, or to deal with it. I said frankly in advance, what I thought I ought to say, that I was opposed to any legislation on this subject in the present condition of our country. My mind is made up, my position is taken.

Sir, I do not understand that the action complained of imposes a qualification of voters, or is an attempt to prescribe a qualification of voters. The States make their own election laws. This is a requisition, an order made that certain persons shall take the oath of allegiance before they exercise the right of suffrage. The Senator asks me if I am willing that it shall be applied to my State. I answer, if the necessities of the country require it, I am. I am willing to take that oath of allegiance at sunrise and at sunset. Whenever and wherever I am asked to take it, I am willing to do it, and I am willing that every man in my State shall be required to take it. But, sir, I claim that there is no necessity for it there. If the time shall come when we have a portion of our people in sympathy with the rebellion, coöperating with it, running into it and coming out of it, giving aid and comfort to it, then I shall be willing that the commander of that department shall, by the authority of the Government, proclaim military law, and require at the ballot-box that the oath of allegiance to the country shall be taken. And, sir, there is no danger to any man's liberty in this country growing out of the effort to keep rebel ballots out of the ballot-box; there never has been; and the outcry about violated rights that has rung through the land is false in fact, and has been only in the interest of the rebellion.

Sir, the Senator from Kentucky knows, we all know, that a portion, a large portion, of the people of Kentucky have been in the rebellion. He knows that there are thousands of men to-day on the soil of Kentucky with treason in their hearts. We all know it. Then ought those men to shape the policy of Kentucky in this hour of trial? Ought we to send thousands of our young men into that State, who are emptying out their blood upon its soil to defend the country, and then allow traitors, cowardly traitors, who have not taken up arms with Breckinridge and Morgan and Preston and Marshall, to go to the ballot-box and vote what they could not maintain with arms in their hands? I know no party in this matter; I care nothing about party interests in relation to it; but I do believe that in every military department where there are disturbances, where there are revolutionary proceedings, where there is danger to our country, it is the duty of the Government to require the oath of allegiance to be taken, the good of the country making it necessary; and I believe men loyal and true will joyfully take that oath, and that men who shrink from it do so for

partisan purposes, or out of sympathy with the rebellion. That is my conviction; that is the conviction of the loyal and true men of the country.

Sir, what are we to have in the rebel States? We believe that, as our military power advances, the rebellion will be crushed out. We know that traitors will rush to the ballot-box to save their lives and their property, and direct and control public affairs. If we let them come at all, I think that the least we can require of them is that they shall take the oath of allegiance to their country. Sir, it is poor business, when thousands of our men are to-day in the land of the rebellion fighting and bleeding to maintain the cause of our menaced country, for the Congress of the United States to be passing laws striking at the Government, because it requires those bold, bad men to take an oath of allegiance to their country before they shall approach the ballot-box of the country.

I know the American people are against any such legislation. The people of this country have always been with the Government in these acts denounced as arbitrary, and they are with it to-day. Their only complaint is that the Government has not been efficient and bold enough in carrying out this policy; and the bolder the Government is, the more the heart of the people throbs in support of it. Senators may arraign the Government here during all this session; they may introduce resolutions that I regard as personally insulting to every man in the Senate and in the Government, but the patriotic people of the country will take care of the country, and take care of these men too. I have no anxiety about it, none at all.

I know, sir, that when this war commenced thousands of the men of the State of Kentucky took arms and rushed into rebellion. I know that some of her leading men advised Kentucky to maintain an armed neutrality, and not stand by their country, and these men have illustrated since on all occasions their hostility to what the Government has been doing to put down the rebellion. I say to Senators here to-day, you may arraign the Government for these acts in defense of the nation as much as you please, but if the Government will stand up boldly and manfully, and put its iron hand upon the traitors wherever it finds them, the people of the country will stand by the Government, put down this rebellion, and the men who have been and now are denouncing the Government for patriotic action in support of the unity of the Republic and the liberties of coming generations.

Mr. SAULSBURY. I shall not enter, Mr. President, into any defense of the people of the State of Delaware, or any portion of the people of the State of Delaware, against the speech of the Senator from Massachusetts. He professes to know a great deal about the State of Delaware. I am very glad that his knowledge is so extensive; but that Senator will allow me to remark that the people of that State did not learn their lessons in loyalty, their principles of loyalty, either from the State of Massachusetts, from its Senators, or from any of its inhabitants; and when they seek for correct definitions of those terms, for a correct knowledge of those principles, they will consult such oracles as to them may seem proper. I will not retort by saying that there are traitors in Massachusetts. It becomes not me to arraign Massachusetts or her people. I shall not do so. I leave such work as that to those whose tastes it may suit.

But, sir, when or where has Delaware or her people shown any want of devotion to this Union? When, where, and how have they shown any want of devotion to the principles of civil liberty? In the battles of the Revolution, when they were fighting for the preservation and assertion of these liberties, the State of Delaware did her part. In every war in which the country has been engaged with a foreign Power, the State of Delaware and her authorities have been found on the side of the United States, and they have not been found sending ambassadors to Hartford Conventions. Neither have they been found urging upon the Mexicans to welcome Americans with bloody hands to hospitable graves, or asserting that under any circumstances such a course would be proper. Since the commencement of these unfortunate troubles, no company has been raised in the State of Delaware to join the forces at war with the United States. I will venture to say to-

day, that if the truth could be ascertained, there are more men in the army of Jefferson Davis from the State of Massachusetts than there are from the State of Delaware. And sir, I will say, that at the very commencement of these troubles, when the southern States were inviting the cooperation of the border States in their movement, the State of Delaware, by a Democratic Legislature, passed a resolution that secession was no remedy for existing evils, and declaring that her people would not embark in any such work.

But, sir, the Senator from Massachusetts says that the reason of this objection is that the Democratic party of the State of Delaware stayed from the polls because they knew it to be a hopeless task; they were defeated anyhow. I am amazed that the Senator should have acquired such absolute knowledge of the state of affairs in Delaware from one visit to the city of Wilmington and the northern part of the State, where I believe he addressed members of his own party. I am surprised that he could have acquired such general information in so short a time. However, that is his opinion. My opinion is exactly the contrary; and that, had it not been for this military interference, no such result as was proclaimed could possibly have taken place in the State of Delaware.

But, Mr. President, it seems that whenever opposition is made to any act of this Administration, or any of its subordinates, those opposing its action are to be presumed guilty of disloyalty; and we have arrived at this time in the history of what was once the free Republic of the United States, where freedom of speech, freedom of thought, and freedom of the press were emblazoned upon every political banner, and where we thought we were the freest people on the face of the earth, that conformity to the views of the party in power, ay, sir, conformity even to those of its subordinates, is to be regarded as a test of devotion to the country, and nonconformity of opinion as the evidence of disloyalty and want of fidelity to the Government. Mr. President, if such views are really entertained by the great mass of those who now control the political affairs of this country, we are ripe for despotism, constitutional liberty is at an end, and the genius of American liberty has taken its flight, never again to visit this country.

I will not dwell upon this question, Mr. President; I leave the discussion; I was drawn into it by the remarks of my friend from Indiana. But I will repeat, in conclusion, (what perhaps the Senator from Massachusetts did not hear, because he stated that in his opinion no one could refuse to take that oath unless from a want of loyalty,) that nineteen of the leading members of his own party, at one voting place, refused to take it. Ninety-five took it and nineteen refused to take it; and the provost marshal was sent for to prevent the judges of election from administering it, and those nineteen men voted without taking it. What consideration governed those gentlemen? They were apostles in the present political Government church. They declined to take the oath. Was it from a want of loyalty? Not, sir, if loyalty consists in approving, heart and soul, of every act this Administration has done in the past, is now doing, or shall do in the future, because I doubt not that every one of them would approve them all. But, Mr. President, I do not wish to prolong the discussion.

Mr. POWELL. Mr. President, I was pleased to hear one utterance of the Senator from Massachusetts. In response to my question, he admitted that the States alone have the right to prescribe the qualifications of voters. In that he was correct. It is strange to me that a Senator who harps so much about loyalty, who avows that the States alone have the right to fix the qualifications of voters, (in which position he is certainly correct,) should say that he approves and justifies the Government in all that it has done. Why, sir, does not the Senator know that major generals in the Army of the United States, that those who bear the commissions of brigadiers and colonels, and even lower grades, have prescribed qualifications of voters which were in conflict with the qualifications prescribed in the constitutions and laws of the States?

The Senator says that he sustains the Government. I do not know exactly what he means by the Government; but I suppose, and, indeed, I am confident, that he means Mr. Lincoln, the

President, and those in authority. I do not regard Mr. Lincoln and his Administration as the Government of the United States. I am in favor of the Government of the United States. I regard the Constitution and the laws, with all the rights, privileges, and immunities which that sacred instrument extends to the people, as the Government. The President is but the agent appointed by the people to exercise the functions of the chief Executive, as prescribed in the Constitution. Mr. Lincoln and his military officers are no more the Government than this Senate is the Government. We of the Senate are no more the Government than the Supreme Court of the United States is the Government. We are but coordinate branches of the same Government, the agents of the people to carry on the Government ordained by our fathers, under the Constitution, and to perform the various functions prescribed in that instrument, and the laws made in pursuance of it.

But, sir, in what an attitude does the Senator place himself by making the admission that he has made, that the States alone have a right to prescribe the qualifications of voters! He approves of the action of the President and the military authorities in this country in committing plain, palpable infractions and violations of the law, because it is a fact undisputed that they have prescribed qualifications of voters in conflict with those prescribed by the laws of the States, and enforced their orders by test oaths at the point of the bayonet. When the thing is divested of verbiage, and all the Senator's talk about loyalty is thrown out of the way, he stands here the avowed apologist, and not only the apologist, but the justifier, the approver, the commender of acts, on the part of certain officers of this Government, which he himself admits were in violation of the Constitution and laws of the country. That is the attitude in which the Senator places himself. He comes out boldly and fearlessly, and heartily approves and sanctions plain, palpable violations of law; and that, too, upon one of the most important and delicate matters known to the republican form of government, the right of suffrage. I was glad the Senator made the admission which he did make. Admitting that, as the lawyers say, he has put himself out of court. He not only approves but eulogizes the conduct of those who have violated the laws, and he stands forth the apologist and enologist of those who knowingly, wittingly, and avowedly violate the Constitution and laws of the country. That is the Senator's attitude, and there is no art of the logician that can extricate him from it.

But, sir, gentlemen speak of the President and his officers of the Army as the Government. I am rather astonished at that. I had always thought they were the creatures, the agents, not the creators. Did Mr. Lincoln make the people and the States of the Union? No, sir; they clothed him with the power that he has; they put the robes of office upon him; and yet gentlemen now call the President the Government, and the people poor, miserable subjects. I thought all along, and still think, that he is but the instrument, but the agent, whom the people have clothed with temporary, limited, and prescribed power, and that the people are the masters in whom the sovereignty resides; and until the Senator can prove to me that Abraham Lincoln, President of the United States, made the States or the people, I cannot admit that the President is the Government. I cannot admit it because I know the very converse to be true.

Mr. President, in conclusion, I do hope that some Senator who voted in the majority will move to reconsider this vote, and let my bill go to a place where it can have a fair chance. I think I can claim certainly that much courtesy from some gentleman on that side. It is known that I have not been in the habit of asking courtesy, but in this particular case I do ask it.

Mr. LANE, of Indiana. If the Senator from Kentucky will permit me, I should like to ask him if the President of the United States, under the Constitution, has not as much power in South Carolina to-day as he has in Ohio, or Indiana, or Kentucky; and if not, why not? Has he a particle of power in one State that he has not in the other?

Mr. POWELL. I will answer the Senator with great pleasure. The President of the United States

has not as much power to-day in South Carolina as he has in Indiana, for the very reason that those people are in arms against the United States. I suppose the question the Senator wishes answered is whether I think South Carolina had a right to secede. I thought it was well known to the Senate that I always repudiated the doctrine of secession. I suppose the object of the gentleman's question was to know whether I believed in the right of secession. I state to him that I do not and I never did believe in it.

Mr. LANE, of Indiana. The object of my question was entirely different. I asked the Senator from Kentucky if he believed the President had any more power in South Carolina than he had in Indiana to-day. His answer is, as I understand it, that he has more power. If he has more power, why is it that he has it? Because there is a rebellion existing in the country, and because, under the Constitution, it is his duty to suppress that rebellion. The object of my question was to get at that point. Now, his duty being to suppress the rebellion, that being his duty under the Constitution, as Commander-in-Chief, he has authority to appoint subordinate agents in different States to effect that object. In order to suppress the rebellion, for instance, in Maryland or Delaware, he appoints a military commander; that military commander, acting under his authority, issues an order to preserve the purity of elections, and to prevent traitors from voting. If he has that additional authority, it is under the war-making power as Commander-in-Chief, and because the rebellion exists. Now, suppose to-day an election were ordered by the local authorities in the State of South Carolina, and they should meet together to elect traitors to the House of Representatives, or traitors as members of this body, would he have a right to interfere with that election, to say that traitors should not vote to send members to either branch of Congress? If he has that right in South Carolina, he must surely have it in every other State where the necessity exists, and the discretion, after all, is left to the President. If he believes that for the suppression of the rebellion it is necessary to establish a military department in Kentucky, or Delaware, or Maryland, and to prevent the votes of disloyal men being received, he has no more right to the exercise of that authority there, under the Constitution, than he would have in a State in rebellion; but in a state of rebellion he has full and plenary authority in every State to do whatsoever is necessary to suppress that rebellion.

This is a new state of things, not contemplated by the framers of the Constitution, because they never contemplated the dissolution of the Government they framed, and they never provided for the obsequies which should attend its death and burial. I think it is within the power of the President as Commander-in-Chief, under his duty to suppress the rebellion, to provide in these tainted districts that disloyal men shall not be permitted to vote. It is his duty to meet and break in pieces the power of the rebel armies upon the field of battle; and if there is resistance at home, an organized rebel resistance, even through the ballot-box, calculated to subvert the liberties of the people and to overthrow the Constitution of the country, it is as much his duty to provide for that emergency as it is to repel an invading army. I broadly sanction the order of General Schenck, and every other military order tending to prevent the reception of the votes of disloyal persons. The test of that disloyalty is that they refuse to take an oath of allegiance to their Government. Will any man here say that a citizen is a proper voter who will not take an oath of allegiance to support the Government which protects him, and under which he lives? If any man takes that position, I dissent from him. I would preserve the purity of the ballot-box under all circumstances and any circumstances, and at all hazards. I would use bayonets to prevent the votes of disloyal persons from subverting the liberties of the country. I stand upon that now and forever, and I believe that order was necessary and proper.

The question after all is, is a disloyal man a good voter, is he a safe voter? How will you test the question of his loyalty? We propose to test it by an oath, and if he will not, in a solemn appeal to Almighty God and in the presence of his fellow-men, swear to support the Government, he should have no right to interfere in the adminis-

tration of that Government; with my action and my vote, so help me God, he shall have no such right. [Applause in the galleries.]

THE VICE PRESIDENT. Order!

Mr. POWELL. Mr. President, my friend from Indiana seems to be very broad in sanctioning these military orders. I never before heard that Maryland was in a state of rebellion. I did not know it.

Mr. LANE, of Indiana. I will ask what that has to do with the constitutional power under the Constitution of the United States? Has there been any change in that Constitution since the rebellion broke out? Are not all the powers of the President, resulting from his province as Commander-in-Chief, precisely what they were at the commencement of the rebellion?

Mr. POWELL. The Senator and I differ very widely as to what are the legitimate powers of the President as Commander-in-Chief of the Army. I hold that the President, as Commander-in-Chief of the Army, can only use such *materiel* and men and munitions as Congress has granted to him to suppress the rebellion, to fight enemies in the field. He has no right to go to the loyal States and prescribe the qualifications of a voter. Why, sir, the Senator speaks of Maryland as in a state of rebellion.

Mr. LANE, of Indiana. No, sir.

Mr. POWELL. I so understood. I really am of opinion that when Senators come to reflect on this matter, they will admit that many of these military orders have been grossly in violation of law. I have not criticised the course of General Schenck, but I saw in the public journals that the Governor of the State of Maryland, who I believe on all hands is admitted to be a loyal man—I have not the honor of a personal acquaintance with him—took sharp issue with General Schenck in regard to his military orders, and the matter was referred to the President, and the President modified them to some extent. The present Governor of Maryland, whose Unionism I never heard doubted, protested against those orders of General Schenck, and they were partially countermanded. I have not those orders before me, I never examined them very minutely; but I believe it was conceded on all hands that he proscribed qualifications and oaths that the Governor of Maryland said were in conflict with the laws of that State, and the President modified them in some respects. In that state of things, the election in Maryland was carried, and it was paraded as a great triumph of the party that succeeded.

Mr. President, whenever an election cannot be held in any place without resort to the military, we ought to have no election at all. Let elections, if they are held, be free. That is the only mode in which the people can be represented. But I will show to honorable Senators, before we get through with this subject, that in some places oaths have been prescribed to voters to make them swear that they were in favor of the President's administrative policy. Yes, sir. I have such oaths in my possession, and I will bring them to the Senate before this debate is over.

Mr. LANE, of Indiana. I certainly did not characterize Maryland as a State in rebellion. I never dreamed such a thing.

Mr. POWELL. I may have been mistaken, but I thought so. I will admit I was mistaken, if the Senator says so. I do not wish to place the Senator in a false position.

The VICE PRESIDENT. The question is on the motion of the Senator from Iowa to refer the bill to the Committee on Military Affairs and the Militia.

The motion was agreed to.

BOUNTIES TO VOLUNTEERS.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (No. 16) to continue the bounties heretofore paid; in which it requested the concurrence of the Senate.

The joint resolution was read the first time by its title.

Mr. WILSON. I am inclined to think that it is unnecessary to refer the resolution to the Military Committee; but I should like to have it printed, with the understanding that we shall take it up to-morrow morning.

Mr. COLLAMER. Why not concur in it now?

Mr. SHERMAN. I shall object to its being considered finally to-day. I have no objection to any intermediate action, however.

The VICE PRESIDENT. The Senator's objection can afterwards be well taken to final action.

Mr. SHERMAN. Very well.

The VICE PRESIDENT. The joint resolution will be read the second time.

Mr. CONNESS. I ask that it be read at length.

The joint resolution received its second reading at length. It proposes to continue from January 5 to March 1, 1864, to men enlisting in the regular or volunteer forces for three years or during the war, the bounties heretofore paid under regulations and orders from the War Department.

The VICE PRESIDENT. The joint resolution will be printed, of course.

On motion of Mr. ANTHONY, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 6, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

SERVICE ON COMMITTEE.

Mr. KELLEY. Mr. Speaker, I ask to be excused from serving on the special committee on the bankrupt law. I find that my duties on the committee of which I had been already a member will engross all my time. I therefore beg the House to excuse me.

Mr. KELLEY was excused.

Subsequently, Mr. O'NEILL, of Pennsylvania, was appointed to fill the vacancy caused by the retirement of Mr. KELLEY.

RAILROAD TO NEW YORK.

The SPEAKER announced the first business in order to be the unfinished business pending at the adjournment yesterday, which was on seconding the previous question on the following resolution offered by Mr. BRANDEGEE:

Resolved, That a select committee of nine members of this House be appointed by the Speaker, with authority to examine into the expediency of the establishment of a new route for postal and other purposes between New York and Washington, to whom shall be referred all petitions and papers on that subject, and who shall have leave to report by bill or otherwise.

On a division of the House, no quorum voted.

CALL OF THE HOUSE.

Mr. WASHBURN, of Illinois. I move that there be a call of the House.

The motion was agreed to.

The roll was called; when the following named members failed to answer to their names:

Messrs. James C. Allen, William J. Allen, Ames, Ashley, Jacob B. Blair, Ambrose W. Clark, Clay, Creswell, Henry Winter Davis, Denney, Driggs, Dumont, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grinnell, Griswold, Hall, Benjamin G. Harris, Herrick, Hotchkiss, Asahel W. Hubbard, Hubbard, Hutchins, Jenckes, Philip Johnson, William Johnson, Julian, Kaufbein, Orlando Kellogg, Le Blond, Littlejohn, Long, Lovejoy, Mallory, Marvin, McAllister, McDowell, McIndoe, McKinney, Samuel F. Miller, Moorhead, James R. Morris, Nelson, Noble, John O'Neill, Patterson, Pendleton, Perry, Radford, Alexander H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Schenck, Scott, Starr, Stiles, Stuart, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, and Benjamin Wood.

One hundred and ten members answered to their names.

Mr. WASHBURN, of Illinois. I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

RAILROAD TO NEW YORK—AGAIN.

The question occurred on the previous question on Mr. BRANDEGEE's resolution, on which the Speaker ordered tellers, and appointed Messrs. BRANDEGEE and THOMAS.

The House divided, and the tellers reported—ayes 51, noes 42.

So the previous question was seconded.

The main question was ordered to be put.

Mr. BRANDEGEE called for the yeas and nays on the resolution.

The yeas and nays were ordered.

Mr. BROOKS. I rise to a question of order. I ask whether, under the 43d rule of the House, a

motion to refer the resolution to a standing committee of the House will not take precedence.

The SPEAKER. It will not, the previous question having been sustained to refer it to a select committee. If the previous question had not been sustained, the motion to refer to a standing committee would have taken precedence.

The question was taken; and it was decided in the affirmative—yeas 66, nays 45; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Anderson, Arnold, Bailly, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Brandegee, James S. Brown, Freeman Clarke, Cobb, Coffroth, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Eliot, Fansworth, Fenton, Frank, Garfield, Gooch, Grinnell, Herrick, Higby, Hooper, John H. Hubbard, Kasson, Francis W. Kellogg, Loan, Longyear, McBride, McClurg, Morrill, Daniel Morris, Orth, Perlman, Pike, Pomeroy, Price, William H. Randall, John H. Rice, James S. Rollins, Ross, Scofield, Shannon, Sloan, Spaulding, Stebbins, Stevens, Upson, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburn, Wilson, Windom, Woodbridge, and Yeaman—66.

NAYS—Messrs. William J. Allen, Jacob B. Blair, Bliss, Brooks, Broomall, William G. Brown, Chanler, Cox, Cravens, Dawson, Dennison, Eden, Hale, Harding, Harrington, Charles M. Harris, Holman, Kelley, Kernan, King, Knapp, Law, Lazear, Middleton, William H. Miller, Morrison, Amos Myers, Leonard Myers, Nelson, Odell, Charles O'Neill, Pritty, Samuel J. Randall, Robinson, Rogers, Smithers, John B. Steele, William G. Steele, Strouse, Thayer, Thomas, Tracy, Webster, Winfield, and Fernando Wood—45.

So the resolution was adopted.

During the roll-call,

Mr. ARNOLD stated that his colleague, Mr. LOVEJOY, was detained from the House by sickness.

Mr. ANCONA made a like statement in reference to his colleague, Mr. JOHNSON, of Pennsylvania.

Mr. CHANLER made a like statement in reference to his colleague, Mr. BENJAMIN WOOD.

Mr. BRANDEGEE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SMALL-POX IN WASHINGTON.

Mr. BRANDEGEE. Before the regular business is proceeded with, I ask unanimous consent to introduce a resolution which is in the nature of a privileged question, inasmuch as it affects the safety of every member of this House.

The resolution was read, as follows:

Resolved, That the Committee for the District of Columbia be, and they are hereby, instructed to call the attention of the municipal or other authorities to the existence and prevalence of the small-pox within the District, and to urge upon them the necessity of the immediate establishment of suitable hospitals, the enforcement of stringent and necessary sanitary regulations, the adoption of some general and, if necessary, compulsory system of vaccination, and such other measures as shall tend to prevent the further spread, within the District, of this terrible scourge of mankind.

Mr. COX. I would not object to the resolution, but I think it will be entirely ineffectual. This Congress ought to do something in the matter itself, for the municipality will do nothing.

Mr. BRANDEGEE. I suggest to my friend from Ohio that this resolution merely instructs the committee to make inquiries into the matter.

Mr. COX. I have no objection to there being inquiries made. It would be a great disaster if members of Congress should be taken off.

There being no objection, the resolution was introduced and adopted.

ELECTION OF REPRESENTATIVES.

The SPEAKER. The first business in order is the call of committees for reports.

Mr. DAWES. For reference or for adoption?

The SPEAKER. They are either for reference or for adoption.

Mr. DAWES, from the Committee of Elections, reported back House bill No. 9, to fix the time for holding elections for Representatives in Congress, and to enable soldiers in the service of the United States to vote for such officers; which was ordered to be printed, and recommitted to the same committee.

SITTINGS OF COMMITTEES.

Mr. DAWES. I ask the unanimous consent of the House that the Committee of Elections be authorized to hold its sessions during the sessions of the House.

There being no objection, it was ordered accordingly.

Mr. STEVENS. I ask the unanimous consent of the House that the Committee of Ways and

Means have the same privilege of sitting during the sessions of the House.

There was no objection, and it was ordered accordingly.

RESTORATION.

Mr. WOODBRIDGE, from the Committee on the Judiciary, reported back House joint resolution No. 7, concerning the restoration of civil authority of certain States and of the United States within regions once under the control of the existing rebellion; which was ordered to be printed, and recommitted to the same committee.

BOUNTIES.

Mr. FARNSWORTH, from the Committee on Military Affairs, reported a joint resolution to continue bounties heretofore paid; which was read a first and second time.

The resolution provides that the bounties heretofore paid under the regulations and orders from the War Department, to men now enlisting in the regular or volunteer forces of the United States for three years or during the war, shall continue to be paid from the 5th of January, 1864, to the 1st of March next; anything in the act approved December 23, 1863, to the contrary notwithstanding.

Mr. FARNSWORTH. Mr. Speaker, the reason that the 1st of March is fixed, instead of the 1st of February, is that the intelligence of this fact may reach the different departments of the Army in extreme portions of the country. Enlistments, as we all know, ceased yesterday throughout the country from the non-payment of the bounties under the law which we passed on the 23d of December.

The extension of the time for payment of bounties is recommended by both the War Department and the President. I hope, therefore, that there will be no objection on the part of any member of the House; for certainly it is far preferable to raise men by volunteer enlistment by the payment of liberal bounties than to raise them by draft.

Mr. COX. Will my friend yield to me?

Mr. FARNSWORTH. Certainly.

Mr. COX. I would inquire of my friend from Illinois whether the Committee on Military Affairs have considered the proposition for a total repeal of the conscription law, and whether this is to be in lieu of it; whether the general policy of volunteering is to be adopted by the party in power; whether we are to have nothing but volunteering?

Mr. FARNSWORTH. I am not aware that any action has been taken in reference to that subject. We did not regard that as important for the action of the House on this resolution.

Mr. COX. Let me ask the gentleman another question for information. What are the bounties which are now paid?

Mr. FARNSWORTH. Under the regulations of the War Department?

Mr. COX. Yes, sir.

Mr. FARNSWORTH. To veterans \$400 and to new men \$300. Bounties are paid by installments. The amount of bounty paid to a veteran on enlistment is forty dollars, I think, together with one month's pay in advance, and a premium of two dollars, which has always been paid. The bounty paid to new men is not quite so much. Bounties are paid by installments during period of service.

Mr. CHANLER. I wish to ask whether there is any law for the payment of bounties, or whether they are paid under proclamations or regulations or orders of the War Department? Is that all the authority there is for the payment of these bounties?

Mr. FARNSWORTH. There is no law for the payment of bounties after the 5th of January.

Mr. CHANLER. Then there is no law on the subject.

Mr. STEVENS. This resolution authorizes the payment of bounties after the 5th of January. Does it authorize the payment of bounties to colored soldiers?

Mr. FARNSWORTH. This simply continues the payment of bounties now authorized by orders of the War Department.

Mr. STEVENS. I do not know whether the War Department has considered that question. I am not aware that colored soldiers receive the bounties now provided. I hope that there will

soon be some action taken on the subject. It seems to me a shame that there should be a discrimination between the men who are in the Army fighting for the country.

Mr. FARNSWORTH. I demand the previous question.

Mr. COX. I ask the gentleman to yield to me.

Mr. FARNSWORTH. Certainly.

Mr. COX. There is a good deal of misunderstanding on this question. Do I understand that there never was any law authorizing the payment of bounties?

Mr. FARNSWORTH. I am not aware that at the commencement of the payment of these bounties there was any act of Congress upon the subject. But the gentleman from Ohio [Mr. Cox] was a member of the last Congress, while I was not, and he should be better posted upon that matter than I am.

Mr. STEVENS. I will say to the gentleman that when we passed the enlistment law we gave a commutation of \$300 to those who were drafted and did not serve, and we expressly authorized that money to be used for the procurement of substitutes; and therefore it is right to take the money arising from this \$300 commutation to make the Army equal in number to those who paid the commutation.

Mr. COX. It seems to me unusual legislation to bring in a bill to appropriate money for an object, and basing that appropriation simply upon the proclamations of the War Office. I do not know what those proclamations are. I do not know whether they include black soldiers, or white soldiers, or red soldiers. I do not know how much is to be paid. That depends upon proclamations issued almost every day, and with which members of Congress are not familiar. I think the bill introduced by the gentleman from Illinois ought to be very specific, showing exactly how much should be paid. Otherwise it will be subject to a hundred different interpretations.

I do not make any objection to this bill capotiously, but I wish to encourage this system of volunteering, and to wipe out this conscription law entirely; and hence I will vote for almost anything to break down the system of conscription. I hope this will do it; and I accept this move as the beginning, by members upon the other side, to get rid of that system.

Mr. GARFIELD. Mr. Speaker, I regret that I was not able to meet with the Military Committee when this resolution was under consideration. I did not reach the city till a few minutes before the House met this morning; but if I understand the matter correctly from the public journals, the request of the President and the War Department was to continue the payment of bounties until the 1st of February next; but the resolution before the House proposes to extend the payment until the 1st of March. And while the President asks us to continue the payment of bounties to veteran volunteers only, this resolution extends it to all volunteers, whether veterans or raw recruits. If the resolution prevails, it seems to me we shall swamp the finances of the Government before the 1st of March arrives. I cannot consent to vote for a measure which authorizes the expenditure of so vast a sum as will be expended under this resolution, unless it be shown absolutely indispensable to the work of filling up the Army. I am anxious that veterans should volunteer, and that liberal bounties be paid to them. But if we extend the payment to all classes of volunteers for two months to come, I fear we shall swamp the Government.

Before I vote for this resolution, I desire to know whether the Government is determined to abandon the draft. If it be its policy to raise an army solely by volunteering and paying bounties, we have one line of policy to pursue. If the conscription law is to be anything better than a dead letter on the statute-book, our line of policy is a very different one. I ask the gentleman from Illinois to inform me which course is to be adopted. I am sorry to see in this resolution the indication of a timid and vacillating course. It is unworthy the dignity of our Government and our Army to use the conscription act as a scarecrow, and the bounty system as a bait, to alternately scare and coax men into the Army.

Let us give liberal bounties to veteran soldiers who may reenlist, and for raw recruits use the draft.

Mr. FARNSWORTH. In reply to my colleague I will say I do not understand it to be the policy of the Government to abandon the draft; but I do understand it to be their policy to get men—to get them first by enlistment, if they can, but at all events to get men to fill up the Army. It is the object of this resolution to give the people of the country, who seem now to have the spirit of enlistment, an opportunity to fill up the quota by enlistments under this liberal bounty. If that is not done in a reasonable time, the Army is to be filled up at all events. I do not understand that the payment of this bounty will swamp the country.

Under the draft, if that system should be pursued to the exclusion of the volunteering system, I am inclined to think that it would cost us as much, or more, to get these men, and put them in the field, as it will under the system of paying these bounties. The bounties, it will be remembered, are not to be paid all at once. If a man enlists, and is therefore entitled to his \$300 bounty, the \$300 is not to be paid him upon his being mustered into the service, but only a proportion of it; the balance is to be paid from time to time by installments during the period of his service. If he is an unworthy man, if he deserts, or if he is disqualified by physical disability, and is therefore discharged from the service, he only gets those installments of the bounty which have been paid him during the period he has served. It is not taking \$300 out of the Treasury now and paying it to the man.

The President, it is true, in his message to Congress, recommends the continuance of the payment of these bounties at least, I think is his expression, until the 1st day of February. I know that the War Department is favorable to an extension of the bounties beyond that period. It is the opinion of the War Department that the quotas of the several States, or nearly the entire quotas, under the last call for three hundred thousand men, can be made up by enlistments if the bounties are continued to be paid for a reasonable time; and it is the opinion of the Committee on Military Affairs that a continuance of these bounties until the 1st of February would not meet the case. It requires twenty or thirty days to communicate with some of the departments of the Army. It requires, I suppose, twenty days to communicate with General Banks's department. This resolution provides for the payment of bounties to veterans in the Army who shall reenlist. We want the men in General Banks's department, and in other departments in the extreme portions of the country, to have an opportunity of reenlisting, and availing themselves of the benefits of the bounty, for the Government desires the services of the veterans in the Army.

Mr. BROOKS addressed the Chair.

The SPEAKER. Does the gentleman from Illinois yield to the gentleman from New York?

Mr. FARNSWORTH. It seems to me that this debate has gone far enough.

Mr. BROOKS. I hope the gentleman will not press so important a measure as this under the previous question, and without full discussion.

Mr. FARNSWORTH. If the gentleman desires to ask a question, I will yield for that purpose, but not for any extended remarks.

Mr. BROOKS. It is difficult to ask a question under such circumstances.

Mr. COX. I rise to a question of order. The joint resolution has in it an appropriation, and must go to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair overrules the point of order; the bill contains no appropriation.

Mr. COX. If the gentleman will not allow discussion, the bill ought to go to the Committee of the Whole on the state of the Union.

Mr. BROOKS. Mr. Speaker, the point to which I want to call the attention of the gentleman from Illinois is this: that there can be no more profitable discussion than upon this subject, and therefore I do not see why this measure should be pressed through the House under the previous question. The remarks of the gentleman himself have been very instructive to me, and, I have no doubt, to others; and the suggestions of the gentleman from Ohio, [Mr. GARFIELD,] a practical military gentleman, have also been instructive; and nothing, in my judgment, is more improper or unwise, upon great questions of this

sort, than to hurry measures to immediate action without a proper comprehension of their provisions.

The gentleman from Illinois cannot doubt the patriotism, I think, of gentlemen upon this side of the House. We were in session but ten or eleven days prior to the holidays, and we voted over two million dollars every day that were not even in the estimates of the Departments, and in so voting we voted blindly. I was so much embarrassed by the remarks of two gentlemen on the other side of the House—one from Illinois, not now in his seat, [Mr. LOVEJOY,] and the other from Pennsylvania, [Mr. KELLEY,]—who said they would take all the responsibility of legislation, that when a bill came in from the Senate annulling the whole bounty system, and in my eyes leading to immediate repudiation, I failed to rise and call the attention of the House to it, because I was apprehensive that some imputation would be cast upon me and upon this side of the House. And yet not forty-eight hours had elapsed—the very moment the bill had reached the Secretary of the Treasury or the Secretary of War, the Administration of the Government, alarmed by the hasty action of this House, demanded an immediate repeal, through the President of the United States, in the message which he has submitted here, of that act of the Senate which was approved by the House without debate or discussion.

I call the attention of the House to this fact, and I say that this is not the proper mode of legislation. Upon this great subject of bounties and conscription, upon the mode and manner of raising soldiers for the Army of the United States, there should be free, full, and ample discussion; and all these efforts to crowd bills through the House without any discussion whatever, upon hasty reports from committees, and upon a single reading at the Clerk's desk, will lead to repeal upon repeal and confusion upon confusion. It is impossible, in the necessarily tumultuous manner in which proceedings are conducted in this House, to understand resolutions and bills unless they are properly and amply discussed. I beg the gentleman from Illinois, therefore, to throw open, at least for to-day, this whole subject for inquiry and investigation. Give us light. Let us be instructed. Do not look upon us upon this side of the House with this eye of suspicion, for we have demonstrated our patriotism to you. I repeat, in only ten days of our session we have voted \$20,000,000 for bounties and \$700,000 for the State of Missouri—all deficiencies, and none of which are in the estimates of the Secretary of the Treasury submitted here.

Mr. FARNSWORTH. I must insist that the gentleman is not asking his question. I demand the previous question.

Mr. BROOKS. I hope it will not be sustained. Mr. COX. Is it in order now to re-move to refer this joint resolution to the Committee of the Whole on the state of the Union?

The SPEAKER. It is not in order, pending the demand for the previous question.

Mr. COX. I give notice that I shall make that motion, if the previous question be not sustained.

The question was put upon seconding the demand for the previous question; and there were—ayes 55, noes 22; no quorum voting.

Mr. FARNSWORTH called for tellers.

Tellers were ordered; and Messrs. FARNSWORTH and GARFIELD were appointed.

The House divided; and the tellers reported—ayes 72, noes 27.

So the previous question was seconded.

The main question was then ordered; being upon ordering the joint resolution to be engrossed and read a third time.

Mr. SWEAT demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 2; as follows:

YEAS—Messrs. William J. Allen, Alley, Allison, Ancona, Anderson, Arnold, Bailey, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Bliss, Blow, Boutwell, Brundage, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Freeman Clarke, Cobb, Coffroth, Cole, Cox, Cravens, Thomas T. Davis, Davies, Davison, Deming, Dennison, Dixon, Donnelly, Eckley, Eden, Edgerton, Eliot, Fenton, Frank, Gooch, Grider, Hale, Harrington, Charles M. Harris, Herriek, Higby, Holman, Hooper, John H. Hubbard, Julian, Kasson, Kelley, Francis W. Kellogg, Kernan, King, Knapp, Law, Lazzar, Longyear, Marcy, Marvin, McBride, McClurg, Middleton, William H. Miller, Morrill, Daniel Mor-

ris, Morrison, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Orth, Perham, Pike, Pomeroy, Price, Pruyn, Samuel J. Randall, William H. Randall, John H. Rice, Robinson, Rogers, James S. Rollins, Ross, Scofield, Shannon, Sloan, Smithers, Spalding, Stebbins, John B. Steele, William G. Steele, Stevens, Strouse, Sweat, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Wilson, Windom, Winfield, Woodbridge, and Yeaman—112.

NAYS—Messrs. Garfield and Grinnell—2.

So the joint resolution was ordered to be engrossed and read the third time.

Mr. MORRILL. I move to change the time from the 1st day of March to the 5th of February.

The SPEAKER. Amendments are not in order after the third reading of a joint resolution.

Mr. MORRILL. I rose immediately after the result of the vote was announced.

The SPEAKER. The previous question is not exhausted till the joint resolution is read a third time, and after that time amendments are not in order.

Mr. MORRILL. I move to reconsider the vote by which the joint resolution was ordered to be engrossed and read a third time. I do this because I believe it would be more satisfactory to the House to shorten the time, and because I believe the bill will be thereby rendered more efficient. If we offer bounties at all, they ought to be offered to induce speedy enlistments. I move the previous question on the motion to reconsider, and call for tellers.

Tellers were ordered; and Messrs. MORRILL, and HARRIS, of Illinois, were appointed.

The House divided; and the tellers reported—ayes 46, noes 52.

So the previous question was not seconded.

Mr. FARNSWORTH. I move to lay the motion to reconsider on the table.

The motion was agreed to.

Mr. FARNSWORTH. I move the previous question on the passage of the joint resolution.

Mr. GARFIELD. Has it been ruled that no amendment is in order?

The SPEAKER. No amendment is in order.

Mr. WASHBURN, of Illinois. I ask that my colleague [Mr. FARNSWORTH] be allowed to strike out the last clause of the bill—that it is to take effect from and after its passage. That clause is entirely unnecessary.

Mr. FARNSWORTH. I have no objection to that.

Mr. BROOKS. I object.

The previous question was seconded, and the main question ordered; and under its operation the joint resolution was passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The call of committees for reports was continued and completed.

CALL OF STATES.

The SPEAKER announced the next business in order to be the call of States for resolutions, under which bills for reference might be introduced.

RELEASE FROM ATTACHMENT.

Mr. ELIOT introduced a bill to authorize the Secretary of the Treasury to release certain property from attachment, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

PREVENTING COLLISIONS.

Mr. ELIOT also introduced a bill fixing certain rules and regulations for preventing collisions on the water; which was read a first and second time, and referred to the Committee on Commerce.

PUNISHMENT OF TREASON.

Mr. ELIOT also introduced a bill repealing part of the joint resolution explanatory of the act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862; which was read a first and second time, and referred to the Committee on the Judiciary.

HALL FOR STATUARY.

Mr. MORRILL introduced the following resolution, and moved the previous question on its adoption:

Resolved, That the Committee on Public Buildings be requested to examine and report as to the expediency of

setting apart the old hall of the House of Representatives as a hall for statuary; and also as to the cost of a new flooring and bronze railing on each side of the passage-way through the hall, preparatory to the reception of such works of art.

The previous question was seconded, and the main question ordered; and under its operation the resolution was agreed to.

NINE MONTHS' VOLUNTEERS.

Mr. WOODBRIDGE offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of including in the draft now ordered by the President of the United States those who volunteered into the nine months' service, and report by bill or otherwise.

BUILDING OF STEAMSHIPS.

Mr. SWEAT submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Naval Affairs be instructed to report a bill authorizing the President to appoint a scientific board, whose duty it shall be forthwith to make a thorough examination into the theory adopted by the Government in the construction of the steam vessels built under the direction of the Secretary of the Navy, and to report the practical working thereof; also, whether or not the engines now used in vessels in our naval service differ from those used in the steam marines of Europe and in the merchant vessels of this country, and in what said difference consists; and whether or not, as now constructed and applied, they are in accordance with well-known scientific laws pertaining to them, or in clear and open defiance thereof; and whether the recognized law of the "expansive power of steam" has been applied in such a manner as to obtain the highest possible rate of speed and economy of fuel; and whether the adoption of engines constructed in accordance with this law, generally approved in Europe and this country, will not greatly economize the force of steam and insure much greater speed than has yet been attained in our steam vessels; and whose duty it shall be to report generally such improvements in the construction of vessels for our naval service as they may deem that the interests of the country demand; and that they have power to order a vessel, built on the plans now adopted by the Navy Department, to be run over measured distances, under the control of the inquiring bureau, with a view to ascertain the speed and power which may be developed by the use of the plans now adopted.

Mr. STEVENS. If the gentleman from Maine will so amend the resolution that the committee shall be directed to inquire into the expediency of doing what is proposed, I will not object.

Mr. SWEAT. That is the point I want to meet.

The SPEAKER. Debate is not in order even if the call for the previous question be withdrawn, for the resolution, if it gives rise to debate, must, under the rules, go over.

Mr. STEVENS. Does the gentleman adopt my amendment?

Mr. SWEAT. I do not propose to debate the resolution, but simply to answer the suggestion of the gentleman from Pennsylvania. I will only say a few words.

Mr. STEVENS. Does the gentleman accept my suggestion? If he does not I will move that the resolution be laid upon the table.

Mr. SWEAT. I ask to say a word.

Objection was made.

Mr. SWEAT. If the object of the resolution were understood, there would be no objection.

The SPEAKER. The gentleman from Maine cannot discuss the resolution except by unanimous consent.

Mr. SWEAT. I cannot accept the suggestion of the gentleman from Pennsylvania.

Mr. STEVENS. I move that the resolution be laid upon the table.

Mr. SWEAT demanded tellers.

Tellers were ordered; and Messrs. SWEAT and STEVENS were appointed.

Mr. SWEAT. For the purpose of having this subject before the House in some way—I consider it important—I will accept the suggestion of the gentleman from Pennsylvania. I hope that he will withdraw the motion to lay upon the table. I withdraw the demand for the previous question.

Mr. STEVENS. I withdraw the motion to lay upon the table.

The resolution was adopted.

PENSION BUREAU.

Mr. RICE, of Maine, submitted the following resolution, which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be directed to inquire what legislation is necessary, if any, more perfectly to organize the Pension Bureau and to facilitate the transaction of its business; and to report by bill or otherwise.

WASHINGTON CITY RAILROAD.

Mr. SWEAT submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be directed to inquire into the question of the facilities afforded by the Washington city railroad for the carriage of passengers, and, if of the opinion that the same are inadequate, that they have power to report by bill or otherwise, as they may deem proper.

STEAMER HOWQUA.

Mr. PIKE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be directed to communicate to this House a copy of the report of Acting Lieutenant Edward F. Devens of the treatment of the officers and crew of the United States steamer Howqua, in Halifax harbor, in June last, when said steamer was at Halifax for the purpose of coaling.

ACTING OFFICERS OF THE NAVY.

Mr. PIKE also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of amending the law authorizing the Secretary of the Navy to appoint acting officers of the Navy, so as to extend the power of appointment so as to include acting officers above the grade of lieutenant.

PRIZE MONEY.

Mr. BLAINE submitted the following resolution; which was read, considered, and agreed to:

Whereas the prolonged delay in the distribution of prize money to the officers and seamen of our Navy is working serious injury to the service by creating distrust in the good faith of the Government, and thereby retarding enlistments: Therefore,

Resolved, That the Secretary of the Navy be directed to communicate to the House, as promptly as may be, the reasons for this delay, in order that it may be remedied by additional legislation, if needful.

POST OFFICE APPROPRIATION BILL.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union to take up and consider the Post Office appropriation bill, which was made the special order in that committee for this day.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RICE, of Maine, in the chair.)

Mr. STEVENS moved that the President's message be laid aside, and that the committee take up House bill No. 50, making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1865.

The motion was agreed to.

The bill was read a first time for information, and then the Clerk proceeded to read it by paragraphs for amendment.

Mr. BROOKS. Mr. Chairman, the Clerk has just read an appropriation of \$7,849,000 for the transportation of the inland mails. I hope that the chairman of the Committee of Ways and Means will explain that item. Will he point us to the estimate where it is provided for, so that we may see what it is? Let us know what we are doing, for this is a large sum of money.

Mr. STEVENS. Mr. Chairman, it is not customary for the estimates of the Post Office Department to be carried into the estimates of the Secretary of the Treasury which are sent to the House, it being, or ought to be, a self-sustaining Department; but it has always been the habit of the Postmaster General to make out the estimates in manuscript, and send them to the Committee of Ways and Means for the amount required. I hold it in my hand, and it is in the words of this bill.

Mr. BROOKS. Is it the sum in the aggregate?

Mr. STEVENS. Yes, sir, that is the only estimate and the only explanation from the Department.

Mr. BROOKS. That used to be a large sum when we were here young men together.

Mr. STEVENS. It used to be a large sum of money when we had added to it two thirds for deficiency for carrying the mails in the southern States. At present we are rid of that. The deficiency will now be a small amount. The gentleman is aware that the moneys received by the Post Office Department are turned into the Treasury and reappropriated in this manner. The deficiency is not one sixth of what it was when the States were all together.

Mr. BROOKS. I am much obliged to the chairman of the Committee of Ways and Means, and I have no doubt the House is satisfied.

Mr. STEVENS. I am unable to give the gentleman any other information, because the Department has not furnished it to us. The language of the bill is in the words of the communication sent to the committee by the Department.

Mr. BROOKS. I have no doubt it is correct. I inquired for my own information upon the subject.

Mr. KASSON. This appropriation for inland transportation is confined exclusively to paying the amount required by contracts which are made and which continue for four years—the United States being divided into four divisions for this purpose. Contracts are made once in four years for each division. The estimate is simply to pay the amount which will be called for by contracts to be made in one of these divisions, and contracts which have been made in three of the divisions, for this year. It is in one part conjectural, and in the other part certain.

Mr. BROOKS. Is there any appropriation made here for carrying the mail from New York to Panama, or from Panama to San Francisco?

Mr. KASSON. We have no contract for that route at present.

The Clerk then resumed the reading of the bill, and advanced to the clause—

For payment of balances due foreign countries, \$200,000.

Mr. BROOKS. I wish to make an inquiry as to those two lines, thirty-five and thirty-six. I think I understand them, but I want to be sure. Is this a difference of postage against the United States in connection with other countries? Does it bring us \$200,000 in debt?

Mr. STEVENS. I understand the gentleman from Iowa [Mr. Kasson] just explained that.

Mr. KASSON. This appropriation arises from an adjustment of the postal balances between this country and foreign countries. Two or three foreign countries are usually indebted to the United States. France and England always have a balance against us, as well as one or two other countries. This is a balance which it is estimated will be due. We collect more postage in some cases than other foreign departments do, and in that case we have to pay a balance to them. The amount also depends, to some extent, upon which country furnishes the steamers which carry the mail.

Mr. BROOKS. How does this amount compare with the usual appropriation for this purpose?

Mr. KASSON. It is about the usual amount; and I beg to add, now that I am upon the floor, that the Department is at present engaged—and I mention it from my special connection with the matter—in revising all its postal treaties with foreign countries, in order to get rid of paying these balances, which at this time cost extravagantly, in consequence of the rate of exchange.

Mr. WASHBURN, of Illinois. I would inquire if there is any appropriation in this bill to pay the railroads between New York and Washington for carrying the mails?

Mr. STEVENS. There is a provision for punishing them when they fail—not in this bill, but in former bills.

Mr. WASHBURN, of Illinois. If the fines have been imposed as they should be, the companies would not have much left. And as this bill is open to general debate, it may be well to call the attention of the country for a few moments to the state of communication between the great commercial and political metropolises of the country. We are here connected with the commercial center only by railroads of a single track, which are under control of monopolies so powerful as apparently to defy every effort at reform. I understand the recent delay we have experienced on trips from New York, and which has been attributed to the weather and to the accumulation of ice in the Susquehanna, was not really so much the result of the ice and the weather as the result of the carelessness of the company in putting so many cars upon the boat as to ground it. Thus it has been that members of Congress and others have been delayed upon the trip twelve and fifteen hours.

I do not profess to have any great interest in this matter, because I hope and believe that, unless there shall be a reform instituted, the seat of Government must leave this barren and isolated and inhospitable region for the valley of the Missis-

sippi, where we can feed the people; where we can give them good butter at a bit a pound, and chickens at two bits a pair, [laughter], and plenty, as a friend near me suggests, to drink—good water. [Laughter.]

Now, sir, I have been somewhat surprised at what I have seen in this House in relation to this matter. Gentlemen are governed by the highest and purest motives, as a matter of course; but no man could fail to wonder somewhat that gentlemen living in New York and New England should interpose against any reform in this great line of communication. It may be asked, "What's the matter?" I will tell you "what's the matter." In the first place, these railroads between Washington and New York cannot do the business which the country demands; and in the second place, those gentlemen having control of them do not seem to wish to give all the accommodation which their roads might afford. What would have been our situation if these obstructions, which we have seen within the last week, and which may occur at any time during the winter months, had existed when this army of the Potomac was repulsed—this great army of the Potomac, which is "all quiet," I believe, at this time, and probably will be quiet until, perhaps, a great western general, who I trust will be made lieutenant general, shall have control of that army? And then, sir, I tell you there will be no very great danger from the elements or from the rebels, so far as your capital is concerned. But I will not enlarge upon these observations.

I am rejoiced that the House has shown its independence to-day by directing a committee to be appointed which shall examine into this whole subject, and I trust that committee will perform their duty without fear, favor, or affection. I have seen committees of the same sort raised before. I have seen suggestions made in regard to reforms, and no sooner were they made than it would be whispered that it was for some other purpose that those committees were raised; that there was some other object, blackmailing, or something else, that gentlemen desired to accomplish. I know that a committee will be appointed which will be influenced by no such considerations, but that it will go forward in the great work which the House has committed to it, and will show the country, and show the constituents of every man here who has constituents to visit him, what has been the control and policy of these corporations. Sir, they are only known now to the country by their impositions and their extortions upon the Government and upon the traveling community. Sir, if we could only get at the fact of the amounts which the Government has had to pay to these corporations, the country would be astounded. Enough has been paid, I undertake to say, to almost build a single track railroad between here and the city of New York. These companies seem to be perfectly lawless in all their dealings with the Government as well as with individuals. Why, a gentleman in New York told me, the other day, that he knew of another railroad which had recently charged the Government precisely four times the amount which it charges individuals for a certain service. Let these things be brought out before the country. Let the Government and let the people be protected from these outrages which have been so long inflicted upon the country.

Mr. STEVENS. I do not know precisely to which items in this bill the gentleman's remarks apply. [Laughter.] I have no doubt they apply to some of them, as this bill is a special order, and therefore the gentleman would keep within the rules. But, sir, a great deal that the gentleman has said I have no doubt is correct. I do not rise to defend the railroads, having in my pocket no free tickets whatever, although I do not say that I should have rejected any if they had been offered me. [A laugh.] Certainly, sir, shall go for any number of railroads that capitalists will make with their own capital, whether it be between this and New York, or Philadelphia, or Boston, or anywhere else. So long as they ask no appropriation in money or bonds from this Government, I will go for one or for twenty railroads, for all monopolies of that kind I look upon as injurious to the interests of the country.

I do not know, sir, whether these railroad companies between here and New York are much at fault; whether they have not done all that they could, considering that there is but a single track,

to facilitate trade and travel between these points. I know there was a time when to risk one's capital in making a railroad at all between this and New York was somewhat of a perilous adventure, and therefore I have some respect for the interests of gentlemen who at that time did embark in it; but, nevertheless, I say that they have no right to monopolize the whole business, unless they can do it fairly. Let any other man who chooses to make a railroad at his own cost, and pay damages to the owners of the soil over which he passes with his railroad, do it.

Still I am not quite prepared to denounce the management of these roads, because I do not know facts enough on which to found such denunciation. I know that there has lately been great delay in the transportation of freight and passengers; but the weather had something to do with it. It had a good deal to do with the delay between this city and Philadelphia. But that is no reason, as I said before, why other railroads should not be constructed. If there be any reason at all for refusing another track from here to New York, it consists in the fact that this Capitol is likely soon to be removed bodily from its present position to another place, to which there will have to be railroads made. If that shall appear to be the danger, as from the powerful influence of the gentlemen who have moved in it I fear it to be, then perhaps we had better suspend the construction of any further railroads until the Capitol be finally located somewhere. I have no doubt that the best place, if we were now seeking a location, is in the valley of the Mississippi, or on some of the waters that empty into that great river. I have no doubt at all that the water of the Mississippi would take more good liquor than any other, and still be wholesome. [Laughter.] I have no doubt that that is the very place to breed the tallest generals and bravest soldiers in the world. I therefore congratulate my friend [Mr. WASHBURN, of Illinois] on living in that particular location where such tall men do thrive. [Laughter.] Still I do not see its exact bearing on this bill. I cannot very well see it. As to the lieutenant generality, I shall vote against creating any more lieutenant generals. We have got one already. We have one lieutenant general who is a retired lieutenant general.

Mr. WASHBURN, of Illinois. Is the gentleman sure of that?

Mr. STEVENS. I am not sure of anything in the world. [Laughter.] If anybody suspects it, I will give it up as a doubtful question.

Mr. WASHBURN, of Illinois. I thought my friend was not entirely certain about that. I think that if he will look into the law he will perceive that there is no lieutenant general in the country. The law which he undoubtedly refers to was revived for the purpose of permitting the title by brevet to be given to a general.

Mr. STEVENS. I know that our lieutenant generality was only by brevet. I know, however, that that brevet rank carries with it pay and emoluments.

Mr. WASHBURN, of Illinois. But no command.

Mr. STEVENS. No command, of course. All that I am aware of.

Mr. BRANDEGEE. I rise to a question of order. I ask, what has all this to do with the bill before the committee?

Mr. STEVENS. That is what I am asking. [Laughter.]

Mr. BRANDEGEE. That is what I am asking, for I call the gentleman to order.

Mr. WASHBURN, of Illinois. I trust the gentleman from Connecticut will permit the gentleman from Pennsylvania to proceed. I desire to say a word in regard to the matter of the lieutenant generality myself, as the gentleman from Pennsylvania has been so very swift to proclaim, in advance, that he will vote against giving the title of lieutenant general.

Mr. BRANDEGEE. I shall not withdraw my objection, because both gentlemen are old enough to know better. [Laughter.]

Mr. STEVENS. I think the gentleman is right, and I owe an apology to the House for the remarks made by the gentleman from Illinois. [Laughter.]

Mr. WASHBURN, of Illinois. I am much obliged to my friend from Pennsylvania.

Mr. STEVENS. I hope, therefore, that the bill will pass without much further objection.

Mr. PRUYN. Mr. Chairman, I did not expect to say a word to-day in regard to this matter; but this debate, after what the gentleman from Illinois has said, has taken so wide a range that I feel bound to say a few words to the committee. I am very much surprised that the gentleman from Illinois should have made the broad and general attack he has made this morning on the railroad system of this country and on its management. I do not propose now—this is not the time—to enter into the question of the merits or demerits of the railroad lines between this city and New York. The House has seen fit, as the gentleman says, to adopt to-day a resolution, in a perfect spirit of independence, (and I do not mean here to notice the attack which he made on the character of the last House; there are others here who should do that,) instructing a special committee to inquire into the management of those lines, and we may, in time, have a report on that subject.

But when a gentleman gets up here from a State which has more largely than any other in the Union benefited by the railroad system, which has been developed more thoroughly and entirely than any other part of the world by that system, and denounces it in the manner in which he has denounced it this morning, I must say that I cannot help expressing my surprise and regret to find such sentiments coming from such a quarter. Illinois is covered with a network of railroads. Eastern capitalists, capitalists from abroad, and capitalists from the middle States, have sent out millions and millions and tens and scores of millions of dollars to that State, which have been invested in advancing its progress and increasing its wealth, giving dignity and power to that State. While that has been so, we have a Representative coming from that State indulging in remarks of the most extraordinary character in regard to the great system of railroads in this country.

Mr. WASHBURN, of Illinois. Mr. Chairman, I wish the gentleman from New York would be good enough to state to what portion of my remarks he is now alluding. Where did I denounce the whole system of railroads of the country?

Mr. PRUYN. I appeal to the members of the House, to every man here, whether the gentleman from Illinois did not indulge in a most bitter and indiscriminate attack on the railroad system of this country.

Mr. WASHBURN, of Illinois. The gentleman heard me undoubtedly, and can state to the committee what portion of my remarks denouged generally the system of railroads.

Mr. PRUYN. I refer to the general manner in which the gentleman spoke of the railroad system of the country; the attempt made by them, as he said, to rob and fleece the Government, their arbitrary character, and the manner in which they were managed.

Mr. BRANDEGEE. I understand that the House is in the Committee of the Whole on the state of the Union on a special order, which is the Post Office appropriation bill, and that we are not in committee for general discussion. I call the gentleman from New York to order, as his remarks are not germane to the bill now under consideration.

Mr. PRUYN. That will depend on the question of fact, to be determined at the Clerk's table by the Chair, whether the Post Office appropriation bill was made a special order before we went into the Committee of the Whole on the state of the Union.

The CHAIRMAN. The point of order is well taken by the gentleman from Connecticut.

Mr. WASHBURN, of Illinois. I would be glad if the gentleman from New York would proceed to answer my question. When he has done so, I hope that I will not be denied an opportunity of replying to his remarks concerning what I have said.

The CHAIRMAN. Debate can only proceed in order.

Mr. PRUYN. I understand the question to be presented to the House to be this: we are passing the appropriation for paying the railroads of this country for services which they have rendered the Post Office Department. The gentleman from Illinois virtually took the ground that they ought not to be paid, and that therefore the appropriation ought not to be made; at least, that the service has been so imperfectly performed—

Mr. WASHBURN, of Illinois. The gentleman could not understand me as taking that ground. I suppose that the gentleman will permit me. I state—and the gentleman from Pennsylvania [Mr. STEVENS] will bear me out—that when the House went into the Committee of the Whole on the state of the Union, believing the bill open to general debate, I made my remarks particularly in regard to the railroad between Washington and New York. I remarked that some of the railroads had swindled the Government during the war; and in proof of that remark I can refer the gentleman to a report of one of the committees of the last Congress.

Mr. BRANDEGEE. I call the gentleman to order, and insist on the enforcement of the rules.

The CHAIRMAN. Gentlemen must confine themselves to the question before the committee.

Mr. PRUYN. Am I right in supposing that the question is in reference to the payment of railroads services? Is that the question before the committee?

The CHAIRMAN. The gentleman must confine himself to the bill, and cannot go into a general discussion of the railroad policy of the country.

Mr. PRUYN. Mr. Chairman, I understand the gentleman from Illinois to take the ground, and he now repeats it, that the railroads of the country—he speaks of them in the mass, and not only of a few—have been engaged in swindling the Government during the war.

Mr. WASHBURN, of Illinois. I said that many of the railroads which had dealt with the Government had swindled it. I repeat it, and I stand by it.

Mr. PRUYN. The gentleman qualifies his former remarks.

Mr. WASHBURN, of Illinois. No, sir.

Mr. PRUYN. He talks now about a few of the railroads. It is with corporations as with individuals, and I have no doubt that you will find some railroads behaving badly, and getting more than they were entitled to. But I venture to say that in no part of the world have greater efforts been made by corporations to meet the unexpected demands made upon them by the Government than by the railroad companies of this country; and that in no part of the world has the compensation paid ever been less. I am speaking from some personal knowledge. I do not claim, and I do not mean to claim, that these companies have been immaculate; but I do mean to protest against this wholesale denunciation on this floor of the railroad corporations of the country because a few of them, in the judgment of the gentleman from Illinois, have attempted to swindle the Government. I express my surprise that a gentleman coming from that State which is covered with a network of railroads should take the position he has taken.

Mr. BRANDEGEE. What was the decision of the Chair upon the point I made?

The CHAIRMAN. That the gentleman from New York must confine himself to the question under debate.

Mr. BRANDEGEE. I make the point that the gentleman is not confining himself to the question before the House.

The CHAIRMAN. In the opinion of the Chair, the gentleman from New York is taking too wide a range. He will please conform his remarks to the decision of the Chair.

Mr. PRUYN. I would like to know again of the Chair whether we are not considering the question whether we will vote this appropriation to railroads to pay for their services performed for the Post Office Department.

The CHAIRMAN. The gentleman must submit to the decision of the Chair, or take an appeal from that decision.

Mr. PRUYN. I claim that if I am out of order, the gentleman shall put his point in writing.

Mr. BRANDEGEE. I am merely calling the gentleman to order for speaking, not to the bill of the committee, but to the general railroad system of the United States, and particularly to the Central railroad of the State of New York.

Mr. PRUYN. I have inquired of the Chair twice, and I now inquire a third time, if we are not passing upon the question whether the railroads shall not be paid for the postal services they have rendered to the Government? That subject brought up the gentleman from Illinois, [Mr.

THE CONGRESSIONAL GLOBE.

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WASHBURN,] and as he opened this subject, I claim that I have a right to meet him. If the gentleman from Connecticut [Mr. BRANDEGEE] wanted to object to this line of debate, he should have done so when it was opened by the gentleman from Illinois.

The CHAIRMAN. Objection can be interposed at any time, and the point of order raised. The Chair has decided that the general course of the remarks of the member is out of order.

Mr. PRUYN. May I, with great respect, inquire of the Chair again, what is the point we are discussing? Am I not right in supposing it to be the question of paying these roads for the postal service they have performed for the Government?

The CHAIRMAN. The Chair would state that it will be in order to discuss the general manner in which the railroads of the country have discharged their duties in carrying the mails for the Government; but when the gentleman enters into general debate as to all the doings of the railroads through the country, the Chair decides that it is not in order.

Mr. PRUYN. I will confine myself within the rule which the Chair has laid down.

The gentleman from Illinois claims that the services for which this bill seeks to pay the railroads have been imperfectly discharged in some cases, and that in other cases the charges have been exorbitant. I do not propose to enter into the general question of the management of railroads, but I will restrict myself within the range the Chairman imposes, though the gentleman from Illinois was permitted to go quite outside of that range.

I have very little more to say in regard to this matter. I rose principally to repel the attack made by the gentleman from Illinois upon the great body of railroad corporations in this country, and to express my regret that when this question of appropriation came up, he, a Representative from Illinois, a State covered all over with railroads which have done so much to develop its resources and wealth and to elevate its character, should have been the person from whom this attack proceeded. I have no doubt that the postal services rendered by the railroads of this country are the cheapest services rendered the Government in the country; and that most of the railroads have performed the service for the Government for a price for which they would not perform it for individuals.

The gentleman from Connecticut [Mr. BRANDEGEE] alluded to the Central railroad of New York. I am connected with that road, and have been for many years, and I venture to say that there is no class of commercial people in the State of New York for whom the New York Central road would render the services which they render for the Government for the same amount of money; and that were it not that the mail has been carried simply as a matter of public interest and convenience, they would not for the remuneration carry it a single day longer.

Mr. BRANDEGEE. I do not know all the services the New York Central road has rendered to the Government, but I know it has rendered a service to the Democratic party at my expense.

Mr. COX. I call the gentleman to order. I insist that gentlemen shall quit talking about the Democratic party.

Mr. PRUYN. All these allusions come from the other side of the House. We do not mean to go into them; but if gentlemen choose to open the ball by making such allusions, we shall try to stand upon our ground and meet them.

I can only say that when the gentleman made the remark he did a while ago, he did it in ignorance of certain facts, and in defiance of the open and expressed declarations of some of the strongest and warmest political men of the State of New York, among them his friend, the gentleman from Onondaga, [Mr. DAVIS], sitting over the way.

Now, sir, I have been drawn into saying much more than I meant to say; and I only wish to add that I hope the House, in passing upon this question of appropriation for postal services rendered

by the railroads of the country, will do it without reference to the indiscriminate censure heaped upon them by the gentleman from Illinois, but will pay them at least a reasonable amount for the services which they may have rendered.

Mr. WASHBURN, of Illinois. Since the House has heard the speech of the gentleman from New York, which, of course, was for the most part entirely outside of this bill—which, it seems, has been made a special order—I should be glad, if there be no objection, to have an opportunity to reply to him.

Mr. STEVENS. I believe this debate has gone about far enough, and I must object. I hope we shall pass the bill now, and then I will move to go into Committee of the Whole on the state of the Union for a general talk.

Mr. PRUYN. We will have it out some other time.

The Clerk read the following clause:

For miscellaneous payments, \$200,000.

Mr. BROOKS. I move to amend that clause by adding to it the following:

Provided, That nothing shall be appropriated to carrying the mails from Cairo to Centralia, or Chicago, or anywhere in Illinois; and that a special committee be appointed to ascertain how many failures of the trains there were in Illinois from December 25, 1863, to January 5, 1864.

The CHAIRMAN. The Chair thinks the amendment is hardly in order.

Mr. WASHBURN, of Illinois. I think it is perfectly in order.

Mr. STEVENS. I think I shall have to object to its being in order.

Mr. BROOKS. The gentleman cannot object. It is clearly in order.

Mr. STEVENS. It may be pertinent to the speeches we have heard, but not to this item of the bill.

Mr. BROOKS. If the gentleman will give his attention to the clause, he will see the relevancy of the amendment.

Mr. STEVENS. We have passed that part of the bill.

Mr. BROOKS. Oh, no; I am always in time.

Mr. STEVENS. The previous item makes appropriation for carrying the mails. There is nothing whatever appropriated in this clause for that purpose. This is for miscellaneous items, wholly independent from carrying the mails. That is provided for in the earlier part of the bill. The gentleman's amendment to raise a committee might have been in order there, but I submit that it is not in order here.

Mr. BROOKS. The gentleman is only losing time in pressing his point of order. I am too old a parliamentarian not to find means to accomplish my purpose. I can offer the amendment to the second section.

The CHAIRMAN. The Chair decides that the amendment is not in order.

Mr. BROOKS. I submit to the decision of the Chair; but I wish the Chair would decide what is out of order in the amendment; if the latter clause, I will waive that.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. BROOKS. I appeal from the decision of the Chair in order to say—

Mr. STEVENS. The appeal is not debatable, so the gentleman cannot say it.

Mr. BROOKS. Then I will withdraw the appeal; and shall renew the amendment when we reach the next clause of the bill.

Mr. WASHBURN, of Illinois. I hope the gentleman from Pennsylvania will withdraw his objection. I should like to hear the gentleman from New York state the reasons why he, a Representative of the great metropolis of the country, wishes to deprive the people of Illinois of their mail facilities.

The CHAIRMAN. The Chair would state that debate is in order without offering an amendment. Debate has not been closed on the bill.

The Clerk read the second section of the bill.

Mr. BROOKS. I now submit my amendment to that section.

Mr. STEVENS. I will not disturb the gentleman.

Mr. BROOKS. What I have to say seriously is, that I admit the embarrassments which have existed in carrying the mails between New York and Washington, from the inclemency of the season, and from other causes. These misfortunes have resulted from the burning of a bridge over the Schuylkill river, and the freezing up of the Susquehanna, an occurrence which has happened regularly for twenty-five years past, and probably from the foundation of the world. I see by the newspapers that in consequence of the same kind of weather in Illinois, frost, and snow in some quarters, and a general destruction of the means of locomotion, the breaking down of locomotives in consequence of the frost, and the sudden contraction of the iron, there was no connection between Cairo and Centralia, or between Cairo and Chicago, or on many of the roads radiating from Chicago, from the 25th of December to the latest dates we have from there by telegraph—January the 4th or 5th; and I have just as much reason to insist on a special committee to investigate the whole affair of carrying the mails on the railroads in Illinois, as the gentleman from Illinois and his friends have to demand an examination into the carrying of the mails between here and New York.

I voted as I did to-day on this subject in order to refer the subject to the Post Office Committee or to the Committee on Military Affairs. It was a proper subject for investigation by the Post Office Committee, if it was a postal road that was to be established. It was a proper subject for investigation by the Committee on Military Affairs, if it was a military road that was to be established. It is unparliamentary, it is irregular, it is extraordinary, this introduction of special committees on any and every occasion when a gentleman wishes to be appointed, whether a Speaker wills it or not, chairman of a special committee. It is beneath the dignity of this House, instituted to legislate on the gravest subjects, in a time of civil war, to be taking business from regular organizations and regular committees, and to stoop to the appointing a special committee on the management of railroads between New York and Washington, or between Cairo and Centralia, or between Centralia and Chicago. I withdraw the amendment.

Mr. STEVENS. I move that the committee do now rise, and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. RICE, of Maine, reported that the Committee of the Whole on the state of the Union had had under consideration, as a special order, the Post Office appropriation bill, and had instructed him to report the same back without amendments, and with a recommendation that it do pass.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PRESIDENT'S ANNUAL MESSAGE.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) the first business in order being the consideration of the President's annual message.

Mr. ARNOLD. Mr. Chairman, in June, 1858, a comparatively unknown man uttered in the State-house at Springfield, Illinois, a sentiment which is already historical. Its philosophy, its profound sagacity, its prophetic prescience, its unparalleled boldness and honesty, were characteristic of the man, who, then obscure, has become already, to-

day, the foremost character in American history. The sentiment was this:

"A house divided against itself cannot stand. I believe that this Government cannot permanently exist half slave and half free. I do not expect the Union to be dissolved; I do not expect the house to fall; but I expect it will cease to be divided."

This, the first emphatic enunciation of the philosophical fact of the antagonism between liberty and slavery, the eternal and "irrepressible" conflict between them, electrified the country, and made Abraham Lincoln President of the United States.

The moment the fact is recognized that liberty and slavery are antagonistic, and that there can be no peace between them—that our country, all of it, must pass into the dark night of slavery, or all of it emerge into the clear light of freedom—all loyal, patriotic men become at once anti-slavery men, abolitionists.

Such I avow myself here, to-day, and I shall deem it a proud distinction if I can merit the name by aiding in bringing about the entire abolition of slavery in my suffering country.

And as, when in the palmy days of the Roman republic, the people came to feel, by an instinctive conviction, that Carthage must be destroyed that Rome might live, so, to-day, the American people feel that slavery must die that liberty and the Union may live. "*Delenda est Carthago*," became then the motto of every loyal, patriotic Roman. "Down with slavery" is becoming the motto of every loyal, patriotic American.

As Roman constancy, courage, and persistence finally triumphed over Carthage, so will American constancy, courage, and determination triumph over slavery.

When the Son of God proclaimed a common Father and the universal brotherhood of man, He enunciated the great moral principle which brought on the irrepressible conflict with slavery. It is difficult, it seems to me, for a man to recognize fully the truth of His teaching, in the light of this rebellion, without becoming an opponent of slavery. Just to the extent that Christianity prevails, slavery will disappear. The glorious light of Christianity must fade from the earth, or slavery cease. It is a relic of a barbarous and a savage age, and, thank God, it is melting rapidly away before the light of the nineteenth century.

THE PROGRESS OF LIBERTY.

It would be a most interesting task to retrace the footprints of liberty, amidst the dust and rubbish which have gathered over the history of the past; to follow the oftentimes obliterated pathway by which, since Christ's sermon on the mount, freedom regulated by law has been developed into its present majestic and grand proportions. I hesitate not to affirm that all that there is which is valuable in republican and free institutions has its foundation in the sublime morality and broad humanity of the Bible. The glorious theme of man's struggle, through the ages, for liberty is yet to be written. Historians have told us much of courts and camps, of the changes of dynasties, of battles by land and on the sea; but who among them has traced the history of man's progress, and his struggles, through the ages, for "life, liberty, and the pursuit of happiness?" This history, even as presented by that nation and race most interesting to us—the English—has yet to be fully written. The historian has yet to write who has gone back and recorded for us the dawn of freedom among the early Saxons, its memorable triumph on the field of Runnymede, its struggles through the reigns of the Henrys and the Edwards, its fierce and bloody contest with Charles the First, the Roundhead against the Cavalier; thence to the Petition of Right, pausing with sad steps at the grave of Hampden and the scaffolds of Russell and Algernon Sidney; thence to the revolution of 1688, the gradual but sure advance to the noble efforts of Fox and Erskine and Curran to secure freedom of speech, liberty of the press, and trial by jury, down to the crowning glory of the English constitution, when Lord Mansfield electrified the island of Great Britain by proclaiming in the case of the negro Somerset, "that slaves cannot breathe in England."

God speed the hour when the Chief Justice of our land may truthfully announce the same fact. Then, and not till then, would I have crowned the dome of this Capitol with the statue of Liberty. The great English bard who expiated a life

of follies by giving himself a martyr to Greece, has said:

"For freedom's battle, once begun,
Bequeathed by bleeding sire to son,
Though baffled oft, is ever won."

The historian who writes the story of man's progress from slavery and barbarism to Christian civilization and liberty, will find no more interesting page than that which is now being filled with the struggle in which we are engaged; none where the contest between liberty and slavery has been more clearly defined; none upon a grander theater; none where the combatants, by their numbers, genius, ability, and heroism, have given more dignity and sublimity to the contest.

WEAPONS OF FREEDOM.

When, in 1858, Abraham Lincoln uttered the philosophic truth that freedom and slavery could not permanently exist together—that our country would become all free or all slave—he did not anticipate any but a moral conflict. The weapons by which he expected freedom to triumph were the weapons of truth and free discussion. Free speech, a free press, reason, the schoolmaster, the sermon, the lecture, the printing-press, the telegraph, the ballot: these were the agencies, the weapons, by which the battle was to be fought. It was with the ballot, and not with bullets, the victory was expected to be won. The victory was won by these peaceful agencies in the election of Abraham Lincoln as President. Slavery, conscious that it could not stand free discussion, that it must be destroyed if free speech and a free press were tolerated, appealed from the ballot-box to the sword, and brought upon the country this terrible war.

SLAVERY MUST DIE BY THE LAWS OF WAR.

Slavery having plunged the nation into this war, it is fit that it should die by the laws of war. Slavery stands before the world to-day guilty of all the calamities of our country. Every dollar expended, every suffering endured, every drop of blood spilled, every wound, and every death, on every battle-field and in every hospital, is the price we pay for the existence and toleration of American slavery.

It is to-day a rebel and a traitor. Let us declare it an outlaw under our Constitution and laws.

There has never been a day since our existence as a nation when slavery was loyal to the Constitution and the Union. Now an open enemy, striking at the heart of the Republic, it has always been a plotting, stealthy, secret traitor, undermining the Constitution, and sapping the foundations of our liberties.

INDICTMENT AGAINST SLAVERY.

The counts of the indictment against slavery, were I to recapitulate its outrages and its wrongs, from the organization of the Government down, would swell to volumes.

The effects of slavery in retarding our national growth and prosperity are apparent at a glance.

The finest portion of our country, with the richest soil, situated in the most genial climate, has been blighted by this curse. Watered by navigable streams, nearer to the sun, with every element of prosperity and wealth showered upon it, yet poor, sparsely settled, with neither thrift, nor comfort, nor commerce, nor manufactures, nor culture, nor art, nor intelligence; all because labor was not free. While sterile, rocky, cold, bleak, barren New England, under the influence of free labor, smiles with abundant harvests, every valley blooms like a garden, every hill shelters a thriving village; with every element of comfort, with a commerce whitening every sea, with skilled and intelligent labor which sends its manufactures to the uttermost parts of the earth. Why is this? Because liberty dwells among the mountains of New England, and slavery blackens and desolates the sunny plains of the South.

In the one you find the happy home, the school-house, the church, the lyceum, the newspaper, the railroad, the telegraph; and everywhere domestic comfort and domestic virtue, refinement, culture, the arts, taste, Christian civilization in its highest forms. In the other you find the great plantation, the slave-pen, squalor, poverty, misery; in place of the school-house, the slave market, where children, boys and girls, are bought and sold; ignorance, brutality; without art, without literature, without inventions or labor-saving machinery; everywhere slavery operating as a

moral blight, an intellectual extinguisher, reducing rapidly a once noble people into barbarism. Such are the results of slavery. These results as naturally follow free labor, and the degradation of labor, as that the summer produces fruit and the winter destroys it.

All history demonstrates that the feet that are fettered and the hands that are manacled cannot contend with those that are free. The hand that is enslaved produces no work of merit. The brain that conceives and the hand that executes all great things must be free.

God has established the great law of compensation, that true national greatness can never grow up from wrong and wickedness, and we behold to-day in our country its most striking illustration.

All history teaches that ignorance, vice, pauperism, and barbarism are the natural and inevitable results of the degradation of labor. It is quite time to cut loose this millstone from about our necks.

SLAVERY BECAME MASTER OF OUR GOVERNMENT.

Slavery having in an unfortunate moment been tolerated by the framers of our Constitution, under the mistaken belief that it would be but a temporary evil, soon aspired to and became the master of the Government. Having intrenched itself in the very citadel of political power, conscious of its inherent weakness, it demanded additional territory for its expansion; first Louisiana, then Florida, then Texas. These territories, vast enough for an empire, having been secured, slavery then demanded the repeal of the Missouri line, that she might carry her curse North as well as South and West.

Why need I remind the people of the perfidious repeal of the Missouri compromise, showing the slaveholder's promise to be as sacred as a gambler's word or a secessionist's oath? The story of the sublime struggle in Kansas, between fraud and violence and outrage on one side, and heroic firmness on the other, has not faded from the memory of the people. Her prairies, red with the blood of the martyrs to liberty, her valleys, black with the cinders of her burned and devastated towns and villages, attest alike the devotion of her people to liberty and the savage barbarity of her enemies. All honor to Kansas! She was indeed the rock against which the turbulent waves of violence rolled in vain. Single-handed she successfully resisted the slave power backed by the Federal Government.

Up to this period of this struggle, the career of the slaveholders in their lust of domination had met with no serious check. Slavery was absolute on the bench of the Supreme Court; it dictated in the national councils; it furnished the Presidents, or designated the most base, subservient tool it could purchase among its northern sycophants to occupy the Executive Mansion. It was a ruler in the Halls of Congress. The Army and the Navy, with West Point and the Naval School as its nurseries—the training from which yet lingers—were its right and left hand to carry out its purposes. The national treasure, collected in large proportion at the North, was expended mainly at the South and to fill the pockets of slaveholders. The qualifications for your representatives abroad were fealty to slavery. Every new Territory was filled with the minions of this slave power, and was as regularly trained up to the interests of slavery as the *protégés* of Jefferson Davis in military life were trained to his will.

QUESTIONS OF PEACE AND WAR, OF FOREIGN AND DOMESTIC POLICY, CONTROLLED AND SHAPED BY SLAVEHOLDERS.

The slaveholder held the purse and the sword; he was king at the White House, a ruler here in this Hall, a despot in the Senate, and everywhere a tyrant.

Such was the position of the slaveholder in 1858.

SLAVERY HAD REVOLUTIONIZED THE GOVERNMENT AND DESTROYED THE PRINCIPLES OF LIBERTY.

Meanwhile slavery had revolutionized the Government. The great principles of Magna Charta and the Declaration of Independence had ceased to have practical existence in a large part of the Union. Liberty of speech, freedom of the press, and trial by jury had disappeared in the slave States. Indeed, that portion of the so-called Republic had ceased to be a government of law, and had become a government of a tyrannic, cruel oligarchy, more odious, despicable, and cruel than

any on earth. There was no redress for any outrage, however cruel, if perpetrated in behalf and at the behest of slavery. The vengeance of the slaveholder against the man who spoke or published in behalf of liberty was sharp, speedy, and unrelenting. The bowie-knife and the bludgeon, the halter, and even the stake, were the instruments of violence and torture resorted to by every petty lynch judge who found any bold enough to question the divinity of the "peculiar institution." In the slave States of this Union a freeman had no rights which a slaveholder felt bound to respect. In those States the Constitution had disappeared. I say, then, that slavery had established a revolution, overturned a republican form of government, and established a despotism in its place.

The degeneracy and barbarism produced by slavery are strikingly illustrated by Virginia. Before the rebellion the chief source of her wealth was in the cargoes and coffes of men, women, and children she raised and sent to the Gulf States for sale. Some years she exported her forty and fifty thousand; and this was done without a blush in the grand old Commonwealth of Virginia—the land of Washington, the mother of statesmen!

Let us pause a moment, Mr. Chairman, and contemplate the saddest spectacle of all this war—Virginia as she is to-day. She was worthy of her early preëminence. Her early history was brilliant indeed. Washington, Jefferson, Patrick Henry, Madison, and Marshall, all men of whom any nation might be proud. There is something grand and majestic in the physical conformation of the old Commonwealth. With the Alleghanies and the Blue Ridge running through her entire extent, she seems fashioned for the abode of freemen. When we remember that her greatest writer penned the Declaration of Independence and the Ordinance of 1787, and that he declared that in a contest between her slaveholders and their slaves the Almighty had no attribute which would take sides with the master; and when we look upon her to-day, and see to what slavery has reduced the proud old Commonwealth, it is indeed the saddest spectacle of the war. She is being purged as with fire; she will pass through this agony, and come out of it restored, emancipated, disenthralled, and regenerated. Once more shall she be hailed as the mother of States—free States—and statesmen. Mount Vernon and Monticello will again become the Meccas of the American patriot. Through the dark clouds which now envelop her the bow of promise shall reappear; that bow shall rest upon liberty. When she shall have passed through this agony, and shall arise freed and regenerated, when every petty tyrant shall have been dethroned, then will her stern old motto, "*Sic semper tyrannis*," have a new and glorious significance.

In view, then, of all the curses which slavery has inflicted upon the country, I impeach American slavery before the American people and their Congress, and demand whether it shall still live?

I charge slavery with treason and with murder; I charge it with the murder of every Union soldier who has been sacrificed since the rebels fired upon Fort Sumter; I charge it with the assassination of Ellsworth and Lyon and Baker and McCook, and the whole army of martyrs who have been perfidiously assassinated by slaveholders since they began the rebellion; I charge it with a conspiracy to undermine and subvert the liberties and Constitution of my country, to erect a despotism upon its ruins; I charge slavery with the death of all those who have fallen in this war. It has dug the half million of graves for patriots and rebels made by this war; and those who sleep there would, but for this cursed institution, to-day be living in peace and fraternity.

In the name, then, of those dead, in the name of the widows and orphans thus created, in the name of our country which it has desolated, in the name of the Constitution which it has sought to overthrow, I demand the abolition of American slavery.

YOU CAN HAVE NO PEACE WHILE SLAVERY EXISTS.

You can have no permanent peace while slavery lives. A truce you might have, possibly, until it could recover its power; but peace, never. Your contest with it is to the death. Your implacable enemy now reels and staggers. Strike the decisive blow. You could not if you would, and you ought not if you could, make terms of compromise with slavery. You have abolished it at this capital. You have forever prohibited it

in all your Territories. Your Government has hung a man for participating in the slave trade. You have admitted West Virginia free. You have acknowledged the independence of Hayti. You have enlisted, and are enlisting, African soldiers; they have carried your banner bravely and triumphantly on many hard-fought fields. You have pledged your faith to them, to the world, and to God, that they shall be free. You have crowned the dome of your Capitol with Liberty. At your call Missouri is throwing off the incubus of slavery. Maryland shouts back, through the ballot-box, her joyous answer that she, too, is to be free. Delaware, Tennessee, Arkansas, Texas, and Louisiana will not linger. Your President, in a proclamation of emancipation, which, while it has revolutionized the public sentiment and the action of Europe, has secured victory to our arms, has proclaimed liberty and emancipation throughout the territory in rebellion.

Here, then, we are on the eve of universal emancipation. We cannot go back, and we must not halt. Slavery must die. The sooner it dies, the sooner we shall have peace.

HOW SHALL SLAVERY BE EXTERMINATED?

First, I reply, in the border States, by the action of the States themselves. This action will be speedy and decisive.

Second. In all the territory in rebellion, slavery has been already substantially abolished by the proclamation of emancipation. Confirm by Congress this proclamation by prohibiting its reestablishment, and abolish it in that part of the rebel States not included in the proclamation.

Third. Slavery being thus everywhere abolished, amend the Constitution, prohibiting its reestablishment or existence in every part of the United States.

Has Congress the power to confirm, sanction, and carry out the proclamation of emancipation, and prohibit slavery in all that portion of the United States designated therein?

WHAT POWER HAS CONGRESS OVER SLAVERY IN TIME OF WAR?

I claim that the Government has the power in time of war, as a war measure, to abolish slavery wherever and whenever it may be necessary to secure the success of the war.

It is a principle in the interpretation of statutes and constitutions, familiar to lawyers, that, to determine their meaning, you may look into and consider their preamble. This is, indeed, usually the key to the instrument. It states the object sought to be attained by the statute; and it would be strange, if the preamble recites that the Constitution was ordained to accomplish a certain specified purpose, if the power to accomplish that purpose is not found in the Constitution. Now, the preamble to the Constitution recites that the people, "in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty, &c., ordain and establish this Constitution," &c.

For the purpose of securing these objects a Government was established, clothed with powers adequate, as was supposed, to accomplish these purposes. Now, if a permanent and perfect union between free and slave States has been demonstrated to be impossible, may not the obstacle to such union be removed? If justice cannot be established while slavery exists, shall not slavery cease? Has Congress the constitutional power to insure domestic tranquillity? I submit to the candid and thoughtful men of all parties whether, in the light of the history of the past, the endless controversies and dissensions, from the Missouri question down to the civil war in Kansas, the riots and outrages caused by slavery, culminating in this terrible rebellion and bloody war, whether domestic tranquillity is attainable while slavery exists? If not, may not this domestic tranquillity be insured by removing the disturbing cause? If, indeed, there is no medicine for this evil, if this vicious element may not be removed, then the founders of the Government established the Constitution to insure tranquillity without the power to accomplish the object.

Fourth. Among the enumerated objects of the Constitution was to provide for the public defense. Assuming the fact that slavery is a source of weakness and danger to us, and would afford aid and strength to a foreign or domestic enemy, can we

provide for the common defense by removing the danger? If a city charter vested in the corporate body the power to provide for the common defense, and a magazine of powder should be established in a populous district, would any lawyer doubt the power of the corporation to cause its removal? If a dangerous and contagious disease should spring up, would the power to cause its removal be questioned? If a pestilence-breeding nuisance existed, could it be removed and its cause be prohibited?

Again, the Constitution was ordained to promote the general welfare, and to secure to us and to our posterity the blessings of liberty. Suppose experience has demonstrated that we cannot have prosperity, nor the blessings of liberty, without extirpating slavery. Suppose the census tables demonstrate that slavery is the great obstacle to our progress; that free labor will produce double that of slave labor; that with free labor you will have national prosperity, wealth, every element of greatness; that with freedom you will have education, arts, science, civilization, religion; while with slavery you have ignorance, brutality, vice, barbarism: can we, under a Constitution formed with the avowed object of promoting the general welfare, promote it by abolishing slavery? Suppose it to be demonstrated that liberty and slavery are incompatible, and that unless you destroy slavery, slavery will destroy freedom and republican government, can you secure the blessings of liberty to yourselves and your posterity by destroying slavery?

THE POWER TO GOVERN THAT PORTION OF THE UNION IN REBELLION MUST BE IN THE NATIONAL GOVERNMENT SO LONG AS REBELLION EXISTS.

There is to-day no government in that portion of the United States in rebellion, except the national Government. Until it is restored to the Union, the power to govern it must exist somewhere. Where is it? I say, in the President and in Congress.

That is a part of our country. The United States—the nation—has guaranteed to it a republican form of government. None exists there to-day. Jefferson Davis has established a despotism there. That despotism must be crushed, and a republican government established. Everything needful to that end the President and Congress may rightfully do. The power to establish all needful rules and regulations, and make all laws necessary to the restoration of a government republican in form, must exist in the national Government.

I do not choose to theorize about State suicide, nor whether the rebel States are in the condition, in every respect, of Territories. I call attention to the fact that there is no government in this rebel territory, except the despotism of Jefferson Davis. There is no State government there. There is no republican government there. The loyal citizens of that part of the Union call upon us to fulfill the constitutional guarantee of giving them a republican form of government.

Whatever it is necessary to do, to execute in their favor this constitutional guarantee, Congress and the President may rightfully do. The right to crush armed resistance to the Constitution and laws, and for Congress to make and the President to execute such laws as will result in the establishment of a republican government, is then clear. But this right to coerce into subjection, and govern until obedience and loyalty shall resume their sway, all territory and States in rebellion, is not left to inference, nor is it dependent only on those parts of the Constitution to which attention has already been called. The Constitution also provides that "Congress shall have power to provide for the common defense and the general welfare."

Congress also has power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Now, the President is an officer of the United States, the Commander-in-Chief of its armies, and it is his duty to suppress rebellion, repel invasion, and maintain the Constitution everywhere in the Union, and carry out the guarantee to each State of a republican form of government; and this he is to do, when necessary, by force, by war, subject to the laws of war; and Congress has full power

to make all laws necessary and proper to carry out, and into full execution, these war powers of the Government, including the well-established

BELLIGERENT RIGHT OF EMANCIPATING SLAVES.

If slavery is the corner-stone of the rebellion, can not that corner-stone be constitutionally knocked out? If slavery is the cause of the war, giving strength to our enemies; if it feeds and clothes their armies, and keeps them in the field, and enables them to keep up their power; and if the President, or Congress, or both acting together, by freeing them, can deprive the rebels of this power, and bring their freed slaves to our side, and thus provide for the common defense, and thus restore the Union and a republican government to the loyal men of the rebel States, is not the right to do this clear and indisputable? If we have not this right, then is the Government without the means of self-preservation.

The Constitution provides that "the United States shall guaranty to every State in this Union a republican form of government." Congress has the power to do everything necessary to make good that guarantee. If the emancipation of slaves in the rebel States will tend to the establishment of a republican form of government in the States in rebellion, who can deny the power to emancipate? The government, so called, existing *de facto*, in the States in rebellion, is in antagonism to the republican government the Constitution requires the nation to guaranty. It is the right and the duty of the Government to destroy that usurped and rebellious *de facto* government, and establish a republican government in its place. In accomplishing this, if slavery stands in the way, may it not be removed out of the way? Congress, under this constitutional provision, has the power, and it is its duty, to make war upon the anti-republican government now usurping power in the rebel States. It has all the power to make that war effective. Has the Government the right to make war, without the right to use the means to make the war effective? Can the Government declare war, and is this a mere barren right, a *brutum fulmen*? No, this Government, having the right to carry on the war, possesses all the powers known to civilized nations to make war effective, and among these powers is the right to emancipate slaves.

I ask gentlemen this question. Jeff. Davis has made war upon our country, attempted to set up upon our soil a rebellious government, attacked our capital, and now holds a portion of these States under a despotic tyranny. In making war upon him to subdue him, to reestablish our authority, and fulfill the guarantee of a republican form of government, can our Government do all that one nation can do when at war with another under the rules of war? Surely this will not be denied. This brings us to the inquiry whether the emancipation of the slaves of the enemy is or is not a recognized mode of carrying on modern warfare. Let us see. The end we are seeking to accomplish is to crush the rebellion. The abolition of slavery tends directly to the accomplishment of that end, and as effectually as to subdue the rebel armies in the field. Without their slaves the rebel armies could not long exist. Emancipation not only deprives the rebels of the means of supporting their armies, but it is the most efficient means of bringing the force and power of four millions of people to our side.

Now, the end we are seeking, to wit, the destruction of the rebel power, being legitimate, and "within the scope of the Constitution," to use the language of Chief Justice Marshall, all means which are appropriate and plainly adapted to the end, and which are not prohibited by the Constitution, are lawful. (4 Wheaton's Rep., 421.) I assert, without fear of contradiction, that the emancipation of the slaves of an enemy is a well-recognized belligerent right, and would not be questioned by any well-informed person if we were at war with Spain, Brazil, or any other nation holding slaves. Has not our Government the same belligerent rights against the infamous traitor Davis as it would have against a recognized nation? Are the rebels less public enemies because they are traitors also? Can we do that to a public enemy which we cannot do to a public enemy and a traitor? In the case of the Hiawatha, it has been distinctly decided by the Supreme Court that the United States have all the belligerent rights against the rebels. If, then, the

emancipation of slaves is a belligerent right, that right exists in the Government; it may be exercised by the President, as it has been by the proclamation of emancipation. It exists in Congress, to be exercised, if expedient, by emancipating slaves and prohibiting slavery in all the territory in rebellion. The right to emancipate slaves has been so generally recognized as a belligerent right that it will scarcely be questioned. This power was exercised by Great Britain in the revolutionary war, and in the war of 1812; and the right to exercise it was admitted by General Washington and Mr. Jefferson, and not controverted by any.

Mr. Jefferson says Virginia lost thirty thousand slaves under Cornwallis, and if the slaves had been taken "to give them freedom it would have been right."

The statement and argument of John Quincy Adams on this subject has never been successfully answered:

"I lay this down as the law of nations. I say that military authority takes, for the time, the place of all municipal institutions, and SLAVERY AMONG THE REST; and that, under that state of things, so far from its being true that the States where slavery exists have the exclusive management of the subject, not only the President of the United States, but the Commander of the Army, HAS POWER TO ORDER THE UNIVERSAL EMANCIPATION OF THE SLAVES."

"From the instant that the slaveholding States become the theater of a war, civil, servile, or foreign, from that instant the war powers of Congress extend to interference with the institution of slavery, in every way in which it can be interfered with, from a claim of indemnity for slaves taken or destroyed, to the cession of States burdened with slavery to a foreign Power." "It is a war power. I say it is a war power; and when your country is actually in war, whether it be a war of invasion or a war of insurrection, Congress has power to carry on the war, and must carry it on, according to the laws of war; and by the laws of war an invaded country has all its laws and municipal institutions swept by the board, and martial power takes the place of them. When two hostile armies are set in martial array, the commanders of both armies have power to emancipate all the slaves in the invaded territory."

The great error in the public mind on this subject arises from applying the provisions designed to protect citizens in times of peace to traitors in time of war.

The provision that no person shall be deprived of life without due process of law does not make it illegal or unconstitutional to kill rebels on the field of battle. Neither do the provisions in regard to the security of property, or claim to service, make it unconstitutional, under the war power, to deprive rebels of their slaves. A claim to service for years, as an apprentice, is discharged by the apprentice's entering the Army. Congress may discharge from this service in order to raise troops. Congress may emancipate all slaves to raise troops. If it can discharge a claim to service for years under the war power, can it not discharge a claim for service for life? If the nation is entitled to the military service of all able-bodied men, including apprentices held to service for years, is it not entitled to the service of all black or white men held for life?

Can Congress, by law, discharge one and not the other?

As against the right to military service, is the claim of the master to the service of a slave better or more sacred than that of a master to the service of an apprentice, or of a father to the service of his child? The Government can take my son and your apprentice; can it not take your slave? In case of a foreign war, could not the Government conscript every able-bodied slave? Can it not do the same in a domestic war against traitors? Then it seems clear to demonstration that the Government may emancipate slaves.

The power, then, being clear, in the name of liberty and of justice and humanity, let it be exercised. Proclaim "liberty throughout the land to all the inhabitants thereof."

Let us build upon this rock, and the gates of hell shall not prevail against us.

I cannot close without offering my tribute of homage to that great man who has given to the institution of slavery the hardest blows it has ever received. Let Abraham Lincoln finish the great work he has begun.

The great objects of his life are to crush the rebellion and eradicate slavery. His ambition is to live on the page of history as the restorer of the Union, the emancipator of his country. For these great ends he has labored and toiled through difficulties and obstacles fully known only to himself and to God.

The year that has just closed will live as the

year of the proclamation of emancipation. This act the President declared was sincerely believed to be an act of justice, warranted by the Constitution upon military necessity; and he invoked for it the considerate judgment of mankind and the gracious favor of Almighty God. It will mark an era in modern civilization as clearly as the Declaration of Independence, or the acquisition of Magna Charta. By history it will be regarded as a great act of humanity and justice. As a matter of State policy, its wisdom has already been vindicated. This proclamation, by presenting our national struggle as a clearly-defined contest between liberty and slavery, changed the attitude of Europe toward us. Under its influence and the victories achieved under its auspices, all fear of foreign intervention has disappeared. Since the day of its issue no more Floridas have sailed from British waters. England's broad arrow arrests the rebel rams being fitted out in her harbors. Louis Napoleon, following the example of Great Britain, arrests the rebel gunboats in the waters of France. Lord Lyons now rises with alacrity to warn Mr. Seward of a rebel plot in Canada.

With liberty and union thus written by the President's own hand upon our national banner, we have had Gettysburg, Port Hudson, Vicksburg, Knoxville, and Chattanooga.

It has been the fortune of the President to have his leading measures, however severely censured at the time of their adoption, always approved within a twelvemonth after their execution. The emancipation proclamation and employment of negroes as soldiers are striking examples. Let those who deny his statesmanship, or who question his sagacity, note this fact. His magnanimity has no parallel. He has borne censure and denunciation for acts for which others were responsible, with a generosity which has extorted from his rivals the declaration, "Of all men, Mr. Lincoln is the most unselfish." The great fault of his administration, the too tardy removal of incompetent men, has arisen from a scrupulous care to be just.

I ask the ardent and impatient friends of freedom to put implicit faith in Abraham Lincoln. Remember he lives for the restoration of the Union and the abolition of slavery. If you deem him slow, or if you think he has made mistakes, remember how often time has vindicated his wisdom.

One of the most striking and gratifying vindications of the policy and character of President Lincoln is to be found in the reply of Gasparin and his associates to the letter of the National League of New York.

These distinguished statesmen and scholars, calm and truthful observers, in their letter exhibit by contrast the injustice which has been done the President by some of the zealous abolitionists of America. They say:

"We, gentlemen, are abolitionists; and we declare that we have never hoped nor wished for a more steady, rapid, and resolute progress. We have understood the difficulties which surrounded Mr. Lincoln. We have honored his scruples of conscience with regard to the Constitution of his country which stopped his path. We have admired the courageous good sense with which he moved straight on, the instant he could so do without danger to his cause or violation of the law."

At the same time they say, with a perfect conviction, that the destruction of slavery is the salvation of our country:

"We hold it to be of the first importance that the cause of the war shall not survive the war; that your real enemy, slavery, shall not remain upon the field."

The masses of the people everywhere trust and love him. They know his hands are clean and his breast is pure. The people know that the devil has no bribe big enough, no temptation of gold, or place, or power, which can seduce the honest heart of Abraham Lincoln. They know that while he is President there is no danger of a *coup d'état*. Let him exercise whatever extraordinary powers the public safety may require, the people instinctively feel that their liberties and laws are safe in his hands. They sleep soundly, with no disturbing apprehensions, while he holds the reins. Impetuous, eager, impatient men call him slow, over-cautious, wanting in energy. Remember the times in which we live; remember the danger of reckless energy, of unscrupulous will and passion.

You have a Chief Magistrate of clean hands and pure heart; sagacious, firm, upright, and

true. Somewhat rude and rough, it may be, but under this rough exterior you have the real and true hero. If he is a diamond in the rough, he is nevertheless real, with no false glitter or garish pretension. You have in him a man of that sobriety, of that self-command, of that freedom from passion, of that justice and truth, of that soundness of judgment and perfect rectitude of intention, that has had, in all these attributes, no parallel since the days of Washington.

Taking the last five eventful years, and Mr. Lincoln has exerted a greater influence upon the popular heart and in forming public opinion than any other man. If slavery now reels and staggers in its last struggles, it is from the blows it has received at his hands. His speeches and writings, plain, homely, and unpolished as they sometimes are, have become the household words of the people, and crystallized into the overwhelming public sentiment which demands the extinction of slavery.

"He is a radical—a radical from conviction, not from passion, or hatred, or revenge. In all great radical changes, in running round sharp curves it is not better to put on the brakes sometimes, rather than to run off the track and smash up the train?

There are always men who are loud, boisterous, furious, intolerant, proscriptive, and cruel, whose hearts are filled with hatred and malice, and who, to eradicate one evil, are willing to tear up the good which it has taken ages to secure. Such was not the example set by the greatest reformer and most radical teacher who ever appeared on earth, the Son of God. Mr. Lincoln's whole theory as a reformer is to do the greatest possible amount of good with the least possible evil. Were he more violent, more carelessly destructive, did he use more violent words, he might be perhaps more the popular idol, but less the statesman and the Christian. This great statesman, this simple, unpretending man, I believe to be the instrument raised up by God to work out the regeneration of the nation by the death of American slavery.

Mr. YEAMAN obtained the floor, but yielded to Mr. MORRILL, who moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the annual message of the President of the United States, and had come to no conclusion thereon.

GENERAL GRANT'S REPORTS.

Mr. WASHBURN, of Illinois. I ask leave to offer a resolution, to be referred to the Committee on Printing.

Mr. COX. Let it be read.

Mr. WASHBURN, of Illinois. The gentleman can hear it read.

The resolution was read, as follows:

Resolved, That ten thousand extra copies of the various official reports made by Major General Ulysses S. Grant during the war be printed for the use of the House.

Mr. WASHBURN, of Illinois. Does the gentleman from Ohio object to that?

Mr. COX. Not at all. But I do not want to have General Grant shelved away as a lieutenant general, as the gentleman from Illinois does.

The resolution was introduced and agreed to.

CLAIMS AGAINST THE UNITED STATES.

Mr. THOMAS, by unanimous consent, introduced a bill supplemental to the laws relating to the War Department, and authorizing the settlement and payment of certain claims against the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

WAGON ROAD IN MICHIGAN.

Mr. KELLOGG, of Michigan, by unanimous consent, introduced a bill giving public lands to the State of Michigan for the construction of a wagon road for postal and military purposes; which was read a first and second time, and referred to the Committee on Public Lands.

MISSOURI MILITIA.

Mr. BLOW, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be in-

structed to inquire into the justice and propriety of refunding to the State of Missouri the amount paid and expenses incurred by the provisional government of that State both for enrolled and other militia actually in service during the present rebellion, and report by bill or otherwise.

PACIFIC RAILROAD.

Mr. BOYD, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to furnish Congress, if, in his opinion, it be compatible with the public interest, all the information of an official character which he may have received respecting the extension of the southwest branch of the Pacific railroad, and his order, if any, respecting the same.

PAYMENTS TO RAILROADS.

Mr. HOLMAN. I ask leave to offer the following resolution:

Resolved, That the Secretary of War be directed to inform the House whether any payments have been made to either of the following-named railroad companies, namely: the Illinois Central Railroad Company, the Burlington and Missouri Railroad Company, or the Mississippi and Missouri Railroad Company, for transporting property or troops of the United States since the 25th day of February, 1862, and if any such payments have been made, the amount paid to each company; and also the amount paid to each of said companies prior to the above date, and the basis on which said payments have been made; and that he also inform the House why payments have been made to said companies in disregard of their obligation to transport property and troops of the United States "free of toll or other charge whatsoever."

Mr. GRINNELL. Mr. Speaker, is that resolution susceptible of amendment?

The SPEAKER. If received by unanimous consent, it would be subject to amendment.

Mr. GRINNELL. If the gentleman from Indiana will modify it by striking out the clause asserting that payments have been made in disregard of law, I will not object to the introduction of the resolution. That is a reflection on the character of the railroad companies; and they claim that they have received no money in disregard of law.

Mr. HOLMAN. The resolution only asks for information.

Mr. GRINNELL. I wish the gentleman to strike out the clause to which I refer. With that stricken out I have no objection to the inquiry; but with it in I shall object to the introduction of the resolution. I take the ground that, in this matter, there has been no violation of law.

Mr. HOLMAN. I will modify the resolution by striking out that part of it.

The resolution, as modified, was introduced and adopted.

And then, on motion of Mr. ECKLEY, (at twenty minutes to four o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, January 7, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message of the President of the United States, transmitting a copy of the decree of the court of the United States for the southern district of New York, awarding the sum of \$17,150 66 for the illegal capture of the British schooner Glen, and requesting that an appropriation of that amount may be made as an indemnification to the parties interested; which was referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

Mr. GRIMES. I present the petition of Charles Fosdick Fletcher, who represents that he is a citizen of the United States, formerly residing in Kalorama, District of Columbia, now residing at Lancaster, Massachusetts, a writer for twenty years in favor of a railroad to the Pacific, and one of the commissioners appointed by Congress to organize that work, in favor of what he terms the commercial circle around the world. He represents that there is a necessity for that line of communication from the terminus of the Pacific railroad at San Francisco by a line of steam packets across the Pacific ocean to Shanghai, China, or some other point accessible, thence to intersect the overland route from Europe to India, which line would pass Gibraltar for England, and from Gibraltar, by way of Cadiz and Fayal, to Norfolk and Washington; so that, he says, a member of Congress adjourning for the summer could take

his seat in the cars, travel west from Washington, and continue to travel west until he returned to Washington again by way of Norfolk, and be in time to attend the session in December following. He therefore prays that commissioners may be appointed, and that an act of charter may be passed by the Congress of the United States for the "Washington, Norfolk, and Cadiz Steamship Company." I move that the petition be referred to the Committee on Commerce.

The motion was agreed to.

Mr. HALE presented a memorial of citizens of Concord, New Hampshire, praying that the petition of the South American Steamship Company for an appropriation, either by way of subsidy or for the purpose of establishing postal communication between the United States and the countries lying to the south of them, especially those of Brazil, Venezuela, Peru, and Buenos Ayres, may be granted; which was referred to the Committee on Commerce.

Mr. DIXON presented the petition of H. B. Whipple, bishop of the Protestant Episcopal church of Minnesota, praying that clergymen and candidates for the ministry may be regarded as non-combatants, and, if drafted, employed as chaplains or in hospitals; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of New York and New Jersey, members of the Lutheran church, praying that such a modification of the enrollment act may be made as will exempt from military duty regularly ordained ministers of the Christian church; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILLEY presented the petition of N. B. Walker, and others, paymasters' clerks, in the several pay districts throughout the United States, praying for an increase of their annual pay to \$1,400; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILLEY. I also present the petition of B. R. Cowen and others, paymasters in the United States Army, praying that the pay of their clerks shall be increased to \$1,400, setting forth the increase of expenses, the danger to which these clerks are exposed in the performance of their duties, and that they are required to be men of strict integrity and of the best business qualifications, and urging upon Congress an increase of their pay accordingly. I move its reference to the Committee on Military Affairs.

It was so referred.

Mr. WILSON presented the petition of Thomas Wentworth Higginson, colonel of the first regiment South Carolina volunteers, praying that the full pay which, as he alleges, was originally promised that regiment may be allowed them; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of David Heller and other non-commissioned officers and privates of the United States Army, praying that the provisions of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," may be extended to such soldiers of the United States Army as may serve for the space of two years subsequent to the 15th of April, 1861; which was referred to the Committee on Military Affairs and the Militia.

Mr. FOOT presented the memorial of Lieutenant John Colhoun, the memorial of Lieutenant Egbert Thompson, and the memorial of Lieutenant George W. Doty, of the United States Navy, remonstrating against the action of the late naval advisory board, and praying for relief therefrom; which were referred to the Committee on Naval Affairs.

Mr. HOWE. I ask leave to present the petition of William Porter and William Lurkins, of the city of Milwaukee, who pray for relief from certain penalties incurred by reason of having enrolled and taken out a license for two steam tugs, after one of the owners had made a declaration of his intention to become a citizen, and before he had secured his final papers. I ask that the petition be referred to the Committee on Commerce.

It was so referred.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JOHNSON, it was

Ordered, That the petition and other papers of Mrs. John J. Albert, praying for a pension on the files of the Senate, be referred to the Committee on Pensions.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (No. 50) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1865; in which it requested the concurrence of the Senate.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on December 23, 1863, the following House joint resolutions:

A joint resolution (No. 12) tendering the thanks of Congress to Captain John Rodgers, of the United States Navy, for eminent skill in the discharge of his duties; and

A joint resolution (No. 14) to supply in part deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties to volunteers.

OFFICERS IN AND NEAR WASHINGTON.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to furnish to the Senate the number of each grade of officers belonging to the regular and volunteer service, in the Army of the United States, now stationed in and around Washington, and drawing commutation for quarters and fuel, or commutation for either quarters or fuel.

EXCHANGE OF PRISONERS.

Mr. DAVIS. I offer the following resolution, and ask for its consideration at this time:

Resolved, That the President of the United States be, and he is hereby, requested to furnish the Senate with a copy of all the correspondence between the authorities of the United States and the rebel authorities on the exchange of prisoners, and the different propositions connected with that subject.

Mr. SUMNER and Mr. WILSON. Let it lie over.

The VICE PRESIDENT. The resolution being objected to, it lies over under the rule.

BILL INTRODUCED.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 39) for the relief of William Porter and William Lurkins; which was read twice by its title, and referred to the Committee on Commerce.

NOTICE OF A BILL.

Mr. LANE, of Kansas. I desire to give notice that I shall to-morrow, or some subsequent day, ask leave to introduce a bill amending the act entitled "An act for a grant of lands to the State of Kansas," as follows: first, by making Baldwin city a point on the Leavenworth, Lawrence, and Galveston Bay road; second, by extending the provisions of the act to a railroad and telegraphic line from Lawrence, in the State of Kansas, to Pleasant Hill, in the State of Missouri.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 50) making appropriations for the service of the Post Office Department during the fiscal year ending 30th of June, 1865, was read twice by its title, and referred to the Committee on Finance.

SENATE LIBRARY.

The VICE PRESIDENT. A resolution submitted by the Senator from Vermont, [Mr. FOOT], providing for the formation of a library of the Senate, is now before the Senate in order.

Mr. FOOT. I ask that that resolution may lie on the table for the present.

The VICE PRESIDENT. It will be passed over, if there be no objection.

There was no objection.

OATH OF OFFICE.

The VICE PRESIDENT. A resolution offered by the Senator from Massachusetts, [Mr. SUMNER], providing for an addition to the rules of the Senate, is now in order before the Senate.

Mr. SUMNER. As the Senator from Delaware, [Mr. BAYARD], at whose suggestion that resolution has been postponed from time to time, is not now in his seat, I think we had better pass it over; but I should like to give notice that the first day the Senator appears here I shall deem it my duty to call it up.

There being no objection, the resolution was passed over.

PRESIDENTIAL POWER.

The VICE PRESIDENT. The next business in order is a series of resolutions submitted by the Senator from Kentucky, [Mr. DAVIS.]

Mr. CARLILE. I have some resolutions that I desire to submit and have considered when the resolutions of the Senator from Kentucky shall be before the Senate; and if it is in order, I should be glad to submit them now.

The VICE PRESIDENT. The resolutions of the Senator from Kentucky are now before the Senate. Does the Senator from Virginia offer his resolutions by way of amendment?

Mr. CARLILE. I had not determined what disposition I would make of them. I desire them to be considered at the same time with the resolutions of the Senator from Kentucky.

Mr. FOSTER. I wish to ask if the resolutions offered by the Senator from Kentucky are before the Senate. I understood they were laid on the table; and if so, it would require a vote of the Senate to take them up.

The VICE PRESIDENT. They were on the file of the morning business. If they were laid on the table by a vote, it would require a vote to take them up.

Mr. FOSTER. I should object to taking them up.

The VICE PRESIDENT. The Senator from Connecticut is right. They are not before the Senate.

NATURE OF THE GOVERNMENT.

Mr. CARLILE. I desire to offer the resolutions I have in my hand, and ask that they may go on the table. I do not intend to call them up for consideration until the resolutions of the Senator from Kentucky shall be before the Senate. With the leave of the Senate I will read them, and ask then that they go on the table and be printed:

Resolved, That the Government of the United States, in the language of Mr. Webster, is "the result of compact between the States," each State for itself adopting for its government the Constitution of the United States.

2. That the people of each State adopted for their government the Constitution of the United States in the same way as they adopted their State constitution.

3. That the Constitution of the United States was not binding nor had it force or effect in any State until it was ratified and adopted by the people thereof, as is evidenced by the fact that the people of North Carolina were not bound by it, nor was North Carolina a member of the Union created by it, for some time after the Government had been organized under it, and after it had been ratified by eleven other States.

4. That the Government created by the Constitution of the United States is neither "wholly national nor wholly federal." Were it wholly national the supreme and ultimate authority would reside in the majority of the people of the Union, and this authority would be competent at all times, like that of a majority of every national society, to alter or abolish its established government. Were it wholly federal, on the other hand, the concurrence of each State in the Union would be essential to every alteration that would be binding on all. The mode provided by the Constitution for its amendment "is not founded on either of these principles." "In requiring more than a majority, and particularly in computing the proportion by States, not by citizens, it departs from the national and advances toward the federal character. In rendering the concurrence of less than the whole number of States sufficient, it loses again the federal and partakes of the national character." The Government created by the Constitution of the United States, therefore, is neither a national nor a federal Government, but a composition of both. "In its foundation it is federal, not national. In the sources from which the ordinary powers of the Government are drawn, it is partly federal and partly national. In the operation of these powers it is national, not federal; in the extent of them, it is federal, not national."

5. That it is essential to the preservation of the Government, created by the Constitution, that the military should be subordinate to the civil power; and that such was the intention of the founders of the Government is evidenced by the fact that the President was made Commander-in-Chief of the Army and Navy.

6. That Congress alone can declare what are crimes against the United States, and can alone legislate for the punishment thereof. That it is not competent for the President, in any character, or for any military commander, to restrict the right of suffrage in any State, or to impose conditions precedent to the exercise thereof, nor can the will or judgment of the President enlarge his powers beyond what are conferred by the Constitution.

7. That all the powers of the General Government are derived from the Constitution; that the Constitution of the United States confers power, and the constitutions of the several States limit power; that the General Government can only exercise such powers as are conferred by the Constitution of the United States; that but for the State constitutions each State within its own jurisdiction could exercise all governmental power.

8. That Governments are instituted for the protection of minorities, the chief objects being to secure to the citizen his right to personal liberty, and to protect him in the possession and enjoyment of his private property.

9. That there is no such power as the "war power" known to the Government of the United States outside of

the powers conferred by and enumerated in the Constitution of the United States.

10. That the Government of the United States enforces obedience to its Constitution and laws as do the State Governments, by acting directly upon the citizen; that it cannot create a State government or a State constitution, or alter one; that it has no right to interfere directly or indirectly to alter, abolish, or procure a change in the constitution of any State, but is bound to protect existing constitutions in each and every State from any attempt to substitute for them a government not republican in form, and cannot act against States or political communities as such, but is confined in its action to the punishment of persons, there being no right of eminent domain in the Government of the United States, the soil of each State belonging to it and the people thereof.

11. That any attempt on the part of the Government of the United States, or any department thereof, to destroy the State governments and substitute for them territorial or any other form of government, would be an exercise of arbitrary and usurped power, destructive of the liberties of the people, violative of the Constitution, and an overthrow of the Government created by it.

12. That it is the duty of the servants of the people to whom the administration of the Government is intrusted, and to whom its powers have been confided, to put down rebellion against its authority whenever organized, to the end that law-abiding citizens may be protected in the enjoyment of the blessings the Government was designed to confer; that if necessary to this end the whole military and naval power of the Government can and should be used, not against the States as such, nor in a war against populations and homes, but against the citizens and persons so resisting the authority of the Government, and defying its power.

13. That the whole military power of the Government should be directed against the armies of the confederates, and that until they are broken and dispersed there can be no peace upon the basis of a reunion of the States.

The VICE PRESIDENT. The Senator moves the printing of the resolutions which he has submitted. That order will be made, if there be no objection. The Chair hears none.

CONSTRUCTION OF CONFISCATION ACT.

The VICE PRESIDENT. The following resolution, submitted by the Senator from Michigan, [Mr. HOWARD], is now before the Senate:

Resolved, That the Committee on the Judiciary be instructed to consider the propriety of repealing the joint resolution of July 17, 1862, relative to the construction of the confiscation act, and particularly so much of said joint resolution as purports to prohibit a forfeiture of real estate beyond the natural life of the offender.

The resolution was adopted.

RELIEF OF PRISONERS AT RICHMOND.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 10) for the relief of the officers and soldiers of the United States now held captive in the rebel prisons at Richmond and vicinity; which was read twice by its title.

Mr. JOHNSON. I ask for the reading of the resolution at length.

Mr. HOWE. Perhaps I can read the resolution with more facility than the Clerk, if the reading is called for. It is as follows:

Joint resolution for the relief of the officers and soldiers of the United States now held captive in the rebel prisons at Richmond and vicinity.

Whereas persons in authority under the traitorous organization which for the last three years has made relentless war upon the people of the United States and their Government, now hold in barbarous captivity many officers and soldiers of the United States, and refuse to exchange them except upon condition that they are allowed to retain such of our soldiers as they call negroes, and such of our officers as have commanded negro troops, and upon the further condition that we will also release upon parole all the excess of rebel prisoners now in the hands of our Government, amounting to many thousands; and

Whereas those same persons are unable or unwilling to make suitable or even tolerable provision for the support of their captives, thereby rendering their imprisonment as gross an outrage upon the dictates of humanity and the laws of war as it is upon the laws of the United States and upon their duty as the legitimate subjects of those laws; and

Whereas they have denied to the charity of the loyal people of the United States the privilege of supplying the most pressing necessities of their brethren in those prisons, and have recently refused even to receive a flag of truce from the authorities of the United States unless it is forwarded by an officer of their approval; and

Whereas it does not become twenty-two millions of people, having the rights of, and ability for, self-government, to allow rebellious subjects to dictate to them what agents or officers they shall employ, nor does it become them to feed plentifully at home while their brethren starve within a hundred miles of their own capital: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and requested to call out and arm one million of volunteers to serve for the period of ninety days, unless sooner discharged, and to be employed to carry food and freedom to every captive held in rebel prisons, and to plant the flag of the United States upon every prison they occupy.

Sec. 2. And be it further resolved, That the President be requested to assign Major General Ulysses S. Grant to the command of the forces raised under this call, together with

such of the forces now in the field as may be joined with them; and he is hereby authorized to detail for the subordinate commands in the forces to be raised under the authority of these resolutions, such officers or privates now in the field as he may deem best qualified therefor; or he may assign to such commands any person or persons who may volunteer under the same authority: *Provided, however, That any officer or private now in the military service of the United States who may be detailed to any such command by authority hereof, shall receive no additional pay for such substituted service, and no volunteer under the same authority, who shall be detailed to any such command, shall receive more than the pay of a private.*

SEC. 3. *And be it further resolved, That persons volunteering under authority hereof shall be sworn into service on the — day of February next, and the term of their enlistment shall commence from and after that day.*

SEC. 4. *And be it further resolved, That both Houses of Congress will, on the 4th day of March next, at twelve o'clock, meridian, adjourn to meet on the 4th day of June following, and immediately upon such adjournment each member thereof under fifty years of age, and who shall vote for these resolutions, shall report himself to the commandant of some company in the forces hereby provided for, and shall thereupon be sworn into the military service, and, unless sooner discharged, shall continue in such service without pay therefor until the expiration of the period for which such forces are enlisted.*

THE VICE PRESIDENT. To what committee does the Senator wish the joint resolution to be referred?

Mr. HOWE. I really have not considered that subject. I should rather be inclined to have it referred to the Committee on Enrolled Bills, but I guess it had better go to the Committee on Military Affairs; and I should like to have it printed.

The bill was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

BOUNTIES TO VOLUNTEERS.

Mr. WILSON. I move to take up the joint resolution (H. R. No. 16) to continue the bounties heretofore paid.

The motion was agreed to.

THE VICE PRESIDENT. The joint resolution is before the Senate as in Committee of the Whole.

Mr. FESSENDEN. I rise, Mr. President, for the purpose of moving that the resolution be referred to the Committee on Finance. I do it because, as I understand, it was not the intention of the honorable Senator from Massachusetts to have it referred to his own committee, as they have already considered the subject and are prepared to act upon it. It will be observed, sir, that the resolution, if it passes, involves the expenditure of a very large amount of money; and in the present condition of the country, with the great calls that are made upon us for expenditures for the Army and for other purposes, I think it would be better, with reference to the public feeling in relation to money affairs, that, if the resolution is to pass, it should be understood that it has been investigated by those who are ordinarily intrusted with the consideration of subjects of finance, and that it has met with their approbation and the approbation of the Department which has the control of such questions.

I do not propose to delay it. I am as anxious as any man that it should be acted upon as speedily as it can be acted upon safely; and if it goes to the Committee on Finance, that committee will undoubtedly take the subject into immediate consideration, and will report just as soon as it can obtain the necessary information to satisfy its members in regard to it. I trust that this motion will meet with no objection from my friend at the head of the Committee on Military Affairs, as it is made rather with a view to aid in the object, if it can be accomplished, than to say anything or do anything that might have a tendency either to defeat it or to throw any doubt upon its propriety.

Mr. WILSON. Mr. President, it will be recollected that the other day both Houses of Congress decided that the bounties pledged by the Government should cease on the 5th day of January. The Government is exceedingly anxious to have the time extended. I think it will be satisfactory to extend it to the 1st day of the coming month, February. The only reason, I take it, for stopping the bounties was a financial one, and certainly that is one which requires the attention and the careful consideration of everybody concerned in the Government, and of every member of both Houses of Congress. I suppose, sir, it is necessary that we act upon this subject as soon as possible. I had hoped that we should act immediately, amend the resolution by striking out the 1st of March and inserting the 1st of February,

and send it back to the House of Representatives to-day with that amendment, and have it at once disposed of. But I find the chairman of the Committee on Finance, who has the care of financial matters in this body, and other Senators who are deeply concerned for the financial credit of the Government, are anxious that we should have some little investigation before we act. It is a question of very grave importance, and I do not like to take the responsibility of resisting a fair examination of a proposition involving so deeply the interests of the country, both in regard to raising men and in regard to money.

The Senator says that the Committee on Finance will take the subject into consideration and act speedily. If the committee will immediately address itself to the consideration of this subject, and report the resolution back to the Senate at the earliest possible day—and I hope it will be a very early day—I shall not take the responsibility of insisting that it shall not go to that committee.

THE VICE PRESIDENT. The question is on the motion of the Senator from Maine to refer the joint resolution to the Committee on Finance.

The motion was agreed to.

Mr. WILSON. I now move that the President's message, and the other bills relating to the same subject, be referred to the same committee, that they may have the whole matter under consideration.

The motion was agreed to.

AMENDMENT OF ENROLLMENT ACT.

Mr. WILSON. I now move to take up Senate bill No. 36, to amend the enrollment act.

The motion was agreed to, and the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, was considered as in Committee of the Whole.

The bill was referred to the Committee on Military Affairs and the Militia, and reported with amendments. The first amendment of the committee was in section five, to strike out the following words:

Any person enrolled who shall remove from any ward of a city, town, or township, or from a county, where the same is not divided into wards, towns, or townships, may, on application to the proper board of enrollment, be enrolled in the place of residence to which he shall have removed, and may, upon proof of such enrollment, have his name stricken from the rolls of his former place of residence; and.

The amendment was agreed to.

The next amendment was in section thirteen, to insert the words "who shall" after "or," in line twelve; and after the word "magistrate," in the same line, to insert "swear or affirm falsely;" so as to make the section read:

SEC. 13. *And be it further enacted, That provost marshals, boards of enrollment, or any member thereof, acting by authority of the board, shall have power to summon witnesses and enforce their attendance by attachment without previous payment of fees in any case pending before them, or either of them, and the same witness fees and costs shall be allowed as may be allowed in the district courts of the United States; and they shall have power to administer oaths and affirmations; and any person who shall swear or affirm falsely before any provost marshal, or board of enrollment, or member thereof, acting by authority of the board, or who shall, before any civil magistrate, swear or affirm falsely, to any affidavit to be used in any case pending before any provost marshal, or board of enrollment, shall, on conviction, be fined not exceeding \$500, and imprisoned not less than six months, nor more than twelve months."*

The amendment was agreed to.

The next amendment was to strike out "three" in line fifteen of section eighteen, and insert "five;" and after the word "debt," in line sixteen, to insert "one half;" and after "United States," in line eighteen, to insert "and the other half for the use of the United States;" so as to make the section read:

SEC. 18. *And be it further enacted, That the fees of agents and attorneys for making out and causing to be executed any papers in support of a claim for exemption from draft, or for any services that may be rendered to the claimant, shall not in any case exceed five dollars; and physicians or surgeons furnishing certificates of disability to any claimant for exemption from draft shall not be entitled to any fees or compensation therefor. And any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act, and any physician or surgeon who shall, directly or indirectly, demand or receive any compensation for furnishing said certificates of disability, shall be deemed guilty of a high misdemeanor, and, upon conviction, shall, for every such offense, be fined not exceeding \$500, to be recovered before any court of competent jurisdiction in an action of debt, one half for the use of any informer who may sue for the same in the name of the United States, and the other*

half for the use of the United States, and shall also be subject to imprisonment for a term not exceeding one year, at the discretion of the court.

The amendment was agreed to.

Mr. COWAN. I should like to make an inquiry in regard to that section. It seems, sir, that it provides for the imposition of a fine not exceeding \$500, to be recovered before any court of competent jurisdiction in an action of debt; and it provides that the offender shall also be subject to imprisonment for a term not exceeding one year, at the discretion of the court. Was it the intention of the committee reporting this bill that in a civil action for debt the court may, after having given judgment for a debt, imprison the offender for a term not exceeding one year?

Mr. HOWARD. Yes, sir; that was the intention.

Mr. COWAN. I have only to say that if that be the understanding, it is novel, and it will be a very extraordinary commingling together of two jurisdictions, civil and criminal, and I think it had better be considered before it is passed by the Senate.

THE PRESIDING OFFICER. (Mr. CLARK in the chair.) The Senator will allow the amendments of the committee to be first disposed of. The next amendment of the committee is to insert the following as an additional section:

SEC. 20. *And be it further enacted, That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved on the 3d day of March, 1863, as authorizes the discharge of persons drafted into the service of the United States, under the authority of that act, upon the payment of a sum of money not exceeding \$300, be, and the same is hereby, repealed.*

Mr. WILSON. I would suggest, as there may be differences of opinion in regard to that amendment which may lead to some discussion, that if any Senator desires to amend the bill further, we proceed with those amendments before we take up this section.

THE PRESIDING OFFICER. If no objection be made, that course will be pursued. The Chair hears no objection, and the amendment will be laid aside for the present.

Mr. GRIMES. I move to amend the second section by inserting after "United States," in the tenth line, the word "and," and by inserting at the end of that line the words "as already returned to the office of the Provost Marshal of the United States;" so as to make the section read:

And in ascertaining and filling said quota, there shall be taken into account the number of men who have heretofore entered the naval service of the United States, and whose names are borne upon the enrollment lists as already returned to the office of the Provost Marshal of the United States.

I suppose there will be no objection to this.

Mr. WILSON. I have no objection to it.

Mr. HALE. I am not entirely certain that that amendment of the Senator from Iowa will not meet the difficulty that presented itself to my mind. The difficulty is this: there are very few places in the United States that are open for enlistments into the naval service. A great many of the men that enter the naval service are merely transient residents at the place of enlistment; a great many of them are foreigners who have no particular residence anywhere; and if they are credited at all, they would be credited to the district in which they happened to enlist; and as there are—I do not know how many—but very few places of enlistment comparatively, all this population would be at once entered upon their lists and credited to the States in which they enlist. For instance, I suppose in Charlestown district, in Massachusetts, they enlist more than half the sailors that are enlisted in all New England—I presume more than four fifths of them; and under the operation of this bill they would generally be credited to that district. That would be exceedingly unjust. The amendment proposed by the Senator from Iowa will in some measure remedy that injustice, but I do not think it will do it entirely, and I do not know that it is possible to do it.

My own opinion would be, however, that the naval enlistments had better be kept entirely separate from the enlistments into the Army, for the reason that, in my humble judgment, it is utterly impossible to average and credit them in any way that will approximate to doing justice. The amendment which I had prepared to this very provision, and in lieu of the one that has been offered by the Senator from Iowa, was to insert after the

words "whose names are borne on the enlistment roll" the words, "and who for the six months previous had been actually resident of said county, town, township, or ward of a city." In that way it would confine the credit to the city or place where they enlisted to the actual residents of that place, and would not allow them to put upon the enrollment list all the foreigners that might come up and propose to enlist.

As I said before, I think it would be better to leave these naval enlistments entirely out of the bill, but the committee seem to have thought otherwise. I shall vote in favor of the amendment of the Senator from Iowa, but I think it ought to go farther.

Mr. GRIMES. I have always been willing and anxious to do exact justice to every portion of the country that furnishes any of the persons who go into the naval service. The purpose that I had in offering this amendment was to obviate the very difficulty the Senator from New Hampshire has suggested. I was fearful that, under the bill as submitted by the committee, if enacted into a law, during the next two or three weeks there would be added to the enrollment lists the names of all those persons who have been enlisted into the naval service during the last twelve or eighteen months, and thus those States where there happened to be naval recruiting stations would receive a credit to which they would not be justly entitled. If there be any persons in those districts, *bona fide* citizens of those districts, who enlist, I am willing that they should be credited with those persons; and I think under the operation of my amendment they would receive exactly what they are entitled to, neither more nor less.

Mr. WILSON. The Committee on Military Affairs intended to accomplish precisely what the Senator from Iowa wishes to accomplish by his amendment. Great complaints have been made in some sections of the country that they have furnished a large number of men to the Navy and have received no credit for them. There are townships in my State that have furnished more men for the Navy than for the Army, and have received no credit whatever for them; and when I say this I mean that they have furnished them of their own citizens, whose names are borne on their voting lists and the enrollment lists. I received a letter the other day from a town in my State, stating that they had furnished over six hundred men for the Navy, and over sixty of them within a very few days, at a cost to the citizens of the town of between three and four thousand dollars, and they received no credit whatever for them. We cannot go back and do exact justice; but as the enrollments were made during the past year, the committee thought it would be right and just and fair to all parts of the country that persons whose names were upon the enrollment lists, and who had enlisted in the Navy, should be credited to the places, not where they enlist, but where their names are upon the enrollment lists. If a citizen residing in a city or town of New Hampshire, whose name is enrolled there, and who is liable to be drafted there, has gone to any other place and enlisted, it will be for the people of his town to ascertain the fact, and he will be credited to the town. That is what I understand the bill means now. I want to accomplish that—nothing more, nothing less. The amendment proposed by the Senator from Iowa, I think, does not change that except in this respect: the Senator was fearful, as I understand it, that the enrollment lists would be changed, and the names of the persons thus enlisted added to the list for a special purpose; and he therefore confines it to the lists that have already been made up, and does not allow them to be amended. I do not think we disagree in regard to that; and I think the whole object is accomplished.

Mr. COWAN. I think this whole system of credits has been a mistake except so far as the credit is given to the State for the quota she has furnished. Let us look for one instant at the operation of it. In a county, town, or borough, there are, if you please, one half of the people who are loyal supporters of the Government in the conduct and prosecution of the war, and the other half are either lukewarm or offering such opposition as they may offer from the political condition of the parties in this country. The loyal and warm-hearted portion of the people volunteer, and you give to that borough credit for their patriot-

ism. Who avail themselves of it? The lukewarm and those who really ought to be made to bear their fair share of the burden of the war. Instead of that, they get the credit of the exertions and sacrifices of their more patriotic neighbors, and are enabled in that way to enjoy a security which is not enjoyed by those who really and heartily support the Government. I think therefore that if this system of credits was confined to the quotas of the States, without undertaking to descend into the minutiae of counties, boroughs, and towns, it would be far better for the country. Besides, there is the impossibility of executing the law as it stands. How is it possible to do it? I should like to see a statement of the number of persons claimed to have been furnished by all these States, counties, boroughs, and towns, compared with the actual number of men in the field; for I have no doubt that the same man is claimed from different localities, perhaps two or three times over. People do not always volunteer or enlist in the place of their residence. They are claimed where they do enlist, and they are also claimed at their place of residence; and in this way no such thing as even-handed and exact justice can be done. It would be far better if the credit were confined to the States without descending into the minutiae of counties and townships. I merely throw out these suggestions for the consideration of other gentlemen who have paid much more attention to the subject than myself; but so far as I have been enabled to observe its working, the system of credits has had the effect I have stated.

Mr. WILSON. The Senator from Pennsylvania states the fact that there has been great inequality. That fact creates great discontent; and one of the great difficulties that have pressed on the War Office during the last few months has been this inequality. The Governors of the States and the representatives of different sections of States have visited that office for the purpose of having these inequalities adjusted. It is very difficult to do justice to all sections of the country, or to make equality; but I know that the Provost Marshal General, who has studied this subject carefully, is very anxious that this provision should be in the bill, and that the different wards of cities, and towns and counties should have the credit that justly belongs to them. I think the amendment proposed tends to equality. That it will not make absolute equality is certain; that cannot be done; but it will do so far as it is practicable to do so. I hope therefore the amendment will stand, for I think it will create a great deal of satisfaction in the country if the inequalities of the present system are adjusted as far as they possibly can be.

Mr. DAVIS. Mr. President, I am opposed to allowing any credit to any State for the number of sailors it may furnish the Navy. That proposition was made at the last session of Congress, and I opposed it then. It was advocated, if I recollect aright, by the honorable Senator from Maine, [Mr. Fessenden.] I then opposed it, as I do now, upon this principle: from the beginning of the Government, almost, it has become a part of its traditional policy to give bounties to the fishermen of the New England States. I never have objected to that policy. In my service in the Senate, and in the House of Representatives, I always sustained that policy, and voted for a continuance of the bounties, and upon this reason, as expressed by its friends, invariably—that it was giving encouragement to the nursery of American seamen, and when the time of war or trouble came upon the country, these fishermen, who were encouraged by this bounty to hazard the dangers of the deep, would be always found a ready and a most effective body of seamen to enter the service of the United States, in defense of its flag upon the ocean. The ground upon which the policy was urged was a lofty and patriotic one. It commended itself to the minds and to the hearts of a majority of all the Congresses, I believe, that have ever sat in the United States since the organization of the present Constitution. These bounties amount to a considerable sum. They have been received for some seventy-five years. I do not pretend to be accurate, because I have not examined the subject; but they have been received by these fishermen of the northeastern States for scores of years on the express stipulation, by their friends and advocates in both Houses of Congress, that the purpose of these bounties was to foster

this nursery of our gallant and hardy tars. Now, sir, when this school of seamen has thus been endowed by the Government, and has thus received its bounty and emolument from year to year, it seems to me that it comes ungraciously now from them to ask to be exonerated from the service which they were so often pledged to render to their country in consequence of these bounties. On that ground I shall vote against both the original section and the amendment. I shall vote against any proposition to deduct from the military quota of any State any of the sailors that may have been enlisted in that State, whether they are residents or non-residents.

Mr. NESMITH. I am directed by the Committee on Military Affairs to offer an amendment of some length; and as I presume this bill will not be finally acted on to-day, I should like to have it received informally and printed.

The PRESIDING OFFICER. The amendment may be received by unanimous consent, and the order made to print it. The Chair hears no objection, and it will be printed. The question is on the amendment of the Senator from Iowa to the second section of the bill.

The amendment was agreed to.

Mr. GRIMES. I now move to amend the eighth section, in the second line, by inserting after the words "United States" the words, "or into the marine corps of the United States," so that it will read:

That all enlistments into the naval service of the United States, or into the marine corps of the United States, that may be hereafter made of persons liable to service under the act of Congress entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall be credited on the enrollment to the ward, town, &c.

The amendment was agreed to.

Mr. GRIMES. I now move to add to that section the following proviso:

Provided, That such enlisted men are actual and *bona fide* citizens and residents of the ward, town, township, or county in which such enlistments shall be made.

Mr. JOHNSON. It seems to me there may be some difficulty in ascertaining the fact of *bona fide* residence. The sailor who goes into Charleston or New York, and is there for a day, is, in one sense, an inhabitant of the place, although he means to go somewhere else as soon as an opportunity is offered him. I understood the Senator from New Hampshire to suggest that it would be advisable and right in itself to limit the credit to such seamen as may have been some two, three, four, or five months prior to the time of enlistment actual inhabitants of the place from which they enlisted. As he has very correctly stated, almost the whole of New England, except perhaps Massachusetts, will have no benefit of this credit under this provision, but it will go exclusively to the credit of Massachusetts. The same thing will be the case in New York, and the same thing in Baltimore. If we were to require a residence of one or two months prior to enlistment, that would answer the purpose; but there may be difficulties about it. Residence depends upon intent, and if you leave it to the provost marshal, or whoever may be the legitimate officer, to settle it, he may be either satisfied of the fact of existing inhabitancy, or he may require proof that the person claiming to be an inhabitant intends to be a permanent inhabitant, and questions of difficulty will arise I think in the execution of the law. If you require a proof of residence for a month or two months it will simplify it, and I think answer the purpose. I suggest that to the Senator from Iowa.

Mr. GRIMES. I presume it is altogether probable that the language I have used is not the most fortunate that could be used to express my meaning. My purpose is this: take as an example, if there are six hundred men enlisted in the naval service from the town of Gloucester, whose names are recorded upon the check-roll of that town, I am willing that they should be credited to the town of Gloucester in this enrollment; but I am unwilling that Tom, Dick, and Harry, who are citizens of no portion of the United States, but are probably residents and citizens of some of the northern countries of Europe, who belong nowhere in fact, but who happen to come in transiently, and are enlisted in the city of Boston or the city of New York, shall be credited to those places. That is the purpose I have in view. If the Senator from Maryland or the Senator from

New Hampshire will adopt some more appropriate language in order to express that idea, I should be exceedingly grateful to him for doing it.

Mr. JOHNSON. Will the Chair permit me to suggest that the amendment be read again?

The PRESIDING OFFICER. It will be reported again from the desk.

The Secretary read it.

Mr. FESSENDEN. The object of that amendment would effectually nullify, if I may use the expression, enlistments into the Navy in my own State. Enlistments are procured there by paying bounties and paying high bounties. A town has to make out its quota, say one hundred men. The citizens are not willing perhaps to enlist either in the Army or Navy. In order to induce them to enlist; the various towns offer bounties, some \$300, some \$400, and some even as high as \$500 for an enlistment. Now, provided they get a good soldier or a good sailor, their object is accomplished. The idea of the section is to relieve the town; that if they procure future enlistments into the Navy as well as into the Army through their exertions and by their money, they shall have the credit and the benefit of it in the estimation of the amount of men required of them.

Let me ask the Senator from Iowa what difference does it make whether these men are absolutely residents of the town and citizens of the State or not, provided you get them and they are the right kind of men? The effect of his amendment, so far as my own State is concerned, would be to leave matters just as they are now. There would be no particular effort to get men to enlist into the Navy. The Senator must recollect that this is not like the case of men voluntarily coming forward to enlist in the Navy on bounties paid by the General Government. If that was the case, his idea would be a correct one; but that not being so, the object being accomplished by the effort of the town or the ward, whatever it may be, and the money paid by them, it makes no difference to the Government whether the persons enlisted are citizens or otherwise of that town or ward, unless there is a difference between the class of men. I suppose, therefore, that the operation of the amendment would in fact defeat, in a very great degree, so far as my State is concerned, and probably so far as Massachusetts is concerned, the very object the Senator has in view.

Mr. GRIMES. I should like to have the Senator from Maine tell me how he is going to carry the law as it stands into execution without the amendment I propose? How is the Provost Marshal General going to credit the men who have been enlisted in the naval service in the city of Boston? How, under this eighth section, as it now stands without this amendment, is any town in the State of Maine going to get any credit for citizens of Maine enlisted in the Charlestown rendezvous?

Mr. FESSENDEN. I do not suppose any town in Maine will get credit for them if they are enlisted in the Charlestown rendezvous, and they would not get credit for them at any rate under any circumstances as the bill stands, that I know of; because if they are enlisted in the Charlestown rendezvous, does it state precisely where they come from? Is there any provision requiring a statement as to where they belong, what towns, what States, and where they are citizens?

Mr. GRIMES. No, sir.

Mr. FESSENDEN. Very well; then they get no credit. My object is, and I suppose the object of the amendment is, when men are enlisted in a particular place, and by the efforts of that place, if you please to call it so, that that locality shall have the benefit. If that cannot be accomplished, the law is null.

Mr. GRIMES. The purpose I had in view was to accomplish exactly what the people of Maine desired when I was in Maine a short time ago. I found the United States ship *Ino* down at Wiscasset. It was down there for the purpose of raising enlisted men for the service. I propose by this amendment to allow each one of the towns bordering on the coast of Maine the privilege of having the men they raised and put on board that vessel, enlisted in their own harbor, credited to the town. Under the law as it now stands, they would not be credited to the town. I propose that they shall be credited to the town, provided they are citizens of the town.

Mr. COLLAMER. The bill, as I understand

the reading of it, provides that they shall be credited in the town in which they enlist, provided they are residents of that town. The places of enlistment are very small in number. Does this amendment go any further and provide that they shall be credited to their place of residence, although that residence may not be the place of enlistment? Does it say anything about their place of residence?

Mr. GRIMES. I was going to try to explain what will be the effect and how it will affect the towns on the coast of Maine. Under the amendment, those towns where men have enlisted in consequence of bounties furnished by the towns to induce their citizens, who are fishermen or sailors, to enlist, will be credited with them; but under the bill as it now stands, Boston and New York will be credited with them. The city of New York will be credited with some twelve thousand men who are not really citizens of New York; for I suppose the Senator knows that very few of the sailors who go to the cities of New York and Boston are really citizens of either place, or of the State of New York or Massachusetts. There are not as many sailors actual citizens of New York as there are citizens of the State of Maine. They are temporary residents there. The vast majority of the sailors in New York are natives of the north of Europe and Ireland. What I wish to accomplish is to prevent an undue credit being given to these great commercial cities like New York and Boston, to the detriment of the very section of the country which the Senator desires to protect.

Mr. FESSENDEN. I have no doubt of the Senator's intention, and if he could carry his intention out, I should be glad to have him do it. I am only speaking of the fact. I should be glad to have the section as it is proposed to be amended read.

The Secretary read it, as follows:

Sec. 8. *And be it further enacted*, That all enlistments into the naval service of the United States, or into the marine corps of the United States, that may be hereafter made of persons liable to service under the act of Congress entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall be credited to the ward, town, or township, or county, when the same is not divided into wards, towns, or townships, in which such enlisted men were or may be enrolled and liable to duty under the act aforesaid, under such regulations as the Provost Marshal General of the United States may prescribe: *Provided*, That such enlisted men are actual and bona fide citizens and residents of the ward, town, township, or county in which such enlistments shall be made.

Mr. FESSENDEN. The object of that will be simply this, as I understand it, and if not I shall be very glad to be corrected: it would accomplish the purpose the Senator from Iowa has in view; that is, it would prevent the city of New York, or the city of Boston, in making out its quota, from availing itself of persons enlisted who were not residents and citizens of the place; but how would that benefit the State of Maine, for instance? If these men were citizens of Maine and ordinary residents there, and enlisted in New York, we should not get any credit at all for them, being enlisted in another place. Therefore it does not benefit us a particle; it only prevents the credit for them being given to New York. But suppose, for instance, that in the city of Portland, where I reside, we desired to enlist men for the naval service—

Mr. GRIMES. Ships can be sent there, on which they may enlist.

Mr. FESSENDEN. Very well. We desire to enlist them, and we want the benefit of their enlistment; but we cannot enlist them without paying bounties, perhaps not to the same amount, but precisely as we pay bounties for soldiers. We have got to pay for them if we enlist them. If they come in of themselves, not being residents or citizens, and enlist in the naval service, very well; we have nothing to say about it. We have no claim unless they are part of our population and go so far to diminish our quota. But if we have got to raise these men for the naval service as we raise men for the military service, by paying them bounties, what difference does it make to the Government whether they are citizens or residents, or not, provided we furnish the sailors; and if we do furnish them by our funds, why should we not have the credit? The same thing would be true of Boston and New York. They have got to pay for them if they enroll them. So it is now; if they enroll men into the military service, they

have got to pay the bounties precisely in the same way; whether to the same extent or not, I do not know. What harm is done by allowing them to have the benefit of them? If the Senator will devise any way in which a citizen of Maine, if enrolled in New York, will be credited to Maine, I shall be very much obliged to him; but what he proposes does not accomplish it.

Mr. JOHNSON. Mr. President, there appears to me to be a difficulty in both the particulars spoken of by the Senators from Maine and Iowa. The object that the Senator from Iowa wishes to attain, as far as Boston, or New York, or any other large seaport town is concerned, his amendment accomplishes; but it does not accomplish the object which the Senator from Maine has, and which seems certainly to be a proper one. I understand the Senator from Maine to say that the port of New York, for example, should have the benefit of all men who are enrolled in that city because they pay for the enrollment. I do not understand such to be the law. The enrollment is one thing, the enlistment is another thing. The act to which this bill is a supplement directs that everybody in the city of New York—I select the city for the purpose of making myself understood—who is liable to be enrolled shall be enrolled as liable to duty. The practical effect of that might be that the same men would be enrolled in New York who would be enrolled in Maine. If those seamen who are enrolled in New York are liable to duty in Maine, the enrolling officers of Maine should enroll them; and when you come to settle the dispute as between the State of New York or the city of New York and the particular locality in Maine where the enrollment had been made, there would be a conflict which is to have the benefit of them. Is the town to which they originally belonged to have the benefit of them without reference at all to the fact whether the party was properly enrolled or not? Or will you make the enrollment in New York conclusive evidence that whatever seamen are enlisted in the port of New York are to be credited to New York, and leave the State of Maine without the benefit of being credited for the same seamen who have been enrolled within her limits? I do not know how we can avoid it; but it would be very desirable to do so if the principle is right as proposed, (and it seems to be right,) that each locality is to have the benefit of the seamen who have been enlisted into the service of the United States, as each locality has the benefit of the soldiers who have been enlisted into the service of the United States. Some more definite and certain provision should be made than seems to me to be made by the provisions of this bill. I think it would be better, therefore, if there is no immediate necessity for action on it, that the particular section should be passed over, that we may see if we cannot so frame the clause as to answer the purpose which the majority of the Senate may have.

Mr. HOWE. Will the Senator allow me to make a suggestion upon the point?

Mr. JOHNSON. Certainly, sir.

Mr. HOWE. The first part of the section to which this amendment is proposed, provides for credit for "enlistments into the naval service of the United States that may be hereafter made of persons liable to service" under the enrollment act. It seems to suppose that every person enlisting is liable to military service, and liable to service from some particular locality. Now, if there is anything, either in this bill or in the act to which this is proposed as an amendment, which will enable us to determine in what particular locality individuals are liable to service, then the latter part of the clause will accomplish just the object which I understand the Senator from Iowa is driving at, and without any amendment, because it declares that such a person shall be credited to the town, ward, or county in which he is liable to service.

Mr. JOHNSON. But the practical operation of the system as it stands, if I am correctly informed, is to consider all those seamen who are enlisted in New York as liable to service there merely from the fact of their enlistment, nothing else. They do not inquire whether the seamen should properly have been enlisted in the State of Maine, or whether, being enlisted in New York, the State of Maine should be entitled to credit for them upon the quota which she is to raise under this act. There is nothing in this act which says

who is liable to service. You are to go into the original act for the purpose of ascertaining who is liable to service, and if you go to that act I suppose it will be found that only those are to be enrolled who are inhabitants or residents of the locality where they are enrolled. For example, the city of New York has, perhaps, fifty or one hundred thousand persons temporarily residents of that city every day in the year. You would not consider them as liable to military service there. They belong to the different States or to the other portions of the State of New York where they reside. They have been enrolled in those places, or ought to have been enrolled where they respectively reside permanently. The Senator, therefore, certainly does not suppose—at least I imagine so, and I submit to him that if he does suppose so it is erroneous—that everybody who happens to be in New York at the moment the enrollment is made is to be enrolled as liable to service in the city of New York. That cannot be so. There must be a residence in order to create the liability to service. But then, practically, so far as naval men are concerned, every seaman that goes into the port of New York, who enlists there, is, if the bill passes in the form in which it is now before the Senate, to be credited to the city of New York, although he is not liable to service under the original act.

Mr. HOWE. But the section as it now stands declares that they shall be credited to the county, town, or ward "in which such enlisted men were." When? When they were enlisted? I take it so. "Were or may be enrolled."

Mr. JOHNSON. "Were enrolled," but they are not enrolled.

Mr. HOWE. "In which such enlisted men were or may be enrolled and liable to duty." It seemed to me (and that was the point which I wished to suggest to the Senate) that if we need anything it must be something in this act to define under what particular circumstances a man is liable to be enrolled in any particular place. Having had something to do with the draft that was made under the authority of the States a year ago last fall, it happened to me to know that these contested cases frequently arose. A person under peculiar circumstances would be enrolled in two localities, and he would perhaps claim that he was not liable to be enrolled in either. It seemed to me very clear. In that case, inasmuch as the Government did not want to have but one chance at him, I held very promptly that he had the right of election, provided he exercised that right before the draft was made. He might choose whether he would stand the draft in one locality or the other. It seems to me now that if the original law does not define what sort of residence or what sort of inhabitancy shall make a man liable to enrollment in a particular locality, this bill ought to be so amended as to do that, and then it accomplishes the very object the Senator from Iowa has in view.

Mr. GRIMES. I think my object would be accomplished if my amendment were adopted. I believe the Senator from Maryland and the Senator from Maine agree with that; but it does not, they say, exactly accomplish their object. I know that we are legislating at this time to affect the people who are exceedingly anxious to get men as substitutes into their service, who have even captured colored men as they passed through their city in order to credit them on the draft to the State of New York and the city of New York. I know that there are more than ten thousand men enlisted every year into the naval service at the single port of New York, and that more than one half of them, according to the official returns, are not residents of the city of New York at all, but are foreigners, who never have taken out naturalization papers, natives and subjects of Ireland, Germany, England, Scotland, Sweden, Denmark. But under the operation of this bill as it now stands, unless it be amended, the bill giving to the authorities in the city of New York the power to amend their enrollment whenever and however they see fit by putting the names of any men that they may find entered upon the ships' papers, we shall have those ten thousand men credited to the city of New York upon her quota, and they will continue to be credited just as often as the enlistments in the naval service shall expire and the men from the ships shall be discharged at the Brooklyn navy-yard and again reenlisted. Now, I submit that that would not be just even to New England;

it would not be just to any portion of the country, in my opinion; it certainly would not be just to that portion which I represent. But I concur with the suggestion of the Senator from Maryland, that this section be passed over for the present.

The PRESIDING OFFICER. The Senator can withdraw his amendment and offer it at another time by leave of the Senate.

Mr. GRIMES. Very well, sir.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is still open to amendment.

Mr. SHERMAN. I have one or two slight amendments to offer. In section one of the bill, line four, I move to insert after the word "necessary" the words "during the present war," so as to confine the operation of the act to the present war. It will then read:

That the President of the United States shall be authorized, whenever he shall deem it necessary during the present war, to call for such number of men for the military service of the United States as the public exigencies may require, &c.

The amendment was agreed to.

Mr. SHERMAN. I move to add to section four the following clause:

Any person not physically disqualified, now in the military service of the United States, may be furnished as a substitute, provided his term of enlistment shall expire within six months from the time of substitution.

There is some ambiguity in the section as it stands. Is a person now in the military service of the United States an "acceptable substitute?" I should like to have the opinion of the chairman of the Military Committee on that point.

Mr. WILSON. I think so; that is, within the limitations of the Department. As I understand, the War Office have authorized men who have less than one year to serve to reenlist; they may reenlist anybody's substitute who chooses to take them.

Mr. DOOLITTLE. As substitutes?

Mr. WILSON. In any way.

Mr. DOOLITTLE. I do not understand it so.

Mr. SHERMAN. Under the operation of the law as it stands, then, a veteran soldier who receives \$402 bounty to-day, may, when this bill takes effect as a law a month hence, be employed as a substitute and receive \$1,000 bounty from the person who thus employs him, and be transferred from one regiment to another.

Mr. WILSON. No; he has reenlisted. I think the Senator will find the position to be this: a person in the service of the United States is not liable to be drafted, and the Secretary of War has authorized persons in the service of the United States who have less than one year to serve, to reenlist, and has offered them a certain bounty for doing so. They may reenlist and take the bounty. Any man who is drafted may reenlist one of them if he chooses, as things are now. A man who is drafted may get a substitute, and he has a right to go to the Army and get a substitute there. It is right that it should be so.

Mr. SHERMAN. Then suppose he is reenlisted to-day; he is not subject to draft under the operation of this law, and a month hence he may be employed as a substitute.

Mr. WILSON. Oh, no; because then he has three years to serve.

Mr. SHERMAN. But why? Nothing prevents it but the regulations of the Secretary of War, which may be changed or modified. It is not the subject of legal regulation. I desire to give to the veteran soldier the right to accept the bounties that may be offered for substitutes, provided the term of his service which is unexpired does not exceed six months. It is of the highest importance to secure the reenlistment of veteran soldiers. We all admit that.

Mr. WILSON. Why not extend it to those who have less than a year to serve, putting it on the footing on which the regulations put it?

Mr. SHERMAN. If that modification is insisted upon I shall not oppose it.

Mr. COWAN. The effect of it would be to add to the bounty a discharge for the time they have to serve.

Mr. SHERMAN. Yes; if a veteran reenlists he is substantially discharged from present service.

Mr. COWAN. That had better be expressed. Let it be stated distinctly that in addition to the bounty they shall be released from the time they have to serve.

Mr. FESSENDEN. Does the Senator propose

not only to give them a bounty as substitutes, but if they have eleven months to serve, that the eleven months shall be given up to enable them to become substitutes?

Mr. SHERMAN. They will be mustered into service for three years, instead of having only an unexpired term of eleven months.

Mr. FESSENDEN. But they are mustered in as substitutes, and although the Government has a claim on them for eleven months, if you please, still to serve, the Senator's proposed amendment would authorize the veteran to clear himself of that service, and receive his bounty as a substitute, and take the place of somebody else.

Mr. SHERMAN. That is the effect of the present order of the Secretary of War.

Mr. FESSENDEN. I understand not.

Mr. SHERMAN. The reenlistment commences from the date of reenlistment.

Mr. FESSENDEN. That is true; but the order does not allow him to become a substitute for somebody else.

Mr. WILSON. Yes, it does.

Mr. FESSENDEN. Surely that cannot be.

Mr. WILSON. If Senators will allow me a moment, I will state how this matter stands. The Secretary of War has issued an order of which every soldier in our Army who has served more than two years has an opportunity to avail himself. That order allows reenlistments into the service of the United States for three years.

Mr. DOOLITTLE. Now, if the Senator from Massachusetts will allow me, I wish to ask him a question right on that point. Can he enlist for himself and enlist at the same time for another man, so that two are no longer liable to be drafted?

Mr. WILSON. I will answer the Senator; he can. A citizen of any State who is liable to be drafted may, by the existing law, get a substitute anywhere in the broad earth, out of the Army, or in the Army if the Government will allow the man in the Army to reenlist. That is so to-day.

A man who is drafted may say, "There is a man from my town in the service of the United States who has got less than one year to serve; the Government offers him \$400 to reenlist for three years, and gives up the residue of his time; I will get this man for a substitute; I will offer to him \$300 in addition to what the Government offers him to reenlist for three years;" and he is reenlisted.

Mr. FESSENDEN. He is not reenlisted for that man.

Mr. WILSON. Yes, that man is discharged because he has got a substitute. I say that is the law, and it will be practiced the moment you commence a draft, and it is right and just, and the best thing there is about the draft.

Mr. FESSENDEN. It is high time that any such practice should be stopped. It deprives us of two men.

Mr. HOWE. If the law is as the Senator from Massachusetts insists, I certainly do not understand the fourth section of this bill. The fourth section declares that "any person enrolled under the provisions of the 'Act for enrolling and calling out the national forces, and for other purposes,' approved March 3, 1863, or who may hereafter be so enrolled, may furnish at any time an acceptable substitute, who is not liable to draft." I do not understand that any man in the service now, whether he has a year or a month to serve, is liable to draft. If I am drafted I do not see how I can go and hire him to serve for me, and get him accepted as my substitute.

Mr. WILSON. I will explain that. It is a very plain question. Under the existing law, and in that respect it will be precisely the same if this amendatory bill shall be passed, when a man is drafted he can obtain a substitute anywhere. He can obtain a substitute who is liable to be drafted, and have him accepted and put into the service of the United States. This is a provision that stands by itself; it is one that is now made for the first time. It is, that any person who finds himself enrolled, liable to be drafted, may, if he does not select a person who is liable to be drafted, furnish a substitute, and the Government agrees to accept that substitute before the man is drafted. He furnishes a substitute in order to relieve himself from a possible draft, not from a real draft. That is the whole meaning of the section.

Mr. COLLAMER. Then he furnishes a substitute for the enrollment, not for the draft—a substitute to be put on the roll in his place. Is that it?

Mr. WILSON. No, sir; Senators do not seem to comprehend what this section means, and I hope they will examine it, and pay attention to it. I will tell Senators why it is put in the bill. We have had a great many provost marshals who have written to the Department to this effect: "Persons who have been enrolled come to us and want us to take substitutes for them before they are drafted; they are going elsewhere to engage in business; they want to go abroad; or, for other reasons, they want to relieve themselves from a possible draft; they have got money; they are willing to hire men to go into the service of the United States for them, if you will accept them." The Government could not do so, as the law stood before. This section provides that whenever any man finds his name enrolled, he may go to the board and say, "I will furnish you with an acceptable substitute, who is not liable to be drafted by your draft law; if you will take this man I will furnish him, you relieving me." We propose that he may do that. He incurs that expenditure simply to relieve himself from a possible draft, not a real draft.

Mr. COLLAMER. When, not being drafted himself but being on the roll, he brings a man as his substitute, does that substitute become an enlisted man from that time?

Mr. WILSON. That person becomes an enlisted man for three years, and is mustered into the service of the United States. The other man is released, and goes about his business; and if he should never be drafted at all, he gives the Government of the United States a man whom they could not draft. That is the benefit; it is all for the Government.

Mr. COWAN. Then I should like to know if this is not the shape into which it resolves itself: if the person liable to be drafted produces a veteran in the Army as his substitute, the Government not only helps him to pay for that substitute by paying \$402 in addition, to his \$300, but the Government also discharges the veteran for the time he has yet to serve. That is the whole of it.

Mr. WILSON. That is not the whole of it.

Mr. DOOLITTLE. There is another question I wish to put. Under that arrangement may not gentlemen who may possibly be drafted in Massachusetts go down among our regiments here, that came from Wisconsin, and are in the Army, and engage all of them whose terms expire within a year, to be substitutes for men in Massachusetts?

Mr. WILSON. We can do it to-day under the present law.

Mr. DOOLITTLE. Do it under the law, though the men are in the Army! I desire to understand this business, Mr. President; I wish to know what the law is. I do not suppose it is possible that by any rule of a Department, or by any law that was ever passed by Congress, a man can enlist, and at the same time enlist for himself and enlist for another person also.

Mr. SHERMAN. The object I had in offering this amendment is accomplished. I wished to call the attention of the Senate, and particularly of the Military Committee, to the ambiguity of the law. As I construe this section, any soldier who has been enlisted even but one month, may be hired as a substitute. It is true that under the orders of the War Department it cannot be done; but under the bill it can. I take it that this bill, if passed, will supersede the order of the Secretary of War; and the bill expressly declares that any man may be an acceptable substitute who is not a subject of draft. A soldier now in the service, although he may have been there but one month, enlisted for three years, is not subject to draft, and a shrewd lawyer would at once make the point. The chairman of the committee admits his construction of the law to be that a soldier is not liable to draft.

Mr. COWAN. That is true; but I think the honorable Senator from Ohio is perhaps not correct in his other construction. "Who is not liable to draft" is not the only qualification upon the substitute. He must not only be "an acceptable substitute," but also one "who is not liable to draft." The officer would have a right to reject a substitute because he was already in the service; and I should think it would be one of the best of reasons.

Mr. SHERMAN. The word "acceptable,"

I think, by fair construction, would be applied simply to freedom from physical disability.

Mr. COWAN. They may reject on account of immorality.

Mr. SHERMAN. At any rate, it is manifest that the section as it now stands gives rise to many different constructions. Gentlemen differ about it. I agree myself with the purpose sought to be accomplished by the chairman of the Military Committee. I think that the veteran soldier who has served two years or more ought to have the benefit of any high bounties that may be paid; and I think the law ought to be made clear and obvious, so as to give him an opportunity to compete for the large bounties. I think, however, it ought to be confined to the respective States where the drafted men reside. I do not think the State of Massachusetts ought to be allowed to go to the volunteers of the State of Wisconsin for substitutes, or vice versa. I think that where a veteran soldier is offered as a substitute, it should be a veteran soldier in the service from the State where the drafted man resides, and that his term of service unexpired should not be more than six months, because it is not a good arrangement for the Government of the United States to allow a soldier who has served two years, and has yet one year to serve—probably as long as the war will last—to receive these large bounties, and thus discharge an able-bodied man. I now withdraw my amendment, with a view to allow the chairman of the Military Committee to examine the matter carefully, and report such an amendment as he thinks will make the section perfect.

Mr. WILSON. I will say to the Senator from Ohio that I am willing to take his amendment as he suggested it. I am willing that the section shall be so amended that a person who wishes to get a veteran soldier as a substitute shall get a man from his own State, and that the time of the man in the service who is thus offered as a substitute shall not have more than six months to run.

Mr. COLLAMER. Allow me to ask one question. What sort of hurt or injury is it to any State to have a man taken from that State and credited to the quota of another State, if he is a man who is not subject to be enrolled? You may as well get such a man in one place as another.

Mr. SHERMAN. I will tell the honorable Senator the reason. The State of Ohio, for instance, has great pride in her regiments. She would dislike very much to have her regiments depleted by enrolling officers from other States taking men out of her own regiments and transporting them to Massachusetts, or any other State, by the offer of large bounties. It would destroy the *esprit de corps* of the regiments.

Mr. COWAN. Another reason I wish to state just here. It would bring the poorer States in competition with the richer States in a struggle to buy their own men for substitutes, which ought to be avoided.

Mr. WILSON. I am willing to avoid that, but Senators, I thought, did not seem to understand this section at all. If this bill be adopted as a whole, amending the existing law, there will be some persons capable of doing military duty who will not be liable to be enrolled or drafted. For instance, all young men under twenty years of age are not liable to be drafted. Soldiers who are in the service cannot be drafted, and they cannot be reenlisted unless by the order of the Government. The Government in order to induce the soldiers to reenlist, has issued an order providing that if they have less than one year to serve, they may reenlist in their present regiments, and the residue of their unexpired time is given to them. Thus they have in reality but five years to serve instead of six. It is of great importance to get these soldiers into the service, and I wish those who are physically fit would all reenlist. The Government offers them \$400 to do it. The State of Massachusetts adds \$325 to that, and many towns are adding two or three hundred dollars to that. The people of a town in my neighborhood which has about sixty men to raise, and has a great number of men in the field, have contributed \$12,000 to offer in addition to the Government bounty of \$400 and the State bounty of \$325. All the soldiers from my State who have less than one year to serve, may reenlist and receive \$725, and all that individuals or the towns will add to that sum. It is of great importance to get these men into the service. This provision was made for the benefit

of the Government in this respect. It provides that any man in the country finding his name on the enrollment list, and wishing to relieve himself from a possible draft, may enlist an alien, may enlist a young man under twenty fit for service, may enlist one of those men whom the Government have given leave to reenlist, as an acceptable substitute for himself, and thus relieve him from a possible draft. But if he waits to be drafted and is drafted, he will have then this advantage: he may, unless we amend the act, furnish an acceptable substitute wherever he finds him, whether the substitute is a man liable to be drafted or not. If the Senator would like to amend this section so as to provide that if the substitute furnished shall be in the military service, he shall be from the State where the person wishing to obtain him as a substitute resides, where they both reside, I will agree to it. I do not want the citizens of my State to go to any other State to obtain substitutes of any kind, unless it be to the rebellious States, and if I had my way I would open the rebel States to anybody and everybody in the loyal States to enlist black men and white men to fill our armies, and deplete those States, by putting their men into the service of the United States.

Mr. DAVIS. Mr. President, I think our language is undergoing a very rapid transition. We hear a great deal about "the Government," and what "the Government" has done, and what is to be done for the benefit of "the Government." I am a little confused, and at a loss to understand the force and import of these terms, as well as the terms "loyal" and "loyalty," as they are used in modern lingo. I understand by "the Government of the United States" the whole organization of the Government, its Constitution, its departments, the officers who fill them, every one of the officers who fill them; and I have no more restricted idea than that when the term "Government" is used by me, or when I hear it used.

Now, sir, according to my understanding of the Government, it has authorized the enlistment of men for three years, and here comes in the Secretary of War, and upon his own authority makes an arrangement by which twelve months of the term of three years is to be remitted upon condition that the soldier to whom he offers this remission will consent to a reenlistment for three years, or during the war, and that is spoken of as an act of the "Government!" Why, sir, according to this idea of Government, a "Government" across the ocean once lost its head by dispensing with the laws passed by Parliament, and another Government, a descendant of that Government, in the second degree, was driven from his throne, an exile, into a foreign land.

Sir, I ask by what authority the Secretary of War is called "the Government?" I ask by what authority he assumes to dispense with the laws of Congress? I ask by what authority he presumes to remit twelve months of the term of the veteran in the field? Whence does he derive this high power? Congress might do it; but when one of the chief clerks of the President assumes to do it, even though it be with his sanction, it is an unauthorized exercise of power. What is the injustice to the country of this arrangement which has been made during the interval of the sessions of Congress, as I understand, by the Secretary of War? The country, the true Government, the people of the United States, lose the benefit of twelve months, or any term under twelve months, of a veteran soldier who by his contract, and by the laws of the land, is bound to serve for that twelve months or a less term for the benefit of the United States; and all this arrangement, it is said, is made by "the Government," and when you ascertain who "the Government" is, why the Government is Edwin M. Stanton, in the War Office!

It is said that the Government has authorized this reenlistment from its armies of any man who has a less time of his term to serve than twelve months. What is the effect of it? The country loses the benefit of twelve months or a shorter term of service of a veteran, and he becomes a substitute for another man who is liable under the law to serve for the full term of three years. The amount of time that the veteran has served, and the amount that he has to serve, is a full term of three years; he has stipulated in his enlistment to serve for that term; the law requires him to serve for that term; he has received a bounty to

serve for that term; it is his duty to serve out that term. I deny that the Secretary of War can remit to him any portion of it; and if it is remitted to him, two men, instead of being bound to render service, and actually rendering service for six years—three years each—divide the matter between them and serve but five; one year's service is given up that is the most valuable to the country to be rendered by a veteran soldier.

Sir, I am a friend to the soldier who is in the service of his country. I am for remunerating him liberally. I want his term of service to be short and decisive, and to be triumphant. I will go as liberally to reward the soldier as any member of the Senate; but I say this arrangement made by a dispensing power usurped at the other end of the avenue, and manifested in the War Office, dispenses with the law, and the contract of enlistment by the soldier, and deprives the United States of one year's service, at least, out of six between two men.

Mr. HOWE. Will the honorable Senator allow me to ask him a question?

Mr. DAVIS. Certainly; two of them, if you please.

Mr. HOWE. Just one. What law is it that the Secretary of War has violated in allowing these soldiers to be discharged?

Mr. DAVIS. I will answer. I thought I had stated my proposition. Were not these men enlisted for three years?

Mr. HOWE. I understand so, "unless sooner discharged."

Mr. WILSON. If the Senator will allow me, I will read the term of service from the law:

"That the service of the volunteers shall be for such time as the President may direct, not exceeding three years nor less than six months, and they shall be disbanded at the end of the war."

I take it, the Government has the right, whenever it chooses, to discharge these men.

Mr. DAVIS. "The Government?"

Mr. WILSON. The President.

Mr. DAVIS. Well, now, I suppose he has, under that law; but I say that the arrangement of the President is unjust to the country; it deprives the country of the benefit of one year's service of a veteran, or if it does not do that it deprives the country of six years of service divided between two men, and limits it to five years. My honorable friend, I reckon, will not deny that position.

Mr. CONNESS. We give away one year and get three. Is not that a good bargain?

Mr. DAVIS. But it dispenses with the drafting of a man who is bound to render three years of service. The thing is plain; there is no misunderstanding it. Here is A who enlisted for three years, and who has served two years. Here is B subject to be drafted for three years. He comes up and employs A as his substitute, and one year's service of A is remitted to him in consequence of the arrangement. That is it. This is the act of the President. This is the act of the President, it is now said. I admit now that I am corrected, that the law authorizes the President to do it.

I do not know when the President acts and when the Secretary of War acts. This remitting of service did not profess to be the act of the President; it professed to be the act of Edwin M. Stanton. They say that he is the President in fact in relation to many matters. When he acts upon consultation and with the approval of the President, he ought to say so, that the country may know whose act it is; whether it is the act of the President or of the Secretary of War. But, sir, I object to this change of language; I object to the President or any other department of the Government being called "the Government;" and if the pay is not sufficient, give them more; if the bounty is not sufficient, give them more; but I suppose that both are sufficient. Certainly that is enough which is received by the soldiers of Massachusetts from the various sources that pay bounties, according to the statement of the Senator from Massachusetts. I think he states the bounties to amount to about a thousand dollars. That brought to my recollection a fact connected with the history of the father of Frederick the Great of Prussia. He wanted to get a regiment of grenadiers, and he paid the largest bounties for the tallest men. He heard of an Irishman who was about seven feet high, and he sent to Ireland repeatedly to obtain him as a recruit into his regi-

ment of grenadiers, and paid, I believe, about two thousand pounds for him before he could secure his services. I suppose that the bounties offered in Massachusetts will secure all the quota that that State is bound to furnish, and that now the roads and alleys will be crowded with her volunteers.

But, Mr. President, I rose for the purpose mostly of explaining a matter between the Senator from New Hampshire [Mr. HALE] and myself. I was ready to make this explanation for the last three days before the recess, but the Senator from New Hampshire was not in his seat, and I have deferred it until this morning. He is now in his seat. It will take me but a minute or two, and I shall confine my explanation merely to reading, making no comment at all. During the last month I made a speech in the Senate upon the subject of the exchange of prisoners. After I got through, the Senator from New Hampshire rose and uttered this language:

"Mr. HALE. Mr. President, nothing on earth was further from my intention or my expectation when I came into the Senate Chamber to-day than to take part in this debate. I do not now intend to trespass long on the attention of the Senate; but a statement has been made by the honorable Senator from Kentucky that I never will hear anywhere without entering my indignant denial of it; and that is, that the party in power and its representatives on this floor do not desire peace, but desire a continuation of this war to influence the next presidential election. A more atrocious allegation against honorable men I think I never listened to from the beginning of time to the present moment."

I suppose the gentleman did not begin with time. I interrupted him, and we carried on somewhat of a colloquy for a time:

"Mr. DAVIS. If the honorable gentleman will permit me one moment, I heard him make a much more atrocious allegation than that within the last two years, when he avowed that the army of plunderers that were marching upon the Treasury under this administration of the Government exceeded the number of soldiers in the field."

"Mr. HALE. If the Senator ever heard me make such a statement as that, I will admit it; but I never made such a remark, or anything like it."

"Mr. DAVIS. I think the Globe will prove it."

"Mr. HALE. The Senator cannot show that I ever made any such remark, or anything like it; but I will tell him what I did say, and what I will repeat. I said I thought the liberties of the country were more in danger from the profligacy that was practiced upon the Treasury than they were from the rebels in the field."

"Now, to return to the subject: If the allegation of the honorable Senator be true, I would sooner take the hand of a man from a charnel-house, covered with pestilence, than that of one of the honorable gentlemen around me. If that allegation be true, every Senator upon this floor that supports this Administration is stamped with the foulest treason and perjury that human nature can be guilty of."

"Mr. DAVIS. If the Senator will allow me—"

"Mr. HALE. No, sir; I do not wish to be interrupted."

The gentleman's denial on that day was very defiant, sir; and his defiant denial, as I understood, was to the substance of the imputation which I then made against him. It might not have been true in letter, in strict form; and it was not, as I concede, because I was speaking from recollection; but I will now read from the book, or extracts that I have taken from the book.

Mr. President, the gentleman will recollect well the indictment that he preferred against the Secretary of the Navy two years ago, and the series of speeches which he made to sustain that indictment in the Senate Chamber. He had the subject of a contract between the Secretary of the Navy and a brother-in-law of that officer referred to the Committee on Naval Affairs. He was led to it by a report upon the same subject in the House of Representatives. He made a report from the Naval Committee; and he prosecuted the matter perseveringly, with ability, and with the most indignant eloquence. The Senator assumed on that occasion that this contract was a profligate contract—a most profligate contract—that it was given to a man who had no experience in the purchase of ships, and who was wholly incompetent and unfit to discharge the duties for which he had been selected by his brother-in-law, the Secretary of the Navy, and that it was given to him in consequence of the near relationship between the person who was appointed this agent, and the Secretary of the Navy who conferred it upon him; and that imputation was repeated time and again in the course of a series of speeches which the Senator made upon the subject, at least a dozen times. He stated, too, that this allowance was at the enormous rate of over ninety thousand dollars for five months of service; that it was without law, without the sanction of law, a profligate contract, given to an incompetent man to render a service for which he was wholly un-

fitted by reason of his ignorance, and all this in consequence of the relationship between the Secretary of the Navy and that agent, for the purpose of enriching the agent. If the gentleman denies that these were the positions of his speeches, I will read the speeches at length, but I have got extracts here from them.

The gentleman reported a distinct and emphatic censure upon the Secretary of the Navy for that contract, and in a speech in support of the report he said:

"Sir, I do not know what other Senators may do. I cannot, I dare not; I should expect the finger of scorn from the hut of poverty to point me out as reckless and faithless for being here a member of the Senate in this hour of our country's peril, if I had failed to rebuke profligacy in the expenditure of public money, let it be when and where it may."—*Congressional Globe, Thirty-Seventh Congress, second session, part one, p. 700.*

And the profligacy that he then was rebuking in such indignant terms was the profligacy of the Secretary of the Navy extended to his brother-in-law, an ignorant and incompetent man, according to the Senator's denunciation, for the duties that he was selected to perform.

"I believe that this whole system of public robbery and profligacy in expenditure must be rebuked, and rebuked here. I believe that a different state of things must be resorted to, or we shall have no country to save. There is an old saying—I am not certain it does not come from inspired wisdom—that it is as well to die by the sword as by famine. And, sir, if this system is to go on, the army that we have in our midst will be more formidable and more to be dreaded than any that is on the other side of the Potomac."—*Ibid., p. 701.*

I admit that the gentleman's reference was to the army of the enemy on the other side of the Potomac, and not our own. But I agree with the sentiment, I believe it to be true, and believing it to be true I give it utterance. I greatly desire it is not true. I have the gentleman's authority for its truth—his authority after he had investigated the subject. He said also:

"I believe the Secretary of the Navy to be as honest a man as there is connected with the Government."—*Ibid., p. 246.*

Well, now, let us see what he says of his fellows. I believe, myself, he is the most honest man connected with the Administration; I believed it then, and I believe it now:

"I repeat, as I have once before in this matter, I have no desire to injure the Secretary; I have no desire to stab his reputation; I have no desire to detract anything from him that belongs to him; but I stand here one of the representatives of a State of this Union, of a people that are taxed and to be taxed to the last point of human endurance. Upon a recent visit which I made to my home, in the cold days which have just passed away, it is no fiction and no exaggeration when I tell you that old men have stood, with tears in their eyes, and have declared that they apprehend more of danger to the Government and the Union from these corruptions and these profligate expenditures, than from the enemy which is in arms against us on the other side of the river."—*Ibid., p. 246.*

Let me say to the honorable Senator that I then shared, and I now share all the apprehensions of his virtuous and indignant constituency. The very apprehension of danger that they had then, I had then, and I now have, and it is a most threatening danger to our Government and to the perpetuity of our institutions.

Again:

"I do not know but I may over-estimate, entirely over-estimate the character of this transaction; but I tell you, sir, I believe, and I declare it upon my responsibilities as a Senator of the United States, that the liberties of this country are in greater danger to-day from the corruptions and from the profligacy practiced in the various departments of the Government than it is from the open enemy in the field."—*Ibid., p. 700.*

That was the gentleman's emphatic declaration on that occasion. I concurred with it then; I do now; and I agree with him that the people must arouse to the boldness and the profligacy of these expenditures and these corruptions in the departments of the Government, which the gentleman then denounced with an eloquence that I cannot even approach.

He said further:

"I tell you if we are to have a victory we are to begin here; if we are to make a stand for the defense of our liberties we are to begin it here. If there is to be reform anywhere it must be inaugurated in this Congress, and on this floor; and this Senate must set their faces like a flint against every misappropriation of the public funds, and against every act of favoritism; against every in-tolerance of profligacy; against every waste of the public money."—*Ibid., p. 700.*

The gentleman having reference to that particular transaction.

"I know it is very difficult for gentlemen to bring themselves up to the standard of passing condemnation upon

those with whom they have been politically and socially connected." "I know it is pleasant to bask in the sunshine of power. I know that it is pleasant to have influence with those who administer the Government and dispense its patronage, and appoint those who carry on the administration. I appreciate those things as much as anybody. I appreciate as highly as anybody the amenities and courtesies of social life. But, sir, when the interest of the country is at stake, and when the interests of the people demand that these things should be exposed, and the seal of condemnation fixed upon them, I will not hesitate, let the consequences be what they may."—*Ibid.*, p. 700.

Again:

"It is time that the Senate acted. I have done my duty. I have no more interest in it than you have, Senators. If the Senate fail, if the Government fail, if Congress fail, then, sir, reverently would I appeal to a higher Power, and I would say, 'O, Christ! who with a whip of small cords drove the money-changers from the temple of Jerusalem, is there no scourge for the laceration of those who would turn the temple of our liberty into another den of thieves?'" [Applause in the galleries.]—*Ibid.*, p. 701.

But, Mr. President, I did not rise to make any extended comment upon the point between the Senator and myself, or on the speeches from which I have read. I could read many other passages that are as pointed and as denunciatory as those which I have read, in the various speeches which the gentleman made on that subject. I intended to content myself simply with reading with a view to the point that sprang up suddenly between the Senator and myself, and to give his speech of two years ago as authority and proof substantially of the position which I assumed, and which the Senator denounced in such strong terms.

Mr. HALE. Mr. President, as I said when I spoke last, nothing was further from my intention than to enter into that debate, and I will say now that I regret very much that the Senator from Kentucky has deemed it necessary to renew the subject. I confess that I do not see that he has made good the point which he attempted to establish; and I leave it with no disposition to do him injustice, and gratified that he has taken the subject into his own hands and done himself justice. I leave the subject, simply saying that I am proud myself and grateful to him that I have made a speech in the Senate which made such an impression upon him that he thought it necessary two years afterwards to come in here and repeat it. [Laughter.]

Mr. DAVIS. The impression was so strong and durable that in its general substance it remained upon my mind before I referred to it, and I think that the honorable Senator is a little more forgetful and oblivious himself of his own avowed principles of political morals than I am.

The VICE PRESIDENT. If no other amendment be offered to the bill, the question will recur on the last amendment reported by the Committee on Military Affairs.

Mr. GRIMES. I wish to offer a new section.

The VICE PRESIDENT. There is a section still unacted upon, proposed as an amendment by the committee.

Mr. GRIMES. But by consent that was laid aside until the bill should be otherwise perfected.

The VICE PRESIDENT. The Chair will receive other amendments.

Mr. GRIMES. The amendment which I propose is to insert the following section, to come in after section eight:

And be it further enacted, That no pilot, engineer, master-at-arms, or other person having an appointment or acting appointment, and being actually in the naval service, shall be subject to military draft while holding such appointment, and forming one of a ship's complement.

Mr. WILSON. I think that section entirely unnecessary, as all persons in the naval and military service of the United States are expressly exempted by the terms of the ninth section of the bill. If Senators will refer to that section, they will find that it expressly exempts "all persons actually in the military or naval service of the United States at the time of draft." I think that covers everything that need be provided for. The clause was put into the bill to cover the very thing suggested by the Senator from Iowa.

Mr. DOOLITTLE. I was going to make an inquiry of the Senator from Massachusetts in relation to the effect of that provision in the ninth section. This draft may not occur until the term of service shall have expired of some who have been three years in the service of the United States. If the draft occurs while they are in service, they are exempt of course; but if the draft occurs after they go out of service, although they have served for three years in the Army of

the United States, is it the intention of the law that they shall be again liable to draft? It does not seem to be expressed so as to make the point very clear, but the language of the section exempts only those in service at the time of the draft.

Mr. WILSON. By the existing law persons who were in the military service when it was passed are not liable to be drafted for two years from the 1st of July last. The bill now pending, amendatory of that law, provides that all persons, whether they were in the military service at that time or not, who have not been in service two years, shall be liable to draft, but it provides that soldiers who have been in the service two years, and have been honorably discharged, shall not be included in the draft. There were some regiments in the service for two years—thirty-eight, I think, from New York, and a few from Indiana, perhaps fifty regiments in all. They have been honorably discharged and mustered out of the service, having served two years. It was thought rather hard to put them in the draft, and we have provided for exempting them. So, too, when the time of the men who have served the country three years is out, they ought not to be drafted, at least not for the present. Perhaps if the war goes on some years we shall have to put their names on the list; but in the present condition of the country, I think the man who has served two years and been honorably discharged has rendered good service to the Republic, and we ought not to force him into the service again. We propose that the names of the six months' men and the nine months' men, the militia called out for brief periods, shall go upon the enrollment lists.

Mr. JOHNSON. Permit me to ask if persons who have served two years are excepted by this act which we propose to pass, from enrollment? If so, I should like to know in which section of the act the exemption is.

Mr. WILSON. They are exempted by the existing law, and we provide by this act that persons who have not served two years shall be liable.

Mr. JOHNSON. Which part of the act?

Mr. WILSON. I will find it for the Senator presently.

Mr. GRIMES. Section nine, as it now stands in the bill submitted by the Senator from Massachusetts, may be liable to misconstruction, and it does not include all the cases that it would be desirable should be included in the exemption. For instance, who is to decide that a man is in the military or naval service of the United States? The Provost Marshal General? What is he going to decide by? By the law of the United States which defines the particular officers that shall compose an ordinary ship's complement? If he decides by that, then he would exclude pilots, for they are not known as being in the naval service of the United States, and yet if you take away the pilots in service on our western waters you destroy the efficiency of the whole naval service there, and render useless eighty vessels now in our service.

There can be no possible objection to the amendment as I have submitted it, and I can say to the Senate that it meets the approval of the Provost Marshal General, for I showed him the amendment as I had drawn it, and he wrote in pencil marks upon it, "and being actually in the naval service," and I have put that phrase in. There can be no objection to it as it here stands. As the bill now is, it leaves the question entirely in the control of the military department, without there being any means for the naval department to assert its rights. I think we ought to treat both services as entitled to equal rights.

Mr. WILSON. Let me hear the amendment again.

The VICE PRESIDENT. The amendment will be again read.

The Secretary read as follows:

And be it further enacted, That no pilot, engineer, master-at-arms, or other person having an appointment or acting appointment, and being actually in the naval service, shall be subject to military draft while holding such appointment, and forming one of a ship's complement.

Mr. WILSON. There is one objection to that. I have no objection, certainly, to exempting pilots; I supposed they were in the naval service of the United States, at least for the time being; but this amendment includes in the exemption civil officers. It includes clerks on board vessels, the

clerks of paymasters. We do not exempt clerks in the War Office, or in the paymasters' offices anywhere, and I think those civilians who are on board vessels should not be exempt.

Mr. GRIMES. We have not twenty vessels in the naval service now in commission the paymasters on board of which are entitled to clerks. These acting assistant paymasters are entitled to an enlisted man, who is assigned to them, who assists them in the performance of their duties, and you cannot take him anyhow.

Mr. DOOLITTLE. I think that my friend from Massachusetts is mistaken as to the effect of the ninth section, for the language of this section is sufficiently forcible to repeal all inconsistent provisions of any other statute; for this section provides in express words in the last two lines, "no persons but such as are herein excepted shall be exempt;" that is, excepted in this section; and this section enumerates those who are to be exempt:

"Such as are rejected as physically and mentally unfit for the service, the Vice President of the United States, the judges of the various courts of the United States, the heads of the various Executive Departments of the Government, the Governors of the several States, and all persons actually in the military or naval service at the time of draft."

Now, if they happen to be discharged, if their time has expired before the draft, they are liable to be drafted, because this very section says that no persons but such as are herein excepted shall be exempt. I think that must be the necessary construction put upon this section, and as my friend is of a different opinion, and it seems to me he is mistaken, I call his attention to it.

Mr. JOHNSON. It was under that apprehension that I inquired of the Senator from Massachusetts if this bill made an exception of those who had served two years. I do not find it in the bill, and if it is not in this bill, the Senator from Wisconsin is clearly right that no persons are exempt except such as may be excepted by virtue of the ninth section of this act.

Mr. WILSON. By the existing law, persons in the military service of the United States at the time it was passed were not liable to be enrolled.

Mr. CLARK. But this will repeal the existing law.

Mr. WILSON. No, it does not repeal the existing law; certainly it was not so intended. We provide in the fifth section of this bill for the enrollment of the nine months' men and others who have served less than two years. The provision is that "any person arriving at the age of twenty years, and also any person who has not been in the military or naval service of the United States two years and honorably discharged therefrom," shall be enrolled. It was intended to enroll men who had served less than two years, but not to enroll those who had served for that period of time. If Senators think this exemption section will override that provision, I am willing to have it amended, but that was the object.

Mr. CLARK. You had better consider it carefully.

Mr. WILSON. I move to amend the amendment of the Senator from Iowa by striking out the words "or other person."

The question being put, it was announced that the amendment to the amendment was agreed to.

Mr. HOWE. I rose while the vote was being taken, to ascertain what amendment was proposed to be made.

The VICE PRESIDENT. A new section is offered as an amendment, and the Secretary will read it as it now stands.

The Secretary read as follows:

And be it further enacted, That no pilot, engineer, or master-at-arms having an appointment or acting appointment, and being actually in the naval service, shall be subject to military draft while holding such appointment, and forming one of a ship's complement.

Mr. HOWE. I did not understand whether the question put to the Senate was on that amendment.

The VICE PRESIDENT. The question put was on an amendment to the amendment, striking out the words "or other person" after the word "arms."

Mr. GRIMES. Has that amendment to the amendment been declared to be carried?

The VICE PRESIDENT. The Chair so decided; but if there was a misunderstanding of the matter, with the consent of the Senate the Chair will regard it as open, and put the question again.

Mr. GRIMES. The law of Congress determines what shall be the complement of a ship's crew, and I suppose nobody claims that we have assigned to any ship more men for any specific duty than the public necessities of the service require. Now, with the proposition of the Senator from Massachusetts carried, it will be in the power of the officers who are to enforce this draft, at any moment, if there happens to be one of the men on board a ship drawn, to send for him to the ship at a time when the necessities of the country may require that she should go to sea, and take him from her and break up the ship's crew. As the amendment which I have submitted is drawn, there can be no hardship to anybody. It only exempts men who compose part of a ship's complement as defined by the laws of the United States, and only exempts them during the time that they are actually in the service as a part of that ship's complement; and the moment they cease to be a part of it, that moment they can be enrolled under one of the sections of the Senator's bill and be subject to draft. It seems to me there is nothing more palpable than that it ought to be adopted just as I have proposed it.

The VICE PRESIDENT. The question is on the amendment of the Senator from Massachusetts to the amendment of the Senator from Iowa.

The amendment to the amendment was rejected. The amendment was agreed to.

Mr. DOOLITTLE. With the leave of the Senator from Massachusetts, in order to relieve the ninth section of any ambiguity on that subject, I propose to insert, after the word "draft," in the fifteenth line, these words:

And who shall have been in the military or naval service of the United States during the existing war for two years or more, and been honorably discharged therefrom.

Mr. SHERMAN. That creates the same difficulty. The fifth section and the ninth section taken together cover the whole ground.

Mr. DOOLITTLE. I propose also to amend the fifth section by inserting, after "two years," in the thirteenth line, the words "during the existing war." They may have served in the Mexican war or some old Indian war.

Mr. SHERMAN. I think the amendment of the Senator from Wisconsin would make the bill incongruous. We should then add to the ninth section, also persons under twenty years of age, and all other exceptions. I think, as it now stands, it is perfectly clear that no person is to be enrolled under the age of twenty years, or who has been in the military service two years, and then the ninth section exempts certain classes of persons. The sections will be construed together as a matter of course, and will cover all the cases of exemption.

Mr. HOWARD. I hardly think that amendment is necessary. It strikes me that it is already sufficiently clear and definite, especially when we recur to the fifth section. That section declares

"That boards of enrollment shall have power to enroll any person whose name shall have been omitted by the proper enrolling officer, and any person arriving at the age of twenty years, and also any person who has not been in the military or naval service of the United States two years and honorably discharged therefrom."

If he has been in the naval or military service of the United States he cannot be enrolled; or if he is, his name will be improperly inserted on the enrollment. The ninth section includes among the persons to be exempted—

"All persons actually in the military or naval service of the United States at the time of draft; and no persons but such as are herein excepted shall be exempt."

That is, no persons except such as are excepted by this act shall be exempt. That exception, I take it, covers that exact class of persons, those who have been in the service for two years or more. It strikes me, therefore, that the bill is already sufficiently definite and clear on that point.

Mr. DOOLITTLE. The ninth section of this bill is an amendment to the second section of the act of last year, and the second section of that act is the one that purports to give in language and name the persons who are exempt, and winds up by the same language that is used at the close of this section: "and no persons but such as are herein excepted shall be exempt;" which certainly are those excepted by this section of the statute.

Mr. HOWARD. What meaning does the Senator give to the word "herein?" It strikes me that it includes this present act which we are passing.

Mr. JOHNSON. With the permission of the Senator from Wisconsin I wish to say a word. It was because this section, as I supposed, would repeal any antecedent exception that may have been in a prior law that I made the inquiry of the chairman of the Committee on Military Affairs whether the soldiers who had been two years in the service and honorably discharged were excepted by this act. I had not been able to see it in the bill until it was pointed out by the chairman; but he having pointed it out, I submit to the Senator from Wisconsin that it is necessary to adopt such an amendment as he proposes. The words in the fifth section alluded to by the Senator from Michigan provide that no person shall be liable to service, &c., who has been in the military service of the United States two years and honorably discharged therefrom. The ninth section, which the honorable Senator from Wisconsin supposes contains only a provision applicable to the original act of March 3, 1863, and not to this act, contains these exceptions: it proposes to strike out of section two of the original act all after the word "enacted," and to insert the following:

"That the following persons be, and they are hereby, excepted and exempted from the provisions of this act."

That is, of this act after it shall become a law, not of the act of March 3, 1863, but of this law, provided we pass it with this amendment. Then it goes on afterwards to say:

"Such as are rejected as physically or mentally unfit for the service, the Vice President of the United States, the judges of the various courts of the United States, the heads of the various Executive Departments of the Government, the Governors of the several States, and all persons actually in the military or naval service of the United States at the time of the draft; and no persons but such as are herein excepted shall be exempt."

What is the meaning of the term "herein" as there used? It means "in this act." The particular exceptions to which the Senator from Wisconsin refers are in addition to the exceptions that are to be found in the original act, or to be found in this act after the terms of the original act become a part of this act. In other words, the law will then mean that the Vice President of the United States, the judges, &c., are to be excepted from this act; and also all persons who are not liable to military duty under this act; and those who are not liable to military duty under this act are those who have served for two years and have been honorably discharged. The meaning, therefore, of the section, as I think, is precisely the same as it would be if the terms in the fifth section excluding the two years' men were incorporated word for word in the ninth section.

The amendment was rejected.

Mr. DOOLITTLE. The amendment which I suggested—in section five, line thirteen, after the word "years," to insert the words "during the existing war"—seems to be necessary to make it plain, and I move that amendment.

The amendment was agreed to.

Mr. DIXON. I offer the following amendment, to be inserted at the close of the ninth section, as a proviso:

Provided, That all persons recognized as clergymen or ministers of religion by the ecclesiastical authority of the denomination or communion to which they belong, when called into the military service under this act shall be regarded as non-combatants, and be employed as chaplains or in hospitals.

Mr. SAULSBURY. I move to amend that amendment by striking out after the word "that" the words "all persons recognized as clergymen or ministers by the ecclesiastical authority of the denomination or communion to which they belong," and to insert in lieu thereof the words "ordained ministers of the gospel;" so that the proviso will read:

Provided, That all ordained ministers of the gospel, when called into the military service under this act, shall be regarded as non-combatants, and be employed as chaplains or in hospitals.

Mr. LANE, of Kansas. As this bill proposes to repeal altogether the \$300 exemption clause, so far as I am concerned I desire to record my vote in favor of that amendment, believing that ministers of the gospel should not be forced into the field. I therefore ask for the yeas and nays upon that.

The VICE PRESIDENT. The question now is on the amendment to the amendment. Does the Senator desire the yeas and nays upon that?

Mr. LANE, of Kansas. I desire them on the

question of exempting preachers of the gospel from field duty.

Mr. SAULSBURY. My object in offering the amendment to the amendment is simply this: there are in a number of denominations throughout the country, many persons recognized as ministers or preachers who are not regularly ministers or preachers of the gospel, and whose business it is not to devote themselves exclusively to the preaching of the gospel. I am willing to make this exemption sufficiently broad to include all denominations, Jew or Gentile, but there are a very large class of persons who officiate as preachers of the gospel and are called ministers of some denomination, who really are not such, and who do not devote their time exclusively to the preaching of the gospel, but devote their time to the prosecution of other pursuits.

Mr. FESSENDEN. I suggest to the Senator from Connecticut whether it may not be best to withdraw his amendment for the present until we have acted on the exemption clause. That may govern the vote on this proposition.

Mr. DIXON. I am perfectly willing to adopt that suggestion. Let it lie on the table for the present.

The VICE PRESIDENT. The amendment is withdrawn.

Mr. LANE, of Kansas. Do I understand the Senator from Connecticut to intend to offer it again?

Mr. DIXON. Of course. I look to offering it again.

Mr. LANE, of Kansas. If you do not, I propose to offer it myself.

Mr. DIXON. I do not propose to offer it until the question of commutation is settled.

Mr. COLLAMER. I call the attention of the chairman of the Committee on Military Affairs to the fourth section of this bill. I must acknowledge that I did not, at the first reading, understand the purport of that section; but he has explained to me that it is intended to give a person who is enrolled merely, the privilege of obtaining a man as a substitute who is not enrolled, and who is not subject to be enrolled. Now, the word "substitute" is to be received, I suppose, in its ordinary acceptance. It means, in the place of, to stand in lieu of. If a man who is under the enrollment obtains a substitute, it is a substitute for the enrollment, and for the draft when the draft comes. That is the legal effect of it; that is the grammatical effect of it. Hence, in order to carry into effect the purpose which the gentleman desires, I wish to insert in the sixth line, after the word "draft," the words, "and who enlists for three years, and is mustered into the service." It will then read:

"That any person enrolled under the provisions of the 'Act for enrolling and calling out the national forces, and for other purposes,' approved March 3, 1863, or who may hereafter be so enrolled, may furnish, at any time, an acceptable substitute who is not liable to draft, and who enlists for three years, and is mustered into the service, and such person so furnishing a substitute shall be exempt," &c.

That is, if the substitute he furnishes shall enlist and be mustered in, and then it shall have the effect to discharge him from liability; but as it stands now, he is discharged if he furnishes an acceptable substitute. It does not require that the substitute shall enlist.

Mr. WILSON. I certainly have no objection to the amendment, if it makes the section more clear or certain. I have no doubt of its meaning now that an acceptable substitute is a person who enters the service and is accepted by the Government of the United States as a soldier; but if the Senator thinks it necessary to make the amendment, I certainly have no objection to making any portion of the bill as clear as possible.

Mr. COLLAMER. Because the word "substitute" has been so much used of late in reference to men going into the Army, it is supposed that the word "substitute" means soldier. It does not mean any such thing.

Mr. SHERMAN. I suggest that this proposition lie over until we act on the section in relation to the \$300 exemption clause. I think we ought to act on that first, and then dispose of these other questions. I have already submitted an amendment to this fourth section, which I had laid over until that was acted on.

Mr. COLLAMER. I was not aware that there was an amendment to this section laid over. If there is, I wish this to lie over also.

Mr. SHERMAN. I think we had better dispose of the section in relation to the \$300 clause, which is the real difficulty in regard to this bill, and then act on these minor questions afterwards.

The VICE PRESIDENT. The Senator from Vermont withdraws his amendment.

Mr. WILSON. I understand it is necessary to have an executive session to-day, and I hope we can finish this bill to-morrow; and for that purpose I move to go into executive session with the view of taking this bill up and acting upon it to-morrow.

Mr. FOSTER. Before that motion is made, I wish to ask whether the bill with the amendments might not be printed this evening, so that we could have them to-morrow? There are a great many amendments that are not on the printed bill. I do not wish to make a motion to delay action upon it; but if the bill and the amendments can be printed by to-morrow, I will make that motion.

Mr. HENDRICKS. I intend to propose two amendments to this bill, and I desire that they be printed.

The VICE PRESIDENT. The Senator from Connecticut moves that the bill, with the amendments which have been agreed to, together with the proposed amendments, be printed.

Mr. FOSTER. I make that motion.

The VICE PRESIDENT. That order will be made, if there be no objection. The Chair hears none.

Mr. SUMNER. I propose to move, as a substitute for the section reported by the committee numbered section twenty, the amendment which I laid on the table a few days ago.

The VICE PRESIDENT. Has it been printed?

Mr. SUMNER. It has already been printed, and I now call attention to it, because I should like to have the Senate prepared to enter on its consideration whenever section twenty reported by the committee comes up.

Mr. DAVIS. I have a short amendment which I should like to offer and have printed.

The VICE PRESIDENT. It will be printed.

Mr. SUMNER. I ask that my amendment be printed in connection with the amendments to this bill, so that it may be before the Senate to-morrow, as it is intended to be moved as a substitute for section twenty reported by the committee.

Mr. HOWE. I wish also to give notice that I shall propose the amendment which I formerly offered to Senate bill No. 18, to section twenty of this bill. It is in print, and need not be printed again.

Mr. ANTHONY. I give notice that I shall also propose as an amendment to this bill the one I proposed before to Senate bill No. 18. That has been printed, and it is unnecessary to order its reprinting.

The VICE PRESIDENT. If Senators desire amendments to be printed, they can forward them to the Secretary at this time, and have them printed with the bill.

EXECUTIVE SESSION.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 7, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

NEW MEXICO CONTESTED-ELECTION CASE.

The SPEAKER laid before the House the papers in the contested-election case of J. M. Gallegos vs. F. Perea, as Delegate from New Mexico; which was referred to the Committee of Elections, and ordered to be printed.

NEW ROAD TO NEW YORK.

The SPEAKER also announced that he had appointed the following as the select committee on a new road from New York to Washington, ordered by the House on yesterday: AUGUSTUS BRANDEGEE, of Connecticut; JOHN B. ALLEY, of Massachusetts; SAMUEL J. RANDALL, of Pennsylvania; JOHN F. FARNSWORTH, of Illinois; JAMES BROOKS, of New York; JOHN A. GARFIELD, of Ohio; EDWIN H. WEBSTER, of Maryland; DAN-

IEL W. VOORHEES, of Indiana; and ITHAMAR C. SLOAN, of Wisconsin.

UNITED STATES COURTS IN WEST TENNESSEE.

Mr. WILSON introduced a bill to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

COURT OF CLAIMS.

Mr. WILSON also introduced a bill concerning the jurisdiction of the Court of Claims; which was read a first and second time, and referred to the Committee on the Judiciary.

REVISION OF THE STATUTES.

Mr. WILSON also introduced a bill to provide for the revision and consolidation of the statutes of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

CONFISCATION.

Mr. WILSON also introduced a joint resolution to amend "A joint resolution explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862; which was read a first and second time, and referred to the Committee on the Judiciary.

BOUNTY.

Mr. WILSON also introduced a bill to provide for auditing and allowing claims for bounty under an act entitled, "An act to amend an act entitled 'An act to authorize the employment of volunteers to aid in enforcing the laws, and protecting public property,'" approved March 3, 1863; which was read a first and second time, and referred to the Committee on Military Affairs.

KEOKUK SOLDIERS' MONUMENT.

Mr. WILSON also introduced a bill making an appropriation for the erection of a monument to the United States soldiers buried in the cemetery at Keokuk, Iowa; which was read a first and second time, and referred to the Committee of Ways and Means.

SOLDIERS' AID SOCIETIES.

Mr. SPALDING introduced a bill to exempt from payment of postage letters and documents of soldiers' aid societies; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

WAR DEBTS.

Mr. BLAINE submitted the following resolution:

Resolved, That the Secretary of the Treasury be directed to ascertain the amount of debt incurred in the several States in their efforts to aid in suppressing the rebellion; and that in the judgment of this House all debts legitimately and necessarily contracted for this purpose should ultimately be assumed and liquidated by the General Government.

Mr. MORRILL. I object.

The SPEAKER. That being a resolution calling on the executive department for information, must, under the rules, lie over one day.

PEACE.

Mr. BALDWIN, of Massachusetts, submitted the following resolution, on which he demanded the previous question:

Whereas the organized treason having its headquarters at Richmond exists in defiant violation of the national Constitution, and has no claim to be treated otherwise than as an outlaw; and whereas this Richmond combination of conspirators and traitors can have no rightful authority over the people of any portion of the national Union, and no warrant for assuming control of the political destiny of the people of any State or section of this Union, and no apology but that of conspiracy and treason for any assumption of authority whatever: Therefore,

Resolved, That any proposition to negotiate with the rebel leaders at Richmond (sometimes called "the authorities at Richmond") for a restoration of loyalty and order in those portions of the Republic which have been disorganized by the rebellion, is, in effect, a proposition to recognize the ringleaders of the rebellion as entitled to represent and bind the loyal citizens of the United States whom they oppress, and to give countenance and support to the pretensions of conspiracy and treason; and therefore every such proposition should be rejected without hesitation or delay.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. BALDWIN, of Massachusetts, and HOLMAN, were appointed. The previous question was seconded, the tellers having reported—ayes 62, noes 30.

The main question was then ordered to be put. Mr. HARRINGTON. I ask for the separation of the resolution from the preamble.

The SPEAKER. The previous question is only operative on the resolution.

Mr. COX moved that the resolution be laid upon the table.

The motion was disagreed to.

Mr. LAZEAR demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 88, nays 24; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Baile, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, James S. Brown, William G. Brown, Cobb, Cole, Cresswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Eckley, Eliot, Farnsworth, Fenton, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Holman, Hooper, John H. Hubbard, Hulburt, Julian, Kasson, Kelley, Francis W. Kellogg, Kernan, King, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, Middleton, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Odell, Charles O'Neill, Orin, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stebbins, Stevens, Sweet, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Williams, Wilson, Windom, Woodbridge, and Yeaman—88.

NAYS—Messrs. Ancona, Bliss, Brooks, Cox, Dennison, Edgerton, Finck, Harrington, Charles M. Harris, Herrick, Knapp, Long, Marcy, William H. Miller, Morrison, Noble, Pendleton, Perry, Pruyn, Samuel J. Randall, Rogers, Ross, Srouse, and Fernando Wood—24.

So the resolution was adopted.

During the vote,

Mr. ANCONA stated that his colleague, Mr. JOHNSON, was detained from the House by illness, and that he was paired on this and all like questions with his colleague, Mr. MOORHEAD.

Mr. VAN VALKENBURGH stated that his colleague, Mr. MILLER, was detained from the House by sickness.

Mr. GARFIELD made the same statement respecting his colleague, Mr. SCHENCK.

The vote was then announced as above recorded.

Mr. BALDWIN, of Massachusetts, demanded the previous question on the preamble.

The previous question was seconded; and the main question ordered.

Mr. HARRINGTON called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 102, nays none; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Baile, Augustus C. Baldwin, John D. Baldwin, Baxter, Blaine, Jacob B. Blair, Blow, Boutwell, Brandegee, Brooks, Broomall, James S. Brown, William G. Brown, Cobb, Coffroth, Cole, Cox, Cravens, Cresswell, Thomas T. Davis, Dawes, Deming, Dennison, Dixon, Eliot, Fenton, Finck, Frank, Garfield, Gooch, Grider, Grinnell, Griswold, Hale, Harrington, Herrick, Higby, Holman, Hooper, John H. Hubbard, Hulburt, Julian, Kasson, Kelley, Francis W. Kellogg, Kernan, King, Lazear, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, Middleton, William H. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Noble, Norton, Odell, Charles O'Neill, Orin, Pike, Pomeroy, Price, Pruyn, Samuel J. Randall, William H. Randall, John H. Rice, Rogers, Scofield, Sloan, Smith, Smithers, Spalding, Stebbins, John B. Steele, William G. Steele, Stevens, Srouse, Sweet, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Joseph W. White, Williams, Wilson, Windom, Woodbridge, and Yeaman—102.

NAYS—None.

So the preamble was adopted.

NAVAL DEPOTS AND YARDS.

Mr. BRANDEGEE introduced the following resolution; which was read, considered, and agreed to:

Whereas the attention of Congress has at previous, and also at the present session, been called by the Secretary of the Navy to the necessity for the establishment of new yards or naval depots for the construction and repairing of iron-clads: Therefore,

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing such yards or depots, and report at what site or sites such yards ought to be established; with leave to report by bill or otherwise.

Mr. ROGERS introduced the following resolutions; upon which he demanded the previous question:

Resolved, That as our country and the existence of the old Union are imperiled by a rebellion against the wisest and best Government ever devised by man, we are for the most united, determined, and vigorous prosecution of the war for the purpose of enforcing the Constitution of the United States, and the laws made in pursuance thereof, in all parts of the United States; but at the same time we are for adding to force the power of conciliation and compromise so far as is consistent with an honorable and lasting peace, and founded solely upon a restoration of the Union

under the Constitution, and in no event to agree to or countenance a dissolution of the Union; and that we believe the appointment of commissioners upon the part of the Federal Government, to meet commissioners similarly appointed by the insurgent States, to convene in some suitable place, for the purpose of considering whether any, and if any, what plan may be adopted consistent with the honor and dignity of the nation, and based upon a restoration of the whole Union, by which the present war may be brought to a close, and the lives, limbs, and health of the gallant officers and soldiers of the Union preserved, and the liberties of the people maintained, is not inconsistent with the honor and dignity of the Federal Government, but, as an indication of the spirit which animates the adhering States, would, in any event, tend to strengthen us in the opinion of other nations and the loyal people of the insurgent States; and hoping, as we sincerely do, that the people of the southern States would reciprocate the peaceful indications thus evinced, and believing, as we do, that, under the blessings of God, great benefits would arise from such conference, we most earnestly recommend such conference to the consideration of the President and Senate of the United States, and request their cooperation therein, and hope that the President will appoint commissioners for that purpose.

Resolved, That the people of the several States now in rebellion against the Government of the United States, whenever they shall desire to return to the Union and obey the Constitution of the United States, and laws made in pursuance thereof, have a right under and by virtue of the said Constitution to reorganize their respective State governments with all their domestic institutions as they were before the war, and to elect Representatives to the Congress of the United States, and be represented in the Union with all the rights of the people of the several States, and without any conditions precedent except that of being liable to be punished according to the Constitution, and laws made in pursuance thereof, as their laws and acts of secession are unconstitutional and void.

Mr. ORTH. I move to lay the resolutions upon the table.

Mr. COX. Upon that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. FARNSWORTH. Would it be in order to move to refer the resolutions to a Committee of the Whole?

The SPEAKER. It would not, the previous question being demanded by the gentleman from New Jersey.

Mr. WILSON. I ask the gentleman from Indiana [Mr. ORTH] to withdraw his motion, and let us take a direct vote upon the resolutions.

Mr. ORTH. I will withdraw it.

Mr. COX. I renew it, but with a purpose to vote against the resolutions.

Mr. ANCONA. I demand the yeas and nays upon the motion to lay on the table.

The yeas and nays were ordered.

Mr. COX. If gentlemen on the other side will give us a direct vote upon this proposition, I will withdraw the motion to lay on the table. There is a good deal of this clap-trap resolution business, and we might as well have done with it.

Many Voices. "Agreed!" "Agreed!"

Mr. COX. I withdraw the motion.

The previous question was seconded, and the main question ordered to be put.

Mr. COX. I call for the yeas and nays upon the passage of the resolutions.

The yeas and nays were ordered.

Mr. HOLMAN. I call for a division of the resolutions.

The SPEAKER. At what point?

Mr. HOLMAN. There are several resolutions, are there not?

The SPEAKER. There are two.

Mr. HOLMAN. I desire to have the resolutions divided at the paragraph terminating with the words, "and in no event to agree to or countenance a dissolution of the Union."

Mr. STEVENS. I move to lay the resolutions on the table.

Mr. PENDLETON. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 42; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Cobb, Cole, Creswell, Thomas T. Davis, Daves, Denning, Dixon, Donnelly, Eeckley, Elliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Lovejoy, Marvin, McBride, McClurg, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Odell, Charles O'Neill, Orth, Perlman, Pomroy, Price, William H. Randall, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stebbins, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu R. Washburne, William B. Washburn, Webster, Williams, Wilson, Windom, and Woodbridge—78.

NAYS—Messrs. William J. Allen, Ancona, Augustus C. Baldwin, Brooks, James S. Brown, Chandler, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Finck, Grider,

Griswold, Harrington, Charles M. Harris, Herriek, Holman, Kernan, Knapp, Lazear, Long, Marcy, William H. Miller, Morrison, Noble, Pendleton, Perry, Pruyn, Samuel J. Randall, Robinson, Rogers, James S. Collins, Ross, John B. Steele, William G. Steele, Srouse, Sweat, Joseph W. White, Fernando Wood, and Yeaman—42.

So the resolutions were laid on the table.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was received, by Mr. NICOLAY, his Private Secretary.

TREASURY NOTES.

Mr. SCOFIELD submitted the following resolution:

Resolved, That the Secretary of the Treasury is hereby requested to inform the House whether, under existing legislation, the seven-thirty United States Treasury notes due August 19 and October 1, 1864, will be paid in the coin of the United States. Also, whether any additional legislation is necessary to make the interest and principal of the twenty years bonds into which the seven-thirty Treasury notes are convertible, payable in coin.

Mr. WASHBURN, of Illinois. That seems to be a question of law. I move that the resolution be referred to the Committee on the Judiciary.

The SPEAKER. As the resolution calls for information, it must lie over one day, under the rules, if objected to.

Mr. SCOFIELD. I hope the gentleman from Illinois will withdraw his objection. This is not exactly a question of law, but simply an inquiry how, under existing laws, the Secretary considers it his duty to pay the bonds. It is a question we are all interested in.

Mr. WASHBURN, of Illinois. It is a matter of construction, then, and had better be referred to the Attorney General.

Mr. STEVENS. The resolution, I presume, goes over until to-morrow.

Mr. SCOFIELD. I hope my colleague will allow the resolution to pass to-day.

Mr. STEVENS. I think it had better go over.

The SPEAKER. The resolution lies over for one day.

EXCHANGE OF PRISONERS.

Mr. RANDALL, of Pennsylvania, offered the following preamble and resolution; upon which he demanded the previous question:

Whereas a large number of our brave and patriotic soldiers and officers are now incarcerated in prisons in the southern States, and are there exposed to the peril of famine, diseases of different kinds, and hardships, whereby they are daily dying without aid or comfort; and whereas the rebel prisoners now confined in the United States are not exposed to these hardships, nor to the diseases incident to an unhealthy climate, by means whereof there is no reciprocity between the condition of our officers and privates taken prisoners and confined and the rebel prisoners in our possession; and whereas this state of things is most oppressive and unequal, and fatal to the lives and health of those who have been captured fighting for the Constitution and Union, and so impoverishing the strength of our armies: Therefore,

Resolved, That the President of the United States be and he is hereby requested to continue to use all his efforts, consistent with the honor and dignity of the nation, to procure a prompt exchange of prisoners with the rebel confederate government, and that if such exchange cannot be extended to all prisoners, that it may be carried into effect as to any portion that may be agreed upon between the parties.

The question was taken, and the House refused to second the previous question.

Mr. WASHBURN, of Illinois. As I understand that this whole matter has been placed in the hands of General Butler, and feeling the most entire confidence that he will work out this problem, I propose to debate that resolution.

Mr. COX. If the gentleman debates it in this manner, I desire to reply to him, and to make an appeal to him in behalf of our imprisoned men.

The SPEAKER. As the resolution gives rise to debate, it goes over.

WILLIAM CLARK.

Mr. HALE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the papers in the case of the claim of William Clark be returned to the Court of Claims, with directions to said court to hear and decide the same.

REPORT ON IMMIGRATION.

Mr. STROUSE submitted the following resolution, upon which he demanded the previous question:

Resolved, That in order to afford more general information on the subject-matter, the special committee on immigration be instructed to print a proportionate number of copies of their reports in the German language for general circulation.

Mr. WASHBURN, of Illinois. I should be glad to know what reports the gentleman refers to before I vote on this subject.

The SPEAKER. The Chair cannot inform the gentleman.

The resolution was again read.

Mr. WASHBURN, of Illinois. I will state, for the information of the gentleman from Pennsylvania, that the select committee on immigration has not yet held a meeting. When it shall make a report, I have no doubt the House will agree with him, certainly I shall, in printing that report in the German language.

Mr. STROUSE. I was not aware that the committee had not held a meeting; but whether it has or has not, there can be no difficulty about this resolution. I merely ask, what I trust no gentleman here will object to, that, as this is an important matter, and as we are in want of this class of people to supply the great drain which has been made on our agricultural population by the war, and to enable the parties affected by this, through their friends here, who report to their relatives in the old country, and bring them here to clear the wild lands and assist in the cultivation of those already cleared, to have access to the reports of this committee, a certain number of those reports shall be printed in the language which these people understand. It certainly must redound to our general benefit.

The SPEAKER. If the gentleman debates the resolution, it goes over, under the rule.

Mr. STEVENS. Does not the resolution go, under the rules, to the Committee on Printing?

The SPEAKER. If the resolution is intended to apply to extra numbers, it must go to the Committee on Printing. If it is intended simply to apply to the regular number printed simply for the use of the members, it need not have that reference.

Mr. STROUSE. I do want extra numbers.

The SPEAKER. Then the resolution is referred, under the rule, to the Committee on Printing.

CONDUCT OF THE WAR.

Mr. A. MYERS submitted the following preamble and resolution, upon which he demanded the previous question:

Whereas, in the opinion of this House, the Federal Government is invested by the Constitution of the United States with all necessary power and authority to suppress any resistance, whether armed or unarmed, to the rightful power and jurisdiction of the United States: Therefore,

Be it resolved, That in this national emergency Congress will forego all feeling of mere passion, except that which loyalty dictates, all resentment except such as is due to treason; and that this war of national self-defense against armed rebels, insurrectionary traitors, and sympathizing abettors should be waged on our part until such rebels and traitors are conquered into love for the Union, and made obedient to the Constitution and laws of the United States, and take the oath of allegiance to the country, and of submission to the emancipation proclamation, and the proclamation of December 8, 1863; and when those objects are accomplished, the leading rebels and chief traitors should be hung, and the war cease.

The previous question was seconded, and the main question ordered.

Mr. STEELE, of New Jersey, demanded the yeas and nays on the adoption of the resolution.

The yeas and nays were not ordered.

The question was taken on the resolution; and no quorum voted.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered.

Mr. BROWN, of West Virginia. I move to lay the resolution on the table.

Mr. STEVENS. I ask that the resolution shall, by consent, be referred to the special committee on reconstruction.

Mr. A. MYERS. I have no objection.

The resolution was so referred.

NAVY-YARD ON THE DELAWARE.

Mr. BROOMALL introduced an act to provide for the construction of a navy-yard and naval station on the Delaware river.

The bill authorizes and empowers the Secretary of the Navy to construct a navy-yard and naval station on the Delaware river, in the State of Pennsylvania, at such point as shall be most beneficial to the Government of the United States.

The second section provides for the appointment of a committee of seven practical and scientific men, none of whom shall reside or own property within fifty miles of the Delaware river or

THE CONGRESSIONAL GLOBE.

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bay. This commission is to ascertain and fix, at once, a proper location. On the report of a majority of them, approved by the Secretary of the Navy and the President of the United States, the Secretary of the Navy is to procure the cession of the ground indicated, by the necessary deeds from owners and by legislative grants.

The third section appropriates \$300,000 for the purpose of carrying out the provisions of the act.

The bill was read a first and second time, and referred to the Committee on Naval Affairs.

CONSTRUCTION OF MARINE ENGINES.

Mr. DAVIS, of Maryland, offered the following resolution, and moved the previous question on its adoption:

Resolved, That the Committee on Naval Affairs do investigate without delay and report to the House the facts in relation to the plans and structure of the marine engines constructed and now in course of construction for the Navy; and in what essential particular they differ from the marine engines heretofore used in the Navy and now used in the commercial steamers and the navies of France and England, and whether their inadequate power and speed are caused by such differences; and by whose authority, and on what experiments and under whose supervision such changes were introduced; and whether any unfair practices were resorted to by any person in or under the authority of the Navy Department, in the mode of running or handling or managing the engine of the *Penacola*, with a view to break it down and bring it and the plan on which it was built into disrepute; and whether any person connected with the Navy Department has received any fees or commission or compensation of any kind from any contractors for engines for the Navy, or compelled any payments of fees for patented improvements to persons not entitled to them, by persons connected with the Navy Department; and that the committee be authorized to require the opinion of the Academy of Sciences on any scientific question involved in their investigations and necessary to be solved in order to arriving at a satisfactory result; and that they have leave to report at any time; and that the committee be authorized to send for persons and papers.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

THE BRITISH SCHOONER *GLEN*.

The SPEAKER laid before the House a letter from the President of the United States, transmitting a copy of the decree of the court of the United States for the southern district of New York, awarding the sum of \$17,150 69 for the illegal capture of the British schooner *Glen*, and requesting that an appropriation of that amount be made as an indemnification to the parties interested; which was referred to the Committee on Commerce.

CONSULAR AND DIPLOMATIC BILL.

Mr. STEVENS. I move that the bill No. 40, the consular and diplomatic appropriation bill, be made the special order in Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PENDLETON in the chair,) and proceeded to the consideration, as a special order, of the consular and diplomatic appropriation bill.

The bill having been read through, the Clerk proceeded to read it by clauses for amendment.

Mr. BROOKS. I desire to make an inquiry of the chairman of the Committee of Ways and Means. I see here appropriations for ministers to Guatemala, Nicaragua, Costa Rica, Honduras, and San Salvador. I desire to know whether there are separate ministers for each of those States, or whether one minister does not perform the duties in all of them.

Mr. STEVENS. I cannot say precisely how that fact is. I am inclined to think, however, that each of those States has a resident minister.

Mr. BROOKS. Let me suggest to the chairman of the Committee of Ways and Means, if he has not looked into that subject, to give it his attention. Hitherto, under preceding Administrations, we were accustomed to have but one

minister to all those Central American States. The States are small, and travel through them has been much facilitated by the introduction of steamboats. I should think it unnecessary to have more than one minister for the whole of them.

Mr. STEVENS. The gentleman is probably aware that the Committee of Ways and Means has no power to abolish any of these missions. We simply take the law as we find it, and report the appropriation. I do not see how we can do otherwise, at present, than pass the bill as it is.

Mr. BROOKS. I understand that it is the duty of the Committee of Ways and Means to report appropriations for missions provided for by law, but it is also the custom of the House, and has been, to my knowledge, for the last twenty years, to abolish missions by refusing appropriations for them.

Mr. STEVENS. I ask the gentleman whether he supposes we can abolish, under the rules, any of those missions?

Mr. BROOKS. Certainly.

Mr. STEVENS. I know we can withhold the appropriations for them, and thus compel the recall of the minister. But we cannot, I suppose, change the law.

Mr. BROOKS. If we abolish the appropriation, of course there is no minister.

Mr. Chairman, hitherto for these small States I think under previous Administrations, but I cannot be sure of that, there was but one minister. In the olden time, certainly under the old Whig and Democratic Administrations of the Government prior to the Administration of General Taylor, there was but one minister appointed for these Central American States. One is amply sufficient to do all of the business that is necessary to be done. These positions are mere sinecures, and now, when the whole resources of the country are needed to carry on an important civil war, it seems to be wise on the part of the House to lessen these representatives as much as possible.

But, sir, the whole responsibility devolves, I know, upon the other side, and all that I can do is, as these appropriations come up, to call the attention of Congress to them. I do not want to make any party objection or party opposition. I wish to state facts, and the other side of the House can take the responsibility if it pleases.

Mr. STEVENS. I am quite sure that the gentleman from New York does not want to embarrass the House or the Administration in this matter. Nor do I suppose that the suggestion he makes, throwing the whole responsibility upon this side of the House, is intended for any demagogical purpose. I know that the gentleman is above that. I will simply say that these missions have been long established. They have not been established by this side of the House. They were established when that side of the House had to take the responsibility, and we are only now continuing appropriations to ministers which they have appointed and sent abroad. I do not see that it is wise for the House to refuse to pay them, nor do I think that this is the time, when we have so many interests everywhere, when we have so many troubles abroad, when these marauding vessels of the enemy are putting into all of these ports—I say that I do not think this is the proper time to withdraw our watchfulness from these places. When we have peace again, I hope that we will have less expenditures in this as in the other branches of the Government, but I ask whether it would be wise to interfere at this time with these appropriations? Our ministers there have so managed affairs that we have maintained, amidst great perplexities and great troubles, peace with all foreign nations. I suggest therefore that these appropriations ought to be voted. It is just and proper to continue these ministers.

Mr. COX. I have the floor, but I will yield to the gentleman from New York to make a motion.

Mr. BROOKS. I shall simply discharge my duty, and move to strike out "Guatemala, Nicaragua, Costa Rica, and San Salvador," and to insert in lieu thereof a provision for one minister to the States of Central America.

Mr. COX. Mr. Chairman, I am opposed to that amendment. I am a little surprised that a gentleman representing the commercial metropolis of the United States should have made it. I am afraid that the gentleman's mind is going back to the early days when the importance of these Central American States was not developed, or they were not as well known as they are now. Some ten or twelve years ago we had a minister to Central America. I believe that he was appointed from my own State of Ohio. He went down there under President Tyler, and was not heard of for four years. He circulated from one portion to another. He was a lost man there—however, drawing his salary. He was of no use to the country, of no use to our citizens down there, and it is indispensable to have an American minister at each one of these Central American States, and has been so since the trouble upon the isthmus, and ever since we have endeavored to establish a transit from ocean to ocean. It is indispensable necessary to have these ministers, because they cannot travel readily from place to place there as in some other countries, as in Turkey—from Greece or Rome to Turkey. I am opposed to coalescing these various embassies. We need these men there for the purpose of protecting our citizens who are resident there, or who may go across the isthmus. Those countries are volcanic, politically and physically, and whenever a revolution takes place our citizens are placed in jeopardy unless we have a minister there.

Mr. STEVENS. I would ask the gentleman from Ohio whether there is any Central American Government in existence?

Mr. COX. There is not.

Mr. STEVENS. So I supposed.

Mr. COX. These are all separate Governments. There is there a Government called the United States of Colombia, formerly New Granada, where we will have a minister at Bogota or Panama. These ministers are absolutely indispensable for the protection of our citizens; and in these times, when the ocean is made the scene of so many piratical exploits from one part of the ocean to the other, these old ranging-grounds of privateers, the Caribbean sea especially, will be the place chosen for their purposes, unless we have the ensign of the United States to protect our shipping and our interests.

Mr. DAVIS, of Maryland. I desire to add one consideration to those already urged so strenuously by my friend from Ohio. The civil troubles in the United States have developed a deep-seated hostility in several of the European Governments, and one of them has intruded with armed power into Mexico, for the purpose of establishing upon our borders a monarchical government menacing the institutions of the United States. Before the breaking out of the rebellion France would not have thought it prudent to put a man in arms in Mexico for any such purpose.

The designs of the European Governments extend, in my judgment, to the whole of what the Emperor of the French terms "Latin America;" and if the United States mean that their influence shall meet European influence wherever it may see fit to show itself in Latin America, then there we must have our representatives near all those Governments. I think very possibly one gentleman might discharge all the ordinary duties relating to commercial matters among several of those Governments. The material thing is not the protection of our commerce, but the representation and protection of our political power, our political influence, and the interests of republican government, represented by the United States, and which, I take it, we mean to maintain in Central America, as well as in Mexico, when the time shall come.

Mr. KELLEY. Mr. Chairman, I need hardly say that I regret to differ with my friend from New York, [Mr. Brooks,] whose susceptibilities I unfortunately and quite unintentionally wounded a day or two before the adjournment; or that I find partial compensation for it in being for once able to agree with the distinguished gentleman

from Ohio, [Mr. Cox,] who—though it is not exactly pertinent to this question—thinks conscription unconstitutional, and cites Dr. Lieber to prove what that distinguished man, in a recent letter to me, says he never believed or uttered—"that the draft was un-American and anti-democratic."

But to the point. It strikes me the motion now made is exceedingly inopportune, if it ever would have been a wise one. He who will read Stephens's Travels in Central America, will find there the story of a very long but interesting peregrination by an American minister in quest of the Government of Central America. He could not find it, and returned, to report that he had been utterly unable to find it, though he had traveled over the country once within its jurisdiction.

But there never has been a time, for reasons so ably assigned by the gentleman from Maryland, [Mr. Davis,] as well as those given by the gentleman from Ohio, [Mr. Cox,] when it was more important to have American influence near to or at the center of each of the States named in the gentleman's amendment. Settlement has in my judgment been unduly confined to the grain-growing regions of our country and the world. The time has come when commerce, manufactures, and perhaps higher interests than these, require tropical development and civilization. There is no lack of the productions of the temperate region; no lack of skill for their production. Commerce and industry often suffer from over-production of our staples, and are embarrassed for want of a market in which to exchange or dispose of the surplus; they also suffer from want of those tropical productions that enter into our commerce and manufactures, grace our tables, and make life agreeable. But the time has come when, under providential guidance, and led by providential events, we are to have a natural tropical expansion, and large bodies of our people are to go to the very States of Central America from which the gentleman would withdraw our representatives, bearing with them, if we will permit, our language, our laws, our thoughts, our habits, and our institutions.

The last year has given freedom to millions of a race whose ancestors came from a region near the sun. They occupy a portion of our States, in which they have been enslaved, and where they are despised. Make them free as we are to move at our will; make them enlightened enough to know where interest leads them and where nature invites them to settle, and the black men of the border States and of the northern States will, as I have intimated, carry thither our language, our laws, and our life, and will in time, I trust, establish our flag and our Government in the regions once known as Central America; for, alas! the doctrine of State sovereignty and the fact of secession have extinguished the republic.

He who will look at the map of America, and study the climate and resources of the region indicated by the gentleman who moves to strike out these States, and will also glance at the social and political life of those States, will see the inducements to emigration which that region holds out to those whose presence in our midst is, to say the least, not desirable to a majority of our people. Color is there a mere question of taste. It is in no degree a political or social question. Mr. Stephens, in the book to which I have referred, tells us that his first breakfast in Central America was taken under these circumstances: it was in British Honduras, at Balize. He had been told by a British merchant that he would find him lodgings, and would take him to introduce him to the "lady" under whose roof he was to find them. He found the "lady" to be a "mulatto woman." Having closed a contract with his future landlady, he accepted an invitation to breakfast with another British merchant. He found the merchant at one end of the table, his wife at the other; each had a British officer on the one side, and each a colored gentleman on the other; his seat was between the two colored gentlemen; he took it. But let him speak for himself. This Democratic representative of the United States Government, the appointee of President Van Buren, thus describes the incident and moralizes on it:

"On my way back I stopped at the house of a merchant, whom I found at what is called a second breakfast. The gentleman sat at one side of the table and his lady on the other. At the head was a British officer, and opposite him a mulatto; on his left was another officer, and opposite

him also a mulatto. By chance a place was made for me between the two colored gentlemen. Some of my countrymen, perhaps, would have hesitated about taking it, but I did not. Both were well dressed, well educated, and polite. They talked of their mahogany works, of England, hunting, horses, ladies, and wine; and before I had been an hour in Balize I learned that the great work of practical amalgamation, the subject of so much angry controversy at home, had been going on quietly for generations; that color was considered mere matter of taste; and that some of the most respectable inhabitants had black wives and mongrel children, whom they educated with as much care, and made money for with as much zeal, as if their skins were perfectly white."

The incident purified our minister of some prejudice. May not the great events now occurring bless us to the same extent? I think that the publication of the journal of the travels of a minister in search of a past Government might do something to induce emigration to this region so rich in its resources and so undeveloped. At any rate, at a time when Nature and Providence are inviting a large emigration from our over-labored region to those States, with which commercial intercourse could be developed with so much advantage to both parties, let us not withdraw the presence and power of our Government from any one of them. Our fellow-citizens of African descent, freed by the rebellion, will not be long in Americanizing this to them congenial region, in which complexional differences do not affect the social or political position of a man, if we have the sense and humanity to give them a fair chance for culture and enterprise.

Mr. BROOKS. I did not intend to make any further remarks upon this subject, but there are some misunderstandings about geography, which I must correct in order to justify the remarks which I have already made.

In the first place, let me remark that the Isthmus of Panama is not a Central American State. We have a consul at Panama and a consul at Aspinwall, so that that isthmus is not only protected by a minister at New Granada, but also by the influence and authority of two consuls, one at Panama and one at Aspinwall. We have in this bill appropriations for consuls at San Juan del Sur, at Aspinwall, at Panama, and at Lagnayra, so that in that portion of New Granada which is at the isthmus, we have not only a minister, but the three or four consuls I have named. Let me add in regard to the States of Guatemala, Nicaragua, Costa Rica, and San Salvador, that no one of them has a population as large as that of many of the single wards of the city of Cincinnati, or the city of Philadelphia, or the city of New York. The sending, therefore, of five ministers, and five or six consuls to a small population of comparatively insignificant trade is certainly not necessary for commercial purposes, however it may be necessary for political purposes.

I believe I have replied in substance to the practical remarks of the gentleman who has opposed my amendment. As to the theoretical remarks of the gentleman from Pennsylvania, [Mr. KELLEY,] at some more appropriate time and on a more appropriate occasion, I will be ready to discuss any of these interesting social and political topics which he has brought before the House. I dislike to make political speeches on any occasion, but I would much prefer to meet the gentleman and discuss the whole subject before the Union League of this city, than to occupy the time of the House.

Mr. KELLEY. I would inquire whether the gentleman belongs to that association?

Mr. BROOKS. Oh, I am a Union man, not a "conditional Union" man, nor an "unconditional Union" man, but a constitutional Union man.

Mr. CHANLER. If it is not asking too much of the chairman of the Committee of Ways and Means, I would like to know what is the specific salary of each of these ministers and commissioners to Great Britain, France, Russia, Prussia, Austria, Brazil, Mexico, and so forth.

Mr. STEVENS. Mr. Chairman, that question is fixed by general law. It would interrupt the business of the House too much to go into that matter now; but I will inform the gentleman on that subject at any time he will call at my room, where I have all the laws.

Mr. CHANLER. I am much obliged to the gentleman; but I hope it will be no difficulty for the honorable chairman to state whether there has been any increase in the rates of salaries provided for in this bill. That is the object I have in view.

Mr. STEVENS. Oh; I misunderstood the gentleman. I beg pardon. There is no increase of salaries provided for in this bill, nor has there been any increase during this Administration.

Mr. COX. The chairman of the Committee of Ways and Means will see that there is an increase of over seven thousand dollars in this item. Last year the appropriation was \$310,000. Now it is \$317,800.

Mr. STEVENS. The salaries are the same. The number has been increased by one.

Mr. COX. The number of ministers?

Mr. STEVENS. There is, of course, a larger sum allowed than there was last year for the same number. Gentlemen will recollect that these salaries are paid in gold—they cannot be paid in any other way—and that the rate of exchange has increased.

Mr. COX. Then I understand the gentleman from Pennsylvania to say that this increase of \$7,000 is in consequence of the increase in the rate of exchange?

Mr. STEVENS. I do not know the exact amount for exchange; but the appropriation is increased on that account. The salaries themselves are precisely the same as before. We pay our ministers abroad precisely the amount paid them for years past; but in order to do so we are obliged to appropriate a little larger sum than we did last year.

Mr. CHANLER. Then the honorable gentleman will, no doubt, be able to answer another question: when this change took place?

Mr. STEVENS. When what took place?

Mr. CHANLER. I understand that an increase has been made in the appropriation. I now ask when that increase did take place.

Mr. STEVENS. That increase has been gradual during the time that the gentleman has not been noticing past events.

Mr. CHANLER. I thank the gentleman, but he does not know that.

Mr. STEVENS. For the last three years, if the gentleman will examine, he will find there has been a gradual increase in the rates of exchange; and it is, perhaps, as high now as it has ever been before.

Mr. CHANLER. I am very much obliged to the gentleman for his kindness in attributing to me a want of attention to public affairs. No doubt his authority is correct. But at the same time I ask him for a specific answer in respect to when this difference did take place. If the gentleman has calculated the rates of exchange for the purpose of drawing on the Treasury of the United States to meet that exchange, he must have begun at some fixed date, and it is not my part to know what that date is. It is his duty, I understand, to be able to answer such questions here. If he is unwilling to answer, let the matter rest there. I have done my part.

Mr. STEVENS. I have yet to learn that it is the duty of the Committee of Ways and Means to teach members of the House the laws of the land.

Mr. CHANLER. No, sir.

Mr. STEVENS. Or the operations of currency. If that were to be undertaken by the Committee of Ways and Means it would be a serious task, especially to set some minds right. I respectfully decline to undertake that task now. [Laughter.]

Mr. CHANLER. I again thank the honorable chairman, but I do not like to interrupt the business of the House by either giving or receiving lessons or lectures. I am discharging a simple duty which the gentleman seems determined not to allow me to do, if his influence can be used to the contrary. I wish to know from the gentleman who acts as chairman of the Committee of Ways and Means what the increase in exchange is? If he does not wish to answer the question, I am satisfied.

The Clerk proceeded with the reading of the bill.

Mr. STEVENS. Mr. Chairman, I was not able to answer the question as to what minister had been added to the list since last year. I have sent for the book, and I now find that the additional minister is the one to San Salvador.

Mr. COX. What is the amount of his salary?

Mr. STEVENS. Ten thousand five hundred dollars for all resident ministers.

Mr. CHANLER. I am very much obliged to the gentleman for deigning to answer.

The Clerk resumed the reading of the bill.

Mr. BROOKS. I find in the twenty-third and twenty-fourth lines, "for the salary of the secretary of legation to Turkey, acting as interpreter, \$3,000;" and then comes the following in the thirty-fourth line:

For expenses of the consulate in the Turkish dominions, namely: interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, Alexandria, and Beirut, \$2,500.

If the chairman of the Committee of Ways and Means has any analysis of that appropriation from the State Department, I should be glad to have it. I wish to know whether the first interpreter provided for is only for Constantinople, or whether others have to be employed for the other places named.

Mr. STEVENS. The first one is for Constantinople alone. Then there are expenses for interpreters for the other places which are indicated.

Mr. BROOKS. They are for consulates?

Mr. STEVENS. Yes, sir. They do not all need interpreters. Sometimes they need an interpreter, and sometimes they do not, therefore interpreters are not engaged all the time, and are only paid as they are needed. I hope that this explanation is satisfactory to the gentleman from New York.

The Clerk read as follows:

For office rent for those consuls general, consuls, and commercial agents who are not allowed to trade, including loss by exchange thereon, \$50,000.

Mr. HOLMAN. I move to strike out "\$50,000," and to insert "\$41,800." I do it for the purpose of making an inquiry. I find that there has been a steady increase in this item. In the appropriation bill for 1860, the amount for this purpose was \$27,370. The appropriation made by the last Congress was \$41,800. The appropriation sought to be made by this bill is \$50,000. In this item, of no great importance, there has been an increase each year. It has more than doubled in the last three years. Unless there is some good reason for it, I think that the appropriation of the last Congress of \$41,800 is entirely sufficient; for it seems to me that there is no reason why in such an item there should be an increase beyond the old appropriations, except as an increase coming from the number of consuls appointed abroad who are not allowed to engage in commerce, and of the number of ministers whose rights are here involved. In any event, the appropriation for this purpose during the last year of the Administration of James Buchanan, which was not regarded as an economical Administration, was only \$27,370. This Administration, which came into power upon the alleged extravagance of that Administration, increased that amount. It seems to me, therefore, that the appropriation made by the last Congress for this purpose is amply sufficient. My motion is to strike out "\$50,000," and in lieu of it to insert "\$41,800," which was the amount appropriated at the last Congress.

Mr. STEVENS. The amount asked for is necessary to make up the losses of exchange, which we are obliged to do by the law in all of these cases. It is larger than it was for the last year. It is exactly calculated according to the number of consuls reported to us as having been appointed. The gentleman from Indiana will recollect that by a law passed by Congress the Secretary of State has the right to appoint new consuls in such places as, under the circumstances, he may deem proper. If the gentleman will look carefully into the matter he will find that the appropriation tallies with the number of consuls called for.

Mr. HOLMAN. I know that the present law grants the power to the Secretary of State to appoint consuls abroad; but is there no limit to the exercise of that power? Is there no limit to the power of the President or the Secretary of State?

Mr. STEVENS. He has the power to make the appointments wherever he may deem them temporarily necessary. There is a general law on the subject.

Mr. HOLMAN. Does the same law regulate the pay of the consuls? How is the salary of these temporary consuls regulated?

Mr. STEVENS. The law provides that the salary shall be by fees, or at a fixed rate. The salary of these temporary consuls is fixed by the law.

Mr. HOLMAN. I withdraw my amendment. The Clerk read as follows:

For salaries of consuls general at Quebec, Calcutta, Alexandria, Havana, Constantinople, Frankfort-on-the-Main;

consuls at Kanagawa and Nagasaki, in Japan, Liverpool, London, Melbourne, Hong Kong, Glasgow, Mauritius, Singapore, Belfast, Cork, Dundee, Demarara, Halifax, Kingston, (Jamaica,) Leeds, Manchester, Nassau, (New Providence,) Southampton, Turk's Island, Prince Edward's Island, Havre, Paris, Marseilles, Bordeaux, La Rochelle, Lyons, Moscow, Odessa, Revel, Saint Petersburg, Maranzas, Trinidad de Cuba, Santiago de Cuba, San Juan, (Porto Rico,) Cadiz, Malaga, Ponce, (Porto Rico,) Trieste, Vienna, Aix-la-Chapelle, Canton, Shanghai, Fouchou, Amoy, Ningpo, Beirut, Smyrna, Jerusalem, Rotterdam, Amsterdam, Antwerp, Funchal, Oporto, Saint Thomas, Elsinore, Genoa, Basle, Geneva, Messina, Naples, Palermo, Leipsic, Munich, Leghorn, Stuttgart, Bremen, Hamburg, Tangiers, Tripoli, Tunis, Rio de Janeiro, Pernambuco, Vera Cruz, Acapulco, Callao, Valparaiso, Buenos Ayres, San Juan del Sur, Aspinwall, Panama, Laguayra, Honolulu, Lahaina, Cape Town, Falkland Islands, Venice, Stettin, Caudia, Cyprus, Batavia, Fayal, Santiago, (Cape de Verdes,) Saint Croix, Spezzia, Athens, Zanzibar, Bahia, Maranhani Island, Para, Rio Grande, Matamoros, Mexico, (city,) Tampico, Paso del Norte, Tabasco, Paita, Tumbes, Talcahuano, Carthagena, Sabaniillo, Omoa, Guayaquil, Cobija, Montevideo, Tahiti, Bay of Islands, Apia, Lanthala, Bristol, Cardiff, Malta, Saint John's, (Newfoundland,) Saint John, (New Brunswick,) Pictou, (Nova Scotia,) La Union, Barbadoes, Bermuda, Antigua, Nantes, Napoleon, Vendee, Nice, Lisbon, Gottenburg, Tehuantepec, Santos, Saint Catharine, Balize, Gaspe Basin, Valencia, Port Mahon, Martinique, Taranto, Santander, Galatz, Bilbao, Seio, Paramaribo, Macao, Stockholm, Ancona, Otranto, Swatow, La Paz, Bergen, Trinidad, Barcelona, Quebec, Maricao, Algiers, Port au Prince, San Domingo, (city,) Monrovia, Cape Haytien, Aux Cayes, and Newcastle-upon-Tyne; commercial agents at San Juan del Norte, Saint Paul de Loanda, (Angola,) Gaboon, Saint Marc, Curacao, and Amoor river, including the loss by exchange thereon, \$450,000.

Mr. BROOKS. The salary of the consul general at Quebec is provided for twice in that paragraph.

Mr. STEVENS. That is an error. I move to strike out that paragraph, and to insert in lieu of it a new one furnished by the State Department.

Mr. BROOKS. I should like to see that in print before we are called to act on it.

Mr. STEVENS. There is no change. The appropriation is the same. The names are alphabetically arranged and errors corrected. There is no addition to it.

Mr. BROOKS. I do not like to interfere with the order of business, but I should like to have the amendment printed.

The Clerk read the amendment.

Mr. STEVENS. Now, sir, if the gentleman desires to move that the committee rise he can do so.

Mr. BROOKS. I will not press it, because I understand there is no new consulate inserted in this amendment.

Mr. STEVENS. I desire then to dispose of the bill now.

Mr. HOLMAN. The amount of appropriation proposed by the amendment is the same as that contained in the original paragraph, I suppose?

Mr. STEVENS. The amount of appropriation is not mentioned in the amendment. It contains only a classification of the consuls general and commercial agents, and makes no alteration in the appropriation.

Mr. HOLMAN. If the sum is the same, I shall move no amendment to it at this time.

Mr. STEVENS. I only moved to strike out all down to and including the words "Amoor river," leaving the appropriation just as it was.

Mr. HOLMAN. So that what remains of that section will be subject to amendment after this amendment is adopted?

Mr. STEVENS. Yes, certainly.

Mr. HOLMAN. The amendment I proposed to move was to strike out the appropriation of "\$450,000," and to insert the amount appropriated for this purpose last Congress, namely, \$416,354. If that portion of this clause to which such an amendment applies is not to be stricken out by the amendment of the gentleman from Pennsylvania, the amendment will be more appropriate hereafter.

The amendment offered by Mr. STEVENS was then agreed to.

Mr. HOLMAN. I now move to strike out the words "four hundred and fifty thousand dollars," and to insert the words "four hundred and sixteen thousand three hundred and fifty-four dollars."

In proposing this amendment, I desire to call the attention of the House to the very remarkable fact of the rapidity with which these appropriations for managing our foreign relations are being

increased. There had been some slight increase prior to the last session of the Thirty-Sixth Congress, but at that time the entire appropriation for all the purposes indicated in this paragraph was \$274,250, and the appropriation made for these same purposes at the last Congress, if I have got the correct data, was \$416,354. Now the sum has increased to \$450,000, nearly double since the beginning of this Administration. This shows a steady and very rapid increase in the appropriations for these purposes. If it is true that the reason, and the main reason, for this extraordinary increase is to be found in the increased rate of exchange, resulting from the depreciation of the currency, a question of very great importance, it seems to me, presents itself to the House, and that is whether, in view of the general policy of the Government and the manner in which the other employes of the Government of the United States are paid, it is right and proper to continue to pay these salaries of foreign ministers, all of which are large salaries and as ample as any paid to any officers under the Government, in gold or its equivalent in exchange, while all other citizens employed by the Government are paid in currency which is depreciated largely from the gold standard.

I cannot but remember that there is a gallant Army in the field, and that when the appropriation now sought to be made to the amount of \$450,000 was only \$274,150, and when we thought this latter item was a sufficient compensation for these employes abroad, we fixed the compensation of those gallant soldiers, who have now been fighting for the Government in this death-struggle for nearly three years, at the sum of thirteen dollars a month. And I have heard no proposition coming from the majority of the House to increase their pay for the purpose of bringing it up to the gold standard. And yet there is this large army of citizens abroad, located at pleasant places of resort and fashion in the Old World, in peaceful and pleasant pursuits, whom we are paying their ample salaries at the gold standard, while the soldiers who bear the weight of this fearful calamity which has fallen upon us, still receive only their small pittance of thirteen dollars a month, in a depreciated currency. I am not aware that our ministers and consuls abroad have rendered such extraordinary services to the Government as to be entitled to such a remarkable act of favor. Why, sir, these offices are sought for with great avidity. The number of applicants has always been enormous for these foreign appointments. These are places of leisure—places to which gentlemen desire to resort with their families for the purpose of engaging in new rounds of social life—amusements and fashions and sight-seeings unknown to their own country. Gentlemen of leisure and fortune receive these appointments, and especially desire them as passports into the fashionable and aristocratic society of other countries.

They are places where professional and worn politicians are to be sent for pleasant recreation; they are places of honor and distinction, with immense salaries; and yet the men who fill them are to be paid, as though no misfortune had fallen upon the nation, in gold or its value in currency, while every citizen who has rendered peculiar and extraordinary services in this fearful emergency receives his pittance of compensation in a depreciated currency to the amount established by law at a time when gold was the standard of value throughout the entire country. Is there any justice or republican equality in this? Is it to maintain these tendencies of public policy that your gallant Army has suffered and borne so much? No, sir, they have the first claim on your justice, if not upon your generosity and favor. Let their pay be increased to the gold standard before you favor the gentlemen of elegant leisure abroad.

I propose, Mr. Chairman, when the proper opportunity shall occur, to offer an amendment providing that all ministers, consuls, and other public agents employed abroad, shall be paid their salaries on the basis of the legal tender currency of the United States, dollar for dollar, and not upon the basis of the value of gold; and where they are paid through exchange, as they must generally be, that then they shall be paid a sum equal in value to their salaries in the legal tender currency of this country and actual expense of transportation, the true basis of exchange, and not in a sum equal to their salaries in gold, and

then they will receive the same relative amounts with other officers and persons in the employment of the Government, and not their salaries in full in gold while all others receive a depreciated currency.

I do not see how it is possible, sir, for gentlemen to stand up in a Government like ours and advocate the payment of these foreign salaried officers in gold, dollar for dollar, when they see around this Hall and everywhere the worn-out and shadowy forms of men who for thirteen dollars a month, not paid in gold, but in our unfortunately depreciated currency, have been so long bearing the heat and burden of the day in the struggle to maintain the national life. Justice demands that you pay your soldier in gold or its equivalent in currency in preference to all others in the national service. But if this bill passes, you pay your foreign ministers and consuls, in their pleasant sinecures abroad, in gold at the rate of the old salaries, and the soldier in a currency depreciated nearly one half in value since his salary was fixed by law at thirteen dollars per month.

Mr. COFFROTH. I shall vote against this amendment, because I believe in the doctrine that when men accept high positions under the Government, they should have that standard of value which they were bound to receive at the time they accepted office. I shall therefore vote with my friend from Indiana for every bill and proposition that shall come up in this House to increase the wages of the men who have gone out to sustain the flag of our country. When the volunteer system was commenced at the breaking out of the rebellion, they agreed to go into the Army at the rate of thirteen dollars per month, when the standard value of money was gold and silver, and I shall vote for any proposition to increase their pay in greenbacks now so as to raise it to that standard. These men employed in foreign countries have left their homes and gone into the service of the Government under the impression that they were to receive their salaries in gold and silver, and now, when greenbacks have fallen below par, we ought to increase their pay so as to bring it up to the standard of gold and silver. I shall vote for this appropriation, believing that honesty and justice require that we should do what is right toward these men, as well as toward the men who are in our Army, and all others who are in the employment of the Government. If greenbacks go down to fifty per cent. or one hundred per cent. or one hundred and fifty per cent., the \$3,000 a year which a member of Congress gets is only equal to \$1,000 or \$1,500. I want to keep up the standard, and therefore I shall vote for this appropriation.

Mr. MORRILL. I confess, Mr. Chairman, that I somewhat sympathize with the idea of the gentleman from Indiana, [Mr. HOLMAN,] that some portion of these consuls might be dispensed with; and early in the session I took occasion to inform myself in relation to the facts, and I found that this is, perhaps, the best money expended by the Government. Under the present existing state of circumstances our own vessels, as well as the vessels of the rebels, frequent the ports of South America and of all other parts of the world, and it becomes necessary that this Government should be represented in order to maintain a proper public opinion in those places in favor of the United States Government; and I am happy to say that at the present moment all the smaller Governments in South America are cordially in favor of the present Government of the United States. In relation to this subject it has become necessary to increase the number somewhat, but to a very small extent; and that increase the gentleman from Indiana would, I am sure, if he were to investigate the subject, approve of.

As to the increase in cost, in consequence of the difference in exchange, I will say to the gentleman from Indiana that it has been the practice, ever since the foundation of the Government, to pay any losses by way of exchange to our representatives abroad. It would be utterly impossible for us to get along in any other mode. It has always been the practice, and any gentleman can see how utterly valueless it would be to pay off our representative in Japan, for instance, in greenbacks.

Mr. HOLMAN. Will the gentleman from Vermont allow me to ask him a question?

Mr. MORRILL. Certainly.

Mr. HOLMAN. Heretofore have we not merely paid the loss by simple exchange; and is not the proposition now to pay the difference between the legal currency of the United States and the gold standard; and is it not the depreciation of the currency that creates this extraordinary difference?

Mr. MORRILL. It is precisely what we have always paid, the difference in exchange, in order to remit gold to our representatives abroad. I hardly think, Mr. Chairman, that the question in regard to the pay of soldiers is pertinent to this bill, and therefore I will not argue it.

Mr. STROUSE. Mr. Chairman, I regret that I cannot agree with my friend from Indiana, as I usually do. I hope, however, that the time is not far distant when we shall have no difficulty in regard to the difference of value between gold and its paper representative. I wish that we could pay all the public officers, and particularly that we could pay the Army and Navy, in the coin of the United States. I wish that we could come down to paying in coin even the members of Congress. I certainly would not object to receiving my little salary in the coin of the United States. But we are at present, we have been, and we must continue to be for a long time, in a state of war, and have been compelled to incur enormous debts. I do not intend to discuss now the origin, the policy, or the conduct of the war. I speak simply of existing circumstances, of facts as they are, of the reason why the officers and privates of the Army and Navy, as well as the civil officers of the Government, are paid in paper money, which, by the laws of trade, is now depreciated. Yet we are in a position here entirely different from that of our diplomatic representatives abroad. Take any foreign post, from that of minister plenipotentiary of the first class down to the consular or vice consular agent, and all of them are located at points where nothing but coin can be used as circulating medium.

We do not pay these representatives any more now, as I understand, than we have paid them heretofore. Their salaries are fixed by law, and cannot be increased or reduced except by the action of Congress, approved by the President. In my humble judgment, it would be gross injustice to our diplomatic and consular representatives abroad to pay them less than they are allowed by law. If ever, in the history of the country, it was important to be fully and ably represented abroad, that time is now. I am free to say that, but for our large representation in different parts of the civilized and semi-civilized world, the status of the United States of America, and the peace of the United States of America in its intercourse with foreign nations, would not have been so well maintained. I believe firmly that much of the credit of that is due to the attention and care bestowed upon our intercourse by our representatives abroad for the last eight or ten years.

I said that we would be doing injustice to these gentlemen if we failed to pay them their salaries in gold. Take, for instance, our representatives in Japan, at Singapore, in the East Indies, on the Mediterranean, in South America, or at any of the capitals of Europe. Their expenses of living are very great. We pay them no more than we paid them before, although we do pay the difference between the value of gold and paper. They receive exactly the same as they received before. It would be a violation of contract on the part of the Government to ask one of these men with a salary of \$5,000 to take \$3,500.

I am opposed to extravagance. I would oppose any bill to increase salaries where I think such increase is not necessary and proper. But I am in favor of doing just and right by our servants, and particularly by those on whom we must rely to maintain the honor, character, and dignity of the United States of America. I am in favor of increasing the pay of the soldiers and sailors, and shall vote for any bill that may come before the House to raise the wages of those who sacrifice health, comfort, and lives in the defense of the Republic and the maintenance of her institutions. But I am opposed to shaving down the salaries of men who would be taken by surprise to find that they were to be paid in paper which they could not even redeem abroad. I trust, therefore, that gentlemen will consider these circumstances; and, with all due respect to my friend from Indiana, I hope he will withdraw his amendment.

Mr. HOLMAN. I withdraw my amendment, and offer, instead of it, to amend by adding the following:

That all salaries of ministers, consuls, and other public agents employed abroad, shall be paid on the basis of the legal tender currency of the United States, and not in gold, or upon the basis of gold; the amount paid through exchange to be regulated by the nominal value of the legal tender notes, and not on their depreciation in reference to gold, actual expense of transportation only considered.

Mr. STEVENS. I rise to a question of order. The amendment is a change of the law, and is therefore, under the rules, not in order to an appropriation bill.

Mr. HOLMAN. It changes no law. It only proposes to pay these officers of the Government in the legal currency of the country, and also the cost of transportation abroad to their posts. The law fixes the salary of our foreign ministers and consuls. It also provides for paying them the loss by exchange. I am not sure that that is provided for. This does not change the law, but proposes to pay them in the legal currency of the United States. It is in conformity with law. The difference between our currency and gold is its depreciation, and is not the amount of the loss of exchange. I hold, therefore, that my amendment is in order.

The CHAIRMAN. The Chair sustains the point of order raised by the gentleman from Pennsylvania, and rules the amendment out of order. The Clerk read as follows:

For salaries of commissioners and consuls general to Hayti and Liberia, \$11,500.

Mr. COX. I move to strike out so much of the appropriation as provides for the commissioners to Hayti and Liberia. I move to strike out the words "commissioners and," and reduce the appropriation from \$11,500 to \$7,000. I offer the usual motion, Mr. Chairman, which I have offered ever since this was first provided in an appropriation bill, and I shall continue to do so so long as I have a seat upon this floor. I do not think that it is a proper appropriation. I do not think that it has any beneficial effect in a commercial point of view.

We all know that these missions to Hayti and Liberia were originated for a political and a partisan object, so avowed at the time the law was brought forward in this House. It does not seek the extension of our commercial intercourse, for that is provided by consuls and not commissioners. It was avowed as a political and partisan object when the proposition was first brought before the House.

Mr. KELLEY. Who avowed that as the object of the establishment of these missions to Hayti and Liberia?

Mr. COX. The gentleman from Massachusetts, [Mr. Gooch,] at the time the bill was up for discussion, very frankly and boldly avowed the object to be to establish an equality between the white republic and the black republic.

Mr. KELLEY. I deny it. I ask the gentleman from Ohio to point out the record of any such remarks made by the gentleman from Massachusetts or any other gentleman on this side of the House. There is no such thing.

Mr. COX. The gentleman says that there is no such thing. Why does he not appeal to the record? I would rather have the recollection of the gentleman from Massachusetts. I asked him whether he would not accept an amendment to provide for commercial appointments of consuls, &c.? He replied that he wanted ministers to Hayti and Liberia. He said that that side had no objection to a black minister to this country if this side had. He said that he had none himself. I remember that the distinguished member from Kentucky, Mr. Crittenden, since dead, expressed his astonishment that gentlemen on the other side desired to have black ministers at this Government. Our side of the House stood up for our own race—for the dignity and the decency of that race which has carved out the glory and the prosperity of this country. I am earnest on this subject.

My amendment will do away with these commissioners, and leave the consuls there with their proper salaries. It will do away with the tomfoolery of having black ministers at the White House, which was started originally, as I have stated, for mere party purposes.

There is a black minister here from Hayti—does he do anything? Gentlemen said when the law

was passed that he would make a treaty with this country, and that we would in consequence gain great commercial advantages. That was the argument I think of the gentleman from Pennsylvania.

Mr. WASHBURN, of Illinois. Was this made an issue in the recent election in Ohio?

Mr. COX. The gentleman from Illinois was very quick to interrupt me. I do not know whether it was an issue in the last election, but it was in the election shortly after. The law passed when we were all reelected. I am therefore now only carrying out the wishes of my constituents in moving to strike out these black ministers.

I was about to say that there was no commercial purpose to be subserved by these ministers that could not be subserved by consuls. It was said when the law was passed that treaties would be made by the ministers from Hayti and Liberia. It soon came out that treaties had been made in London by Mr. Adams, our minister to England, of course on information furnished by consuls. This expenditure of money to keep up a colorable relation with these black republics is not necessary—it is for a purpose that can be more profitably kept up by consuls. I believe that the salary is \$7,500. My friend from Massachusetts can tell me whether that is so or not.

Mr. GOOCH. It is the same amount as is paid to the commissioners to other countries. The gentleman has made a speech in favor of continuing ministers to places with which I believe there is less actual commercial intercourse than there is between the United States and Hayti and Liberia.

Mr. COX. But there is more political significance in those to which the gentleman refers. When this war is over I trust that the military element left will sweep this continent from the Canadas to the isthmus. I want American representatives at the Central American States. I want to see the Government expand in the right direction. We have had contraction enough.

I hope—I know the hope is dim—for a better day, when the old policy of a reunited Republic shall prevail, and expansion, instead of contraction, shall be the paramount idea of the Republic.

Mr. GOOCH. The gentleman from Ohio is entirely mistaken when he says I avowed or acknowledged that any partisan consideration entered into the action of this House when the recognition of Hayti and Liberia was under consideration during the last Congress. I made no such statement; no such admission. The distinguished gentleman from Kentucky, now deceased, (Mr. Crittenden,) I recollect at that time argued against the recognition of Hayti and Liberia because, he said, it involved a recognition of the equality of the two races. I answered him it involved no such thing; that it involved simply a recognition of the equality of rights of the two races. I recollect of thinking then, whether I said it or not, that he must be a very mean white man who was unwilling to acknowledge that the black man had an equality of rights with him because he feared the black man might excel him in the race of life, and attain to positions which he desired to occupy.

Now, I am aware the gentleman from Ohio [Mr. Cox] never lets an opportunity slip to move to strike out the salaries which have been fixed for the ministers to Hayti and Liberia. And it must be, as the gentleman has avowed it to be this morning, simply upon the ground that that republic is a republic of black men and not of white men. It can be upon no other consideration, for he has argued here this morning in favor of appropriations to pay ministers at several foreign countries where our intercourse is very much less with each one of them than it is with Hayti or Liberia.

I for one cannot understand why any gentleman can object to the recognition of the fact that Hayti is an independent Government, a Government which has maintained itself for more than half a century. I say I cannot understand why any gentleman should object to the recognition of that fact, especially since we have established and are now maintaining all the relations between this Government and Hayti which exist between any Governments upon earth. If they are a part of the family of nations, they have political rights in common with all others, and I think the Government of the United States should be the last one to fail to recognize those rights, or fail to ac-

cord to them that simple measure of justice which it has accorded to all other Powers of the earth.

The gentleman [Mr. Cox] speaks of the expansion of this country. He intimates that gentlemen upon this side of the House have been opposed to that expansion. I deny it. I believe gentlemen on this side of the House are as much in favor of the extension and expansion of the power of this Government as are gentlemen upon the other side; but they desire it shall expand upon principles which can be recognized and justified by all mankind. While they desire to extend this Government and give the benefits of it to those now perhaps out of its legitimate jurisdiction—or would be willing to do so under proper circumstances—they also desire that every man within its jurisdiction shall have the rights that belong to each man that God has made. That is the expansion we desire, and the expansion we mean to have. We mean that this Government shall expand; but we mean first it shall be administered on such principles that its expansion, wherever it goes, shall carry with it freedom and not slavery to every man, no matter what his color, complexion, or condition.

Mr. STEVENS. The gentleman from Ohio certainly knows that the motion he has made is not very much in order. The places of these ministers are established by law, and these Governments are recognized among the nations of the earth. Ministers to them have been appointed under laws already in existence. The gentleman knows it is the duty of the committee, and the duty of the House, to make appropriations to pay salaries of ministers appointed by law, and that we should be violating our duty if we rejected the appropriation. The gentleman knows that, but nevertheless he proposes an amendment which he thinks an excellent thing to hang a political speech upon; and that question which was decided two years ago, when Hayti was admitted by us to be one of the nations of the earth, is now revived, when in my judgment it should not be disturbed. I have nothing to say, sir, in regard to the association of the gentleman from Ohio, or anybody else, with a black minister from Hayti. There is no law to compel it that I know of, and if such a minister should happen to visit the White House I trust the gentleman will never be in a position when he will be obliged to receive him. [Laughter.] He will not be compelled to receive him unless he is in such a position. It will be a matter of election altogether.

I know, sir, there is a particular party in this country, as well as sporadic cases in all parties, that look a great deal more in their associations to the accidental color of the skin or the shape of the face than to the intellect and merit of the human beings with whom they are called upon to associate, and that that is made one of the grand cardinal principles of a great party in this country.

Now, sir, I do not know that ever I shall come across men of dark color of the same intelligence as white men. I have seen some that I thought not much inferior to most of us, and I, for my part, have no kind of bashfulness in talking to such a gentleman, if he talks politely, as they usually do; but it is a matter of taste altogether. I hope, however, that we shall not be less liberal than a very rich colored merchant in Jamaica that I heard a gentleman from Boston, who had dined with him, speak of. He said, in the course of conversation, to this gentleman, a highly intelligent and very rich man with whom he was dining, that he had no prejudices about color; that he would never prefer a man of color, and that he would just as soon dine with a man as white as his table-cloth. [Laughter.] It made no difference to him. But we have these prejudices, and cannot rise above them; we must bring them into politics; we must talk as if one party preferred these associations to another. There is no such thing, sir, in this country. It is mere political slang. Who shall be our associates are questions of our own choice, our own taste. Our political laws are either to give equal rights to every human being, or they are to crush the one and elevate the other upon his ruin. Let those who still adhere to the latter notion carry it out; but, sir, I agree with the gentleman from Massachusetts [Mr. Gooch] that although this Republic will expand over this continent, so also will the principles of liberty expand, and they will not be confined by Mason and Dixon's line or by

any other line, but will spread throughout the whole continent and over every human soul upon its soil.

The question was taken on Mr. Cox's amendment, and it was rejected.

The Clerk read the following clause:

For expenses, under the act of Congress to carry into effect the treaty between the United States and her Britannic Majesty, for the suppression of the African slave trade, \$17,000.

Mr. KERNAN. I desire to ask a question of the chairman of the Committee of Ways and Means, because, in the time I have had to examine this bill, I have not been able to understand this appropriation precisely, but, very likely, he will be able to explain it. I find that in the act of the 11th of July, 1863, there was an appropriation to carry out this treaty with Great Britain, providing for the payment of salaries to three judges—one at New York, one at the Cape of Good Hope, and one at Sierra Leone—of \$2,500 each, and three arbitrators, one at New York, having \$1,000, and each of the others \$2,000. That makes \$12,500, and I do not find any law or any explanation beyond what I state, why this appropriation should be \$17,000 rather than \$12,500. I desire to inquire why the amount is thus increased?

Mr. STEVENS. We appropriated \$17,000 last year, it seems to me.

Mr. KERNAN. That is true. I looked at that; but there is no explanation why the amount was increased.

Mr. STEVENS. Then I presume there were other expenses beyond the salaries, and it was to include those that we made the additional appropriation.

Mr. KERNAN. Allow me to suggest that the law provides for no other expenses, and the estimates give us no details. I do not, of course, mean to insinuate that the appropriation is not correct, and yet it seems to me that we ought not to vote it on the assumption that it is right, particularly when the estimates call for no such appropriation to carry out the treaty.

I agree with the chairman of the Committee of Ways and Means, that where the law fixes a salary, we are not, in appropriating it, creating the salary, but only voting the money to pay it; but the law, in this case, only provides for salaries amounting to \$12,500, and it seems to me that we should ascertain from some source where the remaining \$4,500 goes before we vote it. I move to strike out “\$17,000,” and to insert, in lieu thereof, “\$12,500.”

The amendment was disagreed to.

Mr. STEVENS. I move that the committee rise and report the bill.

The motion was agreed to.

So the committee rose; and, the Speaker having resumed the chair, Mr. PENDLETON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 40, making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1865, and had directed him to report the same back with an amendment, in which he was directed to ask the concurrence of the House.

Mr. STEVENS demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment of the Committee of the Whole on the state of the Union was adopted, and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. BROWN, of West Virginia, the petition and papers of Alexander Hays were withdrawn from the files of the House, and referred to the Committee of Claims.

PENNSYLVANIA CONTESTED-ELECTION CASE.

Mr. RANDALL, of Virginia, presented the supplemental memorial of John Kline, contesting the seat of Leonard Noyes, of Pennsylvania; which was referred to the Committee of Elections.

ADJOURNMENT OVER.

Mr. BLOW submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That, for the purpose of paying proper tribute to the memory of Old Hickory, the general who took the responsibility of hanging spies under the "second section," and of suspending the *habeas corpus* in the hour of our country's peril; the statesman who issued his proclamation against the nullifiers of South Carolina, and who would have hung the chief progenitor of rebels had he not been prevented by the humanity of Henry Clay; who foresaw that after the struggle on the question of paying duties on sugar the next pretext of the disunionists would be on the question of slavery; and who said, with peculiar emphasis, that "the Union must be preserved," this House when it adjourns will adjourn over the 8th of January to Monday next.

Mr. COX. I move to amend so as to make it Monday instead of Saturday.

Mr. RANDALL, of Pennsylvania. There is an aspersion upon the memory of Henry Clay which I hope to see stricken out before the resolution is adopted.

Mr. COX. I want the adjournment over in honor of Jackson without whereases and conditions.

Mr. BLOW. I accept the amendment of Monday as a modification of my resolution.

Mr. MARCY. I deny the right of any one on that side of the House to eulogize the memory of Andrew Jackson.

Mr. ANCONA. I propose to debate the resolution, and it must go over, under the rules.

The SPEAKER. That point comes too late. The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

And then, on motion of Mr. COFFROTH, the House (at twenty minutes to four o'clock, p. m.) adjourned.

IN SENATE.

FRIDAY, January 8, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

DISTRICT LAWS.

The VICE PRESIDENT laid before the Senate the report of Richard S. Coxe, commissioner to revise the statutes of the District of Columbia, made in pursuance of the act of Congress of March 3, 1863; which was referred to the Committee on the District of Columbia.

PETITIONS AND MEMORIALS.

Mr. FESSENDEN. I present the petition of A. S. E. Spring and others, citizens of Portland, Maine, praying that the petition of the South American Steamship Company, asking aid for the purpose of establishing postal communication by steam vessels with the countries of South America, may be granted. I do not know whether that has been presented or not.

Mr. HALE. I presented it yesterday, and it was referred to the Committee on Commerce.

Mr. FESSENDEN. Then I move that this be referred to the Committee on Commerce.

The motion was agreed to.

Mr. ANTHONY presented the petition of Dr. Usher Parsons, and others, citizens of Providence, Rhode Island, praying for the organization of a special ambulance corps of non-combatants for the service of the Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. FOSTER presented the memorial of C. S. Bushnell, and others, citizens of New Haven, Connecticut, praying that the petition of the South American Steamship Company, asking for aid to establish postal communication by steam vessels with the countries of South America, may be granted; which was referred to the Committee on Commerce.

Mr. DIXON presented the petition of Dr. Gorden W. Russell and others, citizens of Hartford, Connecticut, praying for a uniform ambulance and hospital system for the armies of the United States; which was referred to the Committee on Military Affairs and the Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JOHNSON, it was

Ordered, That the petition and other papers of Thomas Crown, praying to be allowed damages occasioned by the abrogation of a contract made by him with Captain Blaney to furnish bricks for the fortifications at Oak Island, be taken from the files of the Senate, and referred to the Committee on Claims.

On motion of Mr. NESMITH, it was

Ordered, That the petition of Mrs. Aña M. Roblas y Robaldo, widow of F. Robaldo, praying to be paid for certain property destroyed by American troops in Mexico, by order of their commanding officer, in the late war with Mexico, be taken from the files of the Senate, and referred to the Committee on Military Affairs and the Militia.

REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. No. 2) expressive of the thanks of Congress to Major General Nathaniel P. Banks, and the officers and soldiers under his command at Port Hudson, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (S. No. 3) expressive of the thanks of Congress to Major General Joseph Hooker and Major General George G. Meade, and the officers and soldiers of the army of the Potomac, reported it without amendment.

Mr. SPRAGUE, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. No. 5) of thanks to Major General Ambrose E. Burnside, and the officers and men who have fought under his command, reported it without amendment.

Mr. CLARK. I am directed by the Committee on Claims, to whom was referred the petition of R. G. Murphy for relief, to ask the Senate for power to send for persons and papers in that case. It is a case involving a question of fraud, and it is necessary for the committee to have the persons and some papers before them for a proper examination of the matter. Leave was given at the last session for that purpose, but owing to the absence in the Army of one person whom we desired to have before us, it was thought best by the committee not to summon at that time. I move that the committee have leave at this session.

The motion was agreed to.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 40) to define the pay of the officers of the Army of the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 42) repealing certain statutes of limitation; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. FOOT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 43) relating to the office of Commissioner of Public Buildings; which was read twice by its title, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 44) granting a pension to the widow of Major General H. G. Berry; which was read twice by its title, and referred to the Committee on Pensions.

Mr. NESMITH asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 11) of thanks to Major General George H. Thomas, and the officers and men who fought under his command at the battle of Chickamauga; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 12) requiring the President of the United States to give the Government of Great Britain the notice required for the termination of the reciprocity treaty of the 5th of June, 1854; which was read twice by its title, and referred to the Committee on Foreign Relations.

THE NAVY DEPARTMENT.

Mr. HALE. I wish to present a resolution and to ask for its immediate consideration, so far as to allow me to make a statement explanatory of it, and then, if there shall be any objection to it, it can lie over.

The VICE PRESIDENT. The Senator from New Hampshire submits a resolution, which will be read for the information of the body; and he asks the unanimous consent of the Senate for its consideration at the present time. It will be read.

The Secretary read it, as follows:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the present condition of the Navy, the efficiency of the steam-engines lately constructed and now being constructed for the use of the Navy, the mode and manner of procuring supplies for the Navy, and the conduct of the Department generally; and that they have power to send for persons and papers.

The VICE PRESIDENT. Is there any objection to the consideration of the resolution? The Chair hears none.

Mr. HALE. I desire now simply to make an explanation to the Senate of the reason why I introduce this resolution in this form. There has been furnished to me, and it has been extensively circulated in the newspapers, particularly of the city of New York, the report of an argument made in a case pending in the supreme court of this District by Mr. Dickerson, a counselor of some reputation in the city of New York, in which he gives facts, dates, and figures going to show a total and entire misapprehension of what is due to the Navy in the construction of its steam engines, and represents the whole thing as an entire failure. The paper not only does that, but it represents that the vessels which have been constructed under this mode of engineering are a total and lamentable failure, and that the \$70,000,000 which have been and are now being expended are worse than useless, as the Navy Department is now administered.

There are also in the same paper statements that would go to show corruption in some of the officers of the Department. It is a paper the importance of which cannot be winked out of sight, and I think it should be met. I should have been glad if the Secretary of the Navy, or the actual Secretary of the Navy, as he is called, had called for an investigation himself. It has only been answered by an anonymous communication, from the Department as I have been informed, in one of the New York papers. I think the controversy is one that concerns the country and the nation. We are called upon to appropriate about one hundred and seventy million dollars this year for the Navy, and if anything at all approximating to the truth is contained in this statement, it is a controversy that goes above any personal controversy between Mr. Isherwood and Mr. Dickerson, the author of these papers.

So far as the proposed investigation is concerned, I feel it my duty, occupying the place I do, to call the attention of the Senate to it. When I have done this, I will say further that I shall be exceedingly grateful to the Senate if they will devolve this inquiry on a select committee. I have no disposition to take the matter into my own hands, nor have I any wish to shrink from what I conceive to be the proper discharge of my duties. I call the attention of the Senate to it. The attention of the country it will have, and it has had. While I do not indorse one of these statements, and know not whether they are true or not, I deem it my duty to say that I believe, from the intercourse I have had with men who are conversant with this matter, that there is an utter feeling of heart-sickness and despair at the prospects of the Navy as it is at present conducted. Whether that feeling is well founded or not, I do not know; but I submit this resolution to the Senate. If there is a single member who prefers that the investigation should be committed to a special committee, he will do me the greatest favor to move it; but if there is not, I leave this resolution for the Senate.

Mr. DOOLITTLE. I am not prepared to vote in favor of this investigation at the present moment. I should like to have the resolution laid over until I can inquire a little into the subject. If it lies over until Monday, I shall have no objection to its coming up then.

Mr. HALE. I have not the slightest objection, sir. I have done my duty.

The VICE PRESIDENT. The question is on postponing the resolution until Monday next.

Mr. GRIMES. I hardly think it is necessary to postpone the resolution. I think I feel authorized to say for the Navy Department that they court the most thorough investigation into all the charges that have been preferred against the management of that Department; and whenever a thorough investigation shall be made, it will turn out, in my conviction, that we not only have as fast, but faster vessels in the Navy of the United States than in any navy of the world. I undertake to assert, from my own information on the subject, that there is no navy in the world that to-day has as fast vessels as there are in the Navy of the United States, and whenever there shall be a fair investigation of that subject, it will be so demonstrated to the Senate and to the country. Under such circumstances, I, as a friend of the Navy and of the Navy Department, trust that the resolution of the Senator will be adopted in some form, and adopted at once. As to whether the committee to make the investigation shall be the standing Committee of the Senate on Naval Affairs, or a select committee, that is for the Senate to determine.

That there may have been frauds perpetrated in the Navy Department by persons connected with it, I do not pretend to deny; that the best men may always have been selected for the performance of their duties, I do not assert; but I do assert that, from the very commencement of this war to the present moment, it has been managed as well as any Department, yea, better than any Department in this Government; and such, Mr. President, will be the impartial record that the history of this country will contain twenty years hence.

And now let me say one word while I am up in regard to a subject that was introduced to the Senate yesterday by the Senator from Kentucky, [Mr. Davis,] and that is in regard to the Morgan, steamers. The fact has been demonstrated by the events of the last two years that the Morgan-purchased steamers were the cheapest and best that have ever been bought for this Government either for the Army or for the Navy Department. The only thing there was in connection with that transaction for which the Secretary of the Navy was properly censurable, in my opinion, was the principle which he laid down as being the one upon which purchases of that kind ought to be made, not that there was not perfect success in the purchases. Among the very best purchased vessels at this day in the Navy of the United States are some of those very Morgan-purchased steamers. A vessel that performed, according to the official reports, most important service—I was going to say the most important service—at the capture of New Orleans, the *Varuna*, under the command of the gallant Captain Boggs, was one of the Morgan-purchased steamships. I did not then and I do not now recognize as correct the principle laid down by the Secretary of the Navy in regard to the payment of agents who might be selected, or the manner in which they were paid. I would rather have paid directly out of the Treasury the amount of money that was received by the agent of the Government, Mr. Morgan, than to have had him receive it in the way that it was received; but that the purchases were made for the benefit of the Government, I do not doubt.

Then there is another little part of the unwritten history of this country, Mr. President, that ought to be stated in this connection. Mr. Welles, the Secretary of the Navy, has not a very great disposition to engage in controversy. He would much rather be abused than fight back. He might have stated, and I think in justice to himself and the country he ought to have stated, that the commercial men of New York appealed to him, and to all the members of the Cabinet, to employ one man rather than many men to purchase vessels for the United States Government, because, they said, if you select ten or a dozen men, or one or two even, in Boston, and one or two in New York, and one or two others in Philadelphia, and one or two in other commercial ports to go into the market and engage in the purchase of vessels, you will raise the price of vessels so much that you will interfere with the commerce of the country. Now, you should employ one man, and unite with him skillful naval officers to investigate the condition of the vessels, and let that one man quietly go around and purchase as many vessels as you desire. It

was upon that suggestion that one man was appointed rather than many men selected throughout the country to make these purchases. The Secretary of the Navy has never taken the trouble to state to the country the influence under which he acted when he selected Mr. Morgan rather than selected ten or a dozen different agents to be employed in this kind of business.

In regard to the subject now under consideration, the investigation of the steam-engines built for our naval vessels, it is a matter with which practically I am totally unacquainted. I have taken the trouble to read the logs of some of the vessels that have been built for the Navy as fast vessels. When I was in Charlestown a short time ago, I went on board the *Ticonderoga*, that had just come in from a voyage, and I talked with the chief engineer, who was a citizen of the town in which I live, and he told me that that vessel had made thirteen and a half knots in a sea-way during the voyage from the West Indies to Boston. When Mr. Dickerson or any other person can make an engine that will propel a war steamer, which is compelled to carry her heavy armament and her supplies for men for a six months' cruise and all her commissary stores and quartermaster's stores and all her ordnance, at a greater speed than thirteen and a half knots in a sea-way, I shall be willing to confess that his suggestions ought to be attended to, and that the gentleman who is now in charge of the Navy Department should be turned out. I do not say that the man who is now in charge of the Steam Engineering Bureau is the proper man. I know that there are a great many prejudices against him. But that there has been any sort of collusion between him and the head of the Navy Department I do not believe, and I feel warranted in denying; or that there has been any fraud perpetrated by Mr. Isherwood, with the knowledge of the Navy Department, or which it was within the power of the Navy Department to prevent after it was brought to their attention, I am not prepared to admit.

Mr. HALE. Mr. President, I want to say, in answer to any suggestion here, that I have not indorsed any of these statements; but I have brought them before the Senate because I thought it was my duty to do so. The publicity given to these statements is such that they will have the attention of the country, and ought to have the investigation of the Senate. I shall be exceedingly relieved, however, if my friend from Wisconsin, or anybody else, will suggest a special committee instead of the Naval Committee.

Mr. DOOLITTLE. Mr. President, all this I confess is new to me, and it is based mainly on a pamphlet which the honorable Senator found lying on his table and which I find lying on mine—a pamphlet which I have had no opportunity whatever to read, and I therefore desire that this question shall lie over until Monday next. I doubt whether there is sufficient foundation to make this inquiry; but if there be, I shall not have any objection to the question going to a committee for the purpose of inquiry. I have no doubt that the Navy Department is honestly conducted, certainly so far as the head of that Department is concerned, for I have as much confidence in the integrity of the head of that Department as I have in any man of my acquaintance, and I have not the slightest doubt of the integrity of the Department itself.

But, sir, these inquiries, unless they be necessary, do not, in the present state of public affairs, result in any great good to the country. The institution of an inquiry like this is a blow at the confidence of the country in the administration of the Government, if a charge is made that there is fraud in the heads of Departments of the Government unless there be foundation for making the charge. Therefore, certainly, before we go into an investigation, we ought to have some reasonable grounds for believing that such a charge is well founded. I do not say that the Senator from New Hampshire has made that charge, but he seems to base his motion on a charge which somebody else has made that there has been fraud in the administration of the Navy Department. I do not desire, at this stage of our affairs, to sanction such charges, unless upon investigation we find that there is some reasonable ground for believing that they exist.

I know that my honorable friend from New Hampshire is just as anxious, and probably no

more anxious than other Senators on this floor to prevent frauds in the administration of the Navy Department. I believe, however, that he is sometimes imposed upon by representations that are made to him, and under the influence of those representations he sometimes in the heat of debate makes wholesale charges against the Administration, which are repeated, not only throughout the country, and in the press of the country, to destroy the confidence of the people in the administration of the Government, but we heard them read here yesterday on the floor of the Senate for half an hour—charges of the most flagrant description against the administration of the Government—charges which I then believed were without foundation, and I believe now are without foundation. But they were repeated by the gentleman from Kentucky, read, and read again; for what purpose but to destroy the confidence of the people in the administration of the Government?

Now, Mr. President, I desire that this resolution shall lie over until Monday. In the mean time I will look into the pamphlet upon which this motion seems to be based, and if I become satisfied that there is any foundation for the charge, or any probable cause for believing that there is really a charge, I shall not object to empowering a committee to send for persons and papers and occupy all the session, if they choose, in the investigation.

Mr. CONNESS. I agree, sir, with the Senator from Wisconsin that this subject should lie over until Monday, and I doubt not that then the Senate may conclude that it should lie over longer, or that if an investigation is to be made, it should be made in some other manner than that proposed by the resolution offered by the Senator from New Hampshire.

I agree fully and entirely in the sentiment expressed by the Senator from Wisconsin, that there is nothing that strikes deeper or more fatally at the Government in its fair and full administration than these constant and repeated attacks from those who profess to be its friends. I confess, Mr. President, that I was very much surprised to hear the Senator from New Hampshire introduce his resolution with the remark that the country was heart-sick—that was his expression—at the manner in which the affairs of the Naval Department of this Government are being administered. I totally disagree with that belief thus firmly expressed by the Senator from New Hampshire. I do not believe that it pervades the country. If it did, it would indeed be one of the worst signs of the times—far worse than the strongest attempts of organized rebellion against the power and existence of the Government, for there is nothing that lies deeper as a crime against the Government than this constant sapping of the confidence of the people in the officers that are chosen for its administration. As the Senator from Wisconsin very properly said, we had repeated here yesterday a speech already two years old, making charges of the most terrible character against the Navy Department. I doubt not, sir, that they were unpleasant when repeated, to the Senator from New Hampshire; they were certainly unpleasant to me. The Senator from Kentucky should not be furnished with such data from a loyal source, unless those data be founded in fact, incontrovertible in character; and then, where that is the case, it becomes the highest duty of the most loyal men in the country to investigate and put an end to that class of abuses. I hope the Senator from Kentucky will not object to my use of the term "loyalty," because there is a propriety in the use of that term toward Government. Loyalty to friends, fealty to truth, fealty to Government, to those who administer it when engaged in the rightful administration of it, is, in my opinion, one of the highest characteristics that can grace a patriot.

I object, sir, for one, to the mode of investigation which is here proposed. I say that if an investigation is to be had in regard to a subject of this kind, it should be committed to men, chosen perhaps under a resolution of this body, or of Congress, directing the President of the United States to select a board of competent engineers to make the investigation, and to ascertain whether our ships are fast enough or too slow, whether the means adapted to the great end of securing speed are sufficient or insufficient; but I entirely object to these accusations and these investigations furnished and based upon the yellow-covered literature that is so often spread upon the desks of Sen-

ators and members of the House of Representatives. I do not know the person who has written this pamphlet. I shall not be made acquainted with the value of his facts after I shall have read it. But what I most object to are the statements that are based upon it and given as the faith of the Senator from New Hampshire, who occupies here the high position of chairman of the Committee on Naval Affairs, that the country is heart-sick with the administration of this Department of the Government. I hope that the Senator will feel it to be his duty to take back that expression. I think that it ill becomes him or any other Senator to make so broad an assertion here. It is time, sir, that we were done trifling with this class of accusations, so loosely made, upon matters of the deepest importance and consequence. I hope the subject will lie over for mature consideration and action.

Mr. HALE. Mr. President, if I made the expression as broad as the honorable Senator from California has put it, I certainly will withdraw it. The position which I took was that I believed the country was heart-sick at the failures in the construction of these steam-engines, and not in regard to the administration of the Navy Department generally; I do not know whether my language was as guarded as it should have been. I believe that there are in the Navy Department not only as honest, but as efficient and capable officers as there are in this Government or any other, but the failure to which I alluded and of which I said, so far as my observation extended, the country was heart-sick, was in regard to the construction of steam-engines.

Mr. CONNESS. If the Senator will permit me, I will state that I should, while up, have also taken exception, as I felt disposed to do, to another form of language used by the honorable chairman of the Committee on Naval Affairs, when referring to the Navy Department. I understood him directly to cast a reflection upon its head by referring to its "so-called head." I hope, sir, as I before said, that these attacks will not be continued. If it shall be shown, or can be shown by indubitable facts, that there is maladministration in that or any other Department, the Senator from New Hampshire can have my vote and voice in its correction, and in the application of that correction at the earliest moment of time; but I say let the faith of the people in those who administer its Government at this time not be unnecessarily broken. I protest against everything that goes to that end.

Mr. HALE. In regard to this matter I must say that I differ with anybody who thinks that the charges brought are brought in such a way that they ought not to be noticed. I think they ought; and I think that the honorable Senator from Iowa, speaking, as he says, for the Navy Department, is right when he says that they court a full investigation upon them.

I wish now to say a word in reply to what fell from my friend from Wisconsin in regard to a charge which is certainly new to me; and that is, that I have made wholesale charges against this Administration. I deny that I ever made any charge against the Administration, or that I ever made any wholesale charges against the Secretary of the Navy. It is a little singular that such a charge as that should be brought. Two years ago, by the report of the Committee on Naval Affairs, I brought distinctly before the Senate a particular transaction in which names and dates and figures were given. That report was made after the matter had been referred to the Secretary of the Navy, and his own account had been given to the Senate of the transaction; and that, and that alone, was everything in which I differed with the Secretary of the Navy, or with any other part of this Administration.

But, Mr. President, let me tell the honorable Senator from California, and every other Senator on this floor, that they will do infinitely more to weaken public confidence in the Administration whenever there is an attempt to shrink from a proper and fair investigation of its concerns. The transactions of the Navy Department, and of every other Department, should be open as day; and they should ever be ready to meet any and every investigation touching its conduct; and they do nothing more than justice to themselves and to the country when they ask such an investigation.

I distinctly averred when I first rose that I made no voucher for any of these charges; but how shall we know whether the Department is well administered or not, if, when charges are made, and publicly made, made in a court-room, made in the press, made not by an anonymous publication, but by an individual who gives his name, we refuse to investigate them? If the Senate can see any other mode than the one I suggested they will relieve me abundantly, and gratefully would I receive any action of the Senate that should give this investigation any other turn than that it should come to myself, or to the committee of which I am a member. I do not desire it. It is a burden from which I would gladly be relieved; but while I would gladly be relieved from it, I will not shrink from it. I have done nothing but what I conceive to be my duty, and my plain and obvious duty, and I ask nothing more. I do not ask the Senate to indorse these charges. I do not ask them to order an investigation at my motion. The matter is before the Senate. Every Senator has as much interest in it as I have. Every Senator is as much interested in the purity of the Administration, and in the purity of the administration of all its Departments, as I am. I ask nothing; I indorse nothing; I simply lay the facts before the Senate. If the Senate thinks them not worthy of investigation I am perfectly content, as I am that it shall be taken up next Monday or any other day the Senate thinks proper.

Mr. DAVIS. I had not intended to say a word on this occasion, but I have been referred to so repeatedly, and especially by the honorable Senator from California, that I feel it imperative upon me to say a few words.

Mr. President, I have remarked from the time I first took my seat in this body, the extreme restiveness, the impatience, the perfect revulsion with which the questioning of any of the acts of this Administration is received by its peculiar friends. I tell the honorable Senator, and all other Senators, that they may as well learn to submit to it at once. The acts of the Administration are the proper subjects of investigation, and while I have a seat on this Senate floor, and have reason and voice, they shall be investigated to the extent of my poor abilities. I shall do it in a manner, according to my judgment, that becomes a Senator and a man; but I intend to do it, let the consequences be what they may. Why, sir, has it come to this, that the acts of an Administration of a great Government organized and instituted by the people, based upon a free Constitution and upon the great principle of popular government, cannot be investigated by those who differ from its line of policy, without incurring the vehement denunciation of the advocates of the Government, as it is termed? I protest against any such principle or any such practice as that. When it becomes inaugurated and installed as the course that members in the opposition are to take in relation to this or any other Administration, then liberty is gone forever. While there is life in me, I will never submit to such a principle as that.

The Senator says that it ill becomes gentlemen, and especially referring to the Senator from New Hampshire, to endeavor to weaken the confidence of the country in the high officers who are administering the Government. Sir, there is something more unbecoming than that in the course of Senators who indulge in such a line of conduct; and it is this: to endeavor to screen from investigation those in whom public confidence is sought to be sapped where they are delinquent. I lay it down as a principle of morals in politics, of duty, of patriotism and statesmanship, too, that where men high in office so act as to merit a forfeiture of public confidence, he who endeavors to disclose their shortcomings is in the highest line of the performance of his duty.

Mr. CONNESS. I agree with you, sir.

Mr. DAVIS. I am gratified that the Senator does agree with me; and I trust he will show no further impatience when an investigation in relation to the maladministration of this Administration or any of its officers is proposed. Sir, the pure gold loses nothing by friction; it shines the brighter. Men who are conscious of an honest discharge of their duties to their country and to their Government never fear, but always court investigation.

Sir, I am sorry to have said what I have said on the present occasion. I have marked at vari-

ous times the distaste, (but I care not for it,) the revulsion (but I care not for that) with which men sometimes listen to my remarks in condemnation of the powers that be. Sir, I have lived a life now of some years. It has not often been my fate to be in the majority; but occupying a position in the minority, being at one time a Representative in the House, now a member of the Senate, and above all an American freeman, whose liberties are guaranteed to him by the Constitution of my country, I dare do, and I intend to continue to dare to do my duty in the investigation of the maladministration of the Government. I commenced disciplining myself in the school of opposition when he of the Hermitage was President. Yes, sir, I have heard the lordly roar of the old lion of the Hermitage, and so have many men who were educated in that school of opposition, without quailing, and they who have listened to the roar of that monarch of the political forest, as it were, are not going to be frightened by the howl of jackals. [Laughter.]

Sir, I am earnest in the utterance of my opinions, because I conceive them strongly. I intend no discourtesy to any gentleman, and if I am convicted of any discourteous course towards any gentleman whatever, the highest pleasure and pride of my life would be to make him an atonement by a proper apology. I ask but the freedom of an American citizen to investigate the administration of my Government, the administration of Abraham Lincoln, as I investigated that of James Buchanan, and of Franklin Pierce, and of all the preceding Presidents; and that far I intend to claim and exercise the right.

Mr. DOOLITTLE. If the Senator from New Hampshire or the Senator from Kentucky supposes that there is any disposition here to shrink from the investigation of any truth in relation to this Administration, or that there is any disposition to screen or to cover up the truth of any transaction in the administration of the Government, they are entirely mistaken. There is no such purpose. It has been most distinctly disavowed. All that I said was this: that unfounded and unnecessary attacks made upon the Administration by any member of this body, and especially when made upon the Navy Department by the chairman of the Committee on Naval Affairs, are things that I most deeply regret, for the reason that from the very source from which they come they have a tendency to destroy the confidence of the people in the administration of that Department, with which, if he is not, he ought to be, very closely associated. I repeat, sir, that the source from which this attack comes reminds me of the former attack upon the head of that Department in relation to the purchase of vessels in New York. Although, as the Senator says, he referred in that case to particulars, stated names, and gave dates, it was not to that to which I referred in my previous remarks, but to the general denunciations contained in that speech of his which we had repeated to the Senate yesterday, and which every friend of this Government and this Administration had to meet all over the country and to refute. I deplore such unnecessary and uncalled-for attacks from such a source. Let us have an opportunity of examining for a short time to see what this yellow-covered pamphlet contains before we are called upon to vote to raise a committee of investigation with power to send for persons and papers, and thus strike a blow at the confidence of the country in the Administration and in the Government. If there be any well-founded charges in it, I shall not shrink, nor shall I attempt to screen any officer of the Government, either in or out of the Senate.

The Senator from Kentucky says he has heard the lion of the Hermitage roar, and was not terrified. I do not think anything would terrify the Senator from Kentucky. I never doubted his courage. But he states another fact, and it is a pregnant fact, that he was schooled in opposition to the Government for twenty or thirty years of his life.

Mr. DAVIS. If the Senator will allow me a single word, he entirely mistakes me. I did not say that I was schooled in opposition to the Government. What I said was that I was schooled in opposition to the maladministration of the Government.

Mr. DOOLITTLE. Schooled in opposition to the Administration of General Jackson. That

may be so, and the Senator may have educated himself in the school of opposition, the first principle of which is to oppose everything and propose nothing, and from long education in such a school, he may have given way to a habit of thought which leads him to fault-finding and nothing else.

THE VICE PRESIDENT. It becomes the duty of the Chair to interrupt the Senator. The morning hour having expired, the unfinished business of yesterday is now before the Senate.

MR. DOOLITTLE. I have but a few words more to say.

MR. POWELL. I move that the unfinished business be postponed.

MR. DOOLITTLE. I am willing to let the regular order of business come up, because then this resolution will go over until Monday, and that is what I want.

MR. JOHNSON and others. Go on now.

THE VICE PRESIDENT. It is moved that the pending business before the Senate, being the unfinished business of yesterday, be postponed until to-morrow.

MR. WILSON. Let it be postponed for a short time, liable to be called up when this matter is disposed of.

THE VICE PRESIDENT. It can be postponed by the unanimous consent of the Senate for the present. Is there any objection? The Chair hears none. The Senator from Wisconsin will proceed.

MR. DOOLITTLE. Mr. President, I do not stand here to say—

MR. DAVIS. As the Senator from Wisconsin has paused, with his courtesy I will make a remark which I intended to make before, but omitted to do, in relation to the remarks of the honorable Senator from California.

MR. DOOLITTLE. If the honorable Senator from Kentucky will excuse me, I prefer to conclude my remarks, which will be very brief, rather than to have a speech, addressed to the Senator from California, interpolated in what I am about to say.

MR. DAVIS. Very well.

MR. DOOLITTLE. I was about to conclude my remarks with one or two observations. I do not undertake to say that there have been no mistakes and no frauds practiced upon the Administration of the Government during this war. Such a state of things as a perfect administration of Government never existed upon this earth since any Government began. Wherever there has been an expenditure of public moneys, there has always been more or less fraud in that expenditure. Where the carcass is, there the vultures gather. But, sir, if you compare the administration of this Government in the immense expenditures during the course of this war—an expenditure to which the Government was wholly unaccustomed, an expenditure to which the officers themselves were unaccustomed, sometimes not knowing even the necessary checks and guards to prevent fraudulent transactions in the expenditures—if you compare them with the expenditure of the public moneys in England, in France, and in Russia, in the Crimean war or in the Italian war, you will find that the percentage of money which may have been taken from the Treasury of the United States improperly, fraudulently, or wrongfully, is not as great by one half as it is in either of those countries. The amount of money which has been taken from the Treasury of the United States improperly during the expenditures of this war is not as great per cent. as it has been under every Administration of the Government from its foundation down to this very hour. Look at the Florida war; look at the Mexican war; look at the expenditures under every Administration of the Government, and you will find that upon the amount expended more percentage has been plundered from the Treasury during other Administrations than during this Administration.

I do not deny that these things will occur, and, of necessity, do occur. It is impossible to prevent some fraudulent contracts being made. There may not be any frauds committed by the officers of the Government in giving the contracts, but frauds are practiced upon the Government by combinations of bidders for these contracts. These contractors are a great and powerful body of men. They know how to circumvent the officers of the Government, and they sometimes succeed. Sir,

you might just as well undertake to say that the dead and wounded may lie on the field of battle, and that the birds of prey, the vultures and carrion birds, will not come to that field, as to say that we can have these great expenditures of public money, and yet never have any fraudulent expenditures. You might just as well undertake to stop the war because you cannot drive off all the birds of prey from the fields of battle, to arrest the wheels of Government and undertake to stop the expenditure of public money because these thieves and plunderers will sometimes get their hands into the Treasury.

I am willing to go as far as the Senator from New Hampshire or the Senator from Kentucky, or any other Senator on this floor, to expose and to punish fraudulent transactions and fraudulent expenditures, but at the same time as wise men, knowing the history of the world and the history of all public expenditures, we must accept as a fact, as an evil which of necessity comes with these expenditures, that some of them will be fraudulent in spite of all that we can do. And yet we must go on; we must continue these expenditures; we must sustain the Government; we must fight this war through; we cannot arrest it nor arrest ourselves in the discharge of our duties by spending the whole of our time in decrying these fraudulent expenditures when we should give our whole heart and energy and will and purpose to the prosecution of this war and to the putting down of the rebellion.

MR. PRESIDENT, I have said all and much more than I intended to say on this subject.

MR. HENDRICKS. Before the gentleman closes his argument, I wish to ask him one question. I do not intend to participate in the debate between him and the Senator from New Hampshire touching the question whether there shall be an investigation of the conduct of the Navy Department, but I understood the Senator to say that, in proportion to the amount expended, there were larger frauds during the Mexican war than during the present war. I desire to ask the Senator (inasmuch as of course he has investigated that subject before venturing to make a comparison so very severe) what amount of fraudulent expenditures he has found to have been made in the Mexican war, and to what cases he referred?

MR. DOOLITTLE. This whole debate has sprung up without any facts or papers being before us, except the yellow-covered pamphlet we find on our tables. I am not prepared at this moment to state the precise facts, but on some subsequent occasion I shall reply to the honorable Senator.

MR. HENDRICKS. I will ask the Senator, then, if he can say in his place that he knows that in any particular instance there was a fraud in the expenditure of the money for the prosecution of the war against Mexico?

MR. GRIMES. I am tolerably fresh from the reading of a book by General Ripley, who has been recently, if he is not at present, in command of the rebel forces at Charleston, called the History of the War with Mexico. The Senator from Indiana will remember that he was an adherent of his political party, and was an attaché of General Pillow's staff. That book therefore may be considered as Democratic authority on a subject of that kind. He was the principal witness against General Scott in the celebrated Pillow court-martial. If the Senator will refer to General Roswell W. Ripley's history, he will learn something of the frauds that were perpetrated in the quartermaster's department in the city of New Orleans during the Mexican war.

MR. HENDRICKS. The reference the Senator from Iowa has made in referring me to a book that has been published, but which it has not been my good fortune to read, does not meet the point I made to the Senator from Wisconsin. He has ventured the averment, and it is a very serious one, because the country does not doubt the enormity of the frauds perpetrated during this Administration, that the Administration was guilty of greater frauds, in proportion to the amount expended, during the Mexican war than during the present war, and I wish—

MR. DOOLITTLE. The gentleman will allow me to correct him entirely, if he is now stating what he understood me to say. I did not say that this Administration had been guilty of any fraud, nor that the Administration in the Mexican war

had been guilty of any fraudulent expenditure of public money, but that moneys had been fraudulently obtained by contractors, and perhaps by collusion with some of the officers in some of the Departments. I do not mean the heads of Departments or the heads of bureaus; but through the assistance of officers in the Departments frauds may have been perpetrated, and were perpetrated—frauds by contractors upon the Government, in the quartermaster's department, the commissary department, and the various other departments. I did not charge that the Administration had fraudulently expended money, or that frauds came from the Administration; nor do I admit that this Administration has paid one dollar fraudulently in any case whatever; or that any head of any Department in this Government has been guilty of any such thing; nor do I admit it in any Department of the Government.

MR. HENDRICKS. I do not intend to discuss the question just suggested by the Senator, but I wish to know of him whether he makes this serious charge—for by making a comparison between any other Administration and this Administration he does make a serious charge against that other Administration. I wish to know of the Senator if he has investigated the subject so that he can say, of his own investigation, that the frauds perpetrated during the prosecution of the Mexican war equaled the frauds during this war, in proportion to the amount expended.

MR. DAVIS. I rise merely to say a word. I think the Senate are satisfied, from the point that was between the honorable Senator from New Hampshire and myself yesterday, that I made a legitimate use of his speech. However, whatever may be the judgment of other gentlemen in relation to that matter, it is my own judgment, and that is sufficient for me.

I omitted to make a single remark in relation to the definition of loyalty that was given by the honorable Senator from California. He spoke of loyalty, and of its being a very high phase of loyalty that every man should sustain all the officers of the Government in the due and just administration of their offices. I assent to the truth of that principle with as much heartiness as the Senator from California, or any other gentleman. I have endeavored to act upon it since I have been a member of this body, and I intend so to continue to act. I will support, according to my reason, every just and wise measure of this Administration to carry on the war to a speedy and successful close. I have done so, and I shall continue to do so. But there is a higher phase of loyalty than that which was so handsomely adverted to and stated with so much distinctness by the Senator from California, and it is this: where a Senator, where a private citizen, where any individual believes he discovers that the administration of the Government in any of its departments and especially in its executive department, is in conflict with the Constitution of the country and the liberties of the people, it is a higher phase of loyalty to oppose that aggression of the President and of his Administration upon the Constitution and the rights guaranteed to the freemen of the United States, than it is even to approve of his measures where they are right.

The gentleman gave his assent, while I was up before, to the position of free investigation that I claimed for myself. I make my acknowledgments to him for the frankness of that concession, and any remarks that I made that were harsh in their character, were intended to refer only to those men in the Senate, or out of the Senate, who attempted to restrict that perfect freedom of investigation and of debate, and therefore will not apply to the Senator.

MR. CONNESS. Mr. President, I did not feel that a remark made by the honorable Senator from Kentucky, [Mr. Davis,] which sounded rather harsh and inappropriate here, applied to me at all. The Senator says that he did not intend it; and if he had intended it, I could not have felt that it applied to any Senator here. I believe the remark had reference to his description of his former glory and his present degradation, in having once heard the roar of the lion of the political forest, and now being compelled to listen to jackals. I think that was the figure.

MR. DAVIS. I accept the Senator's interpretation.

MR. CONNESS. I sympathize with and com-

miserate the Senator in his present position. To what base uses, sir, do we come at last! But, sir, all I have to say in this matter can be now said in a very few words. I say to the Senator from Kentucky, and to the Senator from New Hampshire, that it cannot be fairly deduced from any remarks made by me, that I would now shrink, or will ever shrink from any investigation, founded on facts, necessary to the illustration of the proper mode of conducting this, our Government, and I think it was rather disingenuous for a Senator to attribute that tone to either the remarks that I made, or those that fell from the Senator from Wisconsin.

But, sir, taking the case as stated by the honorable Senator from Kentucky, namely, his great loyalty and advocacy and defense upon all occasions of constitutional liberty, (which is indeed a very high office,) what is the position of those gentlemen here who are associated with me more nearly politically? I take the case as stated by the Senator. Our defense is of the Administration, of those agents engaged in carrying on the Government to the legitimate extent to which that support should be given. While we confine ourselves to these respective spheres, I do not see but that the country will go on very quietly, the Senator from Kentucky defending constitutional liberty, we defending the proper administration of the Government. I think, sir, there is hope in the future.

Mr. GRIMES. Mr. President, one word. The Senator from New Hampshire, in the course of his remarks, imputed to me the assertion, I believe, that I was authorized to speak as the representative of the Navy Department.

Mr. HALE. I understood the Senator to say that he spoke for himself and for the Navy Department.

Mr. GRIMES. What I did say, or intended to say—I think I used the language—was, that as a friend of the naval service, and as a friend of the Department, I felt authorized to say, but not as the representative of the Navy Department, that I believed the Navy Department would desire the most thorough investigation into any charges that any Senator here will rise in his place and assert that he believes to be true, or that he has reason to believe to be true. I desire now to say also that when any Senator shall desire an investigation into the transactions of that Department, or into the transactions of any other Department or bureau in this Government, he shall always have my vote in favor of his proposition, as the Senator from New Hampshire shall have my vote in favor of this; but I wish to submit to the candor of the Senator himself whether he thinks this resolution is drawn in exactly the phraseology that we ought to adopt. If the investigation is to be confined to the subject of these steam-engines, I have no objection, for that seems to be what the Senator predicates his case upon; but this resolution goes far beyond that, and I think is what might very properly be called a fishing resolution. It reads:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the present condition of the Navy, the efficiency of the steam-engines lately constructed and now being constructed for the use of the Navy, the mode and manner of procuring supplies for the Navy, and the condition of the Department generally; and that they have power to send for persons and papers.

"The condition of the Department generally!" Is this committee to be authorized to go into an investigation as to the assignment of particular officers to particular ships, or whether one man has been detached improperly from one ship and added to another? The investigation under this resolution would be interminable, and the committee, if they undertook it, would never be able to reach any accurate conclusion, any conclusion that it would be safe for the members of this body to act upon. It would only create "confusion worse confounded." I trust, therefore, that the Senator will confine his resolution to some particular, specific inquiry. If he wants to take up the subject of supplies, if he alleges that frauds have been perpetrated upon the Government in furnishing supplies to any bureau in the Navy Department, I will go with him to instruct any committee, a select or a standing committee, to thoroughly overhaul that subject. If he wants to take up the subject of the construction of ships, I am willing to do that; but I do not think the Senate ought to adopt a resolution in such broad phraseology as this is couched in.

Mr. HALE. In regard to that suggestion, let me say that I have no choice, no preference; but I will state, as the Senator from Iowa has called it up, that there are one or two other matters upon which I think there ought to be investigation; and one of them is the matter of furnishing supplies. If I understand the Secretary aright, he proposes to abolish the present mode of furnishing them. I have seen—and I base this statement upon official documents which have come under my notice—a list of articles furnished by advertised proposals to the Navy Department, where the price varied from one hundred to ten hundred per cent. above the market price. For instance, an article costing twelve dollars has been furnished at \$150. That I have seen in the official statements.

Mr. WILSON. Did the Government take it at that price?

Mr. HALE. The Government took it; the market price being twelve dollars, and the contract price \$150. I will mention another article that I have seen in that same list. Cotton waste, the market price of which was twenty-nine cents, has been furnished by contract on advertised proposals at eighty cents. Things of that sort I have seen from the official records of the Department. Now, what I want to find out is whether that is one of the inevitable consequences growing out of the system itself, or whether there has been misconduct, and if so, where. I aver nothing upon this subject as to whose fault is, but the fact I do aver, for I have seen it.

Mr. CONNESS. With the Senator's consent I should like to ask him a single question.

Mr. HALE. Certainly.

Mr. CONNESS. My question is, if, upon this state of things, the Senator has ever conferred with the head of the Department in regard to it, and sought any explanation from the Navy Department?

Mr. HALE. I have.

Mr. CONNESS. I should like to have the answer which was given.

Mr. HALE. Well, sir, I will give the answer, as near as I can recollect it. The answer that I understood to be given was that they were obliged to take the lowest bid. That was the answer that was given to me. There may be a great many suggestions made in regard to how such things happen, which I intended to reach by this inquiry.

I will tell the Senator from Iowa another thing. There have been some statements made to me (I do not know whether they are facts or not) equally objectionable with this. Now, sir, in this I make no charge. It may be the inevitable consequence of our law that the Secretary is obliged to pay \$150 for what he knows is worth but twelve dollars in open market.

Mr. ANTHONY. What are the articles?

Mr. HALE. Monkey-wrenches.

Mr. ANTHONY. I will state in regard to the article of cotton waste, that I suppose there is no time when there is not a great difference between different qualities. If one quality would be worth twenty-nine cents, another would be worth eighty. At any time, one quality is worth five or six times as much as another.

Mr. HALE. I do not know anything about that; but these are facts which come to me, and I think they ought to be inquired into. I am not particular about the form of the resolution. I am willing that it shall be put in any form. I am willing that there shall be a special commission authorized by the President. I am willing that the inquiry shall be made in any way; and the last one I want is that it may be referred to the Committee on Naval Affairs. Having said thus much, before I sit down, I move to amend the resolution so that, instead of the Naval Committee, a select committee shall make the inquiry.

Mr. GRIMES. Mr. President, there is no question but that great frauds are perpetrated upon the Navy Department in the matter to which the Senator has alluded; but it is the fault of the Congress of the United States that they are perpetrated, and not of the Navy Department. If the Senator will refer to the tenth volume of the Laws of Congress, Little & Brown's edition, page 583, the act approved August 5, 1855, he will see that each one of these bureaus is compelled to procure supplies in classes. There is hardly any article known to any merchant transacting business in any portion of the country that is not at some time or other required in our navy-yards. They divide

these different articles off, and classify them according to the description of the goods; in the article of iron, all the descriptions of iron they want; in the article of hardware, all of that description; paints, oils, and dyestuffs, everything of that description; groceries, everything of that description; and so on. Then they have various kinds of miscellaneous articles embodied together, and the frauds to which the Senator has alluded have been perpetrated in this miscellaneous class.

Having had my attention already called to this subject, privately, by the Senator from New Hampshire, I have before me the bids that were made by the different parties at the navy-yard here for the supply of the identical articles to which the Senator from New Hampshire has alluded. These bids were made, one by a man named J. L. Savage, another by Collins & Co., another by a man named H. D. Stover. It is true that Mr. Stover proposed to furnish monkey-wrenches for forty dollars a dozen, and Mr. Savage proposed to furnish them at \$150 a dozen, while Collins & Co. proposed to furnish them at twenty dollars a dozen; and it is also true that Stover proposed to furnish cotton waste at sixty cents, while Savage proposed to furnish it at sixteen cents. But there were in this same class six hydraulic jacks asked for. Mr. Savage agreed to furnish them at \$290 apiece, while Mr. Stover asked \$465 apiece. When you come to add up these bids, which are made in classes in accordance with a law of Congress which I have sought in vain to have repealed, and which I think the Senator from New Hampshire did not vote with me in favor of repealing—[Mr. HALE shook his head.] Yes, sir; two years ago I sought to abolish this whole system under which naval supplies are furnished, and the Senator opposed my movements—I say, when you come to add up these bids it will be found that the lowest bidder is Mr. Savage, and the highest bidder is Mr. Stover, although on the two articles of monkey-wrenches and cotton waste Mr. Stover was the lowest bidder. Mr. Savage was the lowest on the aggregate, while Mr. Stover was the highest on the aggregate by some four hundred and odd dollars; yet on these particular items Stover was the lowest bidder.

If the Government had not carried into effect the law of Congress, and had refused to accept any of those bids, it would have been forced then to go into open market through your Navy agents—a species of nuisance that I have also attempted to abolish. Let me tell you what the law is in regard to that; for I intend, if my life is preserved, to again introduce a bill to abolish the whole system under which naval supplies are now furnished. The master mechanic at the navy-yard in the town of Charlestown, for instance, or any other yard, will report to the Navy Department that he will probably want so many articles of a particular character, and so many others of another character, and so on. He will have an understanding with a man who is about to bid for the contract, that he will really want ten times as many of certain articles as the Department is informed by him that he will want. The Department advertises that it will want the number certified by the master workman. Then the bidder who is in collusion with the master workman will put those particular items at a very high price in his bid. He is also informed by the same master workman that there are some other articles of which he will want but very few, but he recommends the Department here to advertise for a large number of them, representing that they will be wanted. The bidder proposes to furnish these articles to the Government at a very small price. When he comes to supply the Government with the articles for which he has obtained a contract, he supplies only a few of those articles that are put in at a very small price, and a great many of the articles that are put in at a very large price. If the Government refuse to accept the bid entirely, they are forced by the laws of Congress to go into the open market, and purchase through the Navy agents. You have another law which declares that if any Navy agent who goes into the market to make purchases shall produce a certificate of two respectable merchants that the article bought by him is purchased at the ordinary market price, his account for it shall be audited and allowed. I am told, though I shall not assert that it is so, that there have been certificates furnished in re-

gard to the purchase of the single article of copper in one of the cities of this Republic, and by apparently responsible merchants, fixing a price three cents a pound more than it could have been bought for at any market on the continent, and yet under the laws of Congress, as they now stand, and which I have sought in vain to repeal, the Navy Department is compelled to pay the money.

If all that the Senator from New Hampshire desires is simply to unravel this question in connection with the purchases for the Navy Department, he need not send it to a select committee. The Naval Committee has been informed of it for the last three years, to my certain knowledge. I have been informed of it. I have known that it was going on. I called the attention of some of my friends to it here last year in a case that came up from the city of Boston, where parties asked for relief. My friend from Illinois will remember it. It was a case where parties proposed to furnish round iron at a quarter of a cent a pound, when it was worth at that time, in the market, four and a half cents a pound; yet they made up for that by charging eight cents a pound for iron that was not worth more than three cents and a half. The Government, by the law of Congress, is required to take the lowest bidder, the lowest aggregate bidder, according to the classes as they exist.

Mr. TRUMBULL. I should like to inquire of the Senator from Iowa what is the difficulty in advertising separately for articles of any considerable importance?

Mr. FOOT. It is against the law.

Mr. GRIMES. It is against the law, as my friend from Vermont suggests. As I said before, I intend, if my life be spared, to introduce a bill requiring that each particular article, I care not if it is only a single bunch of pins, shall be bid for separately and distinctly. It may impose more labor on the Navy Department; it may require another clerk or two at each one of our navy-yards; but I think it will, in the end, save an immense amount of money. I have had my attention called to that subject.

The VICE PRESIDENT. The question is on the motion to postpone the further consideration of the resolution until Monday.

The motion was agreed to.

PROPOSED EXPULSION OF MR. DAVIS.

Mr. WILSON. Mr. President, I rise for the purpose of submitting a resolution of a personal nature. I find on my desk a series of resolutions introduced into the Senate on the 5th instant by the Senator from Kentucky, [Mr. DAVIS.] Those resolutions class the Government and its supporters—

The VICE PRESIDENT. The Senator will first submit his resolution.

Mr. WILSON. Very well; I submit my resolution.

The VICE PRESIDENT. The resolution will be read for the information of the Senate.

The Secretary read the resolution, as follows:

Whereas the Hon. GARRETT DAVIS, a Senator from the State of Kentucky, did on the 5th day of January, A. D. 1864, introduce into the Senate of the United States a series of resolutions in which, among other things, it is declared that "the people North ought to revolt against their war leaders and take this great matter into their own hands," thereby meaning to incite the people of the United States to revolt against the President of the United States and those in authority who support him in the prosecution of the war to preserve, protect, and defend the Constitution and the Union, and to take the prosecution of the war into their own hands: Therefore,

Be it resolved, That the said GARRETT DAVIS has, by the introduction of the resolutions aforesaid, been guilty of advising the people of the United States to treasonable, insurrectionary, and rebellious action against the Government of the United States, and of a gross violation of the privileges of the Senate; for which causes he is hereby expelled.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) Will the Senate give unanimous consent for the consideration of the resolution at the present time?

Mr. WILSON. I do not propose to call it up for action at the present time, but I intend to do so at some time hereafter, for I desire to record my vote upon it. I have offered this resolution, without consultation with any Senator, on my own responsibility. Often I heard the men who organized this treasonable rebellion threaten the dissolution of the Union, and make treasonable appeals to the country, and when this bloody revolution opened I resolved that if I ever heard

in this Chamber more treasonable utterances, I would move the expulsion of the Senator uttering words of treason. These are not words uttered in debate, but they are in the Senator's resolutions. He tells the people, he asks the Senate to tell the people of the country, the loyal men of the North and the rebels of the South, to revolt; yes, sir, to revolt against their war leaders, to take affairs into their own hands, to elect delegates to a national convention, to stop the war. No proposition was ever made in the Senate of the United States, not even by the conspirators who organized this slaveholders' rebellion, more unconstitutional, seditious, and rebellious. If the people follow his advice, if they revolt against the President, Congress, the Supreme Court, the "war leaders," if they take the power into their own hands, if they go into national convention, a convention unknown to the Constitution and the laws, assume authority to close the war, and adjust the terms of peace in defiance of the Government of the United States, war, civil war, is inevitable, and the loyal States will be plunged into the fire and blood of internal strife. Stripped of its verbiage, the Senator's proposition means this, nothing less.

Mr. DAVIS. Mr. President, the resolution of the Senator from Massachusetts presents a garbled version of my resolution. It does not embody my resolution so as to express its sense; and the inferences that that Senator draws from it are not authorized by its language or its spirit. Sir, what did that honorable Senator admit within the last two years? He admitted that when his own State was in a state of rebellion against the United States, he sympathized with that rebellion.

Mr. WILSON. No, sir.

Mr. DAVIS. I think the Senator did.

Mr. WILSON. No, sir.

Mr. DAVIS. I interrogated that Senator and his colleague in relation to their course and sympathies in the Burns case that occurred in Boston some years ago. "The galled jade winces;" "my withers are unwrung." When the gentleman speaks of treason and disloyalty to his Government, he speaks from the recesses of his own heart, not mine.

He puts his own interpretation on the resolution that I offered. That resolution I abide by; but I deny that it authorizes the conclusion the Senator from Massachusetts is forcibly trying to deduce from it; far from it. It however strikes the Senator on this point: he is here an advocate for the interference of the military power at elections, to destroy their freedom, and to appoint to office by the bayonet instead of the free suffrages of the people. Now, my resolution—its purport, its meaning, its spirit—is, that the people shall rise at the polls and take the power of this Government and of this country, that properly belongs to them, there, at that constitutional forum, into their own hands, by peaceful convention; that the people North and the people South shall both do it, and repudiate their war leaders—leaders who desire a continuance of this terrible struggle, and who are opposed to its peaceful settlement. Sir, I give them that counsel in the resolution complained of; I give them that counsel here, everywhere. The thought of mutiny or disaffection in the Army was not in my mind. How is it with the Senator? If I recollect aright, he stated that his sympathies were with Burns in the Massachusetts insurrection.

Mr. WILSON. Never.

Mr. DAVIS. Were you against his rescue?

Mr. WILSON. I had nothing to do with it; and had no knowledge of it until after it transpired. I was not in my own State at the time.

Mr. DAVIS. Did you ever condemn that insurrection? Did you ever do anything to put it down—its spirit?

Mr. WILSON. There was no occasion; it was put down quickly.

Mr. DAVIS. Did you ever do or say anything to assert the authority of the laws and of the United States in that insurrection? Did you ever express any condemnation of it? No, sir; no.

Mr. HARLAN. Mr. President, I rise to a question of order. I desire to know if there is any subject before the Senate.

The PRESIDING OFFICER. There is no subject before the Senate. The Senator from Massachusetts did not ask for the present consideration of his resolution.

Mr. HARLAN. I move, then, that the Senate do now adjourn. ["Oh, no!"]

Mr. WILSON. Let us go on with the bill we had up yesterday.

Mr. HARLAN. As the Senator from Massachusetts expresses a desire to go on with his bill, I withdraw my motion.

Mr. CLARK. Let the Senator from Kentucky go on.

Mr. WILSON. I have no objection.

Mr. SAULSBURY. The Senator from Massachusetts having made an explanation of the reasons which induced him to offer the resolution, I think it is but proper and courteous, and according to the usage of the Senate, that the Senator from Kentucky, if he sees fit to reply to those remarks, should have the liberty of doing so. ["Certainly."]

Mr. WILSON. Nobody objects to that.

Mr. HARLAN. If we are not to proceed with the legitimate business of the Senate, and the time of the body is to be consumed in personal wrangling, I shall feel it to be my duty to renew the motion to adjourn; and I therefore do so. I move that the Senate do now adjourn.

Mr. FESSENDEN. I think we had better first settle the question whether we shall meet to-morrow.

Mr. SAULSBURY. I wish to ask the Senator from Kentucky whether the motion to adjourn meets his approbation; because if it does not I hold that the Senator from Iowa has no right to make the motion, the Senator from Kentucky being on the floor.

The PRESIDING OFFICER. The Senator from Kentucky was out of order and lost the floor. The motion of the Senator from Iowa is in order.

ADJOURNMENT TO MONDAY.

Mr. FOSTER. Previous to that motion I wish to move, with the consent of the Senate, that when we adjourn to-day, it be to meet on Monday next.

The PRESIDING OFFICER. If there be no objection, the Chair will entertain that motion.

The motion was agreed to.

Mr. HARLAN. I now renew my motion that the Senate adjourn.

The motion was not agreed to.

AMENDMENT OF ENROLLMENT ACT.

Mr. WILSON. I now move to take up the bill which was under consideration yesterday.

Several SENATORS. Let the Senator from Kentucky go on.

Mr. DAVIS. I had said about all that I desired to say at this point of time, and that was simply to state that the Senator's interpretation of my resolution was against the terms and the spirit of the resolution, and false in fact.

The PRESIDING OFFICER. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, the pending question being upon the amendment reported by the Committee on Military Affairs and the Militia, to add as an additional section:

And he it further enacted, That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved on the 3d day of March, 1863, as authorizes the discharge of persons drafted into the service of the United States under the authority of that act upon the payment of a sum of money not exceeding \$300, be, and the same is hereby, repealed.

Mr. SUMNER. I move to amend the amendment by striking out all after the enacting clause of the proposed section, and inserting what I send to the Chair.

The words proposed to be inserted were read, as follows:

That no drafted person shall be allowed to furnish a substitute, but he shall be discharged from the draft on paying to such officer as the Secretary of War may authorize to receive the same the full sum of \$300: *And provided further,* That every such person thus discharged shall pay, in addition to the said sum of \$300, a certain proportion in the nature of a title of his annual gains, profits, or income, whether derived from any kind of property, dividends, salary, or from any profession, trade, or employment, whatever, according to the following rates, to wit: on all income over \$500, and not over \$2,000, ten per cent.; over \$2,000, and not over \$5,000, twenty per cent.; and on all income over \$5,000, thirty per cent.; and it shall be the duty of

every such person seeking to be discharged to make return, either by himself or his guardian, to the provost marshal of his district of the amount of his income, according to the requirements of the act to provide internal revenue of July 1, 1862; and so much of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, as is inconsistent with this section, be, and the same is hereby, repealed.

Mr. SUMNER. Mr. President, I have been very much gratified, in the discussion of this bill, to find a disposition on all sides to treat the questions absolutely with reference to their merits, with a single desire of perfecting the bill. There seems to have been no opposition from any quarter merely on party grounds. All that gives assurance that Senators will now give sincere attention to the proposition which is made absolutely and simply with that purpose. I presume that I do not exaggerate if I say that of all the questions connected with this bill that relating to commutation money for service is the most difficult and the most sensitive. It is the question which I presume has most occupied the attention of the country. It has been most discussed in the newspapers, and also in conversation. I presume it is the ground of objection which has been most often made against the draft.

Now I think all Senators will unite in any proposition which promises in any way to smooth those difficulties; in short, to popularize a part of the bill which all Senators know has been open to much popular objection.

The proposition which I make has in it three elements. It proposes in the first place that no person shall be allowed to furnish a substitute, but the whole shall be done by the Government. I believe there has been occasionally much abuse from the fact that the Government has not taken that matter into its own hands, that it has been open to speculation from the action and counteraction of persons interested. The proposition in the second place proposes that the commutation of \$300 shall be fixed by law, so as not to vary in the discretion of the Secretary of War. Senators are aware that, by the law as it now stands, the commutation of \$300 may be varied. Three hundred dollars is the maximum, but the Secretary may fix any sum under that. In the third place, my proposition declares that every drafted person shall pay \$300; and if he have an income above \$600, then ratably according to his income. I will read the proposition as it is:

"And provided further, That every such person thus discharged shall pay, in addition to the said sum of \$300, a certain proportion in the nature of a title of his annual gains, profits, or income, whether derived from any kind of property, dividends, salary, or from any profession, trade, or employment, whatever, according to the following rates, to wit: on all income over \$600, and not over \$2,000, ten per cent.; over \$2,000, and not over \$5,000, twenty per cent.; and on all income over \$5,000, thirty per cent.; and it shall be the duty of every such person seeking to be discharged to make return, either by himself or his guardian, to the provost marshal of his district of the amount of his income, according to the requirements of the act to provide internal revenue of July 1, 1862; and so much of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, as is inconsistent with this section, be, and the same is hereby, repealed."

Much of the language of this proviso is borrowed from the internal tax bill. The phraseology of it I have taken bodily from that bill. Now, Mr. President, though this proposition, as I have said, contains three different elements; first, that no person shall be allowed to furnish a substitute; secondly, fixing the minimum commutation absolutely at \$300; and, thirdly, adding to that commutation money of \$300 a ratable sum according to the income of the person drafted, yet the single object of the whole proposition is to establish a ratable contribution according to income, which every drafted man shall pay. That is not only the central idea of the proposition, but it is the single object of the proposition, to which all the other parts of it are subordinate.

It will be observed that it will be practically impossible to require this ratable contribution, unless you declare that no person shall be allowed to furnish a substitute, and there will also be a practical difficulty in the way of it if you do not fix the standing sum at \$300, not leaving it to be varied in the discretion of the Secretary. I have, therefore, in preparing this proposition, introduced these two other elements as simply subordinate to the main proposition, the object being, in one word, to equalize the burden of this commutation where a person is drafted, that it may at least seem to be more equal even if it be not

really more equal, and that, in one word, it may be popularized to the country.

Some persons have said to me that I proposed to require a very large sum from certain persons who may be drafted, but I ask Senators whether any sum which is reasonable can be too large for a man of wealth to contribute if he should be drafted. Take, for instance, a man who has an income of \$5,000, or of \$10,000 if you will, what is the commutation money of \$300 to him? It is nothing. What is an additional sum of ten per cent., or twenty per cent., on that income? I say again, it is absolutely nothing as a commutation for the service which the country has a right to expect from him. He escapes from the hazard of wounds, of disease, and of death, and he also secures to himself the full employment of his time during the period of one, two, or three years for which he may be drafted. Is there anything that he can reasonably pay which can be considered as too much?

Mr. CLARK. Mr. President, I gave a good deal of attention to this provision of the original bill when it was adopted. I came somewhat reluctantly into the support of it, though I drafted the original section; but I must say that subsequent reflection has satisfied me of the wisdom of the provision. I think the amendment of the Senator from Massachusetts goes upon a wrong theory. The Government asked for men, and we passed the enrollment law, and we inserted the commutation clause to relieve some people and enable them to get substitutes; but the idea was that the men should be furnished to the Government; that a man should either go himself or furnish a substitute, or give the Government money enough to obtain a substitute for him. The Senator's amendment strikes at all idea of a man's getting a substitute for himself, and puts it entirely into the hands of the Government. The idea of the bill was that the man should pay, not a percentage of his income, be he rich or be he poor, but should pay the Government enough to get a substitute, not exceeding \$300. The bill declares that the money is to be applied for the purpose of getting a substitute. If the Senator's amendment be adopted, you take from every individual the chance of getting a substitute for himself and leave it entirely for the Government.

The operation of the bill in my section of the country was that a great many men who were drafted felt an inclination to go, or to furnish somebody for the service where they could not well go themselves. They said, "We will not pay this \$300; we do not want to shirk it; it is not the money we care for; but we will put something else to the \$300, and get a substitute, and put him into the Army for us, so that the Government shall have a man." The result was, in my State, that we furnished more men under the draft than any other State in the Union; we furnished fifty per cent. of the call. Towns came forward patriotically, and they said by their votes to the young men, "We want you to go into the service of the United States; and if you will go yourselves, or if you will furnish a substitute, we will give you \$300 to help you get a substitute, or support your family; and you may add as much more to it as is necessary to procure a substitute." The effect of it was very beneficial; we got a great many men. Men that might otherwise have been exempted, chose to get substitutes, and put them into the Army of the United States.

Now, the Senator desires to popularize this measure. Is he certain that this will do it? I know that when the bill was passed it was assailed by the enemies of the Government, and was assailed by the enemies of the Administration. They said to us, "You take the rich man's money and the poor man's blood; the rich man can pay his commutation, the poor man cannot pay it; the rich man can be exempted, but the poor man cannot be exempted under that provision;" but I never failed, when I appealed to the people on that subject, to satisfy the people that the provision was for the benefit of the poor man. If there were no such provision, or if you now strike it out of the law, at what price is the poor man to get his substitute? It may be \$1,000, it may be \$2,000, it may be any price that a man chooses to ask if the drafted man's necessities are so great that he must take him. It may be entirely beyond the means of the poor man, but the rich man who has dollars at his command can command a substitute.

Then you do take the poor man's service and the rich man's money. But now there is scarcely any man in all the country so poor that by the aid of his town, by the aid of his friends, he cannot command \$300 for a substitute, and if he cannot get a substitute for that sum, he pays it to the Secretary of War, who undertakes to get a substitute for him. You need never have any fear of appealing to the people on a provision so humane as that. It is for their benefit.

But, sir, where will you stand if you now repeal this provision of the law? When the law was passed, the enemies of the Government, as I have said, assailed it; they said everything harsh about it that could be said; and so great was the excitement in my State—we had an election coming off on the 6th or 7th of March after its passage—that the Democratic candidate for Governor appealed to his political friends that if they resisted this exorbitant draft, this outrageous measure, they might come to him, and he would defend them. But, nevertheless, we made our appeal to the people, and, though this law had not been passed more than four or five days, the friends of the Administration were triumphant. The draft was carried forward in my State, and we furnished more men than any other State in the Union, and it has come to commend itself to the people for its wisdom and kindness of feeling to the poor man.

Now, sir, suppose you repeal it, what will your enemies say? Why, exactly this: "What we have said about the draft was true, and you know it, and you have repealed it." But what will the friends of the Government say? Why this: "Our enemies said that that draft was for the benefit of the rich man and not the poor man; you told us it was for the benefit of the poor man, to keep the price of substitutes down; did you tell us truly?" "Certainly we did." "Then how came you to repeal it? Either one of two things follows—you did not tell us truly, or you have done now what is against our interest." In my judgment, sir, the provision had better be retained.

I know it is said by the Senator from Indiana that the Government wants men, and he feels that this provision does not furnish the men. It does not furnish a full supply of men, but I want to appeal to that Senator if he can adopt any other provision that will give the men and at the same time be so satisfactory to the people as this is. The draft is a hard measure—it will be a hard measure. War is a hard measure. It upturns and demoralizes everything. We have got to submit to hardships; but I submit to the Senator whether, having adopted this once and having had one draft under it, we had not better retain it than create any disturbance by repealing it. My own impression is that we had better retain it. Soldiers are volunteering; and we shall get the Army pretty well filled up by volunteers. If we are then obliged to resort to a draft, let those men go who can, let those furnish substitutes who can, and let those who cannot go or do not choose to go furnish their money. If you have not got the amount high enough, make it higher, and make the Government take that money and bring soldiers into the field with it. Under the operation of the old draft, if the twelve millions or more of money which was secured by the commutation clause had been well applied—and I do not say it has not been well applied—but if it had been entirely applied, I am not certain that we might not have got as many soldiers, and as good soldiers—I mean as much effectual military service out of it—as in any other way, especially if they had gone on and drafted for more men, as they might have done.

A sort of impression has gone abroad that you cannot enforce the draft. I know that people have different views about it, but I have no doubt and no hesitation in saying that you can enforce the draft. The people are desirous of seeing it enforced in many quarters. Your volunteer service furnishes willing men, but where does your volunteer service fall? Upon the earnest supporters of the Government, men in both parties, but upon the earnest supporters of the Government. Why should it not fall upon the others as well? I agree entirely with what the Senator from Maine so well said the other day, that every man owes his service to the Government. He owes his personal service to the Government, if he can be of use and the Government requires him, and

I want to see the draft fall upon some places where they do not choose to support the Government. If they will not go let them pay, and let us get men that will fight for them. That you cannot do under any volunteer service. I say let us have both. I am neither in favor entirely of the volunteer service, nor entirely in favor of the draft. Let us have both. Let those who will, volunteer, and if we want more men, let the rest of the community be made to come up and render their service.

But there are a great many cases of hardship; men may be drafted who cannot go. It may not be entirely easy to find a substitute. There should be some measure provided for that. I think the Senator from Pennsylvania, [Mr. COWAN,] at the last session told us of some very hard cases in his own State, and I think they had effect in inducing the Senate to adopt this provision. There will always be such cases, and we ought to retain this clause, in my judgment, for that very purpose, in order to show to the country that while men shall go into the service, and while we enforce the draft time after time, until we get men enough, we will provide for those cases, and let off those whose circumstances are such that they cannot go. I am against the provision of the Senator from Massachusetts, because it uproots entirely the system of substitutes. I am against it in another view: that a man pays his tax on his income under the revenue act; he is once assessed there. He is now called for his personal service. That is what the Government wants. If he cannot give his personal service, let him get somebody to act for him, not compel him to pay two taxes, according to his income. I do not believe—I do not undertake to say, of course—that we can do better than to retain this provision of the bill of last year.

Mr. POMEROY. I would suggest to the Senator from Massachusetts that the first provision of his amendment seems to conflict with the spirit of the amendment itself. That provision is, "that no drafted person shall be allowed to furnish a substitute." That seems to me to be in conflict not only with the law we have always had, but with the very spirit of the amendment itself. As this is an amendment to an amendment, I cannot move an amendment to it; but I wish to suggest that, although I think there is something popular in the amendment of the Senator from Massachusetts, this first clause, that a drafted person shall not be allowed to furnish a substitute, must be very unpopular. If the Senator will accept a suggestion from me, I think it would be popular to say that every drafted person shall be allowed either to furnish a substitute or to pay the money.

Mr. SUMNER. Very well.

Mr. POMEROY. I think it is against the spirit in which we are prosecuting this war, to enact into a law that a man shall not furnish a substitute. Some patriotic men whom I know of being drafted, and feeling that they wanted to serve the country, but knowing that there were others in the community who could do so vastly better than themselves, have paid as much as \$1,000 for the sake of having a man to stand in their place who could do better than they could. I would not enact into a law a provision that a man shall not furnish a substitute.

Mr. CLARK. If the Senator will pardon me, I will suggest that I have drawn an amendment by which a man, whatever his age, whether liable or not, may be allowed first to volunteer, have that pride, and then put in a substitute.

Mr. POMEROY. I did not know what the Senator might have prepared; I was only speaking of what we have got before us. I think it will do very well to say that a man may either furnish a substitute or pay \$300, and then it will be popular to say that if he has wealth he may pay even more than \$300 by an assessment upon his income. The fact which the Senator from New Hampshire suggests, that a man is once taxed three per cent. on his income, does not alter the case. Who ever gets off with one tax in the year? If we do not have to pay five in a year, I think we may consider ourselves fortunate. It is no hardship to a man who has an income of \$25,000 to pay \$300. That is no tax to him; but if he first pays the \$300, provided he does not choose to get a substitute, and then pays ten per cent. on his income in addition to his regular tax of three per cent., and in addition to all the other taxes, I think the measure will be popular in some quarters at least. I do

not say that that would be altogether right; I would not advocate that as a measure of justice; but if our object is simply to popularize this thing, I would say, let every man drafted either furnish a substitute or pay \$300, or more if he is able to pay more. I have no objection, of course, to his volunteering. He has that right without any law. You need not pass any law that a man may volunteer.

Mr. SUMNER. I am very much obliged to the Senator from Kansas for the suggestion that he has made. I stated, in the few remarks which I made in presenting this question, that I had introduced that first proposition because it seemed to me perhaps important to the completeness of the whole proposition; but I certainly have no particular attachment to the first proposition. I said that I regarded it as simply subordinate to the main idea. My desire is to ingraft upon the bill the idea that the rich man, if drafted, shall pay more than the poor man. That is all that I want to carry in connection with this amendment. All the rest I regard as subordinate, and therefore I gladly adopt the suggestion of the Senator from Kansas, supported, as it has been, by the suggestions of many Senators about me. I will therefore modify my proposition by striking out, in the first and second lines, the words, "no drafted person shall be allowed to furnish a substitute," and using the words, "every drafted person." It will then read, "that every drafted person shall be discharged from the draft on paying," &c. That, then, will leave the provision with reference to furnishing a substitute to stand on the existing law, or the other provisions of this statute.

Mr. COLLAMER. Mr. President, I wish to call the attention of the Senator to something practical in relation to his amendment. The law as it now stands is, that a drafted man may furnish a substitute, or pay a certain sum, not exceeding \$300, "for the procurement of such substitute." When the money is paid in, as it is said it was under the last draft to the amount of about twelve million dollars, the power of the Executive, of the Government, to use that money in procuring men to take the place of those drafted, is all contained in the words I have mentioned. We have no other law for it. The Government have offered to pay \$300 for men who enlist for three years. They have done it without any other law than the one I have mentioned. They had in their hands the amount of about twelve million dollars, which had been paid in for the procurement of substitutes. Of course it was their right and it was their duty to use the money for that purpose.

This proposed amendment repeals all the law inconsistent with the section now offered; and this proposition is, that every man who is drafted may be discharged upon procuring a substitute, or paying the money as provided in this section. It does not say that when he has paid the money it shall be for procuring a substitute for him. It therefore will not be money in the hands of the Department which they would be authorized to use in procuring people in place of the men who have paid it in. The existing law does provide that the money shall be used for the procurement of substitutes; this does not.

Mr. SUMNER. This would fall under the general provision of the statute, I take it.

Mr. COLLAMER. But you repeal that part of the law by this. This supersedes altogether that portion of the existing law in relation to furnishing money to procure substitutes. You say the man shall be discharged if he will pay so much money; but what for?

Mr. SUMNER. He pays the money to an officer designated by the Secretary of War. Those are the very words of the old statute.

Mr. COLLAMER. Yes; but the words of the old statute also were that the money should be paid in for the procurement of substitutes.

Mr. SUMNER. I think the designation is the same. I had that statute before me when I drew the amendment.

Mr. COLLAMER. That was the great point in the case, "for the procurement of such substitute." I think those are the very words.

Mr. SUMNER. I see now that the Senator is right.

Mr. COLLAMER. I did not intend, in calling attention to this matter, to say anything about the merits of the amendment, because, perhaps, the

Senator may amend it, but I wish to make some remarks about the \$300 clause.

I will say in the first place that I understood, and I believe it was very generally understood in the Senate, that the great object of putting in that limitation for commutation was for the benefit of men of moderate circumstances, to enable them if they pleased to pay a sum of money for which we believed substitutes might be procured. Further, it was with a view to fix a limit to the price of substitutes in the market, that it should not go above that, because if the Government would take \$300 to procure substitutes with, nobody would give any more in the market, and the Government could give no more, but would get them for that. That was the object.

Now it is suggested that that provision has in some measure defeated or prevented our obtaining by the draft the number of men which it has been expected would be obtained. I do not think so. It is true the draft did not result in bringing into the field so many effective men as had been hoped for, but it is not attributable to this cause. Let me state some of the causes to which it is attributable.

In the first place, somebody made out a schedule of infirmities for which a man was to be excluded as being an infirm man, not of sufficient physical ability. On reading it over it looked to me as if some one had undertaken to show what he knew of the most recent medical learning, by finding out all the probable infirmities to which the human frame could be subject, and especially all the most modernly invented diseases, or at any rate those for which new names had been invented. In short, very few men were to be found who could escape falling within some one or other of the various calls for infirmities, unless indeed it might be the man who could not find anything else, and said at last that he was very much subject to measles and wanted to be excused. [Laughter.]

An unexpectedly large number were excused under that. In the next place, it was found that a very large proportion of our able-bodied young men were dependent on their parents for support; [laughter;] and, what was worse than that, it was ascertained that the parents were dependent upon them. [Laughter.] Nobody had ever found it out before particularly; but there was a large part of these poor dependent young men dependent on their parents for support, and they showed somehow or other that their parents were dependent on them for support. That was worse yet. This was a very unexpected condition of things, and very large numbers got off on that plea. Between the infirmities of body and the infirmities of parents and children and their relative dependent condition, which came within the act, the number who were obtained under the act was comparatively few.

There was one other thing, however. Among the various decisions about the effect of the \$300 clause, it was holden at one time—at least it was so understood in my part of the country—that if a man was examined and found to be physically able, he could not after that pay the money or furnish a substitute.

Mr. JOHNSON. Was that decision made in your State?

Mr. COLLAMER. It was said to be a decision made here by the head of the Department, and it stood for some time.

Mr. WILSON. It was corrected very soon.

Mr. COLLAMER. There was such a decision; but I know common sense finally prevailed and it was reversed. In the next place, somehow or other it was given out that the paying of the \$300 was not to have precisely the same effect as the furnishing of a substitute. When the statute said that if a man furnished a substitute, or paid a sum of money for the procurement of a substitute, he should be released, I am sure I cannot conceive what is the difference. One man procures his substitute, another pays the money to procure a substitute, and the Government takes it for that purpose. Does he not procure a substitute through the instrumentality of the Government with his money precisely as was stipulated?

But again, how on earth could we get along with any notion of that kind? The Government took the money which the men paid in for commutation, and immediately employed other men with it. That was right; it was what they should do;

it was what they had the money for. Now suppose I am drafted to-day, and I pay down my \$300; my brother CLARK is drafted at the same time, and he pays it; my brother FESSENDEN is drafted, and he pays it. The Government take our money, and they hire substitutes; that is, they hire men for \$300. They have hired one man. He is somebody's substitute—is he not? If he is not anybody's substitute, they had no right to hire him, for they had no right to use the money for any other purpose. Whose substitute is he? Evidently he is the substitute of any man who has paid \$300. And yet the idea was that the Government could take the money for procuring substitutes, actually procure them, and then put in the man and draft him again.

Mr. JOHNSON. Do they hold that doctrine now?

Mr. COLLAMER. No, sir, not exactly, but it has never been formally reversed. It has now been published by the Provost Marshal General that by order of the President it is held that the payment of the \$300 has the same effect as the furnishing of a substitute, but that has been recently. While it was standing out as being in some measure a different thing, what was the effect? I do not say but that the gentlemen who gave that construction meant in suggesting to the people "your paying \$300 will not have the same effect as getting a substitute," to encourage the getting of substitutes. Possibly it might have been intended for that; but the effect of it was that wherever people labored under the impression that it might not be the same thing, instead of paying the \$300 they took that money and added more to it and went into the market and procured substitutes, and furnished them. The effect of that was that the price of substitutes in the market was driven above the \$300. That measure of the Government has defeated the very policy of the law. The policy of allowing the commutation money was that the price of substitutes should not run above that, because nobody need give more than the Government. But because the people were told that if they paid the money it might not have the same effect as furnishing substitutes directly, they went into the market, gave higher prices for substitutes, and ran them above the amount intended to be limited by the bill, and then the Government could not get substitutes for \$300, and it had to pay that money in addition to the bounty for an enlisted man, making \$400.

I think the mode of administering the law tended very much to produce the effect that you did not get men readily with the \$300 which persons were permitted to pay in. If the people had been told plainly and directly in the beginning that paying the money or furnishing substitutes would be the same in effect, they would not have given any more, and the Government would not have given any more than \$300 for a substitute.

Such, Mr. President, was the manner of the execution of this law, and I cannot but further say that I do not see why the law, even as it resulted in the draft, was any failure at all. What was the amount of the draft? They proposed to draft about one fifth of those enrolled. The Senator from Indiana the other day gave us the numbers as they were returned. I do not remember the exact numbers; but that is not material. The general result is that leaving out of view the exemptions, of which I have already spoken, the Government got some twelve million dollars commutation money, and between forty and fifty thousand men. Why did they not go on, then, and draft another one fifth, get forty thousand men more and \$12,000,000 more; and in the mean time why did they not use the \$12,000,000 which they had got from persons who paid the \$300 each, for the purpose of procuring substitutes? Why did they not go on in this way? If it had been done, would it not have been effective? If it had been as effective as the first draft, the result would have been to bring all the men we wanted, and we should not have to go through the whole five drafts to obtain the number of men desired.

Such being my view of the case, I do not see how gentlemen can say justly and truly that this draft law is a failure, and that the experiment made under it shows it to be such. It did not show any such thing.

Mr. SHERMAN. The Senator will also remark that the draft was only enforced in some of the States, not in all.

Mr. WILSON. In twelve or thirteen.

Mr. COLLAMER. I thank the Senator from Ohio for calling my attention to that matter. If the draft had been made and pursued in all the States, I think it would have been effective. I think the experiment, so far as it has gone, speaks loudly in praise of the men who formed and framed that bill; and I cannot but think that to those of us who approved it and voted for it, the result of the draft shows the wisdom and efficiency of it if it had been executed.

Such being my views, I have but a word more to say about the \$300 clause. It has been said by some gentlemen, I observe it has been said by the Senator from Indiana, that there are some people who wanted to pay the \$300 and could not pay it. Well now, Mr. President, seriously and really, suppose that \$300 provision had not been in that law, and a poor man had been drafted, would it have helped him any? He had to go, the Senator says; he could not get the \$300. Would he not have had to go if there had not been any \$300 clause in the law? Certainly. Then how did it hurt him? It did not hurt him at all.

But it is suggested that it let off a neighbor who did pay the money. Indeed! Well, that is so ordered in the direction of divine Providence. It is said that man should eat his bread in the sweat of his face, but there are a great many men among us who own their farms, and never sweat their faces at all. They hire their labor. Wealthy men will do so. That is the ordering of divine Providence; and because one man has to sweat at the face to cultivate the land, while his neighbor by his side does not, I do not see that the first has any ground to be worried about it.

But I ask you, how are you going to get relief from it in the way that is talked of? I do not mean the particular way now before us for consideration—but suppose you repeal the \$300 clause. Why do you repeal it? Because a good many people cannot get the advantage of it, and they feel aggrieved at it. What is the effect of repealing it? In that event, we all agree that the price of substitutes would be a thousand or two thousand dollars. Then there would be a great deal larger number who could not get off, because they could not pay \$2,000. Then you would add to the number of aggrieved people by multiplying it three or four score by repealing the clause. I do not see how by any possibility anybody could be relieved by that.

In short, sir, without occupying further time, I was content with that provision of the law as it stood; and I am content to permit it to stand. My own immediate neighborhood, perhaps, has no personal interest in it. I am informed that the State of Vermont has already filled her quota under the last call of the President, and about two hundred and seventy men over, without counting two whole regiments in the field which have re-enlisted. Though I have, therefore, no personal interest in it, I desire still that the clause should stand, because it is right. I do not shrink from repealing it because of the suggestion of the Senator from New Hampshire—though I think his suggestion is well founded—that by repealing it we acknowledge that we were wrong in inserting it. If we were wrong, I am willing to own it; but I must wait until I am convinced that it is wrong. I am not so convinced.

Mr. LANE, of Indiana. The argument of the Senator from New Hampshire does not strike me at all that because I voted to strike out this provision, I should vote to insert it again. Now, what is our present legislation upon the subject? It is just this: that the able-bodied persons who are deemed subject to draft by the board of enrollment shall either give personal service, hire themselves a substitute, or pay \$300 commutation in lieu of a substitute. By the provision of the bill reported by the Military Committee, that \$300 commutation exemption is proposed to be stricken out. Now, what is the effect of that \$300 exemption in view of the present legislation upon the subject? Under the provisions of that bill, thirty-five thousand men paid their commutation money, and received a certificate of entire exemption for three years; and the conscription law was enforced in but a small portion of the States. If it had been enforced in all the States, instead of thirty-five thousand men who have today in their pockets certificates of exemption for three years, we should have had seventy-five or

one hundred thousand men who would have been exempted under the operations of that law from any draft for three years. That is the effect of it. If thirty-five thousand are now exempted and exempt for three years on the payment of \$300, if you enforce the conscription in all the loyal States, at each return of the draft one hundred thousand men may procure their exemption for three years. The report of the Provost Marshal General will show that we have less than half a million of men to draw from. Then, if we have continual drafts, and exempt at the end of every draft one hundred thousand men for three years, how long will you have any basis to draw from? You exempt these men for three years upon the payment of \$300. That is one of the effects of this system.

Another is that under the conscription law the Secretary of War was authorized to pay the money obtained under the \$300 clause in procuring substitutes. That was the provision of the law. He held that if the \$300 commutation was paid, he had a right to issue a certificate to the man of exemption for three years. Whether it be the law or not, it was the order of the Secretary of War upon which we have operated from that day to this, and which we now propose to render effectual by appropriating \$20,000,000 to cover the very bounties he has given under the provision of that law. That, I suppose, was the proper construction of the law, that a man might pay his \$300 and get a certificate of exemption for three years. If the war is to be prolonged, I show you that at the end of two or three drafts you will have no one that has not an exemption certificate in his pocket, and you annihilate the Army; and if the war is prolonged, whatever is the result of this vote to-day, I tell you with perfect and entire confidence that in less than six months you will have to repeal the \$300 exemption clause or you will have no Army in the field, because, instead of mending the matter, every time you repeat the draft you but exempt more and more men and leave less and less basis to draw your armies from.

Gentlemen tell you that the conscription law was ineffectual because it was not promptly enforced, and because the dose was not repeated until it had the desired effect. You tried the draft in four or five States, you exempted thirty-five thousand men, gave them a certificate of exemption for three years, and if you had tried it in all the loyal States the number exempted would have been much more, and at every returning draft as long as you retain the \$300 clause you will have to exempt in the same proportion. Then where will you get your army from? Do you propose now, in the face of the emergencies under which the country labors, that after July next you shall have no armies in the field?

Gentlemen say, only repeat the draft and the effect must follow. Only repeat the draft and exempt thirty-five thousand men every time, and how long will it be till you get to the end? You must look to this thing squarely. It does seem to me in any view of the case that the \$300 exemption clause should be repealed, and if the war goes on the substitute clause will be repealed also, and every able-bodied man owing allegiance to the Government, and a duty to defend the Government, will have to go in person to fight the battles of the country. You will not only repeal the \$300 exemption clause in less than six months, but you will also repeal the right to obtain substitutes, if the war shall continue.

How does our legislation now proposed correspond with the present order of the War Department, which you propose to sanction by a vote of the Senate, paying \$20,000,000 to cover these additional bounties? Just this, no more and no less: the Government offers \$300 bounty to every raw recruit, if he will enter the Army, and at the same time tells him that if he pay \$300 he need not enter the Army at all. The Government offers to every veteran soldier \$400 bounty, and at the same time says that if subject to draft he may release himself on the payment of \$300. That is, upon one hand you propose to give \$400 bounty, and in the other case you say the man shall buy himself off, an exemption for three years, by the payment of \$300. What sense is there, what practical common sense is there in offering \$400 bounty to a man to enter the Army, and at the same time telling him he may buy his exemption for \$300, \$100 less?

Another injurious effect of the \$300 exemption clause, it seems to me, is this: it did discourage volunteering—I speak in reference to my own State alone, and not in reference to others. While the citizen knew that he might exempt himself by the payment of \$300, and run no risk of a draft, he was unwilling to volunteer. The moment you strike off the \$300 exemption, then he has to take his choice between volunteering and the high bounty or the risk of being drafted into the service of the country; and so all those who are engaged in recruiting in our State with whom I have had correspondence, three or four colonels commanding new regiments, tell me that if you will strike off the \$300 exemption clause they will fill their regiments immediately, but as long as that clause remains in the law men will not volunteer, because the draft has no terror to them; they can buy themselves off for \$300.

I never indulged in this argument that this feature of the conscription law was class legislation of the rich against the poor; I never believed it; but so it was used, and so it was represented, and so I supposed it would be, and hence I opposed it. But I think the \$300 exemption clause has resulted in evil and nothing but evil; and if you intend to maintain your armies in their present efficient condition, you are bound to repeal that clause to-day, or in a few weeks hence—because it is only a question of time—it will be seen that with that exemption your draft is ineffectual, and must necessarily be ineffectual. I might claim for my State what the distinguished Senator from Vermont claimed for his. My State does not dread the draft, and will fill her quota, perhaps, without it. We are willing to fill it, either under the draft or without it. Hitherto they have filled it by volunteering, and I prefer that mode. Give high bounties for volunteering, and if you have a draft at all, do not go into the mockery of a draft, and at the same time tell the citizen he may buy his peace for \$300.

Mr. WILSON. Mr. President, although my committee instructed me to report the amendment, I am opposed to the repeal of the \$300 commutation clause. I know that it was put into the act by Congress for the benefit of the people of the country, to make that law bear as lightly as possible upon the poor, toiling people. It has been demonstrated by experience so to operate. Nobody questions that now. Nobody rises in Congress now and denounces that provision as a discrimination against the poor and in favor of the rich. I believe that the people of the country, by an uncounted majority, are against striking out that provision of the law. That is my conviction; and I believe we ought not at this time to do it. I do not see any necessity for doing it. We have enrolled a large number of men in the country. We shall not draft all those men. A large number of the States will furnish volunteers; some will not. I think we shall have a draft; but I do not believe it will be necessary to continue drafting. We have in the service of the country, and are paying in our Army, I think not less than six hundred and fifty or seven hundred thousand men. We must have from four to five hundred thousand effective soldiers in the field. I do not believe that the rebellion has over two hundred and twenty-five thousand men in arms; and I have very good reason so to believe. I believe that if we do our duty the military power of this rebellion will be crushed out before the 1st of October next.

Mr. LANE, of Kansas. The subject of the number of veteran soldiers going out of the service in the spring is so greatly misunderstood that, with the permission of the Senator from Massachusetts, I will ask him what number of veterans go out of the service between now and the 1st of July.

Mr. WILSON. I cannot tell the number of men who will be discharged between now and the 1st of July. There cannot be, between now and the 1st day of July next, fifteen thousand of them.

Mr. LANE, of Kansas. That is my understanding.

Mr. WILSON. During the present year perhaps one hundred thousand veteran soldiers will go out of the service. The Senator from Iowa, [Mr. GRIMES,] who, perhaps, is too modest to say it publicly, tells me that nineteen regiments under one major general from the State of Iowa have reenlisted. Many other regiments have reenlisted.

A large portion of these old veterans seem resolved that they are in for the war, and intend to fight it out.

Mr. GRIMES. I ought to correct the statement the Senator has made. I said a brigadier general from the State of Iowa. My State does not furnish major generals.

Mr. WILSON. You have General Curtis, one of the oldest major generals in the service.

Mr. GRIMES. I received a letter from him the night before last stating that the second and seventh Iowa regiments, two crack regiments from my State, had enlisted bodily, and had gone home; and he says the remaining number, seventeen, under his command, are all in the process of going home, having almost unanimously reenlisted into the service.

Mr. WILSON. Sir, we want to fill up our armies. Six months preceding the 30th of June last we raised thirty-one thousand by volunteering. From the 30th of June, when the draft commenced, up to the latter part of December, we raised eighty-six thousand men under the pressure of the draft and by the commutation money furnished from the draft. We are receiving now a vast number of men, and if these bounties are continued to the 1st day of February, I think we shall put into the field more than half the men called for by the Government.

Instead of striking out this \$300 provision, which was at one time so misunderstood and so misrepresented, but which in its practical workings has proved so favorable to the poor and toiling men of the country, so much so that it enabled forty-seven thousand of them to pay commutation—instead of repealing that clause, I would amend this bill and decrease the time of service from three years to eighteen months. I believe we ought to do it. Military men may be against it. They would like to have men enlisted for five years instead of three years. You always find that the men connected with the regular Army want long enlistments; but, sir, we are to determine that question, and determine it in view of the interests of the country and the burdens of our people. What are we doing? We ask for men. The Government has called for three hundred thousand men, and I presume that is the number the Government wants, either of old veterans who reenlist, or of new men. More than half of those men I think we shall have enlisted within the next twenty or thirty days. Then we shall have a draft in the portions of the country that fail to furnish their quotas. Why is it that it is necessary to offer these enormous bounties for men to enlist for three years? Why is it that we are drafting men for three years, which to many men appears almost an eternity, when there is not a man of us who believes that the military power of the rebellion can stand twelve months longer?

If we were to call out men to be placed in new regiments, under new officers—mere militia—I would not be willing to reduce the time of service; but we are to put these men into old veteran regiments, where, in thirty days, they will be fit for service. If we reduce the time from three years down to eighteen months, and find a year hence that the military power of the rebellion is not crushed, then we can make a draft for eighteen months longer. I believe the country would hail and welcome this reduction; it would bear more lightly on the people. Thousands of small farmers, mechanics, and laboring men, instead of selling their farms or their shops, or running in debt, to furnish substitutes or pay the \$300 commutation money, would resolve to go into the service and do their part for the suppression of the rebellion. We ought to adopt it, and let this \$300 provision stand in the act. If people choose, rather than go for eighteen months into the old regiments, to get a substitute, or if they choose to pay the \$300, let the Government take the \$300 and get substitutes for them. The Government can get substitutes enough. The Senator from Indiana complains that the Government have not got the substitutes. They have got them, and more too, for we have had to appropriate the money to pay for them. But where did many of these substitutes come from? I understand we have raised more than five thousand men in the State of Arkansas. We have raised four or five thousand men in East Tennessee. We are raising men in the rebel States among the Union men of those States, as our armies advance, and it is for

the interests of the country to have the means to enlist those men, and transfer as far as we can the burden of war from the loyal States to the disloyal sections of the country. Every white man and every black man we put into the service from the rebel States weakens the rebellion so much and strengthens the country.

I want to adopt a policy that shall bear as lightly as possible upon our people—upon our productive industry—and shall fill up our armies. That is the first question; and I want to save the Treasury all the expense that can possibly be saved. I believe our danger is more from want of money than from want of men. I have believed through the war, and I never had any doubt, that Jeff Davis's kingdom would tumble down for want of money, however bravely his men might fight or rush to the battle-field. He is going down. He is perishing every hour because he has not money and cannot get money; and we are strong because our finances have been so managed that we have been able to meet our obligations and keep our currency comparatively sound.

It appears to me that in raising men at this crisis of the war to put into the old regiments for three years, we are compelled to pay double the bounties we should pay if the term of service was only a year and a half; and if we draft, we are putting what the people believe to be a burden upon them by drafting for three years. When you say to a young man that he shall be drafted and serve three years, he feels that it is a great portion of his life; but if you say to him he shall only be drafted for twelve or eighteen months, he begins to think that is not a long period, and he goes into the service more cheerfully and feels it to be less of a burden.

But the Senator from Indiana tells us that we pay a bounty of \$300 to a raw recruit, and we let him off for \$300. He told us that we paid a bounty of \$400 to a veteran, and allowed a drafted man to escape on the payment of only \$300. The Senator forgot to tell us that by law we pay a bounty of \$100, and when the Government reenlists a veteran, it uses precisely the \$300 received from a drafted man to obtain a substitute and the \$100 now appropriated by law.

I have prepared an amendment to the bill, to reduce the time of service of drafted men from three years to eighteen months. I believe it the wisest thing we can do to fill our armies, and have them ready at the opening of the spring. Then, if it is found necessary, the Government can call for more men at any other time. If we find before Congress adjourns that the position of affairs requires us to make a change for the future, we can do so. If we find a year hence that the rebellion is not broken down, then we can change the law or we can call for men for eighteen months more. When the proposition now before the Senate is disposed of, I propose to offer this amendment, and test the sense of the Senate upon it.

Mr. COWAN. I hope, sir, that the present pending amendment will not be adopted. I have become satisfied in my own mind from everything I have seen and heard in relation to the draft that the law is now in this respect just about as well as we can make it, and what is better, the people now understand it and its operation. That is a great deal in any law, if it is once understood and accepted by the people.

I agree with the honorable Senator from Massachusetts, that the time for which the President calls for these men is too long. Three years is too long a term, and that was really the main objection on the part of the people to serve under the late draft. If it had been one year, or if it had been eighteen months, I think the response would have been such a one as would have gratified the country; but to ask a man to serve for three years in the Army is about equivalent to asking him to go for a lifetime; because, in three years the chances are very much against his returning safely in life and limb. But, sir, it seems to me the responsibility for that is upon the executive department of this Government. There is nothing in the law which obliged them to call for men for three years, and it was expressly understood here, in the discussion of the bill last year, that it should be at the option of the President as to the length of time for which he would call the men out.

There is another thing which I wish to suggest here. I think the seventeenth section of the original bill requires amendment, and it requires it

simply because it is not fair. That section provides—

"That any person enrolled and drafted according to the provisions of this act, who shall furnish an acceptable substitute, shall thereupon receive from the board of enrollment a certificate of discharge from such draft."

Now, if the section stopped there it would be all right, but it goes further, and declares that that

"Shall exempt him from military duty during the time for which he was drafted; and such substitute shall be entitled to the same pay and allowances provided by law as if he had been originally drafted into the service of the United States."

It is obvious at first sight, if we suppose the substitute liable to draft, that this allows two men to escape by performing the service to which each might have been liable. Therefore I think that the same construction ought to be put that, which is the true one, in my opinion, has been put upon the thirteenth section. That is the section which it is now proposed to repeal, the section which allows the exemption upon payment of \$300. The effect of that, as stated in the section itself, is this:

"And thereupon such person so furnishing the substitute, or paying the money, shall be discharged from further liability under that draft."

The fair meaning of that is, that when the President of the United States calls for three hundred thousand men, and the draft is made, and a man stands his chance and is drawn and furnishes a substitute, he shall not be put into the wheel and made subject until the whole of that quota shall be filled; or, in other words, he is not again liable to draft under that call. In the same way, if he furnishes a substitute, he ought not to be liable unless his substitute, being liable to draft, should himself be drafted, and if in that case he is drafted, the principal should stand for him. It will be found upon an examination of the several provisions of the State laws, the old militia laws, that they always provided for such a result; that is, where the substitute was accepted, and the substitute himself being liable to draft was afterwards drafted, then his principal was bound to answer for him.

I think that alteration should be made in this law, and I would agree to that amendment; but any amendment affecting the \$300 clause now I think would be injudicious. I do not see upon what principle the amendment of the Senator from Massachusetts [Mr. SUMNER] is based. Under the draft the people are drawn by lot; it is by chance; and if a man is drawn to serve, that is his ill-luck. There are eight or ten others of his fellows who would be drawn. You tell him he can avoid serving either by getting a substitute or paying \$300. But the amendment of the honorable Senator from Massachusetts seems to threaten him with a surcharged amount of ill-luck. He proposes not only to compel him to pay \$300, but because he happens to be rich he taxes him three, six, or ten per cent. in proportion to his income. If we had all the rich people in that category it might be fair; but it will be remembered that he has only one out of some ten or a dozen, and that one drawn by lot. Therefore I think it is not fair. Let there be a fair administration of the law, and let its hand be laid on the people equally, and my word for it the people will respond, and will respond generously. Make it unfair; make it severe and harsh, and they will not respond.

I think the honorable Senator from Indiana in his argument forgot a most important fact in the consideration of the operation of the draft. He assumes that all men are soldiers. That is not so. There are a certain number of gamecocks in every community, and there are a certain number of other men who are not soldiers, who are not fitted for that life, and who would be of no use in the field; and yet they are liable to perform their duty to the country; they are liable to do what they can, what they are qualified to do, but I think even in the earliest times they were allowed to commute for their personal service by the payment of money. Anciently, in feudal times they paid escuage. They paid a certain sum for the absence of the escutcheon or shield which they were bound to carry into the wars with their lord. I think it will be found in the commutations of the people everywhere, when they came to demand from their masters exemptions from former burdens, that one of them was, that they should not be compelled to go into the mili-

tary service, but that they should be allowed to commute after the fashion of escuage. I do not know that there has ever been any great popular commotion in any country in Europe in which that was not made one of the demands, when asking for their Magna Charta; and therefore I have always been in favor of this provision exempting weak, timid men, men not qualified to take the field and become soldiers, upon paying a certain amount of money. I think it is well that that sum should be fixed and certain, so that they may know what it is. I am pleased to say, too, that I think no man, at least no man in my neighborhood, of whose case I was cognizant, was unable to raise the \$300 to pay his commutation. The law therefore is satisfactory as it is, and I think ought not to be changed.

EXECUTIVE SESSION.

Mr. WILKINSON. I move that the Senate proceed to the consideration of executive business. My object in making this motion is to have a treaty referred. I am satisfied we shall not get through with this bill to-day.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened and the Senate adjourned.

IN SENATE.

Monday, January 11, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Friday last was read and approved.

The VICE PRESIDENT. Petitions are in order.

Mr. DAVIS. I rise to a privileged question. The VICE PRESIDENT. The Senator will state his question.

Mr. DAVIS. I wish to have the resolution offered by the Senator from Massachusetts [Mr. WILSON] for my expulsion, on the last day that the Senate was in session, taken up and considered.

Mr. WILSON. I hope not.

Mr. DOOLITTLE. I hope the Senator will allow us to present petitions.

Mr. DAVIS. I have no objection to the introduction of morning business.

The VICE PRESIDENT. Does the Senator from Kentucky withdraw his motion?

Mr. DAVIS. I do for the present. If the Chair please, some gentlemen suggest to me to withdraw the motion until the morning business be got through with, and I do it for that purpose.

PETITIONS AND MEMORIALS.

Mr. DIXON presented a petition of the religious Society of Friends of the State of New York, praying for exemption from military duty; which was referred to the Committee on Military Affairs and the Militia.

Mr. RAMSEY presented a petition of the religious Society of Friends of the State of New York, praying for exemption from military duty; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER. I present a petition of citizens of Massachusetts, praying Congress to pass a law providing for a uniform ambulance corps for the armies of the United States. This is signed by upward of fifty citizens of Massachusetts, among whom are the Governor of the Commonwealth, the executive council, many members of the State senate, the speaker of the house of representatives, the bishop of the diocese, and also other distinguished citizens. I move its reference to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. DOOLITTLE presented three petitions of citizens of Wisconsin, praying that the Constitution of the United States may be so amended as to prohibit slavery in all the States and Territories of the United States; which were referred to the Committee on the Judiciary.

Mr. FOSTER presented the petition of John Cornwall and others, merchants of Bridgeport, Connecticut, praying that the petition of the South American Steamship Company, asking aid to establish postal communication by steam vessels with the countries of South America, may be granted; which was referred to the Committee on Commerce.

Mr. HOWE presented additional papers in relation to the petition of William Porter and William Larkins, praying for relief; which were referred to the Committee on Commerce.

Mr. POMEROY presented the petition of George A. Schreiner, pilot of the steamer Sunshine, praying for a pension for the loss of an arm at the battle of Lexington, Missouri; which was referred to the Committee on Pensions.

Mr. POMEROY. I also present the petition of Mrs. Rebecca M. Dickson and other women of Douglas county, Kansas, some two hundred in number, praying that Congress may take action for the amendment of the Constitution so as to provide for the abolition of slavery throughout the United States; and I have another petition of the same character, signed by two hundred men of Douglas county, Kansas, making the same prayer.

This petition has peculiar significance to my mind from the fact that twelve of the men who signed it on the 18th day of August last were massacred on the 21st day of August, at the time of the destruction of Lawrence, and this is their last effort and prayer in this direction. I take up the sentiment that they expressed in this petition, and take it up where they left off, and hope and pray that the prayer of the petition may in some way be granted. There is no suitable committee to which to refer these petitions specially, and I should therefore like to have them lie on the table until some committee be appointed that shall have the subject in charge.

The petitions were ordered to lie on the table.

Mr. MORGAN presented the petition of Garrett R. Barry, paymaster in the United States Navy, praying to be relieved from all responsibility as bondsman for Paymaster John De Bree, for loss, in consequence of the disaster to the United States frigate Cumberland; which was referred to the Committee on Naval Affairs.

Mr. RAMSEY presented the petition of Mary Wacontah, Martha Wacontah, and Lucy Carron, half-breeds or mixed bloods of the Dakota or Sioux nation of Indians, praying that the Commissioner of Indian Affairs may be authorized to issue to them Sioux half-breed certificates or scrip, under the same restrictions that applied to the certificates issued to the former recipients of the scrip in November, 1856; which was referred to the Committee on Indian Affairs.

Mr. LANE, of Indiana, presented a petition of the "Chicago Workingmen's Association," of Chicago, Illinois, praying that the \$300 exemption clause may be stricken out of the enrollment law, and also the clause authorizing the employment of substitutes; which was referred to the Committee on Military Affairs and the Militia.

Mr. COWAN. I present a memorial of the religious Society of Friends of the State of New York, praying for exemption from military service; and I also present the memorial of the presbytery of Saltsburg, Pennsylvania, praying that clergymen may be exempt from military service. As these subjects are now under consideration in the Senate, I suppose these memorials may lie on the table.

It was so ordered.

Mr. COWAN also presented the petition of Henry Kauffelt and others, praying compensation for their property destroyed by the United States Army at Wrightsville, York county, Pennsylvania, in burning the bridge across the Susquehanna at that point; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HOWE, it was

Ordered, That the petition of Joseph C. G. Kennedy, praying for indemnification for damage done to buildings belonging to him while they were used by the Government, be taken from the files of the Senate, and referred to the Committee on Claims.

On motion of Mr. HOWE, it was also

Ordered, That the memorial of Joseph C. G. Kennedy, praying for a repeal of the joint resolution of December 23, 1853, relative to the salary of the Secretary of the Census Board, be taken from the files of the Senate, and referred to the Committee on Claims.

REPORTS FROM COMMITTEES.

Mr. ANTHONY. The Committee on Printing, to whom was referred a motion to print the memorial of the common council of the city of St. Paul, praying for a grant of lands to aid in the construction of a railroad from St. Paul to the

THE CONGRESSIONAL GLOBE.

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head of Lake Superior, ask to be discharged from its further consideration, in pursuance of the rule which the committee has adopted not to print memorials.

The report was concurred in.

DISTRICT LAWS.

Mr. GRIMES. On Friday last a communication from R. S. Cox, appointed by the President of the United States to codify and revise the laws of the District of Columbia, was referred to the Committee on the District of Columbia. The report embraces a great many interesting and instructive facts which the committee believe it is important to have printed. They have therefore instructed me to move that the communication of Mr. Cox be printed for the use of the Senate.

The motion was agreed to.

BILLS INTRODUCED.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 45) to set apart a portion of the State of Texas for the use of persons of African descent; which was read twice by its title.

The VICE PRESIDENT. To what committee shall the bill be referred?

Mr. LANE, of Kansas. The committee to which that bill is to be referred is not yet organized. I therefore move that for the present it lie on the table, and be printed for the use of the Senate.

The motion was agreed to.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 46) to remove doubts on the construction of the joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862; which was read twice by its title.

Mr. SUMNER. As that bill relates to a very important question that has already been brought to the notice of the Senate at this session, I move that it be printed for the use of the Senate, and be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 47) to authorize the Commissioner of Indian Affairs to issue Sioux half-breed certificates or scrip to certain persons therein named; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. McDougall asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 13) in relation to the occupation of Mexico; which was read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 14) presenting the thanks of Congress to Cornelius Vanderbilt for a gift of the steamship Vanderbilt; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 16) proposing amendments to the Constitution of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House of Representatives had passed a bill (No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1865; in which the concurrence of the Senate was requested.

CUSTODY OF DRAFT COMMUTATION MONEY.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 15) amendatory of the joint resolution to supply in part deficiencies in the appropriations

for the public printing, and to supply deficiencies in the appropriation for bounties to volunteers; which was read twice by its title.

Mr. WILSON. I wish simply to say that this is an amendment to a joint resolution passed during the present session, and is strongly recommended by the Secretary of War. It is a slight change in that resolution in regard to the payment and keeping in the Treasury of the money paid in from the commutation fund; and if there be no objection, it would be an advantage to pass it at this time.

The VICE PRESIDENT. The Senator from Massachusetts asks the unanimous consent of the Senate to consider this resolution at the present time. Is there any objection?

Mr. COLLAMER. I desire to have it read.

The VICE PRESIDENT. It will be read.

The Secretary read the joint resolution, which directs that the money paid by drafted persons under the act for calling out the national forces, and for other purposes, approved March 3, 1863, or that may be paid under any act for like purposes, shall be paid into the Treasury of the United States, and shall be drawn out on requisitions, as other public moneys, for the expenses of the draft, and for the procurement of substitutes, for which purpose the money so paid is now appropriated.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) Is there any objection to the present consideration of the bill?

Mr. GRIMES. I confess I do not understand it. I should like to inquire of the Senator from Massachusetts if there is any necessity for this bill being passed at once without being printed.

Mr. WILSON. There is.

Mr. GRIMES. Without being printed?

Mr. WILSON. Oh, no. I will tell the Senator all the difference there is between this resolution and what is already done. The joint resolution we passed in December provided that this money should be deposited in the Treasury and set apart as a special fund. The Secretary of the Treasury finds great difficulty in that arrangement, and desires that it shall be put into the general Treasury, and drawn out on warrant for this special purpose. That is all the difference. It was suggested the other day, when we had that resolution under consideration, by the Senator from Vermont, and I think that is the proper way.

Mr. COLLAMER. I tried to get it then.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ARREST OF SOLDIERS IN MISSOURI.

Mr. WILKINSON. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of War be, and he is hereby, instructed to inform the Senate whether he has any official information in his Department relating to the arrest and imprisonment by the military authorities in Missouri of a large number of the private soldiers belonging to the ninth Minnesota regiment; also, as to the cause of their arrest and imprisonment, how many have been so arrested, and how long they have been confined in prison.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. WILKINSON. Mr. President, some time in the month of September or October last, five regiments of Minnesota volunteers were sent into the State of Missouri. One of those regiments, the ninth Minnesota volunteers, was sent to and stationed at Jefferson City. A few days after they were encamped at that city, a negro came into the camp and told the private soldiers that he was a freeman, and that his master was a rebel who had gone into the service of the confederate government. He also stated to the soldiers that some men, by the permission of the commandant of that post, one General Brown, I believe, had the wife and children of this negro on board the cars, taking them South for sale. These soldiers having been recently sent down there from the pure atmosphere of Minnesota, thought that this was an outrage, and about forty of them, as I learn, started for the depot, found the train of cars

standing there with the passengers all on board, and took the woman and children out of the hands of the traitors who were conveying them out of the State, and delivered them over to their husband and father. This was probably eight weeks ago. Thereupon forty of these soldiers were arrested and put into prison, where they now remain, as I understand. In regard to the facts, I wish to read an extract from a letter that I have received from a member of that regiment:

"You have undoubtedly learned that under the Schofield regime about forty of our men, of companies C and K, have been in prison at this place for weeks past, for merely preventing an openly announced rebel from running his slaves to St. Louis for sale. (While I cannot possibly, under my present restraint of Army regulation, speak fully as I would wish in this particular, I can characterize the outrage of imprisoning these men as unjustifiable, and an act of military official baseness that certainly demands inquiry beyond the jurisdiction of the pro-slavery tyrants who have caused their incarceration.)"

I received another letter from a member of this regiment a few days after it was stationed at Jefferson City, stating that one of the privates going fresh into the Army from our State was arrested, that a ball and chain were attached to his leg, and that he was compelled to drag them around the camp, for the offense of having hallooed for Jim Lane. I do not know that he knew much about Senator LANE; but my impression is that these things in the State of Missouri must stop. I, for one, am not willing that a private soldier shall be thus incarcerated and kept in prison, and the men of that regiment, and indeed all our soldiers in that State, be demoralized, to gratify the pro-slavery feelings of the officers in command in that State.

I wish further to know, Mr. President, whether these things are done by the local military authorities of the State of Missouri, or whether they are done under the sanction of the authorities here in Washington. While we are devising all the means in our power to raise soldiers to recruit our armies, a power is found in the State of Missouri which is demoralizing our soldiers; for I say before the Senate to-day that these five thousand men from my State in Missouri cannot and will not make good soldiers if they are to be placed and kept under the control of such men as seem to be governing the military authorities in that State. This regiment will be utterly demoralized if these soldiers are not released from their confinement, and I venture to say that it is as good a regiment as is to be found anywhere in our Army. It is true that its members have an idea somehow that a negro whose master is in rebellion is a free man; it is true that they thought also that his wife and children belong to him; and perhaps they may have committed some little act of insubordination in not obeying the command of General Brown, who, I have learned, was on the train of cars from which these colored people were taken; but one thing is very certain, that if we want these men to fight they must be treated a little differently. I have offered this resolution for the purpose of ascertaining whether the Department knows anything about the arrest and imprisonment of these men, and I shall insist, as the representative of the State of Minnesota, that our soldiers shall be treated differently in the future than they have been in the past in the State of Missouri. I will never consent that they shall be made the tools of the slavery-loving tyrants of Missouri.

Mr. LANE, of Kansas. Mr. President, the Secretary of War will have no difficulty, if he takes the proper steps, in ascertaining that scores if not hundreds of soldiers have been confined in the guard-houses of Missouri for no other offense than hallooing for Jim Lane. It is currently reported that two soldiers at Chillicothe, in that State, were bayoneted for no other offense than that.

Mr. SUMNER. By whose orders?

Mr. LANE, of Kansas. I will endeavor to answer before I close. On that occasion it is reported there were five soldiers arrested for that offense. Four of them were forced into jail; two of them were bayoneted while they were being forced into jail; the fifth escaped. The

company to which these five men belonged was stationed some five or six miles from Chillicothe. The fifth man went over from that town, told the story to the company, and the company *en masse* started for Chillicothe, released the four men who were incarcerated, and compelled the commander who had incarcerated them to halloo for Jim Lane. What became of him, whether he died of the loyal dose or not, I am not able to say; but the rumor is as I have stated.

I desire to say to the Senator from Minnesota that the matter is under investigation, as I understand, by a committee of the Legislature of the State of Missouri, now in session. I am very thankful to him that he has called the attention of the War Department to the subject. In answer to the question propounded by the Senator from Massachusetts, I will say that I think it will be found that the Gamble régime is responsible; the officers appointed by the Governor of the State are the criminals. The soldiers are unconditional Union men, anti-slavery all of them, with scarcely an exception. The officers appointed by the Gamble régime are, I think I can say, almost without exception pro-slavery men. It has been the practice—and if I am mistaken the Senator from Missouri [Mr. Brown] can correct me—that when a man in the military service of the State of Missouri is found unconditionally loyal and anti-slavery in his feelings, that has been a sufficient cause for his removal, and he has been immediately removed.

Mr. HENDERSON. I certainly desire that the resolution shall be passed, as it is a resolution of inquiry. It is perhaps very appropriate that the inquiry should be made. I will state, however, that I know nothing of the circumstances alluded to in the resolution in reference to the arrest of these men by General Brown. I know General Brown personally; I have not known him a great while; but I am very well satisfied that there must be some mistake in the representation that General Brown is a pro-slavery man. I have not so regarded him. He has been in command at Jefferson City for some time. It is true that I am not very familiar with his history. I know simply that he fought with a great deal of gallantry at Springfield and lost his arm there, and that he has behaved with great gallantry whenever he has been called upon to do his share in the defense of the country. That is as much as I know of him. I know nothing of the circumstances alluded to in the resolution. It is a resolution of inquiry; and if the soldiers have been improperly treated there it is but just that the country should know it; but I cannot for a moment think there is any correctness in the inference drawn here that General Brown has mistreated the soldiers from Minnesota in consequence of any pro-slavery feeling on his part. It may, however, be the case. I should like to have the facts, and therefore I shall vote for the resolution.

Mr. BROWN. Mr. President, I am very glad that some step has been taken to initiate an inquiry into the military management of affairs in the State of Missouri. I venture the assertion that no State in its military affairs has been so disastrously managed as my own. I do not propose at the present time, but shall take some other occasion, to enter into the discussion of that management in its details, and to suggest what I believe to be the remedy. I desire simply to state now that I have received communications from loyal members of the Legislature at Jefferson City, setting forth the facts in regard to the case which has been alluded to by the Senator from Minnesota, and they confirm the statement which he has made. They go on further to say, what I can very well understand, that it is only part and parcel of the programme which has prevailed there for more than a year past. I can also indorse the statement made by the Senator from Kansas in regard to the warfare which has been made in that State by the military authority upon the free-soilers of Missouri. It is true, sir, every letter of it is true. I can go further than that, sir, and say that it is done not alone by the Gamble dynasty and the appointees of the Governor of Missouri, but it is sanctioned, indorsed, and urged on by the military commander of the United States in that department.

Mr. HOWARD. Name him.

Mr. BROWN. Schofield. I trust, sir, the resolution will pass, and I trust we shall have an

opportunity to take a full review of the acts of oppression and of hostility to the loyal, freedom-loving sentiment in that State, and that we shall be able before long to take such action as will preclude its continuance there.

The resolution was agreed to.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1865, was read twice by its title, and referred to the Committee on Finance.

PRINTING OF CENSUS.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That in addition to the number ordered for the use of the Senate of the several parts of the eighth census, there be printed and bound one thousand copies for the use of the Secretary of the Interior, and one thousand copies for the use of the Census Office.

CLERKS OF COMMITTEES.

Mr. TRUMBULL submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That such of the clerks to the standing committees of the Senate as have been on duty since the first day of this session be paid therefrom.

PROPOSED EXPULSION OF MR. DAVIS.

Mr. DAVIS. I now renew the motion that I submitted some half hour since to take up the resolution of the Senator from Massachusetts [Mr. Wilson] in relation to my expulsion.

Mr. LANE, of Kansas. I am not prepared to take up that resolution at the present time. In lieu of it, I was going to propose that the resolutions introduced by the Senator from Kentucky be reprinted for the use of the Senate.

The VICE PRESIDENT. The question before the Senate is on proceeding to the consideration of the resolution indicated by the Senator from Kentucky.

Mr. LANE, of Kansas. If those resolutions are of the nature I understand them to be, I am prepared to vote to exclude the Senator from Kentucky.

Mr. HOWARD. I hope that resolution will not be taken up this morning. In my opinion, it involves some very serious and grave considerations and matters, into which I, for one, desire a little more time to make inquiry. It is a matter undoubtedly of considerable importance to the Senator from Kentucky. It is important, also, to every member of this body, and the good name of the body, and to its future history. I hope the Senate will not now take it up for consideration, but will allow it to lie over a few days, for it is my intention, so far as I am concerned, to say a word on the resolution when it comes up fully before the body, and I am not prepared this morning to go on with the remarks that I may be able to make upon it. It is a grave and important resolution, as the gentleman from Kentucky will discover before it is finished in this body, and we ought to approach it with care and caution.

Mr. SUMNER. I suggest that the Senator from Virginia [Mr. Carlisle] is expected to announce to-day the death of our late colleague. That suggestion should be a sufficient reason, I think, why we should not enter upon the consideration of the resolution referred to in the motion of the Senator from Kentucky.

Mr. DAVIS. I had not intended to disparage or to underrate the gravity of the resolution under consideration, so far as it affects me personally or the Senate, now or in the future. I am well apprised of its gravity. Neither am I surprised to hear the Senator from Kansas announce his purpose to vote for my exclusion from the Senate. But, sir, the resolutions which I submitted to the Senate were laid upon the tables of members on the 5th of this month, and every gentleman who chose, and I suppose most of them have done so, has had an opportunity to read them. The Senator from Massachusetts on Friday last drew up an indictment against me, embodying one of those resolutions, in part, and, for reasons deduced by him from it, asking for my expulsion from the Senate as a member thereof. Now, Mr. President, I am, as it were, under arrest, not exactly military arrest, of which the Senator from Massachusetts seems so much enamored, but still a sort of arrest.

I am entitled to a seat on this floor rightfully or I am not; and that is the question I want decided by the Senate.

If Senators were not prepared, or had not had an opportunity of being prepared to understand this subject, and to act advisedly upon it, I certainly would accord to the suggestions of different gentlemen, and desire that the matter should be postponed to give them time to make fresh investigation; but I presume that every Senator here present, as the Senator from Kansas has so promptly avowed himself, is ready to act upon and to vote on this resolution. If there be no real cause why this subject should not be considered now, it is a matter of injustice to myself that I should thus be left suspended before the Senate.

The Senator from Massachusetts avowed that he had undertaken this proceeding and introduced this resolution without consulting a Senator. "Solitary and alone he put this ball in motion." But I suppose my resolutions attracted as much attention on the part of other Senators as on the part of the Senator from Massachusetts, and that he had no more opportunity to be prepared to render a decision on the resolution to which he has particularly referred, and every other resolution embraced in the series, than other gentlemen had, and that they are as well prepared, with the exception probably of the honorable Senator from Michigan, [Mr. Howard.]

The Senator from Michigan avows it as his purpose to say something on this matter. Be it so. I suppose other Senators, probably several, will say something upon the matter too. If so, there will be ample time for the Senator from Michigan to look into the matter to make any investigations or researches that he may choose either of fact or of authority, and to prepare himself fully and deliberately to give his views, which are always so able and so satisfactory upon all subjects of which he chooses to enter into the discussion, to the Senate.

Gentlemen can well conceive the position in which I am placed. I do not expect them to act from any courtesy or kindness to me. I do not ask it. All I ask is justice, that they shall act toward me in the premises as they would be willing and desirous for others to act toward themselves.

I do hope, Mr. President, that the Senate will take up this resolution and enter upon its consideration; and after it is taken up and entered upon, whatever time the honorable Senator from Michigan may desire, I shall not only concur in, but I myself shall insist he shall have in order to make the fullest preparation he may desire.

Mr. WILSON. If it be in order, I will move to assign the resolution for consideration on Wednesday next, at one o'clock.

The VICE PRESIDENT. If the resolution should be taken up, it would then be in order to move a time certain for its consideration.

Mr. FOSTER. I would suggest whether, as a question of privilege, it be not before the Senate when it is suggested to the Senate.

The VICE PRESIDENT. It is not, in the opinion of the Chair.

Mr. FOSTER. I suggest whether it requires any vote to take up a question of privilege?

The VICE PRESIDENT. In the opinion of the Chair it does, and the Chair has so ruled uniformly, that it does require a motion; that it does not come up of its own power, although it is a privileged question.

Mr. FOSTER. I will suggest that there is a difference between a privileged question and a question of privilege. This is a question of privilege.

The VICE PRESIDENT. Undoubtedly; but still it is within the control of the Senate, subject to the notion and action of the Senate, whether a question of privilege or a privileged question.

Mr. ANTHONY. I hope the resolution will not be taken up and assigned to any day this week. We have very important business before us that should be considered this week. I have not yet read the resolutions of the Senator from Kentucky. It is a considerable task to read them carefully. We have had only one day's vacation this last week, and I think we ought to postpone this subject until some time when we adjourn over from Thursday to Monday, and when we can have an opportunity to read those resolutions. I hope this resolution will not be taken up until we have got through with the enrollment bill.

Mr. DAVIS. As there seems to be an indisposition to consider the subject now, I should be gratified if the Senate would allow the resolution to be taken up this morning, and an early day assigned for its consideration. I will ask that from the courtesy of the Senate.

Mr. JOHNSON. I rise for the purpose of inquiring from the Senator from Kentucky whether, if the resolution were taken up now, he would be willing to have it postponed until Wednesday next, or any other day in the future the Senate may think proper to fix.

Mr. DAVIS. Most certainly.

Mr. JOHNSON. I was about to say, however, that in my opinion—I speak it with all proper respect for the opinion of the Senate—a resolution like this to expel a Senator should be disposed of at once. I can very readily understand that the Senator from Kentucky feels sensitive while such a resolution is on the table. Whatever time the debate to which it may give rise shall take of the other business of the Senate is not so much his fault, if it be a fault at all, as the fault of the Senator from Massachusetts, who proposed the resolution. But speaking for myself, and judging of the feelings of the Senator from Kentucky by those which I am sure would actuate me, I never could sit still without constant and hourly effort to have the resolution disposed of.

Mr. FOSTER. I confess I had supposed that a question of this kind, when brought before the Senate by motion or by remark, became the question before the Senate, and that, as a question of privilege, it excluded any question then pending, taking priority of all other questions. The decision of the Chair, however, is adverse to me, and of course I yield to it. I must, however, think that, if that be not the rule, propriety requires that a question of this sort should be disposed of at the earliest possible day. I confess if such a resolution were pending in regard to me I should insist pertinaciously upon having it disposed of as speedily as possible, and I should think the Senate were unjust to me if they did not do so. I am willing to mete out to others the same measure that I would ask to have meted out to myself. If, therefore, the Senator from Kentucky wishes this resolution taken up and considered at the present time, unless there be some great public question here paramount to all individual rights and interests, I shall vote to take it up and to consider it.

Mr. HOWE. I rose just now substantially to say what has been said by the Senator from Connecticut better than I could have said it myself. I am in the condition of the Senator from Rhode Island precisely. I have never read, and I do not know that I have ever seen the resolutions introduced by the Senator from Kentucky, and upon the doctrines of which, as I understand it, the resolution of the Senator from Massachusetts is predicated. But I do not understand that there is any question of fact to be inquired into. We need no investigation. I understand the misconduct, whatever it may be, attributed to the Senator from Kentucky, is apparent upon the face of certain resolutions that he has introduced here. If the Senator impeached is anxious for a speedy trial, although there may be no clause of the Constitution which gives it to him, it seems to me every rule of propriety requires us to accede to him a trial as early as he sees fit to ask it. I understand, however, from the Senator that he does not propose to press the discussion this morning. He asks the Senate to proceed to its consideration, and is then entirely willing that the discussion of it shall be postponed to a day certain, if the day be an early one, and I understand he is not very particular as to the precise day that shall be assigned. I hope the Senator will be gratified in this regard.

The VICE PRESIDENT. The question is on the motion of the Senator from Kentucky to take up the resolution indicated by him.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. WILSON on Friday last:

Whereas the Hon. GARRETT DAVIS, a Senator from the State of Kentucky, did, on the 5th day of January, A. D. 1864, introduce into the Senate of the United States a series of resolutions in which, among other things, it is declared that "the people North ought to revolt against their war leaders and take this great matter into their own hands," thereby meaning to incite the people of the United States to revolt against the President of the United States

and those in authority who support him in the prosecution of the war to preserve, protect, and defend the Constitution and the Union, and to take the prosecution of the war into their own hands: Therefore,

Be it resolved, That the said GARRETT DAVIS has, by the introduction of the resolutions aforesaid, been guilty of advising the people of the United States to treasonable, insurrectionary, and rebellious action against the Government of the United States, and of a gross violation of the privileges of the Senate; for which causes he is hereby expelled.

Mr. DAVIS. If my own wishes could be consulted in relation to the subject, I would ask that the Senate proceed to its immediate consideration, but I do not desire to seem ungracious or to press unreasonably the consideration of this resolution. I will therefore move that it be postponed to and made the special order for Wednesday next at one o'clock.

The motion was agreed to.

DEATH OF HON. LEMUEL J. BOWDEN.

Mr. CARLILE. Mr. President, during the recess, death has made vacant the seat beside me. LEMUEL J. BOWDEN, my colleague in this body, died, in this city, on Saturday, the 2d instant. Mr. BOWDEN resided in the extreme eastern part of our State, several hundred miles from me, and with his early life I am entirely unacquainted. I first met him in 1851, as a member of the convention that formed the present constitution of our State. In that body he early took rank among its readiest and ablest debaters. Residing in a section of the State where the people were almost a unit in favor of secession, he never faltered in his devotion to the Union. He was an able lawyer, an accomplished gentleman, a sincere patriot, and an honest man. I move the adoption of the following resolutions:

The Senate having received the sad intelligence that (during the recess of the two Houses of Congress) Hon. LEMUEL J. BOWDEN, Senator of the United States from the State of Virginia, departed this life in the city of Washington, on Saturday, the 2d instant, and also that the funeral was conducted under the arrangement of the committee appointed for that purpose by the Vice President, and carried out by the Sergeant-at-Arms of the Senate: Therefore,

Resolved, That the Senate, in order to testify their respect for the memory of Hon. LEMUEL J. BOWDEN, late a Senator of the United States from the State of Virginia, will wear the usual badge of mourning for the space of thirty days.

Resolved, That as an additional mark of respect for the memory of the deceased, the Senate do now adjourn.

Mr. WILLEY. Mr. President, although my acquaintance with Mr. BOWDEN was not very intimate, yet it was sufficient to justify me in saying that the Senate and the country have cause to regret his demise. He was, I understand, about fifty-two years of age at the time of his death. He was an eminent lawyer. Perhaps there were none more so in lower Virginia. He had served two or three sessions as a delegate to the General Assembly of Virginia, acquitting himself honorably and with benefit to the State. I first became acquainted with him in 1851, during the session of the constitutional convention of Virginia, of which he was a member. The question which absorbed the especial attention of that body, was the basis of representation in the two Houses of the General Assembly. The people of the western part of the State insisted that representation should be apportioned according to white population, or the right of suffrage. The people of the eastern section of the Commonwealth demanded that it should be apportioned according to population and property or taxation. The former was called "the white basis," sometimes "the suffrage basis;" the latter was called "the mixed basis," sometimes "the black basis." The alleged policy of the mixed or black basis was to protect the eastern part of the State, largely interested in slaves, against oppressive and inordinate taxation by the western part of the State, which had a large majority of white population, but comparatively few slaves. Mr. BOWDEN was one of the very few members of the convention residing east of the Blue Ridge who espoused the principle of the right of suffrage as the true source of the legislative power of the State, and planted himself firmly on "the white basis;" consequently he became the object of the most violent denunciation both in the convention and out of it. Public meetings were called in the district which he represented, and strong efforts were made to instruct him to resign his seat; but he went home, met his adversaries everywhere on the hustings, defeated their designs, and was nobly sustained by his constituents. I am happy to-day, Mr.

President, to be made the organ through whom the people I represent on this floor acknowledge the debt of gratitude which they owe to the deceased for the disinterested and distinguished services which he rendered to them on that occasion. West Virginia will ever cherish his memory.

But the firmness with which Mr. BOWDEN always adhered to his convictions of what was right, has received more recent and more signal illustration during the present melancholy rebellion. He resisted the principle and policy of secession from first to last. Residing in a section of the State where this fallacy was most rampant, he kept himself free from all taint of disloyalty. Surrounded by the most illustrious champions of those delusive ideas of State supremacy over national allegiance, always so predominant, and now so fatally disastrous, in Virginia, he maintained his integrity unimpaired, and, at the risk of his life, never forfeited either his self-respect or his fealty to the national Government. When the authorities of the insurrectionary organization at Richmond seized his property for the payment of taxes, he paid the taxes to save his property from sacrifice, but not until the collector had given him a certificate that the payment was made under duress.

One of the most effective agencies which the haughty instigators of the rebellion have brought to bear upon the people of the South, is the exclusion from all social relations of those who refuse to adhere to their guilty cause. Mr. BOWDEN, living at the very seat of the ancient aristocracy of Virginia, constantly receiving and elegantly dispensing those hospitalities for which Virginia has been so famous, was literally driven from society with the most imperial contempt. Yet, thus isolated and ostracized—standing alone, as it were, in the midst of former friends—contemned—hissed at—shunned as a leper, he never faltered in his allegiance, but patiently awaited the hour when the returning flag of the Republic should rescue him from his captivity and his disgrace. It did come; but only remained long enough to allow him to escape to a place of greater security. When the forces under General McClellan evacuated the Peninsula, where Mr. BOWDEN resided, he deemed it prudent to retire with them. Then followed rapine and confiscation by the rebel government, until the accumulations of a life of professional toil, amounting as I am informed to near one hundred thousand dollars, were swept away, and he was an exile from his native State, rich now only in a loyalty which no wealth could bribe or corrupt, no adversity diminish, no power subdue.

Such, sir, are the price and the penalties of loyalty in the States in rebellion. Elsewhere it may be a sentiment—there it is a fact. Sir, traitors are entitled to no concession. Thus far they have asked none. But shall I depart from the proprieties of the present hour, or unwarrantably disturb its sacred solemnities, if I shall say that to the Union men of the South it would be magnanimous to make concessions? Nay, would it not be just and wise?

In politics, Mr. BOWDEN usually acted with the Whig party. But in this, as in every other department of life, his independence of thought and conduct was conspicuous. He never hesitated to sacrifice his attachments for his party to his regard for his principles. The obligations of the patriot were paramount to the prejudices and passions of the partisan. His great rule of life seemed to be, to seek to know the right and then to pursue it, regardless of all personal consequences. This distinguishing feature of his character was never more manifest than since the commencement of the existing insurrection. He appeared to have renounced all party feelings and affinities, and to have dedicated himself, without reservation, to the sole great purpose of suppressing the rebellion and restoring the Union and the Constitution. It was on the very day when he took his seat as a member of this body that I heard him refer approvingly to the noble sentiments uttered by Mr. Douglas shortly before his death, that

"There can be but two sides to the present controversy. Every man must be on the side of the United States or against it. There can be no neutrals in this war." * * * "Whoever is not prepared to sacrifice party organizations and platforms on the altar of his country, does not deserve the support and countenance of an honest people. We must cease discussing party issues, make no allu-

sions to old parry tests, have no eriminations and recriminations, indulge in no taunts one against another, as to who has been the cause of these troubles."

But, sir, the deceased is now beyond the reach of either the praise of his friends or the persecution of his enemies. No traitorous violence shall assail him more. He has gone to his reward. I am not advised of his religious views or hopes. But I am safe, I think, in saying that one so true to his country could hardly be false to his Creator.

Mr. WILSON. Mr. President, after the army of the Potomac, in its advance up the Peninsula, had reached Williamsburg, the home of the lamented Senator whose death has just been announced, he called upon me to represent the condition of his few loyal friends and neighbors, and to consult concerning our affairs in Virginia. I saw that he was actuated by an intense, vehement, and passionate devotion to the Union, and to the institutions of his country. I saw, too, that he was a gentleman of capacity, of large intelligence, and rare information concerning men and affairs in the rebel States. The hand of rebel power had been laid heavily upon him and upon his kindred. Advancing and retreating armies had desolated his fields, devoured his harvests, and wasted his substance; but he seemed ready to sacrifice all for his country, menaced by rebel power. He had stood inflexibly by his country when the timid shrank back and the false betrayed her. He invoked the protection of the Government for the faithful and fearless few in the land of the rebellion, and demanded the repression of rebel tyranny by the vigor of war. To the Government of his country he gave heart and voice and vote, till he sank into a patriot's grave. To our sick and wounded heroes in the hospitals of Williamsburg he gave the word of sympathy and the deed of charity, which they will gratefully remember in their northern homes.

On entering the Senate Mr. BOWDEN was assigned to the Committee on Military Affairs. Brief as was his connection with the committee, his colleagues will ever bear witness that in the committee he ever evinced his readiness to sustain the measures of his Government tending to the suppression of the rebellion and the restoration of the Union, and to deal justly by the men whose names passed before us. I am sure I but express the sentiments of the members of the committee and of the Senate when I say that he was devoted to his country, fair, liberal, and high-minded in his action, and tolerant toward all but the enemies of his country.

Mr. BOWDEN was a true representative of the sentiment of Virginia when she followed the patriotic counsels of Washington and Marshall, Jefferson and Madison, and the illustrious men who so longed in her councils and in the high places of the Republic. Smitten by a terrible disease, he has passed from this Chamber forever; but he leaves behind him a record redolent of patriotism. We, his comrades in the strife, will honor his name and cherish his memory by living in the hope that those who come after him in this Chamber may ever be animated by his fidelity to his country, by his broad, liberal, and expansive patriotism, that embraced the whole country and its institutions of freedom.

The resolutions were unanimously adopted, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, January 11, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Thursday last was read.

CORRECTION OF THE JOURNAL.

Mr. NORTON. I rise to a privileged question, and that is the correction of the Journal of Thursday last. In the Globe I do not find myself reported as having voted on the resolution of the gentleman from Massachusetts, [Mr. BALDWIN,] or on the resolution of the gentleman from New Jersey, [Mr. ROGERS.] I voted in favor of laying the latter upon the table, and in favor of the former. If the Journal is wrong in that respect, I ask that it be corrected.

The SPEAKER. The gentleman is recorded in the Journal as having voted in favor of the preamble to the resolution of the gentleman from

Massachusetts, [Mr. BALDWIN,] but not on the other questions.

Mr. NORTON. I ask that the Journal be corrected. I voted for the preamble and resolution of the gentleman from Massachusetts, [Mr. BALDWIN,] and in favor of laying the resolution of the gentleman from New Jersey [Mr. ROGERS] upon the table.

The Journal was corrected accordingly, and then approved.

DELEGATE FROM NEVADA.

Mr. COLE, of California, submitted the credentials of GORDON N. MOTT, Delegate elect from the Territory of Nevada.

Mr. MOTT presented himself at the Speaker's desk, and was sworn in.

DISTRICT LAWS.

The SPEAKER laid before the House the report of the commission to digest and revise the laws of the District of Columbia; which was referred to the Committee for the District of Columbia, and ordered to be printed.

POSTAL MATTERS AT PHILADELPHIA.

The SPEAKER also laid before the House a letter from the Postmaster General on postal matters at Philadelphia; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

UNITED STATES STEAMER HOWQUA.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, inclosing the report of Lieutenant Devens, of the United States steamer Howqua, as to the treatment of the officers and crew at Halifax, in June last; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

BANKS IN THE UNITED STATES.

The SPEAKER also laid before the House the annual report on the banks of the United States; which was referred to the Committee of Ways and Means, and ordered to be printed.

SERVICE ON COMMITTEE.

Mr. BRANDEGEE asked and obtained consent to be excused from further service on the Committee on Expenditures on the Public Buildings.

CALL OF STATES.

The SPEAKER stated that the first business in order was the call of States for bills on leave, for reference only.

CHILDREN OF HULDAH BUTLER.

Mr. WASHBURN, of Massachusetts, introduced a bill for the relief of Sarah Whitney and Mary Hungerford, children of Huldah Butler; which was referred to the Committee on Revolutionary Pensions, with the papers on file in the case.

PILOTS AND PILOTAGE.

Mr. ELIOT introduced a bill to regulate pilots and pilotage; which was read a first and second time, and referred to the Committee on Commerce.

REBELLION LOSSES.

Mr. FENTON introduced a bill relating to claims for the loss and destruction of property belonging to loyal citizens, and damages done thereto by the troops of the United States during the present rebellion; which was read a first and second time, and referred to the Committee of Claims.

NAVAL APPRENTICES.

Mr. FENTON also introduced a bill to require the employment of apprentices in the commercial marine of the United States; which was read a first and second time, and referred to the Committee on Commerce.

RAILWAY TO NEW YORK.

Mr. FENTON also introduced a bill to provide for the construction of a national military and postal railway from the city of Washington to the city of New York; which was read a first and second time, and referred to the select committee on that subject.

LIEUTENANT COLONEL GARDNER.

Mr. VAN VALKENBURGH introduced a bill for the relief of Lieutenant Colonel John L.

Gardner; which was read a first and second time, and referred to the Committee of Claims.

PAYMENT OF BOUNTIES.

Mr. MORRIS, of New York, introduced a bill to provide for the payment of bounties to certain troops; which was read a first and second time, and referred to the Committee on Military Affairs.

REPAYMENT OF BOUNTIES.

Mr. ROGERS introduced a joint resolution to repay bounties; which was read a first and second time, and referred to the Committee on Military Affairs.

ARMY PAY.

Mr. ROGERS also introduced a bill to increase the pay of the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. ROGERS. I ask that these bills be ordered to be printed.

Mr. WASHBURN, of Illinois. I object.

PENNSYLVANIA JUDICIAL DISTRICTS.

Mr. SCOFIELD introduced a bill to divide the State of Pennsylvania into three judicial districts, and to establish a district court to be held in the city of Erie; which was read a first and second time, and referred to the Committee on the Judiciary.

WASHINGTON SAVINGS BANK.

Mr. SCOFIELD also introduced a bill to incorporate the Washington City Savings Bank; which was read a first and second time, and referred to the Committee for the District of Columbia.

JOHN C. CARTER.

Mr. SCOFIELD also introduced a joint resolution for the relief of John C. Carter; which was read a first and second time, and referred to the Committee on Naval Affairs.

POWDER MAGAZINE IN PENNSYLVANIA.

Mr. O'NEILL, of Pennsylvania, introduced a bill donating to the State of Pennsylvania certain lands in the county of Philadelphia for the erection thereon of a powder magazine; which was referred to the Committee on Military Affairs, and ordered to be printed.

VEXATIOUS APPEALS.

Mr. DAVIS, of Maryland, introduced a bill to prevent vexatious appeals; which was referred to the Committee on the Judiciary, and ordered to be printed.

OATH OF ALLEGIANCE.

Mr. DAVIS, of Maryland, also introduced a bill to require certain persons to take the oath of allegiance; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. NOBLE. I desire to offer a resolution, and have it referred to the Committee of Ways and Means.

The SPEAKER. This call is simply for bills and joint resolutions for reference.

OFFICERS, ETC., OF GUNBOAT CINCINNATI.

Mr. SPALDING introduced the following joint resolution; which was read a first and second time, and referred to the Committee on Naval Affairs:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized, in settling the accounts of the petty officers, seamen, and others of the crew of the United States gunboat Cincinnati, to allow to each of them all back pay, and a sum not exceeding fifty dollars for loss of clothing and other property by the sinking of said vessel in the Mississippi river, near Vicksburg, on the 27th day of May, 1863.

Mr. GRIDER. I desire to offer a resolution of inquiry.

The SPEAKER. Resolutions are not in order under this call. This is a call for bills and joint resolutions for reference only. Resolutions will be in order when the States are called for resolutions.

PAY FOR LOSS OF SOLDIERS' CLOTHING, ETC.

Mr. ORTH, in pursuance of previous notice, introduced a bill to compensate non-commissioned officers, musicians, and private soldiers in the military service of the United States for the loss or destruction of clothing or equipments, where such

loss or destruction is not the result of their own fault or neglect; which was read a first and second time, and referred to the Committee on Military Affairs.

TWENTIETH REGIMENT INDIANA VOLUNTEERS.

Mr. ORTH also, in pursuance of previous notice, introduced a bill to reimburse the officers and men of the twentieth regiment of Indiana volunteers for loss of baggage and other property at Hatteras Inlet; which was read a first and second time, and referred to the Committee on Military Affairs.

INCREASE OF PAY TO SOLDIERS.

Mr. ORTH also, in pursuance of previous notice, introduced a bill to increase the pay of non-commissioned officers, musicians, and private soldiers in the military service of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

PAYMENT TO SOLDIERS OF AFRICAN DESCENT.

Mr. ORTH also, in pursuance of previous notice, introduced a bill to fix the pay and allowance of officers, musicians, and private soldiers of African descent in the military service of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

MILITIA IN THE STATE OF INDIANA.

Mr. ORTH also, in pursuance of previous notice, introduced a bill to provide for paying the expenses of enrolling and drafting the militia in the State of Indiana in the year 1862; which was read a first and second time, and referred to the Committee of Ways and Means.

THE CIVIL COMMISSION AT MEMPHIS.

Mr. HOLMAN, in pursuance of previous notice, introduced a bill to legalize and establish the civil commission at Memphis, Tennessee; which was read a first and second time.

Mr. HOLMAN. As this is thought to be a matter of great importance, I move that the bill be printed, and referred to the Committee on the Judiciary.

The motion was agreed to.

SHIP CANAL.

Mr. ARNOLD, in pursuance of previous notice, introduced a bill to construct a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes; which was read a first and second time, and referred to the Committee on Roads and Canals.

DEPOSITARY OF PUBLIC MONEYS AT CHICAGO.

Mr. ARNOLD also, in pursuance of previous notice, introduced a bill to regulate the compensation of the depositary of public moneys at Chicago; which was read a first and second time, and referred to the Committee on Commerce.

WASHINGTON AND GEORGETOWN RAILROAD.

Mr. WASHBURN, of Illinois, in pursuance of previous notice, introduced a bill to amend an act to incorporate the Washington and Georgetown Railroad Company; which was read a first and second time.

Mr. WASHBURN, of Illinois. I ask that the first four sections of the bill be read for the information of the House.

The sections were read, as follows:

Be it enacted, &c., That from and after the passage of this act the Washington and Georgetown Railroad Company, incorporated by an act of Congress approved May 17, 1862, shall, during all sessions of Congress, run one car each way every three minutes between ten o'clock in the morning and six o'clock in the evening, on their main railway between the eastern front of the Capitol and Georgetown, and shall travel thereon at a rate of speed not exceeding seven miles per hour, and not less than five miles per hour.

Sec. 2. *And be it further enacted,* That the said railway company shall cause to be prepared, and shall sell to all passengers wishing to purchase, tickets in packages or parcels of twenty-five or less in number, at the rate of one dollar for twenty-five tickets; each of which tickets shall entitle the holder to one passage in any car of the company for any distance upon their main line of railway, or upon either of the branches thereof, or between the termini of either of said branches and any point upon said main railway or branches.

Sec. 3. *And be it further enacted,* That the said railway company shall keep clear and in good repair the flagstones leading to and across their tracks at the crossing of the streets and avenues which intersect their lines of railway.

Sec. 4. *And be it further enacted,* That for each and every violation or neglect of either of the provisions of the foregoing sections, the said railway company shall forfeit and pay a sum not less than five dollars and not more than \$100; which may be recovered, with the costs of court, on com-

plaint of any person in any court of record in the District of Columbia; and one half of the penalties recovered shall be for the use of and paid to the city of Washington; the other half for and to the complainant.

The bill was then referred to the Committee for the District of Columbia.

ISAAC R. DILLER.

Mr. KNAPP, in pursuance of previous notice, introduced a bill for the relief of Isaac R. Diller; which was read a first and second time by its title, and referred to the Committee on Foreign Affairs.

CONSCRIPTION LAW.

Mr. KELLOGG, of Michigan, in pursuance of previous notice, introduced a bill to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

FEMALE COLLEGES.

Mr. KELLOGG, of Michigan, also, in pursuance of previous notice, introduced a joint resolution asking an appropriation of land by Congress to endow female colleges in the several States; which was read a first and second time by its title, and referred to the Committee on Public Lands.

PROTECTION OF EMIGRANTS.

Mr. HUBBARD, of Iowa, in pursuance of previous notice, introduced a bill to provide for the protection of overland emigrants to the States and Territories of the Pacific; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

INDIAN TREATIES.

Mr. McBRIDE, in pursuance of previous notice, introduced a bill making an appropriation for the purpose of negotiating treaties with the Indian tribes of southern and eastern Oregon; which was read a first and second time by its title, and referred to the Committee on Indian Affairs.

MAIL FACILITIES.

Mr. McBRIDE also, in pursuance of previous notice, introduced a bill to establish a daily mail from Fort Bridger, in Utah Territory, to Dalles City, in the State of Oregon; which was read a first and second time by its title, and referred to the Committee on Post Offices and Post Roads.

LOSSES IN KANSAS.

Mr. WILDER, in pursuance of previous notice, introduced a joint resolution for the appointment of three commissioners, to ascertain the amount of losses sustained by the burning and sacking of the city of Lawrence and the towns of Olathe, Shawnee, Aubey, and Humboldt, in the State of Kansas, by guerrillas under Quantrel and others; which was read a first and second time by its title.

Mr. WILDER. I move that the joint resolution be referred to the Committee on Military Affairs.

Mr. FENTON. I would suggest to the gentleman that the joint resolution had better be referred to the Committee of Claims. This whole subject is already under consideration by that committee, and they are preparing a general bill on the subject.

Mr. WILDER. I have no objection to its being so referred.

The joint resolution was referred to the Committee of Claims.

PAY OF INDIAN REGIMENTS.

Mr. WILDER also, in pursuance of previous notice, introduced a joint resolution for the relief of the officers of the fourth and fifth Indian regiments, appointed and commissioned by the War Department, and mustered out of service without pay; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

MORGAN'S RAID.

Mr. CRAVENS, in pursuance of previous notice, introduced a bill to ascertain who have lost horses and other property in the States of Indiana and Ohio by the rebel raid under the command of General John H. Morgan, and the Union forces in pursuit of said rebels, in July, 1863; which was read a first and second time by its title.

Mr. CRAVENS. I move that the bill be referred to a select committee of three.

Mr. HARDING. I suggest to the gentleman from Indiana that he had better let the bill be referred to the Committee of Claims. The losses in Indiana by raids have been nothing compared to those of Kentucky; and the Committee of Claims are maturing a general bill on this subject.

Mr. HOLMAN. I would state to my colleague that the subject is already before the Committee of Claims.

Mr. CRAVENS. I have no objection to the reference of the bill to that committee.

The bill was referred to the Committee of Claims.

MAIL FACILITIES IN THE WEST.

Mr. PEREA, in pursuance of previous notice, introduced a bill to provide additional mail facilities between Kansas City and Santa Fe, New Mexico; which was read a first and second time by its title, and referred to the Committee on Post Offices and Post Roads.

LOSSES IN NEW MEXICO.

Mr. PEREA also, in pursuance of previous notice, introduced a bill to provide for the settlement of losses sustained by the loyal people of New Mexico during the invasion of General Sibley, of Texas, out of the confiscated property of disloyal citizens of New Mexico; which was read a first and second time by its title, and referred to the Committee of Claims.

GEOLOGICAL SURVEY OF NEW MEXICO, &C.

Mr. PEREA also introduced a bill to provide for a geological survey of the Territory of New Mexico and Arizona; which was read a first and second time, and referred to the Committee on Public Lands.

WAGON ROAD IN NEW MEXICO.

Mr. PEREA also introduced a bill to provide for the construction of a wagon road from Albuquerque, New Mexico, to Fort Whipple, Arizona, and thence to steamboat navigation on the Colorado river in said Territory; which was read a first and second time, and referred to the Committee on Military Affairs.

THOMAS F. BOWLER.

Mr. PEREA also introduced a bill for the relief of Thomas F. Bowler, of New Mexico; which was read a first and second time, and referred to the Committee on Post Offices and Post Roads.

INDIAN DEPREDACTIONS.

Mr. PEREA also introduced a bill for the examination of claims for Indian depredations in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Indian Affairs.

INDIAN AGENTS.

Mr. PEREA also introduced a bill to provide for the appointment of Indian agents in New Mexico; which was read a first and second time, and referred to the Committee on Indian Affairs.

CAPTAIN GARDIN CHAPIN.

Mr. PEREA also introduced a bill for the relief of Captain Gardin Chapin, seventh United States infantry, for private property lost and destroyed in the evacuation of Arizona by the United States troops; which was read a first and second time, and referred to the Committee of Claims.

TREATIES WITH INDIANS.

Mr. PEREA also introduced a bill to authorize the making of treaties with the Navajo, Apache, and Utah Indian tribes in New Mexico, defining their limits and extinguishing their title to lands outside of said limits; which was read a first and second time, and referred to the Committee on Indian Affairs.

MOUNTAIN ROAD IN NEW MEXICO.

Mr. PEREA also introduced a bill to provide for the improvement of the road through the Raton mountains between Fort Lyon, in Colorado Territory, and Fort Union, in New Mexico; which was read a first and second time, and referred to the Committee on Roads and Canals.

MILITARY ROAD IN NEW MEXICO.

Mr. PEREA also introduced a bill to provide for the construction of a military road from Santa Fe, New Mexico, to Taos, New Mexico; which

was read a first and second time, and referred to the Committee on Military Affairs.

MAJOR JOHN A. WHITTALL.

Mr. PEREA also introduced a bill for the relief of Major John A. Whittall, paymaster in the United States Army, on account of stolen vouchers; which was read a first and second time, and referred to the Committee of Claims.

VOLUNTEERS IN MEXICAN WAR.

Mr. PEREA also introduced a bill for the payment of certain volunteer companies in the service of the United States in the war with Mexico, and in the suppression of Indian disturbances in New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

TERRITORIAL BOUNDARY LINE.

Mr. PEREA also introduced a bill to provide for the running of the boundary line between the Territory of New Mexico and Arizona and the Territory of Colorado and New Mexico; which was read a first and second time, and referred to the Committee on Territories.

PUGET SOUND COLLECTION DISTRICT.

Mr. COLE, of Washington, introduced an act fixing the port of entry for Puget sound collection district; which was read a first and second time, and referred to the Committee on Commerce.

MILITARY ROAD IN WASHINGTON TERRITORY.

Mr. COLE, of Washington, also introduced an act granting lands to the Territory of Washington to aid in the construction of a military road from Fort Walla-Walla to Puget sound; which was read a first and second time, and referred to the Committee on Military Affairs.

LANDS FOR UNIVERSITY PURPOSES.

Mr. COLE, of Washington, also introduced an act to amend an act approved July 17, 1854, entitled "An act to amend the act approved September 27, 1850, to create the office of surveyor general of the public lands in Oregon," &c.; which was read a first and second time, and referred to the Committee on Public Lands.

MISS ANNA E. DICKINSON.

Mr. PIKE presented the following resolution, on which he demanded the previous question:

Resolved, That the use of the Hall of the House be granted for an evening to Miss Anna E. Dickinson to deliver an address, the proceeds to be applied to the fund of the Freedman's Aid Association.

The previous question was seconded, and the main question ordered.

Mr. ANCONA moved that the resolution be laid upon the table, and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 48, nays 79; as follows:

YEAS—Messrs. William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chandler, Coffroth, Cox, Craven, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Grider, Griswold, Hall, Harding, Herrick, Hohman, William Johnson, Kalbfleisch, Knapp, Law, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKimney, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Samuel J. Randall, Robinson, Rogers, Ross, John B. Steele, Stronge, Chilton A. White, Joseph W. White, and Fernando Wood—48.

NAYS—Messrs. Allison, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Daves, Dixon, Donnelly, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Higby, Asahel W. Hubbard, Hubbard, Julian, Kasson, Kelley, Francis W. Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Scheuck, Scofield, Shannon, Smith, Smithers, Spalding, Stebbins, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—79.

So the resolution was not laid upon the table.

During the vote,

Mr. PENDLETON stated that he had been requested to state that Mr. BENJAMIN WOOD was confined to his bed by indisposition.

Mr. ROBINSON stated that his colleague, Mr. HARRIS, was detained from the House by illness. The vote was then announced as above recorded. The resolution was then adopted.

Mr. PIKE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table. The latter motion was agreed to.

SLAVERY IN THE DISTRICT OF COLUMBIA.

Mr. RICE, of Maine, submitted the following resolution:

Resolved, That the Secretary of the Treasury be directed to communicate to this House the report and tabular statements made and returned to him by the commissioners appointed by the President, in accordance with the provisions of an act entitled "An act for the release of certain persons held to service or labor in the District of Columbia," approved April 16, 1863, and an act supplementary thereto, approved July 12, 1862.

Objection was made.

The SPEAKER. This being a call for information from one of the Executive Departments must, under the rules, objection being made, lie over one day.

FRAUDS UPON THE TREASURY.

Mr. FERNANDO WOOD submitted the following resolution, and demanded the previous question on its adoption:

Whereas accusations seriously affecting the official integrity of Major General Benjamin F. Butler in the discharge of his duties while in command of New Orleans have been publicly made; and whereas other military officers have been charged with delinquencies, oppressive conduct, and connivance at fraud; and whereas it is stated that inefficiency, collusion in procuring supplies, and malversations exist in the Navy Department; and whereas recent disclosures show that in the custom-house at New York, and in other branches of the Treasury Department, the revenue has been defrauded and treasonable aid given to the insurrectionists; and whereas it is apparent that general demoralization and incapacity pervade the executive branch of the Government to an extent which calls for the interposition and preventive legislation of Congress: Therefore,

Resolved, That a committee of nine be appointed to investigate into and to ascertain the foundation for these accusations, with power to send for persons and papers, to take testimony under oath, to make recommendations for the necessary reforms, and to report at any time.

Mr. STEVENS moved that the resolution be laid upon the table.

Mr. FERNANDO WOOD demanded the yeas and nays.

The yeas and nays were ordered.

Mr. FENTON. I ask the gentleman to withdraw the demand for the previous question in order that I may make an inquiry. I will renew it. Mr. COX. I object to debate.

The question was taken; and it was decided in the affirmative—yeas 77, nays 63; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dixon, Donnelly, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Scheuck, Scofield, Smithers, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—77.

NAYS—Messrs. William J. Allen, Ancona, Bliss, Brooks, James S. Brown, Chandler, Coffroth, Cox, Craven, Daves, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Fenton, Finck, Ganson, Grider, Hall, Harding, Herrick, Hohman, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Lazar, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKimney, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Orth, Pendleton, Samuel J. Randall, William H. Randall, Robinson, Rogers, Ross, Scott, Smith, Stebbins, John B. Steele, Stronge, Stuart, Sweet, Elihu B. Washburne, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—63.

So the resolution was laid upon the table.

During the vote,

Mr. KELLEY, not being within the bar when his name was called, asked leave to vote.

Mr. RANDALL, of Pennsylvania, objected.

Mr. KELLEY stated that he would have voted in the affirmative.

Mr. DEMING also asked leave to vote.

Objection was made.

The vote was then announced as above recorded.

PERSONAL EXPLANATION.

Mr. GRISWOLD. Mr. Speaker, I ask unanimous consent to make a personal explanation.

Mr. WASHBURNE, of Illinois. I will not object if it be the understanding that opportunity, if necessary, shall be afforded for reply. There was no objection.

Mr. GRISWOLD. Mr. Speaker, at the last meeting of the House, on Thursday, my vote was given against laying the resolutions of the honorable gentleman from New Jersey [Mr. Rogers] upon the table. That vote was given inadvertently, or, at all events, without a full appreciation of the sentiments which the resolutions contained. While I approve of much that is embodied in them, I entirely disapprove of that portion which recommends the appointment of commissioners on the part of the Federal Government to meet commissioners similarly appointed by the insurgent States. Surely this is no time for such a step. Has the gentleman any reason to suppose that an act of magnanimity like this would be rightly interpreted, or even entertained, by the government of the rebel States? So far as any public expression from that quarter has come under my observation, there is no ground for any such belief.

The resolutions provide for the appointment of commissioners on the part of the Federal Government to treat with commissioners that may, or may not, be similarly appointed by the governments of the States in rebellion. In my judgment any offer at the present time on the part of the Federal Government to negotiate or compromise with rebels defiantly in arms against that Government would be unpatriotic, unwise, and only pernicious in its tendency. Upon this point I do not feel willing to have my sentiments misunderstood.

I should be willing to go with the honorable gentleman from New Jersey to almost any extent for the purpose of bringing this unhappy war to a close, and securing an honorable peace. I would accompany him to the very verge of our constitutional powers to accomplish this, but I would not step beyond and attempt to thrust upon rebels in arms against their Government overtures of peace or compromise until we can have some evidence that such overtures would be received by them otherwise than with scoffs and repudiation.

It was for the purpose of making this explanation that I presumed to ask the indulgence of the House.

SLAVERY IN THE DISTRICT OF COLUMBIA.

Mr. LOVEJOY. I wish to withdraw the objection which I inadvertently made to the resolution offered a short time since by the gentleman from Maine, [Mr. Rice.]

The resolution was then again reported, and no further objection being made, it was passed.

NEW YORK CUSTOM-HOUSE.

Mr. FENTON offered the following resolution, upon which he demanded the previous question:

Resolved, That the charges recently made of official misconduct in the New York custom-house in regard to alleged shipment of contraband goods and supplies, and of misconduct in the management of the officers of the custom-house at New York, be referred to the Committee on Public Expenditures.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. FENTON moved to reconsider the vote last taken, and also moved to lay the motion to reconsider on the table, which latter motion was agreed to.

EXEMPTION FROM DRAFT.

Mr. HERRICK introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of so amending the act entitled "An act for enrolling and calling out the national forces and for other purposes," approved March 3, 1863, as to exempt from any draft or conscription under the provisions of that act all such enrolled citizens now liable to draft as may by their personal efforts previous to the day assigned for any such draft procure and cause to be mustered into the military service of the United States an acceptable recruit to serve for three years or during the war, thus creating a powerful motive, and offering an additional inducement for every citizen who desires to escape the draft to personally engage in the patriotic duty of enlisting recruits for our depleted armies.

ENLISTMENT OF SLAVES IN REBEL TERRITORY.

Mr. BROOMALL introduced the following resolution, on which he demanded the previous question:

Whereas the burdens of the Government should be made to fall as nearly equally as possible upon all parts of the country; and whereas the southern portion of the country has for several years contributed little either in men or

money toward the support of the Government; and whereas almost the only way to get men from that portion is to take black men; and whereas for every black man enlisted in the South some man in the overburdened North may be exempted from the draft—

It is therefore hereby declared to be the sense of this House that the Government should use its most strenuous efforts to procure the voluntary enlistment of persons claimed as slaves in the rebel territory by giving them the full bounty and pay of other soldiers, and by guaranteeing their freedom at once upon enlistment.

Mr. COX. I move to lay that resolution on the table, unless the gentleman will allow me to move to amend by providing for the conscription of all black men everywhere.

The yeas and nays being called for, they were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 73; as follows:

YEAS—Messrs. William J. Allen, Ancona, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Fluck, Gannon, Garfield, Grider, Griswold, Hall, Harding, Herrick, Holman, William Johnson, Kaulbach, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKimney, William H. Miller, James R. Morris, Noble, John O'Neill, Pendleton, Samuel J. Randall, William H. Randall, Robinson, Rogers, Ross, Smith, John B. Steele, Strouse, Swat, Tracy, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—61.

NAYS—Messrs. Allison, Ames, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Branderage, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Eckley, Eliot, Farnsworth, Fenton, Frank, Higby, Kasson, W. Hubbard, John H. Hubbard, Hubbard, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Loan, Loughead, Lovjoy, Marvin, McBride, McClung, Moohhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perlman, Pike, Price, Alexander H. Rice, John H. Rice, Scofield, Shannon, Smithers, Spaulding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—73.

So the House refused to lay the resolution on the table.

The question recurring on the demand for the previous question,

Mr. STEVENS said: I suggest to the gentleman that he allow this resolution to go to the Committee on Military Affairs, where there are already two or three resolutions upon the same subject. It may be thought necessary to make some modification of the resolution, so as to distinguish between freemen and freedmen.

Mr. BROOMALL. I have no objection to its being so referred.

The resolution was thereupon referred to the Committee on Military Affairs.

PAYMENT TO SOLDIERS.

Mr. ANCONA submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of reporting a bill providing for the payment and refunding to soldiers of all sums withheld and deducted from their pay for clothing charged to them, lost, or thrown away through the exigencies of the service, while on the march, or in battle, by command of their officers.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, informed the House that the Senate had passed a joint resolution (No. 15) amendatory of the joint resolution to supply in part deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties to volunteers.

The message also communicated to the House resolutions announcing the death of Hon. LEMUEL J. BOWDEN, late a Senator of the United States from the State of Virginia.

MILITIA EXPENSES OF PENNSYLVANIA.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion; which was read a first and second time by its title, referred to the Committee of the Whole on the State of the Union, and made the special order for to-morrow at two o'clock.

THE REBEL STATES.

Mr. STEVENS, on leave, introduced a bill to abolish certain laws in the conquered territories of the confederate States, and to prescribe the terms of their admission into the Union; which was read

a first and second time by its title, and postponed until the second Tuesday in February.

DEATH OF SENATOR BOWDEN.

The SPEAKER laid before the House a message from the Senate communicating the proceedings of that body in relation to the death of Hon. LEMUEL J. BOWDEN, late a Senator from the State of Virginia.

Mr. BROWN, of West Virginia. Mr. Speaker, in formally announcing to you, and through you to the House and country, the death of Senator BOWDEN, of Virginia, I wish I knew more of his private history and public life; and but for the fact that his own State has no representation on this floor, I would not have consented to make the announcement. In relation to his early history, I believe he was a descendant of one of the ancient families inhabiting that once beautiful portion of Virginia known as the Northern Neck. He was a graduate of the college of William and Mary, and while yet a young man he acquired the reputation of a reliable and profound lawyer. I first met with Mr. BOWDEN in the Legislature of Virginia in 1841. He was then known as a States rights Whig. He was very courteous, polite, and easy in his manners, possessing in an eminent degree all the social qualities that made him a safe friend and an agreeable companion.

Mr. BOWDEN was a member of the convention that assembled at Richmond in 1849 to amend the constitution of the State. In a long and animated struggle between the friends of the mixed and white basis of representation, Senator BOWDEN, although coming from a large slaveholding part of the State, ably and boldly advocated the cause of free and universal suffrage and equal representation. In this he won for himself a most enviable reputation throughout the western portion of the State.

At the breaking out of the present rebellion he resided near Williamsburg, and was possessed of a comfortable estate, which, if not destroyed in the progress of the war, will leave his family in comfortable circumstances. But by far the richest inheritance left to his children is to be found in his unconquerable love and devotion to his country and the Government to which he owed his rightful allegiance. In the spring of 1861, when treason and the reign of terror were inaugurated in the Old Dominion, he took his stand, and while all things around him were bending to the storm, he had the courage to denounce the treason and the traitors, and bid defiance to their threats of personal violence. Although surrounded with traitors and imprisoned within the lines of the enemy, he firmly maintained his ground, and defended his home until the army of the Potomac set him free. He hailed the brave men that took Yorktown and Williamsburg as his friends and deliverers, and generously divided with them his substance.

About the time our army returned from the Peninsula, Mr. BOWDEN came to Washington, and was soon after elected to the Senate by the loyal Legislature then in session at the city of Wheeling. He took his seat in the Senate on the 4th of March, 1863, and continued a member of that body until the time of his death, which took place in this city on the 2d day of the present month, after a very brief illness. The friends of Mr. BOWDEN—those who knew his capacity and habits of industry best—had promised to him a long life and a bright future. They confidently hoped to see him become a useful and distinguished member of the Senate, and reflect honor upon his native State. But all their fond hopes have been brought to a close by death, the fell destroyer of our race. The earthly career of Mr. BOWDEN has closed, and he is gone to that invisible world to which we are all hastening, and from which no traveler returns.

I offer the following resolutions:

Resolved, That this House has received with deep sensibility the announcement of the death of Hon. LEMUEL J. BOWDEN, late a Senator of the United States from the State of Virginia.

Resolved, That in order to testify their respect for the memory of the late Hon. LEMUEL J. BOWDEN, this House will wear the usual badge of mourning for thirty days.

Resolved, That as an additional mark of respect for the memory of the deceased, the House do now adjourn.

The resolutions were agreed to; and thereupon (at ten minutes past two o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, January 12, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of the appropriations applicable to the service of the War Department for the fiscal year 1862-63, and the amounts drawn from the Treasury during that year; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of War, transmitting, in answer to a resolution of the Senate of January 5, 1864, a report of Brigadier General Totten, Chief of Engineers and Inspector of the Military Academy at West Point, giving information in relation to the cadets appointed to the Military Academy during the year 1863; which, on motion of Mr. GRIMES, was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a communication of the Secretary of War in answer to a resolution of December 23, 1863, calling for the names of major and brigadier generals who are without commands equal to a brigade; which, on motion of Mr. TRUMBULL, was ordered to be printed and to lie on the table.

He also laid before the Senate a message of the President of the United States in answer to the resolutions of the Senate of the 16th of December, 1863, desiring information in relation to the alleged exceptional treatment of Kansas troops when captured by those in rebellion, transmitting a communication from the Secretary of War, accompanied by reports from the General-in-Chief of the Army, and the Commissary General of Prisoners, relative to the subject-matter of the resolutions; which, on motion of Mr. WILSON, was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. COWAN presented a petition of acting assistant surgeons in the service of the United States, praying that they may be exempted from military duty as soldiers in any draft or requisition to be made; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented the petition of F. W. Lincoln, jr., mayor, and eleven hundred and eighty-one merchants and citizens of Boston, Massachusetts, praying for a uniform ambulance system for the armies of the United States; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial from chaplains of the United States Army, praying that they may be placed, relatively, on an equal footing with other officers, when sick, wounded, or killed in the service of their country; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of soldiers who volunteered and enlisted into the service of the United States for the period of nine months, praying that they may be allowed a bounty of twenty-five dollars; which was referred to the Committee on Claims.

He also presented the petition of Charles W. Denison, of Hyde Park, Massachusetts, praying to be reimbursed for expenses incurred on a mission to England; which was referred to the Committee on Claims.

He also presented the petition of Benjamin Dodge and others, citizens of Chelsea, Massachusetts, praying for the establishment of a uniform ambulance and hospital system for the armies of the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL presented a petition of the "Chicago Workingmen's Association," of Chicago, Illinois, praying that the enrollment law may be so amended as to make it as little oppressive upon the people as possible; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL presented a memorial of the Yearly Meeting of Friends of New England, praying for exemption from military duty; which was referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON presented the memorial of Francis A. Gibbons and F. X. Kelly, contractors for the erection of light-houses in the State of California and the Territory of Oregon, praying to be reimbursed for materials furnished by them; which was referred to the Committee on Claims.

Mr. SUMNER presented a petition of citizens of Provincetown, Massachusetts, praying for the establishment of a uniform ambulance system for the armies of the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. HALE presented the memorial of Edmund Lanier, a commander in the Navy of the United States, setting forth his services and his record, complaining of the injustice which he alleges has been done him by the late advisory board, and praying for relief therefrom; which was referred to the Committee on Naval Affairs.

Mr. RAMSEY presented a memorial of the Legislature of Minnesota, asking for the construction of a military road from St. Paul, Minnesota, to the Pacific coast; which was referred to the Committee on Military Affairs and the Militia.

Mr. SPRAGUE presented a petition of citizens of Rhode Island, praying for the immediate suspension and repeal of all duty on foreign coals for the period of one year; which was referred to the Committee on Commerce.

He also presented the memorial of George Washington Greene, of Middletown, Rhode Island, praying that Congress will take fifteen hundred copies of the letters and dispatches of Major General Nathaniel Greene, to be published from the originals in the possession of his family, at \$2 50 per volume; which was referred to the Committee on the Library.

Mr. FESSENDEN presented a petition of the collector and other United States officers at Portland, Maine, and also a petition of merchants of Portland, Maine, praying for an appropriation for the enlargement of the custom-house at that place; which were referred to the Committee on Commerce.

WISCONSIN DRAFT RIOTS.

Mr. HOWE. I have a communication from the Governor of Wisconsin transmitting to me, to be laid before the Senate, a copy of petitions addressed to the Legislature of Wisconsin by Andrew M. Blair, William S. Pors, and others, asking indemnity from the Legislature for certain injuries occasioned to their persons and property by individuals combined in the county of Ozaukee to prevent the draft made under the orders of the War Department during the fall of 1862; also, transmitting copies of the testimony which accompanied these petitions; also, transmitting an act of the Legislature of that State appropriating money to compensate the petitioners, with a certificate from the treasurer of the State of the several sums appropriated and paid. All these papers I am requested by the Governor to present to the Senate, and in doing so I desire to say that my attention was called to this subject during the last session of Congress by a petition from William S. Pors, forwarded to me by the Governor of the State, in which he then claimed compensation from the Congress of the United States.

William S. Pors was the commissioner appointed by the Governor of that State to make that draft. In the progress of his labors, he was assaulted by a large combination of citizens, many of them armed. Several persons assisting him and he himself were violently assaulted; several buildings were destroyed or otherwise seriously injured; and several persons, including Mr. Pors, were driven out of the county for safety. These acts were done in open daylight, by citizens as well known as any citizens in the community; I am told, by citizens perfectly responsible in a pecuniary point of view to answer for the damages occasioned by their unlawful acts. It seemed to me at that time, and it seemed to my colleagues in the representation of that State, that it was not the proper time to make a claim on the Congress of the United States. We did think, however, and it was the unanimous opinion of the whole representation of that State, that there should be an attempt made to hold the guilty parties responsible, as far as that could be done, for the acts they had committed, and to make them responsible in damages so far as damages could be recovered from them.

With that view, the representation of our State united in a letter to the Attorney General of the United States, of which this is a copy:

WASHINGTON, D. C., February 9, 1863.

SIR: We have the honor to hand you herewith an official report of William S. Pors, Esq., commissioner for Ozaukee county, in the State of Wisconsin, giving a detailed statement of the violence employed to resist the draft in that county, under the recent order of the President of the United States. We are assured by the Governor of Wisconsin that the statement is reliable.

These gentlemen, whose persons were assaulted, whose property was destroyed, and whose homes were desolated, had been guilty of no offense; they were simply endeavoring to discharge their duty to the Government under which they lived, and which promises them protection. They were faithful among the faithless. They were striving to uphold the law among the lawless. For this they were sacrificed.

We do not doubt the Government will cheerfully make compensation for the losses these gentlemen have sustained. But, we respectfully submit, the Government will not have discharged its whole duty by simply appropriating from its Treasury a sum equal to the loss sustained.

The men who have committed these outrages have incurred some responsibility, either civil or criminal, or both. Undoubtedly they are liable civilly to the amount of all damages occasioned by their misconduct. But as yet we do not learn that any prosecution has been commenced against any one of them. We are informed, although not officially, that the local authorities of the county are overborne by the number and weight of those who combined against the majesty of the law. The report of Mr. Pors states he is himself an exile from his home, and it clearly shows that he has no hope of redress except at the hand of the Government he served. It is more than two years since the Government of the United States, or its flag, furnished any protection to unoffending citizens within large portions of the State of South Carolina, and of other neighboring States. We venture to hope that such protection will not long be withheld from the loyal citizens of the county of Ozaukee, in the State of Wisconsin.

We do not think that war is necessary to vindicate the authority of the law in Ozaukee county. We believe the courts of Wisconsin are faithful and ready to do their whole duty. But these despoiled citizens need other aid than that of open courts, process, sheriffs, and possses; they need the counsel and active support of the Government. Whatever damages are recovered from the wrong-doers will diminish by just so much the compensation to be made the innocent sufferers by the Government. Besides, every dollar collected of the guilty will be an admonition and a security against a recurrence of like guilt. Whereas, if the Government makes compensation from its own Treasury, and makes no effort to punish the offenders, it will have the effect of direct encouragement to the repetition of like offenses. We therefore respectfully recommend that the Government shall employ active and faithful counsel, especially charged with the duty of seeking within the courts such redress as the laws afford for such unhappy and terrible wrongs.

J. R. DOOLITTLE,
T. O. HOWE,
J. F. POTTER,
A. S. SLOAN,
W. D. MCINDOE,

Hon. EDWARD BATES,
Attorney General of the United States.

To that letter we received from the Attorney General the following reply:

ATTORNEY GENERAL'S OFFICE,
Saturday night, February 14, 1863.

SIR: To-day I had the honor to receive your letter of the 9th instant, but not the report of Mr. Pors ("giving a detailed statement of the violence employed to resist the draft") mentioned in the letter handed to me.

Very possibly the report of Mr. Pors, if I had it, might disclose facts which would change my present views of the subject, as presented by your letter. But, as the matter now stands before me, I infer that a violent riot has taken place in Wisconsin, and by certain evil-disposed persons of that State; that the object of the riot was "to resist the draft" in a particular county; and that the effect, in fact, was the maltreatment of certain individuals and the destruction of private property; and that the local authorities of the county are overborne by the rioters. Supposing all this to be so, still I do not see any field open for my official action, nor any official duty for me to perform in the premises.

The State of Wisconsin (I rejoice to know) is sound and true. It is not divided by the presence and activity of any organized party of treason and rebellion, nor even weakened by any appreciable element of seditious opposition. Surely the State of Wisconsin must have laws made for the very purpose to quell such riots and punish such offenders; and I cannot doubt that the State has tribunals and officers of its own, able and willing to enforce such good laws, by bringing the malefactors to condign punishment, notwithstanding their temporary success in a single county. That is plainly the duty of the State authorities; and I do not yet see that I have any official duty in connection with the subject.

I think, gentlemen, that I am not backward in taking all the legal responsibilities of my place, and yet I am unwilling to interfere in this local business, lest I make myself justly chargeable with officiously thrusting the hand of the General Government into the affairs of a State quite able to take care of its own interests and enforce its own laws.

I have the honor to be, most respectfully, your obedient servant,
EDWARD BATES.
To Hon. Messrs. DOOLITTLE, HOWE, SLOAN, MCINDOE, and POTTER, Senators and Representatives of Wisconsin.

To that letter the following reply was sent, and the official statement of Mr. Pors referred to in

the first letter was then forwarded to the Attorney General:

WASHINGTON, February 21, 1863.

SIR: We have to acknowledge the receipt of your letter of the 14th. We regret to learn the report of Mr. Pors was not forwarded. It seems to have been mislaid, and is not now at hand.

It was however found and sent forward in the letter.

But you have very correctly anticipated its contents. And yet you will pardon us for saying you do not seem to have appreciated the true nature of our application.

Undoubtedly the State of Wisconsin is "sound and true." She is not "weakened by any appreciable element of seditious opposition" within or without her borders. She has laws for the punishment of riots and other breaches of her peace. She is quite able to enforce all "such good laws."

But we hoped the Attorney General of the United States would recognize in the conduct of these offenders something more, or at least something else, than a mere breach of the peace. We fear you do not remember who Mr. Pors was.

He does not seem to us to have been a mere citizen of Wisconsin, resting under her protection, but he was an officer under the United States, doing their work, acting under the authority of their President, and thus, we submit, entitled to their protection.

These offenders also, it should be remembered, were moved by no animosity against the State. They were citizens of the State, professedly loyal to her authority, and friends to her peace. But they said the United States were fatal to the peace of Wisconsin. They armed against the agent of the Federal authority, not against the sovereignty of the State, and they drove the United States in the person of William Pors out of Ozaukee county, as South Carolina drove you out of Charleston harbor where you were represented by the Star of the West. We respectfully submit it does not become the Government of the United States to fold their arms over this outrage upon their sovereignty while they taunt Wisconsin that her peace has been disturbed.

How far these men have made themselves liable criminally for resisting the authority of the United States, we do not pretend to advise. You will be able to determine that when you or your official aids shall have ascertained the exact facts of the case.

But we supposed there could be no doubt but they were liable civilly for all damages occasioned to those who incurred their hostility solely for being friendly to the Government. For these damages we do not doubt Congress will make compensation at some future time. So far as those damages are charged upon the guilty, the United States will stand discharged. In that point of view, it seemed to us the Government was directly interested in prosecuting the offenders rigorously and successfully.

And we do not allow ourselves to doubt that Wisconsin will acquit you of all "officious" intermeddling in her affairs when you do no more than comply with the invitation of her united delegation in Congress.

We are, very respectfully, your obedient servants,
J. R. DOOLITTLE,
TIMOTHY O. HOWE,
JOHN F. POTTER,
A. SCOTT SLOAN,
W. D. MCINDOE.

Hon. EDWARD BATES,
Attorney General of the United States.

To this letter no reply whatever was received; but I understand that no action was taken by the Attorney General, and no professional aid was furnished to these despoiled citizens. Mr. Pors himself was driven out of the county, and could not appear in the county of which he was an inhabitant to prosecute in the courts of that county. During that session of the Legislature he united with others who were injured in an application to the Legislature, and the appropriations which are evidenced in the papers on my desk were made. The State now asks that these several papers be laid before the Senate, with the hope that Congress will reimburse the State for the amount appropriated. I ask that they be printed and referred to the Committee on Finance.

The VICE PRESIDENT. They will be so referred. The question of printing will go to the Committee on Printing.

REPORTS FROM COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the memorial of B. C. Baily, praying to be reimbursed for damage sustained by the detention of the ship Argo, in 1861, submitted a report, accompanied by a bill (S. No. 48) for the relief of B. C. Baily. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the joint resolution (H. R. No. 16) to continue the bounties heretofore paid, reported it back with a recommendation that it pass.

Mr. FESSENDEN. The same committee, to whom was referred the joint resolution (S. No. 9) to extend the time for paying bounties to veteran and other volunteers, have instructed me to report it back with no specific recommendation, as the other joint resolution embraces the whole subject-matter.

Mr. LANE, of Indiana. The Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 35) to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri, have instructed me to report it back without amendment. I ask that it may be taken up and acted on now.

Mr. FESSENDEN. That had better be passed over.

The VICE PRESIDENT. Being objected to, it must go over under the rule.

Mr. COLLAMER, from the Committee on the Library, to whom was referred the joint resolution (S. No. 1) allowing the use of the Congressional Library to the justices of the supreme court of the District of Columbia, reported adversely thereon.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the memorial of Henry P. Blanchard praying compensation for services performed as marshal for the consular court at Canton, China, submitted a report, accompanied by a bill (S. No. 47) for the relief of Henry P. Blanchard. The bill was read and passed to a second reading; and the report was ordered to be printed.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred the bill (S. No. 12) extending the time within which the States and Territories may accept the grant of lands made by the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, reported it without amendment, and with a recommendation that it pass.

Mr. MORGAN, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. No. 14) presenting the thanks of Congress to Cornelius Vanderbilt for a gift of the steamship Vanderbilt, reported it without amendment, and with a recommendation that it pass.

PRINTING OF TAX REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred a joint resolution (H. R. No. 15) to provide for printing annually the report of the Commissioner of Internal Revenue, have instructed me to report it back without amendment, and recommend its passage. It is desirable that it should be passed now, as the type is standing; and I therefore ask for its present consideration.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It proposes to make it the duty of the Superintendent of Public Printing annually to print, for the use of the Commissioner of Internal Revenue, one thousand copies of his report to the Secretary of the Treasury.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 49) relating to the admission of patients to the hospital for the insane in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 50) to authorize the President to appoint a second Assistant Secretary of War; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 51) amendatory of and supplementary to "An act to provide circuit courts for the districts of California and Oregon, and for other purposes," approved March 3, 1863; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 52) to provide for the summary trial of minor offenses against the laws of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WILKINSON, in pursuance of previous notice, asked and obtained leave to introduce a joint resolution (S. No. 17) relative to a certain

grant of lands for railroad purposes, made to the Territory of Minnesota in the year 1857; which was read twice by its title, and referred to the Committee on Public Lands.

COMMITTEE SERVICE.

On motion of Mr. COLLAMER, and by unanimous consent, it was

Ordered, That the vacancy on the Committee on Post Offices and Post Roads, occasioned by the death of Hon. Lemuel J. Bowden, be filled by the Vice President.

The VICE PRESIDENT appointed Mr. POMEROY to fill the vacancy.

PUBLIC BUILDINGS REPORT.

Mr. FOOT submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That five hundred copies of the annual report of the Commissioner of Public Buildings and Grounds be printed for the use of the Commissioner's office.

DIPLOMATIC SALARIES.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Foreign Relations be instructed to inquire into the expediency of increasing the salary of the United States minister to Spain and the United States consul at Macao, China.

MESSENGERS, PAGES, AND LABORERS.

Mr. CLARK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Sergeant-at-Arms of the Senate be authorized to employ in the service of the Senate, during the present session, such extra messengers, pages, and laborers as the Committee to Audit and Control the Contingent Expenses may direct.

POST ROAD IN WEST VIRGINIA.

Mr. CARLILE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads inquire into the expediency of establishing a mail or post route from Lost Creek post office in Harrison county, West Virginia, via Rockford and Johnstown, to Peel Tree post office in Barbour county.

BOUNTIES TO VOLUNTEERS.

Mr. WILSON. I ask the unanimous consent of the Senate to take up for consideration at this time the joint resolution reported back this morning by the Committee on Finance to continue the bounties to volunteers.

By unanimous consent the joint resolution (H. R. No. 16) to continue the bounties heretofore paid was considered as in Committee of the Whole.

Mr. FESSENDEN. The joint resolution was referred to the Committee on Finance on my motion with a view to inquire what effect its passage would probably have upon the Treasury, and how far we were able to meet it. In order to obtain the information that I desired on the subject, I addressed a letter to the Secretary of the Treasury, to which he has made a reply, which reply I send to the Chair to be read for the information of the Senate.

The Secretary read the following letter:

TREASURY DEPARTMENT, January 11, 1864.

SIR: On receiving from you copies of Senate joint resolution No. 9 and House joint resolution No. 16, relating to bounties, with your letter inquiring "whether there are any considerations arising from the condition of the Treasury which will make the passage of either resolution dangerous or particularly inexpedient at the present time, and also requesting such suggestions with regard to any modification of either resolution or to the whole subject matter as may occur to me," I addressed a note to the Secretary of War, asking for such information as to the amount of War bounty to be required for the payment of the bounties proposed, the periods at which the money will be wanted, and the proportion of the whole amount likely to be derived from commutation for drafted men, as would enable me to make a proper reply to your letter.

The Secretary of War in answer to my note says:

"It is understood that fifty thousand veteran volunteers have been or may be enlisted from the armies in the field. Twenty-one million dollars would be required for the whole bounty to that number; \$10,500,000 would be required for the installments falling due the first year.

"There are two other classes of volunteers besides what are called veterans:

"1. Those who volunteer to fill up old regiments.

"2. Recruits for new organizations.

"To those who go into old regiments \$300 bounty is allowed by general circular No. 95; but to new recruits only the sum of \$100, payable under the act of July, 1861.

"The Department has labored to confine the volunteer to veterans and to filling up the old regiments. A few new organizations were authorized before the present system was adopted.

"The number that will volunteer for old regiments or new organizations cannot at present, with any certainty, be estimated. But, in most of the States, vigorous efforts are being made by executive and municipal authorities to fill up the whole quota."

From this statement it appears that \$21,000,000 will probably be wanted for bounties to veterans. The sum likely to be required for recruits to fill up old regiments is not stated; but if the number be assumed as equal to the number of veterans expected to reenlist, the amount required for their bounties will be \$15,750,000. If one hundred thousand men are thus obtained, and the remainder of the three hundred thousand men called for be filled up by volunteers for new organizations, the further sum of \$20,000,000 will be needed.

The addition, therefore, of three hundred thousand volunteers to the Army as veterans, recruits for old regiments, and recruits for new organizations, will require appropriations for bounties to the amount of \$56,750,000.

But, if I understand the Secretary of War correctly, the sum of \$21,000,000 includes \$5,000,000 for the bounty of \$100 to each man, allowed by law to all recruits, excepting colored, alike, whether volunteers or drafted men. So, too, the estimate of \$15,750,000 for recruits to old regiments includes \$5,000,000 of usual bounties; while the sum of \$20,000,000 for two hundred thousand recruits for new organizations is wholly made up of like bounties.

If, therefore, the estimate of fifty thousand veteran recruits and fifty thousand recruits for old regiments be correct, the whole amount required under existing laws in order to the raising of the same number of men, is \$20,750,000, of which sum about \$15,000,000 will be required during the present year.

Taking these figures to be correct, I reply to your inquiries that I do not think that there are any considerations arising from the condition of the Treasury which will make the passage of either resolution dangerous or particularly inexpedient.

I must not omit, however, to observe that any additions to the appropriations demanded by existing estimates enhance the difficulty of obtaining the vast sums required to satisfy them.

The first duty of the Republic to its soldiers and sailors is prompt payments and sure supplies. Payments cannot be prompt nor supplies sure if appropriations exceed the probability of certain provision.

The estimates heretofore submitted require from loans for the last seven months of the fiscal year 1864, \$352,226,539, or \$50,318,079 a month. If vigor and decision and earnestness in the work of suppressing the rebellion shall be attended with marked progress toward its consummation, these large sums, and the additional sums required for bounties, can probably be obtained at reasonable rates.

But the whole of these additional sums, as well as every other amount added to expenditure beyond estimates, should be raised by taxation. No uncertainty can be safely allowed to attend the question of prompt payment. Delay of payment, and doubts as to its certainty, chill the ardor of the best soldiers, create dissatisfaction in the minds of dealers with the Government, enhance prices of supplies, and invite deterioration of their quality.

I trust, therefore, that the Committee on Finance will accompany any report that may be made of the resolutions referred to it with some resolutions pledging the faith of Congress to raise by taxation, beyond the \$161,568,500 35, heretofore estimated as the proportion of this year's disbursements to be provided in this mode, every dollar which may be appropriated beyond the estimates submitted at the commencement of the session.

All considerations of prudence and economy require this legislation. It will be impossible to raise large sums by loans much longer unless large sums are also raised by taxation. In the report submitted to Congress at the commencement of the session, I ventured to say, "It is hardly too much—perhaps hardly enough—to say that every dollar raised for extraordinary expenditures or reduction of debt is worth two in the increased value of national securities and increased facilities for the negotiation of indispensable loans." Reflection and observation since have satisfied me that under our present circumstances the remark is an understatement of the truth.

Yours, very respectfully,

S. P. CHASE,

Secretary of the Treasury.

Hon. W. P. FESSENDEN,
Chairman Committee of Finance, United States Senate.

Mr. FESSENDEN. Mr. President, the Secretary of the Treasury having stated that there is nothing in the condition of the Treasury, in his judgment, to render the passage of either resolution particularly inexpedient at the present time, the committee directed me to report the House resolution. The resolution of the Senate extended the time for the payment of these bounties until the 1st of February, but it will be noticed that one half the month of January has already elapsed. It will become necessary, therefore, in order to meet the opinion of the Committee on Military Affairs of the Senate, to extend it some further time into the month of February, and on the whole, there being but few additional days, the committee thought it better to take the House resolution as it was, extending the time, if it be extended at all, until the 1st of March.

The Secretary made another suggestion in his letter which the Senate will have noticed; and that is, that the passage of this resolution be accompanied by a resolution pledging Congress to raise additional sums by taxation. The committee were of opinion, however, with reference to that point, that, as the originating of bills for raising revenue was, by the Constitution, exclu-

sively given to the House of Representatives, any pledge with regard to raising revenue should, from the nature of the case, also originate there, and therefore that it was inexpedient for the Senate to introduce a resolution of that description, more especially as the Committee of Ways and Means of the House have already under consideration measures for increasing the revenue by additional taxation. We therefore did not feel at liberty to accompany the resolution as reported back to the Senate with a resolution of the kind suggested by the Secretary of the Treasury. The letter explains fully the views of the Secretary, and I can add nothing to it, as the subject was referred to our committee simply to look into that particular question. Of the propriety of the whole matter, the Senate will judge.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed:

AMENDMENT OF ENROLLMENT ACT.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, the pending question being on the amendment proposed by Mr. SUMNER, to strike out all after the enacting clause of the amendment reported by the Committee on Military Affairs and the Militia, which was to add the following as an additional section:

And be it further enacted, That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved on the 3d day of March, 1863, as authorizes the discharge of persons drafted into the service of the United States under the authority of that act upon the payment of a sum of money not exceeding \$300, be, and the same is hereby, repealed.

And to insert in lieu thereof:

That any drafted person shall be discharged from the draft on paying to such officer as the Secretary of War may authorize to receive the same, the full sum of \$300: *And provided further,* That every such person thus discharged shall pay, in addition to the said sum of \$300, a certain proportion in the nature of a title of his annual gains, profits, or income, whether derived from any kind of property, dividends, salary, or from any profession, trade, or employment whatever, according to the following rates, to wit: on all income over \$600, and not over \$2,000, ten per cent.; over \$2,000, and not over \$5,000, twenty per cent.; and on all income over \$5,000, thirty per cent.; and it shall be the duty of every such person seeking to be discharged to make return, either by himself or his guardian, to the provost marshal of his district of the amount of his income, according to the requirements of the act to provide internal revenue of July 1, 1862; and so much of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, as is inconsistent with this section, be, and the same is hereby, repealed.

Mr. SUMNER. I propose to modify my amendment—I will send it to the Chair as I have modified it—by striking out all of the first part, down to the seventh line, and inserting these words:

That in addition to the substitute furnished by a drafted person, or where no substitute is furnished, then, in addition to the sum fixed by the Secretary of War for the procurement of a substitute, every such drafted person shall before his discharge from the draft be held to contribute—

Now I go on with the text of the original proposition—

a certain proportion in the nature of a title of his annual gains, profits, or income, whether derived from any kind of property, dividends, salary, or from any profession, trade, or employment whatever, at the following rates, &c.

And then I add at the end these words:

And be it further enacted, That the contributions thus made shall be employed by the Secretary of War in his discretion to promote enlistments or for the benefit of enlisted men.

So that the single proposition on which the Senate will vote will be whether they will make the rich man who is drafted pay more than the poor man, or whether the two shall be treated on an equality.

Mr. SHERMAN. If the question was simply the proposition stated by the Senator from Massachusetts, I would have no hesitation in voting for his amendment; but it is not. The amendment of the Senator from Massachusetts proposes to establish a new income tax, to be imposed only upon those who are drafted. In this view of the subject, it is an unjust and unequal tax, which makes the burden of the draft more severe than before. If the Senator desires to impose an income tax for the purpose of raising a special fund to hire substitutes, that tax ought to be imposed not only upon the man who is drafted, but upon all wealthy citizens.

There is still another objection. This income tax can only operate upon the young, active, healthy men who are subject to military duty. It does not operate upon the old men who are wealthy, who are free from military duty, and who ought to pay the largest tax. The most active, the most industrious, and the most valuable of our citizens who will have to perform military duty, are alone subject to this increased income tax, while the old, the wealthy, who ought to pay the largest taxes, would not be called upon to pay at all. It seems to me that a very little examination will show that this tax is unequal and oppressive, does not operate as an income tax equally, and I think will prevent the due execution of this law. It will raise the price of substitutes very much, and that is another argument against it. To prevent that was one of the very purposes for which the \$300 commutation clause was put in the law.

If this clause be added now, what will be the effect? If the rich man is drafted, he will not pay this additional commutation money, but he will go into the market and hire a substitute.

Mr. SUMNER. The Senator will excuse me. I have provided for that precise case. The rich man is to supply his substitute and also a ratable contribution of his income.

Mr. SHERMAN. That makes it still worse. A man who has arrived at the age of fifty years, who has accumulated a large fortune, who is able to pay an income tax, and who would do it cheerfully, is exempt by the operation of this amendment from all burden, not only of physical service, but of an income tax; while the young, active, adventurous man, who has arrived at the age of thirty-five, who may by his industry have accumulated a sufficient sum to realize an income of over six hundred dollars, would be subject not only to be called upon to render physical service, but to pay in addition a large income tax—an income tax such as was never enforced in the history of this world. I believe in some cases, if I remember the amendment of the Senator from Massachusetts, it is as high as thirty per cent. I would ask the Senator if in all his reading—and we all know that he is a gentleman of great acquisitions—he ever read of an income tax of thirty per cent. I think there is no case of it in history. A title is considered a very large income tax.

It is, Mr. President, impossible to mingle these two systems. Every man holds his property subject to the right of Congress to levy taxes; and the power of Congress extends to seizing the whole of all the property of all the citizens. There is no doubt about that. Every man also who is able to render physical service is bound to render that service whenever called upon by Congress. Congress has the unlimited power to raise armies, and Congress may by law prescribe that every man able to render service shall enter the Army of the United States. These are two distinct duties, one to render physical service and the other to pay taxes. You cannot blend these two together. They operate upon different classes of individuals. Physical duty can only be rendered by those who are able to perform it, namely, the young men between twenty and forty-five. The duty of paying taxes, and the power to levy taxes, extend to all citizens who own property and who are able to pay taxes. You cannot blend these two duties together. I submit these observations now to show that the taxation proposed by the Senator from Massachusetts will operate unequally. It will only operate upon those who are least able to pay, the active and energetic who are already bound to render military service when called upon by Congress.

Mr. President, I do not wish unnecessarily to take up the time of the Senate in the discussion of this amendment, because I see the necessity of passing this bill as soon as possible. I have given this subject the most anxious attention. There is no subject that ought to be more carefully considered by Congress before it is finally acted upon than the amendment of the enrollment act. There are difficulties in the way. If you retain the commutation clause, you meet the objection made so ably by the Senator from Indiana. If you allow a man on paying \$300 to relieve himself for three years from the operation of the draft, you may leave yourself without the basis of future drafts. You may by enforcing the conscription law be able to raise one army of three hundred

thousand men; but in doing so you exhaust the basis of all future drafts and all future reinforcements. We dare not do that, we must not do it, because we do not know what the exigencies of the country may demand of us. It may be necessary for us to have a broader and more general levy. The argument of the Senator from Indiana satisfies me that the present commutation clause ought to be modified to some extent.

But, on the other hand, if you make your draft arbitrary, and allow no man to be exempted, and require every one to render military service, you will incite resistance to the draft. You will not justify it, because nothing will justify resistance; but you may excite it. If you make your draft arbitrary, so that the citizen must in all cases be seized and forced into your ranks, compelled to hire substitutes or to render military service, you make the difficulties in the way of enforcing the draft very great. It is necessary, in my judgment, to steer clear of these difficulties; and for the purpose of doing it, I have carefully framed two amendments which may be put together into one. These, I think, will answer the purpose. They have been printed and laid on the tables of Senators. I ask the Secretary to read them, so as to call the attention of the Senate to them, and then I shall submit some observations upon them.

The Secretary read, as follows:

That any person enrolled and drafted into the military service of the United States may furnish an acceptable substitute, subject to such rules and regulations as may be prescribed by the Secretary of War. That if such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute shall have been accepted; and if such substitute is liable to draft, the name of the person furnishing him shall again be placed on the roll, and shall be liable to further draft. And any person now in the military or naval service of the United States, not physically disqualified, who has served more than one year, and whose term of unexpired service shall not at the time of substitution exceed six months, may be employed as a substitute. And if any drafted person shall hereafter pay money for the procurement of a substitute, under the provisions of the act to which this is an amendment, such payment of money shall operate only to relieve such person from that draft, and his name shall be retained on the roll, and he shall be subject to future draft.

Mr. SHERMAN. It will be perceived that this amendment would be more proper as an amendment to section four of the bill, which provides for the substitution. It ought to be in lieu of section four, and also in lieu of section twenty. The effect of this amendment, if adopted, would be that every person drafted would have the right to hire a substitute. If he hired a substitute from among those not subject to draft, as unnaturalized foreigners, persons under twenty years of age, or men who by having already served are exempt from the draft, in such case the substitute operates to exempt the drafted person from the entire draft for three years; but if the drafted person hires a man who is himself subject to draft, they then just change places, the drafted man again takes his place on the roll where his substitute stands, and the substitute renders military service to the Government. In this way the Government loses nothing. The number of persons enrolled and subject to military duty continues the same. There can be no exhausting the roll until every man has rendered military service. The person who has employed a substitute who is himself subject to draft would be liable to be called upon at the next draft. He would take his chance precisely as his substitute would have done, and that is the way it should be. On the other hand, the \$300 commutation clause is retained, so that a man whose business will not allow him to go, or who, for any reason, cannot go, may pay the \$300; but he is again to take his place on the roll, and be subject to future draft. With that \$300 a substitute may possibly be employed by the War Department; but if not, the War Department may go on and make another call, and the person should again be subject to military duty.

It seems to me, Mr. President, that this would avoid all the difficulties in the way of enforcing the draft. I submit it now, and shall offer it at the proper time for the consideration of the Senate. In the mean time, it seems to me that we should vote down the proposition made by the Military Committee. If my proposition should be satisfactory to the Senate, as I believe it is to most of the members of the Military Committee, it will avoid the main difficulties that have been made in the enforcement of the draft.

Mr. COLLAMER. Mr. President, if it be

practicable, it is desirable to avoid the raising of the prices of substitutes and the employment of brokers in that business. That has been the policy at which we have aimed, whether we have effected it or not. It seems to me that furnishing a substitute or paying the money to procure a substitute should place the man on the same footing. If not, then the man, instead of furnishing money, will go into the market and employ brokers, and the result will be to raise the price of substitutes so that the Government cannot get men. That is the necessary effect of such a course, and it will defeat the great purpose for which the commutation clause was inserted in the law. The Senator from Ohio in his amendment makes a distinction between the man who furnishes a substitute and the man who pays commutation money.

Mr. SHERMAN. The Senator is mistaken in one respect. I make two classes of substitutes. If the substitute is himself liable to draft, I then put the man furnishing him upon the same footing as the man who pays the money; but if the substitute is not liable to draft, as if he is an unnaturalized foreigner, or under the age of twenty, or a veteran soldier who has performed his share of military duty, in that case he is a full substitute, and relieves the drafted man from the whole draft for three years. If the substitute is himself liable to military duty, I simply provide that they change places; the drafted man's name goes back on the enrollment list, and the substitute takes his place in the ranks.

Mr. COLLAMER. That does not avoid the difficulty. It still leaves a difference between a man who pays the money and a man who furnishes a substitute.

Mr. SHERMAN. In one class.

Mr. COLLAMER. It still keeps up that distinction and still makes the very difficulty; still runs us against the very trouble which we are desirous to avoid. I know that for a while it was said, in consequence of a certain expression of the old law declaring that the payment of money should clear a man from "that draft," that there was a difference between paying the money and furnishing a substitute. That, however, was afterward overruled, and for this obvious reason: "that draft" was understood to be a draft for three years, and therefore when the law said that the payment of the money should clear a man from "that draft," it must be understood to be the same thing as clearing a man when he furnished a substitute for three years. All meant the same thing, were understood in the same way. The great purpose for which that feature of the law was inserted would be utterly defeated if it were not so. The law provided that a man paying the money should be cleared from that draft. The President may order a draft at any time. I do not know what that word means unless it means a draft for three years. If it means that, then when a man pays the money or hires a substitute he is clear for three years. We are required, in order to understand what we are about, to know ourselves, and know what we mean by the words "that draft." If it is a three years' draft, as I understand, then a man is clear for three years if he pays the money. If not, what is the result? A man's name is put in and he is drafted. He is told that paying his money will not have the same effect as furnishing a substitute. So he goes into the market; he goes to a broker; the broker has runners out, and the effect is to run up the price of substitutes in the market so that the Government will not get men afterward. That will not do.

You clear him from "that draft," and you mean not a draft for three years, which would clear him for three years; well, what do you mean? The President, say, has ordered a draft to-day for one hundred thousand men. The drawing takes place, and he does not get as many as he wants. Next week he orders a draft for more, and so on for more until he gets his whole hundred thousand. Do you mean that these three drawings which it took to obtain one hundred thousand men are one draft, or three drafts? If you mean that every time you go on drafting you are to draw out of the box in which the names are placed those which have not already been drafted, then it is nothing but a continuation of the former draft. If you mean that you are to put back again all that have been drawn and have not gone into the service, all who have hired substitutes that

were not subject to duty, all those who have paid the money, it comes to this: to-day I am drafted; I pay my \$300 for obtaining a substitute; the Government take my \$300, and next week they put my name back into the box and they draw it out again! Now, does the gentleman really mean that I shall be subject to that second draft and the Government pocket my money and keep it? I think the bare statement of the case is sufficient to startle any man's sense of common justice, much less common honesty. You draft a man to-day and take his \$300, and next week you draft him again and will not return him the money. Then put it the other way: suppose the Government take the money and employ a substitute with it, and then put the man back again into the box and draft him again. Will you say that that man did not furnish a substitute when he furnished you the money by which you obtained one? And yet it seems to go on that ground. I hardly think the gentleman really means that; it cannot be possible. If he does not mean it, his amendment requires very great modifications.

I suggest to the Senator from Ohio whether it would not better carry out the view which I cannot but think he entertains, to say that if a man is drafted and furnishes a substitute or pays his money, he shall not be subject to draft again until all the persons who are enrolled have been drafted. I would not take his name out. I would leave it in for the purpose of keeping up the whole number, so that the chances should be the same; but the provision I suggest is that such a man, if again drafted, shall not be subject to be called upon to perform duty under that draft until all the persons enrolled shall have been drafted. That might create something like equality and justice, and would not prevent the taking of such a man when the necessities of the country require it.

I will state the proposition again, so that it may be perfectly understood. It is, that a man who is drafted and furnishes a substitute or pays the money to procure one, shall not be subject to duty, if again drafted, until all the persons enrolled have been drafted. When they have all been enrolled and drafted and paid their money or got substitutes, they will be on the same footing; they will all be served alike. Then you might again, with some justice, put them all back into the ballot-box and draft again when the necessities of the nation require it; but you should not take a substitute from a drafted man, or take his money, and then so arrange it as to draft him again when there are thousands already on the roll who have never been drafted at all. I do not wish to take further time on this question at present.

Mr. SHERMAN. I think there is no injustice, and the Senator will see that there is no difficulty, in enforcing my proposition, if he will allow me to illustrate my meaning by a supposable case. Suppose that he and I are subject to draft, and I am first drafted. It is not convenient for me to go, and he would go for \$300. I employ him to take my place and go into the service of the country, and pay him \$300; and I take his place on the enrollment, subject to future draft. We exchange places, precisely as if his name was drawn and mine remained. Is there anything wrong in this? If by the turn of the wheel in a future draft my name should be drawn again, I only stand in his shoes; I take his place. I purchase a temporary and perhaps a permanent exemption for \$300, and the United States lose nothing.

Mr. COLLAMER. It is not that, but it is the other proposition I am talking about. I am talking about the taking a man's \$300 and subjecting him to be drafted again when you do not pay him back his money; and also about the drafting of a man who has furnished a substitute.

Mr. SHERMAN. I will take that case. It is the purpose of the law, as the Senator agrees, to prevent the price of substitutes going beyond the means of men in ordinary circumstances. For this object we fixed the rate of commutation at \$300. We authorized the employment of a substitute or the payment of \$300 to operate alike as an exemption for three years from military service. Now, to resume my illustration, suppose that, instead of employing the gentleman who is on the enrollment list with me to act in my place, I pay to the Government \$300 to be relieved from that draft, but upon condition that my name is retained on the list for future drafts; is it any hardship? I receive the same benefit by the

payment of the \$300 to the Government as if paid to him.

Mr. COLLAMER. Will the gentleman answer me this question: would it not be hard, when you have paid your \$300 to the Government for the purpose of getting a substitute, that you should be subject to draft again, when there are thousands on the roll who have never been drafted? Should they not be placed on the same footing with you? Then there would be some equality.

Mr. SHERMAN. It is impossible to have any system of draft that will equally distribute its burdens. I may think it hard that I should be drafted a second time instead of other persons on the list; but the chances must determine. When all are not needed, some must be taken. Who shall be selected? It has been deemed by military nations wisest and best to resort to the draft, because that is impartial; it knows no difference between the rich and the poor; all men take their chance. The draft is therefore considered fairer, rather than to divide the whole community into classes, but it may in many cases operate hardly and unjustly. We must look at the present law in order to obviate the objections to it. All those subject to military duty are now enrolled. It is a capital of, say, three million persons subject to military duty. The Government wants, say, twenty per cent. of them to render military service. They make a draft for that twenty per cent. Under the present law, the persons drafted whose services are needed in the field may get rid of the draft by the payment of \$300. The wants of the Government are not supplied, the wants of the Government are not satisfied. Under the law, as the gentleman properly construes it, the payment of \$300 exempts a man from military service for three years; and the fear was at the War Department that if this system was carried on, if your law of last winter was executed in its words and according to its meaning, you might get an army, but that you would exhaust the basis of the draft. By your law you agreed that men who had been drafted should, upon the payment of \$300, be discharged from military service for three years; and yet the exigencies of the country might demand that their service should be rendered within three years. This was a danger which must be avoided; it was a danger that was pointed out with great force by the Senator from Indiana. He has never been answered. We must not impair the basis of the draft, and I can perceive no way to avoid it but to provide that if a man pays money for commutation his name must again be placed upon the roll, or the result will be that we may have one army without any chance of reinforcements or without any basis for further calls.

Mr. COLLAMER. Let me ask the gentleman what is the difficulty, when a man's name is drawn out, if he has paid the \$300, in permitting him to remain discharged until the rest have been drafted?

Mr. SHERMAN. That would be just if his \$300 employed a substitute not subject to draft; but the general effect would be for the substitute to be taken from among those subject to draft. The \$300 may be entirely insufficient, or two names would be stricken from the enrollment and but one secured for the service. My amendment provides for two classes of substitutes: one, those not subject to military duty, as unnaturalized foreigners, who are not subject to military duty under our laws; or minors who are under twenty years of age; or those who have already served their country and are called veterans. They are relieved from draft. Now, if a drafted person from among those not subject to draft secures a substitute and puts him into the ranks of the armies of the United States, he has furnished to the Government of the United States a full substitute in its proper sense—a man not subject to military duty, who could not be called upon for military duty. If he places him in the ranks, he has furnished the Government a substitute without weakening or drawing from the basis upon which this draft rests. Therefore he should have, and I give him, the full benefit of the substitute, and relieve him from service for three years, the time for which he was drafted. But if, on the other hand, he goes among those who are themselves subject to military duty and gets a person who may at the next turn of the wheel be himself drafted, he should take the chances of that substitute for all future drafts. This will not

operate hardly; but if, on the other hand, you do not adopt some expedient like this—and I do not say that this is perfect—if you adopt the views of the Military Committee, you will excite resistance to your draft. How does this bill now stand? Under the provisions of the bill as reported by the Military Committee no man can hire a substitute unless he hires one from among those not subject to draft. He cannot relieve himself from military duty by the payment of any sum of money whatever. The draft is arbitrary, compulsory; the price of substitutes will rise enormously; there will be cases in every community of great hardship, where every good man will feel that the person ought not to be dragged from his family or business to render military service. Persons will be drafted who have hundreds of families dependent on them for employment, and if the draft is rigidly enforced they would be drawn away, and hundreds of women and children would lose their daily bread. Every just man will say that cases of this kind ought to be provided for by wise legislators. An imperative draft which allows no reasonable substitution, which allows no commutation, cannot and will not be enforced.

Under these circumstances we must provide some way by which when men are drafted and they cannot go, they can either hire substitutes or commute military service. What does the Government desire? The Government does not desire to oppress the citizen; it only desires military service. If that military service is rendered, either by the drafted man or by a substitute, it ought to be accepted, at the same time having always in view to keep unimpaired the basis of drafting, the great body of our citizens who may at any time be called upon to render military service.

Mr. President, I have met this question in relation to the \$300 clause during one of the most exciting political campaigns that have ever been held in this country. I know that demagogues on the stump declared that this \$300 exemption clause was intended to favor the rich at the expense of the poor. We met that charge; but when the subject was fairly discussed before intelligent people, I saw but few but were satisfied and convinced of the injustice of that charge.

Suppose you repeal the \$300 exemption clause; suppose you allow no commutation at all for military service, but make the draft absolute: what then becomes the condition of the poor man? The poor man may be dragged from the dead body of his wife into the military service of the United States unless there is some way of commuting. If there is no commutation, then the price of substitutes rises so high that none but the rich can procure a substitute. If a rich man is drafted he may go out, and with his thousands he may hire a substitute from among those who come to us from foreign lands. You cannot by any law whatever prevent him from availing himself of the use of his money. Therefore I say this commutation clause was intended for the benefit of the poor. It has operated to the benefit of the poor. The mistake was that the operation of that commutation clause was to exempt the drafted man from all military service, instead of simply placing him back on the roll subject to future draft. There was the mistake—a mistake into which I fell as well as others. The idea of enforcing the law arbitrarily, without giving any opportunity of commutation, will only excite resistance. As for the spirit of demagogism that was excited against this feature of the law, I would meet it with argument—with good, sound sense; and our people are intelligent enough everywhere to listen to those arguments. Let demagogues avail themselves of this legislation; it is our business to do what is right, and depend upon the judgment of our constituents. I have no doubt that in Ohio we gained votes by the very fact that we had provided a way by which a man in reasonable circumstances who was drafted, and who could not go into the Army, might pay money in lieu of military service.

I desire to retain that provision of the law in some form. It may be that the amount inserted was too low. I would be prepared to increase it to \$500, if \$500 was found to be necessary to hire a substitute; but that some mode of commutation must be provided by any law of this kind, it seems to me, is capable of absolute proof. In all the

laws of Europe on this subject, in the French law, in every drafting law that I have read—and I have read many of them—there is some mode of commutation. The principle is recognized everywhere that there are cases and incidents in the life of men when they cannot be dragged away from their families, their business, and their domestic relations, and those cases must be provided for. The Government has the right to the military service of every citizen, but it must enforce that right with the least injury to the citizen himself; and if the citizen is willing at any time to furnish a substitute, or something equivalent to his military service, that ought to be freely accepted by the Government. It seems to me the objections made by the Senator from Vermont are not well taken.

Mr. COLLAMER. I confined my remarks to the effect of the payment of the \$300 commutation or the procuring of a substitute.

Mr. SHERMAN. I think I have answered the honorable Senator on that point. If I have not satisfied him; it is because I am not able to do so. His proposition is this: that if a man pays \$300 that should exempt him from military service—

Mr. COLLAMER. Until all in that class have been served in the same way.

Mr. SHERMAN. We only come back to my original proposition. I take the case of he and I both being subject to military duty. If I, being drafted, hire him to take my place, ought not I to take his on the list subject to future drafts? If this supposed arrangement between him and me, an arrangement in which the Government has no part, does not make it clear, then I cannot make it clear. The payment of \$300 ought not to be allowed to operate any more in my favor than the arrangement of substitution I have mentioned. I would put the two on the same basis. An arrangement between two persons subject to draft ought to have precisely the same effect, and no other, as the payment of \$300, no more, no less. A drafted man ought to take the place of his substitute on the roll, and if the fortune of chance, which is always blind, should designate him on the second draft before those who have not been drafted at all, it is his misfortune, not his fault. It is no worse and no more unjust than any other system of drafting that can be devised by men. We have no presiding goddess who can distribute the ballots according to the ability of men to render military service. The draft often operates hardly, and sometimes unjustly. It makes queer combinations. It sometimes takes two out of a family. I know that in its enforcement it has operated very singularly. It has taken two sons, the only members of the family liable to service, and left all the rest of the neighborhood exempt. We cannot avoid the inequalities of the draft, because we can prescribe no rule by which military service shall be rendered except by the uncertain decision of chance.

Mr. WILSON. Mr. President, the Senator from Ohio is certainly mistaken in regard to the amendment pending before us, as reported by the Committee on Military Affairs. The Senator understands—

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The Chair will state that the question immediately before the Senate is the amendment proposed by the Senator from Massachusetts, [Mr. SUMNER.]

Mr. WILSON. I am aware of that. The Senator understands that by the provisions of this amendment persons who are liable to draft cannot be accepted as substitutes.

Mr. SHERMAN. Under the fourth section of the bill.

Mr. WILSON. The fourth section of the bill provides that a person enrolled may furnish a substitute if the substitute furnished is not liable to draft; but by the original bill a person after he is drafted may furnish a substitute who is liable to draft. That is not changed in this bill. The Senator proposes an amendment to meet, and I think correct, that defect in the law. I am in favor of his first proposition; and that is, that a person drafted obtaining a substitute liable to draft shall himself take that substitute's place, or be responsible for him if the substitute is afterwards drafted. That is necessary in order to preserve the whole military strength of the country. But I agree with the Senator from Vermont that the other proposition of the Senator from Ohio is not just.

The man who pays his money ought to be placed on the same footing as the man who obtains a substitute; and if the amendment now pending should be voted down, I shall propose an amendment to the section reported by the committee repealing the commutation clause which, I think, places the matter right, and meets the objection made by the Senator from Vermont, and in which I agree with him. It is as follows:

That any person enrolled and drafted may pay to such person as the Secretary of War may designate to receive it, \$300 for the procurement of substitutes, and such person so paying \$300 for the procurement of substitutes shall be exempt from draft until such time as he shall again become liable to draft by reason of the exhaustion of the class from which the draft shall be made; but such exemption shall not exceed the time for which such person shall have been drafted.

Let the person who pays the money be exempted from being drafted until all the other persons who have not been drafted are drafted, and then he will be again liable.

Mr. SHERMAN. I should like to ask the Senator whether, under his proposition, the man who pays commutation money would not get more by that payment than he who hires a substitute from among those subject to military duty. It would give the payment of money a greater force than the hiring of a substitute.

Mr. WILSON. I think he would by the Senator's amendment, and I hope he will modify his amendment so as to put these drafted persons on the same ground. There is a great distinction between them now, according to the Senator's amendment. For instance, if a drafted person obtains a substitute not liable to draft, he is exempted, under that amendment, for the whole term of service; if he presents a substitute who is liable to draft, he takes that substitute's place and is answerable for him. That is the way I understand the Senator's amendment. I propose in this amendment that the person paying the money shall be exempted for the whole term, or until the class from which he has been drafted is exhausted.

Mr. COLLAMER. The classes are stricken out in this bill.

Mr. WILSON. They are proposed to be stricken out; but we can change it so as to provide that the entire number of persons liable to the draft shall be first drafted; and why should it not be so? In my judgment it is better to furnish the money than to furnish a substitute, and I think the money paid has been much better used than the substitutes obtained; and I will tell you why. The money paid to the Government has been used to recruit these old veterans. It has been used to raise men in the sections of the country where our armies have advanced, and has thus much relieved the sections of the country upon which the draft fell heavily. We raised about twenty-five thousand persons as substitutes. Several thousand of them when first offered were generally pretty poor men, and vast numbers of them deserted at the first favorable moment. A class of men floating about the country were first picked up and used as substitutes, and before they went into the Army and after they went into the Army they deserted whenever they could do so. Afterwards there came a better class of men. They have entered the service and are doing their duty with great fidelity. I had rather to-day, if a draft were made, that the money should be paid and the Government raise the substitutes than to have this man-broker business going on in the country with its consequent demoralization and the obtaining of a class of men very many of whom never mean to serve the country but merely to get the money. I would place the man who paid the commutation on the same footing with the man who obtained a substitute; let him take his choice; and therefore I propose that he shall be exempted for the time for which he was drafted, or until the persons who have not been drafted at all have been drafted, and then he comes in and makes the whole strength of the country.

Mr. COWAN. I would suggest to the Senator from Massachusetts that that is a very different thing. It is one thing to exempt a man for the time for which he has been drafted and another to exempt him until the whole number of names in the wheel shall be drawn. One is definite and the other is indefinite; one is fixed and the other may never happen.

Mr. WILSON. I will read it, and I should

like to have the attention of the Senator from Pennsylvania to it, to see if he can better it. If it can be made clearer, I should be glad to have it done.

He shall be exempt from draft until such time as he shall again become liable to draft by reason of the exhaustion of the class from which the draft shall be made, but such exemption shall not exceed the time for which such person shall have been drafted.

I think that is complete.

Mr. COWAN. Mr. President, I think much of this difficulty arises out of a misconception of the word "draft." The present law has been a good deal considered in my State by the legal profession, and that section which allowed a man to be exempted for the time for which he was drafted by furnishing a substitute, even though the substitute himself was liable to draft, was always thought to be unjust. But the fair construction of the commutation clause, as it is called, was that it exempted the person paying it from any draft made to fill that call. The President, in the first place, calls for five hundred thousand men. The wheel is brought out and five hundred thousand men are drawn, or a certain number of men take their chance to be drawn, under that call. Those who are drawn and who do not go into the service pay their \$300. That exempts them from being drawn for that call. If it should become necessary the next year to raise five hundred thousand other men, they would still be liable to be drawn again, according to a fair construction of the law; and I may say this is based upon the construction given to the old law. Under the act of 1795, the act of 1813, and under our act of 1861, the person drawn, in order to escape actual service, if he desired it, was court-martialed and paid a fine. It was not that the Government offered to the drafted man to commute his service for money, but he was punished by a fine for refusing to appear, when drawn, at the place of rendezvous. By the payment of that fine he was exempted from any further drawing under that call. It was perfectly impossible, indeed, that he could be drawn, or that he could incur any risk of being drawn, under that call, because the call was filled before the court-martial imposed a fine upon him.

It was a little unfortunate, perhaps, when we imposed this \$300, which is really a fine, and which ought to be considered in the nature of a fine for not appearing when drawn at the rendezvous, that it was also stated that it should be used to procure a substitute. I think that was unfortunate, because it introduced another and a different idea from that which pervaded the old law. It introduced the idea that you might commute your service for money. The old law repudiated that idea and called it a fine, penalty, punishment—punishment for not doing a duty which you are obliged to do, and which you and all men owe to the country. I think the idea of a fine or penalty should still be preserved, and therefore I am in favor of the amendment of the Senator from Ohio, if the word "draft" in that amendment shall be changed into the word "call," or if it be understood as it used to be that "draft" and "call" are synonymous; because in those times they continued to draft until they filled up the call, and the terms were one and identical. I have no objection to the phraseology as it stands, but if a draft is to be made filling one fifth or one tenth of the call, and then there is to be a suspension and a demand for new legislation, and the thing is to tarry and be delayed over five or six months perhaps, then this word "draft" becomes of very uncertain meaning. It may mean every time the officer brings out the box in order to draw a few names, or it may mean the call, just as people are disposed to put that construction upon it. I think if the word "call" were introduced instead of the word "draft," it would relieve it from all difficulties; and I think the Senator from Ohio has perhaps produced an amendment which will be more satisfactory than any other.

Mr. COLLAMER. I do not wish to repeat what I have heretofore said; but I desire to say a very few words in reply to what has been said by the Senator from Indiana [Mr. LANE] and the Senator from Ohio in relation to the manner of exhausting the element of draft. Their apprehension seems to be this: that if you draft men and then allow them to employ as substitutes other men who are on the roll subject to being

drafted you will soon exhaust your roll, exhaust the element of draft.

Mr. LANE, of Indiana. My argument was that if a man could buy himself off for \$300 and obtain a certificate of exemption for three years, and the draft was often repeated, you would soon exhaust those liable to military service.

Mr. COLLAMER. Mr. President, we always go upon the ground that this commutation money can obtain a substitute. If it is not large enough, to do that, we should increase it so that it will do so. I agree with gentlemen in that particular. But when we have once taken that in as one of the elements of our argument, that the money is paid to procure a substitute and should be enough to do it, and we have said that \$300 properly managed would do it, then we take it that that is sufficient, that that will supply a man, and therefore amounts to the same thing as furnishing a substitute.

Now, with the operation of that clause, the element of draft can never be exhausted. In the older States of the Union, and in the older States of Europe, the number of men subject to, and capable of performing military duty is just about one fifth of the population. Instead of being twenty per cent. in some of our States, as appears by the enrollment, and as appears by the returns of the census, it is twenty-two and twenty-three per cent. But take it upon the average that the enrollment, if properly made, would include one fifth of the population. What is our population? I take it is considerably more than twenty millions. Then we should have four millions on the enrollment. Now, take the worst case: that can possibly happen, that one half of those men on the enrollment hire the other half for substitutes, and you would have two million men in the field. I merely state this as a matter of figures, as a matter of certainty, to show that the elements of the draft could not, by any possibility, ever be exhausted by allowing one man to hire another as a substitute.

Then there is another thing to be considered. The number of men whom we obtain year by year by immigration and by coming of age, say twenty years of age, with which to renew the roll, is more than sufficient to cover the number exhausted in this war. They more than keep the supply good. We have not diminished in population at all in the progress of this war. We have increased notwithstanding all our losses. My opinion is, notwithstanding all the losses on both sides during this war, a census taken to-day would show a larger population in the United States and in the seceded States taken together than there was in 1860, before this war commenced. I say, therefore, that any alarm at the idea that the hiring of substitutes from the same enrollment will ever exhaust the elements of your draft cannot be well founded or well entertained, and I think it should be dismissed at once.

Mr. HARRIS. Mr. President, if I could agree with the Senator from Ohio in his premises, I should also agree with him in his conclusions; but I do not understand that there is any danger of exhausting the basis of our draft. The Senator, I apprehend, underrates that basis. It appears from the report of the Provost Marshal General that the enrollment amounts to over three million one hundred thousand persons. The draft that has already taken place on a call for three hundred thousand men is once and a half that number, and of course it may be supposed to have exhausted of the basis four hundred and fifty thousand men. Now, sir, that may be repeated six times more upon this very enrollment before it is exhausted. Seven such drafts may be made upon this basis before it is exhausted. I am unwilling to contemplate—

Mr. LANE, of Indiana. I hope the Senator will pardon me for one moment. I have the figures here. There were in round numbers enrolled a little over three millions. The last draft was for three hundred thousand men. Of that number one third were rejected as physically incompetent. That is not stricken out of the Senator's calculation. Another third, or almost another third, bought themselves off by exemption. That is not stricken out of the Senator's calculation. Now, how often will you repeat that draft before you exhaust the basis?

Mr. HARRIS. I am still correct in what I have stated, that we may have six more such drafts as

that which has taken place before the enrollment is exhausted. It is true that out of the four hundred and fifty thousand men drafted one third were exempted for physical and mental disability, and nearly one third more as being aliens and non-residents, and already in the service, and excused on account of their social and domestic condition; so that really but about perhaps one hundred and fifty thousand of the four hundred and fifty thousand would be held; and of this number it is further true that about twenty per cent. did not appear, so that we did not get by the draft anything like the three hundred thousand men who were called for. That is true; but it is still true that the call for three hundred thousand men may be repeated six times before this basis is exhausted. As I was about to say, I cannot contemplate, I will not contemplate, such a condition of things in our country as that we shall have occasion to repeat six times a draft for three hundred thousand men. All we have to do, in my judgment, is to carry on vigorously the efforts now being made to fill up our Army by recruiting and by drafting, prepare for a vigorous and energetic campaign in the spring, and we shall never have occasion for another draft. I think the Senate this morning has secured the country all the soldiers that will be needed for the spring campaign without any draft at all. The recruiting that is now going forward will be amply sufficient to replenish our Army in such a way as that the draft will not need to be enforced, except, perhaps, in a very few localities.

Mr. SHERMAN. If the Senator will permit me, I will state to him that the letter of the Secretary of the Treasury, which was read at the table this morning, was written after conference with the Secretary of War, and showed that they only relied upon obtaining fifty thousand veterans and fifty thousand new recruits under the system of bounties spoken of by the Senator. They only relied on raising one hundred thousand in that way. I think that calculation is too small; but I merely mention it to the Senator as the opinion of the two officers of the Government having the matter in charge.

Mr. HARRIS. I do not know what the estimate of the Secretary of War may be, nor do I know what view the Secretary of the Treasury may take on the subject. This I know: there was a call made on the 17th of October last for three hundred thousand men; I know that the quota under that call has been assigned to the different States and localities; and I know that under that call volunteers are coming forward in such numbers in many parts of my own State, whose quota is considerably more than one fifth of the entire call—some sixty-eight thousand—that in all probability in a very few weeks the whole quota of that State will be raised. I understand from the Senator from Vermont that the quota of his State is raised. I understand it is raised in other States, and more too; and there is every reason to believe that before the 1st of March, which is the time limited by the resolution passed by the Senate this morning, this entire amount of three hundred thousand will be raised. Sir, is not that all we need? Is not that all the War Department asks for to replenish our Army? Where, then, will be the necessity of a draft, except it be, as I have said before, in some few localities where the recruiting has not been pushed forward with vigor and energy?

I am in favor, at least for the present, of allowing those who are drafted to pay a commutation. This bill as it came to us from the Committee on Military Affairs was so oppressive that I agree with the Senator from Ohio it could not be enforced, and in my judgment ought not to be enforced. It is a bill which will operate with such severity upon our community as that it ought not to be enforced against them. Sir, we are not yet reduced to the extremity of forcing men away from their families under all circumstances and in all emergencies for the purpose of saving our country. If we could not obtain recruits, I should be willing to send the last man, no matter how great the sacrifices it might cost him, to the Army; but we have not reached that point yet. We should allow our citizens when they are drafted to furnish substitutes; we should allow them to commute; and we should make this severe law as little oppressive as possible. I am, therefore, in favor of allowing a commutation.

In my judgment, however, the commutation ought to be increased. I think the condition of the country, the condition of our people, is such as that the drafted man now may pay what it costs to enlist a veteran soldier; and I should be in favor, and if no one else shall do it, I shall move an amendment which shall fix the amount of commutation at \$400, the amount now paid by the Government as bounty to a veteran soldier. I think it ought to be done. But, sir, I would not do the unjust thing of making a man hire a substitute or pay commutation and then return his name and make him liable again to be called into service or to pay commutation or to furnish a substitute until the basis of the draft is exhausted. This enrollment by the law itself only continues until March, 1865, when a new enrollment is to be made, and then this whole matter will be reorganized and rearranged. As the Senator from Vermont has well said, the number of persons liable to draft will be largely increased by those coming of the proper age or becoming naturalized citizens, and they will be placed on a new enrollment when we have occasion for it. But, sir, I apprehend there are none of us who suppose we shall have occasion for a draft after March, 1865, and this basis of enrollment is quite sufficient to last us until that time.

THE PRESIDING OFFICER. Is the Senate ready for the question on the amendment proposed by the Senator from Massachusetts?

MR. SUMNER. I should like to recall the attention of the Senate to that amendment. The Senator from Ohio, not contenting himself with opposing that amendment, introduced other and extraneous matter which has been under discussion since, and the effect of which has been to divert attention from the original proposition. But if I can have the attention of the Senator from Ohio for a few minutes, it seems to me—I do not know—I may even satisfy him at least that his argument against my proposition was not well founded.

If I understood the Senator from Ohio, he objected to my proposition on the ground, in the first place, that it was an unusual tax; or, in other words, that it was a tax. Sir, what is the draft but a tax? The draft compels all the persons who are drafted to contribute their strength, their muscles, their lives to the defense of the Republic. That, if I understand it aright, is the highest tax the country can impose. But still further, what is the commutation money which the statute now positively requires but a tax? If, then, there be anything in the argument of the Senator from Ohio, the draft itself and the commutation money of \$300 itself is a tax, and is therefore objectionable. Neither one nor the other, in a just sense, is a tax, because neither one nor the other is any imposition for the purpose of revenue; and I ask the attention of the Senator to the distinction; neither one nor the other is an imposition for the purpose of revenue. I do not present this amendment on any such ground. I present it simply and distinctly on one ground—the duty of equalizing, if possible, this burden, so that it shall bear, so far as we can make it, alike upon the rich and the poor. Now, I have to say that that burden is not equalized, and that it does not bear alike upon the rich and the poor if you make the poor man pay \$300 and the rich man pay no more.

But the Senator went further. Not content with objecting to my proposition on the ground that it was a tax, he complained that it was an exorbitant tax; and he asked me whether in all history I could point to any instance of a tax of thirty per cent. on income. It seems to me it should be the pride of our country at this moment, that on an occasion like this it should not resort to history in order to determine whether it shall equalize a burden upon the rich and the poor. Because other nations have not undertaken to equalize a burden upon the rich and the poor, is that a reason why we should not set the example? But is the tax exorbitant? I will read it:

"On all income over \$600 and not over \$2,000, ten per cent.; over \$2,000 and not over \$5,000, twenty per cent.; and on all income over \$5,000, thirty per cent."

Now, the Senator complains of the thirty per cent.; that is, thirty per cent. on an income over \$5,000. Suppose a person with an income over \$5,000 should be drafted, I put it to the Senator from Ohio, what sum would be too great for him

to pay as a commutation for his exemption from the draft, carrying with it, as that draft does, exposure to death, disease, wounds, with the absolute employment of his time during the period of one, two, or three years, according to the duration of the draft? Is thirty per cent. on an income above \$5,000 a year too much for such a person to pay? Is it exorbitant? Is that the estimate which the Senator puts upon such an exposure? He requires \$300 from the poor man who has no income; but he thinks it exorbitant to require thirty per cent. on the income of a man whose income is over \$5,000. Sir, I do not think that, even as I have it here in this proposition, there is equality. If any objection can be brought against this proposition, it is that it is too lenient; that it does not go far enough.

I am sure, sir, eminent as that Senator is, and justly representing his own State, that he does not represent on this question every citizen of that State. I have in my hand a letter which I received since this proposition was brought forward, dated at Cincinnati, the 6th of January, from a most respectable citizen, from which I ask leave to read three or four sentences; and I read it simply to show how this proposition strikes citizens at a distance, but who have the same interest in it that we have. He says:

"Permit a stranger to address a few words to you expressive of approbation of your bill!"

He calls it a bill, but it is only a proposition of amendment—

"providing for a revision of the enrollment act, so as to afford a sliding scale of commutation for the draft, the object being to rate commutation according to the means of the drafted individual." I quote from telegrams of this morning's news. In my humble opinion you have hit the nail on the head. I think this is the only method to equalize the burden and satisfy all claims for justice and equitable dealing. When any fixed sum is indicated as the commutation fee to exempt from actual military duty, it needs but little reflection to see that it indirectly imposes a premium upon property while it taxes the poor."

Then he goes on to suppose a case somewhat at length, quite elaborately, indeed, between two citizens of Cincinnati, neighbors, whom he minutely describes, and finally winds up that part of his communication by saying:

"Suppose the latter person?"

Whom he names John Smith—

"is drafted. Why \$300 is no more to him than a three-penny loaf to the other person. Am I not right that a fixed sum for exemption imposes a tax upon honest poverty and a premium upon wealth?"

This excellent citizen of Ohio objects to the whole theory of the Senator from Ohio as a tax upon honest poverty and a premium upon wealth. The Senator opposes my proposition as a tax upon wealth. Call it, if you please, a tax upon wealth. I say that the occasion has come when it should be made. But I myself put aside the phrase, I put aside the idea, except in the general sense, that the draft itself is a tax; the commutation money of \$300 is a tax; and the proposition that I make simply aims to equalize that tax.

MR. DOOLITTLE. Mr. President, I have given some reflection—

MR. SHERMAN. Will the Senator allow me a moment to reply to the Senator from Massachusetts?

MR. DOOLITTLE. Perhaps my honorable friend may want to reply to me.

MR. SHERMAN. Oh, no.

MR. DOOLITTLE. Very well; I give way.

MR. SHERMAN. I shall detain the Senate but a moment. I listened with pleasure to the remarks of the Senator from Massachusetts, and hoped I should be convinced by them, but I am not yet convinced, and therefore will briefly state the reasons.

The Senator says he cannot draw a distinction between the commutation and a tax. I think any dictionary will furnish him with that distinction. A commutation is a fixed price put upon military service. The price fixed by our law is \$300, to be paid in lieu of military service, a fixed price as the commutation. A tax does not depend upon the person. A tax is variable, depending upon the amount of property. In this country poll taxes are not allowed by our Constitution. A tax is a rate upon property, depending upon the amount. We know what the commutation of \$300 means. It is a substitution for military service. The tax proposed by the Senator from Massachusetts is not a commutation; it is not a fixed sum; it is a variable sum dependent upon

the property of the person drafted; it is a tax, an income-tax. There is the distinction.

But let us go a little further. The Senator asks, why is it oppressive to take thirty per cent. of the income of a wealthy man? Why, sir, if necessary, I will take the whole income of the wealthy and the poor, in order to carry out this contest, and to preserve this country. I will take the whole property of the people of the United States, as we have the power and the right to do—the property of the rich and the results of the labor of the poor—and I will take every citizen and put him in the Army, if necessary, to preserve our nationality and our country. But that is not the question. When we come to levy taxes, the Constitution and our oath of office, as well as our plain duty, require us to make those taxes equal and just, bearing upon all alike, depending upon the amount of their property and their ability to pay. That is the principle. There are Senators here, some above the age of forty-five, and some below the age of forty-five, who are wealthy. What right have you to impose an income tax of thirty per cent. on those who are under that age, and exempt entirely the property of men above that age? Is that a legal tax?

MR. SUMNER. I will ask the Senator what right have we to limit the period of military service, and to make our call as we have on persons between the ages of twenty and thirty-five? It is on the same ground on which you limit that call to persons within the ages of twenty and thirty-five that I limit this tax, if the Senator pleases so to call it. I do not call it a tax, but it is a substitute for commutation money.

MR. SHERMAN. In reply to the first question, why we limit the term of service, I answer, because we do not want the service longer than for the term we limit. That is a sufficient answer to that. The Senator asks why we take men between the ages of twenty and thirty-five. Because those men make the best soldiers. The Government has the right to call on the best men to defend it. That is the answer. But when you come to levy taxes, then your duty is to make those taxes equal, fair, and just to all alike. There is no reason why you levy this tax only on those who, in addition to their duty to pay taxes, have to perform military service. Why should you put this income tax only on the young, energetic, and active, who are accumulating property, and relieve those who have already accumulated and have no longer need of large incomes? If it were not invidious I might take the case of certain members of the Senate, some of whom are subject to military duty, and some not, and apply this tax to them, and the glaring injustice of it would at once be seen. The young are liable to military duty, and they are liable to pay taxes. They render their military duty. The old are exempt from military duty, but they are still liable to pay taxes. Will the Senator make the young and active perform military duty and pay taxes also, and exempt the old not only from military duty, but from taxes besides? There will be the inequality involved in the proposition of the honorable Senator. It will not reach those who ought to pay the taxes, while it throws the whole load on those who are to perform military service. That is the full answer to this discrimination. If the Senator wishes to raise a fund out of which to buy substitutes, let him impose an income tax of five or ten per cent., operating on all alike, and make a discrimination against the incomes of the rich. Our present law is based upon that idea. The income tax upon the smaller incomes is three per cent.; on the higher incomes it is five per cent.; and I am perfectly willing, if it be necessary, to make it still higher. The discrimination ought always to be made against large incomes, but when you come to tax incomes, it ought to apply to all alike.

My friend from Massachusetts quotes a letter from one of my constituents against me. I have no doubt my constituents differ in regard to this matter just as we do here. But I think if my constituent had this case before him, he would agree with me. There are some very wealthy men in Cincinnati who are above the age of forty-five, and there are some very wealthy men who have accumulated property who are under the age of forty-five. If the proposition was made only to tax those under forty-five, and not those above forty-five, I think my constituent will see the in-

justice of it. There is the case. We have here a letter written upon a casual proposition in one of the newspapers, without being read, without having any connection with the subject-matter, without knowing how far it goes. Is that opinion to be brought up here against the deliberate judgment of Senators who are acting upon their official oath with all the matter before them? I hardly think so. My constituent may be right from the view in which the question presents itself to him, and yet I think, if he were better advised of the subject-matter, there is scarcely any one in Ohio, with due deference to the opinion of the Senator from Massachusetts, who will not agree with me that this proposed tax is onerous and oppressive upon the most active and industrious men in the country.

Mr. SUMNER. The Senator still returns to his original idea. It seems to me, if he will allow me to say so, he misapprehends the bill before us. We are not discussing a tax bill. We are discussing a bill relating to the draft; and we are now engaged in perfecting that bill, in devising such amendments, so far as we can, as to make that draft equal on the country. There is no question of a tax anywhere; yet the Senator perpetually repeats that I am proposing a tax. I propose no such thing. The existing legislation requiring that our fellow-citizens shall be drafted, I propose to reinforce for the benefit of the Republic by making that system of draft more equal than it now is in its burdens; and the Senator tells us that I am proposing a tax. I have already replied that I propose no tax any more than he himself proposed a tax, any more than the original bill proposed a tax. I propose to soften the tax which is imposed by the original bill, if the Senator from Ohio will persist in saying that we are talking of a tax. I utterly deny the whole suggestion. It is no question of a tax; it is simply a question of how a burden onerous, sometimes bitter, often painful and pregnant with death, shall be made, so far as we can, more agreeable, more equal to the people. That is my single object, and I am not to be diverted from that object by the false cry that I am imposing a tax.

Then there is another suggestion of the Senator. He says that it is unequal in this respect, inasmuch as it acts only upon persons under a certain age; but that same argument is good also against the draft itself, which acts only upon persons under a certain age; and as my object is simply to soften the draft, I naturally make this commutation, which I now propose applicable only to the draft. The Senator says that there are certain persons advanced in life among our richest people who would not come under the provisions of my amendment; but those persons do not come under the provisions of the draft. If they were exposed to the draft, they would be exposed to my amendment; but as they are not exposed to the draft, they are not exposed to my amendment, nor should they be exposed to that amendment. The question is a simple one. It is, whether in imposing this great burden upon the country you will take into candid consideration the actual condition of the persons upon whom it bears, or whether you will imperiously require from all alike, rich and poor, one unalterable sum. Sir, I am for recognizing that inequality of condition which, according to the laws of Providence, exists; and, recognizing that inequality, I would go as far as I could with a helping hand to smooth it, to remove it, to make it more easy to be borne.

Mr. DOOLITTLE. Mr. President, every citizen owes to the Government, for its protection, not only his property, but, more than that, his personal service, if he is able to render it. We have bills which provide for taxes upon property. Those bills may be defective, it is true, and may need amendment. But, sir, the bill before us is one which calls for the personal service of the citizens of the United States in the Army. It is a call for men to rally around the flag of the country, and every able-bodied man owes that duty and that allegiance. Without going into any lengthy remarks on this subject, I will state that the idea contained in the proposition of the Senator from Massachusetts seems to me to be founded in justice. When a person is called upon to render his personal service, you propose to give to him the means of exempting himself from that service. Now, in pointing out the mode of obtaining exemption, will you have no regard whatever to

the condition of the individual who is to be exempted? Will you put the same burden upon the rich as upon the poor? That is the question.

This law, as it exists at present, requiring the payment of the sum of \$300 by way of exemption, operates more hardly and with more severity upon the poor married man than upon any other person in the country. The Senator from New York has suggested that the price of exemption should be raised to \$500. I would not have it raised to any but the unmarried men of the country, because unmarried men can more easily raise this amount of money by pledging their service or making an agreement to labor in advance than the poor married man with his family on his hands; they can more certainly secure an exemption.

I agree, too, with the Senator from Ohio in one idea he has expressed, and that is, that the names of these persons who have paid this money to obtain substitutes should not be taken altogether from the rolls. It seems to me, however, that the idea of the Senator from Vermont is a correct one, that their names, though retained upon the rolls, should be retained with the understanding that they are not to be drafted again until the whole draft is exhausted. I agree, too, in the confident belief expressed by the Senator from New York that we shall not have to be compelled, in fact, to resort to another draft when we shall have once filled up the old regiments of the Army by the addition of the three hundred thousand men now called for.

I believe, sir, that when the old regiments are filled up with men who are to serve for three years they will finish this rebellion, and that it will not be necessary in fact to make any other draft. At the same time it is of vast consequence that we provide by-law that in case of necessity we may make a draft, for the moral power of such a law clothing the Executive with the authority not only to use the three hundred thousand who will be added to the armies now in the field, but giving to him the power from time to time to call on the whole three millions to reinforce the armies—the moral power contained in that provision will go very far toward putting down the rebellion. My confident belief is that when our present armies are filled up with recruits to serve not for one year, nor two years, but for three years, and when we shall have passed, as in the course of a few months we must pass, through a presidential election, and the people of the country shall have decided to place in the executive chair a Commander-in-chief of the armies and the navies who is bound to pursue the policy of this Government to crush this rebellion without compromise, the rebellion will yield, and it will not yield until then.

Mr. President, I have said that I believed the idea which is contained in the proposition of the Senator from Massachusetts is a just one. It is possible he may have made the rate per cent. higher than is necessary to make this equalization, but I shall vote with him for the proposition.

Mr. WILSON. The proposition made by my colleague is just in its object, but it seems to me that in the form in which it is presented it ought certainly to be amended before we vote upon it. I move to strike out in the twelfth line—

THE PRESIDING OFFICER. (Mr. FOSTER.) The Chair will state that this being an amendment to an amendment is not susceptible of being amended. It may be modified by the mover himself, but it is not susceptible of amendment.

Mr. SUMNER. Is that rule applicable on a motion to strike out the whole clause?

THE PRESIDING OFFICER. The Chair thinks that a motion to strike out and insert, as this is, is an amendment, and being an amendment to an amendment, it is not susceptible of amendment.

Mr. WILSON. I cannot say precisely what the rule is, but it seems to me that we ought to have the privilege of amending the proposed amendment, which is in the form of a substitute, before we vote upon it. At any rate, I will suggest to my colleague the changes which I think should be made in his proposition. Instead of saying that this additional tax shall be levied on incomes of \$600 and over, I think he ought to limit it to incomes of \$1,500 or over. It will be a pretty heavy tax upon a person having an income of \$1,000 or \$1,500 to pay \$300. Then I think that there should be no distinction in the amount of percentage according to the income. I think

the amount proposed is too large. Ten per cent. would be a large taxation. Thirty per cent. on a sum above \$5,000 would amount to a great deal. I do not think that we ought to put those provisions in the bill. If my colleague will propose a tax of ten per cent. on an income above \$1,000 or \$1,500 the proposition would be a just and a fair one, but in its present form it seems to me to be rather an extravagant proposition.

Mr. SUMNER. Do I understand my colleague as suggesting that I should strike out \$600 and put in \$1,500, and propose a tax of ten per cent. on all above \$1,500?

Mr. WILSON. Yes, that would make a pretty large taxation.

Mr. SUMNER. In this matter I wish to consult the Senate, and, of course, shall be guided very much by those who I know have given great attention to this subject. At the suggestion of my colleague, I propose to alter my amendment so that it shall read:

On all incomes over \$1,000 and not over \$2,000, five per cent.; on all incomes over \$2,000 and not over \$3,000, ten per cent.; and on all incomes over \$3,000, twenty per cent.

THE PRESIDING OFFICER. The question is on the amendment to the amendment, as modified by the Senator from Massachusetts, who moved it, it being within the power of the mover to modify his own proposed amendment.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 25; as follows:

YEAS—Messrs. Dixon, Doolittle, Grimes, Harding, Harlan, Howard, Lane of Kansas, Morgan, Pomeroy, Rahsey, Sumner, Trumbull, Wade, Wilkinson, and Wilson—15.

NAYS—Messrs. Anthony, Brown, Buckalew, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Fessenden, Foot, Foster, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Morrill, Powell, Sherman, Sprague, Ten Eyck, Van Winkle, and Willey—25.

So the amendment to the amendment was rejected; and the question recurred on the amendment reported by the Committee on Military Affairs.

Mr. WILSON. I move to amend the amendment by striking out all after the enacting clause of the proposed section, and inserting the following:

That any person enrolled and drafted may pay to such person as the Secretary of War may designate to receive it, \$300 for the procurement of a substitute, and such person so paying \$300 for the procurement of a substitute shall be exempt from draft until such time as he shall again become liable to draft by reason of the exhaustion of the enrollment from which the draft shall be made, but such exemption shall not exceed the time for which such person shall have been drafted: *Provided*, That any married person not possessed of property who labors for a livelihood at some trade or occupation, the annual income from which does not exceed \$400, shall pay \$300: *And provided further*, That any person whose taxable property shall exceed \$10,000, or who may be in receipt of an annual income exceeding \$2,000, shall pay \$600.

Mr. HOWE. Mr. President, one feature of that amendment has been debated at considerable length, and there are two questions upon which Senators seem to be at issue. One is whether the principle incorporated into the amendment will exhaust the basis of the draft; the other is whether we can afford to stand the exhaustion, supposing that it will, or whether it will enfeeble it, weaken it, diminish it. As I understood the issue between the Senator from Ohio and the Senator from Vermont, the former contended that it would reduce the basis of the draft, and might exhaust it, while the Senator from Vermont contended, if I understood him aright, that it had no such tendency.

Mr. COLLAMER. I said it could not by possibility exhaust it; I meant the hiring of substitutes could not exhaust it.

Mr. HOWE. To exhaust the basis of draft, to exhaust the resources from which a draft can be made, is injurious to the Government. To reduce it may not be so directly injurious to the Government, but it is injurious to that portion of the people liable to draft. Let me suggest the practical operation of this amendment. Suppose the whole military reserve borne upon the roll to be nine hundred thousand; that is to say, the whole number who can actually be compelled under the draft to serve in the Army is nine hundred thousand. Suppose a call is made for three hundred thousand and they are drawn and they go into the Army, the reserve then is six hundred thousand; and if another draft is ordered for three hundred thousand more, every man of the reserve stands one chance in two of being drawn. That is the operation of it. Now, suppose instead of

the whole three hundred thousand going into the Army under the draft none of them go, but they pay \$300 apiece, and with the \$300 the Government hires three hundred thousand substitutes. Then the whole number of the reserve is just three hundred thousand. Three hundred thousand are exempt from draft because they are in the service; three hundred thousand are exempt from draft because they have paid \$300 each; in other words, they have furnished the means with which to buy three hundred thousand substitutes. Then if the President is obliged to make another call for three hundred thousand it inevitably must take every man of the reserve. That seems to me to be the effect of the operation.

It is said we can afford this, that the resources of the country are actually inexhaustible. I think we overestimate them. We have a large population, to be sure. It is said the whole number borne upon the rolls is a little over three millions. A draft has recently been made of four hundred and fifty thousand. It is said that it turns out that one third of those drafted are not liable to do duty, are entitled to exemption because of physical disability, and another third because of alienage. If that holds true as an average of the whole number on the roll, if two-thirds are exempt for these causes, you really have but a million who can be made to do duty under the draft, if these figures furnish us a correct basis of calculation. If your whole reserve is but a million, I think it ought to be guarded, jealously guarded.

It has been said here, in the course of this debate, that if you will fill up the Army you now have in the field, if you fill up the call made by the President last fall, you will never have to make another call or another draft. Sir, I want to say here that I distrust all such suggestions, let them come from what source they may. I think that from the time the first call of seventy-five thousand was made down to the last call of three hundred thousand, we have been betrayed by just such suggestions that a limited number of men will do this work. Sir, instead of trusting the protection of our flag and the defense of our Union to an army of a fixed number and an army composed of a given number of brigades or of divisions, I would have made a crusade of it from the beginning. It seems to me that I would have armed the loyal people of the United States and let them have met in hostile array the disloyal. Really the issue is made up, not between Government and government, but between people and people, between one style of civilization and another. They admitted that you could outvote them, but they thought they could outfight you, and it seems to me that on every field where we have met the enemy I would have met them by an army which should have illustrated the numbers of the loyal people of the United States, and I think we ought to begin now to do so, and I distrust these suggestions that you can wind this thing up with a given number of men. The sooner we get over that idea the sooner I think we shall begin to approach the end. I really cannot see that we can afford to adopt the amendment suggested by the Senator from Massachusetts, for it does seem to me that we are, if not exhausting directly the basis of the draft, squandering it in a manner that we cannot prudently afford to do.

Mr. GRIMES. I should like to know from the chairman of the Committee on Military Affairs, before we have a vote on this question, what is the probable number of colored soldiers now in the service, or that are likely to be in the service under the attempted organizations which I understand are being made under the authority of the War Department. I should like to know whether or not any steps have been taken to enroll the colored men in what are known as the "border States," and if so, when those steps were inaugurated.

Mr. WILSON. Mr. President, it is not in my power to answer precisely the question put by the Senator from Iowa. I understand that we have fifty thousand colored troops enlisted. It may be that we have increased that number considerably within the last two or three weeks; but it was understood about the time of the meeting of Congress, some four weeks ago, that we had about fifty thousand men. We are increasing them now at a more rapid rate than at any other period, for the reason that we can reach them better. We have for the last few weeks been doing well in

Maryland. We are doing well in eastern Virginia. General Butler told me the other day that since he had entered his department he had raised about three thousand. We are doing fairly in Missouri, but not so well as we ought to do there. We are raising colored men in Tennessee and in some other parts of the country. The Government has not pressed this matter of raising black troops with so much vigor as some of us think it ought to have done; but there has been great difficulty in reaching these people. They have been moved away and kept out of the reach of our armies as far as possible. They have now found their way in, and we are enlisting them. I think that as our armies advance we shall raise many more of them; and I am sure that the policy of the Government now being fixed, and the public sentiment demanding it, every effort will be made to enlist colored troops; for, sir, if there be anything in the prosecution of this war that the people are in favor of, it is the raising of black troops to fight the battles of our country. Everybody now demands it. I do not believe that there are five thousand men in New England to-day opposed to it; I do not know of anybody.

Mr. ANTHONY. At this point, with the Senator's permission, I would like to ask a question in regard to the enlistment of colored troops. I have been told, on what I cannot doubt is reliable authority, that the military authorities will not permit freedmen who come into this District to go out of it, and that there are many of them here now who are desirous of going into such States as offer remunerative bounties, and that they are not permitted to leave the city, but are kept here precisely as colored men were kept here under the old slave laws. I can well understand why the Government might properly interfere to prevent the negroes or white people who are residents of this District, enrolled and liable to do military duty here, from going into other States and enlisting, but I cannot understand by what authority, by what law, a free man in this District cannot leave it at his own pleasure, who is not liable to military duty in the District; and if he comes from without the District and is not enrolled in it, he is certainly not liable to military duty here.

Mr. WILSON. I have heard the same complaints as are made to-day by the Senator from Rhode Island. I believe such authority is assumed here in this District. It is an unlawful assumption of authority, and there is no justice in it, and it ought to be abandoned immediately.

Mr. CLARK. By whom has it been assumed?

Mr. WILSON. By the military authorities here, or rather, perhaps, the city authorities. I saw the other day that the Mayor of this city made an appeal to the War Office in regard to it, urging that colored persons should not be permitted to go out of this city into other parts of the country to enlist. I think all this interruption that we have had here at the railroad is wrong, and it ought to be abandoned.

Mr. JOHNSON. Will the Senator permit me to ask him if the suggestion of the Mayor of the city was not sanctioned by the War Department? I think they approved it, and issued orders about it.

Mr. WILSON. I do not know certainly whether the War Department, as a Department, approved of it or not, but I find practically the thing is done.

Mr. JOHNSON. I have understood that it was under orders of the War Department.

Mr. WILSON. Whether it is approved of by the War Department or not, I do not agree to the policy. I think that any free man who comes into this city, or any person in this city, black or white, who chooses to go anywhere in the country and enlist in the service, should have the privilege of doing so.

The Senator from Iowa [Mr. GRIMES] put another question; and that is, whether the Government has enrolled the colored men in the border States. I understand that in Maryland they have done so; I believe they have done it in Kentucky; I speak now of the freedmen, not the slaves. I am told that that is the case. I do not know certainly whether it be so or not. At any rate, there is no doubt that the Government has the power to do it. I am told that in the State of Maryland the Government is enlisting slaves without asking the consent of their masters, and they have the same privilege in the State of Missouri; but I am told that this is not so in the State of Kentucky. The

Government can go into any part of the country and take our sons and enlist them without asking our consent, but the Government of the United States cannot step into the great State of Kentucky and enlist a slave without asking the consent of his master. Sir, I would enlist him if I chose to do so, and ask no consent of the master anywhere. The Government can take your son or an apprentice belonging to you without your consent, but it must ask a slavemaster for his consent to enlist an able-bodied man into the service of the country. It is a thing which ought not to be submitted to a day, and it ought not to be acted upon a day longer.

Mr. BROWN. I ask the Senator to inform me, if he can, under what authority the War Department pays the master of the slave where he is enlisted?

Mr. WILSON. I cannot answer the Senator from Missouri, unless it be that they construe the law giving authority to use the money received from persons who have been drafted for exemptions from service to authorize its appropriation in this way. I understand that the War Department had used the \$300 or had promised it to the master in certain cases where the slave enlisted into the service because it guarantees to the slave his freedom. In order, I suppose, to fill up the ranks of the Army, and at the same time encourage the emancipation of the slaves, and do it without trouble, the Government decided to pay the master the \$300 instead of paying it to the slave. I suppose that to be the motive of the action of the Government.

Mr. BROWN. I merely desired to know whether there was any authority for it in any part of the country.

Mr. WILSON. There is no express law for it.

Mr. SHERMAN. If the Senator will allow me, I wish to suggest that I think the law is clear enough. The Secretary of War has a right under the enrollment law to use the commutation money to procure substitutes. The language of the law is that it is "for the procurement of substitutes." The Secretary of War has clearly the power to use that money in procuring substitutes, and the law makes no distinction between white and black.

Mr. BROWN. I will ask the Senator from Massachusetts whether there is any law that recognizes the ownership of the master in the slave?

Mr. WILSON. No law of the Federal Government.

Mr. BROWN. If not, on what authority is the amount paid to the master rather than to the slave? I desire information on this question.

Mr. SHERMAN. The law gives to the Secretary of War the power to procure substitutes, and I suppose he can pay the money to any person, black or white, procuring the substitute. If the master's consent is necessary by the local law, he can pay it to the master, so that he procures a substitute. There is no legal difficulty in the way.

Mr. WILSON. Passing from that subject, I wish to say a single word, while I am up, to the Senator from Wisconsin, [Mr. Howe.] I think if the Senator will examine the amendment he will see that it is just. A person is drafted and he obtains a substitute. It is proposed by the Senator from Ohio that if the substitute is himself liable to be drafted, and shall be drafted, then the person procuring the substitute shall take the place of the drafted substitute, so as to keep the enrollment list full, and the man furnishing that substitute has to go in the Army for the time for which the person is drafted. Now, I propose in this amendment to put the person who furnishes the money on the same footing, and provide that he shall not be liable to be drafted until the enrollment has been exhausted. It seems to me that this is just; that it keeps the enrollment list full all the time. When a man is drafted and pays the \$300, and the Government takes that \$300 and hires a substitute, perhaps obtains a man not liable to draft, takes one of the old soldiers in the Army by adding to the \$300 the \$100 now allowed by law, pays him \$400, and reenlists him for three years, is it just to draft the person who has thus paid the \$300 while other persons have not been drafted at all? This proposition, therefore, makes him liable when the enrollment list is exhausted. If it be exhausted before the term is out, if it be exhausted in a year, and he has paid his \$300,

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then, though the Government may have obtained a person for three years in his place, he is liable and may be drafted within twelve months. I think, with this explanation, the Senator will be satisfied.

Mr. HOWE. Will the Senator just explain one thing? It strikes me, and I want to get over that difficulty if I can, that if three hundred thousand of those who are drafted, instead of going into the service pay the commutation money, and with that the Government hires one hundred thousand soldiers who are liable to the draft, then the reserve is reduced by two hundred thousand, whereas, if they went into the service, or if they procured substitutes not liable to draft, the reserve would be reduced by just one hundred thousand; and in that way the payment of this commutation money is a direct injury to everybody whose name still remains on the roll. It increases the liability of those others to be drawn in case of another draft. Is it not so?

Mr. WILSON. There is something in that; but not so much as the Senator makes out of it, by any means.

Mr. JOHNSON. Mr. President, the chairman of the Military Committee is, I believe, right in saying that the free colored population of Maryland—and I suppose it is the case in the other slave States—are considered as subject to enrollment, and are enrolled. The slave population of my own State is not enrolled; and although, as I had occasion to say the other day, I have no doubt that the Government has the power to call upon the slave population able to bear arms to go into the armies of the United States, it is only because I suppose they are to be considered as men, as persons, within the meaning of the Constitution. They are termed "persons" in that clause of the Constitution which is known as the fugitive clause. For reasons which I think did honor to the framers of the Constitution, the term "slave" found no place in the instrument; but it is historically true, as every member of the Senate must know, that, but for that fugitive clause and the other clause which prohibited to Congress the authority to interfere with the foreign slave trade until twenty years subsequent to the adoption of the Constitution, the Constitution, and the Union which was the result of it, would not have existed, at least would not have existed at that time. The sentiment of the country at that time, I think history will tell us, although opposed to slavery as a permanent institution, was so far settled upon the subject of the impropriety of interfering by legislation through Congress with the right to the slaves as they existed, and of interfering, too, with the right to the increase of the number as far as the number might be increased by means of the foreign slave trade, that the Constitution would not, perhaps, have been adopted but for the provisions on that subject which are found in it, or some equivalent provisions.

The Senator from Missouri [Mr. Brown] asks what law there is to justify the Government in paying anything to the masters of slaves who are taken into the service of the United States. It is true that although the term "slave" is nowhere found in the Constitution, slaves are evidently considered as property within the meaning of the fugitive clause and within the meaning of the clause which prohibits to the people of the United States the authority to change the Constitution at all in that particular provision of it which limits the authority of Congress upon the subject of the foreign slave trade to the expiration of twenty years from the adoption of the Constitution. They were considered as property, and were intended as property to be protected by that clause; and they have been considered as property and are now considered as property in your tax laws. So far as the direct tax is concerned they are considered as property. They are considered as property by the laws of all the slave States. They are subjects of distribution; they are liable for the debts of the master; they are subjects of bequests, they are subjects of sale, and are in every respect upon the condition of property; but not-

withstanding that, they are no doubt also to be considered as in the character of persons.

I suppose no one will for a moment hesitate in admitting that although they stand in the relation of property in a certain sense they also stand in the relation of persons to the Government, because I suppose every one will admit that they could be guilty of treason as against the United States. If the slaves in the United States were to do as the white men in the southern States have done—I do not mean all the southern States; thank God, I am not obliged to say so—if the slaves in the seceded States had without the consent of the white men risen in rebellion and resisted the laws of the United States by arms, or if they were now found aiding the traitors in the seceded States in their effort by force of arms to destroy the Government of the United States, they might be considered and treated as traitors. In other words, although slaves liable to all the relations growing out of that condition, they are persons owing allegiance to the United States and consequently bound to abstain from everything which is a violation of allegiance; and if they were to go to the extent of levying war upon the United States or of giving aid and comfort to the enemies of the United States, they might be dealt with as traitors.

But it by no means follows from that that they are not to be esteemed as property, and that the master is not to be paid for them as property. The practice in Maryland—I do not mention it with a view to complain of it now, although I think it is decidedly wrong and has injured the Union feeling in the State much more than Senators are aware of and much more than the country at large is aware of—the practice in Maryland, as I get from sources of information that I know can be relied upon, is that the recruiting officers, white officers, go to the homesteads of the masters, and not only enlist the slave without the consent of the master, but without his own consent. The poor ignorant black man who knows not to what extent the evident power of the Government may be carried, is told that he must enlist, and he enlists under what may be considered and what actually is compulsion. Whether he would enlist (as I think he would in a majority of cases) voluntarily, under the influence of no threat, or under no fear, is a question not submitted to him at all. And not only is that done, but the enlisting officer informs all the slaves upon the plantation, whether able to do duty in the field or not, old men and children and women, that they are all free; and the result has been that the whole of that population which has been able to get off has gone off. That the State will be benefited by the effect of it in the end, I have no doubt; but at the same time it is due to my own convictions of what the Constitution is, and the rights which the people of Maryland have under that Constitution, to protest without meaning to find fault with the Government; to protest, not in any acrimonious sense, against this mode which they have adopted to get the slaves of Maryland in the armies of the United States. I have no objection if it is found necessary, (and of that Congress must judge in the first instance and the Executive afterward,) if it is found necessary in order to put down this rebellion, to call on the slave population to aid us, I have no objection that the call should be made; but I could wish from my heart that it was not necessary, or was not found to be necessary. I could desire, ardently desire, that the white men of the free States and the white men of such of the slave States as are loyal, should be found not only willing but able to put down promptly this rebellion. I have no doubt, and never have had a doubt, that by proper exertion, proper skill in the field, proper foresight on the part of the Executive, proper legislation on the part of Congress, it would have been put down before this; but it is due to the Executive and due to Congress to say that the condition in which they found themselves was a very peculiar one. In the beginning I suppose that neither the Executive nor Congress anti-

ipated that this insurrection would assume the dimensions which it has had for the last one or two years. The original call of seventy-five thousand men was supposed at the time to be amply sufficient for the purpose. There have been calls from time to time since of larger numbers, until I suppose we have now in the field, of more than a million men put into the field, some four or five hundred thousand men.

While I am up, I cannot help concurring in the opinion of the Senator from New York, [Mr. HARRIS,] that it will not be necessary to increase the Army to a number beyond the number which it now has. From all the information that I think is in our possession, (independent of what from personal knowledge I cannot help supposing must be the actual condition of the southern States,) they have raised every man that they can raise beneficially, and they have not now in the field more than from two hundred and fifty thousand to three hundred thousand men throughout all the seceded States. While they are so limited in point of numbers, in the men that they are able to keep in the field for a time, it is still more evident that they will not be able long to keep that number in the field, for the want of the means of supporting that number.

Perhaps gentlemen not belonging to a slave State may not have the same means of information with those of us who live in what has been considered a slave State. We have, more or less, in all the southern States now in secession, relations and connections numerous, found all over the South. I speak with reference to the State of Louisiana, of whose condition I was able to judge when there some two years ago upon a mission for the Government, and by information that I have had since of the State of Mississippi, that those two States are now utterly exhausted in everything but the zeal, ardor, and intrepidity of a portion of their population. The men of those States who were parties to a purpose long since formed to break this Union if they could, and the masses whom they succeeded in deluding through their artifices, are men not to succumb easily. As long as the masses are under the delusion to which they have been subjected, they will continue to fight while nature survives; but I believe that the President's proclamation—though far from being such as I think he should have issued and might have issued—is doing already a great deal to restore the Union feeling, and will do still more as the war progresses. Looking to the character of that part of the population who were not parties to the original plan to break up the Union, it is impossible for me to believe that they can be so entirely lost to all the dictates of common sense as not to see that in a struggle with the free and loyal States of the Union the result must be still more fatal to them than it has already proved, and that their only chance of saving anything is to come back under the flag which for so many years protected them, to enjoy the honor which they in common with ourselves so long enjoyed under the protection of that banner, and living under the Union and under the power of the Union, and with the recollection of all the glories of the Union, to restore their States by means of free labor to a state of prosperity and power that they never in the past attained.

Mr. GRIMES. I am very glad, sir, that I addressed the inquiry that I did to the Senator from Massachusetts, [Mr. Wilson.] I am rejoiced at the response he has given to it, and I think the country will be glad to know that the Administration has established a policy in regard to the recruitment of colored persons. I have heard for the last twelve months givings-out that such was to be the policy of the Administration, or indeed that it actually was; but the results which have been accomplished have never satisfied me that that was their real genuine intention, for I have always believed that if there had been the proper agencies used, if there had been the proper degree of practical sagacity exhibited by the agents who were selected by the Government to raise colored regiments, there could have been two hundred

thousand colored men marshaled into the field to-day, and I believe it now. I believe that there might have been, and ought to have been two hundred thousand colored men in the field at this moment, and that instead of our being compelled to pass a bill appropriating \$20,000,000 for bounties, as we have done to-day, and passing a bill to amend the enrollment act, we need not have required a single new white soldier to enter the Army.

The reason why I have judged so is, first, that I have not seen the persons selected to transact this business and to raise these men who have exhibited any great degree of knowledge, or skill, or zeal, in accomplishing their purpose. I should like to know, if such has been the purpose of the Government, how it happens that General Order No. 229, the only general order on the subject that has ever been issued by the War Department, has never been published among the other general orders. That is the general order which relates to the enlistment of colored men. How does it happen that there is so much strictness in inquiry with regard to the capacity and qualifications of officers for colored regiments? If there is not a desire on the part of somebody—I do not say the Administration, and I do not believe it of the Administration—but of somebody who is intrusted by the Administration with the carrying out of their views in this regard, why is it that we have a board of regular military officers before whom every young man is sent who aspires to any particular command in any one of the colored regiments, who is not interrogated as to his capacity to command, as to his ability to maneuver a company, or a battalion, or a regiment, but is interrogated as to the movements of the celestial bodies, interrogations put to him in regard to the most minute and difficult questions of astronomy and mathematics, so that I am told it is almost impossible to find men who are able to pass the examination in order to officer these regiments? Send your major generals and brigadier generals before that board, and subject them to the same examination to which I understand these young men are subjected, and not one in twenty of them can pass the examination. I do not want to judge my fellow Senators here; but permit me to say that, if I understand what that examination is, I will frankly admit that I could not pass it.

Mr. HOWARD. The Senator from Iowa will allow me to inquire of him how he has ascertained the supposed fact that the board to which he refers puts applicants upon their examination in reference to their knowledge of the science of astronomy or any of the higher branches of mathematics. I beg to say to the Senator that I understand the direct contrary from a member of the board, that really the examination is confined to those branches of science and knowledge which are, in their nature, somewhat elementary and simple, certainly does not extend to the science of astronomy. They are interrogated occasionally as to their knowledge of geometry, of arithmetic, of algebra, and other branches of that kind, but I fancy never as to astronomy or any of those higher branches.

I beg to say further to the Senator while I am up, that I have been informed very credibly that since the organization of that board they have examined nearly twelve hundred applicants for commissions in the colored troops, and that out of the number whom they have thus examined, they have recommended only about six hundred, not quite one half of them, and that the rejections have been made by the board on account of the manifest incompetency of the applicants, their want of skill and knowledge in the simple branches of human science to which I have alluded, and in which they are examined. I think the Senator, though not of his own knowledge, is doing injustice to the board to which he refers.

Mr. GRIMES. My knowledge is derived precisely as the knowledge of the Senator from Michigan is. His is hearsay; so is mine. He has his information from members of the board, and I have my information from persons who stood before the board and were examined.

Mr. FESSENDEN. And rejected.

Mr. GRIMES. Some of them were rejected and some not. Furthermore, I have seen it so published in the newspapers, and I have never seen any contradiction from anybody connected with the Administration.

Mr. CONNESS. Will the Senator from Iowa permit me a word?

Mr. GRIMES. Certainly.

Mr. CONNESS. I desire simply to say to the Senator from Iowa and to the Senate that I possess some more exact knowledge in regard to the examinations and the mode of conduct before that board than the Senator evidently does. I know that the Senator would not misrepresent any person or any fact. I understand that perfectly; but I beg to say for his information and that of the Senate, that the direct contrary of the statement which he has been induced to make is the fact; and in proof of it, the examinations have been so conducted with regard to the capacity of the candidates to take care of their men, to understand the proper keeping of their muster-rolls and their accounts, the immediate duties necessary by them to be performed, that the board have found the most efficient and fit men, and given the highest commissions to sergeants and privates who generally knew little of astronomy, little of the movements of the spheres, but very much, having been taught in their capacities, of the treatment and management and necessary discipline of men. I can assure the Senator that the statement I make is well founded, and that he will ascertain it to be true; and it is due to that board, than whom a better one in my opinion cannot be constructed, that the statement should be so made here.

Mr. GRIMES. I may have been entirely misinformed. The information which I have derived may be altogether false. The Senator from California has not told us the means of information that he has, but doubtless his knowledge is derived in the same manner as the Senator from Michigan derived his, from members of that board; but you will recollect that the Senator from Michigan states that these applicants are examined in geometry, questions of Euclid are submitted to them, and questions in algebra are submitted to them, and if they do not understand exactly the equations in algebra I suppose of course they are rejected; else why are those questions put to them?

Mr. HOWARD. I do not understand that they are rejected in consequence of their defective knowledge either of algebra or geometry. Some questions relating to those branches of science are put to the applicants; but I fancy that the examination is not perfectly thorough.

Mr. GRIMES. I do not pretend to know the particular specific ground upon which they reject applicants; but I think it would be a fair inference that if a man went before that board and did not understand either algebra or geometry, they would reject him; else why do they put the questions to him?

Mr. FESSENDEN. If the Senator will allow me to explain why those questions are put I will state what was told me by one of the board, a very able officer, in whom I have very great confidence. When candidates present themselves before them—they are desirous of getting competent officers—they examine them only (unless they request to go to a higher grade) in precisely what it is necessary that they should understand—tactics, the management of troops, &c.—things absolutely essential. But if they present themselves for higher grades after they get through, and wish to be examined further, the board, considering that even in an officer general information, general intelligence, good education, an acquaintance with the higher branches does no harm, very frequently go on, after satisfying themselves in regard to the particulars necessary for a lower command, to ask general questions on other matters; but not at all unless they themselves desire it, and in those cases they have done so.

My friend from Vermont [Mr. COLLAMER] has just told me one fact in regard to it, that in one regiment, the tenth Vermont regiment, they took seven privates who presented themselves for examination and they were made officers from their fitness. It was remarked to me—I will not say by whom, but by one who knew—that so far as the examinations had gone, it had become quite evident that a very considerable portion of the education, to say the least of it, and the ability of the Army was in the rank and file, in the sergeants and the privates. One circumstance was stated to me—I do not know that I can now give it to the Senate exactly as I heard it, though I afterward saw it stated in the newspapers: on

one day a man who was a major or a lieutenant colonel presented himself for examination for the same rank, and there was a captain who presented himself, and two lieutenants and a sergeant presented themselves. The board examined all of them. Their idea was to recommend men for particular grades according as they went through the examination. They were desired to go as far as they pleased, and were very thorough. They rejected the major for everything; they rejected the captain, did not find him fit even for a lieutenant; the first lieutenant who presented himself they made a second lieutenant; and the sergeant they made a lieutenant colonel, and that upon the examination. The idea of that board is that it would be a good thing—it is done abroad—to subject our Army, not only those who present themselves as officers for colored troops, but as officers for white troops, the whole of them, to a board of examination and let them go through regularly, and not take them as they happen to come and because they happen to be particularly educated; and to pursue the same course if we enlarge our regular Army.

I had this statement from one of the board in whom I have entire confidence. The stories that are told about examinations in astronomy, &c., come, probably, from men who, having been rejected and found utterly unfit for officers, tell these stories about the questions that were put to them. It is very natural, perhaps, that they should do so.

Mr. GRIMES. Mr. President, we are constantly learning; we are deriving a good deal of information, and I trust that the chairman of the Committee on Military Affairs and his subordinates will learn something from this debate, and that to-morrow they will introduce a bill by which there shall be a change made, and by which the valuable officers assigned to the colored regiments shall be given to our white boys, and the poor officers now in command of the white regiments shall be assigned to the colored regiments, for it seems that the colored regiments are always to be kept in camp, and not to go into the field.

Mr. FESSENDEN. That is not the fault of the board of examination.

Mr. GRIMES. I am talking about the course of the Administration in this regard. As it seems to be the policy of the Government to keep the colored men in camp and not send them into the field, it would appear to be important that those who go into the field should have the services of the valuable, experienced, and well-educated officers who have passed this board of examination. I trust we shall have a bill to-morrow from my friend the chairman of the Committee on Military Affairs making this modification in the organization of the Army at once. If the Senator from Maine is correct in that regard, I think the public necessities require that these officers should be transferred to the white regiments.

Mr. President, I was merely assigning reasons why I was gratified at the enunciation of the Senator from Massachusetts that there was a change in the opinions of the War Department on this question, and that they were honestly intending hereafter to enlist colored regiments. I trust that there will be some effort from this time forward to raise colored regiments in the State of Missouri. It is only a few months since there was an effort made to raise a colored regiment in that State, and yet they were thwarted in it by authorities who had control there, so that they were obliged to make the rendezvous of the regiment in my State, in the town of Keokuk. I think that was within the last four or five months, and my colleague concurs in that opinion. I am gratified, I say, and I know that my constituents will be gratified and the whole country will be gratified at the announcement made by the Senator from Massachusetts that from this time forward we are to have an earnest, persistent, energetic effort on the part of the Government to enlist colored men into our service.

Mr. LANE, of Kansas. I should like to ask the chairman of the Committee on Military Affairs if there is any law in force or does this bill provide for enrolling negro troops in Kentucky? Before he answers the question I propose to send to the Secretary's table a Kentucky newspaper which contains a couple of advertisements that I ask the Secretary to read; that the Senate may know what they are doing with colored materiel in that State.

The Secretary read the following advertisements from the Kentucky Commonwealth of Monday, January 4, 1864:

NOTICE.

There was committed to the Carroll county jail, as a runaway slave, a negro man calling himself Ed. Williams. He is about five feet eight or nine inches high, light complexion, nineteen years of age, had on when taken up a striped cassimere box coat, black felt hat, and gray mixed pants, and in his possession an oil cloth and blanket, marked with the letters U. S. He was taken from the steamer Prima Donna, at the wharf at Carrollton, Carroll county, Kentucky. Says he belongs to Park Townsend, of Huntsville, Alabama.

The owner can come forward, prove property, and pay charges, or he will be dealt with as the law requires.

DAVID OWEN, J. C. C.

December 17, 1863.

NOTICE.

There was committed to the jail of Harrison county, as a runaway slave, a negro boy calling himself John. He is about seventeen years of age, weighs about one hundred and fifty pounds, copper color, about five feet nine inches high. Says he belongs to Brown Paton, of Alabama.

The owner can come forward, prove property, and pay charges, or he will be dealt with as the law requires.

JOHN BRUCE, J. H. C.

December 7, 1863.

Mr. LANE, of Kansas. I have a desk-full of newspapers that are full of advertisements of that sort. While slavery is dying out in Maryland and Missouri, in Kentucky it seems to be gaining strength. It is a fact known to the Senator from Missouri [Mr. Brown] and to myself that they are running slaves from Missouri into Kentucky. Some provision should be made, it seems to me, by Congress for enlisting negroes in Kentucky if there is no such law now in force.

I desire to notice a statement made by the Senator from Iowa [Mr. Grimes] as to the progress made by the Government in the organizing of negro troops. I had the honor of organizing the first regiment of negro troops in this war. They were raised in the anti-slavery State of Kansas. We were four months preparing public sentiment in that anti-slavery State before we dared to show our Ironsides to the people. The public sentiment of the North had to be educated for negro troops; old prejudices had to be removed or modified; and it does seem to me that in the organization of negro troops the Government has made all the progress that public sentiment would permit; sagaciously making haste slowly on this subject; not leading but closely following public opinion.

I desire also to make a statement as to the board for the examination of officers for colored troops. I suppose the Senator from Iowa alludes to the board here of which General Casey is the president. I have recommended as many persons for examination by that board as any other Senator. Every single one of those that I have recommended has passed that board. A young man came from Kansas last week who had been in the service one campaign. I recommended him to the board, and he passed at once, and has his commission now. I remember another instance of a recommendation of a private soldier who had been in the regular Army for nine years—a private in the ranks for nine years. I recommended him, and he passed at once. I differ with the Senator from Iowa as to where the well-qualified officers should serve. It seems to me that negro troops should have the best officers that we can furnish them—officers of talent, officers of education, anti-slavery officers, who will sympathize with the men under their command. I do hope, having seen the manner in which the people of Kentucky are treating as good *materiel* in my opinion as any other, that the chairman of the Military Committee, if the Government is not prepared to seize the slaves of Kentucky and force them into the ranks, will propose a law for that purpose. In my opinion all the black men, free and slave, should be exhausted before white men are drafted.

Mr. WILSON. Mr. President, in the State of Maryland we have raised a large number of men under the lead of General Birney, a son of James G. Birney, who inherits the principles of his father, and who is one of the most devoted and faithful officers we have in the service of the United States. He has officered those regiments from men who have passed before this board, and in my judgment, derived from the information given by him and by others, no regiments in the service have been better officered. In General

Butler's department, he said to me the other day that he had raised since he went there, only a few weeks ago, three thousand colored men. They had some raised there before; General Wilde had raised a brigade in North Carolina. General Wilde belongs to that class of men who know what this war is about, and whose heart is in it. He believed in raising these troops, and he had them well officered. We are raising in the State of Tennessee a large number of men, because there we have the influence of Andrew Johnson, who is for raising these troops and for making Tennessee what she ought to be, a free State. Down in the department of the Gulf we have raised probably twenty thousand black men, and we have officered them as best we could; perhaps they are not so well officered there as the regiments nearer the city of Washington, whose officers have passed through an examination before this board. Still we are improving there; and everywhere in the country, with possibly the exception of the States of Missouri and Kentucky, the raising of colored troops is progressing finely.

Mr. HENDERSON. With the permission of the Senator from Massachusetts, I will state that in the State of Missouri now, under the order made by General Schofield under the direction of the President, the negroes, as I understand, are being very rapidly enrolled; at least in my particular section of the State. I hear some complaints in regard to it from other sections; but in my section of the State my information is that there will scarcely be any able-bodied negroes left.

Mr. WILSON. I understand that to be the case in regard to portions of Missouri, and in fact I suppose we are making some progress there, though perhaps not as much as we ought to make. I received to-day a letter from a surgeon in the United States service in which he says: "I wish to call your attention to outrages perpetrated on the negro recruits at this post;" (that is, Benton barracks;) "they are harassed and annoyed by conservative copperhead provost marshals and other Government officers before they arrive here." Then he says the proper care is not taken of them there, and recommends that certain things shall be done. I placed the letter this morning in the hands of the Secretary of War, to see the suggestions there made, which I think very good ones.

Now, sir, a word in regard to Kentucky. The Senator asks if the Government has enrolled the colored men of Kentucky. I cannot answer the question, although I have understood that the Government has enrolled the free colored men of Kentucky. In our law we provided for the enrollment of "citizens," and perhaps the Secretary of War had doubts in regard to the construction of that term. I have none. I believe that the native-born slave in this country is as much a citizen as any member of the Senate of the United States. I have not a doubt on that point.

Mr. LANE, of Kansas. Has not the Supreme Court decided differently?

Mr. WILSON. The Supreme Court made a decision which I do not choose at this time to go into, the effect of which was to rule a man out of court. That is all they did, as I understand. The Attorney General of the United States has decided that a black man is a citizen if he is free; and he does not raise the question if he is a slave. I take it that neither the Attorney General nor any other lawyer can show any reason why a black man, whether a slave or not, is not a citizen, any more than he can show why a man who is twenty-two years old is a citizen and a man who is twenty is not a citizen. However, I will pass by that question.

Little has been done in the State of Kentucky, for the reason that Kentucky to-day is the only State in the Union that maintains the cause of slavery or carries its flag. Delaware has taken her position; Maryland has taken hers; and so have West Virginia and Missouri. Tennessee, which was excepted from the proclamation of freedom, is taking her position under the influence of Andrew Johnson and the patriotic men of that State. But, sir, Kentucky passed into the hands of a conservative class of politicians, who started in the first place to hold her in a neutral position, where she could dictate terms to the country. They undertook then to dictate to the President, but they failed, and now they are denouncing him. That class of politicians, how-

ever, is passing away, even in Kentucky. The people are ripening there as they are ripening everywhere else; and when the next opportunity comes for Kentucky to speak, I entertain not the shadow of a doubt that she will speak by an overwhelming majority, just as Missouri and Maryland and Delaware and West Virginia have spoken. I think the Government has dealt rather tenderly in not enlisting colored men in that State. If I had the power I would enlist every black free man who was willing to enlist and every slave who was willing to enlist, and ask no leave of Kentucky politicians or of slavemasters in Kentucky, but I would put them into the service at once.

Now, sir, a word in regard to this board. General Casey is chairman of the board, and I say to the Senator from Iowa what I know to be the fact, that a more true, loyal, faithful man does not bear the commission of the United States than General Casey. He is in favor of enlisting black troops, and was early in favor of it. He is in favor of giving them good officers, men qualified to command, men of personal character and individual honor. I do not entertain a doubt that the men who have passed that board are better fitted for their places than are the officers of the average white regiments of the country. I know that General Casey believes that the colored troops ought to have better officers than white troops, that they ought to have men whose sympathies are with them, who will treat them kindly, but firmly, men of intelligence and of character qualified for their positions, and I know that he has striven to give them such officers. I wish all the colored troops in the country were as well officered as the troops are whose officers have passed before the board presided over by this man, in whose character, in whose devotion to the country I have as much confidence as in any man who is bearing the commission of the United States.

I do not believe there is any change in the head of the War Department. I know it is fashionable to denounce Mr. Stanton, and to complain of him everywhere. He came into that office with a vehement, intense, and passionate devotion to prosecuting the war and breaking down the rebellion. He has labored with an industry and zeal unsurpassed. He may have decided questions sometimes without due examination. He is a man of great vigor and promptitude, and may sometimes have acted with haste; but I have ever found him willing to correct a mistake when he had made it, or to right a wrong when he had committed it; and I believe the time is coming, and that it is not far distant, when the American people will acknowledge a debt of gratitude to the vigor, the knowledge, and the fidelity of Edwin M. Stanton.

Sir, I see that the hour of four o'clock has arrived; I had hoped we should finish this bill to-day, but I now think we shall not be able to do so. I wish to have a short executive session which I said to be important; but before moving that the Senate proceed to the consideration of executive business I offer an amendment to this bill which I ask the Senate to have printed that we may have it before us to-morrow.

Mr. SHERMAN. I also desire to submit an amendment that it may be printed.

The proposed amendments were received informally, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (No. 65) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, and for other purposes; in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled joint resolutions; which thereupon received the signature of the Vice President:

A joint resolution (H. R. No. 15) to provide for the printing annually of the report of the Commissioner of Internal Revenue; and

A joint resolution (H. R. No. 16) to continue the bounties heretofore paid.

COURTS IN TENNESSEE.

THE VICE PRESIDENT. The Chair, with the consent of the Senate, will present a bill for

reference before putting the question on the motion of the Senator from Massachusetts.

The bill (H. R. No. 65) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, and for other purposes, was read twice by its title, and referred to the Committee on the Judiciary.

EXECUTIVE SESSION.

On the motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 12, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

CONTESTED-ELECTION CASES.

The SPEAKER laid before the House additional evidence in the contested-election cases from the Territory of Dakota and the third congressional district of Missouri; which was referred to the Committee of Elections.

EXPENDITURES OF WAR DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a statement showing the expenditures of appropriations applicable to the service of the War Department, balances on hand, and so forth; which was referred to the Committee on the Expenditures of the War Department, and ordered to be printed.

CONTINGENT EXPENSES STATE DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of State, transmitting a statement showing the manner of disbursement of the contingent fund of said Department, the contingent expenses of foreign missions, and so forth; which was referred to the Committee on the Expenditures of the State Department, and ordered to be printed.

LEAVE OF ABSENCE TO A MEMBER.

Mr. HOLMAN. I rise to what I believe to be a question of privilege. My colleague, Mr. HARRINGTON, is necessarily obliged to be absent during the present week on pressing business. I move that he have leave of absence until Friday next.

The motion was agreed to.

ADMEASUREMENT OF VESSELS, ETC.

Mr. WASHBURN, of Illinois, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of amending the law of 1799 in regard to the admeasurement of vessels; and also of providing by law a punishment of masters and owners of vessels for changing their names, and similar fraudulent practices; and also amending the revenue act of July 14, 1862, and other acts on the same subject.

Mr. ELIOT, by unanimous consent, introduced a bill to regulate the admeasurement of tonnage of ships and vessels of the United States; which was read a first and second time by its title, and referred to the Committee on Commerce.

PLATTSBURG PORT OF ENTRY.

Mr. KELLOGG, of New York, by unanimous consent, introduced a bill to reestablish the principal port of entry for the district of Champlain at Plattsburg, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

LIEUTENANT WILLIAM P. RICHTER.

Mr. MORRIS, of Ohio, by unanimous consent, introduced a bill for the relief of Lieutenant William P. Richter, seventy-seventh regiment Ohio volunteer infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

REPORTS FROM COMMITTEES.

The SPEAKER stated the next business in order to be the call of committees for reports.

RAILROAD TO NEW YORK.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported back a memorial

in relation to more speedy railroad communication between the cities of Washington and New York, and asked that the committee be discharged from its further consideration, and that it be referred to the special committee on that subject. It was so ordered.

COURTS IN WESTERN TENNESSEE.

Mr. WILSON, from the Committee on the Judiciary, reported back, with amendments, a bill (H. R. No. 65) to change the places of holding the circuit and district courts for the district of Western Tennessee, and for other purposes; and moved the previous question.

The previous question was seconded, and the main question ordered; and under its operation the amendments were agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

JURISDICTION OF COURT OF CLAIMS.

Mr. WILSON also, from the same committee, reported back, with an amendment, a bill (H. R. No. 66) concerning the jurisdiction of the Court of Claims.

The bill was read. It enacts that the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States growing out of the destruction or appropriation of or damage to property by the Army or Navy, except in such cases as may, by special resolution of either House of Congress, be referred to said court for adjudication.

The amendment was to strike out the words "except in such cases as may, by special resolution of either House of Congress, be referred to said court for adjudication."

Mr. WILSON moved the previous question on the amendment.

The previous question was seconded, and the main question ordered; and under its operation the amendment was agreed to.

Mr. WILSON. The object of this bill is to retain in the hands of Congress the adjudication of claims growing out of damages done to property by our troops in the progress of this war. There is some danger of this jurisdiction being assumed by the Court of Claims. I understand that the question is already there; and in order that the jurisdiction may be held by Congress until some general plan is devised for the settlement of such claims as the Government should settle, this bill is reported. I move, the previous question.

Mr. STEVENS. Has the bill been printed?

Mr. WILSON. No.

Mr. STEVENS. It is a very important bill, and I hope it will be allowed to go over and be printed. It strikes me that the bill is not such a one as I should vote for.

Mr. WILSON. The bill consists of only three or four lines, and is very easily comprehended. I think it important that this matter should be settled now, before claims accumulate, and before the Treasury of the Government is embarrassed to a greater extent, perhaps, by these claims than by all the expenses of the Army and Navy. It merely reserves the question to Congress; providing that the Court of Claims shall not have that jurisdiction.

Mr. STEVENS. Mr. Speaker, I hope that this bill will be allowed to go over, so that we may have an opportunity of examining the law of the matter. It is a very important question. I am not sure but that persons are legitimately entitled to be paid for the losses sustained by them in consequence of the acts of our own military authorities during this war, and should be allowed to bring their claims before the Court of Claims as well as if they were claims arising under contracts. I think that this is a very harsh measure toward those who suffer by the acts of our own troops. As to claims for losses inflicted by the enemy, I know very well that they are not to be thought of. But in regard to acts done by our own troops, by order of our own military officers, I see no reason why claims for compensation should be deferred, or why jurisdiction of them should be taken from the Court of Claims. At all events,

I would rather have a little time to think over the matter, and to see the bill in print. Otherwise I shall be obliged to vote against it.

Mr. YEAMAN. Mr. Speaker—

The SPEAKER. Does the gentleman from Iowa withdraw the demand for the previous question?

Mr. WILSON. I withdraw it for a moment.

Mr. YEAMAN. Mr. Speaker, there are many claims, not only of great importance to the parties urging them but of equal justice with any others that may be presented against the Government, the nature of which will make it impossible that they can be investigated by Congress. The majority of the members voting for the bill which was passed at the last session of Congress referred the matter to the decision of the Court of Claims for two reasons: in the first place, to relieve Congress of that immense labor; and secondly, that justice might be done to the claimants. After the passage of that act a doubt was raised, to my utter surprise, whether it conferred that jurisdiction or not on that court.

These claims arise in this way: frequently there is a written contract, but not such as can be recognized by the quartermaster, the commissary, or the paymaster's department under the regulations of the War Department, or there is an irregular or informal receipt or voucher given to parties for goods taken.

Mr. WILSON. If the gentleman from Kentucky will allow me, claims of that nature are provided for in another measure which the Committee on the Judiciary will hereafter report to the House. I mean in reference to the claims upon the quartermaster's department, or the department of the commissary of subsistence.

Mr. STEVENS. Let me say a word.

Mr. COX. We cannot hear on this side of the House.

Mr. STEVENS. The gentleman refers to other measures. Now, suppose that it is necessary for the Government of the United States to take property for the object of the Army; suppose that the Army batters down and destroys houses which are in the way of military operations, and turns families out of doors; if I understand the gentleman from Iowa, all such questions are to be reserved to some indefinite period in the future. Instead of allowing claims to go before the Court of Claims, and the claimants to take the chance of securing appropriations to pay them by Congress, they are to be put off, for anything that we know, to the death of the parties who are entitled to justice. I cannot recognize anything of that kind. I am not ready for that measure.

I think that this is a harsh measure. I ought to have some modification deliberately made, and we ought not to be called upon to pass at once a bill of three lines, involving the comforts and rights of thousands of our people who are now suffering. It is hasty legislation.

Mr. WILSON. I do not think that the gentleman from Pennsylvania has any right to complain of what he may term hasty action on bills of this kind. I think that many important measures coming from the Committee of Ways and Means are acted on, to say the least, with considerable haste. But let that pass. I want to go to the merits of this question.

Mr. Speaker, when we understand the history of this question, I think there ought to be no hesitancy on the part of the House in the adoption of the pending bill. The Judiciary Committee of the Thirty-Seventh Congress did not believe that they were conferring upon the Court of Claims jurisdiction in the cases referred to by this bill, and it is now a question, I understand, whether the Court of Claims will assume it. It is probable, however, that they will assume jurisdiction. I know that the Committee on the Judiciary of the Thirty-Seventh Congress did not believe that they were recommending the passage of an act that would confer that jurisdiction upon the Court of Claims. This bill will simply place the law as the committee of the last Congress intended that it should be. Nor will it change what I apprehend was the belief of the House as to the effect of that bill amending the law concerning the establishment of the Court of Claims. It is impossible to pass any law in relation to the questions growing out of the progress of this war that will not work hardship in some cases. But the question here is whether the House will leave this

whole matter, involving hundreds of millions of dollars, to the Court of Claims, that the Government may now be forced to adjustment and settlement, or whether we will wait until we can determine some general system by which justice may be done to the claimants who should be paid by the Government. When we come to examine these claims we shall find that many are now pressed upon the Government for adjustment and settlement which have never been recognized at any period by any Government. For the purpose of reserving these questions until Congress can devise some scheme for the adjustment of all that should be adjusted, the committee have directed me to report this bill. I therefore feel disposed to press this bill on the House at this time. If the House shall determine that this jurisdiction shall be conferred upon the Court of Claims and the Treasury burdened beyond what it can bear, the responsibility is not with me.

Mr. YEAMAN. In reply to the remark made by the able chairman of the Committee on the Judiciary, I make this suggestion: this bill says that property taken or appropriated by the Army or Navy shall not be adjudicated in the Court of Claims. The Constitution says that the property of citizens shall not be taken without just compensation. Yet it is taken, and it is declared upon the face of this bill that we shall have no remedy in the courts of the country.

Mr. WILSON. The gentleman will allow me to correct him. The bill provides simply that the Court of Claims shall not have jurisdiction in the classes of cases mentioned in the bill. It does not deprive citizens of any of the other remedies which they have heretofore had.

Mr. YEAMAN. By the bill, the claims are left, not upon the law of the case, but upon the will of the House, which has never time to investigate them.

Mr. MALLORY. I hope the House will not proceed now to pass this bill. As my colleague and the honorable gentleman from Pennsylvania remarked, there is a large number of claims held by the people against the Government which are just, and we want some tribunal which can decide upon the validity of those claims. If, through inadvertence, jurisdiction was given to the Court of Claims by the last Congress, why not let it remain until Congress shall provide some other tribunal to which all these matters may be referred? When that is done, you can deprive the Court of Claims of this jurisdiction. Let the jurisdiction remain, and in case Congress shall fail to provide some other tribunal for adjudication, we shall have a court to which we can go.

I hope for that reason the House will not vote for the bill reported by the chairman of the Committee on the Judiciary.

Mr. WILSON. I now renew the demand for the previous question; and upon that I demand tellers.

Tellers were ordered; and Messrs. WILSON and ELDRIDGE were appointed.

The House divided; and the tellers reported—ayes 69, nays 39.

So the previous question was seconded, and the main question was ordered to be put.

Mr. STEVENS. As the bill is not open to amendment, I move to lay it upon the table; and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 59, nays 82; as follows:

YEAS—Messrs. William J. Allen, Ancona, Anderson, Jacob B. Blair, Bliss, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Coffroth, Cole, Cox, Cravens, Creswell, Henry Winter Davis, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Hall, Herriek, Holman, William Johnston, Kalbfleisch, Kelley, Knapp, Law, Le Blond, Long, Mallory, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Orin, Perry, Samuel J. Randall, William H. Randall, Rogers, Ross, Scott, Smith, John B. Steele, William G. Steele, Stevens, Siles, Strouse, Sweet, Webster, Whaley, Wheelwright, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—39.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Blaine, Blow, Boutwell, Brandegee, Broomall, James S. Brown, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Driggs, Eliot, English, Farnsworth, Fenton, Frank, Gan-on, Goehs, Griswold, Hale, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Lazar, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Pendleton, Perham, Pike, Comstock, Price, Alexander H. Rice, John H. Rice, Schenck, Seafield,

Shannon, Smithers, Spalding, Stebbins, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilson, Windom, and Woodbridge—82.

So the House refused to lay the bill on the table.

During the call of the roll,

Mr. UPSON announced that Mr. BEAMAN was detained from the House by illness.

Mr. DAVIS, of Maryland. With a view to allow the gentleman from Ohio [Mr. SCHENCK] to offer a verbal amendment, which is perhaps material to the accomplishment of the purposes of the bill, I move to reconsider the vote ordering the previous question.

Mr. WILSON. I merely wish to state to the House that I hope that will not be done. While I do not think that the point made by the gentleman from Ohio lies against the bill, still I may state that the same objection covered by the amendment the gentleman proposes, is involved in another bill which the committee is now considering. The object of this bill is only to keep the matter in the hands of Congress until it can be set right by more complete investigation. I therefore hope we will pass the bill.

Mr. SCHENCK. I have not made any point.

Mr. WILSON. I made my remark upon what was stated to me by the gentleman from Maryland.

Mr. SCHENCK. I prefer that the vote should be reconsidered in order to afford an opportunity to make this bill better, to say the least, than it is as it now stands, and I prefer not to await some other probable legislation to take place upon some other proposition before the House to amend what seems to be a very fatal defect in this bill.

This bill, the House must have observed, provides that there shall be no jurisdiction taken in cases where property has either been destroyed or injured or appropriated for the use of the Army. Now every one knows that it is the common practice to appropriate property; and, where there is no money in the hands of the quartermaster, to give certificates of indebtedness, and those are outstanding claims justly against the Government. This bill, it seems to me, is too sweeping. While I agree with the gentleman that we ought to cut off from the Court of Claims any construction of the law under which that court was organized, which will give the court a right to look at questions of tort, of wrong, of incidental damage, we ought not to make our legislation so broad as to cut off the consideration of such cases as these I have referred to.

Mr. FARNSWORTH. I would inquire if the law does not now authorize the payment of claims for property appropriated by the Army for which certificates have been given by quartermasters?

Mr. PENDLETON. I shall object to further debate unless the previous question is reconsidered, so that the debate may be open to all.

Mr. WILSON. I hope it will not be reconsidered. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 71; as follows:

YEAS—Messrs. James C. Allen, Ancona, Anderson, Jacob B. Blair, Bliss, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Coffroth, Cole, Cox, Cravens, Creswell, Henry Winter Davis, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Garfield, Hall, Harding, Herriek, William Johnston, Kalbfleisch, Kelley, King, Knapp, Law, Lazar, Le Blond, Long, Mallory, Marcy, McAllister, McKinney, William H. Miller, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Orin, Pendleton, William H. Randall, Robinson, Rogers, James S. Rollins, Ross, Schenck, Scott, Smith, Spalding, John B. Steele, William G. Steele, Stevens, Siles, Strouse, Sweet, Webster, Whaley, Chilton A. White, Joseph W. White, Williams, Winfield, Fernando Wood, and Yeaman—73.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Bailly, John D. Baldwin, Baxter, Blaine, Blow, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke, Cobb, Thomas T. Davis, Dawes, Denning, Dixon, Driggs, Eckley, Eliot, English, Farnsworth, Fenton, Frank, Gauson, Goehs, Grinnell, Griswold, Hale, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Julian, Francis W. Kellogg, Orlando Kellogg, Kernan, Loan, Longyear, Lovejoy, Marvin, McBride, Samuel F. Miller, Moorhead, Daniel Morris, Norton, Odell, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Seafield, Shannon, Smithers, Stebbins, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, and Windom—71.

So the vote ordering the main question was reconsidered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY,

its Secretary, informed the House that the Senate had passed joint resolution H. R. No. 15, to provide for printing the annual report of the Commissioner of Internal Revenue; and joint resolution H. R. No. 16, to continue the bounties heretofore paid.

MEMBER SWORN IN.

Mr. WEBSTER. I rise to a question of privilege. One of the members elect from Missouri [Mr. BLAIR] is present, and is ready to take the oath of office.

Mr. BLAIR, of Missouri, appeared and took the oath of office prescribed by the act of July 2, 1862.

JURISDICTION OF COURT OF CLAIMS.

The question recurred upon ordering the bill reported from the Judiciary Committee to be engrossed and read a third time.

Mr. BROWN, of Wisconsin. I am in favor of this bill so far as I have been enabled to discover what its contents are in the brief period that has been allowed for its consideration, but I do not believe in the principle of putting bills through under the whip and spur which involve as serious consequences as does the one now under consideration. If forced to vote upon the bill now, I shall certainly vote in favor of it, because I believe the general principle is correct; but I think we should have it printed, and have time to consider it. I therefore move that the bill be referred to the Committee of the Whole on the state of the Union, and be printed.

Mr. SCHENCK. While I was on the floor before, Mr. Speaker, I sent to the Clerk's desk an amendment which, if read now, will indicate the view which I have in desiring to have this bill laid over for further consideration. I ask to have it read.

The Clerk read, as follows:

Add to the bill the words "except in cases sounding in contract, where material, food, forage, or other property for the actual use of the Government has been taken, and certificates or other evidences of indebtedness in writing from some proper authority given therefor."

Mr. SCHENCK. I am going to vote, Mr. Speaker, for the reference of this bill to the Committee of the Whole on the state of the Union, unless its friends will agree to have it amended in the House. I am not willing to trust that some future legislation even by this Congress will amend defects which seem to be apparent in this bill itself. I prefer, if possible, to have this bill perfected as a whole, leaving other legislation on other points involved in the same general question to come up in its turn and be considered on its own merits.

Mr. WILSON. I desire to ask the gentleman from Ohio whether he intends by his amendment to cover any claims against the Government except those which come from the quartermaster's and commissary departments?

Mr. SCHENCK. Yes, sir. The engineers may have taken timber. I intend to cover all the cases where material, food, forage, or other property, has been actually taken and used for the purpose of the Army. Contracts are sometimes defective; forms are sometimes not such as to carry the claim through the Department and have allowance made. I am not willing to close the doors of the Court of Claims or of any other tribunal against the fair consideration of claims for such materials actually used by the Government in the prosecution of this war. I have another purpose, which will show why I prefer to take this position now. I am told that there will be a bill introduced providing for some sort of departmental court or tribunal which shall take into consideration all questions of tort, all claims for damages of every kind done to property during the progress of this war, in order that proper allowance may be made. I understand that some such bill is likely to be introduced.

Mr. WILSON. I know nothing about that.

Mr. SCHENCK. Very well. I will develop what I consider to be the proper policy on this subject. I hold that all these claims sounding in contract, all these instances where property, material, subsistence, has been actually taken, and where the Government has had the benefit of it, ought to be paid for. Under the rules of the court they will be paid for only to loyal claimants. But they ought to be paid for. I do not hold that it is safe for us to attempt to go any further. I know that there is a vast number of cases that will arise hereafter under claims against the Govern-

ment for damages done by our Army in its progress. There will be claims for fences burned, for farms tramped over, for crops destroyed, for cattle escaped by reason of fences being let down, for houses occupied, and for innumerable other matters of that general class. I am not in favor of anything being done by this Congress in regard to that large class of cases, except to provide some proper tribunal which shall perpetuate the testimony, in order that hereafter when claims are presented there may be some probability of those claims not being excessive or extraordinary. That has been done by military commanders, in many instances, without any direct provision of law. It has happened to myself to have a commission appointed to investigate claims of this sort, and I have in my mind at this moment, as an illustration of the consequences of this, one case where a claim was made for incidental damages to the amount of \$1,200, and where the damages were reduced, in a manner which the claimant himself was obliged to admit as fair and just, to thirty-seven dollars.

Mr. SMITH. I would like to ask the gentleman from Ohio whether his amendment applies to cases where the Government has taken possession of a small tract of land and has built on it fortifications or other works of defense?

Mr. SCHENCK. Such cases have been paid and settled, in the character of rent, by quartermasters; and such cases, I apprehend, will be provided for if the bill be amended as I propose, for here is property actually taken and applied to the use of the Government. That would be my answer to the gentleman. But as to that wide extent of claims which will be heaped up mountain high against this Government for ground simply trodden over, for ground encamped upon, for timber incidentally destroyed, for horses let loose, for fences burned, if you open the door to cases of that kind, you will bankrupt the Treasury before you get through the war. And I say plainly and distinctly that, although I admit the justice of many of these claims, but to a much smaller amount and degree than applied for, we ought to postpone the consideration of the whole of them, and use all our means first to put down the rebellion, and pay that part of the cost of it hereafter. Believing that to be the case, I propose to limit the inquiry to matters of contract, where property has been actually taken, used, and enjoyed by the Government, and adjourn inquiry into these other questions until after the rebellion is put down.

Mr. KERNAN. Having concurred in the report of this bill, I desire, very briefly, to state the reasons that operated on my own mind; and I confess that the views expressed by the gentleman from Ohio [Mr. SCHENCK] were those which controlled the majority of the committee, and we supposed we were reporting a bill to carry out those views. They were in favor of paying for property which had been taken and used by the Army. They agreed in the wisdom of the suggestion that he has made, that the Government could not now, in the midst of war, however just might be the claims of one character and another, however hard might be the cases submitted, that the Government could not now provide for the payment of damage to land, for fences destroyed, and other like losses which our people have suffered from the Army.

Now, sir, the present law gives, as I understand, to the Court of Claims jurisdiction in all cases of contract, express or implied. The committee were informed that there would be an effort, and that it might be successful, to have the Court of Claims take jurisdiction in a large class of claims which are not strictly cases of contract, but which might legally be held to be cases where the tort was waived and which might be brought in under the designation of cases of contract. It was deemed proper, therefore, that jurisdiction should be taken from the Court of Claims in that class of cases where property had been taken, where injuries had been suffered, upon the theory that the Government should not now permit itself to be forced to judgment, as was suggested by the gentleman from Ohio, [Mr. SCHENCK.] Hence this bill simply takes away that jurisdiction, and leaves the Court of Claims still having jurisdiction in cases of contract, express or implied.

The Committee on the Judiciary were also of the opinion and considered at the same session the propriety of providing for the payment of all

cases where the Army had taken property and used it for the purposes of subsistence; and a bill was agreed to, and is in the hands of one of the committee to be reported to the House, making provision for the payment of subsistence and quartermaster stores that were taken for the use of the Army; that where property has been taken for the Army and used for its support such cases should be adjusted and paid, not by sending them to the Court of Claims, but to be adjusted and paid at the quartermaster and commissary departments, as they now pay for property which has been taken and for which there are regular certificates or vouchers. We believed that that provision would guard the country against fraud. The committee believed that we had better permit, better for the claimants and better for the Government, such cases where the Government took property, hay, oats, flour, &c., to subsidize the Army—and regular certificates were not given, I understand, in a great many cases—to be adjusted and settled as is provided in the other bill which will be reported from the Committee on the Judiciary, and which I presume will be passed by this House.

In this way we provide that these claims shall not be sent to the Court of Claims, to suffer there what claims do suffer there; but that claims for subsistence and quartermaster stores shall be adjusted and settled by the proper officers of the commissary department and the quartermaster's department. We believed that they would guard the Government from fraud, as they know all of the ways of fraud; that they would better guard the Government than by any other way that could be devised. Therefore, sir, I concurred in both of these bills. We agreed that they should be brought in separately. I think that the House, on reflection, will find the passage of this bill is right in itself; and the other bill will provide for that class of cases where property has been taken and used for the Army.

Mr. SMITH. Mr. Speaker, I believe that at least it is proper for the Congress of the United States to determine now its policy as to claims against the Government which may hereafter come up for adjustment and settlement. I believe that it is the duty of Congress at this session to pass a law by which every man under the Government who has been injured in any way, even to the smallest item, shall be made to feel that the Government of the United States intends to pay that debt. Now, sir, it was the first step of the session when this war broke out that every claim for property taken for the advancement of the Army in the suppression of the rebellion should be paid, and paid as the Army moved along. In consequence, however, of the latitude of this war, detachments of the Army have been sent out into all portions of the country, and taken the property of individuals without leaving with those from whom the stores were taken proper certificates or vouchers of indebtedness. Some of the best men in the whole country—some of the most loyal men—some who have made as many sacrifices for the benefit of the Government as any upon this floor, or in any section of the Union, or in the Army itself—have given up the last dollar, the last cow, the last horse, the last ear of corn, and last bundle of hay—the last thing they had—to subsidize the soldier and forward him in his just defense of the Government. One of these men has no evidence of the indebtedness of the Government, and after an application has been made to this quartermaster and that quartermaster, and this officer of the Army and that officer of the Army, nothing has been done by him, and he stands to-day with his helpless family around him without the slightest evidence that the Government intends to pay his debt; there is no law upon the subject, and he has no recourse whatever; therefore it is the duty of Congress at this time to say to that man, whose soul is as loyal as any man's soul, that it intends to act upon his case justly, fairly, and honestly, or at least give him some assurance that the debt will be ultimately paid.

Mr. WILSON. The gentleman will allow me to interrupt him. I wish the House to understand that the Committee on the Judiciary have done all they can do to meet the cases made by the gentleman from Kentucky. Every case embraced within his statement is provided for by a more speedy remedy, in a bill which will be re-

ported from the committee, than it can possibly be if the case is sent to the Court of Claims. I hope, therefore, that that branch of the case will no longer be urged as an objection to the passage of this bill.

Mr. SMITH. I understand there is another bill before the House, or to be presented hereafter, the features of which I approve; but the remarks I have made were more particularly called out by those made by the gentleman from Ohio, [Mr. SCHENCK,] who said that he did not desire at this time to enter into legislation by which all these claims which come up from every section of the country shall be adjudicated at this time, thereby drawing from the Treasury money which is necessary to carry on the war. If the Government is not able to pay its debts and to move on under the great financial scheme which has been gotten up, and which now characterizes the Government, and which is admired by the whole world, we had better pause and reflect, and act in a way in which we can pay our debts as we go along.

But I have the fullest and completest confidence in the Government to discharge every debt, and my object was to present these cases so that Congress might legislate and the people know that they will be protected. Let the man who suffers feel that he is suffering for a country that feels for him. Let the humble man, as well as the one in the highest place, feel that the Government is true to its principles, that it remembers the man in the hovel as well as the man in the palace, and that it will pay for a spavined horse as soon as it will pay a salary of \$25,000 a year to the President of the United States.

Mr. DAVIS, of Maryland. The Court of Claims, as organized by the law of last Congress, has undoubted jurisdiction of all cases of contract, express or implied. I infer there is a doubt whether it have or have not jurisdiction in cases of tort, from the language of the bill reported this morning by the chairman of the Judiciary Committee. I am willing, with the chairman of that committee, to terminate that doubt by excluding, by the bill reported to the House, all jurisdiction in cases of tort. One word is due, however, to the impression which prevails that a portion of the existing jurisdiction of that court upon matters of contract would be excluded if the bill reported were adopted. The amendment of the gentleman from Ohio [Mr. SCHENCK] was intended to leave the existing jurisdiction of the Court of Claims on matters of contract untouched by the bill we are now acting upon; and at the proper time he will doubtless move that amendment to the bill.

There appears to be another bill in the hands of a member of that committee, which they are to report and which is supposed to do away with the necessity of this amendment. My impression is there is some misapprehension upon that question. It seems to me the amendment of the gentleman from Ohio and the bill which the gentleman upon the Judiciary Committee means to report are both necessary to accomplish complete justice in matters of contract. The contents of the bill, which has not been reported yet, but which were stated by the gentleman who spoke immediately preceding the last one, seem to me to confer additional authority upon the commissary and quartermaster's departments to settle claims upon vouchers which heretofore have not been considered sufficient.

Mr. WILSON. I will state that the Quartermaster and Commissary General of Subsistence are not authorized to settle any claim upon an informal certificate. They are required to receive other proofs in addition to that furnished by the certificate.

Mr. DAVIS, of Maryland. That is exactly the mode in which I understood the gentleman who stated the case. It is to be referred to the quartermaster's or commissary department to settle claims which cannot now be settled by those departments because of the imperfection of the certificates, and of course the imperfection of the certificates is to be supplied before the department by evidence *abundante*. Now, suppose a party having an informal certificate, and with evidence which, perhaps, you and I would consider sufficient, but the accounting officer of the Treasury may not consider sufficient, should go before the commissary department and have his claim rejected. I am unwilling that the mere administrative action of the administrative officers of the

Government shall be conclusive against that claim. If the bill which is now before us shall be passed without the amendment of the gentleman from Ohio, [Mr. SCHENCK,] the rejection of a claim by the accounting officers of the Treasury will be final and conclusive.

What I wish a claimant against the Government to have is, first of all, the short, plain, administrative remedy of going before the accounting officers and presenting his claim, and then, in the event of its being rejected by the accounting officers, that he shall have a judicial remedy by going before the Court of Claims. The two provisions, therefore, are necessary to afford a complete remedy: first, the ordinary administrative remedy before the administrative departments, and then, when they have failed to satisfy the claimant that the rejection of his claim is a just one, the amendment of the gentleman from Ohio is necessary to give him a judicial remedy against the Government. I take it, therefore, that both these provisions are necessary, and I shall vote for both.

Mr. FERNANDO WOOD. Mr. Speaker, I think it is well settled that private property cannot be taken for public use without just compensation, and if that principle is worth anything, it is necessarily equally applicable to claims of every character against the Government, without reference to the nature of the circumstances from which they may have originated. Every claim of every character against the Government, arising from any transaction of the Government, be it small or large, is entitled to just consideration and immediate compensation. Now, as I understand the bill before the House, it proposes to make a discrimination in the claims against the Government. The law now provides that claims of this character shall be considered and adjudicated upon by the Court of Claims. It now has jurisdiction over all cases of this character, but this bill proposes to restrict the Court in the consideration and adjudication of claims growing out of damages done by the Army.

Sir, it appears to me that the motion of the gentleman from Wisconsin, [Mr. Brown,] who proposes to refer the bill to the Committee of the Whole on the state of the Union, is very proper. The bill involves very grave considerations. We should have time to deliberate upon it, and to investigate this whole subject, so that while we are prosecuting this war against the enemies at the South we may do no injustice to our friends in the North. I hope, therefore, that the motion of the gentleman from Wisconsin will be adopted by the House.

Mr. WOODBRIDGE. I certainly appreciate the remark of my friend from Kentucky, [Mr. Smith,] It is doubtless true that in this rebellion immense amounts of property belonging to citizens loyal to the Government have been sacrificed, and some day or other it is quite likely that a measure will be proposed and passed whereby such just claimants may receive compensation. But, sir, I agree with the gentleman from Ohio, [Mr. Schenck,] that if we include the claims suggested for damages, and settle them during the pendency of this war, we shall indeed bankrupt our Treasury; and the suggestion made by the gentleman from Ohio, that a commission might be well to perpetuate the testimony, meets with my hearty approval.

Now, sir, when this bill came before the Committee on the Judiciary we were informed that the bill which passed the Thirty-Seventh Congress had received different constructions; that by one construction the claims sought to be taken from under the jurisdiction of the Court of Claims by this bill were put within their jurisdiction by that law, while by the other construction, which the chairman of the committee stated was the construction which the committee of the last Congress gave, jurisdiction over these claims was not given to that court. Then, sir, the question had to be met. So far as the Committee on the Judiciary is concerned, they wish to have a law passed which can have only one construction. There come up questions of claims for damages by reason of occupancy and other such matters; and a bill, as has been stated, has been considered and passed upon, I think, by the Judiciary Committee, providing for the adjudication of those claims where property had been taken by quartermasters

or commissaries, and where the appropriate receipt had not been given. In cases of that character the accounting officers would not entertain the claim, because the receipt evidencing the claim was not in the form prescribed by law. Under this difficulty the bill was considered giving to the Auditor of the Treasury the power, under certain contingencies, to settle and adjust the claims for subsistence and quartermaster's supplies where the receipts do not meet the requirements of the law.

The amendment of the gentleman from Ohio goes, in my judgment, no further than the bill which we already have under consideration before the committee, and but little further than the provision of the law already imposes on the Auditor of the Treasury. We hear a good deal of talk about property taken "sounding in contract," and about property taken "sounding in tort." Now, it is a question of a good deal of significance, a question on which, perhaps, good lawyers may have doubts, whether the Government can commit a tort in the prosecution of this war. It becomes necessary, in the course of the march of our armies, to occupy property. It becomes necessary, for the comfort of the soldiers, to use timber found on the ground which they occupy. Shall it be said that, in such cases, the Government commits a tort? If, in the progress of the war, property is taken for the use of the Army, is that a tort, or is it not an implied contract on which the Government is bound for the value of the property taken? I think, therefore, there is some danger in the amendment. It is true that it is qualified. It says that the Court of Claims shall have jurisdiction only in cases where property has been taken sounding in contract, express or implied; where some kind of a voucher has been given. If that is not so, I ask the gentleman from Ohio to correct me. The amendment provides that the Court of Claims shall have jurisdiction of those claims where property has been taken and a receipt given.

Mr. SCHENCK. Any receipt, certificate, or evidence of debt.

Mr. WOODBRIDGE. I may be mistaken, but in my judgment all the cases covered by the amendment of my friend from Ohio belong appropriately to the auditor's department, and will only be thrown out in consequence of non-compliance with the provisions of the law requiring a receipt to be given. That defect will be remedied by the bill already under consideration. I would not open the door of this Court of Claims to these cases. The Court of Claims, as it is constituted or may be constituted, has not the same means of ascertaining the truth and facts that the Departments of the Government have, which are accustomed to treating claims of this character every day. If you leave the jurisdiction of such cases to the Court of Claims, the door of fraud will be thrown open to improper affidavits and to false testimony to an extent that is impossible where the matter is left to the proper officers of the Government.

Now, I do say that this is a safe law, to take away from the Court of Claims a jurisdiction which it may assume to have to settle these claims for damages, which, if all allowed, would, in my judgment, utterly bankrupt the Treasury before the war is ended, even though it should be ended in the next spring campaign, as I hope it will be. It does seem to me that the ends of justice would be obtained by claimants, while the Treasury would be better guarded, by the passage of the law. No injustice would be done to claimants except that which is necessarily imposed by reason of the existence of the war itself. I hope that the bill will pass immediately.

Mr. YEAMAN. The question is, Mr. Chairman, not as to what ought to be done, but as to what is to be done by the bill now before us. I have never suggested, in the remarks that I have made or in the bill that I introduced several weeks ago, and that is now pending in the Judiciary Committee, that the Court of Claims shall have cognizance of cases of damages arising from tort. In that bill it is provided that they shall have cognizance of all claims arising in cases where property has been taken, used, injured, or destroyed by the officers or armed forces of the Government for the use of the Government. This bill says that the court shall not have jurisdiction where the property has been appropriated. How appro-

riated? That is not said. The ordinary mode of appropriation is simply to go and take it and use it. And it is done rightfully, because there are emergencies where the troops cannot do without it, and yet where the ordinary voucher required by the Army regulations cannot be given. Now it is proposed to declare solemnly by this bill that the citizens may be robbed by the Government, and yet have no remedy.

I would hesitate before I would pass such a bill where you have given such a construction as that. I think that the amendment of the gentleman from Ohio [Mr. Cox] ought to pass, provided it is now before this House for decision. I think that the motion of the gentleman from Wisconsin [Mr. Brown] ought to be adopted, and the whole question referred to the Committee of the Whole on the state of the Union, where all of these bills may be considered at once; whatever this House may wish to do, whatever the Committee on the Judiciary may wish to do, should be embodied in one bill, so that the *modus operandi* of prosecuting those claims shall be simplified and the jurisdiction of that court understood. We are not claiming to mulct the Government for damages caused by tort. We are only claiming that cases arising *ex contractu* may go before the Court of Claims. We claim that there is danger that this bill, without the amendment of the gentleman from Ohio, would ignore them.

I say that there is no difference of opinion as to what we want to do; the difference is only in reference to the bill before the House. Give us time to have the bill printed, and to see what we are doing before we act on this matter. Do not let us act hastily on this bill, which may be considered to say to the thousands and thousands who have suffered in this way, "We have taken your property. You invited us to take it, if necessary, as a sacrifice in the cause of the Government, and now we will not pay you for it." If the Government cannot do it now, if there is danger of bankruptcy, let the Government now put the inquiry on foot, take evidence in reference to the damage sustained, until you can pay. But do not tell them that you will not pay them for property taken or given for the use of the Army.

Mr. BROWN, of Wisconsin, demanded the previous question.

Mr. LOVEJOY. This discussion shows evidently—

The SPEAKER. Discussion is not in order.

Mr. LOVEJOY. I ask unanimous consent to say a word.

Mr. BROWN, of Wisconsin. I will withdraw the demand for the previous question, if the gentleman will renew it.

Mr. LOVEJOY. I will renew it.

Mr. Speaker, so far as I can see, this discussion evidently shows that the bill, as reported by the Committee on the Judiciary, is the best bill that we can have on this subject. These learned gentlemen cannot agree as to what the amendment means, as to what tort is—and what is that other phrase? [Laughter.]

A MEMBER. Sounding in contract.

Mr. LOVEJOY. So far as I can perceive at a glance, a man is equally entitled to pay for his horse, if taken, whether he gets a certificate for it or not. Now, I call for the previous question, and hope that the bill will prevail—that we will pass the bill as it was reported by the Committee on the Judiciary. It is the best bill that we can have.

The previous question was seconded, and the main question ordered.

The motion to refer to the Committee of the Whole on the state of the Union was agreed to; there being, on a division—ayes 74, noes 49.

Mr. WILSON. I move to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union; and I wish to submit to the gentleman from Wisconsin [Mr. Brown] that if the House will reconsider the vote by which it referred the bill to the Committee of the Whole on the state of the Union, I shall move to postpone its further consideration to a day certain; so that ample time shall be afforded for its consideration. To refer it to that committee is the funeral of the measure.

Mr. BROWN, of Wisconsin. Will you have the bill printed?

Mr. WILSON. Yes, sir.

Mr. BROWN, of Wisconsin. And try to have the other bill reported, so that we can pass on all the matters at once?

Mr. WILSON. Yes, sir.

Mr. DAVIS, of Maryland. All that we desire is an opportunity to move an amendment to the bill when it comes up. If the chairman of the Committee on the Judiciary will allow us to move an amendment, he can make any disposition of the bill he chooses.

Mr. WASHBURN, of Illinois. With the consent of the gentleman from Iowa, I will move to postpone the further consideration of his motion to reconsider until to-morrow or any other day. If the motion of the gentleman from Wisconsin prevails, the bill, by being referred to the Committee of the Whole on the state of the Union, will be sent to "the tomb of the Capulets." I will move that its further consideration be postponed until any time that the gentleman may designate.

Mr. WILSON. Say Thursday next.

Mr. WASHBURN, of Illinois. Very well.

Mr. WILSON. I agree, then, that by unanimous consent the consideration of the bill be postponed until Thursday of next week, at two o'clock p. m.

Mr. BROWN, of Wisconsin. And that furthermore the bill shall in the mean time be printed.

Mr. COFFROTH. I hope the bill will be printed. The people I represent are very much interested in this matter. I represent the district in which the greatest battle of this war was fought—the battle of Gettysburg. My district has suffered more from the armies of both sides than probably any district represented by any other member upon this floor. I desire very much to examine this bill, because it is of great interest to the people I have the honor to represent; and I want time to examine it, that I may come to a safe conclusion in voting on it. Therefore I hope the consideration of this bill will be postponed until such time as we can come to a safe conclusion.

The motion made by Mr. WASHBURN, of Illinois, was then agreed to.

Mr. THOMAS, of Maryland. I am instructed by the Committee on the Judiciary to report, with amendments, a bill relating to the subject just now under discussion, and to ask that it may be printed. I ask that its consideration may be postponed to the same time as the other bill.

The bill (H. R. No. 63) supplemental to the laws relating to the War Department, and authorizing the settlement and payment of certain claims against the United States, was read by its title, ordered to be printed, and its consideration postponed until Thursday of next week, at two o'clock p. m.

INTERNAL REVENUE REPORT.

Mr. BALDWIN, of Massachusetts. I rise to a privileged question. I am instructed by the Committee on Printing to report the following resolution:

Resolved, That six thousand extra copies of the report of the Commissioner of Internal Revenue, and accompanying tables, of which one thousand shall be for the use of the Internal Revenue Office, shall be printed.

I demand the previous question upon its passage.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. BALDWIN, of Massachusetts, moved to reconsider the vote last taken, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

REVISION OF UNITED STATES STATUTES.

Mr. WILSON. I am instructed by the Committee on the Judiciary to report back the bill (H. R. No. 67) for the revision and consolidation of the statutes of the United States, and to ask that it be printed and recommitted to the committee.

The bill was read a first and second time, ordered to be printed, and recommitted to the Committee on the Judiciary.

CONTESTED ELECTION.

Mr. BROWN, of Virginia. I rise to a privileged question. I present the papers in the contested-election case from the seventh congressional district in the State of Virginia, and ask that they

be printed and referred to the Committee of Elections.

The SPEAKER. It is not usual to print such papers until the Committee of Elections request it.

Mr. DAWES. I object to the printing.

The papers were referred to the Committee of Elections.

INTERNAL TAX BILL.

Mr. STEVENS. I wish to present a bill that was not quite finished when the Committee of Ways and Means was called. It is a bill to increase the internal revenue, and for other purposes. I ask that it may be printed, and made a special order for two o'clock day after to-morrow.

The bill was read a first and second time, ordered to be printed, and made the special order for Thursday next, at two o'clock p. m.

CONTESTED ELECTION IN DAKOTA.

Mr. DAWES presented some papers in the contested-election case in the Territory of Dakota; which were referred to the Committee of Elections.

PENNSYLVANIA WAR EXPENSES.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PIKE in the chair,) and proceeded to the consideration of the bill (H. R. No. 117) to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion.

The bill was read.

Mr. FERNANDO WOOD. Will it be now in order to move to amend that bill so as to include the State of New York, and to increase the appropriation accordingly?

The CHAIRMAN. Amendments are now in order.

Mr. FERNANDO WOOD. I move to insert "New York" after "Pennsylvania," and to strike out the amount of the appropriation, and leave it blank, so as to comprehend such sum as the State of New York may have expended for like purposes.

Mr. ROGERS. I move to amend the amendment by inserting "New Jersey" after "New York."

Mr. STEVENS. Mr. Chairman, it is perhaps not precisely understood upon what this appropriation is based. By a law passed in July, 1861, there was special provision made for all cases where the militia were called out on occasions of this kind; and it was provided that when the State militia so called out should have had their claims audited and settled at the War Department, then an appropriation should be made, and the amount found due paid.

I should not have the least objection to entertain the amendment of the gentleman from New York, [Mr. FERNANDO WOOD,] as well as that of the gentleman from New Jersey, [Mr. ROGERS,] if the accounts of those States had been audited by the proper authorities, because then the law requires that we shall make an appropriation. We are passing no new law. I ask that the law which I send to the Clerk's desk be read.

The Clerk read, as follows:

"That the Secretary of the Treasury be and he is hereby directed, out of any money in the Treasury not otherwise appropriated, to pay to the Governor of any State, or to his duly authorized agents, the cost, charges, and expenses properly incurred by such State for enrolling, subsisting, supplying, arming, equipping, paying, and transporting its troops employed in aiding to suppress the present insurrection against the United States, to be settled upon proper vouchers to be filed and passed upon by the proper accounting officers of the Treasury."

Mr. STEVENS. I now ask the Clerk to read the papers from the War Department which I send up.

The Clerk read, as follows:

WAR DEPARTMENT,
WASHINGTON CITY, January 4, 1864.

SIR: The Department has this day received returns of the amounts required for the payment of the militia called out for the defense of the State of Pennsylvania on the 25th of June, 1863, against the invasion by the rebel forces under command of General Lee. There being no appropriation out of which these payments could be made at the time they were required, patriotic citizens of Philadelphia advanced the money, and it is proper that they should be reimbursed

without delay. I would respectfully recommend, therefore, that an immediate appropriation for that purpose be made.

A copy of a letter of the Second Auditor of the Treasury is herewith communicated, showing the amount of claims audited by him to be \$671,476 43 up to date. It is supposed that \$700,000 will cover the whole amount of these claims.

I have the honor to be, very respectfully, yours,

EDWIN M. STANTON,

Secretary of War.

HON. THADDEUS STEVENS, Chairman, Committee of Ways and Means, House of Representatives.

TREASURY DEPARTMENT,

SECOND AUDITOR'S OFFICE, January 4, 1864.

SIR: Respecting the claim of the State of Pennsylvania, amounting to \$671,476 43, for payments made to the militia called out under the proclamation of the Governor of that State dated June 26, 1863, I have the honor to state that the rolls and vouchers for said payments have been administratively examined in this office, and found in the main correct. Errors and discrepancies amounting to, say, \$2,900 have been discovered, consisting principally of cases where the internal revenue tax is not deducted, or, when deducted, not accounted for.

I am, very respectfully, your obedient servant,

E. B. FRENCII,

Second Auditor.

HON. E. M. STANTON, Secretary of War.

Mr. STEVENS. It will be seen that the law under which we are allowed to ask for this reimbursement has been complied with. It is obvious also that the payment ought not to be delayed, on account of the manner in which the money to pay these expenses was raised by citizens who were patriotic enough to advance it.

There are several other States which have similar claims, but which have not yet presented them and had them audited, and among them are New York, which furnished some regiments on that occasion, and New Jersey some. In Ohio also there are some claims of this kind. As soon as they are audited, the law requires that they shall be paid, and all that is necessary is that we should make a specific appropriation. I trust, therefore, that gentlemen will see no reason for delaying action in this case. The claims seem to have been just; all the requirements of the law have been complied with; and I do not suppose anybody in the House will vote so as to defeat this appropriation, or to make it depend on an appropriation for New York or New Jersey, or for any other State. This is all the explanation I have to make.

Mr. FERNANDO WOOD. Mr. Chairman, I am very sure that there is nothing in the law which the chairman of the Committee of Ways and Means has referred us to, nor in the practice of Congress, that should deny New York an equal footing on this question with Pennsylvania or any other State of the Union. I think, sir, the alacrity with which New York came to the aid of Pennsylvania entitles us to the largest and most liberal consideration from Pennsylvania with reference to our rights in this regard. The city of New York alone has absolutely disbursed, through her corporate authorities, \$5,000,000 toward the suppression of this rebellion, in the outfit of troops, in providing for bounties to volunteers, and for other similar objects, which, at a proper time, I intend to present as a matter of claim upon this Government to the consideration of Congress. But, sir, I cannot concede as a matter of justice and right or of law that New York is not entitled to have her just claims considered and acted on at this time, as is proposed by the gentleman from Pennsylvania in behalf of his own State. I shall therefore insist on the amendment which I have offered.

Mr. KING. Mr. Chairman, Missouri is very much interested in questions of the character of the one now before the committee; and if the proposition of the gentleman from New York [Mr. FERNANDO WOOD] should be sustained, I should be derelict in my duty if I did not bring up the case of Missouri. But the view which I take of this question will compel me to vote against the amendment of the gentleman from New York; and I wish to give an explanation of the views I entertain on the subject, in order that I may be understood, not only here, but elsewhere.

My attention has been repeatedly called to claims from the State of Missouri similar in character to those of Pennsylvania, and on looking to see what had been the action of Congress heretofore I found the law which the chairman of the Committee of Ways and Means has had read to us, and which I thought amply provided for the cases in Missouri. There is a resolution referred to on the margin of that law in another part of the act,

which has not been read, which gives a construction to the act. There seems to have been some doubt whether it was intended to apply only to cases that had already arisen, or whether it would apply to cases to arise hereafter, and there was a resolution passed giving an interpretation to the law; and making it apply to all cases that should transpire in the future as well as to those already in existence.

With that view of the case, sir, I have not thought proper to bring forward any proposition in regard to the claim of Missouri, for before we can rightfully apply for any appropriation the mustering-in rolls, pay-rolls, and all other necessary documents, must be sent to the accounting officers of the Treasury. If we met with no stumbling-block there in having our claims allowed and audited, (as it seems Pennsylvania did not,) then we could come before Congress and ask for an appropriation. I am not disposed to press a case in which I am particularly interested in a way that would be outside of that law.

In fact that is as good a law as I want, because if there were no law it would be very hard for me to make up an opinion, in voting an amount of money here, how much I ought to vote to pay the claim of Pennsylvania. But after it has gone through the hands of the accounting officer, then there is a data by which we can do it in justice to ourselves and in justice to those who are making the claim.

Therefore, I go against the amendment, because I do not want to establish a precedent here that the State of New York is to come in and obtain advantages which other States neither obtain nor seek. And yet I would as cheerfully vote to indemnify the State of New York as I would to indemnify my own State, the State of Missouri; and whenever honorable gentlemen from that State will have the claims of their State audited under this law and presented to Congress, I will vote for their immediate payment. I therefore say that I will vote against the amendment offered by the gentleman from New York, [Mr. FERNANDO WOOD,] for I do not want to place myself in the position, seemingly, of giving to New York or New Jersey, or any other State, advantages not secured to my own. And yet I would go against my convictions as to the best mode of accomplishing my object in regard to Missouri if I offered such a proposition myself. I do not wish to place myself in the position of appearing to neglect interests which are of great importance to us. I have made these suggestions in justice to myself, lest the vote which I intend to give might be construed into a disposition not even to favor the payment of my own State. I shall vote against the amendment, because I could not make the law better, if I had the power of writing it, than it now is on the statute-book. I want no claim that is not just allowed to my State. All I want is, that after its claims are properly audited, they may be brought before the House, as the claims of Pennsylvania have been, and then I trust that the House will be ready to vote such an appropriation to us as shall be allowed at the proper department.

I have made these remarks in order that the vote which I intend to give may not be misunderstood.

Mr. KASSON. Mr. Chairman, the honorable gentleman from Missouri has covered a great part of the ground which I had intended to occupy in regard to the proposition to amend this bill. My first impression was the same as that of the gentlemen from New York and New Jersey, that there was a species of preference conceded to Pennsylvania in making this appropriation separate and distinct from all other appropriations under like conditions. The State of Iowa, embraced in the western department, has incurred a large expenditure, at the same time with the State of Missouri, for which latter State we made an appropriation the other day. The commissioners appointed under the law of last Congress had excluded from their consideration all the claims from the State of Iowa, alleging simply that the State had assumed and paid a large portion of them. In view of the exceptional character of the claims of Missouri, I agreed not to move an amendment to that bill for the payment of a like class of expenditures incurred in Iowa, for I found that they are included in the terms of the general law, as are the claims of New York, New Jersey, and the

other States. I am now in correspondence with the Governor of my State to ascertain whether the requisite vouchers have been presented to the Department.

But it seems particularly strange to me that the old and wealthy State of Pennsylvania, whose last financial report announces an excellent condition of the treasury, should be in such haste to draw on the Treasury of the United States while the poorer States of the Northwest, less acquainted with the means of obtaining an early dispatch of business in Washington, are left in the rear. I am bound, however, to admit that diligence deserves its reward. Pennsylvania has been diligent. Her claim has been properly passed upon. And if this law simply says "or so much thereof as may be necessary," I can see no objection, either on my part or on the part of the gentleman from New York or New Jersey, to allow the passage of this bill, because it meets the only case of all the States where the requirements of law have been complied with.

Mr. WILSON. I wish to ask my colleague one question, and that is whether, in his opinion, the act to which the gentleman from Pennsylvania [Mr. STEVENS] referred, approved July 27, 1861, covers any other class of cases than those which arise out of States furnishing troops to the General Government for the defense of the Government and for the suppression of the rebellion? In other words, whether the militia organized by the State for its defense can create a claim against the General Government, which was intended to be covered and provided for by the act to which I have referred?

Mr. WASHBURNE, of Illinois. I hope that the gentleman from Iowa will send the act up to the Clerk's desk, that it may be read for the information of the House.

Mr. WILSON. I will read it myself. It was approved July 27, 1861, and is as follows:

"That the Secretary of the Treasury be, and he is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to the Governor of any State, or to his duly authorized agents, the cost, charges, and expenses properly incurred by such State for enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting its troops employed in aiding to suppress the present insurrection against the United States, to be settled upon proper vouchers to be filed and passed upon by the proper accounting officers of the Treasury."

Now, sir, it will be remembered when that act was passed, the General Government, through the action of the States, was organizing the Army of the United States. The State authorities were enrolling, equipping, clothing, and transporting their troops to the places of rendezvous. This act must be construed in view of the circumstances which existed at the time; and it must be admitted, I think, that it was not intended to cover such cases as are presented under the pending bill in reference to the State of Pennsylvania. I suggest that there is no law whatever for the settlement of claims of this kind. The act of 1861 only refers to the enrollment, equipment, and transportation of troops furnished by the States to the General Government under the several calls of the President.

Mr. KASSON. It is a well-known rule in the construction of laws of this character, that the construction given to them by the Department which by law is specially charged with their execution, is, in certain cases, the authoritative construction of the meaning of the law itself. I have accepted the fact that the Department has passed upon this kind of cases as embraced under that law as one which gave us the guarantee that it was not only now but hereafter to be the rule of construction adopted by that Department. If the claim is just I see no cause of objection to adopting it as a rule. If, on the other hand, it was claimed that the law never intended to provide for such a class of cases, of course the pending bill should be rejected.

Now, sir, the case to which I referred as that of the State of Iowa was, that where the troops were called out by the commander of the western department, General Fremont I think, embracing the State of Iowa as well as the State of Missouri, the State of Iowa raised and sent under that call of the general commanding the Western department a large number of troops to aid in the administration of the Government in that department, and in the suppression of the insurrection. So also in reference to the bill the other day in the case of the State of Missouri.

Mr. WILSON. Is not there another act, or joint resolution, which was passed by Congress at the second session of the Thirty-Seventh Congress? And was not the action taken in relation to the Missouri claims founded upon the provisions of that act? I ask my colleague whether there was not such an act?

Mr. KASSON. There is no doubt of that. That was distinctly stated at the time. What I wish to say is that under the terms of that act these troops were employed by the executive officers subordinate to the President of the United States, and seem to come within the meaning of the law we have now under consideration, or rather which we are now construing.

Mr. BROOKS. I ask the gentleman to yield to me a moment.

Mr. KASSON. With pleasure.

Mr. BROOKS. I wish to call the attention of the gentleman and of the House to the report of the Secretary of the Treasury, where it is shown how the claims of the States were adjusted and settled. It is on page 100, and is as follows:

"Under the act of July 27, 1861, to reimburse the States for expenses incurred by them in 'enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting' their troops 'employed in aiding to suppress the present insurrection against the United States,' claims have been presented by the States amounting in the aggregate to \$30,458,451 79. A division has been organized for the investigation and settlement of these claims, under the rules approved by the Secretary, and considerable progress has been made therein. Partial settlements of some of the claims have been made as follows: Vermont, \$613,766 58; Connecticut, \$1,245,752 69; New Jersey, \$356,667 49; Virginia, \$38,319 24; Illinois, \$3,351,517 50; Iowa, \$29,279 92; Wisconsin, \$55,440 99; Minnesota, \$3,904 40; New Hampshire, \$243,635 78; and Ohio, \$1,307,045 38; amounting in the aggregate to \$8,350,539 13. The claims of New York, Pennsylvania, Kentucky, New Hampshire, Maine, Massachusetts, Rhode Island, Michigan, Kansas, and Indiana, have been partially examined, and some of them are nearly ready to report to the Comptroller. Others have been temporarily laid aside, awaiting additional information or evidence from the State authorities."

Mr. KASSON. We have had no militia called out in the State of Iowa, nor has there been any draft there for troops; all the men that we have been called upon to send have volunteered. The gentleman's point, then, does not apply to my State.

Mr. BROOKS. The point I wish to make is this: if the case of Missouri is to go through, as it did the other day, we shall have bills for the similar cases of Pennsylvania, New York, Indiana, Illinois, Kentucky; West Virginia, and Iowa. Why not pass a general bill in relation to them all? If we permit these bills to go through now without inquiry, the period will come by and by when those who have not provided for themselves will not be able to do so.

Mr. KASSON. I admit the force of the gentleman's remarks as applied to those States not provided for by existing law. I will say here that it does not look to me entirely right that the wealthy State of Pennsylvania, for calling out her own militia for her own defense, should take priority under this or any other law, unless she has earned it by greater diligence in collecting and perfecting her vouchers and presenting them for settlement. Unless she has done so, I think her claims should be provided for by a general bill. I submit the question, however, as to the application of the existing law to the case of Pennsylvania, to the gentleman who reported this bill, and who is amply competent to say whether the case is covered by that law or not.

My object in rising was to ask the House to agree upon some uniform rule. If we settle the construction of the law as contended for, then let the State of Pennsylvania come under it, and let every other State pass her claims through in like manner. But if there is doubt as to the correctness of that construction, then I say let all the States be provided for together, and no preference be given to any.

Mr. BLAINE. I rise to oppose the views of the chairman of the Committee of Ways and Means, who reported this bill a day or two since, because they are in opposition to the experience our own State has had with the Departments in auditing the accounts made and presented in the early part of the rebellion. As early as eighteen months ago the State of Maine filed her vouchers in the Department, and it was only last week, as I was advised yesterday in a letter received from the Governor of our State, that a final adjustment was reached.

Among the items excluded from recognition in the Third Auditor's bureau were a number involving a considerable amount of money expended for the purpose of State defense. That indebtedness arose in this way: at the breaking out of the rebellion much fear was entertained of depredations by the privateers of the enemy then just put afloat. The authorities of the State raised a company of artillerymen to protect the national navy-yard at Kittery, and also the city of Portsmouth. This company was afterwards mustered into the service of the United States, but the claims for enlisting and organizing them, and for paying them up to the time of their being mustered into the United States service, were rejected by the Auditor of the Treasury Department, and they are there suspended. Thus our State has not received a dollar for the troops—not militia, but volunteers—raised for the general defense, and to protect the national navy-yard, although those claims were filed eighteen months ago. But here we find it is proposed to pay the State of Pennsylvania \$700,000 for expenses incurred only six months ago. I have no doubt that that amount of money was expended by Pennsylvania; but as I desire that all the States shall stand upon the same basis, and shall share and share alike, I hope this piecemeal legislation will be rejected, and that we shall adopt some general and equitable system for all.

Mr. COX. I believe the pending amendment is that of the gentleman from New York.

The CHAIRMAN. The pending amendment is the amendment of the gentleman from New Jersey to the amendment of the gentleman from New York.

Mr. COX. I appeal, then, to the gentleman from New Jersey and the gentleman from New York to withdraw their amendments and allow me to offer an amendment which shall cover the case of all the States.

Mr. FERNANDO WOOD. In offering the amendment I did in reference to New York I did not desire to put in any exclusive claim for New York as against her sister States; and if the amendment which is proposed to be offered by the gentleman from Ohio shall be adopted by the committee, or be considered by the committee, I will cheerfully withdraw my amendment.

Mr. COX. I do not suppose that the gentleman from Pennsylvania [Mr. STEVENS] who reported this bill to the House had any idea of making it exclusive, or of cutting off any other State. He was entitled to the benefit of his vigilance. The State of Pennsylvania is happy in having a leader in this House who could report this bill. But other States, which are occasionally overrun by raids like that of John Morgan's, and whose militia happen to be called out for self-defense, have equal claims to consideration, and I trust no man here wants to give the claims of one State preference over those of another. They are all equally entitled to be paid for the services of their militia, and therefore I offer this amendment:

And that whenever the expenses in calling out the militia of other States, either to repel invasion or to suppress the rebellion, shall have been audited by the proper Department, the sums ascertained to be due be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. THAYER. Mr. Chairman, I see no objection to the amendment which has been offered by the gentleman from Ohio, [Mr. Cox,] but how any man who reads the law of 1861 can doubt that the intention of Congress was to reimburse such expenses as are here claimed by this bill I cannot conceive. Could anything be plainer than the language of the act of 1861? The expenses which are to be reimbursed are expenses incurred in calling out troops to aid in the suppression of the insurrection. Does any man on this floor doubt that the troops of Pennsylvania who were called out at the time the expenses provided for in this bill were incurred were called out for the suppression of the insurrection or that they did take a most important part in the suppression of the insurrection? Can any man doubt that such was the fact?

I take issue, therefore, with the gentleman from Iowa [Mr. WILSON] in his construction of the act of 1861. I say, sir, that the language of that act is too narrow for him to attempt to build such a criticism upon. I say that when the language of the act declares that expenses shall be paid which may be incurred in calling out troops to

suppress the insurrection you cannot construe that to mean a direction that only those expenses shall be paid which are incurred in the raising of troops which are put under the authority of the national Government. I say that if the body which passed the law of 1861 had intended any such restrictive construction to be put upon that act they would have used appropriate language to define their meaning; they would not have used the general and broad expression which we find in that act. This being, according to my humble comprehension, perfectly clear, and no man upon this floor having the hardihood to say that these troops were not employed in the suppression of the insurrection, what is the reason why the law as it stands should not be enforced?

Mr. WILSON. Will the gentleman allow me a word?

Mr. THAYER. I will yield to the gentleman.

Mr. COX. With the permission of the gentleman, I desire to add to my amendment the words "not exceeding \$10,000,000."

The CHAIRMAN. That modification will be made.

Mr. WILSON. I think that the construction I give to the act of 1861 is borne out by the subsequent action of Congress. By an act approved March 25, 1862, I find it provided—

"That the Secretary of War be, and he is hereby, authorized and required to allow and pay to the officers, non-commissioned officers, musicians, and privates who have been heretofore actually employed in the military service of the United States, whether mustered into actual service or not, where their services were accepted and actually employed by the generals who have been in command of the department of the West, or the department of the Missouri, the pay and bounty as in cases of regular enlistment."

Now, sir, many of the men employed in the department of the West, and whose claims were embraced in the section I have just read, were raised by the State authorities of Missouri and Iowa. If those troops raised in that way, not for the purpose of going into the Army of the United States under the proclamation of the President, were embraced within the act of 1861, why was it necessary to provide by this act of 1862 for the claims of the men thus raised in Iowa and Missouri?

Mr. STEVENS. Will my colleague allow me to say a word just here?

Mr. THAYER. Certainly; I yield to my colleague.

Mr. STEVENS. The law which the gentleman from Iowa has just read was passed to allow bounty to those men raised in Missouri and Iowa. I believe that is expressed in the law. It says nothing about expenses. Is not that the language?

Mr. THAYER. That is the language of the act.

Mr. WILSON. The language of the law is, "pay and bounty."

Mr. STEVENS. Well, without that law those men could not have been allowed bounty. But there is no bounty embraced in this bill.

Mr. WILSON. The gentleman from Pennsylvania will allow me to correct him. The language of the act is much broader than is stated by him. It authorizes and requires the Secretary of War to allow and pay to the officers, non-commissioned officers, musicians, privates, &c., "pay and bounty as in cases of regular enlistment." It not only includes bounty, but the pay of the men.

Mr. STEVENS. So I see, sir.

Mr. WILSON. Now, if the gentleman will pardon me, part of the claims, I suppose, which the State of Pennsylvania had against the Government were for the pay of the troops, because the act of 1861, upon which they base this appropriation, directs the Secretary of the Treasury "to pay to the Governor of any State, or to his duly authorized agents, the cost, charges, and expenses properly incurred by such State for enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting its troops," &c. So that there is the same provision in the act of 1861 in regard to the payment of troops that we find in the act of 1862, with the difference that by the act of 1861 the amount is to be paid to the State—the State paying its own troops till they were mustered into the service of the United States—while by the act of 1862 payment is to be made directly to the men. And yet the Missouri appropriation was made on the report of the commissioners appointed for the purpose of carrying out that act.

Mr. STEVENS. The chairman of the Judi-

ciary Committee cannot fail to see that the act of 1861 did not embrace bounties, but simply the expenses of transportation, enrolling, &c.

Mr. WILSON. Did it not embrace pay?

Mr. STEVENS. It did embrace pay; but the bounties which were afterwards allowed to the troops of Iowa and Missouri could not, under that act be allowed, and hence it became necessary, to give them more than that act authorized, to pass another act allowing them bounties. The act of 1862 recites that doubts have arisen as to the true intent and meaning of the act of 1861, and then resolves that it shall be construed to apply to expenses incurred as well after as before the date of the approval of the act.

Mr. HOLMAN. The amendatory joint resolution to which the gentleman refers was passed at the instance of one of the western States, under the impression that the act of July 27, 1861, only applied to expenses incurred prior to its enactment. Now, as it is known that many States have had their claims adjudicated under that act, I desire to ask the gentleman from Pennsylvania whether any such appropriation as this, any special appropriation, has ever been made under it for the benefit of any State? Or does not the act of 1861 make the appropriation itself, and was not the joint resolution continuing it in force intended for the express purpose of avoiding the necessity of special appropriations for individual States as they might from time to time incur expenses? I undertake to say this, by way of application, that the State of Indiana, which has, within the limits and under the purview of the act of 1861, been entitled to large claims against the Government, has had those claims adjudicated without having any special appropriation made by Congress for that purpose. That was never deemed necessary. The very language of the act of 1861 made the appropriation. It directed the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to the Governors of the several States those claims. Then came the act of 1862 continuing in force the act of 1861. If this view be correct, there is no necessity for the passage of a bill making special appropriations for any State; and the motion of the gentleman from Ohio is also unnecessary, because, where claims are adjusted, the claimants are entitled to payment.

Mr. THAYER. Mr. Chairman, the act cited by the gentleman from Iowa lends no additional force to his argument. My colleague [Mr. STEVENS] is entirely correct in stating that the act of March 25, 1862, was passed for a totally different purpose, as is shown by the title of the act as well as by its text. It is entitled "An act to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pension." There was no provision for any of these subjects in the act of 1861. There was no provision in it to pay the men as men. Its object was entirely different. It was not to pay the men directly, but it was to indemnify the States for their expenses in raising forces—an object entirely different from that of the act on which the gentleman from Iowa relies.

The title of the act of 1861 is "An act to indemnify the States for expenses incurred by them in defense of the United States." The object of the act of 25th March, 1862, was to authorize the United States to pay the men whether or not they had been mustered into the service of the United States, if they had been *de facto* in it. The two acts were for entirely different purposes; and they are so plain, both of them, that I do not see how the most ingenious intellect could for a moment raise any doubt or quibble in regard to their application. The act of 1861 is a general provision for the purpose of indemnifying the States that should have taken upon themselves to raise men for the defense of the United States; and it directs that when the expenses incurred by those States shall have passed through the ordeal of review which they have to pass through with the accounting officers, they shall then be paid.

We are now asked, in obedience to this law, simply to make an appropriation for the payment of the debt incurred by the State of Pennsylvania.

Mr. Chairman, I see no force in the objection raised by the gentleman from New York, [Mr. FERNANDO WOOD.] It seems to be an unfair and ungenerous objection. Why, sir, should the State of Pennsylvania, who complied with the law in

good faith, and took no unfair advantage, as I fear was perhaps very faintly suggested by another gentleman, from Iowa, [Mr. Kasson,] for having been so swift to apply for what she was entitled to under the act of 1861—I say why should Pennsylvania, who proceeded deliberately to audit her claims, who comes here for proper certificates from the proper accounting officers, and shows this House that these claims are just, that they have been adjusted according to law, and that they are all right, why should it be said that Pennsylvania should not, under the act of 1861, be indemnified for those expenses because the State of New York has not taken the trouble to comply with the law, or by reason of any negligence of that State or its agents in having proper bills made out for like action of the House?

Mr. WILSON. If the gentleman will permit me, I can answer his question by the provision of the act of July, 1861. The claims that the other States had against the Government were for troops raised under the President's various proclamations to furnish troops for the Army of the United States. Cases of that kind are covered by the general provision of the act of 1861, that the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to the Governors of the several States, or their duly authorized agents, the expenses, &c., of calling out and transporting troops, &c. If the case of Pennsylvania comes within the provision of the act of 1861, why is it necessary to make a special appropriation? Why does not Pennsylvania get paid as the other States have been paid under that law?

Mr. STEVENS. A specified sum was never demanded before. The gentleman does not seem to know that these troops were all mustered into the service of the United States.

Mr. WILSON. I am informed that the other States have had no difficulty. The gentleman from Indiana informs me that his State has received \$2,000,000 for expenses incurred in raising troops at the call of the President. The reason why Pennsylvania asks for this appropriation is because these troops were not organized under a call of the President for supplying troops for the Army of the United States; it is because that State has acted in calling out her own militia.

Mr. STEVENS. They were mustered into the Army of the United States under General Meade.

Mr. WILSON. That will not avoid the point I am making. If these troops were raised and the expenses incurred under the call of the President to make up the Army of the United States, the general appropriation of the act of 1861 would cover this case. These troops were not so raised, and that renders it necessary for Pennsylvania to ask for a special appropriation. We may as well understand this matter. If the case is to be passed under the act of 1861 there is no appropriation necessary. If it does not come under the act of 1861 it is proper for the House to investigate it. The act of 1861 does not authorize the accounting officers of the Treasury to audit claims for expenses for troops of this kind. Notwithstanding these statements of officers of the Treasury, it is found necessary to ask for a special appropriation, and that is the question we have before us to-day. It cannot be covered by the provisions of the act of 1861; otherwise this appropriation need not be made. We need therefore spend no further time on it.

Mr. THAYER. The Secretary of War may take the responsibility of construing the act in that way, and if he does, he can pay these claims without the action of the House. He can take that responsibility if he chooses. But his action would have been void in view of the constructions now put on this act. That any Department of the Government has put a construction upon this act other than that intended by this House does not settle the question in reference to the act of 1861. The argument of the gentleman from Iowa, therefore, has no force. It does not avail against the position I take.

I say no man can read the act of 1861, no man can read its title, no man can read the provisions embraced in one solitary section, and not, I think, be convinced that the act was intended to perform that function which its title declares it was intended to perform. It was an act of indemnity to the States; it was an act to indemnify the States for raising troops, provided they were intended

and used in suppressing the rebellion. No narrower significance can be given to it; and the attempts which have been made to restrict it by reference to other acts seem to me so far from being successful that they favor the construction for which we contend. It is difficult and dangerous to attempt to construe a law which is so plain upon its face that he who runs may read—so plain that the simplest intellect may ascertain exactly what its provisions mean. I say no special pleading, however nice, can, in the comprehension of any man who will deliberately read this act of 1861, prevent his rising up with the conviction that it was intended for exactly what its title says it was intended to accomplish. I say Pennsylvania is here to-day, with this appropriation bill, standing not only upon the spirit of the law, but upon the very letter of the law; and why should she not be paid? It seems to me to be an extremely narrow, selfish, and unmagnanimous view of this question to take, that because the bill in favor of Pennsylvania happens to be the first presented to this House—or happens perhaps to be the second, if I class Missouri in this category—therefore that jealousy should arise upon the part of members representing other States. If Pennsylvania has gained any advantage in having her appropriation bill here to-day she has gained it not unfairly, but has gained it in pursuance of the very terms of a law this body enacted; and it is no answer to say that other States have not followed in the same direction pointed out by that law, and that other States are not here to-day with their certificates of accounts from the State accounting officers, and with their bills making appropriations.

I hope we shall act upon all these bills with a spirit of magnanimity and confidence in each other; I hope we shall not, in such a crisis of the affairs of this country, get into discussions based upon narrow, prejudiced, selfish, and sectional views; I hope we shall be able, and shall be perfectly willing—and I do not doubt we shall—to discharge our duties faithfully toward the whole country; that we shall not feel that we are here now so much the representatives of particular States as the fractional representatives of this consolidated, powerful, and victorious nation. I hope we shall enter upon the consideration of these appropriation bills for the several States in this spirit; I hope we shall avoid all sectional and selfish views, and all selfish motives in considering them. For my own part I am sure—and I can speak with perfect confidence on this subject, not only for myself, but for every other member from Pennsylvania—that when these other States come here with similar accounts, when they come here showing that they have complied with the law, when they come with the proper vouchers from the accounting officers of the State, we shall vote them appropriations for every dollar due to them, without stopping to quibble over nice points of law, without resorting to unfair criticisms in order to deprive them of any preference to which they have entitled themselves, and without regard to their action upon other claims.

Mr. LOVEJOY. I gather from this discussion, first, this fact, that this is an attempt to legislate and appropriate at the same time—that this is an appropriation bill presuming legislation which does not exist, and carrying the idea of legislation by mere implication. Now, sir, I suppose there can be no question of that fact; and whether this is a just claim or not, whether it ought to be paid at some future time or never, one thing is certain, that its payment now is without authority of law, and consequently is illegal, and therefore I take it that this committee and the House will not fall into the trap of voting an appropriation carrying legality simply by implication or presumption. I think if gentlemen investigate the matter more thoroughly they will be convinced that I state the fact just as it is.

The bill reads, "the same having been audited by the proper department." The person who prepared the bill dared not put in the words "having been audited in pursuance of law by the proper department." That simple amendment would be fatal to this bill, because it would make it necessary for the proper auditing officers to find some law justifying the appropriation, and the records of Congress do not afford any such legal justification, and I doubt whether any proper auditing officer, if he were required to audit the accounts

in pursuance of law, would venture to give them his approbation. And therefore, sir, if there were no other objection, it seems to me that that is a fatal one, and that this claim must go by the board for the present, until the House shall determine whether they will justify the payment of the claims embraced in this appropriation. Until that time, I think that no appropriation should be made.

There are one or two other things I would like to say in connection with this matter. In the first place, while I do not profess to have investigated it very extensively, it seems to me that this is a case *sui generis*, and that it is not analogous to the cases of other States. These men never were properly mustered into the service of the United States.

A MEMBER. Yes, they were.

Mr. LOVEJOY. They were in some sense, I suppose, as the gentleman states it, but the bill is peculiar in this: no other appropriation bill of this kind, so far as I remember, uses the word "militia," but the term used has been "forces," or "soldiers," "called into the service of the United States through the agency of the State." States have been reimbursed for such agency, and very properly, but this bill is for the payment of militia called out for the simple and limited purpose of protecting the State of Pennsylvania; and I understand that when these men, under General Reynolds, got to the State border, they stopped, and would not budge an inch beyond the limits of the State.

Mr. STEVENS. That is not true.

Mr. LOVEJOY. I am glad to know it.

Mr. KELLEY. The gentleman is mistaken as to the facts. These Pennsylvania militia were called out under the proclamation of the President for six months, and went to the Potomac, and were engaged, raw militia as they were, with the regular Army of the United States, in several engagements.

Mr. LOVEJOY. That may all be, sir. It is not in this bill, however; there is no declaration or evidence of it.

Sir, I do not desire to say anything in regard to how the militia of Pennsylvania behaved, or anything of that kind. I do not propose to discuss that. I simply wish to state enough to make it clear to the House that this is a peculiar case, and that the main purpose of calling out these militia was evidently to protect Pennsylvania.

Now, I do not say that Pennsylvania ought not to be reimbursed for the expenses thus incurred; but it does seem to me, and I cannot help saying it, that a great State abounding in wealth, and that has certainly made a very large amount, directly or indirectly, by this war—and I love Pennsylvania, sir, with her coal mines and her iron and her vast resources—but it does seem to me that so wealthy a State, having, through her own agency, called out these soldiers to defend her own soil, and who, I have no doubt it is substantially true, performed no other service than the defense and protection of Pennsylvania, might have waited a little while for this \$700,000. I do think that the grand old State of Pennsylvania should not at this time have demanded this money from the Government of the United States, borne down and oppressed as it is by the expenses of this immense and atrocious rebellion.

Mr. STEVENS. I think this debate has gone far enough, and I propose, after saying a few words myself, to move that the committee rise.

I do not understand the opposition to this bill. I cannot very well understand it. It is perhaps because there is glory enough for Pennsylvania in possessing Gettysburg within her limits; but, sir, I do not intend to refer to Pennsylvania in that respect. In defending Pennsylvania, the Union was defended. In defending Iowa, the Union is defended. It is narrow talk, it is narrow feeling, it is ungenerous argument, to talk about defending Pennsylvania alone because the army of the enemy happened to enter there to murder and rob her citizens and march on further eastward. Such things as that are hardly becoming men who are fit for this House.

But, sir, we have not hurried on this bill. It is brought in upon a communication directed to the Committee of Ways and Means—not sought for by them, but directed to the committee by the proper department of the Government, and asking us to make an appropriation to pay the accounts

which had been audited by the Auditor of the Treasury. Is there any undue haste in that, sir? What has Pennsylvania done that she is to be assailed here, right and left and everywhere, as if the great object was to get up jealousies among the States and the members representing different States, that hereafter, when their cases shall come up, an acrimonious discussion may arise upon them? Sir, I had hoped that nothing of that kind would take place here. The law is as plain as human language can make it. Pennsylvania had called out, at the request of the President, a certain number of troops—about forty thousand. They were mustered into the service of the United States, put under the command of United States generals, and acted within their armies. It seems to me that, both by the original law and by the construction given to it in 1862, the matter is as plain as anything can be made. And yet the only objection made to the payment of these claims is that there may be a quibble raised on that law. Not a member here has ventured to say that every dollar of the amount appropriated in this bill is not due, that this money has not been all honestly spent in the defense of the country. No suspicion is cast upon the mode in which the accounts have been audited and brought forward. If there was no law at all authorizing their payment, and if the accounts had been passed upon by competent authority and sent here, should they not be paid? What kind of reason is there why an appropriation should not be made?

I understood the gentleman from New York [Mr. FERNANDO WOOD] to say that the city of New York has expended large amounts. So far as these expenditures have been properly for the defense of the country I shall be willing to vote their reimbursement to New York, which I know to be somewhat patriotic, as I will be willing to vote for the reimbursement of other States. Let them produce their claims and show that they are right, I do not care by what means and when, and I shall vote for them.

Another gentleman from New York has insinuated that if this bill be passed it may not be so easy to have other claims passed. I ask you, sir, are these insinuations worthy of the State? Are we to hold pledged as hostages the bills of one State—admitted to be right—because there are, perhaps, unworthy members here who when the honest claims of another State are presented may not vote for them? Sir, I will not do myself nor the House the injustice to suppose for a single moment that there is a man here mean enough and base enough to act upon such a motive; and I hope there are but few base enough to make the insinuation. If this House think that Pennsylvania is not entitled to be reimbursed what she has already paid, let us spend no more time over the subject. I move that the committee rise, for the purpose of moving to close debate.

Mr. COX. If it be in order, I move to amend that motion by adding that the bill be reported back to the House with a recommendation that it be referred to the Committee on Military Affairs.

The CHAIRMAN. That amendment is not in order.

Mr. SPALDING. I ask the gentleman from Pennsylvania to withdraw his motion.

Mr. STEVENS. I withdraw it for the present.

Mr. SPALDING. Mr. Chairman, I desire to say but a few words. I do not intend, for a moment, to impugn the patriotism of the great State of Pennsylvania. I do not intend to say that Pennsylvania has not presented a just claim to be reimbursed for her large expenditure of \$700,000. But I do wish to say that our Treasury is now on the point of bankruptcy; that it is with the utmost difficulty that the constituted authorities of the nation can find money to pay bounties to volunteers so as to fill the ranks of our armies; and I therefore conceive that this claim of Pennsylvania belongs to a class of cases which should, for a time, remain in abeyance. It should be deferred until the ability of the nation be commensurate with its desire to do justice to all its members. If we now make an appropriation of \$700,000 from our scant Treasury to pay this claim to Pennsylvania, my own noble State may next come forward and claim \$800,000 due to her on the same principle precisely, and then may come forward Iowa and New York and New Jersey, and all the other States, if you please, exhausting the Treasury, and preventing the recuperation of our na-

tional resources to put down this rebellion. I say to the gentleman from Pennsylvania that the considerations of patriotism call upon us to forego these claims, just though they may be, until the nation has greater ability to pay them than it now has.

Mr. L. MYERS obtained the floor.

Mr. SPALDING. I agreed to renew the motion that the committee rise.

The CHAIRMAN. The gentleman is too late.

Mr. L. MYERS. Mr. Chairman, I cannot permit to pass by in silence the slur cast upon the troops from my State by the gentleman from Illinois, [Mr. LOVEJOY.] I could not sit still and listen to the assertion that they had refused to cross the State line to fight the enemies of the Union when I knew the facts were directly the reverse. My colleague, Judge KELLEY, who during the first invasion was in the ranks as a private, has already denied the assertion of the gentleman from Illinois; and he and my colleague on the other side of the House, [Mr. RANDALL,] who commanded the Philadelphia City Troop against the July invasion alluded to in the bill before the House, know that the Pennsylvania militia in those great emergencies not only crossed the State line, but marched to the Potomac, and were ready to march anywhere for the defense not of Pennsylvania only, but what was then an imperiled country.

Mr. Chairman, this is truly a case, as the gentleman from Illinois has expressed it, "*sui generis*." Last summer, when free soil shook with the tread of armed rebels who were striking at the very life of the Republic, General Reynolds, a Pennsylvanian, and one of the first martyrs of the subsequent bloody battle, commanded the troops in the advance of the army of the Potomac, not the militia, as that gentleman erroneously informs us. Upon his fall, another gallant Pennsylvanian, General Hancock, took his place. Then, too, General Crawford, another Pennsylvanian, led the famous Pennsylvania Reserves, shouting to them, as amid shot and shell they rushed up a steep hill and took an important battery, "Don't let the Bucktails!" (still another Pennsylvanian brigade) "beat you"—the army being commanded by that Pennsylvania hero, McClellan. Never before was there nobler emulation among troops; and while the brave soldiers of the Keystone, side by side with their noble associates from other States, stood there at Gettysburg a bulwark against treason and its armed cohorts, near by, fresh from the defense of Harrisburg and Carlisle, where the enemy's cavalry were baffled and rendered useless, fifty thousand Pennsylvania militia, ten thousand of them from my own city, aided by some regiments who generously responded from New York and New Jersey, stood ready with their lives to defend that Union without which Pennsylvania would be a keystone without an arch. Let no man disparage them. It was indeed a case "*sui generis*," and I thank the gentleman for the expression.

Nor do I believe that when our State presents her claim for expenses incurred against that invasion—especially as the General Government took sole control and command of those troops—the House will ignore or postpone it.

Yet what do we see here now? When this bill is reported to the House, a technical, and as I think unnecessary question is raised as to the mode in which a State should be paid the paltry amount—paltry compared with the service rendered—proposed by this bill to be paid. I say that when this sum is asked to be refunded, we find upon the one side technicality, and on the other direct opposition. I am surprised at this. I hope that the gentleman from New York [Mr. FERNANDO WOOD] and the gentleman from New Jersey [Mr. STEELE] will withdraw their amendments. It has come to a strange pass in legislation when one State has to be dependent upon the action of the others; when it is declared that one State shall not have a bill passed in its favor, after complying with all of the provisions of the law, until other States are ready who happen to desire the passage of similar acts. If New Jersey or New York had presented their claims, had them duly audited, and were ready with a bill to pay their expenses incurred in calling out the troops which nobly came to the aid of Pennsylvania on that occasion, no one would more gladly support those measures than myself. My State will never forget the troops

that came to her aid in that dark hour when not Pennsylvania alone, but the whole country was awaiting the event of the impending battle. She will not forget them, and I ask their Representatives not to forget her. When bills come up for them we shall not delay or oppose, but will support them most heartily.

It is technically objected whether the act of 1861 can be construed to enable the Secretary of the Treasury, without further legislation, to pay for these expenses. It is enough for me to know that the Department does not think that it has sufficient authority. It is enough for me to know, whether it has sufficient authority or not, that there has been no special appropriation for the purpose, and that the chairman of the Committee of Ways and Means [Mr. STEVENS] desires one. It is enough for me that the bill is founded upon accounts and vouchers submitted by the State, and audited by the proper officers of the Treasury. To pass it will do no harm, for it is admitted that the expenses were incurred and ought to be paid. I appeal to gentlemen on all sides of the House to recognize the fact that the bill before us is to reimburse the State for outlays to her people—the feeble recompense of their great services to the Government in that trying hour, and the moral as well as personal aid her soldiers lent to the veterans of the Potomac at Gettysburg—a battle which not only made her soil classic, but insured the perpetuity of the Republic.

Mr. KASSON. I wish to make a single remark just here. It will be recollected that the only bill we have passed this session making appropriations for this species of service is the one which applied to the State of Missouri. That was a case in which the expenses had not been paid by the State, and had not been assumed by the State, but in which the payments were to go directly to the men who did the military service in the field. This bill now pending relates to another class of cases. It is for the purpose of disbursing to a State expenses which it had incurred and paid. The point, therefore, is, whether this House is ready now to adopt the principle of paying, at this time, the debts which loyal States have loyally incurred in aid of the great work of putting down this rebellion. It is not whether Pennsylvania is entitled to be paid at some time—as the gentleman from Pennsylvania [Mr. L. MYERS] who has so clearly stated her position can see—but whether it is now consistent with the other greater interests of the country that we should inaugurate the system of paying to Pennsylvania and other States the millions of indebtedness which they have incurred and paid.

I submit that none of us in this House doubt that Pennsylvania is loyal, that her soldiers are gallant and brave, and entitled to be paid. The question is rather one in which the financial policy of the country is involved.

Mr. STEVENS. Do I understand from this discussion that gentlemen contend that none of these expenses are to be paid until the war is over? If all the States are to be placed in that category, it is quite another thing. I supposed that all of them were to be paid; but if a different course is to be adopted, let it be done.

Mr. L. MYERS. I am glad to have been interrupted by my friend the gentleman from Iowa, [Mr. KASSON,] because it has called to my mind a passage in the speech of the gentleman from Ohio [Mr. SPALDING] who preceded me, and what I have to say will be an answer to both those gentlemen.

I do not recognize the fact that the loyal portion of this country is in a state of bankruptcy, or pending bankruptcy, but rather in a state of the greatest national prosperity that ever a nation presented. Its people are prosperous, and this wicked rebellion alone mars their happiness. The debt of the country to its soldiers is paid, and paid promptly, and very soon I hope we shall give them a better compensation than we are now paying. We can afford to be generous, but we can at least afford to be just, and whether bankruptcy is pending or not, whether ruin is pending or not, I am in favor of paying every just claim when it is presented. I cannot recognize as proper or fit the remark which fell from the lips of another gentleman upon this floor—I do not remember from what State he hails—that we are to wait until this war is over before we pay the claims of the people who are periling their healths and lives

in this holy struggle; and certainly the claim of a State which has advanced funds for such expenses is equally good. I believe we should settle our debts as we go along—paying those due our friends, and letting our Army and Navy settle with our enemies.

I hope, therefore, the amendments to this bill, coming as they do from States whose claims are as yet not vouched and audited, will be withdrawn, and that it will be passed as promptly as Pennsylvania has fulfilled her obligations of money and men and love for the Union.

Mr. FERNANDO WOOD. I do not desire to detain the committee by prolonging this debate.

I have risen for the purpose of saying that I think the gentlemen from Pennsylvania who have advocated this bill are in error in attributing to us a desire that justice shall not be meted out to their State, by the fact that we desire that our claim shall be paid by the Government, and that it shall be audited in the same way that Pennsylvania desires her claim shall be. One gentleman from Pennsylvania, [Mr. THAYER,] representing a Philadelphia district, pronounces the amendment which I had the honor to submit to the committee to be unjust and ungenerous. Sir, a reproach of that character should not come from Pennsylvania, certainly not from Philadelphia. If I were disposed to reply in the same spirit, I think I could retort not only upon Pennsylvania, but especially upon that part of the State which the gentleman has the honor to represent.

Sir, New York has set up no claim here for repelling the invasion of her borders, as Pennsylvania has done. Her claim is predicated upon an honest expenditure of money to aid in the suppression of this rebellion. She can protect herself without calling upon the Federal Government to contribute pecuniary assistance.

But, sir, New York has a just and equitable claim for protecting Pennsylvania—ay, sir, in advance of Pennsylvania herself; because we contributed more troops in repelling the invasion of Pennsylvania, on the last invasion of that State, than Pennsylvania did herself.

Mr. THAYER. Will the gentleman from New York allow me to ask him a question?

Mr. FERNANDO WOOD. Certainly; I will yield to the gentleman for that purpose.

Mr. THAYER. Will the gentleman inform the House how many regiments were furnished for the defense of Pennsylvania by the State of New York on that occasion?

Mr. FERNANDO WOOD. I say that within three days after the call was made upon the Executive of the State of New York fifteen regiments were on the way to Pennsylvania, and we contributed twenty-six regiments altogether to repel the invasion of that State on the last occasion.

Mr. THAYER. Then the gentleman will not answer my question?

Mr. COX. He has answered it.

Mr. FERNANDO WOOD. I have answered the gentleman's question as I understood it.

Now, sir, I have no hostility to Pennsylvania. Pennsylvania is a noble Commonwealth, and she has contributed liberally and patriotically to suppress this rebellion; but why should she have an exclusive right to put her hand into the Treasury in this crisis and in the present condition of that Treasury, to the exclusion of other Commonwealths equally patriotic and equally liberal?

Shall it be said of us that we are unjust and ungenerous because we require that our expenditures shall be reimbursed? Is it hostility to Pennsylvania to ask that the moneys which New York contributed to protect her shall be paid back, when the expenditures of Pennsylvania are refunded to her? Sir, we should have time to consider this important question. If it be the law, as read here, that there is already a provision to reimburse States which have equitable and just rights, there must be some other object and motive in hurrying this appropriation bill through at this time. In my judgment, it is a nice question whether the law contemplates that the Government shall pay to States money expended for the protection of such States, or whether it is not simply meant to reimburse States which gave men and money to suppress the rebellion. There is a distinction between these two cases. As I understand this bill, it provides simply to reimburse Pennsylvania for moneys expended in repelling

the last invasion of that State. If that be so, I, for one, desire time to consider that question. I therefore renew the motion that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PIKE reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the bill to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion, and had come to no conclusion thereon.

Mr. MORRILL. I move that the bill to reimburse the State of Pennsylvania be recommitted to the Committee of Ways and Means. I make that motion for this purpose: while I am as anxious—

Mr. WASHBURN, of Illinois. I rise to a question of order. Is that bill before the House?

The SPEAKER. It is not. It is in Committee of the Whole on the state of the Union. Therefore no motion in regard to it is in order.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled the following bills; when the Speaker signed the same:

Joint resolution (H. R. No. 15) to provide for the printing annually of the report of the Commissioner of Internal Revenue; and

Joint resolution (H. R. No. 16) to continue the bounties heretofore paid.

DAKOTA CONTESTED ELECTION.

Mr. HUBBARD, of Iowa, presented papers in the case of the contested election in Dakota Territory; which were referred to the Committee of Elections.

And then, on motion of Mr. LONGYEAR, (at four o'clock p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, January 13, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. POMEROY. I present a memorial from an incorporation in the city of New York called the "Institute of Reward for Orphans of Patriots." The memorialists, members of this institution, an association incorporated under the laws of the State of New York, respectfully solicit an appropriation by Congress for the purposes of that institute, to be used in cooperation with the appropriations of those States that are making special arrangements for this class of youths. This memorial is signed by Dr. Valentine Mott, president, Dr. Horace Webster, Dr. S. D. Blanchard, and is also indorsed by prominent and distinguished men in New York, among whom I notice Henry Ward Beecher, Mayor Opdyke, William C. Bryant, and E. D. G. Prime, the editor of the New York Observer, and other leading citizens. I think this subject should commend itself strongly to the attention of Congress and the country. I hardly know to what committee it should be referred; but I move to refer it to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. MORGAN presented the memorial of R. W. Meade, a commander in the United States Navy, praying for the passage of an act for the fair and impartial trial of officers to whom injustice has been done by the board under the act of July 16, 1862, with accompanying papers; which was referred to the Committee on Naval Affairs.

He also presented the memorial of James A. Farrell, commissary general of ordnance of the State of New York, praying for the refunding of certain moneys paid for duties on arms by the State of New York during the year 1863; which was referred to the Committee on Finance.

Mr. HARRIS presented the memorial of Thomas Laurent, of Brooklyn, New York, praying for the payment of a balance due him on account of money seized by General Scott, in Mexico, in the year 1847; which was referred to the Committee on Military Affairs and the Militia.

Mr. BUCKALEW presented the petition of Mrs. Jane McCrabb, widow of John W. McCrabb, late quartermaster in the United States

Army, praying for arrears of pension; which was referred to the Committee on Pensions.

Mr. BROWN presented a memorial of citizens of St. Louis, Missouri, in relation to the payment of the claims of the Missouri home guards; which was ordered to lie on the table.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JOHNSON, it was:

Ordered, That the memorial and other papers in relation to the case of Alexander J. Atchoa, on the files of the Senate, be referred to the Committee on Foreign Relations.

REPORT FROM A COMMITTEE.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 50) to authorize the President to appoint a Second Assistant Secretary of War, reported it without amendment, and with a recommendation that it pass.

CONDUCT OF THE WAR.

Mr. WADE. I ask leave to introduce a resolution for the appointment of a committee on the conduct of the war, and I ask for its present consideration.

The VICE PRESIDENT. The Senator from Ohio asks the unanimous consent of the Senate to consider this resolution now. Is there any objection?

Mr. POWELL. I ask that the resolution be read.

The Secretary read it, as follows:

Resolved, That a joint committee of three members of the Senate and four members of the House of Representatives be appointed to inquire into the conduct and expenditures of the present war; and that they have power to send for persons and papers, and to sit during the sessions of either House of Congress, and to employ a stenographer.

The VICE PRESIDENT. Is there any objection to its consideration? The Chair hears none. The question is on agreeing to the resolution.

The resolution was adopted.

Mr. FOOT. I was not giving attention to the reading of the resolution, and I will inquire whether it be a joint resolution, which would require three readings and the signature of the President to be affixed to make it effectual, or whether it is a concurrent resolution.

The VICE PRESIDENT. It is simply a concurrent resolution, requiring only the concurrence of the House of Representatives, not the approval of the Executive.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 56) prohibiting the sale of gold at a higher price than that paid in the regular market in the city of New York for United States bonds paying six per cent. interest in gold, except for exportation to pay debts; which was read twice by its title.

Mr. LANE, of Kansas. Mr. President, believing that gambling in gold is the greatest evil this Congress has to correct, I move that the bill be printed, and referred to the Committee on Finance.

The motion was agreed to.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 57) declaring the assent of Congress to an act of the Legislature of the State of Illinois, therein named; which was read twice by its title, and referred to the Committee on Commerce.

DEAF AND DUMB, AND BLIND REPORT.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That five hundred copies of the report of the Institution for the Deaf and Dumb and the Blind be printed for the use of the institution.

EGRESS OF COLORED MEN.

Mr. ANTHONY also submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire if any impediments have been imposed upon the free egress of colored people not enrolled or liable to military duty, from the District of Columbia, and if so, by whose order and by what authority of law.

SLAVERY AND EMANCIPATION.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a select committee of seven be appointed by the Chair to take into consideration all propositions and papers concerning slavery and the treatment of freedmen; with leave to report by bill or otherwise.

GENERAL McCLELLAN'S REPORT.

Mr. BUCKALEW submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That five thousand copies of the report of General George B. McClellan upon the operations of the army of the Potomac, recently communicated by the Secretary of War to the House of Representatives, be printed for the use of the Senate.

OATH OF OFFICE.

The VICE PRESIDENT. The first resolution in order on the table is a resolution submitted by the Senator from Massachusetts, [Mr. SUMNER.]

Mr. SUMNER. Anxious as I am to have that resolution acted upon, I shall not press it against the military bill that was under consideration yesterday. If we can proceed with it now until one o'clock, I should be very glad.

The VICE PRESIDENT. The resolution is one proposing an additional rule.

Mr. SUMNER. But as I understand the Senator from Delaware [Mr. BAYARD] proposes to address the Senate at length on the subject, I presume that we could not reach a conclusion before one o'clock.

The VICE PRESIDENT. It will be passed over informally, if there be no objection.

PROPOSED EXPULSION OF MR. DAVIS.

The VICE PRESIDENT. The next resolution in order in the morning hour is one submitted by the Senator from Kentucky [Mr. DAVIS] calling for correspondence between the authorities of the United States and the rebels in relation to the exchange of prisoners. It will be read.

Mr. SUMNER. I would suggest that the Senate proceed now to the consideration of the matter that was assigned specially for one o'clock to-day; as there seems to be no business in the morning hour. I think if we should proceed with it now it would speed it.

The VICE PRESIDENT. The Senator from Massachusetts moves to postpone all prior orders for the purpose of proceeding to the consideration of the special order assigned for one o'clock this day.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. WILSON on the 8th instant:

Whereas the Hon. GARRETT DAVIS, a Senator from the State of Kentucky, did, on the 5th day of January, A. D. 1864, introduce into the Senate of the United States a series of resolutions, in which, among other things, it is declared that "the people North ought to revolt against their war leaders and take this great matter into their own hands," thereby meaning to incite the people of the United States to revolt against the President of the United States and those in authority who support him in the prosecution of the war to preserve, protect, and defend the Constitution and the Union, and to take the prosecution of the war into their own hands: Therefore,

Be it resolved, That the said GARRETT DAVIS has, by the introduction of the resolutions aforesaid, been guilty of advising the people of the United States to treasonable, insurrectionary, and rebellious action against the Government of the United States; and of a gross violation of the privileges of the Senate; for which causes he is hereby expelled.

Mr. WILSON. Mr. President, on the 5th of January the Senator from Kentucky laid upon your table a series of eighteen resolutions, and the Senate, in compliance with his request, ordered them to be printed. These resolutions were placed upon our desks, and they have been read by Senators who have the courage to impose upon themselves a task so calculated to tax their powers of endurance. Having, sir, a reasonable degree of confidence in my own powers of endurance, I entered upon the task of reading these resolves

aimed at the President of the United States, the members of his Cabinet, the majority in these Chambers, the laws of Congress, the proclamations and orders of the Commander-in-chief of our Army and Navy, and of all who are clothed with authority to administer the Government of the United States. I groped through this mass of vituperative accusations with mingled emotions of indignation and pity; indignation at these libelous denunciations of patriots struggling to carry their periled country through the fire and blood of civil war to peace, unity, and freedom, and pity that a Senator of the United States, in this hour of anxiety for our menaced country, could pause to indite and spread upon the archives of the Senate slanderous accusations against the patriotic statesmen and heroic defenders of the Republic. In this farrago of spleen and malice the Chief Magistrate, his associates and supporters, struggling to preserve the life of the nation, are accused, arraigned, condemned. The heroes of Gettysburg, Vicksburg, Port Hudson, Chattanooga, and fields made immortal by their endurance and valor—the heroes who rescued Kentucky, rescued even the hearthstones of that Senator from rebel desecration—are branded as "subsidized armies;" and the men who, at Port Hudson, Milliken's Bend, and Wagner, fought with heroic valor beneath the old flag for the periled nation, are stigmatized as "negro janizaries."

After hurling his accusations, sir, at the President and his supporters in the Cabinet and in the field, the Senator from Kentucky turns to the people of the loyal North, and calls upon them to revolt against their war leaders, take the power into their own hands, and go into a national convention to terminate the war. Should the loyal people of the United States act up to his declaration, should they be incited to revolt against the President and his constitutional advisers, and take the power in their own hands, assemble in national convention, a convention unknown to the Constitution and the laws, to terminate this war for the preservation of the Union, the fields of the loyal States will be reddened with the blood of civil war. The Senator from Kentucky declares that the people of the North ought to revolt against their war leaders, take the power in their own hands, rush into national convention, which would be but a mere revolutionary tribunal, proclaim peace, and adjust the affairs of the country. He asks the Senate of the United States, with their oaths of fidelity to the Constitution recorded, to proclaim to the American people this unconstitutional, revolutionary, and treasonable doctrine, that they ought to revolt and assume the powers they have delegated, under the Constitution of the United States, to the men who now fill the executive, legislative, and judicial departments of the Government.

Sir, the Senator from Kentucky is presumed to know the meaning of the language he uses when he declares that the people ought to revolt against their war leaders and take the matter into their own hands.

Worcester defines "revolt" to be: "to renounce allegiance; to rebel; to desert; to forsake; a gross departure from duty of allegiance; a renunciation of allegiance; an endeavor to overthrow legitimate authority; an insurrection, a rebellion; desertion; sedition; defection."

In the sixteenth section he calls the bloody insurrection of the rebels a "revolt," thereby showing that he knew the meaning of this word "revolt" when he urged it as a duty upon the loyal people of the United States. The Senator must not trifle here; he must remember that this is the Senate of the United States, and not a barbecue in Kentucky. Senators cannot fail, here, to comprehend the import and meaning of the words and phrases embodied in these resolutions, and they know that these are the words and phrases of statesmen, and not the idle babblings of fools.

Sir, men are held to intend the natural and necessary consequences of their words and acts. When men organize, revolt, and levy war against the United States, and take the lives of unoffending citizens, they are, upon the facts, to be held guilty of treason and murder. Common sense requires no further evidence of a man's intent than the fact that, deliberately and with design and forethought, he does the act forbidden; to the injury of the citizen and the State. If a magazine be placed beneath this Capitol, and a train be laid con-

necting with it, and the same hand that placed the magazine and laid the train applies the torch by which it is ignited, and the structure is thereby riven into fragments from turret to foundation-stone, it will not do to insult the understanding of intelligent men by telling them that the contriver and doer of this did not intend to destroy the Capitol of his country. So, sir, whoever, in the Senate or out of the Senate, by apt and deliberate words, carefully written and published, advises any portion of the people to revolt against the executive department of the Government, he must be held by the judgment of mankind to have intended what he advises.

When, by the express words of his resolutions, the Senator from Kentucky declares that the "people North ought to revolt against their war leaders and take this great matter into their own hands," he must be held to have intended that they should rise in insurrection against their war leaders and abjure their allegiance to the Government of their country, for that is the precise import and meaning of this word "revolt" in the connection in which the Senator has used it. That the Senator from Kentucky means by the term "war leaders" the President and others subordinate to him in authority, and that the people should revolt against them, is not and cannot be open to doubt. After what has been set forth in other parts of the series of resolutions submitted by the Senator, lest the people of the North might doubt the statements so boldly and defiantly made, that they "ought to revolt against their war leaders," and that they might know why and especially against whom they ought to revolt, the Senator from Kentucky further avowed and declared that "the present executive Government of the United States has subverted for the time, in large portions of the loyal States, the freedom of speech, the freedom of the press and free suffrage, the constitutions and laws of the States and of the United States, the civil courts, and trial by jury." To make good these charges of the subversion of constitutions and laws, rights and liberties of the people, and to fire the popular heart of the North for the revolt proposed and advised to be a high duty, it is further declared in the resolutions "that the President of the United States and the civil and military officers thereof may commit treason against any State whose government is in the performance of its duties under the Federal Constitution, by levying war against it, or adhering to its enemies, giving them aid and comfort, as resisting with an armed force the execution of its laws, or adhering to such armed force, giving it aid and comfort."

That the crimes of the President may be made apparent, and that the virtues of revolt may be clearly shown to the people, the Senator, in the seventeenth resolution, solemnly proclaims that "he (the President) ignores the constitutions of Tennessee and Arkansas, and others that have not been altered in any particular, but are the same as they were before their revolt;" thus proclaiming that the constitutions of States are not subverted by revolt, but by executive usurpation. It is further asserted in this resolution that the President "affects the position that ten of the insurgent States have forfeited or dissolved their State governments, and requires that they be reconstructed on conditions prescribed by himself;"

* * * that "his project is to continue the war upon slavery by his further usurpations of power, and to get together and buy up a desperate faction of mendicants and adventurers in the rebel States, give them possession of the polls by interposing the bayonet, as in Maryland, Delaware, and portions of Missouri and Kentucky, and to keep off loyal pro-slavery voters, and thus to form bastard constitutions to abolitionize those States." That no man of the millions of the North thus invited by the Senator from Kentucky to revolt and take the powers of the Government into their own hands may be mistaken as to the "war leaders" against whom they are told they ought to rise in insurrection, in the eighteenth resolution it is further declared that "the people of the loyal States are resolved into two great parties, the *Destructives* and *Conservatives*. The first (the *Destructives*) consists of Abraham Lincoln, his office-holders, contractors, and other followers." * * * "Their real objects are to perpetuate their party power, and to hold

possession of the Government, to continue the aggrandizement of their leaders, great and small, by almost countless offices and employments, by myriads of plundering contracts, and by putting up to sale the largest amount of spoils that were ever offered to market by any Government on earth. Their object is" * * * "to destroy or banish and strip of their property all the pro-slavery people, secessionists and anti-secessionists, loyal and disloyal, combatants and non-combatants," * * * "and to distribute the lands of the subjugated people, as was done by the Roman conquerors of their own countrymen;" * * * "also to enslave the white man by trampling under foot the laws and Constitutions of the United States and the States, by the power of his subsidized Army, and, lest it should falter, by hundreds of thousands of negro janizaries, organized for that purpose by the Secretary of War and the Adjutant General." Who can doubt, after reading these declarations and these denunciations of and charges against the "present executive Government of the United States," against "Abraham Lincoln" by name, and "his office-holders and followers," against "the Secretary of War" and the "Adjutant General," and finally against the "subsidized Army" and "negro janizaries," that these are the "war leaders" against whom the "people of the North," as declared by the Senator, "ought to revolt?" Sir, after such a declaration, and such an array of charges to make it good, are we to be told that the Senator from Kentucky did not mean what he said and took so much pains to enforce and justify? Are we to be told that he only meant to vote down peaceably at the polls this war, levied, as the Senator asserts, against States, this "Abraham Lincoln," "his office-holders and followers," this "subsidized Army," and these "negro janizaries," this "Secretary of War," and "Adjutant General?" A most lame and impotent conclusion, to revolt against executive treason and usurpation, against duly constituted authorities and duly organized armies, by a vote! If the Senator meant only this, how easily he might have said it. If he meant only this, why did he not say the people ought to vote down at the elections, duly to be held, the Executive, his office-holders and followers, his Secretary of War, Adjutant General, subsidized Army, and negro janizaries? No, sir; no man can lay his hand on his heart and say that this was all that was meant. Is that all that is meant by the sixteenth resolution, which declares that as "the Constitution and laws afford no means to exclude from the office of President a man appointed to it by military power," or who is declared to be chosen to it by reason of "the suppression of the freedom of elections," the "people of the United States would be incompetent to defend and unworthy to have received the rich heritage of freedom bequeathed to them by their fathers, if they permit that great office so to be filled?"

"Revolt," says the Senator, verily the people "ought to revolt," against the President, Abraham Lincoln, and his followers, because he has thus suppressed the freedom of elections in Delaware, Maryland, Missouri, and Kentucky; because his object is backed by a subsidized Army, and hundreds of thousands of negro janizaries, to perpetuate his party power. If the Senate should pass these resolutions, as the Senator from Kentucky proposes it shall do, can any man doubt that the Senators voting for their passage would, before God and the country, be guilty of inciting or attempting to incite the people to revolt against their duly chosen President, and the executive officers clothed with authority under him? Sir, suppose a resolution should be offered in the Senate reciting that "Abraham Lincoln" has levied war upon several loyal States and parts of States, and is now endeavoring, by a "subsidized Army," and "hundreds of thousands of negro janizaries" being organized and armed by the "Secretary of War" and the "Adjutant General," to appoint himself military dictator, and thereby "enslave white men by trampling under foot the Constitution and the laws of the United States," therefore be it resolved by the Senate that the people of the loyal States ought to revolt and rise in insurrection against the President, the Secretary of War, and the Adjutant General, hurl them from power, and "take this great matter into their own hands," wherein would it differ in sub-

stance or in fact from the resolutions proposed by the Senator from Kentucky? Who can point out the difference between this proposition and the doctrines embodied in the resolutions of the Senator from Kentucky?

The Senate, Mr. President, ought not, in my judgment, to tolerate for a day or for an hour in this Chamber any man who dares thus to betray the high trust of the people. The Senate of the United States in this "dark and troubled night" of our history owes it to the country whose Constitution it has sworn to support to see that projects of conspiracy against the constituted authorities shall not be thrust upon it by its own members. It was long ago settled in the case of a Senator, by a large majority of the Senate, that one of its members might be expelled for treasonable acts, even though committed elsewhere than in the Senate. It is, therefore, too late to say that the Senate is not authorized to expel at once and forever from its councils a member who openly proposes revolt against the executive department of the Government, and denounces as a subsidized army the brave defenders of the Republic, of its homes and hearthstones, against armed treason. In other days these Chambers rang with menaces of disunion and civil war. The men who uttered these words of meditated treason told the people of the South what the Senator from Kentucky now tells the people of the North, that they ought to revolt against the Government and take the matter into their own hands. Under the lead of these rebel chiefs whose treasonable words once rang through these halls of legislation the people of the South did revolt against the authority of the Government, took the power into their own hands, and plunged the nation into the crimes and horrors of civil war. Who among us does not now regret that the Senate of the United States did not hurl headlong from this Chamber those rebel chiefs even as the rebel angels were hurled from the battlements of heaven? But these disloyal leaders, these champions of the slavemongers, whose hearts were swelling with treason, never made in the Senate a proposition so unconstitutional and revolutionary, treasonable and wicked, as is this proposition of the Senator from Kentucky. Never, sir; never. Unroll the records of the Senate and you can find no proposition of Davis, of Slidell, of Mason, of Toombs, of Benjamin, or their copeers in crime, so insurrectionary, revolutionary, and infamous as is this appeal, when the nation is staggering under the blows of armed treason, to the people to "revolt against their war leaders." How sublime a thing it would be, in this crisis of our country, for the Senate of the United States to rise to the heights of a stern and lofty duty and cast out one who has dared tell a loyal people to revolt against their Government and take its powers into their own hands. Such an act of avenging patriotism would fire the loyal heart of America, silence the mutterings of treason, and nerve the arms of the heroes who are battling and bleeding for the unity of the Republic.

Mr. DAVIS. Mr. President, I presume there are other gentlemen in the Senate who intend to advocate this resolution. I have been so informed: I so believe. That being the fact, sir, I should like to have the benefit of the full argument against me before I attempt to reply. I therefore hope that any gentleman who feels disposed to sustain, in debate, the resolution offered by the Senator from Massachusetts will give me an opportunity to hear him before I am called upon to respond.

Mr. DOOLITTLE. The Senator from Massachusetts, who introduced the resolution, has been heard. It would be, certainly, very desirable, before the Senate comes to action upon this resolution, to hear the Senator from Kentucky; and further, in my opinion it would be advisable that this resolution should be referred, as a matter of course, to a committee before it is acted upon by the Senate. I had intended myself, if no other Senator did so, to move its reference after the Senator from Kentucky should have been heard. The subject is too important to be disposed of summarily without reference to a committee. Furthermore, sir, I desire that it should be referred so that the discussion may not be continued indefinitely upon the resolution, but that we may go on with the business of the Senate. The enrollment bill, which is before us at the present time, it seems to me, having been under consid-

eration some two or three days, ought to be finished. Mr. President, if the Senator from Kentucky desires to be heard, I would prefer to hear him now; and when he has been heard I shall, if no other Senator does, ask that the subject be referred to the committee having charge of such matters.

Mr. DAVIS. I am ready on this occasion, and on all others, to submit myself to the pleasure and the judgment of the Senate. If it is more agreeable to the Senate, or to a portion of the Senate, that I should now say something in reply to the indictment and the speech in the opening of the prosecution by the Senator from Massachusetts, I am ready to proceed. It is not for me to suggest to the Senate what course it shall take in relation to this grave matter. It may not be very grave as it relates to the public and to the country or to the Senate, but it is certainly so in relation to myself, and I am willing to meet its gravity. I am perfectly willing now, sir, to make a reply to the Senator from Massachusetts, and then that the Senate shall act upon the subject according to its pleasure, whether by reference to a committee or by taking any other course which it may choose to take. I would, however, suggest to the Senate that if the debate takes this course, then, when other gentlemen shall have made arguments in support of the resolution, I shall have a full and a free opportunity to respond to their arguments as far as I may deem it proper.

I will then, Mr. President, proceed now in reply to the Senator from Massachusetts, but preliminarily to that duty, I will ask of the Senate the courtesy that the Secretary be allowed to read the resolutions at length.

The VICE PRESIDENT. They will be read if there be no objection. Does the Senator mean the resolutions submitted by him?

Mr. DAVIS. Yes, sir. The prosecution is a little enlarged this morning. On the previous day it seemed to be limited to a single resolution, but the Senator from Massachusetts seems to spread it now over the whole series, and he has entered somewhat upon a discussion of the principle of most of them. I therefore ask that all the resolutions submitted by me be read.

The VICE PRESIDENT. The Chair hears no objection, and the resolutions will be read.

The Secretary read the following resolutions submitted by Mr. DAVIS on the 5th instant:

1. Resolved, That the Government of the United States was established by the people of States which had before been separate, sovereign, and independent; and they formed their common national Government by a written Constitution, and delegated to it so much of their sovereign political power as they adjudged to be necessary and proper to enable it to manage all their affairs with foreign nations and among the several States; and, both by its leading principle and an express provision, they reserved "to the States respectively, or to the people," all "powers not delegated to the United States, nor prohibited by it to the States."

2. Resolved, That our system consists of a limited national Government for the whole United States, of supreme authority as to all the powers with which the Constitution has invested it; and State governments for each State, formed by the people thereof, and holding the entire residuum of political sovereignty within their respective States, each government, within its sphere, being alike supreme. And as the Governors and all other civil and military officers of the States, as other individuals, may commit treason against the United States by "levying war against them, or in adhering to their enemies, giving them aid and comfort," so the President of the United States, and the civil and military officers thereof, may commit treason against any State whose government is in the performance of its duties under the Federal Constitution, by levying war against it, or in adhering to its enemies, giving them aid and comfort, as resisting with an armed force the execution of its laws, or adhering to such armed force, giving it aid and comfort.

3. Resolved, That in all the States and parts of States where the laws of the United States and the States can be executed, the military authorities should not be brought into conflict with the civil power, but should be strictly held to be, as they rightfully are, in subordination to it.

4. Resolved, That all elections to civil offices, Federal or State, should be in strict accordance with the Constitution and laws of the United States, and of the States respectively, and be conducted by officers appointed by the proper authorities for that purpose; and where, from the pretense or apprehension of force, violence, or otherwise, any election cannot be so conducted, it ought not to be held at all; and every election at which any military force may interfere by imposing additional oaths or qualifications of the electors, or regulations for conducting the said election, or by changing or modifying the oaths and qualifications of the electors or regulations to govern it as provided by law, or to constrain, control, or direct the officers of such election in conducting it, should be held to be void and of no effect.

5. Resolved, That the experience of the world proves that there can be neither security nor liberty in any country without wise and just laws firmly sustained and uniformly executed. That is the life, the spirit, the soul of this na-

tion; and all neglect and departure from law, and particularly from constitutional law, by agents appointed to administer it, although sometimes attended with seeming advantage, are sure to produce always, sooner or later, much greater and more enduring mischief. Wherefore a disregard of law by such agents is never tolerated by a wise and free people.

6. *Resolved*, That the powers of the Government of the United States are derived wholly from and limited by the Constitution, and by it are divided into legislative, executive, and judicial, and each class of those powers is vested in a separate department; that the President is the chief of the executive department, and has no legislative or judicial power whatever, and only such executive powers as are enumerated in the second and third sections of the second article of the Constitution, and such other powers as may be, from time to time, conferred upon him by Congress in virtue of this provision: "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

7. *Resolved*, That the President cannot be divested of any of the powers with which he is directly invested by the Constitution, nor controlled nor interfered with in their execution; but all powers conferred on him by law of Congress he holds in subordination to that department, which may supervise, modify, and correct his execution of them, or resume them, by repealing the laws intrusting their execution to him.

8. *Resolved*, That the power of the President to recognize the existence of a state of case amounting to "an invasion, or imminent danger of invasion, of the United States," or "an insurrection in any State against the government thereof," or "obstruction to the execution of the laws of the United States by combinations too powerful to be suppressed by the ordinary course of judicial proceedings," and to call forth the military power to meet such conditions, is conferred on him by the laws of Congress, and the repeal of those laws would withdraw from the President all that power.

9. *Resolved*, That Congress is invested with the power "to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defense and general welfare of the United States;" "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;" "to raise and support armies;" "to provide and maintain a navy;" "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;" "to provide for arming, organizing, and disciplining the militia, and governing such part of them as may be employed in the service of the United States;" "to guarantee to every State in the Union a republican form of government, and to protect each of them against invasion;" and thus the entire war power, and quasi war power, external and internal, of the Government is vested by the Constitution in Congress, and no part of it whatever in the President.

10. *Resolved*, That whenever there is an insurrection in the United States, Congress is vested with the power to suppress it, and with no other power whatever over the insurrection; and when it is suppressed, either by the arms of the United States, or by the submission of the insurgents to the Constitution, laws, and authorities thereof, thereupon the power of Congress is exhausted, and the insurgents are immediately remitted to all their rights, liberties, privileges, and duties of citizens, subject to such forfeiture thereof as may have been declared by law, after it shall have been adjudged by the civil courts in the mode prescribed by the Constitution; and Congress, much less the President, has no power to impose upon them any other terms or conditions.

11. *Resolved*, That the whole power and duty of the President in the existing insurrection is to grant pardons to those engaged in it, and, as Commander-in-Chief of the Army and Navy, to direct their operations for its suppression; and, as such, his powers are strictly military, and are not different or greater than would be those of the senior general in the service, if the Constitution had designated him to be the Commander-in-Chief; the power to devise a policy or measures for its suppression is legislative, to which the President is incompetent, whether as the first executive officer of the Government or Commander-in-Chief of the Army and Navy.

12. *Resolved*, That the law of military necessity is not established, but only tolerated, in the United States. It does not, nor cannot, in peace or war, abrogate or suspend the Constitution, in whole or in part. It cannot authorize arbitrary arrests and imprisonment, or in any way interfere with the person of the citizen, but only with his property. It does not appertain to the President, or to the Commander-in-Chief, unless he be in the actual command of a military force, and then only under particular circumstances. It results from a present and urgent need of an army or military corps which is so pressing that it cannot await other modes, but must be supplied anywhere within its reach by its own power and action. It is not an expediency but a necessity of a military body, and creates a law and confers a power, for the occasion only, on its commander, of whatever grade he may be, to supply that necessity by taking property by summary military force, without depriving the owner of his right to be compensated for it by the United States. Each case of military necessity makes its own law, adapted to its own peculiar circumstances, and expiring with that particular necessity. There is not and cannot be any uniform, permanent, or even continuing law of military necessity. The idea that a law always accidental, evanescent, and in truth so inconsiderable, should have the magic force to enable Abraham Lincoln to bound over the Constitution and all its limitations and restrictions, and clutch the vast powers which he claims under it, is a gigantic absurdity.

13. *Resolved*, That at the beginning of the war, under the panic of the defeat of Bull Run, the party in power provoked to carry it on for the constitutional end to put down the rebellion and vindicate the laws and authority of the United States in the insurgent States, and when that was

effected it was to cease. But more than a year ago, another and paramount and unconstitutional end, the total subversion of slavery, was inaugurated by them; and, at length, to carry on the war in this perverted and augmented form, the annual expenditure on the part of the United States has swollen to one hundred thousand lives, a much larger amount of personal disability, and a thousand millions of money, and yet the wisest cannot see the end of the war. Verily, the people North and the people South ought to revolt against their war leaders, and take this great matter into their own hands, and elect members to a national convention of all the States to terminate a war that is enriching hundreds of thousands of officers, plunderers, and spoil-men, in the loyal States, and threatens the masses of both sections with irretrievable bankruptcy and indefinite slaughter, and to restore their Union and common Government upon the great principles of liberty and compromise devised by Washington and his associates.

14. *Resolved*, That the present Executive Government of the United States has subverted, for the time, in large portions of the loyal States, the freedom of speech, the freedom of the press, and free suffrage, the constitutions and laws of the States and the United States, the civil courts and trial by jury. It has ordered, *ad libitum*, arbitrary arrests by military officers, not only without warrant, but without any charge or imputation of crime or offense, and has hurried the persons so arrested from home and vicinage to distant prisons, and kept them incarcerated there for an indefinite time, some of whom it discharged without trial and in utter ignorance of the cause of their arrest and imprisonment, and others it caused to be brought before courts created by itself, and to be tried and punished without law; in violation of the constitutional guarantee to the citizen of his right to keep and bear arms, and of his rights of property, it has forcibly deprived, as well the loyal as the disloyal, of both; it has usurped the power to suspend the writ of *habeas corpus*, and to proclaim martial law, and has established military tribunals in States and parts of States where there was no obstruction to the due administration of the laws of the United States and the States, by the civil courts and authorities; and ordered many citizens, who were not connected with the Army or Navy, to be dragged before its drum-head courts, and to be tried by them for new and strange offenses, declared by itself, and by an undefined and indefinite law, being but the arbitrary will of the court; ordained at pleasure a military despotism in the loyal States by means of courts-martial, provost marshals, and military forces, governed neither by law, principles, nor rules, from whose tyranny and oppressions no man can claim immunity; all of which must be repudiated and swept away by the sovereign people.

15. *Resolved*, That a free press, free speech, and free elections are the great and peaceful forces by which the maladministration of our Government, whether in the legislative or executive department, is prevented, reformed, or reversed, and its authors brought to public condemnation and punishment; and those bulwarks of constitutional government and popular liberty are formidable to malversators, usurpers, and tyrants only, and they must be upheld by the people at all hazards.

16. *Resolved*, That as the Constitution and laws afford no means to exclude from the office of President a man appointed to it by military power, or who is declared to be chosen to it by reason of the suppression of the freedom of election, or by the exclusion of legal voters from the polls, or by any other means, the people of the United States would be incompetent to defend and unworthy to have received the rich heritage of freedom bequeathed to them by their fathers, if they permit that great office so to be filled, or in any other mode than by their own free suffrages.

17. *Resolved*, That the scheme of the President to bring back the insurgent States is open to many and insuperable objections. The pardon and amnesty offered by him is upon the condition that those who accept it shall renounce their right to their slave property, and swear to support his unconstitutional proclamation and unconstitutional acts of Congress, which attempted to take it from them. He must have intended to put this condition in a form so obnoxious as to secure its rejection by most of those to whom it was offered. He affects the position that ten of the insurgent States have forfeited or dissolved their State governments, and requires that they be reconstructed on a condition prescribed by himself, and this against the true principle, which he and the legislative department of the Government had previously recognized—that all the acts of the insurgent States and people tending to their secession, separation, and independence were void; and when the inundation with which their insurrection covered over the authority of the Constitution and laws of the United States in them passed away, it would leave the constitutions, laws, property, and institutions of those States in every respect the same that they were previously, excepting only the changes that were produced by the mere shock of arms, the principle *status ante bellum* being applicable. He ignores the constitutions of Tennessee, Arkansas, and others that have not been altered in any particular, but are the same that they were before their revolt; and he requires those States to repudiate their constitutions that governed them many years peacefully in the Union, and to form new ones. He has no right to take cognizance in any way of the governments and constitutions of those States, or any other States: to the extent that such a power is vested in the Government of the United States, it is congressional, not presidential. He has no authority whatever to impose any conditions on the insurgents, and they are subject to none but what are prescribed by the Constitution and laws of the United States, to be determined by their courts. What right has the President to proclaim that one tenth of as many of the voters of those States as voted at the last presidential election may pull down and revolutionize their State governments, and erect new ones for the other nine tenths, which he will recognize and uphold with the armies and navies of the United States? His project is to continue the war upon slavery by his further usurpations of power, and to get together and buy up a desperate faction of mendicants and adventurers in the rebel States, give them possession of the polls by interposing the bayonet, as in Maryland, Delaware, and portions of Missouri and Kentucky, and to keep off loyal pro slavery

voters; and thus to form bastard constitutions to abolitionize those States.

18. *Resolved*, That the impending destiny of our country can no longer be blinked. The people of the loyal States are resolved into two great parties, the *destructives* and the *conservatives*. The first consists of Abraham Lincoln, his office-holders, contractors, and other followers; the second of all men who are for ejecting Lincoln and his party from office and power. The professed objects of the first are to preserve the Union and to abolish slavery in all the States; they have about ceased to make a pretense of supporting the Constitution and the laws; their real objects are to perpetuate their party power, and to hold possession of the Government to continue the aggrandizement of their leaders, great and small, by almost countless offices and employments, by myriads of plundering contracts, and by putting up to sale the largest amount of spoils that were ever offered to market by any Government on earth. Their object is not to eradicate slavery, but only to abolish its form and the mastery. To subjugate wholly the rebel States, and utterly to revolutionize their political and social organization; to destroy or banish and strip of their property all the pro-slavery people, secessionists, anti-secessionists, loyal and disloyal, combatants and non-combatants, old men, women, and children, the decrepit and the *non compos mentis*, all whom they cannot abolitionize, and to distribute the lands of the subjugated people among their followers, as was done by the Roman conquerors of their own countrymen; to proclaim a mock freedom to the slaves, but by military power to take possession of the freedmen and work them for their own profit; to do all this, and also to enslave the white man by tramping under foot the Constitution and laws of the United States and the States, by the power of a subsidized army, and, lest it should fail, by hundreds of thousands of *negro janizaries*, organized for that purpose by the Secretary of War and the Adjutant General. The first and paramount object of the conservatives is to preserve their own liberties by saving the Union, the Constitution, and the laws from utter and final overthrow by the destructives, not themselves to be enslaved under pretext of giving a fictitious freedom to the negro; and to restore and perpetuate the Union, and to bring back the people in revolt by renewed and sufficient guarantees of all their constitutional rights. There is no choice left to any man but to be a destructive or conservative.

Mr. DAVIS. Mr. President, it is always my object in life to be prepared to receive any assault that may be made upon me. I concede that I had not anticipated this movement against me, and did not expect it until it was sprung in the Senate a few days since. But, sir, I considered well these resolutions, and the various subjects that are embraced in them. They received my deliberate thought and my definite approval. As the language of those resolutions will convey their meaning to candid and inquiring minds, and as I understand them, their force and effect, I am ready to abide the judgment of the Senate or of any tribunal on earth or any higher tribunal, upon those propositions. The jaundiced, narrow mind of the Senator from Massachusetts is wholly incompetent to give a proper rendering of those resolutions. His heart and his reason both disqualify him from that task, and against his version I enter my protest, and I ask candid and enlightened Senators to interpret them for themselves.

Now, sir, at the threshold, I deny that I made any charge or any imputation in those resolutions, or either of them, that the army was subsidized; that the heroes of Gettysburg and the other battlefields upon which the American arms have been illustrated were maligned by me in the terms or sense that the Senator has imputed to me. What I said was this, and I repeat it: that if the present Executive and his particular friends and advisers entertain the schemes that I impute to them, as I firmly believe they do, and as I charge in those resolutions, the natural and necessary machinery to which they would resort to effectuate their schemes would be a subsidized army; and lest they should fail in their calculations of that agency to effectuate their nefarious and treasonable objects, they would throw themselves upon that army of black janizaries which the Secretary of War and the Adjutant General, against the laws of this land, are now mustering into the service of the United States. Sir, I do not withdraw that position. I stand up to it and intend to abide by it.

Now, Mr. President, I ask gentlemen to read this whole series of resolutions. I deny that there is a sentiment or an exhortation in them inviting to *insurrection*, rebellion, or war, or military violence; and for the purpose of sustaining this position I will read three of them that are a key to the whole series:

"5. *Resolved*, That the experience of the world proves that there can be neither security nor liberty in any country without wise and just laws firmly sustained and uniformly executed. That is the life, the spirit, the soul of this nation; and all neglect and departure from law, and particularly from constitutional law, by agents appointed to administer it, although sometimes attended with seeming advantage, are sure to produce always, sooner or later, much greater and more enduring mischief. Wherefore a

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disregard of law by such agents is never tolerated by a wise and free people."

"15. *Resolved*, That a free press, free speech, and free elections are the great and peaceful forces by which the maladministration of our Government, whether in the legislative or executive department, is prevented, reformed, or reversed, and its authors brought to public condemnation and punishment; and those bulwarks of constitutional government and popular liberty are formidable to malversators, usurpers, and tyrants only, and they must be upheld by the people at all hazards."

Now, I will read the resolution upon which the learned, profound, and patriotic Senator from Massachusetts drew his indictment originally:

"13. *Resolved*, That at the beginning of the war, under the panic of the defeat of Bull Run, the party in power possessed to carry it on for the constitutional end to put down the rebellion and vindicate the laws and authority of the United States in the insurgent States, and when that was effected it was to cease. But more than a year ago, another and paramount and unconstitutional end, the total subversion of slavery, was inaugurated by them; and, at length, to carry on the war in this perverted and augmented form, the annual expenditure on the part of the United States has swollen to one hundred thousand lives, a much larger amount of personal disability, and a thousand millions of money, and yet the wisest cannot see the end of the war. Verily, the people North and the people South ought to revolt against their war leaders, and take this great matter into their own hands, and elect members to a national convention of all the States, to terminate a war that is enriching hundreds of thousands of officers, plunderers, and spoilers in the loyal States, and threatens the masses of both sections with irretrievable bankruptcy and indefinite slaughter, and to restore their Union and common Government upon the great principles of liberty and compromise devised by Washington and his associates."

Sir, I utterly controvert the position that there is any insurrection invited or stimulated in these resolutions, or in any one of the series. The resolutions institute or attempt to institute a bold and a frank investigation of the principles and measures of this Administration; and I intend to continue that operation until the Senate expels me from it as one of its members. But, sir, if such shall be the judgment of the Senate, I have a higher mission than that of enacting Senator of the United States. I have the mission of an American freeman born under the Constitution, having imbued in my boyhood and cherished in my mature manhood its immortal principles of liberty, and to them I will adhere while there is breath in this feeble body; and I will go home, and among my native people, in my own loved Kentucky; I will raise the cry of oppression, and tyranny, of usurpation, and revolution against the faithless men who have charge of their own Government.

Mr. President, we have fallen on evil times indeed. We not only have a great war, a great insurrection, a great rebellion, which I have always said I believed to be second in wickedness and consequences if successful only to that rebellion to which the Senator from Massachusetts adverted, when Lucifer and his rebel angels were hurled from heaven; but in addition to that we have our own Government, the administrators of our Government, who are sworn to support it, sworn to uphold, protect, and defend the Constitution, not only to uphold the power with which the Constitution clothes them, but above the liberties which it guarantees and secures to the citizen, and without which the Government would never have been formed—we have these men recreant to their high trusts, by the grossest perversion of power, by its glaring abuse and usurpation, both civil and military, trying to subvert that Constitution and the popular liberties which it secures. And if any man has the audacity to question their measures, their justice, their wisdom, their constitutionality, their compatibility with the continuance of popular liberty, the man who dares to attempt to perform that task is branded and denounced by them as disloyal, as a traitor. Sir, a grosser perversion of language, a bolder slander than what has been uttered by the Senator from Massachusetts against me never fell from human lips.

Mr. President, we have had great men in the past. The founders of our Government were great men; wise, good, great patriots. When I desire to learn the principles of our Government and of our Constitution, I go to that noble fountain of

political truth, their illustrations of it. Such men as the Senator from Massachusetts only perform the ignoble and base office of attempting to muddle that fountain. He is not competent to any other work. Sir, I will read from what Mr. Webster said upon this subject of investigating the measures of Government and its officers:

"It is the ancient and indubitable prerogative of the people to canvass public measures and the merits of public men. It is not to be drawn into controversy. It is as undoubted as the right of breathing the air or walking upon the earth. Belonging to private life as a right, it belongs to public life as a duty, and it is the last duty that I shall abandon. This high constitutional privilege I shall defend and exercise at all hazards."

In that sentiment I am but the humble follower of the immortal expounder of the Constitution. At a far-off and humble distance, I intend to follow his lead, his enunciation of that great sentiment, and though I may not be as much in advance and efficiency as others in upholding it, I will be found as steady and true to its support as any one.

The Senator from Massachusetts seems to have installed himself into the position of a sort of overseer of this body. He certainly has been playing, or attempting to play, that part ever since I have been a member of it, and I have been amused at the important, authoritative, and dictatorial manner with which he bustles about in this Senate, and administers his lectures and rebukes to everybody, to use the fashionable term, whether they are on his side or the other side of the Chamber. He is very frequent in, and exceedingly pleased with, his use of the term "Government." He has persuaded himself that the President, the Secretary of War, and the chairman of the Committee on Military Affairs of the Senate constitute the Government. He is perfectly assured, beyond all doubt, that he is the Senate, or if not the entire Senate, at any rate much the largest and most important part of it. Although the Senator so assumes and so arrogates to himself, I do not think there is a human being, in the Senate or out of the Senate, that is imposed upon by that delusion save and except himself. I will read the resolution which this learned Senator, this able man in all affairs of peace or war, who instinctively, intuitively conceives and comprehends everything, whether in legislation, or jurisprudence, or administration, or war in the field—I will read the resolution which that Senator threw before the Senate when this subject was brought into it:

"Mr. WILSON. Mr. President, I rise for the purpose of submitting a resolution of a personal nature. I find on my desk a series of resolutions introduced into the Senate on the 5th instant by the Senator from Kentucky, [Mr. DAVIS.] Those resolutions class the Government and its supporters—"

The Vice President, then occupying the chair, interrupted him, and said:

"The Senator will first submit his resolution."

I should have supposed that a man of his experience and his nice and high sense of senatorial propriety would have come to that conclusion without being admonished to it by the Presiding Officer.

"Mr. WILSON. Very well; I submit my resolution."

"THE VICE PRESIDENT. The resolution will be read for the information of the Senate, as follows:

"The Secretary read the resolution, as follows: 'Whereas the Hon. GARRETT DAVIS, a Senator from the State of Kentucky, did on the 5th day of January, A. D. 1864, introduce into the Senate of the United States a series of resolutions in which, among other things, it is declared that 'the people North ought to revolt against their war leaders and take this great matter into their own hands,' thereby meaning to incite the people of the United States to revolt against the President of the United States and those in authority who support him in the prosecution of the war to preserve, protect, and defend the Constitution and the Union, and to take the prosecution of the war into their own hands: Therefore,

"Be it resolved, That the said GARRETT DAVIS has, by the introduction of the resolutions aforesaid, been guilty of advising the people of the United States to treasonable, insurrectionary, and rebellious action against the Government of the United States, and of a gross violation of the privileges of the Senate; for which causes he is hereby expelled."

Oh, if the Senator had only been as puissant as he fancies himself to be, if he had had a power commensurate to his purpose, the deed then would

have been done; but I thank my stars that there are juster, wiser, better men, abler men, and more patriotic by immeasurable odds, in this Senate and in the whole country than the Senator from Massachusetts. If there were not, God save the country, or it would go speedily to irretrievable and hopeless ruin.

"THE PRESIDING OFFICER, (Mr. ANTHONY in the chair.) Will the Senate give unanimous consent for the consideration of the resolution at the present time?"

"Mr. WILSON. I do not propose to call it up for action at the present time, but I intend to do so at some time hereafter, for I desire to record my vote upon it. I have offered this resolution without consultation with any Senator, on my own responsibility."

Heavens! what a responsibility it is.

"Often I heard the men who organized this treasonable rebellion threaten the dissolution of the Union, and make treasonable appeals to the country, and when this bloody revolution opened I resolved that if I ever heard in this Chamber more treasonable utterances, I would move the expulsion of the Senator uttering words of treason."

What patriotism! What a noble and courageous patriot! How long did that Senator sit under those enunciations of treason three years ago? I was then at home busily employed in my domestic affairs and in the prosecution of my profession. Occasionally I adverted to and read to some extent the debates in the Senate. I read the criminal avowals of the traitors who have organized this great crime, this great rebellion. I read the declaration of a man with whom I once messed as an associate, when I was formerly a member of the other House—Mr. Toombs—who stood up in front of that chair, in which sat the Presiding Officer of this Senate, and boldly announced to him and to all the Senators present, "I am a rebel, and you never looked upon a better rebel." How was it with Mason of Virginia, another audacious traitor? He stood in the same presence, and declared, "I owe no allegiance to the Government of the United States." How spoke Wigfall and Davis and the other leaders in this great rebellion? Why, sir, day in and day out, and nearly every hour of the day that the Senate was in session, they flouted their treasonable asseverations, their denunciations of the Government and of its power, in the presence of the pure and august and courageous and patriotic Senator from Massachusetts, and he was as dumb as a fish. Was there ever such a grand theater for the display of his moral and physical courage, and the highest order of patriotism if he had had it? I did not read in my distant home the declarations of those audacious traitors without feeling my blood boil within my veins. Had I been present and a member of the Senate, and had heard their utterances of bold treason, and witnessed the insulting manner with which they assailed their own Government and country, I believe I would have been a little more demonstrative than the mute Senator from Massachusetts was.

The Senator was then in a minority; but he was in the presence of avowed traitors; he had no army to back him in any line of conduct he chose to adopt; but now the state of things is altered. I am here in a minority; the Senator from Massachusetts is in a triumphant and overwhelming majority in this body; and in addition to that, he is supported by hundreds of thousands of soldiers, whose officers hold their places by the will of the power at the other end of the avenue, and when they are ordered to do the behests of their chiefs they must do it, or dismissal, disgrace, a court-martial, martial law, and sentences to be shot will be their doom. But, Mr. President, if the condition of things could be changed, if it were possible for some Prospero to lure back the party that was then in power, and to place the Senator in its midst, and he was doomed to suffer the shame, the humiliation, the ignominy to his patriotic soul, of again listening to the treasonable declarations of those men, would we ever hear of a resolution from him to expel them, or any of them? I think not. Men are very brave and very valorous when the danger has passed away; but when his party command the situation, and have congressional majorities, and armies numbered by hundreds of thousands to do their bid-

ding, oh, how wondrously brave is the Senator from Massachusetts!

But I will read further of the Senator's remarks: "These are not words uttered in debate, but they are in the Senator's resolutions."

The Senator was so important, so all-sufficient and self-sufficient and insufficient that he would not deign to consult with a single individual on this subject. He gets up and puts on foot the proceeding upon his individual responsibility. "Oh, this glory shall be mine; none shall share it with me," I suppose he said to himself. I reckon the Senator, by all the acts of his life before, military and civil, had won so little of true glory that he would be very thankful for small favors, and would be glad to reap the notoriety of my expulsion upon his resolution without any cause for which any Senator ought to be even challenged, except in the course of manly and free debate.

"He tells the people, he asks the Senate to tell the people of the country, the loyal men of the North, and the rebels of the South, to revolt; yes, sir, to revolt against their war leaders, to take affairs into their own hands, to elect delegates to a national convention, to stop the war."

The learned, the profound Senator from Massachusetts declares that a national convention is treason, that it is a thing unknown to the Constitution and altogether unauthorized by it. I am told that that Senator boasts of being the successor of Mr. Webster. Ye gods, what a succession! [Laughter.] "To stop the war." There is the point. There is where it pinches. The bloody-minded Senator from Massachusetts does not want the war to stop. Well, sir, I do not desire it, and as far as my vote goes it shall not stop until the rebels have submitted to the Constitution and laws and authority of the United States. That is my position and the position of my State. I have held it in scenes where the soul of the Senator from Massachusetts, brave as he wishes to be thought to be, would have quailed. I intend to hold it forever; but I intend to hold it upon the Constitution according to my understanding, upon its restrictions and limitations of power, upon its distribution among the various departments—the legislative to one, the executive to another without a particle of legislative, and the judicial power to a third. Because men violate these principles and these fundamental divisions of the great powers of the Government, I am not going to be recreant to the Government and the country. I will sustain those who are intrusted to administer it, however incompetent and unworthy they may be. Although I believe, I religiously believe, and would go to the stake to-day in proof, that they are flagrantly and wickedly violating the Constitution, yet that would not induce me to pause one moment in voting to them proper supplies and means to carry on the war to a successful issue; far from it. But here is where the shoe pinches the Senator. His great and paramount purpose is to carry on this war to the final destruction of slavery; to use all the war powers and all the other powers that the executive department can usurp, or induce the people to acquiesce in their exercising, to the annihilation of slavery *per fas aut nefas*.

I propound to the Senator from Massachusetts this question: if the rebels in the southern States were to offer to come back to-morrow upon condition that they should have all their rights under the Constitution except so far as those rights have been forfeited by their conduct and crimes under that instrument, and as that forfeiture might be adjudged by the appropriate tribunals, would you agree, sir, that they should come back and hold slavery in all those States as heretofore? The Senator is silent. His heart answers that question. There is no man in the Senate who has observed his course but what knows that he is more devoted to the abolition of slavery everywhere than he is to the vindication of the Constitution, laws, and authority of the United States; and I venture now the proposition that if the choice was offered him to-day, or to-night upon his pillow, which will you take, sir, the separation of the southern States or the restoration of all the States upon the basis to which I have just adverted, he would not hesitate one instant of time in taking separation of the southern States. But he is now in a party that has the majority, and so he asserts the popular, the patriotic, the revered doctrine that it is the duty of every true man to preserve the Union, but always upon the *sine qua non* that slavery

must be abolished everywhere, even if the Constitution protect it. His true position is that, as his party have the control of the Government and the direction of the most numerous and efficient Army ever assembled upon the earth, and they will soon have this rebellion at their feet, it and slavery must expire together; and however soon the first might be effected, it shall never be except simultaneously with the last, whatever may be the cost even to the loyal in slaughter, misery, and rapine. Sir, I say that that being the Senator's purpose his position is nefarious, it is violative of his oath to support the Constitution of the United States, and it is immeasurably wicked. To hear him talk about his loyalty, a stranger coming into this Chamber would suppose that there was no other man in the United States who had any loyalty but himself, or at any rate beyond all sort of measure and comparison he was the most loyal, Constitution-loving, and Constitution-supporting man in America. I will examine that proposition for a moment by and by.

But he says the national convention which I ask the people of the United States to call is unconstitutional. I admit that if a convention was called in any mode different from what is prescribed in the Constitution itself it would be revolutionary; but at the same time I assume this position, and I am ready to maintain it, that if a majority of the people of all the States chose any day to meet together in sovereign convention and to do away with their Government they have the right and the power to do it.

Mr. HOWARD. Would that be constitutional?

Mr. DAVIS. No; I said it would be revolutionary; but they have the power and the right to do it. I am opposed to all such irregular exercises of power, thus to call a convention, and it would be unnecessary, as the people could then require it to be called in the ordinary mode. I am a friend of law and of order, of liberty, of regulated liberty; and without law, constitutional and statutory, inflexibly executed, there never can be liberty or security.

Now, sir, I am stating a proposition, not that I assume that it ought to be acted upon. I am opposed to it as a practical proposition; but our Government is a political partnership. A mercantile partnership is formed; it has half a dozen partners.

Mr. HOWARD. Mr. President, I wish to understand the Senator from Kentucky as clearly as possible, and if I misunderstand him I desire him to correct me. I understand him to affirm this proposition: that if a majority of the people of all the States of the Union should see fit to assemble in national convention, a convention thus containing a majority of all the people of each of the several States would have not only the power but the right to abolish the present Government and to establish such other Government as they might see fit. I understand the Senator to aver this to be the right of a majority of the people. If that is his idea I shall be very much obliged to him to explain from what source he derives this alleged right on the part of the majority of the people of the several States. Is it derived from the Constitution? If it is I admit that it is a right; but if it is not derived from that source, I wish him to explain whence he derives it.

Mr. DAVIS. I was just proceeding, Mr. President, in an explanation of that position. I hope the honorable Senator will preserve his patience and will allow me to get along with my own explanation.

Mr. HOWARD. There is no want of patience, sir, on my part.

Mr. DAVIS. And when I have made my explanation fully, if it is not satisfactory to the honorable gentleman, or if there is anything upon which he desires the light of my further declarations of opinion, I will most cheerfully grant it to him.

I was proceeding to illustrate that principle, Mr. President. I have stated distinctly here that I am opposed to all revolutions in the Government, either military or pacific, whether they are brought about by armies in the field, or by conventions, or by the conspiracy and usurpations of those who have the possession of the Government. I am opposed to any convention being called as a matter of policy, and of the highest and most permanent policy, unless it be called in strict conformity to the Constitution. But at the same time

I maintain, as an abstract principle, that the people of the United States, if a majority of all the States concur, have the right and the power both—a revolutionary right I admit—to meet together and to do away with their present Government if they see fit, and I was about to illustrate it by a mercantile partnership.

This Government and this social organization of ours is nothing but a political partnership. Six gentlemen get together and they form a partnership in trade. They enter into articles of partnership that is to continue for a certain number of years, and it is not to be changed without the concurrence of the partners. Suppose that immediately after this partnership has been commenced all the partners get together and they then and there agree that they will cancel their contract of partnership and do away with it, have they not the power to make the cancellation? So of the people of the States in dissolving their Government. But that is an abstract proposition; it is abstract to my purpose; it is opposed to my notions of proper and safe policy.

But, sir, the convention that I suggest in the resolutions is not of that character. I speak of "convention" as the term is used in the Constitution. I ask the people of all the States to get together and to go into national convention to take this great and desolating and cruel war into their own hands, to roll back its bloody billows as they sweep over the whole country, destroying it, and to reconstruct their Union upon the great principles of compromise and of liberty upon which Washington and his associates formed it. I suppose to that position there can be no just exception.

But, Mr. President, I will go on. When the Senator from Massachusetts took his seat he did not intend to call up the measure then, he intended to place me under arrest, to put me in a sort of state of suspension like Mohammed's coffin, I suppose, in the Senate, and when it suited his good pleasure he would call up the matter for the consideration and decision of the Senate. In the mean time, I suppose, I was to be in a sort of "durance vile." I presume that no gentleman will deny the position that any durance that the Senator from Massachusetts could establish over any person whatever would be vile enough.

"Mr. DAVIS. Mr. President, the resolution of the Senator from Massachusetts presents a garbled version of my resolution."

It did; a flagrantly garbled version of my resolution.

"It does not intend, nor is it so worded as to embrace the sense and inferences that the Senator draws from it; and they are not authorized by either its spirit or language."

Here is the avowal, the interpretation of my resolution which I made at the moment when it was assailed by the Senator from Massachusetts.

"Sir, what did that honorable Senator admit within the last two years? He admitted that when his own State was in a state of rebellion against the United States he sympathized with that rebellion."

"Mr. WILSON. No, sir."

"Mr. DAVIS. I think the Senator did."

"Mr. WILSON. No, sir."

"Mr. DAVIS. I interrogated that Senator and his colleague in relation to their course and sympathies in the Burns case that occurred in Boston some years ago. 'The galled jade winces'; 'my withers are unwrung.' When the gentleman speaks of treason and disloyalty to his Government, he speaks from the recesses of his own heart, not mine."

"He puts his own interpretation on the resolution that I offered. That resolution I abide by; but I deny that it authorizes the conclusion the Senator from Massachusetts is forcibly trying to deduce from it; far from it. It however strikes the Senator on this point: he is here an advocate for the interference of the military power at elections, to destroy their freedom, and to appoint to office by the bayonet instead of the free suffrages of the people."

That outrageous and revolutionary and violent sentiment the Senator had the audacity to avow in this Chamber, in substance, a few days before.

"Now, my resolution—its purport, its meaning, its spirit—is, that the people shall rise at the polls and take the power of this Government and of this country, that property belongs to them, there, at that constitutional forum, into their own hands, by peaceful convention; that the people North and the people South shall both do it, and repudiate their war leaders—leaders who desire a continuance of this terrible struggle, and who are opposed to its peaceful settlement."

I want the war to close. I want it to close, as I before said, by a vindication of the constitutional laws and authorities of my country in every foot of our territory. If it cannot close except by war, I am for the continuance of the war to that final result. But unspeakably I prefer that it should

close by the peaceable submission of those who are in rebellion to that authority.

"Mr. WILSON. I gave them that counsel in the resolution complained of; I gave them that counsel here, everywhere. The thought of mutiny or disaffection in the Army was not in my mind. How is it with the Senator? If I recollect aright, he stated that his sympathies were with Burns in the Massachusetts insurrection.

"Mr. WILSON. Never.

"Mr. DAVIS. Were you against his rescue?

"Mr. WILSON. I had nothing to do with it."

Oh, what an innocent, unsophisticated, ignorant man!

"Mr. WILSON. I had nothing to do with it; and had no knowledge of it until after it transpired. I was not in my own State at the time.

"Mr. DAVIS. Did you ever condemn that insurrection? Did you ever do anything to put it down—its spirit?

"Mr. WILSON. There was no occasion; it was put down quickly."

Millard Fillmore, one of the noblest, wisest, and most patriotic Presidents that ever filled that office since it was held by him for whom it was organized, Washington—he ordered the soldiers and the marines from the neighboring forts and naval stations, and some of the loyal men of Boston that belonged to uniformed companies committed the crime of volunteering their services on behalf of their Government, the authorities of the United States, to uphold the law of Congress of 1850 against the Massachusetts insurrectionists, against the Massachusetts rebels, and we will see how they were treated presently.

Mr. SUMNER. The Senator is mistaken in attributing that to Millard Fillmore; it was Franklin Pierce.

Mr. DAVIS. I beg pardon. It matters not who did the deed. It was a noble one, and I only wish the Senator from Massachusetts [Mr. SUMNER] could even approximate to the true loyalty of such deeds.

Mr. SUMNER. I hope I never shall.

Mr. DAVIS. Yes, sir; and yet you advance to that seat, (the seat of the President of the Senate,) and with that treason in your heart and upon your lips you take the oath to support the Constitution of the United States.

"Mr. DAVIS. Did you ever do or say anything to assert the authority of the laws and of the United States in that insurrection? Did you ever express any condemnation of it? No, sir; no."

None that I ever heard of. I do not want to do the Senator from Massachusetts injustice. If I am wrongly informed in relation to his position and his course in the attempt of Massachusetts to put down the fugitive slave law by an armed rebellion, and if I place him in a position in relation to that wicked transgression, for which the leaders ought to have been hung, which is unjust, I desire to be corrected. I want to do him justice, and to absolve his skirts from the smell of treason, if it can be truthfully done.

Well, now, Mr. President, although the Senator was alone when he drew up the indictment, I presume that he had the precaution to take a dictionary and place it in front of him and look out for the meaning of words. He has often told us that he is no lawyer. That was the most superfluous declaration that ever was made by man. I suppose there is no one that would ever entertain the remotest suspicion that he was a lawyer, or ever had been or ever could be. Well, sir, I too have taken up the dictionary, but I did not examine it when I drew up the resolution, and I have looked at the term "revolt." According to Webster—he is mighty good authority with the Senator, I suppose; he is with me, and I believe he is wherever the English language is spoken or written—

"Revolt. To fall off; to turn from one to another; to renounce allegiance and submission to one's prince or State; to reject the authority of one's sovereign."

The Senator has a sovereign at the other end of the avenue. I desire all men to fall off from him and turn to another. I want him to be repudiated at the proper time and in the constitutional mode, and by the proper authority. I want the great sovereign people of America to meet at their elections in November of this year, they who made the Government and for whom the Government was made, and if they heed my exhortation they will fall from the Senator's sovereign and support George B. McClellan, not for the sovereignty, for the constitutional presidency of the United States.

"To reject the authority of their sovereign. To change."

Next I looked to the word "leader," for I suppose these are the two offensive terms, the two suspicious terms, of which a heated imagination and a wicked heart are seeking to infer so much of mischief.

"Leader. One who leads or conducts, a conductor, a chief, a commander, a captain. One who goes first. The chief or heads of a party or faction."

This last is the precise signification, "the chief or heads of a party or faction." Will the Senator confess to the "soft impeachment?" In this sense is he not a leader? Does he not assume to be a leader? Is it not his pride and his glory to be thought a leader? And a war leader, too! Every war faction has its leader. They are not in the Army: Army officers are not factionists; at least they should not be. They ought to be devoted to their Government and their country, the whole people. I know some such true officers, and among them was George B. McClellan and General Thomas. Sir, the appropriate and particular signification and import of the term "revolt" as used in these resolutions is to fall off or turn from one to another; that is the whole of it; and how are they to turn off from one and support another? Not by organizing armies, not by setting squadrons in the field and joining battle, not by making war against their country and their Government, not by adding to the bloody ravages that are now so cruelly desolating this broad land—no, no; but they are peacefully, constitutionally to fall off at the polls from the men that are in power; and if the war cannot be terminated peacefully in any other wise, to go into a constitutional convention and there settle the terms with these almost subjugated people of the South whose land is now desolated by rapine and blood enough to make a heart of adamant itself weep, but never, never to reach such a heart as that of the Senator from Massachusetts. I want the war to cease in this mode. I would not only incur expulsion, but I would incur the direst calamity that human power could inflict upon me if by that sacrifice I could bring this war to such a close by a vindication of the whole power and authority of the Government, and a restoration of peace, fraternity, and happiness among this divided and distracted people.

But the Senator seems to have an image of war floating in his imagination all the time. I do not think he is very critical or correct in the study of language. I do not think he understands it with anything like accuracy. I think his imagination and his heart are perverted. His desire for the further effusion of blood and for further rapine and desolation in this torn country of ours, and his maddened, frenzied desire to bring slavery, against the Constitution and against the laws, to a violent close, so possesses him that he is wholly incapable of anything like a candid and accurate definition and understanding of the phrases which I have used in these resolutions.

It reminds me of an incident that I read of that occurred in the Peninsular war. There was a very spruce colonel that had one of the most tidy regiments in the whole service under the Duke of Wellington. The cleanest clothes, the most polished boots, and the highest burnished arms that were found in the whole army were displayed in his regiment. On one occasion he had his regiment out in review before him. The Senator is a military man; he comprehends the meaning of these terms—I believe it was on what was called "dress parade." In this regiment was a soldier that had been out the evening before—it was probably on Sunday morning—he had been frolicking, and he may have been to an ale-house or groggery—they call them groggeries in the West—or some such place. His clothes were exceedingly muddy, and his hands and his face very much soiled by dirt. The colonel was horror-struck when he saw such a man in such a plight in his crack regiment for all tidiness. He called up an Irish corporal. Said he, "Corporal, take this man and lave him in the Gaudiana." The Irishman was bound to obey the order; he brought up his file of men, seized the offender, and marched him off to the Gaudiana. With a batteau or skiff or some light craft he took him out into the middle of the stream and emptied him into a pool that was about thirty feet deep, and the fellow could not swim a single stroke. He left him; he went back, but without the soldier. The astonished colonel said, "What have you done with the soldier?" "Why," said he, "did not your honor order me to take him and

to lave him in the Gaudiana? and by Saint Patrick I have faithfully executed your order." [Laughter.] I think the Senator from Massachusetts labors under some confusion of language, and if he could be laved in the Gaudiana, as that unfortunate soldier was, it would be a good thing well done.

The Senator lives in glass houses himself. He made a speech here on the 3d of February, 1858, from which I will read an extract:

"I think there will soon be a general union in the North as there is now in the South. We are fast coming to it, and let me tell the Senators on the Administration side of this Chamber that if they consummate, if they support, whether they succeed or fail, the bringing of Kansas into the Union, with a knowledge of those monstrous frauds scattered over the land, comprehended by the whole country, they will do more to unite all honest, liberty-loving, God-fearing men in the North than has been accomplished by any act ever done by this Government. Your Kansas-Nebraska policy of 1854 shivered to atoms that great Whig party which had battled sometimes successfully for power here, under the lead of some of the most accomplished statesmen of the country. Another party sprang up—the American party. It paused, it faltered, and it went down under the general judgment of the people of the free States."

I have understood that that Senator got surreptitiously into that party, but I do not know how the fact is.

"The Republican party rose in one year from a few thousand men, and gave at the last presidential election one million three hundred and forty thousand votes. It came much nearer than you wished to do taking control of this Government, of this country. Go on, gentlemen of the slaveholding States, in your avowed policy of slavery expansion and slavery supremacy by forcing Kansas into the Union under the Lecompton constitution, against the known will of the people of that Territory, and their earnest appeals to your sense of justice, truth, and honor, and you will arouse the people of the North, already deeply incensed by your policy, by the violence and frauds your creatures have perpetrated in Kansas."

Arouse them to what? Let the Senator speak for himself.

"To rise in the majesty of conscious power, thrust you subserfient allies from power, take the Government, and overthrow forever you and your policy. I tell you here to-day that your support of this gigantic crime against the liberties of the people of Kansas is bringing upon you the condemnation of the country and the world."

That was the language of the Senator. What did he threaten? You go on in your career of slavery propagandism and you will unite the whole people of the North, and they will come here to your capital, and they will thrust from place the men who fill office. But I have given the Senator's exact language; it is stronger than mine.

There is the most distinct and emphatic threat on the part of this constitutional and order-loving Senator to arouse and array his own party, the united people of the North, to march here upon the capital and thrust Buchanan and his Administration from office, take possession of the Government themselves, and forever annihilate the party and the power that then held possession of the Government. And yet the Senator gets up and moves my expulsion for having used in the resolutions that have been read to the Senate the terms that I have already commented upon. While I had the dictionary in my hand I looked at the word "thrust," and I found that it means "to push or drive with force; to drive; to force; to impel." What, then, is the language of the Senator? "You may vote for these measures and pass them as laws according to the forms of the Constitution; but if you do vote for them the consequence will be that you will unite the whole North against you, and they will become so indignant, so outraged, so exasperated, that in a body they will rise in the omnipotence of their power and move upon the capital and thrust Buchanan, forcibly drive Buchanan and his Administration from the Government, and take possession of it themselves." And yet the Senator has the audacity of himself, consulting with his own mighty self and nobody else, to introduce a resolution to expel me for having used words not as significant of violence and force and of a subversion of the Constitution as he himself used in this Chamber in the year 1858.

Mr. President, there is no truer advocate for this war than I am; but to carry on the war successfully on our part I will never consent to offer up the Constitution and the liberties of my country as the sacrifice. There is no need for it. If Millard Fillmore had been President, with his statesmanship we should have had far different results. He was an anti-slavery man when he was elevated to the Presidency. I had the happiness to serve four years with him in Congress.

I was on terms of familiar friendship with him, and I know the depth and the truth of his feelings and his sentiments against slavery. But, sir, when he was elevated to that august office of President he rose to the elevated plane of true, broad, comprehensive, and constitutional statesmanship. He gave the country one of the truest, wisest, noblest, and most successful administrations of the Government that it has ever had. If it had been his fortune to be reelected to the Presidency we should never have had this great war. If he had been in the presidential chair at the beginning of this unfortunate rebellion, a few months of his wise, patriotic, able, and constitutional administration of the Government would have created a Union party in the seceded States much larger than the rebels, and would have long since brought them back to the fold of the Union and the Constitution.

God, however, ordered it otherwise, no doubt wisely, in His inscrutable providence. We have nothing to do but to bow submissively and reverentially to the fiat.

But the war came. I understand that a regiment was organized in the city of Boston who did the Senator the honor to name him as the colonel. He very promptly sported his regimentals and displayed an eagle upon each shoulder. He had himself belted to a sword about as long as the Spartan son desired from his mother, and with that maiden blade all unfleshed, he moved to the park on a certain occasion to hear a congratulatory address from one of the finest orators and truest men and gentlemen in that city. He heard an eloquent address and received the salutations of all Boston, and from there he moved to this capital to cross the river and to carry conquest and slaughter into the rebel camp. When the Senator came here I understand he was called colonel, he bore the insignia of colonel, but whether he had dubbed himself colonel or was a "sure enough" colonel, as the children say, I believe history has not yet written. I understand that a brigade band was called out to welcome the coming hero to this city, preliminary to his marching across the Potomac, and in martial strains as the warlike hero approached, they played "Hail to the chief," clear the way! "Dahoussie, great god of war," is going to battle and to victory. He went across the river and was in the neighborhood of the first battle of Bull Run; I do not know whether he was in that battle or not, but I suppose that at a very convenient and safe distance behind the rear lines he took his position upon some lofty eminence to overlook the battle-field. The battle commenced, and soon unfortunately ended in the rout and defeat and confusion of our gallant troops, who had been prematurely urged, before they were prepared for the conflict, "on to Richmond." The discomfited hosts began their flight, and as wave succeeded wave toward this city, foremost among the flying, I have been informed, was the Senator from Massachusetts. I am told he did run like "a white head."

There was a brave and a gallant man on that field who has had four sons in the Army, one of whom fell in that disastrous fight mortally wounded. The father saw the flying hero all the way from Boston making tracks as hard as he could move toward Washington city, and stopped him and besought him to go with him to have his bleeding and dying and gallant son brought off. The reply was, "No, sir; no, sir; this is a time when every man must take care of himself," and he went on like a streak of lightning. Whether he crossed the Long Bridge, or got into a boat, or swam the majestic Potomac, I am not informed. At any rate he made a safe return to Washington, and that demonstration of the hero satisfied him that he was not altogether a fit man for the battle-field, and somehow or other he doffed his regimentals and his commission.

When I was a boy, Mr. President, there used to be, as there always is, a quarrel between town boys and country boys. It always has been so, and I believe always will be so. On some election occasion, or other public day, the country boys had rallied in great force in my native town, expressly to whip the town boys, and we were summoning all of our boys for the struggle. We made out our list, called the roll, and one well-grown boy came up and said, "Boys, you must excuse me on this occasion." "Why?" "Why," said he, "I am too fat to fight." The Senator

from Massachusetts was not too fat to fight, but he had a much worse infirmity.

Mr. Clay was a man of general genius, and a patriot, and a statesman above all praise. In the dark hour of 1812, when our commerce was about to be swept from the ocean by British orders in council, and Berlin and Milan decrees, that unequaled orator and patriot rallied the heart of his country, then in a state of infancy, to strike for the freedom of the seas and for free trade and sailors' rights. Mr. Madison proposed to make him a general, to place him high in command, a major general in the field, and I have no doubt a few months' experience would have made him an officer and a commander of the very first ability; but his friends, and the friends of the country, besought him, told him that his presence and his services and his inspiring eloquence were more advantageous and necessary to his country in the House of Representatives, in the council, than in the field, and exhorted him to continue in that position. I suppose that the Senator from Massachusetts had also his friends who beset him and who told him that his services here in the Senate as leader, as overseer, were more useful than they would be in the field. I have seen negroes upon sugar plantations and cotton plantations that were foremen. They were called drivers. These gentlemen persuaded the Senator that he would be much more efficacious and valuable as driver of the Senate than he would be as commander in the field, and I reckon he was the most easily persuaded man that ever was beset with argument or importunities.

The Senator can scarcely get up without throwing some reproach at my State, or some reproach at the disloyalty of that State, or some other State. He is constantly at it. Ought not a man who is thus flaunting on all occasions the disloyalty of others, and his own devotion to his Government and to the Union and the Constitution, to be like Cæsar's wife, above suspicion? We all recollect the Burns case and the insurrection in Massachusetts. I hold a volume of the laws of that State in my hand. At page 278 there is "An act to protect the rights and liberties of the people of the Commonwealth of Massachusetts," passed in 1855, but before I read that, I will read a few sections of the fugitive slave law, passed by Congress in 1850:

That law in its first two or three sections provided for the appointment of commissioners to authorize the arrest and reclamation of fugitive slaves upon certain conditions, upon the pursuit of the owner or his agent, and to be taken back to the State from whence they escaped. I will read some of its sections:

"Sec. 4. *And be it further enacted*, That the commissioners above named shall have concurrent jurisdiction with the judges of the circuit and district courts of the United States, in their respective circuits and districts within the several States, and the judges of the superior courts of the Territories, severally and collectively, in term-time and vacation; and shall grant certificates to such claimants, upon satisfactory proof being made, with authority to take and remove such fugitives from service or labor, under the restrictions herein contained, to the State or Territory from which such persons may have escaped or fled.

"Sec. 5. *And be it further enacted*, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant or other process when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of \$1,000, to the use of such claimant, on the motion of such claimant, by the circuit or district court for the district of such marshal; and after the arrest of such fugitive by such marshal or his deputy, or while at any time in his custody, under the provisions of this act, should such fugitive escape, whether with or without the assent of such marshal or his deputy, such marshal shall be liable, on his official bond, to be prosecuted for the benefit of such claimant, for the full value of the service or labor of said fugitive in the State, Territory, or district whence he escaped; and the better to enable the said commissioners, when thus appointed, to execute their duties faithfully and efficiently, in conformity with the requirements of the Constitution of the United States and of this act, they are hereby authorized and empowered, within their counties respectively, to appoint, in writing under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties, with authority to such commissioners, or the persons to be appointed by them, to execute process as aforesaid, to summon and call to their aid the bystanders or posse comitatus of the proper county when necessary to insure a faithful observance of the clause of the Constitution referred to, in conformity with the provisions of this act; and all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law whenever their services may be required, as aforesaid, for that purpose; and said warrants shall run and be executed by said

officers anywhere in the State within which they are sued.

"Sec. 6. *And be it further enacted*, That when a person held to service or labor in any State or Territory of the United States has heretofore or shall hereafter escape into another State or Territory of the United States, the person or persons to whom such service or labor may be due, or his, her, or their attorney duly authorized by power in writing acknowledged and certified under the seal of some legal officer or court of the State or Territory in which the same may be executed, may pursue and reclaim such fugitive person, either by procuring a warrant from some one of the courts, judges, or commissioners aforesaid, of the proper circuit, district, or county for the apprehension of such fugitive from service or labor, or by seizing and arresting such fugitive where the same can be done without process, and by taking or causing such person to be taken forthwith before such court, judge, or commissioner, whose duty it shall be to hear and determine the case of such claimant in a summary manner."

Not by a jury trial—

"and upon satisfactory proof being made, by deposition or affidavit in writing, to be taken and certified by such court, judge, or commissioner, or by other satisfactory testimony duly taken and certified by some court, magistrate, justice of the peace, or other legal officer authorized to administer an oath and take depositions under the laws of the State or Territory from which such person owing service or labor may have escaped, with a certificate of such magistracy or other authority as aforesaid, with the seal of the proper court or officer thereto attached, which seal shall be sufficient to establish the competency of the proof, and with proof, also by affidavit, of the identity of the person whose service or labor is claimed to be due as aforesaid, that the person so arrested does in fact owe service or labor to the person or persons claiming him or her, in the State or Territory from which such fugitive may have escaped as aforesaid, and that said person escaped, to make out and deliver to such claimants, his or her agent or attorney, a certificate setting forth the substantial facts as to the service or labor due from such fugitive to the claimant, and of his or her escape from the State or Territory in which he or she was arrested, with authority to such claimant or his or her agent or attorney to use such reasonable force and restraint as may be necessary under the circumstances of the case to take and remove such fugitive person back to the State or Territory whence he or she may have escaped as aforesaid. In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence; and the certificates in this and the fourth section mentioned shall be conclusive of the right of the person or persons in whose favor granted, to remove such fugitive to the State or Territory from which he escaped, and shall prevent all molestation of such person or persons by any process issued by any court, judge, magistrate, or other person whomsoever.

"Sec. 7. *And be it further enacted*, That any person who shall knowingly and willingly obstruct, hinder, or prevent such claimant, his agent or attorney, or any person or persons lawfully assisting him, her, or them, from arresting such a fugitive from service or labor, either with or without process as aforesaid, or shall rescue, or attempt to rescue, such fugitive from service or labor, from the custody of such claimants, his or her agent or attorney, or other person or persons lawfully assisting as aforesaid, when so arrested, pursuant to the authority herein given and declared; or shall aid, abet, or assist such person so owing service or labor as aforesaid, directly or indirectly, to escape from such claimant, his agent or attorney, or other person or persons legally authorized as aforesaid; or shall harbor or conceal such fugitive, so as to prevent the discovery and arrest of such person, after notice or knowledge of the fact that such person was a fugitive from service or labor as aforesaid, shall, for either of said offenses, be subject to a fine not exceeding \$1,000 and imprisonment not exceeding six months, by indictment and conviction before the district court of the United States for the district in which such offense may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States; and shall moreover forfeit and pay, by way of civil damages to the party injured by such illegal conduct, the sum of \$1,000 for each fugitive so lost as aforesaid, to be recovered by action of debt, in any of the district or territorial courts aforesaid, within whose jurisdiction the said offense may have been committed.

"Sec. 10. *And be it further enacted*, That when any person held to service or labor in any State or Territory, or in the District of Columbia, shall escape therefrom, the party to whom such service or labor shall be due, his, her, or their agent or attorney, may apply to any court of record therein, or judge thereof in vacation, and make satisfactory proof to such court, or judge in vacation, of the escape aforesaid, and that the person escaping owed service or labor to such party. Whereupon the court shall cause a record to be made of the matters so proved, and also a general description of the person so escaping, with such convenient certainty as may be; and a transcript of such record, authenticated by the attestation of the clerk of the seal of the said court, being produced in any other State, Territory, or District in which the person so escaping may be found, and being exhibited to any judge, commissioner, or other officer authorized by the law of the United States to cause persons escaping from service or labor to be delivered up, shall be held and taken to be full and conclusive evidence of the fact of escape, and that the service or labor of the person escaping is due to the party in such record mentioned."

Well, now, Mr. President, here was a careful and a well-arranged law passed by the Congress of the United States to enable the owners of fugitive slaves to rescue them from other States. I have the decision of the Supreme Court rendered by Judge Story, and accorded to by every judge upon that bench, establishing this position, that under the Constitution and laws of Congress, wherever a slave escapes from one State to an-

other, the owner or his agent authorized by parol may pursue the slave into any State in the United States, and reclaim him wherever he can do it without a breach of the peace. I have four or five decisions of Judge McLean to the same effect. I may append them to these remarks, and probably will. I may read them before I get through if I am not too much exhausted.

But then comes the State of Massachusetts, after Burris had been rescued first from the marshal and the authorities of the United States, and in the rescue a man in the service of the Government was slain by the insurgents. When that rebellion was put down by a patriotic President, who regarded his oath, the obligation which the laws and the Constitution imposed upon him, Massachusetts, this pestilent and rebellious State of Massachusetts, passes an elaborate law specially to neutralize and defeat this fugitive slave law. In 1787, when the present Constitution was in its cradle, she signaled and gave promise of her future history by her action at that time in Shay's rebellion. In the war of 1812 she was covered all over with treason. Her executive, her legislative departments, her municipal officers, her population, or the great mass of it, sympathized with England, and held out blue lights to guide her ships into the ports lying along that rocky coast. Governor Strong issued his proclamation that the militia of Massachusetts should not be moved out of the State when they were ordered to Plattsburg. I may be mistaken—

Mr. COLLAMER. Not the Massachusetts militia.

Mr. DAVIS. It may have been Governor Chittenden, of Vermont.

Mr. COLLAMER. Governor Chittenden made that order.

Mr. DAVIS. At any rate Governor Strong protested against the war. I stand corrected by the Senator.

Mr. COLLAMER. I merely corrected the Senator in reference to the battle of Plattsburg. I believe the Governor of Massachusetts did refuse to allow the militia to go out of the State at all, but not as to Plattsburg.

Mr. DAVIS. That is my recollection. They were not ordered to Plattsburg, but he issued a proclamation to that effect generally. When the gallant Lawrence fell upon the bloody deck of the Chesapeake, and his remains were brought into Salem, one of the officers of Massachusetts issued his prohibition to some municipal authorities from taking part in his funeral. Sir, you had your Essex Junto; you had your Hartford Convention; you had a proposition that the thirteen original colonies should make peace of themselves and by themselves in that State. There was not a day in the prosecution of that war that there was not a great and atrocious demonstration of treason in Massachusetts. That war was declared and waged by the United States, as I said before, to vindicate free trade and sailors' rights, the rights of Massachusetts shippers and seamen and merchants upon the highway of nations, and this was rightfully waged; and yet here is that State sympathizing with and giving aid and comfort to the enemy, denouncing and vilifying its own Government, doing everything it could do to defeat its war measures, and giving all the assistance it could, short of participating in the contest, to the British.

Sir, I was opposed to the Kansas and Nebraska bill. I was against the Lecompton constitution. I denounced those measures. I was opposed to the Mexican war, the annexation of Texas, by the mode in which it was effected. Where would the Senator have been if he had occupied my local position I cannot say. At the time of the annexation of Texas the honorable Vice President of the United States and myself were members of the House of Representatives, and of the same committee. We were in the committee-room one morning investigating the contested election of Jones and Botts, from the Richmond (Virginia) district. The Vice President, then a member of that committee, came in, and some gentleman asked him how Maine stood upon the subject of the annexation of Texas, and the honorable Vice President answered, "She is against it as square as a brick."

The PRESIDING OFFICER. (Mr. Foot in the chair.) The Chair feels obliged to remind the Senator from Kentucky that personal allusions to the Vice President of the United States,

the regular stated occupant of this chair, are not in order, founded upon the reason that his position does not give him the privilege of reply.

Mr. DAVIS. I beg the Vice President's pardon, and I beg the pardon of the Chair, and of the Senate, and I shall trespass so no more. Such a rule as that is certainly proper, and I submit to it promptly and cheerfully, and I hope to be excused by the Vice President.

Mr. HENDRICKS. If the Senator from Kentucky would prefer to close his argument to-morrow, I will move that the Senate adjourn.

Mr. DAVIS. I am obliged to the Senator; but I have not much more to say, and would rather conclude this evening.

Mr. HENDRICKS. If the Senator prefers to conclude his argument now, I will not make the motion; but I thought he was somewhat fatigued.

Mr. DAVIS. I stand corrected by the Chair, and for its courtesy and gentlemanly manner of making the correction I return to the Chair my most sincere thanks.

But I was about to say a word in relation to the annexation of Texas. If I recollect aright—I am not certain—the present occupant of the chair was then in the other House, and voted against the joint resolution of annexation. I did, and I spoke against it. What did Massachusetts do? Her Legislature got together and passed a resolution that the annexation of Texas amounted to a dissolution of the Union, and that she had a right to secede. That was it, in substance. I do not recollect it precisely. If that is not accurate, I should like to be corrected. The Lord knows I do not want to make any groundless charge against Massachusetts. She has greatly more now than she can ever account for in this world. [Laughter.] I do not intend to raise any false clamor against her; but she certainly passed a resolution of that purport.

While I am up I desire to refer to a little matter in reference to the honorable Senator from Massachusetts, [Mr. SUMNER.] I have lately seen a notice of the report of a gentleman from Glasgow, Scotland, who was in our country propagating abolitionism, and he happened to meet with the Senator from Massachusetts. I have seen the publication in the newspapers. They were discoursing, I suppose, on the prospect of the utter annihilation of slavery in the United States. The honorable Senator is represented to have expressed the belief that the success of our armies was too rapid and too decided at present for the final and thorough abolition of slavery. We do not know what to believe and what not to believe in these times; but I cannot hear anything of that kind of the honorable gentleman that I do not give my hearty belief to, without, perhaps, having authority for so doing. He is represented as having said that if the tide of success continued it would bring our people to a disposition to make too early a peace. The inference is that peace may be made so precipitately that it will leave some remnants of slavery in the southern States; that he did not wish our success to be so rapid or so decisive; that he desired that our armies should meet with a few reverses; that the war might be protracted in order that the final destruction of slavery might become the more certain.

Mr. SUMNER. It is an entire misapprehension. I never said any such thing.

Mr. DAVIS. I am very much gratified to hear the Senator disclaim it. I accept his disclaimer. It is so seldom that he has an opportunity to make any about a matter of that kind that it affords me infinite pleasure that he has it now. [Laughter.]

I understand, however, that both the honorable Senators from Massachusetts were advocates of the law to defeat the fugitive slave law of 1850, and I will read some of its provisions. It is entitled, "An act to protect the rights and liberties of the people of the Commonwealth of Massachusetts."

The second section is in these words: "The meaning of the one hundred and eleventh chapter of the Revised Statutes is hereby declared to be that every person imprisoned or restrained of his liberty is entitled, as of right and of course, to the writ of *habeas corpus*, except in the cases mentioned in the second section of that chapter."

That law was made for the negro. Now the case of the white man comes up, and how is it? You, gentlemen, were advocates for a law that gave the writ of *habeas corpus* to the fugitive slave who

was pursued into Massachusetts, according to the provisions of the act of 1850, and reclaimed in strict conformity to it, which act denied to him the writ of *habeas corpus* by saying his case should be summarily examined after a particular manner, and if he was found upon the proof then furnished, in conformity to that law, to be a fugitive slave, he should be immediately handed over to his owner, or to his agent, and be taken out of the State. These gentlemen are deep and noisy in their sympathy with the negro; so much so that they sustain a law to negative, to practically repeal a law of Congress which every judge of every United States court, district and associate, of the Supreme Court, has declared to be constitutional. It was made in conformity to an express provision of the Constitution, and that provision was adopted by the members of the Convention that framed it by a unanimous vote. There was not a dissenting vote in that Convention to the provision in relation to the reclamation of fugitive slaves. The first law on that subject was passed in 1793. It was approved of by Washington. It was executed in the State of Pennsylvania, as decided in the case of *Prigg vs. The Commonwealth of Pennsylvania*, against a positive law of that State. It has been sustained by the whole judicial force, circuit and district, of the United States. It was executed in Boston by President Franklin Pierce; and I do not believe it would be executed now by the present incumbent even if the country were at peace. I had not expected so much from President Pierce; but it merely proves how much better a Democratic President is than the incumbent now in office. Notwithstanding these high sanctions of this law, the State of Massachusetts passed a law right in the teeth of all the provisions of this act of Congress of 1850 that negatives and neutralizes every provision of that law:

"Sec. 4. The supreme judicial court, or any justice of said court before whom the writ of *habeas corpus* shall be made returnable, shall, on the application of any party to the proceeding, order a trial by jury as to any facts stated in the return of the officer, or as to any facts alleged, if it shall appear by the return of the officer or otherwise that the person, whose restraint or imprisonment is in question, is claimed to be held to service or labor in another State, and to have escaped from such service or labor, and may admit said person to bail in a sum not exceeding \$2,000. In such case issue may be joined by a general denial of the facts alleged, the plea may be not guilty, and the jury shall have the right to return a general verdict, and the same discretion as juries have in the trial of criminal cases; and the finding of a verdict of not guilty shall be final and conclusive."

"Sec. 5. The court or justice before whom the writ of *habeas corpus* is returnable, shall, unless a jury is already in attendance, by warrant, command the sheriff of the county, or his deputy, to summon a jury in the manner provided in the twenty-fourth chapter of the Revised Statutes, to attend at the time and place stated in the warrant, at which time and place they shall be impaneled, and, having selected a foreman by ballot, the issue so framed shall be put to them for their determination. In case one jury shall disagree, the issue may be submitted to the other jury, or continued to the next term, at the discretion of the court. And in every case of disagreement another jury may be summoned and qualified as above provided, forthwith or at a future day, in the discretion of the court or justice before whom the writ is returned, until a verdict shall finally be rendered upon the issue. If any person summoned as a juror as aforesaid shall fail to attend without sufficient cause, he shall pay a fine of fifty dollars. And if, by reason of challenges or otherwise, there shall not be a full jury of the persons summoned, the officer attending the hearing shall return some suitable person or persons to supply the deficiency."

"Sec. 6. If any claimant shall appear to demand the custody or possession of the person for whose benefit said writ is sued out, such claimant shall state in writing the facts on which he relies with precision and certainty; and neither the claimant of the alleged fugitive, nor any person interested in his alleged obligation to service or labor, nor the alleged fugitive, shall be permitted to testify at the trial of the issue; and no confessions, admissions, or declarations of the alleged fugitive against himself shall be given in evidence. Upon every question of fact involved in the issue the burden of proof shall be on the claimant, and the facts alleged and necessary to be established must be proved by the testimony of at least two credible witnesses, or other legal evidence equivalent thereto, and by the rules of evidence known and secured by the common law; and no *ex parte* deposition or affidavit shall be received in proof in behalf of the claimant, and no presumption shall arise in favor of the claimant from any proof that the alleged fugitive or any of his ancestors had been actually held as a slave, without proof that such holding was legal."

"Sec. 7. If any person shall remove from the limits of this Commonwealth, or shall assist in removing therefrom, or shall come into the Commonwealth with the intention of removing or of assisting in the removing therefrom, or shall procure or assist in procuring to be so removed, any person, being in the peace thereof, who is not 'held to service or labor' by the 'party' making 'claim,' or who has not 'escaped' from the 'party' making 'claim,' or whose 'service or labor' is not 'due' to the 'party' making 'claim,' within the meaning of those words in the Constitution of the Uni-

ted States, on the pretense that such person is so held or has so escaped, or that his 'service or labor' is so 'due,' or with the intent to subject him to such 'service or labor,' he shall be punished by a fine not less than \$1,000 nor more than \$5,000, and by imprisonment in the State prison not less than one nor more than five years.

"Sec. 8. Any person sustaining wrong or injury, by any proceeding punishable by the preceding section, may maintain an action and recover damages therefor in any court competent to try the same.

"Sec. 9. No person, while holding any office of honor, trust, or emolument under the laws of this Commonwealth, shall, in any capacity, issue any warrant or other process, or grant any certificate, under or by virtue of an act of Congress approved the 12th day of February, in the year 1793, entitled 'An act respecting fugitives from justice and persons escaping from the service of their masters,' or under or by virtue of an act of Congress approved the 18th day of September, in the year 1850, entitled 'An act to amend, and supplementary to, "An act respecting fugitives from justice and persons escaping from the service of their masters," or shall, in any capacity, serve any such warrant or other process.

"Sec. 10. Any person, who shall grant any certificate under or by virtue of the acts of Congress mentioned in the preceding section, shall be deemed to have resigned any commission from the Commonwealth which he may possess, his office shall be deemed vacant, and he shall be forever thereafter ineligible to any office of trust, honor, or emolument under the laws of this Commonwealth.

"Sec. 11. Any person who shall act as counsel or attorney for any claimant of any alleged fugitive from service or labor, under or by virtue of the acts of Congress mentioned in the ninth section of this act, shall be deemed to have resigned any commission from the Commonwealth that he may possess, and he shall be thereafter incapacitated from appearing as counsel or attorney in the courts of this Commonwealth.

"Sec. 12. The two preceding sections shall not apply to removal from judicial office; but if either of the actions there specified shall be performed by any person holding judicial office under this Commonwealth, it shall be considered as a violation of good behavior, as well as a reason for loss of public confidence, and as furnishing sufficient ground either for impeachment or for removal by address.

"Sec. 13. No person who holds any office under the laws of the United States which qualifies him to issue any warrant or other process, or to grant any certificate under the acts of Congress named in the ninth section of this act, or to serve the same, shall at the same time hold any office of honor, trust, or emolument under the laws of this Commonwealth.

"Sec. 14. Any person holding any judicial office under the constitution or laws of this Commonwealth who shall continue, for ten days after the passage of this act, to hold the office of United States commissioner, or any office under the laws of the United States which qualifies him to issue any warrant or other process, or grant any certificate under the acts of Congress named in the ninth section of this act, shall be deemed to have violated good behavior, to have given reason for loss of public confidence, and furnish sufficient ground either for impeachment or for removal by address.

"Sec. 15. Any sheriff, deputy sheriff, jailor, coroner, constable, or other officer of this Commonwealth, or the police of any city or town, or any district, county, city, or town officer, or any officer or other member of the volunteer militia of this Commonwealth, who shall hereafter arrest, imprison, detain, or return, or aid in arresting, imprisoning, detaining, or returning, any person, for the reason that he is claimed or adjudged to be a fugitive from service or labor, shall be punished by fine not less than \$1,000 and not exceeding \$2,000, and by imprisonment in the State prison for not less than one nor more than two years.

"Sec. 16. The volunteer militia of this Commonwealth shall not act in any manner in the seizure, detention, or rendition of any person for the reason that he is claimed or adjudged to be a fugitive from service or labor. Any member of the same who shall offend against the provisions of this section shall be punished by fine not less than \$1,000 and not exceeding \$2,000, and by imprisonment in the State prison for not less than one nor more than two years.

"Sec. 17. The Governor, by and with the advice and consent of the Council, shall appoint in every county one or more commissioners, learned in the law, whose duty it shall be, in their respective counties, when any person in this State is arrested or seized, or in danger of being arrested or seized, as a fugitive from service or labor, on being informed thereof, diligently and faithfully to use all lawful means to protect, defend, and secure to such alleged fugitive a fair and impartial trial by jury, and the benefits of the provisions of this act; and any attorney whose services are desired by the alleged fugitive may also act as counsel in the case.

"Sec. 18. The commissioners shall defray all expenses of witnesses, clerks' fees, and officers' fees, and other expenses which may be incurred in the protection and defense of any person seized or arrested as a fugitive from service or labor; and the same, together with the reasonable charges of the commissioners for their services as attorneys and counsel in the case, shall be paid by the State treasurer, on a warrant to be issued by the Governor.

"Sec. 19. No jail, prison, or other place of confinement belonging to or used by either the Commonwealth of Massachusetts or any county therein, shall be used for the detention or imprisonment of any person accused or convicted of any offense created by either of the said acts of Congress mentioned in the ninth section of this act, or accused or convicted of obstructing or resisting any process, warrant, or order, issued under either of said acts, or of rescuing, or attempting to rescue, any person arrested or detained under any of the provisions of either of said acts, nor for the imprisonment of any person arrested on mesne process, or on execution in any suit for damages or penalties accruing, or being claimed to accrue, in consequence of any aid rendered to any escaping fugitive from service or labor.

"Sec. 20. All the provisions of law as to the writ of *habeas corpus*, heretofore existing and in force, so far as ap-

licable, and so far as not hereby changed, shall apply to the cases arising under this act.

"Sec. 21. Nothing in this act shall be construed to apply to so much of the act of the 12th of February, 1793, as relates to fugitives from justice.

"Sec. 22. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

"Sec. 23. This act shall take effect from and after its passage."

Now, here is one of the Senators from Massachusetts, [Mr. SUMNER,] who avows openly and boldly, if I understand him, that he is and was always against the execution of the fugitive slave law. Here is the other one furiously trying to evade the question. I have heard that he was an advocate for this law of his State from which I have read. If it is not so, he has now time and opportunity to disavow it; if he does not disavow it, he must hereafter hold his peace, and the country will receive it as true. Then, sir, here we have revealed two higher-law men. What is this higher law? The Constitution of the United States says that that instrument, and all laws and treaties made in pursuance of it, shall be the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding. This law of Congress was executed in Boston, the metropolis of New England, and thereupon that State deliberately, wickedly, defiantly passes an elaborate law to defeat every provision of the fugitive slave law; and now the two Senators from Massachusetts—higher-law men, men who believe that there is a higher law than the Constitution and the laws of Congress, and which they claim the right to institute for themselves, after sustaining and supporting this law of Massachusetts, and doing everything, I suppose, that they could do to make it practically dominant and overthrow the law of Congress—they come up here and are admitted to seats in this body, and they walk up to your chair, sir, and take an oath to support the Constitution of the United States. Sir, I ask the Senator who so flippantly, without, I suppose, understanding the force of his words, charges perjury upon the lips of so many, and such better men than himself, to examine his own heart, his own conscience, and to answer this body what crime does he commit, after sustaining this law of Massachusetts, when he comes up here and takes an oath to support the Constitution which the law of his State *pro tanto* subverts? It seems to me that any sense of decency, of justice, any moral sense, should impel men who occupy that position to shrink back from making such charges against others.

That Senator, from the time almost that I first took my seat in this body, and particularly from the time I invoked the constitutional guarantee for slavery, has been making imputations against my loyalty and against the loyalty of my State. Sir, I would scorn to defend either against such charges from that source. But he sets himself up as the conservator of the Senate, its purity, its loyalty, and its devotion to the Constitution. Colonel Pride set himself up as the purgator of the Long Parliament. I do not know whether the Senator belongs to the Puritan race or not, but I should suppose, if he does, from his propensity to purge the Senate, that he was a lineal descendant of the notorious Colonel Pride. I do not know whether the Senator is of that stock. I do not know what stock he is of—very good stock, maybe—but sometimes I almost imagine he is an Ishmaelite from his propensity to war with everybody; and then again, from some of his propensities, I think he may be a gipsy; and then again I come to the conclusion that I cannot even conjecture what is his extraction.

I had not been in this body many days before I received an anonymous letter in relation to the Senator from Massachusetts. I do not pay any attention to anonymous letters, and I believe that they generally stand discredited. That is the judgment I pass upon them. I read but few of them. I told an honorable Senator in the body at the time of the anonymous letter I had received in relation to the Senator from Massachusetts, and that I did not believe it. I do not now believe it; but these are strange times, and we do not know what is true and what is false. It charged him with claiming to be colonel of a regiment and with having made a proposition to sell the place of sutler for one half the profits. I suppose—I do not however know—that other Senators received a similar communication. I did not believe it then;

I do not believe it now; for whatever might have been the moral principle of the Senator, I thought he would have been much too prudent to expose himself to such a disclosure. From the revelations made in this body a few days since concerning the thieving and plundering, wholesale and retail, in this great Government of ours in this time of war and adversity, a man cannot conjecture what is true and what is not true.

Mr. President, I have not had time, from the notice I have taken of the Senator from Massachusetts, to discuss the principles of my resolutions. When they have been assailed by all comers who may choose to assail them I shall endeavor to defend them; but upon my defense of them I will proudly put myself in judgment before this Senate. I quail not from this investigation. I court any scrutiny the Senate may put upon the principles of those resolutions. I abide by them; and if I cannot maintain my position here upon their truth and their principle, I know a country in which, and I know a people before whom, I can maintain myself, and I will appeal from this forum to that one. But when the principles of these resolutions are assailed by any gentleman or all gentlemen, I shall be ready to defend them as best I can. I will say furthermore that when there is a fair and proper blow to be aimed at the dangerous abuse of power by this Administration or by any Administration when I was an actor upon the public theater, I was always ready to strike it a blow—not a strong one, but as willing a blow as any man could give it.

Mr. WILSON. Mr. President, it is not my purpose to notice in detail the illogical, rambling, and incoherent utterances that the Senate has been forced to listen to for nearly three hours. Seldom has the Senate of the United States been compelled to listen to such a farrago of brutality, indecency, treason, and falsehood. This exhibition, that we have been forced to witness for three weary hours, would not elevate even the Senator in a Kentucky barbecue; it will, if possible, sink him to a lower level in the Senate of the United States. Arraigned before the Senate for calling upon the people to revolt against the administrators of the Government, take its powers into their own hands, go into a national convention, end the war, and reconstruct the Government in defiance of the Constitution, the laws, and the executive, legislative, and judicial authorities, he rises and babbles through nearly three hours, till the ear of the Senate grows weary with his loose, disjointed mutterings. The Senator tells us he has been informed of this, and he has heard that, and that he has received anonymous communications. He rises here in the Senate of the United States, flippantly speaks of States and of public men, bringing against States and public men false and vituperative accusations, on the authority of what he has heard and what he has been informed of; swift to accuse, fierce, bitter, and unrelenting in denunciation, reckless alike of facts and the deencies that should govern honorable men, he does not pause to examine the character of the tattle poured into his ear, which seems to be the receptacle of the foulest calumnies against those whose high duty it is to administer in these days of trial the Government of the United States. The receiver of anonymous communications, he has the indecency to drag them out in the Senate, in the face of men who recognize the proprieties that should regulate the action of gentlemen.

I repeat, sir, it is not my purpose to notice the rambling and incoherent utterances of the Senator from Kentucky, nor to notice his indecent flings and personal allusions. If he is content with the exhibition he has made of himself today, I surely ought to be content. No, sir, I shall not follow the Senator in all his idle, rambling, and discursive utterances, for I might as well attempt to follow the twitterings of a cock snowbird. But there are two or three accusations of a personal nature that demand from me a notice here and now. The Senator from Kentucky has been informed, he tells us, that when the war commenced I received the command of a Massachusetts regiment, marched it to Washington, went to Bull Run, and when the battle was lost hastily left the field, refusing to help away a soldier wounded in the fight. The Senator was informed of this, but he took no time to examine into the truth or falsity of his information; but the Senator in this is quite as accurate as he generally

is in his vituperative accusations against some of the noblest men of our time. Sir, I will put the Senator right, and I have abundant means to put him right in the evidence of honorable Senators around me.

A day or two before the battle of Bull Run, the first regiment of Massachusetts volunteers was engaged with the enemy at Blackburn's ford, and several Massachusetts men were killed or wounded. Intensely anxious to learn what I could do for the relief of Massachusetts men, wounded in defense of my country, I hastened to the army. I saw several of the wounded men of my own and other States at Centreville; and there are those present in this Chamber who know that they and myself were privileged to administer something to their relief. When the army advanced from Centreville on that July morning, I followed it to the field, anxious, if I could, to do something to alleviate the sufferings of the men who might fall that day. I went on to that field of strife. At three of the field hospitals I did something, with other civilians, for our wounded and our dying. When our forces drove the enemy, as they did drive the enemy, and the battle had ceased for a time, and there was no firing on any part of the field, I, only a civilian, with no assigned duty, left the command of General Schenck, where I had passed some time, and retraced my steps to Centreville. On my way back I met the Senator from Iowa, [Mr. GRIMES,] and the Senator from Illinois, [Mr. TRUMBULL,] on their way to the battle-field, and told them that we had driven the enemy, and won a brilliant victory. The Senator from Iowa will, I am sure, remember it. (Mr. GRIMES nodded assent.) When I arrived at Centreville the battle had been renewed by the arrival on the field of fresh rebel forces from the Shenandoah valley. It was rumored, and the rumor created no little excitement, that our army had been defeated and was falling back. The Senator from Michigan, [Mr. CHANDLER,] and the Senator from Ohio, [Mr. WADE,] will remember that I stoutly denied the truth of the rumor, and contended that I had seen our army drive the enemy before them. I had no means of conveyance for myself, a wounded soldier, or anybody else, and after lingering a while at Centreville, I started on foot, and walked several miles toward Washington, and was indebted to the kindness of a gentleman from Pennsylvania for the means of conveyance to this city. I had no occasion to hasten my steps, and did not do so; if, however, that had been necessary, I can assure the Senator from Kentucky that I should not have hesitated to do so. The men who fell that day were not at Centreville or on the road from Centreville to Washington, and no appeal was made to me, or could have been made to me, in behalf of a wounded or any other soldier. Did the Senator manufacture that libelous accusation?

Mr. DAVIS. It was told me by a soldier, though.

Mr. WILSON. The Senator was told so. Sir, whoever told the Senator so, told him an unmitigated and unqualified lie, that had not a semblance or shadow of truth in it.

Sir, a few weeks after the disaster of Bull Run, the President and his Cabinet were anxious to stimulate and encourage volunteering. On the adjournment of Congress, at the urgent solicitations of the Secretary of State, the Secretary of the Treasury, and the Secretary of War, I hastened home to Massachusetts to encourage recruiting for the Army. I had been invited by General McClellan to accept a position on his staff, and the Secretary of War urgently pressed me to do so. I thought, and the Secretary thought, that I could obtain in that position some knowledge of the organization and condition of the Army that would be of service to my country. Believing that I could render some service to my country before the meeting of Congress, I went home to Massachusetts, appealed to the people, traversed portions of the State at my own expense, organized and raised nineteen companies of infantry, two batteries of artillery, and a company of sharpshooters. In less than forty days I raised twenty-three hundred men, brought a regiment of infantry, a battery of artillery, and a company of sharpshooters, in all thirteen hundred and sixty men, to this city, and was assigned by General McClellan to Fitz John Porter's division and Martindale's brigade, at Hall's hill. A few weeks after I came I placed my regiment, as I had prom-

ised to do, under the command of an accomplished officer of the regular Army, and accepted a position on the staff of General McClellan, where I remained until several weeks after the meeting of Congress, when my duties here required that I should resign that position. Sir, believing that I could render some little service to my struggling country, I gave more than four months to this service, paid my own expenses, expended more than eight hundred dollars, and never received a farthing from the Government, and never shall receive a farthing from the Government. Yes, sir, I gave more than four months of time, at my own expense, expended more than eight hundred dollars, and never received nor ever shall receive one dollar for it. This little contribution of time, of toil, and of money, I cheerfully gave to the cause of my periled country; and the records of my State and of my country show that I have never claimed any compensation for this time, toil, and money. [Manifestations of applause in the galleries.]

The VICE PRESIDENT. Order!

Mr. WILSON. The Senator from Kentucky, whose hungry ear drinks in so much tattle, brings forth an anonymous letter stating that I offered to appoint a sutler for my regiment, on condition that he would allow me half his profits. Even the Senator from Kentucky expresses his disbelief in the truth of this anonymous letter. A more wholesale slander was never born of malignity and falsehood. No sutler was with my regiment so long as I had the command of it. Before leaving Massachusetts a relative of mine sought to be appointed sutler, and I told him that no relative of mine should have an interest of a dollar in anything connected with my regiment. The appointment of the regimental sutler was made by my successor. No relative or friend of mine ever received, directly or indirectly, a farthing connected with the sutlership or any other thing connected with that or any other regiment. I go further, and say that no human being has received during this rebellion, through any recommendation or influence of mine, directly or indirectly, any job or contract of any Department of the Government of the United States, nor will any human being ever obtain any contract through any solicitation, recommendation, or influence of mine. The Senator drags this anonymous slander into the Senate. Surely such indecency deserves the rebuke of honorable men.

Sir, the Senator assails the Commonwealth of Massachusetts for her action during the war of 1812. It may be that Massachusetts did not do her whole duty in that struggle, but the Senator from Kentucky, who advised that gallant Commonwealth to maintain a position of armed neutrality in this great struggle to preserve the life of the nation, may not reproach her. If any men of Massachusetts hesitated to give their country all of treasure and of life they had to prosecute that war for free trade and sailors' rights, I shall not defend them, whether they be among the living or the dead. I am not here to assail and I never have assailed the State of Kentucky. Never have I uttered a word of censure against the loyal men of that State or of any State, and I never can do so. I have never on this floor, before the people, in the public press, nor in private letters to the dearest friends on earth, spoken or written a line of criticism on any military man conducting operations in the field.

But, sir, I have spoken of rebels, and of rebel sympathizers, and of professed Union men, who, when the blood of Massachusetts men hastening to the defense of the capital reddened the streets of Baltimore, refused to let the troops of Kentucky come to the defense of the capital, and advised that gallant Commonwealth to occupy a position of armed neutrality, that she might dictate terms to the North and to the South when they should become exhausted with the burdens of war. Sir, from the city of Baltimore, while the blood of Massachusetts men smoked on her streets, the Senator advised Kentucky to "look to herself and her own self-preservation;" to "clothe herself in full panoply," and "as the red waves of war from North or South beat against her firm base, let her roll them back with all their desolation," so that "when the contending parties become worn and wasted by a prolonged and bloody war, she can then effectively interfere to command a general peace." From that day to this, with all his pro-

fessed love for the Union, and all his repeated denunciations of traitors, he has undertaken to play the same rôle; to dictate terms to the Government and to control its policy. He denounces the traitors, he has denounced them to-day, but there is no virtue in his rebukes. He can hardly help denouncing them, for there is nothing on the earth, or above the earth, or in the earth, that the Senator is not swift to carp at, criticise, and denounce. The Senator assumes to dictate to the country; but, thanks be to God, to the instinctive and far-seeing patriotism of the American people, and to the inexorable logic of events, he and his policy are swept away. Even in Kentucky the loyal people are rising in majesty, and will at no distant day banish that class of Union men to which the Senator belongs from that possession of power they love so well. The Senator vauntingly tells us to-day that he knows where to go and who will sustain him. I tell him, and I know whereof I affirm, that Kentucky, gallant and true, is rising with the rest of the country to a realization of the duties imposed upon loyal America. Her sentiments and opinions are not yet heard in the Chamber of the Senate of the United States. Thank God, she has true and noble men who represent her higher and better sentiments in the other wing of the Capitol.

But the Senator from Kentucky reproaches Massachusetts for her legislation intended to protect her own citizens against the inhuman provisions of that infamous fugitive slave law whose provisions so gladden his heart and fill his capacious brain. The Senator mounts his desk and reads to the Senate that infamous enactment that has brought so much shame and dishonor upon our country, in face of the Christian and civilized world. But the enormities of that enactment that have made humanity shudder seem beautiful in the eyes of the Senator from Kentucky. He clings to it, he hugs it the closer because the rest of the world scorn it. He lives and lingers among past recollections, especially if they have the taint and odor of slavery about them. Sir, the Commonwealth of Massachusetts, in her legislation, never intended forcibly to resist the laws of the United States. No man in her Legislature desired or expected to resist the authority of the Federal Government. What Massachusetts intended to accomplish by her legislation was the protection of her own citizens; and if any questions arose between her and the Federal Government, growing out of the attempted execution of the fugitive slave act, she was ever ready to submit those questions to the judicial tribunals of the country and to abide the verdict. The Senator prates about a little mob, composed of a few men in the city of Boston, and brands their action as insurrection and rebellion. Insurrection! rebellion! Sir, there was no insurrection; there was no rebellion. It was at most but a mob, and a very small mob at that. Their action lingers in the mind of the Senator. He magnifies and gloats over it. He drags it into the Senate Chamber as a reproach to the Commonwealth of Massachusetts and to her Senators.

Sir, I say to the Senator from Kentucky that I stand not here to defend any sentiments, opinions, or acts of the Commonwealth of Massachusetts, unless those sentiments, opinions, and acts are in harmony with liberty, justice, and humanity. If, in her past history, Massachusetts has failed in her high duties, I am the last man to defend her action here or elsewhere. But I say, and I have a right to say, what that history which shall record these grand events now passing before us will transmit to coming ages for the study and admiration of all after-time, that Massachusetts, for these twenty years, on all the questions that have been forced upon the country by the slaveholding traitors, has occupied a position that will ever command the profound respect and admiration of the Christian and civilized world. [Manifestations of applause in the galleries.] And, sir, since the standard of revolt has been raised, her sons have thronged to battle-fields to defend the old flag, maintain the unity of the Republic, and the cherished institutions of freedom. And they will continue to rally around the unrolled banners of the Republic till the waning star of the rebellion sinks down in eternal night. Sir, the representatives of Massachusetts, by word, by vote, and by act, and her armed legions on battle-fields, have maintained, and ever will maintain, the unity of the

country and the cherished institutions of this democratic Republic. Sir, the imputations, the reproaches, the slanders that so glibly flow from the lips of the Senator from Kentucky will not reach the Commonwealth of Massachusetts. No word of his can soil her name or dim her fame. There is not strength enough in his arm to fling a shaft that shall reach that proud old Commonwealth.

But, sir, I will follow the Senator no further in his petty criticisms of Massachusetts and his vulgar personalities. I come back to the consideration of the question at issue. After arraigning the administrators of the Government of his country, the Senator from Kentucky, in the resolutions upon your table, declares that the people of the North "ought to revolt" against their "war leaders." Does not the Senator know what the word "revolt" means? Does not the Senator know that "revolt" means to "renounce allegiance," to "rebel"? Does he not know that the word "revolt" means an "insurrection," a "rebellion," a "secession," a "sedition," an "endeavor to overthrow legitimate authority"? If he knows what that word means, he knows that in the connection in which he uses it it means to incite or attempt to incite the people to take the powers of the Government into their own hands. The Senator tells them to revolt and take this great matter into their own hands. What great matter? The conduct of the war—the questions concerning peace and the adjustment of questions growing out of the rebellion. He tells them to revolt, to take the power into their own hands. How are they to revolt, and take the power into their own hands? Why, rush into a national convention and exercise the powers they have taken into their own hands, and terminate the war.

The Senator tries to tell us—although he can hardly utter the word, for it must choke in his throat if he does—that this word "revolt" does not mean dissolving allegiance, does not mean insurrection, but the going into a party convention. The Senator from Michigan [Mr. HOWARD] brought the Senator from Kentucky to the confession that his convention was a revolutionary convention. He admitted on the floor of the Senate that the convention was a revolutionary convention, the exercise of a revolutionary right. What does he say to every man? Revolt; take the power of the Government of the United States; take these matters into your hands; go into a convention to stop this war, and adjust the policy of the Government and the institutions of the country. That means throw away the President, throw away the Cabinet, throw away Congress, throw away the Supreme Court, trample the Constitution and laws of the country under your feet, and go into a national convention and settle these questions for yourselves. A national convention that should attempt to touch these questions, that belong alone to the Government of the United States, would be, must be, a revolutionary tribunal. It would be the first duty of the Government to arrest, try, convict, and execute its members as traitors. The Senator confesses, yes, sir, he confesses in the presence of the Senate, that the convention he asked the people to go into is a revolutionary convention. He knows that if it assumes to act as he tells the people to act it must be a revolutionary convention. This is the meaning and import of the Senator's proposition. He cannot explain it away, he cannot argue it away. He has occupied three long hours to-day in running around it, in climbing over it, in crawling under it; but there stands the proposition, a fixed fact. A proposition so wicked, so revolutionary, so instinct with treason, was never before made in the presence of the Senate of the United States by mortal man. Sir, we have heard Jefferson Davis on this floor expound the theories of Calhoun in words of clearness and precision that often extorted the admiration of enemies; we have heard the treasonable utterances of the pompous Mason; we have listened to the threats of the blustering Toombs, and the bitter words of the malignant Clay. We have heard these men and their compeers expound the false theories of the school of Calhoun, but you will search the Journals of the Senate and the records of the Government in vain to find a proposition so treasonable as this. If anybody doubted before the transcendent wickedness of this proposition, they can doubt no longer after the admission wrong from him to-day by the Senator from Michigan.

Sir, the Senator from Kentucky knows what the word "revolt" means. He knows, too, what the phrase "take that great matter into your own hands" means. He knows what a "national convention" that shall assume to end the war and reconstruct the Government is. No man in America can mistake the obvious meaning and import of the words and phrases. The Senator from Kentucky is not quite so ignorant as we should judge him to be when we listen, as we often do, to his long, discursive, and illogical harangues, that are so often inflicted upon the Senate. In his seventeenth resolution the Senator charges the President with ignoring the constitutions of Tennessee and Arkansas, and others that have not been altered in any particular. When the Senator speaks of Jefferson Davis's insurrection he calls it a "revolt," and a "revolt" of Jeff. Davis is no more a "revolt" than is a "revolt" of Garrett Davis.

Mr. DOOLITTLE. Mr. President, I move to lay aside all other business and take up the enrollment bill, that we may leave it as the unfinished business.

Mr. DAVIS. Will the Senator from Wisconsin allow me but a minute? I will not detain the Senate for a minute.

Mr. DOOLITTLE. I will yield the floor for one minute or for five.

Mr. DAVIS. I do not know, Mr. President, whether the Senator from Massachusetts' persistence is willful or the result of laws that he cannot control. I was proceeding to define, and I defined at the instance of the Senator from Michigan [Mr. HOWARD] what a revolutionary convention was, and I most distinctly averred again and again that the convention which I would have called was not a revolutionary convention, but was a convention in strict conformity with the Constitution.

Mr. DOOLITTLE. I now move to lay aside all prior orders for the purpose of taking up the enrollment bill, that that bill may be the unfinished business on the adjournment.

The motion was agreed to.

On motion of Mr. DOOLITTLE, the Senate then adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 13, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

PRIZE MONEY.

The SPEAKER laid before the House a communication from the Secretary of the Navy, in answer to a resolution of the House of the 6th instant, relative to delay in the distribution of prize money; which was referred to the Committee on Naval Affairs, and ordered to be printed.

UNEMPLOYED GENERAL OFFICERS.

The SPEAKER also laid before the House a statement from the Secretary of War showing the number of general officers of the Army unemployed, &c.; which was referred to the Committee on Military Affairs, and ordered to be printed.

DAKOTA CONTESTED-ELECTION CASE.

Mr. DAWES, from the Committee of Elections, presented the report in the Dakota contested-election case; which concludes with the following resolution:

Resolved, That William Jayne, having presented a certificate in due form of law of his election as Delegate from the Territory of Dakota to the Thirty-Eighth Congress is entitled to take the oath of office and occupy a seat in this House as such Delegate, without prejudice to the right of J. B. S. Todd, claiming to be duly elected thereto, to prosecute his contest therefor according to the rules and usages of this House.

The report was laid on the table, and ordered to be printed.

Mr. GANSON stated that he dissented from the report.

Mr. DAWES also presented depositions in the same case; which were referred to the Committee of Elections.

MISSOURI CONTESTED-ELECTION CASE.

Mr. DAWES also presented papers in the contested-election case of the third congressional district of Missouri; which were referred to the Committee of Elections.

REPORTS FROM COMMITTEES.

The SPEAKER announced the first business in order to be the call of committees for reports, beginning with the Committee on the Judiciary.

CONFISCATED PROPERTY.

Mr. WILSON, from the Committee on the Judiciary, reported back, with a recommendation that it do pass, joint resolution H. R. No. 18, to amend a joint resolution explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862.

The joint resolution amends the joint resolution of July 17, 1862, by making it read that no punishment or proceeding under it shall be so construed as to work a forfeiture of the estate of the offender except during his life, the amendment being intended to limit the operation and effect of the law only so far as to make them conformable to section three, article three, of the Constitution of the United States.

Mr. WILSON. I am directed informally to offer the following amendment:

Provided, That no other public warning or proclamation under the act of July 17, 1862, chapter ninety-five, section six, is or shall be required than the proclamation of the President, made and published by him on 25th July, 1862; which proclamation so made shall be received and held sufficient in all cases now pending or which may hereafter arise under said act.

Mr. WILSON. I demand the previous question on the amendment.

The previous question was seconded, and the main question ordered.

Mr. LONG demanded the yeas and nays.

Mr. PENDLETON moved that the bill and amendment be referred to the Committee of the Whole on the state of the Union.

The SPEAKER decided the motion to be out of order, the previous question having been seconded.

Mr. HOLMAN demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. HOLMAN, and COLE, of California, were appointed.

The yeas and nays were ordered; the tellers having reported that forty, more than one fifth, had voted in the affirmative.

The question was taken; and it was decided in the affirmative—yeas 78, nays 54; as follows:

YEAS—Messrs. Atley, Allison, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brundage, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Eckley, Eliot, Fenton, Garfield, Gooch, Grinnell, Hale, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Longyear, Lovejoy, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Stevens, Thayer, Tracy, Upton, Van Valkenburg, Elihu B. Washburn, William B. Washburn, Whaley, Williams, Wilder, Wilson, and Windom—78.

NAYS—Messrs. William J. Allen, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Griswold, Hall, Holman, Kalbfleisch, Kernau, King, Knapp, Law, Lazarus, Le Blond, Long, Murcy, McDowell, McKinney, Middleton, William H. Miller, Morrison, Nelson, Noble, John O'Neill, Pendleton, Samuel J. Randall, Rogers, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Sweet, Voorhees, Wheeler, Clifton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—54.

So the amendment was adopted.

During the vote, Mr. COLE, of Washington, stated that Mr. HARRIS, of Maryland, was detained from the House by illness.

The vote was then announced as above recorded.

Mr. WILSON moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. WILSON. Mr. Speaker, the law affected by the joint resolution just reported from the Committee on the Judiciary is in the following language:

Resolved by the Senate and House of Representatives, &c., That the provisions of the third clause of the fifth section of 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,' shall be so construed as not to apply to any act or acts done prior to the passage thereof; nor to

include any member of a State Legislature, or judge of any State court, who has not, in accepting or entering upon his office, taken an oath to support the constitution of the so-called Confederate States of America; nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

The only part of that resolution affected by the one now under consideration is the last clause, which provides that no punishment or proceeding under the confiscation act shall be so construed as to work a forfeiture of the real estate of the offender beyond his natural life. The object of the resolution which I have reported is to amend that last clause of the resolution of July, 1862, as to make it conform to section third of article third of the Constitution of the United States. In other words, it proposes to substitute for the language embraced in that resolution of 1862 the language of the Constitution, which is as follows:

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attained."

We do not propose by the resolution to determine the question of the legislative construction of the Constitution, whether we may provide for forfeiture of fee or confiscation of the real estate during life. The pending resolution leaves the whole matter to the court. In other words, we simply submit the section of the Constitution relating to the forfeiture of real estate to the courts of the country to determine whether forfeiture may be in fee or only for life.

Mr. COX. I ask my friend from Iowa whether he intends to press the resolution to a vote now, without time for preparation or for debate?

Mr. WILSON. I propose to permit discussion to go on during the morning hour.

Mr. COX. Does the gentleman propose to call for the previous question, so as to cut off debate on this side of the House?

Mr. WILSON. I desire to have action on the resolution.

Mr. COX. The gentleman cannot have action this morning.

Mr. WASHBURN, of Illinois. By what authority does the gentleman from Ohio make that declaration?

Mr. COX. By authority of the rules of the House, which can be made to prevent such hasty legislation as will strike at the very organic law of the country.

Mr. WASHBURN, of Illinois. We will see.

Mr. KERNAN. Let me state the reasons why I dissent from the report of the Committee on the Judiciary.

Mr. WILSON. I agree to yield to my colleague on the committee.

Mr. KERNAN. Mr. Speaker, I desire to say that I was unable to agree with the majority of the Committee on the Judiciary as to the working of this amendment to the joint resolution explanatory of the confiscation act; and I desire to state briefly my reasons. I wish to call the attention of the House, in the first place, to the circumstances under which the confiscation act was passed, as they may not be fresh in the recollection of all.

Now, sir, the confiscation act was passed by Congress and sent to the President, and before the joint resolution now proposed to be amended was passed, the President prepared a message to veto the original confiscation act, and I beg to read from that message which the President transmitted to the House as his views in reference to the confiscation act. I read from the Congressional Globe:

"That which I chiefly object pervades most part of the act, but more distinctly appears in the first, second, seventh, and eighth sections. It is the sum of those provisions which results in the divesting of title forever.

"For the causes of treason and ingredients of treason, not amounting to the full crime, it declares forfeiture extending beyond the lives of the guilty parties; whereas the Constitution of the United States declares that 'no attainder shall work corruption of blood or forfeiture except during the life of the person attained.' True, there is to be no formal attainder in this case: still I think the greater punishment cannot be constitutionally inflicted, in a different form, for the same offense.

"I may remark that the provision of the Constitution, put in language borrowed from Great Britain, applies only in this country, as I understand, to real or landed estate."

After the President, having this confiscation act under consideration, had, as he says to Congress, prepared this message to veto it, because it was unconstitutional, as purporting to take away, as

part punishment of treason, a greater estate in lands than a life estate, Congress passed the resolution explanatory of the confiscation act, and sent it to the President; and the language of the explanatory resolution now in question I beg leave to read again:

"Nor shall any punishment or proceeding under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

After Congress had passed and the President had approved that act and the explanatory resolution, he returned them to Congress, using this language in his message returning them with his approval:

"Considering the bill for 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,' and the joint resolution explanatory of said act as being substantially one, I have approved and signed both."

So that we have from the President a statement, first, that any attempt by Congress or by the law-making power, to make as a part punishment of treason the forfeiture of a greater estate in lands than a life estate of the offender, would be unconstitutional; and secondly, that he only approved the act because he regarded the joint resolution, now proposed to be changed, a part of the act. And as the law now stands, there is no doubt that the forfeiture incurred as to the real estate of the traitor is only of his life estate. Believing as I do that that is as far as we can affect real estate as a part punishment of treason, I deem it wise to allow the law to stand. I agree with the President that the true construction of the Constitution is that we have not power to cut off the inheritance of innocent heirs as part punishment for treason.

But it is said by the chairman of the Judiciary Committee that he only proposes to amend by substituting the language of the Constitution, which I suppose is claimed to be different in construction from that now contained in the resolution. Now, I submit to the House, and I submit it with great earnestness, but with great deference, whether it is wise to change the law as it stands. It has been said, it was urged upon us in committee, or at least it was suggested, that one judge had held that the language of the Constitution could be so construed as to forfeit the real estate forever of the guilty traitor. But I submit to the House that it is at least a very doubtful question whether the language of the Constitution can be fairly so construed. The language of the Constitution is, "but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attained." I agree with the President that by this language the Constitution restrains us from forfeiting the land forever. It seems to me this is entirely clear; but if the question is a doubtful one, I submit to the gentleman whether it is ever wise to make our laws so that there may be a grave doubt whether they are constitutional or not. Is it wise, particularly upon a subject like this, where the judgment of the court below is to be in reference to the title of real estate, to put the law in such a shape that it will be doubtful in its meaning, one judge construing it in one way and another judge in another way?

Let it be remembered that the court which is first to pass upon this law, which is to condemn the property and order it to be sold—and under its judgment it must be sold—is an inferior court, constituted by a single judge. If he holds, upon this equivocal question, made equivocal by Congress itself by the proposed amendment, that the fee passes, the party purchasing so believes. But there will be a right of review, and in testing that question years hence by heirs in the court above, the court may certainly hold that only a life estate can be condemned and sold, and thereby the purchaser will be involved in the misfortune of losing what he paid.

If, on the contrary, the court below should hold that only a life estate can be condemned and sold, it will sell for only a small sum. If on review there should be a judgment the other way the purchaser makes a great speculation out of the Government by getting the whole fee, when he only bid and paid for a life estate. I submit whether it is wise for the law-making power to make an amendment for the purpose of making the act, now clear, doubtful.

Again—and I ask the attention of every fair man to decide this for himself—if we had the constitutional power to take away forever the es-

tate in land, would it be wise to do so? I submit that the punishment for treason, like the punishment for every other crime, should fall upon the guilty party only, and that we should not seek to affect his innocent children and heirs. Take away from the guilty party his life estate, his right to dispose of it, but do not take away the right of inheritance from the innocent heirs, who will show themselves loyal, else they never will have the right to come in court and ask to be heard.

I submit again, if there is a desire to press this matter through now, that this law and joint resolution are and speak as one law as they stand; that the law could not have been passed but from the fact that the joint resolution was made a part of it. The act was amended in accordance with the President's suggestion of what it ought to be. Now, repeal the joint resolution, or so amend it that it speaks anew from this time, and how will it affect men who have been guilty of treason since July, 1862, when the law was enacted? At least it will raise very embarrassing questions in reference to proceedings now pending, because the rule is that if you repeal a penal law all proceedings under it, not completed before the repeal, fall.

But, sir, allow me to make another suggestion, and I do it with a desire as earnest as man can entertain that we should act wisely for the restoration of this Union and the upholding of this Government. I am in favor of energetically wielding the powers of the Government to overthrow and put down organized rebellion and armed rebels; and yet, sir, I do believe that if we love our country, if we hope to see our people ever again living peacefully under a united Government, we should toward the masses of the people in the rebellious States hold out every inducement which the Government honorably can hold out to induce them to desert the secession leaders, to lay down their arms, and come back to their allegiance to the Constitution and the laws; and it seems to me that one great inducement would be that the Government had not taken away from the masses of the people the right of their children to inherit their lands, or their own right, if they lay down their arms and comply with such amnesty as the Government may deem it wise to offer, to buy back cheaply the life-estate which they have lost. If we forfeit the lands of the masses of the people forever, if we make the law such that the courts hold that the lands are sold to purchasers forever, do we not put the Government in a position where they cannot hold out, not to the leading instigators and actors in the rebellion, but to the great masses of the people of the South, the inducement which I think it would be wise to hold out to them to induce them to desert those leaders and to come back to the old Government, under which we must hope at least to bring the great mass of them; because no man, I take it, desires to exterminate the great mass of that people? Sir, let me suggest again that if we attempt to sell these lands in fee, if we leave the law in such shape that the courts will be enabled so to construe it—though I do not think they rightfully can, or that they ultimately will—you will have the rights of purchasers intervening to embarrass the Federal Government in any scheme of amnesty which they may think wise and proper to hold forth to the masses of the people of the South for the purpose of establishing proper relations between them and the Government under the Constitution; to embarrass the Government in its efforts to restore its civil authority after we have overthrown the armed rebels and brought to punishment the leaders who have instigated and acted in this attack on the authority of the Government.

I trust for these reasons, which I have not attempted to argue, but merely to state briefly, the House will not pass this resolution, or at least they will allow us to have it printed and referred to the Committee of the Whole on the state of the Union, so that gentlemen may examine it carefully, for believe me we are all deeply interested, both for the present and for the future, in acting wisely and prudently in reference to this matter.

If it is in order, and if the chairman of the Committee on the Judiciary will permit me, I will move or will ask him to move that the resolution be printed and postponed to some future day for consideration, or that it be referred to the Committee of the Whole on the state of the Union, where there will be no disposition to oppose or

discuss it factiously, but where gentlemen will have the means of looking into the matter and of deciding whether it is wise to change the law, which now inflicts as a part of the punishment for treason forfeiture of estate for life. I believe that is all that we can constitutionally do, and therefore I am not in favor of amending the law as it now stands, which is clear, so as to leave it doubtful and open to legal construction.

Mr. WILSON. I understand that there are some other members of the Committee on the Judiciary who desire to be heard upon this proposition, and I certainly have no desire to press it unreasonably upon the House. I will therefore move to recommit the joint resolution to the Committee on the Judiciary. That will admit of general discussion on the resolution. Let the discussion proceed during the present morning hour, and then let it pass over as unfinished business to be taken up in future. That will enable gentlemen to examine the resolution, and also to express such views as they may desire to present to the House. I submit the motion to recommit, and I also move that the joint resolution be printed.

The motion to print was agreed to.

Mr. STEVENS. I have drawn an amendment in the nature of a substitute for the resolution, which I propose to offer whenever it shall be in order under the rules. I ask that it be read and printed.

Mr. STEVENS's proposed amendment was read, as follows:

Resolved by the Senate and House of Representatives, That the joint resolution passed July 17, 1863, and the joint resolution explanatory of an act to suppress rebellion, be, and the same are hereby, approved.

Mr. ORTH. Mr. Speaker, treason is the highest crime known to law, whether considered in its moral or its social aspect. The man who willingly betrays his country or conspires its destruction is justly regarded, and ever has been, as guilty of a turpitude, a baseness, and a moral obliquity without a parallel in the history of human depravity or in the calendar of crime. The violator of private friendship is regarded as a perfidious man, and justly stamped with the mark of opprobrium, while he who strives to break up the foundations of society, to overturn the established institutions of his country, to rupture every tie held dear by man, has in all ages been regarded as an enemy of his race, whose extirpation is demanded by every sentiment of humanity, by every instinct of self-preservation, and by the inexorable logic of social existence. Morally, the traitor in his mad career breaks every bond of a well-regulated restraint and opens upon community the floodgates of vice, dishonesty, fraud, violence, and injustice. He diffuses a malaria into the moral atmosphere, and defies the laws of God with the same ruthlessness with which he endeavors to abrogate the laws of man. In his presence virtue stands abashed, and vice in all its hideous deformity rules the hours. His object is to destroy the foundations of society, and with these every vestige of whatever is of good report. Feeling his own abasement, his aim is to drag to his level all who by the practice of honorable virtues and upright walk and conversation have incurred his envy and his malice. Politically, he is endeavoring to rend the ligaments of social existence which men have formed for their mutual benefit and protection, to upturn the civil institutions of the land ordained for the guardianship and safety of life, of person, and of property, and to destroy that Government which has preserved him, his property, and his family, and extended its blessings to all within the folds of its jurisdiction. He is seeking to destroy the avenues of trade and commerce, to obstruct the due administration of justice, to close the shop of the artisan and stop the farmer in the cultivation of the soil, to light the torch of civil war and rebellion, to array brother against brother in bloody hostility, and fill the land with widows, with orphans, with bankruptcy, with poverty, and universal desolation and destruction.

Men so base and so wicked have, in all ages and in all countries, been held and treated as public enemies, and the highest punishment inflicted upon them. The law of self-defense, applicable as well to nations as to individuals, requires that the offender who thus strikes at the existence of the nation should be removed from society by the infliction of the death penalty, or subjected to such

other punishments by way of example as may be necessary to vindicate national dignity and deter others from the commission of the same offense. "The traitor shall die" is plainly written upon the statute-book of every civilized or semi-civilized nation of modern or ancient times; and the question of proper punishment to traitors now forces itself upon the American legislator in view of that terrible rebellion which is at this time convulsing our land and filling it with blood.

In the proper discharge of this duty it becomes us to look into the judicial history of that country whence we have drawn our system of laws; to examine the law of treason; to observe its changes and the reason thereof; to examine the philosophy of punishments denounced from time to time against the traitor; and deduce therefrom the law of treason in our own country, and the power to punish conferred upon Congress by the Constitution.

The law of treason in England was first definitely enacted and authoritatively settled by act of Parliament in the reign of King Edward III, commonly known as the statute of 25 Edward III. The immediate origin of this statute was in the fact that prior thereto

"The king's justices in different counties adjudged men indicted before them to be traitors for divers matters not known by the Commons to be treasonable."—*Hallam*, 3, p. 204.

By this statute the subject was for the first time informed of the acts which should thereafter constitute the crime of treason, and he was no longer at the mercy of imbecile or corrupt judges, who could by arbitrary construction decide each case of alleged treason by the particular circumstances attending it; for it has been well said that

"No people can enjoy a free constitution unless an adequate security is furnished by their laws against the discretion of their judges."

The punishment of traitors at common law, so far as related to the person, we are informed by Blackstone, was—

1. That the offender be drawn to the gallows, and not be carried or walk.
2. That he be hanged by the neck and then cut down alive.
3. That his entrails be taken out and burned while he is yet alive.
4. That his head be cut off.
5. That his body be divided into four parts.
6. That his head and quarters be at the king's disposal.

This punishment to us seems like a refinement of cruelty to the culprit, but serves to show the detestation with which the crime was viewed in that early age of the British constitution by those who felt and appreciated good order in society, and were determined to punish those who sought its destruction.

But the common law did not stop here in its punishment. The conviction of the traitor was followed by *attainder*.

Attainder was the immediate and inseparable consequence of a sentence of death. Being pronounced a monster and a bane to human society, he became *attaint*, "stained," or "blackened." He lost his civil rights, had no credit or reputation, could not be a witness, was, in fact, regarded as already dead in law.

The legal consequences of attainder, the incidents attached thereto and inseparable therefrom, were *corruption of blood* and *forfeiture of estate*.

A person attainted could not inherit lands from his ancestor, nor transmit them to his posterity, and hence, as in the failure of issue to take the inheritance, it reverted or escheated to the lord of the fee. This doctrine was in deference to the behests (if I may use the expression) of the feudal system. By that grand military system, so long and so extensively prevalent in England and on the Continent, the land was claimed in fee by the superior lord, and by him granted to favorites on the condition principally of rendering military service and promising fealty, faith, loyalty to the lord from whom the fief was holden. As a natural and necessary consequence, when the tenant became unfaithful, or rebelled against the lord, and thus was found guilty of treason, the tenure by which he held his possession was violated, the condition was broken, and the land escheated to the lord, to be again granted to some one who should be a more faithful and obedient follower.

In process of time, however, as feudal tenures

passed away, giving place to more liberal and enlightened notions of government, and assuring to the people at large a recognition of their manhood and of their rights, the doctrine of the corruption of blood upon attainder became modified, and in the reigns of Elizabeth and William III the Parliament enacted statutes limiting and confining it to the higher grades of crime. And at a later period, several years after the adoption of our own Constitution, by the statute of 54 George III, corruption of blood was abolished in all cases except murder and high treason.

Forfeiture of estate was the other incident following the judgment of attainder, and this incident of attainder still continues to be the law in England. It is founded, we are told by Blackstone,

"Upon the consideration that he who hath violated the fundamental principles of government and broken his part of the original contract between king and people, hath abandoned his connections with society, and hath no longer any right to those advantages which before belonged to him purely as a member of the community; among which social advantages the right of transferring and transmitting property to others is one of the chief."

The reason upon which this doctrine of forfeiture is founded is one which produces conviction to every mind. Men enter into a state of society for mutual benefit and protection. The right to own, transfer, and transmit property is not a natural but a social right. It is conferred upon the individual by the rules and regulations of society, made and altered from time to time as exigency may require. In a state of nature I can use the horse so long as he remains in my actual possession, and I can only retain such possession by the arm of force against the intruder who desires to wrest him from me. In a state of society my right to the horse is recognized and enforced by the laws of the land, and my right to use, possess, transfer, or transmit him is guaranteed by the same laws, which will come to my relief whenever my right is invaded or threatened by another. So with the right to all property. I do not mean the mere right of temporary possession, but the absolute right as against all the world. It is wholly created, regulated, and preserved by the laws of society.

In return for the enjoyment and protection of these rights, I owe corresponding duties to society, the highest of which is allegiance, fealty, loyalty. Whenever I become derelict in my duty as a member of society, and especially when I endeavor to break its very bonds and upturn the foundations on which it rests, I violate my implied compact as a member, and forfeit all claim to the rights which it has conferred upon and guaranteed to me. Not only my life but every vestige of my property is at the disposal of that government which I intended to destroy, and that government owes it to itself, to the loyal members thereof, in punishment of my crime, to remove me by the death penalty, and to take from me that property which was only mine because the government had so decreed on condition of my loyalty.

This doctrine of forfeiture is not the creature of the feudal system. It existed long prior thereto, and is traced by lawyers to the usages and customs of the Scandinavians. I doubt not it existed and was exercised in the very earliest attempts of man to establish systems of civil government, because it is founded upon principles of reason and of natural justice. It was recognized and enforced in the very infancy of English jurisprudence, and although it has in the mutations of time and the advancing progress of the science of law undergone many changes and modifications, yet the principle remains to-day an essential part and element of criminal jurisprudence in every enlightened and civilized nation.

In England, at the time of the adoption of our Constitution, real estate was forfeited upon attainder while personal estate was forfeited by conviction. The forfeiture of lands had relation back to the time the act causing the forfeiture was committed, and the offender could not alienate or incur the same to the prejudice of the king, while in reference to personal property the offender could, at any time prior to conviction, sell or otherwise dispose of the same.

Bills of attainder are likewise known to British history. They are such special acts of the legislature as inflict capital punishment upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. (3 Story on Constitution, p. 209.) And the most eminent

of English lawyers have held that so transcendent and unlimited are the legislative powers of the British Parliament that they had the power to attain a man after his death, and this power was frequently exercised by Parliament. The history of England, especially during the stormy times of rebellion, or when the Parliament was but the reflex of the whims and caprices of some petty malignant tyrant who for the time being occupied the throne, is full of these revolting spectacles where the supposed offender, after he had gone to his last account, was exhumed, as it were, from his grave, and by the omnipotent fiat of Parliament declared guilty of crimes with which he was not confronted or even accused during life. The stain was placed upon his memory, the blood was corrupted, and his innocent posterity robbed of that inheritance which by the laws of the realm had descended to and vested in them as the lawful descendants of their ancestor. A doctrine so monstrous in its iniquity, so revolting to every sense of right and justice, could, of course, find no toleration among a people who loved a free government, and hence we find among the prominent clauses of our Constitution that which declares, "No bill of attainder or *ex post facto* law shall be passed."

With this brief and to me (for want of sufficient time) unsatisfactory sketch of the prominent features of the law of treason in Great Britain, whence we derive the bulk of our civil jurisprudence, we come now to examine the law-making power of Congress over the subject, and the penalties which it is authorized to prescribe for the punishment of treason. The framers of the Constitution were fully cognizant of the early history of England in this respect, and, desiring to avoid the difficulties and dangers resulting from vague, indefinite, and frequently corrupt and designing constructions of what acts should constitute this great crime, wisely declared that

"Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort."

On this subject, the definition of the crime of treason, which so long perplexed the people and the statesmen of England, we have no difficulty or trouble. The organic law of the land has declared to every citizen what acts he may commit with impunity and what acts, if committed, will call down upon his guilty head the severe penalty for his crime.

The same section of the Constitution, article three, section three, which defines the crime of treason, provides that

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attained."

Here the power is expressly given to Congress to punish the crime of treason; but I presume no lawyer would doubt for a moment, in the absence of this constitutional provision, that Congress, as the law-making branch of the nation, possessed this power of providing punishment without any express grant of the power.

Some object or purpose was then intended by the framers for thus inserting this part of the section, and that object unquestionably was, not to circumscribe the authority of Congress in providing punishment, but to limit and restrict the consequences of attainder which, at common law, followed the sentence of death or outlawry. Our fathers were jealous of political rights and privileges; they recognized to its fullest extent the doctrine of conferring upon the citizen the largest liberty compatible with the safety of society; they had but recently severed their connections with the mother country, and, in the organization of a Government for themselves and their posterity, their principal aim was to secure the rights of the individual against the tyranny of the sovereign and the caprices or corruptions of the legislature. Viewed in this light, and it is the light of reason, of history, of experience, the adoption of that section by the Convention is most natural. Not that they supposed for a single moment that without it Congress would not possess the power of providing punishment for this crime, but while expressly granting to Congress this power they at the same time limited the common-law effect of a judgment of attainder, and surrounded it by restrictions which they considered necessary for the safety of the citizen, and to secure him from the infliction of those barbarous and inhuman pun-

ishments which had characterized and for ages disgraced the criminal history of England.

The whole question, then, of the extent of our power to provide a punishment for treason which in our judgment shall be adequate to the suppression of the crime, rests upon the construction to be given to the limitation in the clause referred to. The words of limitation are, "but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attained."

This language has as yet in our history received no authoritative judicial construction; and hence we can adopt for our guidance the rule laid down by the Supreme Court in the case of *Gibbons vs. Ogden*, 9 Wheaton, p. 209:

"As men whose intentions require no concealment generally employ the words which most directly and apply express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they said."

To ascertain the true intent of the framers, the student naturally turns in the first instance to their recorded views at the time of their action, if such be accessible, in order to throw light upon subjects of doubtful construction, or about the true meaning of which men may honestly differ in opinion. In examining, however, Eliot's Debates of the Convention, we find nothing to aid us in the solution, and the same may be said of Madison's Papers. Either the matter was not the subject of debate, or, if so, it was regarded as not of sufficient importance to merit permanent preservation.

To prosecute further inquiry we consult contemporaneous exposition and the views of commentators whose learning, research, and ability command attention. Those able political essays, published during the time of the adoption of the Constitution by the several States, and denominated "the Federalist," although full of political wisdom and a true knowledge of the science of government, fail to throw any light whatever upon this subject. However desirable it would have been to the student of constitutional history to have had the aid and assistance of those who were, doubtless, familiar with the views of the members of the Convention, yet these are now vain regrets, and we are left unaided by contemporaneous exposition to investigate and conclude each one for himself.

Does Congress, then, under the Constitution, possess the power to punish treason by the absolute forfeiture of the property of the traitor? After a careful review of the question, with an examination of such authorities and discussions as were within my reach, I have no hesitation in answering the question in the affirmative. Whether I shall be able to convince any one but myself of the truth of my position may probably be my fault.

Rawle, in his able treatise on the Constitution, in commenting upon the third section of the third article, says:

"In respect to the forfeiture, the meaning seems"—

Mark the word "seems"—

"to be that Congress shall not impose a forfeiture beyond the term of the offender's life, but it may be abolished altogether; and in this sense it has been understood and acted on in the laws;"

referring to the act for the punishment of treason passed in the year 1790.

He disposes of the question in half a dozen lines, but the language employed by him, and the exceeding short space in his treatise devoted to the subject, justify us in arriving at two conclusions: firstly, that the question did not then attract general attention or call for any special investigation, and at that time more practical and pressing portions of our political system only were reviewed; secondly, that even in the cursory mode in which he mentions the matter, he does it with a doubt upon his mind, saying that "the meaning seems to be," &c. No one need be at a loss as to the weight to be attached to an authority coming to us as this does, however learned and able the author may be in other respects.

Story, volume three, page 172, comments upon the terms "corruption of blood" and "forfeiture of estate" jointly, and in the same connection; and after dwelling at some length upon the severity of such punishments and the gross injustice it inflicts upon innocent offspring by corruption of blood, remarks that—

"Upon these and similar grounds it may be presumed that

the clause was first introduced into the original draft of the Constitution; and, after some amendments, it was adopted without any apparent resistance."

Curtis, the most recent as well as one of the most able commentators, volume two, page 387, merely states that

"The punishment of treason was left to Congress, with the limitation, however, that no attainder of treason shall work corruption of blood or forfeiture," &c.

These are the views, they can hardly be denominated authoritative views, of our writers on constitutional law; and I submit that, being all somewhat cursory in their character, and exceedingly limited in their discussion of the question, they cannot be regarded with much weight, at least not sufficiently so as to deter further examination.

The first law on this subject passed by Congress was in 1790, and after declaring the punishment of death against the traitor, provides, "no conviction or judgment shall work corruption of blood or forfeiture of estate." No argument against my position can be legitimately drawn from this act of Congress. It was passed in the very infancy of our Government, when purity and patriotism were the ruling virtues of official and private life; when love of country and enthusiastic devotion to our institutions were pure and unalloyed, and men vied with each other only to perfect, to strengthen, to perpetuate the Government which had cost so much of sacrifice, of suffering, of endurance. Congress was satisfied at that time with the declaration of the death penalty without resort to fines or forfeitures as an additional punishment, and in doing so merely refrained from exercising to its full extent the power of punishment which the Constitution has conferred.

The language of this section, we must remember, is, "but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attained." If the Constitution had intended to prohibit corruption of blood or forfeiture altogether, why add the words "except during the life of the person attained?" Had these latter words been omitted the restriction would have been absolute, and Congress could not, by any punishment whatever, have deprived the person attained of any property for even a single day or hour. But these words, "except during the life of the person attained," are part of the Constitution; and shall we be driven, in their construction, to the absurd position that such forfeiture shall only extend to the lifetime of the traitor and then cease? Did our Constitution, else so redolent with wisdom and statesmanship, intend to provide for such a farce as that the property of the traitor should be forfeited to the Government only for that brief space of time which should intervene between the day of sentence and the day of execution? Is it rational or logical to suppose that such a construction of this section, where the forfeiture at best would probably be from thirty to ninety or one hundred and twenty days, could in any just sense of the term be called a punishment? Can it be supposed that the Constitution intended to regard the high and damning crime of treason with more lenity than the criminal code regards the comparatively insignificant crime of horse-stealing or petit larceny? In the latter case, by the common consent of all mankind you inflict imprisonment, fine, and forfeiture, and affix thereby a brand of infamy upon the culprit which, like the mark of Cain, is forever upon his brow; while the traitor, guilty of every crime known to the decalogue, and more too, remains undisturbed in his possessions. He who commits a single murder forfeits his life to the commonwealth, and such of his property, by way of fine, as the judgment may impose; and yet he who by his treason commits a thousand murders shall be exempt from any practical forfeiture.

If you cannot by forfeiture deprive the traitor of his property, how can you collect any fine which may be assessed against him? Forfeiture is a method of alienating property, and by the act of the last Congress you authorized a fine to be assessed against the traitor of not less than \$10,000. This fine becomes a judgment of court, and a lien upon the real estate of the culprit, and the same judgment also denounces the sentence of death. A warrant issues to the officer to carry into effect the sentence of death, and a writ of *fiat facias* to collect the fine by seizure and sale of the real and

personal estate. Both writs are in process of execution at the same time. With the one the officer makes a levy on the real and personal estate and gives notice of the day of sale; by virtue of the other he purchases a rope and erects a scaffold. The defendant is to be hung in thirty days after sentence, but the sale cannot be had without giving, say forty days' notice of the time and place. The traitor is hung, life becomes extinct, the attending physician pronounces him dead; and the opposite construction of the Constitution pronounces the writ of *fieri facias* also defunct and the forfeiture a nullity. For, they say, you can only forfeit, take, alienate the estate for the period of his life, and if you proceed to sell property by virtue of the *fieri facias*, you sell, alienate, convey the fee simple thereof, and to do this would be, in the opposite view, a violation of the Constitution.

Absurd and ridiculous as such a conclusion is, it is the legitimate result of a contrary construction of this section of the Constitution.

What, then, is the fair import of these words, "except during the life of the person attainted?" To my mind they will admit of but a single rational interpretation, and that is that there shall be no forfeiture after the death of the person attainted. In other words, the judgment of the court shall be rendered against him while he is alive, after he has had a fair trial, with opportunity to confront his accusers, meet them face to face, and combat their accusations. That after his death, whether according to the course of nature or by process of law, no judgment or sentence shall be had the effect of which shall be to forfeit his estate, unless that judgment shall be final and irrevocable prior to his death. If I were disposed to indulge in mere verbal criticism I might animadvert upon the word "except" used in that section. The science of philology is progressive, and the same words, in different ages and times, may be used to mean dissimilar things, or designate dissimilar objects. Change is a law of nature irrevocably stamped upon everything, animate or inanimate, and pertains to every department of human knowledge. The word "except," we are told by lexicographers, is equivalent to the word "unless," and a century ago, as reference to the writers of that age will show, was used almost exclusively in the same sense as we now use the word "unless." Numerous instances of this are found in the Holy Bible, where the word "except" is used in sentences in which at the present day we should invariably use the word "unless;" thus:

"Except the Lord build the house, they labor in vain that build it."

"Except the Lord of Hosts had left unto us a very small remnant we should have been as Sodom."

"Can two walk together, except they be agreed?"

"Except a man be born again, he cannot see the kingdom of God."

"Except ye repent, ye shall all likewise perish."

In all these instances, and they could be multiplied almost *ad infinitum* from writings of that age, both sacred and profane, the word "except" is used in the sense in which we of the present day would use the equivalent word "unless."

Now, then, let us, in further illustration of my position, substitute the word "unless" for the word "except" in the clause under consideration. It will then read:

"But no attainder of treason shall work corruption of blood or forfeiture, unless during the life of the person attainted."

Unless what or when? The attainder shall not work forfeiture unless it be worked, completed, during the lifetime. If the prisoner die after verdict of guilty and before judgment, there can be no forfeiture. If the prisoner die after sentence of death and before judgment of forfeiture, there can be no forfeiture. If the prisoner be executed after sentence of death and before judgment of forfeiture is entered, there can be no forfeiture. The sentence of death and the judgment of forfeiture are not necessarily simultaneous acts. They may be rendered separately, on separate days, if you please, and the right is thus reserved to the prisoner to move in arrest of the judgment of forfeiture even after sentence of death is passed upon him; for the criminal law holds the rights of the prisoner in such regard that it will take no step against him in any of the stages of trial, from arrest to final execution, without giving him an opportunity of being heard in his defense.

In further support of my position, let me advert

to the fact that in England, long prior to and at the adoption of our Constitution, attainder of treason after the death of the supposed traitor (I mean his natural death before trial or even accusation) was of frequent occurrence. This was a monstrous doctrine, shocking to every principle of justice upon which the criminal code is founded, to accuse a man of crime after death, when none is to speak for his innocence, to proceed to trial and judgment, to wrest from innocent hands that property which by law upon his death descended to and vested in his heirs, and forfeit their property, not his property, to the Government for his supposed criminal conduct. Is it not more just and reasonable to suppose that the Constitution intended to embrace and provide against this monstrous perversion of natural justice than that they intended so absurd a proposition as that the forfeiture of estate should only be for that brief period of time between sentence of death and its execution?

The Constitution, in conferring upon Congress the "power to declare the punishment of treason," when the civilized world at that time punished treason by death, certainly meant to confer upon Congress the power to declare the death penalty as part of the punishment. Congress exercised this power at a very early period in our history by declaring the death penalty, and no man has ever doubted the power of Congress in this respect. Can it then be inferred that the Constitution had a more tender regard for the property of a traitor than for his life? And yet such would be the result if a contrary doctrine prevailed.

So much for the legal view of the question, the right of Congress to provide for the absolute forfeiture of the traitor's property, as was done by the act of Congress of July 17, 1862. That act was however restricted (in deference to the opinion then entertained by many persons both in and out of Congress) by an explanatory joint resolution passed on the same day.

The object of the bill now under consideration, just reported from the Judiciary Committee, is to "explain" said explanatory resolution, and leave the law stand as it does by the act of last session. I am in favor of doing this, but I prefer doing it directly, as provided by the amendment I have offered to the bill of the committee, by a simple repeal of the explanatory resolution.

I ask the attention of the House for a few moments to some observations as to the propriety of a law making forfeiture absolute. We are told that taking the property of the traitor and placing its proceeds in the national Treasury, is a robbery of his innocent offspring, and a visiting of the sins of the father upon his children. Even if this were so, it would be but a just fulfillment of the scriptural denunciation against the wicked; for we are told that the sins of the father (and I am inclined to think that this includes treason) are visited upon the children even unto the third and fourth generation.

But I deny the proposition. You cannot take from one that which he hath not. You cannot rob one who is not possessed of anything. I propose to take from the traitor his property before his death, and before it can descend to and vest in his heirs. The child has no natural right to the property of the father. Even in society the child cannot demand as a social right the possession of his father's estate. The father, during his lifetime, can alienate his property by deed of conveyance or by will to take effect at his death, and he can by either process totally disinherit his children, and grant his estate to strangers. It is only in a certain contingency that the child obtains possession of the father's property, as where he dies intestate, and this right of inheritance is purely a social right, depending upon express legislation or immemorial usage ripened into the validity and sanctity of express law. Society has the right without crime to take to itself the property of any of its members upon his death, and hence we have what is denominated "collateral inheritance tax," by which in many States the sovereign on failure of direct issue takes to himself a certain portion of the inheritance. The right of a State to take from the collateral heir implies the equal right to take from the direct heir, and if it can take a part, it can, upon the same principle, take the whole. If the State can do so in the absence of crime, there is the greater reason why it can do so for the punishment of crime, and especially so where that crime is one that

strikes at the very existence of social institutions which alone have protected the individual in the acquisition and enjoyment of that property.

While I should oppose the enactment of laws which would inflict cruel, harsh, or unjust punishment upon offenders, yet we must not lose sight of the object of penal statutes. Society owes it to itself to inflict such punishment as is adequate to the enormity of the offense, and at the same time serve as a wholesome terror to evil-doers; and it is equally the duty of society to enact, modify, or change their penal code as the exigency of the occasion may demand.

We are in the midst of a terrible rebellion. From the sturdy blows of organized treason this nation is to-day reeling and staggering like a drunken man. The times demand of patriotism the exercise of every virtue, of every duty, in crushing this rebellion and punishing its guilty authors. While the soldier has left his home and the comforts and endearments of his hearthstone to confront the armed traitor on the field of battle, while he is enduring all the privations of a soldier's life, undergoing the fatigues of a soldier's duties, to preserve the Constitution of the country and its liberties and its blessings, our duty in these halls is to strengthen the arm of that patriotic soldier, to cheer, to succor, to aid and encourage him, and by the exercise of every constitutional power assist in dethroning treason and to mete out proper punishment to traitors.

BUSINESS ON SPEAKER'S TABLE.

Mr. WASHBURNE, of Illinois. I move that the House do now proceed to the business on the Speaker's table.

The motion was agreed to.

DEFICIENCY APPROPRIATIONS.

The joint resolution (S. No. 15) amendatory of the joint resolution to supply in part deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriation for bounties to volunteers, was taken from the Speaker's table.

Mr. STEVENS. I move that the joint resolution be referred to the Committee of Ways and Means.

The motion was agreed to.

PENNSYLVANIA WAR EXPENSES.

Mr. GANSON, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Whereas a bill entitled "A bill to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion" is now pending before this House, and there is nothing accompanying the said bill showing the character of the said expenses; and whereas the said expenses have been audited by the Second Auditor: Therefore,

Resolved, That the Second Auditor be, and he is hereby, required to report to this House what the character of such expenses is, whether the militia referred to in the said bill was called out by the Governor of Pennsylvania, whether they were mustered into the service of the United States, and under authority of what law the said expenses were audited by him.

ARMY RETURNS.

Mr. ARNOLD asked unanimous consent to introduce the following resolution:

Resolved, That the Secretary of War be directed to furnish this House with a statement of the number of men called into the military service of the United States since March, 1861; the quota of each State under each call; the number furnished and also the number tendered under each call; the length of time for which they were accepted; what State or States furnished an excess over its quota; also what State or States did not furnish its quota, and the number deficient.

The SPEAKER. This being a call for information, the resolution will lie over, under the rules, for one day, unless there be unanimous consent.

Mr. STEVENS. I must ask that the resolution do lie over. I beg leave to suggest to the gentleman from Illinois whether the information called for is not of altogether too extensive a character.

Mr. ARNOLD. We want the information called for in order to enable us to act on the enrollment bill. I have no objection to the resolution lying over for a day.

Mr. STEVENS. I ask that it be laid over.

The resolution was, under the rule, laid over.

PROVOST MARSHALS.

Mr. COFFROTH, by unanimous consent, introduced a bill to amend the act commonly known as the conscription act, to compel the provost mar-

shals to hold their examinations in each county town of the district; which was read a first and second time.

Mr. COFFROTH. I move that the rules be suspended, so that the bill may be put upon its passage.

The SPEAKER. The motion to suspend the rules is only in order on Mondays.

Mr. KELLOGG, of Michigan. I move that the bill be referred to the Committee on Military Affairs.

The motion was agreed to.

MILITARY SERVICE.

Mr. A. MYERS, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be requested to inquire into and report upon the expediency of so amending the act enrolling and calling out the national forces, &c., as to make the term of service of drafted persons one year, and leaving the commutation clause as it is, but appropriating the money arising therefrom in part for the procurement of substitutes, and in part to pay bounties to drafted men, or to the families of such as enter the service.

PENNSYLVANIA WAR EXPENSES—AGAIN.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair will state that, in accordance with the Digest, the first business in order in Committee of the Whole on the state of the Union will be the unfinished business of yesterday—the bill to reimburse the State of Pennsylvania—but it will lose its place as a special order, it having been only made the special order for one day.

Mr. COX. I hope the gentleman from Illinois will withdraw his motion.

Mr. WASHBURNE, of Illinois. For what purpose?

Mr. COX. If we go into committee will not the Pennsylvania matter come up?

The SPEAKER. It will come up as unfinished business, but will not be a special order.

Mr. WASHBURNE, of Illinois. The gentleman can make a speech on any subject he likes.

Mr. COX. If the gentleman from Illinois wants to debate General Grant or anything of that kind, I have no objection.

Mr. STEVENS. I should like to move to postpone for some time to come the bill to reimburse the State of Pennsylvania.

The SPEAKER. The bill is not before the House, and no motion can be made in reference to it.

Mr. STEVENS. I am aware of that, sir.

The SPEAKER. The gentleman can ask unanimous consent of the House.

Mr. STEVENS. Then I ask unanimous consent of the House to have the further consideration of that bill postponed for some time. The discussion yesterday was not calculated to be of any benefit to the country, and I do not desire it to be resumed at present.

The SPEAKER. To what time does the gentleman propose to postpone it?

Mr. STEVENS. To Tuesday, January 26, at two o'clock.

Mr. WASHBURNE, of Illinois. The information called for by the resolution of the gentleman from New York [Mr. GANSON] will be ready at that time.

There being no objection, the further consideration of the bill was postponed till next Wednesday, at two o'clock.

TREATY WITH THE KICKAPOOS.

Mr. LOAN asked unanimous consent to offer the following resolution:

Resolved, That the Secretary of the Department of the Interior be, and he is hereby, directed to furnish to this House a copy of the late treaty made on behalf of the United States by Major Keith, agent for the Kickapoo Indians, with said Indians for the cession of their reservation, or any part thereof, in the northeastern part of Kansas; and also copies of all evidence filed in said Department tending to show fraud or any unfairness in the procurement of, or in the execution of, said treaty, and copies of all other documents and papers relating thereto now on file in said Department.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed a concurrent resolution

for the appointment of a joint committee of three members of the Senate and four of the House to inquire into the conduct and expenditures of the present war, with power to send for persons and papers, to sit during the sessions of either House, and to employ a stenographer; in which he was directed to ask the concurrence of the House.

TREATY WITH THE KICKAPOOS—AGAIN.

Mr. WASHBURNE, of Illinois. Before voting for the resolution introduced by the gentleman from Missouri, [Mr. LOAN,] I desire to have some information in reference to the treaty referred to. Unless the treaty has been sent to the Senate and become public by ratification, it seems to me to be improper to call on the Secretary of the Interior for this information.

Mr. LOAN. The treaty was ratified at the last session of the Senate; but on evidence furnished to the Secretary of the Interior, its operation has been suspended. The whole matter is now held in suspense.

Mr. WASHBURNE, of Illinois. If the gentleman will amend his resolution so as to provide that the information called for shall be furnished if not incompatible with the public interest I will not object to its adoption.

Mr. LOAN. I agree to that modification of my resolution.

The resolution, as amended, was adopted.

PACIFIC RAILROAD.

Mr. LOAN. I ask unanimous consent to submit a resolution to instruct the committee on the Pacific railroad to report an amendment to the thirteenth section of "An act for the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean," &c., approved July 1, 1862.

Mr. STEVENS. I will not object if the resolution is so amended as to provide that the select committee shall be requested to inquire into the expediency of amending the law referred to.

Mr. LOAN. I accept the amendment as a modification of my resolution.

The resolution, as amended, was adopted.

GENERAL McCLELLAN'S REPORT.

Mr. BALDWIN, of Massachusetts. I am instructed by the Committee on Printing to report the following resolution; and on its adoption I demand the previous question:

Resolved, That ten thousand copies of the official report of Major General McClellan, not including the accompanying documents, be printed for the use of the members of the present House.

Mr. WASHBURNE, of Illinois. I would like to ask a question of the gentleman from Massachusetts, if he will withdraw the demand for the previous question.

Mr. BALDWIN, of Massachusetts. I withdraw the demand for the previous question.

Mr. WASHBURNE, of Illinois. The House referred to the Committee on Printing a resolution for the printing of ten thousand copies of the reports of Major General Grant. Has the committee acted on that resolution?

Mr. BALDWIN, of Massachusetts. They have directed me to report it back with the recommendation that it do pass.

Mr. WASHBURNE, of Illinois. I ask the gentleman again, what is the probable number of pages of the reports of Major General McClellan; and what the probable number of pages of the reports of Major General Grant? If those reports are not too large, I would like to have them published in one volume. They may, I think, be printed and bound together.

Mr. COX. I can answer that question. The report of Major General McClellan will make a book about the size of General Pope's report, which we ordered to be printed to the number of ten thousand copies at the last session of Congress. It would not do to have McClellan and Grant together.

Mr. WASHBURNE, of Illinois. If that be the case, if the official reports of both those officers are not too long, I think that they had better be published in one volume. I therefore move that ten thousand copies of the reports of Generals Grant and McClellan be printed in one volume for the use of the members of this House. I move that as a substitute for the gentleman's resolution.

Mr. BALDWIN, of Massachusetts. Mr. Speaker, I understand that General McClellan's

report will make about three hundred pages, and that the reports of General Grant will make a less number of pages. The committee instructed me to report the resolution as it is, or I would be in favor of the amendment of the gentleman from Illinois.

Mr. BRANDEGEE. I regret that the gentleman from Illinois has put General Grant in association with General McClellan.

Mr. COX. That is an insinuation unworthy of a member of this House. I wish to say to my friend from Illinois that the report of General McClellan, as provided by the resolution pending, will make a convenient book for distribution. It is of the proper size. To put both together they will make an unwieldy book.

Mr. WASHBURNE, of Illinois. If the gentleman from Ohio does not desire that the reports of General Grant should be published in the same volume with that of General McClellan, I will not insist on it. If he prefers that the latter shall go by itself, I will withdraw my amendment.

Mr. BALDWIN, of Massachusetts. I demand the previous question.

The previous question was seconded, and the main question ordered to be now put.

Mr. STEVENS. I think that five thousand copies are enough.

Mr. COX. I think not.

Mr. STEVENS. The printing for this year foots up \$560,000.

Mr. BALDWIN, of Massachusetts. I cannot agree to the suggestion of the gentleman from Pennsylvania, as the committee have instructed me to report the resolution as it stands.

Mr. COX. Ten thousand copies is the number of General Pope's report which we voted for last year. We intend to vote for the same number of the reports of General Grant. The people desire this report. Members receive hundreds of letters daily on the subject, and I think that we may as well distribute it in this way.

The resolution was adopted.

Mr. COX moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MAJOR GENERAL GRANT'S REPORTS.

Mr. BALDWIN, of Massachusetts, from the Committee on Printing, reported the following resolution; and on its adoption demanded the previous question:

Resolved, That ten thousand copies of the various official reports of Major General U. S. Grant during the war be printed for the use of the House.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BALDWIN, of Massachusetts, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

COLLECTION OF ABANDONED PROPERTY, ETC.

Mr. CLAY, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of amending or repealing the act entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," approved March 12, 1863; and that said committee be further instructed to inquire into the propriety of continuing or abolishing the present system of trade or commercial intercourse with and in States declared in insurrection, and more particularly in those States and districts bordering on and adjacent to the Mississippi river, and said committee be authorized to report by bill or otherwise.

THE ONE HUNDRED DOLLAR BOUNTY.

Mr. LONGYEAR, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Whereas by the provisions of section five of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, every volunteer non-commissioned officer, private, musician, and artificer, when honorably discharged, is entitled to a bounty of \$100, provided he shall have served for a period of two years or during the war; and whereas by operation of act of Congress and orders of the War Department consolidating regiments below the minimum strength a large number of non-commissioned officers were honorably discharged, but without any act or volition of their own, and before they had served the full period of two years, thus depriving them, without any fault on their part, of the said bounty of \$100, the

promise of which, it is fair to presume, was in part the consideration for their agreeing to enter the service; and whereas a large number of other volunteers under the said act have been honorably discharged before having served the full term of two years, in consequence of wounds and other disabilities contracted in the service: Therefore,

Resolved, That the Committee on Military Affairs are hereby instructed to inquire into the justice and expediency of granting the said bounty of \$100 to all such volunteers, under the said act of July 22, 1861, as have been discharged as above stated, and that said committee report by bill or otherwise.

LAND GRANTS.

Mr. McDOWELL, by unanimous consent, introduced the following bill; which was read a first and second time, and referred to the Committee on Territories:

A bill extending the time within which the States and Territories may accept the grant of lands made by the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any State or Territory may accept and shall be entitled to the benefits of the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, by expressing its acceptance thereof, as provided in said act, within two years from the date of the approval of this act, subject, however, to the conditions in said act contained.

Mr. SPALDING. I ask unanimous consent to make a report from one of the standing committees of this House.

A MEMBER called for the regular order of business.

CONFISCATED PROPERTY.

The SPEAKER. The regular order of business is the consideration of the joint resolution (H. R. No. 18) to amend a joint resolution explanatory of "An act to suppress insurrection, punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes;" and the pending question is the motion to recommit the resolution to the Committee on the Judiciary.

Mr. WILSON. I understand that other committees desire to make some reports to-day, and I therefore suggest that by unanimous consent this resolution lie over as unfinished business until to-morrow morning.

Mr. COX. I prefer that it be recommitted to the Committee on the Judiciary.

Mr. BROOKS. I object to its being postponed.

Mr. WILSON. As I cannot get unanimous consent, I move that it be postponed until to-morrow morning after the reading of the Journal.

The motion was agreed to.

The SPEAKER resumed, as the regular order of business, the calling of committees for reports.

RESTORATION OF CIVIL AUTHORITY.

On motion of Mr. WOODBRIDGE, it was

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the joint resolution (H. R. No. 7) concerning the restoration of the civil authority of certain States, and of the United States, within regions once under the control of the existing rebellion, and that the same be referred to the committee on the rebellious States.

NEW YORK CUSTOM-HOUSE.

Mr. HULBURD, from the Committee on Public Expenditures, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Expenditures, in their investigation of the alleged misconduct in the New York custom-house, as contemplated by the resolution of the date of the 11th instant, and in all other investigations which may come before them, be authorized to send for persons and papers.

CLAIMS OF JOHN J. BULOW, JR.

On motion of Mr. LOAN, it was

Ordered, That the Committee on Military Affairs be discharged from the further consideration of the papers in the case of the claim of John J. Bulow, jr., for relief from losses sustained in the Florida war, and that the same be referred to the Committee on Claims.

ARMORED VESSELS.

Mr. SPALDING. The Committee on Naval Affairs have instructed me to report back, with an amendment, the resolution introduced a few days since by the gentleman from Ohio [Mr. Nonro] touching armored vessels, with a recommendation that it be adopted.

The amendment was to add at the end of the resolution the following:

Provided, No call is here by intended to be made for in-

formation already transmitted by the Secretary of the Navy to Congress.

The amendment was agreed to.

The resolution, as amended, was then adopted.

STENOGRAPHER TO A COMMITTEE.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be, and they are hereby, authorized to employ a stenographer while conducting the investigation ordered by this House, at the usual price paid for reporting in the Daily Globe.

Mr. RICE, of Massachusetts, moved to reconsider the vote just taken, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

RAILROAD TO NEW YORK.

On motion of Mr. ARNOLD, the Committee on Roads and Canals was discharged from the further consideration of the petition of certain citizens of the city of New York in relation to railroad communication between that city and Washington, and the same was referred to the select committee on the subject.

BUREAU OF EMANCIPATION.

Mr. ELIOT, from the select committee on emancipation, reported back, with an amendment, bill of the House No. 51, to establish a Bureau of Emancipation.

Mr. HOLMAN. I call for the reading of the bill.

Mr. BROOKS. I would inquire of the gentleman from Massachusetts what he proposes to do with this bill to-day?

Mr. ELIOT. I will say, in answer to the inquiry of the gentleman from New York, that the majority of the committee have instructed me to report this bill. One member of the committee desires to submit a minority report. I ask that he have leave to make his report, and then that the reports be ordered to be printed, and the whole subject postponed for consideration until Wednesday next after the morning hour.

Mr. BROOKS. That is all right.

Mr. HOLMAN. With that understanding, I withdraw the call for the reading of the bill.

Mr. KALBFLEISCH. I ask that the minority report of the committee, which I propose to present, be printed also.

Mr. ELIOT. I move that both the reports be printed, and that the bill be postponed until Wednesday next, after the morning hour, and be made the special order for that time.

Mr. PENDLETON. I object to making it a special order.

Mr. ELIOT. Does it require unanimous consent to make it a special order?

The SPEAKER. It does, except by a two-third vote on Monday. With that exception, the gentleman's motion will be considered as agreed to, if there is no objection.

No objection was made.

CAPITOL OF NEW MEXICO.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of a bill to provide for the speedy completion of the capitol of the Territory of New Mexico, and the same was referred to the Committee on Territories.

NIAGARA FALLS CANAL.

Mr. SPALDING, by unanimous consent, and in pursuance of previous notice, introduced a bill to construct a ship canal round the falls of Niagara; which was read a first and second time by its title, and referred to the Committee on Roads and Canals.

SMALL-POX IN THE DISTRICT.

Mr. STEELE, of New York. I ask the unanimous consent of the House to make a statement in regard to the small-pox in this District. It will take but a minute.

No objection was made.

Mr. STEELE, of New York. A resolution was passed by the House a few days since instructing the Committee for the District of Columbia to make inquiries and report to the House in regard to the condition of this District with reference to the small-pox. The committee have had several meetings on the subject, and have investigated it to a very considerable extent. The chairman of

the committee, [Mr. LOVEJOY,] I understand, is at present absent in consequence of indisposition, and I desire to say to the House that I was one of a sub-committee appointed by the District Committee to examine into this matter, and I wish to state that there is no occasion for any unusual alarm in reference to the small-pox at this time in this District, and that the hospital accommodations provided by the General Government and by the city are ample.

Mr. KELLEY. I would inquire whether the investigations of the committee have satisfied the gentleman that the small-pox is not prevailing largely in this city?

Mr. STEELE, of New York. I will state in regard to that that there has been no time for several years past when the small-pox has not prevailed here more or less, but that there is no occasion now for unusual alarm on the subject, that extraordinary efforts are being made at this time to prevent its spread, and to take care of all those afflicted with the disease, and that the hospital accommodations appear to be ample for that purpose.

INCREASE OF PENSIONS.

Mr. BROWN, of West Virginia, by unanimous consent submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be directed to inquire into the expediency of increasing the pension of non-commissioned officers, musicians, and privates from eight to thirteen dollars per month, and that they report by bill or otherwise.

Mr. ARNOLD. I ask the unanimous consent of the House to introduce a resolution to which there will be no objection.

Mr. COX. I call for the regular order of business.

Mr. WASHBURN, of Illinois. I move that the House do now adjourn.

Mr. STEVENS. I think we had better go into Committee of the Whole for general debate.

Mr. WASHBURN, of Illinois. If any gentlemen desire to make speeches, I withdraw my motion.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVES in the chair,) and resumed the consideration of

THE PRESIDENT'S ANNUAL MESSAGE.

Mr. YEAMAN. Mr. Chairman, I desire to call the attention of Congress to a series of resolutions I submitted soon after we met here. As they were only read by their title, and referred to the Committee on the Judiciary, I will now have them read at the Clerk's table to bring them clearly to the minds of members.

The Clerk read, as follows:

Joint resolutions concerning the restoration of the civil authority of the United States and of certain States within regions once or now under the control of the existing rebellion.

Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, 1. That a combination of persons, in the name of a State, or an assumed confederation of States, for levying war against the United States, or for withdrawing such States from the Union, does not alter the legal character of the act done, nor excuse those engaged in it, nor does any such combination, levying of war, or attempted withdrawal amount to any destruction, forfeiture, or abdication of the right of those who at any time acknowledge allegiance and render obedience to the United States to administer, amend, or establish a State government.

2. That a formal return or readmission of any State to the Union is not necessary. It is sufficient that the people, or those who are loyal in any State, and qualified by the election laws thereof in force before the rebellion, shall at any time resume the functions of a State government compatible with the Union and with the Constitution and laws of the United States, and doing this is sufficient evidence of loyalty for the purpose of doing it.

3. That all questions touching property-rights and interests arising out of confiscation and emancipation, and the effect of any law, proclamation, military order, or emergency of war, or act of rebellion, upon the title to any property, or upon the status of any persons heretofore held to service or labor in any State, are left for the judicial determination of the courts of the United States.

4. That the whole power of the nation is pledged for the suppression of the rebellion, the execution of the laws, the defense of loyal citizens in any State, the territorial integrity of the Republic, and the nationality of the Constitution.

5. That nothing herein contained shall be construed to abridge or lessen any valid defense, or as waiving the right

of the Government to inflict punishment; the purpose being to declare the nullity of secession as a State ordinance, to define the objects of the war, and to express the sense of Congress as to the proper mode of restoring harmonious relations between the Government and certain of the States and the disaffected people thereof.

Mr. YEAMAN. Some days afterwards, under the advice of gentlemen whose opinions I value, I offered the following three resolutions, the two first being slightly modified, in the hope of getting a vote on them:

Resolved, That a conspiracy of persons combined together and assuming the name of a State, or a confederation of States, for levying war upon the United States, or for withdrawing such States from the Union, does not extinguish the political franchises of the loyal citizens of such States; and such loyal citizens have the right, at any time, to administer, amend, or establish a State government without other condition than that it shall be republican in form.

2. That a formal return or readmission of any State into the Union is not necessary. It is sufficient that the people, or those who are loyal, in any State, and qualified by the election laws thereof in force before the rebellion, shall, at any time, resume the functions of a State government compatible with the Union and with the Constitution and laws of the United States; and doing this is sufficient evidence of loyalty for the purpose of doing it.

3. That all questions touching property-rights and interests, arising out of confiscation and emancipation, and the effect and validity of any law, proclamation, military order, emergency of war, or act of rebellion, upon the title to any property, or upon the status of any persons heretofore held to service or labor in any State under the laws thereof, are left for the judicial determination of the courts of the United States.

My motion for the previous question was not sustained; the resolutions were referred to the "committee on rebellious States;" so while the desired object of getting an expression of the House was not accomplished, I felt encouraged by the fact that no motion was made and sustained to table the resolutions. I believe they could not be tabled here; I am sure the nation does not reject them. I have framed and submitted these resolutions in good earnest. It is an attempt to express the law of the case. It is no attack on any party as such, and was not expected to dazzle the country as a glittering political platform. Speaking of platforms, my mind is coming to the conclusion that they, like some other Americanisms, have seen their day and served their purpose. They are generally framed to win, and generally forgotten if the prize is won, or abandoned if it is lost. I have already outlived some dozens of the most approved make. Moreover, honest men would find great difficulty in framing one that would suit even themselves more than a few months at a time, amid the rapid and momentous events of a revolution. They do not last long enough. The issue changes too fast. I speak now of political platforms, and not of legal principles. I have tried to express the latter. And let me here now predict that if our arms continue successful, (and God grant they may!) the great point of departure between loyal men—the thing about which they will differ in the next presidential contest—will be the mode and the means of restoring the Union and the Government. I believe the ideas I have tried to express in these resolutions can be made victorious before the people in that contest, and believing that, I will also predict that if those with whom I have cooperated demand much more in behalf of the past than is here expressed, they will demand an impossibility, meet with a disastrous overthrow, and neglect the only available barriers of the Constitution. Some make a dead anchor of the past. I prefer it as ballast and rudder.

I cannot be what is popularly termed a *radical*. If radicalism be a virtue, nature neglected me. But it is not all conservatism when love for the past blinds a man to the realities of the present, and excludes his mental view from the possibilities and necessities of the future. We cannot always control events, because what we call events are generally the effects of causes in operation before we were born, or before we came on the stage. But it is our duty to understand them, and we cannot do this without the courage to look at them. If we cannot command events we can at least see their meaning and direct and guide them, and mitigate their harshness, or turn them to the best account. In private life this is common sense and economy. In public life it may not equal the highest achievements of genius, but it is generally good statesmanship. Floods of opinion and passion, like floods from the clouds, carry upon their surface the debris of that they have broken. We may guide and direct it, levee it and dyke it, but if we

dam straight across it, the dam and the builder will more likely be carried away than the flood will be stayed. Our duty is made the plainer by the fact that we from the beginning sought to extinguish the disparting volcano that has opened the floods upon us. But I am wandering from my subject. I desire some other time to discuss the causes and effects of this great contest. For the present my business is with the plan of restoration presented in these resolutions.

My entire political education, convictions, and feelings have been against that metaphysical system of State rights, State sovereignty, nullification, and secession that has culminated in the present war. I belong to the school of *national politics*, and thoroughly believe the lessons of the great masters Hamilton, Webster, Jackson, and Chief Justice Marshall. But I fear there may be danger now in a different direction. The tremendous struggle against secession, that political "galloping consumption," has not only developed to an extraordinary degree the strength of the nation, but, as if ideas must correspond with the conditions of material existence and activity, has so intensified and enlarged the idea of our nationality as a Government that there seems danger of a constructive and practical alteration of the whole system without any alteration in its wording. This is natural; it is one of the fruits of secession, but is likely to be carried so far as to need to be guarded against.

Were it in order I would move to amend the title or name of the special committee raised on the motion of the gentleman from Maryland, [Mr. DAVIS.] I believe it is called the "committee on rebellious States." There are no rebellious States. Under our system *there may be men in rebellion*, but not States. I was as much gratified as astonished to hear the gentleman from Illinois [Mr. LOVEJOY] say a few days ago that there are no "rebel States." I hope he will go with me to the necessary and legitimate conclusion of that sound legal doctrine. I know that in common parlance this expresses what we mean, and is admissible. But I do insist that in the solemn forms of legislative and judicial proceedings we should name things and actions accurately, and not give to anything a name inconsistent with the meaning and operation of our system. When Luther Martin retired from the Convention and returned to Maryland, among the reasons he rendered the Governor of that State for his course, one was that when the Convention had defined treason, and empowered Congress to punish it, he asked for an amendment or proviso that when the act defined as treason *was done in obedience to the command of a State* the Government could not punish it, which was rejected by the Convention. That alone would demonstrate the character of our system, and that there neither is nor can be a rebel State—as such—though all the *people* in a State may individually be rebels. If our system were a Government of States, and not of men and things, so that a State, as such, might be in rebellion, I would see much room for the theory of territorial governments by Congress, or the resumption of State governments on conditions prescribed by the Legislature in peace, or the commander in war. In the plan I have presented I have carefully tried to avoid departure from the true theory of our system.

I deem it proper to state that these resolutions were penned before I left home to take my seat on this floor, and that at an informal meeting of the Kentucky delegation, before the organization of the House, I advised my colleagues of my intention to bring these questions, in this form, before Congress. I need not add that, though short and simple, they have cost me much labor and thought; and that, first and last, much has been rejected as surplusage, inference, or argument; and some substantive propositions have been discarded as tending to embarrass or complicate the one great idea had in view—a *practical plan of restoration*. I select the word *restoration* in preference to *reconstruction*, used in the President's message. The class of unconditional Union men to which I belong are not seeking to construct or reconstruct a Government, but to restore the one we had. We do not say we will only have the Union with a particular institution in some of the States, or that we will only have the Union without that institution. We will have the *Government*, from the lakes to the Gulf and from the Atlantic to the Pacific, and if, in the struggle to save

that Government, that institution has been affected or not affected by laws, orders, and acts about which there is a difference of opinion, we will submit their legitimacy and authority to that tribunal, that coordinate department of the Government, appointed by its founders to decide such questions. This is loyalty. Less than this, or more than this, is revolutionary.

Differing as I do with the President in regard to some of the leading features of his plan, as embodied in the proclamation accompanying his message, I must say I am gratified by three considerations. While suggesting one plan he does not exclude others; the plan itself theoretically precludes the idea of State suicide, forfeiture, merger, abdication, confusion; and the great point is admitted that in the end it is a judicial question. And this is a sufficient answer to it. If it be a judicial question in the end, or if Congress, as admitted, may act in the premises, and act differently from the Executive, any attempt at executive action, while it would not defeat ultimate action by other departments, does clearly delay it by presenting obstacles to the action of the people. Judicial or congressional action may not be had until a case is presented, and I must say that a case is not likely soon to occur in the manner pointed out by the President. And if it does, why should it be either delayed or incumbered by conditions precedent when it is admitted the conditions are not binding, but may be disregarded by Congress and the courts? I speak solely of the plan of restoration, and not of the conditions of executive pardon. Or rather, I speak of the conditions of pardon in so far as they are made qualifications of State citizenship. The two are either very unfortunately or very adroitly, for a given end, mixed together. While a rebel is pardoned on condition of doing a certain thing, the *loyal man* is required to do the same thing before he can participate in a State government. The advantage is with the rebel, when it ought to be with the Union man. The rebel by the oath obtains pardon and the rights of a citizen; while the Union man, for the same thing, is graciously granted what he never lost or forfeited, the rights of citizenship. This is a poor reward for his faith and his sufferings. The President may grant pardon to criminals on such terms as he pleases. If we differ with him, we can pass an amnesty bill. Many of the more wicked I would not have pardoned at all on any terms. But if we are not either wiser or more bloodthirsty than other nations, we will at the right time easily come to the point they have all reached in such cases, of pardoning the great mass of those who return to their loyalty without further conditions. In this particular republics and democracies ought not to be more exacting than monarchies and despotisms. It is not that a rebel deserves pardon, but clemency is at once more magnanimous and more economical than the extermination of a section or a party.

The President's plan loses sight of human nature and the movements of the social or aggregate mind in tumultuous and revolutionary times. There is no account of any considerable civil commotion—and none has been so considerable as this—being settled in so formal and minute a manner as the one indicated in the message. Great quarrels are settled by the fortunes of war and by the domination of great ideas and principles rather than through the formality of making oaths and recording them. We have attained our end when the idea and the forces of the *nation* have prevailed over the idea and the forces of secession, or national disintegration. Parties advocating either idea have raised a collateral issue about slavery, and have exalted that issue into paramount importance. Giving it that importance was a mistake, and the manner of conducting the controversy is another. If slavery prevails over the continent it will be by its own merit, and not by political secession and military aggression. If the genius of emancipation and "universal opportunity" prevails over the tradition of slavery, it will be by its own intrinsic force, aided by the "friction and abrasion of war," and not by forcing men to swear oaths they do not believe. My plan then is to leave this collateral issue where it belongs, and protect loyal men, and encourage tired and disgusted rebels in the good work of resuming the functions of a State government. We are told by the President, and I know it is true, that there are persons who have been engaged in

the rebellion who desire to return to their loyalty. Shall they be encouraged to it or shall an impediment be thrown in their way? There are many more who have never abandoned their love for the Union though at times they had to hide that love as a profound secret to avoid violence. Shall they be encouraged or shall an additional restriction be thrown in their way by their own Government? It is not too much to say that a vast majority of the Union men of the South have been conscientiously opposed to the proclamation and acts of emancipation. Yet they are now required to swear to support them before they can participate in the affairs of a State government. Having fought the rebellion or hidden in the swamps and mountains to avoid its conscriptions they would hesitate to take an oath which many of them would construe to be moral perjury. The requirement is hard.

Moreover, many men at the South stand in mortal fear of the powers of the rebellion, and many men on this floor would do the same thing under the same circumstances. I rather think I would dread it, with all my conservatism. Those people have seen and felt its vindictiveness. They have seen that the fortunes of war are uncertain; that their persons and homes may one week be in possession of the Union forces and the next week in possession of the rebels. Like other men, they love life, and if they do not love their property, they at least need it for their families. Shall we require them to put on record an oath that makes them the registered enemies of that power, on a question and in a manner and form that would leave them less hope for quarter than the armed soldier in the field? It is believed they will not do it. A reverse of war would insure their destruction. A vast majority of the Union men of the South and tired rebels would acquiesce in any State government that is loyal to the Union, and abide by any decision of the Supreme Court about the effect of the proclamations and statutes affecting slavery, and enough of them would consent to take positions to put the machinery of government in motion, but we will not soon find a tenth of the voting population of any State come forward and register an oath on the subject. I doubt whether the few who believe in these measures would do it.

I do not quite see where all the power comes from to do this thing. It is not a military order nor a military measure. It concerns the civil government of States, of which the President is not an officer. It prescribes qualifications of electors unknown to the Constitution, and contrary to those fixed by the Constitution. True, it is only applicable to those who were voters under the State constitution, but it fixes new qualifications for these. If the Executive can do this because a part of the people of a State have done a crime, it is difficult to define what he may not do. If it be viewed as a question of the admission of new States into the Union, (which idea I wholly reject,) that is a matter with Congress, and not the President.

It is better to separate the two ideas of pardon and State citizenship. The difference is fundamental in our institutions. The man is a citizen of two governments, the State for one set of purposes and duties, and the nation for another. If he has sinned against the nation, pardon him or punish him as you like, or as public safety demands. If the same thing has been made a sin against the State, as in some cases in Kentucky, that is a matter between him and his State. We deal with him as a citizen of the nation. His capacity to participate in his State government is a question between him and his State, subject only to the rule that his acts, in the form of constitution and laws, must be compatible with the "supreme law of the land." Nor does such a participation in a loyal State government relieve him, in any legal sense, of the pains and penalties of treason against the nation; I would say, however, it would be a strong consideration in the question of pardon or amnesty. And this is the meaning of the resolutions I offer to the effect that participation in a loyal State government, or submission to it, is sufficient evidence or test of loyalty for that purpose, and that loyal citizens (loyal to the nation) will be protected everywhere. The protection of present loyalty does not legally relieve or shield the citizen from punishment for past offenses, but I undertake to say that in the settlement of this matter a return in good faith to

loyalty will save the past in all but a few outrageous cases, where public safety and public sentiment alike demand punishment. The best proof and the most natural manifestation of a return to loyalty is to engage in the affairs of a loyal State government. This is what I would encourage. This is what I fear the President's plan will retard.

It is admitted Congress may receive members from the disaffected States regardless of the terms of the proclamation. How is this? The Constitution defines the qualifications of electors of Representatives in Congress to be the same as is required in electors of the most numerous branch of the State Legislature. The President practically fixes the latter, for at least one election, by his proclamation. If the requirement be valid, no elector can vote either for a legislator or a Congressman until he has complied, and yet this House may admit a member not thus elected. That is not consistent. It is hard to be consistent in times of great convulsion. We cannot be *technical* and be wise in the midst of a revolution. I think my plan is more consistent with itself and with the Constitution than the President's. But I will not be outdone in magnanimity. I will say the suggestion of my own plan shall not preclude the possibility of my supporting any other. I am too anxious for restoration to stickle about the form of the plan, so its spirit be in harmony with the theory of our system of Government. That system is harmonious and adapted to any emergency that has yet occurred. The proclamation is neither consistent with that system or with itself. Under it a State, or the people thereof, may have a full delegation in Congress and yet be without a State government because of their unwillingness to comply with the terms prescribed. This would be anomalous and not useful. The President yields the whole ground, as a law question, when he admits his terms may be disregarded by Congress and the judges. If Congress may repeal the law, or the Supreme Court declare null and void the law or the proclamation required to be supported, it was not only idle for him to do what he has, but it were better it had not been done, because it throws impediments in the way of some, and because it has an unpleasant savor of executive power. If the matter rests at last with Congress and the courts, we had as well let it begin there.

I would say that slaves once freed will not be remanded to bondage; but whether freedom has been acquired and the master's rights divested is a legal and not a political question; and the opinion of a citizen on this legal question is one which in no wise concerns his capacity or legal qualifications for administering a State government. Let him have his State government if he will have a loyal one, and let the slave have his freedom or not as the judge says is the law of the case.

The resolutions I have submitted embrace my theory of our Government, and of the proper treatment of the existing rebellion, and of the mode of restoring the Union. They are based on principles of constitutional law that have been much discussed *pro* and *con*., sometimes ably, sometimes acutely, and sometimes foolishly, since the formation of the Government. Touching some of the great and vital questions of law, I will state principles and deductions rather than the arguments by which they are sustained. These principles and conclusions will fairly sustain the resolutions I have offered, and condemn the plan of territorial governments for the people of several of the States of this Union, based on the theory of State suicide, and will exclude the power of any department of the Government (I speak not now of a constitutional convention) to prescribe terms for the readmission, as it is called, of any State into the Union. I will be careful to state principles so clear or so well established that few gentlemen, if any, on this floor will venture to deny them. I will go further, and show that the theory I assail is at bottom based on the validity of secession.

An ordinance of secession, either as the action of a State government or of the officials for the time being of that State, or as the act of the people of that State assembled in what is called a "sovereignty convention," is either legal or not legal. I hold that in any form and coming from any source it is illegal, null and void. If it be, as a law or ordinance, null and void, then it cannot, as such and of itself, affect the relations of the State or the people of that State to the Union.

Such effect, if any has been produced, must be looked for outside of the ordinance. There is nothing else to look to but the violence of the insurrection put forth to sustain the ordinance. But if that was void the violence to sustain it was a crime, at least an act not justified by it. Its legal character not being changed by the void ordinance, and being a personal and not a corporate act, the violence could not, in legal contemplation, affect the relations between the Government and the State or its citizens. It may have suspended for a time the harmonious or amicable action of the system, and especially of the State governments, as members of the Union, (if they are to be so considered,) but the same reasoning which shows that this violence amounts to State suicide would show with equal clearness a destruction, *pro tanto*, of the general or national Government within the same limits; for the same thing has happened to it that was done to the State government—*violence*.

I hold the Government, both in its origin and operations, to be one of persons and not of States. A Government of, for, or over States, is a solecism; and if the term States embodies the idea of sovereignty, even over a limited range of subjects, such a Government is an impossibility. One sovereignty under the control of another sovereignty, is a thought not very well explained by those who have urged it in defense of "State rights." It is as strange they have not seen that such a system would be the tomb of all State rights as that another party have not seen that their theory that void secession amounts to State suicide does really admit the validity of secession. For this term suicide or abdication has been invented, not to denote that all State government there is dead—for they palpably have a State government there, after a fashion—but to express that the State is dead as to the Union, and therefore the Union may establish a territorial government. If dead, what killed it? Not the ordinance, surely, else it was a valid secession. Armed violence suspended its operation, but so did it suspend the civil operations of the national Government within the same limits. The argument of *de facto* based on force, is as fatal to one Government as the other. Disease or foreign substance suspends the *normal functions* of the bodily organs—medicine or the knife removes the disturbing causes and the functions of health are resumed. If argument or the sword of the Government can remove rebellion from the limits of the States, the present abnormal condition is overcome and gives way, and the normal functions of "a loyal State government," as it is called, are resumed as of right by loyal citizens. The idea that interregnum is death is contradicted by all history, by all good reason, and by the public necessities of the case.

Treason or rebellion is a personal act, and not the act of a State or body-politic. Then the effect of the act, or the effect and operation of the law upon those who commit it, must be personal and not aggregate or corporate—not even political. It is too late to argue the constitutional right of secession, either State or personal. The argument has been transferred from this Hall to Bull Run, Fredericksburg, Chickahominy, Antietam, Vicksburg, Stone River, Gettysburg, Chickamauga, and Mission Ridge. But as the war would be a crime if secession were a right, I may be permitted to state some of the results of argument or principles of law upon which my resolutions are founded. Ordinances of secession being null and void *ab initio*, the subsequent illegal force of the rebellion did not impart to them any validity; and being void they did not of themselves alter, or in any way affect, the relations between any State, or the people thereof, and the United States. The actual force of insurrection did not dissolve the relations between the Government and citizens in rebellion, but only altered their present attitude toward each other. The duty of allegiance and obedience remains to the rebel, and the right to compel him remains to the Government; else a man or a whole community may at option become aliens by first becoming rebels. I say the relation is not dissolved though the attitude is altered. Allegiance and protection are said to be reciprocal. When the offense of rebellion is substituted for the duty of allegiance, the right to punish takes the place of the duty of protection. But the relation between citizen and Government is not sundered, else the right of punishment would be gone.

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If these conclusions be correct; if secession be void; if rebellion is a personal affair between the citizen and the Government, it follows that the conduct of the rebel can have no effect in abridging the rights of loyal men, and that whatever effect his acts may have in fact in perverting the State government and interrupting its relations to the Union, yet, being not only irregular but illegal, it cannot in law affect the existence of the State government. His conduct may affect his own relations to his State, for loyalty to the Union or the national Constitution was required of State officers by most State constitutions; and surely, if his act be illegal, as all here admit it to be, it cannot be allowed to affect the rights of loyal citizens in the affairs of a State government. How far the effect of his conduct upon himself would be removed by his own voluntary return to allegiance, need not now be discussed. I only suggest that such return to loyalty, with all its rights and immunities, should be as much encouraged by the legislature and Executive, by statutes of amnesty and proclamations and grants of pardon, as is compatible with duty and public safety, remembering that while duty and safety will always require examples of punishment for so great a crime as this conspiracy, it will always be both impossible and undesirable to punish criminally whole communities of men.

If secession is void, and a combination of persons in the name of a State to secede or to wage war on the Government does not alter the legal character of the act done, and if the military power of the Government is limited to overcoming rebels in arms, it would seem to follow that the occupation and holding by the arms of the Union the territory of any State where the forces of the rebellion had temporarily suspended the operation of the laws of the United States—such insurrectionary forces being overcome and subdued—does not give to the Government, or any department thereof, any greater power or wider jurisdiction in such State than it had before such insurrection. I do not see how this conclusion can be avoided. I am not discussing the nature or extent of the war powers of the Government in suppressing armed rebellion. I will do that presently. I speak now of legislative power; the assumed power to erect a territorial government in a State after the rebellion in that State is suppressed, or to merge all the seceded States in a common mass and carve them out at pleasure, arraying the parts in such political attire as we please. This right did not exist and was not claimed before the rebellion. I have not been able to perceive how the rebellion conferred such power on the Government. If secession were valid, or being invalid had yet become a successful revolution, and the seceded States and their people had thus become not only hostile but alien and independent, and the Government had then made a simple conquest of them and their country as such, I could see, under the laws of nations and of war, room for territorial government, and even for the establishment of temporary civil government under forms and terms prescribed by the commanders of our forces. But that involves elements I do not intend to admit into this argument; and it is curious to my mind that the advocates of the doctrine do not perceive that it involves the admission of the legal right of secession or of a revolution accomplished by force. But it is said that the rebellion did in fact destroy the State governments as members of the Union, because there are no officials there to administer such a government in the Union, and therefore the territory is a *tabula rasa*, "a clean slate" whereon Congress may write laws. It seems to me that the chief attraction of the "clean-slate" argument to those who use it is, that at present they have the pencil in their own hands. The argument, or rather the comparison, for there is no argument in it, proves too much. If the mere vacation or abdication of office, or a refusal to discharge its functions, is not merely an abeyance of administration, but is such a dissolution of all government as to surrender and forfeit the civil capacities and political

franchises of the "source of all power," then it is competent for a few executive, legislative, and judicial officers, by a treasonable conspiracy, or for an accident or assassination that would destroy them, to produce such an interregnum in the administration as will destroy the right of government in a whole commonwealth. An interregnum in the administration is all the rebellion has produced, and it has only done this in a relative and legal sense, as a State of the Union, for in point of fact there has been an administration there all the time. Does that suspension destroy either the State government or the rights of the loyal community of people still composing that body-politic? The error is in mistaking the officers of a State for the government of a State, or an interregnum in administration for a dissolution of the government compact, a determination of a corporate existence—the alienation of those things which our system declares to be inalienable. If the effect of the rebellion upon the administration of the State governments must be considered as an accomplished revolution, vitally affecting and changing their character and former existence, the remedy is still plain: drive the rebellion out of the State, and invite and encourage and protect the loyal people in accomplishing another revolution by wheeling the State government into the line of the Union. AND THEY WILL DO IT. Has anybody on the other side objected to the "provisional government" for the State of Missouri, which, for aught I know, was a necessity under the circumstances; or to the emancipation revolution that has been effected in that State in the midst of war? Who did these things? The loyal people of Missouri, who have kept the State in the Union. And suppose now the loyal people of Tennessee shall secede from secession, or simply resume a loyal State government without emancipation, who will stand up here and say No; especially when the whole subject is left, either with or without the consent of that State, where it belongs, with the judiciary?

If secession is illegal and void the States are not, in legal contemplation, out of the Union. That being so, no formal readmission can be necessary. All that is needed is for the national Government to defeat treason and rebellion in a given State, and then for the people of that State, or such as are willing, to resume the discharge of the functions of a State government in the Union. They can do this without conditions prescribed by Congress or the President, because a State may stay in the Union without any such conditions. They can do this under their State government as it existed before the rebellion, or under that government altered or amended to suit themselves, so that it be republican in form.

This may be objected to as not requiring in terms that the Union shall be restored as it was, and the States with all their rights as they were. The objection is not valid. The right of State amendment exists all the while, in peace or war, and if those who are, or have been, in rebellion against the nation do not choose to quit it and look to their interests and ideas in the State government, it is their fault, and not ours. If they will not care for their interests, we cannot do it for them, and be fighting them at the same time. And then, it does restore the Union as it was, because the Union is a constitutional idea, it is not made of this or that kind of property; and restoration of State governments in the manner I propose does not alter the national Constitution, but leaves it as it was, and therefore leaves the Union as it was. I mean, in plain terms, that I will accept whatever government appears to be fairly and regularly organized by the loyal and competent people of that State; and whoever requires more than this, either for or against any interest or institution, makes the destruction or preservation of that interest paramount to the Union. Such a restoration, in the manner I propose, of any State government to the Union, would be with all its rights, dignity, and equality, as a State government, unimpaired. If it comes back altered in form or detail, its relations to the national Government and

to its sister States remain exactly the same. If her interests or domestic institutions of any kind have been altered by any means other than the wishes of the people of the State, I submit the mode to judicial scrutiny, and if the mode is approved as being the legitimate operation of a "supreme law," the State has not been wronged. If the mode is condemned as being incompetent, it has accomplished nothing. In either case State rights, dignity, and equality exist just as they did before. If the people make the alteration, it is their business. If they do not make it, it is their business, and in either case we have no right to require the contrary. This is my theory, and it is constitutional law. Under this theory, if Indiana attempts to secede, gets into a war with the nation, in the midst of the war is made a slave State, and, when tired of a foolish fight, comes back, she is restored to the Union with all her rights, dignity, and equality as a State government unimpaired. Some gentlemen on the other side would think not, especially as to her dignity. We will not discuss that. I speak of her legal and political status as a government, and cannot see how that is enhanced or lessened by the presence or absence of a given species of property. So if Tennessee attempts to secede, gets into a war with the nation, and in the midst of it is made a free State, or is made so when the war has left her borders and her citizens resume the exercise of the functions of a loyal State government, she is restored with all her rights, dignity, and equality as a State government unimpaired. Of course I speak with the limitation that the means to the end must be constitutional, and if there is a question about that, I leave it where other law questions go. But suppose Tennessee does not come back a free State, then what? "That's the rub" on the other side. Have we any more right to require that she shall than we have to require of Indiana, in the case supposed, that she shall come back with slaves? I have caught myself using the expression "come back." I only mean a restoration of a normal constitutional condition of the body politic. In common parlance it expresses what we mean. In law there is no coming back to do, for in law they are not gone out. And just for this reason we cannot prescribe terms, since we cannot prescribe terms upon which a State may stay in the Union. My scheme has no reference to nor is it at all incompatible with the right and the power of amendment in the national Constitution, which is not in abeyance, and exists with or without civil war. Nor does it impede justice or enlarge judicial power. The rebellion and congressional statutes and military orders and proclamations raised the questions and made them of infinite importance, and I propose to leave them where their character assigns them. The people of a State may resume the government they had before the rebellion, recognizing and establishing slavery, but they of necessity, under our system of Government, do it subject to whatever the courts of competent jurisdiction hold to be the "supreme law of the land, anything in the Constitution or laws of any State to the contrary notwithstanding." And though the action of that supreme law and the judgment of the court applying it to the conduct and estates of parties may affect the property interest of individuals, may change the title to a field, or set a slave free, or remand a supposed freedman to slavery, the State government, as such, is not injured. It was the operation of law on men and acts and things, and not the action of the general on the local government. I am told the proclamation of emancipation is no law. I was at much pains once to show that on this floor, and am of the same opinion still. But loving my Government better than my opinion as a lawyer, I will let the judges decide. And here let me repeat what I have so often said on the stump in my district, that being loyal myself, and living in a loyal State, I will not go to war with my Government on account of anything the President may or can do in regard to the African race in the seceded States. I warned them they would come to grief on this matter, and I

shall not turn rebel because my warning went unheeded and my prophecy has been fulfilled.

The right of the *loyal people* of a State, who may be in a minority there, to administer or represent the State government and to bring it into action harmonious with the Union and the Constitution, has been attacked by the distinguished author and advocate of the territorial theory and of congressional power. It was necessary for him to do this. In polemics, as in the material world, it is sometimes necessary to displace one thing to make room for another. And what is his objection? It is that such a course is contrary to the spirit of our institutions, the right of a majority to govern. Then rebels have some rights left, according to this high authority. That is, in order to get the conclusion that they have no rights, he uses an argument based on the inferred or admitted right of rebels in arms against the Union so to shape and influence a State government as to keep that State out of the Union. If his theory were "a thing of life" I would expect it to blush for the support thus offered. The objection urged by Mr. SUMNER to allowing a loyal minority to make or administer a loyal State government, against the wishes, or, at least, without the co-operation of a disloyal majority, is yielding the whole ground in controversy. Admitting the right of a rebel majority to *continue*, without limit, their violent and illegal interference with the relations between a State, or the people thereof, and the Union, is clearly admitting their right to *begin* and *consummate* that interference. It is confounding the right of a majority to govern with the right that majority has assumed to *secede*. And thus it ever is with all who start out to make the Constitution or the Bible mean a particular thing: their arguments prove too much. In this case their logic, instead of proving "State suicide," does itself commit suicide.

There is another objection to my argument might be made with more plausibility. I affirm that the act of insurrection did not sever or dissolve the relations between citizens and Government, but only altered their attitude toward each other. Then the rebel is still a citizen of the United States, and of course of his own State, subject to the penalties and disabilities imposed by a violated law, as in Kentucky. But in some of the States the local law imposes none such as it does in Kentucky. Then it might be asked by what right or authority is he to be prohibited from a participation in that Government? I will not call this mere quibbling, but it is a clear misapprehension of the point made. There is no declaration or inference that he shall not do this thing, but only that he shall not, in doing it, be a rebel against the Union, shall not do an illegal act by violating the supreme law of the land. He may enter into the affairs of his State as soon as he pleases, only that to be recognized by us he must do it as a Union man. The resolution is guarded in this particular: "All who, at any time, acknowledge allegiance and render obedience to the United States." This is a broad invitation. If he do not accept it, that is his own fault. And if by his negligence the Government falls into the hands of a minority it will only be what has often happened in times of peace by the voluntary absence of a large proportion of citizens from the polls. The scheme does not inquire for the present or past opinions of persons administering the Government, but requires that it be a loyal Government. I mean by that one consistent with the Union and the supremacy of the national Constitution and laws; for it is true that under our system a State cannot commit treason. We judge the work and not the workmen; or at most the workmen by the work. If two constitutions are claimed to be in existence, one defining the State a member of the Union and the other defining it a member of the confederacy, we accept the former without counting votes. We can do nothing less. If it were not the technical law of the case it would be the necessity of the case. Shall we send out commissioners to inquire and report whether the Union or secession has the more supporters in a State? I would not only accept the loyal Constitution, but I would, to the last extremity, protect those who offer it against the violence of those who resist it. If a majority in a State revolutionize its government and establish a monarchy, shall we acquiesce, or declare it a Territory? Or shall we discharge the duty under

the Constitution of guarantying "to every State in this Union a republican form of government" and of protecting them "against domestic violence?"

If parties in a State are contending between two constitutions, both loyal to the Union, but differing in details, that State is *de jure* and *de facto* in the Union, and has only presented a judicial question for the courts. The civil commotion called Dorr's rebellion did not take Rhode Island out of the Union or make her a territory, though it did, for a time, render it uncertain what the State government was. The Supreme Court decided in favor of the old "charter," and the fortunes of a short militia war, whose events would not now amount to a respectable skirmish, decided the question the same way. But if the courts and the militia forces had decided in favor of Dorr's constitution, Rhode Island would have still been a member of the Union. And when Dorr was released from prison, and his more democratic constitution supplanted the old crown charter, Rhode Island was still a member of the Union, with all her rights, dignity, and equality unimpaired.

"The whole power of the nation is pledged for the suppression of the rebellion." This is necessary for a consistent vindication of our principles in a matter involving the life and existence of the nation. And I would relieve the insurgents of any misapprehensions of a division among ourselves on this question. Let them be impressed by congressional as well as military action of the hopelessness of the task they have undertaken. Let the powers of the nation be pledged for their overthrow as rebels, and the same power and the judicial ermine be pledged for the protection of loyalty. I would carry in one hand the Constitution and "State equality," (equality with each other, and not "State sovereignty" over the nation,) and with the other hand, "the red right hand of avenging justice." I would lift on high the sword of the nation that they might accept protection from one or be hewn down by the cleaving edge of the other. The question of secession has to be met. It is of the essence of the case. It is the question whether the white man of this continent shall have a home, a country, and a Government, or only his wandering camp for a dwelling, and organized sedition for a constitution. Most unfortunately the only way we can at present meet secession is to meet and overthrow its armies on the field. I would it were otherwise. I wish we had been permitted to carry the question to some other tribunal. But the secessionists willed it differently. They made the issue of arms. The issue must be met and their armed power overthrown, or secession, as a ruling political element on this continent, is a success. Its overthrow is all that is needed. When that is done, when secession is yielded or conquered, and the NATION, as embodied and expressed forth in the Constitution—the covenant of the people—is acknowledged and obeyed; when that is done, and the negro or the slavery question remains the chief impediment in the way of settlement, I here declare before God and the assembled nation that, as a legislator for the people, I would not provide for the butchery of one child's father, one wife's husband, one sister's brother, or one mother's son of my own race and blood in the attempt to determine, by the further conflict of arms, the freedom or the slavery of the black race on this continent. Not being willing myself to die in such a cause, I would not require others to do it. Those who would will be able, I pray, to answer God and satisfy posterity.

I take it the only legitimate object of the war is to defend the Government, execute the laws, reduce to obedience persons engaged in rebellion, and protect loyal citizens wherever found; and that when these ends are accomplished the war ought to cease. If any gentleman will avow a different or an additional object, it devolves on him to show wherein he is not a revolutionist, a rebel against the Constitution. In limiting and defining the purpose of the war, I will not mince words or split hairs about "expressed powers" and "reserved rights." I state in general terms that this object may be accomplished under the forms and powers of the Constitution, and by the use and application of the laws and usages of war, as established by public opinion and international custom, in all places and at all times where those laws and usages are made applicable by the fact of war

or the presence of enemies. In other words, I state that in resisting a rebellion of such power and numbers as that, under the laws of nations or by our treatment of it, it has attained the proportions of a public war, and acquired, or had conceded to it, belligerent rights, then "war powers" are a part of the constitutional powers of the Government.

The Constitution and the laws made in pursuance thereof are not only the supreme law of the land, but, within their sphere, they are the only law, and nothing can be law that is contrary to them. They were enacted for conferring powers for given purposes. And what does the Constitution embrace and provide for? Not peace alone and its interests, but war and its necessities. It recognizes and organizes the war-making power, the power to raise armies and navies, and the power and the duty to suppress insurrection and rebellion, and to protect the States against domestic violence. The minutiae of the *modus operandi* were not and could not be specified in a great organic law. They are the necessary results and instrumentalities of the power to do the thing. The fathers of the system understood the language they used; they knew the meaning of war, of civil war, of armies and navies, rebellion and insurrection, domestic violence, and "war powers," without which the right to make war would be a nullity. These war powers, or the usages and rules of war, are a part of the law of the land. The only question is their extent. They are ascertained and limited by the usages and sanction of nations. It does not alter the case that they may be or have been mistaken or abused—they exist. It is clearly agreed by all the authorities that when a rebellion or civil war assumes the proportions and importance this one has it must be conducted between the Government and bodies of insurgent citizens upon the rules of international law regulating the conduct of war. It is unsafe to say that these rules shall obtain in proceedings against persons and property except in so far as they depart from the letter of the written law regulating these proceedings in civil tribunals; that is to abandon the whole code and fall back, in every case, even in the midst of war, upon the requirements for oaths, writs, officers, juries, courts, and public trials, no matter with whom or under what circumstances you deal. That would be impracticable, and is not the law. It is admitting an inconsistency or repugnance that does not exist; war powers, not abused or exaggerated, are not inconsistent with the Constitution. They are scarcely cumulative, for they already exist. They are rather a dormant law brought into activity and application by the fact of war. Therefore I say they may be applied wherever war exists or enemies are found. But, says one, the Constitution requires an affidavit, an indictment, trial, jury, witnesses, counsel, and judgment of court—in short "due process of law." We all know the cases to which these do apply. Are there any cases to which they do not apply? Is there not a "due process of law" for an armed insurrection and all who aid it? There is; it is applicable to an armed and organized rebellion, commanding three hundred thousand soldiers in the field, with spies and emissaries and sympathizers in every State in the Union. For this state of case the Constitution provides war, "war powers." To complain that they are mistaken or abused is only to complain of men and not principles. The rebel waives the rights awarded him in the civil remedy, and lays himself amenable to the military remedy. His conduct brings a fact into the case which brings with it a law applicable to the case, or rather the Constitution has provided the remedy, and his conduct makes the remedy applicable to him. It is not so much a different or inconsistent law as it is a different state of fact to which the same great system, made both for peace and war, is now made applicable. Our "Bills of Rights" all say there are certain inalienable rights, and among these are life and liberty. Inalienable by the citizen and as clearly indefeasible by the Government. But in declaring this as a governing principle of protection did society waive the punitive power as a means of protection? Clearly not. Under the same constitutions and laws made in pursuance thereof, the same society, acting under this Bill of Rights, assumes to take both life and liberty in punishment for crime. And this is not

inconsistent, else the world has long been mistaken. The incongruity is not in the law, but in the character of the act, fact, or condition to which different principles of law are applicable.

And at last what is war? It is an appeal from the civil law, the law of protection, to the law of force, the law of destruction, destruction of life and property under given rules, to compel acquiescence. Is that to be accomplished by sending against the enemy or his aiders and abettors an executive or ministerial officer armed with a writ and a copy of an indictment selected from the most approved forms in the "Code of Practice?" It has not been so held by mankind; they have answered force with force, and their Governments have been so framed. The theory of war is destruction, and the judgment of mankind, based on the necessities of the case, has invested it with certain powers; while the morality of mankind has thrown around it certain restrictions, in the interests of humanity, for economizing life, property, and suffering, as if anxious, while admitting the necessity of destruction, to make as little suffice as possible. Spies are arrested, detained, and executed without the intervention of civil process, to prevent surprise, information, or the destruction of a city or an army. This is conceded by each belligerent to the other as being in the interests of humanity. A thousand rebels are captured with arms in their hands, in the very overt act of treason as defined by the Constitution. But they are treated, not as traitors, but as prisoners of war, and exchanged as such; and this in the interest of humanity and under the usages of war. It might even be held with much plausibility that this is the *legal right* of the citizen captured in a war of such magnitude as to confer belligerent rights under the laws of nations; that if the Government claims belligerent powers it must grant belligerent rights as to persons taken in the act of war. I once thought the naked law (to say nothing of a humane and wise policy) was otherwise; I may have been mistaken, and will not now decide. If that is the law, another interesting question would arise where the Government obtains the possession of the person of a prisoner, not by capture in war, but by arrest under civil process, and proceeds to indict him for an act in levying that war. Would the manner of capturing his person alter his rights in the premises? I will not discuss that. The resolution is guarded; it declares that secession, as such, is no excuse, and does not alter the legal character of the act done; but also declares that no valid defense is lessened or abridged. If it turns out that a rebel is entitled to acquittal because the rebellion, in the stage at which he did the act, had become a war, I imagine enough cases can be found of clear guilt before that stage to satisfy the demands for justice. I would think a man's complicity in a combination and conspiracy to overthrow the Government and levy war against it, much of it written at these desks and sent to the press, the mails, and the wires from this Hall, and assuming the distinct form of levying war by raising troops for that purpose, would not be excused on the ground that a few months afterwards the fruit of his treason was a frightful public war. And this class of cases embraces all the more guilty and culpable; a thousand times more guilty than those who afterwards went with the excitement, the torrent, and the fear of the times, or obeyed the command of a remorseless power against which we were at the time unable to protect them. The laws of war, like the common law, existed and were understood when the Constitution was written, and both, if not parts of that instrument are at least its adjuncts. While recognized as a part of the laws of the land, they could not be defined or limited in detail in the fundamental law. That would have made the Constitution a library instead of an instrument. That duty or function is left to the department of the Government created for the purpose of defining, construing, and applying the law.

What objection can there be to submitting all these questions to the courts? Are they not legal questions? The arguments used to show that emancipation is or is not an accomplished fact show the question to be legal, and not political. Will any reject the proposition because they doubt whether the courts will agree with them? Then they would assume the functions of another department; they would be both legislators and judges, and substitute their own construction, it

may be their prejudices, for the official judgment of a tribunal erected by the Constitution to determine such questions. I offer the resolution on the principle that we shall not both enact and expound the law, and then order its execution according to our exposition. I offer it on the principle that the President or a general shall not measure his own power, construe the law his own way, and then make the execution as broad as the measure or the construction, without the right of inquiry or appeal by the citizen. I offer it in opposition to *absolutism*, whether of one man or of many men; whether of the Legislature, the Executive, or of that form of democracy which, when met in the market-place in Athens to sit as a court to condemn (not to try) a general who had lost a battle, claimed the right to disregard the law because they had made the law. I offer it in vindication of our system of Government, that division of power that is the great safeguard of Anglican liberty—a department to enact, a department to construe and apply, and a department to execute. Congress may declare war and pass laws to punish treason, and the President may command armies and make military orders, but the letter, the spirit, and the history of our organized civil liberty—a history for six centuries written more in blood than ink—unite in demanding that the judge shall say whether, under these laws and these orders, the citizen has lost his estate or the slave his bonds. I offer it in the name of the Constitution we have sworn to support. I offer it in the name of freedom, (if my Republican friends will excuse me for saying so,) for while I differ with them as to the legal effect of a universal paper edict of emancipation, I yet hold there may be cases, I say not how many, in the progress of this war, and under the operation of laws for the suppression of the rebellion, in which freedom has vested; and I would interpose between the freedman and the local prejudice and violence that would reenslave him that ermine shield whose power is light, whose strength is purity. I offer it in the name of humanity; for when the slavery question comes to be the last question in this fight, seeing the impossibility of extremists to agree about it, and that they would immolate each other upon it as upon the altar of Moloch, it will be one of those cases, familiar to the profession, in which it is more important the law should be settled than that it should be settled either way. It is better the court should declare a negro a freedman, or declare him a slave, (not make him one,) than that the white race of this continent shall be consumed in an ignoble strife about the status of the black race. I say when it comes to that, a struggle for the supremacy of this Government is not ignoble. If any man is afraid the judge will not decide it aright, examine yourself again and see if you are not merely afraid he will not decide according to your way of thinking. Is the question too vast to be decided by that tribunal? That is begging the question. It is certainly too vast to be decided by prejudice and passion, the interests of disputants, or the uncertainty of war. It would be difficult to show that heated partisans and blundering generals would be more apt to decide a legal question aright than a tribunal whose study and usefulness and ambition and reputation are in discovering and defining justice and truth. I know it is not according to the habits of man in great quarrels that questions about the political and legal status of a whole race shall be thus decided. They have preferred to cut each other's throats until one or the other yields; may we not set a better example, and if there are those who do not like the decision, refer the question, not back to the battle-field, but to the power of amendment—the people in convention? That mode is not now available by reason of the condition of more than one fourth of the States. What we want is a feasible plan, by which States and people may begin to return to allegiance. My allegiance to the Constitution is so great, my love for the theory and the practice of our Government so profound, that I am willing any question shall be settled in the legitimate way pointed out by the system. The immensity of the interest and the august character of the tribunal win me to the proposition. There is a moral grandeur in the spectacle before which "the pride, pomp, and circumstance of glorious war" do "pale their ineffectual fires." An agreement so to refer it would be the superiority of moral over physical

courage, of intellect over force, and the spirit of law, the fruit of reason, over the chance and the carnage of battle. If one says "the courts will be arranged for the question," I say that is an imputation on the judiciary and on human nature; and moreover this suggestion comes from those whose opinions and theories have no hope elsewhere. The Executive is against them, the Legislature is against them, it may be that the Army is against them, and if there is any other power but the courts for them to appeal to, I have not been able to discover it. And shall I be answered by the other side that because there is so much power with them just now they will not risk a solution on the plan I propose, but will use that power to compel men to accept the scheme of universal emancipation? Then you have more confidence in your power than in your idea. If your idea ought to prevail it will prevail in the fullness of time, and the conduct of the rebel master has called into activity agencies and influences that may appoint the time fully as soon as the emancipated negro as a race will be able to bear it. You endanger your idea by exalting it too much and purchasing the consent not the conviction of mankind at the price of too much blood. At present, suppression of the rebellion is, in some quarters and in some degree, coupled with the anti-slavery idea because the rebellion seems to them in some degree coupled with the pro-slavery idea, and they hate the rebellion more than they love slavery. May we not yet be astonished with the phenomenon that resistance to our present tendency toward violence and sudden change will in some degree assume the pro-slavery idea, for reasons of the same sort? Reactions result from too much suffering, too much exhaustion; and generally reinstate an idea that seemed utterly overthrown. France would to-day have been a republic but for the excesses of democracy. Who in France in 1793-94 would have ventured to dream of monarchy any more? But the idea of submitting to the Consulate and the Empire was born of the idea of an insupportable anarchy and a bloodthirsty equality.

I do not fear the courts; the highest one in the land, in the disposition of a leading case on this subject, ruled some points that did not meet my approval; but they were the court and I was the citizen; they decided and I submitted. My confidence is neither lost nor impaired, and I must say that if the courts had, in the past, been a tithe so unscrupulous as legislative majorities, or half so grasping and variable as executive heads, the sheet-anchor of personal liberty and of all good government—an upright, independent, and learned judiciary—would long since have been lost to our race. No, sir, I have confidence, a confidence made cheerful and easy by the spirit of submission to the law—the law as expounded and decided. History and mankind will justify that confidence; I challenge it in others; if it is refused, I leave history and mankind to judge between us.

A word for the Union men of Kentucky and the border States. We are the most unconditional of Union men, as may easily be shown to you. One party will have the Union if they can have it with their theory of State rights and State sovereignty—they may have their theory if they will leave us the Union. Another party would have the Union if they can have it *with* slavery; and another party would have the Union if they can have it *without* slavery. We are for the Union and the Government, with the negro or without the negro. Understand me; we do not sanction efforts to destroy slavery as a means of saving the Union. We deprecate and denounce them as unwise and revolutionary. But we cling to the Government; secession assails it, and if between the two slavery is ground out as between the upper and nether millstone, so be it; we are still for the Government. The real character of our unionism has not been understood; we have been denounced as loving slavery better than the Union because we have tried to save the Constitution as well as the Union. Our unionism is not pro-slavery and it is not anti-slavery. The spirit, the chief element, the life of our unionism, is a thorough, profound, and elementary condemnation of the theory and practice of secession as destructive to all good government, and an equally profound conviction of the unity and oneness of our national Government as created by the Constitution of the United States. This is a just definition of our unionism; it rises

far above the negro as a race, and far above the whole subject of slavery as a material interest, and reposes on that more exalted and serene tablet of the mind where history, guided by philosophy and justice, loves to search for the record of ideas and principles.

Mr. BRANDEGEE obtained the floor, but yielded to

Mr. RICE, of Massachusetts, who moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the annual message of the President of the United States, and had come to no conclusion, thereon.

WASHINGTON RAILWAY COMPANY.

Mr. WINDOM, by unanimous consent, introduced a bill to incorporate the Washington Railway Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

THE NATIONAL FORCES.

Mr. FINCK, by unanimous consent, introduced a bill supplemental to an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

THE BRIG HELFENSTEIN.

Mr. FARNSWORTH, by unanimous consent, introduced a bill to change the name of the brig Helfenstein; which was read a first and second time, and referred to the Committee on Commerce.

BRIGHAM YOUNG'S ACCOUNTS.

Mr. KINNEY, by unanimous consent, introduced a bill to authorize the Secretary of the Interior to adjust and settle the accounts of ex-Governor Brigham Young, as *ex officio* superintendent of Indian affairs for the Territory of Utah; which was read a first and second time, and referred to the Committee on Indian Affairs.

WITHDRAWAL OF PAPERS.

Mr. MOORHEAD asked and obtained leave to have withdrawn from the files of the House the memorial of Patrick Kane, presented on the 23d of February, 1860.

INTERNAL REVENUE.

Mr. UPSON, by unanimous consent, introduced a resolution, which was read, considered, and agreed to, instructing the Committee of Ways and Means to inquire into the expediency of reporting a bill amending the internal revenue law so that all goods, wares, and merchandise, or articles, manufactured or made and sold by any person or persons, except spirituous liquors and manufactured tobacco, where the annual product shall exceed the sum of \$600, shall be exempt from duty to that amount, or that said amount in value in such cases shall only be subject to the same rate of duty as in cases where the annual product does not amount to \$600.

DUTY ON PAPER.

Mr. NOBLE, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Whereas it is alleged that the amount of duty now received on the importation of foreign paper by the Government does not pay the increase in the price of paper consumed by the Government; and whereas it is also alleged that the present duty sustains and promotes a monopoly among the paper manufacturers of the country: Therefore,

Resolved, That the Committee of Ways and Means be, and are hereby, requested to inquire into the expediency of repealing so much of the revenue act as imposes a duty on paper, and that they report by bill or otherwise.

UNITED STATES ARMY ENGINEERS.

Mr. SCHENCK, by unanimous consent, introduced a bill to promote the efficiency of the battalion of engineers in the United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

WOUNDED SOLDIERS.

Mr. LAW, by unanimous consent, introduced a resolution, which was read, considered, and agreed to, instructing the Committee on Military

Affairs to inquire whether any legislation is necessary to provide for the care and maintenance of the soldiers wounded in the service of the United States, and who have been or may be discharged from said service and returned to their respective States, with leave to report by bill or otherwise.

COURT OF CLAIMS APPEALS.

Mr. MORRIS, of New York, by unanimous consent, introduced a bill to regulate appeals from the Court of Claims; which was read a first and second time, and referred to the Committee on the Judiciary.

WILLIAM SAWYER AND OTHERS.

Mr. LE BLOND, by unanimous consent, introduced a bill for the benefit of William Sawyer and others, of the State of Ohio; which was read a first and second time, and referred to the Committee on Private Land Claims.

BUREAU OF IMMIGRATION.

Mr. DONNELLY, by unanimous consent, introduced a bill to establish a Bureau of Immigration; which was read a first and second time, and referred to the select committee on that subject.

OFFICIAL CORRUPTIONS.

Mr. HOLMAN asked unanimous consent to offer the following resolutions:

Whereas it has been publicly charged that frauds materially affecting the interests of the Government have been recently committed by persons and officers connected with furnishing supplies for the Army, and that persons charged with such frauds and with the embezzlement of the public money and the appropriation to their own use of public property under their official control have not been brought to a speedy trial for the offenses charged against them; and whereas the existence of such charges uninvestigated is calculated to impair the confidence of the people in the integrity of their Government: Therefore,

Resolved, That a committee of seven members be appointed by the Speaker to inquire into and report upon contracts made during the present war for supplies and transportation for the Army, and whether the same have been made by advertising for proposals in pursuance with law in reference to furnishing supplies for the Government, and if not, the reason therefor, and the reasonableness of such contracts, and all the facts and circumstances connected therewith. Also whether contracts are let in accordance with the specifications inviting proposals, and if not, the reasons for the same; and whether any officer or person in the employment of the Government are interested either directly or indirectly in any such contracts, whether made on advertisement for proposals or otherwise; also, whether there has been any unreasonable and unnecessary delay in the proper trial of officers and persons connected with contracts for furnishing supplies for the Army and who have been charged with official misconduct prejudicial to the interests of the Government, and if such has been the case the reasons for such delay; that said committee may send for persons and papers, may examine witnesses under oath, and report at any time.

Mr. GRINNELL. I desire to ask the gentleman from Indiana [Mr. HOLMAN] whether he has any particular case to present for the action of the House. Has he any particular grievance to which he can refer us as a ground for the action which he now proposes?

Mr. HOLMAN. I can name several which should be the subject of an investigation.

Mr. GRINNELL. I would be glad if the gentleman would name one.

Mr. HOLMAN. If the House thinks proper to hear me, I will be glad to name several instances calling for investigation.

Mr. GRINNELL. I only want to say this: let the gentleman from Indiana present to the House specifications and not general charges, and I will go as far as he or any other member of this House will go for the purposes of securing investigation. But I think that the pending resolution is too general. If this practice is to prevail I think that we might spend the whole of the session in submitting resolutions, appointing committees, and carrying on fruitless investigations. I do not want to stay the whole year here for any such purpose. I am opposed, therefore, to the passage of this resolution unless the gentleman from Indiana will bring forward specifications—name persons and particular matters, so that we may know exactly what we are doing. I must, therefore, object to the resolution.

The SPEAKER. The resolution then goes over.

Mr. HOLMAN. The gentleman from Iowa has called for specifications, and I hope that he will not object so as to cut me off from replying to him.

Mr. GRINNELL. Of course not. I withdraw my objection so that the gentleman from Indiana may be heard.

Mr. HOLMAN. Mr. Speaker, the resolution contemplates an inquiry into two classes of cases, or specifies two subjects of examination. The gentleman from Iowa requires specific instances of fraud. I cannot refer to them all; this would be impossible. I must state a few facts as briefly as possible. If I thought that the House would have patience to listen at this late hour I might feel disposed to go into the subject more fully. What does the resolution propose? It first directs an inquiry as to what contracts have been made without advertising for proposals as is required by law; where such contracts have been made, the reason why the law was not complied with, and also in such cases the reasonableness of the contracts themselves. And secondly, and I think the more important point embraced in the resolution I have offered, is why parties charged with frauds against the Government have not been brought to trial before the proper tribunals. The gentleman from Iowa calls for special cases where accusations brought against parties for fraud against the Government have been delayed in being brought to trial. I will call the attention of my friend to the case of an assistant quartermaster at Cincinnati, Captain F. W. Hurr. So far back as last July or August he was placed under arrest, as has been uniformly asserted, by order of General Burnside, charged with the grave offense of fraud and embezzlement in connection with his official duties as a quartermaster at that post. I am informed that a board of officers, under the order of General Burnside, examined into the facts and reported on them, fully sustaining the charges. A court-martial was organized for the purpose of trying the case. This was as far back as August of last year. After many delays, for reasons which are unexplained, I am informed that the court-martial was dissolved without any trial of the cause. It is said, too, that the court-martial was dissolved by order of the War Department. Captain Hurr, instead of being tried, was ordered to Washington city in November or December, and since then, and quite recently, he has been remanded to Cincinnati, and is still at large and untried. I state with confidence, based not only on newspaper statements but on other sources of information, that the charges against Captain Hurr were of a most grave and serious character, and were fully sustained by the official examination, and involved other parties, and through all of this period and up to this moment he has not been brought to trial; that during the long months which have intervened there has been no investigation into the matter. I insist, sir, that when a public officer, I care not what may be his position or station, is charged with acts of fraud in connection with the discharge of his official duties, he shall be brought by the Government to a speedy trial for the offense, that the facts should be fully disclosed, so that the people may have confidence that public officers charged with official misconduct to the public injury will be punished. Unless that confidence can be secured in the public mind every department of the Government must languish, and the Government will lose that popular sanction necessary to a successful administration of public affairs. At a time like this public confidence in the honesty and integrity of the Government is of the first importance.

I could mention, but I do not desire to unnecessarily occupy the time of the House, many instances where charges of embezzlement, peculations, and fraud on the part of public officers have been made over and over again in the public prints, and where extraordinary and unaccountable delays have occurred in bringing the parties to trial and merited punishment. To ascertain the cause of these delays is a primary object of this resolution. If the gentleman from Iowa does not want these frauds investigated; if he does not desire the stream of the administration of public affairs to run pure; if he wants the public money frittered away in fraudulent transactions; if, in a word, he desires that parties charged in the public press and by the public voice with embezzlement of the public funds and official corruption shall not be brought to speedy justice, he should object to this resolution. If that be the position that the gentleman and the majority of this House occupy, the sooner the country knows it the better. So far as I am concerned, I do not ask that this resolution shall be passed for any party or parti-

san purpose, nor do I seek this investigation merely for the purpose of affecting the Administration in power. I am controlled, sir, by no such purpose, but by a sense of public duty, in seeking to arrest the speculation and fraud which now prey upon the country. If a public officer holding a public trust—I care not what may be his political creed—is charged with violating his trust and committing fraud upon the public Treasury in a tangible form, I shall vote to secure a prompt investigation. The people whose rights are involved may justly demand this. If the gentleman from Iowa objects to the resolution it may be weeks, or even months, under the rules of the House, before it can be brought up for action again. The responsibility is with him.

Mr. GRINNELL. The gentleman from Indiana has made an extraordinary speech in explanation of his resolution. I believe, sir, that I can speak for this side of the House that it has never objected to any investigation where there has been a specific charge of speculation, or that supplies were furnished without advertising for proposals. And this side of the House never will object to any such investigation in the future.

The gentleman now speaks of supplies being furnished without advertisement for proposals. I think his resolution said nothing about that matter. He talks about a gentleman from Indiana having suffered from the acts of General Burnside. Let him present in his resolution a particular instance of grievance, and I am one who will vote with any side of the House for an investigation. But here he makes wholesale charges, unsubstantiated and without specifications, and I am opposed to bringing forty different things—if I may use that latitude of expression—into one resolution. I will unite with the gentleman in investigating any particular case, and—

Mr. HOLMAN. A question of fact springs up as to the contents of the resolution. I trust my friend will hear the resolution again reported.

Mr. GRINNELL. Certainly.

Mr. HOLMAN. I have limited this resolution to a particular matter of inquiry, to contracts entered into in connection with the War Department alone.

The SPEAKER. The Chair does not understand that unanimous consent is given to the introduction of the resolution.

Mr. GRINNELL. I object to it.

The SPEAKER. Then the resolution is not before the House.

Mr. GRINNELL. I wish to object with this understanding, that—

Mr. HOLMAN. If the resolution is not admitted, I object to explanation.

The SPEAKER. Debate is not in order.

OFFICIAL REPORTS OF GENERAL ROSECRANS.

Mr. GARFIELD, by unanimous consent, introduced the following resolution; which, under the rules, was referred to the Committee on Printing:

Resolved, That ten thousand extra copies of the various official reports of Major General William S. Rosecrans during the war be printed for the use of this House.

And then, on motion of Mr. SPALDING, (at half past three o'clock,) the House adjourned.

IN SENATE.

THURSDAY, January 14, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.
The Journal of yesterday was read and approved.

EMANCIPATION AND SLAVERY.

The VICE PRESIDENT appointed as the special committee under the resolution adopted yesterday, to take into consideration all propositions and papers concerning slavery and the treatment of freedmen, Mr. SUMNER, Mr. HOWARD, Mr. CARLILE, Mr. POMEROY, Mr. BUCKALEW, Mr. BROWN, and Mr. CONNESS.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, transmitting, in answer to a resolution of the Senate of December 21, 1863, a list of the names of all officers in the regular Army who, between the 1st day of December, 1860, and the 1st day of December, 1863, left the service, either by resignation or desertion, stating which, to engage in the rebellion against the Government of the United States;

which, on motion of Mr. MORGAN, was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a letter of the Secretary of War, transmitting a statement showing the expenditures for the contingent expenses of the military establishment during the year 1863; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. HALE presented a petition of citizens of Portsmouth, New Hampshire, praying that the aid asked by the South American Steamship Company to establish mail communication by steam vessels with the countries of South America may be given; which was referred to the Committee on Commerce.

Mr. HALE. Mr. President, I have received a paper not exactly drawn up in the form of a petition as required by our rules, but it is in the nature of a petition from a person employed on board one of our naval vessels off Morris Island, South Carolina, praying for an increase of the compensation of paymasters' clerks in the Navy. It is in the form of a petition, but instead of being directed to Congress, it is directed to me as chairman of the Committee on Naval Affairs. It relates entirely to proposed legislation of Congress, and is pertinent and proper for the consideration of Congress, although it is not, according to the rule, receivable as a petition. I ask the unanimous consent of the Senate to present it and have it referred to the Committee on Naval Affairs.

There being no objection, the paper was received and referred to the Committee on Naval Affairs.

Mr. CLARK presented the petition of Silas Simpson, praying for payment for property damaged and destroyed by troops in the service of the United States; which was referred to the Committee on Claims.

He also presented the petition of Frederick Miller, praying for indemnification for damages sustained by him in being ejected from his residence and place of business by a surgeon in the service of the United States; which was referred to the Committee on Claims.

Mr. RAMSEY presented a memorial of the Legislature of the State of Minnesota, praying for a grant of lands to make up the deficiency in the grant heretofore made to aid in the construction of the Minneapolis and Cedar Valley railroad; which was referred to the Committee on Public Lands.

He also presented a petition of citizens of Wisconsin and Minnesota, praying for the passage of an act authorizing the States of Wisconsin and Minnesota to change their northern boundary line, to enable the State of Minnesota to purchase or exchange for the mouth of the St. Louis river and the town of Superior, thereby acquiring a suitable harbor on Lake Superior; which was referred to the Committee on the Judiciary.

Mr. McDUGALL presented resolutions of the Legislature of California, in favor of the reduction of the tax on domestic wines; which were referred to the Committee on Finance.

He also presented a resolution of the Legislature of California, in favor of the establishment of a mail route from Keyesville to Union Mills in that State, and also a mail route from Crescent City, California, to Waldo, Oregon; which was referred to the Committee on Post Offices and Post Roads.

He also presented resolutions of the Legislature of California, in favor of the establishment of a mail route from Red Bluff to Shasta, and the establishment of post offices at Zelly's Ferry, Battle Creek, Parkville, and Buckeye in that State; which were referred to the Committee on Post Offices and Post Roads.

Mr. JOHNSON presented a petition of acting assistant surgeons of the United States Army, praying that they may be exempted from military duty as soldiers; which was referred to the Committee on Military Affairs and the Militia.

Mr. TEN EYCK presented the petition of William H. Conover and two hundred and eighty-three others, citizens of the county of Monmouth, New Jersey, praying for the enactment of a law providing for the establishment of a uniform ambulance system for the armies of the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. COWAN presented a memorial of citizens of Bucks county, Pennsylvania, remonstrating against the repeal of the \$300 commutation clause in the enrollment law; which was ordered to lie on the table.

He also presented the memorial of William Cornell Jewett, praying that the joint resolution of Senator McDUGALL, regarding France, may be promptly condemned as untimely, unjust, unwise, and unstatesmanlike; which was referred to the Committee on Foreign Relations.

Mr. FESSENDEN presented a petition of citizens of Portland, Maine, praying that a pension may be granted to Jessie Gould, who was accidentally shot while assisting in discharging the guns and ammunition from the schooner Archer, taken from the Tacony pirates; which was referred to the Committee on Pensions.

RESOURCES OF THE UNITED STATES.

Mr. FOSTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State be requested to transmit to the Senate a copy of the report on the resources of the United States presented to the International Statistical Congress, at Berlin, in September last, by Hon. Samuel B. Ruggles, delegate to that body from the Government of the United States.

REPORT OF THE ARCHITECT.

Mr. FOOT submitted the following resolution; which was considered by unanimous consent, and referred to the Committee on Printing:

Resolved, That five hundred copies of the report of T. U. Walter, architect of the Capitol extension, be printed for the use of his office.

WASHINGTON PASSENGER RAILWAY.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate be directed to communicate to the Senate whether the Washington and Georgetown Railroad Company has made any report to Congress in accordance with the provisions of its charter.

BILLS INTRODUCED.

Mr. GRIMES moved, and by unanimous consent obtained, leave to introduce a bill (S. No. 59) to incorporate the Columbia Railway Company in the District of Columbia; which was read twice by its title.

Mr. GRIMES. I move that the bill be printed; and I desire to say in connection with this bill, and also in regard to one of a similar character which I introduced yesterday, that I know very little of the general provisions of the bills or of their merits. I only sought to inform myself as to the respectability and responsibility of the gentlemen whose names are mentioned as incorporators, with a desire that both bills, and all others of a similar character, should be referred to the Committee on the District of Columbia, and be considered by the committee.

The bill was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. WILKINSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 59) extending the limits of the northern Indian superintendency; which was read twice by its title, and referred to the Committee on Indian Affairs.

PUBLIC BUILDINGS REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print five hundred copies of the report of the Commissioner of Public Buildings, have instructed me to report it back with an amendment, and to ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That five hundred copies of the annual report of the Commissioner of Public Buildings and Grounds be printed for the use of the Commissioner's office.

The amendment of the committee was to strike out all after the word "resolved," and insert:

That five hundred copies of the report of the Commissioner of Public Buildings, and five hundred copies of the report of the architect of the Capitol extension, be printed for the use of their respective offices.

The amendment was agreed to; and the resolution, as amended, was adopted.

DEAF AND DUMB, AND BLIND REPORT.

Mr. ANTHONY. The same committee, to whom was referred the resolution to print five

hundred copies of the report of the Institution for the Deaf and Dumb and the Blind, for the use of the institution, have instructed me to report it back without amendment, and to ask for its present consideration.

There being no objection, the Senate proceeded to consider the resolution; and it was agreed to, as follows:

Resolved, That five hundred copies of the report of the Institution for the Deaf and Dumb and the Blind be printed for the use of the institution.

CHICAGO WATER-WORKS.

Mr. CHANDLER. The Committee on Commerce, to whom was referred Senate bill No. 57, have directed me to report it back with a recommendation that it pass; and I ask the unanimous consent of the Senate to consider it at the present time. It merely authorizes the city of Chicago to use fresh water.

Mr. GRIMES. What is the title of the bill?
The VICE PRESIDENT. It will be read.

The SECRETARY. "A bill declaring the assent of Congress to an act of the Legislature of the State of Illinois therein named."

By unanimous consent, the Senate as in Committee of the Whole proceeded to consider the bill. It gives the consent of Congress to the operation of the eleventh section, chapter fifteen, of the act of the General Assembly of the State of Illinois, approved February 13, 1863, entitled "An act to reduce the charter of the city of Chicago and the several acts amendatory thereof into one act, and to revise the same;" which section is as follows: "Said city shall have the power to extend aqueducts or inlet pipes into Lake Michigan so far as may be deemed necessary to insure a supply of pure water, and to erect a pier or piers in the navigable waters of said lake for the making, preserving, and working of said pipes or aqueducts; provided that such pier shall be furnished with a beacon light which shall be lighted at all such seasons and hours as the light on the pier at the entrance of Chicago river."

The bill was reported to the Senate without amendment.

Mr. FOSTER. I should like to ask the chairman of the Committee on Commerce what necessity there is for any consent of Congress to enable the city of Chicago to draw water from the lake?

Mr. CHANDLER. The proposition is to run a tunnel under the lake for about two miles, so that the city may procure water beyond the reach of the debris from the Chicago river. The Legislature of Illinois has granted them the permission of the State, and they now deem it important to have the sanction of Congress with the permission given by the State, it being navigable water. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

SECOND ASSISTANT SECRETARY OF WAR.

Mr. WILSON. If there is no further morning business, I move that the Senate take up the bill (S. No. 50) to authorize the President to appoint a Second Assistant Secretary of War.

The motion was agreed to, and the bill was considered as in Committee of the Whole. It proposes to authorize the President, by and with the advice and consent of the Senate, to appoint an officer in the War Department to be called the Second Assistant Secretary of War, at a salary of \$3,000 per annum, to perform such duties in that Department as shall be prescribed by the Secretary of War, or as may be required by law.

Mr. JOHNSON. I rise to inquire of the chairman of the Committee on Military Affairs if there is any necessity for the appointment of an additional Assistant Secretary. There is one already, I understand. It seems to me that we are going on multiplying offices to a very great extent.

Mr. WILSON. I will say to the Senator that early in the war we authorized the appointment of three Assistant Secretaries of War, but we limited the duration of office of the Second and the Third Assistants to one year. The time expired many months ago, nearly a year ago, and the office now is very much burdened. The present Assistant Secretary of War has been for several months during the past season confined by sickness, brought on, as he and his friends think, by over-exertion, and the Department is very anxious to add one more assistant.

Mr. JOHNSON. I do not object to it if the Secretary of War says it is necessary; but I would

suggest to the chairman of the committee whether it would not be better to limit the duration of the appointment to the termination of the war.

Mr. WILSON. I have no objection to limit it to one year if the Senator chooses.

Mr. JOHNSON. I will move that limitation.

Mr. WILSON. Say "one year or during the war."

Mr. JOHNSON. "One year" will do.

Mr. WILSON. We can renew it next year.

Mr. JOHNSON. Yes, we can renew it if it be found necessary. I move to amend the bill by inserting at the proper place, "for the term of one year from the passage of this act."

The amendment was agreed to.

The bill was reported to the Senate as amended, ordered to be engrossed for a third reading, read the third time, and passed.

COMMITTEE SERVICE.

Mr. POMEROY. I ask to be excused from any further service upon the Committee on Pensions.

Mr. FOSTER. The honorable Senator's services on that committee are very important, and I should be very sorry as a member of the committee to dispense with them. I do not wish, of course, to have him retained there against his will; but unless there is some very strong reason why he wishes to leave us, I hope he will continue with us. I can assure the Senate that his services are quite important to the country.

The VICE PRESIDENT. The question is on the motion of the Senator from Kansas that he be excused from further service upon the Committee on Pensions.

The motion was agreed to.

AMENDMENT OF THE JOINT RULES.

Mr. FOOT. Mr. President, some time ago I proposed an amendment or modification of one of the joint rules of the two Houses. It is proper business for consideration within the morning hour, and I ask that it be taken up now for consideration.

The VICE PRESIDENT. The Senator from Vermont moves to proceed to the consideration of the resolution in relation to the rules indicated in his motion.

The motion was agreed to.

The VICE PRESIDENT. The resolution is now before the Senate. It will be read, and will then be open to amendment.

The Secretary read it, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That the first joint rule of the two Houses be amended to read as follows:

When amendments are made by either House to a bill, joint resolution, or concurrent resolution from the other, the course of proceedings shall be as follows:

1. The House originating the bill, &c., may, in whole or in part, agree to such amendments—agree to such amendments with amendments, or disagree to them.

2. The House making the amendments may in like manner proceed to act upon these proceedings of the originating House.

3. Should this last action not be agreed to by the originating House, and thereby produce a disagreement between the two Houses, either may recede from its disagreement, thereby passing the bill, &c., or may insist upon it, and ask a free conference on the point or points of such disagreement; appoint a committee of conference on its part, and send the bill, papers, &c., to the other House.

4. The latter House may also insist upon its disagreement—agree to the conference, and appoint a committee on its part.

5. The joint committee of conference may then proceed freely to confer upon the point or points of disagreement between the two Houses, but shall not be at liberty to affect any other part or parts of the bill, &c., already agreed to by both Houses; and shall promptly make report of the result of such conference to their respective Houses, the bill, papers, &c., being brought into the House first proposing the conference.

6. This latter House shall first act upon the report of the committee; its action upon the report shall then be sent, with the bill, papers, &c., to the other House, which may then also act upon it.

7. Should the committees, respectively, report a disagreement between themselves, second committees may be appointed, who shall proceed in like manner as the first.

8. Should the second committees agree to a common report for settling the disagreement between the two Houses, it will be made to the respective Houses, upon which the Houses will act as stated in the sixth article of this rule.

9. Should the second committees disagree, the fact will be reported to the respective Houses, as in the first instance, and the House asking the second conference shall first act upon this second report.

10. The term of conference being then passed, this House may recede from its disagreement, which will pass the bill, &c., or, by a simple resolution, it may state its reasons and adhere to its disagreement, or it may simply adhere to its disagreement, and send the bill, papers, &c., to the other House.

11. The other House may then proceed in the same man-

ner, and should this House recede from its disagreement, the bill, &c., will be passed; but should this House adhere, with a statement of its reasons or not, the bill, &c., will then be lost.

12. Should a bill, &c., be thus lost or defeated, such parts of the same, *verbatim et literatim*, as may have been agreed to by both Houses, and have not been effected by any disagreement between the two Houses, may, in either House, be immediately introduced as a new bill, &c., by any member thereof, and shall take precedence of all other business, and be acted upon in all its readings and stages immediately and without debate, and if passed, shall forthwith be sent to the other House for concurrence, which House shall, in like manner as the first, immediately proceed to act upon the said bill, &c.; and should this House also pass this bill, &c., notice thereof shall immediately be sent to the first House, and the bill, &c., may immediately be signed by the Presiding Officers of the two Houses, as other bills, &c., are signed, and presented to the President of the United States for his approval or disapproval, as in other cases.

Mr. FOOT. Mr. President, a few words by way of explanation will perhaps be all that may be required in order to show the importance, and sometimes, indeed, as I think, the urgent need of some such amendment or modification of the first joint rule of the two Houses of Congress as that which is now before us. I will ask for the reading of the first joint rule of the two Houses of Congress.

The VICE PRESIDENT. It will be read.
The Secretary read, as follows:

"1. In every case of an amendment of a bill agreed to in one House, and dissented to in the other, if either House shall request a conference, and appoint a committee for that purpose, and the other House shall also appoint a committee to confer, such committees shall, at a convenient hour, to be agreed on by their chairmen, meet in the conference chamber, and state to each other verbally or in writing, as either shall choose, the reasons of their respective Houses for and against the amendment, and confer freely thereon."

Mr. FOOT. Mr. President, it will be observed that this rule as it now stands merely provides for the first or preliminary stage of proceeding in case of disagreement and conference between the two Houses of Congress, and consequently, leaving all subsequent proceedings thereon to be regulated and controlled by the common parliamentary law, or those rules of practice which have been adopted from time to time through a long series of years and from an early period by the British Parliament—rules, many of which are incoherent, many of them vague and indefinite, and many of them inapplicable to the more simple forms of legislative proceedings in our Government, and which have sometimes enabled a factious few arbitrarily to oppose a successful resistance to the will of the great majority, and to defeat for the time being important and even vital public measures. It will be observed, however, that all the articles of the proposed amendment, with very little variation, if any at all except the last article, are but the expression of the common parliamentary law or modes of proceeding on questions of disagreement and conference between the two Houses of Congress. It is only the last article of the proposed amendment which proposes any material innovation or change in the existing parliamentary rules of practice. It is to this article, therefore—to the proposed change or rather the proposed addition to the present parliamentary process on questions of disagreement and conference between the two Houses of Congress—that I invite the particular attention of Senators.

It will be seen that it merely provides a simple and summary process by which the main body of a bill, essential, perhaps, to the support, and, it may be, to the very existence of the Government itself, may be saved and become a law, notwithstanding the final disagreement of the two Houses of Congress, as is not unfrequently the case, upon some mere technicality or upon some trivial and comparatively unimportant matter which it may contain. I submit that it is not a wise rule, that it is not a practical rule, that it is not indeed a sensible rule, under the operation of which an entire bill, however important to the public interest, must necessarily be lost because of the final disagreement of the two Houses upon some trivial and comparatively immaterial portion of it; and it is only strange, indeed, that such a rule of ancient and foreign origin, and incompatible with the principles of our system of Government, where majorities express the popular will and speak the law, should have so long obtained a place in the proceedings of American legislation.

It is hardly necessary to say, Mr. President, that each House of Congress for itself, and that the two Houses concurrently have often times, in

other cases, made rules for themselves in accordance with their own judgment and in conformity with their own peculiar circumstances and condition, and, thus so far forth, superseding the common parliamentary law. This is done under the authority of that clause of the Constitution which declares that "each House may determine the rules of its proceedings;" and rules so determined are, to that extent, paramount to, and necessarily take the place of, all other rules in the government and proceedings of the respective Houses. Is it not reasonable and proper, when experience has shown that certain rules of practice made by a foreign Government, and in ancient times by other parliamentary bodies, are unsuited to the more simple forms of legislative proceedings of the Congress of the United States, that it should set aside such rules and frame others in their stead better adapted to its own condition and circumstances, and better calculated to regulate and facilitate its own practice and proceedings?

The want of some plain, practical, explicit joint rule regulating the mode of proceedings upon questions of disagreement and conference between the two Houses of Congress has long been felt as a very serious one, and has been the occasion oftentimes of very serious inconvenience, and in some instances of the loss of very important public measures. In Congress, as in all other legislative bodies, disagreements upon bills and consequent committees of conference upon them take place for the most part near the close of the session, when time is precious, when the time for consideration of measures is short, and when, as the experience of all of us has shown, many of the most important measures of the session are crowded into a brief space, into the space of a few days, and sometimes even of a few hours. And it is at such a time as this and under these circumstances that proceedings upon disagreements and consequent conferences, and persistent and repeated disagreements perhaps, oftentimes upon some trivial portion of a bill, have caused the loss of the entire bill, vital, though it may be, to the operations of the Government, and at a period of the session when there is not time to renew the bill, divested of contested matter, with any hope or prospect of its passage under our present rules, when a single objection may arrest its progress or defeat its passage.

There are two recent instances of this kind which are doubtless within the recollection of Senators; one instance to which I refer was that of the loss of the Army appropriation bill during the administration of Mr. Pierce, and which rendered it necessary to recall Congress immediately. The other instance to which I refer was that of the loss of the General Post Office appropriation bill a few years ago, during the administration of Mr. Buchanan. The loss of that general appropriation bill by a single objection at the last day and the last hour of the closing session of a Congress, caused very serious inconvenience and indeed serious embarrassment in the operations of that Department.

Now, to avoid these serious consequences, and to render all such proceedings upon bills plain and simple and easily understood, and finally by a summary process to rid those bills of all contested matter upon which, after reasonable trials, it has been found impossible to bring the two Houses to an agreement, this rule is proposed, which, if adopted, can hardly fail to have the effect of saving so much of the bill as has been actually agreed to by both Houses, and yet at the same time giving both Houses the opportunity of reaffirming or reversing their previous agreement to such parts of a bill.

Mr. President, I see no possible objection to the adoption of this rule, while there are, on the other hand, many and urgent considerations in favor of it. But with these explanatory remarks I shall submit the question to the better judgment of the Senate.

Mr. SHERMAN. I have read carefully the proposed amendments to the rules, and I agree that they are wise and ought to be adopted. There are two points, however, to which I would call the attention of the Senator from Vermont, who perhaps will agree with me upon them. The fifth clause of the proposed new rule prohibits a committee of conference from changing the text of the original bill already agreed upon. That is the general parliamentary rule; but there are often cases where

the text already agreed upon is inconsistent with the report of the committee of conference, and it must be modified in some slight respect. I have known in practice several cases of that kind where it became necessary to change the text of the original proposition in order to make it conform to the meaning of the amendments agreed upon by the committee of conference. I propose, then, with the Senator's consent, to insert in the fifth clause of the proposed rule, after "Houses," in the fourth line, these words: "unless they pertain to or affect the meaning of the points of disagreement;" so as to make that clause read:

The joint committee of conference may then proceed freely to confer upon the point or points of disagreement between the two Houses, but shall not be at liberty to affect any other part or parts of the bill, &c., already agreed to by both Houses, unless they pertain to or affect the meaning of the points of disagreement.

Mr. FOOT. I see no objection to the amendment of the Senator from Ohio. I am aware that there have been within my own experience some three or four instances where it has been desirable that a committee of conference should change the body of a bill already agreed to by both Houses of Congress but excluded from the jurisdiction and consideration of the committee of conference by the general rule under which those proceedings are regulated. If it can be confined to such parts of a bill as on the face of them are inconsistent with other portions of the bill, and not open the whole bill, which the two Houses have agreed upon, to the consideration and modification of a committee of conference, I have no objection to it.

Mr. SHERMAN. That is my purpose; and if I have not used the correct words to express it, I hope the Senator will propose them.

Mr. FOOT. I think the words are apt and brief.

Mr. SHERMAN. The next difficulty I have is upon the last proposition.

The VICE PRESIDENT. The question will first be taken upon the Senator's first amendment, to insert at the end of the fifth clause the words "unless they pertain to or affect the meaning of the points of disagreement."

The amendment was agreed to.

Mr. SHERMAN. The sixth line of the twelfth clause requires action upon the new bill in both Houses immediately and without debate. I do not think the Senate ought to surrender its right to debate any proposition, especially so important a proposition as the passage of a bill. A slight explanation may change the minds of Senators. In the House of Representatives, under their rules, by the previous question they can cut off debate. I do not think it desirable to cut off debate in the Senate on all occasions. If there were any way to limit the debate, I should have no objection to that; but to require a bill to be passed through all its stages in the Senate without debate, without explanation, without any opportunity to make a suggestion, seems to me rather an arbitrary proceeding. I would prefer this rule if the words "and without debate" were stricken out. I think there will be no practical difficulty if we strike those words, and I therefore move to strike them out.

Mr. FOOT. That simply defeats the whole object of the proposed rule. The Senator will recollect, although he was not then a member of this body but of the other House, I think, that a few years ago the General Post Office appropriation bill was defeated by debate, speaking against time, purposely and avowedly to kill the bill. The proposed rule provides that only so much of a bill as has been agreed to by both Houses, as has gone through all the ordinary stages of legislative proceedings, as has been fully debated so far forth as any member of either House has chosen to debate it at every stage of its proceeding—not any new matter, but only so much of a bill as has gone through a full and considerate deliberation of both Houses—shall be put through without debate. If you admit debate then, your bill is lost; you are where you were before without this proposition.

Mr. SHERMAN. Rather than endanger the passage of this resolution, I prefer to withdraw my amendment, as I see the importance of passing the amendatory rule. At the same time I think it is dangerous.

Mr. GRIMES. It seems to me that as we have adopted the other proposition of the Senator from Ohio, we ought to adopt this; or at least, if we

adhere to the resolution as submitted by the Senator from Vermont, we ought to reconsider our vote on the other proposition of the Senator from Ohio.

Mr. SHERMAN. The Senator is mistaken. The other proposition relates to a bill in its prior stages, when it is all open to debate.

Mr. GRIMES. But the committee of conference, under the resolution as now amended by the Senator from Ohio, has the right to modify the language of any of its provisions.

Mr. SHERMAN. Only so far as they affect the meaning of the language of the disagreeing votes.

Mr. GRIMES. But who is to judge of that? The committee of conference. When they come in here with a modified proposition and submit it to the Senate, they will say that they have only made some slight modifications, some slight changes. I may be satisfied that they are not giving the right construction to that language; and yet under the rule as it now stands I am not permitted to say to the Senate what my opinion is on that subject.

Mr. SHERMAN. With due deference to the Senator, he is very much mistaken. The bill is then open to debate. At that stage the Senator can debate it at any length. The debate under the twelfth proposition is only cut off when the two Houses have disagreed, and a new bill is introduced and passed through the forms of legislation without reference to the action of the committee of conference. In the case put by the Senator from Iowa, the bill together with the report of the committee of conference would be open to debate, and the Senate by a majority vote could disagree to the report of the committee of conference and refer the bill to another committee of conference, so that there would be no practical difficulty.

Mr. GRIMES. If debate is free on that modification, I am satisfied.

Mr. SHERMAN. Perfectly so. Debate is not cut off except on the final action after all conferences have failed, and when a new bill has been introduced and is on its passage.

Mr. HOWE. Mr. President, I should like to suggest to the Senator from Vermont if he cannot accomplish further good in this same direction by changing another rule or another practice which has obtained here in the Senate; that is, as to the form in which the question shall be put upon the coming in of a report from a committee of conference. As I understand the practice, it has been heretofore that the question is upon agreeing to that report.

Mr. FOOT. Concurring in the report as an entirety.

Mr. HOWE. The Senator now proposes a modification of the rule which will enable us to save a part of a bill when there is a persistent disagreement as to other portions. If, when the report of a committee of conference comes in, instead of putting the question to the House whether they will agree or disagree to the report, the question be put upon adhering or receding from each of the different propositions which were submitted to the committee of conference, it seems to me we might secure an agreement between the two Houses much further, to larger portions of the bill, than we do by putting the question as is now done, and then the twelfth clause of this proposed amendment would be of greater utility, as it seems to me, than it will be as it stands. I make the suggestion. I shall move no amendment.

Mr. FOOT. I listen to the suggestion of the Senator from Wisconsin with great respect, and I shall be very happy to consider with him the proposition which he suggests if he will present it in a separate and distinct form. I would rather he would not propose it as an amendment to my proposition: I disagree with him entirely as to the effect of such a rule. I think it is a matter of absolute practical necessity that the question upon the report of a committee of conference should be put upon agreeing to the report, or concurring in the report as an entirety by the Senate or the House of Representatives when the report is made. Such a proposition as he has made would defeat the whole object and purpose of a committee of conference to settle differences between the two Houses, because it would bring the two Houses at odds again upon the same questions upon which they

had before disagreed and on questions upon the bill itself. But I repeat, I shall be very happy to consider the Senator's proposition if he will bring it in a separate and distinct form and will not urge it as an amendment to this proposition of mine now pending.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order.

Mr. FOOT. I hope the question may be taken. I suppose there will be no further debate.

Mr. TRUMBULL. I should like to inquire if this proposed change of our rules has been under the consideration of any committee.

Mr. FOOT. It has not.

Mr. TRUMBULL. It strikes me as a very great innovation to limit debate in this body. The Senate has always refused to adopt the previous question, or to place any other limit upon debate than that which the sense of propriety of every Senator fixes for himself. I was here for some years in a minority, and I thought the right of debate a very sacred privilege. Being now in the majority, I am not disposed, for one, to adopt a rule that shall limit debate in this body. I know we have at times been subjected to inconvenience by debates which seemed to be unreasonable, by opposition, which seemed to be factious and for the mere purpose of delay; but for one I would rather submit to that inconvenience than to establish in this body a rule that would prevent the full consideration of every subject coming before the Senate. At all events, I think that so important a change as this ought to be well considered by the Senate before it is adopted. I do not know but that the proposed rule in other respects, as to the mode of passing a bill about which the two Houses have disagreed, may be the very best that could be adopted, but I would prefer myself that it should not be pressed to a vote this morning, at any rate.

Mr. FOOT. Let it go to the Committee on the Judiciary, of which the Senator from Illinois is chairman, that he may consider that question.

Mr. TRUMBULL. I have no wish to take charge of it.

Mr. FOOT. It defeats the whole object of the rule if a bill is left open to debate at that stage where it proposes to cut off debate; and I repeat again, it prevents debate only upon questions which have been considered fully and deliberately in both Houses before, and have passed the ordeal of the concurrence of the two Houses after a full debate. It is not the case of shutting down debate on a question which has not been heard. Open it to debate, and you defeat the object of the rule, and your whole bill is lost—that upon which the two Houses have previously agreed. It was that debate against time, when there was but half an hour left of the session, that lost the appropriation bill for the General Post Office four years ago.

The VICE PRESIDENT. The unfinished business of yesterday is appropriately before the Senate, and this debate cannot be pursued unless by the unanimous consent of the Senate.

Mr. TRUMBULL. If the Senate would allow me, I should like to answer that last suggestion while it is before the Senate.

Mr. FESSENDEN. It will be better to let it go over until to-morrow.

Mr. TRUMBULL. I will occupy but one moment. It is merely to say, if the Senate will indulge me, that I do not exactly understand it as the Senator from Vermont does, that this cutting off of debate is upon matters about which the two Houses have entirely agreed. It is true it is on a part of the bill that both Houses have agreed to, but yet neither House has agreed to pass that part without the other; and therefore it is a new question in each House whether they will be willing to take this portion of the bill which might be very materially modified and changed by the other parts which each House has insisted upon. So it does not strike me that it is a question which has been fully discussed in the two Houses whether the bill in that shape should pass or not.

Mr. FOOT. I move the reference of the proposition to the Committee on the Judiciary. I think perhaps it had better pass the ordeal of the examination of some one of the standing committees of the body, inasmuch as objection is made. I supposed the proposition would meet

with unanimous favor after the experience we have already had.

The motion to refer was agreed to.

OATH OF OFFICE.

Mr. SUMNER. I understand that the Senator from Delaware, [Mr. BAYARD,] who is not now in his seat, would be glad to be heard on the subject of the proposed rule of the Senate offered by me, to-morrow, at some time, say at half past twelve o'clock. I therefore ask the Senate to take that up now and make it a special order for that hour to-morrow.

The VICE PRESIDENT. That motion can be entertained only by the unanimous consent of the Senate. The Chair hears no objection. The proposed rule is therefore before the Senate. The Senator from Massachusetts now moves to postpone it until to-morrow, and make it a special order for half past twelve o'clock.

The motion was agreed to, two thirds of the Senate concurring therein.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution of the Senate:

A bill (No. 57) declaring the assent of Congress to an act of the Legislature of the State of Illinois therein named; and

A joint resolution (No. 15) amendatory of the joint resolution to supply in part deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties to volunteers.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 13th instant, the following joint resolutions:

A joint resolution (H. R. No. 15) to provide for the printing, annually, of the report of the Commissioner of Internal Revenue; and

A joint resolution (H. R. No. 16) to continue the bounties heretofore paid.

AMENDMENT OF ENROLLMENT ACT.

The VICE PRESIDENT. The unfinished business of yesterday is now before the Senate, being the bill No. 36.

Mr. DAVIS. I rise to a question of privilege.

The VICE PRESIDENT. The Senator will state his question.

Mr. DAVIS. It is that the question before the Senate is upon the resolution offered by the Senator from Massachusetts [Mr. WILSON] for my expulsion.

The VICE PRESIDENT. Not in the impression of the Chair. That resolution was postponed by a special vote of the Senate, and the other bill was taken up before the adjournment yesterday. The Senator from Wisconsin [Mr. DOOLITTLE] moved to postpone the subject to which the Senator from Kentucky refers, and it was postponed by the vote of the Senate. Then the unfinished business of the day preceding came up, and on that the Senate adjourned. That is the recollection of the Chair.

Mr. DAVIS. I barely ask leave to suggest this question: if when there is no subject before the Senate, a question of privilege is not always in order, and does not always supersede all other business?

The VICE PRESIDENT. In the impression of the Chair it does, precisely as the Senator from Kentucky says.

Mr. DAVIS. Well, sir, I conceive that to be the position of business before the Senate at this time.

The VICE PRESIDENT. The Chair disagrees with the Senator in that. The bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, is before the Senate as in Committee of the Whole. The pending question is on an amendment of the Senator from Massachusetts [Mr. WILSON] to the amendment of the Committee on Military Affairs. Both amendments will be read.

The Secretary read the amendment of the committee, which was to add the following as an additional section:

And be it further enacted, That so much of the act entitled "An act for enrolling and calling out the national

forces, and for other purposes," approved on the 3d day of March, 1863, as authorizes the discharge of persons drafted into the service of the United States under the authority of that act upon the payment of a sum of money not exceeding \$300, be, and the same is hereby, repealed.

The amendment of Mr. WILSON was to strike out all after the enacting clause of the proposed section, and to insert:

That any person enrolled and drafted may pay to such person as the Secretary of War may designate to receive it, \$300 for the procurement of a substitute, and such person so paying \$300 for the procurement of a substitute shall be exempt from draft until such time as he shall again become liable to draft by reason of the exhaustion of the enrollment from which the draft shall be made, but such exemption shall not exceed the time for which such person shall have been drafted: *Provided*, That any married person not possessed of property who labors for a livelihood at some trade or occupation, the annual income from which does not exceed \$400, shall pay \$200: *And provided further*, That any person whose taxable property shall exceed \$10,000, or who may be in receipt of an annual income exceeding \$2,000, shall pay \$500.

Mr. COLLAMER. I wish to inquire whether that is open to amendment.

The VICE PRESIDENT. This is an amendment to an amendment, and is not open to amendment.

Mr. COLLAMER. I hope the Senator from Massachusetts will take off the last part of it.

Mr. WILSON. At the suggestion of several Senators about me, I propose to modify the amendment by omitting the two provisos.

Mr. COLLAMER. Very well; that is all I want.

Mr. WILSON. I propose to take the question simply upon the first portion of my amendment. I desire not to embarrass a direct vote upon the question of striking out the \$300 clause, and I hope we shall be able to get a vote upon it.

Mr. COWAN. Allow me to suggest to the chairman of the Military Committee whether we had better not act first upon the question as to the time for which drafted men shall be called out. If we shorten the time, that may have a material bearing upon the sum put into the bill for commutation, because it may be one thing to exempt a man for \$300 from service for one year, and another to impose that same sum for exemption for three years. I think that the question of time should be fixed first and then we can adjust the commutation clause.

The VICE PRESIDENT. Will the Senator from Massachusetts have the goodness to state precisely what is his modification of his amendment?

Mr. WILSON. I propose to omit the two provisos, so that my amendment shall read:

Any person enrolled and drafted may pay to such person as the Secretary of War may designate to receive it, \$300 for the procurement of a substitute, and such person so paying \$300 for the procurement of a substitute shall be exempt from draft until such time as he shall again become liable to draft by reason of the exhaustion of the enrollment from which the draft shall be made, but such exemption shall not exceed the time for which such persons shall have been drafted.

The VICE PRESIDENT. The question is on striking out all of the amendment reported by the Committee on Military Affairs after its enacting clause, and inserting the words just read.

Mr. CONNESS. I ask for a division of the question.

The VICE PRESIDENT. It is not divisible. By the rules of the Senate a motion to strike out and insert cannot be divided.

Mr. JOHNSON. If the amendment suggested be adopted, I ask the chairman of the committee whether that will repeal the original provision.

Mr. WILSON. It does not repeal it, but modifies it.

Mr. JOHNSON. Had you not better repeal it?

Mr. WILSON. I think it is not necessary to do it in that form. This makes the provision more clear and distinct. It is a simple provision. The Committee on Military Affairs have reported a section proposing to repeal the commutation clause. This amendment, in lieu of that, provides that a person drafted may pay a commutation of \$300 for procuring a substitute, and that his name shall still go on the enrollment list to be called for when persons who have not been drafted have been called for.

Mr. JOHNSON. I understand it thoroughly. That is not my point. The bill, as originally proposed by the committee, repeals the antecedent law under which the commutation of \$300 could be paid, by the payment of which the party was discharged from all draft. I know that lawyers are very ingenious sometimes; and particularly

when they are in the Departments they are exceedingly ingenious. I am not by any means certain that it will not be held by the Department that both laws are in force. I think the construction would be erroneous; but the Department may hold that this provision which you are now about to adopt, provided you adopt it, as proposed by the Senator from Massachusetts, does not necessarily repeal the antecedent provision; and what I suggested was, that he had better say, in so many words, that the antecedent provision is hereby repealed.

Mr. WILSON. Let me suggest to the Senator that several provisions of the original bill are repealed, and some of them are modified by this bill; but the act stands in substance. Most of the provisions of this bill are to correct some portions of the original act. In the practical operation of the act it has been found necessary to make these changes; and I believe they are most generally concurred in by all who have examined the subject. Now, a simple section added to this bill, that "all acts and parts of acts inconsistent with the provisions of this act are repealed," I think would meet the Senator's idea.

Mr. JOHNSON. That would do.

Mr. CLARK. I think I can suggest to the Senator from Massachusetts and also to the Senator from Maryland what will accomplish the purpose of both; and that is an amendment which shall say that whenever a person has been drafted and furnished a substitute or paid \$300 he shall be exempt from further draft until the enrollment is exhausted, not exceeding three years. I think the purpose of both would be accomplished if the amendment were modified in that way.

Mr. HOWE. I simply wish to put a question, and that is as to the effect of adopting the amendment now proposed by the Senator from Massachusetts, which is, as I understand it, to strike out what is proposed as the twenty-first section, and to adopt instead of it the language sent to the Chair. If that be done, will this portion of the bill then be any further amendable?

The VICE PRESIDENT. This section would not be, because the Senate would have agreed to it in the precise form in which it stands.

Mr. HOWE. I understand also that the proposition submitted by the Senator from Massachusetts now is no further amendable, being an amendment to an amendment.

The VICE PRESIDENT. It is not. The only method of reaching it would be to vote down this proposition for the purpose of introducing any other varying its terms.

Mr. HOWE. In that view of the case I wish to add one word to what I said the other day upon this amendment. I am still opposed to it upon the ground urged so forcibly the other day by the Senator from Ohio, [Mr. SHERMAN,] and which I endeavored to support. I think it is injurious to the whole body of the reserve; it is a wrong done to them to say that a drafted man, by the payment of a given sum of money, shall be exempt from any further liability to draft until the whole reserve has once been drawn. It increases the liability of any individual on the roll to be drafted just in proportion to the number of those who pay this money. That is one objection.

Besides that, there is another objection which I desired to meet and to obviate if I could, and thought I did or might obviate by the amendment which I proposed the other day, and which has been printed. I think the Legislature ought to provide some mode by which a person drafted may, upon some terms, or the payment of some sum of money, be exempted; because, as I stated the other day, we know that all men cannot with equal convenience leave their homes and their business to engage in this service. There is one class of men who can afford to do it at a given price. There is another class of men who cannot afford to do it for any sum of money which any one would think of paying, and there ought to be some provision, therefore, by which a person belonging to this latter class who is drafted may be exempted. As was stated here the other day, a man may have a large number of men and women in his employ, and the effect of taking him away from his business and putting him into the military service of the United States would be to discharge from active and profitable employment the whole number of men and women so

employed by him. Therefore I thought it better for us to retain a provision which would enable a man who chose to do so to pay a prescribed sum to be exempted from the liability to serve under that draft.

I do not think, however, that that money ought to go into the Treasury. I think it ought to constitute a fund out of which to pay bounties to those who do choose, not to pay money, but to render service; and therefore if you make a draft of three hundred thousand men, and one hundred and fifty thousand of them choose to pay \$300, or whatever the sum agreed upon may be, rather than to serve, and one hundred and fifty thousand of them prefer to take the money and serve, that they may be enabled to do it. The Government is not then impoverished; the military reserve is not then reduced; and the drafted man is benefited; he receives a bounty for going into the service. He does not get it out of the Treasury; the people are not impoverished; and the Army under this process may be made as large as you see fit to make it; for if under the first draft only one hundred and fifty thousand or one hundred thousand appear you can make another draft the next week or the next month, and continue to draw until you get the numbers in the field that you want to put there. You do not pay a bounty out of the Treasury, and yet you do furnish money out of the pockets of those who would rather pay money than serve, and it goes into the pockets of those who must serve because they cannot pay the money. It relieves the burden which personal service necessarily imposes upon the poor, upon that class who have no money to pay in order to avoid service; and it does not impoverish the Treasury nor the people; and because I would like to see that provision adopted, as well as for the reasons that were urged the other day, I cannot bring myself to support the amendment proposed now by the Senator from Massachusetts; for, as I understand from the Chair, if that amendment be adopted there will be no opportunity to offer any further amendment.

Mr. BROWN. Mr. President, I desire to say one or two words, and only one or two, in regard to the bill that is before us. It strikes me that the whole tenor of the debate which has been indulged in proceeds on the supposition that this bill is virtually a revenue measure, that Senators expect it to raise money and not to raise men, and that they are trying their best now to apportion it in such wise that the tax of money shall fall most equitably in its operations. I do not see any justification for a conscription bill as a revenue measure. I think it is the most unequal and the most unjust system that can possibly be adopted for raising money to hire soldiers. It is raising a revenue for that purpose by chance, not by those measures that have been provided by the Constitution, and by those modes that have been uniformly adopted heretofore. To show that I do not speak without warrant in this thing, let me cite a fact: there has been already one draft under the bill containing this \$300 exemption clause; and if I am correctly informed in regard to it, out of two hundred and ninety thousand drafted men, eleven thousand of those drafted have gone into the service. Now, I take occasion to say that any law which is passed for one object, and which, failing to attain that object, simply arrives at another object, is defective in its nature, is not such a law as we ought to pass here; and I think the idea of passing a law to get men to fill our Army which law in its operation out of a draft of two hundred and ninety thousand only secured eleven thousand, is fatally defective. Therefore I do not feel a great deal of solicitude about the features of this bill if that exemption clause is to be retained in it. It will amount to nothing more nor less than a revenue bill. It will simply, by lot, tax so many of our people so much each in order to enable the Government to hire substitutes.

My own belief is that the Government needs men and not money. I believe it is going to need them more in the future than it needs them in the present. I do not concur altogether with the sentiment that has been advanced on this floor in regard to the present attitude of affairs, and the safety with which we can look forward to those chances that lie before us. We have been engaged for three years in a war more gigantic than any ever known to us before. With each recur-

ring spring we have looked to the certain termination of it by the next year; and yet with each recurring spring we have had to make new armies and have had to call for an additional force of men. I am not prepared to say that we shall not have to do so in the future. I know that we are doing so now; and yet in the presence of that demand, with the recognized certainty that you want many thousands of men, you are here enacting a law which will permit the men of the nation to stand back and hand you their dollars instead. I cannot call that a conscription law. You are doing more than that: you are striking a blow at the very principle which recruits our armies. If you come forward and say to this nation, "The crisis is such that we demand the personal service of our citizens; we demand their enrollment and their assignment wherever the nation shall deem their services best," you will appeal to the noblest sentiments in the human heart, and the appeal will not be in vain. But if, instead of that, you come forward and say to them, as you do substantially say to them here, "It matters not whether you enter the service or not; give us your \$300 and go;" does that present the crisis? Do you not by your own action justify all the citizens of this Republic in saying, "If the Government only wants so much money, and does not need personal service, we will give it the money and stay at home." It strikes me in that light. I may be mistaken in regard to the operation of this draft; but with the light that is before me, and with the facts staring us in the face that, with that exemption clause contained in it, it has been a failure as a draft, I do not think we shall do justice to our position or to the exigencies of our country if we still retain that exemption clause in the law.

Now, sir, I have shown, or at least I have attempted to show, that this bill as it stands, if the \$300 exemption clause is retained in it, will amount to neither more nor less than a revenue bill to furnish the Government with the money for securing recruits. I assume to say, therefore, that if that is the intent, as I believe it will be the practical operation of this bill, this is the most cumbersome measure, the most unjust and the most unequal mode of arriving at that result that could possibly be devised. It is not fair in its taxation; it will not be an equal burden on the country; and the Government can be supplied with funds in far better modes than the one proposed. The only justification that I have heard which strikes me with any force is that by this bill you make the Government the agent for procuring substitutes instead of the individuals who are drafted; in other words, that you empower the Government, by the amendment of the Senator from Massachusetts, to employ substitutes, making the drafted persons pay their \$300. That does not touch the question of the inequality of this as a tax or revenue measure; and furthermore, I think that if it is simply the object to make the Government the agent for procuring substitutes or procuring recruits for filling our armies and paying out this amount for so doing, it can be done far better by a simple bounty bill than by all this cumbersome machinery of enrollment and lottery. I shall therefore be compelled to vote against all amendments that look to the retention of that \$300 exemption clause. If I am to vote for a conscription bill, I want one that shall be applied to the nation and that shall call for personal service and that shall effect the end for which it is designed. If I desire a revenue measure I wish it shaped as revenue measures usually are shaped. If the bounty system is to be retained, then let us make a bounty bill.

I simply desired, sir, to express the opinions I entertain and intend to hold on this subject, and to give some of the reasons that operated with the majority of the Committee on Military Affairs in urging that that \$300 exemption clause should be stricken out, and that we should have in fact, as we have in name, a conscription bill.

Mr. CONNESS. I hope the Senator from Massachusetts will withdraw the amendment that is now before the Senate, offered by him, so that the question may be taken at once by the Senate, and the sense of the Senate obtained as to whether we will continue the commutation principle or not. He presents it now, in the manner in which it is before the Senate, in a complex and difficult form. In the first place, it is proposed by the committee of which he is the chairman to repeal

the commutation clause, and the committee report an amendment to that end, to which the Senator from Massachusetts, the chairman of the committee, moves an amendment, and practically says to the Senate, "If you strike out the commutation clause and are disposed to vote that way, you must accept this form of substitute that I propose;" and the Chair decides that that form being accepted and adopted, it is not subject to change or amendment. Why not let the Senate determine first whether this system of commutation shall be continued or not, and not embarrass us with arbitrarily presenting in lieu of it a particular form of amendment?

And right here, sir, I desire to make a suggestion as a matter of parliamentary propriety. I rose, you will remember, a few moments ago, ignorant of the rule that governed the action of the Senate, and asked for a division of the question; but I find that the difficulty occurs from this system of a committee reporting an amendment to an existing law and then reporting an amendment to their own amendment, which is a practice, in my opinion, "more honored in the breach than in the observance." I hope the Senator will withdraw his amendment, and let the sense of the Senate be taken on the question as to whether the system of commutation for money shall be retained or not.

Mr. HARRIS. I concur with the Senator from California in the suggestion that it would be better for the Senator from Massachusetts to withdraw his amendment, and allow the question first to be taken upon the adoption of the section reported by the committee.

I, for one, am opposed to that section. I am in favor of the principle incorporated in the proposition of the Senator from Massachusetts, but I should be very glad to offer an amendment to that proposition before it is passed upon. As it stands now, the question is simply whether the Senate will take the proposition reported by the committee, or whether it will take the substitute proposed by the Senator from Massachusetts.

Mr. CONNESS. If the Senator will permit me, the form of the question in fact is this: The Committee on Military Affairs say to the Senate, "You have got to take just such a form of legislation on this whole subject as we propose, and unless you take that, you cannot take anything else." It is all wrong.

Mr. WILSON. The Senator from California surely is very much mistaken. The Committee on Military Affairs instructed me to report the bill with this twenty-first section in it. I was opposed to that twenty-first section, and I so stated to the Senate. I therefore, as a member of the Senate, not as a member of the Military Committee, have proposed this amendment to the committee's amendment. I proposed it to meet an objection which was made by the Senator from Ohio, [Mr. SHERMAN,] and which has been made by several other Senators, that they were willing to retain the commutation clause provided the person paying the commutation should not be exempted for three years. I therefore proposed this modification.

Mr. CONNESS. Will the Senator permit me to say a word right there?

Mr. WILSON. Certainly.

Mr. CONNESS. Cannot the Senator perceive that the mode proposed by him is obnoxious in the sense that has been stated, namely: he tells us that the repeal was objectionable to Senators, and they told him if he would agree to a certain form they would support it and vote for it. Then should not that have pointed out to the Senator the necessity of taking the sense of the Senate as to whether the commutation should be retained or not? That being determined, the Senator might accept the suggestions of other Senators, or present his own views in any form that he saw fit. But it is clear if the Senate should say by a majority vote that this system of commutation shall no longer exist, if they should say, "We do not want it," that that would be an end to the question of commutation altogether, and there would be no necessity of wasting time longer upon that subject.

Mr. WILSON. I understand that proposition precisely; but I think the Senator, if he will study the rules, will find that I, or any other member of the Senate, have a right to propose an amendment to this pending amendment. I made it, as I supposed, to represent the views of those who

are in favor of retaining the \$300 commutation clause; but the Senator from New York, who I thought held the same view the other day as presented by the Senator from Ohio, now desires to take a direct vote upon the proposition of the committee without amendment; and the Senator from California, whose views I do not know in regard to the main proposition of repealing the \$300 commutation, desires to take a direct vote on the proposition of the committee. I am certainly willing to accommodate the Senators.

Mr. CONNESS. It is not an accommodation; but, with the Senator's leave, it is by that very mode that the Senator will ascertain how I shall vote upon the subject. In the mode proposed by him he cannot ascertain, because I shall be compelled to vote against his amendment in the form in which he presents it.

Mr. WILSON. I am willing to put it in a form to suit the Senator from California.

Mr. CONNESS. Oh, no; not for me.

Mr. WILSON. And now I will say finally, once for all, rather than labor longer in the Senate on this proposition, I will withdraw my amendment, and allow the vote to be taken on the amendment of the committee. Of course I shall vote against it; but I care very little as to what the result may be upon it. I have no doubt what the final vote of Congress will be on the subject, and I am very anxious that we shall dispose of the bill to-day.

The VICE PRESIDENT. The Senator withdraws his amendment to the amendment of the committee, and the question now is on the amendment reported from the Committee on Military Affairs.

Mr. SHERMAN. I call for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. ANTHONY. Let the amendment be read.

The Secretary read the amendment, to add the following as an additional section to the bill:

SEC. 21. *And be it further enacted,* That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved on the 3d day of March, 1863, as authorizes the discharge of persons drafted into the service of the United States under the authority of that act upon the payment of a sum of money not exceeding \$300, be, and the same is hereby, repealed.

The Secretary proceeded to call the roll, and Mr. ANTHONY answered to his name.

Mr. NESMITH. Mr. President, when this proposition was originally before the Senate—

The VICE PRESIDENT. The call of the roll having commenced, and a Senator having responded, it is too late to debate the proposition. The Secretary will proceed with the call.

The result was then announced—yeas 12, nays 28; as follows:

YEAS—Messrs. Brown, Grimes, Harlan, Lane of Indiana, Morgan, Nesmith, Rainey, Sprague, Ten Eyck, Trumbull, Wade, and Wilkinson—12.

NAYS—Messrs. Anthony, Buckalew, Canfield, Clark, Colman, Conness, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Harding, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Lane of Kansas, Pomeroy, Sainsbury, Sherman, Sumner, Van Winkle, and Wilson—28.

So the amendment was rejected.

Mr. SHERMAN. I now submit the amendment of which I gave notice the other day. It is to strike out section four of the bill after the enacting clause, in the following words:

That any person enrolled under the provisions of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, or who may hereafter be so enrolled, may furnish at any time an acceptable substitute who is not liable to draft, and such person so furnishing a substitute shall be exempt from draft during the time for which such substitute shall have been accepted.

And to insert in lieu thereof:

That any person enrolled and drafted into the military service of the United States may furnish an acceptable substitute, subject to such rules and regulations as may be prescribed by the Secretary of War. That if such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted; and if such substitute is liable to draft, the name of the person furnishing him shall again be placed on the roll, and shall be liable to draft on future calls. And any person now in the military or naval service of the United States, not physically disqualified, who has served more than one year, and whose term of unexpired service shall not at the time of substitution exceed six months, may be employed as a substitute to serve in the troops of the State in which he enlisted; and if any drafted person shall hereafter pay money for the procurement of a substitute, under the provisions of the act to which this is an amendment, such payment of money shall operate only to relieve

such person from draft on that call, and his name shall be retained on the roll, and he shall be subject to draft on future calls, and the maximum of commutation under said act shall hereafter be \$500 instead of \$300.

Mr. WILSON. I will ask the Senator from Ohio why he desires to strike out the fourth section of the bill.

Mr. SHERMAN. My amendment embodies all of the fourth section that is material, and it makes the phraseology better. It contains everything essential in that section, besides including some other matters.

Mr. WILSON. Does the Senator's amendment permit a person who has been enrolled, but who has not been drafted, to furnish a substitute?

Mr. SHERMAN. It does not.

Mr. WILSON. That is a provision of the fourth section, and it is regarded as a very important one.

Mr. SHERMAN. I have no objection at all to that provision being retained. I did not suppose that any one who was simply enrolled would furnish a substitute. To avoid all question about it, I will offer my amendment as a new section, and then if the Senate so determine they can strike out or modify the fourth section of the bill afterwards.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) The Senator from Ohio modifies his amendment by offering it as a new section.

Mr. ANTHONY. I should like to amend that amendment, but as I have not had it under consideration particularly, I do not know precisely where to insert my amendment, and perhaps if it meets the views of the Senator from Ohio who offered it, he will indicate the place. I quite agree with him in the measure which he proposes, to prevent us from exhausting the physical strength of the country; but I do not think a man who has once been drafted and who has paid his \$300 should be drafted again until all others liable under the same draft have been drafted; and if the amendment could be so altered as to provide for that I should be inclined to support it.

Mr. FESSENDEN. I desire to make a suggestion to the Senator from Ohio. I should like to know the reasons which have induced him to enlarge the price of commutation from \$300 to \$500. That amount of \$300 was fixed, after very great consideration and deliberation, as about the right amount to accomplish the purpose we had in view. I am very much afraid if we raise it from \$300 to \$500 it will expose the law to greater attacks than those to which it was subjected before, on the ground of its being intended to let off those who are rich, as they call them, by the payment of money, and to compel those who are less able to pay to enter the service. I take it the object to be accomplished is twofold. We want to get men. That is the first thing; and therefore in fixing the commutation, if we fix one at all, we must not fix it so low that everybody can pay it, because then you may fail utterly to get men. Nor must you fix it so high that you put it out of the power of a certain class of the community, not rich, but still able to pay, who are unable for certain reasons to go into the service, to avail themselves of it. Now, \$300 was fixed upon as about the right sum. If there are any good reasons for changing it, of course I shall not object; but it strikes me that the Senator will expose the new law to renewed attacks, it having once withstood the force of all that were made upon it, on the same ground on which the old one was attacked, and in reality he will get the sum higher than it ought to be. I merely suggest this to him. I am disposed to vote for his amendment pretty much as it stands with the exception of that change, and I suggest to him whether he had not better leave the amount as it is.

Mr. SHERMAN. I am very indifferent in regard to the details of this proposition. My reason for inserting \$500 is, that by experience \$300 has proven not to be sufficient. The Secretary of War himself has offered a bounty of \$402, showing that he deems \$300 too small.

Mr. FESSENDEN. Oh no; he only offers \$300 in addition to the \$100 provided by law; and that is only paid to veterans.

Mr. SHERMAN. That is true; but still \$300 was not sufficient. Those who entered the service through the medium of the draft did not receive the \$100 bounty. They received only the

\$300 commutation money, and that, in the opinion of the Secretary of War, was not sufficient to induce the enlistment of veterans, a class which above all others we desire again to enter the service, and whose services are most valuable to the Government. It will be perceived by the Senate that the amount is not fixed at \$500, but that is merely made the maximum. The Secretary of War, if he deems \$300 sufficient, may retain that sum. If he deems \$400 necessary, he may demand that; but he cannot go beyond \$500. That is the maximum. The minimum, as a matter of course, may be just so low as is necessary to get the substitute. There is a constant variation and fluctuation in the value of money, and that consideration must not be overlooked. Three hundred dollars now is not equivalent to more than \$200 at the commencement of the war. We must guard against a possible fluctuation in money. We cannot make a given sum now the standard of value, because we do not know what may be the depreciation nor the inflation of paper money—the difference between gold and paper money. It is therefore difficult to fix a standard. I believe \$300 is too small; and that was shown by the fact that so many of those drafted came forward and paid the \$300 instead of hiring substitutes.

Now in regard to the other point, suggested by the Senator from Rhode Island, he agrees to that portion of this amendment which provides that if one man is drafted and hires a substitute who is himself subject to draft, the drafted person shall again take his place on the roll subject to a future draft. Now is it right or proper to give to the payment of money a greater effect than you give to the hiring of a substitute? There is the question. The honorable Senator from Vermont entertains the same view of the question. That is the only difficulty with me. I do not care about the details, I simply wish to get the substance as near as possible; but it seems to me that we ought not to give to the payment of money a greater force than the hiring of a substitute who is himself subject to draft. I can see no hardship in it. If a man prefers to pay his money, let him take his place on the roll subject to future draft. What is the hardship? If he hires a man subject to draft, we all think it proper that he should go back and take the place of the substitute on the enrollment. Why should you give to the payment of money a greater force than the employment of a substitute? Under the operation of the amendment suggested by the Senator from Rhode Island no man would hire a substitute subject to the draft. Why? Because, by paying a sum of money he could derive a greater advantage than he would by hiring a substitute; and therefore he would always pay the money rather than hire a substitute. That was the reason that induced me to insert this clause. I think the maximum ought to be \$500, considering the depreciation of paper money, the inflation of prices, the abundance of money in this country, and the price of labor which enters into the elements of the price of a substitute. All these things must be considered. The ordinary wages of a common laborer now are fully fifty per cent. more than they were before. If \$300 was a proper standard two years ago, it is not a proper standard now.

I merely make these suggestions. As a matter of course this amendment is open to amendment; and I offer it in this case for that purpose, so that if any amendments are offered they may be discussed and acted upon. I look upon this question of commutation or substitution as the most important feature of this bill. I think therefore we ought to consider it carefully, wisely, give to it full reflection, and then adopt and stand by it. As for the popular clamor that may be raised in regard to the commutation, we must meet that without fear, favor, or affection.

Mr. FESSENDEN. I suggest to the Senator that, after all, whatever sum he fixes as the price of commutation would be very likely to be the one fixed upon by the Secretary of War; because men would hold themselves aloof very much from coming forward as substitutes, and from enlisting, unless the price was fixed precisely in that way. Three hundred dollars being fixed in the bill before, regulated very much the price of substitutes, and it was intended to regulate the price of substitutes. If you put in \$500, that will be very likely to have the same effect. The Senator

says, in relation to this change of the sum, that he merely fixes the maximum beyond which it shall not go; but my friend will recollect that when we fix a rate of interest in a loan bill, and say it shall not exceed so much, we are very apt to go to the maximum. People will not lend their money unless they can get the maximum interest.

It is likely, also, if we are to continue this system of bounties, that the sum thus fixed will become the standard by which we shall regulate the amount to be offered as bounties hereafter. You say that the bounties now offered and sanctioned by Congress are—what? The \$100 fixed by the law originally and \$300, which is fixed as the price of commutation. Then suppose we are to go on and have a difficulty about getting men, and the Government, or Congress, a part of the Government, is still to keep up this system of bounties, will not the increase be just the same, and the next offer be \$600? My friend from Ohio and I have had the misfortune, if you please to call it so, to stand almost alone in our views with regard to this system of bounties and its operation upon the Treasury, and we found ourselves most decidedly overruled in every direction about it. It seems that the Treasury is to bear these heavy burdens. If it is, and if it is likely to be the standard hereafter, if every new call is to increase the amount to be fixed on, I should think we ought not to be in a hurry to fix that sum which would be very likely to be the next standard assumed in relation to it.

I merely suggest these things to him. I have really no very definite opinion on the subject, for I have not been able to give my mind to it. I am only looking at it, as far as I can, to guard against evils of which perhaps I am too apprehensive, and yet of which I am very apprehensive in the future.

Mr. ANTHONY. I propose to amend the amendment by inserting after the word "call," in the twenty-first line, the following words:

Provided, That no person who has been drafted and furnished a substitute or paid commutation as herein provided, shall again be liable to draft until the present enrollment shall be exhausted.

That, I think, meets the objection which the Senator from Ohio raised to making a distinction between furnishing a substitute and paying commutation.

Mr. FESSENDEN. It ought to be limited as to time, as the amendment of the Senator from Massachusetts was.

Mr. ANTHONY. It is limited by the words "until the present enrollment shall be exhausted."

Mr. WILSON. The limitation in my amendment was, "but such exemption shall not exceed the term for which the person shall have been drafted."

Mr. FESSENDEN. Otherwise the roll may not be exhausted in that time.

Mr. SHERMAN. I will mention in a word my objection to this proposed amendment. There is no justice in it, as between the United States and the drafted man. If the drafted man would go into the service, as he ought to do, the substitute would still stand upon the roll, and would be liable to draft at the next turn of the wheel. Now, if a drafted man chooses to hire a substitute thus subject to draft, why should he have a better place than the substitute would have had if this arrangement had not been made? It seems to me that justice between the United States and the drafted man requires that the drafted man should occupy the precise place, and no other, that the substitute employed by him held, or would have held if the drafted man had gone into the service, instead of hiring a substitute. I shall therefore vote against the amendment of the Senator from Rhode Island to my amendment.

Mr. ANTHONY. I will add to my amendment these words: "but such exemption shall not exceed the term for which such person shall have been drafted." I cannot see how this amendment is unfair toward the United States. It merely spreads the liability over a larger surface. It makes two men liable for a portion, instead of making one man liable for the whole time, and the United States will have just as many men if this amendment prevails as it will without it under the original proposition. The only difference is that the hardship is divided among a greater number of persons.

The PRESIDING OFFICER. The question

is on the adoption of the amendment of the Senator from Rhode Island to the amendment of the Senator from Ohio, which will be read from the desk.

The Secretary read the amendment to the amendment, in line twenty-one, after the word "call," to insert the following:

Provided, That no person who has been drafted and furnished a substitute or paid commutation as herein provided, shall again be liable to draft until the present enrollment shall be exhausted; but this exemption shall not exceed the term for which such person shall have been drafted.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Ohio.

Mr. HARRIS. I move to amend that amendment by striking out the word "five," in the twenty-second line, and inserting "four," so as to make the maximum of commutation \$400.

Mr. HOWARD. If it be in order, I move to amend the amendment by striking out that last clause entirely.

The PRESIDING OFFICER. It is not now in order. The amendment of the Senator from New York is an amendment to an amendment.

Mr. HARRIS. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. FESSENDEN. I will inquire if the amendment of the Senator from New York were adopted, and \$400 substituted for \$500, would the amendment proposed by the Senator from Michigan to strike out the clause entirely be in order?

The PRESIDING OFFICER. The Chair is of the opinion that it would.

Mr. JOHNSON. Suppose that amendment is rejected, then the proposition will stand at \$500?

The PRESIDING OFFICER. It will so stand.

Mr. JOHNSON. Those who vote for \$400 and think it should not be \$300, will not be bound to vote for the amendment should the \$400 be adopted?

The PRESIDING OFFICER. The Chair thinks they will not.

Mr. HENDRICKS. I desire to ask, if this amendment be adopted will it then be in order to strike out \$400 after the Senate has inserted it, and insert \$300?

The PRESIDING OFFICER. The Chair has no doubt, the question being taken on the largest amount first, that it could still be reduced.

The Secretary proceeded to call the roll.

Mr. VAN WINKLE. I wish to state, at the request of my colleague, [Mr. WILLEY,] that he is detained from his seat by indisposition.

Mr. JOHNSON. I make the same statement in relation to my colleague, the Senator recently reelected from Maryland, [Mr. HICKS.] He is quite sick at his lodgings.

The result was then announced—yeas 31, nays 6; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Collamer, Conness, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Harding, Harris, Henderson, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Powell, Ramsey, Sainsbury, Ten Eyck, Trumbull, Van Winkle, and Wilson—31.

NAYS—Messrs. Grimes, Harlan, Howe, Nesmith, Sherman, and Sumner—6.

So the amendment to the amendment was agreed to; and the question recurred on the amendment as amended.

Mr. HOWARD. If it be in order, I will now move to strike out the clause itself; that is to say, the following words:

And the maximum of commutation under said act shall hereafter be \$300 instead of \$300.

I think that sum is entirely too high. In its operation, it seems to me there is danger of its defeating the very object which we have had in view in enacting a commutation at all, for it would disallow a very great number of men from escaping the military service as to whom it was the intention of Congress to give them the privilege, and it would work this effect in consequence of their want of means to raise the money. Besides that, sir, I confess I do not like this sudden alteration of a law which is so important in the public mind as the present one. The sudden transition from the \$300 clause to a \$500 clause would take the country by surprise, and disappoint the expectations—

Mr. COWAN. It is now \$400. The \$500 has just been stricken out.

Mr. HOWARD. Well, I would not increase

it at all. I think \$300 is as near the mark as we can conveniently fix it.

The PRESIDING OFFICER. The Senator from Michigan proposes to amend the amendment by striking out the last clause of the amendment in the following words:

And the maximum of commutation under said act shall hereafter be \$400 instead of \$300.

Mr. COWAN and **Mr. HOWARD** called for the yeas and nays, and they were ordered.

Mr. HALE. I wish to inquire of the Senator from Michigan how that will leave the bill in regard to the commutation, if this clause is stricken out?

Mr. HOWARD. This increases the commutation.

Mr. HALE. But suppose it is stricken out?

Mr. HOWARD. That will leave it at \$300, as it has been since the act was passed.

The question being taken by yeas and nays, resulted—yeas 23, nays 14; as follows:

YEAS—Messrs. Anthony, Buckalew, Clark, Collamer, Cowan, Davis, Dixon, Fessenden, Foot, Hale, Henderson, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, Morrill, Powell, Saulsbury, Ten Eyck, Trumbull, Van Winkle, and Wilson—23.

NAYS—Messrs. Chandler, Conness, Doolittle, Grimes, Harding, Harlan, Harris, Howe, Morgan, Nesmith, Pomeroy, Ramsey, Sherman, and Wilkinson—14.

So the amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Mr. HOWE. I move now further to amend the bill by adding as an additional section:

Sec. — And be it further enacted, That all sums paid to the Government, or to any officer thereof, by persons drafted into the military service of the United States, by way of commutation for such services, shall constitute a fund which shall be equally distributed among the several persons who shall be drafted into and enter upon the same service under the same call of the President, one third of which shall be paid at the termination of each year's service: *Provided*, That any portion of such bounty remaining unpaid whenever any such drafted person shall die in the service, or shall be honorably discharged therefrom, shall then be paid in full to such discharged soldier, or to the legal representatives of such deceased soldier.

The Senate has already decided that it will not abolish all commutation; it has already decided that it will not compel a man who is drafted to either serve or employ a substitute; it has already decided that it will exempt a man from service on the payment of a given sum of money, whether that sum is sufficient to employ a substitute or not; and it has already decided that it will not require a man to pay more than \$300. Now, I do not think that is just; I do not think we have a right to say, as we have said by the force of our votes, that we will allow a man in large business, deriving a large income from it, possessing, if you please, a large fortune, to be exempt from military service upon the payment of \$300, when we say at the same time that that is not sufficient to hire a man to take his place. I was anxious to retain a provision allowing commutation for personal service, but I wanted to take care that the sum should be sufficient to secure substituted service, or that the person who could not avail himself of the commutation should be benefited by the payment of it. I still shall not object to the net result of the different votes we have taken if you allow the money which is raised from commutations to go into the pockets of those who go into the Army. They have to serve because they cannot pay the \$300. You will still have taken care, since the name of the man who pays the money is still borne upon the roll, that the Army shall be filled up to its maximum, and therefore the drafted man is not injured by being compelled to serve in depleted ranks, which has been an injury we have inflicted upon him often heretofore. If you now provide that he shall have the benefit of the money which is paid for commutation, he has then no reason to say that he is injured by the payment of the commutation. On the other hand, he is benefited. The Government is not impoverished in any sense, because it does not come out of the Treasury. You lighten the burdens which would otherwise fall upon the shoulders of those upon whom these burdens sit heaviest, and who are deprived by adverse fortune of all pecuniary ability to escape these burdens. I want to vote on the amendment, and I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 26; as follows:

YEAS—Messrs. Conness, Davis, Dixon, Doolittle, Hond

ricks, Howe, Lane of Indiana, Ramsey, Saulsbury, and Wilkinson—10.

NAYS—Messrs. Anthony, Buckalew, Chandler, Clark, Cowan, Fessenden, Foot, Foster, Hale, Harding, Harlan, Harris, Henderson, Howard, Johnson, Morgan, Morrill, Pomeroy, Powell, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, and Wilson—26.

So the amendment was rejected.

Mr. DIXON. I now offer the amendment which I proposed a few days since in regard to clergymen. It is to insert as a new section:

And be it further enacted, That all persons recognized as clergymen or ministers of religion by the ecclesiastical authority of the denomination or communion to which they belong, when called into the military service under this act, shall be regarded as non-combatants and employed as chaplains or in hospitals.

Mr. WILSON. I move to amend the amendment by striking out all after the enacting clause, and inserting:

That ministers of the gospel and members of religious denominations conscientiously opposed to the bearing of arms may, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals or to the care of freedmen, or shall pay the sum of \$300 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers; and such drafted persons shall then be exempt from draft during the time for which they shall have been drafted.

Mr. HARLAN. I will inquire of the chairman of the Committee on Military Affairs if he will not accept, as a modification of his amendment, the addition of the following words after the word "arms" in the third line of his amendment:

And who are prohibited from doing so by the rules and articles of faith and practice of said religious denomination.

Mr. WILSON. I accept that modification.

Mr. SUMNER. Let it be read now as a whole.

The Secretary read, as follows:

That ministers of the gospel and members of religious denominations conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denomination, may, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of \$300 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers; and such drafted persons shall then be exempt from draft during the time for which they shall have been drafted.

Mr. ANTHONY. I am in favor of this amendment, but I think as it stands now it is liable to abuse. I think the persons claiming exemption on the grounds of religious conviction should make it appear before some tribunal or officer that their walk and conversation has been in accordance with their religious profession.

Mr. COWAN. That is a wide field.

Mr. ANTHONY. For instance, take the members of the Society of Friends. I think they ought to be exempted from military duty, but there are many young persons in the Society of Friends, who are in membership of the society, who have no objection at all to bearing arms and who do go into the military service. There are great many members of that society in the military service.

Mr. HARLAN. The amendment as it now stands meets the case the Senator from Rhode Island suggests precisely. It provides for the case of those who are conscientiously opposed to bearing arms and who are prohibited from doing so by the rules of the society of which they are members. If they are not conscientiously opposed to bearing arms, then, of course, they are not exempted, although they may be members of such a society. Throwing in these words "prohibited by the rules of the society" would prevent persons, I suppose, from making a pretense of that kind. The society to which the Senator has referred has had a rule of that kind, I have understood, ever since its foundation, a period of more than two hundred years.

Mr. SAULSBURY. Mr. President, this amendment, if adopted, will not practically result, I think, in exempting clergymen, while it will exempt members of the Society of Friends. I confess that I, for one, am in favor of exempting the members of that society. I would not require them to do military duty when they have been brought up from their early childhood in opposition to bearing arms. But, sir, the amendment proposes not only that the minister or preacher who asks to be exempt shall be conscientiously opposed himself to bearing arms, but he must be prohib-

ited from bearing arms by the articles of faith of his church. Under that provision there is no clergyman of the Episcopal church, no clergyman of the Methodist church, no clergyman of the Presbyterian church, or the Baptist church, or the Catholic church, and no Jewish teacher who, I apprehend, would be privileged from bearing arms in this contest, because there is no article in the faith of any religious denomination that I know of, except, perhaps, the Friends, which prevents the ministers or preachers from bearing arms. While I believe there is a large class of preachers in this country who ought to be made to go into this Army, and into the front ranks of it, to fight, and to fight until it is through—men who take occasion on the holy Sabbath, when we should suppose they would preach the gospel of their professed Master, "peace on earth and good will to men," to occupy the time allotted to religious purposes for preaching war and bloodshed—while I believe that that class of men ought to go into this war and to fight the battles of the country, yet there are scattered throughout this broad land hundreds, and I trust thousands, of peaceful, quiet Christian ministers who feel that they bear but one commission upon earth, that of an ambassador from Heaven to beseech men to be reconciled to their professed Master; and for the sake of exempting these men from participation in this or any other war, I would excuse the whole class of clergymen of whatever denomination. I would extend it also to men who are not ministers of the gospel technically—to teachers among the Jews—all religious teachers. If this amendment be adopted, unless a clergyman can show not only that he is conscientiously opposed to bearing arms, but also that the articles of faith of his church deprive him of the privilege of bearing arms, he is not exempt. I am for exempting the whole body of the clergy of all denominations.

Mr. WILSON. In order to meet the objection suggested by the Senator from Delaware, I propose to modify the amendment slightly, by striking out the word "and" in the first line and inserting "or;" so that it shall read, "ministers of the gospel, or members of religious denominations conscientiously opposed," &c.

Mr. DIXON. If that modification be made, I can accept the Senator's amendment, for I do not see that it changes the character of mine in the least. My proposition is that ministers of the gospel, when drafted, shall be employed in the hospitals, or as chaplains. I suppose, if so employed, they could commute. I take it they would have the privilege of saying whether they would serve in that capacity or pay \$300. The only effect, therefore, of the proposition of the Senator from Massachusetts is to make it certain that they may commute; they may not even perform this duty; if assigned to a chaplaincy, or to hospital service, they may pay the \$300. That, I think, is right. I therefore, if it is in order, accept the Senator's amendment as a modification of my own.

The PRESIDING OFFICER. The Senator may modify his amendment. The Senator from Connecticut modifies his amendment by accepting the amendment offered to it by the Senator from Massachusetts. The question then will be on the amendment as modified.

Mr. ANTHONY. Mr. President, I am satisfied with the explanation of the Senator from Iowa, [Mr. HARLAN], and I hope that the amendment as modified will be adopted, although I should have preferred to have the amendment of the Senator from Massachusetts put separately from the amendment of the Senator from Iowa, for I think it is rather stronger before the Senate. I had intended myself to offer a more comprehensive amendment for the relief of persons conscientiously unable to bear arms, and I had prepared one and given notice that I should offer it; but I am satisfied from the fate which that proposition met at the last session, and also from conversation with Senators, that we could hardly get it through, and therefore I assent to the most practical mode of accomplishing all the good that we can.

The object of this bill is to amend the defects which experience has found in the working of the enrollment act, and I submit to the Senate that the invasion of the rights of conscience is one of the most serious of those defects. There has not been a single man added to the Army who was worth the rations that he ate by the refusal to exempt persons conscientiously scrupulous as to

bearing arms. I might tell you, Mr. President, the most piteous stories of the sufferings and persecutions of this class of people. I might tell you of many instances of moral heroism in men of the humblest pretensions, who believed and I believe that they were sustained by no arm of flesh in the sufferings which they endured for the sake of conscience. But I cannot show you and you cannot show me one single efficient man that has been added to the Army by the impressment of men conscientiously scrupulous against bearing arms.

I know the argument that every man who enjoys the protection of the Government is bound to render it defense in arms; but these men enjoy the protection of the Government, so far as that protection is enforced by arms, under compulsion, not voluntarily. They ask the protection of no laws which require the shedding of human blood. I think something should be conceded from the fact that the largest class of men affected by this provision have always borne their testimony against the great wrong, moral, social, and economical, which has produced this rebellion. They have not been slaveholders. Even in the slaveholding States they have not been slaveholders. As long ago, I think, as 1716 their Yearly Meetings all bore testimony against slavery, and even now this class of people in the rebel States are mostly Union men, and have suffered greatly for their attachment to the Union.

I have not ventured to offer the comprehensive amendment which I had intended to submit; but I hope that in the modified form in which it is now proposed the Senate will agree to the exemption.

Mr. TEN EYCK. One of the objects of the amendment is to relieve the religious Society of Friends from the burden of this bill, and the Senator from Rhode Island has stated very truly the difficulties to which members of that society have been heretofore subjected, and the persecutions, to adopt his language, that have been heaped upon them in regard to the performance of military service. If we intend to do them a favor and to relieve them from the consequences of this act, I respectfully submit that we must go further. We must not only relieve them from the draft, but from the liability of paying the commutation money, for I have always understood that Friends, as they call themselves, not only object to the performance of military service, but to the payment of any fine or commutation in lieu thereof; and many of them, even who were possessed of large estates, have lain for months in jail rather than violate what they understood to be a principle of their faith by paying a miserable fine of from one to five dollars for not discharging military duty under the militia system in the several States. I think it will not reach or answer the purpose that certain gentlemen have in view, to so amend this bill as to relieve them from the discharge of military service by the payment of the commutation. In all the petitions and in all the proceedings as published coming from this very large respectable class of citizens in the United States, I have seen the objection raised to both features of the bill, and, to adopt their language, they bear testimony as strongly against the payment of the money as they do against going into the field.

So, without stating how I shall vote myself upon this amendment, I suggest that if we design to respect their conscientious scruples and to relieve them on account of them, we must relieve them also from the payment of the commutation money. When this matter was before the Senate a year ago, I voted against relieving them.

Mr. HARLAN. I think the amendment, as modified, meets the case suggested by the Senator from New Jersey. This amendment relieves the party drafted in the case named from military duty entirely, and provides that he may serve in the hospitals, or that in lieu of this hospital service he may pay a sum of money to be applied for the relief of sick and wounded soldiers. The objection made by Friends to paying money has been to paying it as an equivalent for military service. They say, "We might as well bear arms as hire a man to bear arms in our stead." This amendment, if I understand it, relieves them from the performance of military duty entirely, but it provides that they shall perform duty in the hospitals, and then gives them the alternative of paying money rather than performing this hospital service.

Mr. ANTHONY. I would say, in justice to the scruples which the Friends have as to the payment of money, that I do not think they object to a military fine being collected from them by warrant of distress, as, I think, the lawyers call it, or by taxation. They do not pay them voluntarily, but they do not go to prison rather than have their property levied upon. But under the enrollment bill a man must either serve or pay \$300 for the procuration of a substitute. They can see a difference, but no great difference in principle, between serving themselves and hiring somebody else to serve for them. The money which they pay is "for the procuration of substitutes." If the money could be appropriated to any hospital purposes, to any purpose towards which they can conscientiously contribute, they have no objection. These opinions may seem very absurd; I know they do, by Senators smiling around me; but they are opinions that have been entertained for two hundred years by as intelligent men as have ever spoken the English language, and men have borne every persecution that the old martyrs ever bore in defense of these principles—educated, intelligent men; and I think we ought to respect them.

Mr. GRIMES. Will the Senator inform me whether they will not regard the requiring of them to go into the hospitals as an equivalent for military service, and whether that will not be regarded in the same light by them as the paying of \$300 substitution money?

Mr. ANTHONY. I do not think they will consider that in the same light. I should prefer a different amendment; as I said, I prefer the amendment which I offered at the last session; but I have no hope of getting that through, and I think this will be an amelioration. It is not what I should like to have, but it is the best I see any chance of getting.

Mr. CONNESS. I rise, sir, not to occupy much time, but to take occasion to say that I am opposed to this amendment and all the modifications that have been made of it; and yet I suppose I have among my constituency many of the classes proposed to be exempted. The object of this act is to get soldiers. The purpose of the soldiery to be obtained is to preserve the institutions under which we live. The exemption proposed is more extensive, it occurs to me, than Senators take occasion to reflect sufficiently upon. It goes to ministers first, to all engaged in the performance of ministerial functions. That embraces a very large class indeed, a very numerous body in the United States. Next it goes to the bodies of religious congregations, and exempts persons who are conscientiously opposed to bearing arms.

Now, sir, what shall hinder the Unitarians, for instance, being exempted under the operation of this amendment if it shall prevail? The great man who was the founder of that form of faith, the immortal Channing, has written and produced perhaps the profoundest and ablest essay that was ever written by man, illustrating the horrors and the terrible character of war; and it is to be held that members of that body of religious Christians, so respectable as they, so elevated as they, do not believe in the doctrines and philosophies promulgated by their great leader, and shall not they go forth when drafted, but are they to claim to serve in the hospitals, or at any rate to be exempted from service in the field? It appears to me that you are providing very liberally for your hospitals under the operation of this amendment.

Now, let me say to the Senator from Rhode Island that the Society of Friends of which he has spoken, has claimed my attention to perhaps as great an extent as that of any other Senator upon this floor. I have happened fortunately to have access to and acquaintance of an intimate character with members of that denomination for twenty or more years past; and my respect for them, my regard for them, my estimation of them is certainly equal to that of any other Senator here. But, sir, I would in this great war take issue with that body upon the question of whether they should be exempted from paying this commutation; nay, sir, further, upon the question whether they should be exempted or can properly claim exemption as a matter of conscience from performing the part that is theirs, in my opinion, in this war. Why, sir, it is a Quaker's war. For two hundred years they have taught that slavery was the greatest evil that ever cursed the earth,

and they have borne their universal testimony against it everywhere. They have gone to making up that sentiment that aggressed slavery as an institution barbarous in its character, and against the civilization of the world. They have, I say, been making up that opinion, and that aggression did take place under their fostering care and direction.

Mr. SAULSBURY. Will the Senator from California allow me to ask him a question?

Mr. CONNESS. Certainly.

Mr. SAULSBURY. The Senator states that this is a Quaker's war, that they have borne their testimony against human slavery for two hundred years. Do I understand the Senator from California to say to the Senate and to the country that this is a war for the abolition of slavery?

Mr. CONNESS. Mr. President, I knew that the Senator from Delaware would be brought into this debate by the line of remarks that I was about to make. The Senator from Delaware will find, before he sits very long in this Chamber with me, what my opinions upon that subject are. As I believe that the Senator from Delaware is pro-slavery, I desire him now to understand, although it is not pertinent to the question before the Senate, that I am anti-slavery, and upon a more proper occasion we will discuss that question in its relations to the war itself, but it is not pertinent here.

I asseverate, sir, again, that this is a Quaker's war. I mean that it is a war of moral forces against the institution of slavery. The South have said it. The gentlemen occupying the position of the Senator from Delaware have said it. They have undertaken to rear up a negro empire in the South upon the proposition that slavery was a great right, that you could not have morals and society without it, that it was essential to the existence of society; and in addition to that, necessarily a part of their proposition was to tear down our Government; otherwise they could not build up theirs. They have promulgated that doctrine. We accept it, sir. The loyal men of this country accept it in its complex form by saying, "You shall neither build up your negro empire for fostering and perpetuating this accursed institution"—does the Senator from Delaware hear the emphasis?—"nor shall you tear down this great empire established for freemen by the great fathers, to be preserved and perpetuated by us."

I say, sir, that no citizen, be he Jew or Gentile, be he Quaker or Catholic, be he what he may, to whatever religious persuasion he may belong, can perform a higher duty, nor, in my opinion, a more ennobling one, than to go to the field and to fight this great battle of civilization for the preservation of human liberty; and I am opposed to every amendment of this kind. There is a means proposed by which persons may become exempted, since the Senate have decided and passed upon that proposition; but I am opposed to this exemption for conscience' sake. I believe, as I live and exist, that the shortest and truest way to heaven is to strike a rebel wherever you can reach him. [Applause in the galleries.]

The VICE PRESIDENT. Order!

Mr. WILSON. Mr. President, a single word. A large number of clergymen have petitioned us for exemption. Some of them have put their reasons upon grounds that I think few of us can pay any great regard to. I suppose Senators care quite as much for the cause of Christianity in the world as other men, but I do not believe that Senators think it denounces a Christian to fight the battles of our country. The Quakers have been represented here by petition and by delegations. We received a delegation before the Military Committee, and heard their views. I believe that the Quakers have contributed as much of money, and I had almost said of men, to this war as any other portion of the community. The Senator from Rhode Island says he thinks they have in men.

Mr. ANTHONY. Taking the numbers of the society.

Mr. WILSON. I know that many Quakers, young men, have entered into this war with the same zeal that Nathaniel Greene entered into the war of the Revolution. In fact we have been told by gentlemen of these committees that they knew families where nearly all the young men had entered into the service. I asked those gentlemen what they said to them or did to them. They said they felt pretty kindly toward them

and dealt rather gently. But, sir, the denomination as a class are conscientiously opposed to bearing arms. They have proved that by more than one hundred years of profession and practice. I have a strong objection to forcing a body of men whose lives prove that they are conscientiously opposed to bearing arms to do so. This provision, I think, relieves all who are conscientiously opposed to it, who belong to a religious denomination of which opposition to bearing arms is a part of the faith and creed. But we provide that they shall render service in the hospitals or pay money to be used for our sick and wounded soldiers. We need their money for that purpose, more than we can get, and we need all their personal service for that purpose. It will be a relief to them and will not weaken the strength or power of the country, for we want more men than we can get for the hospitals by any draft of this kind upon this class; and we need more money, and always shall while the war lasts, than they can furnish. It relieves them and does not injure or weaken the Government in any respect.

Mr. ANTHONY. I wish to say one word in reply to the Senator from California. He contends that this amendment would exempt the Unitarians as well as the Quakers, because the founder of the Unitarians was a peace man. That would be true if the Unitarians in that respect followed the precepts of their founder, but they certainly do not. The Unitarians as a class are not opposed to bearing arms, and this amendment would have no sort of relation to them. If Channing was a peace man, a greater than Channing, the Founder of our religion, has told us to pray for our enemies and to do good to those that spitefully use us.

Mr. CONNESS. Will the Senator permit me one moment? With the Senator's permission I will make the additional statement that not long since I had the pleasure of renewing my acquaintance by making a visit among some of my old-time Quaker friends, and I am very happy to be able to state, and I was very proud to hear it from them, that their chief anxiety in regard to my own course, knowing that I was a Senator, was lest I should in any manner whatsoever fail to urge on this war to a successful conclusion by the use of all the powers of the American people. I found them the truest, the noblest, and the sternest patriots that I have met in the country; and there was no begging for exemption, there was no disposition to avoid their part of the responsibility. I am fully free to admit that there are among them men who have taught themselves that it is a conscientious duty on their part to avoid a conflict of arms, but I would have them to reflect, and learn, and be taught by the age in which they live, by this period and time.

I admit what has been stated, for I know it to be true, that our armies have been very largely made up from members of the Society of Friends, though there have been here and there instances where they have totally objected to military service; but I am free to say, even if I should incur the opposition of every one of them in the United States, that if it were left to me to determine, I would not exempt them from the necessary obligations that I think are imposed upon them by this war. It is, as I said before, their war; it is the war of all men like them; it is the war of Christianity; it is the war of patriots; and there should be no sickly sentimentality while we are pressing it on. Every man who is able to bear arms owes all his services to the Government. Every man who has got a dollar's or a million of dollars' worth of property owes it all to the Government if the Government require it. The Government are entitled to the Senator's services and to mine in the field, and I am very free to say that they can get mine when it becomes my duty, and I propose no rule for another that I am not willing to come under myself; but I object *in toto*, in this great crisis, when the world is looking on, and when a large portion of the world is anxious to take part even against us, to any modification of our laws that in its direct tendency must tend to reduce the prospect of our immediate success.

Mr. ANTHONY. I think it is proper to state the number of persons that would probably be affected by this exemption. It is supposed by those who are most familiar with the statistics of the society that under a draft for three hundred thousand men about a thousand members of the

society would be drafted; and as half the quota has already been filled, the number who will be affected by this exemption is reduced to about five hundred. If still other States, as we have every reason to hope they will, shall fill up their quotas without drafting, the number will be proportionately diminished. The State of Indiana, which is one of the largest Quaker States in the Union, has filled its quota or will fill it; the New England States, where the Friends are somewhat numerous, have all filled or will fill their quotas without drafting; so of Ohio, where there are a great many; and Iowa always fills her quota without drafting, and there are many Friends there.

Mr. CONNESS. But you are passing a law to last as long as the war lasts.

Mr. ANTHONY. But we hope the same spirit that has filled the quota under this call will fill all others.

Mr. CONNESS. Hope is not a very good basis to conduct war on.

Mr. ANTHONY. I was about saying, when I gave way to the Senator from California, that we all believe in the divine inspiration of the words which I quoted; and we also all believe that it is perfectly proper, that it is our first duty, to carry on this war vigorously; we believe in that path to heaven which the Senator from California marked out; but I do not think he or I (I know I could not) would undertake to stand up here and reconcile the two. I believe them both, but I cannot reconcile the two together; and I wish to manifest a respect for the consciences of those who cannot reconcile them and will not undertake to do so.

Mr. CONNESS. I think more of the country than I do of their consciences.

Mr. LANE, of Kansas. I hope the proposition of the Senator from Iowa [Mr. HARLAN] will be adopted.

Mr. DOOLITTLE. Will my honorable friend allow me to suggest a form of words that I think will express the idea at which gentlemen aim rather more definitely than it is expressed in the pending amendment, before he goes on with his speech?

Mr. LANE, of Kansas. I do not propose to make a speech, but merely to make a suggestion.

Mr. DOOLITTLE. I propose to have the amendment read thus:

"That all ministers of religious denominations in good standing, and acting as such, and all members of religious denominations in good standing as such, by the articles of faith and practice of which denomination the bearing of arms in war is forbidden, and who shall by oath or affirmation declare that he is conscientiously opposed to bearing arms in war;" &c.

Mr. LANE, of Kansas. I have had some dealings with the Quakers, and I desire to say, for the edification of the Senator from California, that it is perfectly ridiculous to attempt to force a Quaker into the ranks of the Army. It cannot be done, or if you should succeed in doing it, he would be worthless as a soldier. Besides, the attempt to collect money from the Quakers in lieu of military service will cost the Government ten dollars where they obtain one, if they get it at all. It is a losing business to attempt to collect money from Quakers in lieu of military service. But if you adopt the proposition of the Senator from Iowa, [Mr. HARLAN,] giving them the privilege of serving in hospitals, and permitting them to pay their money in lieu of hospital service, they will promptly and cheerfully come forward and pay that money, their conscientious scruples not being violated by such payment.

Mr. POWELL. I had drawn an amendment which I intended to propose to the ninth section of this bill, and as that amendment expresses my views on the subject, though it is not now in order to offer it, I will read it for the information of the Senate. I would add to that section these words:

That ministers of the gospel, who have no secular pursuit, and who have not an estate or income sufficient to support themselves and their families, and who devote themselves exclusively to the ministry, shall be exempt.

That, in my judgment, is as far as we ought to go in this matter. The Senate has determined by a vote to retain the commutation clause. This amendment, which I shall propose at the proper time, if none other be adopted on this subject, exempts all ministers who devote themselves exclusively to the ministry, and who do not follow any

secular or outside pursuit, and who have not an estate sufficient to support themselves and their families. That would exclude from the exemption those who have sufficient means to pay the commutation.

When the conscription bill was originally passed, and while it was under consideration, I was in favor of exempting clergymen, and I was in favor of exempting Friends; but I cannot understand the subtle logic of gentlemen who seem to think that if you compel a Friend to pay \$300 commutation money in lieu of hospital service he can do it conscientiously when he cannot pay the money in lieu of military service. The hospital service is just as much an attendant upon war as any other service connected with the Army. You frequently have to detail soldiers to attend to your sick and wounded. Assigning them to hospital service and to military service is in effect the same. I would put the Friends in the same status and upon the same principle as clergymen in the amendment I shall propose. How a man can conscientiously pay the taxes that the Government imposes for the purpose of raising men and paying them and buying munitions of war, when he cannot conscientiously pay the commutation money, is a matter that I cannot well comprehend. I cannot see any difference. If a man cannot conscientiously go to war, and cannot conscientiously give money to carry on war, how can he conscientiously pay the taxes that the Government imposes for the purpose of carrying on the war? Why, sir, if a man can conscientiously pay the taxes, he can just as conscientiously pay commutation money. As the law now stands, a man can exempt himself from military duty by paying commutation money. That is but a form of taxation for the purpose of getting soldiers into your Army. The money goes to hire substitutes or to pay bounties. So the money that is raised by taxation is taken out of your Treasury for the purpose of paying bounties to soldiers and paying them their monthly stipend or wages. Where is the difference? There is none.

I do not think it is right to enlist in our armies ministers of the gospel, who have no secular pursuit, and who devote themselves exclusively to the ministry. All such persons, in my judgment, should be exempt. Neither do I think it right to force those to fight who are conscientiously opposed to it; but as you have retained the commutation feature, if they are not in favor of fighting they can pay their money like any body else. If the amendment which I intend to propose shall prevail, all those who are ministers of the gospel and who are not able to pay, will not be subject to draft. I shall vote against the amendment now proposed, hoping to defeat that and then to have the amendment which I intend to offer hereafter ingrafted on the bill. If it were now in order to do so, I would move it as a substitute for the pending amendment; but as that is not now in order, I shall have to abide my time.

Mr. ANTHONY. I am sorry that the Senator is degenerating so, for I believe that at the last session he offered a more comprehensive amendment than this.

Mr. POWELL. Not more comprehensive, but an amendment exempting those who had conscientious scruples. I do not wish to force them to fight now.

Mr. ANTHONY. It may not have been more comprehensive as to the persons, but it was more comprehensive in its exemptions.

Mr. POWELL. I was opposed then to ministers of the gospel being compelled to fight. I am now; but I could not prevent it. I tested the sense of the Senate both on the Friends and on the clergymen, and I was defeated; and hence I have drawn this amendment to exempt such clergymen as devote themselves exclusively to the ministry, and have no secular pursuit and no estate the income of which is sufficient to support themselves and their families. This is the best I think I can do for them.

Mr. LANE, of Kansas. In reply to the Senator from Kentucky, I will say that I think there is a distinction between military service in the field and hospital service. The one is to take life and the other to preserve life, as broad a distinction as can be. They are the antipodes of each other; the one to destroy life and the other to preserve life. Nor is the effort to preserve life confined to our own soldiers. The hospital servant adminis-

ters not only to the wants of our own, but to the soldiers of the enemy. There is no comparison between the two species of service.

Mr. GRIMES. Is it possible to have a division of this question, so that we can vote on the Quakers separate from the preachers?

The VICE PRESIDENT. The Chair has not examined the amendment carefully; but if it contains more than one proposition it can be divided into as many questions as there are distinct propositions.

Mr. GRIMES. I desire a vote on the propositions separate and distinct from each other. I should vote for the exclusion of one perhaps, and not for the exclusion of the other.

Mr. ANTHONY. I would suggest that the Senator from Massachusetts withdraw his amendment for the present, and let us take the vote on the preachers first, and then he can renew the other as to persons conscientiously unable to bear arms.

The VICE PRESIDENT. The Senator from Iowa will designate what his own division is, and then the Chair will decide whether it is in order. The impression of the Chair hastily is, that you cannot make two distinct propositions of this amendment which would stand appropriately distinct by themselves.

Mr. HARLAN. I will suggest to my colleague that he can reach the object he intends by moving to strike out the words "ministers of the gospel."

Mr. GRIMES. Can that motion be made?

The VICE PRESIDENT. It can be.

Mr. GRIMES. I move to strike out the words "ministers of the gospel."

Mr. BUCKALEW. Let the amendment be read as it now stands.

The Secretary read, as follows:

And be it further enacted, That ministers of the gospel, or members of religious denominations conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denomination, may when drafted into the military service be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of \$300 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers, and such drafted persons shall then be exempt from draft during the time for which they shall have been drafted.

The VICE PRESIDENT. The Senator from Iowa will also include the word "or" in his motion to strike out, to meet the view which he has.

Mr. GRIMES. Yes, sir.

The VICE PRESIDENT. The question before the Senate is on striking out the words "ministers of the gospel, or."

Mr. SUMNER. Do I understand that that is in order now?

The VICE PRESIDENT. The Chair so understands it.

Mr. SUMNER. The case, as I understand it, is this: the Senator from Connecticut moved an amendment to the bill, to which my colleague moved an amendment in the nature of a substitute.

Mr. WILSON. The Senator from Connecticut has accepted it.

The VICE PRESIDENT. The Chair understands that it has already been accepted as a modification, and it now simply stands before the Senate as a distinct amendment; and it is, therefore, open to amendment.

Mr. JOHNSON. I would suggest to the Senator from Iowa that he ought to propose to strike out the word "may" and to substitute the word "shall." As it reads now, it only gives to the Department the power to consider persons in the predicament which the amendment assumes, to be non-combatants. I propose to strike out the word "may" before the words "when drafted," and to insert "shall."

Mr. FESSENDEN. That can be done afterwards.

The VICE PRESIDENT. The question now is on the amendment of the Senator from Iowa, [Mr. GRIMES,] to strike out the words, "ministers of the gospel, or."

Mr. ANTHONY. I wish this division could be made in some other way, so that we might vote affirmatively and not negatively upon the proposition. I do not wish to vote against including ministers in the section; and yet I fear that if that exemption is in it will weaken the remaining part of the amendment. I want a vote upon each sep-

arately, without voting negatively on either. I think if the Senator from Iowa would modify his amendment so as to leave out the portion now moved to be stricken out, he could afterwards move to make the same provision for the clergymen if the other proposition were adopted. I think the Quakers are a little stronger than the ministers, and I want to take a vote on them separately. I do not want to vote against the ministers. I want to vote for both.

Mr. GRIMES. I may be mistaken in my construction of the phraseology; but as I understand it, the qualifications that follow the second line of the amendment relate only to the Friends who have conscientious scruples.

Mr. CLARK and Mr. JOHNSON. No.

Mr. GRIMES. The Senator from Massachusetts, who drafted it, says it is so, and that is pretty good authority; and I think myself that is the proper construction to be given to it. If that be so, the amendment, as it now stands, exempts all ministers of the gospel. It does not say "ordained ministers;" it does not require that they shall have charge of a parish; but anybody who carries in his pocket a license to preach is exempt.

Mr. DIXON. Let me suggest that if that is the difficulty, the Senator should propose an amendment to remedy that defect.

Mr. GRIMES. If I were anxious to exclude the ministers from being compelled to bear arms, perhaps I would propose the amendment; but I am not anxious to do it; I am in favor of making them fight or pay.

Mr. DIXON. They do now by this amendment.

Mr. GRIMES. I am in favor of putting them upon exactly the same platform upon which we put men of any other profession in the country. I know perfectly well that they can all be exempted now under the general provisions of the bill by the payment of \$300. If there is any clergyman whose services are worth to his parish more than \$300, his parish will buy off his military services and keep him in charge of the parish.

Mr. LANE, of Kansas. If they will not do it, he ought to be put into the service.

Mr. GRIMES. Yes. If we had stricken out the \$300 clause I am not prepared to say that I would not go with the Senator from Connecticut to exempt the clergymen; but we have retained that clause, and it seems that it is to remain as a part of the settled policy of the Government that any man's military service can be bought off for \$300. Now, I say there is no reason in the world why a clergyman should be exempted under the provisions of this bill, if we pass it into a law, that does not apply to a great many other classes of citizens in the country; and I want a distinct vote on that proposition.

Mr. LANE, of Kansas. I ask for the yeas and nays on excluding preachers.

The yeas and nays were ordered.

Mr. HARLAN. I will vote for the amendment proposed by my colleague, because I consider the words surplusage. I suppose there is no minister of the gospel who is not a member of the religious society for which he serves, and hence I consider the words perfectly useless and am in favor of striking them out.

Mr. DIXON. One objection of the Senator from Iowa [Mr. GRIMES] to this proposition is that it is too broad, that it includes too many, that it applies to all ministers of the gospel, without reference to the fact whether they are employed as such or whether they are recognized as such by any ecclesiastical authority. Now, I wish to inquire whether it is in order at this stage to amend that clause?

The VICE PRESIDENT. It is not in order. The pending amendment is an amendment to an amendment, and therefore a further amendment is not now in order.

Mr. COLLAMER. Is it not in order to move an amendment to the words which it is proposed to strike out?

The VICE PRESIDENT. It is not, because that would be an amendment in the third degree.

Mr. COLLAMER. I do not speak of a proposition to amend the amendment now under consideration, but to amend the words which it is proposed to strike out.

The VICE PRESIDENT. And the pending amendment is to strike out the very words which it is proposed to amend.

Mr. DIXON. This is an original proposition of the Senator from Iowa to strike out certain words. That motion has not been agreed to, and I wish to ask the Chair whether those words thus proposed to be stricken out are not amendable?

The VICE PRESIDENT. Not in the opinion of the Chair.

Mr. DIXON. Then I hope the Senator will withdraw his amendment for the purpose of allowing me to amend the first clause.

Mr. GRIMES. Very well, sir; I am willing to give the Senator from Connecticut an opportunity to amend the proposition, although I am unalterably opposed to any amendment that he may propose, and shall vote against it. I withdraw my amendment.

The VICE PRESIDENT. The yeas and nays having been ordered, it requires the unanimous consent of the Senate to allow the Senator from Iowa to withdraw his amendment. Is there any objection? The Chair hears none. The Senator from Connecticut can now propose an amendment.

Mr. DIXON. I propose it in the form in which I first proposed it before accepting the amendment of the Senator from Massachusetts. I move to strike out the words "ministers of the gospel, or," and insert, "all persons recognized as ministers of religion by the ecclesiastical authority of the denomination or communion to which they belong, or."

Mr. GRIMES. I wish to inquire, as a question of order, whether, if these words are put in, they can be stricken out with the other amendment?

The VICE PRESIDENT. The Senator from Connecticut proposes to strike out the identical words which the Senator from Iowa moved to strike out, and to insert other words. If the other words shall be inserted, the same words having been stricken out that the Senator from Iowa moved to strike out, they could not again be replaced.

Mr. GRIMES. Then I trust the amendment of the Senator from Connecticut will not prevail. Now let me tell the Senate a case that occurs in my own State. There is a religious society known there as the Amana Society; they believe in the present inspiration of their own members. There is a large colony of them settled also in Erie county in the State of New York. Every member of that denomination is a preacher, so that the provisions of this amendment would exempt every one of that large class of people; and yet they are among the very wealthiest persons in the United States.

Mr. FOSTER. Does not the Senator believe that that class would very much increase if this amendment should be made? [Laughter.]

Mr. GRIMES. I have no doubt it would. There is no telling to what abuse the proposition of the Senator from Connecticut might be carried if it should be enacted. Now, I think there is no call from the clergy of this country for this exemption. I know that the bishops of some of the Episcopal dioceses, for one cause or another, have petitioned in behalf of themselves and the pastors in their charge; but they embrace but a small fraction of the clergy of the country; and, as was well said by my colleague the other day, the clergy generally throughout the Northwest, where I live, have been grateful to Congress because in the passage of the enrollment bill they recognized their manhood and required them all to perform military duty in this hour of peril to the nation; and they have congratulated themselves in their ministerial conventions and associations that they had been recognized as men and as citizens who were willing to do and die in behalf of the country. There has been no general call from the clergy for this exemption, and I believe there has not been a single petition sent up here by the flocks of these Episcopal bishops and clergy. I have not had my attention, at any rate, called to a single petition that has been sent here by the laymen. Then, this proposition being without any call from any respectable portion (I mean in point of numbers) of the clergy of the country, it is wholly uncalled-for for us now to undertake to exempt this class of our fellow-citizens.

Mr. DIXON. Mr. President, as to the question whether this is called for by the clergy themselves, I will state that I have presented petitions from the bishops, I think, of every diocese except

two in the loyal States, asking, not for entire exemption, for that they do not request, but asking that if drafted they may be employed as chaplains or in hospital service. They have not asked for entire exemption. There is no petition here that I know of for entire exemption.

Mr. LANE, of Kansas. I should like to make a suggestion to the Senator from Connecticut: I was in his State a few days ago, and I talked with some of the Episcopalian preachers; they do not ask service in the hospitals if we retain the \$300 clause. In case we repeal the \$300 clause, they ask that they may be employed in hospitals if drafted. I have their printed petition here. So far as the church that I belong to is concerned, we want no exemptions. [Laughter.]

Mr. DIXON. The Senator has not stated it with entire accuracy. He spoke of the probability of the repeal of the commutation; and in view of that, supposing they are to be forced into the service, they then say they wish to be employed as chaplains or in hospitals.

Then, Mr. President, as to the question whether other denominations have made application, I have presented several petitions from ministers and from laymen of the Lutheran church in the State of New York. I mention that fact merely to show that the Senator from Iowa is mistaken on this subject. But, Mr. President, the Senator speaks of a sect in his own State, all of whom claim to be ministers, and who under this clause would be exempt. What benefit would they receive? Suppose this is adopted, what can they claim? They can claim to be employed in hospitals or as chaplains by the Secretary of War, or they can pay the \$300. That is all the exemption. As the law now stands, they can pay \$300. The present law is not altered in the slightest degree by the last part of the proposition. They can, if they see fit not to act at all, pay the \$300 and be entirely exempt; but our provision is that if they see fit to act they shall not be called into the field, but shall act in hospitals and as chaplains. If the Senator supposes there is any danger that the class of people to whom he refers will claim in great numbers to be employed as chaplains and in hospitals, that may be somewhat of an objection to the proposition. I do not believe that there is any danger of a great number of people like those mentioned by him claiming that kind of exemption. It seems to me that that cannot be an evil which we ought to be very careful to avoid, for I do not think it can happen.

Now, sir, all that is proposed by the amendment under consideration is that if you draft ministers of the gospel, those acknowledged to be such by the denomination or communion to which they belong, they shall, if they see fit to go into the service, be employed as chaplains or in hospitals. They of course can be exempted, as everybody can. Whether you include it in this clause or not, they can be entirely exempted. You have already exempted them on the same grounds as others. We propose now to say that if they see fit to serve and choose to serve, they shall serve in this capacity.

Mr. DOOLITTLE. I desire to call the attention of the Senate to an amendment which I think expresses more definitely what I believe is the view of the Senate, if they are disposed to make any exemption at all: "first, that ministers of religious denominations in good standing, and acting as such, who may desire?"

Mr. HARLAN. I will inquire from the Senator from Wisconsin how he proposes to show the character of the standing of a minister of a religious society.

Mr. DOOLITTLE. How do we show that a man is under forty-five years of age? It is a fact.

Mr. HARLAN. Do I understand that all those over forty-five years of age are to be regarded as in good standing? How is the military board to ascertain the fact of the relative standing of men in a religious society?

Mr. DOOLITTLE. I propose that ministers who are in good standing with their religious denomination, acting as ministers, religious teachers of the denomination, shall be exempt upon the conditions which are specified here: they shall not be compelled to take a musket and go into the field against their religious convictions. If they desire it, they may go into hospital service, or some other service under the direction of the Sec-

retary of War. My proposition is, further, that "all members of religious denominations in good standing as such, by the articles of faith and practice of which denominations the bearing of arms in war is forbidden, and who shall by oath or affirmation declare that they are conscientiously opposed to bearing arms in war, shall, when drafted into the military service, be considered non-combatants," &c.

Gentlemen may smile when the question is raised as to the exemption of those men who from conscientious religious convictions cannot take arms in their hands and go upon the bloody field of conflict; but they do not understand or they certainly overlook that element in human nature, stronger than all others, which will take men to the dungeon or to the cross for their religious convictions. It is true that in the bill as it stands now before the Senate a commutation clause is preserved. Any person may pay his \$300 by way of commutation and be exempted from this service; and therefore, whatever may be done with this proposition, it will not operate so hard upon the consciences of men, because they can submit to have this fine or sum collected of them for not going into the service. But we desire not only to enact a law which shall bring men into the field, but we are desirous to enact it in such form that it shall comport with the feeling, the sentiments, the religious convictions of the country, if you please, so that it can have strength and be maintained at home and among the people. And when it makes no practical difference to the Government, if we can say that if a Quaker, if you please, is drafted into the service he may take his choice either to go into the hospitals as a non-combatant or into some service where he can take care of the sick and wounded, or that his money which he commutes for that service shall be employed for taking care of the sick and the wounded, we make this inscription bill palatable to a very considerable class of our population. But, sir, to force them against this religious conviction is what the Government ought not to undertake.

What I propose, Mr. President, in short, is this: that those teachers of religious denominations who are their ministers in good standing, acting as ministers of the gospel, in actual service and duty as such, shall not be put into the ranks as combatants; and further, instead of compelling members of religious denominations by whose faith and creed it is regarded as a sin against God to bear arms even in self-defense, to go into the ranks to do military service, they may be employed as non-combatants in hospitals or elsewhere, or they may commute, and the money which they pay shall go to taking care of the sick and wounded soldiers. Gentlemen say this makes no difference; they are just as much supporting the war in this way as if they paid the money directly to procure a substitute and place him in the field with arms in his hands. Perhaps you think so; perhaps I think so; but they do not; they draw a distinction; and in legislation we must regard as facts the prejudices and the religious convictions of a people. They are facts, important facts; facts that are not to be disregarded by any wise legislator in my opinion, and therefore, so far as I am concerned, I would conform our legislation in such a manner that while it does equal service to the Government it does not trample upon these religious convictions.

The amendment to the amendment was rejected.

Mr. GRIMES. I now renew the motion I made a little while ago to strike out the words "ministers of the gospel, or."

The VICE PRESIDENT. Upon that question the yeas and nays have been ordered.

Mr. ANTHONY. I wish to say one word to explain my vote. I am in favor of the amendment as it stands; but as a proposition very similar to this has already been voted down, and I think the remaining part of the amendment is stronger without it, I shall vote for the motion of the Senator from Iowa, and then I shall vote to put this matter in its proper place in the bill.

The question being taken by yeas and nays, resulted—yeas 28, nays 10; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Conness, Cowan, Davis, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Nesmith, Ramsey, Sherman, Sprague, Ten Eyck, Trumbull, and Wilkinson—28.

NAYS—Messrs. Dixon, Doolittle, Morgan, Morrill, Pom-

eroy, Powell, Saulsbury, Sumner, Van Winkle, and Wilson—10.

So the amendment to the amendment was agreed to.

The VICE PRESIDENT. The question now recurs on agreeing to the amendment as amended.

Mr. JOHNSON. I ask for the reading of it as it has been amended.

The Secretary read it, as follows:

And be it further enacted, That members of religious denominations conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of such religious denominations, may, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals or to the care of freedmen, and shall pay the sum of \$300 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers; and such drafted person shall then be exempt from draft during the time for which they shall have been drafted.

Mr. JOHNSON. I move to strike out the word "may," in the first part of the amendment, where it occurs, and insert the word "shall."

The amendment to the amendment was agreed to.

Mr. DOOLITTLE. In order to make the amendment more clear I will move to insert after the word "denomination" in the second line the words, "who shall by oath or affirmation declare that they are;" so that it will read:

That members of religious denominations who shall by oath or affirmation declare that they are conscientiously opposed to bearing arms; &c.

I want those words in because I think they will make it much easier to administer the law.

Mr. FESSENDEN. I should like to hear the whole of it read. I think, as it stands now, it is very imperfect. Will the Secretary read it again?

The VICE PRESIDENT. Does the Senator ask for the reading of the amendment as it would read if the amendment of the Senator from Wisconsin to it were adopted?

Mr. FESSENDEN. Yes, sir.

The VICE PRESIDENT. It will be read.

The Secretary read it, as follows:

That members of religious denominations who shall by oath or affirmation declare that they are conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denominations, shall, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals; &c.

Mr. FESSENDEN. That is sufficient.

The amendment to the amendment was agreed to; there being, on a division—yeas twenty-four, nays not counted.

The VICE PRESIDENT. The question now recurs on agreeing to the amendment as amended.

Mr. BUCKALEW. I move that the Senate do now adjourn.

Mr. FOOT. Before that question is put, I ask the Senator from Pennsylvania who makes this motion to withdraw it, in order to allow me to interpose a motion that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. BUCKALEW. I withdraw the motion for that purpose.

Mr. FOOT. Then I make my motion.

The VICE PRESIDENT. The Senator from Vermont moves that when the Senate adjourns to-day it be to meet on Monday next.

Mr. WILSON. I think we had better sit here and finish this bill to-day. If we do that, then I shall be willing to agree to this motion.

The motion was agreed to.

The VICE PRESIDENT. The Senator from Pennsylvania now moves an adjournment.

The motion was not agreed to.

The VICE PRESIDENT. The question now is on agreeing to the pending amendment as amended.

Mr. CONNESS. I call for the yeas and nays on that.

The yeas and nays were ordered.

Mr. DAVIS. Is that proposition still open to amendment?

The VICE PRESIDENT. It is.

Mr. DAVIS. After the last class who are exempted by the words of the amendment, I will move to add the word "Shakers."

Mr. GRIMES. They come within the amendment now.

Mr. DAVIS. Very well.

The VICE PRESIDENT. Does the Senator from Kentucky insist on his amendment to the amendment?

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Mr. DAVIS. Gentlemen assure me that they are comprehended by the language of the amendment, and if that is so I will not press it.

Mr. COLLAMER. The Quakers are not mentioned in terms, either, but they are included.

The question being taken by yeas and nays, resulted—yeas 28, nays 12; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Pomeroy, Powell, Ramsey, Sherman, Sumner, Van Winkle, Wade, and Wilson—28.

NAYS—Messrs. Buckalew, Chandler, Conness, Davis, Henderson, Hendricks, Howard, Morgan, Sprague, Ten Eyck, Trumbull, and Wilkinson—12.

So the amendment, as amended, was agreed to.

Mr. HOWARD. I desire to move an amendment in the nineteenth section. I move to amend that section in the fifteenth line by inserting after the word "recovered" the words, "upon information or indictment," and in line sixteen, after the word "jurisdiction," to strike out the words, "in an action of debt;" so that the clause will read:

And any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act, and any physician or surgeon who shall, directly or indirectly, demand or receive any compensation for furnishing said certificates of disability, shall be deemed guilty of a high misdemeanor, and, upon conviction, shall, for every such offense, be fined not exceeding \$300, to be recovered upon information or indictment before any court of competent jurisdiction, for the use of any informer who may sue for the same in the name of the United States; &c.

The amendment was agreed to.

Mr. HOWARD. I have one more verbal amendment. It is in line seventeen of the same section, after the word "may," to strike out the word "sue" and insert the words "prosecute for," so as to give it the features and character of a criminal prosecution.

The amendment was agreed to.

Mr. HARRIS. I offer the following amendment as an additional section:

And be it further enacted, That the fourteenth section of the act hereby amended shall be amended so as to read as follows: That all drafted persons shall, on arriving at the rendezvous, be carefully inspected by the surgeon of the board, who shall truly report to the board the physical condition of each one; and all persons drafted and claiming exemption from military duty under the second section of said act shall present such claims to the board of enrollment, which board shall be governed in making their decision by the rules prescribed by the Provost Marshal General under section six of this act.

The change contemplated by this amendment consists in requiring boards of enrollment to be governed by the regulations prescribed by the Provost Marshal General in exempting drafted persons for disability. It appears by the report of the Provost Marshal General that these boards of enrollment have sometimes acted upon their own responsibility, and have exempted persons for disabilities which were not embraced within the rules prescribed by the Department. I want to confine them to the rules prescribed by the Department to govern them in those cases.

The amendment was agreed to.

Mr. HARRIS. I offer another amendment, to insert at the end of the third line of the sixteenth section the following words:

Unless it shall satisfactorily appear to the board of enrollment that such party is absent from the country, or unable to make such oath or affirmation.

So that it will read:

That all claims to exemption shall be verified by the oath or affirmation of the party claiming exemption to the truth of the facts stated, unless it shall satisfactorily appear to the board of enrollment that such person is absent from the country, or unable to make such oath or affirmation; &c.

The amendment was agreed to.

Mr. CLARK. I move further to amend the bill, in the tenth section, by inserting after the word "draft," in the fifteenth line, the words:

And who have been in such service for the term of two years during the present war and been honorably discharged therefrom.

So that it will read:

That the following persons be, and they are hereby, excepted and exempted from the provisions of this act, and shall not be liable to military duty under the same, to wit:

such as are rejected as physically or mentally unfit for the service, the Vice President of the United States, the judges of the various courts of the United States, the heads of the various Executive Departments of the Government, the Governors of the several States, and all persons actually in the military or naval service of the United States at the time of draft, and who have been in such service for the term of two years during the present war and been honorably discharged therefrom; and no persons but such as are herein excepted shall be exempt.

The amendment was agreed to.

Mr. CLARK. I have another amendment, to insert as a new section:

And be it further enacted, That any person not liable to be enrolled or drafted into the military service of the United States may volunteer and then furnish an acceptable substitute and be relieved from performing duty in person, either upon a call for volunteers or when a draft is ordered.

Mr. President, any one who is drafted may furnish another person as a substitute to go into the Army for him; but I have found, during the progress of this war, that there have been persons who are not liable to be drafted and not liable to be enrolled, who desire to volunteer for the name or pride of the thing and then furnish a substitute. I know an instance in my own city, where perhaps the most influential business man in the city, a man who is in the condition of those mentioned by the Senator from Ohio the other day, who had hundreds of persons in his employ, who was conducting a large establishment for the manufacture of guns for the Government, desired to volunteer, but was told that if he did he must go. There are other persons of that class who desire first to volunteer and then furnish a substitute. This provision may secure some soldiers to the Government. It may not operate very extensively, but it is desirable perhaps to adopt it if it secures a few.

The amendment was agreed to.

Mr. HENDRICKS. I desire now to call up the amendment which I proposed a day or two since to the eleventh section. It is to strike out all of that section after the enacting clause, in the following words:

That section third of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and so much of section ten of said act as provides for the separate enrollment of each class, be, and the same are hereby, repealed; and it shall be the duty of the board of enrollment of each district to consolidate the two classes mentioned in the third section of said act.

And to insert in lieu thereof:

That the national forces of the United States not now in the military service, enrolled under this act, shall be divided into two classes; the first of which shall comprise all persons subject to do military duty between the ages of twenty and forty-five years, and who are unmarried; the second class shall comprise all other persons subject to do military duty; and the persons of the second class shall not, in any district, be called into the service of the United States until those of the first class shall have been called.

I presented this amendment to the Senate, and it was voted down when the other enrollment bill was before the body. I think it is right. In the language of the Senator from Massachusetts, [Mr. SUMNER,] I think it will "popularize" the bill to some extent. It cannot impair the efficiency of the measure. I do not intend now to discuss it. If it is the pleasure of the Senate, I should like to have the yeas and nays upon it.

The yeas and nays were ordered.

Mr. HENDRICKS. As there may be some Senators present who were not present when this amendment was before the body on a previous day, I will say it is simply this: that the military force shall be divided into two classes, married and unmarried, and that the unmarried men subject to do military duty shall be drafted before there shall be a draft of the married men. It is suggested by a Senator near me that it might require a reenrollment. In reply, I will say that the present enrollment shows who are married and who are unmarried, and there will be no practical difficulty and no delay consequent upon the adoption of this measure.

The question being taken by yeas and nays, resulted—yeas 12, nays 29; as follows:

YEAS—Messrs. Buckalew, Collamer, Davis, Doolittle, Hendricks, Johnson, Lane of Indiana, Lane of Kansas, Nesmith, Powell, Saulsbury, and Sumner—12.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cowan, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—29.

So the amendment was rejected.

Mr. DAVIS. I laid an amendment on the table some days since, which I desire now to offer. It is to insert as an additional section:

Sec. — And be it further enacted, That in every case where heretofore any person has agreed to join, and has in fact joined, or may hereafter join, the military service of the United States, and has been received into the said service by any military officer thereof, the person so joining and received into such service shall, for all purposes whatever, be deemed to have been regularly mustered into said service in the position of officer, non-commissioned officer, or private, in which he may have served, notwithstanding he may not have been mustered in according to law and the regulations of the War Department.

I will say a single word in support of this proposition. There was a regiment raised in my State that was in two battles before it was mustered into service. A portion of the regiment was killed and a very considerable portion of them wounded; several of them mutilated, losing arms and legs. It was not the fault of these men that they were not mustered in. They were ordered to a rendezvous to be mustered in on a particular day. They were marched there, and the process of mustering in continued about a day. They were then ordered to a point called Cynthiana, in the State of Kentucky, and there they engaged in a very bloody battle, for the number of soldiers engaged, and a good many of them were killed or wounded. In a few days afterwards they were ordered on another expedition toward Richmond, in that State, and there they entered into two other battles, one at a place called the Big Hill, and the other at the little town of Richmond, in which the regiment again suffered very severely. The consequence of these series of battles was that a good many of them were killed, and a good many of them wounded, and some of them permanently disabled. One of them was in my office a few days before I left for this city, who had lost his right arm. I think there can be no objection to this amendment. I offered this proposition at the last session several times as a separate bill, and I could not get it to receive the favorable consideration of the Senate. I offered to attach it to several bills; and to put it into good company, but not better company than it was itself, and in that form I could not get it through the last Congress. I trust the Senate will now be disposed to accept the proposition as an additional section to the bill.

Mr. WILSON. The amendment proposed by the Senator from Kentucky has no concern with an amendment of the enrollment act, and this bill, so far, only relates to that act. I certainly do not oppose the principle embodied in the amendment moved by the Senator from Kentucky, but it is not germane to this subject. I hope, therefore, it will not be pressed, or if pressed that it will not be put upon this bill. We shall have one or two bills up within a few days on which the amendment may more fully be moved, and I hope that it will not now be put upon this bill.

Mr. DAVIS. I am not at all tenacious about offering it as an amendment to this bill, but I could not get it connected with any subject, last session, to which it was germane, and I am seriously apprehensive that that may be its fate at the present session. However, I will risk a few days, and wait for the coming bills of which the Senator speaks. I withdraw it with the understanding that I shall offer it on some other bill to which it will be more appropriate.

Mr. HOWE. I move to reconsider the vote by which the Senate rejected the amendment reported by the committee.

Mr. WILSON. You can do that in the Senate.

Mr. HOWE. I may just as well do it now.

Mr. WILSON. I think you had better do it there, and let us get along with these amendments.

Mr. GRIMES. We are in Committee of the Whole now.

Mr. HOWE. Very well; it takes no more time for a vote upon reconsideration now than in the Senate.

Mr. GRIMES. It takes two votes now in place of one.

Mr. NESMITH. If the Senator from Wisconsin will yield to me for a moment, there was an amendment which I offered, authorized by the Committee on Military Affairs, which has not been acted upon, and I hope he will allow us to have action upon that before he makes his motion.

Mr. HOWE. Certainly.

Mr. FOOT. I rise to a privileged motion. Some time ago I moved that when the Senate adjourns to-day it adjourn to meet on Monday next, then supposing that the Senate could complete its action on this bill to-night. It is evident now that it will not be able to do so. I think, therefore, we had better come here to-morrow and finish this bill. I move to reconsider the vote by which the Senate agreed that when it adjourns to-night it adjourn to meet on Monday next.

The motion to reconsider was agreed to.

Mr. FOOT. I move now that the Senate adjourn.

Mr. SHERMAN. Before that motion is put, I wish to make another privileged motion, and that is, to reconsider the vote by which the new rule in relation to the oath of office was made the special order for to-morrow, in order that it may be postponed until Monday, so that the Senator from Delaware may have an opportunity of a day certain to speak upon it.

Mr. SUMNER. But I understand the Senate will sit to-morrow.

Mr. SHERMAN. But we wish to finish this enrollment bill then.

The VICE PRESIDENT. The question before the Senate is on the motion that when the Senate adjourns to-day it adjourn to meet on Monday next.

The motion was not agreed to.

Mr. SHERMAN. I now submit a motion that the resolution of the Senator from Massachusetts providing for a new rule of the Senate be postponed until Monday next, and be made the special order for that day at half past twelve o'clock.

The VICE PRESIDENT. That order will be made, if there be no objection.

Mr. TRUMBULL. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 14, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

EXPENSES OF MILITARY ESTABLISHMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the War Department, transmitting a statement of expenditures of appropriation for the contingent expenses of the military establishment for 1863; which was ordered to be printed, and referred to the Committee on Expenditures in the War Department.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

An act (S. No. 50) to authorize the President to appoint a Second Assistant Secretary of War; and

An act (S. No. 57) declaring the assent of Congress to an act of the Legislature of Illinois therein named.

CONFISCATED PROPERTY.

The SPEAKER stated that the business in order was the consideration of the joint resolution (H. R. No. 18) postponed on yesterday until after the reading of the Journal to-day, the pending motion being to recommit the resolution to the Committee on the Judiciary.

The resolution was reported as follows:

A joint resolution explanatory of an "Act to suppress insurrection, punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

Mr. STEVENS. Is this resolution now open to amendment?

The SPEAKER. It is not. The motion to recommit, which is pending, prevents it.

Mr. COX. I suppose, by unanimous consent, any amendment might be offered here.

Mr. WILSON. I do not withdraw my motion to recommit.

Mr. COX. I do not desire to detain the House at any length. The general subject of confiscation, its legality and policy, was exhaustively discussed in the last Congress. I may be allowed to add a few considerations to those which have heretofore been offered here: first, as to the general policy of the confiscation system, with a view to putting down this rebellion; and secondly, as to the specific mode pointed out by this bill and its amendments.

My impression is that the confiscation system has been an utter failure. Because it has failed, we are to have it newly tinkered session after session, and from day to day, with a view to encourage rapacity and aggravate grievances. Such legislation, sir, only stimulates rebellion. It destroys what remnant of Union feeling may be still remaining in the South. It ignores the first lesson of history, what has been truly called "the principal observation of the best historians, that a whole nation, how contemptible soever, should not be so incensed by any prince or State, how powerful soever, as to be driven to take desperate courses." Instead of disarming the rebel, it arms him, when nearly exhausted, with the weapons of revenge and despair.

Mr. Burke once said, speaking of America:

"You cannot frame an indictment against a whole people."

Neither can you, sir, administer a sweeping penalty upon them.

History is, alas, too full of examples of the ruthless savagery of confiscation. In proportion to the atrocities have been the resistance of the people and desolation of the lands to which such savagery has been applied. If I should wish to present a case where all the horrors of subjugation, penury, devastation, and confiscation have been felt, I would go to Ireland. Crushed by the cruelty of a system similar to that now and here sought to be inaugurated, Ireland points with skeleton finger continually in all her sad history her warning to our rulers: I do not think these cruelties of England toward Ireland are attributable solely to the Puritan spirit of the time of Cromwell, although I find in her history an appeal from New England, in the person of one of her pastors, to Old England, to make the "English sword drunk with Irish blood, to make them heaps upon heaps, their country a dwelling-place for dragons, an astonishment to nations." These excesses were not the result of religious bigotry alone. They date from the earliest connection of Ireland with England. All her rebellions were the reaction of suffering against rapine. With permission, I extract from Smythe's Ireland, Historical and Statistical, volume eleven, page 117, the terrible lesson I have pondered on the general subject of confiscation.

After the expulsion of James from the throne of England the slender relics of Irish possessions became the subject of fresh confiscations. From a report made in 1698 it appears that nearly 4,000 Irish subjects were outlawed, and their possessions, amounting to 1,060,792 acres, confiscated. The area of Ireland is estimated at 11,042,682 acres. The historian says that the forfeitures in the reign of Elizabeth and Mary were 2,838,972 acres; in the reign of James I, at the Restoration, and in 1688, the forfeitures were 11,697,629 acres; so that the whole island has been confiscated, and some parts twice. In one century no inconsiderable portion of the island was confiscated twice, or perhaps thrice: so that at the Union the situation of Ireland is unparalleled in the history of the world. Such universal ruin only served then, as it will serve in this devoted land, to inspire hatred and scorn toward the conquered people whom the victors delighted to trample upon. Retaliation and murder followed closely upon the heels of confiscation.

There is not a wise man who has pictured this history but has condemned the impolicy, not to say illegality, of the forfeitures. They operated always against the conclusion of the war. Had the Irish been regarded as alien enemies instead of domestic rebels they would have had one relief—they would have retained their possessions under the established law of civilized nations.

If I were to assume the premises sometimes assumed by gentlemen upon the other side of the House, that this war is a territorial war, and that every man, woman, and child, loyal or disloyal, within the limits of the belligerent territory are alien enemies and should suffer all the consequences of belligerency, according to the law of nations, then there would be no foundation at all for acts of this kind. If the rebel becomes the enemy, you cannot confiscate the private property as these bills propose. If there be a line of force, protected by bayonets, which, according to the Supreme Court in the *Hiawatha* case, makes the confederacy a *de facto* government; if this be true, as argued by the Solicitor of the War Department, and as has been argued by a gentleman in the other end of the Capitol, then there can be no confiscation of rebel property at all in the manner prescribed by the confiscation act. But I do not propose to inquire too curiously into this matter, though it may well engage the attention of jurists to inquire how treason can be alleged or confiscation follow where the accused were under the dominion of a power capable of coercing allegiance to it and holding the sword of the magistrate *de facto*, though not *de jure*. Protection and allegiance are correlative. While Government gives the one, it may command the other. If it fail to give protection, would it be just or rational to punish for treason? This subject is treated in the books, and, indeed, was the subject of English statutes. It is thus stated by a writer in the American Cyclopaedia, under the title *Treason*:

"But from the obvious absurdity of exacting from every individual a sound, or rather a fortunate, judgment as to the obscure and complicated grounds on which the claim to sovereignty often rested, it became and still remains a well-settled rule, that no one incurs the guilt of treason by adherence to a king or government, *de facto*, although that king or government has but the right of a successful rebel, and loses it all by a subsequent defeat."

It seems to have been adopted by the dominant party in this House that this confiscation system shall, if possible, be carried out in the South. They cannot do it and make it effective under the Constitution. They must do it over that instrument and in spite of its limitations. All the forfeiture which they can obtain under the Constitution is simply the life estate of those who are convicted of treason; and as that life estate is no longer than the halter with which the man is hung, the results would not be worth the pains. Avarice would not be sated by a life estate. Its maw must be gorged. It must have all. Hence, from some motive or other not creditable to our human nature, whether it be from unchristian malice, or corrupt greed, or some other diabolic desire, there seems to be an urgency upon gentlemen upon the other side of the House to break the Constitution to get at the absolute title to the estates of the rebels.

I know it may be said by the gentleman from Iowa that the bill which he has presented does not involve the constitutional question. He tells us that he simply desires to submit the question to the courts, and let them determine whether or not the forfeiture shall be in fee or for life. But, sir, the gentleman from Pennsylvania [Mr. STEVENS] and others have indicated a desire to move amendments here, repealing the joint resolution of the last Congress, which, on the suggestion of the President, embodied the language of the Constitution. The effect of such repeal will be to leave the original law in full force. Its execution will then be attempted without regard to the Constitution, and the officers of the Government will at once seize upon and sell the property in fee. The vendor will hold it absolutely, and the burden of contesting its validity will be thrown upon children and heirs whose rights the Constitution intended should be guarded. Therefore the question comes up properly on this bill, whether we shall allow any such unconstitutional measure to pass, for even by the bill of the gentleman from Iowa, without any of the amendments proposed, we would be holding out to the judges and to the instruments of this administration a lure to lead them on to follow up this confiscation system for some bad purpose or other. I honor the judiciary, sir, as much as any member; but I am growing distrustful of all powers, wherever deposited.

Now, we know that the judge of the United States court for the eastern district of Virginia, a Judge Underwood, has lately been passing upon

this question. I do not know anything about his character, judicial or otherwise, but he has decided, as I understand, in conformity with the argument of the gentleman from Indiana, [Mr. ORTH.] Indeed, the argument of the gentleman is drawn from this precious reservoir of learning. After quoting the constitutional clause, that

"Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attained;"

He has held that—

"If we use the word 'except' in the above sense in the constitutional provision, or make it read, 'unless during the life of the person attained,' we shall at once come to the true intent and meaning of the provision, to wit, that the forfeiture was to be perfected during, and not after, the lifetime of the party attained."

Wonderful jurist! Profound logician! Sage philologist! He actually holds that the word "except" in the Constitution really means something else than its own common and technical meaning; that it means "unless." By all the processes of his court, as I am informed, he is striving to give effect to his absurd decision by conveying the absolute title to those estates which have been confiscated before him.

Well, sir, if this judge, under the confiscation law and the joint resolution interpreting it, had a right to do anything of that kind, what is the need of this legislation? Why is this additional legislation proposed? The very fact that the gentleman from Iowa has brought in this bill is evidence to my mind that this judge is a corrupt man and deserves impeachment for breaking down the existing law which the gentleman from Iowa is now trying to amend so as to make such proceedings valid hereafter. The introduction of this bill is a stigma upon his name, which will grow blacker with time. I would need no other evidence of the corruption, the bad heart, and the perverse judgment of that judge than the simple argument which can be drawn from the words of the Constitution against his mode of confiscating property.

The gentleman from Indiana, [Mr. ORTH.] whose speech I had the pleasure of reading a few minutes since, for I could not altogether hear it while he was delivering it, concluded his argument with an invocation to the House to be virtuous, to stand firm to their duty in this time when the nation is reeling and staggering under the sturdy blows of organized treason. He appeals to us in this time to gather around the Administration and to put down traitors and punish the guilty. Very well. I am with the gentleman in all that, but I should have liked his appeal better had he called on us to stand by the Constitution as all-sufficient for these purposes. In almost the same breath the gentleman says he would oppose the enactment of laws which inflict cruel, harsh, or unjust punishment upon offenders. Indeed! The question here is not how, by penal statutes, to reach the guilty. The guilty are already reached by the present law. This bill reaches beyond the guilty traitor, and involves, by a posthumous punishment, the innocent and good—ay, even the unborn innocents. It inflicts on the children of the guilty the punishment due to the parents; and the gentleman from Indiana, who seems from his speech and countenance to be benevolent, shows that in fact he partakes of the ferocious humanity of the hour by arguing in favor of a bill to punish the inoffensive offspring of the traitor. How kind his logic is may be seen from this extract:

"You cannot take from one that which he hath not. You cannot rob one who is not possessed of anything. I propose to take from the traitor his property before his death, and before it can descend to and vest in his heirs. The child has no natural right to the property of the father. Even in society the child cannot demand as a social right the possession of his father's estate. The father, during his lifetime, can alienate his property by deed of conveyance or by will to take effect at his death; and he can by either process totally disinherit his children, and grant his estate to strangers. It is only in a certain contingency that the child obtains possession of the father's property, as where he dies intestate, and this right of inheritance is purely a social right, depending upon express legislation or immemorial usage ripened into the validity and sanctity of express law."

The child has no natural right to the property of the father! What an unnatural proposition. It is only "by express legislation or immemorial usage" that gives to the child, in the absence of an unnatural will, the estate of the father! Truly, sir, we have fallen on evil times, when to bolster up bills of penalty like this upon the children of

the guilty the beautiful and sacred relations of the family are to be disrupted.

I am shocked that in this age and in this country and in this House I am required to stand up before the American people, and, as a matter of pure philanthropy and common decency, protest against the cruel and remorseless character of bills of this kind, and to defend the rights of those who have committed no crime, but upon whom it is proposed to visit, after the death of the parent, the crimes of the ancestor.

Mr. Speaker, the gentleman from Indiana, in his elaborate and learned speech, drew from the old feudal system, from the black-letter laws, from the whole history of our common law with reference to forfeiture, to show that there should be another and a different interpretation given to the Constitution from that which was given by the men who made the Constitution, by the men who passed the law of 1790, to carry out that clause of the Constitution to which I have referred, and by all the interpreters of the Constitution to whom he himself has referred. He says that the science of philology is progressive, and that a word which meant one thing at one time and in one age may mean another thing at another time and in a different age, and upon that principle he says that the word "except" in the Constitution means "unless," and then he draws, like the Virginia judge, the conclusion that the only meaning of the Constitution is that the proceedings shall be commenced in the life of the person attained.

It will be borne in mind that the phraseology of our Constitution was most carefully guarded. It was as pure and simple as the spirit of the Constitution was kind and liberal. The word *except*, in 1787, had as plain a meaning then as it has now. The word "unless" was not its synonym then, nor is it now, except in very rare and remote instances.

But suppose the gentleman should by some technical logomachy find out that the word "except" meant sometimes "unless," he does not find the word "unless" in the Constitution, and if he had it would make no difference in the argument. The word "except," according to my philology, which has not progressed very rapidly, is derived from the Latin words *ex* and *capio*, to take from, to exclude from, to leave out. This is the primary, and not the secondary meaning into which the gentleman would distort it. That is the meaning always attributed to it by all the public writers who have commented on this part of the Constitution. This, too, is the ordinary and simple meaning of the Constitution. It reads in this way, and cannot be made to read in any other: "But no attainder of treason shall work corruption of blood or forfeiture *except* during the life of the person attained." There are some clauses which interpret themselves. Discussion only obscures, and does not elucidate their meaning. This clause is one of them.

Now, suppose the gentleman inserts his favorite word "unless;" how does that help him? It is still a limitation on the power which works corruption of blood or forfeiture, and that limit is during the life of the person attained of treason. That word "unless" does not change the meaning of it at all. You may use it with all emphasis, and still the limitation would be on forfeiture during life.

But, Mr. Speaker, there can be no such construction given to it. The word "except," according to Worcester, Webster, and all other dictionaries, in its first and best meaning simply means "to exclude from;" so that when the Constitution said that the attainder of treason should not work forfeiture of property except during the life of the person attained it meant that the forfeiture should exclude the fee. It was taken out of and from the effects of the forfeiture. The forfeiture never went beyond the life. And there are good reasons for such a construction which the gentleman from Indiana seemed to overlook. He might have found them laid down by Judge Story. He might have found them in the United States court decisions. He might have found them in common sense. He might have found them in the history of the English Parliament. He might have found them in the history of English and Irish confiscations. It was intended by our Constitution to prevent forever this crime of Government taking from those not in legal existence,

from minors, from the weak and helpless, from those not guilty from those incapable of crime, that property which always in cases of intestacy, and generally in cases of will, the law gives to the children, and which, by natural right, and according to every code of inheritance known among men, always goes to the children in the absence of a will. The only authority which can be offered by the gentleman for his construction is this Virginia judge. The gentleman has brought no authority here for the purpose of sustaining his view—none whatever. He has evidently been diligent, and has run over all the authorities, and found them against him. Can the gentleman name one authority which sustains his view of the case except this trashy decision of this Judge Underwood? Not one. He relies solely on his progressive philology. So it is progressive. This war is learning us many new meanings to old words and terms. A patriot used to mean one who loved his whole country; who was devoted, by a principle of sympathy and union, to every part; who had a common feeling and a common interest with those who lived under the same Government, or are contained within the same natural or historical boundaries; who cherished the tie that holds the country together, and who held that evil to any part of their fellow-countrymen was evil to themselves. Now it means otherwise. Philology is progressive. Now a patriot is one who can break the supreme law, who can hate half his nation, who can rejoice in the bayonet at the election and the greenback in corruption; who is anxious to see a war of extermination, and who, as the climax of his devotion, is willing to see the last one of his wife's blood-relations offered upon the altar.

Philology is progressive. A traitor now is a man who loves the old order, who dislikes to see the old Constitution dismantled, who is willing to make any sacrifice that will restore the Union, and whose very love of those who used to be under the same old family roof-tree amounts to such a sympathy that he would love to have them all restored.

A philanthropist used to mean a friend of man. Now it means a friend of the black; or, rather, such friendship as drags the negro from home, happiness, and content, to pauperism, crime, and starvation! Philology is progressive.

But Judge Story did not progress as the gentleman from Indiana in his philology; but kept the old meaning of the fathers, which was for all time. My friend from Indiana said that he could find but little written by our commentators upon this mooted clause of the Constitution. When he turned to Judge Curtis he found but one single sentence: "The punishment of treason is not prescribed by the Constitution. It is left to be prescribed by Congress; with the limitation, however, that no conviction for treason shall work corruption of blood or forfeiture of property *except* during the life of the offender."

The matter was so plain to Judge Curtis that he could make but little commentary upon it. So it was with Judge Story. After quoting the clause in question, he says:

"Two motives probably concurred in introducing it as an express power. One was, not to leave it open to implication whether it was to be exclusively punishable with death, according to the known rule of the common law, and with the barbarous accompaniments pointed out by it, but to confide the punishment to the discretion of Congress. The other was, to impose some limitation upon the nature and extent of the punishment, so that it should not work corruption of blood or forfeiture beyond the life of the offender."

"It surely is enough for society to take the life of the offender, as a just punishment of his crime, without taking from his offspring and relatives that property which may be the only means of saving them from poverty and ruin. It is bad policy too; for it cuts off all the attachments which these unfortunate victims might otherwise feel for their own Government, and prepares them to engage in any other service by which their supposed injuries may be redressed or their hereditary hatred gratified. Upon these and similar grounds it may be presumed that the clause was first introduced into the original draft of the Constitution; and, after some amendments, it was adopted without any apparent resistance. By the laws since passed by Congress it is declared that no conviction or judgment for any capital or other offenses shall work corruption of blood or any forfeiture of estate. The history of other countries abundantly proves that one of the strong incentives to prosecute offenses as treason has been the chance of sharing in the plunder of the victims. Rapacity has been thus stimulated to exert itself in the service of the most corrupt tyranny; and tyranny has been thus furnished with new opportunities of indulging its malignity and revenge; of gratifying its envy of the rich and good; and of increasing its means to reward favorites and secure retainers for the worst deeds."

—3 Story's Commentaries p. 170.

Mr. Speaker, the gentleman from Indiana could find no reason for the construction which Judge Story gives, but that eminent jurist does find a good and satisfactory reason for the limitation of the punishment, and he gives it in the extract which has just been read. There can be no greater reason against extending a penal law than the fact that such extension will work harm to the innocent and encourage tyranny, rapacity, cruelty, and murder. To say nothing of the impolicy of breaking down allegiance to the Government by such a system of injustice, the reasons I have quoted are sufficient to answer all that the gentleman from Indiana has said in favor of his construction.

Mr. ORTH. Will the gentleman allow me to ask him a single question: whether he takes the position that this bill now before us, or any pending amendments to it, will work corruption of blood?

Mr. COX. This bill, with the pending amendments?

Mr. ORTH. Yes, sir. Will it work corruption of blood?

Mr. COX. It cannot work corruption of blood under our Constitution. There can be no such thing as corruption of blood.

Mr. ORTH. I ask the gentleman furthermore whether the authority read from Judge Story does not apply, and do not his remarks apply, to the fact of corruption of blood?

Mr. COX. It applies to this very clause of the Constitution:

"Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attained."

It is on that that Judge Story is commenting. The gentleman argued that there had been abuses with regard to corruption of blood and forfeiture of estates. Persons had been found guilty of treason after death, and estates had been forfeited after the person attained had died. Monstrous abuses had grown in consequence of declaring the blood to be attained after death; men were so blackened by the attainder that they could not transmit an inheritance to their descendants. Premising these facts of history, the gentleman argued that the object of this mooted clause of our Constitution was to prevent such abuses. That was the main point of the gentleman's argument. That it is a gross fallacy I shall demonstrate. He said, and said very truly—

"In further support of my position, let me advert to the fact that in England, long prior to and at the adoption of our Constitution, attainder of treason after the death of the supposed traitor (I mean his natural death before trial or even accusation) was of frequent occurrence. This was a monstrous doctrine, shocking to every principle of justice upon which the criminal code is founded, to accuse a man of crime after death, when none is to speak for his innocence, to proceed to trial and judgment, to wrest from innocent hands that property which by law upon his death descended to and vested in his heirs, and forfeit their property, and not his property, to the Government for his supposed criminal conduct. Is it not more just and reasonable to suppose that the Constitution intended to embrace and provide against this monstrous perversion of natural justice than that it intended so absurd a proposition as that the forfeiture of estate should only be for that brief period of time between sentence of death and its execution?"

I answer the question the gentleman puts by saying that it is monstrous, that it is a great and grievous wrong thus to attain a man and forfeit his estate after his death. The history of England in that regard is red with blood and black with cruelty. But from it our fathers learned a lesson. To stain the memory after death, to corrupt the blood after it had ceased to pulsate, and to "rob the innocent posterity of the inheritance which, by the laws of the realm, had descended to and vested in them, as the lawful descendants of their ancestor," was so revolting to every sense of right and justice that I join with the gentleman in execrating such baseness. The creative minds which gave form, life, beauty and symmetry to our Federal system did not tolerate such barbarous codes. They saw these monstrosities. Ay, sir, and in our matchless Constitution they provided against their recurrence here in this free and better country; but not by the clause to which the gentleman would refer. If the gentleman had read the Constitution and the authoritative commentary a little further, he would have found in that clause of the Constitution which says that "no bill of attainder or *ex post facto* law shall be passed" the solution of the problem he discussed. He would

then have seen how amply our fathers guarded against those monstrous abuses of power which reached into the tomb and dishonored and disinherited those who surviving mourned. The argument of the gentleman is answered by referring him to that sweeping clause of the Constitution against all attainders. Judge Story says, in speaking of that very clause:

"Such acts have been often resorted to in foreign Governments as a common engine of State; and even in England they have been pushed to the most extravagant extent in bad times, reaching as well to the absent and the dead as to the living. Sir Edward Coke has mentioned it to be among the transcendent powers of Parliament, that an act may be passed to attain a man after he is dead. And the reigning monarch, who was slain at Bosworth, is said to have been attained by an act of Parliament a few months after his death, notwithstanding the absurdity of deeming him at once in possession of the throne and a traitor. The punishment has often been inflicted without calling upon the party accused to answer, or without even the formality of proof, and sometimes because the law in its ordinary course of proceedings would acquit the offender. The injustice and iniquity of such acts in general constitute an irresistible argument against the existence of the power. In a free Government it would be intolerable, and in the hands of a reigning faction it might be, and probably would be, abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion, or of gross subservency to the Crown, or of violent political excitements—periods in which all nations are most liable (as well the free as the enslaved) to forget their duties and to trample upon the rights and liberties of others."—3 Story, p. 210.

The wrong complained of by the gentleman, and for which he finds a remedy in another clause which he supposes was intended to limit the proceedings and not the forfeiture of estate to the life of the person attained, being thus amply provided against in this clause of the Constitution against bills of attainder,—what other intention or use can there be for the clause in controversy except to limit the forfeiture of the estate during the life of the person attained?

I have agreed with the gentleman from Indiana in condemning, with all the severity of language, the attainder after death and the robbing of the innocent children, who would legally take the estate. But, as a matter of enlightened law, public decency, and Christian morality, I cannot perceive how such a case differs from the bill before us, which he sustains, which proposes to despoil the children of their inheritance for the crime of the parent. Does it make the one a heinous wrong that the attainder is after death and the property had already descended by statute? No, sir; the outrage in both cases consists in robbing the helpless and weak, in punishing the innocent for the guilty. To prevent this, in the interest of society and in the sacred name of the family, and to save the innocent from shame as well as from want, our Constitution declares that the forfeiture should not go beyond the life of the person attained. The grave shall hide his shame. The child shall begin its life clear from stain, unswelled from the attainder of its parent's life, and the inheritance it had expected from the physical source of its being should not be snatched away by unlineal hands or tyrannic rapacity.

Too abundantly does history cumulate the proof of the unwisdom of such legislation as that proposed by this bill. Such legislation is the premium which has ever been offered by power to the cormorants who cling to it, in order to perpetuate itself by sharing in the plunder. It is the reward which the dominant dynasty always gives to the gilded flies which buzz about the corpse of its victim to fatten on its corruption. Perhaps the saddest illustrations which this evil time will furnish of its lustful degeneracy, will be the clanioring of the partisan spies, informers, and mercenaries, who, too cowardly to meet the enemy in fight, will follow in the wake of our armies to speculate upon the plantations and estates which the rebellion has forfeited, but which the Constitution in its beautiful benignity would have saved to the innocent inheritor.

Is it necessary to add further authority as to the impolicy or unconstitutionality of this bill? I might appeal to the writings of the gentleman who has been employed by the Secretary of War to codify the laws of war. I mean the Dr. Francis Lieber who wrote so well of public law and liberty before he had official employment. I could read from his volume on "Civil Liberty" to show the scope and spirit of that part of the Constitution under debate. He says "that the true protection of individual property demands likewise the exclusion of confiscation."

Mr. STEVENS. As the gentleman from Ohio is discussing a grave matter, let me ask him a question.

Mr. COX. Certainly, sir.

Mr. STEVENS. The Constitution provides that Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture. Now, has not Congress power to punish other than by attainder, and if that other punishment is the forfeiture of estate, does it violate the first clause of the Constitution?

Mr. COX. I answer the gentleman by referring him to the President's message. [Laughter.] The President in his message to the last Congress held that to divest the title forever—"for treason and ingredients of treason"—was unconstitutional. You passed the joint resolution to obviate his scruples. The gentleman must stand by the Administration. I charge him with being a traitor or a secessionist if he now desert Mr. Lincoln. [Great laughter.] I hope my friend from Pennsylvania, after so long hurling his venomous shafts of satire against this side of the House because we did not always sustain the President, will not himself fail of his loyalty. There may be other punishments beside the forfeiture; but the punishment you now propose, and which I am now discussing, is unconstitutional. So says the Administration. I proudly stand by the Administration. [Laughter.]

Mr. STEVENS. I understand the gentleman as not giving his own opinions, but those of Mr. Lincoln.

Mr. COX. When interrupted, I was giving the views of others—Judge Story, Judge Curtis, and Dr. Lieber. I am not prepared to say that all of Mr. Lincoln's views on that subject are the best. I only say that they should be binding upon that side of the House who have so often urged that failing to sustain the Administration you fail to sustain the Government. Where, then, do gentlemen stand? Opposing the constitutional views of their chief! How handsomely you look before the country in that capacity, after your philippics against our disloyalty! Here is a bill which involves the very exercise of the highest sovereign power, confiscation of the estates of persons absolutely, a scheme of forfeiture involving hundreds, nay, thousands of millions of dollars, or of landed estates, involving in its consequences the prolongation of war and the procrastination of peace, involving the very fate of this Union and all the immense interests imbound with it to the latest generations, and about which the President was so anxious that he took the extraordinary trouble to send an admonitory message to prevent his friends committing a flagrant breach of the Constitution, advising them that he would veto the measure for its gross unconstitutionality; yet gentlemen stand here, after the lapse of a year or more, and by some "progressive philology" undertake to convict and censure their own Executive, overrule his matured judgment and oath, and by failing to give him the required support on so momentous a measure, become, by their own cogent logic, traitors to the Government!

Mr. BROOMALL. The Constitution, punishing treason, allows the alternative of fine and imprisonment to be imposed. If, then, the fine be levied upon the offender's land, and that land is sold, I want to know whether the purchaser would only take life estate.

Mr. COX. Certainly, sir. Under an honest and fearless judiciary, upholding the Constitution as the supreme law, he would only get a life estate. This may be an absurd conclusion; but I know that Judge Story does not think it absurd, nor does the history of these confiscations show it to be absurd. By no scheme or device can you directly or indirectly forfeit the estate, except in pursuance of the Constitution.

Mr. BROOMALL. If the same individual should be indicted before some court for stealing chickens, and fined ten dollars, and his lands sold for that fine, could the estate be sold in fee?

Mr. COX. If the gentleman would get a civil judgment, take out a *fieri facias*, and make a levy, then I suppose he could sell the fee. But that question of stealing chickens does not interest my constituents, [laughter;] at least those who are white.

When interrupted by the gentleman from Pennsylvania, I was about to call the attention of the

House to Dr. Lieber's volume. He may not be good authority for my friend from Pennsylvania, [Mr. KELLEY,] who has, however, informed the House that he is in communication with him, though he told the House the other day that he preferred his own instincts to Dr. Lieber's reason. He argued the other day that he would rather trust his own instincts of liberty than the authority of the war codifier. We have had too much legislation "upon instinct." I think at the time Dr. Lieber wrote the volume from which I was about to quote that he was looking at the spirit of the law with that large roundabout common-sense view which a student of Montesquieu might well take; and with that enlarged observation he tells us:

"The true protection of individual property demands likewise the exclusion of confiscation. For although confiscation, as a punishment, is to be rejected on account of the undefined character of the punishment, depending not upon itself, but upon the fact whether the punished person has any property and how much, it is likewise inadmissible on the ground that individual property implies individual transmission, which confiscation totally destroys. It would perhaps not be wholly unjust to deprive an individual of his property, as a punishment for certain crimes, if we would allow it to pass to his heirs. We do it in fact when we imprison a man for life, and submit him to the regular prison discipline, disallowing him any benefit of the property he may possess; but it is unjust to deprive his children or other heirs of the individual property, not to speak of the appetizing effect which confiscation of property has often produced upon Governments."

"The English attainer and corruption of blood, so far as it affects property, is hostile to this great principle of the utmost protection of individual property, and has come down to the present times from a period of semi-communism, when the king was considered the primary owner of all land. Corruption of blood is distinctly abolished by our Constitution."—Dr. Lieber on Civil Liberty, vol. 1, p. 123.

What does the learned publicist mean by the "appetizing effect of confiscation upon Governments?" Did his prescient mind take in the adjudications of Judge Underwood? Did he look forward to the auction at Alexandria? Did he see town lots and Arlington heights under the hammer? And did he see how little enthusiasm life estates produced, and what an appetizing effect the fee simple would have produced? Has the learned doctor struck, in his comprehensive reasoning, the motive for this bill? I charge that the object of this bill is to make a case in the courts, if possible, whereby some judge like Underwood, by a corrupt, unjust, and dishonest decision, may overturn the organic law to give a quasi absolute title, and thus place the burden on the heirs hereafter of contesting for their rights, and, by harassing and oppressing the innocent and helpless, gain that possession which proverbially is nine points of the law in favor of its continuance. It may well be asked by a considerate legislator, how long will the innocent heirs remain out of their property if they must sue and await the decision of the question in the courts? Shall it be until they attain their majority, or when? After the property has been once taken, there will, I fear, be but little remedy in the courts, for the judiciary itself may be the next department to cower before the behests of power and the "military necessity" of the hour.

Mr. Speaker, I am opposed to this bill, because I have gleaned from history a profound distrust of all such measures as that of confiscation as a means of restoring allegiance and order. It is the system of revenge. It is hate enacted into law. It will not and it cannot come to good. It is unchristian. Indeed, any system which does not restore good will and kindness between the two sections, and especially if it robs the coming generation, will only tend to perpetuate with the children the hate which we might hope would vanish with time. Such a system is the very wantonness and excess of tyranny. It always has in it a self-punishing and corrective power. It carries a Nemesis with it as inexorable as fate. The history of Poland, Venetia, and Ireland should make us pause. Do we indeed desire to restore our Union? Do we desire to keep our plight to the Constitution? Do we crave in our hearts the return of that happier time when our public order reposed securely in the hearts of the people and in reverence for the Constitution? If we do, let us rather repeal our former harsh and vindictive legislation and not enact other and harsher penalties; and if war must needs go on, if blood, blood, blood must still flow, and force must still be used against those who were once our brethren in the same nationality, then let us add to that

force at every moment of decided success to our arms, at every pause in the dread conflict, the benignant policy of conciliation.

Mr. KELLEY. Will the gentleman from Ohio permit me to ask him the reference of his quotation from Dr. Lieber?

Mr. COX. I will give it to the gentleman.

Mr. KELLEY. I do not know whether his quotation is a correct one, for the doctor has protested that the gentleman has always misquoted him, and charged him with entertaining opinions the reverse of what his opinions really are.

Mr. COX. The gentleman from Pennsylvania, when he says I have misquoted Dr. Lieber, cannot be correct, for I have not pretended to quote him until to-day. I said the other day that he was opposed to the unrepublican scheme of conscription. I have the authority, and I will produce it at the proper time.

Mr. KELLEY. If the gentleman will permit me I would like to have the doctor himself speak upon this subject. I hold in my hand a note from the doctor, of the date of December 6, 1863.

Mr. COX. The gentleman from Pennsylvania is not quite as logical as I could wish. I do not propose now to discuss the conscription bill. I will pay my respects hereafter to the gentleman on that subject.

Mr. KELLEY. I would rather the question be between the gentleman from Ohio and the gentleman he quotes as authority than between the gentleman and myself.

Mr. COX. I should feel it a much greater honor if it were so. [Laughter.]

I was about to conclude by one general observation. The members upon this side of the House have not made, and do not intend to make, any factious opposition to this Administration. We intend to sustain it to the fullest extent of our ability in every legal way which it may mark out—in every way possible by which we can restore the old order of things in this country. Our views do not always agree with your views as to the best mode of restoring the Union and preserving the Constitution. If we could but agree upon one object—the rehabilitation of the States, with all their rights, dignity, and equality unimpaired—though our views may be diverse as to the means to attain that object, this Congress might carve out a historic fame as the restorer of that constitutional freedom which the last Congress did so much to destroy. Upon this side we will sustain any measure to put down rebellion which is warranted by the Constitution. But we will never lay sacrilegious hands upon that ark of our covenant. We constitute the constitutional opposition to this Administration. We have no opposition except it be inspired by that instrument. Its written grants of power, its limitations, and, especially in these times, its reserved powers, furnish the machinery of our antagonism. Drawing from this source, we fear no criticism. We defy all aspersions. Come evil or good report, we will labor—it may be in vain—to protect that instrument against any such breaches as that proposed by this bill and legislation of like character. Since I have been a member of this House I have labored, without rest, to make up in vigilance and study what I lacked in years and experience, that I might perform my whole duty to my constituents, and with one object ever uppermost in my mind—the object which Daniel Webster held to be first with a free people—the preservation of their liberty by maintaining constitutional restraints and just divisions of power.

Mr. ORTH. Before the gentleman from Ohio takes his seat, I would like to ask him one or two questions, and I have no doubt he will answer them without hesitation. My first question is, whether he is in favor of punishing the traitors who have been guilty of bringing on this rebellion?

Mr. COX. Yes, sir. I am in favor of punishing traitors according to the Constitution, by trial, by conviction, and by all the modes pointed out for the punishment of treason.

Mr. ORTH. I have no doubt of that. My next question is, whether he is in favor of punishing traitors by the death penalty?

Mr. COX. Yes, sir; and almost every day I have been voting money and men to inflict that penalty.

Mr. ORTH. I would ask him whether taking from innocent children the life of the father who

sustains them is not visiting the sins of the parent on the children?

Mr. COX. Yes, sir; that is one of the incidents which, perhaps, might have once been avoided, but which we cannot now avoid, but for which I am not responsible.

Now, I wish to ask the gentleman whether he is in favor of punishing innocent persons for the guilt of their parents?

Mr. ORTH. No, sir.

Mr. COX. Well, sir, then you must be against this bill.

Mr. ORTH. I contend that we punish those who are guilty during their lifetimes.

Mr. COX. I would be very glad to welcome the gentleman within the pale of humanity.

Mr. GARFIELD. I ask my colleague a question, not with any malicious purpose, nor with any design to prevent a calm discussion of so important a question as this. I am sorry that this discussion has assumed a somewhat partisan character. It ought not to have that character at all, and so far as I am concerned it shall not. I wish to ask my colleague a practical rather than a legal question. I wish to know whether the objection he raises to this bill is not itself obnoxious to this objection: we punish men for civil and for criminal offenses, great and small, in all the higher and lower courts of the country by taking their property from them, so that their children can never have the benefit of it after the parent's death. Now, while we do this constantly in our courts, by civil and criminal process, does not my colleague propose to make an exception in favor of the crime of treason? Why should not the children of traitors suffer the same kind of loss and inconvenience as the children of thieves and of other felons do? I ask the gentleman whether his position does not involve this great absurdity and injustice?

Mr. COX. I will say to my colleague that, as he knows very well, in criminal procedures we do not at once by execution reach the real estate. But my colleague cannot withdraw me from my constitutional position as to this bill. All I propose to do in opposing this bill is to stand by the Constitution, and to stand by it all the time, regardless of consequences; and I will ask my distinguished colleague how he reads that clause of the Constitution under debate. Does he believe in the construction which has been given to it by the gentleman from Indiana? [Mr. ORTH.] Does he believe that he can constitutionally take a traitor's property forever, or only during his life? Does he read the Constitution in opposition to Judge Story and to Judge Curtis? Would he set aside the construction given to it by the law of 1790? Or would he, dare he, with his oath upon him, now break the Constitution by voting for this measure, in order to get absolute title to the lands of those in revolt? Would he, to aggravate the punishment of the traitor, or to punish the innocent children of the rebels, break the Constitution?

Mr. GARFIELD. I would not break the Constitution for any such purpose.

Mr. COX. I am very glad to hear that.

Mr. GARFIELD. I would not break the Constitution at all unless it should become necessary to overleap its barriers to save the Government and the Union. But I do not see that in this bill we do break the Constitution. If the gentleman can show me that it violates the Constitution, I will vote against it with him, even though every member of my party votes for it; that makes no difference to me. I will say, however, that I had supposed that the intention of that clause of the Constitution was to prevent the punishment of treason when an individual was declared guilty of it after his death. I had supposed that that was the purpose of it, and if so, it seems to me that this bill is not obnoxious to the objection which the gentleman raises to it.

Mr. COX. If the gentleman will examine that other clause of the Constitution which I pointed out, he will find, as Judge Story found, that it provided for the outrage of trial and punishing treason after the death of the person, by prohibiting all bills of attainder. The other clause of the Constitution is so exceedingly plain that the wayfaring man—even Mr. Lincoln himself—did not err in construing it.

Mr. DAVIS, of Maryland. Mr. Speaker, with whatever pleasure the gentlemen upon this side

of the House may have heard the very novel declaration of the gentleman from Ohio, that he contemplated supporting in all proper measures the Administration in the prosecution of the war and the suppression of the rebellion, it is, perhaps, fortunate that the result of the political elections in the central slave States has placed the Administration beyond the necessity of relying upon his support. Were it not so I incline to think that the kind of support the Administration would receive from the great majority of gentlemen on the other side of the House was indicated early in the session in that resolution proposed by a gentleman from New York, [Mr. FERNANDO WOOD,] which pronounced this an inhuman war. For myself, sir, relying on the fact that the people have sent enough of us here for the purpose of supporting the Administration, I would suggest that perhaps gentlemen on the other side of the House had just as well execute the mission with which the constituents that elected them sent them here, charged to oppose, to embarrass, to libel, and to break down the Administration, and leave the support of it to the gentlemen whom the people have sent here to maintain it. With all due respect to the patriotic purposes, the eminent ability of the gentlemen on the other side, when they tender support I shall look at it with something of suspicion, and for myself, shall say, "*Non tali auxilio, nec defensoribus istis.*"

A specimen of that support, Mr. Speaker, is exhibited by the mode in which the bill brought in by the chairman of the Committee on the Judiciary has been received on that side of the House. It relates to what is now the settled policy of the Administration, which gentlemen say they intend to support in the suppression of the rebellion. Whether one degree or another of confiscation be appropriate, whether it shall be extended to the lower actors in this great scene, or whether, as in my judgment proper, it shall be confined to a few of the leaders, still, that the confiscation of property shall attach to some portion of the people engaged in the rebellion is now the settled, resolved policy of the Administration. The bill introduced by the Judiciary Committee is in furtherance of that policy. A joint resolution, in my judgment a very unwise one, of the last Congress, limited the operation of the confiscation law to life estates. This bill contemplates the obliteration of that distinction. In my judgment its language does not accomplish that purpose; and therefore I shall vote for the amendment of the gentleman from Pennsylvania, [Mr. STREYENS,] which goes directly to the object sought to be accomplished, by repealing the limiting resolution.

There we are met by the new supporters of the Administration on the other side of the House, with the suggestion that this is uprooting the fundamental law of the Republic. I ask where? What word in the Constitution does it violate? What principle does it in the least degree impeach? They answer, the Constitution declaring that Congress shall have power to declare the punishment of treason, but that no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

If I have read aright the confiscation law of the last Congress, it nowhere attaches any confiscation or forfeiture to a conviction for treason or to an attainder of treason. Am I right, or am I wrong? There is no word in the law of the last Congress that attaches confiscation of property to conviction of the person for treason, to attainder of the person for treason, on a criminal proceeding in any court of justice. If that be so, then the quotation of the clause from the Constitution is simply irrelevant to the matter in debate, for it is that no ATTAINDER of treason shall work corruption of blood or forfeiture except during the life of the party; so that, if there be no proceeding by indictment, there can be no attainder; and if there be no attainder, there is nothing on which the residue of the words in the Constitution can operate. That simple observation disposes of the whole argument. It is wholly immaterial whether, in the event of the party's being convicted of treason, Congress can or cannot make a consequence of the judgment the forfeiture of lands in fee simple, or is confined to a forfeiture limited in duration by the life of the convict.

The question here is whether there is any process of law, however this provision be construed, by which we cannot effect a forfeiture of the whole

fee in lands. That question gentlemen have nowhere met.

If, however, the Constitution limits the consequences of a conviction to a forfeiture for life, to assume that it limits every other form of process of law in like manner, is simply begging the question. The Constitution speaks for itself. It limits the operation of an attainder. It limits nothing else. When, therefore, gentlemen accuse us here of uprooting the settled law of the land, they interpolate language not in the law, and quote it to condemn us. But even if the meaning of the Constitution itself were doubtful in a case of attainder, if the question were whether the judgment of the court should be for the forfeiture of the land for life or in fee, no decision on that could affect any other process of law for confiscating lands without attainder. The doubt upon that question cannot apply to a subject beyond the purview of the question.

Still it is worth while to hazard a suggestion touching the real meaning of those words so confidently invoked by our new allies for our confusion. I desire to speak with all modesty in solving this problem, for difficulties beset every solution, and while it is quite clear that its meaning is not that assumed by our new allies, it is perhaps not so easy to give a demonstrably right solution. I speak with hesitation, because this confidence surprised me into assuming once before the correctness of their interpretation. I think, however, the technical language of the clause read, in the sense it bore in the English law, may light us on our way. I think it points to a very different meaning from that which the honorable gentleman from Ohio [Mr. COX] supposes.

No attainder shall work corruption of blood or forfeiture, except during the life of the person attainted. Now I take it that the meaning of that clause is that the forfeiture worked shall, must be effected during life. The honorable gentleman from Ohio, and those who think with him, would construe it to be that the forfeiture when worked shall only endure for the life of the party. Palpably the latter is the incorrect and the former the legal meaning. The purpose assumed is the protection of the offspring from punishment for the guilt of the ancestor. But a fine is equally taken from the offspring, as land; yet no one denies the right to fine a person attainted. There was, however, an effect of attainder that did punish the offspring, and the offspring alone. Every student of Blackstone knows this, that the judgment convicting a person of treason operated a corruption of blood. The corruption of blood stopped the transmission of hereditary blood to any heir of the person attainted; so that the legal effect of conviction for treason under the law of England was, first, to forfeit all the property, real and personal, of the person attainted, and, secondly, to corrupt his blood, destroy its heritable quality, so that he could neither take land by descent himself, nor transmit heritable blood to the persons who would, but for his attainder, have been his heirs. He could, in the language of the law, have no heirs. The attainder corrupted his blood, and there was no hereditary blood transmitted to them.

Now, suppose any ancestor of any person convicted and attainted for treason died the day after the execution, owning lands, they could not pass to his son, nor to any collateral relation claiming by descent through him, because the operation of judgment, besides forfeiting the land owned by the party in his lifetime, had corrupted his blood, and no one could trace descent through him. He was a bar, cutting off the relationship between grandfather and grandson. Land which would have come to the grandson if the father had not been a person attainted, instead of going to the heir, was arrested in transit to the heir by the corruption of blood, and passed either to the lord of the fee or to the king.

So that the Constitution deals merely with corruption of blood and its operation. There shall be no corruption of blood worked by attainder or forfeiture except during the life of the person. Attainder worked no forfeiture after the death of the party except by corruption of blood. The forfeiture of a fee-simple estate was not a forfeiture after the life of the party; the whole fee was in the person attainted, his heirs had no interest in it, and no lawyer would ever dream of describing a forfeiture for life by the words of the Constitution, or describe the forfeiture of a fee-simple es-

tate as a forfeiture worked by attainder after the life of the party. It was one of the settled laws of England at that time, and which also prevailed in some of the States of this Union, that the corruption of blood did, what the gentleman from Ohio so properly execrates, operate upon innocent persons with reference to their rights coming from a different source after the criminal had expiated his crime. Now, without meaning to say positively that that is the meaning and operation of the section, I say that in my judgment it comes nearer an intelligible exposition of it than any such theory as this, that you cannot take lands in fee, but you may take all his personal property absolutely, which was the ground of the President's threatened veto of last year; that you can fine a man to the extent of his estate, but you cannot take his lands to pay the fine. And being unintelligible, with all respect to our recent friends, they are driven to say, that in the punishment of treason the Constitution has been guilty of this intolerable folly: that for robbing the mail, or piracy, for any ordinary offense, or murder on the seas or in the Army or Navy; that for any ordinary crime, Congress may prescribe what punishment they please; take the land in fee; but in providing for the punishment of treason, the greatest crime, the most dangerous crime, it has feebly attempted to protect innocent offspring by saving the lands of the convict, but leaving his life and all his personal property at the mercy of the law; that it has been guilty of sanctioning the unrepudiated discrimination between real and personal property, and adopting the aristocratic idea that land was something that must not be taken, but preserved for the heir, that must come down to him by a perpetual constitutional entail. And this anti-republican view is urged to fetter us in breaking the power of an aristocratic rebellion founded on land in large bodies and on negroes. Were there no other objection in this, that simple *reductio ad absurdum* disposes of the argument.

But, Mr. Speaker, the question here, as I have said, is not, what is the true meaning of this clause of the Constitution, but does it declare that no forfeiture, that no confiscation under any process of law shall affect land for a longer period than the life of the owner? Does it apply to any case where there is no attainder, no conviction?

The law of the last Congress prescribed a different process from conviction in a court of law of the person guilty of the crime. It provides that upon proceedings in the district court in the nature of proceedings in admiralty the lands of certain classes of persons, and all their personal property, shall be forfeited for the use of the Government.

And the Constitution provides that the property of citizens shall not be taken without due process of law. Now, the question which gentlemen on the other side of the House have to argue is, not the law of attainder, but whether the process in the district courts of the United States to confiscate the property of persons proved to be of the specified classes is due process of law for depriving a man of his property under the Constitution. If they cannot maintain that that is not due process of law within the meaning of the Constitution, they cannot throw the least doubt on the constitutionality of this mode of procedure.

If this were a new question, possibly there might be room for argument. But from the first Administration down to this day there has never been a day in which, on the statute-books of the United States, exactly this process to forfeit property for crime without first convicting the owner on indictment has not been prescribed. The law of 1793, among the first of the revenue laws, forfeited property brought in under fraudulent invoices, without proceeding against the individual personally; and all the revenue laws from that day to this enforce these provisions by forfeitures and proceedings *in rem*.

The navigation laws of the United States, from the earliest days of the Republic, inflict forfeiture in the district court on proceedings against the vessel for violation of those laws without prosecuting the owner, though liable to indictment. Who ever heard that a vessel could not be forfeited unless the master or owner were indicted, or until after they had been indicted? Our laws in reference to trade with the Indians make it penal to carry ardent spirits among them, and they punish the persons guilty and forfeit the property by

process in *rem* in the district court. Is that unconstitutional?

The law for the suppression of the slave trade makes the parties violating it guilty of piracy, and they are liable either to be hung or confined in the penitentiary, according to the grade of the offense. But yet the vessels caught are always forfeited, whether owner or master be prosecuted or not. Was it ever heard that the person must be convicted of the crime before the vessel could be forfeited in the district court? These things are of every-day practice, as every gentleman at all familiar with the ordinary administration of the laws of the United States knows. In a word, indictment and conviction of the person is not the only due process of law by which a person may be deprived of his property. The daily process of levying taxes proves that. And Congress has pleased to authorize confiscation without conviction, but in the time-honored forms of the early Republic.

And in reference to another species of property about which gentlemen upon the other side of the House usually show more interest than about lands, in reference to negroes, I have a word to say. We have in that case the same principle of confiscating property by proceedings before conviction of the delinquent, settled by the laws of Maryland and of Virginia, adopted by Congress as the laws in the two counties of the District of Columbia, from the earliest days of the Republic down to the day on which I am speaking. The law of Virginia goes as far back as the days of Jefferson. It prohibited the introduction of slaves into Virginia from any other State, and from foreign countries; and while it prescribed the penalty on the party so introducing them, it also declared the slave free. The gentlemen from Maryland here know very well that was the law of Maryland down to within a few years; and, to some extent, it is so now. When Congress adopted the laws of Maryland and Virginia, both of those statutes were the laws of this District; and they were in force down to the time of the emancipation of slaves in this District.

Now, what was the ordinary process in these cases? I do not remember in my experience while practicing as a lawyer, either in Virginia or the District of Columbia or in Maryland, of an indictment or action for the fine or forfeiture against a party introducing negroes. It was the every-day practice when I came to the bar that negroes, brought into that part of the District which was on the south of the Potomac river, contrary to law, should apply to the court and bring a suit for their freedom, and it was done in the ordinary form of an action for trespass, because the master had illegally imprisoned them, and the judgment of the court was one cent damage against the master for the imprisonment. The question really involved was freedom or slavery. The law vested freedom; the court authenticated it. In other words, the operation and theory of the law was that the act of bringing a negro across the line was to invest him with his freedom; that it deprived the master of his property and invested the negro with the right to sue the man for the wrong committed. That has been adjudged again and again by the courts of Virginia, and by the court of appeals of Maryland; and though writs of error have more than once carried such cases in this District to the Supreme Court, that tribunal never dreamed that this was a forfeiture of property without due process of law. If gentlemen will take the trouble to run through the volumes of the Supreme Court reports, they will find several cases; one so recent as 2 Howard, in which that form of proceeding was recognized as a competent mode in which to assert the right of freedom, which was a forfeiture of the master's right. The man who was a slave on the other side of the line became a free-man by being brought this side of the line; his master was not indicted, nor was his freedom a consequence of the conviction of his master, but he acquired his title to freedom by the act of the Congress of the United States, which inflicted forfeiture on his master for violating it.

Congress, during the administration of Mr. Jefferson, I think, in organizing the Territories of Louisiana and Mississippi, in like manner forbade the introduction of slaves from abroad, and freed them when introduced by the master. And if we are to be told that this was antique legislation, and not fit for the light of these modern

days, I ask gentlemen to read the compromise measures of 1850 brought in by the illustrious Kentuckian, Henry Clay, and passed by a Congress that thought then that they had averted the crisis that we now write under; let them read the law forbidding the slave trade in the District of Columbia, where the hand of Henry Clay traced the words of forfeiture—that if any slave should be brought into this District by its owner, contrary to the provisions of the act, he should *thereupon become liberated and free*.

Now, that covers all the confiscation acts of the last Congress. It is wholly immaterial whether it relates to land or to personal property, whether you forfeit lands or negroes. That would even meet the technical objection of the gentleman from Ohio, because formerly in Virginia, as everybody knows, slaves were real estate, not personal estate, passing to the heirs and not to the executors; and it is only of late years that they have been treated as personal estate, though in the widow's share of them the traces of their *real* character still remain visible. Now that is the question that is involved in the confiscation law, and it is the only question that is involved. It is not whether attainder can work corruption of blood affecting the heirs; of course it cannot; it is not whether attainder can operate forfeiture of lands descending after the death of the attainted person, nor whether an attainder is confined to carrying a life estate by forfeiture out of a fee; that is not the question. The question is whether by other process of law not connected with indictment of the person, not following upon attainder, the United States Government can say that those who have been in arms against it shall forfeit their property, and that the tribunals of the country shall enforce it *in rem*; and this is settled by the traditional laws of the Republic.

Mr. BLISS obtained the floor.

Mr. STEVENS: The morning hour having expired, I move to proceed to the business on the Speaker's table.

The motion was agreed to.

COMMITTEE ON THE CONDUCT OF THE WAR.

The SPEAKER stated that the first business in order was the consideration of the following concurrent resolution from the Senate:

Resolved, That a joint committee of three members of the Senate and four members of the House of Representatives be appointed to inquire into the conduct and expenditures of the present war; and that they have power to send for persons and papers, and to sit during the sessions of either House of Congress, and to employ a stenographer.

Mr. GOOCH. I move that the House concur in that resolution.

Mr. COX. I move that the resolution be laid upon the table; and on that motion I demand the yeas and nays.

Mr. STEVENS. I think the resolution had better go to the Committee on Military Affairs.

Mr. COX. Very well; I withdraw my motion, and move that the resolution be referred to the Committee on Military Affairs.

The motion was agreed to on a division—yeas 92, nays 25.

SECOND ASSISTANT SECRETARY OF WAR.

Bill of the Senate No. 50, to authorize the President to appoint a Second Assistant Secretary of War, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

CHICAGO IMPROVEMENTS.

A bill (S. No. 57) declaring the assent of Congress to an act of the Legislature of the State of Illinois, therein named, was taken from the Speaker's table, and read a first and second time.

Mr. WASHBURN, of Illinois. I will state to the House that the Committee on Commerce have had a similar bill under consideration, and have directed me to report it to the House. There can be no objection to it, I think, on the part of any gentleman; and I ask the previous question on its passage.

The previous question was seconded, and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

DEFICIENCY APPROPRIATIONS.

Mr. STEVENS, by unanimous consent, reported back from the Committee of Ways and Means the joint resolution (S. No. 15) amendatory of the joint resolution to supply in part deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriation for bounties to volunteers, and asked that it be put upon its passage.

The joint resolution was read. It directs that the money paid by drafted persons under the act for calling out the national forces, or that may be paid under any act for like purpose, shall be paid into the Treasury of the United States, and drawn out on requisitions as the other public moneys for the expenses of the draft and for the procurement of substitutes; and it appropriates the money for that purpose.

The joint resolution was read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

INTERNAL REVENUE.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Cox in the chair,) and proceeded to the consideration as a special order of a bill (H. R. No. 122) to increase the internal revenue, and for other purposes.

The bill was read through, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, in lieu of the duty provided for in section forty-one of an act entitled "An act to support the Government, and to pay interest on the public debt," approved July 1, 1862, and in addition to duties payable for licenses, there shall be levied, collected, and paid on all spirits that may be distilled and sold, or removed for consumption and sale, of first proof, the duty of sixty cents on each and every gallon; and said duty shall be a lien and charge on such spirits, and also on the distillery used for distilling the same, with all the stills, vessels, fixtures, and tools therein, and the lot or tract of land whereon the said distillery is situated, until the said duty shall be paid: *Provided*, That the said duty on spirituous liquors, and all other spirituous beverages enumerated in this act, shall be collected at no lower rate than the basis of first proof, and shall be increased in proportion for any greater strength than the strength of first proof: *Provided further*, That all spirits on hand for sale, or removed for consumption or sale, upon which no duties have been paid or collected, and upon which no returns have been made, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act from and after the 12th day of January, 1864.

SEC. 2. And be it further enacted, That all spirits or other articles on which duties are imposed by the provisions of this act, or of the act referred to in the first section of this act, and amendments thereto, which shall be found in the possession or custody or within the control of any person or persons, for the purpose of being sold by such person or persons, in fraud of the internal revenue laws, as heretofore referred to, or with design to avoid payment of said duties, may be seized by any collector or deputy collector who shall have reason to believe that the same are possessed, had, or held for the purpose or design aforesaid, that the same shall be forfeited to the United States; and also all articles of raw materials found in the possession of any person or persons intending to manufacture the same for the purpose of being sold by them, in fraud of said laws, or with design to evade the payment of said duties, and also all tools, implements, instruments, and personal property whatsoever, used in the place or building or within any yard or enclosure where such articles on which duties are imposed, as aforesaid, shall be found, may also be seized by any collector or deputy collector, as aforesaid, and the same shall be forfeited as aforesaid; and the proceedings to enforce said forfeiture shall be in the nature of a proceeding *in rem* in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction; and any person who shall have in his custody or possession any such spirits or other articles, subject to duty as aforesaid, for the purpose of selling the same with the design of avoiding payment of the duties imposed thereon, shall be liable to a penalty of \$500, or not less than double the amount of duties fraudulently attempted to be evaded, to be recovered as other penalties provided by the act heretofore mentioned. And also that the spirits and other articles which shall be so seized by any collector or deputy collector shall, during the pendency of such proceedings, be delivered to the marshal of said district, and remain in his care and custody and under his control until final judgment in such proceedings shall be rendered: *Provided, however*, That where, owing to the perishable nature of the property seized, expense of storage or other circumstances, the owner thereof may, if he so choose, apply to the assessor of the district, who shall, if he deem it expedient that the property so seized should be sold, appraise or have the same appraised under his direction and control, and the owner may give bond or bonds in an amount equal to the appraised value, with such sureties as the assessor shall adjudge good and sufficient, which shall be by him trans-

mitted to the Commissioner of Internal Revenue, to be held and collected, or any part thereof, or surrendered in accordance with the final judgment, order, or decree of the court having jurisdiction of the case; or, if the owner shall not apply as aforesaid, the assessor, upon the application of the marshal of the said district in whose custody and control said spirits or other articles seized as aforesaid may be, shall appraise or have the same appraised under his direction and control, and shall issue and return to the marshal aforesaid an order to sell the same, and the said marshal shall thereupon advertise and sell the same, and the proceeds of sale, after deducting therefrom the costs of seizure and sale, shall be paid into the court having jurisdiction of the case, and paid out as the said court shall on final judgment order or decree.

Sec. 3. *And be it further enacted*, That all distilled spirits upon which an excise duty is imposed by law may be exported without payment of said duty, and when the same is intended for exportation may be removed without being charged with duty, if transported directly from the distillery or bonded warehouse, under such rules and regulations, and upon the execution of such transportation or other bonds, as the Secretary of the Treasury may prescribe; said bonds to be taken by the collector of internal revenue of the district in which such distilleries or bonded warehouses may be situated to a bonded warehouse at any port of entry of the United States—said warehouse at the port of entry to be established in conformity with the law and Treasury regulations, and to be used exclusively for the storage of distilled spirits—and to be placed in charge of a proper officer of the customs, who, together with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits stored in said warehouse; and all the labor on the goods so stored shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer of the customs in charge of the same, at the expense of the said owner or proprietor, and shall also be subject to the same rules and regulations, and be chargeable with the same costs and expenses, in all respects, as other goods may be subject to that are deposited in public store for exportation from the United States; and no drawback shall in any case be allowed on any distilled spirits upon which an excise duty has been paid either before or after it has been placed in bonded warehouse as aforesaid.

Sec. 4. *And be it further enacted*, That, from and after the passage of this act, in lieu of the duties provided in the act referred to in the first section of this act, there shall be levied, collected, and paid upon all cotton produced or sold and removed for consumption, and upon which no duty has been levied, paid, or collected, a duty of two cents per pound; and such duty shall be and remain a lien thereon until said duty shall have been paid, in the possession of any person whomsoever; and further, if any person or persons, corporation or association of persons, remove, carry, or transport the same, or procure any other party or parties to remove, carry, or transport the same from the place of its production, with the intent to evade the duty thereon, or to defraud the Government, before said duty shall have been paid, such person or persons, corporation or association of persons, shall forfeit and pay to the United States double the amount of said duty, to be recovered in any court of competent jurisdiction: *Provided*, That all cotton sold by or on account of the Government of the United States shall be free and exempt from duty at the time of and after the sale thereof, and the same shall be marked free and the purchaser furnished with such a bill of sale as shall clearly and accurately describe the same, which shall be deemed and taken to be a permit authorizing the sale or removal thereof.

Sec. 5. *And be it further enacted*, That every collector to whom any duty upon cotton shall be paid shall mark the bales, or other packages, upon which the duty shall have been paid, in such manner as may clearly indicate the payment thereof, and shall give to the owner, or other person having charge of such cotton, a permit for the removal of the same, which shall be dated and contain a description, including the weight and other marks of the bales, or packages, and a statement of the fact that the duty has been paid. Whenever any cotton, the product of the United States, shall arrive at any port of the United States from any State in insurrection against the Government, the assessor or assistant assessor, under the act referred to in the first section of this act, shall immediately assess the taxes due thereon, and shall, without delay, return the same to the collector or deputy collector of said district, and the said collector or deputy collector shall demand of the owner, or other person having charge of such cotton the tax imposed by this act, and assessed thereon, unless evidence of previous payment of said tax shall be produced, under such regulations as the Commissioner of Internal Revenue, by the direction of the Secretary of the Treasury, shall from time to time prescribe; and in case the tax so assessed shall not be paid to such collector within thirty days after demand, the collector or deputy collector, as aforesaid, shall institute proceedings for the recovery of the tax, which shall be a lien upon said cotton from the time when said assessment shall be made.

Sec. 6. *And be it further enacted*, That, from and after the date on which this act takes effect, in computing the allowance or drawback upon articles manufactured exclusively of cotton when exported, there shall be allowed, in addition to the three per cent duty which shall have been paid on such articles, a drawback of two cents per pound upon such articles in all cases where the duty imposed by this act upon the cotton used in the manufacture thereof shall be satisfactorily shown to have been previously paid; the amount of said drawback to be ascertained in such manner as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

Sec. 7. *And be it further enacted*, That, from and after the passage of this act, in addition to the duties heretofore imposed by law, there shall be levied, collected, and paid on the spirits distilled from grain or other materials, imported from foreign countries, of first proof, a duty of forty cents on each and every gallon, and no lower rate of duty shall be levied or collected than the basis of first proof, and

shall be increased in proportion for any greater strength than the strength of first proof.

The Clerk proceeded to read the bill by sections for amendment.

Mr. STEVENS. I am directed by the Committee of Ways and Means to move one or two amendments. I move to amend by inserting on line twenty, after the word "spirits," the words "distilled since the 31st day of August, 1862." By the law which laid the tax originally on whisky, the article then on hand, previously manufactured, was exempted from taxation. This amendment is merely to continue that exemption, so as not to run back behind the time of the original law which laid the tax.

Mr. J. C. ALLEN. I desire to make a remark in opposition to the amendment offered by the chairman of the Committee of Ways and Means. It is known, Mr. Chairman, that a large quantity of spirituous liquors has been distilled and bonded in the various markets of the country since the passage of the act of 1862, and since the passage of the act amendatory of it assessing a tax of twenty cents per gallon. I am opposed to having included within the operation of this bill any spirits manufactured prior to its passage. In my judgment it is not fair.

Mr. STEVENS. I would suggest to the gentleman that my amendment does not affect that question. The question can be raised after the amendment is acted on.

Mr. J. C. ALLEN. Then I decline making any further remarks on the subject.

Mr. BROOKS. I desire to ask the chairman of the Committee of Ways and Means whether he intends to put through this bill directly.

Mr. STEVENS. I do not intend to force any bill through until gentlemen have had an opportunity to discuss it.

Mr. BROOKS. The bill has not been published in any of the newspapers of the country, and I think we should not act upon it finally until the press shall have spread it before the people, as it is a bill of great importance to our constituents.

Mr. STEVENS. After the Committee of Ways and Means shall have perfected the bill, if the gentleman desires more time, I shall not insist upon its immediate consideration.

Mr. BROOKS. I also wish to ask the chairman of the Committee of Ways and Means why it is that the articles of spirits and cotton have been specially selected, and whether he intends to bring in a general taxation bill including tobacco, petroleum, and other articles.

Mr. STEVENS. As to whisky, it is being very largely manufactured, of course in anticipation of the tax, and we have thought it right to give the earliest notice to the country as to the tax which it is intended to impose. As to tobacco, we find a greater difficulty in drawing a law that will meet the views of the committee and will probably answer the purpose. It is a very difficult question to decide whether the tax should be laid on the leaf, according to the recommendation of the Department, or whether it should be continued, with some modifications, on the manufactured article. If it is to be laid on the leaf, gentlemen will see that it requires considerable machinery to perfect it, and it would take some time to draft a bill to effect that object. If it is to be continued on the manufactured article, it requires many more guards than we now have to protect the Government from fraud. It is just so with the article of oil. We find great difficulty in coming to a conclusion as to the best mode of laying a duty on it. We therefore desire to deliberate a little longer upon it; and we intend to enlarge very much the articles to be taxed.

Mr. BROOKS. I wish also to ask the gentleman, what is the amount of revenue which it is calculated will be produced from this increased duty on spirits?

Mr. STEVENS. If the law shall be fairly executed it cannot, I think, be less than \$25,000,000 for the next year. The law as it now stands has been imperfectly executed, so imperfectly that not one third of the revenue which the Government ought to have had has been collected.

Mr. BROOKS. One other point.

Mr. STEVENS. Let me answer further. This is my own calculation. The Department calculates that the bill will produce \$36,000,000. I do not think that it will produce so much. Last year we collected \$4,000,000, when the amount con-

sumed ought to have produced some twelve or thirteen million dollars; and this was owing to the exceptional mode of collection.

Mr. BROOKS. I would like to know whether the chairman of the Committee of Ways and Means has taken into consideration the important fact that, with a long line of frontier upon the Canadas, this high duty of sixty cents per gallon may not lead to a great amount of smuggling. Does he not think that there is some danger in laying so high a duty?

Mr. STEVENS. All high duties lead to smuggling. There is no doubt of that. Therefore the guards must be more stringent. We think that the high duty of sixty cents per gallon will not reduce the manufacture of the article in this country. Experience in England has shown that as the duty was raised upon spirits, even when it reached twelve shillings per gallon, or \$2 50 of our currency, which it is now, it has never seriously affected the consumption of the article. In other words, men will drink, no matter what it costs. [Laughter.]

Mr. BROOKS. Mr. Chairman, there is a vast difference between the topography of the United States and that of Great Britain and Ireland. Great Britain and Ireland are surrounded by water, while in respect to the United States there is only an imaginary boundary of two thousand miles, along which it will be utterly impossible for a cordon of custom-house officers to be effectually established.

Mr. STEVENS. The committee were aware of that difficulty.

Mr. BROOKS. My own impression is that this duty is too high to lead to actual revenue.

Mr. STEVENS. Of course there will be smuggling. I hope that the committee will now be permitted to submit its amendments.

Mr. BROOKS. I want to have information from the chairman of the Committee of Ways and Means, and I may not have another opportunity. He answers questions so usefully to us all that I hope he will pardon me for further taxing his patience.

Mr. STEVENS. I would be glad to have questions put to me, and to have suggestions made by which the bill may be perfected.

Mr. BROOKS. And now, Mr. Chairman, as I have the floor, I desire to call the committee's attention to another and important matter. I feel somewhat embarrassed about it; indeed, after the Latin quotation of the gentleman from Maryland, [Mr. DAVIS,] it is somewhat doubtful whether any of us on this side of the House have any place here to do anything, except as tenants by courtesy. "*Non tali auxilio*," said he, "*nec istis defensoribus eget*."

The same Latin poet, however, who said this, also said, "*Fas est ab hoste doceri*."

Let me beg the gentlemen, then, on the other side of the House, especially the New England gentlemen connected with manufactures, to hear me on a matter of importance at least to them.

This bill taxes all spirits sixty cents per gallon, in addition to duties payable for licenses. Alcohol, which is a component part of many, very many manufactured articles, is under this bill taxed at least \$1 13 per gallon, for sixty cents on proof spirits nearly doubles on alcohol. I have suddenly made up list of a few articles into which alcohol enters; namely, for hatters, soaps, candles, heating chafing dishes, jewelers' and artisans' lamps, perfumery, medicines, hair tonics, cleansing purposes, an embrocation, dyeing, chemicals, vinegar-making, whisky vinegar, fortifying wines and cider, preserving fruits, culinary purposes, varnish, dissolving gums, burning to give light, gunpowder, gun caps and cartridges, &c., &c. Now, England, in order to protect her manufactures, reverses this policy of taxation in order to enable her people to compete with foreigners. There is an article of commerce, that called *methylene*, (*mèthu*, wine, and *uhlé*, wood,) or methilated spirits, upon which there is no excise. When wood is subjected to destructive distillation there is formed along with the tar, acetic acid, and other products, a highly volatile and inflammable liquid, which, when purified by distillation of quicksilver, is called spirit or alcohol of wood, or pyrolytic spirit. The hydrocarbon which forms the basis of this form of alcohol, and to which this term *methylene* has been applied, is presumed to consist of carbon and hydrogen in proportion. This *methylene*, en-

tering largely into the manufacture of varnishes, lacquers, and other articles, is sold duty free. The bill, levying its sixty cents excise on all spirits, and the higher the proof the higher the duty, adds a burden to the manufacturers not known even in over-taxed England, and there is no escape from it. I respectfully suggest that before we press the bill further, we wait to let both manufacturers and consumers, who really pay the excise as well as the other very heavy taxes upon manufactured products, know what we are about. The bill should be read at least from Eastport, Maine, to St. Louis, Missouri, before we vote upon it. Besides, it is retroactive, and we lose no revenue by taking time.

Mr. LOVEJOY. I would like to know whether the Committee of Ways and Means will consent to let this bill go over for a single day. I was absent yesterday when it was made a special order, and was not aware of the fact when it came up. Other gentlemen who represent interests affected by this bill are in the same situation, and I would be glad if we were allowed time for preparation.

Mr. STEVENS. I suggested before that when the committee had made its amendments I would not object to the bill going over.

Mr. WASHBURN, of Illinois. With the understanding that the next time it comes up we shall commence at the beginning.

There was no objection.

Mr. HOLMAN. I move to amend the amendment by inserting after the words proposed to be inserted the words "unless still owned by the distiller thereof."

I would say in behalf of that proposition that the warehouse system established by the act of 1862 furnished encouragement and facilities for persons manufacturing ardent spirits to keep it on hand temporarily without the payment of duties. I mean that those spirits which were manufactured after August, 1863, were manufactured with the understanding that the duty of twenty cents alone would have to be paid when sold or removed for sale from the warehouses. Manufacturers have stored up their supplies with that understanding, and in conformity with the law, and it cannot be charged upon them that they, in the mere spirit of speculation, have availed themselves of the prospect of an increase in the price of spirits by an increase of the tax to speculate on the revenue. They are not speculators in the proper sense of the term. They are the legitimate manufacturers of the article. They manufactured it with a given understanding—the expectation that the tax of twenty cents would remain permanent as to all spirits manufactured while the law was in force. As to them, it seems to me this increase of duty should operate only from the time the law takes effect, or from the time it was introduced into this House, the 12th of January, 1864.

So far as the speculation in this article is concerned, in the expectation of an increased duty, that case stands upon a different footing. So far as the distiller is concerned, the spirits manufactured by him under the law in force for the time being, the duty under that law ought to be the only duty imposed. I think that is only justice to the distilling interest of the country, composed of a body of men who have acted as fairly as any other class in connection with the revenue. I think the chairman of the Committee of Ways and Means will bear evidence of the fact that the present system of duties, imposing twenty cents a gallon on whisky, was in the main adopted at the instance of the manufacturers themselves. They regarded it as a pretty high duty, but they were willing to pay the duty, rather than run the risk of frauds on the Government by the attempt to impose a part of the tax on rectified and other combinations of ardent spirits. Nothing can be more unjust, if such be the effect of this section, than to attempt to increase the tax on whisky in the warehouses of the distillers, on the ground that no tax has been paid. They were permitted to keep their spirits on hand by the law, and would thus be ensnared into an increased tax by relying on the law under which the whisky on hand was manufactured. Nothing could be more unjust.

I would say, in addition, that as to speculators who have purchased whisky in anticipation of the imposition of this increased tax, they stand

upon an entirely different footing. They have purchased, seeking to avail themselves of the benefit resulting from an increased taxation. They are mere speculators, while the others are *bona fide* manufacturers of an article of commerce.

Mr. STEVENS. If I understand the amendment of the gentleman from Indiana, I must oppose it. I understand it to lay a tax upon all whisky in the hands of the distiller, no matter when distilled. Now, when we passed the law of 1862, after a long discussion in Congress we came to the determination to lay the tax only upon future products. All whisky which was on hand at that time was free from taxation. Now, it so happens that there is a great deal of whisky in the country which was distilled two, three, and four years before the tax was laid, and it is still on hand, because the distillers keep it to ripen. I know of six hundred barrels in my own county which is still in the hands of the distiller, he, however, having ceased to distill. There is no principle of justice, it seems to me, which would justify us going back and imposing this increased duty upon such whisky. It should be exempt.

All that has been manufactured since 1862, and is still in the hands of the distillers, is reached by this law; and all that was manufactured before 1862, and which we then expressly exempted from taxation, ought not now, it seems to the committee, be subject to this increased tax.

Mr. HOLMAN. Let me inquire of the gentleman whether I am to understand that this increased duty of forty cents is intended to be imposed on the whisky manufactured on the 1st of August, 1862, and which is still owned by the distillers under the provision of the law authorizing the distiller to place distilled spirits in warehouse, and pay the duty at the time of removal from the warehouse?

Mr. STEVENS. The gentleman will see that all whisky that has paid a tax is exempt from this increased taxation. We did not think we had a right to go back and tax that which had been once taxed by the Government, whether it is in a warehouse or not. But wherever the distiller has failed to comply with the law, no doubt from fraudulent purposes; where he has not made his monthly return and paid his tax, we impose this duty upon him, and we impose none upon the distiller who has made his return or paid his tax.

Mr. HOLMAN. I ask that section forty-four of the act of 1862 may be read, and then I desire to make an inquiry of the gentleman from Pennsylvania.

The Clerk read the forty-fourth section of the law of 1862, which provides that the owner or owners of any distillery may erect at his or their own expense a warehouse of iron, stone, or brick, with metal or other fire-proof roof, to be contiguous to such distillery, and declares such warehouse, when approved by the collector, a bonded warehouse of the United States, to be used only for the storing of distilled spirits, and to be in the custody of the collector or his deputy, and provides further, that the duty on spirits stored in such warehouses shall be paid when it is sold or removed for sale.

Mr. HOLMAN. I would now ask the chairman of the Committee of Ways and Means if this additional duty of forty per cent. is to be imposed upon spirits stored in warehouses under the provisions of that section, and upon which the tax has not been paid, because it is not payable until the spirits are removed for sale.

Mr. STEVENS. The gentleman will remember that the law requires that tri-monthly returns shall be made by every distiller of whatever he distills, whether he puts it into warehouse or not.

Now, where a distiller has made his return, this bill expressly says that he is to pay no tax upon the spirits so returned, because he has complied with the law; but if he has put into the warehouse whisky of which he has made no return and of which he has made no sale, thus evidently intending to evade the law, we tax him this additional sum upon that.

Mr. HOLMAN. With that explanation, I withdraw my amendment.

Mr. NOBLE. The amendment proposed by the gentleman from Indiana, [Mr. HOLMAN,] if it would have accomplished the purpose sought by him, would have received my support; but it

seemed to me that it would not accomplish that purpose.

The original act on this subject prescribes a time within which the manufacturer shall make his return, and the mode in which he shall do it; and there are penalties attached to an attempt to avoid the law. I understand the purpose of this bill to be to impose upon the manufacturer who has manufactured distilled spirits an additional tax, although he may have complied fully with the letter and spirit of the original act.

Let us suppose, for instance, that there is a distiller in Ohio who has manufactured a large quantity of spirits; the law requires him to make his return within a given time; it is not required that he shall make it in anticipation of that time; and yet, by the provisions of this bill, if he has not made it, although he may still make it within the time fixed by the original act, this additional tax is to be imposed upon him. That is certainly not in accordance with the spirit of the original act. Suppose a manufacturer is manufacturing at the rate of twelve or fifteen hundred bushels a day, he is not required to make a return for three months.

Mr. STEVENS. I believe it is three times a month.

Mr. NOBLE. Well, that makes no difference. This bill provides that if he has not made his return on the 12th day of January, 1864, he shall be subject to this additional tax. I say that that is unjust and contrary to the spirit of the original act. The original act imposed a tax of twenty cents per gallon. A manufacturer, who has manufactured under that act with the intention of making his return within the time prescribed by that act, might, under this bill, be taxed upon the very article which he may return within the time prescribed by the act. That is what I complain of. I say that the manufacturer should not be taxed an additional amount over and above that provided by the act of 1862 upon that which has been manufactured prior to the passage of this bill, and I propose to submit an amendment to that effect.

It has been alleged by the chairman of the Committee of Ways and Means that the amount of goods retained in the hands of the manufacturers may have been retained for the purpose of evading the law. If I remember the law aright, there are in it guards sufficient to protect the Government against any such frauds. There are penalties provided sufficient to guard the Government against anything of that kind.

The amendment which I propose to offer is to exempt the manufacturer, so far as the amount on hand is concerned, up to the day of the passage of this act. After the amendment proposed by the chairman of the Committee of Ways and Means is disposed of, I propose to submit an amendment, to strike out all after the word "after," in the twenty-fourth line, and insert the words "the passage of this act."

Mr. MARCY. I desire to ask the chairman of the Committee of Ways and Means why it is that there is a discrimination in this bill between the duty on home-manufactured whisky and that on imported whisky. The former is to be taxed sixty cents per gallon, and the latter forty cents. I want to know why the discrimination.

Mr. STEVENS. Under the law as it stands, and without the additional forty cents, the foreign article pays twenty cents per gallon. This is, therefore, to place the foreign article on precisely the same footing as the home-manufactured article. We have raised the tariff the same as we have raised the tax.

Mr. MARCY. It occurs to me that the imposition of a heavy tax on liquors will tend to encourage smuggling along the sea-coast and on our Canadian frontier, and thus defeat the ends of legislation in the matter of revenue, as well as have a demoralizing effect. That is the experience in every country where the same legislation has been attempted.

Mr. FERNANDO WOOD. Mr. Chairman, the question, as I understand it, involved in the amendment offered by the honorable chairman of the Committee of Ways and Means, is as to on what spirits duty should be levied, as to on what the law should be operative. Now, in my judgment, a wise policy should indicate to Congress the propriety of imposing the duty on all spirits now in existence, whether in the hands of the

manufacturer or in the hands of speculators and operators who have recently been in the market, advised in advance of Congress itself as to our probable action, and who have thus monopolized millions of gallons. I believe, sir, that the additional duty of forty cents per gallon which this law provides should be placed on that class of spirits, and should also be imposed on the spirits that have already paid the twenty cents per gallon under the law of 1862, so that politicians, men who have been advised, in advance of members of Congress, what the recommendation of the Secretary of the Treasury on this question would be, who have been into the market, and who are interested, directly or indirectly, in millions of gallons of the article, may be foiled in their efforts to obtain exclusive advantages over the manufacturer and over the consumer.

From what has been said here to-day, some gentlemen appear to be under the impression that the manufacturers are to bear this burden. That is not so. It is the consumer, and not the manufacturer. Capital can always protect itself. The manufacturer takes good care to put on the price of the commodity which he manufactures any additional burdens that the Government imposes. It goes from him to the merchant, from the merchant to the trader, from the trader to the consumer, the additional tax running through all the ramifications of trade, until finally it comes to the man who consumes the article.

There is another error here to-day, Mr. Chairman; that is, that we are imposing a tax upon beverage. Why, sir, three fourths of the article proposed to be taxed by this bill are used in the arts. It is used for various manufacturing purposes. It is used to make varnishes of. It is used to make burning-fluid. It is used to fasten the colors in a dye largely used by cotton manufacturers. The popular error that this bill proposes simply to impose a tax on what some gentlemen deem to be a vice, on the practice of drinking whisky, is, in my judgment, entirely wrong. But, sir, were it so, it is as much the duty of Congress to protect the consumer of whisky as it is to protect the consumer of any other article.

I have prepared an amendment, which I will offer at the proper time, to strike out the words in the twenty-first and twenty-second lines, "on which no duties have been paid and collected and no returns made," and to insert at the end of that section the words:

Except that spirits which have been already taxed under the law of July 1, 1862, shall not pay more than the additional or increased tax provided for by this act.

The object being, Mr. Chairman, that all spirits shall bear this burden; that men who have operated on exclusive information obtained in advance of the session of Congress as to the recommendation of the Secretary of the Treasury, and a few of whom in my own State alone have millions of dollars invested in this article, may bear their share of the burden, and may pay their proportion of the revenue to be derived from the taxation on whisky. And while it would be improper to impose upon them the whole sixty cents per gallon, perhaps it would be just and proper for them to pay the additional forty cents per gallon which is proposed over the law of 1862. Therefore, at the proper time, I will submit the amendment which I have indicated.

Mr. STEVENS. I thought that it was generally understood that the Committee of Ways and Means should be allowed to proceed to perfect the bill, and that then to-morrow it should be started *de novo* for any amendments which gentlemen might wish to move to make the measure suit them. I hope that that course will be pursued.

Mr. LOVEJOY. I have amendments to offer, and I hope that the suggestion of the gentleman from Pennsylvania will be adopted. It will give us all a chance.

Mr. STEVENS. Mr. Chairman, while I am up I will correct an error which seems to pervade both sides of the House. I understood the gentleman from New York [Mr. Brooks] to say that three fourths of the spirits produced are used in the arts in the shape of alcohol. I suppose that in England they use the same proportion of spirits for that purpose that they do here; for, sir, we know that their manufactures are very large. This matter was examined thoroughly there. It was ascertained that in 1855 over twenty-two million gallons

of spirits had been manufactured, and that of that amount one hundred and forty-six thousand three hundred and seventy-four gallons had been used for the purposes of the arts and manufactures. There is a great difference between that amount and the allegation that three fourths of the spirits produced are used for the arts and manufactures. It stands at twenty-two millions to one hundred and forty-six thousand. But this is not speaking to my amendment. I hope that it will be adopted.

The amendment was agreed to.

Mr. STEVENS. I move to strike out in the twenty-first line the word "and," and in lieu thereof to insert the word "or;" so that it will read:

Provided further, That all spirits on hand for sale, or removed for consumption or sale, upon which no duties have been paid or collected, or upon which no returns have been made, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act from and after the 12th day of January, 1864.

The amendment was agreed to.

Mr. GANSON. The same amendment should be made in the ninth line, so that it would read:

That from and after the passage of this act, in lieu of the duty provided for in section forty-one of an act entitled "An act to support the Government, and to pay interest on the public debt," approved July 1, 1862, and in addition to duties payable for licenses, there shall be levied, collected, and paid on all spirits that may be distilled and sold, or removed for consumption or sale, of first proof, the duty of sixty cents on each and every gallon.

Mr. STEVENS. I move that amendment.

The amendment was agreed to.

Mr. BROWN, of Wisconsin. In the twelfth and thirteenth lines of the first section it is provided that this debt shall be a lien upon the distillery. There may be a case where another person owns the land and the distillery, and that the person in default is a mere tenant. I want that amended so that the lien shall be upon the parties in default.

Mr. STEVENS. There will be an opportunity afforded to-morrow for that and for all other amendments.

Mr. BROWN, of Wisconsin. There is one question which I would like to ask the chairman of the Committee of Ways and Means. I see that it has been stated that the additional duty on liquors manufactured from domestic material is forty per cent., and on those from that which is imported forty per cent. It is true, as the gentleman says, that the increase is equal upon both, but as the law now stands the duty upon those imported is twice that upon liquors produced from articles raised at home. There would be more justice between these two classes that the rate of increase should be in the same proportion. In other words, the duty should be one hundred and twenty instead of eighty upon liquors manufactured from imported material.

Mr. STEVENS. When we come to that, if it is thought proper to increase it, it can be done. All I have to say at present is that raising the duty as much as we raise the tax affords the same protection, and the committee have deemed that sufficient. But that question is not now before us.

I move to insert in the second section after the word "circumstances" the words, "the value whereof may be diminished by delay of sale;" so that it will read:

Provided, however, That where, owing to the perishable nature of the property seized, expense of storage, or other circumstances, the value whereof may be diminished by delay of sale, the owner thereof may, if he so choose, apply to the assessor of the district, who shall, if he deem it expedient that the property so seized should be sold, appraise or have the same appraised under his direction and control, and the owner may give bond or bonds in an amount equal to the appraised value, with such surties as the assessor shall adjudge good and sufficient, which shall be by him transmitted to the Commissioner of Internal Revenue, to be held and collected, or any part thereof, or surrendered in accordance with the final judgment, order, or decree of the court having jurisdiction of the case; &c.

The amendment was agreed to.

Mr. STEVENS moved to insert the words "whether of American or foreign production;" so that it will read:

Sec. 7. And be it further enacted, That from and after the passage of this act, in addition to the duties heretofore imposed by law, there shall be levied, collected, and paid on spirits distilled from grain or other materials, whether of American or foreign production, imported from foreign countries, of first proof, a duty of forty cents on each and every gallon; and no lower rate of duty shall be levied or collected than the basis of first proof, and shall be increased

in proportion for any greater strength than the strength of first proof.

The amendment was agreed to.

Several verbal corrections were also agreed to.

Mr. STEVENS moved that the committee rise. The motion was agreed to.

The committee accordingly rose; and, the Speaker having resumed the chair, Mr. Cox reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 122, to increase the internal revenue, and for other purposes; and had come to no resolution thereon.

Mr. STEVENS. I move that the bill be made a special order for the day when its consideration shall be resumed.

There was no objection, and it was so ordered.

JAMES KEENAN, DECEASED.

Mr. DAWSON moved that the memorial and papers relating to the claim of James Keenan, deceased, late United States consul at Hong Kong, for expenses incurred in relieving shipwrecked American citizens, &c., be withdrawn from the files of the House, and referred to the Committee on Foreign Affairs.

The motion was agreed to.

COMMITTEE ON THE CONDUCT OF THE WAR.

Mr. WASHBURNE, of Illinois, asked and obtained unanimous consent to offer the following amendment to the joint resolution of the Senate for the appointment of a joint committee on the conduct of the war; which amendment was referred to the Committee on Military Affairs, and, together with the joint resolution, ordered to be printed, namely:

Strike out all after the word "war" in the seventh line, and insert the following:

And said committee shall inquire into all the facts and circumstances of contracts and agreements already made, and such contracts and agreements hereafter to be made prior to the final report of the committee, by or with any Department of the Government in any wise connected with or growing out of the operations of the Government in the suppression of rebellion against its constituted authority; and that said committee shall have authority to sit during the session of either House of Congress and during the recess of Congress, and at such times and places as such committee shall deem proper, and also to employ a stenographer or clerk at the usual compensation.

CONSCRIPTION ACT.

Mr. KELLOGG, of New York, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of so amending the conscription act, so called, as to require that enlisted volunteers claimed by wards or towns in which they reside shall be credited to such towns on their quota of the three hundred thousand men last called for by the Government.

JOHN BROOKS.

Mr. HALE, by unanimous consent, introduced a bill for the relief of the legal representatives of John Brooks, deceased; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

GEORGE MOWRY.

Mr. COFFROTH, by unanimous consent, introduced a bill for the relief of George Mowry, of Pennsylvania; which was read a first and second time, and referred to the Committee on Claims.

NEW JUDICIAL DISTRICT.

Mr. BROWN, of West Virginia, by unanimous consent, introduced a bill erecting West Virginia into a separate judicial district, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

ADJOURNMENT OVER.

Mr. WASHBURNE, of Illinois. As there seems to be a general disposition to have more time to examine the revenue bill which has been under consideration to-day, I move that when the House adjourns it adjourn to meet on Monday next.

Mr. STEVENS. I will say to the gentleman that I am willing that the bill shall go over until Monday; but we might meet to-morrow for other purposes.

Mr. WASHBURNE, of Illinois. If the chairman of the Ways and Means says there is other business pressing, I will withdraw my motion.

Mr. STEVENS. I think we should meet to-morrow.

Mr. SPALDING. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 84; as follows:

YEAS—Messrs. Ancona, Anderson, Arnold, Francis P. Blair, Jacob B. Blair, Bliss, Brooks, James S. Brown, William G. Brown, Chanler, Coffroth, Cox, Creswell, Henry Winter Davis, Denning, Dennison, Diggs, Eckley, Eden, Eldridge, Fenton, Garfield, Hale, Harding, Herick, Hotchkiss, Kaibfleisch, Long, Longyear, McAllister, McIndoe, Daniel Morris, James R. Morris, Leonard Myers, Odell, Charles O'Neill, Pendleton, Perry, Schenck, Scott, Smithers, William G. Steele, Stiles, Strouse, Stuart, Sweet, Upson, Ward, Elihu B. Washburne, Webster, Wheeler, Williams, and Fernando Wood—53.

NAYS—Messrs. Alley, Allison, Ames, Ashley, Bailey, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Thomas T. Davis, Dawes, Dawson, Dixon, Donnelly, Eliot, Farnsworth, Finck, Frank, Ganson, Grider, Grinnell, Griswold, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, William Johnson, Julian, Kasson, Orlando Kellogg, King, Lazear, Le Blond, Loan, Lovejoy, Marcy, Marvin, McBride, McDougall, McDowell, Middleton, William H. Miller, Moorhead, Morrill, Amos Myers, Nelson, Noble, John O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Smith, Spaulding, John B. Steele, Stevens, Thayer, Tracy, Van Valkenburgh, William B. Washburn, Whaley, Joseph W. White, Wilder, Wilson, Windom, Winfield, and Yeaman—84.

So the motion was not agreed to.

During the call of the roll,

Mr. WEBSTER stated that Mr. MALLORY was detained from the House yesterday and today by indisposition.

NAVAL DEPOT, ETC., AT GRAND HAVEN.

Mr. KELLOGG, of Michigan, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of constructing a naval depot and dockyard at Grand Haven, on Lake Michigan, and report by bill or otherwise.

And then, on motion of Mr. WASHBURN, of Illinois, (at ten minutes past three o'clock p. m.) the House adjourned.

IN SENATE.

FRIDAY, January 15, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Navy, transmitting, in answer to a resolution of the Senate of March 3, 1863, a copy of the record of proceedings, in the case of Commander Robert Handy of the Navy, of a naval board assembled at Brooklyn, New York; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a memorial of the religious Society of Friends, of Ohio, praying for exemption from military service, and from all penalties for non-performance thereof; which was ordered to lie on the table.

Mr. FOOT presented the memorial of Charles F. Anderson, praying for remuneration for the design and plans of the present new wings of the Capitol, including the interior arrangement of the new Halls of Congress, with their surrounding corridors, offices, and galleries, and for expenses incurred in repeated journeys from New York; which was referred to the Committee on Public Buildings and Grounds.

Mr. WILSON presented the memorial of Peter Cooper, of New York, remonstrating against the repeal of the clause which allows a person to obtain exemption from the draft by the payment of \$300; which was ordered to lie on the table.

He also presented a petition of the Board of Trade of the city of Boston, and a petition of merchants and others of Marblehead, Massachusetts, praying that aid may be granted to the South American Steamship Company, for the purpose of establishing postal communication by steam vessels with the countries of South America; which were referred to the Committee on Commerce.

Mr. RAMSEY presented the memorial of Helen M. Stansbury, widow of Major Howard Stansbury, of the corps of Topographical Engineers of the United States Army, praying for a pension; which was referred to the Committee on Pensions.

Mr. HARRIS. I present a memorial of the officers of the Agricultural Society of the State of New York, and ask that it be read and referred to the Committee on Agriculture.

The VICE PRESIDENT. It will be read if there be no objection.

Mr. COLLAMER. It will be a considerable business if we begin to read all the memorials that come in. It will take a great deal of time. The rule is that the member presenting a memorial shall state its contents.

Mr. HARRIS. Perhaps I owe an apology to the Senate. It was handed to me this moment at the door, with a request that I should present it. I have not read it. It is a resolution of that society.

The VICE PRESIDENT. The Chair hears no objection. It will be read.

The Secretary read, as follows:

NEW YORK STATE AGRICULTURAL ROOMS,
ALBANY, NEW YORK, January 7, 1864.

To the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, officers of the New York State Agricultural Society, beg leave respectfully to represent that the following resolutions were adopted by the executive committee of the society on the 15th of September last, namely:

Resolved, That this society regards as a subject of great importance to the industrial and agricultural interests of the United States the project of Dr. D. J. McGowan, for the appointment by the national Government of a commission, composed of scientific men and practical agriculturists, to visit and explore eastern Asia with a view to acquire information bearing upon arts and manufactures and the processes of agriculture there pursued; and to obtain and transmit seeds, plants, and animals, the cultivation and propagation of which would be likely to add to the valuable products of our farms.

Resolved, That the New York State Agricultural Society heartily commends the subject to the favorable action of the Government as likely to result in substantial benefit to every section of the country.

The undersigned, on behalf of the New York State Agricultural Society, beg leave to memorialize your honorable bodies for the enactment of such law or resolution as will best accomplish the objects of the resolution; and, as in duty bound, your petitioners will ever pray, &c.

EDWARD G. FAILE, President.

[L. S.]

B. P. JOHNSON, Secretary.

LUTHER H. TUCKER, Treasurer.

BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 60) amendatory of the homestead law, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 61) authorizing the States of Minnesota and Wisconsin to change their common boundary line; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. McDUGALL, it was

Ordered, That the petition and other papers in reference to a line of steam mail ships between San Francisco, California, and Canton, China, on the files of the Senate, be referred to the Committee on Post Offices and Post Roads.

On motion of Mr. ANTHONY, it was

Ordered, That the report made by Lieutenant Colonel J. H. Simpson of his expedition across the Great Basin of Utah, on the files of the Senate, be referred to the Committee on Printing, and that they report on the expediency of printing the same with accompanying maps.

On motion of Mr. FESSENDEN, it was

Ordered, That the petition and other papers of Ephraim Hunt, praying for compensation for his services as a soldier in the late war with Great Britain, be taken from the files of the Senate, and referred to the Committee on Claims.

TREASURY SPECIAL AGENTS.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be instructed to transmit to the Senate the names of the special agents and assistants now in the employ of his Department, the State they were appointed for, their present field of operations, with their pay and emoluments.

OVERLAND MAIL.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads be directed to inquire into the causes of failure of the overland mails between the East and California and Oregon for the past two months, and the manner in which that ser-

vise is being performed, and report the same to the Senate; and that they be authorized to send for persons and papers.

INDIAN AFFAIRS REPORT.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That twenty-five hundred copies of the report of the Commissioner of Indian Affairs, in addition to those already ordered, be printed for the use of the Commissioner.

TROOPS IN MISSOURI.

Mr. HENDERSON. I move that the Senate postpone all prior orders, and proceed to the consideration of House bill No. 35.

The motion was agreed to; and the bill (H. R. No. 35) to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri, was considered as in Committee of the Whole.

It proposes to appropriate \$700,612 13, or so much thereof as may be necessary, to carry into effect the act approved March 25, 1862, "to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pension." In the payment of this money, it is to be paid directly to the officers or soldiers by whom the services were rendered, or to their personal representatives, or to their agents appointed by powers of attorney, and no assignment of any sum due to any officer or soldier is to be valid. Any person holding a power of attorney authorizing the receipt by him of the amount to be paid to any officer or soldier may, upon making and filing an affidavit to the effect that he is acting in the premises purely as agent, without personal interest, and that he will pay over the amount received either to the soldier or (in his absence) to his wife or children, for their benefit, is to be entitled to receive such amount.

Mr. JOHNSON. I rise to ask the Senator from Missouri for some explanation of this bill. It proposes to make a large appropriation.

Mr. HENDERSON. This question was frequently discussed here prior to the time when the Senator became a member of this body. It was discussed here in 1862, and also in 1863. In the beginning of the difficulties in Missouri, while General Lyon was at St. Louis in command of the Western department, at the time of the uprising of the rebels in our State, he called out a large number of citizen soldiers in order to check the progress of the rebellion in the State. A great many men responded immediately to that call, and remained in the service during the summer of 1861. Afterwards, some time in July or August, General Frémont was sent to the department, put in command, and he continued the policy that had been previously adopted by General Lyon, and a large number of troops of a similar character were called out by General Frémont. At that early period we had very poor facilities, indeed, for mustering in troops according to the forms required by the military regulations of the United States, and we were equally badly off for the forms of mustering out. In fact there was but little time for formalities. In consequence of the informality of the papers, the mustering-in rolls and the mustering-out rolls of these troops, the paymasters of the department refused to pay the troops, even though they had been in service for six months, and many of them were in for longer than six months. The battle at Booneville was fought by troops of this character. A large number of them were engaged in the battle at Springfield, in which General Lyon fell. They did very important service in the State of Missouri. A great many of them I think were from the State of Iowa, and numbers of them were from the State of Kansas.

In the spring of 1862 a bill was introduced into the other House by my colleague, [Mr. BLAIR,] providing that the troops should be paid notwithstanding the informality of the mustering rolls. The paymaster of that department, who is now the acting Paymaster General, Mr. Andrews, reported that it would take some two or three million dollars, he thought, to pay the troops whose rolls were being presented in an informal manner. The chairman of the Military Committee in this body, the Senator from Massachusetts, presented a bill to postpone all payments under that act. It was amended, however, so as

to provide for the appointment by the War Department of a commission to proceed to the western departments, and to examine into all these claims. That commission was appointed, composed of three or four very competent and able gentlemen, so far as I know, and they examined into the claims and reported the amount due, reaching I think to the sum of \$800,000.

It is true, at the time of the passage of the act I did not think it would take such an amount of money; but it turns out that the paymasters in the western departments paid none of those troops at all; and the whole of them were left to be paid under that bill. After it was introduced into Congress they refused to pay any whatever, and remitted the whole matter to the commission that was appointed under the act of Congress. So far as I am advised, they have acted with a great deal of prudence and discretion, and they report that they have rejected a large number of those claims. How that is I cannot tell. Their report is here, and if any Senator desires it, it may be read. It was carefully examined in the House, as I understand. It was referred to the Committee on Military Affairs in the Senate, and the Senator from Indiana [Mr. LANE] has examined it carefully in connection with the report of the commission, and he tells me it is a bill that ought to be passed.

Mr. JOHNSON. Does the bill appropriate only the amount awarded by the commission?

Mr. HENDERSON. It is only for the amount awarded.

Mr. FESSENDEN. I do not know anything about this bill; but I should like to inquire of the Senator from Missouri if it has any connection with a bill which was passed some time ago on his motion, where an exhibit was made of the number of troops it would cover, I think amounting to about twenty-five hundred. I remember that he showed me a report at the time we passed some bill in relation to the Western department, showing precisely how many troops were to be paid; and according to my recollection the number was about twenty-five hundred.

Mr. HENDERSON. I have no recollection of having shown the Senator any such report; but perhaps his recollection on the subject is better than mine. If he will recall to my memory at what time and under what circumstances I did so, I may remember it. I could not have presented twenty-five hundred as the number of home guards in the State of Missouri, because I was perfectly aware that they amounted to a great deal more than that from the number of regiments there were in the service. We have had various propositions here in regard to Missouri troops, and perhaps the Senator has confounded some other measure with this one. Surely under no circumstances could I have been so much mistaken in regard to the number of troops that were employed by General Lyon and by General Fremont in the whole Western department, including the States of Missouri, Iowa, and Kansas, as to state it at twenty-five hundred. However, I know nothing about this subject except what I obtain from information furnished to me from time to time from the Western department by military men who were engaged in this service. I never knew anything of it myself except simply the fact that large numbers of meritorious men, many of whom lost their lives, rendered the service and never have been paid up to this day in consequence of the mere informality in their mustering rolls.

Mr. LANE, of Kansas. The troops of Kansas who served in the same way that the troops of Missouri served, have been paid by the action of Congress. I know that these troops served, and served gallantly, and I hope there will be no hesitation in paying them.

Mr. FESSENDEN. What committee did this bill come from? Has it been to the Committee on Military Affairs?

Mr. HENDERSON. Yes, sir.

The VICE PRESIDENT. It is a House bill reported by the Committee on Military Affairs.

Mr. GRIMES. I desire to offer an amendment. I propose to insert after the word "valid" in the sixteenth line the words "such payments to be made by paymasters of the United States Army;" so as to direct that this money shall be paid in the regular order of business, and under the superintendence and control of officers who

are under bonds to perform their duty properly to the Government.

Mr. SHERMAN. I think that will make it more expensive.

Mr. GRIMES. Oh, no; it cannot.

Mr. HENDERSON. I will suggest to the Senator from Iowa that the payments under this bill could not be otherwise made than by regular paymasters.

Mr. GRIMES. Then there can be no earthly objection to the amendment.

Mr. HENDERSON. None whatever, except that there is no necessity for it.

The VICE PRESIDENT put the question on the amendment, and declared that the ayes appeared to have it.

Mr. LANE, of Kansas. I ask for a division.

Mr. BROWN. I think it very likely that this bill will have to go back to the House anyhow. For one, I am in favor of the adoption of the amendment, because I have already heard canvassed the idea of getting up a new set of paymasters to do this work, and I think we have plenty of paymasters in the service now.

Mr. LANE, of Kansas. I withdraw the call for a division.

The amendment was agreed to.

Mr. HENDERSON. I wish to submit a motion to strike out the second proviso of the bill, and upon that point I send to the desk a memorial which will state the grounds why it should be done.

The VICE PRESIDENT. The words proposed to be stricken out will be read.

The Secretary read the proviso, as follows:

Provided further, however, That any person holding a power of attorney authorizing the receipt by him of the amount to be paid to any officer or soldier may, upon making and filing an affidavit to the effect that he is acting in the premises purely as agent, without personal interest, and that he will pay over the amount received either to the soldier or (in his absence) to his wife or children, for their benefit, be entitled to receive such amount.

Mr. HENDERSON. I now desire the Secretary to read the memorial I send to the desk. It states the facts on which my motion is founded.

The Secretary read, as follows:

To the honorable Members of the Senate and House of Representatives of the United States from Missouri:

The undersigned desire most respectfully to call your consideration to the incorporating of what is known and called the Cox amendment, in the bill recently passed in the lower House, making appropriation for the paying off of the home guard claims of Missouri, and to state our conviction and knowledge of the great injustice which must necessarily accrue to innocent parties, while we cannot perceive the least benefit or advantage resulting to any one.

We submit that in our opinion nine tenths of the whole of the home guard claims are held by the original parties, while a few, in order to raise the necessary daily subsistence for their families—caused by the delay or failure of an early appropriation—have disposed of their claims on the most advantageous terms to themselves, a large portion of which have been received at par by merchants, who subsidized the families of the soldiers while doing their duty in the field; and many liberal-minded agents have advanced money in part of these claims, with no other compensation than the ordinary interest of ten per cent. per annum, and such fees as were agreed upon for the prosecution of said claims, and with no other security for the money advanced than the ordinary power of attorney for the collection of the same; while many others have purchased these claims at from seventy-five to ninety cents on the dollar, and, in many instances, the purchaser will not realize more than the ordinary interest on his investment. And we know of many instances where the purchaser will not realize six per cent. per annum on his investment. While we would guard against the great injustice to the purchaser, we would not be blind to the interest of the soldiers holding the claims, who have labored, and toiled, and offered their lives as a sacrifice on the altar of their country.

To them it presents other hardships and serious inconveniences which, if it becomes a law, must necessarily deprive many of the benefits of their just dues; as in thousands of instances the claims run from fifteen dollars to fifty dollars, and whole companies have joined in powers of attorney to agents to collect and account for them at ten per cent. If new powers of attorney and new affidavits have in each case to be made out, it will subject the parties to a cost of from twenty to thirty per cent., depending upon the amount of each claim; and as each party cannot personally be present, as a matter of course new powers of attorney and affidavits must of a necessity be made.

Some of these men have since joined the service and been killed in battle; and their families are looking for this small income to relieve their pressing wants.

Many who have disposed of their claims have removed to different States and sections of the country.

We further suggest that it is placing an unnecessary and onerous restriction upon their rights as citizens, which ought not and never should be tolerated by American legislation.

And we would further respectfully ask that the honorable members will use such exertions as, in their superior judgment, may defeat the incorporation of such portions of this

amendment as will operate to the injustice of your constituency.

Most respectfully, your obedient servants,
T. S. Rutherford, E. W. Fox,
E. G. Pratt, H. I. Loring & Co.,
John H. Bowen & Co., Edwin Fowler,
M. S. Mehani & Bro., John V. Metlar,
C. A. Stewart, John Brother,
Daniel W. Wheeler, A. C. Haynes,
Russell, Hays & Co., Felix Coste,
Robert S. Whitney, J. B. Wilcox,
G. B. Taylor, E. S. Polkroska,
John H. Crane, J. H. Farrar,
P. H. Jones, James M. Crawford,
Garret Anderson, G. G. Helfenstein,
Edward R. Swann, T. B. Waldraw,
H. Stagg, H. I. Coe,
J. G. Martin, Torlina & Jorgensen,
John D. D. Torlina, Henry Lyon,
Leopold Colbrun, F. Brennen,
Grants, Cornot & Co., Joseph Herrmann,
Gerhard H. Bockenkamp, Peter Smith,
R. Bockhoff, McCutcheon & Williams,
G. W. Hoke, Wm. C. Shirley,
James Coff, Erfort & Petring,
S. W. Biebing, Edward Simons,
Richard Weber, Casper Stolla,
Frederick H. Krite, F. W. Henschen,
T. W. Rosenthal, Jacob Endors,
Bushmann, Bro. & Co., G. A. W. Augst,
John Grether, F. E. Schmieding & Co.,
C. L. Holthaus, Henry Block,
Wissmann & Senden, Westernman & Meier,
G. Bohm, J. C. Adams Fritchey,
H. Farmer, L. Cafarata,
J. G. McLellen, C. F. F. Farmer, M. D.,
J. A. Hart, N. C. Deffricez,
S. F. Thayer, Alex. Seely,
Samuel Hill, Wm. Cox,
James Hale, J. H. Leedom,
A. W. Doniphan, Jos. Hockheim,
P. M. Pinckard, R. H. O'Brien, M. D.,
C. J. Hallet, Julius Huwau,
H. Kleinschmidt & Bro., A. L. Seon,
Wm. F. Meyer, Charles Linberger,
Gustav Hoeber, August Flucke,
Louis Wolf, Henry Schwickhardt,
Wm. S. Field, Richard A. Barret,
Aylet Buckner, Thomas Cuddy,
L. Starr Hoyt, M. Mandie,
Wm. Wilson, Charles Levy,
Edmund P. Walsh, J. C. Dubuque,
Miller, Schluter & Co., Keith & Woods,
Wm. H. S. Miller, K. J. Murphy,
Leonard Matthews.

Mr. HENDERSON. That memorial was sent to me. In regard to the truth of the statements contained in it I know nothing. I know some of the merchants who signed it. They are mostly confined to the city of St. Louis. My colleague is much better acquainted with the character of those gentlemen than I am. I know some of them, and I know them to be very honorable and high-minded gentlemen and good merchants. There are many of the firms mentioned that I do not know; there are some sixty or seventy in all, I think. My colleague can state what he knows in reference to them. I know nothing about the merits of the amendment that I have submitted. If they have advanced money upon the claims, and the statements made by them be true, the amendment ought to be adopted. If, on the other hand, any amount of speculation has taken place in these claims in Missouri, or in Iowa, or elsewhere, it ought not to be adopted. That is my opinion. I have felt it incumbent on me, after having received the communication, to lay it before the Senate and let them be heard. My colleague is better acquainted with the character of the men, and I hope he will state the facts. I believe that the memorial is in his hands and that he has examined the matter.

Mr. BROWN. I have been informed by Representatives in the other House that this provision was placed upon the bill without due consideration. That it will operate as an injustice to some parties, I am satisfied. How far the general tenor of its operation may be right or wrong, Senators must judge for themselves. As the bill shows upon its face, due notice has been given for more than a year past that these claims were being investigated and would be paid. On the strength of it, many of the claims have been realized; some of them at ruinous rates to the parties; others of them, as I believe, at very fair rates. The House of Representatives placed this provision on the bill which will preclude all previous assignments taking effect, which will destroy the value of all powers of attorney, and in some instances, where soldiers have left powers of attorney and have died, will totally invalidate the claims.

The memorial which has come up from some of my constituency is signed by men of very good character; and I was personally appealed to when recently in St. Louis by gentlemen who had made

advances, whose character I know, and who did it in a fair business way. I am not prepared to say how far that may have gone, although I do not think any large proportion of the claims has gone out of the hands of the original holders. It is a matter that I feel no disposition to press one way or the other.

The amendment was rejected.

The bill was reported to the Senate, and the amendment made as in Committee of the Whole was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

A message was afterwards received from the House of Representatives announcing that the House concurred in the amendment.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed the bill of the Senate (No. 50) to authorize the President to appoint a Second Assistant Secretary of War.

The message also announced that the House had passed the following bills; in which the concurrence of the Senate was requested:

A bill (No. 143) to amend the law prescribing the articles to be admitted into the mails of the United States;

A bill (No. 144) to indemnify the owners of the British schooner Glen; and

A bill (No. 145) for the relief of the heirs of Noah Wiswall.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following bill and joint resolution; which were thereupon signed by the Vice President:

A bill (S. No. 57) declaring the assent of Congress to an act of the Legislature of the State of Illinois, therein named; and

A joint resolution (S. No. 15) amendatory of the joint resolution "to supply in part deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties to volunteers."

AMENDMENT OF ENROLLMENT ACT.

Mr. WILSON. I move that we now proceed to the consideration of the enrollment bill.

The VICE PRESIDENT. If there be no objection, the order of the day, which does not come up regularly until one o'clock, will now be taken up. The Chair hears no objection.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; the question being on an amendment proposed by Mr. NESMITH, to add the following as an additional section:

Sec. — And be it further enacted, That any drafted person who shall be declared to be exempt by reason of physical disability, and whose annual gains, profits, or income, as ascertained by the provisions of the "Act to provide internal revenue to support the Government, and to pay interest on the public debt," approved July 1, 1862, and the acts amendatory thereof, exceed the sum of \$1,000, including all deductions authorized to be made in said act, such person shall pay the sum of \$300 to the person authorized to receive commutation money from drafted persons not exempted; and it shall be the duty of the provost marshal of each district to transmit to the collector of internal revenue of such district the names and residences of all persons drafted and declared to be exempt by reason of physical disability; and if any drafted person so declared to be exempt, and whose annual gains, profits, or income exceed the sum of \$1,000, to be ascertained as aforesaid, shall neglect or refuse for the period of ten days after his name shall have been transmitted to the collector of internal revenue to pay the sum of \$300 as aforesaid, it shall be the duty of the collector of internal revenue to collect said sum in the manner provided by law for the collection of income tax in default, together with all the penalties and costs therein provided, and to pay over the said \$300 to the person authorized as aforesaid; and such drafted person so declared to be exempt, by reason of physical disability, who shall pay the sum of \$300 within ten days after his name shall have been transmitted to the collector of internal revenue, shall not again be liable to draft during the time for which he was drafted; but if such person shall neglect or refuse to pay said sum for the period of ten days as aforesaid, he shall be liable to draft whenever the President of the United States shall call for men from the district in which he resides; and it shall be the duty of the collector of internal revenue to transmit to the provost marshal the names and residences of all such persons required to pay the sum of \$300 as aforesaid, who shall neglect or refuse, for the period of ten days, to pay said sum.

The amendment was agreed to.

Mr. HOWE. I move to amend the bill by striking out the fourth section.

The VICE PRESIDENT. The words proposed to be stricken out will be read.

The Secretary read, as follows:

Sec. 4. And be it further enacted, That any person enrolled under the provisions of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, or who may hereafter be so enrolled, may furnish at any time an acceptable substitute who is not liable to draft; and such person so furnishing a substitute shall be exempt from draft during the time for which such substitute shall have been accepted.

Mr. HOWE. I understand that the purpose of this section is to enable any man whose name is borne upon the rolls to find some other man who is not liable at that time to be enrolled, put his name on the roll instead of his own, and strike his own off.

Mr. WILSON. To send him into the Army.

Mr. HOWE. And to put his name upon the rolls.

Mr. WILSON. No.

Mr. HOWE. Well, if the Senator pleases, to send him into the Army without putting his name on the rolls. I supposed his name would be put upon the rolls before he went into the Army; but it is to send him into the Army, and as a compensation for that the man's own name is to be taken from the roll. Probably I am not mistaken on that point.

The classes from among which these individuals are to be taken are, I suppose, four: first, men who are over forty-five and not liable to be enrolled for that reason; second, men who are under twenty and not liable to be enrolled for that reason; third, aliens, who are not liable to be enrolled on account of their alienage; and fourth, those who are now in the service, but who have less than six months to serve and have served two years. To this last class, which is much the largest one, the Government already offers a large bounty. "All that the man whose name is borne upon the rolls has to do, is to do a little missionary work, to look up the individual and to induce him, with the aid of the \$400 which the Government offers, to reenlist in the service; and for doing that missionary labor his name is to be taken from the rolls, and he is to be no longer liable to draft. That is a sort of substituted service. Certain classes are allowed to do missionary work instead of military service. It seems to me that the Government offers a bounty which will secure the reenlistment of all of this class who are likely to enlist at all, and I do not see how you are ever to determine how much the individual who looks up the man does to procure his reenlistment. He has the benefit of the \$400 which is paid by the Government. If a man reenlists, I should attribute it to the inducements of that bounty rather than to the arguments used by that missionary. I do not see why he should be paid for that work, or should be exempted from military service on account of it. I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered, but four members seconding the call.

The amendment was rejected—yeas four, noes not counted.

Mr. HOWE. I move to amend the fourth section by striking out the last three words, "have been accepted," and inserting in lieu of them the words "not be liable to draft." The clause will then read:

Such person so furnishing a substitute shall be exempt from draft during the time for which such substitute shall not be liable to draft.

Mr. JOHNSON. What is the effect of that amendment, may I ask the Senator from Wisconsin? How does it change the bill as it stands now?

Mr. HOWE. As the bill now stands it will enable a person to go into the Army, pick up one who has but six months to serve, and get him to reenlist, and thereby in six months the soldier would be liable to be drafted himself, but by getting him to reenlist the man who procures his reenlistment is exempt from service for three years. The amendment, if adopted, will exempt him from liability to draft, or liability to be enrolled, for just the term for which his substitute was exempted from liability to enrollment; no more.

The amendment was agreed to.

Mr. WILSON. I offer an additional section:

And be it further enacted, That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved on the 3d day of March, 1863, as may be inconsistent with the provisions of this act, is hereby repealed.

The amendment was agreed to.

Mr. HENDRICKS. I wish to propose an amendment to the section which was adopted by the Senate on the motion of the Senator from Ohio, [Mr. SHERMAN.]

The VICE PRESIDENT. It is not in order. The Senate having agreed to that section in that form, it is not now in order to amend it.

Mr. HENDRICKS. Not to add to it?

The VICE PRESIDENT. Not to add to it.

Mr. HENDRICKS. I presume it will be in order when the bill has been reported to the Senate?

The VICE PRESIDENT. Yes; it will then be open to amendment.

Mr. WILSON. I desire to submit an amendment, as my own view of what we ought to do, as an additional section to the bill; but if there shall be much opposition to it, I shall withdraw it:

And be it further enacted, That section eleven of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, be, and the same is hereby, amended by striking out all of said section after the word "enacted," and inserting the following, to wit: "that all persons enrolled shall be subject to be called into the military service of the United States, and to continue in service for two years unless sooner discharged; and when called into service they shall receive a bounty of \$100 each, and be placed on the same footing in all respects as volunteers for three years or during the war, as now provided by law."

Without occupying much of the time of the Senate, I wish simply to say that I think if the amendment is adopted thousands of men will themselves go into the service who would decline to go in for three years; that it will lighten the burdens of the draft; and that a draft for two years, putting the drafted men into the old regiments, will be all that the country needs. If, at the end of a year or two years, we wish for more men, we can draft new men. When you enlist a man, I care not what the time is, if he voluntarily enlists, you may enlist him for three years if he chooses; but when you go to the people and say to them, "You must go into the service," we ought to make it just as light as we can upon the people, consistent with the duty we owe to the country; and I believe that if we draft for two years it will answer all the purposes, and will lighten the burden of the draft to the people of the country, and will be effective to the Government. I desire, if this be adopted, to put it after the eleventh section of the bill; between that and the twelfth section.

Mr. CONNESS. It appears to me that there are two or three, if not more, good reasons why this amendment should not be adopted. It is a publication to the rebellion, or to those having the control and direction of it, that we do not intend more than to carry on a war by fragmentary efforts; and we do it in the face of the fact that we are laying increased burdens upon the country in the shape of bounties for the reenlistment of veteran volunteers. We are now asked to provide for discharging veterans when they are becoming most useful. That it would have the effect of making the draft seem lighter, more acceptable, I cannot perceive, nor do I believe it. I think that the drafted man will not consent any more readily because his term is two years than if it were three. Besides, the principle upon which this draft is made is that the Government requires the service and that the citizen is compelled to yield it. I hope, sir, that the amendment will not be adopted. I regret very much that the chairman of the Committee on Military Affairs has offered it. I am quite certain that it does not meet the views of the War Department. I am quite certain that it will be an injurious provision if adopted.

Mr. DOOLITTLE. Mr. President, I agree entirely with the Senator from California. I think that the Army in its moral power will lose half its force if it is understood that the men are going in for two years only. It does not make the burden in any degree lighter upon those who are called to go into the service, so far, probably, as the present war is concerned; but to know that our Army is filled up with men for three years is giving it power and efficiency as an army. I know very well that the rebels in fighting this battle against us, in the very movements of their troops, have made calculations upon the time when the terms of our soldiers were about to ex-

pire. I know, too, that in regard to our power, so far as it has any influence abroad, it is well to know that these troops are enlisted for three years; for what complications may possibly arise no one knows, even with foreign nations. I trust that our relations will be peaceful. I hope and I expect they will be; but as the most certain mode of having those relations peaceful, we not only for the purpose of putting down this rebellion want our troops enlisted for the three years, but we want it understood abroad that this Army of ours that is fighting these battles is an army of veterans well drilled for the service.

Mr. WILSON. The Senator from California reminds us of the desires of the War Department. Sir, we are not here to legislate entirely on questions like this according to the desires of the Department. Congress is master of the Department, not their servant. On matters of administration I am desirous to legislate in accordance with the wishes of the War Department; but upon Congress, and Congress alone, rests the responsibility of determining how we shall raise troops, and for what length of time they shall serve. The Senator from California and other Senators have spoken during this debate of the importance of making the enrollment act more effective. I, too, am in favor of making the act more effective. We are making one of the most stringent acts for drafting ever enacted. Certain provisions of the original act, framed to lighten the burdens of the draft upon the more dependent portions of the people, we propose to repeal. Great abuses have grown up in the administration of the act under those provisions of the act which were intended to lighten its burdens. It is thought, too, that the needs of the country require that these provisions should be stricken out.

We put the drafted men into old regiments, where they are fit for duty at once. It will lighten the burdens of the draft to reduce the time from three to two years. So believing, I submit this proposition, confident that its adoption will answer the needs of the country, lighten the burdens of the people, and bring men more readily into the public service. When a man volunteers he does it from choice, and the time is not important; but when the Government forces a man into the Army the burden is more or less according to the time of service required. The burden is measured by time, and the reduction of the time from three years to two diminishes the reluctance of drafted men to enter the service.

Mr. CLARK. I desire to call the attention of the Senator from Massachusetts to one or two considerations in regard to this matter. A short time ago the President called for volunteers for three years; as the draft law then stood, a man drafted was to go for three years, and it was understood that if the quota of the several States was not filled up by volunteering it would be so filled up by draft, and that both the volunteer and the drafted man would serve for three years. Many men came forward as volunteers into the service for three years. I ask, now, the Senator from Massachusetts if it is desirable, and if it would be fair, to alter the law so that the drafted man should go for two years after men have been induced to volunteer for three years? Is it not better for the present to keep both alike, and, as we have drafted men heretofore for three years, not make the proposed change which would introduce an inequality between the volunteer service and the draft service? In my own judgment it would be better to preserve uniformity. It may be that the men drafted will not be wanted for more than two years; but as we have begun to draft for three years, in my judgment, for the present at least, it is better to keep them in that way.

Several States have filled up their quotas already: the State of Iowa has; the State of Vermont has; the State of New Hampshire has very nearly done so, and she will fill it without any draft; and those men all go for three years. Undoubtedly many men have been induced to volunteer because they supposed they might be drafted; but now, if they see that the draft law is so altered that they might have escaped a year's service by refusing to volunteer and by waiting to be drafted, perhaps they will not feel any the better for that. I submit to the Senator from Massachusetts that we had now better let the term of service remain as it is. I might agree with him if we had not undertaken the policy heretofore.

Mr. WILSON. There is something in the suggestion of the Senator from New Hampshire so far as it is applied to the simple fulfillment of what has been called for by the President; but many of the persons who have been enlisted have received \$600 or \$700 bounty, while if they were drafted they would receive but \$100. As we were making this act, as I supposed, for a longer period than this special draft, and we were very likely to have another following it, I thought the mere fact that some States have filled or will fill their quotas should not prevent our fixing what we may regard as the proper term of service. I believe most of the States will fill up their quotas by the 1st of March under the bounty act. I hope so, at any rate; but I thought we had better make this bill so that it would fall as lightly as possible on the people of the country and at the same time answer all the purposes that the Government desires to accomplish. I desire, above all things, in the first place to take care of the interests of the Government and of the country, and in the next place to make this act bear just as lightly as possible upon the mass of our people.

Mr. CLARK. If the States fill their quotas by volunteering this act will not fall on the country at all.

Mr. WILSON. I will say to the Senator that we have provided for giving the bounties up to the 1st of March. After the 1st of March, supposing the States shall have filled their quotas, if the Government wants more troops immediately, the Government will call for a draft unless we authorize the Government to go on and offer bounties.

Mr. CLARK. I was going to say further that if the quotas are not filled, or if we are obliged to call for new men after they are filled, I submit that it would be better for the volunteers who have volunteered for three years than the drafted men also should go for three years, so that the man who has held back and is finally drafted shall not find that he has gained a year by so doing. Let him go into the service for the same time.

Mr. CONNESS. There is a great deal of force to my mind in the suggestion made by the Senator from New Hampshire; but I wish to say a word in response to the Senator from Massachusetts in regard to his entire independence in matters of legislation of the Department that relates most directly to that legislation, as in this case the War Department does. It was scarcely necessary for us to be told by the Senator from Massachusetts that Congress governs this whole matter and has the right to do as it shall please. But it appears to me that there is not great wisdom in the utterance of the Senator from Massachusetts when he tells us that he does not care anything for what the War Department wants; in other words, when he refuses to avail himself of the information and knowledge in possession of the Department who are carrying on this war.

Let me illustrate, Mr. President, just for a moment. The General-in-Chief, in a conference to which I was a party, and to which I believe the honorable chairman of the Committee on Military Affairs was a party, stated that they are having reports from the commanders in the field constantly touching the condition of the armies in the field, their efficiency, and so on, and that those commanders have in some instances stated in communications to the headquarters, to the General-in-Chief, that a veteran soldier was worth two recruits, two new men; others that they were worth three; and some estimate a veteran as worth ten raw recruits, and they go through all the intermediate proportions. They would sooner have one veteran trained soldier who was injured to camp life, who had been under fire again and again, than ten new men in carrying on this war. It appears to me that that is a fact full of suggestion to us. It appears to me that to undertake to legislate against the fullness of information contained in that fact would be simply legislation without wisdom.

This is the kind of dictation that I am in favor of submitting to in legislation, and that I think it is wise to submit to, from the War Department. Suppose the honorable Senator from Massachusetts, the chairman of the Committee on Foreign Relations, [Mr. SUMNER,] should undertake to carry on the business of his committee without consulting with the State Department upon grave matters. I apprehend he would scarcely do that, or find it convenient to do it. Although I have

the profoundest confidence in the ability and faithfulness of the Senator from Massachusetts who stands at the head of the Committee on Military Affairs, I think he can be served and his knowledge may be increased by full consultation with the War Department, and by the adoption of the information and wisdom that is gained by experience in that Department.

In conclusion I will say that when the great want that is felt in the field is the want of veteran soldiers, we should not now at this time advertise ourselves to our enemies as simply calling together raw levies for a short period of time, nor deprive ourselves by our deliberate act of a year's service of veteran soldiers when, in my opinion, there is no corresponding gain to be found anywhere.

Mr. WILSON. I will say to the Senator from California that the information to which the Senator has alluded is in possession of the members of the Military Committee. Nobody doubts that a veteran soldier is of more value to the country than a raw recruit. The only question for us to consider, I think, is this: whether the country will be well served and all its interests cared for by drafting men and putting them into the old regiments for two years. I think they would, and I have therefore submitted this motion. A suggestion has been made here the force of which I certainly feel, and I feel it the more because my own State has not fully completed its quota, and it may be supposed that I press this matter on that account. I must confess that such a thought never entered my mind before. I have looked at the draft, not in relation to its immediate action, but as a system applying to the whole country with the liability of several drafts. As such a suggestion has been made, however, I shall withdraw this amendment. If the quota of my own State were full to-day I should certainly ask a vote of the Senate upon it; but I would not do anything that would look as if I were actuated by local interest. I would give nothing to my own State that I would not give to every other part of the country.

Mr. CONNESS. The Senator should not withdraw his amendment for that reason.

Mr. DOOLITTLE. I desire to move an amendment to the fourth section of the bill to make it conform to the language contained in the section introduced by the honorable Senator from Ohio, [Mr. SHERMAN,] in relation to the employment of substitutes by taking those who are in the service of the United States.

The PRESIDING OFFICER. (Mr. Foor in the chair.) The Chair will inquire of the Senator from Massachusetts if he withdraws the amendment he proposed as an additional section?

Mr. WILSON. I withdraw it.

The PRESIDING OFFICER. That amendment is withdrawn, and the Senator from Wisconsin moves—

Mr. COWAN. I desire to renew the amendment of the Senator from Massachusetts if he withdraws it.

The PRESIDING OFFICER. The Senator from Wisconsin is entitled to the floor.

Mr. DOOLITTLE. I move to add by way of proviso to the fourth section the following:

But no person in the service of the United States shall become a substitute to serve in any regiment or company except among the troops of the State in which he originally enlisted, or from which he was drafted.

The amendment was agreed to.

Mr. SHERMAN. I desire to ask the chairman of the Committee on Military Affairs whether under the existing law a person who is exempted receives pay and mileage for attending the board of enrollment. If so, I think it ought to be repealed, and I shall offer an amendment to cut off such pay and mileage. He appears to claim a personal exemption; it is a personal privilege; and I do not think the Government ought to pay his expenses for attending the board of enrollment. I merely ask for information on that point.

Mr. WILSON. I believe it is so. I have got that impression. I will look at the law.

Mr. COLLAMER. It is so, and I will state the reason why it is so. That law provided no mode by which the question of exempting an infirm man, or one wanting in physical ability, could be settled at his home. We had such an arrangement in the State laws for drafting, but there was no such provision in the law of last year. It

was thought to be unadvisable to have an inspection by anybody of a person at home privately. The enrolling officers were to enroll all men between certain ages, and then if they should be drafted they were to come before the board for them to decide upon their physical ability. As it thus compelled people to make a journey to get to the board before their physical ability could be determined upon, the law provided for paying them their traveling expenses. The question now is, whether we will still leave that provision in the law. Even if a man has a leg off, he is enrolled, and there is no mode in which he can settle the question of his physical ability except by making a journey to where the board of enrollment hold their meetings. Is he to make that journey and then go home again having his physical ability determined, and be subjected to all this expense which there is no possible mode of avoiding unless we provide a way for his inspection at home?

MR. WILSON. By the sixteenth section of the act of last year it is provided—

"That all drafted persons reporting at the place of rendezvous shall be allowed travel and pay from their places of residence, and all persons discharged at the place of rendezvous shall be allowed travel and pay to their places of residence."

By that provision, persons who appear before the board of enrollment receive their traveling expenses. The Senator from Ohio will recollect, as stated by the Senator from Vermont, that the enrolling officers enroll everybody. They do not omit the names of men who they know will be exempted; they have no right to do so, because we thought they should be brought before the board, as we proposed to make an enrollment of the whole people. It was therefore thought to be just, where we asked a man to travel some miles to go before the board, that his traveling should be paid.

MR. SHERMAN. I am also informed—I give the charges as they are made to me—that the grossest frauds have been practiced under this provision; that persons who have come before the board of enrollment and established their exemption were required to sign papers, in some cases without knowing precisely what they were, and those papers were really blank receipts for the amount of their per diem allowance and mileage, and some of the officers of the board have drawn this money, which was not called for by the persons to whom it was due nor paid them at the time. The person who gets his papers of exemption never thinks anything more of the matter. Under this system, I am told, the grossest frauds have been practiced; to what extent, I do not know. I think it would be better, if a person establishes a personal privilege exempting him from military service, to make him do it at his own expense, and sometimes, at least, upon evidence, without requiring his personal appearance. I see no reason why a man ought to be required to travel a hundred miles to prove that he has but one leg. I think the evidence ought to be satisfactory evidence. I will not now offer an amendment on the subject; but I wish to call the attention of the chairman of the Military Committee to it, in the hope that he will rectify the matter.

The bill was reported to the Senate as amended.

THE PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole. Senators desiring a separate vote or division on any amendment made in Committee of the Whole will indicate it at this time, and the question will then be taken on concurring in the amendments that are not excepted.

MR. ANTHONY. I should like to except the amendment offered by the Senator from Ohio, [Mr. SHERMAN.] I wish to offer an amendment to it.

THE PRESIDING OFFICER. That amendment will be excepted.

MR. CLARK. I desire to except the amendment which I offered yesterday as a new section.

THE PRESIDING OFFICER. It will be reserved for a separate vote.

MR. SUMNER. Will it be in order to offer an amendment in the Senate?

THE PRESIDING OFFICER. The bill will still be open to amendment after the Senate shall have concurred in or rejected the amendments made as in Committee of the Whole.

MR. CLARK. I desire a separate vote on the amendment offered by the Senator from Oregon, [Mr. NESMITH.]

THE PRESIDING OFFICER. That will be reserved for a separate vote. The question now is on concurring in all the amendments made as in Committee of the Whole, except such as have been indicated for a separate vote.

The remainder of the amendments were concurred in.

THE PRESIDING OFFICER. The first excepted amendment will be read.

The Secretary read it, which was the amendment offered by Mr. SHERMAN, to insert the following as a new section:

"That any person enrolled and drafted into the military service of the United States may furnish an acceptable substitute, subject to such rules and regulations as may be prescribed by the Secretary of War. That if such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted; and if such substitute is liable to draft, the name of the person furnishing him shall again be placed on the roll, and shall be liable to draft on future calls. And any person now in the military or naval service of the United States, not physically disqualified, who has so served more than one year, and whose term of unexpired service shall not at the time of substitution exceed six months, may be employed as a substitute to serve in the troops of the State in which he enlisted; and if any drafted person shall hereafter pay money for the procurement of a substitute, under the provisions of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft on that call, and his name shall be retained on the roll, and he shall be subject to draft on future calls."

THE PRESIDING OFFICER. The question is, "Will the Senate concur in this amendment made as in Committee of the Whole?"

MR. ANTHONY. I desire to offer an amendment to that amendment. It is the same that I offered in Committee of the Whole. It is to insert at the end of the amendment the following proviso:

Provided, That no person who has been drafted and furnished a substitute or paid commutation, as herein provided, shall again be liable to draft until the present enrollment shall be exhausted; but this exemption shall not exceed the term for which such person shall have been drafted.

The object of this proviso is merely to equalize the burdens of the draft, and let them fall as far as possible upon all alike; that one man shall not be drawn twice and pay commutation twice, while others have not been drawn once. It does not relieve any man from service under the draft, but only requires every man to be drafted once before one man is drafted twice. I do not see how it makes the least difference to the Government; and I thought when it was voted upon in committee it was not perfectly understood by the Senate.

MR. SHERMAN. If this amendment should be adopted it will defeat the entire purpose of my amendment, and I would rather see the whole of it fail. If the amendment of the Senator from Rhode Island should be adopted, everybody who is drafted will do as they did under the old draft. They will pay the \$300, and there will be an end of it; and the effect will be, no draft will be made. Any man with \$300 can substantially relieve himself from military service, because the enrollment will not be exhausted for a long time. I think it is giving too much effect to the payment of money. It is substantially going back to the old system. If that amendment should be adopted, I think we had better defeat the whole thing, and let it stand under the old law. That is my impression.

MR. ANTHONY. I certainly cannot understand it so. No man is relieved from the draft under this amendment. It decides only the question of precedence, only who shall serve first. If I am drafted and pay \$300, then I am not to be drafted again until the Senator from Ohio is drafted; and when he is drafted and has paid his \$300, then I am drafted again. It does not relieve a man from the draft; it does not diminish the number of those from whom the Army is to be recruited; but it only settles the question which shall come first; whether a man who has already paid once shall be drafted before a man who has not paid once. I do not wish to defeat the object of the Senator's amendment. It seems to me this proposition carries out the object of that amendment. It equalizes the burden.

MR. SHERMAN. The object of my amendment is simply to prevent people from paying \$300 to relieve themselves from military service. If the effect of the payment of \$300 is simply to restore a man's name to the roll, he is then likely to go and procure a substitute who is not subject to draft. That is the purpose of my amendment. The principal purpose is to make it an object, to

hold out an inducement, to men who are drafted to hire substitutes from those not subject to draft; from among the veteran soldiers, for instance. This amendment would substantially defeat the purpose of my amendment.

I must confess I take less interest in this matter since the Senate, by a decided majority, voted to retain the \$300 exemption clause. It seems to me the amount is too small, considering the comparative values of money and labor. Men will come forward and pay the \$300 without objection and without feeling it, and in that way avoid military service. The amendment of the Senator from Rhode Island would still more induce people to pay \$300, because it would operate to exempt them from draft as long as any one remains on the enrollment list. That may be two or three years. I think it is not just or fair. The argument I made the other day, it seems to me, is conclusive; it is certainly satisfactory to my mind; and that is this: that if I, being drafted, employ some one else who is subject to draft, I ought to take the place of that person whom I employ; take the chances for a draft; and if I am drafted the second time, it is no greater hardship than if the man who occupies my place in the Army was drafted likewise. I wish to throw all the obstructions possible in the way of commuting military service by the payment of money. The obstructions I proposed were, first, that the person drafted and paying money should go back upon the enrollment list, and take his chances for a future draft; and second, to increase the amount of commutation. The Senate having rejected the second branch of my proposition, there is no virtue in it except the provision that is now sought to be modified by the Senator from Rhode Island.

The question being put, the amendment to the amendment was declared to be agreed to.

MR. SHERMAN. If it is not too late, I should like to take the sense of the Senate by yeas and nays upon the amendment of the Senator from Rhode Island to my amendment.

THE PRESIDING OFFICER. The Chair will not treat the question as concluded by declaring the vote in the affirmative. On this question the yeas and nays are demanded.

The yeas and nays were ordered.

MR. LANE, of Kansas. I desire to ask the Senator from Ohio a question. Under his amendment what would a man gain by paying \$300?

MR. SHERMAN. He gains all that he ought to gain; that is, he is relieved from immediate military service and goes back among the rest of the citizens to take his chance for future drafts. That is all he gains and all he ought to gain. It seems to me we ought not to make the effect of commutation so extensive as Senators desire it.

MR. LANE, of Kansas. Let me suppose an instance. The Senator's name and mine are in the box. The Senator is drawn and pays \$300. My name remains in the box. His name goes back with mine, and he may be drawn again, and drawn again, and drawn again. It does seem to me that the provision is a very unjust one.

The question being taken by yeas and nays, resulted—yeas 24, nays 17; as follows:

YEAS—Messrs. Anthony, Buckalew, Carlile, Collamer, Cowan, Davis, Dixon, Doolittle, Foster, Hale, Harris, Hendricks, Howard, Johnson, Lane of Kansas, McDougall, Pomeroy, Powell, Sumner, Trumbull, Van Winkle, Wiley, Wilson, and Wright—24.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Foot, Grimes, Harding, Harlan, Henderson, Howe, Lane of Indiana, Morgan, Nesmith, Ramsey, Sherman, Ten Eyck, and Wade—17.

So the amendment to the amendment was agreed to.

THE PRESIDING OFFICER. The question recurs on concurring in the amendment made in Committee of the Whole as amended.

MR. HENDRICKS. I move to amend the amendment by adding to it the following:

And if a married person who labors for a livelihood at some trade or occupation, and not possessed of unincumbered property exceeding the value of \$700, and whose yearly earnings or wages do not exceed \$400, be drafted, he may in like manner pay \$150, and thereupon shall be entitled to a like exemption.

The amendment to the amendment was rejected.

THE PRESIDING OFFICER. The question now is on concurring in the amendment made in Committee of the Whole as it has been amended in the Senate.

The amendment as amended was concurred in.

THE PRESIDING OFFICER. The next amendment reserved for a separate vote will now be read.

The Secretary read it, which was the amendment offered by Mr. NESMITH, to insert as a new section the following:

Sec. — And be it further enacted, That any drafted person who shall be declared to be exempt by reason of physical disability, and whose annual gains, profits, or income, as ascertained by the provisions of the "Act to provide internal revenue to support the Government, and to pay interest on the public debt," approved July 1, 1862, and the acts amendatory thereof, exceed the sum of \$1,000, including all deductions authorized to be made in said acts, such person shall pay the sum of \$300 to the person authorized to receive commutation money from drafted persons not exempted; and it shall be the duty of the provost marshal of each district to transmit to the collector of internal revenue of such district the names and residences of all persons drafted and declared to be exempt by reason of physical disability; and if any drafted person so declared to be exempt, and whose annual gains, profits, or income, exceed the sum of \$1,000, to be ascertained as aforesaid, shall neglect or refuse for the period of ten days after his name shall have been transmitted to the collector of internal revenue to pay the sum of \$300 as aforesaid, it shall be the duty of the collector of internal revenue to collect said sum in the manner provided by law for the collection of income tax in default, together with all the penalties and costs therein provided, and to pay over the said \$300 to the person authorized as aforesaid; and such drafted person so declared to be exempt, by reason of physical disability, who shall pay the sum of \$300 within ten days after his name shall have been transmitted to the collector of internal revenue, shall not again be liable to draft during the time for which he was drafted; but if such person shall neglect or refuse to pay said sum for the period of ten days as aforesaid, he shall be liable to draft whenever the President of the United States shall call for men from the district in which he resides; and it shall be the duty of the collector of internal revenue to transmit to the provost marshal the names and residences of all such persons, required to pay the sum of \$300 as aforesaid, who shall neglect or refuse, for the period of ten days, to pay said sum.

Mr. CLARK. This is the amendment offered by the Senator from Oregon, on which I desired a separate vote; and I did so that I might hear from him some explanation of the reasons for such an amendment. I suppose it passed in Committee of the Whole without much attention from the Senate, because inquiry was made of me afterwards whether it could have been understood.

One of the grounds of personal exemption, as I understand it, is, that a man is not fit for the Government service. He presents himself to the surgeon of the board, and is examined to see whether he is fit for the service. The board decide that he is not fit for the service, and they will not have him; and then by this amendment you call upon that man, if he has money, to pay taxes because the Government will not take him. Then, again, a man presents himself before the board who is afflicted with pulmonary consumption, or with phthisis, or some ailment which not only renders him entirely unfit for service, but makes him drag along his existence in suffering and affliction. Then, because the Government will not have him, or he cannot go by reason of these infirmities, if he is a rich man, you call on him to pay for that. In God's name, is it not enough for a man to be so afflicted? Such a man, as the Senator from Vermont suggests to me, owes no service. God has put it out of his power to render service, and man proposes to make him pay a tax for that affliction of Providence. Is not that the fair construction? I should be glad to hear from the Senator from Oregon some explanation of this provision.

Mr. NESMITH. After the vote taken yesterday, refusing to adopt the amendment of the Committee on Military Affairs striking out the commutation clause, I ceased to take any interest in this bill. My amendment was then pending, having been offered some time previous. I did not propose to discuss it or explain it; neither do I care about explaining it now; but inasmuch as the Senator from New Hampshire has called on me for an explanation, I propose to state briefly what I consider to be the merits of the amendment.

I do not place it on the ground that a man is to be taxed \$300 because God has afflicted him and deprived him of his health, but he is to be taxed \$300 because he is rich and able to pay it. As an illustration, suppose the Senator from New Hampshire and I were neighbors, and he was worth \$1,000,000. Suppose that he had been afflicted, not by God, but by the dentist, who had drawn out a few of his front teeth so that he could not masticate hard bread or bite a cartridge. I am not worth a dollar. I am drafted into the service. My personal service and all that I have on

God's earth is taken for the benefit and use of the Government, while the Senator from New Hampshire, who has been afflicted, not by God, but by the dentist, is exempt from all service. His property, worth \$1,000,000, is to be protected by this Government, and I with my musket on my shoulder must help to do it, and he is exempt from all liability.

That is the ground on which I place the amendment. I think it is equitable. I think it is just. There is no justice in pursuing a hypothesis in the prosecution of this war that compels the poor man, because he is poor and God has not afflicted him with some exempting cause, to render all the service and fight the battles of the country, while the millionaires, the men who are reveling in the most extravagant speculations and have more money than they know what to do with, are entirely exempt from doing anything for the cause of the country.

Mr. CLARK. I do not desire to detain the Senate; but the case mentioned, or the illustration drawn by the Senator from Oregon, would depend not so much upon the affliction to the person of the man who was exempt, as upon the consideration that the Government would not have him. Now, a man, as he says, may have lost his front teeth and the Government reject him. Why? Because he cannot bite his cartridge. That man may feel that affliction greatly, and if the Government would take the \$300 and give him new teeth, perhaps he would be glad to go into the Army. [Laughter.]

I feel the force of all that was said by the Senator from Oregon in regard to the personal responsibility of a man who has property; but let me suggest to the Senator that this is not the way to reach it. The poor man is called upon for his personal service; the rich man for his personal service—nothing more. If the poor man has lost his teeth, he is exempted as well as the rich man. They stand upon an exact equality. The Government rejects them both because they are not serviceable in the Army, and for no other reason, as I understand it. The same is true of the man who has lost his finger. But there may be such hard cases as those to which I alluded before, where a man is absolutely afflicted and his life has become a burden, and he is called upon to pay by the provisions of this amendment.

The PRESIDING OFFICER. The question is on concurring in this amendment made as in Committee of the Whole.

Mr. CLARK. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. COLLAMER. I have heard the remarks of the honorable Senator from Oregon in relation to this proposed amendment, and, if I understood him aright, he proposes to tax a man because he is rich. Now, why should you tax a man who is infirm and cannot render military duty, because he is rich, and not tax the man who is so old that he cannot render duty, because he is rich? What is the reason for the distinction? If the object of this amendment is to get money out of rich men, why should you pick out the lame, the halt, and the blind? Why should you not pick out the wealthy whose age secures them from the draft? They are the people generally who have most of the wealth. Why do you not reach such men? Why make this sort of strange and extraordinary distinction, requiring money from wealthy men provided they are infirm, and not requiring it from those who are too old to be drafted? Suppose we were to render this proposition into plain English and say, "We will lay a tax upon all lame men and all sick men whose income is above such an amount; but on all sound men whose income may be double that amount there shall be no such tax;" if it were put into plain English and made to read just so, would you find a man in this Senate to vote for it? And yet that is the very thing proposed here.

The real truth is, that when we ask men to pay money not in the form of taxes which are to be equal on all, it is only because they thereby get rid of or neglect some duty. We may make that a sort of income to us. We may insist on the payment of a considerable amount by men who neglect some duty. But, I ask, is the man who is lame, halt, or blind, and incapable of military service because the Government will not and cannot take him into that service, guilty of a neglect

of any duty for which we should visit this punishment upon him, and mulct him in fines? I cannot see any reason, even if he does not owe any such military duty, why he should pay anything for it. If it is a tax, lay it on all who have the same income.

Mr. DOOLITTLE. I suggest to the Senator from Oregon to insert some clause in his amendment on this subject of physical disability, so as to qualify that expression. The suggestion I would make is to insert these words: "except for any physical disability which does not prevent his attending to ordinary business pursuits." There are a large class of physical disabilities that are allowed to exempt men from military service which do not in fact prevent them from being just as vigorous in all the ordinary avocations of life, farming, mechanics, and mechanical pursuits, as other men. Of course there would be great hardship in the case which has been stated, in requiring a person dying of the consumption to pay this amount. The language I have suggested would exclude all that class of cases.

Mr. COLLAMER. Who is to judge of that?

Mr. DOOLITTLE. It would be a question to be decided by the board of enrollment, as a matter of course.

Mr. CLARK. Why is it that such men do not go into the service? It is because they are not permitted to do so by law and by the Government itself, which will not take them. Then why should they be called upon to pay?

Mr. DOOLITTLE. I suggest to the Senator from Oregon to accept the words I have suggested qualifying his amendment.

Mr. NESMITH. I will accept them.

The PRESIDING OFFICER. It is incompetent for the Senator, at this stage, to modify or accept any modification of the amendment, as it has already been acted upon by the Senate and been agreed to in Committee of the Whole. The question now is on concurring in that amendment, and it is open to amendment by the action of the Senate, not by the acceptance of the original mover of the amendment.

Mr. DOOLITTLE. Then I will move to amend the amendment in the second line after the word "exempt," by striking out the words "by reason of physical disability," and inserting the words "for any physical disability which does not prevent his attending to ordinary business pursuits;" so that it will read:

That any drafted person, who shall be declared to be exempt for any physical disability which does not prevent his attending to ordinary business pursuits, and whose annual gains, profit, or income; &c.

The PRESIDING OFFICER. The question is on agreeing to the amendment moved by the Senator from Wisconsin to the amendment agreed to in Committee of the Whole.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on concurring in the amendment made in Committee of the Whole, as amended on the motion of the Senator from Wisconsin.

Mr. HOWARD. I intend to vote for this amendment; but I should like to see the sum which is mentioned in it increased to \$1,500. I therefore move to strike out "\$1,000," wherever it occurs, and insert "\$1,500."

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The Secretary will call the roll on the amendment made in Committee of the Whole as it has been amended in the Senate.

The question being taken by yeas and nays, resulted—yeas 16, nays 24; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Doolittle, Harding, Howard, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Nesmith, Ramsey, Sherman, Sumner, Trumbull, and Wade—16.

NAYS—Messrs. Buckalew, Carlile, Clark, Collamer, Cowan, Davis, Dixon, Fessenden, Foot, Foster, Harlan, Harris, Henderson, Hendricks, Howe, Johnson, Morrill, Pomeroy, Powell, Ten Eyck, Van Winkle, Willey, Wilson, and Wright—24.

So the amendment as amended was non-concurred in.

Mr. COWAN. I move to strike out the nineteenth section.

The PRESIDING OFFICER. The Senate are now considering the amendments which have been made in Committee of the Whole. After the Senate shall have acted on all the amendments made in Committee of the Whole, the bill will be open

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to amendment on the motion of individual Senators. The next amendment reserved for a separate vote will now be read.

The Secretary read it, which was to insert as a new section the following:

And be it further enacted, That any person not liable to be enrolled or drafted into the military service of the United States may volunteer and then furnish an acceptable substitute, and be relieved from performing duty in person either upon a call for volunteers or when a draft is ordered.

Mr. CLARK. I offered that amendment in Committee of the Whole, and it was adopted. On further consideration, I am satisfied that the amendment may be subject to misconstruction, and perhaps abuse. I did not suppose it would secure many soldiers to the Army, and so small is the object to be attained that it had better be withdrawn, and I ask the unanimous consent of the Senate to withdraw it. I do not think it perhaps wise in its present form.

The PRESIDING OFFICER. The proper order of proceeding would be to take the question in the Senate, and if the amendment is non-concurred in, it amounts to the same thing. It would be somewhat irregular to withdraw the amendment after a vote has been taken upon it in Committee.

The amendment was non-concurred in.

The PRESIDING OFFICER. The Senate having acted on all amendments made in Committee of the Whole, the bill is now open to further amendment.

Mr. COWAN. I move to strike out the nineteenth section of the bill. The first clause of that section provides for regulating the fees to be paid to attorneys by persons seeking exemption. I think there are certain subjects properly within the purview of legislation, and others that are not, and this is one of them. I think it had far better be left to the people to make their own bargains with their attorneys, and they will see that they are well made—better made than we can make them for them.

Again, I look upon this as a simple bounty to pettifoggers. Are these men not to have respectable lawyers, men who require a respectable fee for their services; or are you to confine them to those who will take five dollars, and not expect any more, unless they take it in the face of the law, which they are very likely to do? That is the first objection that I have to this section. I hope that it will be fatal.

There is another clause which provides that—

“Any physician or surgeon who shall, directly or indirectly, demand or receive any compensation for furnishing said certificates of disability, shall be deemed guilty of a high misdemeanor, and, upon conviction, shall, for every such offense, be fined not exceeding \$300, to be recovered before any court of competent jurisdiction;” &c.

I suppose the intention of this section was hardly to prevent persons enrolled from receiving certificates of disability from physicians; and yet if that was not the purpose, it is very hard to see how a man will get a certificate at all, if the physician is not to be allowed pay for it, and is moreover subject to such an enormous penalty as this for the charge of taking compensation; and that charge, it will be remembered, is very easily made, and very difficult to be disproved. The fact is, if it were once made and supported by a single oath, it would be utterly impossible for any surgeon or physician to disprove it; and that I think is mischievous in the section.

But there is another clause in the same section which I think is not only mischievous, but wrong and absurd; and that is, that attorneys who receive from their clients more than five dollars for their services in each case, and surgeons and physicians who receive any compensation for their services, shall “be fined not exceeding \$500, to be recovered before any court of competent jurisdiction in an action of debt, one half for the use of any informer who may sue for the same in the name of the United States”—which, I will remark here in passing, is a bounty to informers, the most obnoxious class of men that exist in any society: the informer and the plaintiff in a *qui tam* action would have a very nice thing, and no great trouble

to make out an action—“one half for the use of any informer who may sue for the same in the name of the United States, and the other half for the use of the United States.” So far, that is all well enough. I suppose a penalty of this kind might be imposed in the way we have imposed it, and it might be recovered in an action of the nature contemplated in this section. But, sir, what follows, it seems to me, is going a very great way beyond that; and that is, that the delinquent “shall also be subject to imprisonment for a term not exceeding one year, at the discretion of the court.” I understand it to be the meaning of the committee who reported this section that the court, after having entered judgment in a *qui tam* action of debt, may sentence the defendant to a year’s imprisonment.

Mr. HOWARD. If the Senator from Pennsylvania will allow me one word of explanation, I will say that we have amended this section about which he is commenting, and changed the language so that it reads thus, as the bill now stands before the Senate:

“Shall for every such offense be fined not exceeding \$500, to be recovered upon information or indictment before a court of competent jurisdiction in an action of debt, one half for the use of any informer;” &c.

The words “in an action of debt” are stricken out, and the words “upon information or indictment” are inserted after the word “recovered.” That was done yesterday.

Mr. COWAN. The imprisonment clause is retained, I suppose?

Mr. HOWARD. Yes, sir.

Mr. COWAN. Even if it were amended it is not free from objection; and it cannot be free from objection. The way to multiply the number of criminals in any country is to increase the number of crimes by means of statutes, and to make those things offenses by the law which were not so before. Now, is it necessary at this time to put two such respectable professions as those of law and medicine under the ban of a statute of this kind? It seems to me enormous to impose such penalties as these are for that which heretofore has been perfectly innocent. Nobody supposed heretofore that there was any spice of criminality whatever in it. It is true, I have no doubt, the very class of lawyers who practice under this section have oftentimes imposed upon persons who have been seeking exemption; but how are we to protect those persons in cases of that kind when they cannot protect themselves? Any attempt to do so by means of legislation has always proved futile. These American citizens enrolled and drawn are quite as competent, and far more so, I think, to take care of their own affairs, and make their bargains with their attorneys and physicians, than we are to do it by law. I hope, therefore, this blot will not be put on the bill, because I see nothing but mischief to result from it; and it will be calculated to further the designs of bad men, and to prevent the interference of good ones in the work of procuring exemptions.

The PRESIDING OFFICER. The Senator from Pennsylvania moves to amend the bill by striking out the nineteenth section, which will be read.

The Secretary read it, as follows:

Sec. 19. *And be it further enacted,* That the fees of agents and attorneys for making out and causing to be executed any papers in support of a claim for exemption from draft, or for any services that may be rendered to the claimant, shall not in any case exceed five dollars; and physicians or surgeons furnishing certificates of disability to any claimant for exemption from draft shall not be entitled to any fees or compensation therefor. And any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act, and any physician or surgeon who shall, directly or indirectly, demand or receive any compensation for furnishing said certificates of disability, shall be deemed guilty of a high misdemeanor, and upon conviction shall, for every such offense, be fined not exceeding \$500, to be recovered before any court of competent jurisdiction upon information or indictment, one half for the use of any informer who may prosecute for the same in the name of the United States, and the other half for the use of the United States, and shall also be subject to imprisonment for a term not exceeding one year, at the discretion of the court.

Mr. WILSON. I hope the Senate will not

strike out that section. It proposes to correct a most gross abuse that now exists in nearly all the congressional districts of the country. A class of men have undertaken to engage in this business, and to receive contingent fees amounting to \$100, \$200, and sometimes \$250. It has been a source of corruption and misrepresentation. Men have professed to have great influence with the enrolling board, and have taken enormous fees to get men discharged. This section places the lawyer in these cases upon the same ground as a counsel that engages in a pension case. We have legislated upon that subject. If a soldier now goes to a lawyer, and he aids him in obtaining a pension, the fee is fixed by law. We propose to give the same fee here, and to make the cases equal; and for all proper purposes more labor is required to prepare the papers necessary to obtain a pension than to prepare any papers of this kind.

I hope this section will not be stricken out, and that we shall correct an abuse under which great corruptions have been practiced. Why, sir, there have been paid, and it is well known to be so, in some of the congressional districts, \$2,000 and \$3,000 as contingent fees. Enormous fees are paid. The sum named in this section is abundant for all proper purposes. The counsel need not go before the enrollment board. All that is necessary for him to do is to make out the proper papers for a person to carry there. I do not know that it is necessary for him to do anything at all, but it can be but very little. I hope, therefore, that a provision intended to correct great abuses that exist in the country will not be stricken out.

Mr. COWAN. If I were to admit the mischief of which the honorable Senator from Massachusetts complains, it would still be no argument in favor of this provision, because it is not calculated to correct it. On the other hand, it is calculated to introduce an additional one. If it be true, as I said before, that attorneys impose upon their clients by charging them too much, there is no way in the world by which that can be remedied. It cannot be remedied certainly by shutting off from the reach of clients the respectable members of the profession who would be likely to be governed by this law, and throwing them into the hands of those who care about no laws of this kind, and who would be perfectly willing for the sake of a fee to run the risk of the prosecution contemplated in this section.

I may say too, and I might appeal to the experience of all lawyers in this body, that laws of this kind never produce the effect that is intended by them. They usually fail; and they fail simply for the reason that the subject itself is not within the proper purview of legislative action. Where people cannot protect themselves, it is no use to attempt it on the part of the law. Only those who are defenseless require that protection; and I should be very glad if the section should be stricken out.

Mr. HOWE. I wish the Senator from Massachusetts would explain what is the effect of this certificate of a surgeon. I think this section applies to surgeons who are not members of the board. What is the effect of such a certificate, and has it any weight whatever before the board?

Mr. WILSON. It has no legal weight; but it has a great deal of influence. The result is that a class of mere quacks have set up this business and have opened offices to write papers for men to present before the board of enrollment; and we want to destroy that business. An honest surgeon living in the neighborhood, knowing a man well, would not hesitate to write a few words in reference to his condition; and that paper is presented to the board and has a certain degree of weight. It is possible that the surgeon of the board may know who this surgeon is and what he is. An honest surgeon desiring to do what was right and proper toward a patient of his would not need any fee for such a service; but a class of men have set up the business of making these papers just as a class of slysters, unworthy members of the legal profession, have set up a similar business for drawing exemption papers. A class of men

has thus sprung up of quack doctors and ninth-rate lawyers who have been making fortunes out of the poor men of the country; and we want to cut this up, root and branch.

Mr. HOWE. If the Senator will allow me one more question; this section proposes to punish surgeons unconnected with the board who take an extra fee, or any fee, for furnishing these certificates. Is there any law which imposes any penalty upon the surgeon of the board, or upon the board, for using these fictitious certificates, or for improperly and willfully granting improper exemptions?

Mr. WILSON. Yes; both in this and the other act.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania, to strike out the section which has been read.

Mr. COWAN called for the yeas and nays; and they were ordered.

Mr. JOHNSON. If I thought that the retention of this section would answer the purpose the committee had in recommending it, or the Senate would have in adopting it, I should vote against the motion to strike it out. But, so far from its having the designed effect, I think, judging from the experience of the past, it will have the opposite effect. The fee itself, as far as the section allows it for attorneys, five dollars, I have no doubt we may fix by legislation. The legislation of nearly all the States of the Union regulates to a certain extent the fees of counsel. It never has been doubted that it was within the power of legislation to make a regulation of that description; but the regulation in all those cases is one which prohibits to the attorney or counsel who may be employed, the right to recover more than the sum provided for; it does not subject him to a criminal prosecution; but even in those cases where the fee is limited by legislation, contracts are constantly made by which the counsel receives a larger sum than the sum limited by the law, and the courts I believe in all of the States—unless there were positive words prohibiting the making of a contract for a larger sum—have recognized the authority of the citizen to make contracts of that kind; and the practical experience has been, I think, that prohibitory legislation of this nature never does answer the purpose for which it is intended. There are men who will engage to render professional service for five dollars, but it is a professional service, generally speaking, only in name. Men of that description are not competent to render any efficient service; but under a belief, because they profess to be lawyers, that they are competent to the discharge of their profession, many persons are willing to employ them, and they find out, after it is too late, that in order to save a little money for a professional service they have involved themselves in much greater difficulty and in much heavier losses than would have been the result of their paying competent counsel.

Now, as far as the provision in regard to surgeons is concerned, it seems to me that it places the drafted soldier in a very unpleasant situation. I suppose a great many surgeons would very willingly perform this service without being paid at all; but the drafted man may not be within the reach of surgeons of that description; and if the Senator from Massachusetts is right in saying that there exists in some of the States of the Union—I suppose he meant his own State—combinations among surgeons by which they constitute this a matter of business, and for the purpose of the few dollars that they make by it, perpetrate frauds upon the public, it might be very difficult for a poor man who is drafted or any man who is drafted to get a surgical opinion at all; and he would then have to go before the enrolling board and be his own surgeon; whether effectually or not the result would prove.

But, to conclude, Mr. President, the class of counsel, or "attorneys," as this bill calls them, and the class of surgeons against whom the provisions of this section are intended to guard, are not prevented, I think, from perpetrating their frauds by any such provision as this bill contains. If there are men who have no sense of public duty and are governed by no sense of moral propriety, so that they commit the acts to which the Senator from Massachusetts refers, you cannot restrain them by this legislation; they will commit them in spite of your legislation; and the only effect of

the legislation, therefore, may be to disgust the honest counsel, and to disgust the honest surgeon, and to prevent them from rendering the service which the citizen may require.

Mr. WILSON. I will simply say to the Senator from Maryland that no honest lawyer, I think, will decline to do the little business that is necessary to bring this about for any of his neighbors and friends—

Mr. JOHNSON. I think so too.

Mr. WILSON. He will not decline it for this sum any more than he will decline to do the little business that is necessary to help a wounded soldier to get a pension for what the law allows him to charge for that. We had these same practices in regard to pensions until we corrected them by law. As to surgeons, a man living in the neighborhood of a surgeon, goes to him and says, "You know my condition; you have practiced in my family; I want you to give me a little certificate of my condition, how you regard me, that I may take it to the board." That is all proper; he need not charge that man anything for it; it is a little thing to do, and almost any man would do it freely. But, under the existing law, what do we find? We have a class of lawyers that hang on the skirts of the profession—men without much scruple, who have gone into the business and taken contingent fees, and some of them have made as much as two or three thousand dollars since this act went into effect. They pretend to have great power and influence, and men run after them, and they fleece these poor men to whom they cannot render any assistance on earth unless they have some corrupt influence with the board. We have also a class of medical men, without much conscience, that hang on to the profession. The profession do not respect them much, but they have a little business, and they have set up in the business of giving certificates, and some of them have made fortunes this year by duping the people. I want to cut them off altogether. I have not the least fear of any trouble about it, and I hope the Senate will retain the section.

Mr. ANTHONY. I would suggest to the chairman of the Committee on Military Affairs if it would not be better to prohibit the board of enrollment from receiving any outside certificates. They do not receive them in our State, where, I beg leave to say, the board act with great propriety.

The question being taken by yeas and nays, resulted—yeas 13, nays 24; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Davis, Harris, Henderson, Hendricks, Johnson, Powell, Saulsbury, Van Winkle, Wiley, and Wright—13.

NAYS—Messrs. Anthony, Brown, Clark, Collamer, Conness, Dixon, Doolittle, Foot, Foster, Grimes, Hale, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, and Wilson—24.

So the amendment was rejected.

Mr. NESMITH. I now renew the amendment reported by the Military Committee, which was rejected when the Senate was acting as in Committee of the Whole.

The PRESIDING OFFICER. The amendment will be read.

The Secretary read, as follows:

And be it further enacted, That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved on the 3d day of March, 1863, as authorizes the discharge of persons drafted into the service of the United States, under the authority of that act, upon the payment of a sum of money not exceeding \$300, be, and the same is hereby, repealed.

Mr. NESMITH. Mr. President, yesterday, when the amendment to repeal the \$300 commutation clause which was reported by the Military Committee was before the Senate, I sought the floor ineffectually in order to state my own views upon the measure; but the rigid and doubtless correct application of an inexorable rule by the Chair prevented my doing so, and I was, as it were, cut off in the flower of my youth.

Inasmuch as the pending motion brings the question again before the Senate, I now take occasion to state my objections to the commutation clause, which, in my opinion, renders the bill worse than useless. I do so, however, with a full consciousness that nothing which I can say will induce the Senate to recede from its vote of yesterday.

When the original bill, sometimes called the conscription bill, was before the Senate at the last session of Congress, I was opposed to the com-

mution provision which released soldiers from the duty of serving in the field by the payment of the mere nominal sum of \$300; and I think that the inefficiency of the draft has fully vindicated my judgment in that particular.

I had thought that the able presentations of the case by my friend, the honorable Senator from Indiana, [Mr. LANE,] was sufficient in itself to convince the Senate of the mischievous consequences likely to result from a perpetuation of that clause of the law; and after the rejection of his amendment, like the Senator from Missouri, [Mr. BROWN,] I ceased to take any further interest in the bill, regarding it as shorn of its best and most effective features.

This, Mr. President, has been characterized as a "cruel war." It is so in the sense that all wars are cruel; but its cruelty has been enhanced an hundred fold by its procrastination, and want of vigor in its prosecution.

Neither Congress nor the Administration has, in my opinion, had a true appreciation of the magnitude of the undertaking to subdue the rebels in arms against the legitimate authority of the Government. I have constantly entertained the idea that all the energies of the Government should be exerted to bring the conflict to a speedy close, not only for the sake of the Government itself, but for the sake of humanity. For this cause, sir, when our Army failed to be recruited by volunteering, I urged the adoption of the only mode left to consummate that result, namely, drafting; and inasmuch as we had recourse to that means of raising troops, I was anxious that it should be so enforced as to bring the largest possible number of troops into the field.

The result would have been all that we could have desired, had not the bill contained that single exemption clause, permitting the soldier to commute his patriotism with the paltry sum of \$300, instead of facing the enemy with the more potent and convincing argument of the bayonet. I should at times have been amused, had the subject been of a less grave nature, when listening to Senators indulging in flights of florid eloquence, and urging upon us the necessity of supporting the Government, and saying that every loyal man owed it his personal service and all he had. I never for a moment supposed that all this was a mere figure of speech, which meant that \$300 was a sum sufficient to discharge the entire liability. Money and men are both material elements in the prosecution of a war; yet the former is worthless without the latter, and the raising of either is of itself a question of sufficient magnitude to require separate legislation.

The reduction of patriotism to a financial standard may fill your coffers, but it will as certainly deplete your ranks. I believe that a rigid enforcement of the law, with a repeal of the commutation clause, would raise men sufficient to put an army upon every avenue leading to the heart of rebellion, and crush the rebellion in the next six months. I am as thoroughly convinced that with the means which that clause furnishes to evade the service the next draft will be a greater farce than the preceding one, and that the result will be a prolongation of the war for the next three and perhaps ten years.

As our already redundant currency is expanded, the greater will be the facility for avoiding the duty of the soldier, and I look forward to no distant day when we shall be compelled to repeal the law in order to avoid the exhaustion of men from which to draw soldiers.

It is better to adopt a practical and efficient, though it be a stringent policy, at once, which bears equally upon all; than to resort to temporary expedients which will in the end compel us to ignore the whole system, and drive us to the repeal of the law, and the consequent violation of the quasi pledged faith of the Government which has exempted so many thousand soldiers from duty.

Sir, the petitions which are sent here from the working men of the country, praying for the repeal of the commutation clause of the conscription law, prove conclusively to my mind that the anxiety of the people is not to be relieved from their liability to serve as soldiers, but to see the last vestige of treason crushed out and subdug, and the flag of the Union waving triumphant over every foot of our soil.

I know it is said by some that if the present

bill, with the amendments now under consideration, does not answer the purpose we can adopt some other in its place. I am tired, and the country is tired, of that temporizing policy of adopting expedients when we have a sure and certain remedy within our reach; besides, the responsibility imposed upon us is too great to be trifled with. A great and patriotic people demand at our hands that treason be suppressed and the nation restored to its integrity, while we are amusing them with schemes *how not to do it*.

I said that we had not appreciated the magnitude of our undertaking in putting down this rebellion, and I now think it is time that we begin to look the thing earnestly in the face.

During the first six months of the war we were amused with the predictions that it was to be all over in thirty, then sixty, then ninety days; nearly a thousand days have elapsed, and two hundred thousand of our brethren have fallen, while we are here devising means to keep the residue out of the ranks.

We have raised armies just in proportion as we supposed the rebels had power to resist them, and our successes have been quite as attributable to the mismanagement of our enemy as to our own exhibition of strength, prudence, or forethought.

The war has been a chapter of accidents—I had almost said a comedy of errors. After the first Bull Run the capital was at the mercy of Beauregard, who was only restrained from occupying it by his respect for the orders of a superior.

At Antietam and Gettysburg, victory hesitated long before it perched upon our standard. At the latter battle the absence of a single regiment from the center or the faltering of one there would have rendered the last rebel charge successful, annihilated Meade and his army, placed the capital, Baltimore, and Philadelphia in the hands of the rebels, and transferred their lines to the Delaware.

In September, 1862, Kirby Smith's lines were within four miles of Cincinnati, and in July last Morgan in his raid was within eight miles of the city. There was nothing to prevent the former from taking and holding, or the latter from destroying the Queen of the West, except their ignorance of its true condition.

When I look back upon these probable contingencies it causes me to shudder, and to feel how important it is that no such terrible risks shall be assumed in the future. The only way that I see to avoid them is to dispense with commutation and exemption clauses, and make our Army so powerful as to be invincible.

Twenty thousand additional men would have marched from Malvern Hill to Richmond, and the same number would have destroyed Lee's army at Antietam or Gettysburg. Ten thousand reserves at Chickamauga would have saved our right and enabled Rosecrans to destroy Bragg. Fifty thousand troops might have held Texas long ago, and cut off the principal source of supplies for the rebel army. The men to accomplish all these purposes have stood ready at your bidding, but you have not only had too much modesty to demand their services, with the experience of the past before your eyes you now devise a means by which you never can get them.

I ask Senators to contemplate the prospect of the future. The great heart of the rebel States has not yet been reached by our armies. During the present winter no effort will be spared to augment their forces; the energy of despair will be bent in that direction; and in the spring, with a concentrated and well-disciplined army operating upon short interior lines, they will be able to hurl a combined force against either the army of the Potomac or the Cumberland, one of which, if not crushed, will be rendered inefficient for at least another year.

The present army of the Potomac nor any other will ever reach Richmond by their present route. It will remain an army of observation, or for the defenses of Washington, while your commutation clause will bring money into your Treasury from the men at home who should be approaching Richmond by the other and better route.

I know that it is a favorite theory with some that the armed resistance of the rebels must soon cease on account of the depreciation of their currency. A greater delusion was never indulged in. While it is to a certain extent true that a recognized member of the family of nations is not likely

to succeed in war or prosecute it for a long period without money, the history of all revolutions discloses the fact that they have been prosecuted, and in many instances successfully, with an almost entire destitution of funds. Take our own Revolution as a precedent, how many of its battles were fought after its credit was reduced as low, if not lower, than that of the confederates?

I saw the rebel troops fight at Chickamauga with a currency worth five cents on the dollar, and I thought that they stood up to it about as well as our own troops, who had at least eight hundred per cent. the advantage of them on the question of finance. In a country like the rebellious States, where their system of labor produces abundant supplies for an army, they are comparatively independent of the outside world. What cannot be bought is seized by an arbitrary and tyrannical government. With their present resources they have the ability to resist our temporizing policy for the next ten years, and to protract a war indefinitely which should have already terminated.

If the admitted power of the Government can be so exerted as to bring the war to a close within the next six months, even if it should double our present expenses, would it not be good policy to make the effort, instead of procrastinating that result for a dozen years at the present annual cost, with all the threatened dangers of foreign intervention?

We know that the strict enforcement of the draft divested of the commutation clause would promptly raise all the troops we desire, and at the same time give the greatest satisfaction and encouragement to the people, who would thus perceive that the Government was in earnest in its efforts to consummate the desire entertained by the patriotic masses to see the rebellion crushed and the supremacy of the Government restored.

The means to supply such an army we have in the greatest abundance, and the people are only too anxious to contribute them. You may reject their proffered aid and pursue your past policy, and write upon the tombstone of the nation, "DIED OF COMMUTATION."

Mr. HOWE. I ask for the yeas and nays on the amendment of the Senator from Oregon.

The yeas and nays were ordered.

Mr. HOWE. When this amendment was before the Senate in Committee of the Whole I voted against its adoption. I was anxious to provide some mode for commuting for the services of those who I thought could not afford to render personal service without an enormous sacrifice to themselves, and in many cases a great sacrifice to the community about them, and who might depend in a great measure upon them; and I thought that could be done without imposing any additional hardship upon those who were compelled to go into the service because they had not the means to commute. Several expedients have been tried, several amendments proposed with the view to lighten the burden upon those who can commute for their services. As I understand the matter, none of them have been adopted. The amendment proposed by the Senator from Ohio, [Mr. SHERMAN,] and adopted by the Senate, already provides one mode, and I think an adequate mode, for exempting this class of persons to whom I have alluded. They can procure substitutes if they are to be found; they can hire them as cheap as the Government can hire them. If a substitute cannot be found for \$300, the sum which is proposed here as the measure of commutation, they cannot procure him. If no substitute can be hired for that sum it seems to me that sum ought not to be fixed as the measure of commutation; and since the Senate has decided that this commutation shall not constitute a fund to go to those soldiers who are drafted, and who enter upon the service, I feel compelled to vote now for the amendment proposed by the Senator from Oregon, and to say that no man who is drafted shall be allowed to commute for his services; that if substitutes are to be had he can hire them; but that we shall not fix an arbitrary sum and say the Government shall take that in lieu of personal service, whether they can get a substitute for it or not. If we do that, it is manifest that the law becomes a mere drag-net by which those individuals in the community who are unable to commute for personal service are singled out from the whole body of the community and forced into

the ranks to the exclusion of everybody else. Such ought not to be the intent of the law; such ought not to be the effect of the law; and I intend to vote for the adoption of the amendment.

The question being taken by yeas and nays, resulted—yeas 15, nays 24; as follows:

YEAS—Messrs. Brown, Conness, Grimes, Harding, Harlan, Howe, Lane of Indiana, Morgan, Nesmith, Ranney, Sprague, Ten Eyck, Trumbull, Wade, and Wilkinson—15.
NAYS—Messrs. Buckalew, Carlile, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Essenden, Foot, Foster, Harris, Henderson, Hendricks, Howard, Johnson, Lane of Kansas, Saulsbury, Sherman, Sumner, Van Winkle, Wiley, Wilson, and Wright—24.

So the amendment was rejected.

Mr. SUMNER. I offer a new section to come in immediately after section four:

And be it further enacted, That in addition to the substitute furnished by a drafted person, or, where no substitute is furnished, then in addition to the sum fixed by the Secretary of War for the procurement of a substitute, every such drafted person shall, before his discharge from the draft, be held to contribute a certain proportion, in the nature of a tithe, of his annual gains, profit, or income, whether derived from any kind of property, dividends, salary, or from any profession, trade, or employment whatever, according to the following rates, to wit: on all income over \$1,000 and not over \$2,000, five per cent.; over \$2,000 and not over \$5,000, ten per cent.; and on all income over \$5,000, twenty per cent. And it shall be the duty of every such person seeking to be discharged to make return, either by himself or his guardian, to the provost marshal of his district of the amount of his income according to the requirement of the act "to provide internal revenue" of July 1, 1862: *And it is further provided,* That the contribution thus made shall be employed by the Secretary of War, in his discretion, to promote enlistments, or for the benefit of enlisted men.

Mr. President, I offer this amendment now for two reasons: first, because when I offered it before and it was voted upon, I offered it as a substitute for another proposition. The Senate have never voted upon this amendment directly. They voted upon it only as a substitute to the proposition striking out the commutation clause. But the Senate have determined to keep in the commutation clause; the \$300 are to be required; and now the question is practically presented whether the Senate will require that \$300 of all alike, rich and poor, or whether they will make this burden, so far as possible, in a certain sense equal. I say as it stands it is not equal. I say it is wrong to require the poor man to pay \$300 for that exemption and not to require more of the rich man. It is my conviction. I cannot escape from it. I think, sir, you embody in the bill, unless you adopt my amendment, acrying injustice, and I so declare now from my seat here. I make this effort sincerely, with a view to make this important measure more acceptable to the community than it has been, in order to introduce into it an element of justice which it seems to me down to this moment it has not. I ask for the yeas and nays on it.

The yeas and nays were ordered.

Mr. LANE, of Kansas. Is it in order now to move an amendment to the Senator's proposition? If so, I should like to have inserted among the objects for which the money is to be used, "the families of volunteers," leaving it with the Secretary of War.

The PRESIDING OFFICER. The Senator will reduce his proposition to writing if he moves an amendment to the pending amendment.

Mr. SUMNER. I appeal to the Senator from Kansas to withhold his proposition now. It may embarrass him. Let us get a vote upon that, and he can afterwards offer his as a separate proposition.

Mr. CONNESS. That will be the best plan.

Mr. LANE, of Kansas. I will do that.

Mr. JOHNSON. If I thought the bill as it stands without the proposed amendment would work gross injustice, I certainly should vote to adopt the amendment proposed by the honorable member from Massachusetts; but I have been unable heretofore to satisfy myself of that injustice, and I do not think it can be so very apparent, provided it be true, as I rather think it must be true, that the honorable member from Massachusetts voted for the original bill which contained it, and which is now the law.

Mr. SUMNER. I did vote, sir, for the original bill which is now a law, and I am now trying to amend it. I want to make it better, and I hope the Senator from Maryland will help us.

Mr. JOHNSON. I only meant by making the reference to the honorable member to say that it is not so very apparent to me that the proposition as it stands now in the law is very unjust. It can-

not be considered so apparently unjust that almost every intellect properly constituted must discover it, for the honorable member from Massachusetts was unable to discover it during the long deliberation that the bill had at a former session.

Mr. SUMNER. The Senator remembers well that this whole subject was new when it came up. We were discussing a bill that had never been brought forward before; there were a vast number of propositions; and it came up, too, at the end of the session; we discussed it two or three nights.

The question being taken by yeas and nays, resulted—yeas 16, nays 28; as follows:

YEAS—Messrs. Conness, Dixon, Doolittle, Grimes, Harding, Harlan, Howard, Lane of Indiana, Lane of Kansas, Morgan, Ramsey, Sumner, Trumbull, Wade, Wilkinson, and Wilson—16.

NAYS—Messrs. Anthony, Brown, Buckalew, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Fessenden, Foot, Foster, Hale, Harris, Henderson, Hendricks, Howe, Johnson, Morrill, Nesmith, Powell, Sausbury, Sherman, Sprague, Ten Eyck, Van Winkle, Willey, and Wright—28.

So the amendment was rejected.

Mr. DOOLITTLE. I desire to offer an amendment as a new section after section four. I will state in a single word that the act as it stands authorizes the enrollment of all able-bodied male citizens of the United States and persons of foreign birth who have declared on oath their intention to become citizens. The section which I offer is this:

And be it further enacted, That all persons having resided in the United States for one year, who shall have exercised the right of suffrage as a citizen by voting at any election in any State of the United States, shall be deemed to be liable to enrollment and draft, and shall be enrolled in the same manner as native-born citizens.

The point is this, Mr. President: the law as it stands enrolls those who have declared their intention to become citizens, but these declarations of intention may be made in any clerk's office throughout the whole United States; and, as a question of fact, to prove whether persons have or have not declared their intentions is exceedingly difficult; but where they have actually resided in the United States for a year and have exercised the right of suffrage as a citizen by voting, that fact is susceptible of proof in every town where they reside. There is no difficulty about it.

Mr. SUMNER. Let me ask the Senator if we did not pass a provision on one of the appropriation bills last year substantially embodying this idea?

Mr. DOOLITTLE. I believe not, Mr. President. My recollection of the history of this legislation is that when the first section of the act was under consideration I moved an amendment providing that all persons who shall have on oath declared their intention to become citizens, and who shall have voted as such shall be liable; but the latter words, "and who shall have voted as such," were struck out, and it was adopted without those words.

Mr. COWAN. If the amendment is to prevail, I think the limitation of time should be stricken out. If a foreigner comes to this country and votes within six months, I do not see why that should not operate as an estoppel as well as if he remains a year and then votes. The pith of the whole matter is that he votes without being qualified, and we want to make that an estoppel hereafter when he comes to assert his alienage as a reason why he should be exempt from the draft. I trust the mover of the amendment will modify it as I have suggested, so as to provide that any foreigner who comes here and votes at an election (without specifying any time within which he may have exercised a privilege of this kind) shall be liable to draft, and that that voting shall operate as an estoppel if he claims exemption on the ground of alienage.

Mr. HOWARD. I am opposed to the amendment upon principle. I know not whence the Senator from Wisconsin derives the power of this Government to compel foreigners who have not renounced their allegiance to the country of their birth to perform military service for the United States. It is contrary to the laws of nations and the laws of war. We have no power whatever to compel a subject of Great Britain or France, or any other foreign country, who happens to be within the limits of the United States, to perform military service or to be engaged in our wars on our behalf. I fear that if we adopt such a principle as this in our legislation it may bring us in

collision with foreign nations; at all events, I fear that it may engender disputes which would be unnecessary and unpleasant in their consequences, and I am therefore opposed to the proposition entirely. It is quite sufficient, as it seems to me, that we require military service from such foreigners as either have become naturalized citizens of the United States or have voluntarily renounced their allegiance or declared their intention to renounce their allegiance to the country of their birth. As to such persons we perhaps have authority to compel them into our military service; but as to other foreigners who have not made such a renunciation, I am quite clear that we have no power over them whatever to compel them to perform military service. I am opposed entirely to the principle of the amendment of the Senator from Wisconsin.

Mr. TRUMBULL. I cannot see what difficulty there is in compelling a person who has the protection of our Government, and who voluntarily has taken part in the administration of the Government, to perform military service. The law as it now stands subjects to military service persons who have not taken the oath of allegiance to the country; if they have declared their intention to become citizens, they are subject to military duty under the law as it now is; and shall it be said that a foreigner can come here to this country, abstain from taking the oath of allegiance to the country, maintain his position as an alien, hold office in this country, vote at our elections, choose our rulers for us, and not be subject to military duty? It is a voluntary act on his part. Let him refrain from the exercise of the right of suffrage if he is not willing to defend the country.

I cannot see any force in the objection of my friend from Michigan, not the least, unless we deny the right of a person to expatriate himself. Why, sir, has not Congress power to naturalize foreigners? That power is given by the Constitution, and I hold that it would be competent to declare by act of Congress that every person who took upon himself the right of suffrage should thereby become a citizen of the United States. We can regulate this entire matter by law. Will the Senator from Michigan tell me why it is not competent for us to declare in this very act that if any person of foreign birth assumes to take part in the administration of the Government by voting or holding office under it, he shall thereby become a citizen of the United States? Have we not the power to do it? I think so; and surely we have power to compel him to aid in the defense of the Government which he seeks to take part in administering.

But I quite agree with what fell from the Senator from Pennsylvania that there should be no limit as to time. We should not require a foreigner to reside here a year in order to subject him to military service if he votes; and I think we should not only subject the man who votes to military service but also one who holds office. I submitted to the previous bill reported by the Committee on Military Affairs on this subject an amendment to carry out both these objects, which is in print and on the tables of Senators. It was offered as an amendment to Senate bill No. 18, and I submit to the Senator from Wisconsin whether it does not cover the whole ground a little more fully than his amendment. I send it to the table and ask that it be read, and then I hope the Senator from Wisconsin will accept it in lieu of his amendment, as being a little more full.

The Secretary read, as follows:

Sec. — And be it further enacted, That no person of foreign birth shall, on account of alienage, be exempted from enrollment or draft under the provisions of this act, or the act to which it is an amendment, who has at any time assumed the rights of a citizen by voting at any election held under authority of the laws of any State or Territory or of the United States, or who has held any office under such laws or any of them; but the fact that any such person of foreign birth has voted or held, or shall vote or hold, office as aforesaid, shall be taken as conclusive evidence that he is not entitled to exemption from military service on account of alienage.

Mr. DOOLITTLE. I believe that is in better form than the amendment which I offered, and I therefore accept it.

The PRESIDING OFFICER. It is competent for the mover of the amendment to accept this in lieu of his original proposition; and this is now the amendment before the Senate as the amendment moved by the Senator from Wisconsin.

sin. The question is on agreeing to this amendment.

Mr. HOWARD. Mr. President, the Senator from Illinois puts the question whether it is not competent for Congress to naturalize and declare to be citizens of the United States such foreigners as may see fit to participate in our elections, holding (as I infer from his language that he does hold) that Congress have that power, and that if they should see fit to exercise it, a foreigner would become *ipso facto* naturalized and a citizen of the United States by going to the polls in the State where he should happen to be and there voting. Now, sir, I deny that principle entirely, because it rests upon the false assumption that it is competent for the State Legislatures to declare who shall be or who shall not be naturalized citizens of the United States, and thus State laws come to exclude entirely the power of Congress over the subject. Under the Constitution, Congress alone have power to naturalize foreigners; and they must do it, as they have done it heretofore, not by passing special statutes applying to particular localities or to particular persons, but they must exercise the power in the form of a uniform system of naturalization. It is for Congress, and Congress alone, to exercise this power. The power is exclusive in Congress, and no part of it pertains to the States. It is not a concurrent power which may be used sometimes by a State and sometimes by the national Legislature; but it is a power exclusively lodged in Congress, to be exercised by them and not by the States.

What right, then, has a State, in reference to the creation of naturalized citizens of the United States, to set up for itself a power to constitute citizens of the United States—not citizens of Illinois or of Michigan; they may do that, perhaps, but a State cannot constitute a naturalized citizen of the United States. There is the point to which I desire to call the attention of the learned Senator from Illinois. A State may make voters; his own State, I suppose, like my State, does allow the privilege of voting to certain classes of foreigners who have not been naturalized under the laws of the United States; but who has ever pretended that the persons thus naturalized, so to speak, by the local law are at the same time citizens of the State and citizens of the United States? I deny that the States have any power to make citizens of the United States out of foreigners. It is a power pertaining to us exclusively; and hence my conclusion is this: that whatever may be the legislation of a State, however a State may see fit to extend the privilege of voting to foreigners, and however willing they may be to exercise that privilege, the exercise of the privilege by the foreigner under the State does not constitute him a citizen of the United States, and we have power only over citizens of the United States when we proceed to call them into the military service of the United States. That is the point.

But the Senator cannot fail to recognize the principle of national law, and the law of war, that a nation only has power to call upon its own citizens or subjects to perform military service, except in peculiar cases, in cases of breach of the peace or local disturbance, where it is as necessary for the protection of the foreigner that order should be restored as for the citizen. But it is an unheard-of principle, I insist and assert, in the laws of nations that one nation may call on the subjects of another nation who happen to be within its borders, perhaps as mere sojourners for the moment, to perform military duty, and thus to force them into the field even against their own countrymen; for if we can compel a foreigner to participate in our battles at all upon principles of law, we may compel him to take arms against his own countrymen in a war between our own country and his country.

Mr. DIXON. Mr. President, I desire to ask the Senator from Michigan if a person who has given notice of his intention to become a citizen is a citizen of the United States? He says none others can be compelled to do military duty.

Mr. HOWARD. I answer that I do not regard a foreigner who has simply declared his intention to become a citizen of the United States as a citizen of the United States. The question itself implies a contradiction in terms.

Mr. DIXON. Then I would ask the Senator how it is that the present law requires such persons to do military duty under the conscription act?

Mr. HOWARD. I will answer that question. The Congress of the United States and the Executive have seen fit so to enact. They have passed just such a law as that. Whether it is a constitutional act has never been tested. I have some doubts about it myself I confess, though I do not see any necessity for discussing that question at this period.

Mr. TRUMBULL. I really cannot understand the Senator from Michigan. The proposition pending does not propose to naturalize any one by virtue of a State law. We propose by an act of Congress, an act of uniform operation, to make certain persons subject to military duty; and by way of illustration, I said it was competent for Congress to make them citizens. Congress has repeatedly done it. Several of the naturalization laws have declared persons in the country at a certain period, and who took part in the defense of the country, to be citizens of the United States. This is not a proposition to allow the States to make citizens of the United States, but it is a proposition of Congress declaring that persons who take part in the Administration of the Government of the country shall be liable to military duty.

Mr. HOWARD. I think that perhaps the Senator from Illinois did not understand me. He perhaps was not attending to my remarks. What I said, or intended to say, was that the power of every nation in carrying on war is restrained to its own citizens in reference to the rendition of military service. They can call upon their own citizens, and their own citizens only, to render that service. That is the ground on which I start, as a principle of national law.

Mr. TRUMBULL. I do not agree with the Senator from Michigan as to the national law. I think a nation may call upon all persons within its jurisdiction to rally to its defense, and it is not necessary that they should be citizens of the country; but that is not the point: the question here is whether, when foreigners have voluntarily placed themselves under the protection of the Government and taken part in its administration, we may not compel them to perform military service.

I may state that this proposition is in harmony with the recommendation of the President, which was to subject to military duty all persons who voted at elections. It has been stated to me by the Senator from Pennsylvania that possibly this amendment ought to be modified or changed so as only to make liable those persons who vote at municipal elections under State or territorial authority; that as it is worded—I have not it before me at this moment—it might include persons who voted at corporate elections. If so, it ought to be changed.

Mr. CLARK. That cannot be the meaning of the word "voting."

Mr. TRUMBULL. No change is necessary, if that is not the meaning.

The amendment was agreed to.

Mr. SHERMAN. I now move to amend the section adopted as in Committee of the Whole on my motion, by adding the words stricken out in committee. I desire to make one more effort to increase the amount of the commutation. I think that without this amendment this bill amounts to nothing, or to very little. I therefore submit the amendment.

The PRESIDING OFFICER. The Senator from Ohio moves at the end of line twenty-one in the section referred to by him, after the word "calls," to insert the words, "and the maximum of commutation under this act shall hereafter be \$500, instead of \$300."

Mr. SHERMAN. I do not at this late hour intend to detain the Senate, nor would I move this amendment but that I feel the importance of it. The bill as it now stands is not very material. I have read over this bill, and I believe it discharges from enrollment more persons than it places on the list; that is, the second section, which gives States credit for the number of persons who are now in the naval service, I believe, will give a credit for a number—

Mr. FESSENDEN. Not those now in service, but those hereafter enlisted in the naval service are to be credited.

Mr. SHERMAN. No; those now in service.

Mr. WILSON. That have been enrolled.

Mr. SHERMAN. Yes; those that have been enrolled the States get credit for. I think the num-

ber of persons included in the second section will be nearly as great as those who were in the old law subject to exemption on account of the care of parents and the like. I think the number will not materially differ, so that I think there is no substantial, no striking, marked difference between the two that makes this bill so preferable to the old law. There are some amendments wisely adopted; I have no objection to them, but there is no marked difference between the old enrollment law which Senators have complained over and over again failed, which the Department considered as having failed, and the proposed law. I think we ought to increase the commutation if we do not avoid it entirely. I therefore submit this amendment. It has already been sufficiently discussed—

Several SENATORS. Make it \$400.

Mr. SHERMAN. I do not think \$500 is too much, but it is within the power of the Senate to make it \$400 if they choose.

Mr. LANE, of Indiana. Mr. President, I have favored the conscription law; I have voted for it and have spoken in favor of it; but I shall feel constrained to vote against the bill now pending in its present shape. It is no conscription law. It is a revenue measure, not a conscription law, and it will not bring troops into the field, and I shall at the proper time move an amendment to the title of the bill. With proper regard to the courtesies of legislation, I think that amendment should be adopted, and then the title of the bill would read, "A bill to raise a tax of \$300 by lottery from certain able-bodied men who are unwilling to enter the military service of the United States." That is precisely what the bill is—no more, no less.

I shall not repeat my arguments about the \$300 commutation clause; it is unnecessary to do so. I will state, however, that if you pass this bill in this shape you will get no men under it. When the time comes to move in the spring campaign you must have more troops in the field than you now have. I will show you the great injustice of the bill as it now stands as affecting the people of my own State. The State of Indiana has filled up by volunteering her full quota. The State of Vermont, and, perhaps, the State of Rhode Island, have done the same thing. A call has been made for three hundred thousand troops. Indiana has placed her volunteers in the field. At the same time we say that the State of Pennsylvania—I only use the name of that State for illustration—or any other State which does not fill her quota by volunteering may buy an exemption for \$300. In other words, you require the personal service, the blood, it may be the life of the brave volunteers of my State, and you tell the people of other States, whose patriotism has not been so ardent as to fill their quota, that they discharge their full duty by paying \$300.

Suppose, if you please, that in the next spring campaign the Indiana volunteers shall march to the frontiers of Georgia; a great battle is fought; they are overpowered by superior numbers, and they fall by thousands; what answer is it when these people ask why your armies were not filled to tell them that certain patriotic sections of the country have bought exemption for \$300? Sir, this is simply a bill to prevent the operation of a draft. I am in favor of a conscription law, and would vote for it; but I will not vote for this most expensive, most cumbersome, and most demoralizing system of taxation that has ever been devised upon earth, and that is to assess arbitrarily by lottery \$300 upon the man who is so unfortunate as to be drafted. I am opposed to all commutation. I shall not vote to increase it to \$500. I would rather vote to make it five dollars or one dollar, and bring it within the reach of all, rich and poor, to buy their exemption if they choose. We need soldiers, and this is a military bill reported by the Military Committee. After it comes into the Senate an amendment is moved to strike out the report of that committee; and it is favored by the chairman of the committee. I am free to admit that he opposed this repeal all the while in the committee.

But if you are to have a conscription law, make it effective; do not leave it a mockery. I will vote for no such vicious and demoralizing system of taxation as this. I shall vote against the whole measure, with the perfect confidence that in less than three months this Senate will pass a con-

scription bill which shall be effective for the purposes intended by it, and which shall not deceive the people by proposing to raise men on the one side and offering to allow the purchase of exemption by the payment of \$300 on the other. If you pass a conscription bill which will fill the ranks of your armies and thus satisfy the confederate States in rebellion and satisfy the world that we are going to use the whole physical power of the Government to crush out this rebellion, you will do more toward that object than by any other means; but if you pass this bill I shall regard it as more disastrous to the country than a reverse to our armies in the field. You simply say that instead of calling upon the whole power of the country to defend the country you will suffer the men whose patriotism is at fault, who lag behind, who do not fill their quota by volunteering, to be fully exempted on the payment of \$300. I apprehend nothing but the most disastrous consequences to result from such legislation as this.

Nor is the war over. Calculate the chances of reverses. It may last for years. I care not how many years it may last. I will fight it out to the bitter end; and I ask this Senate to rise to the height of this great argument, to remember what the country expects and what God demands. It is not a paltry sum of \$300, but, if needs be, it is the life of every able-bodied citizen in the Republic.

The PRESIDING OFFICER. The question is on the amendment as amended by the Senator from Ohio.

Mr. FESSENDEN. I suggest to the Senator from Ohio to take the amendment as it was amended yesterday. His first proposition was to make the commutation \$500. That was reduced, on motion of the Senator from New York, [Mr. HARRIS,] to \$400; and it stood in that position when the entire clause was erased from the amendment.

Mr. SHERMAN. I simply wish to get at the sense of the Senate, feeling myself impressed with the justice of my amendment. I offer now what I conceive to be the right sum; but if the Senate think \$400 better, they can vote down my proposition, and the Senator can offer another, making the sum \$400. I prefer to stand by what I consider to be the correct sum. If the Senate disagree with me, as a matter of course the proposition to fix it at \$400 can be made just as it was before.

Mr. FESSENDEN. The only objection I have to it, and which weighs on my mind, is the one which I have stated when the Senator offered this proposition in Committee of the Whole. It was one derived from our experience on this subject. We made \$300 the maximum in the former bill. The result was that the maximum was offered, and to veterans with the addition of the \$100 which was before given as bounty by the War Department. Then when it became advisable to offer premiums for volunteering, they arrived at those premiums in the same way. Now, if we should raise this sum to \$500, and it should be again decided by the War Department or the Executive that it was better to proceed by way of offering premiums, my idea is that the amount we fix by way of commutation will form the precise rule by which they will arrive at the sum to be offered as premium, as it did before.

My habit of thought here in the Senate probably arises from the exclusiveness to which my attention has been devoted to the subject of money; and perhaps that may have narrowed my views in a very considerable degree. I have been, however, in the habit of thinking that that which lay at the bottom of the whole struggle was the ability to meet the expenditures of the war, and so to conduct our affairs that at no time should we be left in a position in which we had not the means to carry on the war. I saw, or I believed I saw, that if that time should come, we should find the severest blow that could possibly be struck by us or anybody else had been struck at the success (if anything in the world could prevent it) of the war which we are carrying on at the present time.

That forms my only objection to this proposition. I admit there is something in the argument which my friend from Ohio has adduced, that owing to the expansion of the currency the \$500 would not probably be larger than the \$300 was at the time we passed the bill. I do not think there is that difference between that period of time

and the present; but still, yielding something to that argument, I should be willing to raise the commutation somewhat, although I dread the consequences of keeping on in the line which seems to have been adopted with regard to this matter.

Now, sir, one word to my honorable friend from Indiana. I do not think that the consequences which he has portrayed are exactly necessary or unavoidable. If I understand this draft at all (and perhaps I do not, for I have not been able to give the same degree of attention to military matters that I have to some others) I do not see that the payment of a certain sum of money by way of commutation exempts a State from furnishing its quota. If, for instance, a call is made and a certain number of men is required from a particular State, a draft is made and a certain number of men are drawn. A portion of them pay their commutation, thus falling short of the number called for. Is it not manifest that all they have to do is to order another draft under that call and keep on drafting until they get the number required from that State? I apprehend that is the ordinary course to be pursued, and that is the course which I supposed would have been pursued under the law that we passed last year. The Executive Department, for what seemed to it good reasons, and which reasons have been approved by Congress in the laws that have been passed at this session with regard to it, adopted a different system; but still there was a course which the Executive might have followed, to wit: if the first draft failed, order another, and another, and another, until the required number of men were drawn, unless the quota was filled in some other way. That was not done, and therefore the consequence followed which has been pointed out by the Senator from Indiana.

Mr. LANE, of Indiana. If the Senator will pardon me a moment, under that bill, as under this one, a man could buy himself off by the payment of \$300; and if all those who were drafted were to buy themselves off, there would be no men furnished.

Mr. FESSENDEN. Exactly; but all do not buy themselves off, and when you have exhausted the roll you put all those who have paid in the wheel and draw them over again. That is what you will do under this bill as it stands. Unquestionably that is the effect of it.

Mr. SHERMAN. With the consent of my friend from Maine, I will say it will operate more strongly against those States that pay, because they must still furnish their quota. After paying the commutation, they must go on and fill up their quota.

Mr. FESSENDEN. Unquestionably they have got to furnish their number of men. If you require a thousand men and they are drawn, and five hundred pay commutation, and you get but five hundred, you have got your commutation for five hundred, and then you draw again to get five hundred, and you keep on drawing until you get the number required. If all of them pay, you put all the names in and draw again until you get the required number. That is what the law is, and that is what you do.

Mr. GRIMES. How long do you do that?

Mr. FESSENDEN. Just exactly until you get the men required, be it longer or shorter. The result is, that the States which pay not only pay but furnish the men too if the thing is followed; and therefore the consequence by no means follows that my friend from Indiana has pointed out if the Government choose to enforce the law which we put into their hands. Besides, this commutation money does get men. It is used for other purposes. It may be used to hire colored men or other men in other sections of the country; and yet it does not excuse the State from furnishing the number called for, unless they raise it by volunteering or otherwise. It only leaves that State to bear a double burden. I will take for example its effect in my own State. We have got to raise our quota and fill it up. Vermont has filled hers. A large number in my State paid the commutation; but still the men have to be furnished. How do we do? A great many persons paid commutation, and then the towns and cities went to work and offered large bounties to men to come forward and enlist. In addition to getting the bounties offered by the United States, recruits received bounties from the towns. Men

got \$800 and \$1,000 for enlisting. Thus it will be seen that the payment of commutation throws a very heavy burden on the State which pays; but it is a burden which the State chooses to take upon itself. It does not add one feather to the weight that is placed on the State that is so well represented by my honorable friend from Indiana—not a feather. It only shows that if the men of that State volunteer and do not pay they do not bear so heavy a burden as we do, for we furnish the men and pay besides.

Mr. President, so much feeling should not exist on this subject. I always regret to differ from the report of a committee which has investigated a subject, but because a committee make a recommendation to the Senate and the Senate chooses to differ, chooses not to be convinced, and follows the views of the minority, I do not see that it gives occasion for so much feeling, as if the committee or the members of the committee who constitute the majority had been injured because on full discussion a majority of the Senate come to a different conclusion. Why, sir, it is my fate very frequently to make reports from my committee which the Senate overrule decidedly and promptly. I do not feel hurt about it in any shape or form. I do the best I can to enforce my own views, and if the majority is against me I do not allow myself to feel as if I had been personally injured because other people think themselves wiser than I am, and I have come very frequently to the conclusion myself that they are wiser than I am, and am very glad they did so decide. I do not think, therefore, because my honorable friend from Indiana and certain other gentlemen on that committee have considered this subject and have very strong and fixed opinions upon it that it necessarily follows if the majority of the Senate, two to one, decide otherwise, that they are right and the majority are wrong, and that the country is necessarily to sink because their views are not carried out.

Now, sir, there is room for a very great difference of opinion on this subject. I confess I have thought from the beginning that this idea of commutation was a wise one. It excuses no State from its quota, but it relieves a great many persons who are not able to serve in person. It does not diminish one whit the force of the argument that every one owes his personal service, and when the time comes must yield his personal service. If the country can afford to dispense with it for a time on certain conditions, it does not vary the principle. The only question is whether the time has come when it cannot dispense with the personal service of any and every man. When it does come, then it must be met. The argument I adduced in reference to that matter was founded on that idea; but at the same time it was founded, as Senators will recollect, on the idea that we were to take a different course from that which has been taken heretofore; and that was, to insist on the draft and carry it through.

Sir, if you had taken that system, or if you will take that system, and will insist upon it, and carry it through from beginning to end, time after time, and abolish your system of offering enormous bounties, and put it upon the question of compulsion alone, I will vote to strike out the commutation; but Congress will not do that, and the Government, including the whole of its departments, will not do it. Therefore, so far as that is concerned, the two points must be taken together in the shape in which I introduced them, if I am to be considered as bound by them.

If this principle of commutation is wrong, I hope my view will be overruled. I want to reach the right; but at the same time I do not feel compelled, especially by strong denunciations, to yield my deliberate judgment with reference to it; nor do I feel compelled, because an individual Senator may think we are doing great injustice in a particular case to believe that I am willfully doing that kind of injustice or any injustice in relation to the matter.

If the sum is too small I am perfectly willing to enlarge it; but avoid, if you can, the risk (because I believe it is a risk) of making such tremendous drafts upon what, after all, lies at the bottom of the whole, and which we have got to consider, and do not carry it to such a point as in a measure to defeat our own object by striking out that which is most essential.

Mr. TRUMBULL. I think it is very manifest

that we cannot finish this bill to-night, as debate is springing up all over the Senate upon it. I should be quite willing to sit here if I thought we could finish it within any reasonable time; but I do not think we can; and, as it is somewhat important that we should go into executive session for a few minutes, I move that the Senate proceed to the consideration of executive business.

Mr. WILSON. I hope we shall not go into executive session.

Mr. HARRIS. I hope the Senator from Illinois will withdraw his motion for the present. I think we can dispose of this bill in a very few moments. I will move to amend the proposition of the Senator from Ohio, as I did yesterday, by striking out "five" and inserting "four." I hope the Senate will take a vote on that question at once, and then I think we can dispose of this bill in a few minutes.

Mr. TRUMBULL. Certainly; I will withdraw it. I do not wish to press the motion if we can get through with the bill to-night; but at the same time we are just punishing ourselves and accomplishing nothing. I withdraw the motion.

The PRESIDING OFFICER. The Senator from New York moves to amend the amendment of the Senator from Ohio by striking out "five" and inserting "four," so that the maximum of commutation shall be \$400 instead of \$500 as proposed in that amendment.

Mr. FOSTER. I ask unanimous consent to move that when the Senate adjourn to-day it be to meet on Monday next.

Mr. COLLAMER. Let us first ascertain whether we can finish this bill.

Mr. FOSTER. I withdraw the motion.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New York to the amendment of the Senator from Ohio, striking out "five" and inserting "four."

The amendment to the amendment was agreed to; there being, on a division—ayes 22, noes 18.

The PRESIDING OFFICER. The question recurs on the amendment as amended, by which the maximum of commutation is fixed at \$400 instead of \$300.

The question being taken, there were, on a division—ayes 23, noes 17.

The PRESIDING OFFICER. The amendment is agreed to.

Mr. HENDRICKS, Mr. CONNESS, and Mr. POWELL called for the yeas and nays.

The PRESIDING OFFICER. The Chair will entertain the call, although it is out of the power of Senators to call for the yeas and nays after a division has been had, and the result has been announced. The Chair is unwilling to conclude the action of the Senate by what may, perhaps, be regarded as a premature enunciation on the part of the Chair. The yeas and nays are demanded on this question.

The yeas and nays were ordered.

Mr. DAVIS. I voted for the amendment to the amendment last voted upon under a misapprehension, and I therefore move its reconsideration.

Mr. HOWE. There is a question pending.

The PRESIDING OFFICER. The question now is on the amendment as amended.

Mr. DAVIS. I voted for the amendment to the amendment.

Mr. GRIMES. The Senator voted to strike out "five," and to insert "four."

Mr. DAVIS. Yes, sir, by misapprehension; and I move a reconsideration of that vote.

The PRESIDING OFFICER. The Senator from Kentucky moves to reconsider the vote by which the Senate amended the proposition of the Senator from Ohio by striking out "five" and inserting "four."

Mr. FOSTER. I ask whether that is in order during the pendency of this other question?

The PRESIDING OFFICER. The Chair regards it in order as a privileged question, as the Senate is not in the act of dividing.

Mr. GRIMES. I want to understand what I am going to vote for. As I understand the question, if I am in favor of substituting \$500 in the place of \$300, as the law now stands, I vote "aye" with the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky moves to reconsider the vote by which "five" was stricken out and "four" was inserted. If that motion to reconsider be carried,

the first question will then recur on agreeing to the amendment to the amendment inserting four instead of five, and if that is negatived, the question will stand on the original proposition fixing \$500.

Mr. SHERMAN. The Senator from Kentucky says he voted under a misapprehension. Under those circumstances it is always customary, I believe, to allow the vote to be taken over again. I hope that will be done, and that we shall then have a vote by yeas and nays on both propositions.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment moved by the Senator from New York to the amendment moved by the Senator from Ohio, to strike out "five" and insert "four."

Mr. GRIMES. On that question I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 16; as follows:

YEAS—Messrs. Anthony, Carlile, Clark, Collamer, Conness, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Harris, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, Morrill, Powell, Saulsbury, Trumbull, Van Winkle, Willey, Wilson, and Wright—27.

NAYS—Messrs. Brown, Buckalew, Chandler, Grimes, Harding, Harlan, Henderson, Howe, Morgan, Nesmith, Ramsey, Sherman, Sumner, Ten Eyck, Wade, and Wilkinson—16.

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Ohio as amended upon the motion of the Senator from New York, and upon this question the yeas and nays have been ordered. The question is on substituting \$400 as the maximum price of commutation in the place of \$300 as it now stands.

The question being taken by yeas and nays, resulted—yeas 22, nays 19; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Collamer, Doolittle, Fessenden, Foot, Foster, Hale, Harding, Harlan, Harris, Johnson, Lane of Kansas, Morgan, Morrill, Nesmith, Ramsey, Sherman, Sumner, Wade, and Wilson—22.

NAYS—Messrs. Anthony, Buckalew, Carlile, Conness, Cowan, Davis, Dixon, Henderson, Hendricks, Howard, Lane of Indiana, Powell, Saulsbury, Sprague, Ten Eyck, Trumbull, Van Winkle, Willey, and Wright—19.

So the amendment, as amended, was agreed to.

Mr. HOWE. I have an amendment which I wish to offer. It has been submitted to the chairman of the Committee on Military Affairs, and there is no objection to it:

And be it further enacted, That the fifteenth section of the act to which this is amendatory be so amended that it will read as follows: "That any surgeon charged with the duty of such inspection who shall receive from any person whomsoever any money or other valuable thing, or agree, directly or indirectly, to receive the same, to his own or another's use, for making an imperfect inspection or a false or incorrect report, or who shall wilfully neglect to make a faithful inspection and true report, and each member of the board of enrollment who shall wilfully agree to the discharge from service of any drafted person who is not legally and properly entitled to such discharge, shall be tried by a court-martial, and on conviction thereof be punished by a fine not less than \$300 and not more than \$10,000, and shall be imprisoned at the discretion of the court, and be cashiered or dismissed the service."

Mr. JOHNSON. Does that apply to surgeons in the Army alone?

Mr. HOWE. Surgeons of the board of enrollment.

Mr. DOOLITTLE. It is all right.

Mr. JOHNSON. It may be all right, but the suggestion I was about to make was whether it be advisable to try by court-martial—

Mr. HOWE. The law as it now stands provides for that mode of trial.

Mr. JOHNSON. Very well.

Mr. LANE, of Indiana. If I understood the argument of the honorable Senator from Maine, [Mr. Fessenden,] either he or myself very much misapprehends this whole bill. I understood that his argument proceeded on the ground that although the \$300 exemption was paid, the States were still bound to furnish their quotas respectively without regard to that. If I am correctly informed, under the operation of the old conscription law (and I suppose it will be the same under this bill) every single exemption on payment of \$300 was counted as part of the quota of the State in which the man lived who paid the money. I so understand, and for the correctness of the position I appeal to those more familiar with the subject than I am. Instead of taking on a double

burden, the quota of those States whose citizens do not volunteer but buy their exemptions from the draft by the payment of \$300 is considered filled by paying the \$300 precisely as much as by putting a man in the field.

Mr. COWAN. I do not know how that fact was; but I think before the drawing in Pennsylvania, a certain number of men was required as her quota, fifty per cent. was added to that number, and then the drawing took place. This drawing was made out of the enrollment before it was purged of any exemptions whatever. They drew on till they drew the number called for, and fifty per cent. additional, and then stopped.

Mr. LANE, of Indiana. Notwithstanding those who had paid?

Mr. COWAN. They drew a certain number of men. If some paid, very well; if not, otherwise. If nobody paid and nobody was exempt for physical disability or for any other reason authorized by the law, then they would have had not only the number called for, but fifty per cent. more. They drew the number called for, and fifty per cent. additional, and then stopped.

Mr. LANE, of Indiana. Was not every man who paid \$300 counted in making up the quota of that State as one furnished to the Army? That is the question.

Mr. COWAN. That question did not arise. They drew the number of men called for, and they drew fifty per cent. more, but it was not questioned whether the quota was made up in men or whether it was made up in men and money, so far as I have understood.

Mr. FESSENDEN. I do not know how the fact may be as to what construction was put upon this portion of the law at the War Department; I have not heard. I was only speaking of my own construction. I regard this privilege of paying \$300 and being exempted thereby merely as a personal privilege. The Government calls for so many men from a State. It provides that any one man who pays a certain amount may commute by paying that amount, and that goes into the Treasury, or goes into the hands of the War Department to procure a substitute; but I remember nothing in the law which says in any way that that shall excuse the State from furnishing the number of men called for. By way of illustration, let me suppose (though it is an absurd supposition as a matter of fact) that everybody all over the United States paid the commutation, we should be without men, and the Government would be left to get men by volunteering, and the draft would be at an end. Nobody can put that construction upon it.

Mr. LANE, of Indiana. They have done it.

Mr. FESSENDEN. The Senator I suppose understands so, but I doubt it very much, and if they have put that construction upon it, I doubt very much whether it is the correct construction. To be sure, I have not scrutinized the law carefully so as to give an opinion upon this point as a lawyer, but I never had that idea for a single moment; and hence I contended that the business of the Government was, when the first draft failed to give the number of men required, to go on drafting until they got it. There was perfect authority for that. The law can be turned to by any gentleman, and let him see if he can find anything in it which says that a man paying the \$300 shall be credited to the State toward the number of men called for from the State. There is nothing of that sort in the law.

Mr. JOHNSON. The opinion of the Department is otherwise, as I understand.

Mr. COLLAMER. I wish to know what is the question before the Senate.

The PRESIDING OFFICER. The question before the Senate is on the amendment moved by the Senator from Wisconsin, [Mr. Howe.]

Mr. COLLAMER. This discussion seems to have nothing to do with that.

Mr. DAVIS. I wish to say a single word on the amendment before the Senate. I am in favor of its principle decidedly, and if the Senator from Wisconsin will make the civil courts the tribunal to try the offenses that it recognizes, I shall vote for it with a great deal of pleasure.

Mr. ANTHONY. They are military officers.

Mr. DAVIS. I do not so understand.

Mr. HOWE. Certainly they are.

Mr. DAVIS. Then I have nothing further to say.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Wisconsin.

Mr. HOWE called for the yeas and nays; and they were ordered.

Mr. WILSON. I understand that this amendment moved by the Senator from Wisconsin simply imposes the same punishment upon the enrolling officer that it imposes upon the surgeon.

Mr. HOWE. It increases the penalty.

Mr. WILSON. And it increases the penalty slightly. At the time we passed the original act, the enrolling officer was regarded as a temporary person employed for a short time; but as he is now necessarily employed throughout the year, and will be while the war lasts, there is no reason why he should not be put under the same restrictions that the surgeon is. He is part of the board. I think the measure right, and I hope it will be adopted.

Mr. HOWARD. I concur entirely with the Senator from Massachusetts in reference to the necessity of amending the fifteenth section of the conscription law. The board consists of three persons; one of these persons is a surgeon, but while acting upon the board he has no more authority than any other member of the board; and this board, acting jointly, is the tribunal to which are referred all questions relating to causes of exemption. Now, the law as it stands, the law of 1863, inflicts a very severe punishment upon the surgeon for misconduct in the examination of recruits, but it inflicts no punishment at all upon other members of the board who are guilty, perhaps, of conduct equally corrupt, equally reprehensible. It seems to be a *casus omissus* in the old statute, which, it appears to me, ought to be supplied. That is the sole purpose, to put all the members of the board on the same level as to guilt and as to punishment.

Mr. DAVIS. I do not consider that the other members of the enrolling board than the surgeon are in the military service of the United States. I regard them as civilians performing an isolated military duty; and I do not believe that they can be properly made subject to punishment by a military tribunal.

Mr. HOWARD. I dissent entirely from the view taken of this subject by the Senator from Kentucky. I regard the entire board as being in the military service of the United States under the Constitution, and subject to martial law, subject to be tried and punished by court-martial; but it is too late in the day to argue that question; I simply rose to state my dissent from the view which the Senator from Kentucky takes of it.

The question being taken by yeas and nays, resulted—yeas 33, nays 7; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Ramsey, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Willey, and Wilson—33.

NAYS—Messrs. Buckalew, Davis, Harding, Hendricks, Powell, Saulsbury, and Wright—7.

So the amendment was agreed to.

Mr. JOHNSON. Mr. President, whether the Senator from Maine is correct or not in the proper construction of the act of last session in the particular to which he has alluded, I am not prepared to say. I have not looked at the law recently, nor do I remember that I have looked at it at all with a view to the particular question to which he has referred; but my belief is that the Department have put upon it the interpretation mentioned by the Senator from Indiana, and they have done it upon the theory that the payment of \$300 by the drafted person is equivalent to furnishing a man. If Maryland, for example, has eight thousand as her quota, and only four thousand of them actually go into the field, either by way of substitute or in person, and the other four thousand pay each his \$300, Maryland's quota is considered as full, because, according to the interpretation put upon the law by the War Department or by the President, the money is considered as equivalent to a man.

I can readily see that very great mischief may be the result of that construction; but I am not prepared to say that the construction is not right. If it be right, it is a mischief that I think consequent upon that construction, that ought to be corrected. It would seem to be but just, if the \$300, or the \$400 as we have made it now, procures a

man, that the State should have the benefit of that man, of that equivalent; but if the \$400 will not procure a man, and it may not, it would seem but right, and necessary indeed, that the man should be supplied in some other way; and the only mode in which the man can be supplied, if the \$400 does not get him, is by going again to Maryland—I instance Maryland for the purpose of illustration merely—and insisting upon another draft. I have no doubt that the Senator from Maine is correct in saying that the whole object of the conscription may be defeated by such an interpretation as I believe has been given to the law by the Department; but if the Senate should think that that interpretation ought to be guarded against by making the law plain upon the subject, or by making a law for the first time on the subject, in preparing such an amendment it will be found, I think, when we come to make the attempt, that it will not be so easy to do it without doing some other wrong; and it is so late now in the day that individually I would prefer, and I therefore suggest, that the Senate adjourn until to-morrow.

Mr. LANE, of Indiana. If the Senator will withdraw that motion for a moment, I will offer an amendment on this subject, so that it may be printed, and considered when we meet again. I offer the following amendment to come in at the end of the amendment of the Senator from Ohio, [Mr. SHERMAN:]

The money paid for commutation within any State shall be expended to procure substitutes for persons drafted within such State, and the payment of commutation money by any drafted person shall not operate to release the State in which he was drafted from filling its quota, but the draft shall proceed in such State until its quota is filled.

Mr. JOHNSON. That does not cover it. The intention was, I understood, to present the proposition with a view to have it printed.

Mr. LANE, of Indiana. Yes, sir.

Mr. JOHNSON. I now move that the Senate adjourn.

Mr. SUMNER. Let us adjourn to Monday.

Mr. JOHNSON. I said until to-morrow.

Mr. RAMSEY. Would it be in order now to move to adjourn over to Monday before we adjourn?

The PRESIDING OFFICER. It would not.

HOUSE BILLS REFERRED.

Pending the motion to adjourn, the following bills from the House of Representatives were severally read twice by their titles, and referred, namely:

A bill (No. 143) to amend the law prescribing the articles to be admitted into the mails of the United States—to the Committee on Post Offices and Post Roads.

A bill (No. 144) to indemnify the owners of the British schooner Glen—to the Committee on Foreign Relations.

A bill (No. 145) for the relief of the heirs of Noah Wiswall—to the Committee on Public Lands.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maryland, [Mr. JOHNSON:] that the Senate do now adjourn.

The motion was agreed to; there being, on a division—ayes 24, noes 17; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Friday, January 15, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

The SPEAKER stated that the regular order of business was the call of committees for reports of a private character.

POST ROUTE IN THE TERRITORIES.

Mr. BENNET, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to consider the propriety of establishing a post road from Denver, in the Territory of Colorado, via the eastern base of the Rocky mountains, to Banck City, in the Territory of Idaho, and report by bill or otherwise.

MILITARY POSTS IN COLORADO.

Mr. BENNET also, by unanimous consent, and in pursuance of previous notice, introduced a bill making an appropriation for military posts in the Territory of Colorado; which was read a first and

second time, and referred to the Committee on Military Affairs.

MILITARY ROAD.

Mr. BENNET also, by unanimous consent, and in pursuance of previous notice, introduced a bill making an appropriation for a military road from Denver, in the Territory of Colorado, to Camp Crittenden, in the Territory of Utah; which was read a first and second time, and referred to the Committee on Military Affairs.

MINERAL RESOURCES, ETC.

Mr. BENNET also, by unanimous consent, and in pursuance of previous notice, introduced a bill to provide for the development of the mineral resources of the United States and of the public domain; which was read a first and second time, and referred to the Committee on Public Lands.

NEW POST ROUTE.

Mr. COLE, of Washington, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of establishing a post road from Fort Bridger, Utah Territory, via Boise City, Idaho Territory, the Powder river and Grande Ronde valley, in the State of Oregon, to Walla-Walla, Washington Territory, and provide for the conveyance of the same by daily service in four-horse coaches, and to report to this House thereon.

HOMESTEAD LAW.

Mr. WINDOM, by unanimous consent, and in pursuance of previous notice, introduced a bill amendatory of the homestead law, and for other purposes, which was read a first and second time, and referred to the Committee on Public Lands.

NEW POST ROUTE.

Mr. HUBBARD, of Iowa, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post road from Sioux City, in Iowa, by the way of Yankton, in Dakota, the Niobrara valley, in Nebraska, and Gallatin, in Idaho Territory, to the capital of Idaho Territory.

COLLISIONS ON THE WATER.

Mr. ELIOT, by unanimous consent, from the Committee on Commerce, reported back bill of the House No. 62, fixing certain rules and regulations for preventing collisions on the water, and moved that the same be recommitted to the Committee on Commerce, and be printed.

The motion was agreed to.

ADMEASUREMENT OF TONNAGE.

Mr. ELIOT also, by unanimous consent, and from the same committee, reported back bill of the House No. 119, to regulate the admeasurement of tonnage of ships and vessels of the United States, and moved that the same be recommitted to the Committee on Commerce, and be printed.

The motion was agreed to.

SMALL-POX IN THE DISTRICT.

Mr. LOVEJOY. I desire to state to the House that the Committee for the District of Columbia, under the instruction of the House, have had the matter of the small-pox in this District under consideration, and have received several communications from different persons, which I ask to have read.

The Clerk read, as follows:

January 14, 1864.

Sir: The undersigned, members of the committee to whom a reference was made to examine into the corporate powers of the Mayor and City Council of the city of Washington, respectfully report, that among the powers conferred by the act of 1830, incorporating the city of Washington, and still in force, are the following, contained in section seven:

"To establish a board of health, with competent authority to enforce its regulations, and to establish such other regulations as may be necessary to prevent the introduction of contagious diseases and for the preservation of the health of the city."

And the following in section eight:

"To establish and erect hospitals or pest-houses," &c. Considering these provisions and the annexed report of the Surgeon General, it appears to the undersigned that no further legislation by Congress is necessary in the premises. All which is respectfully submitted.

THOMAS T. DAVIS,

JOHN B. STEELE.

Hon. OWEN LOVEJOY,

Chairman Committee District of Columbia.

SURGEON GENERAL'S OFFICE,

WASHINGTON CITY, D. C., January 13, 1864.

Sir: I have the honor to report, for the information of the Committee of the House for the District of Columbia,

that, having received authority from the honorable Secretary of War to give hospital accommodation to all such cases of small-pox occurring in the District as could not be provided for by the civil authorities, measures were adopted two months since to enlarge the Kalorama hospital, and upon application by the mayor or superintendent of police, small-pox patients are at once removed to it for treatment. A small-pox hospital has also been established at Alexandria, under similar regulations. Increased facilities for vaccination, or revaccination, have been furnished for all employees of the Government, and it has been recommended to the superintendent of police that an office for gratuitous vaccination of all persons be at once opened in a central portion of the city.

The vaccination of all children attending the public schools, and of all the police and other employees of the city, could be made compulsory, and is respectfully recommended as a sanitary measure.

Very respectfully, your obedient servant,

JOSEPH K. BARNES,

Acting Surgeon General.

Hon. OWEN LOVEJOY,

Chairman House Committee of District.

MAYOR'S OFFICE, CITY HALL,

WASHINGTON, D. C., January 11, 1864.

Sir: In compliance with your request to inform the committee of which you are chairman what measures had been adopted to prevent the spread of eruptive contagious diseases, and what provision made for the care and treatment of those afflicted therewith, I have the honor to state that the small-pox, which now apparently creates some apprehension in the public mind and alarm in the Houses of Congress was, previously to 1861 and the breaking out of this rebellion, an event of so rare an occurrence that it excited little or no attention in the community.

The bringing into the city of thousands, and the crowd that usually follows such bodies, if it did not introduce, certainly occasioned the spread of the contagion, and induced me to call the attention of the City Councils to the fact of its prevalence in our midst in the following communication:

MAYOR'S OFFICE, CITY HALL,

WASHINGTON, D. C., December 1, 1861.

To the Board of Aldermen and Board of Common Council.

GENTLEMEN: It may not be improper to suggest to your Boards the necessity of making some provision for the speedy removal of infected persons, the destruction of furniture and wearing apparel, where necessary for the health of the community. The rapid spread of eruptive contagious diseases renders some action on your part imperatively necessary, and must be my apology for calling your attention to this subject.

Very respectfully,

RICHARD WALLACH, Mayor.

As an additional precautionary measure, the necessity of immediate vaccination was urged upon the community through the daily newspapers, and notice given to all unable to pay that such service would be gratuitously performed by any of the several ward physicians of this corporation, and in the short period of five months no less than twenty-two hundred and eighty were attended to at an expense to the city of \$1,140, or fifty cents in each case, in addition to the annual compensation of the physicians.

Since then the Councils, as necessarily required, have made appropriations of money for the enlargement of accommodations, and the care and treatment of such cases, and for that purpose have spent during this time \$8,318 27, provided for the appointment of another medical officer, whose exclusive duty it is to attend to diseases of that kind, and taken care of all persons disposed to avail themselves of it, whether citizens or transients, and all followers and attaches of the Army other than enlisted men or volunteers.

Until lately the General Government made no provision of this kind for certain employees and attaches of the Army (unenlisted men) engaged in various capacities in and about the fortifications and other places; persons (soldiers) once in service and discharged, and contrabands (negroes) who having been in the service of individuals had forfeited its protection and were no longer entitled to be provided for by it.

These, together with the vast number of wives and children who followed their husbands and parents, and the thousands who flocked to this city in consequence of the war, filled both its small-pox and general hospital, (almshouse,) and caused the spread of the disease. Apprehensive that the approaching cold weather, as is ever the case with this disease, would prove an element of its spread, and anxious to protect, and as far as possible provide for the wants of the community, I addressed on the 14th of November last the Quartermaster General on the subject, and in response thereto received from the acting Quartermaster General the following letter:

QUARTERMASTER GENERAL'S OFFICE,

WASHINGTON, D. C., November 21, 1863.

Sir: Your letter of the 14th instant to Brigadier General Rucker, calling attention to the fact that many of the Government employees, other than soldiers and contrabands, afflicted with small-pox are taken care of by the corporation, and requesting that some provision be made by the Government for taking care of such persons, was referred to this office on the 15th instant, with the following indorsement:

"Respectfully referred to the Quartermaster General.

"Employees of the Government, under my control, when attacked with small-pox have always been sent to the Kalorama hospital, and there taken care of.

(Signed),

"D. H. RUCKER,

"Brigadier General and Quartermaster."

Very respectfully, your obedient servant,

CHAS. THOMAS,

Acting Quartermaster General.

RICHARD WALLACH, Esq., Mayor of Washington.

Fearful that the reply of that officer might not be satisfactory, I addressed within two days thereafter the Secretary of War, and received from the War Department the

subjoined answer, from which you will perceive that not only has every possible precaution to prevent the spread of the contagion been taken, but likewise ample provision made for the care and treatment of all cases that may occur.

WAR DEPARTMENT,
WASHINGTON CITY, November 30, 1863.

SIR: The Secretary of War directs me to acknowledge the receipt of your communication of the 16th instant, requesting that some provision may be made by the Government for the care of "contrabands" and others than soldiers who are or have been connected with the Army, or the camps and forts in the vicinity of this city, who are suffering with the small-pox, and for whose care the city authorities are unable to provide.

In reply, the Secretary instructs me to say that on application by the mayor, or his authorized assistants, to Surgeon Abbott, Medical Director, such small-pox patients as the corporation of this city is not able to provide for will be taken care of. This direction has been given in order to prevent the spread of the disease, as the Surgeon General reports that ample provision has been made for the care of all sick who have any claim upon the United States, whether white or colored soldiers, or employes.

Very respectfully, your obedient servant,

ED. M. CANBY,
Brigadier General, A. A. G.

HIS HONOR R. WALLACH, Mayor Washington City, D. C.

Unfortunately there is no provision for that class of persons whose means enable them to dispense with the gratuity of the Federal Government or corporation, and as there is no power in either to force their removal to the hospitals, they remain in families in the most populated portions of the city, occasioning the spread of the disease and creating alarm.

Very respectfully, your obedient servant,

RICHARD WALLACH, Mayor.

HON. OWEN LOVEJOY, Chairman, &c., &c.

MR. LOVEJOY. I now report from the committee the following resolution, and I ask its adoption:

Resolved, That in the judgment of this House it would be advisable, as a precautionary measure against the spread of small-pox in the District, for the city authorities of Georgetown and Washington to furnish to all the families in said cities the means of vaccination at their places of residence, and at the public expense where individuals are unable or unwilling to defray the expense as a private charge, and that they require such children as for any reason have failed to be vaccinated, to absent themselves from the public schools until they shall have complied with the requisitions of the city governments in this respect, and it is respectfully recommended to the authorities of said cities to take immediate action in this direction.

The resolution was agreed to.

On motion of Mr. LOVEJOY, the Committee for the District of Columbia was discharged from the further consideration of the subject.

PAYMENT OF HOSPITAL DUES.

MR. WASHBURN, of Illinois, by unanimous consent, introduced the following resolution; and it was read, considered, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of providing by law for securing hospital dues from American vessels sold in foreign ports.

UNITED STATES MAILS.

MR. ALLEY, from the Committee on the Post Office and Post Roads, reported a bill to provide for carrying the mails from the United States to foreign ports, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted to the same committee.

MAILABLE ARTICLES.

MR. ALLEY. I am directed to report from the Committee on the Post Office and Post Roads a bill to amend the law prescribing the articles to be admitted into the mails of the United States, and to ask that it be put on its passage at once.

There was no objection, and the bill was received and read a first and second time.

The bill provides that articles of clothing, being manufactured of wool, cotton, or linen, and embraced in a package not exceeding two pounds in weight, addressed to any non-commissioned officer or private serving in the armies of the United States, may be transmitted in the mails of the United States at the rate of eight cents, to be in all cases prepaid, for every four ounces or any fraction thereof, subject to such regulations as the Postmaster General may prescribe.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

MR. ALLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HON. GEORGE L. BECKER.

MR. WILSON, by unanimous consent, from the Committee on the Judiciary, reported back

the memorial of Hon. George L. Becker, of Minnesota, for compensation as a member or representative in Congress from that State, and moved that the committee be discharged from its further consideration, and that it do lie upon the table; which motion was agreed to.

BRITISH SCHOONER GLEN.

MR. WASHBURN, of Illinois, from the Committee on Commerce, reported a bill to indemnify the owners of the British schooner Glen; which was read a first and second time.

The bill provides that there be paid to the owners of the British schooner Glen \$17,150 66, the same being the amount awarded as indemnity to the parties interested by the district court of the United States for the southern district of New York, for costs, damages, and expenses, by reason of illegal seizure of said vessel as a prize.

MR. WASHBURN, of Illinois. If objected to, the bill must go to the Committee of the Whole on the state of the Union; but I think it ought to be considered and passed at once. I ask the Clerk to read the letter of the President.

The Clerk read, as follows:

To the Senate and House of Representatives:

I transmit to Congress a copy of the decree of the court of the United States for the southern district of New York, awarding the sum of \$17,150 66 for the illegal capture of the British schooner Glen, and request that an appropriation of that amount may be made as an indemnification to the parties interested.

ABRAHAM LINCOLN.

WASHINGTON, January 7, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

MR. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HEIRS OF NOAH WISWALL.

MR. JULIAN, from the Committee on Public Lands, reported a bill for the relief of the heirs of Noah Wiswall; which was read a first and second time.

The bill and report were both read.

MR. JULIAN. I ask that the bill be now put on its passage.

MR. WASHBURN, of Illinois. I do not see but that this is a just claim. Does it only refund \$100 to these parties that was twice paid to the Government, without interest?

MR. JULIAN. The amount has been paid twice, and the bill provides for refunding it without interest.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

MR. JULIAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SECOND ASSISTANT SECRETARY OF WAR.

MR. SCHENCK, from the Committee on Military Affairs, reported back Senate bill No. 50, to authorize the President to appoint a Second Assistant Secretary of War, with the recommendation that it do pass, and asked that it be considered at once. The bill provides that the President shall be authorized to appoint, by and with the advice and consent of the Senate, for the term of one year from the passage of this act, an officer in the War Department, to be called the Second Assistant Secretary of War, whose salary shall be \$3,000 per annum, payable in the same manner as that of the Secretary of War, and who shall perform all such duties belonging to that Department as the Secretary of War shall prescribe or may be required by law.

MR. SCHENCK. Mr. Speaker, this bill has passed the Senate, and the Committee on Military Affairs of this House deem that there is an emergency requiring that it should be enacted into law. The history of the War Department in connection with this requirement is this:

An act was passed authorizing the appointment of an Assistant Secretary of War. Under it Mr. Watson was appointed, and is still serving. Some two years ago there was further legislation authorizing the appointment of two additional Assistant Secretaries, on account of the great labor thrown on that Department during the existing

war. The term of these two officers was limited to one year. The year expired in the spring of 1863, now nearly a year ago. The Secretary of War was of opinion that he might be able to get along with such other assistance as he had in the Department, without having the act revived. He has made the attempt, and it proves to be, in his opinion, a failure. He therefore asks, not that two Assistant Secretaries shall be authorized as before, but that the office shall be revived only as to one of them. That is the object of this bill. It is proposed that there shall be now an additional Assistant Secretary, and that his term of service shall expire in one year from the passage of the act.

As I propose to call the previous question, I shall be glad before doing so to answer any further inquiry that members may desire to make in regard to this matter.

MR. KASSON. I will ask the chairman of the Committee on Military Affairs the only question that occurs to me as important in this matter, which does not relate to the service of some officer in such a capacity, but whether there are not military officers already in the pay of the Government, not employed in actual service, who might be properly employed in this capacity. I desire to know whether the Committee on Military Affairs has considered this question. There are some major generals and brigadier generals about Washington, as we have had occasion to observe, who do not seem to be actually employed in the military service of the Government.

MR. SCHENCK. I am perfectly aware of the fact that a considerable number of Army officers, of high grade, are now unemployed, and I am equally aware that it may become necessary, before our legislation is ended, if the remedy be not applied from some other quarter, to attempt to remedy that evil. But this bill is offered for the purpose of meeting an emergency which cannot well be provided for by the detail of an Army officer to this position. Colonel Hardee is now detailed to the duties. Major Vincent also gives his attention to a large number of subjects which would come within the province of an Assistant Secretary. There are other officers employed in like manner. These officers work from thirteen to fifteen hours a day, and are almost broken down by hard work in the endeavor to perform the duties of assistant secretary, who should combine, in some degree, civil functions with a knowledge of military affairs. The Committee on Military Affairs has come to the conclusion, from inquiry at the War Department, that one additional Assistant Secretary of War is required.

MR. STEVENS. I think that any person who has had much business at the War Department must see the necessity of the passage of this bill. We know that Mr. Watson, whom I think equal to anybody that can be appointed to that post, had his health nearly destroyed in office, and was obliged to retire last summer for a season. No one will say that he is not entirely competent and trustworthy. If Colonel Hardee could remain where he is, I think no better man could be selected. So far as I have seen, he is both capable and courteous; but it is not every military officer who is fit for a place of that kind. Some of them may be good fighters, but very little acquainted with the laws of the country, as I think an Assistant Secretary of War ought to be. I think that most of the officers who are not employed in active service are hardly fit for anything else if they are not fit for that. Therefore I would rather that a bill of this kind should be passed, so that a man may be selected who is acquainted with law as well as with business generally. I only rose, however, to inquire whether the salary provided in this bill is the lowest sum paid to the Assistant Secretaries of any of the other Departments? I think that at least one of them is paid \$4,000.

MR. WASHBURN, of Illinois. One of them has \$4,000 a year; all the others have \$3,000. This bill provides for the lowest amount.

MR. SCHENCK. I now move the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered; and under its operation the bill was read the third time, and passed.

ENROLLED BILLS.

MR. COBB, from the Committee on Enrolled Bills, reported as truly enrolled a bill and joint

resolution of the following titles; when the Speaker signed the same:

A bill (S. No. 57) declaring the assent of Congress to an act of the Legislature of the State of Illinois therein named; and

A joint resolution (S. No. 15) amendatory of the joint resolution to supply in part deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties to volunteers.

SITTINGS OF A COMMITTEE.

Mr. SCHENCK, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be permitted to sit during the sessions of the House.

THE SPEAKER. The call of committees for reports of a private character being finished, reports are next in order of business of a public character, and under that call the House resumes the consideration of the resolution (H. R. No. 18) explanatory of "An act to suppress insurrection, punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," which was laid over from yesterday.

INTERNAL REVENUE.

Mr. HOOPER. I ask leave of the House to introduce an amendment to the bill of the House No. 122, to increase the internal revenue, and for other purposes. I do it at the request of the Committee of Ways and Means. It is a new section in place of section three of the bill, and I ask that it may be printed.

No objection being made, the amendment was presented, and ordered to be printed.

DAKOTA CONTESTED-ELECTION CASE.

Mr. DAWES. I wish to call up now, if the House will permit me, the contested-election case of Jayne and Todd, from Dakota Territory. It will take but a short time to dispose of it.

THE SPEAKER. It is a question of privilege, and the Clerk will report the resolution.

The Clerk read the resolution, as follows:

Resolved, That William Jayne, having presented a certificate in due form of law of his election as Delegate from the Territory of Dakota to the Thirty-Eighth Congress, is entitled to take the oath of office and occupy a seat in this House as such Delegate, without prejudice to the right of J. B. S. Todd, claiming to be duly elected thereto, to prosecute his contest therefor, according to the rules and usages of this House.

Mr. SMITH. I ask the gentleman from Massachusetts to allow me to offer a resolution in reference to this matter, in order that his remarks upon the subject may be addressed to it.

Mr. DAWES. I have no objection.

The amendment, which was read, was to strike out all after the word "resolved," and insert in lieu thereof the following:

That inasmuch as neither Mr. Todd nor Mr. Jayne, claimants from Dakota Territory, are admitted to a seat in this House, neither of them be sworn now, but the whole subject be referred back to the Committee of Elections for a report upon the merits of the case.

Mr. DAWES. The contest at this moment is, which gentleman shall occupy a seat here pending the contest upon the merits of the case. The Committee of Elections had this particular question referred to them upon the first day of the session, and the credentials upon which each of these gentlemen claims to be sworn in and to occupy a seat were referred to the committee. The committee have had that matter under consideration, and, without entering into the question of which of these gentlemen has actually been elected to the position, have instructed me to report that Mr. Jayne, having presented certificates in due form of law, is entitled to be sworn in and to occupy a seat during the contest.

I wish to state briefly the facts in the case, and then to leave it with the House. I think there can be no doubt, provided the House can decide which of them presented credentials here according to the forms of law, that he should be sworn in. I know of no more reason why both of them should be excluded from occupying a seat pending the contest than would prevail in the House touching any contest to a seat in this body. If any one contests the right of another member to a seat in this House, there is precisely the same reason that both should be excluded pending the contest as exists in this case. And if the facts set forth in the report be true, I think there can

be no more doubt as to which of these parties presents a proper *prima facie* case than exists to the right of any other one to occupy a seat here until some person shows a better right.

Therefore I am opposed in the outset to this question being sent back to the committee, and to both of these parties being excluded from a seat in this House until that question be settled. If one or the other of them has a right to occupy a seat at this present moment—and it is either Mr. Todd or Mr. Jayne—I take it for granted the House is capable of deciding that question upon the papers. The election at which both of these gentlemen claim to have been elected to a seat here, and in reference to which both of them have presented documents which they call papers contesting the seat, was held on the 1st day of September, 1862, in conformity to the laws of the Territory of Dakota. The laws of the Territory have constituted the Governor, the chief justice of the Territory, and the secretary of the Territory, a board of canvassers, to canvass the votes for this office, and to make a proclamation of the result; and they have also required the Governor of the Territory, in addition to that proclamation of the result, to furnish to the gentleman whom they declare to be elected a certificate of this election.

It is required by the statute of the Territory that this canvass shall be made upon the expiration of fifty days after the day of election, or sooner than that time if all the returns are in. There is also a special provision that if the returns are not in from all the precincts within that time, on the fortieth day the secretary of the Territory shall send a special messenger to any precinct from which the returns may not have reached him. In this case there was no messenger sent by the secretary of the Territory to any precinct in the Territory; but after the expiration of the fifty days prescribed by the statute the secretary of the Territory and the chief justice of the Territory, two of the three canvassers—the Governor being one of the candidates at the election, and the statute providing that if one of the canvassers should be himself a candidate he should not participate in the canvass—canvassed the votes as they stood in the secretary's office, and found Mr. Jayne to be elected by 16 majority. The secretary of the Territory, in conformity with law, made proclamation of that fact, and declared Mr. Jayne to be elected, and this proclamation bears date the 29th day of November of the same year. The proclamation was made by the secretary as acting Governor, the Governor—Mr. Jayne himself—being absent from the Territory, and the organic law of the Territory devolving the duties of the office upon the secretary during his absence. The Governor returned to the Territory before the certificate of the fact of his election was issued to him. By the same organic law he then became Governor, and the authority of the secretary as acting Governor ceased.

When he returned to the Territory the statute required the Governor to give a certificate of the fact found by the canvassers. Mr. Jayne made a certificate of that fact, and signed it himself as Governor. Thus the matter stood until about nine months after that time, when this same secretary, without the assistance of either of the other canvassers, gave Mr. Todd a paper under his hand, and under the seal of the Territory, reciting a fact, namely: that though the majority for Mr. Jayne was 16, after the canvass was made, and after the fifty days allowed by the statute for returns to be made had elapsed, there came into his office returns from Pembina, which is a precinct a great distance from the capital of the Territory, and which is known, I believe, to the country and in history. These returns were of 125 votes for Mr. Todd, and 19 votes for Mr. Jayne. About six weeks after that, the secretary gave Mr. Todd another paper, stating that he had not given any certificate to any person, or affixed the seal of the Territory to any such certificate. Those are Mr. Todd's credentials. Mr. Jayne's are the proclamation of the secretary and acting Governor of the Territory, made in precise conformity to law, declaring him to have received a majority of the votes in accordance with law, and also declaring him to be elected Delegate from the Territory, and his own certificate, issued by himself in strict conformity to the letter of the law, stating the same facts. Mr. Todd presents only a statement from the secretary of the Territory, that subsequent to

the time prescribed by law there came in these returns from Pembina, and also another paper stating that he had given no certificate to any other person.

This is the whole merit of the case. The Committee of Elections have entered into no investigation as to the genuineness of the vote from Pembina, about which there is much contest between the two gentlemen, and upon which, I suppose, the right to the seat may ultimately depend, the one alleging it to be a genuine vote, and the other alleging it to be entirely fictitious. It did not come within the scope of the inquiry of the committee, however, to examine that question at this preliminary stage. I therefore submit to the House that there can be no question on the *prima facie* case, and that Mr. Jayne is entitled to be sworn in.

I believe that Mr. Todd desires to address the House on this question, and I will, therefore, now yield the floor. When he has been heard, I propose to move the previous question.

Mr. SMITH. I regret to differ with the chairman of the Committee of Elections and with the majority of the committee in regard to this case. It is, however, a peculiar case, and one that deserves the serious consideration of the members of this House before they vote upon the question.

Now, sir, an election was held in the Territory of Dakota at the time prescribed by law. The returns of certain portions of the Territory were sent in to the secretary's office in proper time, and the secretary of the Territory, not having received the returns from one of the precincts or districts of the Territory, Pembina, proceeded, with one of the other commissioners authorized by law, to canvass the votes and to determine who was legally elected Delegate from the Territory.

The reason that the Pembina vote did not get in was on account of the Indian disturbances in that region, which cut off the communications. The law required, however, that returns not received by the secretary of the Territory in proper time should be sent for. That requirement was not complied with. Omitting the returns from Pembina which had not come in, and counting the rest of the returns, Mr. Jayne appeared to have a majority of 16, and the secretary of the Territory, in the absence of the Governor, issued a proclamation declaring that Mr. Jayne, having received a majority of 16, was elected Delegate in Congress from that Territory. The secretary also gave a certificate to Mr. Todd—it matters not when or how—that no seal had been attached by him to any certificate of election. The Governor of the Territory was absent when the canvass was made and when the proclamation was issued; but on his return, when he assumed the functions of Governor again, he issued a certificate to himself, sealing it with the seal of the Territory, which should be in the possession of the secretary, declaring himself duly elected Delegate in Congress from the Territory of Dakota. The secretary of the Territory issued to Mr. Todd a certificate, over his own signature, that he never knew of the seal being attached to any election certificate. Subsequently, or about that time, he certified to Mr. Todd that the vote of Pembina had reached the office and been counted, and that the whole returns showed that Mr. Todd had received a large majority over Mr. Jayne for the office of Delegate from the Territory.

The fact that the returns of Pembina were delayed was no fault of Mr. Jayne, or of Mr. Todd, or probably of any person interested. It was simply caused by the Indian disturbances in that region of country.

From the complicated character of the certificates on both sides, I have thought it proper, as far as I am individually concerned, to present the resolution which I have offered as an amendment to the resolution reported by the Committee of Elections. I think that the House should say to both these gentlemen that neither of them is shown by the papers presented to be entitled to a seat as Delegate, and that the whole matter should be referred back to the Committee of Elections for decision.

Mr. WASHBURNE, of Illinois. As I was out of the Hall when the gentleman from Kentucky offered his amendment, I would be glad to understand its precise terms.

The amendment was again read.

Mr. WASHBURNE, of Illinois. I understand the gentleman's amendment to assume that there

has been no election in Dakota Territory. I think that either of these gentlemen must have a *prima facie* case. If it be Mr. Jayne, I am for admitting him to a seat. If it be Mr. Todd, I am for admitting him. Either of them must have a *prima facie* case; this being merely a preliminary matter to determine who is entitled to be sworn in.

Mr. SMITH. I was coming to that point. It may probably turn out, on examination of the certificates, and of the testimony in the case, that neither of these gentlemen is entitled to a seat on this floor, and that the Committee of Elections can do nothing else than refer the whole matter back to the people of the Territory. It is in that view that I wish the case to be sent back to the Committee of Elections, so that the committee may determine on the merits of the case and decide whether either or neither of them is entitled to a seat on this floor.

Mr. HUBBARD, of Iowa. I do not propose, Mr. Speaker, to discuss the merits of the question now, but as I reside in the immediate vicinity of this Territory, I wish to make a single remark in regard to the wishes of its people. They are entitled to a representative on this floor, and in their behalf I protest against the adoption of the amendment offered by the gentleman from Kentucky, [Mr. SMITH.] Either one or the other of these gentlemen has a *prima facie* case, and is entitled to his seat; and the citizens of Dakota Territory are entitled to have the benefits and advantages of his representation. There are interests to be represented here of importance to the people of that Territory, and which demand immediate attention. I therefore hope that the amendment will be rejected.

Reference has been made to the Pembina vote. I do not think that that should control the action of the House. A canvass was made at the time prescribed by law, and in that canvass Mr. Jayne was declared duly elected Delegate of the Territory of Dakota, and holds the certificate of the Governor of the Territory to that effect. That certificate entitles him *prima facie* to a seat on this floor. On the other hand, Mr. Todd has no certificate either in substance or in form. He has no certificate even if Mr. Jayne were not here asking for a seat. Mr. Todd has no certificate that would entitle him to be sworn in as a member of this House.

This, Mr. Speaker, is all that I wish to say on the question at this time. I only rose for the purpose of urging upon the attention of the House the importance of admitting one of these men upon the floor, so that the citizens of Dakota Territory may be represented.

Mr. GANSON. What Governor was it that gave the certificate, and who attached the seal to the certificate of election?

Mr. HUBBARD, of Iowa. It was the Governor of Dakota Territory, William Jayne, the only man under the laws who could issue that certificate. I will state further, and it appears in the report of the Committee of Elections, that Mr. Jayne holds a certificate in due form from the present Governor of Dakota Territory. That certificate is based upon the public records of the Territory—a certificate not only from the present acting Governor of the Territory, but one that is countersigned by the present secretary of the Territory, Mr. Hutchinson, the same man who gave those several certificates to General Todd.

Mr. GANSON. I am a member of the Committee of Elections, and have attended every meeting, and this morning was the first time that I heard any certificate had been given by the present Governor to Mr. Jayne. I do not know whether it came in before the action of the committee on the subject. I would ask the chairman how this is.

Mr. DAWES. If my colleague on the committee will read the report he will see that after the case was heard by them, the House referred to them another certificate given by the present Governor, and countersigned by the same secretary, John Hutchinson, bearing date December 26, 1863. That certificate is appended to the report. Now, if any power was left in these parties to make new papers—

Mr. GANSON. This certificate was referred after the committee had acted on the case.

Mr. DAWES. So the committee report.

Mr. GANSON. Therefore the position I took in the committee is correct, that the only certi-

cate before the committee when they acted on this subject was the one which Mr. Jayne issued to himself, and upon which the seal of the Territory was not put by the custodian of that seal—not by the secretary of the Territory, but without his knowledge or consent.

Mr. HUBBARD, of Iowa. I should like to inquire of the gentleman from New York whether there is any law of Dakota Territory giving the custody of that seal to the secretary of the Territory?

Mr. GANSON. There is no law giving it to the Governor, but it is made the duty of the secretary to keep the records of the Territory, and consequently the seal of the Territory. This certificate has never been recorded in the Territory among the public records. I think that the evidence is pretty strong, and satisfies my mind that it was surreptitiously obtained, especially when a person certifies to his own election.

Mr. Speaker, I was in favor of leaving this matter until we had an examination into the merits of the case. The entire evidence has been introduced and referred to the Committee of Elections. It appears that the proclamation was issued by the secretary in regard to the election before the returns from this precinct had been made which changed the result. It further appears that the secretary omitted, as required by law if the returns were not made within forty days from the entire Territory, to send for them, and that the canvassers met, knowing that no returns had been made, and that they had not been sent for from that precinct. When they did come in they changed the result.

These certificates were all laid before the House the first day of the session, and I well recollect that the production of the certificate of Mr. Jayne, certified to by himself, caused merriment in the House, and I think that the gentleman from Iowa [Mr. HUBBARD] joined in it. I say that there was no proper certificate of election before the committee, and none before the House; and that when we look to the returns made, General Todd has a majority of the votes. Whether they are to be counted depends upon the testimony relating to the frauds which it is alleged occurred in some of the precincts. The committee have not investigated that. It took the ground that it would not. I think that the *prima facie* case is in favor of General Todd. The returns show that he has a majority of the votes cast in that Territory.

Mr. SMITHERS. Before the discussion proceeds further, I would be glad to have General Todd state his case, if he desires to do so.

Mr. DAWES. He has the right to do so.

Mr. GANSON. After stating the grounds upon which I dissented from the report of the committee, I intended to yield to General Todd. I wish simply to say that if anybody has a *prima facie* case it is not upon the certificate, in my judgment. And if we go beyond that, and look at the returns, that *prima facie* case is in favor of Mr. Todd, because he has a majority of the votes that were cast.

Mr. WASHBURNE, of Illinois. My present impression would be that the proclamation issued by the acting Governor is a sufficient certificate to entitle the party holding it to be sworn in.

Mr. GANSON. By what law is it declared to be so?

Mr. WASHBURNE, of Illinois. The gentleman from Massachusetts, [Mr. DAWES,] who has the law in his possession, will read it for the benefit of the gentleman from New York.

Mr. GANSON. By virtue of what law is that proclamation made evidence here of an election?

Mr. WASHBURNE, of Illinois. By virtue of the law of the Territory.

Mr. GANSON. I do not understand that that amounts to a certificate at all.

Mr. WASHBURNE, of Illinois. And all the remainder of the certificates are mere surplusage in this case. I think that is sufficient here to entitle the claimant to be sworn in.

Mr. GANSON. That proclamation is not declared by the statute of the Territory to be any evidence entitling a person to a seat. It is issued for an entirely different purpose.

And I will state that at the time it was issued returns had been made from this distant precinct, and they were on file at the time the proclamation was issued but not when the canvass was made, and the reason they were not included in the canvass was that the secretary failed to dis-

charge a duty which was made imperative upon him; which was that if the returns were not made in forty days he should send for them. It is known here that there were disturbances there so that the returns could not reach the seat of government in forty days, and the person who was charged with the duty of sending for them should have sent a messenger for them, and when the canvassers met he should have stated that he had sent a messenger for the returns, and have requested them to defer their canvass. They did come in in four or five days after the canvass was made, and when they came in they changed the entire result.

For these reasons I am in favor of this Territory remaining unrepresented while this investigation is going on. I do not believe any great injustice will be done thereby, inasmuch as the committee have the entire testimony relating to the merits of the case.

Mr. TODD, (contestant.) Mr. Speaker, in addressing the House it is my purpose to engage its attention but for a few moments. The remarks which I shall submit will be confined closely to the matter under consideration; and I design to follow very nearly the line of argument adopted before the Committee of Elections while investigating the subject now pending, deferring to a future occasion the privilege of entering upon and discussing the broader field of the question involving the ultimate right to a seat in this House as the Delegate from the Territory of Dakota. The matter now before the House to be determined is, which of two claimants shall be sworn in and occupy the seat as sitting Delegate, pending the contest now before the Committee of Elections for its examination. This preliminary question is one of fact. No tangled web surrounds it; no shadows obscure it; no hidden secrets involve it in mystery. It is plain and simple, easy of solution.

Upon my credentials being presented, the Clerk of the House of Representatives placed my name upon the roll of members. These consisted of certain certificates, given by the secretary and acting Governor of Dakota. Mr. Jayne presented a proclamation issued by the acting Governor, and also a certificate of election, signed by himself, but not of record or duly sealed. Upon these exhibits the Clerk of the House decided, upon the internal evidence, that I, having the largest number of votes, duly certified, was entitled, *prima facie*, to the seat as the sitting Delegate. The House, however, decided to refer the whole subject to the Committee of Elections, without admitting either of us to be sworn. I now propose to examine these several papers, and will not ask that they be read, as they have been read already.

I claim the right to have the oath administered to me as the sitting Delegate, upon the papers and proofs submitted, for the following reasons:

The credentials presented by Mr. Jayne consist, first, of the proclamation of John Hutchinson, secretary and acting Governor of Dakota, (Governor Jayne being absent,) announcing the result of the election, held in Dakota on the 1st of September, 1862, in which he proclaims William Jayne duly elected Delegate to the Thirty-Eighth Congress. This proclamation bears date November 29, 1862; and second, Governor Jayne's certificate, issued to himself January 5, 1863. Upon these he bases his claims to a seat as Delegate in Congress from Dakota Territory, and asks that he be sworn to that place. I reply, that the proclamation was made as claimed, but that such proclamation confers no right, and of itself cannot clothe him with any authority. It may be introduced as evidence and treated as such, but cannot by the House be made the basis for a seat in this body. It is merely declaratory of a fact; but the existence of that fact does not depend upon the proclamation, but the certificate, issued by the proper authority, under the great seal of the Territory. The proclamation only notifies the people of the Territory of the result of the election, and for this purpose alone was it issued. It might be true or false; in neither case can it be resorted to for the purpose of sustaining or disproving a certificate of election, properly made out and authenticated.

It will be borne in mind that the point now before the House is, which of the claimants is entitled to the seat upon the papers now presented: Mr. Jayne relying upon the secretary's procla-

mation and the certificate issued by himself to himself; and I upon a certificate from the secretary and acting Governor after all the returns were received.

That the proclamation was made, and that it stated correctly the canvass of the vote at the time, is not denied. Such canvass, however, took place before all the returns were received and returned to the board of canvassers.

I desire here to present a letter addressed to the board of canvassers of the election returns in Dakota, objecting to the canvass being proceeded with and concluded until sufficient time had elapsed for the absent returns to be received, and will read it:

YANKTON, DAKOTA TERRITORY, October 21, 1862.

GENTLEMEN: Having been informed this morning by your board, at its first session, that all the returns of the late territorial election had been received from the different counties, with the exception of those from Pembina, I now submit that further time should be given for those returns to be received. The thirty-third section, chapter thirty-two, of the Code, requires the board of canvassers to meet on or before the fiftieth day after the election. That time having arrived, you have met according to the statute. The thirty-fourth section, same chapter, requires that if the returns of any county in this Territory shall not be received by the secretary of the Territory within forty days after the election, he shall forthwith dispatch a messenger to the clerk of the county whose returns have not been received, for a copy of them. This has not been done, as I am informed by the secretary. The import, by fair and reasonable construction of this section is, that due and reasonable time shall be given for this messenger to go and return to the county whose returns are wanting, and I object to the closing of the canvass until such time shall have been granted and elapsed. The county of Pembina is an essential element in this canvass, and the rights and privileges of its citizens should be so far respected as to afford them the opportunity of being represented by the returns.

It is well known that a cruel and relentless savage war rages upon the northeastern border of this Territory, disturbing, if not intercepting, the communication between Pembina and the capital, and that we have every reason to believe that the returns from that county have been delayed from this cause. Therefore it is eminently proper that this canvass should be delayed until sufficient time has elapsed for the communications to be adjusted or reopened and the returns received. And I have no doubt that they will still be here as soon as it is practicable for a messenger to pass through the country, and for these reasons I ask the canvass be not closed until such time.

The last advices from Pembina that I know anything about are to the 26th of August, in which it is stated the returns will be forwarded immediately after the election, and I attach the certificate of the postmaster of this place of the date of its postmark and its receipt here.

Gentlemen, it is not to be disguised that there is a deep-seated feeling in the minds of the people of Dakota in regard to your award of the certificate of election, in view of the great, glaring, and patent frauds which have been committed against the dignity of the Territory and the rights of individuals, and with you rests the responsibility.

I am, very respectfully, your obedient servant,

J. B. S. TODD.

To the Honorable the Board of Canvassers of the Territorial Election of Dakota Territory, Yankton, D. T.

The secretary of the Territory failed to comply with the thirty-fourth section, thirty-second chapter, of the laws of Dakota, which requires him to dispatch a messenger to the clerk of the board of county commissioners within forty days after the election, in case the returns are not received. The object of this law is to prevent any canvass by the board until all the returns were received; and the candidate duly elected cannot be deprived of his seat by the neglect of the secretary to perform a duty enjoined upon him by law.

The proclamation, then, was not issued upon the canvass and result of all the votes, but only upon the canvass and result of partial returns, and hence was imperfect and incomplete. Upon such canvass Mr. Jayne is declared elected by a majority of 16 votes. It is therefore submitted whether Mr. Jayne can rely at all upon the proclamation for the purpose of strengthening his own certificate of election, and whether the House must not determine the issue in the first instance upon the question raised by the two certificates. How, then, stands the case when tried by the standard of the certificates? The certificate of Mr. Jayne bears date January 5, 1863. This is signed by William Jayne, Governor of Dakota, and issued to William Jayne, declaring him duly elected as Delegate to the Thirty-Eighth Congress. It would be charitable to presume that William Jayne, Governor, and William Jayne, Delegate, were two different and distinct persons, as it could hardly be supposed that a man occupying the exalted position of Governor would so far forget himself as to become the author of his own certificate in a closely contested election. I repeat that such would be the presumption if not forced to a different conclusion by the fact that no other man of the name of Jayne was the Gov-

ernor of Dakota, or was ever a candidate for Delegate from that Territory. The two are one and identical.

Governor Jayne, then, issues the certificate, upon which he relies for his seat, to himself. This, I affirm, he could not do unless he procured the secretary of the Territory to attach the seal, and then it would be manifestly improper—"chacun à son goût." The certificate, to be valid, must have the seal of the Territory attached. The secretary is the custodian of seals, his office the depository of it, and no other person has the right to use it. He, and he alone, is responsible for its use, and if surreptitiously obtained and the impression made without his knowledge and sanction, such fact being made to appear, the document thus falsely sealed is not sealed at all, and of course void as a sealed instrument. This certificate is not attested or countersigned by the secretary. The organic act of Dakota, section three, requires the secretary to "record and preserve all the acts and proceedings of the Governor in his executive department."

The Secretary, under date of September 26, 1863, certifies that he had issued no certificate of election to any person as Delegate from Dakota, that there was no record in his office of any such certificate having been issued, and that he had no official knowledge of the seal of the Territory having been affixed to any such certificate. How then came the seal upon Mr. Jayne's certificate? The secretary did not place it there, yet he was the only person who had authority to do so.

There is no record of the certificate, no record of the seal, and no such certificate has ever been issued or recorded by the secretary. It is true Mr. Jayne issued a certificate to himself. But where did he obtain the seal? As Governor the seal does not belong to him, nor is it under his control, and most certainly not for the purpose of authenticating documents issued to himself.

Painful as it is to contemplate, I am reluctantly forced to the conclusion that Governor Jayne not only issued the certificate to himself, but, without the knowledge of the secretary of the Territory, obtained the seal of the Territory, and attached it to his own certificate. Upon this certificate he asks to be invested with all the rights and privileges of a Delegate in Congress. Had there been the slightest necessity for such conduct on the part of the Governor; this great breach of executive propriety might be palliated; but such was not the case. When the proclamation was issued, November 29, 1862, and signed by the secretary, as acting Governor, why was not the certificate then issued to Mr. Jayne, as mandatory by our law, section thirty-three, chapter thirty-two, or, if not then, why not afterwards? For it was not only most clearly proper for the secretary, as acting Governor, to issue the certificate of election to Mr. Jayne, providing he was elected, but it was his duty to do so. Why, I repeat, does Mr. Jayne assume to act in his case, declare himself elected, issue his own certificate, procure the seal without the knowledge or consent of the secretary, authenticate his own certificate, when there was no necessity for all this? Only one conclusion can solve this strange conduct of the Governor, and that is that the delayed returns having been received changed the result as announced by proclamation, and, shunning the test of truth, he took the nearest and surest road to the object of his aspirations by issuing his own certificate to himself. It is true the law contemplates the issuance of certificates by the Governor; but surely not when he is a party interested. This is one of those exceptional cases not provided for by law. As well might the judge upon the bench sit in judgment upon his own conduct or decide a case in his own favor, or the marshal execute a writ upon himself for his own arrest, as the Governor to confirm his own acts by which he was to derive benefit and advancement, the law being equally directory in these several cases.

Such being the condition of the certificate of Mr. Jayne, how is it in relation to my own? Be its character as it may, construe it as you will, it is issued by the proper authority—the secretary of the Territory and acting Governor. It is duly sealed; it comes from a disinterested officer in the discharge of official duty. It is dated August 15, 1863—it is true nearly a year after the election; but as the Thirty-Eighth Congress did not convene for some months after this is immaterial,

and if issued in time to take my seat, then it is sufficient. From the certificate it will be seen that my majority is 90 votes. This certificate is issued after the receipt of all the returns, and must prevail over that held by Mr. Jayne, issued to himself, upon a canvass of only partial returns.

As an additional reason for claiming this seat, and certainly one which will have great weight with the House, I invite attention to the contested case from Nebraska before the Thirty-Seventh Congress. Mr. Morton held the first, and of course elder, certificate, issued by the Governor in due form. It was based upon the report of the board of canvassers declaring him duly elected. Many months after the issuance of this certificate the Governor issued another certificate, without further canvass, upon his own volition, and gave it to Mr. Daily. In this certificate the Governor assigns his reasons for giving it.

There is only this difference between the contested case of Nebraska and the one before the House from Dakota. This difference is an important one in support of the position I assume, and I ask attention to it. In the one, Governor Black issued the first certificate after all the returns were received and canvassed, and justifies himself for issuing the second on the ground that a portion of the returns before the board of canvassers was a fraud throughout. In the case from Dakota, the first certificate was issued upon incomplete returns, and the second one recites this fact, and shows my majority to be 90 votes, as ascertained from full returns.

It will thus be seen that the present case is much stronger in support of the position I assume than was that from Nebraska in favor of the claim of Mr. Daily, who held the junior certificate. In his case the Governor, upon his own volition, sets aside the vote of a precinct counted by the board of canvassers for Mr. Morton; and in the present case the acting Governor includes the vote of a district which was not before the board of canvassers at the time of the canvass, but which when received changed the result of the count. In one case the vote of a precinct was rejected; in the other the returned vote was counted. Yet the House of the Thirty-Seventh Congress gave Mr. Daily his seat, holding as he did the junior certificate, based upon the opinion of the Governor that the board of canvassers had included a fraudulent vote in awarding Morton's certificate. Upon precedent and parity of reason the House cannot but award me a seat, claimed by virtue of a junior certificate, based upon complete returns made to the secretary of the Territory in conformity with law.

For these and kindred reasons which will suggest themselves to the consideration of the House, I submit the case to it in the full assurance that its decision will be governed in a spirit of equity and with wisdom.

MR. SMITHERS. I desire to ask the gentleman how he claims that the certificate of John Hutchinson of the mere fact of the number of votes dated on the 15th of August, 1863, is a certificate of election, when the same John Hutchinson, on the 26th of September, certified that he had never issued any certificate to anybody?

MR. TODD. In the argument I made before the committee, I did not claim that the certificate I presented was in due form of law. I also denied that the certificate of Jayne was in due form of law, and it was so conceded.

MR. DAWES. I demand the previous question. The previous question was seconded, and the main question ordered to be put.

MR. DAWES. I have one word to say now in reply, as I am entitled to close the debate after the main question is ordered.

The gentleman from New York [Mr. GANSON] and the member from Kentucky, [Mr. SMITH], both members of the committee, and the contestant, place this matter upon the ground that there is no official evidence here that can be taken notice of by the House of the election of Mr. Jayne as Delegate from that Territory. I call the attention of the House to what the secretary, the acting Governor, says in obedience to the law upon that subject. The law says that in this case the secretary and chief justice shall, upon the expiration of fifty days from the day of election, canvass the votes. Of course they must canvass the vote as they stood upon the fiftieth day. Their duty is prescribed by law, and that is to canvass

the votes as they stood upon that day. No vote coming in after that day can they, by any provision of law, take notice of. The question is whether we have any evidence that, according to the provision of law in Dakota, this man Jayne had a majority of the votes. The law makes it the duty of the secretary, then acting Governor, to declare the result, and this is what he says:

"I, John Hutchinson, secretary and acting Governor of the Territory of Dakota, do hereby proclaim that at a general election—"

Mr. SMITH, (interrupting.) I desire to ask the chairman of the committee a question: whether the law of the Territory of Dakota is that the canvassers shall act upon that particular day, or shall proceed to canvass on that day?

Mr. DAWES. The law says:

"It shall be the duty of the secretary of the Territory, with the chief justice—"

I leave out the Governor—

"or a majority of them, to proceed within fifty days after the election, and sooner if the returns be received"—

But it shall be their duty at any rate within fifty days after the election—

"to canvass the votes given for Delegates to Congress, and other territorial officers."

Mr. SMITH. I would ask the gentleman whether by that language these commissioners are required to close the canvass within fifty days, or if it is not their privilege to go on until the canvass is completed?

Mr. DAWES. I take it that if it is their duty to proceed within fifty days it is their duty to proceed upon the canvass as it stood upon the fiftieth day; that fifty days are given for returns to be made; and that returns made after the expiration of the fifty days are out of time; and that whether those returns shall be counted or not here before the ultimate tribunal, is a question upon the merits of which the House must decide, as also upon the character of the returns themselves. But the officers of the Territory had no other duty to perform but to canvass the votes returned within the fifty days. There can be no question about that. And then it is made the duty of the acting Governor to proclaim the result. The language of the law is, "and shall also issue a proclamation declaring the election of such person."

Mr. SMITH. Suppose there had been a disturbance at the capital of Dakota at the time the commissioners ought to have been in session to canvass the votes, to such an extent that they could not meet on that day, and no returns had come in in consequence of the disturbance; could they not at a subsequent period have proceeded to determine the election?

Mr. DAWES. No doubt if there had been a disturbance at the capital of the Territory, so that the canvassing officers could not discharge their duty, neither of these parties would have been here with evidence of their action on that day, and they must have made out the best case they could before the committee and the House; but as there was no disturbance at the capital, or in the Territory, and there being no evidence and no pretense that there was such disturbance, it is entirely a matter of suggestion on the part of my friend from Kentucky, and it is hardly within the province of the Committee of Elections or of the House to speculate on what would have been the condition of things had there been such disturbance in the Territory that the officers could not do their duty. Fortunately for this case the officers did do their duty and had no obstacle or disturbance in the way of their doing it fully.

Mr. SMITH. Then, if it is true in regard to the capital or to the whole Territory, I would ask the gentleman if the rule does not apply to the district of Pembina, where there were such disturbances that the vote could not be sent in in time?

Mr. DAWES. I shall have a word to say upon that subject if my friend does not use up my hour. I have read the law of the Territory, and it is the same as the organic law, which provides that the acting Governor shall proclaim who has been elected after these canvassers shall have met on the fiftieth day and examined the votes. And in this case the acting Governor says:

"I, John Hutchinson, secretary and acting Governor of the Territory of Dakota, do hereby proclaim that at a general election held on the 1st day of September, 1862, in said Territory, William Jayne received a majority of the votes

cast for Delegate to Congress, and was therefore duly elected Delegate to the Thirty-Eighth Congress of the United States."

He proclaims that fact, and he proclaims it in obedience to law. It was his duty to proclaim it. What for? That he whom it concerned might take notice of the fact.

Now, the contestant (Mr. Todd) says that that does not constitute the fact that he was elected, but he says that it is evidence of the fact. I admit that it does not constitute the fact, but these men were appointed to ascertain a *prima facie* title and to certify the fact; but the contestant says that the certificate is the fact itself; that is to say, that if he held the certificate that would be conclusive upon us. Neither the one nor the other makes the fact.

Mr. STEELE, of New York. I would ask the gentleman from Massachusetts if the committee found it necessary to go into evidence of the fact why they did not go into all the evidence, and give us the case on the merits.

Mr. DAWES. For the plain reason that the House referred these certificates to the Committee of Elections to pass upon this very point. They propose at some future day to enter into the merits and to sift these Pembina returns to the satisfaction, I trust, of both these contestants and of the House.

Mr. FARNSWORTH. I wish to ask the gentleman from Massachusetts a question for information. If I understand the gentleman correctly, he holds that the law would require the board of canvassers to proceed to canvass the votes within the fifty days. Now, suppose that but one precinct in the Territory should have made its return within the fifty days, would it be the duty of the board of canvassers to canvass the vote of that precinct and declare an election, and would the person thus declared to be elected be entitled to a seat here although after the fifty days had expired the balance of the Territory may have sent in returns which may be on file in the office of the secretary of the Territory and which would change the result of the election?

Mr. DAWES. Certainly, Mr. Speaker, no man would be entitled to a seat here on any such state of facts as that. I might suggest to my friend a supposable case in his own district which would have just as much foundation in fact as that which he suggests in regard to this case. But there is no such case here. I take it that it is the duty of the Committee of Elections, when they enter on the examination of the merits of the case, to find out which of these parties received a majority of all the legal votes cast, and to see to it, so far as that committee is able, that the House give to that man, and to none other, the seat. But the question is now which of them is entitled to a seat until the final action of the House on the merits of the case.

Mr. FARNSWORTH. The gentleman from Massachusetts misunderstood my question. The point I want to get at is this: whether, if all the precincts but one had sent in their returns, or if only one out of all had sent in its return, that would change the principle of the case.

Mr. DAWES. Mr. Speaker, I will be obliged to husband the rest of my time; but I think I have answered the gentleman. If he calls upon the canvassers of the Territory to perform their duty, he must look to the laws of the Territory and see what that duty is. If the duty imposed upon them is to canvass such votes as are returned within fifty days, they have discharged their duty when they have canvassed such votes.

I was asking the House to listen to what the acting Governor, John Hutchinson, in obedience to the law, has proclaimed to all the world—that all the world may take notice thereof—that William Jayne had a majority of the votes cast, and was duly elected. He does not state how much the majority was, nor is he required by law to do so. But he is required by law to declare by proclamation which of the parties is elected, and he has so declared. Now, suppose there was no certificate beyond that. The gentleman contestant is very much offended in his sense of propriety because the Governor afterwards made out a certificate of the fact to himself. He says he could not do it. Well, even if he could not, what would be the state of the case? Here would be the legal official proclamation of the fact under the hand

of the acting Governor and with the seal of the Territory; and that, he says, is evidence of the fact. Now, can he deprive William Jayne of the benefit of that position? Suppose nobody had given him a certificate. This proclamation is precisely that evidence which the members from Maryland brought here at the commencement of the session, and which, by a large vote, the House declared sufficient to entitle them to take their seats as members. It was a proclamation of the Governor of Maryland, and nothing more, that these five men had received a majority of the votes, and were duly elected. The only title they have to their seats here is exactly such a proclamation as John Hutchinson made to all the world that Mr. William Jayne was elected.

Mr. TODD, (contestant.) I ask the chairman of the Committee of Elections to have the goodness to state the words of the law. The law says that the certificate shall be made by the Governor, and also a proclamation of the fact. Hence the proclamation itself is not the evidence in the case. The certificate is made the evidence; and the proclamation follows. By all fair and just construction no other import can be given to the law.

Mr. DAWES. I was supposing, Mr. Speaker, that the acting Governor, or anybody having authority to give a certificate, should refuse to do so; and then I said that the gentleman, Mr. Jayne, would be here precisely as the Representatives from Maryland are here, and whose merits were presented to the House by a proclamation read at the Clerk's desk. It is precisely that case; not a particle of difference. Now, without any certificate, it would be perfect; but does a poor certificate hurt it? Does a certificate which nobody ought to have given hurt it? Certainly not. The law says the Governor shall give a certificate. The law also says that nobody else shall give it. The law made William Jayne Governor when he got back to the Territory. Who else could give the certificate but William Jayne? The contestant says it is a *casus omissus*—that there is no provision of law for anybody to give a certificate. I take that to be the case. Then he is here with everything the law requires of him. He is here with the proclamation of the acting Governor, given while William Jayne was out of the Territory. And when William Jayne came back into the Territory nobody but himself could give a certificate. He therefore comes here with all that the law requires of him and all that the law could give him. William Jayne performed nothing but ministerial duty in giving the certificate. He did not pass upon the returns. He did not pass upon the number of votes. He certified merely what others had canvassed.

Is it the first time that a man has certified to what others have done touching his own case? Does not the register certify to the record of his own deed? Cannot a president of a corporation give himself certificates of stock in his corporation when the law requires the president to sign the certificates of stock? When there is a ministerial duty to be performed by a man there is no impropriety in his performing it, whether it refers to himself or to anybody else. There was nothing pertaining to this canvass in the Territory in which Mr. Jayne interfered, but, as the Governor of the Territory, it was conceded by the contestant and everybody else he was the sole person who could give this certificate. If that certificate is required the law is fulfilled, and if it is not required the law is fulfilled.

What came after this? Who certified that there are any other votes but those which have been passed upon? The law required the canvassers to do this, but the canvassers have never done it. John Hutchinson assumes to tell J. B. S. Todd that there were votes there, but John Hutchinson was not authorized to say that by the law. It is true that the board of canvassers have never attempted to canvass those votes returned afterwards. So that there is no evidence, not a particle of evidence according to the requirements of law that we can take notice of, that there is a single vote from Pembina.

Mr. GANSON. I ask whether it was not conceded by both sides that those votes were returned.

Mr. DAWES. I understand my friend part of the time to argue this according to the provision of law, and I will not say that the rest of the time he travels out of it. I submit that there is not,

and never has been, any evidence before the committee or the House, no evidence contemplated by the law, that there was a vote cast in Pembina. The reason I say so is this: the law says that three canvassers, or a majority of them, and they alone, shall state it. John Hutchinson had no more business to say that than he had, on the 25th of December, 1863, to make the certificate which is appended to the report of the committee. The last act of John Hutchinson in this, not drama, but in this farce, after taking a survey of the field of his duty, was on the 25th of December, 1863, the last Christmas we have had, to certify that Mr. Jayne, and he alone, has been elected, and to put the great seal on it, and my friend says that he is the sole custodian of the seal of the Territory.

Mr. GANSON. Was it not conceded that those votes were cast, and is that not some evidence?

Mr. DAWES. My friend knows that I cannot disclose what took place in the committee room, as that would be a violation of rules. While he and I are trying to argue this case as well as we can upon the papers, I will suggest to him that nobody said anything more than this, that the paper purporting to contain so many votes, namely: 125 for Todd and 19 for Jayne, was put into the secretary's hands after it was ascertained how many were required to make the majority the other way. That is all that was conceded, and that is all that can be conceded.

One word more about the seal which Mr. Jayne used. It is stated that Mr. Jayne had no authority to use this seal. There is no requirement of law to put that seal upon the certificate. It was a work of supererogation, but, being a beautiful one, we have it in these papers five times over. The board were *functus officio* after having discharged their duties as canvassers in this case, and they became humble citizens of Dakota Territory. That is all there is of it. There is no law requiring the Governor or the secretary to keep the seal. I suggest that one or the other shall take it and use it, or have the custody of it. They have not done it, and I do not wonder that they both have a right to use it.

Mr. Speaker, this is a case like that from Nebraska last year. I can refer to the position of as many of the members of the Committee of Elections as were then here, that after those canvassers performed their duty, and gave a certificate according to the requirements of law, as was done in that case as well as in this, they had performed their whole duty. When we take into consideration the facilities in new Territories, if we allow constant modifications of their returns, the whole thing will be as changeable as the fleeting clouds of April. We would never know when the election had been determined. While we are settling this case here the secretary assumes the right to send us a new certificate, dated 25th of December, 1863, as to the whole facts. Perhaps before the committee pass on the merits of the case we shall have still another one. There is no telling what Protean shapes the case may assume.

The Committee of Elections present the authoritative proclamation of the secretary, under the seal of the Territory, that William Jayne has been elected. If you want anything more, we present a new certificate signed by both the Governor and this same secretary a little more than fifteen days ago, declaring not only that Jayne was elected, but, in the language of my friend from Connecticut, [Mr. DEMING,] that nobody else was.

Mr. TODD. One question to the gentleman from Massachusetts. Was not that certificate, dated the 25th of December, 1863, issued by the Governor of the Territory, sealed with the seal of the Territory, and countersigned by the secretary?

Mr. DAWES. Certainly it was; and the certificate from Nebraska, to which the gentleman referred, was signed by the Governor alone, and had neither the signature of the secretary nor the seal of the Territory.

Mr. TODD. I only wish to call the attention of the chairman to the fact that he stated that the certificate was issued by the secretary. It was issued by the Governor, and sealed and countersigned by the secretary.

Mr. DAWES. Certainly. I suppose they thought they would stop all cavil this time; but

I submit that the certificate presented by Mr. Morton last Congress, for which the gentleman from Indiana [Mr. VOORHEES] and myself voted, was a certificate signed by the Governor alone, and had neither the seal nor the secretary's name upon it.

The question recurring upon the amendment offered by Mr. SMITH,

Mr. SMITH called for the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 66, nays 78; as follows:

YEAS.—Messrs. James C. Allen, William J. Allen, Ancona, Anderson, Baily, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, Chandler, Clay, Coffroth, Cox, Cravens, Thomas T. Davis, Dawson, Dennison, Eckley, Eden, Edgerton, Eldridge, English, Farnsworth, Finck, Ganson, Grider, Griswold, Harding, Herrick, Holman, William Johnson, Kalbfleisch, Kernan, Lazear, Le Blond, Long, Marcy, McAllister, McDowell, McKimney, William H. Miller, James B. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, William H. Randall, Robinson, Rogers, James S. Rollins, Ross, Smith, John B. Steele, Stiles, Strouse, Stuart, Sweat, Thomas, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—66.

NAYS.—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Blow, Bonwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Dunning, Dixon, Donnelly, Driggs, Eliot, Frank, Garfield, Hale, Higby, Hooper, Hotchkiss, Asahel H. Hubbard, John H. Hubbard, Hubbard, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McInnis, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Nelson, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, John H. Rice, Edward H. Rollins, Schenck, Seofield, Shannon, Smithers, Spalding, Stevens, Traylor, Tracy, Upton, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—78.

So the amendment was not agreed to.

During the call of the roll,

Mr. COBB stated that Mr. SLOAN was detained from the House by severe illness in his family.

Mr. O'NEILL, of Pennsylvania, stated that Mr. L. MYERS was absent from the House for the same reason.

Mr. ODELL stated that Mr. STEBBINS was absent on account of illness.

The resolution offered by the committee was then agreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

Mr. JAYNE then appeared at the Clerk's desk and qualified by taking the oath prescribed by the act of July 2, 1862.

ADJOURNMENT OVER.

Mr. BLAIR, of West Virginia. I move that when this House adjourns it adjourn to meet on Monday next.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. POMEROY. I desire to inform the House that Mr. LITTLEJOHN has been absent from the House almost the entire time since its organization in consequence of severe sickness, and it will probably be some weeks before he will be able to resume his seat here. I ask the House to grant to Mr. LITTLEJOHN indefinite leave of absence.

Leave of absence was granted.

PAY OF OFFICERS IN WESTERN DEPARTMENT.

Mr. MCCLURG. I move that the House now proceed to the business upon the Speaker's table.

The motion was agreed to; and the House proceeded to consider the only business on the Speaker's table, being an amendment of the Senate to a bill of the House (No. 35) to provide for a deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri.

The amendment, which was to insert after the word "valid," in the fifteenth line, the words, "such payments to be made by the paymasters of the United States Army," was agreed to.

Mr. MCCLURG moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. BROWN, of West Virginia, (at forty-five minutes past two o'clock p. m.) the House adjourned.

IN SENATE.

SATURDAY, January 16, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented the petition of the crier and bailiffs attached to the various courts for the District of Columbia, praying for an increase of compensation; which was referred to the Committee on the District of Columbia.

Mr. MORGAN presented the memorial of Captain F. E. Prime, of the corps of engineers United States Army, praying relief for the loss of a sum of money belonging to the Government, stolen from his office by the rebels during their raid on Holly Springs, Mississippi, December 20, 1862; which was referred to the Committee on Claims.

He also presented a memorial of persons of foreign birth residing in New York, who have declared their intention to become citizens of the United States, remonstrating against the enrollment act as it affects foreigners who have declared their intention to become citizens; which was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Indiana, presented the memorial of William Cook, of Decatur county, Indiana, praying for arrears of pension; which was referred to the Committee on Pensions.

He also presented the memorial of William S. Speer, late United States consul at Zanzibar, praying for compensation for his services; which was referred to the Committee on Claims.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President of the United States had approved and signed the following bill and joint resolution:

A bill (S. No. 57) declaring the assent of Congress to an act of the Legislature of the State of Illinois therein named; and

A joint resolution (S. No. 15) amendatory of the joint resolution to supply in part deficiencies in the appropriations for the public printing, and to supply deficiencies in the appropriations for bounties to volunteers.

RECOMMITMENT OF A BILL.

On motion of Mr. LANE, of Kansas, the bill (S. No. 45) to set apart a portion of the State of Texas for the use of persons of African descent was taken from the table and referred to the Committee on Territories.

AMENDMENT TO ENROLLMENT ACT.

Mr. WILSON. As there does not seem to be any further morning business, I move the postponement of all other subjects, and that the Senate take up the bill amendatory of the enrollment act.

The VICE PRESIDENT. The Senator from Massachusetts moves the postponement of all other business for the purpose of proceeding to the consideration of the bill which will be the order at one o'clock as the unfinished business of yesterday.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The VICE PRESIDENT. The question before the Senate is on the amendment submitted by the Senator from Indiana, [Mr. LANE.]

Mr. FESSENDEN. I stated yesterday, Mr. President, that I believed the commutation money that was paid in did not operate as a release in any degree to the State with reference to the quota of troops called for. I stated also that that was my impression with regard to the law, and that if a different construction had prevailed at the War Department, I believed their construction to be erroneous. I had not, as I then said, examined the law particularly; but such was my very strong impression, as it was the impression of some other Senators. Last evening, however, I took the pains to examine it, and I learned the truth of a maxim which I was taught early in my professional career, and that was never to give an opinion on a statute without having it before me. I have examined it carefully, and I have come to the conclusion that

my opinion expressed to the Senate yesterday was decidedly erroneous, and that the construction which has been put upon the law at the War Department is the correct construction. I wish therefore to apologize to my friend from Indiana [Mr. LANE] for contesting so strongly the opinion he had expressed without having looked more particularly at the statute. The thirteenth section of that statute provides that "any person drafted and notified to appear as aforesaid may, on or before the day fixed for his appearance, furnish an acceptable substitute to take his place in the draft"—that of course diminishes the quota so much—"or he may pay to such person as the Secretary of War may authorize to receive it, such sum, not exceeding \$300, as the Secretary may determine, for the procuration of such substitute, which sum shall be fixed at a uniform rate," &c.

I think it impossible to put upon that language any other construction than that the Secretary of War on receiving the money is to procure the substitute, and that the payment of the money must operate so far as a release to the State for that particular individual who has thus paid it. It is a substitution of the money for the soldier, and the substitute is to be procured at the risk of the War Department. I think, therefore, as I said before, that no other construction than that put upon the statute by the War Department could be the correct one.

I do not agree, however, with the opinion expressed by the Senator from Indiana that this operates upon other States where the money is not paid but where the men are procured; that is to say, it does not so operate in practice. The amount paid in is \$300. The Secretary of War very properly considered himself as authorized to offer the whole amount of that money for a substitute in the case of veterans—he might have offered any sum he chose not exceeding that—and to add to it the \$100 which is provided by law for all volunteers and for all drafted men. It will be noticed that under this statute men who are drafted are entitled to the same \$100 bounty provided by law for volunteers, if I have read the statute aright. The Secretary of War therefore offered to veteran volunteers the \$100, which is to be paid at all events, and \$300 additional, which is the substitute money; but he did not offer so much to raw recruits. To them he offered the \$100 provided by law and \$200 of the \$300 paid in as commutation money. Consequently, so far as he procured raw recruits he saved \$100 in point of fact, because \$300 was paid in by each person drafted and only \$200 of that money was paid out; and to that extent, to the extent that new men were procured, so much was saved.

That in point of fact the men have been made up is proved by the fact that the money has all been expended; for we were called upon very early in the session to appropriate \$20,000,000 in addition, because the sum was wanted; the \$12,000,000, more or less, paid in for substitutes had all been exhausted; that is to say, the number had been procured which would exhaust it if it had actually been paid. Consequently the payment of the money, so far as it has gone—what it may be in the future I cannot tell—has operated in no way injuriously to any State which has produced the men, because substitutes have been procured by the money thus paid in; and thus, to that extent, the quota of the State where the money was paid has been made up. I do not think, therefore, that the consequences which were portrayed by my friend from Indiana so vividly with reference to a difference between the States, have followed. Whether they will be likely to follow in the future or not, I am unable to say. That will depend upon future operations, how far the matter may be extended.

I see, on reflection, the difficulties that arise in reference to this whole subject, and I cannot but be glad that the misapprehension of mine had the effect to call attention to it more particularly, in order that, so far as it can, it may be remedied by an amendment which will apply to the whole subject; and I understand that an amendment has been prepared which will do so. I have deemed it due to the Senate, as I was somewhat strenuous in the expression of my opinion yesterday, to be equally explicit in withdrawing it now.

The VICE PRESIDENT. The pending amendment will be read.

The Secretary read the amendment of Mr.

LANE, of Indiana, which was to insert at the end of the section adopted on the motion of Mr. SHERMAN the words:

And provided further, That the money paid for commutation within any State shall be expended to procure substitutes for persons drafted within such State, and the payment of commutation money by any drafted person shall not operate to release the State in which he was drafted from filling its quota, but the draft shall proceed in such State until its quota is filled.

Mr. COLLAMER. I merely suggest that that word "State" had better not be used in this connection. The act of enrollment carefully avoided the use of the word "State." It was not to be put upon the footing of the militia; it was all done by districts. The military districts were made the congressional districts, and nothing was said about States. It was to be in the districts of the several States.

Mr. CLARK. I have prepared a substitute for the amendment offered by the Senator from Indiana, which I have shown to the chairman of the Military Committee, and to some other gentlemen, and also to the Senator from Indiana, which I will read. It is to insert as a new section:

And be it further enacted, That the commutation money paid by persons drafted in any congressional district shall be applied by the War Department for the procuration of substitutes, which substitutes shall be credited to that district in filling its quota; and if the quota of such district shall not then be full, a further draft shall be made in said district according to the provisions of this act and the act to which it is in amendment, and like proceedings had until the quota of such district shall be filled.

Mr. LANE, of Indiana. I prefer the amendment of the Senator from New Hampshire, and with the permission of the Senate I will withdraw my amendment, that his may be adopted.

The VICE PRESIDENT. The Senator can withdraw his amendment, no action having been taken upon it by the Senate. The question, then, before the Senate is on agreeing to the amendment submitted by the Senator from New Hampshire.

Mr. HARRIS. I should like to hear it read. The Secretary read the amendment, to insert as a new section:

And be it further enacted, That the commutation money paid by persons drafted in any congressional district shall be applied by the War Department for the procuration of substitutes, which substitutes shall be credited to that district in filling its quota; and if the quota of such district shall not then be full, a further draft shall be made in said district according to the provisions of this act and the act to which it is in amendment, and like proceedings had until the quota of such district shall be filled.

Mr. HENDRICKS. Mr. President, I cannot support the principle of my colleague's amendment. I recollect that the strongest objection made before the people to the law of last session was that by allowing a portion of the drafted men to pay money instead of rendering personal service, you but increased the liability to draft of those that did not pay the money; and that was answered somewhat successfully before the people by saying that the payment of the money discharged the obligation of the State to furnish the quota, and therefore the liability of those that could not pay the money was not increased. But this proposition is that when a man pays his money it shall not go to the credit of the State upon the demand made against her, but that the number of men shall remain the same, to be taken from the people. Suppose that from one State thirty thousand men are required; a draft of thirty thousand is made; fifteen thousand pay their money of those that are drafted; fifteen thousand cannot pay the money; and upon the enrollment there is another fifteen thousand that are not yet drafted, and who cannot pay their money. Then we have to raise the entire number of men from that class of the community that are too poor to pay the money at all.

The principle of the legislation of the last Congress was that by the payment of the money the Government procured a substitute and the men were raised, and there was no increase of liability upon those who could not pay the money; they were precisely in the same position that they would have been in if there had been no commutation at all. But now, notwithstanding the Government receives the money, we throw upon the truly poor men the responsibility to furnish the men, and the money is but a revenue. The money is not treated by this proposition as a means of furnishing to the Government a substitute, but it is treated as a revenue, and the demand upon the

State to furnish the men continues as large as if the money had not been paid. I am not willing to vote for any such proposition, and I suggest to Senators that it will subject the measure to very great hostility in the country.

Mr. CLARK. I think the objection of the Senator from Indiana [Mr. HENDRICKS] lies with very much more force against what was the amendment of the other Senator from Indiana [Mr. LANE] than against the amendment which I propose. The amendment which I propose is that the War Department shall take the money paid by the men who are drafted and apply it, as far as it goes, to the procuration of substitutes. It may possibly, by the employment of Africans, get them for \$100, and then it would get four for the \$400, and credit that district with the four, and so relieve the poor men of the district very much. It provides that the Government shall expend the money for the procuration of substitutes and credit those substitutes to that district, no more. If it gets one hundred substitutes they are credited; if it gets two hundred they are credited. The Government will undoubtedly do the best it can in procuring substitutes, and so relieve the men of the district. And as the Government wants men I do not see that there is any better provision for the purpose. We must have the men, and it is fair that the district should have its money appropriated to procure substitutes, and it is fair for the rest of the country that that district should furnish the residue of the men.

Mr. HENDRICKS. Will the Senator from New Hampshire, before he closes, allow me to ask him how his idea can be made a practical one? The money is paid during the progress of the draft, and it goes into the hands of the Government. It certainly will be a very considerable time before the Government can secure substitutes by the use of that money. When the money goes into the Treasury I do not see how you can identify the particular substitute that is paid for by it. Is it a practical scheme? Can it be made so?

Mr. CLARK. That same objection in regard to the time will lie against the whole bill. It takes time to enforce the draft. It takes time to call out volunteers. It will take some time to get the substitutes, but it takes just as much time to get them by the law as it now stands.

Mr. HENDRICKS. I perceive the Senator does not understand the point of my inquiry.

Mr. CLARK. I am coming to the other point.

Mr. HENDRICKS. The draft is going on, and as the money is paid is it to go to the credit of the district, or do you require the draft to proceed until you get the number required from that district? Suppose that at this time there is a draft going on in a district which is to furnish one thousand men, and five hundred of them pay the commutation money, will you stop the draft until the Government shall make an effort to procure substitutes for those five hundred men, or will you go on and draw until you get the one thousand?

Mr. CLARK. I understand that the draft will stop until substitutes are procured; and so it is now, I understand, because the money is to be applied for "the procuration of substitutes." As to the other point, that this money cannot be identified, I have only to say that of course it will be known to the Government just how many men commute in a given district; it will be known just how much money is paid from that district, and if the identical money is not used a like sum can be employed for the purpose until the money is exhausted; and the Government must use its diligence in doing that.

Mr. BROWN. I should like to ask the Senator from New Hampshire one question, and I do so because I concur with him in the desire to get the men and not the money. If I understand the bill, it provides that the amount of the commutation money shall be paid over to the Secretary of War to be by him expended in the procuration of substitutes. Now, under the amendment of the Senator from New Hampshire, here is a district called upon to furnish one thousand men. Five hundred pay the commutation money. That money goes into the hands of the Secretary of War. He is procuring substitutes generally. Now, how is the Secretary of War going to assign the number of substitutes that he gets throughout the United States in various quarters? Is he going to assign some of them to this district and some of them to another, or are the substitutes to be recruited

within that district? There is a question that is going to involve a good deal of inequality. If the substitutes are to be recruited in that congressional district itself—and that is the only way in which the Secretary of War can get at a fair distribution—then it precludes the possibility of procuring colored troops, such as have been suggested, because these districts in the northern States will not have within them the element from which to procure these substitutes.

Mr. CLARK. I think I understand fully the Senator from Missouri, and I say to him that the design of the amendment is that the Secretary of War shall procure his substitutes anywhere, and we trust to his discretion to assign them rightfully to the districts according to the time for which they are raised. There may be some inequality about the price paid, and so there is now in procuring substitutes. For instance, in my State I believe we obtain our men at about \$500 apiece. I understand that in other States they pay \$700 to get a substitute. This must be done under the discretion of somebody, and we trust the Secretary of War now, just as we have trusted him under the old act, to get the substitutes at the best possible price he can. We must have the men; and if he can get them for \$50 or \$100 or \$200 apiece among the blacks, so much the better; so much do you relieve our own people. We get the men, and get good soldiers.

Mr. CONNESS. I am in favor of this amendment, but it occurred to me, on hearing it read, that it conflicted with some section previously adopted, and upon going to the desk I find that that is the case. I should like to have the eighteenth section read as it has been adopted. When that section is read, it will be noticed that it provides that certain persons described may commute for \$900, which shall be paid and applied to a particular purpose, to wit, the care of sick and wounded soldiers. The section now proposed is general in its character, and provides that all the money which shall be paid as commutation shall be applied to the procurement of substitutes. I am in favor of the section now offered as it stands, and the amendment or change of the eighteenth section. One or the other will have to be changed so that both may be reconciled. I call for the reading of section eighteen as it has been adopted.

The VICE PRESIDENT. It will be read.
The Secretary read, as follows:

Sec. 18. *And be it further enacted*, That members of religious denominations who shall by oath or affirmation declare that they are conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denomination, shall, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of \$300 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers; and such drafted persons shall then be exempt from draft during the time for which they shall have been drafted.

Mr. CONNESS. Now, Mr. President, there is a conflict between the two sections. Perhaps the Senator from New Hampshire is reconciling them. If he shall successfully do it, that will be the end of it. I would prefer to have this changed rather than his section, and to have his section remain as it is. It is clear you cannot pay the money in both places.

Mr. CLARK. I will add, "but this section shall not be construed to affect in any way the commutation money paid under section eighteen of this act." I am obliged to the Senator from California, because I did not think of that commutation money when I drew the amendment.

Mr. GRIMES. I move to amend the amendment of the Senator from New Hampshire by inserting after the word "be" the words "procured in and;" so as to read, "which substitute shall be procured in and credited to that district." My purpose is simply to guard against an abuse that I think may follow this legislation. As I understand from the Senator from New Hampshire, the idea that he entertains is that it will be competent for the Secretary of War to receive, for example, from any district in Massachusetts or New Hampshire, or any other State where there is a deficiency under the draft, the \$300 paid by drafted persons, and to go down into South Carolina or Louisiana, and there, with fifty dollars, procure substitutes for the deficiency in that congressional district. I am utterly unwilling to

do that. While I am as anxious, and have been from the commencement of this war, as any man could be to call to the service of the United States colored troops, I insist upon it that they should be registered as troops belonging to the United States, for which the United States alone should be responsible, and which we as a Government should have a sole interest in, and not credit them to any particular State unless they are residents of the State. ["Why not?"] I will tell the Senators why not. Suppose there is a proposition introduced here by the Senator from Massachusetts to authorize the State of Massachusetts, a great and a rich State, to go down into Louisiana and South Carolina and there fill up their quota by enlisting colored men; there are some very insuperable objections to that, and they are these: in the first place, if you permit that to be done, then, instead of their being understood to be the troops of the United States, they are the mercenaries of the State of Massachusetts; and you will create a conflict among the States, among the soldiers of the different States, that will demoralize your armies. Suppose you let Massachusetts go down and with her munificent bounties recruit fifteen thousand men in General Banks's department, they are to be known as Massachusetts men, to be substitutes for Massachusetts men who were drafted or who ought to go into the service under the draft. In that department there are, perhaps, two or three regiments of Massachusetts soldiers, and at the same time there are twelve or fourteen regiments from my State. My State is too poor to send agents down there with large bounties in their pockets to enlist troops. How long do you suppose there would be a good military and moral sentiment existing between the soldiers from Massachusetts and the soldiers from Iowa if they were permitted to fill out their quota with colored men and we were required to fill our quota up by the best blood we have in our State? How long do you suppose General Banks would be able to maintain the position he maintains now in command of those troops? You would subject him all the time to the imputation of using influences or permitting influences to be used to fill up the quota from the State of which he is a citizen to the injury of the other States of this Union.

Again, if you allow this to be done, when the Massachusetts regiments and other regiments from the wealthy States go out of service their places will be filled by colored men and in the course of this war, if it shall be protracted, as it possibly may be, for two or three years, you will find that while some of the States will be fighting for the Union with white soldiers alone, there will be other States that will have nobody fighting for the Government except colored troops and a few white officers with them. If you expect that you are going to preserve the Union and to prevent local dissensions and jealousies by the establishment of any such rule as that, I think you will find that you are most egregiously mistaken.

Mr. CLARK. Mr. President, I do not feel the force of this objection to the extent that the Senator from Iowa seems to do. This is not a proposition, by any means, to allow the State of Massachusetts to send its rich agents down to Louisiana to enlist colored troops, but it is a provision by which the Secretary of War can do exactly what he now does—take the money paid for commutation and procure substitutes. But it has this further provision, that they shall be credited to the district which pays the money. Now I do not understand that these troops are necessarily put among the troops of that district. If, for instance, one of the districts in my State has raised one regiment and is deficient half another regiment, I do not see why black troops may not be raised and put in another organization distinct entirely from that, and still credited to the district. It does not follow that they are to be mixed up.

But, sir, there is another reason why this may be done, and I think a reason which is felt by some of the States very strongly. It is felt in many parts of the country that the labor of the country to some extent is being exhausted, and some States and some sections of the country have felt that it is better for the Government, better for themselves in every regard, to keep their labor at home and employ it usefully, and to aid the Government in that way, and to procure men from other quarters to fight battles for the Government. To illustrate: my State has procured substitutes

largely from foreigners to go into the Army. In that way they bring into your service the foreign aid, and also keep their own laborers at home to labor for the Government, and you get the benefit in some degree of both.

It seems to me very much better that by this provision we should allow the Government to take these black men and put them into the service of the country and make soldiers of them, than to keep them over here in Virginia, or other quarters, and feed them, when perhaps some of them are not in the service, though I am happy to learn that they earn their living by their labor; but I think we can make them still more useful in this way, and relieve the country to that extent of a burden.

Mr. GRIMES. Mr. President, I agree with the honorable Senator as to the necessity and propriety of calling these colored men into the service of the United States. I have been for that from the commencement of this war. No man has been ahead of me in that particular; but I want them called into the service of the United States as United States troops, and not as the substitutes for white soldiers from any State. That is the difference between the Senator and me. I would do anything in my power to stimulate the recruitment of colored troops. I believe it is the most important thing, and more important than the passage of this bill, if we can devise some scheme by which we can stimulate the Administration to that course; but I am utterly opposed to the selection of these colored men as the representatives of the citizens of any State, I do not care whether it be mine or any other State, that has not filled up its quota. I know very well that it will be greatly to the advantage of particular States, of all the States indeed, to save their labor at home and to send colored men abroad to fight for them. I would like to have the same thing for my own State. I would like to have colored men take the place of the white soldiers who have gone from my State and who are constantly going from it; but I cannot do that with any fair show of equality among the several States, upon the plan that is suggested by the Senator from New Hampshire. Let the colored men be enlisted for the Government, paid by the Government, let the entire Government be responsible for them and interested in them, and not let them, unless they be the residents of that State, go into the service as the representatives of any particular State.

Mr. CLARK. I do not desire to delay the action of the Senate, but perhaps I ought to state, as the Senator from Iowa has said that this may be for the benefit of some States, that it is not by any means for the benefit of mine, if he desired to aim that remark at me. My State will procure its quota under the call for volunteers without any draft, and she will procure white men, men in her own section, and put them into the armies of the country to fight for her. Nor does it follow that if we adopt this provision, the Secretary of War will necessarily get black men. He may or he may not. He may get white men. He may fill up, as he undoubtedly will, the residue of a regiment in any section in many cases, if not all, with white men. It does not confine him to one or the other, but there is a propriety, if with the money of a district the substitute is procured, that that substitute, be he black or white, should be credited to the district which pays the money.

Mr. FESSENDEN. Mr. President, the argument of the honorable Senator from Iowa is founded on a possibility. He thinks this amendment should not prevail because by possibility certain colored men may be procured to fill up the quotas of the States. Now, sir, the probability of it, in the first place, is not very strong; but what harm in it? Follow out the Senator's argument: he says, and says justly, that nobody has been more anxious than he has been to enlist colored troops, and to enlist a great many of them. For what purpose? Is it not to relieve the different States, if you please, or to relieve the country of the necessity of furnishing white men?

Mr. GRIMES. To relieve the country.

Mr. FESSENDEN. Very well, to relieve the country; that is the object. Now, the Senator does not expect that we shall get three hundred thousand, four hundred thousand, or five hundred thousand colored troops, and then keep in the field all the white men that we should have without them.

Mr. GRIMES. But I think this: that if we

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discharge the white troops we ought to be permitted to discharge our proportion of the white troops according as the State of Maine discharges her proportion, which would not be the case under this provision.

Mr. FESSENDEN. The Senator's argument, he will permit me to say, is a very narrow one. It is founded in the first place on an assumption, which assumption it will do to talk about in the Senate but will not do so well to talk about out of the Senate. He assumes that certain States of the Union have more money than certain other States in the Union, and he follows it up by assuming that they will pay more money. He first assumes that they have more money, and then that they will pay it, and therefore that injustice will be done.

Now, what does he desire? Does he desire that any State in the Union should pay its money and at the same time furnish its men? If it is more for its interest, it is more for the interest of the whole country that a certain part of its population should remain at home; and if you get the soldiers, have you not accomplished your purpose? Does it make any difference where he comes from? Are you so very anxious because ten thousand men go from Iowa, and it is their interest to go, that therefore ten thousand men should go from another State where it is not so much for their interest that they should? If the other State furnishes the men, what difference does it make to Iowa where they come from? That is the question I want answered.

Mr. GRIMES. Will the Senator allow me to ask him a question?

Mr. FESSENDEN. Certainly.

Mr. GRIMES. Would the Senator esteem it fair to permit the State of Iowa to go down into the State of Maine and there recruit to fill up its quota?

Mr. FESSENDEN. I have no objection to it if you offer more money than we do.

Mr. GRIMES. Do you permit it?

Mr. FESSENDEN. I do not know that there is any objection to it, and I have never heard of any law prohibiting it.

Mr. GRIMES. All of the States, I believe, exclude other States from going within their jurisdiction to recruit. I know that agents for that purpose have been warned out of almost all the States. But here is a fountain, if you please, that is owned by the whole nation. We are as much interested in it as the State of Maine. We want to prevent a second draft upon my State, and we think we shall be able to avoid a second draft if we stimulate the enlistment of colored men. But the Senator from Maine and the Senator from New Hampshire propose to exhaust that source from which we expect hereafter to draw recruits to prevent another draft in our State, by applying these men to fill up the quota of particular States.

Mr. FESSENDEN. Now the Senator is assuming another thing, and that is that the States recruit. The States do not do any such thing. This money is paid into the hands of the War Department to get substitutes. The Secretary may get them as he pleases and where he pleases. The States do not send recruiting officers into other States or among colored men to get them. They are not subject to State regulations, and do not necessarily go into State regiments wherever they come from. The fact is, it amounts to this, and nothing more: it enables the Secretary to obtain his men somewhere.

As I said before, the Senator's reasoning is narrow. What does he desire? He assumes, and I take him on his assumption, because he has repeated it here, that the money raised by taxation to very much the largest extent comes from certain States in this Union. He wants it so to come; and then he wishes that money to be applied to paying the expenses for the whole country. Very well; it is so. What further does he ask? He asks that certain individuals may furnish the commutation money in a particular State, and that that money shall be applied, in fact, to the benefit of Iowa. That is the amount of his argument—that not

only what is got by taxation in the first place, but what is paid out specifically to relieve a particular State, shall go to the benefit of Iowa.

Now, sir, I believe that it is hardly useful to talk about this relief of the States, and to get up a question of that description. The Senator knows very well that the State he represents is filled with young men who are emigrants from the old States, and consequently it is very much easier to obtain men there, because there are more of the class that can, without the sacrifice of their interests, volunteer, or go if they are drafted—unmarried men. That is not so in the old States. The proposition of the Senator from New Hampshire does not vary the old law except to make it more stringent on the old States. As the law now stands, the Secretary takes the money, obtains the substitutes, and credits them to the States paying the money, whether he has to pay more than the \$300 or not. That is the present condition of the law; because for every \$300 paid a man is marked to the credit of the State. The proposition of the Senator from New Hampshire goes further. It says, that shall not be so; the man shall not be credited to the State unless he is procured, no matter how much money it may take. It may take \$600 or \$1,000, but still the State cannot have the credit of it until the substitute is actually procured. The effect, therefore, of the proposition made by the Senator from New Hampshire is, in fact, to extend the law further than it was before in that particular. The Senator from Iowa now desires, where it may be difficult in a State to procure the men, owing to its peculiar position, that the Secretary of War shall be precluded from getting them anywhere else, and the State shall not be credited for them until they are raised precisely out of that particular place. The result would be to nullify in fact the effect of the whole provision, so far as any benefit is to be derived from it.

Mr. GRIMES. As I understand it, Mr. President, I am contending precisely for what the Senator said yesterday was the law; that is, that this was a personal privilege belonging to the individual who is drafted, that he may buy off his individual freedom by paying \$300, but that the State in which he was drafted was still liable for the man who became the substitute. Now I propose to carry out that idea which the Senator held was the law yesterday, and which he agreed this morning should continue to be the law.

It is very true that my State has but little interest in this present draft. We have greatly exceeded, so far as I can learn, the demands upon us, and probably very nearly come up to filling the second quota that may be called for; but I am contending for a principle that I believe to be abstractly right. It is very easy to talk about the States not being interested in this thing; but we all know that these recruitments have been made by the States. We all know that the States and the congressional districts and the sub-districts have had agents in the field filling up these quotas, and that it at last becomes a question between the several States as to the manner in which they will fill up their quotas and the means to which they will resort to accomplish that purpose. I can only reiterate what I said before, that it seems to me manifestly unjust to permit a State or the representatives of a congressional district, or, in other words, to permit the agent of a State, the Secretary of War, (for he stands in no other attitude than that, as the agent of a State or a congressional district under the amendment of the Senator from New Hampshire,) to go down to South Carolina or Alabama and there recruit negroes out of that common fund which belongs to my State as well as to the State that is in default. Do not Senators see that if they want to avoid a second draft they must reserve this body of colored men for United States soldiers and not to be the soldiers of any particular State or of any particular congressional district? If, after this draft shall be completed, we can only stimulate the War Department to put one hundred thousand colored men in the field, which they ought to have done long ago, there will then be no necessity for a

draft. But you take away from the Secretary of War the means of doing that by allowing him to go down, as the agent of a congressional district that is in default, and recruit those very men that should be applied to the other States equally with that defaulting State upon its second draft.

Mr. FESSENDEN. Mr. President, the argument of the Senator amounts to just this, to put it into a very few words: certain States in the Union have got more money than others; they shall not have the benefit of it at all; we will not allow them; we do not like it; we do not choose to appropriate what we have got in that way, and nobody else shall. That is just exactly the length, breadth, and thickness of it: if you want to furnish the money and hire men, you shall not do it, but you must send your men into the field, however much it may be against your interest. What I contended for originally was this, that the State should make up its quota. I said, in the view of the law as I had it yesterday, it must be made up by drafting unless they chose to volunteer or to furnish volunteers in another way. The object of this amendment of the Senator from New Hampshire is precisely this: to compel them to make it up, and it says the money shall not be credited unless it is sufficient to get the men; each man obtained shall be credited, no matter how much he costs, but the money shall not be credited unless it obtains a man. That is the object of the Senator's amendment, and it will produce that effect.

Mr. HARLAN. I think the argument of the Senator from Maine would be conclusive if men all cost the same price; but I understand that in New England a man fit to be a soldier costs now about \$600. If you will allow a drafted man to pay out \$300 and permit the Government to buy colored men with the money, as is being done in Maryland and Missouri, I understand, where they can be procured for \$300, the argument, as it seems to me, is less conclusive. We raise white men that are worth \$600 apiece—they cost that in New England—and put them into the service, and then we allow New England to buy men who can be bought for \$300 as substitutes in those States. Here is the inequality that exists, as it seems to me. I am not willing that colored men, who can be procured for much less than \$600, shall be credited to a State the same as white men, who cost much more.

I agree perfectly with my colleague that if these men are employed in Tennessee, South Carolina, North Carolina, or Louisiana, they shall be employed by the Federal Government, and their service as soldiers shall be for the common good, and not for the good of the States that can pay \$300 for the drafted men more readily than they can furnish the men. This, in other words, should be a tax on the able-bodied men of the Republic. You want able-bodied men to serve the Republic in the field. This levy ought to be made on the States equitably. They should be called upon in proportion to the number of able-bodied men in the State. If you permit men who are drafted to evade this tax levied on men for the purpose of procuring muscle and intellect to serve the Republic in its armies, you should not relieve the State or the residue of the people of the State from the performance of their quota of service. If it were a tax levied on the country for money to pay the men, then, I suppose, these wealthy men in the States that have been alluded to will be compelled to pay in proportion to their incomes; and this will be right. This tax is not a tax levied on the money of the country, but a tax levied on the men of the nation. I can never agree that Massachusetts, or Maine, or New England, or Iowa, shall be permitted to fill its quota of drafted men from the men of Louisiana. Louisiana is a State, as it is maintained, of the Republic. The people in that State owe service to the Government as fully as the people of Maine or Iowa, and if men can be procured there by the agency of the Federal Government, they ought to be appropriated to the country at large, and not to any individual State.

I think, therefore, the argument of the Senator from Maine is not conclusive. Men do not all cost the same amount of money. Colored men can serve in the armies of the Republic in certain capacities. They may labor as well in the ditches and on the fortifications, but nobody need pretend that they are, on an average, worth as much as white men. It never has been so, and never will be so, that men of less cultivation are worth as much as those who are cultivated, in the armies. Intellect has something to do with the courage of men, with their persistence; and an ignorant community never did furnish as good soldiers as those that are cultivated. It never has been so, and never will be so. An enlightened nation always furnishes the best armies. While I have believed from the beginning that colored men ought to be employed, and may be employed with great effect, I never did believe they would be equal to the white men of the Republic, even as soldiers. They may have, and do have, I think, an equal amount of brute force; they can perform an equal amount of physical labor; but they are not worth as much; and I think the result of the service of our own arms in the field will show that they cannot be trusted to some extent. They may serve in connection with white troops, but we cannot rely on them exclusively.

While I am on my feet, I might as well say that I think the bill as it now stands is wrong in this: the commutation is not enough. You propose to allow a man to buy himself off for \$400, while a man in the market, if I may use such a term, costs \$600. There is no recruiting station, I believe, in the free States anywhere where volunteers can be procured for \$400 each. There are other inducements held out besides the \$300 or \$400 offered by the Government. In my own State, I think in all the counties of the State, at every recruiting station, either the county or the town or the township has added to the Government bounty, and has agreed, in addition, to provide for the welfare of the families of the men that volunteer for the purpose of avoiding a draft. There is perhaps a neighborhood pride, a town pride, a county pride brought to bear, which weighs something in the settlement of this question; and then the county, town, or township adds money and agrees to provide for the welfare of his family in the absence of the soldier in the field. It has been stated here repeatedly that in New England some of the States give a bounty of \$300 in addition to the Government bounty. Then, I have been told, the towns and cities add an additional sum to this State bounty, and thus run up the price of substitutes. Then we as a nation agree to allow a man who is drafted, whose services are needed in the field, to buy himself off for \$300 or \$400, and then the Government turns around and pays an equal sum of money, and the States individually add to that sum, for a substitute, who thus costs the Government double the amount that enables the party to buy himself off from the performance of this service due to the Republic.

It seems to me the correct rule ought to be to compel the man to go or to pay enough money to hire another man equal to himself. I can never agree that he may be permitted to release himself from this service by paying money enough to hire an inferior man. I do not think colored soldiers will ever be equal to the white troops, and hence I am unwilling to agree to the proposition advocated by the Senator from Maine.

Mr. FESSENDEN. It was not my proposition at all. The simple truth of the matter is that the Senator's colleague got up this scarecrow, the possibility that colored men might be obtained and that this amendment might operate in that way. The proposition is simply that the Secretary of War shall procure the substitutes. The probability is that he would procure them in just those States where there is a deficiency; but the Senator from Iowa imagines that possibly he may go down South and get colored men; and on that he predicated his argument, and on that his colleague follows him.

Mr. GRIMES. If the Senator will pardon me for a moment, the Senator who raised the "scarecrow" is the Senator from New Hampshire, [Mr. CLARK,] who stated that this might be the course which the Secretary of War would pursue; and it was on that hypothesis that I based what I had to say, because I wanted to avoid even the possi-

bility, and he said the Secretary would probably do it.

Mr. FESSENDEN. That is a question between the Senator and the Senator from New Hampshire.

Mr. GRIMES. It is a question that occurred in the presence of the Senator; and I do not choose that the Senator shall say that I introduced the subject.

Mr. FESSENDEN. I do not know how that may be. I did not raise the argument; nor did I imagine that the argument would arise to any considerable extent. Nobody imagines that it would, except the Senators from Iowa, who really seem to be alarmed for fear that somebody may be relieved—that seems to be their great trouble—of a burden to some possible extent, and therefore the great State of Iowa may suffer. That is the whole logic and benevolence of the argument from the beginning to the end. The Senator says a substitute in New England costs \$600, and shall we permit them to be employed elsewhere for \$300? That would be an outrage on the State of Iowa. In other words, if the nature of our labor is such as to make it necessary or convenient, or for our interest, that a man should be procured possibly elsewhere for a less sum than we are now obliged to pay, we shall not have the benefit of it, because we thereby relieve ourselves of serving under the draft; whereas in the State of Iowa there is no necessity for such a thing. The Senators have stated here that in Iowa they paid no bounties; the State pays none, the county pays none.

Mr. HARLAN. I know the Senator does not intend to misrepresent my State. I have just stated that they do pay a bounty in excess of the Government bounty, I think at every recruiting station in the State; and in addition, they provide for the welfare of the families by making monthly payments to the wives of those who volunteer and go into the service.

Mr. FESSENDEN. I can only say that the Senator and his colleague do not agree in their ideas of what is the state of the case in Iowa. The State, I see in some statement with regard to it, has incurred no debt.

Mr. HARLAN. The State as a State does not; but counties and towns and neighborhoods do.

Mr. FESSENDEN. Then I am corrected. I had my information from the Senator's colleague that there were no bounties whatever paid in the State of Iowa; that all there was there was a provision for the families of soldiers. We make the same provision for the families precisely, and we pay the bounties besides, cost what they may. That is the simple truth of it. The labor in some places is so needed at home and is of such a nature that it is essential that the money should be paid and substitutes obtained. Now, here is a bare possibility presented—because after all it is but a possibility—that by this proposition the men, to a certain extent, might possibly be secured by the Secretary of War for a less sum by procuring them somewhere else perhaps. That idea seems to afflict my friends, who think that it is not fair as between us and others. If that argument is one that addresses itself to the Senate, I cannot help it.

Mr. CONNESS. If I thought this amendment would be construed as the Senator from Iowa seems to fear, I should vote against it; but I have not the slightest fear that the War Department will so construe it. On the contrary, I know that the War Department is determined to enroll and enlist and muster into the service of the United States colored men as United States soldiers, and that it is totally opposed to allowing the agents of States to go down into the southern States and make commerce of those men by grabbing among them and putting into the States' quota relatively as many as shall be necessary to make it up.

Mr. HARLAN. I will inquire of the Senator from California if he does not know that Massachusetts has mustered in regiments of colored men heretofore, and been credited for the number thus mustered in, procured beyond the limits of Massachusetts; some of them in South Carolina, North Carolina, Virginia, and St. Louis.

Mr. CONNESS. I know that that has been done; but I also understand it to have been put a stop to; and I understand that the Department, acting upon its discretion, will no longer permit such a thing to be done.

I know that that evil went further, and I will say to the Senator from Iowa that Massachusetts

has about four hundred of the citizens of California in its service as a part of its quota. I have complaints from those men daily since they have been in the service. They are not satisfied, and they never will be satisfied, because they find themselves working in the field and the result of their prowess and efficiency as soldiers credited to another State than their own. They enlisted among the troops of Massachusetts in order to obtain active service and to serve the country, owing to the distance of their own State from the great theater of the war; but they are dissatisfied; and so it will always turn out in such cases.

I am utterly and entirely opposed, as I know the War Department now is, to allowing this thing to be done; but I am entirely satisfied that this amendment, if adopted, will not be so construed by the Department, while it will serve the other purpose, which I think very essential, of supplying a want of the old law as pointed out clearly to us by the Senator from Maine this morning; and therefore I am in favor of it.

Mr. CLARK. I desire for a moment to call the attention of Senators to what is the law. A party drafted may pay his \$300 or \$400 commutation money, and that commutation money the Secretary of War is required to expend in procuring substitutes. Is there any limit on him at the present time that he must get the substitute in the district? Not at all. He may expend that money now anywhere, wherever he pleases, and he credits the State, not with the amount of men obtained, but counting each \$300 as a man, whether he gets the man or not. This amendment provides that he shall only credit the amount of men he actually obtains. It alters the law no further in that respect.

Mr. DAVIS. I think, sir, the loyal States ought to be restricted in making up their proportion of soldiers to their own limits; at least they should not be permitted to go into the limits of other loyal States, whether the agencies by which troops are to be drawn from them be State or Federal. I admit that it is very desirable to the New England States to keep their laboring population at home and not permit them if they can avoid it to go into the Army. For what reason? The most skillful, available, and valuable labor on earth is the labor of the New England mechanics. In point of result, both in the achievement of manufactured articles and in creating wealth, there is no labor in the world that compares with that of New England; consequently, considerations of political economy would make it very desirable to the leading minds of New England to make every arrangement practicable to keep her laborers at home.

How is it with other loyal States, especially the border slave States? A large proportion of their labor is negro labor, unskillful, not productive at all in comparison with the skillful, cultivated labor of the northern States. Here is the way it is going to operate and does operate: the border slave States may furnish their quota of volunteers or of drafted men, and yet, under the operation of the law that allows the Secretary of War to go into other States and recruit negro soldiers, although my State may furnish by volunteering or by drafting its full quota, it would not at all exempt its negro laborers from being recruited and taken into the Army. How is it in Maryland and in Missouri and in Tennessee at this time? The Secretary of War would sooner enlist a slave in those States than a white man. His object and his policy, and that of the President, is to break up the institution, to demoralize it, to withdraw from the fields and other theaters of labor in the border slave States their entire effective male slave population, and to leave the remnant of that race, old men, women, and children, and in that way to make the institution of slavery a burden upon the owners, and thus to make it repulsive to them by leaving only the non-effectives to be supported by them, and in that way to wring their consent to emancipation, of themselves, or its abolition by the usurped power of the President.

Mr. President, it is complained that Kentucky is not a recruiting ground for the enlistment of negroes. That was professedly the state of case, but it is not and has not been the fact for some time. Indeed, I am informed that within a few days recruiting of negroes has been ordered in that State. The Secretary of War has sent special

agents to recruit negroes in the lower or first district of Kentucky. But for some considerable time this has been in practical operation: they have established recruiting stations within the borders of Tennessee, along the southern Kentucky line, and they allure and receive all slaves escaping from their masters in the State of Kentucky. They send over emissaries from those camps and inveigle men, women, and children. On the application of a member of Congress from that State, and of other citizens who are interested in this property—although they are as loyal to the United States and its Government as any men whatever—they denied to them wholly the privilege of reclaiming any of their slaves.

Mr. President, I do not make these remarks with the expectation that they will have the least influence upon gentlemen to correct the wrong of which I complain; but I make them for the purpose of presenting the state of fact to the country. Here is the State of Kentucky, that has I suppose sent twenty thousand of her sons, her unworthy and traitorous sons, into the southern army, and she has sent upwards of fifty thousand of those who are loyal and true into the Union Army. If she were to be consulted she would prefer to make up her quota of troops entirely from the white population, and she would sooner furnish five white soldiers than that one negro soldier should be recruited in the State, because the effect of the recruitment of negro soldiers is to demoralize the whole of her slave population. She may fill up her full quota, every man, by volunteering or by drafting from the white population, and then, for the purpose of carrying out indirectly and furtively the policy of the Government, the Secretary of War sends his agents to establish recruiting stations along the Kentucky border within Tennessee, and they allure all the slaves from the State that they can induce to go to them, and still protest that they are not recruiting in the State of Kentucky.

Now, sir, here is the injustice of the operation: the northern States, that have a manufacturing population that constitutes their true wealth and true glory, and so large a part of the common glory and wealth of our country, are desirous to save to themselves this valuable population. It is a reasonable desire; but here is our inferior laboring population in the border States, consisting of negroes, that are abstracted from their owners and from the State, though the State may make up its full quota of white soldiers, for the purpose of taking the place of these northern operatives and of enabling those States to keep their laboring population at home. After our white freemen perform their full duty by mustering in the force that is required from the State to march to the battle-field, the negro laborers, who ought to be left there for the purpose of raising the necessities of life to support their white owners who have gone to the battle-field, are also taken into camp, and their owners left destitute of labor. In that way the border slave States are deprived of their necessary laboring population for the purpose of keeping at home the laboring population of other and distant sections.

Sir, the system is unjust and unequal in its operations. It has had a most deleterious effect in Maryland, and it is producing the same consequences in my own State and the State of Missouri. But no matter how unjust and oppressive it may operate upon the people of these loyal States, that will have no influence, I know, upon the Secretary of War or the President. On the contrary, so far as they can magnify these unjust fruits of their unconstitutional and illegal policy, they will do it by expanding them and aggravating them in every way they can. This war policy is more against slavery than the rebellion, and in waging it they are reckless whether they strike the loyal or disloyal. I merely make these remarks for the purpose of showing the state of the fact, and for no other purpose whatever.

Mr. CONNESS. I desire to make a very short answer to the Senator from Kentucky, and it is this: heretofore, for over eighty years, the blacks in the slave States have been voters and not fighters; that is to say, their white masters have voted for them. We propose in this hour of the country's need and in the advanced stage of civilization, as we believe, to change the policy a little, so that hereafter, I trust, they will vote less and fight more. I am in favor of that policy.

Mr. DAVIS. I will ask the honorable Senator from California by whose arrangement and whose law was it that the black population voted through their white masters? Who ordered that? It was the framers of the Constitution. If they had not made that arrangement there would have been no Constitution, there would have been no Union. If that is a grievance, and operates unjustly on the white man of the free States, there is a mode of remedying it, and that mode is provided by the Constitution itself in its amendment. That feature in the Constitution, as well as any other, may be changed according to the mode prescribed by the instrument itself, through the medium of a national convention. I protest against the Secretary of War, or the President, or any other power producing the results upon this or any other subject connected with constitutional law which can be effected properly and legitimately only by a national convention.

Mr. CONNESS. So far as changing the voting part of the proposition is concerned, I agree with the Senator from Kentucky that it ought to be done, when done, by constitutional amendment; but I think that by the statute as we are now providing, and by the necessities of the nation, we can apply the remedy in the other direction, that of making them fighters.

Mr. HARLAN. I have a question to ask of the Senator from Kentucky, and that is, whether the Secretary of War has sent recruiting officers to Kentucky to recruit colored men after the quota of Kentucky has been filled?

Mr. DAVIS. I do not suppose he has. I do not suppose the quota is full there; but they are taking steps to fill it. I have no doubt it would be filled; that if Kentucky had the option to raise her quota of white recruits or submit to negro recruitment, she would accept and execute the first alternative.

Mr. HARLAN. I understand that the opportunity was given to the people of all the States until the 5th of January to fill up their quota of the three hundred thousand men. Some of the States have filled their quotas; some have not; and we now learn that Kentucky is of the latter class. The Secretary of War, according to his showing, has sent recruiting officers to Kentucky with authority to receive colored men. The white men have had the opportunity to volunteer and fill up the quota. They have not done so. The privilege is now to be extended to the colored men; and if they should be more patriotic than the white men, and come to the help of the country, I do not, as a Senator, feel inclined to complain. Nor do I see any injustice, in the levying of the blacks, in including the colored men of Kentucky or any other State. I do not think, as I have said a few minutes since, that they will make as good soldiers as white men, but they will be better than no soldiers at all. If the white men of Kentucky would volunteer in sufficient numbers to fill up her quota I suppose no effort would be made to enlist her colored population; that is, no draft would be executed. But why should not a colored man serve in the armies of the Republic in the absence of a disposition or willingness on the part of the white population of the State to do so? It cannot grow out of the fact that the colored man is supposed to owe service to the white man, because many of the white men of Kentucky, I doubt not, owe service to other men. All those under twenty-one years of age doubtless do so; but those who are over twenty and under twenty-one years of age are subject to the operation of the draft. In the execution of this law the Government does not consult the father of the young man who may be a minor over twenty years of age, but his name is enrolled, and if, when the lot is cast, it should be selected, he is compelled to serve, as much so as if he were twenty-one or thirty years old. On what principle can you exempt a man who owes service during life to another from serving in the armies of the Republic when you do not exempt the son who is still a minor? You compel the father to give up his son, the offspring of his own loins, although he owes him service for another year. You do not consult his will or wishes. Is the relation of master and slave stronger than the relation of father and son?

It seems to me the complaint ought to be from the other quarter, that while these able-bodied colored men are exempt the minor sons of white men are compelled to serve. As it seems to me,

justice to the white people of Kentucky, and the white people of the whole country requires that all the able-bodied men of the Republic embraced within the age indicated in the law should be subject to the draft. If the people of the States volunteer and fill their quota of course they are released. If they do not do so, then it seems to me that justice to the white people of Kentucky, as well as the people of the whole Republic, requires that the draft should be executed impartially on all. If colored men are selected, it releases that number of white men who may be citizens of Kentucky. On principle I can see no reason for the exemption of the colored men of Kentucky or of any other State; but if the white men would volunteer, as I believe they would make better soldiers, of course I would not be in favor of compelling the colored men to serve.

Mr. DAVIS. One word in reply to my friend from Iowa. I believe that but two or three States have filled up their full quota as yet by volunteering. Another, New Hampshire, has nearly completed hers.

Mr. ANTHONY. Ours was completed long ago, and half of another quota.

Mr. DAVIS. I do not recollect whether yours was one of the few in my computation or not. Then there are some three or four States that have completed their quota. According to my information, the State of Kentucky a month or two ago had come within about three thousand men of completing her quota. I do not know how the fact is. Now, if Kentucky was in default and the proposition was to make up the defalcation of white men by enlisting negroes in that State, there might be a show of reason and justice in it; but this is the point of view in which I complain of it strongly: that no matter whether Kentucky has filled up her quota or not, even though she may fill it, the Secretary of War goes on to recruit from our laborers, and to deprive the owners and the State of the benefit of their labor.

Now, sir, we of the present generation did not select our class of laborers. If we had the free option to have laborers all white or partly white and partly black there is not one man in a score in the State of Kentucky but would have them all white. We are not attached to but are opposed to slavery as an institution in the abstract if we could change it even as a matter of public or political economy. It is a most expensive sort of labor. I know, myself, that such is the fact. But we have that labor upon us to the extent of two hundred and fifty thousand people. It was imposed upon us by former generations. The present people of the State have no option, no choice, in relation to the subject at all. They are either to continue those laborers or they are to turn them free among themselves. If they could liberate them and colonize them to-morrow, next week, or next year, it would be done by the voice of the people of that State; but they cannot do it. The evil is upon us. It is beyond our control or correction. But the point of view in which I complain is this: that when we are about to fill our requisition of soldiers, and when we are but a few thousand in default, the Secretary of War comes into our State and recruits from among the laborers our loyal people without regard to the fact whether we have filled or are about to fill our quota or not.

Various gentlemen here have stated how Massachusetts has been sweeping over the whole land, from New York to Hilton Head and New Orleans, for the purpose of recruiting her quota from negroes. I do not censure her for it; that is, I do not say it is unnatural for her to make such efforts to substitute in the military service the labor of other States for her valuable and skillful mechanical labor. But I complain that she should be allowed by the military authorities to shelter and to keep her laborers at home by a system that unlawfully and oppressively takes from other States their labor and tends to the impoverishment of their people.

Mr. CONNESS. I agree to that proposition.

Mr. DAVIS. Of course the just and fair-minded Senator from California agrees to that proposition. It seems to me it ought to strike the sense of justice of every man so as to receive his assent. I should be glad to offer a proposition to restrict the recruiting of negroes under the law or under the practice of the Department in any State to the number sufficient to make up the quota of

that State; but I do not offer it, because I know it would avail nothing, and that even if it passed this body it could be defeated by the subterfuges of executive administration. I therefore abstain from the futile task of attempting a modification of the law or of the practice of the Department in relation to this matter.

Mr. LANE, of Kansas. I should like to ask the Senator from Kentucky a question. The Senator from Kentucky was not very plainly heard on this side of the Chamber, but I understood him to say that the people of Kentucky would send five white men to the war rather than one negro.

Mr. WILSON. I had hoped that we should have a vote on the bill before this time; and I do not rise for the purpose of continuing but for a moment this debate.

Allusion has been made by several Senators to the action of my State in raising colored troops. I will say that we in Massachusetts have a profound conviction that the whole cause of this war is slavery, nothing else; and we were early of the opinion that we ought to employ colored men to help to fight the battles of the country. We raised two regiments. A portion of them resided in our own State, and colored men belonging to other parts of the country where they were not raising colored troops came into those regiments. We have put those regiments in the field where they are doing their duty, and doing it faithfully. We are now raising a regiment of mounted men in our State; and if any colored man chooses to go into that State and take the bounty the State offers, he will be taken. I do not see any objection to that.

Then, again, some time last year some Massachusetts men in California addressed the Governor of our State and asked to be mustered into the service. I think there were four or five companies of them. I do not know that they were all formerly from Massachusetts, but a large number of them were, and Massachusetts men had the lead of it. They came to that State, organized into companies, and now make up a part of the second Massachusetts cavalry, and are doing duty in the field, and doing it faithfully as we all know, under one of the most accomplished officers of the Army. I mean Colonel Lowell, a captain in the regular cavalry. I suppose all the men in the service would like to be spoken of as coming from the State in which they reside, and possibly these men would rather belong to a California regiment than to be a part of a Massachusetts regiment.

Now, sir, it is said here to-day that the Secretary of War has been raising colored men in the southern States. What some of us complain of—and I understand the Senator from Iowa to make that complaint—is, that the Government has not done enough of that. I am of that opinion. I know that in the State of Maryland an appeal was made to the people of that State whether they would have colored men enlisted into the service or go themselves under a draft, and it was one of the most powerful elements in the last election in the State of Maryland. I think the gentleman who represents the Eastern Shore of Maryland was elected on that issue, that the laboring men of Maryland preferred that the blacks, slave and free, should go into the service rather than be drafted themselves.

I believe that if you put that issue to the poor white men of the State of Kentucky to-day they will vote five to one to have the slaves, especially of rebel masters, go into the service of the country and allow them to remain at home. I have complained for the last four months, and I have addressed my complaints to the President and the Secretary of War over and over again, that the Government did not comply with the wishes of some of the ablest and noblest men of Kentucky and enlist the slaves of rebels to fight the battles of the Republic. Many of the ablest men of that State have been pressing that subject for four or five months upon the Government. I understand the Government is now about doing that very thing, and I rejoice at it. I would not ask Kentucky or any other slave State to send more than her quota in the field, including white men and colored men, free and slave, in the enrollment. The Government has construed the act to mean that it only includes colored free men, and not slaves, in the enrollment. In the States of Delaware, Maryland, Kentucky, West Virginia, and

Missouri, the slaves are not enrolled and do not go to make up a part of their quota. This whole class is left out of the enrollment. Why should they be omitted? There is no reason on earth for it. They ought to be enrolled; they ought to go into the quota of the State, and the Government ought to enlist them whenever it can, just as it enlists other men throughout the country.

But, sir, as to this proposition, I am willing that it should be adopted. I do not see the necessity of it. I regretted the introduction of this whole matter; but in the form in which the Senator from New Hampshire has put the amendment, I shall not object to its adoption.

Mr. JOHNSON. Mr. President, as the Senator from Massachusetts has referred to the State of Maryland, I rise merely for the purpose of stating what I believe to be the fact. Whether the war itself was caused by the institution of slavery, either partially or wholly, it is not my purpose now to inquire. A great deal might be said on both sides of that question. That slavery may have caused it, may be true; but that slavery of itself was not the cause of it, may be equally true. Whether there were other causes than the existence of that institution which have led us into our present situation, is a subject with which, as I have said, I do not mean now to deal. The war is upon us, and no matter what may have been its origin, it is our clear duty by all the means in the power of the Government to bring it to a successful termination, and I hope and I believe that it will be brought to such a termination if we are in our councils here and in the other branch of Congress unanimous upon that subject, and conscientious in discharging, to the best of our ability, the duty which that opinion may impose.

The Senator from Massachusetts has said, what no doubt he believes, that the elections in Maryland during the last canvass resulted as they did result principally from the fact that the Government were enlisting slaves as soldiers in the Army of the United States. It is true that a good many of the people of Maryland were then of opinion, and are now of opinion, that it is desirable that black men should be enlisted, because by their enlistment they save from the obligation to go into the military service of the United States the same number of white men. It is but reasonable to suppose, therefore, that to a certain extent that had some influence on the election. But it is equally true, as I think, that a large majority of the people upon the Eastern Shore of Maryland, which was the locality particularly suggested by the Senator from Massachusetts, were very much opposed to the conduct of the Government in that respect. They were opposed to it, first, because they thought, many of them, and I have no doubt they were very sincere in that belief, that the Government had no authority at all to call them into the service; and they were opposed to it because they believed, as I understand the Senator from Iowa [Mr. HARLAN] to believe, that they will make very inefficient soldiers as compared with white men. In that belief I certainly, to a considerable extent, share. That they can become good soldiers after being trained for one or two years, I believe is true; but that they will be equal in the field in a shorter time than that to do the duty which a white man can do in the same condition, I do not believe.

But the election in Maryland, Mr. President, as I think, with due deference to the information upon which the Senator from Massachusetts has thought proper to make his statement, resulted as it did result upon the Eastern Shore of Maryland almost exclusively from another cause, from the interference of the military, not only, in my judgment, an interference without authority, but an interference against all the authority, national and State. That interference consisted, as perhaps the Senate may not be as fully aware as I am, not only in the determination upon the part of the military to secure to all the voters of the State the privilege of voting at that election, but it was used for the purpose of saying who should enjoy it. They disregarded all the laws of Maryland; they disregarded the organic law of Maryland; they usurped the authority, whatever it may have been, of the Constitution of the United States, conferred upon the military or the head of the military. In the first place, they determined that no man should vote unless he took the oath proscribed by the military commander. By the order which was

originally issued, although subsequently, the day preceding the election, altered in one respect, but still, in my judgment, leaving it very objectionable, they were ordered to arrest any man hanging about the polls, any man at the polls, any man approaching the polls, whom they thought was not loyal. And they were ordered also to report to the head of the military, the general who was then in command of that military department, the judges of the election who should refuse to administer the prescribed oath, the inference from which, as drawn by the judges, the only inference which they could have drawn, of course, was, that in the event of such a refusal upon their part becoming known to the head of the military they were to be arrested. In the execution of these several orders, men were arrested miles from the polls; at the polls judges of election were arrested upon the ground of their supposed disloyalty. Some of the parties arrested were brought to the city of Baltimore the evening before the election—some seven or eight of them—consisting, as I know personally, in part of gentlemen of as stern and fixed loyalty as are to be found in any State in the Union, but who had become obnoxious, not because they were opposed to the abolition of slavery in Maryland, prospectively, gradually, but because they were opposed to instantaneous emancipation without compensation. If an opinion of that description constitutes disloyalty, they were disloyal; but I am sure there is no member of the Senate who will say that that is any evidence at all, much less conclusive evidence, that the party who entertains it is disloyal to the Government. They were brought to the city of Baltimore, and some of them thrown into a prison which had been used, to the disgrace of the city, as a prison for the safe-keeping of slaves while the domestic slave trade was being carried on, and were not discharged until the next day. Some of them, the moment it became known to the proper department, whether to the commander or his subordinates I do not know, were told that it was an outrage not warranted by the orders of the commander—done upon the authority of the subordinate who was in command at the particular polls where the arrests were made, and that they should be returned at once. A steamer was chartered; they were put on board on Monday night, arrived at Chestertown, the district where the particular outrage had been committed, bearing with them a letter to the commander who had ordered the arrest, marked "official," they being told when they were sent home that they were all discharged; and the commander to whom the letter was addressed not being there, but having gone off to some other district for the purpose of repeating the same outrage, the officer second in command opened the official letter, as he thought he had a right to do, and there fell out of it a private letter, written by one of the staff of the commander of the department, to the officer who had committed the outrage, telling him to discharge two, but to keep all the rest in prison until the election was over.

I do not think I am mistaken when I say to my friend, the Senator from Massachusetts, and to other Senators, that if that proceeding had not been resorted to, the gentleman who was elected from that Shore to the other House would not occupy the post which he now holds. I say that not from any personal or political dislike to that gentleman. A worthier, a truer man is not to be found within the limits of our State, or any other; he is a man of great ability, and a pure patriot, but he owes the seat which he now honors (because he is abundantly able to fill it) not to the choice of the people of the district, their unbiased and uninfluenced choice, but solely to the interference of the military—an interference which, in my judgment, (and I have nothing more to say, and shall not repeat it during the session,) amounted to as great an outrage as ever was perpetrated upon freemen.

Mr. HARLAN. Mr. President, these statements have been made repeatedly in the Senate during the present session, and I think it is no more than just that the true grounds of the action of the Government should be stated. If an election had been pending at the time Lee was over here in Maryland with one hundred thousand armed rebels, I suppose no one would complain if the officers of the Army of the United States had prevented the soldiers of that rebel army from

voting. If they had disguised themselves in the clothing of citizens and approached the polls would they have been any better entitled to vote than they were as armed soldiers of the rebel government? I apprehend not. Then, instead of prescribing the qualifications of electors in Maryland, the Government here have provided a means of detecting rebels who may, for the time being, have laid down their arms; and they, in order to test the character of the man, whether he is or is not a real citizen of the Republic and a citizen of Maryland, require that he shall first take an oath and swear that he will support the Constitution of the United States and the constitution of Maryland; and that is all there is of it. If he declines to take this oath the presumption is that he is a rebel, and that he has laid down his arms for the time being for the purpose of voting and thus effecting by his ballot what he has been unable hitherto to effect by the use of the musket.

Now, whether an abuse has been made of this purpose of the Government I am not prepared to say. It may have occurred here and there in Maryland and in other States. Men are not perfect. I suppose we do not expect to find absolute perfection in the military officers of the Government any more than the civil officers of the Republic. This, doubtless, has been the purpose, and the only purpose, on the part of the Government; and I think it was right; it was due to Maryland, who was unable to protect the civil rights of her own people, that the Government of the United States should protect them, and prevent rebels, either with arms or without arms, from voting at the polls. Nobody will pretend that, during the past year or the past three years, the people of Maryland have been able to protect the purity of her own elections, have been able to prevent rebels from voting at these elections. We have had a hundred or more thousand men in arms here for the purpose of protecting Maryland and the country adjacent thereto, and without the interference of these armed soldiers of the Republic no citizen of Maryland would have been able to discharge this right of citizenship. The complaint, I think, is founded in error.

Mr. JOHNSON. Mr. President, I have no right to complain of the Senator from Iowa, but I should like to know where he discovered, upon what authority he ventures the opinion, that there is not loyalty enough in Maryland to protect itself. The Legislature of Maryland elected before the recent election, was just as loyal as the Legislature of Iowa. They were, if there can be ultraism at all in such sentiment, ultra loyal; and they were abundantly competent and just as willing by any laws which they deemed necessary, to protect the ballot-box against the impurity of treasonable votes. What we object to is that they were not permitted to protect themselves, through the interference of the Executive, or a military officer acting under the presumed authority of the Executive. I say to my friend from Iowa that he is grossly mistaken if he supposes that there is any lack of loyalty in the State of Maryland. There are, no doubt, persons there whose sympathies are so strong with the South that they are unable to do the duty which they owe to their country. Are there none in the State of Iowa? I rather think such would be found. Are there none in Massachusetts; none in New York; none in Pennsylvania; none in any of the other States against whom the military has not been used? If we learn from the press of those several States, there is as much if not more disloyalty in those States than there is within the State of Maryland, and if you look to the efforts which Maryland has made, and is now making, to fly to the support of the Government, I tell the Senator from Iowa that his troops, brave and gallant as they are, are not at all the superior of the troops of Maryland. They have an ancestry which renders it almost impossible that they should be otherwise than true, loyal, and gallant; and there is not now—I am proud to say it, delighted to say it—there is not now within the limits of this great land a State in which loyalty beats stronger or more universal than it beats within the hearts of the sons of Maryland; and if the time shall come when it shall become necessary to call to the aid of the United States every man within her limits to save the Republic, there is not one of them who will be permitted to remain in her borders who hesitates for a moment to come to the standard of the United States.

Mr. HARLAN. Mr. President, I think that perhaps a little injustice has been done me by the remarks of the Senator from Maryland, unintentionally, doubtless. I did not say one word impugning the patriotism of Maryland. I only spoke of her inability to protect herself, and that is patent to the whole world.

Mr. JOHNSON. Where?

Mr. HARLAN. It has not been long since my colleague here was compelled, I was about to say, to crawl around Baltimore, the great commercial metropolis of Maryland, in order to reach the capital of the nation, on account of the disposition of the people of Baltimore.

Mr. JOHNSON. Will the Senator permit me to ask him when?

Mr. HARLAN. Since the commencement of this rebellion.

Mr. JOHNSON. In April, 1861, when the city was crazy.

Mr. HARLAN. It has not been long since the Government of the United States was compelled to manufacture, patch up a way to bring troops to the capital of the nation, in order to avoid the commercial metropolis of Maryland, on account of the disposition of its own people. Now that there has a manifest change taken place for the better, is of course known to all. The Senator himself cannot be more gratified at that result than I am; but then, sir, it is history, and not very old history, that Maryland has been invaded, and the armies of the Republic have been assembled in multiplied thousands to drive those invaders from Maryland. It was not the fault of Maryland entirely, perhaps not to any very great extent; yet it was her misfortune. I spoke of the propriety of the interposition of the Federal Government to prevent those invaders from usurping the civil authority in Maryland, whether they had arms in their hands or whether they had thrown down their arms for the time being and disguised themselves in the clothing of citizens for the purpose of securing the privilege of voting in Maryland. That is all that the Government has attempted to do. It has done it with a greater or less degree of success in Maryland and in other places; and I think the Government ought to do so. What difference would it be whether this Republic is to be overturned by the votes of men who refuse to take an oath of allegiance, or by arms in the hands of those men? In the very district of country to which the Senator refers, down the Potomac here, it is known to the whole country that perhaps a majority of those people, at least until a very recent period, have been in open sympathy with the rebels; and the military authorities, the officers of the Army and the soldiers there, have, for the protection of the loyal people of this part of Maryland, required that those who were supposed to be disloyal should purge themselves of that implication by swearing that they would support the Constitution of the United States and the constitution of Maryland before they should be permitted to vote. What great harm in it unless it damages a man to purge himself from an implication? It is his misfortune, perhaps, but it is the result of circumstances over which this Government has no control. If a man is so surrounded that his neighbors believe that he is a disloyal man and is about to exercise the privilege of voting for the purpose of overturning the Republic, and the Government interposes and requires that he shall take an oath of this kind and thus purge himself from this implication, who is damaged? Certainly not Maryland. Does she desire that the votes of rebels should be polled? And when she has the manifest inability to protect herself in this regard, why should she complain that the Federal Government comes to her assistance?

Mr. JOHNSON. Who says that Maryland is unable to protect herself? The Senator from Iowa says so, but I do not think his evidence is conclusive on that question. Now, as to the troubles in the city of Baltimore, in April, 1861, perhaps there is no part of the State that lamented them more than the city itself; and I say now what I believed then, that it was a sudden outbreak, not meditated at all, confined to a very few. Every city has a combustible population, and whenever any particular cause of excitement is started, a few wicked men can get up a mob. Does the Senator from Iowa forget the mob that was in New York only a few months ago, excited for the very

purpose of resisting a law of the United States? Does he forget the conduct of those who are charged with disloyalty in Ohio, occurring before the late election? Was there any interference with the exercise of the elective franchise in either of those States, on the ground that for the time being they were unable to protect themselves? Why, there is not a city in the Union, there is hardly a State in the Union that has not at times, owing to some local excitement, been found for a moment impotent to its own defense; but does that extinguish all its constitutional rights, and convert the Government of the United States into one consolidated mass of power, authorizing them to interfere in any way that they may think proper in order to preserve what they think should be preserved—the free exercise of the elective franchise? If they can require the oath, they can dispense with the election. If they can say who shall vote and who shall be voted for, let them say at once who shall be the representatives, or whether we shall have any representatives. What I protest against is the power. The practical operation of the exercise of the power in any particular instance is not so material; but the existence of the power is fraught with evils that the tongue of no man who is fond of constitutional freedom can adequately depict.

Mr. WILSON. I hope we shall now have a vote on this proposition. It is very important to pass the bill to-day.

The PRESIDING OFFICER. (Mr. ANTHONY.) The question is on the amendment proposed by the Senator from Iowa [Mr. GRIMES] to the amendment of the Senator from New Hampshire, [Mr. CLARK,] which is, after the word "be" in the seventh line, to insert "procured in and;" so that the clause will read, "which substitutes shall be procured in and credited to that district."

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the original amendment offered by the Senator from New Hampshire.

Mr. HOWE. Mr. President—

Several SENATORS. Let us vote.

Mr. HOWE. I am very sorry to interfere with the immediate vote on this amendment, which seems to be desired by several Senators. I would not interfere with it if I was at all sure that the amendment would be rejected. I think, however, it will not be rejected. I think it will be adopted, and I am very sorry to believe so. I tried yesterday, upon the motion of the Senator from Oregon, [Mr. NESMITH,] to abolish the commutation clause. I tried, when that motion was pending, to point out to the Senate the injustice of the operation of that clause. I tried to show the Senate that if substitutes could be had at the price fixed for commutation, no drafted man was benefited by the commutation, because he could go into the market and procure a substitute, and thus that form of exemption would come to him just as easy and just as cheap, and that the only condition upon which the drafted man could get any benefit from the commutation clause was that emergency or that occasion when substitutes could not be obtained at the price fixed for commutation; and I tried to show, therefore, that this was unjust as between man and man, that it was an edict of the national legislature saying to a man, "If you have not got \$300, or \$400, whatever the sum may be, with which to buy your exemption from this personal service, you must go into the ranks and serve, no matter what your labor may be worth, no matter what the sacrifice may be to you, no matter what the discomfort, no matter what is considered the market value of this service which the act imposes upon you, no matter although you cannot get a man to take your place at home for an hour; you have not got so much ready cash to buy your exemption; you must go into the ranks and serve." At the same time it says to another man, "If you have this amount of ready cash, \$300, or as it now stands, \$400, you may pay it to the Government and may be exempt, although the Government may not be able to procure a man to perform the service that they need of you for \$1,000 or for \$2,000.

I thought it was unjust to the poor man, and I do not like to vote for an injustice anywhere or under any circumstances. I do not know, however, but that I could have voted for even this wrong, but for what has occurred here. I desire to stand by the Government. I desire to admin-

ister by my votes here on all occasions to the necessities of the Republic. I am not disposed to be difficult; I am not disposed to be squeamish. Give me anything a little more respectable than petty larceny, and I will go for it. I do not mean to hesitate. Give it to me without the confession that it is larceny, and I do not know but that I could go even for this wrong. There is not a fiber in me but thrills with indignation—I am obliged to say it—when I look at this feature; but if the Senate would bestill, if the Senate would not confess that it was an outrage, that it was a wrong, I do not know but that I could vote for it; and when they sat still yesterday, and neither said that this was just nor unjust, I had not really made up my mind that I would not take the dose, bitter as I knew it would taste to me; but when the Senator from Indiana [Mr. LANE] got up here as if he was the genius of a sovereign State himself; when he held up the indignation of a million and a half of people in his two hands; when he did not stop to say simply that this is a wrong upon the man who has not got the money, and an unworthy privilege granted to the man who has; when he did not stop to speak in behalf of the pauper who has nobody to speak for him, but stood up here to speak in behalf of a State—

Mr. WILSON. Will the Senator allow me a moment?

Mr. HOWE. Yes, sir.

Mr. WILSON. I want to ask the Senator if I understood him to say that this commutation was a wrong to the man who had not the money. I think I understood him so, and it is the first time I have heard that charge in the Senate. I heard it said last summer in the country; but our whole argument has been precisely the contrary—that the clause is inserted to help the Government because it eases the people; that it is for the benefit of the poorer classes.

Mr. HOWE. I said most distinctly that the commutation clause was a wrong to the man who has not got the money to comply with it. I have said twice before, and I repeat it, that every man owes his service to the Government if the Government needs it. No man has a right to complain because his neighbor is not compelled into the ranks, although he may be drafted, if he puts a good man there in his place; and when you allow that privilege to the drafted man, you allow him all he needs, because he can bargain with the man with whom he can bargain cheapest, and the Government is not injured; the man who has not the means to bargain is not injured, because another man is put by his side, and gives him the same support that his drafted neighbor would give if he went himself. Therefore I say the commutation clause is wrong. I said, however, that I did not know but that I could have gone for the measure if it were not for the confession which, it seems to me, this amendment makes of the wrong that is to be done. For when the Senator from Indiana arraigned the Senate for intending or attempting to pass a law which would enable Pennsylvania to commute for \$300 ahead for the volunteers which she had put into the field; when he said that was a wrong done to Indiana, and not to a man; when he said that a volunteer who went from Indiana should have a soldier from Pennsylvania and from each other State to make it equal between State and State, everybody confessed it; Senators here, half a dozen of them, gathered together in convention to see if it were really so, that the law as it stood would enable Pennsylvania or any other State to relieve herself of any portion of the burden by paying money when Indiana and other States furnished men. They found it did; that cash was received from one State as a compensation, as an equivalent for soldiers from others. The purpose of this amendment is to remedy that, to make it equal between State and State, to prevent any injustice being done as between one State and another. Now, if cash be the equivalent of service; if \$400 is as good as a soldier, then, when Pennsylvania pays \$400, she does as much for the Government as Indiana does when she furnishes a soldier; but it is because you confess that it is not the equivalent of the soldier, that you want to make this thing equal between one State and another by this amendment. If it is wrong between one State and another, that can be remedied by this amendment; but the wrong still exists between man and man, and the wrong is confessed by the making of this amendment. Withdraw

this, vote it down, keep still, do not confess the wrong, and I will try and go for the bill; but place it upon the bill, and I will not go for it. It is enough to ask me to go for a wrong that is not confessed. It is a little too much to ask me to confess the wrong and still embrace it.

Mr. GRIMES. I have one more amendment to propose to the amendment of the Senator from New Hampshire. I move to insert the word "white" before the word "substitutes," so that it shall read, "for the procurement of white substitutes."

Mr. WILSON. I hope there will not be any "white" or "black" put into this bill. There is nothing of that kind there now, and I hope we shall keep it out. There is no need of it. It will not do any good in the world. If any Senator is worried about Massachusetts, if he will only leave her out, and not let her get soldiers anywhere, I am willing; but I must confess that I do not want to put "slave" or "free," "black" or "white" into this enrollment act.

Mr. GRIMES. Mr. President, I have not said a word about Massachusetts to-day. I have a very great affection for Massachusetts, and especially for her Senators. I am willing that Massachusetts or any other State may go down into the rebel States and recruit white men, but I want the negroes to remain there for the United States to recruit them. I want to be interested in them myself as one of the constituent portions of this Government. I want them to be recruited by the United States and put under the patronage and protection of the Federal Government; and I do not want any State, my State or any other, to be permitted to go down into Louisiana and there pick up negroes and take exclusive jurisdiction of them and claim them as part of her quota and have her responsible for them to the exclusion of other States.

I will state again that another purpose which I have is really this: I want to stimulate the Government to recruit colored men into the Army. I think, as I said the other day, that we ought to have had, and might have had two hundred thousand of them in the field to-day, so that there would not have been any necessity for this draft. Whenever we do that, there will not be any call upon my State, or Massachusetts, or Rhode Island, or Connecticut, or any other State, for a second quota. Why on earth cannot the Federal Government recruit these colored people as well as a State, if they will do it? I want the benefit of it to all the States in proportion to the Federal population.

Mr. CLARK. I have one word to say in regard to what has fallen from the Senator from Iowa in reference to stimulating the Government. He wants to stimulate the Government to recruit the black soldiers. What stimulation will it be then to put the word "white" in this section; to say in this bill, "You shall not recruit anybody but white men." Does that stimulate the Government? Is it not saying by implication, "We do not want the black man; you may recruit nobody but white men, and you shall not have a black man here?" I do not want any distinction of that kind.

Mr. GRIMES. Mr. President, we are not arguing special demurrers here. I want to stimulate the Government to recruit colored men for the United States Government, for the benefit of the Federal nation, for the benefit of my own State, as well as other States, and not stimulate the State of New Hampshire or any other State to—

Mr. HOWE. Steal them.

Mr. GRIMES. No, I will not use that phrase. I do not want to stimulate any particular congressional district or State to recruit them for the purpose of filling out her quota, and thus deprive me of any advantages that might inure to me and my constituents, if the Government was stimulated to recruit them for the United States. That is the difference.

Mr. WILSON. I wish to know if the Senator is opposed to the States of Delaware, Maryland, West Virginia, Kentucky, and Missouri sending their colored men into the field as part of their quotas. I cannot see any reason for putting in the word "white" here. The effect will be precisely what I have just indicated. The State of Maryland cannot go on and enlist her black men and fill her quota with them. I see no reason why she should not be allowed to do so.

As to the few colored regiments that have been

raised in the country, some of them were raised in the West. I believe Kansas commenced the work, and she raised a very large portion of them in the State of Missouri. We have raised but two colored regiments in all New England, and they were raised in Massachusetts. I believe in Pennsylvania they are raising two or three regiments there.

I see no reason why we should make any distinction, or why we should put the word "black" or the word "white" into this enrollment act. The act of last year provided for the enrollment of persons without distinction of color; and the Administration decided that the enrollment only applied to citizens and to free colored men, and did not extend to slaves; and they have enrolled the free colored men all over the country. Why, then, should they not go to make a part of the quota of the State in which they live? It appears to me that we are spending all this day on a matter that is of no earthly account. I do hope the Senator from Iowa will not press the insertion of the word "white" in this bill. I do not want the word "white" or "black" in a bill of this kind.

The PRESIDING OFFICER. Did the Senator from Iowa ask for the yeas and nays on his amendment?

Mr. GRIMES. Yes, sir.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa proposes to amend the amendment of the Senator from New Hampshire, by inserting the word "white" before the word "substitutes," in the seventh line. The question is on this amendment to the amendment.

The question being taken by yeas and nays, resulted—yeas 14, nays 28; as follows:

YEAS—Messrs. Buckalew, Davis, Doolittle, Grimes, Harding, Hendricks, Howe, Lane of Indiana, Nesmith, Powell, Ramsey, Saulsbury, Sherman, and Wright—14.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cowan, Dixon, Fessenden, Foot, Foster, Hale, Harlan, Harris, Henderson, Howard, Johnson, Lane of Kansas, Morgan, Morrill, Pomeroy, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—28.

So the amendment to the amendment was rejected; and the question recurred on the amendment proposed by Mr. CLARK.

Mr. DOOLITTLE. I move to amend the amendment, by adding to it this proviso:

Provided, That colored troops enlisted and mustered into the service of the United States shall be credited upon the quota of the State within which they are enlisted, and not upon the quota of any other State.

If they enlist them in Kentucky they ought to be credited to Kentucky.

Mr. DAVIS. I would suggest to the Senator from Wisconsin to insert the word "from," so as to read "within which and from which they are enlisted."

Mr. DOOLITTLE. I accept that modification.

Mr. POMEROY. I do not know precisely the effect of the amendment of the Senator from Wisconsin. If it means that although we organize and enroll these men in our States the States from which they originally came are to be credited with them, I am opposed to it.

Mr. DOOLITTLE. I did not give much attention to the effect of the amendment suggested by the Senator from Kentucky, and I will not accept it as part of my amendment. I prefer to take a vote on the amendment as I introduced it.

Mr. POMEROY. In the State where I reside none of our people have been there very long, white or black. We were from Massachusetts and other States. Some men enlist in our regiments when they have not been there a fortnight, some perhaps not a week; but we do not propose to give other States the credit of them. We have got two or three regiments of colored troops, the men for which principally came to us from Missouri and Arkansas and other States. They came to our State to live, to remain, and because they wanted to come. They came there from the same motives that I went there, I suppose. They are a part of our people; we have enlisted them; they are our troops. I do not propose to give credit for them to any other State.

Mr. DAVIS. I move to strike out the words "within which" in the amendment, and in lieu thereof to substitute the words "of which they are legal residents."

Mr. SHERMAN. I doubt whether the amendment is in order at this stage. This is an amend-

ment to an amendment, as I understand. We had better act upon one proposition at a time.

The PRESIDING OFFICER. The Senator from Ohio is right. The pending amendment is an amendment to an amendment, and it cannot be further amended. The question is on the amendment of the Senator from Wisconsin to the amendment of the Senator from New Hampshire.

Mr. HARLAN called for the yeas and nays, and they were ordered.

Mr. HENDRICKS. I never like to give explanations for a vote until I am asked to do so; but I feel that I am compelled to explain my vote in this case. I do not intend, by voting in favor of this proposition as I shall do, to say that I agree to the policy that colored troops shall be enlisted at all, but if they are enlisted they ought to go to the credit of the locality in which they are found. And here I desire to say that I think the Senator from Massachusetts is mistaken when he says that Massachusetts has had credit only for enlistments in that State. I think there were agents of that State in Indiana, and negro troops were raised in Indiana for Massachusetts regiments. So I have understood.

Mr. WILSON. How is that?

Mr. HENDRICKS. I understood that in the city of Indianapolis negro troops were organized for a Massachusetts regiment, and they went to the credit of Massachusetts. Now I think if we have negro troops they should go to the credit of the locality in which they are found, and therefore I shall vote for the proposition of the Senator from Wisconsin.

Mr. SAULSBURY. I wish to adopt the explanation made by the Senator from Indiana as my own in reference to the vote I shall give on this amendment. Never by any vote in this body, under any circumstances, will I recognize the propriety of enlisting negroes in this or any other war; but if they are to be enlisted, if that is the policy of the country, and my action here cannot prevent it, I adopt the amendment of the Senator from Wisconsin as just in itself.

The PRESIDING OFFICER. The question is upon the amendment of the Senator from Wisconsin to the amendment of the Senator from New Hampshire.

The question being taken by yeas and nays, resulted—yeas 27, nays 11; as follows:

YEAS—Messrs. Brown, Buckalew, Conness, Cowan, Davis, Doolittle, Foot, Grimes, Hale, Harding, Harlan, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Ramsey, Saulsbury, Sherman, Ten Eyck, Trumbull, and Wright—27.

NAYS—Messrs. Anthony, Clark, Dixon, Fessenden, Foster, Harris, Howard, Sprague, Sumner, Wilkinson, and Wilson—11.

So the amendment to the amendment was agreed to.

The VICE PRESIDENT. The question now returns on agreeing to the amendment as amended.

Mr. DOOLITTLE. I desire to suggest to the Senator from New Hampshire that there is no time specified within which the subsequent draft alluded to in the amendment is to be made, and no way by which it can be ascertained.

Mr. CLARK. That must be regulated by the War Department.

Mr. DOOLITTLE. Does your section confer upon the War Department the power to designate it?

Mr. CLARK. It is not necessary; the present law does that.

Mr. DAVIS. Is it in order now to move to amend the amendment as amended?

The VICE PRESIDENT. It is not. The question is on agreeing to the amendment as amended.

Mr. ANTHONY. As the amendment now stands, I understand that commutation money paid in Massachusetts and Rhode Island, and employed to hire negro substitutes in South Carolina and Alabama, is to be credited to South Carolina and Alabama. I shall vote against the proposition.

Mr. DOOLITTLE. I do not understand such to be the effect of the amendment of the Senator from New Hampshire. If that is the effect, I propose to change it in that respect.

Mr. ANTHONY. It certainly is so.

Mr. SHERMAN. The money cannot be expended by the Secretary of War except for the procurement of substitutes to be credited to the State. The Secretary of War would have no right to use that money in South Carolina.

Mr. ANTHONY. The amendment provides that the credit is to be given to the States within which the substitutes are raised.

Mr. SHERMAN. But the Secretary of War would have no power under this provision to use the money in South Carolina to procure substitutes for South Carolina, but he must use it to procure substitutes that can be credited to Massachusetts or Rhode Island in the case supposed.

Mr. ANTHONY. I do not so understand the plain English of it. As I read the amendment, the money that is paid for commutation in any of the loyal States and expended in the procurement of colored soldiers in any of the rebel States must be credited to the quotas of such rebel States.

Mr. FOSTER. They cannot be credited anywhere else according to the amendment.

Mr. DOOLITTLE. I do not understand such to be the effect of the proviso at all. The proviso at the end of the amendment, which has been added on my motion, simply limits the power in one particular. This commutation money which is paid into the hands of the Secretary of the Treasury is to procure substitutes for the deficiency in the particular district from which the draft is made. The proviso which I have added to the section declares that colored troops are to be credited where they are enlisted. If colored troops are procured within that district they go to its quota. If it goes outside of the district and employs aliens, if you please, they can be credited to the district; but colored troops who may be enlisted outside of the district, in another State, are not to be received as substitutes for that district; but that does not authorize the Secretary of War to employ this money for that purpose. He is to use the money so as to procure substitutes for that district.

Mr. ANTHONY. Well, suppose the Secretary of War obtains recruits in South Carolina, to what State are they to be credited?

Mr. DOOLITTLE. I suppose that where a regiment of negro troops are enlisted in South Carolina, they ought to be credited as so many troops fighting for the Union from South Carolina.

Mr. ANTHONY. Suppose they are paid for by the commutation money that is raised by Massachusetts?

Mr. DOOLITTLE. They cannot be paid for by the money from Massachusetts.

Mr. ANTHONY. Then I cannot comprehend the amendment.

Mr. WILSON. Let me ask the Senator from Wisconsin why it is necessary to put it on this bill?

Mr. DOOLITTLE. I will answer the Senator. I understand the State of Massachusetts has in Louisiana raised one or two regiments of colored troops. It has been so said.

Mr. WILSON. It was Connecticut.

Mr. FOSTER. I am sure Connecticut has not.

Mr. FESSENDEN. Was it not Wisconsin?

Mr. DOOLITTLE. No, sir, it was not Wisconsin.

Mr. HOWE. Wisconsin furnishes her own troops, and does not allow them to be beaten.

Mr. DOOLITTLE. It is certainly just that the colored troops which are raised in Maryland—they say they are raising colored troops in Maryland—should be credited to that State; and if while in the operations growing out of the war we are trampling down the institution of slavery and enlisting the slaves and breaking down those relations, let them have the incidental benefit that comes out of crediting to their quota of troops in the field the men enlisting into the service, black as well as white. It is but just.

Mr. CONNESS. I rise simply to suggest to the Senator from Wisconsin whether the difficulty cannot be avoided by adding a provision applying this limitation to the States in which a draft may be made by the Government. Then it would apply to Maryland, to Tennessee, to Kentucky, to Delaware, and Missouri, where black persons are employed in the Army; and then it would not apply to South Carolina or to Alabama; but as fast as the Government gets possession of the rebel States, and can make a draft there, then it would apply to them. I suggest the addition of a provision to the amendment which shall make this limitation apply only to the States where the Government has drafted or hereafter may draft. I call for the reading of the amendment again.

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Mr. HALE. I rise to a privileged question. I voted with the majority upon the amendment of the Senator from Wisconsin. I did it because, in my judgment, as it struck my ear, it was just; but at the suggestion of some friends who have given more attention to it than I have, and upon whose judgment I rely, and who suggest that the amendment has been entirely misunderstood, I move a reconsideration of the vote by which it was adopted.

The VICE PRESIDENT. The Senator from New Hampshire moves to reconsider the vote by which the amendment to the amendment has just been adopted. The Senator from Kentucky inquired of the Chair a moment since if it was further in order to move to amend the amendment. The Chair understood the Senator as applying his remark to the amendment to the amendment. It is in order further to amend the amendment, but not that portion of it which has just been adopted.

Mr. CLARK. The amendment of the Senator from Wisconsin has the effect at least to render the construction of the section as amended ambiguous. I think there had better be no ambiguity about it, and we had, perhaps, better reconsider the vote just taken, and then if the Senator from Wisconsin can make his amendment more specific, clear it of the ambiguity, we may adopt it. But the Senate will see that we have refused just now to make any distinction between the white recruit and the black recruit, implying thereby that the Secretary of War may recruit a black man with this commutation money; but this proviso is that if he does recruit him, he shall not be credited to the State furnishing the money, but he shall be credited to South Carolina if recruited there. That, I think, is the fair interpretation according to the history of the section; but that construction is denied. I think we had better avoid that ambiguity, and reconsider the vote, and perfect the amendment.

The VICE PRESIDENT. The question is on reconsidering the vote by which the amendment to the amendment was adopted.

The motion to reconsider was not agreed to; there being, on a division—yeas 19, nays 22.

The VICE PRESIDENT. The question recurs on agreeing to the amendment as amended.

Mr. HOWARD. I ask that it be read as it now stands.

The amendment was read, as follows:

And be it further enacted, That the commutation money paid by persons drafted in any congressional district shall be applied by the War Department for the procurement of substitutes, which substitutes shall be credited to that district in filling its quota; and if the quota of such district shall not then be full, a further draft shall be made in said district, according to the provisions of this act, and the act to which it is in amendment, and like proceedings had until the quota of such district shall be filled; but this section shall not be construed to affect in any way the commutation money paid under the eighteenth section of this act: Provided, That colored troops enlisted and mustered into the service of the United States shall be credited upon the quota of the State within which they are enlisted, and not upon the quota of any other State.

Mr. HOWARD. It seems to me that that provision has the effect of giving two credits for the same man; first, to the congressional district in which the money is paid. That money is to be employed by the Secretary of War to procure a substitute. The Secretary sees fit to employ the money to procure the substitute in South Carolina; and this provision declares that this substitute shall himself be credited to South Carolina, which has not furnished the money for procuring the substitute. If the case existed in Massachusetts, Massachusetts of course would be entitled to a credit for the money which she has paid; but the substitute being procured in South Carolina, with Massachusetts money, South Carolina, it seems to me very unjustly, is to receive a credit for that which she has not furnished at all. I am therefore opposed to the clause as it now stands. It has a double effect very clearly to my mind, if I understand it properly; but perhaps I do not.

Mr. POMEROY. If the Senator from Wisconsin would confine his amendment to those States where the draft applies, I think it would be correct; but if it extends to States where there is no enrollment and no draft, it is manifestly incorrect and unjust. I do not know anything about any State of South Carolina that is to have troops credited to her; but if the amendment of the Senator from Wisconsin could be limited to districts where the draft applies, I should have no

objection to it, and I am inclined to think that was his intention.

Mr. DOOLITTLE. To the form of this amendment as drawn by the Senator from New Hampshire, on the question as to what is to be done with the money that is raised in these various districts, I have not given very careful attention. In connection with another honorable Senator I spent some little time this morning in endeavoring to draw a section which would make the disposition of that money perfectly clear, and, perhaps, by reading what I had drawn I may suggest to the Senator from New Hampshire some language or form of expression which will make the first part of his section clear on that subject as to the purpose for which the money shall be employed. I had drawn it in this form:

That unless the number of substitutes, within such time after said draft as the President shall designate, is procured to procure which commutation has been paid by persons drafted within any district, there shall be another draft or drafts from time to time in such district as the President shall designate, until its quota is filled; and that the Secretary of War shall cause to be kept an account of the commutation money received from men drafted within each district in said State; and any portion of said money which may remain unexpended by him in the procuration of substitutes to fill the quota of such district shall be applied for the procuration of substitutes upon future calls in said district.

If there is any ambiguity in the amendment as it now stands before the Senate, as to the point that the money is to be expended for the benefit of the district where the money is paid, I wish the Senator from New Hampshire would adopt some form of expression to relieve it from all ambiguity.

Mr. CLARK. I think I can cure the ambiguity by adding these words at the close of the section as now amended: "and the bounty, pay, or expense of such enlistments," that is, enlistments of colored troops, "shall not be paid out of said commutation fund."

Mr. DOOLITTLE. I have no objection to that.

The VICE PRESIDENT. The Chair thinks it is not in order.

Mr. CLARK. It is only adding to the section as amended.

The VICE PRESIDENT. The Chair thinks otherwise.

Mr. CLARK. I submit, of course, to the ruling of the Chair.

The VICE PRESIDENT. If there be no objection, the Chair will entertain the amendment. Is there any objection?

Mr. BUCKALEW. I object.

Mr. SHERMAN. I think there is no difficulty in adding words.

Mr. CLARK. I do not wish to take an appeal from the decision of the Chair, and I shall not; but if the Chair will pardon me, I beg to suggest that my proposition is merely adding additional words to the whole section as amended, to make it clear.

The VICE PRESIDENT. The Chair would have no doubt that the amendment was in order if the words proposed to be added did not vary what has already been adopted by the Senate.

Mr. CLARK. The Chair will pardon me for asking whether it is entirely clear that these words do vary the meaning of what has been adopted? Do they not make the meaning of the other part of the section explicit? Do they not merely make the matter more clear?

Mr. HOWARD. It strikes me that the amendment offered by the Senator from New Hampshire changes entirely the meaning of the clause. The clause, as it now stands, manifestly gives to a State in which a colored man is recruited by the use of the commutation money paid in a free State a credit to which it is not entitled, which would be a gross injustice.

The VICE PRESIDENT. The Chair has no doubt that it would be perfectly in order to add other words which did not change the character and meaning of the words already agreed to; but if the proposed amendment does change or modify them, or in any way alter the sense, you might as well move to amend the amendment in the body of it which has already been agreed upon. That is the impression of the Chair.

Mr. CLARK. I shall not undertake, of course, to argue the matter after the Chair has decided it.

Mr. DOOLITTLE. I believe that it is in order to move a substitute for the amendment as amended?

The VICE PRESIDENT. It is.

Mr. DOOLITTLE. I then move as a substitute for the amendment as amended, the words contained on that paper as it stands together with the words now proposed to be added by the Senator from New Hampshire.

The VICE PRESIDENT. It is in order to strike out the words which the Senate have just agreed to insert, provided the motion to strike out includes other words with those which have been inserted. The motion of the Senator from Wisconsin is therefore in order to strike out all of the section after the word "that," and insert what he proposes to insert.

Mr. DOOLITTLE. I make that motion. It brings us to the same result. I move to strike out all of the section after the word "that," and then to insert the section as it has been amended, together with the words which the Senator from New Hampshire has proposed to add.

Mr. JOHNSON. I ask for the reading of the proposed amendment.

The VICE PRESIDENT. The Senator from Wisconsin proposes to amend the pending amendment by striking it all out after the word "that," and inserting in lieu of the words stricken out what will now be read.

The Secretary read the words to be inserted, as follows:

The commutation money paid by persons drafted in any congressional district shall be applied by the War Department for the procuration of substitutes, which substitutes shall be credited for that district in filling its quota; and if the quota of such district shall not then be full, a further draft shall be made in said district according to the provisions of this act and the act to which it is an amendment, and like proceedings had until the quota of such district shall be filled; but this section shall not be construed to affect in any way the commutation money paid under the eighteenth section of this act: *Provided*, That colored troops enlisted and mustered into the service of the United States shall be credited upon the quota of the State within which they are enlisted, and not upon the quota of any other State; and the bounty, pay, or expense of said enlistments shall not be paid out of said commutation fund.

Mr. WILSON. We have heard all around of a strong desire to raise colored troops, and some of the money that has already been obtained is used by the War Department now in raising colored troops, and this is to put an end to it. I confess I do not see the wisdom of this kind of legislation. We are paying down in General Butler's department ten dollars as a bounty to colored men. The Government is paying it out of the commutation money already paid in.

Mr. FESSENDEN. They have other money out of which to pay it.

Mr. WILSON. If they have, I shall not object. The amendment to the amendment was agreed to.

The VICE PRESIDENT. The question is on the amendment as amended.

The question being put, there were, on a division—ayes 24, noes 12.

So the amendment was agreed to.

Mr. TRUMBULL. I offer the following as an additional section:

And be it further enacted, That the President of the United States be, and he hereby is, authorized and directed to call for one hundred thousand volunteers, to serve not exceeding one hundred days, to be used exclusively in connection with other troops now in service, for the purpose of driving the rebel army from the State of Virginia, and releasing the Union soldiers therein confined; the volunteers raised under this provision to receive the same pay as other volunteer soldiers now in the service, but not any bounties.

Mr. WILSON. I hope this amendment will not be pressed upon this bill. The bill is an amendment of the enrollment act, and this is a proposition which ought to stand by itself, and not be connected with the bill. If the Senator thinks it is better to raise men for one hundred days let him offer a proposition of that kind by itself; but I beg Senators not to put it upon this bill.

Mr. TRUMBULL. This is a bill for the purpose of raising troops to put down the rebellion. Now, sir, in my judgment, if the army of Lee's in Virginia that has threatened this capital for two years can be overwhelmed and driven out of that State the rebellion will be substantially put down. I believe that one hundred thousand men added to the forces we have in the field, with the zeal and enthusiasm with which they would go into the service, uniting with the old troops, the veteran troops who have seen service for the last two or three years, would expel that army from Virginia not only in one hundred days, but I believe they would do it in thirty days after they had united with the other forces.

As to obtaining the men I have no sort of doubt. I received a letter from the State of Illinois this morning from an officer, who states that a regiment can be raised in a week which will arm and clothe itself for this service. I believe you will get the troops; I think you will accomplish the object; and when that object is accomplished, in my opinion the rebellion will be substantially crushed. I think it is the most effective way to raise and to accomplish the object we all have in view. It is with that view I offer it. It seems to me this is the very place to offer it, on a bill to raise troops to crush this rebellion.

Mr. WILSON. The Senator expresses the opinion that this is the place to put a measure of this kind. I do not agree with him in that. I think that if a proposition of this kind is to be entertained it should stand by itself as a separate measure; but I, for one, believe it is the wildest kind of proposition that can be made, costly to the Government, and of no value on earth. What, sir, one hundred thousand men to drive the rebels out of Virginia! Suppose you bring one hundred thousand militia into the field and arm and equip them at enormous expense, what will they be worth when you come to launch them on veteran armies? They will be of no account on earth. It will be an enormous expenditure of the resources of this country for no purpose on earth.

I hope this proposition will not be pressed upon this bill, which I have endeavored to keep entirely as a bill proposing amendments to the enrollment act. We shall have some other military bills here within a day or two to which it may more appropriately be offered; but I think a measure of this kind, to raise one hundred thousand militia or volunteers at this time for one hundred days, should stand by itself, and let us vote upon it by itself.

Mr. HOWE. I wish the Senator from Illinois would increase the number to three hundred thousand.

Several SENATORS. Make it a million.

Mr. HOWE. The Government is supplied with any quantity of arms, as I am informed. The Senator from Massachusetts thinks these men cannot be raised, and thinks they would be useless if they were raised. I am impressed with the belief that he is mistaken upon both points. I introduced a proposition here the other day, which some of my friends have—I suppose intending to flatter my judgment at the expense of my sincerity—professed to think was intended as a joke. I never was more sincere in a proposition in my life. I believe the men would come, come at once, and I believe they would do good work when they did come; and if the Government will consent to arm the people of the loyal States, I believe you can put an army on every road that leads into Virginia within ninety days as large as that which defends the direct road to Virginia.

Mr. FESSENDEN. I should like to ask my friend if he thinks we could put one on the road south of Richmond?

Mr. HOWE. Yes, sir.

Mr. FESSENDEN. How are you going to get them there?

Mr. HOWE. Through North Carolina very easily, by way of Goldsborough.

Mr. FESSENDEN. I should like to ask my friend another question, whether he can give us any assurance that while we are raising these one hundred thousand men the prisoners will be kept at Richmond, retained there until our men get there to take them?

Mr. HOWE. They might not wait for the execution of a proposition of that kind; and if they would retire before a threat, is it not worth something to the Government that they should retire?

Mr. FESSENDEN. But the prisoners themselves, would they not be sent off to some other place?

Mr. HOWE. Let me say to the Senator from Maine that if they will be content to send the prisoners further South and to remain there themselves, we shall be abundantly able to make reprisals to indemnify the people of the United States.

Mr. FESSENDEN. That would not release the prisoners.

Mr. HOWE. The honorable Senator admits that the proposition to arm these people would amount to something. If it would not secure the withdrawal of that body of men who call them-

selves the government of the confederate States, but would lead to the withdrawal of the prisoners, why would it lead to that? Because they would not be safe at Richmond. If they would not be safe, that organization called the government of the confederate States would not be safe.

I have had piles of letters on this subject within a few days. I received a letter from Pennsylvania the other day from a gentleman whom I do not know, saying that he had a hundred men in his employ, and that he and every man he had would go if the Government would arm them. A gentleman, one of the most energetic men I know in Wisconsin, was in the gallery when my proposition was offered, and he said that every man capable of bearing arms in Wisconsin could be put under arms, and he could arm a regiment in twenty-four hours. I have had letters from Massachusetts, I have had letters from New York, and from other States to the same effect.

The President of the United States has said a great many true things, and one of the truest things he ever said I think he said in 1861, and that was that the people of the United States would put down this rebellion if the Government but did its duty indifferently well. I want to improve upon that remark, if it be possible to improve upon it, by saying to-day that the people of the United States will put down this rebellion if you will let them do it. I do not know that one hundred thousand men would be adequate in one hundred days to achieve any decided advantages, but you can have three hundred thousand as quickly as one hundred thousand, and the more you call for the more you will have. I know that in 1861, when the first call was made, almost every man in the loyal States got up at once and was ready to offer his services. A great deal of fault has been found with the army of the Potomac. It has seemed to me that the army of the Potomac has had too heavy a burden, too heavy a labor imposed upon it. It has had the double duty imposed upon it of defending Washington and of taking Richmond. The result of that double duty is that they have been required so far to go toward Richmond over just such route as General Lee's army has prescribed to them; and if General Lee, having the choice of position and standing on the defensive, cannot defend Richmond against any one hundred thousand men you can send there, he ought not to command an army. Let an army stand between Richmond and Washington; call for other men to go where Lee is not; take routes which he does not prescribe to you. General Lee has not been able to march over the army of the Potomac when commanded by Meade, or Hooker, or anybody else, but twice he has marched around that army. I wish the Senator from Illinois would increase the number that he proposes to raise. I shall vote for the proposition anyhow.

Mr. LANE, of Kansas. In a few weeks from now, I shall be willing to vote for such a proposition as this; but I submit to the Senator from Illinois whether it will not prevent the Government from filling up the old Army, and turn the attention of the people to this more favorite service. I hope that the Senate will not adopt the proposition. After we have filled our old Army, I shall vote heartily for a proposition of this kind; but not till then.

Mr. WADE called for the yeas and nays on the amendment, and they were ordered.

Mr. JOHNSON. I should have no objection to raising one hundred thousand men for the specific purpose stated in the amendment of the Senator from Illinois, but for two reasons. I have no doubt that the men could be had, provided the money could be had; and that the men, if they could be at once in the service of the United States for any practical purpose, might accomplish the object which we all have so much at heart, the driving of the rebel authorities from Richmond. But the cost of one hundred thousand men, I think, is at an average of about \$100 a man, and that is \$10,000,000. The cost of transportation certainly will be half as much more. But then, when we have got the money, if it is to be had, and we have got the men into our service, and we have got from time to time the means of transporting them to the scene of operations, I rather think the hundred days would be pretty much exhausted, and you will find yourself at the end of that period with one hundred thousand men on your hands

who would have only a few weeks to serve after you had expended some fifteen or twenty million dollars.

The second reason which will operate on my mind in the vote I shall give on this question is that I think the practical effect of the amendment, if adopted, will be to suspend the operation of this enrollment act for at least one hundred days, for I suppose it must be very obvious that if men can be paid the same rate, or nearly the same rate, for a short service of three months, they will not be found enlisting for a period of three years. In other words, they will prefer the short service to the long service; and if they do prefer the short service to the long service, then the enlistment for three months of such of them as would enlist for the long service but for the privilege of enlisting for the short service, will postpone the practical operation of the bill which is on our table. I suggest, therefore, to the honorable Senator from Illinois that perhaps, on consideration, he will see that he may be doing more harm than good if he shall succeed in getting this particular measure adopted.

Mr. TRUMBULL. Mr. President, perhaps we look upon this rebellion and the power of the rebel armies from different points of view. I never would have offered a premium of \$300 or \$400 for men who have yet twelve months to serve, to reenlist. It looks to me very much like an admission that this rebellion was not to be put down for twelve months to come. The feeling of the people of this country is that the rebellion has already lasted longer than it ought to have lasted. They have been willing to make any sacrifices that the Government required either of men or money, to submit to any taxation, and to volunteer themselves. The only difficulty we have had in filling our armies with volunteers has been an impression that the war was not to be prosecuted with efficiency. Satisfy the country that the troops to be raised are to be moved at once upon the rebel armies, and you will get men enough. That was the understanding in the earlier stages of the war. Now, there is a very general impression all over the country, so far as I know, that this rebellion is to be put down in the spring campaign. There is a general feeling that we can do it then as well as in a dozen campaigns. We want men to do it. I think, if you will say to the people of this country that you desire one hundred thousand men to come forward and unite with the armies we now have in the field for one hundred days for a specific purpose, that you will get them.

I do not agree at all with the Senator from Massachusetts that they will be worthless. Why, sir, some of the best fighting men we have had in this war, men who have behaved as bravely as any others under the most trying circumstances, have been the new regiments. Men from my State who had not been thirty days in service have fought as well in the battles in the West as those who have been a year in the service. Such has been the case with the soldiers from Michigan, from Vermont, and other States. Take these one hundred thousand men, with the enthusiasm they will bring, and put them in with the old soldiers who have served, and I tell you they will not turn their backs on the foe in battle. I should have no apprehension of a stampede from such men.

I believe so far from this costing the Government money, as the Senator from Maryland suggests, it is the most economical way to put down this rebellion. Perhaps the Senator from Wisconsin is right that we should call for a greater number. I believe you could get more. I believe the men could be raised in the next forty days, that we would have them by the 1st of March ready to move, and then, giving them the hundred days, it reaches until midsummer, the time to accomplish the object, if it can be accomplished at all.

But, sir, I am not disposed to take up time on this bill which has delayed us so long. All I ask is to have a vote on the proposition. If it does not meet the approbation of Senators, vote it down. In my judgment the most economical and the most efficient way to put down this rebellion is to raise a sufficient force to put it down during the next campaign, and early in the campaign.

Mr. HENDRICKS. I desire to ask the Senator a question before he takes his seat: whether existing laws do not authorize the President to

call out such force as he thinks the exigencies of the war require for such a length of time as he may designate, not exceeding three years, and whether as Commander-in-Chief he has not the authority to appoint them to such service as he desires? Is not that the existing law?

Mr. TRUMBULL. I believe that the President has authority to call out troops, but I want an expression of the opinion of Congress on this subject, and a direction to raise these troops for a specific purpose.

Mr. HENDRICKS. Then I will ask the Senator if it would not be better for Congress to express its views in the form of resolution, and not to reenact what is on the statute-book?

Mr. TRUMBULL. In my judgment it would not. I would make it the law, and then it is the duty of the Executive to execute it.

Mr. FOSTER. Mr. President, I believe there is a very strong feeling throughout the country in regard to the condition of our prisoners at Richmond. I know it to be the case in my immediate neighborhood in Connecticut, from which there are some hundreds who have been confined there and on Belle Island ever since last June. Some of them have suffered death; many still survive, daily suffering what must, if protracted, result in death or in broken constitutions. Any intimation to the country of a call to relieve these men would be hailed in the vicinity in which I reside with great enthusiasm. I have had letters within the last few weeks from respectable men in that district on the subject, and one in particular from a gentleman who stated that if a call of this sort could be made, he would be responsible to furnish and to head fifteen hundred men. There would be a wild enthusiasm in many sections of the country were this call made, and men would flock to the standard in great numbers.

But I confess, sir, I have serious doubts about the expediency of making this attempt in this way. After receiving these letters, I conversed with the President and with our military authorities on the subject, and they discouraged the scheme. I confess that my feelings were in favor of it, and I did not see the difficulties which the military men did see, and which they pointed out. It would certainly be arrogant for me to oppose my judgment to theirs, for they are skilled and experienced men. I must say, however, that in my judgment this would be an exceedingly popular measure. Men, brave men would come at this call, men prepared to lay down their lives freely, unshrinkingly, to relieve their suffering fellow-citizens at Richmond.

I scarcely know what is best, or how to vote upon this question. I certainly feel with the Senator from Massachusetts, the chairman of the Military Committee, that it is not desirable to incumber this bill. If this proposition should be attached to this bill, we might just as well not pass it, for it would be this clause, and this only, that would be effective in the country, if we do pass it. Everything else in the bill might as well be out of it as in it if this clause is in, for this would be the whole of it; and if the service was to be for one hundred days, during that one hundred days not one single thing under the bill would be done. The attention of the country would be attracted to and absorbed by this measure until the one hundred thousand were raised and this work accomplished.

Mr. HOWE. Will the Senator from Connecticut allow me to ask him a question?

Mr. FOSTER. Certainly.

Mr. HOWE. I wish he would explain to the Senate why it is, the President being authorized to call for one hundred thousand volunteers to serve for one hundred days, that that of itself should prevent him from going on and drafting men if he sees fit to do so to serve for three years?

Mr. FOSTER. No doubt, so far as the compulsory part of the bill is concerned, that might be carried out. I spoke of the inducements in the bill to volunteer. All but the compulsory part of it would be suspended; for no man would volunteer for three years while this call was pending for one hundred days. All the blood of the country would be stirred with this proposition, and there would be apathy in reference to all else; and the campaign of the next year, and indeed everything but this individual enterprise, would be dead, practically dead. Now, sir, whether it is better to put everything else in peril for the sake of this, I doubt.

How are these men to be officered? Are they to be officered by men now in the service, or are the officers to be selected from those who thus volunteered. The Senator from Illinois suggested, "mix them with the old Army; put them in with the old regiments." In that case we should have precisely the same military policy carried out which we have now. I do not believe it would be acceptable to these volunteers to be mingled with the troops now in the field. I believe they would insist upon being led by officers taken from themselves directly toward the object for which they volunteered. If the call should be limited, compelling those who volunteered to unite with the troops now in the field and act with them, I do not believe the call would be effective.

If general, and if called to act independently, the people would regard it somewhat in the light of a crusade; it would be a crusade, and it would spread as the crusade did under the preaching of Peter the Hermit. The people would swarm; and I confess I have some doubts whether they would not go in such overwhelming force as to overrun the whole rebel States. We cannot estimate the power of such a body of men as would be thus raised. It would reach secret springs in this country that have not yet been touched. It would show a power in our people which would astonish mankind. I am by no means prepared to say that it would not be the shortest, cheapest, and best mode of extinguishing this rebellion; indeed I confess to a considerable degree of confidence that it would. But it is a measure so bold, and it endangers so many other great and important interests, that with my limited knowledge of military affairs I will not take the responsibility of recommending it.

Mr. NESMITH. I desire to inquire if it is in order to move to amend the amendment now pending?

The VICE PRESIDENT. It is.

Mr. NESMITH. Then I move to strike out "one hundred days" and insert "three years."

Mr. WILSON. As Senators have so much confidence in this proposition of the Senator from Illinois to raise one hundred thousand men for one hundred days, who are to do such wonderful things for the country, I hope they will allow this bill to pass and bring this subject in as a separate measure, and I will stay here to pass it at once if they can. I want to get this bill through to-night. I think it is of vital importance to finish it to-night.

Several SENATORS. It cannot be done.

Mr. WILSON. We shall not pass it if we continue as we are going on. I hope this proposition will not be pressed on this bill, but will be brought in as an independent measure; and when it comes in as an independent measure I think we shall have a discussion on it.

Mr. CONNESS. There seem to be two objections to this proposed scheme; one of which has been stated by the chairman of the Committee on Military Affairs: it would inumber the enrollment bill and should not be added to it, but should be left, if it is to be a scheme attempted to be made practicable at all, to be presented as a separate proposition. The Senator from Maryland gave the other reason, which it seems to me is conclusive in the matter; and that is, that it would necessarily interfere with the raising of the three hundred thousand men that have been called for. If it is a scheme practical at all, let it come in as a separate proposition, and let us get the men called for first.

The proposition seems to me to be a senatorial or legislative mode of taking Richmond or suppressing the rebellion, rather than a military mode. Military men say you cannot fight battles well nor meet veterans except by veterans and with veterans; and I am very much inclined to accept their judgment. But I do not wish to discuss the proposition except to say that I shall be compelled to vote against it, at any rate as an amendment to this bill.

Mr. HOWE. I have no choice upon the question whether this proposition comes to a vote of the Senate as an amendment to the bill now pending, or whether it be offered as an independent measure. I think it very likely it might be made more efficient as an independent measure; but I submit that the chairman of the Committee on Military Affairs, the Senator from Maryland, and the Senator from California are mistaken in supposing that as an amendment to this bill it em-

barrasses it at all. I cannot see how it makes it one whit more or less inefficient. If it be more acceptable to Congress with this amendment than without it, then the measure will be supported; if it be less acceptable, then the amendment will probably be rejected; so that the bill is not likely to be embarrassed any way.

But the Senator from Maryland has suggested, and the Senator from Connecticut seemed to think he was right, that if this amendment was adopted it would supersede all the provisions of the bill now on our table; and yet the Senator from Connecticut admits that it would not interfere with the execution of the bill so far as it is compulsory. Well, I understand it is nothing else but a compulsory measure. I do not understand that the bill now on our tables provides for any volunteering at all. That is provided for by another measure, in which the President is authorized to offer bounties of \$300 and \$400 up to the 1st of March. Instead of the adoption of such a measure as is now proposed by the Senator from Illinois interfering with volunteering and with those bounties, I think it would weaken volunteering, because that bounty is earned by volunteering to the end of the war, and I think a man would be more likely to enlist for the war if he found a large military force of two or three hundred thousand men were to be put into the field for one hundred days, because it would tend—and that is the very purpose of the proposition—to expedite the progress of the war and to hasten the end of it. The Senator from Illinois believes, and I believe, that a proper volunteer force put into the field would in one hundred days end the war. The bounty of \$300 or \$400 would be earned then in one hundred days' service, and I think the adoption of just such a measure would quicken volunteering.

The VICE PRESIDENT. The question is on the amendment of the Senator from Oregon to the amendment of the Senator from Illinois, which is to strike out "one hundred days" and insert "three years."

The amendment to the amendment was rejected; there being, on a division—ayes thirteen, noes not counted.

Mr. WILKINSON. I move to amend the amendment by inserting after the word "that," where it first occurs in the amendment, the words "after the three hundred thousand men called for by the President in his recent proclamation shall have been raised."

Mr. TRUMBULL. I hope the Senator from Minnesota will not insist upon that amendment; because, if we are to wait until the execution of this draft and three hundred thousand men are obtained under it, this matter goes over for this year, and would be of no service for the next campaign. I trust he will not persist in his amendment.

Mr. DOOLITTLE. It comes just precisely to this: if we postpone the three hundred thousand to raise this one hundred thousand for one hundred days, then the three hundred thousand goes over this year; and if you postpone the one hundred thousand for one hundred days until we get the three hundred thousand for three years, we will not only take Richmond and relieve our prisoners, but will put down the rebellion everywhere. We shall not get our prisoners until we have the rebellion put down everywhere, because they will take the prisoners with them to their last stronghold. That is precisely the question, in my opinion. The one postpones the other; and I prefer to go in for the three hundred thousand men to be soldiers to put down the rebellion everywhere, to recapture all the prisoners and all the forts, and put the enemy to the last ditch.

Mr. TRUMBULL. The Senator from Wisconsin certainly does not mean to say that the raising of this one hundred thousand men has anything to do with the enforcement of the draft? This bill is to raise men by draft. Will the raising of one hundred thousand volunteers prevent that?

Mr. WILKINSON. They are inconsistent.

Mr. TRUMBULL. If the Senator thinks so he can offer his amendment. I cannot see that they are at all inconsistent.

Mr. WILSON. I ask the Senator from Illinois to withdraw this amendment, and let it come up on Monday as a separate proposition. He can just as well bring this in separately, and I do

not see any reason why it should embarrass this bill or take up our time now. It is certainly a proposition that ought to consume a day in the discussion, for I think it is a matter that can be demonstrated as clear as any problem in mathematics that there has been no time since this war took place that you could raise and put one hundred thousand men in the field under seventy-five days, and an enormous expenditure to the country, and when you get the men ready for service, their time will be out. I hope this proposition will not be pressed to-day. It can be brought in early next week.

The VICE PRESIDENT. The question is on the amendment of the Senator from Minnesota to the amendment of the Senator from Illinois.

The amendment to the amendment was rejected.

Mr. LANE, of Kansas. I offer an amendment in the shape of a substitute, to strike out all after the word "that," and insert the following:

The President of the United States be authorized to provide transportation and equipments for three hundred thousand men in addition to the amount now on hand.

I feel a great deal of solicitude about this proposition of the Senator from Illinois. I feel that if we adopt it it will be turning a tiger loose upon the country. I have had a great deal to do with the enlistment of soldiers, and I venture the assertion that the moment this amendment passes all volunteering in any other direction will cease. When we proposed volunteering for three years, and the time for enlistments in the regular Army was five years, enlistments in the regular Army ceased entirely. This will create a furor in the country that, I venture to say, has never been equaled. So far as the State I represent is concerned, if you allow the President of the United States to call for volunteers for the purpose of relieving the prisoners at Richmond, they would enlist *en masse* for one hundred days or two hundred days. I will make this further statement: that, with the condition of the Government at present, it would take one hundred days for the Government to procure transportation and equipment for that one hundred thousand men. While they may have arms, they have not the tents, clothing, and transportation.

Mr. LANE, of Indiana. I think the longer the passage of this bill is delayed the better it is for the country. It is now getting late, and important propositions are brought in which promise us a very interesting debate if we adjourn. I therefore move that the Senate adjourn.

Mr. SUMNER. Before that motion is put I wish to introduce another motion, that the bill be printed with all the amendments. It is important that that should be done.

The VICE PRESIDENT. The Chair will entertain the motion of the Senator from Massachusetts if there be no objection. Is there any objection? The Chair hears none, and the bill with the amendments will be ordered to be printed. The Senator from Indiana now moves that the Senate adjourn.

Mr. CONNESS. With the unanimous consent of the Senate, I desire to submit an amendment with a view to have it printed. I think there will be no objection to it. If there is, I will withdraw it at once.

The VICE PRESIDENT. It will be received, if there be no objection.

Mr. HENDRICKS. I desire to send up an amendment to the bill, which I ask to have printed.

The VICE PRESIDENT. It will be received and ordered to be printed, if there be no objection.

Mr. LANE, of Indiana. As Senators seem to desire it, I will withdraw the motion to adjourn.

The VICE PRESIDENT. The motion to adjourn is withdrawn, and the question recurs on agreeing to the amendment of the Senator from Kansas to the amendment of the Senator from Illinois.

Mr. GRIMES. I rise to a question of order. I wish to know if the Senate has not already ordered the bill out of its possession and ordered it to be printed?

The VICE PRESIDENT. It is not necessarily out of its possession.

Mr. WILSON. I think we can pass this bill to-night. ["Oh, no."] I am sure we ought to do it. Here we have these propositions put upon it, and we have spent two or three hours to-day, it seems to me, on questions that hardly concern the bill

at last. I do hope that we shall sit here and finish the bill to-night.

Mr. CHANDLER. I move that the Senate adjourn.

Mr. DOOLITTLE. On that motion I ask for the yeas and nays, that we may understand that the enemies of the bill move to adjourn.

The yeas and nays were ordered.

Mr. HARLAN. I ask the unanimous consent of the Senate to introduce a bill of which I have not given previous notice.

Mr. COLLAMER. I object to anything being presented. If those who avow themselves opposed to this bill move adjournments and insist upon it, I insist that the question of adjournment shall be taken. I am opposed to an adjournment altogether.

The question being taken by yeas and nays, resulted—yeas 16, nays 26; as follows:

YEAS—Messrs. Brown, Chandler, Dixon, Grimes, Hendricks, Howard, Howe, Lane of Indiana, Powell, Ramsey, Sanbury, Sprague, Sumner, Trumbull, Wade, and Wilkinson—16.

NAYS—Messrs. Anthony, Buckalew, Carlile, Clark, Collamer, Conness, Cowan, Davis, Doolittle, Foot, Foster, Hale, Harlan, Harris, Henderson, Johnson, Lane of Kansas, Morgan, Morrill, Pomeroy, Sherman, Ten Eyck, Van Winkle, Wiley, Wilson, and Wright—26.

So the Senate refused to adjourn.

The VICE PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from Kansas to the amendment submitted by the Senator from Illinois.

Mr. GRIMES. I ask to have it reported.

The VICE PRESIDENT. It is to strike out all of the original amendment, and to insert:

That the President of the United States be authorized to provide transportation and equipments for three hundred thousand men in addition to the number of men now in the service.

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question now is on the amendment of the Senator from Illinois, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 11, nays 31; as follows:

YEAS—Messrs. Carlile, Davis, Grimes, Howard, Howe, Lane of Indiana, Morgan, Pomeroy, Trumbull, Wade, and Wilkinson—11.

NAYS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Doolittle, Foot, Foster, Hale, Harding, Harlan, Harris, Henderson, Hendricks, Johnson, Lane of Kansas, Morrill, Powell, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wiley, Wilson, and Wright—31.

So the amendment was rejected.

Mr. CLARK. There is an amendment which I think ought to be made in the bill, to make it uniform. We commute now the service of a man drafted, unless he be one conscientiously scrupulous of bearing arms, at \$400; but we commute the hospital service of those who are conscientiously scrupulous of bearing arms at \$300. I think that should be made \$400 to conform to the other provision. I do not know any way to reach it, unless by the unanimous consent of the Senate, except by moving a reconsideration; but if there be no objection, it can be done.

The VICE PRESIDENT. If there be no objection, that modification can be made. The Chair hears no objection, and the bill will be modified accordingly.

Mr. CONNESS. I sent up an amendment to the desk a short time since, which I should like to have acted upon now. It is to add as an additional section:

And be it further enacted, That nothing contained in this act shall be so construed as to prevent or prohibit the enlistment of men in the States in rebellion under the orders of the War Department.

I am afraid there are some inconsistencies in the amendments that have been made, and this will make that point clear. I presume there is no objection to it.

The amendment was agreed to.

Mr. HENDRICKS. I offer the following amendment as an addition to the fifth section, which is the proposition introduced by the Senator from Ohio, [Mr. SHERMAN.]

The VICE PRESIDENT. That amendment having been agreed to in that form, the Senator's amendment would not be in order to it.

Mr. HENDRICKS. Then I will propose it as an additional section.

The VICE PRESIDENT. That will make it in order.

Mr. HENDRICKS. My amendment is to add the following as a new section:

And be it further enacted, That if the person drafted be in the enjoyment of an annual income of \$2,000, he shall be required to pay \$500; and if the drafted person be a married man who labors for a livelihood at some trade or occupation, and is not possessed of unincumbered property exceeding in value \$700, and whose yearly earnings or wages do not exceed \$400, he may in like manner pay \$150, and shall thereupon be entitled to the like exemption.

I do not care to discuss this amendment. We have increased the rate of commutation to \$400. That puts it out of the power of a very large number of people to pay that sum. I propose now that men of wealth whose incomes exceed \$2,000 shall pay \$500; and then we can well afford to say that those who are of limited means may pay \$150. This is very much like the amendment proposed by the chairman of the Committee on Military Affairs. I can see no objection to it, and I should like to have it adopted. I could not support the amendment proposed by the Senator from Massachusetts [Mr. SUMNER] because it did not tend to relieve the poor man, but placed an unequal tax upon men of wealth. This proposition is free from that objection.

Mr. COLLAMER. As I understood the reading of the amendment, it is that if a man is drafted who is worth so much as \$2,000, he shall pay \$500. It does not say what for. Now it would be pretty hard to draft a man and make him pay \$500 without saying what it was for.

Mr. HENDRICKS. The words "for commutation" can be inserted.

The VICE PRESIDENT. Those words will be added.

Mr. CONNESS. Let us have the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. WILSON. I propose to amend the amendment by inserting after the words "income of \$2,000" the words, "or taxable property exceeding \$5,000." I propose also to strike out "\$150," in the latter clause of the amendment, and to insert "\$200." I think if we do that, we shall be able to make an average of from \$350 to \$400. There are so many more persons who have property of less than \$700 than there are persons who have property of over \$5,000 that we shall hardly make an average of the \$400 if we let it stand at \$150. If we require \$500 from those who have an income of \$2,000, or \$5,000 worth of taxable property, and then allow a person who is married and has only \$700 worth of property to commute by the payment of \$200, that would make it very fair.

Mr. JOHNSON. I suppose the Senator from Indiana means the net income of a man. With his permission, therefore, I propose to insert the word "net" before "income" in his amendment.

Mr. HENDRICKS. I have no objection to that.

The VICE PRESIDENT. The amendment will be so modified.

Mr. JOHNSON. The Senator from Massachusetts supposes that a man who has \$5,000 of taxable property ought to be put upon the same footing with the one who has an income of \$2,000. I would suggest to the Senator from Massachusetts that in very many cases, perhaps in a majority of cases, men are assessed at \$5,000 who have very little property. The effect of such a tax as that would be to compel them to sell a portion of their real or taxable estate. It is a very unsatisfactory way of ascertaining the means a man has, in order to require \$500 from him, to look alone to his taxable property. In the western States, except in the cities, where property of that description yields more or less of income, a great many men are taxed for more than \$5,000 who cannot raise a dollar except by mortgaging their estate. The result would be, a man would be taxed out of his whole estate.

The VICE PRESIDENT. The Senator from Massachusetts proposes to amend the amendment by striking out "\$150" and inserting "\$200."

Mr. WILSON called for the yeas and nays; and they were ordered.

Mr. HOWE. I have just come in, and I should like to have the amendment reported.

The VICE PRESIDENT. It will be read as it has been modified.

The Secretary read it, as follows:

And be it further enacted, That if the person drafted be in the enjoyment of a net annual income of \$2,000, he shall

be required to pay \$500 for commutation; and if the drafted person be a married man who labors for a livelihood at some trade or occupation, and is not possessed of property exceeding in value \$700, and whose yearly net earnings or wages do not exceed \$400, he may in like manner pay \$150, and shall thereupon be entitled to like exemption.

The VICE PRESIDENT. The amendment proposed by the Senator from Massachusetts to the amendment is to strike out "\$150" and insert "\$200;" and on that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 18, nays 21; as follows:

YEAS—Messrs. Buckalew, Clark, Collamer, Dixon, Doolittle, Foot, Foster, Hale, Harding, Harlan, Harris, Morgan, Morrill, Pomeroy, Van Winkle, Wade, Wiley, and Wilson—18.

NAYS—Messrs. Conness, Cowan, Davis, Henderson, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Nesmith, Powell, Ramsey, Sanbury, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wilkinson, and Wright—21.

So the amendment to the amendment was rejected.

Mr. HENDRICKS. I wish to inquire of the Senator from Massachusetts what his amendments are? I do not understand.

Mr. WILSON. I propose to amend the amendments by substituting "two hundred" for "one hundred and fifty." That has just been voted upon and lost; and by adding, "or taxable property exceeding \$5,000." And I think the \$2,000 ought to be reduced down to \$1,500 at least.

Mr. HOWARD and others. Down to \$1,000.

Mr. HENDRICKS. If the chairman of the committee suggest that it ought to be \$1,500 I will not object. I am willing to modify the proposition so as to require persons whose net income is \$1,500 to pay \$500; but I think the other would not be proper. I cannot accept that, and I suggest that he withdraw it. There are very many men who have a property assessed at \$5,000 who have but very little income, a mere home, and it would be hard upon them with a small income to pay so large a sum.

Mr. HOWARD. I move to strike out the words "two thousand" and to insert "one thousand" instead.

The VICE PRESIDENT. Does the Senator from Massachusetts withdraw his amendment?

Mr. WILSON. If the Senator desires to test that question.

Mr. HOWARD. I think it better.

The VICE PRESIDENT. The Senator from Massachusetts is understood to withdraw his amendment. The Senator from Michigan moves to amend by striking out "\$2,000" and inserting "\$1,000."

Mr. HENDRICKS. I believe the proposition has not been changed by any action of the Senate. I accepted the proposition of the Senator from Massachusetts, the chairman of the committee, to insert \$1,500 instead of \$2,000. It has been so modified.

The VICE PRESIDENT. In the impression of the Chair it is not now in the power of the Senator from Indiana to modify his amendment.

Mr. HENDRICKS. I supposed there would be no objection to that modification of the amendment.

The VICE PRESIDENT. It will be so modified if there be no objection.

Mr. HOWARD. I object to that. I think that entirely too high as the minimum income.

The VICE PRESIDENT. The question is on striking out "\$2,000," and inserting "\$1,000."

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The question now is on agreeing to the amendment as amended.

Mr. CHANDLER. The Senator from Wisconsin [Mr. DOOLITTLE] desired the yeas and nays upon a motion to adjourn a short time ago, in order that he might learn who were the enemies of this bill. I believe that was his declared object. Sir, the enemies of this bill are the men that have been consuming day after day and week after week in talking it to death; and I am sorry to say that Senator comes within that category as one of the enemies of the bill.

Now, sir, with regard to this amendment, in my State there is not one man in one hundred that will not come under that \$150 exemption clause. If you mean to fix the exemption at \$150, vote that amendment; but if you desire \$400, or any other given sum, reject it. You may go through

New England and you will not find one man in one hundred in all New England who will not come in under the \$150 exemption as placed in the amendment. If you want \$150, and do not want men, vote for the amendment. If you want men, do away with that exemption entirely, and have your men come up and serve or furnish substitutes. I am opposed to this whole theory of commutation. The Government wants men and not money. It will get no men under this provision, and the enemies of this bill will vote for this amendment.

Mr. DOOLITTLE. I will reply to my honorable friend after we have passed the bill, on some other occasion.

Mr. HARRIS. Mr. President, I have not opened my lips to-day in reference to this bill. I have sought earnestly to perfect it; but if this amendment is adopted I shall feel constrained to vote against the bill. In my judgment it will be far worse to the country than to leave the original bill as it now stands. I agree with what has been said here, that under it nine tenths of the drafted men will escape by paying a commutation of \$150. We cannot afford to reduce the commutation at that rate. We must raise the commutation, or at least hold it where it is, and in my judgment it will be fatal to the bill if this amendment is adopted.

The question was taken by yeas and nays; and resulted—yeas 6, nays 34; as follows:

YEAS—Messrs. Hendricks, Lane of Indiana, Powell, Saulsbury, Wilkinson, and Wright—6.

NAYS—Messrs. Brown, Buckalew, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Doolittle, Foot, Foster, Hale, Harding, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Willey, and Wilson—34.

So the amendment was rejected.

Mr. WILSON. I move to amend the sixth section in the third line by striking out "three" and inserting "third"; and in the eleventh line by striking out "three" and inserting "third." It is a mere verbal correction.

The amendments were agreed to.

Mr. CONNESS. I now move that the bill be printed.

Mr. SUMNER. The printing has been already ordered.

The VICE PRESIDENT. The Senator from California moves that the bill as amended be printed.

Mr. COLLAMER. Let us see whether we cannot take the question on the bill itself. Unless gentlemen have some other amendments to propose, let us pass the bill.

Mr. SHERMAN. It can be printed afterwards.

Mr. CONNESS. I withdraw the motion.

The VICE PRESIDENT. If there be no other amendment, the question is on ordering the bill to be engrossed for a third reading.

Mr. HARLAN. I do not know what is in this bill. I have given pretty good attention to it, but there have been many amendments submitted and acted on. Some of them have been adopted and some rejected. I do not know how the bill reads, and I am not willing to vote for it without knowing what is in it, and I prefer not to vote against it. I think it would be better if the chairman of the Military Committee would consent that it should go over until Monday, and let it be printed that we may see what is in the bill. He may remember that we passed a bill a short time ago prohibiting the payment of bounties after the 5th day of January, and in a very few days afterwards we were called upon to vote for a law repealing that law. It seems to me that a delay of one day will not materially affect the interests of the country, and I therefore move that the further consideration of this bill be postponed until Monday.

Mr. WILSON. It seems to me that the bill is in a very good shape indeed; it is substantially as reported by the committee, with some amendments which I think generally are improvements of the bill. One or two of those amendments I have voted against, but I am certainly willing they should go to the House of Representatives, and it does seem to me important to close it this week. I think it important that the bill should be passed at an early day, for it will take some little time to send out the instructions to the country, and have the people understand what its pro-

visions are. It will unquestionably go into operation on the 1st of March. It ought to be put into operation within a very few days.

The VICE PRESIDENT. The question is, on the motion to postpone the further consideration of this bill until Monday.

The motion was not agreed to.

Mr. HARLAN. Is it in order to ask for the reading of the bill throughout?

The VICE PRESIDENT. It is in order for the Senate to order it to be read. A paper having been once read cannot be read again, if objected to, unless it be ordered by the Senate. It will be read, unless objected to.

Mr. COLLAMER. I take it that when the question comes, "Shall the bill be read a third time?" any member has the right to have it read at length.

Mr. SHERMAN. After it has been ordered to be engrossed and read a third time.

Mr. COLLAMER. After it has been ordered to be engrossed and read a third time any member has the right to insist on its being read.

The VICE PRESIDENT. That is another stage. The question now is on ordering it to be read a third time. After the Senate has so ordered, the bill will be read the third time, and may be read at length.

Mr. HARLAN. I would suggest to my friend the Senator from Vermont that I suppose at the period which he indicates it will be too late to amend the bill if some imperfection should appear.

Mr. COLLAMER. There may be that objection to it; but that is all. It could undoubtedly be read then.

Mr. HARLAN. It will require but a few moments to read the bill.

The VICE PRESIDENT. If there be no objection, the bill will be read. The Chair hears no objection.

Mr. SHERMAN. I object.

The VICE PRESIDENT. If objected to, the question will be on ordering the bill to be engrossed for a third reading.

Mr. TRUMBULL. It does seem to me that nothing particular can be gained by this course, and we had better see this bill. The request of the Senator from Iowa is not an unreasonable one. I do not think there is any factious opposition to delay the bill. We can take a vote on it in a few minutes. It seems to me that if a Senator wishes to see it we had better postpone it. I move that the Senate adjourn.

Mr. SHERMAN. I will state that after the bill is ordered to be engrossed and read a third time, it will be open to a motion to reconsider on Monday, and I think we had better get it beyond the stage where it can be amended. We had better go at least that far. Let us get rid of this bill at that stage at least this week.

The VICE PRESIDENT. The question is on the motion to adjourn.

Mr. TEN EYCK called for the yeas and nays, and they were ordered; and being taken, resulted as follows:

YEAS—Messrs. Brown, Chandler, Dixon, Harding, Harlan, Henderson, Hendricks, Howard, Lane of Indiana, Morgan, Nesmith, Pomeroy, Ramsey, Saulsbury, Sprague, Sumner, Trumbull, Wade, Wilkinson, and Wright—20.

NAYS—Messrs. Buckalew, Clark, Collamer, Conness, Cowan, Doolittle, Foot, Foster, Hale, Harris, Johnson, Lane of Kansas, Morrill, Powell, Sherman, Ten Eyck, Van Winkle, Willey, and Wilson—19.

WASHINGTON PASSENGER RAILWAY.

The VICE PRESIDENT. By unanimous consent the Chair would like to present a communication from the Washington and Georgetown Railroad Company. It is the annual report of that corporation, made according to law. The Chair hears no objection.

The communication was received, and referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. WILSON. Before the announcement is made of the vote on the adjournment, may we not, by unanimous consent, have an order made to print the pending bill?

The VICE PRESIDENT. If there be no objection, the bill will be ordered to be printed. The Chair hears no objection: the order is made. Upon the motion to adjourn the yeas are 20 and the nays are 19; so the Senate stands adjourned until Monday next at twelve o'clock.

IN SENATE.

MONDAY, January 18, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Saturday last was read and approved.

WASHINGTON PASSENGER RAILWAY.

The VICE PRESIDENT laid before the Senate the following communication:

OFFICE OF SECRETARY OF UNITED STATES SENATE,

WASHINGTON, January 18, 1864.

SIR: In obedience to the resolution of the Senate of the 14th instant, directing me to communicate to the Senate "whether the Washington and Georgetown Railroad Company has made any report to Congress in accordance with the provision of its charter," I have the honor to state that the report of that company was laid before the Senate on the 16th instant.

I have the honor to be, your obedient servant,

J. W. FORNEY, Secretary.

HON. H. HAMLIN, Vice President of the United States and President of the Senate.

Mr. ANTHONY. It will be noticed that the report was made after the resolution of inquiry was passed. I move that the communication be referred to the Committee on the District of Columbia.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. FESSENDEN presented the petition of Charles J. Gilman and others, citizens of Brunswick, Maine, praying that the aid asked by the South American Steamship Company to establish mail communication by steam vessels with the countries of South America may be given; which was referred to the Committee on Commerce.

Mr. CHANDLER presented two petitions of citizens of Detroit, Michigan, praying for an appropriation for the construction of a ship canal around the Falls of Niagara; which were referred to the Committee on Military Affairs and the Militia.

He also presented a resolution of the Legislature of Michigan, in favor of an appropriation of lands to endow female colleges in the several States; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. LANE, of Indiana, presented the memorial of Edward C. Doran, paymaster in the United States Navy, praying for the legalization of certain payments and vouchers therefor made from moneys realized from drafts surrendered by him at the Norfolk navy-yard in April, 1861; which was referred to the Committee on Naval Affairs.

Mr. WILSON presented the petition of John F. Hewins and others, of the forty-second and forty-fourth regiments of Massachusetts volunteers, who enlisted into the service of the United States for the term of nine months, praying that they may be allowed a bounty of twenty-five dollars; which was referred to the Committee on Military Affairs and the Militia.

Mr. WADE. I present two petitions, one from the Society of Friends in Ohio, and the other from a like Society in southern Indiana and eastern Illinois, praying to be exempted from military duty on account of their conscientious scruples. As that subject is under consideration, I move that they lie on the table.

The motion was agreed to.

REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred a petition of citizens of Maine, praying that the surviving officers and soldiers of the war of 1812 and the Mexican war, who have been paid for only a part of the time since their services were rendered, may be allowed back pay up to the time their pensions commenced, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Patrick W. Douglas, praying for a pension, submitted an adverse report; which was ordered to be printed.

Mr. COLLAMER, from the Committee on the Library, to whom was referred a resolution submitted by Mr. Foot on the 14th of December, 1863, in relation to the establishment of a library for the Senate, submitted an adverse report, which was concurred in.

Mr. COLLAMER. The memorial of George W. Greene, praying that Congress will subscribe for fifteen hundred copies of a publication of the letters and dispatches of General Nathaniel Greene during the revolutionary war to enable him to

print them, was referred to the Committee on the Library; and I have been directed by that committee to say that they regard these papers of very great value and very great public interest, but the condition of the finances in the present pressure upon the country is such that we think it advisable not to entertain the proposition at present. The committee, therefore, report adversely upon the petition.

The report was concurred in.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes, reported it with amendments.

COMMITTEE CLERKS.

Mr. DIXON. The Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred a resolution offered by the Senator from Illinois [Mr. TRUMBULL] directing that clerks of the standing committees who have been on duty since the first day of the session be paid from that time, have instructed me to report it back with a recommendation that it pass.

The resolution was considered, and agreed to; as follows:

Resolved, That such of the clerks of the standing committees of the Senate as have been on duty since the first day of the session be paid therefrom.

SMALL-POX IN THE DISTRICT.

Mr. HENDERSON. I am instructed by the Committee on the District of Columbia to report the facts in reference to the existence of small-pox in the District, with a resolution on that subject.

The resolution was read, as follows:

Resolved, That in the judgment of the Senate it would be advisable, as a precautionary measure, for the city authorities of Georgetown and Washington to furnish to all the families in said cities the means of vaccination at their places of residence, and at the public expense where individuals are unable or unwilling to defray the expense as a private charge; and that they require such children as for any reason have failed to be vaccinated to absent themselves from the public schools until they shall have complied with the requisitions of the city governments in this respect; and it is respectfully recommended to the authorities of said cities to take immediate action in this direction.

Mr. SHERMAN. It seems to me that the operation of the resolution should include the country on the other side of the river as well as the District of Columbia.

The VICE PRESIDENT. Is there any objection to the consideration of the resolution? The Chair hears none. The resolution is before the Senate.

Mr. SHERMAN and Mr. SUMNER. Let it be read again.

The Secretary read the resolution.

The resolution was agreed to.

NOTICES OF BILLS.

Mr. MORGAN gave notice of his intention to ask leave to introduce a bill to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes.

Mr. WILKINSON gave notice of his intention to ask leave to introduce a joint resolution extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who entered the service of the United States prior to May 3, 1861.

BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 62) to remove all disqualification of color in carrying the mails; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 64) to incorporate the North American Land and Emigration Company; which was read twice by its title, and referred to the Committee on Agriculture.

Mr. HOWE. I am requested to present a bill establishing a Bureau of Emancipation. It is not drawn by myself. It is drawn by another gentleman who has given a good deal of attention to the subject. Previous notice has not been given of its introduction, and I ask the unanimous consent of the Senate to introduce it. I must say, at the same time, that although I have looked it over pretty carefully, and I entirely approve of many of the provisions and all the objects of the bill,

yet there are some provisions in it in which I do not concur, but I am inclined to think there ought to be a law enacted on this subject.

There being no objection, leave was granted to introduce the bill (S. No. 63) establishing a Bureau of Emancipation.

The VICE PRESIDENT. To what committee does the Senator wish it referred?

Mr. HOWE. The committee on freedmen and slavery is the appropriate committee.

The VICE PRESIDENT. It will be referred to the select committee having those subjects in charge.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 19) of thanks of Congress to Commodore Cadwallader Ringgold, and the officers and crew of the United States ship Sabine; which was read twice by its title, and referred to the Committee on Naval Affairs.

PRINTING OF BILLS.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 18) in relation to the public printing; which was read twice by its title.

Mr. ANTHONY. This resolution comes from the Committee on Printing, and is merely intended to facilitate the convenience of the Senate in the printing of bills. At the last session we reduced the number to be printed of bills and reports very largely, and we reduced the number of bills a little too much, about one hundred, and there are not enough now printed to supply the members and the press. It is very desirable that the press should have them. This joint resolution increases the number to be printed, and puts it at seven hundred; it is now six hundred. I will therefore ask the unanimous consent of the Senate for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which proposes to repeal the second section of the joint resolution approved March 3, 1863, and directs the Superintendent of Public Printing to print hereafter seven hundred copies of every bill and joint resolution ordered or required to be printed by either the Senate or the House of Representatives under any rule of either House, unless some other number be specially required by the House ordering the same.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILL REFERRED.

Mr. HALE. At an early part of the session I introduced a bill, which was laid on the table, which is germane to the consideration of the special committee that has been appointed by the Senate, and of which the Senator from Massachusetts [Mr. SUMNER] is chairman. I move that that bill be taken from the table and referred to that committee.

The motion was agreed to; and the bill (S. No. 3) more effectually to suppress the rebellion was taken from the table, and referred to the select committee on slavery and freedmen.

FREEDMAN'S VILLAGE.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the select committee on slavery and freedmen be, and they are hereby, instructed to inquire into and report upon, as soon hereafter as practicable, the condition, food, lodging, treatment, and shelter of the freedmen now located at Freedman's Village, so called, near Arlington Heights, Virginia, under the protection of the Government, and whether any abuses exist in the management of affairs pertaining to their health and comfort, and if so, what legislation is necessary to correct the same.

NAVAL ADVISORY BOARD.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to communicate to the Senate the report and proceedings of the advisory board, appointed under the act of July 16, 1862, entitled "An act to establish and equalize the grades of line officers of the United States Navy," together with the instructions to said advisory board, and all letters, memorials, and other papers on file in the Department, protesting against or in any manner relating to the action of said advisory board, whether the same were written or presented by officers of the Navy not recommended for further promotion by said advisory board, or by other persons in their behalf.

PUBLIC DOCUMENTS.

Mr. HOWE submitted the following resolution:

Resolved, That the Secretary of the Interior be requested to inform the Senate what public books and documents are in his custody which by a joint resolution of Congress, approved March 3, 1863, were set apart for distribution.

Mr. HALE. I have no objection to the resolution, though I believe that information has been particularly furnished in a printed sheet delivered to every Senator by the Secretary of the Interior within the last week. If the Senate choose to pass it, I have no objection; but I think the Secretary has made a full report upon the subject, covering the volumes, and stating the reason why he could not execute the joint resolution.

The resolution was considered by unanimous consent, and agreed to.

OATH OF OFFICE.

Mr. WILSON. I move to postpone all other subjects, and take up the bill to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes."

The VICE PRESIDENT. The Chair had forgotten that half past twelve o'clock of this day was assigned as the hour for the consideration, as a special order, of the resolution of the Senator from Massachusetts, [Mr. SUMNER,] proposing an additional rule of the Senate.

Mr. SUMNER. That is now the special order.

The VICE PRESIDENT. That subject is now before the Senate, and is the special order.

Mr. SUMNER. At the suggestion of the Senator from Delaware, who is now in his place, I propose to move that that be again postponed until to-morrow at twelve and a half o'clock, and made the special order; and I make that motion on this account: the Senator, as we all know, is desirous of being heard on the question, and to-day seems to be set apart to finish the military bill, and if we enter upon the consideration of the military bill there may not be time for the Senator from Delaware to go through with his remarks. I therefore make the motion that the further consideration of the resolution be postponed until to-morrow at half past twelve o'clock, and made the special order for that hour.

Mr. BAYARD. I have not the slightest objection to the postponement of the resolution until to-morrow at half past twelve o'clock, and making it the special order for that time. I am at the pleasure of the Senate as regards any discussion I am to make of the proposed rule. If the public business requires that other measures should be first disposed of, of course it is proper that it should be done, and I accede to it without a moment's hesitation. All I desire is that when the proposed rule comes up for consideration I may have time to be heard. It will take me some time to express my views in opposition to it. After that I shall take no further part in the debate, nor do I intend to vote on the question of the adoption or rejection of the rule, because, though I hold that I have the right to do so, I should consider it neither proper nor decorous to cast my vote on a question which might decisively affect my own personal action; and even if that vote should reject the rule, it will not be given.

Under these circumstances I simply ask to be heard, and when I am heard I would rather commence at such an hour that I may hope there will be a sufficient number of the Senate present to listen to the views that I have to express. I have, however, no objection to the postponement until to-morrow at half past twelve o'clock, and making it the special order at that time.

Mr. DAVIS. I should like to have the matter that concerns me personally disposed of by the Senate. I am not inclined to interfere with the arrangement suggested by the Senator from Massachusetts that seems to be desired by the Senator from Delaware. But while I avow my willingness thus to yield to the pleasure and disposition of the Senate in relation to these subjects, I hope that the Senate will make my matter the special order for Wednesday at one o'clock.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts to postpone this resolution until to-morrow at half past twelve o'clock, and make it the special order at that time.

Mr. DOOLITTLE. I am perfectly willing that it shall be taken up to-morrow, provided this enrollment bill be disposed of.

Mr. WILSON. I think we can finish that bill to-day in a short time.

The motion was agreed to.

PROPOSED EXPULSION OF MR. DAVIS.

Mr. DAVIS. I move now that the resolution for my expulsion be made the special order, I will say for Thursday next, so that I may not interfere with the pending bill, or with the matter that relates personally to the Senator from Delaware.

The VICE PRESIDENT. The Senator from Kentucky moves to proceed to the consideration of the resolution for his expulsion.

Mr. DAVIS. With a view to postpone it.

The motion to take up the resolution was agreed to.

The VICE PRESIDENT. The resolution is now before the Senate, and the Senator moves to postpone it until Thursday at one o'clock, and make it the special order for that hour.

Mr. SHERMAN. I suggest to the Senator from Kentucky and to the members of the Senate whether it is not better to refer the resolution of the Senator from Massachusetts [Mr. WILSON] at once to the Judiciary Committee, and thus make a step in advance in that matter; and if it is agreeable to the Senator from Kentucky, as he has been heard at some length on the subject, I will submit the motion that the resolution be referred to the Committee on the Judiciary, with a view to obtain a report from that committee before any further action shall be had.

Mr. DAVIS. I have not the slightest objection to the suggestion made by the Senator from Ohio. I would as soon the matter should take that course as any other. All I desire is that the Senate at an early and convenient day shall take action upon the subject.

Mr. SHERMAN. That course will probably expedite the matter.

The VICE PRESIDENT. The Senator is understood to make a motion to commit.

Mr. SHERMAN. Yes, sir.

The VICE PRESIDENT. The Senator from Kentucky withdraws his motion to postpone.

Mr. DAVIS. Yes, sir.

Mr. FOSTER. I do not wish to oppose this motion to refer if it is the sense of the Senate that the subject should be sent to the Committee on the Judiciary; but I confess that I do not see that there is any question of law involved which, according to the usage and practice of the Senate, would require any preliminary action by that committee. There is no doubt about the facts of the case. But at the suggestion of Senators around me, I make no opposition to the motion.

Mr. HOWARD. I hope, Mr. President, this resolution will not be referred to the Committee on the Judiciary. I cannot perceive what beneficial results can flow from such a reference. I cannot perceive what light the Committee on the Judiciary can throw upon it. The Senator from Kentucky is charged with having introduced into the Senate a series of resolutions containing, among other things, the expression which is the foundation of the motion to expel him. I do not understand what new light it is possible for the Judiciary Committee to throw upon that expression or upon any other portion of the resolutions of the Senator from Kentucky than such as may be contained on the face of the paper itself. If I thought that any extraneous facts could be procured which would throw any light on the subject, either in favor of the Senator from Kentucky or against him, I certainly would not object to the reference; but the whole thing is embodied in the resolutions of the Senator from Kentucky. For whatever reason the Senate may see fit to pass the resolution of the Senator from Massachusetts for his expulsion, that reason is found in the resolutions of the Senator from Kentucky themselves, and no extraneous facts, so far as I can perceive, can be of any weight or influence in the investigation, or in the discussion of the subject before the Senate. It seems to me, therefore, that such a reference would be entirely nugatory, and unproductive of any beneficial result, and hence I hope the resolution will not be referred to the Committee on the Judiciary. Every Senator must judge for himself as to the sufficiency or insufficiency of the accusation brought against the Senator from Kentucky.

Mr. DAVIS. Mr. President, I do not desire that there should be any reference of the resolu-

tion offered by the Senator from Massachusetts, and I do not see any propriety in, or any good result that can flow from, its reference. I have no objection, however, to that course being taken; I have no objection to any course that it is the pleasure of the Senate to take in relation to the matter. All that I desire is to have reasonably prompt action by the Senate upon the subject. For my own part I would prefer that the matter should be acted upon by the Senate without a reference; but any course which the Senate deems it proper to take on the subject of the resolution, so as to insure a reasonably speedy action upon it, will be satisfactory to me, if my pleasure is to be consulted.

Mr. TRUMBULL. I do not see any object in committing this resolution to the Committee on the Judiciary, unless it is the desire of the Senate to get rid of it. There is nothing in the world for the committee to investigate. The Senator from Kentucky has offered certain resolutions in the Senate. The Senator from Massachusetts moves to expel him from the Senate on account of matter contained in those resolutions. Now, what is there for the committee to investigate? As has been very properly remarked by the Senator from Michigan, every Senator will judge upon his own responsibility whether he is to vote for the resolution offered by the Senator from Massachusetts or not. There can certainly be no inquiry to be made by the committee.

Mr. COLLAMER. I do not know about that.

Mr. TRUMBULL. The Senator from Vermont intimates that there may be. I do not know what it can be. I do not know how we are going to enlighten the Senator from Vermont or anybody else by taking the resolution down to the committee room and reading it over there. What report are we to make?

Mr. COLLAMER. You will find out all about that. The Senate have great confidence in your committee.

Mr. TRUMBULL. It really looks to me more like shuffling the resolution out of the Senate than anything else.

Mr. COLLAMER. You will bring it back again.

The motion to refer was agreed to; there being, on a division—ayes 24, nays 15.

Mr. DOOLITTLE. I now move that the resolutions of the Senator from Kentucky be referred to the same committee. They involve a great many constitutional questions.

The motion was agreed to.

AMENDMENT OF ENROLLMENT ACT.

On the motion of Mr. WILSON, the Senate resumed the consideration of the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The VICE PRESIDENT. The question is on ordering the bill to be engrossed for a third reading. It is, however, still open to amendment.

Mr. CLARK. I think there is a necessity for a slight amendment in section four after the word "draft" in the eighth line. I move to amend by inserting the words "not exceeding three years."

Mr. WILSON. That makes it conform.

Mr. CLARK. It makes it conform to another section, and I believe there is no objection to it.

The amendment was agreed to.

Mr. ANTHONY. It is suggested to me by a Senator more conversant than myself with the construction of statutes, that the fifth section, which was amended on my motion by inserting the proviso at the end of the section, would read better if the substance of the proviso was embodied in that part of the section to which it applies. I therefore move to strike out the proviso, and to insert after the word "calls," in the eleventh line, the following words:

But not until the present enrollment shall be exhausted, and this exemption shall not exceed the term for which such person shall have been drafted.

It is the same thing, except that this language is put in a different part of the section.

The VICE PRESIDENT. The Senator proposes a mere transposition of a sentence. That change will be made if there be no objection. The Chair hears none. The amendment is agreed to.

Mr. ANTHONY. When the bill was in Committee of the Whole, I voted against the amendment to place ministers of religion in the class of

non-combatants, because I thought it had better not be in the section where it was, with the provision exempting persons conscientiously scrupulous of bearing arms.

Mr. SUMNER. What section is that?

Mr. ANTHONY. Section nineteen. I will now offer the following amendment as a new section:

And be it further enacted, That all persons recognized as ministers of religion by the ecclesiastical authority of the denomination or communion to which they belong, and who have actually been ordained as such, when called into the military service under the provisions of this act, shall be considered non-combatants, and shall be employed as chaplains or in hospitals.

Mr. SHERMAN. Since we have retained the commutation clause, there is no good reason for allowing ministers of the gospel to be exempted from duty. I have received a letter from the bishop of Ohio, who is very much in favor of exempting clergymen, but, he says, since the commutation clause is retained—it makes no difference as to the amount—he believes the clergy are perfectly willing to pay their commutation if their religious scruples or their religious duties will not allow them to go into the field. I therefore see no occasion for putting ministers of the gospel on the list of non-combatants. They, themselves, do not claim to be non-combatants, and I do not think they ask this privilege since we have retained the commutation clause. I shall therefore vote against any such exemption.

Mr. HARLAN. And in addition to the reason suggested by the Senator from Ohio, I will remark that this amendment, if it should be adopted, carries with it a disability. It provides that these parties shall be regarded as non-combatants and put to service in the hospitals. In point of fact, there are many men recognized by the religious societies with whom they worship as ministers, who are serving in high positions in the Army. I know of one who arranged the order of battle at the last great battle fought near the capital, the battle at Gettysburg, an ordained minister in good standing in the church of which he is a member. Such a man might be drafted, and the Governor of the State might desire to appoint him to the position of corporal, or lieutenant, or captain, or colonel, and the President of the United States might desire to advance him to a higher position—

Mr. ANTHONY. If the Senator will allow me, I will remove that objection by substituting the word "may" for "shall."

Mr. HARLAN. I do not think that will remove the difficulty. That will be a question, however, for lawyers to settle.

Mr. President, there is no good reason why an able-bodied man, who is an ordained minister, should be compelled to serve in a menial capacity any more than gentlemen who are licensed to practice law or those who are licensed to practice medicine. They do not request it themselves, and we ought not to impose on them such a disability.

Then, again, this amendment provides that they may serve as chaplains. This is a bad way, as it seems to me, to select chaplains, to select them by lot. Why not select your commissaries or your quartermasters in the same way, and say if any dealer in provisions shall be drafted he shall be regarded as a non-combatant and shall serve as a commissary of subsistence? The law as it now stands places some guards around the selection of chaplains. It provides that they shall be recommended by the denomination of which they are members, or by at least five ordained ministers of the denomination with which they worship. This amendment provides that they may be selected by lot. I think that in every respect the amendment is an improper one.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on the adoption of the amendment proposed by the Senator from Rhode Island.

The amendment was rejected.

Mr. ANTHONY. I offer another amendment, to insert the following as new sections:

And be it further enacted, That any person drafted into the military service of the United States, who is conscientiously unable to perform military service, or pay commutation therefor, by reason of his religious scruples against bearing arms, may apply by petition to any judge of any court of the United States for the circuit or district wherein he resides, setting forth the facts; whereupon the said judge shall proceed summarily to hear and determine the case; and if it shall appear that such petition is true, and that such petitioner shall have maintained a consistent character in accordance with his well-known religious professions,

incompatible with military service, the judge shall certify the fact to the board of enrollment for the enrollment district in which such petitioner shall reside, and upon the receipt of such certificate the board of enrollment shall take no further proceedings, nor shall any proceeding whatever be taken to enforce such conscientious person into the military service of the United States under that draft, or for the period of three years from the date of such certificate.

And be it further enacted, That at the time of issuing such certificate by a judge of the district or circuit court, as aforesaid, or as soon thereafter as practicable, such judge shall issue an order to the clerk of the district or circuit court of which he is the judge, to issue a warrant of distress directed to the marshal of the district, or to his deputy, against such conscientious person for the sum of \$400, with all lawful costs upon the said petition and warrant, and the same shall be served by levying the same upon the goods, chattels, moneys, lands, and tenements of such conscientious person, and when recovered, the said penalty shall be paid into the Treasury of the United States, and the costs to the persons entitled to receive the same.

The effect of this amendment is, that a person conscientiously scrupulous against bearing arms is relieved from the obligation to pay \$400 for the procurement of some other person to do that which he believes God has forbidden him to do, and provides that the fine shall be collected by warrant of distress. He then submits to the law, the law takes his property, and he makes no complaint or opposition; but he is not required to do it voluntarily, and that is a great relief to the consciences of a great many intelligent men. I do not see how it makes any sort of difference to the Government. I hope the amendment will meet with the assent of the Senate.

Mr. DOOLITTLE. The bill as it stands does not require them to go as combatants at all, but simply gives them their choice, either to take care of the sick and wounded, or pay over their \$400 for the purpose of providing for the wants of the sick and wounded. I do not understand any Quaker in the world to object to ministering to the wants of those who are sick or who are wounded in war. They are willing to do everything to alleviate the results of war. What they object to is bearing arms and being instrumental in the killing of men themselves.

Mr. ANTHONY. A great many of them object to rendering any service which relieves another man from the obligation of that service and enables him to go into the Army.

Mr. JOHNSON. That is going too far.

Mr. ANTHONY. It is going too far, I know, but it is no further than very honest and very intelligent men go. They have held these opinions, and their ancestors before them, for a great many years. As it is the same thing to the Government, and will be a material relief to them, I cannot see any objection to the amendment. I am not going to debate the matter.

Mr. GRIMES. I should like to know of the Senator from Rhode Island whether he feels assured that the Quakers would rather have this tax which he is going to impose upon them than go to the war? They have generally an aversion to going into court; but this amendment compels them to go into court. The thing is utterly impracticable. They have got to make this application before the judge of the district or circuit court of the district in which they live. That may possibly be done in the State of Rhode Island, where there are only two or three counties, and those very small ones; but what would a man do in a State the size of the one of which I am a citizen, containing ninety-nine counties? The Quakers would be carried off from one portion of the State and placed in the Army before they would have an opportunity to reach or to convey any kind of intelligence to the district judge in that district. If we were to adopt the proposition it could not be carried into execution; it is utterly impracticable. It might possibly be executed in some States, but it would be impossible to execute it in others.

Mr. TEN EYCK. Mr. President, I think these persons ought either to be exempted altogether or not exempted at all. I have on my table a memorial placed there this morning, which comes from the meeting representing the Ohio Yearly Meeting of Friends, held at Damascus on the 8th day of the first month, 1864, in which these memorialists state—

"That the Society of Friends has from its rise been conscientious against fighting or bearing arms under any circumstances, or paying an equivalent in lieu thereof."

After stating the grounds of their belief, the memorial winds up by saying:

"We therefore respectfully ask for exemption from mil-

itary service, and from all penalties for the non-performance thereof."

This memorial embodies the idea which I have always understood to be entertained by Friends, that they cannot in any way take part in war according to their conscientious convictions. I voted against their exemption the other day. I do not see, myself, why they should be exempt. It is a very harsh measure, I know; but it is a very harsh measure to force other men into the Army, if their disposition is not to go there, and if their patriotic feelings do not offer them a sufficient inducement to volunteer. I do not think the amendment proposed by the Senator from Rhode Island reaches the point desired by the Friends. We should do either one thing or the other: exempt them altogether or not at all.

Mr. SUMNER. I will inquire of the Senator from Rhode Island whether his amendment is confined in its operation exclusively to persons belonging to the Society of Friends?

Mr. ANTHONY. Oh, no; all persons conscientiously scrupulous against bearing arms.

Mr. SUMNER. It is applicable, then, not merely to Friends, but to all persons who have conscientious scruples against bearing arms.

Mr. ANTHONY. And who can prove that their lives and conversation have been in accordance with their profession.

Mr. SUMNER. I think the proposition of the Senator ought to be adopted. I felt that the proposition we acted on the other day was defective, especially in that part of it introduced by my friend the Senator from Iowa, [Mr. HARLAN,] where he restrained its operation not only to persons who were conscientiously opposed to the bearing of arms, but they must also be prohibited from doing so by the rules and articles of faith and practice of their religious denomination. That of course gives no exemption to an individual conscientiously opposed to the bearing of arms. Now it so happens, since I have come into the Senate to-day I have received from the Governor of my State a communication covering one addressed to him relating to a soldier in our service who is conscientiously opposed to the bearing of arms, and the Governor in his communication to me especially asks me to interest myself in this case and to present it to the Government; but I will now present it to the Senate as an illustration of the hardship which occurs under our existing law:

"The following facts in relation to the young man we have from such authority as leaves us no doubt of their substantial correctness. He has from boyhood been a non-resistant, and regarded all war as criminal, and has entirely abstained from voting as a religious duty. Since then he has done everything in his power to aid the Government against the assaults of the slaveholders. Drafted in October last, the authorities of the camp on Long Island appreciated his religious scruples against bearing arms, and treated him with kindness and respect. But in Virginia the officer in charge, a Major Cook, of Gloucester, Massachusetts—

I am sorry I am obliged to read such a statement with reference to a Massachusetts officer—"has endeavored to force him to yield his conscientious convictions. He has been tied up in the woods with mules, suspended by his hands after the manner of slaves, until he could hardly stand alone, deprived of shelter, food, and finally put in the guard-house, where he has been for six or seven weeks. All this the soldier has borne with great courage and patience. His health is seriously impaired by such exposure and severity."

"You have already generously discharged several Quakers who have been drafted into the Army. This leads us to hope that you will not hesitate to discharge from military service this young man who is suffering from his adherence to the same principles as theirs."

This is signed by four respectable and, I may say, eminent citizens of Massachusetts, and is addressed to the Secretary of War. I quote it simply as an illustration of the hardship that occurs under our existing law. I hope, therefore, that the proposition of the Senator from Rhode Island will be adopted.

The PRESIDING OFFICER put the question on the amendment, and declared that the yeas appeared to have it.

Mr. WADE. I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was rejected.

Mr. POWELL. I move to amend the bill by inserting as a new section the following:

And be it further enacted, That ministers of the gospel who have no secular pursuit and who have not an estate the income of which is sufficient to support themselves and families, and who devote themselves exclusively to the ministry, are exempt from military service under this act.

It is not my purpose to make an elaborate argument on the amendment I propose. There is now a section in the bill exempting from military service those who are conscientiously opposed to the bearing of arms. The amendment I offer only exempts such ministers of the gospel as devote themselves exclusively to the ministry, and who have no other means of support. I do think those persons ought not to be compelled to go into the Army. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SHERMAN. I will read an extract, only a few lines, from the letter I referred to, from the bishop of the diocese of Ohio:

"If the result of the present legislative debate shall be the retention of the \$300 commutation, there will be entire satisfaction as to the clergy. They have no disposition—I speak of our own—to avoid a reasonable share of burden. What they seek is to be allowed in the discharge of that burden to discharge also their sacred functions."

Then he says there will be no difficulty in clergymen, where they are popular with the people, obtaining commutation money and thus discharging themselves of this service.

The question being taken by yeas and nays, resulted—yeas 5, nays 33; as follows:

YEAS—Messrs. Cowan, Dixon, Powell, Sumner, and Willey—5.

NAYS—Messrs. Buckalew, Chandler, Clark, Collamer, Conness, Davis, Doolittle, Fessenden, Foot, Foster, Grimes, Harding, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Ramsey, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Wilson, and Wright—33.

So the amendment was rejected.

Mr. HOWARD. If it be in order, I wish to offer an amendment to the fifteenth section. That section provides—

That any person who shall forcibly resist or oppose any enrollment, or who shall incite, counsel, encourage, or who shall conspire or confederate with any other person or persons forcibly to resist or oppose any such enrollment, or who shall aid or assist, or take any part in any forcible resistance or opposition thereto, or who shall assault, obstruct, hinder, impede, or threaten any officer or other person employed in making or in aiding to make such enrollment, or employed in the performance, or in aiding in the performance of any service in any way relating thereto, or in arresting or aiding to arrest any spy or deserter from the military service of the United States shall, upon conviction thereof in any court competent to try the offense, be punished by a fine not exceeding \$500, or by imprisonment not exceeding two years, or by both of said punishments, in the discretion of the court.

This clause simply punishes by fine and imprisonment conspiracies and other efforts to obstruct the enrollment and drafting of men, and also for assaulting, obstructing, hindering, or impeding their enrollment or the draft; but it omits entirely to impose any penalty in cases where such obstruction or hindering or impeding results in the death of the officer or other person in the public employment in carrying out the draft. I think, sir, we have full authority to punish any crime that may be committed in opposition to this bill when it shall become a law, and therefore that we have the power and the right to punish murder which may be committed in resisting the execution of this law; and the object of my amendment is to punish, as for the crime of murder, the offender in every case in which his assault or his obstruction or hindering or impeding shall result in the death of the officer or person employed in the public service. I therefore offer this amendment to come in at the end of the section:

And in cases where such assaulting, obstructing, hindering, or impeding shall produce the death of such officer or other person, the offender shall be deemed guilty of murder, and upon conviction thereof upon indictment in the circuit or district court of the United States for the district within which the offense was committed, shall be punished with death.

Mr. COWAN. That amendment is the law now unquestionably, in my judgment. I think the killing of any one in the execution of a lawful act is now, always was, and always will be murder. We have formerly made resisting the draft an offense, and if persons, in resisting the draft, killed the officer attempting to execute it, that would have been murder, and would have been punishable under any State law. We have now amended the law, because the question arose in my own State, and it was held there by the United States courts that resisting the enrollment was not an offense, because it was not made so specifically by the act of 1863. We have amended that, however, and now we have made it unlawful to resist the enrollment; and if a killing should take place

by one resisting the enrollment, that killing would be murder, unquestionably, I take it, and would be punished as such, under our State laws at least.

Mr. TRUMBULL. The Senator from Pennsylvania is undoubtedly right; it would be murder, but it would not be an offense cognizable in the United States courts. It would be murder, I doubt not, under the laws of all the States; but is it best that it should be left there? The object of this amendment is to give the United States courts jurisdiction of the higher offense as well as the lesser one. The bill already provides that if a person resists an officer in the execution of this law he may be punished by fine and imprisonment in the United States courts. Suppose the resistance is such that it occasions the death of the officer, as has been the case in some instances. Opposition has been made to the execution of this law in some cases which has resulted in the death of the officer, and it has occurred in localities where no fair trial can be had in the State court. It is in those very localities where the resistance is to be found. There are counties where you could not get an impartial jury to try the offender under the State law. Is it not appropriate and proper that a man who resists an officer of the United States in the discharge of his duty and kills him in that resistance should be tried before the tribunals of the United States, where you may get a jury from the State at large? It seems to me most appropriate and proper that the United States courts should have jurisdiction of such a case, but I am not aware of any law, and I think the Senator from Pennsylvania will not be able to find any statute of the United States, that provides for such a case. Unquestionably the offender would be liable to indictment and trial and punishment under the State law in the absence of any law of the United States on the subject. Hence I think there is a necessity for such a provision as that introduced by the Senator from Michigan.

Mr. COWAN. I do not know that I have any particular objection to the amendment. As the Senator supposes that a new remedy will be offered by it for such an offense as this, certainly I shall not resist it. I am satisfied, however, there is ample remedy now in the State laws. There might be a conflict of jurisdiction by transferring the remedy to the United States courts. The States might claim it.

Mr. TRUMBULL. Let me ask the Senator, how could there be a conflict of jurisdiction on the higher offense more than on the lesser one? You now provide punishment by imprisonment in the penitentiary and by fine for resisting an officer where death does not ensue.

Mr. COWAN. Because in the lesser one it is not an offense by the State law. That is properly cognizable in the United States courts. I am not afraid that the man guilty of murder while in the execution of an unlawful act will ever be unable to get a fair trial in a State where you can make a draft at all.

Mr. TRUMBULL. Surely my friend from Pennsylvania does not mean to say that assaulting a person is not an offense by State law. This bill provides already for punishing the person who assaults another. That surely is an offense by the State law.

Mr. COWAN. Unquestionably.

Mr. TRUMBULL. Very well. Then we have already provided in the bill to punish those offenses, which would be offenses under the State law, of a lesser grade than murder.

Mr. COWAN. I mean to say that assaulting a person for resisting the enrollment under the law of March 3, 1863, was not an offense against the United States although it was an offense against the State law, and State laws punished that offense when the courts of the United States had no jurisdiction over it and could afford no remedy.

Mr. HOWARD. Mr. President, the offense created by the amendment I have offered is this: in order to constitute it there must be forcible resistance and obstruction to the officer executing the conscription law, and that forcible obstruction or resistance on the part of the offender must produce or result in the death of the officer or other person employed in the execution of the statute. This offense is declared in the amendment to be murder, and is made punishable by death.

It is undoubtedly very true, as the Senator from Pennsylvania says, that in all the States murder

is punishable. But the Senator certainly cannot be ignorant of the fact that the law of murder is different in different States. For instance, the rule relating to and defining the crime of murder may be one thing in New York and a different thing in Kentucky. In the State of New York the crime of murder is divided into various degrees, and the punishment apportioned according to the degrees of guilt prescribed in the statute. In other States—I do not know how many others, but probably some—murder is treated the same as it was at the common law; but the punishment is meted out as the Legislature may see fit. The kinds of punishment in different States are also different. In some of the States murder is punished by death; in others it is punished by imprisonment at hard labor, or without hard labor, in the penitentiary. In some it is punished by death, but only upon the warrant of the Governor of the State, and cannot take place until the Governor shall award his warrant to the sheriff of the county. This is the case in the State of Vermont, if I recollect aright. So that there is no uniformity either in the description of the offense in the several States, nor is there any uniformity in the kind or description of punishment inflicted upon it. One great object of this amendment is to produce this uniformity of punishment throughout the United States, and not to permit a person who has been guilty in the State of Vermont or New York, where capital punishment may not exist, to go without punishment, to preserve his life, and finally, perhaps, by a pardon be liberated entirely, while at the same time we punish with death another person in the State of Kentucky or Maryland, should the penalty of death exist there.

The great object of this amendment is to render the crime certain and well defined throughout the United States, and to inflict the same punishment in every case. Now, sir, there can be no conflict between the Federal jurisdiction and the State jurisdiction in the trial of cases which may arise under this amendment. It is undoubtedly true that a homicide committed in resisting an officer under this law in Pennsylvania could be punished there as murder, and the offender subjected to be indicted and tried there, and punished according to the laws of the State. There is no doubt of this; but still there is a propriety, a consistency, and a harmony in the idea of the Government of the United States taking into its own hands and punishing according to its own wishes this high offense against the law and against the peace of society.

Mr. HENDRICKS. I wish to suggest to the Senator from Michigan whether he ought not to amend his proposition by striking out the words "district or," so as to confine the trial to the circuit courts of the United States. I believe that in all cases under the laws of the United States where the death penalty is prescribed the indictment can be found only in the circuit court of the United States, for the reason which has always governed Congress, that if a man be tried for his life he ought to be tried in a court where there are two judges, so that if upon a doubtful question of law there should be a division of opinion between the judges the Supreme Court of the United States might have jurisdiction. Otherwise, if he is tried in the district court, the verdict and judgment are final upon him; he has no remedy, no appeal. I do not wish to be understood as agreeing that we can confer jurisdiction upon the United States courts of the crime of murder in the States, but if we attempt to do it, I suggest that it ought only to be tried in the circuit court of the United States, in analogy to all our existing laws in regard to the trial of capital cases.

Mr. HOWARD. The amendment provides that the offense may be tried either in the district court or in the circuit court of the district within which the offense is committed. I am quite aware, as I understand the Senator from Indiana to suggest, that it is the right of the accused in almost all of the States to bring a bill of exceptions from the court in which he is tried into a higher court, for the purpose of having any question of law decided that may have arisen in the course of the trial. This is, however, a purely legislative right which he possesses; it does not exist at the common law, as the Senator undoubtedly quite well knows. Whether it would be best to give the offender the right to take a bill of exceptions and take the

case from the district court to the circuit court, must be determined by the Senate. I confess I do not see any necessity for it myself. It is a privilege, certainly, which the accused enjoys in several of the State courts; but whether it exists in all of them I am not prepared to say. It does in my own State, I know; it does probably in the State represented by the Senator from Indiana; but for the purposes of carrying out this conscription act, and of making the punishment certain and effectual, it seems to me that we may very well dispense with the right of appeal or the right to a bill of exceptions.

Mr. HENDRICKS. If the Senator does not accept the suggestion which I made, I will move an amendment—

Mr. HOWARD. I did not hear the Senator very distinctly, and perhaps I did not apprehend him correctly.

Mr. HENDRICKS. I move to amend the amendment by striking out the words "district or," so that the indictment can only be found in the circuit court of the United States, in which court there are two judges.

Mr. TRUMBULL. Not necessarily. The district judge holds the circuit court in the absence of the supreme judge. That has been the case in Illinois for ten years past until very recently; the supreme judge has not been present, I venture to say, a quarter of the term. Judge McLean very seldom attended at all; I think not for ten years at Springfield.

Mr. HENDRICKS. I am aware of the truth of what the Senator says; but the circuit judge cannot sit in the district court. If the party be indicted in the district court he cannot have two judges to preside at his trial. If he be indicted in the circuit court he may have the benefit of two judges.

Mr. HOWARD. I wish to inquire of the Senator whether all he desires is that the trial should take place in the circuit court, and not in the district court.

Mr. HENDRICKS. Yes, sir; that is my proposition.

Mr. HOWARD. I have not the slightest objection to that; and I will accept a modification to that effect, so as to confine the jurisdiction to the circuit court. I did not understand the Senator at first.

The PRESIDING OFFICER. The Senator from Michigan modifies his own amendment.

Mr. JOHNSON. Let it be read as it now stands.

The PRESIDING OFFICER. The Senator from Michigan moves to insert at the end of the fifteenth section the words which will now be read.

The Secretary read, as follows:

And in cases where such assaulting, obstructing, hindering, or impeding shall produce the death of such officer or other person, the offender shall be deemed guilty of murder, and, upon conviction thereof upon indictment in the circuit court of the United States for the district within which the offense was committed, shall be punished with death.

Mr. DOOLITTLE. I suggest to my honorable friend from Michigan that instead of using the term "murder" he use the term "high crime and misdemeanor." The punishment is the same; the object is the same; but as it now stands a question may be raised which may perhaps be troublesome.

Mr. HOWARD. I should rather prefer the ancient word "murder."

The amendment was agreed to.

Mr. HOWARD. I also move a further amendment to that same section. I move to strike out in line fourteen of the section the word "hundred," and to insert "thousand" instead of it; and in line fifteen to strike out the word "two," and insert "five," so that the clause will read: "be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding five years, or by both." The amendment increases the term of imprisonment of the offender and the amount of the fine.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read three several times, the question now is, shall it pass?

Mr. SAULSBURY. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 1ST SESSION.

WEDNESDAY, JANUARY 20, 1864.

NEW SERIES....No. 17.

Mr. HARLAN. I desire to suggest an amendment, which of course cannot be introduced now without the unanimous consent of the Senate, which pertains to the phraseology of a clause in the sixth section. Commencing after the word "United States" in the thirteenth line, I wish to strike out the words "shall be credited upon the quota of the State within which they are enlisted, and not," and in lieu of those words to insert "in any State shall not be credited," so that the clause shall read: "that colored troops enlisted and mustered into the service of the United States in any State shall not be credited upon the quota of any other State."

Mr. JOHNSON. I ask the Senator from Iowa if his proposed amendment changes in his view the meaning of the section as it stands.

Mr. HARLAN. I think not, except that it would not require us to give credit to South Carolina for troops that might be enlisted in that State, where no draft can possibly be enforced.

Mr. JOHNSON. I see no objection to it.

The PRESIDING OFFICER. The amendment can be received at this stage of proceedings only by the unanimous consent of the Senate. Is there any objection? The Chair hears none. The amendment is before the Senate.

The amendment was agreed to.

The question being taken by yeas and nays on the passage of the bill, resulted—yeas 30, nays 10; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Conness, Cowan, Davis, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Harding, Harlan, Harris, Howard, Johnson, Lane of Kansas, Morgan, Morrill, Nesmith, Pomroy, Ramsey, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Willey, and Wilson—30.

NAYS—Messrs. Buckalew, Carlile, Grimes, Hendricks, Howe, Lane of Indiana, Powell, Saulsbury, Wilkinson, and Wright—10.

So the bill was passed.

GENERALS HOOKER, MEADE, AND HOWARD.

Mr. WILSON. There are resolutions on the table thanking some of the military men, that we may as well act upon at this time.

The PRESIDING OFFICER. Will the Senator indicate what resolution he desires to call up?

Mr. WILSON. I move to take up the joint resolution No. 3.

The motion was agreed to; and the joint resolution (S. No. 3) expressive of the thanks of Congress to Major General Joseph Hooker and Major General George G. Meade, and the officers and soldiers of the army of the Potomac, was considered as in Committee of the Whole.

Mr. GRIMES. I move to insert after the name of General Meade the name of Major General Oliver O. Howard. As I have read the history of that campaign, the man who selected the position where the battle of Gettysburg was fought, and who, indeed, fought it the first day, was General Howard, and to him the country is indebted as much for the credit of securing that victory as to any other person. I wish, therefore, as a recognition of his merits, to couple his name with that of General Meade in the vote of thanks.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. BUCKALEW. Before the vote is taken on the passage of the resolution, I should like to have it read in its present form.

The Secretary read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the gratitude of the American people and the thanks of their representatives in Congress are due, and are hereby tendered, to Major General Joseph Hooker and the officers and soldiers of the army of the Potomac, for the skill, energy, and endurance which first covered Washington and Baltimore from the meditated blow of the advancing and powerful army of rebellion led by General Robert E. Lee; and to Major General George G. Meade, and Major General Oliver O. Howard, and the officers and soldiers of that army, for the skill and heroic valor which at Gettysburg repulsed, defeated, and drove back, broken and dispirited, beyond the Rappahannock, the veteran army of the rebellion.

Mr. BUCKALEW. Mr. President, I should

like to vote a compliment to General Meade and his army as distinguished from other officers; but, as at present informed, in order to vote for a resolution of thanks to him, I am obliged to vote for a resolution that in some respects I do not like.

The resolution was passed.

Mr. GRIMES. I move that the title be amended to correspond with the body of the resolution.

The motion was agreed to, and the title was amended to read: "A joint resolution expressive of the thanks of Congress to Major General Joseph Hooker, and Major General George G. Meade, and Major General Oliver O. Howard, and the officers and men of the army of the Potomac."

THANKS TO GENERAL BANKS.

On motion of Mr. WILSON, the joint resolution expressive of the thanks of Congress to Major General Nathaniel P. Banks, and the officers and soldiers under his command at Port Hudson, was considered as in Committee of the Whole. It tenders the thanks of Congress to Major General Nathaniel P. Banks and the officers and soldiers under his command, for the skill, courage, and endurance which compelled the surrender of Port Hudson, and thus removed the last obstruction to the free navigation of the Mississippi river.

The resolution was reported to the Senate, ordered to be engrossed for a third reading, and was read the third time, and passed.

THANKS TO GENERAL BURNSIDE.

On motion of Mr. WILSON, the joint resolution of thanks to Major General Ambrose E. Burnside, and the officers and men who fought under his command, was considered as in Committee of the Whole. It presents the thanks of Congress to Major General Ambrose E. Burnside, and through him to the officers and men who have fought under his command, for their gallantry, good conduct, and soldierlike endurance, and requests the President of the United States to cause the resolution to be communicated to Major General Burnside in such terms as he may deem best calculated to give effect thereto.

The joint resolution was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

CORNELIUS VANDERBILT.

On motion of Mr. MORGAN, the joint resolution presenting the thanks of Congress to Cornelius Vanderbilt for a gift of the steamship Vanderbilt was considered as in Committee of the Whole. It recites that Cornelius Vanderbilt, of New York, did, during the spring of 1862, make a free gift to his imperiled country of his new and staunch steamship Vanderbilt, of five thousand tons burden, built by him with the greatest care, of the best material, at a cost of \$800,000, which steamship has ever since been actively employed in the service of the Republic against the rebel devastations of her commerce; and that he has in no manner sought any requital of this magnificent gift, nor any official recognition thereof. It is therefore proposed that the thanks of the American people be presented by Congress to Commodore Vanderbilt for this unique manifestation of a fervid and large-souled patriotism. The President of the United States is to cause a gold medal to be struck, which shall fitly embody an attestation of the nation's gratitude for this gift; which medal shall be forwarded to Commodore Vanderbilt, a copy of it being made and deposited for preservation in the Library of Congress.

Mr. HALE. I should like to inquire of the honorable Senator from New York who has moved that this resolution be taken up and considered, if he has found or knows of any precedent in the history of the country analogous to this which would justify Congress in taking such a measure.

Mr. MORGAN. I do not know, Mr. President, that there is any precedent for so large a gift as that which was made by Cornelius Vanderbilt to the Government of the United States. I cannot answer the Senator's question in relation to a precedent for this vote of thanks, because I have not looked to that subject; but I know that the Pres-

ident of the United States sent a message to Congress on the 17th of July, 1862, in regard to this gift of Mr. Vanderbilt, which, with the permission of the Senate, I will read:

Fellow-Citizens of the Senate and House of Representatives:

I have inadvertently omitted so long to inform you that in March last Mr. Cornelius Vanderbilt, of New York, gratuitously presented to the United States the ocean steamer Vanderbilt, by many esteemed the finest merchant ship in the world. She has ever since been and still is doing valuable service to the Government. For the patriotic interest in making this magnificent and valuable present to the country, I recommend that some suitable acknowledgment be made.

ABRAHAM LINCOLN.

July 17, 1862.

Mr. COLLAMER. I desire that the word "commodore" where it occurs in the resolution be erased, and the word "Cornelius" inserted. Mr. Vanderbilt is not a commodore, and never was. It is a sort of nickname, and I think we had better not use it, but use the man's correct name, as it is used in the message of the President. I move to strike out "commodore" where it occurs, and insert "Cornelius."

Mr. MORGAN. I accept the amendment.

The PRESIDING OFFICER. It is not competent for the Senator from New York to accept an amendment to a joint resolution; but the amendment will be made, if there be no objection. The Chair hears none.

Mr. HALE. Some time last year I think it was, certainly during the last Congress, my attention and that of the Naval Committee was especially directed to this general question. Some fifty or sixty recommendations for votes of thanks were referred to that committee by the Senate, and we had occasion to examine into the history of that matter. I got our accommodating and accomplished secretary, General Hickey, to ransack the files of the Government for me to find how many times the thanks of Congress had been presented from the beginning of the Government up to the last Congress. I do not remember precisely how many he found, but they were very few indeed; I think not exceeding seven from the commencement of the Government up to the time of the last Congress; and they had been conferred, I think, upon General Washington, General Jackson, General Scott, and I do not know but General Macomb. There had been but very few cases; such votes were rare; and when they passed they meant something; they conferred a distinction and an honor. But, in my humble judgment, in an evil hour, and in the execution of an improper policy, Congress passed an act by which certain special privileges were to follow the conferring of the thanks of Congress upon an officer by name; and the minute that was done almost all the officers in the Navy and their friends were besieging the Executive—it had to be done upon the recommendation of the Executive—for a recommendation to Congress of a vote of thanks in order to open the way for them to promotion; and so, I think in a single message, we had a recommendation from the Executive that Congress confer a vote of thanks by name upon ten times as many officers, going down I think as low as lieutenants, as had ever received such a compliment before during the whole history of the Government.

Mr. GRIMES. The Senator will remember that that recommendation came from the President to pass this vote of thanks to those officers before the grade bill passed which conferred any privilege upon the person who was thus thanked.

Mr. HOWARD. What was the privilege?

Mr. GRIMES. Promotion.

Mr. HALE. I do not know how that is.

Mr. GRIMES. That is a fact.

Mr. HALE. If the Senator is advised on that subject, of course I do not contradict him, though my impression was the other way; but it makes no odds; we had this batch of some fifty or sixty officers, going down to lieutenants, recommending that they be thanked by name; and there were a great many others—I do not know if there were not one hundred sent in during the last Congress, certainly somewhere between fifty and one hundred.

The Naval Committee, I think on the suggestion of my friend from Iowa, came to the conclusion that they would adopt a certain rule which should govern them; and that was that they would not recommend Congress to confer a vote of thanks by name on any officer unless he was in the separate command of a squadron or an expedition or something of that sort; and in pursuance of that recommendation of the committee to the Senate, the Senate actually refused a vote of thanks to some very worthy and deserving officers because they did not come within that rule. My own impression, as I said before, is that Congress were exceedingly unwise in adopting the provision to which I have alluded, and that this matter of conferring thanks has been carried to such an extent, and if persisted in by Congress will be carried to such an extent, that not only will a vote of thanks be of no worth to the officer to whom it is tendered, but it will deteriorate from the value of those which have been passed heretofore in favor of such men as Washington and Jackson and Scott.

I believe this is an entirely new precedent, though I do not speak advisedly upon that subject, for I have not examined the record recently. I did examine it very carefully during the last Congress. I think it will be an entirely new precedent to pass a vote of thanks to an individual for a gift of this sort. I have no objection, if Congress deem it wise, that such a fitting acknowledgment of this munificence of Mr. Vanderbilt as is necessary should be made; but I do object that the gift of a very wealthy man—he must have been wealthy or he could not afford to do it—to the Government of a ship should be placed on the same footing with those high and heroic acts by which illustrious men have exposed their lives, and on the battle-field, at the peril of everything, vindicated the honor and defended the interests of the country. I think, sir, there should be in the public mind and in the councils of Congress a wide space between that spontaneous tribute of gratitude and affection which the people pay to those who, by deeds of heroism on the battle-field at the risk of their lives, have vindicated the honor of the country, and those who, however deserving, have simply made such a present as this to the Government.

I wish the honorable Senator from New York would consent to have this resolution lie over for a few days that we may have time to examine it. As it is, while I have the highest respect for Mr. Vanderbilt and appreciate the gift of his ship to the Government—though I believe if there was to be an account-current struck with him it would appear that we have not made a great deal out of Mr. Vanderbilt even crediting him with the full value of this ship—I think it is not a case for the distinguished honor which this resolution proposes to be conferred upon him.

Mr. FOSTER. I am sorry, Mr. President, that there is a suggestion to postpone the action of the Senate upon this resolution. The person who is most immediately concerned in regard to it has not asked any recognition of this gift by the Government; and it seems to me exceedingly ungracious to accept a gift of this description and then hingle upon the question of whether or not we will thank the donor for it, whether we will postpone our thanks to another day, and then perhaps refuse to offer them.

Mr. President, I am in nowise afraid that passing a vote of thanks to Mr. Vanderbilt for this gift will at all detract from the value of a vote of thanks passed to the illustrious men of the Republic who have rendered important services in the cabinet or in the field. There will be no danger that Congress will confound the one with the other, or that the people will confound such services with the most munificent gift of property. And if there were danger, what then? Is it a reason why we should not recognize in this way a service of this description? Sir, it was a most munificent gift. If it be asked whether there be any precedent for thanking any individual who has made a munificent gift to the country, and the answer be no, I apprehend it is also true that there has never been, either to this Government or to any other, a gift so munificent as this was by an individual; and it seems to me that the least we can do is to pass the vote which the resolution proposes. It is, as I think, simply just to Mr. Vanderbilt that it should be done to recognize so munificent a gift at a time

when the country was in peril, great peril, and when this species of property was most of all desired by us, and when we cannot probably to-day produce another ship of equal value for \$1,000,000. I hope, sir, that the resolution will pass, and that there will be no disposition to postpone it, or indeed to refuse it.

Mr. SAULSBURY. Mr. President, it is a very ungracious thing to oppose a vote of thanks under any circumstances. The presentation of the thanks of Congress has become so frequent of late that I do not know whether its value has not been decreased thereby. But, sir, we are told in a certain old book, now out of use—whose precepts, at least, are not much regarded at the present day—that there was a time when people brought their offerings to the altar; the rich brought their costly offerings, and the poor brought theirs, and among the rest a poor widow cast in her mite. That old-fashioned book says that she gave more than those who presented their costly offerings. According to that standard, there are tens of thousands who have given more to the country than Commodore Vanderbilt. I think, therefore, that a general form of thanks, thanking everybody who does anything for the country, would reach the necessities of the hour, and would prevent the repetition of these constant votes of thanks.

Mr. MORGAN. To meet what I understand to be the suggestion of the Senator from Delaware, I move, in the first line of the resolution, to strike out the words "of the American people be presented by," and to insert after "Congress," in the second line, the words "be presented;" so that the resolution shall read, "that the thanks of Congress be presented to Cornelius Vanderbilt."

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

EXECUTIVE SESSION.

Mr. LANE, of Indiana. I move that the Senate proceed to the consideration of executive business. There are some important matters that I think ought to be disposed of speedily, and we ought to have an executive session.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, January 18, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Friday last was read and approved.

PENNSYLVANIA MILITARY CLAIMS.

The SPEAKER laid before the House a communication from the Second Auditor of the Treasury, in answer to the resolution of the House of Representatives of the 13th instant, relative to vouchers for the expenses in calling out the Pennsylvania militia during the recent invasion of that State; which was laid upon the table, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER stated that the first business in order was the call of committees for reports to be printed and referred to the Committee of the Whole and not to be brought back by motions to reconsider, and that, according to the usage since the rule had been established, no requests for unanimous consent could be entertained during the morning hour.

The SPEAKER then called the committees for reports, but none were presented that were admissible under the rule.

The SPEAKER then, as the next business in order, proceeded to call the States for resolutions, under which call bills on leave could be presented. The call commenced with the State of Pennsylvania, where it was suspended on Monday last.

LOAN OF THE HALL OF REPRESENTATIVES.

Mr. KELLEY submitted the following resolution:

Resolved, That the use of the Hall of the House of Representatives be granted to the United States Christian Commission on Monday evening, February 1, for their anniversary meeting.

Mr. COX. I desire to debate that resolution. I am opposed to granting the use of this Hall for any such purpose, especially after the exhibition we had here on Saturday night, when one half of this House was abused by a person I need not speak of.

The SPEAKER. The resolution, giving rise to debate, goes over.

CONDUCT OF THE WAR.

Mr. DAWSON submitted the following preamble and resolution, upon which he demanded the previous question:

Whereas a great civil war like that which now afflicts the United States is the most grievous of all national calamities, producing, as it does, spoliation, bloodshed, anarchy, public debt, official corruption, and private immorality, the American Government cannot rightfully wage such a war upon any portion of its people except for the sole purpose of vindicating the Constitution and laws and restoring both to their just supremacy; and whereas this House, on the 22d day of July, 1851, speaking in the name of the American people, in the face of the world, solemnly and truly declared that it was waged for no purpose of conquest or oppression, but solely to restore the Union with all the rights of the people and of the States unimpaired; and whereas in every war, especially in every war of invasion, and most particularly if it be a civil war between portions of the same country, the object of it ought to be clearly defined and the terms distinctly stated upon which hostilities will cease, and the advancing armies of the Government should carry the Constitution and laws in one hand while they hold the sword in the other, so that the invaded party may have its choice between the two: Therefore,

Resolved, That the President be required to make known, by public proclamation or otherwise, to all the country that whenever any State now in insurrection shall submit herself to the authority of the Federal Government as defined in the Constitution, all hostilities against her shall cease, and such State shall be protected from all external interference with her local laws and institutions, and her people shall be guaranteed in the full enjoyment of all those rights which the Federal Constitution gave them.

Mr. STEVENS moved to lay the preamble and resolution upon the table.

Mr. DAWSON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 56; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Francis P. Blair, Jacob B. Blair, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frauk, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hubbard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seofield, Shannon, Smith, Smithers, Spaulding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Efflu B. Washburne, William B. Washburn. Whaley, Williams, Wilson, Windom, and Woodbridge—79.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, William G. Brown, Chauler, Coffroth, Cox, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Fluck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Herick, Holman, Hutchins, William Johnson, Kernan, Lazar, Le Blond, Long, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Pennington, Robinson, Ross, John B. Steele, Stiles, Stuart, Sweet, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Fernando Wood, and Yeaman—56.

So the preamble and resolution were laid upon the table.

During the roll-call,

Mr. McINDOE stated that Mr. Cobb was absent in consequence of sickness.

Mr. ORTH stated that Mr. Dumont was absent by reason of sickness in his family.

Mr. MILLER, of Pennsylvania, announced that Mr. RANDALL, of Pennsylvania, was absent on account of sickness.

Mr. ANCONA made a similar statement in regard to his colleague, Mr. JOHNSON.

Mr. BOYD made a like statement in reference to Mr. Blow.

The result of the vote having been announced as above recorded,

Mr. STEVENS moved to reconsider the vote by which the preamble and resolution were laid upon the table; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

LOAN OF THE HALL OF REPRESENTATIVES.

Mr. MOORHEAD submitted the following resolution, upon which he demanded the previous question:

Resolved, That the use of the Hall of the House of Repre-

sentatives be granted to the United States Christian Commission on Tuesday evening, February 2, for their anniversary meeting.

Mr. COX. I object to that.

The SPEAKER. On what ground?

Mr. COX. I desire to debate it.

The SPEAKER. The gentleman from Pennsylvania demands the previous question. If the previous question should not be seconded, the gentleman from Ohio will be recognized.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. MOORHEAD moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

DUTY ON PAPER.

Mr. MILLER, of Pennsylvania, submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee of Ways and Means be requested to inquire into the expediency of repealing so much of the fifth section of the act entitled "An act to modify the existing law imposing duties on imports, and for other purposes," approved March 3, 1863, as imposes an *ad valorem* duty of twenty per cent. upon printing paper, un-sized, used for books and newspapers exclusively.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. MILLER, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MEDALS FOR THE KANE EXPEDITION.

Mr. BROOMALL offered a resolution, which was read, considered, and agreed to, instructing the Committee of Ways and Means to inquire into the expediency of reporting such appropriation as may be necessary to procure the medals of honor awarded by Congress several years ago to the members of the Kane Arctic expedition.

EXEMPTION OF ACTING ASSISTANT SURGEONS.

Mr. STROUSE offered a resolution instructing the Committee on Military Affairs to report a bill so amending the act of March 3, 1863, for enrolling and calling out the national forces, as to exempt from draft or conscription all acting assistant surgeons in actual service in the Army or Navy of the United States, and moved the previous question on its adoption.

Mr. SCHENCK. Mr. Speaker, is that resolution imperative, or is it one instructing the committee to inquire into the expediency of the change?

The SPEAKER. It is imperative.

Mr. SCHENCK. Then I move to modify it.

The SPEAKER. The motion for the previous question is pending, and a motion to amend is not in order.

Mr. STROUSE. I will modify the resolution so as to make it one of inquiry.

The previous question was seconded and the main question ordered, and under its operation the resolution as modified was adopted.

EXEMPTION OF CLERGYMEN.

Mr. THAYER offered a resolution instructing the Committee on Military Affairs to inquire and report to the House whether it would not be proper and expedient so to amend the act for enrolling and calling out the national forces as to exempt from the performance of military duties clergymen of all denominations actually engaged in the discharge of ministerial duties, and moved the previous question on its adoption.

The previous question was seconded, and the main question ordered.

Mr. LE BLOND called for the yeas and nays on the resolution.

The yeas and nays were ordered.

Mr. STEVENS. I hope the call for the yeas and nays will be withdrawn.

Mr. LE BLOND. I decline to withdraw the call. The vote will be regarded as showing the sentiment of the House on the subject.

Mr. SCHENCK. I hope the resolution will be withdrawn on the assurance given to the gentleman who offered it that the committee is at this time actually inquiring into the matter.

Mr. GARFIELD. I am willing this resolution shall pass; but I decline to be trotted out over the ayes and noes at the beck of any member of this House, and I move to lay the resolution on the table.

Mr. COX. On that I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 46; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Ames, Ancona, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Bliss, Boutwell, Boyd, James S. Brown, William G. Brown, Ambrose W. Clark, Clay, Coffroth, Cox, Henry Winter Davis, Dawson, Denning, Deming, Donnelly, Driggs, Eden, Eldridge, Eliot, English, Farnsworth, Fenton, Garfield, Grinnell, Hall, Harrington, Benjamin G. Harris, Herick, Higby, Holman, Hotchkiss, Hubbard, Hutchins, Jenckes, William Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knapp, Le Blond, Long, Longyear, Marvin, McAllister, McBride, McDowell, McIndoe, McKinney, Middleton, Samuel F. Miller, William H. Miller, Morrill, Daniel Morris, James R. Morris, Amos Myers, Nelson, Noble, Orth, Patterson, Perham, Pike, Price, William H. Randall, Robinson, Edward H. Rollins, Ross, Schenck, Scott, Shannon, Smith, Spalding, Stevens, Stiles, Strouse, Stuart, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, and Fernando Wood—100.

NAYS—Messrs. Jacob B. Blair, Brandegee, Broomall, Cole, Cresswell, Eckley, Edgerton, Finck, Frank Ganson, Grider, Griswold, Hale, Harding, Asahel W. Hubbard, Kernan, Lazear, Loan, Lovejoy, Marcy, McClurg, Moorhead, Leonard Myers, Charles O'Neill, John O'Neill, Pendleton, Pomeroy, Radford, Alexander H. Rice, John H. Rice, Scofield, Smithers, Stebbins, John B. Steele, Sweet, Thayer, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Webster, Wilson, Winfield, Woodbridge, and Yeaman—46.

So the resolution was laid on the table.

ASSIGNMENT OF QUOTAS.

Mr. LAZEAR offered a resolution, which was read, considered, and agreed to, instructing the Committee on Military Affairs to inquire into the expediency of amending the act of March 3, 1863, for enrolling and calling out the national forces, so as to require that in assigning the quotas of troops hereafter to be raised by conscription, credit shall be given to States and counties for such of their citizens as may have enlisted in the military organizations of other States.

WOODWARD AND CHORPENNING.

Mr. COFFROTH introduced a joint resolution for the relief of Elizabeth Woodward and George Chorpenning, of Pennsylvania; which was read a first and second time, and referred to the Committee on Indian Affairs.

CLOSE OF SESSION.

Mr. COFFROTH also introduced a concurrent resolution providing that the present session of the Thirty-Eighth Congress shall adjourn on the third Monday of April next, at twelve o'clock, m.

Mr. HOLMAN. I propose to debate the resolution.

The SPEAKER. Then the resolution goes over under the rule.

LUZERNE COUNTY, PENNSYLVANIA.

Mr. DENNISON introduced a bill making Luzerne county, in the State of Pennsylvania, a part of the eastern judicial district of said State; which was read a first and second time, and referred to the Committee on the Judiciary.

RANK OF CHAPLAINS.

Mr. A. MYERS introduced a bill giving rank to chaplains, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

JOHN A. MCLOSKEY.

Mr. A. MYERS also introduced a bill for the relief of John A. McLoskey, deputy collector of the twentieth district of Pennsylvania; which was read a first and second time, and, with the petition on the subject, referred to the Committee of Ways and Means.

EVACUATION OF CUMBERLAND GAP.

Mr. COX. I beg leave to introduce the following resolution, and on its adoption to call for the previous question:

Resolved, That the Secretary of War be directed to communicate to this House copies of a communication from Brigadier General William Morgan to Adjutant General Thomas, dated Mount Vernon, Ohio, June 6, 1863, and the exhibits thereto attached, marked from A to 2 (two) inclusive, the same being in reply to that portion of the official report of Major General Halleck, dated December 2, 1862, relative to the evacuation of Cumberland Gap.

Mr. WASHBURNE, of Illinois. I object to that resolution.

The SPEAKER. Being a call on one of the Executive Departments for information it must, under the rules, lie over for one day.

EXCHANGE OF PRISONERS.

Mr. COX also introduced the following resolution, and on its adoption demanded the previous question:

Resolved, That the President be, and he is hereby, urgently requested to appoint a board of commissioners who can by negotiation reach the authorities South with a view to the prompt exchange of our prisoners under the cartel heretofore agreed upon between the parties, and that the negotiation be withdrawn from the hands of Major General Butler, who, as it is reported, is unable, from causes connected with his past military conduct, to hold intercourse with those charged with this business in Richmond.

Mr. WASHBURNE, of Illinois. I move that that resolution be laid upon the table.

Mr. COX. The Clerk has not read the whole of my resolution. The gentleman is too fast.

Mr. WASHBURNE, of Illinois. I move, then, that the part which has been read be laid upon the table.

Mr. COX. Let the remaining portion of my resolution be read.

The Clerk read, as follows:

Resolved, That the President of the United States be requested to communicate to this House all correspondence of the War Department, not already communicated, with reference to the exchange of prisoners.

The SPEAKER. If objected to, the latter resolution must lie over, under the rules.

Mr. WASHBURNE, of Illinois. I move that the whole proposition be laid upon the table.

Mr. COX demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 56; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cole, Henry Winter Davis, Thomas T. Davis, Davies, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank Ganson, Garfield, Gooch, Grinnell, Griswold, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hubbard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilson, and Woodbridge—91.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chandler, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Grider, Hale, Harding, Harrington, Benjamin G. Harris, Herick, Holman, Hutchins, William Johnson, King, Knapp, Lazear, Le Blond, Long, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Radford, Scott, John B. Steele, Stiles, Strouse, Stuart, Sweet, Voorhees, Wadsworth, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—56.

So the resolution was laid upon the table.

REBELLIOUS STATES.

Mr. DAVIS, of Maryland. I ask the unanimous consent of the House for leave to report from the select committee on the rebellious States a bill to guaranty certain States a republican form of government, and to have it ordered to be printed and made the special order for the first Tuesday of February, after the morning hour, and from day to day until disposed of.

Mr. STILES. I object.

Mr. DAVIS, of Maryland. I move that the rules be suspended for the purpose I have indicated.

The motion was disagreed to, two thirds not voting in favor thereof; there being on a division—ayes 73, noes 56.

CONDUCT OF THE WAR, ETC.

Mr. SCHENCK. I ask the unanimous consent of the House for leave to report back from the Committee on Military Affairs concurrent resolution of the Senate (No. 149) for the appointment of a joint committee on the conduct and expenditures of the present war, with an amendment.

Mr. PENDLETON. I object.

Mr. SCHENCK. I move that the rules be suspended for the purpose I have indicated.

The rules were suspended, two thirds voting

in favor thereof; and the report was accordingly received.

The resolution of the Senate provides that a joint committee of three members of the Senate and four members of the House of Representatives be appointed to inquire into the conduct and expenditures of the present war; that they have power to send for persons and papers; to sit during the session of either House of Congress; and to employ a stenographer, at the usual rate of compensation.

The amendment of the committee was read, as follows:—

Strike out all after the word "war," and in lieu thereof insert the following:

And may further inquire into all the facts and circumstances of contracts and agreements already made, or that may be made, and such contracts and agreements hereafter to be made, prior to the final report of the committee, by or with any department of the Government, in anywise connected with or growing out of the operations of the Government in suppressing the rebellion against its constituted authority; and that the said committee shall have authority to sit during the sessions of either House of Congress, and during the recess of Congress, and at such times and places as said committee shall deem proper, and also employ a stenographer as clerk, at the usual rate of compensation. And be it further resolved, That the said committee shall have power to send for persons and papers; and that the Sergeant-at-Arms of the House or of the Senate, as the said committee may direct, shall attend in person, or by assistant, the sittings of the said committee, and serve all subpoenas put into his hands by the committee, pay the fees of all witnesses, and the necessary and proper expenses of the committee.

Mr. WASHBURN, of Illinois. I ask the gentleman from Ohio to let me move an amendment to further perfect the resolution.

Mr. SCHENCK. I am willing to let the gentleman have a vote on his resolution, and when it is before the House I shall call for the previous question.

The amendment of Mr. WASHBURN, of Illinois, was read, as follows:

And be it further resolved, That the Speaker of the House, or the Vice President and President of the Senate, shall be authorized to issue subpoenas to witnesses during the recess of Congress upon the request of the committee in the same manner as during the sessions of Congress, and said committee shall have authority to report in either branch of Congress at any time.

Mr. SCHENCK demanded the previous question.

The previous question was seconded, and the main question ordered.

The question being on the adoption of the amendment offered by Mr. WASHBURN, of Illinois, to the amendment of the committee,

Mr. COX demanded the yeas and nays.

Mr. WASHBURN, of Illinois. I hope the yeas and nays will be ordered, if gentlemen on the other side are opposed to investigation.

Mr. PENDLETON. We are not opposed to investigation.

Mr. COX. I appeal to gentlemen to allow us to amend this amendment so as to make the committee stationary. We do not want this roving commission running all summer. I also desire to move an amendment which shall provide that the committee report at this session of Congress.

Mr. WASHBURN, of Illinois. I have no control over the matter, the House having ordered the main question to be put.

Mr. COX. I ask unanimous consent. Objection was made.

Mr. COX. Would it be in order to move to suspend the rules for that purpose?

The SPEAKER. A motion to suspend the rules is already pending, and while that is so, another motion cannot be entertained.

Mr. COX. The object on this side of the House is to secure an investigation.

Mr. WASHBURN, of Illinois. Gentlemen on that side have been clamoring for an investigation, and now let us see whether they will vote for it.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 26; as follows:

YEAS—Messrs. William J. Allen, Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Francis P. Blair, Jacob B. Blair, Boutwell, Boyd, Brandegee, Broomall, James S. Brown, Chandler, Freeman Clarke, Coffroth, Cole, Creswell, Thomas T. Davis, Dawes, Dawson, Deming, Dennison, Dixon, Donnelly, Driggs, Edgerton, Eliot, English, Farnsworth, Fenton, Ganson, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Hutchins, Jencks, Julian, Kisson, Kelley, Orlando Kellogg, Kernan, King, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McDowell, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Mor-

rill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Odell, Charles O'Neill, Orth, Patterson, Pike, Pomeroy, Price, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Schenck, Scofield, Shannon, Smithers, Spalding, John B. Steele, William G. Steele, Stuart, Thayer, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Chilton A. White, Joseph W. White, Williams, Winfield, Fernando Wood, and Woodbridge—106.

NAYS—Messrs. James C. Allen, Apacona, Augustus C. Baldwin, Brooks, William G. Brown, Ambrose W. Clark, Cox, Eldridge, Finck, Frank, Hale, Harding, Knapp, Le Blond, Long, McAllister, Nelson, Noble, John O'Neill, Pendleton, Robinson, James S. Rollins, Scott, Stiles, Wadsworth, and Wheeler—26.

So the amendment to the amendment was agreed to.

The amendment reported by the committee, as amended, was then agreed to.

The joint resolution as amended was concurred in.

Mr. SCHENCK moved to reconsider the vote by which the resolution was concurred in; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

CAPTAIN HENRY WALKER.

Mr. FINCK, by unanimous consent, introduced a joint resolution tendering the thanks of Congress to Captain Henry Walker, of the Navy, for his bravery and gallantry and for his efficient services rendered the country in connection with the opening of the navigation of the Mississippi river; which was read a first and second time, and referred to the Committee on Naval Affairs.

MAJOR N. H. McLEAN.

Mr. PENDLETON introduced the following resolution; which, under the rules, was laid over one day:

Resolved, That the President be requested to inform this House the reasons why Major N. H. McLean, lately stationed at Cincinnati, was ordered to report at Fort Vancouver; also, whether any charges affecting the capacity or loyalty to the Constitution of said McLean have been filed in any of the Departments; and if so, that he communicate copies thereof, and of any papers relating thereto.

RIGHTS OF THE STATES.

Mr. HARDING introduced the following resolution, and upon it demanded the previous question:

Resolved, That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions, according to its own judgment exclusively, is essential to that balance of power upon which the perfection and endurance of our political fabric depends.

Mr. STEVENS. I move to lay the resolution on the table.

Mr. HOLMAN. Upon that I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 73, nays 75; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cole, Creswell, Thomas T. Davis, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Hutchins, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McDowell, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Price, John H. Rice, Edward H. Rollins, Schenck, Smithers, Spalding, Stevens, Thayer, Thomas, Upson, Elihu B. Washburn, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—73.

NAYS—Messrs. James C. Allen, William J. Allen, Apacona, Augustus C. Baldwin, Francis P. Blair, Bliss, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Herick, Holman, Hutchins, William Johnson, Kernan, King, Knapp, Lazear, Le Blond, Long, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Amos Myers, Nelson, Noble, John O'Neill, Orth, Pendleton, William H. Randall, Robinson, James S. Rollins, Ross, Scott, Smith, John B. Steele, Stiles, Strouse, Stuart, Sweet, Tracy, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—75.

So the resolution was not laid on the table.

The question recurred on the demand for the previous question.

Mr. FENTON. Is it in order to move to refer the resolution to a committee?

The SPEAKER. Not pending the demand for the previous question.

Mr. FENTON. I hope the previous question will be voted down, and then I will move to refer the resolution to the select committee on the rebellious States.

The question was put on seconding the previous question; and there were, on a division—aye 56, noes 70.

So the previous question was not seconded.

Mr. FENTON. I move that the resolution be referred to the select committee on the rebellious States, and on that motion I demand the previous question.

Mr. HARDING. I move to amend the motion so as to refer the resolution to the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from New York has demanded the previous question. If the previous question should not be sustained, the motion of the gentleman from Kentucky will be in order, and will take precedence of the motion of the gentleman from New York.

The previous question was seconded—aye 73, noes 53, and the main question ordered, being on the motion to refer the resolution to the select committee on the rebellious States.

Mr. J. C. ALLEN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 83, nays 68; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Boutwell, Boyd, Broomall, Ambrose W. Clark, Freeman Clarke, Clay, Cole, Creswell, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Higby, Hotchkiss, Asahel W. Hubbard, Hulburd, Hutchins, Julian, Kisson, Kelley, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McDowell, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smithers, Spalding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Webster, Winfield, Williams, Wilder, Wilson, Windom, and Woodbridge—83.

NAYS—Messrs. James C. Allen, William J. Allen, Apacona, Augustus C. Baldwin, Francis P. Blair, Brooks, James S. Brown, William G. Brown, Chandler, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Herick, Holman, Hutchins, William Johnson, Kernan, King, Knapp, Le Blond, Long, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Radford, William H. Randall, Robinson, James S. Rollins, Ross, Scott, Smith, John B. Steele, Stiles, Strouse, Stuart, Sweet, Tracy, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—68.

So the resolution was referred to the select committee on the rebellious States.

Mr. FENTON moved to reconsider the vote by which the resolution was referred; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CLAIM OF GENERAL GARRARD AND OTHERS.

Mr. RANDALL, of Kentucky, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to lay before this House the report of the commissioner appointed by him, together with the evidence and accompanying papers, relating to the claim of General T. J. Garrard and others, for the destruction of their salt and salt-works at Goose Creek, Kentucky, by order of General Buell in 1862.

Mr. STEVENS, (at twenty-five minutes to three o'clock, p. m.) I move that the House do now adjourn.

Mr. FARNSWORTH. I hope the gentleman will withdraw that motion to enable me to offer a resolution.

Mr. HOLMAN. I insist on the regular order of business.

Mr. DRIGGS. I appeal to the gentleman from Pennsylvania to withdraw his motion. I desire an opportunity of introducing a bill for reference.

Mr. STEVENS. I would do so if the business could be confined to the introduction of bills, but everybody is offering Buncombe resolutions, and I think we had better adjourn.

The question was taken, and the House refused to adjourn.

GENERAL ROBERT ANDERSON.

Mr. GRIDER submitted a resolution, which was read, considered, and agreed to, instructing the Committee on Military Affairs to inquire into the expediency of retiring from the service General Robert Anderson, of Sumter memory and gallantry, with full pay, and report by bill or otherwise,

PAY OF CONSULS.

Mr. GRIDER also submitted a resolution, which was read, considered, and agreed to, instructing the Committee on Foreign Affairs to inquire into the expediency of regulating upon some more equitable scale the salaries and pay of our consuls abroad, and, if necessary, report a bill to increase such salaries as are insufficient.

AMENDMENT OF A RULE.

Mr. YEAMAN submitted a proposition, which was referred to the Committee on Rules, to amend the 134th rule by adding thereto the following:

And when any bill, resolution, or report is ordered to be printed, there shall be twenty-five extra copies printed for the use of the member introducing it.

CONSUL-GENERAL GIDDINGS, ETC.

Mr. GARFIELD. I offer the following resolution:

Resolved, That the President be requested, if consistent with the public interest, to communicate to this House such information as may be in the State Department touching the arrest of our consuls general to the British North American Provinces; and such official communications touching our Canadian commerce as may have been made by the Colonial Secretary or other Canadian or British officer to our Government, or either of its Executive Departments.

Mr. PENDLETON. I desire that that resolution shall go over with other resolutions asking for information.

The SPEAKER. The resolution lies over one day under the rules.

PERFECT AND UNALTERABLE LIBERTY.

Mr. SMITH offered the following resolution, and moved the previous question on its adoption:

Whereas a most desperate, wicked, and bloody rebellion exists within the jurisdiction of the United States, and the safety and security of personal and national liberty depend upon its absolute and utter extinction: Therefore,

Resolved, That it is the political, civil, moral, and sacred duty of the people to meet it, fight it, crush it, and forever destroy it, thereby establishing perfect and unalterable liberty.

The previous question was seconded, and the main question ordered.

Mr. LOVEJOY called for the yeas and nays, and demanded tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. LOVEJOY and CORFROT were appointed.

The House divided; and the tellers reported—ayes forty-seven.

So the yeas and nays were ordered.

Mr. J. C. ALLEN. I move that the House do now adjourn; and on that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 33, nays 98; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bliss, James S. Brown, Freeman Clarke, Cole, Cox, Dawson, Dennison, Eden, Eldridge, Finck, Harding, Harrington, William Johnson, Francis W. Kellogg, King, Knapp, Long, Marcy, McDowell, McKimney, William H. Miller, James R. Morris, Morrison, Nelson, Pendleton, Shannon, Stiles, Strouse, Sweet, and Fernando Wood—33.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Francis P. Blair, Jacob B. Blair, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Chandler, Ambrose W. Clark, Coffroth, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Edgerton, Eliot, English, Farnsworth, Fenton, Frank, Ganson, Gooch, Grinnell, Griswold, Hale, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Hubbard, Hutchins, Jenckes, Orlando Kellogg, Kernan, Le Blond, Loan, Longyear, Lovejoy, Marvin, McClure, McIndoe, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Nelson, Odell, Charles O'Neill, Orth, Patterson, Pike, Pomeroy, Price, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Stebbins, Stevens, Strouse, Stuart, Sweet, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburne, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Winfield, and Woodbridge—98.

So the House refused to adjourn.

Mr. J. C. ALLEN. Is it in order to move to refer the resolution to the committee on revolutionary States?

The SPEAKER. It is not, the main question having been ordered.

Mr. J. C. ALLEN. Then I move to lay the resolution on the table; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 101; as follows:

YEAS—Messrs. James C. Allen, Ancona, Brooks, Chandler, Deming, Dennison, Eden, Edgerton, Eldridge, Herrick,

William Johnson, Knapp, Long, Marcy, McDowell, McKimney, William H. Miller, Pendleton, Robinson, Ross, Stiles, Strouse, Voorhees, Chilton A. White, Fernando Wood, and Yeaman—27.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Blaine, Francis P. Blair, Boutwell, Boyd, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Cole, Cox, Gravens, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, English, Farnsworth, Fenton, Frank, Ganson, Garfield, Gooch, Grinnell, Griswold, Hale, Harding, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Hubbard, Hutchins, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Loan, Lovejoy, Marvin, McClure, McIndoe, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Nelson, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, James S. Rollins, Schenck, Scofield, Scott, Shannon, Smith, Smithers, Spalding, Stuart, Sweet, Thayer, Thomas, Tracy, Van Valkenburgh, Ward, Elihu B. Washburne, William B. Washburne, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Winfield, and Woodbridge—101.

So the House refused to lay the resolution on the table.

Mr. BRANDEGEE, in changing his vote from aye to no, said that he was sick of this miserable political claptrap.

Mr. J. C. ALLEN. I move that the House do now adjourn, and on that motion I call for the yeas and nays.

The yeas and nays were not ordered.

The motion was rejected.

Mr. MILLER, of Pennsylvania. Is it in order to offer an amendment to the resolution?

The SPEAKER. It is not, the main question having been ordered.

The question being on the adoption of the resolution, the question was taken, and it was decided in the affirmative—yeas 112, nays 16; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Bailly, Augustus C. Baldwin, John D. Baldwin, Baxter, Blaine, Francis P. Blair, Jacob B. Blair, Boutwell, Boyd, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cole, Gravens, Creswell, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eldridge, Eliot, English, Farnsworth, Fenton, Frank, Ganson, Garfield, Gooch, Grinnell, Griswold, Hale, Harding, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Hutchins, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Loan, Longyear, Lovejoy, Marvin, McIndoe, McClure, McIndoe, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Nelson, Odell, Charles O'Neill, Orth, Patterson, Pike, Pomeroy, Price, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Stebbins, Stevens, Strouse, Stuart, Sweet, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburne, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Winfield, and Woodbridge—112.

NAYS—Messrs. James C. Allen, Ancona, Dennison, Benjamin G. Harris, Long, Marcy, McDowell, William H. Miller, Morrison, John O'Neill, Pendleton, Robinson, Stiles, Voorhees, Chilton A. White, and Fernando Wood—16.

So the resolution was adopted.

Mr. SMITH moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. SMITH moved the previous question on the adoption of the preamble.

The previous question was seconded and the main question ordered, and under its operation the preamble was agreed to.

Mr. SMITH moved to reconsider the vote by which the preamble was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MISSOURI LANDS.

Mr. BLAIR, of Missouri, by unanimous consent, introduced a bill concerning certain school lands in township forty-five north, range seven east, in the State of Missouri; which was read a first and second time, and referred to the Committee on Private Land Claims.

Mr. GARFIELD. The House is in such an exceedingly bad temper I move an adjournment.

The motion was disagreed to—ayes 55, noes 75.

BOUNTIES TO SOLDIERS.

Mr. HARRINGTON introduced a bill to provide for the payment of bounties to soldiers in the United States service who have served a less time than two years, upon honorable discharge; which was read a first and second time, and referred to the Committee on Military Affairs.

EXEMPTION FOR CONSCIENTIOUS SCRUPLES.

Mr. EDGERTON submitted the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of amending the second section of the act entitled "An act for enrolling and calling out of the national force, and for other purposes," approved March 3, 1863, as to provide for the exemption from draft or military service under said act, without payment of commutation money or liability to procure substitutes, of all clergymen or ministers of religion in regular standing with their proper ecclesiastical authorities in any church or religious society who, by the law, or enactment of the existing civil war, are forbidden to shed human blood or to take human life in war, and for the like exemption of all other persons who have sincere religious convictions or scruples of conscience against taking part in war: *Provided*, That the facts upon which such exemption shall be claimed by any person shall be verified in such manner as the amendment may prescribe; and that said committee report by bill or otherwise.

The resolution was referred to the Committee on Military Affairs.

MISS DICKINSON'S LECTURE.

Mr. EDGERTON asked unanimous consent to introduce the following resolution:

Whereas Miss Anna E. Dickinson, by a resolution of a majority of this House, was granted the use of this Hall of Representatives to deliver a public address entitled "Words for the Hour" on the evening of Saturday, 16th instant; and whereas said Anna E. Dickinson appeared upon a platform in this Hall on said evening, supported on her right by the Vice President of the United States, and on her left by the Speaker of this House, who thus by their presence and support gave, or appeared to give, a semi-official or governmental character and endorsement to said Miss Dickinson and her address, which address was a political rhapsody, breathing a spirit of intense partisanship for the present Administration, and denunciatory of its opponents, and was evidently designed to influence grave measures of legislation now before this House: Therefore,

Resolved, That we disapprove of the use of this Hall for the purpose to which it was applied on Saturday evening last, and of its future use for any similar purpose, as disrespectful and unjust to the minority of this House, and not in accordance with the purpose for which the Halls of the Federal Congress were designed and erected.

Mr. FARNSWORTH objected.

GENERALS NOT IN SERVICE.

Mr. HOLMAN submitted the following resolution, and demanded the previous question on its adoption:

Whereas this House has been officially informed that a large number of officers of the Army, including a number of major and brigadier generals, have been for a long period of time relieved from active service, while still receiving the full pay pertaining to their rank; and whereas such policy, while embarrassing to the officers so relieved, is manifestly unjust to the country, and interferes with just and proper promotions in the Army: Therefore,

Resolved, That, in the judgment of this House, the policy of retaining in the pay of the Government officers who have been indefinitely relieved from active service, not physically disabled by wounds, and who have not been placed on the retired list, ought to be discontinued, and that the Committee on Military Affairs be instructed to inquire what legislation, if any, is necessary to effect a remedy in the premises, and reduce the number of general officers not employed in active service; and report by bill or otherwise.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

COURT OF CLAIMS.

Mr. KING asked consent to have printed an amendment proposed by him to be offered to House bill No. 63, concerning the jurisdiction of the Court of Claims.

No objection being offered, the order to print was made.

DR. C. M. WETHERILL.

Mr. ORTH submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That a select committee of five members be appointed for the purpose of inquiring into the facts connected with the special details and absence from that Department of Dr. C. M. Wetherill, chemist of the Department of Agriculture; with power to send for persons and papers, and to report by bill or otherwise.

The previous question was seconded, and the main question ordered to be put.

Mr. LOVEJOY. There is not even a charge made by the resolution. I do not think we should appoint such a committee without knowing something about the facts.

The question was taken on the adoption of the resolution, and the vote was announced—ayes 10, noes 55; no quorum voting.

Mr. WASHBURN, of Illinois, moved that the House adjourn.

The motion was agreed to; and thereupon the House (at four o'clock, p. m.) adjourned until tomorrow at twelve o'clock, m.

IN SENATE.

TUESDAY, January 19, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.
The Journal of yesterday was read and approved.

CREDENTIALS PRESENTED.

Mr. JOHNSON presented the credentials of Hon. THOMAS HOLLIDAY HICKS, elected by the Legislature of Maryland to fill the vacancy occasioned by the death of Hon. James Alfred Pearce. The credentials were read; the oaths prescribed by law were administered to Mr. HICKS, and he took his seat in the Senate.

PETITIONS AND MEMORIALS.

Mr. TRUMBULL presented a petition of assistant assessors under the direct tax and internal revenue laws, in the State of Illinois, praying for an increase of their compensation; which was referred to the Committee on Finance.

Mr. HARDING presented the memorial of Theodore J. Eckerson, military storekeeper in the ordnance department of the United States Army, praying that the military storekeepers of the ordnance department, being commissioned officers of the Army, shall have rank corresponding with the rank to which their pay is highest assimilated; which was referred to the Committee on Military Affairs and the Militia.

Mr. COWAN presented eleven petitions of citizens of Pennsylvania, praying for the increase of the pay of the non-commissioned officers and privates now in the service, or hereafter to be mustered into service as volunteers during the war; which were referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented the petition of Henry C. Whittier and other Massachusetts volunteers, who enlisted into the service of the United States for the term of nine months in the autumn of 1862, praying for a bounty of twenty-five dollars; which was referred to the Committee on Military Affairs and the Militia.

Mr. CONNESS presented a petition of citizens of Arizona Territory and of the southern counties of California, praying for the establishment of a mail route from San Bernardino, California, to La Paz, in the Territory of Arizona; which was referred to the Committee on Post Offices and Post Roads.

Mr. JOHNSON presented a memorial of the religious Society of Friends, of New York, praying for exemption from military service; which was ordered to lie on the table.

He also presented the memorial of Samuel Chase Barney, praying that inquiry may be made into the causes of his dismissal from the naval service; which was referred to the Committee on Naval Affairs.

REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a message from the President of the United States, transmitting a report of the commissioner in relation to claims of Peruvian citizens, submitted a report accompanied by a bill (S. No. 65) to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863. The bill was read, and passed to a second reading.

Mr. FESSENDEN, from the Committee on Finance, to whom were referred various petitions from inspectors of the customs, praying for an increase of their compensation, reported a bill (S. No. 66) to increase the compensation of inspectors of customs in certain ports; which was read, and passed to a second reading.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (S. No. 11) of thanks to Major General George H. Thomas, and the officers and men who fought under his command at the battle of Chickamauga, reported it without amendment.

Mr. HICKS, from the Committee on Naval Affairs, to whom was referred a joint resolution (S. No. 19) of thanks of Congress to Commodore Cadwallader Ringgold, the officers and crew of the United States ship Sabine, reported it without amendment.

Mr. HALE. I am instructed by the Committee on Naval Affairs, to whom was referred a bill (S. No. 8) to encourage enlistments in the naval

service of the United States, and to credit enlisted men to the military quotas of the respective States of which they are citizens, to report the same back with a recommendation that the bill be indefinitely postponed. The reason for the recommendation is that the essential provisions of this bill have been incorporated into the enrollment bill which has been passed by the Senate. I ask for the present consideration of the report.

The VICE PRESIDENT. The Senator from New Hampshire asks the unanimous consent of the Senate to consider the bill at the present time. The Chair hears no objection; and the bill is before the Senate as in Committee of the Whole. Its reading in detail will be dispensed with, if there be no objection.

The bill was reported to the Senate without amendment.

The VICE PRESIDENT. The bill is still open to amendment. No amendment being offered, the question is on the motion of the Senator from New Hampshire that the further consideration of the bill be indefinitely postponed.

The motion was agreed to.

INSANE PATIENTS.

Mr. GRIMES. The Committee on the District of Columbia, to whom was referred a bill (S. No. 49) relating to the admission of patients to the hospital for the insane in the District of Columbia, have instructed me to report it back with an amendment, and to recommend its passage. If there be no other business with which it will interfere, as it is a very small matter, and it is very desirable the bill should pass at an early day, I ask the unanimous consent of the Senate to consider it at the present time.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Interior, in his discretion, during the present war, to admit into the Government hospital for the insane such transient insane persons as may be found in the District of Columbia without the means of support, to be there detained until they can be sent to their friends or proper places of residence; the steps preliminary to their admission to be the same, except as to the affidavit of residence at the time they became insane, as are required in the case of indigent persons who became insane while residing in the District of Columbia.

The amendment was to insert after the word "residence," where it first occurred, the words, "under the direction of the said Secretary of the Interior, whose duty it shall be to provide therefor."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

ISRAEL C. WAIT.

Mr. CLARK. The Committee on Claims, to whom was referred the bill (S. No. 34) in favor of the legal representatives of Israel C. Wait, have considered that matter, and directed me to report it back to the Senate with an amendment; and, as the bill is a very short one and is free from doubt, I ask for its present consideration.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill, which directs the Secretary of the Treasury to pay to the legal representatives of Israel C. Wait, late lieutenant in the United States Navy, the sum of \$1,500, that being the amount of an unpaid balance due him under the act of March 3, 1857.

The Committee on Claims reported the bill with an amendment to strike out the words "March 3, 1857," and to insert "January 16, 1857, entitled 'An act to amend an act entitled 'An act to promote the efficiency of the Navy.''"

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. FOSTER. The bill speaks of an amount of money due this officer under a law. If it was due to him under a law, I wish to inquire why he could not receive it, why it was not paid to him?

Mr. CLARK. I will state—and I am obliged to the Senator for calling the attention of the Senate to it—there was an appropriation in 1857 out of which this claim could have been paid; but the time has gone by and that appropriation has lapsed

and gone into the surplus fund, and there is no money now in the Treasury out of which it can be paid. It is standing due to him on the books of the Department, and is clearly due, but they want the funds out of which to pay it.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the concurrent resolution of the Senate for the appointment of a joint committee on the conduct of the war, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled bill (S. No. 50) to authorize the President to appoint a Second Assistant Secretary of War; which thereupon received the signature of the Vice President.

MAIL CONTRACTS IN MISSOURI.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be requested to communicate to the Senate all the facts connected with the contracts of Messrs. Shepherd and Caldwell to carry the mail, on certain routes numbered 8818, 8819, 8849, and 8872, in the State of Missouri, and all papers connected with the suspension of said contracts.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 67) for establishing rules and articles for the government of the armies of the United States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 68) to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

BOUNTIES TO VOLUNTEERS.

Mr. WILKINSON. I gave notice yesterday that I should to-day ask leave to introduce a joint resolution extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who entered the service of the United States prior to May 3, 1861. I now ask leave to introduce the joint resolution, and I ask that it may be acted upon to-day without a reference.

Leave was granted to introduce the joint resolution.

Mr. WILKINSON. I wish to state that the first Minnesota regiment was mustered into the service of the United States under the original proclamation of the President of April 15, 1861, for three months. It was mustered in on the 29th of April, 1861, a very short time after the proclamation. On the 3d of May, 1861, four days after the regiment was mustered into the service, the President issued another proclamation calling out three hundred thousand troops for three years or during the war. The Secretary of War sent a dispatch to the Governor of Minnesota that he could not receive this regiment for so short a time, as the expense of transportation in bringing them here would be too great, but that if the regiment would consent to serve for three years or during the war they would be ordered on to Washington. The regiment consented, every man of them, to go in under the proclamation of May 3, 1861, and they came here and have served in this army from that time to this. The regiment has been in twenty-five battles—at the first Bull Run, at Conrad's Ferry, at Ball's Bluff, at Winchester, at West Point, at Fair Oaks, at Savage Station, at both battles of Malvern Hill, at Antietam, at South Mountain, at Gettysburg, at Haymarket, at Bristow Station, and in several smaller engagements.

The Solicitor of the War Department has made this decision—it is a very strange one—"but a volunteer soldier enlisted prior to date of the President's proclamation of May 3, 1861, and of General Order No. 15, May 4, 1861, is not entitled to bounty of \$100 under act of July 22, 1861," &c. I understand that the Solicitor of the War De-

partment decides it upon the principle that inasmuch as the regiment was mustered into service before the proclamation of May 3, 1861, the presumption is that it has not served two years, and therefore not entitled to the bounty of \$100 under the act of July 22, 1861.

Mr. RAMSEY. I will inform my colleague that the officer has reconsidered that decision.

Mr. WILKINSON. There are some reasons why the resolution should pass. This resolution which I have asked leave to introduce is intended to extend the benefits of this bounty to those soldiers; and there is no objection to it. I showed it to the Second Auditor this morning, who made some additions to it, and said that I was at liberty to say that he thought it ought to be passed.

It is a mere technical decision excluding this regiment from the benefits of the bounty. This regiment has lost already over two hundred men killed upon the battle-field, five hundred more wounded, with twenty of its officers. The lieutenant colonel has been eight times wounded. Only twelve men of this regiment have died of disease. Fifty of them have been mustered out of the service in order that they might receive commissions in other regiments. On the bloody battle-field of Gettysburg the first Minnesota volunteers lost two thirds of its officers and men, and yet there has not been up to this day a solitary member of the regiment who has received his bounty of \$100 under the provisions of the act of July 22, 1861.

It is very surprising that a decision excluding these brave and gallant men from the benefit of the bounty should ever have been made, but it is made a good deal upon the theory of the judge in our State who was applied to to grant a writ of *habeas corpus* to release a man from the penitentiary who had been sent there by the judgment of a justice of the peace. As our local laws required that the petition for the writ should state upon what grounds the party was held in prison, it stated that he was held there by the decision and judgment of a justice of the peace. The judge refused to grant the writ, upon the ground that the constitution prohibited the justice from sentencing a man to the penitentiary, and therefore he could not be there; but the poor fellow was there. The Solicitor of the War Department decides that these troops cannot have served two years because they were mustered in at a time when there were no three years men called out; but many of the men have been killed in battle, and the others are in the Army yet. I hope the resolution will pass without being referred to a committee.

The joint resolution (S. No. 20) extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who entered the service of the United States prior to May 3, 1861, was read twice by its title.

Mr. FESSENDEN. Let it be read at length.

The Secretary read the joint resolution, which proposes to extend the benefits of the act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting the public property," approved July 22, 1861, so as to be applicable to and operate for the benefit of all volunteers who were mustered into the service of the United States prior to the date of the President's proclamation of May 3, 1863, if such volunteers have served the term prescribed in the act under such enlistment necessary to entitle them to the bounty therein provided for. It also proposes to extend the provisions of the sixth section of that act to the widows and heirs of such as have been or may be killed or die in the service.

Mr. FESSENDEN. I must object to the passage of the resolution without its being referred to a committee. It may involve a very considerable expenditure of money, and we ought to have the report of a committee on the subject.

Mr. WILKINSON. Of course it will involve some expenditure.

Mr. FESSENDEN. Then it should be examined by a committee.

The VICE PRESIDENT. Objection being made, the joint resolution cannot be considered to-day.

Mr. FESSENDEN. As it involves a question as to the construction of a law, I move that it be referred to the Committee on the Judiciary.

The VICE PRESIDENT. That reference will be made if there be no objection. The Chair hears none.

CLERK TO A COMMITTEE.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Pacific Railroad be allowed to employ a clerk upon the same compensation allowed the clerks of other standing committees.

OATH OF OFFICE.

The VICE PRESIDENT. The special order of the day, which is now before the Senate, is the resolution submitted by the Senator from Massachusetts, [Mr. SUMNER,] which will be read.

The Secretary read it, as follows:

Resolved, That the following be added to the rules of the Senate:

The oath of affirmation prescribed by act of Congress of July 2, 1862, to be taken and subscribed before entering upon the duties of office, shall be taken and subscribed by every Senator in open Senate before entering upon his duties. It shall also be taken and subscribed in the same way by the Secretary of the Senate; but the other officers of the Senate may take and subscribe it in the office of the Secretary.

The VICE PRESIDENT. To this resolution an amendment is offered by the Senator from Delaware, [Mr. SAULSBURY,] to strike out all after the word "resolved," and insert the following:

That the Committee on the Judiciary be instructed to inquire whether Senators and Representatives in Congress are included within the provisions of the act of Congress entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, and whether the said act is in accordance or in conflict with the Constitution of the United States.

The question before the Senate is on agreeing to this amendment.

Mr. BAYARD addressed the Senate at length. [His speech will be published in the Appendix.]

Mr. COLLAMER. Mr. President—

Mr. SUMNER. I presume the Senator from Vermont can hardly be expected to go on this afternoon at this late hour, and as there is executive business to be attended to, I move that the Senate proceed to the consideration of executive business. That will leave the Senator from Vermont with the right to the floor when this question comes up at one o'clock to-morrow.

The VICE PRESIDENT. The Senator from Vermont is understood to yield for that motion.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 19, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

DR. C. M. WETHERILL.

The SPEAKER announced the business first in order to be the following resolution, on which the main question was yesterday ordered, and the vote taken, no quorum voting:

Resolved, That a select committee of five members be appointed for the purpose of inquiring into the facts connected with the special details and absence from that Department of Dr. C. M. Wetherill, chemist of the Department of Agriculture; with power to send for persons and papers, and to report by bill or otherwise.

Mr. ORTH asked consent to make a statement of the circumstances under which the resolution was offered.

No objection was made.

Mr. ORTH. About a year ago a certain citizen of Illinois, whose name I do not now recollect, Captain Miller, I believe, brought to the notice of the President what he alleged was an improvement in gunpowder. The President directed that an investigation be made into the merits of this alleged new discovery; and in order to facilitate that investigation detailed Dr. Wetherill from the Agricultural Department.

Dr. Wetherill is well known to the country as one of the most scientific members of his profession. He commenced the discharge of his duties under this detail of the President, which was to terminate at the end of one month. At the expiration of that time, not having concluded his experiments, the Commissioner of Agriculture extended that detail indefinitely. The investigation was prosecuted during the summer months, and was concluded about the 1st of October. Dr. Wetherill then reported himself to the Commis-

sioner of Agriculture, and found that he had been discharged.

Mr. Speaker, he is a constituent of mine. But whether a constituent of mine or not, I feel it to be my duty to bring forward the case of the humblest citizen of the Republic who feels aggrieved. I believe it likewise my duty to strike at the highest official in this Government, if necessary for the public welfare.

These are the facts. Dr. Wetherill is not a politician. He is a man of science. He thinks that his reputation is at stake in the way in which he has been treated. I ask, in his behalf, that the matter shall be investigated. From the time that he was detailed up to this day he has not received one dollar of his salary. It will not be proper for me to detail the interview which took place between the Commissioner of Agriculture and myself. Dr. Wetherill and his friends are willing that this matter shall be publicly investigated. He believes that the effect of the action of the Department will be to cast a stigma upon his reputation as a scientific man. He entered the Department of Agriculture in pursuit of the science in which he was educated. It is in his behalf that I desire this investigation should take place.

The resolution provides for calling for persons and papers. There are only two witnesses cognizant of the whole transaction, and the investigation will occupy not more than one or two days. If the House wants the Committee on Agriculture to look into it, I have no objection. I do not see any pertinency, however, in sending it to that committee, any more than to the Committee on Enrolled Bills. It is a special matter, with which they have nothing to do.

The SPEAKER. The previous question has been seconded and the main question ordered.

The resolution was adopted.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 50) to authorize the President to appoint a Second Assistant Secretary of War; and

A bill (H. R. No. 35) to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri.

CONFISCATION.

The SPEAKER stated the business in order to be the consideration of House bill No. 18, to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, on which the gentleman from Ohio [Mr. Bliss] was entitled to the floor.

Mr. WILSON. I ask the gentleman to yield to me for a moment. It is important that this resolution should be disposed of in some way at an early day. No committee can report until it is removed from before the House by favorable or adverse action. Therefore, for the purpose of enabling us to go on with other business, I desire to give notice that to-morrow I shall withdraw the motion to recommit, and demand the previous question in order to close debate.

Mr. STEVENS. I desire to ask the gentleman whether, when he withdraws his present motion, he intends to give us an opportunity to vote on the amendments, of which notice has been given?

Mr. WILSON. I desire to have action of the House on the resolution as reported from the Committee on the Judiciary. Such are my instructions.

Mr. STEVENS. And allow no opportunity for amendment?

Mr. COX. I hope that the gentleman will not press action at that early day. I will say to him that half a dozen members on this side of the House wish to speak on the proposition. I ask in courtesy, in reference to a matter of such importance, that this side of the House should have an opportunity for full discussion. He cannot have action on it to-morrow.

Mr. WILSON. I have no disposition to press this upon the House unreasonably. I think that the time asked for by the other side has been granted already.

Mr. COX. This side of the House has had no opportunity to discuss the resolution.

Mr. WILSON. I do not propose to call the previous question until to-morrow. Several speeches have been made already upon the resolution. I think, as I look upon the resolution, all pertinent speeches can be made in a short time. It does not involve a general question of confiscation, and if discussion be confined to it little additional time will be consumed.

Mr. KERNAN. I thank the gentleman for the opportunity he afforded me to state the ground of my dissent from the action of the committee. I did not then feel at liberty to go into the general argument. I know there are gentlemen upon both sides of the House who desire to speak merely to the merits of the resolution, and not to make political speeches. They desire to have an opportunity for a fair discussion upon the constitutional question involved in it, and upon the ground of policy, believing that it will be profitable to the country to have a discussion so long as gentlemen confine themselves to those points. As there will be but little time this morning for its discussion, I hope the gentleman will not feel himself called upon to bring us to a vote upon it so early as to-morrow. I hope there will be given, in good faith, a little more time, that each side of the House may argue this question which now for the first time really has come up for the consideration of Congress. And certainly there is no other matter upon which it is more important that we should act wisely and intelligibly.

Mr. SWBAT. I desire to say only a single word. I think gentlemen upon this side of the House feel, and have reason to feel, a great interest in having this matter, proposed by the gentleman from Iowa, [Mr. Wilson,] not only thoroughly discussed, but thoroughly understood before being called to act upon it. I say now—and I shall be governed hereafter by the declaration I now make—that I will not upon any occasion undertake to discuss any matter out of a factional feeling. I promise gentlemen upon the other side of the House that is not my object. All I ask—and I think I have a right to demand that—is that this House shall show moderation in their action, and that they shall be enabled, by allowing the discussion of questions touching the right of citizens under the Constitution, to act intelligibly upon matters which may come before them.

Now, without undertaking to impugn the want of understanding of anybody here, I do undertake to say I believe there are many members upon this floor who do not see the intent, the meaning, the design, the aim, and the object of the proposition of the gentleman from Iowa. To my mind it is striking at the very Constitution itself; and if it be not, what can be lost by discussing the matter?

I am not disposed by any means to discuss these questions elaborately, or to make a speech for the sake of making a speech, but I honestly and sincerely believe it my duty to myself, to my constituents, and to the people at large of this country, to secure for such a proposition as this thorough discussion, and if there are errors in it, to have it ventilated. Let this House act upon this matter intelligibly. I hope the gentleman from Iowa will not undertake to force us to a vote upon this subject. He says it has been delayed upon our instigation. When has there been an hour when any gentleman upon this side of the Chamber could reply to remarks made upon the other side? The gentleman from Ohio, upon my right, [Mr. Bliss,] has the floor; but no gentleman among us has been able to discuss the subject for a moment, except the gentleman from Ohio, [Mr. Cox,] who made a very few remarks the other day. I say we have had no time, and hence I say now, if it is undertaken to force us to a vote I shall resist it, and I shall resist it because I believe it my duty to resist it for the purpose of securing an opportunity for a thorough discussion.

Mr. WASHBURN, of Illinois. I appreciate the suggestion of my friend from Iowa in reference to the importance of having this measure out of the way. It blocks up the way against reports from all the committees which follow, and there can be no other report from any other committee until this measure is disposed of. But I also appreciate and acknowledge the reasonableness of the demand of gentlemen upon the other side of the House that they should have a fair opportu-

nity to discuss this measure. I do not think we are so pressed for time that we cannot afford to give a fair and full opportunity for discussion. Hence I am in favor of that, and I was going to propose to my friend from Iowa—who I know desires discussion, and who does not fear the most ample and the fullest discussion upon any subject with which he is connected—that he should postpone the consideration of this matter for a few days, in order that the committees which come after his committee may be called, and some important subjects of legislation attended to. I do not think anything can be lost by such a course.

Mr. STEVENS. Let me say one single word. I wish to say to the gentleman from Iowa unless he allows us an opportunity to offer amendments I warn him beforehand his bill cannot pass. I think I know enough members upon this side of the House who will kill it. His bill is worse even than the original bill. If he will give us an opportunity to amend I do not care about discussion; but there must be a vote upon amendments or this bill cannot pass at all.

Mr. WILSON. It has been said that the proposition submitted by the other side of the House is a reasonable one. I do not know that any proposition has been submitted by them, and it may be that we can agree.

Mr. PENDLETON. I will make a proposition, and that is, that after my colleague [Mr. Bliss] shall have concluded his speech to-day the joint resolution shall be postponed until to-morrow, or some other day, after the morning hour, and that the discussion shall be allowed to go on as long as the House desires it.

Mr. WILSON. I desire to have some time fixed when we shall take the vote. That is my principal object. I am not particular whether it be to-morrow or the next day.

Mr. PENDLETON. The debate will not continue very long, but it is impossible now to fix the time.

Mr. WILSON. I wish to say in relation to the suggestion made by the gentleman from Pennsylvania, [Mr. Stevens,] that if he and those whom he says are associated with him on this side of the House are determined to defeat this resolution, the responsibility will rest upon them and not upon me. If he has determined that if he cannot have his own way in relation to this resolution it shall not pass, let the responsibility rest with him, and not with me.

Now, I wish to say in conclusion, that for the present, inasmuch as both sides of the House desire to have further discussion, I have no objection to letting the debate run over to-morrow, and after that I shall take such course as shall seem best to me; but I do not intend to let this discussion run many days longer. I desire to have the House brought to a vote on the resolution. But at present I will permit the debate to go on without any understanding, governing myself according to circumstances that may arise, but intending to bring the House to an early vote on the resolution.

Mr. COX. I want the gentleman to understand that we wish to discuss the resolution between now and the time he calls the previous question.

Mr. WILSON. I have no control over that. The rules of the House will determine that matter.

Mr. BLISS. Mr. Speaker, the debate in this House, on a motion pending to recommit to the Committee on the Judiciary House resolution No. 18, the same being a joint resolution to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, has given rise to a conflict of opinion between gentlemen of different political parties as to the true intent and proper construction of that provision of the Constitution which limits the power of Congress in fixing the penalty of treason. I confess my surprise at any such difference of opinion; for until a considerable time after the inauguration of this Administration no difference of opinion existed among men of legal attainments, or among the people at large, as to the full effect of that clause in abolishing and repudiating forever in the United States of America the English policy of interrupting the legal descent of ancestral estates by corrupting and rendering uninheritable the blood of the issue, whatever might have been the ancestor's crime.

In section third of the third article, after defining the crime of treason against the United States, the framers inserted this clause:

"Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained."

It seems to me to be impossible that the framers of the Constitution, by the foregoing clause, meant anything less than what the words clearly import—an absolute interdiction of the doctrine or penalty of corruption of blood and a limitation of forfeiture of estate to the life of the convicted party. Their repugnance to the harsh inflictions of the British law was manifested as clearly in this as in other parts of the instrument. They had recently achieved a revolution by which they had thrown off the tyrannous oppressions of the British Government, and in establishing a new one for themselves and their posterity they were determined to protect the American people against all unjust and needless penalties inflicted by the State from whose authority they had revolted. They saw, as any one may see, that it was monstrous injustice to inflict upon an innocent child the greater part of the penalty due only to a guilty parent, and that the doctrine of corruption of blood incapacitating the innocent for their lawful inheritance produced precisely that result, and therefore protested against the barbarism by common consent, and put their protest into the fundamental law.

Can any gentleman perceive now, any more than the fathers could, the justice of wrenching from the hands of a child incapacitated by non-age and the want of moral accountability for any participation in the crime of his parent, the right of inheritance which is justly guaranteed to him by the law?

The wife who is to be made a widow by the infliction of the penalty of treason upon her husband may be as innocent as her cradled infant of his crime, and should her legal right to be endowed of his estate be taken from her? Does the Government desire to obtain property in that way? The Constitution answers No, and its voice is potential. It would certainly be difficult to supply any more clear and sufficient terms to impugn the corruption of blood altogether, and the forfeiture of estate beyond the lifetime of the attained party, than those employed in the clause cited. The style of the sentence is terse and compact—there are words enough in it to express with clearness the sense which I impute to it, and nothing more. It is divided by punctuation into three parts, each of which contains a proposition. The first part reads, "Congress shall have power to declare the punishment of treason." That is a complete sense. The second part reads, "but no attainder of treason shall work corruption of blood." That is also a complete sense. The third and last member of the sentence, separated from the preceding by a mark of punctuation, reads, "or forfeiture except during the life of the person attained," which last words, in addition to the former provision, that corruption of blood shall not be worked to defeat the inheritance of the estate of the attained by his legal heirs, provides also that no delay of the inheritance after the decease of the attained person shall occur by reason of the attainder, because the life of the attained is the limit of the forfeiture. It appears then clearly from these restrictions that the power given to Congress to declare the punishment of treason, although it authorizes legislation against the life of the guilty party, and for the forfeiture of his estate while he shall live, yet gives no authority to Congress to affect that estate after his death.

It has been said in this discussion that the forfeiture of a traitor's estate during his life merely would be a vain thing, inasmuch as the forfeiture can only be enforced by the same judgment of the court which consigns him to death, and that the interim between the sentence and the execution may be only a day. I cannot perceive any cogency in this argument, because the Constitution does not doom him to death, and Congress may punish him by imprisonment for life, and confiscation of his estate for life, or by other such penalty, operating within constitutional limits, as shall be deemed proper. Of course the framers could not know, and perhaps did not suppose, that Congress would impose the penalty of death.

The first general act for the punishment of crimes

was passed by Congress in 1790, in which they prescribed for treason the penalty of death without forfeiture; and I believe that the law so remained until the confiscation act of 1862. Some time after the adoption by this Government of the comparatively humane policy of limiting forfeitures to life and eschewing corruption of blood, the English Parliament, in the reign of William IV, influenced by our example, adopted the American policy, and cast the oppressive doctrines of corruption of blood and forfeiture of estate beyond the life of the convict out of the legislation of Great Britain. Were the English statesmen also deceived as to the intent and meaning of our Constitution?

It cannot be denied that the understanding of able and learned men, jurists and commentators, who lived and acted at the time of the making of our Constitution, and shortly after, is of much weight whenever questions arise upon the construction of the Constitution. It is true that the gentleman from Maryland pronounces the views of these men on the subject before us "palpably wrong;" but, with great respect for his judgment in ordinary matters, I believe the opinion which we hold, as they did, is palpably right. My colleague has exhibited the opinion of Judge Story; and all legal minds in this country will estimate alike the value of that opinion. The gentleman from Indiana [Mr. ORT] has produced several high authorities to the same effect, although he ignores their teaching. I will oblige that gentleman by furnishing him with what he informs us he sought vigilantly, but could not find, some wise voice, speaking from the time-honored pages of the *Federalist*, on this subject. Let the gentleman turn to the 173d page of this volume which I hold in my hand, and he will find, from the pen of no less distinguished a commentator than James Madison, the following paragraph:

"As treason may be committed against the United States, the authority of the United States ought to be able to punish it; but as new-fangled and artificial treasons have been the great engines by which violent factions, the natural offspring of free Governments, have usually wrecked their alternate malignity on each other, the Convention have, with great judgment, opposed a barrier to this peculiar danger by inserting a constitutional definition of the crime, fixing the proof necessary for conviction of it, and restraining the Congress even in punishing it, from extending the consequences of guilt beyond the person of its author."

That gentleman having assured us that commentators have all taken an absurd view of the subject, undertakes to solve the problem of construction in a more rational way. To bring about that solution and demonstrate its conclusiveness the gentleman avails himself of a new and modern perspicacity, which Story, Madison, Rawle, and other like men did not possess at the time of writing, and whose opinions, therefore, are entitled to less weight on that account. This new perspicacity arises from great advances recently made in the science of philology by which the learned have been enabled to illuminate the obscurity which to many surrounds the rooty origin of words. Of course, as we are a progressive people, we must learn to reinterpret our Constitution and laws according to the new philological light. By applying this improved advantage to the construction of the involved clause the gentleman comes out all right. He philologizes away the little word "except," and then he has corruption of blood and forfeiture of estate unlimited, the result of the new and improved process, applied to the clause, being this conclusion, that what the Constitution requires is that the judicial proceedings against the guilty party shall be had in his lifetime—thus forbidding the injustice of instituting an action against a dead man, upon whom no better service of process could be made than by pasting the writ or warrant on his coffin or tombstone. I am on the whole constrained to believe that with such results from what is claimed to be improved interpretation, we had better adhere to the teachings of common sense. Did the makers of the Constitution intend to prevent, or did they imagine the possibility of legal proceedings to enforce the penalties of treason being instituted or prosecuted after the death of the accused? Certainly not.

The gentleman from Indiana seems to be not quite clear, even with his new light upon this subject of corruption of blood and forfeiture of estate. The second and third divisions of the cited clause, although they import distinct ideas, both look and inure to the same effect in this, that they provide

that no incapacity to inherit shall attach to the heir, and that no forfeiture shall attach to the estate to prevent the inheritance.

The gentleman from Maryland, [Mr. DAVIS] who once, as he says, adopted the construction of the Constitution for which I contend, but now sees the matter in another light, argues, among other suggestions, that the alleged restrictions of the Constitution, having relation to an attainder, which means a forfeiture by the judgment of a court, are inapplicable to the process of forfeiture under the confiscation act of 1862. He says, if he has read aright, the law does not attach forfeiture or confiscation to an attainder on conviction of treason. If the gentleman will turn his attention to the seventh section of that act, he will find that the entire substance of the proceedings under that act consists in the forfeiture, upon proof of treason, by judicial judgment, of the property of a person shown in court to have been guilty of the facts which constitute that crime, and therefore such proceedings are, in principle, in no way distinguished from those had on indictments for treason, where forfeiture follows conviction, and is made a part of the judgment and sentence. The proceedings under the confiscation law to attach forfeiture to the estate of the party after the period of his life, are judicial proceedings to inflict the very penalty which the Constitution prohibits, for the offense upon which the forfeiture is predicated is treason. The findings and orders of the court, as provided for in that act, are substantially and in effect attainders of treason. Prescribing a new method of doing a forbidden thing does not help the dilemma. As an argument to show that the framers did not intend to protect estates from forfeiture to follow the laws of blood inheritance, it is said that the costs of the conviction and fines adjudged are liens upon the estate of the deceased, and that against the heir it may be appropriated to pay them. This argument fails to exhibit the slightest analogy, for fines and costs are simply like civil debts, to be paid out of the estate of a deceased debtor, but do not involve at all the idea of forfeiture, which as a penalty sweeps away a whole estate without regard to value or amount.

But a more appreciable reason has been given by the gentleman from Maryland for urging this policy. He informs us that the fixed policy of the Administration is the unconditional confiscation of the property of rebels. This may be true at the present time, but I always supposed that the President was an essential part of an Administration, and certainly at one time, when this very confiscation bill was under his consideration, he perceived insurmountable constitutional objections to the unrestricted forfeitures provided for by its terms. This state of his mind he made known to Congress in the most emphatic way, by his prepared and announced veto, and, as all know, the result of this was the explanatory and restrictive resolution which it is now proposed to repeal as an incumbrance upon the effectiveness of the act. The passage of the resolution was understood by the country as a confession that the President and the Democrats were right on the question.

But we of this side of the House are told, in effect, by the gentleman from Maryland, that no sympathy for or support of the Administration is desired from us; and that any profession of a willingness to aid the Administration in any matter in which we can perceive that it is right is not received with any cordiality on his side of the House. The probability is that we shall not often feel called upon to make ourselves offensive in that way, for that is not our principal business here. We have resting upon us, however, a solemn obligation to do precisely what the gentleman thinks we might better forbear, to discuss such constitutional questions as may affect the integrity and permanence of this Government; to contend against the advancing strides of revolutionary policy, and to invoke the attention of our fellow-legislators to the consideration of the great principles upon which our Government is founded; to obey the will of our constituents by endeavoring to promote the best and surest means of relieving our bleeding country from the nameless horrors of civil war, and restoring to the people of all the States and to the Government the sacred Constitution of our fathers and the Union as it was. In these disjointed times, when the doctrines of the republican fathers are openly impugned and an infrin-

ging revolution is defacing the fair features of the people's free Government; when essential portions and principles of the Constitution are voted upon the table, the conservatism which is left unfettered and uncontaminated will not fail, in view of the boon to be struggled for and the calamity to be contended against, to show its entire front; and though the number of its votaries in the high places of the Government in this dark day of the Republic may be too limited for their immediate success, yet the trust and hope they have in truth and justice will insure their incessant labor for the salvation of the country until either the wished for or the dreaded consummation shall come.

I occasionally hear gentlemen upon the other side of this House allude with apparent pride and self-gratulation to the successes of their party in the elections of the last year; in answer to all which, and to suggest a reason for the mollification of the boast, I propose to acknowledge the rightfulness of their predominance, when they will show to us that upon a fair, honest, and uncoerced canvass they could have had a majority of the votes of freemen, qualified and citizenized, in the States and precincts where they won their victories.

Aside from the constitutional inability of Congress to make and put in operation such a law as the confiscation act of 1862 would be without the restriction of the resolution which was intended to restrain its scope to the limits of the Constitution, I am fully persuaded that, as a matter of policy, it assures no benefit to the Government or people to apologize for even a possible infraction of the Constitution.

One of my worthy colleagues [Mr. GARFIELD] says on this subject that he would not break the Constitution at all, unless it should become necessary to overleap its barriers to save the Government and the Union. I can assure my conservative colleague that no such monstrous jump is demanded of him. Such leaps would be dangerous to him, to the Government, and the Union—dangerous as was the fatal leap of a historic man who dared to throw himself from the dizzy height of Niagara. I ask, what benefit is expected to be derived to the Government from untying the ultraisms of the conscription bill, and playing fantastic tricks with the Constitution? It is manifest that the effect of that bill, unfettered, would be to put a large portion of the real estate of the southern States under the auctioneer's hammer—for such is the enactment of the bill—which might and would be bought by the northern speculators at such contemptible prices as might enrich the speculators, but would bring but very little money into the Treasury of the United States. Yes, it would indeed be a splendid scheme for speculation. How many fortunes would be made by loyal purchasers out of such forfeited estates, no matter how much of poverty, starvation, and death it should occasion; no matter how much of suffering may fall to the lot of the innocent, disinherited child; no matter that the wail of the houseless and stricken widow shall pierce the air as she wanders away with her homeless infant. These terrible considerations cannot be permitted to disturb the success of the speculation. Such policy conferred by military power might perhaps drive the southern people from the face of the earth, exterminating them as Indian tribes have sometimes been exterminated; but who, in his heart, can wish for such a consummation? Desire for the success of the Administration should prevent it. Love of the Government and hope of a restoration of the Union should appeal against it. It is not what a majority of the people of the middle and western States desire. Their desire, in which many southern people concur, is to have the seceded States restored to the Union; to have reinstated over southern people and southern soil the supremacy and the protection of the Government of the United States.

For this great and patriotic object the bravest and the most enlightened of our soldiers have voluntarily imperiled their lives upon the battle-field. Who believes that these patriotic men would have voluntarily incurred all the dangers and hardships of a most sanguinary war, facing the certain death of so many thousands of their numbers, for the ignoble purpose of destroying a large portion of their own fair country? No, they volunteered by thousands from the political party to which I belong, and I gave my voice heartily by way of in-

ducement, their only object being to execute by their united strength trusted and repeated pledges made from the highest places of authority, that their patriotism and sacrifices should inure to the desired end of a restored Union, when, without revolution or change of system, the old benign Government should sway again the North and the South. It would be a thousand times more advantageous to our cause to rigidly perform this pledge than to confiscate all the property of the seceded States.

If the foregoing suggestions are not all germane to the subject which should alone have been under discussion, that being merely a constitutional question, my apology can be found only in the fact that I have kept within the field opened by the gentlemen who support the other side of the question.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, notified the House that the Senate had passed joint resolutions and a bill of the following titles; in which he was directed to ask the concurrence of the House, namely:

Joint resolution (S. No. 18) in relation to the public printing;

Joint resolution (S. No. 2) expressive of the thanks of Congress to Major General Joseph Hooker, Major General George G. Meade, and Major General Oliver O. Howard, and the officers and soldiers of the army of the Potomac;

Joint resolution (S. No. 5) of thanks to Major General Ambrose E. Burnside, and the officers and men who fought under his command;

Joint resolution (S. No. 14) presenting the thanks of Congress to Cornelius Vanderbilt for a gift of the steamer Vanderbilt; and

An bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

NAVAL APPROPRIATION BILL.

Mr. STEVENS, by unanimous consent, from the Committee of Ways and Means, reported a bill making appropriations for the naval service for the year ending June 30, 1865; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for the day after to-morrow after the morning hour.

CONFISCATED PROPERTY—AGAIN.

The House resumed the consideration of the joint resolution reported from the Committee on the Judiciary.

Mr. BOUTWELL. Mr. Speaker, the subject before the House, uninteresting as a matter of debate, is already a good deal hackneyed. Having assented in the committee to this report, it may not be amiss for me to state, with such clearness and brevity as I can command, the grounds on which my assent was given.

It was suggested by the gentleman from New York, [Mr. KERNAN,] who spoke early in this debate, that while he doubted the constitutional authority of Congress to confiscate absolutely the real estate of traitors, even if he were convinced of that authority he should doubt the wisdom of such a public policy. I submit to that gentleman, and to those who sympathize with him upon this point, that if it be clearly shown that such a power exists, then it was granted by the framers of the Constitution for some purpose, anticipating or apprehending an exigency in the fortunes of the country when it might be expedient and proper to put that power in full force.

Now, if that power exists in the Constitution, I ask the gentleman from New York whether he expects that the men who framed the Constitution could have anticipated any condition of public affairs in which the exigency would be more urgent than that which exists at the present time? It is well enough for nations to be merciful, but justice is a higher attribute than mercy. Now, if the power exists, I submit that the exigency for its extreme exercise exists also. It is a very different thing to men engaged in this treason whether they hold their lands by authority of law or whether they hold them at the pleasure and by the favor of the Government against which they have rebelled. In this condition of things I hold it to be the duty of the country and Government to seek for a true interpretation of the Constitution, to ascertain as exactly as possible the limits of

congressional authority, and march boldly in the organization of a system of justice and penalties to the very limits of that authority, wherever they may be found; and then let the amnesty come, so that we can distinguish between great offenders who, of their own motion and against the Constitution, in violation of the rights not only of their country but of all mankind, not only of this age but of all coming ages, rebelled against the Government, and those who have been duped, misled, seduced from their public duty. On these we will have compassion; and gentlemen on the other side will come to understand that the majority here and in the country will execute justice and remember mercy also.

I am not sure, sir, that there is any material difference between the report of the committee and the amendment proposed by the chairman of the Committee of Ways and Means in the effect to be produced on such rebels as may be made amenable to the statute of July 17, 1862. I understand the joint resolution now before the House to be of such a character that if adopted it will be the duty of the courts of the country to administer the penalties prescribed in the law to the full limits of constitutional authority. If by repealing the joint resolution of July 17, 1862, and putting into operation the law unrestricted, or if by enacting another and more stringent statute we transcend the Constitution, it will be the duty of the courts to limit the statute within constitutional authority. Therefore, practically, I do not see that there is a difference between the joint resolution and the amendment proposed by the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS. The resolution of the committee restricts all the forfeitures under the confiscation act to what they are already in the case of attainer for treason in the Constitution. Now, the act itself has no reference to the section of the Constitution referred to; but there are confiscations outside of that entirely, not for treason, but as the property of alien enemies. Therefore the resolution of the committee confines the operation of the act of 1862 much more than the original resolution did. If the gentleman will modify the resolution so as to make it read that the act of 1862 shall produce no forfeiture beyond the limits of the Constitution, I am content.

Mr. BOUTWELL. I understand that to be the object of the joint resolution. But I will say, by way of answer to the first suggestion of the gentleman from Pennsylvania, that when I find in the Constitution, as in that part relating to treason, distinct and definite authority given to the Government in the way of punishment, we cannot look to any other provision of the Constitution, or to any general principle for the purpose of getting authority to inflict other and different penalties. The authority is to be found in that provision of the Constitution or it is not to be found anywhere.

Something has been said in the course of this debate in regard to the act of July, 1862, and something is found in the President's message touching the authority of Government to proceed *in rem*, as it is called, under the fifth section of this act, the allegation being that such proceedings are not by due process of law as required by the Constitution. An analogy has been drawn in some quarters from the authority of the Government in prize courts. It does not follow, necessarily, that because the Government may proceed *in rem* against enemies' property found on the ocean it may therefore proceed against other property found in other and different positions. The principle, as I understand, of the law on which proceedings *in rem* are justified in prize cases is this: enemies' property being found *in transitu* on the ocean, a presumption is at once created that either that property or the proceeds of it in one way or other are to inure to the benefit of the public enemy, and no inquiry can be instituted in court as to whether the particular owner is an enemy or a friend. It is sufficient that he is *de facto* under the jurisdiction of the belligerent, that he is an inhabitant of the territory against the people of which we are waging war. Apply the principle to the authority given to the President under the fifth section of this act to seize the property of certain individuals.

Property on land is not subject to seizure or confiscation, because there is no presumption existing generally that it is to be used for the benefit

of the enemy. It may be taken for the necessities of the Army, but it cannot be proceeded against *in rem* as property taken upon the sea may be.

It is necessary, when we propose a new measure, to find authority in one of two conditions of things—either in a principle not heretofore established, or else in a principle heretofore recognized but not extended in its application so as to sustain the proposed measure.

I submit to the House, as justifying the seizures provided for in the fifth section of the act of July 17, 1862, that while the condition of this property belonging to rebels does not create the presumption in and of itself that it is to be used in support of the rebellion, still the law itself requires proof equivalent to the evidence on which presumption is to be based in the case of enemies' property being taken on the ocean. By the fifth and sixth sections of the act, the Government is to show that the owner of this rebel property is an officer in the army or navy, or in the civil service, of rebels in arms against the Government of the United States.

And when we have established that fact, is it not equal to the presumption that arises when enemies' property is taken *in transitu* on the water? Upon such proof it is a fair presumption that the property belonging to a rebel officer in arms against the United States is either designed of itself to be for the benefit of the rebels, or else that it is to be converted into other property which is to inure to the benefit of the rebellion. Therefore it follows that the same principles which justify proceedings *in rem* in prize cases justify proceedings *in rem* against the various persons specified in the fifth section of the act of July 17, 1862. And therefore I feel satisfied, for one, that by this reference to the matter the difficulty is substantially cleared of doubt.

I come next—for I do not mean to occupy the attention of the House a great while—to the particular authority granted by the Constitution for doing what we propose shall be done; and I commend to the gentlemen on the other side of the House a reflection which must be common to us all who have had some experience in public or in professional life. The authority of a statute or the scope of a constitutional provision can never be fairly considered or discussed, as a measure, until there is an actual case arising, and nothing is more common than for the courts of the various States, whenever a call is made on them for an opinion on a matter in reference to which no case has actually arisen—and such calls are occasionally made by the executive or legislative branches of State governments—either to decline to give an opinion, or, if an opinion is given, to submit it with the distinct understanding that the court is not bound by it. It is only when a case is before a court and arguments are submitted that a true construction can be attained.

I did not agree at all with the gentleman who last addressed the House [Mr. BLISS] as to the effect of Mr. Madison's commentary upon this provision of the Constitution. That, however, I shall have occasion to consider hereafter.

One word in regard to Judge Story's authority. I dare say, from the nature of the language used by him in his Commentaries, that he understood this provision of the Constitution as interpreted by gentlemen on the other side of the House.

I would not disparage Judge Story as a lawyer, but as a great man, as a man of capacious and grasping intellect, he must be placed in the second class of the great men which this country has produced. He had no case before him. He has merely followed English law. What he has written down in his Commentaries is a reproduction of what he has read in the English books.

MESSAGE FROM THE SENATE.

A message from the Senate was received by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate have passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (S. No. 34) in favor of the legal representatives of Israel C. Wait; and

A bill (S. No. 49) relating to the admission of patients to the hospital for the insane in the District of Columbia.

The House then resumed the consideration of

CONFISCATED PROPERTY.

Mr. BOUTWELL. One word in regard to the

language of Mr. Madison. Our fathers, when they framed the Constitution, intended manifestly to guard against two things: first, the forfeiture of estates by proceedings instituted subsequently to the death of the offender; and secondly, the attainting or corruption of blood by which the heirs of the offender should become incapable either to enjoy the estates which had not been forfeited or which might descend to them from the progenitors of the offender, and subsequently to his death. The Constitution has sufficiently guarded Congress upon these two points, and the language of Mr. Madison relates to these limitations upon the powers of Congress.

I call attention to a very singular circumstance in connection with this provision of the Constitution. I find in examining it as printed in the Manual that it is without punctuation after "blood" and after "forfeiture." In the copy of the Constitution prefixed to the statutes as printed by Little & Brown, there is a comma after "blood" and another after "forfeiture." These circumstances led me to look at the original instrument in the office of the Secretary of State, and I find that there is a comma after "blood" but none after "forfeiture." The Secretary of State was so thoroughly convinced that such was the reading of the Constitution that I have an official certificate from him to that effect. It will be said very likely that punctuation is never regarded in the construction of statutes. That is the legal declaration; but I never knew a person so entirely insensible to the influence of facts that he could discuss and consider and decide upon a statute regardless of punctuation. In such an instrument as the Constitution, framed with care, and signed by men who were responsible for it to the country and to future ages, it is to be presumed that everything, even to the punctuation, was deemed a matter of importance. Punctuation, even in a statute hastily and loosely drawn, decides its interpretation whenever the language is equivocal or ambiguous.

It is worthy of observation that that portion of the Constitution which sets forth the evidence necessary to convict of treason is drawn not only literally but exactly from an English statute passed in the seventh year of William III, showing that our ancestors were familiar with English law on this subject. But we need not even a single piece of testimony on this point, for we know very well that they were versed in the English law and in everything relating to the feudal system as no other body of men ever were in Great Britain or in this country.

I think it not out of place to refer to a work not much known and hardly ever read. I refer to the correspondence between the provincial House of Representatives of Massachusetts and the provincial Governors of Massachusetts from 1765 to 1774, in which the whole feudal system is discussed with clearness, power, and precision such as is exhibited in no other work I have ever seen. It relieves our revolutionary contest from that historic fable that we instituted a war for independence upon the subordinate issue of a tax of three pence a pound upon tea. Our ancestors, in their legal and solid and responsible arguments, never put the contest upon that basis. It might have been a ground of appeal to the people, but through the feudal system they traced our rights to the king, and maintained with great clearness that they were no more amenable to the Parliament of Great Britain than the Parliament of Great Britain was to the Legislatures of the several colonies in this country. They maintained that the people of the colonies and the people of Great Britain were independent of each other. The argument of this correspondence throws light upon one of the allegations in the Declaration of Independence.

The colonists rebelled against George III not because he was not the legitimate king, but because he combined with the Parliament to deprive the people of this country of their liberties. Now, then, our ancestors knew well the legal history of Great Britain in reference to treason and forfeiture. Blackstone refers us to a provision of statutes against treason passed in the reign of Elizabeth, and he uses this phrase in regard to the forfeiture as limiting the power of the courts: "Save only for the life of the offender." If our ancestors intended that forfeiture should be only for the life of the offender in all cases, how has it

happened that when they went to the statute of William III for the exact language used in stating the evidence necessary to a conviction for treason, they should have used language which rendered their meaning uncertain? At a later time during the reign of Elizabeth it was provided by statute that persons convicted of treason should forfeit all their goods and chattels, and the use of their lands, tenements, and hereditaments during their natural lives only. This statute remained in force until about the time of the union of Scotland and England.

When we consider that the men who framed the Constitution had this language before them, that they extracted a certain portion of the Constitution from the statute of William III, is it to be presumed that they should have neglected to make this point clear if they had such a purpose as is contended for by the gentlemen on the other side of the House? So far from their having any such purpose on their part, I think it the plainer, more natural, and inevitable construction of the Constitution that the contrary is the case. I believe that gentlemen will see as they go on in this debate, or in their practical experience of the operation of the law, that it is a reflection upon the judgment of our ancestors to maintain that they intended to do that which gentlemen on the other side of the House say they have done. We are to look upon this question as a question of public policy to a certain extent.

Suppose a man is convicted of treason, and is proceeded against as gentlemen on the other side of the House allege. The offender is to be executed in forty days. You forfeit his life estate in his land. He has a remainder which he can sell to a brother traitor not yet convicted, and perhaps not yet suspected, and his property then converted into money is serviceable to the rebellion. Was it not the intention of the framers of the Constitution that forfeiture of estate should not only deprive the offender of his life, and thereby be a penalty upon him, but did they not think also that the cause with which he was identified should be deprived to that extent of the means of support? Gentlemen construe the Constitution in such a manner that when we have forfeited the estate during his life, that the offender may then put the remainder into money, which, in such a case, would be the chief value of the estate, and turn it into the treasury of the rebels.

I have said that by the Constitution our fathers intended to do two things; and a true interpretation of this clause, according to the punctuation, shows that their ends were accomplished. Congress has power to declare the punishment of treason, but no attainder of treason can work corruption of blood. Here are two propositions. Congress has power to declare the punishment of treason; that is, the full, supreme, unlimited power, except as it may be controlled by the two clauses following: "But no attainder of treason shall work corruption of blood." That is an absolute prohibition upon the power exercised by the British Parliament to work corruption of blood through attainder of treason. If the construction contended for by gentlemen upon the other side of the House prevails, I do not see why the Constitution must not be read to this effect: "that no attainder of treason shall work corruption of blood except during the life of the person attained."

But who does not see the absurdity of this working a corruption of blood during the life of the person attained? Under the Constitution we can do to the person convicted all those things which by the corruption of blood could have been worked by the common law of England. We can make him an outlaw, and therefore to say that we have authority, under the Constitution, to work corruption of blood during the lifetime of the offender is simply an absurdity. It does not give us any power which we could not exercise without that provision. "But no attainder of treason shall work corruption of blood"—thus securing one object they had in view—"or forfeiture of estate during the life of the person attained."

I do not feel any apprehension as to what the judgment of the House may be upon the meaning of the word "except," whether it is regarded as the equivalent of "unless" or not. But I think it clear, from a reference already made, that two centuries ago "except" had for a synonym "unless." The gentleman from Ohio remarked that the judge of the eastern district of Virginia had

said that "except" did not mean "except," but meant something else. The judge, I apprehend, said no such thing. He said that "unless" was the synonym of "except," and that our fathers often used the word "except" where "unless" might be used by us. One quotation has been made which I commend to gentlemen on the other side, in connection with this bill, and also with the peculiar sympathy which they seem to show to their deluded brethren of the South—I do not know as they regard it as authority—"Except ye repent ye shall all likewise perish." [Laughter.]

But I accept "except" just exactly as they desire to have it understood in the Constitution. Gentlemen in this House and elsewhere have made a distinction which nowhere exists in the Constitution. The word "forfeiture" has not a particular reference to real estate, more than to goods and chattels. "Forfeiture!" Forfeiture of what? Of that which men possess. Gentlemen say, "Life estate is real estate." And here again we see how we have been misled by British institutions. Before this Constitution was framed, entail and primogeniture were comparatively unknown in this country. It is possible there were a few entailed estates in some of the States of the Union, or estates entailed for a limited period of time. Now, knowing as we do that our fathers were opposed to the whole system of entail and primogeniture, is it to be supposed they intended, when they were attempting to fix the pains and penalties to the crime of treason, to introduce this doctrine of entail and separate estates, of fee-tail and remainder?

They intended, when they said "forfeiture," that the party convicted should be deprived of exactly that which he possessed, neither more nor less. Where the estate is a life estate, it forfeits the life estate; and where the estate is in fee the forfeiture must apply to the whole estate. The laws of the States generally do not recognize any such estate as a life estate except in particular cases.

Now, here is a great question—one which may possibly be satisfactorily answered, but how, I do not see. All the laws relating to the tenure of estates are framed by the several States, and in most of the States there is no separate estate known as a life estate. Whoever owns the fee has the whole estate. Now what, upon the construction claimed by gentlemen upon the other side, is to be the effect? Can Congress create an estate in certain States in this Union which by the laws of such States does not exist?

I hold, as a matter of constitutional law, that Congress has no power to create a life estate in Massachusetts even for the purpose of wresting it from a traitor, if there be one there. The Congress of the United States and the laws of the United States in reference to the forfeiture of the property of criminals must take that property just exactly as it is declared and defined by the law of the State. Mr. Clay said in 1839, upon another and very different matter; that "that is property which the law recognizes as property." We have no such property recognized by the laws of the State, except in particular cases, as life estate. If then you find a traitor in Massachusetts, if you arraign and convict him and inflict a penalty upon him, you must forfeit his property, whether lands or chattels, exactly as it exists under the laws of the State. You cannot create a life estate and forfeit it and give the remainder to somebody else.

Upon all these facts, Mr. Speaker, I can come but to this conclusion, that the framers of the Constitution intended to guard against two evils in the British system: first, the forfeiture of the estate by proceedings instituted after the death of the offender; and secondly, to prevent corruption of blood so as to disable the heirs of an offender from inheriting through his blood. The construction I have given to the Constitution secures those two objects, and it must be observed that it gives full force and effect to every word in the instrument relating to treason; and when we have found a satisfactory use for every word in a legal instrument it is unnecessary to look beyond, and especially when we find that the interpretation is consistent with the general policy and ideas of the country. I have, then, no hesitation, for one, in sustaining a measure, be it this joint resolution or any other, which shall provide for the forfeiture of the estates of persons convicted of treason, whether those estates be in goods and chattels, or lands held by fee-simple title, or in land in which the

offender has a life estate. If he has a life estate merely, he forfeits that; if he owns the fee simple, he forfeits the fee; if he owns goods and chattels, he forfeits his goods and chattels. We thus inflict a necessary and just punishment to the offender, and take security that his property will not by some indirection be used in behalf of the rebellion.

Mr. SWEAT obtained the floor.

INTERNAL REVENUE BILL.

Mr. STEVENS. The morning hour having expired, I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Cox in the chair,) and resumed the consideration of the special order, being bill of the House No. 122, to increase the internal revenue, and for other purposes.

The CHAIRMAN stated that at the last session of the committee the bill was read over, and amendments were offered by the Committee of Ways and Means, with the understanding that it should again be read over for general amendments.

The Clerk read the first section of the bill.

Mr. LOVEJOY. Mr. Chairman, I move to amend the section by striking out "sixty cents" in the tenth line, and inserting "one dollar;" so that it will read:

That from and after the passage of this act, in lieu of the duty provided for in section forty-one of an act entitled "An act to support the Government, and to pay interest on the public debt," approved July 1, 1862, and in addition to duties payable for licenses, there shall be levied, collected, and paid on all spirits that may be distilled and sold, or removed for consumption and sale, of first proof, the duty of one dollar on each and every gallon.

Mr. Chairman, I offer this amendment because it seems to me to be due to those who are engaged in the manufacture of the article under consideration that the tax upon it should be permanent, and that they should not be subjected to this capricious legislation. I suppose the Committee of Ways and Means contemplate gradually carrying this tax up to a dollar on the gallon, and that being the case, which I assume, I insist that it ought to be placed there at once, and become permanent at that point, or at some point, so that those who engage in the manufacture of this article may understand the liability to which they are exposed in its manufacture. I take it that one of the very worst things for any interest is this capricious and ever-varying legislation. We have already imposed a tax of twenty cents a gallon. We now propose to put it at sixty cents, and by and by it will be put up to eighty cents, and then to one dollar; and all this inures, not to the benefit of the Government nor to the benefit of the manufacturer, but to the benefit of those who buy up the article, keep it on hand, and then agitate for an advance in the tax.

Now, Mr. Chairman, I call your attention and that of the House, as we are all familiar with Scripture, or ought to be, and hence I will assume the fact, to the case of a certain individual who in ancient times hired his son-in-law, and kept constantly changing his wages, changing them, I believe, some fourteen times. At first the young man was to have the increase of the flocks marked so and so; but as soon as his father-in-law found that he was growing rich under one arrangement, he immediately changed it and made another.

What is wanted, above all things, is that legislation shall be permanent, and not fickle and ever-changing. I therefore insist that we should now place the tax on distilled liquors at some point where it will remain permanently, and not be changeable at the will and caprice of those men who buy up this article in large quantities after it has passed from the hands of the distiller, and then commence agitating for an advance in the tax. It was first twenty cents; it is now proposed to be made sixty cents; by and by it will be carried up to eighty cents, and then it will go to a dollar. It should be fixed so that those who invest their capital in the manufacture of this article may know how to govern themselves. You will recollect that that old curmudgeon-like father-in-law of Jacob changed his wages fourteen times.

A MEMBER. And yet Jacob grew rich.

Mr. LOVEJOY. Yes; he grew rich because the Lord prospered him. I propose that the tax

shall be made just and permanent. I am told by those who are well informed on this subject that the class of persons who are to be affected by this law have marched up to the payment of their revenue taxes liberally and patriotically, and have not attempted to dodge or evade the provisions of the law; and I insist that they shall be dealt with justly and honorably. I understand that they do not care at what point you fix it, so only that you make it permanent. It is the fickle and ever-changing legislation that works harshly to them. I ask therefore that, as the Committee of Ways and Means intend ultimately to carry up this tax to a dollar, it be now placed at that sum. Then the law will be permanent, and there will be no encouragement to speculation, no buying up of this article and then agitating for an increase of the tax, not that it may accrue to the benefit of the country or of the Government, but to the benefit of speculators.

Mr. FERNANDO WOOD. Mr. Chairman, the gentleman from Illinois proposes to increase the tax on distilled spirits from sixty cents to one dollar per gallon; and he has advanced, as an argument or reason in favor of his proposition, that this tax should be permanent. Sir, I had supposed that the necessity for the excise law grew out of the war, and that the war was but temporary. I had not been prepared for an argument of that character, which presumes that the war is to be a permanent one; for I assume that when the necessity for these large expenditures of public money shall cease, by the restoration of peace and harmony in this country, then the excise law will be repealed, and the ordinary revenue of the Government from imports will be considered sufficient to defray the ordinary expenses of the Government. But, sir, it appears that we are now to legislate for all future time based on the supposition that this war is to have no end. I am very free to say, Mr. Chairman, that I think that if certain measures of legislation before the two Houses of Congress are carried out, and if the policy of this national Administration is carried out, gentlemen might as well commence to legislate for a very long war; because if the rebel government itself had control of the action of the Federal Administration it could not, in my judgment, better aid its own cause than we are doing.

The gentleman from Illinois tells us that we want permanency in legislation. Well, sir, it is the calamity of this country, and always has been, that our legislation and whole character have been unstable. Commerce requires stability. It is necessary that the merchant shall understand what is to be the action of the Government with reference to the commodity in which he deals. It is the mutation, the continual changes, the fickleness in public and private affairs in this country, as contrasted by European Governments and European commercial regulations which, in my judgment, has retarded a progress that has already been astounding. The gentleman from Illinois says he wants to have a tax of a dollar per gallon placed on whisky; the only argument being that it should be permanent. Sir, does any gentleman conceive that the action of the last Congress or of this Congress is to be permanent? Does the gentleman suppose that the confiscation bill, the emancipation policy, and all of these odious and unconstitutional acts are to be permanent in this country?

No, sir, it is paying as poor a compliment to their patriotism as it is to their intelligence to suppose that these laws, or these policies, or this Administration is to be permanent in its character.

Sir, I am opposed to the proposition to increase this tax to one dollar. I am opposed to it for two reasons: in the first place because it creates an unnecessary burden upon that portion of spirits which is used in the various articles of manufacture; and again, it increases improperly, in my judgment, the burden upon that portion of spirits which is to be used for drinking consumption.

Sir, the laboring portion of the community in this country must have its beverage. It is as much entitled to have its beverage as the aristocratic portion of the community is entitled to have its beverage. If one consumes the finer wines of Europe, the other consumes the domestic manufactures of the country. I will not stop here to say which contributes most to the patriotism or to meet the necessities of the country.

Now, sir, whisky, as a beverage, is consumed

by the poorer class of the people, by the laboring men, who cannot afford to indulge in the more expensive wines and brandies. And, sir, in these times, when all articles of necessity are so dear, I cannot see the wisdom or propriety of stepping in here and placing so extraordinary a burden upon what has become an article of prime necessity to the laboring classes of the country.

Therefore, in my judgment, the Committee of Ways and Means have gone to the extreme limit, nay, they have gone to an extraordinary limit, in this matter; a limit which, according to the estimated production of whisky for 1864, will produce an income of \$36,000,000. The gentleman from Illinois [Mr. LOVEJOY] proposes to increase the rate of tax to an extent that, upon the estimated production, would give a revenue of \$54,000,000.

Now, sir, in my judgment that is an undue proportion of the revenue to be raised from excise taxes to be imposed upon one single article, and that an article of necessity upon the part of the laboring classes of the country; and so regarding the tax which it is now proposed to be laid upon the article of spirits, I shall feel it to be my duty to vote against the proposition of the gentleman from Illinois.

Mr. GRINNELL. I move to amend the amendment of the gentleman from Illinois, by increasing the tax to \$1 20 per gallon.

The proposition which I now submit increases the tax twenty cents a gallon beyond the rate proposed by the gentleman from Illinois, [Mr. LOVEJOY.] Now, sir, I am sincere in this amendment. I think it ought to prevail, and I will not say that I think it ought to prevail upon the ground alone that we are to require a heavy tax for the purpose of carrying on this war; not at all. I have nothing to say to propitiate the whisky interest of this country, or the drinking interest of this country. I believe we owe it to ourselves to increase largely the tax upon this article which is vicious in its tendencies; and which is unnecessary. If, as suggested by the chairman of the Committee of Ways and Means, men will have it, let them pay for it.

I am willing that my party, if I have a party which is in the habit of drinking whisky, shall pay a tax of three or five dollars a gallon for it, if they will drink it as a beverage.

I can conceive very readily how natural it is for the gentleman over the way [Mr. FERNANDO WOOD] to oppose this high tax upon whisky. It may be true, as was asserted by an eminent subterranean Democrat of the city of New York, whose name I cannot recall, it was so many years ago, that these corner groceries are the indispensable nurseries of Democracy. [Laughter.] I do not stand here to dispute that assertion. I believe that the corner groceries of our cities are nurseries of Democracy; they are, at any rate, nurseries of a certain kind of Democracy, and I would like to see them swept from the face of the earth.

Then, sir, will the raising of this tax reduce the consumption of whisky in the country? I believe it will reduce that consumption; I believe if you will levy a high tax upon whisky there will be a less consumption upon the part of the thousands and millions of the people of the country than is consumed now. This belief will govern my vote upon this article, in respect to the taxes we are to levy upon it, and apply to other articles which cannot be classed among those of absolute necessity. The consumption will be less in proportion as the tax is greater, because men cannot spare the money to purchase if the cost is high. The laboring people, who the gentleman from New York says drink whisky, do it because they cannot procure the money to purchase brandy. They have not the money to buy brandy, and therefore they do not consume brandy, but poisonous whisky. And thus, if the cost of whisky is increased the consumption will be less.

The gentleman says that with a tax of \$2 50 per gallon in Great Britain the consumption has increased. I do not think the tables so speak. I think those best qualified to speak in Great Britain are of the opinion that if the tax upon alcoholic liquors was made less the consumption would be greater than it is at the present time.

There is another reason why I wish to have a high tax upon whisky. In the midst of an unprecedentedly severe winter we find ourselves needing all the grain that can be furnished for the purpose of feeding our stock and supplying the Army.

If we stimulate the production of whisky we will not have corn enough left for the feeding of the stock in the western States. I would rather that the corn and rye should be used for stock than for the production of whisky, and the people, I am sure, would rather gain than suffer thereby. We are informed now that there is a deficiency in the supply of the one article of corn of more than one hundred million bushels. What should we do as wise men, then, but reduce as far as possible the production of whisky? If I had the power I would issue an order to prevent altogether distillation for drinking purposes. I would vote with any man that during this war not one bushel of corn or rye should be used for the manufacture of whisky. There should be no more of that common, miserable stuff which has a name in my country that I will not repeat; there should be no more of that dreadful poison which is damaging so many of our soldiers and officers, and I may say damning their souls. It should not lead to disasters in the future of which it is alleged to have been the cause in the past. It has been attributed to General Meade that he would have achieved a victory in the last campaign if it had not been for the drunkenness of one of his corps commanders. It has been stated in the public prints that when a corps commander was ordered to move he was too drunk to understand, or that he was too much incapacitated to execute the order by reason of drunkenness. The fact has gone to the country. I think, therefore, that it would render the public service essential aid if the production of whisky was reduced or stopped altogether.

Mr. KELLEY. It seems to me that justice to a very worthy officer renders it proper for me to say that the fact which the gentleman indorses is no fact at all. The whole story is denied, and the character of General French, the officer alluded to, has been fully vindicated.

Mr. GRINNELL. I thank the gentleman for his interruption. I wish to do injustice to no one. I did not mention any name. If it be not true as I have stated, it still does not militate against the position which I assume, that whisky has been of great injury to the service. It has been stated that high officers of the military department have been incapacitated from duty because of drunkenness. I cannot only call the name of one, but of many who have informed me that such is the fact. This evil, then, is one which affects both officers and soldiers; and I would raise the tax upon whisky, and of course the price, so high that it could not be brought within the reach of the soldiers. The Government should supply their real wants.

Yes, Mr. Chairman, I am really in earnest in this matter. I would not care if the constituents of the gentleman from New York [Mr. FERNANDO WOON] never obtained another drink of whisky. [Laughter.] If that were to be the case, I think that we would soon have a political reformation in his district. [Laughter.] I would have his constituents, when they stretch their necks for a drink to-night, stretch them long, knowing that it would be their last villainous drink. It is true that a gentleman must make an argument for his own constituents, and that the gentleman from New York takes care of his. But I have no such friends to propitiate. I know that it was said liquor was poured out by the barrel against me in my district during the last election. Thank God, I have no desire to belong to a party that cannot come into power except upon a whisky barrel. [Laughter.] I believe that when whisky is abolished morals will flourish. I do not know what will become of the gentleman's party when whisky has been done away with, and I do not care.

If the war is to continue we must have revenue; we must have high excise duties, and a high tariff. The gentleman said that if the rebels had control of the Government they would not ask us to do more than we are now doing. There is difference of opinion about that. I say, without disrespect to the gentleman, that the verdict of the country is against him and with us. We have a President who has inaugurated a policy that alike promises freedom to the land and to put down the rebels in the dust where they ought to go. The people have answered the cavils of the gentleman and his party.

He does not suppose that confiscation will bring the war to a close. I think that it will, with glori-

ous fighting. I would have, too, the reduction of the manufacture and of the consumption of whisky. If men will drink, make them pay for it. If they will get drunk, let them not call upon me to lie down with them in the ditch. It is an old adage that those who lie down with dogs will rise up with fleas. [Laughter.] We do not propose to have whisky to carry an election. We can do without it. All that we want is God and the flag and our glorious soldiers. We carried the election in Iowa, where the gentleman from New York [Mr. WOON] did not choose to fill his appointments, against the hero of Fort Donelson by thirty-two thousand majority; he, unfortunately, having gone into the wrong pew. [Laughter.] So much for that.

I hope sincerely, Mr. Chairman, that the tax will be increased to \$1.20 per gallon. If it be objected that there will be smuggling, I would appoint other custom-house officers, and have them stationed every mile on the northern border, in order to keep out the whisky, and to secure sober officers and soldiers. And I would put a stop to the consumption of that miserable whisky that is so much used for the purpose of making modern Democrats on election and other days.

Mr. CHANLER. Looking at this as a matter of revenue, I congratulate the gentleman who has taken his seat, who, for the purpose of supporting the Administration to which he belongs, proposes to increase the tax and to deprive the people of the consumption of this article. He proposes to increase the tax and to prevent the people from drinking spirituous liquors. A most wonderful Solomon in his day and generation! The gentleman wishes a sober army—probably he alludes to Chancellorsville. He leaves the officers out, and alludes to the privates. Sir, the intoxication of our generals has been the curse of this country. But the spirit which actuated the gentleman is not of the wine-press. He is not drunk with spirit, but with blood. Fanaticism can easily divine an argument which deprives a poor man of the necessities of life, and which the gentleman admitted was a necessity of life. The chairman of the Committee of Ways and Means asserted, in reply to my colleague from New York the other day—and it is the principle upon which this Administration advances the tax upon spirituous liquors—that “the poor devils will drink it, and they shall pay for it.” Who pays for it? The men whose weary toil by day and night supports the fabric of the nation. Never, since man has labored, has he been able to sustain human toil from the rising to the setting sun without the use of that which God himself provided on the tree that grows, and on the vine which shades its grateful juice, to stimulate him in his labor, in the discharge of his duty, to relieve the sufferings of his body and the agony of his spirit. Can you administer to the mind diseased by an argument such as yours? Can you stimulate him to noble deeds while you refuse him what you have admitted as a necessity in his daily life? In other words, until you become temperate in argument, it little becomes you to criticize intemperance in daily life.

You have pointed with scorn at the corner groceries. Sir, I do not know in this country of any aristocratic corner, unless it be in that section whence the honorable gentleman, with his high-born air, comes. The gentleman has a style peculiar to himself, and while he chooses to be personal with those who live on corners, perhaps he would dislike to have them personally criticize the style and color of his cravat.

Mr. GRINNELL. I will take off my cravat if it offends the gentleman.

Mr. CHANLER. If you are prejudiced against one man's taste, why may they not be prejudiced against yours, if it is a mere matter of taste? The language of the gentleman in assailing those with whom he never associated is, according to all principles of human logic, intemperate if not unjust. If he ever met a gentleman in the corner groceries of my district he would learn good manners; certainly he would learn not to abuse absent men. If he did, he would go home a wiser if not a well punished man.

But this is wandering from the subject. I would like to call the attention of the House to a nobler and a higher theme. It is this: that there stalks through every great city the gaunt wolf of hunger and distress, and this spirit of undue taxation is

the spirit of tyranny. I speak now not for the corner grocery, but for every poor distressed creature whom necessity, with cruel hand, has driven into the fortifications of civilized life—the cities. I speak for Philadelphia, founded by the philanthropy of Penn; I speak for Boston, the seat of Attic wit; I speak for St. Louis, the nursery of the civilization of the West; I speak for Cincinnati, and for every city west, southeast, and south. I say that while you sit here and legislate with undue severity in reference to those articles which the chairman of the Ways and Means admitted, and which the eloquent gentleman of the red cravat [Mr. GRINNELL] also admitted, the people must have, and when you force them to pay a burdensome taxation for what you know they must have, you are calling up from the depths of life in the cities a resistance to your Government, which, if your memory travels back to 1775, you will find has written its record from Lexington to Utah. Undue taxation is tyranny. Though Dr. Johnson may have written pamphlets to show that taxation is no tyranny, Bunker Hill answered him to the loss of his country. You tax, according to the revenue bill brought into this House, the beverages that pass the poor man's lips, the clothes he wears, every article of food and every necessity of life. And why do you stop short in your aggressive system? Why not go further and impose a tax upon the gray tombstone? Indeed, by taxing spirituous liquors, you absolutely do tax the embalmed body. You leave nothing within the whole scope of your legislation which is not unreasonably, enormously, and unnecessarily taxed.

The only argument I have heard advanced here on this question is that of necessity. I believe that, in view of the oppressive character of this system of taxation, that is the only argument that can be advanced in its justification. But to support that necessity, the gentleman from Pennsylvania, [Mr. STEVENS,] the chairman of the Committee of Ways and Means, refers us to the taxation system of England. That honorable gentleman on more than one occasion has shown a prescient mind. He has the credit of having anticipated his party, and certainly in his position as chairman of the Committee of Ways and Means, in advancing the interests of his own State, he has anticipated every member upon this floor. But here is a new position. A new light casts its shadow over the history of this country; and the finger of the chairman of the Committee of Ways and Means points to the system of English taxation for American imitation. Are the operatives of Lancashire, the colliers and the miners of England, and the other classes of oppressed operatives of that country to be brought forward and placed by the side of those who have escaped from that system of tyranny and oppression, and are living in the hope that this is a free country, where human labor may toil on to the grave without being taxed into degradation?

Does the gentleman mean to call up around us all the horrors of the system that now exists in England? Has he been deaf to the arguments of Cobden and Bright as to the injustice inflicted on the laboring classes in England by heavy taxation, and as to the ruin brought on them by the stoppage of cotton importation? The arrest of the cotton-spinning wheels of Manchester is ruin to the labor of England, but were it not for the superincumbent weight of taxation the injury to the cotton interest could not produce such widespread misery. Look at this country as compared with England. Judging from the statement of the Secretary of the Treasury, who has given us such a hopeful view of affairs, and from the message of the President of the United States, who is now prospecting for peace, and judging from every other element around us, I think we have reason to be proud of the position in which we stand. We present the spectacle of a people, unburdened with taxation, coming forward willingly with every thing necessary to the support of the Government and carrying it triumphantly through the most trying crisis in our history. But reverse the picture. Conceive the case of the people being burdened with taxation, of distinctions being made between the rich and the poor, of a feeling of class antipathy, and then imagine what would have been our position. Your national Treasury would be exhausted. The people would refuse to meet your demands in men and money. I believe that this

system, if it goes on, will provoke the people to resist it. I believe that they will refuse under it to march forward in advance, because it is not only aggressive but progressive, and leaves the people without spirit and without hope.

Mr. KELLEY. I had not intended, Mr. Chairman, to take part in this debate, and I am not yet very clear as to whether the amendment proposed by the gentleman from Illinois [Mr. LOVEJOY] shall receive my vote. I am very much in the habit of following the recommendation of committees of this House, especially when they present, as the Committee of Ways and Means has done in this case, a unanimous report. But really the arguments of gentlemen on the other side are almost persuading me that I should for once deviate from my rule. Before proceeding to examine the argument of the gentleman who has just been heard, [Mr. CHANLER,] permit me to allude for a moment to that of the distinguished gentleman from New York, [Mr. FERNANDO WOOD.]

He tells us that we might as well hope to make the conscription law and the confiscation law stable as hope to make any other of the laws the friends of the Administration may pass, and especially the one now under consideration, stable. The gentleman has not comprehended, I think, the scope of the conscription or the confiscation law one whit better than he seems to have comprehended the era in which we live.

Mr. FERNANDO WOOD. I did not include the conscription law in my remarks, but I do now.

Mr. KELLEY. I understood the gentleman from New York to include the conscription law and the confiscation law, and to speak of them and of the other unconstitutional laws which he says we have passed; and so he now does. Sir, these laws are necessarily but temporary. We mean to, and if the rebels do not receive sufficient encouragement from gentlemen on this floor we will, before one year crush out the rebellion. The conscription law will have then done its work, and will lie a dead letter on our statute-book. If the war lasts longer than this year it will be by reason of the free and effective use of the most powerful weapon in the armory of the rebel leader, the eloquence of his friends on this floor; and when it terminates the confiscation law will also have executed its purpose and will be a dead letter on our statute-book. They are laws for the times. They are laws to suppress and punish the existing rebellion.

The last gentleman who addressed the committee [Mr. CHANLER] told us that poverty and gaunt want stalk through the streets of Philadelphia and other northern cities; and he ascribes it to taxation. I deny this allegation, and I challenge the observation of gentlemen, I challenge the records of our savings banks, I challenge the number of houses being built in every town and city in the North, to prove that there never was a season of greater prosperity than now. Gaunt want does stalk through the streets of our cities. It is not begotten of taxation, though, but of intemperance. The hungry wife who watches day after day and night after night for the husband to whom she gave her young love, and gathers to her exhausted breast the hungry babe, complains not of taxation, but that her wretched husband loiters in the school-house of modern Democracy—the corner groggery.

Mr. CHANLER. Has the member ever been there?

Mr. KELLEY. I have been near enough the doors of such places to see how they affect the habits and manners of those who may once have been gentlemen. I have sat nine years and nine months as judge of a court which had criminal jurisdiction over a population of over six hundred thousand people, and I tell the gentleman that had it not been for groggeries, the school-houses of modern Democracy, my business in the criminal department would have been diminished eight or nine tenths.

Mr. FERNANDO WOOD. I understand the gentleman was elected as judge by the Democratic vote.

Mr. KELLEY. No, sir, I was elected by the people. I had the honor, so I have heard said, to have the Democracy find me too pure for their purposes, [laughter,] and their nominating convention threw me overboard, when the people took me up, and elected me by such a majority

as no candidate for local office had ever received in the city of Philadelphia.

Mr. RANDALL, of Pennsylvania. Will my colleague allow me to ask him how he secured his nomination for the judgeship—whether he did not write a letter pledging himself to abide the decision of a Democratic convention, and whether he did not subsequently repudiate that pledge?

Mr. KELLEY. I refer the gentleman to the groggeries of the fourth ward of the city of Philadelphia for the information he so earnestly desires. [Laughter.]

Mr. RANDALL, of Pennsylvania. Yes, sir; and they have got a better representative upon this floor than you are. [Laughter.]

Mr. KELLEY. Mr. Chairman, it is not poverty caused by taxation that enables gentlemen to point to the destitution in our cities; it is to the influence of that poison which never was found on vine or tree coming fresh from the hand of God, as the gentleman [Mr. CHANLER] alleged; it is the product of man, the excessive use of which is denounced by divine authority, and the voice of those of our own poor race who have spoken most like God.

The gentleman, unfortunately for his argument, referred to the laboring classes of England: will he tell me whether he has seen—and if he has not it will afford me pleasure to send him a copy—a little book entitled “The Social Condition of the English People?” It is portions of a report made by Mr. Joseph Kay, an English gentleman, who was commissioned by the senate of Cambridge University, England, to travel widely and examine and report upon the social condition of the poorer classes of society.

Mr. CHANLER. If the gentleman refers to me, I beg to say that as my remarks upon this subject were founded upon a statement made by the chairman of the Committee of Ways and Means, I will transfer my right to the gentleman's report on whisky to the chairman of the Committee of Ways and Means. If he will send it to him he may find it of benefit. [Laughter.]

Mr. KELLEY. I will send a copy to both, if the gentlemen desire it. Mr. Kay went among the poor laborers of the British islands, and he reports having found an amount of poverty, ignorance, brutality, and general degradation that is almost inconceivable. And he tells the philanthropists, taxpayers, and Government of England that they must for their own safety, among other remedial measures, stop one fountain and open freely another; they must stop the ever-abounding supply of intoxicating drinks which flows along the borders of all their streets, and open up generously throughout the islands a system somewhat like our northern system of public education.

The gentleman asks whether we mean that the laborers who emigrate, believing that they are escaping from the oppressions of over-taxed England, shall come here to find that labor is even more grievously burdened by taxation? No, sir, we mean to give the Government all the revenue it requires to put an Army in the field larger, if need be, than any it has had, to enlarge and improve its Navy, and thus enable it to crush out this rebellion and establish a country in which the laborer, be he white or be he black, shall own himself, and shall have a legal title not only to his wife and child but to every day and every hour of his toil. That is what we mean to do for the laborer. Sir, we mean to make this broad country of ours, sweeping from ocean to ocean, from the wintry lakes on the north to that Gulf over whose surface the summer breezes ever linger, the home of freedom, the land in which labor shall be honored and adequately rewarded, the sure refuge and happy dwelling-place of the exile from any land. And while we keep this end in view we need not fear that the people will complain of taxation.

Why, who believes that the mother and father who have given their first, second, and third-born sons to the grave, that wives who have willingly consented to their widowhood and the orphanage of their children, will halt in their devotion to their country and freedom for the laborer, because taxation is one or five per cent., more or less? The gentleman does not know the people of the North. When he becomes acquainted with them he will find that the last able-bodied boy and the last dollar will be cheerfully sacrificed that our

march may be steadily forward for liberty and the Union.

I shall not vote for the amendment of the gentleman. It is a revenue measure, not one of municipal police. I would willingly vote for an increase of the rate of taxation on whisky had it been recommended by the committee which reported this bill, and who have considered the subject with great care. The members of the committee say that a higher rate might diminish revenue, and I will not set my wishes against their judgment. I would, if I could, raise the price of whisky, and I would increase the rates of our tariff to correspond with the increased internal tax. I would follow the example of England in one thing, at least, that of taxing luxuries, and embrace brandy and wines. I would increase the duty upon them all, and make the luxurious people who enjoy high-priced wines contribute largely to the revenue of the country. If perchance I should thus withhold from one weary workman his needed stimulant, the prayers of drunkards' wives and children would, I think, relieve me from responsibility in the final account.

Mr. STEVENS. Mr. Chairman, this bill was made the special order in the Committee of the Whole on the state of the Union. The debate has degenerated very far from what may be deemed the legitimate course which it ought to take. I insist that the discussion shall hereafter be confined to the merits of the bill as a special order. I was unwilling to arrest debate at the time, especially when we were enlightened by the statesmanship of the other side and the eloquence of this. I propose, therefore, that the committee rise for the purpose of closing general debate, and that we may have the five minutes debate provided for by the rules.

Before I submit that motion, however, let me say that I do not agree with the gentlemen who have proposed amendments.

Mr. LOVEJOY. Let me withdraw my amendment, and in lieu of it offer another one. I presume that there will be no objection.

Mr. STEVENS. An amendment has been proposed to the gentleman's amendment, and it is not therefore within his power to withdraw his amendment. Mr. Chairman, whenever the Committee of Ways and Means and this Congress shall assemble and act for the mere purpose of passing sumptuary laws to prohibit the production of whatever may be considered injurious to everybody, it may be possible to carry out the idea of the gentleman from Iowa, [Mr. GRINNELL,] and the gentleman from Illinois, [Mr. LOVEJOY,] I am not sure even that the amendments would have the effect desired; for as I said before, I am not sure that any amount of taxes will reduce the consumption of the article in question. If the argument of the gentleman from Illinois be true, I do not know but that instead of this being a revenue bill the result would be to decrease the revenue. You would then take from the Government the means of supporting the burdens which it is now compelled to bear.

Mr. LOVEJOY. Allow me a single moment. I wish the gentleman from Pennsylvania to recollect that I considered it as a revenue measure, and in no other light.

Mr. STEVENS. I am now speaking especially with reference to the argument of the gentleman from Iowa.

Mr. LOVEJOY. You said Illinois.

Mr. STEVENS. I referred to both as having offered amendments.

Mr. Chairman, I should be glad if legislation could cure intemperance, but I have seen it tried, and tried in vain. I do not believe that sumptuary laws ever had any effect to stop abuses in any country. When I was a young man, and I would not object to being so again, I was in a State Legislature, and moved that the sale of liquor should be prohibited in my district, and the motion was carried. I did not find that I thereby made one drunkard the less—they would only drink the more when they had a chance. There is no other way than by moral suasion for the reformation of the world on the subject of drunkenness. But that is not the question now before us.

Since this article will be used, Mr. Chairman, how can we raise from it the most revenue? I think the tax of sixty cents per gallon is about the point where we will get revenue without being injurious to any branch of business. If it were

desirable to stop the growth of corn in the western country, if it were for the interest of Iowa, or of Illinois, or of Ohio to prohibit by this means the raising of that article, perhaps I might go for the amendment which the gentleman has proposed. I believe there is more corn raised in that country than can be used for fattening hogs or cattle, and therefore it should be used for fattening, not hogs, but men. [Laughter.]

I am opposed to the amendment. I do not know whether eighty cents per gallon would reduce the revenue; but it would bear unreasonably upon that branch of business that needs spirits. Therefore I am against it.

The gentleman from New York [Mr. FERNANDO WOOD] stated that this might overturn the Government and the Administration before the rebellion was suppressed, very much to the grief of that eloquent gentleman I have no doubt. I am therefore for sustaining the committee in the action they have taken, and I should be sorry to see it changed.

As I do not intend to go into a political discussion, I will move that the committee do now rise.

Mr. FERNANDO WOOD. Is it the gentleman's intention to cut off amendments to the bill?

Mr. STEVENS. No, sir; nor proper explanation of them.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. Cox reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the amendment to the internal revenue law, and had come to no resolution thereon.

Mr. STEVENS. I move that when the committee again resume consideration of this bill, general debate thereon be closed in one minute thereafter. The bill will then be open to five minute debate.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union. The motion was agreed to.

INTERNAL REVENUE.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Cox in the chair,) and resumed the consideration of the revenue bill.

The CHAIRMAN. General debate will be closed in one minute.

Mr. LOVEJOY. I withdraw my amendment and move to amend by striking out from line ten the words "sixty cents on each and every gallon," and inserting the following:

Forty cents per gallon on all manufactured before the passage of the act, and upon which duties have not been paid; also upon all which may be manufactured before the 1st of May, 1864, and upon all manufactured after the 1st of May and before the 1st day of July, 1864, a duty of sixty cents; and on all manufactured after the 1st of July, 1864, a duty of one dollar per gallon.

I have simply to say, in reference to this matter, that I have looked upon it simply as a question of revenue, and not of morals or of temperance; and I am satisfied that is the only legitimate view we can take of it here. We are attempting to raise a revenue, and I understand from the very best authority that those who are to be affected by this act, and who have been affected by previous similar acts, have been prompt in their response to the claims of the Government, and have paid the duties Congress imposed upon them. I am not particular as to the rate of the tax. If one dollar is too much, I am willing it should be sixty or eighty cents; but this one thing I hope will be done, that we shall put it at such a figure that we shall not be called upon to change it hereafter, and subject these men to constant annoyance and uncertainty. Whether the manufacture is a moral or an immoral one, the question is, what is just, when we propose to tax the manufacturer. We all understand perfectly well that the most desirable thing in legislation is that it should be of a permanent character, in order that those who are to be affected by it may know that it is not to be changed. I do not know whether the committee have come to the conclusion in their own minds that sixty cents is the maximum tax. Very likely before the close of this session, if not this session then the next, they may come back and say we should put on twenty or forty cents more. All I

ask is that we shall fix upon some sum and there leave it, for I do not think it just, after the manufacturer has purchased the raw material for manufacture, that we should turn round and spring a new law upon him, and make it apply to what he has already manufactured. This law is made to operate against those who have distilled and have happened not to pay the duty of twenty cents. If a man has purchased and paid the twenty cents, he has the benefit of the rise; while the original manufacturer, because he happens to have it on hand at the time, must pay this additional duty.

Mr. STEVENS. The committee, in their bill, have said "or may have made a return," supposing all had made returns tri-monthly. We find, however, that many have not, and therefore the committee have agreed upon an amendment to meet that state of the case, and it will be offered by some member of the committee.

Mr. LOVEJOY. Then I understand the committee propose to exempt all which the distillers have on hand, and that obviates the difficulty I had in my mind.

I agree with the gentleman from Pennsylvania that this is not a sumptuary question, but simply a question of justice toward these men from whom we propose to derive the revenue. I think they are entitled to know that the law shall be permanent, and then their business will adjust itself to the tax which is established. If the committee think my amendment does not carry the rate too high, I should be glad to have them concur in it. If, after considering the subject, they shall say that sixty cents is the ultimate maximum, I shall be content to stop there; but if they think it will hereafter have to be raised above that, I hope that will be done now.

[Here the hammer fell.]

Mr. FERNANDO WOOD. Has the gentleman from Illinois [Mr. LOVEJOY] withdrawn his amendment?

The CHAIRMAN. He withdrew his original amendment, but offered another in lieu of it.

Mr. FERNANDO WOOD. I understood the gentleman from Illinois to say that the explanation made by the chairman of the Committee of Ways and Means obviated the necessity of his amendment, and that he withdrew it.

The CHAIRMAN. It is still pending.

Mr. FERNANDO WOOD. Then I only desire to say with reference to that amendment that I think it is objectionable on the ground that it makes too many classifications in the operation of the law. I think that we have been disappointed in the amount of revenue collected under this excise by the difficulty of making the assessment and collection under the law. If revenue is the object it is desirable that we should simplify it as much as possible, so that the officers of the Government may have no difficulty in levying the taxes and preventing any deception. It strikes me that the only objection to the amendment of the gentleman from Illinois is that it will necessarily lead to confusion which will enable very large quantities of the article which we propose to tax to escape from the operation of the law.

Mr. BROWN, of Wisconsin. I move to amend the amendment of the gentleman from Illinois by striking out all of it after the words "strike out sixty cents and insert," and inserting in lieu thereof "fifty cents;" and I will state briefly my object in doing so.

I agree with gentlemen upon the other side of the House that this is purely a question of revenue, and that we cannot go into the question of the morality or immorality of the liquor trade. By the very fact that the Government undertakes to derive an income from the trade they acknowledge it to be legitimate. We want a permanent tax on this article, and one that will not be so high as to interfere with the profit which the Government expects to derive from it; but I see in the proposition of the gentleman from Illinois that which will produce the very evils of which he complains. We have tried a tax of twenty cents on the gallon, and it seems to me that if, in this experiment as to how much tax a particular branch of industry will bear, we increase the amount one hundred and fifty per cent., we are making a sufficient strike at one time. The maxim *festina lente* applies in legislation as well as in other things, and we may by over-greed defeat the very object we have in view. I do think that if, instead of

a tax of sixty cents, or the proposition of the gentleman from Illinois, we impose a permanent tax of fifty cents, we shall be increasing the amount of taxation on this article sufficiently at the present time.

The amendment to the amendment was disagreed to.

The question recurred on Mr. LOVEJOY's amendment.

Mr. COFFROTH. Is an amendment now in order?

The CHAIRMAN. An amendment to the amendment is in order.

Mr. COFFROTH. Then I offer as an amendment to the amendment what I send to the Clerk's desk, to come in after line thirty-five of the bill.

The CHAIRMAN. That is not in order. The amendment of the gentleman from Illinois relates to a preceding portion of the section.

Mr. COFFROTH. Then I will offer it as an amendment to the amendment of the gentleman from Illinois.

The CHAIRMAN. Perhaps it would not be germane to that.

Mr. COFFROTH. If the Chair will hear it read he will be better able to decide that question.

The proposed amendment was read, as follows:

Provided further, That no return of liquor distilled need be made to the collector or deputy collector by any distiller under thirty days unless the amount distilled exceeds five hundred gallons.

The CHAIRMAN. That is in order as an amendment to the amendment.

The question was taken; and the amendment to the amendment was disagreed to.

Mr. HOLMAN. I move to amend the amendment of the gentleman from Illinois by striking out that part of it which provides for a tax of forty cents on all the whisky that may have been manufactured prior to the passage of this act.

I only desire to say, in connection with this proposition, that the bill reported by the Committee of Ways and Means does not propose to impose this additional tax upon spirits manufactured prior to the time when this bill was introduced. The forty-fourth section of the act of 1862 expressly authorizes the manufacturer to store up manufactured spirits in a warehouse provided for that purpose, and he is not required to pay the duty on the spirits so stored until it is removed for sale. The only effect of that portion of the amendment of the gentleman from Illinois which I propose to strike out is to impose the additional tax of twenty cents per gallon on spirits which have been stored in conformity with the provisions of the forty-fourth section of the original act; and I take it for granted that such a monstrous injustice will not be tolerated for a moment.

Mr. MORRILL. Mr. Chairman, I am opposed to the amendment of the gentleman from Indiana, [Mr. HOLMAN,] because I am opposed to the whole amendment of the gentleman from Illinois. I suppose that our object in levying a tax at this time is to obtain revenue, and to obtain it in a fair and legitimate mode. The proposition to tax whatever quantity may be on hand which has not been subjected to a tax is, in my view, wholly impracticable. Gentlemen on the other side who are so loud in their denunciations of the army of tax-gatherers necessary for the collection of the internal revenue would then have real occasion to exclaim against the numbers whom that would necessitate. Unless there should be inspectors in every town and village it would not be collected.

I am opposed, Mr. Chairman, to increasing the tax, because I am satisfied that the rate of sixty cents per gallon will yield as much revenue as any higher rate would yield. I believe that that is the utmost verge of taxation which this article will now bear. The annual product of the country, when reduced to proof, is, in round numbers, one hundred million gallons. We export something less than ten million gallons; and I suppose it is fair to say that the manufactures and arts consume nearly ten million gallons more. But for some considerable length of time there has been no exportation of spirits; and whatever has been distilled beyond the consumption of the country has accumulated. The larger share of it is in the hands of speculators; but you can no more reach that speculation than you can reach the speculation in gold, or in any other commodity. It is not the distillers who are to be blamed for this speculation in whisky. So far as I can learn, the facts

are that they have paid their taxes as honorably and fairly as any other class in the country.

Mr. LOVEJOY. I desire to state to the gentleman from Vermont that he is mistaken as to the object of my amendment.

Mr. MORRILL. My remarks apply to the proposed tax of a dollar per gallon after the 1st of July, 1864. It is a fact, Mr. Chairman, that up to the 1st of November the distillers did not make a dollar on anything that they distilled prior to that time. All the profits of the distillers were on what they had on hand. But for the advantage derived by them from having small stocks on hand, their business would have had to be wound up. And still I have been informed that for two thirds of the year they have been idle. I, for one, do not propose that we shall create a revolution in that business, so as to deprive the country of all revenue from it.

[Here the hammer fell.]

Mr. MILLER, of Pennsylvania. I move that the committee do now rise.

The motion was not agreed to.

The question was taken on Mr. HOLMAN's amendment, and it was rejected.

Mr. MILLER, of Pennsylvania. I move to amend the amendment, *pro forma*, by striking out "forty" and inserting in lieu thereof "forty-five cents per gallon." Without professing to be very familiar with the principles of the bill, I recognize that much has been said here to-day which in my judgment would come appropriately under the general head of buncombe, having little or no application to the subject before the committee.

Mr. WASHBURNE, of Illinois. I rise to a question of order. The gentleman from Pennsylvania is not speaking to his amendment.

Mr. MILLER, of Pennsylvania. Perhaps I may reach it in the course of time, if the gentleman will have a little patience.

The CHAIRMAN. The rules require gentlemen to confine their remarks to the amendment. The gentleman from Pennsylvania will proceed in order.

Mr. MILLER, of Pennsylvania. I have in my possession, but not here in the House, a letter from a plain, practical, common-sense constituent of mine, containing suggestions as to this act which would answer all the buncombe that we have heard to-day in regard to the cruelty of the provisions of the bill now pending. In order that the committee may have the benefit of the wise suggestions contained in that letter, I propose to move that the committee do now rise and that then the House adjourn.

The question being on the amendment to the amendment,

Mr. MILLER, of Pennsylvania, withdrew it, and moved that the committee do now rise.

The motion was not agreed to.

Mr. ELDRIDGE. I move to amend by striking out "one dollar," where it occurs in the amendment, and inserting in lieu thereof "sixty cents."

I look upon this bill as reported, and upon the amendment which has been offered by the gentleman from Illinois for the purpose of increasing the revenue of the Government, as oppressive to the people of the western and northwestern States. At the same time, from what I have already heard from the Committee of Ways and Means, and from gentlemen upon the other side of the House, I presume that we shall have to accept something very nearly like what the committee have reported. For the purpose, therefore, of bringing the provision back as nearly as possible to the original bill, I move to strike out "one dollar" and insert "sixty cents."

Mr. CLAY. I desire to offer an amendment as an additional section of the bill.

The CHAIRMAN. The amendment is not in order. There is an amendment to an amendment pending.

The amendment to the amendment was disagreed to.

The amendment was rejected.

Mr. FERNANDO WOOD moved to amend by striking out the last provision in the section, as follows:

Provided further, That all spirits on hand for sale, or removed for consumption or sale, upon which no duties have been paid or collected, and upon which no returns have been made, whether distilled prior to the date of this act or not, shall be subject to the duty provided by this act from and after the 12th day of January, 1864.

And to insert in lieu thereof as follows:

Provided further, That all spirits on hand and for sale, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act, from and after the 12th day of January, 1864, except that such spirits as shall have been already taxed under the law approved July 17, 1863, shall not pay more than the additional increased tax provided for by this act.

Mr. FERNANDO WOOD. This is the amendment to which I referred when this subject was before the committee the other day. Its effect, if adopted, would be to make this proposed tax operative upon all spirits wherever found, including, so far as the forty cents increased tax is concerned, the whisky now in the hands of speculators and forestallers, as they say in New York, the same who, having some intuitive perception as to the recommendation of the Secretary of the Treasury and the action of Congress, have anticipated this law, and by the might of their capital have become monopolists. The effect of the amendment would therefore be to give a very large additional revenue to the Government.

Mr. HOLMAN. I ask the gentleman from New York whether the effect of his amendment will be to tax spirits in bonded warehouses, much of which is still owned by the distillers?

Mr. FERNANDO WOOD. I will answer the gentleman from Indiana that there is another section in this bill which refers to this subject of spirits in bonded warehouses. The amendment which I propose makes no qualification in that respect, leaving the law as it now stands, by which the distiller gets the benefit of the drawback. But I propose that the merchant, whether wholesale or retail, shall come within its provisions; that whisky, whenever manufactured, wherever it is, in whosever possession it may be found, shall immediately on a day named, or whenever this bill shall become a law, pay a duty from which it can by no possibility escape.

That, sir, is the purpose of this provision. This article has been selected for the purpose of deriving a large revenue from it. There are now, it is estimated, twenty-five million gallons of whisky on hand in the country. If these twenty-five million gallons are subjected to this increased tax of forty cents it will produce at once a revenue of \$10,000,000.

Again, the difficulty attending the operations of the excise tax respecting this article has been that the law was so complicated, so difficult of construction, that long before the officers appointed under the law could collect the tax, the holders managed to evade it. And one reason why an additional recommendation by the Secretary of the Treasury has been made was in consequence of that defect in the law. This amendment, therefore, has been drawn for the purpose of making the evading of the law more difficult. Whether it is used as a beverage, whether it is used by the manufacturers, whether held by the speculator, or the politician who has obtained information by which he expects to make money—wherever it can be found, it shall pay a tax.

Now, sir, it appears to me there is a necessity for a provision of this kind, that justice, simple justice to the man pursuing the honest avocation of his trade, requires it; that it is due to that class, and a very large class, of persons whom it will thus affect, that the provisions of this bill should be placed where they cannot easily be evaded.

[Here the hammer fell.]

Mr. NOBLE. I move to amend the amendment of the gentleman from New York [Mr. FERNANDO WOOD] by adding the following:

And provided further, That manufacturers shall not be required to pay any additional tax over and above the amount imposed by the act of 1863, upon any spirits manufactured by them prior to the passage of this act.

Mr. Chairman, I offer that amendment as being in strict accordance with the principles adopted by the committee in exempting from taxation that which was manufactured prior to the passage of the act of 1863. As I understand this bill the committee do not propose to tax any spirits with any additional tax which may be manufactured prior to 1862, simply because that act did not impose any tax upon them. By the act of 1863 a certain tax was imposed upon all that might be manufactured thereafter. Manufacturers have gone into business under that law in good faith, and have gone on manufacturing this article. Many of them, I may say, have entered into contracts for the purpose of supplying it at a given price, fixed neces-

sarily according to the tax then imposed. Now if this bill is to tax the manufacturer under his contract, I want to know whether it does not strike at his rights? Would it not strike him down to do that? It was not the intention certainly of the committee to strike at the existence of an important class of manufacturers. It was not the intention of the committee, certainly, to prevent these men from filling their contracts made in good faith and based upon the law of 1862, by making this bill retroactive, which it is as it now stands.

I propose by my amendment that the spirits manufactured up to the date of the passage of this act shall not bear this additional tax. Any other principle makes the law retroactive, and, as I have shown, will interfere with contracts already made. I hope that the amendment to the amendment will be adopted.

Mr. KASSON. Mr. Chairman, I had desired to make some few remarks on the general policy of this bill, but since the adoption of the resolution by the House of the gentleman from Pennsylvania cutting off all but the five minutes debate, I will suggest only one or two leading questions involved in the amendment before the committee.

There are but two questions, really and plainly, in this bill: the one is the amount of tax to be charged upon these spirits; and the other is the description of spirits to which this rate shall be applied. As to the first question, there is a single consideration, which is that of revenue for the Government, combined with readiness and facility for the collection of the tax. The Committee of Ways and Means, after listening to a debate hour after hour from parties interested, have fixed the rate of taxation at sixty cents per gallon. I shall adhere to that action of the committee, although I was of the opinion that it should be placed at a higher figure. As I have said, I shall adhere to the action of the committee.

As to the description of property to which it should be applied, I object to the principles suggested by the gentleman from Illinois, [Mr. LOVEJOY.] The gentleman from Ohio [Mr. NOBLE] suggests that injustice is done to this species of property by variation of taxes. This Congress has the right to advance the rate of tax according to the emergency of the country. Every citizen who has property holds it subject from year to year to taxes for the support of the Government. This year it must be one rate, and next year another rate. Persons engaged in commercial transactions in reference to this article of spirits have accumulated a stock beyond the demand for it, and to adopt the amendment of the gentleman would give them the advantage of the advance in price after the increase of the tax.

I agree with the gentleman from New York [Mr. FERNANDO WOOD] in respect to a principle of his own amendment, that there should be a tax upon all property which has been held over. Whether that tax should be imposed to the whole extent that the committee proposes to impose upon that manufactured in the future, or one half of that rate, I am not prepared to express an opinion. But I trust that the committee will regard the history of British legislation on this subject. It commenced in 1791 with a tax of three shillings, and went on to twelve shillings, when it was reduced to ten shillings, where it now stands. The revenue on this article with a progressive rate of taxes has largely increased, showing that a reasonable rate of taxes progressing from year to year, though it results in changing what the gentleman from Illinois regards as the necessary permanency, has not reduced but rather stimulated production. I say that we have the right to arrange the taxes according to the emergency of the country. I have some statistics which I have collected on this subject, which, however, I shall be unable to present to the House for want of time.

[Here the hammer fell.]

Mr. STEVENS. I move that the committee rise. We have arrived at the usual hour for adjournment, and as we have now before us a very important amendment, it may be proper to take time for consideration.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Cox reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly

THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 1ST SESSION.

FRIDAY, JANUARY 22, 1864.

NEW SERIES.....No. 18.

bill of the House No. 122, to increase the internal revenue, and for other purposes, and had come to no conclusion thereon.

WAR EXPENSES OF NEW YORK.

Mr. FERNANDO WOOD, by unanimous consent, introduced a bill to reimburse the city of New York for expenses incurred in the outfit of troops to aid in suppressing the present rebellion; which was read a first and second time.

Mr. FERNANDO WOOD moved that the bill be referred to the Committee of Ways and Means.

Mr. STEVENS. I wish to ask the gentleman whether his bill refers to the troops sent to Pennsylvania, to which allusion was made the other day. If it does, I will tell the gentleman that every one of them has already been paid.

Mr. FERNANDO WOOD. No, sir; it refers to all the troops which have been raised by New York since April, 1861.

The motion to refer the bill to the Committee of Ways and Means was agreed to.

REFUNDING DUTIES ON CERTAIN ARMS.

Mr. STEBBINS, by unanimous consent, introduced a joint resolution to remit and refund certain duties on arms imported and purchased by the State of New York; which was read a first and second time, and referred to the Committee of Ways and Means.

PAY OF CHAPLAINS.

Mr. GRINNELL, by unanimous consent, introduced a bill to amend section nine of the act of Congress of July, 1862, relative to the pay of chaplains; which was read a first and second time, and referred to the Committee on the Judiciary.

ATLANTIC MUTUAL INSURANCE COMPANY.

Mr. CHANLER, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the petition of the Atlantic Mutual Insurance Company in respect to funds taken by military order at New Orleans, and forwarded to the United States Treasury, be referred to the Committee of Claims.

MILITARY WAGON ROAD IN MICHIGAN, ETC.

Mr. DRIGGS asked unanimous consent to introduce a bill granting lands to the State of Michigan for the construction of a wagon road for postal and military purposes in that State.

Mr. LOVEJOY objected.

And then, on motion of Mr. LOVEJOY, (at four o'clock p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, January 20, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report from the Secretary of State, communicating, in compliance with a resolution of the Senate of the 14th instant, a copy of the report on the resources of the United States, made by Samuel B. Ruggles, and presented to the International Statistical Congress, at Berlin, in September last; which, on motion of Mr. SUMNER, was ordered to lie on the table and be printed. A motion of Mr. ANTHONY, that fifteen hundred additional copies of the report be printed, was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. COWAN presented the memorial of Darius Skidmore and nineteen others, praying for relief as against the operation of the new patent law, approved March 3, 1863; which was referred to the Committee on Patents and the Patent Office.

Mr. SUMNER. Mr. President, I present a petition from a large number of Germans in Boston regarding the proclamation of amnesty and the plan of reconstruction contained in the last presidential message. They state several objections to that plan of reconstruction; but all of them more or less seem to center in one to this effect:

"that it enables the enemies of the Republic directly to revive slavery, which is the cause of the war;" and they conclude by calling upon Congress "to take hold of reconstruction, and in such a way as to secure the abolition of slavery forever, the avoidance of a landed aristocracy by including the confiscated lands under the homestead bill, by free education for the negroes and the uneducated white people, and also by other arrangements which will make the rebels politically harmless." As this subject has already, on the motion of the Senator from New Jersey, [Mr. TEN Eyck,] been referred to the Committee on the Judiciary, I move the reference of this petition to that committee.

The motion was agreed to.

Mr. HENDRICKS presented the petition of Alfred M. Delavan, praying for remuneration for property destroyed, as he alleges, by Federal soldiers; which was referred to the Committee on Claims.

Mr. HENDERSON presented the petition of William H. Wood and George Wood, praying for indemnity for losses of property caused by the Army of the United States; which was referred to the Committee on Claims.

Mr. HARLAN presented the petition of George Bailey, praying for a modification of the existing patent laws; which was referred to the Committee on Patents and the Patent Office.

Mr. RAMSEY presented the memorial of Joseph Ford, of Northfield, Rice county, Minnesota, praying for the passage of an act allowing him to enter certain lands in Rice county, Minnesota, under the act of Congress entitled "An act to secure homesteads to actual settlers upon the public domain;" which was referred to the Committee on Private Land Claims.

Mr. HOWE presented a memorial of two hundred and sixty citizens of the towns of Harmony and Milton, Rock county, in the State of Wisconsin, tendering their thanks to Congress and to the President for the various measures taken to suppress the rebellion, and praying that still more efficient measures may be taken to that same end, and especially that colored soldiers may be put upon the same footing as to pay and privileges with white soldiers, and that measures may be taken to make emancipation general; which was referred to the select committee on freedmen and slavery.

Mr. DOOLITTLE presented a memorial of the Chamber of Commerce of Milwaukee, praying that such action may be taken as shall result in securing a new treaty between the United States and Great Britain, founded upon the principles of reciprocity between the two Governments and the people of both countries, and which shall obviate the objections and inequalities existing in the present treaty; which was referred to the Committee on Foreign Relations; and a motion of Mr. DOOLITTLE that the memorial be printed, was referred to the Committee on Printing.

THE CONFIRMATION OF GENERAL SCHOFIELD.

Mr. BROWN. Mr. President, I ask leave to submit to the Senate a memorial received from a large majority of the loyal members of the Missouri General Assembly, protesting against the confirmation by this body of the nomination of Brigadier General J. M. Schofield to the position of major general in the volunteer forces. It is in these words:

Protest from David Wagner and sixty-three other members of the Legislature of Missouri, against the nomination of John M. Schofield to be a major general in the volunteer forces of the United States.

JEFFERSON CITY, MISSOURI, December, 1863.

To the Honorable Senate of the United States:

The undersigned, members of the General Assembly of the State of Missouri, do earnestly protest with your honorable body against the confirmation of Brigadier General J. M. Schofield as major general, for the reason that, during his command in this department, his influence and patronage have been partial, and favorable alone to the class commonly denominated "rebel sympathizers," and has been used against the truly loyal citizens, who have been loyal without a single hint or reproach of sympathy for pro-slavery treason or traitors. It has, moreover, associated himself with, and permitted his official influence and patronage

to support that clique who are attempting to crush out the friends of the Union and liberty, and also to deprive the gallant Missouri soldiers in the Federal Army from their rightful expression as citizens in the exercise of the elective franchise—an outrage of the blackest character, and such deprivation attempted solely to fasten on an unwilling people a curse sought to be gotten rid of.

Can we, need we, offer stronger reasons to your honorable body to induce you to reject such confirmation?

We believe there yet remain a sufficient number of gallant and meritorious officers, deserving of promotion, without conferring honors on officers whose influence, when in power, has been given in favoring "rebel sympathizers" and those hostile to the Federal Government.

We claim to represent the undoubted loyal men of Missouri, and a party true to the principles and flag of the Union and freedom—a party sustained at the last State election by a majority of the loyal men of this State and NINETEEN TWENTY-TWO of the soldiers in the field. We have, moreover, almost without any favor or patronage from the General Government, and with the opposition of a corrupt State Government—corrupted by pro-slavery secession influences—fought this political contest, ever keeping the flag of freedom victorious.

We ask you to favorably consider our petition and protest.

DAVID WAGNER, Senator from Lewis county.

J. W. D. L. F. MACK, Senator from Greene.

PEEHL COSTE, Senator from St. Louis.

A. L. GITSTRAP, Senator from Macon.

W. B. EDWARDS, Senator from Dallas.

FREDERICK MUNCH, Senator from Warren.

J. V. PRATT, Senator from Linn.

JOHN SEVERENCE, Senator from Buchanan.

WILLIAM HEREN, Senator from Andrew county.

CHARLES H. HOWLAND, Representative from St. Louis.

WILLIAM N. HARRISON, Representative from Camden.

RICHARD H. MELTON, Representative from Benton county.

F. M. GIDEON, Representative from Lancy county.

T. P. BRUTON, Representative from Ozark and Douglas.

G. W. HOULD, Representative from Johnson county.

ORVILLE P. WELCH, Representative from Cedar county.

ALONZO THOMPSON, Representative from Nodaway county.

W. K. TRAPP, Representative from Andrew county.

WM. DENBY, Representative from Dade county.

SAMUEL DOWNEY, of Harrison.

A. G. HOLLISTER, of Holt county.

P. C. LANE, of Marion.

JAMES WARMSLEY, of Knox.

GERT GOEBLE, of Franklin county.

WILLIAM FOLLENICUS, of St. Charles.

A. J. BARR, of Ray county.

H. BUNCE, of Cooper county.

E. B. THOMAS, of St. Louis county.

JAMES E. CALLAHAN, of Dent county.

J. T. FOOTE, of Texas county.

R. T. CARTWEL, of Benton county.

C. B. WALKER, of McDonald county.

E. L. WINTERS, of Grundy county.

MILTON MILLION, of Lewis county.

ROBERT BAILEY, Jr., of St. Charles county.

H. J. FISHER, of St. Louis.

GEORGE SMITH, of Caldwell county.

CHARLES F. MEYER, of St. Louis county.

JAMES BRERLY, of Buchanan.

B. R. BONNER, of St. Louis.

THOMAS SCOTT, of Miller county.

W. L. LOVEFACE, of Montgomery county.

E. J. HENNETT, of St. Louis.

S. E. ROBERTS, of Lawrence county.

W. A. CURRY, of Cole county.

J. W. BOON, of Barry county.

JOSEPH A. KENNEDY, of Mercer county.

JOHN McGOLDRICK, of Schuyler county.

JAMES C. TRIPLETT, of Putnam.

A. S. O'BANNON, of Cass county.

E. W. MURPHY, of Franklin county.

C. P. JOHNSON, of St. Louis.

N. C. JOHNSON, of Scott.

BENJAMIN F. COOK, Representative from St. Clair county.

JAMES SOUTHARD, Representative from Dallas county.

W. H. JOHNSTON, Representative from Daviess county.

G. L. HEWITT, of Marion.

R. F. WINGATE, of St. Louis.

E. H. E. JAMESON, of St. Louis.

JOHN L. BITTINGER, of Buchanan.

L. C. MARVIN, Speaker of the House of Representatives.

EMIL PRETORIUS, of St. Louis.

C. C. MANWAKING, of Gasconade.

J. E. SMITH, of Greene county.

This protest is signed by sixty-three Senators and Representatives—men of high character in their respective sections—who reflect the united loyal sentiment of the State as they recognize it, who stand in the presence of the very events of which they speak, and are personally cognizant of the maladministration charged. In the long

struggle which has resulted in securing the adhesion of Missouri to the national cause, they have ever been in the front rank, staking all upon the issue, true among the truest.

The allegations set forth in the paper presented are to the effect that the military administration of General Schofield has been persistently and disgracefully favorable to rebel sympathizers and to the disloyal element in our population, at the expense of the friends of the Federal Government. It will be remembered that this officer was first left in command of the department of Missouri by General Halleck, and that he was removed from that position, after a short trial of his conduct of affairs, by the President, upon the application of a committee representing gentlemen of high standing in Missouri, charging him with disloyal practices, and with not giving a hearty support to the then struggling nation's cause. In preferring the present accusation, therefore, the members of our General Assembly only reiterate and affirm with additional intensity upon a second experience what was so forcibly represented in the first instance. It is a cumulative case of wrong, of evidence, of complaint. The modes in which outrage is alleged to have been perpetrated are various—exclusion from the service, from promotion and employment of all who had been marked by zeal or forwardness in behalf of the Government when it was a peril and not a payment to be so signalized; persecution of prominent citizens for their political faith in freedom; for the singing of a song or the cheering a victorious name; intimidation or suppression of loyal newspapers and arrest of their editors for criticising his tyrannies with too free a speech; consigning to the dungeons of a military prison, upon rebel accusation, gallant officers who had seen more battle-fields than he had ever gotten steps of undeserved promotion; and liberating of his own motion to dwell in the chief cities traitors convicted by military commission of smuggling quinine and correspondence to the enemy.

Touching the matter of the disfranchisement wrought through his instrumentality, or at least with his cognizance, upon the vote of the soldiers in the field, reference is had to the assumed military control of elections as respects judges, voters, and the disposition of troops under the sinister influences of a State organization resolute to retain power in defiance of the popular will. This specific feature of the arraignment is a political one, of which each must judge for himself, but they who object to such interference of the military arm on principle can scarcely indorse it, no matter to whose advantage exercised. That in this instance the power, with all accustomed and unaccustomed appliances, has been used against the party of freedom is proven by the very complaint itself. These gentlemen, loyal themselves to the Government of the nation, coworkers beside the Administration, would never make an issue with its military arm in their own State without cruel provocation. That fact carries its proof along with it. So much for the memorial of the loyal members of the Legislature whose names are signed to this document.

I now present, in connection with the same subject-matter, and in continuation of the arraignment, the protest of the more immediate Representatives in Congress of those who sustain the Administration and the Government in Missouri. Here is their statement and remonstrance:

Protest of BENJAMIN F. LOAN and others, Representatives in Congress from the State of Missouri, against the confirmation of the nomination of Major General Schofield.

Hon. HANNIBAL HAMLIN: We, the undersigned, representing truly loyal congressional districts, as well as the loyal citizens of the State of Missouri, on the floor of the House of Representatives of the Thirty-Eighth Congress, do, in the name of said districts and of the loyal citizens of said State, most solemnly protest against the confirmation of the rank of major general conferred, by appointment by his excellency the President of the United States, upon Brigadier General J. M. Schofield, and will ever protest, in their names, for the following reasons: the loyal citizens of the military department of Missouri, with ourselves, are not familiar with (or known to) any act of Brigadier General Schofield which merits even the rank he now holds. From the time General Halleck left St. Louis to take command of the army before Corinth, in the spring of 1862, until General Curtis assumed command of the department of the Missouri, about October, 1863, General Schofield, as district commander, had unlimited control of military affairs in Missouri, and his administration proved a most signal failure. Porter, in northeast Missouri, was allowed to collect, in the summer of 1863, a band of guerrillas numbering some five or six thousand, with which he ravaged the country and murdered the loyal citizens for long space of time.

Poindester, in the central part of the State, north of the Missouri river, had a similar band of about sixteen hundred, with which he committed all kinds of outrages on the loyal citizens. The southeast and southern border of Missouri were, for all practicable purposes, in the hands of the rebels. In August, Coffee, Cockrell, and others, were allowed to march a large force into the river counties on the west of the State, and defeated the Federal forces in the disastrous battle of Lone Jack, in which our loss was, in killed and wounded, very great. The rebels, after collecting a large number of recruits and conscripts and great quantities of booty, were allowed to retreat without serious loss.

On General Curtis's arrival in Missouri a change was effected at once. Vigorous measures for the prompt punishment of guerrillas, bushwhackers, and rebels, and their sympathizers, were adopted.

The enemy felt the necessity of changing their location, and loyal men began to realize that they were once more under the protecting influence of the flag of our country.

Shortly after General Curtis assumed command in Missouri, General Schofield, at his request, was relieved of the command of the district of Missouri and assigned to the command of the army of the frontier. This army was kept very active in marching and countermarching between Springfield, Missouri, and Fayetteville, Arkansas, and without any practical results, until indisposition compelled General Schofield to retire from the head of the army of the frontier and return to St. Louis. This providential interference resulted in the splendid victory of Prairie Grove, gained under the gallant lead of Major Generals Blunt and Herron, and which resulted in breaking up the organized rebel army in northwest Arkansas, and in driving most of its scattered fragments to the south of the Arkansas river. Perhaps disgusted with his want of success on the west side of the Mississippi river, it was understood that General Schofield, at his own request, was transferred to a command in the department of the Cumberland, where it was hoped his scientific acquirements, guided and directed by competent commanders, would prove beneficial to his country. It is not known that the hope was ever realized. Without any brilliant action to attract the attention of the country to General Schofield, and to the astonishment of all loyal men of the West, General Schofield, notwithstanding the non-action of the Senate upon his nomination to be major general, is called from the army of the Cumberland to supersede General Curtis, and to assume command over the field of his former failures. Generals Blunt and Herron, both of whom had won their promotion for gallantry on the field, and whose nominations as major generals had been confirmed by the Senate, were subordinated to this officer.

On assuming the command of the department, the quiet, peace, and order established by the judicious administration of General Curtis, and the sense of security felt by loyal and law-abiding citizens, entirely disappeared, and once more the rebels and sympathizers rejoiced in their triumph. Under his administration, Federal authority in Missouri was entirely subordinated to State rule, and the whole was directed by a policy in sympathy with rebels, and discriminating against the loyal sentiment of the State.

Under this administration Federal guns, as a general rule, in western Missouri, and it is believed throughout the State, have been intrusted to the hands of those in sympathy with the rebellion, to the almost entire exclusion of those of known loyalty. And one of the consequences resulting therefrom was, that a band of guerrillas, some fifteen hundred in number, penetrated to the city of Booneville, the geographical center of the State, murdering the citizens, and plundering, burning, and destroying property along their route. Another was the massacre and destruction of property at Lawrence—an act of fiendish atrocity and savage barbarity that cannot find a parallel in the annals of any country. It is true that General Schofield hastened to the vicinity of this cruel tragedy, and arrived without unnecessary delay; but it is not known, from any official report that has been made public, that any other or further action was taken than to so arrange the troops along the western boundary of Missouri as to furnish the protection to the guerrillas, as they retreated into Missouri, from the pursuing citizens of Kansas, who had hastily been assembled to avenge the foul crimes perpetrated upon their citizens and friends; and he telegraphed triumphantly, from the western border, to Lieutenant Governor Hall, that effectual means had been taken to prevent the invasion of Missouri by the citizens of Kansas. It is to be regretted that equal energy and zeal had not been shown to have kept Missouri guerrillas out of Kansas. In a word, General Schofield's administration in Missouri has resulted in misrule, discord, and confusion, and to the destruction of the best interests of the loyal people of the State. In fact, these outrages, wrongs, and injuries are so excessive that the House of Representatives of the Legislature of Missouri, now in session, have appointed a select committee, among other things, to investigate and report upon these wrongs and outrages. A report from this committee may be expected in about two weeks, at which time official information in relation to the military misrule in Missouri can be laid before the Senate.

Very respectfully, your obedient servants,

BENJ. F. LOAN,
J. W. MCCLURG,
S. H. BOYD,
HENRY T. BLOW.

The honorable gentlemen whose names are appended, and who so ably represent a large part of Missouri in the other branch of this Congress, have stated their grounds of complaint in language whose point, succinctness, and direct bearing I could not improve upon, and that I will not attempt to amplify. It will be sufficient to say, if I am correctly informed, that in regard to the part taken by General Schofield in the "marching and countermarching" in the Southwest, and for acts of omission and commission not necessary here to recite, he will be made the subject of charges preferred and a court martial demanded by a

brother officer high in the confidence of the people of the West. To the other branch of this protest which relates to the arming of rebels and rebel sympathizers in Missouri, their enrollment into distinct companies, and their being intrusted with the keeping of watch and ward over their loyal neighbors, disarmed and disbanded, I wish to add a supplement. It is a communication united in by all the members of this Congress from the State of Iowa, representing that this terrorism has even crossed the border and disturbed the quietude of their own State. I will read it, that Senators may know how others of neighboring States, men of unbiased judgment, of pure standing, and large intelligence contemplate and regard this military administration of General Schofield in Missouri:

HOUSE OF REPRESENTATIVES, January 8, 1864.

To the Loyal Delegation in Congress from the State of Missouri:

The undersigned, of the delegation from Iowa in Congress, and whose congressional districts border some three hundred miles upon the State of Missouri, have received information which gives them some alarm for the peace of the border. These representations, from responsible sources, are to the effect that known and notorious rebels, who had returned from the rebel armies into Missouri, had been furnished with arms under the authority of Governor Gamble or General Schofield, and actually organized into companies; and that such organizations are found in the counties dangerously near the State line of Iowa. A few border military companies exist in Iowa, under State authority, barely sufficient in number to keep the peace against rebel sympathizers on either side of the line. Some outrages have been already committed in the southern tier of counties in Iowa, indicating the continued existence of the rebel secret organizations. Our constituents are firmly of the opinion that the threatened danger is solely attributable to the existing regulations in Missouri, which keep parties, loyal and disloyal, anti-slavery and pro-slavery, so nearly balanced, and the latter so well armed, that affrays, robberies, and slaughter may at any time break forth, not only in Missouri, but across the border in our State. The feeling is such that in some border counties of Iowa, we are advised, petitions are circulating for the removal of General Schofield, to whom they assign the responsibility for this perilous condition of the coterminous territory.

We believe that permanent peace will not be established there until one party or the other in Missouri, pro-slavery or anti-slavery, disloyal or loyal, shall gain an acknowledged supremacy in authority and in numbers. We ask you, gentlemen, who have the right to be heard at Washington, to counsel incasures which will preserve order and law, where they can only be found, under the control of men who offer blood and treasure to save the country, not under the armed interference of men who have offered blood and treasure to destroy the country.

The feeling in our districts is increasing in intensity. Our people resent the indignity of arming again their old enemies on the border; and we warn, through you, the State you represent of the coming danger, if the enemy whom our troops have conquered at the front is sent to the rear only to be rearmd there to our greater peril.

We are, very respectfully, your obedient servants,
JOHN A. KASSON, Fifth District.
JAMES F. WILSON, First District.
J. B. GRINNELL, Fourth District.

The undersigned, being members of Congress from the State of Iowa, concur in the foregoing statements.

H. PRICE, Second District.
WILLIAM B. ALLISON, Third District.
A. W. HUBBARD, Sixth District.

A statement so full and so significant cannot, I am persuaded, be without its influence upon the minds of Senators. The arming of rebels and rebel sympathizers in Missouri on the ground that amnesty to them implies protection; that to return them and protect them in the sections desolated by their treason requires they should be armed in self-defense; that to arm them thus in the midst of a loyal population equally armed would result in conflict inevitably; that, therefore, to preserve the peace, it is further necessary to disarm the loyal population—all this may be very logical from the premises, but it has this one fatal defect, that it subordinates the rights and securities, the lives and the fortunes of the conquerors in this war to a futile, faithless conciliation of the men of treason.

One other matter deserves mention here. The days past have been few since an honorable Senator from Minnesota felt called upon to introduce a resolution in this body to elicit information and compel justice to soldiers of his State confined in jail at Jefferson City, under this same régime, and in pursuance of a kindred policy that would punish as a crime hostility to slavery in Missouri. The case is not an isolated one, as was well attested by the Senator from Kansas. The blue-eyed northern boy marching from his far-away home to confront a rebellion contending for mastery of the State—his heart aglow, perhaps, with traditions of freedom—finds transgression against the slave code visited with unrelenting harshness, while oblivion drapes a corresponding breach of the articles of war.

Mr. President, the pith and meaning of all this protest and memorializing is to ask that this honorable body, the Senate of the United States, famed for the prudence of its judgments and the self-reliance of its courses, will by no act in this connection give its indorsement to such a departmental military administration as has been set forth. The loyal people of Missouri have suffered and are still loyal; have been smitten where they should have met with caress; yet do not have it in contemplation to forego either their attachment to freedom or their support of the Government. They simply ask, and have asked continuously in the appropriate quarter, that even at this late day the remedy of a change may be applied; but above all and before all, in the memory of a long trial and in justice to an unquailing spirit, they demand that they shall not be now humiliated before this nation "with the advice and consent of the Senate," as would be done by the confirmation of this nomination.

Mr. President, having received these communications from the Representatives of the State in the General Assembly and the members of Congress in the other House both of my own State and of Iowa, and numberless letters of like tenor from various quarters, I have deemed it my duty that they should be presented to the Senate with the words of explanation with which I have accompanied them. I now submit them and move that they be laid on the table. I presume it is not necessary to print them, as they have already been printed.

The motion was agreed to.

REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 30) to establish a uniform system of ambulances in the armies of the United States, reported it with amendments.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a joint resolution (S. No. 20) extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who entered the service of the United States prior to May 3, 1861, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print fifteen hundred copies of the report of S. B. Ruggles on the resources of the United States, presented to the International Statistical Congress at Berlin in September last, reported in favor of printing the same.

GENERAL McCLELLAN'S REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print five thousand extra copies of the report of General George B. McClellan, have instructed me to report it back with an amendment, and to ask for its present consideration.

The VICE PRESIDENT. The resolution will be read.

The Secretary read the resolution, as follows:

Resolved, That five thousand copies of the report of General George B. McClellan upon the operations of the army of the Potomac, recently communicated by the Secretary of War to the House of Representatives, be printed for the use of the Senate.

The amendment of the committee is to add the words:

Without the accompanying documents and maps.

The amendment was agreed to; and the resolution as amended was adopted.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. ANTHONY, it was

Ordered, That the papers of Caroline S. Williams, administratrix of Thomas P. Williams, praying for the extension of a patent, be taken from the files of the Senate, and referred to the Committee on Patents and the Patent Office.

REFERENCE OF A COMMUNICATION.

Mr. LANE, of Kansas. Some time since I introduced a resolution, which was passed by the Senate, calling upon the Secretary of War for a report as to the officers of the fourth and fifth Indian regiments. In my absence it came in and was laid on the table. I move that it be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

THE FIRE IN CHILI.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate (if not incompatible with the public interest) any official information which may have been received upon the subject of the recent destruction by fire of the church of the Compañia at Santiago de Chili, and the efforts of citizens of the United States to rescue the victims of the conflagration.

CONCENTRATED FEED.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be directed to inquire into the facts connected with the examination, by a board of officers appointed by the quartermaster's department, into the alleged advantages of "concentrated feed" for horses and mules in the cavalry service; whether any report favorable to its adoption was made, and if so, why the said feed has not been used in the service.

THE CONDUCT OF THE WAR.

Mr. WADE. I move to take up the concurrent resolution for the appointment of a committee on the conduct of the war, which has been returned from the House of Representatives with an amendment.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the resolution. The amendment is to strike out the words "that they have power to send for persons and papers and to sit during the sessions of either House of Congress, and to employ a stenographer;" and in lieu of these words to insert the following:

And may further inquire into all the facts and circumstances of contracts and agreements already made and that may be made, and such contracts and agreements hereafter to be made prior to the final report of the committee, by or with any department of the Government, in any wise connected with or growing out of the operations of the Government in suppressing the rebellion against its constituted authority; and that the said committee shall have authority to sit during the sessions of either House of Congress and during the recess of Congress, and at such times and places as said committee shall deem proper, and also to employ a stenographer as clerk at the usual rate of compensation.

And be it further resolved, That the said committee shall have power to send for persons and papers, and that the Sergeant-at-Arms of the House or of the Senate, as the said committee may direct, shall attend in person or by assistant the sittings of the said committee, and serve all subpoenas put into his hands by the committee, pay the fees of all witnesses and the necessary and proper expenses of the committee.

And be it further resolved, That the Speaker of the House or the Vice President and President of the Senate shall be authorized to issue subpoenas to witnesses during the recess of Congress upon the request of the committee, in the same manner as during the sessions of Congress, and the said committee shall have authority to report in either branch of Congress at any time.

The amendment was concurred in.

On motion of Mr. WADE, and by unanimous consent, the Vice President was authorized to appoint the members of the committee on the part of the Senate.

REPORT OF MR. WRIGHT.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States:

Gentlemen of the Senate and House of Representatives:

In accordance with a letter addressed by the Secretary of State, with my approval, to Hon. Joseph A. Wright, of Indiana, that patriotic and distinguished gentleman repaired to Europe and attended the International Agricultural Exhibition held at Hamburg last year, and has, since his return, made a report to me, which it is believed cannot fail to be of general interest, and especially so to the agricultural community. I transmit for your consideration copies of the letter and report. While it appears by the letter that no reimbursement of expenses or compensation should not be made him for them.

ABRAHAM LINCOLN.

January 29, 1864.

On motion of Mr. SUMNER, the message and accompanying report were ordered to be printed; and a motion of Mr. FESSENDEN to print fifteen hundred additional copies was referred to the Committee on Printing.

On motion of Mr. LANE, of Indiana, the message and report were referred to the Committee on Agriculture.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had yesterday approved and signed a bill (S. No. 50) to authorize the Presi-

dent to appoint a Second Assistant Secretary of War.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 35) to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri; and it was signed by the Vice President.

OATH OF OFFICE.

The VICE PRESIDENT. If there is no other morning business, although the unfinished business of yesterday will not come as the special order until one o'clock, the Chair will now submit that to the Senate. The unfinished business of yesterday is the resolution of the Senator from Massachusetts, [Mr. SUMNER,] proposing an additional rule of the Senate. The question is on an amendment to that resolution, offered by the Senator from Delaware, [Mr. SAULSBURY.] Upon that question the Senator from Vermont [Mr. COLLAMER] is entitled to the floor.

Mr. COLLAMER. Mr. President, the question which demands our attention at the present time is the legal effect, the constitutional force, and the regular operation of a certain statute law passed in 1862 requiring members of the Senate to take a certain oath, prescribed therein, before entering upon the duties of their office. The rule now proposed is to require all members falling within its operation, that is, those who have been elected since the passage of the act, to take that oath before proceeding further in their duties.

In order to understand properly the true intent and meaning, the purport and object of a statute, it is necessary and proper to take into consideration all the contemporaneous legislation *in pari materia*, all relating to that subject, passed in or about that time, bearing upon each other. I think that a large proportion of the remarks of the honorable Senator from Delaware [Mr. BAYARD] have been made in disregard of that rule. It is also an old rule of law that when we desire to ascertain the true meaning of a statute we are to take into consideration the old law, the mischief, and the remedy—the old law as it existed, the mischief that existed under it, and the remedy which the proposed new law contemplated.

In 1862, at the time of the passage of this act, there were a variety of laws relating to this subject of treason and its effect upon this Government. The attempts to remedy it were all begun in their incipient stages independent of each other. Some of them were passed at one period and some at another. Some of the statutes which were commenced first were ultimately passed after many others that were commenced afterwards; but in ascertaining their purpose and purport, I take it, we must look to them all as *in pari materia*.

Now what was our trouble which was intended in some measure to be corrected by these laws, this one among the others? I do not intend to occupy a great deal of time in undertaking a description of our condition at that time. Up to the year 1861, and for several months in that year, men occupied seats in this Senate and in the other House, but especially in this Chamber, who disclaimed all allegiance to our Government, who claimed the right to dismember that Government as a constitutional right, who set on foot plans to execute these purposes, and who openly declared such to be their purposes. They were a body of men distinguished for ability, domineering over the party of which they were in a great measure a majority, and which party was the dominant party of the Senate. They did this defiantly, menacingly, superciliously. This was the arena on which they put forth all their gladiatorial efforts of treason.

The time finally came when those men departed from this Chamber and from this city, as Catiline did from Rome, to go into the country and carry into effect by blood the conspiracy which they here concocted. They did go, and we soon learned, before the year 1863, that they did put in operation these their combinations, and that their hands were red with the blood of our people.

The question at once arose in this body, how can this country be secured against the repetition of this? Those men, and men like them, must be put out of this body, and they must be kept

out of this body. No other course could secure the country. Whenever the opportunity occurred, whenever the majority was obtained by those whom they had left here, and by the places which were filled by the people, those men were expelled from the body.

The next question is, how are they to be kept out? It is clear, sir—it is not necessary that I should take up your time in proving that—if the interests of this Government are to be put into the keeping of men who avow their enmity to its existence, and who boldly plot its destruction, it is utterly impossible that that Government can long exist. If men of that character and men of that conduct can have seats and retain seats here, then there is an end of this Government. If the Constitution is so framed that it is subject to this infirmity incurably, it is an abortion, it is a total failure; and if any construction can be given to this Constitution which, in practical application, can produce this effect, it is as much a destruction of this Government as secession is.

Such was our condition and such were the demands upon us. It became necessary to inquire what was the mode of correction. It was quite evident that the taking of an oath to support the Constitution did not amount to any correction. All those men had that oath on them, and it furnished no sufficient security. The Constitution provided that a man should have certain qualifications in order to be admitted as a Senator: that he should be thirty years of age, a citizen of the United States for nine years, and a resident of the State electing him. If no other qualifications or disqualifications could by any possibility be framed and constitutionally executed, then those men were entitled to have their seats here if they could but get here, and, if entitled to take them, entitled to keep them. The question then returned directly on the mind, is it true that such is the Constitution of this Government that you can have no other qualifications or disqualifications that those mentioned in the Constitution? If you have no others, then clearly it was subject to the infirmity of which I have spoken.

The honorable Senator from Delaware seems to suppose all the way through his remarks that we have undertaken to create new disabilities by the form of the oath which we have prescribed, and all his argument has been confined to that, leveled to the form of that law. All his objections are made to that law, as if that law created, made, defined new qualifications or disqualifications. There is the great mistake. I will undertake to show that that statute does not contain any provision for a disqualification, never was made for any such purpose, that the disqualification which exists of which that statute speaks was created by entirely an independent and different law, passed at the same session, and therefore *in pari materia* on this subject of treason, and that the statute in regard to the oath is merely ancillary, auxiliary, aiding the body in the carrying into effect of the other independent law which created the disability. I now wish to call the attention of the Senate to the law to which I have alluded, not the law which is charged by the Senator with creating the disability, but the law which actually did create it.

Mr. President, I ask again what was the trouble which existed? It was nothing more nor less than this: that, as we viewed it, men who were traitors here and traitors in the field against us might have seats here, and we thought that those men should be, if they could be, disqualified from having seats here. We found upon looking at the existing statutes that the punishment for treason, the crime of treason, being itself defined in the Constitution, was death, no other. It is very true that if a man is executed it generally disqualifies him from holding office; but there seemed to be no other way to get him disqualified under the then existing law except by having him executed. It was hardly to be expected that we should ever be able, however successful we might be, to bring to trial and execution, I will not say hundreds, but thousands. There were a variety of considerations which entered in a great measure into the change of the law for the punishment of treason. It was changed, and I wish to call attention to it as it was changed. The law making the change was passed in July, 1862, and it provided—

“That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged

guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years, and fined not less than \$10,000, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all of the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding.”

“Sec. 2. And be it further enacted, That if any person shall hereafter incite, set on foot, or assist, or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in or give aid and comfort to any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by a fine not exceeding \$10,000, and by the liberation of all his slaves, if any he have; or by both of said punishments, at the discretion of the court.

“Sec. 3. And be it further enacted, That every person guilty of either of the offenses described in this act shall be forever incapable and disqualified to hold any office under the United States.”

There was the law that created the disability; it was not the law about the oath. Another thing you will observe, Mr. President, that if disaffected States could send men here opposed to the existence of our Government, and who desired its destruction, and if those men could come from the battle-field of yesterday, sit here to-day and confound our councils and return to the battle-field to-morrow, what would be the consequence? These men, we well understand, could never be convicted in States thus sustaining them; and therefore if we were to wait for their conviction we could never be disabused of them in the Senate, could never be expurgated of them. This law was not drawn so as to provide that if a man shall be convicted of treason he shall be disqualified. That is not the expression. It was intended and made for the occasion. It is that “every person guilty of either of the offenses described in this act shall be forever incapable.” The man is incapable if he is guilty of the act. A disaffected State which would send a traitor here would not be likely to convict him; and if we could not be disabused and freed from persons of that kind to confound our councils, it is clear that this Constitution and this Government must go to ruin. Hence this law was drawn, intentionally drawn, in that way. What is the effect? Is there anything unconstitutional in it?

The honorable Senator from Delaware produces to us the decision in New York in the case of Jacob Barker against the People of the State, decided in their supreme court and carried to their court of errors and there affirmed, and he subscribes to the doctrine of that decision, and produces it as sustaining himself. The decision is that a State by its Legislature has a right to create an incapacity to hold office, a disqualification for office, as a punishment of crime, and the Senator admits that Congress by its legislation may do so as to officers under the United States. The Senator says so; that case says so; and if this country is without that power it is shorn of a power necessary to its existence. But there is nothing new in that. This is not a new case of that kind. Since the early day of 1790 we have had upon our statute-book a law that a man guilty of bribery in our courts should be disqualified from holding any office under the Government. In 1853 we passed a law that if a man was found guilty of bribery not merely in court, but in regard to any matter connected with the Government anywhere, he should be disqualified from holding office under the Government. Recently there have been a number of these statutes. There is nothing new in principle in them. I do not know why the United States Government, in the making of its laws for the punishment of crimes against its authority, is not clothed with the same power as a State Legislature. We have always so considered it, and have exercised the power. I know of no prohibition upon the power of Congress in the making of laws for the punishment of crime except the restriction that cruel or unusual punishment shall not be inflicted.

This statute, thus made, under this known and acknowledged authority of Congress, is entirely unobnoxious to a large part of the objections which the Senator from Delaware has made to the other law providing for the administering of the oath. He seems utterly to have overlooked this statute. He either believes or would lead others to believe that the disqualification of a man who is a traitor holding a seat here is to be found only in that

oath law, and his great objection is to its being created in such a manner, either because he never heard, or never thought proper to look at, or did not desire to expose this law, which I have now presented.

This leads me, Mr. President, to make some remark now, in regular order, in relation to that other law, the law about which he finds so much fault. Suppose that no other law had been passed upon this subject of disqualification for treason except the one I have read, how would it have left it? The Senate and the House of Representatives, judges of the qualification of their own members, having before them this law providing that if a man was guilty of treason he should be disqualified from holding office, their only course would be to carry into effect that declared law as well as they could, making proper inquiry whether anybody who presented himself here for a seat fell within it, and if he fell within it to prohibit his taking the seat. In that case it would have been left entirely to their own rules, to their own order of proceeding. It would have been like a case which was mentioned the other day by the honorable Senator from Kentucky. He told us that the Legislature of the State of Kentucky recently passed a law by which they disfranchise all their citizens who have been engaged in this rebellion; do not permit them to vote; and he very properly added that the judges of election took their best course, according to their own judgment, to ascertain how the fact is.

Suppose a man were to present himself here as a Senator and you wished to ascertain in the easiest and the most convenient way you could whether he had the qualifications mentioned in the Constitution, would there be anything at all improper in the Senate's making a rule that each person presenting himself to be sworn in as a Senator should take an oath to answer whether he was thirty years of age; whether he was a citizen of the United States for nine years; whether he resided in the State that chose him a Senator? If they thought that the easiest, the most quiet and convenient practicable method of getting at the question of his qualifications or disqualifications, could not the Senate direct its President to ask him, “Are you thirty years old?” It might not do for him to own that he was not, because then he would not be entitled to the seat; but would there be anything improper in asking him the question? Is the form of the question varied if you ask him about a disqualification instead of asking him about a qualification? Not at all.

Suppose this law which I have read was the only law upon the subject, would it not have been competent and proper for the Senate at any time to say to a man elected after its passage, “Sir, we wish to inquire of you whether you have this disqualification?” Why not? Why not ask him about that as about any other qualification or disqualification, if it is a disqualification created by a constitutional law? I cannot see the difference. I think the Senate could adopt the very rule now proposed by the Senator from Massachusetts if this law had never been passed—a rule that they direct to be put to their members, the very form of oath prescribed in the law, to ascertain whether the party had been guilty of treason. I see no reason why it could not have been done whether there was a statute for it or not. I grant, however, that it is a more convenient way to have the rule made under the form of law in the first place, not merely to enable you to address yourselves to the man's conscience in the sight of God under the sanctions of religious belief, but also to do it under the sanctions of law; and it is made for all, not requiring any charges to be filed, not requiring any invidious distinctions to be made, but offering it to all who present themselves. Besides, when it has the sanction of law, a breach of the oath becomes perjury, whereas if it was merely prescribed by a rule a breach of it would not be perjury.

Now, sir, what is the true character of the law requiring this oath? It is nothing but a mode practically to aid the body in carrying into effect this previously existing declaration in relation to disqualification, not creating a disqualification. Suppose a law is made, such as is common in our States, that a man guilty of murder shall suffer death; and it may be that other crimes are also punished in the same manner. Another separate statute is made which directs how and in what

manner the proper officer shall execute that statute, whether by hanging or shooting, or in what way, in what manner the thing shall be done by the officer that has the warrant to execute. Would it do to say that because that statute directed the sheriff to execute the man who had been convicted of murder by hanging therefore that law defined the crime or created the punishment for murder? Not at all; it only directed the manner of its execution. That would be the sheriff's warrant for the mode of execution; but the law which defined the crime and created the punishment was an entirely different statute. So it is in this case.

This naturally brings me to consider some of the objections which the honorable Senator makes to this last law, but it will be borne in mind that he all the while makes all his argument against that law, and treats it as if it were the only law on the subject. What he would say to this law which I have now produced, read, and presented to him, and how many of the objections he makes to the other law he would consider applicable to this, I do not know, I cannot say. It presents an entirely different case, and it removes a large part of the objections which the honorable Senator makes to the law prescribing the oath. I will now call attention to some few of the points of objection which he makes to that statute, and I think it will be apparent that whenever you look at those objections it will be found that in the view in which I have presented the subject, taking together all the laws made at that time on the subject-matter, many of them are entirely removed; but I will now attend to several of them *seriatim*.

One objection to this oath is that it is in the nature of a test oath, and that it may be extended so as to require a man to expurgate himself from all crimes. He says, in effect, that this is a precedent for any future Congress to make a law by which they may require a man to take an oath that he has never been guilty of larceny, or any other crime. Sir, it is not obnoxious to that objection. It only requires a man to take an oath in relation to a crime which by law creates a disqualification. Larceny would not disqualify a man from taking a seat in the Senate. Why not? Because we have no statute of the United States—and certainly State laws can have no effect upon it—which makes that a disqualification for holding office. This statute is nothing but a precedent for requiring an oath in relation to that which is a disqualification, no more. It is, therefore, not obnoxious to that objection, and cannot be a precedent for such a course as the Senator supposes.

But the Senator says Congress might under this precedent go on to pass a law on the subject of temperance, and might even require a man to swear that he had never partaken of wine or any other intoxicating fluid. He does not think they would be likely to do that, because it would break up Congress; but he says they might at any rate make him promise that he never would use such articles. I cannot see how, seriously and candidly, any one can make an assertion of that kind, and say that this law is a precedent for that. You will observe that that would be asking of a man to make an oath in relation to his future conduct. The honorable Senator from Delaware expressly says that there is nothing in this oath in relation to the promise of what he is to do in the present and the future to which he has any objection in the world, unless it may be to the phraseology in which it is couched. He thinks he could amend the phraseology; he thinks it is not in very good taste; but the substance of it he has no objection to in the world. Very well, then, this is not an oath which furnishes a precedent for saying that you may make a man promise and swear as to his future conduct in regard to any exceptionable matter, in relation to that which would be otherwise, if you please, entirely lawful.

This law does not require a man to take an oath that he will not do hereafter anything that is now lawful. It only requires him to swear that he will be faithful and bear true allegiance to the country. That, the Senator says, is right; to that he has no objection. In order to be a precedent for anything that is wrong of that kind, he should show that this law requires a man to take an oath that he will not do something which is entirely lawful and right. It is no such precedent. It is not obnoxious to such remark. The Senator thinks that under a precedent of this kind Congress might make an oath requiring a man to

swear that he never was a member of the Know Nothings, never was a member of the order of Odd Fellows, never practiced medicine, or anything else, however lawful or however indifferent. Sir, I say there is nothing in it that can be a precedent for such a requisition. The portion of the oath which the Senator considers objectionable contains nothing but what relates to the disability created by the other law which I have read.

The next objection is that it is contrary to the fifth amendment to the Constitution. The winding up and the substance of that amendment is, that no person shall be deprived of life, liberty, or property without due process of law, meaning, without trial and conviction. Now I ask, does this law deprive a man of life, liberty, or property? It tells the State, "You must not send traitors here; they are not entitled to hold seats in the Senate;" and it says to such men, "You had better not come here; you cannot occupy a place in the Senate."

But the gentleman says further, this is an *ex post facto* law. You require of the man to swear that he has not borne arms against the Government, &c.; what is to say, you require him to say not only that he has not borne arms against the Government since the passage of this act which I have read, but at no previous time. That would go back of the act on which and by which, I say, the disqualification exists. I desire to speak of this argument with all candor and fairness. If to-day there is a statute law which makes the punishment of larceny four years' imprisonment, and a man commits a larceny under it, and the next day afterwards, and before he is convicted, a law is passed that the punishment for larceny shall be two years' imprisonment, and he is tried, which of those sentences is to be passed upon him, the one that was in force when he committed the offense, the four years, or the two years? Clearly the two years and that only; and it is not for him to say, "That sentence of two years was *ex post facto*, after I had committed the larceny." As it is the most favorable, as it is the mildest, he should not complain of it.

Ex post facto laws are those which create that a crime which was not so before, or which operate on acts previously committed, or increase the punishment; but here you diminish the punishment. Now, sir, let us take a case under the Senator's argument. A man comes here under this law, this disqualification, and the question arises. He at once tells us, "You must not ask me about this as you proposed, nor under that law which you are carrying into effect, because that law was passed after some of the acts which you are asking me about had been committed." Now, what is that put into plain English? It is simply this: "the law formerly was that I should be disqualified by being hung for something that I did; now you are going to disqualify me under this law passed since the commission of the act without hanging me; and that is *ex post facto*, unconstitutional." That is all there is of that.

I come, now, Mr. President, to another part of the gentleman's argument which he made upon the law of which we are speaking, but not on the law in regard to the oath at all. He says we cannot change the qualifications mentioned in the Constitution; but he says he agrees entirely with the doctrine that you can disqualify a man by way of punishment of crime. He grants that you can by law disqualify a man for crime; and yet, though he grants that and produces the authority, he at the same time says we cannot add to the qualifications. Congress can do anything a State Legislature can do in relation to anything concerning their State government; and yet after all, the Senator insists upon it that we cannot change the qualification or disqualification of a member of the Senate; and that brings him to another point. He says that the man must be convicted; the Constitution requires that he shall be convicted, before he suffers anything. Sir, the law we are now trying to execute by the administration of this oath is not a matter of punishment. It is merely calling on us as judges of the qualifications of Senators to obtain evidence and pass practically upon that provision of the law. But the Senator says he must be convicted. That was one of the very troubles we had to encounter at the start. Disaffected States sent those Senators here, and the States that sent them, knowing their sentiments, knowing their conduct, and under-

standing their purposes, would not convict them, nor could they be convicted in them. The moment you admit that you must admit that your Constitution is so framed that if a man is guilty of treason and his State prefers to have him commit more, and do it in the Senate of the United States, it shall have the right to send him here, and you cannot prevent it.

But the gentleman goes further than this. He cites to us Humphrey Marshall's case in the Senate, which was a question of expulsion, to show that they there held that inasmuch as Mr. Marshall had not been convicted by a jury at home he could not be expelled for that offense. Now put these two arguments together: a man who is thus guilty of treason is sent here because he is guilty of treason to confound our counsels and destroy our Government; and the condition of your Constitution is such that you must admit him; and not only that, you cannot expel him because he has not been convicted by a jury, and he is in a State which sent him on the ground that they would not convict him; and, indeed, that was the very reason he was sent here; he was sent here for that very qualification. I do not wish to say anything more on that subject, but simply to put the case to the Senate. I have only this to say about it: whenever a man finds himself let out at the end of a course of ingenuous reasoning to a conclusion that is itself an absolute absurdity, one of two things must be true—that he has been guilty of some false logic in it, or else he is the dupe of his own sophistry.

What does such a doctrine make of your Government? Why, sir, the Government, according to the view of the Senator, with all the admiration he expresses for the Constitution, is a Government of inherent imbecility; it has within it germs of self-destruction; it is hedged around with provisions of the Constitution which, as he construes them, must make you receive a traitor on the floor because they will not convict him at home, and they sent him here because he was one, and you must keep him here; and this Chamber is by the very forms of your Constitution a great arena in which the traitors are to perform their gladiatorship. Indeed this is the very asylum, by the terms of the Constitution, the very sanctuary for traitors; and that is the condition of your Constitution! Why, sir, instead of being entitled to admiration and respect this makes of it the most intolerable abortion. I can hardly think of anything in language that would describe it unless it be the description which Richard III applied to himself and his own deformity:

"Deform'd, unfinish'd, sent before my time
Into this breathing world, scarce half made up,
And that so lamely and unfashionable,
That dogs bark at me, as I halt by them."

That is the condition of our Constitution, according to this mode of reasoning.

Mr. President, I find that I must soon conclude my remarks, because I have got through with the material I had on hand in the shape of notes, and the condition of my health is such that I shall endeavor to conclude as soon as possible. If what I have already said does not show the absolute necessity of the law which created this disability, and of this law for its execution, I can hardly conceive of anything I could say that could add to it. But perhaps a decent respect for the honorable Senator would demand of me to make a few additional remarks in reply to another point to which he adverted.

He says that this law does not include Senators at all; that Senators are not officers of this Government, and he cites Blount's case. I do not know what conclusion I and other men might come to when we were talking about some particular provision of the Constitution, whether it meant civil officers or not, when we compared it with other parts of that same instrument; we might get confounded in the comparison of the parts, and be troubled with some doubts with which we should never be troubled in reading another instrument. We have, as I said, a law from 1790, declaring that if a man was guilty of bribery in the courts of the United States, he should be disqualified from holding any office under the Government. Now I wish to know if a man was convicted of bribery whether it would really be insisted that he was disqualified and perfectly infamous in relation to all little offices of no consequence, but if he were elected to the Senate

his infamy was to his credit, rather qualified him than otherwise, did not reach him there at all? How preposterous is such an argument! The different departments of this Government are represented by, embodied in, impersonated in the functionaries of those departments. The departments of this Government are the executive, judicial, and legislative; and now, forsooth, the Senator would fain have us believe, by a long course of very ingenious argument, that the legislative department of this Government is utterly destitute of any offices whatever, unless they consist in its clerks and pages. He contends that one whole division of the Government is without anybody to impersonate it, represent it, embody it, because its functionaries are not officers of the Government at all. It seems to me to be idle to talk about such a construction of the statutes declaring disqualifications from *all offices* as punishment for crime.

I take it, Mr. President, that when the law declares that the crime of bribery in the United States court disqualifies a man from holding any office under the Government of the United States it includes all of them, and especially the highest and most responsible, which are the most important to keep clear from pollution. Unless they can find in the statute itself something that creates doubt about its extent, as some gentlemen have found in the Constitution in regard to civil offices, certain it is that the general and sweeping terms in which it is couched include all offices, and "all offices" include all men who act in the offices of the different departments of this Government.

Mr. President, I have now gone over all the ground that I think necessary, and I have but a few words to say in conclusion. The honorable Senator had a number of weeks in which to prepare his argument, and after all, when you put the whole of it together it amounts to this: treason is no disqualification of office, especially for a Senator; it cannot be made such, because by so doing you will alter the qualifications in the Constitution; a person who has committed treason cannot be excluded unless he has been convicted by a jury in the State where guilty and to which he belongs, and there he cannot be convicted; and you must go on with your Constitution with that infirmity in it. The honorable Senator prepared and delivered here an eloquent eulogium upon that instrument, expressive of his admiration for it and his great desire to keep and preserve it; and yet if you believe his argument, the vain conclusion to which it all comes is, that that Constitution is incapable of self-preservation. The gentleman seems to speak of it as if his loyalty should properly be estimated by his great love for the Constitution, and he says he would be willing to suffer on that account. Sir, when a man, however much he may express his admiration for the Constitution, comes to conclusions in its construction that utterly and absolutely destroy it, I hardly think a martyrdom for the support of such principles will ever enroll his name on the same roll with Hampden and Sidney.

Mr. President, I am aware it is generally understood in our community that the period of our great men has passed away; that the defenders and the supporters of the Constitution, those who expounded and explained it and those who enforced and sustained it, like Webster and Clay and Jackson, has passed away. This is often said with great regret, rather to our disparagement, perhaps, in this body than otherwise. I have some little consolation, even if that be true, in this: I think the time has come when the community are not relying for their security upon a few great men; the whole masses of the community are more elevated. Whatever I may think of the great brilliancy and overshadowing power of such men as those I have mentioned, yet I cannot but believe, though I may have some slight vanity in it, that in the aggregate of this intelligence and information the Senate now will not suffer by any comparison even with those days; and though the defense of the Constitution and the continuance of its life may be committed to hands even weak as mine, after all my security is not founded in the ability of its defender, but in the discernment of this body, who are its expounders, and, I hope, its supporters.

Mr. ANTHONY. Mr. President, I do not propose to discuss this question. I certainly would not presume to do so in its legal and constitutional

aspects after the speech to which we have just listened. A law that has been passed by both Houses of Congress and signed by the President is constitutional enough for me until it has been repealed or decided to be unconstitutional by the appointed tribunal. I have very little respect for that amplitude of learning which flows all over a statute until it drowns out and obliterates its meaning; and none at all for that acuteness of criticism which refines away the significance of a law until the plain common sense, which finds no difficulty in grasping and comprehending it as it stands, becomes bewildered, and doubtful if it means anything at all.

But I rose, Mr. President, to call attention to an authority which, it seems to me, is perfectly conclusive upon the competency of Congress to pass this law. In the case of *McCulloch vs. The State of Maryland*—a case so important and celebrated that it is familiar to those who have not made the law a professional study—Chief Justice Marshall holds the following language:

"The powers vested in Congress may certainly be carried into execution without prescribing an oath of office. The power to exact this security for the faithful performance of duty is not given, nor is it indispensably necessary. The different departments may be established; taxes may be imposed and collected; armies and navies may be raised and maintained; and money may be borrowed, without requiring an oath of office. It might be argued, with as much plausibility as other incidental powers have been assumed, that the Convention was not unmindful of this subject. The oath which might be exacted—that of fidelity to the Constitution—is prescribed, and no other can be required. Yet he would be charged with insanity who should contend that the Legislature might not superadd to the oath directed by the Constitution such other oath of office as its wisdom might suggest."

It seems to me that this authority is perfectly conclusive upon the subject; that it is almost prophetic in its application to the question before us. I do not desire to add anything to it.

Mr. JOHNSON. Do you read from 4 Wheaton's Reports?

Mr. ANTHONY. Yes, sir; 4 Wheaton, page 416.

Mr. HENDRICKS. Mr. President, by the Constitution of the United States it is required that Senators and Representatives shall be bound by oath or affirmation to its support, and no other oath or affirmation was taken by any Senator or Representative until the present Congress; nor was it sought to impose any other oath until by the act of 2d July, 1862, it was required that the party assuming any office of the United States shall first by solemn oath declare, not only his fidelity to the Constitution in the future, but that in the past he has not voluntarily borne arms against the United States, nor given aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; and neither sought nor accepted nor attempted to exercise the functions of any office under any authority or pretended authority in hostility to the United States, nor yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. When I took my seat in this Chamber as a Senator from the State of Indiana, although I did not believe it could rightfully be required, yet, lest my course might be misunderstood by some and misconstrued by others, and as there was nothing in the oath to which I could not without any reservation bind myself, I did not contest the question, but voluntarily, upon what I esteemed a proper explanation, complied with the requirements of the act. But, sir, when it is now sought by a rule of the Senate, proposed by the Senator from Massachusetts, [Mr. SUMNER,] to require this oath of all Senators who may hereafter demand seats in this body, I will not give the proposition my vote or support. Whoever comes here, being duly elected, and having the qualifications prescribed by the Constitution, has a right to his seat, and his State may well demand it for him. The right of his State to be represented by him is conferred by the Constitution, and cannot be denied or impaired by any rule of this body or by any act of Congress. I will not stop to inquire whether the language of the act, considered in the light of established rules of construction and of adjudged cases, includes Senators and Representatives; but will maintain that if construed to include them it is so far in conflict with the Constitution and null and void. Nor will I stop to question that terms may be added to the oath of obedience to the Constitution re-

quired of all officers, but such additional terms cannot add to or take from the qualifications prescribed by the Constitution. The Constitution provides that "no person shall be a Senator who shall not have attained the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen." A person not thirty years of age, or who has not been nine years a citizen, or who is not an inhabitant of the State for which he is chosen, is not qualified to be a Senator, but all other persons are qualified, and there is no power in the Government to disqualify or render them ineligible. By declaring these three circumstances of disqualification, touching the age, citizenship, and residence of the party, the Constitution excludes every other disqualification. The rule of construction is well stated by Story in his work on the Constitution. He says:

"It would seem but fair reasoning, upon the plainest principles of interpretation, that when the Constitution established certain qualifications as necessary for office it meant to exclude all others as prerequisites. From the very nature of such a provision, the affirmation of these qualifications would seem to imply a negative of all others." "A power to add new qualifications is certainly equivalent to a power to vary them."

The Senator from Illinois [Mr. TRUMBULL] cited the oath required of United States judges by the judiciary act of 1789, and claimed it as a conclusive precedent and authority upon the question. With great deference to that gentleman, both because of his conceded ability as a jurist and because of his position in this body at the head of the Judiciary Committee, I cannot admit that he has found either a precedent or an authority for the measure he now advocates. It is true that the Constitution requires the judges to take an oath of obedience to it; and it is also true that the act of 1789 adds terms to that oath; but has it escaped the attention of the Senator that the oath of office required of the judges is in no respect retrospective, but is altogether prospective, and looks only to a faithful discharge of the duties of their high office? By the terms of that oath no qualifications are superadded to the qualifications prescribed by the Constitution, and no persons are by it excluded from the bench who are eligible under the Constitution. When a judge of the United States courts swears that he will obey the Constitution, and "will administer justice without respect to persons, and do equal right to the poor and the rich, and impartially discharge and perform all the duties incumbent upon him," he gives a solemn assurance of official fidelity in the future, but he looks not over his past life; nor is he required to disavow either follies, faults, or crimes. He is not denied the office because he cannot swear that he is without fault in respect to the law, the Constitution, or, it may be, his allegiance.

But, sir, the measure now before the Senate is almost if not altogether otherwise. It is not prospective, nor does it seek to secure fidelity in office; but for the most part is retrospective, and seeks to exclude from seats in this Chamber persons who are not excluded by the Constitution, and to establish disqualifications unknown to that instrument.

It cannot be said that the proposed rule requires an oath but does not prescribe a qualification, for if the oath be required an entire class is excluded; as effectually excluded as if the cause were interpolated among the disqualifications prescribed in the Constitution. Could this body by a rule, or Congress by a law, require Senators before taking their seats to take an oath that they are over forty years of age, or that they have been twenty-one years citizens of the United States? All will agree that it could not be done. And why not, sir? For the obvious reason that it would be going beyond the constitutional disqualifications, and attempting to exclude classes not excluded by that instrument.

The measure before the Senate is proposed by the Senator from Massachusetts, [Mr. SUMNER.] Will that Senator allow me to remind him that when he took his seat in this body, twelve years ago, Senators of his political views were in a small minority; that both branches of Congress were controlled by men who, standing upon the adjudications of every department of the Government, believed that the Constitution not only allowed but required legislation on the part of Congress

securing the return of fugitive slaves; and that good faith, as well as the harmony of the sections and the unity of the Republic, required that the laws enacted for that purpose should be faithfully executed. As I understand, that Senator came with avowed convictions adverse to the constitutional power of Congress to enact laws upon that subject, and disclaiming all obligation on the part of the citizen to aid in their enforcement. Now, sir, had Congress by law, or the Senate by a rule, required that Senator, before taking his seat, by solemn oath or affirmation to declare that in the past he had given no countenance, counsel, or encouragement to persons engaged in resisting the execution of the fugitive slave laws, and that in the future he would be loyal to their requirements and obligations, what course would the honorable Senator then have felt it his duty to pursue? If animated by the lofty sentiments of the great men his State has produced, he would have returned to her and at her feet laid down the commission she had put in his hands and the robes of office she had placed upon his shoulders, and made report to her that he had been denied his seat in a "Senate of equals;" that terms had been required of him unknown to the Constitution; and that it was for the ancient Commonwealth to maintain her Federal rights and equality, and to vindicate her wounded honor. To resist the laws of the United States in South Carolina is a grievous crime; but, sir, is it any less a crime in Massachusetts? The act in either State disturbs the foundations of public authority; and, upon principle, as well may test oaths and solemn disclaimers of crime be required of Senators from the one State as from the other. As a question of constitutional right, he who comes here, being duly chosen by a sovereign State, and having the constitutional qualifications, is entitled to demand his seat, and to deny it is to break the Federal compact.

The proposition before the Senate, Mr. President, involves other and quite as important considerations. It reaches to questions involved in the reorganization and reconstruction of the Federal Union. This war cannot continue forever. The time will come when it shall have ceased to agitate the world, leaving, it may be, scenes of desolation to mar the face of our country; society distracted; and, scattered upon every side, the broken "columns and arches" of our institutions. Then will arise the questions that appertain to a state and condition of peace. To restore and re-establish will then be the duty of the statesman. Is it not well now, sir, to anticipate that condition of our affairs, and to avoid that which may render the duty and labor of reconstruction more difficult?

For myself individually, for the State which, in connection with my distinguished colleague, I represent, and for the great political party of that State of which I am a member, I declare the restoration of the American Union upon the basis of the Constitution to be the highest political good we seek; and, sir, I will aid to dig no deep ditches and to build no high walls to separate the people of the North and of the South; but will the rather labor to remove every obstruction and impediment; to tear down the walls by this Administration already built, and throw bridges across the ditches already dug, that the people may come together again and dwell in harmony as in the days of our fathers. This is demanded by every consideration resting upon the glories of the past, the interests of the present, and the hopes of the future. When the war shall have done its work by breaking the armies and destroying the military power of the rebellion, upon what principle and plan are the States and people to be brought together? The proposition before the Senate rests upon the measure of the entire subjugation of the people of the South, and the policy of holding them in such subjection by the military power of the Government, treating each person who may have been connected with the rebellion as a public enemy and disfranchised criminal. Vast, sir, as our resources are, they are not sufficient to maintain permanently a military force such as this policy would require; firmly fixed as are the principles of civil liberty in the American mind, they cannot withstand the influences of a standing army of such gigantic proportions; and strong as our position may be among the nations of the civilized world for the great qualities we have displayed, yet we may not wish

impunity defy the judgment of mankind by the treatment of a conquered foe that would find a parallel only in the case of broken, bleeding, glorious Poland. The civilization of this age, the perpetuity of our form of government, and the great interests of the people which would cluster around a restored Union, demand that the returning States come with all their "dignity, equality, and rights unimpaired;" and that to the people, with such exceptions as the public safety may require, a free pardon be extended, upon the condition only of fidelity to the Constitution, the Union, and the flag.

Aside from considerations of policy, is not the sentiment of magnanimity, kindness, and generosity toward a fallen foe an ornament to manhood, appreciated and honored wherever found, whether in individuals or nations? Sir, if our country can be saved and ancient attachments revived, who is so base as to interpose his animosities to delay or hinder so great a blessing to the world?

The appeal to passion is easily made that Davis, Toombs, and Slidell, and their associates, the leaders in the rebellion, must not be allowed to resume seats in the Senate, and we often witness a vast deal of patriotic indignation at the mention of such a possibility. Now, sir, I cannot express sentiments of such decided gratification at such association as have been attributed to the distinguished Secretary of State. I have not entertained the thought nor contemplated the possibility, for the plain reason that they can never come here as Senators. The failure of the rebellion is their failure, and its fall their fall; and they will be occupied rather in looking after their personal safety than in seeking official positions. For the authors of the rebellion I have no defense to make and no apologies to urge. Within the Constitution they might demand, and the northern Democracy cheerfully conceded and fought to maintain, the rights our fathers agreed they should enjoy, but outside the Constitution they are entitled to neither our support nor sympathy. But, sir, in the southern States there are millions of persons who did not contribute to bringing on the revolution, but over whom the government *de facto* of the confederate States was established, and which has asserted and maintained its authority for nearly three years. Officers were chosen and laws enacted whose authority individuals could not successfully resist. Taxes were paid, writs obeyed, commercial regulations respected, confederate currency paid and received, and military levies enforced, and all under the authority of a government *de facto*, and in the absence of the protecting power of the Government of the United States. Is it right, is it just to treat a people so circumstanced as criminals, to whom no pardon shall be extended after they shall have returned to their allegiance except upon terms humiliating and debasing? During the debate upon the confiscation bill in 1862 the honorable Senator from Vermont [Mr. COLLAMER] expressed views upon this subject so forcible in themselves, and coming from so distinguished a source, that I may with propriety refer to them. He said:

"I will remark another thing. These men have established a *de facto* government over that people. If a man finds himself in a *de facto* government which he cannot resist, and has no power to control, what are the limits and measures of his obligations? It requires a brave man to say that he will war upon it because he thinks it is a usurpation. It would be a bold man who would say now, 'The United States made a rebellion against England, and all the present power you have, national and State, is itself but a usurpation; I do not owe it any obedience, and I will not obey it.' How idle it would be for an individual, a weak man, to talk in that way. Just so it is with the people in these States. However loyal their feelings, a government *de facto* is over them; they cannot get away; they have nowhere to go; they have nothing to go with. What would you have a man there to do? What has this nation a right to demand of him?"

"But it is said 'men have actually taken office there under that government; they have had the audacity to do that since that government has been established over them.' I do not profess to be very highly versed in the ethics of politics, but I am fond of looking to examples that are bright and high. At the time of the rebellion under Cromwell, which had established a government *de facto* over the people of England, and had put down the existing Government, application was made to Chief Justice Hale—a man whose character stands as high, perhaps, as any in the annals of Christian judges—to take the place of Chief Justice, he being opposed to that government. Justice Hale consulted with a couple of his friends, (bishops,) and after full deliberation came to this conclusion: 'Justice must be administered; the rights between man and man must be adjudged upon; somebody must hold courts; I can consider it no sin to take an office under a *de facto* government, though it is a usurpation.' He took it, and the man was

not adjudged guilty of treason upon the restoration of Charles II. He continued in position ever afterwards. In all the troubles between the house of York and the house of Lancaster, in the wars of the Roses, when revolutions were constant and frequent, one day a man of this family upon the throne and the next day one of the other, as early as the period of Henry VII a statute was passed which has abided in England through all the revolutions afterwards, that no man should be adjudged guilty of treason because he was obedient to the reigning king, no matter if he was a usurpation. Such, sir, is the respect paid by the world, and especially that part of the world from which we sprung, to a *de facto* government, and the nations of the earth deal with them as governments, no matter what the usurpation."

There accompanied the President's recent message a proclamation of conditional pardon to a portion of the people of the South, presenting the executive plan of reconstruction, to which it is proper in this connection to refer. By issuing the proclamation the President assumes that the time has now come in the prosecution of the war when it is proper for us to offer terms of conciliation and adjustment; and as the proclamation is addressed to the people in rebellion, the question forces itself upon every candid mind, is it likely to reach and influence them so as to restore peace and union; or, on the other hand, is it likely to prove a stumbling-block and a hindrance?

That some persons may properly be excluded from executive clemency I will not now question; but in the proclamation the excepted and excluded classes are so numerous and so potential as probably to defeat it as a peace measure. Of those to whom the pardon is offered an oath is required as a condition so objectionable in its terms, and to which such extraordinary consequences are attached, as to array against the measure hostility both in the South and in the North. Each person is required to swear fidelity to the Constitution and the Union. That is eminently right and proper. But then he must also swear that he will "abide by and faithfully support all acts of Congress" and "all proclamations of the President passed and made during the existing rebellion having reference to slavery." This language would seem to include laws and proclamations hereafter to be passed and made as well as those already known to the country. And is it not most extraordinary, and a cruel thing, that as a condition of a general pardon, which the peace and happiness of the country demand, men shall become bound by oath to "abide by and faithfully support" that which they cannot know? The great body of the people of the South, and a very powerful element in northern society, constituting, as I believe, a decided majority of the people of the United States, do not believe that much of the legislation of the last Congress, and the proclamations of the President on the subject of slavery in the States, are sanctioned by the Constitution; but, on the contrary, they believe them in palpable violation thereof. How, then, sir, is it proper to require of such men, in the same oath, to swear that they will "henceforth faithfully support, protect, and defend the Constitution of the United States," and in like manner that they will "abide by and faithfully support" acts and proclamations which they honestly believe violative and subversive of that instrument?

In his letter to the Springfield convention of last fall, the President quaintly said, "But the proclamation, as law, either is valid or is not valid. If it is not valid it needs no retraction; if it is valid it cannot be retracted any more than the dead can be brought to life." If not valid men ought not to be sworn to its support; and it is a horrible condition of a pardon that a man shall be sworn to the support of an invalid and unconstitutional proclamation. But if valid the President claims for it the force and effect of law—that it did its work, *propria vigore*, by the instant freedom of the slaves; and if so why invoke to its aid the oaths of the people so to regard it? It indicates a doubt, if not a conviction, on the part of the President adverse to its validity when he appeals to the slaveholders by the hope and assurance of pardon upon the condition of becoming bound by oath to treat their slaves as free.

By this last proclamation the President undertakes to assure the country that whenever so many as one tenth of the voting population in either of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, shall have taken the oath which he prescribes,

such one tenth, excluding all others, "shall re-establish such State government, which shall be republican and in nowise contravening said oath, and such shall be recognized as the true government of the State;" and he suggests as not improper—

"That in constructing a loyal State government in any State, the name of the State, the boundary, the subdivisions, the constitution, and the general code of laws, as before the rebellion, be maintained, subject only to the modifications made necessary by the conditions hereinbefore stated, and such others, if any, not contravening said conditions, and which may be deemed expedient by those framing the new State government."

Will the Senate and the country pause to contemplate the extraordinary powers here arrogated by the President? Ten States are mentioned; three of them were of the original and illustrious thirteen. Are these ten political communities a part of the Union this day, or, in the eye of the Constitution, are they outside the Union? If they are outside and no longer States of the Union, by what power that we recognize and by what action that we respect did this thing occur? It was by no action of the United States. The Federal Government has all the while claimed jurisdiction over them, and by legislative and executive action has exercised that jurisdiction when and where not hindered by armed resistance. If not by the action of this Government, then are these States out of the Union by their own action, each State by her separate act of secession taking herself out? It would be rank political heresy to assert it. They are yet States of the Union, but States in which the people are in armed resistance to the United States; and they can cease to be States of the Union only by the success of the revolution. We have but to restore the lawful authority of the Federal Government over the people thereof, and secure their acquiescence and obedience, and the Union is restored.

In these ten States the President proposes a plan for organizing "new State governments," with the assurance that they "shall be recognized as the true governments of the States." By what authority is this assurance given? What provision of the Constitution constitutes him the architect to tear down and rebuild State governments? Our fathers held, and the patriot statesmen from their day until now have held, that the people only could lay the foundations of State governments, and build thereon the institutions of their choice. This work, however, the President commits to the hands of such as shall take the oath that he requires, being not less than one tenth of the voting population. Has it been heard of before in modern times that one tenth of the people shall frame the government and enact the laws that the other nine tenths are to respect and obey? It has been a cherished American sentiment, and esteemed vital to liberty, that "governments derive their just powers from the consent of the governed," but now we are told that they may derive their powers from the consent of one man out of ten; provided, however, that he may consent only to that which the President consents to, and do what he requires, and must first be bound by oath to support the executive policy. We were told at one time that popular institutions were being established in France; that all were allowed to vote for the chief executive officer, provided, however, they must vote for Louis Napoleon; and we laughed in derision, and said that a slavish despotism was being established. What think you then, sir, of this scheme of allowing political power in ten States of the Union to none but such as the President shall designate, and they first to be sworn to carry out his wishes? And the President says the new State governments must be republican! Our fathers thought, and we were taught, that a republican government was one in which the people, through representatives chosen by themselves, make their own laws; and that where the few govern the many it was an oligarchy. But now we must unlearn all that and allow that republicanism may survive when the few form the government and make the laws which the many must obey. When so many as one tenth of the people in any State shall have taken the oath and have formed the new State government, the question will arise what representation shall they have in Congress? When recognized as a State, the Constitution fixes the representation at two Senators and a representation based, not upon the tenth of sworn men—voting men—but upon the "whole

number of free persons," which will then include all the negroes, as the new State would then regard them as free; so that the President's new-made voter, in his new State, would have a political power equal to ten men in Indiana. Who are likely first to take the prescribed oath, and thus become the President's voting clansmen, clothed with political power above all the men of the country? It is proper to presume there will be many true Union men, who opposed secession; then will come that class who always array themselves on the strong side, and who were noisy and active supporters of the southern cause in the days of its triumphs, but abandon its waning fortunes. But prominent and powerful will be the camp-followers—northern men with, but not of, the Army—who seek fortunes in speculation and plunder. Can we, sir, consent that political power shall be conferred upon such men ten times greater than the free and true men whom we represent enjoy? I would not feel that I had done my duty toward the voters of Indiana did I not enter my protest against a scheme so unjust to them.

The Constitution, article one, section two, leaves to the States to define the qualifications of voters; but the President undertakes to exclude all who decline to bind themselves by oath to his policy. It may not be said that none are thus disfranchised but rebels; for I cannot doubt that thousands who have been true to the Union all the while, and who now labor for its restoration upon the basis of the Constitution, will decline an oath unknown to the Constitution, humbling to their manhood, and which strips them of their freedom of opinion and action touching matters appertaining to State government. And however good and true men they may have been, and still are, yet they are excluded. Without the oath they are disfranchised, while the motley assemblage of public virtue, the President's own sworn men, are allowed the rights of citizenship and the exclusive power of government. If under the State laws persons tried and convicted of treason are disfranchised and rendered incapable of holding offices of trust and profit, it is well; but if the State laws do not so provide the President cannot disqualify. The President cannot disfranchise him whom the State has enfranchised. The Constitution forbids it; the rights of the States forbid it; and our rights as citizens forbid it.

The President suggests to his sworn men that in demolishing and reconstructing State institutions they shall not change the name of the State, its boundary, its subdivisions, its constitution or general code of laws, only so far as may be required by the terms and conditions of the proclamation, or as may be deemed by them expedient. Every step taken by the President in this direction is upon the fragments of a broken Constitution. The Carolinas and Georgia had their names and their boundaries before the Union was formed, fixed and established by colonial charters, and with their ancient names and boundaries they agreed to the Union; and of the remaining seven of the States mentioned by the President it is enough to say that their names and boundaries were established by the people when the States were formed, and agreed to by Congress by the acts admitting them into the Union. These ancient attributes of the States, conferred in the most solemn modes known to us as a people, cannot thus be disturbed by the President, or by the few who may act under his assumed authority. But, sir, the Constitution forbids argument on this question by the provision protecting the integrity of State boundaries unless by the consent of the States affected and of Congress, article four, section three.

The President also requires, in effect, that the State constitutions shall be changed so as to conform to his proclamation. In most and perhaps all of the constitutions of these States, provision is made for their own amendment; and it is clear where there are no such provisions they can be changed only by the people acting in their sovereign capacity, through their delegates selected for that purpose. But without reference to the provisions of the constitutions for their own amendment, and without regard to the original and exclusive right of the people to make and change their State constitutions, the President proposes to conform them to his own policy, through his agents sworn to that end in advance. Mr. President, can any pretext of State necessity, can any

pretended exigencies of the war, or any conceivable hope of future good, justify so clear a violation of the Constitution, and disregard of the principles upon which our institutions are based? To preserve the Federal Government is the duty of every citizen; but co-existent is the duty of preserving the States with all their rights and the privileges of the people unimpaired. Measures that destroy the States, or impair the rights of the people under them, strike a blow at the Union, and endanger the Federal Government. Can the supporting columns be stricken down and the temple yet stand? The States and Federal Union form one harmonious whole—they must stand together or fall in a common ruin.

The people of the United States have been wisely jealous of power in its efforts to perpetuate itself. The history of the past two years, and the present condition of the country, admonish us that they cannot now be too vigilant in guarding their liberties. An important presidential election is approaching, in which the people will struggle to maintain their rights and privileges, and the Administration to hold its power. The President commands the most numerous and powerful Army known to history; he controls the disbursement of larger sums of money than were ever controlled by any one power, and reaches every neighborhood by his all-pervading patronage. Prostrate Kentucky, Maryland, and Delaware admonish us that the brave and timid alike are paralyzed at the polls by the sword; and in all the States we behold the power of patronage and money over the venal and corrupt. There are appalling odds in the contest between power and the people, and the only hope is in the virtue of the people and their devotion to their ancient liberties. But, sir, the President's proclamation seeks in addition to place ten States under his absolute control—to exclude all who will not first swear fealty to his measures, thus securing presidential electors who will lay their votes at his feet. Can the liberties of the people survive the success of a scheme so dangerous?

Without questioning that the President may grant a conditional pardon, I do deny that he may impose a condition that will control the action of the pardoned man touching the policy of his State, for that policy being exclusively of the State, shall be decided by the people thereof, uninfluenced and uncontrolled by Federal power, for the reason that it is by the Constitution expressly reserved to the State and to the people; and an attempt by Federal authority to control it is a usurpation. And I deny that a condition may be imposed upon the pardoned man which interferes with his freedom as an elector, for the reason that, so far as our institutions rest upon popular suffrage, their spirit requires that the voter shall vote for the man of his choice, for such reasons and upon such considerations as satisfy his own judgment and conscience; and any interference with the absolute and entire freedom of suffrage is a blow at our popular institutions. Was there ever a time in our history when a President, elected by the Whig or Democratic party, in granting a pardon would have dared to require the man to swear that he would support the policy and vote for the men of the party in power? A single instance of the sort would have driven the President and his party from power before a storm of popular indignation in the days of public and political virtue.

Mr. President, at the beginning of the war such assurances were given, both to the country and foreign nations, by the executive and legislative departments of the Government, touching the purpose and policy of the war, and the principles that would be respected when it should cease, that they cannot now be disregarded without a breach of public faith. In his inaugural message, delivered when hostilities were impending, the President said:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."

"I understand a proposed amendment to the Constitution—which amendment, however, I have not seen—has passed Congress, to the effect that the Federal Government shall never interfere with the domestic institutions of the States, including that of persons held to servitude. To avoid misconception of what I have said, I depart from my purpose not to speak of particular amendments, so far as to say that, holding such a provision now to be implied constitutional law, I have no objection to its being made express and irrevocable."

These declarations of his purpose, and definitions of constitutional restrictions upon executive power, were made by the President under most solemn circumstances, forming almost a part of the official oath; and addressing his "dissatisfied fellow-countrymen," he said:

"You have no oath registered in heaven to destroy the Government, while I shall have the most solemn one to 'preserve, protect, and defend it.'"

Is it not enough now to ask, what change has since been made in the Constitution which gives him "lawful right" to "interfere with the institution of slavery in the States," or to do any other act which it was not lawfully right for him to do when sworn into office?

After the war had commenced, in his message to Congress on the 4th July, 1861, the President repeated the assurances given in his inaugural. He said:

"Lest there be some uneasiness in the minds of candid men as to what is to be the course of the Government toward the southern States after the rebellion shall have been suppressed, the Executive deems it proper to say, it will be his purpose then, as ever, to be guided by the Constitution and the laws; and that he probably will have no different understanding of the powers and duties of the Federal Government, relatively to the rights of the States and the people under the Constitution, than that expressed in the inaugural address."

And to remove all possibility of doubt, and all hesitation in the support of the war, he repeats the assurance in his message of December 3, 1861, as follows:

"The inaugural address at the beginning of the Administration, and the message to Congress at the late special session, were both mainly devoted to domestic controversy, out of which the insurrection and consequent war have sprung. Nothing new occurs to add or subtract to or from the principles or general purposes stated and expressed in those documents."

These repeated assurances were given to the people at home that they might be united in the support of the war, upon the conviction that it was and would be prosecuted for the sole purpose of restoring the Union, and not at all for any purpose of the abolition of slavery; but it became important also to give the assurance to foreign Governments, so that they might not interfere by recognition or otherwise, and to that end Mr. Seward, in his letter of April 22, 1861, to our minister to France, said:

"The Territories will remain in all respects the same whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail, for the rights of the States, and the condition of every human being in them, will remain subject to exactly the same laws and forms of administration whether the revolution shall succeed or whether it shall fail. In the one case the States would be federally connected with the new confederacy; in the other they would as now be members of the United States; but their constitution and laws, customs, habits, and institutions in either case will remain the same."

"It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the administration, has always repudiated all designs whatever, and wherever imputed to him and them, of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional, and all his actions in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people."

Under date of May 6, 1861, to our minister to Russia, Mr. Seward said:

"All existing interests of slavery are protected now, as heretofore, by our Federal and State constitutions, sufficient to prevent the destruction or molestation of the institution of slavery where it exists by Federal or foreign intervention, without the consent of the parties concerned."

These extracts are taken from letters of general instruction to our foreign ministers, furnishing the grounds they should assume, and the arguments they should urge in maintaining, before the Governments to which they were accredited, that we are in the right; that we prosecute the war to re-establish the rightful authority of the Government, and not to destroy or disturb established institutions.

But that there should remain no doubt in the country, or in the world, upon the great question, at the special session of July, 1861, Congress, with great unanimity, declared:

"That this war is not waged, on either part, in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of these States, but to defend and maintain the supremacy of the Constitution, and preserve the Union, with all the dignity, equality, and rights of the several States unimpaired, and as soon as these objects are accomplished the war ought to cease."

I will quote from a writer upon this resolution:

"Here was a distinct and formal declaration by the national Legislature, at an early stage of the war, of its objects:

"1. It was not waged for oppression, conquest, or subjugation, or to overthrow or interfere with the rights or institutions of the States."

"2. It was waged to maintain the Constitution—to preserve the Union—with the 'dignity, equality, and rights of the several States unimpaired.'"

"3. 'As soon as these objects (the maintenance of the Constitution, preservation of the Union, and protection of the rights of the States) are accomplished the war ought to cease.'"

What was the immediate effect of these solemn and unequivocal assurances given by two of the departments of the Government? The confederate States, although recognized as a belligerent, failed to secure their recognition as a Government *de jure*, and their position abroad became every day more embarrassing, and although they urged the derangement of trade and commerce, the short supply of cotton, and their own gigantic efforts to maintain their independence, yet they could not win a recognition, for the Governments of Europe had been assured that the war was prosecuted on the part of the United States to reestablish legitimate authority. But at home, sir, the effect was yet more astounding. The call for volunteers was responded to with fierce zeal in every State and county throughout the North, men rallied to the standard without distinction of political parties, a mighty army sprang into existence, as if called up by the wand of a magician, that shook the solid earth beneath its heavy tread. The patriotic fervor knew no abatement until the country was shocked by the proclamation of September, 1862. If Senators ask what has discouraged enlistments, why it is so difficult to fill up the Army, and why, in the language of another, men have to be dragged by the draft like bullocks to the slaughter pen, let the inquiry be made at the other end of the avenue, and of those who advised that ill-starred measure. Even in Massachusetts we have not an equivalent for the losses in the more conservative sections, although her Governor did, as I believe, assure the President and the country that, if a radical policy were adopted, the highways and byways would be thronged by crowding, jostling multitudes, eager for the places of rendezvous.

Mr. President, I ask Senators if they do believe that the President's proclamation and the proposed rule of the Senate will promote and hasten the return of an honorable and permanent peace? Very recently one of the most powerful journals of the country in the support of the Administration said:

"We must not shut our eyes to the fact that if we are to restore the Union at all we must do it with the assent and cooperation of the great body of the people in the rebel States."

What believer in popular institutions can hesitate to adopt the sentiment? And yet, sir, by the rule of the Senate resting upon the act of 1862, it is proposed to close the doors of the Senate and House and all the avenues to positions of honor and profit against all the people of the South who cannot come without fault touching the rebellion, and by the proclamation of the President to exclude from pardon and citizenship all who will not abjure their rights and privileges and the rights and prerogatives of their States. Sir, we need not deceive ourselves; these are not peace measures, they are not inspired by a hope to restore our once glorious Union; they are hinderances and impediments, deep ditches and high walls, to be in the way of the people coming together again. We know that if the desire be for permanent peace and reunion we must throw the proclamations to the winds, and again, high above all, raise the banner and the Constitution of our country. Then, if suffering and desolation have opened the eyes of the great body of the people of the South to the error of the past and hopelessness of the future, we may hope that they will come back if we but open our arms to receive them.

In the Northwest we want peace; we want peace in a restored Union and upon terms honorable to the North and just toward the South; upon terms that will leave us friends and not enemies; and we want peace before the North is exhausted and the South destroyed, so that the shores of the Gulf and the borders of the southern rivers may again wave with the sugar-cane and whiten with the bursting cotton; that in all that region we may find a remunerative market for the heavy products

of our rich lands, and so that from the sources of the Ohio, the Wabash, and the Mississippi, throughout their entire flow to the Gulf, there may be a united, harmonious, and happy people, bringing reciprocal blessings by the exchange of all acts of kindness and a restored and growing commerce.

Mr. JOHNSON. I was informed yesterday that the Senator from Delaware who has not been heard [Mr. SAULSBURY] desired to address the Senate on this subject. I told him that, with the consent of the Senate, I would waive addressing the body until he should have been heard.

Mr. SAULSBURY. I prefer that the Senator from Maryland should address the Senate first; and to give him an opportunity of being heard fully on the subject, if agreeable to the Senate I move that the further consideration of the resolution be postponed until to-morrow.

Mr. SUMNER. Perhaps some other Senator may be disposed to go on this afternoon. ["Oh, no."]

THE PRESIDING OFFICER, (Mr. CLARK.) It is moved that the further consideration of this resolution be postponed until to-morrow.

Mr. SUMNER. As there is executive business to be done, I move that the Senate proceed to its consideration.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 20, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

REPORT OF SUPERINTENDENT PUBLIC PRINTING.

THE SPEAKER, by unanimous consent, laid before the House the eleventh annual report of the Superintendent of Public Printing; which was laid on the table, and ordered to be printed.

SELECT COMMITTEE.

THE SPEAKER announced as the select committee ordered yesterday on the chemist of the Department of Agriculture, Mr. GODLOVE S. ORTH of Indiana, Mr. BRUTUS J. CLAY of Kentucky, Mr. ANTHONY L. KNAPP of Illinois, Mr. JOHN L. DAWSON of Pennsylvania, and Mr. FREDERICK E. WOODBRIDGE of Vermont.

GRANT OF LAND TO IOWA.

Mr. ALLISON, by unanimous consent, introduced a bill making a grant of land to the State of Iowa to aid in the construction of the McGregor, Western and Cedar Falls, and Minnesota railroads in said State; which was read a first and second time, and referred to the Committee on Public Lands.

LINE OFFICERS OF THE NAVY.

Mr. SCHENCK, by unanimous consent, introduced a bill to amend an act entitled "An act to establish and equalize the grades of the line officers of the United States Navy," approved July 16, 1862; which was read a first and second time, and referred to the Committee on Naval Affairs.

CONFISCATED PROPERTY.

The regular order of business being demanded, THE SPEAKER announced that the regular order of business was the call of committees for reports, under which the House would resume the consideration of the joint resolution (H. R. No. 18) to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, reported from the Committee on the Judiciary, upon which the gentleman from Maine [Mr. SWEAT] was entitled to the floor.

Mr. STEVENS. If the chairman of the Committee on the Judiciary is present, I would ask him to move to postpone the consideration of this resolution two or three days in order that other committees may make their reports—say until next Monday morning after the morning hour.

Mr. WILSON. With an understanding in relation to the time when a vote may be taken upon this resolution, I have no objection to the postponement; but if it is to be postponed without any understanding, so that when a week shall have

passed we shall be no nearer the end of the discussion than now, I think perhaps we had better have the discussion to-day and to-morrow, and so on until we come to a final vote.

Mr. STEVENS. I suggest that this bill blocks up the way to reports by other committees. When we get them out of the way we can resume this report.

Mr. WILSON. That is the suggestion I made to the House yesterday. If we postpone it for a week the same difficulty will occur when that time arrives.

Mr. COX. I will say to the gentleman that the same difficulty will not occur. There are only about ten persons on this side of the House who wish to speak, and I think the gentleman will have no trouble in getting a vote as soon as the debate is exhausted.

Mr. WILSON. Yes, sir; as soon as debate is exhausted. If we postpone it for a week, then progress will be blocked until the ten gentlemen upon that side of the House, and probably the same number upon this side, shall have discussed the resolution; so that we shall accomplish no advancement by a postponement. If the gentleman from Maine submits his remarks to-day we will have one speech out of the way.

Mr. COX. I ask the gentleman if he proposes to allow amendments to be offered to this bill, or does he propose to call the previous question?

Mr. WILSON. I stated to the House yesterday that I intended to call the previous question.

Mr. COX. Without allowing amendments to come in?

Mr. WILSON. If the previous question is sustained it will cut off amendments.

Mr. COX. I hope it will be the disposition of the other side to allow amendments, though that does not seem to be their purpose just now.

Mr. WILSON. In endeavoring to bring this resolution to final action I have not had any purpose to cut off the other side of the House from full discussion or from amendment any more from this side of the House. The course which I propose to pursue in relation to this resolution falls with equal force upon this side of the House as upon the other side.

Mr. GANSON. As I am not upon either side of the House, I would ask the gentleman from Iowa, [Mr. Wilson,] the chairman of the Committee on the Judiciary, what is the occasion for immediate action on this resolution?

Mr. WILSON. I have already stated, and the chairman of the Committee of Ways and Means has stated, that the pendency of this joint resolution prevents the introduction of reports from other committees.

Mr. GANSON. We can postpone the consideration of this resolution, can we not?

The SPEAKER. By unanimous consent.

Mr. GANSON. I hope we shall consent to postpone it.

Mr. WILSON. I have no objection to a postponement by consent if the House will fix a time for final action upon this resolution. But by postponement without such arrangement we lose just the time intervening between this and the time when the resolution shall come before the House for final action.

Mr. VOORHEES. I desire to say simply in regard to this matter, and I think it may ease somewhat the restlessness which the chairman of the Judiciary Committee has manifested from the time he introduced this measure upon the floor, that there are several gentlemen upon this side of the House—I do not know how many or how few—who desire to say something on this question. As soon as the members on this side have been heard as much as they desire, then the gentleman can get a vote. We will not abuse our rights or privileges in this House, but we intend to indulge in legitimate and proper debate for a proper time, and if the gentleman from Iowa cannot make up his mind to allow that privilege, we will enforce it by the rules with which we became familiar in the last Congress. We will enter into no arrangement upon the subject. Whenever the course of debate is through, the House—and we are a part of the House and to be consulted—will be ready to take the vote. There is no disposition to abuse the patience of the House, but this is a very important measure, and we desire to discuss it in a proper and fair manner. I hope, therefore, that the chairman of the Judiciary Com-

mittee will make up his mind to let this favorite measure of his take the usual course.

Mr. WILSON. This is no favorite measure of mine; it is a report from the Committee on the Judiciary. The House may take such course in regard to it as it deems proper; but for myself, under the operation of the threat of the gentleman from Indiana, [Mr. VOORHEES,] I will make no arrangement whatever. I will not be driven or threatened into any arrangement.

Mr. VOORHEES. I have no disposition to threaten or to drive the gentleman. I intended merely to intimate to him that we are apprised of our rights, and that, in a proper manner, we are prepared to maintain them.

Mr. ELIOT. I call for the regular order of business.

The SPEAKER. The gentleman from Maine [Mr. SWEAT] is entitled to the floor.

Mr. SWEAT then addressed the House for an hour. [His remarks will be published in the Appendix.]

Mr. MORRIS, of New York. I wish to say that the gentleman from Maryland, [Mr. DAVIS,] whose remarks have been aimed at by the gentleman from Maine, [Mr. SWEAT,] is confined to his room by illness.

Mr. STEVENS. If the gentleman will yield to me, I will move that we go into committee.

Mr. MORRIS, of New York. I yield for that purpose.

COURT OF CLAIMS.

Mr. THOMAS, by unanimous consent, moved that an amendment to the bill concerning the jurisdiction of the Court of Claims, which he proposed to submit at the proper time, be ordered to be printed; which motion was agreed to.

BOUNTY TO DISCHARGED SOLDIERS.

Mr. LOVEJOY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of allowing bounty to soldiers honorably discharged on account of sickness contracted in the line of duty; and that they be authorized to report by bill or otherwise.

UNITED STATES PILOTAGE LAWS.

Mr. CHANLER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of compiling and printing the laws of the United States relating to pilots and pilotage, and report the same to this House.

JOSEPH A. WRIGHT.

The SPEAKER, by unanimous consent, presented to the House a message from the President of the United States, transmitting copies of a letter and report of Joseph A. Wright, of Indiana, who attended the International Agricultural Exhibition at Hamburg last year, &c.

Mr. BROOKS. I move to refer that message to the Committee of Claims.

The motion was not agreed to.

The message was then referred to the Committee on Agriculture.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, announced to the House that the Senate had agreed to the amendments of the House to the concurrent resolution of the Senate for the appointment of a joint committee on the conduct of the war.

INTERNAL REVENUE.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Cox in the chair,) and resumed the consideration of the special order, being bill of the House No. 122, to increase the internal revenue, and for other purposes.

The CHAIRMAN. The pending question is to add to the following amendment, offered by Mr. FERNANDO WOOD—

Provided further, That all spirits on hand and for sale, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act, from and after the 12th day of January, 1864, except that such spirits

as shall have been already taxed under the law approved July 17, 1832, shall not pay more than the additional increased tax provided for by this act—

the following proviso:

And provided further, That manufacturers shall not be required to pay any additional tax over and above the amount imposed by the act of 1862 upon any spirits manufactured by them prior to the passage of this act.

The amendment to the amendment was not agreed to.

Mr. STEVENS. I believe the amendment of the gentleman from New York [Mr. FERNANDO WOOD] has not been spoken to in opposition; and if so, I will say a word upon it. I am opposed to the amendment of the gentleman from New York, and to all similar amendments. His amendment proposes to impose a duty upon that which has already paid duties and has the stamp of the Government upon it, and has been sold under governmental authority, wherever it may be. Now, I hold that to be not only unjust, but as in palpable violation of the implied contract of the Government, as much so as it is possible to make it. Congress specifies certain things which shall pay a duty, and they order a stamp to be put upon them when that duty is paid. Whoever did that had a right to suppose they would not be further taxed thereon; any attempt to put a duty upon anything of that kind, whether liquor or anything else, is an atrocious injustice which ought not to be perpetrated by this House. I shall therefore vote against every such proposition; and my colleague on the committee, [Mr. PENDLETON,] if he can get the floor, will offer an amendment distinctly setting forth that principle for the purpose of removing all chance of mistaking what the bill means.

Mr. LOVEJOY. I want to inquire if the same injustice does not actually, if not legally, operate upon the manufacturer of spirits if this additional tax is put upon that which is already manufactured, and which was made under an implied contract with the Government that it should only pay so much duty?

Mr. STEVENS. It does, and it is unjust to impose this increased tax upon them. Hence the committee intended to impose it only upon what is manufactured after this bill was reported. The committee have not expressed their views quite as clearly as they designed, and hence the amendment I have suggested, and which my colleague from Ohio intends to offer in order to make the matter more clear. I feel as the gentleman from Illinois feels, that it would be as unjust to impose this tax upon a manufacturer who has paid the duty, as it would be to impose it upon a man who has the article in store with the stamp of the Government upon it.

I say this now, sir, because I do not want to be answering all these propositions. I hope the House will understand what the committee has done, and will vote down all amendments which attempt to impose a tax contrary to this principle.

Mr. LOVEJOY. That is satisfactory to me.

Mr. DAVIS, of New York. I move as an amendment to strike out from section first all after "further" in the nineteenth line, and insert:

That no duties authorized by this act shall be imposed or collected upon any spirits distilled before the 1st day of March, 1864, on which duties shall have been paid under the act of July 1, 1862, or which shall have been reported for the payment of duty pursuant to said act.

Mr. Chairman, I am not only opposed to any retroactive effect of this bill, but I think that it should be made prospective. I represent a district largely interested in the distillation of spirits.

Mr. FERNANDO WOOD. I submit to the Chair whether the amendment offered by my colleague to the amendment offered by myself to this bill is germane and in order?

The CHAIRMAN. The gentleman from New York [Mr. DAVIS] has offered this amendment in lieu of the amendment of his colleague, which is in order.

Mr. FERNANDO WOOD. As a substitute? The CHAIRMAN. Yes, as a substitute for the gentleman's amendment.

Mr. DAVIS, of New York. Mr. Chairman, the State of New York manufactures more than one fourth of the entire amount of distilled spirits produced in this Union. In that manufacture it becomes necessary for the interests of the manufacturer not only to invest large amounts of capital directly in the business, but also to make large investments in stock, in cattle and hogs, which are

kept on hand for the purpose of being fed by the products of the distillery.

At a meeting of gentlemen in the State of New York whose interests are involved in this manufacture to a very large extent, men who are ready to sustain this Government in all its measures to put down this rebellion, men who are ready to meet their full burden of taxation, and in whatever shape it may come, they appealed to Congress to protect them against the effect of any act which shall not give them time to dispose of their property and to adjust their interests to the new condition of things.

I have learned from many of these gentlemen, respectable and reliable men, that when the original act was passed imposing a tax of twenty cents per gallon, almost every distillery in the State of New York was suspended by that act for a period of nearly six months, and that they have made no profit and derived no benefit from the business, except that in view of the new duty to be imposed upon this production the market was stimulated by speculation.

Now, sir, speculation has put up the price of this spirit, and these men who have these large investments on hand—thousands and millions of bushels of grain—have also their stock, cattle, and hogs, and they apprehend that if this measure be passed speedily, and this tax be imposed upon them without giving them an opportunity to adjust their business, they will have to make very heavy sacrifices, which they are quite unable to bear.

Now, I doubt the policy, in any act of this character, of putting it in force without full and fair notice to the country at large, and, at this time, I doubt the policy and expediency or the justice of saying that this act shall go into operation to-day, or that it shall go into operation on the 12th day of January, 1864, when this is the only measure which has been before this House on the subject of internal revenue. Taxes, sir, should be uniform, and I take it that it is not the policy of this Government to lay a heavy load upon any one interest, but so to adjust its revenue measures that every industrial pursuit and vocation shall bear its fair and equitable, and only its fair and equitable, proportion of the public burden.

Now, sir, if the 1st day of March next be fixed, as my amendment proposes, a portion of the intervening time will be consumed before this bill becomes a law, and we shall give these men and these interests fair notice; we shall give them an opportunity of adjusting their business and running out this stock which they might otherwise not be able to dispose of except at a ruinous sacrifice, and a great interest in this country will be protected.

Mr. PIKE. I do not understand the theory of taxation to be as the gentleman from Pennsylvania states it, which is that when a tax is imposed it is in the nature of a contract that an additional tax shall not be imposed upon the same article. I understand the theory of taxation to be simply this, that the Government takes as much as its necessities for the time require, and the only contract about it is, that it will go no further and take no more than its necessities require. That being the theory, the simple question in this case is, do the necessities of the Government require us to procure this sum of money from taxation on this article?

Mr. STEVENS. I raise the point of order that the gentleman from Maine is not speaking to the amendment.

The CHAIRMAN. The gentleman from Maine will confine his remarks to opposing the amendment.

Mr. PIKE. It is calculated that there are from twenty-five to thirty million gallons of spirits on which this amendment will operate, and which will produce a revenue of from ten to twelve million dollars, and which the Government will not obtain if this tax be made prospective. That is an important consideration; and the question before the committee now is whether it will vote in the amendment in order to obtain this revenue.

Mr. Chairman, as the action of last Congress has been referred to, I want to say a word about it. At last Congress we made the internal revenue bill simply prospective. There was a discussion then as to whether it should not be made retroactive. I voted at that time in favor of

taxing the stock on hand, and that proposition was carried in Committee of the Whole on the state of the Union. But it was subsequently defeated in the House. But mark the ground on which it was defeated. There were two reasons alleged against it. One was the difficulty of collection. We had no internal revenue officers appointed at that time. The bill which laid the tax provided for the appointment of a large number of officers. Of course delay would occur from the time of the passage of the law until its machinery should be put in operation. That objection does not apply to this measure. We have the full machinery now in operation, and of course the revenue officers can gather up all the necessary statistics on which to assess and collect this tax. The other reason then assigned was, that the revenue derived from the bill would amount to \$150,000,000; besides \$100,000,000 which it was supposed would be derived from customs on imports, and that this revenue would be sufficient for wants which were regarded as temporary.

Mr. MORRILL. I desire to correct the gentleman from Maine on that point. The Committee of Ways and Means made no estimate over \$100,000,000.

Mr. PIKE. I do not recollect the precise estimate of the Committee of Ways and Means. I did not share the expectations that I speak of, but I know they were very general among the members of the House with whom I conversed. These expectations were that the revenue would amount at least to \$250,000,000.

Now, Mr. Chairman, both these reasons which influenced the action of the last House do not apply to our present action. The Lord knows our necessities oblige us, for the present and the future, to obtain as much revenue as we can; and we know that the present law does not yield sufficient revenue, and that we shall be obliged to raise more wherever we can. I am, therefore, in favor of the extremest taxation, stopping short only of that which shall be synonymous with oppression.

The question was taken on the amendment to the amendment, and it was rejected.

Mr. PENDLETON. I move to amend the amendment of the gentleman from New York, [Mr. FERNANDO WOOD,] by striking out all which he proposes to insert. The amendment which he offered proposes, as I understand, to strike out all after the word "provided" in the nineteenth line, and to insert what he offers. I move as an amendment to his amendment, to strike out all which he proposes to insert. The effect of it will be to strike out from the text of the original bill the last proviso in it, and the effect of that will be to place the tax recommended by the Committee of Ways and Means only on such stock of liquors as may be distilled after the 12th day of the current month. I wish gentlemen to understand that the object of my amendment is to bring the committee immediately to a vote on the question whether or not it will tax the stock of liquor on hand at the time the bill was reported at the rate prescribed in the bill itself.

I am instructed by the Committee of Ways and Means to offer this amendment because the committee thinks that it carries out more fully than the present bill the idea which it has in its mind, and which is to make the new rate of taxation operative only on such stocks as shall be created after that time. The committee was anxious to avoid imposing the additional tax on stocks of spirits which had been distilled prior to the 12th of this month. The committee desires to carry out the principle of the law adopted in the last Congress, which was that the tax should be made operative only in the future. I have been instructed to offer this amendment, and I design to follow it up, if successful, by another still further to perfect the bill.

I shall not argue the question which is submitted to this committee, and which has been already argued, but I want to put it to the gentlemen in a practical form. When we come to that portion of the bill as reported by the Committee of Ways and Means which imposes an additional duty upon cotton manufactures I want to know if gentlemen will carry out the same principle and impose the same additional tax on all cotton goods on hand; for to be consistent, if the principle of the amendment of the gentleman from New York be adopted it must apply to all the

goods on hand of every description the tax on which is to be increased by this bill. I want gentlemen to understand that the principle must run through all their legislation if it is adopted; that it cannot be applied to a single article of manufacture and excluded from others. If an increased tax is to be imposed upon spirits manufactured, it must also apply to cotton, to petroleum, and to every other article mentioned in the bill.

Mr. WASHBURN, of Illinois. I do not desire to interrupt the gentleman, but I believe he is speaking to no amendment.

Mr. PENDLETON. I beg the gentleman's pardon. I have submitted an amendment to the amendment.

The CHAIRMAN. The Chair was about to remark that the proposition of the gentleman from Ohio cannot properly be entertained as an amendment.

Mr. PENDLETON. My motion is to amend the amendment of the gentleman from New York by striking out what the gentleman proposes to insert.

The CHAIRMAN. The proposition of the gentleman from Ohio is merely the negative of the amendment of the gentleman from New York.

Mr. PENDLETON. Do I understand, then, that my amendment is ruled out of order?

The CHAIRMAN. The Chair decides that the proposition of the gentleman is no amendment.

Mr. KASSON. I move to amend the amendment of the gentleman from New York by striking out the last three words; and I do it for the purpose of submitting a remark or two upon the question now before the committee.

I remark, incidentally, that I do not quite concur with the gentleman from Ohio, [Mr. PENDLETON,] who is usually very accurate in his recollection, in respect to the conclusions reached by the Committee of Ways and Means.

But in respect to the question now submitted, I find that some gentlemen seem to be laboring under the impression that there is in the proposition of the gentleman from New York [Mr. FERNANDO WOOD] submitted yesterday to the House, a novelty which is a violation of a just principle of legislation. But I claim distinctly that Congress has the right to regulate its legislation, imposing taxes according to the necessities of the public Treasury, and according to the conditions of commerce in respect to the articles to be affected by the tax. The duty is to be advanced or diminished as the revenue requires, and as it may affect favorably or unfavorably the trade in the article upon which it is imposed. It is the right exercised by all Governments, everywhere, and all transactions of commerce are subject to it.

The amount of the tax varies from year to year. The history of British legislation on the subject of distilled spirits may be cited in proof of this. Their tables, which I have examined, show that they commenced in 1791 with a tax of three shillings and fourpence per gallon, steadily increased until it reached nearly twelve shillings, and then falling back to seven shillings, and up again to ten shillings, where it now stands, (\$2.42). I have not been able to find the rate prevailing in 1842, when the revenue from this source reached \$5,179,000; but the last previous rate shown in the tables examined was seven shillings and sixpence (\$1.85) per gallon. From this amount of revenue the sum realized in 1861 from a rate of ten shillings per gallon (\$2.42) rose to £9,225,000, and at the same rate in 1862 to £9,618,000. The English system makes a distinction between spirits used as a beverage and spirits used for mechanical and manufacturing purposes. The latter is not taxed; but under regulations established by law is methylated or odorized in a manner which effectually prevents its use as a beverage. Now, sir, it is evident that the temptation to consumption of spirits in England is identical with that in the United States. Yet under a system of constantly increasing taxation the revenue has been increased and the consumption not diminished. This is sufficient to show that we do not stop the source of the revenue by increasing the rate, as has been claimed by gentlemen demanding a reduction of the proposed rate. I have seen a statement showing the amount of money realized at retail from the sale of a gallon of whisky. My friend from Illinois, [Mr. LOVEJOY,] who represents a large distilling interest, knows that the usual price paid for a drink is ten cents.

Mr. LOVEJOY. We pay only six cents where I live.

Mr. KASSON. Well, sir, computed at five cents a drink, a gallon of whisky yields between six and seven dollars. The price is now nearly a dollar a gallon at wholesale—certainly a large margin for profit. This rate of sixty cents, therefore, would be about three and one third mills on a glass. This of course cannot change the price at the small retailer's, as has been claimed.

In further proof that there is no novelty of legislation in imposing a tax on the stock on hand, I cite an act of Parliament, passed in August, 1860, now in my hand, which imposed one rate to take effect on the previous 29th of February, and another rate to be applied again from the 17th of July of the same year. In the last section of the act it makes special provision for the case of time contracts, contracts for future delivery, requiring the tax in such case to be paid by the purchaser. It reads as follows:

"And whereas contracts or agreements may have been made for the sale or delivery of some of the goods or commodities on which increased or additional duties of excise are by this act granted and imposed, which contracts or agreements may have been made with no reference to such additional duties, and thereby the several contractors may be materially affected; for remedy thereof be it enacted, that every person who shall have made or entered into any such contract or agreement, shall be, and is hereby, authorized and empowered, in the case of any such contract or agreement, to add so much money as will be equivalent to the increased or additional duty hereby granted on such goods or commodities respectively to the price thereof, and shall be entitled by virtue of this act to be paid and to sue and recover the same accordingly."

These facts show conclusively that no novelty is involved in the amendment, and that contracts for future delivery can be provided for, and that the rate is a very moderate duty.

Now, sir, what is the effect of this increased duty upon spirits on the distiller if you fail to adopt the principle of legislation proposed by the gentleman from New York? A large accumulated stock is on hand. You add by this section of the bill an increased tax of forty cents per gallon upon all spirits to be hereafter manufactured; and until that accumulated stock is exhausted, you shut up every distillery in the country, because you supply to the holder of stock on hand a margin of forty cents per gallon profit, on which the holder of this accumulated stock, or the forestaller, may prevent a gallon from being manufactured, or a gallon manufactured from being put into the market, unless he may see fit to hold back until the price reaches a point at which it can be manufactured. The speculator, with this margin, keeps the new product of the distiller from the market, until the accumulated stock is consumed, and shuts the distillery for six or nine months, during which no new product is created as the basis of a revenue. Not only is the proposition as contained in the original bill a gross injustice to the distiller, in effect shutting up every distillery in the country, or leaving the distiller at the mercy of the speculator, but you cut off all revenue from this source until the stock on hand shall be exhausted.

There is no difficulty, therefore, in this amendment in point of law, nor in respect to its justice and expediency as a measure of revenue. The proposition of the bill, without the amendment, will operate as a gross injustice and hardship to the distiller, and inure exclusively to the benefit of the speculator. I ask the House to examine this with more care. Injustice is done to the Government and to the manufacturer by the original bill. Equalizing the price of the article in whatever hands it may be will do injustice to nobody. I am in favor of the amendment, therefore, as required by the principle of justice, and necessary to the revenues of the Government.

Mr. FERNANDO WOOD. Mr. Chairman, the closing remarks of the gentleman who has just taken his seat assert the ground upon which my amendment was proposed—to do justice, to establish an equitable principle, and to produce a revenue; and I am surprised that the chairman of the Committee of Ways and Means, [Mr. STREYENS,] a committee raised for the purpose of providing revenue for the Government, should rise here and oppose a proposition the effect of which will increase our revenue from ten to fifteen million dollars a year—a proposition that is legal, that has the benefit of precedent, that is intended to discriminate in favor of no particular class, that bears equally upon all classes, and that provides

against any possible evasion of this proposed tax by any class of individuals who have anticipated the action of the Government. Gentlemen seem to have gone upon the idea that there is no Congress of the United States, and that the declaration of a subordinate officer was law involving millions of dollars of property. It seems to be the presumption that any duty may be fixed by them—that we are expected to carry out what subordinate officers of the Government may determine upon in advance. I want those gentlemen to understand that the Congress of the United States does the legislation for the United States; that it is only sufficient for the Secretary of the Treasury and the Commissioner of Internal Revenue to recommend, and that it is necessary for those recommendations to be ratified by this Congress.

When we propose in the discharge of our duty an amendment to this bill, the chairman of the Committee of Ways and Means tells us that we must vote down every amendment offered, because, forsooth, an amendment of the Committee of Ways and Means must be passed, and the only argument adduced is that a certain portion of liquor has been marked by the Government. Gentlemen can dispose of that, and it is unnecessary for me to refer to it. I only say that if we desire revenue, and if we desire to collect it equitably and fairly, if we wish to discharge our duty in relation to whisky, we should say what the duty shall be, and prevent monopoly and an effort to forestall to the detriment of the honest dealer by those who mouse around the Departments, and obtain information which is denied to others. We desire only that revenue shall be equalized upon all—

[Here the hammer fell.]

Mr. KASSON, by unanimous consent, withdrew his amendment.

Mr. MORRILL. I move to strike out the last word of the pending amendment.

Mr. Chairman, if the thing can be done, I hope that the ingenious gentleman who proposed it will tell the House how it can be done. Our experience is the reverse. We collected a duty on only about thirty-two million gallons up to the 1st of October. I think that the ingenuity of the gentleman here would be much better expended in showing how we can collect the duties that we actually levy, rather than in increasing them. I do not know that it is a great matter so far as the principle is involved, for we have violated it in regard to this article of property by levying a tax upon it of three hundred per cent. of its value, while on other articles we levy only three per cent. We should observe some symmetry and some rule in our legislation. If you undertake to collect a tax upon articles already manufactured, why shall we not go into New York and any other city or place where they have imported foreign liquors and levy and collect a duty upon them? We enhance the value as much upon foreign importations as we do that of the domestic article.

Mr. FERNANDO WOOD. Let me ask the gentleman a question.

Mr. MORRILL. I have only five minutes, and I cannot yield to the gentleman.

Mr. Chairman, if we are to lay down the principle that we are to collect duty upon a few manufactures on the retroactive principle, I take it to be an instruction, when the Committee of Ways and Means act in future on matters of general revenue, that they shall carry it out. Why not? Is not there as much justice in collecting tax on the manufacture of tobacco or cigars or petroleum or of cotton and woolen goods as upon anything else? If the idea of the gentleman from Maine [Mr. PIKE] is to be adopted, that we are to levy tax because we want it, without observing any principle of justice, then we can come to that question. But I do not believe that the interests of the Government have yet reached a point where we are not required to follow any principle of justice at all. But I do believe that we can perfect the laws so that we can collect much more revenue than we have received; and to that point, and to that mainly, I think the committee wish this House to bestow its attention.

Mr. PIKE. I rise for the purpose of giving to the committee some statistics which I received this morning in the shape of a circular from the chief grain exporters at Chicago. I had supposed that all the members had received a similar one; but on inquiry I find they have not. Some of the statements are very important, and I wish to call the

attention of the committee to them for a few moments. It is stated that the capacity of the distilleries to produce liquors, which has been very much enlarged of late, and is now quickened to its utmost limits, is two million three hundred and sixty-six thousand gallons a day; that this branch of manufacture has been so largely exercised, in view of the probable tax to be imposed at this session, that the amount now on hand is equivalent to one year's consumption. Here is the statement:

"Since the report of the Committee of Ways and Means of January 12, it is conceded by the distillers that the stock on hand is equivalent to one year's consumption, and that all the distilleries will run hereafter to alcohol, on which the Government receives no taxes, and the result will be equal to the stoppage of all the distilleries. The distillers claim, if they stop, corn will decline from forty to fifty cents per bushel."

The same result will obtain as that spoken of by the gentleman from New York, when in last Congress we imposed a tax of twenty cents upon a gallon of whisky, and did not tax that on hand—all the distilleries stopped until the stock on hand was consumed. That result would follow in this case, only that in this case the amount on hand is so much enlarged that we should have to wait for months, until nearly the expiration of the year, before we should begin to receive any additional tax. That, in my judgment, forms a very strong reason why we should not give away this ten or twelve million dollars which we have now the legal right to assess upon, a class of people abundantly able to pay it.

Mr. MORRILL withdrew his amendment.

Mr. ALLEY. I move to amend the amendment of the gentleman from New York [Mr. FERNANDO WOOD] by striking out the last word.

I move the amendment for the purpose of enabling me to say a single word upon this matter. I am strongly inclined, as the gentlemen composing the Committee of Ways and Means well know, to follow not only their lead in all matters which have come before the committee and received their investigation, but also to follow the lead of all committees of this House who have given to subjects which come before them that attention which they deserve. I have listened with a great deal of interest to the arguments of gentlemen who have answered those which came from gentlemen on the other side of the House in favor of the amendment proposed by the gentleman from New York. They have failed to convince me that there is any force whatever in their reasons.

Some gentlemen upon this side of the House have spoken of the amount involved as being ten or twelve million dollars. From the investigation I have given it, and from all the statistics I have seen, I believe this additional tax will involve an amount of from twenty to twenty-five million dollars upon the stock now on hand.

What is the practical result of the proposition of the Committee of Ways and Means? It is practically to tax the people twenty or twenty-five millions and put it into the hands of speculators. On the other hand, what is the practical effect of the proposition of the gentleman from New York? It is to take twenty or twenty-five millions out of the people and put it into the hands of the Government. It is that, and it is nothing else; and in that view I certainly think it commends itself to the sense and justice of every person who has examined fully the subject. And I must say I am astonished at the argument of the Committee of Ways and Means. The gentleman from Vermont [Mr. MORRILL] has just stated that a duty on only about thirty-two million gallons was collected previous to October, and therefore he argues that if this tax is put upon the present stock it will be impossible to collect it.

Now, Mr. Chairman, I infer from that fact just the opposite. I believe that in consequence of the exemption of the stock on hand at the time of the passage of the original bill, that and that alone was the reason why we have had a tax collected upon only thirty-two million gallons. If that exemption had not been in the bill, I believe that the tax upon that, as upon many other articles, would have been vastly more than it was, and that is a reason, in my judgment, so far as it has any effect at all, for putting a tax upon all the stock now on hand.

Mr. MORRILL. Mr. Chairman, I believe it is sound policy at the present time that we should so levy our taxes that the people will cheerfully

respond and pay them. I think that it is sound policy for us to so shape the law that it will not create a disgust and hatred against the Government in consequence of the mode or manner of taxation or the time at which these taxes are levied.

Now, if this proposition to levy the tax upon whatever may be on hand should unfortunately carry, I say to you in all seriousness that your law cannot be enforced without double the number of internal tax-gatherers that we now have. It is utterly impossible that the tax can be collected under the law we now have upon the statute-book, or by the number of officers that we now employ.

Look again at the amount of illicit trade that it will create. Why, a man living upon the border line of Canada, if this tax shall be imposed, can make over a dollar a day by just carrying a single gallon of alcohol across the lines. I do not want that at this time we should induce that kind of operation. I believe that it would be unfortunate for the country if we should do it.

Mr. Chairman, we have already tried an experiment in this unique kind of legislation. It will be remembered that at the last session this House, against the recommendation of the Committee of Ways and Means, levied a license tax upon lottery-venders of \$1,000, and then levied a tax of fifty per cent. upon the amount of the tickets sold. The consequence has been that the Government has not received a single dollar from that source, while it is notorious that the business is being carried on, being authorized by several of the States, to the same extent as formerly. I hope the House will so fix its legislation at this time upon the great subject of taxation that the people at home will not rise in revolution against it.

The amendment to the amendment was disagreed to.

The question recurred on Mr. FERNANDO WOOD'S amendment.

Mr. LOVEJOY. I believe I have said all I desire to say upon this subject.

The CHAIRMAN. The gentleman is not in order unless he proposes an amendment.

Mr. LOVEJOY. Well, I move to strike out all but the first word of the amendment. We all remember, sir, the fable of the goose that laid the golden eggs. I fear that we are in danger of doing something very like that.

Mr. BALDWIN, of Massachusetts. I rise to a point of order. Is the amendment of the gentleman from Illinois to strike out what has not been adopted by the House in order?

The CHAIRMAN. He proposes to strike out a portion of the amendment so as to mature the amendment, which is in order.

Mr. LOVEJOY. I am informed by those who understand this subject thoroughly, and who, I have no doubt, state the case as it is, that it is utterly impossible, with the present machinery and under the present law in regard to the collection of these taxes, to enforce any such provision as that. I am informed on what I conceive to be good authority that a law like this will absolutely break up a large portion of the distilleries in my State.

Mr. WASHBURN, of Illinois. I understand that some of the distillers from my State or from my own district make the point that the bill as reported from the Committee of Ways and Means will break up their distilleries.

Mr. LOVEJOY. My colleague must not use up all my time.

Mr. MORRILL. I will say in response to the gentleman from Illinois that we had before the Committee of Ways and Means a large number of gentlemen, and without a single exception they were for a lower duty than what the committee reported.

Mr. WASHBURN, of Illinois. That has nothing to do with the question which I put to my colleague.

Mr. LOVEJOY. The argument of the gentleman is that this would be unjust to the distillers. I suppose they ought to know what will injure them, and what not. If my colleague has any exceptional cases in his district, of course he understands that better than I do. In my own district is manufactured more than half of that which is manufactured in the State.

Mr. WASHBURN, of Illinois. I have no doubt of that, and I think that more than half of it is drank also in the gentleman's district.

Mr. LOVEJOY. Then I hope the House will hold out no inducement for them to act so in the future.

Mr. WASHBURN, of Illinois. Mr. Chairman, I oppose the amendment offered by my colleague. It appears to me that this whole question lies in a nutshell, though I do not pretend to so much information on this subject as the Committee of Ways and Means must have. To my mind the proposition is very simple. It is whether we shall levy this tax on parties who hold stocks of the article, or whether, letting them go free, put the amount of tax in their pockets which they will collect out of the consumer. It is the few speculators in whisky against the great mass of consumers. I hold in my hand a copy of the document referred to by my friend from Maine, [Mr. PIKE,] coming from the State which my colleague and myself have the honor, in part, to represent. It is a memorial sent to me by an esteemed friend from Chicago. The proposition is stated on the title-page very distinctly. It is this:

"The only true way to tax is to tax all wines and alcohols sold after such a date, crediting to all that has been paid on, the amount so paid. Capitalists have no more right to have their capital exempted from a tax because they have it in whisky than if it were in railroad stock. Has Congress the right to legislate (as it certainly would be doing if they should tax all made after date) in favor of capital invested in whisky, and against the best interests of the country at large? Would not such legislation be creating a privileged class, exempt from taxation, though not investing them with titles?"

And now, one word in reference to the effect which this thing would have on distillers. Here is a statement presented in this memorial which goes to confirm very strongly the position taken by the gentleman from Iowa, [Mr. KASSON.] It says:

"It is believed that with the estimated stock on hand April 1, 1864, being a six months' supply, all distillers will stop until that supply is nearly worked off, for the reason that the stock on hand can be sold at twenty cents per gallon cheaper than the distiller can afford to sell wines manufactured subsequent to that date. The only points they would be likely to continue to manufacture would be those to which wines would cost more to be transported than the distiller could furnish at and pay the forty cents tax. Such points, in the aggregate, would not exceed one eighth of the estimated number—thirteen hundred."

There are various other propositions and statistics laid down in this memorial which are certainly very interesting; and if we had time I would read the statement to the committee to show the practical operation of this proposition to exempt from taxation the stock of liquors on hand. I merely wish now to call the attention of the committee to some of these propositions, and to state that in my opinion nothing is more just or more righteous than to tax the liquor on hand. The interest of the holders and speculators is antagonistic to the interests of the people and to the interests of the Treasury; and I am for the people and for replenishing the Treasury by all just and proper legislation.

The question being on Mr. LOVEJOY'S amendment, Mr. LOVEJOY withdrew it.

Mr. STEVENS. I renew the amendment. I desire to say in regard to that portion which refers to distillers that numerous committees from them were before the Committee of Ways and Means, every one of which, without a single exception, protested against imposing a tax on the stock of liquor on hand. There is probably some person having a large stock on hand whom it is proposed to reach in this way. It is all in a nutshell. The gentleman from New York [Mr. FERNANDO WOOD] has succeeded very well, I think, in what he proposed to accomplish, which was to distract this side of the House, put the responsibility of the act upon us, and so get his party into power. I withdraw the amendment.

Mr. WASHBURN, of Illinois. I will say to the gentleman from Pennsylvania that I am willing to take my share of the responsibility.

Mr. GARFIELD. I renew the amendment. I do not know that I understand exactly what the gentleman from Pennsylvania means, and if I am wrong I wish to be corrected. It makes no difference to me who it is that offers an amendment. The gentleman from New York [Mr. FERNANDO WOOD] has offered an amendment which appeals to my sense of what is proper. I recognize it just as important coming from him as if it had been offered by the gentleman from Pennsylvania, [Mr. STEVENS.] If the amendment be wrong in principle I desire some gentleman on this side of the House or on the other to show it; and when that

shall be shown I will vote against it. In the mean time I shall go for it. I do not understand, I have never understood, that if I buy a horse I do so under a quasi contract with the Government that there never will be a higher tax put upon that horse than existed when I bought him. It seems to me that what gentlemen have been saying here this morning is based upon that fallacy—upon the supposition that when a person purchases anything or produces anything liable to taxation the Government is under contract to him not to tax that thing any more than it was taxed at the time he bought it or produced it.

Now, what are the facts in the case before us? Since the passage of the act of August, 1862, taxing liquors, nearly all the surplus corn and rye in the country has been distilled, and millions of gallons of liquor are now in the country in the hands of speculators. Upon that stock it is proposed by the gentleman from New York to levy an additional tax for the purposes of revenue.

But gentlemen tell us there is a quasi contract which the Government has entered into with these distillers and dealers, that it will not tax liquors any more until it has given them due notice.

Now, I do not recognize any such principle of legislation, or any such obligation on the part of the Government of the United States. Every man owns and produces property with the understanding that the Government has the right to tax it, and I propose that we shall exercise that right now.

Mr. LOVEJOY. I dislike to interrupt the gentleman, but I will put this question to him: suppose there is an import duty of, say, twenty or twenty-five per cent. upon a certain article of foreign merchandise, and with that understanding, I contract for the importation of a certain amount of that article; I ask the gentleman if it would be just for the Government to place an additional duty of twenty or twenty-five per cent. upon that article for which I had previously contracted?

Mr. GARFIELD. The gentleman says he purchased with that understanding. I should like to ask who was the other party to that understanding?

Mr. LOVEJOY. The Government.

Mr. GARFIELD. With whatever understanding the gentleman purchased, there was none on the part of the Government that did not leave it perfectly at liberty to lay an additional tax if it so determined. I would consent to no doctrine that did not admit that principle.

Mr. BLAINE. Suppose the goods have already been imported and are lying in the bonded warehouse; does the gentleman hold that the Government would have the right to lay an additional tax upon the goods while lying in the warehouse?

Mr. GARFIELD. Yes, sir; the gentleman does hold that the Government would have the right to lay an additional tax upon them.

Mr. BLAINE. That is a new principle.

Mr. LOVEJOY. The question is not whether the property has been taxed, but whether the property has not been purchased with the understanding that no increased tax was to be imposed; and whether, under these circumstances, the Government has the right to increase the import tax upon the goods so purchased?

Mr. GARFIELD. I have already answered the gentleman's question; but the question before us is not one of importation, but one of internal revenue, and to that question I have addressed my remarks. Of course it might be right and proper for us to make some provision for contracts made under the old law and continuing yet.

But, Mr. Chairman, I object to the suggestions that have been made on this side of the House, that this amendment should not prevail because it came from the gentleman from New York. I have no more love for that gentleman than many others here; but if we cannot meet the thing he proposes, let us not object to it because of the source from which it comes.

[Here the hammer fell.]

Mr. MORRILL. A single word in opposition to the amendment to the amendment. If the House are determined to override the principles involved in the bill as reported, let me say that they will not collect the tax they propose to lay on this manufactured article principally from speculators. Most of them sell out when they can obtain a reasonable amount of profit, and a great

portion of this stock on hand has passed through from five to ten hands in the course of the increase of price at the present time.

But, leaving all other matters aside, I call the attention of the House back to the main point that if the proposition of the gentleman from New York is adopted it will be utterly impracticable to carry it into effect without an army of inspectors, a sort of smelling committee to go round into every man's premises to ascertain whether he has or has not liquor on hand. I will not take up the time of the House further with the matter.

Mr. GARFIELD, by unanimous consent, withdrew his amendment.

Mr. WASHBURN, of Illinois, called for tellers upon Mr. Wood's amendment.

Tellers were ordered; and Messrs. PENDLETON and WASHBURN, of Illinois, were appointed.

The question was taken; and the tellers reported—ayes 85, noes 30.

So the amendment was adopted.

Mr. HOLMAN. I move to strike out the word "sixty," and to insert in lieu thereof the word "forty," so as to impose a tax of forty cents per gallon instead of sixty cents. This amendment will not be in conflict with the amendment which has been adopted, applying the tax to the accumulated stock of manufactured spirits on hand, and which will render a larger tax than forty cents per gallon unnecessary.

I trust that gentlemen will consider the operation of this section upon a particular section of country. Ohio, Indiana, and Illinois are the great corn-growing States, and are the most affected by this tax. It will not affect materially the heavy capitalists, but it will most oppressively affect the small distillers—parties with small capital.

I warn gentlemen that if they insist upon raising the tax upon spirits to sixty cents per gallon they will decrease instead of increase the amount of revenue to be collected. If they do not, they will ruinously affect the corn-growing interest. The argument that a tax in Great Britain of \$2 50 per gallon is imposed on spirits is no argument at all. The system of taxation in Great Britain does not in any sense correspond with our system. They have the advantage of an expanded colonial system and the immense system of commerce springing out of it to meet in multiplied form the home tax imposed upon their people. So much of their manufactured spirits as is used for other manufacturing purposes in the form of methylated spirits bears no tax whatever. One half of the spirits manufactured in that or this country would be so applied, so that the tax in that country is imposed only on a part of the spirits manufactured. But the people of Great Britain are taxed to the last extremity to pay the interest on a debt of \$3,500,000,000. We certainly have not so soon reached a condition that gentlemen must go to Great Britain with her over-burdened population for precedents in taxation. The tax upon spirits should correspond with the tax upon other articles. It should not be beyond forty cents. This is double the former tax. But the bill proposes an increase of two hundred per cent. on the former tax.

I speak, Mr. Chairman, for the interests directly involved. My own district is as largely interested in this as any other district represented upon this floor, and I say, without hesitation, that to impose a duty of sixty cents must materially affect the interests of my constituents and will impose on the Northwest burdens which are not equally borne by the East. If gentlemen who represent the manufacturing districts of the country, such as the manufacture of cotton and woolen fabrics, and the manufacturers of iron—if they are willing to run the risk by the imposition of a corresponding duty on those commodities there would be some show of fairness. But will such be the case? I tell gentlemen if they intend to increase the tax two hundred per cent. on manufactured spirits we shall expect to see a corresponding increase of tax imposed upon other manufacturing interests. If the manufacture of the Northwest is to be taxed so heavily, a corresponding rate of increase must be imposed on the manufactures of New England and Pennsylvania. Or will gentlemen tax us without limit for the benefit of their own section?

Mr. Chairman, I know something of these distillers and of their sentiments. When we levied a tax on the tax upon them they paid it without

complaint. They are an enterprising and patriotic body of men. I am assured by the most intelligent of this class of citizens—and they embrace some of our most intelligent and successful business men—that if you increase the duty beyond forty cents a large number of distilleries in the Northwest must be suspended. I know that that will be the case in many instances. You will drive men into pursuits not so unreasonably taxed. My own district has paid during the current year \$700,000 of tax on manufactured spirits, a larger duty than has been paid, I think, by any other congressional district on this particular article of taxation.

I hope that gentlemen will discriminate between the condition of this and foreign countries where it is alleged that an increase of tax has increased production and revenue. You cannot by taxation stimulate industry. I hope that they will not create difficulty and jealousies by imposing this heavy tax on an article of western industry by an unjust discrimination. Let them not put an additional tax upon the manufacture of spirits without at least a corresponding increase of taxation on the taxable products of other sections. I protest against what I believe is intended to be a discrimination against one section of the country by increasing the tax threefold without a corresponding increase upon the burdens of other sections.

Mr. BLISS. Mr. Chairman, I suppose that we should consider this in a common-sense view, as we do all other questions. I am disposed to assail the idea that it is within the constitutional power of this body to legislate for the correction of morals and practices in the States. Laws bearing upon that subject are within the province of the State Legislatures. I therefore do not think that temperance speeches are properly delivered in this Hall. If, however, they are to be delivered, we might have evening service for such purposes as those for which the Hall was used by a lady not long since.

I will use the remaining portion of my five minutes in talking on the question. The proposition is to levy upon distillers of spirits, such as are ordinarily manufactured in the States, a tax of about three times the value of the article. Whisky would not be worth in the market, as it comes from the distillers, more than twenty-five cents per gallon. You propose a tax of sixty cents per gallon. I know that when the tax of twenty cents was proposed, several distillers of my district closed their distilleries because they could not bear the burden, but they recuperated, however, by time and circumstances and recommenced manufacturing. I say to the House that in all that region of country—and I may be expected to know something about whisky, according to the idea of the other side, being a Democrat—the tax here proposed will destroy all reasonable prospects of obtaining revenue, by closing up the distilleries.

Mr. KASSON. I could not hear distinctly the remarks of the gentleman from Ohio, but I gather their purport to be that by this tax you will embarrass or destroy the production of this article, that you will render the price so disproportionate to the value of the article as to operate injustice in that way.

Speaking to those, I wish to say we have evidence that the price of the article is now necessarily and permanently different from the price of the article at the commencement of the system of taxation. It is now nearly a dollar a gallon. The extraordinary production shows that the imposition of the tax heretofore has in no degree retarded its production, or, as far as I know, retarded its consumption.

What is the tax when you come to estimate in detail? The gentleman from Illinois [Mr. Lovejoy] is well aware that the price per drink is ten cents.

Mr. LOVEJOY. Six cents in my country.

Mr. KASSON. At the value of five cents per drink the yield of a gallon of whisky is estimated, in the papers I have examined, to be between six and seven dollars, when it actually reaches the consumer in the ordinary way. You have here a very large margin of profits; enough to show that this charge of three and one third mills per drink proposed to be imposed is very moderate.

Upon the subject of consumption, gentlemen well know that the temptation to consumption in this country is identical with that in England. In

England they divide wines into beverages and methylene spirits, which latter are used for manufacturing purposes. That which is methylene is not the subject of a tax. That used for beverages is subject to a tax varying in amount, and generally increasing. In examining the statistics I find under a rate of tax which I believe to be about seven shillings and sixpence in 1830—I have not been able to find the rate in 1842—the revenue in the United Kingdom was £5,000,000 sterling. In 1861, under a tax of ten shillings per gallon, or about two and a half dollars, the yield was £9,000,000 and upward. Under the same tax in 1862 the yield was £9,600,000.

I state these facts to show—the conditions of consumption being the same in both countries—that the imposition of the highest tax does not embarrass or even restrict the consumption of the article. And it shows that the amount of tax proposed by the Committee of Ways and Means is exceedingly moderate, and will affect nobody except the man who gets the last profit before it reaches the consumer.

[Here the hammer fell.]

The amendment to the amendment was not agreed to.

Mr. ARNOLD. I move to amend the amendment by reducing the amount one cent. I offer the amendment for the purpose of enabling me to say a single word in regard to the great question before the committee—that of revenue. The object of this bill is an increase of the revenue. With very great deference to those gentlemen of the Ways and Means who have investigated this subject, I am advised by those who ought to know, that the rate reported by that committee is so high that it will drive large numbers of those now engaged in the business out of it; and that instead of increasing the revenue from that source it will entirely, or to a very considerable extent, destroy it.

It is with a view to get before the committee the statement of those largely engaged in the manufacture of spirits that I have risen, and I will ask that the statement upon that subject which I have sent to the Clerk's desk be read, simply saying that it comes from gentlemen of experience, and whose character for truth I am willing to indorse.

The statement was read, as follows:

The undersigned, distillers of the city of Chicago, would respectfully present to the committee on revenue the following facts in relation to the distillation of high-wines:

In the city of Chicago there are four distilleries, which in the aggregate consume daily seven thousand two hundred and fifty bushels of grain, of a quality mostly unfit for any other use, producing therefrom about thirty thousand gallons of high-wines. In the sheds of the said distilleries there are at present seven thousand head of cattle in a half fattened condition. The question presented to the committee is, simply, how to derive the greatest amount of revenue from the high-wines with the least burden to the manufacturers, and we propose to present some data to enable the committee to arrive at a proper solution of the question.

We think that revenue, to be productive, should be graduated in such a manner that the largest amount can be raised upon given articles, and the manufacturer still be able to continue their production. So soon as the amount of the excise levied upon any article, coupled with the cost of its manufacture, exceeds its price in the market, then the manufacturer must stop producing. This conclusion is inevitable, since no person in his sober senses will continue to sink his capital merely for the patriotic purpose of paying revenue to the Government.

To illustrate the argument: let us take a distillery running one thousand bushels of grain and making four thousand gallons of high-wines per day; such a one now pays to the Government a daily excise of \$800. When this was first laid, so heavily did it press upon manufacturers of high-wines that some were compelled to run their distilleries for alcohol for a period of six months, for foreign exportation, before the trade of the country became assimilated to even the comparative low excise of twenty cents upon the gallon, and enabled them to manufacture high-wines for home consumption. Judging from this fact, we are of the opinion that if the high excise of between sixty cents and one dollar be laid upon high-wines it will result in shutting up every distillery in our city, so soon as, by the manufacture of alcohol, they can get their half-fattened beves out of their barns without total loss. On the contrary, should a tax of forty cents be laid by the Government, it will enable the manufacturer to continue his business, and not close his distillery.

We ask the committee whether they will recommend a high excise, thus closing our distilleries and cutting off the revenue to the Government, or will place the excise at such a figure as will enable us to continue our business and pay a large revenue to the Government.

We are willing to pay all our manufacture will stand, and to do our best, in common with our fellow-citizens, to bear the burdens of the Government; but we strongly protest against a taxation specific in its character and ruinous in its results to us.

We add the following figures to show how much revenue

is now paid by our distillers in Chicago, and what is proposed for them to pay:

There are daily manufactured in the city thirty thousand gallons, which, at twenty cents per gallon, produces a revenue of \$6,000, equal to the yearly sum of \$1,800,000.

Now if a tax of forty cents per gallon be laid, it will most probably be paid by distillers, and the Government will derive from our city alone the enormous sum of \$3,600,000. Are the committee prepared by high excise to prevent this sum from going into the Treasury of the Government?

J. H. WICKER & CO.

SAMUEL M. NICKERSON & CO.

N. H. CROSBY.

THE CHICAGO DISTILLING COMPANY,
Per L. C. ELLSWORTH, Treasurer.

Mr. ARNOLD withdrew his amendment to the amendment.

The amendment offered by Mr. HOLMAN, to strike out "sixty," line ten, and insert "forty," was not agreed to.

Mr. BROWN, of Wisconsin. I move to insert after the word "on," in line twelve of the first section of the bill, the words "the interest of all parties in default in;" so that it will read:

That from and after the passage of this act, in lieu of the duty provided for in section forty-one of an act entitled "An act to support the Government, and to pay interest on the public debt," approved July 1, 1862, and in addition to duties payable for licenses, there shall be levied, collected, and paid on all spirits that may be distilled and sold, or removed for consumption and sale, of first proof, the duty of sixty cents on each and every gallon; and said duty shall be a lien and charge on such spirits and also on the interest of all parties in default in the distillery used for distilling the same, with all the stills; &c.

My amendment, instead of forfeiting the rights of parties who may not be involved, merely forfeits the rights of those who ought to have paid the tax.

Let me suppose a case for the purpose of illustrating the object of my amendment. Suppose a man has a piece of ground or a building which, without his consent, is used for the purpose of a distillery, and then by collusion between the person who leases it and the public officers there may be a large amount in arrears to the Government for liquors there distilled. By this provision the interest of the innocent owner of the premises is rendered liable for this default. We have become so accustomed to adopt the doctrine of forfeiture within the last year or two, that after a while I think it will be scarcely possible for any person to hold a piece of land and be secure, that at some time or other it will not, by some quibble of law, be forfeited to the Government. I think we should be just in this respect, and that only the rights of the parties in default should be forfeited.

The amendment was agreed to.

Mr. CLAY. I move to insert in line fifteen, section one, after the word "paid," these words:

And all whisky and all other spirits on being rectified or mixed with any other spirit or fluid whatever, or into which any matter whatever may be infused and to be sold as whisky, brandy, rum, gin, wine, or by any other name, and not otherwise provided for by this act or the act to which it is amendatory, shall pay twenty cents per gallon.

I offer this amendment, Mr. Chairman, because I believe the Committee of Ways and Means have overlooked a very important feature in taxing spirits. I come from a region of country that has been noted for making pure old Bourbon whisky, and especially the county from which I hail. In old times, when we had no railroads, but only turnpikes, upon which to transport our produce, our farmers got into the habit of distilling whisky, and the mode of doing it was in the old-fashioned way, by copper stills. Nearly every farmer who could not dispose of his grain bought one or two copper stills and made his whole crop of grain into whisky; and from the fact that it was made purely from grain, without any foreign ingredients, it acquired a name and reputation all over the country as "Old Bourbon." Still later, since the adaptation of steam and the progress of Yankee ingenuity, we have been enabled to manufacture out of a single bushel of grain twice the quantity that used to be made under the old system. Under the old system two gallons or two gallons and a half was a fair average to be made from a single bushel of grain, but under this other mode of distillation, and by the addition of other and foreign materials, they have been able to make four and five gallons out of a bushel, and men of wealth and men of capital, companies and corporations, have been in the habit of buying up the pure whisky made in the mode I have described, and rectifying it—not purifying it, which is the generally understood meaning of the word "rec-

tifying," but adulterating it, and by this adulteration they make out of one barrel of the pure whisky three or four barrels. Men engaged in this business have made immense fortunes, have become millionaires, and been enabled to build marble palaces. I see no reason why these men should be exempt from taxation, or should only have to pay the duty on one gallon of pure whisky, out of which they make three or four gallons of the adulterated. In this process of adulteration arsenic and strychnine are employed. It has been ascertained by chemical analysis that a single gallon of whisky thus rectified contains poison enough to kill any man in this House.

[Here the hammer fell.]

Mr. MALLORY. Does my colleague intend by his amendment to decrease the tax imposed by this bill upon whisky of that kind? That seems to be the effect of his amendment, although I do not think he aims at that.

Mr. CLAY. This is intended to be an additional tax. I modify my amendment by adding to it the words "as an additional tax."

The amendment was disagreed to.

Mr. STILES. I move that the committee do now rise.

The motion was not agreed to.

Mr. HOLMAN. I move to amend by reducing the tax from sixty cents to fifty cents per gallon. The Committee of the Whole on the state of the Union has just adopted an amendment imposing an additional tax of twenty cents on rectified spirits. I presume it is well understood that that additional tax is imposed for the benefit of the Bourbon-whisky interest of Kentucky. That interest is not injuriously affected but actually benefited by the imposition of this additional duty, but the interest of distillers generally is injured by it. It is a provision exclusively in favor of the Bourbon-whisky interest. A similar provision was pressed on the last Congress. It was adopted by this House, and was afterwards modified and adopted by the Senate, but finally it was rejected as being legislation in favor of a particular interest, and impracticable as a revenue measure.

I wish to say a word in favor of my proposition to strike out sixty cents and insert fifty cents. I do not propose it because I am in favor of so high a tax. I am satisfied that gentlemen are acting without sufficient regard to the interests of the western section of the country. If we impose on manufactured spirits this duty of sixty cents per gallon, and the additional duty of twenty cents on rectified whisky, my honest conviction is that, instead of the revenue from that source being increased, it is more likely in progress of time to be largely diminished. I do not believe that any gentleman familiar with the subject would be willing to incur the risk of imposing this high duty. I believe it will materially injure the prosperity of the western section. I believe that a duty of thirty cents per gallon would be large enough. I believe that would be a larger increase in comparison than will be put upon other taxable products of the country. But, in any event, it seems to me that the friends of revenue and the friends of the producing interests of the Northwest should firmly protest against this extraordinary discrimination—this tax of sixty cents a gallon on whisky, the average value of which was not more than seventeen cents a gallon prior to this war. I think that that is one of the most remarkable instances of an effort to force a particular interest to bear unreasonable burdens that has ever received the sober consideration of any legislative body. I speak for the West when I say that this tax is unreasonable.

[Here the hammer fell.]

Mr. COFFROTH. I move to amend the amendment by imposing a tax of twenty cents per gallon on all pure native rye whisky made in copper stills.

The CHAIRMAN. The amendment is not germane to the amendment offered by the gentleman from Indiana, and is not in order.

Mr. LOVEJOY. I propose the following amendment to the amendment:

And provided further, That all stocks of liquor contemplated in this bill, in the hands of any one for consumption, whether in demijohns, bottles, kegs, half barrels, or barrels, shall pay the tax imposed by this bill.

The amendment to the amendment was rejected.

The question recurred on the amendment offered by Mr. HOLMAN, and it was rejected.

Mr. MILLER, of Pennsylvania. I move to amend by reducing the duty to forty-nine cents. It strikes me that the disposition of certain gentlemen of this House to discriminate against the whisky interest can be accounted for on no other theory than that of the gentleman from Ohio, who remarked the other day that this Government stood on the verge of bankruptcy. I agree with my colleague, the chairman of the Committee of Ways and Means, that this is not the time or place to attempt any sumptuary legislation. And I defy gentlemen to show any good reason why the article of whisky should be singled out and taxed to an amount that is treble its value. I hold in my hand a letter from one of my constituents on this subject, which I must confess is better than any speech I can make upon it, or that I have heard made on this floor. I ask the Clerk to read it as part of my remarks.

The letter was read, as follows:

HARRISBURG, January 14, 1864.

MY DEAR SIR: Yesterday's World contains a supplementary law, reported by the Committee of Ways and Means, taxing whisky sixty cents from and after the 12th instant. This is the most infamous kind of legislation which can be imagined. It is worse than highway robbery. For although the highway robber springs upon his victim from his lurking-place as unexpectedly as this law was sprung upon the public, yet he only robs the luckless wayfarer of what he has in his pocket; whereas this law robs us of what we had before the promulgation of a proposed law reached us, to wit: we requested the inspector on the 10th instant to call at our distillery to inspect one hundred and fifty barrels of whisky. He came on the 13th and inspected it. We had sold it on the 12th at ninety-five cents, to be delivered at Harrisburg. By this transaction we had expected to make a handsome profit. But the Committee of Ways and Means proposes a retrospective law, which, if carried, not only deprives us of our profit, but exposes us to an actual loss of at least \$600. Such a law as this is no better in practice than an *ex post facto* law.

If this bill passes in its present shape it will break up many honest manufacturers who have carried on their business under the impression that they would be protected by their own Government.

As long as this bill shall be pending what safety will there be in manufacturing, what safety in selling, what safety in buying? The most prudent man will be thrown against his will upon the wild sea of speculation, and see himself exposed to utter ruin through circumstances entirely beyond his control.

If Congress must raise revenue, let them do it prospectively, so that time may be given to all parties concerned to meet the requirements of the law without utter destruction to themselves.

Let the sixty-cent tax take effect from and after the passage of the law, or from the 1st of April, or from any period which will enable the manufacturers to wind up their business with some chance of safety.

I can scarcely believe that Congress will pass this *ex post facto* law; and yet such is the present state of uncertainty that I see nothing but loss staring me in the face.

Hon. WM. H. MILLER, Washington.

Mr. STEVENS. I move the amendment. If my colleague had moved to make the law prospective then his speech or the letter which he had read would apply to it. I agree most cordially with the general principles contained in that letter. I look upon the legislation to which he has referred as pretty well characterized by that letter. But the bill as reported from the Committee of Ways and Means did not make the tax retrospective. That feature of it comes from the gentleman from New York, [Mr. FERNANDO WOOD,] and I wish my colleague to understand that.

Mr. MILLER, of Pennsylvania, withdrew his amendment.

Mr. DAWSON. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Cox reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly bill of the House No. 122, to increase the internal revenue, and for other purposes; and had come to no conclusion thereon.

Mr. STEVENS. I move that when the Committee of the Whole on the state of the Union shall resume the consideration of this bill, all further debate on the first section shall cease in one minute.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Cox

in the chair,) and resumed the consideration of the special order, being bill of the House No. 122, to increase the internal revenue, and for other purposes, all debate on the first section being closed, by order of the House, in one minute.

Mr. HOOPER. By direction of the Committee of Ways and Means I move to amend by striking out the third section, as follows:

Sec. 3. That all distilled spirits on which an excise duty is imposed by law may be exported without payment of said duty, and when the same is intended for exportation may be removed without being charged with duty, if transported directly from the distillery or bonded warehouse, under such rules and regulations and upon execution of such transportation or other bonds as the Secretary of the Treasury may prescribe, said bonds to be taken by the collector of internal revenue of the district in which such distilleries or bonded warehouses may be situated to a bonded warehouse at any port of entry of the United States, said warehouse at the port of entry to be established in accordance with the law and Treasury regulations, and to be used exclusively for the storage of distilled spirits, and to be placed in charge of the proper officers of customs, who, together with the owners and proprietors, shall have the joint custody of all the distilled spirits stored in said warehouses; and all the labor on the goods so stored shall be performed by the owner or proprietor of the warehouse under the supervision of the officer of the customs in charge of the same at the expense of said owner and proprietor, and shall also be subject to the same rates and regulations and be charged with the same costs and expenses in all respects as other goods may be subject to that are deposited in public store for exportation from the United States; and no drawback shall in any case be allowed on any distilled spirits on which an excise duty has been paid, either before or after it has been placed in a bonded warehouse, as aforesaid.

And to insert in lieu thereof as follows:

Sec. 3. And be it further enacted, That all distilled spirits upon which an excise duty is imposed by law may be exported without payment of said duty, and when the same is intended for exportation, may, without being charged with duty, be removed under such rules and regulations and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe, said bonds or other security to be taken by the collector of internal revenue of the district from which such removal is made: *Provided*, That the said spirits shall be transported directly from the distillery or bonded warehouse to a bonded warehouse established in conformity with the law and Treasury regulations at a port of entry of the United States, and used exclusively for the storage of distilled spirits, and to be placed in charge of a proper officer of the customs, who, together with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits stored in said warehouse; and all the labor on the goods so stored shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer of the customs in charge of the same, and at the expense of the said owner or proprietor; and the said spirits shall also be subject to the same rules and regulations, and be chargeable with the same costs and expenses, in all respects, to which other goods that are deposited in public store for exportation from the United States may be subject; and no drawback shall in any case be allowed on any distilled spirit upon which an excise duty shall have been paid either before or after it shall have been placed in a bonded warehouse as aforesaid; but no provision of this act shall be construed to repeal existing laws which provide that distilled spirits may be removed from the place of manufacture or bonded warehouse for the purpose of being redistilled for exportation, or which provides for the manufacture for exportation of medicines, preparations, compositions, perfumery, and cosmetics.

Mr. HOLMAN. I rise for the purpose of inquiring of the gentleman from Massachusetts the exact effect of his amendment. Upon hearing it hastily read I infer that his proposition is this: that spirits already distilled and placed in warehouse may be removed for the purpose, for instance, of being manufactured into alcohol, and then may become subject to exportation without the payment of duty. Is that the effect of the gentleman's proposition?

Mr. HOOPER. The amendment submitted by me by direction of the Committee of Ways and Means was not intended to change the character of the original section in its general features, but it was drawn with more care, and covers one or two points which were not provided for directly in the bill as it stands. One point was the right to withdraw from the warehouse for the purpose of distillation and also for the purpose of being manufactured into perfumery and cosmetics. Under the existing law the manufacturer had the right to withdraw his whisky from the bonded warehouse under regulations to be prescribed by the Treasury Department for the purpose of being manufactured into alcohol, and also into cosmetics and perfumery; and the object of this amendment is to accomplish the same purpose.

Mr. HOLMAN. The point I wanted to come at is this. It is a well-known fact that most distillers do not manufacture alcohol. Now I ask whether the whisky may be withdrawn from the bonded warehouse for manufacture into alcohol

and then the alcohol be exported without the payment of any duty?

Mr. HOOPER. The object is to give the manufacturer of alcohol as well as the manufacturer of cosmetics and perfumery the right to manufacture for exportation without paying a duty for it.

Mr. FERNANDO WOOD. I move to amend the amendment by striking out the last word.

If I understand the amendment of the gentleman from Massachusetts, it removes a defect which I thought I discovered in the original section for which this is proposed to be substituted. It struck me that while the manufacturer and distiller would be entitled to the benefit of the drawback in case the spirits were exported, the same advantage or benefit would not be given to the exporting merchant. I may have been in error; but I so read the original section. But as I understand the amendment, it clears up the confusion of phraseology and of ideas in the original section, and gives the benefit of the drawback to whoever may export. If I am right in the construction I have placed upon the gentleman's amendment, I am in favor of it. I withdraw my amendment to the amendment.

The amendment offered by Mr. HOOPER was agreed to.

Mr. KASSON. With the consent of the committee, I desire to go back to the second section and move to amend the provision which prescribes a penalty by inserting "one half of which shall be awarded, and, upon recovery, paid, to the informer."

I will simply say that I have consulted a majority of the Committee of Ways and Means, and that no dissent has been expressed to the amendment.

No objection being made, the amendment was received and adopted.

Mr. KASSON. I move the same amendment to section —, to add at the end of the section, "one half to be awarded, and upon recovery to be paid, to the informer."

Mr. STEVENS. I will suggest to the gentleman from Iowa that an amendment be offered to apply to all the penalties provided in the bill.

Mr. KASSON. I have no objection to that; and, with the understanding that the gentleman from Pennsylvania, the chairman of the Committee of Ways and Means, will offer such an amendment, I will withdraw the one I have offered.

Mr. BLAINE. I move the following amendment:

Provided, That upon the cotton on which a duty of one half cent has been paid, an additional duty of one and a half cents shall be levied and collected.

It corresponds with the previous action of the committee. It is to make the tax uniform.

The amendment was agreed to.

Mr. ENGLISH moved that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Cox reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly bill of the House No. 122, to increase the internal revenue, and for other purposes; and had come to no conclusion thereon.

DEFICIENCY BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill to supply deficiencies in appropriations for the service of the fiscal year ending the 30th of June, 1864; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEVENS moved that it be made the special order for day after to-morrow, and from day to day until disposed of.

Mr. HOLMAN. Say Tuesday next. The bill has not been printed, and it is one that ought to be carefully considered.

Mr. STEVENS. I agree to Monday, after the morning hour.

The motion was agreed to.

PAY OF CADETS.

Mr. NELSON, by unanimous consent, introduced a bill increasing the pay of cadets at West Point; which was read a first and second time, and referred to the Committee on Military Affairs.

DAKOTA CONTESTED-ELECTION CASE.

Mr. HUBBARD, of Iowa, presented papers in the Dakota contested-election case; which were referred to the Committee of Elections.

REBELLIOUS STATES.

Mr. ASHLEY. I ask unanimous consent of the House to make a report from the select committee on the rebellious States. The chairman [Mr. DAVIS, of Maryland] is absent on account of sickness.

Mr. HOLMAN. I hope that objection will not be made if a day late in February is fixed for its consideration.

Mr. PENDLETON. I object. It must come in regularly.

Mr. COX moved that the House do now adjourn.

And then (at five minutes past four o'clock p. m.) the House adjourned.

IN SENATE.

THURSDAY, January 21, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a letter of the Commissioner of Agriculture, directed to the chairman of the Committee on Agriculture, upon the subject of the taxation of tobacco, as recommended by the Commissioner of Internal Revenue; which was referred to the Committee on Agriculture, and ordered to be printed.

Mr. CHANDLER presented the memorial of George W. Fish, praying for compensation for services rendered as United States consul at Ningpo, from the 1st day of April, 1861, to the 8th day of August, 1861; which was referred to the Committee on Commerce.

He also presented the petition of J. Judson Barclay, United States consul at the island of Cyprus, praying for an increase of his compensation; which was referred to the Committee on Commerce.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. TRUMBULL, it was

Ordered, That the petition of A. T. Spencer and G. S. Hubbard, of Chicago, Illinois, praying for compensation for service performed in carrying the mails on their line of steamers between Chicago and Lake Superior, be taken from the files of the Senate, and referred to the Committee on Post Offices and Post Roads.

On motion of Mr. CONNESS, it was

Ordered, That the petition of Leonard J. Rose, praying for indemnity for property stolen and destroyed by the Indians, be taken from the files of the Senate, and referred to the Court of Claims.

On motion of Mr. POMEROY, it was

Ordered, That the petitions of citizens of Kansas presented by him on the 11th instant, praying for the abolition of slavery, be referred to the select committee on slavery and freedmen.

REPORTS FROM COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the petition of Charles Fosdick Fletcher, praying for the appointment of commissioners under an act to charter a steam packet company to be called "The Washington, Norfolk, and Cadiz Steamship Company," with a capital of \$5,000,000 in shares of \$100 each, asked to be discharged from its further consideration; which was agreed to.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom was referred a petition of mail route agents, praying for an increase of their compensation, and a petition of mail route agents, praying that all letters delivered to them for mailing shall be prepaid by stamps at double rates, asked to be discharged from their further consideration; which was agreed to.

CONDUCT OF THE WAR.

The VICE PRESIDENT appointed Messrs. WADE, CHANDLER, and HARDING the committee on the part of the Senate on the joint committee on the conduct of the war, under a joint resolution of the two Houses of Congress.

MAIL MATTER.

Mr. COLLAMER. The Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 143) to amend the law prescribing

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

FRIDAY, JANUARY 22, 1864.

NEW SERIES.....No. 19

ing the articles to be admitted into the mails of the United States, have directed me to report it back without amendment, and to recommend its passage. I ask that it be put on its passage now.

By unanimous consent, the bill was considered as in Committee of the Whole.

It proposes to allow articles of clothing, manufactured of wool, cotton, or linen, and comprised in a package not exceeding two pounds in weight, addressed to any non-commissioned officer or private serving in the armies of the United States, to be transmitted in the mails at the rate of eight cents, to be in all cases prepaid, for every four ounces, or any fraction thereof, subject to such regulations as the Postmaster General may prescribe.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ENLISTMENTS IN THE ARMY.

Mr. WILSON. I move to take up Senate bill No. 41.

The motion was agreed to; and the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes, was considered as in Committee of the Whole.

The bill consists of seven sections. The first section provides that enlistments hereafter made in the regular Army during the continuance of the present rebellion shall be for the term of three years. The second section provides that all persons of African descent who have been or may be mustered into the military service of the United States shall receive the same uniform, clothing, arms, equipments, camp equipage, rations, medical and hospital attendance, pay and emoluments, as other soldiers of the regular or volunteer forces of the like arm of the service, and that every such person hereafter mustered into service shall receive two months' pay in advance. The third section declares that when any man or boy of African descent owing service or labor in any State under its laws shall be mustered into the military or naval service of the United States, he, and his mother, wife, and children, shall be forever free. The fourth section proposes to allow full pay, without rations, to chaplains heretofore or hereafter absent by reason of wounds or sickness; half pay with rations during absence on leave occasioned by other causes. The fifth section proposes to allow to the battalion of engineers one adjutant, one quartermaster, and one commissary of subsistence, to be selected from the lieutenants on duty with the battalion, with the same compensation as regimental adjutants and quartermasters respectively. The sixth section proposes to add to the battalion of engineers one sergeant major, one quartermaster sergeant, and one commissary sergeant, with the pay of a sergeant of engineers. The seventh section provides that the officer in command of that battalion shall be allowed the pay and emoluments of a lieutenant colonel of engineers.

The bill had been referred to the Committee on Military Affairs and the Militia, and reported with amendments. The first amendment was in the second section, after the word "emoluments," in the fifth line, to insert the words "other than bounty," so as not to allow bounty to troops of African descent.

The amendment was agreed to.

The next amendment was in section three, to strike out in lines one and two the words "man or boy" and to insert "person," and after the word "descent" in line two to strike out the word "owing" and insert the word "whose," and after "labor" in line three to insert "is claimed," so as to make the section read:

"That when any person of African descent whose service or labor is claimed in any State under the laws thereof shall be mustered;" &c.

The amendment was agreed to.

The next amendment was in section six, to strike out in line three the words "and one" and to insert "who shall also be," and in line four before the word "each" to insert the word "and,"

and to strike out the word "with" and insert "shall have;" so as to make the section read:

That there be added to the battalion of engineers one sergeant major, one quartermaster sergeant who shall also be commissary sergeant; and each shall have the pay of a sergeant of engineers.

The amendment was agreed to.

Mr. COLLAMER. I desire to move an amendment to the fourth section of the bill. In the second and sixth lines of that section after the word "sickness" I move to insert the words "or captured;" so that chaplains when absent from duty by reason of wounds or sickness, or captured, shall be allowed full pay without rations.

The amendment was agreed to.

Mr. GRIMES. I wish to inquire of the chairman of the Committee on Military Affairs whether under this bill any bounty is to be given to colored soldiers.

Mr. WILSON. No bounty is given under this bill to colored soldiers. The committee considered that subject, and decided that it was not necessary. The information we had was that it was not necessary to give a bounty. By existing law, soldiers are entitled to one month's pay in advance. We have provided, however, that colored soldiers shall receive two months' pay in advance instead of giving them a bounty. It was thought that that was all that was necessary, certainly in regard to colored soldiers raised in the rebel States.

Mr. GRIMES. It seems that matters in regard to military affairs are left pretty much to the discretion of the Military Committee, and I suppose it will be useless for me to attempt to change the bill as it is now presented to us by that committee. If I had my way, I should give a bounty of \$100 to all these colored men. The chairman of the committee should remember, in the first place, that colored men are not alone enlisted in the rebel States, but they are enlisted in the loyal States, and they ought to have a bounty to induce them to enlist. I warn Senators of this: that in a little while we shall have an application here from several of those States to be permitted to go down into the rebel States and enlist men to be applied to their quotas; and the argument will be, "You do not succeed in enlisting any of them for the Government; we are willing to go into the rebel States and pay a liberal bounty, and in that way we can induce these men to go into our ranks and fight for us." The Government is not able to enlist them because you do not allow them to give a bounty. You deny to the Federal Government that privilege; and yet you will be asked to allow other States in the Union to go down into those States and induce these men to enlist by giving them most munificent bounties. That will be the upshot of this business.

Mr. ANTHONY. This bill does not prohibit bounties.

Mr. GRIMES. As I understand the chairman of the committee the bill does not allow the Government to give bounties to the colored soldiers raised under it.

Mr. WILSON. It does not.

Mr. ANTHONY. It does not authorize, but it does not prohibit it.

Mr. GRIMES. The Government cannot give them without some authority or authorization.

Mr. POMEROY. I wish to inquire of the chairman of the Military Committee, in reference to these colored soldiers having two months' pay in advance, whether there is also a law allowing the claimant who claims this service or labor to have any compensation? I understand the Department are preparing papers to authorize their agents to pay some three or four hundred dollars to the persons who claim these slaves, as a consideration of their losing their service and labor if they go into the service of the United States. I desire to inquire whether there is any law for that; whether, when the Government takes the slave of a man, no matter if he is in rebellion or not, and he is made a soldier in the Army, his master gets anything for it?

Mr. WILSON. There is no law for it now

that I know of, other than the authority that was given to the War Department to use the commutation money to obtain substitutes. I suppose that under that general authority, wherever they enlisted persons who were claimed to owe service, they have made some recognition of the claim of the master. I know of no other law than that. I do not know the extent to which the Department has gone in that respect. I take it, to a very limited one.

Mr. POMEROY. I do not understand that anything has been paid up to this time to any master as a consideration for losing the services of his slave. I only understand that they are in the process of being paid; that arrangements are being made to compensate the owner. It occurred to me that that should not be done without a law authorizing it at any rate; and I, for one, am opposed to having a law for it. But as the matter hangs in suspense and doubt, and as some think they have law for it and some think they have not, I suggest to the chairman of the Military Committee to fix it in the law, and fix it here and now. This is the time and this is the place to settle that question; and let us know and have the Senate decide the question whether they are to be compensated or not.

Mr. GRIMES. I move that this bill be postponed until to-morrow.

Mr. CLARK. What for?

Mr. GRIMES. I want to amend it and to look into it. I had no idea of it coming up to-day. We had an understanding that the special order was to come up immediately after the morning business. I make the motion to postpone.

Mr. POWELL. If it is in order, I move to strike out the third section of this bill. If the Senator from Iowa wishes to move to postpone the bill, I will waive my motion, and will make it to-morrow when the bill shall come up. However, I will make the motion now, and it can be entered.

The VICE PRESIDENT. The motion to postpone takes precedence of the motion to amend. The Senator from Iowa moves to postpone the further consideration of this bill until to-morrow. The motion was agreed to.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 143) to amend the law prescribing the articles to be admitted into the mails of the United States; and it received the signature of the Vice President.

EXCHANGE OF PRISONERS.

The VICE PRESIDENT. A resolution submitted by the Senator from Kentucky is now in order, calling for correspondence between the authorities of the United States and the rebels in reference to the exchange of prisoners. It comes up regularly in order in the morning hour.

Mr. DAVIS. I hope a vote will be taken on that resolution.

The VICE PRESIDENT. The resolution will be read.

The Secretary read it, as follows:

Resolved, That the President of the United States be, and he is hereby, requested to furnish the Senate with a copy of all the correspondence between the authorities of the United States and the rebel authorities on the exchange of prisoners, and the different propositions connected with that subject.

Mr. WILSON. I think that had better lie over until to-morrow morning.

Mr. HOWARD. I hope the resolution will not lie over, but that we shall take it up and pass it.

The VICE PRESIDENT. The resolution is before the Senate.

Mr. ANTHONY. I think if the resolution is to pass it ought to be amended, and directed to the President of the United States if in his opinion not incompatible with the public interest, in the usual form. I move that amendment, to insert "if not incompatible with the public interest."

Mr. DAVIS. I think the addition suggested by

the Senator from Rhode Island very superfluous. Of course the whole correspondence is in the possession of the rebel authorities. They have received all the correspondence that has been directed to them or any of their agents on the part of the Government of the United States, and of course they have retained copies of their own correspondence. The only parties to this matter are the rebels and the Government of the United States. How is it possible that it can be necessary to withhold any of this correspondence to subvert the public interests? The rebel government have it; our Government have it. The only other parties to the affair are the people of the United States, and it seems to me that the people of the United States, the sovereigns in theory at least of this country, have a right to demand that that correspondence be thrown before them. I think, sir, that the resolution ought to pass without any exception or any reservation. If it was a matter of correspondence between our Government and a foreign Government, I concede that the gentleman's suggestion would be eminently proper and indeed imperative; but between the rebels who are in possession of the whole correspondence and our Government—this affair being limited to these two parties—it seems to me that the usual qualification of such a resolution is altogether unnecessary.

Mr. ANTHONY. If the resolution is directed to the President—I was not aware of it—it seems to me these words should go in as a matter of course. I think it is hardly respectful to pass a resolution without that qualification. I think it is always the case that this limitation is inserted in such resolutions.

Mr. SUMNER. I think the Senate is hardly prepared to act finally on this resolution. I would therefore move to postpone that and all prior orders in order to proceed with the order of the day. The Senator from Delaware is in his seat, who, I understand, proposes to address the Senate.

The VICE PRESIDENT. The Senator from Massachusetts moves to postpone this subject and all prior orders for the purpose of proceeding to the consideration of the unfinished business of yesterday.

The motion was agreed to.

OATH OF OFFICE.

The Senate resumed the consideration of the following resolution of **Mr. SUMNER**:

Resolved, That the following be added to the rules of the Senate:

The oath or affirmation prescribed by act of Congress of July 2, 1862, to be taken and subscribed before entering upon the duties of office, shall be taken and subscribed by every Senator in open Senate before entering upon his duties. It shall also be taken and subscribed in the same way by the Secretary of the Senate; but the other officers of the Senate may take and subscribe it in the office of the Secretary.

The pending question being on the amendment of **Mr. SAULSBURY**, to strike out all after the word "resolved," and insert the following:

That the Committee on the Judiciary be instructed to inquire whether Senators and Representatives in Congress are included within the provisions of the act of Congress entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, and whether the said act is in accordance or in conflict with the Constitution of the United States.

Mr. JOHNSON. Mr. President, the resolution upon your table, as I understand it, offers for the consideration of the Senate three questions. The first is, whether the act of July 2, 1862, requiring an oath to be taken by certain officers of the Government, includes Senators. The second is, if it does include Senators, whether to that extent it is constitutional. The third is, whether, if it has not operation by its own force but is to become operative only by the Senate's adopting the rule which forms the subject of the resolution upon your table, it is expedient to adopt it. I propose, as briefly as I may consistent with perspicuity, to examine each of those questions in the order in which I have stated them; and in doing so, Mr. President, it is very far from my purpose to explain away the meaning of the statute; and according to my view of the duty of a Senator such a purpose would be anything but its faithful discharge, even if I possessed any superfluity of learning, to which the honorable member from Rhode Island [**Mr. ANTHONY**] referred, and I was capable by means of such superfluity of carrying away the plain meaning of terms, or if I possessed that acuteness of criticism to which he also

adverted, I should be incapable of using it for the purpose of explaining away the clear meaning of the language to be found in any statute.

As I understand the relation in which we are toward the country, it is much higher than that which belongs to the mere forensic officer who is often called upon to defend the wrong and to defeat the right, to protect the guilty as well as to shield the innocent; and he but faithfully discharges that duty if he does not resort to all proper and admissible modes of argument which may lead to the successful result of his effort. But that is not the function of a Senator, and it is especially not his function when called upon to vote on such a proposition as the one now pending. His function is quasi judicial, and he is to bring to the consideration of every question which may be before the Senate all the coolness and all the frankness and all the maturity which should ever characterize the judicial office. I wish it, therefore, to be understood by the honorable member from Rhode Island, as well as by others, that in what I am about to say upon the subject before the Senate I speak under the sense of the same responsibility that I should have if I was administering justice in the highest court of the land. I shall speak only of my own opinions, and endeavor only to maintain them by such arguments as I believe are well founded.

Before I proceed, Mr. President, with this explanation, to discuss the particular questions which I am about to debate, there are some general considerations which in my view belong to the subject. The Government which we are here to administer has all its powers, whatever they may be, from the Constitution. It had no anterior existence. It came into life with that instrument, and it came into life with only such functions as that instrument conferred upon it. The rule of interpretation when we are called upon to interpret the Constitution of the United States as regards its powers is not the rule which governs in the interpretation of State constitutions. From the beginning of the Government to the present hour in every department of it, legislative, executive, and judicial, and in every department, legislative, executive, and judicial of the several State constitutions, the principle has been recognized as a principle not only not necessary to be proved but proving itself, that in order to ascertain whether a particular power exists in the Government of the United States in either of its departments you are to look to the Constitution for the purpose of ascertaining whether it is there delegated. When you are called upon to interpret a State constitution in relation to the same inquiry, the rule is that you are to look into the State constitution for the purpose of ascertaining whether it is there prohibited. If, in the latter case, the subject itself be one of a judicial character, one of an executive character, or one of a legislative character—and the constitution divides the departments into executive, judicial, and legislative—all powers properly executive, properly judicial, and properly legislative are vested in those several departments unless there is to be found in the constitution of the particular State some restriction.

The difference, then, between the mode of interpreting the powers of the two Governments is that, in relation to the last, all powers exist unless they are prohibited; in relation to the first, that no power exists unless it be delegated; or, to state it in different words, that the absence of a delegation of the power in the Constitution of the United States is restrictive of the power, just as effectually as is the existence of a restriction in a State constitution restrictive of the particular power. When Senators, therefore, are called upon to decide whether any particular subject is within the sphere of the legislative department of the United States, it is incumbent on those who allege that it is to show that it is to be found in some one of the powers delegated to that department of the Government of the United States. I do not mean that they are obliged to show that it is there by words of express delegation; but they are bound to show that it is there by delegation, express or implied. Failing in that, they fail in establishing the existence of the power.

With these remarks, Mr. President, I proceed to call the attention of the Senate, as far as it will suit them to give it to me, to the consideration of the questions which I have stated in their order. First, then, what is the meaning of the act of

July, 1862, as far as it affects this question? Does it or does it not embrace a Senator? I think not. When I had the honor of appearing in this body in March last, I stated briefly—the occasion did not warrant, as I thought, anything but a brief statement—why it was that I supposed the act did not embrace the case of a Senator, and why it was that I supposed if it did it was without authority. But, because of the character of the act and the particular condition of the country, and from an unwillingness to have it even conjectured on any ground, however feeble, that I was not as loyal as he must be who takes that oath, I took it and I would take it again as long as the Senate shall not have decided that there is no power to enforce it.

But the question is now before us, does that act embrace the case of a Senator? Now, if there be any principle established as a principle of sound constitutional law, without which the Government cannot progress satisfactorily, beneficially, it is that these questions when they arise, or any questions of constitutional law when they have arisen and have been decided, and the decision has been acquiesced in by every department of the Government, are to be considered as finally decided. I do not mean, Mr. President, that it is upon the ground that such a decision has the authority of a judicial judgment, binding as authority upon all succeeding judicial functionaries; but I mean to say that the law of expediency, the law of propriety, the law of safety, looking to the wholesome administration of the Government, demands that when questions of that sort have been so decided and for years acquiesced in they should be considered as settled. It was upon that ground, as we all know, that Mr. Madison signed the act to incorporate the Bank of the United States in 1816. He had been opposed to the original bank, and had maintained his opinions as to the unconstitutionality of the original bank with the rare ability which characterized everything that ever fell from his lips or his pen; and yet he yielded his own individual opinion to the sentiment of the country as that sentiment was declared through the judicial and executive and legislative departments of the Government as the popular will.

Has, then, the principle involved in the first of these inquiries been settled? I speak in the presence of Senators for whose opinions I have a most unaffected respect. The learned gentleman who spoke yesterday—who, even with those who have never heard him but once, and who have no familiarity with him, and no knowledge of him except what might be derived from hearing him once, is an authority of a high order—entertains an opinion adverse to my own; and I approach, therefore, the effort to make good my own opinion with all the deference which belongs to the high character and the ability of the honorable member to whom I allude, [**Mr. COLLAMER**]. I have known him not here for the first time. I have known him in the councils of the nation before; I have seen him at the council board; I have heard over and over again words of wisdom fall from his lips; and I have always come to the conclusion that a gentleman of fairer intellect and of more spotless integrity never adorned the councils of the nation. But I am here not to pin my faith upon mere authority, bound to act upon the teachings of my own judgment after I have, by every effort in my power, endeavored to inform it as well as I was capable.

I understood the honorable member to whom I refer as saying yesterday, in the conclusion of his speech, characterized by his accustomed power, little or nothing upon the first of the questions with which I am now dealing. He seemed to consider that the question had not been settled, but he appeared to be satisfied that he proved that fact when he stated it. To that mode of proof I never could yield. Has it, then, been settled? In the case of Blount (I shall not occupy the time of the Senate by taking up the book) the very question was presented, is a Senator of the United States an officer within the meaning of that clause of the Constitution of the United States which provides for the impeachment of officers? and the Senate, by a vote of 14 to 11, after an argument of great power, *pro* and *con.*, by the managers upon the part of the House of Representatives, Messrs. Bayard and Harper, and by the counsel for the accused, decided that he was not; and from that day to this there has not only been expressed no opin-

ion to the contrary entitled to be considered as authority, but, as far as any opinion has been expressed, it has been in accordance with that precedent.

In the case of Smith, whom it was proposed to expel from the Senate upon the ground that he had been a party to the treason in which Aaron Burr was concerned, the report of the committee, which concluded with a resolution that it was good cause for expulsion—a report drawn by Mr. Adams with the power which always distinguished him; anxious, too, as he was, as is apparent from the report itself, to bring about the expulsion of the Senator—yet admits, if I understand it, that the power of impeachment did not exist. Mr. Adams labored to show, therefore, that the only way in which the Senator could be gotten rid of was by exercising the power to expel conferred by a different clause in the Constitution, and that to do that two thirds were necessary; and because two thirds were necessary, the proposition contained in the resolution reported by him failed. But in that report, after speaking of the great necessity that there was and will be during all time to rid the Senate of a man who has committed a crime such as was imputed to Smith, and such as he believed to have been satisfactorily proved, and such as a majority of the Senate believed to have been satisfactorily proved, he maintains the right to effect that object by expulsion, because, as he says:

“In the midst of all this anxious providence of legislative virtue it has not authorized the constituent body to recall in any case its representative. It has not subjected him to removal by impeachment.”

And in the Commentaries of Mr. Justice Story, to be found in the second volume from section seven hundred and eighty-nine to seven hundred and ninety-three inclusive—I cite the sections because all the editions correspond as to the sections—he admits almost in terms that a Senator or Representative is not within the impeaching clause of the Constitution, and he gives his reasons; and he not only is of opinion that he is excluded from that clause, but that he was properly excluded upon principles of policy which, in his judgment, were sound; that the independence of the Senate and of the House, the necessity of placing them in a condition in which they could not be affected by the action of any dominant majority required that they should be held responsible alone to their immediate constituents, the people in the one case, and the people represented by the Legislatures in the other, or to the mere power of the Senate or of the House to expel. He goes on to say that from the decision in Blount's case up to the time when he was penning these Commentaries it seems to be the received construction of that clause in the Constitution that it excludes, because it does not include, Senators and Representatives; and I say with him that it is well that it is so, as I think. In times of high party excitement, when the passions are uppermost and the reason subdued, acts of political outrage are often perpetrated pregnant with obvious mischief to the country; and it is especially proper as illustrated by the condition in which we find ourselves.

Perhaps there are no two Senators on this floor who concur upon all the questions of the day; there are no two Senators upon this floor who concur in the proper construction to be given to the most important clauses of the instrument. There are some Senators on the floor who would refuse to exert their duty as citizens, provided the Constitution shall be imperative in relation to one of the clauses of that instrument. I forbear to designate Senators. Now, what would have been said, when the Senate consisted of gentlemen wholly unlike in one respect to a large majority of the present body, if not to the whole, if, in relation to the slavery question and the various questions which grew out of the discussion of the slavery question, in which some of the Senators on this floor expressed opinions which, as they thought, were not loyal to the Government, a resolution had been offered to require them in the future not only to swear that they would pursue a different course hereafter, but that they never had pursued such a course in the past? Would not every gentleman have said that that would have been an outrage on the freedom of debate, an outrage on the conscientious discharge of duty by a Senator? A Senator, like every individual in the land, has a right to his own political opin-

ion, subject only to the laws, civil or criminal. If the expression of any opinion does wrong to the individual right of a citizen, the courts are open for redress. If it be made criminal by any criminal statute which the United States has an authority to pass, he may be punished; but in no other way. For what we say in debate here it was the purpose of the Constitution to provide that we shall be responsible nowhere. What an idle provision it would have been if, while denying the existence of any responsibility, for words spoken or opinions expressed here, outside of the Senate, we were responsible to the Senate and could be expelled from the Senate, not because of any act, not because of any moral crime, but merely because of the expression of an opinion upon a constitutional question which the Senator who may have expressed it conscientiously entertained.

But further, to proceed with the question, let us consider it as now for the first time before the Senate. Is a Senator a civil officer? The language of the statute in that respect is precisely the same as is the language of the clause providing for impeachments in the Constitution itself. What “civil officer” means in the one, the same term means in the other. Let me call the attention of Senators, not at length, but very briefly, to such clauses as I suppose bear upon the particular question. The question for us to decide is, is a Senator or a Representative in the other House the occupant of a civil office, or a civil officer within the meaning of the Constitution? I say he is not. The Senator from Vermont [Mr. COLLAMER] says, but did not attempt to prove it as far as I heard, that he is. The sixth section of the first article of the Constitution contains this provision:

“No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States.”

Now, stopping there, as we see, the words “Senator or Representative,” or the Senator or the Representative, is spoken of in contradistinction to every other office. If it had been in the view of the Convention to place, with reference to this clause, Senators and Representatives upon the same footing with all others, and according to their view they were civil officers, then all that would have been necessary would be to say that no one during the time for which he holds his office shall be appointed to any other office. Such is not the language. The prohibition is upon the Senator or Representative in that character, not as an officer, not as holding a civil office, but in his character of Senator or Representative as contradistinguished from a civil office, according to the terms of the Constitution; and it therefore provides, as they were obliged to provide, if their meaning was, as I suppose it to have been, that he should not be appointed to any civil office.

But the conclusion of the paragraph makes it, as I think, still more obvious:

“And no person holding any office under the United States shall be a member of either House during his continuance in office.”

Now, what is the meaning of the term “holding any office” as here used? Is it that the word “office” was used for the purpose of including a Senator or Representative? Then the provision would have been absurd, because as Senator or Representative he is then holding an office. Was it the purpose to say that he should not hold any other office? If it had been, and they considered a Senator or Representative as the incumbent of an office, then the provision would have been that he should not hold any other office under the United States. But the provision being that he shall not hold any office under the United States, as I think conclusively demonstrates that, in the view of the Convention, the term “office” was not designed to include a Senator or Representative; and for the same reason the term “Senator or Representative” was not intended to include the same thing as the term “office;” in other words, that in the judgment of the Convention the two were entirely separate.

But that is not the only clause. The eighth clause of the ninth section of the first article provides:

“And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present,” &c.

Drawing a distinction, as I think, evidently be-

tween the Congress of the United States; the Senators and Representatives who constitute the Congress of the United States, and those who hold offices under the appointing power which the Government contains.

But again, sir, the second paragraph in the first section of the second article contains a clause which is pregnant with instruction upon this question:

“Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.”

Here, as in the former instance, the distinction is kept up, and the term “Senator or Representative” is used not as equivalent to, or identical with, the term “person holding an office,” but as standing in a different relation to the Government, and Senators and Representatives are included in the disqualification—no ingenuity can suggest a different reason—because, in the opinion of the Convention, if they had not been specially mentioned they might have been electors.

So, again, in the second section of the same article, it contains provisions for the appointment of officers under the United States. It says that the President shall have power, by and with the advice and consent of the Senate, to appoint “ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States.”

The third section provides that all officers of the United States are to be commissioned by him. The language of the concluding part of that section being—

“He [the President] shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.”

Now, Mr. President, when we come to the immediate succeeding section, which gives the power to impeach, we find the language to be—

“The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment.”

Why were the President and Vice President included in this impeaching clause? What was the necessity for it? If it be true that they were civil officers, why would it not have been sufficient to say, “All civil officers of the United States shall be removed from office on impeachment?” Can any other reason be given than that which I have suggested in relation to the other clauses; that it was because the Convention did not esteem the President and Vice President civil officers; but intended by the term “civil officers,” as here found, to exclude all who are not appointed officers under the Constitution; and because the President of the United States is elected by the people, and the Vice President is elected by the people, and it was desirable, upon grounds of public policy, to subject them to the impeaching powers of Congress, they are inserted; but the *insertio unius est exclusio alterius* is a familiar rule of interpretation. Their insertion demonstrates that in the intention of the Convention they were not civil officers, and the omission to insert Senators and Representatives in the same clause demonstrates that it was not the purpose of the Convention to subject Senators or Representatives to the same clause; and we can very readily, as I think, see the reasons for the distinction.

How do we get here? By any appointment under the Government of the United States? Certainly not. We owe our appointment to our respective State Legislatures by the very terms of the Constitution, and we could not derive it from any other quarter. How do the Representatives get into the opposite Chamber? By the election of the people, and in no other way. They are therefore a part of the Government, to administer the Government, holding their offices paramount to the Government, by a title superior to anything to be found in the Constitution which creates the Government, and they are intended to be responsible only to the appointing power—the Legislatures in the first case, the constituents of Senators; and the people in the other case, the constituents of the members.

What is the Senate of the United States? Is each member of the Senate the Senate? Certainly not. In what, then, does the Senate consist? What is it? It is a body of men; (and so of the House;) numerous because obliged to be numer-

ous, but constituting but one body—a Senate—deriving their powers not under but by the Constitution; holding them not subject to any other power except the restraints to be found in the Constitution; bound to yield obedience to no other department of the Government, except so far as they are made immediately amenable by constitutional provision. Has the President of the United States any authority to call in question the conduct of the Senate? Certainly not. Have the House of Representatives any authority to call it in question? Certainly not. Why? Because we constitute a coördinate department of the Government, existing by virtue of a higher power or as high a power as that which brings into existence the President or the House of Representatives, and entitled to stand exempt from all right of challenge.

A different doctrine in the present condition of the country I think would be fruitful of mischief. There are questions upon which we differ diametrically. The honorable member from Massachusetts [Mr. SUMNER] entertains an opinion upon one of them which I think is not only unconstitutional, but most mischievous. He entertains it conscientiously, I have no doubt. He has attempted to maintain it with learning and ability; but, in my judgment, it is not only a constitutional heresy, but a most mischievous constitutional heresy. He does not think so, I am sure; because if he did he would not entertain it, or if he did entertain it, he would not express it; but, in my judgment, it is calculated to lead to most disastrous results in the present exigency of the country, and is certain to delay, if not forever to defeat, the restoration of the Union. It is that the existence of the civil war which is now covering the land with blood in one section and carrying agony in another, has dissolved perpetually the ties which bound us of the loyal States to the States in rebellion; that they are so totally destroyed that the States in rebellion are now to be considered as out of the Union as States, territorially subject to the unlimited will of Congress, and to come back only at such time and upon such terms as the Congress of the United States in its wisdom may provide; and it has been said that that opinion has for its authority not only that of reason as applied to the Constitution itself, but a solemn decision of the Supreme Court of the United States. An officer of the Government, of research and of great critical acumen, published a letter not long since, semi-officially, in which he announced that the decision of the Supreme Court in what are called the prize causes, maintained that doctrine by establishing a principle which necessarily led to its support. The learned editor of Wheaton's Law of Nations saw proper, in a recent letter which he addressed to a law magazine in London, to state the same thing; because, as he understood, the Supreme Court in those cases had decided that war existed between the loyal and the disloyal States, and that the citizens of the disloyal States were just as much enemies as they would have been if they had been independent States and the war was a national one.

This is an entire misapprehension of the decision of the court. On this subject I think I speak knowingly. The whole question before that tribunal in those cases was, as far as this particular proposition is concerned, whether the law of prize could be made to apply to property captured upon the ocean which had come from the territorial limits of one of the seceded States. The Supreme Court decided, and the reasoning demonstrates that it was not their purpose to hold the doctrine for which the decision has been quoted, that the law of prize applied to property so captured, not upon the ground that any ordinance of secession was operative; not upon the ground that the States who may have passed any such ordinance of secession were out of the Union; not upon the ground that by any other act other than the ordinance of secession they had taken themselves out of the Union, but upon the ground that the property was liable to capture because, in the sense of the prize law, it is to be considered as enemy's property, and that it was no defense to say on the part of the owner that he was also a traitor as well as the owner of the property. Traitor! Traitor to what? What Government? Not a traitor to the seceded States. How a traitor? Why a traitor, and why continuously a traitor as long as he has aided the rebellion? Because he owed

allegiance to the United States, was a member of the great Republic; and his practical allegiance, whether it was voluntary or enforced, to the government of the State of which he was a resident, or the government of the confederate States of which his State was a part, had no operation at all to discharge him from his allegiance to the United States; but that for all time, until separation shall, with the consent of the United States, be accomplished—a time I trust never to come—that for all time, as long as the United States shall exist, he who is found within the territorial limits of these seceded States waging war against the United States, or giving aid and comfort to the enemy, is a traitor to the United States, and if captured may be tried and executed. That is quite a different question. He who commits treason against the United States at any time, whether at the present time and under the circumstances in which the country now is, or in more peaceful times, is liable to be punished. That is all true enough; but the very fact that he is liable to be punished proves that he is still a citizen of the United States, who have the right to punish him, as without his being such a citizen the right of punishment could not exist.

I have said now, Mr. President, as much as I propose to say on the first of these questions. Next as to the second. I do not know why the Senator from Massachusetts thinks it is necessary to incorporate the provisions of this law in the form of a rule. If he supposes that the law would have no operation until it becomes a rule of the Senate, the proposition which he presents is more liable to objection than the one which I am about to argue; for, however true it may be that Congress in its legislative capacity may impose an oath other than that which the Constitution proposes to Senators of the United States, I suppose no one will contend, except the Senator from Massachusetts—if he holds that opinion, and I do not know that he does—that it is in the power of the Senate by any such rule to require any such additional oath. If it is not, then your proposed rule is altogether unnecessary. If the law does not operate by its own terms it cannot operate at all. If, as the Presiding Officer of this body, it is not your duty, sir, to administer this oath because of the law, as it is to administer the oath prescribed by the Constitution, you cannot get the authority to administer it by the mere adoption of a resolution. That is a question which I do not propose to discuss now. I mention it only in order to say that the rule is wholly unnecessary provided the law be operative; and if the law be not operative the rule is entirely without authority.

I do not see in his seat the Senator who spoke yesterday, [Mr. COLLAMER.] His absence I regret. If I understood him—and I the more especially regret his absence, because I may not have understood him—he puts the validity of the law of July 2, 1862, entirely upon the ground that it was necessary to carry out the antecedent legislation of Congress, and he referred you to another act of July, 1862, which provided for the punishment of treason in different modes, and for the confiscation of the property of persons convicted; and I understood him to say, in substance, that, without the existence of such legislation, or of equivalent legislation, the affidavit act, the oath act would be without authority. Now, when an honorable Senator places a proposition of that sort upon that ground, he ought to be perfectly certain of his facts. The act which is incorporated in this resolution was passed on the 2d of July. The treason act to which the Senator adverted was passed on the 17th of July. The validity, therefore, of this act is to be tested by the right of Congress to pass it when it was passed. It cannot be pretended that a law invalid at the time it was passed becomes valid by subsequent legislation, where that legislation has no reference at all to the antecedent law, does not revive it, does not apply it, says nothing in relation to it, but contents itself with punishing treason in the person and in the property of the traitor in the way that it thinks proper. Then, in point of fact, the whole foundation of his argument fails, even supposing the legislation to which he adverted was contemporaneous with or antecedent to the passage of the act of the 2d of July.

But the existence of such legislation is necessary, in the view of the honorable member, in order

to give to Congress the authority to pass this act which is proposed to be incorporated in our rules; and why? Why, said the honorable member, these gladiatorial exhibitors of treason on the floor of the Senate may come back. Well, suppose they can? Does that of itself show that you have any power to keep them out? And upon what does he place the power to keep them out? Upon the ground that they have committed treason. Treason is made an offense of a peculiar character with reference to its punishment, by the act which he supposed to have been passed either before or at the same time with the act of July 2, 1862. Well, what is treason, and how is it to be tried? He told you, he told you correctly, that the Constitution says that treason can only be tried where the acts of treason are committed. You are therefore to go to South Carolina or to Mississippi, and you are to try Jefferson Davis or any other of those assumed dignitaries there, and to convict them there. Then he told the Senate, and I suppose with a great deal of truth, you cannot convict them there, and that leads him to a conclusion in my judgment entirely unwarranted by the Constitution. Because you cannot under the Constitution convict, you are to convict without it; because you cannot punish constitutionally, you are to punish unconstitutionally! Can any proposition be more pregnant with mischief? If the Constitution is annulled or suspended in the seceded States, so as to leave to the Government of the United States the authority to do what it could not do under the Constitution but for its suspension or annulment, the proposition of the Senator would be right; but he does not carry it to that extent. He admits, and properly admits, that a conviction of either of the offenses mentioned in the act of the 17th of July cannot be had, because a trial cannot be had such as the Constitution only contemplates; and we have no remedy left to us, as he supposes, but to let these gentlemen come back and indulge again in their treasonable gladiatorial exhibitions.

Besides stating that ground, which in my judgment is wholly untenable, and which he rested exclusively upon the meaning of what he called the treason act, the honorable member said that by that act the framers of it, and Congress in adopting it, studiously guarded against the necessity of a conviction, as far as the particular question is concerned. That is an entire misapprehension of the meaning of the act. In the first place, the act deals with the future, and with the future alone. It does not lay its hands at all upon any antecedent treason. It provides exclusively for the punishment of subsequent acts of treason; and how are they to be punished? Punished because any tribunal that may get possession of the party charged is satisfied in its own mind that he has been guilty of the act with which he has been charged? No, sir; he is to be tried and convicted. How tried, how convicted? Only under the limitations provided by the Constitution of the United States; tried where the offense is committed; tried by a jury of the vicinage sitting under the superintendence of a court of the United States. The language of the first section—and all the sections are in that respect the same—is

"That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death; and all his slaves, if any, shall be declared and made free."

The second section is that every person who shall hereafter incite, set on foot, &c., rebellion or insurrection against the United States, "and be convicted thereof," shall be punished. And then the third section, upon which the honorable member relied, is in these words:

"Sec. 3. And be it further enacted, That every person guilty of either of the offenses described in this act shall be forever incapable and disqualified to hold any office under the United States."

This is an instance of that acuteness of criticism to which the honorable member from Rhode Island adverted yesterday; not the superfluity of learning, but the acuteness of criticism. "That every person guilty" of what? Guilty of treason in the judgment of the Senate, or the House of Representatives, or the President? Guilty of treason of what kind? What was the treason which they had in their minds when they drafted this third section? It is the treason defined and provided for in the two antecedent sections; and the only construction therefore to be put upon the third section is that every person found guilty,

as the first and second sections provide, of the offenses contained in those sections, shall, as a part of the punishment, be forever thereafter disqualified from holding an office; and, I speak it in the hearing of lawyers who I am sure will agree with me in that particular, under that provision he who is tried and convicted for the offense specified in the first and the second sections of the act would be adjudged, as a part of the punishment, to be at any time thereafter disqualified to hold any office under the United States.

But, Mr. President, supposing, for the sake of the argument, that I am wrong and that the honorable member is right in this particular, does that justify this resolution? The resolution provides that the act of July 2, 1862, shall become one of the rules of the Senate; and that act says, as gentlemen understand it, that every Senator shall swear first that he has never voluntarily borne arms against the United States; second, that he has never voluntarily given aid and comfort to the enemies of the United States; third, that he has never sought or exercised, or attempted to exercise, the functions of any office under any authority hostile to the United States; and fourth, that he has never yielded voluntary support to any pretended government hostile to the United States. That is, he is to swear that he has never done any of these things at any time in the past. The language of the treason act, as you have seen, deals altogether with the future; and the honorable member from Vermont places the authority of Congress to pass this law upon the ground that the acts which the party is called upon to swear that he has not done are made criminal by a statute passed at the same time, according to his recollection of it; and that, being criminal by such legislation, it was in the power of Congress to make a man swear that he had not committed them. If the proposition is a sound one at all, the answer is that the statute which creates the offense does not make either of the four acts or species of conduct included within the oath-law an offense; so that, so far as those four provisions are concerned, the validity of that act stands exclusively upon the Constitution of the United States, irrespective of any contemporary legislation.

But, Mr. President, suppose the act of the 17th of July had said that it should be a part of the punishment of a man who was convicted of treason against the United States that he should be disqualified from holding any office under the United States, would anybody deny that that would be invalid because of the prohibition of the Constitution against the passage of any *ex post facto* law? These terms have been construed over and over again. They not only prohibit legislation making that an offense which was no offense before, but legislation adding to the punishment which alone was visited upon an existing offense; and it would therefore necessarily follow that the effect of the 17th of July, 1862, had provided that those who had, before the passage of that act, committed treason should not only be subjected to the punishment provided by the law as it stood at the time the treason was committed, but should also be forever disqualified to hold any office, it would, to the extent that it pretended to impose that disqualification, be clearly unconstitutional.

I submit, then, that there is nothing in the existence of that act of the 17th of July which gives the slightest weight to the argument in support of the first law of the 2d of July, on two grounds: first, because that law was passed after the oath-law was passed; and second, because the offenses which it provides against are not the offenses or all the offenses included within the oath-law, but exclusively offenses consisting in acts committed after the passage of the crimes act.

Now, Mr. President, have we any authority under the Constitution, independent of legislation, to pass such a resolution as this? I have, to a certain extent, anticipated the argument upon this head. The honorable member from Rhode Island supposes that the right to pass such a provision is to be found in a single sentence in the opinion of the Supreme Court in the case of *McCulloch vs. The State of Maryland*, delivered by Chief Justice Marshall. Sir, that is an entire mistake. The opinion contains no doctrine that aids the proposition for which he cited it. The question before the Supreme Court in that case was whether

the charter of the Bank of the United States was constitutional. The argument against its constitutionality was that there was no express power in the Constitution to charter a bank, and not only that there was no express power in the Constitution, but that the proposition to give the power, made in the Convention, had been voted down. It was objected to, too, upon the ground that it could not have been passed in the exercise of any implied power, because the true meaning of that clause of the Constitution which gives to Congress the authority to pass all laws necessary and proper to carry into execution the powers granted to Congress meant only those that were absolutely necessary, those without which the powers granted could not be executed. The Chief Justice is dealing with that argument. He goes on very satisfactorily to show that to limit the implied powers to be found in the clause to which I have just adverted to such as should be absolutely necessary to make effectual the express powers, would be to defeat the most important provisions of the instrument; and in illustrating that he says:

"The powers vested in Congress may certainly be carried into execution without prescribing an oath of office. The power to exact this security for the faithful performance of duty is not given, nor is it indispensably necessary. The different departments may be established; taxes may be imposed and collected; armies and navies may be raised and maintained; and money may be borrowed, without requiring an oath of office. It might be argued with much plausibility, as other incidental powers have been asserted, that the Convention was not unmindful of this subject. The oath which might be exacted—that of fidelity to the Constitution—is prescribed, and no other can be required. Yet he would be charged with insanity who should contend that the legislature might not superadd to the oath directed by the Constitution such other oath of office as its wisdom might suggest."

Prescribe it to whom? To those who had an office to discharge; to nobody else. To prescribe it to what extent? To prescribe what kind of an oath? An oath consistent with the oath required to be taken by the Constitution, not an oath in conflict with it. Now what is the oath required by the Constitution? An oath to support the Constitution of the United States. When? Then, when taken, and for all time thereafter. Not an oath that they had from the beginning supported it. Not an oath negatively denying that they had committed any act which would have been hostile to the Constitution of the United States in the past, but an oath dealing with the present and the future, that now and hereafter I will support the Constitution. Suppose the oath is taken; that is one way to test it. Suppose the oath is taken and the man is loyal now, repentant of his past offense, aroused to the necessity of allegiance, loyal now and continues loyal, would you turn him out by an indictment for perjury for the violation of that oath upon proving that he had at some antecedent time committed the offense of treason against the United States? Everybody will say not. Whether they were wise or unwise in making the oath of allegiance to commence at the period when it is taken and to date thereafter, or whether it would have been better to make it retroactive, is a matter with which the Senate have nothing to do. That was a question before the Convention. The Convention had a right to decide for itself and the people had a right to decide for themselves when they adopted it what kind of oath they would require; and if they required an oath binding only to present and future obedience I should like to see any reason upon which the authority can be placed that Congress can require an oath more than coextensive, inconsistent, with that oath of office.

What is the practical illustration of it here, Mr. President? The most of the Senators upon the floor have taken only that oath which the Constitution prescribes. Who knows—I have a right to assume it for the sake of the argument, though the fact is not so—who knows judicially that several of the members sworn in my presence have not in the past committed an act of disloyalty to the United States that might have been punished? Nobody can know it. You say to the Senators who have come in since the passage of this act—for by its terms it applies only to those elected or appointed in the future—"In addition to the oath taken by your associates, you must take an oath that you never have committed this offense in the past." Sir, I thought we were here equals in the eye of the Constitution, having the same rights as

well as bound by the same obligations; and I want to know upon what ground of reason, upon what show of authority, upon what principle of propriety the Senators who are here, only qualified because they have taken the oath prescribed in the Constitution, have a right to say to me who have come in since, "Your conscience cannot be trusted; your word cannot be relied upon; the safety of the land demands that, as against you, you should swear that you have never committed an offense in the past." Did the Constitution of the United States ever contemplate such a distinction as to the qualification of members upon this floor? The honorable member from Maine who is before me [Mr. FESSENDEN] has only taken the oath which the Constitution prescribes. Is he not here a Senator? Does this law apply to him? It excludes him by its terms, but it applies to me. I take the same oath that he has taken; but then I assume that he gets up in his place and says, "That will not do; you are not to be trusted upon the security which you give by the taking of that oath; we want to make in your case 'assurance doubly sure'; take another, and if you do not take the other you cannot sit alongside of me; I am in that respect more than your equal."

It is not, therefore, as I think the Senate will see—certainly the proposition is very clear to my own judgment—whether you can by legislation impose an oath of office ancillary to, cumulative of, the oath prescribed by the Constitution; but whether you can prescribe by legislation an oath inconsistent with the oath prescribed by the Constitution. You cannot by legislation alter that oath, as I suppose everybody will admit. The proposition that instead of taking the oath prescribed by the Constitution you are to take an oath such as may be required in the particular law containing the provision, everybody would say is unconstitutional. Why? Only because the oath contained in the Constitution is one which, being there, is without the reach of legislative control of this department of the Government. But can it not be modified, changed by being added to, as well as being subtracted from? Can it not be altogether changed, or changed in many material respects, by incorporating into it what was not in it before, as well as by taking out of it anything which was in it before?

Now, if you cannot change directly the constitutional oath by saying that instead of taking that a man shall take an oath which will deal with the past as well as with the future, does it not necessarily follow that you cannot do the same thing by leaving that oath in terms unaffected by legislation, but affected substantially in its operation? The oath of office, from the very nature of the Constitution, excludes any oath inconsistent with or which enlarges that oath of office. I do not mean by that a mere oath of office that the party will discharge the functions of the particular office, but an oath of allegiance which is more than coextensive with the meaning of the oath of allegiance prescribed by the Constitution is obnoxious to the objection that that is a law (if provided for by law) which changes, modifies in a very material respect a provision of the Constitution, intended to be altogether without the control of the legislative power. Now, as I understand it—and a word only in reference to the application of the authority I am about to cite, and I shall have done—in the case of *Barker vs. The People*, reported in 3 Cowen's Reports, the question was whether an act to prohibit dueling, the punishment of which it was provided should be, in part, disqualification for office, was in that particular constitutional. The court of errors of New York decided that it was constitutional because, under the general authority to legislate over all crimes, they had the authority to affix any punishment that they thought proper; but the judge said, in delivering the opinion: "Important as this right is," that is, the right of holding office, "it stands as the right to life itself stands, subject to the general power of the Legislature over crimes and punishments. As a right flowing from the Constitution, it cannot be taken away by any law declaring that classes of men, or even a single person not convicted of a public offense, shall be ineligible to public stations." But this law (and the validity of it, as I stated just now, is put by the honorable member from Vermont upon that ground) punishes by disqualification without conviction,

because, as he says, you cannot get evidence to convict, or cannot get a court and a jury that will convict.

Mr. President, I have done, except as to a very few thoughts which I will submit to the Senate upon the expediency of enforcing this legislation, if it is to be considered as a matter of expediency. The war in which we are engaged was at the first unquestionably only constitutional, and could only have been waged because it was necessary to restore the authority of the Government. That is very clear. Congress had no power to suppress insurrection or rebellion except the power which the Constitution gives. The President had no executive authority looking to the same end except the authority which the Constitution gives him. The authority in both cases is limited to the attainment of the specific end for which it was given. That end is the suppression of the rebellion. Whether the rebellion culminates into what may be considered as a civil war, or is found only to be carried on by a few citizens, is immaterial.

The purpose of vesting in Congress and in the Executive the powers with which they are clothed to put down an insurrection or rebellion was merely to put it down, and nothing else. When down the power is at an end. It grows up with the occasion, comes into existence with the occasion, and ends with the occasion. Therefore, the rebellion ended to-morrow in Virginia by the submission of her people, brings her back, in my view, to the Union. Why? As the Supreme Court say in the case to which I have adverted, the war which is being carried on, the powers which are being exerted by Congress and by the President under the authority of Congress are being exerted not as against States but as against citizens. The object of the Constitution was in that particular to change the authority of the Government from what was its authority under the Articles of Confederation. In the latter, what was to be done could only be done as against States. It was found full of mischief, pregnant with ruin. The men of the day were aroused to the necessity of constituting a Government capable of executing its own powers directly upon the individual citizen without the cooperation of the States and against their interference if they attempted to interfere. The Constitution, therefore, gives to Congress and gives to the Executive in certain cases the right to call into existence the power of the Union to put down rebellion or insurrection. Well, it is done. When done, the States are back; your courts are reestablished practically as well as legally; your authority is recognized; in a word the Constitution is in those States in force. Then, if it is unresisted, if rebellion is at an end, why in the name of Heaven are not the people of those States back in the same character in which they went out, as citizens of States of the United States?

Taking that view, the inexpediency of such a provision as this, in my judgment, is manifest. Do you not want them back? Every reflecting man, I am sure, to say nothing of mere humanity, would wish them back. Do you not want slaughter to terminate, suffering to end, fraternal relations to be restored, former prosperity to be revived? Do you not want us to stand in the family of nations one of the most powerful and the proudest over which banner ever floated? Everybody will say yes; everybody with a heart within his bosom will say yes; everybody who is proud of the past will say yes; everybody who recollects the associations of the past will say yes; everybody who looks to the glory we may achieve in the future will say yes. And how will you get them back? By keeping them out? By declaring by this proposed rule, "You are unworthy of association with us; with you, during no time to come, is there a *locus penitentie*, that you may be able to accomplish by prayers to heaven in order to escape the punishment hereafter for your sins committed in this unheard-of rebellion, as against us it is to remain now and forever a crime." Was that the purpose of the legislation of the act of July 17, 1862? Has a different policy taken possession of the public mind? Is subjugation the end for which this war is to be waged? Is extermination the object? Is every man and woman and child within the limits of these twelve or thirteen States to be slaughtered on their own hearthstones, although they are willing to come in as penitent sons and daughters, and pray for forgiveness

and political absolution and swear to be faithful in the future, they and their posterity forever? I say that was not the view taken in 1862. The thirteenth section of that very crimes act of July 17, 1862, upon which the honorable member from Vermont places the constitutionality of the act in question, provided—

"That the President is hereby authorized at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions, and at such time, and on such conditions as he may deem expedient for the public welfare."

Is it proposed to repeal that part of that law? No such proposition has been made yet. The President has issued his proclamation; he has declared amnesty in certain cases and upon certain conditions. That amnesty is now being availed of much more extensively, as I understand, than I had feared would be the case. They are coming in now by hundreds and by thousands, and when the military power of the rebels is at an end they will be flocking to your standard under the promise of that very amnesty, and to be again as they were in the past our brothers, bound and willing to have the same destiny during all time to come. Are we to keep them out? This resolution keeps them out. There is not one man in a thousand in the South who has not fallen into the vortex of this rebellion. Some men of hardy character, stubborn virtue, inflexible firmness, a loyalty that quailed before nothing, have been able to drag out a miserable existence, cheered only by the consciousness that they were doing right under the oppression and outrages to which they have been subjected in the rebel States.

For the most part, firmness has yielded; association has had its influence; the association of kindred and friends and neighbors has had its effect; and they have all, more or less, done acts that are treasonable under the Constitution. You cannot exile them; and what a dreadful spectacle it would be if you could, provided they were willing to come in, and yield obedience to the authorities of the United States! Drive six millions of people out of the limits of the United States, wanders upon the world! It would be a shocking spectacle in this age of humanity and civilization. It would be still worse to exterminate them than to exile them; and infinitely worse, to a proud and sensitive people, to hold them as slaves. You, gentlemen of the free States, and I honor you for it—it is but an opinion which I have entertained coeval with my existence since I was capable of thinking—think that slavery is wrong; that slavery is a sin. I think so, too; but it is a thing not to be interfered with unnecessarily and at once, because that interference leads to greater evils to the slave and to the master; but it is in the end to be extinguished. I entertain that opinion, too. Why do you and I entertain it? Because of our conviction of the immorality, and, so to speak, the illegality, because of the immorality of the institution, because slavery itself shocks the heart of a free man which beats true to the inspiration of the goddess of liberty. Being so, do you want to make slaves of the white men? Are you not making them slaves? I do not mean by manaculating them, applying the lash to them, forcing them into involuntary labor, but by denying to them political equality, equal rights. What man who is worthy to stand upon this floor, or in any other Chamber where the principles of liberty are recognized, would not prefer death a thousand times to being subjected by mere brute power to political degradation? And let not gentlemen believe that such degradation is necessary for the purpose of putting down this rebellion. Let them not apprehend that these persons are not to be won back after the military power which they have wielded has been frustrated. Unless all the signs of the times are false the day is fast approaching, and will be sure to approach, if the power of this Government is wielded as it should be, when the military strength of the rebellion will be extinguished; and that accomplished, there will arise in all its original power that love of the Union, that reverence for our forefathers, that pride in our common glory, that desire to share in the achievements which we have won together in the past, to bring them back again to act with us as brethren, brethren in heart as well as in deed; when the country will go on and be, as it was once said by a statesman now no

more, whose eloquence is world-renowned, whose majestic intellect astounded as well as informed, the native of New Hampshire, the citizen of Massachusetts, but the property of the Union, not a consolidated but a united Government—

"Not chaos-like, together crushed and bruis'd,
But, like the world, harmoniously confused,
Where order in variety we see,
And where, though all things differ, all agree."

The VICE PRESIDENT. The question is on the amendment of the Senator from Delaware, [Mr. SAULSBURY,] to strike out all of the resolution after the word "resolved," and insert:

That the Committee on the Judiciary be instructed to inquire whether Senators and Representatives are included within the provisions of the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, and whether the said act is in accordance or in conflict with the Constitution of the United States.

Mr. SAULSBURY called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 12, nays 26; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Davis, Harding, Henderson; Hendricks, Johnson, Powell, Saulsbury, Willey, and Wright—12.

NAYS—Messrs. Anthony, Brown, Clark, Collamer, Comness, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Hicks, Howard, Lane of Indiana, Lane of Kansas, Morgan, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, and Wilson—26.

So the amendment was rejected.

The question recurring on the adoption of the resolution, Mr. POWELL called for the yeas and nays; and they were ordered.

Mr. HOWARD. Mr. President, before the vote is taken on the measure which is now proposed, I wish, as I intend to vote in the affirmative, briefly to state the reasons which will govern me. The proposition now before the Senate, simply stated, is to adopt among our standing orders one requiring that hereafter every person presenting himself for admission into this body shall be required to take the oath prescribed in the act of Congress of the 2d July, 1862; and I suppose that if we shall adopt such a rule, and if thereafter any person shall present himself for admission here who shall refuse to take the oath prescribed in that statute, he will necessarily be excluded from the body. What is the oath which the act of 1862 requires to be administered and taken? It is as follows:

"I do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

Such, Mr. President, is the oath which we propose to require of a new, incoming Senator. I shall not here stop to discuss the question of the mere expediency of requiring the taking of this oath, nor shall I stop to discuss the question raised by the Senator from Maryland, [Mr. JOHNSON,] whether we are not in adopting this rule proscribing loyal citizens of the United States, and endeavoring to force them forever into a condition of political inequality with us. I think, however, it is late in the day to say to the Senate of the United States that we are committing a wrong, a grievous wrong against persons now in rebellion against the United States, persons who are leading on the armies of treason against the loyal Government of the United States, and whose hands are red with the blood of innocent loyalty; I think it is rather late in the day to tell us that we are committing an injustice against that class of persons when we simply ask them, or their representatives who may hereafter present themselves in this Chamber, to take such an oath as that which I have just read from the statutes.

For one, sir, I am free to say that until these rebels and their representatives shall by their conduct as well as their declarations purge themselves of all just suspicion of hostility to the Government which I serve, I will, to the extent of my ability, and so, let me say, will my constituents,

hold them to be in a state of political inequality until they shall be tired of it. I have no particular regard for the rights of persons who have committed treason against the Government and murdered its loyal citizens.

But, sir, to quit this digression, let us come to the two principal points of objection which are raised against the adoption of this rule. The first one insisted upon strenuously by the honorable Senator from Delaware and by the honorable Senator from Maryland is that by the terms of this act of 1862 Senators and members of the House of Representatives are not included in it, and that therefore the oath embraced in the statute cannot be required at their hands. On this subject we have had, it seems to me, a good deal of ingenious argument and ingenious construction; but it has all failed to convince me—I speak for myself—that the terms of the act do not require of members of Congress the taking of this oath. It seems to my mind quite plain that it is the only construction which you can give to the statute. Let us read it more particularly:

“Be it enacted, &c., That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or emoluments thereof, take and subscribe the following oath or affirmation.”

Now, sir, it is alleged in support of the first objection, that a Senator of the United States is not a civil officer of the United States. Suppose, for the sake of argument, we grant that in the sense of the Constitution a Senator is not a civil officer, does it necessarily follow that because he is not he is not embraced within the terms and meaning of this statute? Not at all. The statute says nothing about a civil officer of the United States; it speaks of every person “elected or appointed” to any office of trust, honor, or profit in the three departments of the Government mentioned in the statute, to wit, the civil department, the military department, and the naval department of the public service. Every person elected, as well as every one appointed, is subject to the application of the statute. Now, that this language was not intended to be applied exclusively to the civil officers of the United States spoken of in the Constitution, is to my mind entirely obvious. How are the civil officers of the United States appointed? How do they obtain their office? By what process is it that they are inducted into an office and enabled to enjoy its emoluments? Not by an election, because an election implies the action of some popular body. They obtain it by the appointment of the Executive and the confirmation of the Senate. But this act does not restrict itself to persons who may be appointed in that constitutional manner. It goes further. It extends to all persons who may be elected to any one of these three branches of the public service. Is not a Senator elected? Yes, sir. Are not Representatives elected? Yes, sir. Is not the Vice President of the United States elected? Yes, sir. All these classes of public functionaries hold their offices by means of an election.

Now, upon what principle of construction it is that the learned Senator from Maryland and the equally learned Senator from Delaware [Mr. BAYARD] can contend that this statute may apply by its terms to civil officers, those appointed by the President of the United States, and not apply to those persons who are elected, that is, Senators and Representatives, I cannot understand. If a person is employed in any one of these three branches of the public service, the civil service, the military service, or the naval service of the United States, whether he obtains that office or post by virtue of an election or an executive appointment, becomes plainly enough within the very language of the statute. An inquiry as to what classes of persons its terms include, leads directly to this result.

Again, sir, the act provides that the “said oath, so taken and signed, shall be preserved among the files of the court, House of Congress, or Department to which the said office may appertain,” intimating plainly that the intention of Congress, in the passage of the act, was that every member of the Senate and every member of the House of Representatives should take the oath and sign it, and that the oath itself, thus written and signed, should be filed away in the archives of the body to which the member belonged. I can draw no

other conclusion from the language. It was clearly the intention of Congress in passing the act to apply it as well to Senators and Representatives in Congress as to any other persons engaged in any one of these three branches of the public service.

Now, sir, had Congress the power under the Constitution to pass this statute thus requiring this oath in addition to the oath required by the Constitution from members of this House and the other? If we have not that power, we ought not to attempt to exercise it; it would be vain, nugatory, and worse than useless; but if we have the power, then the only remaining question for the Senate to determine will be whether it is worth while to adopt a rule of this body for the purpose of carrying out the statute. It is very true that there is no express clause of the Constitution authorizing Congress to exact such an oath. I concede at once the soundness of the doctrine laid down by the Senator from Maryland, that unless this power is contained in some express clause of the Constitution, or derived by natural, reasonable, necessary implication from the Constitution, we do not possess it. But, sir, upon this question I cannot entertain the slightest doubt. When we read the instrument we see at once that the vital blood of the Constitution, its animating principle, without which it is a dead letter, inoperative, and totally worthless, is fidelity to the principles and a willing obedience to the commands of the instrument. Without this friendship for the Constitution, without a ready and cordial obedience to its commands, without an earnest, honest, sincere, pure intention to carry out its provisions, and execute it during all time, it would, as an instrument of government, be entirely nugatory and a dead letter. Its vital principle is fidelity to it on the part of those who are intrusted with its execution. Without this fidelity it is worthless. With it, I trust in Heaven it will endure forever.

Now, sir, upon principle it strikes me that it would be very strange if, as we are bound by oath to support this Constitution, as it is our duty perpetually to support and enforce it—it would be strange indeed if we were totally powerless as to all the means of obtaining security for the future, with a view to that great end. The Constitution declares in so many words:

“The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution.”

The form of the oath or affirmation is not given in the Constitution; and the omission of it plainly implies a power on the part of Congress to pass some statute which shall carry out and execute the purpose and intention of the Convention in adopting that particular clause.

Sir, what is it to support the Constitution? What does this language imply? What is this duty? It certainly does not mean a mere indifference to the continuance of the Constitution as an instrument of government. It means something more than mere carelessness and apathy. It means a continued, sincere, honest, and pure intention of the person to whom the execution of its powers is intrusted, actively to carry out its provisions; to support it, to uphold it, to defend it, to maintain it on all occasions, and in every manner in which it may become necessary to resist and overthrow its enemies. And now we are told that the only security which the country has under the oath of office required by the Constitution in these brief terms is simply and solely the promise before God of a man who presents himself in this Senate that he will for the future support and uphold it. Sir, I think this is a very narrow, a very imperfect, and a very inadequate view of all the duty so plainly required of us by this clause. We well know that by the common law on any trial of an issue, however inconsiderable, in however insignificant a court of justice, it is the right of the party against whom a witness is produced to put him on his *voir dire*, his oath, for the purpose of ascertaining whether he is free from all interest and all bias in the testimony he shall give. If every court of justice may do this in controversies between individuals—if this natural and rational precaution may be demanded in the smallest private affairs—shall it be said that the Senate of the United States is more liable to imposition and has less power of self-protection than a justice's court—that it is wholly

impotent and imbecile? Why is it that the witness is interrogated as to his interest and his bias before he is allowed to testify? Because it is necessary to the purity of the stream of justice, and to its impartial administration, that a witness shall not be allowed to testify to facts who is tainted with the objection of interest? No, sir; this objection is entirely untenable. We must have a right to go back and inquire into the antecedents of the person who presents himself here for admission. The first inquiry should be whether this promise, imperatively exacted by the Constitution, to support it, is likely to be kept; for if the man is not likely to keep his oath, if it shall appear probable that he is as likely to go away to-morrow and break it as he is to take it to-day, then it is evident that the oath will have no binding effect on his conscience, and is an idle ceremony, a wicked mockery.

The act of July 2, 1862, like the resolution under consideration, requires the applicant to purge himself upon oath before he is admitted to a seat in this body. Why is this? It is that he may give to the Government which he offers to serve and to the country an assurance that he has never by any act of his committed an act of hostility to the Government, thus furnishing an additional security, an additional pledge, that he will never violate the oath he has taken, by acting falsely or traitorously to his country and its Government. Nor is there any hardship in this, Mr. President. Any man who has once willingly borne arms against the Government of the United States or yielded aid and comfort to this atrocious rebellion, any man who has deliberately and without coercion sought to overthrow the Government, to displace its authorities, and to institute another government upon its ruins, is totally unworthy of a seat in either House of Congress. He is not to be trusted, because his previous acts have settled the question as to his probable fidelity for the future; his previous conduct has shown that he is not worthy of the high trust he seeks. Like the position of a witness who has an interest in the issue upon trial, his previous history excludes him entirely from the right of appearing and taking part with loyal men in the administration of this Government.

There is nothing in this oath which is in any way inconsistent with the requirements of the Constitution. It is not in hostility but in addition to and in affirmation and support of the oath or affirmation expressly required by the sixth article. It is simply furnishing to the country a further and more perfect assurance and security against the possibility of the applicant violating his oath and again turning his arms against his country, and in this view of the subject I cannot hesitate as to the power of Congress to pass the act, and the power of the Senate to adopt the rule which is now pending before us.

Much has been said about the cases of Blount and Smith, at a former period of our history attempted to be impeached. If I understand it rightly, the only point decided in those cases; or either of them, was this: that for the purpose of impeachment by the House of Representatives, and trial in the Senate, a Senator is not to be regarded as a civil officer of the United States. That is the whole extent of the decision. It goes no further, and confines itself strictly and plainly to that. Undoubtedly, that decision is perfectly correct, because, for the purposes of impeachment, very clearly a Senator is not a civil officer of the United States. I do not look upon the requirement contemplated in this rule as any punishment of the person of whom the oath may be required. It has been denounced here as inflicting a punishment upon the applicant. What punishment? Does it deprive him of his personal liberty? No, sir. Does it affect him in his goods or estate in any way whatever? No, sir, not in the slightest degree. It neither takes his life, nor his liberty, nor his property; and it seems to me to be entirely idle to attempt to give such an effect to it as has been forced upon it by the Senator from Delaware and the Senator from Maryland. It inflicts no punishment, it deprives the applicant of nothing which is his; it is only taking additional security for the future against any disloyal or treasonable act by compelling him to declare upon his oath that he has not hitherto evinced a spirit hostile to the Government by acts of treason and rebellion.

These are the reasons, very briefly given, Mr. President, which will govern the vote I shall give upon the passage of this resolution. I think the times require it. I think it is due to the purity of the Senate that we should adopt this rule, and exclude for all time to come persons who come here with no other recommendation to the favor of the Senate or the country except that, although they have imbrued their hands in the blood of their countrymen, borne arms against their Government, and perpetrated every atrocity, every brutality which their ingenuity could devise or their power enable them to perpetrate, still they are willing now to come into the Senate and declare that for the future they will be good and loyal citizens, and will observe and support the Constitution of the United States!

Sir, I have no such tender regard for this class of persons; and let me say to the Senators on the other side that whether this rebellion is to be put down or not, whether there is to be a subjugation of the southern population or not, we shall be acting a very childish and very foolish part to demand no other security from the leaders of the rebellion than a promise, on their already violated oath, that hereafter they will support the Constitution of the United States. Sir, I will never be wheedled and cheated in this way. If cases shall arise hereafter in which this statute may operate severely upon a man of undoubted loyal intentions and purposes and good character, there will be time enough for the two Houses of Congress to consider whether they will repeal or relax it in his particular case. "Sufficient unto the day is the evil thereof."

But let me tell Senators here, Senators from the border States as well as others, that the people of the North are not such fools as to fight through such a war as this, to spend so vast an amount of treasure as they must necessarily spend in bringing it to a successful termination—they are not such fools as to sacrifice a hundred and fifty or two hundred thousand lives in putting down this rebellion, and then turn round and say to the traitors, "All you have to do is to come back into the councils of the nation and take an oath that henceforth you will be true to the Government." Sir, it would be simple imbecility, folly; and for one I will never, whatever may be the cost or the consequences of this war, or however long it may continue, be consciously guilty of such weakness and such folly.

Mr. FOOT. I do not rise, Mr. President, with any purpose of debating the question of the constitutionality of the act of July 2, 1862, entitled "An act to prescribe an oath of office, and for other purposes;" nor, admitting or assuming that act to be a valid one within the purview of the Constitution, do I propose to discuss the question whether it is applicable to and embraces members of Congress within its obligations. I have no difficulty or doubt in my own mind in respect to these questions. I have already testified in a practical way my own individual judgment of the binding force and obligation of that act upon members of this body by taking and subscribing to the oath which it prescribes. The only query or doubt in my mind is in reference to the necessity, or in reference to the expediency or the propriety even of incorporating into the rules of the Senate a requirement or obligation which the law itself imposes upon us, as though the law itself was not a sufficient rule to enable the Senate to enforce the obligation which the law itself creates.

I have taken and subscribed that oath with other Senators, not, however, by force and virtue of any rule of the Senate, but only by force and virtue of the higher mandate of the law of the land. That law stands upon your statute-book, and it requires that, before we enter upon the duties of our office, and before being entitled to any of the salary or other emoluments thereof, we shall take and subscribe a certain prescribed oath. That is the law, sir; that is the positive requirement of the law. Can you make it any stronger, any more obligatory by any rule of the Senate? Do you add anything of weight or obligation to this law of Congress by a mere rule of the Senate? Do you add anything of strength or force to this positive requirement of law by a mere Senate rule? Do you add anything to the duty and obligation of Senators to comply with the positive requirement of an act of Congress by a mere legislative rule of parliamentary practice? None whatever; and hence there

is no necessity for the proposed rule; there is no occasion for it; there is nothing to be gained by it; and, I will superadd here, there is no precedent for it.

The rules of the Senate, Mr. President, as indeed of all legislative or deliberative bodies, are made solely and only for the purpose of maintaining the order and of regulating the mode of legislative or executive proceedings in the body itself. They give no additional sanction or authority to an act of Congress. Nobody contends that. The duty and obligation of Senators to take and subscribe this oath, and the right and authority of the Senate to enforce that obligation, rest upon and are derived from the authority of a positive public law; and the performance of that obligation, or the exercise of that authority, is not at all dependent, and never can possibly be made dependent, upon any rule of the Senate. A rule of the Senate required in order to enable the Senate to execute this law, to require this oath to be administered to Senators! Why, sir, we all took at your desk and in open Senate an oath to support the Constitution of the United States before we entered upon our duties here; and why? Not because it was required of us by any rule of the Senate; for we have no such rule; we never had any such rule; but we took that oath in obedience to the requirement of law, and not of parliamentary rule.

The act of 1789, the first act of the First Congress of the United States, the first act upon your statute-book, is an act to regulate the time and manner of administering certain oaths. It prescribes the form of the oath required by the last clause of the sixth article of the Constitution. It requires, further, that this oath shall be administered by the President of the Senate for the time being to every Senator previous to his taking his seat; and from that day to the present time, now some seventy-five years, the requirements of this law have been observed, and without any rule of the Senate on the subject. During all this time, in conformity with the requirement and under the authority of the law, that Presiding Officer of the Senate has administered an oath to support the Constitution of the United States to every Senator before entering upon the duties of his office here as a Senator. Who ever thought of making it a rule of the Senate that this act of Congress should be enforced? Who ever thought it necessary to insert it in our Manual of rules and parliamentary government and law, that this oath to support the Constitution of the United States should be administered?

Mr. President, I ask again, what need is there, what occasion is there, for a rule of the Senate requiring the Senate to do what is already required of it to do by a more solemn and authoritative act of Congress? This oath prescribed by the act of July, 1862, the authority of the President of the Senate to administer that oath, the duty and obligation of Senators to take and subscribe that oath, are upon your statute-book, and can derive no aid, can need no aid, can receive no aid whatever, from a mere legislative rule of practice. These requirements are imposed by a solemn law of Congress, sanctioned by the concurrence of all the branches of the legislative department of the Government, and you can add not one whit of weight or authority to these requirements by any rule of the Senate.

Sir, it would be novel and anomalous, indeed, to incorporate in our rules of legislative practice a provision that the Senate shall observe the law; for that is all there is of it; or, in other words, that it shall not fail to do what the Constitution or the law commands it to do, or enjoins upon it to do. The Constitution authorizes the Senate to expel a member for cause, two thirds of the body concurring. Would you have it inserted in your Manual of rules that the Senate, when the proper case should arise, might exercise that power? The act of 1789, in pursuance of the constitutional requirement, directs that the President of the Senate shall administer an oath to support the Constitution of the United States to every Senator before he enters upon his duties here as a Senator. Would you have it inserted in the rules of the Senate that it shall obey the mandate of that law? Is a rule of the Senate necessary to enable the Senate to execute that law, or to require the oath to be administered, or to declare that he is not entitled to a seat here and thus vacate it if he refuses to take it?

The act of July, 1862, declares that hereafter every person who shall be elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States—but not excepting members of Congress, by the way—before entering upon the duties of such office, and before being entitled to receive any of the salary or other emoluments thereof, shall take and subscribe the oath which it prescribes—plain, positive, mandatory. Can you make it more so by a rule of the Senate? Does it not rather imply that the law is deficient in some respect, and requires a rule of the Senate to patch it up? And it is now proposed to insert in the rules of this body that it shall obey the mandate of this law; that it shall not disregard or set at naught a requirement of a solemn act of Congress.

I have only to say once more, Mr. President, that the proposition pending before us is at least an anomalous one. I repeat, there is no necessity for it; there is no occasion for it; there is no call for it; there is no precedent for it; and it adds not the slightest weight or authority or sanction to an already existing, express legal obligation arising under the law itself. That law is plain and explicit in its terms, and if it be within the constitutional competency of Congress to enact that law, by its terms, without any rule upon the subject, no man is entitled to a seat on this floor as a Senator who shall refuse or decline to comply with the requirements of that law and to take and subscribe the oath which it prescribes, any more than would a member elect who should come here with his credentials and take his seat be entitled to hold that seat as a Senator if he should refuse or decline to comply with the requirements of the act of 1789, and to take the oath which it prescribes to support the Constitution of the United States.

Mr. President, we have no occasion for any rule at all on this subject as a rule of the body. I repeat, the law itself is our rule of action in the premises, and let that law be enforced, or let it be repealed.

Mr. SAULSBURY. Before this debate closes I propose to submit some remarks to the Senate on this question; and if it is the wish of the Senate I will proceed now.

Mr. SUMNER. Do I understand the Senator to say he is not disposed to go on to-night?

Mr. SAULSBURY. I would rather proceed to-morrow morning, if it would be agreeable to the Senate.

Mr. SUMNER. Then I move that the Senate adjourn.

ADJOURNMENT TO MONDAY.

Mr. DOOLITTLE. I ask the Senator from Massachusetts to withdraw the motion to adjourn for a moment, to enable me to submit a motion that when the Senate adjourns to-day it be to meet on Monday next.

Mr. SUMNER. If the Senate are disposed to adjourn over, I will withdraw my motion for the present.

Mr. DOOLITTLE. Then I move that when the Senate adjourns to-day it be to meet on Monday next.

The motion was agreed to.

Mr. SUMNER. I now renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 21, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

MISSOURI CONTESTED-ELECTION CASE.

The SPEAKER laid before the House depositions in the contested-election case of James Lindsay against John G. Scott, of the third congressional district of Missouri; which were referred to the Committee of Elections.

ADJOURNMENT OVER.

Mr. HOLMAN moved that when the House adjourns to-day it adjourn to meet on Monday next.

On a division, there were—ayes 54, noes 35.

Mr. SPALDING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 77; as follows:

YEAS—Messrs. James C. Allen, Ancona, Anderson, Augustus C. Baldwin, Francis P. Blair, Brooks, James S. Brown, William G. Brown, Coffroth, Cox, Cravens, Creswell, Davis, Dennison, Eden, Edgerton, Eldridge, Fenton, Garfield, Grider, Hale, Harding, Herrick, Holman, Hotchkiss, Hutchins, Kathfisch, Knapp, Lazear, Malory, Marcy, McIndoe, McKinney, William H. Miller, James R. Morris, Noble, Orf, Pendleton, Perry, Radford, Robinson, James S. Rollins, Scott, William G. Steele, Stiles, Stuart, Thomas, Ward, Elihu B. Washburne, Webster, Wheeler, Chilton A. White, Wilder, Winfield, and Fernando Wood—55.

NAYS—Messrs. Alley, Allison, Ames, Baily, John D. Baldwin, Baxter, Jacob B. Blair, Blow, Boyd, Brandegee, Broomall, Clay, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Briggs, Eliot, Fick, Ganson, Grinnell, Griswold, Hall, Harrington, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburt, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Loan, Long, Longyear, Marvin, McAllister, McClurg, McDowell, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John B. Rice, Edward H. Rollins, Scofield, Shannon, Smith, Smithers, Spalding, Stebbins, John B. Steele, Stevens, Thayer, Tracy, Van Valkenburgh, Voorhees, William B. Washburn, Whaley, Joseph W. White, Wilson, and Windom—77.

So the House refused to adjourn over.

CONFISCATED PROPERTY.

The **SPEAKER** stated the regular order of business to be the consideration of House resolution No. 18, to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, reported from the Committee on the Judiciary, on which the gentleman from New York [Mr. MORRIS] is entitled to the floor.

WILLIAM GRACEY.

Mr. **SMITH.** I ask the unanimous consent to withdraw from the files of the House the papers of William Gracey. They are the papers of a soldier who had both arms shot off in the Mexican war, and he desires the papers as papers of recommendation in order to get an office from the Government.

No objection being made, leave was granted.

STENOGRAPHER TO A COMMITTEE.

Mr. **HULBURD**, by unanimous consent, from the Committee on Public Expenditures, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Expenditures be, and they are hereby, authorized to employ a stenographer while conducting the investigation ordered by this House, at the usual price paid for reporting for the Daily Globe; and that the committee have leave to sit during the sessions of the House.

A NEW RULE.

Mr. **WASHBURNE**, of Illinois. If the gentleman from New York [Mr. MORRIS] who is entitled to the floor will yield a moment, I desire to make a report from the select committee on the rules. A resolution was sent to the committee on rules in relation to the appointment of an additional standing rule. That committee has met, and has directed me to report an additional rule, to which I presume there will be no objection.

The proposed rule was read, as follows:

Rule 148. An additional standing committee shall be appointed at the commencement of each Congress whose duties shall continue until the first session of the ensuing Congress, to consist of five members, to be entitled a Committee on a Uniform System of Coinage, Weights, and Measures; and to this committee shall be referred all bills, resolutions, and communications to the House upon that subject.

Mr. **PENDLETON.** I do not know that I shall object; but I desire to ask the gentleman who introduced the rule whether it is proposed to extend the power of the committee beyond the term of office of members?

Mr. **WASHBURNE**, of Illinois. The gentleman will notice that the language is precisely that contained in other rules.

Mr. **PENDLETON.** Then I have no objection.

Mr. **DAWES.** Under the rules, that rule will lay over one day.

The **SPEAKER.** It has laid over several weeks already.

The rule was adopted.

LANDS TO THE STATE OF MICHIGAN.

Mr. **DRIGGS**, by unanimous consent, introduced a bill granting lands to the State of Michi-

gan for the construction of a wagon road for postal and military purposes from Saginaw to the Straits of Mackinaw in said State; which was read a first and second time, and referred to the Committee on Public Lands.

LANDS TO IOWA.

Mr. **HUBBARD**, of Iowa, by unanimous consent, introduced a bill for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State; which was read a first and second time, and referred to the Committee on Public Lands.

COLLECTION DISTRICTS.

Mr. **LOAN**, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the "Act to provide internal revenue to support the Government, and to pay interest on the public debt," approved July 1, 1862, as to authorize and empower the President to change the boundaries of the collection districts which he was authorized by the second section of said act to define, and to increase or diminish the number of said districts within the limit provided for in said act, from time to time, as in his judgment public interest may demand.

CONFISCATED PROPERTY.

The special order being called for, The **SPEAKER** stated that the gentleman from New York [Mr. MORRIS] was entitled to the floor upon the joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, which was the resolution under consideration in order.

Mr. **MORRIS**, of New York. Mr. Speaker, when the resolution now under discussion was before the Judiciary Committee, I approved of it without a thorough examination. I then thought as I now do, that it is not only safe but that it is wise to conform a law involving such weighty interests as does this to the provisions of the Constitution of the United States.

The Constitution, section three, article three, provides—

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attained."

On the 17th day of July, 1862, in view of the treasonable rebellion in the land, and for the purpose of checking it, and of punishing the parties thereto, Congress passed and the President approved "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes." At the same date a joint resolution was passed and approved explanatory of the act in question. It is now proposed to amend the resolution of 1862 so as to make it and said act conform to the provisions of the Constitution. This being done, if any question arises under said act, it will be left to our courts for construction and adjudication. Section one of said act is as follows:

"That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or at the discretion of the court he shall be imprisoned for not less than five years and fined not less than \$10,000, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all of the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding."

This section provides for the punishment of treason after an offender is found guilty. Section five of said act provides—

"That to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons herein-after named in this section, and to apply and use the same and the proceeds thereof for the support of the Army of the United States."

It will be noticed that this section has no reference to treason or its punishment. The joint resolution of 1862 it is claimed restricts the operations of said act, as is evidenced by the following clause:

"Nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

The resolution now pending proposes to amend and modify said clause and act, so that it shall read—

"Nor shall any punishment or proceeding under said act

be so construed as to work a forfeiture of the estate of the offender except during his life. This amendment being intended to limit the operation and effect of the said resolution and act, and the same are hereby limited, only so far as to make them conform to section three, article three of the Constitution of the United States."

I apprehend all will agree that under the act of 1862, were it not for the restrictive clause of the explanatory resolution now sought to be amended, the fee of the real estate of those named in section five could be confiscated, unless the provisions of the Constitution inhibit it. I will here say, though I do not propose to argue the question, nor is it germane to the subject in hand, that I have great doubt whether the resolution of 1862 in the least restricts the act referred to. This brings me to the question as to the propriety and the effect of the amendment.

My colleague [Mr. KERNAN] alleged—

"We have from the President a statement that any attempt by Congress or by the law-making power to make as a part punishment of treason the forfeiture of a greater estate in lands than a life estate of the offender would be unconstitutional."

It is sufficient, in reply to this, to say there is no attempt made, and no purpose even hinted at in the act of 1862,

"To make as a part punishment of treason the forfeiture of a greater estate in lands than a life estate."

The act provides for the punishment of treason. This the Constitution expressly authorizes. The punishment prescribed by section one, is, first, death, and the freedom of the offender's slaves. Of this there is no complaint. Second, it provides for a fine and imprisonment of the offender. There is no forfeiture in this. The clause in the Constitution was not intended nor has it ever been held that it prevented the collection of fines by a sale of an offender's real estate. Even in slight misdemeanors this is done; much more can it be done in punishment of the highest crime known to our laws. Forfeiture in England was not the punishment prescribed by statute, it was the result of a conviction by virtue of the common law.

The attainder, taint of treason, worked a forfeiture independent of the statute. Somewhat analogous are some of our laws. Any person, upon conviction and sentence for a felony, forfeits his citizenship. This consequence results without its being named in the statute defining felony and prescribing its punishment. This effect is the taint or workings of felony. Should a colony of citizens from the United States set up a government in one of the islands of the Pacific, knowing that under the laws with which they were familiar a conviction and sentence for felony worked a forfeiture (loss) of citizenship without its being specified in the statute naming the punishment, and should they wish to restrict the effects of punishment to the strict terms of the statute, and to what must necessarily grow out of them, they would be likely to insert a clause in their organic law similar to the clause in question. The object would be not to inhibit the law-making power from declaring that a person convicted of felony should be imprisoned and forfeit his citizenship, but it would be to inhibit it unless it was made part of the penalty by statute.

A bill of attainder was an act of Parliament, and passed just as any other law. It named the particular person, defined the crime, and passed sentence. This is guarded against by article one, section nine, of our Constitution; but attainder remains; it is only the bill of attainder that is prohibited. Attainder in itself is the taint, disgrace, or blemish growing out of a conviction or bill. Attainder of treason, like forfeiture, was not mentioned in the statute as a part punishment of treason; it grew out, or resulted in consequence, of a conviction or bill.

Now, as I understand the framers of the Constitution, they intended and did prohibit bills of attainder, and they provided that attainder, the taint, the fact of a conviction should not work a forfeiture or loss of civil rights or property in and of itself. Or in other words, the carrying of any sentence into execution necessarily works certain consequences. As the imprisonment of an offender necessarily deprives him of the society of his friends and the care of his property these need not be specified, but a loss of property or of citizenship after the expiration of his imprisonment does not necessarily follow. To work this result a warrant for it must be found either in the statutory or in the common law. The framers of the

Constitution meant, then, to say, and they do say, nothing shall follow from a conviction for treason, except what inevitably results, unless it is expressly stated by the law-making power. And then even this requires that the sentence must be carried into effect during the life of the offender. It cannot be done, as it was in England, after the death of the criminal. What adds force to this last view is the fact that forfeiture in law means a mode of changing title. When the title of property passes by contract it is voluntary. When it is changed by forfeiture, it is against the owner's will. If, then, we substitute the meaning of forfeiture for the word itself, the clause in the Constitution would read, "or take from the traitor his title to his property, except during his life;" that is, except it be done during his life. No matter how guilty the person is, if he dies before sentence the execution of the law is suspended. Hence the meaning is, not that the forfeiture terminates with the life of the offender, but that the judgment of the court must be executed during his life.

Section fifth of the act, as I have before stated, has no reference to treason or its punishment. This section is little else than a coercive war measure. The President as Commander-in-Chief of our armies, by his proclamation, might have directed the same thing. The rebels are treated as belligerents; hence it follows the Commander-in-Chief may seize their property and confiscate it. I do not clearly see how these rebels can claim the protection of the Constitution. Indeed, I do not know that they do, unless members on this floor are their agents and representatives. These men, as I understand it, despise and reject our Constitution. A person who claims the protection of law must respect and obey it. They do not reside with us, and they claim to be aliens. Talk then of the rights of a rebel under our Constitution, by him abjured and defied; talk of the rights of an outlaw! As well can I comprehend you when you talk of a holy sinner, an honest thief, or a loyal traitor. It is not questioned by the opponents of this bill that the entire personal estate of an offender may be seized and appropriated; but they insist only the life estate of his real property can be sold. Why is this? What warrant have they for this distinction? The Constitution and our courts are silent upon this point, and under the English there was no distinction of this kind. Have they rebel authority for it? If so, I have not seen it. But I am discussing what I did not intend to; my colleagues have treated this subject so ably that I shall pass on.

It is alleged by my colleague [Mr. KERNAN] that the President held the act of 1862 to be unconstitutional, and had prepared his message to veto it; and then the resolution of 1862 was prepared and passed to meet the views of the President upon this point. The President's scruples in this behalf arose, as it appears, from the supposition that the Constitution inhibited the confiscation of the fee of an offender's real estate. I understand my colleague concurs in this view. I have great respect for the opinions of the President, and I know my colleague to be a sound lawyer; hence, in differing with them on this point, I have had some misgivings. But when I remember that the amendment only proposes to conform the resolution and act of 1862 to the provisions of the Constitution, I congratulate the friends of this bill that the President at least, if not my colleague, has no tenable reason for differing with the Judiciary Committee.

This being so, I cannot see how any well-grounded objections can be urged against the amendment, unless the objector thinks the Constitution at fault.

I understand that the honorable gentleman from Pennsylvania, [Mr. STEVENS,] and some others, are in favor of an entire repeal of the resolution of 1862. The amendment in question practically does this, for the repeal of the resolution would leave the act to the construction of our courts, subject to the restrictions, if any, of the Constitution. The passage of this amendment does the same thing, and at the same time removes any objections that may have arisen or shall arise in the mind of the President. If I am correct, then will the amendment be concurred in by all except such as are mistaken, or think the Constitution is cruel and unjust. Will the opponents of this amendment arraign the Constitution? Will they

repudiate the courts and seek to usurp their prerogative? I remember when the honorable gentleman from Ohio [Mr. COX] and his friends were great sticklers for our courts. Whence then this distrust? Is it to be attributed to the progress of the age, or does he see a writing upon the wall indicative of the finger of truth and justice? The friends of the amendment have entire confidence in the Constitution, and they believe our courts upon examination will not fail to give its provisions full force and effect.

Here I might stop, and should do so, were it not for the line of remark indulged in by honorable gentlemen on the other side of the House. The eloquent gentleman from Ohio [Mr. COX] holds that this bill "proposes to despoil the children of their inheritance for the crime of the parent." In his kindness he manifested a marked sympathy for these innocent children of the traitors now waging war against the Government of their own choice. By what authority he speaks and acts for this class, once subjects and citizens of this Government, I am not informed. Sir, I admit the importance of charity and kindness; I concede that these children have an able and zealous champion, if not an apologist, for their outlaw fathers upon this floor. But I am not willing to admit the correctness of his conclusions, or that his sympathies are sufficiently comprehensive.

We are in the midst of a wicked and unprovoked rebellion. It was concocted and brought on by the ungrateful fathers of the children for whom the honorable gentleman so eloquently and feelingly pleads.

Mr. COX. Do I understand the gentleman to charge that the member from Ohio to whom he has referred has ever been the apologist or the defender of a traitor?

Mr. MORRIS, of New York. I do not so charge.

Mr. COX. Then you do not make any such charge?

Mr. MORRIS, of New York. I do not, and the language will show I do not.

In our efforts to suppress this gigantic wrong we have, or soon shall have, expended one thousand million dollars, and filed some three hundred thousand new-made graves with murdered citizens. How is this enormous outlay of money to be repaid? Who ought to be punished for this wanton destruction of life? These are practical questions. These questions are to be answered by the agents of the loyal people here assembled. Three hundred thousand innocent men have been sacrificed; and shall their unoffending offspring now be required to pay the expenses consequent upon the overt acts of traitors and parricides? The real estate of the loyal soldier who sleeps in death at Chattanooga, at Gettysburg, or whose bones bleach uncared for beneath a southern sun, or furnish ornaments for inhuman mothers, may be sold to raise the taxes assessed to procure a substitute to fill his vacant place in the ranks of our armies. His widow, his orphans, guilty of no fault on their part, nor on the part of their murdered father, guilty of no crime, no prodigality, no neglect, are turned away homeless and beggared. They weep not for a home only, but also for a desolated country and the death of a husband and father. This scene the honorable gentleman entirely overlooked. His benign and Christian philanthropy yearned for the offspring of traitors, the progeny of fiends whose parricidal hands drip with the blood of butchered loyalists. In his magnanimity he would have them released from paying one penny into our depleted Treasury, and their real estate guarded with jealous care and restored to them in fee simple, with perhaps a group of human chattels to cultivate their lands and minister to their wants. Noble charity! Unexampled beneficence! Who would not wish to be a son of a traitor? The example will cheer and encourage not only Jeff. Davis, but the old arch traitor himself, and inspire the hope that his lost estate may yet be restored to his dear innocents now in arms against the Government—an estate real wrested in fee from the old fiend—some six thousand years since by authority of the constitution and laws of Almighty God. What a stupendous wrong was done to his innocent heirs! Here is a field for the activities and the eloquence of the honorable gentleman.

Mr. CHANLER. Under what law and in what spirit would the gentleman refuse, when peace is

granted to this country by the Power which rules all nations, to grant to the offspring of a traitor the right to live in this country, to enjoy the protection of the law, to inherit property, and to carry on the system of creation? Under what law would he deny to the offspring of his family the right of inheritance?

Mr. MORRIS, of New York. I will say to my colleague that I have not discussed that point yet, but I shall come to it after awhile; and I think I shall show him that I will extend to the children of a traitor the benign influences of Christianity; that I would protect them just as the children of murdered loyalists are protected at the North, notwithstanding their parents are guilty, if they earn their livelihood by prudence and industry, as northern children do.

Mr. CHANLER. I thank the gentleman. Then the shafts of his irony return upon himself. These children, according to his own admission, are to be protected under his own stipulation.

Mr. MORRIS, of New York. I would only reply that if the gentleman was not wounded he would not writhe.

I must confess I have my sympathies and my affinities; but they run in quite a different direction at this time. They mourn the error of the rebels in desolating our country and in entailing upon their children ignominy and poverty; they cluster around the orphans of the slaughtered "heroic dead." Allow me to say to the gentleman—

"The man who pauses in the paths of treason
Halts on a quicksand—the first step ingulfs him."

I now ask, and I want this House to answer, is it unjust, is it wicked, is it unconstitutional to take the property of traitors to repair the ruin they themselves have wrought? I am not indifferent nor am I forgetful of their innocent offspring. They, in common with others, as is ever the case, must suffer in consequence of the errors, imprudence, mistakes, and crimes of their parents. They have this to encourage them, however, they are no worse off pecuniarily than thousands at the North; and if they are industrious and prudent, as are the children of the inhabitants of the laboring North, they will secure a competence, and reap a richer reward than idleness can ever bestow.

Should some villain in the absence of the honorable gentleman pilfer his goods, murder his wife, and burn his dwelling, would he ask no reparation; would not the law give it to him? Would his tenderness for the innocent children of the transgressor induce him to neglect his own? If the gentleman will undertake for all of the children who do not receive land in fee as the heirs of such as fail to transmit it to them in consequence of the prodigality, intemperance, and indiscretion of their fathers, saying nothing of crime, he will find ample scope for his benevolence and employment for life. Can it be said, in the language of the gentleman, "Such a system is the very wantonness and excess of tyranny?" If to take the property of a wrong-doer to pay in part the expenses of his own willful acts is what the gentleman says, then must we look for a new code of morality. Heaven pardons upon repentance and restitution for the injury done. There are conditions precedent in all cases. Are traitors an exception?

A few words more, and I have done. My colleague [Mr. KERNAN] said:

"I do believe that if we love our country, if we hope to see our people ever again living peacefully under a united Government, we should, toward the masses of the people in the rebellious States, hold out every inducement which the Government honorably can hold out to induce them to desert the secession leaders."

These are noble words, and I most cordially concur in the sentiments thus eloquently expressed.

But when the question comes, how shall this be done? the honorable gentleman and myself differ very widely. I much fear my colleague did not reflect that the great masses in the rebel armies are non-landholders. I find a defect in our census. They should give the number of landowners, and the amount owned by each. I would like to know just the number of landowners and the amount owned by each in the several rebel and in the several loyal States. In the absence of this, and having no actual data, I can only say I have always understood that the most of the lands in the rebel States, especially the cotton and sugar-growing ones, are owned by planters, and that each plantation is composed of a large tract of land.

The number of landowners, therefore, when

compared with the balance of the population, must be small. I am also assured that these landowners, few as they are, for years have wielded the civil and the political influences which have controlled these States—that the white population, not owning lands, are as dependent and subservient to these “lords of the manor” as are the slaves. These landowners are the men who inaugurated and who are responsible for the rebellion now desolating our country. The masses yielded to these lords of the soil as did the masses to the usurpations of Louis Napoleon in France. These landowners and leaders of this insurrection are sustained by these masses, who are in the ranks of the rebel armies from necessity; and they and their leaders are fed and clothed from the labor of their slaves. Take these soldiers from their ranks, and these laborers from their fields and their shops, and where are these leaders?

The question is, how shall we win these masses from those who have thus deluded them? My colleague says by protecting, perpetuating, and securing to the heirs of these traitors their real estate in fee; thus, as I hold, enabling their descendants to continue a system that, like treason, works and has ever worked corruption of morals, destruction of civil rights, and which has begotten an aristocracy who are thundering at our gates and murdering our citizens. Will this withdraw the masses from their leaders?

History demonstrates that from the formation of any Government a struggle arises between two elements for the mastery. This ever has been, and perhaps ever will be. This struggle is not, as some allege, between freedom and slavery, but between capital and labor. I care not to what country you turn, or to what age of the world you look, you will find marked illustrations. You will also find that wherever labor, an ordinance of Heaven, is respected and properly compensated, it is in the ascendant, and a free Government is the fruit. This follows as certainly and as necessarily as grain from the combined influence of sunshine and showers. On the contrary, wherever capital gains the mastery, it becomes exacting, cruel, imperious, insolent, oppressive; labor is despised, degraded, and the fruit is an intolerable aristocracy.

This fruit wholly matured begets a monarchy. This, I insist, holds true in all ages and countries. It is as certain in a land where there are no negroes as it is where they abound. This truth is evidenced in our own country, as well as in others. At the North labor is respected, encouraged, compensated, and is the ruling power. Her lakes, rivers, canals, and workshops hum with business, and the sterile lands tell in eloquent language of its resources, happiness, and wealth. Here, too, freedom is as vigorous and stalwart as are the oaks of the forest. The avenues to place are as open to the sons of the laboring man as they are to the rich; and usually the former are found traversing them in reward of their intelligence and industry. This is not that northern men have any preeminence over others, but it is by reason of a system that produces this result. Let this system pervade our entire nation and its future will be as incomprehensible as eternity and as enduring as time.

Look at the States in rebellion. Here labor is despised, degraded, and uncompensated. Capital has long lorded it over its discomfited rival, and the fruit is apparent. It is now being gathered in tears and in blood. This is not because southern men are wanting in kindness or Christianity as compared with others; this is not because black men are there; but it is the inevitable fruit of a system. The practical workings would be the same with any race or color; adopt the same system, other things being equal, in Russia, England, or Ireland, and the same consequences will follow. I therefore talk of a system; a system as ruinous to white men as to colored; as ruinous to a free Government as is disloyalty. I point now to its workings as evidence of its danger and its wickedness. He who expects to remedy this evil by cherishing its cause, he who expects harmony without destroying the apple of discord, is as rational as is the inebriate who expects to repair his wasted fortunes, restore his health, and give comfort and happiness to his family by still adhering to his cups.

Sir, I would win these masses from their secession leaders by the hope of justice, protection, and freedom. I would confiscate the fee in the lands

of these rebel knaves, and then I would parcel it in small farms and sell it at a living price to any actual settler who could purchase and pay for it, be he whom he may. Hold out this boon, set this beacon-light upon the hill-tops, and the masses will flee their leaders and hasten to our standard as “the panting hart to a water-brook.” Do this and the rebellion and the system that begat it are forever dead; do this and slavery and the system that loves it are dead. The hopes of a home, the possession and ownership of land guaranteed to those who have been coerced into this rebellion, will deplete the rebel ranks, strengthen our Government, replenish our Treasury, and inaugurate a system that will regenerate, redeem, and bless the entire South. Slavery, say you? The problem of slavery has been solved; if it ever had protection under the Constitution, the South have taken it out. The Almighty, as of old, has interposed, and the oppressed are passing through the receding waters, while their oppressors are about to be engulfed in the returning waves. What would I do with the slave? I would treat him as a man; he should have the rights of a citizen and the protection of our laws. Until this is secured to him Heaven will chasten, and we can have no permanent peace. These things being done, and we shall have a nation one in purpose, one in hope, one in sympathy, one in love, one in perpetuity. This being done, enterprise, industry, manufactures, commerce, the school-house, a code of laws by and under which all are equally protected, with free labor, and a development of the resources of the South now latent, will increase the material wealth of our country within thirty years the increase of which will pay our national debt and feed, clothe, educate, and induct into the paths of industry and usefulness the innocent children for whom so much sympathy has been manifested.

Sir, I look to the future in hope. A system will attain throughout our entire nation under which labor shall be respected and protected. With this system, and universal freedom, our national capital, our cities and towns both North and South, shall hum with business; our farmers shall drive their teams “afield” with joy; the Potomac, the rivers of our nation shall join in the labors of man, and wipe the perspiration from their ponderous brows as they bear upon their bosoms the accumulating products of the several States to our seaboard. And then old ocean, catching the enthusiasm at early dawn, shall rouse from his granite bed, fling back his covering, leap from his couch, and smilingly engage in a business which shall bring wealth to our nation and Christianity and universal freedom to man.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKET, their Chief Clerk, informed the House that the Senate had passed, without amendment, the bill of the House to amend the law prescribing the articles to be admitted into the mails of the United States.

The message further announced that Messrs. WADE, CHANDLER, and HARDING had been appointed the joint committee on the part of the Senate on the conduct and expenditures of the war.

CONFISCATED PROPERTY—AGAIN.

Mr. ROGERS. Mr. Speaker, I would not attempt to take the time of this House upon any matter of ordinary importance; but when an attempt is made to subvert the great principles which actuated our forefathers in the formation of the Constitution by the passage of an act or joint resolution which is in direct conflict with the organic law, I would be derelict to my duty did I not rise and at least enter my protest against unconstitutional legislation; therefore I hope the honorable gentlemen who compose this House will not think me forward if I detain the House for a short time upon this grave and important subject.

When I took my seat in this House I took a solemn oath, and called God to witness the truth of it, that to the best of my knowledge and ability I would support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I would bear true faith and allegiance to the same.

It is to sustain, protect, and defend that Constitution and uphold that oath that I deem it my duty to enter my protest against this attempted usurpa-

tion of constitutional power. And were it not that I cannot forget that we were born freemen and have a country to save, and that I conscientiously believe that it is the wilful, deliberate, and cherished design of the leading lights of this Administration to override the Constitution, blot out the fundamental counsel and noble doctrines of constitutional liberty, given and taught in the organic law by the wisdom of a Washington, a Jackson, and a Jefferson, and to lay at the feet of abolitionism the whole wisdom and genius of our fathers, I would not attempt to discuss such a momentous subject in the presence of so much abler, older, and more experienced men.

That joint resolution which the resolution under debate affects, has the proviso:

“Nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life.”

I am opposed to repealing or altering the proviso of the resolution which gives the constitutional construction to the confiscation act upon several grounds.

First, it would leave the confiscation act unconstitutional without the constraining resolution.

Second, did I not oppose the repealing of the resolution I would violate my oath of office.

The language of the Constitution is very plain upon this subject, and never admitted of two opinions until this country had the misfortune to be governed by the radical policy of the party in power.

The Constitution says that Congress shall have power to declare the punishment of treason; but no attainer of treason shall work corruption of blood or forfeiture except during the life of the person attainted; and it also says that—

“No bill of attainder or *ex post facto* law shall be passed.”

Is not the Constitution very clear that the real estate of the offender cannot be forfeited beyond the life of the party? Why did the President of the United States insist that the joint resolution proposed to be repealed, which contains the words that no punishment or proceedings under said act shall be so construed as to work a forfeiture of the real estate of the offender beyond his natural life, should be passed before he would sign the confiscation bill? And why did a Republican Congress pass such joint resolution? Simply because they knew that a law making the forfeiture extend beyond the life of the offender would have been a plain violation of the Constitution and their oaths of office. Congress has no more constitutional power to pass a law that the forfeiture of the estate shall extend beyond the life of the offender than it has to pass a law that attainer of treason shall work corruption of blood; because the prohibition in the Constitution is as plain in the one case as in the other. If Congress have the constitutional right to pass a law forfeiting the estate of the traitor beyond his natural life and giving the purchaser a fee simple it has, by the same reasoning advanced by the learned gentlemen upon the other side of the House, a right to pass a law that will work corruption of blood.

Can it be that a doctrine so shocking to humanity and terrible in its consequences was ever contemplated by the wise, virtuous, and pure sages and heroes of the Revolution? It is a slander upon the fair fame of the founders of the Government, and a libel upon the honor and integrity of a free republican nation.

Does any man in his sober senses believe that those who were purified by the trials of the Revolution and covered with its glories assembled in the old Halls of Confederation and formed a Constitution which recognized the barbarous and cannibal-like doctrine of the common law upon the punishment and forfeiture annexed to the crime of treason, that the punishment for the offenses of the fathers should be visited upon the children?

If such was the wisdom of the great and good who had been induced to undergo the privations and hardships of the most desperate and determined struggle the world had ever seen, why did they not retain in this country those other barbarous and unchristian doctrines of the feudal law? I have too much faith in the noble attributes of character that actuated the heroes of Lexington, Trenton, Monmouth, and Valley Forge, to believe that, situated as they had been, they would have been the means of countenancing so vile and vicious a doctrine as that which destroys

the inheritance of the innocent offspring on account of the crime of the parent. Why place in the Constitution the words, "but no attainer of treason shall work corruption of blood or forfeiture except during the life of the person attainted," if it was contemplated for a moment that Congress could pass a law forfeiting the estate beyond the life of the offender? The intention of the makers of the Constitution must be governed by the subject-matter, the reason and the spirit of the law.

If it was intended that the object sought to be obtained by the provision in the Constitution limiting the forfeiture to the life of the person attainted could be got rid of in some other way than that pointed out by the Constitution, then that provision of the organic law amounts to nothing; but all the effects of the attainer of treason working corruption of blood, and forfeiting the estate forever, could be effected by some other proceedings than a bill of attainder, giving to the people of this country all the hideous atrocities of the common law upon this subject.

The honorable gentleman from Maryland says the joint resolution limiting the operation of the confiscation law to life estates, is, in his judgment, very unwise, and therefore he will vote for the amendment of the gentleman from Pennsylvania, which goes directly to the object sought to be accomplished by repealing the limiting resolution. He says there is no word in the law of the last Congress that attaches confiscation of property to conviction of the person for treason, to attainer of the person for treason, on a criminal proceeding in any court of justice; and if that be so, then the quotation of the clause from the Constitution is simply irrelevant to the matter in debate, for it is that no attainer of treason shall work corruption of blood or forfeiture except during the life of the party; so that if there be no proceeding by indictment, there can be no attainer, and if there be no attainer there is nothing on which the residue of the words can operate. He says that simple observation disposes of the whole argument. He says the question is whether there is any process of law, however this provision be construed, by which we can effect a forfeiture of the whole fee in land.

I again ask, what is the reason and spirit of the Constitution, and what was the intention of the framers of it upon this subject? Will the gentleman deny that the object and intention of the law-makers were to annul that principle of the common law which forfeited the estate forever, and cut off the offspring and heirs forever; and if that was the intention of our ancestors, would the construction of the Constitution given by the learned gentleman effect that intention?

All the writers upon the construction of laws and constitutions agree that they must be so construed as to effect the intention of the law-makers; and that where laws will admit of two constructions, that which nearer conforms to the intention of the law-makers must be given. It would be a clear violation of the rules governing the construction of constitutions, statutes, and contracts, to give such construction to the Constitution as would allow another mode and manner than that pointed out by the organic law to forfeit the whole fee in the lands. Such construction should be given to the Constitution as would remedy the mischief of the common law intended to be remedied by its framers, and as would be consistent with the republican principles of our Government.

The honorable gentleman from Maryland says the question is, whether there is any process of law, however this provision be construed, by which we can effect the whole fee in lands. My answer is that no authority can be found in the Constitution by which we can effect a forfeiture of the whole fee in lands, and without some provision authorizing it, no lawyer can pretend that the plain provision of the Constitution, which declares that no attainer of treason shall work corruption of blood or forfeiture except during the life of the person attainted, can be set aside by Congress by resorting to some other form of proceeding than conviction of the offender. That construction would violate the reason of the law and the intention of its makers; for, if Congress can pass a law confiscating the fee simple of the estate, they would have the same right to pass a law working corruption of blood, with all the pains and penalties attached to treason by the common law of England. Such could not have

been the intention of the Convention which framed the Constitution.

At common law the punishment of treason was:

1. That the offender be drawn to the gallows, and not be carried or walk.
2. That he be hanged by the neck, and then cut down alive.
3. That his entrails be taken out and burned while he is yet alive.
4. That his head be cut off.
5. That his body be divided into four parts,
6. That his head and quarters be at the king's disposal.

He could not inherit lands, nor transmit them to his posterity.

If the gentleman's construction of the Constitution be correct, Congress could pass a law not only punishing the person of the traitor in all the ways known to the common law, but deprive him from inheriting from his ancestors or transmitting to his posterity.

Will the dispassionate members of this House sustain so gross and outrageous a violation of the Constitution and intentions of the illustrious dead who transmitted to us that great palladium of American liberty?

The honorable gentleman from Maryland says that the purpose assumed is the protection of the offspring from punishment, from the guilt of the ancestor. He says a fine is equally taken from the offspring as land yet no one denies the right to fine a person attainted. He says, without meaning to say positively, that that is the meaning and operation of the section. I say that, in my judgment, it comes nearer an intelligible exposition of it than any such theory as this—that you cannot take his lands in fee, but you may take all his personal property absolutely, which was the ground of the President's threatened veto last year; that you can fine a man to the extent of his estate, but you cannot take his lands to pay the fine; and being unintelligible, with all respect to our recent friends, they are driven to say that in the punishment of treason the Constitution has been guilty of this intolerable folly—that for robbing the mail, or piracy, for any ordinary offense, or murder on the seas, or in the Army or Navy; that for any ordinary crime Congress may prescribe what punishment they please, take the land in fee; but in providing for the punishment of treason, the greatest crime, the most dangerous crime, it has feebly attempted to protect innocent offspring by saving the lands of the convict, but leaving his life and all his personal property at the mercy of the law.

Congress cannot prescribe what punishment they please by fining the offender to the whole extent of his real and personal estate, corrupting his blood, cutting off his heirs, and depriving him from inheriting from his ancestors, because that would be in violation of the organic law, that no attainer of treason shall work corruption of blood or forfeiture except during the life of the person attainted; for the object of the Constitution is not merely to prevent corruption of blood and forfeiture because he has been tried and convicted upon an indictment or otherwise, but it is the manifest intent of the makers of the organic law to limit the common-law punishment for treason, whether the party has been found guilty by criminal proceedings or otherwise.

By the common law of England attainer is a deprivation of power to inherit or transmit property, and in general a loss of all civil rights consequent on a sentence of death or outlawry for treason or felony. But in imitation of the wisdom of our fathers who framed our organic law upon this subject, England has moved with the spirit of the age; and in that country now, attainer, by a recent statute, is limited to the life of the person attainted.

Shall it be said that the people of England are more humane, just, and good than the descendants of Washington, Jackson, Madison, Monroe, and Jefferson?

The gentleman from Maryland says that there is no word in the law of the last Congress that attaches confiscation of property to conviction of the person for treason, to attainer of the person for treason on a criminal proceeding in any court of justice; so that if there be no proceeding by indictment, there can be no attainer; and if there be no attainer, there is nothing on which the residue of the words in the Constitution can operate.

In other words, he takes the ground that by an act of Congress or some other proceeding than by indictment, the traitor may not only be punished by all the modes of the common law, his blood corrupted, his children disinherited, and he be prevented from inheriting from his ancestors, because there is no criminal conviction of the offender required by the confiscation act.

The first section of the confiscation act, approved July 17, 1862, United States Statutes at Large, volume twelve, page 589, relates to the full crime of treason, and not its ingredients.

The seventh section describes the proceedings to secure condemnation.

The eighth section defines the power of the courts in such cases.

The joint resolution explanatory of that act, and which is proposed to be repealed, was approved the same day as the confiscation act. If the construction given to the Constitution by the gentleman from Maryland and those who agree with him be the true one, then the President was wrong in threatening to veto the confiscation bill because it did not limit the forfeiture of the real estate to the life of the offender, because, as the gentleman says, there is nothing in the confiscation act that attaches confiscation of property to the conviction of the person for treason.

The President well knew that such a construction as claimed by the gentleman would be in violation of the Constitution and the spirit of the organic law, and of the well-settled opinions of the jurists of the land, and therefore he refused to sign the bill, and would have vetoed it, had not the joint resolution explanatory of the act been passed, upon the ground of its violation of the Constitution. Before the joint resolution now proposed to be repealed was passed, the President prepared his message to veto the confiscation act, which will be found in the Congressional Globe, in which he said—

"That to which I chiefly object pervades most part of the act, but more distinctly appears in the first, second, and seventh and eighth sections."

"It is the sum of those provisions which results in the divesting of title forever."

"For the causes of treason and ingredients of treason not amounting to the full crime, it declares forfeiture extending beyond the lives of the guilty parties; whereas the Constitution of the United States declares that 'no attainer shall work corruption of blood or forfeiture except during the life of the person attainted.' True, there is to be no formal attainer in this case; still I think the greater punishment cannot be constitutionally inflicted in a different form for the same offense."

The President completely answers the argument of the gentleman when he says the greater punishment cannot be constitutionally inflicted in a different form than that prohibited by the Constitution.

The argument of the gentleman is answered by that great jurist, Judge Story, in 2 Story's Commentaries, section thirteen hundred, in which, after quoting the clause of the Constitution in question, he says:

"It really operates as a posthumous punishment upon them, and compels them to bear not only the disgrace naturally attendant upon such flagitious crimes, but takes from them the common rights and privileges enjoyed by all other citizens, where they are wholly innocent, and however remote they may be in the lineage from the first offender. It surely is enough for society to take the life of the offender, as a just punishment of his crime, without taking from his offspring and relatives that property which may be the only means of saving them from poverty and ruin. It is bad policy too; for it cuts off all the attachments which these unfortunate victims might otherwise feel for their own Government, and prepares them to engage in any other service by which their supposed injuries may be redressed or their hereditary hatred gratified. Upon these and similar grounds it may be presumed that the clause was first introduced into the original draft of the Constitution, and, after some amendments, it was adopted without any apparent resistance. By the laws since passed by Congress it is declared that no conviction or judgment for any capital or other offenses shall work corruption of blood or any forfeiture of estate. The history of other countries abundantly proves that one of the strong incentives to prosecute offenses, as treason, has been the chance of sharing in the plunder of the victims. Rapacity has been thus stimulated to exert itself in the service of the most corrupt tyranny; and tyranny has been thus furnished with new opportunities of indulging its malignity and revenge, of gratifying its envy of the rich and good, and of increasing its means to reward favorites, and secure retainers for the worst deeds."

It is also answered by James Madison, on page 173 of the Federalist, whose language I now quote:

"As treason may be committed against the United States, the authority of the United States ought to be able to punish it; but as new fangled and artificial treasons have been the great engines by which violent factions, the natural offspring of free governments, have usually wreaked their alternate malignity on each other, the Convention have,

with great judgment, opposed a barrier to this peculiar danger by inserting a constitutional definition of the crime, fixing the proof necessary for conviction of it, and restraining the Congress even in punishing it from extending the consequences of guilt beyond the person of its author."

If this joint resolution giving the construction to the confiscation bill be repealed, it leaves the act no more nor less than a bill of pains and penalties, which, in the sense of the Constitution, is included in bills of attainder mentioned in the organic law.

Judge Story, in speaking of the clause of the Constitution which declares that no bill of attainder or *ex post facto* law shall be passed, (volume two, sections thirteen hundred and forty-three and thirteen hundred and forty-four), says:

"The next clause is, 'No bill of attainder or *ex post facto* law shall be passed.'

"Bills of attainder, as they are technically called, are such special acts of the legislature as inflict capital punishments upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. If an act inflicts a milder degree of punishment than death it is called a bill of pains and penalties. But in the sense of the Constitution it seems that bills of attainder include bills of pains and penalties; for the Supreme Court have said, 'A bill of attainder may affect the life of an individual or may confiscate his property, or both.' In such cases the legislature assumes judicial magistracy, pronouncing upon the guilt of the party without any of the common forms and guards of trial, and satisfying itself with proofs, when such proofs are within its reach, whether they are conformable to the rules of evidence or not. In short, in all such cases the legislature exercises the highest power of sovereignty, and what may be properly deemed an irresponsible despotic discretion, being governed solely by what it deems political necessity or expediency, and too often under the influence of unreasonable fears or unfounded suspicions. Such acts have been often resorted to in foreign Governments, as a common engine of state; and even in England they have been pushed to the most extravagant extent in bad times, reaching as well to the absent and the dead as to the living. Sir Edward Coke has mentioned it to be among the transcendent powers of Parliament that an act may be passed to attain a man after he is dead. And the reigning monarch, who was slain at Bosworth, is said to have been attainted by an act of Parliament a few months after his death, notwithstanding the absurdity of deeming him at once in possession of the throne and a traitor. The punishment has often been inflicted without calling upon the party accused to answer, or without even the formality of proof, and sometimes because the law, in its ordinary course of proceedings, would acquit the offender. The injustice and iniquity of such acts, in general, constitute an irresistible argument against the existence of the power. In a free Government it would be intolerable; and in the hands of a reigning faction it might be, and probably would be, abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion, or of gross subservience to the Crown, or of violent political excitements; periods in which all nations are most liable (as well the free as the enslaved) to forget their duties, and to trample upon the rights and liberties of others."

Dr. Paley has strongly shown his disapprobation of laws of this sort. I quote from him a short but pregnant passage:

"This fundamental rule of civil jurisprudence is violated in the case of acts of attainder or confiscation, in bills of pains and penalties, and in all *ex post facto* laws whatever, in which Parliament exercises the double office of legislature and judge. And whoever either understands the value of the rule itself, or collects the history of those instances in which it has been invaded, will be induced, I believe, to acknowledge that it had been wiser and safer never to have departed from it."

Section nine of article one of the Constitution, which declares that "no bill of attainder or *ex post facto* law shall be passed," was inserted therein before section three of the third article, which prevents attainder of treason from working corruption of blood or forfeiture, except during the life of the person attainted. If the construction of the gentleman from Maryland be correct that there must be an attainder before the words "but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted" can operate, then the clause last quoted has no effect or force, and is mere surplusage. Because if the object of the Constitution was to prevent the forfeiture of the estate during life only, and only in the case of an attainder of treason, then the words "no bill of attainder or *ex post facto* law shall be passed" would have been sufficient, because if there was no attainder there could be no forfeiture; and as the passing of a bill of attainder is expressly prohibited, it is clear evidence that the subsequent clause of the Constitution was not simply intended to apply to attainder of treason, but was intended to prevent, by act of Congress, as well as by indictment and conviction, the forfeiture of the estate for a longer time than the life of the offender. What other object could have been contemplated by the lawmakers? Did they place this limit to forfeiture in the Constitution

to answer some purpose not obtained by the other clause in reference to a bill of attainder? If so, no rational construction can be given to the Constitution but that which prevents all power from forfeiting the estate beyond the life of the offender; and as the Constitution expressly limits the forfeiture for treason at common law, there can be no act of Congress making the forfeiture of land longer than the life of the offender, because the Constitution gives no such power.

If the framers of the organic laws had intended that in some other manner than by attainder or indictment the blood could be corrupted, or the estate forfeited forever, they would have made provision in the Constitution to meet the case by granting the right to Congress or some other authority. But the learned and honorable gentleman from Maryland says he takes it that the meaning of the clause is that the forfeiture worked should, must, be effected during life; and consequently, if it be effected during life, it forfeits the fee simple. What better are the children off if the estate be forfeited before the death of the father? If the forfeiture be absolute, they would be no more injured by depriving them of the benefit of the estate by forfeiture after than before death.

If the construction of the gentleman be correct, then the offender if proceeded against for treason in his lifetime would have his blood corrupted upon the same reasoning that he would have the fee simple of his lands forfeited, in which case he would be prevented from inheriting from his ancestors or transmitting to his posterity other real estate than that confiscated and wherever situated; therefore he would constitute a bar to his posterity inheriting through him the property of their grandfather or more remote ancestors; because, although he was dead, the only way the heir could inherit the lands of his grandfather or more remote ancestor would be through the blood of his father, which had been corrupted, and consequently no one could trace descent through him. Can it be that the framers of this organic law ever intended to give such power to Congress or any other body that would, if the power were exercised, punish the children for the crime of the father? Can it be said that in this boasted land of liberty and humanity our Constitution recognizes the power of this Government to destroy and blot out forever the inheritable right of millions of children, and cut off the dower of thousands of mothers, and transmit us back to the darkest days of ancient barbarism, cruelty, and passion?

A revengeful and indiscriminate plunder of the means of support for the weak, the unprotected, and the helpless, cannot command the respect of a Christian God. Such a construction of the Constitution as claimed by the gentleman is repugnant to a republican government. It would violate the spirit of a Christian age. It would break down and destroy the social relations. It would deprive the helpless orphan and the widowed mother of their inherent right by the laws of God and the wisdom of man to that protection which the good order of society demands. It would degrade us as a nation before the civilization of the world. It would be more in accordance with the despotic usages of Russia or Turkey than the republican philanthropy of the American people. It would blot out the great memories of the Revolution. It would sever the ties of a holy religious brotherhood. It would be against the best interests of true freedom and humanity. Such a construction is founded in sectional passion and a determination to break down the organic law. It is calculated to destroy all kindly relations between the true Union men of the South, who are forced into the army by conscription and draft and compelled to sustain the rebellion by the tyranny of power, and the people of the North, and adds to the fires of sectional discord and strife which are now ending in battles of blood. Its true theories are laid down in Helper's Impending Crisis, and are attempted to and will be carried into effect, unless prevented by the conservative Republicans of this House, by the radical abolitionists, who regard nothing but the negro, against the opinion of the President, both Houses of the last Congress, and the plain provisions of the Constitution. It will unhinge the prosperity of a century by confiscating and forfeiting forever the landed estates of eight million people and subjecting the

women and children of the South to a tyranny as base as that of England toward Ireland when she confiscated the whole landed estates of that downtrodden and oppressed people. This attempted legislation is no more nor less than an attempt to carry out the plans of Helper by driving from the southern soil the women and children of that land and filling their places with the plunderers of the Government and the free and slave negroes of the land. God stay the hand of such philanthropy.

But, says the gentleman, the grounds of the President's threatened veto of the confiscation bill were that you could not take the land in fee, but you could take all his personal property absolutely. The reason for that is very plain. Personal property is of a fluctuating, transitory, and perishable nature. Real estate is of a permanent, settled, and local nature. Personal property deteriorates, perishes; it may be consumed by fire or removed by flood. Much of it has life; it dies and is gone. It is of a movable nature, and can be carried from place to place. Real estate remains; it cannot be consumed; it lasts during all time. The heir can enjoy it. The forfeiture of personal property was not confined to life, because it is incompatible with a life estate; and in all probability if confiscated for life would be used up or gone before the offender was dead. These are the reasons why personal estate was forfeited absolutely. Our fathers intended to protect the innocent offspring as far as they could consistent with the nature of the property forfeited.

But the gentleman says that for robbing the mail or piracy, for any ordinary offense, or murder on the seas or in the Army or Navy; that for any ordinary crime Congress may prescribe what punishment they please; take the land in fee. Congress can do no such thing, because our fathers, fearing after they had made the Constitution that wicked and vicious men, under the plea of military necessity, might act the part of a tyrannical despotism under the forms of law, had added to the Constitution a bill of rights, one of which is contained in article eight of the amendments, which declares that

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

That article prevents the fining of a person to the full amount of all his real and personal estate, if he have much, and thereby depriving the heirs of all the real estate of the father, because such a fine would be an excessive fine within the meaning of the Constitution.

Would it not be excessive, cruel, and unusual to fine a man worth his millions as much as he is worth, and, to pay the fine, sell thousands or hundreds of acres of his lands? It would be unusual, because excessive fines have not been inflicted in this country, as they punish the innocent as well as the guilty. Congress cannot punish the father at the expense of the mother and innocent children, by forfeiting forever the real estate of the offender, because it would be, within the meaning of the amendment, an unusual punishment.

But another gentleman says the object is not to make the forfeiture of the fee simple, but to leave it to the courts. If the opinions of the learned jurists Judges Story and Curtis and the well-settled and understood language of the Constitution are regarded as law, why annul or amend the joint resolution, which has the condition that no punishment or proceeding under said act shall be so construed as to work a forfeiture of the real estate of the offender beyond his natural life? If it be constitutional law that no punishment or proceedings can work a forfeiture of the real estate of the offender beyond his natural life why ask to have the joint resolution repealed, amended, or altered?

I appeal to conservative members on the other side of the House, if any there be, whether they can doubt the unconstitutionality of an act of Congress which attempts or recognizes the principle that the real estate of the offender, in the case of treason, can be forfeited longer than his natural life, when they have the plain and emphatic language of their President, Abraham Lincoln, that he was opposed to and should veto the confiscation bill upon the grounds that the provisions of the act resulted in the divesting of title forever; and because for the cause of treason and ingredients of treason not amounting to the full crime it declared forfeiture extending beyond the lives

of the guilty parties; and because the Constitution of the United States declares that "no attainer shall work corruption of blood or forfeiture except during the life of the person attainted;" and because the greater punishment cannot be inflicted in a different form for the same offense; and when the Republicans and abolitionists (because I think there is a distinction between the two) in that House and Senate which passed the joint resolution in question were largely in the majority, having in the Senate and House only a small band of patriots to contend with.

What has come over the dreams of the philanthropists of this House, that they should now attempt to set aside that joint resolution which was passed by their own party a little over a year ago and approved by their President, in which they declared that no punishment or proceedings under the confiscation act should be so construed as to work a forfeiture of the real estate of the offender beyond his natural life? Were the President and Congress then right in their construction of the Constitution? Is there any reason that this House should change the well-settled construction of the Constitution, given to it by the learned jurists of this country, the President of the United States, and both Houses of Congress who voted for it; or has it become a military necessity in order to subjugate and exterminate the women and children of the South, that we should make new penalties overriding the Constitution?

If the settled rules of law in construing constitutions and laws be adhered to, there can be no question in the mind of any unprejudiced man that any law which attempts to forfeit the real estate of the offender beyond his natural life is unconstitutional.

In construing the Constitution, the plain and understood acceptance of words must be used. We must construe it as it reads; understanding the words in their ordinary and known acceptance. No subtle nicety or technical jargon is to be resorted to to break down great constitutional rights. In construing the clauses of the Constitution which bear upon this subject we are to look for the reasons which induced our fathers to make them.

What was the common law before the making of the Constitution upon this subject; and what mischief of the common law was intended to be remedied by it? The punishment of the traitor at common law was that, in certain defined ways, his life should be taken. He was subject to attainder which corrupted his blood and forfeited his estate forever, real and personal, so that he could not inherit from his ancestors nor transmit to his posterity.

The reasons why the punishment for treason is limited to the life estate, and why, for a lesser crime, the fee may sometimes be sold, are grounded in the uncertain character of treason as illustrated in British history, one dynasty succeeding another so rapidly, and there was such a confusion even among men of honest intention as to the rights of sovereignty, that even a good man might mistake in his judgment, or a timid man be forced in spite of his judgment by the ruling power, even where the power was not the rightful sovereign.

Hence the framers of the Constitution determined that in this country the scenes of confiscation should not be enacted which had made England a hissing reproach. They determined that political or partisan adhesion to the present rule should not receive the lasting punishment which would perpetuate its effects upon the rising generation.

Another reason is that treason is a political crime; and no civilized nation, by treaty or otherwise, ever agrees to or does give up to the nation against which the crime is committed, the party who committed the treason; hence since the first dawnings of civilization it has been the settled right of the traitor to seek protection in some other country, as is now practiced by the traitors of the South in England, France, and Canada, in proof of which it is only necessary to refer to the case of Mason and Slidell, who were taken upon the high seas from a British ship, and for which England threatened war, and we were compelled to deliver them up to the English authorities; but in the case of murder or piracy or forgery, or other high crimes, offenders are given up by one country to another, and treaties are made between many nations for such purposes.

These reasons why the forfeiture was limited to life do not belong to other crimes, which are *malæ in se*; therefore the fee may be sold for these crimes, but not for crimes whose punishment too often depends on party ascendancy or malice.

Another reason is that our revolutionary fathers waged a bloody war against Great Britain for over seven years for the purpose of establishing upon this continent a republican government; and they, knowing that they had just gone through a war in which, if they had failed, they would have been subjected to all the pains and penalties of treason at common law, deemed such punishment as provided for at common law anti-republican and inhuman, that the innocent babe, the unborn offspring, the orphan boy, the helpless daughter, and the widowed mother should suffer for the crime of the father and husband, inserted into the Constitution that wise provision which prohibits the forfeiture of the real estate beyond the life of the offender.

That principle of the common law which visited the sins of the father upon the child and the mother was shocking to the finer feelings of the Anglo-American race, struck down the true principles of Christianity, punished the harmless daughter and the upright son for the transgressions of their father, whose action they were unable to control.

Our fathers who reared this grand and magnificent structure of the old Union viewed that doctrine of the common law, as they did that principle of it which gave all the lands of the intestate to the oldest son, as wrong and unfair; and while they had no design of screening the traitor they determined to protect his innocent offspring and his helpless wife; and in order to protect the innocent they declared that no attainer of treason should work corruption of blood or forfeiture except during the life of the person attainted; and for fear that an attainer might be passed after the death of the traitor to take away the real estate from the widow and children, they declared that no bill of attainder or *ex post facto* law should be passed.

This last clause of the Constitution was adopted by the Convention without any apparent opposition, because at that time the principles of Christianity and charity prevailed, and that sacred instrument was not considered by our fathers a covenant with death and a league with hell; and because that instrument was the fountain where all the love, patriotism, and valor of those who died for their country, and of those who fought and lived for its liberties, were consecrated and cemented through the merits of that Constitution, to be transmitted to the descendants of our revolutionary fathers.

The only object to be attained by a law which takes the estate from the widow and the children forever, would be to punish the innocent, and allow the speculator, the robber, and the thief to fatten upon the miseries and misfortunes of plundered victims of a tyrannical, anti-republican, and despotic law. I am also opposed to repealing or altering the law as it now stands, upon grounds of humanity, charity, and policy. I want to see this Union restored. I want the Union that our fathers made. I want that Union which gave us peace, prosperity, happiness, greatness, and grandeur, such as no other people ever before enjoyed; because it is that Union which will secure to the people of this country and those who were born in foreign lands but who came here because they were told it was the land of the free and the home of the brave, those guarantees which are contained in our organic law. How is that peace to be obtained? It cannot be obtained by cruel, unusual, unconstitutional, and unjust punishments. If we exercise toward those in rebellion who are under the control of the minions of power at the South the principles of conciliation and charity, in the spirit by which the foundations of our liberties were laid, broad, strong, and deep in the beginning, and show to them and the world that we are prosecuting this war and passing our laws with the view of restoring the Union, and not for the purpose of oppressing the people of the South, and not in a spirit of revenge or passion, and with the view of punishing those only who are voluntarily attempting to destroy the unity of the Government, and not their innocent children and unaccountable widows, we will soon see the sun of liberty set all over this land, and the glorious and

hallowed heritages which our fathers bequeathed to us restored and maintained.

In the South are hundreds of thousands of loyal hearts, men and women who dare not sustain the Union of the States because they are controlled by a wicked and reckless despotism—where the act of sustaining the Union would be deemed by the minions in power an act of disloyalty to the so-called southern confederacy, and would subject them to the pains of death or imprisonment. Thousands are forced into the rebel army by conscription and draft which they dare not and could not successfully resist.

Do the members of this honorable body feel willing to make the penalty due the vilest traitor be borne by the forced conscript, whose heart is for the Union, but whose involuntary and forced act identifies him with the rebellion?

The law, as it now stands, forfeits the estate of the forced conscript for life. Is that not sufficient; or do you not only want to punish the innocent conscript, but his children after him, because their father was so unfortunate as to be forced to do military duty against a Government he loved? I hold that no Government has a right to demand the support of those whom it cannot protect.

If confiscation bills must be passed punishing the innocent and guilty parents by a confiscation of their estates for life, let us, in the name of Him who knows the destiny of us all, save as far as we can the mother and her babe, and cease the infliction of tyranny and despotism upon the spirit of this enlightened age.

Do not let us corrupt the blood of the pure, or rob the innocent of that which may keep the virgin chaste; the widow and the mother happy, the children respected, the poor-houses unfilled, and the rising and unborn generations of one portion of our common country from having the means to sustain life and educate themselves grasped from their control. Remember that we are not only making a precedent for ourselves, but for our children and descendants who are to come after us, and that our action upon this bill may settle the future destiny and happiness of millions of human beings in this land; because if Congress deem it prudent and constitutional to forfeit estates forever, they throw, if we succeed in this contest, (which I hope in the name of God we may,) upon the cold charities of the world millions of the innocent descendants of our revolutionary sires.

I charge that the object of repealing the explanatory resolution is to fill the coffers of the wicked, reckless, and cowardly speculator and plunderer, who, regardless of the weeping mother, orphan children, helpless and unprotected widows, mourning sisters, aged and decrepit fathers, would eat out and destroy the substance of the nation and trample upon the rights and liberties of a bleeding and desecrated country, upon the pretext of legal forms as a license for them to exercise their depraved and avaricious natures.

Sir, I hope the gentlemen upon the other side will stop and consider before they vote away one of the great doctrines of Christianity and constitutional law. I hope the conservative element of this House on both sides will rise to the dignity of freemen, and not allow party passion and party action to override the barriers of the Constitution; because it is a duty which we owe to the sacred memory of our revolutionary fathers, to the women and children of this land, to our homes and to our property, to stand firmly by our oaths of office and the organic law of the land. Do not let the American name and the glorious old flag of the Union be disgraced by having our descendants to read in the history of this country that the Thirty-Eighth Congress were so lost to all sense of humanity and Christianity as to even by implication desire that our organic law should be so construed, by a corrupt and dependent judge, as to allow a forfeiture of the real estate of the father to extend beyond his life, and thereby cut off the lineal heirs and the widowed mother.

If this resolution explanatory of the confiscation bill should be repealed it would look as though the days of ancient barbarism were thundering down the gates of liberty. If the construction given by the gentleman from Maryland is to prevail, then I pity the mighty fall and dreadful doom which await the women and children of a large portion of this land; as I have witnessed in silent sorrow one by one of the barriers of the Constitution rent asunder and broken down, and the rights

and liberties of the people trampled under foot in violation of the organic law of the land. I do not utter these words in the feeling of party spirit. I do not intend to throw anything in the way of this Administration to prevent a constitutional prosecution of this war. I intend to stand by the country and the noble and gallant officers and soldiers in the field, and to vote for men and money to an unlimited extent to put down this rebellion; but at the same time I am for adding to war and force the power of conciliation, Christianity, charity, and compromise, so far as is consistent with an honorable and lasting peace, based solely and alone upon the unity of all the States and the restoration of the old Union, and to consent to no peace until every star attempted to be struck from our glorious banner shall be cemented to its sacred folds.

But, sir, when we oppose any measure coming from the other side of this House, because we believe it unconstitutional or unwise, we are charged with disloyalty; and the gentleman from Maryland went so far, in discussing this resolution, as to say:

"When they tender support I shall look at it with something of suspicion. For myself, sir, relying on the fact that the people have sent enough of us here for the purpose of supporting the Administration, I would suggest that perhaps gentlemen on the other side of the House had just as well execute the mission with which the constituents that elected them sent them here, charged to oppose, to embarrass, to libel, and to break down the Administration, and leave the support of it to the gentlemen whom the people have sent here to maintain it."

I need not say to you, Mr. Speaker, that we did not come here for the purpose of libeling or breaking down the Administration. That was not the object for which our constituents sent us here. They sent us here because they found that after this war had gone on for two long years, and they had sent forth their sons and brothers, whose blood had reddened every battle-field; they only received from their opponents epithets and disapprobation; they sent us here because they believed that an attempt was being made to deprive them of the fruits of the Constitution and of the constitutional liberties which had been delegated to them by their fathers, and they went to the ballot-box in New Jersey and in other States to sustain, to perpetuate, to uphold, and to maintain those liberties, not with cannon-balls, but with ballots. They sent us here as their representatives because they believed that if the tide of abolitionism, fanaticism, of despotism, of ostracism, tyranny, banishment, and bondage was not stopped in its mad career, the liberties of the country would be blotted out and destroyed forever. They sent us here because they found that common informers were going about the land, and that drum-head courts-martial had usurped the forum of civil law. They sent us here to sustain the Administration in every constitutional measure to put down the rebellion. I was elected on such a platform, and by the God of heaven who made me I will stand on that platform though earth and hell confront me. They sent us here because they believed that our political enemies were exulting over the downfall of liberties made venerable by the love of centuries and laughing over each successive blow struck at public liberty and public law. They sent us here because they believed the party in power were reveling in the crisis of the nation's ruin; that their conduct was symbolic of the blood of Cato and Scipio, speaking in the swollen lineaments of ancient barbarism; that the heroic honor of truth and the ancient days of justice were dead and gone; that the passions of four political enemies had entered our households, poisoned the affections and destroyed the intercourse of men; because they believed that the ostracism of ancient Greece and the deportations of modern Russia had been openly carried into effect; because they believed that no sense of the mighty fall or shadow of the dreadful doom which then appeared to await the people of the land had stopped the reckless clouds of despotism and tyranny that then appeared to hover over us in that hour of frantic revelry; because they believed the doctrine of the rebels of the South and the fanatics of the North had proven itself antagonistic to true freedom and humanity; because they believed the proclamation for the abolition of slavery, which had been lately made, had disturbed and embittered the social dependencies, broken the bonds of a common political faith, degraded us as a nation before the envious monarchs of earth, de-

prived us of our inherent power to vindicate our rights, and sowed broadcast throughout the land the terrible seeds of disunion, by which the people would reap a harvest of death, desolation, misery, mourning, and woe unparalleled in the history of the world; because they believed that the spirit of abolition had breathed its contagion throughout the national capital, had profaned and polluted its very walls; that it had defiled the holy places of this country by its corrupting influences; that foul abolitionism was croaking for prey and wetting its bloody beaks and dirty talons upon the sacred altars of the nation; and because the proud spirit of the people, whose principles were founded in the spirit of Washington and Jefferson, had been degraded by practices that were disgraceful to the civilized world.

The gentleman from Illinois said we on this side of the House did not represent any constituency, and that if we had been dealt with according to the Constitution we would not have been here. I want those gentlemen to understand that some of us do represent a constituency, even by the vote of the last fall's election.

There is a little State in this Union that lies between the great States of New York and Pennsylvania called New Jersey. It is the State that did not give her electoral or popular vote to this Administration. It is the State where no draft has taken place, and was the first to place her entire quota of "three months' men" in the field, fully armed and equipped, after President Lincoln, on the 15th of April, 1861, had summoned the loyal States to the succor and defense of the Union. She was the first to procure her full complement of men under the subsequent call for three hundred thousand additional troops. Of the "nine months' men" she furnished her appropriate contingent; and at the last call of the Government she raised by volunteering more men than were obtained from the whole of New England by the draft. It is the State that last fall, for the second time, rolled back that tide of abolitionism and fanaticism which was sweeping around her borders. It is the State that gave more majority for the Democratic party and the Union last fall, according to the vote polled; than it did in 1862. It is the State that never has and never will give her vote to the ruinous policy of fanaticism, abolitionism, despotism, ostracism, tyranny, banishment, or bondage. It is the State that sends her Representatives here by the power of ballots, instead of bayonets, cannon, and bullets. It is that State which in the contest now raging poured out her men and money in streams as mighty as the waters which sweep from her mountain sides, whose sons have laid down their lives around the sacred precinct of the tomb of Washington to uphold and perpetuate the blessings of liberty bequeathed to us by the framers of the Constitution, which men who love the negro better than their country are trying by this legislation to destroy. It is the State that has not forgotten the battles of Monmouth, Princeton, and Trenton. It is the gallant, noble State that never falters in her devotion to the Union. In fact, sir, it is the only State that stands by the Constitution and Union of our fathers.

Why should we be charged with disloyalty when the blood of the Democratic sons and fathers has reddened the soil upon every battle-field? The charge is base and cowardly, and only worthy of fanatics, panderers, and parasites to despotic power. The gentlemen who make such charges might as well understand that we do not intend to be intimidated by any such cowardly and dastardly insults, as we consider those who make such charges beneath the dignity and consideration of freemen. I, for one, do not intend to allow the Constitution to be subverted and the liberties of the people trampled under foot by any unconstitutional or abnormal legislation without at least protesting against it; because, sir, the Constitution is the Union, and if it be destroyed, the Union perishes with it. I mean the Union that our fathers made. It is that Union, and that alone, which can give to the people of this country those safeguards which all men claim as the jewels of their most precious birthright.

Mr. SPALDING obtained the floor.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined

and found truly enrolled a bill (H. R. No. 143) to amend the law prescribing the articles to be admitted into the mails of the United States; when the Speaker signed the same.

EXCUSED FROM SERVING UPON A COMMITTEE.

Mr. LOAN. I rise for the purpose of asking to be excused from further service upon the Committee on Military Affairs.

No objection was made, and Mr. LOAN was excused.

INTERNAL REVENUE.

Mr. STEVENS. With the leave of the gentleman from Ohio, [Mr. SPALDING,] who is entitled to the floor, I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Cox in the chair,) and resumed the consideration of the special order, being bill of the House No. 122, to increase the internal revenue, and for other purposes.

The Clerk read the sixth section of the bill.

Mr. PENDLETON. I desire to offer an amendment to a previous section of the bill. The gentleman from Maine [Mr. BLAINE] yesterday offered an amendment in relation to the tax imposed upon cotton. I desire to know if that amendment was agreed to?

The CHAIRMAN. It was adopted.

Mr. PENDLETON. In order to perfect that section and to make the principle which has been adopted by the House apply to all goods subject to taxation, I propose to offer an amendment in shape of a proviso, and I will state to the House that it proposes to repeal so much of the original tax law as provided that cotton in the hands of the manufacturer on the 1st day of October, 1862, should not pay a tax. I am not aware that there is any cotton of that kind in the hands of the manufacturers, but if there is, in order to carry out the principle adopted by the House yesterday, I move to add at the end of the fourth section the following proviso:

And provided further, That all provisions of law whereby cotton in the hands of manufacturers of cotton fabrics on October 1, 1862, and prior thereto, is exempted from taxation are hereby repealed, and the same shall be subject to the rate of taxation imposed by this bill.

The object of the amendment is to repeal an exemption contained in the original tax law whereby cotton in the hands of the cotton manufacturer on the 1st day of October, 1862, was exempted from taxation. I will say that I do not approve the principle which was adopted in the committee yesterday, but members seem determined to carry it out. They did so in the case of distilled spirits. They did it again in the case of cotton, imposing a tax on the stock in hand. I want to have that principle carried out still further, by providing that all the cotton in the hands of manufacturers on the 1st of October, 1862, as well as all other cotton, shall be subject to the duty imposed by this act. The amendment of the gentleman from Maine, adopted yesterday, only provides that cotton which has paid the duty of half a cent per pound shall now pay the additional tax of a cent and a half. This amendment of mine proposes to tax two cents that cotton which under the former law was entirely exempted from taxation.

The amendment was agreed to.

Mr. BROOKS. I move to strike out of the sixth section the following words:

A drawback of two cents per pound upon such articles in all cases where the duty imposed by this act upon the cotton used in the manufacture thereof shall be satisfactorily shown to have been previously paid; the amount of said drawback to be ascertained in such manner as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

In proposing this amendment permit me to say that the Committee of Ways and Means in reporting this bill has committed, I think, an oversight. The bill purports to be a revenue bill; but this section gives a bounty of two cents per pound to the manufacturers of cotton, and therefore the bill ought to be called a bill for their benefit, and not a revenue bill. I suppose it will be replied to me that it is necessary to allow the drawback of this duty on cotton manufactures exported, in order to enable manufacturers to compete in the foreign markets with foreign manufacturers. My

reply to that is that the manufacturers of France, England, and Germany pay the same two cents a pound on the raw cotton; and therefore the American and foreign manufacturers will go into competition in the foreign markets on equal terms. Besides, as the cottons of Egypt, Sarat, and Brazil are often mixed up with American cotton, there would be much difficulty in ascertaining the component parts of the manufactured goods, so that the manufacturer would often have the drawback allowed on cotton for which he had paid no duty.

I think, besides, that the principle is unjust. We have imposed a tax of sixty cents per gallon on whisky, and it falls not upon the distillers of spirits but on the producers of grain in the great Northwest. The able memorial from Chicago, exceedingly well got up, which has been read and re-read on this floor, shows that were it not for the consumption of corn in spirits, the price of corn would be from forty to sixty cents per bushel lower than it now is. It shows that it is the conversion of corn and other grain into whisky that increases the price of corn from forty to sixty cents. Here is a heavy tax on the great agricultural interest of the country, and a bounty to the manufacturing interest of the country. As a man representing commercial interests I stand between, and I ask equal and exact justice both to the agriculturist and to the manufacturer. I therefore propose to have this drawback on exported goods struck out of the bill, as being out of place in a revenue bill and as inconsistent with all the other items.

Mr. HOLMAN. Do I understand that the gentleman's amendment only strikes out all after the word "articles?"

Mr. BROOKS. Yes.

Mr. HOLMAN. There seems to be no reason for leaving the rest of the section in. The preceding portion of the section would be without any meaning whatever. I therefore move to amend the amendment by striking out the first part of the section, as follows:

Sec. 6. And be it further enacted, That, from and after the date on which this act takes effect, in computing the allowance or drawback upon articles manufactured exclusively of cotton when exported, there shall be allowed, in addition to the three per cent. duty which shall have been paid on such articles;

and to insert in lieu of the whole section a substitute for it.

The CHAIRMAN. The Chair would suggest that the pending amendment should first be acted on.

Mr. HOLMAN. Very well, sir; I withdraw my amendment.

Mr. MORRILL. I confess, Mr. Chairman, that the gentleman from New York [Mr. Brooks] manifests his friendship for commerce in a very singular way. It is true that a little foreign commerce has sprung up in the country in consequence of our manufacturers being able, from a long staple of cotton, to manufacture goods and send them to India, China, South America, and Mexico. Unless the drawback were allowed them they could not compete at all with English or other foreign manufacturers, and would be effectively shut out of foreign markets. The law of drawbacks is specially guarded, requiring the parties to make satisfactory proof in all cases that the duty has been paid. Unless it has been paid it will not be returned. Besides, the drawback is only to be allowed to them on the weight of the cotton after being manufactured, and they will lose on account of the shrinkage which cotton undergoes in the process of manufacture. It is no loss to the Government at all to allow these drawbacks. But if the gentleman from New York is disposed to entirely extinguish this kind of trade, and if the House choose to follow him in it, then be it so.

Mr. VOORHEES. I move to amend the amendment of the gentleman from New York by striking out the entire section; and I do it for the reason that I regard the principle of the whole section as pernicious and wrong.

The CHAIRMAN. The Chair will suggest to the gentleman from Indiana that his proposition is not an amendment to the amendment.

Mr. VOORHEES. I will then speak in support of the amendment of the gentleman from New York, which embraces substantially the subject upon which I wish to speak, although it does not go as far as I think it ought.

Let us arrest our attention for a moment by

looking into the legislation that exists at this time upon the subject of cotton and its manufacture. Provision is made in this section for a drawback of two cents per pound; and that system has existed and been followed in all our revenue laws since the present party came into power. The object of it is this: the manufactured article that is sold in this country pays a tax to the Government, but the manufacturer obtains a drawback to exactly the amount of that tax by charging up the price to the consumer.

You tax the manufacturer in the first place three per cent., but he sends the goods to the agricultural portion of the country and charges up the amount of the tax, and it comes back into his pocket. And in that way he pays no tax at all. And again, the little that is exported to foreign countries for sale is made free of tax in this way: when he has paid nominally the three per cent. and the goods reach the custom-house for exportation, the Government refunds the tax and pays the money back to him. Thus he is protected wherever he may sell in securing the return of the tax.

Sir, I defy any advocate of the manufacturing interest in this House to show me that the manufacturer, from shoe-peggs to broadcloths, pays one cent of revenue into the public Treasury that stays there. I have looked into this legislation so carefully that I am prepared to assert that no besieged city was ever so fortified against the possibility of attack as is the manufacturing interest of this country against being compelled to pay into the public Treasury one dollar of its wealth. Every dollar comes from the laboring, the agricultural, and the consuming portion of the country.

I want to know whether the West has any friends upon the floor of this House? We pay every dollar that is to be levied by this tax bill.

It is true, upon the question of this drawback that we are not directly interested; but it is also true that we will have to pay into the Treasury the amount which the Government refunds to these manufacturers. It is just so much taken out of the Treasury which we will have to replace. The manufacturing interest is protected in the trade at home by the additional import duty you have laid on foreign articles to the extent and more of the internal tax which you impose, and then, when the manufacturer sends his goods abroad, he is protected against the possibility of paying any tax by the Government refunding in the shape of a drawback all the taxes he has paid on the article to be exported.

Now this House might as well come to the conclusion that nobody is deceived by this kind of legislation. Gentlemen may as well lay aside the delusion they have sought to impose upon the country, that they are taxing these manufacturers.

Here you are imposing a tax of two cents a pound upon raw cotton. Who pays that tax? Not the manufacturer. The consumer pays it on what is sold in this country. On that which is to go abroad nobody pays, for the Government refunds it.

I repeat the assertion, and I challenge contradiction, that in this hour of the nation's trial and sorest necessity the manufacturing interest of the country pays not a dollar into the public Treasury that stays there. And yet airs of patriotism are put on here by men representing that interest. I visited New England last summer, and with pride and pleasure did I behold her beautiful valleys, her bright hills, her clear waters, the kind and hospitable people with whom I associated; but when I heard the swelling hum of her manufactories, and saw those which only a short time ago worked but a few hands now working their thousands, and rolling up their countless wealth, I felt that it was an unhealthy prosperity. To my mind it presented a wealth wrung from the labor, the sinews, the bone and muscle of the men who till the soil, taxed to an illegitimate extent to foster and support that great system of local wealth.

Mr. Chairman, I rejoice in the prosperity of the country, and the whole country. I love this country and every part of it, but I have no sectional animosities to gratify. I do not intend to stand idly by and see one portion of the country robbed and oppressed for the benefit of another. I will never vote for any revenue bill that embraces that principle. It is robbery; it is wrong.

If the manufacturers of this country cannot compete with the manufacturers of foreign countries, let them give up the business, and let us buy goods where we can buy them the cheapest. That is an honest principle, and none other is honest.

Mr. HARRINGTON. I move to strike out the last word, for the purpose of enabling me to debate the act under the five-minute rule of the House.

Mr. Chairman, I understand the sixth section of this act to exempt manufacturers of raw cotton from the payment of taxes, or, in other words, to refund to them three per cent. as well as two cents per pound on all manufactured cotton they see fit to export. To that I am opposed. I represent a constituency whose pursuits are agricultural—a constituency who are consumers of the fabrics which are contemplated by the sixth section. I regard that section as discriminating not only in favor of the manufacturing interests of New England but in favor of the carrying trade of New England and New York at the expense of the Northwest. I am at a loss to know why the taxes upon cotton exported to the inhabitants of England and France should be taken off as drawback, and imposed upon the citizens of the Northwest. Such legislation is a discrimination, sir, that has caused much uneasiness in the Northwest; and this act is not the only discrimination against the interests of the Northwest at this session. Yesterday was adopted another discrimination against the Northwest in the shape of additional tax upon distilled spirits. I will not say that a tax of that kind would alienate the people of the Northwest; but I will say this much, that it will cause uneasiness and disquiet among those who are to pay this tax as consumers.

The effect of the sixth section is substantially this: if the manufacturer East, with millions, shall see fit to export this cotton when worked up into fabrics to Europe or elsewhere, it provides that he shall receive all of the profits without any burden of taxes. Gentlemen may say that it is necessary for the carrying trade of the Atlantic seaboard. It seems to me, in these times of heavy taxation under which the people, though they patiently bear it, are groaning, that it is unjust to favor a few cities upon the seaboard, who have bottoms for carrying exports, at the expense of the agricultural interests of the regions of the West who are furnishing, as they have furnished, men for the armies, and means for sustaining the armies, of the United States. Why should the manufacturer who accumulates cotton for the purpose of exportation if he can make more upon it; why, sir, should he be exempted from the payment of taxation, while we of the Northwest must submit as consumers to this taxation? There is no just reason for it.

Mr. WILSON. I represent a district of the Northwest, and I should like to ask the gentleman a question: whether, in his opinion, there are any consumers in the eastern and middle States?

Mr. HARRINGTON. I will answer the gentleman. The consumers in the middle and the eastern States are the laboring portion of the community, and they must bear the burdens which the speculators place upon them. But they have some compensation, for they may be employed to whirl the spindles of the New England factories, while the men of the Northwest must guide the plowshare, feed their stock, and consume the fabrics of New England.

Gentlemen may say that it is necessary to increase our exchanges with the rest of the world. Everybody knows that the competition between the United States and other countries in reference to cotton goods amounts to nothing. It will not amount to one dollar of increase of exchange because of this taxation, for England will take our cotton whether two cents per pound and three per cent. of tax *ad valorem* is imposed upon it or not. She cannot refuse, and the Northwest knows that very well. It is a discrimination in favor of New England manufactures at the expense of the agricultural portion of the country. Although we have not resisted the dictations of New England yet we protest against them. I protest against it on behalf of my constituents. I believe that you may so frame this measure as not to derive any taxation from the Northwest; that you may so oppress them in time that the objects of revenue may be defeated; but if that time comes, the op-

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pression of speculative New England and the Atlantic seaboard will alienate the affections of that important portion of our Republic. We have furnished soldiers and generals who have won your and our victories and given an honorable fame to the arms of the Republic, and I hope will do so. Do not, then, treat us as hewers of wood and drawers of water for millionaires and speculators of the Atlantic seaboard. We have no heavy Army contracts or ill-gotten gains out of which to contribute, but every cent paid is the fruit of rural industry. Then at least regulate our burdens equally with the speculator and the shoddy contractor of New England. This we think is a moderate request.

Mr. MORRILL. Mr. Chairman, when it becomes necessary for me, in order to maintain my position in this House and to secure support at home, to encourage any kind of jealousy between one part of the country and another, then I shall consider it my duty to resign. [Cries of "Good!"] I happen to represent an agricultural State as much as any of the Northwest. I say that agriculturists are not at all charged, either in this or in any other bill, with internal taxation. They are not touched directly or remotely. They are as consumers taxed the same as any other consumers of the country, and no more. If the gentleman from Indiana [Mr. VOORHEES] had been truly informed of the facts upon the subject, I presume that he would not have given utterance to some of the statements which he made. Manufacturers have not in all cases been able to increase their prices in proportion to the tax. In many instances it is far otherwise.

But I say to him and to the House, if it had not been for the inflation of the currency, many of the manufacturers of this country would at this moment have been utterly prostrated. I suppose it would be wise for this House to encourage exports to the utmost extent of our ability. I believe the people of this country are now indulging in very extravagant habits in relation to the consumption of our own manufactures and those from abroad. I believe, also, it is for the interest of the Union that we should keep those men who are at home, and not engaged in actual warfare, employed, and profitably employed, so that they can pay the taxes we are compelled at this time to levy upon them; and there is no other way for us to do than to keep every machine and every hand in the country in operation.

If we shall take the course which seems to be indicated by the speeches last delivered upon the opposite side of the House, to encourage a system of jealousy of one part of the Union against the other, I can easily foresee there will be some difficulty in putting down this rebellion, and that the war will last some considerable time longer than has been hitherto estimated. But, for one, I entertain no such feeling, and the State I represent, being an agricultural State, and having no larger interest in manufactures than Illinois and some other western States, possibly not so large, has no such feeling. We believe it is for our interest to create a market for our agricultural products, to consume our raw materials at home, and give employment to our own people rather than those from abroad.

If gentlemen will examine the facts, they will find that in the West a large and increasing amount of capital is being invested in manufactures; and I foresee ere long that such a State as Illinois and other western States will become the seat of large and profitable manufactures, more profitable than they now are in New England. The people who are manufacturing in New England will have to remove their establishments to places where they can obtain coal with which to obtain a cheaper motive power than they can have where they are now located. The gentlemen who are engaging in this system of creating sectional jealousy upon this subject will find ere long that they are fighting against their own people.

[Here the hammer fell.]

The amendment to the amendment was not agreed to.

Mr. J. C. ALLEN. I move to amend the amendment by striking out the last three words, and I do so for the purpose of replying to the remarks more particularly of the gentleman from Vermont, [Mr. MORRILL.] I am in favor, since this system of taxation has been resorted to for the purpose of raising a revenue to support the Government, of making it operate as equally upon all classes of men in every State as possible; and while gentlemen upon the other side insist that the products of Illinois shall be taxed threefold their real value, I insist that the products in the hands of New England manufacturers shall bear their proportion of the burdens of taxation. That they have not heretofore done so, that they do not do so now, or that they will not do so under this proposition, is too clear for any man to doubt. The manufacturers of New England are growing rich; they boast of the prosperity of their people. I would to God the agricultural interests of the West could thus boast. While they have been able upon their products to realize within the last two years more than three hundred per cent. upon their goods than they did four years ago, we in the West are selling them our wheat at a dollar a bushel, and our beef at less price than we received three years ago; and that, too, in a depreciated currency. Three years ago a bushel of wheat in the market would purchase ten yards of common domestics of New England manufacture. To-day it will purchase but two. We are therefore paying an indirect tax unprecedented in the history of the country; and we are paying that bonus to New England manufacturers and the Government together. While they can sell to the operatives in their establishments any amount of manufactured articles free of tax, they pay no revenue to the Government, except three per cent. on what they sell to us, they never fail to charge that additional three per cent. upon the article they furnish us. It is giving to them, sir, an advantage over what the consumers of the West enjoy. It is unjust; and I tell the gentleman from Vermont that, notwithstanding his constituents, agricultural as they are, protected by the tariff upon wool, may be satisfied with this condition of things, the people of the Northwest are not satisfied with it, and will not be satisfied. I have no more to say.

Mr. DAWES. I merely wish to say a single word in reply to the gentleman from Illinois. I do not desire to enter into that strain of argument in which he and the gentleman from Indiana [Mr. VOORHEES] have indulged. I am not going to reciprocate that kind of feeling in which they seem to indulge. I wish, however, to correct some of their statements. Before I do that, I am curious to inquire of my friend from Indiana [Mr. VOORHEES] who first spoke, how he proposes to raise sufficient revenue to carry on the expenditures of this Government? He is for free trade. He is against all internal taxation. He has done himself the honor to vote against every measure for that purpose that has ever been introduced into this House. I know of no measure tending to supply the Treasury even for its current expenditures that ever had the support of my friend from Indiana, except the motion to repeal the present tariff and substitute for it that of 1846. He is opposed alike to imposts and to internal taxation; but he is constant and consistent on every opportunity in inveighing against New England, and in attempting to show to the country that his part of the Union has to bear burdens for the benefit of New England. The gentleman from Illinois [Mr. J. C. ALLEN] follows in the same strain. I ask them if they want a real estate tax, and why it is, if they are disposed to impose this tax equally upon all the interests and all the capital, that, with a very large majority in this House, they do not impose this tax upon real estate? I ask them if they are willing to state here that New England interests have profited more, and that New England has profited more than the real estate of the great Northwest? Has it not risen in value? Has it not risen millions where the property of New England has risen thousands? Do the gentlemen think that there are no consum-

ers of the products of New England but in the Northwest? Does not New England supply herself as well as the Northwest? Does not the capitalist of New England or the manufacturer of New England, besides paying three per cent. on all his products, also pay his three and five per cent. upon his income? And does not my friend from the West know that whatever tax is put upon those products of his that he is complaining of at this time, he gets it back just as we get back ours? He complains of the tax upon whisky. Well, those at the East who use his whisky have to pay that tax back, just precisely the same as they of the West pay back whatever tax is imposed upon our cotton and woolen fabrics. It equalizes itself upon all productions. The gentleman has the market of the world, and he has the capital of New England to bring the market of the world to his own door. He takes our capital out into the western country, and he brings by that process his rich valleys and prairies to the market of the world, and they rise in value; and his region of country rises in prosperity and in population beyond all calculation. And why do not we of the Northeast, struggling against climate and soil, and under every natural difficulty that can be imposed upon us, why do not we complain of that prosperity? Have we treated them with an illiberal hand? Has the capital of New England been turned away from them? Has the support of New England to the measures of internal improvement been withheld? Has there been anything to justify an attack upon his part upon the industry, the capital, or the votes of New England here in this House in their treatment of the Northwest? Nothing, whatever. It is gratuitous; it is political; it is uncalled for by anything connected with the course of New England upon this floor or elsewhere.

[Here the hammer fell.]

Mr. J. C. ALLEN. I withdraw my amendment.

Mr. VOORHEES. I renew it, and I do it with the purpose of detaining the House but a moment. There is a line of argument—it is not argument, however—a line of talk, always indulged in by gentlemen upon the opposite side of the Chamber when a discussion upon these questions arises, that, to use the mildest term, is scarcely tolerable to those who feel that their material and pecuniary interests are involved in the question.

The gentleman from Vermont [Mr. MORRILL] rises and deprecates sectionalism, and the gentleman from Massachusetts [Mr. DAWES] follows in the same line, and says that he regrets this strain of debate, this line of discussion. I presume the gentlemen do. I know I would if I had as comfortable a thing at somebody else's expense as their constituents have upon this question; I would not want it discussed either. If I was so secure in wealth as their constituents are, or if my people were prospering and flourishing and spreading out the branches of their prosperity before the world at the expense of somebody else, unless I was moved by a higher sense of justice than I have ever seen animate a single breast on the other side of the House upon this question, I too, like them, should desire silence on the subject.

I should say, "Let us have no talk about it." I should say, "Let us have no fuss; I am very comfortable, and cannot see why all the rest of the world should not be so too." I have no doubt the highwayman, when he grasps his victim on the highroad, would rather have him keep still. I have no doubt the burglar, when he breaks into a dwelling-house, is very much annoyed if the screams of the inmates disturb him at his felonious labors. Ah! say they, we must have peace. We must have no screaming. Well, quit robbing us. Take your hands out of our pockets. Quit filching the rewards of our honest labor from our pockets for the benefit of men who are no abler, no truer, no more patriotic, to say the least of it, than the people which the gentleman from Illinois, myself, and others on this side of the Chamber represent here. Meet the argument, and stop this talk. Does the manufacturing interest pay

anything to the support of the Government? Or does the agricultural interest pay it all? I am not to be deterred from the argument by this line of talk. Ah! you are comfortable and cosy, gentlemen. It is not so with the people that you and I, Mr. Chairman, [Mr. Cox in the chair,] represent on this floor.

Of course, on this question of sectionalism the retort is very handy, so apparent to everybody, so ready to every lip, that I do not condescend to use it. The whole world will take notice with what propriety anybody on that side of the Chamber can talk of sectionalism, their party having been built up on the idea of pure sectionalism for more than thirty years past.

But, as I was going on to say when interrupted by a friend, our people are deeply interested on this question of high tariffs and high taxes. They make long, hard days' work to the farmers of the country; they wring the sweat from his brow. The farmers of my district have sent me here to look to their interests. The tariff law now on the statute-book wrings from labor every dollar that the manufacturer pays as a tax. Let members on the other side meet that if they can. The gentleman from Vermont [Mr. MORRILL] says that if I was well informed on this subject I would not have made this statement. I have entire respect for the gentleman from Vermont, and I beg to assure him that, to the best of my limited ability, I have informed myself. Doubtless I have not so vast a fund of information as he carries about with him, but still what little I have I operate with. I am not so large an operator as he is. I do not belong to the Committee of Ways and Means. But still I have looked into this question with what intellect God has endowed me with; and I tell the gentleman that I stand by my statement. If it is not true let him make it manifest. I am in quest of information. Let him inform me on that point. Let him show me that I am wrong, and I will acknowledge it. Let him show to me that the plethoric, bloated manufacturers of New England are paying anything to support the Government, and I will recognize it. Show me that our people are not wrung day by day and hour by hour, not merely to support the Government, but to support the manufacturers of New England, and I will acknowledge that, too. I make the assertion, and challenge proof of the contrary.

Then comes this question of drawbacks. It is not true, as the gentleman from Vermont has said, that agriculture is not interested at all in that question. Its interest in it is not very extensive, I admit; but it has just this interest in it: that what the Government pays back to these manufacturers in the shape of drawbacks makes a vacancy in the public Treasury which somebody has to fill up.

The gentleman from Massachusetts [Mr. DAWES] asks me how I would raise a revenue. Better, far better, free trade and direct taxation according to each man's wealth, in all sections alike, than this discriminating policy by which that gentleman's constituents grow rich and mine grow poor. The true policy of government is to bring the cheap markets of the world to our doors by free trade. Let our people buy where their money will buy most; and let a revenue for the support of the Government be drawn equally from the wealth of the country.

[Here the hammer fell.]

Mr. DAWES. Mr. Chairman, I have not participated in this debate to arraign the gentleman's patriotism at all, or to arraign his industry, but I have participated in it for the single purpose of correcting him in his statement. I say to the gentleman that he is mistaken when he says that his constituents are taxed to enrich us. I wish the gentleman to tell me what amount of internal revenue his district pays. My own is a country district, and yet there are but two other districts in the whole Union that pay so much internal revenue to the Treasury of the United States as my district pays; and not a dollar of it at the expense of his constituents. Every dollar of it comes out of the pockets of my constituents. The State of Massachusetts, the whole of New England, pays, in proportion to its inhabitants, its lands and its property, threefold what the gentleman's constituents pay. Let the gentleman put his finger on the article. Is it the cloth he wears on his back? I pay as much duty on it as he does. Is

it the cloth his neighbor wears? There is just as much of it worn in my district as there is in his.

Mr. VOORHEES. Let me interrupt the gentleman.

Mr. DAWES. Do not use up my time.

Mr. VOORHEES. Very well; I will not interrupt the gentleman if he does not wish it.

Mr. DAWES. Mr. Chairman, there is nothing which the gentleman's constituents consume which is not consumed by my constituents, except it may be whisky. [Laughter.] In everything that pertains to the consumption of the country, my district consumes as much as his does, just in proportion to the number of inhabitants in my district as to those in his. They are about equal in that respect. My constituents pay three per cent. upon every product of their hands, and they pay from three to five per cent. upon the top of that upon every dollar that they make.

I asked the gentleman, when I was up before, whether he would go with me for a direct tax upon every foot of soil and every dollar of stock, cattle, and everything of that kind. If he will go for that, so will all of New England. So will every member here from New England. When we struggled for that during the last Congress we encountered the gentleman and the combined members of the Northwest, who are now complaining against that only just and proper method of taxing dollar by dollar. But they taxed the industry of the country, and my constituents, being more industrious than the gentleman's, are obliged to pay more into the Treasury. That is all. The gentleman's language about free trade and direct taxation he borrows from those who are now arrayed in war against the Government. They are in active, open hostility against the Government. The gentleman's measure—I do not mean to say that it is so intended—is in direct conflict with the Government here at home. The only difference between them is, that the one is avowed as intended for that purpose and the other has that effect.

Mr. STEVENS. I move that the committee rise for the purpose of closing debate.

Mr. BROOKS. I hope not.

The committee refused to rise.

Mr. WASHEBURNE, of Illinois. I renew the amendment of the gentleman from Indiana, [Mr. VOORHEES.]

Mr. Chairman, I have renewed the amendment for the purpose of replying in some measure to the complaint urged by gentlemen from the Northwest on the other side of the House in behalf of the Northwest. They have united in what may be considered a very general denunciation of the revenue laws upon which the Government is to depend for raising the means to carry on the war and to put down the rebellion. Having voted in the last Congress for all of these measures, I intend during this Congress to vote for all those which may be necessary to effect that object. I, too, propose to say a word for the Northwest.

Mr. HARRINGTON. What is the question before the committee?

The CHAIRMAN. The amendment offered by the gentleman from Illinois, and to which he is now speaking.

Mr. WASHEBURNE, of Illinois. Mr. Chairman, the gentleman spoke to the same amendment, and I hope that he will not interrupt me. I say, sir, that I intend to vote in this Congress for every measure to raise sufficient revenue to enable the Government to put down this rebellion. I am willing to take that responsibility. I shall ever be willing to defend the votes which I gave in the last Congress upon those measures, and those I shall give this Congress.

Sir, it has been alleged here that we in the Northwest are suffering more than any other part of the country from the operation of the revenue laws. I speak for one portion of the Northwest, and I tell the gentleman from Indiana that whatever complaint there may be from his district in regard to the operation of the laws for raising revenue, there is no complaint from the loyal district which I have the honor to represent. The people there are not only willing to stand taxation which we have already imposed, but are willing to stand any additional taxation which may be necessary to crush out this rebellion, and to hang the rebels in the South and the rebel sympathizers of the North.

Complaint has been made against New England. I know that kind of talk. I have heard too

often that kind of slang about New England. I heard it here for ten years, when your Barksdales, and your Keitts, and your other traitors now in arms against the Government filled these Halls with their pestilential assaults not only upon New England, but on the free North generally. Sir, I am not for leaving "New England out in the cold," nor am I willing that any other State of this Union shall ever be left out in the cold. I am for any revenue bill that will raise money enough to vigorously carry on the war to crush treason and rebellion and bring back into the fold of the Union every State that has rebelled against the flag, and that by subjugation if it be necessary. I undertake to say the people of Illinois are for such a revenue measure, and that they will cheerfully pay all taxes assessed upon them.

Where was the gentleman from Indiana in the last Congress? When it was proposed to open a great channel of communication, so that the products of his constituents and my own could be speedily and cheaply carried to distant markets, thus advancing the price to be paid to the producers and lessening it to the consumers, where was the gentleman and his friends in the Northwest?

[Here the hammer fell.]

Mr. VOORHEES. I beg pardon of the committee for my repeated appearance upon the floor. Everybody will bear witness that I speak but seldom and always with reluctance. I wish to call the attention of the committee to this point: what has the gentleman said who has just taken his seat? What argument has he made? Has he met anything; has he proved anything; has he disproved anything? Is a speech of that kind to be considered as an answer to any fact or argument? I stand here arguing this bill before the committee. I stand here making assertions and proving facts which the gentleman dare not deny, and does he suppose I will accept a spread-eagle affair of five minutes long as an answer to the remarks I have made upon the material interests of the people I represent?

Why, sir, such an argument, such an attempt at argument, such a speech does not rise high enough to reach an honest man's contempt. Now I call these gentlemen back to the point. They do not answer; they do not deny; they rant. They say the Union will be restored. I think, too, it will be, but it will be after such men as the gentleman from Illinois and those who act with him have been consigned to oblivion, and when the honest sentiment of the people who love this Union with all its laws shall have gained the ascendancy in the country. If they suppose for one moment that the Democratic members and the conservative members upon this floor are to be intimidated from discussion by loud talk and high-sounding sentences, they have got to learn us over again. Meet argument with argument. We will strip your position of this fustian, and leave it naked before the country.

Attack New England! Who has attacked New England? I have not. I have not asked that she should be kept out in the cold. Indeed, she shall not go out, as she takes a notion to once in a while. But when a party in power, be it New England, New York, or anybody else, puts its one hand upon our throats and the other hand in our pockets, and asks us to keep still while the robbery goes on, shall we not be allowed the poor privilege of crying out in our agony?

The gentleman says his constituents are not suffering. Let him speak for them. I think, however, in that he is mistaken if he represents an agricultural district. He says, too, his district is loyal. I should scorn myself if I replied to such a remark. I suppose it is loyal. I do not attack it, and until an attack upon my district comes in some other shape than by such a puerile insinuation, I shall not defend it upon this floor.

A word more. The gentleman says I opposed a great measure for the benefit of the Northwest last Congress—alluding to the celebrated canal scheme in which the gentleman was so much wrapped up. The distinguished chairman of the Committee of Ways and Means [Mr. STEVENS] from Pennsylvania did the same. For once our disloyal heads upon this side are sheltered by the broad ægis of the gentleman from Pennsylvania.

Mr. WASHBURNE, of Illinois. He was not from the Northwest, however.

Mr. VOORHEES. That is true; but I sup-

pose he is loyal. As to the Northwest, I have never been able to appreciate the tangible benefits it would derive from that gigantic scheme of what I have always conceived to be simply a scheme of public plunder. I looked upon it as a great system to feed a loathsome swarm of harpies upon the national Treasury. No such measure ever had and never shall have my sanction. I stand here to defend my course upon that subject whenever it is assailed.

But this is aside from the point. Come back to the issue; come back to the high tariff; come back to the matter of taxation. You shall not escape from it before the country. The soldier of loyal, patriotic heart, the soldier upon the field, who pays fifty or sixty cents a yard for muslin to wrap his wasted body in, shall know to whom he makes that payment. The manufacturer robs him. His interest is identical with the farmer.

[Here the hammer fell.]

Mr. WILSON. I renew the amendment.

Mr. Chairman, I had not intended to engage in this discussion at all until I heard the remarks of certain gentlemen upon the other side of the House, who have assumed to speak for the great Northwest. Now, sir, I do not know how it may be with the constituents of the gentleman from Indiana, [Mr. VOORHEES.] I do not know but that they are all complaining of the burdens necessarily imposed upon the people by the existence of this war. I do not know but that his constituents desire to have the men replaced in power to whom the gentleman refers. He says, restore the power of this Government to them and we will have peace, the Union restored, and prosperity again brought back to the land. Does the gentleman forget, and do his constituents forget, that under the last Administration, which his friends helped to power, this rebellion was organized, and that the men who controlled that Administration are now the men who control the rebel government at Richmond? Do his constituents want those men replaced in power? Do they desire again such an Administration as James Buchanan's, the last sample the gentleman and his friends have given to the country and to the world?

But, sir, I do not wish to enter into this general discussion. I wish to come to the practical phases of the question, and I should like to have the gentleman from Indiana inform this House how it is that the Northwest is compelled to pay a greater proportion of the taxes imposed upon the people than the people of the East? Can the gentleman from Indiana inform this House that the people of his district in the aggregate pay more taxes than the people in the district of the gentleman from Massachusetts, [Mr. DAWES?] If not, sir, the argument is against the gentleman from Indiana. You must measure it by districts, for we all represent portions of the country embracing about the same population. The men in my district wear just about the same amount of cotton and woolen goods that the men in the district of the gentleman from Massachusetts do. They pay their proportion of the tax upon the amount of cotton and woolen goods consumed as do the constituents of the gentleman from Massachusetts. There is no difference between us in this regard.

But the gentleman from Indiana would have us believe that because cotton and woolen goods have risen in price, the people of the West have to pay the increased price; and therefore that the burden of taxation is imposed upon them to the exclusion of the people of New England. Why, sir, does not the gentleman know that the agricultural people of the Northwest are to-day receiving higher prices for their agricultural products than they have ever received before? I hold in my hand a paper containing the market report of Chicago. I find that mess pork is bringing from \$19 50 to twenty dollars per barrel. Can the gentleman from Indiana tell me at what time in the history of the country a like amount was paid for mess pork? I find also that wheat, instead of being at a dollar a bushel, as stated by the gentleman from Indiana, is at \$1 18 to \$1 20 per bushel. I find further, that hogs in the Chicago market bring from \$6 60 to \$7 60 per cwt. Does not that show that while the manufactured articles produced by New England have increased in price, the farmers of the Northwest have also an increased price placed upon their products? Does not that equalize

it? Does not New England consume our agricultural products? Do not they depend upon us for the articles of food without which their laborers could not work in their factories? They pay us an increased price for the food we furnish them, and in that way pay back the amount of tax which we of the West pay upon their articles of manufacture. The increased price of the articles manufactured in Massachusetts is distributed throughout the whole country, but the increased price of western products is not distributed between the West and the Northeast as the increased price of New England manufactures is distributed between the East and the West; and for this reason: we raise nearly all the food that the East consumes, and therefore they are paying back to us all the tax which we are required to pay.

[Here the hammer fell.]

Mr. GRINNELL. Mr. Chairman, I would not presume to intrude myself upon the committee at this time, but for the fact that I live in the Northwest, from which complaints have come from the other side, and am a farmer. I am not ashamed to avow upon this floor that I am a farmer; neither am I a city farmer. I went out miles from any house or road to become a farmer; and I stand here in my place to dispute the asserted facts and philosophy of those gentlemen who have risen to speak for the farmers of the Northwest. I can tell them that they are not only against the Government, but against the country—they are legislating for Manchester, Birmingham, and Leeds, and not for the manufacturing and producing interests of this country.

Sir, we are the producers of pork and wheat and corn and cattle and wool, and if we can bring the consumers of those articles nearer to us we enhance their value. How is it when there is a surplus? Why, sir, the value of these products depends upon the nearness and accessibility of the market, and if there was only a foreign market, the value of our products would be proportionately decreased, for we must pay the ocean transportation. Now we have a near market, a home market, and a high market; and I would rather build up Lowell and Lynn and Adams and Utica and Chicago and Cincinnati, than build up Manchester and Birmingham and Leeds, for the great consumers are near us, on our own soil—our countrymen. It is from this fact, that we have good customers here, that I would bring New England nearer to us, that I am in favor of encouraging domestic manufactures. By them we supply the markets of the East and West Indies, of Mexico and South America, with cotton and other manufactured goods. The vessels which go out there laden with our products, return with the products of those countries, and these we get cheaper through building up that trade by ships.

But, Mr. Chairman, all the manufacturing of this country is not to be done in New England, nor in New York in the future. No good friend of the Northwest would strike it down. The business of manufacturing is traveling westward; and when we have secured a national currency and the interest on money is equalized, giving us lower rates, we shall have manufacturing established on the Mississippi river, on the Iowa river, and on the Des Moines, and other rivers of the West. Besides, it is a well-known fact in the history of the movements of the arts and manufactures that they move constantly toward the coal-measures, and follow thrift and population; and we have coal enough in the State of Iowa, easily mined, to supply the world. Shall I as a farmer vote to depress manufacturing? No, we expect to bring consumers, artisans, and capital to our prairie homes.

The gentleman from Indiana, [Mr. VOORHEES,] as I listened to him last year, was threatening us. His party was to leave the school-houses and the mills "out in the cold." He has changed his tone since then. He does not threaten any one now—elections have been held since—but he talks about the poverty of the Northwest, and of unequal taxation. Let him not speak for my district. We are a new State and make no plea of poverty. I say the Northwest never was more prosperous than it is now. We are sad and suffering by the absence of our men. We only want to have our brave soldiers back, and a free, united country. We want men upon our lands. We want an improved system of immigration to bring

laborers there where there is great and good room, and then there will be no limit to our prosperity. Sustain labor on our own soil, and—

[Here the hammer fell.]

Mr. GRINNELL. I withdraw the amendment.

Mr. J. C. ALLEN. I renew it. I do so, Mr. Chairman, for the purpose of answering the remarks of the gentleman from Iowa, [Mr. WILSON,] who first spoke on this question. I think he is mistaken about the prices of farm produce in the West. It is true that pork is quoted at twenty-two dollars in Chicago; but the enhancement in price has taken place since the article has gone into the hands of the speculators. I know that farmers and small graziers of Illinois have only got six dollars and \$6 25 for their pork. Besides, the gentleman forgets that that price does not represent what it formerly represented, inasmuch as payment is made in depreciated currency.

Mr. WILSON. Does not that argument apply to the manufacturers of New England as well as to the farmers of the West?

Mr. J. C. ALLEN. It is known to the gentleman, if he knows anything about the agricultural products of the West, that wheat which a few years ago brought \$1 25 a bushel in all the markets of the Mississippi valley, is not worth more than that now in a depreciated currency. It is true that the article of corn bears an exorbitant price, but that is the result of a partial failure of the crop. Cattle are not worth as much as they were then by at least thirty per cent. Beef does not command as much as it did for years past; and yet we are told that farmers are receiving compensation equal to what they received heretofore. It is not so, because many articles of manufactured goods that they pay for cost three hundred per cent. more than they cost before the commencement of this war. On every ax that the woodman uses he pays a premium of thirty or forty cents; on every pound of coffee that his family uses, he pays three hundred per cent. more than he used to pay. So it is with cotton and woolen fabrics. Three dollars to-day is not worth more than a dollar was then; and yet, in the face of these facts, the gentleman from Iowa, representing, as he says, an agricultural interest, has the boldness to stand up and tell us that the farmers were receiving compensation equal to what they received heretofore. No, sir. In consequence of the depreciation of the currency, in consequence of the increased price of manufactured goods, in consequence of the increased price of transportation and increase in the price of labor, they are not receiving as much as they received before. Are we to be told, then, that the farmers of the West are not suffering; and are we to be denounced when we ask that the speculators of New England or of anywhere else shall be compelled to pay their proportionate share of the burdens of the people? Is there any justice or equity in exempting them from the payment of this two cents per pound on cotton? I think not. I make these remarks in behalf of the community which I represent, and I presume it will not be charged with disloyalty.

Why, my loyal friend from the Galena district is a constituent of mine, the President of the United States is a constituent of mine, as well as General Grant, the hero of the present war.

I hope that I may not be charged with disloyalty in making the foregoing remarks. I made them because I believe that the burdens of the tax bill of this Congress bore too heavy upon the West, and that unless we guard our western interests the burden of taxation under this bill will fall upon our agricultural people.

[Here the hammer fell.]

Mr. KELLEY. Mr. Chairman, I have not heard what struck me as being the proper word of reply, capable of being expressed in a five-minutes' speech, to the argument of the member from Indiana. He gave us a pretty, indeed a somewhat striking paraphrase of the argument of Mr. Lamar, the rebel agent, to his confederates in treason, as we find it in the recently published captured correspondence. Drive gold coin out of the country, and induce undue importation of foreign products, so as to strike down the financial system. You can have no further hope for foreign recognition. It is evident the weight of arms is against us; and it is clear that we can only succeed by striking down the financial system of the country. It was an admirable paraphrase of the

instructions of Mr. Lamar to the rebel agents in the North.

He told us that a tariff wrings from labor its hard earnings to the extent of the amount it adds to the receipts of the Treasury. It is not so. A five minutes' speech will not afford scope for argument. Let me, therefore, resort to an illustration. The people of the Pacific slope, of California, and Oregon, and Washington, and other Territories, spend their lives in digging gold. The people of the South before the breaking out of the rebellion spent theirs in raising cotton. We of the middle States raise grain, and so spend our lives. We send our cotton to Manchester to be spun; we send our grain to Manchester to feed the laborers who spin and weave it; and we send our gold to buy back enough of our cotton when manufactured, to clothe us. A yard of cloth in Manchester will not buy a bushel of grain. A bushel of grain will not buy a yard of cloth in the far northwestern States. Transportation, inland and marine, taxes and almost consumes the laborer and producer. Let us bring the laborers of Europe here by letting them know what our resources and wants are. Gentlemen of Maryland, let us tell them how rich your State is in coal and iron and water-power. Let us add to this information, so invaluable to them, that you have determined that you will emancipate your negroes, letting them run free, and dam up your magnificent water-power, and make it work for you and them. Gentlemen of Kentucky, do you not wish a home market for your great staples? Do you not wish your immense deposits of coal and iron developed? Do you not wish to see upon your river banks and lines of railroads villages, towns, and cities, school-houses, colleges, and churches rising as they have risen in New England? If you do, will you not help forward American industry? If this be done, and we proclaim to the laborers of the world the wealth that abounds in your midst, the wounds made by this wicked rebellion will all soon be more than healed. Look at the wealth of our Territories. In young Colorado men are already employed not only in agriculture but in working native gypsum, oil, coal, iron, lead, copper, silver, and gold, and universal freedom sheltering all. Yes, if we wisely protect our industry we will have emigrants from all parts of the world come and by their labor add to the value of land that now lies valueless because it is uncultivated. Mines now undeveloped will yield their stores, and the growing towns give untold wealth to those who own the land. To realize all this only requires that we judiciously sustain the industry of the country.

The gentleman spoke of a future oblivion engulfing some men. Yes, sir, it will; but it will not be the men who have honestly and courageously stood by the country. It will not be their children who will pester future legislators to change their names that their fate may not be linked with the infamy of their traitorous ancestors. I remember that the member from Indiana during the last Congress talked about those to whom the infamy of this war would attach. Sir, no infamy has attached to a member on this side of the House. No man who has stood by the country, the flag, and the soldiers who are so gloriously sustaining both has been driven from the railroad cars by indignant patriot soldiers. I no more fear oblivion for my coworkers on this floor than I fear such a burst of indignation from those whose patriotism impels them to glory in sacrifices made on their country's altar, and who understand perfectly that the increased cost of the necessities of life is but the price armed treason is compelling them to pay for the preservation of the unity and Constitution of the country to which they are so devoted.

[Here the hammer fell.]

Mr. STEVENS. I move that the committee rise.

Mr. VOORHEES. Let me say a word.

Mr. STEVENS. Debate is exhausted on the amendment, and everybody here is exhausted with the debate. [Laughter.]

Mr. VOORHEES. I desire to make a personal statement, and will not consume five minutes' time.

Mr. STEVENS. If debate is exhausted on this amendment, I claim the right to move that the committee rise.

The CHAIRMAN. The Chair will recognize

the gentleman from Pennsylvania as soon as the gentleman from Indiana concludes his remarks.

Mr. VOORHEES. I move to amend the section by striking out the last word.

Mr. STEVENS. The pending amendment is not disposed of yet.

Mr. VOORHEES. Then I have a right to speak to it.

Mr. STEVENS. No, sir.

The CHAIRMAN. The vote will be taken on it.

The amendment to the amendment was not agreed to.

Mr. VOORHEES. I move to amend by striking out the last word. I was told as I came in just now that the member from Pennsylvania [Mr. KELLEY] was alluding to a circumstance widely published over the country at the time, and which is personal to me, stating that I was thrust from a train of cars by a party of soldiers. I am satisfied that no person on this floor except the member from Pennsylvania would ever have alluded to a thing of that kind; but it having been alluded to, I wish simply to state that it is utterly and unqualifiedly untrue. Not a word, letter, or syllable was true of the statement as published. There was not an offensive word spoken in my hearing, by soldiers or any one else. I got off the cars at the place to which I had taken my ticket, and where I had an appointment that day to speak.

Only a word more. Nothing the gentleman from Pennsylvania could say would call for an answer from me, except, as in this case, the report was circulated upon the responsibility of some other and more respectable source than his slanderous tongue.

Mr. STEVENS. I am opposed to the amendment. I do not know what the amendment is, but I am opposed to it. [Laughter.] I have listened with some pleasure to this discussion, because I know there are some young men here who never heard this before. But thirty years ago I heard this subject discussed by the men now in rebellion, with that able man, Calhoun, at their head; and on the other side by Webster and some other men nearly as able as any now here. [Laughter.] I am sick of it now, and I move that the committee rise.

The amendment to the amendment was not agreed to.

Mr. BROOKS. I beg the gentleman to withdraw his motion. I promise to renew it, and also that I will not make a political speech, if he will permit me in defense of my amendments to state some facts.

Mr. STEVENS. Certainly.

Mr. BROOKS. I had no idea, when I offered a mere business amendment, that the politicians on both sides of the House, especially from the East, West, and Northwest, would be in such a commotion.

My proposition was to strike out the two cents allowed as drawback on manufactured goods exported, in the bill under consideration. I was for a revenue; I was not only for the Government raising a revenue, but for supporting the Administration in raising a revenue, and I had but little doubt, until the party bugle was sounded on both sides of the House, that I should be able to obtain a consideration of the equity of the amendment as a mere business matter, without any reference whatsoever to party politics.

I have no idea, as the gentleman from Vermont stated, that the duty of two cents per pound upon cotton will prevent the exportation of the article of American manufacture to foreign countries. The American manufacturer is not only protected in his cotton by a high tariff, but he is protected now, or was yesterday, by a premium on gold of fifty-eight or fifty-nine cents on the dollar, and by an exchange of one hundred and seventy cents or over on all foreign countries. I would enable the American manufacturer, if the duty were four cents per pound, to make enormous profits by drawing bills of exchange upon his cotton exported to the East and to South America.

The principle, then, I lay down is, if you will have a duty on cotton—a duty I regret now to see laid—but if you will have a duty on cotton, let it be equal, let it be universal, let it reach the manufacturer as well as the consumer; let it reach all classes, agriculturalists, commercial men, and manufacturers.

While, therefore, I am in favor of giving the Administration the revenue it needs, I stand up here for equal rights and equal justice, and that was the only object I had in proposing this amendment. I had no idea of starting a party debate.

Mr. DAWES. I desire to ask the gentleman from New York a question, which I put to all the gentlemen from the Northwest on the other side of the House, and which they have failed to answer. I ask him if he will vote for a bill to tax the whole estate of the country, dollar for dollar, at its valuation?

Mr. BROOKS. I will, with great pleasure.

Mr. DAWES. I will join the gentleman in that.

Mr. BROOKS. I think it is a duty that ought to be raised upon the real estate equally throughout the whole country, and I challenge the gentlemen upon the other side of the House to introduce and press a bill like that.

Mr. DAWES. I can only say to the gentleman that he will have New England entirely co-operating with him, and I wish I could hope that the Northwest would do so also.

Mr. STEVENS. I would say to the gentleman from New York that we did lay a direct tax upon lands, but at the urgent request of the western States we suspended its operation for two years.

Mr. BROOKS. I have nothing to do with the controversy between the East and the West.

Mr. STEVENS. I know that. I merely mention the fact.

Mr. BROOKS. I stated in my preliminary remarks that this tax on distilled spirits is a tax upon the producers of corn and grain of from forty to sixty cents a bushel, and I should have read from the Chicago memorial to show—

"That the present high averaged price of corn is not owing to the demand for it as food for man or animal, nor for export, for the very plain fact that corn cannot be exported to England (our only considerable foreign consumer) except at a loss of forty cents per bushel, which would bring down the price to an average of seventy cents per bushel."

"Showing, conclusively, that the present high price of corn is forty cents per bushel higher than an export demand will warrant, than a food demand will warrant, than a pork or beef demand will warrant."

"Such being the case, the inevitable result arising from a cessation of even one half the capacity for distilling would be a decline on the present price of corn of twenty to forty cents per bushel, and on other grain for food in proportion as consumption of it is decreased by reason of an increased consumption of corn, say probably seven per cent. on present values, or ten cents per bushel."

What I argued was that when we lay a tax of forty or sixty cents upon the producers of corn and grain in the Northwest, we should insist upon the manufacturer of cotton, in equal and exact justice, paying his two cents per pound, as all other consumers and producers to. I now, in accordance with my promise, renew the motion that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Cox reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly bill of the House No. 122, to increase the internal revenue, and for other purposes, and had come to no conclusion thereon.

Mr. STEVENS moved that all debate in Committee of the Whole on the state of the Union on the pending section of the bill under consideration be closed in one minute after the committee resumes the consideration of the same.

The motion was agreed to.

Mr. STEVENS. I suggest now that, by unanimous consent, all debate be closed upon the seventh section of the bill also.

Mr. WARD. I must object to that, as I have an amendment to propose.

Mr. STEVENS. It does not preclude amendments, but only debate.

Mr. WARD. I must object, for it would curtail what I desire to say.

COMMITTEE APPOINTED.

The SPEAKER announced that he had appointed the following joint committee on the part of the House on the conduct and expenditures of the war: Messrs. GOOCH, JULIAN, ODELL, and LOAN.

The SPEAKER also announced that he had appointed Mr. BLAIR, of Missouri, a member of the Committee on Military Affairs, in place of Mr.

Loan, excused from further service on said committee.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOLMAN (at five minutes to four o'clock, p. m.) moved that the House do now adjourn.

The motion was disagreed to.

Mr. STEVENS'S motion was then agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Cox in the chair,) and resumed the consideration of the special order, being bill of the House No. 122, to increase the internal revenue, and for other purposes.

The question was taken on Mr. Brooks's amendment, and it was disagreed to.

Mr. HOLMAN. I offer the following as an additional section to the bill:

And be it further enacted, That there shall be levied, collected, and paid on all manufactures of cotton, wool, silk, worsted, flax, willow, glass, pottery ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold, silver, horn, ivory, bone, bristles, wholty or in part, or of any other material not otherwise provided for by existing law, on hand and for sale on the 12th day of January, 1864, or which may be hereafter manufactured for sale, a duty of five per cent. *ad valorem*.

It will be observed, Mr. Chairman—

Mr. STEVENS. I make the point of order that debate is closed upon this section.

The CHAIRMAN. Debate was limited to one minute.

Mr. STEVENS. Well, that has expired.

The CHAIRMAN. No, not yet.

Mr. HOLMAN. Moreover debate was only closed on the pending section—section six, and I offer an additional section. It will be observed that the only effect of this amendment will be to increase the duty on manufactures from three per cent. *ad valorem* to five per cent. *ad valorem*.

Mr. MORRILL. I would ask the gentleman if that would not increase the burdens of the great West?

The CHAIRMAN. The one minute allowed for debate upon this section has expired.

Mr. HOLMAN. Debate was closed on the sixth section only. My amendment is an additional section to come in between sections six and seven of the original bill.

The CHAIRMAN. The sixth section is still under consideration. The gentleman's amendment would be in order at the end of the bill.

Mr. HOLMAN. Then I withdraw it for the present.

Mr. BLAINE. I move to amend the seventh section by adding to it the following words:

And that on all such spirits imported prior to the passage of this act there shall be levied and paid an additional tax of forty cents per gallon, to be collected under directions and according to regulations to be established by the Secretary of the Treasury.

I want to put foreign liquors on the same basis as domestic liquors have been put on.

The amendment was agreed to.

Mr. HOLMAN. I move to amend the seventh section by striking out "forty" and inserting "sixty" cents, as the additional duty on imported liquors. I observed that the gentleman from Iowa [Mr. GRINNELL] was very anxious the other day to impose a heavy duty on the cheap article of spirits manufactured in our own country. I propose to place a somewhat heavier duty on foreign brandies and champagne wines imported from abroad. These are very expensive articles and are only used by the wealthy classes. It seems to me, therefore, that they can bear a much heavier duty than the cheap article can. If the argument is that high rates of taxation do not materially affect consumption, I suppose the argument is as good for expensive articles as it is for cheap articles. I hope that my amendment will be adopted, and that this additional duty of sixty cents per gallon will be levied on imported liquors. Independently of the various uses to which spirits is applied in the manufactures, it has become, in some sense, indispensable to the people; and yet it is proposed to tax this common whisky as high as imported liquors are taxed. I think that instead of discrimination against native products, we ought to discriminate in their favor.

Mr. MORRILL. I desire merely to say that the duty proposed is precisely that which equalizes the foreign and the domestic article.

Mr. HOLMAN. I will ask the gentleman from Vermont whether a heavy duty was not imposed on foreign liquors by the act of 1846, and also by the bill reported by himself, and whether the duty proposed here is not comparatively light? I also ask him whether he believes that this increase of duty would materially interfere with the importation of foreign spirits?

Mr. MORRILL. The bill as it now stands leaves foreign and domestic liquors in their relative position to each other. I do not suppose that an increased duty would much diminish the importation, but I think it is as nearly just, as it now stands, as it can be made.

The question was taken by division; and there were, on a count—yes 54, noes 56.

So the amendment was rejected.

Mr. WARD. I move to amend the seventh section by adding to it as follows:

Provided, however, That this section shall not apply to such distilled spirits as are actually on shipboard and bound to the United States, and on deposit in bonded warehouses or public stores when this act shall take effect.

Mr. HOLMAN. I make the point of order that the amendment is in direct conflict with a provision already adopted.

The CHAIRMAN. The Chair overrules the point of order. It is a matter for the committee, not for the Chair.

Mr. HOOPER. I ask that the section be read as it would be if the gentleman's amendment were adopted.

The section, with the proposed amendment, was read, as follows:

And that on all such spirits imported prior to the passage of this act there shall be levied and paid an additional tax of forty cents per gallon, to be collected under directions and according to regulations to be established by the Secretary of the Treasury: Provided, however, That this section shall not apply to such distilled spirits as are actually on shipboard, and bound to the United States, and on deposit in bonded warehouses or public stores when this act shall take effect.

Mr. WARD. Mr. Chairman, I feel some solicitude in regard to this amendment, as the representative of a city which has a large importing interest. The uniform practice of the Government has been, in all bills relating to the tariff, to except from their provisions all goods, wares, and merchandise on shipboard bound to the United States; also to except goods in the bonded warehouses and public stores. So far as I am aware, there had been no departure from that policy until the last Congress, when a slight departure was made from it. Congress then adopted an amendment excluding goods on shipboard from the rule, but making it apply to goods in bonded warehouses on which the duty would be paid within three months. What I desire to accomplish by my amendment is merely to bring back Congress to the usual custom. I look upon the duty on foreign importations as differing in principle from the tax on domestic goods. Gentlemen may say what they like; but I insist that there is an implied contract between the Government of the United States and the importer. The latter imports at a certain fixed rate of duty, depositing his goods in the warehouse, and giving to the Government a bond to pay that duty. Gentlemen say that there is no contract. I say that there is a contract. I say that the Government is pledged, and that its honor is pledged, when the importer demands his goods, that he shall receive them, and pay the duty only which he agreed to pay, when the goods arrived in the country. So with the goods on shipboard. It is fair that they should pay no more than the duty which was existing at the time the order of the importer was sent out, provided that they are actually upon shipboard, and bound to the United States. I think that this is a matter of justice. I regard this in a different aspect from the duty upon domestic whisky. I say that there has been no opportunity for the importers to avail themselves of the notice.

[Here the hammer fell.]

Mr. HOOPER. I rise to oppose the amendment of the gentleman from New York. It is not consistent with the section.

Mr. FERNANDO WOOD. I move to strike out the last word.

Mr. Chairman, I move that amendment merely for the purpose of saying, while I have no doubt the class of importers to which my colleague alludes does not come properly within the obnoxious class of speculators which the amendment

offered by myself the other day was intended to reach, still the principle which this committee has established, not only in my amendment, but in subsequent amendments to this bill, in my judgment should not now be undone. Although importers may have imported upon the rates of duty which were established at the time their orders were sent to Europe, yet at the same time they have sent those orders to Europe subject to the necessities of the Government. If the necessities of the Government have made it necessary to increase the duties, I say that they took the risk, and that they should not be exempt; that no discrimination should be made in their favor.

Mr. HOLMAN. One word about these bonded warehouses. There are two classes of liquors excepted: those upon shipboard, and secondly, those in bonded warehouses. I would like to inquire whether by that broad provision the gentleman means the liquors placed there in those bonded warehouses by the domestic distillers as well as those placed there by the foreign importers?

Mr. WARD. Only those placed there by the foreign importers.

Mr. HOLMAN. That is not the language of the proposed amendment. If the gentleman does not embrace the domestic distillers who have placed their liquor there under the same sanctions as the foreign importers, I cannot go for his amendment. One placed his liquor in bonded warehouses because the law authorized him to do so, and only requires him to pay the duty when he withdraws it. If he is to be excepted from this bill, how unreasonable it is not to except the manufacturer of domestic spirits, who has also placed his goods in the bonded warehouses? Why should the foreign importer go scot free? It may be that there is an excellent class of commercial gentlemen who are entitled to the favorable consideration of the Government in the great commercial cities. I say that as worthy and as intelligent a class of men, whose goods are also placed in bonded warehouses, is equally entitled to the favor of the Government. If the bill is to be retroactive in reference to one class I shall insist that it shall also be retroactive in regard to the other.

Mr. STEVENS moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Cox reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly bill of the House No. 122, to increase the internal revenue, and for other purposes, and had come to no conclusion thereon.

Mr. STEVENS. I move that when the House again resolves itself into Committee of the Whole on the state of the Union that all debate on the pending bill shall be closed in one minute.

The motion was agreed to.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Cox in the chair,) and resumed the consideration of the internal revenue bill.

The CHAIRMAN. Debate has been closed on the pending section. The question is on the amendment of the gentleman from New York.

The amendment was not agreed to.

Mr. MORRILL. I offer the following as an additional section:

Sec. 8. And be it further enacted, That consuls of foreign countries in the United States, who are not citizens thereof, shall be and hereby are exempt from any income tax imposed by the act referred to in the first section of this act, which may be derived from their official emoluments, or from their property in such countries: *Provided*, That the Governments which such consuls may represent shall extend similar exemptions to consuls of the United States.

The amendment was agreed to.

Mr. BOUTWELL moved to amend by adding the following as an additional section:

Sec. 9. And be it further enacted, That it shall be the duty of the assessors and assistant assessors appointed as provided in the act to which this act is an amendment to assess the additional duties levied by this act upon all spirits and cotton on which the duty prescribed in said act shall have been paid or assessed at the time when this act takes effect; and the lists thereof shall be returned to the several collectors, and collections made in the same manner as in the monthly returns of manufacturers; and the duty so assessed

shall be a lien in favor of the United States upon all the real and personal estate of the owner of such spirits or cotton, and to be enforced in the same manner as is provided in the case of manufacturers that neglect or refuse to pay the duties provided by the act to which this is in addition: *Provided*, That the additional duty of one and a half cents per pound shall be levied upon cotton sold by the United States previous to the passage of this act, and on which the duty of one half of one cent per pound has been paid; and upon all cotton so sold on which no duty has been paid a duty of two cents per pound shall be assessed and collected.

The amendment was agreed to.

Mr. HOLMAN moved to amend by adding the following as an additional section:

Sec. 10. *And be it further enacted*, That there shall be levied, collected, and paid on all manufactures of cotton, wool, silk, worsted, flax, hemp, jute, India rubber, gutta percha, wood, willow, glass, pottery ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold, silver, horn, ivory, bone, bristles, wholly or in part, (or of any other material not otherwise provided for by existing law,) on hand and for sale on the 12th day of January, 1864, or which may be hereafter manufactured for sale, a duty of five per cent, *ad valorem*: *Provided*, That the manufactures above enumerated on which the duty imposed by existing laws have been paid shall only be subject to the additional duty provided for by this act.

On all crude petroleum on hand and for sale on the 12th day of January, 1864, or which shall hereafter be removed for consumption, refinement, or sale, there shall be levied, collected, and paid a duty of ten cents on each and every gallon thereof.

On coal illuminating oil, refined, produced by the distillation of coal, asphaltum, shale, peat, petroleum, or rock oil, and all other luminous substances used for like purposes, there shall be levied, collected, and paid a duty of twenty cents per gallon: *Provided*, That coal illuminating oil on which a duty has been paid under existing laws shall only pay the additional duty thereon imposed by this act.

Mr. HOLMAN. I believe debate is in order upon a new section?

The CHAIRMAN. All debate has been cut off by order of the House.

Mr. HOOVER. By unanimous consent, I desire to ask the gentleman one question. I desire to know if he meant to change the present duty upon manufactured tobacco from ten cents per pound to five cents?

Mr. HOLMAN. I trust I may be permitted to answer by saying that the amendment offered has no reference whatever to the tobacco question. It was deemed more fair that that should come under consideration with other subjects of a similar character which the Committee of Ways and Means may hereafter report upon. The only effect of the amendment is to increase the duty on manufactures from three to five per cent.

Mr. WADSWORTH. I rise to a question of order. All debate was cut off by the House.

The CHAIRMAN. The gentleman was proceeding by unanimous consent, no objection being made.

Mr. PENDLETON. I raise the point of order that the committee cannot give unanimous consent.

Mr. WADSWORTH. My point of order extends farther than that: it is that the amendment introduces a new subject entirely into the Committee of the Whole; and under the order of the House, cutting off all debate upon whisky and cotton, it is not fair to the committee to take the gentlemen of the committee by surprise. Also, that the amendment is not germane to the bill.

The CHAIRMAN. The Chair overrules the point of order of the gentleman from Kentucky.

Mr. STEVENS. May I ask the gentleman from Indiana to withdraw his amendment, and not embarrass the bill, as the committee will present the subject in another bill, upon which the Committee of the Whole will have an opportunity to discuss this matter.

Mr. HOLMAN. I will withdraw it if the committee intend to report upon these matters in another bill.

Mr. STEVENS. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Cox reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly bill of the House No. 122, to increase the internal revenue, and for other purposes, and had directed him to report the same to the House with sundry amendments.

Mr. STEVENS. I will offer a substitute for the whole bill, and then move to adjourn, so that gentlemen may have an opportunity to examine the substitute before coming to a vote upon it.

I move to strike out all after the enacting clause, and insert what I send to the Clerk's desk, and upon that I call the previous question.

Mr. WASHBURN, of Illinois. I hope the substitute will be read, so that we may see whether it is in conformity with the action of the Committee of the Whole.

Mr. STEVENS. I was going to move an adjournment, so that gentlemen might see the amendment. What effect will an adjournment now have?

The SPEAKER. The bill will come up to-morrow morning the first thing. The amendments reported by the Committee of the Whole House will first have to be voted on before the substitute can be presented for the action of the House.

Mr. STEVENS. But will the whole subject come up in the morning under the demand for the previous question?

The SPEAKER. It will come up as unfinished business.

Mr. STEVENS. Under the demand for the previous question?

The SPEAKER. Either with or without it.

Mr. STEVENS. I move that the bill as amended by the Committee of the Whole on the state of the Union, and also the substitute now reported by me, be ordered to be printed.

It was so ordered.

And then, on motion of Mr. STEVENS, (at half past four o'clock, p. m.,) the House adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 22, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

APPOINTMENT OF A COMMITTEE.

The SPEAKER announced that, under the rule of the House adopted yesterday, he had appointed the following members of the standing Committee on a Uniform System of Coinage, Weights, and Measures, namely: Mr. JOHN A. KASSON of Iowa, Mr. ROBERT C. SCHENCK of Ohio, Mr. CHARLES H. WINFIELD of New York, Mr. THOMAS WILLIAMS of Pennsylvania, and Mr. HENRY GRIDER of Kentucky.

ADJOURNMENT OVER.

Mr. J. C. ALLEN moved that when the House adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

INTERNAL REVENUE.

The SPEAKER stated that the first business in order was the unfinished business of yesterday, being the consideration of bill of the House No. 122, to increase the internal revenue and for other purposes, reported yesterday from the Committee of the Whole on the state of the Union with various amendments. The gentleman from Pennsylvania [Mr. STEVENS] offered a substitute for the bill, and demanded the previous question.

CALL OF THE HOUSE.

Mr. WILSON. I move that there be a call of the House.

Mr. WASHBURN, of Illinois. I demand the yeas and nays on that motion. That will answer the same purpose as a call of the House. We merely desire to get the members in before the vote is taken on this question.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 32; as follows:

YEAS.—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Bliss, Blow, Boutwell, Boyd, Broomall, James S. Brown, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Cresswell, Henry Winter Davis, Dawes, Dawson, Dixon, Donnelly, Driggs, Eckley, Edgerton, Eliot, Fulton, Finck, Frank, Gooch, Grinnell, Griswold, Hale, Hall, Herrick, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubburd, Jenckes, Julian, Kasson, Orlando Kellogg, Lazear, Le Blond, Loan, Long, Longyear, McClurg, McDowell, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Perry, Price, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, Ross, Scofield, Scott, Smith, Smithers, Spalding, Stebbins, Stevens, Tuayer, Thomas, Tracy, Unson, Van Valkenburgh, Eliza B. Washburne, William B. Washburn, Whaley, Chilton A. White, Joseph W. White, Williams, Wilson, Windom, Winfield, Fernando Wood, and Woodbridge—97.

NAYS.—Messrs. James C. Allen, William J. Allen, Anconia, Bailly, Augustus C. Baldwin, Coffroth, Cravens, Denison, Eldridge, Ganson, Harding, Harrington, Benjamin

G. Harris, Holman, William Johnson, Kalbfleisch, Kernan, Mallory, McKinney, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Samuel J. Randall, Shannan, John B. Steele, William G. Steele, Stiles, Sweat, Voorhees, and Wheeler—32.

So it was ordered that there be a call of the House.

Mr. WILSON. A quorum being present, I move that all further proceedings in the call be dispensed with.

The motion was agreed to.

INTERNAL REVENUE.

The SPEAKER stated the question to be upon seconding the demand for the previous question on the internal revenue bill.

Mr. HOLMAN. I rise to a point of order. I submit that the substitute offered by the gentleman from Pennsylvania [Mr. STEVENS] cannot be pending while the amendments reported by the Committee of the Whole on the state of the Union are undisposed of.

The SPEAKER. The substitute will be in abeyance until the amendments of the Committee of the Whole on the state of the Union are disposed of, as the Chair stated last evening. If the previous question be sustained, the first question will be upon concurring with the Committee of the Whole on the state of the Union in their amendments, and then upon the substitute.

Mr. WASHBURN, of Illinois. I desire to inquire whether the substitute proposed by the gentleman from Pennsylvania [Mr. STEVENS] was from the Committee of Ways and Means, or whether it was his own?

Mr. STEVENS. It was from the Committee of Ways and Means.

Mr. WASHBURN, of Illinois. I understand that the question will be first on concurring in the amendments reported by the Committee of the Whole on the state of the Union.

The SPEAKER. It will.

Mr. WASHBURN, of Illinois. And after those amendments are concurred in or rejected, then the question will be upon the bill offered by the gentleman from Pennsylvania from the Committee of Ways and Means?

The SPEAKER. The gentleman is correct. The previous question was seconded, and the main question ordered.

The SPEAKER stated that the amendments reported from the Committee of the Whole on the state of the Union would be read over, that a separate vote would be taken on such as gentlemen might desire separate votes upon, and that then the vote would be taken in gross on those amendments on which no separate votes were demanded.

The amendments reported by the Committee of the Whole on the state of the Union were read by the Clerk; and those on which separate votes were demanded were reserved.

Mr. STEVENS demanded a separate vote on the third amendment.

Mr. FERNANDO WOOD demanded a separate vote on the fourth amendment.

Mr. BROWN, of Wisconsin, demanded a separate vote on the fifth amendment.

Mr. HOLMAN demanded a separate vote on the eighth amendment.

The SPEAKER put the question on agreeing to the amendments on which no separate votes were asked, and announced that they were not agreed to; only five members voting in the affirmative, and no further count being demanded.

Mr. STEVENS. Did I understand the Chair to say that no motion to reconsider could be made?

The SPEAKER. After the previous question is sustained, no motion to reconsider can be voted on until after the previous question is exhausted. The amendments reported by the Committee of the Whole on the state of the Union on which no separate vote was demanded have been non-concurred in by the House.

Mr. STEVENS. Is not a motion to reconsider that vote open now?

The SPEAKER. It is not, the previous question having been sustained.

Mr. STEVENS. Certainly a majority of a quorum did not vote.

The SPEAKER. (after a short interval of time.) The Chair will correct its decision. The previous question cannot be reconsidered, but a motion to reconsider the vote by which the amendments were rejected may be made, but cannot be debated.

Mr. STEVENS. Then I move to reconsider the vote just taken.

Mr. WASHBURNE, of Illinois. I move to lay that motion on the table.

Mr. STEVENS. If I understand it, all the amendments except those on which separate votes were asked have been rejected.

The SPEAKER. The House considered the amendments in gross as one amendment, and they were non-concurred in. The gentleman from Pennsylvania now moves to reconsider the vote by which they were rejected.

Mr. STEVENS. I move to reconsider simply that the House may vote intelligently. I ask the Speaker by what vote did the House non-concur?

The SPEAKER. There were five votes in the affirmative, and no further count being insisted on, the yeas had it.

Mr. STEVENS. I do not think that that vote ought to carry.

The question was taken on Mr. WASHBURNE's motion to lay the motion to reconsider on the table; and it was not agreed to.

The question recurred on the motion to reconsider; and it was agreed to.

So the vote by which the amendments were rejected was reconsidered.

The question recurred on agreeing to the amendments; on which no separate vote was demanded.

Mr. WASHBURN, of Massachusetts, asked for a separate vote on the seventh amendment.

Mr. BROWN, of Wisconsin, demanded separate votes on the first and second amendments.

Mr. BOUTWELL. If it is not too late, I demand a separate vote on each amendment.

The SPEAKER. It is not too late. The amendments will be voted on in detail.

First and second amendments:

On line twelve, after the word "on" insert "the interest of all persons in default in," and after the word "and" insert the word "in," so that it will read:

Said duty shall be a lien and charge on such spirits, and also on the interest of all persons in default in the distillery used for distilling the same, with all the stills, vessels, fixtures, and tools therein, and in the lot or tract of land whereon the said distillery is situated, until the said duty shall be paid.

The amendments were severally agreed to.

Third amendment:

Insert the following:

And all whisky or any other spirits, on being rectified or mixed with any other spirit or fluid whatever, or into which any matter whatever may be infused, and to be sold as whisky, brandy, rum, gin, wine, or by any other name, and not otherwise provided for by this act or the act to which it is amendatory, shall pay an additional tax of twenty cents per gallon: *Provided*.

Mr. STEVENS. I ask for the yeas and nays on that amendment.

The yeas and nays were not ordered.

Mr. SCHENCK. I ask unanimous consent of the House to offer an amendment changing the twenty cents into a dollar, so as to prevent liquor being adulterated.

Mr. HOLMAN. I object.

The question was taken; and there were, on a division—ayes 92, yeas 34.

So the amendment was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Fourth amendment:

Strike out the following: *Provided further*, That all spirits distilled since the 31st day of August, 1862, on hand for sale, or removed for consumption or sale, upon which no duties have been paid or collected, or upon which no returns have been made, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act from and after the 12th day of January, 1864; and insert in lieu thereof the following:

Provided further, That all spirits on hand for sale, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act from and after the 12th day of January, 1864; except that spirits which have been already taxed under the law approved July 1, 1862, shall not bear more than the additional or increased tax provided for by this act.

Mr. STEVENS called for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. NOBLE. I ask whether it is not competent to have the amendment divided, so as to have the vote first taken on the part to be stricken out?

The SPEAKER. It is not, it being reported as one amendment by the Committee of the Whole on the state of the Union.

The question was taken; and it was decided in the affirmative—yeas 97, nays 57; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alcey, Allison, Ames, Anderson, Arnold, Astley, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Boyd, Brundage, James S. Brown, William G. Brown, Chandler, Ambrose W. Clark, Clay, Coffroth, Cole, Crosswell, Daves, Deming, Dixon, Donnelly, Driggs, Eckley, Eden, Elliot, Farnsworth, Ganson, Garfield, Gooch, Grinnell, Griswold, Hale, Hall, Harding, Harrington, Herrick, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Hutchins, Jenckes, William Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Le Blond, Loan, Longyear, Maltory, Marvin, McClurg, Samuel F. Miller, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Perlman, Pike, Price, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Ross, Scofield, Scott, Smith, Spalding, Stebbins, John B. Steele, Thayer, Thomas, Tracy, Upson, Wadsworth, Elihu R. Washburne, William B. Washburn, Whaley, Chilton A. White, Joseph W. White, Williams, Wilson, Windom, Fernando Wood, and Yeaman—97.

NAYS—Messrs. Ancona, Bailly, Augustus C. Baldwin, Blaine, Jacob B. Blair, Bliss, Blow, Boutwell, Brooks, Broomall, Freeman Clarke, Cobb, Cravens, Henry Winter Davis, Thomas T. Davis, Dawson, Dennison, Edgerton, Eldridge, Fenton, Finck, Frank Holman, Hooper, Knapp, Lazear, Long, McDowell, McKinney, William H. Miller, Morrill, Daniel Morris, James R. Morris, Morrison, Noble, John O'Neill, Orth, Patterson, Pendleton, Perry, Pomroy, Pruyn, Samuel J. Randall, Robinson, Edward H. Rollins, Schenck, Shannon, Smithers, William G. Steele, Stevens, Stiles, Van Valkenburgh, Voorhees, Ward, Wheeler, Winfield, and Woodbridge—57.

So the amendment was concurred in.

During the vote,

Mr. WASHBURNE, of Illinois, stated that his colleague, Mr. LOVEJOY, was confined to his room by indisposition.

The vote was then announced as above recorded.

Mr. FERNANDO WOOD moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Fifth amendment:

After these words: "And the proceedings to enforce said forfeiture shall be in the nature of a proceeding in rem in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction; and any person who shall have in his custody or possession any such spirits or other articles, subject to duty as aforesaid, for the purpose of selling the same with the design of avoiding payment of the duties imposed thereon, shall be liable to a penalty of \$500, or not less than double the amount of duties fraudulently attempted to be evaded, to be recovered as other penalties provided by the act heretofore mentioned," add the following:

One half of which shall be awarded, and, upon recovery, paid to the Informer.

The amendment was concurred in.

Mr. HOLMAN moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. BOUTWELL asked the unanimous consent to insert after the word "recovered," in the same paragraph, the words "and applied."

Mr. HOLMAN objected.

Sixth amendment:

Strike out the following:

"Sec. 3. *And be it further enacted*, That all distilled spirits upon which an excise duty is imposed by law may be exported without payment of said duty, and when the same is intended for exportation may be removed without being charged with duty, if transported directly from the distillery or bonded warehouse, under such rules and regulations, and upon the execution of such transportation or other bonds, as the Secretary of the Treasury may prescribe; said bonds to be taken by the collector of internal revenue of the district in which such distilleries or bonded warehouses may be situated to a bonded warehouse at any port of entry of the United States—said warehouse at the port of entry to be established in conformity with the law and Treasury regulations, and to be used exclusively for the storage of distilled spirits—and to be placed in charge of a proper officer of the customs, who, together with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits stored in said warehouse; and all the labor on the goods so stored shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer of the customs in charge of the same, at the expense of the said owner or proprietor, and shall also be subject to the same rules and regulations, and be chargeable with the same costs and expenses, in all respects, as other goods may be subject to that are deposited in public store for exportation from the United States; and no drawback shall in any case be allowed on any distilled spirits upon which an excise duty has been paid either before or after it has been placed in bonded warehouse as aforesaid," and in lieu thereof insert as follows:

SEC. 3. *And be it further enacted*, That all distilled spirits upon which an excise duty is imposed by law may be exported without payment of said duty, and when the same is intended for exportation, may, without being charged with duty, be removed under such rules and regulations and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may pre-

scribe; said bonds or other security to be taken by the collector of internal revenue of the district from which such removal is made: *Provided*, That the said spirits shall be transported directly from the distillery or a bonded warehouse to a bonded warehouse established in conformity with the law and Treasury regulations, at a port of entry of the United States, and used for the storage of distilled spirits; and to be placed in charge of a proper officer of the customs, who, together with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits stored in said warehouse. And all the labor on the goods so stored shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer of the customs in charge of the same, and at the expense of the said owner or proprietor; and the said spirits shall also be subject to the same rules and regulations, and be chargeable with the same costs and expenses, in all respects, to which other goods that are deposited in public store for exportation from the United States may be subject. And no drawback shall in any case be allowed on any distilled spirit upon which an excise duty shall have been paid either before or after it shall have been placed in a bonded warehouse as aforesaid; but no provision of this act shall be construed to repeal existing laws which provide that distilled spirits may be removed from the place of manufacture or bonded warehouse for the purpose of being redistilled for exportation, or which provides for the manufacture for exportation of medicines, preparations, compositions, perfumery, and cosmetics.

The amendment was concurred in.

Seventh amendment:

Add the following:

Provided, That on all cotton on which the duty of a half cent has been paid, the additional duty of one and a half cent shall be levied and collected: *And provided further*, That all provisions of law, whereby cotton in the hands of manufacturers of cotton fabrics on October 1, 1862, and prior thereto, is exempted from taxation, are hereby repealed, and the same shall be subject to the rate of taxation imposed by this bill.

The amendment was concurred in.

Eighth amendment:

Add as follows:

And that upon all such spirits imported prior to the passage of this act there shall be levied, collected, and paid an additional tax of forty cents per gallon, to be collected under the direction and according to regulations established by the Secretary of the Treasury.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was concurred in.

Mr. HOLMAN moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Ninth amendment:

Add:

SEC. 8. *And be it further enacted*, That consuls of foreign countries in the United States, who are not citizens thereof, shall be, and hereby are, exempt from any income tax imposed by the act referred to in the first section of this act, which may be derived from their official emoluments, or from property in such countries: *Provided*, That the Governments which such consuls may represent shall extend similar exemption to consuls of the United States.

The amendment was concurred in; there being, on a division—ayes eighty-four, yeas not counted.

Tenth amendment:

Add:

SEC. 9. *And be it further enacted*, That it shall be the duty of the assessors and assistant assessors appointed as provided in the act to which this act is an amendment, to assess the additional duties levied by this act upon all spirits and cotton on which the duty prescribed in said act shall have been paid or assessed at the time when this act takes effect; and the lists thereof shall be returned to the several collectors and the collections made in the same manner as in the case of monthly returns of manufactures. And the duties so assessed shall be a lien in favor of the United States upon all the real and personal estate of the owner of such spirits or cotton, to be enforced in the same manner as is provided in the case of manufacturers who neglect or refuse to pay the duties provided by the act to which this is in addition: *Provided*, That the additional duty of one and one half cent per pound shall be levied upon cotton sold by the United States previous to the passage of this act, and on which a duty of one half of one cent per pound has been paid; and upon all cotton so sold on which no duty has been paid, a duty of two cents per pound shall be assessed, and collected.

The amendment was concurred in.

The question then recurred on the following substitute, moved by Mr. STEVENS:

Strike out all after the enacting clause, and insert:

"That, from and after the passage of this act, in lieu of the duty provided for in section forty-one of an act entitled 'An act to support the Government, and to pay interest on the public debt,' approved July 1, 1862, and in addition to duties payable for licenses, there shall be levied, collected, and paid on all spirits that may be distilled and sold, or distilled and removed for consumption or sale, after the 12th day of January, 1864, of first proof, the duty of sixty cents on each and every gallon; and said duty shall be a lien and charge on such spirits, and also on the interest of all persons in default in the distillery used for distilling the same, with all the stills, vessels, fixtures, and tools therein, and in the lot or tract of land whereon the said distillery is situated, until the said duty shall be paid: *Provided*, That the said

duty on spirituous liquors, and all other spirituous beverages enumerated in this act, shall be collected at no lower rate than the basis of first proof, and shall be increased in proportion for any greater strength than the strength of first proof.

Sec. 2. *And be it further enacted*, That all spirits or other articles on which duties are imposed by the provisions of this act, or of the act referred to in the first section of this act, or amendments thereto, which shall be found in the possession or custody or within the control of any person or persons, for the purpose of being sold by such person or persons, in fraud of the internal revenue laws, as heretofore referred to, or with design to avoid payment of said duties, may be seized by any collector or deputy collector who shall have reason to believe that the same are possessed, had, or held for the purpose or design aforesaid, that the same shall be forfeited to the United States; and also all articles of raw materials found in the possession of any person or persons intending to manufacture the same for the purpose of being sold by them, in fraud of said laws, or with design to evade the payment of said duties; and also all tools, implements, instruments, and personal property whatsoever, used in the place or building, or within any yard or inclosure where such articles on which duties are imposed, as aforesaid, shall be found, may also be seized by any collector or deputy collector, as aforesaid, and the same shall be forfeited as aforesaid. And the proceedings to enforce said forfeiture shall be in the nature of a proceeding *in rem* in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction. And any person who shall have in his custody or possession any such spirits or other articles, subject to duty as aforesaid, for the purpose of selling the same with the design of avoiding payment of the duties imposed thereon, shall be liable to a penalty of \$500, or not less than double the amount of duties fraudulently attempted to be evaded, to be recovered as other penalties provided by the act heretofore mentioned; and also that the spirits and other articles which shall be so seized by any collector or deputy collector shall, during the pendency of such proceedings, be delivered to the marshal of said district, and remain in his care and custody and under his control until final judgment in such proceedings shall be rendered: *Provided, however*, That where, owing to its perishable nature, the expense of storage, or other circumstance the value of the property seized may be diminished by delay of sale, the owner thereof may apply to the assessor of the district, who shall, if he deem it expedient that the property so seized should be sold, cause the same to be appraised under his direction and control, and delivered to the owner, if the said owner shall give bond or bonds in an amount equal to the appraised value, with such sureties as the assessor shall adjudge good and sufficient, which shall be by him transmitted to the Commissioner of Internal Revenue, to be held and collected, or any part thereof, or surrendered in accordance with the final judgment, order, or decree of the court having jurisdiction of the case; or, if the owner shall not apply as aforesaid, the assessor, upon the application of the marshal of the said district in whose custody and control said spirits or other articles seized as aforesaid, may be, shall appraise or have the articles appraised under his direction and control, and shall issue and return to the marshal aforesaid an order to sell the same; and the said marshal shall thereupon advertise and sell the same, and the proceeds of sale, after deducting therefrom the costs of seizure and sale, shall be paid into the court having jurisdiction of the case, and paid out as the said court shall on final judgment order or decree.

Sec. 3. *And be it further enacted*, That all distilled spirits upon which an excise duty is imposed by law may be exported without payment of said duty, and, when the same is intended for exportation, may, without being charged with duty, be removed under such rules and regulations and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe; said bonds or other security to be taken by the collector of internal revenue of the district from which such removal is made: *Provided*, That the said spirits shall be transported directly from the distillery or a bonded warehouse to a bonded warehouse established in conformity with the law and Treasury regulations, at a port of entry of the United States, and used for the storage of distilled spirits; and to be placed in charge of a proper officer of the customs, who, together with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits stored in said warehouse. And all the labor on the goods so stored shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer of the customs in charge of the same, and at the expense of the said owner or proprietor; and the said spirits shall also be subject to the same rules and regulations, and be chargeable with the same costs and expenses, in all respects, to which other goods that are deposited in public store for exportation from the United States may be subject. And no drawback shall in any case be allowed on any distilled spirit upon which an excise duty shall have been paid either before or after it shall have been placed in a bonded warehouse as aforesaid; but no provision of this act shall be construed to repeal existing laws which provide that distilled spirits may be removed from the place of manufacture or bonded warehouse for the purpose of being redistilled for exportation, or which provides for the manufacture for exportation of medicines, preparations, compositions, perfumery, and cosmetics.

Sec. 4. *And be it further enacted*, That from and after the passage of this act, in lieu of the duties provided in the act referred to in the first section of this act, there shall be levied, collected, and paid upon all cotton produced or sold and removed for consumption, and upon which no duty has been levied, paid, or collected, a duty of two cents per pound; and such duty shall be and remain a lien thereon until said duty shall have been paid, in the possession of any person or persons, corporation or association of persons, or transport the same, or procure any other party or parties to remove, carry, or transport the same from the place of its production, with the intent to evade the duty thereon, or to defraud the Government, before said duty shall have been paid, such person or persons, corporation or association or

persons, shall forfeit and pay to the United States double the amount of said duty, to be recovered in any court of competent jurisdiction: *Provided*, That all cotton sold by or on account of the Government of the United States shall be free and exempt from duty at the time of and after the sale thereof; and the same shall be marked free and the purchaser furnished with such a bill of sale as shall clearly and accurately describe the same, which shall be deemed and taken to be a permit authorizing the sale or removal thereof.

Sec. 5. *And be it further enacted*, That every collector to whom any duty upon cotton shall be paid shall mark the bales, or other packages, upon which the duty shall have been paid, in such manner as may clearly indicate the payment thereof, and shall give to the owner, or other person having charge of such cotton, a permit for the removal of the same, which shall be dated and contain a description, including the weight and other marks of the bales, or packages, and a statement of the fact that the duty has been paid. Whenever any cotton, the product of the United States, shall arrive at any port of the United States from any State in insurrection against the Government, the assessor or assistant assessor, under the act referred to in the first section of this act, shall immediately assess the taxes due thereon, and shall, without delay, return the same to the collector or deputy collector of said district, and the said collector or deputy collector shall demand of the owner or other person having charge of such cotton, the tax imposed by this act, and assessed thereon, unless evidence of previous payment of said tax shall be produced, under such regulations as the Commissioner of Internal Revenue, by the direction of the Secretary of the Treasury, shall from time to time prescribe. And in case the tax so assessed shall not be paid to such collector within thirty days after demand, the collector or deputy collector, as aforesaid, shall institute proceedings for the recovery of the tax, which shall be a lien upon said cotton from the time when said assessment shall be made.

Sec. 6. *And be it further enacted*, That, from and after the date on which this act takes effect, in computing the allowance or drawback upon articles manufactured exclusively of cotton when exported, there shall be allowed, in addition to the three per cent. duty which shall have been paid on such articles, a drawback of two cents per pound upon such articles in all cases where the duty imposed by this act upon the cotton used in the manufacture thereof shall be satisfactorily shown to have been previously paid; the amount of said drawback to be ascertained in such manner as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

Sec. 7. *And be it further enacted*, That, from and after the passage of this act, in addition to the duties heretofore imposed by law, there shall be levied, collected, and paid on spirits distilled from grain or other materials, whether of American or foreign production, imported from foreign countries, of first proof, a duty of forty cents on each and every gallon; and no lower rate of duty shall be levied or collected than upon the basis of first proof, and shall be increased in proportion for any greater strength than the strength of first proof.

Mr. WASIBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. HOLMAN. Is this substitute the same as the original bill? If it is not I must call for its reading.

Mr. STEVENS. It is not the same. It makes it distinct that no duty shall be levied on anything except what was distilled after this bill was introduced into the House. The other was doubtful, and this makes the bill distinct on that point. That is all the difference there is.

Mr. Speaker, I shall not avail myself of my privilege of occupying an hour, which I have a right to do, in closing the debate on this bill, because I believe that this matter is fully understood. I want to state distinctly, so that the House may fully understand, what is the bearing of the amendment introduced into this bill—the principle therein contained, as well as the difference between the two bills. By the legislation of 1862, when the internal revenue system was inaugurated, after a very full discussion in this House, it was distinctly declared that all of our taxes should be prospective; that nothing should be laid upon goods manufactured prior to that time; that all those things should be exempted from taxation. That was the principle then solemnly decided upon by those who had control of this House, and who passed that bill. The country was right to suppose that that was the settled policy, unless we were justified in deceiving the people, or a different party came here to alter what had been done before. We know how the gentlemen on the other side will vote, but if those on this side, who were here during the last Congress, votes as proposed, then there will have been not only deception but rank injustice in what was done heretofore. And the public would have a right to complain of a party which would thus hold out to the country a particular policy upon which they might act, and after having intrapped them into operations based thereon, turn round and reverse that policy. I am opposed to any such principle, and I undertake to say the country will be opposed to it also.

But the amendment of the gentleman from New York, [Mr. FERNANDO WOOD,] although he possibly intended to embrace in it more than he has, embraces only one single class of people, and that is the distillers. The section of the original act to which this refers, and to which this is an amendment, embraced and taxed only liquors in the hands of distillers, and nowhere else. After that liquor had gone forth, no matter how it went forth, it was not to be taxed. In the hands of the distillers it was to be taxed, and when offered for sale the stamp of the Government was to be put upon it as taxed property, and sent forth to the community with the official stamp of the Government as property in which any man had a right to deal and traffic as he chose, as in all other property. In other words, it was property sent forth by the Government itself, after having paid a revenue to that Government. And under such circumstances to place another tax upon it would be as dishonest, in my judgment, as if I were to sell a man a horse for fifty dollars free of tax, and then, being sovereign, should turn round and tax the horse I had just sold him one half the value of the horse. I can look upon the morality of the matter in no other light.

Now, if the object which possibly the gentleman had in view in offering his amendment was effected by it, what would be the result? But I deny that his bill taxes anybody except the distillers. The tax is upon the distiller alone, and a tax is laid nowhere else; and throughout the whole bill, as amended, the first section of it refers to nobody but to distillers. You cannot reach the spirits anywhere else under the provisions of this bill. And yet this amendment of the gentleman from New York lays a tax upon distillers who have once paid the tax and who happen to have it on hand for sale. If gentlemen will scrutinize the amendment they will see it reaches nobody else on earth.

Some gentlemen here, I presume, have voted for the amendment because they wanted to tax the speculators, but in doing that they vote to put an additional tax on that in the hands of the distillers only, and allow everybody else to go free.

But suppose the gentleman has reached what he possibly intended to be the object of his bill, what has he reached? Liquors on hand. For what? For sale. A man who has laid up a store of a hundred barrels in his vaults for ripening, as I have no doubt many able members in this House have, are entirely exempt under the amendment of the gentleman from New York, even had he reached all he wished, for he says "all spirits on hand for sale." Now, why not reach the seller, or the millionaire, who has laid in a hundred barrels for ten years to come? Why let him go free? Let the gentleman who framed such an amendment answer; I shall not. Such is the effect of the bill, and the people will so understand it. They will see that while the stores of the rich men are all exempt from this tax, the liquor which is sold from day to day to the poor man is reached by this bill, if the gentleman has attained his object.

I submit to this House whether such is their intention. Such is the bill. If you do, swallow it, and swallow it as you would the very worst whisky you ever got in your lifetime. It is very unpalatable to me, because it contains the rankest injustice.

But that is not all. The gentlemen from New England, many of them, have voted upon the principle upon which this whisky is taxed in voting to retax all cotton fabrics on hand. It has already paid its three per cent., and it has not all gone into use. Why do you not trace it to the people who have it now on their backs? Tax goods, tax cotton, tax cotton fabrics, but why not tax it upon the wearer as well as in the hands of the manufacturer who has it in his cloth-room?

But let us go a little further to show the beauties of this bill. It is rank in injustice from amendment to amendment. We have also voted here that all liquors imported under our last law, which paid their dollar or two dollars a gallon, which the merchant received and put into his vault upon paying the revenue to the Government, shall be reached by the tax-gatherer and assessor in his cellar and his vaults, and retaxed forty cents more. Is this the way in which citizens who have proceeded honestly and on the faith of your law as it stood are to be treated by this Congress or by this House? Are we to appear upon the records

of the country forever as sanctioning a provision of this kind? Let those who choose to do it, do it. For my part I will sanction no such principle.

Mr. Speaker, I am sorry to have occupied the time of the House thus long. I now ask for a vote upon the substitute.

Mr. FERNANDO WOOD. Is any further debate allowed?

The SPEAKER. It is not. The gentleman from Pennsylvania, having reported the bill, had a right to close the debate after the main question was ordered. The question now is upon agreeing to the substitute offered by the gentleman from Pennsylvania.

Mr. GARFIELD. I move that the reading of the substitute be dispensed with. I understand that it is substantially the original bill as reported by the Committee of Ways and Means.

Mr. STEVENS. I may say it is the same bill with the exception I have mentioned. This is prospective entirely.

Mr. BLISS. I object to dispensing with the reading.

The substitute was read.

The question was then taken on agreeing to the substitute; and it was decided in the negative—yeas 51, nays 101; as follows:

YEAS—Messrs. Ancona, Baily, Blaine, Jacob B. Blair, Blow, Broomall, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawson, Dennison, Edger-ton, English, Fenton, Finck, Frank, Holman, Hooper, Knapp, Lazar, Mallory, McAllister, Morrill, Daniel Morris, James R. Morris, Morrison, Noble, John O'Neill, Orth, Pendleton, Perry, Pomeroy, Prunty, Radford, Samuel J. Randall, Robinson, Edward H. Rollins, Ross, Schenck, Scott, Shannon, Smith, Smithers, Spaulding, William G. Steele, Stevens, Stiles, Stuart, Voorhees, Ward, Chilton A. White, Joseph W. White, Wilder, and Fernando Wood—68.

So the bill was passed.

During the roll-call,

Mr. SCOTT stated that Mr. KING was confined to his room by sickness.

Mr. COBB stated that his colleague, Mr. SLOAN, was still absent on account of serious sickness in his family.

The result of the vote having been announced as above recorded,

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

SERVICE ON COMMITTEES.

Mr. GOOCH asked to be excused from further service on the select committee on the rebellious States and on the Committee on Private Land Claims.

Mr. Gooch was excused.

Mr. JULIAN. Mr. Speaker, I ask leave to be excused from further service on the Committee on Public Expenditures. This committee now has in charge an important investigation into the affairs of the New York custom-house, and my duties on two other important committees require every moment of my time. I therefore hope to be relieved.

Mr. Julian was excused.

COAST-SURVEY REPORT.

Mr. A. W. CLARK, from the Committee on Printing, reported a resolution that there be printed three thousand copies extra of the report of the Superintendent of the Coast Survey for the year 1863, two thousand for the use of the Superintendent and one thousand for the use of members of the House; and moved the previous question on its adoption.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. MORRIS, of Ohio. I move that the House do now adjourn.

The motion was not agreed to.

COLLECTORS' FEES.

Mr. KELLOGG, of New York, by unanimous consent, introduced a resolution, which was read, considered, and agreed to, instructing the Committee on Commerce to inquire into the expediency of regulating and equalizing the fees and salaries of collectors of customs on the northern, northwestern, and western frontiers of the United States, and to report thereon by bill or otherwise.

REPORTS OF PRIVATE BILLS.

Mr. KELLOGG, of New York, called for the regular order of business.

The SPEAKER announced the regular order of business to be the call of committees for reports of a private character, beginning with the Committee of Elections.

CHAPIN HALL.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of Chapin Hall; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

SUTCLIFFE AND CASE.

Mr. HALE also, from the same committee, reported back a bill (H. R. No. 43) for the relief of Milo Sutcliffe and Levi H. Case; which was referred to the Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

ISAAC HERTZBERG.

Mr. HALE, from the same committee, reported back the petition of Isaac Hertzberg, and asked that the committee be discharged from its further

consideration, and that it be referred to the Committee on Commerce.

It was so ordered.

WILLIAM C. WALKER AND OTHERS.

Mr. HOLMAN, from the same committee, reported a bill (H. R. No. 47) for the relief of William C. Walker and others; which was referred to the Committee of the Whole House on the Private Calendar; and, with the report, ordered to be printed.

JOSIAH O. ARMES.

Mr. HOLMAN also, from the same committee, reported a bill for the relief of Josiah O. Armes; which was read a first and second time, and, with the report, ordered to be printed.

NATHANIEL M. LANE AND OTHERS.

Mr. WINDOM, from the Committee on Indian Affairs, reported a bill for the relief of Nathaniel M. Lane, Richard G. Murphy, and Charles E. Flandreau; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM B. CUTTER.

Mr. SCHENCK, from the Committee on Military Affairs, reported back the petition of William B. Cutter, and asked that the committee be discharged from its further consideration, and that the petition be laid on the table.

It was so ordered.

CHARLES ANDERSON.

Mr. SCHENCK, by unanimous consent, introduced a bill for the relief of Charles Anderson, assignee of John James, of Texas; which was read a first and second time.

Mr. SCHENCK moved its reference to the Committee on Military Affairs.

Mr. HOLMAN. I move its reference to the Committee of Claims.

Mr. SCHENCK. It is a claim arising out of a quartermaster's contract, and has been twice before former Congresses, and on each occasion I find that it was referred to the Committee on Military Affairs, both in the Senate and the House.

Mr. HOLMAN. I withdraw my motion. My impression was that it was before the Committee of Claims, last Congress.

The bill was referred to the Committee on Military Affairs.

PATENT LAWS.

Mr. CHANLER, by unanimous consent, introduced a resolution, which was read, considered, and agreed to, instructing the Committee on Patents to inquire into the expediency of compiling and printing in one body the laws of the United States and the regulations of the Patent Office relative to patents.

BILLS SIGNED BY THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, announced that the President had approved and signed an act (H. R. No. 143) to amend the law prescribing the articles to be admitted into the mails of the United States; and

An act (H. R. No. 35) to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri.

COMMITTEE ON ENROLLED BILLS.

Mr. COBB. I ask unanimous consent of the House that the Committee on Enrolled Bills be allowed to sit during the sessions of the House.

There was no objection; and it was ordered accordingly.

CONFISCATED PROPERTY.

The SPEAKER stated the business in order to be the consideration of House resolution No. 18, to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, reported from the Committee on the Judiciary, on which the gentleman from Ohio [Mr. SPALDING] is entitled to the floor.

Mr. SPALDING. Mr. Speaker, it has occurred to me that very much of the debates on the question before the House would have been more appropriate to the halls of judicature than to this

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Bliss, Boutwell, Boyd, Brandegee, Brooks, William G. Brown, Chanler, Ambrose W. Clark, Clay, Coffroth, Cravens, Creswell, Dawes, Dixon, Driggs, Eckley, Eden, Eldridge, Eliot, Ganson, Garfield, Gooch, Grinnell, Griswold, Hale, Hall, Harding, Benjamin G. Harris, Herrick, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulbard, Hutchins, Jenckes, William Johnson, Julian, Kalbfleisch, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Le Blond, Long, Longyear, Marvin, McClurg, Melndoe, McKinney, Samuel P. Miller, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Pike, Price, Radford, William H. Randall, Alexander H. Rice, John H. Rice, James S. Rollins, Ross, Scofield, Scott, John B. Steele, William G. Steele, Stiles, Stuart, Sweet, Thayer, Thomas, Tracy, Upson, Voorhees, Elihu B. Washburne, William B. Washburn, Wheeler, Williams, Wilson, Windom, Fernando Wood, Woodbridge, and Yeaman—101.

So the substitute was rejected.

During the roll-call,

Mr. CRAVENS stated that his colleague, Mr. LAW, was still detained from the House in consequence of injuries sustained by a fall on the ice, but hoped to be in his seat in a few days.

The result of the vote having been announced as above recorded,

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the substitute was rejected; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being upon its passage,

Mr. ANCONA demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 68; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Clay, Cobb, Creswell, Dawes, Denning, Dixon, Driggs, Eckley, Eliot, Farnsworth, Ganson, Garfield, Gooch, Grider, Grinnell, Griswold, Hale, Hall, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulbard, Hutchins, Jenckes, Julian, Kalbfleisch, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Longyear, Marvin, McClurg, Melndoe, Samuel P. Miller, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Perkins, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, James S. Rollins, Scofield, Stebbins, John B. Steele, Sweet, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburn, Wheeler, Williams, Wilson, Windom, Winfield, Woodbridge, and Yeaman—88.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Bliss, Blow, Brooks, James S. Brown, Chanler, Coffroth, Cole, Cravens, Thomas T. Davis, Dawson, Dennison, Eden, Edger-ton, Eldridge, English, Fenton, Finck, Frank, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, William Johnson, Knapp, Lazar, Le Blond, Long, Mallory, McAllister, McDowell, McKinney, William H.

hall of legislation; and being thus impressed, I shall, at some convenient period, offer for adoption an amendment to the joint resolution reported from the Committee on the Judiciary, which I now read for the information of members on both sides of the House, that they may be prepared for it. I shall move to strike out all after the word "read" in the eighth line of the joint resolution, and to insert the following:

Nor shall any punishment or proceeding under said act be so construed as to work any forfeiture of the real estate of the offenders contrary to the provisions of the Constitution of the United States.

Then take the proviso and go on with it to the end. It will be perceived that the object in introducing this amendment will be to simplify the resolution and render it more clear and distinct, and save the scruples of the members of the House on the other side, who fear that the Constitution of the United States is in danger of being violated.

Mr. Speaker, the question was asked yesterday very emphatically by the learned gentleman from New Jersey [Mr. Rogers] why it was that members of this side of the House could not be content with the legislation of the last Congress on the subject of confiscation? A reply is furnished to our hand by the language of a distinguished colleague of my own, [Mr. Cox,] who said that our legislation on this subject was "another failure." And it is because we wish our legislation in respect to the confiscation of rebel property to be a success that we venture to offer some amendment to the joint resolution.

In July, 1862, the Congress of the United States passed an act to suppress insurrection, &c., the fifth section of which provides as follows:

"That to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons hereinafter named in this section, and to apply and use the same, and the proceeds thereof, for the support of the Army of the United States."

Then follows the clause designating the persons whose property should be thus seized, consisting chiefly of all the officers of the army and navy of the rebel confederacy in arms against the Government of the United States, and the principal civil officers of the so-called "confederate States of America." This enactment did not at first meet with the approval of the President of the United States for reasons that will soon be made apparent, and consequently the joint resolution was adopted explanatory of the act, the last clause of which reads as follows:

"Nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

The approval of the President of the enactment and of the joint resolution took place at one and the same time, July 17, 1862. Concurrent with this approval, a message was transmitted by the President to the Senate of the United States, accompanied by a very singular document, yclept a "veto," which thus became in the apprehension of his conservative friends on the other side of this House a very important "State paper."

However much I may esteem the character of our worthy Chief Magistrate, I must be permitted to say that this proceeding was not in good taste. The President, in the exercise of his prerogative, has a just right to place his veto upon any unwise legislation of Congress. But this power was placed in his hands to check improvident legislation, and not to intimidate the members of the national Legislature. Who that is conversant with the passage of this joint resolution will hesitate to say that it was passed under duress—"duress per minus," as we lawyers say?

Now, sir, I will advert for a moment to some portions of this most extraordinary State paper. On page 871 of the Journal of the Senate for the second session of the last Congress I find the following:

Fellow-Citizens of the Senate and House of Representatives: Considering the act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, and joint resolution explanatory of said act as being substantially one, I have approved and signed both. Before I was informed of the passage of the resolution I had prepared the draft of a message stating objections to the bill becoming a law, a copy of which draft is herewith transmitted.

ABRAHAM LINCOLN.

WASHINGTON, July 17, 1862.

Then follows the veto drawn up for the purpose of being applied to the bill before it was approved

with the joint resolution. I inquire, "*cui bono*" was this supplemental message transmitted to the Thirty-Seventh Congress? I honor the Chief Magistrate when he sends his reasons for placing his negative upon the legislation of Congress, and I honor just as highly any member who adheres to his convictions of right irrespective of the veto to be placed upon his act. Such practices will not intimidate upright and independent minds.

But the veto has thus unnecessarily been made a part of the records of the legislation of Congress.

And on page 873, near the foot of the page, I read:

"That to which I chiefly object pervades most parts of the act, but more distinctly appears in the first, second, seventh, and eighth sections. It is the sum of those provisions which results in the divestment of the title forever. For the causes of treason and the ingredients of treason, not amounting to a full crime, it declares forfeiture extending beyond the lives of the guilty parties; whereas the Constitution of the United States declares that 'no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted.'"

And now by this sage reasoning any ingredients of treason less than the sum total which would make up the offense of treason, carries with it the same disability to work a forfeiture, in perpetuity, with an attainder of treason. And by carrying out this process of reasoning, Congress has no power to take from any citizen his property for any offense whatever. Why? Because there can be no confiscation for a longer time than the offender's life for that which is in itself treason or less than the crime of treason.

Why, Mr. Speaker, the first Congress which sat in this country under the present Constitution, passed an act defining the crime and declaring the punishment of treason; and that punishment was simply the good old-fashioned punishment of hanging by the neck until dead, dead, dead. In the third section of the same act we find the crime of murder committed in any fort, arsenal, &c., punished with death; and that Congress ordered that, upon sentence of death for murder being carried into execution, the body of the criminal should be handed over to the surgeons to be dissected. Now, suppose Congress had ordered that the bodies of these rebels, seized, arraigned, tried, and convicted of treason of the blackest dye, should have been handed over to the surgeons for dissection. They then would have been hung up in glass cases according to the practice of surgeons, and subjected to the gaze of all mankind; would not the gentlemen on the other side have made the same appeal to us they make now? Would they not have said, "You are shocking the sensibilities of the children and the children's children of these rebels for all time to come, by exposing their fathers for this great iniquity to be dissected and hung up in a glass case?" However much the sympathy of gentlemen may have been drawn out, however lachrymose they might have become upon that subject, it would have been constitutional and legal legislation nevertheless.

But the gentlemen on the other side claim that the Constitution, in article three, section three, interposes a barrier to the forfeiture of the lands of those rebels for anything more than their lives, whether they be tried and convicted of treason or not. Well, now, I propose, as a lawyer, to affix some limits to this test of the constitutional question. The language of the Constitution either has a legal significance, or it has not. Has it a legal significance?

"But no attainder of treason shall work corruption of blood or forfeiture [of estate] except during the life of the person attainted."

Now, is it not legitimate to inquire what is meant by an "attaint," because this restriction evidently applies to nothing but "an attainder" for treason? May we not inquire, then, and must we not inquire, what an "attaint" is in the eye of the law? And for this let us go to the fountain-head. I have in my hand the fourth volume of Tucker's Blackstone, and read extracts from pages 380 and 381. From page 380 I read:

"When sentence of death, the most terrible and highest judgment in the laws of England, is pronounced, the immediate, inseparable consequence, by the common law, is attainder."

When, by the operation of the common law, does the criminal become attainted? It is answered:

"This is after judgment, for there is a great difference between a man convicted and attainted, though they are frequently through inaccuracy confounded together. After

conviction only a man is liable to none of these disabilities, for there is still, in contemplation of law, a possibility of his innocence." And therefore either upon judgment of outlawry, or of death for treason or felony, and not before, shall a man be said to be attainted."

"The consequences of attainder are forfeiture and corruption of blood." "Forfeiture is twofold—of real, and personal estate. First as to real estate: by attainder in high treason a man forfeits to the king all his lands and tenements of inheritance, whether fee simple or fee tail."

"But though after attainder the forfeiture relates back to the time of the treason committed; yet it does not take effect unless an attainder be had, of which it is one of the fruits; and therefore if a traitor dies before judgment pronounced, or is killed in open rebellion, or is hanged by martial law, it works no forfeiture of his lands, for he never was attainted of treason."

Well, now, for one instant suppose that some portion of our Army should have the good fortune to seize the chief of the rebels, Jeff. Davis himself, and suppose that he should be put to death by martial law; would there be any "attainder" in his case? Not at all; not at all, according to the authorities. But, say the gentlemen, your Congress passes a bill of attainder when it confiscates the lands. I say in reply, Mr. Speaker, that the Constitution of the United States has stopped all that matter by providing that "no bill of attainder shall be passed." Inasmuch, then, as Congress cannot pass a bill of attainder, as the Parliament formerly did in England, either before or after the death of the felon or traitor; as Congress cannot pass a bill of attainder at any time nor in any way, and inasmuch as the common law of England has no application to the punishment of crimes in this country, I declare for myself that I can see no room for this provision of our Constitution to operate at all. I regard it as simply a work of superabundant caution on the part of our ancestors, coming so recently from under the dominion of the British Crown, to provide by all necessary, and, if you please, unnecessary constitutional provisions against the reenactment in this country of scenes of barbarity which had occurred so frequently in the Old World.

I find that the learned Justice Story, who has been quoted here with so much approbation on the other side of the House, in his Commentaries on the Constitution, when speaking of this crime of treason, and of this interdiction in the Constitution of the United States, gives us the instance of the Third Richard, who was attainted by bill of attainder in Parliament, months after he had laid down his life upon Bosworth field. No one pretends that in this country any enactment of that sort could be made by Congress. No one pretends that the common-law principle would attach any such consequence to an adjudication of the courts upon a charge of treason, or murder, or any other felony.

My learned colleague upon the other side of the House [Mr. Bliss] cited, as an authority for the principle for which he contends, a passage from the Federalist, from an essay by Mr. Madison. I give to the authority all the credit that could be asked for it by the learned gentleman, and even more, if necessary, but I say the authority is not in point for his side of the argument, after all. On page 271 of the Federalist I read:

"Congress has power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted."

"As treason may be committed against the United States, the authority of the United States ought to be able to punish it; but as new-fangled and artificial treasons have been the great engines by which violent factions, the natural offspring of free governments, have usually weakened their alternate malignity on each other, the Convention have, with great judgment, opposed a barrier to this peculiar danger by inserting a constitutional definition of the crime, fixing the proof necessary for conviction of it, and restraining the Congress even in punishing it from extending the consequences of guilt beyond the person of its author."

Now here let us pause for a moment and inquire what is the meaning of this language, "beyond the person of its author." We all know— all who have read the history of such proceedings in England—that oftentimes these attainders were made use of to corrupt the blood of a person who had been executed for treason or some other felony, and to stop the transmission of estates from a remote ancestor of the felon to his posterity below. It is well known that those acts were indulged in to gratify sometimes private hate and malice against the families of offenders, but oftener, perhaps, for the purposes of speculation; and I

believe both those motives are charged home upon members on this side of the House in the arguments of the gentlemen upon the other side: that this bill, which professedly is a bill for the suppression of the rebellion and to increase the means of defraying the expenses of our Army made necessary by the rebellion, is not really so, but that it is only a subterfuge, and that the real object is to plunder the oppressed citizens of the South for the benefit of speculators in the North.

Mr. Speaker, I am not very apt to find in the Constitution of the United States an unmeaning sentence, especially when the language is employed upon so important a topic as treason against the Government; yet I do find that the framers of the Constitution gave to Congress full power to punish treason. They intended, however, to limit that punishment, whatever it might be, to the life and person of the offender.

Now I ask, in all good faith, is not the person of the offender punished by taking from him his property equally with incarcerating him in the penitentiary? Is it not a punishment of the person to take from him his estate as much as it is a punishment of his person to decapitate him? So that the punishment is adjudged against the person during the lifetime of that person, I apprehend the limitation of the Constitution is satisfied.

If this was *res nova*, Mr. Speaker, if it was a new question, I should at once most heartily agree with the learned gentleman from Maryland [Mr. DAVIS] who made an able argument upon this side of the question the other day. But, sir, I am somewhat staggered in my belief when I look into the legislation of Congress immediately upon the adoption of the Constitution. When I find in the act of 1790 the punishment of treason death, and also a proviso that that punishment should carry with it no confiscation of estate whatever, I am led to believe that the members of that Congress, very many of whom were members of the Convention that framed the Constitution, understood the phraseology to mean, that upon attainder of treason no forfeiture of land should follow, except during the life of the offender.

Now, my learned colleague [Mr. BLISS] suggests that there seems to be here an absurdity. I felt conscious that the astute legal mind of that gentleman could not avoid that perplexity, and hence I desired to be made acquainted with his mode of escape from so embarrassing a dilemma.

In all civilized countries the punishment of treason is ordinarily death. It is the highest crime known to the law, and is ordinarily punished by death. If, then, the confiscation of the lands must be only for the life of the offender, how long would that confiscation endure? My astute friend said, "for a time equal to the length of his halter." And that is true. I could not show the absurdity of the conclusion attempted to be drawn by the gentlemen on the other side in any more forcible language than by saying that the framers of the Constitution have gravely provided in article three, section three, that a traitor, condemned to be hung as a penalty for his treason, shall forfeit his estate until he can be taken from his cell to the gallows and executed—simply "for the length of his halter." That is the necessary conclusion, if we adopt, in its full force, the reasoning of the gentlemen on the other side. The first Congress that sat after the adoption of the Constitution passed what is called the crimes act, defining and punishing treason. It provides that if any person or persons owing allegiance to the United States of America shall levy war against them, or shall adhere to their enemies, by giving them aid and comfort, and shall be thereof convicted, on confession in open court or on the testimony of two witnesses, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death. If gentlemen will turn to the twenty-fourth section of the same enactment they will find this proviso:

"Provided always, and be it enacted, that no conviction or judgment for any of the offenses aforesaid shall work corruption of blood or any forfeiture of estate."

Of course an intelligent Congress would provide that it would work no forfeiture of estate at all if they were limited to a forfeiture for "the length of the halter." It would be simply ridiculous to provide that the estate should be forfeited during the life of the felon from the time of his sentence to the time of his execution.

Now, it may be that this enactment does not

furnish any evidence of the construction given to that clause of the Constitution by the Congress of 1790. Still I think that the legislation goes somewhat in that direction, and it is but fair to consider it, so far as it is an authority, on the other side.

After leaving this, I encounter the Commentaries of Mr. Justice Story on the Constitution; and I must confess that, although I listened with a great deal of satisfaction to the able argument of the member from Massachusetts, [Mr. BOUTWELL,] I was amazed to hear him say that this distinguished jurist was no more than a second-rate lawyer in our country.

Mr. BOUTWELL. Mr. Speaker, I think the gentleman from Ohio slightly errs in quoting my observation. It was not that Justice Story was only a second-class lawyer, but that, as contrasted with other men produced in this country, in the quality of strength and grasp of intellect, he must be reckoned among the second class of great men.

Mr. SPALDING. I accept the amendment, and still my amazement does not cease. I was not prepared to hear a lawyer from Massachusetts say that Justice Story ranked even behind the greatest men of the country. If we want proof of the standing of that man as a lawyer, let us go to Westminster Hall where his judicial decisions are from day to day and month to month and year to year cited, not only with approbation, but with the most exalted marks of confidence and respect. If I understand the judicial life and history of Justice Story, he has done for this country little less than Mansfield did for England in building up a complete system of commercial law. Is that man to be ranked behind any lawyer of our country and our age? Oh! if the shade of Marshall could speak on this subject, he would respond and tell you whether his long-endured associate on the bench was second to any of the greatest jurists of the age in which he lived.

But, sir, I wander. Justice Story gives it as his opinion that by the terms of this third section of the third article of the Constitution the punishment of treason, so far as confiscation is concerned, is restricted to the forfeiture for the life of the offender only; and, sir, when I venture to differ with that great man on the exposition of a constitutional clause, I must be better informed of the laws than I ever expect to be in this world. I leave that branch of the subject just here.

I say to you, I am entirely satisfied with the arguments of the learned gentlemen from Maryland and Massachusetts, and others, who have gone the full length of saying that the constitutional provision only limited the confiscation to the person. I listened to their arguments, and was gratified with them; but I cannot concur with them when I find arrayed against them the judgment of Joseph Story on this very point.

Now, admitting that on an attainder of treason lands can only be confiscated during the life of the person attain, what vantage ground is gained on the other side? I insist that that provision, clothed in that language, having that technical signification and meaning, has nothing whatever to do with the act under consideration. It has no relevancy, for it assumes that there must be some person who can be attained before you can limit by this clause of the Constitution the act of Congress.

When we take up the act to which this joint resolution applies, we find that a new punishment is given for treason by the last Congress. Treason is punished by death; and it is provided that the offender's slaves, if there be any, shall be free.

Here may be the pinch on the subject, after all. It is in the discretion of the court whether he shall be imprisoned for not less than five years and fined not less than \$10,000, "and his slaves, if any, shall be made free."

Let us pause to inquire what would be the result if a person should be apprehended and brought before the court for treason, and the court should, under the discretion given by this enactment, instead of taking the life of the offender, imprison him for five years, and fine him in a sum of not less than \$10,000, could not that be levied upon the real estate of the offender? And if that real estate did not amount to more than \$10,000, would it not be taken in perpetuity to answer the fine? The gentleman does not claim that there is any objection to that, assessing the fine and levying it upon the lands of the offender and selling them to satisfy

that fine. I suppose that must be in perpetuity. It seems, then, the same thing in substance to the offender found in arms against the Government: to take his lands in satisfaction of the fine, and to confiscate his lands, goods, and chattels.

Mr. Speaker, I claim that the fifth section, and all the branches of that section of the act, have nothing whatever to do with the crime of treason. It regards open, armed rebellion against this Government, and confiscates the means in the hands of the transgressor for the purpose of putting an end to the war and continuing our armies in existence until that is accomplished. It contemplates that—nothing more, nothing less.

I am met by the objection that it is not necessary for the party to be arrested for treason or tried for treason; that the word treason may never be breathed in his ears. If he be proved to have taken part in the great rebellion his property may be taken by the President of the United States and sold for the benefit of our armies. Any man who would gainsay our constitutional and legal right to arm him with that power has more sympathy with the rebellion than with our free form of government.

Why, Mr. Speaker, the changes have been rung in our ears from day to day by gentlemen on the other side of the House that we are hunting down innocent women and children. They are shedding tears over this affecting subject. If this act is to be executed, we are told that the President is permitted to sell the estate of rebels in arms, and that then their widows and children may suffer the pangs of hunger. How is it that we cannot draw upon these fine chords of sympathy of gentlemen on the other side in behalf of our women and children? What regard have they for the widows and children of the two hundred thousand soldiers—the flower of our young men—who have already laid down their lives to uphold this fair fabric of freedom? Never a word of sympathy from the other side. They can see our poor soldiers return minus an arm, minus a leg, as they pass through these lobbies, but their only care is to protect the property of the rebels. And we are asked by one of my colleagues, [Mr. COX,] does the gentleman from New York intend to call us traitors? My friend answered modestly no! If he had asked that question of me, he knows what my answer would have been. I have seen rebel officers at Johnson's Island, and I have taken them by the hand because they have fought us fairly in the field, and did not seek to break down the Government while living under its protection. Yes, sir, that gentleman knows that I would have said to him that I have more respect for an open and avowed traitor in the field than for a sympathizer in this Hall. Four months have scarcely gone by since that gentleman and his political friends were advocating the election of a man for the gubernatorial office in my State who was an open and avowed advocate of the right of secession—an outlaw at that. They received their answer in a majority against him of one hundred and two thousand votes.

Mr. PENDLETON. I would ask the gentleman how many men in the State of Ohio voted for Mr. Vallandigham?

Mr. SPALDING. One hundred and eighty thousand, and there was one hundred and two thousand majority against him.

Mr. PENDLETON. And does the gentleman mean to charge that that one hundred and eighty thousand were all traitors?

Mr. SPALDING. Not at all, I trust; but I cannot yield to the gentleman.

Mr. PENDLETON. I do not desire to press upon the gentleman a question that is troublesome.

Mr. SPALDING. It was claimed by the gentleman from Ohio, and those who worked with him, that unless the Unionists carried the State by the home vote, they would resist the soldiers' votes.

Mr. PENDLETON. If the gentleman makes that statement as applicable to me, he makes a statement not true.

Mr. SPALDING. They have uniformly claimed that the Democracy furnished a large proportion of the soldiers to fill up the ranks of our armies. That has been their continued claim; but when it came to the fact of voting, they were not ready to trust those Democratic soldiers to vote for their candidates. That shows the confidence they had in those of our citizens now in the armies for the support of this free Government.

But, Mr. Speaker, we are told that unless we use emollients this war will become a war of extermination. We were met at the opening of this rebellion by the claim that we must handle the enemy "with gloves" or we would infuriate them. Now, having become infuriated, and having put to death two hundred thousand of our men, we are again told we must not pursue them further for fear they may become more infuriated still. I am one of those who have embarked in this cause for the purpose of protecting this free form of government, be the cost what it may.

I said the other day that our Government was upon the eve of bankruptcy. I desire to repeat it. I say our Government cannot command readily all the money it wants to carry on this war; and the Treasury should not be depleted for the reimbursement of any single State. I say the people of this great nation are willing to replenish the Treasury, but it must be done by taxation; and I would, if I could, avoid drawing thus upon their resources; but, if it be necessary to put down this rebellion, let every dollar of property in the free States come under the hammer rather than submit for a moment to withdraw our armies and make peace with the rebels until they throw down their arms.

I go first for compelling the rebels to submission. If I cannot otherwise compel submission, I go for driving them to expatriation; and if that will not answer the purpose, I am most unhesitatingly for extermination.

I hope the wisdom of this Congress will provide legislation whereby the estates of these rebels may be confiscated for the use of our national Treasury, in order to keep up our extended armies; and if the consequence be that by and by the children of some of these rebels shall be compelled to leave their patrimonial estates and go to foreign countries—as probably the facts, in anticipation, will warrant us in believing—I say to them, "You and your fathers for thirty years have been plotting a vile conspiracy against the freest, the best, and the most beneficent Government the world ever saw; and if you are now in your mad career throttled and swept away, you can only complain of the madness of your progenitors which produced these disastrous consequences." They must say, in the language of Virgil, "*Nos patriam fugimus nos dulcia linquimus arva;*" but all is to be traced to the rebellion engendered against this good Government by the folly and madness of our fathers."

Mr. FERNANDO WOOD obtained the floor.

Mr. PENDLETON. With the permission of the gentleman from New York, I move that the House do now adjourn.

Mr. FERNANDO WOOD. I yield for that purpose.

The question was put; and there were—ayes 54, noes 69.

Mr. PENDLETON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 21, nays 68; as follows:

YEAS—Messrs. Bailey, Bliss, Brooks, William G. Brown, Clay, Cravens, Donison, Eldridge, Grider, Hale, Benjamin G. Harris, Herrick, Holman, William H. Miller, Pruyn, James S. Rollins, Spaulding, Stuart, Sweat, Tracy, and Elihu B. Washburne—21.

NAYS—Messrs. Alley, Allison, Ames, Anderson, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Baynes, Dixon, Donnelly, Driggs, Eliot, Frank, Ganson, Gooch, Grinnell, Hooper, Hotchkiss, Asahel W. Hubbard, Hubbard, Julian, Kasson, Kelley, Longyear, Marvin, McClure, Melndoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomerooy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Smith, Smithers, Stevens, Thayer, Upson, Van Valkenburgh, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—68.

So the House refused to adjourn.

No quorum voted.

Mr. WASHBURN, of Illinois. I move that there be a call of the House.

Mr. PENDLETON. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ELDRIDGE. I move that the House do now adjourn.

The question was put, and there were—ayes 54, noes 56.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. BROOKS. I hope gentlemen upon the other side of the House will consent to an adjournment. It is now four o'clock. There is no disposition to drive off action upon this measure improperly. If gentlemen on the other side will fix a day for taking the vote within a reasonable time, there will be no objection.

Mr. STEVENS. I will say to the gentleman from New York that if gentlemen on the other side do not wish to discuss the measure to-day, I want to say a few words, and am ready to go on now. [Cries of "Agreed!"]

The SPEAKER. If there be no objection, the gentleman from Pennsylvania will have the floor now, with the understanding that the gentleman from New York [Mr. FERNANDO WOOD] will succeed him. The Chair hears no objection.

Mr. FERNANDO WOOD. I do not lose my right to the floor?

The SPEAKER. Not under the understanding just had.

Mr. ELDRIDGE. I withdraw the motion to adjourn.

Mr. WASHBURN, of Illinois. I withdraw the motion that there be a call of the House.

Mr. STEVENS. Mr. Speaker, the gentleman from Ohio [Mr. SPALDING] has said nearly all I intended to say upon this subject. I begin simply by denying that the Constitution has the least reference to any one of the provisions of the bill in question, and I intend to show that the act of 1862, which was modified by a resolution which it has been truly said was passed under duress very little to the credit of the Congress that passed it—that act of 1862 is not affected directly or indirectly by any one of the provisions of the Constitution, and that especially that part of the act which provides for seizing property and confiscating it in fee simple is purely a proceeding under the laws of war and under the law of nations, over which the Constitution has no control, and in regard to which it has no effect whatever. The first section of the act of 1862 punishes the crime of treason with death and the forfeiture of personal estate. That, I believe, is not objected to, because personal estate, once forfeited, is forfeited forever. There is no such thing as a life estate in personal property. He who gets it for an hour gets it forever. That is the plainest principle of law. The second provision is that those who incite to rebellion shall be punished with fine and imprisonment. That has nothing to do with the Constitution. It is not pretended, I suppose, that the Constitution in any way affects it. Then comes the clause of the bill to which gentlemen take exception; and what is that? It is to be found in the statute-books of that session of Congress, page 313. It provides that, to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, credits, &c., of the persons guilty, and apply the proceeds thereof to the support of the Army of the United States.

Here is no attainder for treason, here is no confiscation of property under any provision of the Constitution. Then the law goes on to state how you are to seize and condemn property. It is to be seized and proceeded against *in rem*, according to the law for that purpose, and condemned. As what? As the property of traitors? No such thing. Condemned as "enemies' property." Does not that show that the Constitution has nothing to do with it on the question of treason? Here are a body of men in arms against the United States. This act of Congress, so far as it refers to seizures of property in fee, refers to them as seizures of the property of alien enemies, to be treated as such.

Now, where is there a word about attainder for treason? That part of the act does not seize property as traitors' property at all. But the learned gentleman from Ohio [Mr. SPALDING] has well said all that I intended to say with reference to attainder for treason. Attainder for treason is impossible under the laws of the United States as they now stand. Without an express act making a conviction and sentence and execution for treason an attainder of treason, there is no attainder of treason in the United States; and there is no such law here.

By the common law of England, after there is a

sentence of execution, or a final sentence, for treason, an attainder is worked, not by the act itself of the sentence of death, but by the common law. In the United States there is no common law. I need not say to lawyers in the House that so far as the United States Government is concerned crime is only by positive enactment, and there is no crime at common law punishable under the laws of the United States. Therefore, as there is no common law the sentence and conviction for treason works no attainder. It cannot be. It is impossible. And although the clause in the Constitution provides against a positive act of that kind by Congress, yet it has never taken place; and to talk about what can be done under an attainder for treason is not understanding the subject in a legal point of view.

It is, however, essential to ascertain what relation the seceded States bear to the United States, that we may know how to deal with them in re-establishing the national Government. There seems to be great confusion of ideas and diversity of opinion on that subject. Some think that those States are still in the Union and entitled to the protection of the Constitution and laws of the United States, and that, notwithstanding all they have done, may at any time, without any legislation, come back, send Senators and Representatives to Congress, and enjoy all the privileges and immunities of loyal members of the United States. That whenever those "wayward sisters" choose to abandon their frivolities and present themselves at the door of the Union and demand admission, we must receive them with open arms and throw over them the protecting shield of the Union, of which it is said they had never ceased to be members. Others hold that, having committed treason, renounced their allegiance to the Union, discarded its Constitution and laws, organized a distinct and hostile government, and by force of arms having risen from the condition of insurgents to the position of an independent Power *de facto*, and having been acknowledged as a belligerent both by foreign nations and our own Government, the Constitution and laws of the Union are abrogated so far as they are concerned, and that, as between the two belligerents, they are under the laws of war and the laws of nations alone, and that whichever Power conquers may treat the vanquished as conquered provinces, and may impose upon them such conditions and laws as it may deem best.

It is obvious that this question is of vast importance. If the first position should be established, then the rebel States, after having been conquered and reduced to utter helplessness through the expenditure of many billions of money and the shedding of oceans of loyal blood, may lay down their arms, which they can no longer wield, claim to be legitimate members of the Union, send Senators and Representatives to Congress, retain all their lands and possessions, and leave the loyal States burdened with an immense debt, with no indemnity for their sufferings and damages, and with no security for the future.

If the latter proposition prevails, then Congress will readjust the Government on the firm basis of individual and public justice; will protect the innocent and pardon the least guilty; will punish the leading traitors; seize their lands and estates; sell them in fee simple; pay the proceeds into the national Treasury to discharge the expenses and damages of the war, and provide a permanent fund for pensions to the widows and orphans and the maimed and mangled survivors of this infamous war; and, above all, will forever exclude the infernal cause of this rebellion—human bondage—from the continent of North America.

In order rightly to determine this question we must inquire whether the "confederate States" are to be considered as a hostile people, entitled to no other protection or privileges than are due to foreign nations at war with each other. Is the present contest to be regarded as a *public war*, and to be governed by the rules of civilized warfare, or only as a domestic insurrection, to be suppressed by criminal prosecutions before the courts of the country? If the latter, then the insurgents when proceeded against have a right to invoke the protection of the Constitution and municipal laws. If the former, then they are subject to the laws of war alone.

Another important question is, is this war waged by States in their corporate capacity, or is

it merely a treasonable outbreak by guilty individuals?

Vattel, pages 424, 425, says:

"When in a republic the nation is divided into two opposite factions, and both sides take up arms, this is called a civil war." "The sovereign indeed never fails to bestow the appellation of *rebels* on all such of his subjects as openly resist him; but when the latter have acquired sufficient strength to give him effectual opposition, and oblige him to carry on the war against them according to the established rules, he must necessarily submit to the use of the term 'civil war.'"

"On earth they have no common superior. They stand precisely in the same predicament as two nations who engage in a contest, and, being unable to come to an agreement, have recourse to arms."

When an insurrection becomes sufficiently formidable to entitle the party to belligerent rights, it places the contending Powers on precisely the same footing as foreign nations at war with each other. For all the consequences of war, of combat, and of conquest they are foreign nations. Judge Grier, in a most able, lucid, and conclusive opinion delivered in the prize cases, says:

"The parties belligerent in a public war are independent nations."

No one acquainted with the magnitude of this contest can deny to it the character of a *civil war*. For nearly three years the confederate States have maintained their declaration of independence by force of arms. True, they have met with sad defeats. But success has not been all on one side. But what renders their position beyond controversy is, the great Powers of Europe have acknowledged them as belligerents, entitled from foreign nations to equal rights with the parent Government. What is still more conclusive, we have acknowledged them as belligerents ourselves. With unfortunate haste we blockaded their ports. A blockade is declared only against a foreign nation. If they were still members of the Union we should repeal the laws granting ports of entry. A nation does not blockade itself. We have treated their captive soldiers as prisoners of war, not as rebels; we have exchanged prisoners; we have sent and received flags of truce. This is not the usage awarded to an unorganized banditti.

What, then, is the effect of this public war between these belligerent, these *foreign nations*? Before this war the parties were bound together by a compact, by a treaty called a "Constitution." They acknowledged the validity of municipal laws mutually binding on each. This war has cut asunder all these ligaments, abrogated all these obligations.

"The conventions, the treaties made with a nation, are broken or annulled by a war arising between the contending parties."—Vattel, Book 3, chap. 10, sec. 125.

Phillimore says, page 662:

"It was at one time an international custom that the belligerents should, at the breaking out of the war, make a public and solemn proclamation that the obligation of treaties between them had ceased. That custom has become obsolete. In the place of it has arisen the general maxim that war, *ipso facto*, abrogates treaties between the belligerents."

Chancellor Kent says:

"As a general rule, the obligations of treaties are dissipated by hostility."—1 Kent, 175.

Professor Lieber, the most learned of living publicists, in a communication to Major General Halleck, containing instructions for the government of our armies, which were revised by a board of officers and approved of by the President, treats the rebel States as subject to martial law only, and not subject to the municipal laws of the United States or to the Constitution. On page 8 he says:

"All municipal law of the ground on which the armies stand or of the countries to which they belong is silent and of no effect between armies in the field."

Hence he declares the slaves free, and not to be reenslaved, *passim*.

The Supreme Court of the United States (in *Hilton vs. Jones*, Dalt., 224) lays down the same doctrine. It decided that the revolted provinces of America, by the Declaration of Independence, the formation of a government, and supporting it by arms, became an independent foreign nation in 1776. Years before their independence was acknowledged by any other nation, courts applied the law of prize to them as to other foreign nations. Sergeant Wildman (page 8) says:

"The primary effect of war is to extinguish all civil intercourse, and to place all the subjects of belligerents in the condition of enemies. This principle extends not only to the natural-born subjects; but to all persons domiciled in the enemy's territories; to all who come to reside there with

knowledge of the war; and who have come to reside before the war continued their residence after the commencement of hostilities for a longer time than is necessary for their convenient departure."

But it is said that this must be considered a contest with rebel individuals only, as States in the Union cannot make war. That is true so long as they remain in the Union. But they claim to be out of the Union; and the very fact that we have admitted them to be in a state of war, to be belligerents, shows that they are no longer in the Union, and that they are waging war in their corporate capacity under the corporate name of the "confederate States," and that such major corporation is composed of minor corporations called States, acting in their associated character. It is idle to say that townships and counties and parishes within such States are at peace while the States by acknowledged majorities have declared war. It is still more idle to say that individuals within the belligerent territory, because they were opposed to secession, and were loyal to the parent Government, are *the State*, though comprising but five per cent. of the people, and hence that the States are not at war. This is ignoring the fundamental principle of democratic republics, which is that majorities must rule, that the voice of the majority, however wicked and abandoned, is the law of the State. If the minority choose to stay within the misgoverned territory, they are its citizens and subject to its conditions. The innocence of individuals forms no protection (except in a personal point of view) to those residing in a hostile territory.

Vattel, page 311, says:

"When the sovereign or ruler of a State declares war against another sovereign, it is understood that the whole nation declares war against another nation. Hence the two nations are enemies, and all the subjects of the one are enemies of all the subjects of the other. Since women and children are subjects of the State and members of the nation, they are to be ranked in the class of enemies."

Even the innocence of women and children does not screen them from the fate of their nation. True, in dealing with them personally, great difference is made between the innocent and the guilty. But how can it be said that the States are not at war? Individuals do not make war. Individuals may take life, but they cannot make war. They cannot be recognized as belligerents. War is made by chartered or corporate communities, by nations or States.

Phillimore, volume three, page 101, section sixty-nine, says:

"Nevertheless, as war is the conflict of societies, that is, of corporate bodies recognizing and governed by law in all their actions," &c.

On page 100, section sixty-eight, he says:

"A war between private individuals, who are members of a society, cannot exist. The use of force in such a case is a trespass or violation of municipal law, and not war."

The Supreme Court of the United States, in the prize cases decided at its last session, says:

"Hence, in organizing this rebellion, they have acted as States claiming to be sovereign over all persons and property within their respective limits, and asserting a right to absolve their citizens from their allegiance to the Federal Government."

Mr. SMITH. I do not exactly understand the position of the gentleman, nor do I know that the question which I propose to ask will cause any difference in the result at which the gentleman arrives; but from the remarks already made by him I desire to ask him this question: whether he takes the ground that a State, and not the individuals of a State, commits the crime of treason against the Government of the United States?

Mr. STEVENS. I take the ground, sir, that when you cannot punish them as traitors you can make war with them as belligerents. It is not a question of punishing under the Constitution, but outside of it. These men are enemies, and we are treating them as enemies; and I have no doubt that, as States, they are at war with us.

Mr. SMITH. The question that I mean to put directly, if the gentleman will allow me, is this: whether the Government has power to punish a State in its corporate capacity, and not the citizens of a State as individuals?

Mr. STEVENS. I mean to say that if a State, as a State, makes war upon the Government and becomes a belligerent power we treat it as a foreign nation; and when we conquer it we treat it just as we do any other foreign nation. That is my position, very distinctly.

Mr. SMITH. I understand the rule of law to be that a corporation has neither body nor soul;

and therefore I would like to ask the question whether we can punish a State which, as a corporation, has neither body nor soul?

Mr. STEVENS. If the gentleman be right, how then could we punish Great Britain when we make war upon her? If she has no soul to be damned, she certainly has a body to be lost. [Laughter.] When we conquer her we shall take good care, let me tell the gentleman, that she shall be properly punished, if we have any regard for our people at all.

Mr. BLISS. I ask the gentleman from Pennsylvania, if the seceded States are foreign governments, what right we have to adjudicate upon their private property.

Mr. STEVENS. When we seize it as the property of enemies during a war we have a right to take it.

Mr. BLISS. And hold jurisdiction over the soil of a foreign country?

Mr. STEVENS. That is what I should call amphibious action, which the gentleman will understand from my remarks.

"All persons residing within this territory whose property may be used to increase the revenues of the hostile Power, are in this contest liable to be treated as enemies, though not foreigners."

This seems to me to settle the question. This may work a hardship on loyal men opposed to the war. But to escape the condition of enemies they must change their domicile—leave the hostile State; for I again repeat there can be no neutrals in a hostile State. As the United States are at war with an acknowledged belligerent, with a foreign nation, and as such war has abrogated all former compacts existing between them, neither the United States nor the confederate States can, as against the other, claim the aid of the Constitution or the laws passed under it. If they still exist, the slaveholder of South Carolina might claim the aid of the fugitive slave law to regain his absconded slave. So General Barksdale with others was murdered, because he was shot down without being tried and condemned according to the provisions of the Constitution.

By the law of nations, the captain and crew of a vessel are supposed to be standing on the soil of the nation whose flag the ship bears, although in distant seas. Those armed vessels that belong to no nation and make war are pirates. The Alabama and its fellows are not treated as pirates, and must therefore belong to an acknowledged nation. That nation is the confederate States. But if the territory of the confederate States is our territory, then he who treads the deck of the Alabama or Florida stands on our soil, and, plundering on the high seas, is a pirate. We do not so treat them until we have conquered the country held by the confederate States. Covered by the confederate flag, it is foreign country. When we do conquer it, it is a conquered country. Any other principle would render all our conduct inconsistent and anomalous.

If the rebel States are still in the Union I see no reason why they should not elect the next President of the United States. Any number of them might meet and choose electors, who might cast their votes for President and Vice President, and demand that they should be counted by Congress. Or if the rebels decline to vote, then a hundred loyal men, "*who are the State*," might meet and choose electors. The few loyal men around Fortress Monroe, or Norfolk, or Alexandria, and a few cleansed patches in Louisiana, being one thousandth part of the States, might choose electors for their whole States.

The idea that the loyal citizens, though few, *are the State*, and in State municipalities may overrule and govern the disloyal millions, I have not been able to comprehend. If ten men sit to save Sodom can elect a Governor and other State officers for and against the eleven hundred thousand Sodomites in Virginia, then the democratic doctrine that the majority shall rule is discarded and dangerously ignored. When the doctrine that the *quality* and not the *number* of voters is to decide the right to govern, then we have no longer a republic, but the worst form of despotism. The saints are the salt of the earth; but the "salt of the earth" do not carry elections and make Governors and Presidents. Within the State of South Carolina a rebel's vote weighs just as much as a loyal voter's. We may conquer rebels and hold them in subjection, and legislate for them as a conquered people;

but it is mere mockery to say that, according to any principle of popular government yet established, a title of the resident inhabitants of an organized State can change its form and carry on government because they are more holy or more loyal than the others.

From all this the legitimate conclusion is, that all the people and all the territory within the limits of the organized States which, by a legitimate majority of their citizens, renounced the Constitution, took their States out of the Union, and made war upon the Government, are, so far as they are concerned, subject to the laws of the State; and, so far as the United States Government is concerned, subject to the laws of war and of nations, both while the war continues and when it shall be ended.

If the United States succeed, how may she treat the vanquished belligerent? Must she treat her precisely as if she had always been at peace? If so, then this war on the part of the United States has been not only a foolish but a very wicked one. But there is no such absurd principle to restrain the hands of the injured victor.

By the laws of war the conqueror may seize and convert to his own use everything that belongs to the enemy. This may be done while the war is raging to weaken the enemy, and when it is ended the things seized may be retained to pay the expenses of the war and the damages caused by it. Towns, cities, and provinces may be held as a punishment for an unjust war, and as security against future aggressions. The property thus taken is not confiscated under the Constitution after conviction for treason, but is held by virtue of the laws of war. No individual crime need be proved against the owners. The fact of being a belligerent enemy carries the forfeiture with it. Here was the error of the President when he vetoed the confiscation bill passed by Congress. In the confusion of business he overlooked the distinction between a traitor and a belligerent enemy.

Vattel, page 125, says:

"Everything, therefore, which belongs to the nation, to the state, to the sovereign, to the subjects of whatever age or sex—everything of that kind, I say, falls under the description of things belonging to the enemy. As to landed estate, property of this kind does not cease to be enemy's property, though possessed by a neutral foreigner, since the owner is resident in the hostile country." "We have a right to deprive our enemy of his possession of everything which may augment his strength and enable him to make war." (Page 364.) "In fine, we seize on the enemy's towns, his provinces," &c.

I am aware that a respectable judge has denied this doctrine because he says, "*No nation ever makes such conquest of its own territory.*" This is assuming a fact which does not exist. The moment a Power becomes an acknowledged belligerent, it is politically the owner of all the territory within the acknowledged limits of the hostile Power. All the lands and towns and people within such boundary, so far as the contending parties are concerned, belong to the belligerent so far as the application of the laws of war and of nations touches them. The court in the prize cases says:

"It is no loose, unorganized insurrection, having no defined boundary or possession. It has a boundary marked by lines of bayonets, and which can be crossed only by force. South of this line is enemy's territory, because it is claimed and held in possession by an organized hostile and belligerent power."

The same judge just referred to very inconsistently condemned as lawful prize a rebel vessel captured by one of our vessels. Why did he not say, "This property cannot be held, it belonged to one of our citizens; and no nation ever captures the property of its own citizens?" Suppose the rebels should conquer Maryland as we have Tennessee, and the parties should mutually agree to cease hostilities, would not Maryland belong to the confederate States and Tennessee to the United States? By the laws of war, when peace ensues without any stipulation as to territory, each one maintains the *uti possidetis*. Does not this show that when we conquer a seceded State we take it as hostile territory and not as our own? The confederate States cannot be a foreign nation for one purpose and not for all—for the purpose of claiming all the protection of a belligerent under the law of nations and yet not incurring any of its penalties. This would be showing a remarkable advantage to a belligerent made up of traitors and rebels over an honorable foreign nation with whom we were unfortunately at war. This would be as unjust as absurd.

Suppose the confederate States should conquer the United States, could we claim the benefit of the Constitution of the United States and laws made under it? Would they not have a right to hold us as conquered provinces, and dispose of us as they might deem best? Certainly such is the law of nations. And yet conservative gentlemen, with some smattering of knowledge, ignore the doctrine of mutuality and deny us the same rights!

How did England deal with her rebels in the great mutiny in India? When she reconquered "*her own territory*" she declared

"That their engagements had been canceled by the rebellion, and that the proprietary right in the soil was confiscated to the British Government, which would dispose of that right in such manner as to it might seem fitting."

To my mind there can be no doubt as to what we have a right to do if, as I will not permit myself to doubt, we should finally conquer the confederate States. What it will be policy to do may be more difficult to determine. My mind is fixed. The rebels have waged the most unjust, cruel, and causeless war that was ever prosecuted by ruthless murderers and pirates. They have compelled the Government in self-defense to expend billions of money. Every inch of the soil of the guilty portion of this usurping power should be held responsible to reimburse all the costs of the war; to pay all the damages to private property of loyal men; and to create an ample fund to pay pensions to wounded soldiers and to the bereaved friends of the slain. Who will object to this? Who will consent that his constituents and their posterity shall be burdened with an immense load caused by these bloody traitors? Their lands if sold in fee would produce enough for all these purposes, and leave a large surplus. Such confiscation of course would spare the property of those who took no part in the war, and of the common soldiers, who were compelled by the laws of their States to enter the army.

All this done, and yet the half would be left undone. Oppressive as would be the debt and grievous the loss of our loyal citizens, yet if an honorable and safe peace were made our free and prosperous people would bear it without a murmur. But if a disgraceful peace were made, leaving the cause of this rebellion, and the fruitful cause of future wars, untouched and living, its authors would be the objects of the deepest execration and of the blackest infamy. While the Constitution protected the institution of slavery very few desired to disturb it in the States. There were not three thousand abolitionists, properly so called, in the United States. But since those States have voluntarily thrown off that protection, and placed themselves under the law of nations alone, it is not only our right but our duty to knock off every shackle from every limb. So far as other nations are concerned, there is not a slave in the confederate States. As we have seen, the law of nations fixes their condition. By that law no man can hold property in man.

Phillimore (1, page 316, chapter seventeen) says:

"There is a kind of property which it is equally unlawful for States or individuals to possess—property in man."

"A being endowed with intellect, passion, and conscience cannot be acquired and alienated, bought and sold by his fellow beings, like an inanimate or an unreflecting and irresponsible thing."

"The Christian world has slowly but irrevocably arrived at the attainment of this great truth; and its sound has gone out into all lands, and its voice into the ends of the world."

"The black man is no more capable of being a chattel than the white man."

Such, thank God, is at last the national law of the civilized world. And who is there base enough in this Republic to wish it otherwise or to attempt to evade it? He who now wishes to reestablish "*the Union as it was*" and to retain the "*Constitution as it is*" cannot escape the guilt of attempting to enslave his fellow-men.

But something more must be done than to declare all men free in the rebel States. Supposing them now to be conquered, until some legislation by the conqueror takes place among themselves, their old laws and institutions will remain. Until we declare otherwise, slavery will be among their municipal laws, and will bind them in their intercourse with each other. Even if you were to liberate every slave now and then readmit them into the Union as free States, the moment they had acquired that standing they would reestablish slavery and enslave every man of color within their limits. You can prevent this only by amending the Constitution of the United States, pro-

hibiting slavery forever in this Republic. "*The Union as it was* and the Constitution as it is" is an atrocious idea; it is man-stealing.

There is a class of very respectable men whose vocation and habitual reverence for the Union compel them *openly* to condemn secession, and yet whose arguments, and opposition to all effectual means for its suppression, show that their whole souls and secret yearnings are with the rebels. They are laboring hard to establish principles which, when the traitors are subdued, will remit them both as States and individuals to all their ancient rights and privileges; to the right to enter Congress and control our councils. To this end, mistaking the argument, they contend that the war has not abolished State governments. I observe that a very excellent Republican member of the last Congress from Ohio is cited as holding that the rebellion has not destroyed State governments. I have never supposed that it did. On the other hand I believe the State governments in the rebel States to be as perfect now as before the rebellion. But that proves what these conservative gentlemen would wish to avoid, that being subsisting States, capable of corporate action, they have as States changed their allegiance from the United States to the confederate States; and that all the inhabitants of such hostile corporations have forfeited all rights under the Constitution which they have renounced; and that they are forever estopped from claiming the "*Union as it was*." It is indeed true that the United States may give them those rights if it choose, but they cannot claim them. Nor do I contend that the rebellion has abolished slavery so far as it respects the citizens of the rebel States. Over them the State laws have full power until changed by the conqueror. But as to all the rest of the world, as to the United States and foreign nations, there is no law, no rule of international action which requires them to respect the slave laws of the States. Foreign nations never were thus bound, and have never so regarded them. A slave escaping from South Carolina to Canada, or Jamaica, is free; and there is no comity of nations which requires his return to his master. Were it not for a single provision of the Constitution every State of the Union would have been on the same footing as foreign nations. That provision, thank God, is now dead—killed by the traitors themselves. All this struggle by calm and dignified and moderate patriots; all this clamor against radicals; all this cry of "*the Union as it was* and the Constitution as it is," is but a persistent effort to reestablish slavery, and to rivet anew and forever the chains of bondage on the limbs of immortal beings. May the God of justice thwart their designs and paralyze their wicked efforts!

I pray gentlemen to consider that any other doctrine than this will fatally hamper them when they come to reestablish this Government.

To gentlemen who were members of the last Congress this is but repetition. At the extra session of 1861 I advanced the same suggestions; and I have repeated them on all occasions that I deemed proper since. They were not then quite acceptable to either side of the House. But I am glad to find that the President, after careful examination, has come to the same conclusion. In details we may not quite agree; but his plan of reconstruction assumes the same general grounds. It proposes to treat the rebel territory as a conqueror alone would treat it. His plan is wholly outside of and unknown to the Constitution. But it is within the legitimate province of the laws of war. His legal mind has carefully studied the law of nations and reached a just conclusion.

The condition of the rebel States having been thus fixed, reconstruction becomes an easier question, because we are untrammelled by municipal compacts and laws—that refuge of conservative sympathizers with our "erring brethren." The President may not strike as direct a blow with a battering-ram against this Babel as some impetuous gentlemen would desire; but with his usual shrewdness and caution he is picking out the mortar from the joints until eventually the whole tower will fall.

When the free North shall be united, when that odious party which is inspired by the love of slavery alone shall have sunk into utter contempt and be despised of all men, then will the traitors' hearts sink within them; then will the brave freemen of the North, aided by persecuted loyal men

of the South, bear aloft the banner of the Union from the lakes to the Gulf of Mexico, and from the Atlantic to the Pacific ocean.

Having crushed into atoms the ephemeral empire whose corner-stone was slavery, they will establish a united and enduring nation on the solid foundation of universal freedom. Such a nation, possessing the most fertile soil and every variety of climate, will soon abound with untold riches, and will swarm with millions of just, intelligent, and brave freemen, who will bid defiance to all the despots of the earth.

ENROLLMENT BILL.

Mr. FERNANDO WOOD obtained the floor, but yielded to

Mr. SCHENCK, who, by unanimous consent, moved that the Senate bill to amend the "Act for enrolling and calling out the national forces, and for other purposes," be taken from the Speaker's table, referred to the Committee on Military Affairs, and ordered to be printed.

RECORDING A VOTE.

Mr. WHALEY, by unanimous consent, recorded his vote in favor of the internal revenue bill.

BOUNTY.

Mr. WARD, by unanimous consent, introduced a bill that every non-commissioned officer, private, or other person who has been or shall hereafter be honorably discharged from the Army of the United States within two years from the date of their enlistment, by reason of the expiration of term of service, consolidation of any regiment, battalion, or company, from disease contracted in the service, or other cause, shall be entitled to receive the same bounty as is granted or may be granted to the same class of persons who are discharged after a service of two years; and that all acts and parts of acts inconsistent herewith are hereby repealed; which was read a first and second time, and referred to the Committee on Military Affairs.

DONATION OF LANDS.

Mr. LONGYEAR submitted a joint resolution of the Legislature of Michigan, asking for a donation of public lands to endow a female college; which was referred to the Committee on Public Lands.

And then, on motion of Mr. PENDLETON, (at five minutes to five o'clock, p. m.) the House adjourned.

IN SENATE.

Monday, January 25, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Thursday last was read and approved.

The Hon. WILLIAM A. RICHARDSON, of Illinois, appeared in his seat.

PETITIONS AND MEMORIALS.

Mr. POWELL. Mr. President, I have a memorial signed by Messrs. W. A. Dudley, Nat. Wolfe, R. K. White, J. H. Harney, W. F. Bullock, Josh. F. Bullitt, and R. C. Palmer, addressed to the Congress of the United States. It is a memorial concerning elections in Kentucky. I ask that it be received and referred to the Committee on Military Affairs and the Militia, who have charge of the bill I had the honor to introduce in relation to military interference with elections.

The memorial was so referred.

Mr. GRIMES presented a petition of citizens of Washington city, praying for a charter for a street railroad along H and I streets, to such company as offer to lay a track and run cars thereon; which was referred to the Committee on the District of Columbia.

Mr. JOHNSON. I present the petition of A. R. Davis, of Montgomery county, Maryland, stating that several of his servants or slaves absconded from him and came to the city of Washington, and were here at the time the act was passed and executed compensating slaveholders in the District; and praying that a law may be passed to include him in the provisions of that act, or that such other remedy may be given him as is necessary. I move its reference to the Committee on the District of Columbia.

The motion was agreed to.

Mr. JOHNSON presented the petition of Ellen M. Abert, widow of Colonel J. J. Abert, late chief of the corps of topographical engineers of the United States Army, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of Henry Roy de la Reintrie, praying for compensation for his services in exposing the fraudulent claims of José Y. Limantour to lands in San Francisco and adjacent islands of California; which was referred to the Committee on Claims.

Mr. MORGAN presented the petition of Charles Goodyear, jr., executor, praying for the extension of letters patent granted to Charles Goodyear, deceased, for the invention of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print a memorial of the Chamber of Commerce of Milwaukee, Wisconsin, praying that such action may be taken as shall result in securing a new treaty between the United States and Great Britain founded upon the principles of reciprocity between the two Governments and the people of both countries, asked to be discharged from its further consideration; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a message of the President of the United States, communicating a report of the Secretary of State, in answer to a resolution of the Senate of the 11th of March, 1863, calling for information in relation to the number of persons in the service of the Government, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred resolutions submitted by Mr. DAVIS on the 5th instant, relative to the nature and powers of the Government and the respective powers and duties of Congress and the President of the United States, asked to be discharged from their further consideration; which was agreed to.

Mr. FOSTER, from the Committee on the Judiciary, to whom was referred a bill (S. No. 20) for the relief of justices of the Supreme Court of the United States in cases therein described, reported adversely thereon.

Mr. CHANDLER, from the Committee on Commerce, to whom were referred a memorial of citizens of Parkersburg, West Virginia, and a memorial of citizens of Ohio, praying that Parkersburg may be made a port of delivery, reported a bill (S. No. 69) to constitute Parkersburg, in the State of West Virginia, a port of delivery; which was read, and passed to a second reading.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 70) to enable the accounting officers of the Treasury to settle the claim of the State of Kansas; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 71) to authorize a loan on the security of the public lands of the United States, and to promote the sale and settlement of the same; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 72) supplementary to an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862; which was read twice by its title.

Mr. JOHNSON. I ask for the reading of the bill.

The Secretary read the bill. It provides that no person, after the date of its passage, shall be admitted to the bar of the Supreme Court of the United States, or of any circuit or district court of the United States, or of the Court of Claims, as an attorney or counselor of such court, or shall be allowed to appear and be heard in any such court by virtue of any previous admission or any special power of attorney, unless he shall have first taken and subscribed the oath prescribed in "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, according to the forms and in the manner in that act

provided. The oath so taken and subscribed is to be preserved among the files of such court; and any person who shall falsely take the oath is to be guilty of perjury, and on conviction to be liable to the pains and penalties of perjury, and the additional pains and penalties in the act of July 2, 1862, provided.

The bill was referred to the Committee on the Judiciary, and ordered to be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WADE, it was

Ordered, That the petition and other papers in the case of Richard Fitch, praying for bounty land, be taken from the files of the Senate and referred to the Committee on Private Land Claims.

On motion of Mr. LANE, of Kansas, it was

Ordered, That the petition and other papers in the case of the heirs of John Denman and George Townley be taken from the files of the Senate and referred to the Committee on Revolutionary Claims.

MILITARY INTERFERENCE WITH ELECTIONS.

Mr. POWELL submitted the following resolution:

Resolved, That the Secretary of War be directed to transmit to the Senate all orders or proclamations in his Department concerning elections, issued by military authority, in the States of Kentucky, Missouri, Maryland, and Delaware.

Mr. WILSON. Let it lie over until to-morrow. The VICE PRESIDENT. Objection being made, it lies over under the rules.

ORDNANCE FOR FORTIFICATIONS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the committee on the conduct of the war be instructed to inquire into the character and efficiency of the heavy ordnance now provided for the armament of fortifications, the mode of fabrication, the amount of "royalty" paid and to whom for the use of a "patent" in the manufacture, the tests to which these guns are subjected when received into service, the reasons for believing the tests satisfactory, what proportion of our sea and land armaments is of rifled ordnance, when rifled guns were introduced, and the cause of the delay pertaining thereto.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had appointed Mr. DANIEL W. GOOCH of Massachusetts, Mr. GEORGE W. JULIAN of Indiana, Mr. MOSES F. ODELL of New York, and Mr. BENJAMIN F. LOAN of Missouri, members on the part of the House of the joint committee on the conduct and expenditures of the war.

The message also announced that the House of Representatives had passed a bill (No. 122) to increase the internal revenue, and for other purposes; in which it requested the concurrence of the Senate.

PROPOSED EXPULSION OF MR. DAVIS.

Mr. TRUMBULL. Mr. President, the Committee on the Judiciary, to whom was referred the resolution offered by the Senator from Massachusetts [Mr. WILSON] for the expulsion of Hon. GARRETT DAVIS, a Senator from Kentucky, have instructed me to report it back, and to ask to be discharged from its further consideration.

The report was agreed to.

Mr. DAVIS. I presume that it will be the pleasure of the Senate to continue to-day the debate upon the subject that was up when it last adjourned, and to finish that subject. I do not desire to interfere with that debate. I therefore move to make the resolution offered by the Senator from Massachusetts for my expulsion the special order for to-morrow at one o'clock.

The VICE PRESIDENT. The Senator from Kentucky moves to postpone all prior orders for the purpose of proceeding to the consideration of the resolution indicated by him.

The motion was agreed to.

The VICE PRESIDENT. The resolution is now before the Senate, and the Senator from Kentucky moves to postpone its further consideration until one o'clock to-morrow, and make it the special order for that time.

The motion was agreed to.

COURTS IN WEST TENNESSEE.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 65) to change the place of holding the circuit and district courts of the United States for the

district of West Tennessee, and for other purposes, have instructed me to report it back without amendment, and with a recommendation that it pass. I ask the unanimous consent of the Senate to consider the bill now. It merely provides for changing the place of holding the courts in the western district of Tennessee from an interior town to Memphis.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs that hereafter the circuit and district courts of the United States for the district of West Tennessee shall be holden at the city of Memphis on the first Monday in March and the first Monday in September of each year, and at no other place. All process, civil and criminal, which may have been or hereafter may be issued, returnable to those courts, at Jackson or Huntingdon, is to be returned to them, respectively, at the city of Memphis; and all books and records of every kind, pertaining to those courts, are to be transferred from the places where they have heretofore been held to the city of Memphis.

The judges of the United States circuit court, and of the United States district court for the several districts of Tennessee, may, whenever in their opinion the public interests require it, appoint special terms of their respective courts at Knoxville, Nashville, and Memphis, to be holden at such time as they shall deem most conducive to the public good. Notice of each special term appointed under the provisions of this act is to be published in at least one newspaper printed in the town or city in which a term is to be held, for four consecutive weeks.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THE NAVY DEPARTMENT.

Mr. HALE. I submitted a few days ago a resolution, which was laid over, asking for some investigation in regard to the Navy Department. I desire now to call up that resolution, and I have some statements to make and an amendment to propose to it.

The VICE PRESIDENT. The resolution offered by the Senator from New Hampshire is now before the Senate in its regular order, and it will be read.

The Secretary read the following resolution, submitted by Mr. HALE on the 8th of January:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the present condition of the Navy, the efficiency of the steam engines lately constructed and now being constructed for the use of the Navy, the mode and manner of procuring supplies for the Navy, and the conduct of the Department generally; and that they have power to send for persons and papers.

Mr. HALE. I want to make a few statements to the Senate which I think will satisfy them of the necessity and propriety of instituting some of these inquiries. It will be seen by the estimates of expenses, that we are called upon to appropriate this year \$142,000,000 for naval purposes. This sum is large or small by comparison. I have been at some pains to look at the naval expenditures of the civilized world, as they have been furnished me by one of our assistant librarians. I find that the naval expenditures of Great Britain during the year 1862 were \$59,492,940; of France for 1863, as voted by the *Corps Legislatif*, \$30,000,000; of Spain for 1862-63, \$19,421,617; of Russia for 1862, \$15,442,373; of Austria per budget of 1863, \$5,314,000; of the Netherlands for 1862, \$3,633,436; of Sweden for 1863, \$3,503,406; of Prussia for 1862, \$1,489,260; of Portugal for 1862-63, \$111,660. These sums are given in dollars, and they comprise the naval expenditures of all the civilized nations of the world, with the exception of Italy and Denmark. Italy and Denmark publish no naval expenses separate from the general war expenses; but the expenses of the civilized world for a year, taking sometimes 1862, and sometimes 1862 and 1863, and sometimes 1863, as they are given, amount in gross to \$138,318,692, so that we are called upon to spend this year some four million dollars more than all the rest of the world with the exception of Italy and Denmark.

It may be said, and said with truth, that these are expenditures in time of peace. I have been at some pains to look over the expenditures of England and France in the gigantic struggle of the Crimean war. That war was declared on the 27th of March, 1854, and the Crimea was evacuated by

the allies July 12, 1857, lasting a little more than three years and five months. The total naval expenditures of Great Britain during the war were \$262,032,210, and of France \$87,877,578, making a total of \$349,909,788 for the whole naval expenses of France and England during the Crimean war, which was less than \$100,000,000 a year; so that we are called upon this year to appropriate for our Navy \$40,000,000 more than was spent by the combined nations of France and England in any one year during the Crimean war. I have got these statistics for the purpose of letting the Senate and the country see what we are asked to do.

But, Mr. President, I want to call the attention of my friend from Iowa [Mr. GRIMES] to an explanation which he made of a bill where extravagant prices were paid, and I want to say to him that the explanation which he gave, to my mind is entirely unsatisfactory, and that I am informed by those who pretend to know that in that class of supplies where a thousand per cent. was paid above the market price, there is not a single article that was under the market price, and that will so appear on investigation.

These are matters that I think ought to be inquired into, and there are some other matters that I think ought to be inquired into. I think there is something very singular in regard to the mode of furnishing supplies. But I judge from the manifestations the other day that the Senate are rather averse to making these inquiries, or at least averse to trusting them to the Committee on Naval Affairs. Mr. President, if I ever spoke the truth in all my life, or ever hope to do so, I declare that nothing on earth would relieve me more than that the Senate should take this matter from the Naval Committee and give it to a select committee, and that they should be instructed to make these inquiries.

Mr. President, at the time that we are engaged in the greatest struggle the world has ever seen, and when the subject of our Navy is to my mind one of the most important, if there is an investigation to be had it seems to me that it should be had here, and should not be left to be decided by yachting matches which the Assistant Secretary is challenging the world to get up in the harbors of Boston and New York, as may be seen by the public papers. Upon the suggestion of my friend from Iowa, who has submitted to me an amendment which he is willing to go for, and which I am willing to take if I cannot get anything more, I move that the resolution which I submitted to the Senate be amended by striking out all after the word "that," and inserting what I send to the Chair, which is what was furnished to me by the Senator from Iowa.

Another word before I sit down, and then I shall not trouble the Senate. It seemed to be intimate—and especially by my friend from Wisconsin, [Mr. DOOLITTLE,] for whom I have the greatest respect and no other feelings than those of kindness—that these inquiries and these resolutions look to opposition to the Navy Department, and, I believe, to the Administration. Not so, Mr. President. I am not here to-day to make a profession of faith. If the history of my humble life has not classed me it would be idle for me to undertake to do it by any professions now. I was opposed to stealing from the Treasury when it was done by Democrats. I am not in favor of having it done by anybody. I do not say that it is done, but I say there are things that ought to be investigated. Sir, the good Book tells us that Judas Iscariot was a thief and carried the bag that held the contributions which belonged to the twelve disciples in common; and I suppose that if anybody questioned his integrity Judas pronounced him at once a foe of Christ and Christianity. Not so, sir. If there be dishonest practices, if there be defects in the law, if there be anything wrong, all on earth that I ask is that there may be an honest inquiry into it. I believe that the matter of naval supplies especially requires it. In regard to the matter of steam engines, I think an inquiry ought to be made; it is a matter that deeply interests the American people and the American Senate, but I plead guilty to just exactly what my friend from Iowa has done: I feel almost entirely incompetent to investigate that matter; I do not want to investigate it; and if the Senate should send it to the Naval Committee I should not think of taking that investigation upon myself, but should devolve it upon others;

but that is not now before the Senate; this is a question of naval supplies; I accept the amendment which has been suggested to me by the Senator from Iowa.

The VICE PRESIDENT. The proposed amendment submitted by the Senator from New Hampshire will be read.

The Secretary read the amendment, which was to strike out all of the resolution after the word "that," and to insert the following:

A select committee of three be appointed by the Chair to investigate the subject of naval supplies, and that they have power to send for persons and papers and to employ a stenographer.

The amendment was agreed to.

The resolution, as amended, was adopted.

Mr. DOOLITTLE. I will inquire, for information, of the honorable Senator from New Hampshire, if he does not suppose that under this resolution the committee on the general conduct of the war will be relieved in their jurisdiction of so much of the conduct of the war as relates to the Navy. It may give rise to a conflict of jurisdiction between our committees, and they may perhaps be punishing each other for contempt and sending for witnesses.

Mr. HALE. I do not want to express any opinion on the subject, although I have a very decided one.

The VICE PRESIDENT appointed Mr. HALE, Mr. GRIMES, and Mr. BUCKALEW the select committee.

OATH OF OFFICE.

The VICE PRESIDENT. A resolution submitted by the Senator from Kentucky, [Mr. DAVIS,] calling for all correspondence between the authorities of the United States and the rebels in relation to the exchange of prisoners, is now before the Senate in its order.

Mr. SUMNER. I move that that resolution and all prior orders be postponed, and that the Senate proceed to the consideration of the order of the day, the unfinished business of Thursday last.

The motion was agreed to; and the Senate resumed the consideration of the following resolution submitted by Mr. SUMNER on the 17th of December last:

Resolved, That the following be added to the rules of the Senate:

The oath or affirmation prescribed by act of Congress of July 2, 1862, to be taken and subscribed before entering upon the duties of office, shall be taken and subscribed by every Senator in open Senate before entering upon his duties. It shall also be taken and subscribed in the same way by the Secretary of the Senate; but the other officers of the Senate may take and subscribe it in the office of the Secretary.

Mr. SAULSBURY. Mr. President, the question now presented to the Senate for decision derives its importance not so much from any immediate results to follow from that decision as from a consideration of those which may occur in the future. A calm, wise, and just decision now may prevent great difficulty and embarrassment hereafter. If the act of July, 1862, entitled "An act to prescribe an oath of office, and for other purposes," was designed by its supporters to include Senators and Representatives in Congress, I can conceive but one object which they sought by its passage to accomplish, that object being none other than the exclusion in the future of the States now in revolution from a representation in this and the other House of Congress, if happily that revolution should not be permanently successful and the Federal authority should again be acknowledged in the confederate States. Representatives from those States must necessarily be such as those States or their people select in accordance with the forms and spirit of the Constitution; for an appointment by others of representatives in the Senate and House of Representatives from those States would not clothe such appointees with the character of representatives of the States or people, but only with that of agents of the power appointing them. If such was the purpose of the framers and advocates of the act referred to, then indeed would they justly be subject to the charge of being the rankest disunionists, men who, under the pretense of endeavoring to preserve the Union, were really laboring to render reunion impossible. For who, sir, is so inconsiderate, so absolutely ignorant as to suppose that ten million people and thirteen States now in revolt can ever be represented in Congress by any one who has not to some extent been identified with them in

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their efforts of resistance to Federal authority; and who not willfully blind to all those considerations governing human action can suppose that reunion with exclusion from positions of honor, trust, or profit, from all participation in the administration of public affairs of those whose assent to such reunion is necessary first to be had, is possible? The wild theorist, the undisciplined romancer may suppose such a result attainable by war, but he who has studied the philosophy of human action, the motives which win consent or impel resistance, who judges of the future by the past, and who from the history of that past has learned the unconquerable spirit and final triumph of those determined to maintain what they conceive to be their rights, will discard as perfectly illusory such fancies of the disordered brain. Let this Senate judicially determine that no one shall hereafter be a member of the Federal Congress who has in any way aided the existing revolution, and an additional obstacle to the many already unwisely interposed to reunion will be thereby created, and an obstacle which experience will demonstrate to be insuperable while it shall continue to exist. But, sir, I will not discuss the policy or impolicy of the act in reference to the question of reunion or the influence which a just interpretation of its provisions may have upon that result. These suggestions are necessary to relieve honorable Senators who stand in the open doors of the Union synagogue and with widespread phylacteries proclaim their devotion to the principles and purposes of Union, and evidence their sincerity by bitter denunciation of those who refuse to interpose obstacles to reunion by the advocacy of measures which are calculated if not designed to render reunion impossible from an imputation irresistibly conclusive if the act under discussion was designed to include members of the national legislature. The legitimate subjects of inquiry are these: are Senators and Representatives in Congress required by the act of July, 1862, to take the oath therein prescribed, and if so, is such requirement constitutional or unconstitutional? I shall maintain, first, that the act does not apply to Senators, and secondly, if it does so apply, that the act is unconstitutional and void.

The words of the act are:

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service."

No one contends that a Senator holds office in the military or naval department of the public service. Is he elected or appointed to any office of honor or profit under the Government of the United States in the civil department of the public service? If so, he is a civil officer of or under the Government of the United States. Is he such civil officer? I contend that he is not, because he is not elected or appointed by any agency or department of the Government of the United States, but by his State as the representative of the State, in a body representative of States and not of individuals. No power exists in the Government of the United States in any of its departments to fill or to compel the filling by others of the trust or position of a Senator from a State. He whom the Government of the United States cannot elect or appoint, and whose election or appointment it cannot compel, can in no just sense be considered an officer of that Government. The Constitution provides that the Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof for six years. The trust of a Senator is nowhere denominated in the Constitution an office, and he is nowhere in that instrument designated as an officer. He is called a Senator or member of the Senate, and differs from others, as the President and Vice President, in this particular. That he is not regarded as an officer under the Government of the United States is apparent from several provisions of the Constitution. Section six, article one, declares:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office"—

not any other civil office—

"under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office."

The framers of the Constitution meant to make the members of Congress entirely independent of Federal authority, and hence the incompatibility declared between the congressional trust and any civil office under the Federal Government. By section one, article two, of the Constitution, it is provided that—

"No Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector of President or Vice President."

From which it is evident that a Senator or Representative was not intended to be considered as holding an office of trust or profit under the United States. The framers of the Constitution did not employ unnecessary words to convey their meaning. If they meant that a Senator or Representative should be considered as holding an office of trust or profit under the United States, why are they specially named in the provision of the Constitution just read? If they so meant, all that it would have been necessary or proper for them to have declared would have been that "no person holding an office of trust or profit under the United States shall be appointed an elector of President or Vice President." When the Constitution contemplates a public trust as an office it expressly designates it as such. Section one, article two, declares:

"The executive power shall be vested in a President of the United States. He shall hold his office during the term of four years."

Again:

"No person except a natural-born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years."

Again:

"In case of the removal of the President from office, or of his death, resignation, or inability to discharge the duties of the said office, the same shall devolve on the Vice President."

Again, in reference to the President it provides:

"Before he enter on the execution of his office, he shall take the following oath or affirmation: 'I do solemnly swear (or affirm) that I will faithfully execute the office of President.'"

So, also, is the Vice President declared to be an officer. Article twelve of the Amendments to the Constitution provides that—

"No person constitutionally ineligible to the office of President shall be entitled to that of Vice President."

The President and Vice President are officers, but even they are not included in the terms "civil officers," as employed in the Constitution. Section four, article two, of the Constitution declares:

"The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

Speaking of the President and Vice President in this connection, Mr. Justice Story remarks:

"The clause of the Constitution now under consideration does not even allude to consider them officers of the United States. The language of the clause, therefore, would rather lead to the conclusion that they were enumerated as contradistinguished from, rather than as included in, the description of civil officers of the United States."

Holding that civil officers of the United States mean—

"Such as derive their appointment from and under the national Government, and not those persons who, though members of the Government, derive their appointment from the States, or the people of the States,"

Judge Story says:

"In this view the enumeration of the President and Vice President as impeachable officers was indispensable."

Under this clause of the Constitution, and assuming that a Senator was a civil officer under the United States, the House of Representatives, in 1797, did impeach William Blount, a Senator from the State of Tennessee, of high crimes and misdemeanors. It will be observed that by the Con-

stitution the only persons liable to impeachment are the President, Vice President, and all civil officers of the United States. The words of the act of July, 1862, are:

"Any person elected or appointed to any office of honor or profit under the Government of the United States, in the civil department of the public service."

These terms but describe a civil officer, for there cannot possibly be a person elected or appointed to any office of honor or profit under the Government of the United States, in the civil department of the public service, who is not thereby a civil officer of the United States. I thus remark to meet the suggestion of the Senator from Ohio, [Mr. SHERMAN,] incidentally made some days ago, that the words of the act of July, 1862, were not identical with the words of the Constitution in relation to the impeachment of civil officers. The substance is the same, and the pleadings in the case of Blount raised the direct question whether a Senator is a civil officer of the United States. If he was such officer, he might, by the Constitution, be impeached, otherwise he could not be impeached, and the judgment of the Senate sitting as a court of impeachment was rendered directly upon this point, the only matter in issue joined between the United States and the accused. The material part of the plea filed by the attorneys of Blount to the articles of impeachment was—

"That although true it is that he, the said William Blount, was a Senator of the United States from the State of Tennessee at the several periods in the said articles of impeachment referred to, yet that he, the said William, is not now a Senator, and is not, nor was, at the several periods so as aforesaid referred to, a civil officer of the United States."

The replication to the plea declared that—

"The matters therein contained are not sufficient to exempt the said William Blount from answering the said articles of impeachment, because by the Constitution of the United States the House of Representatives had power to prefer the said articles of impeachment, and the Senate have full and the sole power to try the same."

After the case had been fully argued by the managers on the part of the House, and by counsel for the accused, a motion was made to agree to the following resolutions:

"That William Blount was a civil officer of the United States within the meaning of the Constitution of the United States, and therefore liable to be impeached by the House of Representatives. That as the articles of impeachment charge him with high crimes and misdemeanors supposed to have been committed while he was a Senator of the United States, his plea ought to be overruled."

After being debated four days the motion was decided in the negative by a vote of 14 to 11, and judgment was thereupon rendered—

"That the matter alleged in the plea of the defendant is sufficient in law to show that this court ought not to hold jurisdiction of said impeachment, and that the said impeachment is dismissed."

A case thus solemnly adjudged by the Senate in the early history of the Government, that Senate sitting as a court, acting under a special oath and passing upon the very matter in controversy here, might under ordinary and should under all circumstances be regarded as conclusive of the question determined. But I may perhaps be pardoned, considering the times in which we live, times in which nothing in the past is considered as sacred or binding, in which the maxim "stare decisis" is held no longer to apply, and in which innovation, change, destruction, are governing passions, for inviting the attention of this body to a few additional considerations in support of the position that a Senator is not a civil officer of the United States. It is provided in the third section of the second article of the Constitution that the President "shall commission all officers of the United States." Does he, or has he authority to commission a Senator? Certainly not. By the second section of the second article it is provided that he

"Shall nominate, and by and with the advice of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law."

His own appointment or election, as well as that of the Vice President, being in the Constitution otherwise provided for, we see the reason

why they are named specially with all civil officers of the United States in the fourth section of the second article as subject to impeachment and liable to removal from office. Had they not been so specially named, they could not be impeached and removed.

A Senator exercises, executes, performs a trust, not an office. He is elected by the Legislature of his State, clothed with the responsible trust of representing its sovereignty in a body in which sovereignties are alone represented, not appointed by the President, the Federal Government, or any of its Departments to an office under the Government of the United States. He is responsible alone to his State and to the body of which he is a member, but of which he can in no just sense be considered an officer. He may abuse his trust by misrepresenting his State, in which event violated confidence meets its reward in the withdrawal of that confidence by the appointment of a successor, at the proper time, deemed more worthy of being clothed with so responsible a trust. What is an office? It is defined in law to be—

"A right to exercise a public or private employment and to take the fees and emoluments thereunto belonging."

If an officer is excluded from his office the court will award a writ of *mandamus* for his restoration. If another usurps his office the court will award a writ of *quo warranto* against the usurper to compel him to show by what authority he exercises the functions of such office. These are elementary principles in reference to the law applicable to offices, and to all offices properly so called. Will a *mandamus* or *quo warranto* lie in behalf of or be awarded against a Senator or a person claiming to be or assuming to act as such? By no means. The Senate may refuse, arbitrarily refuse, admission into this body to my colleague or any one else, and however well entitled to admission there would be no remedy. The Senate by the Constitution is made the judge of the election and qualification of its own members, and why? Because, being a body representative of sovereignties, composed of those having the confidence of sovereignties, and not of officers of the Federal Government, no court holding appointment under Federal authority shall determine the right of such representative to act for his State in a body independent of its authority and not representing its authority or any other than that of the Government conferring the trust. So essentially do these rights of relief pertain to a civil office under a political or municipal government that I cannot imagine one of such character where they would not or ought not to be afforded by the judicial tribunals of Government. If these remedial rights could not be afforded to the President and Vice President, in case of their denial of office or eviction therefrom, upon which it is unnecessary to express an opinion, the reason and sole reason therefor would be that not being civil officers within the meaning of the Constitution of the United States, but political officers—not officers under the Government of the United States, but constituent portions of the Government—coordinate branches of the Government could not pass upon their rights. Such is the distinction between an office under the Government of the United States and the trust of membership in the Senate conferred by a State.

Mr. Justice Story, in commenting on the fourth section of the second article of the Constitution, says:

"From this clause it appears that the remedy by impeachment is strictly confined to civil officers of the United States, including the President and Vice President."

He also remarks, section seven hundred and ninety-two, that

"All officers of the United States who hold their appointments under the national Government, whether their duties are executive or judicial in the highest or lowest departments of the Government, with the exception of officers in the Army, are properly civil officers within the meaning of the Constitution."

And he assigns, as a probable reason for the decision in Blount's case, that civil officers of the United States meant such as derived their appointment from and under the national Government, and not those persons who, though members of the Government, derived their appointment from the States or the people of the States. Civil officers of the United States are the agents or representatives *quoad* their offices of the United States; but a Senator is the representative of his State, and of his State alone. Says Mr. Justice Story,

"Though they represent States they vote as individuals." It is upon this principle that the Constitution requires that a Senator when elected shall be an inhabitant of the State for which he is chosen. The idea that a Senator in Congress elected by the Legislature of his State, and as the representative of his State, is an officer of the United States or in any "department of the public service," arises from a total misconception of the true nature and character of our system of government. It results from the supposition that that system is in no sense Federal, but wholly national, centralized, consolidated, and excludes the idea of a government uniting both the qualities of national and Federal. Can it be possible that every one holding or exercising a public trust in our complex system of government is an officer of the United States? That the theory from which such a principle is deduced is wholly fallacious will be apparent when the real character of the Government is considered in relation to the foundation on which it is established. In the thirty-eighth number of the Federalist, Mr. Madison remarks:

"It appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that the assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States derived from the supreme authority of the people themselves. The act, therefore, establishing the Constitution will not be a national but a Federal act. That it will be a Federal and not a national act, as those terms are understood by the objectors, the act of the people as forming so many independent States, not as forming one aggregate nation, is obvious from this single consideration, that it is to result neither from the decision of the majority of the people of the Union nor from that of a majority of the States. It must result from the unanimous assent of the several States that are parties to it, differing no otherwise from their ordinary assent than in its being expressed, not by the legislative authority, but by that of the people themselves. Were the people regarded in this transaction as forming one nation, the will of the majority of the whole people of the United States would bind the minority in the same manner as the majority in each State must bind the minority, and the will of the majority must be determined either by a comparison of the individual votes or by considering the will of the majority of the States as evidence of the will of the majority of the people of the United States. Neither of these rules has been adopted. Each State in ratifying the Constitution is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a Federal and not a national Constitution."

Again, he remarks:

"The Senate will derive its power from the States as political and coequal societies, and these will be represented on the principle of equality in the Senate. So far the Government is Federal, not national."

The admission that in some respects the Government is also national and in others partly national and partly Federal, does not affect the proposition asserted by Mr. Madison and known to every one as true who has any correct idea of the foundation of the Federal Constitution, that the "several States are parties to that Constitution" or compact of Government. And yet, sir, we are gravely told that the representatives of the States in their sovereign capacity, parties to that constitutional form of Government, representatives deriving their authority alone from the States they represent, sustain the same relation to the United States that the most obscure tide-waiter who holds position under the subordinates of subordinates in the Federal Administration. The representatives of the sovereignties who are parties to the Federal compact, deriving their authority from those sovereignties alone, and not from the United States, whom the United States can neither make nor unmake, we are told are nothing but "persons elected or appointed to offices under the Government of the United States in the civil department of the public service." The order proposed to be adopted with a view of carrying into practical effect the act of July, 1862, provides for the administration of the proposed oath alike to Senators, your Secretary, whom yesterday you made and to-day can unmake, and that Secretary's subordinates, and that on the assumption that they all sustain the same relation to the United States, that of employees for pay, commonly denominated officers. If such be the case, what ignorant, what unskillful artificers of Government were the framers of the Constitution, the founders of our Federal Government! How unnecessary, how fruitless the strife which had well-nigh dissolved the Convention of 1787, and which well-nigh prevented the formation of the Union, in reference

to the equality of the large and small States as to representation in this body and the mode of ascertaining and appointing that representation. If there was one purpose which more than any other was unalterably fixed in the minds of the members of that Convention, and which they were resolved under no circumstances to relinquish, it was the preservation of the individuality and independence of the several States and the incorporation of those ideas into the organic law uniting the States in a common union of Government, and the very means adopted for the accomplishment of that purpose were the provisions guarantying the equality of senatorial representation and the election of that representation by the Legislatures of the States, representative of the sovereignty of the States. To my mind, in view of the history of the formation of the Constitution, the known opinions of its founders, and its own plain and express provisions, the theory of the advocates of the proposed order and the obligatory character of the act of July 2, 1862, in its attempted application to Senators, is wholly inexplicable.

Mr. President, it is time that this Congress had not only paused in but wholly ceased from its warfare upon the rights of the States and the representatives of the States. The madman may fire the temple which it was the labor of ages to build, and the unreflecting or careless or mischievous legislator or Executive may destroy, forever destroy, the grandest, noblest, best system of Government which the wisest of statesmen, gathering materials from the wisdom of centuries, have been able to construct. The doctrine advocated by the friends of the proposed measure, if it shall become the settled doctrine of those who are now and may hereafter be charged with the administration of the Government, and shall be by them practically applied in the administration of the Government, will, without other causes, work the utter, absolute destruction of our Federal representative system. The immediate fruit of the measure may be apparently harmless; but from the seed it shall yield will spring up the baneful upas which will exhale the odor of political death. Never, in my deliberate judgment, has a measure apparently so harmless yet really more dangerous in principle been attempted in the legislation of Congress. Are we mad? If not, let us evince our sanity by refraining from doing the work of executing the designs of madmen. Such, Mr. President, are some of the reasons which convince me that the act of July, 1862, when legally interpreted, cannot be held to apply to Senators, and consequently why the order proposed should not be made by the Senate.

If, however, Senators are meant to be included in the designation of persons in reference to whom it is sought to make the act obligatory, then I hold as unquestionably true that the act itself is unconstitutional and void. And here I will remark that a strange delusion seems to influence the judgment of some Senators, if we are to judge from their utterances on this floor, that the Senate and House having passed the act of July, 1862, they are bound to execute it while it remains unrepealed, notwithstanding the act itself may be, and if in their judgment it should be, unconstitutional. If Congress has not the constitutional authority to require the oath to be administered, then to require it to be administered would be to do an unconstitutional act, which Congress is sworn not to do. The result of the reasoning of those to whom I have referred, therefore, is that Congress having done an unconstitutional act is bound to be consistent by doing another of the same character. The duty of Congress, sir, is to disregard the act and to repeal it if it be unconstitutional, not to observe and enforce it. There may be consistency in uniformity of wrong-doing, but there is honor and duty in atoning for the wrong already committed and in avoiding its commission in the future. If the act of July, 1862, does *ex vi termini* or by intentment embrace Senators, then it is unconstitutional and void, because it seeks to add by legislation to the constitutional qualifications of a Senator. This cannot be done. The authority of the Constitution is paramount. It is the supreme law of the land. What it requires must be complied with. What it excludes cannot be admitted. The qualifications of a Senator are expressed in the Constitution. Its language is:

"No person shall be a Senator who shall not have at-

tained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen."

Age, citizenship, and inhabitancy in the State at the time of election are the three and only constitutional qualifications of a Senator. Can the Congress add to them? Justice Story, in his Commentaries, writing upon this very question, says, as has been before cited in this debate:

"It would seem but fair reasoning upon the plainest principles of interpretation that when the Constitution established certain qualifications as necessary for office, it meant to exclude all others as prerequisites. From the very nature of such a provision the affirmative of these qualifications would seem to imply a negative of all others. A power to add new qualifications is certainly equivalent to a power to vary them."

Does the act of July, 1862, supposing it to apply to Senators, attempt to prescribe an additional qualification for a Senator? It does, or it is without meaning. That is a qualification for office without which its duties cannot be permitted to be discharged. A person elected to be a Senator and possessing every constitutional qualification to entitle him to discharge the duties of his trust, cannot, if this act is obligatory upon him, even after he has taken the oath to support the Constitution, the only oath required by the Constitution to be taken, enter upon the discharge of his duties as such Senator until he has done something else: that is, taken the additional oath prescribed by the act of July, 1862. Is not the taking that oath then a prerequisite, a condition, a qualification of office, if the trust of a Senator is to be considered an office, without which the person elected cannot be permitted to represent his State in this body? The States, being parties to the contract of union, agreed, by the adoption of the Constitution, to whatever it contains, and to nothing else. They agreed—the people of the States agreed with each other, or, if you prefer the expression on account of any opposition to what may be considered the doctrine of State rights, the people agreed that each State should be represented in the Federal Senate by two members. They agreed that those members should have the three qualifications before referred to, and should swear or affirm to support the Constitution. Upon these conditions, so far as relates to Senators, they agreed to live in union with each other. Did they agree to any other conditions in reference to the qualifications of their Senators, or to any oath of office they should take? If so, those additional conditions or qualifications must necessarily be found in the written Constitution; for it is the only evidence of their agreement. Where are they? Point me to the article and section in which they are contained. They are not there. Whence, then, your authority to impose them? When, where, how have the States made you their agents to agree to new and further terms and conditions of union between them? Where do you derive the authority to say to a sovereign State, you shall not be represented in the Senate of the United States, notwithstanding the agents you select to represent you have every qualification which we ourselves had when admitted as members of the body, and all which we have since had, all the Constitution requires, all which every Senator who sat in the body for seventy-five years had, unless those agents will as a condition precedent to entering upon the discharge of their duties take an oath which we ourselves have not taken, and which is not required by the Constitution to which you are a party? If you can require the oath prescribed in the act of July, 1862, to be taken as a condition precedent to entering upon the discharge of the duties of a Senator, where is the limitation upon your authority either as to the number or character of the oaths which you may prescribe? If the taking of this oath is obligatory, then also would the taking of one that the person claiming a seat in this body had never violated any one of the ten commandments, that he had climbed the Andes, swam the Hellespont, looked into the crater of Vesuvius, split rails in Illinois, or commanded a flatboat on the Mississippi.

It is no answer to say that Congress would never attempt the imposition of such conditions upon membership in this body. The question is not what Congress will do, but what has Congress the constitutional power to do? Upon the supposition that they can impose the oath under consideration they can require far more dangerous ones than any I have named. They can amend this very act so as to make it obligatory upon a Senator to swear

that he voted at the last presidential election for the present Federal Executive, and that he will vote for his reelection; that he had not opposed in any manner the adoption of any measure of public policy advocated by the party in power; and those who shall succeed you, as members of this body, might require that all persons claiming admission as Senators here shall, before entering upon their duties as Senators, swear that they never advocated or approved any measure of policy adopted by this Administration. Thus would a right to a seat on this floor depend, not upon the fixed, determined qualifications prescribed in the Constitution, but upon the whim, caprice, or partisan feeling of those who happened for the time being to be in the majority here. But I will not enlarge upon this branch of the subject. The settled judgment of the statesmen of the country from the formation of the Government to the present time, as evidenced by the absence of any attempt to inaugurate any such system of legislation as that proposed, is conclusive as to its want of constitutional support. No statesman living or dead before the session of 1862 ever countenanced such unwarrantable legislation; no commentator upon the Constitution has ever suggested the possibility of the existence of any such power in Congress; but every one whose views have been expressed on the question has denied the existence of the power. It is in vain to say that by the Constitution each House is the judge of the election and qualifications of its own members. No one denies it. Each House is the judge whether any one claiming admission into it has the qualifications prescribed in the Constitution; but the power to decide whether prescribed qualifications exist in the particular case, and the power to create qualifications not before prescribed, are wholly different things. The Senate and House shall be the judges of, is the language of the Constitution, the qualifications, the constitutional qualifications of their members, not the creators or prescribers of those qualifications. Their function in this regard is judicial, not legislative. They judicially determine what qualifications exist in the particular case, do not legislatively declare what qualifications ought to or shall exist. To attempt to support the constitutionality of the act of July, 1862, and the power of Congress to require the administration of the oath in question upon the ground that each House is the judge of the election and qualification of its own members, is to reason absurdly and to contradict the premises of the argument; for in fact this act denies the existence of any such right in the respective Houses, and assumes that both Houses, by a joint act of legislation, with the approval of the President of the act, have authority to determine those matters for the Houses respectively. "But," says some zealous patriot, justly indignant at the attempt to separate these once happily united States, "would you have Jefferson Davis and Robert Toombs, whose hands are dripping with the blood of our brave soldiers, to appear in this Chamber and take seats as members on this floor?"

Such exclamations, sir, may well become the hustings or serve to excite the passions of the tumultuous mob. They have no force when addressed to the legal mind engaged in determining the obligatory character of legislative enactments, and by none can be supposed to have relevancy to the issues of this debate. This act and this order does not pretend to exclude any one from membership in the Senate who has given aid or comfort to the enemy, or even him whose hands are stained with the blood of "our brave soldiers." Innocency of these great crimes is not the additional qualification which your act seeks to establish, but it is simply the oath of the party claiming membership that he has not been guilty of the offenses of which he is required to purge himself; and if he does purge himself by taking the oath, his right to enter upon the discharge of his duties is even by the provisions of your act and the terms of your order plain, clear, and unquestioned. Should he swear falsely he may, under the act, be prosecuted for perjury. But self-purgation by oath fulfills your additional condition of membership and establishes the existence of the qualification which the act requires.

The honorable Senator from Vermont [Mr. COLBANE] has attempted the only legal argument in favor of the constitutional power of Congress to declare, if not a constitutional qualification, a constitutional disqualification for a Senator. The

deservedly acknowledged ability of that Senator, his great legal learning, which causes him on such subjects always to be listened to with marked attention in this body, caused me when he arose to address the Senate to be somewhat apprehensive in regard to the correctness of the opinions which I had formed; but when I listened to the premises of his argument, their illustration, and finally to the attempt, as I thought, to ridicule the argument of my colleague, I was convinced that a cause in behalf of which only so much could be said was not to be considered as sustained by correct legal principle or truly logical reasoning. I have examined the printed argument of that Senator, and with becoming deference presume upon some reflections upon its principles. The Senator remarks that

"In order to understand properly the true intent and meaning, the purport and object of a statute, it is necessary and proper to take into consideration all the contemporaneous legislation in *pari materia*, all relating to that subject passed in or about that time, bearing upon each other."

He attributes the failure of my colleague to meet the true issue of this debate to a disregard of this supposed just rule of interpretation. The substance of the Senator's argument is this: that up to 1861 we had experienced great difficulty from the fact that persons held seats in this and the other branch of Congress whose affections were alienated from the Government and who desired to destroy it; that they finally attempted its destruction by retiring from Congress, by departing from this city, as did Catiline from Rome; to carry into effect through blood the conspiracy which they had here concocted. The evil to be remedied by congressional legislation he assumes to have been the possibility of a repetition of such conduct in the future by declaring that those who had so acted should never in the future be capable or qualified to hold any office under the United States. That provision was made, he suggests, by the passage of an act in July, 1862, which provides—

"That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years, and fined not less than \$10,000, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all of the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime; any sale or conveyance to the contrary notwithstanding."

"Sec. 2. And be it further enacted, That if any person shall hereafter incite, set on foot, or assist, or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in or give aid and comfort to any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by a fine not exceeding \$10,000, and by the liberation of all his slaves, if any he have; or by both said punishments, at the discretion of the court."

"Sec. 3. And be it further enacted, That every person guilty of either of the offenses described in this act shall be forever incapable and disqualified to hold any office under the United States."

"There," says the Senator, "was the law that created the disability; it was not the law about the oath." Disability as to whom, and in respect to what? To those mentioned in the act, and as to that mentioned in the act, "any office under the United States." Does not the Senator perceive that his argument assumes the very matters in controversy here—is a Senator an officer under the United States, and does a Senator hold any office under the United States? These controverted matters he assumes as true, and additionally assumes that such an enactment as to Senators would be constitutional. Assuming that this act constitutionally creates a disability for the exercise of the trust of a Senator, the honorable member from Vermont assigns as a reason for its enactment that it being impossible to convict of the prohibited acts in the States in revolution, the power of exclusion from the Senate was retained in the body under the last section, which was purposely worded that the guilt of the person applying for admission might be passed upon without the evidence of a judicial conviction being produced. I submit, Mr. President, that the only evidence of guilt under this act which can anywhere be recognized wherever and whenever the same shall become the subject of investigation is the record of conviction. Suppose that it is provided in a State constitution or in a State law that

any one guilty of larceny or perjury shall not be entitled to vote at any election to be held in such State: could a judge of elections, in case there had not been a conviction, refuse to receive a vote, assuming that the person offering it had been guilty of the prohibited offenses? Could he judicially determine guilt in the absence of legal proof, the record? If so, that provision of the Constitution that no man shall be deprived of life, liberty, or property—which include every constitutional right—without due process of law is a nullity, a mockery. But the Senator seems to think that exclusion from office under this act could be enforced without the evidence of conviction, for he says:

"This law was not drawn so as to provide that if a man shall be convicted of treason he shall be disqualified. That is not the expression. It was intended and made for the occasion. It is that 'every person guilty of either of the offenses described in this act shall be forever incapable.' The man is incapable if he is guilty of the act. A disaffected State would send a traitor here would not be likely to convict him; and if we could not be disabused and freed from persons of that kind to confound our councils, it is clear that this Constitution and this Government must go to ruin. Hence this law was drawn, intentionally drawn, in that way."

Whether a person supposed to be guilty of the offenses prohibited in this act could be convicted in the State or district of his residence is not the material question here. That question is, can the crime of treason be ascertained so as to affect the individual with deprivation of right or forfeiture of estate otherwise than by judicial determination, by due process of law, which means a trial by a jury and the judgment of a court of competent jurisdiction? It is not reasonable to suppose that Congress meant that under this act guilt should be ascertained in a mode unknown to the law and prohibited by the Constitution. If they did so intend, their intention cannot be executed because its execution would be prohibited by the provisions of the paramount law. But, sir, the reason which the honorable Senator offers for what he supposes to have been the action of Congress and the intention of Congress in this regard does not exist. If the acts of those engaged in the present revolution amount in law to treason, then you are not required to try them in the State or district in which they reside. Having established the existence of a conspiracy by those engaged in the attempt to establish the government of the confederate States to subvert the Government of the United States, and proving that in the prosecution of that common design, and as a part execution of that conspiracy, Maryland and Pennsylvania were invaded and the battles of Antietam and Gettysburg were fought, you have ascertained as amenable to your laws and brought within the jurisdiction of the Federal courts in those States more persons than will ever be executed by virtue of judicial proceedings if this so-called rebellion shall last for twenty years and then be successfully subdued.

But, Mr. President, I deny that it is competent for Congress to prescribe a disqualification or a qualification for a Senator, either as a punishment for crime or otherwise. This position does not necessarily conflict with any antecedent legislation of Congress. Admitting, for the sake of the argument, that Congress may provide that any one guilty of an offense shall be disqualified from holding any office under the United States, the original question remains, does a Senator hold any such office? That he does not, I have already attempted to show. But the Senator from Vermont regards the act to prescribe an additional oath of office as designed simply to aid in the execution of the act to punish treason, to which he refers. It is the latter, not the former, which creates the disability or prescribes the qualification. This is not admitted, for the reason that a person claiming membership in this body might be wholly innocent of every offense named in the act to punish treason, and might conscientiously swear that he had not offended against its provisions, and yet be disqualified under the act to prescribe an additional oath of office. The language of the act prescribing a punishment for treason is "that every person who shall hereafter commit," &c.; that is, after the passage of the act. It is wholly prospective in character. The act to prescribe an additional oath of office, and for other purposes, requires a Senator, before he shall enter upon the duties of his office, to swear or affirm that he has never, not that he has not since the passage of the act to punish treason,

done or committed any of the acts mentioned in the prescribed oath, and some of which are other and different ones from those mentioned in the former act, and that he will not in future commit any of such acts. The act prescribing an oath is retroactive as well as prospective in character. It is therefore a substantive disqualifying act. But, sir, the whole basis of the Senator's argument is swept away by the simple fact that the act to punish treason was subsequent in date to the act to prescribe an additional oath of office.

But, sir, had Congress the authority to prescribe an additional qualification for office or for a Senator, it would not follow that the act under discussion would be a constitutional exercise of that authority. This act would nevertheless be unconstitutional and void, not perhaps technically as an *ex post facto* law, but as opposed to the same spirit of liberty which prohibits the enactment of such laws, and as repugnant to the genius of free government. The object of the act is the punishment of the individual by denial or deprivation of office or trust to which he would otherwise be entitled. To provide a punishment for an antecedent act is against the spirit of liberty, and is of the essence of tyranny. The attempt to exercise such a power has in former times convulsed even monarchical and despotic Governments, and is now universally conceded not to be within the competency even of the omnipotence of the English Parliament. What is the act in question? It provides that before a Senator shall enter upon his duties as such, he shall swear or affirm that he has never voluntarily borne—not that he will not in the future voluntarily bear—arms against the Government of the United States; that he has voluntarily given no aid, countenance, counsel, or encouragement—not that he will not in future do so—to persons engaged in armed hostility thereto; that he has neither sought nor accepted nor attempted to execute—not that he will not in future do so—the functions of any office whatever of any authority or pretended authority in hostility to the Government of the United States; and that he has not yielded—not that he will not yield—a voluntary support to any pretended government, authority, power, or constitution hostile or inimical thereto. Such a law is contrary to the essential principles of personal liberty and against the genius of all free government, and therefore void in every such government whether expressly prohibited or not.

"There can be no individual liberty (says Lieber) where every citizen is not subject to the law, and where he is subject to aught else than the law, that is, public opinion organically passed into public will. This we call the supremacy of the law. All subjective arbitrariness is contrary to freedom. The law of a freeman is a general rule of action having grown out of the custom of the people, or having been laid down by the authority empowered by the people to do so. A law must be a rule which does not violate a superior law or civil principle. It must be made before the case to which it is applied has occurred, without which it cannot be *mens ius affectus*, as the ancients called the law, and it must be truly as well as plainly published."

I am aware that the courts of law, governed by technical rules, have defined *ex post facto* laws to be those which render an act punishable in a manner in which it was not punishable when it was committed. And admitting this definition to be technically true, yet I contend that the reason why the enactment of such laws is prohibited applies with equal if not greater force against the propriety and obligatory character of legislative enactments such as that now under consideration. It is unjust and therefore illegal to visit upon the person committing an offense a punishment not prescribed, or a greater one than that prescribed at the time of the commission of the offense. An act prescribing such a punishment would be *ex post facto*. The object of such an act is the infliction of punishment positively, or the deprivation of right. The object of the act of July, 1862, is the same—the punishment of a Senator refusing to submit to its requirements by deprivation of office or trust; not for any act done or attempted for which there was a prescribed punishment, but what is worse, because of an assumption of guilt on his part by others, which illegal assumption he declines to meet by an oath of self-purgation. If judicial determination of the correctness of the principles I have asserted were required it could be easily furnished. The decisions in many of the States in relation to the unconstitutionality of acts requiring an oath as a qualification for office, that persons have not been engaged in doing, are directly in point, and in discussion in

another forum would be produced as authority. The clear and unanswerable reasoning in many of these cases cannot fail to convince any one that all acts, whether of the State Legislatures or the Federal Congress, of the character of that under consideration, are repugnant to the genius of free institutions and unwarranted by the supreme law of the land.

Article six of the Constitution declares that

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States."

This section prescribes the substance of the oath, declares in what it shall consist—the support of the Constitution of the United States. Had this section been omitted, there would have been no authority for administering any oath to a Senator. Having the three constitutional qualifications before mentioned, he would have been entitled to enter upon the discharge of his duties without taking any oath whatever. If this be so, then I insist that the only oath that can be required to be taken is such as is mentioned, namely, to support the Constitution of the United States. That this is so, a moment's reflection will suffice to show. Is there any authority to require that the members of the Legislatures of the several States shall take any other oath than or any additional oath to that prescribed in this section? Why not? Because the only authority by which they can be required to take an oath arises from this section. The authority to require Senators in Congress to take an oath is the same. If the extent of that authority is limited as to members of the State Legislatures in this section, it is likewise limited as to the members of Congress. If not, the extension of authority in reference to the latter must be shown, not assumed. It is asserted, however, by some that Congress may prescribe an additional oath to Senators, because the last clause of the section referred to says "But no religious test shall ever be required as a qualification to any office or public trust under the United States." Does the prohibition upon Congress against requiring a religious test confer upon them a substantive power to require any other test? If so, that test may be of any character not prohibited. If the prohibition upon requiring one particular kind of oath to be taken confers power to require the taking of others, then any other kind of oath than that prohibited may be required, because the right arising from implication there can be found no express limitation upon its exercise. The only authority, then, to require such additional oaths to be taken is a limitless implication arising from a positive prohibition. Let us test the correctness of this view of the question. If the prohibition against requiring a religious test, which means an oath in respect to religious belief, confers authority to require any other oath to be taken, then a political, scientific, physical, or partisan test may be required. The statement of the absurdity and danger to which the argument necessarily leads is conclusive against the correctness of the premises upon which it is founded. To enable Congress practically to execute the powers conferred upon them, the creation of many offices not named, and the qualifications for which were not prescribed in the Constitution, might become necessary. In respect to the persons who should exercise the duties of such offices Congress undoubtedly would have authority to prescribe qualifications. The framers of the Constitution, taught by the history of other nations the abuses and danger resulting from a religious test as a qualification for office, expressly provided that no such qualification should be required in respect to any office or trust under the Government of the United States. Thus we see the reason for the prohibition under consideration, and how it can have practical application without admitting that from it arises all the dangerous implications contended for by the advocates of the measure now before the Senate.

Mr. President, while reflecting upon the dangerous innovations which characterize the executive and legislative policy of the present times, I often turn with a melancholy interest to the opinions expressed by the great and wise men who established our Federal system of government, and contemplate how little of the future it is allowed even the wisest men to know. In the twenty-eighth number of the *Federalist*, Mr. Hamilton, urging

the adoption of the proposed Constitution, and with the view of relieving the apprehensions of those opposed to the establishment of a Government with powers that might be exercised for the oppression of the people, remarks:

"It may safely be received as an axiom in our political system that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretenses so likely to escape the penetration of select bodies of men as of the people at large. The Legislatures will have better means of information. They can discover the danger at a distance; and possessing all the organs of civil power, and the confidence of the people, they can at once adopt a regular plan of opposition in which they can combine all the resources of the community. They can readily communicate with each other in the different States, and unite their common forces for the protection of their common liberty."

Sir, the brief experience of seventy-five years has been sufficient to show that this supposed "axiom" has practically no place "in our political system." Within that period the State which was first to adopt that Constitution has by the "invasion of the public liberty by the national (usurped) authority" been practically blotted from existence, reduced to a military province, and her people prevented by "Federal authority" from selecting the agents of their will both under the State and Federal Governments; and the attempt is now being made here to prevent her from having an equal representation in this body unless one of her Senators shall submit to a test, a qualification not prescribed in the Constitution, and to which test she did not agree when she entered into the Federal Union. Sir, it is time that the once proud freemen of this country should arouse themselves to a proper consideration of the dangerous results to which such acts of oppression and gross usurpation may lead. The fate of Delaware to-day may and will be the fate of every State hereafter unless wiser counsels and a different policy shall in future prevail. Shall the Constitution be preserved and thereby the liberty of the people be maintained, or shall that Constitution be subverted and that liberty be subject to the arbitrary will of those who assume to exercise Federal authority? Such is the issue arising from the developments of the present times. Its decision is with the people themselves. If they are worthy of their fathers they will preserve their heritage.

Mr. SUMNER. There is a time for all things; but there are times when certain things are out of place, and this principle is especially applicable to the present debate. The question is on the adoption of a rule of the Senate to carry out an existing statute. It is not on the passage of the statute or on its proposed repeal, but it is simply on its recognition as an existing statute, and the enforcement of its plain requirement. Considering the simplicity of the question we may well be astonished at much that has been intruded into this debate.

The Senate is a branch of the legislative power, in conjunction with the House of Representatives and the President. Neither of these branches alone can make a law or unmake a law. The concurrence of all three is essential to a valid act of legislation. And as it takes all three to make a law, so it takes all three to unmake a law. So long as the law exists, there is no difference between the obligations of the Senate and the obligations of the humblest citizen—except, perhaps, that the Senate, which helped to make the law, is bound to set an example of obedience beyond any citizen.

Therefore I put aside as entirely irrelevant much that we have heard against the proposed rule. This is not the time to say that the oath is unconstitutional, or that it is *ex post facto*. These are considerations properly arising on the passage of the statute, or on a proposition for its repeal. The Senator from Delaware [Mr. BAYARD] and the Senator from Maryland [Mr. JOHNSON], who have argued these topics so exhaustively, were either too late or too early. The statute is already the law of the land, and there is no new bill introduced for its repeal.

On a former occasion I have indicated the constitutionality of the statute, and I now willingly leave that topic to the judgment of Senators, enlightened by the wisdom of the Senator from Vermont, [Mr. COLLAMER], whose argument has not been answered. But I repeat that this objection is utterly out of place at this moment.

A Senator over the way [Mr. HENDRICKS] has gone so far as to introduce my course on a former occasion as an apology for not taking the oath. Because I denounced an infamous statute, which was a scandal to civilization, as unconstitutional and utterly unworthy of the support of virtuous citizens, it has been argued that the slave-drivers then in power were more lenient to me than we are now to them. In other words, the slave-drivers required of me no oath to support a statute which I abhorred, and therefore we are wrong in requiring the proposed oath. But this argument confounds the two cases, which are as wide apart as the poles. While denouncing an outrageous statute, and refusing to play the part of a slave-hunter, I never joined in rebellion against my country, or uttered one word except in loyalty. But here are persons with bloody hands in battle array, striking at all that we hold dear, or there are others who have acted with them. Such persons will be justly brought to the test of an oath; and they can claim no immunity from the example of those patriot citizens who, recognizing the crime of slavery, refused to become in any way its tools.

And another Senator [Mr. JOHNSON] has taken this occasion to arraign me for certain opinions on another question, and he complained that I place them under the protection of a judgment of the Supreme Court. This is not the time for the discussion of the question of "reconstruction." It has nothing to do with the matter now before the Senate. I may think that the Government of the United States has *belligerent rights*, as well as the *right of sovereignty*, over the rebel States; that it is especially the duty of Congress to take care that these rights are so exercised as to crush the rebellion, and to prevent its breaking out again; and that, to this end, Congress must take all possible bonds for the future. These opinions, which the Senator chose to characterize harshly, may be wrong, but they have nothing to do with the matter in hand. At a proper time I shall be ready to defend them. At present I choose not to be diverted from the issue before us.

Putting aside the irrelevant matter which has been introduced, and presenting the single point in issue, the question becomes too plain for argument. It is simply this: will the Senate obey an existing statute? And this question opens another: what is the meaning of the statute?

That the Senate will openly refuse obedience to an existing statute, recently enacted in support of loyalty, is not to be supposed without an impeachment of the loyalty of the Senate. It is only because the question of obedience has been complicated with other questions, that there has been for a moment any doubt on this head. Clearly, the Senate will not disobey an existing statute. It is, then, on the statute alone, and nothing else, that any question can arise.

And here I ask leave to recall the Senate from the learned commentary and elaborate diversion of the Senator from Delaware. The actual question is one which may be treated without learning and without effort. It arises on the following words of the statute:

"Hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation; [here follows the oath:] which said oath, so taken and signed, shall be preserved among the files of the Court, House of Congress, or Department to which the said office may appertain."—12 Statutes at Large, p. 502.

It will be observed here that the language is plain rather than technical. Every person "elected" or "appointed" to any "office" in the "civil, military, or naval department of the public service," must take the oath. What words could be broader than "departments" and "public service?"

Obviously, and beyond all question, a Senator is "elected." Therefore on this point there is no question.

The inquiry recurs, is a Senator an "officer" in the "civil department of the public service?"

Is he an "officer?"

Is he in the "civil department?"

It seems absurd to raise these questions, but I have not raised them. This has been done by others. You might as well raise the questions,

if a man is a creature, and belongs to the human family.

But let us look at these questions in their order.

1. Is a Senator an "officer?" Here please to look at the dictionary. I turn to Webster:

OFFICE.—"Offices are civil, judicial, ministerial, executive, legislative, political, municipal, diplomatic, military, ecclesiastical," &c.—Webster.

Thus, plainly offices are legislative. But why summon the dictionary? And yet the zeal of the other side seems to leave me no alternative.

Not content with the dictionary, I call your attention to the use of the word in other authoritative places, and pardon me if I begin with the constitution of Massachusetts, written originally by John Adams.

In the bill of rights of the constitution of Massachusetts, section five, it is declared:

"All power residing originally in the people and being derived from them, the several magistrates and officers of government, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them."

Here are members of the Legislature classed among officers, and thus this word received its interpretation.

In another part of this same constitution it is provided:

"Any person chosen Governor or Lieutenant Governor, Counselor, Senator, or Representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, take and subscribe the following declaration."

Here the place or trust of a Senator or Representative is called an office. But this same use of these terms as synonymous and as applicable to the post of Senator and Representative is continued, as follows:

"Every person chosen to either of the places or offices aforesaid, (meaning the offices of Governor, Lieutenant Governor, Senator, or Representative,) shall, before he enters on the discharge of the business of his place or office, take and subscribe," &c.

The authority of New Hampshire is like that of Massachusetts. Her constitution declares:

"All power residing originally in and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them."

Here the word officers obviously means the substitutes and agents of the people. But who are substitutes and agents of the people more than Senators?

Then again in the same constitution it is declared:

"No office or place whatsoever in Government shall be hereditary."

Here the word "office" is made synonymous with "place."

The constitution of Vermont testifies as follows:

"All power being originally invested in and consequently derived from the people, therefore all officers of government, whether legislative or executive, are their trustees."

Thus in Vermont, members of the Legislature are "officers."

The constitution of New Jersey testifies also, in the clause prescribing the qualifications which shall entitle a person to vote:

"For representatives in Council and Assembly, and also for all other public officers that shall be elected by the people of the county at large."

Here, again, members of the Legislature are treated as "public officers."

The constitution of Pennsylvania testifies as follows:

"Members of the General Assembly and all officers, executive and judicial, shall be bound by oath or affirmation to support the constitution of this Commonwealth, and to perform the duties of their respective offices with fidelity."

Here members of the General Assembly are classed with those holding "offices."

The original constitution of New York is more positive. Here are the words:

"The chancellor and judges of the supreme court shall not hold any other office except that of Delegate to the general Congress upon special occasions; and the first judges of the county courts in the several counties shall not, at the same time, hold any other office, except that of Senator or Delegate to the general Congress."

Here the post of a Delegate to the general Congress, and also of a "Senator," is treated as an "office."

Surely here is enough on this head. The post of Senator is an office of honor or profit, and a "Senator" is an "officer."

2. But assuming that the post of Senator is an "office," and that a Senator is an "officer," the

question occurs, to what "department of the public service" does he belong?

Clearly he is not of the "military" or "naval" department. But if not "military" or "naval," he must be "civil." Here again consult the dictionary:

Civil.—"It is distinguished from *ecclesiastical*, which respects the church, and from *military*, which respects the army and navy." "This term is often employed in contrast with *military*, as, a *civil* hospital; the *civil* service."

Civil List.—"In England, formerly a list of the entire expenses of the *civil* government; hence the officers of *civil* government, who are paid from the public treasury; also, the revenue appropriated to support the *civil* government."

Civil State.—"The whole body of the laity or citizens not included under the military, maritime, and ecclesiastical states."—*Webster*.

To say that a Senator is not included under this comprehensive but distinctive term is simply an absurdity.

It is evident that Congress adopted the words of the statute because they were comprehensive and distinctive. They obviously comprehended all "officers" in the "public service," whether "elected" like a Senator, or "appointed" like a judge. But, beyond their plainness, these words had this added advantage, that already for more than a generation they had received a practical interpretation from Congress.

Here is the Blue Book, so familiar to our hands. Its title-page begins as follows:

"Register of officers and agents, civil, military, and naval, in the service of the United States."

If we turn to the contents, we shall find in this list members of Congress, including Senators and Representatives, with the "officers and agents" of the two Houses.

If we go back to the Blue Book for 1820, which is now in my hands, we shall find the same title, and the same enumeration of Senators and Representatives.

This Blue Book is still published in pursuance of a joint resolution by Congress, originally adopted as long ago as 27th April, 1816, with the following title:

"Resolution requiring the Secretary of State to compile and print, once in every two years, a register of all officers and agents, civil, military, and naval, in the service of the United States."

If Senators can properly be included in such a register, it is only as belonging to the "civil department of the public service," which is precisely where they have been placed by the recent act of Congress.

The only apology for the objection which has been urged from the beginning of this debate with so much pertinacity, is founded on the case of Mr. Blount, the Senator expelled and afterwards impeached, at the close of the last century. I shall not take time to consider this case. It has already been amply done by others. On former occasions I have done it at length. And yet I will not leave it without protesting again that it is absolutely inapplicable to the present occasion. If that case were out of the way, nobody would have thought of saying that a "Senator" was not an "officer in the civil department of the public service." Now, what did this case decide? Let another give the summary. I quote the words of Mr. Wharton, in the notes to his edition of the State Trials:

"In a legal point of view, all that this case decides is that a Senator of the United States, who has been expelled from his seat, is not, after such expulsion, subject to impeachment; and perhaps from this broader proposition may be drawn, that none are liable to impeachment except officers of the Government, in the technical sense, excluding thereby members of the national Legislature."—Page 317, note.

The case of Mr. Blount has no application to the present question. It is not an interpretation of the statute, and so far as it illustrates the Constitution it simply concerns the liability to impeachment. But even this case has often been drawn into doubt. And if we look into the proceedings of the time, we shall find that the decision, such as it was, encountered an able and earnest opposition.

Among those who took a distinguished part on that occasion was James A. Bayard, of Delaware, the eminent Representative who conducted the impeachment as manager on the part of the House of Representatives. In his effective argu-

ment on that occasion he has set forth the true significance of the Constitution. From the argument of the Senator from Delaware [Mr. BAYARD] in the present debate I confidently appeal to that of the earlier Mr. Bayard. Here is a passage:

"I have submitted, in the course of my argument, that the sound principle of construction to be adopted in relation to the construction of an instrument having in view the vast object of settling the powers of the Government and the rights of the people, is to give it such an interpretation as is best calculated to give effect generally to all its parts according to its true design. If I am supported in this principle I shall be able to show, by strong cases under the Constitution, that its undeniable intention must be frustrated if a Senator be not considered an officer of the United States."

"I find it provided in the seventh clause of the third section of the first article, that conviction on impeachment disqualifies the party convicted from holding any office of honor, trust, or profit under the United States. If a seat in the Senate be not an office, the disqualification does not extend to it. And yet can it reasonably be contended that the policy which incapacitates a citizen, if convicted on impeachment, from holding an office the most mean and humble, does not apply to the case of a Senator? The wisdom of the Constitution, sir, has considered a conviction as an evidence of moral unfitness for public trust. It can never happen but in the case of a great national offense. And shall such an offender, degraded from the capacity of even being doorkeeper of this Chamber, yet retain the capacity of being a member of a body of the most dignity, trust, and power in the country? This is a solecism in politics, an absurdity in reason, which I trust this honorable court will not willingly by their act attach to an instrument so highly and justly revered as the Constitution of our Government."

"I find also a provision in the seventh clause of the ninth section of the first article, that 'no person holding any office of profit or trust under the United States shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State.' If a Senator holds no office of profit or trust under the United States, it is lawful for him to accept a present, title, or office from any king or foreign State."

"Can it be possible that a public functionary, of all others the peculiar object of this jealous restriction, is, in fact, the sole object of exemption from its operation? Can it be imagined that a Senator, upon whom the Constitution has heaped the powers and trusts of legislator, judge, and executive magistrate, is the only person who is left exposed to the seductions of foreign influence? It can never be admitted that a situation which, from its trust and importance, most invites corruption, is the only one which the Constitution has not guarded against. If, sir, a Senator be not an officer under this clause, it might happen that the Senate of the United States might become a House of Lords. It would be in the power of any king in Europe to change our free Government, and to convert one branch, at least, from a republican into an aristocratic form. You will not suffer an ensign in your Army to accept the humble title of chevalier, and yet you will allow an integral part of the Government to be composed of earls and dukes. And let me pray the honorable court to remember, at the same time, that the Constitution has provided that a member of either House shall not be allowed to retain his seat and hold any commission, civil or military, under the United States. The President has no titles to grant, nor offices of great emolument to confer; and yet the classic republicanism of the Constitution will not allow a Senator to feel the influence of his patronage; and yet, at the same time, he may lawfully be the pensioner or the titular noble of a foreign Power. Such a doctrine is not simply absurd, but infinitely dangerous."

In view of these emphatic words it is difficult to see how any person can insist that a "Senator" is not a "civil officer," even according to the text of the Constitution. Conceding to the judgment on the trial of impeachment all the authority which can belong to it, you cannot properly deduce from it any conclusion except that a Senator, already expelled, is not a "civil officer" liable to impeachment. Nothing beyond this.

But whatever may be the significance of this word in the Constitution, even conceding all that is claimed for it there, the instance is entirely inapplicable to the interpretation of the statute in question. If there be any doubt on the Constitution, there is none on the statute. The latter is plain, and there are no associate words to interfere with its natural and unequivocal significance.

I conclude this branch of the subject as I began, by putting aside all irrelevant matter—all superfluous questions—all surplusage—all topics which are not properly germane to this debate. There is no question of the Constitution—no question of *ex post facto*—but a simple question on the meaning of a statute.

The oath has been prescribed by Congress. It is too late to debate its constitutionality thus incidentally. It only remains for us to obey it; promptly, swiftly, patriotically. The procrastination of this debate is of evil example to the country. How can we expect the alacrity of loyalty among the people if the Senate hesitates?

But another objection to the proposed rule has been brought forward by the Senator from Vermont, [Mr. Foor.] According to him the statute

is obligatory, and the oath must be taken by Senators, but a rule requiring the oath is superfluous and without precedent. The argument of the Senator is plausible, but it is answered by a simple statement of facts, in which, as Presiding Officer of the Senate, he bore a conspicuous part.

From this statement it will appear that the rule or some equivalent action of the Senate is not superfluous. If it be without precedent it is because the omission of the Chair has been without precedent. It appears from the Globe, which I have before me, that on the 4th March, 1863, the Senate was organized, in the absence of the Vice President, by the choice of Hon. Solomon Foot, of Vermont, as President *pro tempore*. The oath to support the Constitution was administered to him by Mr. FOSTER, of Connecticut, but the additional oath was omitted. The President *pro tempore* then proceeded to say:

"Senators elect, and Senators whose term commences under a reelection at this time, will receive the oath of office in the order in which their names will be called by the Secretary."

The Secretary then called the names of a long list of Senators, who came forward and took the customary oath. But the President *pro tempore* did not offer to administer the additional oath; nor, at the time of qualification, was anything said with regard to it. After the conclusion of the ceremony, the Senator from Illinois [Mr. TRUMBULL] said:

"I desire to call the attention of the President of the Senate, and of the Senate itself, to an act of Congress approved 2d July, 1862."

And he proceeded to read this act, and said:

"I do not know that any motion in regard to it is necessary, further than calling the attention of the Presiding Officer and of the Senate to the law."

The President *pro tempore* then said:

"The Chair presumes it is sufficient to call the attention of Senators to that duty, and that that duty will be performed as required by law."

Nothing, however, was done by the Chair or by Senators.

The next day, 5th March, two other Senators, Mr. HENDRICKS and Mr. SPRAGUE, came forward to be qualified. The Chair proceeded to administer to these Senators the usual oath to support the Constitution, but did not administer the additional oath, and these Senators took their seats. Shortly afterwards, during the session of that day, on a call of the yeas and nays, all these Senators were called, and answered to their names. It was immediately after such a call, showing that the statute had been disregarded, that I proposed the rule which is now under discussion. It was obvious that something must be done to obtain a recognition of the statute in the Senate Chamber. The Chair, which had administered the other oath, had omitted to administer the additional oath.

It would be difficult to indicate any sufficient reason for the discrimination made by the Chair between the two oaths. Each stood on the requirement of a statute. On what principle was one statute respected and the other neglected? But without stopping to consider the identity of obligation in the two cases, I content myself with calling attention to the unquestionable fact, that one statute was respected and the other was neglected.

On the next day, 6th of March, Mr. BAYARD, of Delaware, who had been absent before, came forward to be qualified. The Chair, as in the other cases, administered the oath to support the Constitution, but omitted the additional oath, and Mr. BAYARD took his seat. Afterwards, on this day, I called up the proposed rule for consideration, and I objected to an executive session until the question of the rule was settled, as follows:

"Here is a statute of Congress, and the question is whether the Senate is going to set an example of obedience to it or of disobedience; that is all." * * * * * "If the Senate now choose to go into executive session they choose to enter upon most important duties in disregard of an act of Congress which they have assisted in putting upon the statute-book."

On coming out of executive session, which was ordered, the Senate proceeded with the consideration of the proposed rule. And here I will read, with the permission of the Senate, the conclusion of remarks which I made on that occasion:

"And now, sir, as I conclude, let me say that I desire to take and subscribe the new oath in open Senate, that I may, in all respects, qualify myself for the discharge of my duties as a Senator. Others will do as they please, or as the Senate shall require. But I hope that I may appeal to

the Chair to administer that oath to myself, or to direct that it shall be administered. With the expression of this desire, I take my seat."—*Globe*, (March 6, 1863), page 1559.

The President *pro tempore* made no offer to administer the oath, but said simply:

"The subject is under debate."

The debate was continued until the Senator from Illinois [Mr. TRUMBULL] proposed that the Chair should proceed to administer the oath. Again it appears from the report that I expressed a hope "that the Chair would consent to administer the oath to me."

Shortly afterwards the President *pro tempore* said:

"The Chair proposes now to take and subscribe this oath, in pursuance of the law of 2d July last, and that being done, the Chair will administer the oath to such members as will voluntarily take it."

Mark the words: "to such members as will voluntarily take it."

The oath was then administered to Mr. Foor by Mr. FOSTER. Resuming the chair, the President *pro tempore* then said:

"The Chair will now direct the Clerk to call, in alphabetical order, the names of all Senators who have been elected or re-elected since the 2d July, 1862, that being the day of the approval of the act; and such Senators present, whose names shall be called, as choose to do so, will come forward to the Secretary's desk and receive the oath of office administered by the Chair, after which they will have an opportunity to subscribe the oath."

The Senators present, whose names were called, some of them, after delay, came forward and took the oath; and then, at the suggestion of the Chair, I withdrew the resolution. The Senator from Delaware [Mr. BAYARD] was not then present.

The language of the Chair when inviting Senators to take the oath, left a loop-hole through which they might avoid the oath. It was, "such Senators present as choose to do so will come forward," and then "they will have an opportunity to subscribe the oath." In such dainty terms Senators were invited to do as they pleased; thus making a discrimination between the earlier oath which they were obliged to take in order to be qualified, and the additional oath which they were free to neglect.

Such is a plain statement of facts, showing the necessity for the proposed rule. I make this in no spirit of personal criticism, but simply that you may see the occasion for the proposed rule.

Had the Chair, at the beginning, proceeded to administer the additional oath as it administered the earlier oath, there would have been no occasion for a rule. Or had the Chair afterwards, when attention was called to the omission, administered the additional oath according to the requirement of the statute, there would have been no occasion for a rule.

But the Chair did no such thing. It left the taking of the oath to the conscience or will of each Senator. And though the statute solemnly declares that "every person elected or appointed to any office of honor or profit under the Government of the United States shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe" the oath in question, yet the Senator from Delaware [Mr. BAYARD] has not only "entered upon the duties" of his office as a Senator, but he has continued to discharge these duties and to draw his salary, although he has never taken and subscribed the oath.

It is evident that something must be done to correct this incongruity, and to rehabilitate, if I may so say, the act of Congress. I know no better way than by the proposed rule. But I have no partiality for this mode. I shall be ready for any other proposition which will lift the statute from the desuetude and neglect into which it was allowed to fall, and will secure its enforcement. In the events which are now at hand this statute will be a safeguard of the Republic, and its enforcement here will secure its enforcement everywhere. To the traitor, seeking office, it will be a touchstone; while, like the angelic sword at the gates of Paradise, it will thrust away from these Chambers all those brutal enemies who, for the sake of slavery, have helped to fill our land with mourning.

Mr. DOOLITTLE. Mr. President, the Senator from Massachusetts, it seems to me, has made a very labored attack upon the President *pro tempore* of the Senate in his remarks; and but for this, I should not perhaps feel called upon to say a word. But, sir, I feel it due to that gentleman, and the

course pursued by him at the commencement of the extra session last year, that I should state some of the facts bearing upon this question.

The old law required the oath to support the Constitution to be taken. The new law required the additional oath to be taken and subscribed; and when we met in the Senate here, on the 4th day of March at twelve o'clock, neither the Secretary of the Senate nor any one else had prepared an oath to be subscribed. The newly elected Senators were called by name, and they advanced to the Chair and took the usual oath. No one thought at that time of the other oath; and the oath was not prepared ready to be subscribed by the Senators. If the Senator from Massachusetts charges upon the Chair neglect of duty in the administration of his office, why did he not, when he walked up to the desk on that day and took the old oath, then ask to subscribe and take the oath under the new statute? He did not think of it. There was no "dainty" performance of duty in the taking of the oath of office on the part either of the President of the Senate or on the part of the Senator from Massachusetts. I do not charge it upon either. The Senator did not think about it at the time when he first went forward and took his oath of office.

But again, sir, the Senate almost immediately adjourned on its organization that day without doing any business. It is true that the Senator from Illinois [Mr. TRUMBULL] did call the attention of the Chair to the subject, but the Senate immediately adjourned, and the oath of office was then drawn and prepared to be brought into the Senate to be subscribed. But the Senator from Massachusetts, by the introduction of his proposition to establish a new rule, got up a long debate in the Senate as to whether it was proper to have a rule; and it was pending this debate that the President *pro tempore* himself proposed at once to show his respect for and obedience to the law by saying that he was now prepared and felt it his duty to arrest the debate, which was consuming so much time, by taking the oath of office himself, and he asked the honorable Senator from Connecticut, [Mr. FOSTER], who by direction of the Senate had administered the usual oath to him in the first place, to administer to him the new oath. He proceeded to do so, and then the Chair at once proceeded to call upon all the newly elected Senators who had not taken the new oath to come forward and take and subscribe it, as it was then prepared for them to subscribe at the desk of the Secretary. After this was done, the Senator from Massachusetts, seeing that the idea of a rule in the Senate in order to require men to obey the law was (as in my judgment it was) a perfect farce, withdrew his proposition for a rule and thus ended the debate.

These are the facts, Mr. President. As to the position taken by the Senator from Vermont [Mr. Foor] in relation to the proposed rule, and the necessity of adopting a rule in the Senate in order to require the fulfillment of a law, if I were to assume the attitude of the Senator from Massachusetts, and speak in the same dogmatical tone that he does, I should say it is too plain for any argument, there cannot be any two opinions on such a question. I say that the ground taken by the Senator from Vermont is correct; that this attempting by rule to bolster up a law is derogatory to legislation and derogatory to the Senate. The law is valid or invalid. It is urged on the one side that it is against the Constitution; on the other that it is constitutional. If it is valid the rule adds no force to it. If it is invalid the rule cannot give it any power.

Mr. President, I agree with the Senator from Vermont in the view that he expressed as to the necessity of the adoption of any such rule as this in relation to this statute; and I should not have said a word on this subject but for this apparent attack upon the Senator from Vermont, as if he had handled this law with dainty fingers, as if he had left some loophole out of which men might escape from the performance of their legal duty. Perhaps I speak warmly; I sometimes feel pretty warmly and pretty deeply when I see friends attacking each other. If I see friends attacking enemies I do not care much about it; but this continued war among friends on this side of the Chamber sometimes makes me think that the Republicans are endeavoring to do precisely what the Democrats did last year. They did all in their

power to help the Republicans beat them, and I do not know but the Republicans now—perhaps out of gratitude for what the Democrats did last year—are going to pursue the same course and keep up a war among themselves.

Mr. SHERMAN. I should like to ask my friend from Wisconsin a question. I do not concur with him as to the mode of getting at this question. How would he compel the enforcement of the law as against the Senator from Delaware, [Mr. BAYARD], who is here in his seat acting with us? If he will point out some mode of getting at the execution of that law other than the mode pointed out by the Senator from Massachusetts, I shall have a little more regard for his objections to this rule.

Mr. DOOLITTLE. The matter is perfectly plain. There are two modes of proceeding. If a man is not a Senator, how do you prevent his voting? Suppose some outsider should come here and assume to take a seat here and speak, what would you do?

Mr. SHERMAN. This question arose by the inadvertence, I think, by the neglect, of the officers of the Senate. Certainly the Senator from Vermont was no more at fault than the Senator from Massachusetts. I agree with the Senator from Wisconsin in that. The criticism on the Presiding Officer of the Senate, it seems to me, does not raise a fault with him—I speak of the first day's proceedings—because he simply neglected that which the Senator from Massachusetts and all of us neglected. I was as much at fault as either of them. But this is a question as to whether members of the Senate are to obey that law. I desire to see it enforced. We have decided the constitutionality of the law after a full and ample debate; at least I have for myself. I do not wish to review that decision. I do not say, myself, that this rule is the best mode of getting at it. If the Senator from Wisconsin can point out any other mode by which we can require this oath to be administered to the Senator from Delaware, I may agree with him; but until he does it seems to me we had better adopt the mode suggested by the Senator from Massachusetts.

It occurred to me at the very beginning of this controversy that probably the shortest way would be, when the name of the Senator from Delaware was called on roll-call, to object to it, and to insist that his name be stricken from the roll until he takes the oath of office. That seemed to me to be the clearest and easiest mode of getting at it, but I did not like to make a suggestion of that kind. I do not think the Senator from Delaware, in the face of the law, ought to be allowed to vote on any pending proposition until he takes the oath, or until the Senate shall have decided on that question that he is entitled to his seat. The course I have suggested, I think, would be a better way of disposing of this question; but at the same time I do not want to criticize the mode indicated by the Senator from Massachusetts until I see clearly some other mode that is better.

Mr. COLLAMER. I do not know whether the remarks which were made by the Senator from Massachusetts were intended as a criticism on the Presiding Officer of the Senate on that occasion—

Mr. SUMNER. Not at all. I hope the Senator will allow me one simple word in reply to the Senator from Wisconsin. It seems to me that he makes trouble where there ought to be no trouble. He makes suggestions which there is no occasion for him to make. Sir, I know the Senator from Vermont [Mr. Foor] too well, his distinguished character and all his merits, to allow myself for a single moment to say anything that any candid person could interpret into an attack upon him. The idea never entered my mind. I banish it. I am sorry that it entered the mind of the Senator from Wisconsin. I confined myself to a statement of the facts from the record—absolutely from the record—prepared carefully, tending to show the necessity for some action of the Senate in order to secure the enforcement of that statute. That was all; and in making that statement of fact I showed that the Presiding Officer administered one oath and did not administer another; and that Senators continued, after the attention of the Presiding Officer was called to the omission, to perform their duties as Senators and to answer to their names on the roll-call. That is what I did. If there is any person who imagined that

I could make an attack on the Senator from Vermont, I beg to undeceive him; and I beg to take back every word I have said that by any possibility could be so egregiously misinterpreted.

Mr. COLLAMER. I do not know whether the gentleman carefully measured his words in writing out what he said on this occasion before delivery; but he will find that he did indulge in some remarks intimating that the Presiding Officer had acted so delicately in regard to this law as to afford an opportunity to men to escape its provisions.

Mr. SUMNER. I will read the words, if the Senator will permit me.

Mr. COLLAMER. I believe the exact word used by the Senator was "daintily."

Mr. SUMNER. These are the words which I read and characterized, from the Globe:

"Such Senators present whose names shall be called as choose to do so, will come forward to the Secretary's desk and receive the oath of office administered by the Chair, after which they will have an opportunity to subscribe the oath."

I characterized those as dainty words.

Mr. COLLAMER. I did not refer to anything the Senator read from a book. I am referring to his own remark, that the Chair had done it so "daintily."

Mr. SUMNER. I said that.

Mr. COLLAMER. I cannot but think that that implied more than the gentleman would seem to say now he intended. Very well; let it be so intended that it is more than he did mean, and that he takes it back; and let that end it.

Now, Mr. President, in relation to this rule and the occasion for such a rule, I beg to call the attention of Senators for a moment to its effect. The Constitution of the United States requires that Senators shall take an oath to support that Constitution; and the act of 1789, the first act passed by Congress, went on to provide the mode and manner of taking it. It required it to be taken in the Senate and to be administered by the Presiding Officer, so that the records of it could be kept among the records and muniments of the body. That made it the duty of the Presiding Officer to administer the oath, and clothed him with the authority to administer it. It was a matter of law, not merely the form of the oath made up agreeably to the general provision of the Constitution, but the time, mode, and manner of its administration were all matters of law. Senators will please to bear in mind that the act which requires this oath of which we are now talking did not prescribe the mode and manner and time and place of its administration. There is nothing in the act to prevent a man from taking it before the Senate meet at all, or from taking it before any magistrate and taking his certificate and keeping it in his pocket. There was nothing prescribed in the law itself requiring the Presiding Officer to administer it at all. It was therefore made in no way expressly his duty to administer it; nor is it to this day; and it is not now. There is the great difference between the administering of the oath to support the Constitution and the administering of the oath which we now have in question. In the one case there was a law passed prescribing it, and in the other there was not. In the latter case the law required, to be sure, that it should be done before entering upon the duties of the office; but how done, where done, and how to be certified, was not provided. Now arises the propriety of a rule, at some period to carry into effect the present law, inasmuch as we have no statute about the time and mode and manner of taking the oath. The rule prescribes the time, mode, and manner; that it shall be done in the Senate, and the oath administered by the Presiding Officer of the Senate, and that the record of it when signed shall be kept among the records and muniments of the body itself.

I endeavored to take particular pains to state that the act of 1790 which fixed the form of the oath agreeably to the Constitution particularly provides that it shall be administered by the Presiding Officer of the body. I said so before, but I say the present law about the additional oath says no such thing; and there is the difference between the two cases, the old oath requiring no more than the law to carry it into effect, the present one requiring some rule to carry it into effect, if we really mean to have the evidence of the oath preserved hereamong our muniments, and hence the propri-

ety of the rule now mooted. When the Senate met in March last there was no rule and no law that it should be done in the Senate at all. The rule now proposes that it shall be done in the Senate, and by the Presiding Officer. I have thought it necessary to point out the difference existing between these two oaths, and the mode and manner of their administration, the one being perfect, and the other requiring a rule to carry it out.

Mr. SUMNER. Mr. President, I desire to add further a word in reply to the Senator from Wisconsin. What I said a moment ago was an interruption to the Senator from Vermont. I desire to say to the Senator from Wisconsin, if he objects to the rule which I propose, let him propose something better, and I shall vote for it. I am not attached to the proposition which I have brought forward. I am perfectly willing to vote for any substitute which will do the work proposed.

The statute requiring the oath has not been enforced. How shall we secure its enforcement in this Chamber? The Senator from Ohio [Mr. SHERMAN] suggested, and I think there is much in that suggestion, that an objection may be made to the name, for instance, of Mr. BAYARD, when it is called, and then a motion may be made that the name be struck from the roll. We might reach the end possibly in this way. But that would be by indirection, though it might meet that specific case; and it seems to me, after the long neglect and desuetude into which we have allowed the statute to fall here, that it becomes the Senate in some more formal way to rehabilitate it. I may be mistaken in that idea, but I content myself with saying that my single purpose is to secure the enforcement of the statute. I understand the Senator from Wisconsin to be in favor of its enforcement. Let him bring forward his proposition for its enforcement. Let him tell the Senate how in his opinion that statute which has so long been neglected in this body may be set upon its feet. If he will offer a proposition better than mine, I shall vote for it; but if he has no proposition to offer better than mine, I think I may claim from the candor and the patriotism of the Senator that he shall vote for mine.

Mr. JOHNSON. Mr. President, one or two remarks have fallen from the honorable member from Massachusetts that I deem it my duty to attempt to reply to, more especially as they were, perhaps, not anticipated in the debate in which I participated on Thursday.

So far as concerns the very positive manner in which the honorable member from Massachusetts expresses his opinion, I have nothing to say except that that is a matter of taste. It is, perhaps, not very good taste to be so wedded to his own opinion as to intimate that any other opinion is absurd. It is barely possible that there may be some two or three members of the Senate who entertain views different from the honorable member from Massachusetts, who are just as little likely to be wrong as the honorable member from Massachusetts, and who would be just as certain to see that any proposition was absurd as would be the case with the honorable member. I find no fault with him, however, Mr. President. It is a habit we sometimes indulge in. Sometimes it is the result of vanity, which is not his case, I am sure. Sometimes it is to be attributed to other causes. But whatever may be its origin, the honorable member will permit me to suggest to him that it is a habit which perhaps it would be better not to indulge in. It is calculated to provoke retort. As far as I am concerned, it is certainly not according to my views of self-respect; but my aim is studiously to avoid indulging in anything like acrimonious debate. I give to each member of the Senate the right, which is his, of having his own opinions and of courteously expressing them in just as strong language as he may think proper to indulge in, but not going beyond the limit of a gentlemanly senatorial courtesy. I have no idea that the Senator from Massachusetts thinks he has transcended, now or at any other time, beyond such a limit; but it is dangerous to indulge in very decided observations of that sort, because the tendency is to go beyond the proper limit.

The country is now in a condition in which it has a right to expect beneficial results from the counsels of this body. The work before us is a mighty work. It involves the continuing existence of this nation. Upon it hangs, perhaps, the destiny of our institutions. It is not a time to in-

dulge in personal epithets. It is not a time to seek to advance party, forgetting country. It is a time when it becomes us all, and I am sure that such is the general sense of the Senate, to look exclusively to the interest of the country, and to sacrifice every other interest that we may have, present or future, all our hopes of advancement in the future, if by doing so we can subserve the welfare of the country intrusted to us in part, and restore ourselves again to the prosperity and the power which once belonged to us.

Mr. President, I expressed my opinion on Thursday last, not dogmatically. I could not do so without warring against my own feelings. A different opinion had been expressed by the honorable member from Vermont, [Mr. COLLAMER], who addressed the Senate the day before; and I should have felt that I disgraced myself if I pretended to be dogmatical and discourteous by stating that my opinion must be right, and that an opinion sustained by the authority of the gentleman to whom I have just referred must necessarily be absurd. But I am bound to act upon my own opinion, and entertaining it conscientiously, I am obliged to yield to that conviction instead of yielding, as I should do in a matter which I had thought to be a question of doubt, to the authority of the honorable member from Vermont.

Now, Mr. President, there are two questions upon which I have but a single remark or two to make before ceasing to trouble the Senate at all in this debate. The first is, whether the act of July 2, 1862, embraces a Senator. The honorable member from Massachusetts bolsters up, or seeks to bolster up, his view of that question by referring us to the constitutions of the several States, and the laws of the several States which have been passed in pursuance of those constitutions—not a legitimate source of argument, as I think, as far as the particular question is concerned. The question before the Senate is, what is the meaning of the words "civil officer," as found in the Constitution of the United States, with reference to this question? That must be ascertained, as I humbly suggest to the honorable member from Massachusetts, by looking to the Constitution itself; nor is it to be ascertained by going to Webster, and coming from Webster the various significations that he attaches to the particular word. The interpretation of that word is in the Constitution. The Constitution is its own interpreter, and must be its own interpreter, unless we are willing to run the hazard of being wrong. The reason why, as I suppose, and those who agree with me have supposed heretofore, that the words "civil officer" do not embrace a Senator, as those words are used in this act of Congress, is, that a Senator is not an officer under the Government, but above the Government; he does not derive his authority from the Government, but from the creators of the Government; his commission comes from his State, and his State issues the commission to him under the authority of the Constitution. He is a part of the Government, and not an officer holding a commission or exercising any authority under the Government in the sense which this debate involves.

The honorable member from Massachusetts has appealed to the ancestor of the Senator from Delaware who is supposed to be more immediately involved in this question, for the purpose of showing that that very distinguished man, eminent every way, eminent for learning, eminent for native ability, and, what is better still, eminent for an undying and a spotless patriotism, who under the impulse of that patriotism saved the nation from convulsions sure to have been the result if he had not stepped in and by his refusal to vote succeeded in bringing about the election of Mr. Jefferson—the Senator from Massachusetts, with the industry which distinguishes him, and for which he is entitled to all possible credit, has referred us to the speech of that honorable gentleman in the case of Blount, he having been one of the managers of the impeachment, and the Senator has incorporated into his speech, which will be published, a considerable portion of the argument of Mr. Bayard; but it is a little extraordinary that it escaped his attention that there was another part of that speech, which so far from affirming his own doctrine is directly adverse to it. The language of this oath act is: "That hereafter every person elected or appointed to any office of honor or profit under the Government of the

United States" shall take the oath. Now, what did Mr. Bayard think, if we are to be governed by his authority, was the meaning of the words "under the Government of the United States" as applied to a Senator or a Representative? In his view was a Senator an officer under the Government of the United States? Let him speak for himself:

"There is another objection," says Mr. Bayard—I read from his speech on that impeachment—

"There is another objection of a similar nature, arising from the provision in the sixth section of the first article, of which it is probable much use will be made. That section declares that no person holding an office under the United States shall be a member of either House during his continuance in office. It will, therefore, be said, if the place of a Senator is an office, this clause is repugnant and absurd.

"This provision, I humbly apprehend, has the same limits with the one which I have just adverted to. The intention of it was to erect a barrier between the executive and legislative departments, to prevent executive patronage from influencing legislative councils. It was designed, therefore, to apply solely to the officers of executive appointment. I am not much disposed, sir, to place reliance, in an argument upon so great a subject, upon nice distinctions or verbal criticism; but I think I shall be excused for paying some attention to the peculiar language of the clause in question. The regulation is that no person holding an office under the United States shall be a member of either House during his continuance in office. The United States here means the Government of the United States, for the United States grants no office but through the Government. Now, it is clear that a Senator is not an officer under the Government. The Government consists of the President, the Senate, and House of Representatives, and they who constitute the Government cannot be said to be under it."

In anticipation, therefore, Mr. President, as yourself and the Senators will discover, as far as the critical meaning of the terms to be found in this act is involved, the authority of Mr. Bayard is directly in conflict with the opinion so confidently expressed by the Senator from Massachusetts upon his authority.

But a word more. The honorable member from Ohio [Mr. SHERMAN] suggests—and I have no doubt he is right provided the law applies to Senators—that it is unnecessary to adopt the rule provided the end can be accomplished without it, and that the end can be accomplished by some one's moving, and the Senate's supporting the objection, that the Senator from Delaware, the only Senator, I believe, who has not taken this oath, when his name is called shall not be recognized. I have no doubt that the honorable member from Ohio is right. You have the same power over a Senator who refuses to take this oath that you would have over a Senator who refused to take the constitutional oath; and what power is that? Not to recognize him; to say that he is not qualified. If, therefore, in point of law, the passage of the act of July 2, 1862, was a constitutional exercise of power on the part of the legislature, and binds Senators as well as all other officers of the Government, then his refusing to take the oath renders him subject precisely to the same treatment to which he would have been subject or would be subject now if he refused to take the oath prescribed by the Constitution. Therefore, those of the body who, very honestly I doubt not, entertain the opinion that a Senator is included within the meaning of that act, (the member from Ohio, as he says, being one of them,) need no rule except for the purpose suggested by my friend from Vermont to which I shall refer in a moment—they need no rule to enforce the object of that statute. The object is, and such are the words if it applies to a Senator, that no Senator shall act at all until he takes the oath. If he declines to take that oath, then you tell him he cannot act; and if he perversely insists upon acting, what are you to do? Call your Sergeant-at-Arms to turn him out of the Chamber. I admit that, and let us see where that will place us.

The Constitution says that every Senator and member of the House of Representatives "shall be bound by oath or affirmation to support this Constitution." That is all it requires. Mr. BAYARD is here; he has taken the oath to support the Constitution. The honorable member from Vermont is clearly right in saying that the direction in the clause which I have just read that the oath to support the Constitution shall be taken, not prescribing the exact form of the oath, not pointing out the party by whom the oath shall be administered, or the place in which it shall be administered—these were all subjects for legislation; and Congress under that impression—passed

the act of 1789; but even that act, strange as it may seem, was supposed at the time to be unconstitutional, as my friend from Vermont will discover if he reads the debates of that day.

Well, now, Mr. President, Mr. BAYARD has taken that oath—I name him, although it is not strictly parliamentary to do so; he is here with the commission of his State in his hand. He says he is a Senator. Looking to the Constitution, and looking to that alone, he is a Senator. He has done everything with reference to an oath that the framers of the Constitution thought to be necessary, and he has taken the oath prescribed, and precisely as prescribed, in the form which the framers of the Constitution, who for the most part constituted the Congress that passed the act of 1789, thought proper to prescribe. Suppose you had not passed this act of July 2, 1862; or suppose the act is inoperative without a rule, and you have not passed the rule, how are you to get rid of him? Only by expelling him. There is no other way. There are but two ways of getting rid of a Senator—one of them doubtful, and not existing, provided Blount's case is considered as an authority, and a conclusive authority; and the other is by expelling, under the authority given in the Constitution to each body to expel a member. How are you to expel him?

There were wise men, Mr. President, who lived in that day. My friend, the Senator from Vermont, has told us—and to a certain extent, no doubt, he is right—that there is perhaps throughout the country now as much general intelligence as there was then; there may not be as many great men as lived in those days, though some of us do not think that; but, sir, the Senator from Vermont is not to be told that public opinion in every age of the civilized world has been fashioned into all that is great and noble and virtuous by the great men of the day, those high intellects that are the first to catch and reflect the dawn while the levels below are still in darkness. The illumination comes, but it comes by the reflection; and I believe, as firmly as I believe in my own existence, that if it had not been that some of those towering intellects were to be found among the members of the Convention by whom this Constitution was submitted to the American people, it never would have been submitted. They rose above party; they rose above section; they looked to the country at large; they recollected how they had all gone through the terrors of the revolutionary struggle shoulder to shoulder, their blood commingling together upon almost every battle-field, and they determined that liberty so achieved should not be lost by stubborn adherence to individual or sectional opinion. I am sure the same patriotism animates us; and I trust in God the time is still when, under the inspiration of the patriotism that they taught us, we will show to the public whom we are equally bound to represent, that in our hands the destinies of the country are as safe as they were in the hands of the men of 1789. But they saw, and every age that we have lived since whenever party excitement has been raging has shown that they correctly foresaw, the great necessity of guarding the legislature and every member of the legislature against the deleterious influence of such excitement, which is sure from its very nature to be carried to an extreme; and they therefore provided that no Senator or Representative should be expelled by a vote of less than two thirds. Now, what are you about to do? You are about to break down that guarantee of the independence of the legislature; you are about to submit this Senate above all to the influence of the passions of the hour, in every republic known, in the history of every people whose history we have, so great sometimes as to deaden reason and often to lead to bloodshed and slaughter. Now, what are you about to do? Our fathers told us that every Senator who takes the oath to support the Constitution shall have his seat secured in this body against the power of the body to get rid of him, by the security furnished by the provision that he shall remain here unless two thirds of the body expel him.

My friend from Vermont, he from Massachusetts, and one whom I hold in equal esteem, the honorable member from Michigan, [Mr. HOWARD,] talked about an unwillingness to receive back into this body men who have crimsoned their hands with the blood of the loyal citizens. My

honorable friend from Michigan, acting under the impulse of patriotism, which is a part of his own nature, intimated that he would see every dollar of the treasure of the loyal States expended and every human life sacrificed rather than come into association with men of that description. Mr. President, patriotism may run wild, as well as every other virtue. To be beneficial, it must be restrained; it must try to restrain itself; it must be taught by its cooler judgment; and I put it to the humane heart of the honorable member from Michigan, to which I know an appeal never can be made in vain, if he would really sacrifice the interest of the loyal States, the safety of the loyal States, the peace of the loyal States, their reputation in the eyes of Christendom, by making this a war of subjugation or annihilation. I am sure he would not in his cooler moments. If the South is willing to return—I do not mean the leaders; if captured they should be tried and convicted, and execution should follow to a large extent; but you cannot try and convict and execute four or five or six million people. That is impossible; and if you could do it who would be left? The white race in the southern States annihilated; the slaves alone protected; a nation of Africans instead of a nation of white men! I wish not to be misunderstood. If necessary to put down the rebellion, to reinstate the authority of the Government, I would go as far as he who is disposed to go farthest, and say that anything and everything must be attempted that proves to be necessary; but in my humble judgment that is not the condition in which, as I think, we are now involved.

Mr. President, there is another view. I suppose every one will admit who looks to the language of the Constitution that the framers of the Constitution intended—I put it to my friend from Vermont—to exact the same security of officers of the State governments that they deemed it necessary to exact of officers of their own Government. They believed that the oath which they prescribed was necessary; and they believed, as I think, that it was the only oath necessary. One thing is certain: no one can deny that whether they deemed it proper to exact any other form of oath than that which is contained in the clause which I have just read, they thought that the same oath which was deemed necessary to insure a faithful execution of the post of Senator or Representative should be taken by every representative in a State Legislature. Read the language: "The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution."

Now, will anybody pretend that the act of July 2, 1862, includes members of the State Legislatures and State judicial officers? Will anybody pretend that it could constitutionally include them? If not, then we are certainly in a condition that the framers of the Constitution never contemplated. They evidently looked to the necessity of having one form of oath binding the consciences of members of the State Legislatures and judicial officers by the same obligations as they deemed it necessary to impose upon members of Congress of either branch, and for very good reasons. From the peculiar frame of the Government, the large mass of powers was necessarily left with the States. Almost all the transactions of private life were left to the States. Inhibitions were placed upon the Congress of the United States to interfere at all with the legislation of the States in some particulars. But they saw very well that unless they could secure the conscience of the State legislators and State judicial officers in the same way in which they could secure or profess to secure the consciences of their own officers, there would not be harmony. They were wise enough to see, what experience has proved, that difficulties, contrarieties of opinion, conflicts of authority were sure to be the result of the State governments and the Government of the United States; and they therefore bound the officers of the State governments to take that oath; and they reserved to themselves, as has long since been settled, the right by legislation to bring up all questions involving the authority of the United States, upon which the judicial opinions of the State courts had been passed, to the Supreme Court of the United States in order to require uniformity and to pro-

fect the authority of the United States. Now you say by this oath, provided it includes Senators, that the oath which the Constitution prescribes is no security at all, or rather a lame and impotent security. Why? It is not because the man who takes it is not bound to support the Constitution, for he so swears in so many words. Why then is the oath not as good now as it was when it was first prescribed? The answer is, a state of things exists now which did not exist then; rebellion has reared its horrid form; an effort is made at the life of the nation; the obligations of the Constitution are forgotten and violated. Where? Not by us; we are not doing it; nor has the honorable member from Delaware done it, because he says there is nothing in this oath that he cannot take. Where has it been done? It has been done in these seceded States. Well, they are to come back; and when they come back they are to come back as States; at least, I assume that to be the result. Their State Legislatures will convene as State Legislatures under the Constitution of the United States, bound to yield obedience to it; their judicial officers will recognize their allegiance which nothing but treason would have broken; and you receive them, you are bound to receive them unless they are to be considered as traitors; I will not argue that question; but on my hypothesis you are bound to receive them. South Carolina, then, and Georgia and these other States are again in the Union as they were before, not bound by this oath of ours. How do you know they will not break loose again? How do you know that the contamination of their treason is not still within their bones, that the disease will break out whenever they can make the occasion? How can you know it? Yet if the existence of the disease so to speak renders it improper that any man having it should be a member of the Senate because it would endanger the integrity and the existence of the Senate, and of the nation as far as the Senate can injure the nation, if you will not have him, how are you to get the same security in the State Legislatures and the State judiciary? Not under this Constitution. Dissolve the States; consider them as constituting but one mass of people and the territory as but one territory separated by no line except such lines as Congress may think proper hereafter to designate; abrogate the State constitutions; and not only that, but change the Constitution of the United States and prescribe that members of the State Legislatures and their judicial officers shall take this additional oath, or you will have them back without the security which, according to the hypothesis upon which this act is passed, is supposed to be absolutely necessary in order to preserve the Government in its purity.

I forbear further to trouble the Senate, Mr. President, and I should not have said a word but for a remark or two which fell from the honorable member from Massachusetts; and I am induced to speak in reply to a part of his argument, merely because what he has said to the Senate has been carefully considered in his closet, and reduced to writing (as he had a perfect right to do to guard himself against error) as the result of his mature deliberation of each one of the questions involved. I conclude with saying that, in my judgment, in the first place, the statute of July 2, 1862, did not embrace Senators; and, in the second place, that if it did, there was no power in Congress by legislation so to embrace them.

Mr. DOOLITTLE. Mr. President, the Senator from Massachusetts [Mr. SUMNER] seems to suppose that this law has remained unexecuted. The fact is that there is but one of the newly elected Senators in this body who has not taken this oath; and that Senator is Mr. BAYARD from Delaware.

Mr. SUMNER. There is one other—Mr. RICHARDSON.

Mr. DOOLITTLE. Mr. RICHARDSON of Illinois, perhaps, has not taken the oath. The Senator then puts to me the question, "if my rule will not reach this case where the law has remained unexecuted, will the Senator from Wisconsin point out the way in which to reach it?" Mr. President, the rule of the honorable Senator will not touch the case of Mr. BAYARD at all. The language of this rule is "that the oath or affirmation prescribed by act of Congress of July 2, 1862, to be taken before entering upon the duties of office, shall be taken and subscribed by every Senator in open Senate before entering upon his du-

ties." That will not reach Mr. BAYARD's case. It will not reach the case of Mr. RICHARDSON either. How does the Senator from Massachusetts propose to reach, under this rule, the cases where, as he assumes, the law remains unexecuted?

Mr. SUMNER. Does the Senator wish an answer?

Mr. DOOLITTLE. The Senator may answer. Mr. SUMNER. The answer is simply by the enforcement of the rule.

Mr. DOOLITTLE. That I supposed; but the rule has no application to that case, because Mr. BAYARD has appeared and has entered upon his duties as a Senator. The Senator's rule is now prospective, not retrospective, and does not touch the very case he is aiming at. The honorable Senator from Ohio and the honorable Senator from Maryland pointed out precisely the way in which this is to be reached. If the law which was passed in 1862 is a constitutional law, and a person is disqualified from exercising the duties of a Senator unless he takes that oath, the question can be raised on every vote he attempts to give in the Senate, just as if any other person not qualified at all for a seat in this body should appear here and take one of these seats and undertake to exercise its duties.

Mr. SHERMAN. If the Senator understood me as saying that in my judgment this question could be raised on any vote, he misunderstood me. I suggested that mode; but there are difficulties made by parliamentary law, which, it seems to me, would prevent that mode from being effectual. No question can be raised while the roll is being called, and I have no doubt the Presiding Officer would overrule any such point. The only way in which it could be made would be by a resolution in the Senate directing the Secretary to strike from the roll the names of those who had not taken the oath. It could be done in that way and in no other.

Mr. DOOLITTLE. But, Mr. President, here is another point in the case. If the law is defective because it has not specified the form in which this oath shall be taken nor where it shall be taken this body has no power by rule to add to it or modify it. If I, after having been elected to the Senate, had taken that oath of office and subscribed it before any officer under the laws of the United States authorized to administer oaths, and had put it in my pocket and brought it with me, I should have complied with the statute, and the Senate could not vary the law and compel me to do anything else by a rule.

Mr. President, it has very often been said, in the course of this debate, that the Senate, if it does not adopt this rule or something like it, is in danger of being overrun by rebels from the seceded States—men coming here with the blood of our children upon their hands. Have we forgotten Bright's case? Was not Bright a Senator from Indiana, and for writing a letter in which he addressed Jefferson Davis as "president of the confederate States" did not two thirds of this body expel him, because on the very face of his letter he seemed to acknowledge that there was a government called the government of the confederate States, and that Jefferson Davis was the president of that government? Have we no confidence in ourselves, no confidence in our successors? Sir, whether we adopt this rule or not, I have no fears that any of those leading men with the blood of our children upon their hands will ever come into this Senate Chamber or the other House of Congress. When the military power of the so-called confederate government is once broken, those leaders will call on the rocks and the mountains to hide them from the wrath of their people. That is as certain in my judgment as anything which has not yet transpired can be. They have so deceived, so abused, so misled their people to their own destruction that they will flee from them as they would from the "wrath to come."

I have no sympathy for the men engaged in this rebellion who lead it or sympathize with it; but I cannot blind myself to the fact, which I believe to be true, that there is a large mass of the people within the States where this rebellion exists who have been forced into the rebellion by force of arms in many instances, who have been misled in many others; and when the military power of the rebellion is once broken they will seek to return to their loyalty and to the Union of

these States. I repeat, I can never have any sympathy for the men who have knowingly, willfully led that people into this rebellion. No punishment can be too great to be measured out to them for their crimes; and sometimes in my heart I bless God that I can believe there is a tribunal before which, if they do not receive their just deserts on earth, they will be called to render an account where fraud and perjury will be of no avail, and where they must answer for their crimes.

Sir, in reference to them I feel, and sometimes from my heart I am almost ready to express the sentiment avowed by a Universalist clergyman who resided in my town, in the State of Wisconsin. In the goodness of his heart he preached a thousand times to the people there that there is no such place as hell beyond the grave. He enlisted in the Army, and went as a chaplain in one of our regiments. He went into the rebellious States; he saw this rebellion and looked it naked in the face; and when he came home again, as he did to our people, in addressing them on this subject, and speaking of the crime greater than any other that had ever been committed on earth, by the leaders of this rebellion, he declared to them:

"Fellow-citizens, you know me; you know what my opinion has been; but I tell you I have come to believe in a hell as a military necessity. [Laughter.] There is a hell in my creed for these traitors."

That was his language.

I repeat, sir, I have no sympathy and can never have any sympathy with the men who have misled that people and who are imbruing their hands in the blood of our sons and our brothers; but for the great mass of that people who have been misled from their allegiance, who have been trampled under foot by military despotic power, to whom we as a Government owe protection, in whose States we as a Government are bound to maintain a republican form of government and to defend them against this very despotic power which is trampling them in the dust, I do feel and entertain sympathy, and I am not afraid or ashamed to acknowledge it here or elsewhere or every where. If in the providence of God the time shall come when we can break down the military power of this rebellion which holds these people captive in its chains, and we can once more let their hearts gush out in patriotic love to that Union which once protected them, which never oppressed them, which never exercised any influence over them but to bless them and to enrich them, and under circumstances like those they seek to return to their allegiance to this Government and to this Union, I shall not reject that allegiance nor prevent that return.

Mr. President, I agree with the gentlemen who have preceded me, that we are living in the midst of great events. I well remember when as a child I first read the story of the Revolution, of that grand old period which made men great—the story of the Declaration of Independence and the rights of man; the history of Washington and all his great compeers—the thought that oppressed my young mind was this: "Why was not I in the providence of God permitted to live at that epoch?" How little did I think that I should ever be permitted to live in the midst of events such as are now transpiring. Sir, we are not only spectators but actors in the grandest events of human history. The age in which we live, the whole civilized world, of which we are a part, are continually advancing under the influence of that spirit which above all others is the spirit of the age in which we live.

If we look across the Atlantic what have we seen in the old eastern division of the Roman empire of which Constantinople is the seat of power? We have seen England and France allied together in arms against Russia; and for what? To protect the political integrity of the Sultan. After the great battles of the Crimea the political integrity of Turkey was saved; but, sir, the soul of Turkey, the spirit of Moslemism, the very idea upon which that empire was founded and has been maintained for long centuries, the idea of that persecuting, fanatical, religious intolerance, is gone forever—not destroyed by the arms of Russia, but destroyed by that very alliance which saved the "sick man" from the jaws of the Russian bear. In February, 1856, before the allied forces were withdrawn from Constantinople, out of gratitude it may be to his Christian allies, the Turkish Sultan issued an imperial decree by

which he established universal religious toleration throughout the whole of his great empire, admitting Jews and Christians to equal rights before the law with Mohammedans. What a grand revolution was that, sir, when the great American idea of free universal religious liberty, first applied to government in this country by Roger Williams of Rhode Island and William Penn of Pennsylvania, penetrated even into the dominions of the Sultan and revolutionized that empire! We have seen that bigoted persecuting spirit of religious intolerance, which is itself a child of hell, give way before that enlightened spirit of religious freedom, born of Christianity, and which is the essence of Christianity itself. We have seen this; and we have seen the Crescent bow to the Cross.

If we look into the western division of the old Roman empire, what have we witnessed transpiring there? We have seen the kingdom of Italy, composed of nearly twenty million people, born almost in a single day; and, adopting the other great American idea that governments derive their powers from the consent of the governed, we have seen the people of Italy by universal suffrage elect Victor Emanuel to be their king.

If we go beyond the old Roman empire into the dominions of Russia, which was never under the dominion of the Roman empire, what have we witnessed there? In that same year, in that same month, and almost on the very day that Mr. Lincoln stood on the steps of this Capitol and announced to the civilized world that the American people had decided in the last election that slavery had made its last conquest in America, that slavery should never go one foot further into the Territories of the Union, the Emperor of Russia announced to his assembled nobility his unalterable purpose to set free his serfs; and although that Government has sometimes, and perhaps properly, been regarded as the most absolute and despotic Government in Europe, true to his generous purpose, Alexander has emancipated over twenty-three millions of his serfs.

Mr. President, grand as are these events transpiring in the civilized world on the other side of the water, the revolution in the Mohammedan empire, the revolution in the seat of empire in old Italy, the great social and bloodless revolution in the empire of Russia, by which twenty-three million persons have had the chains broken from their arms in a single hour—great as are these events, we are witnessing, and are acting, too, in still grander events on this side of the ocean. The part we have to play is as important in the history of humanity as that of our great ancestors in the American Revolution. The doctrine which they then announced—the capacity of the people to maintain republican constitutional liberty and self-government—is now on trial. It is now enduring its first severe agonizing trial. In this controversy is involved all that they fought for, all that they held dear. In this struggle, if we succeed or fail, we involve with us in our success or failure the constitutional liberty of all mankind, white and black. We are all in the boat together. Therefore I believe that it is our duty, as representatives of the people, on this, as on all other occasions, to rise up to the full comprehension of the epoch in which we live. I believe we shall go through the struggle successfully. I believe that we shall come out of this struggle with slavery utterly done away with; that we shall be redeemed and regenerated as a people; and we shall stand hereafter, as we have stood heretofore, in the vanguard of the civilized nations, the Power of all other Powers on the earth. That is my faith and my belief.

But, sir, to return to the subject upon which this debate has sprung up, I submit that this resolution or rule of the Senator from Massachusetts can add no force whatever to the law. If the law is valid, his rule will not affect it. If it is invalid, it will not cure it. It cannot add to the law nor take from it, and, more than all, it does not apply to the very case he desires to reach. If the Senator will allow me to make a suggestion to him, I will suggest to him to do now precisely what he did on a former occasion after we had wasted a long time in debate, withdraw his proposition. He did it before; he can do it now. His resolution has no application to the case in hand, and can have no effect.

But, Mr. President, I perhaps owe it to the Senator from Massachusetts to say a single word

further. That Senator and myself have always been upon terms of friendship and intimacy, and I beg him to understand that anything I said this morning did not grow out of any desire or wish on my part to wound his feelings. I, too, am a warm friend of the Senator from Vermont, and I thought I understood the Senator from Massachusetts, but perhaps I was mistaken.

Mr. SUMNER. Utterly mistaken.

Mr. DOOLITTLE. I thought I understood the effect of his remarks to be a pretty severe criticism on the course of the honorable Senator from Vermont. I spoke at the time in the heat of the moment, and perhaps gave utterance to strong language; but certainly I did not intend to injure or wound in the slightest degree the feelings of the Senator.

The VICE PRESIDENT. The Secretary will call the roll on the adoption of the resolution.

Mr. LANE, of Indiana. My colleague [Mr. HENDRICKS] was called to New York on important business, and I agreed to pair off with him on this question, unless my vote was necessary to make a quorum. I should vote for the rule and he would vote against it if present.

The question being taken by yeas and nays, resulted—yeas 28, nays 11; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Colamer, Conness, Dixon, Fessenden, Foster, Grimes, Hale, Harlan, Henderson, Howard, Lane of Kansas, Morgan, Morrill, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—28.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Doolittle, Harris, Howe, Johnson, Powell, Saulsbury, and Wright—11.

So the resolution was adopted.

Mr. WILSON. I now move that the Senate proceed to the consideration of executive business.

REFERENCE OF A BILL.

The VICE PRESIDENT. With the consent of the Senate, before putting the question on that motion, the Chair will lay before the Senate a House bill with a view to reference.

The bill (H. R. No. 122) to increase the internal revenue, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker had signed the following enrolled bill; which thereupon received the signature of the Vice President:

A bill (H. R. No. 65) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, and for other purposes.

EXECUTIVE SESSION.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, January 25, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Friday last was read and approved.

AGRICULTURAL REPORT.

The SPEAKER laid before the House a letter from the Commissioner of Agriculture, asking that an additional number of the agricultural report be printed for the use of that office; which was referred to the Committee on Printing.

INTRODUCTION OF BILLS.

The SPEAKER stated the first business in order to be the introduction of bills for reference only.

ACCOUNTS OF MASSACHUSETTS AND MAINE.

Mr. RICE, of Maine, introduced a bill in relation to the accounts of the States of Massachusetts and Maine; which was read a first and second time, and referred to the Committee of Claims.

PEOPLE'S GAS-LIGHT COMPANY.

Mr. DAVIS, of New York, introduced a bill to incorporate the People's Gas-Light Company, in the city of Washington; which was read a first

and second time, and referred to the Committee for the District of Columbia.

NAVIGATION OF THE POTOMAC.

Mr. DAVIS, of New York, also introduced a bill to provide for the improvement of the navigation of the Potomac river opposite the city of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

ENROLLMENT BILL.

Mr. NELSON introduced a bill to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes;" which was read a first and second time, and referred to the Committee on Military Affairs.

HOUSE OF CORRECTION.

Mr. FENTON introduced a bill to authorize the construction of a house of correction, &c., in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

PENSIONS.

Mr. FENTON also introduced a bill concerning applications for pensions; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JACOB S. LOWREY, ETC.

Mr. LONG introduced a bill for the relief of Jacob S. Lowrey and George A. Gray; which was read a first and second time, and referred to the Committee of Claims.

DANIEL FULLER.

Mr. HALL introduced a bill for the relief of Daniel Fuller; which was read a first and second time, and referred to the Committee on Invalid Pensions.

COSTS IN UNITED STATES COURTS.

Mr. HOLMAN introduced a bill in relation to costs in the circuit and district courts of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

POST OFFICE DEPARTMENT LAWS.

Mr. LONGYEAR introduced a bill to amend an act entitled "An act to amend the laws relative to the Post Office Department," approved March 3, 1863; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

NAVY-YARD, ETC., ON WESTERN WATERS.

Mr. BLOW introduced a bill to authorize and establish a navy-yard and depot on the western waters; which was read a first and second time, and referred to the Committee of Ways and Means.

COMPENSATION OF REGISTERS, ETC.

Mr. HUBBARD, of Iowa, introduced a bill regulating the compensation of registers and receivers of land offices in the location of lands by States and corporations under grants from Congress; which was read a first and second time, and referred to the Committee on Public Lands.

RAILROAD, ETC., TO THE PACIFIC.

Mr. COLE, of California, introduced a bill to amend an act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean; which was read a first and second time, and referred to the select committee on the Pacific railroad.

SCHOOL FUND OUT OF REBELLIOUS PROPERTY.

Mr. COLE, of California, also introduced a bill to create a school fund out of the proceeds of confiscated property; which was read a first and second time, and referred to the select committee on rebellious States.

LANDS IN CALIFORNIA.

Mr. HIGBY introduced a bill concerning certain lands in the State of California; which was read a first and second time, and referred to the Committee on Public Lands.

PAY TO CERTAIN TRIBES OF INDIANS.

Mr. WINDOM introduced a joint resolution directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians in the State of Michigan \$192,850; which

was read a first and second time, and referred to the Committee on Indian Affairs.

STATE GOVERNMENT FOR UTAH.

Mr. KINNEY introduced a bill to enable the people of Utah to form a State constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; which was read a first and second time, and referred to the Committee on Territories.

MAIL SERVICE IN UTAH.

Mr. KINNEY also introduced a bill to enlarge and increase the mail service in the Territory of Utah on established routes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Also, a bill for increased mail service in the Territory of Utah; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

TRANSPORTATION OF THE MAILS.

Mr. ALLEY introduced a bill to secure the speedy transportation of the mails; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

A. P. FIELD.

Mr. DAWES. I am instructed by the Committee of Elections, to which were referred the credentials of A. P. Field, claiming to be elected from the State of Louisiana, to submit a report accompanied by a resolution. I ask that the resolution be read, and that the report and resolution be laid on the table and ordered to be printed.

The resolution was reported, as follows:

Resolved, That A. P. Field is not entitled to a seat in this House as a Representative from the State of Louisiana in the Thirty-Eighth Congress.

The resolution and report were laid on the table, and ordered to be printed.

JOSEPH SEGAR.

Mr. DAWES, from the same committee, to whom were referred the credentials of Joseph Segar, claiming to be a Representative from the State of Virginia, made a report, accompanied by a resolution; which were laid on the table, and ordered to be printed.

The resolution was as follows:

Resolved, That Joseph Segar is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the first district of Virginia.

Mr. UPSON. I desire to say that while I concur in the result expressed in the resolution, I do not agree to some of the statements contained in the report.

The SPEAKER proceeded, as the next business in order, to call the States for resolutions.

DEPARTMENT OF INDUSTRY.

Mr. ORTH introduced the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of organizing a department of Government to be denominated the Department of Industry, to embrace under its supervision and control a Bureau of Agriculture, a Bureau of Freedmen's Affairs, a Bureau of Mines, Minerals, and Mineral Lands, and a Bureau of Colonization and Immigration; and to report by bill or otherwise.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

NEW NAVY-YARD.

Mr. HARRINGTON introduced a resolution, which was read, considered, and agreed to, instructing the Committee on Naval Affairs to inquire into the expediency of establishing a navy-yard at Madison, in the State of Indiana, and report by bill or otherwise.

INCREASED PAY OF SOLDIERS.

Mr. HOLMAN submitted the following resolution, upon which he demanded the previous question:

Resolved, That the immediate increase in the pay of the private soldiers of the Army is imperatively demanded by every consideration of justice and sound public policy; that such increase is especially necessary and proper in behalf of those soldiers who entered the Army prior to the adoption of the present regulations as to bounties, and that the Committee on Military Affairs be instructed to report a bill at the earliest practicable moment increasing the pay of the private soldiers to correspond substantially with the increase in the price of labor, and of all articles of domestic consumption since the pay of the private soldier was fixed at thirteen dollars per month.

Mr. STEVENS. I ask the gentleman from Indiana to change his resolution into one of inquiry.

Mr. HOLMAN. After so much delay, I think it proper that there should be a definite expression on the part of the House upon this subject. If the pay of our soldiers is to be increased it is time it were done. The subject has been referred to the Committee on Military Affairs several times as a matter of inquiry. Such resolutions have produced no result. The adoption of an imperative resolution can alone be effective. If gentlemen favor an increase of the pay of the private soldiers of our Army, an imperative instruction must be adopted.

Mr. STEVENS. Does the resolution go over if debate arises on it?

The SPEAKER. It does not; the previous question is demanded.

Mr. STEVENS. I hope it will not be sustained.

The question was put; and there were—ayes 55, noes 59.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. STEVENS and HOLMAN were appointed.

The House divided; and the tellers reported—ayes 56, noes 65.

So the House refused to second the demand for the previous question.

Mr. STEVENS. I move that the resolution be referred to the Committee on Military Affairs.

Mr. RANDALL, of Pennsylvania. I move that the resolution lie upon the table, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. What is the pending motion?

The SPEAKER. That the resolution lie upon the table, upon which the yeas and nays have been ordered.

Mr. WASHBURN, of Illinois. Does that motion come from the other side of the House?

Mr. RANDALL, of Pennsylvania. Yes, sir; it comes from a gentleman who intends to vote against his own motion.

Mr. WASHBURN, of Illinois. Well, I, for one, intend to vote against the motion.

The question was taken; and it was decided in the negative—yea 1, nays 141; as follows:

YEA—Mr. McBride—1.

NAYS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Ames, Anderson, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Bliss, Blow, Boutwell, Boyd, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Coffroth, Cole, Cravens, Thomas T. Davis, Dawes, Dawson, Dennison, Dixon, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, Elliot, Finck, Frank, Ganson, Gooch, Grider, Grinnell, Griswold, Hale, Harding, Harrington, Herrick, Higby, Holman, Hooper, Hotchkiss, Asahel H. Hubbard, John H. Hubbard, Kasson, Kelley, Orlando Kellogg, Keran, King, Knapp, Law, Lazear, Le Blond, Long, Longyear, Marcy, Marvin, McClurg, McDowell, McIndoe, McKinney, Samuel F. Miller, William H. Miller, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Orth, Pendleton, Perham, Pike, Pomeroy, Price, Prunty, Badford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Scofield, Scott, Shannon, Smith, Smathers, Spalding, Stebbins, John B. Steele, William G. Steele, Stevens, Stiles, Stuart, Sweat, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Voorhees, Wadsworth, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Windom, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—141.

So the House refused to lay the resolution upon the table.

During the roll-call,

Mr. L. MYERS stated that Mr. O'NEILL, of Pennsylvania, had paired off for the day with Mr. Cox.

Mr. DENNISON stated that his colleague, Mr. ARONA, was detained from the House in consequence of sickness in his family.

The result of the vote having been announced as above recorded, the question recurred on Mr. STEVENS's motion to refer the resolution to the Committee on Military Affairs.

Mr. HOLMAN. If the resolution is referred to the Committee on Military Affairs under this motion, does it go there as an imperative instruction, or is it discretionary with the committee whether they will report the bill or not?

The SPEAKER. The resolution being imperative, has no force unless it be adopted by the

House. If referred to the committee, it would merely be a matter for inquiry.

Mr. HOLMAN. Then I ask for the yeas and nays on the motion to refer.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 66; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Elliot, Farnsworth, Fenton, Frank, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel H. Hubbard, John H. Hubbard, Hubard, Jenckes, Julian, Kasson, Kelley, Orlando Kellogg, Longyear, Marvin, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Leonard Myers, Norton, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, James S. Rollins, Scofield, Shannon, Smithers, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—73.

NAYS—Messrs. James C. Allen, William J. Allen, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, James S. Brown, Chanler, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Griswold, Harding, Harrington, Herrick, Holman, Hutchins, Kallbelsch, Keran, King, Knapp, Law, Lazear, Le Blond, Long, Malloy, Marcy, McClurg, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Amos Myers, Nelson, Noble, John O'Neill, Pendleton, Prunty, Radford, Samuel J. Randall, Robinson, Ross, Scott, Smith, Stebbins, John B. Steele, William G. Steele, Stiles, Stuart, Sweat, Thomas, Voorhees, Wadsworth, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, and Fernando Wood—66.

So the bill was referred to the Committee on Military Affairs.

During the roll-call,

Mr. WASHBURN, of Illinois, stated that Mr. LOVEJOY was detained at his residence by indisposition.

Mr. COBB stated that his colleague, Mr. SLOAN, was still detained from the House by serious illness in his family.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate had passed, without amendment, House bill No. 65, to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, and for other purposes.

MILITARY ARRESTS, ETC.

Mr. McDOWELL offered the following series of resolutions, and moved the previous question on their adoption:

Resolved, 1. That this House fully recognizes the great fundamental provision of the Constitution of the United States which guarantees the freedom of speech to every American citizen; and that neither the President, nor any person acting in a subordinate capacity to him, has the right of authority to arrest and imprison a citizen of the loyal States for the utterance of sentiments distasteful to the men in power.

2. That we recognize in the FREEDOM OF THE PRESS the great bulwark of civil liberty; and that those persons temporarily entrusted with power have not the rightful authority, in those States not in rebellion, to subvert this great constitutional guarantee by issuing military orders, or by a resort to any other means unknown to the laws of the country.

3. That the right to security of person from arrest, in the loyal States, when no crime is charged, is a sacred right guaranteed to every citizen; and that neither the President, nor any one acting by his authority, has the legal right to arrest, imprison, or transport our people without "due process of law," requiring affidavit, warrant, arrest and trial by a jury of the country impartially selected.

4. That the privilege of the writ of habeas corpus is a fundamental and inherent right belonging to the American people, solemnly guaranteed by express provision of the Constitution, that cannot be denied to the citizens of the loyal States, where the courts are open and the administration of justice unobstructed, and "invasion and rebellion" do not exist.

5. That the Constitution of the United States is one of expressed and limited powers, and that neither Congress nor the Executive have the "lawful right" to interfere with the established rights and domestic institutions of the several States.

6. That we reaffirm our unalterable devotion to the Constitution of the United States, and to each and every provision thereof, as framed by the fathers, including those provisions relating to the rights of property and the inviolability of contracts, as understood and interpreted by the Supreme Court of the United States.

Mr. McDOWELL demanded tellers on the previous question.

Tellers were ordered; and Messrs. McDOWELL, and WASHBURN, of Illinois, were appointed.

The House divided; and the tellers reported—ayes 45, noes 65.

So the previous question was not seconded.

Mr. WASHBURN, of Illinois. I propose to debate the resolutions.

The SPEAKER. The resolutions go over under the rule.

PEACE RESOLUTIONS.

Mr. EDGERTON offered the following resolutions, and demanded the previous question on their adoption:

Whereas this House on the 17th day of December last adopted, with but one dissentient vote, the following resolution, to wit: "Resolved, That we hold it to be the duty of Congress to pass all necessary bills to supply men and money, and the duty of the people to render every aid in their power to the constituted authorities of the Government in the crushing out of the rebellion, and in bringing the leaders thereof to condign punishment;" Therefore, in explanation of the foregoing resolution, and in further expression of the opinion and purpose of this House,

Resolved, That the aid hitherto liberally supplied in men and money, by the people of the United States, to enable the Federal Executive to prosecute the existing civil war, has been so supplied, by all citizens truly faithful to the Federal Union and Constitution, for the purpose, and no other, expressed in the resolution adopted by Congress in July, 1861, declarative of the object of the war, and commonly known as "the Crittenden resolution;" and public faith, true Christian humanity, and wise statesmanship alike demand strict adherence by "the constituted authorities of the Government" to the purpose or object of the war as thus declared by Congress and accepted by the people.

Resolved, That the demand of the President, in his proclamation of December 8, 1863, that the people of the States wherein rebellion exists shall swear to abide by and support his proclamations of emancipation (in other words, change, or submit to the change, at his dictation, of their State constitutions, local laws, and domestic institutions, not inconsistent with the Constitution of the United States) before such States or their people will by him be considered to have ceased to be in rebellion, and entitled to pardon or amnesty, and entitled to their constitutional rights of State government, in harmony with the Government of the United States, is, in the judgment of this House, an oppressive and unconstitutional demand, the tendency and effect of which, if persisted in and enforced by war, will be to substantially change the object and character of the war on the part of the Federal Government, from one to preserve, protect, and defend the Constitution of the United States as the supreme law of the land, to a revolutionary war against the constitutional rights and sovereignty of Federal States, and virtually subversive of the constitutional Government of the United States, and of such a war we now record our disapproval.

Resolved, That in view of the immense power of war demanded by the President and supplied to him by a patriotic people, and hitherto wielded by him according to his own will, with little deference or regard to the opinions and convictions of the very large number, if not majority, of faithful Union citizens in the United States who have doubted or disapproved his policy in the conduct of the war and his extraordinary assumption of executive power, and in view of the dangers to constitutional liberty and the manifold evils that ever attend civil war, we desire peace and the replacement under its healthful and benign influence, with the least possible further waste of the blood and treasure of the people, of all the relations and functions of constitutional Government, State and Federal, now disturbed and endangered; and we therefore deprecate all vindictive and revolutionary measures and policy, military or civil, as tending to divide the Union men of the country, to aggravate the evils and to intensify the animosity of the war and prolong its duration, and we advise, and do cordially invite, and pledge our cooperation in negotiations, proposals, and efforts for peace upon the basis of a restoration of the Federal Union under the Constitution as it is, leaving to the free constitutional action of the people the questions of amendments of the Federal Constitution, and leaving also to the people of each State, as their unquestionable right, the right, and its free exercise, to form, regulate, and control their State constitutions, laws, and domestic institutions in their own way, subject only to the Constitution of the United States.

Mr. ARNOLD. I move that the resolutions be laid upon the table.

Mr. HOLMAN. On that motion I call for the yeas and nays.

Mr. FENTON. I ask the gentleman from Illinois to withdraw his motion and let the resolutions go to the committee appointed on that subject.

Mr. ARNOLD. At the suggestion of the gentleman from New York I withdraw the motion. The previous question was not seconded.

Mr. ARNOLD. I propose to debate the resolutions.

The SPEAKER. Then they go over, under the rule.

Mr. FARNSWORTH. Mr. Speaker, has the morning hour expired?

The SPEAKER. It has.

THE GRADE OF LIEUTENANT GENERAL.

Mr. FARNSWORTH, from the Committee on Military Affairs, reported back, with an amendment in the nature of a substitute, House bill No. 26, reviving the grade of lieutenant general in the United States Army.

The substitute revives, section one, the grade of lieutenant general in the Army of the United States, and authorizes the President, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a commander of

the Army, to be selected, during war, from among those officers in the military service of the United States not below the grade of major general who are most distinguished for courage, skill, and ability, and who shall be authorized, under the direction of the President, to command the armies of the United States. By the second section the lieutenant general so appointed is to be entitled to the pay, allowances, and staff described in the act of 28th May, 1798; also to the allowances described in the sixth section of the act approved August 23, 1842; provided that nothing in the bill shall be construed to affect in any way the rank, pay, and allowances of Winfield Scott, lieutenant general by brevet, now on the retired list of the Army.

Mr. STEVENS. I desire to ask the gentleman who reported the bill whether it is essential that there should be limitation as to the persons from whom the selection is to be made—whether the President should not have power to select from any rank he may think proper?

Mr. FARNSWORTH. The limitation in the bill is that the lieutenant general shall be appointed from among officers of the Army most distinguished, not below the grade of major general.

Mr. STEVENS. But why should that be, if the President can find a better man below that grade?

Mr. FARNSWORTH. The supposition is that the best men for the position are to be found in the grade of major generals. Promotions in the Army are supposed to be based on merit.

Mr. STEVENS. How much do the pay and emoluments of a major general amount to?

Mr. FARNSWORTH. I think the pay and emoluments of a major general are a little above \$400 a month. The pay of Lieutenant General Scott is about \$720 a month, including all allowances.

Mr. STEVENS. If I recollect the act of last Congress, it authorized the President to appoint anybody commander-in-chief, without regard to grade. Am I right?

Mr. FARNSWORTH. I think not. The law provides that the President may designate a commander of a department, or a commander-in-chief of the Army, but he must be of an equal grade. That is, he cannot place a brigadier general over a major general; but he may place a junior brigadier general or a junior major general over his seniors of the same grade.

Mr. J. C. ALLEN. I desire to ask my colleague a question. I would like him to tell the House whether the bill which has been reported from the Committee on Military Affairs restricts the President, in making the appointment, to the major generals of the regular Army? May he select from major generals in command of volunteers?

Mr. FARNSWORTH. He may select from either the regular or the volunteer forces. I have no disposition to discuss this matter further; and if other gentlemen do not wish to speak to it I will call for the previous question.

Mr. PENDLETON. Has the amendment ever been printed?

Mr. FARNSWORTH. Of course not. The bill and the amendment are both brief.

Mr. PENDLETON. Does not the gentleman propose to have them printed?

Mr. FARNSWORTH. No, sir.

Mr. PENDLETON. Is it not extraordinary that there should be action called on a matter of such importance without permitting us to hear what the amendment is more than by hearing it read from the Clerk's desk?

Mr. FARNSWORTH. The amendment is a small one; we struck out one or two words and inserted others. The amendments of the original bill were rather informal.

Mr. PENDLETON. Has the original bill been printed?

Mr. FARNSWORTH. I think that it was not ordered to be printed. It was introduced at an early day, and referred to the Committee on Military Affairs.

Mr. PENDLETON. If it was introduced at an early day it ought to have been printed.

Mr. FARNSWORTH. I call for the previous question.

Mr. PENDLETON. I move that the further consideration of the subject be postponed until this day week.

The SPEAKER. That is not in order during the demand for the previous question.

Mr. PENDLETON. I hope that the gentleman will withdraw his demand for the previous question, so that the matter may be postponed to a day certain.

Mr. FARNSWORTH. I should rather not do that.

On seconding the demand for the previous question there were, on a division—ayes 50, noes 60.

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. FARNSWORTH and PENDLETON were appointed.

The call for the previous question was not seconded, the tellers having reported—ayes 58, noes 66.

Mr. PENDLETON. I now move that the further consideration of the subject be postponed until after the morning hour on Monday next, and that the bill and amendment be printed.

Mr. WASHBURNE, of Illinois. If that motion be voted down, will not the bill and amendment be up for action?

The SPEAKER. That will be the result.

Mr. WASHBURNE, of Illinois. I hope that the motion to postpone will not be agreed to.

Mr. PENDLETON. We only want time to have the bill and amendment printed, so that we may examine it.

Mr. WASHBURNE, of Illinois. I hope that this will be considered a test vote.

Mr. PENDLETON. You cannot make it a test vote.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 83, nays 56; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Bally, Augustus C. Baldwin, Jacob B. Blair, Brooks, James S. Brown, William G. Brown, Chanler, Freeman Clarke, Clay, Coffroth, Cole, Cravens, Henry Winter Davis, Dawson, Dennison, Edson, Ederston, Eldridge, Flinn, Ganss, Garfield, Grider, Griswold, Hale, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Kallfeltsch, Orlando Kellogg, Kernan, King, Knapp, Law, Luzar, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Nelson, Noble, John O'Neill, Orth, Patterson, Pendleton, Price, Pruyn, Samuel J. Randall, James S. Rollins, Scott, Shannon, Smithers, John B. Steele, Stevens, Stiles, Stuart, Sweat, Thayer, Thomas, Tracy, Voorhees, Wadsworth, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, and Woodbridge—83.

NAYS—Messrs. Alley, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Francis P. Blair, Blow, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Cobb, Thomas T. Davis, Dawes, Denning, Dixon, Driggs, Eckley, Eliot, Farnsworth, Fenion, Frank, Grinnell, Higby, Asahel W. Hubbard, John H. Hubbard, Huburd, Kelley, Francis W. Kellogg, Longyear, Marvin, McClurg, Melinde, Leonard Myers, Norton, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Scofield, Smith, Spalding, Upson, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, Windom, and Yeaman—56.

So the motion to postpone was agreed to.

During the vote,

Mr. DEMING stated that his colleague, Mr. ENGLISH, had been called home by sickness.

The vote was then announced as above recorded.

Mr. PENDLETON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found correctly enrolled a bill (H. R. No. 65) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, and for other purposes; when the Speaker signed the same.

GENERAL M'CLELLAN'S REPORT.

Mr. PRUYN asked unanimous consent to introduce the following resolution:

Resolved, That fifty thousand additional copies of General McClellan's report be printed for the use of this House.

Mr. WASHBURNE, of Illinois, objected.

EMANCIPATION IN KENTUCKY.

Mr. ANDERSON asked unanimous consent to introduce the following resolution:

Whereas the President of the United States has heretofore recommended that Congress make an appropriation

to compensate the loyal owners of slaves in the State of Kentucky in the event the people of that State should adopt a system of emancipation; and whereas the Legislature of that State is now in session, and it is believed the institution of slavery in said State has become so endangered and precarious in consequence of the present war, forced on the Government of the United States by the disunionists and traitors of the South, that it would be to the interest of the people of Kentucky to accept compensated emancipation: Therefore,

Resolved, That the committee on emancipation be instructed to inquire into the expediency of providing for compensation to loyal owners of slaves in said State, in the event a system of emancipation be adopted by the people thereof; and that said committee report by bill or otherwise.

Mr. HOLMAN objected.

ENROLLMENT ACT.

Mr. SCHENCK, by unanimous consent, from the Committee on Military Affairs, reported back the Senate amendment to the enrollment act with a substitute; which were referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SCHENCK moved that it be made the special order for Wednesday next.

Mr. STILES objected.

Mr. SCHENCK moved that the rules be suspended for the purpose indicated, and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 92, nays 54; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Francis P. Blair, Jacob B. Blair, Blow, Boutwell, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Briggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Charles M. Harris, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburt, Hutchins, Jenekes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Longyear, Marvin, McClure, Meludoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myer, Leonard Myers, Norton, John O'Neill, Orth, Patterson, Perlman, Pike, Pomeroy, Price, William H. Rollins, Schenck, Seofield, Shannon, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, Woodbridge, and Yeman—92.

NAYS—Messrs. James C. Allen, William J. Allen, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chanter, Clay, Colford, Dawson, Dennison, Eden, Edgerton, Eldridge, Fluck, Ganson, Grider, Harding, Harrington, Benjamin G. Harris, Horlick, Holman, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, McDowell, McKinney, James R. Morris, Morrison, Noble, Pendleton, Proyn, Radford, Robinson, James S. Rollins, Ross, Scott, Stobbs, John B. Steele, William G. Steele, Stiles, Stuart, Voorhees, Vawter, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, and Fernando Wood—54.

So the rules were not suspended; and three thirds not voting in favor thereof.

DAKOTA CONTESTED-ELECTION CASE.

Mr. DAWES presented certain papers in the Dakota contested-election case; which were referred to the Committee of Elections.

DEFICIENCY APPROPRIATION BILL.

Mr. STEVENS. I now renew my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the consideration of the bill of the House (No. 156) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1863, which had been previously made the special order for this day.

The bill was read *in extenso*.

The Clerk then proceeded to read the bill clause by clause for amendments.

The first section having been read—

Mr. BROOKS said: I wish to call the attention of the committee for a short time to many of the recommendations for appropriations contained in this deficiency bill. I sometimes regret that in the assignment of seats here it has so resulted that I am upon the outskirts of Democratic civilization, and not upon the other side, that I might obtain a better hearing from them; for it is no use to address the Democratic party in the House, as they are utterly powerless here. But it is of the highest importance to the country that gentlemen upon the other side of the House should give bills of this character their attention.

I know I am far behind this age, and that it is utterly impossible to keep up with the progress of it unless one runs wild. I was educated in the olden school with another class of men, when, in the reporters' galleries of this House or a member upon the floor of the House, we were all taught to look upon deficiency bills with great distrust, and to scan them with the severest scrutiny. When I first entered the Halls of Congress, a deficiency bill of \$25,000 was calculated to create excitement and no inconsiderable alarm. And when, pending the Mexican war, a deficiency bill of \$350,000 was introduced into this House there was an extraordinary excitement and an extraordinary debate, which is fully recorded in the Journals of Congress. But here to-day we have a deficiency of over five million dollars, it may be more. I have had no time to make a full calculation, but I think the sum approaches five million dollars.

I know gentlemen upon the other side will tell me that this is an era of rebellion; that this sum is extraordinarily large, belonging to an extraordinary era, and that therefore it is impossible for the Administration of the Government to have that prospective view of public affairs which will enable it absolutely to foresee what will be the expenditures of this Government. I have only this to say, that pending the war of 1812 with the powerful empire of Great Britain, there were no such deficiency bills. Pending the Mexican war there were no such deficiency bills. I give large credit and large credence to the argument of the other side that in the progress of a civil war it is impossible for the Administration, even now in the third year of the war, to foresee what was likely to be the expenditure of the Government, but it is possible to foresee something.

What I mainly object to in the deficiency bill is the creation of offices without the authority of law; the acceptance and indorsement of offices created without law; the creation of offices wholly unknown to the statute-book; and to appropriations in a deficiency bill of large sums of money to pay them. Here in this bill are four hundred and fifty clerks created in the departments of the Government at the other end of the avenue. I know many of them are necessary; perhaps they are all necessary; and I do not intend to make any decided opposition to the appropriations for them; but I do say it was the duty of the Administration, and it was the part of wisdom in the men administering this Government, to have foreseen the necessity of these disbursements and the necessity for these clerks in the estimates of last Congress, and to have called upon this House for the necessary appropriations. But here is recommended the creation of four hundred and forty or four hundred and fifty clerks who have been serving for from six months to a year in the departments in their respective offices, to whom we now owe debts, and to whom if not we, at least the Administration is under the necessity of providing the proper mode and means of payment.

I mean to say further, it is the duty of the Administration now, in the second and third years of the war, to comprehend its magnitude and expense, and to make the necessary estimates in advance, and not appear here with an enormous deficiency like this. The extent of the war was as well known two years ago as it is now; and its disbursements were as well known; the necessity for these clerks was as well known. These offices have been created without authority of law, and there is imposed upon Congress, in the exercise of its legislative duties, the necessity of making an appropriation for their support.

There are in this bill the most extraordinary estimates which we have ever seen in any deficiency bill within the whole range of my congressional experience. Here are deficiencies for buildings, deficiencies for fences, deficiencies for furniture, deficiencies for carpets, also for lithographing and engravings, and many other articles too numerous to mention. What I mean to say upon this subject is, that when the regular appropriations run out for fences, for grading, for carpeting, for furniture, &c., it is the duty of the Administration to stop its expenditure, and await an appropriation by Congress before it disburses any other money. It can wait, as other people are obliged to wait, for their comforts and their conveniences and their luxuries, without taking the law into its own hands and appropriating

money out of the Treasury, and then calling upon the legislative department of the Government to make the necessary appropriations.

There is created by this bill a foreign mission. The subject was alluded to the other day, but it did not at the moment attract my attention or the attention of gentlemen upon the other side of the House, and the matter was not fully and fairly met. But here is an appropriation for a minister to San Salvador, who is recognized by this deficiency bill, the office being created without any authority of law whatever. This is the appointment of a minister to an inconsiderable power; it is the creation of an office for the benefit of an office-holder; the appointment of a minister to a foreign Power which has not in population, in magnitude, or in wealth, anything like the importance of many of the wards of Philadelphia, New York, Cincinnati, and Chicago. And yet here is the creation by the State Department of a foreign mission to San Salvador without the least authority of law, and we are called upon here in this bill to make a deficiency appropriation for that purpose. I appeal to gentlemen upon the other side of the House, I appeal to them in sincerity and truth, to resist this thing. If I were one of them and among them, if I belonged to their party, I never would (as I never have with any party, here or elsewhere) sanction these assumptions by the executive authorities of the country.

I will call the attention of the House to other subjects connected with the deficiency bill. I wish to disabuse, if possible, gentlemen from the prepossessions and prejudices in their minds. This I take it is no mere party measure. I stand upon the floor of this House almost solitary and alone. [Cries of "no," from Mr. ROLLINS, of Missouri, and others.] I am an old-line Whig, and nothing but an old-line Whig. For the last twenty-five or thirty years I have resisted the exercise of all executive authority, of all executive assumption whatever, and there are scores of gentlemen upon the other side of the House who, in the better days of this Republic, have stood side by side with me in resistance to executive power and executive assumptions in deficiency bills, or bills of any character like this which is now before us.

I desire to maintain and support the Administration in the vigorous prosecution of this war for constitutional purposes, and all my efforts have been so directed and shall be so directed. But this House, this Congress, holds the Treasury of the Government, and it has a right in its disbursements to insist upon an economical and prudent administration of public affairs. There is not now such an administration of our public affairs. Many of the departments of the Government are utterly corrupt, and known to be so, and their corruption has attracted the attention of gentlemen upon the other side of the House, and it is to their credit and to their honor that they have ordered an investigation into some subjects; but they themselves have no idea of the depth of corruption by which they are surrounded. The Treasury Department, in its heart and core, in its highest and heartiest pulsations, in the manufacture of the public money, the public bills, the public credits, is rotten and cannot stand investigation. One of the men in that Department has been arrested for matching and patching torn or destroyed public money. Another, Dr. Gwynn, is in the Old Capitol prison; and the man who is now at the head of that department stands charged upon the records of this House by a Republican committee with having fraudulently reported to this Government upon the construction of public buildings heretofore. The man to whom I refer is Spencer M. Clark. That man, who has now the control of the public money, stands recorded in a public document here, issued in 1862 by a Republican committee of the House of Representatives, as having cheated and defrauded the Government as the then architect for one of the public buildings. I will make no comment on the subject, but I avail myself of this opportunity to call the attention of Republican gentlemen to the official document. I will ask the Clerk to read the record which was made in 1862 by a Republican committee of the House, and I ask them to bear in mind that of this man's associates one is in prison and the other ought to be if the public record is true.

Mr. GRINNELL. Will the gentleman from

New York allow me to ask him a question? It is whether the Superintendent of Public Printing does not receive a salary, and has not anything to do with these contracts?

Mr. BROOKS. My worthy friend is far behind the age. The Superintendent of Public Printing, he who prints the public documents, is a printer of the olden style; but there is a new public printer installed at the other end of the avenue to coin money.

Mr. GRINNELL. I am simply trying to catch up, if possible, with the gentleman.

Mr. BROOKS. We are both old fogies [laughter]—both behind the age.

Mr. GRINNELL. I know that, and I was afraid I would not be able to get on without getting hold of the gentleman's coat-tails. I understand that there is the same public printer for both Houses.

Mr. BROOKS. The public printer prints the public documents; but the printer of the public money is ensconced with his types, with his engravings, with his laborers in the Treasury building, and has there converted the power of the Constitution—which is to coin money—into coining paper, coining Treasury notes, coining shimplasters, or sticking plasters as in olden time they used to be called.

Mr. GRINNELL. Do I understand that the public printer is engaged in manufacturing money?

Mr. BROOKS. There are two public printers. Will the gentleman understand that? One public printer is Mr. Defrees, who prints the public documents. I do not refer to him in any respect whatever.

Mr. GRINNELL. I thought that the paper proposed to be read had reference to Mr. Defrees.

Mr. BROOKS. No, not to Mr. Defrees. I believe he is an honest man, as an old printer ought to be. I refer to that adventurer, that gentleman who first turns up as an architect of public buildings, and who is now printer, in the Treasury Department, of Treasury notes and Treasury bonds, and five, ten, twenty-five, and fifty-cent pieces of the public money. That is the public printer to whom I refer. Now, will the Clerk read the extract that I send up?

The Clerk read from the report of the Committee on Expenditures on Public Buildings to the House of Representatives at the Thirty-Seventh Congress, as follows:

"For evidence of the extravagant expenditures of public money under the Bureau of Construction, as now and heretofore organized, we refer to the testimony in relation to the Charleston custom-house and the Treasury extension. A single item relating to the former will illustrate the system by which a building about one hundred and fifty feet long by one hundred and twenty feet wide from outside to outside of the columns, and carried some forty-five or fifty feet above the ground, entirely unfinished, roofless and bare, has already cost the Government over two million dollars, and half a million more asked for by the acting engineer, without any intimation that it will do anything more than 'continue the work.' At Hastings, New York, Edward Learned & Co. carry on the business of quarrying and cutting marble. A contract was made with them for the marble of the Charleston custom-house—a contract so indefinite and confused that any construction could be put upon it, even the style of architecture being named, and the material being changed from granite to marble after a previous contract had been made with the same parties. In January, 1861, after South Carolina had seceded, Learned & Co. notified the Treasury Department that they had certain material on hand, and claimed inspection and payment under a clause of the contract. Mr. Clark, the acting engineer in charge, to whom the matter was referred by Secretary Dix, whose letter we herewith submit, went to Hastings and returned with a schedule of material there to the amount of \$43,061 60, which he and Mr. Young, the supervising architect, reported to be correct, and the sum of \$32,386 20, or seventy-five per cent. on the whole amount, was paid out on it; that is to say, \$28,382 70 in cash, and \$3,913 50 allowed by the contractors for a previous overpayment. Mr. Clark, in a letter to the chairman of the Senate Finance Committee, dated February 13, 1861, states as the result of a careful *résumé* of his notes, after an official visit to the quarry, that he found 'a large quantity of marble in every style of progress, from the rough block to the elaborate carved ornamental work, ready for shipment,' and he thinks 'its total value would not much, if any, exceed \$100,000.' Desirous to ascertain if this large quantity of marble was really at Hastings, the committee sent there Mr. Oertley, the Government computer, an officer in the Bureau of Construction, and Messrs. Hamilton and Clasky, practical stone-cutters and architects. There was a perfect concurrence between these gentlemen upon their return. Their testimony shows that the marble on which Learned & Co. were paid at the rate of \$43,061 60, the schedule of which will be found in the testimony of Mr. Young, was worth at a fair market price from nine thousand to twelve thousand dollars; that all the marble outside of the schedule, even at the rate of price named in it, could not exceed \$10,000, and, as Mr. Oertley said, at a liberal market price would be worth not more than \$6,000. By the testimony of these gentlemen it seems that the Gov-

ernment, under the auspices of Messrs. Clark and Young, have been paying \$5,755 93 for capitals that, cut in Italian marble, would be worth not more than one thousand or twelve hundred dollars; that upon the item of capitals alone, as shown particularly by Mr. Hamilton, the Government pays \$295,081 92 for what would cost at a fair market price \$51,000, or an excess over the value of \$244,081 93."

Mr. BROOKS. All that I have to say, in conclusion, is that this public document was long ago to my knowledge brought to the attention of the Secretary of the Treasury if not to the President of the United States, and yet that gentleman has been intrusted with the terrific power of printing the public money.

Mr. WILSON. I desire to ask the gentleman from New York under what Administration this amount of money was extravagantly expended in the construction of the Charleston custom-house, and under what Administration the contract with Learned & Co. was made.

Mr. BROOKS. I am not going to enter into any of these party conflicts. I stand on my own line. I find that there is this difference between the Democratic and Republican parties, that when the Democrats lay their hands deep in the public money—as Fowler, the defaulting postmaster at New York—they hide their heads and shirk off in the first steamship to a foreign country, whereas the defaulting Republicans stand on their native heath and claim the highest public offices. [Laughter.]

Mr. WILSON. Then I understand from the gentleman that the enormous and needless expenditure of over two million dollars for the Charleston custom-house was made under the Administration of Mr. Buchanan, and that the contract with Learned & Co. was also made under the same Administration. I suppose that if we had the real facts in that case we would ascertain that by the interesting working of New York city politics, Mr. Fowler was afforded an opportunity by the friends of the Administration to make his escape, and his sureties also remained in safety. They were taken care of by the Administration, which was the Administration of the party which the gentleman desires to see again elevated to power. I would suggest to the gentleman that he may also find some very valuable information in regard to this question of frauds, if he will investigate the Fort Snelling frauds and give to the House a statement concerning them.

Mr. BROOKS. The gentleman can make nothing by any such reference to me. I voted against Mr. Buchanan. How did the gentleman vote?

Mr. WILSON. I voted against Mr. Buchanan, and am against those who are now desiring to bring that party into power again.

Mr. BROOKS. Did the gentleman from Iowa vote for Mr. Pierce?

Mr. WILSON. If the gentleman should try to ascertain my political antecedents, he might run me back into the Whig party; but that has nothing to do with the matter. If the gentleman wants to become the champion of that Charleston expenditure, or of the Learned contract, or of the Fort Snelling swindle, or of the escape of Fowler and his securities, it is all well. I am not here for that purpose. I interrupted the gentleman with a view of getting from him definitely the information which he seems to possess.

Mr. BROOKS. Now, Mr. Chairman, the gentleman shall make no such issue with me. I have nothing whatever to do with the disbursements of the Charleston custom-house whether under a Whig or a Democratic Administration. The point I make, and which I wish the committee to comprehend, is this: when this Mr. Spencer M. Clark was known to have reported fraudulently on this matter of the Charleston custom-house he was not only kept in office but promoted to the highest pecuniary position in the country—that of manufacturing the public money. That has been known for months to the Secretary of the Treasury, if not to the President of the United States. That is the issue. It matters not whether he is one of my party or one of his party; that is not the question, but did the Secretary of the Treasury know or not when he made Mr. Clark the printer of the public money that there was a public document charging him with fraud, and made by the party to which the gentleman belongs? That is the issue. If he has anything to say on that I shall be happy to hear him. That is all I have to say.

Mr. STEVENS. I am not quite sure to what

amendment the gentleman has been speaking. Will the Clerk report the amendment?

The CHAIRMAN. General debate is in order, and no amendment is pending.

Mr. STEVENS. I thought the gentleman was speaking to some amendment. I believed that something had been proposed, for I could not think that this was not for some purpose. I could not believe that this discussion arose from any disposition on the part of the gentleman to indulge in a political harangue. I do not think that this business of the country is to be interrupted without definite action, and merely for the purpose of making a political speech against the administration of the Government. Hence I thought that I had overlooked the fact of an amendment being pending.

However, sir, to say a word in addition, I do not think it worth while to reply at large to the remarks of the gentleman from New York, because, according to his own statement, he has the sympathy of no party, stands by himself, speaks nobody's opinions but his own, and expects nobody to believe him. [Laughter.] That being the case, I do not feel that it is necessary to correct what has been said if there were anything to correct. I know that frauds are committed under every administration of the Government. I know that rogues get into office under every Administration. I believe that a few such have got into office under this Republican Administration who have been bequeathed to us by the former Administration, and which this Administration thought proper to spare as monuments of mercy. [Laughter.] I never agreed to that policy. I made personal efforts to have Mr. Clark dismissed from office. I wanted him with all the other ravenous birds of the last Administration to be turned out. But he was retained. He is a man of genius. He is a man of marked ability and industry. What he has done under the Administration since I do not know. I hope that by reason of his new associates he has been affected by their saving grace. [Laughter.] I hear statements are made against him, but nothing against him that he has done since he has been where he was placed by this Administration. I know that he is a most ingenious and industrious man; and I say this although I protested against his retention.

I will never consent, however, to get into political discussions on general appropriation bills. It is true that there are deficiencies in the various appropriations for the current year, which had not been anticipated when these estimates were made last year. It is true that there are optimists in our party who have hoped every ninety days that this war would be ended. Of course they have made their estimates hoping that that event would take place, hoping then as now that there would not be a large appropriation needed. We did not know that the people would not agree with the gentlemen on the other side of the House—whether they would agree that we should lay down our arms, withdraw our armies, and suffer peace to be accepted. It was not to the last election that we were sure, for the symptoms were previously unfavorable. Hence it was that these estimates were made under the contingency that possibly they might not be needed for the last half of this year. Gentlemen will understand that this money has not yet been expended. The appropriation was made a year ago for the year 1864. There has been enough to carry the Government on for six months, but there are six months yet to come, for which there is no appropriation. It is to provide for the employment of these men for the next six months that these appropriations are asked. This is to carry the Government on to the 1st of July, 1864. As to the large increase of appropriations, everybody knows that expenses are growing from year to year. The clerical force of the Departments is not now sufficient for the purposes of the Government.

There is a great difference between this and the time when the gentleman and I were in Congress together in olden times, when he used to denounce Democratic corruption with some unctious; and I used to listen to him with pleasure, though I never took any part in it myself. But then the Army was eighteen thousand strong, now it is six or seven hundred thousand; then the appropriations were seventy or eighty millions a year, now they are eight or nine hundred millions a year; and all the machinery which was provided for the former

state of things was nothing compared to present exigencies, and it is necessary to go on gradually from year to year, as fast as they can, extending accommodations and buildings for the increased and increasing clerical force.

I can state a single fact illustrating that in reference to the Second Auditor. He has a much larger force than when the war commenced, but so many are the dead of this war, so many are asking for the bounty and back pay of their slaughtered children and dead husbands, and so many maimed men are asking for bounties, that on the 31st day of December last the clerical force was only sufficient to bring up the last case of just one year back; and there were seventy-two thousand cases filed which had not been touched. Now, I know nothing more cruel which comes within my public observation, and nothing which touches my heart more, than to see the widows of deceased soldiers, and to see maimed soldiers gather around me, asking me why it is that their cases have been delayed so long, and why they cannot be acted on, so that they can have relief and be able to supply their families with bread.

Sir, I ask nothing, and the committee ask for nothing, but what they deem absolutely essential for carrying on the Government in its present condition. I had hoped that no shade of politics would have entered into the discussion of this deficiency bill, and I am glad to see that there is no party which makes it now. It is an isolated gentleman, without a party, who is conspicuous on this occasion.

I do not intend, as I said before, to answer all things which may possibly be said, but I do ask that the House will consider this bill, and if there is anything recommended here which the country can do without, let amendments to that effect be offered, I care not from what side. I should be glad to reduce the expenditures and still carry on the Government with proper energy. Until we get through this bill I hope gentlemen will forbear putting in political speeches, and until we go into the Committee of the Whole on the state of the Union, where all of us, perhaps, will be willing or disposed to discuss all these questions in a political point of view. I shall be glad to hear the gentleman from New York upon this bill if he does not go off into political topics.

The Clerk proceeded with the reading of the bill.

Mr. PENDLETON. I desire to propose an amendment to line twenty-one, and I desire to call the attention of the chairman of the committee to it, as he allowed the line to be passed without noticing it.

Mr. STEVENS. Some gentlemen were talking to me, and I did not notice the reading.

Mr. PENDLETON. I will give way to the gentleman, and allow him to offer the amendment.

Mr. STEVENS. I move to strike out in line twenty-one the word "one" where it first occurs, and insert "four," and strike out "four" and insert "one;" so that the clause will read:

In the First Comptroller's office, five clerks of class four and four of class one, substituted for one of class one, \$4,800.

The amendment was agreed to.

Mr. HOLMAN. I move to amend by striking out lines fifty-eight and fifty-nine, as follows:

For compensation of the surveyor general of Illinois and Missouri, \$1,668 48.

I presume that if the chairman of the Committee of Ways and Means will look into the law he will not object to the amendment. According to my recollection, he will find there is no such office—that it was abolished some years since. The last Congress refused to make this appropriation upon that ground. I know it has been before Congress several times, and has been generally rejected, if rejected at all, upon the ground that the office by the terms of its own limitation under some former act had expired. I cannot at this moment call to mind the act under which the office ceased to exist. I am certain that the time has long since past, and that there is no such office in existence as surveyor of the two States of Missouri and Illinois. I move to strike out the section, therefore.

Mr. BLAIR, of Missouri. I think the gentleman from Indiana is mistaken. Authority, I think, was given to close up the office as soon as certain

records could be brought up; but it was utterly impossible to bring up the records of the office within the time limited, and it has been extended from time to time, and last Congress made a provision for it. The gentleman is mistaken. I recollect very well that it was upon my own motion that this appropriation was made at the first session of the last Congress.

Mr. HOLMAN. I believe the appropriation was not made at the last session of the last Congress.

Mr. BLAIR, of Missouri. I do not know in regard to that. I know that at the first session of the last Congress the appropriation was made. I do not know whether I made the motion myself, but I was instrumental in having it made by the chairman of the Committee of Ways and Means, for the reason that it was impossible to finish the business of the office and bring up the records properly showing the titles to the lands in those States within the time limited.

Mr. HOLMAN. I would ask the gentleman if the law did not put an end to this office within a given period, and whether that period has not elapsed some years since?

Mr. BLAIR, of Missouri. I do not recollect the language of the act. My impression of it is that it discontinued the office, leaving it discretionary with the Commissioner of the Land Office to continue it until these records should be properly brought up.

Mr. HOLMAN. It seems to me that this appropriation ought not to be made. I know that it was not made by the last Congress at its last session.

Mr. BLAIR, of Missouri. It seems to me that it ought to be made, because this surveyor general has been retained in his position, has been fully occupied, and has performed the work, and the Government ought not to expect work from an individual without payment.

Mr. STEVENS. I suggest to the gentleman from Indiana [Mr. HOLMAN] that he withdraw his amendment, and move to insert after the word "Missouri" the words "the office to be closed hereafter," and I will state the reason. I remember that the last Congress consolidated our land business in these two States, supposing that the work would be ended by this time. But from the report of this officer, on page 7 of the estimates, it will be found that we have already given instructions for the office to be closed and discontinued, and the archives, the original records, given over to the recorder of land titles in Missouri. But as, in order to wind up the whole business and transfer these records, it would require the sum here asked for, I think we had better pay it, and put in a provision under which no further appropriation can be made.

The CHAIRMAN. Does the gentleman from Pennsylvania submit that amendment? It would take precedence of the motion of the gentleman from Indiana to strike out.

Mr. STEVENS. I will offer that amendment. The amendment was agreed to.

Mr. HOLMAN. I now withdraw the motion to strike out.

Mr. STEVENS. I move to insert after line seventy-two, the following:

For salary of an additional Secretary of War, \$1,500.

The amendment was agreed to.

The Clerk read the following clause:

To supply a deficiency in the appropriation for fuel, and equipment and recruiting, in the Bureau of Equipment and Recruiting, \$2,000,000.

Mr. BROOKS. I desire to call the attention of the committee to this expenditure for fuel. I suppose it is necessary, but I wish we had more information on the subject than we have in the public documents. We are called upon by this bill to appropriate \$2,000,000 for this purpose, and in the naval bill there is an appropriation of \$3,840,000, so that the House is called upon at this session to appropriate \$5,840,000 for fuel. My impression is that this expenditure is not very well managed or it would not be so large. If the gentleman has any documents on the subject, I should be glad if he would communicate them to the House.

Mr. STEVENS. I have here some documents from the Department, showing the reasons why this expenditure is necessary, and I ask that they be read.

The Clerk read, as follows:

NAVY DEPARTMENT, January 18, 1864.

SIR: I have the honor to invite the attention of the Committee on Naval Affairs to the inclosed communication dated the 12th instant, from the Chief of the Bureau of Equipment and Recruiting, in reference to deficiencies in the appropriations for "fuel" and "equipment." It is stated that the sum of \$2,000,000 will be required to meet the deficiencies for the current fiscal year, of which sum \$1,500,000 are required for "fuel," and the remainder for "equipment."

Very respectfully, &c.,

GIDEON WELLES,

Secretary of the Navy.

Hon. A. H. RICE, Chairman of the Committee on Naval Affairs, House of Representatives.

BUREAU OF EQUIPMENT AND RECRUITING,
WASHINGTON, January 12, 1864.

SIR: I have the honor to state that the sum of \$2,000,000 will be required to meet the deficiencies in the appropriations for "fuel and equipment" during the remainder of the fiscal year. Of this sum, \$1,500,000 are required for fuel, &c.

Inclosed is an exhibit showing the expenditures under the appropriation for fuel for the Navy to 30th December, 1863, inclusive.

Our increasing Navy and the contingencies of war render it impossible, with a proper regard for economy, to estimate in advance for the actual requirements under these appropriations.

The appropriation asked for is based upon the actual expenditures of the last six months.

I have the honor to be, very respectfully, your obedient servant,

H. N. SMITH,

Chief of Bureau, ad interim.

Hon. GIDEON WELLES, Secretary of the Navy.

Mr. STEVENS. I move to insert after the word "dollars," in the eighty-second line, the following:

For salary of commissioner to codify the naval laws under joint resolution of March 3, 1863, \$3,991 67.

Mr. BROOKS. Have the laws been codified already?

Mr. STEVENS. The last Congress passed an act creating a commissioner for this purpose with a salary of \$2,000.

Mr. BROOKS. Has the service been rendered?

Mr. STEVENS. The commissioner has been laboring up to this time on this business, and is still engaged in it.

The amendment was agreed to.

Mr. BROOKS. I move to strike out the following clause:

For salary of the minister at Salvador, from April 16, 1863, to June 30, 1864, at \$7,500 per annum, \$9,682.

I offer that amendment upon the principle stated in my opening remarks.

The committee proceeded to divide.

Mr. STEVENS. Perhaps the gentleman is not aware that this appointment was made in pursuance of an act passed April 16, 1863. No, I am not sure as to the date.

The CHAIRMAN. The committee is now dividing, and no debate is in order.

Mr. BROOKS. I hope the chairman of the Committee of Ways and Means will be permitted to explain.

The CHAIRMAN. By unanimous consent the gentleman from Pennsylvania can be heard further on the subject. The Chair hears no objection.

Mr. STEVENS. I thought I had the right act under which the appointment of this minister was made, but on looking over it I find it is not what I wanted.

Mr. BROOKS. I think the gentleman will not find any authority for the appointment of this minister except our appropriation made the other day in the consular and diplomatic bill. I think that is the first authority given for it by Congress. In my impression the Secretary of State has created the post without the least authority whatever.

The question was taken on the amendment, and it was rejected.

The Clerk resumed the reading of the bill.

Mr. RICE, of Massachusetts. I desire to know from the chairman of the Committee of Ways and Means why the committee has not reported the appropriations asked for by the Bureau of Provision and Clothing for the Navy.

Mr. STEVENS. The chief of that bureau was before the committee, but he produced no authority from the Secretary of the Navy.

Mr. RICE, of Massachusetts. I placed in the hands of the Committee of Ways and Means last week a communication on the subject.

Mr. STEVENS. We asked for an explanation.

Mr. RICE, of Massachusetts. My opinion

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is that the explanation accompanied the request. The bureau asked for \$350,000. I think the communication stated why it should be appropriated.

Mr. STEVENS. The head of the bureau was before us, but the Committee of Ways and Means generally require a communication from the Secretary. We asked Mr. Bridge to bring us a communication from Mr. Welles—we could not agree to act on a communication from a mere subordinate—and he promised to do it.

Mr. RICE, of Massachusetts. Do I understand that the communication from the chief of bureau was not indorsed by the Secretary of the Navy?

Mr. STEVENS. It was not.

The Clerk resumed the reading of the bill.

Mr. HOLMAN. I move to amend by striking out the following lines:

For the payment of Ephraim Sweet, for services as superintendent of the custom-house at Belfast, Maine, \$992.

Mr. PENDLETON. I hope the amendment will not be adopted. If it were merely a private claim for an unadjusted account, the gentleman might very properly move to strike it out. But, as I understand it, it is a balance due to this gentleman for services performed by him, which compensation is paid in the nature of a salary. The account was adjusted at the Department, but there was a deficiency in that particular fund, so that the man who had performed this service was not paid. It is, in fact, no more a private claim than are any of these deficiencies appropriated for the purpose of paying clerks or Assistant Secretaries of War. I trust the amendment will be rejected.

Mr. HOLMAN. Will the gentleman please to state how the claim arose?

Mr. PENDLETON. I am not able to state. The recommendation was sent in from the Treasury Department, embracing the statement that I have made, that it is only a private claim so far as any claim for services rendered under a legislation which provides compensation can be considered private.

Mr. HOLMAN. I withdraw the amendment. The Clerk resumed the reading of the bill.

Mr. GRINNELL. I move to amend the appropriation for the Capitol extension by striking out "\$150,000" and inserting "\$50,000." I believe we can dispense with this appropriation. I am confident the country requires that we should begin to economize and vote no more money than is absolutely necessary. I admire this beautiful building as truly as any citizen of the Government. Its fluted columns and polished marbles address the taste; but is there an absolute necessity to appropriate \$150,000 for this purpose of ornament? I believe that a portion of this money might go for the payment of extra clerks in the Departments, so that our wounded soldiers and the widows and orphans of the dead may recover their dues from the Government, which has been held back for months because of an inadequate clerical force. The men employed on this Capitol extension should be let go into the field, as my constituents have done, who left their farms, their homes, and their all to go forth to fight. It is as much their duty, strong and stalwart as they are, to do so as it is the duty of any one to fight for his country.

I am in favor of reducing this appropriation, because, as I believe, every dollar which we expend now yields but half the result in war that it would yield in time of peace. Labor is high and the cost of living exorbitant. Every additional workman brought to this city enhances the cost of living here. Many of our clerks are but half paid. They are living on next to starvation prices. I think the completion of these public buildings should be deferred till peace is restored; this, I think, is the policy for the party in power, and it should be inaugurated to-day—this hour; and I shall vote for no more appropriations for Capitol work than may be necessary to preserve the work begun from exposure and from decay.

The question was taken, and the amendment was rejected.

Mr. STEVENS. Mr. Chairman, I ask the unanimous consent of the committee to go back to a part of the bill which has been passed. I stated a few moments ago that the Committee of Ways and Means had not received a letter from the Navy Department. I understand since that such a communication has been received.

There was no objection.

Mr. STEVENS. I move the following amendment:

To supply a deficiency in the appropriation for provisions and clothing for the Navy, \$350,000.

The amendment was agreed to.

Mr. KASSON. I move the following amendment:

For the completion of the post office building in Philadelphia, (authority to sell the Pennsylvania Bank building therein being hereby revoked,) \$25,000.

Mr. Chairman, I propose in a few words to explain this amendment. It appears that by certain acts and a joint resolution of Congress passed August 18, 1856, March 3, 1857, June 3, 1858, March 3, 1859, June 23, 1860, and March 14, 1862, a certain sum of money, and a lot of ground situate on Second street, in the city of Philadelphia, known as the Pennsylvania Bank property, or the proceeds thereof, were to be used in the construction of a post office and court rooms in that city.

It appears further that the belief was that the money in the Treasury could be applied so as to adapt the buildings then standing on the Bailey and Levy lots to these uses, and the plan and estimates for this purpose were submitted to Congress, and the act of March 14, 1862, was passed, authorizing the Postmaster General to proceed with the work. After it was commenced, however, the walls of the old building were found inadequate, and the city authorities required their removal. This and other unforeseen expenses made the sum of money already in the Treasury insufficient to complete the building. The contractor, however, proceeded with such portions of the work as were indispensable to fit the building for use, and it was so fitted and has been in actual use for nearly twelve months.

The Postmaster General was authorized to sell the Pennsylvania Bank property above mentioned at a sum limited by the law, (\$110,000,) but he was doubtful as to the propriety of his applying the proceeds to pay this deficiency under the law which gave him exclusive control of the matter; although the original law, which authorized the Secretary of the Treasury, the Attorney General, and the Postmaster General to erect the building, expressly put the lot in question at their disposal for this purpose. He did, however, put the property in market with a view to placing the proceeds in the Treasury, to be disposed of by Congress; but, having failed to find a purchaser at the price named in the law, the whole matter is now submitted to Congress to decide whether the Postmaster General shall be authorized to sell the lot for the best price he can get, and apply the proceeds, or such part thereof as may be necessary, to the payment of this deficiency, or whether an appropriation for its payment, amounting to about \$25,000, shall be made and the lot be reserved for other public purposes.

These facts I derive from the letter of the Postmaster General to this House, and which has been referred to the Committee on the Post Office and Post Roads. I ask the chairman of that committee to state to the House what has been the action of that committee, if any, on the subject.

Mr. HOLMAN. I rise to a point of order. The amendment repeals a former law, and is therefore not in order.

Mr. KASSON. I withdraw the words to which the objection lies, and present the amendment as a simple appropriation.

Mr. HOLMAN. I make the point that the amendment is not in order as it is modified.

The CHAIRMAN. The Chair rules the amendment in order as modified. As originally offered, it was not in order. The amendment is to carry out an existing law, and continues the appropriation for that purpose.

Mr. ALLEY. Mr. Chairman, in reply to the gentleman from Iowa, (Mr. Kasson,) and on behalf of the Committee on the Post Office and Post Roads, I will say to the House that this matter was referred to that committee, and that they, as yet, have had no opportunity for investigation. At the next meeting of the committee it was proposed to bring this matter up. I have given it myself some attention from former service on the committee. I understand fully the facts of the case, which are as stated by the gentleman from Iowa. So far as the committee is concerned, I have had no conference with them. I know not what their action would be, and cannot say a word in their behalf. I can only say so far as my own personal observation goes the facts are as stated, and I think that it is for the interest of the Government to keep the property. That being the case, I think that there cannot be any objection to the appropriation of \$25,000 asked for to defray the expenses incurred by authority of law.

The amendment was agreed to.

The Clerk read, as follows:

For deficiency in the appropriation for salaries and expenses of the commissioners appointed under the fifth section, act of 16th February, 1863, \$3,500.

Mr. BROOKS. Mr. Chairman, that appropriation is in addition to \$10,000 appropriated at the last session of Congress. The law referred to created these positions and appropriated \$10,000 for the purpose of paying salaries, &c. The three commissioners had \$2,500 apiece, making \$7,500 in all. If this be passed, the entire appropriation will be \$13,500 for this object. I wish to ask, for the information of the House, whether these commissioners have not reported that there is \$1,200,000 due to the State of Minnesota? And I avail myself of this opportunity to say that when I was up before I underestimated the amount of the appropriations by this bill. It is \$7,170,000. The estimates are only \$4,180,581. The bill has already gone \$3,000,000 beyond the estimates of the Department. It is necessary for my constituents, and for the public who loan the United States this public money, to state what is likely to be the exact expenditures of the Government. Therefore I have made this statement.

Mr. STEVENS. By looking at the estimates, page 9, it will be seen what items go to make up this amount of \$3,500.

The amendment was agreed to.

The Clerk read, as follows:

To supply deficiency in the appropriation for the public printing, \$111,000: *Provided*, That hereafter no printing or binding shall be done for any of the executive departments of the Government without a written order from the head of such department for which said printing may be required; and the Superintendent of Public Printing, in his annual report, shall hereafter be required to report the amount of work ordered and done, with a general classification thereof, for each department.

Mr. STEVENS moved to amend that paragraph so that it will read as follows:

To supply deficiency in the appropriation for the public printing, \$111,000: *Provided*, That hereafter no printing or binding shall be done or blank books be procured for any of the executive departments of the Government without a written requisition on the Superintendent of Public Printing from the head of said department, or for either House of Congress except upon the written order of the Secretary of the Senate or Clerk of the House, for which said printing, binding, or blank books may be required; and the Superintendent of Public Printing, in his annual report, shall hereafter be required to report the amount of work ordered and done, with a general classification thereof, for each department.

The amendment was agreed to.

Mr. STEVENS. I move to amend in line one hundred and seventy-five, by striking out the word "of" after the word "cases," and to insert in lieu thereof the words, "pending in the;" so that the clause shall read:

For mapping, in cases pending in the Supreme Court of the United States, \$9,000.

The amendment was agreed to.

Mr. BROOKS. I move to amend by striking out of the following clause—

To supply a deficiency in the appropriation for ordnance, ordnance stores, labor, and contingent expenses in the Bureau of Ordnance of the Navy Department, \$2,740,000—the appropriation of \$2,740,000.

We shall soon have the naval bill before us, which will contain appropriations to the amount of \$8,300,000 for this same purpose, which, added to this appropriation, will make the appropriations for the Navy Department this year for this one branch \$10,000,000. What I wish to call to the attention of the committee, and in justification of the remarks I made upon the taking up of this bill, is that the Navy Department has failed to comprehend this war or its magnitude. For in the documents accompanying the President's message, page 861, the chief of this bureau, Mr. Wise, after showing that the deficiency is \$2,740,000, says:

"It will be seen by the above estimates that the appropriations for 1862-63 were \$1,040,000 less than the expenditures, and that the appropriations for 1863-64 will be \$1,700,000 less than the expenditures, making an aggregate of \$2,700,000. It is highly important that this deficiency should be supplied to enable the bureau to meet the necessary expenses for the current year. By reference to remarks under estimate 'C' it will be seen that the deficiency for the current year is based on the expenditures of the last year."

Now, it is evident that if, in going back two years, the Department make out a deficiency in this one matter of ordnance and ordnance stores of \$2,700,000, they can have no idea of what the expenditures of this war are to be. I am not speaking to the Committee of Ways and Means, but I am addressing myself to the Administration, and urging that it should try to comprehend the expenditures of this war. No doubt improvement in ordnance and the increase of offices has led to a great deal of this expenditure. In its estimates the Administration should not try to hide from the country what will be its expenditures, but should look them fully in the face and report them to Congress from year to year; and I hope that the appropriations in the Navy bill, soon to come up, will show a full appreciation of the expenses of the coming year.

Mr. STEVENS. I do not feel very much disposed to controvert the remarks of the gentleman from New York. Two years or more ago I took occasion to say to the Administration, and especially to gentlemen on that side of the House, that I did not think they realized the magnitude of this contest. I thought then they ought to have gone on at once and liberated every slave in the rebel States, and put arms into the hands of every one so liberated. I said to the Administration I believed this war would be more expensive and carried on with much greater pertinacity than would seem by our diplomatic correspondence and otherwise was anticipated by the Administration. I agree with the gentleman from New York that they have not always properly comprehended the magnitude of the war, and have not always taken the necessary steps to bring it to a close; and I wish his remarks would stimulate them still further to the desired energy. I do not believe the war is ended, nor do I believe it is to be ended in six, eight, or ten months. I believe still further burdens are to be laid on the people; but that only shows that this appropriation is necessary, a fact which the gentleman does not seem much to controvert. In the ordnance department it is especially difficult to anticipate the amount of money required. A vast number of ships were ordered by the last Congress after the estimates of last year were brought in, and they required such heavy and numerous pieces of ordnance as to render this appropriation necessary.

Besides that there were a great many losses. Many vessels have been sunk and many guns lost; and, what is more, they wear out. I believe the life of iron cannon, constructed of the best material, is estimated at about one thousand discharges. Now take the ordnance before Charleston: they have been continually firing there for the last—I do not know how long, but nine or twelve months; and I believe all this ordnance will have to be laid aside in a very short time. I think each piece has been discharged nearly to the extent that it is safe to discharge it. The peculiar effect of discharges upon iron is such, that after a certain number of discharges they burst, and it is therefore necessary to lay them aside before that number of discharges is reached, or else they will cause great disasters. We make all our heavy ordnance of iron, and therefore they must ultimately be laid aside and their places supplied. Hence the great appropriation necessary for ordnance.

Mr. BROOKS. I rise to make a few remarks

in reply to the gentleman from Pennsylvania; and particularly to that part of them in which he suggests the mode and manner of a more vigorous prosecution of the war—that is, by arming the slaves, and issuing edicts of emancipation. His own President has pronounced this edict as of no more use than the Pope's bull against the comet. It will not amount to anything. Ordinance is the way to end this war—guns and cannon, and not the liberation of slaves, not proclamations of emancipation and declarations that the slaves are free. It is all folly, it is all absurdity to try and delude the people into the idea that that is a vigorous prosecution of the war.

Mr. STEVENS. Will the gentleman allow me to say a single word, as he seems to be addressing his remarks to me?

Mr. BROOKS. Certainly.

Mr. STEVENS. I mean to say, as to that emancipation proclamation, that I have never been an advocate of it. I never supposed that the proclamation did any good one way or the other, except that it clarified public opinion. I have always been for going into the rebel States and taking the slaves away and putting arms in their hands.

Mr. BROOKS. Why, what absurdity it is to talk at this Capitol of prosecuting the war by the liberation of slaves, when from the dome of this building there can be heard at this hour the booming of cannon in the distance! And yet you are here, appropriating certainly for ordnance, but, instead of confining yourselves to the legitimate transaction of business, you suggest the liberation of slaves as a means of deciding this war! Why, sir, you cannot go at this day or at this hour to the tomb of Washington with any safety whatsoever, lest you may be apprehended and abducted by the cavalry of Moseby, unless you are guarded by a cavalry corps; it is not safe on this day and at this hour to cross the bridges of the Potomac and go far into Virginia upon your horse or with your team unless you are guarded by a cavalry corps; and the President of the United States feels himself so unsafe at this day and at this hour that he presents a spectacle hitherto unknown in this country—known only at Schönbrunn, in Austria, at the Tuileries, in Paris, at the Horse Guards, in London—that of a cavalry corps at the White House, not for his honor, but to protect him from the operations of guerrilla cavalry. Tell me not that your presidential edicts or your acts of Congress for the emancipation of slaves are fulminations against the enemy! The only fulmination is from ordnance, from guns, columbiads, heavy artillery, Minié rifles. There is no other. Confine yourselves to that mode of ending the war, and it will soon be ended.

The news to-day is that Longstreet, fortified and strengthened by a portion of Lee's army of the Potomac, is again threatening an attack on Knoxville. And think you that Longstreet is terrified by voices in this Capitol liberating slaves, when Lee himself can send twenty or thirty thousand men to the aid of Longstreet, and when, as I said before, you cannot safely cross the Potomac, you cannot go to the tomb of the Father of his Country with any safety without the protection of an armed corps? It is idle to tell the people of this country that the liberation of the slaves will end this war. You cannot befool the public with that idea. Whenever our ordnance goes successfully, where the sword is supreme, there and only there, and not an inch further, is the fulmination of any proclamation or the act of any Congress worth the paper upon which it is written.

Mr. SMITH. Mr. Chairman, I did not intend to say anything upon this subject; but having witnessed for the last two years or more the operations of the armies of the country, and, to some extent, the effect of ordnance and small-arms upon the enemy, I feel it to be my duty upon this occasion to say, that while there is power in these, and while the Government must through these execute its laws and vindicate its integrity, there remains behind this rebellion that which gives it strength and power, which must be overthrown and destroyed on the other side while our armies and our ordnance move in front.

It is true that General Lee is within a short distance of this city; it is true that Longstreet is fortifying himself in eastern Tennessee; it is true that Beauregard is at Charleston; it is true that other rebel forces are in various quarters of this coun-

try, bidding defiance to the Government of the United States and its soldiery; but their forces in arms against the Government are maintained and fed by and their very life-blood is drawn from African slavery in the South, and whenever you—and I say it here as a Kentuckian and as a southern man, always having been identified with the institution of slavery, and believing that as a citizen of Kentucky I had a right to it, and so believing still—that whenever you sap the foundation of this accursed rebellion and tear from under the rebels that which has given them strength and power, you destroy the rebellion, and your artillery is effectual. [Applause in the galleries and on the floor, and some hisses.]

Now, sir, I would not touch, here or elsewhere, the rights, the interests, the privileges, or anything else belonging to a Union man, or to any man who has stood for his country in a rebellious State or in a loyal State; but when a man has evinced his hatred to this Government, when he has voluntarily taken up arms against this Government, and when he has brought his artillery to play upon its Constitution and its principles and its liberties, he can demand of me, as a legislator for the people of this country, no privileges in horses, cattle, lands, or negroes. We will take them, when we come to them, by any means we can, and by all means.

The bulwark which prevented the American people, by its Army, from moving down to the South and exercising jurisdiction there—that bulwark, supported by four million slaves—must be removed; and the evidence that we have a right to remove it is that we have a right to crush the rebellion. It was the duty of the Government to do it. The Government would have failed in its duty to itself and to all future generations if it did not, in its power and majesty, sweep away that bulwark of slavery. I thought it my duty, under the circumstances in which I am placed, coming from the country I come from, representing the loyal people who feel as I do, and whose opinions have been expressed time and again to me as mine to them, to make this statement.

Mr. HOLMAN. I move to amend by striking out the following clause:

To supply a deficiency in the appropriation for compensation of the officers, clerks, messengers, and others receiving an annual salary in the employ of the House of Representatives, \$7,365 19.

I trust that the chairman of the Committee of Ways and Means will furnish some explanation of this clause. I have before me a memorandum of the appropriations made for this purpose for several years past. The appropriation for the year ending 30th June, 1861, was \$93,698. The appropriation for the preceding year was \$95,818. The appropriation made at last session was \$103,487. It is now proposed to add to that sum \$7,365 19 as a deficiency, making in all \$110,852 19. That is \$15,000 more than was ever appropriated for this purpose before. I am not aware that there has been any material increase of clerical force in the office of the Clerk of the House. No gentleman can desire to prevent the appropriation being made, if it be right and proper; but this extraordinary increase requires an explanation.

Mr. STEVENS. I send up to the Clerk's desk, to be read, a letter in explanation of the clause.

The Clerk read, as follows:

OFFICE HOUSE OF REPRESENTATIVES UNITED STATES, WASHINGTON, D. C., January 14, 1864.

SIR: There will be required for the service of the present fiscal year the sum of \$7,365 19 to be added to the appropriation "for compensation of the officers, clerks, messengers, and others receiving an annual salary in the employ of the House of Representatives." A part of the above deficiency accrues by the increased pay of the Capitol police, under the act of July 20, 1854. There will also be required to be added by appropriation to the contingent fund of the House the following sums, namely: \$1,866 to the item "for clerks to committees and temporary clerks in the office of the House of Representatives;" this deficiency is created by increasing the number of committee clerks. Forty thousand dollars to the item "for folding documents." The deficiency in this item amounts to \$16,000; in addition to which at least \$24,000 will be required during the presidential campaign. Six thousand five hundred dollars to the item "for fuel and lights, including pay of engineers, firemen, and laborers, repairs and materials;" this sum will be required to pay the engineers, firemen, and for repairs and materials, the appropriation having been exhausted in the purchase of coal at the increased rates. Eight thousand dollars to the item "for furniture, repairs, and packing-boxes for members;" the appropriation has proved insufficient, owing to the increased price of carpeting and other materials. Eight hundred and thirty-two dollars and seventy-eight cents to the item "for laborers." And \$9,000 to the item "for stationery;" this sum

will be required to keep up the assortment of stationery and to pay to members undrawn balances of their stationery accounts.

There being of the contingent fund an unexpended balance of an old appropriation "for engraving, electrotyping," &c., of \$21,207 59, I would recommend that it be transferred to the "miscellaneous item" of the contingent fund, to meet payments to witnesses and other expenses of investigations by committees.

Very respectfully,
EDWARD McPHERSON,
Clerk of the House of Representatives United States.
Hon. T. STEVENS, Chairman, &c.

Mr. HOLMAN. This letter gives no explanation except of one item. It says that the increase has arisen from the addition of twenty per cent. to the pay of the Capitol police, under the act of 1854. It is very true that the addition was made, but Congress at last session made an appropriation covering it. If it should appear, on examination, that this \$7,365 19 should be appropriated as a deficiency, it may go into the miscellaneous appropriation bill, to be hereafter reported; but until there shall have been some examination I trust the clause will be stricken out.

The question was taken on agreeing to the amendment. On a division of the House, no quorum voted.

Mr. HOLMAN. Inasmuch as there appears to be no desire to investigate this item, or to reduce expenses, I presume that I may as well withdraw the amendment.

The amendment was withdrawn.

Mr. MALLORY. Mr. Chairman, I rise, although very unwell, for the purpose of making a few remarks in reference to what fell from my colleague [Mr. SMITH] a few minutes ago, and I hope the committee will indulge me.

One MEMBER, (on the Republican side.) Object.

Many other MEMBERS, (on the same side.) Go ahead—no objection.

Mr. MALLORY. My colleague has clearly a right to express his sentiments to this House upon any question, and I shall never quarrel with him about the correctness of those opinions or the taste manifested in their expression. But I intend, on this floor, to utter my solemn protest against the declarations and opinions of my colleague being taken or regarded as those of the State of Kentucky on that subject. The State of Kentucky denies and scorns them, and has, on solemn occasions and whenever she has spoken to the subject at all, given that gentleman and the world evidence of the fact that she does so. That gentleman was elected as a representative of the Union Democratic party of the State of Kentucky, was elected by the same party in that State which elected me, on the same platform, and was sent to represent the same creed that I represent.

A convention at Louisville, in my own district, solemnly enunciated last March to the people of Kentucky, and to the world, the opinions of that State on the great questions of the day. The State of Kentucky, through the Union Democratic party, the predominant party of that State, denounced among other things the policy of the Administration of freeing the slaves of the South as a war measure, or for the purpose of aiding in suppressing the rebellion.

Mr. SMITH. I ask my colleague this simple question: whether the results of the movement of the armies, and the results of the action of the Administration which have been denounced as unconstitutional, unwarranted—

Mr. MALLORY. Make it short.

Mr. SMITH. I ask my colleague whether the people, with all of the facts before them, did not give last August fifty-nine thousand majority for the Union?

Mr. MALLORY. Yes, sir; and fifty-nine thousand majority against the Administration of Abraham Lincoln, then denounced by my colleague himself. He denounced the policy of this Administration, and I dare him to deny that.

Mr. SMITH. I do deny it.

Mr. MALLORY. Then you deny the record. My colleague [Mr. WADSWORTH] will please read the resolutions of that convention.

Mr. WADSWORTH. I read four resolutions adopted by the Kentucky Legislature at its winter session, 1862-'63, and reaffirmed by the great Union Democratic State convention at Louisville, in March following, namely:

"Resolved, That our institutions are assailed by an armed rebellion on one side, which can only be met by the sword; and on the other by unconstitutional acts of Congress, and

startling usurpations of power by the Executive, which we have seen by experiment can be corrected by the ballot-box. Policy, as well as principle, requires that Kentucky shall await the process of reform, which is slow but sure, and refrain from all unlawful and unconstitutional acts, which have already brought terrible calamities upon the country; while we invoke the aid of all patriotic men to avert the evils that threaten our free institutions.

"Resolved, That this General Assembly now, in the exercise of its right to differ in opinion with the national Executive, enters its solemn protest against the proclamation of the President of the United States, dated 1st of January, 1863, by which he assumes to emancipate all slaves within certain States—holding the same to be unwise, unconstitutional, and void.

"Resolved, That this General Assembly declares that the power which has recently been assumed by the President of the United States, whereby, under the guise of military necessity, he has proclaimed and extended martial law over States where war did not exist, and has suspended the writ of *habeas corpus*, is unwarranted by the Constitution, and its tendency is to subordinate civil to military authority, and to subvert constitutional and free government.

"Resolved, That this General Assembly binds with pleasurable hope the recent manifestations of conservative sentiment among the people of the non-slaveholding States in their late elections, and regard the same as the earnest of a good purpose on their part to coöperate with all other loyal citizens, give security to the rights of every section, and maintain the Union and the Constitution as they were ordained by the founders of the Republic."

Mr. MALLORY. Now, Mr. Chairman, I can tell this House, after these resolutions have been read, what that convention did mean. I tell this House and the country that the predominant party in Kentucky, whose sentiments you have heard expressed in these resolutions, was the party that nominated and elected my colleague, [Mr. SMITH.]

Mr. SMITH. I will ask my colleague one question, if he will allow me.

Mr. MALLORY. Certainly.

Mr. SMITH. I ask my colleague whether I was not a candidate for election to Congress in the district now known as the sixth district of Kentucky against his late colleague in this House, John W. Menzies? That he knows to be the fact. I ask him further, whether he did not give his support to Mr. Menzies so far as he could outside of his own district? I ask him whether he did not also write a letter to Mr. Menzies in favor of his reelection?

Mr. MALLORY. I did, and I am glad that I had prescience to know what sort of man was being supported against Mr. Menzies. Since the gentleman came here he has shown himself to be what I suspected he was. That election in Kentucky amounts to this: that the Union Democratic party of Kentucky intended to stand by the Government of the United States through "thick and thin," through adversity and through prosperity; that they intended to maintain it by the appropriation of money and the raising of men to put down this rebellion so long as men and money were necessary. That is what that election meant. That party also rebuked, as they said in those resolutions, as unwise and impolitic and unconstitutional, the policy of this Administration in many important respects. The Union Democratic party in those resolutions distinctly denounced the President's proclamation of emancipation, which my colleague considers now as a necessary war measure. They denounced it as unconstitutional, null and void. That was done by those who nominated and elected my colleague. I ask him whether in his speeches he ever dared to avow his approval of the emancipation policy of the President? I want a direct answer.

Mr. SMITH. I will answer my colleague distinctly, that I said in my canvass in Kentucky, that in no act of the President, in no act of the Congress of the United States, in no act or word or deed that could be found on paper had the institutions of Kentucky been touched, and I defy mortal man to show it. I defy my colleague here to show it.

Mr. MALLORY. Answer my question.

Mr. SMITH. I told the people of Kentucky that I would oppose the operation of that proclamation to the Union men of the South, but that so far as rebels in arms were concerned I was not only for taking their negroes, but that I was for taking their infernal lives and crushing them to atoms.

Mr. MALLORY. I have not yet obtained an answer to my question. I ask my colleague whether he ever dared in his district during his canvass to announce that the proclamation of the President freeing the slaves of the insurrectionary States was constitutional, and that he approved of it?

Mr. SMITH. The question was never made in my district whether it was constitutional or unconstitutional. [Laughter on the Democratic side of the House.] I ask my colleague to allow me to say that I am in exceedingly good humor, and I trust my colleague, so far as we are personally concerned, will allow this little debate to go on pleasantly between us.

Mr. MALLORY. Oh, yes.

Mr. SMITH. I ask my colleague in connection with this discussion if he is in favor of and will support a doctrine which will give to these rebels who are in arms in this great conspiracy against the Government of the United States all the rights and privileges he would give to Union men; and if he would make a rendition of their slaves when they have transgressed the laws of their country and only made to yield by the sword?

Mr. MALLORY. I would carry on this war against the armed power of the rebels with all the power this Government can constitutionally muster against them. I would reduce and destroy their armies; I would destroy all resistance to the laws and Constitution of the United States; and then I hope I would have the magnanimity to spare private property and let the people who have been reduced to submission return to their allegiance and enjoy their own property, and live under their own vine and fig-tree. I want no afterclaps, no sanguinary modes of punishing them after the war is over for what they did during the war. I want no ranking left behind. I want, when this war is over, peace and harmony to spread their broad wings over the whole country. I want upon the statute-book no such laws as my colleague would defend—a state of things in which the arms of men would be raised against their fellow-men; a state of things which for ages would make the assassin lurk in secret places to shoot down the man who has in his possession his father's confiscated estate. I want no bloody law upon the statute-book. I want, when peace comes and the rebellion is subdued, all possible peace and harmony to prevail.

My colleague, during the canvass in the district he represents, made many speeches, and my colleague here present [Mr. WADSWORTH] has one which he [Mr. SMITH] made upon this question, and, with the permission of the committee, I will ask that it be now read.

Mr. STEVENS. As these gentlemen seem to be hunting up documents for this discussion, I think they need a little more time, and with their permission I will move that the committee rise.

Mr. MALLORY. I must decline to yield.

Mr. WADSWORTH. I read some extracts from a speech made by General Green Clay Smith, July 28, 1863, to a meeting in Harrison county, Kentucky, as I find them published in the Cincinnati Commercial of July 29, 1863, namely:

"He [Mr. Menzies] charges that I do not stand upon the Louisville platform, and that the convention did not indorse it. I contend it has indorsed it, and that I am the friend of the Union party of the State, its true representative, and he its enemy."

And again:

"I never entertained a moment's thought antagonistic to the action of the Louisville convention; on the contrary, I stand upon the platform of the Union Democratic party of the State, as contained in the resolutions of the Louisville convention."

And again:

"I am opposed to the radical measures of the Administration, and if elected to Congress will pursue a course consistent with these avowals. In the selection of a Speaker for the House I will vote for a war Democrat; and such measures as neither my vote nor influence as a member of Congress can change, I vote to the measure of my ability to effectually defeat by pressing the war to a speedy close, in destroying the armies of our enemies and in the wake of our victorious arms, and see the Constitution and law and order restored in every State of the Union, under which the rights of persons and property will be secured and protected."

Mr. MALLORY. I do not know that I have much to add to that speech [laughter] about my colleague's record, or about the convention which nominated him or the people who elected him.

I will conclude my remarks by saying that my solemn conviction is that Kentucky repudiates the sentiments uttered by the gentleman a few moments ago as completely as she did at that time when he indorsed such condemnation. He has changed; Kentucky has not. He is entitled to make that change, and I do not quarrel with him for having made it. He has a right to do it. Even after he had pledged himself to his constituents to

pursue a particular course he has a right to pursue a different course. I do not quarrel with him; it is a matter with himself alone.

A MEMBER. He has no such right.

Mr. MALLORY. I mean to say he has a political right as a member of Congress, and there is no authority to restrain him. We are not talking about a moral right in this House. I am talking about his power under the rules of the House and the Constitution and laws of the United States after he has pledged himself to his constituents to pursue a particular line of policy to come here and pursue exactly the reverse. I do not quarrel with him; he can settle that with his constituents; but I am determined to make here to-day the distinct avowal that Kentucky at the time he was elected repudiated the proclamation of emancipation and the policy of emancipation, and that she repudiates it now.

Mr. SMITH. My colleague who has just taken his seat, feeling, for some cause or other, his inability to answer the position I took, had to call to his aid two other of his colleagues from Kentucky who sympathized with him.

Mr. MALLORY. That is a mistake. I called on my colleague [Mr. WADSWORTH] to read the Kentucky platform and the gentleman's speech. The gentleman himself is the colleague I called to my aid.

Mr. SMITH. At any rate, I have had them all threaten a time on my shoulders during this little debate. But allow me to ask my colleagues here who did not vote with me in the election of Speaker, since they quote my language when I said that I would vote for a war Democrat for Speaker, if the Union party of the State of Kentucky, known as the war Democratic party, did not understand from all of their representatives who have been elected here that they would vote when they got here for a war Democrat for Speaker? That was understood. Now, my colleague [Mr. MALLORY] never was a Democrat—never, but an old-line Whig.

Mr. MALLORY. He was elected as a Union Democrat.

Mr. SMITH. I am speaking of what he was up to the time of this last election. He was always a Whig.

Mr. MALLORY. Will my colleague tell me where, when, and how the Union Democracy of Kentucky ever imposed upon their representatives in Congress the duty of voting for a war Democrat for Speaker?

Mr. SMITH. I thought the gentleman had said so, and he quoted my speech as evidence of that fact. If it is not true, I am exempt from the charge made against me by my colleagues.

Mr. MALLORY. I quoted your speech for another purpose. I quoted your speech to show that you disapproved and denounced the emancipation proclamation, and the reading of the speech showed that you did pledge yourself in that speech to vote for a war Democrat for Speaker. I have not said one word about it; I had forgotten it, overlooked it. The gentleman has lugged it in himself now, or it came in first in his own speech. I never heard of any pledge given in Kentucky to vote for a war Democrat for Speaker before this gentleman made it in that speech.

Mr. SMITH. I admit that I made a pledge to vote for a war Democrat for Speaker, but when I came to the capital, a stranger as I was, unknown, as I was, to almost every man in this House, I looked around to see where there was a war Democrat that I could vote for. When I came to examine the operations of the caucus that met here which was considered a Democratic caucus, I found that the gentleman who received the largest number of votes in this House for Speaker was a man whom I opposed in Ohio in the election there, and spoke against—I mean Mr. Cox.

The CHAIRMAN. The gentleman is out of order in calling any member by name.

Mr. SMITH. I beg pardon. I should have said Mr. Vallandigham. [Laughter.] He elected in the State of Ohio for Mr. Vallandigham, who was an anti-war man, who was against voting men or money to put down this rebellion. I saw that he was presented by a majority of the Democratic party here so far as I could hear, and my constituents had directed me not to vote for such a man. I found that there were other men suggested and nominated in this House by that same Democratic party who were, in my judg-

ment, identified with him. I found also that members from New York who are opposed to voting men or money for the suppression of this rebellion were in that caucus, and therefore, as a Democrat, I could find no war Democrat to vote for, according to the old acceptance of the term. [Laughter, and cries of "Good!"]

Mr. MALLORY. My colleague will allow me to ask him whether he did not go into the Republican caucus that nominated the Speaker when he got here?

Mr. SMITH. I say to my colleague distinctly that I never saw in the papers in the city of Washington or anywhere else that a Republican caucus was to be called.

Mr. MALLORY. Did not the gentleman go into it?

Mr. SMITH. No, sir; I went into a Union, an unconditional Union caucus. [Shouts of "Good!" "Good!" from the Republican side.]

Mr. MALLORY. Did the gentleman go into the caucus which nominated the present distinguished Speaker of this House?

Mr. SMITH. Yes, sir, I did.

Mr. MALLORY. I will ask the gentleman another question, and then I am done. Did he ever go into the other caucus to find out whether there were war Democrats there or not?

Mr. SMITH. No, sir; because I smelt the atmosphere and discovered its character before I got in. [Laughter, and cries of "Good!"]

I find to-day in the distinguished gentleman who occupies the Speaker's chair a Democrat according to the true and patriotic acceptance of that word, and he is a man that I am proud to stand by because he is for the Government and the Constitution and the Union—a man who has never stood up for a man or a party opposed to this war or to this Government. Upon that issue I am willing to go before my constituents, and upon that issue I am willing to stand or fall.

Mr. MALLORY. I desire to ask the gentleman one more question. I ask him if he did not, in advance of his arrival in the city of Washington, and at the time he stood upon his pledge to vote for a war Democrat for Speaker, write a letter to some gentleman here—I do not know whom—some gentleman of the Republican party, or of this great Union party, as he calls it, or to some gentlemen of that clique, or party, or whatever he may choose to call it, in which he pledged himself to vote for SCHUYLER COLFAX, or some other Republican, for Speaker?

Mr. SMITH. I answer the question by saying that if I wrote such a letter to anybody at any time I do not recollect it. I do not recollect at this time, ever having written such a letter.

Mr. MALLORY. Ah! Mr. Reporter, write down for him as his answer, *non mi ricordo*.

Mr. SMITH. I will now ask my colleague a question: whether the people of Kentucky have not, by their votes and by their action, repudiated the Vallandigham, anti-war, anti-money, and anti-men party of the North?

Mr. MALLORY. The people of Kentucky, as I said, have pledged themselves to sustain the war by furnishing men and money.

Mr. SMITH. I want a direct answer from my colleague.

Mr. MALLORY. I mean to say that if the Vallandigham party, or any other party in the North, opposed the furnishing of men or money, the Union Democracy of Kentucky was against that party.

Mr. SMITH. Then I ask my colleague this further question: what right he had to be in a caucus with men who supported that party in the recent election?

Mr. MALLORY. I was never in that caucus. I did not go into that Democratic caucus. I have no obliviousness about the matter, no non-recollecting anything about it. I did not go.

Mr. SMITH. Then I will ask my colleague another question—what his name is doing on that national committee?

Mr. MALLORY. Mr. Chairman, I am now acting with the northern Democracy, as I was pledged to do by the platform of the Union Democracy of Kentucky, which has been read here to-day by my colleague, [Mr. WADSWORTH,] and to which he is pledged, too.

Mr. SMITH. Mr. Chairman, my colleague has been in Congress four or six years, and understands how to give evasive answers better than

I do. So far as I am concerned, this matter is closed. The people of Kentucky, my colleague's remonstrance to the contrary notwithstanding, are to-day, as they were in the beginning of the war, in favor of crushing the rebellion by every means, whatever it may be. I speak now of the Union party of Kentucky, for we have a Democratic party there which would not be trusted by Union men further than one could throw a bull by the tail. [Laughter.] I opposed that Democratic party. It was the distinct understanding of the Union men of Kentucky, and is to-day, that whatever stands in the way of the Army of the Republic must be removed, and that the Government must triumph.

Mr. WADSWORTH. Mr. Chairman, my colleague [Mr. SMITH] has made the remark that he had on this occasion two or three of his colleagues on his shoulders. I understand that remark to embrace me as one of the three on his shoulders. I must deny the soft impeachment. I was not present when my colleague [Mr. SMITH] got up here to unsay all he had said in Kentucky, and to take back all the pledges he had given to support the platform of the Union Democratic party of our State. Had I been present when he rose to make his avowals—I came in too late to understand their drift—I should have felt, I trust, that just indignation at his betrayal of the Union party of Kentucky as not to have waited for my colleague, [Mr. MALLORY,] burdened with the weight of illness, to respond and to defend the State from the position assigned to her. Let the gentleman [Mr. SMITH] speak for his own constituents. Let him speak for those who practiced a great fraud upon the Union Democratic party of Kentucky in his nomination; but let him not speak for the people of Kentucky.

I do not propose to examine the value of his present opinions. All that I now complain of is that he was not understood when the convention nominated him, and when the party voted for him. He should have declared then what he has avowed to-day, in order that the Union party in Kentucky might have put in the field a candidate to oppose the positions which he now assumes. If he had, after that, been elected, I should not have reproached him with any speech he might have made. But now I do arraign him, here on this floor, as being unfaithful to the pledges which he made to his party, and as one who has betrayed the pledges that he gave to the electors of Harrison county, the promises that he would oppose the radical measures of the national Administration, and particularly its unconstitutional emancipation policy. I find him here now indorsing that policy; I find him indorsing the radical measures of the Administration, and going even a bow-shot beyond anything the Administration has yet attempted. I find him here, sir, instead of redeeming that pledge that he would vote for a war Democrat in the election of a Speaker, voting for an avowed supporter of the radical policy of the Administration, and a member of the Republican party. I find him voting with those men on many radical propositions which the Legislature of Kentucky and the State convention had denounced as unconstitutional. I find him here, sir—

Mr. GRINNELL. I call the gentleman to order for calling the Speaker a revolutionist.

Mr. WADSWORTH. I take it back. I did not mean it in any offensive sense. But if this is not a revolution I do not know what is. [Laughter.] No one has more respect for the Speaker personally than myself.

But let me return to the point that I make against my colleague. The doctrines that he now avows may be right or wrong; I do not discuss that; but he did not give the people of Kentucky or the Union Democracy in his district an opportunity to send a man here of different principles. They thought that my colleague stood with us upon the platform of the Union Democratic convention which had been held at Louisville. He was nominated by us and he was our candidate. Our adherents sustained him against Mr. Menzies, my colleague of the last Congress. He was sustained simply because he was the nominee of the Union Democratic party. Had Mr. Menzies received the nomination he would have been sustained in the same way. But my colleague was not elected because the people had a preference for him personally. Had John W. Menzies been the candidate of the Union Democratic party,

and my colleague the Administration candidate, the latter would have been routed "horse, foot, and dragons." The point I make is not that my colleague is wrong in his present opinions, or that he has not a right to hold them, but that he did not afford an opportunity to the people of Kentucky in his district, by a frank and manly avowal, to send a member who would represent them faithfully. That is the cause of quarrel and the extent to which it goes. Having made these statements, I will not detain the committee with further observations.

Mr. SMITH. Mr. Chairman, I will not detain the House long. I beg pardon for having consumed so much of its time already. I accept the point made by my colleague, [Mr. WADSWORTH,] and in 1864 let us go before our people for their judgment. He has further alluded to things which it is necessary for me to answer. The Louisville Journal, the leading paper of the Commonwealth of Kentucky, and claiming to be the representative of the people there, opposed me, and denounced me "from pillar to post." My district is composed of ten counties, and has one hundred and twenty thousand inhabitants. Two or three handbills to every man, woman, and child of that district were distributed from the office of the Louisville Journal against me, and in favor of Mr. Menzies, because they said that he was the Union conservative Democrat of that district, while I was a radical. Not a paper in my State advocated my election. I went before the people on principle, nominated by a convention that the Louisville Journal denounced as radical, republican, and everything abominable in the sight of the people of Kentucky. With that issue I went before the people—for unconditional Union—and I rode over all opposition. I was returned by a majority of 5,040. I do not know now a man who was running for Congress who was in favor of my election. I know the influence that the State government brought to bear against me. It was nothing but principle, a sublime love of country—principle and devoted patriotism and everlasting philanthropy that made me their Representative over the late Representative from that district, who did not vote for the appropriation bills to carry on the war.

Let the issue be made between us before the people. The gentleman has thrown down the gauntlet. The war is waged. Let it go to the people of Kentucky to be decided in 1864. Let them decide in 1865 whether they will indorse us as members of Congress. I speak for my people. I have seen and communicated with them. I say to my colleagues that I have in my possession letters from the best and truest men of Kentucky—men who own more negroes than all of us put together—who indorse me for voting for the present Speaker, [Mr. COLFAX,] in voting, as my colleague said, for an "abolitionist for Speaker." I have not yet received a single letter reproving me for voting as I did. They also indorse my resolution, and they indorse my position generally. I believe that they will indorse me hereafter.

Mr. MALLORY. Who are those extensive slaveholders?

Mr. SMITH. If my colleague will call at my room I will tell him. These are private letters, and I do not know that I am at liberty to give their names in the House of Representatives.

Mr. MALLORY. If they are private letters the gentleman ought not to have alluded to them in the committee.

Mr. SMITH. I only alluded to them incidentally to show that I had been indorsed in my course, and as I know by the best of men. I know my position is right and just, and knowing it I will defend it here, believing as I do my people will appropriate my course.

Mr. CLAY. Mr. Chairman, I hope I will be pardoned for saying one word before this discussion is permitted to close. It would seem, from what has been said by my colleague, [Mr. MALLORY,] that all the members from Kentucky who voted for the present Speaker [Mr. COLFAX] were recreant to their State and their duty. I wish to understand these gentlemen, and whether they intended to include in their remarks every gentleman upon this floor from Kentucky who had the independence to vote for Mr. COLFAX for Speaker? I ask the question for the reason that I have been denounced by the Louisville Journal and other papers in Kentucky with violating my

pledges upon that subject. Standing here and listening to this debate, and to the insinuations thrown out by those gentlemen, I desire to know whether I am included in their remarks, and am charged by them with violating my pledges? If I am I want them to say so.

Mr. MALLORY. I have not, in the most remote way, directly or indirectly, alluded to the gentleman. In replying to my colleague, [Mr. SMITH,] I replied to his sentiments and I repudiated them, and I read from his speech in which he pledged himself to vote for a war Democrat for Speaker; and then I showed that he voted for Mr. COLFAX. I do not know what the views of my colleague [Mr. CLAY] are; whether he approves the proclamation of emancipation or not. I do not know anything about it, because he has said nothing. Therefore I beg he will not suppose I had any allusion in the world to him.

Mr. CLAY. I am very glad to hear the gentleman's candid explanation upon that point. But as I am upon the floor I wish to make an observation or two, so that I may stand fair before my constituents and the world. This very question as to whom I would vote for as Speaker of the House of Representatives was put to me on every occasion in my State, and I replied emphatically that I would make no pledges, that I would not pledge myself to vote for a Democrat or for a Republican; that I intended to do what I thought right and proper under all the circumstances when I got here. I did not know the opinions of these gentlemen, and I thought I would be doing injustice to myself and to my constituents by making any such pledge; and therefore I told them I wished it distinctly understood that I made no pledges. Indeed, I pledged myself that I would not make any pledge upon the subject. Some of my constituents who never heard me speak have denounced me as violating my pledges—pledges which I never made—and that denunciation has been followed up here to some extent.

Mr. MALLORY. I will ask my colleague—for I have heard that he said so—whether he did not, in the city of Frankfort, which is in his district, pledge himself during his canvass that he would not vote for a Republican unless he saw from actions here that something like an indefinite postponement of the organization of the House would be the result of his not doing so; but that in that event, and that event only, he would do so?

Mr. CLAY. I made no such pledge whatever. More than that, I stated I would not make any pledge. I stated it everywhere; and I felt at liberty here to canvass every claim and to vote for the best candidate, as I thought the interest of the country required. I have no concealment to make in regard to my views. I have never attached myself to one side or the other. I am independent; I mean to vote for measures as they come up according as it seems to me best and for the interest of my country, disregarding all party ties and party feelings, for I cannot say that I cordially agree with either side of the House.

I must say, so far as the Democratic party is concerned, my prejudices are rather against them. I had always been against the Democrats; and the leading Democrats of my State have mostly turned out to be rebels, and a majority of them are now in rebel arms. I mean the Democratic politicians of my State. Such being the case, my prejudices were rather against them; but I did not know what they would be elsewhere, and I reserve my right to determine the matter when I reached here.

Mr. WADSWORTH. In what I said there was no allusion to the gentleman, because I understood him to stand upon the State platform, and to still stand upon it. I would inquire of the gentleman if I am not correct in that understanding.

Mr. CLAY. I voted for the platform in the Legislature and in the convention, and intend to be governed in my judgment by the State platform as laid down as far as it is applicable to the times. I have made no repudiation of it, and I have given no vote which will not justify me in standing upon it. But these gentlemen seemed to arraign my colleagues as violating their pledges, because they voted for the present Speaker. The papers in my State take that ground, and these gentlemen seemed to follow in the same direction, and I wanted to know whether they meant me or not.

I take the opportunity to explain myself now that I may not be misunderstood upon this subject. I do not intend to create any ill feeling between my colleagues and myself. I desire to have the friendliest relations with all of them. Yet, gentlemen, I intend to act here for myself, not to be governed by anybody, to exercise my best judgment on all these questions, and to go home and face my constituents like an honest man, and tell them that I have done my duty according to the dictates of my own judgment.

I have made these remarks because this subject sprung up incidentally here. I should not have alluded to what has been said in the newspapers if it had not been for the course of my colleagues this evening. I intended to have passed it by, but as the question has come up here, I wished the House and the country to know my position, that there may not be any mistake about it.

Mr. STEVENS. Mr. Chairman, I do not desire to cut off this interesting debate, and I trust nobody will think that I have done so prematurely. I have been very willing to let Kentucky express her sentiments here. She is loyal. She supports the Administration in everything by voting for every measure for which the Administration asks unless she deems it unconstitutional. She did so in the last Congress, and for some time she controlled the operations of the war by having the ear of the White House. I am glad that this debate has sprung up, so that the Executive may see how far the gentlemen from Kentucky ought to be consulted; and more particularly the loyal men of Kentucky who stick by their pledges. In order that we may have time to reflect upon the matter, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the special order, being bill of the House No. 156, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864, and had come to no conclusion thereon.

And then, on motion of Mr. HOLMAN, (at twenty-five minutes after five o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, January 26, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

OATH OF OFFICE.

Mr. BAYARD. Mr. President, the Senate having yesterday decided that the act of July 2, 1862, is within the power of Congress, and that its provisions include members of this body, and the Senate being the constitutional tribunal in which is vested exclusive and final jurisdiction over its organization of the elections, returns, and qualifications of its members, in compliance with that decision I am now prepared to take the oath prescribed by the act. When I have done so, I shall ask from the courtesy of the body the privilege of occupying its time for not exceeding fifteen minutes in the submission of some remarks with reference to my personal action under the decision, and the reasons by which it is controlled. It is the first occasion on which I have ever asked the indulgence of the Senate for an explanatory statement, and it shall be the last.

Mr. RICHARDSON. Mr. President, there is a law requiring this oath to be administered. About the policy or the constitutionality of that law I have but a single word to say. I have no objection to the oath; I can take it and shall take it, but I question the policy of administering any other oaths than those that have been administered during the entire previous existence of our Government.

Messrs. BAYARD and RICHARDSON stepped forward to the desk, and the Vice President administered to them the oath of office prescribed by the act of July 2, 1862; and it was also subscribed by them.

Mr. BAYARD. Mr. President—

The VICE PRESIDENT. The Senator from Delaware asks the unanimous consent of the Senate to make some remarks personal to himself. Is there any objection? The Chair hears none. The Senator will proceed.

Mr. BAYARD. Mr. President, in the course of the debate upon the rule adopted yesterday by the Senate, I stated that the body having exclusive jurisdiction over the subject, I should hold myself bound by its action, and that but one alternative remained if the rule was adopted: either to comply with the decision or relinquish my seat in the Senate. Subsequent reflection has convinced me I was partially in error. Another course is open: to submit to the decision and resign.

The gravest consideration has induced me to pursue this latter course; and in a brief period my connection with this body, which has lasted nearly thirteen years, will cease.

I desire to assign the reasons which control my action. Without any decision upon the constitutional validity of the act of July, 1862, all the members of the Senate and House to whom it applied belonging to the political party with which I have acted have voluntarily taken the oath prescribed by that act, deeming, doubtless, that the constitutional questions involved were of less moment and the precedent made less dangerous than they seemed to my mind. I could not but reflect that this unanimous action of those with whom I coincided in general political views might give cause even to men unbiased by the perverting influences of political or personal hostility, who did not know me personally, to doubt, if not to believe, that I declined to take the oath for reasons other than the consideration that, in my judgment, it was a dangerous innovation upon fundamental principles of the Constitution.

As I believed that the law had been passed without full discussion, and as a decision on its validity by the proper tribunal had been waived at the special session when I was not present, I was content to leave others to their own action, and govern mine by my convictions of duty. The decision has now, however, been judicially made, after hearing my objections to the act and the oath it imposes, and that decision, though in my belief a dangerous precedent, is obligatory to the extent of taking the oath, as I have already held the seat for nearly one year since my reelection.

Sir, I admit that I covet the approbation of the good, the wise, and the reflecting, and would not willingly subject myself to their censure or to reasonable suspicion as to my motives of action; though I am utterly indifferent to those calumnious, groundless, and vindictive attacks to which every man in public life, even in less excited times, is subjected by personal malevolence or political hostility. But though I desire such approbation, I have never made either opinion or popularity my standard of action, but my own sense of right and duty; and I owe a respect to my own sincere convictions of public duty which I will never sacrifice. Many of you are aware that before civil war commenced I expressed fully my views as to the course of action which I thought the welfare and prosperity of the whole country required after the secession of seven States. Those views differed from the course pursued subsequently by the Administration, and its course was approved by a majority of Congress, and indeed by the people at large after their passions had become excited by actual war.

I told you then that I did not consider secession a constitutional or reserved right of the States, but an act of revolution; but a revolution by organized communities—not rebellion in the modern sense of the word, but only in its old Roman sense—the revolt of a people. I told you, also, that, in my judgment, conciliation, and the removal of real or even apprehended grievances or dangers, and not coercion by arms, was, in such a crisis, the true policy of the statesman; and that the framers of the Constitution had wisely left such a state of affairs without any provision as one of those “mortal feuds” which, in the language of Hamilton, “when they happen, commonly amount to revolutions and dismembersments of empire.” I admitted that secession was a breach of the compact by which the Federal Government was established, and that it rested with the United States to determine whether they would and could, by war, compel the seceding States to repair the breach, or whether the act by which they severed their political relations with us should be assented to, and a peaceful separation permitted, in the hope that past memories and the ties of blood and marriage, with continued commercial intercourse, might in a few years restore those seven States

to the Union; similar influences having at the origin of the Government induced North Carolina and Rhode Island, after a year's delay, to become members of the Union, though the former had in the first instance rejected the Constitution, and the latter had refused to be represented in the Convention. I may be pardoned here for quoting a short extract from a speech I made on the “condition of the country,” in March, 1861, as illustrative of my opinions before the sword had been drawn:

“You may attempt by war to keep the States united—to restore the Union; but the attempt will be futile. Conciliation and concession may reunite us; war, never! The power may be exercised for the purpose of punishment and vengeance. It may be exercised if you propose to conquer the seceding States, and reduce the nation into a consolidated nation; but if your intention be to maintain the Government which your ancestors founded—that is, a common Government over separate, independent communities—war can never effect such an intention.”

I preferred then peaceful separation to civil war as the lesser evil, but the Administration and the dominant party decided to resort to an enforcement of the laws by the coercion of arms, as against an insurrection. Civil war has since raged, and its events and consequences have strengthened my convictions that the prosperity of my country and the happiness and morals of the people cannot be promoted by its continuance. To these views an overwhelming majority of Congress is opposed, and, so far as the elections of the past year can be accepted as evidence of public sentiment, that majority is sustained by the people. It is true that new questions have arisen in the progress of war as to its mode of conduct and object, and have produced conflict of opinion among the people. But on the question of peace—even by temporary separation if essential—the Democratic party with which I have been connected is divided, and many of its leading and most influential adherents indulge in the visionary idea that a common Government, based on “the consent of the governed,” over separate political communities, with diversified habits, manners, customs, and institutions, can be restored and maintained by the sword, without the abandonment of a federal and its conversion into an imperial and centralized Government. So thought not the President of the United States or the Secretary of State on the 10th of April, 1861, before war had begun, and to my mind such an idea is a delusion and a mere chimera. I have also the fixed opinion and belief that the life of a nation depends upon the preservation of its liberties, and not upon the extent of its dominion. Standing therefore almost alone in this body, I have lost the hope that I can longer be of service to my country or my State. Never an ambitious man, the passion of ambition has with the advance of life so diminished that I prefer the repose of private life to the embittered contests of the political arena in these tempestuous times.

I have lived to see the elective franchise trodden under foot in my native State by the iron heel of the soldier, and “Order No. 55,” not the people of Delaware, represented in one Hall of Congress. I have lived to see her citizens torn from their homes and separated from their families on the warrant of a self-styled detective, without any charge expressed on its face, and without any known accuser; and then, without hearing or trial, these citizens banished from their State, beyond the protection of the laws, into a State in which the laws of the United States are now neither enforced, nor enforceable. Yet in the State of Delaware the courts have been always open, and at no period has there existed the semblance of a conspiracy or combination to resist the authority of the United States. Such an allegation is a gross calumny, and utterly groundless, come from what source it may.

And now, Mr. President, the Senate of the United States have, by their decision enforcing an expurgatory and retrospective test-oath, repugnant to both the letter and spirit of the Constitution, made a precedent which, in my judgment, is eminently dangerous, if not entirely subversive of a fundamental principle of representative government. Under these circumstances, with my construction of the Constitution, having held the seat, I am bound to submit to your judicial decision as to the validity of the act of July, 1862, and have therefore taken the oath it prescribes. I cannot doubt that the precedent now made will

be followed, and yet I regard all test-oaths as useless and demoralizing acts of tyranny. It has been as truly as beautifully said by a brilliant and distinguished advocate:

“They are the first weapons young oppression learns to handle; weapons the more odious since, though barbed and poisoned, neither strength nor courage is necessary to wield them.”

With a firm conviction that your decision inflicts a vital wound upon free representative government, I cannot, by continuing to hold the seat I now occupy under it, give my personal assent and sanction to its propriety. To do so, I must forfeit my own self-respect and sacrifice my clear convictions of duty for the sake merely of retaining a high trust and station with its emoluments. That will I never do, but, retiring into private life, shall await, I trust with calmness and firmness, though certainly with despondency, the further progress of a war which it is apparent to my vision will in its continuance subvert republican institutions, and sever this Federal Union into many arbitrary Governments.

Among these wars for dominion will arise and continue until, from exhaustion, the different divisions subside into separate nationalities, leaving not the vestige of a republic remaining. If the lessons of history be not deceptive and valueless, such will be the inevitable result of protracted war; for a single centralized Government over so vast a territory, inhabited by so intelligent and energetic a people, could it be organized through military genius and power, and be successful for the hour, would not outlive the generation in which it was established.

I close these remarks with the language in which a historian of the Constitution so eloquently portrays the universal sentiment of the American people (alas! how changed now) at the time of its adoption, and the great object they intended to accomplish in thus cementing more firmly a Federal Union:

“They beheld that republican and constitutional liberty which with all that it comprehends and all it bestows was not only altogether lovely in their eyes, but without which there could be no peace, no social order, no tranquillity, and no safety for them and their posterity.

“This liberty they knew must be preserved. They loved it with a passionate devotion. They had been trained for it through a long and exhausting war. Their habits of thought and action, their cherished principles, their hopes, their life as a people, were all bound up in it; and they knew that if they suffered it to be lost there would remain for them nothing but a heritage of shame and ages of confusion, strife, and sorrow.”

THE VICE PRESIDENT. The Chair desires the attention of the Senate for a moment in relation to the construction which is to be placed upon another portion of the rule which was adopted yesterday. The first clause of the rule, without reading it, provides that Senators elect shall take and subscribe the oath in open Senate; and at that point in the rule is a period; it is the end of a sentence; and the concluding portion of the rule seems to be somewhat distinct from the first portion of it, and is in these words: “it shall also be taken and subscribed in the same way by the Secretary of the Senate.” The Secretary of the Senate is confined by indisposition to his room, and is not able to be present. If he is included within the rule, he will, as he notifies me, take and subscribe the oath on his first appearance here when he shall be able to appear. The first question that arises to the Chair is whether he is included in the rule. He was elected the Secretary of this body before the date of the law which prescribes the oath; and do the Senate mean to prescribe a different rule to the officers of the Senate from that which is prescribed to Senators? The rule declares emphatically that the Secretary shall take the oath in the same way. The Chair surely is not able to determine whether the rule applies to the Secretary or not.

The next clause of the rule is: “but the other officers of the Senate may take and subscribe it in the office of the Secretary.” The Chair is informed that all the officers of the Senate, if the clerks under the Secretary are to be regarded and denominated as officers, are ready to take and subscribe the oath if, in the judgment of the Senate, they come within its provisions. There is an obscurity in the language, which leaves the Chair in doubt, and he hardly knows how to administer it.

MR. SUMNER. I doubt if upon reading the rule it can be said that there is obscurity in the language. Its obvious effect as it seems to me is

simply to give validity to the existing act of Congress. It does not undertake to go beyond that existing act of Congress. Now, if we refer to that act, we find these words:

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation."

The statute is limited in its operation to those "hereafter elected or appointed," and the rule obviously is confined to an enforcement of the existing statute.

The VICE PRESIDENT. The Chair will, then, if there be no objection on the part of the Senate, give to it that construction, that it applies to such officers of the Senate as have been elected or appointed subsequent to the passage of the law prescribing the oath.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Postmaster General, communicating, in compliance with a resolution of the Senate of the 19th instant, information in relation to the contracts of Shepherd & Caldwell to carry the mails on certain routes; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of the Interior, communicating, in answer to a resolution of the Senate of the 18th instant, a statement of public books and documents in the custody of the Secretary of the Interior, which, by a joint resolution of Congress approved March 3, 1863, were set apart for distribution; which was ordered to lie on the table and be printed.

The VICE PRESIDENT also laid before the Senate a message of the President of the United States, communicating, in answer to a resolution of the Senate of the 20th instant, a report of the Secretary of State, with accompanying papers, respecting the recent destruction by fire of the church of the Compañia at Santiago de Chili; which, on motion of Mr. SUMNER, was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. CHANDLER presented the petition of Warren Chapman and others, praying that the enrollment and register granted June 13, 1862, to the steamer Mohawk may be legalized; which was referred to the Committee on Commerce.

Mr. TEN EYCK. I present the petition of Solomon Andrews, of Perth Amboy, New Jersey. Mr. Andrews claims to be the inventor of a method of navigating the air, and has devised a machine for that purpose, which has been, as he states, successfully tried. He further states that he has a model ready for exhibition in the city of Washington, and that he believes it capable of doing great service to the country in the present war. He therefore respectfully prays that Congress may cause the invention to be examined, and, if shown to be successful, may direct its use by the armies of the United States. As it is connected with matters of war, I ask that the petition be referred to the Committee on Military Affairs and the Militia.

The VICE PRESIDENT. It will be so referred.

REPORTS FROM COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a resolution of the Legislature of Michigan, in favor of an appropriation of lands to endow female colleges in the several States, asked to be discharged from its further consideration; which was agreed to.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia, reported it with amendments.

He also, from the same committee, to whom was referred a bill (S. No. 15) to incorporate the Washington City Savings' Bank, reported it with amendments.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 50) making appropriations for the service of the Post Office Department during the fiscal year end-

ing the 30th of June, 1865, reported it without amendment.

Mr. ANTHONY, from the Committee on Printing, to whom were referred a motion to print additional copies of the message of the President of the United States, communicating the report of Hon. J. A. Wright, commissioner to the Exhibition at Hamburg, and a motion to print additional copies of the report of the Secretary of State, communicating a report of Hon. Samuel B. Ruggles on the resources of the United States presented to the Statistical Congress at Berlin, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That fifteen hundred copies of the message of the President, communicating the report of Hon. Joseph A. Wright, commissioner to the International Exhibition held at Hamburg, and of the report of the Secretary of State, communicating the report of Hon. Samuel B. Ruggles on the resources of the United States, presented to the International Statistical Congress at Berlin, be printed for the use of the Senate.

PAPERS WITHDRAWN.

On motion of Mr. LANE, of Indiana, it was *Ordered*, That Charles Anderson have leave to withdraw his petition and other papers from the files of the Senate.

BRIDGE AT ST. LOUIS.

Mr. BROWN. Mr. President, I desire to give notice that to-morrow, or on some subsequent day, I shall ask leave to bring in a bill to authorize the construction of a bridge across the Mississippi river at the city of St. Louis. The object of giving notice thus early in the session of such intent is, that all interests likely to be affected by this great enterprise may have an opportunity of being consulted, that consideration of its bearings upon an unbroken line of transfer between the oceans may be had in advance, and that coöperation shall be thus secured among all who are to be benefited by its speedy erection.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 73) to enable the trustees of Blue Mont College to perfect the title to their lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 74) to secure homesteads to persons in the military service of the United States; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 75) for the relief of George T. Wiggins, of Keokuk, Iowa; which was read twice by its title, and referred to the Committee on Claims.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 21) to provide for the printing of official reports of the operations of the armies of the United States; which was referred to the Committee on Military Affairs and the Militia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bill and joint resolutions of the Senate:

A bill (No. 49) relating to the admission of patients to the hospital for the insane in the District of Columbia;

A joint resolution (No. 2) expressive of the thanks of Congress to Major General Nathaniel P. Banks and the officers and soldiers under his command at Port Hudson;

A joint resolution (No. 3) expressive of the thanks of Congress to Major General Joseph Hooker, Major General George G. Meade, and Major General Oliver O. Howard, and the officers and soldiers of the army of the Potomac;

A joint resolution (No. 5) of thanks to Major General Ambrose E. Burnside and the officers and men who fought under his command; and

A joint resolution (No. 14) presenting the thanks of Congress to Cornelius Vanderbilt for a gift of the steamship Vanderbilt.

PURSUIT OF INDIANS IN BRITISH TERRITORY.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if in his opinion not

incompatible with the public interests, copies of the correspondence with the authorities of Great Britain in relation to the request made in the year 1863 that permission might be given to the military forces of the United States to pursue such hostile bands of the Sioux Indians, engaged in actual warfare, as might cross the international bounds into the Hudson's Bay territories.

EXCHANGE OF PRISONERS.

The VICE PRESIDENT. A resolution submitted by the Senator from Kentucky [Mr. DAVIS] on the 7th instant is now before the Senate in its order, and will be read.

The Chief Clerk read it, as follows:

Resolved, That the President of the United States be, and he is hereby, requested to furnish the Senate with a copy of all the correspondence between the authorities of the United States and the rebel authorities on the exchange of prisoners, and the different propositions connected with that subject.

The VICE PRESIDENT. There is an amendment pending, submitted by the Senator from Rhode Island, [Mr. ANTHONY,] to insert after the word "requested" the words "if not, in his opinion, incompatible with the public interest."

The amendment was agreed to.

The resolution, as amended, was adopted.

MILITARY INTERFERENCE WITH ELECTIONS.

The Senate next proceeded to consider the following resolution, submitted yesterday by Mr. POWELL:

Resolved, That the Secretary of War be directed to transmit to the Senate all orders or proclamations in his Department concerning elections, issued by military authority, in the States of Kentucky, Missouri, Maryland, and Delaware.

The resolution was adopted.

PROPOSED EXPULSION OF MR. DAVIS.

The VICE PRESIDENT. There is no other morning business, and, with the consent of the Senate, the Chair will call up the special order which was assigned for one o'clock to-day.

There being no objection, the Senate resumed the consideration of the following resolution, submitted by Mr. WILSON on the 8th instant:

Whereas Hon. GARRETT DAVIS, a Senator from the State of Kentucky, did, on the 5th day of January, A. D. 1864, introduce into the Senate of the United States a series of resolutions in which, among other things, it is declared that "the people North ought to revolt against their war leaders, and take this great matter into their own hands," thereby meaning to incite the people of the United States to revolt against the President of the United States, and those in authority, who support him in the prosecution of the war to preserve, protect, and defend the Constitution and the Union, and to take the prosecution of the war into their own hands: Therefore,

Be it resolved, That the said GARRETT DAVIS has, by the introduction of the resolutions aforesaid, been guilty of advising the people of the United States to treasonable, insurrectionary, and rebellious action against the Government of the United States, and of a gross violation of the privileges of the Senate; for which causes he is hereby expelled.

Mr. HOWARD. Mr. President—

Mr. DAVIS. Before the Senator from Michigan proceeds, I will ask his courtesy to desire that a note which I addressed to the committee in relation to that resolution shall be first read.

The VICE PRESIDENT. It will be read.

The Chief Clerk read, as follows:

WASHINGTON CITY, January 20, 1864.

SIR: I was taken wholly by surprise at the presentation of the resolution to expel me from the Senate. I had not expected, or even thought of any resolution which was made the ground of that proceeding, or any one, or the whole of the series producing any such movement. I therefore avowed, in substance, distinctly, that the mover of the resolution for my expulsion interpreted the resolution on which he based his erroneously and injuriously to me. That in offering those resolutions I had no purpose to invite the Army to mutiny, or the people to sedition, or any violence whatever; but it was to exhort the whole people, North and South, to terminate the war by a constitutional settlement of their difficulties and reconstruction of the Union; and that the series of resolutions would not fairly admit of any other construction; all of which I now reaffirm.

I am prompted to make this disavowal again, in this form, to place it upon the records of the Senate, it having as yet only appeared in the report of its debates. And with this note, which I request you to lay before the committee, I submit the case on my part to its action.

Yours, &c.,

GARRETT DAVIS.

The Chairman of the Committee on Military Affairs of the Senate.

Mr. HOWARD. Mr. President, the temper exhibited in the letter of the honorable member from Kentucky just read from the Chair seems to indicate certainly to my mind a regret that his resolutions have placed him in this unpleasant predicament; and I desire now to say to the Senator from Kentucky that, if such be the fact, and he desires leave to withdraw the resolutions which

are the foundation of the resolution of the Senator from Massachusetts for his expulsion, I shall certainly be very happy to grant him the leave so far as I am concerned, and I presume that will be the universal sense of the Senate.

Mr. DAVIS. The Senator from Michigan has passed, I suppose, that I may respond to his suggestion. Having declared generally the meaning of those resolutions, I adhere to them. I will never withdraw them, never, never.

Mr. HOWARD. Under the circumstances, sir, before proceeding with the remarks which I had intended to make upon this subject, I will offer an amendment to the resolution of the Senator from Massachusetts, which I now send to the Chair.

The VICE PRESIDENT. The amendment will be read.

The Chief Clerk read the amendment, which was to strike out of the resolution the word "expelled," and insert in lieu thereof the words "censured by the Senate."

The VICE PRESIDENT. The question will be on agreeing to the amendment.

Mr. HOWARD. Mr. President, I deeply regret that a sense of duty as a member of this body should require me to act the part I am about to act in reference to the Senator from Kentucky. I have known him for more than twenty years. I had the pleasure to be associated with him as a member of the Twenty-Seventh Congress, and during that turbulent and agitating period I had occasion very frequently to admire his frankness, his patriotism, and his devotion to his principles—principles in which I sincerely sympathized with him. We were both acting in promotion of the same political objects, both in the same political party, and I confess, sir, that when I look back upon those ancient scenes, my feelings are hurt to be obliged to throw myself into a position of antagonism to him who was then my friend and political associate. But for all this, sir, he must pardon me, at least excuse me; I feel that there is a duty due from me to this body and to the country, and that duty impels me to take a somewhat particular notice of the series of resolutions offered by the Senator from Kentucky which form the foundation upon which is based the resolution of the Senator from Massachusetts for his expulsion.

On the 5th of January the honorable Senator from Kentucky presented to this body a series of very singular resolutions, and asked the Senate to order them to be printed. The Senate made the order. They were printed at the public expense, and are now pending before us. They are resolutions intended for consideration; we are asked to pass our judgment upon them. We are asked to vote for them, and to adopt them as the sentiments of the Senate of the United States, one of the legislative branches of the Government. In the course of this singular series, the Senator from Kentucky, after alleging various grounds of complaint against the Executive Government of the United States and the action of what he calls the dominant party in the loyal States, uses this language:

"Verily, the people North and the people South ought to revolt against their war leaders, and take this great matter into their own hands, and elect members to a national convention of all the States, to terminate a war that is enriching hundreds of thousands of officers, plunderers, and spoilsmen in the loyal States, and threatens the masses of both sections with irretrievable bankruptcy and indefinite slaughter; and to restore their Union and common Government upon the great principles of liberty and compromise devised by Washington and his associates."

And it is for the utterance of the sentiments contained in this clause which I have read that the Senator from Massachusetts offered the resolution for his expulsion. Now, sir, I think I may say, without vanity, that I am too old and too well acquainted with the import of the English language to find it necessary to resort to dictionaries, whether English, French, or Latin, for the purpose of ascertaining the meaning of the word "revolt." It is not capable of discussion or dispute in the connection in which it is used in this sentence. The implication is plain and irresistible that the word "revolt," as used here, is a revolutionary rising against the Government of the United States; an insurrectionary, violent, and bloody rising against the Government of our common country. Such I regard as its meaning. The school-boy in the gentleman's own State, fifteen years old, is just as capable of giving the true interpretation of this language as he is or as I am.

He is under no misapprehension in regard to it. When he hears the word "revolt," in this connection, the idea at once and irresistibly suggests itself to his mind that the thing intended is a violent, unlawful revolution against the Government, a bloody insurrection, the object and aim of which are the entire subversion and overthrow of the Government of the United States as now administered.

Sir, I cannot sit in my seat in this body and allow sentiments of this sort to be uttered without expressing my rebuke in some form or other. We are engaged in a war, a civil war; if you please, sir, a fratricidal war; a war which is exacting from us the exertion of all the faculties of the Government, the people, the nation; a war not merely for the restoration of the Government in the insurrectionary districts, but for its preservation and perpetuation for all time to come; a war which is covering our land with blood. It has already drenched the fair fields of Kentucky with fraternal blood. There, as in other places, brother rises up in arms against brother, son against father, and father against son. The issue is simply this: whether we shall maintain the authority of the Government of the United States as established by the Constitution, or whether we shall abandon the struggle, giving the rebels their way, and finally succumb in our effort, thus acknowledging that there is not in the Government of the United States vigor sufficient to maintain its own authority, its own existence. It is at this anxious moment, in the midst of this deadly struggle, that the Senator from Kentucky asks the masses of the people to rise against their rulers in tumultuous insurrection, and by a revolt hurl them from power.

But, sir, the Senator from Kentucky denies that such a meaning is fairly to be imputed to his language. I intend to treat both him and his resolutions fairly; and in what I have to say I shall observe the plain duty incumbent upon me, to confine myself exclusively to the record which he has made of his own opinions; that is, to the resolutions he has submitted to the Senate. The Senator from Kentucky declares in a speech which he made to the Senate by way of comment on these resolutions:

"Now, Mr. President, I ask gentlemen to read this whole series of resolutions. I deny that there is a sentiment or an exhortation in them inviting to insurrection, rebellion, or war, or military violence."

He then proceeds in the course of his remarks to read two of his resolutions, and again declares:

"I utterly controvert the position that there is any insurrection invited or stimulated in these resolutions, or in any one of the series. The resolutions institute, or attempt to institute, a bold and a frank investigation of the principles and measures of this Administration," &c.

Mr. President, the resolutions of the Senator from Kentucky are before this body subject to be acted upon, and he is desirous that we shall act upon them. It is not for him, having thus written out the instrument and submitted it for our consideration, to set up to be its sole expositor. He is not at this stage of the proceeding to be allowed to give it his own particular gloss or peculiar comment. It is for us as well as him to construe and interpret the instrument; and he must certainly have the charity to believe that some of us at least are equal to himself in the power of analysis in matters of language, and that we are as able as he to comprehend the meaning which this written instrument expresses. I cannot, for one, accept his commentary. I must be bound by the meaning as expressed in the instrument, and not in the commentary.

I shall now ask the indulgence of the Senate for a few moments while I call their attention to a few clauses and expressions contained in this series, for the purpose of ascertaining, if possible, from those clauses and expressions, what were and are the Senator's real opinions and sentiments, his real design in offering the resolutions; and I will begin with the very sentence which is the foundation of the resolution now before us. The Senator from Kentucky says:

"Verily, the people North and the people South ought to revolt against their war leaders, and take this great matter into their own hands."

The people North and the people South ought to do this. They ought to take this great matter, that is the war, the question of the continuance or discontinuance of the war, into their own hands. Can it be doubted that the meaning of

this language is, that it is the duty or the right of the whole people North and South to take the matter of this war into their own hands, without any reference to legislation, without any reference whatever to an election, or to any other matter or thing, and to dispose of it in their primary popular capacities without reference to law, Constitution, or anything of the kind? It seems to me there can be no doubt of it. The people North and the people South are called upon to revolt against their war leaders. Who are their war leaders? Not solely the President of the United States and the Executive Government, but both Houses of Congress. The Congress of the United States have the power to control this war in all its particulars. The Congress of the United States vote supplies of men and money for the prosecution of the war; and if there are war leaders, it is as plain that the two Houses of Congress come within this category as that the President comes within it. The Houses of Congress are war leaders. The President is a war leader. His generals in the field are war leaders. The Senator from Kentucky invokes the people North and the people South to rise and revolt against their war leaders, and take the issue of this war into their own hands, without reference to law, without reference to the action of Congress, or to any other instrumentality known to the Government. He proceeds:

"And elect members to a national convention of all the States, to terminate a war that is enriching hundreds of thousands of officers, plunderers, and spoilsmen in the loyal States, and threatens the masses of both sections with irretrievable bankruptcy and indefinite slaughter; and to restore their Union and common Government upon the great principles of liberty and compromise devised by Washington and his associates."

How is this convention to be elected? He calls upon the people in their original capacity, both at the North and at the South, to revolt, to take the question of this war into their own hands, and elect a national convention. The Senator from Kentucky knows well enough that it is not competent for the people of the United States, whether at the North or at the South, to elect members of a national convention for any purpose whatever without the consent of Congress. There are but two modes of amending the Constitution. The first is, where the Congress shall recommend or propose certain definite amendments to be acted upon by the various States. The second mode, where two thirds of the several States of the Union call upon Congress to call a national convention; but no national convention can possibly exist, let me tell the Senator from Kentucky, without the consent of the body of which he and I are members.

This resolution entirely ignores those legal forms required by the Constitution. Instead of calling upon Congress to summon a national convention, instead of calling upon the State Legislatures to instruct Congress to do this, the Senator from Kentucky calls upon the people to rise in their primary capacity and meet in national convention and so amend the Constitution as, in his language, "to restore the Union and Constitution upon the great principles of liberty and compromise adopted by Washington and his associates."

That clause of his resolutions is plainly no appeal to any constitutional mode of altering the Constitution, but one directly to a revolutionary mode of doing so. Where would it end? Who could control the results? Who would be under an obligation to obey the final decree? What people are to be called together in national convention for this great purpose? Would the Senator from Kentucky allow the rebels in arms to participate in this convention? Certainly he would! Certainly he invites it! The resolution recognizes the right of the rebels in arms to participate in this "election" as much as the loyal people at their quiet homes. It would appear from this that so far as the Senator is concerned, he is just as much attached to the rebels now seeking to destroy the Government of his country, and to expel him from his home and his fireside, as to the loyal portion of the population now endeavoring to resist their bloody violence. Sir, this is a spirit of charity toward the rebels, I confess, in which I do not sympathize. I do not understand that kind of loyalty which occupies an attitude of indifference between parties like those now engaged in deadly combat the one against

the other. Such a position of neutrality is monstrous; it is hostility. There is no middle ground or post of indifference which can be occupied by any true man. In this contest he who is not for us is against us.

But, sir, the animus and purpose of the Senator from Kentucky are further developed in the few passages from his resolutions which I shall now proceed to read. He says:

"That the present Executive Government of the United States has subverted"—

That is, destroyed, annulled, put out of existence—

"for the time, in large portions of the loyal States, the freedom of speech, the freedom of the press, and free suffrage."

I will not pause to inquire into the pretended facts which in the mind of the Senator from Kentucky may serve as a foundation for this strange assertion. I read it for the purpose of showing the animus of his resolutions, for the purpose of showing the very thing he had in view when he called upon the people North and the people South to revolt against their war leaders. One of the reasons for this revolt is,

"That the present Executive Government of the United States has subverted for the time, in large portions of the loyal States, the freedom of speech, the freedom of the press, and free suffrage."

If this be founded in truth, if there be evidence of the fact implied in this declaration, then this complaint against the Government of the United States may be regarded as well founded. The complaint is that the Government has subverted these precious privileges belonging to the American people. If the Executive Government has thus subverted and destroyed these privileges, it would follow not only in the mind of the Senator from Kentucky, but in that of every freeman, that the Executive Government itself ought to be brought to justice in some form or other. But whether true or false, it is one of his reasons for invoking the masses of the people of the United States to revolt against the authority of the Executive Government and the authority of Congress; he believes it to be true, and so believing recommends—what every freeman of proper spirit would recommend in case no other remedy were practicable—a revolt against the intolerable oppression.

I may be imperfectly informed upon the subject of this alleged suppression of the freedom of the press and of speech; it is very possible that I may not possess all the information upon this subject possessed by the Senator from Kentucky; but so far as I have been informed, and so far as I believe, there has been no case, and I challenge the Senator from Kentucky to produce a single case where there has been any attempt on the part of the Executive Government, in wielding the military power of the nation, to suppress any newspaper or suppress free speech in any form whatever, where that free speech has not indicated a heart at war with the Government of the country and a sympathy with the traitors in the field—not a case! Is that the kind of free speech which is so near and dear to the Senator from Kentucky? Would he, if the question were put to him to-day, say to every editor within the limits of the United States, whether loyal or disloyal, "I shall not by any means be displeased to have you denounce the Government of your own country, and by means of your press to stir up insurrection and resistance to the authority of your Government?" Would he say to any editor that such conduct was proper or even allowable? No, sir; he would not. It is impossible that a loyal man could hesitate for one moment on such a question.

Freedom of the press! Sir, what is it? What is that peculiar franchise or privilege which we mean by the "freedom of the press?" The Constitution declares that Congress shall pass no act abridging the freedom of speech or of the press. I need not say to the Senator from Kentucky that the sole meaning and intent of that clause is, that there shall be no censorship of the press exercised before publication. It was simply intended as an abrogation of that prerogative of the Crown of England by which, in ancient times, the king assumed the power of licensing the printing of books, and prohibiting the publication of any but such as were protected under his license. What do our leading statesmen and jurists say on this subject? Let me read one word. Justice Story, in his Commentaries, remarking upon this same clause, the

freedom of the press and the freedom of speech, uses this language:

"It is plain that the language of this amendment imports no more than that every man shall have a right to speak, write, and print his opinions upon any subject whatsoever, without any prior restraint, so always that he does not injure any other person in his rights, person, property, or reputation, and so always that he does not disturb the public peace or attempt to subvert the Government."

This language does not seem to justify the idea that a restraint upon a disloyal press, vomiting forth its treason day by day, stirring up discontent, mutiny, and even violence among the loyal people, is a violation of the Constitution of the United States, or a violation of the freedom of the press. Like other rights, this is to be used in subordination to the public welfare—used to support and not to destroy the Government; and he is little better than a madman who claims to use it for the very purpose of breaking in pieces the shield by which it is protected.

But, again, the Senator from Kentucky, to justify his invocation to the people North and the people South to rise in revolt against their Government, uses the following language. Speaking of the Executive Government of the United States, he declares that—

"It has ordained at pleasure a military despotism in the loyal States, by means of courts-martial, provost marshals, and military forces, governed neither by law, principles, nor rules, from whose tyranny and oppressions no man can claim immunity; all of which must be repudiated and swept away by the sovereign people."

"All of which"—that is, courts-martial, provost marshals, military forces—"must be swept away"—not by law, not by an honest peaceable election, but "by the sovereign people." Sir, I regard this as a direct invocation to the people of the United States to rise in insurrection against their Government for the purpose, among other purposes, of abolishing and doing away with courts-martial. Courts-martial are to be "swept away by the sovereign people." I ask the Senator from Kentucky to inform me in what way the sovereign people are to sweep away courts-martial and provost marshals and military authority? In what way is he to reach this object? In no other but by mobocratic violence. Courts-martial are a part of the Constitution of the United States. The Senator need not be told that they are as much provided for, and their existence and functions as completely guaranteed, by the Constitution as are civil courts for the trial of issues between man and man, or for the punishment of crime. An amendment of the Constitution of the United States declares, what was not embraced in the old Constitution, that

"No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger."

How are the sovereign people to change that clause of the Constitution; how but by rising in revolt against the Government of the United States, and their constituted authorities? Can Congress by any act of legislation abolish courts-martial, whether they are good or whether they are bad? No, sir, the Constitution has guaranteed their existence; and I beg to inquire of the Senator from Kentucky in what way he would administer justice and punish crime in the military or naval service of the United States if not by means of courts-martial and provost marshals, for the purpose of performing the functions properly pertaining to them? Sir, this is a declaration directly against the Constitution of the United States. It invokes insurrection. It was intended to invoke insurrection for the purpose not of preserving the Constitution, for the Constitution preserves courts-martial, but for the purpose of overthrowing the Constitution. Such is the blind hatred, it would seem, of some persons—I wish I could except the Senator from Kentucky—against courts-martial.

But all this, it seems, "must be repudiated and swept away by the sovereign people." What sovereign people? The "people of the North and the people of the South?" the rebels as well as the friends of the Government? It would seem so. What is meant by "sovereign people" in this connection? Plainly an unorganized tumultuous gathering. This Government is a representative democracy; a Government in which the people acting in their primary capacity have nothing to do with the enactment of laws. That duty is performed by

their representatives chosen according to the forms prescribed by the laws where the elections are held.

Again, sir, the Senator from Kentucky declares "That as the Constitution and laws afford no means to exclude from the office of President a man appointed to it by military power, or who is declared to be chosen to it by reason of the suppression of the freedom of election, as by the exclusion of legal voters from the polls, or by any other means, the people of the United States would be incompetent to defend and unworthy to have received the rich heritage of freedom bequeathed to them by their fathers, if they permit that great office so to be filled, or in any other mode than by their own free suffrages."

We are to have a presidential election in the coming November. A President is to be elected, not by the people, but by electors chosen for that purpose by the people. The Senator from Kentucky had this fact in view. He was aware that the people do not choose the President. They choose the instruments who choose the President. If I understand this resolution properly, its meaning and intent is this: that in case any portion of the people of the United States shall, after this election, take it into their heads that there was military interference at the polls, that the Army or the military officers of the Army had in any way interfered in the elections held by the people for the choice of electors of President, then it will be the right of that discontented portion, however few or however numerous that portion may be, to declare that the election of President under such influences is void; that the President-elect will have no right to assume the presidential functions, and must be prevented by force if necessary. A more direct invocation to violence and bloodshed, a more direct appeal to the discontented or defeated portion of the people of the United States, cannot be made. It is declaring almost in so many words that "if you, the dominant party, shall elect a President, and at the polls where this election is held military power shall have been introduced for any purpose whatever, we, the defeated party, will rise in rebellion and prevent, by force, your President from being installed in office."

In order to cap the climax and to give emphasis and point to this strange revolutionary sentiment, the Senator says that unless the people of the United States shall thus resist they will be "unworthy to have received the rich heritage of freedom bequeathed to them by their fathers." Sir, our fathers bequeathed to us a Government of law. Our fathers did not bequeath us a Government by an unorganized and infuriated mob. This is not the sort of constitutional freedom and compromise which the gentleman mentions in another resolution as having been handed down to us by Washington and his associates. Washington and his associates resorted to no popular violence. They made no invocations to unorganized popular assemblages. They were law-abiding statesmen. They were the fathers of the Constitution. Nobody was more sensible than Washington of the necessity of preserving order under the shield of law. But here the Senator from Kentucky, forgetting, as it seems to me, that he is acting under a Government of law, utters an appeal for the future, and says to the defeated party, after the election of 1864 shall have taken place, "if you are defeated, and if you declare that that defeat was in consequence of the interference of military force, it will be your duty as freemen to interfere by violence and to prevent the installation of the President and totally disregard the election." If that be not a revolutionary sentiment, an unconstitutional sentiment, I am not able to perceive what will be. It is because the Senator from Kentucky foresees, or professes to foresee, this interference, that he calls upon the people North and South to revolt against their war leaders and take this matter into their own hands.

Again, in this indictment against the Executive of the United States, the Senator from Kentucky alleges that

"[His (the President's) project is] to continue the war upon slavery by his further usurpations of power, and to get together and buy up a desperate faction of mendicants and adventurers in the rebel States, give them possession of the polls by interposing the bayonet, as in Maryland, Delaware, and portions of Missouri and Kentucky, and to keep off loyal pro-slavery voters, and thus to form bastard constitutions to abolish those States."

This is another count in the indictment, that the project of the President of the United States "is to continue the war upon slavery by further usurpations of power, and to get together and buy

up a desperate faction of mendicants and adventurers in the rebel States." Who compose this "desperate faction" in the contemplation of the Senator from Kentucky? Who are these "mendicants" and "adventurers?" They are those people in the rebel States who come within the purview of the President's proclamation of the 8th of December last. Let us see whether they are worthy to be called "mendicants," "a desperate faction." The President in his proclamation, speaking of the disloyal population of the States in insurrection, says:

"A full pardon is hereby granted to them and each of them, with restoration of all rights of property, except as to slaves, and in property cases where rights of third parties shall have intervened, and upon the condition that every such person shall take and subscribe an oath, and thenceforward keep and maintain said oath inviolate; and which oath shall be registered for permanent preservation, and shall be of the tenor and effect following, to wit:"

Now, what is the test, the evidence of their being "a desperate faction" and "mendicants?" It is the taking of the oath which the President has prescribed in order to enable rebels who have been in arms against the Government to return to their allegiance, and again enjoy the protection of the Government:

"I, ———, do solemnly swear, in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States, and the union of the States thereunder; and that I will, in like manner, abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repeated, modified, or held void by Congress, or by decision of the Supreme Court; and that I will, in like manner, abide by and faithfully support all proclamations of the President made during the existing rebellion having reference to slaves, so long and so far as not modified or declared void by decision of the Supreme Court. So help me God."

Such is the oath directed to be administered to the repentant rebel. The President goes further, and declares as follows:

"And I do further proclaim, declare, and make known, that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican, and in no wise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature, or the Executive, (when the Legislature cannot be convened,) against domestic violence.'"

It is this wicked, abominable oath, opening the door for the rebel population to return to their old loyalty, and thus to frustrate the schemes of their leaders, that moves the dislike of the Senator. It would seem that such a return on such terms is regarded by him as a calamity or a disgrace, and therefore he heaps upon them the epithets of desperate faction and mendicants.

This class of persons, the repentant rebels, who, like the prodigal son, having seen the folly of their ways, shall return to their allegiance and take this oath, are to be regarded as the State, or as that portion of the people authorized to reconstruct and alter it from a rebel State to a loyal, Union-loving State. Such are the "mendicants," such the "desperate faction" at which the Senator from Kentucky aims his poisoned shafts in these resolutions. Do these harsh epithets wantonly bestowed upon the repentant rebels for coming back into the Union and acting as a State government indicate a very strong love of the Union, or the Constitution, or the Government, on the part of the Senator from Kentucky? No, sir. If any inference is to be drawn from them, it is one of complete and bitter hostility to them and to the Government of the United States who is ready to receive them; and it is because the Union may possibly be restored by the means pointed out by President Lincoln in his proclamation that the Senator from Kentucky thus calls upon the people of the North and South to rise in revolt against their war leaders. What patriotism! what love of the Union! what hatred of the rebellion!

Again, sir, as further proof of the animus and purpose of the Senator in presenting these resolutions, he goes on to tell us what are the real objects of the class or party he calls the "destructive

tives," including Abraham Lincoln, the President of the United States:

"Their real objects are to perpetuate their party power, and to hold possession of the Government to continue the aggrandizement of their leaders, great and small, by almost countless offices and employments, by myriads of plundering contracts, and by putting up to sale the largest amount of spoils that were ever offered to market by any Government on earth. Their object is not to eradicate slavery."

I will say at this point that, so far as I am concerned in this supposition, the Senator from Kentucky is entirely mistaken so far as relates to the insurrectionary districts. I desire to say in all frankness as to those States and those districts which are declared to be in insurrection, that for one I am in favor of abolishing slavery forever; because I think it, not perhaps the only cause, but one great predominating, leading cause of this bloody and wasting war; and I express it as my opinion that the loyal people of the United States will never have permanent peace and tranquillity, never be able to enjoy that peace which once was theirs, if they permit this great cause of disturbance to survive the struggle. For one, I say that I am in favor of the absolute, total, and eternal extirpation of slavery, at least within the limits of the insurrectionary States; and I think the people of the United States will be very unwise if they do not take vigorous and effectual measures for attaining that great object. But the Senator proceeds:

"Their object is not to eradicate slavery, but only to abolish its form and the mastery; to subjugate wholly the rebel States, and utterly to revolutionize their political and social organization."

Sir, we have heard a great deal about "subjugation," and the word is flung in our faces very frequently. It would seem to be implied by the frequent use of the word that there is, or ought to be, something in it extremely inhuman and odious. It is held up as a sort of scarecrow by the sympathizers with the rebellion to frighten off all effort on the part of the loyal people to restore the authority of the Government. I have no hesitation in proclaiming that I am in favor of the subjugation of the rebels and the subjugation of the rebel States; but when I use the word I use it solely in the ordinary sense of conquest. The subjugation of a people is the conquest of a people. The conquest of a people is the deprivation of all their military power. To conquer them is to deprive them of the power of military resistance; but it by no means implies those acts of atrocity, cruelty, and wanton barbarity which persons who use this word "subjugate" mean when they use it as a scarecrow. Subjugation is conquest; no more, no less.

I ask the Senator from Kentucky, I ask every Senator here, what is it that we are now doing in the rebel States? Are we not subjugating them? Are we not breaking up and dispersing their military forces, prostrating their military strength? And what is this but the subjugation of the people? The subjugation of a people is the occupancy of their territory by a military force sent there for the purpose of conquest, for the purpose of overthrowing the hostile government and the hostile power. Although I have read pretty carefully the law of nations and the law of war on the subject of our present difficulties, I have not been able to find any distinction between the conquest or the subjugation of a rebellious territory and a rebellious people and the subjugation and conquest of a foreign territory or a foreign people; and I tell you, sir, that your modern scholiasts will search in vain for any distinction between the two cases.

Sir, what is war? It implies violence, the use of the highest degree of force competent for a people acting as a nation to employ. It is a question of superior strength; and I know of no boundary, no limit to the exertion of the power of carrying on war but the ordinary sentiments of humanity. And I know of no law but the law of war to govern us in our conflict with the rebels. These men have gone out from among us without having suffered wrong. They never felt the weight of the Government, except as it bore upon them with gentleness, imparting blessings and breathing encouragement and a sense of security into their souls. Never has the Government of this country injured the hair of the head of a rebel. They have gone out from among us under the false pretense that they foresaw in the future that they should lose their just political power and influence in the Union. They have drawn the sword wantonly and willfully upon the Government and loyal

people of the United States. Carried away with the vain idea, the gross and childish conceit, that one southern man was equal to five northern men, they have advanced boldly into the arena and thrown down the gage of combat. They have thrown as their gage of battle their cherished institution of slavery. I say here boldly, I accept the challenge; I pick up the glove; I recognize the issue. Let us see who will win and who will lose. I would fight this battle out so long as there is a man, woman, or child at the North capable of lifting a musket or pushing a bayonet! [Applause in the galleries.]

The PRESIDING OFFICER, (Mr. Howe in the chair.) Order!

Mr. HOWARD. I would make this no child's play; and let me say to gentlemen on the other side, that the rebels in this war from the beginning have been fully in earnest. They have asked from you no favor. They ask no favor of you now. They meet us with a steady, proud, and haughty defiance, a defiance which on the side of justice would be most magnanimous and praiseworthy, and I honor them, not for their cause, not for their wickedness, but for the proud and indomitable spirit with which they have carried on the war. They mean to fight us still. They intend to destroy us and our Government; or, if they fail in this, they expect to be destroyed; and believe me, there will be few of them that will meet their fate grumblingly or with a whine. They are men like ourselves, proud of their position, proud of their honor, proud even of the wicked cause in which they are engaged. You are not to subdue such men by soft persuasions and delicate rose-scented billets-doux. You must meet them with the bayonet, the cannon, and every other instrumentality allowable in a war. Never have they exhibited to us or the loyal people of the United States the slightest consideration or forbearance, and wherever there has been any indication of terms of accommodation with them they have treated it with contempt. They have spit upon the olive branch which we have held out to them and trampled it under their feet.

But, sir, I am digressing. The Senator from Kentucky says our object is to subjugate wholly the rebel States, and utterly to revolutionize their political and social system. Certainly we shall revolutionize their political system. That is the very object of the war. What is their political system? A political organization asserting its absolute independence of the Government of the United States, and exerting its military power for the overthrow of that Government. Shall we forbear? Shall we not seek to disorganize this political organization? What does the Senator from Kentucky mean when he denounces against us as a fault that we are attempting to destroy the political organization of the rebel States? Is he friendly to that organization? Does his heart yearn toward it; or is his heart in that condition of indifference which sees as little fault on the one side as on the other?

But he goes further. He says that our purpose is—

"To destroy or banish, and strip of their property, all the pro-slavery people, secessionists and anti-secessionists, loyal and disloyal, combatants and non-combatants, old men, women, and children, the decrepit, and the non compos mentis."

Does the Senator in his calm reflection impute either to the Executive Government or to the dominant party a purpose so cruel, so unnatural, so unspeakably brutal, as the destruction of non-combatants, men, women, and children, the decrepit and the non compos; or is it rather the blind madness of party spirit which prompts this gross and calumnious attack upon the Government of his country and the loyal party now in power? Charity toward him would lead me to impute the latter motive and not the former.

Again, he says that the purpose of this party and of the Government is—

"To proclaim a mock freedom to the slaves, but by military power to take possession of the freedmen and work them for their own profit; to do all this, and also to enslave the white man, by trampling under foot the Constitution and laws of the United States and the States, by the power of a subsidized Army, and lest it—"

That is, the subsidized Army—

"should falter, by hundreds of thousands of negro janizaries, organized for that purpose by the Secretary of War and the Adjutant General."

If these atrocious schemes are entertained by the executive Government, as they are here indi-

cated, then it would be the right of the American people, the right of any community, to rise in arms against so unjust and tyrannical a Government. "A subsidized army?" Our Army, it seems, according to the ideas of the Senator, is not a patriotic Army; it has not volunteered or taken the field from any patriotic motive, but merely for pay; and "lest," in the language of the Senator, this Army of white volunteers should falter in prosecuting the war for the purpose mentioned in the resolution, we are to resort to "the hundreds of thousands of negro janizaries organized for that purpose by the Secretary of War and the Adjutant General;" that is to say, the black troops which we have thus far raised and now have in our employment and service are organized for the base and tyrannical purposes mentioned in those resolutions—not for the laudable and patriotic purpose of overcoming the rebellion, but for the purpose of upholding plunderers, spoilsmen, office-holders, office-seekers, and the entire flock of vultures so vividly and angrily described by the Senator.

If all that is said in this series of resolutions be true, (and I am not now discussing the truth of it, for that would lead me into too broad a field,) it would not only be the right, but it would be the duty of the American people, as a free people, not to wait a moment, but to seize the sword of rebellion and insurrection, drive the harpies of tyranny from power, and establish some government which would protect our rights and our liberties. But it is entirely manifest that under the influence of this blind fanaticism of party, which I fear has too powerful an effect on the mind of the Senator to allow his intellect to have its free and unbiased action, he has been betrayed unconsciously, I hope, into the expression of opinions, and into invocations to civil war and insurrection in which no man in his sane moments would have indulged.

Again, there is another ground of complaint; another premonition of the Senator's purpose, in his second resolution, in which he says:

"So the President of the United States, and the civil and military officers thereof, may commit treason against any State, whose government is in the performance of its duties under the Federal Constitution, by levying war against it, or in adhering to its enemies, giving them aid and comfort, as resisting with an armed force the execution of its laws, or adhering to such armed force, giving it aid and comfort."

The implication is, that whenever the President of the United States shall use the Army or the Navy for the purpose of keeping the peace within any loyal State acting within its constitutional functions, as the Senator says; wherever he shall have occasion to use the military force for the preservation of order, for the protection of the purity of elections, or for the protection of the citizen, he is guilty of an act of treason against the government of the State. It is throwing out before the people the idea that on some occasion—the Senator has not told us where—the President has thus employed the military power of the United States; and that because he has thus employed it he is guilty of treason, and ought to be impeached. This, and nothing short of this, is the fair inference from this otherwise perfectly senseless and gratuitous resolution.

He says further:

"And where, from the presence or apprehension of force and violence or other cause, any election cannot be so conducted"—

That is, according to the laws of the State—"it ought not to be held at all."

"Where, from the presence or apprehension of military or other violence, an election cannot be so conducted, it ought not to be held at all." Was the Senator aware of the full extent and meaning of this declaration? I trust he was not; but I am not sure. What is the import of the language? Plainly this: that in case an election should be held, say, for instance, in the State of Kentucky, and there was either popular violence surrounding the polls, or just ground to apprehend popular violence, or if there should be a military force of the rebels at the polls, threatening to disturb and to break up the election, then, according to the Senator, the election ought not to be held at all. Sir, what doctrine is this? He would rather see a perfect failure of all elections; he would rather see his State disorganized; no members elected to the House of Representatives or to the Senate of Kentucky; no members elected to the Congress; he would rather see all government fall into ruins

than that any military force should be employed at the polls to protect the honest voter, or even to protect the judges of the election in the discharge of their duties. Did the Senator from Kentucky mean this? He has certainly expressed it. A more anarchical sentiment could never have been uttered; a sentiment more incompatible with the object of any Government, civilized or savage; and yet the Senator declares that "where, from the presence or apprehension of force, violence, or other cause, any election cannot be so conducted, it ought not to be held at all."

Mr. President, I have now finished the observations I have felt it my duty to make on this series of resolutions. I look upon them as inviting, in the most direct and urgent terms, the masses of the loyal people of the United States to rise in insurrection against the Government and eject from their places the executive officers who now have charge of it, and to institute a revolutionary Government. Is it not so? I defy any man to read those rickety and almost crazy resolutions and not come to the same conclusion. Sir, I think that a gentleman who claims so much credit to himself for profound knowledge of the Constitution, who is so strenuous in the assertions of his respect for law and order, who is so frequent in his imputations against others of failing to entertain a similar respect for them, ought to pause in his career; and I, for one, will never agree to permit such sentiments to pass unnoticed or uncondemned so long as I have a place in this body.

Mr. JOHNSON. Mr. President, I could have wished that the honorable member from Massachusetts, by whom this resolution was offered, had not deemed it his duty to present it; and I think if he had consulted with his friends on both sides of the Chamber perhaps he would not have offered it. On every account it is exceedingly desirable that we should avoid as far as possible every occasion for unnecessary excitement; and above all should avoid taking any step that may be likely to produce a conflict between the Government of the United States and the government of any one of the States. To expel a Senator is a very grave matter; and there is additional gravity in it if it be probable that the opinion expressed by the Senator, and which is the cause of his expulsion, may be shared in by the government of the State he represents. I admit that there are causes which should lead to the expulsion of a Senator, but they ought to be very plain and obvious, addressing themselves to the intelligence and to the assent of all true men of the country.

The resolution offered by the honorable member from Massachusetts rests, and upon its face is made to rest, exclusively upon what he supposes was the treasonable character of the resolutions offered by the Senator from Kentucky. Mere differences of opinion between the Senator from Kentucky and the Senator from Massachusetts would not, I am sure, in his own judgment, have led him to offer such a resolution. It is because he is satisfied, and thinks that in that he cannot be mistaken, that in the resolutions offered by the Senator from Kentucky there is the plain avowal of a treasonable purpose. Nobody, therefore, I am sure, would be more willing than the honorable member from Massachusetts to vote against his own proposition if he could be satisfied that there was nothing in the resolutions offered by the honorable member from Kentucky liable to the construction which he gives to them. It is therefore my purpose, in the very few remarks which I rise to address to the Senate, to inquire whether there is in those resolutions taken together, or either of them considered by itself, without referring to its context, any treasonable opinion; or, to state it in different words, whether the Senator has gone beyond the latitude which a Senator has a right to occupy.

Freedom of speech in this body is secured by constitutional guarantee. Freedom of debate is of course secured in the same way; and as a consequence from it freedom of opinion is likewise guaranteed, unless you adopt what in my judgment is a very unconstitutional view of the Constitution of the United States, and the obligation which it imposes upon citizens and members of Congress, that the Government of the United States consists alone in the Executive of the United States, and that he who impeaches the conduct of that Executive is to be assumed as assailing the Government of the United States, and disloyal be-

cause he does assail the Government of the United States. As far as my reading goes, it was never pretended until lately by any member of Congress, or by any member of the executive of the United States, or by anything to be found in any of the newspapers in the country, that there was any disloyalty in calling in question the constitutionality of the conduct of the Executive. Nobody will now dispute, or does dispute, that there is no unconstitutionality in calling into doubt the policy which the Executive may think proper to pursue, and until the times in which we live I have never understood that there was anything disloyal considered as existing merely because a member of Congress or a citizen of the United States not holding the relation that a member of Congress does to the Constitution of the United States, denounces the conduct of the Executive. It seems from that article of the Constitution which provides for a Senate and House of Representatives to be termed the Congress, vesting in that body nearly all the powers of the Government, so far as the policy of the Government is concerned, as there is rarely ever any policy which must not grow directly or indirectly out of congressional legislation, that it was not the purpose of our forefathers to give to the legislators the authority to call in question the conduct of the Executive. On the contrary, I have supposed that we were placed here as the guardians of the people of the United States, to watch the conduct of the executive branch of the Government; to denounce, if any member thought they were going beyond the limits of their own authority, their conduct; to keep them within their legitimate limits.

In the war of 1812, as will be seen by a reference to the debates which are handed down to us in the Annals of Congress, you will find that hardly a subject was debated involving the policy of that war in which the Executive was not denounced, and denounced in the most acrimonious terms; but nobody at that time of day thought of offering a resolution in either branch that the member who so denounced the Executive should be expelled.

In the Mexican war, this Chamber, or the Chamber at that time occupied by the Senate, was electrified by the eloquence of a Senator from Ohio, who was bitterly opposed to that war, who charged it as an unauthorized act on the part of the Executive, with which Congress in its origin had nothing to do, and invoked in words of burning eloquence, as a boon which he hoped Heaven in mercy would grant to the American people, that the soldiers in the armies of the United States who were ordered to invade Mexico would be met by bloody hands and hospitable graves. Nobody dreamed of offering a resolution to expel that Senator; and the body was composed then of men just as anxious to keep the Constitution from being unnecessarily invaded and just as determined to put down treason as we can challenge for ourselves.

Mr. ANTHONY. If the Senator will allow me, I think he does unintentional injustice to the distinguished gentleman whom he quotes. I think he said, if he were a Mexican he would so welcome the invader; not that he as an American hoped they would be so welcomed.

Mr. JOHNSON. The Senator may be right as to the particular phraseology; but I do not see much difference between them. If our armies are to be sent into Mexico, and a Senator of the United States says to Mexico, "Meet them with bloody hands and hospitable graves, that is your duty," I rather think, according to the modern doctrine, it would be considered as giving aid and comfort to the enemy, and the party who indulged in it would be subject to the modern law of expulsion.

But in a war as among ourselves—I mean among the people of the United States, having no foreign operation—when the President of the United States thought proper, and I have no doubt he was sincere in the belief that he had the authority, to remove from the Bank of the United States the deposit of the public funds, and dismissed one Secretary who refused upon conscientious ground to do it, and selected another who had no such conscientious ground, and by whom the removal was ordered, there were no words of burning import known to our language that were not hurled day after day upon the head of the then President of the United States by the most distinguished men of this body. It went to such an extent that it awakened the ire of the incumbent of the presidential chair, and he sent to Con-

gress a protest, in which he assailed the conduct of the Senate, not so much upon the ground that, independent of the particular function with which they were clothed by the Constitution of the United States of trying impeachments, they had not a right to assail his conduct to any extent they saw proper, but that because they were to be his judges upon an impeachment, and because the acts assailed, if correctly assailed, were acts for which there should be an impeachment, he protested against it. Whether he was right, or whether the Senate was right, is a matter not before us.

But, Mr. President, if we take counsel from the mother country, and go into the Houses of Parliament, from their very origin, after the principles of liberty were well understood, down to the present hour, we find members of the House of Lords and members of the House of Commons assailing in the broadest terms the conduct, not of the king or of the queen, because the legal fiction is, and the practical result is, that the king can do no wrong, but assailing the advisers of the king. Senators need not be reminded of these things, because these are historic facts that are impressed in early age upon the memory of every American boy. They are the lessons of his youth, and until recently they have become still more impressed upon the memory and sanctioned by the judgment, that it is not only the right but the duty of a representative to assail the conduct of the Executive.

What said Chatham before they resolved and after they had resolved to impose the stamp tax, before they resolved and after they had resolved to impose the tea tax, and when, in order to render those acts of Parliament effective, they resolved to enforce them by arms, and to call to their aid the savages? I have forgotten the precise language; but the Government, or rather the advisers of the king, were assailed in a strain of bitter and indignant eloquence that thrilled through the United States, and served to nerve the arm of every American. Nobody dreamed of censuring Lord Chatham; and when, in a more philosophic speech, just as eloquent, and which will live for a longer period than any words that Chatham has ever uttered, at a subsequent period the conduct of the Government was assailed by Burke in terms as strong as any that are to be found in the resolutions offered by the honorable member from Kentucky, nobody in the House of Commons dreamed of censuring Burke, much less of expelling him. "I rejoice"—I thank my friend from Maine [Mr. Fessenden] for giving me the first word—"I rejoice that America has resisted." Suppose the Senator from Kentucky in his place had said or should have inserted in these resolutions, "I rejoice that the seceded States are in arms defying your power," what would you do? Expel him?

Sir, that was not the freedom that England enjoyed in those days; and what has been the result of that unlimited freedom of debate? Look where England is now; the freest Government on the face of the earth, where private property and personal rights are hedged around more effectually than they are even among ourselves. The power of the king, comparatively, is as nothing when taken in connection with the power of the President of the United States. His policy of to-day, just as may be the opinion of the House of Commons, ceases to be, in spite of him, his policy for the morrow. They speak the public opinion, and the public opinion is potential. They must surrender up the reins of government, and hand them to more acceptable hands. Not so with us. Whether wisely or not is not the question; but it is not so with us. The very spirit which gave rise to and which sanctioned the freedom of debate to which I have adverted, has kept alive the sense of constitutional freedom, which burns now as bright as it ever did in any age of the history of that Government, and brighter.

What is our condition? I am not here to assail the Executive. The Senate, I hope, know that I have never assailed the Executive. As far as any limited assistance that I thought it was my duty to give him extended, it has been freely given. I have differed from political friends as to the propriety of some of the advice which at his solicitation I did give; but I have seen no reason to doubt the soundness of that advice. I happened to be here—if I may be permitted to refer to myself at

all—at the origin of these troubles, and every day in association with that gallant old chief who is now wearing honors which he richly deserves. I was with him almost every hour of every day, and among a variety of questions on which he thought the interests of the public depended was the extent or the existence of the presidential power to suspend the writ of *habeas corpus*. The Chief Justice of the United States decided that it could not be done except by Congress. That that was a conscientious opinion by that reverend and accomplished jurist, I have no doubt. With all the respect in which I held his opinions, I differed with him. The President was made aware of that difference. I was requested to write it out. I wrote it out and caused it to be published, and it was afterwards published with my own name to it. I thought then, and I think now, that the President, as he was then situated, had the right to suspend the writ of *habeas corpus*. I mention this only for the purpose of showing that I am not an assailant of the President. I think he has done wrong. Which of us has not? I think he has been mistaken in a part of his policy. That does not lead me to say a word against his purpose, or to call in question his loyalty, or his devotion to the Government, or the honesty with which he is seeking to put an end to this rebellion.

I say, therefore, to the honorable member from Kentucky that there is very little in these resolutions that would receive my support if they should be before the Senate for rejection or adoption. I think the honorable member is mistaken in some of the constitutional views which are incorporated in these resolutions; and when I say that, I am far from saying that there is to be found in any such mistake any evidence even tending to prove disloyalty upon the part of the honorable member from Kentucky. I am somewhat sorry that he is present, because in some measure it restrains me from speaking of him as I feel. I have known him for years. He denounced with all the power that he could call into existence the annexation of Texas. He denounced the supposed purpose of annexing Cuba. He denounced the Mexican war, though a southern man. To be sure, he did not stand alone; there were a great many others who agreed with him on the same subject; but he was warring against the general sentiment. His love of country and his attachment to the Constitution forced him, as he thought, to take as his motto that policy which the Constitution alone authorized, although in taking such a position he went against the sentiment of his section.

Now, my friend from Massachusetts thinks that he sees in these resolutions not error—if his criticism on the resolutions went to that extent only he and I would be found together—but treason, treason to the United States; a purpose to aid the rebellion. The honorable member cannot know what has been the course of the member from Kentucky since this treason originated. He has passed the years of military duty, I presume. His own State, illustrious for many reasons—the Senate is as familiar with the fact as I am—was invaded by the hordes of these treasonable conspirators. The effort was to force the State out of the Union, to inaugurate another allegiance, to break up the Government, and that "traitor" as he is—according to the view taken by the honorable member from Massachusetts—is found more than a hundred miles from his home with his musket on his shoulder, a private in the ranks, to beat back the rebel invaders. What I say I know of my own knowledge. He boasts not of it. He is too truly loyal; he has too much good taste to boast of anything personal to himself. In the same ranks with him were seven nephews, who looked to him as their friend and counselor, who are now in the Army of the United States—those of them that survive. Two of them I believe have fallen in their attempt to support the Government of the United States.

The honorable member, too, so warm was his patriotism—I hope he will pardon me for speaking of him personally—went to an extent that I thought he was not justified in going. He had a colleague on this floor. He believed, honestly believed, that the sentiments which that colleague entertained were not loyal, and he supported a resolution for his expulsion on that account alone. Their personal relations were always friendly. The private honor of his colleague he never doubted; but he believed he had been led astray

by the madness with which he was surrounded, and had proved false in his duty to his country. The Senate took a different view, and I have no doubt correctly took a different view of it. His colleague is here still differing with the majority of the Senate, certainly differing with me individually, upon many questions which grow out of the hour; but in his heart he is just as true to what he considers to be the Constitution of the United States as any man who ever represented the State of Kentucky on this floor.

What else did he do? I do not know that he offered the resolution, but he certainly supported it, for the expulsion of a late Senator from Indiana. What for? For what he supposed to be disloyalty; and what was the evidence of it? Writing an introductory letter to Jefferson Davis, and styling him president of the confederate States, and telling him that the man he introduced was the inventor of some gun, and recommending him to the attention of Jefferson Davis as president of the confederate States. That was conclusive evidence of disloyalty with the honorable member from Kentucky. He made the proposition and sustained it in debate. The Senate sustained it. Was he a traitor then? The facts show he could not have been. Was he an imbecile then? Did he not know what his duty to the Government was then? Everybody knows that imbecility cannot be applied to him. The fact of his having voted and spoken in support of the two resolutions to which I have adverted is conclusive to show that in his opinion a Senator of the United States should not to any extent be disloyal.

Now, what has he done? Up to the time that he offered these resolutions did anybody think of proposing that he should be expelled from the Senate of the United States? A member of some of your most important committees, acting with you upon the many measures of moment that have been before the Senate after he became a member, what indication has he given, up to the moment when these resolutions were offered, that he was not true to his constitutional duty? I never heard of any. He is a party man, and, perhaps, if he will permit me to say so, he carries his party feelings to an imprudent extent. Is he the only member of the Senate who suffers party to carry him beyond the limits to which party should go in a crisis like this? That question almost answers itself. I am not calling into doubt at all the correctness of the conduct of any Senator as far as depends upon the intent which governs his conduct; but I say it most respectfully, leaving myself open to the same remark, that in my opinion, upon various occasions since this war commenced, party has had rather an illegitimate influence. But does that make him who indulges in it disloyal? He might say in reply, the freedom of the country cannot be maintained without parties; the condition of parties keeps alive the spirit of liberty, and restrains the excesses of executive or legislative power.

The honorable member from Massachusetts [Mr. SUMNER] yesterday, in the very excellent speech that he made in support of the resolutions that were then before the Senate, and which was prepared, denounced a law on our statute-book as infamous, as one which did not challenge the assent or the aid of any man with a heart in his bosom and a spark of freedom within his soul. Did anybody dream of saying that he was not to continue a member of the Senate because that opinion, in the judgment of any one Senator who might think proper to offer such a resolution, was unconstitutional? Certainly not.

The honorable member from New Hampshire, [Mr. HALE], more than once in discharging what he supposed to be his duty, has called in question not only the capacity, but the honesty of some of the Departments of the Government. He has not assailed the President, but he has assailed the Departments, and the President only acts through his departmental officers. That the honorable member thinks that he has good ground for making the assault, I do not question. I hope it will turn out that the grounds in point of fact are not well founded; but that he entertains the conviction that the information upon which he has acted in so denouncing one of the Departments of the Government is information upon which it is not only his right but his duty to act, I do not doubt. He said:

"I declare upon my responsibility as a Senator, that the

liberties of this country are in greater danger to-day from the corruptious and from the profligacy practiced in the various Departments of the Government, than they are from the enemy in the open field."

I do not think so; but he does. I have no doubt there are corruptions. A war like this involving an expenditure of thousands of millions of dollars, is not to be carried on without a considerable deal of picking and stealing; but that any of the higher members of the Government are parties to any corruption of that description I will not believe till forced to believe it by proof that leaves no doubt; and then I will hang my head in shame when I am forced to believe it. Did any one dream of expelling the honorable member from New Hampshire? And yet a speech like that read in the halls of the confederate congress, read at the head of the confederate armies, anybody sees is calculated to give aid and comfort.

But there are other things, Mr. President, to be considered beside the influence of opinion in relation to our own Government, expressed from time to time upon the floor of this body or in the other House. What would be the state of the country if they were prohibited? Suppose the honorable member from New Hampshire is right—I have a right to suppose it—that corruption is to be found everywhere, that no department of the Government is exempt from it, that it is sapping the foundations of our power, diminishing our strength; ought he not to tell it, or is he to wait until the time shall come when all will tumble into ruins by the rottenness of the original foundation; for what is the foundation on which we stand, on which the Government stands? Freedom, not wild and licentious, freedom under the law, freedom secured by the law, freedom restrained by the law; and, as a general rule, a Senator who believes that wrong is being done has not only a right, but it is an obligation, to rise in his place and denounce it.

Now, Mr. President, the honorable member from Michigan has told us—to that extent I agree with his speech, I would not change a word or a letter of it—that war is war. That I admit; and I also admit that subjugation is subjugation by force. The honorable member said the other day, as I understood him—but of course I understood him incorrectly, because he so states—that the subjugation which he meant was that subjugation which might perhaps not be within the power of the Government to accomplish until every dollar of the money and every man of the loyal States was exhausted.

Mr. HOWARD. The Senator from Maryland will pardon me for correcting him?

Mr. JOHNSON. Certainly.

Mr. HOWARD. What I said the other day was that I believed the people of the loyal States were not such fools as to lose one hundred and fifty thousand or two hundred thousand lives in the prosecution of this war, and spend a vast amount of treasure, and after that turn around and say to traitors who might present themselves here for admission to this body with their hands dripping with blood, "You are welcome to this body." I believe that was the sentiment which I uttered the other day. I certainly did not say that I would expend the last dollar and the last drop of blood in the loyal States before I would see such an admission as that; but that seems to have been the construction which the Senator from Maryland put upon my words, or rather his misapprehension of my language. I certainly never said any such thing as that. What I mean now to say, and what I do say, is that I would fight this war through for the restoration of the Union and the reestablishment of the Constitution and laws of the United States so long as I could find a man, woman, or child in the loyal States willing to contribute a dollar or able to raise a musket or push a bayonet. That is my opinion.

Mr. JOHNSON. Of course, Mr. President, it was my misapprehension. I know the Senator too well to suppose that he would state away anything that he had before stated to the Senate. He is not in the habit of expressing himself without reflection, and he generally adheres to what he has said, and very properly.

According to the honorable member's statement to-day of what he means by subjugation, there is no difference between him and the Senator from Kentucky, or, as far as I know, any Senator upon the floor. If he means that this war

should be carried on until the rebel military power is put an end to, or, in his own language, that the subjugation by war should be carried to the extent of putting an end to the military power of the rebellion, he and the Senator from Kentucky can shake hands. Has anybody heard the Senator from Kentucky say that that military power was not to be broken down; that the rebellion was not to be arrested; that the Constitution of the United States was not to be reinstated? Certainly not.

Now, Mr. President, a word upon the meaning of one or two of these resolutions, and I shall cease to trouble the Senate. I may be mistaken, but I do not think I am, in the opinion that there is nothing in any one of these resolutions that indicates any revolutionary purpose. That they do not meet with my approval, I have already said; and the probability is that they will not meet the approval of any other member of the Senate than the Senator who offers them; but that is not the question. Did he mean in offering them to subvert the Government of the United States by force? I think not. In the first place, it would be dealing very harshly with the member from Kentucky to put that interpretation upon his resolutions, or any one of his resolutions, when he tells you in his place in the Senate orally and in writing that he dreamed of no such thing; it was not in his mind's eye at all; what he meant was that the people should come to the rescue—how? Is there anything treasonable in invoking the people? Whose Government is it? Is it not the Government of the people? If I understood the honorable member from Michigan, there are only two of these resolutions which are obnoxious to that charge. One is the fourteenth resolution, which is "that the present executive Government of the United States has subverted, for the time, in large portions of the loyal States," certain securities of liberty which are enumerated.

What does that mean? Taken in connection with the context, it only means that the Executive has violated the Constitution of the United States. Is that opinion peculiar to the Senator from Kentucky? Have we not heard it said upon this floor with reference to some of the acts of the Departments of the Government? Certainly we have; or, what amounts to the same thing, that, having no authority to expend money except when laws for the appropriation of the money have been passed, the War Department has expended money without such authority, and to that extent has violated the Constitution; but it was justified upon the ground of necessity. What is meant, then, by the term "subverted," as used in this connection, simply is that the President of the United States has transcended the power conferred upon him by the Constitution, and that by so transcending he did for the time subvert the Constitution; in other words, what he did was not under the Constitution but outside of the Constitution.

Then it goes on to speak of the trial of parties charged with crime by courts-martial; and I was a little surprised to hear the honorable member from Michigan say that because the conclusion of that resolution is that all which is stated in the preceding part of the resolution (one of which is the use of courts-martial) "must be repudiated and swept away by the sovereign people," he considered the Senator from Kentucky as calling upon the sovereign people to violate the Constitution by force of arms, because as he said courts-martial were known to the Constitution and there was no way to get rid of courts-martial except by some authority paramount to the Constitution; and that, consequently, when the people were asked to subvert the trial by court-martial, to sweep it away, it was meant that the people should take the law into their own hands, and by force of arms drive away the President and those who are acting as his judges upon these military courts. If I understand the honorable member from Michigan correctly, he is under the impression that that cannot be done under the Constitution, because courts-martial are known to the military law, and an Army and a Navy are provided for by the Constitution, and that courts-martial therefore are known to and provided for by the Constitution, and cannot be dispensed with.

That is something new to me. Congress have the authority to raise armies, and the exclusive authority. They have the authority to pass all laws and regulations necessary in their judgment

to render their armies effective. Have they not the power to constitute a commission to try all offenses of a military description? I should not have supposed, if the honorable member from Michigan had not taken a different view, that there could be two opinions on that question. In the beginning of the Government and during the war of 1812, if Senators will reflect back upon some of the questions which that contest gave rise to, it was the admitted constitutional rule that, although courts-martial were not dispensed with by legislation, they could not be made to try constitutionally any other offenders than those who belonged to the Army and Navy proper; not civilians hanging about the camp, not contractors—

Mr. HOWARD. The Senator from Maryland will excuse me?

Mr. JOHNSON. Certainly.

Mr. HOWARD. Do I understand him to convey the idea that in the naval service and the military service of the United States, courts-martial can be dispensed with?

Mr. JOHNSON. Certainly I do.

Mr. HOWARD. Then the Senator will pardon me for another question?

Mr. JOHNSON. Certainly.

Mr. HOWARD. How will he carry out the provision that in all trials under the laws of the United States except these, the accused shall be entitled to trial by jury? How is he going to carry out that provision? How is he going to call a jury in the military service of the United States?

Mr. JOHNSON. That is a question of expediency, and not a question of constitutional law.

Mr. HOWARD. No, sir, it is a question of power.

Mr. JOHNSON. I will answer the honorable Senator in a moment. The provision to which he adverts was inserted in the Constitution in order to prevent everybody from being tried by courts-martial or any other tribunal that Congress in its wisdom might think proper to adopt. It was inserted for the purpose of securing to every person the right of trial by jury; but upon considerations of policy, looking to the particular character of the naval and military service, it was deemed advisable to take out of that guarantee of trial by jury persons in the military or naval service. But nobody ever dreamed—I speak it with due respect—that it was in the power of Congress to say that persons committing military offenses might not be tried by a jury or by a commission. How is it now? A man commits murder on board one of your ships; he is brought into the United States; the murder is committed upon the high seas; he comes into a district of the United States; do you try him by court-martial? Certainly not. You indict him, try him for murder under the laws of the United States, as you must do, it being an offense committed out of the jurisdiction of a particular State; but it would be something extraordinary that Congress, who are authorized to make rules and regulations for the land and naval forces, could not by regulation provide a different mode of trying offenders in the land or naval forces than the particular mode guaranteed to the citizen who commits some criminal offense, not being a member of the military or the naval service.

The honorable member seems to suppose that in that sentence in one of these resolutions which says that treason may be committed against a State by the President of the United States, there is treason. In what does the treason consist? It has been doubted whether there can be treason as against a State; but the doubt no longer exists. Mr. Justice Story—I speak from recollection—intimates an opinion that as an original question it might be doubtful, not because a State has not the authority to punish treason, but because the same act that constitutes treason as against a State is necessarily an act that constitutes treason against the United States, and as the authority of the United States is an authority paramount to the authority of the States, with reference to the power of trial, the first authority is merged in the second. But that doubt no longer exists. Were not persons tried for treason in the State of Rhode Island? The case came up to the Supreme Court. Did lawyer or judge intimate an opinion that there was no authority to try him who attempted to subvert by force of arms the constitution of Rhode Island? Certainly not. Well, if there can be treason against a State, then every man who comes

into a State owes allegiance to it, and if he commits an act which will be treason as against the State, if committed by a citizen of the State, he is equally liable to trial and to punishment. Suppose the President of the United States goes into the State of Kentucky without authority, in the attitude of a dictator, a usurper, seeks to trample upon the rights of Kentucky, to subvert her constitution and laws by force of arms, does he not commit treason? How is he to defend himself? Should he be indicted, he will hold up the Constitution, and say, "Here is my protection; you have no right to interfere with me; I am the leader of the armies of the United States by force of this instrument." The answer will at once be, "That is true; but your power is limited; you have no authority to do any acts except such as are necessary by you to be done in executing the laws of the United States and seeing that the integrity of the United States is subserved, and you have no authority to war as against the constitution of any State." It would consolidate the Government at once, as far as the President is concerned. Members of Congress could not do it with impunity; but according to the theory of the honorable member from Michigan, a President of the United States may march with his cohorts throughout the loyal States or throughout any of the States of the Union, break down their trials by jury, disregard their election laws, set at defiance their constitution, and do it by force of arms, and can do it with perfect legal impunity. I think that in that particular the honorable member is clearly mistaken.

Now, sir, the only other objectionable expression is a word to be found in the thirteenth resolution of the series, and it is principally on the meaning of that word that the honorable member from Massachusetts, who offered the resolution of expulsion, rests the propriety of that resolution. It says:

"That at the beginning of the war, under the panic of the defeat of Bull Run, the party in power professed to carry it on for the Constitution, and to put down the rebellion and vindicate the laws and authority of the United States in the insurgent States, and when that was effected it was to cease."

That looks a good deal like truth, according to my recollection of the fact.

"But more than a year ago another, and a paramount and unconstitutional one, the total subversion of slavery, was inaugurated by them."

Then he goes on to state what has been since unconstitutionally done, as he thinks. About that there are differences of opinion, and very honest differences of opinion; and his opinion being that all these acts are acts of constitutional violation he goes on to say that—

"Verily, the people North and the people South ought to revolt against their war-leaders, and take this great matter into their own hands, and elect members to a national convention of all the States, to terminate a war that is enriching hundreds of thousands of officers," &c.

It is said that the word "revolt" as there used necessarily means, and must have been intended by the Senator to mean, revolt by force of arms, the rising up of the people in their might, regardless of constitutional restrictions, putting down the President. Now, in the first place, the honorable member from Kentucky says that he used the word with no such purpose. That, as I think, ought to be sufficient. A man who uses an expression in court which, according to the judge's interpretation of it and the correct interpretation of it unexplained, is a contempt, is always permitted, in every court that I know of, to purge himself of the contempt by saying that he had no such purpose as that imputed to him. Would you apply a harder rule to a Senator? You say he meant it. Why? Because you would have meant it if you had used the same word. But does everybody place the same meaning upon the same language? Since this session commenced have we not been obliged, each one of us, to explain away something that had been misunderstood? We certainly have. Are we not all liable to blunders, if they be blunders, of that description? And when the Senator says to you, "No matter what may be the meaning of the term 'revolt,' as that term may be defined in Webster or Richardson or Worcester, or anywhere else, I tell you, upon my honor as a Senator, I meant no such thing as to convey to the public the meaning which you attribute," ought not that to be sufficient? What would the honorable member from Massachusetts think if he had used an expression that was al-

leged to be disloyal, disrespectful to the Senate, insulting to any individual Senator, and he was arraigned at the bar of the Senate to account for such an expression, and said that he did not mean what was attributed to him, if the Senate should act upon the assumption that he told a falsehood, that he did mean it, and attempted to avoid responsibility by a false and unfounded explanation? His heart would rise at once almost into his throat, and say that a greater injustice never was perpetrated upon an honorable man than to call in question the truth of his own statement.

And how is this explanation made? By whom is it made? Is the honorable member from Kentucky so forgetful of what is due to himself as a man of honor and a Senator as to seek to retain his place on this floor by a mere pitiful evasion, and above all by a falsehood? I beg his pardon for supposing even hypothetically that such a thing could be said of him. We saw the contrary feeling exemplified this morning. He who has only now ceased to be a member of this body [referring to Mr. Bayard] told you that he took that oath to save himself from the imputation of disloyalty which the public might cast upon him from really not knowing his character, but he intended to resign his post because he believed that the Senate had transcended its constitutional power in exacting that oath at his hands, and because he believed that the precedent was full of evil to the country. He has long been a member of this body, and in every instance when he gave his time and attention to its deliberations one of the most intelligent and effective men in the body, proud of the title, a title that almost descended to him from an ancestor of whom he might if possible be still more proud; but yet he told you, and told you from his heart, as you saw in the words in which he uttered it, that he could not forfeit his self-respect by remaining in this body, and, as he felt that that respect would be forfeited by remaining, he surrendered his trust into the hands of his State. So would the Senator from Kentucky rather, ten thousand times rather, surrender the commission with which his State has honored him than attempt to hold it by a miserable evasion and falsehood. All that he means, therefore, as I understand him, even without his explanation, is that the people of the country are to take the matter into their own hands, and apply for themselves the remedy. How are they to do it? Not outside of the Constitution, but under the Constitution.

But, says the honorable member from Michigan—and the honorable member from Massachusetts who offered the resolution stated, as I recollect, the same thing in the speech with which he opened this debate—the treasonable purpose of the resolution of the Senator from Kentucky is evidenced by the fact that he speaks of the people meeting in national convention. Well, I should like to know if the people have not the right to meet in convention. Cannot the people of the United States, if they think proper, meet where they please, for what purpose they please, if the purpose be constitutional? That is a question that I supposed nobody could doubt about. Do they not meet in national convention, or are not their representatives supposed so to meet, when they nominate a candidate for the Presidency? Certainly. Is that national convention provided for in the Constitution? Certainly not. The whole object of the system which has been in force for the last thirty or forty years, of having national conventions, is merely to embody the public sentiment, and nothing else; and if they have a right to meet in national convention to embody the public sentiment of the country in reference to who shall be President and Vice President of the United States, I want to know if the people have not the right to do the same thing as concerns the policy of the Government. It may be dangerous; it may lead to mischief; and I am not here an advocate of that mode of correcting the alleged grievance if it exist; but I address myself exclusively to the constitutional question, and I appeal to Senators to look at the Constitution and point out any single provision in it which denies the people of the United States the right to meet in convention, or to call it national or international or any other name by which they think proper to baptize it. That national convention is, among other things, "to terminate the war that is enriching hundreds of thousands of officers, plunderers, and spoilsmen in the loyal

States, and threatens the masses of both sections," &c.

How are they "to terminate the war?" Through the constituted authorities of the Union bringing to bear upon them the public opinion of the country, telling Senators "what you are doing is leading to ruin," telling members "what you are doing, instead of subjugating the military power of the rebels serves but to coalesce it, to add to it." And I say with all the solemnity with which an opinion can be expressed by a Senator, that in my judgment the ultra measures which now seem to be the favorite measures of the Government, that is to say, the measure of destroying slavery in the States, of enforcing the confiscation laws, of distributing the lands among the loyal soldiers or among blacks, do more to keep alive the rebellion than any one cause, or perhaps all causes combined; and it does it because it gives the means to the leaders of this dreadful rebellion of working upon the fears and the apprehensions of the masses of the people, keeping them up toward the last in order to preserve what they are made to believe, and do believe, are their rights.

I submit, therefore, Mr. President—asking pardon for having trespassed upon the Senate so long, certainly much longer than I intended—that I was very sincere in what I said when I rose to address the Senate, that I could have wished the honorable member from Massachusetts had not presented the resolution which gives rise to this debate, not only for the reasons which I have indicated, but because it was calculated to produce very unkind feelings among the members, illustrated by the passages which passed between the honorable Senator and the Senator from Kentucky, which, I am sure, everybody will agree should always be avoided, if it is possible to avoid them consistent with duty. Our deliberations are sure to be more conducive to the public interest if we avoid all personalities and apply ourselves exclusively to the business of preserving the institutions of the country and putting down the rebellion which seeks to destroy them.

Mr. MORRILL. Mr. President, it is obvious that the Senate is to divide on the question under consideration; and before the vote is taken, I wish to say a few words in explanation of the vote I shall give.

Mr. FESSENDEN. I rise to ask my colleague, as the hour is late, whether he wishes to go on this evening?

Mr. MORRILL. I will do just as the Senate please in that particular. I am at the pleasure of the Senate.

Mr. JOHNSON. I move that the Senate do now adjourn.

Mr. WILSON. I hope the motion to adjourn will be withdrawn, so that we may have a short executive session in order to confirm an Assistant Secretary of War.

Mr. JOHNSON. I withdraw my motion.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 26, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

CONTESTED ELECTION.

The SPEAKER laid before the House certain depositions in the contested-election case of James Lindsay vs. John G. Scott, from the third congressional district of Missouri; which were referred to the Committee of Elections.

CLAIM OF GENERAL GARRARD AND OTHERS.

The SPEAKER also laid before the House a communication from the Secretary of War, in answer to the resolution of the House of January 18, 1864, transmitting papers relative to the claim of General T. J. Garrard and others, for the destruction of their salt and salt-works in January, 1862; which was referred to the Committee of Claims, and ordered to be printed.

WITHDRAWAL OF PAPERS.

Mr. ROLLINS, of New Hampshire. I ask the unanimous consent of the House to withdraw from

the files of the House the papers in the cases of John P. Sherburne, H. Clay Wood, and D. L. Moulton.

Mr. WASHBURN, of Illinois. It is the usual rule to leave copies of the papers.

Mr. ROLLINS, of New Hampshire. I have no objection to that.

The SPEAKER. If there be no objection, leave will be granted for the withdrawal of the papers, if copies are left on file. The Chair hears no objection.

CONFISCATED PROPERTY.

The House then resumed the consideration of the regular order of business, being the consideration of joint resolution of the House, No. 18, reported from the Committee on the Judiciary, to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862.

Mr. FERNANDO WOOD. Mr. Speaker, in reviewing this disastrous and desolating war, I am sure that posterity will refer to the legislation of the last Congress as one of the most eventful incidents of our history, which, whether regarded in reference to the magnitude of the questions involved or the interests involved, or indeed the novelty of those questions, was the most remarkable and extraordinary convention that ever assembled in this or any other country, in this or any other age. Precipitately called together to deal with these new and great questions, it would indeed have been extraordinary if it had not made mistakes, and I think it cannot be charged that we criticize too severely either the patriotism or the wisdom of the last Congress when we say that it did make mistakes. The proposition now before the House is one that grows as a natural result, not only of hasty legislation, but of that class of legislation which seeks to accomplish its own objects without reference or regard to the organic law which should control every department of our Government. The joint resolution reported from the Judiciary Committee proposes in effect to repeal the joint resolution adopted on the 17th of July, 1862, which joint resolution was explanatory, or rather constructive, of the confiscation act. I ask the Clerk to read the resolution now before the House.

The Clerk read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the last clause of a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, be, and the same hereby is, so amended as to read, "nor shall any punishment or proceeding under said act be so construed as to work a forfeiture of the estate of the offender except during his life." This amendment being intended to limit the operation and effect of the said resolution and act, and the same are hereby limited, only so far as to make them conformable to section three of article three of the Constitution of the United States: Provided, That no other public warning or proclamation under the act of July 17, 1862, chapter ninety-five, section six, is, or shall be, required than the proclamation of the President made and published by him on the 25th day of July, 1862, which proclamation so made shall be received and held sufficient in all cases now pending, or which may hereafter arise under said act.

Mr. FERNANDO WOOD. As directly bearing, Mr. Speaker, upon the question of confiscation, it is necessary to go back for a few moments to refer to the circumstances attending the passage of that law. It will be remembered that both Houses of Congress had the question before them simultaneously, that the question was very thoroughly discussed, and that the two Houses disagreed as to the peculiar features of the bill, and a conference committee was appointed between the two Houses. On the part of this House the chairman of the Judiciary Committee and a distinguished gentleman from Massachusetts constituted the committee; and on the part of the Senate a distinguished gentleman from New Hampshire, and another gentleman from New York, constituted the conference committee. About this time, sir, and at the very moment that the confiscation act was being passed through both Houses of Congress, it was suspected that the President of the United States would veto the bill. If it be in order, (as to which I have some doubt,) I desire the Clerk to read what took place in the Senate as part of the history of this legislation.

The Clerk read, as follows:

"Mr. CLARK. I move to amend the resolution."—

Mr. FERNANDO WOOD. Let me interpose

the remark here that this is the clause of the joint resolution of July 17, 1862, which it is now proposed to repeal. The House had adopted a joint resolution and sent it to the Senate, and it was then that this debate occurred.

The Clerk read, as follows:

"Mr. CLARK. I move to amend the resolution by adding:

"Nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

"Mr. TRUMBULL. I cannot consent to that amendment. The Senate will observe it is a very important amendment. It provides that you shall confiscate the real estate only for life. What will that amount to? What is a life estate worth in lands in the West, where these traitors chiefly hold their real estate? It is not worth anything; it amounts to nothing. According to the principles of this bill, I think there can be no question about the constitutional power to seize the property of these traitors who have run away. Take the case which I have so often alluded to in the Senate, that of Mr. Slidell, who owns forty thousand acres of land in the State of Illinois. You cannot reach Mr. Slidell to punish him; you cannot institute proceedings against him; he is not in the country; probably never will be in the country; yet he has property in my State which would probably sell for \$100,000 some time ago, which would probably sell for \$100,000 now. The life estate in that property is not worth anything; it would not sell for anything. It seems to me there is no trouble in reaching that property. I cannot consent to this amendment. I do not wish to take up time at this stage of the session, but I trust the amendment will not be agreed to by the Senate."

"Mr. CLARK. I trust the amendment will be agreed to. It may be sometimes desirable to secure as much as we can, if we cannot get all we wish. I would desire to get the real estate in fee; but if we cannot do that, it may be worth while for us to consider whether we will not take the personal property of the individual and the real estate for life, if we cannot get the estate in fee."

"Mr. SHERMAN. I should like to know by what authority the Senator says we cannot get any more, because if we are acting under a kind of duress, I want to understand it."

"Mr. CLARK. I do not say that we are acting under any duress; but it may be that there may be objections to the bill as it now stands, somewhere, and it may be that an amendment like this will cure the difficulty and enable us to get over it. I suggest to Senators whether it may not be better to adopt the amendment in that view of it, rather than to reject it."

"Mr. SHERMAN. If the Senator from New Hampshire will state to us in explicit language that the President of the United States will veto the bill unless we pass this amendment, I am in favor of passing it; but I want to throw that responsibility upon those who ought properly to assume it. I will not shrink myself, and I do not want anybody else to shrink. If the President desires to say that in his view of the Constitution—and I do not criticize him—he wishes this amendment in order to enable him conscientiously to sign the bill, I will pass it; but I want him to take that position before the people of the United States. So far as the life estate to wild lands in the West is concerned, it is a simple absurdity to talk of seizing it and deriving anything from it. The leading traitors of this country have been speculating very largely in western lands, and they have great quantities of them. I think we ought to seize them and sell them, and use the proceeds to put down their rebellion. The idea that we may draw a distinction in a military operation between a life estate and an estate in fee, I think is an absurdity. That will do very well for the courts to talk about; but it has no application to this case. Still, if the President rests his objection to any bill we have passed on that ground, I am ready to vote for this resolution in order to remove the objection; but I want him to take the responsibility of saying so. If the Senator says that he is authorized, or feels authorized, to say that the President objects to the bill we have passed because of the two grounds named here, then I am perfectly willing to relieve him by passing this amendatory resolution; but I want him to assume the responsibility, and not to take it myself."

"Mr. CLARK. Mr. President, I think I may say that I am authorized to declare that I do know that that is one of the objections made to the bill by the President, and it is with a view of removing that objection and inducing his signature to the bill that I offer this amendment, not that it satisfies me."

"Mr. SHERMAN. Then I will vote for it."

The SPEAKER. The Chair would state to the gentleman from New York that this reading has been allowed by unanimous consent. By reference to page 77 of the Manual it will be seen that it is not in order to refer to what takes place in the other branch of Congress; for it is stated that it may lead to misunderstanding between the two Houses.

Mr. FERNANDO WOOD. I was aware of that. When I asked that the passage might be read, I think that I stated that I doubted whether it was strictly in order.

The SPEAKER. It was allowed by unanimous consent.

Mr. FERNANDO WOOD. Mr. Speaker, I have felt compelled to refer to these proceedings of the Senate to show that the proposition now before the House is to repeal a measure that was adopted to avoid a presidential veto; that what it is proposed to abolish was insisted upon by the President as a prerequisite to his approval of the confiscation law.

Now, sir, what says the President himself? After the statement made by the Senator from New Hampshire, [Mr. CLARK,] the Senate concurred in this amendment, and it was sent to the President of the United States, the confiscation law having been already in his hands. On the 17th of July, 1862, he sent this message to Congress:

"*Fellow-Citizens of the House of Representatives:*

"Considering the bill 'for an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,' and the joint resolution explanatory of said act as being substantially one, I have approved and signed both. Before I was informed of the resolution I had prepared the draft of a message stating objections to the bill becoming a law, a copy of which draft is herewith submitted."

Accompanying that message he also sent a draft of the veto referred to, and therein he uses this language:

"That to which I chiefly object pervades most part of the act, but more distinctly appears in the first, second, seventh, and eighth sections. It is the sum of those provisions which results in the divesting of title forever."

"For the causes of treason and ingredients of treason, not amounting to the full crime, it declares forfeiture extending beyond the lives of the guilty parties; whereas the Constitution of the United States declares that 'no attainer shall work corruption of blood, or forfeiture except during the life of the person attainted.' True, there is to be no formal attainer in this case; still I think the greater punishment cannot be constitutionally inflicted in a different form for the same offense."

"I may remark that the provision of the Constitution, put in language borrowed from Great Britain, applies only in this country, as I understand, to real or landed estate."

Therefore, Mr. Speaker, I hazard nothing in saying that the resolution before the House is a fraud upon the President of the United States. The President approved both as one—the confiscation bill and the joint resolution which it is now proposed to repeal. He told Congress so. By the passage of this resolution we repeal the one and let the other stand. He was intrapped into an approval of confiscation by the joint resolution explanatory of it. You thus fraudulently obtained his approval, and now seek to repeal that which was the means of securing his assent. That is the first of my objections to this pending proposition.

Sir, the constitutional question has been argued here. It has been argued on both sides of the House with great ability. I do not feel myself capable of arguing a constitutional question. I cannot argue this one. I would as soon think of arguing that the sun was at meridian at twelve o'clock as that the Congress of the United States has not the power to confiscate estates beyond the lives of persons attainted of treason. If there is any proposition, if there is any restriction in the Constitution clearly and forcibly expressed, it is that in reference to this question:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort."

Treason is a crime, and the Constitution goes on to prescribe the punishment for treason, and the limitation on the power of Congress to punish it. It declares that "no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court." It provides in reference to crimes—and treason is a crime—that

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

It does not provide that it shall be by proclamation, but the trial shall be by jury. It further provides that—

"ART. VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

Therefore, sir, the Constitution not only states what shall constitute treason, it states what form of procedure shall be adopted to prove the fact, and what the punishment shall be. What is it?

"Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted."

It was argued here the other day that it had been recently discovered that in the original draft of the Constitution a comma had been detected.

Well now, sir, I am willing to go even further than that. I am willing to suppose, for instance, that the last clause of the punishment was entirely omitted, and that the provision stopped at the word "forfeiture." Even then, sir, it could not attain beyond the life of the party convicted. Webster's definition of "forfeiture" is, "the act of losing some right or privilege in regard to property. Forfeiture is a loss of the right to possess, but not of the actual possession. In the feudal system, forfeiture of land gives him in reversion or remainder a right to reënter."

Now, Mr. Speaker, the mere statement of the case, the mere reference to the Constitution, the mere quotation of the language, in my judgment, satisfactorily disposes of this question so far as the constitutional right of Congress is concerned to forfeit real estate beyond the life of the party convicted.

But suppose the confiscation proceeds against property in States now in rebellion, how as to the title to lands confiscated? When the American people get sober, the validity of the title to real estate thus acquired may be endangered. I would not give five dollars for any title that the Government of the United States can give under any law that Congress might pass beyond the life of the party convicted of treason, and convicted in due form according to the procedure set down by the Constitution, because if all these forms are not observed; if the accused is not tried in the "vicinage" where the offense is committed, where he belongs; if he has no opportunity to be confronted with his accusers; if he cannot have counsel to defend him, without a reference to the question how far the attainder may reach the heirs, informality of procedure invalidates the title. The day will come when these questions will be adjudicated by an honest and independent judiciary, and then these titles will be worth nothing.

But, Mr. Speaker, suppose that these objections to the confiscation did not exist, what should be said in this enlightened age of progress, civilization, and Christianity, of this theory of legislation? What will be thought of the American people, boasting of their freedom, advancement, and progress, calling themselves enlightened and Christian, of thus pursuing their own fellow-citizens with this spirit of unrelenting hate, desolation, and destruction, by carrying vengeance beyond the guilty party, even to his remotest posterity? Why, sir, Rome, the most inhuman monster of nations as against a prostrate foe, never went so far as that. Russia, emerging from a barbarous condition, (for she has not been recognized among the civilized nations of the world a century,) when she partitioned Poland, respected their widows and orphans. No Government has pursued a foe with such unrelenting, vindictive malignity as we are now pursuing those who came into the Union with us, whose blood has been freely shed on every battle-field of the country until now, with our own; who fought by our side in the American Revolution, and in the war of 1812 with Great Britain; who bore our banner bravest and highest in our victorious march from Vera Cruz to the city of Mexico, and who but yesterday sat in these Halls contributing toward the maintenance of our glorious institutions.

Sir, Edmund Burke discussed these questions in the British Parliament. He was not afraid of the epithet of traitor. He stood erect in the dignity of his manhood, inspired from above, (as I would to God we had such an one here,) denouncing tyranny and upholding freedom. His words are directly pertinent to the present proposition.

Mr. Burke says:

"I do not know the method of drawing up an indictment against a whole people." * * * "In such unfortunate quarrels among the component parts of a great political union of communities I can scarcely conceive anything more completely imprudent than for the head of the empire to insist that if any privilege is pleaded against his will or his acts, that his whole authority is denied, instantly to proclaim rebellion, to beat to arms, and to put the offending provinces under the ban. Will not this, sir, very soon teach the provinces to make no distinction on their part? Will it not teach them that the Government against which a claim of liberty is tantamount to high treason is a Government to which submission is equivalent to slavery?"

Lord Chatham, in a speech "to put a stop to hostilities," delivered in the House of Lords May 30, 1797, speaks almost in the same words as the advocates of peace at the North do at this crisis:

"We have tried for unconditional submission; try what can be gained by unconditional redress." * * *

"I say this country has been the aggressor. You have made descents upon their coasts, you have burned their towns, plundered their country, made war upon the inhabitants, confiscated their property, proscribed and imprisoned their persons. I do therefore affirm, my Lords, that instead of exacting unconditional submission from the colonies we should grant them unconditional redress. We have injured them; we have endeavored to enslave and oppress them. Upon this ground, my Lords, instead of chastisement they are entitled to redress."

Lord Chatham said:

"My Lords, I need not look abroad for grievances. The grand capital mischief is fixed at home. It corrupts the very foundation of our political existence, and preys upon the vitals of the State. The constitution has been grossly violated. The constitution at this moment stands violated. Until that wound be healed, until the grievance be redressed, it is in vain to recommend union to Parliament—in vain to promote concord among the people."

"The constitution has its political bible by which, if it be fairly consulted, every political question may and ought to be determined. *Magna Charta*, the Petition of Rights and the Bill of Rights form that code which I call the bible of the English constitution. Had some of his Majesty's unhappy predecessors trusted less to the comments of their ministers, had they been better read in the text itself, the glorious revolution would have remained only possible in theory, and would not now have existed upon record, a formidable example to their successors."

On the employment of mercenaries and savages in war the same great orator bursts forth in a strain of indignant eloquence which is familiar as household words in every land where the English tongue is known or spoken:

"What has been the conduct of your ministers? How have they endeavored to conciliate the affection and obedience of their American brethren? They have gone to Germany; they have sought the alliance and assistance of every pitiful, boggary, insignificant, paltry German prince, to cut the throats of their loyal, brave, and injured brethren in America; they have entered into mercenary treaties with those human butchers for the purchase and sale of human blood. But, my Lords, this is not all; they have entered into other treaties; they have let the savages of America loose upon their innocent, unoffending brethren—loose upon the weak, the aged, and defenseless; on old men, women, and children; upon the very babes upon the breast, to be cut, mangled, sacrificed, broiled, roasted, nay, to be literally eaten alive. These, my Lords, are the allies Great Britain now has: carnage, desolation, and destruction, wherever her arms are carried, is her newly adopted mode of making war."

"The arms of this country are disgraced even in victory as well as defeat. Is this consistent, my Lords, with any part of our former conduct? Was it by means like these we arrived at that pinnacle of fame and grandeur which, while it established our reputation in every quarter of the globe, gave the fullest testimony of our justice, mercy, and national integrity? Was it by the tomahawk and scalping-knife that British valor and humanity became in a manner proverbial and the triumphs of war and the éclat of conquest became but matters of secondary praise when compared to those of national humanity and national honor? Was it by setting loose the savages of America to imbue their hands in the blood of our enemies that the duties of the soldier, the citizen, and the man came to be united? Is this honorable warfare, my Lords? Does it correspond with the language of the poet—

"The pride, pomp, and circumstance of glorious war,
That makes ambition virtue?"

In his speech in opposition to a motion to adjourn, just after the news of Burgoyne's defeat, Lord Chatham thus speaks of the war and the ministry. Nothing stronger has been said of our civil war:

"Ten thousand brave men have fallen victims to ignorance and rashness. The only army you have in America may, by this time, be no more. This very nation remains no longer safe than its enemies think proper to permit. I do not augur ill. Events of a most critical nature may take place before our next meeting. Will your lordships, then, in such a state of things, trust to the guidance of men who, in every step of this cruel, this wicked war, from the very beginning, have proved themselves weak, ignorant, and mistaken?"

The Marquis of Granby, on American affairs, in 1775:

"In God's name, what language are you now holding out to America? Resign your property, divest yourselves of your privileges and freedom, renounce everything that can make life comfortable, or we will destroy your commerce, we will involve your country in all the miseries of famine; and, if you express the sensations of men at such harsh treatment, we will then declare you in a state of rebellion, and put yourselves and your families to fire and sword."

Mr. Speaker, I could go on and consume the little time allotted to me in this discussion with quotations of the same character. It is not necessary, sir. I have said all I intended to say upon that branch of the subject.

The distinguished gentleman from Pennsylvania [Mr. STEVENS]—I am sorry he is not present—made on Friday what I conceive to be the most frank, the most able, and the most consistent argument that has been made upon this question on that side of the House. He manfully—and, it should be said to his credit, consistently with his conduct in this House—declared that

"The rebels had risen into a separate government, hav-

ing been recognized as a belligerent by foreign nations and our own. The Constitution does not extend to them in its rights and guarantees. Whichever nation conquers has a right to treat the other as a conquered province. They are in the attitude of foreign nations. These points he illustrated, contending that if a State, as a State, makes war and becomes a belligerent power, we can, when we conquer it, treat it as we would any other foreign nation. And this is not a question under but outside the Constitution. By the laws of war the conqueror may seize and convert to his own use everything which belongs to the enemy, and sell it to pay the expenses of the war and the damages occasioned by it."

I quote from the Washington Chronicle of Saturday last.

Well, sir, what is the difference between that gentleman's position and the conduct of this Administration? While the Administration, and the friends of the Administration in both Houses of Congress, and their representatives out of doors, are declaring they are for the Union, they openly declare here, through the ablest of their leaders, the chancellor of the exchequer, [Mr. STEVENS,] that they are not a Union party; that it has ceased to be a question of Union; that the southern States are an independent power, and the only question is whether we shall vanquish, subdue, or recognize them.

Well, sir, I have always thought that the southern States were either within or without the Union. If they are in the Union, they are under the protection of the Constitution, amenable to the Constitution and the laws made in pursuance, not in contravention, of the Constitution; entitled to its protection, which includes an entire exemption from congressional interference with their domestic institutions.

But the gentleman says they are not amenable to the Constitution. He says, "Shall we have the Constitution as it is, and the Union as it was, applicable to these rebellious States?" No, he says, they cannot have the benefit of the Constitution. He approaches his subject like a bold, frank man. He knows the Constitution stands between the southern States and the designs of the abolitionists, and he tears it away as an unnatural, improper obstruction, and under the laws of nations seeks a power which the Constitution does not give.

Sir, will that gentleman contend, admitting his position correct, that we have a right to confiscate the property of a foreign enemy by a paper proclamation? Admitting, then, an independent sovereign Power at war with us, can the President, as we propose here to do, by a proclamation, confiscate the estate of our enemy? How would it be under the law of nations? How would it be under practice and precedent? I admit where we obtain the territory of a foreign enemy, while in possession of that territory and in occupation of it, we may confiscate it, provided we can hold it by military force afterward.

Mr. STEVENS. Mr. Speaker—

Mr. FERNANDO WOOD. I cannot yield to the gentleman.

Mr. STEVENS. I thought the gentleman appealed to me for an answer.

Mr. FERNANDO WOOD. I will yield if it is not taken out of my time.

Objection was made.

Mr. FERNANDO WOOD. What is the difference between the gentleman from Pennsylvania [Mr. STEVENS] and Jefferson Davis? Jefferson Davis asserts that he is the president of the confederate States. He has a government; he has a congress; he has an army; he is a belligerent; he is at war with the United States of America. So there is no distinction between the position of these two distinguished men. But can we confiscate and hold the lands of the South? Doubtful!

No purely agricultural people, fighting for the protection of their own domestic institutions upon their own soil, have ever yet been conquered. I say further, that no revolted people have ever been subdued after they have been able to maintain an independent government for three years.

But, sir, let that pass. We are at war. Neither side of the House will deny it. Whether these States are in rebellion, or whether we are fighting an independent Power, we are still at war. Whether it be a civil war, rebellion, revolution, or foreign war, it matters little. It must cease, and I want this Administration to tell the American people when it will cease.

This war must cease, I care not how or from what cause, whether by exhaustion on either side,

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by southern submission or success, by mediation or by northern magnanimity, or by northern sense of self-preservation. The war must cease. There must be an end of it sooner or later from one cause or from another. I think all will concede this. Admitting, therefore, this conclusion, the next inquiry is how, and when? These are the proper questions for this Congress to determine. *When shall this war cease?* What is the required measure of southern submission? Will the party in power, who have the responsibility before the world, answer this question? Shall it be when, in the language of the President in April, 1861, we have "repossessed the forts, places, and property seized from the Union?" Or in the language of the resolution of Congress passed nearly unanimously in 1861, when we have "successfully defended and maintained the supremacy of the Constitution and preserved the Union with all the dignity, equality, and rights of the several States unimpaired," and that "as soon as these objects are accomplished the war ought to cease?" Or shall it be when, according to the presidential programme of 1862, the southern States, acting under the nominal protection of the Constitution, shall of themselves consent under duress to the emancipation of their slaves; or under the more recent proclamation of the same functionary, who, outside the Constitution, and in utter disregard of its sacred provisions, the abandoned tenth of the population of the South shall consent to betray the remaining nine tenths into a servitude more degraded than that which their own local institutions entailed upon the blacks? Or shall it be when, under the yet more recently declared doctrine of the Republican leader of this House, [Mr. STEVENS,] the southern States shall be reduced to a condition of abject dependence as a conquered enemy entitled to no law or mercy except that which the clemency of fanaticism may afford? Or, more dreadful, shall it be when the American people, North and South, utterly broken down, their national interests destroyed, their ancient form of government subverted, their territorial unity disintegrated, their lands laid waste, their homes forever gone, and the fountains of the great deep of national desolation shall overwhelm them, that thus, when all power of resistance or aggression shall alike be exhausted, shall we then have peace? Or, more fearful, shall it be when the iron heel of despotism is firmly planted upon the submissive necks of northern timidity?

Mr. Speaker, when shall the war cease? I ask the question in good faith. I ask it of the men who govern the North. It is their duty to determine *how* and *when* it shall cease, that the country may know the extent of the demands to be made upon it, the full measure required, and have unfolded at least a glimpse of the dark and shadowy future.

I ask in the name of the American people, whose blood and treasure is being poured out in this war, in their name I ask you when shall this bellicious crusade of blood and famine cease? Sir, let the war be of whatever character it may, it must cease, and it must cease by negotiation. Early in this session I had the honor to present to this House a preamble and resolution, which I shall read. They are as follows:

"Whereas the President, in his message delivered to this House on the 9th instant, and in his recommendation to the people to assemble at their places of worship and give thanks to God for recent victories, claims that the Union cause has gained important and substantial advantages; and whereas, in view of these triumphs, it is no longer beneath our dignity, nor dangerous to our safety, to evince a generous magnanimity becoming a great and powerful people by offering to the insurgents an opportunity to return to the Union without imposing on them degrading or destructive conditions: Therefore,

"Resolved, That the President be requested to appoint three commissioners, who shall be empowered to open negotiations with the authorities at Richmond, to the end that this bloody, destructive, and inhuman war shall cease, and the Union be restored on terms of equity, fraternity, and equality under the Constitution."

Mr. Speaker, if, as the gentleman from Pennsylvania says, we are at war with a foreign Power, what has been the practice of our Government with reference to the appointment of commis-

ers to treat with foreign Powers? Why, sir, as early as 1795, when the Algerines made war in the Mediterranean upon our commerce, pirates though they were, we did not think it beneath our dignity to treat with them; the President authorized the American minister to Portugal to appoint a commissioner, who did proceed to a negotiation, and did finally make a treaty of amity which lasted until 1815. Again, sir, in the war of 1812, between the United States and Great Britain, three very distinguished men were appointed commissioners, Henry Clay being chairman of the commission, and they proceeded to Europe and made the celebrated treaty of Ghent.

But, sir, there is yet a later and more applicable case, the war with Mexico. When General Scott advanced with his conquering army from Vera Cruz to the city of Mexico, the President sent Nicholas P. Trist as a commissioner to treat with the Mexican authorities. Sir, Mexico was subjugated; we had conquered the whole republic of Mexico; we had won a series of victories from Vera Cruz to the halls of the Montezumas, and we were in possession of their capital; they were a conquered people. Did we pass confiscation laws then? Did we apply the principle of confiscation to Mexican soil? No, sir; we treated with them, conquered as they were, and Mr. Trist, acting in pursuance of the authority conferred upon him by the President of the United States, made the treaty of Guadalupe Hidalgo on the 15th of February, 1848. That treaty, which was subsequently ratified by the Senate of the United States, resulted in the accession of California and our vast possessions of the Pacific. There was no confiscation.

But it is said that this is a rebellion, and that it will not do to treat with rebels in arms. Well, sir, this is not the first rebellion we have had in this country. We have had rebellions which, at their commencement, were as threatening as this was at its commencement to the permanence of our institutions, and we treated by commissioners in every instance, as I shall show.

In 1786 the first rebellion occurred. It occurred, Mr. Speaker, in New England. This was the first armed rebellion against the Government. Sir, although it is unpleasant to reflect upon sections, candor compels me to declare that New England has been in a rebellion against the institutions of this country ever since the adoption of the Federal Constitution. She has not faithfully performed her part of the compact made when she came into the Union. In the Convention that framed our organic law the sections came together. New England had her navigation and her manufactures to protect; the South had her peculiar institution to protect. It is true, New England held a few slaves; but when they ceased to be profitable, she became philanthropic and benevolent, and abolished slavery. But so long as money was to be wrung from the sinews of the negro, New England held men in bondage and furnished the tonnage that brought slaves from Africa to the southern States.

I repeat, sir, that the first armed rebellion in this country occurred in Massachusetts, and that commissioners were appointed to negotiate a peace. I will read from a New England historian to prove the fact:

"This was known as Shay's rebellion. It commenced in 1786 and continued until the close of 1787. The people took up arms, organized, and collected in large masses under the lead of a popular officer who had distinguished himself in the revolutionary war. They broke up courts called to try and punish persons implicated with them, and defied the laws and the authorities. The Governor called out four thousand four hundred militia. A declaration of rebellion was issued by the General Court or Legislature in which it was declared that 'a horrid and unnatural rebellion and war had been openly and traitorously raised and levied against this Commonwealth, and is still continued and now exists against the same.' Commissioners were subsequently appointed by the Legislature, consisting of General Lincoln, who commanded the troops ordered out by the Commonwealth; Hon. Samuel A. Otis, and Hon. Samuel Phillips, President of the House of Representatives. These commissioners were authorized to promise indemnity to such who might discontinue opposition to the government and return to their allegiance as good citizens."—*Bradford's History of Massachusetts.*

Well, sir, we have had other rebellions in this country. We had the whisky insurrection in the gentleman from Pennsylvania's [Mr. STEVENS] own State and vicinity. That rebellion was so serious in its character that George Washington sent two special messages to Congress on the subject, ordered out the militia of four of the States of the Union—Pennsylvania, Virginia, Maryland, and New Jersey—to suppress it, and appointed commissioners to treat with the insurrectionists. Nay, more; he went in person, accompanied by Alexander Hamilton, then Secretary of the Treasury, and had a conference with the rebels at Carlisle. The Father of his country, in the true spirit of patriotism, justice, wisdom, and policy, thought it not beneath his dignity to treat with rebels. He did treat with them successfully, and the result was that the rebels laid down their arms, and Congress at the next session repealed the obnoxious laws.

But, sir, that is not the only case. I come to a later and yet more pertinent and significant case—the Mormon rebellion. These profligate outcasts, who have been always hostile to your moral and political institutions, were treated with by commissioners.

It commenced early in 1857. The immediate cause was opposition to the exercise of Federal authority and the appointment of a territorial Governor. On the 15th of September of that year Brigham Young issued a proclamation in the style of an independent sovereign, announcing his purpose to resist by force of arms the entry of the United States troops into the Territory of Utah. He proceeded to carry out this threat. He organized an army, declared martial law, seized Government fortifications, destroyed Government property, and put the Territory in a state of complete defense against the Federal Army. The Federal troops there at the time were overawed or rendered powerless. The President sent a message to Congress, which passed bills to meet the case, large sums were appropriated, troops were ordered there under command of General A. S. Johnston in the spring of 1858, and in April of that year Hon. L. W. POWELL, now Senator of Kentucky, and Major McCullough, were appointed commissioners on the part of the United States, and Colonel Kane appointed on the part of the Mormons. These commissioners carried with them a proclamation of the President, in which he offered a full pardon to all who would submit to the laws. By the conduct and forbearance of these commissioners peace was restored, the rebellion put down, and the Federal authority once more respected. The officers appointed by the President were accepted by the Mormons, and order and submission have reigned ever since.

Therefore, Mr. Speaker, is there anything so extraordinary in my proposition to send commissioners to treat with the southern States? We are told almost weekly that the rebellion is nearly crushed out, that we have every advantage over these insurgents. Is it wrong, therefore, is it unwise, is it unpatriotic to pursue precedents that have been set by the Father of his country, and by his successors in office?

Mr. Speaker, we will have to treat with these rebels. This war, commenced without cause, prosecuted without glory, will end in disintegration and destruction if carried on for another Administration. Peace must come. The President told you so in his inaugural address. Then, sir, he was uninfluenced by the fanatical teachings of a desperate crew who have other objects at heart than the welfare, the unity, the prosperity, the harmony, the freedom of the American people. God grant that the day of peace may come soon. That it will come sooner or later, we all know. The powers of aggression and of resistance are alike failing. Instead of supplying our armies through patriotic enthusiasm, our Government is resorting to bribery and force—bribery by the system of bounties, force by conscription. It is deducible by mathematical calculation that another term of three years will find us in a condition where it is impossible, either by force or bribery, to in-

spire your armies with sufficient power of aggression to conquer the southern people. Peace must and will ensue. General Jackson is frequently referred to as having favored harsh measures toward the South, and yet we have the authority of his friend and contemporary, Thomas H. Benton, in his Thirty Years in the Senate, to the contrary.

The authority says that

"Many thought that he ought to relax in his civil measures for allaying discontent while South Carolina held the military attitude of armed defiance to the United States—and among them Mr. Quincy Adams. But he adhered steadily to his purpose of going on with what justice required for the relief of the South," &c.—*Benton's Thirty Years' View*, page 308.

John A. Dix, now a major general of volunteers, when a Senator in Congress, said on the 1st March, 1847, in a debate upon the three million bill, that "disunion is better than intestine war;" and again in the same speech that

"Civil war has no ameliorations. It is pure, unmitigated demoralization. It dissolves all national and domestic ties. It renders selfishness more odious by welding it to hatred and cruelty. The after-generation which reaps the bitter harvest of intestine war is scarcely less to be commiserated than that by whose hands the poisonous seeds are sown. Less, far less than these would be disunion."

Mr. Speaker, I again ask, when shall this war cease? Shall it be when the whole American people, North and South, utterly broken down, dispirited, and politically disintegrated, shall arise in their power, and indignantly throw off on both sides the unfaithful rulers who use them to the destruction and annihilation of their national liberties and existence? Or, more fearful still, shall it be when despotism has become organic and fixed, and all opposition of thoughts and expression shall be driven from Congress and elsewhere, and the freedman of the South becomes the master of the freeman of the North? Or shall it be when the State governments and the people of the revolted States, as such, shall cease to exist—the former be subverted, and the latter replaced with northern abolitionists? In short, Mr. Speaker, will the party in power make a definite conclusion and agreement among themselves as to the conditions upon which this war shall cease, its horrors terminate, and all the consequences, whether good or bad, shall be fully known and understood? We must have peace—a lasting peace—based upon the Constitution and cemented by the Union.

Burke, that immortal patriot whose inspired language I love to quote, said, March 2, 1775:

"The proposition is peace. Not peace through the medium of war; not peace to be hunted through the labyrinth of intricate and endless negotiations; not peace to arise out of universal discord fomented from principle in all parts of the empire; not peace to depend on the periodical determination of perplexing questions, or the precise marking the shadowy boundaries of a complex Government. It is simple peace; sought in its natural course and its ordinary haunts; it is peace sought in the spirit of peace, and laid in principles purely pacific. I propose by removing the ground of the difference, and by restoring the former unsuspecting confidence of the colonies in the mother country, to give permanent satisfaction to your people; and (far from a scheme of ruling by discord) to reconcile them to each other in the same net, and by the bond of the very same interest which reconciles them to British government."

Again:

"I mean to give peace. Peace implies reconciliation, and where there has been a material dispute reconciliation does in a manner always imply concession on the one part or on the other. In this state of things I make no difficulty in affirming that the proposal ought to originate from us. Great and acknowledged force is not impaired either in of fact or in opinion by an unwillingness to exert itself. The superior power may offer peace with honor and with safety. Such an offer from such a power will be attributed to magnanimity. But the concessions of the weak are the concessions of fear."

How eloquent, how truthful, and yet how applicable to us at this time! The reasons he urges against a coercive policy are in effect similar to those now urged by the opponents of the present war:

"First, sir, permit me to observe that the use of force alone is but temporary. It may subdue for a moment, but it does not remove the necessity of subduing again; and a nation is not governed which is perpetually to be conquered.

"My next objection is its uncertainty. Terror is not always the effect of force; and an armament is not a victory. If you do not succeed you are without resource, for conciliation failing, force remains; but force failing, no further hope of reconciliation is left. Power and authority are sometimes bought by kindness, but they can never be begged as alms by an impoverished and defeated violence.

"A farther objection to force is that you impair the object by your very endeavors to preserve it. The thing you fought for is not the thing which you recover; but depredated, sunk, wasted, and consumed in the contest. Nothing less will content me than whole America. I do not choose to consume its strength along with our own, because

in all parts it is the British strength that I consume. I do not choose to be caught by a foreign enemy at the end of this exhausting conflict, and still less in the midst of it. I may escape, but I can make no insurance against such an event. Let me add that I do not choose wholly to break the American spirit, because it is the spirit that has made the country."

I beseech you listen! Let the cry of the widow and the orphan reach your hearts. If the stability of our endangered institutions, a dismembered empire, and absorption of all our great industrial and productive interests have no terror, think, oh! think of the dark and shadowy future awaiting your own posterity.

"Peace! Peace! God of our fathers, grant us peace; Peace in our hearts and at Thine altars; peace On the red waters and their blighted shores; Peace for the leagued cities, and the hosts That watch and bleed, around them and within; Peace for the homeless and the fatherless; Peace for the captive on his weary way, And the mad crowds who jeer his helplessness; For them that suffer, them that do the wrong; Sinning and sinned against—O God! for all— For a distracted, torn, and bleeding land— Speed the glad tidings! Give us, give us peace!"

Mr. SMITHERS obtained the floor.

BILLS ON SPEAKER'S TABLE.

Mr. STEVENS. Mr. Speaker, has the morning hour expired?

The SPEAKER. The morning hour has just expired.

Mr. STEVENS. I move to proceed to business on the Speaker's table.

The motion was agreed to; and the House proceeded to business on the Speaker's table.

PUBLIC PRINTING.

The first bill taken up was Senate joint resolution No. 18, in regard to the public printing; which was read a first and second time, and referred to the Committee on Printing.

THANKS OF CONGRESS TO GENERAL BANKS.

The next bill taken up was Senate joint resolution No. 2, expressive of the thanks of Congress to Major General Nathaniel P. Banks and the officers and soldiers under his command at Port Hudson; which was read a first and second time, and referred to the Committee on Military Affairs.

GENERALS HOOKER, MEADE, AND HOWARD.

The next bill taken up was Senate joint resolution No. 3, expressive of the thanks of Congress to Major General Joseph Hooker and Major General George G. Meade and Major General Oliver O. Howard and the officers and soldiers of the army of the Potomac; which was read a first and second time.

Mr. WASHBURN, of Illinois. I move that the joint resolution be put on its passage now.

The joint resolution was read. It tenders the gratitude of the American people, and the thanks of their Representatives in Congress, to Major General Joseph Hooker and the officers and soldiers of the army of the Potomac, for the skill, energy, and endurance which first covered Washington and Baltimore from the meditated blow of the advancing and powerful army of rebels led by General Robert E. Lee; and to Major-General George G. Meade and Major General Oliver O. Howard and the officers and soldiers of that army, for the skill and valor which, at Gettysburg, repulsed, defeated, and drove back, broken and dispirited, beyond the Rappahannock, the veteran army of the rebellion.

Mr. WASHBURN, of Illinois, moved the previous question on the third reading.

The previous question was seconded; and the main question ordered; and, under its operation, the joint resolution was read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THANKS OF CONGRESS TO GENERAL BANKS.

Mr. ELIOT. The joint resolution giving the thanks of Congress to Major General Banks, has been referred to the Committee on Military Affairs. I move that it be taken up and passed now.

The motion was agreed to; and the joint resolution (S. No. 2) expressive of the thanks of Congress to Major General Nathaniel P. Banks and the officers and soldiers under his command at

Port Hudson, was taken up, the question being on the third reading.

The joint resolution tenders the thanks of Congress to Major General Nathaniel P. Banks and the officers and soldiers under his command for the skill, courage, and endurance which compelled the surrender of Port Hudson, and thus removed the last obstruction to the free navigation of the Mississippi river.

Mr. ELIOT moved the previous question on the third reading.

The previous question was seconded, and the main question ordered; and under its operation the joint resolution was read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the joint resolution was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THANKS TO GENERAL BURNSIDE.

The SPEAKER also laid before the House the Senate joint resolution (No. 5) of thanks to Major General Ambrose E. Burnside and the officers and men who fought under his command; which was read a first and second time.

The resolution provides that the thanks of Congress be presented to Major General Ambrose E. Burnside, and through him to the officers and men who have fought under his command, for their gallantry, good conduct, and soldier-like endurance, and that the President of the United States be requested to cause the foregoing resolution to be communicated to Major General Burnside in such terms as he may deem best calculated to give effect thereto.

The joint resolution was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. ORTH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

THANKS TO CORNELIUS VANDERBILT.

The SPEAKER also laid before the House Senate joint resolution No. 14, presenting the thanks of Congress to Cornelius Vanderbilt for a gift of the steamship Vanderbilt; which was read a first and second time.

The joint resolution provides that whereas Cornelius Vanderbilt, of New York, did, during the spring of 1862, make a free gift to his imperiled country of his new and stanch steamship Vanderbilt, of five thousand tons burden, built by him with the greatest care, of the best material, at a cost of \$800,000, which steamship has ever since been actively employed in the service of the Republic against the rebel devastation of her commerce; and whereas he has in no manner sought any requital of this magnificent gift, nor any official recognition thereof; that therefore the thanks of the American people be presented to him by Congress for this unique manifestation of a fervid and large-souled patriotism; and further that the President of the United States be requested to cause a gold medal to be struck, which shall fully embody an attestation of the nation's gratitude for this gift; which medal shall be forwarded to Commodore Vanderbilt, a copy of it being made and deposited for preservation in the Library of Congress.

Mr. COLE, of California, moved that the joint resolution be referred to the Committee on Naval Affairs.

The motion was disagreed to.

Mr. FARNSWORTH demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. HIGBY moved that the joint resolution be laid upon the table.

Mr. COLE, of California, demanded the yeas and nays.

The yeas and nays were not ordered.

The House refused to lay the joint resolution upon the table.

The joint resolution was ordered to a third reading; and it was accordingly read the third time.

Mr. FARNSWORTH demanded the previous question on the passage of the resolution.

The previous question was seconded, and the main question ordered.

Mr. HIGBY demanded the yeas and nays.

The yeas and nays were not ordered.

The joint resolution was passed; there being, on a division—yeas 79, noes 18.

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ISRAEL WAIT.

The SPEAKER also laid before the House Senate bill No. 34, in favor of the legal representatives of Israel Wait; which was read a first and second time.

Mr. STEVENS moved that the bill be referred to the Committee of Claims.

The motion was agreed to.

WASHINGTON INSANE HOSPITAL.

The SPEAKER also laid before the House Senate bill No. 49, relating to the admission of patients to the hospital for the insane in the District of Columbia; which was read a first and second time.

Mr. WASHBURN, of Illinois. In this time of war that bill is necessary. It has for its object a beneficent regulation in reference to that hospital, and I therefore hope that there will be no objection to its being put on its passage.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ENROLLMENT ACT.

Mr. SCHENCK. I ask to have entered a motion to reconsider the vote by which the House yesterday referred to the Committee of the Whole on the state of the Union Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The motion to reconsider was received and entered upon the Journal.

MESSAGE FROM THE PRESIDENT.

A message was received from the President, by Mr. NICOLAY, his Private Secretary, notifying the House that he had on January 26, 1864, approved and signed House bill No. 65, to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, and for other purposes.

DEFICIENCY APPROPRIATION BILL.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the consideration of the bill of the House (No. 156) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1863, which had been previously made the special order for this day.

Mr. RICE, of Massachusetts. I ask the unanimous consent of the House to go back.

Mr. BLAINE. I object.

The Clerk read, as follows:

To supply a deficiency in the appropriation for compensation of the officers, clerks, messengers, and others receiving an annual salary in the employ of the House of Representatives, \$7,365 19.

Mr. RICE, of Massachusetts. I move the following amendment, to come in after what has been read:

For repair of coal and landing wharf at Key West, to erect a crane thereon, and cover the extension of the machine shop at that point, \$10,000.

Mr. BROOKS. I make the point of order that the amendment is not germane to the item under consideration. I would not make the point if the gentleman did not have an opportunity to offer it hereafter in the Navy appropriation bill.

Mr. RICE, of Massachusetts. This is to supply a deficiency. The work has already been done.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HALE. I move to amend the section by inserting after line two hundred and twenty-one the following:

For the payment to William Brindle, late receiver of public moneys at Leocompton, in Kansas, for rent and extra clerk hire, \$4,713.

Mr. J. C. ALLEN. I rise to a point of order. The amendment is not germane to the section upon which the committee is acting.

The CHAIRMAN. The Chair sustains the point of order upon the ground stated as well as upon the ground that it is a private claim, which it is not in order to put upon a general appropriation bill.

Mr. HALE. It is not a private claim. It was in pursuance of an act of Congress that the money was paid, and I have a letter from the Secretary of the Interior requesting an appropriation to pay it. This appropriation passed the House last Congress, under the recommendation of the Committee of Ways and Means, but it failed to pass both Houses. I hold a letter containing a statement of the settlement of the account, and asking an appropriation to pay it. It is money actually expended by Mr. Brindle for rent and extra clerk hire some years ago.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HALE. Then I will offer it as an independent section.

The CHAIRMAN. The Chair would state to the gentleman from Pennsylvania that the committee has not yet got through with the bill. After that is done, the gentleman can offer it.

Mr. KASSON. I move to amend by inserting after line two hundred and twenty-one what I send to the Clerk, and I ask that a communication from the Postmaster General be read in connection with it.

The amendment was reported, as follows:

For payment of letter-carriers to July 1, 1864, to be paid out of the revenues of the Post Office Department, \$150,000.

The letter was read, and is as follows:

POST OFFICE DEPARTMENT,
WASHINGTON, January 26, 1864.

SIR: Owing to the increasing amount of local mail matter and the increasing demand for carriers to perfect the free delivery system in the several cities of the country, I have during the past year largely augmented the number of carriers with very favorable results to the revenue.

The appropriation for the current year having been made for the amount of the receipts by carriers under the former system has proved insufficient to cover the expenses for the time specified. I have therefore to request that an additional appropriation be made from the revenues of the Department of \$150,000 to cover the probable deficiency.

I am, very respectfully, your obedient servant,

M. BLAIR,
Postmaster General.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

Mr. KASSON. I am authorized by the Committee of Ways and Means to offer this amendment, in connection with the reading of that letter.

Mr. BROOKS. I rise to a point of order. The appropriation in line two hundred and twenty-one is, for stationery for the House of Representatives, \$9,000. The proposed amendment is \$150,000 to pay letter-carriers in New York, Philadelphia, Cincinnati, &c. The proper place, let me suggest to the gentleman, for this amendment is the Post Office appropriation bill.

Mr. KASSON. I call the attention of the gentleman from New York, in answer to his objection, to the fact that we are acting upon appropriations under the head of miscellaneous items. There is no special part of the deficiency bill applicable to the Post Office Department. It comes, therefore, under the general head of miscellaneous items, and properly comes in here. In a general bill which this House has already passed, we have made the appropriations for the next fiscal year, which were necessary as resulting from this change in the system. This amendment simply applies the requisite amount out of the revenue of the Post Office Department, in pursuance of existing laws, to pay the expenses for the current year. It is not provided to pay it out of the general Treasury, but out of the revenues of the Department itself.

Mr. BROOKS. I stand upon my point of order, that the matter of letter-carriers is not germane to the matter now under consideration.

The CHAIRMAN. The Chair sustains the point of order, that the amendment is not germane to the present section of the bill.

Mr. KERNAN. I move to amend this section by adding thereto, as a proviso, the following:

Provided, That no money hereby appropriated shall be expended on the Capitol extension, or in continuing the north wing of the Treasury extension beyond what may be necessary to protect the said buildings from injuries.

I notice among the miscellaneous items we have appropriated \$250,000 for the purpose of carrying on the north wing Treasury extension, and \$150,000 for continuing the extension of the Capitol. Now, sir, I believe each of these buildings contain abundant accommodations for the present public business. We certainly are engaged in a struggle which taxes all the financial resources of the United States, and it seems to me we may very well postpone ornamenting the exterior of one of these buildings, and the further extending the other, until we have more means for such purposes than now, and when taxation shall not be as onerous as it necessarily is now, in order to carry on this war. And I think, unless we begin with bills like this, and cut down expenditures by the hundreds of thousands of dollars upon matters which are not of pressing importance, we are hardly doing our duty to the country in the present state of things. If there be a necessity of expending a portion of these sums for protecting those buildings from the effects of the weather, no one will object, and I have put the proviso in that form. But to go on doing work, and putting it up for ornament more than from any necessity, is not proper in the present state of our country and of its finances.

Again, this money is being expended in times when labor and materials are very high; and it cannot be claimed that it is important to keep these laborers in the employment of the Government, because there is a great demand for their labor, and hence no hardship will be done toward them. I trust, therefore, we will limit this expenditure to that amount which shall be found necessary to protect the buildings, and let their completion await a time when the Treasury can more easily afford it.

Mr. STEVENS. If I understand the amendment, it seems to me to be out of order at this point. We have passed the appropriation to which it refers.

The CHAIRMAN. The Chair would state that a proviso limiting an appropriation has always been held to be in order.

Mr. STEVENS. The amendment does not apply to this part of the bill.

The CHAIRMAN. It applies to the entire bill, or to any part of the bill.

Mr. STEVENS. Let the amendment be read again.

The amendment was again read.

Mr. STEVENS. When we were upon the question of continuing the completion of the Capitol, a motion was made to reduce the appropriation from \$150,000 to \$50,000, and the House voted down the amendment. I supposed that to be a full expression of the wish of the House to continue the work now under way to completion.

Shortly after the commencement of this war, the question arose in Congress whether we should stop all further progress on the public buildings here until the war was over, and, after a very full discussion in this House, the House, by a very large majority, decided that as a question of economy, the hands being all here and the materials here, it was better to proceed with the work. Besides that, it seemed to the House that it would not look very well to stop the work on the public buildings simply because there is an insurrection in the South. They thought it best to go on making appropriations for these purposes so as to give confidence to the country that we were still to possess this capital and complete these buildings. And now that this work is drawing to a close, it seems to me that it would be very bad economy to dismiss the hands now here and stop the work. I hope, therefore, that the amendment will not be adopted.

Mr. PRICE. I move to amend the amendment by striking out the last word. I only desire to say that the gentleman from New York [Mr. KERNAN] has saved me the trouble of offering this amendment. I have examined this deficiency bill with a good deal of anxiety. I am satisfied that we are not legislating on these matters as our constituents would desire. I undertake to say, and

I believe that in saying so I express the sentiment of three fourths of the gentlemen upon this side of the House, that every dollar's worth of work upon the public buildings which is not necessary and essential ought to be stopped until this rebellion is over. We go on here making large appropriations for these objects when we have not yet made appropriations to pay the pensions of the men who have lost their legs and arms in the defense of the country, and who are sitting at home to-day, with their helpless families around them, without any means of support. There is no earthly necessity for this appropriation at this time. I want gentlemen to look into this matter. I want to see who here is ready to vote hundreds of thousands of dollars for these purposes, when we all know that the work can be dispensed with until the war is ended and the rebellion crushed. I do not believe that this country is bankrupt. It never will be so long as there are stout hearts and brave arms in the country. I know that the country is full of money. I am willing to appropriate for all proper purposes, but I am opposed to making appropriations at this time for these purposes. Let us wait until the war is over. Let us put the money where it is needed. Let the wives of our soldiers who have been made widows, and the children of our soldiers who have been made orphans, know that we care for them while we hold up a defiant front to the villains in the South and their sympathizers all over the country. Let us not vote a dollar here that is not essentially necessary for the carrying on of this war and for the support of the Government. Let us show to the country that we are earnest and honest in our purpose to carry on this war to its completion.

Mr. SCOFIELD. I wish to inquire if the clause to which the amendment of the gentleman from New York [Mr. KERNAN] relates can be amended so as to strike out a portion of the \$150,000?

The CHAIRMAN. It cannot without unanimous consent. The committee has passed from its consideration.

Mr. SCOFIELD. Then it seems to me that the gentleman from New York might as well withdraw his amendment, because they would certainly spend the \$150,000 in protecting the building.

Mr. KERNAN. My amendment is that they shall not expend more than \$50,000.

Mr. SCOFIELD. If we can limit them to a specific sum, I will vote with the gentleman from New York for his amendment; but if we leave them sufficient latitude to enable them to spend the whole amount in merely protecting the building, I am afraid every single dollar of the appropriation will be used for that purpose by some hook or crook.

The amendment to the amendment was disagreed to.

Mr. BOUTWELL. I move to amend the amendment of the gentleman from New York by striking out the last word. I do it for the purpose of saying to the committee that, having watched with such care as I could the proceedings of the House with reference to the appropriation of public money, I think the time has come when all friends of the country should establish a principle for the guidance of this Government. That principle, in my judgment, should be that there should be no expenditure of public money that is not absolutely necessary for the maintenance of the Government and the prosecution of the war. We are expending somewhere from four to six hundred millions a year, which can only be met by taxation on the people; and this Congress cannot adjourn, with safety to the financial reputation of the country, without imposing a still more onerous system of taxation than has been yet introduced. While this country is not on the verge of bankruptcy, it is impossible for us to raise a sufficient sum of money on credit for the prosecution of the war. It must be done by taxation.

Now, while I am here prepared to vote taxation which shall absorb the last dollar of the property of my constituents for the purpose of prosecuting the war, I am resolved not to incur knowingly the responsibility of voting for appropriations not necessary to the existence of the Government and the maintenance of the integrity of the Union. I say that the time has come when this House shall so express its judgment, and when all its committees shall understand, that no sanction is to be

given to an appropriation not based upon necessity. I submit with all deference to the chairman of the Committee of Ways and Means, and to other committees of the House, that it is our duty to the country to insist on the recognition and enforcement of that right which exists primarily in this House as the guardian of the Treasury.

Mr. MORRIS, of Ohio. Mr. Chairman, there is an old adage that we may be penny-wise and pound-foolish. Having been a member of the Committee on Public Buildings and Grounds last Congress, my attention was somewhat directed to the question of the completion of these public buildings. These public buildings are incomplete; they are in such a condition as renders it absolutely necessary that they should be protected from the weather; and if an appropriation of \$150,000 or of \$500,000 be required for the completion of these buildings, what comparison would either sum bear to the entire annual expenditure of the Government? I therefore repeat that, in these questions, we may be penny-wise and pound-foolish.

Mr. BOUTWELL. I withdraw my amendment.

Mr. KERNAN. The appropriation to which my amendment applies is not one of \$150,000, but of \$400,000. I know very well that there are cases in which we might be penny-wise and pound-foolish; but I submit that it is not such a case when we simply propose to stop spending money for the raising of marble columns around the public buildings, when the columns that support this Union—the States—are in danger of being overthrown and destroyed. I trust that we will husband our resources to do what is necessary to protect these buildings from injury, and let their completion be deferred till an appropriate time. This would not discommode anything; it would not prevent us having proper buildings for the public service. It would simply stop this expenditure of money by half millions, on mere ornamentation, at a time when we require all the financial means of the Government to preserve it by prosecuting the war.

Mr. BROOKS called for tellers on Mr. KERNAN's amendment.

Tellers were ordered; and Messrs. KERNAN and ORTH were appointed.

The committee divided; and the tellers reported—ayes 71, noes 37.

So the amendment was agreed to.

Mr. HOLMAN. I move to amend by inserting in the clause for an additional Assistant Secretary of the Treasury the words "for one year." I suppose it is not intended to make this a permanent office. There seems to be no necessity for it except during the present war. I trust the policy of increasing Assistant Secretaries of the various Departments to so large an extent will not be adopted. It has been the policy of the House, heretofore, to impose some limitation on the creation of these offices, especially in connection with the War Department. It seems that it should also be so in this Department. My amendment proposes to limit the term to one year.

The question was taken, and the amendment was rejected.

Mr. STEVENS. I offer the following amendment as an additional section:

Sec. 4. *And be it further enacted*, That the remainder or unexpended balance of \$21,207 56 for engraving, electrotyping, and lithographing, &c., and the same is hereby transferred to the miscellaneous items of the contingent fund of the House of Representatives.

The amendment was agreed to.

Mr. HALE. I now offer my amendment as a separate section:

For the payment to William Brindle, late receiver of public money at Leecompton, Kansas, for rent and extra clerk hire, \$4,713.

Mr. J. C. ALLEN. I make the point of order that the amendment is private legislation upon an appropriation bill, and is not therefore in order.

Mr. HALE. I ask the Clerk to read a letter from the Secretary of the Interior.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, January 25, 1861.

SIR: At the request of William Brindle, Esq., receiver of public moneys at Leecompton, Kansas, I have the honor to inclose to your committee his claim for rent and extra clerk hire under the provisions of the act of Congress of 18th August, 1856.

Under the law I recommend the allowance of his claim, as follows:

Office rent January 1, 1857, to September 30, 1860.	\$1,145
Extra clerk hire of G. Wynkoop during public sale in 1859.	240
Special clerk hire of H. P. Petrisson in 1857, as per vouchers 3 and 4.	200
Clerk hire, one clerk, from October 1, 1857, to April 30, 1860, two and a half years, at \$4 per day during days of work, or, excluding Sundays, 782 days, at \$4 per day.	3,128

Total.....\$4,713

Mr. Brindle claims clerk hire during the period of two and a half years, at the rate of \$1,800 per annum, as the amount he has actually paid; but, although he presents in the accompanying letters strong reasons in favor of the amount as claimed by him, as the recommendations of the Department in similar cases heretofore have not exceeded the rate of four dollars per day, and the length of time covered is considerable, I have deemed it proper to base my recommendation for an appropriation on that rate. I have the honor, therefore, to recommend the appropriation of the sum of \$4,713 to pay his claim for rent and clerk hire.

Very respectfully, your obedient servant,

MOSES KELLY, Acting Secretary.

R. W. JOHNSON, Chairman Committee on Public Lands, United States Senate.

The CHAIRMAN. The Chair sustains the point of order. It is not a deficiency, nor, as independent legislation on an appropriation bill, is it in order.

Mr. RICE, of Massachusetts, moved the following as an additional section:

Sec. 4. *And be it further enacted*, That there shall be appropriated to supply deficiencies for the repair of the coal and landing wharf at Key West, to erect a crane thereon, and to cover the extension of the machine shop at that point, \$10,000.

The amendment was agreed to.

Mr. KASSON. I move the following, to come in as an additional section:

Sec. 5. *And be it further enacted*, That there be appropriated for the payment of letter-carriers to July 1, 1864, to be paid out of the revenues of the Post Office Department, \$150,000.

Mr. BROOKS. Mr. Chairman, I oppose this amendment now, because I do not think that we have sufficient facts to justify us in making this appropriation at the present time. I am sorry to learn, sir, from the statement of the Postmaster General that letter-carriers in the cities do not pay, or rather have not paid, by some \$150,000. I think that I can furnish the names of parties who would be happy to take contracts from the Government to distribute the letters in the cities of Cincinnati, Chicago, Philadelphia, New York and its surroundings, and give at least \$200,000, if not \$500,000, for the privilege of doing so, and carry the letters at the rate of one or two cents each.

We are told by the Postmaster General that there is a deficiency of \$150,000 in this appropriation. After proper examination, if this turns out to be a deficiency, and is necessary to carry on the letter-carrier system in the cities of the country, it may be that I shall agree with the gentleman from Iowa. But the Committee on the Post Office and Post Roads has the subject now under consideration. They have asked the Postmaster General for information in reference to the system of letter-carriers in the cities, but that information has not been furnished. When that is laid before the House, and we ascertain this to be a proper sum to be appropriated, then we can act. Let us wait for the facts. It is impossible for the Committee of Ways and Means to know everything. Look to the abundant subjects they have before them, embracing finance, taxation, the war, the Army and the Navy, political economy, and others, and it will be seen that they cannot give them all the attention that they ought to have. I beg the gentleman to leave this subject to the Committee on the Post Office and Post Roads, and I assure him that if this appropriation be found necessary it will be made.

Mr. KASSON. I think that the gentleman from New York will agree to the propriety of this amendment as soon as I correct him in the mistake under which he is laboring in reference to the manner in which appropriations are made for the Post Office Department. This is not an appropriation for a deficiency in the sense in which the gentleman uses the term. The law of the last session, which went into effect on the 1st of last July, established a system of free delivery corresponding to that of every post office in the world which approaches a perfect system. Prior to that,

Congress had made the usual appropriation for the payment of the letter-carriers. Under the old system it had been the usage to estimate the amount of the receipts from local postages, the whole of which went for the pay of the carriers. The carriers retained every penny; and they were obliged to stop at every door to collect one or two cents before going on with the delivery of the other letters. The consequence was that it required nearly twice the time to deliver the same number of letters that it does now. That system was done away with, and Congress required the prepayment in all cases of local postage, which went into the general revenue. The Postmaster General was authorized to extend the new system, and this is needed because the appropriation was made in reference to the old system. The appropriation was only for \$180,000. The benefits of the new system have largely increased the receipts for local postage, but they are in the Treasury, and cannot be paid out beyond the amount of \$180,000. Hence these men cannot get pay for their services until an additional appropriation shall be made for the time when the present one shall be exhausted. It is indispensable that a further appropriation shall be made, not out of the Treasury of the United States, but giving the simple authority to the Postmaster General to pay these men.

Mr. BROOKS. Let there be added a proviso that the money shall be paid out of the post office fund.

Mr. KASSON. That is there already. I wish also to state to the House that the Post Office Department is to-day self-sustaining for the first time in fifteen years, and that is due to the legislation of the last Congress.

Mr. ALLEY. Is this deficiency of \$150,000 to be paid out of the fund accumulated from drop letters?

Mr. KASSON. So far as that fund goes. It is to be paid in all cases out of the incomes of the post offices at which the carriers are employed, and the revenue of no other post office can be used for the payment of these carriers. Until the system is perfected and the increase expected is realized, there may be a small deficiency.

Mr. ALLEY. I move to strike out the last word of the gentleman's amendment, merely *pro forma*.

I concur fully with the remark of the gentleman from New York [Mr. Brooks] in reference to these matters, so far as having these matters investigated by committees. I regard it as a serious evil that matters of this kind should be brought into the House and ingrafted into a deficiency bill without any previous investigation by a responsible committee. It does seem to me that it is all wrong. I feel, for one, we have more to fear from the disposition many in this House seem to have to take any amount of money out of the Treasury to be spent for every purpose which can be imagined; I think we have more to fear from that than from anything else. I have no fear about this rebellion; I have no fear that it will not be crushed by the armies of the country; but I do fear greatly for the Treasury of the country. And I say to gentlemen in this House that unless we are more careful than many incline to be, the effect of our legislation upon the Treasury must be most disastrous.

I do not, however, apply these remarks particularly to the amendment proposed by the gentleman from Iowa, for from what I understand of the position of the matter at this time, I fully concur with him that it is necessary that this appropriation should be made. I only find fault with the manner in which it has been brought forward. It should have been referred to the appropriate committee, and been fully investigated by them before being presented to this House. As that has not been done I will say, from some knowledge I have of the matter, I entirely concur with the gentleman from Iowa in the opinion that this appropriation should be made. As the law now stands, it must be paid. If there is any objection to the law let it be modified or repealed. But existing as it does upon the statute-book in its present form—and I express no opinion upon the law itself—I see no other alternative than to pay the amount asked for. I think the committee would be compelled, if the matter were sent to them, to come to that conclusion; and therefore

I make no objection to the adoption of the amendment.

I withdraw my amendment.

The amendment offered by Mr. Kasson was adopted.

Mr. STEVENS. I move to lay aside this bill for the present, and to take up bill No. 151, making appropriations for the naval service.

NAVAL APPROPRIATION BILL.

The motion was agreed to; and the committee proceeded to the consideration of the bill of the House (No. 151) making appropriations for the naval service for the year ending June 30, 1865.

The bill having been first read *in extenso*, the Clerk proceeded to read it a second time by paragraphs, for amendments.

Mr. J. C. ALLEN. I move to amend the following clause:

For pay of commission, warrant, and petty officers and seamen, including the engineer corps of the Navy, \$19,423,241, by adding thereto the following:

And that the same be paid in gold or its equivalent: *Provided*, That the relative value of any paper currency tendered shall be ascertained by the Secretary of the Treasury, and his certificate shall be conclusive evidence thereof if dated thirty days before payment is made.

I have offered this amendment with the hope that this committee, and the House, when the bill shall come to it, may adopt it. I have offered it believing that the pay of our officers and seamen in the naval service is not adequate, and is not to them a fair compensation. In reference to those who are in our Army and our Navy, a reason exists for the adoption of this amendment that will not apply to individuals in the ordinary offices of the Government. Their pay and emoluments were fixed at a period in our history when everything was comparatively low, and when the currency in which they were paid—if they were paid in currency—was equal to gold. The compensation was fixed at what at that period was considered a fair equivalent for the services rendered. It was fixed at a sum which gave to them and to their families a reasonable support. But to-day, under the effect of the important changes which have occurred in the commercial world, in the increased price of every article they have to consume, that compensation, especially in the depreciated currency in which they are paid, is not a sufficient compensation.

It is known that the Government paper in which they are paid in lieu of gold and silver has depreciated more than thirty-three and one third per cent. It is also known that every necessary of life has increased in price to a point unprecedented in our modern history. The pay now given to our sailors and soldiers is not sufficient for the comfortable support and maintenance of the families of those who have such incumbrances. When their wages were fixed by Congress the cost of all the necessities of life was comparatively low. To-day the price is increased more than threefold. The pound of coffee that formerly cost the wife of a sailor from eight to twelve cents, to-day costs her forty cents. Every yard of domestic that she uses in her family that could formerly be purchased for from eight to ten cents a yard, to-day costs her from forty to fifty cents per yard. The price of the candles or oil consumed in the family is increased more than a hundred per cent. The very prints with which she clothes herself and her family, which formerly could be purchased for from eight to ten cents per yard, are to-day worth from eighteen to twenty and twenty-two cents per yard. And so it is with all articles into the manufacture of which cotton enters. And the same thing is true with reference to woolen manufactures, as well as all else that enters into family consumption.

Mr. STEVENS. I dislike to interrupt the gentleman, but I would like to hear the amendment to which he is speaking read.

The Clerk read the amendment.

Mr. STEVENS. I must make a point of order upon that. I do not think that it is in order.

The CHAIRMAN. The point of order comes too late. If it had been made at the time the amendment was introduced, the Chair would have ruled it out of order.

Mr. J. C. ALLEN. I was proceeding to show when interrupted that all these things which are necessary to feed and clothe the wives of our sailors have increased in cost at least threefold since

the compensation of our sailors was fixed, and that the currency in which they are now paid is at a discount of more than thirty-three and one third per cent. Now, sir, either the Congress that fixed that compensation paid the sailor threefold more than what was a reasonable compensation for his services, or else the compensation which he now receives is inadequate to the support of himself and family.

I remarked a while ago that a different rule obtained in reference to the pay of sailors from that which obtains in the pay of the civil employees of the Government. Their entrance into the naval service, in which for the last two years they have been engaged, in the very dangerous and important operations of the Government, was voluntary upon their part; but their continuance in this dangerous and arduous service is not voluntary upon their part; hence their relations toward the Government are different from those of persons engaged in ordinary civil pursuits. They are compelled to remain in this service, and to undergo all its hardships, while their families are compelled to submit to the deprivations consequent upon the depreciation of the currency of the country, and the consequently enhanced price of the necessities of life.

It may be said that the same argument should induce us to increase the compensation of members of Congress, of clerks in the Departments, and of all who are engaged in the civil branch of the public service. But the same argument does not apply. Our service here is voluntary. The service of the gentlemen engaged in the various Departments of the Government is voluntary. They can leave their positions, and return to other pursuits in life whenever the compensation they receive is insufficient for the support of themselves and families. It is not so with our seamen and our soldiers, even when they enter the service voluntarily. Once there, they must remain, and their families are compelled to submit to all the privations incident to this depreciation of the currency, and the increase in the price of the necessities of life. Now, if the pay heretofore given to these men was but a fair compensation, is there any reason why we should not pay them now an amount equivalent to what we have heretofore paid them? Then a dollar was worth a dollar, and the price of the necessary articles of consumption was low; but now, when our currency has been so much depreciated, it does seem to me that those who uphold our flag upon the sea, and peril their lives in defense of that flag, that they and their wives and children ought to be taken care of by our Government, and ought to receive a fair equivalent for their services, their exposure, their labor.

But, sir, I do not propose to consume the time of the committee. I have thus hastily laid this question before them, and I ask for their candid consideration. What I propose in my amendment is simply this: that hereafter sailors shall be paid in gold or its equivalent. I presume that this country is rather too destitute of the precious metals at this time to pay them in gold; but the amendment provides a method by which that difficulty may be obviated, the Government having the option of paying them either in gold or its equivalent, which equivalent is to be fixed by the Secretary of the Treasury. If the ten or fifteen dollars a month paid them three years ago was but a fair compensation for their services, is it not right that they should still receive what is equal in value to ten or fifteen dollars in gold? Especially is it not right when we consider the vast increase in the price of the necessities of existence? Is it not fair and right that we should protect the sailor from the consequence of the depreciation of currency and the enhancement of prices, and guard his family against want and destitution? I think it is, and therefore I have offered the amendment.

Mr. STEVENS. I move to amend the amendment by striking out "gold or its equivalent" and inserting in lieu thereof the words "lawful money of the United States." Mr. Chairman, I never heard of any officer of this Government objecting to receiving lawful money of the United States for his services. I am sure that no soldier or sailor has ever objected to it. I am sure that no patriotic citizen has ever objected to it; and as for the others, I don't care what they object to. [Laughter.] But I presume the object of the gen-

tleman from Illinois in offering his amendment was to prevent the payment of our soldiers and sailors in the depreciated currency of State banks—of western and middle States banks.

I suppose that is what the gentleman is desirous of getting at. I am quite sure he does not mean to say that when the Government of the United States employs anybody it is not fair to pay him in the money of the United States. I have therefore attempted to avoid the difficulty which the gentleman seemed to anticipate from the payment of sailors in the depreciated currency of western banks—for that is the only depreciated currency in the country—by requiring that they shall be paid in lawful money of the United States. I know of nobody who will object to that, except the gold speculators and bullion gamblers of New York and parts adjacent.

Mr. BROOKS. I oppose the amendment to the amendment. This is a question, Mr. Chairman, which deeply interests my constituents, many of whom are in the naval service. There are distinctions already drawn by the United States and by the laws of the United States in regard to the mode and manner in which public creditors shall be paid. The greatest of the creditors, the noblest of the creditors, the most patriotic creditors of the Government, are those who bear the country's flag upon the ocean, protect her commerce, and aid in preventing the interference of France or England in the rebellion now existing. There are no creditors like these, none so patriotic, none so well deserving of their country. If preference is to be given to any class of men it should be given to that class which, on the ocean, in tempest and in calm, by night and by day, on all occasions and at all times, not only protect the vast coasts of this country, but are in a position to resist all aggressions threatened from abroad. But there are other classes of public creditors already protected by the legislation of the country; and the only object of the amendment of the gentleman from Illinois is to bring the sailors and seamen and commissioned officers of our Navy into that category of preferred creditors.

Now, who are these preferred creditors? Our ministers at England, at France, and at all the other courts of the world; our consuls who cover the East and the European continent. They are not content to receive their pay in what the gentleman denominates "lawful money of the United States," but they receive from this Government gold and silver only in payment for their services in foreign lands.

In what attitude does the United States itself stand to all the importers of this country? Gold was yesterday 158 per cent. in New York. The tariff of the United States, imposed for the protection of domestic manufactures and for the support of the Government, when it fixed the rates of duties on foreign goods at thirty, forty, or fifty per cent., makes these rates payable, not in lawful money of the United States, but in gold.

The Government has insisted upon the letter of the law, has insisted upon its importers paying for every dollar of duties exacted upon their goods in New York fifty-eight cents premium upon what the law intended at the time that law was made. No article can be imported from abroad, not even the arms and munitions of war, not even the iron plating for our naval vessels so necessary for the defense of our coast and the protection of our commerce, without paying at the custom-house its tariff in specie or in gold.

The Government of the United States, then, in this distinction which it draws for itself in the payment of its duties and the payment of a certain class of its creditors, recognizes the principle for which the gentleman from Illinois contends, that in the same description of funds which the Government exacts for itself, it should pay the gallant defenders of the country and the soldiers who are upholding with their lives the honor and flag of the country.

What is the next preference which the United States Government gives to its creditors? A loan of \$500,000,000 has just been taken by the capitalists of the country. It is nominally a six per cent. loan, but the actual interest upon it in the lawful money of the country is nine per cent.; and while you are borrowing this money from the capitalists—who, be it spoken to their credit and their honor, are pouring it out into the Treasury of

the country without stint—while they are receiving the payment of their interest in gold and silver upon that debt, all the gentleman from Illinois asks is that what you do to the capitalists of the country, that the preference you give to them in the loan, the interest of which is paid in gold and silver, you shall also do and give to the sailors of the Navy. I do not mean necessarily that you must pay them in gold and silver, but that you pay its equivalent in the lawful money of the United States.

The principle advocated by the gentleman from Illinois [Mr. J. C. ALLEN] is right, that where there are preferred creditors, and preferred modes of doing business, the soldier and the sailor should have the first preference.

In point of equity, too, it is also right. It is but proper that we should pay out the sums of money we receive, of the same description of money which we receive, or its equivalent, to the sailors of the Navy. We are now paying them in a currency greatly depreciated, depreciated to an extent of requiring \$1.58 to make the equal of a dollar of the money you contracted to pay them. It is impossible for the sailors of the Navy to live upon that pittance, and much less is it possible for them to provide for the support of their families. No bounty is given them; no three, four, five, six hundred dollars, which you pay to the volunteers of the Army, is given to them. The gallant tars of New England and New York which man our vessels-of-war for the defense of our coasts and the protection of our commerce, these men have volunteered without bounty, but these men have expected from the United States that preference in the payment of their wages, that equal and exact justice which is given to the foreign minister, the foreign consul, the bondholder, and which the Government of the United States exacts for itself. They have expected this, and they demand that equal and exact justice shall be done them.

Mr. Chairman, there is no terrifying sum involved in the amendment of the gentleman. There is nothing alarming in it. The appropriation of this section is only \$19,000,000. The sum is not large. The United States by economy elsewhere, such as I hope may be practiced, is entirely able to pay this amount in gold and silver to the sailors who are now in our Navy. It will not impoverish this Government; the sum can easily be saved elsewhere. We have saved \$900,000, almost a million, of it to-day in curtailing the appropriations for this Capitol, and we can save it all by economy in other matters. But economy, a sordid economy, is not proper in the payment of the gallant defenders of our country.

Mr. A. MYERS. I hope, Mr. Chairman, the country, which reads the record of our proceedings, will not come to the conclusion that we have had a bill before us to increase the pay of our sailors and soldiers; because, upon that assumption, from the little debate that has taken place, the inference might be drawn that this side of the House was against such increase.

I do not know, I am not sufficiently acquainted with the laws that regulate our Navy Department, to know whether we have, in this way, the power to increase the pay of our sailors or not. Perhaps that belongs to the head of the Department. But, whether we have that power or not, we have certainly the power, at the proper time, to increase the pay of the soldier. And we have the power to do both; and the other side of the House may discover, when the proper time comes, that we are willing to exercise it.

I ask the pardon of the committee for saying one word or for occupying their time for a moment. I do not know that this is the place to make stump speeches, though I have nearly come to the conclusion that some of us think it is.

This bill, as I understand it, appropriates large amounts of money for certain specified purposes, and I am opposed to these propositions of independent legislation upon such a bill, when we have it within our power to consider that legislation legitimately and directly at another time and in another way.

I have noticed on several occasions like this that several honorable gentlemen whose experience in parliamentary proceedings is far greater than mine, take occasion to raise points, make arguments, and state facts, the tendency and effect

of which is to leave upon the public mind the impression that this side of the House are opposed to any increase in the pay of the soldier or sailor.

Now, I do not know that these are the motives of the honorable gentlemen; I believe that to charge that upon them would be unparliamentary and perhaps unkind; but, sir, when the proper time arrives they may find that we upon this side of the House will be ready to introduce propositions, and in the proper manner sustain them, that will do full justice both to the sailor and to the soldier, to the full extent that the necessities of the Treasury will permit. If gentlemen upon the other side will only wait until the loyal majority which controls the action of this House are ready to take action in this matter, we can avoid all this trouble on unseasonable occasions about the poorly paid sailor and soldier, and the necessity of the increase of their monthly pay.

Perhaps the honorable gentleman from Illinois, who offers this amendment, might include Congressmen in his charitable list. Well, sir, I do not say that I would object to that, though I am well aware that it is an unpopular proceeding for a man to advocate the increase of his own pay. However, I will not express at this time an opinion upon that subject; nor will I say whether, in my judgment, it is necessary or not. I prefer for the present to keep quiet upon that point. [Laughter.]

I understand the object and the sole object of the bill under consideration to be the appropriation of a certain amount of money for certain specified objects relating to a particular branch of the public service; and I ask why it is that upon such a bill it is sought indirectly to increase the pay of persons in the employment of the Government?

Let us legislate upon the matter legitimately before us, and when the proposition of increased pay comes up legitimately we can consider it and vote upon it. Why, sir, in listening to this debate, if not a member of the House, I should almost suspect the motive of the gentleman who offered this proposition. Knowing the arguments that have been advanced upon other subjects, listening to the kind of propositions that have been made, and watching the character of the votes given, I say I am almost ready to suspect the motives of gentlemen who pretend, or say, they sincerely entertain a desire to pay the soldier and sailor in gold and silver. I do not know but that the motive may possibly be that gold and silver are so difficult to procure that if members can only get a law passed accomplishing that object, it will tend greatly to embarrass the Government, which they greatly desire above all things.

I hope no one entertains such a desire; but when we look at the course pursued by some gentlemen in relation to other matters and the motives which seem to actuate them—when we see, for instance, the dislike they have to taking the property of the rebels to replenish the public Treasury—it is difficult not to suspect the motive which led to the bringing forward of this kind, charitable, loyal, patriotic, sailor-loving, sailor-revering proposition.

Sir, this side of the House is behind that in nothing that relates to love for the soldier and the sailor and his payment in the best way the Government can pay him; and when that question comes properly before the House we shall make our intentions manifest in that respect.

But, Mr. Chairman, I am not sure that the sailors are so very poorly paid now if the prizes that are taken are properly distributed among them. I may be wrong in making that suggestion, for it may lead to the submission of an amendment to the gentleman's proposition now before us. But I say, nevertheless, that it may be, after all, that if the prizes taken are properly distributed among the sailors and the brave officers who command them upon the seas it may turn out that our sailors are not poorly paid.

I am under the impression that our soldiers do not take many prizes that inure to their benefit. In fact, about the only land craft that runs without grounding is the negro, and in him we do not recognize any kind of property that we can divide. [Laughter.]

But I come back to this inquiry: is the motive which prompts this amendment at this time and to this bill, to pay the soldier and the sailor in gold and silver, one having reference to the benefit

of the soldier and sailor, or to the embarrassment of the Government? When this kind of argument is made—and these speeches delivered here, I cannot help inferring that the object is to put this side of the House in the wrong; and when I saw what seemed to me to be such an effort, I did not like to keep my seat without attempting to look to the bottom of the matter.

The soldier and sailor, when looking at the source from whence this proposition comes, and at the efforts which have heretofore proceeded from that source, will be constrained to feel a little as Demosthenes did when, in the midst of an eloquent oration in the Athenian Senate, all at once those who had been his lifelong opponents in every measure and every proposition commenced to clap their hands and stamp their feet. The earnest old man raised his eyes and exclaimed, "Ye gods! what's wrong? My enemies applaud." [Laughter.]

Mr. J. C. ALLEN. I desire to say two or three words in reply to the gentleman who has just taken his seat. I have offered a simple proposition to amend a paragraph in the naval appropriation bill. I offered it in good faith, and in my humble way accompanied it with such reasons as suggested themselves to me why it should be adopted.

I do not profess, like the gentleman from Pennsylvania [Mr. A. MYERS] who has just taken his seat, to be able to look into the human heart and read motives. I have been taught all my life to believe that there was but One, and that One not of us, who could read motives. It may be that the gentleman from Pennsylvania is gifted with a power and prescience beyond that of his fellow-men in this respect. It may be that he is endowed with a power of penetration and of vision beyond that which is vouchsafed to others, for it is said that the Almighty can, and does sometimes, select the weakest of his creatures to confound the mighty. [Laughter.]

Mr. Chairman, I repeat that the proposition which I submitted was offered in good faith; it was offered for the purpose of taking the sense of this committee as to whether they would pay to the seamen and sailors a compensation adequate to their support and the support of their families. And without coming at once boldly up and meeting the question involved in that proposition, gentlemen upon the other side of the House have attempted to defeat the proposition by discussing questions not involved in the amendment and not germane to it.

The gentleman from Pennsylvania who first replied to me, [Mr. STEVENS] attempting to evade the force of the proposition, suggests that perhaps we were looking to the payment of our seamen and sailors in the worthless bank currency of the West. I tell the gentleman from Pennsylvania that I know of no officer of the Government, no soldier, sailor, or seaman, that has ever been paid in anything other than the lawful money of the Government, until certain agents were sent to us in the West who did endeavor to swindle the soldiers by paying them in worthless bank currency instead of the lawful money of the Government. For that we are not responsible.

Sir, we have no worthless bank currency in circulation in the West, unless all the currency we have is worthless. The currency of the banks which circulate at all is equal in value to the greenbacks.

Mr. ORTH. With the permission of the gentleman from Illinois, I desire to ask him who are the western agents he makes reference to that came there to swindle the soldiers?

Mr. J. C. ALLEN. I am not able at this moment to furnish the gentleman with the names. I recollect a good deal of complaint was made of the matter. If the gentleman will look over the war records he will be able to find the names of some of the parties to whom I refer; and if he will go to the Old Capitol prison I think he will find some of them there.

To return to the point from which the interogatory of the gentleman from Indiana led me, I was proceeding to say that the bank currency in circulation in the West is equal in value with the greenbacks; it is received and paid out without discount; it is redeemed at the banks in greenbacks, and we know no difference in its value and that of the currency of the Government as a circulating medium.

But, sir, I reply to the gentleman from Pennsylvania, [Mr. STEVENS] that I had not in contemplation at all the payment of our soldiers or sailors in any currency other than that of the Government, that which the Congress of the United States declared should be received and paid out in payment of debts, although they may have been contracted for in gold and silver, that which was declared a legal tender for that purpose.

Now, sir, I shall not undertake to make or repeat an argument to prove that the legal-tender currency is not equal in value to gold and silver. Quotations of the gold markets make that apparent. Nor does this proposition come from me as a gold speculator. I have not been speculating in gold. We have no gold left in the western country to speculate in.

Mr. STEVENS. I think the gentleman from Illinois misunderstood what I said upon that point. I did not say the proposition came from a gold speculator. I said I thought nobody would complain of the medium of the lawful currency of the Government except the gold speculator of New York. I did not at all include the gentleman from Illinois. I should not have done it if I had known he had gold to speculate with or not. I do not know whether he has or not.

Mr. J. C. ALLEN. It is very possible I may have misunderstood the gentleman from Pennsylvania, for I heard him very indistinctly upon that subject. What I desire especially to say is this: that if the pay of the sailor or seaman is inadequate, it is the duty of this committee, and it is our duty, when we go into the House for the final consideration of this bill, to say so upon record; it is the duty of gentlemen upon the other side of the House, as well as upon this side, if they do not like the proposition I have suggested—and it is the best that occurred to me at the moment—to bring forward some other proposition better matured for the accomplishment of the object, and not require all the dangerous and arduous services of our sailors, our seamen, and our soldiers, to be rendered for a pittance entirely inadequate for their support, and wholly inadequate to support their families, to prevent their wives and children from being driven to destitution, and to beggary, to avoid starvation.

Sir, I bring this proposition home to this committee, and I am willing to make it a test of loyalty, whether gentlemen are willing to provide a remuneration that will furnish a competence for the families of those who bear our flag upon the waters, as well as those who bare their breasts upon the battle-field. I do not intend that gentlemen upon the other side of the House shall escape by bringing into it questions of my loyalty and patriotism of my motives in submitting this amendment.

Mr. Chairman, if we are able to pay any of the officers of the Government, if we are able to pay ourselves from the public Treasury, in God's name let us pay those who are performing the more dangerous and the more arduous duty of defending our rights and the homes of our wives and children. Let us give them a fair compensation for their time and for their labor. I do not intend that this committee shall be diverted from the purpose of my amendment by these appeals to party prejudice, or by these insinuations against the loyalty of those who see fit to offer such propositions or advocate them.

Mr. STROUSE. I did not intend to take any part in this controversy whatever. I am entirely too much indisposed to do so satisfactorily. Still, I believe it to be my duty to say a word at this time. My own judgment accords to a very great extent with the position assumed by the gentleman from Illinois, [Mr. J. C. ALLEN.]

A remark was made by my colleague, who spoke some moments since, [Mr. A. MYERS], about the loyalty of the majority which controls the action of this House; that they would regulate this matter.

Mr. Chairman, there should be no party discussion upon the subject of a necessary appropriation of money to pay the men employed in the public service. Sir, it is unfair and ungenerous to indulge in partisan language of that kind, at this time, upon a matter like the one at present before the House. I claim, as a Representative of the Keystone State, which I have the honor, in part, to represent upon this floor, with my col-

leagues upon the other side of the House, to be quite as loyal as they are in every respect, and under any and all circumstances. What their definition of the term "loyalty" is, I may not know, but when my colleague talks of loyalty, loyalty to the Constitution, loyalty to our institutions, and loyalty to our laws made in pursuance of the Constitution, I claim the right to say here upon this floor of the national Congress that I am the peer of any of these loyalty gentlemen in everything that is in fact loyalty.

If I choose to criticise the acts of the Administration, I am exercising a right which pertains to the loyalty of a member of the American Congress. And when we ask that our seamen, soldiers, and marines shall be paid a larger amount than they now receive, whether to be paid in gold or its equivalent in greenbacks, I say that, in my humble judgment, the proposition should commend itself to the sense of right and justice of every member of this body.

Now, sir, I do not say we should pay the sailors, seamen, or any men in the employ of the Government in gold, or in specie, because, as was remarked by the chairman of the Committee of Ways and Means, we have not the gold to pay them with. There is not enough gold in the hands of the Government to pay them. Circumstances have placed us in a position which renders it impossible.

But, sir, I think it is right and proper that at this time there should be an increase in the pay of the men who peril their health and their lives abroad in distant lands and seas sufficient to furnish not only a support to the men themselves but to support their families at home. And when a proposition is submitted thus to increase the pay of the men who are doing service for the preservation of the country and its institutions, I care not whether it comes from this side of the House or from the other side, I protest against its being made the ground for an attack upon our loyalty.

The term in modern phraseology I know has a peculiar significance; but, sir, I say here, as I will say it always, that we hurl back any insinuation or inference against our loyalty in the teeth of those who make it. Our patriotism requires no trumpeting. We do not belong to the "lat-tar-day saints," and can look complacently upon these modern loyal philanthropists, who denounce every conservative and Democratic member who is not, like themselves, fatally bent upon "unconditional loyalty" and crazy on abolitionism.

We advocate this proposition in good faith for the benefit of those who are fighting for the preservation of the Union. We want that they shall have an increase of pay so that their families may be saved from ruin and destitution. If they cannot be paid in gold, let there be an equivalent increase of pay. We ought to recollect that many of our sailors and naval officers are upon foreign stations where the currency of our Government cannot be called a circulating medium. It is right and proper that something should be done so that they shall receive what was promised to them, and not one half or one third the amount. When we appropriate millions and hundreds of millions, it is proper that we should be just, if not generous, to these brave men to whom we are indebted for the victories of our arms, and the greatness and glory of our country, past and present.

Mr. MORRILL obtained the floor, but yielded to Mr. STEVENS, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the special order, being bill of the House No. 156, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864, and had directed him to report the same back with sundry amendments; and also that the committee had had under consideration the Navy appropriation bill, and had come to no conclusion thereon.

And then, on motion of Mr. STEVENS, (at half past three o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, January 27, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

Mr. WILSON. As I understand the reading of the Journal, reference is made there to a letter addressed by the Senator from Kentucky to the chairman of the Military Committee. I should like to hear that part of it read again.

The Secretary read, as follows:

"The Senate resumed the consideration of the resolution submitted by Mr. WILSON, the 8th instant, to expel from the Senate the Hon. GARRETT DAVIS; and

"Mr. DAVIS having called for the reading of a letter addressed by him to the chairman of the Committee on Military Affairs and the Militia, disavowing any purpose in the resolution submitted by him on the 5th instant to incite the Army to mutiny, or the people to sedition or any violence whatever, and the letter having been read by the Secretary."

Mr. WILSON. I think there is a mistake about that. I have received no such letter. I think that letter must have been addressed to the Committee on the Judiciary, and it ought to be so recorded.

The VICE PRESIDENT. The original letter appears to have been directed to the Military Committee, and the Journal is therefore right. The Senator from Kentucky is understood to have intended to address it to the Committee on the Judiciary, and the Chair believes he desires to have the letter and record changed to correspond with what was his design.

Mr. WILSON. Then the Journal will be corrected accordingly.

The VICE PRESIDENT. The Journal will be so corrected.

PETITIONS AND MEMORIALS.

Mr. SHERMAN. I desire to present a memorial of a large number of rectifiers, distillers, and merchants of the city of Cincinnati, remonstrating against the proposed tax upon spirits on hand, stating at some length their reasons for their opposition to the tax. This memorial comes to me in the form of a telegraphic dispatch, and therefore is not signed by the persons purporting to sign it; but as I know many of them to be leading citizens of the city of Cincinnati, I take the liberty of presenting it, though I know it is not exactly according to the rules of the Senate. I ask that it be referred to the Committee on Finance.

The paper was so referred.

Mr. FOOT presented the report of Thomas U. Walter, architect of the United States Capitol extension, made to the Secretary of the Interior, in relation to the appropriation for carrying on the work of the two eastern porticoes and steps of the Capitol extension; which was ordered to lie on the table and be printed.

Mr. WILSON. I present the petition of Elizabeth A. C. Akers and other ladies employed as copyists in the Quartermaster General's office, asking for an increase of their compensation, and I move that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. FESSENDEN subsequently said: I observe that a few moments since a petition praying for an increase of compensation was referred, on the motion of the Senator from Massachusetts, [Mr. WILSON,] to the Committee on Finance. The proper business of the Committee on Finance is to examine the appropriation bills and matters already provided for by law. The question of examining how far salaries in the Departments ought to be increased is one that does not belong to us. If it should be decided to be necessary and proper to increase these salaries, the bill making the proper appropriations should be referred to the Committee on Finance. I really hope that this large class of petitions will not be sent to us. As this petition has reference to the War Department, it more properly belongs to the Committee on Military Affairs; and I move that the reference of the petition be changed, and that it be sent to the Committee on Military Affairs.

The VICE PRESIDENT. That order will be made, if there be no objection. The Chair hears none.

Mr. WILSON presented the petition of W. B. Spooner and others, citizens of Boston, Massachusetts, praying for a uniform ambulance system for the armies of the United States; which was ordered to lie on the table.

Mr. HARLAN presented a memorial of the religious Society of Friends in the State of Iowa, praying for exemption from the performance of military duty; which was ordered to lie on the table.

Mr. DOOLITTLE presented the memorial of L. P. Wetherby and others, citizens of Hudson, St. Croix county, Wisconsin, (accompanied by a map,) remonstrating against an appropriation of lands to the State of Minnesota to aid in the construction of a railroad from the end of Lake Superior to the city of St. Paul, to run entirely on the Minnesota side of the St. Croix river; which was referred to the Committee on Public Lands.

Mr. HENDRICKS. I present the petition of the Board of Agriculture of Indiana, praying for an extension of the time within which that State may accept the grant of lands made to the different States for the benefit of agricultural colleges. As that subject is before the Senate, the bill contemplated by the petitioners having been reported to the Senate by the Committee on Public Lands, it is not necessary that any reference of this petition should be made. I therefore move that it lie on the table.

The motion was agreed to.

Mr. CHANDLER presented the petition of George W. Fish, praying for compensation for services rendered as consul of the United States at Ningpo, from the 1st day of April, 1861, to the 8th day of August, 1861; which was referred to the Committee on Commerce.

Mr. HALE presented the petition of Lucy Gwynne and others; praying that a charter may be granted to them as incorporators of Providence Hospital, in the city of Washington, District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. HOWE presented the petition of William D. Colburn and others, citizens of Wisconsin, praying for a modification of the reciprocity treaty; which was referred to the Committee on Foreign Relations.

Mr. MORRILL presented the petition of Charles A. Pitcher, of Washington, District of Columbia, praying for compensation for the use in the penitentiary of his patent for a machine for making brooms; which was referred to the Committee on Claims.

Mr. BEN EYCK presented a petition of citizens of New Jersey, praying for the establishment of a mail route from Egg Harbor City to Tuckerton, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas in favor of auditing and paying the claims of the loyal citizens of that State for losses incurred by the raids and depredations of guerrillas and rebels committed in that State since the commencement of the present rebellion; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred sundry petitions and memorials praying for a uniform ambulance system for the armies of the United States, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred a joint resolution (S. No. 21) to provide for the printing of official reports of the operations of the armies of the United States, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (S. No. 20) extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who entered the service of the United States prior to May 3, 1861, reported it without amendment.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 58) to incorporate the Columbia Railway Company, in the District of Columbia, reported it adversely.

Mr. HALE, from the Committee on Naval Affairs, who were directed by a resolution of the Senate to inquire into the propriety and expediency of providing by law that acting appointments in the naval service be submitted to the

Senate for confirmation in all cases where regular appointments in the Navy are required to be submitted, reported a bill (S. No. 76) relating to appointments in the naval service; which was read, and passed to a second reading.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred the petition of George W. Riggs, jr., president of the Washington Gas-Light Company, praying for a repeal of so much of the section of the act making further appropriations for sundry civil expenses of the Government, approved July 11, 1862, as fixes the price of gas furnished by the company to the Government, reported a bill (S. No. 77) to amend the act incorporating the Washington Gas-Light Company; which was read, and passed to a second reading.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a bill (S. No. 60) amendatory of the homestead law, and for other purposes, reported it with amendments.

BILLS INTRODUCED.

Mr. LANE, of Indiana, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 78) to provide for the safe and speedy transmission of money from soldiers to their families and friends; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 79) to incorporate Providence Hospital in the city of Washington, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 80) to provide for the better organization of Indian affairs in California; which was read twice by its title, and referred to the Committee on Indian Affairs.

PAPERS WITHDRAWN.

Mr. JOHNSON. I ask permission to have withdrawn from the files of the Senate the papers in the case of Hodges and Lansdale, in which I understand there was an unfavorable report made as far back as the 7th of March, 1860. The application is to withdraw the papers that they may be used elsewhere. I do not know whether it can be done or not, sir, but I make the motion.

The VICE PRESIDENT. It can be done by the unanimous consent of the Senate.

Mr. JOHNSON. I ask that consent.

The VICE PRESIDENT. The Chair hears no objection, and the order will be made.

Mr. NESMITH. In the case of Patrick W. Douglas, referred to the Committee on Pensions at the beginning of this session, an adverse report has been made. I understand that the rules of the Senate allow the papers to be withdrawn in such cases where the adverse report has not been acted upon. I desire to state that among the papers of Mr. Douglas are some discharges from the service. It is important that he should have them, not with the view of presenting them again, but for his own protection. I therefore ask that he have leave to withdraw the papers.

Leave was granted.

THE NAVY DEPARTMENT.

Mr. GRIMES. I observe in the reading of the Journal that I have been made a member of the select committee raised on the motion of the Senator from New Hampshire, [Mr. HALE.] I ask the Senate to excuse me from service on that committee.

The VICE PRESIDENT. The Senator from Iowa moves that he be excused from serving on the select committee ordered by the Senate and appointed by the Chair to make investigations into certain matters relating to the Navy Department.

The motion was agreed to.

The VICE PRESIDENT. The Chair will appoint the Senator from Wisconsin [Mr. DOOLITTLE] to supply the vacancy occasioned by the resignation of the Senator from Iowa.

SPECULATION IN GOLD.

Mr. LANE, of Kansas. I desire the unanimous consent of the Senate to propound a ques-

tion to the chairman of the Committee on Finance, as he is in his seat. Some two or three weeks ago I introduced a bill having for its object the suppression of gambling in gold. I should like to know from him what the committee have done or will do upon the subject.

Mr. FESSENDEN. I can only say in answer to the inquiry that the Committee on Finance, or different members of it, have had the subject under consideration, and are still considering it; but we have not yet matured any measure in relation to the matter. We are obliged to give attention to other subjects, though that is of a great deal of importance to be sure. The legislation which has been had does not seem to have produced much effect. The committee as yet have come to no conclusion on the subject, and I cannot give any definite opinion as to what conclusion they will arrive at, nor even as to the time when they will arrive at a conclusion. I will state to the Senator that the subject is also under consideration, as I understand, in the other House, or by the Committee of Ways and Means; and as any legislation on the subject must pass both Houses, I think no time is lost by allowing such period as may be necessary for the careful consideration of the subject, and it is by no means a matter that is free from difficulty.

PENSION APPROPRIATION BILL.

The VICE PRESIDENT. The regular order of business, there being nothing in the morning hour, is the Calendar; and the first bill on the Calendar is the bill (H. R. No. 33) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1865, which is before the Senate as in Committee of the Whole.

The bill was read at length. It proposes to appropriate the following sums for the payment of pensions for the year ending the 30th of June, 1865: For invalid pensions under various acts, \$1,000,000. For pensions to widows, mothers, children, and sisters, under the first section of the act of 4th July, 1836; act of July 21, 1848; first section of the act of February 3, 1853; June 3, 1858; and July 14, 1862, \$2,200,000.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PAY OF INSPECTORS OF CUSTOMS.

Mr. FESSENDEN. I move to take up a little bill reported from the Committee on Finance authorizing an increase of the pay of inspectors of customs.

The motion was agreed to; and the bill (S. No. 66) to increase the compensation of inspectors of customs in certain ports was read a second time, and considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to increase the compensation of inspectors of customs in such ports as he may think it advisable so to do, and may designate, by adding to the present compensation of those officers a sum not exceeding one dollar per day.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. FESSENDEN. I was about to say a word in explanation of this bill, but no Senator seems to desire it. The Committee on Finance are exceedingly averse to, and as a general rule set themselves against increasing pay in any case whatever. It is only in very special cases, where they are convinced that it is absolutely due as a matter of justice and necessity to officers, that they cannot get along without it, that they consent to take the matter even into consideration. This bill is exceedingly limited. There are certain ports in the United States, undoubtedly, where the compensation of inspectors of customs should be increased. It is now less than \$1,000 a year, and it has remained so for perhaps more than half a century. The committee have come to the conclusion that it ought to be increased in certain places, and they left the designation of those places to the Secretary of the Treasury, being unable to obtain the kind of information that would enable them to do it. They are very few, however. I think there is no objection to the bill as it stands, and as a matter of justice it ought to be passed.

The bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 156) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864; in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which thereupon received the signature of the Vice President:

A bill (H. R. No. 33) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1865;

A bill (S. No. 49) relating to the admission of patients to the hospital for the insane in the District of Columbia;

A joint resolution (S. No. 2) expressive of the thanks of Congress to Major General Nathaniel P. Banks and the officers and soldiers under his command at Port Hudson;

A joint resolution (S. No. 3) expressive of the thanks of Congress to Major General Joseph Hooker, Major General George G. Meade, and Major General Oliver O. Howard, and the officers and soldiers of the army of the Potomac;

A joint resolution (S. No. 5) of thanks to Major General Ambrose E. Burnside, and the officers and men who fought under his command; and

A joint resolution (S. No. 14) presenting the thanks of Congress to Cornelius Vanderbilt for a gift of the steamship Vanderbilt.

HOUSE BILL REFERRED.

The bill (H. R. No. 156) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864, was read twice by its title, and referred to the Committee on Finance.

ENLISTMENTS IN THE ARMY.

Mr. WILSON. I move now to take up for consideration the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes.

Mr. CONNESS. If the Senator from Massachusetts will permit me, I should like to call up Senate bill No. 60, reported from the Committee on Public Lands this morning. It will not occupy perhaps more than a few moments in its consideration. The bill referred to by the Senator from Massachusetts is one of general importance. I will say one word in explanation of the bill I desire to have taken up. It proposes amendments to the homestead act of great consequence to the people of our country. It proposes no change that the Senate will not probably readily assent to. I ask the consent of the Senate to consider it now.

Mr. CLARK. Unless there is some very urgent reason for haste, I think that bill had better be postponed a little longer.

Mr. CONNESS. There is, in this: that it proposes to extend to citizens of the United States who are soldiers in the Army or are engaged in the naval service the privileges of that act. They cannot now avail themselves of them until this amendment shall be passed.

Mr. CLARK. I will say to the Senator from California that I read the bill over, but did not have an opportunity to consider it as long as I might desire; and the Senator knows very well that neither he nor I have very much time to spare. If he will let it lie over for a day or two I will give my attention to it and examine it. I do not mean to say by this that I am not entirely in favor of it. I think I am, as I understand it.

Mr. CONNESS. I consent to that, and will waive my motion.

The VICE PRESIDENT. The Senator from Massachusetts moves to postpone all prior orders, and that the Senate proceed to the consideration of the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. GRIMES. I propose to amend the bill in lines ten and eleven of section two, by striking

out the words "two months' pay in advance," and inserting, "such sums in bounty as the President shall order in the different States and parts of the United States, not exceeding the sum of \$100;" so that the clause shall read:

And that every person of African descent who shall hereafter be mustered into the service shall receive such sums in bounty as the President shall order in the different States and parts of the United States, not exceeding the sum of \$100.

I will state my purpose in offering this amendment. I think that if a colored man enlists in Massachusetts or Rhode Island or Iowa, and goes into the Army for the term of three years, and serves the country, he ought to be and is entitled to a bounty. It may be possible that this class of troops may be secured for a very small bounty in some portions of the country, as in South Carolina or Alabama or Louisiana; and if so, while the President paid \$100 in the States which I have named to free colored persons as a bounty for enlisting in the Army, he would, under this amendment, be authorized in these other States to give such smaller sum as he might find from experience or from representations made to him by the proper officers it might be necessary for him to give. I received a letter a few days ago—I regret that I have not got it with me—from a gentleman in Missouri speaking of the necessity of something being done in this connection. He said that at present there was only a sum of two dollars paid to any person there for a colored recruit, either to the colored man who enlisted or to any person who might be engaged in securing him for the service; but that if there was a bounty of twenty or thirty dollars paid, a vast number of these persons might be collected into the service. This is the object of the amendment, and I think it a very laudable one.

The amendment was agreed to.

Mr. POWELL. I move to strike out the third section of this bill; and I ask the Secretary to read it.

The Secretary read it, as follows:

Sec. 3. And be it further enacted, That when any person of African descent, whose service or labor is claimed in any State under the laws thereof, shall be mustered into the military or naval service of the United States, he, his mother, and his wife and children, shall forever thereafter be free, any law, usage, or custom whatsoever to the contrary notwithstanding; and all laws and parts of laws inconsistent herewith are hereby repealed.

Mr. POWELL. Mr. President, this section of the bill, to my mind, is clearly and palpably unconstitutional. I should like the chairman of the Military Committee, who reported the bill, to point me to the clause of the Constitution which authorizes the passage of such a section as this. I believe it has heretofore been admitted on all hands, by all political organizations of this country, with very few exceptions, that the institution of African slavery in the States where it exists is a matter of local concernment that cannot be interfered with by the action of the Federal Government. Now, this section proposes that if a man of African descent shall be enlisted in the Army or join the Army of the United States, not only he himself, but also his mother, his wife, and his children shall all be free in consequence of that act, any law or usage or custom to the contrary notwithstanding. Well, sir, suppose that a slave belonging to a rebel in the State of Mississippi, if you please, or any other State, were to enlist into the Army, and he should have children or a mother or a wife, who were the slaves of loyal men in adhering and loyal States, under this provision they would be free, provided this law could have any efficacy whatever. There is certainly no power in this Congress to pass any such law. It is depriving loyal men of loyal States of their property by the legislative enactment of this Congress.

It was very distinctly and clearly set forth even in the Chicago platform that each State has a right to regulate and manage its domestic institutions in its own way. The truth is that the question is too plain for argument; but I should be obliged to the gentleman who reported this bill if he would indicate to us the clause in the Constitution that authorizes this section. He certainly will not contend that we can do things here in our legislative capacity when there is no power conferred upon us by the Constitution of the country to do them.

But, sir, I shall say no more at present. I de-

sire to hear what vindication can be made of this section. It seems to me to be so clearly a violation of the Constitution, that I feel confident the Senate will not for a moment hesitate to sustain the motion I have made to strike it out. It is palpably wrong in every respect. It deprives men of their property, and declares free the slaves of men who live in loyal States, who have been always loyal, and whose property has not been used in any way to promote or to aid the rebellion, merely because the kindred, perhaps in some other States, of one of their slaves has joined the Army of the United States.

Mr. HENDERSON. Is it in order to move an amendment to this section before the vote is taken on striking it out?

The VICE PRESIDENT. It is.

Mr. HENDERSON. Then I move to amend the section by striking out the words "his mother, and his wife and children," in the fifth line; and after the word "notwithstanding," in the seventh line, to insert "and his mother, his wife and children shall also be free, provided that by the laws of any State they owe service or labor to any person or persons who have given aid or comfort to the existing rebellion against the Government since July 17, 1862."

Mr. GRIMES. I believe the amendment proposed by the Senator from Missouri is substantially the law as it stands to-day. Any person of African descent now held in bondage, and whose service is claimed by a person in rebellion, or who has furnished aid and comfort to the rebellion, if he enlists into the service of the United States becomes a free man. The proposition in the third section of this bill is to extend that existing law so as to set free any colored person, whether he belongs to a loyal citizen or to a disloyal citizen, if he shall enlist into the service of the United States and shall remain in the service for the period of three years.

Mr. JOHNSON. Without compensation to the owner?

Mr. GRIMES. That is a question which is not provided for in this bill, but which will undoubtedly come up hereafter. If the Government sets free a person to whom some one has a legitimate and legal claim, recognized as such by the Government, unquestionably he would be entitled to pay. The reason why I shall vote for this section is that I am exceedingly anxious to pass a law by which it shall be declared that if a man who has periled his life for me and for the institutions of my country at Port Hudson—I care not what kind of a claim may be set up to his service or who may set it up—is claimed by any one, that claim shall not be regarded. I am unwilling that after he has thus periled his life and been wounded in my defense, he shall be taken off to slavery by any person or under any sort of institution. I think that such a proposition as this will meet the approval and commendation of the country, and I rejoice that the Senator from Massachusetts and the Committee on Military Affairs have given us an opportunity to record our votes in favor of it.

Mr. WILKINSON. There is no necessity for the adoption of the amendment offered by the Senator from Missouri. The thirteenth section of the act of July 17, 1862, "to amend the act calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, approved February 28, 1795, and the acts amendatory thereof, and for other purposes," contains the following proviso:

"Provided, That the mother, wife, and children of such man or boy of African descent shall not be made free by the operation of this act except where such mother, wife, or children owe service or labor to some person who, during the present rebellion, has borne arms against the United States or adhered to their enemies by giving them aid and comfort."

That is the law as it now stands; and if the Senator from Missouri wishes to carry out the purpose or to retain this provision of the existing law, all he has to do is to oppose this section entirely. I think, Mr. President, that the clause I have just read is the most disgraceful legislation of the Congress which passed that law. It is a disgrace to the nation to pass such a law, and I am very much rejoiced that the Committee on Military Affairs have introduced this bill wiping it out. What are the facts? We muster a man into the service of the United States and free him if he serves in the armies of the Union to put down this

rebellion, but we suffer his mother, his wife, and his children to remain in slavery. What is freedom worth to a man who has served in the armies of the Union to put down this rebellion, if you take his family away from him and keep them in slavery? I believe that the public sentiment of the country requires the adoption of this section; and I should be very much surprised if this Congress, after providing for mustering men into the service of the country, and after declaring that those who serve their country shall be free men, should decide that their wives or their children should remain in slavery. I hope the amendment offered by the Senator from Missouri will not prevail.

Mr. HENDERSON. I certainly, so far as the mere question of the existence of slavery is concerned in any one of the States, care nothing in regard to this amendment. I believe that the amendment adopted in the law from which the Senator from Minnesota read was offered by myself, and I regret very much that the Senator should think that the legislation of itself was disgraceful legislation. That is an opinion of his, an opinion in which I do not concur.

I do not desire that any Senator shall suppose that I have offered this amendment with a view of protecting, in any one of the States, the institution of slavery. I have not been engaged very recently in the protection of that institution; and so far as I can go constitutionally to abolish the institution throughout the country, I most unhesitatingly would do so. I have offered an amendment here to the Constitution in order to get rid of it not only in the border States, but in every State in the American Union, and I shall most cheerfully vote for it, because in that way, in my judgment, we can constitutionally do this thing which seems to be so desirable.

But, Mr. President, the proposition contained in the third section of this bill is, that when a slave, or one who is held as a slave under the laws of one of the States, shall be mustered into the service of the United States, the relatives of that slave shall all be free. I ask the Senator from Minnesota, and the Senator from Iowa, who have advocated this proposition, and I desire them to answer, if Congress has the power by the mere fact of a slave serving for an hour or two hours, or a day, to emancipate all of his relatives, has it not also the power to-day to pass a law emancipating the slaves in Kentucky and Missouri, entirely upon the broad ground that slavery stands in the way of our peace, that it is an institution which has originated the rebellion, and that in order to put down the rebellion it is necessary to get rid of it, and therefore we have the power to pass it?

Mr. GRIMES. Does the Senator desire an answer?

Mr. HENDERSON. I do.

Mr. GRIMES. I will say very frankly that I have not any doubt of it at all, and I shall be very anxious to have an opportunity to vote for the passage of such a law as that.

Mr. HENDERSON. I think the Senator has answered very properly, because his answer now is the proper sequence of the remarks that he has made. I differ from him in that respect. He may be correct; he may be advocating the true and the proper doctrine; but, sir, I differ from his position, and I must say that this doctrine is certainly a very new one. It certainly never has been advocated before in the Congress of the United States.

Mr. GRIMES. For the reason that we have never had a civil war before.

Mr. HENDERSON. Do I understand the Senator to assume the ground that this power would not exist in the Congress of the United States but for the existence of the present civil war? Is that his position? I understand that it is. He assents to it. Well, now, Mr. President, of course, upon an amendment of this character, I am not disposed to go into a discussion of the extended or enlarged powers of the Government during the existence of a civil war. I see no necessity whatever for the legislation proposed in the third section of the bill before us. If I could vote for it I could vote for the proposition which the Senator from Iowa says he is prepared to vote for and which he desires to vote for. That question ought to be tested; and if it be desired to abolish slavery throughout the United States by an act of Congress, let the proposition be made and let us meet the question boldly and manfully. I am no advocate for the

institution, and most cheerfully will I listen to the arguments of the Senator from Iowa to demonstrate to me, if he possibly can, that it is within the power of Congress to pass such an act. This proposition involves that very question, for such a measure is but the necessary logical result of the passage of the third section of this bill. The proposition contained in that section is simply this: that no matter how loyal a man may have been in one of the slaveholding States, no matter whether he may have most willingly given the privilege to any of his slaves to enlist in the service of the United States, no matter whether he may have himself entered the service and given his own sons to the service, you will take his property, that which by the laws of his State is regarded as his property. I speak not of a man in one of the seceded States, but of one in my own State of Missouri for instance, which I deny has ever adopted any act whatever to indicate any purpose of leaving the Union. It is true we have had a great many boisterous spirits that have provoked much difficulty in the State; but I deny that in any proper sense of the word it can be considered a disloyal State. So of Kentucky; so of Maryland. Sir, there are thousands of as loyal men as live who happen to be slaveholders in those respective States. I am satisfied of it; but I know very well that the mere expression of this opinion is calculated in the minds of some gentlemen to cast suspicion upon even my own loyalty. Sir, if I did not know it, perhaps I should think differently, perhaps I should believe as the Senator from Iowa and the Senator from Minnesota do; but I know the fact; I have witnessed it; and knowing it, I cannot speak otherwise than as I have done.

Let me say to the Senator from Iowa and the Senator from Minnesota that my impression is that when you put this rebellion down, slavery forever dies because of the fact that they have organized this rebellion on the existence of the institution; and if the rebellion goes by the board the institution itself goes. I can further state to those gentlemen that I believe no State will again take its place in the Union without first by the action of its own people abolishing slavery. That is my opinion. I have never doubted, I do not to-day doubt, that the very first intimation of this rebellion was the destruction of slavery in this country. I have never changed my mind on that point. I have said it repeatedly. But I do protest against legislation which is calculated, unnecessarily as I think, to irritate loyal men. I see no necessity for it, because our States are coming to the emancipation of slavery, and we are now in my own State putting into the service every man that can serve. We have adopted an act of gradual emancipation, and I think an act of immediate emancipation will be passed in the course of a very short time. Why not let the people themselves take action on this subject without incumbering bills of this character with uncertainties and difficulties as to who may be made free under it?

It is unnecessary for me to repeat what was so ably and eloquently said by the Senator from Vermont [Mr. COLLAMER] at the time this very proposition was under discussion here before. It is one of the misfortunes, one of the difficulties of the institution of slavery that a slave has no wife; and, sir, unless you can determine that fact under the laws of the respective States, I do not see how you are properly to get along with a provision such as is contained in the third section. Besides, the States themselves are marching up to this great work. I have no doubt that within the next twelve months Arkansas will abolish slavery forever and ever; and even if South Carolina, if North Carolina and Virginia should be unwilling to adopt emancipation, and there should be any danger of their returning to the Union with the institution of slavery, the proposition that I submitted a few days ago will rid us of that difficulty. Three fourths of the States can be obtained to vote for the proposition amending the Constitution such as I have submitted, and that forever abolishes the institution of slavery in the remaining one fourth. It ought to be adopted. We ought to get rid of it in this way. I see a determination manifested on the part of the loyal people of this country that slavery shall cease to exist. I do not object to that determination, I am not going to fight against it. Perhaps it is the blessing of all others that is to follow the curses of this re-

billion. Perhaps it will compensate us in some respect for the treasure and the blood expended—

The VICE PRESIDENT. It is the duty of the Chair to remind the Senate that the hour has arrived for the consideration of the special order, which is the unfinished business of yesterday.

Mr. HENDERSON. I have said, Mr. President, all that I desire to say on this subject.

PROPOSED EXPULSION OF MR. DAVIS.

The Senate resumed the consideration of the following resolution, submitted by Mr. WILSON on the 8th instant:

Whereas the Hon. GARRETT DAVIS, a Senator from the State of Kentucky, did, on the 5th day of January, A. D. 1864, introduce into the Senate of the United States a series of resolutions in which, among other things, it is declared that "the people North ought to revolt against their war leaders and take this great matter into their own hands," thereby meaning to incite the people of the United States to revolt against the President of the United States and those in authority who support him in the prosecution of the war to preserve, protect, and defend the Constitution and the Union; and to take the prosecution of the war into their own hands: Therefore,

Be it resolved, That the said GARRETT DAVIS has, by the introduction of the resolutions aforesaid, been guilty of advising the people of the United States to treasonable, insurrectionary, and rebellious action against the Government of the United States, and of a gross violation of the privileges of the Senate; for which causes he is hereby expelled.

The pending question being on the amendment proposed by Mr. HOWARD, to strike out the word "expelled" and to insert the words "censured by the Senate."

Mr. MORRILL. Mr. President, but two or three propositions occur to me as pertinent or desirable to be considered upon the question now before the Senate. On the 5th of January the Senator from Kentucky, rising in his place and claiming to exercise the privilege of a member of this body, introduced a series of resolutions that have attracted subsequent debate. On the 8th of January the Senator from Massachusetts introduced a resolution arraigning the Senator from Kentucky, so to speak, for a breach of the privilege of the Senate in the introduction of his resolutions and proposing his expulsion. The Senator from Michigan [Mr. HOWARD] yesterday proposed to modify the resolution of the Senator from Massachusetts by providing for the censure of the Senator from Kentucky, in lieu of the proposed expulsion. To this arraignment, so to speak, the Senator from Kentucky has replied that his resolutions were well considered, thoughtfully considered; that they were prepared with deliberation; that he had thought upon the topics introduced in them; that he deliberately planned and executed the resolutions, and that he stands by them to-day.

This resolution and the whole subject-matter of it raises in my mind simply a question of privilege. The only question for us to consider is whether the Senator from Kentucky, according to the principles of parliamentary law which govern all such bodies, and whether within the rules of this body, was privileged to introduce these resolutions.

The honorable Senator from Maryland [Mr. JOHNSON] apologizes, if I may use the expression, for these resolutions. He regrets that they are here. He holds that they are an impropriety. He does not agree with the opinions they express, nor the sentiments they inculcate. He thinks there are many things in them that are manifestly improper; but yet, as I gather his argument, it is that there has obtained in the American Congress, and particularly in this Senate, a practice of doing precisely such improper things, and that this practice running back to a time whereof the memory of man runneth not to the contrary has become a second privilege in the Senate; and the honorable Senator gives us many instances which he supposes to be parallel, and which afford, if not a justification, an excuse for these resolutions. He has told us that in the war of 1812 the opposition to the management of that war were particularly outspoken upon the conduct of the war. The policy of the war was denounced; the measures of the war and the measures of the Government were denounced in language which he thinks would not compare very favorably with that contained in these resolutions. Numerous other instances of a similar kind are referred to by the honorable Senator as an apology for the impropriety of speech and language contained in these resolutions.

Now, sir, it occurs to me that the cases are not at all parallel. In the first place, it should be considered that nobody questions the right of a Sen-

ator to characterize the acts of the Government in legitimate debate. Nobody would arraign the Senator from Kentucky if, upon a question before the Senate, he should characterize the acts of the Government as he might deem proper. The distinction which I think is obvious between the case put by the honorable Senator and the case before the Senate is that the opposition in 1812, when the measures of the Administration were before the Senate and before the Congress, undoubtedly did characterize them as they might very properly do without being held responsible elsewhere, in the language of the Constitution.

Again, the honorable Senator thinks that the Senator from Kentucky is excusable on the score of his known patriotism, his long public career, his purity of life, &c., and this patriotism, he thinks, has been exhibited before the Senate in an eminent degree. He tells you that when a member was arraigned before the Senate on a charge of disloyalty, on the question of his expulsion from this body, among those who were foremost in the support of that charge against that Senator, the Senator from Indiana, was the honorable Senator from Kentucky. I was a little curious after the adjournment yesterday to look at the argument of the honorable Senator from Kentucky on that occasion; and I most heartily approve of the opinions and sentiments therein expressed. What was the ground of the honorable Senator against the then sitting member from Indiana? He arraigned him at the bar of the Senate for disloyalty. In what respect? What was the specification and charge? It was that that Senator from the beginning of this great struggle with the rebels had, in the first place, shown no sympathy at all with the Government; and in the second place, from the beginning of the present Administration and the efforts of the Government to put down this rebellion, he told the Senate and the country, and he said truly, that the Senator from Indiana had been opposed to all the measures of the Administration calculated and designed to overthrow the rebellion. From these two arguments, illustrated with great learning and very great research out of the history of the country, he came to the conclusion that it was his bounden duty to vote the vote of expulsion against the Senator from Indiana, because he was faithless in an hour when the perils of the country demanded his fidelity; because he had manifested no sympathy for his Government; and because, moreover, he had shown a disposition to oppose his own individual will to measures which the Government that had charge and direction of public affairs deemed necessary for the prosecution of the war. The honorable Senator from Kentucky in that speech inculcated the doctrine that it was not optional with a Senator on this floor in times like these to set up his individual will against the Government who are to judge of the measures necessary for the prosecution of the war.

Now, sir, I say that an apology based on such a support and such an exhibition of patriotism—and I honor it—is not open to the honorable Senator; because, tried by his own argument, tried by the opinions and sentiments of that speech made against the then sitting member from Indiana, the honorable Senator could not stand a moment in this Senate Chamber on these resolutions; for his resolutions from beginning to end are a comprehensive and sweeping denunciation not only of the policy of the Administration in general, but of all its important measures. He stands here against his doctrines and against his sentiments as uttered in that speech when he was about to give a vote in favor of the expulsion of that Senator. He stands here now manifesting toward the Government of his country not only the utmost hostility, but denouncing in the most sweeping and unmeasured terms of abuse that Government, its policy, and all its measures.

Then the honorable Senator from Maryland thought there was another circumstance which might be pleaded in extenuation or excuse for the confessed impropriety of these resolutions. While listening to the eloquent apology of the distinguished Senator from Maryland, I had almost come to the conclusion that these resolutions, strong as they are, bitter in their tone as they certainly are, and as you will see if you read them, were after all but the expression of his abhorrence of rebellion and his abhorrence also of what he understands to be the arbitrary usurpa-

tions of power on the part of the Government. The Senator from Maryland tells us that on this question there is a variety of opinion; from which I suppose we are to infer that the Senator from Kentucky is not alone in his opinions as to the arbitrary acts of the Government and its manifold usurpations of power.

But, sir, of what does the honorable Senator from Kentucky complain in his resolutions? In substance, his complaints are against the policy of the Government generally, particularly the emancipation of the slaves, confiscation, arbitrary arrests, and last and most sweeping of all I believe is the complaint that the Government of the United States has adopted a policy which in the end will reduce these States to the condition of Territories.

Now, if I understand the argument of the Senator from Maryland on this point, it is that the honorable Senator from Kentucky may be perfectly honest in the expression of these opinions; that he may feel what he utters here; that the country is in danger; and that, in his abhorrence and his apprehension of this arbitrary exercise of power, and its effects upon the country, in his patriotic ardor to serve his country, he utters these sentiments. Let us see whether this is open to the honorable Senator. Let us see whether the record of the Senator will allow him to put in a plea of this sort. Those who know the robust nature and character of the intellect of the honorable Senator from Kentucky know very well that he is the last man in the world who would put in such a plea as that for himself. But, sir, on this question of the exercise of arbitrary power on the part of the Government which has furnished the opportunity, and which justifies the introduction of these resolutions, let us see how the honorable Senator from Kentucky himself stands.

On the 30th December, 1861, the Senator from Kentucky, then recently in his seat, introduced a bill, and with the permission of the Chair I will read a few of its provisions. The first section provides:

"That from and after the passage of this act the following described persons shall be held and taken to be alien enemies to the said United States, for all purposes whatsoever, namely: all persons holding any office under, or in the employment of, or rendering any service, civil or military, to, or in the name of the pretended government of the so-called confederate States of America, or of any State thereof, or of any pretended provisional government of any of the United States; all persons then belonging to, or who may thereafter join, the army or navy, or any military or naval organization, body, or force of the said confederate States, or any of them, or of any pretended provisional government of any of the United States; all persons who may attach themselves to, or aid in getting up, any military or naval organization, expedition, force, or body under the authority, in the name of, or for the benefit of said confederate States, or any of them, or any pretended provisional government of any of the United States; all persons who shall organize, or attempt to organize, or aid in such organization, or in the continuation, or attempt to continue and carry on, any pretended provisional government of any of the United States, or take any office or employment under, or render any service to, or do any act whatsoever for or in the name of any such pretended provisional government of any of the United States; and all persons who may then or thereafter adhere to and give aid and comfort to the said southern confederate States, or to any of them, or to any pretended provisional government of any of the United States."

The next section is in these words:

"That as the persons described in the previous section of this act become to be alien enemies, and simultaneously therewith all their property and estate, of every kind and description, including money, evidences of debt, choses in action, and every right and interest, legal or equitable, in possession, reversion, or remainder, or in any way in expectancy, shall be forfeited to, and be immediately, without any legal proceedings whatever, vested in the United States of America, being, however, subject to the payment and satisfaction of all the bona fide existing debts, obligations, and liabilities to all loyal people of the person or persons to whom the same have belonged, as would have been the case had there been no such forfeiture. And simultaneously with any and every forfeiture under this act taking effect, a lien shall be created and shall then exist upon all estate and property, and every other right so forfeited and vested in the United States, in favor of all persons who are loyal to the Union and the Government of the United States;" &c.

Mr. President, can it be said that a Senator who introduced a proposition so sweeping and comprehensive in its provisions as that would be filled with indignation at the idea that the present Administration proposed to confiscate the property of rebels? Why, sir, in its comprehension and scope this bill, if carried out to the letter, would confiscate all the property, including slaves, in that whole section of country; because when you come to consider the specification of individuals

to whom it applies, you will find it applies to everybody in that whole country who in any way whatever have participated in the rebellion, or in any way given aid and comfort to it.

Then again, sir, at a little later period I find the honorable Senator, who it is now said is so shocked at the exhibitions of arbitrary power and the purpose of the Government in carrying on—

Mr. DAVIS. Will the Senator allow me to interpose a word?

Mr. MORRILL. Certainly.

Mr. DAVIS. If he will read through that bill he will discover that the question and fact of forfeiture there is referred expressly to the civil courts of the country, and is not to be decided by the President or by military tribunals. That is my recollection.

Mr. MORRILL. I think that is so; but that does not affect the force of my argument.

On the 13th of February, 1862, the honorable Senator introduced a series of resolutions in the Senate. In the first place they go on to say what the duty of the Government is in putting down this rebellion; and then the concluding paragraph of the last resolution is in these words:

"And if the people of any State cannot, or will not, reconstruct their State government and return to loyalty and duty, Congress should provide a government for such State as a Territory of the United States, securing to the people thereof their appropriate constitutional rights."

Mr. CLARK. I desire to inquire of the Senator from Maine what is the date of that resolution; if it was not before the President's emancipation proclamation?

Mr. MORRILL. Long before.

Mr. CLARK. There is "a nigger in the woodpile" now. [Laughter.]

Mr. MORRILL. The resolutions were introduced February 13, 1862.

Mr. DAVIS. Will the honorable Senator allow me another word?

Mr. MORRILL. Certainly, sir.

Mr. DAVIS. I hold this to be the correct principle: if a State is in rebellion and has expelled the authority of the United States and her people will not organize a government for themselves, as a matter of right and as a matter of necessity it devolves upon the military commander who has possession of the military department to organize a military government for the time for that country. That, I hold, is the correct principle.

Mr. SUMNER. The resolution says, "Congress."

Mr. DAVIS. We know what the resolution says. It has been read, sir.

Mr. MORRILL. The resolution appeals to the power of Congress in such a case. But what I am introducing here is no part of the argument which I intend to address to the Senate by and by on the subject of these resolutions. It is by way of repelling or replying to the argument of the honorable Senator from Maryland that possibly out of the patriotic ardor of the honorable Senator from Kentucky, out of his apprehensions of the exercise of arbitrary power on the part of this Government, in the ebullition, so to speak, of his patriotism, he had been drawn into these declarations. My object is to show that among those who have been most sweeping in their propositions of confiscation and emancipation and the reduction of States to Territories, nobody on this floor begins to compare with the honorable Senator from Kentucky. When the future historian of this country shall search the records of this Senate to see who was first and foremost in the invention, as it is supposed, of this dogma of reducing States to Territories, if the honorable Senator from Kentucky is disposed to assert his rights, I am sure from the examination I have made he will have the right to patent it as the first discoverer. At any rate he is the first man who promulgated the doctrine in this Senate. The right to reduce a State to a Territory is asserted here, and that it will be the duty of Congress to inaugurate a policy which shall reduce States to Territories and govern them as Territories, to the end that the people may have the rights of self-government and the rights of republican government. I am not quarreling with the Senator about that. I approve it. I congratulated the Senator then when he introduced it. I stand by it now. I wish to God he did. But I suggest that this is an answer to the argument of the Senator from Maryland, that this ebullition of feeling and this

strong denunciation in these resolutions grow out of the fact that the honorable Senator from Kentucky has been shocked by the exercise of arbitrary power on the part of the Government. Sir, from the time the honorable Senator came into this Senate, he has introduced more bills and more resolutions containing propositions for the exercise of power in all these directions, confiscation, emancipation, and the reduction of States, sovereign, independent States, if you please, to Territories, than any other member of the Senate; and it is altogether too late now to talk about him being shocked at the policy of the Government; and it is altogether too late to recite such a fact in defense and as an apology for such an exhibition as is made in these resolutions.

Mr. President, I say that this is a question of privilege, and the question is whether the Senator from Kentucky is privileged, according to the principles of parliamentary law, according to the course of proceedings in this Senate, to offer to the Senate of the United States, and to procure the printing and the entry upon its Journals of such resolutions as these. I suppose the provision of the Constitution which confers the immunity, if it be conferred at all, is that provision which declares that no member of either House of Congress shall be held responsible elsewhere for words uttered in debate. The first proposition which naturally rises upon the consideration of a question of this kind is, are these resolutions to be regarded as words spoken in debate? Surely, sir, there was no question before the Senate when the resolutions were offered which they were calculated to elucidate. It would not be pretended that there was any occasion outside of the resolutions for the introduction of the resolutions. They bore upon no question before the Senate when the resolutions were introduced, and they were not calculated to bear upon any question which the Senator himself then, or at any time after, introduced. If there was no question before the Senate, then there could be no debate before the Senate.

But I do not put myself in the attitude of saying that it is not the privilege of a Senator to introduce resolutions. I understand it to be so; that he may introduce resolutions. That is one of the methods by which the legislation of the country is conducted, and therefore it is legitimate and proper at all suitable times for Senators to introduce resolutions, but they must be resolutions; they must be legislative resolutions, if I may be allowed the expression; they must pertain to legislation; they must raise a question either by asserting a principle or by proposing a question. If these resolutions are examined, they will be found to do neither. They neither declare principles of any kind, nor do they propose a question for the consideration of the Senate. Therefore my first proposition is that they were not in order, and that it was not the privilege of the Senator to introduce them at all. He does not bring himself within his privilege, because the resolutions are not of a legislative character. They neither declare principles, nor do they state a proposition for the action of the Senate.

But, sir, I desire to be a little more specific on this question of privilege of a Senator. Surely it will not be pretended that it is the right of a Senator, under the constitutional immunity that he is not to be held responsible for words spoken in debate, to say in the Senate whatever he chooses on any subject? That would be license. That would not be constitutional privilege. That would not be in any sense what is understood to be parliamentary privilege. That would be license. That might be indecorum. It might be indignity; it might be an insult to the body, and very likely it would be. What is understood by privilege, as I understand in a parliamentary sense, is that the Senator is privileged to speak in debate and not to be held responsible for it elsewhere, to proceed according to the principles of parliamentary law. He is to observe due decorum in his propositions, in his language, and in his debate.

I have one or two authorities before me to which, with the permission of the Chair, I should like to refer as to the limitations of this privilege of debate. I read from an English work, *May's Parliamentary Practice*, page 111, upon this subject, the privilege of debate:

"Liberty of speech is granted you, but you must know what privilege you have; not to speak every one what he

listeth, or what cometh in his brain to utter; but your privilege is 'aye' or 'no.'"

Further:

"But, although by the ancient custom of Parliament, as well as by the law, a member may not be questioned out of Parliament, he is liable to censure and punishment by the House itself of which he is a member. The cases in which members have been called to account and punished for offensive words spoken before the House are too numerous to mention. Some have been admonished; others imprisoned, and in the Commons some have even been expelled."

Again:

"Taking care not to say anything disrespectful to the House, a member may state whatever he thinks fit in debate, however offensive it may be to the feelings or injuries to the character of individuals, and he is protected by his privilege from any action for libel as well as from any other question or molestation."

Within these limitations, I do not question, nobody questions, that the member is privileged to say what he pleases, and to discuss with what freedom he chooses any question which is legitimately before the body. I have another work, an American work on parliamentary law, to which I will also refer. I read from *Cushing's Law and Practice of Legislative Assemblies*, page 259:

"Misconduct of members toward one another consists of insulting remarks in debate, personal assaults, threats, challenges, &c., in reference to which, besides the ordinary remedies at law or otherwise, the assembly interferes to protect the member who is injured, insulted, or threatened. Offenses by members toward other persons, of which the assembly has cognizance, consist only of injurious and slanderous assertions, either in speech or by writing, which, as there is no other remedy, the assembly itself, if it thinks proper, takes cognizance of and punishes."

It is to this doctrine that I desire to call the especial attention of the Senate, for the question here relates, not to language spoken of members of the Senate particularly, but applicable to persons outside of the Senate—strangers, the President of the United States and those in authority; and the doctrine maintained in the text is that it is an offense for a member of Parliament or a members of the House of Representatives or of the Senate in his place to utter words or publish by way of resolution anything of an injurious and slanderous character, either in speech or by writing, which, as there is no other remedy, the assembly will take cognizance of itself.

Now, Mr. President, the question naturally arises, is there anything in these resolutions of the character to which I have referred? Do these resolutions, in other words, contain injurious and slanderous assaults against parties outside of the Senate, either the President of the United States or other parties? If any one has the curiosity to examine these resolutions, he will find that the first twelve of them are simply descriptive. They are descriptive of the powers of the Government. When you come to the thirteenth resolution, you find the following language:

"13. *Resolved*, That at the beginning of the war, under the panic of the defeat of Bull Run, the party in power professed to carry it on for the Constitution, and to put down the rebellion and vindicate the laws and authority of the United States in the insurgent States, and when that was effected it was to cease. But more than a year ago another and a paramount and unconstitutional one, the total subversion of slavery, was inaugurated by them; and at length, to carry on the war in this augmented and perverted form, the annual expenditure, on the part of the United States, has swollen to one hundred thousand lives, a much larger amount of personal disability, and a thousand millions of money, and yet the wisest cannot see the end of the war. Verily, the people North and the people South ought to revolt against their war leaders, and take this great matter into their own hands, and elect members to a national convention of all the States, to terminate a war that is enriching hundreds of thousands of officers, plunderers, and spoilers in the loyal States, and threatens the masses of both sections with irretrievable bankruptcy and indefinite slaughter."

Then in the fourteenth resolution the Senator proceeds:

"That the present Executive Government of the United States has subverted, for the time, in large portions of the loyal States, the freedom of speech, the freedom of the press, and free suffrage, the constitutions and laws of the States and of the United States, the civil courts, and trial by jury."

Now, the question I desire to propound to the Senate is this: is that true? Will it be pretended that it has the semblance of truth? As a historical fact, I suppose nobody will pretend that it is true. If it be not true, is it the privilege of the Senator from Kentucky to rise in his place in the Senate, under permission of the Chair, to introduce a resolution which is supposed to be a resolution with reference to legislative proceedings, to put upon the records of the Senate and send out

to the country that which is known to this body and to the country to be false and scandalous, and which if it was uttered upon the streets, uttered by any person who would not shield himself by his privilege, would be held to be libelous, and he might be punished accordingly? Does it not become the duty of the Senate, as it respects its dignity, and as it desires the respect of the country, to say that it is not a privilege which a Senator shall feel himself at liberty to exercise, to assail the reputation and character of persons who are strangers to this body, and who can have no remedy against such assaults? Further on the resolution proceeds:

"It has ordered *ad libitum* arbitrary arrests by military officers, not only without warrant, but without any charge or imputation of crime or offense, and has hurried the persons so arrested from home and vicinage to distant prisons, and kept them incarcerated there for an indefinite time; some of whom it discharged without trial and in utter ignorance of the cause of their arrest and imprisonment, and others if caused to be brought before courts created by itself, and to be tried and punished without law; in violation of the constitutional guarantee to the citizen of his right to keep and bear arms and of his rights of property, it has forcibly deprived as well the loyal as the disloyal of both; it has usurped the power to suspend the writ of *habeas corpus*, and to proclaim martial law, and establish military tribunals in States and parts of States where there was no obstruction to the due administration of the laws of the United States and the States by the civil courts and authorities; and ordered many citizens, who were not connected with the Army or Navy, to be dragged before its drum-head courts and to be tried by them for new and strange offenses, declared by itself, and by undefined and indefinable law, being but the arbitrary will of the court."

Either that declaration is true or it is false. If it is true, it is the gravest offense that any set of men in this country or elsewhere were ever guilty of. If it is false, is it the privilege of a Senator to stand on this floor, and invoking his privilege and sheltering himself behind his privilege, to utter so grave an accusation against those who are outside of the Senate and who have no protection against it? Is it not the duty of the Senate as it regards its own dignity, and as it would claim the respect and confidence of the American people, to say that such is not the privilege of a Senator of the United States?

And so, Mr. President, to the end of these resolutions, being eighteen in all, the remark I make is that they abound with historical statements which are incorrect, recitals of events which are imaginary, fictitious, or wholly false; and the appeal which I make to the Senate is, and the proposition which I submit to the Senate is, whether in any fair sense that can be said to be the privilege of an American Senator.

Mr. HALE. Mr. President, in all the stages of the history of the Senate, they have been exceedingly careful and jealous of the freedom of debate. While the House of Representatives have had various rules and various expedients by which debate may be limited and restrained, the Senate without exception from first to last have resisted the whole of them. We have had attempts to introduce the previous question, to introduce a rule by which at a certain time and under certain limitations debate might be terminated, but the Senate of the United States, with singular consistency from first to last, have said that the discretion of every member in this matter should be his rule, and his only rule. I confess that there have been times in my experience in the business of this body when I have wished and thought that it should be otherwise; but such has not been the temper of the Senate; and while other bodies, and even the House of Representatives, have seen fit at times, and at the present time, to limit, and to limit very considerably, the freedom of debate, it has been attempted here, when it has been attempted, in vain. And the Senate have said that on any question any member may talk when he pleases, how he pleases, and as long as he pleases; and such has been the temper of the Senate and is at the present day.

And, Mr. President, I am not sure, notwithstanding all the inconvenience that sometimes may have been experienced, that the Senate have not been wise in this peculiarity of theirs; that in this tribunal, in this high court of the nation, where such interests are at stake as are here discussed by the representatives of sovereign States, the discretion and the judgment of those whom the States send here to represent them should not be the limit and the sole limit regulating the mode and manner and the length to which the right of free discussion shall be carried. Sir, I look upon this attempt,

in the present instance, as an indirect attempt to do that which the Senate have directly refused to do.

I need not say here that I have no sympathy with the resolutions of the Senator from Kentucky; nor do I think that the question whether we have or have not any sympathy with the resolutions of that Senator has anything at all to do with the question that is now before the Senate. The question I understand now to be the amendment proposed by the honorable Senator from Michigan [Mr. HOWARD] to the resolution proposed by the honorable Senator from Massachusetts, [Mr. WILSON.] I think, with all deference to gentlemen around me, that the amendment of the Senator from Michigan would be more mischievous in its character, more mischievous in the results which it would work out, than the original proposition of the Senator from Massachusetts; and for this reason: it requires a two-thirds majority of the Senate to expel a member. I believe in the history of the legislation of this country there never has been a case where a vote of censure has been passed upon any member of either House, where the member has not felt compelled, by the moral weight of that vote, to resign his place in the body which censured him. I believe that is without exception. Of course, I have not examined the Journal for the purpose of ascertaining that fact, though I do remember some instances where it has been done. If, then, a majority of the Senate may censure a man for the expression of his opinions, and thus indirectly work his expulsion, it seems to me that it would be the most fatal stab at that freedom of debate which is necessary for a wholesome exercise of the functions of a Senator that could possibly be given. Sir, let me tell you where it would go. Once establish the precedent that for the utterance of any sentiments, I care not how obnoxious they may be, a majority of the Senate may censure a member, and what will be the result? It may be a flagrant case to-day; it may be a case flagrant as has been represented by any of those who have commented upon the Senator from Kentucky; in a little while (the ferocity of party spirit will not have been tamed in the meanwhile) somebody else may utter sentiments not quite so exceptionable, not quite so glaring, but still offensive to a majority, and the result will be that in a short time your boasted freedom of debate will amount simply to this: that no man on this floor will dare utter sentiments obnoxious to a majority of the body without entertaining the fear that for the utterance of those sentiments he may be expelled from the body. That will be the inevitable history of it.

Now, Mr. President, for myself I confess that I feel peculiarly sensitive on this subject. I came into this body some sixteen years ago or more, without the sympathy of a single member on this floor; and I hardly ever met a responsive glance from the galleries. I stood here with nobody in the Senate or out of the Senate to sympathize with me; and if this doctrine had prevailed that for the utterance of sentiments obnoxious to the majority of the body a man might be censured, I should have been censured the first month that I was upon this floor. Sir, I have denounced the action of this Government, of the Senate, and of the House of Representatives, and of the President, as being such as was eminently calculated to provoke the scorn of earth and the judgment of Heaven. I have said that, and I have said a great deal more than that, and under like circumstances I would say it again. But, sir, I will do the credit to the party that then ruled the Senate to say that the idea that for the utterance of those sentiments I was subjecting myself to expulsion or to censure never entered into my head or my heart.

In a few years there were others who came here who occupied the same position that I did. We were under the ban and the opprobrium and the reproach of both the political parties that were contending for the majority here and in the country. My honorable friend from Massachusetts [Mr. SUMNER] came. Who more obnoxious than he? Nobody, unless it might have been myself; and that not because I was a worse, but an older sinner than he was. Notwithstanding that, we were joined soon after by one or two others; the honorable Secretary of the Treasury first, and then the honorable Secretary of State, who came on this floor "almost persuaded to be a Christian," [laughter.] because he was ready to go with us in

every measure of opposition to the slave power and to its encroachments, when it did not conflict with the policy of the Whig party. [Renewed laughter.] I had no such qualification, and my honorable friend from Massachusetts had none such. We stood up alone here, and we battled as we might for that freedom of debate which is the birthright of an American Senator, and which the great orator of New England, on a memorable case during the last war with England, when he thought he saw in the then dominant party a disposition to check the freedom of debate, said was a home-bred right and a fire-side privilege; living he would defend it; and by the blessing of God, if he could leave no other inheritance to his children, he would leave them the inheritance of free principles, and of a manly, independent, and constitutional defense of them.

For the mode and the manner in which a man may advocate and defend the principles which he believes it to be his duty to advocate and defend, he should be responsible to no power but the Power that gives him the faculty of speech. When I say that, I do not mean that he may wantonly trespass upon the rules of the Senate; I do not believe that he may wantonly insult the feelings of any one; but I will say this—I do not know who said it before me; probably those that are better read than I am know who—you must forgive something to the spirit of liberty. You must not be too censorious, too much inclined to find fault, too much inclined to visit your censures and your denunciations upon those who differ from you.

Senators, I know what the value of this right is. I have felt in my own bitter and my personal experience on this floor something of the value of that privilege which a man exercises when he stands up to utter obnoxious sentiments and looks around in vain for a sympathizing countenance, and has no hope or confidence that any but God and his own conscience will sustain him. Knowing that, sir, I confess, for one, while I sympathize with the patriotic and fervent impulses of the honorable Senator from Massachusetts that prompted him to offer the resolution; and while I could but admire the eloquent, able, and searching analysis which the honorable Senator from Michigan gave to these resolutions when he invoked the judgment of the Senate for the censure which he proposes; and while I yield my earnest admiration to the fervid eloquence of the honorable Senator from Maine, yet after all I confess that they fail to convince my judgment that this Senate has any right—ay, sir, I use the word "right"—to utter an expression of censure upon the Senator from Kentucky for what he has done.

As I said at the beginning, the question whether we agree with him, whether in our judgment his resolutions are true or false, whether they tend to sedition, or what not, is not for us to say. It was a declaration of the great apostle of American Democracy that error might be safely tolerated while truth was left free to combat it; and, sir, in my humble judgment, the truth, and the simple truth, wielded by the able men who sit around me, is the appropriate and legitimate and the senatorial manner and the senatorial weapon with which the errors of the Senator from Kentucky, if errors he has committed, are to be met.

Mr. President, I have said thus much, and I do not mean to say more, because I have felt from the beginning of my entrance on this floor that the freedom of debate in the Senate should be maintained at all hazards and under all circumstances; and no matter if, with the fastidiousness of a lawyer, we may point out everything that has been pointed out in the resolutions of the Senator from Kentucky, I ask you at last, what are you going to censure him for? Not because he has uttered sentiments that tend to revolution and that tend to sedition, but because in your judgment he has done it. In his own judgment he has not done it. Now, sir, it is the first time I ever heard that anybody in a public assembly having made statements upon which a construction was put, was not at liberty to disclaim the attempt to put a meaning upon his words which he disavowed. We had an instance of it but two days ago. The honorable Senator from Massachusetts [Mr. SUMNER] in some remarks which he made was supposed to reflect upon the honorable Senator from Vermont, [Mr. FORT.] and some remarks were made which he considered severe and unjust. But the honorable Senator from Massachusetts, with

the frankness which belongs to him, immediately rose and distinctly disavowed the offensive interpretation which was attempted to be put upon his remarks, and it was received by the Senator from Vermont, and, I believe, by the Senator from Wisconsin, [Mr. DOOLITTLE,] who commented upon them, and by everybody, as the undoubted right which belonged to the Senator from Massachusetts to disavow the construction that was attempted to be put upon his language. There is where the Senator from Kentucky stands; but I am free to confess, and I make no secret of it, that whether he disavowed the intention or not, he should have no vote of censure of mine; I would let the error that he pronounced go free, and run over the land, and make all that it could make, if truth could not overtake it.

Mr. President, I have gone further than I have already stated. In 1850, when the Congress of the United States passed an act commonly called the fugitive slave law, I denounced it in as strong language as I knew how to use. I put it in contrast with what I believed was the higher law of God, and I counseled and advised and encouraged everybody whom I addressed that when the Congress of the United States, with all the solemnities of legislation, passed an act which was at war with their convictions of what the higher law of God taught, even if it had the sanction of the Supreme Court of the United States, to disregard them both, to trample Congress and the court under foot, to see to it that they maintained their own integrity, their own self-respect, and their own manhood.

I think, sir, it would be the most dangerous precedent that is to be found in the legislative history of our country, if the Senate of the United States, for words spoken or written, however obnoxious they may be, should exercise this high prerogative of expelling or censuring the man who uttered or wrote them. It would be a confession of weakness before the country and the world that we should not make. Evil-disposed men would seize upon it, and they would say: "There was that Senator from Kentucky; he introduced resolutions which you could not answer; he introduced resolutions arraigning you and your President, and there was not a man of you that could answer them, and so you held your peace and voted him out of the Senate." I would not give the enemies of our country and of our cause such a triumph as that, but I would meet the propositions of the Senator from Kentucky as I would meet every other, and if I could not show that they were erroneous I would submit that he might make all he could by them.

Mr. POWELL. I shall ask the indulgence of the Senate for a very short time. I am very much indisposed this morning, and shall not undertake to detain the Senate long.

Mr. President, I have regarded free speech as of the very essence of republican liberty; and it strikes me that the proceeding which has been instituted against my colleague is calculated, if not intended, to strike down free speech. I have been very much gratified at the general tone and tenor of the remarks of the Senator from New Hampshire, [Mr. HALE.] I do not think, I never have thought, and I never will think that any member of this body subjects himself either to expulsion or to censure because he opposes measures or advocates policies that are different from those of the majority. And when this thing is sifted to the bottom, there is no reason why my colleague should receive at the hands of this body either expulsion or censure for the resolutions that he has introduced, unless it be held by the majority that it is reasonable, right, and proper to expel or censure every one who dares to maintain principles and enunciate facts that are unpalatable to the majority of the Senate.

Now, sir, no possible evil can result to the Republic if the positions of my colleague are wrong while the principle announced by the great apostle of civil and constitutional liberty finds an abiding place here.

Mr. Jefferson declared that we had nothing to fear from error while truth was left free to combat it. Sir, if the resolutions proposed by my colleague are wrong in principle, if they are erroneous in fact, why cannot the learned Senators on the other side meet them and show by stern logic the fallacy of the principles asserted, and by an array of facts any want of truth in the statements

made? That is the only legitimate and the only proper mode to meet such resolutions as these by the party that oppose them. They cannot be fairly and legitimately met in any other way. Inaugurate this principle of expelling a member from this Senate because he announces principles that are unpalatable to the majority, or even visit upon him censure because he does not think concurrently with the majority, and what will be the result? It will be that only the boldest and most fearless of those in the minority will give free expression to the opinions they entertain. The timid would always shrink from such a discharge of their public duties for fear of expulsion or censure from the dominant party. Inaugurate that, and you have stricken down free speech, which I have before said is of the very essence of republican liberty. There can be no free Government unless you have freedom of speech. You must not only have freedom of speech, but you must have a free press, and you must have free suffrage. Without them the liberties of the people will be inevitably overthrown and destroyed.

Mr. President, I have listened very attentively to the arguments of the various Senators *pro* and *con*. upon this subject, and I must confess that the arguments of the Senators who are in favor of the resolution introduced by the Senator from Massachusetts [Mr. WILSON] have not convinced me that they were right or that I was wrong in thinking that his resolution should not be adopted. The Senator from Maine, who addressed the Senate this morning, declared that the resolutions of the Senator from Kentucky are very comprehensive and sweeping against the Administration, and exhibit manifest hostility to the Government. So far as the first remark of the Senator is concerned, that they are comprehensive and sweeping against the Administration, I admit that that part of his statement is true; but that these resolutions exhibit any hostility to the Government, I utterly deny. That the resolutions are a sharp arraignment of the Administration, and set forth great political principles which my colleague believes to be correct, principles that underlie the foundations of this Government, and which principles have been overthrown or violated by the action of the President, is true. That the arraignment of the Administration for what my colleague conceives to be maladministration is extensive, comprehensive, sharp, and pointed, there can be no denial. But is there any evidence in the resolutions that the author of them is opposed to his Government? No, sir, no. The resolutions indicate a warm, ardent, vehement love of country, and for the constitutional rights of the people. My colleague evidently believes, and honestly believes, that the actings and doings of the Administration during this unfortunate civil war have been such as to endanger the constitutional liberties of the people, to strike down their dearest rights, and in consequence of that he arraigns the Administration, and points out in these resolutions the reasons for his alarm. It is his love of country that causes him to do it. That Senator who believes there has been maladministration of the Government in any or all its departments, and who sits quietly by and fears to sound the alarm, and to point our masters, the people, to the great dangers by which they are environed, and to tell them fearlessly that their liberties, their rights, and their privileges secured by the Constitution are about to be overthrown, is an unworthy and degraded public servant; he who has not the courage and the manhood to do that, I can only say, in my humble judgment, is an unworthy representative of a free people. He is, or at least deserves to be, the subject or the vassal of some absolute prince or potentate. He is utterly unfit to represent a brave, honest, and free people.

Those who believe that the actings and doings of this Administration have been such as to sap the foundation of the Government, to overthrow the Constitution, and destroy the liberties of the people, owe it to themselves, owe it to their country, boldly, fearlessly so to proclaim. They should not do it offensively, but thoroughly and fearlessly, and they should sustain and maintain it in bold and manly argument. If the friends of the Administration think that the principles announced in the resolutions or the statements of fact therein contained are erroneous, it is their duty in the same spirit of manly discussion to meet them and overthrow them if they can. If they cannot

they should hold their peace and cooperate with those who desire to turn the Administration out of power. That is their patriotic duty.

Now, Mr. President, with the permission of the Senate I will review very briefly some of the resolutions of my colleague that have caused him to be visited with very harsh censures by the Senator from Michigan who addressed the Senate yesterday, and the Senator from Maine who has addressed the body this morning. With great deference to those two honorable Senators, I differ from them, not only as to the interpretation they give to the resolutions and the deductions they draw from them, but in many respects as to the matters of fact contained in them.

A portion of the thirteenth resolution of my colleague is embodied in the resolution of the Senator from Massachusetts, and is set forth as the sole cause why my colleague should be expelled. If the debate were to be confined to what I should conceive to be its legitimate limits, all the Senate would have a right to do would be to look to that particular resolution, and not to the whole series except for one special purpose, and that would be to see whether there was anything in any other of the resolutions calculated to explain the meaning of the objectionable part of the thirteenth resolution.

I hold it to be a proper rule of construction in construing the Constitution, a statute, or any instrument of writing, to do what you can to make every portion of it harmonious; and if it is liable to two constructions, one of which harmonizes the principles set forth or the facts enunciated in the whole series, that is the proper and legitimate construction to be given to the instrument, and you should so construe it as to cause harmony throughout the whole instrument if possible. With that view I will read this resolution, and then I will point to another resolution that in my judgment is the key to the meaning of my colleague in all this body of resolutions so far as the remedies are concerned.

The thirteenth resolution is as follows:

"13. Resolved, That at the beginning of the war, under the panic of the defeat of Bull Run, the party in power professed to carry it on for the Constitution, and to put down the rebellion, and vindicate the laws and authority of the United States in the insurgent States, and when that was effected it was to cease. But more than a year ago another and a paramount and unconstitutional one; the total subversion of slavery, was inaugurated by them; and at length, to carry on the war in this augmented and perverted form, the annual expenditure on the part of the United States has swollen to one hundred thousand lives, a much larger amount of personal disability, and a thousand millions of money, and yet the wisest cannot see the end of the war: verily, the people North and the people South ought to revolt against their war leaders and take this great matter into their own hands, and elect members to a national convention of all the States, to terminate a war that is enriching hundreds of thousands of officers, plunderers, and spoilers in the loyal States, and threatens the masses of both sections with irretrievable bankruptcy and indefinite slaughter, and to restore their Union and common Government upon the great principles of liberty and compromise devised by Washington and his associates."

So far as the first part of that resolution is concerned, I do not find that any gentleman of the opposition has taken issue. It is not denied that the purpose of the war, as proclaimed in the Crittenden resolution, as it is commonly called, passed by both Houses soon after the battle of Bull Run, has been departed from. But the gravamen of the charge contained in the resolution of the Senator from Massachusetts, is that my colleague in this resolution asks the people to revolt against their war leaders, North and South, to take the matter into their own hands, and through the instrumentality of a national convention to heal all our difficulties, and to restore the Union as Washington gave it to us. That, we are told, is an invitation to the people of the North to go into some kind of a revolutionary proceeding for the purpose of overthrowing the Administration in power. I do not think that the resolution can be legitimately construed in that way. To be sure, he uses the word "revolt," and asks the people to revolt against their war leaders; but we all know that there are various meanings of that word. In this sense I believe it is "to turn away from," and that is the primary meaning of the word. He invites not only the people of the North but the people of the South to turn from their war leaders, and through the instrumentality of a national convention to settle all their difficulties. How does the resolution indicate that they shall be settled? By a severance of the States? No, sir; but by restor-

ing the Union, the Union as it was given to us by our patriot fathers.

Can there be anything in that resolution indicating that my colleague desired forcible or armed resistance to those in power by the people of the North? Certainly not. A convention of the people of the States is not only constitutional, but it is legitimate. It is one of the modes pointed out in the Constitution by which you may amend that instrument. Free speech and free press are guaranteed in one of the Amendments of the Constitution, and the right of the people to assemble and petition for a redress of grievances is also a right guaranteed. Senators, in my opinion; have put a forced construction upon this resolution. So far from indicating an appeal to arms, my colleague proposes to arrest the present Administration in a policy that he thinks will overthrow the Government, destroy its Constitution and the liberties of the people, by the most peaceful of all remedies, by a convention of the people of all the States.

But, Mr. President, there is another resolution that I think will tend much to explain the meaning of the one which I last read, and of the others, and that is the fifteenth resolution, which is in these words:

"15. *Resolved*, That a free press, free speech, and free elections are the great and peaceful forces by which the maladministration of our Government, whether in the legislative or executive departments, is prevented, reformed, and reversed, and its authors brought to public condemnation and punishment; and these bulwarks of constitutional government and popular liberty are formidable to malversators, usurpers, and tyrants only, and they must be held by the people at all hazards."

There is a distinct resolution pointing out the means and the remedies that a free people have to turn out of office those who are guilty of maladministration. That is the mode in which he wishes to do it. It is by free speech, free press, and free elections. Does he say in any part of the resolution that he is for effecting the changes which he certainly desires by force of arms? No, sir, no. He points out in a distinct resolution the agencies that he invokes to bring about this to him, and I confess to myself, most desirable revolution. I believe that the fifteenth resolution, as I have before said, is the key that unlocks the meaning as to the agencies invoked by my colleague in these resolutions, and it is certainly legitimate that he should invoke the freedom of speech, the freedom of the press, and free suffrage to turn any Administration out of power that he thought was pursuing a line of policy that would result, if carried out, in the destruction and overthrow of the constitutional and civil rights of the people, and inaugurate upon the ruins of this once free Republic a military despotism. My colleague has given his construction of the resolutions he introduced. At the time the resolution for expulsion was introduced my colleague promptly denied the construction of the resolutions given by the Senator from Massachusetts, and distinctly stated that there was nothing in the resolutions, when properly interpreted, that could be construed into an exhortation to the people to make forcible and unlawful resistance to those in power. Free speech, free press, and free suffrage are the agencies he invoked to redress our grievances. None who know my colleague, however much they may differ from him politically, will doubt his truth, candor, integrity, or patriotism. The same construction given in the speech to which I have referred, my colleague has again given in a letter he addressed to the chairman of the Judiciary Committee, which has been read to the Senate. His construction should be received and taken as correct interpretations.

Mr. President, the honorable Senator from Michigan, who so ably addressed the Senate yesterday, said that the thirteenth resolution exhibits very great charity for the rebels, and he objects to it on that account. I thought that honorable gentleman was so imbued with Christianity and amiability that he would not object to charity being extended even to a rebel against the majesty of the Most High, much less to one against a Government. God knows that if anybody requires charity to be extended to him on this earth, it is a man who rebels against a good and lawful Government, and one who rebels against Heaven's law. But if that resolution is looked into closely, I do not think it exhibits any charity to rebels. It is, on the contrary, the very thing that the lead-

ing rebels do not want. I will quote part of it again:

"The people North and the people South ought to revolt against their war leaders, and take this great matter into their own hands."

Do you suppose that the leaders of this rebellion South would be obliged to my colleague if the people there were to follow the advice he gives them in that resolution, turn away from their war leaders, and say, "Gentlemen, we are tired of this bloody war; we are determined to call our people into convention; we are determined to indicate a desire to go into grand council with the people of all the States of the old Union, and see if we cannot harmonize and settle these difficulties, and let all the States come back into the Union, and live under the Constitution as they did before the war." That is all that my colleague asks the people of the Confederate States to do; and yet the Senator from Michigan, notwithstanding his pious and amiable temperament, thinks my colleague is exhibiting too much charity to them. It does strike me that it is the very thing the rebel leaders do not want. The leaders of the rebellion do not want the people of their various States to desert their standards, to call for a national convention to restore the Union. No, sir, it is the last thing they want. My colleague, though, desires the people of the South to do that. He desires the people of all sections of the country to meet in national convention, and see if they cannot cause this cruel war to cease, not for the purpose of a severance of the Union, but for the purpose of a restoration of the Union.

The Senator from Michigan and the Senator from Maine object to the fourteenth resolution, and denounce it as revolutionary; and they defy any Senator to point to a single case where the freedom of the press has been interrupted by this Administration. They seem to regard that whole resolution as a tissue of misrepresentation. Indeed, the Senator from Maine denounced the statements contained in it very broadly as false. Now, I will read that resolution. It is not my purpose to enter into an elaborate argument to sustain it, for that would not be proper at this time; but I will make a very brief comment upon it. The resolution is:

"14. *Resolved*, That the present Executive Government of the United States has subverted for the time, in large portions of the loyal States, the freedom of speech, the freedom of the press, and free suffrage, the constitutions and laws of the States and of the United States, the civil courts and trial by jury; it has ordered *ad libitum* arbitrary arrests by military officers, not only without warrant, but without any charge or imputation of crime or offense; and has hurried the persons so arrested from home and village to distant prisons, and kept them incarcerated there for an indefinite time, some of whom it discharged without trial and in utter ignorance of the cause of their arrest and imprisonment, and others it caused to be brought before courts, created by itself, and to be tried and punished without law; in violation of the constitutional guarantee to the citizen of his right to keep and bear arms, and of his rights of property, it has forcibly deprived as well the loyal as the disloyal of both; it has usurped the power to suspend the writ of *habeas corpus* and to proclaim martial law and establish military tribunals in States and parts of States where there was no obstruction to the due administration of the laws of the United States and the States by the civil courts and authorities, and ordered many citizens, who were not connected with the Army or Navy, to be dragged before its drum-head courts, and to be tried by them for new and strange offenses, declared by itself and by undefined and indefinite law, being but the arbitrary will of the court; it has ordained at pleasure a military despotism in the loyal States by means of courts-martial, provost marshals, and military forces, governed neither by law, principles, nor rules, from whose tyranny and oppressions no man can claim immunity; all of which must be repudiated and swept away by the sovereign people."

The honorable Senators challenge instances where any of these things have been done. As I before said, it is not proper on this occasion to enter into any elaborate argument on that resolution; but the Senator from Michigan seemed to arraign my colleague rather sharply because he was in favor of abolishing courts-martial, as he said that they were to be swept away by the people. As I construe this resolution, my colleague does not desire courts-martial to be swept away; but as I am on that point, allow me to say that there is no reason why this Congress could not sweep away courts-martial if they wished so to do. There is no clause in the Constitution forbidding it. The Constitution simply confers on Congress the power to raise armies and to provide navies, and to establish rules and regulations for the government of the land and naval forces. In obedience to that provision, we have made our articles of war and ordained courts-martial. The

reason why my colleague arraigns the actions of courts-martial is not that he objects to the existence of courts-martial when applied to those persons who are in the military or naval service of the United States, but he especially points out in the resolution that persons in civil life, who are not properly cognizable before courts-martial, have been tried, condemned, and sentenced by them. We have a right, if we choose to do it, by enacting a law of Congress to-day, to sweep all courts-martial out of existence and punish every man in the Army and Navy by the civil tribunals. There can be no doubt of that. Of course, I suppose, there is not a Senator here who thinks it would be wise policy to do it; but that we have the power under the Constitution there can be no doubt. But there is one thing which we cannot do, which the President cannot do, which Congress cannot do, which this Government, by the exercise of any or all of its powers, cannot do; that is, we cannot deprive a citizen, one that is not in the military or the naval service of the Government, of a trial by jury in the civil courts of the country, for the Constitution forbids that they should be tried except in the civil courts; and it is against an abuse of power, trying civilians by courts-martial, that my colleague complains in that resolution, as I understand it.

But, sir, has not that thing been done? The learned Senators who have addressed you denounce the allegation in the resolution as wholly untrue, and they ask instances to be pointed to. I was somewhat astonished that two such intelligent gentlemen should ask for instances in which the things charged in this resolution had been done. I would ask if citizens wholly unconnected with the Army and Navy of the United States in hundreds and thousands of instances have not been arrested by the arbitrary dictum of the Secretary of State and of the Secretary of War, and dragged to distant prisons and there languished for long months and turned out without trial? That is a fact well known to the whole country, as well as to the Senate. Look at the cases in Maryland; look at many others from my own State; look at them throughout the length and breadth of this land.

I will not elaborate that matter, but I was astonished at the broad denials of gentlemen of the facts set forth in this resolution. Have persons not been arrested that were in civil life, and taken and tried before courts-martial, and punishments decreed which were unknown to the Constitution and laws of the land? I need but refer to one instance; and that is the case of that gallant, that true, that noble-hearted defender of civil liberty, Mr. Vallandigham, who was thus decreed to banishment by a drum-head court-martial in the State of Ohio. Was Mr. Vallandigham in the military or naval service? No, sir; and free speech in his case was cloven down by these usurpers. Nobody claimed that Mr. Vallandigham was engaged in either the naval or military service; nobody claimed that he could be rightfully tried before a court-martial. If he had offended, the proper tribunal was the civil courts. I ask honorable gentlemen to show me the law that authorizes the President of the United States to decree that a citizen of this once free and great Republic should be consigned to banishment. I know of no such law. There is certainly nothing in the Constitution of your country that clothes any of your magistracy with any such power. And, sir, they banished that noble and patriot citizen much more ruthlessly than many patriot citizens were banished from Greece in the olden time. They did not even allow the people to write upon a shell their decree of banishment.

Yet gentlemen say free speech and free press have in no instance been violated! Why, sir, look at the hundreds of newspapers throughout the country that have been stopped by this Administration. Some, that were allowed to be issued in New York, were forbidden to go through the mails, and hundreds of them have been suppressed. That is well known to the whole country. But the honorable Senator from Michigan says that these were all traitorous papers. I would ask that worthy Senator in all candor to answer me this question: if they were traitors, ought not a wise and honest Government, instead of stopping their business and suppressing their newspapers, to have caused them to be arrested, to be indicted, to be tried, and convicted and executed

as traitors? Certainly it ought. That is the only mode provided by the laws of the country by which you can find out whether a man is a traitor or not. It is by giving him a full and free investigation in the courts, and allowing him counsel and to be confronted with the witnesses against him face to face.

Sir, that very thing has been done without ever arraigning those men for treason. The papers have been stopped in many cases and the editors never arrested. The Senator says the papers were stopped because they were treasonable. Who judges of the treason? It is the commander of your post, your provost marshal. What right has he to judge? No such right is given to him by the laws of your country. If the editors of these papers committed treason, the Government stands a culprit before the civilized world and ought to be arraigned as such, because it has allowed traitors to go free without ever arraigning them or trying them and attempting to punish them for their guilt. Gentlemen attempt to escape the argument by the bold proclamation that all these men were editing traitorous papers. Sir, in a free Government there is a mode of ascertaining whether a man is guilty or innocent. That mode we inherited from our ancestors across the water. It is upon a full, fair, impartial trial in the courts of the country, and there is no other way. The laws presume every man innocent until his guilt is made manifest by proof in the courts. But here the rule is reversed. Some colonel, some provost marshal, some pestiferous spy, perhaps, will say that a gentleman is editing a newspaper that is treasonable, and without any investigation they presume him guilty and imprison the person sometimes, and sometimes stop the circulation of the paper. Sir, there can be but one way in a country that is governed by law to ascertain guilt or innocence, and that is the way pointed out by the law, upon full and fair trial.

After what has occurred in Maryland, Kentucky, Missouri, and Delaware, how can Senators claim that free suffrage has been allowed? If Senators will take the trouble to look into the proof which has been laid on our tables, taken in the contested elections in some of those States, now under consideration in the other end of the Capitol, they will find abundant and conclusive evidence that fraud and military force were used to carry elections in those States.

I will not at present discuss this question. On some proper occasion I will discuss this subject at length, and establish by incontrovertible testimony that elections in the States to which I have alluded were carried by military force, terrorism, and fraud.

Honorable Senators object to the sixteenth resolution as revolutionary. The Senator from Michigan said that resolution was revolutionary, and hence he opposed it. Let us read that resolution, and see what it is:

"16. *Resolved*, That as the Constitution and laws afford no means to exclude from the office of President a man appointed to it by military power, or who is declared to be chosen to it by reason of the suppression of the freedom of election, as by the exclusion of legal voters from the polls, or by any other means, the people of the United States would be incompetent to defend and unworthy to have received the rich heritage of freedom bequeathed to them by their fathers, if they permit that great office to be filled, or in any other mode than by their own free suffrages."

I was amazed when my learned friend from Michigan pronounced that resolution revolutionary. The Senator has fallen into a sad mistake. He has mistaken the resolution for the things that are denounced in it. The things that my colleague denounces are revolutionary, but the resolution itself is not. It is a sharp and bold declaration that we are not worthy of the freedom we inherited from our noble sires if we submit to the usurpations which are mentioned in the resolution. The declaration is that a man who is appointed to the Presidency by the military power, a man who obtains that high position by the overthrow of free suffrage, should not be allowed to hold the position; but my colleague says the President should be elected by the free suffrage of the people. That is the pith, the point of the resolution. I ask honorable Senators on the other side of this Chamber, and on this side, if there is one of them who would rise in his place in the Senate of the United States and say that he would be willing or would submit for a single moment to see a man appointed by the military power assume the

presidential office in this Republic. I verily believe there is not a Senator on either side of the Chamber who would dare get up here and announce such a proposition, that he was for the Army appointing the President. It is against that that my colleague points in this resolution.

Sir, in times past in other countries empires have been sold at auction. In the degenerate days of the Roman empire, we know that the pretorians put up that empire to auction and sold it to the highest bidder. It was transferred at will by the army; and I would ask Senators what semblance of freedom existed in degenerate Rome at that day. None. On one occasion that empire was put up at auction and sold on credit. Didius Julian, the successful bidder, was not prepared to make good all his promises, and they took it away from him. As the boys in the country say, they rued the bargain. I am confident that Senators on the other side of the Chamber are not in favor of having the President of this great Government appointed by military authority, or in any other way than by free ballot. The resolution merely says that that is what should be done, and that free men should resist the appointment in any other way. I am free to admit here and elsewhere that I for one would resist to the death the overthrow of the Constitution of my country so much as to allow the Army to appoint a President or to elect one by deterring the free voters from the polls by force of arms, and in that position I am confident no Senator in this Chamber will take issue with me.

Mr. President, the Senator from Michigan spoke at some length upon the proclamation of amnesty of the President of the United States. I had designed to make some remarks in reply to that Senator on that part of his argument, but the condition of my health will not allow me to do so. I will, however, state my objections in a very few words. My colleague in one of the resolutions of this series takes issue upon that proclamation, declares it to be unwise, unconstitutional, and unjust. In that I concur. I regard that proclamation of amnesty as highly revolutionary in its character. I regard it as unconstitutional, because I can find no warrant in the Constitution that authorizes the President of the United States to say who shall be a voter in a State, and who shall not. In that proclamation he undertakes that high office which belongs in my judgment alone to the people of the respective States. If you admit that the States affected by that proclamation are not States of the Union, (a proposition which I by no means admit,) and regard them as Territories of the United States, I can still find no warrant in the Constitution of my country that authorizes the President of the United States to prescribe the terms and the manner in which a State shall be admitted into the Union. I do find in that instrument that Congress has the power to admit States, but I find no power conferred on the Executive to do that. I find no provision in the Constitution of my country authorizing the President of the United States to declare that one tenth of the people in any State of the Union, or in any Territory that was once a State of the Union, if you please, shall form a government against the will of the other nine tenths. That, in my judgment, is not only revolutionary, but is destructive to the great principle that lies at the very foundation of republican liberty, which is that majorities must govern.

I can find no warrant in the Constitution of my country that will authorize the President to do any of the things that he indicates in that proclamation as prerequisites for bringing the States back. The truth is he has no power over them. I believe they are now States of the Union; but giving the President either horn of the dilemma, what power has he to say how they shall return? It is not a matter for the Executive to determine. If they are States of the Union, they are already in the Union in contemplation of law, and the President has no right to say that they shall come in upon terms and conditions harshly and unconstitutionally prescribed by him, that one tenth of their population shall be the governing power, and the other nine tenths shall be governed by one tenth. If they are Territories and not States of the Union, then certainly he has no power to say how new States shall be admitted. I should like if I could do so to discuss that proclamation at some length, but I am unable to do it to-day.

Mr. President, I will not notice further the re-

marks of the honorable Senators. When you take the resolutions as a whole, I do not think that any fair-minded critic can find in them anything that looks to reforming the abuses pointed out in the resolutions in any other way than by the free voice of the sovereign people of the country legitimately expressed. That is the only mode in which my colleague seeks to remedy the abuses indicated in the resolutions. Now, I hold that the sovereign people of this country are the masters; that they have the right, if they choose to exercise it in a legitimate manner, to rise up and turn out of power their present rulers and inaugurate others. I admit that that cannot be done without revolution, except in the proper mode and manner, and at the proper time, according to the Constitution; and that is the end which is sought by my colleague. It is the Government of the people; and in times of great public disaster like this, I think they should be invoked to come to the rescue, and to save their Government with all the rights of civil and religious liberty guaranteed by the Constitution, in order that they and their children may inherit it in all time.

My distinguished friend from Maryland in the discussion yesterday, and the Senator from New Hampshire to-day, have taken occasion to say that these resolutions are not palatable to them. Still, though those honorable gentlemen fully and freely express their opinions in opposition to my colleague's resolutions, as they have the right to do, they say that there is no cause why any censure should be visited upon my colleague. If I looked upon the resolutions as the Senator from New Hampshire and the Senator from Maryland do, I should be of their opinion; I do not believe that we have any power here or any right to censure the minority because they differ from the majority. If you do that, you overthrow all freedom of debate, and all free speech, which would be very destructive, in my judgment, to the liberties of this or any other people. I differ, however, from those honorable gentlemen in regard to the resolutions of my colleague. The Senator from Maryland says there is very little in them that he approves; there is a great deal in them that I approve, and I believe that on a proper occasion I could make my assertion good by argument; but I shall not attempt it at this time, because whether the resolutions are palatable to me or to any other Senator is not the question. The simple question is, whether a Senator of the United States has not the right to promulge political principles, whether he has not the right to arraign this or any other Administration if he chooses before this Senate and the country, without being subject to expulsion or censure? I hold that he has; and if you inaugurate a different policy, the result will be that gentlemen in the minority will be censured every other day when there is any debate going on, for some speech that they may make. As has been very well remarked by the Senator from New Hampshire, the time was, if that policy had been pursued, when he and the Senator from Massachusetts would have been censured. I dare say there was scarcely a week when they did not utter some sentiment that was in violation of the principles held by the then majority of the body; and yet who ever thought of censuring them? Nobody. Sir, the day you inaugurate this system, you will do that which in all time will stand as a monument of shame and disgrace to the Senate, and will be calculated to cause the lovers of free Government to despair of the liberties of this Republic. You must have free speech, free press, and free suffrage, or you have no free Government. If a Senator utters that which is wrong in principle or in fact, let those who are opposed to him show its fallacy. That would be proper and right. I am for the largest freedom of debate, making each Senator responsible to the country and to the people who clothed him with power for the sentiments and principles that he chooses to promulge here, whether in the shape of speeches or resolutions. If he is right, the people will sustain him. If he is wrong, in my judgment a sensible and patriotic people will not sustain him any great length of time.

Mr. ANTHONY. Mr. President, whatever may be the opinion of the Senate upon the resolution under consideration, I think no one can doubt that the resolutions on which it is founded are improper and indecorous, disrespectful to the President of the United States and to the majority

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of the Senators. I marvel that one who entertains the sentiments expressed in these resolutions should be willing to retain his connection with men of whose purpose and character he has so low an estimate. In these resolutions, the Senator from Kentucky declares in substance that you and I, and those who act with us, sustaining the Administration and sharing the responsibility of much of its policy and many of its acts, are playing a false and perjured part before the country, that we profess one thing and mean another; that while we hypocritically pretend that we are struggling to save the country, we are really endeavoring to destroy it. He does not content himself with denouncing our policy and admitting the rectitude of our intentions. He charges us with deliberate treachery to our principles and to our country. Well, Mr. President, I have no doubt that he thinks so. I cannot conceive that a man would introduce such a tirade as this into the Senate, that he would prefer such a bill of indictment unless he believed that it was true; and I never have known or heard anything of the Senator from Kentucky that permits me to doubt his honesty. Whatever effect, therefore, these resolutions may have upon my opinion of his judgment and his discretion and his taste, they do not in any degree shake my confidence in his honesty, and if he thinks so I do not wish to restrain him from saying so. It does not hurt you nor me. Your constituents will not believe it of you; mine will not of me; the country will not of either. The Senator from Kentucky might as well say that you are an elephant and that I am an ostrich as to tell the people that we are guilty of the charges rained down upon us in this last resolution; or that we, and those who act with us, are not endeavoring with good intentions, liable to err, liable to passion, liable to prejudice—as even the Senator from Kentucky will admit that he himself may be—to promote the public interest.

I am not indifferent to the opinions of others; especially not to the opinions of those with whom I am associated in this great council of the nation. I would like to have the good opinion of the Senator from Kentucky; but I find myself in excellent company under his censure, and his denunciation is divided among so many that it falls lightly upon my head. I am not, therefore, disposed to respond by any vindictive measure to the resolutions of the Senator, so far as their mere impropriety and indecorum are considered.

There is another view of the question. These resolutions appeal to the people of the North and of the South to "revolt against their war leaders."

This language, in its obvious signification, is something more than improper and indecorous. It may be fairly called insurrectionary; I say in its obvious signification and without any explanation. In the early part of the last Congress, the Senator who introduced these resolutions sought the expulsion of his colleague for words spoken at political meetings and in public addresses. So far as I can recollect, he adduced nothing spoken by his colleague at all comparable to these resolutions, nothing so much calculated to discourage the loyal and to encourage the rebel cause. And I can find an excuse for the Senator on the other side of the Chamber that I cannot find for the Senator on this. The former had the great misfortune to be born a Democrat. We should look with charity upon this accident of birth. He was educated in that school of politics which leads directly to secession and rebellion. In his tender years, when he should have been instructed in the principles of Washington and Adams and Franklin, of Clay and Webster, he was imbued with the pestilential theories of South Carolina and the damnable heresies of Calhoun. When he came to this Chamber he naturally fell into the association of those men who are now the chiefs of the rebellion. It required greater virtue of him than would have been demanded of a man better educated to break away from such bad company.

Mr. POWELL. My friend from Rhode Island will allow me to interrupt him. If he means to suggest that I ever favored secession, I beg to re-

mind him that I have never held to the doctrine of the right of a State to secede.

Mr. ANTHONY. I did not say that the Senator entertained those views, but I say he was brought up in that political school whose doctrines, in my opinion, lead directly and legitimately to rebellion and secession. I know the Senator does not go that far, and I think it showed much virtue in him to break away from those men.

Mr. POWELL. I readily admit that I was a great admirer of the genius of Mr. Calhoun, but in the matter of nullification and secession I always differed from him. On other matters I did concur with him pretty fully.

Mr. ANTHONY. But the other Senator from Kentucky [Mr. Davis] was brought up in a different school. He was educated in the faith of the fathers of the Republic. He was the friend and the pupil of that great man whose name alone would have made Kentucky illustrious, even if she had not so many other sons to be proud of. He has spent his life in warring against the Democratic party; and yet now, in his attempt to put down an Administration which is burdened with responsibilities such as no previous Administration has sustained, and which is entitled to the forbearance and the magnanimity of its opponents as no other Administration ever was, he announces his readiness to strike hands with the men who hunted Henry Clay to the grave, who assailed his reputation with their slanderous tongues as long as he lived, and have insulted his memory with their disgusting praises ever since he died.

But, Mr. President, the Senator who sits nearest me did not convince me that his colleague ought to be expelled, and I voted against the resolution to that effect. Nor do I think that he himself should be expelled or censured for these resolutions. I think we are bound to take them with his explanation; and although their most obvious meaning may be insurrectionary, this is not their necessary and inevitable meaning. We are bound to accept the reasonable explanations of the mover; the more so as these explanations are in accordance with his previous declaration and conduct. The Senator declares that he offers the resolutions in no such spirit, and that he agrees to no such interpretation. I believe him; of course I do. I do not believe that the Senator from Kentucky would stand in his place and make a false statement. I am sorry, to judge from his resolutions, that he believes that you and I would; he says that it is our purpose "to proclaim a mock freedom to the slaves," to "enslave the white man," to "trample under foot the Constitution and the law," which we have solemnly sworn to support. I hardly know whether such charges move most my indignation or my ridicule, whether the atrocity or the absurdity of the accusations predominates; but they shall not move me to injustice; nor will I retaliate by charging him with falsehood in the interpretation which he gives to them; for I do not believe him capable of it. While, therefore, I have felt bound to say that these resolutions, under any interpretation of which they are susceptible, are most improper and indecorous, I certainly do not think that they should cause the expulsion of the mover, or a vote of censure which would be tantamount to an expulsion. That punishment, which is the severest that can be inflicted upon a Senator, should be reserved for the gravest offenses, and should be administered with judicial carefulness. I cannot but think that when the Senator from Kentucky comes, in his calmer moments, to reflect upon the injustice that he has done to his associates in this Chamber he will find in his regret at the act a penalty at least fully proportionate to any injury that the resolutions have inflicted upon us.

Mr. LANE, of Indiana. Mr. President, the Senate need labor under no apprehension that at this stage of the session I shall detain them more than a very few moments; yet I feel it is due to the gravity of the occasion that I should in the briefest possible mode present to the Senate the reasons which will influence my vote.

The question as now presented, as it strikes me,

is simply this: the Senator from Kentucky introduced a series of resolutions which were ordered to be printed by the Senate, and after the lapse of some ten or fifteen days a resolution was introduced by the Senator from Massachusetts for his expulsion for words used in those resolutions, and the words cited are that the Senator from Kentucky in, I think, the thirteenth resolution advises the people North and South to revolt against their war leaders and take the Government of the country into their own hands. These are the words specified in the resolution of the Senator from Massachusetts, and upon which the vote of the Senate is to be had.

A general construction of all the resolutions has entered into the debate, but the resolution of expulsion seems to lay the most stress upon those words which are recited, and to which I have just referred. If I believed with the Senator from Massachusetts that this was an attempt to incite the people to a forcible, armed resistance to the authorities of the General Government in this hour of its extreme peril, I should be prepared to vote with him for expulsion.

Then the Senator from Michigan moves an amendment, to substitute for the word "expulsion" the word "censured." If I believed with him that the intention of the Senator from Kentucky was disloyal and that his resolutions tended to invite insurrection, I should be prepared to vote for a resolution of censure. But I do not believe that either construction is correct, because I take the word of the Senator from Kentucky, whom I have known as long as I have known myself. My earliest memory of that distinguished Senator mingles with the memory of my sainted father, whom I lost long, long years ago; and whatever else that Senator may be, he is true and he is brave, and I take his construction of his language in preference to any construction which may be placed upon it by others. I will not vote either to expel or to censure a Senator for language used here, within any proper limits, with proper regard to the dignity of the Senate and the courtesy of the body, whether that language is employed in resolutions or in debate. I cannot do it.

I recollect but a few short years ago when the bludgeon of the desperado was invoked to silence free discussion upon this floor. I denounced that effort to destroy free discussion here in the Senate of the United States; nor am I willing to-day to use a weapon more fatal to the reputation than the bludgeon of the desperado—a vote of censure or expulsion from this body. What is it to be assassinated by the blow of the desperado or the bludgeon of the assassin, compared with that stain which you place upon a Senator by expulsion or by a deliberate vote of censure? I will not strike down the freedom of discussion either by a blow from the bludgeon or by a vote of the Senate of the United States; nor do I believe this body will for one single moment tolerate any such course. The party now in power owes its origin to the love which the people had for freedom and for free discussion. This great party now in power was born from the agitations growing out of the repeal of the Missouri Compromise, and in that whole contest "free speech and a free press" was emblazoned on every banner, and in that sign we conquered. Nor can we depart from our own teachings by striking down here in this high body freedom of discussion and freedom of the press. I shall give no vote which has any tendency to stifle free discussion. I have given no vote here of which I am ashamed; I shall give no vote here which does not agree with my conscientious convictions of right, and I appeal to the scrutiny and the reason of the present and the higher judgments and retributions of hereafter. I do not fear to shun any discussion.

It is needless for me, after a two years' service in this body, to say that I do not agree with any single one of the resolutions offered by the Senator from Kentucky; but I think the best way to answer them is to debate them and vote upon them, and let the country with free and unbiased

judgment decide between us. If this were the proper occasion, I might be called into a defense of those acts of the Administration which are so bitterly denounced by the Senator from Kentucky. I do not believe it to be the proper occasion. It is enough for me to say to-day that whatsoever they may be, the Senator disclaims all disloyalty, and I accept that disclaimer. Recollect the retributions of history; recollect that the majority of to-day may be the minority of to-morrow; recollect the high destiny which I trust yet awaits this country; and I ask you not here to establish a precedent which hereafter may silence the voice of liberty in these Halls. I do not agree, perhaps, with a single sentiment contained in all these resolutions; but I believe in the freedom of discussion, the utmost freedom of discussion.

I do not believe that disloyalty was intended by the Senator from Kentucky. I cannot believe it, for I know full well the past history of that Senator. In October, 1862, when the rebel army invaded the great State of Kentucky, threatened Louisville and Cincinnati, and when, with the exception of a few volunteer troops, amounting to a few hundred men, we had no force to meet them, I myself saw the Senator from Kentucky one hundred miles from his own home with a musket upon his shoulder, a private in the ranks, drilling four hours a day, ready to meet point to point the invaders of Kentucky; I know that that Senator to-day has seven nephews nobly fighting in the ranks of the republican Army, many of whom have been distinguished; I know that he is the object of attack, of slander, of persecution, by the disloyal element in the State of Kentucky; and because I differ from him here I will not expel him from this body for the free expression of his opinions. I know that the vote I feel compelled to give on this question may be misunderstood, may be misrepresented at home; but I have a higher duty, a holier work to perform than to minister to the public sentiment at home. I walk at peace with the man within; I have the approbation of my own conscience; and I defy misrepresentation and calumny.

Mr. FESSENDEN. I propose to say a word or two on this subject, although really it seems to be imposing on the Senate to do so. Yet, after all, the question, as it has been presented, is one of importance; and, as we are acting somewhat in a judicial character, perhaps it may not be amiss to say a very few words.

Mr. President, I shall vote both against the amendment and against the original resolution. I will neither vote to expel the Senator from Kentucky nor to censure him. I think either is a very grave thing to do. Whenever we undertake to do either, it should be on grounds that admit of very little or no question. Having come to that conclusion, that I will vote both against the motion to expel and the motion to censure, I cannot for myself but express my regret that the attempt has been made to do either.

My view of the resolutions of the Senator from Kentucky is very simple. They consist of two kinds of resolutions: one may be designated as a mere string of truisms in part, and the rest of them are merely abuse. In some degree they are a matter of taste. Senators have different modes of gaining immortality, and each one selects the mode that he thinks best suited to himself. Some make speeches, interminable speeches, and some lay resolutions on the table almost equally interminable; some read orations, and some present bills, and some do the whole. The Senator from Kentucky seems to indulge in all these modes, as he has an undoubted right to do. To be sure, it may be rather severe upon the Senate sometimes, but that we must all submit to. It is a matter that we have no choice about, because in that particular this is a sort of "liberty hall," and each gentleman, of course, has the right to follow his own taste and his own judgment. But, sir, with reference to the resolutions themselves, and especially the particular resolution which is adverted to in the resolution of expulsion, I have read it carefully, and I am unable to see in it that which is so offensive to some Senators. Taken as a whole, the particular part of it I think is not subject to the construction which is placed upon it by the resolution of expulsion; and I think, therefore, it did not need the disclaimer which has been made of any such meaning as was attributed to it, on

the part of the Senator from Kentucky. It is a very common rule of construction that we must take the whole of a sentence in order to get at its meaning. There may be offensive words and yet they may be so qualified by other words with which they are connected that they cease to be offensive, or cease to have the meaning which would be given to them under other circumstances and in other connections.

Now, sir, that thirteenth resolution, which is the only one pointed out in the resolution of expulsion offered by the Senator from Massachusetts, is to be sure somewhat offensive in its mode of expression, but, as I have said before, I think it cannot fairly be construed to mean that the Senator invites the people of the United States or any portion of them to rebel, in the sense in which that word is generally used. The language is this:

"Verily, the people North and the people South ought to revolt against their war leaders."

Suppose it had ended there; would the Senator from Massachusetts have deemed it worth while on that to offer a resolution of expulsion? The word "revolt," as has been justly remarked by many Senators, has several meanings; and one of its meanings, and its natural meaning under those circumstances, would be to oppose their war leaders. It does not point out the mode of opposition; it does not call on the people to rebel, to rise in arms, to be guilty in any way of any illegality that I can perceive, necessarily; and in a grave proceeding like this we must take the necessary construction. It must be such a one as there can be no doubt about at all. Then the resolution continues:

"And take this great matter into their own hands."

Taking that sentence as it stands to that effect it might look something toward the construction which the resolution of the Senator from Massachusetts has put upon it; but everybody must see that the words in one part of a sentence may be very much qualified by words in another; and the purpose for which they are to revolt and take the matter into their own hands becomes material. What is that purpose? The purpose is all avowed in the same sentence, and is a part of it. The Senator from Kentucky explains it:

"The people North and the people South ought to revolt against their war leaders, and take this great matter into their own hands."

And do what? Raise a rebellion; incite to a revolution; disobey or defy the laws or the constituted authorities? Not at all.

"And elect members to a national convention of all the States to terminate a war that is crushing," &c.

That is the object; that is all they are called upon to do, to take the matter into their own hands and elect members to a national convention of all the States. Is it to be presumed that the Senator from Kentucky meant that this national convention should do anything contrary to the laws of the land? Are we to take it for granted and to assume that a national convention thus called by the people of the United States would necessarily proclaim a revolution, defy the Government, disobey the laws, or do anything illegal? Not at all. We have no right to form any such conclusion.

I look at that resolution as nothing more nor less than a strong mode of saying, "This state of things is intolerable; we ought to bear it no longer without resistance in some form; and the people therefore should be called upon to meet in a national convention and devise measures to terminate the war." In my judgment, that is all there is of it. It may be that I am too liberal, that I am too moderate, that I do not see what is to be seen, and what is really intended; but on a scrutiny of the sentence itself, taking it as a whole, according to the rules of construction that I have been in the habit of applying to language, I cannot see that, necessarily, anything more is implied; and that is a perfectly legal purpose, although the language used is strong language, and taken separately and the worst construction put on every word, in the view and meaning of Senators, it might perhaps bear another construction.

That, then, being the construction which I put upon it, it governs me, of course. I see nothing, therefore, in it which would render it necessary for me to conclude, even if then I should feel justified in voting for his expulsion that the Senator

from Kentucky, in drafting this resolution and submitting it to the Senate, ever meant to call on the people of the United States to do anything that was illegal or, in that sense of the word, improper. Thinking thus, and that being the only part of the series of resolutions that has been selected by the mover of the resolution for expulsion as making a foundation for a proceeding of this kind, it is satisfactory to me. I am convinced there is nothing else in the resolutions or the keen eye of the Senator from Massachusetts would have discovered it. I certainly have been able to discover nothing else of the kind in the resolutions.

Now, sir, clearly, with this view, I cannot think for a moment of voting to expel the Senator from Kentucky; and I will go further and say that I doubt very much, even if it was susceptible of the construction which is put upon it by Senators, and even if it was not disclaimed, whether I should be ready to vote for his expulsion. I can very readily imagine a condition of things in any country on the face of the earth when a Government, the President, or if you please the ruling power, the Executive, had become so obnoxious to the people and was pursuing a course so diametrically opposed to its interests that it might be necessary in the Senate of the United States or in the House of Representatives, or in both, to say distinctly in the place which we occupy, "I, from this place, call on the people of the United States to resist this outrageous exercise of power." Believing that those things may happen, and believing that there may be times in the history of all countries, as there perhaps have been in the history of some, when the strongest and the boldest and the most decisive language with regard to opposition to the Government not only might be used with propriety, but ought to be used, I cannot say, I am not prepared to say that a Senator for using language even of that description in his place ought necessarily to be expelled; for we cannot undertake to judge of the impressions that may be made upon the mind and the heart of a man by acts from the impressions made upon our minds and our hearts by the same acts. We must judge somewhat of men as we see them. I do not approve of many things that have been said by the Senator from Kentucky on this floor. I think that at times he has been violent and unreasonable in his attacks upon the Administration and upon the majority here; but he does not think so; and because I think so, am I not bound to look somewhat at his previous history as known to myself in order to judge of what may be his intentions?

Sir, I have known the Senator from Kentucky for many years. I was associated with him in the other House of Congress. I have been associated with him here. There we were in perfect accord; here we are not; but I must say in my conscience, and I say it with pleasure, that nothing that the Senator has said here or done here, since he has been a member of this body, much as I may disapprove what he has said and done on several occasions, has for a single moment led me to doubt his devotion to the cause of the country, and his hatred of and his determination to oppose this rebellion. I believe him to be a loyal man. But because he differs with me upon many questions, because he feels with reference to many things as I do not feel, I am not disposed, necessarily, therefore, to judge him harshly; because we must all reflect that on these great questions which so excite him we are not situated as he is and has been. I have been disposed to make much allowance for Senators coming from another section of the country from myself, attached to an institution, perhaps, which I hate, and feeling, perhaps, that their own rights and the rights of their constituents were in danger. I regret that it is the case with regard to the honorable Senator from Kentucky. His attachment to this institution seems to have perverted his judgment; and its tendency always is and always has been, within my observation, to pervert the judgment of any man and to obliterate the distinctions between good and evil.

Now, sir, with regard to a point taken by my colleague, that there was a difference between written resolutions and spoken words in debate, I cannot recognize the distinction. It is all debate as we consider it. Let my colleague consider for a moment. It is nothing but the opinions of a

Senator put in writing. How many Senators are there who put in writing deliberately and read to the Senate their opinions upon questions? Is it not debate? It is not, to be sure, laid upon the desk.

Mr. MORRILL. If my colleague will allow me, he does not quite comprehend my distinction. I did not intend to draw a distinction between words written and words spoken; but my distinction was between words spoken in debate on a subject before the Senate and words spoken without a subject. That is the distinction.

Mr. FESSENDEN. I only alluded to it to explain the grounds of my difference. How often do we rise here to make personal explanations? Whatever is admitted as a matter of speech in this Senate or as matter of writing, all comes within the privilege of debate, in my judgment. I think, therefore, we can make no distinction between what is said in the heat of argument, and what is deliberately written and read to the Senate, and what is placed in the shape of resolutions and laid on the desk—men have different modes of accomplishing that purpose—or whether it is pertinent to the question under debate, or whether it is impertinent, using that word in no offensive sense.

That being the case, therefore, I take this to be debate. The Senator from Kentucky has chosen to say certain things; and he will allow me to say, without meaning to offend him at all, that I think he has said many things in these resolutions that are not founded in fact; I think he has said many things intemperately, many things in bad taste, and many things that at some future day when he comes to read them over he will be very likely to be sorry for. But, sir, that makes no difference after all. The honorable Senator from New Hampshire has well said that we cannot undertake to judge of men's opinions by our own in the first place, and we cannot undertake to bring men in debate to our standard.

The rule is a wise one, infinitely wise, and lies at the foundation of all our proceedings and all our liberties in reality as legislative bodies, that we shall not be questioned outside of the Chamber for what we say inside of the Chamber. I agree with what was said by my colleague. I think that inside the Chamber we have a right to punish improprieties in words and acts. There is no doubt about that; but Senators must reflect that it would be extremely dangerous to begin to apply that rule upon a commentary on the Government. Of all things in the world, however much it might offend me, however much I might disagree with the sentiments that were propounded, whatever they were, the last point I would seize upon for punishment of any kind or description would be free, unlimited commentary upon the acts of the Government in power, the Executive, or the authorities of the United States. Sir, everything depends upon the fact that we here, in this legislative Hall or in the other, or in both, shall, when we choose, have the privilege entirely and perfectly to rise in our places and express, in as strong terms as we can, within the limits of parliamentary language and propriety, our disapprobation of anything and everything, if we choose to express it, that is done by the President or his Cabinet, or anybody who is in the administration of executive power. It is the great safeguard against corruption. It is a thing that ought not to be limited in any shape; and we ought to leave any Senator or any Representative who transgresses the proper limits, to the judgment of the country and the judgment of the opinion of those about him. If he goes beyond the proper limits of parliamentary propriety, if he exposes himself to those rules which have been laid down as proper to govern all legislative bodies, he must take the consequences; but for what he says—I mean the nature of what he says—whether true or false, whether slanderous or otherwise, especially upon the Government, we ought to be the last persons in the world to attempt either to restrain or to punish him. He may make great mistakes. He may be very unjust. I think the Senator from Kentucky has been and is unjust; and more than that, I think, in these resolutions he is ungenerous in many things. I have a right to rise in my place and say so. I can comment upon him with as much freedom as I choose, always keeping myself within the limits of which I have spoken. We must meet these things here, and not attempt in any degree to stifle the clear, decided, vigorous

expression of disapprobation of anybody and everybody connected with public affairs.

That is the nature (if I have not misread them) of these resolutions. I need not say that I do not approve of them. I need not say, perhaps, that I think they are in a great degree almost entirely unfounded, that they are fallacious, calculated—I will not say designed—to deceive; a stump speech, in point of fact, and of a very violent and a very inexcusable character. That is my opinion; but nevertheless I would not restrain the Senator from Kentucky or any other Senator. I support the Administration. I uphold it. I respect it. I am ready to sustain it. I helped to put it into power. Up to this point I have stood by it, and I expect to stand by it hereafter. But, sir, if I cannot defend it against any attacks which the Senator from Kentucky or any other Senator on this floor may choose to make, then he must have the advantage of me, and he should be allowed to go out to the country and obtain all the advantages he can on that account.

It is by attempting in any way to limit such a free expression, that we, in fact, as some gentleman has said, make a confession of our weakness, or the weakness of our friends, which I, for one, am not prepared to make for a single instant. I am ready to meet these resolutions if they ever come to an argument on this floor; that is, if I have time and feel like doing it. I certainly have not much inclination to talk here if I can avoid it; but I really am of opinion that such is their character, they are so bitter, so unjust, so partial, so violent, so unreasonable in their charges upon the Government, that if it had not been for this debate that has sprung up upon them, they would have fallen like a mere dead letter and sunk into complete oblivion, even if backed up by a three days' speech by the honorable Senator from Kentucky; and he certainly could not get through in less time than that, from the length of the resolutions, if he discussed all of them.

Under these circumstances, therefore, holding to these ideas with reference to the matter, as I do not believe and cannot see by any fair construction of the language that the Senator has called upon the people of the country to oppose the laws or do anything of an illegal character, I cannot vote for his expulsion. I hold to the largest liberty of comment upon this Administration and every Administration, and have indulged in it myself and mean to hold it as long as I remain a member of any legislative body. If my friends over on the other side of the Chamber get into power, I have no doubt they will afford me ample occasion to comment in the severest terms upon pretty much everything they do; it has always been the case heretofore. I desire to retain that privilege, and not to say that anybody shall be censured for it. Let the censure come from the people; let the censure come from public opinion if a man abuses his place and makes unfounded charges and attempts to pervert the people from a true and correct judgment of the acts of their rulers. I therefore revert precisely to what I said in the first place—I am sorry to have talked even so long on the subject—that I shall vote both against the resolution of expulsion and the resolution of censure. However censurable in a private point of view I might think the Senator, I am not prepared to set so bad an example here. As my friend from New Hampshire has said, beware of the first step; beware of the beginning; set not so evil an example. If we support this thing, we may find ourselves very soon traveling in a downward road, when perfect freedom of speech in this Chamber cannot be exercised without having the heavy hand of a majority placed upon it, putting something upon the record by way of censure. Censure, in my judgment, should come from another quarter.

Mr. WILSON. Mr. President—

Mr. SUMNER. I move that the Senate now adjourn.

Mr. FESSENDEN. If the Senator will withdraw that motion I desire to have an executive session for a few moments.

Mr. SUMNER. Certainly; I will withdraw it.

EXECUTIVE SESSION.

On motion of Mr. FESSENDEN, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 27, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

CORRECTION.

Mr. UPSON. Mr. Speaker, I find in the Globe that I am reported as having dissented from the report of the Committee of Elections in the case of Joseph Segar, from Virginia; that is a mistake, as it was the case of Mr. Field, from Louisiana, to which I referred.

PORT TOWNSEND.

Mr. COLE, of Washington, presented the memorial of the Legislative Assembly of the Territory of Washington, asking that Port Townsend, in said Territory, be made a port of entry; which was referred to the Committee on Commerce.

ROUTE BETWEEN WASHINGTON AND NEW YORK.

Mr. RICE, of Maine, by unanimous consent, presented the following joint resolutions of the State of Maine; which were referred to the select committee on the subject, and ordered to be printed:

STATE OF MAINE.

Resolves relating to the inadequate facilities for travel and transportation of troops between New York and Washington.

Whereas the facilities for convenient and expeditious travel and transportation of troops between the cities of New York and Washington, and especially between New York and Philadelphia, are at present notoriously inconvenient and inadequate: Therefore,

Resolved, That our Senators and Representatives in Congress be requested to urge upon the attention of Congress the importance of making immediate provision for such an increase in said facilities as the public wants and the exigencies of the Government imperatively demand.

Resolved, That the secretary of state be requested to forward a copy of these resolves to each of our Senators and Representatives in Congress.

In the House of Representatives, January 21, 1864. Read and passed.

NELSON DINGLEY, Jr., Speaker.

In Senate, January 22, 1864. Read and passed.

GEORGE B. BARROWS, President.

January 22, 1864. Approved:

SAMUEL CONY.

STATE OF MAINE,
OFFICE OF SECRETARY OF STATE,
Augusta, January, 1864.

I hereby certify that the foregoing is a true copy of the original, as deposited in this office.

EPHRAIM FLINT, Jr.,
Secretary of State.

DEFICIENCY BILL.

The SPEAKER stated the first business in order to be the unfinished business of yesterday, which was the consideration of the amendments of the Committee of the Whole on the state of the Union on House bill No. 156, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864.

Mr. STEVENS demanded the previous question.

Mr. PENDLETON. I appeal to my colleague on the Committee of Ways and Means to withdraw the demand for the previous question, in order that I may move an amendment agreed to by that committee this morning.

Mr. STEVENS. I withdrew it for that purpose.

The Clerk read, as follows:

To defray expenses incurred in the raising, equipping, transportation, and subsistence of minute men and volunteers in Pennsylvania, Maryland, Ohio, Indiana, Kentucky, Iowa, and Missouri, to repel rebel raid, \$10,000,000, to be settled upon proper vouchers to be filed and passed upon by the proper accounting officers of the Treasury: Provided, That in determining the claims to be allowed under this act the same principles, rules, and regulations shall be observed by the accounting officers in auditing said expenses as have been applied to the claims allowed to States, under the act approved July 27, 1861, entitled "An act to indemnify the States for expenses incurred by them in defense of the United States."

Mr. WASHBURN, of Illinois. I make the point that that amendment is not in order, for the reason that it makes an appropriation, and must, under the rules, have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order.

Mr. PENDLETON. Does the gentleman object to it?

Mr. WASHBURN, of Illinois. I do for reasons well known to the gentleman.

Mr. STEVENS demanded the previous question.

The previous question was seconded, and the main question ordered.

The amendments of the Committee of the Whole on the state of the Union on which a separate vote was not asked were severally read and concurred in.

Ninth amendment:

Provided, That no money hereby appropriated shall be expended on the Capitol extension, or in continuing the north wing of the Treasury extension, beyond what may be necessary to protect said buildings from injury.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENS. I have a word to say before the vote is taken.

The SPEAKER. It has been the usage for the gentleman reporting a bill to be heard after the main question has been ordered, but not after the amendments of the Committee of the Whole on the state of the Union have partly been voted upon.

Mr. STEVENS. I ask the unanimous consent. There was no objection.

Mr. STEVENS. I wish to call the attention of the House to the effect of this amendment, which cuts off all appropriations for finishing the work on the Capitol and Treasury extensions, and only allows them to be covered in. I ask whether it is any economy at all to dismiss the artists and laborers employed upon these grand works now near completion, to dismiss them at this season of the year to their distress and the distress of their families, and with the fact staring us in the face that they will have to be recalled here at great expense when the work has to be renewed.

Now I will venture to say that there is no more creditable work to this or any other nation, to be found anywhere, than this Capitol and the Treasury building are. This Capitol is a model for all buildings of the kind everywhere. And now it is proposed to leave the dome of this Capitol unfinished, a dome not inferior to that of any of the cathedrals in Germany; and indeed I do not know but that it exceeds them all. I think that motives of humanity, national pride, and economy, all require that the amendment should be disagreed to, and that the work should be allowed to go on. I thank the House for its indulgence.

The question on agreeing to the ninth amendment was taken; and it was decided in the negative—yeas 56, nays 77; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alley, Ames, Augustus C. Baldwin, John D. Baldwin, Blaine, Blow, Boutwell, Brooks, Clay, Cravens, Dawes, Denison, Eden, Edgerton, Eldridge, Farnsworth, Finck, Ganson, Grinnell, Hall, Harding, Harrington, Herrick, Holman, Asahel W. Hubbard, John H. Hubbard, Kalbfleisch, Kasson, Orlando Kellogg, Kernan, Long, Longyear, McDowell, McKimney, William H. Miller, Amos Myers, Noble, John O'Neill, Orth, Price, Samuel J. Randall, Rogers, Scofield, Smithers, Thayer, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Wheeler, Joseph W. White, Wilson, Windom, Winfield, and Fernando Wood—56.

NAYS—Messrs. Allison, Ancona, Ashley, Bailey, Baxter, Boyd, Brandege, Broomall, James S. Brown, William G. Brown, Cobb, Coffroth, Cole, Henry Winter Davis, Thomas T. Davis, Dawson, Dixon, Driggs, Eliot, Frank, Garfield, Griswold, Hale, Benjamin H. Harris, Higby, Hooper, Hutchins, Jenckes, Kelley, Francis W. Kellogg, Knapp, Marcy, Marvin, McAllister, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Pennington, Leonard Myers, Nelson, Norton, Charles O'Neill, Pendleton, Pomeroy, Radford, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, Ross, Schenck, Shannon, Sloan, Smith, Spalding, Stebbins, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Thomas, Tracy, Upson, William B. Washburn, Webster, Whaley, Williams, Wilder, Benjamin Wood, and Yeaman—77.

So the amendment was disagreed to.

During the roll-call,

Mr. DAVIS, of New York, stated that Mr. LOVEJOY was confined to his room by illness.

Mr. HARDING stated that his colleague, Mr. GRIDER, was detained from his seat by business of a pressing nature.

Several members, who had not been within the bar when their names were called, having asked leave to vote,

Mr. WASHBURN, of Illinois, said: I will not object, but I move that the rule requiring members to be within the bar when their names are called be rescinded.

Mr. PENDLETON. I make the point of order that a motion to change the rules is not in order. The SPEAKER. The Chair sustains the point of order.

The result of the vote was announced as above recorded.

Mr. STEVENS. I move to reconsider the vote by which the amendment was rejected; and also move to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. HOLMAN called for a separate vote on the eleventh amendment, as follows:

For repair of coal and landing wharf at Key West, to erect a crane thereon, and cover the extension of the machine shop at that point, \$10,000.

The House divided, and no quorum voting.

Mr. HOLMAN said: I suggest if that a letter, which I understand to be in the hands of the gentleman from Massachusetts, [Mr. Rice,] be read, showing some responsibility for this appropriation, I will withdraw the demand for a division.

Mr. RICE, of Massachusetts. If the House will permit me, I think I can satisfy it of the necessity for this appropriation. The amendment was offered on the intimation of the Secretary of the Navy that it was necessary to make this expenditure at Key West, which is a favorite station for our blockading squadron. The money is now in course of expenditure, the works being all necessary for the convenience of the vessels of the blockading squadron that touch there. I send to the Clerk's desk a letter from the Secretary of the Navy to be read.

The letter was read, as follows:

NAVY DEPARTMENT, January 26, 1864.

SIR: I have the honor to state to the Committee on Naval Affairs that the sum of ten thousand dollars (\$10,000) will be required to repair the coal and landing wharf at Key West, to erect a crane thereon, and to cover the extension of the machine shop at that point; and as no estimates for those objects have been submitted, and there are no appropriations for them, to request that the amount named may be appropriated in order to carry out those necessary repairs and improvements.

Very respectfully, &c.

GIDEON WELLES, Secretary of the Navy.

Hon. A. H. RICE, Chairman of Committee on Naval Affairs, House of Representatives.

Mr. HOLMAN. There having been no recommendation read to the House from the head of the Navy Department for this appropriation, I had called for a division. As the Secretary of the Navy says that the appropriation is necessary, I withdraw the call.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. STEVENS called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 130, nays 4; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, Ames, Ancona, Arnold, Ashley, Bailey, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Blow, Boutwell, Brandegee, Brooks, Broomall, James S. Brown, Freeman Clarke, Clay, Cobb, Coffroth, Cole, Cravens, Thomas T. Davis, Dawes, Edgerton, Eliot, Farnsworth, Eckley, Eden, Edgerton, Garfield, Hale, Hall, Harding, Harrington, Herrick, Higby, Holman, Hooper, Hotelkiss, Asahel W. Hubbard, John H. Hubbard, Kelley, Orlando Kellogg, Kernan, Le Blond, Long, Longyear, Marcy, Marvin, McAllister, McBride, McClurg, McIndoe, McKimney, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Charles O'Neill, John O'Neill, Orth, Patterson, Pendleton, Perham, Pomeroy, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, Ross, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stebbins, John B. Steele, William G. Steele, Stevens, Strouse, Stuart, Sweet, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Voorhees, Wadsworth, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Joseph W. White, Williams, Wilder, Wilson, Windom, Winfield, Fernando Wood, Woodbridge, and Yeaman—130.

NAYS—Messrs. William J. Allen, Chandler, Stiles, and Benjamin Wood—4.

So the bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed without amendment a bill (H. R. No. 33) making appropriations for the payment of invalid and other pensions of the United States, for

the year ending June 30, 1865; also a bill (S. No. 60) to increase the compensation of inspectors of customs in certain ports; in which he was directed to ask the concurrence of the House.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined, and found truly enrolled, bills and resolutions of the following titles; when the Speaker signed the same, namely:

Joint resolution (S. No. 2) expressive of the thanks of Congress to Major General Nathaniel P. Banks and the officers and soldiers under his command at Port Hudson;

Joint resolution expressive of the thanks of Congress to Major General George G. Meade, and Major General Oliver O. Howard, and the officers and soldiers of the army of the Potomac;

Joint resolution (S. No. 5) of thanks to Major General Ambrose E. Burnside and the officers and men who fought under his command;

Joint resolution (S. No. 14) presenting the thanks of Congress to Cornelius Vanderbilt for a gift of the steamship Vanderbilt;

A bill (S. No. 49) relating to the admission of patients to the hospital of the insane in the District of Columbia; and

A bill (H. R. No. 33) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1865.

ORDER OF BUSINESS.

The SPEAKER announced, as the regular order of business, the calling of committees for reports, under which the question recurred on the motion to recommit the resolution reported from the Committee on the Judiciary to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862; on which the gentleman from Delaware [Mr. SMITHERS] was entitled to the floor.

PERSONAL EXPLANATION.

Mr. KINNEY. I ask the gentleman from Delaware to yield me the floor for the purpose of a personal explanation.

Mr. SMITHERS. I do not like to be discourteous, and I will yield the floor with the understanding that the time the gentleman occupies is not to be taken out of my time, and that the gentleman will occupy not more than ten minutes.

Mr. KINNEY. I rise to repel the attack made upon the people I represent, by the gentleman from New York [Mr. FERNANDO WOOD] in his speech yesterday. I should consider myself unworthy to represent that people were I to remain silent and allow that accusation, coming from the source it does, to remain unanswered and unrepelled.

The gentleman was not discussing anything which pertains to my Territory or constituents when he descended from the legitimate argument he was making upon a constitutional question before the House for the purpose of traveling clear around into the Territory of Utah to attack a loyal people. I say the gentleman had no right to do this. If Utah had been before the House, or any measures affecting its interests, then perhaps it might have been germane for the gentleman to indulge in this vindictive attack upon my Territory. I am sorry that I have been compelled to ask the gentleman from Delaware [Mr. SMITHERS] to yield me the floor to reply to that part of the speech of the gentleman from New York.

Sir, I presume that this attack falls more harmless upon the ears of the country and the members of this House than if it emanated from any other source in this House.

Mr. FERNANDO WOOD. Permit me to ask the gentleman—

Mr. KINNEY. I have but a very few moments, and I am not disposed to yield the floor for the purpose of answering any question.

Mr. FERNANDO WOOD. I desire simply—

Mr. KINNEY. I decline to yield. The gentleman introduced himself into this House by offering a resolution declaring the present war to be inhuman; and for that reason, and because of the known political standing of the gentleman, his known sympathy with rebels against the best Gov-

ernment the world ever saw, his attempt yesterday fell comparatively harmless upon the country and upon the members of this House.

The gentleman does not confine himself to declaring this war to be inhuman; but in his speech as reported in the Globe of this morning, he characterizes this war as a *hellish crusade of blood and famine*. Has it come to this, that a man can stand up in the American Congress, when the Government is struggling for its existence, when a formidable attack is made to destroy the Government handed down to us by our fathers—I say has it come to this, that a man can stand up in the American Congress and pronounce this as a *hellish crusade of blood*? A *hellish crusade*, indeed, sir! A *hellish crusade* I presume it would be for a man to defend himself against an assassin; a crusade for a father to defend his wife and children against an attack made by an assassin at midnight; a crusade, indeed, for the Government to struggle in putting down a rebellion which strikes at the life of the nation.

Why, I say, did the gentleman travel out of the order of discussion for the purpose of attacking the people I represent? Why did he do it? I will tell you why. It was because the people of Utah are loyal to the Government, and have no sympathy with rebels. I know of no other reason but this. They are loyal, and have been, to the Constitution and the Government ever since the war commenced—yea, before, ever since the people have had an organization in this country; loyal to the Government, loyal to its institutions, and submissive to its laws.

But, sir, in justice to the gentleman from Delaware I must be brief. The gentleman from New York says:

"But, sir, that is not the only case. I come to a later and yet more pertinent and significant case—the Mormon rebellion. These profligate outcasts, who have always been hostile to your moral and political institutions, were treated with by commissioners."

These "outcasts!" Mr. Speaker, I am told and this House is told that the people of Utah are outcasts. I hurl back the accusation upon the gentleman. I pronounce it false. I pronounce the statement false that the people of Utah have ever been in rebellion against the Government or its laws. I have had some experience in the Territory of Utah for some years as its chief justice, and I take this occasion to say that the people of that Territory have always been submissive to the laws, have always been loyal to the Constitution and the Government, and have always been obedient to the authorities of the Federal Government in that Territory. I will tell you, sir, why this formidable military force was sent to Utah in 1858. John B. Floyd was then Secretary of War and James Buchanan was President of the United States; and it was for the purpose of bringing about this very state of things that now exists and prepare the way for it that a large force of ten or fifteen thousand men was sent into the Territory of Utah, and that, too, when the people of the Territory were pursuing their peaceful avocations, loyal to the Constitution and the Union. I say that there was no cause for sending that army to Utah. None existed whatever. There was no reason for it, but that arch-traitor, John B. Floyd, foreseeing, as he did, that the time was near at hand when the southern States would revolt against the Government and establish a government of their own, set on foot a large military force against the people of Utah, transporting to it an army at an expense of forty or fifty million dollars, thus impoverishing the United States Treasury, and for the purpose of preparing the way by crippling the North, with a view to the rebellion which is now upon us. These men were sent to Utah with all the paraphernalia of war, with infantry, artillery, and cavalry, for this purpose alone. The people were quiet; they were peaceful; they were loyal; they were submissive to the Government and to its laws. I say that it was for this purpose, and only for the purpose of impoverishing the Treasury of the United States and of disposing of the Army of the United States, for after that Army was recalled it was engaged at Fort Crittenden in destroying the munitions of war that they might not be brought back to the northern States to assist in putting down this rebellion.

Mr. SMITHERS. Will the gentleman from Utah pause awhile? He has already occupied the ten minutes he requested of me. I wish now

to understand whether the time which he occupies is to come out of my hour? If not, I am perfectly content that he shall proceed.

The SPEAKER. The understanding is that the gentleman from Delaware has yielded the floor to the gentleman from Utah for a personal explanation by unanimous consent, and hence the time occupied by the gentleman from Utah will not come out of the gentleman's hour.

Mr. KINNEY. Mr. Speaker, it was for the reason I have stated, and for that reason alone, that the traitor, John B. Floyd, inaugurated this war against the people of the Territory of Utah; but I say to the gentleman that not a gun was fired upon either side, neither by the Federal troops nor by the people of the Territory. It was only the appearance of war, and it was for the purpose of destroying the arms and crippling the means of the Government and impoverishing the Treasury of the United States, as I have stated, that this large military force was sent forth against a peaceful and loyal people. The gentleman says that the people of Utah were in rebellion. Sir, they never have been in rebellion against this Government. They have not, as the gentleman from New York has, any sympathy with rebels. The gentleman should look to his own city. I think he has been a very distinguished citizen of the city of New York, and has had the honor of presiding over that vast metropolis; and it is said, I do not know with how much truth, that the recent riot in the city of New York, by which the streets flowed with blood, and innocent women and children were butchered—it is said that a large share of the responsibility of that riot rests upon the shoulders of the gentleman from New York. But, Mr. Speaker, when a man will stand up in the Halls of this Congress at this time, when it is important for every man, if he enunciates sentiments at all, to enunciate loyal sentiments, and attack the Government and the loyal people I represent, I trust that his attacks will be harmless and of no effect.

I would ask the gentleman if he did not, when vessels carrying arms to the South from New York were detained by the Government, and he was telegraphed to by the Governor of Georgia on the subject, telegraph to the Governor of Georgia that he regretted exceedingly that these vessels had been taken into custody by the Government, and that he had not the power of releasing them and sending them on their way rejoicing?

I presume such is the case; and are we, I say, are grave members of the American Congress, assembled to legislate for the best interests of the country, who are trying to save for posterity the Government bequeathed to us by our fathers—are we to sit here and listen to sentiments breathing treason against the Government without saying a word against it?

If I were a member of the House in full fellowship, in place of being a Delegate, the first thing I would do would be to introduce a resolution in this House to expel the gentleman, as unworthy to occupy a seat upon this floor. [Great laughter.] I think it is due to the dignity of the body, due to the nation, due to the people whom we represent, that he go back to his constituents, or rather to the place to which he more legitimately belongs—to the southern confederacy.

Mr. Speaker, I propose to quote a little further from the gentleman's speech; and I will say that the speech as it appears in the Globe and as it was delivered yesterday in the House differs in some very essential particulars. Undoubtedly it has been prepared with care by the gentleman, and that we have the right to take it as it appears in the Globe.

He says, in speaking of what he terms the Mormon rebellion—

"It commenced early in 1837. The immediate cause was opposition to the exercise of Federal authority and the appointment of a territorial Governor. On the 15th of September of that year Brigham Young issued a proclamation in the style of an independent sovereign, announcing his purpose to resist by force of arms the entry of the United States troops into the Territory of Utah. He proceeded to carry out this threat. He organized an army, declared martial law, seized Government fortifications, destroyed Government property, and put the Territory in a state of complete defense against the Federal Army."

I ask the gentleman for his authority when he says that Governor Brigham Young seized Government fortifications and destroyed public property. If he was as familiar with Utah as he seems to be with the rebels, he would never have made that statement. There were no Government fort-

ifications in Utah at that time, and none were seized by Governor Brigham Young or by the people of Utah.

It is true, Mr. Speaker, that when the people of Utah heard for the first time after the Federal army was fairly on its way across the plains that a tremendous military force was on its way to that Territory for the purpose of destroying them, of exterminating them from the face of the earth, for the purpose of pillaging and plundering their fair possessions—it is true they did then precisely as any other people would have done under such circumstances: they prepared for their defense.

But that army entered Salt Lake City peacefully and in quiet. Not a gun was fired, not a drop of blood was shed. And this grand programme inaugurated by Floyd for the purpose I have indicated and as has since fully appeared to be true, after remaining there for some two years, destroyed nearly all their munitions of war (for they were engaged many months in doing it) and were then recalled, and the grand farce ended.

That is all there was of the Mormon rebellion, as the gentleman called it; not a rebellion by the Mormons, not at all, but a military expedition, set on foot and carried into effect in 1858 by John B. Floyd, for the purposes which I have already stated; and it has had its effect. It has crippled the North. For the time being it crippled and impoverished the Treasury of the United States; and Mr. Floyd and Mr. Buchanan were content, for it cost the Government nearly fifty million dollars.

Sir, the people of Utah have under all their discouragements and embarrassments built up a beautiful city in the midst of the great American desert. They are feeding, and have been for years, the employes of the overland mail. They are furnishing the necessary supplies for the purpose of developing the resources of the rich mineral regions which surround them. They have afforded a safe retreat from the Indians to the wayfarer as he passes on his weary pilgrimage to the other side of the Rocky Mountains for the purpose of developing the resources of the Pacific coast.

The time may come, Mr. Speaker, and I hope it will come during the present session of Congress, when I may have the opportunity of elaborating this subject, and showing to the American nation that the people I have the honor to represent upon this floor are a much-abused people; that they are entitled to receive, in place of the condemnation of the country and of those who represent the people in Congress, their sympathies for what they have done in establishing a colony in the great heart of the American desert which is indispensable to the people and to the Government. Thanking again the gentleman from Delaware very kindly for his courtesy in yielding me the floor, I will not detain the House longer.

Mr. FERNANDO WOOD. I hope that the House will bear with me for a moment.

The SPEAKER. For what purpose does the gentleman rise?

Mr. FERNANDO WOOD. I rise for the purpose of saying a few words in reply to the Delegate from Utah.

The SPEAKER. Does the gentleman from Delaware yield for that purpose?

Mr. SMITHERS. I extend the courtesy to the gentleman from New York, with the request that he will be brief, for I may be taken off the floor by the expiration of the morning hour.

Mr. FERNANDO WOOD. Mr. Speaker, I promise the House that I shall only have a few words to say.

In the course of my argument yesterday, it became necessary, in illustrating the statement that it had been the practice of the Government to appoint commissioners to treat with rebels in arms against its authority, to allude to the Territory of Utah. In doing so, sir, I had no expectation of exciting the ire of the Delegate from that Territory. The statements I made were gathered from executive documents on file in the archives of the Government. Almost every allegation that I uttered with reference to the Delegate's constituency were nearly *verbatim* extracts from official papers.

Mr. KINNEY. Let me ask the gentleman a question.

Mr. FERNANDO WOOD. I cannot yield to the Delegate a courtesy that he denied to me.

Mr. Speaker, I was exceedingly guarded in my reference to that question, lest I might be seduced

into some assault upon the peculiar institutions of that region, lest I might call upon the gentleman's political friends to know why, when they are suppressing, as they allege, the vile institution of slavery, they do not, as promised by the Chicago platform, suppress that other of "the twin relics of barbarism," polygamy? [Laughter.] But, sir, I avoided any reference to those peculiar institutions which I believe under the theory of our Government, so long as they are republican in form, we are obliged to tolerate, whether they are moral or immoral.

The Delegate tells us, Mr. Speaker, that the Government of the United States made war upon Utah; that the Secretary of War sent an army to conquer Brigham Young. Well, sir, I again refer the gentleman to the public archives. I refer him to the report of the Secretary of War made to the President of the United States, and which was transmitted to Congress, where it is distinctly stated that it became necessary to send an army, under General Alfred Sidney Johnston, because the Government officials were denied access to the Territory; because the Governor appointed by the President, and confirmed by the Senate, as well as the United States territorial judge, also appointed by the President and confirmed by the Senate, were denied the exercise of their official powers within the Territory. It also became necessary for the President to appoint two commissioners, ex-Governor POWELL, of Kentucky, now a Senator of the United States from that State, and Ben. McCullough, formerly of the Army of the United States. They went out with instructions from the President; they did proceed to the gentleman's Territory; they did meet a commissioner representing the other side, and did treat with Brigham Young; they did meet with the leader of the rebellion; and they did finally amicably adjust the questions at issue. That is all I said.

I thank the gentleman from Delaware for giving me this opportunity to say that my statements of yesterday were made from official data. If the Delegate from Utah chooses hereafter to dispute them I shall be prepared to furnish the documents to which I have referred.

One word, Mr. Speaker, in conclusion, as to a matter alluded to by the gentleman, and which is personal to myself. He inquired whether, when I was mayor of the city of New York, I did not send a communication to the Governor of Georgia regretting that arms had been stopped on their way to the South. I thank the gentleman for this opportunity to deny most emphatically and positively that there is any other foundation for that, other than this: before the commencement of this rebellion, and before any action by the Federal Government, the municipal police of New York stopped *in transitu*, upon the wharf, and when going on board the Savannah steamer, merchandise of every character whatever. Not arms, sir, not munitions of war, but the merchandise of New York merchants engaged in a lawful commerce. And then the Governor of Georgia telegraphed to me to know about the matter. The fact, sir, that the telegraph was in operation unrestricted; the fact that there was no interruption of intercourse between Georgia and New York, and the fact that mails were being carried as regularly as ever, are sufficient to prove that so far as the States of Georgia and New York were concerned, there were no unfriendly relations upon which to allege that there was any correspondence of an improper character. The Governor of Georgia telegraphed to know whether it was by my order, as mayor of the city of New York, that merchandise *in transitu* was thus stopped. I replied it was not; that under our municipal regulations the police of the city of New York was not responsible to the mayor, and that he had no control whatever over them.

That was my reply, and that is the matter upon which the gentleman from Utah hinges his accusation against my loyalty. I am not called upon to defend my loyalty, and I charge any man with falsehood who impugns it. My loyalty, and the threat of the gentleman to expel me—I will be ready to meet that question here and elsewhere when any gentleman has sufficient temerity to make the proposition.

Again thanking the gentleman from Delaware for this opportunity to reply, I yield to him the floor.

Mr. KINNEY. Will the gentleman from Delaware yield to me for one moment?

Mr. SMITHERS. I think this debate has gone far enough, and I decline to yield.

CONFISCATED PROPERTY.

The House then resumed the consideration of the joint resolution (H. R. No. 18) to amend a joint resolution explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862, on which the gentleman from Delaware [Mr. SMITHERS] was entitled to the floor.

Mr. SMITHERS. Mr. Speaker, though the question before the House is strictly the consideration of the amendment to the resolution explanatory of the act of 1862, yet, as it has been considered as involving the power of Congress to inflict forfeiture in fee as punishment for treason, I propose, among other things, to present my views briefly upon that subject. I offer no apology for occupying the time of the House on questions alike novel and important; and though I may fail to affect the opinion of any gentleman upon the floor, I shall, however imperfectly, have but performed a duty.

The rare occurrence of the crime since the adoption of the Constitution has prevented any authoritative judicial interpretation, and the meager comments of elementary writers afford little aid in its exposition. It must therefore be treated as a case of first impression, and the instrument must be its own interpreter. In determining its meaning the words are to be taken in their natural and common acceptance, except only where technical terms are employed they are to receive a legal and artificial construction. The framers of the Constitution fully understood the force of the words used in relation to a matter so familiar. Perfectly cognizant of the terrible evils attendant upon a power in the judiciary to declare cases of constructive treason or in Congress to define in what it should consist, they ordained a constitutional definition, and prescribed that it should "only consist in levying war against the United States or in adhering to their enemies, giving them aid and comfort." Having thus limited and hedged about the crime by exclusive words, they left to Congress the whole power of declaring its punishment, coupled with a qualification the object and construction of which is the matter in dispute. It will be observed that the power is granted in general terms:

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained."

If there be any denial or restriction upon the capacity by legislative enactment to affix any measure or mode of punishment known to the common law, or to the Parliament of Great Britain, upon the trial and conviction of the traitor, it is contained in this clause, and in that other provision which declares that "cruel and unusual punishments shall not be inflicted." I say upon the trial and conviction of the offender, for I maintain that this section has no reference to the odious and abominable practice of declaring persons attainted by bill without indictment or form of trial, as practiced by the British Parliament, and which is specially prohibited by a preceding clause of the Constitution. A careful inspection of the sentence will show that the object was not to limit the power of Congress, but to restrict the operation of attainder in its well-known attribute of working unlimited corruption of blood and perpetual forfeiture of estate. For it will be observed that the power to attain is not denied, but impliedly granted and recognized as within the power of Congress to impose as a specific punishment. The forfeiture restricted by the Constitution to the period of the life of the offender was that worked by attainder, and has no reference to forfeiture specifically imposed as punishment uncoupled with attainder and prescribed in the exercise of the general power precedent given to declare the punishment of treason.

The clause is properly no restriction on the power of Congress to impose a penalty, but only a constitutional definition of the consequence and limitation upon the operation of a particular mode of punishment, known as attainder. It declared in effect that Congress might attain, but that such

attainder should be deemed to work forfeiture only during the life of the person attained.

In this connection it is suggestive that the clause under consideration is contained in the article of the Constitution vesting judicial power, and from its location would seem to be a rule of judicial construction; limiting the courts in determining the consequences of attainder to confine its operation to the period of life only. It announced that when the heir came to claim the estate which had descended to him from his attainted parent, or through that parent from a more remote ancestor, he should not be held in law as being debarred from his inheritance by the technical operation of a common law punishment, following conviction and working absolute forfeiture and indefinite corruption of blood.

I incline to differ from those who construe the words "except during life" as referring to the point of time at which the forfeiture is worked, and not to the quantity of estate divested. I differ because of the nature of the attainder whose operation is thus restricted. Unless my reading of the provision be erroneous, the attainder referred to is such only as at common law resulted from conviction on indictment. It has no relation to such attainders as were imposed by statutes, operating immediately without process, ordinarily called bills of attainder.

These were the terrible engines of despotic cruelty by which men were punished for acts which when committed were not criminal; exhumed after death, and branded with the infamy of treason without trial; their estates forfeited without process of law, and their posterity rendered incapable of inheriting from or through them to the remotest generations. The power to enact such statutes is expressly denied to Congress by that clause which ordains that "no bill of attainder or *ex post facto* law shall be passed," and the clause under consideration contemplates it as being specially provided as punishment for crime—to be pronounced upon the conviction of the offender as a part of the sentence of the law upon the judgment of the court. If this view be correct it would seem to follow that the operation of the attainder to work forfeiture must necessarily arise during the life of the person attainted, and that upon the construction contended for by those who limit the words as defining the point of time when its operation commences, this provision was unnecessary, as the attainder imposed as punishment upon conviction, and which alone is recognized by the Constitution, must of necessity work during the life of the culprit; and as the divestiture of estates, which occurred after the death of the person attainted, resulted from corruption of blood, and did not accrue by way of forfeiture as the immediate consequence of attainder, corruption of blood being wholly taken away, these words would seem to indicate the quantity of estate forfeited.

But it is also suggested that by the imposition and execution of the sentence of death the forfeiture worked by the attainder was no material punishment, and that therefore these words are to receive a construction as declaring the time at which forfeiture shall be worked. This argument would be potential if Congress had no right to impose any other penalty, and if the object of the Constitution had been to vest in Congress the power to declare that form of punishment instead of being to vest a general discretion; to exclude the conclusion of the necessity of resorting to that form, and to limit the effect of attainder when prescribed. But Congress is intrusted by the Constitution with the unlimited power to declare what penalty it will inflict. It has chosen to prescribe death, omitting attainder; but imprisonment, banishment, forfeiture, or all of them, or any other, if deemed appropriate and adequate, were equally within its legitimate authority. To the penalty of death it might have added attainder, which by its own operation, and not by force of the statute, would have worked forfeiture. I say added attainder, for I hold that under our Constitution attainder is not a consequence of the judgment, at common law, but must be specially declared by Congress as part of the punishment, but when declared and pronounced by the court, immediately worked forfeiture according to the limited operation prescribed by the Constitution. I say worked forfeiture, for if the forfeiture were contained in the statute and imposed as specific punishment of

treason, then it was not the consequence of attainder, but existed independently of it.

This general power to prescribe the punishment of treason is in accordance not only with the spirit of the Constitution, but with its literal text, which was so justly vindicated by the gentleman from Massachusetts by his acute criticism upon inspection of the original instrument, and which agrees with the history of the clause, as shown in Elliot's Debates, and with the punctuation of the older editions of the Federalist. No other construction can rescue its framers from the monstrous absurdity of permitting Congress to punish minor felonies, and even misdemeanors, by the total deprivation of property and compelling the Government to hold, as trustee, the remainder in the whole estate of a convicted traitor, contingent upon his death, for the benefit of his heirs at law. Nor is there any authority, judicial or elementary, which has been cited, that, in my judgment, properly considered, militates against this construction. The comment of Mr. Madison, contained in No. forty-three of the Federalist, is confidently relied on as an authority. Now, to my mind, it is perfectly clear that Mr. Madison was treating of the operation of the common-law punishment of attainder. I quote his language, not an unconnected clause, but the whole paragraph:

"As treason may be committed against the United States, the authority of the United States ought to be enabled to punish it; but as new-fangled and artificial treasons have been the great engines by which violent factions, the natural offspring of free governments, have usually wracked their alternate malignity on each other, the Convention have, with great judgment, opposed a barrier to this peculiar danger by inserting a constitutional definition of the crime, fixing the proof necessary for conviction of it and restraining the Congress, even in punishing it, from extending the consequences of guilt beyond the person of its author."

It is manifest that the distinguished author, in this comment, alluded to the practice of corrupt and subservient judges of inventing constructive treasons, of allowing convictions upon insufficient proof; and dominant factions, possessed of legislative power, of enacting modes of punishment operating through corruption of blood, to visit the guilt of the parent upon his innocent posterity. In no sense does forfeiture antecedently prescribed and operating immediately upon the party convicted visit punishment otherwise than upon the person of the guilty author. The estate divested is his, the fine collected is out of his property, and the sentence of death, if executed, is upon him personally. It is true that his children are forestalled in the one case of the wealth, and in the other deprived of the society of the parent, but in either case only in the form of punishment applied directly to the criminal.

The great name of Judge Story has been invoked as conclusive against the doctrine of the right of Congress to forfeit. If indeed he has so written, although not of the force of a judicial determination, it would go far towards settling the controversy, not only in my mind, but, which is far more material, in the opinion of this House and in the judgment of the country.

Before yielding, however, unqualified assent to the position claimed as having been established by this authority, it will be well to review what Judge Story has really written. Commenting on this clause, he says:

"Two motives, probably, concurred in introducing it as an express power. One was not to leave it open to implication whether it was to be exclusively punishable with death, according to the known rule of the common law and with the barbarous accompaniments pointed out by it, but to confide the punishment to the discretion of Congress."

Now, it is incontestable that he here not only admits that the whole matter of determining how treason should be punished, is vested in Congress, but declares that it was so vested purposely to prevent the conclusion which might otherwise have been drawn, that the only allowable mode was that practiced in England, death and attainder, and closes with the express declaration that the choice of the measure of punishment is *confided to the discretion of Congress*, and clearly evidencing as his opinion that in the exercise of that discretion it might prescribe death or any other form and measure which it might deem adequate and appropriate. He then proceeds:

"The other was to impose some limitation upon the nature and extent of the punishment, so that it should not work corruption of blood, or forfeiture beyond the life of the offender."

Can any one fail to perceive that the great com-

mentator had in his mind the common-law penalty of attainder? He speaks of a punishment which worked corruption of blood and forfeiture. What punishment had this effect except attainder? What other worked corruption of blood? What other reached beyond the life of the offender? He is not speaking of a punishment specifically imposed, such as death, forfeiture, imprisonment, and the like, but of that one which in addition to its own imposition wrought, by its operation, corruption of blood and forfeiture of estate. It is true that in treating of the policy of forfeiture he urges with much power its tendency to alienate the affections of the children from that Government which has deprived them of enjoying the possessions of their ancestors. But this is a mere question of policy, and does not affect the consideration of constitutional power. It is for Congress to determine whether it may not be the better policy to divest the whole estate of traitors, not only to prevent the alienation of the residue falling in after the life estate shall have been exhausted, as suggested by the gentleman from Massachusetts, [Mr. BOURWELL,] but, which I consider of more importance as securing the future peace of the Republic, to teach those who may hereafter be inclined to rush into rebellion against the United States, that they cannot do so without exposing themselves to the utter forfeiture of their estates, and their posterity to the loss of that property which they might otherwise have inherited.

On this subject I have no mawkish sentimentality, no such acute sensibility as to lead me to be more careful of the prospective interest of the children of traitors than those to whom they were by nature intrusted, and who, as vigilant guardians, should have looked well to the future before taking up arms against a Government under whose benign protection they have acquired and held all that property which they have now so justly forfeited by rebellion against its authority. No such consideration of sympathy will restrain me from voting any measure of punishment whatsoever. I shall act irrespectively of their advantage and only for the interest of the Republic; and in my judgment that interest will be best promoted, future peace most effectively maintained, and the permanency of the Union most efficiently guaranteed by visiting upon the wicked leaders utter confiscation of estates and deprivation of political rights, and by showing mercy and amnesty to the deluded masses who by their devices have been deceived and by their bayonets driven into rebellion.

But, Mr. Speaker, though I maintain that, under the third section of article three, Congress has power to punish treason by the forfeiture of the whole estate of the traitor, I do not consider the act of 1862 as within this provision.

It prospectively announces to the rebellious subjects of the Government that they shall lay down their weapons and return to their duty as citizens, and prescribes the penalty of their failure. This act proposes to aid in the suppression of the rebellion by the seizure and confiscation of that which helps to foster and sustain it. It is restricted in its operation to the seizure of the property of those who are actively engaged in armed hostility to the Government, or who are exercising the functions of a usurping power set up against its lawful authority and directing or aiding in its administration. It prescribes the mode of its enforcement, and declares that it shall be made operative by proceedings *in rem*, and only upon proof that the owner is actually engaged in rebellion, and then that it shall be condemned for the use of the Government.

I ask what principle renders such property incapable of condemnation by a court acting *in rem*? What provision of the Constitution inhibits Congress from declaring such penalty and enforcing it by any tribunal upon which it shall confer jurisdiction? It is too late to contend that it is obnoxious to censure as violating that clause which declares that no person shall be deprived of property without due process of law. Such proceedings have been too often resorted to and are too familiar in practice, operating to divest property and to deprive the owner of his title. All that is necessary to confer jurisdiction is that there be seizure and reduction into possession by the Government.

Congress has the right to enact its own laws,

define its own penalties, and prescribe for itself the mode of enforcement, only responsible to the Constitution of the United States. There is no other tribunal that has any control over the subject, and whether it will proceed *in rem* or *in personam* is a matter of discretion, to be determined only by the exercise of its own will.

The persons against whom it has decreed its penalties are citizens of the United States. The things upon which it operates are within its territorial jurisdiction; the tribunals which it invests with authority to adjudicate are its own courts. It invokes no law of nations. It does not inquire, for the purpose of giving validity to this statute, whether other Governments have consented that the property adjudicated upon has been ordinarily the subject of admiralty proceedings. It is no matter whether the things confiscated be or be not contraband. This is no question arising between this Government and the subjects of foreign Powers determinable upon the principles of international law, and in reference to which sovereigns may be appealed to for the protection of their citizens.

The seizure contemplated by this statute is for a breach of the law, and made only within those limits over which Congress has the right to legislate in virtue of the sovereign dominion which it possesses within the territory of the nation. This power is the same in peace and in war, and is exercised according to its discretion.

But, Mr. Speaker, while I do not admit that it was requisite, to authorize jurisdiction to be conferred by proceedings operating *in rem*, that there should be any definite connection between the thing seized and the breach of law committed, yet I contend that if even this test be applied, the Legislature will be vindicated in having provided the mode of enforcement in conformity with that principle.

Is it not manifest that the things confiscable are valuable to the owners for the purpose of enabling them to maintain the struggle against the Government, and conducing to the violation of the law which required that they should return to their duty? Does the act confiscate slaves? They are the laboring population by whose active assistance breadstuffs are raised for the support of the army. Are cattle taken? It deprives the offender of the power of converting them into food for the maintenance of his troops. Is land seized? It constitutes the very fountain from which he draws his supplies, and forms the basis of taxation for the continuance of the rebellion.

But, Mr. Speaker, the doctrine is advanced by gentlemen of eminent ability on this floor and elsewhere, that the United States are at war with a foreign nation, that the rebels are to be regarded as alien enemies, and the territory that may be wrested from their possession is to be treated as conquered country. I cannot agree to this proposition. I hold that they are still within and subject to the jurisdiction of the United States. I maintain that, however organized in rebellion, no act which they have committed has absolved them from the allegiance which they owe to this Government, or from criminal responsibility to its laws; that the right of intraterritorial jurisdiction is as perfect as before the rebellion; and that however they may have affected their own condition so as to deprive them of the right of denying the application of the stern rules of war when enforced in that character, even such application is merely in addition to the ordinary incidents of sovereignty; and from this cause they can have no right to claim that they do not owe allegiance to the Government of the United States.

The capacity of enforcement of municipal law may be suspended, the government of States may be temporarily overthrown, the instruments of power may be usurped; but all these do not deprive the sovereign of his right of jurisdiction over his own territory and subjects. Nothing can alter their condition or convert them into aliens or relieve them from criminal liability except ultimate success terminating in the establishment of their independence. So long as we continue to employ against them the ordinary means of warfare with any reasonable prospect of their reduction, they are still subjects of the United States, and any other hypothesis would, to my mind, carry with it the recognition, either of the original right of secession, thereby converting them into an independent people, or that their relation has

been changed by the successful arbitrament of the sword.

These views seem to me to derive entire confirmation from the case of *Rose vs. Himely*, decided by Chief Justice Marshall and reported in 4th Crauch, 241. It arose upon an appeal from the sentence of the circuit court for the district of South Carolina, and briefly upon these facts: the schooner *Sarah*, after trading with the rebels of San Domingo, sailed thence with a cargo purchased there for the United States, and after proceeding more than ten leagues at sea was captured by a French privateer, and the cargo sold by the captors. They were carried by the purchaser into Charleston and there claimed on behalf of the former owners. The seizure and condemnation were based upon a decree of the French Government, which declared that "the port of Santo Domingo was the only one of the colony of Santo Domingo open to French and foreign commerce, and that every vessel sailing within the territorial extent of the island (except between Cape Raphael and the bay of Ocoa) found at a less distance than two leagues from the coast should be arrested and confiscated." The condemnation was reversed by the court, and restitution awarded on the ground that it was a mere breach of a municipal regulation, and therefore not warranted by the law of nations.

In pronouncing the opinion of the court, Chief Justice Marshall uses the following language, which is so appropriate to the question under consideration that I quote it even at the expense of prolixity:

"Admitting that the ordinary tribunal erected in St. Domingo was capable of acting as a prize court, and also of taking cognizance of offenses against regulations purely municipal, it is material to inquire in which character it pronounced the sentence of condemnation in the case now under consideration. In making this inquiry the relative situation of St. Domingo and France must necessarily be considered.

"The colony of St. Domingo originally belonging to France had broken the bond which connected her with the parent State, had declared herself independent, and was endeavoring to support that independence by arms. France still asserted her claim of sovereignty, and had employed a military force in support of her claim. A war *de facto* then unquestionably existed between France and St. Domingo. It has been argued that the colony, having declared itself a sovereign State, and having thus far maintained its sovereignty by arms, must be considered and treated by other nations as sovereign in fact, and as being entitled to maintain the same intercourse with the world that is maintained by other belligerent nations. In support of this argument the doctrines of Vattel have been particularly referred to. But the language of that writer is obviously addressed to sovereigns, not to courts. It is for Governments to decide whether they will consider St. Domingo as an independent nation, and until such decision shall be made, or France shall relinquish her claim, courts of justice must consider the ancient state of things as remaining unaltered, and the sovereign power of France over that colony as still subsisting.

"It is not intended to say that belligerent rights may not be superadded to those of sovereignty. But admitting a sovereign who is endeavoring to reduce his revolted subjects to obedience to possess both sovereign and belligerent rights, and to be capable of acting in either character, the manner in which he acts must determine the character of the act. If, as a legislator, he publishes a law ordaining punishments for certain offenses, which law is to be applied by courts, the nature of the law and of the proceedings under it will decide whether it is an exercise of belligerent rights or exclusively of the sovereign power."

"Nothing can be more obvious than that these are strictly territorial regulations proceeding from the sovereign power of St. Domingo, and intended to enforce sovereign rights. Seizure for a breach of this law is to be made only within those limits over which the sovereign claimed a right to legislate in virtue of the exclusive dominion which every nation possesses within its own territory and within such a distance from the land as may be considered as a part of its territory. This power is the same in peace and in war, and is exercised according to the discretion of the sovereign."

"It is true that the revolt of the colony is the motive for this exercise of sovereign power. Still it is an exercise of sovereign power restricting itself within those limits which are the province of municipal law, not the exercise of a belligerent right."

I have cited this opinion at some length, Mr. Speaker, as being more cogent, more authoritative, more conclusive than any argument I could possibly make. It establishes the position that municipal and belligerent rights may coexist and be concurrently exercised.

Neither blockading ports nor exchanging prisoners is in any respect incompatible with the maintenance of sovereign power. Miserable would be the condition of that nation which would be compelled to leave its citizens languishing in dungeons under penalty of abandonment of its sovereignty by consenting to their release. More merciful and reasonable is that rule which permits the mitigation of human sufferings and the alleviation of the

horrors of war without altering the status of the belligerent parties. The act of 1862 is a municipal regulation growing out of a state of war, but prescribed by the sovereign through the usual forms of legislation, and enforced by the ordinary tribunals of justice.

So much, Mr. Speaker, for the question of power. I hold, also, that the confiscation of the estates of the leaders in this rebellion is defensible as a measure of sound policy, and necessary to the future peace of the Republic.

It will be remembered that this is no sudden outbreak, no whisky insurrection, no Shay's rebellion, to which it has been likened by the gentleman from New York. It was the result of no gross wrong or intolerable grievance. Its authors had been in possession of the Government for thirty years, enjoying its patronage and administering its functions. No miserable peasantry, stimulated to violence by oppression or deceived by the wiles of ambitious demagogues, but men of culture, the lords of the soil, who appreciated the nature of the contest and understood the consequences of their crime. Aristocratic by education and habit, they saw in the advancing march of free institutions the onward tread of an adverse civilization which, in its peaceful progress, was destined not only to deprive them of the administration of the Government but finally to revolutionize their social system. Against this result they rebelled, and inaugurated a war, not only against the United States, but the immutable law of the Almighty. The conflict, which before was peaceful, always irrepressible, is now to be terminated by arms. One system or the other must be dominant; they will break us or we must reduce them. Left in the enjoyment of their slaves and their lands—the instruments of their power—they remain masters of the position, and we but entail upon posterity the renewal of a strife which it becomes us now thoroughly to quell.

I am aware, Mr. Speaker, that these views are not in unison with the sentiments of the gentleman from New York who addressed the House yesterday. When he becomes their advocate, I shall distrust their soundness. To opinions such as he has expressed is justly attributable not only the inception but the prolongation of this mournful contest. The rebel leaders would never have undertaken the revolt had they not been persuaded that they would have been permitted to go in peace. The rebellion would have been overcome had it not been for the malign counsels of those who have distracted the nation and prevented the concentration of its undivided energies in its suppression.

The gentleman from New York, under the guise of peace, is the most efficient promoter of war; and, standing here as the practical advocate of recognition, charges the majority of this House with preventing the maintenance of the Union.

"Quis tulerit Gracchos de seditione querentes?"

Mr. Speaker, the denial of the right to exercise the sovereign powers of government has characterized this struggle from its inception. Constitutional questions have been raised against it at every step of its progress. In the beginning it was announced, even by the President of the United States, charged with the solemn duty of the preservation of the Union and the enforcement of its laws, that, though there was no right to secede, the Government had no power to coerce. This miserable sophism, officially promulgated at the other end of the avenue, not only betrayed the weakness of the Executive, but paralyzed the whole energies of Government. Rebellion thus invited to advance, hastened its preparation, armed its partisans, consolidated its strength, until, before the nation woke to the magnitude of the danger, its serried legions were almost thundering at the doors of the Capitol. On every subsequent occasion of invoking active and efficient powers, whether in the recruiting of negroes, the enlistment of slaves, the suspension of the privilege of the writ of *habeas corpus* as against active sympathizers aiding the rebels or obstructing the Government, or in the enrollment and draft of citizens for military service, the Administration has had to contend against some adverse theory derived from constitutional construction. Now, when, in the exercise of that just measure of authority with which Congress is invested, it is designed to proceed further toward the suppression of re-

billion by the forfeiture of the estates of those who persistently continue in defiance of the motions of a prescribed statute, we are again attempted to be frightened from the performance of our duty by the ghost of a murdered Constitution.

Mr. Speaker, the Constitution has been neither murdered nor emasculated. Engaged in a struggle for existence, I have yet to learn that there is any limitation upon the power of the Government to weaken the enemy, and render him less capable of continuing his assault upon constitutional liberty and the national life. I have yet to discover upon what principle an instrument, ordained for the preservation of the Union, can by the implication of a denial of power be converted into its permissive executioner. By that Constitution we are specially clothed with power to raise armies, to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, to make rules concerning captures on land and water, and to guaranty to every State in this Union a republican form of government, and protect them against invasion. We are also vested with the capacity to make all laws which shall be necessary and proper for carrying into execution these powers, and all others vested in the Government, or in any department or officer thereof.

This broad warrant of constitutional authority is ample for the exigency even of the suppression of a gigantic rebellion. The mode in which we shall act is not specified. With wise forecast the framers of the Constitution left to Congress the choice of the means necessary to be employed in any exigency. It is enough that they shall bear some relation to the end proposed. It has chosen to declare that to insure the speedy termination of the rebellion it will deprive the guilty agents of the means of carrying it on. It has vested the President with authority to seize, and clothed its judicial tribunals with power to condemn. It has done this by virtue of its sovereign power over its own guilty citizens. Who can deny its authority? Who can sit in judgment upon the exercise of its discretionary powers? He who expects to find in the Constitution specific rules for the conduct of a nation in a crisis like this, though he may be a learned man, can hardly be deemed a wise one. He who would place a limitation on the power of a Government to preserve its own existence and make that limitation the want of power to forfeit the estate of an armed rebel, lest that his children should be prevented of the inheritance of their father, though he may be never so sympathetic, can hardly be called just. He who construes the Constitution as authorizing against an insurgent population, banded for the destruction of the Government, only such measures of resistance or penalty as would be proper to disperse or punish a civic mob, has an inadequate conception of the scope of its powers.

"Hic unde vitam sumeret inscius,
Pacem, duello miscuit."

Mr. Speaker, the people expect that we shall faithfully and firmly discharge our duty; omitting nothing, evading nothing, withholding nothing, but steadily looking to the utter and absolute suppression of rebellion; that we shall most speedily and effectively reduce the insurgents to submission, restore the active supremacy of the Constitution and laws, insure future tranquility by the extirpation of African slavery, the root of bitterness that has poisoned the fountains of our peace, and plant everywhere over the whole land the ensign of the Republic, the symbol of sovereignty and emblem of freedom, mightier than the red cross of England, holier than the labarum of Constantine.

Mr. FINCK obtained the floor.

Mr. MORRILL. Has the morning hour expired?

The SPEAKER. It has.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the naval appropriation bill.

Mr. STEVENS. I move that the House proceed to the consideration of business on the Speaker's table.

The SPEAKER. The motion to suspend the rules takes precedence.

THE ENROLLMENT BILL.

Mr. SCHENCK. I desire to say, before that motion is put, that the enrollment bill reported

from the Committee on Military Affairs, amendatory of the Senate bill entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, was ordered to be printed a few days since. In that printing so many errors occurred in the arrangement of the sentences and otherwise, that it was found necessary to have the whole reprinted. It has now been reprinted, and will be furnished to members in a correct form, as reported by the committee.

I yesterday entered a motion to reconsider the vote by which the Senate bill was sent to the Committee of the Whole on the state of the Union. To-morrow, when this printed form, as reported by the Committee on Military Affairs, is before the House, I shall move to take up that motion to reconsider.

NAVAL APPROPRIATION BILL.

The motion of Mr. MORRILL was then agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the consideration of the bill of the House (No. 151) making appropriations for the naval service for the year ending June 30, 1865, on which the gentleman from Vermont [Mr. MORRILL] was entitled to the floor.

Mr. MORRILL. Mr. Chairman, while I would not like to retard the progress of this bill by the discussion of irrelevant matter, I regard early action upon the joint resolution for the termination of the reciprocity treaty as no unimportant matter; and, not knowing when the Committee on Commerce will be able to report upon that subject, I shall avail myself of the privilege of general debate, not yet closed, to present the views I had designed to, whenever the subject should be properly before the House.

The joint resolution relative to the reciprocity treaty with Great Britain was introduced by me for discussion and action now because the allotted time when the year's notice for the termination of the treaty can be legally given draws near, and because it is a subject upon which, however we may be divided upon other questions, I am willing to assume every member of this House will reach and act upon conclusions justified by sound statesmanship and supported by what I take to be the general voice of the American people, as it is not too much to take for granted that no part of our people are contented with the treaty as it now stands.

We are a nation of producers, and one of the paramount duties of legislators is to see that producers are profitably employed and have a market for their products. Now, more than ever, should exports be encouraged, and any excess of imports vigilantly avoided. But the treaty is framed on the idea that we are a nation of consumers, and therefore it gives employment, not to us, but to provincial producers. It furnishes a new market for the agricultural productions of the provinces, rather than for those of the United States.

The joint resolution is not moved from petty spite, engendered by the unfriendly sentiments which a few subjects of the British Crown have been recently so swift to avow, as it appears to me for the interest and reputation of both countries to maintain the cordial relations of perpetual amity and good will; but the treaty, whether viewed as a foreign or domestic measure, seems to have been equally impolitic. Beyond all cavil it has proved unfortunate as a contract, and to me it appears equally clear to be, so far as it is a positive or negative revenue measure, unconstitutional. Not only is it one-sided, and profitless to our people, but among its fruits we do not find any compensation of gratitude or increased respect for us on the part of the Government or of those of its dependencies most benefited, and our own self-respect requires its earliest termination. In the disposal of this and kindred questions, it is also time the authority of this House was asserted and vindicated.

The framers of the Constitution of the United States intended to place the power of taxation, whether external or internal, within the control of the House of Representatives, the most numerous legislative branch of the Government and most directly responsible to the people. With this view they copied a part of the unwritten constitu-

tion of England which has prevailed there since the time of Charles I, and is to this day more resolutely insisted upon by the House of Commons than any other privilege of liberty wrung from reluctant nobles or obstinate kings. Our Constitution declares that "bills for raising revenue shall originate in the House of Representatives." Thus far the practice, so far as it technically relates to such "bills," has never been directly in hostility to this rule, although in 1856, under the lead of Mr. Hunter and Mr. Toombs, the Senate attempted to originate appropriation bills. These money bills were placed in the control of the Representatives of the people as an offset for the equal representation of States in the Senate. In bills of supply in the British Parliament, so jealous are the Commons, that in the preamble the name of the House of Lords is omitted—the enacting clause reciting the grant as wholly their own.

The originating power of taxation is indubitably placed in the House of Commons, which claims to have a fundamental right as to matter, measure, and the time. The exalted attitude of England, it is declared by British authorities, is mostly owing to this transference of executive power to the House of Commons.

On this subject it was intended to confer upon the House of Representatives power and responsibility which cannot be and ought not to be renounced. To Congress—not to the treaty-making power—belongs the power of regulating commerce with foreign nations, as well as the power to levy and collect taxes, duties, imposts, and excises.

I do not hesitate to say that commercial treaties, of the character of the reciprocity treaty, go far to wrest from the House its proper constitutional authority, and the coöperation of the House puts in peril the rule which is one of the prominent safeguards of American liberty. So long as external taxation, or a duty upon imports, or so long as internal taxation or a tax upon home productions, must be resorted to for the support of the Government, the House of Representatives has no right to surrender or even hold in abeyance any part of its legitimate functions touching the power of taxation. Such treaties obviously shackle us by engagements which preclude the free regulation of our domestic interests, however great the emergency.

The unlimited power of the British Crown to make treaties and to make war, places this question there, it is true, upon a different footing from what it rests on here under the Constitution of the United States. A treaty made only in behalf of colonies, also, is not the same as one embracing the mother country. And, furthermore, as a practical question in Great Britain, no other nation producing manufactures more cheaply, revenue from duties upon imports has become of trivial importance.

It will hardly be controverted that the House of Representatives should be free at all times, and especially now, to exert its just powers untrammelled by treaties and clear of encroachments upon the part of other branches of the Government. It cannot be for the interest of any department of the Government to see any other crippled or falling into disuse and disrepute, and it is in the interest of liberty that the rights and privileges of the House should be always maintained in full strength and proper proportions.

I have not time within an hour to even present all the facts at hand relative to the economical value of the reciprocity treaty, and therefore the constitutional question, save to a limited extent, will be left to abler hands, although I may say it is of greater importance than even the large economical interests involved. I may, however, be pardoned for recalling to the notice of the House some portions of the history of the treaty proposed, but not ratified, with the Zollverein, by Mr. Wheaton, (March 25, 1844,) and made on the basis of equivalent and reciprocal reduction of duties.

Although the President in his message announced to the Senate that it would be, when ratified, transmitted to the House of Representatives for its consideration and action, the treaty was rejected by the Senate, and properly rejected, on the ground, as stated in the report of the Committee on Foreign Relations, that it was

"An innovation on the ancient and uniform practice of the Government to change (by treaty) duties laid by law."

And that

"The Constitution, in express terms, delegates the power

to Congress to regulate commerce and to impose duties, and to no other, and that the control of trade and the function of taxing belong, without abridgment or participation, to Congress."

Secretary Upshur was not entirely unmindful of the rights of the House, as in his instructions he had directed Mr. Wheaton to proceed.

"Bearing always in mind that the sanction of Congress, as well as of the Executive, will be indispensably required before we accomplish the object in contemplation."

He ought also to have remembered that what one Congress might sanction another might not, and that one Congress cannot by its action deprive any succeeding Congress of its constitutional privileges.

If the treaty embraced subjects set apart and confided to the consideration of Congress under the express provisions of the Constitution, it would seem to follow that such a treaty would be void *ab initio*, for one House, or the Senate, is concluded from any exclusive control of these subjects. A power held by both Houses jointly can only be exercised jointly. The treaty-making power cannot set itself up as "supreme" to the Constitution. And where the subject-matter embraced is of the class which in its inception exclusively belongs to the House of Representatives or will trammel the exercise of the provision that "all bills for raising revenue shall originate in the House of Representatives," it is an evasion which only requires to be carried far enough to practically extinguish one of the plainest edicts of the Constitution, and would nullify that popular control which it has hitherto been supposed wise for the House to maintain over the purse-strings of the nation.

Such a treaty when ratified could hardly be made more valid by a previous transmission to the House for its action thereon. Their opinion would be entitled to the same legal force as that of any other equal number of equally respectable gentlemen, and no more. All the binding force of forms would be perfect without that courtesy and without their action. The fact of exceeding their powers by the Executive and Senate, the other high contracting party, unless first noted on their part, would not be bound to regard, and a non-fulfilment of the treaty would furnish sufficient reasons for reprisals, and in the sequel possible war. This is the construction given by our own Government, under General Jackson in 1831, to the treaty of indemnity with France for spoliations when the French legislative bodies refused or neglected to appropriate the amount of indemnity stipulated by the treaty. The only safe policy for the Executive of the United States in relation to such treaties is to renounce forever the power to make them.

It is not a little surprising that in 1854 the House of Representatives should have been less mindful of their own privileges than the Senate had been ten years before. The reciprocity treaty concluded with Great Britain went much further even than the proposed treaty with the Zollverein. While the latter only proposed a reduction of duties, giving and receiving supposed equivalents, the former struck off all duties from numerous and a very important class of products. The inconvenience of this treaty has been more or less dormant while our revenue was abundant, but when the present rebellion burst forth, and it became necessary to largely augment the resources of the Treasury, the inconvenience was demonstrated at every step. In the adjustment of the internal revenue, as well as the tariff, the hands of the Government were tied up. Large resources were utterly lost because the waste-gates in the Canadian frontier were open and could not be closed, at least until the treaty should be terminated. We had not only to forego revenue, abandon legitimate objects of taxation, but were compelled to make taxes more burdensome upon our own people in order to continue unimpaired the favors heedlessly lavished upon neighbors-in-law, whose friendship for the past few years, if it had been exhibited, might have been appreciated and proved current as some compensation for the pecuniary sacrifices made under the treaty.

The legislative action on the part of the House, perhaps, binds the good faith of the nation to the execution of the reciprocity treaty, though there is no more doubt of the power even to repeal the act which gives it vitality than of any other act of Congress. But its repeal prior to the expiration of the term as agreed upon, like a refusal to

observe any other contract, might furnish good cause for complaint and damages on the part of the British authorities, as there is, unfortunately, too much evidence of the advantages accruing on their side with not enough of counterbalancing offsets to mitigate damages.

Under the stipulation contained in nearly all recent commercial treaties, to give all privileges subsequently granted to the most favored nation, it might be difficult to see why any nation with whom we have such treaties could not, by admitting free of duty the schedule of articles as named in the reciprocity treaty, legitimately demand equal favors. Such an expansion of the contract might not very much increase the exposure of our interests, as other countries are too remote to reap any considerable advantages thereby, but the entanglements of our diplomatic relations and of our revenue laws would be serious.

Complications sometimes arise by virtue of treaties not anticipated nor intended. When there is a conflict between a law of Congress and a treaty, the Executive practically decides the question at issue, and feeling more directly responsible for the latter as the "supreme law" than the former, sustains and executes, not the law of Congress, but the Executive version of the treaty. A signal instance of this sort is furnished by our treaty with Portugal of August 26, 1840. In this treaty we find the following words:

"No higher or other duties shall be imposed on the importation into the United States of America of any article the growth, produce, or manufacture of the kingdom and possessions of Portugal, than such as are, or shall be, payable on the like article, being the growth, produce, or manufacture of any other foreign country."

In the tariff of 1842, two years later, specific duties were imposed upon wines, some of which were described by their common names and some with no other description than the name of the country from whence they came, at rates varying from six to sixty-five cents per gallon, and it was provided in the act:

"That nothing herein contained shall be construed or permitted to operate so as to interfere with subsisting treaties with foreign nations."

Soon after this tariff came into operation, Portugal, by her resident minister here, made representations that the law was in conflict with treaty stipulations, claiming the admission of her wines (Madeira and port) and those of her possessions, being higher priced than most other wines, at the lowest rate at which wine of any country or of any sort, no matter how paltry the quality or price, was or should be admitted. After protracted discussion by an eminent Secretary of State, it is curious to find that our Executive wholly abandoned the tariff law of 1842, so far as it related to Portugal wines, collected duties upon the Portugal construction of the treaty, and even refunded such duties as had been collected upon any other basis.

It should be admitted that the tariff of 1842 in some instances, barren as it was of any description save the name of the wine country where produced, was to a limited extent defective; but the pretension of the minister of Portugal that under the treaty the United States were precluded from levying specific duties upon wines, with rates according to their commercial value, on the ground that wine was a generic term, not divisible into species, and therefore embracing in a single word the weakest claret and the strongest port, "old Falernian," or such as will be improved when it is called vinegar, all equally alike, little deserved, it appears to me, the complaisance it obtained. If the Portuguese argument was valid, all our tariff laws have been at fault through their diverse classifications of coal, iron, hemp, and even as to carpets and other articles which might be easily cited, not unlike in name, but of widely dissimilar character and value.

The position of Portugal was and is wholly untenable, or would be were it not sustained by so respectable American authority. All that it is necessary for Congress to do in order to maintain its constitutional power, as it appears to me, is to frame a law descriptive of the class of wines it may be proposed to tax—not leaving it solely dependent for its nomenclature upon the name of the country from whence it comes, as that hardly concerns us in the adjustment—and a specific duty upon wines, with as many rates as sorts, if you please, may be imposed with propriety, without infringement of any treaty and with great benefit to the

revenue. It may be added that it was possibly in deference to the Portuguese argument, to which our own Government had so patiently succumbed, that the tariff of 1861, if not that of 1846, did not secure more revenue from high-priced wines, and which seem to possess favor and flavor in the ratio of cost. It is some consolation, perhaps, that a considerable boon was yielded to an inferior and friendly Power and not to any menace. As it is, however, cheap wines are taxed too much and expensive or luxurious wines too little.

From the recital of this case it is plain that the power of the House of Representatives over subjects of taxation may easily be tampered with, circumscribed, and perhaps be gotten rid of altogether by the Executive and Senate, should they ever persistently combine for this purpose, and there appears to be no remedy. Having, under the forms of treaty-making, usurped the powers of legislation, the Executive might at once proceed to enforce that legislation as "the supreme law of the land." If it be admissible to regulate with one nation by treaty the rate of duties on imports, would it not be equally so to fix by treaty the rule of naturalization with any other nation?

There is something so attractive in the terms reciprocity, equality, and free trade, that our assent is yielded to measures which they are presumed to cover without antecedent inquiry or subsequent reflection, and it is only after a patient examination of the facts of history, the results of indisputable experience, that we become disgusted with terms which, if not invented for the purpose, mislead the understanding, and are made to mask a whole series of antagonistic principles.

What reciprocity is there in making cotton free to the United States from Canada when Canada produces no cotton? "King Cotton" was in no danger from long staple or short raised north of the forty-fifth degree. Whose ax is ground by making grindstones free to Canada from the United States, when the United States are mainly dependent upon the British provinces for their own supplies? What equality is there in exchanging the grain and cattle markets of New York and Boston for those of Montreal and Quebec, when the former in their normal condition are twenty-five per cent. better than the latter, and when the latter under no circumstances can be available to the United States? What is the advantage of free trade in lumber with a country whose forests are inexhaustible and "coeval with the world"? Who proposes to carry coals to Newcastle or donkeys to Spain? What is the advantage of free trade that does not include something we make to sell or something that somebody is ready to buy?

The facts set forth by the report of the Hon. Israel T. Hatch, after a laborious investigation, in relation to the operation of the revenue laws and the reciprocity treaty, communicated to Congress June 18, 1860, would have attracted more consideration but that it was manifest no change would be made until the expiration of the full term of the treaty. I shall reproduce some of these facts, with many others of later date derived from United States and British documents, but confining myself mainly to the trade of the Canadas, as our trade with these provinces is much the largest, and so are our complaints.

In the four years from 1850 to 1853, inclusive, the importations free of duty from Canada to the United States were \$4,107,392, while the importations paying duty were \$15,002,634, or nearly four times greater. But the importations free of duty, after the treaty took effect, in four years, from 1856 to 1859 inclusive, were \$59,419,925, and those subject to duty had fallen off in the same time to \$2,150,394, or only one in twenty-eight. This is the first exhibition of reciprocity.

In 1858, when the United States collected duties only on \$313,953 in value of Canadian productions, those of American labor upon which duties were paid in Canada amounted to \$4,524,503. This is the next exhibition of reciprocity, being on the scale of forty-five to one! During 1856, 1857, and 1858, the amount of American industry taxed in Canada was \$18,294,293 more than that of Canadian productions taxed in this country. By the returns of later date it would seem that their trade has almost ceased to be a source of revenue to us, while from our trade they obtain their accustomed liberal contributions.

In 1856 the articles received from Canada, and

made free by the treaty, amounted to \$17,810,684; and if valued according to the prices actually obtained in our markets, doubtless the amount exceeded twenty million dollars. Had it been subject to an average rate of duty, the revenue would have been not less than three or four million dollars, and to that extent was mainly a bonus to the provinces.

By the treaty the ancient laws of trade have been subverted, and our exports to Canada, which formerly largely exceeded our imports, are now greatly less. They sell to us, but go elsewhere to buy.

Our domestic exports to Canada for a long series of years prior to the treaty were generally about double the value of our imports, and in addition our exports of foreign merchandise were sometimes equal and generally not less than half as much more. The relative position of the trade is now reversed.

The amount of goods exported to Canada in 1855 subject to duty was \$11,449,472, and in 1862 no more than \$6,128,783. The exports of manufactures, candles, soap, &c., to Canada in 1859 were, in round numbers, \$4,500,000, and they had decreased to \$1,500,000 in 1863.

The imports from Canada for the last eight fiscal years averaged in value \$16,643,825, of which only an average of \$467,488 paid duty on entering the United States.

Canadian tables show that for eight years, 1855 to 1862, inclusive, an average of \$9,340,000 of our exports to Canada paid duty, and \$10,720,000 were free. It will be seen that we are charged by them with duty on an average value of \$8,725,500 more than they are charged with by us.

In the first four years after the treaty came into operation we received of the list of articles named in the treaty \$28,771,691 in value more than Canada received from us. If this is reciprocity, the less we have of it the better. In 1861 the imports from Canada were \$18,645,457, and our exports were \$14,361,858, or an excess of imports over exports of \$4,273,599. This amount is to be augmented by \$2,611,877 of goods of foreign origin which merely passed across our territory and were transmitted in lieu of exchange or gold to meet our indebtedness, and would not have been received by Canada but for the fact that they were obtained cheaper thus than they could have been through the St. Lawrence.

The amount of our export of coin for this year I have been unable to ascertain, but Canadian returns credit us in 1862 with \$2,530,000, and in 1863 with \$3,502,180. That it was much more there can be no reasonable doubt. The fair inference would be that not less than \$10,000,000 are annually drawn from us in gold, or its equivalent, to pay for agricultural productions not required, and to glut markets which our own people are all the while eager to supply. We have no reciprocity treaty with any other country, and no other presents so unfavorable a balance-sheet. Even our trade with China is more profitable.

That the profits of such a trade accrue to the Canadians is manifest, as it would be preposterous to charge a profit to the side of gold, exchange, or foreign merchandise. Thus millions annually are transferred from American to Canadian pockets. Is it wonderful that magnificent railway improvements cut their way through Canadian forests?

Considerable merchandise is also taken from the United States into Canada in bond, which does not figure in our tables of exports at all; and there may be, for aught I know, as there are few difficulties in the way, a corresponding amount smuggled into our ports from the Canadas, which of course does not figure in our tables of imports. The trade of goods in bond, which is no part of the reciprocity treaty, by the by, has grown to be large. It serves to pay off, as far as it will go, our indebtedness to Canada in lieu of coin. At one port, Island Pond, Vermont, the foreign merchandise in transit to Canada under bond in 1861 amounted to \$6,608,509. It is remarkable that our domestic exports at the same point were only \$219,746. These are in lean thousands, while the former, handled by us gratis, loom up in millions! Like the traffic of Falstaff, it is a "half-pennyworth of bread to an intolerable deal of sack."

The amount of revenue now collected by the United States upon importations from Canada is pitiable enough; and if we deduct the articles not actually there produced, we shall find that in four

years, from 1856 to 1859, inclusive, the average amount was only on about one hundred and fifty thousand dollars annually, yielding not more than \$25,000 of yearly revenue, and not sufficient to pay a tithe of the annual expense of the collection districts, scattered, as they are, along a frontier of six thousand miles in extent; and yet one fourth part, or nearly that, of all Canadian revenue is derived from duties on merchandise from the United States.

Neither our people nor the Government derive advantage from this reciprocity treaty. The trade has, it is true, largely increased; but the footsteps of the profits all point to the lion's den, none returning outward. We are the factors serving without pay or commissions.

When one nation admits cotton or any raw material free of duty, other nations are forced to follow the example, or cease to manufacture beyond their own consumption, unless they give an equal compensatory advantage upon exports. This policy has already made free of imposts throughout the world a large class of productions. They cannot be longer relied upon for purposes of revenue. Canada, like other countries, had and still has a large free list. What articles can now be exported to Canada free under the treaty had the same freedom to be so imported prior to the treaty, and mere self-interest would have compelled an adherence to that policy, whether the treaty had been made or not. We got nothing new on this score, but surrendered much. We conceded to them what we do not concede to others, but what was conceded to us was either not new, or conceded to everybody, treaty or no treaty. What we export free under the treaty, therefore, gives to us no special favor, as the Canadian markets are open to all the world for almost the entire list of articles named in the treaty, many of them being such, at the same time, as we levy or might levy duties upon when imported into the United States from other countries, and for which the provinces have no vent but in the United States.

The changes made in the Canadian tariff from the specific to the *ad valorem* system, and by steadily advancing the *ad valorem* rates of duty each and almost every year after the date of the treaty, were avowedly made not only for revenue but to favor British industry, which was reconciled to an increase of duties by a more exclusive enjoyment of the Canadian markets thereby secured. By having the dutiable value of merchandise estimated at the last port or place from whence imported, it was correctly supposed British merchandise would obtain the advantage of a duty computed on the naked valuation at home, with no addition for freight, insurance, exchange, or other charges—with the door open, also, for undervaluations—while American merchandise would be taxed on the value here at the very gates of Canada. A difference of perhaps twenty-five per cent. in favor of British goods, made by cheap labor and by the use of long-accumulated capital eager for safe employment at any price! How long American trade would thrive against such odds, when forced to pay twenty dollars duty where others pay only fifteen, was easily to be foreseen, and, no doubt, keenly appreciated.

It was thus Canada reversed its own policy, and turned its back upon that of the mother country, so industriously proclaimed for the last fifteen years, for the purpose of excluding American productions, as competition was mainly to be apprehended from this quarter. Not only were low duties exchanged for much higher duties, but a sound system was abandoned for a vicious one, according to British authority and practice, for the reason that (the reciprocity treaty having been secured) the old system might inure to the benefit of the United States and not of Great Britain. And this, I suppose, to adopt the language of the Canadian minister, is "only proof of the wisdom of the means employed, not evidence of a design merely to injure others." Great Britain could be benefited only by the exclusion of America; and thus it happened, from no design or ill-will, that America was excluded. It was not to rob Peter, but to pay Paul, that Peter was robbed! It is not wonderful that Canada earnestly seeks an extension of the reciprocity treaty, so felicitously improved, nor that her minister should denounce "the extreme folly of all those who would needlessly seek to disturb it."

When Canadian policy has been unequal to the work of securing further advantages, the mother

country comes in as an efficient coadjutor. Under the treaty timber from the British provinces is admitted free; but Great Britain, when timber was sent there, maintained, until 1860, a system of differential duties in favor of colonial timber. They had a right to do this; and I only urge, while they act independently of us, that we shall act independently of them.

It may be suggested that action upon the tariff subsequent to the treaty by the American Government now precludes complaint, on our part, for the advanced scale of duties levied by the Canadian tariff. The facts, however, will not cover a resort to this argument. They had nearly doubled their tariff by yearly additions as early as 1859. We had reduced our tariff about twenty per cent. in 1857, and afterwards, it is true, it was increased, but not until 1861, when the Canadian tariff was still further advanced.

The tariff of 1861, approved by a Democratic President, was framed, firstly, to obtain a revenue equal to our expenditure, based on a scale of strict economy; secondly, to furnish a steady revenue, avoiding actual discriminations against and to allow some discriminations in favor of American labor; and lastly, to establish a principle that would enable the American importer to introduce merchandise with no higher payments of duty than those paid by foreign manufacturers or by foreign merchants engaged in the American trade. In other words, specific duties were adopted where ever practicable; but so far as the British provinces were concerned, this gave the man advantage over more distant countries, and was the very principle discarded by them, because of the local favor of which it was susceptible. It is a great though a common error to assume that this tariff fixed rates of duty much higher than that of 1846. It translated many of them into specifics upon an average value computed for a series of years, and restored many others to the same *ad valorem* points, with as many lower rates as higher, where they stood under the act of 1846. In the language of geometry there was only a change of terms, or the reduction of an uncertain quantity to an equivalent and certain quantity. Some additions were made to the free list, and in some instances a mixed or compound system—the specific and *ad valorem* combined—was adopted, but this system is regarded as most useful by both Great Britain and the Canadas. It was an effort to carry out the theory sanctioned by the experience of nearly all civilized nations who have adopted specific duties as the only mode of escaping from the perpetual variations and vexations of the *ad valorem* system; but the amount of duties to be levied was not, upon a general average, much advanced. The effect was to collect whatever in fact was levied. It computed the duty upon a just valuation, and that duty, always the same, was to be honestly collected of both the Jew and the Gentile.

It should be understood that any change in the United States tariff would not sensibly affect Canadian trade. All articles of the growth or produce of Canada, which she had to sell, were already free by the treaty, and would, therefore, be left untouched. Canada really produces little in the way of manufactures, and the treaty nearly covered all other exports they had from one extremity to the other. But it was far otherwise with the United States.

One of the arguments most persuasive to us at the time of the adoption of the treaty—always excepting the undeveloped good will—was the low rates of provincial tariffs; and this might have proved less potential but for the seductive entertainments, the bird suppers and champagne, which sometimes win their way where the diplomacy of arguments might despair. The wax on corks often has an intimate relation to the wax on parchments. I only mean to assert that secret service money, by the United States as well as by Canada, it is widely understood, was actively employed in bringing about the treaty; and if our share, as well as that of Canada, was not expended here, it is difficult to see where it was expended. It is a silly sheep that bribes the lion to a repast of mutton. The provincial appetite needed no whetting.

Of course it was neither suggested nor anticipated that the policy of specific or low duties might be suddenly changed, nor is the fact mentioned to reproach Canada with bad faith, but as a warning to such as have faith in further lessons of reciprocity.

The British provinces are not remote nor unconnected, and it would seem that we might hope from them sentiments of ordinary good will. If they were independent, and united or not united to us, we might count upon some positive friendship. But they touch us throughout the whole breadth of a continent, and they are yet merely in the rank of colonies, and being so their rulers appear to be more or less moved by selfishness and by that unceasing spur of an inferior with the rôle of a rival—jealousy. Their Government is less anxious to become the exponent of the voice of their own people than to echo that of a far-off ancestral aristocracy. We may wish it were otherwise, but a reciprocity treaty only aids to confirm such facts.

Other reasons alleged for the increase of the Canadian tariff are that the Government had embarked in extensive works of internal improvements—railroads and canals—and must have revenue to pay the interest on the outlay. In order that these might carry freight at low rates, or without tolls, the Government assumed heavy burdens, and now levies taxes upon their whole people for the benefit of freighters. The completion of such subsidized works, supported upon such national principles, is conclusive and inexorable upon the competition of private enterprise. Like the steam-vessels, to which the British Government pays subsidies, wherever they touch private adventures vanish and American interests are overmastered. Merchandise from the United States is taxed with increased duties to enable Canadian roads and canals to carry not only their own products, but to underbid for the carrying-trade of American products, and to work so cheaply as to deter and discourage rivals from springing up on American soil. They propose for a consideration to undertake our railway transportation at reduced rates, but at last we find the railway charged to us in a bill of items! I do not point out these things in the mood of wailing for wrongs, but to show there is a people across our borders quite as cute at a bargain, or in securing the mastery of accidents, as those who dwell on this side of the line. We must do our own carrying-trade on land and water, and not forget that one nation which builds iron ships imposes their construction upon others. It will hardly be said that Canada can better afford national subsidies to thoroughfares than the United States.

Our laws, which do not permit foreign ships to carry from one of our ports to another, yet permit foreign railroads almost an unrestricted enjoyment of the privilege so jealously denied on the ocean, rivers, and lakes. Thus, through our own laws and treaties, we seem to have been for the last ten years preëminently employed in building up the trade of a people who sell to us but who will not buy; who carry not only their own products to market but American, and who build their own ships and are eager for such an extension of the reciprocity system as will allow them to do the little shipbuilding and such coasting trade as may remain for American commerce. There is no labor from which they would not relieve us until they have relieved us of our gold.

Our position gives to us the carrying-trade over about one hundred miles of railroad, controlled by a perpetual British lease, and in whose prosperity no American has either a dime or a vote, from Portland to Canada line, which the giant corporations of the British provinces have anglicized and monopolized; and for this equivocal favor we have, with excessive liberality, allowed more than one thousand miles of Canadian railroads to successfully compete for the carrying-trade from one point to another in the United States.

The western, or agricultural States, have suffered through the operation of this treaty as much, if not more than any others, and have made least complaint. Their products are so immense that they do not miss what is filched from them by land-rats or water-rats. Such of the eastern States as fail to produce their own breadstuffs, or their butchers' meat, or their wool, or their horses, would not be likely to protest against supplies from Canada, and the consequent reduction of prices. The European markets present no opening to the United States or Canada for agricultural productions, except in seasons of deficient crops. The northern and eastern United States furnish the only reliable markets, year after year, for any surplus produced by even Canada, as well as the

western States. For example, all the wheat and flour sent by the United States to England in 1858 and 1859 amounted to only \$1,736,152, or less than half of the amount thrown into our markets from Canada during the same time, which was \$3,665,502. There is no year when her entire trade with us has not been much greater than with all other countries.

The highest authorities upon political economy lay down the principle that, if there are one hundred stores or houses to be let in a city, when only ninety are wanted, the price of rents will go down, and the one hundred will rent for no greater sum than would the ninety alone. When there is not a market abroad and Canada becomes a competitor with the western States for the American markets a similar result must follow. The whole amount taken from Canada comes out of the price of the much larger amount taken from the western States, and no more is paid for the whole than would have been paid to the western States for their contributions alone. This influx of Canadian productions so far is a benefit to the Atlantic cities and manufacturing towns; but it is a benefit that rebounds to the injury of all agricultural districts, including western States, and which, fairly computed, would enable them soon to create for themselves means of cheap transit by land or water, rivaling all that appear across the line to have prospered at our cost.

But manufacturing villages and even cities can only prosper by finding an outlet for manufactures and the various articles which by the manipulation received in these places are prepared for sale, and Canada has no market for any such American productions. That is entirely absorbed by England.

It may be supposed that Chicago, the busiest city of the world, has a large interest in this trade, but the whole amount of merchandise received there under the treaty in 1862, was but \$45,763, and of that \$16,640 was brought by foreign vessels. In 1863 the trade was \$58,238, and \$27,877 of that was brought in foreign vessels. The same exclusion of American shipping interests tracks this trade even in the East. At Boston, of \$1,330,781 of merchandise received in 1862, only \$148,327 was brought in American vessels. At New York, of \$636,891, only \$22,592 was brought in American vessels, and in 1863 it was still worse, when out of \$633,419, all but \$7,831 came in foreign vessels. Such are the fruits of reciprocity!

The wheat which we send to Canada generally goes there to be ground, and we receive an equal or greater amount in flour, or it is merely there in transit for a market abroad. It is certain that it does not go there for consumption. Formerly we helped to stock the Canadas with horses, cattle, and sheep; but now they have an annual surplus of all these for which there is no other market than that of the United States. Can the western agriculturists prefer the prosperity of the British provinces to their own? Do they wish to grant such favors as shall leave Canada farmers no room for envy? Do they wish to create a rival for foreign emigrants? *†

* Extract from the Montreal Herald:

"There is no getting round our unfortunate geographical position; while at no time independent of our neighbors for a market, we are for five months in the year entirely dependent on them for a support. Fancy what the condition of the millers and farmers of western Canada would be today without the American market. What would become of our surplus products in the present absence of English demand? The statistics of the astonishing growth of our frontier trade since reciprocity, reveals to any administration disposed to use it, the power they possess over our progress, either for the purpose of snubbing England through us, or retaliating our want of sympathy and good neighborhood in this time of their discomfiture."

† Extract from an address of Hon. Isaac Buchanan, M. P. for Hamilton, Canada West, 1859:

"And Lord Elgin bribed the Americans by sharing with them our fishery and navigation rights to give us the reciprocity treaty, which while it exists removes the Canadian farmer's cause of complaint. Now, therefore, the preservation of this reciprocity with the United States is shown to be not only the interest of the farmers and through them of all others in Canada, but of the British Government, as without it Canadians are left in a position to be much benefited by Canada being annexed to the United States. I speak plainly, viewing him the most loyal man who speaks most plainly at such a crisis."

"And but for the most obvious providences, among which is the obtaining of our reciprocity treaty with the United States, the disruption of the empire would have been endangered ere now."

"The great practical end of all our efforts is to arrange that the Canadian farmer has nothing to envy in the condition of the American farmer."

The treaty as now developed totally ignores American interests; certainly the compensations received when found will have to be diligently sought for. If the rebels of to-day, animated by all their fiercest hate, were at liberty to bind us by a convention with their newly-found admirers, it might be found difficult to concoct an arrangement bearing the semblance of two high contracting parties, more detrimental to the interests of the United States, more wholly vicious toward the North and West, or more utterly valueless to the South.

In the abstract, no objection appears to the principle of reciprocity, but practically the treaty falsifies at every step the doctrine of its framers. A treaty possibly comprehensive enough in all its details might be made so as not to disappoint in its results either party who made it, nor be capable of evasion by either party through hostile legislation; but, with our recent experience, he would be a hardy statesman that should undertake it with a people who are proud to maintain a foreign "allegiance and affection," and whose utmost inclination must be to mete out no more to us than what is "nominated in the bond."

Commercial treaties for so-called reciprocal duties have been regarded by all writers upon the subject of political economy as hostile to free trade. They are certainly hostile to uniformity and to equality with all nations. They start with the idea of favoritism. To show preference by treaty or by law for one nation over another is to give them just grounds for complaint. The American mode of bringing about reciprocity and free trade has been by the admission of new States upon an equal footing with the old, and it was, perhaps, a legitimate mode, certainly not an unfair mode where all parties consented; but we have now no gifts of this kind to obtrude upon reluctant recipients, nor for even the warmest of suitors. Until the contest in which we are engaged shall be ended, it is unworthy of our dignity to proffer or accept of any new alliance. Proud of the past, we will not doubt the future. We stand up now to despise cynical criticisms as we shall stand hereafter to despise hollow congratulations.

When the reciprocity treaty was made, we seem to have forgotten the naval raid upon our fishermen two years before, and our ears were tuned to harmonies, to the interchange of acts of national kindness and increased neighborly intercourse rather than to the sharp advantages of commercial profits; but even in this aspect the treaty has turned out a melancholy failure. The perfume of sweet words quickly evaporated. The provinces, as represented by their mouth-pieces, were as eager for the wager of battle when the subject of the Trent came up as were the foremost among the representatives of England herself. They have greeted the traitors, embraced the pirates, and lauded the chiefs of the rebellion as heartily, and they sustained the British ministry as fully when British-built ships were permitted to go and make piratical war upon our commerce as the pro-confederates of England. Not content with the illicit trade, in violation of the blockade, in which they had embarked with a shameless greed, it is notorious that their accredited organs, while we were admitting provincial products free to our war markets, were vociferously sustaining the policy of the British ministry in letting slip the Alabama, Sumter, Georgia, and other piratical ships, to capture and destroy our peaceful commerce. They have smitten us severely on both cheeks, and there is no Christianity that requires an exposure to further blows.

I do not suppose a majority of the people of the provinces sympathized with these British outrages upon justice, decency, and international law, but no remonstrance and no petition has ever gone forth against those unfriendly manifestations from even Canadians, who are reported more friendly than the people of some other provinces, where descendants of Tory refugees have not yet buried the hatchets forged by their forefathers to stay the Revolution of 1776. They have not dared to be otherwise than dumb in presence of what they supposed might be the august public opinion of Great Britain.

As an American, whatever I may have thought heretofore, I declare that I have now no disposition to see the Canadas, with these recent evidences of their temper, annexed to the United States. They have played the part of subalterns

so long that I am led to doubt their capacity for independent government. The task of State administration may be above their present reach. The mother country, with an enlightened self-interest, has often evinced a disposition to be rid of the charge of these provinces; it professes no high regard for their mixed population, who appear to lack the spirit to go through the door that is pointed out to them, and though told often that they are unprofitable servants.* Such a people can take time to cultivate self-reliance, to develop their own statesmen, and to create some feeling of independence before their alliance will be so esteemed as to be eagerly courted.†

There have been, it is said, no infractions of the reciprocity treaty, and none, it is believed, have been or are intended. This is much the stoutest defense of the Canadian minister of finance for all American complaints, and yet it is plain that Canadian policy has so manipulated its revenue laws, and its system of canals and railroads, with the collateral support of Great Britain, as to secure many and important advantages not dreamed of by our negotiators or by our people at the birth of the treaty. We propose to abide by it to the bitter end. Good faith requires nothing beyond. British subjects will have obtained for eleven years, by virtue of the treaty, the chief commercial advantages they must have derived as States of the Union without contributions of service, imposts, taxes, or good-fellowship. If they are to retain them longer, let us know the reason why! During this time, and for the first time in their history, they have become our peers in the ratio of increased wealth and population, and this mainly in consequence of our unrequited commercial hospitality!

The fact, if it be a fact, that such a treaty may be literally complied with, and yet in its operations may present so many subjects of discontent, is a strong proof of its fundamental impolicy. In spite of ornate pretension, each country, when put to the test, will seek to promote its own interests regardless of those of the other; and in the case of the provinces, colonial dependents, the next best friend to be next served is the mother country, to whom they owe an exhaustive "allegiance and affection," and to whom they look for military defense and protection against all foreign foes. Among the chief of such sinners, I am sorry to say, they are suspicious of the United States. The interests of Canada first, and of Great Britain second, will be, as they have been, studied and artfully promoted by all the means and appliances of adroit ministers of both countries, while the United States comes in as the goose to be plucked, and the lauded principles of reciprocity, like garments worn at court, will be, as they have been, laid aside upon the resumption of the ordinary business of life.

The Committee on Commerce (by Mr. WARD) made a very elaborate report to this House on the reciprocity treaty, (February 5, 1862,) wherein they argued that the grave faults already developed in the treaty should be remedied by a greater extension of the same system, even to the extent of the German Zollverein. Doubtless they had read:

"For shallow draughts intoxicate the brain,
But drinking largely sobers us again."

This is good poetry, but I submit is not sound advice for us, though the Canadians reprinted and adopted the argument, rejecting only the conclusion. The principle of the Zollverein, or toll-alliance among several States, as to imports, exports, and transit, was a happy thought for the numerous but small German sovereignties with

* Those familiar with the tone of the London Times toward the Canadas will see that it scolds in the same imperious tone practiced by Burke in generations gone by:

"The province of Nova Scotia," said Mr. Burke, "is the youngest and favorite child of the Board of Trade. Good God! what sums the nursing of that ill-thriven, hard-visaged, and ill-favored brat has cost this wretched nation! Sir, this colony has stood us in a sum not less than £700,000. To this day it has made no repayment; it does not even support those offices of expense which are mis-called its government. The whole of that job still lies upon the patient, callous shoulders of the people of England."

† Extract from the Duke of Newcastle's dispatch to Governor General Monck, August 21, 1862:

"A country which, however unjustly, is suspected of inability or indisposition to provide for its own defense, does not, in the present circumstances of America, offer a tempting field for investment in public funds or the outlay of private capital. Men question the stable condition of affairs in a land which is not competent to protect itself."

similar peoples and no natural geographical boundaries; but it is not applicable to a great nation with a large territory, independent and determined so to remain. There could be no rule of division for revenues so obtained but that of population; and it is too obvious that the people of the provinces do not and cannot consume, *per capita*, anything like the amount of merchandise charged with duties consumed by citizens of the United States. They simply have not the ability to do it.

It is, however, idle to discuss this matter. The proposition of the Committee on Commerce has been before the Canadian Government, and while they want a chance to sell ships and a further share of our coasting trade, their conclusion was that the Zollverein is wholly inadmissible. Mr. Galt, "the minister of finance, to whom was referred the report of the Committee on Commerce of the House of Representatives on the reciprocity treaty," in his cautious report to his excellency the Governor General in Council, March, 1862, sums up the case as follows:

"The undersigned can have no hesitation in stating to your excellency that, in his opinion, the project of an American Zollverein, to which the British provinces should become parties, is one wholly inconsistent with the maintenance of their connection with Great Britain, and also opposed on its own merits to the interest of the people of these provinces."

After a response so explicit, I trust we shall not be so unwise as to press for a reconsideration of an offer we cannot seriously afford to make.

In the disposal of this question it is proper to consider all the advantages, directly or remotely derived from the reciprocity treaty. The chief of these, if any can be found, are supposed to relate to the fisheries. Prior to this treaty, we were confined to the stipulations of the treaty of 1818, having weakly surrendered our rights under the treaty of 1783, and this gave to us privileges only upon the coasts and shores within certain boundaries, while we renounced all claims to anything beyond. By the reciprocity treaty we obtained some privileges in common with British subjects upon the coasts and shores generally of British American possessions, and gave up to the common use of British colonial subjects similar privileges on our own coasts, shores, and islands north of 36° north latitude, mutually excepting shell-fish and the salmon and shad fisheries. The favors so exchanged were reciprocal and equal, unless the fishing grounds near the United States are the least productive; and however that may be, the fisheries of the United States, as a whole, have not acquired thereby additional prosperity. The exception of the shad and salmon fisheries gives to the provinces an entire monopoly of that trade; and yet our markets were made free, even for the fish we are precluded from catching! Here are free imports, and a decidedly *fishy* reciprocity. To the late-mackerel fisheries the treaty may have been of some service, and especially to that of Gloucester, which has increased; but in many places since the treaty the business has diminished and is slowly disappearing. Late in the season fishing near the shore for fat mackerel is indispensable to success; but the main catch is outside of these limits; and codfish is now mostly dried on shipboard, and then brought home to be cured. Provincial shores are therefore less needed than formerly. The provinces are allowed by the treaty to bring into our markets free of duties fish of all kinds, fish oil, and "products of fish, and all other creatures living in the water;" and it is this permission which supplants our fishermen, and robs them of their occupation.

The fish part of the treaty had been steadily refused by us when tendered alone or conjoined to other propositions up to 1854. The proposals made by Canada, from 1847 to 1851, for a "free interchange of all natural productions," were not accepted by the United States. The British minister in 1851 offered "if the United States would admit all fish, either cured or fresh, imported from British North American possessions in vessels of any nation or description free of duty, and upon terms in all respects of equality with fish imported by the United States," that they were prepared to throw open their fisheries, with certain limitations, to us, with a threat of measures to be adopted if no arrangement on the subject should be made; and this overture was also declined. Mr. Seward, in the Senate, agreed with the President that

if anything was to be done, it should be by reciprocal legislation. (That, by the way, is our only true course now.) The provinces were disappointed, and, with the alacrity of those already scenting their prey, they obeyed and joined England in that stroke of policy—setting up a new interpretation of the treaty, excluding us from bays, and running the line of three miles from shore, not according to the shore line, but from headland to headland—to compel us in 1852 to accept of reciprocity, which resulted in the advent of a fleet of naval vessels to seize such of our fishing vessels as might pass beyond the new interpretation so suddenly and without notice to be enforced. They assumed to "hold us to our bargain," as they styled it, unless we consented to give them a still better one. War was played as a game.

Mr. Webster, then Secretary of State, in a speech made at Marshfield, said:

"The fishermen shall be protected in all their rights of property and in all their rights of occupation. To use a Marblehead phrase, they shall be protected 'hook and line, bob and sinker.'"

Who could have supposed that in two years (under a new Secretary of State) the reciprocity treaty would have been an accomplished fact, or that history would require the "Marblehead phrase" to be prefaced by the word *gone*?

It would be just to revive the rights so fully conceded to us by the treaty of 1783, which were secured through common treasure, and won more by the repeated prowess of our own people, in the days of our colonyhood, than by that of Great Britain, who often surrendered our conquests *here* to recover her losses *elsewhere*; and these rights permitted our fishermen to go wherever they had been accustomed to go. Anything less now would be un-American and fall short of our due. In time we may reach a higher plane when freedom of the seas will comprehend freedom of fisheries. No nation can have an inherent right to map off the ocean and claim exclusive enjoyment of any inexhaustible fishery.

To go back again to the treaty of 1818, as the worst possibility that might happen, would subject American fishermen to the inconvenience of keeping off three marine miles from shores to which that treaty gives us no privileges, leading to occasional disputes, and might prove an injury to the late-mackerel fisheries; but these evils are not wholly insurmountable and by no means of the weight of the general considerations exacted of us as equivalents. These would be the proper subjects for treaties and would be readjusted in some subsequent convention. It is no longer doubtful that our fishermen lose more from the free admission of fish from the provinces than they gain from the privilege of fishing inside of the line of three miles from certain shores. When the catch is short they make nothing, and when abundant the glut from provincial competition steps in between them and all legitimate profits. Besides the near-shore fishermen lose their hardiness and become idlers. Thus our people, renowned for their aptitude and success in securing "the wealth of the seas," behold their empire passing to the hands of strangers.

The lumber trade from the British provinces has given some commercial life to towns and cities where it might not without the treaty have been found, but even this is at the expense of American interests. The pines of Maine, of New York, and of Michigan must wait for the ax until the black forests of the provinces have been culled and exhausted. The timber lands of our own States, exposed to this unlimited Canadian rivalry, are indefinitely postponed, and will not be cleared and fitted for cultivation while timber at a less cost can be obtained anywhere this side of Labrador.

If the sources of our supply were again to be mainly confined to the United States, the prosperity obtained by even the local distributive points would not be lost though in some degree changed to other localities. An equal trade would spring up somewhere, differing chiefly in the sources of supply, and that difference would be a positive gain to the United States. It is also true that provincial lumber, if subject to a moderate duty, would not be wholly excluded, but would still float to a considerable extent to United States markets. Provincial lumber might be sold at home for a trifle less, or as much less as the duty, and

would be offered here without any material advance.*

Looking at Oswego, the port where perhaps the largest amount of the lumber trade centers, and the fact is evident that it is mainly in the hands of Canadians. In 1862 there was \$3,551,239 in value of merchandise received under the treaty free of duty, but of this more than five sixths, or \$2,973,783, was taken there in foreign vessels. It was even worse in 1863. Of \$2,627,723 then received \$2,253,349 came in foreign vessels. Our export trade at this port and many others appears to be falling off. The exports to Canada of domestic produce in 1856 were \$4,787,750, and in 1861 they were only \$2,075,895. The exports of foreign merchandise in 1856 were \$686,357, and in 1861 they were only \$275,265. The domestic exports from Chicago in 1856 were \$1,345,223, and in 1861 they were \$352,343. The ports of Detroit, Oswegatchie, Genesee, Champlain, and other places present similar unfavorable comparisons. Surely the commercial interests have no reason to look upon such a trade with special favor.

By article four of the treaty, we have the privilege of using the Welland and all the St. Lawrence canals upon the payment of the same tolls as are or may be exacted of her Majesty's subjects, but with the right retained to suspend the privilege upon due notice. Except in time of war, when, of course, the canals would not be exempt from the law of the strongest, the Canadian Government from sheer interest would seek such patronage upon such conditions. Tolls would not be refused while the grist came to their mill. But, notwithstanding this provision, vessels of the United States have practically been made to pay ten times as much toll as Canadian vessels. This has been brought about by legislation, which provides that vessels producing certificates that they have landed and discharged their cargoes at Canadian ports shall have ninety per cent. of the tolls refunded. Provincial vessels, of course, naturally do this, but American vessels naturally do not. We use their Welland canal, and for that we are taxed as much as we should be if we used all their canals going to Quebec. What we want they tax heavily, but what we do not want they tax lightly. Here is a discrimination legally and dexterously made, which strikes a heavy blow against American shipping interests.

The only other advantage expected (but not realized) under the treaty that occurs to me was the free navigation of the St. Lawrence, for which we gave in return that of Lake Michigan. This might be desirable to complete the circuit of water communication, if we used it, but we do not; or if we had any interest in building up Montreal and Quebec at the expense of Portland, Boston, and New York, but we have none. In the first six years after the treaty only forty American vessels, all of small tonnage, passed seaward through the St. Lawrence, and of these but nineteen ever returned. But in one year (1857) one hundred and nine British vessels left a single port of Lake Michigan. In practice, British reciprocity is made up of similar unequal makeweights, and we may say of the whole as we do of this part with great propriety, we got a useless river by giving up a magnificent "inland sea."

If we examine the reciprocity treaty on general principles, as a question of constitutional, political, or domestic policy, the deduction is inevitable that it is radically wrong, unwise, and, under present circumstances, no longer to be tolerated. And if we analyze it in all its varied relations, patiently examining fact by fact, there will not remain enough of sound base to prop it up an hour beyond the period when it can be properly overthrown.

I could wish, in our great historic struggle in behalf of republican institutions and the triumph of world-wide liberal principles, that we were called upon to make some sacrifices on this question in acknowledgment of good-fellowship manifested by our younger brethren across the line, but among their Government organs and press

* Our consul at Bristol, England, September 10, 1862, says there is a deduction on railroad iron of six dollars per ton since the tariff (of 1861) passed, and he adds that crockery "can be purchased at a deduction equal to the percentage of the tariff. The same is probably true of cutlery."

we search almost in vain for any words of good cheer, though we go to Montreal, St. John, or Halifax. Exhibiting no affection, but clutching the commercial advantages of the treaty and flattering themselves that it must be perpetual, they became truculent and exultant in proportion as the rebellion seemed to prosper. If no reverses should befall us, they may be expected to cultivate a more placid temper. But whatever others may do, let us consult our own judgments, our own welfare, and soberly, calmly, and without a lingering regret request the President to give, at the proper time, the notice for the termination of the reciprocity treaty with Great Britain.

Mr. W. J. ALLEN. Mr. Chairman, I propose to make some observations upon the late annual message of the President. What I think of it I shall say without prelude; what I believe of his notions and purposes will not be attended or followed by any cringing explanation or apology. I assert as my deliberate opinion that the message was prepared by the President and those who acted as his immediate advisers with direct reference to a prolongation of the war, and that this desire to protract hostilities has for its object no other or higher aim than the reprehensible and criminal one of reflecting himself President, continuing the present party in power, and protracting the existing reign of plunder and robbery. By his own words, and by declarations of his chief advisers, he stands convicted of criminal hypocrisy in regard to matters vital to the existence of the country; and now, having thrown off those restraints which were for a while imposed alone by his timidity, he unblushingly proclaims himself the arbiter of States, and assumes to deal with their governments and the rights and property of loyal people with a sway more cruel and despotic than is claimed for any monarch or despot in the world. Not content with violating his official and other pledges, and a total disregard of the platform upon which he came into power, he has usurped the forbidden powers of the Constitution, and assumes to deal with individuals and States as though they were the playthings of his malice or mere fields of plunder for his adherents.

I shall pass by the causes of the war. With the executive department in his hands, it proved inevitable. Though many believed that war, no matter how produced, would in the then condition of the public mind prove the grave of the Republic, yet when the dire necessity came a very large majority of the people accepted the issue which rebellion had tendered and lavishly offered their blood and treasure to the cause of the Government. And I assert that never, in ancient or modern times, were the issues of any war so clearly made or so sharply defined. On the one side was an open, bold, and organized resistance to the lawful authority of the Federal Government; on the other the military power of that Government was invoked for the purpose, the sole purpose, of putting down armed rebellion and enforcing its rightful authority wherever it had been obstructed or opposed. I repeat that this was the only issue, the sole purpose, for which, before the 22d of September, 1862, a million soldiers had rallied beneath the flag of the Constitution.

I said the President and his advisers had been guilty of willful deception. I will make good the charge. It is true that in the attempt I shall submit nothing which should be new to any member present, nor can I hope to excite even a feeling of shame on the part of those who, though subordinate in position, are in complicity with the President. Though less potential for mischief, there are present those who are blessed with better faculties and higher endowments than the President, and who are therefore no less guilty of the wicked purposes which I impute to him.

The object of war among civilized people should be PEACE. War as a means to any other end can never be justified. What, I repeat, produced the war? All men know it was armed resistance to the rightful authority of the Government. What end and aim did Congress and the loyal people propose when they authorized the employment of the largest armies of modern times? Let Congress, the Executive, and his advisers answer; and when they have answered, let the unerring facts of history brand them as false-hearted triflers with the lives of the brave men who are daily filling unnoticed graves; and let patriots everywhere who

still love constitutional liberty rise up, and by the powerful engine of the ballot, which despotism cannot now wrest from them, hurl the present imbecile from power, and save the country, which at this moment is struggling in the agonies of eternal death. I omit, for the present, all reference to the President's inaugural. When it was spoken hostilities had not begun. I come down to a later day, to the first battle of Bull Run, at which time Congress was in session. Before this the war had been regarded by public men of "the last dollar and last man" persuasion, and by persons who, however unsound on Christ, were orthodox upon the nigger, as a mere holiday sport.

Buggies, hacks, gigs, Jersey wagons, mules and horses were in demand at fabulous prices; the road from Washington to Bull Run was crowded with Senators and Representatives, contractors and courtesans, eunuchs and strong-minded women, all intent upon witnessing the impending rout of the rebels. The sequel is known. The panic in this city among those who are now chiefs among the Loyal Leaguers will be long remembered by all who thought the public safety would be promoted by retaining a quorum of Members. When the panic was over and Beauregard had failed to occupy the capital, the House of Representatives adopted the following resolution, introduced by the venerable and patriotic Crittenden, now no more, with but two dissenting votes:

"That this war is not waged in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of these States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects are accomplished the war ought to cease."

Immediately after the passage of this resolution, every approach to the capital was crowded with regiments and brigades who had tendered their services in a war to be conducted for the holy purpose avowed in that resolution. So great was the rush to arms that, shortly thereafter, the chairman of the Committee on Military Affairs in the Senate had to announce that more troops were being offered than the Government could accept. And much more than this, the Union men of the South were cheered and strengthened by this formal assurance that they had been right in defending the President when charged by the rebels with designing a grand John Brown raid upon the slave States, and the degradation of the whites to the level of the negro. A short time afterwards a similar resolution was submitted to the Senate by Andrew Johnson, of Tennessee, and, my recollection is, unanimously adopted. But a few days before this, on the 4th day of July, 1861, the President spoke to Congress as follows:

"Lest there be some uneasiness in the minds of candid men as to what is to be the course of the Government toward the southern States after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and the laws; and that he probably will have no different understanding of the powers and duties of the Federal Government relatively to the rights of the States and the people under the Constitution than that expressed in the inaugural address. He desires to preserve the Government, that it may be administered for all, as it was administered by the men who made it. Loyal citizens everywhere have the right to claim this of their Government; and the Government has no right to withhold or neglect it. It is not perceived that, in giving it, there is any coercion, any conquest, or any subjugation in any just sense of those terms."

About the same time, a member of the Cabinet, Hon. Caleb B. Smith, since deceased, proceeded to Providence, in the State of Rhode Island, and addressed to the public the following cheering words:

"The theory of this Government is that the States are sovereign within their proper sphere. The Government of the United States has no more right to interfere with the institution of slavery in South Carolina than it has to interfere with the peculiar institutions of Rhode Island, whose benefits I have enjoyed to-day."

"But, my friends, during the last summer, when the great political contest was raging throughout the land, then it was that designing and dishonest men, for the purpose of accomplishing their own selfish schemes, appealed to the prejudices of the southern people, denouncing those who supported Mr. Lincoln as abolitionists; as men who would disregard the constitutional rights of the South, and transcend the powers of the Government. Excited by means of these iniquitous appeals, they were ready to take arms to prevent the inauguration of that President whom a majority of the people had declared to be the man of their choice."

"My friends, I have known the President long and well. It has been my fortune to be selected as one of his constitutional advisers. I have had the honor of being connected

with this Administration since its commencement, and I tell you to-night that you cannot find in South Carolina a man more anxiously, religiously, and scrupulously disposed to observe all the features of the Constitution relating to slavery than Abraham Lincoln."

"My friends, we make no war upon southern institutions. We recognize the right of South Carolina and Georgia to hold slaves if they desire them. But, my friends, we appeal to you to uphold the great banner of our glorious country, and to leave the people of that country to settle these domestic matters according to their own choice and the exigencies which the times may present."

"Let New England rally promptly and earnestly, and I tell you rebellion will be crushed to the earth, and the stars and stripes will be raised over a united country. Then we shall have peace. Peace will spread her benign influence over this land, and happiness be restored, business revived, and the blessings of a free Government enjoyed."

"I do not invoke you to engage in this war as a war against slavery. We are warring for a different principle."

"It is not the province of the Government of the United States to enter into a crusade against the institution of slavery. I would proclaim to the people of all the States of this Union the right to manage their institutions in their own way. I know that my fellow-citizens will recognize that as one fundamental principle upon which we commenced this contest. Let us not give our opponents any reason to complain of us in this respect. Let us not bring to bear upon them the power of despotism, but the power of the people of a republican Government, where the people rule."

It was in this spirit, and about the same time, that Mr. Seward, the Secretary of State, issued his instructions to our representatives abroad, in which he directed them to make public avowal of the purposes which would control the Government in prosecuting the war.

In his dispatches to Mr. Dayton, our minister at the court of St. Cloud, he used the following language:

"The framers of the Government, therefore, placed the entire control of slavery, as it was then existing, beyond the control of the Federal authorities, by leaving it to remain subject to the exclusive management and disposition of the several States themselves, and fortified it there with a provision for the return of fugitives from labor and service, and another securing an allowance of three fifths of such persons in fixing the basis of direct taxation and representation."

"The condition of slavery in the several States will remain just the same whether it (the rebellion) succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States, and the condition of every human being in them, will remain subject to exactly the same laws and forms of administration, whether the revolution shall succeed or whether it shall fail. In the one case, the States will be federally connected with the new confederacy; in the other, they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions in either case will remain the same."

"It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the Administration, has always repudiated all designs whatever and wherever imputed to him and them of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional, and all his actions in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people."—Instructions to Mr. Dayton in 1861.

Mr. Chairman, I might consume my hour in producing the proofs of the falsehood and perfidy of those who thus deceived and betrayed the people of the North, and insulted and exasperated the Union men of the South.

What other evidence is needed of this shameless perfidy than the fact that the murderous adherents of John Brown, and the rebel adherents of Jefferson Davis were made glad? For so soon as the President avowed his purpose to change the war to one of crusade against slavery, of plunder and extermination, the apostles of Brown and the disciples of Davis were heard in mingled strains of joy and gladness. Each hoped and believed that the President had rendered a restoration of the Union impossible. Each being disunionists *per se*, each could afford to rejoice at every crime and blunder which paralyzed the arm of those who struggled and fought for peace and a reunited country. The effect of converting the war into a struggle for the freedom of the negro and the subversion of the slave States has unmistakably been to prolong and intensify the contest; and in that contest, while the South may be victims of the torch and the sword; while those who gladly welcomed the flag may be robbed of their property, and compelled to starve or swear to become the slaves of Lincoln, in the free and populous North the seeds of corruption and tyranny are beginning to bring forth their baleful fruits. Even here almost every house except the habitations of contractors and abolitionists has become

the abode of bereavement, often of desolation; taxation is grinding all classes except the petted plunderers of the Government; and while national and individual bankruptcy is impending, a more terrible doom is apprehended and feared. We cannot shut our eyes to the fact that the elective franchise is endangered. We have seen the rights of the people usurped in Maryland and Delaware and in portions of Kentucky. We have seen their constitutions and laws suspended by the edicts of the President and his minions, the ballot-box trampled into the dust, and the slavish creatures of his favoritism foisted into office and honor, not to represent the interests or the voice of the people of those States, not to discharge the duties incident to the offices which they obtained by a combination of fraud and force, but to register and assist in executing the decrees of a master, whose slaves, violator of the Constitution as he is, they are totally unworthy to be.

When this terrible issue is presented to the people of the free North next fall, as I am sure it will be, then we will see the beginning of the end. Every barricade which cruelty or malignity may erect between the voter and the ballot-box will be removed; the corrupt instruments of so monstrous a proceeding, whether black or white, whether mere provost marshals or major generals, will find the people of one State, at least, more anxious to preserve the purity of the ballot-box than the carcasses of those who may seek to enslave them. The late message, fairly construed, amounts to an unblushing avowal of this despotic intent. It is true that the purpose is at present avowed with reference only to the rebellious States; but the President has assumed to attach a condition to the right of suffrage there, which he may at any time as rightfully apply to the State in which I live. I do not now discuss the terms which he offers to rebels in arms. The only answer most of them will make to his proposals is that of defiance. I allude to the fact that he denies the *loyal men* of the South the right of suffrage; and asserts that they who have committed no crime shall have no legal or political rights unless they will first subscribe to a degrading oath, an oath so slavish, that we may rightfully assume that it will be evaded or disregarded by many of those who may subscribe to its terms. But I ask whence comes the President's power thus to deal with loyal men who have violated no law, and consequently forfeited no rights of person or property? We can all understand how the loyal men of the South may lose their property. The armies which were created for the sole purpose of vindicating the law are stationed in the South; the President is "Commander-in-Chief," and he has grown fond of issuing imperial decrees which that Army is commanded to enforce. Almost every officer of independence of character, who has exhibited the slightest repugnance to executing his decrees, has, when blandishments failed to seduce him, been dismissed the service in a manner designed to insure his disgrace. Why, then, should the President fear to issue an edict as sweeping and unrelenting as the torch of Omar; and by which, at one dash of the pen, he attempted to destroy property valued at \$2,000,000,000, and that, too, without reference to the sex, age, condition, or opinions of its owners?

The press had been muzzled; Congress had become the mere register of his will; the loyal people of the South were either within rebel or Federal lines. No protest would be heard or heeded, while corrupt creatures might everywhere be found to flatter the author of such unpardonable maladministration. Or why then should we marvel that he who affected scorn for the Pope's bull against the comet should now claim mastery over the minds and consciences of men; nor be deterred from demanding of those who execrate his name and memory an oath—a solemn oath—to be true to his bulls buried at sovereign States and the deep convictions of a majority of the people? I repeat that the President proposes terms to the loyal people of the South which all sensible men must know they will regard as degrading. The jackals who follow the Army for the purposes of plunder are no part of the southern people; and the Loyal Leagues which they may form within military posts I do not take into the account. Nor do I allude to those exercises upon the political and military system known as "military governors"—such adventurers upon the hazard

of a terrible civil war as Johnson of Tennessee, and Hamilton of Texas. They have been selected, I suppose, to "govern" those who hate them, just as eunuchs are appointed to guard the harem. Each excites the disgust of those who are compelled to endure their presence.

But, Mr. Chairman, the highest degree of iniquity in the President's bull against slavery and State rights, is to be found, perhaps, in his requirement of the same terms of the loyal men of the South to retain their rights, as are tendered to the vilest rebels in the land as the conditions upon which theirs may be regained. Take, for example, the State of Tennessee. More than sixty thousand freemen of that State refused to vote for the ordinance of secession. About forty thousand voted against the secession of the State, although a large portion of it was occupied by rebel troops, and every means was used to overawe the people. That State has now one of its citizens upon the supreme bench. It has furnished over thirty thousand troops to the Government. Yet these soldiers, and other loyal people of that State, are to be disfranchised unless they will take the oath prescribed by the President for armed rebels. I repeat, if these terms can be imposed upon the loyal people of Tennessee by the President, why may he not require the same thing of the people of Illinois? Imagine, if you please, General Butler swearing in the chivalry in that hall at Charleston in which for so many days in 1860 he alone, of all the men of New England, voted for his friend Jefferson Davis for President, in the hope of defeating the great Douglas by dividing the Democratic party sufficiently to make a victory of abolitionism certain, and thereby furnish a hollow pretext for Davis, Yancey & Co. to secede. Or, if you prefer it, go to Knoxville and witness the ministrations of Parson Brownlow while swearing in the Union men of East Tennessee—the true Union men who refused so long to swear fealty to Jeff. Davis. They will hardly degrade themselves by kneeling side by side with their rebel persecutors, and swearing fealty to Lincoln and all his proclamations in regard to slavery.

There is a building in Knoxville, I am told, in which, in June, 1860, that revered champion of "Honest Abe" penned and published an appeal to the people of Tennessee to rally against Lincoln, the abolitionist, and Hamlin, whose color was suggestive of a "free negro." In that building we will imagine him holding his high court of political expurgation. We can almost see him now as he opens the proceedings with prayer. Behind the reverend operator in Greek and hell-fire may be seen the heroic but saintly face of Horace Maynard, while the martial form of Brigadier General Andrew Johnson, in full military dress, glows as brightly as when he wrote his letter to Abraham, assuring him of General Bull's treason. We can almost hear them now calling for mourners, and administering Lincoln's oath. No doubt those sturdy mountaineers will on bended knees solemnly swear to "abide by and faithfully support all proclamations of the President made during the rebellion having reference to slaves." Mr. Chairman, at any other time such mockery would excite only that pity which we feel for the mummeries of the insane, and that contempt which fills us for those who engage only in works of sacrilege. But the times are too perilous, the issues too grave, to be passed thus lightly by. And this is the medicine, this the great panacea which is offered as the restorer of a dismembered Union! And there are those who profess to find in this silly proceeding a "wise plan" for bringing peace to a distracted and bleeding country. It does not rise to the dignity of respectable madness; it is too weak and contemptible for the epithet of imbecility. Sir, by what process are freemen not in the land or naval service of the country to be deprived of life, liberty, or property? Before the Constitution became obsolete the answer would have been, only by "due process of law" after "presentment or indictment of a grand jury." But in this age of political prostitution and indiscriminate robbery, we find that estates are confiscated without indictment or trial, and, finally, the right of suffrage, the surest safeguard and final defense of a free people, is to be taken away by one who, beneath all the usurpers he would imitate in everything save in his disingenuous spirit. The usurpation is too monstrous to be defended by any one who has just claims to manhood, and in fact I am persuaded finds but

few defenders save among the corrupt and slavish menials who are unfit to be free. And this is the man whom my colleague [Mr. ARNOLD] associates in argument with the Saviour of mankind. He reads an extract from the irrepressible conflict speech which Lincoln made some years ago, and exclaims:

"This, the first emphatic enunciation of the philosophical fact of the antagonism between liberty and slavery, the eternal and 'irrepressible' conflict between them, electrified the country, and made Abraham Lincoln President of the United States."

"When the Son of God proclaimed a common Father and the universal brotherhood of man, He enunciated the great moral principle which brought on the irrepressible conflict with slavery."

Here he informs us that Christ only "enunciated the great moral principle which brought on this irrepressible conflict," while it was reserved to Lincoln eighteen centuries thereafter to make "the first emphatic enunciation of the philosophical fact of the antagonism between liberty and slavery," which he graciously tells us "electrified the country and made Abraham Lincoln President of the United States." I protest against this robbery of the illustrious dead. What will John Brown's ghost say when that apostle of bloody pikes finds himself thus unceremoniously kicked out of the company of Christ to give the seat of honor to the saintly form of Abraham? What will Jennison and Montgomery say? Lincoln had not so much as burned a barn upon the Missouri border, when saintly freedom-shriekers, now occupying high stations, civil and military, were holding up their bloody hands for favor at the orgies held over successful robberies, murders, and assassinations. What will Fremont and Hunter say? It was they to whom was first revealed the saving grace of proclamations of freedom. What will some of the sanctimonious constituents of my colleague say when they remember their pious pilgrimage from Chicago to Washington; and how, while they implored a proclamation in the name of God, Abraham was too carnal-minded to grant it? What will be said by the bolder pioneers in the "irrepressible conflict" who are now languishing in the penitentiaries for negro-stealing? They were brave enough to commence the work of emancipation without purse or scrip, each for himself, and solitary and alone, while Abraham could not come up to the good work until he thought himself backed by an army of a million of armed soldiers and sustained by the prayers of whole divisions of contractors and contrabands. If any one is to be placed before Christ, let it be John Brown or Montgomery or Jennison. Even my other colleague from the Bureau district [Mr. LOVEJOY] has antecedents in this regard entitling him to a higher seat than our distinguished Chief Magistrate. Seriously, Mr. Chairman, when my colleague [Mr. ARNOLD] again proceeds to enlighten us as to the pedigrees of these illustrious reformers, I hope he will reconcile the command of our Saviour, that servants should be "obedient to their masters," with the injunction of Brown, Lincoln & Co., which requires masters to be obedient to their slaves. But a few days ago, a Norfolk correspondent of the New York Times wrote as follows in regard to a negro raid which General Butler caused to be made into North Carolina:

"The material results of the raid may be summed up as follows: Between two and three thousand slaves were released from bondage, with whom were taken along about three hundred and fifty ox, horse, and mule teams, and from fifty to seventy-five saddle-horses, some of them valuable animals. The guerrillas lost thirteen killed and wounded; ten dwelling houses, with many thousand bushels of corn belonging to them, were burned, besides two distilleries; four of the camps were destroyed, and one of their number was hanged; and one hundred rifles, uniforms, infantry equipments, &c., fell into our hands as spoils, with a loss on the part of the brigade of twelve killed and wounded and one man taken prisoner. Besides this, fourteen rebel prisoners and four hostages were brought in."

"In regard to its moral and political results, however, the importance of the raid cannot be overestimated. The counties invaded by the colored troops were completely panic-stricken. Scores of families, for no cause but a guilty conscience, fled into the swamps on their approach. Never was a region thrown into such a commotion by a raid before. Proud scions of chivalry, accustomed to claim the most abject obedience from their slaves, literally fell on their knees before these armed and uniformed blacks and begged for their lives. I was frequently asked how I, a citizen, dared to trust myself among such incarnate demons. 'What shall I do to be saved?' was the question asked on every side."

Mr. Chairman, the faith of any one must be weak indeed if, after reading the many glowing

accounts of expeditions, of which this is a specimen, they do not regard the war as over, and the people of both sections ready to embrace and forgive each other. We are told that the guerrillas lost in killed and wounded the immense number of thirteen, while our victorious army burned only ten habitations! But the greatest satisfaction is felt when we are assured by the writer that "in regard to its moral and political results, however, the importance of the raid cannot be overestimated." Certainly they cannot. "Scores of families," "fled into the swamps on their approach." The President, no doubt, feels well assured that those "proud scions of chivalry" who so abjectly "fell on their knees before these armed and uniformed blacks and begged for their lives," exclaiming "What shall I do to be saved?" will not hesitate in the presence of these armed negroes to take the oath he has so magnanimously prescribed. Of one thing, that they will keep an oath administered under such circumstances, he can feel no doubt. His rigid adherence to his own oaths will cause him to suspect no mental reservation in others. This raid, Mr. Chairman, is but a specimen of the movements which have characterized many of our military operations during the past year in the valley of the Mississippi, and especially in the department of the Gulf. Plunder, wholesale and indiscriminate, upon the loyal and disloyal alike, if we may believe the correspondence published in our own papers, and information derived from other reliable sources, has been so common and conducted upon a scale so vast that it has become no longer a matter of surprise. It is perpetrated in every form, under the semblance of trade regulations, impressments by pretended levies upon the disloyal, and by military orders which afford sufficient pretexts for those whose choice pursuit is plunder. It is true that we hear occasionally that such men as Butler and Curtis have been suspended; but the hungry cormorants who seek plunder, and know they can obtain it under the auspices of such men, are not long in having them restored to commands where their cupidity may be gratified. The robberies under the reign of Butler at New Orleans have been so palpable as to shock the sensibilities of mankind. No prize was too great, no inducement too small for his enterprise. From the State capitol to the graveyard, from the parlor to the kitchen, his grasping hand was extended. All accounts agree that things have been done at New Orleans under the flag of our country which if not disavowed will disgrace the Government in all coming time. I will mention one instance as it was published in the New Orleans Era. That paper is the organ of the Administration there—the most of its articles are headed "by authority." I will read the Era's report. It is in the following words:

"CONFISCATION OF TOMBSTONES.

"There was one splendid monument—a stately column or pyramid, intended to mark the spot where rest the remains of Colonel Charles D. Drexel, the youthful orator who fell early in the war in command of a confederate battalion. This was constructed at a cost of \$1,500, and under the hammer of the auctioneer it brought but \$100. Cheap monument, if the purchaser intended it for his own tomb. There was another monument equal in size and beauty which brought only thirty dollars. Tombstones sold as cheap as marble."

The whole world is familiar with the plunder of costly mansions and large estates, with robberies of churches and public institutions. From these we turn to the public sale of a dead man's tombstone. Nothing seemed too high or low for the robber's grasp. The result is that, instead of a restoration of law and order, the country occupied by our armies has in many instances been given over to pillage and plunder; and they who watched the approach of our proud old flag as the harbinger of peace, look now only upon a ruined country and a pillaged people. The just and considerate portion of our people will remember the barbarities, the shameless robberies of this man who so suddenly rose from the ranks of his original secession friends to the grade of major general of volunteers; nor will they forget that his fame rests more upon his persecutions of the unarmed and unoffending than the terror he has caused among the rebels in the field. It is now nearly three years since he donned the Federal uniform. During that time he has planned Big Bethel and other similar disasters; but he has never, I believe, been in personal danger, or a party to the most unimportant skirmish, although by al-

leged violations of the laws of civilized warfare he has won for himself the outlawry of our enemies. This has been his chief military distinction; and now, after a year of repose in New England, we find him appointed to an important command in Virginia and North Carolina. With a cruelty quickened by public exposure, with his avarice stimulated by the success of former pillaging, and with a slavish subserviency to those whose motives he denounced for many years of his life, he is turned loose upon a rebellious people, who, whatever their sins may be, are at least sincere in regarding him as a monster. And when a few days ago a member from New York [Mr. FERNANDO WOOD] submitted a resolution calling for a committee to inquire into his conduct, the Republican members of this House, aided by one of the President's military appointees from Kentucky, [Mr. ANDERSON,] voted to suppress the investigation; and it was suppressed, and this man whose career is coupled with so many crimes is assured of immunity, and launches again with renewed license upon additional fields of plunder.

You may declaim as you will of your anxiety for peace, but with the President's programme of subjugating whole peoples and subverting the governments of States, and with such men as Butler despoiling whole communities in the name of confiscation, we cannot believe you sincere; and if sincere, it but demonstrates the utter unfitness of the party in power either to conduct the war or administer the Government in times of profoundest peace. I know that in calling attention to these things I shall be accused by paid officials and hired sycophants of sympathy for the rebel cause. The fate of all who have hitherto spoken boldly of the public peril, or dared to arraign the motives and conduct of the Administration, warns me that I need not hope to escape the tide of calumny which is ever in reserve for the defenders of constitutional liberty. I have counted well the cost of these things, and am prepared for the onset. Claiming to be a Union man, I am so unconditionally. I have been so consistently and persistently ever since the firing upon Fort Sumter, whatever censure I have cast upon those who could and ought to have avoided the war; and here in my place do I arraign the President and the supporters of his insane policy as willing or mistaken instruments of disunion. Doubtless some are so, because they do not perceive the fatal tendencies of the policy to which they adhere; but the contest is now no less with armed rebels than with those who avow their purpose to change or destroy that Union which is the creature alone of the Constitution. They are, wherever found, traitors of the basest kind. Destitute, as they know themselves to be, of principle or personal courage, they are prompt in the presence of provost marshals and military guards to eject their spleen upon those who adhere to the Constitution. They are imperious and insulting now because their master is near; but their cowardice is too patent to be disguised, and the "stop thief" cry of treason which they impute to others will not always shield them from personal exposure and chastisement.

Those who are now loudest in shouting "loyalty" have spent long years in teaching treason to the people of the North. Their personal cowardice alone restrained them from open rebellion, but their teachings and principles were in all respects as treasonable as the ravings of the vilest secessionists in the land. Chase, Sumner, Phillips, Beecher, Wade, Fred. Douglas, Seward, John Brown, and most other representative men of the Republican party, have advocated the higher law doctrine of rebellion for the last ten or fifteen years, and one of them has had the courage to make practical application of his principles. I allude, of course, to John Brown, who suddenly rose from the level of a horse-thief to the dignity of a Republican god, and who is now accepted by the President and his adherents as the prince of Republicans, a type of the true Christian reformer and "loyalist." I, sir, denounce the heretical teachings which caused John Brown to make his murderous foray upon Harper's Ferry, just as I do the rebellious teaching which caused the attack on Fort Sumter. Brown acted under a provisional government in antagonism to that of the United States; so did Davis and Stephens; Harper's Ferry belonged to the United States, so did Fort Sumter; Harper's Ferry was retaken by the military forces of the United States, Fort Sumter should have been re-

duced long ago; it would have been, had operations there been directed to a reduction of the fort instead of establishing free negro colonies at Hilton Head and Port Royal. John Brown was made prisoner, tried for murder and treason, found guilty, and hanged. Davis may be when he is captured or surrenders. Who, then, I ask, dared openly defend the crimes of John Brown? Only a few of the bolder fanatics who, like Wendell Phillips, had avowed themselves disunionists from the first. Who sing hosannas to his memory now? At least three fourths of the Black Republican party, and the whole of that numerous class of paid stipendiaries and placemen who disgrace the press and the offices of the country. The rebels have never showered half so many honors upon their dead or living leaders as you have upon this old murderer whom you venerate simply because he was a traitor.

The soldiers who volunteered for the sole purpose of putting down rebellion and vindicating the law are often forced to march among the women and children of the South, who are too often insulted and plundered by the bad spirit and pillaging propensity which seem to enter so largely into the policy upon which this war is to be conducted; and they who impatiently listened for the airs and anthems which once told of union and nationality, often hear only from negro soldiers doggerel praises of John Brown and his murderous crew. The uniform which is the badge of a gentleman and the ensign of honor is worn now by depraved negroes whose instincts are almost as low and brutal as those at whose instance the profession of arms has been disgraced. The proud, brave, and patriotic white soldier, who left home, family, business, and everything in order to fight for and, if necessary, die for a restoration of all the States to the Union, is, by the present military policy, degraded to a level with the ignorant and brutal negro; and if he complain, is punished, and his officer who may chance to share with him in his complaints is dishonorably (that's the word they use) dismissed the service. And these things, Mr. Chairman, are done by those intolerant zealots who would brand the defenders of the Constitution with such epithets as "traitor," and "copperhead!" I repeat, sir, I am among the unconditional Union men of the country.

Jefferson Davis and his adherents who sought to destroy the Union by dismemberment are traitors to the Constitution; but they were bold enough to avow their purposes, to appeal to the sword, and risk the dreadful consequences of their crimes. Their followers may have been wicked or misguided, but they made the issue boldly, and have so far met the consequences, like brave and fearless men. I repeat, they are traitors; and to the laws of war first, and of the United States afterwards, they are amenable; but they are not the only traitors to the Constitution with whom we have to struggle. They may be honest and misguided, but throughout the entire North they are numbered by the thousand and tens of thousands; and here, here among the representatives of the people, are to be found dozens and scores who are as disloyal and treasonable to the Constitution as the oldest and most hardened rebels in the South. It is with you as well as with the rebels of the South that the unconditional Union men have to deal. Jefferson Davis professed to be a Union man, but only upon his terms; but the unconditional Union men of the country rejected his conditions, and pointing to the Constitution they said, "We will have no terms but the Constitution as it is, no Union but that which it made." Sumner, Chase, Lincoln, Beecher, and all the leading spirits of this Administration profess to be Union men; but like the original secessionists of the South they are so only upon their own terms. What are those terms? Indiscriminate robbery by military confiscation, and the subversion of the governments of almost half the States of the Union; converting them into territorial dependencies, changing the whole structure of the Federal Government, and ruling millions of people by standing armies and the sword. Such men, I repeat, are disunionists. Too cowardly to avow their purpose at the beginning of the war, they now seek to use the men and money which were given for the suppression of the rebellion to overthrow the institutions which all departments of the Government stood pledged to maintain.

For myself, while I reject the terms of the reb-

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els, I turn with equal disdain from the no less reasonable conditions of those who seek unconstitutionally to overthrow the rights of individuals and of States. In my opinion, those who adhere to the cause of Jefferson Davis are no more reasonable in their aims than those who would apotheosize old John Brown, or join Fred. Douglass and Sumner in their schemes to annihilate the States of the South and obliterate them from the map of the world. Upon this issue, thus forced upon the loyal people, the battle of the Constitution is soon to be fought. Upon the result hangs a nation's existence. The forces are being marshaled for the fray. The ides of November will end the throes and agonies of an imperiled country, or the dead corpse of the Constitution and the liberties of the people will have found a sepulcher. The issue is vastly more important than the gravest which has yet been submitted to any portion of mankind. Trained, as I have been, to be ever hopeful of the good fortunes of my country, I will not now despair. The frightful corruption and bold usurpations of this Administration I will hope have not affected the integrity and patriotism of the mass of the people. This Capitol, from whence the stream of profligacy, venality, and corruption is issued, I trust is not at all symptomatic of a general relaxation of public morality. Always confident of the honesty and intelligence of the people, I will not despair of them now when such momentous issues are at stake. Knowing as they do that all our past greatness and glory resulted from adherence to the Constitution, they will cling the more closely to it now when dangers are thickening on every side. Their forbearance will be sorely tried. Every obstruction which usurpation can erect will impede their efforts; but they will never yield the right of suffrage while life remains. In every northern State, with two or three humiliating exceptions, a majority of the people are lovers of the Union, and will array themselves upon the side of that Constitution by which it was made. Amid long suffering they have exhibited patience; should force be invoked to drive them from the polls, they will manifest the spirit of men who know their rights and have the courage to maintain them. They have been already warned, and being warned they will not wait to be told to prepare. They are ready now; impatient for the hour when, with that weapon which is "formidable to tyrants only," they may speak peace to an agonizing people, reunion to a torn and dismembered country.

And why, I ask, should not the people everywhere array themselves upon the side of the Constitution? Those who talk of peace upon any other terms than the preservation of the Constitution, pure and simple, and a reunion of the States under it, are traitors at heart to that instrument, with whom I make no terms here or elsewhere. Upon all such, arguments are thrown away, but the people, the real people everywhere, those upon whom the burdens of the war fall most fearfully; whose industry is paralyzed by taxation, and whose homes, day by day, are being desolated, are impatient for the end of this unnatural struggle. It would be ended before the return of spring if common sense were allowed to control our rulers for a day. The people are not unmindful of the blessings of peace; they have felt the horrors of war; and they know that any peace, based upon the supremacy of the Constitution and followed by a reunion of the States, will be no less honorable to themselves than beneficial to them and their posterity. But the subjugation and degradation of five millions of free men cannot result in peace. A temporary truce you may have; a sullen silence may reign in a land made desolate by fire and sword; the hoof of the Federal horseman may press every foot of rebel soil, but there will be no peace. It will be a nation of permanent malcontents; and while the hand of social and political inequality rests upon them, the fires of vengeance will burn in every heart, and the flames of rebellion will again light up the land. None of us need be ignorant of the temper

and character of the people who are in arms. They are of the same race as ourselves. They were born free, and have been taught principles of Anglo-Saxon liberty in the same schools with us. While we may abhor the treason which first impelled their leaders and deplore the delusion which nerves the arms of their followers, we cannot shut our eyes to the fact that the great body of them have been sincere. It is evidenced by their patient endurance and terrible courage, their trials and sufferings, and the tenacity with which they cling to a desperate contest. I am not alone in this estimate of rebel heroism. I will remind those who declare it reasonable to find anything to admire in the character of a foe, that more than I have said was admitted during the last year by one sufficiently fanatical to pass as orthodox, even among contractors or contrabands, Loyal Leaguers or Free Lovers. During the last year the Reverend Henry Ward Beecher published an article in his newspaper, the Independent, in which he said:

"In another column of our paper Mr. Greeley expresses his opinion that the war draws to a close, and that this year will probably see it ended. He does not give the facts on which such judgment is based, and it must be regarded as the impression produced by the whole course of events, and their present condition, upon his mind.

"But judgments of this kind are but little more than the reflection of personal temperament. Opposite opinions will be formed, in view of the same facts, by two men equally wise, simply because one is sanguine, and dwells upon the hopeful aspects, while the other, cautious and slow of belief, weighs the difficulties and dangers.

"We can see how the war easily might be short, and that it may be near its close. But we see with equal clearness that it may be protracted for several years to come. Nor is it in the power of any man at present to judge which of the two possible courses events will follow.

"We see no substantial evidence that the South is yet discouraged. What legislature, convention, or influential man, even, has uttered a desponding word? The spirit of the people is not broken. With a few exceptions, the intelligent prisoners who are taken hold one language, and that is of firm, resolute, bitter determination to resist to the uttermost. Nor can we learn that those who stay at home, and who suffer great deprivations, are weary or discouraged. Even when hunger drives women to riot and violence, it is remarkable that they demand 'bread,' but never 'peace!' Indeed, we are free to say that we cannot repress our admiration of the conduct of the southern people in this terrible struggle. It needs only a worthy cause to be regarded as heroic. They seek to establish a detestable system of slavery. They seek for that end the overthrow of a beneficial Government. Their cause is as bad as it well can be. Nevertheless, they have given up all things for what they regard as their country. They have relinquished luxuries, submitted to hardships, suffered bereavements and losses, not only without murmuring, but eagerly; and after two years of trials that may be said almost to have revolutionized the interior of southern society, and reduced them to the minimum of comfort, they are undiscouraged. They are even more fierce and bolder than ever."

Sir, every candid man knows that this is a correct representation of the spirit of our enemies. It is still unbroken; and if this Government persists in rejecting those moral agencies which should accompany the sword, other sanguinary battles must be fought, in which the slaughter will be commensurate with the heroism of the combatants. That heroism is the birthright of all American people. Do not wisdom and humanity require that such a people should be won back to allegiance rather than driven to that resistance which is the desperate offspring of despair; and that our own brave soldiers should be restored to their families and friends, rather than be further sacrificed to the designs of those who would protract the war for plunder or power? Each party to the contest has exhibited that courage and endurance which will illustrate our annals in all coming time. Each can boast of its heroes. I would to Heaven each had fewer martyrs to mourn. Everywhere the prayers of millions are being offered up for a return of peace. There is scarcely a rude hamlet in the land in which the cry of sorrow is not heard; not a household without its seats made vacant by the destroying hand of war; not a village which is not shrouded in the drapery of woe, because of sons and brothers, husbands and fathers, numbered among the absent or slain. Are not these things alone sufficient to incline our hearts to peace, and to cause us to seek it wherever it may with honor be found? He who in this hour of impending peril refuses to hear or

heed the wail of lamentation which comes up from the hovels of the poor and unoffending, or to avail himself of every honorable means to stay the further effusion of blood, is a wretch unfit to live and too base to die. If asked how I would stop the war, in a manner honorable to my country, I would answer, cease robbing whole communities, cease your vandal attempt to melt all mankind of every race, color, and condition into one crude, inorganic mass; cease to spurn the counsels of the Union men of the rebellious States; cease to place them upon a footing with traitors and rebels; cease to regard non-combatants, women and children, as alien enemies fit only to be plundered. Place your armies under the control of those who war only upon armed enemies, and who will make the flag of your country a sure protection to all who, during the long night of rebellion, have so eagerly watched its coming. Let your only object in fighting be, and so declare it to the world, to put down rebellion, restore all the States to the Union, protect and defend the Constitution with all its guarantees. Let your President annul those proclamations which stamp him as a usurper, and offer amnesty and pardon in good faith to all who will lay down their arms and take an oath to support, not his free-negro proclamations, but the Constitution of the United States. Do this, and before the breath of spring has melted the ice from your northern lakes, the armies of rebellion will have melted away. Such a result is foretold by all who are familiar with the temper and feelings of the people of the South, no less than by all the teachings of history.

England has tried for centuries to anglicize Ireland by the hand of political and religious inequality; the result is that the Irish as a class are as alien to England as they were one hundred years ago. For ages Russia has pursued a similar policy in regard to Poland; the result is that all Europe is at this moment convulsed because the first military Power of the world cannot learn that the prejudices of a whole people can be removed only by confidence, forbearance, and respect. Sir, it is not to considerations of humanity alone that I look in urging upon you a total change of the policy which animates our rulers in the conduct of the war. I have said that the fate of the nation is involved; that the perpetuity of the Union and the liberties of the people of the North are imperiled. I know how difficult it is to reach the ear of the President or touch the understanding of his advisers. While all military operations are suspended and our armies compelled to remain inactive because of the rigors of winter, the White House is besieged by an army of officials whose surest passport to promotion is a blind and slavish admiration of him who dispenses power and patronage. He hears nothing but from sycophants; heeds nothing which is not laudatory of his greatness; reads nothing but fulsome praises of his administrative abilities, and hearkens to no counsel which does not assure him of a reelection. To such an extent does this mania for reelection control him, that only a few evenings since he attended a model artist's exhibition in this Hall, at which an unsexed woman nominated him for reelection. It was done in his personal presence, amid the applause of the ladies and gentlemen, courtesans and contractors, parasites and placemen, then and there assembled. While our sentinels were freezing at their posts; while brothers were perishing by slow degrees in a hostile conflict, rendered doubly appalling by the fury of the elements, the Chief Magistrate of the country was in attendance at a political "Canterbury," where the chief and most ludicrous act was his own nomination for reelection. The performance being unique, of course the attendance was large. The chief political *danseuse* proposed the name of Abraham Lincoln, as previously arranged by the managers, and all the *attachés* said *ay*, as they thought of their days of lengthened official repose in Abraham's bosom.

Every cloud is said to have a silver lining, and the worst of evils not to be wholly inseparable from good; and should the people again elect "the

honestest man in Springfield" to the Presidency, may we not hope for some change in the *personnel* of the Government? The brave and intrepid Sumner may yet command the army of the Potomac; Fred. Douglass may yet succeed the irrepressible Seward; while the "political woman" may be installed as grand inspector of the royal household. Doubtless when a few more strong-minded women have gathered around the Capitol the avenue will emit a sweeter fragrance, quite as delightful as the odor of the presidential mansion on New Year's day, when greasy negroes were presented to the President amid the blandest smiles of their fair countrywomen of American descent. What American citizen who witnessed the animating scene did not rejoice at the rapid social progress the country has made under the rule of Abraham the First? Our colored friends, who under former administrations dared not obtrude themselves at the White House, are now allowed to be gallant to the estimable ladies of high officials, while that high functionary, the President, looks approvingly upon the bewitching scene. Amid so many gay and festive scenes as are daily transpiring at the White House, it is unreasonable to expect that the President can bestow much attention upon public affairs. The crowds of daily visitors, male and female, black and white, are so large and continuous that his Excellency's time is chiefly consumed in thanking the different delegations who are sent to invoke his acceptance of a second official term. With his surroundings, it cannot be expected that he will hear or heed those who believe that his reelection will be the greatest calamity which can befall our country. Were he disposed to give thought or attention to the mutterings of fearful apprehension and discontent which are audible throughout the North, I would commend to him the words of Sir Francis Bacon, who, whatever else he might have been, was the profoundest thinker of his age. Said he:

"As for discontents, they are in the body-politic like to humors in the natural, which are apt to gather a preternatural heat and to inflame; and let no prince measure the danger of them by this *whether they be just or unjust*, for that were to imagine people to be too reasonable, who do often spurn at their own good; nor yet by this, *whether the griefs whereupon they rise be in fact great or small*, for they are the most dangerous discontents where the fear is greater than the feeling. *Do lend a modest mien to them*. Besides, in great oppressions there are things that provoke the patient to withdraw into the country, but in fears it is not so. Neither let any prince or state be secure concerning discontents because they have been often or have been long, and yet no peril hath ensued; for, as it is true that every vapor or fume doth not return into a storm, so it is nevertheless true that storms, though they do blow over divers times, yet may fall at last, and, as the Spanish proverb noteth well, 'The cord breaketh at last by the weakest pull.'"

I will not assume that the President is one of those who can neither learn nor forget anything. He has learned boldness as a usurper, and how to be false to his pledges. But, if I may be permitted to appeal to the selfishness of his peculiar admirers, I would suggest that a further continuation of war in a manner which involves unnecessarily such vast expenditures of life and treasure, is not the surest way to perpetuate power; and those who have so suddenly acquired fortunes by availing themselves of the public calamities might pause to ask if peace will not more surely secure their present gains than war add an increase of store. There is a point of endurance beyond which even nations cannot go—a precipice which they cannot safely approach. I fear we are already standing at its verge, beyond which the yawning gulf of social and financial ruin awaits us all. A people hitherto unaccustomed to taxation, with no knowledge of a public debt but traditional horror of its miseries, is suddenly called upon to confront a national indebtedness of over two thousand millions! These figures are startling, yet the sum is increasing at the rate of more than two millions per day, presaging inevitable paralysis and bankruptcy to all. No interest is too great, no industry too small, no investment too secure, to escape the storm which is gathering and impending over us. The annual interest upon our public indebtedness, at six per cent. per annum, will amount to over one hundred and twenty millions—nearly twice the amount of the ordinary annual estimates of the expenses of the Government under former Administrations, nearly double the sum of our annual average expenditures during the Administration which waged the war with Mexico. If we grant that this indebtedness has been necessary or unavoidable, the figures still

stare us in the face, suggestive of a future financial crisis which a wise statesmanship would seek to palliate or avoid. How this in my judgment can best be done, I have indicated in what I have already said. What disasters your policy will force upon the country I shall not attempt to portray. You seem not to be wholly insensible to the danger, though you have manifested your unfitness for meeting or avoiding it.

True, you may for a while delude your victims by pointing to the abundance of money which is seeking investment, stimulating the marts of business and enlivening the avenues of trade; but a day of those panics which logically follow inflated issues of paper, and which feed upon the fears of commerce and industry, will remove the delusion. Then the people will learn that money is not mere promises to pay; that wealth consists not in what they owe themselves; and that the elevation of the negro to social and political equality with the whites is a poor equivalent for national bankruptcy, repudiation, and ruin. For days and weeks your ingenuity has been sorely tried in devising some mode by which immense sums of additional taxation may be wrung from the pockets of a hitherto uncomplaining people. Every step you have taken but disclosed the magnitude of the amounts already expended, and the additional sums you propose to squander. Taxes heretofore imposed with caution, and submitted to reluctantly by the people, are now to be doubled and quadrupled. Labor which only staggered under blows hitherto inflicted, is soon to be paralyzed by increased burdens; prices which have advanced articles of necessity to the poor almost beyond their reach, are to be pushed to the point which wholly prohibits them; while gold, the only true representative of values, is to be banished from the country, or hoarded until bankruptcy shall have left the labor and industry of our once happy land to the mercies of the miser and his capital. The full details of your mammoth schemes of taxation cannot now be known; but the country may rest assured that every interest will soon feel the shock of your inexorable demands. While their sons and brothers are being unwillingly dragged into the Army by a more rigorous conscription, or forced to give their all to avoid its requirements, an army of volunteer tax-gatherers is being organized for a campaign throughout the free States of the North. There is not a conscript or private among them. Each is a veteran volunteer; each carries the commission and wears the badge of his master. Already they are beginning to hover around the cabins of the poor. As carrion birds instinctively scent their prey, so they can discern from afar the pittance of the poor. But I prefer that time shall unfold to them the sufferings and indignities which they are yet to endure. I pray they may have the courage and the patriotism to feel that their country demands the sacrifice they are soon to make. History, while it teaches that its laws are, in the main, general and unerring, has recorded certain apparent exceptions. To these exceptions we are apt to recur as safe precedents when the logic of events begins to expose our fallacies. In my judgment those who regard a public debt so enormous as ours as a public blessing, or who affect to see no danger in attempting to wring from the people the burdens which your taxation imposes, will find themselves mistaken. England, which for ages has ground her poor to pay the expenses of ambitious ministers, has suddenly become a model government with many of the supporters of this Administration, while, in Dixie, the adherents of Davis have discovered that a limited monarchy is the best guarantor of constitutional freedom. Whatever England may now be, this we know, that she has attained her present position by protracted wars and oppressive taxation; and if you who boast of England as a model of good government will only inform our people of the road she has traveled, and point them to the privations of her poor, I shall have increased confidence in the future good fortunes of my country. Sidney Smith, whose name alone suggests to all intelligent men who and what he was, left nothing more valuable to mankind than his picture of the costs of war and the expense of national glory. This is what he tells us of the condition of Englishmen as a consequence of war and taxation. Addressing himself directly to Americans, he said:

"We can inform Brother Jonathan what are the inevita-

ble consequences of being too fond of glory. Taxes upon every article which enters into the mouth, or covers the back, or is placed under the foot; taxes upon everything which it is pleasant to see, hear, feel, smell, or taste; taxes upon warmth, light, and locomotion; taxes on everything on earth and the waters under the earth, on everything that comes from abroad, or is grown at home; taxes on the raw material; taxes on every fresh value that is added to it by the industry of man; taxes on the sauce which pampers man's appetite, and the drug that restores him to health; on the ermine which decorates the judge, and the rope which hangs the criminal; on the poor man's salt and the rich man's spice; on the brass nails of the coffin and the ribbons of the bride; at bed or board, couchant or levant, we must pay. The school-boy whips his taxed top; the beardless youth manages his taxed horse with a taxed bridle, on a taxed road; and the dying Englishman pouring his medicine, which has paid seven per cent., into a spoon that has paid fifteen per cent., flings himself back upon his chintz bed, which has paid twenty-two per cent., and expires in the arms of an apothecary who has paid a license of one hundred pounds for the privilege of putting him to death. His whole property is then immediately taxed from two to ten per cent. Besides the probate, large fees are demanded for burying him in the chancel; his virtues are handed down to posterity on taxed marble; and he is then gathered to his fathers—to be taxed no more."

Sir, none of us would have supposed four years ago that this picture of misery and oppression would be so soon presented to us as a terrible reality. But it is so. Nor will this generation live to see the shackles of taxation stricken from their limbs. Far off in the distant future, generations yet unborn will bewail the load of debt which is being entailed upon them by the madness of the times. I implore you in their name to retrace your steps, and that you listen to the voice of those who point you to the Constitution as the only road which leads to a lasting union and a permanent peace. Adherence to that instrument will speedily end this terrible war; it will secure and perpetuate the public repose. The friends of the Constitution look confidently to the approach of the November elections. Upon the result we stake the life of the Constitution, the perpetuation of empire. The armies of the Democracy are ready for the conflict. Their numbers already may be counted by millions. Whatever in the past their faults and errors may have been, they never oppressed the citizen or usurped doubtful or forbidden powers. Their past conflicts with the enemies of constitutional union will reanimate every heart and nerve the weakest arm. Their past history in warring against despotism and usurpation is a guarantee that they will not abuse power intrusted to them by the people. They will recognize as brothers all who vindicate the Constitution and cling to that Union which it made. Though the terrible convulsions of the times have driven many of its southern leaders into the armies of rebellion, though many of its once-honored chieftains in the North have yielded, like Judas, to the temptations of power, and are now among the basest of the venal tribe, that grand old party has lost nothing of its ancient prestige or moral power. Its expurgation has been thorough, its purification complete. Its Butlers, Dickinsons, Buxteds, and Milroys of the North, its treasonable leaders of the South, no longer defile the temple sacred to the true defenders of the Constitution. In their place we have all that was most respectable of the old-line Whigs, those who still cherish the teachings of their illustrious leaders, Webster and Clay. Honest Republicans will rally around our standard; and even the Know-Nothings—those who affected to tremble at the power of the Pope—will eagerly join that party which, in upholding the Constitution, secures freedom of conscience to all. Already they have learned that there is more to be feared from the unlicensed power of usurpation at home than from all the bulls which ever emanated from the Papal see. I say to the friends of constitutional union everywhere, be of good cheer. Hope illumines the future. The prize for which we contend is no less than the Constitution which our fathers ordained. It has borne us safely and securely amid the dangers of the past; if we are true to ourselves now we will rescue it from the hands of its destroyers, and, bearing it aloft everywhere, we will point to its pure and ample folds as the only harbinger of peace, the sole bond of union among the States, the last citadel in which the citizen may find security and defy the oppressor's power.

Mr. ARNOLD. I desire to say a single word before the committee rises in reply to the remarks made by my colleague.

Mr. Chairman, it is by the agency of speeches

like that to which the committee have listened to-day, so far as they may have any influence at all, and like that made by the gentleman from New York [Mr. FERNANDO WOOD] yesterday, that this war is to be prolonged. Such utterances made upon this floor uphold the hands of the rebels and encourage them to persevere in the war they are making upon the Government.

In order that the position of those gentlemen may not be misunderstood, and to recall to the recollection of the country the position which the friends of the gentleman from Illinois occupy, I desire to call the attention of the committee to a plank in the platform which the political friends of my colleague adopted at Springfield in June last. It will be remembered that at that time one hundred thousand gallant soldiers of Illinois were in the field, seeking to open for the purposes of commerce, and to restore to the flag of the country, the great river of the West. It will be remembered that at that time General Grant and the distinguished predecessor (General Logan) of my colleague, [Mr. W. J. ALLEN,] and their brave associates, were seeking to reduce the stronghold of Vicksburg; that General Banks was before Port Hudson, and the rebel General Lee was preparing to invade the North. It was at that dark period of the rebellion and the war that the political friends of my colleague, who has just taken his seat, met together at Springfield for the purpose of adopting such measures as they thought the exigencies of the country required. And they gathered there, not only those who sympathized with him in the State of Illinois, but the friends of Vallandigham from Ohio, and the friends of the distinguished gentleman from New York, [Mr. FERNANDO WOOD,] and those who sympathized with him in his peculiar views in regard to the war. And when they were gathered there for the purpose, I suppose, of aiding our gallant soldiers in the field, who were fighting for the old flag, and to sustain the Administration that was using the entire power and energies of the Government to put down the rebellion, these gentlemen adopted a resolution which I will send to the Clerk's desk and ask to have read.

The Clerk read, as follows:

"SPRINGFIELD, June 17.

"The Democratic mass meeting here to-day was largely attended, and passed off harmoniously. The Democrats estimate the number present from seventy-five thousand to one hundred thousand. There was great cheering for Vallandigham. William A. Richardson presided, with fifty vice-presidents. Speeches were made by Messrs. Richardson, Voorhees, Cox of Ohio, Lyle, Dickey, General McKinstry, Dick Merrick, H. C. Dean, and some twenty others. "Resolved, That the further offensive prosecution of the war tends to subvert the Constitution and Government, and entail upon the nation all the disastrous consequences of misrule and anarchy; that we are in favor of peace upon the basis of the restoration of the Union, and for the accomplishment of which we propose a national convention to settle upon terms of peace, which shall have, in view the restoration of the Union as it was, and securing by constitutional amendments such rights to the severed States and the people thereof as honor and justice demand."—*National Intelligencer*, June 20, 1863.

Mr. ARNOLD. I have only to say in regard to that resolution, that if it had been carried out at the period when it was adopted, the Mississippi river to-day would not have been open to our commerce. The rebel flag would still have floated over a large portion of it. If the spirit of that resolution had been carried out, the glorious victory which those gallant men who do not sympathize with the gentlemen in their peace resolutions and speeches were struggling to gain would never have crowned our arms. If that resolution had been carried out, our Army would never have accomplished its crowning triumph of Vicksburg, nor should we have had Gettysburg and Port Hudson.

No, Mr. Chairman, it is the friends, the pretended friends of peace, who have weakened the hands of the Administration, and their efforts are prolonging the war; it is they who are encouraging those who are fighting against our country to persevere. When we read, as we do day after day, of the exhausted condition of the rebels, giving ground of confident hope and expectation that they will ere long surrender, and thus this cruel war come to an end, we find these expectations are not realized, because of aid and encouragement given to the rebels by the speeches made upon this floor, and elsewhere, such as we have listened to to-day. These speeches are carried to the South and circulated there for the purpose of showing that there

is a party here organized upon the basis of stopping the war. The rebels infer that there is a party here which, in the language of the resolution, is opposed to "the further offensive prosecution of the war." When the rebels see men in the Congress of the United States, whether avowedly or otherwise, seeking by these means, by attacks upon the Administration, by attacks upon the loyal men of the border States, such as we have just heard, to paralyze the arm of the Government, it affords encouragement to the almost exhausted energies of the South, and they resolve to hold out and prolong the struggle.

Now, this war will be ended when all this ceases, and when the people of the North unite and all rally to sustain the Administration in prosecuting it with vigor. Sir, it will be ended when the cause in which it originated shall cease to exist. As victory and freedom has extended South, loyalty has reappeared; so that liberty and loyalty have gone together. As our victorious flag extends toward the Gulf, liberty follows, and the loyal people rise up and reassert themselves. Such has been the result in Missouri, in Arkansas, in Louisiana, in Tennessee, in Maryland, in Kentucky, and in Western Virginia. Loyalty and liberty go step by step, side by side, and so they must progress until they shall have extended to the Gulf, and there we shall have a homogeneous, free, and united people, with no cause to distract our future harmony.

I have risen, Mr. Chairman, not to make any extended reply to the remarks of my colleague, but simply to call the attention of the House to the resolution which has been read, and to suggest to my colleague that he embody it in his speech as an appendix to it, in order that, through the appendix so attached, the object, design, and purpose of the speech may be better understood and appreciated by those who read it.

Mr. BALDWIN obtained the floor, but yielded it to

Mr. BRANDEGEE, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the special order, being bill of the House No. 151, making appropriations for the naval service for the year ending June 30, 1865, and had come to no conclusion thereon.

PROCEEDINGS IN ADMIRALTY.

Mr. ODELL, by unanimous consent, introduced a bill to facilitate proceedings in admiralty through judicial proceedings in the port of New York, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

MONEY ORDER SYSTEM.

Mr. ALLEY, by unanimous consent, reported from the Committee on the Post Office and Post Roads a bill establishing a postal money order system; which was recommitted to the Committee on the Post Office and Post Roads, and ordered to be printed.

And then, on motion of Mr. ALLEY, (at thirty-five minutes past four o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, January 28, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report from the Secretary of War, communicating, in compliance with law, statements of the expenditures at the national armories, and of the arms, appendages, and spare parts made thereat for the years ending respectively June 30, 1861, June 30, 1862, and June 30, 1863; which, on motion of Mr. WILSON, was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented the petition of George H. Broadhead, Thomas E. Brown, and others, citizens of New York, praying for the establish-

ment of a uniform hospital and ambulance system for the armies of the United States; which was ordered to lie on the table.

Mr. HOWE presented a petition of citizens of Wisconsin, praying that the reciprocity treaty may be so modified as either to prevent the admission of lumber from Canada, or that such a tax may be imposed as will prevent undue competition to the detriment of our own citizens; which was referred to the Committee on Foreign Relations.

Mr. VAN WINKLE presented resolutions of the Legislature of the State of West Virginia, in favor of the passage of an act providing for the adequate and permanent improvement of the navigation of the Ohio river; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. GRIMES. I present a memorial of the mayor, recorder, aldermen, and common council of the city of Georgetown, who represent that by an act of Congress passed in 1820 incorporating the city of Washington, this city was required to pay one half of the expenses of the orphans' court and other expenses incident to the county of Washington under the control of the levy court, and that by the act of 1826 the corporation of the city of Georgetown was required to pay one fourth of those expenses; that at that time the population of Georgetown was about one half that of the city of Washington, and therefore the proportion required to be paid by each corporation was fair and equitable as between the two; but since that time the population of Washington has greatly increased beyond that of Georgetown, so that now the proportion required to be paid by Georgetown is far greater than the assessable property and the amount of population in that city would justly require that it should pay. They therefore ask that Congress will pass a bill making a new apportionment of these county expenses between Washington and Georgetown. I move that the memorial be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. SUMNER. I present the memorial of H. French, a commander in the United States Navy, who sets forth that he has been dealt with improperly by the naval retiring board. He represents that during the thirty-six years he has served in the Navy there has not been an unfavorable report made of him to the Navy Department. He therefore prays Congress to take such action in his case as will afford him a full and impartial investigation, that he may be restored to his rightful position in the Navy of the United States. As this subject, I understand, is before the Committee on Naval Affairs in some form for legislation, I move the reference of this memorial to that Committee.

The motion was agreed to.

REPORTS FROM COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom were referred sundry petitions and memorials praying for a modification of the fugitive slave law, and for the passage of an act emancipating all persons of African descent held to service or labor in the United States, asked to be discharged from their further consideration, and that they be referred to the select committee on slavery and freedmen; which was agreed to.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 34) making appropriation for the support of the Military Academy for the year ending June 30, 1865, reported it with an amendment.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 81) to amend the charter of Georgetown, in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 82) concerning notaries public for the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 83) to amend an act confirming certain land claims in the State of Michigan; which was read twice

by its title, and referred to the Committee on Public Lands.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 84) to incorporate the Metropolitan Gas-Light Company in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

DISTRICT BUSINESS.

Mr. GRIMES. I move that three weeks from to-day be set apart for the transaction of business relating especially to the District of Columbia. The Senator from Vermont [Mr. COLLAMER] suggests that we had perhaps better have two days; but other gentlemen tell me that if we cannot get through the District business in one day they will give us two days.

The VICE PRESIDENT. The Senator from Iowa moves that this day three weeks, being Thursday, the 18th of February, be assigned specially for the consideration of business relating to the District of Columbia.

The motion was agreed to, two thirds of the Senate agreeing thereto.

INVESTIGATING COMMITTEES.

Mr. DOOLITTLE. I offer the following resolution, and ask for its present consideration:

Resolved, That in all sessions of committees to take the testimony of witnesses in relation to any matter of fact pertaining to the conduct of any Department of the Government or of any branch thereof, the head of such Department shall be requested to employ some proper and competent person to aid in the examination and cross-examination of witnesses, and to furnish any other evidence or proof pertinent to the matter inquired into.

Mr. HALE. Let that resolution lie over until I can look into it.

The VICE PRESIDENT. Being objected to, it will lie over under the rule.

Mr. SHERMAN. I would rather have that resolution referred, unless it comes from a committee.

The VICE PRESIDENT. The Senator from New Hampshire objects to its consideration, and it lies over under the rule.

Mr. HALE. I have no objection to its being referred. I objected to it simply because I have not read it.

The VICE PRESIDENT. It lies over under the rule.

ENLISTMENTS IN THE ARMY.

The VICE PRESIDENT. The bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes, is now before the Senate as in Committee of the Whole as the unfinished business of the morning hour of yesterday. The pending question is on agreeing to the amendment proposed by the Senator from Missouri, [Mr. HENDERSON.]

Mr. CARLILE. The Senator from Missouri is not in his seat this morning, and I therefore move that the bill be passed by the present.

The VICE PRESIDENT. The Senator from Virginia proposes to postpone the further consideration of this bill until to-morrow.

The motion was agreed to.

PERUVIAN CLAIMS.

Mr. SUMNER. I move that the Senate postpone all prior orders, and proceed to the consideration of the bill reported from the Committee on Foreign Relations, in pursuance of a recommendation of the President to pay the claims recently allowed by the commission appointed under a convention between the United States and Peru.

The motion was agreed to; and the bill (S. No. 65) to provide for the payment of the claims of Peruvian citizens, under the convention between the United States and Peru, of the 12th of January, 1863, was read a second time, and considered as in Committee of the Whole. It directs that for the purpose of discharging the obligations of the United States, under the convention with Peru, of the 12th of January last, there be paid to Stephen G. Montano, or to his legal representatives, in the current money of the United States, the sum of \$41,782 38; and to Juan del Carmen Vergel, or his legal representatives, the sum of \$1,170, in the silver money of the United States, or its equivalent.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT OF HOMESTEAD LAW.

Mr. CONNESS. I move to take up Senate bill No. 60, which was laid over yesterday at the request of the Senator from New Hampshire, [Mr. CLARK.] He now consents to go on with it, and it will take but a short time.

The motion was agreed to; and the bill (S. No. 60) amendatory of the homestead law, and for other purposes, was considered as in Committee of the Whole.

The bill provides that in the case of any person desirous of availing himself of the benefits of the homestead act of May 20, 1862, but who, by reason of actual service in the land or naval service of the United States, is unable to do the personal preliminary acts at the district land office which that act requires, it shall and may be lawful for such person to make the affidavit required by that act before the officer commanding in the branch of the service in which he may be engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the register or receiver; and upon such affidavit being filed with the register by the wife or other representative of the party, shall become effective from the date of filing, provided the application and affidavit are accompanied by the fee and commissions, as required by law.

The second section provides that besides the ten dollar fee exacted by the homestead act, the applicant shall hereafter pay to the register and receiver each, as commissions, at the time of entry, one per cent. upon the cash value of the land applied for, and like commissions when the claim is finally established and the certificate therefor issued as the basis of a patent.

The third section provides that in any case hereafter in which the applicant for the benefit of the homestead is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, he may make the affidavit required by the original statute before the clerk of the court for the county in which he is an actual resident, and transmit the same, with the fee and commissions, to the register and receiver.

The fourth section provides that in lieu of the fee allowed by the twelfth section of the preemption act of 4th September, 1841, the register and receiver shall each be entitled to one dollar for their services in acting upon preemption claims, and shall be allowed, jointly, at the rate of fifteen cents per hundred words for the testimony which may be reduced by them to writing for claimants, in establishing preemption or homestead rights.

By the fifth section whenever any reservation is introduced into market as public lands under existing laws, the Commissioner of the General Land Office may fix the minimum price at which such lands shall be disposed of, but not to be less than \$1 25 per acre.

The sixth section provides that where a pre-emptor has taken the initiatory steps required by existing laws in regard to actual settlement, and is called away from such settlement by being actually engaged in the land or naval service of the United States, and by reason of such absence is unable to appear at the district land office, to make, before the register or receiver, the affidavits required by the thirteenth section of the preemption act of 4th September, 1841, he may make that affidavit before the officer commanding, and upon the presentation by the wife of the pre-emptor, or other individual lawfully representing his interests, with proof, establishing the validity of the preemption to the satisfaction of the register and receiver, such wife or representative may make payment in full for the actual settlement, and make entry thereof in the name of the pre-emptor.

By the seventh section, the registers and receivers in the State of California are to collect and receive fifty per cent in addition to the fees and allowances provided by the act.

The Committee on Public Lands reported several amendments to the bill. The first was in line six of section one, to strike out the word "land" and insert "military;" so as to make the clause read, "by reason of actual service in the military or naval service of the United States."

The amendment was agreed to.

The next amendment was after the word "requires" in line nine of section one, to insert "and whose family, or some member thereof, is resid-

ing on the land which he desires to enter, and upon which a *bona fide* improvement and settlement have been made."

The amendment was agreed to.

The next amendment was in line five of section two, to strike out the word "value" and insert "price as fixed by law."

The amendment was agreed to.

The next amendment was in section three, after the word "homestead" in line three, to insert the words, "and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a *bona fide* improvement and settlement have been made."

The amendment was agreed to.

The next amendment was to strike out the fifth section, in the following words:

Sec. 5. *And be it further enacted*, That whenever any reservation is introduced into the market as public lands under existing laws, it shall and may be lawful for the Commissioner of the General Land Office to fix the minimum price at which such lands shall be disposed of, but not to be less than \$1 25 per acre.

The amendment was agreed to.

The next amendment was to strike out the word "land" in the fifth line of the sixth section and insert "military," so as to make it read "actually engaged in the military or naval service of the United States."

The amendment was agreed to.

The next amendment was to strike out the following words in section six:

It shall and may be lawful for such party to make the said affidavit before the officer commanding, in like manner and effect, and with like penalties, as stipulated in the first section of this act; and upon the presentation by the wife of the pre-emptor, or other individual lawfully representing his interests, with proof establishing the validity of the preemption to the satisfaction of the register and receiver, it shall and may be lawful for such wife or representative to make payment in full for the actual settlement, and to make entry thereof in the name of such pre-emptor.

And in lieu of them to insert the following words:

The time for filing such affidavit and making final proof and entry or location shall be extended six months after the expiration of his term of service, upon satisfactory proof by affidavit, or the testimony of witnesses, that the said pre-emptor is so in the service, being filed with the register of the land office for the district in which his settlement is made.

So as to make the section read:

That where a pre-emptor has taken the initiatory steps required by existing laws in regard to actual settlement, and is called away from such settlement by being actually engaged in the military or naval service of the United States, and by reason of such absence is unable to appear at the district land office to make, before the register or receiver, the affidavits required by the thirteenth section of the preemption act of 4th September, 1841, the time for filing such affidavit and making final proof and entry or location shall be extended six months after the expiration of his term of service, upon satisfactory proof, by affidavit or the testimony of witnesses, that the said pre-emptor is so in the service, being filed with the register of the land office for the district in which his settlement is made.

The amendment was agreed to.

The next amendment was in section seven after the word "California," in line two, to insert "in the State of Oregon, and in the Territories of Washington, Nevada, Colorado, Idaho, New Mexico, and Arizona."

The amendment was agreed to.

The next amendment was to add at the end of section seven the following proviso:

Provided, That the salary and fees allowed any register or receiver shall not exceed in the aggregate the sum of \$3,000 per annum.

The amendment was agreed to.

The VICE PRESIDENT. These are the amendments of the committee. The bill is still open to amendment.

Mr. WILKINSON. I see by the second section of this bill that an additional fee is allowed to the registers and receivers. I would inquire why that is necessary, if there is any one here who has charge of the bill.

Mr. CONNESS. The object of that part of the bill is that we may compensate registers and receivers in proportion to the amount of labor they perform, rather than by an increase of their salaries. Formerly in the State of California the registers and receivers of the land offices received an annual salary of \$3,000 each. It was found that there were in that State some land offices where the receipts were not equal to the expenditures; in other words, where there was comparatively little business done, as at Los Angeles, and

in the land district known as the Humboldt district in that State; and by an act of Congress the salaries of the registers and receivers throughout that State were reduced to \$500 per annum, so that in land districts in that State where there is a great deal of business, and where the business is of the most important character, the salaries of these officers are reduced to \$500 per annum, and they received that in legal tender notes which are at an average of fifty per cent. discount in California, making it impossible to fill these offices or carry them on at all at present. On consulting with the land department here, and the Commissioner of the General Land Office, it was suggested by that department that the best mode of increasing the revenue of these officers, so that they may be enabled to perform their duties, would be by providing fees so that they should be paid in proportion to the amount of labor performed, and so also that their compensation should be partly derived from the parties who litigate land questions before them. Then it is further provided by an amendment of the committee, which is entirely acceptable, that in no case shall the salary and fees of any register or receiver exceed the sum of \$3,000 per annum. The effect will be that those who require a salary and must have it will receive it, and in offices where there is little work done they will get no increase at all.

Mr. WILKINSON. The argument of the Senator applies to the cases in California; but this bill is general, and applies all over the country. It applies to land offices in Minnesota.

Mr. CONNESS. Then let there be a proviso that it shall apply only to the officers named in the seventh section of the act.

Mr. WILKINSON. But I read in the seventh section of the act that the fees are doubled in the States of California and Oregon and in the Territories of Washington, Nevada, Colorado, Idaho, New Mexico, and Arizona. The registers and receivers receive now about fourteen dollars for every entry under the homestead act, and it strikes me that that is sufficient. I am not advised as to whether the Commissioner of the Land Office approves of this provision or not.

Mr. CONNESS. The provision in the second section is inserted upon his special recommendation. I suppose he found it to be necessary. It will also be seen that the proviso restricting the entire allowance applies to all the States as well as to those named in that section.

Mr. WILKINSON. If the Commissioner recommends it, I will not move to strike it out.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

AGRICULTURAL COLLEGES.

Mr. HENDRICKS. I move that the Senate postpone all prior orders and take up Senate bill No. 12. It is a bill to which there can be no objection.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 12) extending the time within which the States and Territories may accept the grant of lands made by the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862.

It provides that any State or Territory may accept and shall be entitled to the benefits of the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, by expressing its acceptance thereof as provided in that act, within two years from the date of the approval of this act, subject, however, to the conditions contained in that act.

Mr. WILLEY. I offer the following amendment as an additional section:

And he it further enacted, That the benefit of the provisions of this act, and of the said act approved July 2, 1862, be, and the same are hereby, extended to the State of West Virginia.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ALBERT BROWN.

Mr. HALE. I ask leave of the Senate to introduce a resolution which I will explain in a minute, and ask its present consideration:

Resolved, That the Committee on Claims of the Senate be authorized to hear and report upon the claim of Albert Brown now before said committee.

The reason for this resolution is this: This claim was presented to the Senate at the last session, and referred to the Committee on Claims. They reported unanimously in favor of it, and the Senate passed a bill for his relief unanimously; but it failed to reach action in the House. It has been referred again at this session to the Committee on Claims of the Senate, but the committee feel embarrassed by the legislation of the last Congress, and some of them think that such a resolution as this is necessary to give them jurisdiction. That is all.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CLARK. I am asked by the Senator from Iowa [Mr. GRIMES] to make some little explanation in regard to this resolution. At the last session this claim of Albert Brown was referred to the Committee on Claims of this body, and a report was made upon it and the bill passed. I think that the claim is founded upon a contract. By a provision of the act approved on the 3d of March last, all claims "founded upon any law of Congress, or upon any regulation of any Executive Department, or upon any contract, express or implied, with the Government of the United States shall, unless otherwise ordered by resolution," go to the Court of Claims. I had myself doubts whether the simple order of reference of a claim upon motion was such a resolution as this statute contemplated; and I thought it desirable that, if we considered this claim and reported upon it, there should be an express resolution authorizing us so to do, and I so stated to my colleague who had introduced the claim of Mr. Brown. It is to meet that objection that this resolution is offered.

Mr. HENDRICKS. I shall vote for this resolution upon this construction. If the committee shall find that the claim ought to go before the Court of Claims, I think that report ought to be made to the Senate, and the Senate ought to decide upon it when it comes before them. I think this claimant, with all other claimants, should take his chances before the court appointed by law to examine such cases, if it properly belongs there. I have no objection to the resolution with that construction placed upon it; but I should object to it if it is understood that the committee are to consider and report upon it on its merits, without regard to the question whether it should be examined by the Court of Claims or not.

Mr. CLARK. I suppose it will be perfectly competent when a report shall be made on the case, for any Senator to move to refer it to the Court of Claims, if that should be thought desirable. That has been the common practice.

The resolution was adopted.

PROPOSED EXPULSION OF MR. DAVIS.

The VICE PRESIDENT. There being no further morning business, if there be no objection on the part of the Senate, the Chair will call up the special order for one o'clock, being the unfinished business of yesterday.

There being no objection, the Senate resumed the consideration of the following resolution, submitted by **Mr. WILSON** on the 8th instant:

Whereas Hon. GARRETT DAVIS, a Senator from the State of Kentucky did, on the 5th day of January, A. D. 1864, introduce into the Senate of the United States a series of resolutions in which, among other things, it is declared that "the people North ought to revolt against their war leaders, and take this great matter into their own hands," thereby meaning to incite the people of the United States to revolt against the President of the United States and those in authority who support him in the prosecution of the war to preserve, protect, and defend the Constitution and the Union, and to take the prosecution of the war into their own hands: Therefore,

Be it resolved, That the said GARRETT DAVIS has, by the introduction of the resolutions aforesaid, been guilty of advising the people of the United States to treasonable, insurrectionary, and rebellious action against the Government of the United States; and of a gross violation of the privileges of the Senate; for which causes he is hereby expelled.

The pending question being on the amendment proposed by **Mr. HOWARD**, to strike out the word "expelled," and insert in lieu thereof the words "censured by the Senate."

Mr. WILSON. I desire to say a very few

words upon that resolution, but if any other Senator desires to address the Senate upon the subject, I yield to him for that purpose, as I desire to close the debate.

Mr. CLARK. Mr. President, I did not propose to enter into this debate, nor do I now propose to do so at any length; but after the course of the discussion, and after the expression that has been made by the Senators around me, perhaps I shall be pardoned by the Senator from Massachusetts and the Senate if I allude to the condition of the debate and make some remarks in regard to it, and in regard to what, as I think, is the proper disposition which should be made of the matter before the Senate.

These resolutions of the Senator from Kentucky, as has been said, are certainly very intemperate in language. They are, as I think, erroneous in statement. I may say that I think they might be calculated, if they were not intended—I do not think they were intended, because I am bound now not to think so, as the Senator from Kentucky has made a disclaimer that they were so intended; but they might be calculated—to lead to the consequences which the Senator from Massachusetts seems to have feared; that they were calculated to incite insurrection. If the Senator from Massachusetts believed them to be so calculated, I think he was entirely justified in introducing the resolution of expulsion; for I think there is no Senator who would desire to sit here with another Senator, or would desire a Senator to be a member of this body, who would attempt to incite a portion of the loyal people to insurrection against the Government, however much he might condemn that Government; and I think any Senator would be justified in introducing a resolution for the expulsion of such a Senator.

And here I desire to say a word in answer to an allusion that has been made once or twice, I think once certainly, by the Senator from Maryland, [Mr. JOHNSON,] in regard to what was said here months ago in their places by the seceding Senators, by the rebelling Senators, if I may so say, and what we bore from them when they were members of the Senate, without a movement for their expulsion. There were a great many things said then by the Senators on the other side which showed a determined purpose to break up the Government; yet we made no motion to expel them. Why? Because we knew that we were perfectly powerless, and in their control. They were holding their seats here; they gave their votes; and if we made any motion to expel any of them, the rest would all combine against it, and we had no power in the world to expel them. But the moment we arrived at that condition of things that gave us the power, when they had vacated their seats, and we had the votes, then the record shows that we expelled them for those rebellious utterances, and for that rebellious conduct. We should probably desire to do it now.

I have the good opinion of the Senator from Kentucky to believe that he is so sincere that if he believed this Government was so bad that the people ought to revolt against it, or if he was in sympathy with the rebellion, he would vacate his seat, and go to that rebellion. Therefore I say that these resolutions being introduced here, and the Senator from Kentucky having disclaimed any insurrectionary intention—if I may use the expression—and having stated that they were simply to advise the people to a certain course of conduct which might be proper under the law; if that is his intention, as I understand him to say now, then I think we are bound to accept that interpretation given to the resolutions.

Those who put the harshest construction upon these resolutions would say that, perhaps, they were ambiguous; that they were capable of different interpretations. The Senator from Massachusetts puts upon them the interpretation that the Senator from Kentucky meant to incite the people to actual hostilities. Some other gentlemen think he did not mean that; that he simply meant to advise the people to oppose the Administration of the Government, and take the Government into their own hands by their votes. If that was what he meant, that is perhaps legitimate; but if the other was what he meant, as the Senator from Massachusetts supposes, then I say the Senator from Massachusetts was justified in bringing in this resolution. But after it is brought in, I understand the Senator from Kentucky to

deny that he had any such intention. I feel bound to accept his denial. I think the honorable Senator from Massachusetts will see that he ought to accept the denial, and that he ought not to proceed to the harsh measure of expelling a man upon a construction put on his words which he says he did not mean. I therefore suggest to the honorable Senator from Massachusetts whether it would not be better to withdraw the resolution. I make the suggestion with all due deference to him and the Senate.

Mr. FOSTER. Mr. President, as no response is made to the suggestion of the honorable Senator from New Hampshire, it seems that the resolution is probably not to be withdrawn, and that a vote, therefore, must be had upon it. I will, in a very few words, give the reasons which will govern my vote.

In regard to the character of the resolutions which have been introduced by the Senator from Kentucky, I agree in substance with the remarks made by those with whom I usually act politically on this side of the Chamber. I consider them, in substance and in language, as improper to be introduced into this body. Even if I agreed, as I do not, as to the facts stated in them, with the Senator from Kentucky, I should, as I think, disagree with him as to the propriety of introducing such resolutions here. They charge high crimes and misdemeanors, formally and specifically, against the President of the United States. They charge against him offenses for which, under the Constitution of the country, he is impeachable before this body. We are his constitutional judges. If impeached by the House of Representatives, we should sit here as judges to decide upon his guilt or innocence. To assume in the outset, as we should by passing these resolutions, that he was guilty, seems to me to be transcending the proper limits which, as his judges, we ought to observe. I do not think the honorable Senator from Kentucky would wish to place himself in the position of having decided the case before he was called upon as a judge deliberately to pronounce judgment. That these resolutions charge against the President impeachable offenses nobody will deny. Is it right for us, if he be guilty, before we are called upon to sit in judgment upon him to decide upon his guilt or innocence?

Again, the resolutions of the honorable Senator from Kentucky not only impeach the President of high crimes and misdemeanors, but they impeach this body—that is to say, a majority of this body—and would make us wholly unfit to sit in judgment upon any person high or low in the community. Those resolutions charge in substance and in effect upon a majority of this body certainly what if true should disqualify us from sitting here, and indeed, as was once said of certain other persons, would disqualify us from sitting anywhere. One of these resolutions divides the people of this country "into two great parties, the destructives and the conservatives. The first," that is, the destructives, "consists of Abraham Lincoln, his office-holders, contractors, and other followers." I hope that the honorable Senator did not by either of these terms mean to characterize a majority of this body. We certainly are not his office-holders, certainly not his contractors; so we must come in, if at all, under the term—somewhat offensive, certainly—of "other followers." But I am driven to the conclusion that the honorable Senator means to class us either with "his office-holders, contractors," or "other followers," because when he comes to enumerate those who belong to the other party which he says compose the people of those States, he enumerates, "all men who are for ejecting Lincoln and his party from office and power."

These are the "conservatives," the men "who are for ejecting Lincoln and his party from office and power." The honorable Senator knows that a majority of this body are not for "ejecting Lincoln," as he familiarly calls him, "from office and power."

Mr. DAVIS. Will the honorable Senator from Connecticut allow me a word?

Mr. FOSTER. Certainly.

Mr. DAVIS. I think the language used in the resolution which the honorable Senator has just read cannot fairly be interpreted to include the Senate, and I certainly disavow any purpose of including the Senate in the phrases which the Senator has read.

Mr. FOSTER. Mr. President, I recognize the entire right of the Senator to construe his own language, and when he does construe it, in my opinion, the Senate are bound to take his construction, and to give to the words he uses the meaning which he says he affixes to those words. It is the honorable Senator's right to construe his own language. I confess, however, it did seem to me that the language which I have quoted was susceptible fairly of no other interpretation than that which I have put upon it; but I certainly accept the honorable Senator's explanation of his own terms; and as he disavows that interpretation, it is sufficient for me. In that connection I may say, as to the language employed in those resolutions, that when the honorable Senator disavows, as he has to a certain extent disavowed, what other gentlemen understood those resolutions to mean, I think, as I have suggested, we are bound to take his explanation rather than what might seem to us to be the import of the language used.

Under these circumstances, it is true these resolutions stand before us differently from what they would if we were left to give a construction to them ourselves; but I submit to the Senator that, after all, these resolutions must be understood as importing impeachable offenses against the President of the United States. The President may be guilty; but is it right for members of this Senate, before the President shall be impeached by the House of Representatives, to prejudice his case? Does the honorable Senator wish to prejudice his case? If he votes for these resolutions does he not prejudice his case? Does he not disqualify himself from sitting in judgment upon the President when he shall be, if he shall be, impeached by the House of Representatives for these very crimes and misdemeanors?

Mr. President, the honorable Senator is fond of recurring to past times, and properly. It is well, certainly, to derive as many lessons of wisdom from the past as is possible. If the honorable Senator will go back to the period of thirty years ago, when a very eminent citizen was President of the United States, and when it was his fortune or misfortune to have an opposition to his Administration in this body certainly inferior to no opposition in point of power, intellect, and influence ever encountered by any Administration in this country, he will find that such resolutions as these found no favor with those whom he would now quote as examples worthy to be followed. An eminent citizen of Kentucky, eminent over the world, introduced resolutions into this body respecting the then President of the United States, reflecting to some extent, and indeed very greatly, upon the manner in which that citizen administered the office of President of the United States; but on a suggestion that his resolutions contained impeachable matter as against the President of the United States, although he was acting with a majority in the Senate, and although his influence with that majority was almost controlling, at his own motion he modified the resolutions which he had introduced, and carefully stripped them of anything which would seem to be impeachable matter. That occurred in this Chamber thirty years ago; and the language as it was originally introduced was almost commendatory, even laudatory, compared with the language in which the honorable Senator from Kentucky now indulges as to the present incumbent of the presidential chair. It was no more than to assert this of the President:

"That he has assumed the exercise of a power, &c., not granted to him by the Constitution and laws, and dangerous to the liberties of the people."

That was deemed by Henry Clay to be too offensive, too strong for the Senate to pass—language now sounding so mild, so temperate—and it was by Mr. Clay himself modified in this way before the Senate were called to pass upon it:

"That he has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both."

And it was upon that only that the Senate were called upon to pass, Mr. Clay, as I have suggested, modifying those terms of his own motion in order that the objection made that the resolutions asserted impeachable matter might not be fairly asserted of the resolutions.

Still, Mr. President, even allowing the resolutions to stand just as they are, without the expla-

nation of the honorable Senator from Kentucky, it is due to candor that I should say that I could not vote for the honorable Senator's expulsion because he had introduced them. I certainly should not have voted to print these resolutions if I had known what they were at the time the order to print was made. They were not read. I should have voted against printing them if I had known their contents. At the time when they were introduced and the order made, it passed unobserved in the Senate. When I saw the resolutions a day or two after, when they were laid on the desks, I made up my mind that in future I should ask for the reading of resolutions or ascertain something of their character before the order to print was made without any opposition from me. These resolutions are printed, however; they are here; and I do not think that expulsion is the proper remedy where such an act has been committed.

Nor, sir, do I think that a vote to censure an honorable Senator for introducing resolutions of this character is proper, either. What does a vote to censure a Senator mean? After it is passed, how does he stand in the Senate? Is he entitled to the same privileges as other Senators; the same courtesy and rights as other Senators? He must be, or not be here at all. And yet he is under some sort of ban while he is under a vote of censure passed by this body. And what is to be the effect of it? When is the offense to be expiated? Is the vote ever to be obliterated? Is any subsequent course of good conduct to atone, and the resolution afterwards to be annulled, reconsidered, or repealed? I know not, Mr. President, what answer is to be given to these questions; and I confess that for one I am somewhat afraid of this power as a precedent. Let this body be organized into a censorial tribunal to pass votes of censure upon its members, and to what may it not lead? No doubt under certain circumstances such a vote might be proper for gross breaches of order. There may be extreme cases where such a vote as this may be called for; but for the introduction of resolutions, however offensive, or for words spoken in debate where there is no intentional personal insult, no gross, willful indignity to the body, I should deprecate a vote of censure as a punishment. I think there would be more danger of increasing the very evil than probability of diminishing it by following such a course. We should almost inevitably fall into divisions and strifes here, the evil results of which no man can foresee. So far from producing greater courtesy in debate, I have an apprehension that there might be a desire on the part of gentlemen here to make themselves martyrs to free discussion, and to indulge in free speech for the very purpose of being either censured or expelled.

The right of free speech is too dear to the people of this country to be impinged upon slightly. So dear is it that wherever any grounds can be shown for believing that a party is intending to impair it or abridge it, the days of such party must be few and short in this country. I glory in the fact that it is so. It has been so in this country always, and it always will be so long as there is a love of liberty; for free speech, a free press, and the freedom of the people will live and die together. It is vastly better that we suffer any little annoyance, or any great annoyance, to which we may be subjected in this body by too great freedom of speech, rather than that we should right ourselves, or attempt to right ourselves, by laying the heavy hand of censure, or of expulsion, by vote, upon our members by way of improving their speech or reforming their manners.

While, as I have said, I look upon the resolutions of the honorable Senator from Kentucky as resolutions which ought not to have been introduced into this body, still, the honorable Senator judged differently. His right to judge is as perfect as mine, and I am as unwilling to attempt to impose my standard of what is right upon him as I would be to submit to having him impose—which I know he has no desire to do—his standard of right upon me. I must therefore tolerate, and not merely tolerate but acknowledge the right of the Senator, because I claim it for myself, to indulge freely and fully in debate here. So of every other Senator on this floor, so long as this is a forum where free discussion is tolerated.

I shall therefore, Mr. President, with this explanation, which perhaps was quite unnecessary,

vote both against the motion to amend the resolution and against the resolution itself.

Mr. JOHNSON. Mr. President, it is not my purpose to say any more on the resolution. I have already stated to the Senate my objections to the resolution, either in its original form or as it is proposed to be amended. I rise merely for the purpose of saying, with that respect which I hold at all times for an opinion of the Senator from Connecticut, that he will pardon me for suggesting that I think one of the principles which he has avowed perhaps cannot be maintained. The opinion which I formed on that subject was formed at a time when the contest which presented it arose. I think it was in 1832 that those resolutions were offered by Mr. Clay.

Mr. FOSTER. It was in the session of 1833-34, if I mistake not.

Mr. JOHNSON. It was about that time. When those resolutions were offered and while they were pending, and either before or after they were passed, I forget which, the then President of the United States sent in a protest, in the form of a message, against their passage, founded upon the principles stated by the honorable member from Connecticut, that it would be upon the part of the Senate the expression of an opinion in advance upon a question on which they might afterwards be called upon judicially to decide. It is true that Mr. Clay modified his original resolutions; but it is equally true—I speak from personal knowledge—that the modification which he proposed was not because he himself doubted that it was within the power of the Senate to pass the resolutions in the original form, but because he was anxious to get such resolutions passed as he supposed would accomplish his object; that is to say, resolutions denouncing as unconstitutional some conduct on the part of the then President of the United States. When the protest which the President sent in was before the Senate, the principle to which my friend from Connecticut has adverted was discussed at large. As well as I recollect, not only Mr. Clay maintained the right of the Senate to express an opinion on all the acts of the Executive, but Mr. Webster did it in the strongest terms, and Mr. Calhoun did it, and almost every member of the Senate except those who were more exclusively the political friends of the President. It seems to me, as it seemed to the statesmen to whom I have adverted, to be very full of danger to deny to the Senate of the United States, or any member of the Senate of the United States, the right to express his opinion on the conduct of the Executive, and to express it in the broadest terms. If he believes that the President has done an act that is unconstitutional, whether he calls it usurpation, or, omitting the word "usurpation," says that he has exercised powers which are not found in the Constitution, I think it is his duty, if he believes any good will be accomplished by it to the country, so to state and so to endeavor to vote.

Now, I suppose that my honorable friend from Connecticut at that time, for I believe he was then a politician—

Mr. FOSTER. A very young one.

Mr. JOHNSON. A very young one, I know, but not less wise because young. I rather imagine that if he had been a Senator of the United States at that time, and believed that General Jackson had been sinning against the Constitution, usurping powers which the Constitution did not give him, and hazarding the interests of the country by the exercise of such powers, he would, in the Senate and out of the Senate, and on the hustings, and upon every occasion that might present itself, denounce it, and endeavor to satisfy the country that the President was acting beyond the sphere of his power.

So, too, in relation to the members of the other House. Now, as it seems to me, Mr. President, if we reflect for a moment, not exactly to the same extent, but in principle, the doctrine upon which it may be maintained that no individual Senator, that no majority of the Senate can express an opinion in relation to the conduct of the Executive in any particular which, if true, would be a just ground for impeachment, would deny to the members of the House of Representatives the right to express any such opinion. The answer might be, "You have no right to denounce the President of the United States except in the way pointed out by the Constitution; that way is by impeach-

ment; and if you think that he has done an act for which an impeachment might be prosecuted, take that course; but do not denounce the President before the country." Suppose the President of the United States—I am only supposing it, because I am sure such a result will not happen; but it may happen in the course of time; we may get into the executive chair some man who is totally regardless of the restraints of all the Constitution; and suppose he should attempt by military usurpation, with the Army under his control, to break down the Constitution in all respects, to change the form of the Government, should attempt to convert us into a military despotism, can we not denounce it? Certainly not, (that being an act for which he is clearly impeachable,) if it be true that because it is an act for which he is clearly impeachable we are to be silent; and, as I said just now, if we are to be silent upon the floor of the Senate, I know not upon what ground we are not obliged to be silent outside of the Senate.

We could not go before the country and try to alarm the country, point out the danger, call them to the rescue of our free institutions, because it would be said at once, "The ground upon which it is improper for a judicial officer to express an opinion upon a question which may come before him judicially, is that he commits himself, he judges in advance upon the guilt or innocence of the party who may be before him for prosecution." Well, he can do that just as effectually out of the Senate as in the Senate; and the result of it would be, in such a case as I have supposed, that no one of us, however satisfied we might be that the freedom of the country was in peril, imminent peril, that the Constitution was about to be extinguished, all that our ancestors fought for and all that we have endeavored to preserve was about to be lost, could, either upon the floor of the Senate or in the country, either speak or write so as to keep alive the spirit of freedom and call upon the people, in whose hearts it might still exist more or less, to come to the rescue.

I merely rose for the purpose of saying—speaking for myself individually—that I shall always feel myself at liberty, should the occasion arise, to denounce the conduct of the Executive in the strongest terms, if I believe that strong terms can properly and with truth be applied to him, notwithstanding it might turn out and could constitutionally turn out that I might be called upon at some subsequent period to act, as a Senator, as one of the judges upon the President in the event of his being impeached.

Mr. FOSTER. Mr. President, I am not aware that I differ with the honorable Senator from Maryland, (I certainly should do so with very considerable distrust as to the correctness of my own opinion,) on the subject of the right to discuss freely here the official conduct of the President of the United States. I meant to limit my remarks in their application to the propriety, to say nothing of the good taste, of introducing resolutions into this body of a character like this:

"Resolved, That the present Executive Government of the United States has subverted for the time, in large portions of the loyal States, the freedom of speech, the freedom of the press, and free suffrage, the constitutions and laws of the States and of the United States, the civil courts and trial by jury; it has ordered *ad libitum* arbitrary arrests by military officers, not only without warrant, but without any charge or imputation of crime or offense; and has hurried the persons so arrested from home and vicinage to distant prisons, and kept them incarcerated there for an indefinite time, some of whom it discharged without trial and in utter ignorance of the cause of their arrest and imprisonment, and others it caused to be brought before courts, created by itself, and to be tried and punished without law; in violation of the constitutional guarantee to the citizen of his right to keep and bear arms, and of his rights of property, it has forcibly deprived as well the loyal as the disloyal of both; it has usurped the power to suspend the writ of *habeas corpus* and to proclaim martial law and establish military tribunals in States and parts of States where there was no obstruction to the due administration of the laws of the United States and the States by the civil courts and authorities, and ordered many citizens, who were not connected with the Army or Navy, to be dragged before its drum-head courts, and to be tried by them for new and strange offenses, declared by itself and by undefined and indefinable law, being but the arbitrary will of the court; it has ordained at pleasure a military despotism in the loyal States by means of courts martial, provost marshals, and military forces, governed neither by law, principles, nor rules, from whose tyranny and oppressions no man can claim immunity; all of which must be repudiated and swept away by the sovereign people."

That, it is true, is not technically a bill of indictment, but in effect it arraigns the President of the United States before this body for almost every

offense of which he officially could be guilty, and that almost in the formal language of a criminal information or indictment.

If the honorable Senator from Maryland thinks that it is proper for any Senator to introduce here such resolutions, and for us, as Senators, to sit here and debate them, and by debating them in effect try the President of the United States for these offenses, without the presence of the accused himself, without the presence of the constitutional prosecutors, to wit, the House of Representatives, without the Chief Justice of the United States to sit here and preside over us, although I am sorry to differ from the honorable Senator from Maryland, I must differ, and certainly do differ. I certainly have not any such understanding of the rights, duties, and privileges of this body. I cannot go with him if he goes to such an extent. I think such a course unconstitutional and dangerous. Within these limitations we may differ as to the prerogatives of the Senate. On the general question of the right of Senators here to discuss the conduct of the President and of any officer of this Government with the utmost freedom—I mean of course that becoming freedom which the honorable Senator from Maryland always prescribes to himself, and which I trust all Senators are disposed to prescribe for themselves—to that extent I go. As it respects the allusion I made to the course pursued by the Senate some thirty years ago in the case of General Jackson, though the honorable Senator certainly has much better means of information than I as to the views of the men of those times, I think the record will show—I have not examined it—that the Senators acting with Mr. Clay thought it would be unwise to put impeachable matter into resolutions relating to the President. They certainly meant to insist upon and to exercise most amply and freely the right to discuss the conduct of the Chief Magistrate; but they did not wish to place themselves in the attitude of sitting as judges without the presence of the accused and without the presence of his constitutional prosecutors.

I make this explanation, Mr. President, because I would not have it understood that I fall short of any man in my attachment to the principle of freedom of discussion here and everywhere.

Mr. HOWARD. Mr. President, I shall interpose no obstacle to any disposition of the resolution of the Senator from Massachusetts which he chooses to make. I had occasion the other day to express my opinions as to the true, real meaning and intent of the string of resolutions offered by the Senator from Kentucky. I then gave it as my opinion that it was not only the tendency of those resolutions to stir up and incite insurrection among the loyal people, but that they were written for the purpose. I founded my judgment, as I announced that I should, in the effort to construe those resolutions upon their language itself; I resorted to no extraneous matter in interpreting them; I did not go out of the record; and I was bound to this by sentiments of fairness toward the Senator from Kentucky.

I said before all that I desired to say upon the interpretation to be given to those resolutions, and I rise now principally to express my dissent from some sentiments which fell from the lips of the Senator from Maine [Mr. FESSENDEN] yesterday while he was addressing the Senate upon this subject. If I understood him correctly, and I endeavored to do so, he announced to the Senate that he did not regard it as any breach of the privilege of the Senate for a Senator here to rise in his place and by his language and appeals, if he should think the occasion justified it, call upon the people to resort to insurrection and violence for the purpose of resisting the Government. I did so understand the Senator from Maine.

Mr. FESSENDEN. My friend will allow me to state what I did say. I said nothing about the privileges of the Senate. I said that we were not responsible out of doors for what we said here, that we were responsible in doors for any breach of the privileges of the Senate or for any impropriety in our language or conduct here, and we were subject to such orders as the Senate might pass in relation to that matter. I expressed no opinion upon the question whether this case ought to be so considered; I did not undertake to argue that matter; but I put my vote upon entirely different grounds. I said that, so far as the particu-

lar expression complained of was concerned, in I think, the thirteenth resolution of the Senator from Kentucky, I did not see that the necessary construction was such as had been supposed by the Senator from Massachusetts and the Senator from Michigan, and that not being the necessary construction, I did not feel bound to put the most violent construction upon it, especially in the face of the disclaimer of the Senator from Kentucky.

Then, with regard to the other portions of the resolutions which I designated as abusive, I said that I did not believe it was good policy or good sense to pass votes of censure for language used in reference to the Executive Government, the Administration; that it was very important, in my judgment, to allow the largest limit for the expression of opinion on that subject, and that I would not pass a vote of censure by reason of it. That was substantially the ground which I took. Whether language had been used which was a breach of privilege, I did not choose to discuss; for myself, I did not undertake to act on that ground.

Mr. HOWARD. The honorable Senator from Maine is entirely correct as to the fact that he uttered then the sentiments which he repeats now. He certainly did express these same sentiments in the discussion yesterday; but I understood the honorable Senator to go much further in his declarations to the Senate than he now goes. I understood him to say that he could conceive of such a condition of public affairs, of such conduct on the part of the Executive Government, or those charged with the administration, as to justify a Senator here in invoking the intervention of insurrectionary proceedings on the part of the people. Sir, I do not understand the honorable Senator even now to disclaim that.

Mr. FESSENDEN. No, sir; I repeat it.

Mr. HOWARD. Well, sir, that is the very point about which I rose to speak. I dissent from that view. I do not hold it to be the right of a Senator of the United States, or of a Representative in Congress, so to call upon the people under any conceivable circumstances, under our Government, in which he would be justified in making such an appeal. When a Senator comes into this body, he takes an oath to support the Constitution of the United States. That is his sworn duty; and I submit to the Senate that when a Senator under any circumstances of public affairs shall rise in his place here and invoke the Senate and the country to resort to insurrectionary measures against the Government, he is acting in hostility, in antagonism to the very oath which he has taken.

Mr. FESSENDEN. Will my honorable friend allow me to ask him a question?

Mr. HOWARD. Certainly.

Mr. FESSENDEN. Suppose that a Senator believes and sees, and it is patent, that the Executive Government is engaged in taking measures actually to overthrow the Government and the Constitution of the United States, as a remedy for which there is nothing but insurrection or rebellion against them, that being the only remedy, will the Senator say that he would submit to that or would not advise the people to take it into their own hands and prevent that wrong, in order to save the Constitution and not to overthrow it?

Mr. HOWARD. Such a state of things is not conceivable.

Mr. FESSENDEN. I said I could conceive of it. Of course if the Senator cannot, it is a different matter with him.

Mr. HOWARD. I cannot conceive of such a state of things under the Constitution. If the President of the United States shall himself become a rebel, if he shall take arms in his hands or employ the Army or the Navy of the United States, or exercise any of his other executive functions for the direct and palpable purpose of overthrowing the Government of the United States, then, sir, he becomes a traitor and is deserving of a traitor's doom.

Mr. FESSENDEN. What remedy, then, is there but insurrection?

Mr. HOWARD. You would hardly call a rising of the people to assert their rights and to maintain their Government against a traitor in the executive chair an insurrection. It would be an abuse of terms.

Mr. FESSENDEN. You may call it what you like. That was the idea that I conveyed palpably,

that I could conceive of a state of things when the people must rise and take matters into their own hands, not to overthrow the Government, but to protect and to preserve it. That was the idea.

Mr. HOWARD. If I understood the language of the Senator, it was that he could conceive of a state of things in which the conduct of the Executive Government might be so tyrannical and oppressive as to justify an insurrection.

Mr. FESSENDEN. Precisely. I say that still. That is the same idea in different words.

Mr. HOWARD. I can conceive of no such legal state of things. We are sworn to support the Constitution of the United States, and by that oath we are bound. The support of that Constitution implies every reasonable effort which we can make on our part to uphold and continue that Constitution in force, and to preserve the Government organized under it.

I set up no particular immunity in favor of the Executive Government of the United States against debate in this body or in the body at the other end of the Capitol. I claim for them no immunity. I set up no impeccability on the part of the President of the United States by which he is to be shielded either from resolutions or from debates uttered in this body. The conduct of the executive officers is as much a subject of fair comment in this body as the conduct of any other portion of the people of the United States, and nobody will pretend to deny it. Sir, I go further; I hold it to be our right fully to discuss and to express our opinions upon every act of the Executive Government, although that act may turn out to be a full and just foundation for an impeachment of the President of the United States. We are acting here in our legislative capacity; but when the question shall arise before us as a judicial body whether the President or any other individual charged with high crimes and misdemeanors is actually guilty of the charge, we must then assume the judicial functions, and pass upon the question impartially, and according to our oaths of office.

Mr. FESSENDEN. Suppose he has an army at his back, and will not submit to judicial trial, what will you do then?

Mr. HOWARD. He is then a rebel; he is then an outlaw.

Mr. FESSENDEN. What can you do then but fight him, or call on the people to fight him?

Mr. HOWARD. The Senator from Maine may put me a thousand questions as to what might arise from a state of absolute and universal anarchy throughout the country, and I should be just as unable to answer them as he; but I am speaking of a Government of law as it now exists. I should be very likely to fight, and fight, I dare say, as sharply and thoroughly as the Senator from Maine would in the case which he supposes.

But, sir, I hold it not to be the right of a Senator here by resolution or in debate to teach or inculcate treason or insurrection. It is contrary to the oath which we have taken. It conflicts with the very essence of the first duty which we owe to the Government and to the people living under it. It is an attempt in the highest possible place of the Government to assassinate the Government itself and to throw the country into absolute anarchy; and it was on account of this opinion of mine that I argued somewhat strenuously, but I still think justly and fairly, the propriety of censuring the Senator from Kentucky for the string of resolutions which he has introduced, and which in my judgment do inculcate treason and insurrection. I shall not, however, as I remarked before, interpose any objection to the course that my friend from Massachusetts may see fit to take with his resolution.

Mr. WILSON. I yield, Mr. President, to no man in or out of the Senate in devotion to free speech, to a free press, to free men, to a free country, to a free world. During more than twenty years of public life, at all times I have endeavored, by precept and example, to sustain the freedom of speech, the freedom of the press, and the freedom of man of every clime and race. But, sir, while I believe in the freedom of speech and of action, here and everywhere, I also believe in the right of the nation to hold men responsible for their words and their acts when those words and acts give aid and comfort to enemies who are seeking to blot it from the muster-roll of nations. The land resounds with the tread of more than a

million of armed men; its waters are reddened and its fields are stained by the blood of civil war. The nation is staggering under the blows rained upon it by armed treason. The President of the United States is bending beneath the burden that presses upon him in his gigantic labors to carry the Republic through the fire and blood of revolution to peace, freedom, and unity. The President of the United States is known at home, is known abroad, is known by everybody to be one of the most moderate, just, humane, kind, and generous of men. Honest, conscientious, magnanimous, he ever leans to the side of humanity. This Chief Magistrate, whose name is as immortal as though it were written in letters of light on the bending arches of the skies, is arraigned before the Senate and the country by the Senator from Kentucky in a long series of accusative and vituperative resolutions. If guilty of the accusations preferred against him by the Senator from Kentucky, Abraham Lincoln is the enemy of his country, of the liberties of the people, and deserves to die a tyrant's death and leave a tyrant's name in the history of the Republic. The pen of Jefferson did not trace in the Declaration of Independence a series of the misdeeds of a British king so wanton and wicked as the accusations made in these resolutions by the Senator from Kentucky against the President of the United States, whom he was pleased to denounce the other day as "Abraham the First." But these accusations, born of partisan malignity, fall harmless at the feet of a Chief Magistrate who is shielded by the confidence, affection, and gratitude of the American people.

The Constitution of the United States imposes upon the American people the imperative duty of electing the Chief Magistrate of the Republic. When the Thirty-Sixth Congress assembled four years ago, the nation was preparing itself to discharge that transcendent duty. Then there came into these Halls the bold, arrogant, and domineering chiefs of the slavemasters, who threatened to dismember this Union of constellated Commonwealths if the people of America should dare elect a Chief Magistrate opposed to their sway over the councils of the nation. The Senate Chamber rang with passionate, vehement, and fiery menaces of disunion. It was our painful duty to sit here and listen to these treasonable menaces; but we hurled them back, and branded the men who uttered them as traitors to their country. Here upon this floor we told these plotters of treason that when the bloody work they threatened should begin, we of the North would be the last to go into it, but we would not be the first to come out of it; and to-day they are learning by the bitterest experiences that our defiant words are made true by the constancy and valor of loyal freemen. The ear of the nation grew weary during the first session of the Thirty-Sixth Congress with threats of civil war. But the American people in conscious strength marched to the ballot-box in November, 1860, and made Abraham Lincoln Chief Magistrate of the Republic. Then the men who had threatened to shiver the Union from turret to foundation stone leaped into the rebellion, and raised the standard of revolt against their country. When the Thirty-Sixth Congress reassembled, the rebel leaders came back again more bold, arrogant, and defiant than ever. Once again we were then forced to listen to their treasonable menaces. But they soon left these Chambers, organized the Confederate Government, seized forts and arsenals, erected batteries, opened their devouring fires upon Sumter, and plunged the nation into the nameless horrors of civil war. For nearly three years the nation has been struggling for the preservation of its menaced life against a revolt whose gigantic proportions astonish the nations.

When the nation is struggling for existence; when patriotism bids wealth open its coffers to meet the needs of the imperiled country; when patriotism bids fathers and mothers give the sons of their love and wives their husbands to the harvest of death; when patriotism bids the young men of America in the pride and bloom of manhood rally around the flag of the endangered country; when more than a million and a quarter have rallied around the banners of our unity and power; when they are toiling and fighting and falling and emptying their hearts' blood on the soil of the rebel States; when in northern churchyards fallen heroes sleep their last sleep; when vacant chairs are

around tens of thousands of northern firesides; when thousands of families sit in mourning over two hundred thousand young men lying in bloody graves—in this hour, when every conviction of the soul and every pulsation of the heart should be with and for our struggling country, the Senator from Kentucky comes into this Chamber, presents this long series of accusations against the Chief Magistrate of the Republic, invokes the American people to revolt against their war leaders, and take matters pertaining to their country, the mighty issues of peace and war, the transcendent interests of the present and of coming ages, into their own hands. Senators, in their abounding charity, may pardon the Senator from Kentucky for this act; but the hearts of the toiling, struggling people of loyal America, whose dear and loved ones are baring their bosoms to the shot and shell and murderous rifle of rebel legions, will pardon him never; no, sir, never.

The Senator from Kentucky, not in a speech uttered here in the heat and excitement of debate, but in studied and measured phrase, invokes the people North and the people South to revolt against their war leaders, take the matters pertaining to the administration of the Government into their own hands, and elect members of a national convention of all the States, to terminate the war and adjust and reconstruct the Government. The plain, obvious meaning of this word revolt in this connection is clear to the comprehension of every intelligent man in America. It means in this connection precisely what it means in the sixteenth and seventeenth resolutions, where it describes and defines the rebellion of Jefferson Davis and his co-peers. The Senator from Kentucky, in the sixteenth and seventeenth resolutions, characterizes this bloody revolution in the so-called confederate States as a revolt. This word revolt in his thirteenth resolution means precisely and exactly the same thing in the connection in which it is used. To revolt means to renounce allegiance, to rebel, to desert, to forsake, to overthrow legitimate authority. This is the obvious import of the word, and no ingenuity, no explanation can make it mean anything else. What is it, sir, for the people to take this matter into their own hands? What matter? The issues of this contest, the issues of peace, of war—everything pertaining to questions of policy or of administration. These phrases in the connection in which they are used mean that the American people shall revolt against the Government of the United States now administered by Abraham Lincoln, and take the powers exercised by him into their own hands. Yes, sir, these phrases mean that the people shall take into their own hands the powers of the Government now exercised by the Secretary of State, by the Secretary of the Treasury, by the Secretary of War, by the Chief Magistrate, and all the men in authority who are acting under his direction and his orders. How are the people to exercise this power? After they have revolted and assumed these powers, how are they to exercise these powers? The Senator points the way: the people are to elect members from all the States to a national convention.

This convention is to assume the powers of a provisional government, representing a people who have revolted and taken matters into their own hands. It is to say to the President, to the Secretary of State, to the Secretary of the Treasury, and the Secretary of War, to the Congress of the United States, to the judicial tribunals, to the officers of the Government civil and military, this convention embodies the sovereignty of the people and will proceed to terminate a war that is enriching hundreds of thousands of officers, plunderers, and spoilsmen in the loyal States, and threaten the masses of both sections with irretrievable bankruptcy and indefinite slaughter. If such a convention should be elected, if it should assume to exercise the powers belonging to the President and those in authority under the Constitution, it would be nothing more nor nothing less than a revolutionary and treasonable provisional government. If such a convention should assemble, and if its members should attempt to exercise any powers whatever belonging to the Government of the United States, it would be the duty of the President to arrest, to imprison, to try, to convict, to condemn, and to hang the members of that convention for treason. This is the plain and obvious import and meaning of these words and

phrases. This is the character of the tribunal the Senator proposes to establish to terminate the war and to reconstruct the Government. He means this, or he means simply that to revolt is not to oppose the Government; that to take the mighty issues of peace and war into their own hands is not to take anything at all; that when this convention of all the States assembles to terminate the war and to reconstruct the Union on principles of compromise it is to do nothing whatever. This is the absurd, impotent, and illogical conclusion the Senator comes to, unless we take his words in their obvious meaning and as they are understood by the common mind of the country.

When the Hartford convention was in session, some one, it is said, asked Josiah Quincy what the result would be; he replied, "a pamphlet." Perhaps, sir, the result of the Senator's mighty revolt of the people, of their taking matters into their own hands and electing delegates to a convention to terminate the war and reconstruct the Government, will be "a pamphlet" of vituperative slanders upon the administrators of the Federal Government, and the recommendation of some conservative reactionist as a candidate for the Presidency. The Senator invites us to witness the tragedy: we see only a farce.

But the Senator from Maine, [Mr. FESSENDEN,] whose abounding charity made him fertile in excuses, told us that the avowed object to be attained by the Senator from Kentucky modified the plain and obvious import of the language of the resolutions. The people were invoked to revolt, take the powers of the Government into their own hands, elect members to a national convention of all the States to terminate the war, and to restore the Union upon principles of compromise. I was sorry to hear these words fall from the lips of the Senator from Maine. Of course the Senator from Kentucky would ask the people to revolt, assume powers, establish a provisional government, for some purpose that seems good in his eyes. Has the Senator from Maine forgotten that the rebel leaders in these Chambers maintained that secession and civil war must be resorted to to preserve the liberties of their people, their home-bred rights, fireside privileges, and even the Constitution itself? Has he forgotten that the wicked demagogues in the city of New York, in shameless defiance of truth and decency, instilled into the too credulous ear of ignorance the idea that the act for filling the wasted ranks of our armies discriminated against the poor in favor of the rich, till murder clutched its weapon and arson seized its brand, reddened the pavements with blood, and illumined the streets with the light of burning asylums?

As a reason why the people should revolt, why they should take the matter into their own hands, why they should call a convention to terminate the war and to adjust the affairs of the country, it is charged

"That the present Executive Government of the United States has subverted for the time, in large portions of the loyal States, the freedom of speech, the freedom of the press, and free suffrage, the constitutions and laws of the States and of the United States, the civil courts, and trial by jury."

That is the accusation. "Verily," then, says the Senator, "the people ought to revolt against their war leaders, and take the matter into their own hands!" Then it is charged that the Executive Government of the United States has caused persons

"To be brought before courts created by itself, and to be tried and punished without law, in violation of the constitutional guarantee to the citizen of his right to keep and bear arms, and of his rights of property; it has forcibly deprived as well the loyal as the disloyal of both."

There is another arraignment of the Executive Government flung out to the people as a reason why they should revolt and take the matters into their own hands. Then it is charged that the Executive Government

"Has usurped the power to suspend the writ of habeas corpus, and to proclaim martial law, and establish military tribunals in States and parts of States where there was no obstruction to the due administration of the laws of the United States and the States by the civil courts and authorities; and ordered many citizens, who were not connected with the Army or Navy, to be dragged before its drum-head courts, and to be tried by them, for new and strange offenses, declared by itself, and by undefined and indefinable laws, being but the arbitrary will of the court."

That is the charge against the Executive Government of the United States. "Verily," then, the people ought to revolt and take these great mat-

ters into their own hands!" Then it is charged that the Executive Government

"Has ordained at pleasure a military despotism in the loyal States, by means of courts martial, provost marshals, and military forces, governed neither by law, principles, nor rules, from whose tyranny and oppressions no man can claim immunity."

Here is another accusation, and therefore "the people ought to revolt and take these matters into their own hands!"

Then the President, it is said, "ignores the constitutions of Tennessee and Arkansas, and others that have not been altered in any particular, but are the same that they were before their revolt." That is another reason why the people "ought to revolt and take these matters into their own hands!" Then "the President's project," it is said,

"Is to continue the war upon slavery by his further usurpations of power, and to get together and buy up a desperate faction of mendicants and adventurers in the rebel States, give them possession of the polls by interposing the bayonet, as in Maryland, Delaware, and portions of Missouri and Kentucky, and to keep off loyal pro-slavery voters, and thus to form bastard constitutions to abolishize those States."

"Buy up a desperate faction of mendicants and adventurers!" "Give them possession of the polls by interposing the bayonet!" There is another reason why "the people should revolt," says the Senator, "and take these matters into their own hands!" Then the Senator says:

"That at the beginning of the war, under the panic of the defeat of Bull Run, the party in power professed to carry it on for the Constitution, and to put down the rebellion, and vindicate the laws and authority of the United States in the insurgent States, and when that was effected it was to cease. But more than a year ago another and a paramount and unconstitutional one, the total subversion of slavery, was inaugurated by them; and at length to carry on the war in this augmented and perverted form, the annual expenditure on the part of the United States has swollen to one hundred thousand lives; a much larger amount of personal disability, and a thousand millions of money, and yet the wisest cannot see the end of the war. Verily, the people North and the people South ought to revolt against their war leaders, and take this great matter into their own hands, and elect members to a national convention of all the States, to terminate a war that is enriching hundreds of thousands of officers, plunderers, and spoilsmen in the loyal States, and threatens the masses of both sections with irretrievable bankruptcy and indefinite slaughter, and to restore their Union and common Government upon the great principles of liberty and compromise devised by Washington and his associates."

The Senator from Kentucky says the people of the loyal States are resolved into two great parties, the *destructives* and the *conservatives*; the first consists of Abraham Lincoln, his office-holders, contractors, and other followers.

"Their real objects are to perpetuate their party power, and to hold possession of the Government to continue the aggrandizement of their leaders, great and small, by almost countless offices and employments, by myriads of plundering contracts, and by putting up to sale the largest amount of spoils that were ever offered to market by any Government on earth. Their object is not to eradicate slavery, but only to abolish its form and the mastery; to subjugate wholly the rebel States, and utterly to revolutionize their political and social organization; to destroy or banish, and strip of their property, all the pro-slavery people, secessionists and anti-secessionists, loyal and disloyal, combatants and non-combatants, old men, women, and children, the decrepit, and the non-compos mentis, all whom they cannot abolishize, and to distribute the lands of the subjugated people among their followers, as was done by the Roman conquerors of their own countrymen; to proclaim a mock freedom to the slaves, but by military power to take possession of the freedmen, and work them for their own profit; to do all this, and also to enslave the white man, by trampling under foot the Constitution and laws of the United States and the States, by the power of a subsidized Army, and, lest it should falter, by hundreds of thousands of negro janizaries, organized for that purpose by the Secretary of War and the Adjutant General."

"To proclaim a mock freedom to the slave!" "to enslave the white man, by trampling under foot the Constitution and laws of the United States and the States, by the power of a subsidized Army, and, lest it should falter, by hundreds of thousands of negro janizaries, organized for that purpose by the Secretary of War and the Adjutant General!" "Verily," says the Senator, "the people ought to revolt and take this great matter into their own hands."

Sir, if these accusations against the President of the United States, against the Executive Government, against the war leaders, be true, there would be ample justification for revolt and for revolution, for I undertake to say you cannot find in any arraignment of any Government on earth a series of accusations that, if true, make a Government more infamous among men than these arraignments made by the Senator from Kentucky.

Sir, the Senator stands forth in this trial of the country and presents these resolutions, and why?

Why are they here? I will tell you why, and I state it in no spirit of unkindness, for I have none, toward that Senator. He undertook the other day to launch some vulgar flings, some smallish sarcasms at me, but I feel very much as did the man who said when his fractious little wife was berating him, that he did not care much about it, for it did not hurt him, and seemed to do the little thing a great deal of good. [Laughter.] I have, I repeat, no unkind feelings toward the Senator from Kentucky; but why is it that the Senator presents this long series of resolutions that cannot but give aid and comfort to the enemies of his country? If in the dark days of the Revolution, that followed the Declaration of Independence, when timid and conservative men shrank back, some member of the Continental Congress had arraigned the Congress and Washington and the armies and invoked the people of England and of the colonies to revolt against their war leaders, and take the matters into their own hands, to terminate the war, and adjust their differences upon principles of compromise, would not every American, who reads the history that records it, pronounce his act to be a blow aimed at his country, giving aid and comfort to its enemies? So, when the baleful star of the rebellion shall sink down in eternal night, when the star of peace shall ascend the heavens, when our heroes shall come back again to gladden our homes, the loyal heart of America will pronounce this act of the Senator from Kentucky a wicked, unpatriotic measure, which the instinctive patriotism of the nation will pardon, never.

Sir, Senators may rely upon it that the people of the loyal States by an uncounted majority will condemn these resolutions, and will sanction a vote of censure or expulsion. There is no loyal State that would not vote by an immense majority for the expulsion or censure of any Senator of the United States who should bring such accusations as these against the Government, and assume the powers that belong alone to those whom the Constitution has clothed with authority. The people, whose sons are toiling, suffering, bleeding, and dying for the country, are less charitable than Senators around me. The Senator from Kentucky is a bold man—he must be a bold man to pen such resolutions—but he is not bold enough to read the resolutions to any regiment in the armies of the United States. Should he make the attempt, he would have to make a race more fleet than the race he referred to the other day from Bull Run, to keep himself from gracing the highest tree in the vicinity of such regiment. The “subsidized Army” and the “negro janizaries” will not be swift to forgive the Senator from Kentucky.

But I remember that when Congress, in 1861, was struggling, when there were before us a series of proposed amendments to the Constitution to establish and guaranty slavery south of 36° 30' forever in all territory in our possession, or hereafter to be acquired, when we were asked to allow slaveholders to range with their slaves all over the free States and hold them there for temporary purposes, when we were asked to amend the Constitution so that we could not abolish slavery in the District of Columbia without the consent of the slaveholders of Virginia, when we were asked to amend the Constitution so as to take away from the colored citizens in our own States the right of suffrage that they had enjoyed from 1776 to that time, and when we resisted it there was a meeting in Kentucky, at which the Senator was present, which passed a resolution that if the separation of the country should go on, they would amend the Constitution and ask other States to join them. I remember, too, that on the 28th of April, 1861, after Kentucky had refused to respond to the call of the President for troops to defend the capital, the Senator wrote home from Baltimore that Kentucky should arm herself and occupy a position, so that when the country was worn out with this war she could dictate the terms of peace. After that, the Senator came into this body proposing, as was said yesterday by the Senator from Maine, [Mr. MORRILL,] a series of resolutions of the most extraordinary character, and a confiscation bill from which the Senate and the country shrank.

But why is this change? Why is it that Jefferson Davis is not arraigned now in these resolutions, but Abraham Lincoln and his supporters? I will tell you why. The reason is that the

Senator from Kentucky has become on this subject of human slavery, when the world is outgrowing it and passing from it, a fanatic; he is to-day—I say it in no offensive sense—drunk with the fanaticism of slavery. That is the truth of it, and every movement made in this body, no matter what it has been, connected with slavery, that Senator has denounced. We found early in the war that traitors were permitted to go within the lines of our armies to hunt for fugitive slaves, and we brought in a simple article of war here to forbid it, and the Senator denounced that bitterly. We brought in a bill to abolish slavery in the District of Columbia and free the national capital forever from slavery and the nation from the shame and disgrace. The Senator then told us defiantly that

“If you proceed upon the principle of manumitting all the slaves in that State [Kentucky] that have belonged to persons who were in the rebel army, or who sympathized with the rebel cause, you will find that it is impossible; you will have no power to enforce the law, and you never will enforce it. There is no being in that State who would not rise up in revolt, and in deadly and continuous and never-dying hostility to any such system. We would hold the party in power, we would hold the misguided men in power that would endeavor to force that state upon us as the worst enemies with which the God of heaven had ever cursed us.”

When my colleague brought in a proposition to recognize Hayti and Liberia, the Senator denounced it, and retailed here the vulgar story of John Y. Mason—the man who Colonel Benton said was always satisfied if he had his belly full of oysters and his hands full of cards—who, though one of the chivalry at the court of France, showed that he had none of the instincts of a gentleman when he pronounced the ambassador of Hayti “with his clothes to be worth a thousand dollars.”

Sir, a proposition was made to establish schools to educate five or six thousand colored children in the District of Columbia, to teach them to read God’s Holy Word. The Senator from Kentucky rose in the Senate and denounced it, and undertook to ridicule it by telling the story of an Irishman who wrote home from the island of St. Lucia that if Irishmen came there they all turned negroes, and that we were very likely here in the Senate to turn negroes.

It will thus be seen, sir, that whenever any question connected with slavery has come up, that Senator has rushed to the floor to defend slavery. Every word spoken, every line written, every act performed, that keeps the breath of life in slavery in America for an hour, is now a crime against the unity of the Republic and the life of the nation. Every real statesman in America sees it; the people see it; and slavery is going down; but the Senator from Kentucky does not see it; and that explains his bitter and unrelenting denunciation of the Chief Magistrate of the Republic, and the men who are now administering the Government.

Mr. President, I introduced this resolution, as I said at the time, on my own responsibility. I presented the resolution from what I regarded to be a high sense of duty, and I would do it again, and will do it again whenever I see in the Senate of the United States resolutions brought in here in favor of secession or disunion or civil war. I believe with Major General Banks that “when the national existence is at stake, and the liberties of the people in peril, faction is treason.” But, sir, the Senator from Kentucky, in the letter sent to the Committee on the Judiciary, and in words spoken on this floor, has put upon the enduring records of the Senate his words of renunciation, of qualification, of modification of his language, and friends with whom I am accustomed to act are willing to accept his disclaimers and to take his own construction and interpretation of his language. I am not disposed to be more censorious than others, and therefore I accept these denials, these qualifications, modifications, and reservations.

With these modifications and these denials, these resolutions become simply a farce, the broadest kind of a farce. The whole country will launch its jibes and its jeers at them. They are now nothing; they now mean nothing. “Revolt” does not now mean revolt. The appeal to the people to take the Government into their own hands does not now mean that. The election of members to a national convention to terminate the war and reconstruct the Government does not now mean anything. Nothing can now come of it but a

pamphlet, or a respectable conservative gentleman to be beaten for the Presidency. A “subsidized Army” is now no longer a subsidized Army. I do not say that the Senator when he drafted his resolutions was very brave, that when he came to place them before the Senate and the country his courage oozes out of his fingers’ ends. But I certainly think, and the Senate and the country will certainly think, that he is swift in accepting the philosophy of Falstaff, that “discretion is the better part of valor.” But, sir, I accept all the Senator’s explanations, retractions, and disclaimers. The resolutions now mean nothing; they are nothing; and I drop them, and withdraw the resolution for expulsion.

The PRESIDING OFFICER, (Mr. LANE, of Indiana, in the chair.) The Senator from Massachusetts asks leave to withdraw the resolution. It can only be done by general consent. Is there any objection? The Chair hears none, and the resolution is withdrawn.

ADJOURNMENT TILL MONDAY.

On motion of Mr. HALE, it was Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

COLONIZATION OF COLORED PERSONS.

Mr. WILKINSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to inform the Senate, if not in his opinion incompatible with the public interests, whether any portion of the appropriation for the colonization of persons of African descent now residing in the District of Columbia to Hayti and Liberia, &c., has been expended, and what steps have been taken to execute the provisions of the act of Congress regulating the colonization of persons of African descent.

ENLISTMENTS IN THE ARMY.

Mr. WILSON. The Senator from Virginia [Mr. CARLILE] this morning moved to postpone the consideration of the bill to encourage enlistments until to-morrow, which was agreed to. I understand from him that he made the motion because the Senator from Missouri [Mr. HENDERSON] did not happen to be in his chair. The Senator from Missouri has no objection to proceed to the consideration of the bill to-day, I understand; I therefore move to reconsider that vote, in order to bring the bill up for consideration.

Mr. POWELL. I hope the Senator from Massachusetts will not make that motion. I should like to discuss that bill, and I am very unwell to-day.

Mr. WILSON. I suppose the Senator has no objection to allow us to take it up and let some other gentlemen proceed in its discussion.

Mr. POWELL. If other gentlemen desire to proceed, I have no objection.

The motion was agreed to; and the Senate as in Committee of the Whole resumed the consideration of the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The pending question is on the first amendment proposed by the Senator from Missouri, [Mr. HENDERSON,] in line five of section three, after the word “he,” to strike out the words “his mother, and his wife and children,” so that the clause will read:

That when any person of African descent, whose service or labor is claimed in any State under the laws thereof, shall be mustered into the military or naval service of the United States he shall forever thereafter be free, &c.

Mr. WILKINSON. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. JOHNSON. Before I give my vote on that amendment it is proper that I should state to the Senate, or those who may take an interest in the opinion I may have on the question embraced in the amendment, why it is that I shall vote in favor of the amendment.

I doubt very much if any member of the Senate is more anxious to have the country composed entirely of free men and free women than I am. If I had it in my power, and there were not mischiefs, as I think, necessarily to result from bringing that result about at once, I would vote for any measure that would have that effect, and I should therefore not hesitate to vote against this amendment if I believed there was any authority to pass the bill as it stands. I understand the bill to provide that upon the enlistment as a soldier of any man of African descent his wife and his children

are at once to be free. No provision is made to compensate the owner of the wife and children if they happen to be slaves, and it of course only applies to such wives and children as are slaves, those who are to be set free, and not those who are now free.

But independent of that, and assuming that that of itself would not be a sufficient objection to the bill, there is another ground upon which I think the bill as it stands is objectionable. From the beginning of the Government up to the present time, as far as I am advised—I mean to the coming in of the present Administration—it has been the conceded doctrine that slavery within the States was an institution depending entirely upon the constitution and laws of the State, with which the Government of the United States had no authority at all to interfere. That was certainly the view entertained by the Convention by whom the Constitution was framed. It was certainly the view entertained in each one of the State conventions of the people by which the Constitution was adopted, and has with equal truth certainly been the course pursued by the Government up to the coming in of the present Administration.

I have not by me what has been called the Chicago platform; but, according to my recollection of it, and in that particular I do not think I can be wrong, it announced the same principle as the one to be pursued by the incoming or the probable incoming Administration. Nor have I the inaugural of the President who was elected upon that platform, or the messages which from time to time he has sent to the Congress of the United States since he became President, but according to my recollection, in no one of his official papers has he attempted to claim for the Government of the United States any authority to interfere with the institution of slavery as it exists by the laws of the State. So far from it, in his original proclamation that was followed up eventually by the proclamation emancipating the slaves, he expressly confined the operation of that proclamation to slaves within the States where there existed a rebellion as against the authority of the United States. He excepted all Maryland; he excepted Kentucky; he excepted portions of Virginia; he excepted portions of Louisiana; and, as I understood, he thought that he was bound to make those exceptions because of his want of power to declare slavery at an end except as a war measure. According to his view the authority which the exigencies of the war might give him did not extend to the States in which there existed no rebellion against the authority of the United States.

Now, Mr. President, I represent the State of Maryland in part, and the Senate are not to be told, whatever dissatisfaction there may have been among certain citizens of Maryland, however they may have sympathized to a greater or to a less extent with this rebellion, and however some of them might have been willing to have Maryland constitute part of the confederacy which has grown out of the rebellion, that Maryland has from the first of this rebellion been true to her constitutional duty. Her laws have never for a moment been silent; nor has the duty of any of her functionaries, as far as I am advised, been other than that of perfect loyalty to the Government of the United States. She therefore stands, as I think, and I submit it to the Senate, entitled precisely to the same protection with reference to this domestic institution that she was entitled to before the rebellion broke out. I suppose that to be perfectly clear. Not having been out of the Union practically; on the contrary, always avowing herself to be in the Union in heart as well as in deed, she is just as much entitled to have such of her domestic institutions as the Constitution of the United States protected, or over which the authority of the United States could not be extended, as Massachusetts or Vermont, or any other State in which this particular institution does not exist, is entitled to have their own domestic concerns unaffected by the authority of the General Government.

We cannot interfere here with any of the institutions of Massachusetts. Massachusetts now, owing to her enterprise, owing to that wonderful enterprise, coupled with the inventive ingenuity of her people and their ever untiring industry, has not only not suffered by the war—materially I mean, except that suffering in which we are all sharers, the loss of our citizens—but on the con-

trary she has been growing rich. The statistics show that nearly all of the manufacturing establishments of Massachusetts that were before languishing are now in a condition of the most perfect prosperity. Where stock was worthless it is now more than a hundred per cent. above par. Where no dividends were being received, the most extraordinary dividends are now being received. Suppose it was proposed by a Senator from Maryland by legislation, which, in my judgment, would be equally within the province of the Senate or of Congress, to interfere with that particular kind of industry which is now so profitable to Massachusetts. Her Senators would at once say, "That is a matter over which you have no power, with which you have no concern; the Constitution of the United States never contemplated permitting you to come within the limits of Massachusetts and direct her industry."

Now what is our condition? We have thought—we are about to change our opinion as I think—that it was very material to the industry of Maryland that she should have the right to have compulsory labor, and our laws recognized it. The Constitution of the United States recognizes and provides in a certain contingency for its protection. What right have you to interfere? There is and can be but one ground; for if the Constitution of the United States does not give the power in words, if, on the contrary, the power is negatived by express provisions of the Constitution, it can only exist on the ground of military necessity; nothing else. I can understand that that necessity may be resorted to and made the foundation of action on the part of Congress in any legislation which Congress may think advisable as against the rebellious States; and the ground upon which I think so, and a majority of the people of the United States think so, and a majority of the Senate think so, and the Executive thinks so, is that, if this labor is left undisturbed the armies of the rebels will continue to be supported; they may be kept in the field; every man capable of bearing arms may be called out without any danger at all that the State is to suffer in its material wealth, because the laboring population is a slave population.

Now, I can very readily see, and I felt the force of it at the first, and I never doubted the right from the first—and Congress must decide for itself whether the exigency arises, and perhaps the Executive is to decide for itself whether the exigency arises—Congress or the Executive, as the case may be, has the right to decide for itself whether it is advisable to declare this compulsory labor at an end, so as to take from the rebellious States the means of carrying on their warfare. That has been done; and I think it has been done with very good results to a certain extent. But as the power to interfere is to be found alone in the necessity which war has produced, and that war is a war as against the seceding States, I want to know upon what ground of reason is it, upon what ground, I was about to say, of propriety is it—I use the term in no offensive sense—supposed or can be supposed, that you have a right to interfere with this institution in a loyal State whose sons are standing shoulder to shoulder with yourselves, periling life and health and fortune to support the Government?

If I should be restrained, as I certainly would be restrained by what I should consider imperative duty, from refraining to advocate on the floor of the Senate or anywhere else any measure which would strike at the industry of Massachusetts—I select Massachusetts only for illustration—over which the Constitution of the United States gives us no authority and upon the ground that there existed no necessity for such an interference looking to the end to be achieved, the suppression of the rebellion, it seems to me necessarily to result, when I ask for Maryland, or my friend from Missouri [Mr. HENDERSON] asks for Missouri, that you shall not interfere with this particular institution of ours, that you do not put yourself upon the ground on which you have heretofore stood, and the only ground, as I think, upon which you can stand.

Mr. GRIMES. Will the Senator allow me to ask him a question?

Mr. JOHNSON. Certainly.

Mr. GRIMES. Do I understand the Senator to admit that in order to put down the rebellion, if it becomes necessary in order to suppress the re-

billion, that we have a right to interfere with the affairs of Massachusetts?

Mr. JOHNSON. Certainly I do.

Mr. GRIMES. Then I suppose this is a mere question of expediency as to whether it is necessary in order to raise soldiers that we should do this thing in Maryland.

Mr. JOHNSON. I will speak of that in a moment. Mr. President, there is in every Government, and must be in every Government—in the sense in which the term has been used in the past—what may be called a higher law; and that exists, in my judgment, in every nation which finds itself unable under the restrictions of the Constitution suited to a time of peace, or if suited to a time of war found impotent to that end, to go outside of the Constitution and adopt measures that may be found to be absolutely necessary to preserve the life of the nation. I say boldly, and have always said, that if the life of the American nation depends upon transcending any of the particular powers of the Government, I would transcend them; and if I was President of the United States, and Congress was not in session, and I believed that any foreign nation was about to assail the United States and there was no constitutional remedy to save us from the pollution of their footsteps, I would assume the responsibility, and trust to the good sense and the patriotism of the country to defend me.

But I want to know, sir, when my friend from Iowa says that this is a mere plan of raising men, what he means. Does he mean to say that you cannot raise a black man and get him into the service of the United States without setting free his wife and his children, no matter where they are? Has that been found true in the past?

Mr. GRIMES. I will answer the Senator's question. I understand it has been true in the past, and especially in the Senator's own State. I understand that efforts have been made to raise troops in the State of Maryland, and that colored men object to going into the service because they say they are unwilling to leave their families—their wives and their little ones who are dear to them—still in slavery, to be thrust hither and yon, carried out of the State or transferred to some other master, while they are serving the country and helping to hold up its flag. It is for that reason, and for that reason alone, that I am disposed to vote for this proposition. I understand that to be so; and I have it from the very best military authority; and the chairman on Military Affairs will bear testimony to that fact.

Mr. JOHNSON. This is not the only instance, Mr. President, if the Senator will permit me to say so, in which I have discovered that it is necessary to go out of our State to ascertain what its actual condition is. I rather think I should be just as likely to know the feelings of the State as the honorable member from Iowa, or those from whom he derives his information; and so far as the particular fact is concerned, I have yet to know that any man who was able to bear arms and whom the military authority of the United States wished to bear arms has not, whether he willed or no, been compelled to bear arms. It is not a volunteering, in the sense in which we use the term. It is, with reference to our slaves, a conscription, literally.

Mr. GRIMES. I profess to have no knowledge personally on the subject. I am not familiar with the slave population or the white population of the State of Maryland. I have stated the authority upon which I have made my statement: that of the military gentlemen to whom the duty of enlisting colored men is intrusted in the State of Maryland; and I think I can appeal to the chairman of the Committee on Military Affairs for the truth of what I say as to their report.

Mr. JOHNSON. I certainly did not doubt that the Senator from Iowa stated what he did state upon information which he derived from others. I do not doubt that at all.

Now, as to the difficulty of raising men, no man on the floor of the Senate or out of it has a higher regard for the State of Massachusetts than I have. It is owing to causes coeval with the existence of the Government, and antecedent to the existence of the Government. There is no State in the Union which during the struggle for our independence more gloriously sustained all the principles of freedom than Massachusetts; nor is there any State in the Union since—she has swerved at

times, swerved perhaps from a superfluity of love for freedom—that has done more to sustain the cause of constitutional freedom than Massachusetts. I am not one of those, therefore, who would consent, if it depended on my consent whether the event should happen or not, that any Union should be re-formed leaving Massachusetts out. I want Massachusetts in. So far as depends upon my voice she will never be permitted to go out, even if she desired it. I want to share in the glories which she has won for the Government. I feel a pride just as intense as can be felt by the Senators from Massachusetts in that noble old State.

But I was about to say that, so far as my information goes, there is a great deal more difficulty in getting men in Massachusetts just now than there is in Maryland. Why were both the honorable members from Massachusetts, I think, certainly one of them, so anxious to be permitted to go into other States, to get substitutes and to have them credited to the quota of Massachusetts? Why did they want to get our slaves and have them credited to Massachusetts? I do not blame them, but why was it? Massachusetts wanted the labor of her men at home. She could spare money much more readily than she could spare men. I think that the number of slaves recruited in Maryland within the last year numbers upward of four thousand. I doubt very much—I do not speak from knowledge—whether Massachusetts has within that time recruited so many new men.

We do not propose to go into Massachusetts for the purpose of getting men there and having them credited to our quota. We think we are able to raise our quota among ourselves, and we are raising the quota among our own slaves under the authority of the General Government; so that, as far as the necessity for raising men is concerned, upon which the honorable member from Iowa places, as he supposes, the constitutional authority to pass this legislation, he might as well go into Massachusetts and interfere with any of the domestic institutions of Massachusetts, and put it upon the ground, "Down with your factories; repeal your acts of incorporation; stop your spindles; because it is your manufactories, your corporations, and your spindles that make it your interest to stay at home and not to fight the battles of the country if you can get anybody else to fight them for you." I am sure that the honorable member from Iowa would not suppose that any legislation of that description would be constitutional upon the ground that it is necessary to raise men.

But, sir, as I think, and I speak it with all that respect which I sincerely entertain for the honorable member from Iowa, it is rather injurious to the reputation of the United States to maintain legislation of this kind upon the ground that without it we cannot raise men. I have already said that let the necessity exist, and although I could not do it under the exact terms of the constitutional authority, I would support the Government and preserve the nation. I would not suffer the heritage which is ours to be lost by insisting upon a strict and literal enforcement of constitutional restriction. That is one thing; but being satisfied, as I am, that we are abundantly able to support the Government without violating the Constitution, then in my judgment it is as much my duty to protest against this legislation now as it would have been my duty if it had been proposed before the rebellion broke out.

But there is another thing. When did the Senator from Iowa, or those upon whose information he speaks, find that the slave men of Maryland alone, or rather the wives and the children of the slave men of Maryland, are to be affected by this bill?

Mr. GRIMES. I did not say so.

Mr. JOHNSON. Then the necessity does not exist.

Mr. GRIMES. I did not state that the people of Maryland alone would be affected by this bill. The Senator misunderstood me if he understood me as saying that. I only referred to Maryland as an illustration of the general proposition.

Mr. JOHNSON. I did not misunderstand you. I did not mean to say that the Senator had stated that. Sir, the bill provides that a slave enlisted anywhere, no matter where he may be, whether he be within Maryland or out of Maryland, whether he be within any other of the loyal States or out of the loyal States altogether, is at once to work

the emancipation of his wife and his children. He may be in South Carolina; and many a slave in South Carolina, I am sorry to say it, can well claim to have a wife, or perhaps wives and children, within the limits of Maryland. It is one of the vices and the horrible vices of the institution, one that has shocked me from infancy to the present hour, that the whole marital relation is disregarded. They are made to be practically and by education forgetful or ignorant of that relation. When I say they are educated, I mean to say they are kept in absolute ignorance, and out of that, immorality of every description arises, and among the other immoralities is that the connubial relation does not exist.

Now, pass this bill, and you will find it very difficult to prove who has a wife, or how many wives he has. I am not sure if they are not repealed in Maryland; but many of the laws originally, as they were in Maryland, certainly in some of the States, prohibit marriage. The law in Maryland does not prohibit marriage entirely, but prohibits it except with the consent of the master, either of a man or woman. Where it was prohibited altogether there was no marriage. To omit to use the term which would be applicable to such a condition of things, they lived together, but were never man and wife except in the eye of Heaven. How are you going to ascertain whether a man taken here in Virginia has a wife in Maryland? He will say so, and he will prove that the woman whom he claims to be his wife once associated with him. But that, according to our laws, is not marriage; that of course does not constitute husband and wife. I do not think I can be much mistaken in saying that unless you mean to recognize as marriage that which is not marriage, but anything else, the law will be ineffective; and if you do mean to recognize as marriage that which is not marriage, you clearly violate the Constitution; because, I suppose, if anything can be more true than anything else it is that over the concerns of marriage the States have exclusive jurisdiction. What contest there will be if you pass this law! There will be a dozen women claiming freedom: "I am the wife," and "I am the wife," and "I am the wife," and each will be able to prove it by precisely the same evidence. [Laughter.] Honorable Senators are laughing at very grave matters.

Mr. FESSENDEN. We can put in a proviso that but one shall be allowed.

Mr. JOHNSON. But which is to be the one? You do not limit it to Maryland. You pretend to legislate for the slaves of Maryland. You do away with the legislative authority of Maryland. You say to her, "Hands off; it is a matter with which you have nothing to do; we mean to emancipate whoever—be she one or be she many—is the wife or the wives that any man who goes into our Army may have at the time he goes there." Now, is it proper, I was about to say, in no offensive sense, is it decent to get up such a contest? I submit that it is not. I put it entirely upon the ground of an absolute want of authority; which, as I understand, no Senator will pretend to say is in the Constitution; I mean in any express provision to be found in the Constitution, or in any implied authority to be found in the Constitution, but exclusively upon the ground of military necessity that you are to interfere with our institution and take it out of our own hands.

Mr. President, in speaking for Maryland in connection with this topic, it is not to preserve the institution at all. It has no other existence there now than a legal one. There is not a slave there legally who would bring at this day, in the present state of things, ten dollars, except as hire. In other words, they are all now free. How made free? You who think that the institution is one which you have a right, and which you do, in the language of the Senator from Maine [Mr. FESSENDEN] who spoke last yesterday, hate, (I am not at all surprised at that,) you think, perhaps, that you have destroyed the institution. It is a great mistake. You had nothing to do with it. Such few of you—I do not mean Senators; I mean your people—such few of your people as desired to do away with it, had as little effect upon it as the air of heaven, and not half as much; for that ought to have humanized, and does humanize, the human heart; and the heart humanized, the institution, sooner or later, must expire. It has been put an end to by that sort of retributive jus-

tice which is sure, in the providence of God, to visit crime. The men who were here preaching their treason from these desks, telegraphing from these desks—I saw it, though I was not a member, and my heart burned within me—for their minions, or the deluded masses at home, to seize upon the public property of the United States, its forts, its means, its treasure, its material of war, and who were seeking to seduce from their allegiance officers of the Army and Navy of the United States—they have done it; and they were told that such would be the result. They did not believe it. They believed that your representatives would not have the firmness to try the wager of battle. They believed—I have heard them say so—that a southern regiment could march, without resistance, successfully from Washington to Boston, and challenge for themselves independence in Faneuil Hall. Sad delusion! Gross ignorance of the character of your people! You were free, and you knew its value. You are free and you are brave, because you are free; and, as I have told them over and over again, let the day come when in their madness they should throw down the gage of battle to the free States of the Union, and the day of their domestic institution will have ended. They have done it. I have said it was, as against them, retributive justice. Hoping and believing that their effort will be fruitless, that their treason will fail in its object, that the authority of the Government will be sustained, and the Union be preserved, I thank God that as a compensation for the blood, the treasure, and the agony which have been brought into our households, and into yours, it has stricken now and forever this institution from its place among our States.

But I invoke, not as a petition—as the representative of Maryland I am never here as a petitioner, in the common acceptance of that term. Her revolutionary history speaks for her, as that of Massachusetts speaks for Massachusetts. She has ever been loyal; temporary indications to the contrary everybody among ourselves understood. Some influential gentlemen, virtuous in everything else, high-minded and honorable in everything else, able to take rank in every deliberative body with the wisest and the best that have ever adorned this place, believed that it was to the interest of Maryland to go with the South. They believed, I have no doubt conscientiously, that the time had come when the South had a right to rebel. I endeavored, to the limit of my feeble ability, to convince them of their error from the first. Many have become convinced; the progress of events from time to time has destroyed the delusion; and there exists now within the limits of the State as firm an attachment for the Union as is to be found in any one of the States which yet constitute that galaxy which I hope is to be shortly increased by the return of all the States, to the delight of every lover of freedom the world over.

But I ask you, though not as a petitioner, do not transcend the Constitution so as to wound even the sensibility of our people. Be sure that the necessity upon which you suppose that it may be done exists; and if you can believe that you cannot get our negroes, or men of African descent wherever they may be found, into the military service without declaring them, their wives, and their children to be free, at least provide that the owners of the wife and children shall be paid. You did that here when you abolished slavery in the District. Ours is a much stronger case for the application of that rule of justice. You hate the institution. I do not find fault with you for that. I honor you for it. But we have been brought up under different influences. We have been taught to revere it. With some the teachings have had no effect. With many they have had a very persuasive effect, and they still have. They believe, and honestly believe, not only that the institution is legal, and one over which you have no control, but that it is of divine origin—madness, irreligious, and unchristian, in my judgment—founded upon the fact that the Saviour of the world while He was here never interfered with any existing institution, but only preached peace and good will to man, and all the moral and religious obligations which grow out of a faithful obedience to the law of our creation, without thinking that just as well they might have maintained the rightful, legal, moral, and Christian existence of the thousand of vices with which He did not by any force interfere, or ask for the interference of force. But that

is still their impression. You dislike it; and notwithstanding that dislike, your sense of justice—I mean legal justice, I mean moral justice, looking into the condition in which you were at the time—led you to provide that every slave manumitted by your legislation here should be paid for. Now you are about to take ours from us, over whom you have no constitutional control, without paying us for them. I submit whether that is right.

I have been led, Mr. President, to say a great deal more than I anticipated when I got up. My purpose was then simply to state the ground on which I should vote against this section of the bill. With these remarks I leave the question.

Mr. WILSON. Mr. President—

The PRESIDING OFFICER. The Senator will pardon the Chair a moment. The Chair will state that this amendment proposed by the Senator from Missouri may be regarded as one entire amendment, though it is to be executed in two different parts of the same section. The Chair, therefore, will cause the whole amendment to be read, and the yeas and nays may be considered as ordered on the whole amendment, if there be no objection.

The Secretary read the amendment, which was in section three, line five, after the word "he" to strike out the words "his mother, and his wife and children," and after the word "notwithstanding," in the seventh line, to insert,

And his mother, his wife, and children shall also be free, provided that by the laws of any State they owe service or labor to any person or persons who have given aid or comfort to the existing rebellion against the Government since July 17, 1862.

So that the whole section will read as follows:

That when any person of African descent whose service or labor is claimed in any State under the laws thereof shall be mustered into the military or naval service of the United States, he shall forever thereafter be free, any law, usage, or custom to the contrary notwithstanding; and his mother, his wife, and children shall also be free, provided that by the laws of any State they owe service or labor to any person or persons who have given aid or comfort to the existing rebellion against the Government since July 17, 1862; and all laws and parts of laws inconsistent herewith are hereby repealed.

The PRESIDING OFFICER. The Chair will consider the whole amendment as pending, if there be no objection; but if there be objection, as the yeas and nays have been ordered on the first part of the amendment, the question will be taken on the first part. Is there any objection to the whole amendment being considered as before the Senate? The Chair hears none.

Mr. SHERMAN. I desire to discuss the general question involved in this bill at more length than the Senate would be disposed to give to-night.

Mr. SUMNER. If the Senator will give way, I will make a motion to adjourn.

Mr. SHERMAN. I will do so with pleasure, but I wish to move, in order that the subject may come up regularly, and as it is an important bill, that it be made a special order.

Mr. SUMNER. If we adjourn now it will be so.

Mr. SHERMAN. Very well.

Mr. SUMNER. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 28, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

EXPENSES OF ARMORIES, ETC.

The SPEAKER, by unanimous consent, laid before the House a communication from the War Department, transmitting a statement of the expenditures at the national armories, &c.; which was laid upon the table, and ordered to be printed.

NAVIGATION OF THE OHIO.

Mr. BLAIR, of West Virginia, by unanimous consent, presented joint resolutions of the Legislature of West Virginia in relation to the navigation of the Ohio river, and moved that they be referred to the Committee on Commerce, and printed.

Mr. MOORHEAD. I hope the resolutions will be referred to the Committee on Naval Affairs. The subject is already before that committee.

Mr. HOLMAN. Would it not be more proper to refer the matter to the Committee on Roads and Canals?

Mr. MOORHEAD. The subject has already been referred to the Committee on Naval Affairs.

Mr. BLAIR, of West Virginia. I will accept the suggestion of the gentleman from Pennsylvania, and move that the resolutions be referred to the Committee on Naval Affairs, and be printed.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. WILSON. I wish to submit to the House a proposition in relation to the discussion of the joint resolution reported from the Committee on the Judiciary in reference to the question of confiscation. I propose, sir, that to-morrow and the next day be set apart by unanimous consent for discussion upon that measure, with the understanding that no other business shall be done, and that no vote shall be taken. That will give gentlemen upon both sides of the House an opportunity to make such remarks as they desire, and we shall thus save the time of the House by removing this subject out of the way of reports from other committees. If there is no objection, I hope that that order will be made.

Mr. SCHENCK. I wish to enter a very emphatic objection to that proposition. I hope that all those who are in favor of supporting this Government will help me to get up the bill amendatory of the enrollment law.

Mr. WILSON. I appeal to the gentleman from Ohio to withdraw that objection.

Mr. SCHENCK. Under no possible circumstances will I do it.

Mr. WILSON. Then the result will be that the House will adjourn over Saturday, and that we shall lose that much time.

Mr. DAWES. I desire to state to the House that either to-day or to-morrow I wish to ask their attention to some reports from the Committee of Elections, but if the gentleman from Iowa [Mr. Wilson] wants to-morrow and the next day, he can have them provided the House will give us an hour or an hour and a half to-day.

Mr. STEVENS. I wish to say, with great respect, to the chairman of the Committee on Military Affairs, that I am not prepared to vote upon his bill. He announced yesterday that copies of the substitute proposed by the Committee on Military Affairs would be distributed to members. The substitute has not been distributed, and is now for the first time before the members of the House. Now, it is a very important bill, and I wish to have an opportunity of reading it. I am not prepared to act immediately on that bill, and if it is forced upon us for immediate action, although I desire in all things to sustain the Administration, I cannot sustain it by voting blindly on this bill. I hope the gentleman will give us further time. I shall go with him as far as I can, but we may wish to propose amendments to the bill, and we must have time to prepare them.

Mr. SCHENCK. If it be in order, I desire to state exactly what I desire to do with this enrollment bill. I want to surprise no one, to take advantage of no one, to deprive no member of a full opportunity of investigating the subject so as to vote understandingly upon it.

The gentleman is mistaken in supposing that the bill has not been upon the tables of members. The bill of the Senate, with the substitute proposed by the Military Committee of this House, was printed and laid upon the desks of members the day before yesterday. It was then discovered that the substitute as printed contained many verbal errors; in some instances there were transpositions of clauses and the erroneous numbering of sections.

Yesterday the bill was returned to the Public Printer, in order to have these errors corrected and the bill printed precisely as the amendments were reported from the Committee on Military Affairs. It has been, therefore, substantially before the House for two days. It is now before the House this morning, amended in every particular, with the exception, I believe, of the omission of a single word of no importance.

Under these circumstances what I propose to do to-day in reference to this bill is this: The Committee on Military Affairs is—and I particularly as one representing that committee am—without any disposition to hurry through and carry by

improvident and too hasty legislation any measure of great public importance. The very fact that in the committee of which I am a member, members found, as they discussed from time to time the various principles and matters of detail contained in this bill, that their opinions were modified; and some entirely changed, convinces me that the House, as a body, should not legislate hastily on the bill, but should take all reasonable time—considering the emergency of the occasion—for a fair consideration of all amendments that may be proposed, and for a proper discussion. It was with this view, Mr. Speaker, that when I was directed to report the bill to the House, as amended by the Committee on Military Affairs, I first put it to the House to refer it to the Committee of the Whole on the state of the Union. This was done by unanimous consent. I then asked that it might be made the special order for Wednesday last, my motion being submitted on Monday last, the very first day that the bill could be possibly reported back in the House. On the motion to suspend the rules, the only way in which that object could be reached, two-thirds of the House did not sustain me in making it a special order for yesterday. Now, is it necessary for me to speak at any length to members of this House, representatives of various constituencies throughout the country, of the importance of having some action taken on a bill of this kind? This House, together with the other branch of the legislative body, has directed a postponement of the draft till the 1st of March. That time is now fast approaching. The Committee on Military Affairs of the House would have reported some days since a bill independent of the Senate bill, but, on conference with the committee, on comparison of notes, and on looking at the whole subject, it was found that, generally, the views of the Senate committee and of the House committee were so nearly the same that the whole matter could better be considered and understood by the House and passed upon if the committee would wait and offer their bill at the earliest possible opportunity—as they did—as an amendment to the Senate bill; and it is in that shape it comes before us.

If we take up the bill at this time, we cannot reasonably expect, short of a few days, with any discussion of it or any consideration of amendments, to pass it. That will bring us into the next week, and then there will remain little more than three weeks before the 1st of March. Is it necessary that the bill should be passed, and passed soon? All military men, I think, agree, and I think all thoughtful and observant loyal men agree, that within a short time, probably not later than early in April, will come the tug of this war, will come the last despairing mad effort of these rebels once more to break the Union lines, drive back our forces, recover the territory they have lost, and, it may be, make an invasion of the loyal States.

This must be prevented. In order to prevent it we must take every means to obtain men. We must resort to all the resources of the country in order to have men to meet any despairing struggle of that kind that may be made on the part of the rebellion. Three weeks then only being left, even if we undertake to expedite the passage of this bill, is little enough time for preparation, in order, on the one hand by the actual passage of this bill, to stimulate further reenlistments and further recruiting, and on the other hand to throw the Government on the draft in order to supply any lack of men that there may be.

Now, sir, under these circumstances, to oppose making this bill a special order seems to me to amount to nothing more, nothing less, than an attempt to prevent the Government from resorting to the only means left to procure the forces necessary to put an end to the rebellion. I am surprised, therefore, that more than one third of the House should have concurred by their votes in preventing that only action which could be resorted to in order to expedite the passage of the bill. In good faith the Committee on Military Affairs proposed to put the bill where there could be discussion; to put it where there might be a reasonable and fair opportunity to consider it in principle and in detail, and where amendments might be offered. But to put it there and leave it there to be buried under the business of the House and carried over indefinitely, in all human

probability beyond the time indicated for the making of the draft, would have been to deny to the Government the benefit of the bill as a means of raising men to carry on the war. I was unwilling, therefore, to have it simply referred to the Committee of the Whole on the state of the Union, and the Committee on Military Affairs were unwilling that that should be done unless there was an understanding on both sides of the House that it should be taken up and acted upon speedily.

Mr. WASHBURNE, of Illinois. Let me interrupt the gentleman for a moment. Cannot the gentleman obviate this difficulty by bringing the bill and amendments back into the House and have them considered and acted upon section by section?

Mr. STEVENS. Suppose that the House should agree that the bill be made a special order for Monday next. Would that suit the gentleman from Ohio?

Mr. SCHENCK. The emergency is a great one, and I think that an earlier day ought to be fixed.

Mr. STEVENS. As I have stated, I have not yet read the bill before the House, because it has not yet been printed and laid before us. The gentleman from Ohio informed us that an entirely new bill would be presented on the part of the Committee on Military Affairs, and it is only right that we should have an opportunity carefully to examine that proposition. It is very far from my design or wish to obstruct action on the part of the House. I am willing that it shall be made the special order for Monday next.

Mr. SCHENCK. I greatly prefer that it should be made a special order for one day this week. Do not let us adjourn on Saturday.

The SPEAKER. Any such understanding must be by unanimous consent.

Mr. SCHENCK. Gentlemen seem to prefer that the bill should be made a special order for Monday next. I do not object to that, if it be the understanding of the House, namely, that it shall be made the special order in the Committee of the Whole on the state of the Union for Monday next, and from day to day until disposed of. If that be the understanding, I will withdraw my motion to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union in order to bring the whole matter back into the House.

Now, Mr. Speaker, the remarks which I have made apply to a fact which I do not want the House to lose sight of, and that is, that the bill shall be subject to the control of a majority of the House. I do not object that the bill shall remain in the Committee of the Whole on the state of the Union, where members may have an opportunity to discuss it and to amend it, provided that neither debate nor amendment is abused, and the bill is brought back to the House in good time for action.

Mr. STEVENS. The gentleman's proposition is a fair one; it does not cut off debate or amendments, and I hope that it will be agreed to.

Mr. STILES. Let it be made the special order for Tuesday instead of Monday.

Mr. FERNANDO WOOD. I object.

Mr. BROOKS. I think, Mr. Speaker, that there will be a general concurrence of opinion on the subject if we understand each other. The only doubt that exists in the minds of gentlemen is in reference to how long discussion will be allowed. What length of time does the chairman of the Committee on Military Affairs feel disposed to give to the House for discussion of this measure in the Committee of the Whole on the state of the Union?

Before the gentleman from Ohio answers that question, I hope that I will be permitted to say that, while I am opposed to a conscription, I am nevertheless indisposed to throw any obstacles in the way of action. I agree with the gentleman that whatever is to be done on the subject ought to be done quickly. Although I intend to oppose the bill by every proper parliamentary action, yet I shall not resort to any of its devices to unnecessarily delay action. What we desire to know is what length of time it is proposed to give for discussion?

Mr. SCHENCK. As I have already declared, I am no friend of the previous question, and to legislating under duress. But I cannot answer for what the House may determine to do. If the

bill be referred to the Committee of the Whole on the state of the Union and discussed on its merits, section by section, I shall expect the discussion to go on for a reasonable period, say one or two or three days, as may seem to be the disposition of the House. Unless, let me add, I find that gentlemen are only considering the bill as a hook upon which to hang speeches on all manner of subjects, and then I shall ask the House to limit the debate. I believe that five minutes will be sufficient for every gentleman to advocate or oppose the amendments to the details of the bill. If I find that the five minutes' debate is abused, then I shall ask the House to terminate it and confine members to amendments. Every amendment may then be offered until amendment is exhausted.

Mr. BROOKS. Why not fix Thursday or Friday of next week for closing the general debate on the bill?

Mr. STEVENS. If the bill be made a special order, the debate, under the rules, must be confined to the merits of the measure.

Mr. FERNANDO WOOD. If I understand the proposition of the gentleman from Ohio [Mr. SCHENCK] I think that it is unobjectionable. It is that he consents to a reference of the bill to the Committee of the Whole on the state of the Union; that there shall be full opportunity to discuss the merits of the bill; and that if he discovers we are abusing the privileges which are granted to us he will then propose the five minutes' debate. If that be the understanding, this side of the House I believe will cheerfully agree to it.

Mr. MILLER, of Pennsylvania. The answer of the gentleman from Ohio to a question which I will propose to him will determine my vote in regard to this matter. I ask him whether his idea of duress in reference to legislation is the same as that which is understood to be his idea of duress in reference to the exercise of the elective franchise? [Laughter.]

Mr. SCHENCK. Whenever that question comes up the gentleman shall hear my ideas on that point fully. I am now engaged upon the enrollment act.

I wish it understood, in response to the suggestion of the gentleman from New York, that two or three days in such an emergency as we are now in, the bill having probably to be returned to the Senate, would be quite a reasonable length of time to allow debate, excepting the five minutes' debate.

Mr. GARFIELD. If the House will allow us to take up the bill to-morrow, we shall have more time for its discussion than if we postpone it.

Mr. WASHBURNE, of Illinois. I think the proposition of the gentleman from Ohio [Mr. SCHENCK] is more acceptable to the House.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] asks unanimous consent of the House that the enrollment bill be made the special order for Monday next at two o'clock p. m., and from day to day until disposed of. Is there objection?

Mr. FERNANDO WOOD. I object to making it a special order.

Mr. STEVENS. Well, if it be not made a special order any question may be discussed, and the object of the gentleman from Ohio will be defeated.

Mr. KERNAN. I submit to both sides of the House that it is better to make the bill a special order, because then gentlemen will have to discuss the merits of the bill and nothing else.

Mr. FERNANDO WOOD. I understand that the effect of making the bill a special order will be to keep the subject before the Committee of the Whole on the state of the Union until disposed of. I object to that.

Mr. SCHENCK. Very well; there is a privileged motion pending, one to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union, and if gentlemen upon the other side insist upon delay for the purpose of defeating the bill, and will not go into a fair discussion of the measure, I must call up the motion to reconsider.

Mr. PENDLETON. I move to lay the motion to reconsider upon the table.

Mr. SCHENCK. My colleague has not the floor for that purpose.

Mr. YEAMAN. I desire to say, with the permission of the gentleman from Ohio, [Mr. SCHENCK,]

that I hope the objection from this side of the House to making this bill a special order will be withdrawn. It is very important that this bill shall be taken up and acted upon. I think there will be no disposition on any side of the House to indulge in general debate upon it. There will be ample opportunity for gentlemen upon both sides of the House to discuss every subject as fully as they desire. It is necessary, if we intend to do anything at all upon this measure, that it should be done soon. We have an opportunity now, under the proposition of the chairman of the Committee on Military Affairs, to discuss this subject as much as we choose. I appeal, therefore, to gentlemen to allow the bill to be made a special order.

Mr. FERNANDO WOOD. My objection is grounded principally upon the shortness of the time that the chairman of the Committee on Military Affairs is disposed to allow for this discussion. I understand that he proposes to allow only two or three days. Now, sir, a bill of these immense proportions, involving considerations of such a grave character, and upon which so much can be said—a bill which has been discussed in the Senate from the commencement of the session up to the present time—cannot be properly discussed here in two or three days. If the gentleman from Ohio will say that we shall have ample time to discuss the merits of the bill, no extraneous matters to be introduced, I will withdraw my objection to the bill being made a special order. I will say to the gentleman that this bill has not yet been printed and put upon our desks; we know nothing about its details, and I therefore insist that we should have the fullest opportunity to examine the bill.

Mr. FARNSWORTH. The bill has been printed for two days.

Mr. FERNANDO WOOD. It has not been distributed here.

Mr. WASHBURNE, of Illinois. I understand the gentleman from New York [Mr. FERNANDO WOOD] to withdraw his objection to making this bill a special order.

Mr. FERNANDO WOOD. Provided we are allowed ample time for discussion.

Mr. SCHENCK. The gentleman from New York expects me to say that I will give reasonable time for debate, leaving to each gentleman the right to say what a reasonable time is. I think it better to have the matter understood now. But taking into consideration the shortness of the time left, the emergency of the occasion, that this bill must be passed, and passed immediately, when I say two or three days for general discussion I think I state enough. After that there will be an opportunity given for five minutes' discussion, and that is the most profitable sort of discussion in this House. If general consent be given to make the bill a special order I have no more to say. If not, I shall ask for a vote on my motion to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The proposition is that the bill shall be made the special order for Monday next, at two o'clock; is there objection?

Mr. FERNANDO WOOD. With no understanding as to the termination of the discussion of the bill in committee? We must have a reasonable time—time which in our estimation is sufficient for its discussion. I am very reluctant, indeed, to be compelled to say that we intend to maintain our rights in this House; that the Constitution and laws of the country give no priority to one side of the House over another; that every member here has his constituents to whom he is responsible, and who look to him to do his duty on this and every other grave question coming before the House. Rather than submit to be compelled to close our mouths in opposition to this infamous, unconstitutional conscription law, we will take advantage of the rules of the House and use them as we best can to prevent such a result.

The SPEAKER. Does the gentleman from New York object?

Mr. FERNANDO WOOD. I do object.

Mr. SCHENCK. The Constitution makes Congress, of which this House is one branch, a department of the Government; and I presume that it was the intention that, in all the courses of legislation, a majority should control the ac-

tion of the House. We are here, however, in a position to offer to one third of the House a fair consideration of this subject. That we offered when I moved last Monday to suspend the rules in order to have the bill made a special order in the Committee of the Whole on the state of the Union. There was opposition to that from one third of the House, which opposition, I think, is now plainly developed to mean nothing more nor less than a disposition not to let an enrollment bill be passed at all, and to prevent its consideration as a means of its passage, if that can be also done. If there cannot be general consent to making the bill a special order, I call up the motion to reconsider the vote by which it was referred to the Committee of the Whole on the state of the Union; and on that I move the previous question.

Mr. PENDLETON. I move to lay the motion to reconsider on the table.

Mr. KERNAN. I ask consent to put a question on this subject to the chairman of the Committee on Military Affairs.

There was no objection.

Mr. KERNAN. I simply desire to inquire whether in the event of the bill being taken from the Committee of the Whole on the state of the Union, and brought back to the House, the gentleman will there give such a fair opportunity as he can afford to have the merits of the bill discussed to a reasonable extent and amendments offered.

Mr. SCHENCK. Mr. Speaker, I feel disinclined to make any condition in the House. The bill will then be in the control of the House, and the majority of the House can determine, from time to time, how it will dispose of the bill, and how soon it will dispose of it. I am willing to enter into a fair arrangement, considering the shortness of the time, in Committee of the Whole on the state of the Union; but I am not willing to enter into any arrangement as to what the House may do.

Mr. PENDLETON called for the yeas and nays on the motion to lay on the table the motion to reconsider.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 94; as follows:

YEAS—Messrs. James C. Allen, Ancona, Bliss, Chanler, Coffroth, Dawson, Dennison, Eden, Edgerton, Eldridge, Hall, Harding, Benjamin G. Harris, Herrick, William Johnson, Kalbfleisch, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Prayn, Radford, Robinson, Rogers, James S. Rollins, Ross, William G. Steele, Stiles, Strouse, Voorhees, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—47.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Ganson, Garfield, Gooch, Grinnell, Griswold, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Kernan, Loan, Longyear, Marvin, McAllister, McClurg, McIndoe, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Perlman, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, John B. Steele, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Yeaman—94.

So the motion to reconsider was not laid on the table.

During the call of the roll,

Mr. WINDOM stated that his colleague, Mr. DONNELLY, had been called from the city yesterday by the death of his child.

Mr. RANDALL, of Kentucky, stated that his colleague, Mr. ANDERSON, was confined to his room by sickness.

The vote was announced as above recorded.

The previous question was seconded, and the main question ordered to be put.

Mr. CHANLER demanded the yeas and nays on the motion to reconsider.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 44; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, Bailly, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Driggs,

Eckley, Eliot, Farnsworth, Fenton, Frank, Ganson, Garfield, Gooch, Grinnell, Griswold, Hale, Herrick, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Kernan, Loan, Longyear, Marvin, McAllister, McClurg, McIndoe, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Perlman, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, John B. Steele, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, and Yeaman—100.

NAYS—Messrs. James C. Allen, Ancona, Bliss, Brooks, Chanler, Coffroth, Dawson, Dennison, Eden, Edgerton, Eldridge, Harding, Harrington, Benjamin G. Harris, William Johnson, Kalbfleisch, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Robinson, Rogers, James S. Rollins, Ross, William G. Steele, Stiles, Strouse, Voorhees, Joseph W. White, Winfield, and Fernando Wood—44.

So the vote referring the bill to the Committee of the Whole on the state of the Union was reconsidered, and the question recurred on the motion to commit the bill.

Mr. SCHENCK. I move to postpone the consideration of the bill until Monday next, at two o'clock.

Mr. PENDLETON. I hope no objection will be made to that motion.

The motion was agreed to.

SHELBY REBEL RAID.

Mr. KING. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the Secretary of War be requested to lay before the House the official report of Brigadier General E. B. Brown, of the department of the Missouri, of his military operations in October last against what was known as the Shelby rebel raid into Missouri.

Mr. BOYD. I object.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, notifying the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

A bill (S. No. 12) extending the time within which the States and Territories may accept the grant of lands made by the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862;

A bill (S. No. 60) amendatory of the homestead law, and for other purposes; and

A bill (S. No. 65) to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863.

CONFISCATED PROPERTY.

The House again resumed the consideration of the joint resolution (H. R. No. 18) to amend a joint resolution explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862.

Mr. WILSON. I ask the unanimous consent of the House that to-morrow and the next day, Friday and Saturday, be set apart for the discussion of this joint resolution, with the understanding that no business be transacted, so that the discussion may be finished and the resolution put out of the way, giving the committees of the House an opportunity to report other business.

Mr. ELDRIDGE. I object.

Mr. RANDALL. I ask the unanimous consent of the House to introduce a resolution which I know will meet the approbation of the other side of the House.

Mr. WILSON. I object, and ask that the discussion of this joint resolution may proceed.

Mr. FINCK. Mr. Speaker, the debate on the resolution under consideration has led to the examination and discussion of questions of grave interest to the country, and demand from this House, as I have no doubt they will receive from the people, a most careful and prudent consideration.

We live, Mr. Speaker, in an eventful period of the history of this nation. Everything seems to be unsettled and thrown upon a sea of uncertainty. Plain provisions of the Constitution, which

have heretofore been regarded as settled beyond controversy, are now called in question, and new and unheard-of constructions placed upon them. The provision contained in the third section of article three of the Constitution, which provides that "the Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted," is now gravely argued in this House by astute lawyers and distinguished statesmen to mean that Congress may, in declaring the punishment of treason, provide for the forfeiture of the estate not for life only but in fee. Sir, before the year 1862 there did not exist in this country any difference of opinion upon this clause of the Constitution. No one dreamed that the Constitution had vested in Congress any power of declaring a forfeiture beyond the life of the person convicted of treason; but that by express provision the forfeiture was to be limited to the life of the traitor. That such was the construction of the framers of the Constitution is evidenced by the writings of James Madison, justly entitled to be called the father of the Constitution, and by the legislation of the First Congress, of which many of the framers of the Constitution were members. The opinions of Justice Story, already cited in this debate, show how clear that distinguished jurist was on this question.

Sir, I was about to say that I was astonished that there should exist in this House any difference of opinion upon a clause of the Constitution which has for more than seventy years been regarded beyond controversy; but the sad occurrences which have unfortunately taken place in this country within the last three years admonish me that I should not be astonished at anything. It seems to me, Mr. Speaker, that the honorable gentleman from Pennsylvania [Mr. STEVENS] has exhibited more boldness and frankness in this discussion than any gentleman on that side of the House. He does not seek by any subterfuge to avoid the force of this provision of the Constitution, so plain in itself, but marches boldly out, the leader of his side of the House, and takes the distinct ground that the Union is already dissolved, and that this question is one outside of the Constitution. He says that—

"The United States are at war with an acknowledged belligerent, with a foreign nation, and as such war has abrogated all former compacts existing between them, neither the United States, nor the confederate States can, as against the other, claim the aid of the Constitution or the laws passed under it."

That the States in rebellion are no longer a portion of the United States, but are outside of the Union, and are to be conquered and held as subjugated territories; and argues that this Government, on becoming the conqueror, is, by the law of nations, clothed with the right, and should exercise it, to confiscate and appropriate the property of the people of the States thus to be conquered. Well, we have here a distinct recognition of the confederate States, and a concession of what Jeff. Davis and the leaders of the rebellion claim. They insist that they are "outside of the Union," and that the "former compact existing between them" and the United States has been abrogated, and the honorable gentleman from Pennsylvania admits it.

The questions discussed by the gentleman from Pennsylvania [Mr. STEVENS] are of so important a character, and embrace a range of examination somewhat more extensive than anything which has been advanced in this discussion, that I shall feel it my duty to examine the several questions which he has alluded to in his argument. To sustain his position, that the States in rebellion are out of the Union and constitute a foreign nation, the honorable gentleman quotes from Vattel, Phillimore, and Kent, to show that a war between two nations annuls and abrogates the treaties which had existed between the belligerents. Sir, I respectfully submit that the authorities cited are not in point. These States were not held by the force of treaties, but by a Constitution adopted and assented to by each of them, and by their people through their conventions. I fully admit that when a civil war breaks out between the different members of the same society the contending parties are each entitled to all the rights and usages of war as against each other. This is a rule of necessity, and is established by the plainest dictates of humanity and Christian civiliza-

tion. Writing on this subject, Mr. Wheaton says in his excellent work, page 520:

"A civil war between the different members of the same society is what Grotius calls a mixed war; it is, according to him, public on the side of the established Government, and private on the part of the people resisting its authority. But the general usage of nations regards such a war as entailing both the contending parties to all the rights of war as against each other, and even as respects neutral nations."

But I claim that there is nothing in this sound and necessary principle of public law which implies in a case like ours that these States are outside of the Union and constitute a foreign nation. It is not against the States as such that the war is to be prosecuted, but against the people in the States who are in armed resistance to the authority of the United States.

A rebellion exists within a portion of the States, carried on by a portion of the people in those States. They have for the time being prevented the execution of the Federal laws within certain boundaries, but their ordinances of secession, being invalid and unconstitutional, no force which they may bring to maintain such acts can give them legality until they shall successfully establish their separation, and this would be successful revolution, and constitute them before the world a distinct nation.

I believe, Mr. Speaker, this unfortunate result of breaking up the Union may be averted by wise and prudent statesmanship; but, sir, I do not believe the policy advocated by the gentleman from Pennsylvania [Mr. STEVENS] or that which is presented by the President can do so. Sir, I am for the Union of these States, not as subjugated and conquered States, but as equal States, such as our fathers intended them to be.

The people I have the honor to represent on this floor are for the old Union. I believe the people of the entire Northwest are for that same Union under which they grew up and prospered; but, sir, that Union has been denounced on this floor. The Constitution as it is and the Union as it was are assailed not only by traitors in arms, but by gentlemen in this House. They want an amended Union, an amended Constitution.

Sir, if the policy of this Administration and its friends shall prevail, we never shall have the Union as it was nor the Constitution as it is. Sir, was it for some other Union, some other Constitution, that a million and a half of brave and gallant men have been sent to the field and a debt of two or three thousand million dollars incurred? Sir, is all this sacrifice of blood and treasure to result in the dissolution of the old Union and the permanent change of the old Constitution? I trust not.

Mr. Speaker, we stand before the world to-day a great military Power. The development of the strength and vast resources of this country during the war, both upon the sea and upon the land, have astonished the world, and are perhaps unparalleled in history; and who doubts, if this combined strength had been used for the simple and the single purpose of vindicating the rightful authority of the United States, and restoring all the States with their rights and local institutions unimpaired to the Union, accompanied by a wise and conciliatory course of civil policy, that the struggle would now be closed, the Union restored?

If this war is to be continued for some other and different purpose, if it is to be waged against the property and local institutions of the States and for the purpose of subjugation and conquest, as advocated by the honorable gentleman from Pennsylvania, [Mr. STEVENS,] it cannot fail to excite more desperate and united opposition on the part of the South and continue the struggle much longer, and finally terminate in the permanent dissolution of the Union. Sir, there is a limit beyond which this war, and beyond which no war can be continued, without utter and complete bankruptcy and exhaustion. It must sooner or later come to an end, and it becomes us wisely and carefully to consider whether the highest considerations of patriotism and duty to the people of this country do not require that this war shall be limited to the purposes announced on the part of this Government at the commencement.

Mr. Speaker, I cannot concur in the doctrine advocated here by the distinguished gentleman from Pennsylvania [Mr. STEVENS] on the subject of confiscation, either as applied to real or personal property. I understand him to maintain

that by the laws of war the conqueror may seize and convert everything that belongs to the enemy, not only public property, and the territory of the enemy, but also the private property of individuals, men, women, and children, both movables and immovables.

Sir, no such instance has taken place since the conquest of England by William of Normandy, unless indeed the case quoted by the gentleman from Pennsylvania [Mr. STEVENS] of the conduct of England with her subjects in India be authority. Sir, it seems to me this is the last authority which should be quoted before this House. The conduct of Great Britain toward her India possessions has been marked by a violation of every law, public and private, and I trust will never be adopted by this country, and no such doctrine has up to this time been recognized or assented to by the United States, as I will endeavor to show before I close.

And now, first, as to real estate. By a conquest of an enemy's territory the successful party does not obtain such absolute rights to the real estate as will warrant him in disposing of the soil. He only obtains the mere right of occupancy, and the possession does not ripen into title unless it shall be confirmed by treaty or by the total abandonment by the conquered party of an effort to regain it. But this doctrine does not include private property, and has reference only to the property of the belligerent enemy—to public property. On this question Mr. Wheaton, in his excellent Treatise on International Law, pages 596 and 597, says:

"In ancient times both the movable and immovable property of the vanquished passed to the conqueror. Such was the Roman law of war, often asserted with unrelenting severity; and such was the fate of the Roman provinces subdued by the northern barbarians on the decline and fall of the western empire. A large portion, from one third to two thirds of the lands belonging to the vanquished provincials, was confiscated and partitioned among the conquerors."

"The last example in Europe of such a conquest was that of England by William of Normandy. Since that period among the civilized nations of Christendom conquest, even when confirmed by a treaty of peace, has been followed by no general or partial transmission of landed property. The property belonging to the Government of the vanquished nation passes to the victorious State, which also takes the place of the former sovereign in respect to the eminent domain. In other respects private rights are unaffected by conquest."

This authority is direct and in point, and the same principle of law has been recognized by this Government on several occasions, to which I shall refer hereafter.

Allow me again to read from Wheaton, pages 682 and 683:

"We have seen that a firm possession, or the sentence of a competent court, is sufficient to confirm the captor's title to personal property or movables taken in war. A different rule is applied to real property or immovables. The original owner of this species of property is entitled to what is called the postliminy, and the title required in war must be confirmed by a treaty of peace before it can be considered as completely valid. This rule cannot be frequently applied to the case of mere private property, which by the general usage of modern nations is exempt from confiscation. It only becomes practically important in questions arising out of alienations of real property belonging to the Government made by the opposite belligerent while in military occupation of the country. Such a title must be expressly confirmed by the treaty of peace, or by the general operation of the cession of territory made by the enemy in such treaty."

It will be observed that this rule governs the property belonging to the "Government" of the conquered belligerent, and does not apply to "mere private property."

The doctrine that the conqueror may seize, confiscate, and partition the private property of the men, women, and children of the enemy, as claimed by the gentleman from Pennsylvania, [Mr. STEVENS,] is one on which the United States has never acted, but has expressly repudiated, and is a principle which its people will be slow to adopt. But the rule could not be applied, even if it existed, as claimed by the honorable gentleman, to the war now existing between this Government and those in rebellion against it, for the plain reason that this war cannot result in such conquest as that claimed by the honorable gentleman, [Mr. STEVENS.] The usurped or *de facto* government has for the time being excluded the United States from the exercise of their legitimate jurisdiction within certain districts of country; but this *de facto* power is merely a usurpation, and has no legal title to any of the territory over which it now exercises jurisdiction, and holds by the mere naked right of possession. It has no such legal and firm rights

as, on the complete success of this Government in regaining its jurisdiction, will vest any additional right in this Government which it did not possess prior to the rebellion. We merely come again into the possession and exercise of the rights and jurisdiction of which we have been deprived by the unlawful organization of the confederates; and when we so regain that jurisdiction we can only exercise it under and by virtue of the Constitution of the United States, and not in the character of conqueror.

But I ask gentlemen on the other side how they regard those who are within the jurisdiction of the *de facto* government, and who have aided in the rebellion? Do they concur in the views of the distinguished gentleman from Pennsylvania, [Mr. STEVENS? Are they to be regarded as citizens of the United States, and subject to our laws, or as citizens of a belligerent Power? If as citizens subject to our laws, then it is clear, as already stated in this debate, that they can only be punished and deprived of their property under the provisions of our laws, passed in conformity with the Constitution of the United States. The Constitution provides what shall constitute treason, how it shall be proved, the place where, and how the accused shall be tried.

Congress has been limited in its power to legislate upon the subject of treason, as it has been on many other subjects. The punishment which may be inflicted by way of forfeiture has been limited by express provision.

Now, I contend that the Constitution having defined what shall constitute treason, Congress cannot by legislation make it something else, and impose penalties prohibited by the Constitution; because if Congress may by some new name provide for the punishment of levying war against the United States by imposing new and additional penalties and a different mode of trial from those provided for in the Constitution, the limitation upon Congress referred to becomes a mere idle prohibition.

Having thus briefly considered the question of the confiscation as to real estate, let us for a few moments examine the right of one belligerent to seize and confiscate the personal property belonging to private persons of the other belligerent; and in this connection it will be proper to consider the proclamation of the President in relation to emancipation, and in relation to the mode by which he proposes to bring this war to a close.

In the publication of the proclamation of December 8, 1863, I understand the President has concluded that the period had arrived when it would be proper to propose some terms of adjustment for our difficulties which might result in the restoration of peace. This proposition is founded upon the theory of the emancipation proclamation, and requires of that class of persons it is intended to embrace an oath to support the emancipation proclamations; and it thus becomes legitimate in this connection to examine the power of this Government to emancipate slaves, either as a power under the Constitution or as a war power. Under the Constitution of the United States we clearly have no power to interfere with slavery in the States. This has been repeatedly declared and announced by every department of the Government, by the Executive, by Congress, and by the Supreme Court.

Congress as early as 1790 declared by resolution—

"That Congress have no authority to interfere in the emancipation of slaves or in the treatment of them in any of the States, it remaining with the several States alone to provide rules and regulations therein which humanity and true policy may require."

And on the 11th of February, 1861, a similar resolution was adopted by the House of Representatives without one dissenting vote.

On the 4th day of March, 1861, Mr. Lincoln declared in his inaugural address:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."

And after the rebellion broke out, when Fort Sumter was attacked, the President, in the proclamation which he issued for seventy-five thousand men, after reciting that combinations against the execution of the laws too powerful to be suppressed by the ordinary course of judicial proceedings existed, he calls on these men "to sup-

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press said combinations and cause the laws to be executed." He further states:

"The utmost care will be observed, consistently with the object aforesaid, to avoid any devastations, any destruction of or any interference with property, or disturbance of peaceful citizens in any part of the country."

But these declarations do not end here. * Let me add the plain and complete statement made by the Secretary of State, Mr. Seward, in his letter of 22d April, 1861, written to Hon. William L. Dayton, our minister at Paris. This letter, it will be observed, was written after the commencement of hostilities, and after the call had been made for the seventy-five thousand men; and it seems to me to leave no doubt as to the opinions then entertained by the President of his powers in relation to the institutions of the States:

"Moral and physical causes have determined inflexibly the character of each one of the Territories over which the dispute has arisen, and both parties, after the election, harmoniously agreed on all the Federal laws required for their organization. The Territories will remain in all respects the same, whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States, and the condition of every human being in them, will remain subject to exactly the same laws and forms of administration, whether the revolution shall succeed or whether it shall fail. In the one case, the States would be federally connected with the new confederacy; in the other, they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions, in either case will remain the same.

"It is hardly necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the Administration, has always repudiated all designs whatever and wherever imputed to him and them of disturbing the system of slavery as it is existing under the Constitution and laws. The case, however, would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional, and all his actions in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people."

In July of the same year, Congress passed the celebrated Crittenden resolution, by which it was declared—

"That in this national emergency Congress will forget all feeling of mere passion or resentment, and will recollect only its duty to the country; that the war is not waged on our part in any spirit of oppression, nor in any spirit of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of those States; but to defend and maintain the supremacy of the Constitution, and preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and as soon as these objects are attained the war ought to cease."

I understand now, from the action on the other side of the House, and by the action of the President of the United States, that all these public pledges and solemn declarations are repudiated, and that this war is to be waged for "conquest and subjugation," and "for the purpose of overthrowing and interfering with the rights and established institutions of the States."

I wish to inquire where the President finds power to accomplish that which Mr. Seward, in the letter already quoted, said would "be unconstitutional." It will not, I suppose, be pretended by the other side of the House that the President has any constitutional power to interfere with slavery or private property or the local institutions of the States.

Sir, I desire to state it as my deliberate opinion that if the principles declared in the resolution of that wise and lamented statesman, Mr. Crittenden, had been in good faith adhered to and maintained, the rebellion would have been subdued before this and the Union restored. How is this power of emancipation exercised? On the theory of the President and by that of the learned gentleman from Pennsylvania [Mr. STEVENS] it is one of the legitimate powers of war, which one belligerent may exercise against another. Well, Mr. Speaker, I take issue on that question. I assert it here as a principle, recognized and enforced at least on one memorable occasion by this country, that private property on land is not subject to seizure and confiscation by an enemy.

Sir, I do not defend slavery. I am not its advocate or friend. I have no interest whatever in the institution. If it must die as a legitimate

result of the organization of the rebellion, let it perish; but I beseech you let not the blow be struck by this Government in violation of the organic law and the rights of the States. I am now arguing a question of power, the exercise of which I believe unwarranted either by the Constitution of the United States or by the law of nations, and which I believe can only result in prolonging this unfortunate contest. Well, if this power to emancipate slaves cannot be found to be authorized by the Constitution, as I apprehend no man will contend who is at all acquainted with the provisions of that instrument, can it be deduced from the war power as a belligerent right under the theory of the gentleman from Pennsylvania, [Mr. STEVENS?] I insist that it cannot.

I respectfully submit to this House that this Government has already fully discussed this question, and, so far as it could do so, has committed itself to the doctrine "that the emancipation of enemy's slaves is not among the acts of legitimate war." I refer to the questions growing out of the treaty of Ghent, and the discussion of this precise question, which was conducted on our part mainly by John Quincy Adams.

In the war of 1812, which was waged by us in vindication of "free trade and sailors' rights," one of the means employed by Great Britain to cripple and weaken the United States was by seizing and emancipating slaves in the southern States.

Admiral Cochrane issued proclamations to induce the desertion of slaves from their masters, and British generals in the army took possession of large numbers. At least three thousand were carried away, besides which ten times that number who had been enticed from their masters died of disease in British camps, and it became a question of great interest whether an enemy under the law of nations had the right to emancipate the slaves of a belligerent. The question led to a long and able discussion, and resulted in fixing an obligation on the part of Great Britain to pay for the slaves she had thus seized and emancipated, amounting to about a million and a quarter of dollars; and this payment was made on a claim set up by this Government, and I think successfully maintained, "that the emancipation of enemy's slaves is not among the acts of legitimate war."

The question had been referred by the respective Governments to the arbitration of the Emperor of Russia; and Mr. Adams, as Secretary of State, in the instructions which he prepared for our minister at St. Petersburg, under date of July 5, 1820, asserts broadly the doctrine that slaves belonging to private individuals are private property, and could not be lawfully taken.

He writes:

"With the exception of maritime captures, private property in captured places is by the laws of nations respected; none could lawfully be taken." * * * "The British nation, as well as the United States, consider slaves as property; slaves belonging to private individuals as private property."

Again, in writing to Mr. Rush, then at London, on the 7th of July, 1820, Mr. Adams asserts the doctrine in clear and distinct terms. He says:

"The principle is that the emancipation of enemy's slaves is not among the acts of legitimate war. As relates to the owners, it is a destruction of private property nowhere warranted by the usages of war. This principle must, I think, be peculiarly familiar to the Emperor of Russia, and may be pressed upon his attention in the case of reference with effect."

But in a letter written by him to Mr. Middleton on the same subject, bearing date October 18, 1820, the Secretary of State, Mr. Adams, urges the same doctrine with still greater force and earnestness:

He says:

"In the statement of the British ground of argument upon the claim in the submission, they have broadly asserted the right of emancipating slaves—private property—as a legitimate right of war. This is utterly incomprehensible on the part of a nation whose subjects had slaves by millions, and who in this very treaty recognized them as private property. No such right is acknowledged as a law of war by writers who admit any limitation. The right of putting to death all prisoners in cold blood and without special cause might as well be pretended to be a law of war, or the right to use poisoned weapons, or to assassinate. I think the emperor will not recognize the right of emancipation a legiti-

mate warfare, and am persuaded you will present the arguments against it."

Mr. Benton, speaking of the result of this controversy in his Thirty Years in the Senate, declares that

"The indemnity exacted carried along with it the condemnation of the practice as a spoliation of private property to be atoned for, and was both a compensation for the past and a warning for the future. It implied a responsibility which no power or art or time could evade, and the principle of which being established, there will be no need for arbitrations."

It seems to me that this discussion with Great Britain, maintained on our part on the principle that slaves were private property, and that by the usages of war the destruction of private property was not warranted, and after receiving pay for the "private property" thus claimed by our Government and by Mr. Adams to have been seized by Great Britain in violation of the law of nations, should now be considered by this country as settling the question so far as this Government is concerned, and we should now be estopped from calling it in question; unless, indeed, we shall first return the money which was paid us by Great Britain, and repudiate the action of this country in that controversy.

But we have repeatedly recognized the doctrine that private property is not, by the usage of nations, subject to seizure and confiscation by an enemy. Chief Justice Marshall, in the case of the United States vs. Percheman, (7 Peters,) lays down the rule that private property, by the modern usages of nations, is not subject to be seized and confiscated by an enemy, and I am surprised to hear the gentleman from Pennsylvania so earnestly controverting this doctrine.

Gentlemen will also remember the able correspondence of Mr. Secretary Marcy with the French minister, Count Sartiges, having reference to the propositions of public law laid down by the congress at Paris, in which it was claimed by that distinguished statesman that the doctrine that private property on land should be exempt from seizure by the enemy, and which was fully admitted as a principle of public law in that congress, should also be extended to private property on sea. The correspondence was ably conducted by Mr. Marcy, and reflects lasting credit upon him as a statesman of enlarged and liberal views. I beg the attention of the House while I read a few words from this able State paper. I read from page 38, Message and Documents, 1856-57:

"The wanton pillage or uncompensated appropriation of individual property by an army, even in possession of enemy's country, is against the usages of modern times."

Again:

"The undersigned is directed by the President to say that to this principle of exempting private property upon the ocean as well as upon the land, applied without restriction, he yields a most ready and willing assent."

"The reasons in favor of the doctrine that private property should be exempted from seizure in the operations of war are considered in this enlightened age so controlling as to have secured its partial adoption by all civilized nations; but it would be difficult to find any substantial reasons for the distinction now recognized in its application to such property on land and not to that which is found upon the ocean."

And on page 42, speaking of the practice of seizing private property on sea, he says:

"Justice and humanity demand that this practice should be abandoned, and that the rule in relation to such property on land should be extended to it when found upon the high seas."

Sir, I respectfully submit that the authorities which I have presented establish the doctrine that private property upon land is not, by the modern usages of nations, subject to seizure and confiscation by a belligerent.

But, sir, the paramount and all-absorbing question, which we cannot avoid if we would, and which we should not if we could, still forces itself upon us: How are we to conclude this war, and preserve the union of the States? How does the President and his friends on the other side of this House propose to do it? Not, I answer, by simply breaking down the rebellion and bringing to punishment its most guilty leaders. This will not satisfy the Administration.

Something more is required before the war shall

cease. These States must be subjugated and their slaves emancipated. It is not enough that the people in these States shall give up the contest, throw down their arms, and say, "We have been deceived; we will now abandon those leaders who have deceived us, and return again to our true and faithful allegiance to the old Union and Constitution, consecrated by the blood and wisdom of men of all sections of the Republic." No, no, this will not do; but conditions and oaths are to be required, which will substantially effect what the honorable gentleman from Pennsylvania claims should be done, namely, to treat the whole of these people as conquered and subjugated, who are not to be allowed to resume their relations with the Federal Government on the condition of the oath of allegiance, but on the condition that they will swear to support the emancipation proclamations of the President and the legislation of Congress on the slavery question.

Gracious Heaven! is this the statesmanship by which the wounds of this bleeding and afflicted country are to be bound up and healed? Sir, to the purpose for which this war was at the beginning declared to be waged is to be added other purposes, which cannot fail to excite renewed and more determined resistance on the part of those in insurrection.

But it is said the oath proposed is only binding on those who take it until the emancipation proclamation shall be declared to be unconstitutional by the Supreme Court. But does this render it less objectionable? When the oath is taken the title by which the party held his slaves is practically abandoned, and it would be idle to tell the man, if in the future the Supreme Court should overrule this proclamation, you can have your slaves provided you can get possession of them. The proposition is practically this: that a portion of the people in the insurrectionary States may resume their relations with the Federal Government on condition that they will throw down their arms and admit the right of the President of the United States to dictate what shall be their local institutions. Does any reasonable and fair man believe that this policy will bring peace? Be not deceived, sir. In place of limiting the duration of the war, this proposition will but tend to prolong the unhappy struggle. But the proclamation of the Executive not only proposes to inflict forfeiture on the guilty, but on the innocent also, the widow and the orphan, the man who all the time has been devoted to the Union, whose heart and sympathy has been all the time with the Government, but who, on account of this Government failing to afford him protection, has been compelled to acquiesce in the usurped government. These equally with the guilty are to suffer the loss of their property under the policy of this Administration and its friends. Is it just that this large class of persons, who were thus compelled to submit to the usurped government, shall now be punished by this Government which was unable and failed to afford them protection against these usurpations in their midst? But it is said these men need not take the oath prescribed by the President if they do not desire to do so. Sir, I answer to this that this is the only plan proposed by the President on which to close this war and allow the people to organize State governments.

In my humble judgment, sir, this Government will have discharged its whole duty when it shall have succeeded in breaking down the armed force of the rebellion and brought to punishment such of the guilty leaders as sound prudence and wise statesmanship shall seem to require, and allowing the great masses of the people, on taking an oath to support the Constitution of the United States, to organize their State governments in such manner as they may see fit, subject only to the Constitution of the United States. Any other principle will break down all the well-established and admitted rights of the States, and will in effect establish the right of the Federal Executive, as a war measure, to dictate what shall be the local institutions of the States, because if the President may require obedience to the proclamations in regard to slavery, why not, as a war measure, require obedience to any and all proclamations which he may see fit to issue? Sir, we cannot, I apprehend, safely and consistently with our system of State and Federal governments, admit any such power in the President.

But I have already stated the President had proposed his pardon on conditions to many persons who had not committed treason.

Now, I submit, with great respect, to the consideration of this House the question whether, after the rebellion was organized, and had gained sufficient strength to oust the exercise of jurisdiction on the part of the United States for the time being, and until that jurisdiction was again recovered, the citizen who yielded obedience to such usurped government was guilty of treason, provided he did not voluntarily aid in organizing the rebellion?

It is a principle of the law of nations founded upon both the good sense and necessities of society that protection and allegiance are reciprocal duties, and that when the legitimate Government is by a superior force ousted of its jurisdiction and power, and thus unable to afford protection to the citizens who shall thus be temporarily placed under the power of the usurped government, or the government in possession of the jurisdiction over them, they are not, in yielding obedience to such government while thus in power over them, guilty of treason to the jurisdiction or power displaced; and the sense of the civilized world would be shocked at punishment being inflicted in such cases. The individual cannot at the same time be held to owe allegiance to two adverse and conflicting jurisdictions or governments. So soon as his Government has become unable to protect him, and he is placed under the power and control of the *de facto* government, his allegiance, for the time being, is suspended to the rightful Government, and he is governed and controlled by the laws and regulations of the power in possession of the jurisdiction over him, and this results from the principle that protection and allegiance are reciprocal duties. This doctrine is well settled in England, as is evidenced by the statute passed at the conclusion of the wars of the Roses, and is also clearly and distinctly laid down by Sir Michael Foster, and by Lord Coke; and "this putteth the duty of the subject upon rational and safe bottom. He knoweth that protection and allegiance are reciprocal duties." We have also an instance in our own history on this point which will illustrate what I desire to say.

During the war of 1812, the British forces obtained possession of the port of Castine, and during the period that the town was thus held by that army American merchants residing there made various importations from the British colonies in violation of the non-intercourse laws.

When the United States afterwards regained possession of Castine, an effort was made to enforce the penalties provided in the non-intercourse acts against these merchants, but the circuit court of the United States held that during the occupation of Castine by the British forces, the jurisdiction of the United States was ousted, and during such period the obligations of obedience of the people were suspended; and the same doctrine was fully recognized and affirmed by the Supreme Court of the United States in the case of the United States vs. Rice, (4 Wheaton R., 246,) to which case I call the attention of the House, and will read what Justice Story says on this point in the opinion of the court which he delivered in that case. I read from page 254:

"By the conquest and military occupation of Castine, the enemy acquired that firm possession which enabled him to exercise the fullest rights of sovereignty over that place. The sovereignty of the United States over the territory was of course suspended, and the laws of the United States could no longer be rightfully enforced there or be obligatory upon the inhabitants who remained and submitted to the conquerors. By the surrender the inhabitants passed under a temporary allegiance to the British Government, and were governed by such laws and such only as it chose to recognize and impose. From the nature of the case no other laws could be obligatory upon them, for where there is no protection or allegiance or sovereignty there can be no claim to obedience."

If the present unfortunate war is to be controlled by the principles of the laws and usages of nations, then this decision is in point, and will show how unfair and unjust it is to impose the conditions named in the President's late proclamation on that large class of citizens who have the right to claim the principle that "protection and allegiance" are reciprocal duties; and this view of the question, Mr. Speaker, is, I believe, entitled to additional weight and consideration from the fact that at the time of the organization of the so-called confederate government there was a large

portion, if not an actual majority, in all these States except two, who were for the old Union and opposed to secession, and who, in the absence of the power and protection of the United States, were forced by the condition of things to acquiesce in the attempted secession. And shall these men, thus abandoned, be required to subscribe to oaths to support the emancipation proclamation, and submit to humiliating conditions?

Is it the part of wisdom and true statesmanship to attempt to enforce such terms? Sir, it seems to me that a mere statement of these facts is quite sufficient to show every fair and candid mind how unwise and unjust the President's proclamation is upon this class of persons.

But, sir, the plan of the President is also unjust and unfair to the northern States, because it not only tends to prolong the war, and thus increase the burdens of the people of these States, but it also proposes to vest the political power in one tenth of the number of citizens in the States in rebellion who voted at the presidential election of 1860. Sir, this would require the continued presence of an army in each of the States to protect this minority from the large majority, and would effectually place these States, thus organized, under the control and influence of the military power, and there is great reason to apprehend that they would be used and controlled as mere political dependencies by the party exercising the power of the administration of the Federal Government in controlling the elections and legislation of the nation. The whole scheme is incompatible with our cherished system of free government, and is fraught with grave danger.

If these States are considered still in the Union—and so I regard them—I ask by what power or principle does the President assume to organize civil governments within their limits or interfere with such organizations? Certainly, under the Constitution he has no such power, and under the war power, which seems to be so enlarged as to include everything this Administration may desire to do, the President can claim no authority to interfere in the civil organization of States, because so soon as the armed resistance in the State is overcome, the people, subject only to the Constitution of the United States and the laws passed in pursuance thereto, must be left free to regulate their own internal concerns; and any other principle would destroy the right of free government.

But on what principle is this one tenth to be represented in Congress; and how many electors for President and Vice President will they be entitled to in the next election? Who are to be deemed citizens in such States? All these questions arise and must be met and answered by the friends of the President's scheme.

One of the acknowledged friends of the President, a distinguished writer in this country, and who was the Administration candidate in New Jersey, in 1862, against the honorable member from that State who sits near the Chair, [Mr. STEELE], writing on this plan of the President uses the following strong and decided language:

"We said we objected primarily to the executive plan because it is an executive plan. Every feature of it is marked by what seems to us an extraordinary assumption of power on the part of the Executive. The President prescribes the oath, prescribes on what conditions the States in rebellion may reorganize State governments and be recognized and represented in Congress as loyal States in the Union. Any one of them, with not less than one tenth of the number of persons who voted in the presidential election of 1860, may reorganize themselves as the State, and have the full Federal representation in Congress to which the State under the census of 1860 was entitled! Why, the President could easily, by the distribution of Federal offices and patronage in any seceded State, unless there are fewer Union men than is pretended, induce at least one tenth, if assured of Federal protection, to swallow without scruple the prescribed oath, or any number of oaths he might prescribe, and elect State and Federal officers whom he may choose to prescribe. With the Federal representation of eleven States, who would be his nominees and creatures, and the number from the other States he could always command by the distribution of the patronage of the Government, the Executive could easily grasp for himself the whole power of the Union, reign as an absolute prince, perpetuate by re-elections his reign during life, and reduce the functions of Congress to that of simply registering his edicts; or, if it should now and then show a disposition to demur, he could, after the manner of Louis XIV, hold a *lit de justice*."

Sir, if it is proposed to maintain our free system of government, State and national, if it is intended to settle this difficulty in conformity with the Constitution of the United States and the laws of nations, then I undertake here and now, Mr. Speaker,

to say that this policy of the Administration cannot be sustained.

But if it be the purpose to disregard the requirements of the Constitution, and to exercise any and all such powers as the Executive may deem necessary, without regard to our system of constitutional government, with a view not only to break down the rebellion, but finally to change if not destroy the rights of the States, then I think I can understand this policy.

Sir, we have fallen upon sad times. In the midst of the universal gloom and sorrow which pervades the whole country, the heart of the true patriot sickens at the daily announcements of the frauds and corruptions which seem to prey upon the vitals of the Republic.

While our armies in the field have during the past year in the main been successful, we have utterly failed in a policy calculated to arouse and encourage the true Union sentiment in the southern States.

What we want in this crisis of affairs is a policy by which the patriotic efforts of the brave men in the field shall be seconded by wise, prudent, and conciliatory statesmanship. This is the need of the country to-day. Let us be guided by the experience of the past. Let this policy of subjugation and conquest and these unwise proclamations of the Executive be abandoned.

Mr. Speaker, let us rise above mere sectional prejudices or party feeling, and humbly and devoutly imploring the guidance of that same Divine Providence who sustained our fathers in the dark hours of the Revolution, and enabled them to achieve our independence and establish this Government; let us act with that regard for the Constitution and interests of the whole country which is demanded in this hour from every son of the Republic; and while we sustain every legitimate and constitutional means which shall be employed to subdue the power of this rebellion, and while our gallant armies in the field shall nobly and bravely perform their duty, let us at the same time, I beseech you, by all fair and honorable means endeavor to restore peace, not a dishonorable or a disgraceful peace, but a peace founded upon just terms to all portions of the country—that true and welcome peace which shall gladden millions of hearts in every section of the land, now saddened by gloom, and which shall bring in loving embrace once more around the nation's altar all the States as equal sisters.

Mr. GARFIELD. Mr. Speaker, I had not intended to ask the attention of the House or to occupy its time on this question of confiscation at all, but some things have been said touching its military aspects which make it proper for me to trespass upon the patience of the House even at this late period of the discussion. Feeling that, in some small degree, I represent on this floor the Army of the Republic, I am the more emboldened to speak to this subject before us. I have been surprised that in so lengthy and able a discussion so little reference has been made to the merits of the resolution itself. Very much of the debate has had reference to questions which I believe, with all deference to the better judgment and mature experience of others, are not germane to the subject before the House. In the wide range of discussion the various theories of the legal and political status of the rebellious States have been examined, whether they exist any longer as States, whether they are in the Union or out of it. It is perhaps necessary that we take ground upon that question as preliminary to the discussion of the resolution itself. Two theories, differing widely from each other, have been proposed; but I cannot consider either of them as wholly correct. I cannot agree with the distinguished gentleman from Pennsylvania, [Mr. SEEVERS], who acknowledges that these States are out of the Union and now constitute a foreign people; nor can I, on the other hand, agree with those who believe that the insurgent States are not only in the Union, but have lost none of their rights under the Constitution and laws of the Union.

Our situation affords a singular parallel to that of the people of Great Britain in their great revolution of the seventeenth century. From time immemorial it was the fiction of English law that the kingship was immortal, hereditary, and inalienable; that the king was "king by the grace of God;" he could do no wrong, and his throne

could never be vacant. But the logic of events brought these questions to a practical test.

James left the throne, threw the great seal of the nation into the Thames, and fleeing from his own people took refuge in France. The great statesmen of the kingdom took counsel together on some of the very questions which we are discussing to-day. One said, "The king has abdicated, and we will put another in his place." Another said, "The crown is hereditary, and we must put the heir in his place." The men of books and black-letter learning answered, "*Nemo est hæres viventis*;" "the king is alive, and can have no heir." Another said, "We will appoint a regent, and consider the kingship in abeyance until the king returns." The people said, "We will have a king, but not James."

Through all this struggle two facts were apparent: the throne was vacant; and their king was unworthy to fill it; and they filled it with the man of their choice. We are taught by this that whenever a great people desire to do a thing which ought to be done, they will find the means of doing it. In this Government we have thrown off the kingly fiction, but there is another which we are following as slavishly as ever England followed that. Here, corporations are more than kings. It is the doctrine of our common law (if we may be said to have a common law) that corporations have neither souls nor consciences; that they cannot commit crimes; that they cannot be punished, and that they are immortal. These propositions are being applied to the rebel States. They are corporations of a political character, bodies corporate and politic; they are immortal; and cannot be touched by the justice of law, or by the power of an outraged Government. They hover around our borders like malignant, bloody fiends, carrying death in their course; and yet we are told they cannot be punished or their ancient rights invaded. The people of the South, under the direction of those phantom States, are moving the powers of earth and hell to destroy this Government. They plead the order of their States as their shield from punishment, and the States plead the impunity of soulless corporations.

But the American people will not be deluded by these theories nor waste time in discussing them. They will strike through all shams with the sword, and find a practical solution as England did. And what is that practical solution? The Supreme Court of the United States has helped us at this point in one of the prize cases decided March 3, 1863. It is there decided in effect—

"That since July 13, 1861, the United States have full belligerent rights against all persons residing in the districts declared by the President's proclamation to be in rebellion."

"That the laws of war, whether that war be civil or *inter gentes*, convert every citizen of the hostile State into a public enemy, and treat him accordingly, whatever may have been his previous conduct."

"That all the rights derived from the laws of war may now, since 1861, be lawfully and constitutionally exercised against all the citizens of the districts in rebellion."

They decided there that the same laws of war which apply to hostile foreign States are to be applied to this rebellion. But in so deciding they do not decide that the rebellious States are therefore a foreign people. I do not hold it necessary to admit that they are a foreign people. I do not admit it. I claim on the contrary that the obligations of the Constitution still hang over them; but by their own act of rebellion they have cut themselves off from all their rights and privileges under the Constitution.

When the Government of the United States declared that we were in a state of war, the rebel States came under the laws of war. By their acts of rebellion and war they swept away every vestige of their civil and political rights under the Constitution of the United States. Their obligations still remained; but the reciprocal rights which usually accompany obligations, they had forfeited.

The question then lies open before us: In a state of war, under the laws of war, is this resolution legal and politic? I insist, Mr. Speaker, that the question involved in the resolution before this House is whether this Government, in its exercise of its rights of a belligerent under the laws of war, cannot punish these rebels and confiscate their estates, both personal and real, for life and forever. That is the only question before us.

Gentlemen have learnedly discussed the consti-

tutional powers of Congress to punish the crime of treason. It matters not how that question is decided; it has no bearing whatever on the resolution before the House. I will only say in passing that the Supreme Court has never decided that the clause of the Constitution relating to treason prohibits forfeiture beyond the lifetime of persons attainted. No man in this House has brought a decision of the Supreme Court giving the rendering to the Constitution which these gentlemen on the other side of the Chamber have given to it. They can claim no more than that the question is *res non adjudicata*. The arguments we have heard are sufficient evidence to me, at least, that the framers of our Constitution intended that Congress should define treason, and provide for its punishment, but the rule of the English common law which permitted attainer, corruption of blood, and forfeiture, after the death of the attainted, should not prevail in this country. To me the clause carries an absurdity on its face, if it be interpreted to mean that treason, the highest crime known to law, shall be punished with less severity, so far as it regards the estate of the criminal, than any other crime or misdemeanor whatsoever. But, as I before said, the present law of confiscation is based on the rights of belligerents under the laws of war. The gentleman from New York [Mr. FERNANDO WOOD] a few days since, in his address to the House, gave us a history of the rebellions which had occurred in this country. I wish to call his attention to another rebellion in this country which he did not notice, and in which the question of confiscation was very fully and very practically discussed. This fact has not, I believe, been brought to the attention of the House. Do gentlemen forget that this Union had its origin in revolution, and that confiscation played a very important part in the war of that Revolution? It was a civil war; and the colonies were far more equally divided in reference to the question of loyalty and independence than the States of the South now are on the question of to-day. Many of the thirteen colonies had almost equal parties for and against England in that struggle. In New York the parties were of nearly equal strength. In South Carolina it is claimed that there were more Royalists than Whigs. Twenty thousand American Tories appeared in the armies against us in the revolutionary struggle. Thirty regiments of them held their places in the British line.

Our fathers had to deal with these men, and with their estates. How did they solve the problem? I have looked into the history, and find it full of instruction. Every one of the thirteen colonies, with a single exception, confiscated the real and personal property of every Tory in arms. They did it, too, by the recommendation of Congress. Not only so, but they drove Tory sympathizers from the country; they would not permit them to remain upon American soil. Examine the statutes of every colony, except of New Hampshire, which the tide of battle never reached, and you will find confiscation laws of the most thorough and sweeping character. When our commissioners were negotiating the treaty of peace, the last matter of difference and discussion was that of confiscated property.

The British commissioners urged the restoration of confiscated estates, but Jay and Franklin and their colleagues defended the right of confiscation with great ability, and refused to sign the treaty at all if that was to be a condition. While these negotiations were pending the colonies memorialized Congress to guard against any concessions on the point in dispute. On the 17th day of December, 1782, the Legislature passed the following resolution:

"That the laws of this State confiscating property held under the laws of the former Government (which had been dissolved and made void) by those who have never been admitted into the present social compact, being founded on legal principles, were strongly dictated by that principle of common justice, demand that, if virtuous citizens, in defense of their natural and constitutional rights, risk their life, liberty, and property on their success, the vicious citizens who side with tyranny and oppression, or who cloak themselves under the mask of neutrality, should at least hazard their property, and not enjoy the benefits procured by the labors and dangers of those whose destructions they wished."

"That all demands or requests of the British Court for the restitution of property confiscated by this State, being neither supported by law, equity, or policy, are wholly inadmissible, and that our Delegates in Congress be instructed to move Congress that they may direct their deputies, who shall represent these States in the General Congress for ad-

justing a peace or truce, neither to agree to any such restitution or submit that the laws made by any independent State of this Union be subjected to the adjudication of any power or powers on earth."

This resolution was passed unanimously by the Legislature of Virginia. Similar resolutions were passed by other States, and our commissioners were instructed by Congress to admit no conditions which would compel the restoration of confiscated estates. The commissioners compromised at last on the fifth article of the treaty of peace as it now stands recorded, which provides that Congress shall recommend to the several colonies to restore confiscated property; but it was well understood by both parties that it would not be done. Congress passed the resolution of recommendation as a matter of form; but no State complied, nor was it expected. It was, however, provided that no further confiscations should be made, and that Tories should be permitted to remain in America twelve months after the treaty.

Mr. Jefferson, when Secretary of State, in 1792, and writing upon that subject, held the following language to the British Government through its minister; and I wish my colleague [Mr. FINCK] who last occupied the floor to notice this extract so far as it relates to the rights of belligerents:

"Sec. 3. It cannot be denied that the state of war strictly permits a nation to seize the property of its enemies found within its own limits, or taken in war, and in whatever form it exists, whether in action or possession. This is so perspicuously laid down by one of the most respectable writers on subjects of this kind, that I shall use his words: 'Since it is a condition of war that enemies may be deprived of all their rights, it is reasonable that everything of an enemy's, found among his enemies, should change its owner, and go to the treasury. It is, moreover, usually directed, in all declarations of war, that the goods of enemies, as well those found among us as those taken in war, shall be confiscated. If we follow the mere right of war, even immovable property may be sold, and its price carried into the treasury, as is the custom with movable property. But in almost all Europe it is only notified that their profits, during the war, shall be received by the treasury; and the war being ended, the immovable property itself is restored by agreement, to the former owner.'"

"1. Exile and confiscations. After premising that these are lawful acts of war, I have shown that the fifth article was recommendatory only, its stipulations being, not to restore the confiscations and exiles, but to recommend to the State Legislatures to restore them;

"That this word, having but one meaning, establishes the intent of the parties; and, moreover, that it was particularly explained by the American negotiators, that the Legislatures would be free to comply with the recommendation or not, and probably would not comply;

"That the British negotiators so understood it;

"That the British ministry so understood it;

"And the members of both Houses of Parliament, as well those who approved as who disapproved the article.

"I have shown that Congress did recommend earnestly and bona fide;

"That the States refused or complied, in a greater or less degree, according to circumstances, but more of them and in a greater degree than was expected."—*Jefferson's Works*, vol. 3.

And Jefferson concludes the passage by saying that the right to confiscate is undoubted as a war right. He moreover goes on to say the British Government knew they had no right to demand that we should restore confiscated property. The members of Parliament admitted in their speeches that the treaty was based upon the knowledge that they had no right to demand the restitution of confiscated estates.

The Tories that fled to England called upon the Crown to support them. A commission was appointed to examine their claims and provide for their wants. I say it is a significant fact that of the vast number of Tories, perhaps not a thousand remained in this country after the war. The people would not endure their presence. They were driven out, and took refuge in all quarters of the globe. They colonized New Brunswick, Nova Scotia, and were scattered along the borders of Canada. The States would not tolerate the presence of the few who came back under the provisions of the treaty, and refused them the right of voting, or of holding office or property. It was well known that there could be no peace between our loyal people and them. Their history is a sad record of infamy, obscurity, and misery. Some exhibited their vengeful hate long after the war was over. Gitty and his associates who murdered Crawford in the Indian wars of 1791 were Tories of the Revolution. Bowles and Panton, leaders among the Creek Indians, and who started the Florida troubles, which resulted in a long and bloody conflict in the swamps of that State, were Tories. As a

class, they went out with the brand of Cain upon them, and were not permitted to return.

One State alone relented. South Carolina passed an act of oblivion, restored a large part of the confiscated estates, and permitted the Tories to vote and hold office. Her policy has borne its bitter fruit. Her government has hardly been entitled to be called republican. The spirit of monarchy has ruled her councils, and at last plunged our Republic into the most gigantic and bloody of revolutions.

Let us take counsel from the wisdom of our fathers. Is it probable that those men who confiscated all the property of armed Tories would, a few years later, establish it as a fundamental doctrine of the Constitution that no confiscation can be made beyond the lifetime of the individual attained? It is not probable that men who had just done what they stubbornly held to be right should enact as a part of the supreme law of the land that it should never be done again.

I come now to the question more directly before us. This question of land, Mr. Speaker, is inseparably connected with the peculiar institution of the South. It is well known that the power of slavery rests in large plantations; that the planter's capital drives the poor whites to the mountains, where liberty always loves to dwell, and to the swamps and by-places of the South; but the bulk of all the landed estates is in the hands of the slave-owners who have plotted this great conspiracy. Let me give you an instance of this, one of a thousand that might be given. In the town of Murfreesboro', Rutherford county, Tennessee, a place made sacred and glorious forever by the valor of our Army, there are fourteen thousand four hundred and ninety-three acres of land owned by sixteen persons, and three of the sixteen men own more than ten thousand of the acres. One of the three owns half of the whole township of Murfreesboro'. And that is only a specimen of what these men of the South are to the lands of the South. Only a few hundred men own the bulk of the land in any southern State, and these men hold the lands and own the slaves. These men plotted the rebellion and thrust it upon us. They have had the political power in their hands, and if you permit them to go back to their lands they will have it again. The laws of nature, the laws of society cannot be overcome by the resolutions of Congress. Grant a general amnesty, let these men go back to their lands, and the land-owners will again control the South. They have so long believed themselves born to rule that they will rule the poor man as with a rod of iron. The landless man of the South has learned the lesson of submission so well that when he is confronted by a landed proprietor he begins to be painfully deferential, he is facile and dependent, and less a man than if he stood on God's acre covered by his own title-deed.

Gentlemen, if we want a lasting peace, if we want to put down this rebellion so that it shall stay forever put down, we must put down its guilty cause; we must put down slavery; we must take away the platform on which slavery stands—the great landed estates of the armed rebels of the South. Strike that platform from beneath their feet, take that land away, and divide it into homes for the men who have saved our country. I put that to this House as a necessity which stares us in the face. What, let me ask you, will you do with the battle-fields of the South? Who owns them? Who owns the red field of Stone River? Two or three men own it all. And who are these two or three men? Rebels every one—one of them a man who once sat in this Chamber, but who is now a leader in the ranks of the rebel army. Will you let him come back and repossess his land? Will you ask his permission when you go to visit the grave of your dead son who sleeps in the bosom of that sacred field? If the principles of the gentlemen on the other side be carried out, there is not one of the great battle-fields of the war (save Gettysburg, which lies yonder on this side of the line) that will not descend to the sons of rebels for all time to come—to men whose fathers found a bad eminence by fighting against their country, and who will love their fathers for affection's sake, and love rebellion for their fathers' sake. God forbid that we should ever visit those spots made sacred by the blood of so many thousand brave men and see our enemies holding the

fields and plowing the graves of our brethren, while the sweat of slaves falls on the sod which ought to be forever sacred to every American citizen.

The history of opinion and its changes in the Army is a very interesting one. When the war broke out men sprang to arms from all parties by a common impulse of generous patriotism, which I am glad to acknowledge in the presence of those in whose hearts that impulse seems now to have died.

I remember to have said to a friend when I entered the Army, "You hate slavery; so do I; but I hate disunion more. Let us drop the slavery question and fight to sustain the Union. When the supremacy of the Government has been re-established we will attend to the other question." I said it in good faith.

I said to another, "You love slavery. Do you love the Union more? If you do, go with me; we will let slavery alone and fight for the Union. When that is saved we will take up our old quarrel, if there is anything left to quarrel about."

I started out with that position taken in good faith, as did thousands of others of all parties, but the Army soon found, do what it would, the black phantom met it everywhere, in the camp, in the bivouac, on the battle-field, and at all times. It was a ghost that would not be laid—slavery was both the strength and the weakness of the enemy. His strength, for it tilled the fields and fed the legions; its weakness, for in the hearts of slaves dwelt dim prophecies that their deliverance from bondage would be the outcome of the war.

Mr. Seward says in an official dispatch to our minister at St. James, Mr. Adams: "Everywhere the American general receives his most useful and reliable information from the negro, who hails his coming as the harbinger of freedom." These ill-used men came from the cotton-fields, they swam rivers, they climbed mountains, they came through jungles, in the darkness and storms of the night, to tell us that the enemy was coming here or coming there. They were our true friends in every case. There has hardly been a battle, a march, or any important event of the war, where the friend of our cause, the black man, has not been found truthful and helpful, and always devotedly loyal. The practical truth forced itself upon the mind of every soldier that behind the rebel army of soldiers the black army of laborers was feeding and sustaining the rebellion, and there could be no victory till its main support were taken away.

"You take my house when you do take the prop That doth sustain my house."

The rebellion falls when you take away its chief prop, slavery and landed estates.

Gentlemen on the other side, you tell me that this is an abolition war. If you please to say so I grant it. The rapid war-current of events has made the Army of the Republic an abolition Army. I can find you in the ranks a thousand men who are in favor of sweeping away slavery to every dozen that are in favor of sustaining it. They have been where they have seen its malevolence, its baleful effects upon the country and the Union, and they demand that it shall be swept away. I never expected to discuss the demerits of slavery again, for I deem it unnecessary. The fiat has gone forth, and it is dead unless the body-snatchers on the other side of this House shall resurrect it and give it galvanic life.

Mr. CHANLER. Will the gentleman yield to me?

Mr. GARFIELD. I must decline to yield.

Mr. CHANLER. You asked a question of this side of the House, and I merely desired to answer you.

Mr. GARFIELD. You may say to me that slavery is a divine institution; you may prove to your own satisfaction from the word of God, perhaps, that slavery is a beneficent institution; I will say to you that all this may be entirely satisfactory to your mind, but your beloved friend, slavery, is no more. This is a world of bereavements and changes, and I announce to you that your friend has departed. Hang the drapery of mourning on its bier! Go in long and solemn procession after its hearse, if you please, and shed your tears of sorrow over its grave, but I have no time to waste in listening to your tearful eulogy over the deceased.

I come now to consider another point in this question. I hold it as a settled truth that the leaders of this rebellion can never live in peace in this Republic. I do not say it in any spirit of vindictiveness, but as a matter of conviction. Ask the men who have seen them and met them in the darkness of battle and all the rigors of warfare; they will tell you it can never be. I make, of course, an exception in favor of that sad array of men who have been forced or cajoled by their leaders into the ranks and subordinate officers of the rebel army. I believe a truce could be struck to-day between the rank and file of the hostile armies. I believe they could meet and shake hands together joyfully over returning peace, respecting their mutual courage and manhood. But for the wicked men who brought on this rebellion, for the wicked men who led them into the darkness, such a day can never come. Ask the representatives of Kentucky upon this floor who know what the rebellion has been in their State, who know the violence and devastation that has swept over it, and they will tell you that all over that State neighbor has been slaughtered by neighbor, feuds fierce as human hate can make them have sprung up, and so long as revenge has an arm to strike they will never cease to strike if such men come back to dwell in their midst. This is true of every State over which the desolating tide of war has swept. If you would not inaugurate an exterminating warfare, to continue while you and I and our children and children's children live, set it down at once that the leaders of this rebellion must be executed or banished from the Republic. They must follow the fate of the Tories of the Revolution.

I believe, Mr. Speaker, that the Army is a unit on these great questions; and I must here be permitted to quote from one of nature's noblemen, a man from Virginia with the pride of the Old Dominion in his blood, but who could not be seduced from his patriotism—one who, amid the storm of war that surged against him at Chickamauga, stood firm as a rock in the sea—George H. Thomas. That man wrote a communication to the Secretary of War nearly a year ago, saying, in substance, for I quote from memory, "I send you the inclosed paper from a subordinate officer; I indorse its sentiments; and I will add, that we can never make solid progress against the rebellion until we take more sweeping and severe measures; we must make these people feel the rigors of war, subside our Army upon them, and leave their country so that there will be little in it for them to desire." Thus spoke a man who is very far from being what gentlemen upon the other side of the House are pleased to call an abolitionist, or a northern fanatic; and in saying this he spoke the voice of the Army.

Mr. Speaker, I am surprised and amazed beyond measure at what I have seen in this House. Having been so long with men who had but one thought upon these great themes, it is passing strange to me to hear men talking of the old issues and discussions of a few years ago. They forget that we live in actions and not in years. They forget that sometimes a nation may live a generation in a single year; and the experience of the last three years has been greater than that of centuries of quiet and peace. There are men who do not seem to realize that we are at war. They do not seem to realize that this is a struggle for existence; a terrible fight of flint with flint, bayonet with bayonet, blood for blood. They still retain some hope that they can smile rebellion into peace. They use terms strangely. In these modern days words have lost their significance. If a man steals his thousands from the Treasury, he is not a thief; oh, no; he is a "defaulter." If a man hangs shackles on the limbs of a human being and drives him through life as a slave, it is not man-stealing, it is not even slavery, it is only "another form of civilization." We are using words in that strange way. There are public journals in New York city, I am told, that never call this a rebellion—it is only a "civil commotion," a "fraternal strife." I had thought the days of "southern brethren" and "wayward sisters" had gone by, but I find it here in the high noon of its glory. One would suppose from all we hear that war is gentle and graceful exercise, to be indulged in a quiet and pleasant manner. I have lately seen a stanza from the nursery rhymes of England, which I commend to these

gentle-hearted patriots who propose to put down the rebellion with soft words and paper resolutions:

"There was an old man who said, How
Shall I flee from this horrible cow?
I will sit on the stile
And continue to smile,
Which may soften the heart of this cow."

I tell you, gentlemen, the heart of this great rebellion cannot be softened by smiles. You cannot send commissioners down to Richmond, as the gentleman from New York [Mr. FERNANDO WOOD] proposes, to smile away the horrible facts of this war. Not by smiles but by thundering volleys must this rebellion be met, and by that means alone. I am reminded of what Macaulay said in regard to the revolution in England. He said:

"It is because we had a preserving revolution in the seventeenth century that we have not had a destroying revolution in the nineteenth. It is because we had freedom in the midst of servitude that we have order in the midst of anarchy. For the authority of law, for the security of property, for the peace of our streets, for the happiness of our homes, our gratitude is due, under Him who raises and pulls down nations at His pleasure, to the Long Parliament, to the Convention, and to William of Orange."

Mr. Speaker, if we want a peace that is not a hollow peace we must follow that example and make thorough work of this war. We must establish freedom in the midst of servitude, and the authority of law in the midst of rebellion. We must fill the thinned ranks of our armies, assure them that a grateful and loving people are behind them, and they will go down against the enemy bearing with them the majesty and might of a great nation. We must follow the march of the Army with a law that will sweep away the cause of the whole terrible revolution. The war began by proclamation, and it must end by proclamation. We can hold the insurgent States in military subjection half a century if need be, or until they are purged of their dross and poison, and leave them to stand up clean before the country, to come back with clean hands if they come at all. I want to see in all those States the men who have fought and suffered for the truth tilling those fields on which they pitched their tents. I want to see them, like old Kaspar of Blenheim, on the summer evenings, with their children upon their knees, and pointing out the spot where brave men fell and marble commemorates it. Let no breath of treason be whispered there. I want no man there, like one from my own State, who came before the great struggle in Georgia and gave us his views of peace. He came as the friend of Vallandigham, the man for whom the gentlemen on the other side of the House from my State worked and voted. We were on the eve of the great battle. I said to him, "You wish to make Mr. Vallandigham Governor of Ohio. Why?" "Because, in the first place," using the language of the gentleman from New York, [Mr. FERNANDO WOOD,] "you cannot subjugate the South, and we propose to withdraw without trying it any further. In the next place, we do not want anything to do with an abolition war, and will not give one dollar for that purpose." Remember, gentlemen, what occurred on the conscription bill this morning. "To-morrow," I continued, "we may be engaged in a death-struggle with the rebel army that confronts us, and is daily increasing. Where is the sympathy of your party? Do you want us beaten, or Bragg beaten?" He answered they had no interest in fighting, that they did not believe in fighting.

Mr. NOBLE. A question right here.

Mr. GARFIELD. I cannot yield; I have no time. He was the agent sent by the copperhead secretary of state to distribute election blanks to the army of the Cumberland.

Mr. NOBLE. A single question.

Mr. GARFIELD. I have no time to spare.

Mr. NOBLE. I want to ask the gentleman if he knows that Mr. Griffiths has made a question of veracity with him by a positive denial of the alleged conversation published in the Cincinnati Enquirer.

Mr. GARFIELD. No virtuous denials in the Cincinnati Enquirer can alter the facts of this conversation, which was heard by a dozen officers.

I asked him further, "How would it affect your party if we should crush the rebels in this battle, and utterly destroy them?" "We would probably lose votes by it." "How would it af-

fect your party if we should be beaten?" "It would probably help us in votes."

That, gentlemen, is the kind of support the Army is receiving in what should be the house of its friends. This, gentlemen, is the kind of support these men—some of them—are inclined to give this country and its Army in this terrible struggle. I hasten to make honorable exceptions. I know there are honorable gentlemen on the other side who do not belong to that category, and I am proud to acknowledge them as my friends. But I say that the effect of what the majority of them is doing will tend to pull down the fabric of our Government by aiding their friends over the border to do it. Their friends, I say, for when the Ohio election was about coming off in the army at Chattanooga there was more anxiety in the rebel camp than in our own. The pickets had talked face to face and made daily inquiry how the election in Ohio was going. And at midnight of the 13th of October, when the telegraphic news was flashed down to us, and announced to the army that the Union had sixty thousand majority in Ohio, there arose a shout all along the line on that rainy midnight from every tent which rent the skies with jubilees, and sent despair to the heart of those men beyond our lines who were "waiting and watching across the border." It told them their colleagues, their sympathizers, their friends, I had almost said their emissaries, had failed to sustain themselves in turning the tide against our friends in the contest. And from that hour, but not till that hour, the army had felt safe from the enemy behind it.

I deprecate these apparently partisan remarks; it hurts me to make them; but it hurts me more to know they are true. I would not make them, but that I wish to unmask the pretext that we are working along all in a body for the vigorous prosecution of the war and the maintenance of the Government. I cannot easily forget the treatment the conscription bill met this morning. Even the few men in the Army who voted for Vallandigham wrote on the back of their tickets "Draft, draft." That was the voice of the Army.

I conclude by returning once more to the resolution before us. Let no weak sentiments of misplaced sympathy deter us from inaugurating a measure which will cleanse our nation and make it the fit home of freedom and glorious manhood. Let us not despise the severe wisdom of our revolutionary fathers, when they served their generation in a similar way. Let the Republic drive from its soil the traitors that have conspired against its life, as God and His angels drove Satan and his host from heaven. He was not too merciful to be just, and to hurl down in chains and everlasting darkness the "traitor angel" who rebelled against Him.

Mr. EDGERTON obtained the floor.

WASHINGTON RAILROAD.

Mr. STILES, by unanimous consent, introduced a bill to incorporate the Baltimore and Washington Depot and Potomac Ferry Railroad Company; which was read a first and second time by its title, and referred to the Committee for the District of Columbia.

DISMISSION OF OFFICERS.

Mr. DAVIS, of Maryland, by unanimous consent, introduced a bill to regulate the dismissal of officers in the military and naval service; which was read a first and second time, and referred to the Committee on Military Affairs.

The bill is as follows:

Be it enacted, &c., 1. That the President shall dismiss no officer in the military or naval service of the United States unless upon the finding of a court-martial convened according to law.

2. Any officer who shall be reported by his commanding officer absent without leave for twenty days, in time of war or active hostilities, may be dropped from the military or naval service by the President for that cause assigned by proclamation; but on the application of the officer so reported and dropped, stating a sufficient defense under oath against such charge during the whole absence till the day of application, the President shall convene a court-martial to try him on that charge; and if it acquit him, on approval of the sentence he shall stand *ipso facto* reinstated; and if the sentence be disapproved for legal cause, another court shall be ordered for his trial by the order disapproving the former finding.

3. The President may suspend any officer in the military or naval service, without pay or emolument, in time of war or active hostilities, who shall be reported by his commanding officer or the Secretary of War for any flagrant offense for which under the articles of war dismissal or death is a legal punishment, and in the opinion of the President ought

to be so punished; but the order of suspension shall specify the charges and convene a court-martial for the trial of the officer thereon within ten days from the date of the suspension; and if the court shall not assign dismissal or death as the punishment, the officer shall stand restored to his rank, pay, and emoluments from the date of the suspension.

THE PUBLIC PRINTING.

Mr. A. W. CLARK, from the Committee on Printing, reported back, with a recommendation that it do pass, joint resolution of the Senate No. 18, in relation to the public printing.

The joint resolution was ordered to a third reading; and it was accordingly read the third time and passed.

RAILROAD LAND GRANTS.

Mr. DRIGGS, by unanimous consent, submitted the following preamble and resolutions; which were read, considered, and agreed to:

Whereas certain land grants were made by Congress in the year 1856 to aid in the construction of railroads in the States of Alabama, Florida, Iowa, Louisiana, Minnesota, Mississippi, and Wisconsin; and whereas it was provided in the acts making said grants, that in case the roads enumerated therein should not be completed in ten years that the lands should revert to the United States; and whereas several of the grants were made to States now in rebellion against the Government; and whereas application has been made and will continue to be made to the present Congress for an extension of the time of said grants: Therefore,

Resolved, That the Committee on Public Lands be requested to make a thorough investigation of the subject, to ascertain the number of miles of roads that have been built by the companies claiming lands under said grants, the number of sections and acres of land that have been given or transferred to the roads respectively for the miles already completed, the prospect of their completion, and whether it will be just and expedient or not to extend the time of said grants.

Resolved, That the committee be further requested to report to this House, by bill or otherwise, such action in the premises (after a full investigation) as to it shall seem just and for the public interest.

WESTERN COMMERCE.

Mr. BLAIR, of Missouri, asked the unanimous consent of the House to offer the following resolution:

Resolved, That a special committee be appointed by the Speaker of the House, to consist of five members, with authority to inquire into and report upon the practical operation and results of the act of Congress regulating commercial intercourse with the States declared to be in insurrection against the authority of the Government, and whether the regulations of the Treasury Department which purport to have been made in pursuance of said act, as carried out by the Department, comply with its design. To examine particularly and report upon the manner in which said act has been executed, and whether any frauds have been practiced on the Government by the officers or agents employed under said act, and whether any favoritism to individuals or localities has been shown in its execution; and to inquire further whether the effect of said act and of the said regulations of the Treasury Department has been to prevent supplies from reaching the rebels or to facilitate the object. That said committee have power to send for persons and papers, and to employ a clerk, with the usual amount of compensation, for the purpose of reducing to writing all testimony taken by said committee.

Mr. SLOAN objected.

Mr. BOYD. I hope no objection will be made to that resolution.

The SPEAKER. Objection has been made, and the resolution is not before the House.

Mr. BLAIR, of Missouri. I hope the gentleman from Wisconsin will withdraw his objection. The resolution merely provides for an inquiry into a very important branch of the public service. Certainly no friend of the Secretary of the Treasury or of the Administration ought to object to it.

The SPEAKER. The resolution is not before the House.

Mr. BLAIR, of Missouri. I understand the gentleman from Wisconsin to withdraw his objection.

The SPEAKER. The Chair does not so understand.

Mr. SPALDING. If he does, I renew it.

CONFISCATED PROPERTY.

Mr. EDGERTON claimed the floor.

Mr. NOBLE. I ask the gentleman from Indiana to yield to me for a moment.

Mr. EDGERTON. I will do so.

Mr. NOBLE. My colleague [Mr. GARFIELD] has referred to a private conversation held with an individual from the State of Ohio.

The SPEAKER. The gentleman from Ohio can only proceed by the unanimous consent of the House, the gentleman from Indiana being entitled to the floor.

Mr. DAVIS, of Maryland. I object.

Mr. NOBLE. Mr. Speaker—

Mr. DAVIS, of Maryland. I distinctly rose in my place and objected to the gentleman from Ohio proceeding.

The SPEAKER. The Chair understood that objection was made to unanimous consent being given; but the gentleman from Indiana can yield part of his time to the gentleman from Ohio with the consent of the House.

Mr. DAVIS, of Maryland. If the gentleman from Indiana yields the floor unconditionally, I suppose he may.

Mr. EDGERTON. I cannot yield unconditionally.

The SPEAKER. Then the gentleman from Indiana will proceed with his remarks.

Mr. EDGERTON. Mr. Speaker, the speech of the gentleman from Pennsylvania, [Mr. STEVENS,] advocating his proposed amendment to the joint resolution now before the House, removes from my mind all doubt, if any existed before, as to the character and objects of the act of Congress of July 17, 1862, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

I listened to and have read the gentleman's speech with deep and, I may say, painful interest. With the hand of a master he has drawn in clear and bold outline a sketch of the character and objects of this war as now waged by the Federal Executive. His propositions are substantially these:

1. That the existing war between the United States and the confederate States is a civil war, carrying with it the character of public war, in which the United States on the one side and the confederate States on the other are belligerent parties, and as to each other independent and foreign nations, and the character of alien enemies attaches to all, including women and children, who in fact, or by domicile, adhere to the confederate States.

2. That the war has abrogated the treaty or compact called "a Constitution" heretofore existing between the United States and the confederate States, or their people, and neither can claim as against the other the aid of the Constitution or the laws passed under it.

3. That the territory of the confederate States, covered by the confederate flag, is foreign country, and when we conquer it, it is a conquered country, whereof the lands are to be confiscated and sold, and the slaves of the people made free, and the States and their laws reorganized.

4. That he who now wishes to reestablish "the Union as it was," and to restore "the Constitution as it is," cannot escape the guilt of attempting to enslave his fellow-men. "The Union as it was and the Constitution as it is" is an atrocious idea; it is man-stealing. That all the inhabitants of the confederate States have forfeited all rights under the Constitution which they have renounced, and that they are forever estopped from claiming "the Union as it was."

Sir, it is a question of grave significance to the people of the United States, and to the Army of the United States, as a part of the people, whether or not the gentleman from Pennsylvania [Mr. STEVENS] speaks by authority.

On this point he uses this language:

"To gentlemen who were members of the last Congress this is but repetition. At the extra session of 1861 I advanced the same suggestions; and I have repeated them on all occasions that I deemed proper since. They were not then quite acceptable to either side of the House. But I am glad to find that the President, after careful examination, has come to the same conclusion. In details we may not quite agree; but his plan of reconstruction assumes the same general grounds. It proposes to treat the rebel territory as a conquered one would treat it. His plan is wholly outside of and unknown to the Constitution. But it is within the legitimate province of the laws of war. His legal mind has carefully studied the law of nations and reached a just conclusion."

I do not now allude to the speech of the gentleman from Pennsylvania with a view to make it the chief theme of my remarks at this time, or to attempt an answer to it now; for even if I felt myself able to enter the field of argument with a gentleman of his eminent ability and great parliamentary experience, I should deem it due to my cause and to myself to devote to the speech more of time for investigation and thought than I have yet been able to give to it.

The speech is one that should be read and pon-

dered well by every man who desires to restore "the Union as it was under the Constitution as it is"—an expression, sir, I would here say, as grossly misunderstood as it is grossly misrepresented; and to the true friends of the Union as the Constitution made it the speech will suggest the pregnant question, Is this a war for the Union? And they may further ask, To what good does the blood of our people flow like water, and taxation lay its iron hand upon our labor and our estates, if the Union and the Constitution be no longer our cause and justification? Many men, yes, tens and hundreds of thousands, who have given the war an earnest support, and would still support it for its just and constitutional purposes, will inquire, if the gentleman from Pennsylvania be the exponent of our war policy, whether it be not better to say to the States and people now composing "the foreign country" to the south of us, and once our sister States, "Wayward sisters, go in peace," than to attempt to force upon them, by the power of war, the iron bonds which the iron policy of the gentleman from Pennsylvania [Mr. STEVENS] would forge for them.

It is common, sir, for gentlemen on the other side to denounce us, and the great Democratic party of the North, as disunionists, sympathizers with rebellion, secessionists, disloyal men; and the word "traitor" almost fell from the lips of the gentleman from Ohio [Mr. SPALDING] the other day in his allusion to his Democratic colleague, [Mr. Cox.] Sir, if Jefferson Davis ever gave utterance to sentiments more disunion and disloyal, or ever indicated a more fatal purpose toward the Union and Constitution, than the gentleman from Pennsylvania has done in his speech, I have yet to find the record of such utterances; and I go further, sir, and say that if the President of the United States accords with the sentiments and purposes of the gentleman from Pennsylvania, and is carrying on the war for such purposes, then is he as essentially infidel to his oath of office and his high duty as a magistrate and a citizen as was Jefferson Davis when he commanded Beauregard to open his batteries against the walls of Sumter. Sir, it is a solecism, a mockery, and an absurdity to call such sentiments as those of the gentleman from Pennsylvania "Union sentiments," or such a war as he would wage against the people of the South, now, as he claims, an alien and foreign people, "a war for the Union." It is the creed of the gentleman from Pennsylvania, urged from year to year with all the energy of his powerful intellect and iron will, that has poisoned the minds of the people of this nation, North and South, toward each other and their common Constitution, and brought disunion and civil war upon us with all their woes. Sir, the men disloyal to the Union and the Constitution are not all adherents of the southern confederacy, nor in the ranks of that "odious" Democratic party whom the gentleman from Pennsylvania seems so much to loathe and despise; the names of many may be found in the rolls of the "Loyal Leagues," and not a few even in high places of Federal power.

Sir, if the President and his party in power desire to deplete and demoralize the Army of the Union, and take from it and give to the rebellion all the moral power of a just cause; if they desire to remove all inducement for the free enlistment of men to recruit our Army; if they desire to make the conscription law a dead letter on the statute-book; if they desire to sap the unsteady foundation, and tumble into ruin hopeless and irretrievable the already inflated and unsubstantial structure of our public credit; if they desire to prolong the war, to aggravate its horrors and intensify its hate, and enlist against us the sympathies of the civilized world, and finally to secure to the confederate States their independence as a nation, leaving the name and glory of the United States as but the shadow of a once mighty name and power in the earth, let the President and his party adopt and persist in and attempt to carry out the policy of the gentleman from Pennsylvania.

In the view I have of the character and purposes of the party in power, as a revolutionary party, it seems to me of little importance, except as to form, whether the joint resolution reported by the Judiciary Committee, or the proposed amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] or that suggested by the gentleman from Ohio [Mr. SPALDING] be adopted by Congress. Either would remove the restriction

virtually imposed by the President himself upon the act of July 17, 1862. That act as drawn was intended to work a complete forfeiture of the real and personal estate of the classes of offenders designated by it. Congress, under duress *per minas* from the President, as we are told, limited, by their joint resolution of July 17, 1862, the forfeiture of real estate under the act to the life of the offender. The object of all the propositions now before the House on the subject is to remove that limitation.

The real issue, then, raised by this debate, as is manifest from the tenor of the arguments on both sides, is the issue of absolute, sweeping confiscation, either by legislation and judicial process, assumed to be within and according to the Constitution, or by the laws and process of war outside of the Constitution.

Upon that issue, were there no constitutional limitations or limitations of belligerent rights under the law of nations to affect it, I would oppose the joint resolution now before the House and the amendments proposed to it, on the broad grounds of Christian humanity and public policy. Assuming for the Federal Government all the rights and power of war claimed for it by the gentleman from Pennsylvania, [MR. STEVENS,] the spirit that would prompt their use to the extent he contemplates is the tyrant's spirit, not the patriot's nor the philanthropist's. It is never wise nor well, sir, for any Government to do all in the way of punishment or revenge toward its own people or an alien people that it has power to do. On the contrary, we are told by a wise master of human nature that

"Earthly power doth then show likest God's,
When mercy seasons justice."

I have therefore felt it to be my duty to say something, more by way of general discussion than of legal argument, for that has fallen to abler hands, upon the questions involved in this debate. And first, my sense of what is due to my position as one of the minority here leads me to allude briefly to some offensive remarks addressed to us by gentlemen on the other side of the House.

We have been told, sir, by one gentleman [MR. LOVEJOY] that we were here without a constituency; by another [MR. DAVIS] that we were sent here to embarrass the Administration, and that our support was not needed and would be looked upon with suspicion; and the word *traitors* was almost used by another gentleman [MR. SPALDING] in alluding to the Democracy of Ohio; while the gentleman from Pennsylvania [MR. STEVENS] spoke of the Democratic party generally as an "odious party, inspired by the love of slavery alone," and destined to "sink into utter contempt and be despised of all men."

Sir, I shall not comment upon the spirit that evidently animated these remarks, further than to say that it is one not friendly to the wise and patriotic legislation which the peril of this nation now demands, and to further say that if the gentlemen on the other side will look to the returns of the fall elections of 1863, I think they will find that the minority represent upon this floor the opinions, the patriotism, and the determined purpose of not less than one million and a half of free intelligent electors in the States from whence we come; and, sir, that purpose is firm that neither the Federal Executive, of whose revolutionary policy and unconstitutional edicts the majority of this House seem to be the willing echoes and instruments, nor the revolutionary confederation governed by Jefferson Davis, shall ever destroy the Federal Union, or the Constitution of the United States, which is its life and its bond.

Our constituency, Mr. Speaker, are interested in the Union and the Constitution. They have in them an estate of inheritance which they highly value. The history and glory of the Union belong to them as well as to the constituents of the majority. Our hearthstones and roof-trees, our wives and children, our lands and goods, our persons and our rights of every name and degree, are as much entitled to be, and claim as much to be, under the ægis of the Constitution, as are, or can claim to be, those of the majority. Sir, if the gentlemen on the other side of this House claim to be friends of the Union, we know we are its friends; if they claim to respect the Constitution, we know that we honor it in thought, in word, and in deed, in the true sense in which Washington honored it, as the palladium of American liberty.

The people of the United States, irrespective of party name, are in the broad and just sense of the term the constituents of every Representative on this floor, and he is illy fitted for a place here whose mind and heart cannot do justice and deal in equity with the rights and interests of the people of every State and section of the United States. There are rights of States, as sovereignties and bodies politic, and rights of persons under the Constitution, for which we are here to speak, to deliberate, and to vote; and as one, if but an humble one, of the minority, I believe I but utter their united voice when I say they will manfully do their duty in that regard, heedless of the taunts or threats of the majority.

I have no ambition, Mr. Speaker, to distinguish myself in this House as one among the number of the destroyers of the constitutional sovereignty of Federal States. It is no part of my creed, as I understand it to be the creed of the gentleman from Maryland, [MR. DAVIS,] that "State rights are national wrongs." On the contrary, I believe that State rights, in the true constitutional sense of the term, are rights, not wrongs; and when I took my oath of office to support the Constitution of the United States I felt that it bound me as much and as sacredly to respect here by my voice and votes, and elsewhere by word and deed, the constitutional rights and sovereignty of insulted Maryland and down-trodden Delaware, within their constitutional sphere and jurisdiction, as it bound me to respect and support the rights and sovereignty of the United States in their sphere. For one, sir, I have no respect for nor sympathy with the assassins of the constitutional rights of any Federal State of this Union, much less when the assassin's partricial hand is turned against the State which gave him birth and to which he owes allegiance. I have no sympathy with that spirit of Jacobin ferocity displayed by some of the leaders of the Administration, who, in their thirst for blood and confiscation, are already rivaling the worst days of the French Revolution, when Heaven-defying crime waded knee-deep in blood, under the banner of "liberty, equality, and fraternity."

Sir, as I look upon the troubled scene of our national affairs I see three powerful parties or combinations struggling for mastery, and shaping our destiny as a people for weal or woe. They are: 1. The party of secession, led by Jefferson Davis and his coadjutors in treason, rebellion, insurrection, or revolution—I care not what name you give it—who are endeavoring by war to destroy the constitutional Union and Government of the United States. 2. The party of the Federal Administration, a political party of many incongruous elements and conflicting principles, assuming to itself the name of Union party, intolerant even to fanaticism in its opinions, bold and violent in its declared purpose of crushing out rebellion, but at the same time daily asserting and exercising despotic power in the Federal Government, and, by Executive edicts, by congressional legislation, and by military power combined, working a radical revolution destructive of the basis and principles of the Federal system of constitutional Government. 3. The conservative or true Union party, better known by the historic name that has distinguished it almost from the adoption of the Constitution as the Democratic party, which, retaining its cardinal principles and distinctive organization as the party of the people, is resisting all efforts to destroy the Federal Government from whatever source they come, as well as all efforts to subvert or destroy States, and is aiming always, whether it uses the power of war or the spirit and arguments of peace, to restore the disturbed balance of the Constitution, by recognizing and maintaining both national and State rights and bringing all into the healthy and beneficent action of peace and reunion under the Constitution.

The gentleman from Maryland and his coadjutors here or elsewhere may affect to despise as much as they please the support of the minority in this House, or of the constituents we represent; but I say to the gentleman, that which he should know, or will know, perchance, before many moons have waxed and waned, that our constituents, already numbering, as I have said, a million and a half of freeborn electors, are yet a power in this Union of States; a power whether for peace or for war; a political power at the ballot-box, and a material power for war. Without their aid this Union cannot be restored, and without their

aid it cannot be destroyed. Reviled and despised as they are by party opponents of more zeal than knowledge, or of more malice than patriotism, the conservative Democratic party of the United States, as it will be organized and represented and led in the grand contest of 1864, will hold in its hands the issue of these days of peril—Union or no Union, Constitution or no Constitution; and they mean that that issue shall be settled according to the Constitution and laws of the land; not otherwise. I warn the gentlemen who taunt us with having no constituency, and scoff at our and their support, that they do not too much ignore nor despise the constituency we represent; for, sir, it is often as true of parties as of men, grown proud by ill-deserved success, that "pride goeth before destruction, and a haughty spirit before a fall." These, sir, are my answers to those gentlemen in this House who, arrogant with the power of their majority, daily insult us and the constituents we represent with taunts, which, to say the best of them, are not the arguments of statesmen.

In the joint resolution now under consideration and in the proposed amendment of the gentleman from Pennsylvania [MR. STEVENS] I see the evidence of two distinct ideas as to the mode of proceeding to reach the common object of the majority in regard to the subject-matter of the resolution, namely, the confiscation absolute and complete of the lands or real estate of the southern insurgents. The policy, now no longer concealed, but openly declared, not only in the speech of the gentleman from Pennsylvania, but declared in this very Hall a few evenings ago, and loudly applauded, in presence of the President himself, who was then, with like applause, renominated for a second term of office, as the exponent and representative of that policy, demands that the territory, the actual soil of the southern States in insurrection, shall come under the control of the Federal Government, so that it can vest absolute titles in fee in the persons, white or black, to whom that Government may grant it by sale or gift. Absolute title is wanted and must be had, or the party in power, now thoroughly educated into the most radical abolition policy, will fail in the purpose which has become its grand controlling purpose in this war. This purpose is no other than the absolute subjugation of the southern or slave States, to the northern or anti-slavery States, and a complete revolution in the whole political and social system of the slave States, reorganizing them, on the northern or New England basis—a basis clearly declared in well-seeming words by the present head of the Department of State, in a speech made at Chicago in October, 1860, when he said that the creed of the Republican party was that

"Freedom was to be maintained and carried on this continent by Federal States, based upon the principles of free soil, free labor, free speech, equal rights, and universal suffrage."

The Chief Magistrate, to whose proclamations sworn assent is now demanded as a test or criterion of loyalty, and to which it is expected that Congress and the courts of law are alike to give the character of law, paramount even to that organic law by which the presidential office is created and its powers defined, years ago declared that the Union could not permanently endure half slave and half free; and now, to the demonstration of the truth of what when spoken was but the pretentiously oracular utterance of an obscure politician, the whole power of the United States is to be made subsidiary and subordinate even to the removal of the landmarks of property and the upturning of social systems and the virtual annihilation of the Constitution. Without the approval of historic precedent, or the sanction of sound political philosophy or of true Christian philanthropy, a grand utopian experiment to "wash the Ethiop white" is to be made at once at every cost and hazard. And here, sir, I would remark that men have not been wanting, and they were many, who, while the irrepressible conflict between free and slave States was proclaimed by those now wielding the powers of the Federal Government, clearly foresaw and gave warning that civil war and disunion in the United States were the inevitable results of that conflict if rashly continued to be urged upon the people. The last three years have but proved the truth of history, that wisdom and warning are alike lost on men inflamed with the wild zeal of fanaticism, when

it be religious, philanthropic, or political. The zealots of slavery and the zealots of anti-slavery have had their way, and the attestants of their zeal are a broken Union, a dishonored Constitution, a land drenched with blood, filled with demoralization, sadness, and death, and already burdened with a public debt whose giant form even now projects into the swift-coming future the gloom of national bankruptcy. The same policy that was the chief exciting cause and forerunner of civil war is now its concomitant, and the guide of the Federal Administration in its conduct.

It has been determined by the Administration that the lands of the southern States shall become free soil, in their sense of free soil, that is, soil whereof white men and negroes shall share in common ownership, coequals in all rights political and social.

The constitutional rights of States and persons, the canons of property, State laws, the principles of public law, the spirit of Christianity, and that unconquerable instinct of nature which binds men of the same race to each other as brother to brother, may and do stand in the way of that negro Utopia which philanthropy run mad sees rising up on the sunny plains of the South. But what of that? An oracle has said, "This Union cannot permanently endure half slave and half free;" and the rights of States, guaranteed by the Federal Constitution, to make their own constitutions of local government, and their own laws to form and control their domestic institutions, are no other than national wrongs before the higher law of negro emancipation and elevation. The law of nations, Christianity, the natural instincts of kindred and race must yield to it; and it leaps over or breaks down with impunity constitutional limitations, plainly written and made sacred by time and the expositions of the most eminent jurists. How much of the partisan or fanatical spirit of revenge, or of mean cupidity and greed of personal gain, or of low political ambition meaner than avarice, may mingle in the motives of some of the "loyal" men who are urging forward this giant scheme to subjugate, impoverish, expatriate, or exterminate millions of a kindred race of white men, inheritors of the names and homes of patriots and sages, whose names and deeds illuminate our history, for the assumed benefit of a race of black men and their white coequals, I am not now prepared to say; but the history of this war thus far, in the details of its oppressions and devastations, in its reckless expenditures and official frauds, its Army and Navy contracts, its cotton and sugar speculations, and kindred schemes of "loyal" enterprise, afford heart-sickening revelations to men who love their country, and watch with care the progress of events.

As I have already remarked, there are two leading ideas in the minds of Administration men as to the ways and means of accomplishing the schemes of the party in power. The one is the idea of men who from temperament or conservative political education, or other causes, are timid men, and by strategy and indirection would achieve destructive and revolutionary objects through the use of constitutional forms. To this class, which may be styled the conservative party in the Administration, the President himself naturally belongs. The other idea is that of the radicals of the Administration party; men who originate and lead and shape revolution; men of more robust intellect, clearer mental vision, more energy of will and directness of purpose than the President and his conservative adherents, men of the stamp—if I may so say—of the gentleman from Pennsylvania, [Mr. STEVENS,] whose amendment would sweep away at once all the cobwebs of constitutional technicalities by which more timid and less clear-sighted men of his party would stop the onward progress of the juggernaut of confiscation, whereon the negro idol sits enthroned. The timid men want absolute confiscation. It opens before them a wide field where revenge, philanthropy, and "loyalty" can all get profit and substantial reward. The Constitution is a lion in their path; a wall in their way; a fortress and a rock of defense to rights of States and rights of person and property. A bold man, a revolutionist, like the gentleman from Pennsylvania, would, if need be, at once strike down the ramparts of the Constitution, or push it aside as an unwritten parchment if it lay in his pathway. The gentleman from Ohio, [Mr. GARFIELD,] with the elas-

ticity of youth but the discretion of age, would not rush deliriously against the Constitution, but would overlap it at a bound. Other conservative legislators here, less bold than the gentleman from Pennsylvania and less elastic than the gentleman from Ohio, while professing a desire to do nothing contrary to it, would crawl over, under, or around the Constitution, into the elysium of national salvation and universal freedom which they see beyond it. Herein is the cardinal difference between the two wings or divisions of the Administration party, and the President seems neither by nature nor in fact to be the leader of either, but to take his color and his cue from one side or the other, as the pressure or need of support from either may from time to time be greatest. Barring my utter abhorrence of the revolutionary purposes of the party, what little of respect I have for their methods is with the radicals. With them, we, whose duty it is to stand in defense of the Constitution, know we will have an open field and a fair battle. From a man who openly curses the Constitution we know what to expect. Not so as to him who would betray it with a kiss.

The war power, the mail-clad, slaughter-breathing, remorseless Mars, is the divinity the gentleman from Pennsylvania [Mr. STEVENS] calls to his aid. This war power, which, in the form it now assumes, was unseen and unsuspected in the placid, beautiful features of the Federal Constitution, has suddenly sprung from it, full-armed, like Pallas from the brain of Jove; or I might better say that like the little cloud, no larger than a man's hand, which Elisha saw from the top of Carmel coming up from the far horizon of the sea, the war power has grown and spread, from a misty, dimly seen nebula, until its deep, dark shadow covers the land like a pall, and men gaze on it.

"As men who watch the thunder-cloud in fear,
Lest it should break above them."

This war power as it is now sought to be applied in our jurisprudence is not a constitutional instrument, but a revolutionary invention of radical minds. It is no legitimate child of the Constitution; it does not bear its lineaments. Nor is it the child of the President; it has in it nothing of his intellectual or physical conformation. It has been brought to him as an ally and helper; something whereon he might lean, and to some extent he has used it. He has used it to effect the radical end of the emancipation of the slaves. He used it first for this purpose with hesitation, with reluctance and great misgiving. He thought a proclamation of emancipation under the war power would be thunder without the bolt or the electric stroke, or like the Pope's bull against the comet. But the President's mind is changeable. What he thinks or declares to-day he may not think or declare or abide by to-morrow. What the President used doubtfully and timidly at first, but now with use is growing enamored, as boys grow in love with their first firearm, be it gun or pistol, and as men grow pleased with power by using it, the gentleman from Pennsylvania has no fear nor doubt in using. He marches boldly up to the issue of confiscation, and claims it, not as a punishment for treason under the Constitution, but as a belligerent right of the conqueror over the conquered, outside of the Constitution. Against the theory of the inviolability of the constitutional Federal Union, State rights, rights of property and person under Federal and State constitutions, placed in one scale, he boldly throws into the opposing scale what William Pinkney once aptly termed "the ponderous claim of war." By secession and revolution, in the view of the gentleman from Pennsylvania, the southern people have become alien enemies. We have invaded and conquered their territories, and by power of war emancipated their slaves within our reach. Their lands are our property, and they and their slaves our subjects. The Federal Government is sovereign over both by the laws of war, and all that remains is to legislate as to the division of the conquered lands, and to organize and protect the new order of freemen and freedmen's society to be established there. This is the theory and plan of the gentleman from Pennsylvania, and in it the confiscation law pure and unlimited is to play its part. It is a bold plan, claiming the extreme principles of the law of nations for its base, and not the Federal Constitution; and at the proper time I hope it will be fairly and fully met in all its

bearings in the manner in which it has been met to-day in the able argument of my friend from Ohio, [Mr. FINCK,] when the various bills (that of the gentleman from Pennsylvania included) for reconstructing States or organizing conquered provinces shall come before this House.

Now, Mr. Speaker, let us look more directly at the intent and character of the joint resolution before the House. Under various pretenses, among which I may name indemnity for the past and security for the future, zeal for the soldiers of the Union, their widows and orphans, wives and children, zeal for the oppressed bondmen, zeal for the onward march of freedom and the extension of our power and glory as a nation, zeal for arts, manufactures, and commerce, zeal for school-houses and churches, but in pursuance of what I believe to be in fact an unchristian, unwise, revolutionary, and, in many of its elements and motives, fanatical and corrupt policy of the party in power, their majority in the Thirty-Seventh Congress passed the confiscation act of July 17, 1862.

The first object expressed in the title of this act was "to suppress insurrection." As to that object no man questions that the act has signally failed, as the experience of history proves that all attempts to deal with a great revolution, a general uprising of a people educated in principles of free constitutional government, by hurling at them the thunders of vindictive legislation, have also signally failed. Revolutions are never conquered by vindictive laws. They but add fuel to the flame, and make what might otherwise be weakness strength by the very inspiration of despair, but they never conquer nor suppress a revolution. Armies may do it, but vindictive legislation never did and never will. They are "bloody inventions, which, being taught, return to plague the inventor." Liberty may be crushed out by the strong arm of material power, but laws cannot crush it, for liberty and law affiliate. They are twin sisters, coequal in origin and duration, and when society is normal, they ever cling with loving kindness to each other. Law was not born to be the tyrant of Liberty, but her sister and her ally.

As an act to punish treason and rebellion, and to seize and confiscate the property of rebels, the purposes and terms of the act of July 17, 1862, are clear enough. The first four sections relate to the punishment of treason and rebellion below the grade of constitutional treason. The fifth section makes it the duty of the President to cause the seizure of the property, real and personal, of all the higher or official grade of persons who should thereafter participate in the rebellion, such property to be applied and used for the support of the Army of the United States. Section six went further, and extended the President's power of seizure and application to the support of the Army, of all the estate and property of all other persons engaged in or aiding the rebellion who should not, within sixty days after public warning and proclamation of the President, cease to rebel or abet rebellion; and the act of seizure was made operative to defeat all sales or transfer of such property and estate after the expiration of said sixty days. Sections seven and eight prescribed the judicial proceedings in rem by which the property thus seized should be "condemned as enemy's property," and become the property of the United States, to be disposed of as the court should decree, and the proceeds thereof paid into the Treasury of the United States for the purpose stated, namely, the support of the Army.

I do not know who was the author of this act of July 17, 1862, but it is apparent that there is in it a strange mixing up of and attempt to enforce belligerent and municipal rights against the same persons. The first four sections are evidently intended to be constitutional or municipal legislation, based upon the constitutional power of Congress to declare the punishment of treason and its implied power of declaring and punishing crimes against the United States, and clearly contemplated indictment and conviction under the Constitution. Sections five, six, seven, and eight, inasmuch as they do not conform to any constitutional provision in regard to treason and its punishment, although aimed at persons guilty of treason, seem to be based upon an assumed belligerent or war right of seizure and confiscation. Thus, while Congress in one breath were declaring that traitors and their abettors should be

hung, or imprisoned and fined, and their slaves made free, in another breath they were providing that their estate and property should be seized, condemned, and sold as enemy's property.

The President, either because less clear-headed or more timid or more scrupulous about overriding the Constitution, did not view the law in the light of a law based on the rights of war alone. He either did not see or would not admit the propriety in one and the same law of dealing with rebels as traitors to be indicted, convicted, and hung, or fined and imprisoned, and as alien enemies, citizens of a "foreign country" owing allegiance to a foreign Power, who, if patriotically fighting for it, were subject only to the laws and entitled to the rights of war. He could not divest his mind of the very natural idea that the rebels were, in law, citizens of the United States "levying war against them," and therefore traitors, not alien enemies. He had not at that time, as his subsequent conversation with the two Chicago clergymen on the 9th September, 1862, proves, been educated up to that clear apprehension and wise appreciation of the war power and military necessity which the gentleman from Pennsylvania now vouches for and the President has since shown in his proclamations of September 22, 1862, January 1, 1863, and December 8, 1863, saying nothing of sundry intermediate exercises of the war power in dealings with the *habeas corpus* and personal liberty. The President, under the instructions of the gentleman from Pennsylvania, is evidently improving in military exercises.

When the President, who had read Blackstone and Kent and Story and Mr. Madison in the Federalist—whose pregnant and authoritative opinion has been aptly quoted by my friend from Ohio, [Mr. Bliss]—applied his knowledge derived from those great worthies in jurisprudence to the sweeping confiscation declared in sections five and six of the act, he was staggered, he doubted and hesitated, and finally concluded to change the law or kill it by the veto. The result was his message to Congress of July 17, 1862, followed immediately by the passage by Congress of the explanatory joint resolution of the same date. If the President, by similar duress *per minas*, had exercised similar conservative influence over the same Congress, he would have done wisely. The language of the President's message is in itself so strong an argument against the act as it was proposed that I quote briefly from it. He said:

"That to which I chiefly object pervades most part of the act, but more distinctly appears in the first, second, seventh, and eighth sections. It is the sum of those provisions which results in the divesting of title forever.

"For the causes of treason and ingredients of treason, not amounting to the full crime, it declares forfeiture extending beyond the lives of the guilty parties; whereas the Constitution of the United States declares that 'no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained.' True, there is to be no formal attainder in this case; still, I think the greater punishment cannot be constitutionally inflicted, in a different form, for the same offense.

"With great respect I am constrained to say I think this feature of the act is unconstitutional. It would not be difficult to modify it."

The point of the joint resolution of July 17 is in these words:

"Nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

Now, whatever may have been the original design of the author of sections five and six, &c., of the confiscation act as to the rights of war, and however much the President may have misconceived the real point of the law, it is plain that the joint resolution put the construction and effect of the law beyond question, (except with Judge Underwood,) and forbade the confiscation of real estate of offenders beyond their life estates, thus carrying out the plain meaning of the Constitution and the ideas of Madison and Story upon the subject.

It is to be borne in mind that at this time the slaves were not emancipated. The war power in its loftiest flights had not attained to that bad eminence. The necessity of free soil for freed men did not then exist. The President had not been educated by the Boston Gamaliels and Pauls of abolition, or by the gentleman from Pennsylvania, up to the standard of the "proclamation of emancipation." So soon as that policy was adopted, the embarrassment of the restriction on confiscation under the act of July 17 was at once

felt. It was expressed by the Solicitor of the War Department on page 120 of his pamphlet, entitled "The War Powers of the President," where he says:

"It is much to be regretted that the joint resolution of Congress should have been so worded as to throw a doubt upon the construction of that part of the statute, if not to paralyze its effect upon the only class of rebel property which they cannot put out of the reach of Government, namely, their real estate."

But in course of time a legal luminary arose in Eastern Virginia, who was wiser than Madison or Story, and he threw a ray of light upon the Constitution which was at once hailed as a glad omen by the men whose designs upon the estates of the South had been balked by the explanatory resolution of July, 1862.

The brilliant decision of Judge Underwood in the face of the positive language of the joint resolution was considered a very timely and good thing, but it was clear that after the argument of the President himself in his veto message, and after the doubt expressed by the Solicitor of the War Department, it would not do at once to say, even upon the high authority of Judge Underwood, that the joint resolution meant nothing and could be discarded, nor to say that the Constitution did not mean what the President, sustained by the highest constitutional authorities, said it did mean. But if that resolution were out of the way, or its effect neutralized by legislative amendment or explanation, there was room for hope that other judges, in the Supreme Court of the United States, might be found as wise and patriotic and loyal as Judge Underwood, who like him would hold that *except* in constitutional law meant *unless*. I say there was some ground for this hope, and why? The vast learning and integrity of the accomplished Story, honored in both hemispheres, were no longer in the Supreme Court. The massive intellect and unsullied honor of Marshall were no longer presiding there. The wise and pure McLean had also ceased to live, and the lamp of life of the venerable Chief Justice, whose mind had shone like a sun in that great tribunal for more than thirty years, is feebly flickering and might in a moment go out in the night of death. True, Grier and Nelson, Wayne, Clifford, and Catron were still there; but might not this Congress, devoted to the Administration, pledged to its policy and ready to do its work, easily provide, as has already been proposed by bills in this House, for additional judges, equal in judicial integrity and wisdom to the loyal and illustrious Underwood, who would judicially declare that *except* meant *unless*, and that therefore the Constitution did not prohibit as a punishment of treason the forfeiture of the fee simple of a traitor's estate? Where there is a will there is a way. The joint resolution could by Congress be amended and explained, and the Supreme Court could be so organized as, not only in this case but on other great questions, to declare the law of the Constitution to be in accordance with the policy and desires of the radical and revolutionary men who are determined to control, and do control, this Administration.

I do not hesitate, Mr. Speaker, upon my responsibility as a Representative, to say that the Chief Magistrate who made the declarations of the President's inaugural address of March 4, 1861, under the solemn sanction of official oath, in the presence of a people whose hearts were quivering with intensest interest and fear for the nation's fate, fear of disunion and civil war, and who was afterwards capable of making and declaring as the law of this land the proclamations of January 1 and December 8, 1863, is capable of so organizing and influencing the Supreme Court of the United States that it or a majority of it will declare that the Constitution of the United States means just what this Administration wants it to mean, regardless of the history, the wisdom, and the judicial precedents of the past. We live, sir, in the midst of a great revolution, and of the ways and means to ends, which revolutionists will use if need be. Ambition and suddenly acquired power may and do corrupt and drag from their moral moorings the souls even of men who have had greatness thrust upon them, because their neighbors and the world applied to them the epithet or title "honest."

I have thus, I think, truly traced out the motive or inducement to the introduction of the joint amendatory resolution now before the House.

1. This resolution proposes to substitute, in place of the language of the joint resolution of July 17, 1862, which, whether that was the effect of the second clause of section three, article three, of the Constitution or not, absolutely prevented the forfeiture of more than a life estate, the words "*except during*," as used in the Constitution itself, instead of "*beyond*," as used in the original joint resolution; the word "*except*" being the little loop whereon the astute Underwood had hung his doubt. The word "*real*," before estate, in the original resolution, is also proposed to be stricken out by the amendment.

2. For fear that this amended phraseology might still be construed as a restriction upon the power of forfeiture beyond life, the intent and meaning of the proposed amendment are declared to be, that the operation and effect of the confiscation act is only limited so far as to make it conform to the Constitution, section three, article three. In other words, it means that the act of confiscation may be treated as empowering absolute confiscation of all rebel property, subject to the decision of the Supreme Court of the United States upon the question whether more than a life estate can be forfeited under the act.

3. The amendment provides that the President's proclamation of July 25, 1862, based on section six of the act of July 17, shall be held sufficient warning and proclamation to bring all offending persons within the operation of confiscation; that is, that such proclamation should establish the right and fact of forfeiture, as dating sixty days after July 25, 1862. This provision leaves no door of escape, except the mercy of the President, to offenders who, though then rebels, may since have ceased to be such, and is another evidence of the vindictive and unjust spirit that pervades the confiscation policy. The President's warning of July 25, 1862, established the period of sixty days after that date as the time when a life estate only should become forfeit, the confiscation act prohibiting any greater forfeiture than that. Now, by virtue of this joint resolution, if the Supreme Court decides under it that the fee may be forfeited or confiscated, the forfeiture is to be held to relate back to sixty days after July 25, 1862, and divest the fee simple from that time; when at that time there was no law by which more than the life estate could be forfeited. This is to all intents *ex post facto* and retroactive legislation; imposing a greater punishment upon a crime than the law warranted when the crime was committed.

It is therefore apparent to my mind, Mr. Speaker, from the terms of the joint resolution itself and from the tenor of the arguments of gentlemen who favor it, that it is a foregone conclusion and well understood that the judicial interpretation of the act of July 17, 1862, after this joint resolution is passed, is to be such that the party in power will be able to consummate their unholy purpose of sweeping away from their present owners, and from their perhaps innocent and certainly now defenseless heirs, the lands of the southern States, and substituting in their places as owners of the soil the freed negroes of the South, and the more ignoble white men who are watching with vulturous eyes to plunge upon the confiscated spoil of the conquered rebels of the South. Against such a scheme, sir, I would be untrue to the best instincts of my own nature, untrue to that divine religion which I profess to honor, untrue to the principles of humanity, untrue to the cardinal principles of the law of nations and the constitutional jurisprudence of my own country, untrue to the Union and Constitution, for whose salvation I would willingly give my life, if I did not enter my earnest and solemn protest.

It is not by such means, sir, nor by any of your schemes of subjugation and overthrow of States and extermination or expatriation of their people, that you are to conquer rebellion and restore the Union and Constitution to their pristine peace and integrity. The work of true restoration must begin in the hearts of the people, in driving out hatred and malice and mean cupidity, in restoring reverence for the Constitution and its sacred obligations, in a disposition to temper justice with mercy, in a disposition to bury in oblivion the follies and sins of the past.

It may be, sir, and my political action hitherto has been based upon the idea, that the war may be a necessity of longer, indefinite duration. It

is certainly a fact of present existence, and its responsibilities are upon us and not to be ignored nor escaped. So long as armies are in the field, watching and waiting to destroy or conquer each other, the armies that belong to us must be fed and clothed and supplied with the comforts and rewards which their valor, their patriotism, their labors, and privations demand, and with all the material power to give to war its due operation and effect, and to our arms victory. The soldiers of the Union are our soldiers, our Army; our brothers, kindred, and friends. They have been called and gone forth—some freely, as patriots should ever go forth; some by force; some tempted by gain—to fight in our cause. They have fought bravely and well on many a bloody field, and myriads of nameless graves and mourning households, and tens of thousands of maimed and shattered wrecks of youthful manhood all over the land, tell too truly how well and bravely our soldiers have fought. Let us stand by them and do our duty to them, and all who are dependent upon them, as we expect our soldiers to do their duty to us. If it be necessary, as it may be, to break the military power of the States in arms against us, let it be broken speedily and effectually, not by paper proclamations and paper confiscations and bureaus of freedmen's affairs, but by battles, sieges, strategy, and all the highest skill and power of war on land and sea.

But, sir, there is a power which, in the experience of history, ever has and ever will prove more potent than armies and navies to quiet discontent, to restore order, to establish law, and to give to a Government its strongest and best foundation in the love of its people—that is, the power of right; and by right I mean not alone justice, but equity, charity, mercy, kindness—all those noble attributes of humanity which unite men in the bonds of mutual respect and affection.

Sir, have we no faith in God, no faith in the divine religion of Christianity, no faith in the kind charities whose golden threads interlace, like nervous fibers, even the most rugged human natures, if you will but feel for them with a tender hand, that we, as legislators, should declare, as a majority of this House have declared, upon the resolution of the gentleman from Kentucky, [Mr. SMITH,] that

"The only hope of saving this country is by the power of the sword, and that we oppose any armistice or intervention or mediation or proposition for peace from any quarter, so long as there shall be found a rebel in arms against the Government?"

Is that, sir, the spirit in which this Union was formed and waxed great in power and glory under the benign influence of peace? Is that the spirit by which the Union is to be restored and preserved? Far from it. In sober reason I ask, sir, shall the foolhardiness or wickedness of one rebel in arms be enough to silence the myriad voices pleading for peace, and continue upon this nation the curse of disunion and civil war? I trust it is not so. Will the world scorn us, will history reproach us, will wise and good men doubt our wisdom or our manhood, if, while we maintain our armies, as we should, to defend our States and our supreme law from the power of the armies of rebellion, we also use, all the while, in every way, by arguments, by appeals, by forbearance, by honorable concessions, if need be, the power and influence of peace to bring back, as willing freemen, not as reluctant slaves, to the common shelter and fold, the wanderers from our father's house of Federal Union?

Sir, while I love the Union and the Constitution, and repudiate secession and denounce it as a suicidal folly, and its acts as an enormous public crime, and while I long for the overthrow of rebellion and infidelity to the Constitution of my country, I will also say, regardless of the motives that may be imputed to me, that I indulge no malice nor hate to any man, woman, or child in the States in rebellion, and far rather would I win them to our cause by words of peace than to destroy or subdue them by the power of war.

Sir, let this Administration give some heed and deference to the opinions and arguments of the multitudes of faithful Union men in all the Union States, and even in rebellious States, who differ with its policy, and rise above and abandon the extreme dogmas and policy of party, and repudiate emancipation and confiscation and expatriation or extermination by Federal power, and try with

earnestness and in good faith, in any form or in any way—I care not what, so long as it neither degrades nor dishonors us, nor those we would win back to us—the power of a tender of the Union under the Constitution as it is, with full amnesty and pardon for the past, to the rulers and people in rebellion; and if we do not gain our cause by the offer, we at least do not weaken it nor strengthen that of the enemy by such effort to deal with them in the spirit and by the methods of the Constitution.

Sir, if the President needs arguments and precedents for such an effort of magnanimity and true statesmanship, let him consult the history of his own country. Let him turn to the records and precedents referred to in the able and eloquent speech of the gentleman from New York, [Mr. FERNANDO WOOD,] Let him go beyond those records to those of the British Parliament in the days when the elder and the younger Pitt and Burke and Fox and Camden and their compeers appealed for justice, for the principles of the British constitution, for liberty, for law, for peace in behalf of the "rebels" in the American colonies, instead of urging against them the vengeance and havoc of war. Let him, and let other men too, learn from such great exemplars in true statesmanship and lofty patriotism, that to plead for a just and honorable peace, even with rebels in arms, is not treason to the Union and Constitution, nor sympathy with rebellion, any more than were the pleadings of Pitt and Burke treason to the crown and realm of England.

Mr. SMITH obtained the floor, but yielded to Mr. DAVIS, of Maryland, who moved that the House do now adjourn.

Mr. HOLMAN moved that when the House adjourns, it adjourn to meet on Monday next.

The House divided; and the Speaker announced that there were 45 voting in the affirmative and 45 in the negative, and that the Speaker voted in the negative.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Messrs. HOLMAN and GRINNELL were appointed.

The House divided; and the tellers reported—ayes 45, noes 45.

The Speaker voted in the negative.

So the motion was not agreed to.

The question recurred on Mr. DAVIS's motion; and it was agreed to.

And thereupon (at a quarter to five o'clock p.m.) the House adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 29, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

POST OFFICE CONTINGENT FUND.

The SPEAKER laid before the House a communication from the Post Office Department, transmitting a statement of the expenditures of the contingent fund of that Department; which was referred to the Committee on Expenditures in the Post Office Department, and ordered to be printed.

ADJOURNMENT OVER.

Mr. J. C. ALLEN. I move that when this House adjourns to-day, it adjourn to meet on Monday next.

The motion was agreed to.

INTERNAL REVENUE.

Mr. VOORHEES, by unanimous consent, introduced a bill to amend an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, and pay interest on the public debt,'" approved March 3, 1863; which was read a first and second time, and referred to the Committee of Ways and Means.

DUTIES ON IMPORTS.

Mr. VOORHEES also, by unanimous consent, introduced a bill to amend an act entitled "An act further to provide for the collection of duties on imports, and for other purposes," approved July 13, 1861; which was read a first and second time, and referred to the Committee of Ways and Means.

PACIFIC RAILROAD.

Mr. HUBBARD, of Iowa, by unanimous consent, introduced a bill to amend section fourteen of

the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July, 1862; which was read a first and second time, and referred to the select committee on the Pacific railroad.

RAILROAD IN CALIFORNIA AND OREGON.

Mr. COLE, of California, by unanimous consent, introduced a bill to aid in the construction of a railroad connecting the Pacific railroad in California with the Columbia river in Oregon; which was read a first and second time, and referred to the select committee on the Pacific railroad.

LEGISLATIVE APPROPRIATION BILL.

Mr. STEVENS, by unanimous consent, reported from the Committee of Ways and Means a bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1865; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and made the special order for Thursday next after the morning hour.

NATIONAL CURRENCY.

Mr. GANSON, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Whereas, by the twelfth section of the act entitled "An act to provide a national currency secured by a pledge of United States stocks, and provide for the circulation and redemption thereof," it is provided, "for all debts, contracted by such association for circulation, deposits, or otherwise, each shareholder shall be liable to the amount, at their par value of the shares held by him in addition to the amount invested in such shares;" and whereas no special provision is made by said act for the speedy enforcement of such liability in case of insolvency; Therefore, Resolved, That the Judiciary Committee inquire into the necessity or expediency of providing a special and expeditious remedy for dissolving associations organized under the said act, in case of insolvency, and of enforcing the individual liability imposed upon the stockholders of such associations by the said act, and in case the committee find such remedy necessary or expedient, that they report a bill making provisions on that subject.

JUDICIAL FEES IN OREGON.

Mr. McBRIDE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Whereas the fees and compensation now allowed by law to the officers of the United States district court for the State of Oregon, and to jurors and witnesses attending the same, are inadequate, and tend to much difficulty in the administration of justice by said court: Therefore, Resolved, That the Judiciary Committee be directed to inquire into the expediency of providing for an increase of said fees and compensation, and report by bill or otherwise.

AGRICULTURAL REPORT FOR 1862.

Mr. BLAIR, of West Virginia, by unanimous consent, introduced a resolution, which was read, considered, and agreed to, instructing the Committee on Printing to inquire into the expediency of printing one hundred thousand extra copies of the agricultural report for 1862 for the use of the members of the House.

FRENCH OCCUPATION OF MEXICO.

Mr. KASSON, by unanimous consent, introduced a concurrent resolution declaring that Congress has received with profound sensibility information of the purpose entertained by certain European Powers to subvert the fundamental constitution of the neighboring republic of Mexico, and to impose upon the people of that republic, under the influence and menace of belligerent arms, a monarchical system of government practically unknown to the people of North America, and alien to their principles, customs, and usages; declaring that Congress regards this proposition with the deepest regret; and expressing its conviction that such an enterprise will be universally regarded in America as a menace to the dignity and permanence of popular Governments; that it will only result in adding a new element to the causes which have retarded the prosperity of that republic, and will provoke complications continually perilous to the tranquility of this continent. The concurrent resolution was referred to the Committee on Foreign Affairs.

INDEX TO DEPARTMENTAL REPORTS.

Mr. KASSON, by unanimous consent, reported from the Committee of Ways and Means a resolution directing the several heads of Departments submitting annual reports or annual financial state-

ments or estimates to Congress, to supply an index to facilitate reference to the different subjects or facts therein.

BREVET RANK OF VOLUNTEERS.

Mr. FARNSWORTH, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public service, to inform the House whether brevet rank has been conferred upon any of the officers of the volunteer forces of the United States, in pursuance of act of Congress approved March 3, 1863; and if so, upon whom, and if not, the reasons why it has not been done.

FIRST ILLINOIS CAVALRY.

Mr. W. J. ALLEN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be requested to inquire into the fact as to whether any provision of law now exists by which the officers and privates, or their heirs, of the first regiment of Illinois cavalry, who were killed or taken prisoners at the battle of Lexington, Missouri, on the 20th day of September, 1861, can obtain pay from the Government of the United States for the horses and other property lost by said regiment at said battle, and report by bill or otherwise.

MANAGEMENT OF THE INDIANS.

Mr. WINDOM, by unanimous consent, introduced a bill for the benefit and better management of the Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

WINNEBAGO HALF-BREEDS.

Mr. WINDOM also, by unanimous consent, introduced a bill for the benefit of the half-breeds and mixed bloods of the Winnebago tribe of Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

AGRICULTURAL REPORT.

Mr. CLAY, by unanimous consent, presented a communication from the Commissioner of Agriculture relative to the binding of the agricultural report; which was referred to the Committee on Agriculture.

MONTANA TERRITORY.

Mr. BEAMAN, from the Committee on Territories, reported back House bill No. 15, to provide a temporary government for the Territory of Montana, with an amendment; which was recommended to the Committee on Territories, and ordered to be printed.

LOUISIANA ELECTION.

Mr. DAWES. I rise to a question of privilege. I call up the report of the Committee of Elections in the case of the claim of A. P. Field to a seat in this House as a Representative from the State of Louisiana.

The resolution reported by the Committee of Elections was read, as follows:

Resolved, That A. P. Field is not entitled to a seat in this House as a Representative from the State of Louisiana in the Thirty-Eighth Congress.

Mr. DAWES. I do not desire to detain the House but a few moments upon this report. I take it for granted that every gentleman in the House has read the report of the committee, and that renders it unnecessary for me to detain the House very long.

The facts in the case are briefly these: the claimant came here at the commencement of the session with what purported to be credentials from a Mr. Riddell claiming to act as Governor of the State of Louisiana, in company with one other gentleman, and presented a certificate containing the names of three gentlemen, declaring them to have been elected from the State of Louisiana according to the laws of that State.

These credentials were referred to the Committee of Elections, and that committee having examined the case find the facts to be as follows:

The State of Louisiana under the apportionment of 1850 was entitled to four members to this House. Under the apportionment of 1860 that State is entitled to five members. Subsequent to the last apportionment, during the last Congress, a law was passed requiring that each State entitled to more than one Representative in Congress should be divided into congressional districts equal in number to the number of Representatives to which it was entitled. The State of Louisiana has never been so divided, and therefore no person in that

State could be elected in accordance with that law of Congress.

It will be recollected that Congress, or rather this House, in the last Congress passed a bill dividing the State of Louisiana into five congressional districts, which failed to pass the other branch of Congress and to become a law.

This election, or endeavor to hold an election, was held in what was the first congressional district under the old law, and is composed of the larger part of the city of New Orleans and two parishes outside, those of Plaquemines and St. Bernard. The military governor of the State of Louisiana, previous to the day fixed by law, the 2d day of November, for the election of Representatives to Congress, issued a military order forbidding the election to be held, and no attempt was made to hold an election in the city of New Orleans. There was an attempt to hold it outside of the city in the two parishes belonging to this district; and there were votes cast under the auspices of a committee of citizens appointed for that purpose to whom returns were made. And the claimant presented evidence before the committee of votes in one of these parishes—St. Bernard—to the number of 156; and it was said that about the same number of votes were cast, though he had no personal knowledge of the fact, in the other parish of Plaquemines; of that we have no evidence before the committee. The only evidence before the committee was that Mr. Field had received 156 votes in the parish of St. Bernard. The parishes of St. Bernard and Plaquemines contained, according to the census of 1860, 12,566 inhabitants, of whom 2,563 were male whites; and a large portion of the city of New Orleans contained in 1862, when this district was formed, the balance of the then apportionment of 93,000. How many they have at this time it is impossible to tell.

Mr. Speaker, the question is whether a gentleman coming here with a constituency as presented by this report, of 156 votes in one of these parishes and about the same number in the other parish, the others by the order of a military governor being compelled to refrain from expressing their will at the polls, could in any way be considered as having been elected. If there were no difficulty on any other point, the State had never been divided into districts. This seemed to the committee to be sufficient reason to conclude and to recommend the adoption of a resolution that Mr. Field was not entitled to a seat upon this floor.

The credentials presented were from a gentleman supposed to have been elected Governor at the same time that this election was held. The time for which it is alleged he was elected Governor did not, according to the laws of the State, commence till the 1st of January. It is impossible to understand by what process of reasoning this man came to the conclusion that he was Governor of the State of Louisiana on the 20th of November, 1863, the day this certificate bears date. He received votes in two parishes outside of the city of New Orleans and connected with that city. How many votes he received he was unable to say. He appeared personally before the committee and testified that he was competent to act as Governor before a justice of the peace at New Orleans. But he was not inaugurated when he assumed to act as Governor in making out this certificate. Why, sir, the certificate is made out in the city of Washington upon information received by him, but of which he had no personal knowledge.

These are the facts of the case, and without going further into the discussion of matters which might have been raised, the committee were unanimous that the resolution reported should be adopted for the reason that there was a failure to conform to the law, and to afford an opportunity to the loyal voters of the district, except in the smallest fraction of it, to have a voice in this election. We hold that this can, in no proper sense, be considered as an election entitling the applicant to a seat in this House.

Mr. SMITHERS. Mr. Speaker, I propose to occupy the attention of the House for a few moments only in giving my assent to the conclusion to which the Committee of Elections has come; and I only desire to express a qualified assent to a portion of the report. I do it merely for the purpose of putting myself upon the record that I may not be embarrassed hereafter when other ques-

tions of moment come to be discussed before the House, upon which this possibly may have a bearing. I find in the report of the committee this clause:

"The committee know of no other reason why another election could not have been held on the second day of November, the day provided by law for regular elections, except the failure of Congress to district the State in conformity with the law already quoted. And had the claimant been able to have removed that difficulty, the interference of the military governor in suppressing an election on the day provided by law for holding it would have been without justification, and would, in the opinion of the committee, have deserved the condemnation of the House."

Now, Mr. Speaker, with the statement that the great majority of the people of Louisiana were in rebellion against the Government of the United States, and there having been no regularly organized government in that State, either directly or otherwise, and the whole State having been under the military government of the United States, I submit that it is a very dangerous thing, so far as we are concerned, to permit four or five hundred men to gather together, without any government whatever, at the places fixed by the law for holding an election, and there hold an election the result of which is to send a Representative to a seat upon this floor to determine grave questions. I, for one, as I stand impressed now, would not be willing to vote that any gentleman should have a seat, to vote on these questions, until a government has been established in his State which has been recognized by the Government of the United States. Otherwise we might find ourselves complicated and embarrassed by people in the rebel States coming together at their voting places in their respective States, and sending gentlemen here to vote down our measures of enrollment, and other measures necessary for the protection of the Government.

Mr. KERNAN. This report of the committee which has been laid before us is an answer to the remarks of the gentleman from Delaware, [Mr. SMITHERS.] If gentlemen will look at the report of the committee they will see that the committee unanimously agreed that there was notice of an election given. In reference to Mr. Field and the city of New Orleans, the committee say:

"It is due to him, however, that the committee should add that the testimony before them disclosed abundant evidence of his loyalty to the Government, and of his temperate and judicious efforts to restore the State to the discharge of its functions as a member of the Union. The evidence was equally gratifying that the city of New Orleans had in no degree fallen back from that quiet, orderly, and loyal condition in which, under the auspices and with the coöperation of this same military governor, the city one year ago elected two Representatives to the last Congress, by a very large vote, who served out here what remained of that Congress, on an equal footing with all others."

I ask the House to bear in mind that more than a year ago, with the laws of the State of Louisiana and the acts of Congress exactly what they were last November, two members were elected in that State, and were allowed to represent that people upon this floor. I call attention to this matter only to allude to the suppression of the election in New Orleans last November by a brigadier general, when, as the report shows, and the evidence proves, the city of New Orleans was in the same good condition as it was two years ago. The same good order and proper state of things prevailed there, and yet the committee tell us that the election was, so far as New Orleans is concerned, suppressed by an order emanating directly from the military authority of the State, Brigadier General Shepley. It is due to the committee to say that they have discharged their duty; and if we pass over in silence what they bring before us now, we shall fail to discharge our duty. The report does on to say:

"The committee know of no other reason why another election could not have been held on the 2d day of November, the day provided by law for regular elections, except the failure of Congress to district the State, in conformity with the law already quoted."

That Congress had failed to do a year ago. The law of July, 1862, declared that there should be five districts of contiguous territory. Suppose Congress and the State had failed to district the State, does a military general have the right to suppress an election, when, if men are elected by the people and are sent here, this House is the judge whether they are elected or not? Was he to suppress an election because he thought there was some irregularity? It is for the House alone to determine whether there is anything wrong, and we must place our condemnation upon it, unless

we are ready to surrender up the rights of the people to the dictation of a brigadier general.

But mark what the committee say further:

"And had the claimant been able to have removed that difficulty, the interference of the military governor in suppressing an election on the day provided by law for holding it would have been without justification, and would, in the opinion of the committee, have deserved the condemnation of the House."

Does not it deserve it now?

"It is to be regretted that any opposition which the military governor felt called upon to make to the peaceful exercise of the elective franchise by legal voters, on the day fixed by law for the election of Representatives in Congress—the highest and most sacred privilege guaranteed to the citizen—should not have been based upon the legal and defensible ground above alluded to."

The committee say to us that the only objection—if there was any—was technical, merely as to a matter of law; that the State did not district the State and Congress had not. But they say to us that the general who suppressed the election did not base his action upon any such ground. We are asked, it seems to me, with this report before us, to say whether we condemn such action or not. And unless this House, which I think is the proper authority, shall express its condemnation of the suppression of elections by persons in military authority, we shall have a war of factions, which the committee say is growing up in Louisiana. They say:

"It did not appear before the committee whether the military governor acted in this matter in obedience to orders from his superiors or not."

It did appear that an election was held a year ago, in which members were elected, who came here and aided in legislation, under entirely the same state of the law and of facts as to the prevalence of good order; and whether the election appointed in November last was legal or not, is not a question for the military commander. He had no right to suppress it because he thought it illegal. The committee say:

"But sufficient was disclosed to show that the loyal men of that State are much divided, and their strength wasted in pursuing and combating abstract theories, and in nursing factions constantly aiming for the ascendancy."

Factions were growing up. What was the general doing there? Aiding in enforcing the laws? No, sir; he was suppressing an election which was orderly; and the committee say:

"And there was too much evidence that Government officials have been lending the influence of their official position to the advancement of these schemes."

Factions were growing up; an election was sought to be held by law there, and it was suppressed; and the committee say there was too much evidence before them that Government officials were lending their aid to schemes of factionists who were distracting a people who desired to submit to the Constitution and the laws, to be within the Union, and to aid it in its struggle to restore itself to what it should be under a state of peace.

I call attention to this from the one desire—which I trust will commend itself to every gentleman upon this floor—that Congress shall express its condemnation of military commanders suppressing elections where the people, as the committee say, are perfectly orderly, and where everything is proper for holding an election; where the state of things is precisely as it was, both in law and the condition of the people, a year ago, when two gentlemen were elected and sent here and allowed to represent them here. If we allow this thing, and if no voice of condemnation comes from this Congress now, it seems to me that we are delivering up these people, who are endeavoring to be loyal, who are desirous of submitting to the Constitution and laws, who are willing to conduct elections as good citizens should do and to be represented here—we are delivering them over to these factions and to the tyrannical rule of military commanders who take upon themselves to say whether they will allow elections to be held or not.

Mr. KELLEY. Will the gentleman allow me to ask him a question for information?

Mr. KERNAN. Certainly.

Mr. KELLEY. I desire to ask the gentleman if the two gentlemen who were admitted upon this floor at the last Congress were not elected under the apportionment and districting of the State under the census of 1850, and whether there has been any apportionment and districting of the State under the census of 1860?

Mr. KERNAN. I suppose, although I am not

a member of the Committee of Elections, that they must have been elected under the former apportionment; and I understand that there has been no redistricting of the State under the census of 1860. I have read from the report of the committee to show that but for the want of a districting of the State under the census of 1860 there would have been no objection to this election which was suppressed. Now, I suppose that there was just as much irregularity in the election of the two gentlemen who were admitted to the last Congress as in this case.

But, sir, I did not get up to argue. I concur in the report of the Committee of Elections. I got up merely to ask the House whether, when the Constitution confers upon each branch of Congress the right to judge of the qualifications and elections of its members, they will approve or pass over in silence the act of a military officer who takes it upon himself to suppress an election because he thinks it not according to law. That is the question which we ought to meet if we mean to preserve the principles upon which the Government is based.

Mr. STEVENS. Will the gentleman let me say a word?

Mr. KERNAN. Certainly.

Mr. STEVENS. We are blamed for having admitted members from Louisiana into the last House of Representatives. There are but very few here now who did that. I think that most of those now here who were in the last Congress disapproved of it very much. They were admitted by force of the power of the House, without, as I then supposed, any law or right.

Mr. KERNAN. The gentleman from Pennsylvania will understand that I am not making any point as to whether those gentlemen were admitted rightfully or not. I am not here to say whether the election of those gentlemen was regular or not, or whether they were rightfully admitted here or not. I am here simply to say that we shall be recreant to our duty if we allow an election to be suppressed by a military commander because he thinks it is not according to law. He was not to be the judge of that; and we owe it to ourselves, in this stormy period of our history, to see to it that military commanders are kept within their appropriate spheres, and that the people are protected from any usurpation of power.

Sir, I make these remarks in no censorious spirit. This question is brought before us by the report of the Committee of Elections, which lies upon our desks, and which shows that this general did suppress the election, so that, in the language of the committee, not a vote was cast when there were thousands of voters. I do not claim that there were votes enough cast at this election to make a Representative. I am not in favor of admitting gentlemen here having no constituencies. But I am in favor of condemning this exercise of military power for the sake of our country, for we must either condemn the principle involved in this case or sanction it.

With a view of having the House express itself upon this question, I have drawn up an amendment which I will now offer.

The amendment which I propose is to add to the resolution reported by the committee the following:

And that this House disapproves and condemns the orders made by Brigadier General Shepley suppressing the election appointed to be held in Louisiana on the 2d day of November, 1863.

We do not say by this whether that election would have been valid or not. I do not desire to discuss that point. But when the report of the committee shows that there was entire good order there, when the military authority had suppressed all resistance, when the Constitution and laws could be enforced, I think we ought to say that in such a case no military general has a right to suppress an election, whether it be right or whether it be wrong.

The SPEAKER. The amendment proposed by the gentleman from New York is hardly in order. The usage has been that only amendments which relate explicitly to the question of whether a member is or is not entitled to his seat are in order.

Mr. SMITHERS. Mr. Speaker, I merely rose, as I stated, for the purpose of expressing, not absolute dissent with the report of the committee, but such a qualification as may enable me to keep

the true position which, in my judgment, I ought to hold. So far as the case that has been alluded to by the gentleman from New York is concerned, where members were allowed to take seats on this floor by the action of the last House of Representatives, that in no way affects my position. I was not here. Had I been here I should have voted against their admission. I stand, therefore, entirely free and untrammelled by the operations of the precedent. My objection is that there is no civil government in the State of Louisiana; not that the State of Louisiana is out of the Union, but that there is no government there carried on under the laws of the land. A military governor holds possession of the State.

Mr. KERNAN. Is it for the general commanding there to decide that there is no such government as that an election may be held; or should he not rather let the election go on, and let the persons elected go to the courts or come here to see what their condition is?

Mr. SMITHERS. I was coming to that, and I may as well come to it now. The gentleman from New York does not understand me, I hope, as condemning here the action of the military governor of Louisiana in that particular. I have nothing to do with that action.

I am not guilty of any breach of confidence in saying that there was no evidence to my mind, except the *ex parte* statements of the candidate in regard to what took place in the State of Louisiana as the action of the governor; and I have been too long in the habit of sifting testimony not to know that such *ex parte* statements, however honest, are unreliable as the basis of judgment. As to the actions of the military governor of Louisiana, I neither approve nor condemn them. I place my action on different grounds altogether. That is, that no four hundred or no five thousand men can *ex mero motu* take advantage of laws primarily existing in the State to assemble together, whether in Virginia or South Carolina, and elect Representatives where there is no State government recognized by the Government of the United States, and where there is no act of Congress operative to sift loyal or disloyal voters. I am not willing to admit to a seat on this floor a Representative sent here to vote on great questions of policy, without there having been some rule established by which it can be determined at the polls whether a voter is loyal or disloyal. I am not willing to place this country and Government in the predicament of being subjected to have Representatives sent here by rebel votes; and I meant to assume only the position that until there shall be some government in a State recognized by the Government of the United States, or until Congress shall pass some law under which these elections may be held, I, for one, cannot consent to recognize any man as a Representative on this floor from such State. That is the sole position that I take. It is the extent to which I go; and to that extent I hold that the principle is a sound and safe one. Any other rule might possibly fill vacant seats here with men whose main object is to embarrass the Government and destroy the Republic.

Mr. SMITH. Mr. Speaker, the claimant to this seat in Congress from the State of Louisiana is on the floor, and desires to be heard. I suggest that he have that privilege.

The SPEAKER. The claimant is entitled to the floor by order of the House.

Mr. DAVIS, of Maryland. Before the gentleman goes on I desire, if in order, to submit an amendment to the resolution of the committee.

The amendment was read, as follows:

Resolved, That there is no legal authority to hold any election in the State of Louisiana; and that any attempt to hold an election by any body of persons is a usurpation of sovereign authority against the authority of the United States, and was properly forbidden by the military authority.

The SPEAKER. The Chair will state to the gentleman, as he did to the gentleman from New York some minutes ago, that in accordance with the usual custom of the House amendments of this character are not entertained. It has been the custom only to entertain propositions stating that the claimant is or is not entitled to a seat. As the House will perceive, various complications would arise out of amendments of this character. The claimant for the seat is now entitled to the floor.

Mr. FIELD, (claimant.) I have not, Mr. Speaker, the vanity to suppose that anything I

can say would at all change the opinions of any member of the committee before which my claim has passed, nor that it could alter the determination of this House in regard to the right I have to a seat here; but I feel it due to myself, and I feel it due to those men who, I believe, properly and legally sent me here, to vindicate them upon this floor before I leave Washington, and before I forfeit all right to a presence in this House.

This question in regard to elections in Louisiana, as well as in all the States situated as she is, is a grave and important question. It is one not free from difficulty, I must confess. The loyal men of Louisiana, from the time of the passage of the ordinance of secession, have held that they were in the Union. We have maintained our position as citizens of the United States, loyal to the Government of the United States, and we never dreamed that we had forfeited any right to the protection of this Government, or to our representation in this House, in consequence of the acts of the men who had forced Louisiana out of the Union.

It is said by some gentlemen here that we have no government in Louisiana; that we had no right to hold an election. Sir, if we are a State, how do you propose to get us back? If those who were in authority have become traitors to the Government of the United States, and have forfeited their right to claim their offices there, let me ask the gentleman how he proposes to get the State of Louisiana back into the Union?

Suppose the loyal people of Louisiana, after the ordinance of secession, and after the Governor and members of the Legislature had given their allegiance to the government of the confederate States, had obtained the power in that State—and we would have had that power if it had not been for the fault of the United States Government in failing to protect us in that great emergency—suppose these men had fled from the State, leaving the offices vacant, would not we have had the power to hold an election, and to organize under our laws and elect men who were loyal?

But it is said that we have no organization in our State. I hold in my hand an official document which I ask the Clerk to read.

The Clerk read, as follows:

[Official.]

LIST OF OFFICERS OF THE STATE OF LOUISIANA.

Brigadier General George F. Shepley, *Military Governor of Louisiana.*
 Captain J. F. Miller, A. A. G., and Acting Mayor of New Orleans.
 Lieutenant A. G. Bowles, A. D. C.
 Captain J. C. Shepley, *Military Secretary.*
 Samuel H. Torrey, *Auditor of Public Accounts.*
 T. C. A. Dexter, *Treasurer of State.*
 Richard H. Alexander, } *Board of Health.*
 H. D. Baldwin,
 John Mann,
 Robert H. Tilford, } *Board of Examination of Pilots.*
 Benjamin S. Ames,
 Edwin White, *Judge Second Judicial District Court of Louisiana.*
 William H. Knight, *Judge Third Judicial District Court of Louisiana.*

PARISH OF ORLEANS.

James E. Dunham, *Sheriff.*
 J. S. Whitaker, *Judge Second District Court.*
 Ezra Biedand, *Judge Third District Court.*
 Rufus K. Howell, *Judge Sixth District Court.*
 William R. Fish, *Clerk Second District Court.*
 C. P. Berens, *Clerk Third District Court.*
 T. Wm. Hall, *Clerk Fourth and Fifth District Courts.*
 William C. Duncan, *Clerk Sixth District Court.*
 John A. Watkins,
 H. M. Summers,
 Francis Cornejoles,
 H. Millsbaugh,
 William R. Crane, *Tax Collector, First District.*
 D. W. C. Campbell, *Tax Collector, Second District.*
 Charles B. Lang, *Tax Collector, Third District.*
 John L. Davis, *Tax Collector, Fourth District.*
 Charles Izard, *First District Justice.*
 John A. Hitchcock, *Second District Justice.*
 Edward Munier, *Third District Justice.*
 John E. Sanderson, *Fourth District Justice.*
 T. Drouet, *Fifth District Justice.*
 G. M. Forey, *Sixth District Justice.*
 John T. Barrett, *Seventh District Justice.*
 O. W. Austin, *Constable Second District Justice's Court.*
 Joseph G. Baum, *Constable Third District Justice's Court.*
 Louis Gastinel, *Constable Fourth District Justice's Court.*
 P. McMahon, *Constable Fifth District Justice's Court.*
 John W. Nunday, *Constable Sixth District Justice's Court.*
 T. F. McGuire, *Constable Seventh District Justice's Court.*
 F. M. Crozat, *Recorder of Births and Deaths.*
 J. Ad Rozier,
 Charles T. Estlin,
 Rufus K. Howell,
 Samuel H. Torrey,
 D. C. Holiday,
 Robert Watson,
 J. C. P. Woderstrand,
 William H. Hunt,

Board of Administrators of the Charity Hospital.

A. B. Segar,
 L. L. Bernard,
 Charles Bartine,
 E. W. Hook,
 G. C. Forey,
 Peter Steele,

Police Jury, (right bank.)

School Directors, (right bank.)

LIST OF NOTARIES PUBLIC IN ORLEANS.

Joseph M. Day,
 W. G. Latham,
 A. Barnett,
 Abel Dreyfous,
 S. Magnier,
 A. Mendiverri,
 Joseph Cuvillier,
 Leon Langrier,
 John R. Borgstedt,
 Daniel L. Mudge.

JEFFERSON.

John D. Schaffer, *Sheriff.*
 John T. Michel, *Recorder.*
 Robert Morris, *Clerk.*
 W. Mithoff, *Assessor.*
 J. B. D'Auterie, *Justice of the Peace.*
 Charles T. Manter, *Justice of the Peace, Fifth Ward.*
 Henry Parker, *Constable Fifth Ward.*
 D. W. F. Bisbee,
 Baptiste Hector,
 Edward Gardere,
 Francis Thomas,
 Louis Perret,
 L. M. Torrey,
 Joseph Wall,
 John Sutton,
 Daniel L. Mudge, *Notary Public.*

ST. BERNARD.

J. M. Serpas, *Sheriff.*
 Peter Tuca, *Recorder.*
 John S. Tully, *Clerk.*

PLAQUEMINES.

Robert Johnson, *Sheriff.*
 Charles Dutillet, *Recorder.*
 L. Lombard, *Clerk.*
 Leo Bayhly, *Assessor.*
 Charles Dutillet, *Justice of the Peace, Third Ward.*
 Charles E. De Armas, *Justice of the Peace, Eighth Ward.*
 William Boyle, *Constable Third Ward.*
 Philibert Basil, *Constable Eighth Ward.*
 August Losseps,
 Andrew Robinson,
 Celestine Sawat,
 August Roggio,
 Charles Bayhly,
 — Baker,
 — Serpion,
 John C. Rapp,

ST. CHARLES.

George Price, *Sheriff.*

ST. JAMES.

Peter M. Lepice, *Sheriff.*
 Florent Fortier,
 Adam Gaudet,
 Emile Jacob,

ST. JOHN THE BAPTIST.

Pierre B. Marmillon, *Sheriff.*

ASSUMPTION.

Joseph D. Ford, *Sheriff.*
 George W. Jones, *Recorder and Clerk.*
 William W. Pugh,
 Desire Leblanc,
 John B. L. Dugas,

ASCENSION.

Silas Tayloe, *Sheriff.*
 Philip Landry,
 Oscar Ayraud,
 Christophe Colombe,
 Adeland Landry,
 George W. Graves,

LAFOURCHE.

Matourin Bourg, *Sheriff.*
 Emile Leblanc, *Recorder.*
 Charles H. L. Grienberg, *Clerk.*
 Charles H. L. Grienberg, *Justice of the Peace, Seventh Ward.*

H. E. Ledet,
 Theophile Haring,
 Joseph Nicholas,
 James Scudday Perkins,
 Joseph Rement,
 L. C. Aubert,

TERREBONNE.

Adolphe Verret, *Sheriff.*
 J. Robert Verret, *Recorder.*
 Henry Newell, *Clerk.*
 Justin Chowvin, *Assessor.*
 J. Robert Verret, *Justice of the Peace, Sixth Ward.*
 Andrew McCallum,
 Dr. Francis E. Robertson,
 Tobias Gibson,
 F. L. Mead,
 E. F. Briant,
 John M. Pelton,
 Joseph B. D'Arce,
 O. F. Aycock,
 W. J. Minor,

Mr. FIELD. It appears from this official announcement, made more than a year ago, that we have some sort of a government that claims to be a civil government. Judges of the courts throughout that country within the Federal lines have been appointed, and are now administering the laws and constitution of the State of Louisiana.

It will be remarked further that this patronage in the State of Louisiana amounts to near half a mil-

lion dollars. The city of New Orleans pays, and has paid annually, since its occupation by Federal troops, near two million five hundred thousand dollars in taxes collected by collectors appointed by the military governor. Nearly two million five hundred thousand dollars are drawn from the people of that city annually, and they have no voice either in their own government at home or in the Congress of the United States by which the evils they complain of can be corrected.

Independent of all that, we are paying in that city a large amount of internal revenue collected by the Government. The citizens have large claims upon the Government, and although they are loyal, they are denied any voice here because we cannot produce any order from some higher authority than we have done in this case.

The gentleman from Delaware has expressed some fears, if these elections are recognized, lest some disloyal man should come here and oppose measures for carrying on the war. Let me tell the gentleman from Delaware that I can point him to a thousand men in office who I fear are much more disloyal than those in Louisiana; and he would have no fear if he knew as well as I do the loyalty of the people of that State to this Government.

Mr. SMITHERS. Permit me to say that I had no allusion to him in the remark which I made. I desire only to say that it was not personal.

Mr. FIELD. Neither do I wish to be personal, but I do not think that the gentleman from Delaware ought to be scrupulous about this particular point. I have always been a loyal man. I fought against secession to the utmost of my power. I endangered my life for months and months. I was never anything else, than a loyal man; and I hope that I never will be. I will stand by that flag where ever it floats, and when I die I hope that it will be in the country over which it waves. But it appears that men who have been traitors to the Government, who have been disloyal to the Government, are now in great favor with some gentlemen. They never were with me. I know, so far as my experience and observation in Louisiana are concerned, that the man who comes fresh from the battle-field, his hands reeking with the blood of our loyal men, pretending to make atonement for his sins, is taken into favor, and that there is more rejoicing over him than over ninety-nine loyal and good men. You cannot go very far from Washington to find out—. But I will not say what I was going to say. It would be traveling out of the record.

One word to the distinguished gentleman from Pennsylvania, [Mr. STEVENS.] The State of Louisiana is in the Union, or out of it. If she is out of the Union she has no right to hold an election. If she is a conquered province Congress should pass laws to govern her, and when it is necessary to let her into the Union again Congress should pass a law to admit her in accordance with the constitutional provision. You have only the two alternatives: she is either in or out of the Union. If she is out of the Union she has no right to elect a member of Congress.

Mr. STEVENS. Allow me to say a word.

Mr. FIELD. Certainly.

Mr. STEVENS. Has the gentleman any information by what authority this military governor was appointed?

Mr. FIELD. I leave that to the gentleman to answer.

Mr. STEVENS. I meant no disrespect to the gentleman. I thought it right to put the question in order to indicate my position.

Mr. FIELD. I am not prepared to go into the discussion of the question of the right or power of this Government to appoint a military governor. He was appointed and has exercised the functions of that office in the most extensive manner. The honorable members of this House will be startled when I tell them that for the officers appointed by that military governor \$600,000 of the people's money is collected in the city of New Orleans. Each of the judges appointed by him gets \$5,000 a year—as much almost as the judges of the Supreme Court of the United States receive. The office of sheriff in the city of New Orleans is worth \$25,000 a year. Each of the clerkships is worth \$6,000, and each of the judges \$6,000. There is the exercise of this power of the military governor.

I have brought with me, Mr. Speaker, the re-

vised laws of the State of Louisiana and the constitution of that State adopted in 1852. One section of the latter provides that—

"Every white male who has attained the age of twenty-one years, and who has been a resident of the State twelve months next preceding the election, shall be a qualified voter."

The military governor undertook to repeal that part of the constitution. He changed it by a military order. I did not know that the military governor, assuming that he exercises the functions of a governor out of office, had the power to change any law. I thought that his duty was to execute the laws. I did not know that he had the authority entirely to abrogate any portion of the constitution or laws. But he did so. He issued his order declaring that any person residing in the State six months preceding the election should be a qualified voter. Here is the order:

STATE OF LOUISIANA, CITY OF NEW ORLEANS,
OFFICE OF COMMISSIONER OF REGISTRATION. }

The following rules and regulations are prescribed for the guidance of registers of voters, appointed to make a registration under order from the executive department of the State, dated June 12, 1863, and October 9, 1863:

1. The office of commissioner of registration for the State will be held at No. 18 Carondelet street, Room No. 1, New Orleans. It will be open during business hours of the day. All communications will be addressed to the commissioner at that place. Persons having information to impart on the subject of the registration of voters are invited to visit the office at all times.

2. Each register of voters before entering upon the discharge of his duties as such shall take and subscribe before any judge, justice of the peace, or other officer authorized to administer oaths, the following oath or affirmation:

FORM OF OATH OR AFFIRMATION.

I, ———, do solemnly swear (or affirm) that I am a citizen of the United States of America; that I have resided six months in the State of Louisiana, and one month in this parish; that I am of the age of twenty-one years and upwards; that I will bear true faith and allegiance to the United States of America, and will support the Constitution thereof; and that I now register myself as a voter, freely and voluntarily, for the purpose of organizing a State government in Louisiana, loyal to the Government of the United States; and that I will to the best of my ability faithfully perform the functions of register of voters for the parish (or district) of ———.

A copy of this oath, duly sworn, subscribed, and attested, shall be forwarded to Thomas J. Durant, attorney general and commissioner of registration, New Orleans.

3. The book for the registration of voters shall be ruled on each page, in as many columns as will be necessary to show the name and residence of each voter; and on the first page of the book shall be inscribed the oath required by section two to be taken by the register, which he shall take and subscribe, and procure the first to be affixed to by the officer administering the same.

4. Each register, as soon as he shall have been qualified, shall enter upon the discharge of his duties. He shall open his office at convenient points in the parish, to be selected by himself, unless otherwise designated by superior authority, and give such public notice of the fact and locality as may be practicable.

5. The offices shall be kept open for the registration of voters during business hours every day except holidays.

6. It shall be the duty of each register of voters to inscribe upon his book every citizen of the United States, a resident six months in the State, and one month in the parish, and who shall take the following oath or affirmation:

FORM OF OATH OR AFFIRMATION.

I, ———, do solemnly swear (or affirm) that I am a citizen of the United States of America; that I have resided six months in the State of Louisiana, and one month in this parish; that I am of the age of twenty-one years and upwards; that I will bear true faith and allegiance to the United States of America, and will support the Constitution thereof; and that I now register myself as a voter, freely and voluntarily, for the purpose of organizing a State government in Louisiana, loyal to the Government of the United States.

7. Any person taking the affidavits prescribed either in the second or sixth sections, and swearing falsely in any material part thereof, shall be deemed guilty of perjury, and liable to prosecution and punishment accordingly.

8. It is enjoined upon each register to be careful in administering the prescribed oath, and in taking down accurately the name and residence of the voter; and diligently to ascertain that the applicants for registration are loyal to the Government of the United States.

9. It is further enjoined upon the registers of voters to use their whole influence and employ all honorable means to procure a full and fair registration of all loyal men entitled to be registered; and all well-wishers of the country are earnestly requested to encourage the registration.

10. The offices of the registers of voters will be kept open until closed by due notice from this office.

THOMAS J. DURANT,
Attorney General, and Commissioner of Registration.
Approved: G. F. SHEPLEY,

Military Governor of Louisiana.
NEW ORLEANS, October 28, 1863.

You see now, Mr. Speaker, the condition in which the people of Louisiana were placed by this order changing the constitutional provision in regard to the qualification of voters. On reading that order I was struck with profound surprise, and I searched in vain to find some war-

rant or authority to justify the military governor in thus striking from our constitution the most important clause in regard to the qualification of voters. All the power was given by the military governor to his attorney general—the power of registration of votes throughout the States, with power to appoint sub-registers. And is this not a very extraordinary power to have emanating from a military governor? Sir, there was no such power attempted to be exercised on any former occasion, or in any other State situated as Louisiana was.

As early as September 19 of last year, the people met together in the city of New Orleans from the different portions of the State then within Federal lines, and held a convention. Gentlemen ask by what authority we held this election; where was our warrant? I say to gentlemen that if we had no authority or warrant for doing it, our laws are nugatory, and we have no rights, and our State is out of the Union in consequence of the rebellion.

Upon the assembling of that convention—and I say this in vindication of myself and the loyal people of Louisiana—a communication was addressed to the military governor of Louisiana, as will appear by a document which I ask may be read.

The Clerk read, as follows:

NEW ORLEANS, September 19, 1863.

A meeting of the citizens resident in the first and second congressional districts of the State of Louisiana assembled this 18th day of September, instant, (1863,) at the hour of six o'clock p. m., at No. 83 St. Charles street, in this city, to consult as to measures necessary for the establishment of civil government in Louisiana.

Mr. J. Q. A. Fellowes called the meeting to order, and explained its object.

When, on motion of Colonel A. P. Field, Dr. J. L. Riddell was called to the chair to preside, and, on motion, Mr. Robert J. Ker was appointed secretary.

Mr. J. Q. A. Fellowes offered the following resolution: Resolved, That a committee of five members be appointed to wait on his Excellency George F. Shepley, military governor of Louisiana, to invite his cooperation in the object contemplated.

On motion, said resolution was amended by increasing the number of the committee to nine members, and unanimously adopted.

Whereupon the chair appointed the following gentlemen to compose the committee:

Messrs. J. Q. A. Fellowes, C. Raselius, A. P. Field, Wm. J. Minor, E. E. Malliot, H. B. Foley, J. M. Lapier, H. T. Venard, and Judge E. White.

Judge E. White having declined, on motion, Dr. Riddell was appointed in his stead.

On motion, the meeting adjourned until to-morrow evening, 19th instant, at half past six o'clock p. m.

SATURDAY, September 19, 1863.

The meeting of citizens, pursuant to adjournment, assembled this evening at half past six o'clock p. m.; Dr. J. L. Riddell presiding.

The minutes of the last evening were read, and, on motion, approved.

Mr. J. Q. A. Fellowes, in behalf of the special committee to whom was assigned the duty of waiting on his Excellency George F. Shepley, military governor of Louisiana, submitted the following report:

Your committee appointed to communicate with his Excellency Governor Shepley, and request his cooperation with us in the speedy and effective reestablishment of civil government in Louisiana, respectfully report: That they waited upon him agreeably to their appointment and presented to him the wishes and views of this meeting. Mr. Raselius acting as spokesman. After a somewhat lengthy interview, the governor declined to order an election for members of Congress until after the State should be redivided under the census of 1850, and in accordance with a law of Congress requiring such apportionment. He also declined to order any election whatever until he should receive instructions to that effect from Washington, as he had asked instructions, and had not as yet received them; but expressed his willingness to at once forward to the President of the United States any communication which the committee might see fit to address him upon the subject. As it was necessary that this communication should be presented before four p. m., your committee prepared, signed, and presented to the Governor in due time the communication a copy of which is herewith appended.

All of which is respectfully submitted.

J. Q. A. FELLOWES,
For Committee.

GENERAL: At a meeting of loyal citizens of Louisiana convened at No. 83 St. Charles street, in this city, on the 18th September, instant, the undersigned were appointed a committee to communicate with your Excellency, and advise upon the subject of the reestablishment of civil government. We were specially instructed to ask your Excellency, as we now respectfully do, to issue as soon as may be to the proper officers in the several parishes of Louisiana writs of election for the first Monday of November next, for State officers and the Legislature, all in accordance with the constitution and laws of Louisiana.

We have the honor to subscribe ourselves your obedient servants, &c.
To his Excellency Brigadier General GEORGE F. SHEPLEY,
Military Governor of Louisiana.

Mr. FIELD. It will be perceived that the ob-

ject of that meeting was to avoid having any difficulty with the military authorities in Louisiana, and to secure their cooperation, aid, and support, in order to enable us to come back with our Representatives in Congress, that we might then be considered as restored to the Union.

We had no complaint to make against the military authority. We were all upon the best terms—and we are yet—with both the military governor and the commanding general of that department. We not only addressed this communication to the military governor at an early period—long before the time provided by law for holding the election—but we invited the protection of the military authority; their sanction, their order, if you please, if it was necessary, that we should go on and restore the State to the Union.

Some gentlemen say we had no right to do it, because the State had not been distrusted. Suppose, for instance, that the State of Connecticut, through her Legislature, should fail at the next apportionment to district the State; suppose Congress failed to provide a time and place for holding the election for members of Congress; upon what principle of republican government would you pretend that the people should be denied all their rights to elect Representatives under that apportionment? If Connecticut had four members, and still retained four, where would be the injury in point of fact, and where would be the absolute violation of law, in pursuing such a course? Suppose the Governor of Pennsylvania, or the Governor of Maryland, should fail to issue his proclamation, according to law, setting forth the time of holding an election for members of Congress, would that invalidate the right of the people to vote, and to vote upon the day and in the mode pointed out by law?

Mr. SMITH, (interrupting.) I would suggest to the House that in consequence of the ill health of the gentleman who is now occupying the floor, and the desire of the gentleman from Missouri [Mr. Blow] to announce the death of a former member of this House, the gentleman from Louisiana be permitted to resume his argument on Monday next.

The SPEAKER. That may be done by a postponement of this matter.

Mr. SMITH. I move that the further consideration of this subject be postponed until Monday next, at one o'clock.

The SPEAKER. The Chair would state for the information of the House that the enrollment bill, so called, was postponed until two o'clock on Monday, and the bill in reference to conferring the rank of lieutenant general was postponed until after the morning hour of that day.

Mr. HOLMAN. I would suggest that this subject be postponed until after the morning hour.

Mr. DAWES. I do not see any objection to proceeding to-day, unless the gentleman from Louisiana requests a postponement. I do not think the case will occupy much time after the gentleman finishes his remarks.

Mr. FIELD. I will state to the gentleman, the chairman of the Committee of Elections, that he knows I have been exceedingly indisposed for several days past, and I prefer that the matter shall go over.

Mr. FARNSWORTH. I hope that if this matter is postponed at all it will be postponed until after the other orders made for Monday next. I shall not consent that this business shall be so postponed as to interfere with the orders already made.

Mr. J. C. ALLEN. I would suggest that it be postponed until one o'clock on Tuesday, if that will meet the approbation of the gentleman from Louisiana, (Mr. Field.)

Mr. GARFIELD. I understand that that does meet with his approbation.

Mr. DAWES. I would inquire of the Chair if, in that case, this question would override the other measures which have been made special orders for Monday next and from day to day until disposed of.

The SPEAKER. It would; inasmuch as the resolution now before the House affects the right of a member to his seat, it would take precedence of all other matters.

Mr. DAWES. I am very anxious to have this matter disposed of, so as to get it out of the way of more important business. It is due to the Committee of Elections that early action should be had

upon it, and I think we might proceed with it to-morrow.

The SPEAKER. The House has already agreed to adjourn over until Monday.

Mr. ASHLEY. When did the House do that?

The SPEAKER. At the opening of to-day's session, on motion of the gentleman from Illinois, [Mr. J. C. ALLEN.]

Mr. DAWES. The reports from the Committee of Elections will be very numerous, and the committee must have the indulgence of the House in order to dispose of them.

Mr. SMITH. I submit the motion to postpone the further consideration until Tuesday next, at one o'clock.

The motion was agreed to.

DEATH OF HON. JOHN W. NOELL.

Mr. BLOW. Mr. Speaker, a duty long deferred has devolved on me. I rise to announce the death of Hon. JOHN W. NOELL, late member of the Thirty-Seventh and member elect to the Thirty-Eighth Congress. This event, as is well known throughout the country, occurred directly after the close of the session, on the 14th of March last.

General NOELL was born in Bedford county, Virginia, February 22, 1816. In early life he commenced his education in an old field school, and, with a remarkable ambition which urged him to extraordinary efforts, he soon outstripped his youthful competitors, and became the equal of his teacher.

His family emigrating soon after to Missouri, the young NOELL had to assume at seventeen the responsibilities and position of manhood. He became overseer for his father, engaged afterward in merchandising, and at twenty years of age married the daughter of Hon. Charles Gregoire, one of the earliest and most esteemed settlers of Perry county.

In the course of the changing scenes of western life, Mr. NOELL became clerk of the circuit court of Perry county, and there and then commenced that close application to the study of his profession, the law, which enabled him to cope in after years with the most brilliant men of the Missouri bar. Among those gifted men none were more honored or more beloved than he. Of fine ability, agreeable presence, gentle and winning manners, and with a heart full of generosity, his career had ever been successful and full of happiness to himself and others.

General NOELL first entered public life as a Whig, having been elected by that party to the State Senate in 1852. The partiality of his friends went further, for he was soon afterward nominated as their candidate for the supreme court, and though the condition of political parties made his election almost an impossibility, he nevertheless received a large and flattering vote. His subsequent career is familiar to the country. On the death of Hon. Samuel Caruthers, member of Congress from southeast Missouri, he was elected to succeed him, filled the position at the next term, and was finally returned by the new district, created in 1861, to the Thirty-Eighth Congress. I need not remind the old members of this body of the brilliant record of this favorite son of Missouri, but I may be permitted to mention that, in addition to the services he rendered his own district and the country, he was at the close of the last session the warm friend and sterling advocate of every public and private interest of the first congressional or St. Louis district. We were without a member in Congress, important issues were at stake, and, compelled to draw heavily on the time and consideration of other Representatives, we appealed often to this honorable gentleman; our prayers were never unheeded, and his constant and efficient services were freely given to us.

It was my good fortune, Mr. Speaker, in this way, to know much of the man; and I should be ungrateful indeed if I did not bear my humble testimony to that close attention which he gave our every interest, and which added so much to his labors during that eventful session. But all of this, and all that he ever did before in his congressional career, fades into insignificance when compared with his services to our State, to union and liberty. Sir, this nation has been full of sympathy for the sufferings of the loyal men and women of Missouri, but no tongue has spoken, nor pen fitly described, the terrible ordeal through which they

have passed, the painful sacrifices they have made, or the desolation which even now reigns among the beautiful hills and valleys of southern Missouri. It was there that treason had its warmest advocates, and there that traitors shed the blood of loyal hearts, banished the Union population from the soil they loved, and laid waste the homes made dear and sacred by long years of peace and happiness.

General NOELL was faithful to his country and the people who had honored him. When Beauregard opened his batteries on Sumter he lost all hope of averting war, and employed every power of his fine mind in soothing the passions of the border State men and to prevent the storm that threatened them with ruin. But it availed nothing; for though the secessionists were foiled in their attempt to organize openly at Camp Jackson, they had nevertheless sown the evil seeds among a deluded people. Flags were displayed in every portion of the State, and thousands, rallying around the standard of Governor Jackson and Sterling Price, arrayed themselves in open hostility to our Government. They sought out NOELL and besought him to join in a movement that was bound to be crowned with success, and yield him unfading laurels. His answer was prompt and plain. He told them of his hatred of traitors, and of his devotion to the precious Union which had been founded by our revolutionary fathers and so nobly sustained by their sons. He warned them of the fate that would flow from their treason, and implored them to be faithful to the Federal Government and to the State of Missouri; and thus prevented thousands of his periled friends from rushing headlong to destruction, and commenced the bright record which only terminated when he was called from the exciting scenes of this rebellion to a world where all is brightness, and where virtues endure through eternity. Others on whom as grave responsibilities rested were crushed beneath the weight of a degraded public opinion, but

"Faithful found
Among the faithless, faithful only he;
Among innumerable false, unmoved,
Unshaken, unseduced, unterrified,
His loyalty he kept, his love, his zeal;
Nor number, nor example, with him wrought
To swerve from truth, or change his constant mind,
Though single."

His noblest triumphs, sir, were achieved in this Hall; here he battled for his country; here he raised in our darkest hour the standard of emancipation, and by ceaseless exertions induced this honorable body to vote \$10,000,000 that Missouri's soil should be redeemed from the curse of slavery, and her rich lands and inexhaustible mines, the glorious future to which he looked with longing eyes, be consecrated forever to freedom and civilization. In a long correspondence with him during last winter, when the Legislature of Missouri was about to elect two United States Senators, and he had been nominated for one of these high positions by his friends, I had an excellent opportunity of understanding the patriotism which prompted his every action. An effort was made to unite a portion of the Union party, already unfortunately divided, with the opposing element, and thus elect two Senators. Against such an unholy alliance this uncompromising Unionist protested most warmly, and in his last letter he wrote to his friends:

"By all means prevent such a result; let no thought of me interfere with the election of two Senators unconditionally and wholly devoted to the Union."

Such was General NOELL, and such his imperishable record. As a statesman and patriot, as a husband and father, no feeble words of mine can do him justice. The hearts of the loved ones now beating with the recollection of his virtues attest, with touching eloquence, the value of their brightest jewel. And here I cannot forbear recording the testimony of a gentleman in this city, who had been his trusted friend for years, and who was his constant and devoted attendant during his last hours. When I alluded to the strong attachment which was universally felt for the general, he said: "I cannot speak of him even now without emotion. I knew him intimately, and no man had a kinder heart or more generous impulses. His last dollar or his last crust would have been shared with a friend in need. I have known him to give up matters of the greatest moment to himself to procure employment for the destitute; no one in distress ever appealed to him in vain. It

might be truly said of him, 'he had a tear for pity, and a hand open as day to melting charity.'"

General NOELL is buried in the midst of that magnificent portion of Missouri which contains the valley of Arcadia, and rising from it a lofty peak of iron known as the Pilot Knob; I might say almost under the shadow of that wonderful formation. No one will ever visit that spot without feeling that it is a fit resting-place for a man whose life was filled with beauty, whose character was noble, and whose patriotism was of the grandest type.

I beg leave, sir, to offer the following resolutions:

Resolved, That the members of the House, from a sincere desire of showing every mark of respect due to the memory of Hon. JOHN W. NOELL, deceased, a member elect to the present Congress from the third congressional district of Missouri, will go into mourning by wearing crape upon the left arm for thirty days.

Resolved unanimously, That as an additional mark of respect to the memory of Hon. JOHN W. NOELL, the House do now adjourn.

Ordered, That the Clerk communicate these resolutions to the Senate.

Mr. ARNOLD. Mr. Speaker, I esteem it a privilege, at the suggestion of my friends from Missouri, to add my tribute of respect and admiration to the character of Mr. NOELL, and to express my appreciation of the great loss which this House and the country have sustained by his death.

I met him for the first time at the opening of the Thirty-Seventh Congress, near the beginning of these dark and troublous days through which we have been passing, and through the clouds of which I hopefully believe the light begins to dawn, to break, as I trust, into a brighter future, a higher civilization, a closer and more cordial union, with all disturbing causes removed.

Being associated with him on an important committee of the House, I soon recognized in him one of those natural leaders which these times produce; a noble specimen of the men of the valley of the Mississippi, stalwart and commanding in person, genial in disposition, sagacious and bold in character, with a strong, solid common sense which fearlessly grappled with the great issues of the day.

Representing the great State of Missouri, a State destined soon to occupy, under the influence of free labor, the same relation to the States west of the Mississippi that New York does to the Atlantic States, he was one among those pioneers who recognized the truth, that as slavery was the foundation, "the corner-stone," to use the language of General Grant, of the rebellion, the quickest way to end the rebellion was to knock out this corner-stone. To this end he labored with a zeal, energy, and perseverance which have contributed much toward the success now about to crown the efforts of the emancipationists of Missouri.

I believe to him belongs the distinction of being the first Representative in Congress from a slave State to introduce a bill for the abolition of slavery. In December, 1862, he asked leave to introduce "a bill to secure the abolishment of slavery in Missouri," &c.

After encountering much opposition, this bill was by his zeal and energy and personal influence carried through the House. I am sure I am correct in saying, to Mr. NOELL belongs the honor of having originated and carried through this House the first practical measure looking to the abolition of slavery in a slaveholding State.

Mr. Speaker, the soldier who wins battles for his country is ever the popular idol; liberty ever hallows his sword and consecrates the blood shed in her defense; but the statesman who eradicates from our nation the cause of this bloody rebellion, who heals the wounds made by this war, who binds together the fragments of this Union, and consolidates a homogeneous people into one grand, free republic, he will live in history even when the heroes of the battle-field are forgotten. Among such statesmen NOELL was a worthy compeer. Such were the ends for which he labored: so grand would have been the realization of his future. Our regret for his loss is lessened by the knowledge that his mantle has fallen on worthy colleagues, who will consummate what he began, the freedom of Missouri. Slavery steadily recedes, and loyalty advances and occupies its abandoned positions. Victory and freedom follow the flag.

There was another feature in the public char-

acter of NOELL which, whether fully appreciated to-day or not, will be remembered hereafter as the element of a bold, broad, national statesmanship. Living on the Mississippi, appreciating the exhaustless capacity for production of that valley, he realized the necessity to St. Louis, to Missouri, to the West, to the whole nation, of opening another channel by which the great river of the West should reach the sea—a channel by which the ocean could be reached as well through the lakes, the Hudson, and St. Lawrence, as by the Gulf of Mexico. Another Mississippi, from the mouth of the Missouri to the lakes, and from the lakes to the ocean, already so nearly consummated, was, he felt, a great necessity required for the commercial and agricultural development, military security, and political unity of our country. When this idea is realized, let NOELL be remembered as one of its earliest and most ardent friends.

He was a western man, without the graces of literary culture, but with a strong, vigorous nature; one of those diamonds in the rough, one of that race of great men of the country, somewhat rude, perhaps, who seem destined to shape the destinies of this western world and mold its national character.

Mr. ROLLINS, of Missouri. Mr. Speaker, I rise not for the purpose of delivering a studied eulogium upon the life and character of our deceased friend, but simply to make a remark or two, adding my humble testimony of the merits of the deceased, to the remarks which have already been made by the gentlemen who have addressed the House.

It was my good fortune, sir, to have a familiar acquaintanceship with the deceased for more than twenty years, and I think I can safely say that he was in all respects a just, a true, and an honorable man.

The deceased had not the advantage of early literary culture; he had but few aids in early life, such as many men have, to press them forward; he relied mainly upon his own exertions; and to his own strong will and stout heart was he mainly indebted for that honorable distinction to which he attained in life.

A native of Virginia, he was for thirty years prior to his death a citizen of the State of Missouri. Adopting the legal profession, it was not long before he attained a high rank in that part of the State where he was a practitioner. I think I may safely say that but few men anywhere, in any State, have been more highly prized on account of their individual virtues or for their professional attainments than was JOHN W. NOELL by his constituents.

Some fifteen years ago I had the honor of serving for four years with him in the Senate of the State of Missouri. I found him there, sir, a genial companion, a cultivated gentleman, a faithful and true representative of those who had confided their interests to his hands.

He was a member, as has already been stated, of the Thirty-Sixth Congress, elected by the Democratic party of that day, and was reelected to the Thirty-Seventh Congress. All the gentlemen in this Hall to-day who served with him in the former Congress, will, I know, bear willing testimony to the truth of all that has been spoken of him here to-day. He was a candidate for reelection to the Thirty-Eighth Congress, and received his certificate of election, although his seat was contested by the honorable gentleman [Mr. SCOTT] who sits before me, and who now occupies that place.

Shortly after the adjournment of the Thirty-Seventh Congress Mr. NOELL was taken sick in this city, and after a long and painful illness he died here on the 14th day of March last. I happened to have been detained here after the adjournment of that Congress. It was my privilege to be occasionally at his bedside during his last illness, and I found him, at the verge of the grave, as I had found him in life—the same true, just, and honorable man. Although it grieved him deeply that he was to breathe his last, far from those who knew him best and who loved him most, I can say that he died with a brave heart, and, as I believe, a true patriot and a sincere Christian.

A short time since a friend of his who knew him far more intimately than I did, or than any member on this floor did, placed in my hand a

short memoir of his life. I do not desire now to have it read to the House, but I will take the liberty of appending it to the few remarks that I have made in order to preserve on the public political records of the country a faithful synopsis of his life, presenting many attractive points in his private and public life that will be read hereafter by those who seek his record, who loved him while he lived, and will cherish his fame and his memory now that he has gone to

"The undiscovered country from whose bourne
No traveler returns."

MEMOIR.

JOHN WILLIAM NOELL was born in Bedford county, Virginia, February 22, 1816. Until fourteen years old he was engaged partly in working his father's farm and partly in attending (particularly in winter) what was called in those days the old field school. This was all the education he received at school. He had great ambition, and outstripped all competitors. He became conversant with all that was taught there, and particularly excelled in history and geography. At fourteen he took charge of his father's farm as overseer, superintending the labor, making purchases, and selling the crops of tobacco. At seventeen he came West with the family, and stopped at Fredericktown, Missouri. Remained there six months. While there he went to school twenty days to learn book-keeping. Came with the family to Perry county and settled on a farm near Perryville. Labored there for a year. Reviewed his old school-books—none others could be had. Was employed by a merchant in Perryville as clerk, where he remained until his father's death. At nineteen his employer sent him to Pike county, Missouri, to take charge of a stock of goods and sell them. At twenty he married his employer's adopted daughter. The next year he returned to Perryville, and commenced merchandising for himself, which business he followed until, about 1842, he was elected clerk of the circuit court of Perry county to fill a vacancy occasioned by the death of the former incumbent. In 1847 he was reelected clerk. During the term of his clerkship he commenced the study of law, more, it seems, to assist him in the discharge of the duties of his office than with any ultimate view to the practice of the profession. About the year 1850, being thirty-four years of age, he resigned his clerkship and commenced to practice law. In this profession he found his true vocation. His close investigation of rudiments and principles of jurisprudence, his quickness to perceive and act on emergencies, and his clear judgment fitted him to comprehend the most intricate case, to evolve the main points and apply the correct principles of law to them. Also his complete mastery over all subjects which he had studied, his genial and enthusiastic disposition, his ready wit, made him powerful before a jury. His probity of character also helped his rising in business. His merchandising failed; he then purchased a mill, and when he seemed in a fair way to become prosperous it washed away completely; after that when he had accumulated a little property he became involved in debts as security for others. In all these instances he was left penniless and in debt; he surrendered voluntarily all his property to the payment of his creditors, and went to work at something else and paid what remained due.

In the fall of 1850 he was elected a member of the Missouri Senate and was reelected in 1852, serving four years. While there he adhered mainly to principles of policy which he seems to have adopted at an early age, namely, that a Government should not embark in schemes affecting particular individuals. He opposed the various systems of railroads which were seeking aid from the State, and contended that they were sectional in their benefits and had no sufficient foundation in the geography of the country to support them or indemnify the State. Without giving active support to any he favored a road from St. Louis to some place on the Mississippi river below freezing-point. This was projected and afterwards built as far as Pilot Knob. He also favored a road from Cairo to connect at Fulton, Arkansas, with a projected Pacific railroad from Memphis. This Cairo and Fulton road was partly built, but the rebellion stopped its further progress.

In 1856 he took an active part in the political campaign, supporting the Democratic party and

mainly opposed to the American or Know-Nothing party. The tide of emigration which annually pours into this country, he contended, elevated the physical and mental condition of the nation. He cited the Anglo-Saxon race as a proof of the benefits of the amalgamation of races. But he chiefly opposed the party because he deemed it inconsistent with the spirit of our Republic to proscribe classes for the accident of birth or religion.

In 1858 he became a candidate for Congress. At that time a fever of excitement on the question of internal improvements pervaded the State. The projected railroads were incomplete, and among others the St. Louis and Iron Mountain road, projected to run through his whole district from north to south, and the Cairo and Fulton, running across the south end of the district. Besides this no surveys of the intermediate locations of said roads were determined on, so that more than half the people of his district, encouraged by local politicians, confidently expected, each one, a road through his own county. A grant of land from the General Government to the State was looked for to help the bankrupt roads on to completion. He opposed the General Government donating lands or money to States or individual corporations for sectional improvements. The mountains of solid iron ore, situated in a populous part of his district, were looming up into importance. It was said that this inexhaustible store of mineral was a mine of wealth to Missouri, which had until lately been closed by an odious "ad valorem tariff;" that it still needed protection of a higher tariff, as they still exported their mineral to England to have it wrought. He was not much in favor of a discriminating tariff at all; and he was firmly opposed to a high protective tariff which would accumulate more money than needed for revenue purposes.

On these questions the interests of the railroads and the Iron Mountain, each embracing a large moneyed class, were enlisted against him. Also, the interests of a majority of the people of his district seemed opposed to him. No newspaper in his district or in St. Louis supported him; on the contrary, many were loud in their denunciations of him. Every demonstration of eclat which the appliances of money could originate was brought to bear against him. His whole nature was roused for the contest. With an energy and endurance of which few are capable, he canvassed the whole district. Meeting the people, he discussed his principles, opposing all which they at first deemed themselves interested in sustaining. On these broad grounds of consistent policy he made a brilliant campaign. He received an overwhelming majority over his opponent, (Colonel Zeigler,) who was a man of popular manners and marked ability. Mr. NOELL received 10,404 votes, and Colonel Zeigler 5,808 votes. It was jestingly said that he was beaten on the day of the election, but that the backwoods precincts kept the polls open a week that the barefooted Democrats might gather in from the flinty hills and long hollows and vote for him. He was a great favorite among the common people, though he never flattered them. They had, as the masses often do, an instinctive appreciation of his worth.

In 1860 he was again elected to Congress. He did not take much pains for himself, but labored assiduously before and after his election for Mr. Douglas for the Presidency. He was opposed to the latter on the question of popular sovereignty, but he laid aside all personal preferences and worked for him as the only salvation of the Union. He prophesied an attempt to dissolve the Union when the southern delegates withdrew from the Baltimore convention. The aristocratic tendency of southern gentlemen, and the dictatorial bearing they assumed toward the nation, inspired him with misgivings as to their loyalty. Their contempt for republican institutions and threats of secession and resistance to Federal power disclosed to him their treasonable designs. At one time, when he met several distinguished speakers at Fredericktown, Missouri, among whom were General Watkins and Truett Polk, they were all loud in their protestations of loyalty to the Union. He remarked that the time might come within twelve months to try their devotion, and he hoped they would prove true to their professions. The time did come; but alas! all who addressed that audience but himself proved recreant.

While in Congress, he instituted a new system

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of post routes in southeast Missouri, making the transportation of mails direct and of more general interest. He also devoted a large portion of his time to the construction of the Pacific railroad. He introduced and carried through the House a bill appropriating \$10,000,000 to compensate loyal owners emancipating their slaves in Missouri, or to aid the State in emancipating by law. This bill was amended in the Senate, which amendments were not concurred in by the House; so it failed. He foresaw at an early stage of the war that the tramp and concussion of hostile armies in the State would unsettle society, and in the commotion this species of property would unavoidably be lost. He sought to provide a just compensation for those who, guiltless of the rebellion, suffered this loss. He believed also that military policy would lead ultimately to its destruction, and a proper disposition of the institution while yet it could speak for itself would avert discord and palliate the revolution in labor. Subsequent events have proved that it would. Have been well if Missouri had taken steps earlier toward emancipation. Slaves have freed themselves without warning, and left no labor to supplant theirs, and from all over the State there comes up the cry of destitution by reason of fields unown and crops ungathered. Slaveholders of his constituency denounced this bill as an unjust abolition scheme, but they now regret that they did not give him their cordial support.

In 1862 he was elected for the third time to Congress, his seat being contested by Mr. Scott, but died before entering on his duties.

In his political career he was distinguished by an unswerving loyalty to the genius of our Government and the integrity of the Union. His ancestors had been engaged in the wars of the Revolution and of 1812. He was well versed in the history of our struggle for independence and the more dangerous and uncertain struggle for our form of government. He was familiar with the bloody wars and suffering which other nations had endured to cast off the burdens of privileged nobility. He saw that in almost every instance they met defeat or their victories were short-lived, and they had soon to bend their necks to the humiliating yoke. If this Government was destroyed he saw no hope of its reconstruction. He believed in a strict construction of the powers of government. Thus, he believed that slaves were by the laws of the land property, and there was no power in the Federal or territorial government to impair the rights of the owners. He maintained the doctrine of strict construction to prevent corruption. By restraining the Government to the impartial performance of its national duties, no sectional alienation could be occasioned. This was his theory respecting the internal administration; but on all matters wherein a great principle was involved or the existence of the Government jeopardized he held a more liberal construction; as, that Mr. Jefferson exercised a proper stretch of power in the acquisition of Louisiana Territory, on account of its commercial and political importance to the United States, and that General Jackson was justified by the seeming danger and necessity in disregarding civil process. When the present rebellion broke out, he sustained the military in the exercise of every power and act necessary for the vigorous prosecution of the war, holding that the Executive was a department of the Government coördinate with the judiciary, having his own duties to perform, and was only liable to impeachment for plain and unjustifiable usurpation, or for neglect to perform his duty. Had the President failed to use the whole strength of the nation to the preservation of the Government he would have been among the first to attempt his impeachment.

During his whole life he was never guilty of disloyalty. In his early political speeches he opposed a set of resolutions introduced into the Senate of Missouri by C. F. Jackson, in 1849. These passed the Legislature (or Senate?) as instructions to Colonel Benton, Senator from Missouri. After denouncing the free-soil attitude of the North,

they called on the southern States to coöperate with each other in taking such measures as would vindicate their rights, and pointing indirectly to separation as their remedy. Mr. NOELL, though concurring in the belief of the rights and grievances of the South, could not sanction these resolutions, because they tended to widen the breach between the North and the South. After this, (in 1852 or 1853,) while he was in the Senate, a set of resolutions passed the Legislature and were communicated by the Governor of Tennessee to the Governor of Missouri, and referred by him to the Missouri Legislature. These were violent and threatening in their terms, and called upon the southern States to unite and adopt such measures as the safety of their institutions demanded. A counter-resolution was passed in the Legislature of Missouri, condemning in the strongest terms the resolutions of Tennessee, and scornfully repudiating all affiliation with her for disloyal purposes. He spoke and voted for the condemnatory resolution of Missouri. In the last part of 1860, when the tide of southern enthusiasm had spread over Missouri, before the Federal power had disturbed its downward current, the secessionists were anxious to gain his influence over to their cause. Some of the leading men of his constituency wrote to him how smoothly things were going. They represented to him that it would be political ruin for him to withstand their opinions, and asked him to lead them and ride into power. He answered them by a letter published to his constituents. He said:

"That it was well known he had always been opposed to the doctrine of peaceable secession; that the Constitution recognized no right of individuals or States to destroy it at pleasure with or without cause. It was now no longer an abstract question, but a fact. The cotton States had seceded. Revolution, with its black, tempestuous countenance and bloody hands, stands before us. The border States have to choose what part they will play in this great tragedy. That determination should not be reached by power of passion, but by cool and sober judgment. The disunion movement of the South has been one of extreme excitement. It is not the result of calm judgment, conscious of intolerable wrong for which no redress is attainable. Like all passionate movements, the means of success are left to chance. No systems of finance or regular military organization have been devised. In fact, in the fury of the moment they have been almost forgotten. What must be the inevitable result? Disaster after disaster, until the seceded States get into civil strife among themselves. The revolution as now organized is a failure in advance. Its fruits turn to ashes on our lips. We seek security and protection, but we find on the very morning of our revolutionary existence confusion and destruction. If Missouri and other border States, stimulated by like passion and excitement, rush headlong, blindly, into this revolution, they increase the magnitude of the enmity and close the door forever against the last hope of preserving the Constitution and the Union. If you have ever examined the material of which revolutions are composed, you cannot have failed to discover that they have always been in the hands of the turbulent and reckless, not the prudent and wise. Men of wisdom, men of property, men of peace, are always backward in these times. Those who have nothing to lose are ever foremost in the work of destruction. The leadership of the southern disunion movement will soon pass into the hands of reckless political and military adventurers. They will require immense sums of money for the cause and still greater for themselves. A system of exaction from the substantial men of the country will begin. They will lay their hands on money, negroes, lands, everything. Murmurs against these exactions will be followed by confiscation and—shall I say it?—death! Ay, horrid as the idea may be, I say death. Then will begin to go up to Heaven, as in the days of the Reign of Terror, the wails of the widow and the fatherless. Then, when too late, alas! too late, shall we be able to estimate the blessings of this Government of law and order under whose protecting influence none dare make us afraid. When we have reached the climax of horrors, torn to pieces by factions, involved in all the quarrels and strife between military rivals, with no country, no nationality, no peace, no safety, we will fly from the bloody scenes of an endless anarchy to an absolute despotism. Thus it will be that this most wonderful Government will die in the same century that gave it birth.

"Surely if the border States can avert such calamities, it should be done. They do hold the power, in my opinion. They should act cautiously and deliberately. Revolution well prepared for is as practicable as if rushed into without preparation. If we can get time, all our wrongs will be redressed. Desperate politicians are working against time. They are afraid of the sober second thought of the people. Mark my prediction, the disunion politicians of Missouri will not allow the people to decide whether or not they will have a convention. Oh, no, this would never do. It would give the people time to think for themselves. We must do the thinking for them; if we do not, the country will be saved and we will be lost, is the idea uppermost in the minds of disunionists.

"If Missouri is at last forced to assent to a dissolution of the Union, she should have guarantees from the southern confederacy. The Gulf States will insist on having the right to vote upon property. The yeomanry of Missouri will never yield this point. Free trade is to be a ruling element. The iron, lead, and copper manufactures of Missouri, as well as the agricultural interests dependent on them, would go down under the operation of such a system. Exorbitant direct taxation is abhorrent to our people. If we cannot live in peace under our present Government, then I am not willing to risk any new confederation without knowing how or where we are to stand in it. For these reasons let Missouri prepare well for contingencies, stand cool and firm to act as her own honor and the happiness of her people demand. Above all, let us cling to the Union as long as one ray of hope remains that it may be saved! In giving utterance to these sentiments I know that I am braving the epidemic that has seized on the public mind in my own State; but I am ready to meet the consequences. I have no political ambition that could be gratified by place and power in a miserable little sectional confederacy or military despotism. My political existence is of no consequence whatever. I can only know that my country is in imminent peril, and I shall do all in my power to save it, without regard to consequences personal to myself. I know no political distinctions now but one 'for or against my country.' Democrats, Whigs, Know-Nothings, are names that I now blot out from my memory. I shall strive to forget them until we get through this dark and stormy night."

This letter was dated Washington, District of Columbia, January 14, 1861.

He presented after this a peace memorial, and used all the powers of his mind to accomplish conciliation. But when Beauregard opened his batteries on Sumter he lost all hope of avoiding war. His next purpose was to assuage the passions of the border States, and give them time to reflect what they were about. In a resolution which he offered relative to confiscation of rebel property he refused an amendment to be added relative to freeing slaves. He carried a resolution through the House suspending the collection of direct revenue in Missouri for twelve months. In Kentucky this mild policy proved highly beneficial, but in Missouri the combinations of the Knights of the Golden Circle were so formidable that this tacit truce did not prevent their stirring the passions and laboring in support of their principles. The taking of Camp Jackson by General Lyon, (May 10, 1861,) and the firing into the mob by some German soldiers in St. Louis, were made pretexts for inflaming the people against the Government. Persons from the country who had been visiting St. Louis in great numbers about that time, drawn thither by the excitement of the times and to view the prospects of the future, fell into the hands of the enemies of the Government, and were drawn irresistibly into the whirlpool of excitement. Returning to their homes they related to eager crowds what they had seen. German regiments under control of Republicans marching citizens and sons of citizens, the proudest and wealthiest of the native-born Americans, under guard to prison. They declared it was a war between foreigners and native citizens—between Democrats and Republicans. The excitement raised to the highest pitch, and the most improbable stories were freely believed. Flags bearing ingenious southern devices were displayed almost simultaneously over the court-houses and other public buildings throughout the State. They bore delusory mottoes which appealed to the prejudices of the people, such as "Missouri always right; but, right or wrong, Missouri anyhow." Ladies were engaged in making these flags, and having never before been of any political importance they were easily flattered into adhering to the first party which publicly courted their favor. The nominal secrecy of these proceedings found a charm in their eyes. To the women of the South the rebellion indebted for a great measure of its success. In them was conceived that personal hostility to the North. In their festivities they vied with each other in the expression of aversion and contempt of northern people and northern valor. Under such auspices many, especially young men, committed themselves to disloyal associations which soon transformed them into open rebellion. Thus a member of nearly every family was borne by this pressure into the disloyal ranks. In many instances it was a favorite son or brother whose adventurous spirit led him to seek the danger

for the danger's sake. The perils and hardships he endured, the ambition he cherished, held enchaind by affectionate solicitude and pride the other members of the family. They were bound in sympathy to him, and through him to his cause. It was owing to these causes that the conflict in Missouri assumed such a personal aspect and grew into a deadly hate between the parties. In neighborhoods, villages, and churches the people were divided into two parties, each refusing social intercourse with the other. Falsehoods and slanders were borne backwards and forwards from each party to the other, and neither ever took pains to investigate their truth, but believed and acted on the reports they heard.

It was while the passions of the people were at this stage that Mr. NOELL addressed different audiences in his district before the July session of Congress, 1861. The name of Republican which his enemies fastened on him to lessen his influence, excited the prejudices of the people. Large crowds came to hear him, but many of them came with the view of carping at his language and defaming him. When he began to speak he was greeted by jeers or by sullen silence. He gradually won them over, and exerting all the powers of his eloquence he lifted them above the paltry schemes of selfishness. He made them forget all but their country and its danger. He pictured the pride and glory of this country—the Government—the hope of humanity. These were the ablest efforts of his life. He was fully impressed with the terrible issues of the rebellion, and in his appeal to their nobler selves he poured out to the people the yearning of his inmost soul for the life of his imperiled country. Down deep in their hearts, under a load of prejudice and passion, he found a chord that vibrated in unison with his own. Before he was done speaking they testified their loyalty by wild and enthusiastic shouts of applause. But, alas! they soon returned to their old associations, where the poisonous tongue of slander found no antidote. They soon recovered back their old prejudices and hated loyalty with a bitter hate, and singled him out for their maledictions. Most of those who had been his personal friends through life turned against him in his old age. They to whom his name had hitherto been the synonym of every quality which friendship demanded, now believed false reports concerning him, and looked with suspicion on all his acts. Their enmity extended even to his family, so ranking was their hatred to his loyalty. It was not until they stood beside his grave that these life-cherished friends forgave his devotion to the Government. Those who abused him in life have shed tears to his memory in death; and many have been heard to say, "He was right and knew better than we!" Now, as the cloud of futurity lowers darkly over them, they wish in vain for his eye to see for them and his voice to speak for them.

In his family circle he enjoyed himself, and was the source of enjoyment. He loved his wife passionately. Having married when both were very young, they had experienced the vicissitudes of life, enjoying his prosperity and bearing his adversity together. In his last years the tender pleasantries and affectionate caresses which passed between them denoted the growth of a lifetime of love. His conduct toward his children was familiar and affectionate. They stood in no fear of him, but implicitly obeyed him. With the larger ones he conversed affably, entering into their views, discussing their plans, and giving them advice. With both large and small he interested himself in all that affected their happiness or touched their feelings. He participated in their plays, becoming excited and enjoying with the zest and abandon of childhood all their games.

His demeanor toward the people of his county was the same as toward his own family, and they in return regarded him as a father or protector. Among the old men he was the favorite child of the community. They were proud of his talents, and gave all their aid to attain what honors he aspired to. Those of his own age and younger paid him the homage of confidence and admiration which his character and social temper inspired. The people universally loved him for his virtues, and looked leniently on his faults as leaning to virtue's side. They had recourse to him on all occasions. In matters relating to his pro-

fession the first thought and act was to seek his advice and assistance. When a cause received his sanction his client was satisfied both of its justice and legal efficiency. In the practice of law as in private life his conscience went hand in hand with his judgment, and the same inflexible honesty governed both his personal conduct and professional advice. The people had recourse to his advice not only in legal matters but all the various transactions of life. Those who suffered from wrong or misfortune unfolded their grievances to him, and always found in him sympathy and assistance. The widow and the orphan and the unfriended outcast lost a protector when he died.

Until the last years of his life he was social and vivacious in his manners. His animation and colloquial powers made him the delight of every society in which he moved. Wherever he appeared a crowd gathered around him, and all, from old age to childhood, enjoyed his company. The last years of his life were imbibed by the enemies of those politically opposed to him. Until this time he had been the idol of all classes. Now to be estranged from them, and have all the ties which bound him to them rudely sundered, filled his mind with grief and anxiety, which probably shortened his days. But amid this wreck of personal attachments, there were many who had always been personal friends though politically opposed to him. The cord which bound him to these was strengthened by a common cause. The friendship of these, however, nor the rebellious proclivities of the others, did not prevent his feeling keenly this personal hostility. He became gloomy, and at times morose. He wandered about restless and alone, and suffered in silence. He never shrank from his purpose of loyalty, or regretted any act he had done. Nor did he ever seek by vindictive measures to inflict pain on those who persecuted him. As a father whose children have brought sorrow on his gray hairs, he pitied their delusion, and said they would be grateful to him years hence.

He died at Washington, District of Columbia, March 14, 1863. He received all the rites and sacraments of the Roman Catholic church. He was raised a Protestant, and only became a Catholic some years after he was married. His wife was raised a pious Catholic, and through her influence he was led to inquire into the doctrines and practices of that church, and his inquiry resulted in his embracing its faith. Thenceforth he believed firmly all its teachings, and received at the hour of death all the comforting assurances it imparts. *Requiescat in pace.*

Mr. STEVENS. Mr. Speaker, although my residence is far distant from the former home and the grave of the deceased, yet perhaps a somewhat intimate friendship with him may justify me in adding a few words to what has been so eloquently said by the gentlemen who have already spoken. I first became acquainted with him on this floor. I soon learned to respect him. He had but little ambition to acquire fame as a public speaker, but he was anxious so to discharge his duty as to preserve a conscience void of offense. His modesty prevented his making long orations for the mere purpose of being heard; but when he did speak, his manner was pleasing and his reasoning sound. Indeed, but very few men could make an abler argument in a more attractive form. But his chief glory must rest on his devotion to liberty, his love of justice, and his defense of the rights of every race and of every class of men. Although others more favored by education and associations may have been earlier advocates of universal liberty, yet when some future Tacitus shall write the history of this eventful period, he will record on its brightest page in golden capitals that JOHN W. NOELL, of Missouri, was the first member from a slave State who introduced in Congress a bill to abolish slavery.

So conscientious was he that in that bill he asked but \$10,000,000 for the immediate liberation of all the slaves of his State. And when that bill was returned from the Senate, appropriating \$20,000,000 for gradual emancipation, he declared it unjust, and, as it prolonged slavery and postponed emancipation, he refused it his support. He was not one of that dignified and conservative class that can bear the misery and oppression of others with such graceful fortitude. He was not sufficiently philosophical to understand how the

best way to educate bondsmen for freedom was to prolong their slavery.

He did not live to see the consummation of the great object of his heart. Other men more eloquent than he may have been called to the bar of judgment, but no man ever appeared before that dread tribunal with more numerous and ardent advocates. His advocates were the oppressed of every nation, the crushed of the satanic institution of slavery.

Who would not rather take his chance in the great day of accounts before that Judge who is the acknowledged Father of all men than the chance of ordained hypocrites, miserable wretches who, professing to hold a commission from on high, impiously proclaim slavery a divine institution?

The resolutions were agreed to; and thereupon (at ten minutes past two o'clock, p. m.) the House adjourned.

IN SENATE.

MONDAY, February 1, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Thursday last was read and approved.

RESIGNATION OF MR. BAYARD.

The VICE PRESIDENT. The Chair desires to present a communication to the Senate. It will be read.

The Secretary read, as follows:

WASHINGTON, D. C., January 30, 1864.

SIR: I will thank you to communicate to the Senate the fact that I resigned my seat in the Senate of the United States on yesterday, and have been informed that my successor has been chosen by the Legislature.

I have the honor to be, with high respect, your obedient servant,
J. A. BAYARD.

HON. HANNIBAL HAMLIN,
Vice President of the United States.

The VICE PRESIDENT. The Chair did not receive the communication until after the last adjournment.

CREDENTIALS PRESENTED.

Mr. SAULSBURY presented the credentials of Hon. GEORGE READ RIDDLE, elected a Senator by the Legislature of the State of Delaware to fill the vacancy occasioned by the resignation of Hon. James A. Bayard; which were read, and ordered to be placed on the files of the Senate.

PERSONAL EXPLANATION.

Mr. DAVIS. I ask the permission of the Senate to make a personal explanation, which will consume but a few minutes.

The VICE PRESIDENT. The Senator from Kentucky asks the unanimous consent of the Senate to make a personal explanation. The Chair hears no objection.

Mr. DAVIS. Mr. President, the explanation which I desire to make, and which the Senate has courteously allowed me to make, grows out of the remarks made by the honorable Senator from Maine [Mr. MORRILL] on the resolution for my expulsion. In the progress of his remarks, that honorable Senator referred to my course on the resolution to expel Mr. Bright, a former member of the Senate from the State of Indiana, and also to my course on a resolution to expel my honorable colleague. He also referred to a series of resolutions which I offered at a former session, and to a bill which I introduced as a substitute for the confiscation bill that had been reported by a committee of the Senate. I think, with all due courtesy and kindness to the Senator from Maine, that in his manner of doing those things he forgot that justice and that magnanimity which so peculiarly belong to him, in having omitted so much of what I did say in relation to each of those matters as was necessary to understand my position and course on each, and procure for me a just judgment.

In my support of the resolution for the expulsion of Senator Bright, I assumed this general position most distinctly—I have not recurred to the remarks which I made on that occasion, but they embodied my principle in relation to that subject, and I state it with perfect confidence: I admitted that a Senator could not be expelled for his opinions; I admitted that a Senator could not be expelled for his words in debate or not in debate; I assumed the position that a Senator could only be expelled for his acts; and, in conformity

to that principle, I based my remarks and vote for his expulsion expressly upon the ground that he had written a letter, as I conceived, treasonable in its character, to the president of the southern confederacy, recommending to him a man who claimed to have invented a most valuable improvement in the manufacture of arms, and also upon the fact that he had uniformly opposed and voted against all supplies to enable the Government to carry on the war against the rebels.

The honorable Senator from Maine then adverted to the project of a confiscation act. That bill was introduced by me in the form of an amendment, as a substitute for the bill that had been reported by a committee of the Senate, and it was based upon these three principles: first, it was entirely prospective in its character; second, it was to be adjudged and executed only by the civil courts of the country, according to the forms and modes of trial prescribed by the Constitution; third, the forfeiture which it declared was of all the property of traitors, their aiders and abettors, for the exclusive benefit of the loyal citizens whose property had been destroyed by the rebellion, and it proceeded to no other extent. I did not introduce in it the feature that the forfeiture should be limited to the lifetime of the delinquent, because I thought it unnecessary. I adhere to the principle as laid down by Judge Story, and I hold to it now, that the courts of the country would decide that any bill forfeiting property would in its effect be limited by the Constitution, whether in relation to real or personal estate, to the lifetime of the delinquent. I believe so yet.

The Senator adverted to my course on the resolution for the expulsion of my colleague. I beg leave to make this remark upon that matter: my colleague and myself previous to that time only casually met, but we always met with the courtesies of gentlemen; and a truer and more unexceptionable gentleman, as I stated in effect during that debate, I had never met in all my personal associations, and that I had never heard a single individual speak unkindly or disparagingly of him. When the subjects connected with this insurrection and war had been before Congress at previous sessions, as I stated the other day, I was at home entirely absorbed in the pursuit of my profession. I then read to a very limited extent the debates of the Senate and of Congress, and I had never read any of the speeches of my colleague on those subjects. Since then I have learned certainly and satisfactorily his true political position. When I came from the State of Kentucky and took a seat in this body, the general opinion in my own State and my own opinion was that my colleague, in his sentiments and principles, was a nullifier and a secessionist, and that he had strongly sympathized with the propagators of both of those heresies, and that he had sustained the action of the gentlemen who left the Senate Chamber to go to their own States for the purpose of inaugurating a rebellion against the Government. I am now, as I was not then, fully satisfied that in relation to all these points the grossest injustice was done to my colleague. I have no doubt, as he has since repeatedly declared in this Chamber, that he is not and never was a nullifier or secessionist in principle or action or sympathy, and that he perseveringly and earnestly opposed secession in his conferences with those friends, and protested and entreated with the seceding Senators against their departure from the Senate; and if his counsels, and his urgent counsels, to them could have prevailed, those gentlemen would never have left the Senate Chamber. I am satisfied now that my colleague is as much opposed to secessionism and to its success as I am, and that then, as now, we only differed as to the manner by which this great and most mischievous movement should be met and treated. I was then for coercion, as I still am. My colleague was against coercion, because he assumed that men and armies acting under the authority and command of State governments were not properly the subjects of Federal coercion, and that it would widen the breach and probably render the separation final and forever; and he thought that the true mode of treating it was not by arms, but by friendly counsel with the people and their leaders in the seceding States.

Now, Mr. President, with near three long years of bloody and terrible experience in relation to this matter, and the dark and threatening future before

us, I here declare explicitly, that the wisest and best and most patriotic men in the land may well doubt whether the position of my colleague against military coercion was not right, and whether the true mode of treating this great schism and rebellion was not by refraining from the shock of arms and appealing to patriotism, fraternity, and the interests of the great sections of the United States. Upon that proposition I doubt now myself. If I had had then the same lights which I now have, I neither would have spoken nor voted for the expulsion of my colleague.

But there was another matter to which my honorable friend referred—I call him so, for I have always been proud so to denominate him, and I still entertain feelings of the most perfect kindness and respect toward him. The Senator from Maine read one portion of the concluding resolution of a series of resolutions which I offered about two years ago, the effect of which was to give those who heard what he did read an imperfect and a very unjust and injurious view of the tenor of those resolutions, the whole of them, and even the one from which he read but a part. When my honorable friend read it, the Senator from Massachusetts who sits furthest from me [Mr. SUMNER] was so gratified, transported by the seeming inconsistencies and contradictions in which it involved me, that I was really apprehensive at one time that he would expire in a paroxysm of delight. I will now read those resolutions for the purpose of showing my true position. They were offered on the 13th day of February, 1862. The honorable Senator from Massachusetts to whom I have just referred had on the 11th of the same month offered this series of resolutions, which I will first read:

Resolutions declaratory of the relations between the United States and the territory once occupied by certain States, and now usurped by pretended governments without constitutional or legal right.

Whereas certain States rightfully belonging to the Union of the United States have through their respective governments wickedly undertaken to abjure all those duties by which their connection with the Union was maintained; to renounce all allegiance to the Constitution; to levy war upon the national Government; and for the consummation of this treason have unconstitutionally and unlawfully confederated together, with the declared purpose of putting an end by force to the supremacy of the Constitution within their respective limits; and whereas this condition of insurrection, organized by pretended governments, openly exists in South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Tennessee, and Virginia, except in Eastern Tennessee and Western Virginia, and has been declared by the President of the United States, in a proclamation duly made in conformity with an act of Congress, to exist throughout this territory, with the exceptions already named; and whereas the extensive territory thus usurped by these pretended governments and organized into a hostile confederation belongs to the United States, as an inseparable part thereof, under the sanctions of the Constitution, to be held in trust for the inhabitants in the present and future generations, and is so completely interlinked with the Union that it is forever dependent thereupon; and whereas the Constitution, which is the supreme law of the land, cannot be displaced in its rightful operation within this territory, but must ever continue the supreme law thereof notwithstanding the doings of any pretended governments acting singly or in confederation, in order to put an end to its supremacy: Therefore,

1. *Resolved*, That any vote of secession or other act by which any State may undertake to put an end to the supremacy of the Constitution within its territory is inoperative and void against the Constitution, and when sustained by force it becomes a practical abdication by the State of all rights under the Constitution, while the treason which it involves still further works an instant forfeiture of all those functions and powers essential to the continued existence of the State as a body-politic, so that from that time forward the territory falls under the exclusive jurisdiction of Congress as other territory, and the State being, according to the language of the law, *felo de se*, ceases to exist.

2. *Resolved*, That any combination of men assuming to act in the place of such State, and attempting to insure or coerce the inhabitants thereof into a confederation hostile to the Union is rebellious, treasonable, and destitute of all moral authority; and that such combination is a usurpation incapable of any constitutional existence and utterly lawless, so that everything dependent upon it is without constitutional or legal support.

3. *Resolved*, That the termination of a State under the Constitution necessarily causes the termination of those peculiar local institutions which, having no origin in the Constitution or in those natural rights which exist independent of the Constitution, are upheld by the sole and exclusive authority of the State.

4. *Resolved*, That slavery, being a peculiar local institution, derived from local laws, without any origin in the Constitution or in natural rights, is upheld by the sole and exclusive authority of the State, and must therefore cease to exist legally or constitutionally when the State on which it depends no longer exists; for the incident cannot survive the principal.

5. *Resolved*, That in the exercise of its exclusive jurisdiction over the territory once occupied by the States it is the duty of Congress to see that the supremacy of the Constitution is maintained in its essential principles, so that

everywhere in this extensive territory slavery shall cease to exist practically, as it has already ceased to exist constitutionally or legally.

6. *Resolved*, That any recognition of slavery in such territory, or any surrender of slaves under the pretended laws of the extinct States by any officer of the United States, civil or military, is a recognition of the pretended governments, to the exclusion of the jurisdiction of Congress under the Constitution, and is in the nature of aid and comfort to the rebellion that has been organized.

7. *Resolved*, That any such recognition of slavery or surrender of pretended slaves, besides being a recognition of the pretended governments, giving them aid and comfort, is a denial of the rights of persons who, by the extinction of the States, have become free, so that, under the Constitution, they cannot again be enslaved.

8. *Resolved*, That allegiance from the inhabitant and protection from the Government are corresponding obligations, dependent upon each other, so that while the allegiance of every inhabitant of this territory, without distinction of color or class, is due to the United States, and cannot in any way be defeated by the action of any pretended government, or by any pretense of property or claim to service, the corresponding obligation of protection is at the same time due by the United States to every such inhabitant, without distinction of color or class; and it follows that inhabitants held as slaves, whose paramount allegiance is due to the United States, may justly look to the national Government for protection.

9. *Resolved*, That the duty directly cast upon Congress by the extinction of the States is reinforced by the positive prohibition of the Constitution that "no State shall enter into any confederation," or "without the consent of Congress keep troops or ships of war in time of peace, or enter into any agreement or compact with another State," or "grant letters of marque and reprisal," or "coin money," or "emit bills of credit," or "without the consent of Congress lay any duties on imports or exports," all of which have been done by these pretended governments, and also by the positive injunction of the Constitution, addressed to the nation, that "the United States shall guaranty to every State in this Union a republican form of government;" and that in pursuance of this duty cast upon Congress, and further enjoined by the Constitution, Congress will assume complete jurisdiction of such vacated territory where such unconstitutional and illegal things have been attempted, and will proceed to establish therein republican forms of government under the Constitution; and in the execution of this trust will provide carefully for the protection of all the inhabitants thereof, for the security of families, the organization of labor, the encouragement of industry, and the welfare of society, and will in every way discharge the duties of a just, merciful, and paternal government.

To many of the principles of that series of resolutions I gave my hearty consent then, and I do now, but from many of them I dissented, *toto cælo*; and on the second day after they were offered by the honorable Senator from Massachusetts, I proposed my series, in the language of King James I, as a "counterblast," and I will now read them:

1. *Resolved*, That the Constitution of the United States is the fundamental law of the Government, and the powers established and granted, and as parted out and vested by it, the limitations and restrictions which it imposes upon the legislative, executive, and judicial departments, and the States, and the rights, privileges, and liberties which it assures to the people of the United States, and the States respectively, are fixed, permanent, and immutable through all the phases of peace and war, until changed by the power and in the mode prescribed by the Constitution itself; and they cannot be abrogated, restricted, enlarged, or differently apportioned, or vested, by any other power, or in any other mode.

2. *Resolved*, That between the Government and the citizen the obligation of protection and obedience form mutual rights and obligations; and to enable every citizen to perform his obligations of obedience and loyalty to the Government it should give him reasonable protection and security in such performance; and when the Government fails in that respect, for it to hold the citizen to be criminal in not performing his duties of loyalty and obedience would be unjust, inhuman, and an outrage upon this age of Christian civilization.

3. *Resolved*, That if any powers of the Constitution or Government of the United States, or of the States, or any rights, privileges, immunities, and liberties of the people of the United States, or the States, are, or may hereafter be, suspended by the existence of this war, or by any promulgation of martial law, or by the suspension of the writ of *habeas corpus*, immediately upon the termination of the war such powers, rights, privileges, immunities, and liberties would be resumed, and would have force and effect as though they had not been suspended.

4. *Resolved*, That the duty of Congress to guaranty to every State a republican form of government, to protect each of them against invasion, and, on the application of the Legislature or Executive thereof, against domestic violence, and to enforce the authority, Constitution, and laws of the United States in all the States, are constitutional obligations which abide all times and circumstances.

5. *Resolved*, That no State can, by any vote of secession, or by rebellion against the authority, Constitution, and laws of the United States, or by any other act, abrogate her rights or obligations under that Constitution or those laws, or absolve her people from their obedience to them, or the United States from their obligation to guaranty to such State a republican form of government, and to protect her people by causing the due enforcement within her territories of the authority, Constitution, and laws of the United States.

6. *Resolved*, That there cannot be any forfeiture or confiscation of the rights of person or property of any citizen of the United States who is loyal and obedient to the authority, Constitution, and laws thereof, or of any person whatsoever, unless for acts which the law has previously

declared to be criminal, and for the punishment of which it has provided such forfeiture or confiscation.

7. *Resolved*, That it is the duty of the United States to subdue and punish the existing rebellion by force of arms and civil trials in the shortest practicable time, and with the least cost to the people, but so decisively and thoroughly as to impress upon the present and future generations as a great truth that rebellion, except for grievous oppression of Government, will bring upon the rebels incomparably more of evil than obedience to the Constitution and the laws.

8. *Resolved*, That the United States Government should march their armies into all the insurgent States and promptly put down the military power which they have arrayed against it, and give protection and security to the loyal men thereof, to enable them to reconstruct their legitimate State governments, and bring them and the people back to the Union and to obedience and duty under the Constitution and the laws of the United States, bearing the sword in one hand and the olive-branch in the other, and while inflicting on the guilty leaders condign and exemplary punishment, granting amnesty and oblivion to the comparatively innocent masses; and if the people of any State cannot, or will not, reconstruct their State government and return to loyalty and duty, Congress should provide a government for such State as a Territory of the United States, securing to the people thereof their appropriate constitutional rights.

It was the latter part of the last resolution, declaring it the duty of Congress to provide a territorial government in a certain contingency, which the honorable Senator from Maine read and commented upon.

Well, Mr. President, there is not a principle, or opinion, or sentiment in these resolutions to which I do not yet adhere. They had been deliberately framed by me upon previous inquiry and reflection; and all the thought and research that I have since been able to give them have confirmed me in their truth. The position that I assumed was this, and when I have stated it I shall take my seat; I declared it partially the other day: When our armies marched into Mexico and reduced that Power, and General Scott was in the capital at the head of his conquering army, what did he do, except as a matter of necessity, and as commander of that army, but to establish a provisional military government? He was in no way restrained by the Constitution, for it had no operation or force in that foreign country. The laws of war authorized him to establish such a government, and he did that act wisely, as a humane and a great conqueror and legislator, and gave to that people the best government they have ever had.

When any States in the United States or any portion of the States revolt and expel the civil authority of the Government of the United States, and one of our armies at the head of such a chief as Scott or any general marches into the country and subdues the rebellion and takes possession of that country, all order and government is not to cease. There must be some power to maintain the rights of property and of persons and to uphold social organization. As a matter of necessity and of national law the conqueror who thus takes possession of the country has the right to institute a present provisional military government. After he has done this, if the people being protected against those who deposed the Constitution, laws, and authorities of the United States will not for themselves revive and carry on government, nor take any part in conducting it, Federal or State, what is to be done? Are they to be left to anarchy and confusion? No, sir, no. The military commander must first establish a provisional government, or some general rules and regulations to hold the society together, and to give to its members and their property some security and protection. But this military rule is a necessity, and only temporary. When there is no longer any occasion to hold the country and maintain military government in it to keep out the disturbing and lawless force it must cease; and then that people have the unquestionable right, and without interference or intermeddling by the President, or even by Congress, to reinstate their own government. If they persistently refuse to do anything for their self-government, that State being a part of the territory of the United States, Congress must "make all needful rules and regulations respecting it." The people thereof will be entitled to every other constitutional right and privilege; they will not be exercising any right of government, because of their utter refusal, but this they can resume at pleasure.

Mr. MORRILL. Mr. President, the honorable Senator from Kentucky is right in supposing that I was actuated by no feeling of personal unkindness in the remarks I had occasion to make the other day; and I should regret exceedingly if I should become satisfied that in those remarks I

did the Senator injustice by the inferences I drew from the acts to which I had occasion to refer. As the Senator has made an explanation of his position in connection with the acts to which I referred, the Senate and the country have an opportunity to determine whether I did him injustice. I do not feel called upon to make further reply.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State, in answer to the resolution of the Senate, respecting the correspondence with the authorities of Great Britain in relation to the proposed pursuit of hostile bands of the Sioux Indians into the Hudson Bay territories; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 6th of January, information in relation to the claim of the owner of the steamer Niagara, chartered for the Banks' expedition in 1862; which was ordered to lie on the table and be printed.

TERRITORIAL LAWS.

The VICE PRESIDENT laid before the Senate a copy of the statutes of Washington Territory, passed at the tenth annual session of the Legislature of that Territory, and copies of the journals of the Legislative Council and House of Representatives of that Territory; which were referred to the Committee on Territories.

PETITIONS AND MEMORIALS.

Mr. FOOT presented resolutions of the Legislature of the State of Vermont in favor of the construction of a ship canal from the Mississippi river to the eastern seaboard; which were referred to the Committee on Commerce, and ordered to be printed.

He also presented resolutions from the Legislature of the State of Vermont in favor of the passage of a law which shall secure equal pay to all soldiers now or hereafter mustered into the service of the United States; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented resolutions of the Legislature of the State of Vermont in favor of such a modification of the post office laws as to allow the transmission through the mails of the United States of packages to soldiers at the same rate as is now required for the transmission of books; which were referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. FOSTER presented three petitions from citizens of Connecticut, praying for the establishment of a uniform ambulance and hospital system for the armies of the United States; which were ordered to lie on the table, a bill having been reported on the subject by the Committee on Military Affairs and the Militia.

Mr. TEN EYCK presented a petition of citizens of New Jersey, praying for the establishment of a mail route from German Valley, in Morris county, to High Bridge, in Hunterdon county, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. COWAN presented the memorial of the directors of the Columbia Bank, of Columbia, Lancaster county, Pennsylvania, praying for compensation for loss sustained by the burning of the bridge across the Susquehanna river at the town of Columbia, by order of Jacob G. Frick, of the United States forces; which was referred to the Committee on Claims.

Mr. HARRIS presented a memorial of members of the General Assembly of the State of New York, praying for a uniform hospital and ambulance system for the armies of the United States; which was ordered to lie on the table.

Mr. HARLAN presented two petitions of citizens of California, praying for the repeal of an act entitled "An act to grant the right of preemption to certain purchasers on the Suscol Ranch in the State of California," approved March 3, 1863; which were referred to the Committee on Public Lands.

Mr. HOWE presented two petitions of citizens of Oconto, Wisconsin, praying that the reciprocity treaty may be so modified as either to pre-

vent the admission of lumber from Canada or that such a tax may be imposed as will prevent undue competition to the detriment of citizens of the United States; which were referred to the Committee on Foreign Relations.

Mr. CONNESS. I present a petition of certain citizens of Tomales, Marion county, California, who are settlers on public lands heretofore claimed as belonging to a Spanish grant, but which grant has been rejected by the courts of the United States through their instrumentality. They now pray that they may be allowed to purchase the lots of land upon which they have settled at the Government price from the United States. I ask that it be referred to the Committee on Public Lands.

The petition was so referred.

Mr. JOHNSON presented a memorial of the Defense Committee of the city of Baltimore, appointed under the provisions of an ordinance of the city council, approved June 22, 1863, in relation to the expenses of erecting embankments and intrenchments around that city, and praying that the city may be reimbursed for such expenses; which was referred to the Committee on Military Affairs and the Militia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House of Representatives had passed the joint resolution of the Senate (No. 18) in relation to the public printing.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FOOT, it was

Ordered, That the petition and other papers in relation to the claim of Charles L. Nelson, for compensation for services as agent for harbor improvements at Burlington, Vermont, be taken from the files of the Senate, and referred to the Committee on Claims.

NOTICE OF A BILL.

Mr. MORGAN gave notice of his intention to ask leave to introduce a bill to quiet titles in favor of parties in actual possession of lands situated in the District of Columbia.

REPORTS FROM COMMITTEES.

Mr. NESMITH, from the Committee on Indian Affairs, to whom was referred a bill (S. No. 25) to authorize the President to negotiate a treaty with the Klamath, Modoc, and other Indian tribes in southeastern Oregon, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a resolution instructing them to inquire whether JOHN P. HALE, a member of the Senate, in connection with the case of one Hunt, charged with crime by direction of the War Department, has been guilty of any conduct inconsistent with his duty as a Senator, reported the following resolution:

Resolved, That the facts disclosed before the committee not showing a violation of any law or official duty by Mr. HALE as a Senator, they ask to be discharged from the further consideration of the subject.

He also submitted a written report, which was ordered to be printed.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 85) to provide for the examination of certain officers of the Army; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 86) to authorize the appointment of a warden of the jail in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

NEW LIGHT-HOUSES.

Mr. HOWE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of building a light-house on Point Peninsula, between Big and Little Bay du Noquet in the State of Michigan, and of constructing a beacon light at Sand Point on the west side of Little Bay du Noquet, in the same State, and also erecting a beacon light at the mouth of Fox river, in the State of Wisconsin, and report what sums will be required for such purpose.

INVESTIGATING COMMITTEES.

Mr. DOOLITTLE. I desire to call up the resolution which was introduced by me at the

last session of the Senate. It is important to have action on it as soon as possible.

The VICE PRESIDENT. The Senator from Wisconsin moves to postpone all prior orders for the purpose of taking up the resolution indicated by him.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That in all sessions of committees to take the testimony of witnesses in relation to any matter of fact pertaining to the conduct of any Department of the Government or of any branch thereof, the head of such Department shall be requested to employ some proper and competent person to aid in the examination and cross-examination of witnesses, and to furnish any other evidence or proof pertinent to the matter inquired into.

The VICE PRESIDENT. The Senator from Wisconsin proposes to modify his resolution by inserting after the word "person" the words "connected with the same." That modification will be made if there be no objection.

Mr. TRUMBULL. Mr. President—

Mr. DOOLITTLE. I will state to the Senator from Illinois, if there be any question about the purpose of the resolution, it is simply this: that when committees on the part of the Senate are in session investigating into the proceedings of a Department or anything connected with a Department, the head of the Department shall be requested to send some person connected with the Department to be present with the committee to aid in the investigation of the facts connected with it, and not to employ any one outside of the Department, or subject the Department to any expense to aid the committee. I can state in a single word the reason which influenced my mind in offering this resolution.

It seems to me, Mr. President, that it is for the convenience of the committees themselves, very many of these questions involving a special knowledge which the committee cannot have without spending a considerable time for the purpose of inquiry. Besides, it seems to me it is but an act always of justice to the head of a Department, the conduct of which is being inquired into, that he should be permitted to send some one connected with the Department to be present at the examination. It is but an act of justice certainly to the heads of the Departments. We are bound to presume that the head of each of the Executive Departments has as deep an interest in ferreting out any abuse practiced on the Department as any Senator or member of Congress can have. Their characters are involved in the administration of their Departments. Upon every ground, therefore, I believe the proposition contained in the resolution is but just and proper.

Mr. TRUMBULL. I will inquire, does this resolution come from any committee? Has it been referred?

Mr. DOOLITTLE. No, sir, it has not been referred, and has not come from any committee.

Mr. TRUMBULL. It strikes me as a very singular resolution. I have known of no practical difficulty in my experience on this subject. I have always found the Departments ready to communicate any information that was required. It seems to me it would be a great deal better to leave it to the committee to request any information they may desire. So far as I am aware, there has never been the slightest difficulty, in any investigation, in obtaining assistance from the Departments, and these investigations are generally carried on in harmony with the head of the Department. I do not see any occasion for adopting a rule of the Senate that in all cases where an investigation takes place the Department is to send one of its clerks before the committee. The committee may not need him. I think it had better be left altogether to the discretion of the committee. I have never known any practical difficulty on the subject; perhaps the Senator from Wisconsin may. I have always found the Departments ready to communicate any information that the committees desired. This is a very sweeping resolution, if I recollect it. I did not listen very attentively, or my attention, rather, was not called to it till the Clerk commenced reading it. I believe it provides that in every case where a committee is engaged in an investigation the Department shall send one of its officers to be before the committee.

Mr. DOOLITTLE. The Department shall be requested to send one connected with the Department.

Mr. TRUMBULL. Well, "requested." If the committee want one of the officers of the Department there is not the least difficulty in obtaining his attendance, I apprehend. If there is any difficulty, I should have no objection to the resolution.

Mr. DOOLITTLE. I am moved to this, I confess, in part from the fact that I have been appointed, without my knowledge, and indeed in my absence from the Senate at the time, to act on one of these committees of investigation, and my attention has been particularly drawn to the subject from that fact. I am associated upon that committee of investigation with my honorable friend from New Hampshire, who is the chairman of the committee, and who on some former occasion, and I believe he has never retracted it, declared to the Senate and the country, in substance, upon his responsibility as a Senator, that "the liberties of this country are in greater danger to-day from the corruptions and from the profligacy practiced in the various Departments of the Government than they are from the enemy in the open field." I suppose the object of these investigations is, if possible, to prevent these corruptions and these profligacies; and being appointed on a committee of investigation, associated with a Senator entertaining that avowed opinion and belief, I think it is but just to the head of the Department whose conduct is sought to be examined that he should be respectfully requested to send some competent person connected with the Department to be present at the examination by the committee of the witnesses, and to furnish any proof in his power to explain matters pertaining to the things to be inquired into. I think it is our duty to assume that the heads of these Departments of the Government have just as much interest and just as much wish on their part to prevent these corruptions and abuses as any member of the Senate can have; and it is but an act of justice to the Departments that they be requested to have some one to represent them before these investigating committees. My attention has been brought to it for this reason, and I feel that it is but an act of simple justice that the Senate, in appointing committees charged with an investigation into the conduct of a Department, should respectfully request the head of the Department to send some one to be present at that examination, because they may have evidence which the committee may not know anything about. The special matter of inquiry may require a special knowledge, like a knowledge of steam-engines; for that was one of the subjects which was spoken of in the Senate which demanded investigation.

ENLISTMENTS IN THE ARMY.

The VICE PRESIDENT. The hour of one o'clock having arrived, it becomes the duty of the Chair to call up the special order, the unfinished business of Thursday last, which is the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes.

Mr. DOOLITTLE. Very well; this resolution will go over until to-morrow.

Mr. SHERMAN. I will move that the bill referred to by the Chair be laid over until to-morrow. I understand that a privileged motion will be made very soon, before any action could be had upon it. I will therefore submit a motion that the bill which is the special order for this hour be postponed until to-morrow, and be made the special order at one o'clock.

Mr. WILSON. If the Senator will allow me, before the bill goes over, I wish to propose an amendment to it in order to have it printed with the bill.

The VICE PRESIDENT. The Senator from Massachusetts offers an amendment to the bill, and moves that his amendment be printed.

The motion was agreed to.

The VICE PRESIDENT. The question now is on postponing the further consideration of the bill until to-morrow at one o'clock, and making it the special order for that hour.

The motion was agreed to.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed, on the 28th of January, the following bill and joint resolutions:

A bill (S. No. 49) relating to the admission of

patients to the hospital for the insane in the District of Columbia;

A joint resolution (S. No. 2) expressive of the thanks of Congress to Major General Nathaniel P. Banks, and the officers and soldiers under his command at Port Hudson;

A joint resolution (S. No. 3) expressive of the thanks of Congress to Major General Joseph Hooker, Major General George G. Meade, and Major General Oliver O. Howard, and the officers and soldiers of the army of the Potomac;

A joint resolution (S. No. 5) of thanks to Major General Ambrose E. Burnside, and the officers and men who fought under his command; and

A joint resolution (S. No. 14) presenting the thanks of Congress to Cornelius Vanderbilt for a gift of the steamship Vanderbilt.

INVESTIGATING COMMITTEES.

Mr. DOOLITTLE. If there is no other matter before the Senate I desire to call up again the resolution we had under consideration a few moments since, in regard to investigating committees, in order that it may be disposed of.

The motion was agreed to; and the Senate resumed the consideration of the resolution.

Mr. GRIMES. Mr. President, I think it is eminently proper that this resolution, or something tantamount to it, should be adopted. The purpose which the Senate had in view when it instituted the inquiry to which the Senator from Wisconsin has alluded was to elicit the truth. We wish to get at the facts. We want to discover whether or not there may not be some method devised by which improvements may be made in the present method of securing Navy contracts; for the Senator from New Hampshire alluded to that subject as the one which he had specially in view when he introduced his resolution.

It is known to all the members of this body who are at all familiar with the subject, that the Navy Department is peculiarly constructed. It is differently organized from any other Department of this Government. It is almost a specialty in and of itself. It takes a man a year at least before he can understand its organization and its details. The members of this body who are appointed on a committee of investigation, and even the Committee on Naval Affairs, are not thoroughly conversant with the details of the Navy Department. I confess, myself, as one of them, that I am not, though I have endeavored as far as I could to inform myself as to what those details are, and as to its organization.

It is now proposed that when this committee proceeds to its investigation in regard to the method of executing contracts for that Department the Department itself shall have authority to detail one of its officers to meet the committee, in order to direct its attention to particular subjects of inquiry that may come before them. It strikes me that it is highly proper that this should be done. It is not to be presumed that the Senators who compose this committee are as well acquainted with the particulars to which their attention ought to be directed as those men who have been for years engaged as officials in the Department.

I have no doubt that great frauds have been perpetrated. There are Senators around me who know very well that, three years ago, even before the commencement of this war, I called the attention of the Senate to the necessity of some change in the laws of the United States so far as they related to contracts for the naval service. There is connected with that naval service an officer known as a Navy agent. So far as I am able to learn, there is no law of Congress that ever authorized the creation of that office. He was originally a mere agent of the Department, appointed by the head of the Department for a temporary purpose, but we have acts of Congress that recognize his existence; and now, at the commencement of every Administration, the President sends down to us nominations for these several Navy agencies. The Department is organized in strict conformity to the laws which Congress has passed, but under that organization there is great opportunity for frauds to be perpetrated against the Government by these Navy agents. So there is great opportunity for frauds to be perpetrated against it by the contractors under the Navy agents and under the Department proper. The Department are conscious of this. They have had their attention directed to it. They are just as anxious to ferret

out those frauds as any member of the Senate or any person in the whole country can be. They are powerless to remove the evil. Having had their attention directed to it, they are prepared to inform this committee that you have instructed to investigate the subject, and to direct the attention of witnesses when they shall appear before them, to particular points of inquiry and to things within their knowledge which have not hitherto been elicited in their testimony, and which may be of vast importance to the country.

You know, Mr. President, that a witness can appear on the stand and make a statement that is abstractly true, and yet, without any interrogatories being addressed to him, that truth may give altogether a false and erroneous impression to the bystander. The facts by which it is surrounded, the time when it was uttered, the manner in which it was spoken, may convey an entirely different impression from the abstract statement itself. Let me illustrate. The chairman of the Committee on Naval Affairs the other day, when the resolution to which this is a proposed amendment was introduced, prefaced it with some remarks in which he called the attention of the Senate and of the country to the naval estimates. He said:

"It will be seen by the estimates of expenses that we are called upon to appropriate this year \$142,000,000 for naval purposes. This sum is large or small by comparison. I have been at some pains to look at the naval expenditures of the civilized world, as they have been furnished me by one of our assistant librarians. I find that the naval expenditures of Great Britain during the year 1862 were \$59,402,940; of France for 1863, as voted by the Corps Legislatif, \$30,000,000; of Spain for 1862-63, \$19,421,617; of Russia for 1862, \$15,442,373; of Austria, per budget of 1863, \$5,314,000; of the Netherlands for 1862, \$3,633,436; of Sweden for 1863, \$3,503,406; of Prussia for 1862, \$1,489,360; of Portugal for 1862-63, \$111,000. These sums are given in dollars, and they comprise the naval expenditures of all the civilized nations of the world with the exception of Italy and Denmark. Italy and Denmark publish no naval expenses separate from the general war expenses; but the expenses of the civilized world for a year, taking sometimes 1862, and sometimes 1863 and 1863, and sometimes 1863, as they are given, amount in gross to \$138,318,692; so that we are called upon to spend this year some four million dollars more than all the rest of the world with the exception of Italy and Denmark."

Mr. President, I have not had an opportunity to verify the accuracy of these statements, but I have no doubt they are substantially true. I admit that the statement of itself is true, and that the Senator from New Hampshire, the chairman of the Committee on Naval Affairs, unquestionably did not intend to create a wrong impression. His love for his country, his regard for the naval service, and I doubt not his respect for the gentlemen who have charge of naval affairs in this country, is such that he could not have permitted himself to create such an impression, even if he had been so inclined. Nevertheless, the facts as stated do create a very erroneous impression. Had I been on a committee, or been permitted to appear before a committee representing the Naval Department, and had that Senator appeared before that committee and made the statements which he made here, I would have asked him, "Do you not know, or ought you not to have known, and might you not have known, as chairman of the Committee on Naval Affairs, that the estimates for the Navy Department and the estimates for all the other Departments are predicated upon a paper basis, and must necessarily be thus predicated; and that therefore the amount of \$142,000,000 should be reduced by thirty-three per cent., or to \$95,000,000?" He would have been compelled to answer unhesitatingly in the affirmative.

Then I would have asked him further, "Is it not a fact that these estimates were made up, under a law of Congress, to the 1st of October last, when our relations with foreign Powers were not supposed to be as amicable as they are now thought to be, and do they not include estimates for steamers to the amount of \$22,500,000, which were estimated for at the special instance of the people who are peculiarly interested in commerce, and residing in the section of the country in which the Senator himself resides?" He would have been compelled to answer that question in the affirmative, and thus the amount would be reduced to \$72,000,000 in place of \$142,000,000.

Then I would have asked him if, during the debates of the last Congress, he did not several times assert in his place in the Senate that we were paying our naval officers and our seamen much greater compensation than was paid in any naval service in the world; and he would have

answered again in the affirmative. Then would have followed the inquiry, "Is not the pay of all officers now in the naval service of the United States fixed by a law of Congress?" and I should again have received an affirmative answer.

I would have asked him still further, "Do you not, in making your charges against the Department, accuse them"—for it virtually amounts to an accusation—"of making exorbitant or improper estimates when they make estimates for salaries amounting to \$18,000,000 of the \$72,000,000 based wholly upon the laws of Congress which fix the compensation for the officers and men?" He would have been constrained to answer in the affirmative. Why, sir, if you had that witness before you under such circumstances, you would further have developed the fact that, in the navy-yards in France and England, and all over Europe, from which the Senator's figures are drawn, the skilled artisans to whom we pay from two and a half to three and a half dollars per day can be secured at from seventy-five cents to ninety cents and one dollar.

The Senator then goes on and says:

"It may be said, and said with truth, that these are expenditures in time of peace. I have been at some pains to look over the expenditures of England and France in the gigantic struggle of the Crimean war. That war was declared on the 27th of March, 1854, and the Crimea was evacuated by the allies July 12, 1857, lasting a little more than three years and five months. The total naval expenditures of Great Britain during the war were \$262,032,210, and of France \$87,577,578, making a total of \$349,609,788 for the whole naval expenses of France and England during the Crimean war, which was less than \$100,000,000 a year, so that we are called upon this year to appropriate for our Navy \$40,000,000 more than was spent by the combined navies of France and England in any one year during the Crimean war."

Now, Mr. President, if a witness had made that statement upon the stand and there had been any one present authorized to interrogate him in regard to the facts, it could be made to appear that the expenses of England during the Crimean war ranged from ninety-five to one hundred million dollars per annum in specie. It would also have been discovered that England had a navy already built, and that she was not compelled, as the Government of the United States has been compelled during this war, to build their navy as well as to maintain it and enlarge its navy-yards. It would have been proven by the witness, if he were informed in regard to it, that about the only vessels built by the British Government during the time of the Crimean war were those celebrated gunboats with which we were threatened by a writer in the London Times during the Trentafair, and which so frightened some of my friends in the Northwest that they immediately conceived the great canal project, all of which gunboats have since been abandoned by the British Government, and no one of which could ever have got through the canals into Lake Ontario.

I submit, Mr. President, that it would have been fair to have stated that the British navy was already built, and that there were no expenses, or comparatively no expenses, incurred during the Crimean war in constructing a navy with which to carry it on. Then another fact would have been elicited on that examination, and a very important one. If I had been authorized to interrogate the Senator as a witness on the stand, I should have asked him what was the character of the ships which the British and French then had. Were they sailing vessels or were they steamers, and what is the difference in cost between supporting a steamer in keeping up a blockade and supporting a sailing vessel? Why, Mr. President, the facts were that nearly all of the vessels employed by the French and the English during the Crimean war were sailing vessels. Russia had but very little coast to blockade, and the old sailing hulks were taken into the Black and Baltic seas, and set down before their principal ports. There they remained during the whole war, and it cost very little more to support them there than it did to support them in their own dock-yards and in ordinary at home. While England and France thus blockaded Russian ports in what may almost be called inland waters with sailing ships, we have kept up the most complete blockade ever known in naval warfare with steam vessels, and along nearly four thousand miles of coast, besides keeping up an armament of nearly one hundred steam vessels on the western waters.

Mr. President, I do not know that I shall have a better opportunity to say two or three things in

connection with naval matters not immediately connected with the subject in hand than the present; and if the Senate will pardon me I will proceed to do so. I wish the Senate to understand that I am not a "thick and thin" defender of the Navy Department. I claim no infallibility for that Department, or for any other. I have condemned some of its acts, as I have condemned some of the acts of every Department of this Government. They know that I often differ from them. I have frankly told them when I condemned them. I have always gone before them and told them what my opinions were in regard to any particular measure that I disapproved. Sometimes I have convinced them that they were wrong; sometimes they have convinced me that I was wrong; and sometimes we have both remained of the same opinion as before. I differed from the Navy Department in regard to their treatment of Commodore Du Pont. I told them so frankly. But I have not allowed my private grief in that connection, or on any other subject, to control my action as a Senator. I believe that that gallant admiral would be one of the first to rebuke and condemn me if he supposed that I allowed my feelings in his behalf to influence me in the slightest degree in my conduct here. He loves the country and he loves the service of which he is so distinguished an ornament too much for that. I disagreed with them in regard to the restoration of certain officers who had resigned several years ago, and had recently come back to the service. I thought that action was unjust to the younger officers who had stood by our flag and carried it in honor and in triumph over every sea and in every clime. The Navy Department thought differently, and the Senate of the United States finally confirmed its action, and there was the end of it. I did not bring my griefs down here and ventilate them in the face of the nation. I do not pretend that the right man is always selected for the right place. What man or what Department does not commit mistakes? The true question is, what is the grand total of results accomplished by the Department?

Mr. President, when this war began, as every citizen of the country knows, we had but eight vessels that could be of any real value to the Government for the purpose of prosecuting the war. We have to-day between five and six hundred. I stated the other day, in answer to the clamors which had been raised and which had found an echo here in the Senate, that I was satisfied, from a pretty thorough examination, that it would be discovered that instead of having the slowest vessels in any existing navy we really had the fastest naval ships in any service in the world. I am still convinced that such will be the verdict that will be rendered by the committee in the House of Representatives who have that special subject of inquiry in hand. Immediately after giving utterance to that opinion I was deluged with letters from engineers, ship-builders, and various amateurs in the naval profession, all of which went to confirm the statement that I had made. Yesterday I received a letter, which I will read, from a gentleman with whom I am very slightly personally acquainted, but who was introduced to me by the Senator from Massachusetts furthest from me [Mr. SUMNER] a year and a half ago. He has never been an advocate or a particular friend of the Navy Department, but is a man known all over the country as one of the most extensive shipbuilders in the United States. I desire that his statement may go to the country in this connection. The letter will speak for itself. Let me say here, however, that the greatest fear I have is, that owing to the peculiar character of the war and the great outcry for fast vessels, we shall be liable to sacrifice too much to secure speed.

DEAR SIR: My attention has been called to the controversies now before the public, in which our naval machinery has been severely criticised, and our naval steamers set forth as monstrous abortions and complete failures. I have watched with deep interest the course pursued by the Navy Department, both regarding the models of hull and the style and power of the steam machinery used. I have ideas of my own on the subject of the proper requisites for a steam vessel of war, and do know that it is a difficult problem to solve. Also, I know the fact that the present war has called for a class of steamers hitherto untried and unknown to the great naval Powers of Europe. The requirements of the blockade, and offensive operations on the southern coast, have brought forth a class of naval steamers admirably fitted for such work, but, in my opinion, hardly the proper models for fast cruising ships. But I am surprised to see that there are people unapologetic and selfish enough to use every effort, personal and through the public press, to prejudice and poison the public mind with the belief that the

recently constructed naval steamers are failures and wholly unfit for the work intended for them to do.

I have also taken pains to inquire into the merits of the steam machinery used in the naval service, and my conclusions are without prejudice and entirely unbiassed by any party or parties. I have fully conversed with engineers in civil life, also with our naval engineers, and I here remark that from observation and experience with the Navy engineers I believe them as a body to be an ornament to this country, and that they combine theory with practice, and are doing and have done much to elevate the standard of mechanical engineering in our country. They are, as a body, superior to the English engineers, but I think not quite equal to the French, and do not hold so high a position in our service as the corps of engineers do in the French navy. We must educate these young men as we do our midshipmen, give them the advantages of our dock-yard shops, and send them to sea on practice ships; and after this experience then thoroughly examine them, and if they pass make them third assistant engineers. I consider the organization of the imperial corps of French naval engineers to be complete. They rank first on the list of staff officers of the navy, are educated in the Government dock-yards, and the highest in rank, inspector general of naval engineers, (corresponding with our chief of bureau, &c.) ranks with a general of division (major general); first-class engineers with captains of line-of-battle ships; and so down to the engineer cadets or apprentices. And I read with pleasure in our honorable Secretary's report that it is the intention of the Navy Department to educate this important class of officers at Government expense.

I find from reliable sources that a Mr. Edward N. Dickerson, of New York, has been the author of most of the attacks on our steam navy, and has expended much time and money in spreading his newspaper articles and pamphlets all over the country; also that he is a lawyer by profession, having ample means, and interested in an important part of a marine steam-engine known as the "valve gear." From evidence collected from naval engineers and those in civil life I do not find that he has any reputation as an engineer, and is considered as a sort of enthusiast or perhaps monomaniac on the subject of coal, expansion of steam, and his peculiar "cut-off;" also that his engineering operations so far have been complete failures.

On the other hand the representative of the Steam Bureau, Chief Engineer Isherwood, although not a practical man in the strict sense of the word, that is, a machinist by trade, (and I do not think it necessary that a man must file and hammer iron for seven years to be a good engineer, for there are so many trades used in mechanical engineering that it would be impossible to learn them all,) but a man of extensive engineering experience, understanding the working of motions, has had long practice at sea, (and while in foreign ports, as the English well know, improved his time in thoroughly inspecting the machinery of their war vessels,) also having a good education, is a mathematician, and a sound, clear-headed thinker. This is the opinion of engineers and manufacturers generally, also of the members of his own corps. I know personally that his books have been read with interest in England, and that English engineers have a very high opinion of his capacity as a marine engineer, and believe his experiments were faithfully made, (and not frauds as the public had been led to believe,) and it would have made any American engineer proud to have heard the warm approval they gave of his systematic and thorough way of experimenting and explaining causes, effects, &c. I will here add that the experiments made with engines and boilers by the Navy Department exceed anything of the kind ever tried in Europe, for they have been practical, and if any experiments can give us light on such subjects those that have been made are very valuable to the country at large as well as the Navy. I have very little personal acquaintance with Mr. Isherwood, and know him only from others and by his deeds, and truly believe that he has not had fair play. He seems to be a hard-working man, while those attacking him, so far as I know, are idlers and have not much else to do. Understanding that there was to be an investigation regarding Mr. Isherwood's machinery and his official course as an engineer, I present the following table of British war steamers with their speeds at the measured mile; and I know full well what the delusion of a measured mile trial is, and know that at sea under ordinary circumstances they do not equal the measured mile time by at least fifteen per cent., and often more. In running the measured mile (and I have seen it done, and know all the jockeying,) the sea must be perfectly smooth and no wind, the ship trimmed and made ready, boilers and fires clean, furnaces full of burning coal, and steam kept bottled up until they near the first "post," then the valves are opened wide and the mile is run. The tables of speeds of our own naval sloops are taken from the ship's logs in a seaway with sea-kind firemen, and in some cases burning bad coal. I know that there are no steamers in the English and French navies of the size of the "Sacramento class," that under the same circumstances are so efficient in point of speed, economy, and destructive powers. I think they admit this. We have no ships to compare with the Mersey and Diadem frigates, a class of vessels used in the British navy which carry powerful batteries, have great steam power, and are very fast. For instance, the Mersey frigate, tonnage 3,726, draught of water 22 feet 7 inches, horse-power 4,000, (the length of the stoke-hole or boiler-room in this steamer is over 68 feet, having 32 furnaces,) speed at measured mile, Stokes's Bay, 13.29 knots. The Minnesota class of frigates are their equals in armament, but not in speed.

Our side-wheel gunboats are far ahead of anything of the kind used in Europe, and with a light draught of about eight feet of water maintain a speed hardly, if at all, equaled by any of our fastest merchant steamers, and carry a very heavy battery. Also the screw gunboats are vastly superior to the English and French gunboats, both in speed, battery, and general efficiency; also for operations on our coast, their very light draught of water makes them a valuable arm of offense.

Regarding the sloops of the "Sacramento class," they combine high speed with powerful batteries, although their exceedingly light draught of water prevents their being good sea boats, as they will roll excessively, yet they have

not their equals in the above good points in the British or any other navy. And these sloops have been presented to the public as complete failures, having very slow speeds. I will present a table of the fastest screw corvettes and sloops in the British navy, having nearly the same tonnage. This table is compiled from a list of forty seven corvettes and sloops, and is the speed made at the measured mile, and not their full speed at sea, where the conditions are changed and speed much less:

	Tons.	Speed per hour.
Raccoon.....	1,467	10 knots.
Pearl.....	1,469	11.31 "
Pylades.....	1,275	10.11 "
Satellite.....	1,462	11.4 "

As I mention above, these are the fastest of a class that correspond with the Sacramento and other of our new sloops, and have an average draught of from twenty to twenty-two feet of water. These vessels would be entirely unsuitable for operations on our coast, owing to their great draught of water; and having this great draught a large propeller can be used, will be deeply immersed, and can be made more efficient than with a lighter draught. This is the opinion of engineers, and has been confirmed by experience.

The following table gives the speed of our new steam sloops of about 1,367 tons, and with the very light average draught of about fourteen feet of water:

	Tons.	Knots per hour.
Sacramento.....	1,367	12.5
Adirondack.....	1,367	12
Shenandoah.....	1,367	12.25
Ticonderoga.....	1,367	12.5

The above speeds were made at sea, and, as their officers say, "under the usual conditions of cruising ships." We can all see that at the measured-mile trial (after the manner our English friends have of getting the maximum speeds) a much higher rate could be obtained.

Their machinery is much like the well-tried English plans, having the same valve gearing, but with "surface or fresh-water condensers," and much higher steam can be carried by using fresh water in the boilers; also many other important advantages are gained by the use of a "surface condenser." And it seems that the "Seawall condenser" now in use on our naval steamers, is all that can be desired; at least the best in use.

Mr. Isherwood advocates the use of a smaller cylinder and higher steam, and is opposed to complicated machinery, made to expand the steam to its fullest extent, believing the end does not justify the means, and that it is safer and just as economical in the end to employ simple and always reliable valve machinery. The success of the English machinery is entirely due to extreme simplicity and strength. After the painful experience with the complicated machinery of the Pensacola and Richmond, it does seem that Mr. Isherwood is right in his views. We are a fast people, and want everything we have to do with to be fast. Our naval steamers are fast, yet they must go faster, even if they break down in so doing. This is the way the public feel in this matter, and the performances of the Alabama and her consorts have made us all crazy in matters of speed. It is one thing to see them at sea, then to overtake them, afterwards to capture them. I do not think any of these privateers steam thirteen knots, and believe they will yet be captured by our new sloops.

I hope our Navy will be efficient, as it always has done its duty, and desire that the best talent in the land shall be at the helm, but do not see that others can do any better than our present chiefs of bureaus have done; that our ships and machinery are failures; or that Mr. Isherwood is incompetent because he does not agree in all points with those assailing him.

The Nypsic gunboat came to the navy-yard at Boston from Portsmouth, and her officers said "she made eleven knots under steam," and has since been very efficient on the blockade. The Pequot, a gunboat of the same class, has just returned from a trial trip, which, from all that I can learn, has not been entirely satisfactory, and did not give the speed of the Nypsic. Also, the Saco, of the same class, now fitting out at the Boston yard, has, like the Pequot, new and peculiar machinery, in both cases experiments. I mention this to show that private establishments are engineering for the Navy, and without Mr. Isherwood's success.

In writing the above, I have been influenced by patriotic motives. I never have, neither do I expect to receive any favors from Mr. Isherwood or the Navy Department, but think he has been abused by men not his equals, and who cannot show equal success under equal circumstances. I have been a close observer of motive steam machinery, both at home and abroad, and look at this matter from a practical point of view, and desire to see fair play, and am confirmed in the above opinions after hearing the views of both sides.

I did intend to make my views known through the public press, but have concluded to adopt this method, of writing to influential persons, believing it to be more effectual.

The English are most happy to catch at the word failure when used in connection with our naval vessels, and are only too glad when our officials are abused. I know this from experience with them; and I think the authors of such wholesale abuse, and untruthful assertions concerning our chiefs of bureaus and others in authority in the Navy Department, should be punished and made an example of. Admitting the Department have made some mistakes, (and what engineer, shipbuilder, or manufacturer has not,) yet on the whole they have turned out the finest naval steamers of their class in the world; and it is with feelings of intense pride that I see there is a prospect of our assuming our proper position as a first-class naval Power. I have repeatedly stated that we can only be respected abroad by having a powerful navy, and if this had been the case when the rebellion was instituted, the neutrality laws would have been better understood by England and France.

We were now building in our dock-yards a class of wooden cruising ships that in my opinion, after a careful examination, will excel in speed and sea-going qualities any steamers ever produced by any nation. I would guaranty the above statement to be correct, and believe (having built over

one hundred sail of square-rigged sailing ships) I have constructed the fastest sailing vessels ever built, and am prepared to say that the large cruising ships now building in our dock-yards can hardly be bettered, and we ought at once to lay the keels of fifty such ships, from one thousand five hundred tons upwards, and the machinery known as "Isherwood's" ought to be used to propel them.

Excuse this long epistle. It is intended to do good, and if it will add any strength to the Navy Department, then my earnest wishes will be gratified.

I have always been considered as very unfriendly to the Navy Department, and in a professional point of view do not agree with all their plans, but at the same time do hope that nothing will be done to embarrass officials that have done and are doing much to make us respected abroad.

With great respect, your obedient servant,

DONALD MCKAY.

Hon. J. W. GRIMES, Member Senate Naval Committee, Washington, District of Columbia.

This, Mr. President, is only one of a number of letters of similar import that I have received from eminent shipbuilders and men of practical knowledge in naval matters upon this subject.

Mr. President, if it were not for occupying the attention of the Senate too long, I could not only demonstrate by authentic statements which I have lying before me on my desk the truth of the statement made by Mr. McKay as to the comparative speed of our vessels and the fastest vessels in the British service as enumerated by him, but I could go on and show that other vessels beside those enumerated by him have made even greater speed than those mentioned in his letter. It has been charged, Mr. President, over and over again that it is the policy of the Navy Department to confine engineering and the methods of constructing engines to the plans of Mr. Isherwood. As the Senate is already informed by the letter of Mr. McKay, while the Nypsic, which made on her trial trip upward of eleven knots, and I understand has since made over thirteen, was built under the direction of the Navy Department, and with the Isherwood machinery, the Pequot that has just returned from her trial trip was built outside of the Navy Department, and has not accomplished near as good speed as the Nypsic, which was built by the Department proper, instead of being built by a contractor. But it is not true that the Department has confined itself to the plans of Mr. Isherwood. I could enumerate several vessels that are now in process of construction, and one of them in the city of New York, a magnificent vessel, the plan of the engines of which is being prepared by the very Mr. Dickerson who is so profuse in his attacks on the Navy Department and all its friends. As to the character of naval engines I am not qualified to speak. I only look at the results attained. Those results are to my mind entirely satisfactory. So far as I know, or can understand, they receive condemnation only from those who are interested in some patent, some untried project, some undeveloped idea, some crazy conception, and from the friends of those persons.

But, Mr. President, it is asked why we do not catch the Alabama if our vessels are so fast. I might ask why do you not catch Moseby? Moseby for eighteen months, or nearly that time, has been living within the lines of the American Army, and has destroyed three times as much property as the Alabama has. Do you condemn the Army or the War Department because he is not caught? Why do you not catch Forrest? It was with a good deal of difficulty that you were even able to catch Morgan in Ohio. Morgan traversed the States of Indiana and Ohio, and would have got away scot-free at last had it not been for the much-abused Navy. The trouble is not that our vessels have not speed enough to catch the Alabama, for the Alabama, according to the best information that I can get, is not nearly so fast a vessel as she is represented to be. Captain Baldwin, who has just returned on the Vanderbilt, having been in pursuit of her about a year, and who has been in divers ports where she had been, who has seen men that had been attached to her and knew thoroughly what her capacity was, told me in an interview I had with him a few days ago that she could not exceed eleven knots an hour. We have plenty of vessels that will exceed that by two knots an hour. The difficulty is in finding where she is. The Florida was going into a port when one of our vessels was coming out of it. The officers on the Florida said that they could just distinguish the smoke of a steamer as they were bearing off to the right, and our vessel was going in at the left. The next time those two vessels were heard from they

were seventeen thousand miles apart. One was in pursuit of the other, but our officers supposing that the Florida had gone in one direction went off in that direction, while the Florida instead of going in the direction supposed went in an exactly contrary direction. The intelligence came to us only two or three days ago that the Wyoming and the Alabama were within a short time, when last heard from, within twenty-five miles of each other. People do not reflect upon the difficulty of finding these corsairs. When found they will be easily caught, unless in the vicinity of a professedly neutral port into which they can dodge. It is the action of professedly neutral Powers that prevents their capture.

It was with great difficulty that the British with all their vast fleet were able to capture our sailing men-of-war and privateers in the war of 1812. Do you remember what a chase they had for that gallant old Commodore Porter, and that finally they had to run him into the harbor of Valparaiso, a neutral port, and there capture his vessel? If Senators will take the trouble to read Cooper's Naval History they will discover that there were precisely the same clamors raised by the British people, only more bitter and denunciatory, in regard to the capture of our sailing vessels in the war of 1812 that some gentlemen now attempt to raise against the Navy Department because they do not succeed in capturing the Alabama and her sister pirates.

Sir, the real difficulty we have to encounter in the capture of the Alabama is the position assumed by foreign Powers that allows her, the moment that one of our vessels gets near her, to slip into a neutral port, and we are not permitted to follow her in. We are not permitted to lay off abreast the port until she comes out; and if we do follow her in, our vessels are compelled to remain there twenty-four hours after she escapes, and during those twenty-four hours she will have had such a start of our vessels that it will have become almost impossible to capture her. The Secretary of the Navy, in his very able report to both Houses of Congress at the commencement of this session, has stated the obstacles to be encountered in this regard better than I can. In that report he says:

"The recognition of the rebels as belligerents by the principal maritime Powers at the commencement of hostilities gave strength and character to the insurrection which it could never have had but for that recognition. A declaration of neutrality between the belligerents went abroad from Governments with which we were in amity, carrying with it the semblance of fairness, but which in its operation is most unjust toward this Government and country. The United States had an extensive commerce which penetrated every sea, while the rebels were without commerce or ships. The United States had a Navy, and squadrons on almost every ocean; the rebels had not a single armed vessel at home or abroad. With a full knowledge of these facts the principal maritime Powers of Europe hastened to recognize the rebels as belligerents, and to declare that both the belligerents should be treated alike in their ports; that the public armed vessels of neither should remain more than twenty-four hours in their harbors, nor receive supplies or assistance, except such as might be absolutely necessary to carry them home, and for three months thereafter they should not again receive supplies in any of the ports of those Governments. While this proclaimed neutrality did not affect a single ship of the rebels, for they had not one to be affected, it excluded the naval vessels of the United States from the ports of the principal maritime Powers throughout the world, except under the restrictions enumerated.

"When the Sumter, a vessel stolen from our merchants, made her escape and went abroad armed, but without a recognized nationality, to seize and destroy our merchantmen upon the high seas, she found, unlike the Algerine corsairs, refuge and protection within the maritime jurisdiction of the great European Powers with whom the United States were in friendship; and finally, after being followed by our cruisers into the harbor of Gibraltar, she was permitted by the authorities to remain not only twenty-four hours, but more than twelve months, and was eventually transferred to an English purchaser, went to an English port, was refitted, and left the English shores with a contraband cargo, and has since run the blockade, carrying supplies to the rebels.

"The Alabama, the Florida, the Georgia, are armed cruisers built in England, have an English armament on board, and are manned by crews who are almost exclusively European. Sailing sometimes under the English and sometimes under the rebel flag, these rovers, without a port of their own which they can enter, or to which they can send a single prize for adjudication, have roamed the seas, capturing and destroying the commercial ships of a nation at peace with Great Britain and France; but yet, when these corsairs have needed repairs or supplies, they have experienced no difficulty in procuring them, because it had been deemed expedient to recognize the rebels as belligerents."

Mr. President, it is within the knowledge of all the members of this body that when one of our

vessels went to the harbor of Nassau, where the rebel vessels had received supplies that they might prey upon our commerce, our vessel was denied the same privilege that had been granted to the rebel cruisers.

"Not one of the many vessels captured by these rovers has ever been judicially condemned as a legal capture. Wanton destruction has been the object and purpose of the captors, who have burnt and destroyed the property of their merchant victims.

"This theory of recognizing rebels as belligerents so soon as they lift their arms against the Government, and thus declaring them entitled to national privileges on the high seas and in the harbors of the world, although without a port or navy of their own, is the inauguration of a new policy in the history of nations. For a long succession of years it has been an important point in the progress of civilization, and particularly among the maritime Powers, that the police of the seas should be guarded and maintained by the subjection of captures to the adjudication of tribunals administering the law of nations, which receive from the hands of the captor his prize into the custody of that law to be disposed of by its rules; but the course pursued in fostering and giving encouragement to the rebel rovers who, without a recognized national flag or a port at their command, or any means of bringing their captures to judgment, are committing their predatory acts, is a restoration of that Algerine and Tripolitan system which long afflicted the civilized world, but which, under the lead of our Government, was exterminated in the early part of the present century.

"Thus far these rovers have escaped capture. While in the West Indies they were protected whenever they were enabled to flee into a neutral port, or get within a marine league of the shore of a neutral Government—a privilege that was never in any quarter extended to the Mediterranean corsairs. Unfortunately most of the colonial authorities and no inconsiderable portion of the population of the European dependencies, influenced by the professed neutrality which elevated insurgents and sought to degrade the national authority to an equality with them, were in sympathy with the predatory rovers, and while lending them aid and often furnishing them with information, interposed obstacles and manifested unfriendly feelings to the lawful operations of the naval forces of the Union."

Captain Baldwin would have captured the Alabama at Cape Town had not his letters been retained by the postmaster at that place—letters giving him the information he desired to insure her capture.

Mr. President, I do not desire to prolong this discussion, and will only say a word more.

During this war a great many grand and noble things have been done, a great many gallant deeds performed; but in my conviction fifty years hence it will be the verdict of mankind that the most wonderful thing which has been performed has been the keeping up of the stupendous blockade that has been kept up by this nation so successfully and so long. The blockade is recognized by all foreign nations as the most efficient that has ever been maintained. The Navy Department, commencing with only eight steamships that could be used for blockading purposes at the commencement of the war, and they scattered all over the world and beyond its reach for many months, has kept up a blockade, according to the report of Professor Bache, along the coast from Cape Henry to the line of Mexico, of 3,549 statute miles. In this line there are 189 rivers, bays, harbors, inlets, sounds, or deep openings, of which 45 are under six feet in depth at mean high water, 17 are between six and twelve feet, 42 are between twelve and eighteen feet, and 32 are over eighteen feet in depth. Not one man in a thousand has an adequate conception of the difficulties attending the building, equipping, furnishing, and manning the vessels required for such a service, nor of the hardships endured by the officers and men to whom the duty is assigned. I say without hesitation, Mr. President, that the ability of this nation to build and prepare the ships necessary to maintain as effective a blockade as it has been able to maintain during the last three years will hereafter excite the wonder and admiration of the world.

This is not all that we have done. While we have been able to do this, we have been able to keep a fleet in the western waters traversing the Red river, the Yazoo, the Cumberland, the Mississippi, the Ohio, Arkansas, Tennessee, and all the small streams that empty into the Mississippi south of the Ohio—a service for which we of the Northwest are willing always and at all times to return the Navy Department our most profound thanks. No man can overstate the services that the Navy has rendered to us in that quarter; and these services have been rendered after overcoming the greatest obstacles.

If it be the purpose of the Senate to elicit the facts in regard to Navy contracts, if it be not the design of gentlemen to overhaul anybody, but to draw out the facts in order to pass preventive legis-

lation, then let some one representing the Department be present at that committee, that he may interrogate witnesses in order to elicit the truth. I understand that we do not now sit here as a court of impeachment; we do not send our committee into this investigation for the purpose of discovering rogues, but for the purpose of adopting such legislation as may be necessary to prevent roguery, and that the discovery of the rogues is merely incidental to the main purpose we have in view.

I am satisfied that frauds have been perpetrated. I have always been satisfied of it. I have known that they could be perpetrated under the naval organization since I have known anything about it. The Department desires a full exposition. It will not thwart but will aid the investigation. As I said before, there are three or four gentlemen around me now who have known what are my views on that subject, and it is not my fault that a bill did not pass to prevent these frauds. One did pass the Senate and went to the other branch of Congress at a former session and was there defeated. All we want now is to draw out the facts so as to instruct the minds of the Senate as to our duty, and then I have no doubt that we shall enact a law that will remedy the evils in the future.

Mr. HALE obtained the floor, but yielded to allow the reception of a message from the House of Representatives.

DEATH OF HON. J. W. NOELL.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing the death of Hon. JOHN W. NOELL, a member elect to that House from the State of Missouri.

Mr. BROWN. Mr. President, I ask that the resolutions communicated from the House of Representatives, announcing the death of Hon. JOHN W. NOELL, may be read.

The resolutions were read.

Mr. BROWN. Mr. President, without intending to make any extended review of the life and service of the honorable member from my own State, I feel it due to the position which he occupied in the affections of the citizens of his district, to the bold and patriotic stand which he assumed at the outbreak of rebellion in sustaining the national Government, to his devoted labor in advocating the passage of an act at the last Congress to encourage the emancipation of slaves in Missouri, that this occasion should not go by without at least the earnest attestation of those Senators present who knew him, to his great ability, to his pure ambition, and to his unflinching loyalty. I did not have the pleasure, sir, of any very intimate personal acquaintance with the deceased, and cannot, therefore, speak as others have done of those relations which endeared him in the domestic circle, and which made him beloved by so many who differed from him in political views. But I did know in the last years of his life of the zeal with which he gave his heart to the work of freedom, and can bear witness that he had embraced the faith with all singleness of purpose, and had determined to prosecute it to a full accomplishment.

Mr. President, I submit the following resolutions:

Resolved, That the Senate mourns the death of Hon. JOHN W. NOELL, late a member of the House of Representatives from the State of Missouri, and tenders to his widow, children, and other relatives, a sincere sympathy in this afflictive bereavement.

Resolved, That, as a mark of respect for the memory of the deceased, the Senate do now adjourn.

Mr. HENDERSON. Mr. President, previous to the year 1850 the deceased was unknown to me except as a young lawyer of some promise in southeast Missouri. He was elected, I think, in that year to fill a vacancy in the State Senate, and in the year 1852 he was reelected to serve for four years in that body. He was elected on both occasions as a Whig, and upon nearly all questions involving the success of the principles advocated by that party he was true to those who had followed the fortunes of the illustrious Clay. In one particular, if I remember aright, he differed radically from his party friends. During this period the wholesale system of railroad improvement in Missouri was projected. The schemes then inaugurated by the General Assembly resulted in the present public debt of our State. That debt, though large, has given us a network of roads, which, on the return of peace, must furnish us the best guarantee of

early recovery from the blight and desolation of existing civil war.

The Whig party in the General Assembly, with but few exceptions, advocated the loan of State credit to the system. Among these exceptions was General NOELL. He resisted with earnestness and his usual ability what was known as the "railroad mania" of that day. He presented in strong terms the injustice of taxing those far removed from the lines of road equally with those who more immediately enjoyed its benefits, and urged that such result would inevitably flow from the hot-bed system adopted, looking, as he conceived, rather to future development of the State than to supplying the wants of legitimate business.

He and those with whom he acted were overpowered. The system was adopted, giving us about eight hundred miles of railroad, but with a State debt of nearly thirty millions. In the severe afflictions visited upon our State recently, destroying the accumulations of the past, and withdrawing from useful pursuits so large a proportion of our laboring population, white and black, with the great western outlet of trade closed against our commerce, our credit is temporarily dishonored. Such, General NOELL thought, would be our condition even under more favorable circumstances. They who are interested abroad, however, may be assured that repudiation will never be laid to our charge. Peace will lift the heavy hand from all the departments of industry, and that which is now worthless will, by this alchemy, be changed into boundless wealth.

In 1856, the American party had absorbed the larger portion of the Whig party, and had gathered into its folds many who had previously been Democrats. In that section of the State in which General NOELL resided, the descendants of the old French settlers of St. Genevieve and Herculaneum constituted a very considerable element in the population, and to a large extent gave fashion and tone to society. Among these people are numbered many of the best citizens of Missouri. Possessing the usual vivacity and elegant manners of the French, they yet have a strong ancestral pride, and seem to feel as if their beneficence had contributed to the national greatness in the gift of the Mississippi and all the magnificent regions that lie on its sunset side. During the existence of the Whig party they were, almost without exception, Whigs. In religious belief they are Roman Catholics. In the fierce denunciations of the Catholic church by the American party, it aroused fears of persecution and estranged foreigners and Catholics, while it grew strong upon Protestant prejudice.

It was in the midst of this people that the deceased had lived since 1833. Among them he had been a farmer, a merchant's clerk, a merchant, a clerk of the courts, a lawyer, and a legislator. Among them he had married and reared a family. His wife, a most estimable and intelligent lady, was of French parentage, and a communicant of the Catholic church. Thus surrounded, he could not well sympathize with the new party. On the contrary, he entered warmly into the support of the Democratic candidates, State and national, and made many speeches during the canvass of marked ability and power. During the political discussions of 1856, the deceased acquired distinguished reputation as a debater, and laid the foundation for future usefulness to his country.

In 1858 he was elected to Congress from the district formerly represented by Samuel Caruthers, whose fast friend, personal and political, he had ever been. His constituents had become affected by the prevailing mania on the subject of railroads, and expected him to demand of Congress rich grants of land to aid in the construction of the Iron Mountain and the Cairo and Fulton roads. To have exerted himself in the procurement of such land grants was a sure passport at that time to popular favor; but such were his views of the Constitution and of public policy that he sternly resisted all measures of this character, declaring them unjust and corrupting in their tendencies.

In consequence of his course on this subject, and his opposition to specific duties on iron, he incurred the opposition not only of the masses, who saw riches in railroad improvements, but that of the iron-masters in his district, who knew that their interests would be best subserved by a protective policy.

Hence his canvass in 1860 was one in which prejudices had to be met and conquered. He addressed himself most fearlessly to the task, and the result was his return to Congress by a largely increased majority. In this canvass he supported Mr. Douglas for the Presidency, and denounced in fitting terms the disguised rebel organization under the lead of Mr. Breckinridge.

But the winter of 1860-61 was the period to try men's souls in Missouri, and, indeed, in all the slave States. The scenes of December, January, February, and March will never be effaced from the memory of those who witnessed the violent, the terrible political storm that then swept over the border States. Such I hope never again to witness; and yet, having witnessed it, I am now glad to have been in the midst of it, and to have known and felt its fury. I well remember with what intense anxiety we watched the course of every public man, and with what heartfelt enthusiasm we greeted every expression that came to our aid. The struggle with us was regarded as one of life or death. The parties, equally zealous and equally determined, each animated with a burning faith in the justice of its cause, rushed into the conflict, the one to maintain the Union, the other to destroy it.

During this period there was no conflict of arms, but a political conflict so earnest and so dreadful that none could err as to its ultimate end. The General Assembly, goaded on by southern emissaries and agents sent to the capital for that purpose, had become recreant to the trust reposed in them by their constituents. They daily indulged in bitter invective against the party coming into power, and spread before the people inflammatory appeals, that the pride and passion of the young might be excited. With equal cunning they addressed themselves to the fears of the more prudent, by the most exaggerated predictions of outrage to be perpetrated upon the rights of person and property. Supposing the public mind to be properly prepared for secession, they called a convention of the people to go through the formality of passing the act. Those who called it had no doubt of their success. The Union men, finding that they could not defeat the call of the convention, accepted it, and resolved to meet their opponents at the polls and vanquish them if possible. Our defeat was, even at that early day, regarded by us as tantamount to banishment and confiscation. Parties were dreadfully in earnest. At this critical moment of our affairs, the deceased addressed an able letter to his constituents, dated Washington, January 14, 1861, in which he examined and exposed the heresy of secession, and exhorted them to stand by the Union. In concluding, he said:

"If we cannot live in peace under our present Government, then I am not willing to risk any new confederation without knowing how or where we are to stand in it. For these reasons let Missouri prepare well for contingencies, stand cool and firm to act as her own honor and the happiness of her people demand. Above all, let us cling to the Union as long as one ray of hope remains that it may be saved! In giving utterance to these sentiments I know that I am braving the epidemic that has seized on the public mind in my own State; but I am ready to meet the consequences. I have no political ambition that could be gratified by place and power in a miserable little sectional confederacy or military despotism. My political existence is of no consequence whatever. I can only know that my country is in imminent peril, and I shall do all in my power to save it, without regard to consequences personal to myself. I know no political distinctions now but one 'for or against my country.' Democrats, Whigs, Know-Nothings are names that I now blot out from my memory. I shall strive to forget them until we get through this dark and stormy night."

This letter at once placed General NOELL high in the confidence of the struggling Union men of the State, and his subsequent course as a member of Congress gave new proofs of his fidelity.

A few days after I came to the Senate, in January, 1862, the President transmitted to Congress his proposition on the subject of emancipation in the border States. Several meetings of border State Representatives were held to consider it, and much discussion was had as to the probable effect of the measure on the Union sentiment of our respective States. At those meetings I had said nothing, nor had I heard General NOELL express his opinions. But when I found that my colleague in the Senate and all the members in the lower House from my State, except General BLAIR and General NOELL, would probably oppose it, I called on the deceased to urge him to the advocacy of the proposition before the people. I can-

not forget the prompt manner in which he answered, "I have already made up my mind to advocate emancipation in Missouri, and we will act together." The condition of his district was such, however, that he could not visit many portions of it. His position was understood. He was again a candidate for Congress at the fall election in 1862, and on account of the votes he received the certificate of election; but his seat was contested by Colonel SCOTT, the present member from that district.

His course upon the slavery question estranged from him many of his old friends. The Union men of his district were not yet prepared to give up the institution, and those of rebellious proclivities always use it as a weapon of political warfare. Against him it was used with wonderful effect. He was charged with dividing the Union sentiment of the State by adopting the heresy that Unionism is identical with anti-slavery; that the States must be all free. He was not only politically ostracized in his new position, but he felt the chill of social banishment from genial homes where once he had been the idol of all.

On his return to Congress in December, 1862, I found him intensely anti-slavery, unwilling to compromise with the institution even for a few years. While he had been persecuted and hunted in a district where there were but few slaves, I had met with a more generous treatment among those who were the largest slaveholders of the State. I found a strong and growing sentiment in favor of emancipation, and increasing confidence in the good faith of the President and his advisers, while he was prevented by southern raiders from expressing his sentiments before a constituency he had served so well.

He felt that our only hope of peace consisted in striking down the institution, and the sooner it was destroyed the sooner peace and social reorganization would return. Owing to constitutional difficulties in the way of emancipation in our State, we did not agree as to the details of a bill. He introduced his bill into the House, and I offered one in the Senate.

He, I believe, is entitled to the credit of having offered the first measure ever proposed by a Representative from a slave State looking to practical emancipation.

Whether his memory shall be more dear in the future in consequence of the act, remains for posterity to settle. If emancipation of the black race in this country shall turn to be a curse, that curse will soon be felt. The hand of the Unseen has written the doom of slavery upon the wall of rebellious revelry, and the writing is already interpreted. The index, moved by the wheels of human thought and human action, begins to point to the hour on the dial of American civilization when the idol of slavery shall be crushed. God grant that the new period may give us the blessings of constitutional liberty, the freedom of speech, the freedom of the press, the freedom of conscience, and the freedom of men.

Mr. President, the remains of General NOELL now rest in one of the loveliest valleys of Missouri. From that valley rise up, like immense pyramids, the mountains of iron ore that are so widely known throughout the country. In their presence he spent his early manhood and his maturer age. As they stand in the rough elegance of nature, unsmoothed by the hand of art, so was the mind of NOELL—strong and vigorous in native power, but unsoftened by the charms of a classic education or the polish of early culture. As, of uncommonly exterior, they possess within unbounded wealth, so his powerful but unpolished mind was rich in nature's gifts, and his soul was full of kindness and charity. In the progress of time these huge mountains will be removed, and the plastic hand of civilization will mold them into new forms, to advance the comfort and happiness of man. Let us hope that the mystic influence that comes from the tomb of him who sleeps at their base will continue to animate the ardent and the generous in the work of man's amelioration.

Mr. SUMNER. The personal acquaintance which I had with Mr. NOELL was very slight. But I honored him much as a public servant who, at a critical moment, discovered clearly the path of duty and had the courage to tread it.

Born among slaves, and living always under the shadow of slavery, his character was not cor-

rupted, nor was his judgment obscured. All of us, although born among freemen and living far away from that influence which has so unhappily disturbed our country, might take counsel from his intelligent alacrity. While others hesitated he was prompt. While others surrendered to procrastination, he grappled at once with the giant evil. Such a man was exceptional, and now that he is dead he deserves exceptional honors.

There are men in history who by a single effort fix the public attention. A member of Parliament in the last century was known as "Single-speech Hamilton." Others have become famous from the support of a single measure. Perhaps Mr. NOELL may find a place in this class. But no "Single-speech Hamilton" could claim the homage which belongs to him.

There have been many in Congress from the slave States, but he was the first in our history who was inspired to bring in a bill for the abolition of slavery in a State. Rejecting the palpable sophistries by which it was sought to postpone an act of unquestionable justice, and discarding the idea that wrong was to be dealt with tardily, gradually, or prospectively, he proposed immediate emancipation. Let it be spoken in his favor. Let it be carved on his tombstone. His bill passed the House. It was lost in the Senate. But it was not lost to his fame. He died without beholding the fulfillment of his desires; but the cause with which his name is associated cannot die.

Among the human benefactors of Missouri, so rich in natural resources, he must always be numbered, and his memory will be appreciated there just in proportion as men discern what contributes most to the wealth, the character, and the true nobility of a State. And hereafter, when the present conflict is ended and peace once more blesses our wide-spread land, he will be mentioned gratefully with those who saw truly how this blessing was to be secured, and bravely strove to secure it. Better in that day to have been a doorkeeper in the house of freedom than a dweller in the tents of the ungodly; and what ungodliness can compare with the ungodliness of slavery, whether in the lash of the taskmaster or in the speech of its apologist?

The resolutions were adopted *nem. con.*, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, February 1, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Friday last was read and approved.

DELEGATE FROM IDAHO.

Mr. McBRIDE presented the credentials of WILLIAM H. WALLACE, as Delegate from Idaho Territory; who thereupon took the oath prescribed by the act of July 2, 1862.

MISSOURI CONTESTED ELECTION.

The SPEAKER laid before the House depositions in the contested-election case between James Lindsay and J. G. Scott, from the third congressional district of Missouri; which were referred to the Committee of Elections.

RECIPROCITY TREATY.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in answer to the House resolution of 17th December, 1863, in regard to the operations of the reciprocity treaty; which was referred to the Committee on Commerce.

WASHINGTON TERRITORIAL LAWS.

The SPEAKER also laid before the House copies of the laws of the Territory of Washington; which were referred to the Committee on Territories.

CALL OF COMMITTEES.

The SPEAKER proceeded, as the first business in order, to the call of committees for reports for reference to the Committee of the Whole, not to be brought back to the House by motions to reconsider.

DANIEL H. BINGHAM.

Mr. LONG, from the Committee of Claims, reported back the petition of Daniel H. Bingham,

and asked that the committee be discharged from the further consideration of the same, and that it be laid on the table and ordered to be printed.

It was so ordered.

M. L. STEVENS.

Mr. WINDOM, from the Committee on Indian Affairs, reported a bill for the relief of Margaretta L. Stevens, widow of General I. I. Stevens; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

J. S. STICKNOR.

Mr. FARNSWORTH, from the Committee on Military Affairs, made an adverse report in the case of Captain J. S. Sticknor; which was laid on the table, and ordered to be printed.

CHARLES ANDERSON.

Mr. SCHENCK, from the same committee, reported back House bill No. 163, for the relief of Charles Anderson, assignee of John James, of Texas; which was referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

ABRAHAM SNYDER.

Mr. SCHENCK also, from the same committee, reported back the petition of Abraham Snyder, asking compensation for wool machines, with the recommendation that the same be referred to the Committee of Claims.

The petition was so referred.

E. J. WILLIAMS.

Mr. SMITH, from the Committee of Elections, reported back the memorial of E. J. Williams, asking for pay as Delegate, with the recommendation that the same be referred to the Committee of Claims.

The memorial was so referred.

CALL OF THE STATES FOR RESOLUTIONS.

The SPEAKER stated the business next in order to be the call of the States and Territories for resolutions and the introduction of bills.

GENERAL MCLELLAN'S REPORT.

Mr. J. C. ALLEN submitted the following resolution, and called the previous question on its adoption:

Resolved, That the Committee on Printing be, and they are hereby, instructed to order the printing of fifty thousand additional copies of General George B. McClellan's report, for the use of the House.

Mr. STEVENS. I move to lay the resolution on the table.

Mr. FENTON. Does not that resolution go to the Committee on Printing?

The SPEAKER. The Clerk will read the law on that subject.

The Clerk read, as follows:

"All motions to print extra copies of any bill, report, or other document, shall be referred to the members of the Committee on Printing from the House in which the same may be made."

The SPEAKER. Under the law, as soon as a resolution is offered in order for the printing of additional copies of any document it must go to the Committee on Printing. The resolution will therefore be so referred.

SHORT RATIONS.

Mr. ARNOLD introduced a joint resolution providing for the payment to soldiers in the field the value of short rations; which was read a first and second time.

The joint resolution was read in full, as follows:

Resolved, *Sec.*, That the act of Congress of August 3, 1861, providing that when the enumerated articles composing the ration cannot be furnished in the quantity provided, and when an equivalent in value in some other food cannot be issued, then in such case the equivalent in value shall be placed to the credit of the soldier; so that when short rations are issued the value of such deficiency shall be placed to the credit of the soldier receiving the same, and be paid to him with his wages, under such rules and regulations as the Secretary of War may prescribe.

The joint resolution was referred to the Committee on Military Affairs.

CONFISCATION PROCEEDINGS.

Mr. FARNSWORTH submitted the following resolution, and called the previous question on its adoption:

Resolved, That the Committee on the Judiciary be instructed to inquire into the propriety and expediency of so amending the confiscation law as to make it the duty of district

attorneys to institute proceedings against the property of traitors to the Government, upon complaint under oath of any citizen, showing cause for such proceeding.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

S. P. FOX.

Mr. STUART submitted the following resolution; which was read, considered, and agreed to:

Resolved, That all the papers relating to the application of S. P. Fox for a pension be withdrawn from the files of the House, and referred to the Committee on Pensions, with instructions to inquire into the expediency of granting the same, and report.

INVALID PENSIONERS.

Mr. ROSS submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the Committee on Invalid Pensions be, and they are hereby, instructed to inquire into the expediency of increasing the compensation paid to invalid pensioners corresponding with the enhanced expenses of living and the depreciation in the value of our national currency; and that they report by bill or otherwise.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

PAY OF VOLUNTEERS.

Mr. MORRISON submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the men who periled their lives in, as the Chief Executive in his recent message declares, "many conflicts on both land and sea with varying results," and when, he further says, "hope and fear and doubt contended in uncertain conflict," are no less meritorious than are they who voluntarily enter the military service now, when, he tells us, "the crisis which threatened to divide the friends of the Union is past;" nor are the sacrifices made and services rendered by the former in time of their country's greatest need entitled to a less compensation; that, therefore, the Committee on Military Affairs are instructed to inquire what legislation is necessary to secure to those who voluntarily entered the service under any former call for the troops the same pay, allowance, and bounty which is now offered and paid to those who enlist under the last call for voluntary enlistments; and that they report by bill or otherwise.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

PAY OF ENROLLING OFFICERS.

Mr. ARNOLD introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire what legislation is needed to enable the enrolling officers to enroll the militia called out by order of the President of the United States, under the direction of the Governors of the States, to get their pay; and that they report by bill or otherwise.

PROTECTION OF EMIGRANTS.

Mr. BOYD introduced a bill to aid in the protection of emigrants to the Territories; which was read a first and second time, and referred to the Committee on Military Affairs.

HONESTEAD ACT.

Mr. McCLURG introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be, and are hereby, instructed to inquire into the expediency of so amending the second section of an act to secure homesteads to actual settlers on the public domain, approved May 20, 1862, as to permit the person applying for the benefit of said act to make the necessary affidavit before the clerk of any court of record or notaries public; and to report upon the same by bill or otherwise.

REPORT OF GENERAL E. B. BROWN.

Mr. KING introduced the following resolution: *Resolved*, That the Secretary of War be directed to lay before the House the official report of Brigadier General E. B. Brown, of the department of Missouri, of his military operations in October last against what was known as the Shelby rebel raid into Missouri.

Mr. SPALDING. I object.

The SPEAKER. The resolution, being a call on one of the Executive Departments, and objection being made, must, under the rules, lie over for one day.

INTERCOURSE WITH INSURRECTIONARY STATES.

Mr. BLAIR, of Missouri, introduced the following resolution, on which he demanded the previous question:

Resolved, That a special committee be appointed by the

Speaker of the House, to consist of five members, with authority to inquire into and report upon the practical operation and results of the act of Congress regulating commercial intercourse with the States declared to be in insurrection against the authority of the Government, and whether the regulations of the Treasury Department which purport to have been made in pursuance of said act, as carried out by the Department, comply with its design. To examine particularly and report upon the manner in which said act has been executed, and whether any frauds have been practiced on the Government by the officers or agents employed under said act, and whether any favoritism to individuals or localities has been shown in its execution; and to inquire further whether the effect of said act and of the said regulations of the Treasury Department has been to prevent supplies from reaching the rebels or to facilitate the object. That said committee have power to send for persons and papers and to employ a clerk, with the usual amount of compensation, for the purpose of reducing to writing all testimony taken by said committee.

Mr. ELIOT. I move the reference of that resolution to the Committee on Commerce.

The SPEAKER. That is not in order; the previous question having been called.

Mr. ASHLEY. I propose to debate the resolution.

The SPEAKER. The call for the previous question cuts off debate.

On seconding the call for the previous question, on a division there were—ayes 44, noes 63.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. BLAIR, of Missouri, and ASHLEY, were appointed.

The previous question was not seconded; the tellers having reported—ayes 60, noes 64.

Mr. ASHLEY. I propose to debate the resolution.

The SPEAKER. It goes over, then, under the rules.

NATIONAL ARMORY.

Mr. KELLOGG, of Michigan, introduced the following resolution, on which he demanded the previous question:

Resolved, That a select committee of seven be appointed to inquire into the expediency and propriety of establishing a national armory at some point west of the Alleghany mountains; and that they have leave to report by bill or otherwise.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

DONATIONS TO FEMALE COLLEGES.

Mr. LONGYEAR introduced a bill donating public lands to the State of Michigan for the endowment of female colleges in said State; which was read a first and second time, and referred to the Committee on Public Lands.

INDIAN OUTRAGES IN WISCONSIN.

Mr. MCINDOE introduced the following resolution; which was read, considered, and agreed to:

Whereas the settlers of the northern counties of the State of Wisconsin have been grossly outraged lately by roving stray bands of Winnebago and Pottawatomi Indians: Therefore,

Resolved, That the Committee on Indian Affairs be requested to inquire into the necessity of providing for the removal of said Indians at an early day; and report by bill or otherwise.

SURVEYOR GENERAL OF IOWA, ETC.

Mr. MCINDOE also introduced the following resolution; which was read, considered, and agreed to:

Whereas the surveys in the surveyor general's district comprising the States of Iowa and Wisconsin are nearly completed: Therefore,

Resolved, That the Committee on Public Lands be requested to inquire into the expediency of providing for the surveys in said district with the view of discontinuing the office; and report by bill or otherwise.

CONSCRIPTION.

Mr. ELDRIDGE submitted the following resolution, on which he demanded the previous question:

Whereas all conscription of other forced service of the citizen to the State is contrary to the genius and principles of a republican government and opposed to the principles of self-government, which is the true basis of the American Republic; and whereas the laws for conscripting or drafting citizens into the military service of the United States have thus far proved, if not an entire failure, at least ineffectual for the supplying to the Government the necessary number of men requisite for the military service in putting down the rebellion; and whereas the principles of equity and justice require in a Government like ours, founded on the will of the majority, that the burdens of maintaining and preserving it should fall alike and equally upon all and every of the citizens, the rich as well as the poor, in proportion to their ability to bear the same; and whereas the military is a profession to which men are called as well from the inducements of personal gain and family advantage as

from motives of patriotism and hopes of future fame: Therefore,

Resolved, That the Committee on Military Affairs be, and they are hereby, instructed to examine and inquire immediately into the propriety and expediency of repealing or suspending, so far as any future or further draft is concerned, all acts and parts of acts authorizing or empowering the conscripting or drafting of, or in any way forcing the citizen into the military service of the country, either in putting down rebellion or otherwise, and in lieu thereof providing by law for and authorizing the President of the United States from time to time, and as he may deem it expedient and necessary, to offer the payment of such sum or sums of money for volunteers in bounties or monthly payments, or otherwise, as may be best to induce enlistments and secure such moneys to the soldier and his family, and as will secure just so many and just such men as may be requisite or necessary to put down the rebellion and restore the supremacy of the Constitution; and that said committee do report by bill.

Mr. STEVENS moved that the resolution be laid upon the table.

Mr. ELDRIDGE demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 42; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Daves, Deming, Driggs, Eliot, Farnsworth, Fenton, Gooch, Grider, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orin, Patterson, Perham, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilson, Windom, Woodbridge, and Yeaman—84.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Coffroth, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Hall, Harrington, Knapp, Law, Lazar, Long, Marcy, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Perry, Pruyn, Samuel J. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Sweet, Chilton A. White, and Joseph W. White—42.

So the resolution was laid upon the table.

During the vote,

Mr. STEELE, of New York, stated that his colleague, Mr. STEBBINS, was detained from the House by illness.

The vote was then announced as above recorded.

ENLISTMENT OF COLORED PERSONS.

Mr. GRINNELL introduced the following resolution, on which he demanded the previous question:

Whereas the war policy of the Government having brought into the military service as soldiers and laborers free colored men and persons claimed to be held by rebels, who have rendered invaluable service to the Army; and whereas the more extended employment and enlistment of colored persons will be a relief to our northern soldiers, unaccustomed and unused to manual labor, and lessen the number to be taken from their homes and from the industrial pursuits in the Union States where there is now an unusual demand for labor: Therefore,

Resolved, That a more vigorous policy to enlist at an early day and in larger numbers in our Army persons of African descent would meet the approbation of this House.

Mr. STILES. I move to lay the preamble and resolution on the table.

The House divided; and there were—ayes 35, noes 63.

Mr. STILES. I propose to debate the resolution.

The SPEAKER. The gentleman has demanded the previous question.

Mr. STILES. Then I demand the yeas and nays on the motion to lay the resolution on the table.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 50, nays 75; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Chauley, Clay, Cravens, Henry Winter Davis, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Holman, Kernan, King, Knapp, Law, Long, Marcy, McAllister, McDowell, William H. Miller, Morrison, Noble, John O'Neill, Perry, Pruyn, Samuel J. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Sweet, Wadsworth, Chilton A. White, and Yeaman—50.

NAYS—Messrs. Alley, Allison, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Thomas T. Davis, Daves, Driggs, Eliot, Farnsworth, Garfield, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kasson, Francis W. Kellogg, Orlando

Kellogg, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orin, Patterson, Perham, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Spalding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Webster, Whaley, Williams, Wilson, Windom, and Woodbridge—75.

So the resolution was not laid on the table.

During the call of the roll,

Mr. ASHLEY stated that Mr. LOVEJOY was quite unwell, and confined to his room in consequence thereof.

The previous question was seconded, and the main question ordered to be put.

Mr. HARRINGTON called for the yeas and nays upon the passage of the resolution.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 80, nays 46; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Francis P. Blair, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Daves, Deming, Driggs, Eliot, Farnsworth, Fenton, Garfield, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Longyear, Marvin, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orin, Patterson, Perham, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Spalding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilson, Windom, and Woodbridge—80.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Clay, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Holman, Kernan, King, Knapp, Law, Lazar, Long, Marcy, McAllister, McKinney, William H. Miller, Morrison, Noble, John O'Neill, Pendleton, Perry, Pruyn, Samuel J. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Sweet, Wadsworth, Chilton A. White, and Yeaman—46.

So the resolution was adopted.

The question recurring on the adoption of the preamble,

Mr. GRINNELL demanded the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the preamble was agreed to.

Mr. GRINNELL moved to reconsider the votes by which the resolution and preamble were severally agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. NICOLAY, his Private Secretary, announced that he did, on the 29th ultimo, approve and sign an act (H. R. No. 33) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1865.

Mr. FARNSWORTH. Has the morning hour expired?

The SPEAKER. It has.

Mr. FARNSWORTH. Then I call for the regular order of business.

GRADE OF LIEUTENANT GENERAL.

The SPEAKER. The regular order of business is the consideration of the joint resolution (H. R. No. 26) reviving the grade of lieutenant general in the United States Army, reported from the Committee on Military Affairs, and postponed until to-day after the morning hour. The first question is on the amendment reported from the Committee on Military Affairs.

The original resolution was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the grade of lieutenant general be, and the same is hereby, revived in the Army of the United States; and the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a commander of the Army, to be selected, during war, from among those officers, not below the grade of major general, of the regular Army or of volunteers most distinguished by courage, skill, and genius in their profession, and who, being commissioned as lieutenant general, may be authorized to command the armies of the United States.

Sec. 2. And be it further enacted, That the lieutenant general, appointed as hereinbefore provided, shall be entitled to the pay, allowances, and staff specified in the fifth section of the act approved May 28, 1798; and also to the allowances described in the sixth section of the act approved August 23, 1842, granting additional rations to certain officers.

The amendment in the nature of a substitute,

recommended by the committee, was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the grade of lieutenant general be, and the same is hereby, revived in the Army of the United States; and the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a commander of the Army, to be selected, during war, from among those officers in the military service of the United States, not below the grade of major general, most distinguished for courage, skill, and ability; and who, being commissioned as lieutenant general, shall be authorized, under the direction of the President, to command the armies of the United States.

SEC. 2. And be it further enacted, That the lieutenant general appointed as hereinbefore provided, shall be entitled to the pay, allowances, and staff specified in the fifth section of the act approved May 28, 1793; and also the allowances described in the sixth section of the act approved August 23, 1842, granting additional rations to certain officers: Provided, That nothing in this bill contained shall be construed in any way to affect the rank, pay, or allowances of Winfield Scott, lieutenant general by brevet, now on the retired list of the Army.

Mr. FARNSWORTH. I hope the House will pass this bill this morning. It has been printed, and I presume members of the House have it before them. It is very brief. The grade of lieutenant general was first provided for in 1793, but the act was repealed the following year. It was again revived in February, 1855, and the rank was conferred upon Major General Scott.

By the act of Congress of August 3, 1861, providing for the retirement of certain officers who had served a long time, it was provided that should the lieutenant general be retired by virtue of the provisions of that act, it should be with whole pay and allowance. On the 1st of November, 1861, Lieutenant General Scott, by his own request, was retired. Now, this act simply provides for reviving the grade, and authorizes the President, whenever he shall deem fit and proper so to do, to confer the rank of lieutenant general upon the most deserving officer, not below the grade of major general, either in the regular or volunteer forces, who, when commissioned, shall be entitled to command the armies of the United States.

I hope that the House, as I said before, will be willing to pass this bill this morning. I do not propose to make any extended remarks upon it. I think the propriety of the bill addresses itself to the judgment and good sense of every member. I call for the previous question.

Mr. GARFIELD. I desire to say a word upon this subject.

Mr. FARNSWORTH. I withdraw the previous question, and yield to my colleague on the Military Committee.

Mr. GARFIELD. I am sorry, Mr. Speaker, to be compelled to differ with my brother members of the Committee on Military Affairs; but in behalf of a small minority of that committee, who were opposed to this bill, I will state in a word the grounds of opposition.

In the first place, we have already a law providing for a General-in-Chief of the Army, and there is nothing that a lieutenant general can do for the service that a General-in-Chief cannot do precisely as well. The President has already full power to select any major general from the regular or volunteer service to serve as General-in-Chief. Therefore this resolution does not arm the President with any power that he does not already possess, so far as the necessities of the military service are concerned.

In the second place, if this resolution be intended to confer an honor, as a prize for great services, for distinguished merits, I argue against its propriety at this time when the great race for the prizes of the war is not yet ended. It seems to me improper at this stage of the war to determine and award the greatest prize of the war in the way of military preferment to any one of the distinguished generals of the Army. It would be far more fitting for us to wait until the war is decided, and see whose head towers above all others in the Army, and then give it as a crown to the one who rises highest.

Suppose this bill had been passed, and the appointment had been made two years ago to-day, who would have been the appointee? Six months later, perhaps, another man would have been appointed; and six months later still another would have won the honor. I venture to say that if this bill had been passed heretofore, at four different periods of the war, we should have had at each period different men for lieutenant generals. The

scale on which generals stand in the estimation of the public, and of the War Department, is a sliding and shifting scale. Fortune and the accidents of war exalt a general to-day and cast him down to-morrow, and I deem it unwise and impolitic to decide the great prize at a period which may be the very middle of the war.

In the next place—and I have only one other consideration to offer—we all know, I presume, toward what distinguished general this resolution points; a man whose head towers high to-day, and no doubt justly so, before the American people; but I ask the members of this House if it be wise, in view of the great wants of our western army, to recall that man from his active duties in the field and make him a bureau officer in Washington? I ask gentlemen if it would not be an act of the highest impolicy, an act of the greatest danger to the interests of the Army and of the country in this war, to call off a man who is distinguished as a leader of armies and make him a mere bureau officer of the War Department?

I know it may be said that it is not necessary that he should be called away from the field; I know it may be said that the President is not compelled to make this appointment at once; but I ask you if it is wise for you to open the race and let a pressure be brought upon the President from this time until he shall make the appointment, friends here and friends there each pressing his own particular favorite for the place? Even if a lieutenant general should keep the field he could command but one army at a time.

I say, therefore, without saying a word against any general, but with the kindest feelings toward all who may be candidates for this high office, that this measure is uncalled for, that the interests of the service do not require it, and that justice to the man who shall prove himself to be first when the war is over requires that we do not open the question now or allow it to be decided.

I shall, therefore, vote against the resolution.

Mr. FARNSWORTH. Mr. Speaker, the argument of my colleague of the Committee on Military Affairs who has just taken his seat is a twofold argument. I understand his first argument to be that the war has not progressed far enough and that we have not given our generals in the field a sufficient term of trial to enable the President to select with proper judgment a man upon whom to confer the rank of lieutenant general.

His second argument is that the general toward whom this legislation is directed is so great and so successful a general that it would be dangerous to take him from the field and put him in command of the entire Army of the United States.

In answer to the first branch of the gentleman's argument I have only this to say: we are now very near to the close of the third year of this war, and while it is true that many generals in the Army may be up to-day and down to-morrow, and that their fortunes fluctuate, it is not true of the general to whom this legislation applies. His star has been steadily rising. He has been growing greater and greater day by day, rising from an obscure position, scarcely known out of the county in which he resided. By his masterly ability he now stands, without saying anything to the disparagement of other generals, head and shoulders over every other general in the Army of the United States. He has been tried, tried long enough; and if his star were to go down to-morrow he has still done enough to entitle him to this prize which the gentleman from Ohio speaks of.

In respect to the last branch of the gentleman's argument—that it is not safe to take this general from the field—I have only this to say: he is no carpet knight, and it does not follow necessarily that because an officer is placed in command of all the armies of the United States he is therefore to keep an office in the second or third story of a building in Washington, whence he is to issue his orders. I expect that the man who will be selected, in pursuance of this act, to command the armies of the United States will command them, and that in the field. Wherever his presence is most needed there I expect he will be. When General Scott was commander of the Army of the United States he did not place himself in the city of Washington and issue his orders in time of war. He took the field, and put himself at the head of the largest corps. He commanded in the field, not in the city of Washington. That I ex-

pect will be done by whoever will be selected by the President of the United States.

As to the argument of the gentleman that it would not do to withdraw a man from active command and make him a bureau officer, it would apply as well in time of peace as in time of war. In time of peace we prepare for war, and whenever war takes place, then, according to the argument of the gentleman, the law would have to be repealed, and the lieutenant general sent immediately to the front.

Mr. SPALDING. I desire to ask the gentleman from Illinois whether this bill contemplates that whoever shall be appointed lieutenant general shall take the actual command of the armies of the United States, and the present commander be displaced? If so, I will vote for it.

Mr. FARNSWORTH. It does. It provides that whenever a lieutenant general is commissioned he shall be entitled to command the Army of the United States.

Mr. ROSS. I desire to offer an amendment respectfully recommending the appointment of Major General U. S. Grant as lieutenant general.

Mr. FARNSWORTH. The amendment is not in order. The Congress of the United States has not the appointing power.

Mr. SCHENCK. Mr. Speaker, as it is my purpose to vote for this bill reported from the Committee on Military Affairs, I am constrained to say a word because of what has been said by my friend from Illinois—my colleague on the committee. I shall vote for it on the simple, abstract ground that in the organization of the Army, for the purpose of conducting and commanding the armies of the United States, I think it proper that there shall be an officer of the rank of lieutenant general. I prefer that to having an officer detailed, to be called General-in-Chief; but I say here now that in giving that vote I desire to be understood as not instructing the President, as not voting for a resolution that has been characterized as pointing to a particular man. I am not willing to take any part of the responsibility of the selection of the man. I believe that that properly belongs to the Executive, and with him I would leave it. It is because of this difficulty about the man alone that I have found it hard to come to a conclusion to support the bill at all. I am well aware that if we look back through even the short history of the war we will see that if some eighteen months ago the Executive of the country had been left to select a lieutenant general to command all the armies of the United States he would probably have taken General McClellan. At a later period, just after the battle of Gettysburg, for instance, it would probably have been General Meade. At any time during his successes in the Southwest it would probably have been General Rosecrans. Now, the probability is, and indeed gentlemen look upon it as a matter of course, that General Grant will be selected. I am unwilling to enter into these personal considerations at all. I shall vote for this bill simply on the ground that in conceding to it my support I express the opinion that it is best for the organization of the Army in its most efficient character that such an office should exist. But I do not give that vote as an instruction to any person, leaving to the President of the United States his own proper responsibility to be exercised according to his best judgment, and as he shall answer for the exercise of that judgment and responsibility to the country.

Mr. FARNSWORTH. I ask the previous question on the bill and amendments.

The previous question was not seconded.

Mr. BOYD. I desire to say that I want to inquire into the resolution now before this House.

If it is actually necessary in the judgment of this House that a lieutenant general shall be appointed, I am ready to vote to authorize the appointment of one; but I want to know, and I want this House to understand, whether by this resolution it is intended to appoint a man who shall take the place of General Halleck as commander-in-chief of the armies of the United States, and that General Halleck shall be thrown out of his office? If General Halleck is to be superseded after having remained in office for eighteen months without performing any active service [laughter] I want to know it. If gentlemen want to try some other man, let them try him. If my friend, General GARFIELD, wants to try General Grant, let them try him. I am for General Ulysses S. Grant.

The SPEAKER. The Chair must remind the gentleman that it is not in order to call members by name.

Mr. BOYD. I have not another word to say.

Mr. ROSS. I desire now to offer my amendment.

Mr. WASHBURNE, of Illinois. I demand the previous question.

Mr. STEVENS. I hope the gentleman will not insist on that.

Mr. WASHBURNE, of Illinois. Does the gentleman want to speak on this bill?

Mr. STEVENS. I desire to be heard for about five minutes.

Mr. WASHBURNE, of Illinois. I will yield for that purpose, and then I hope the gentleman will go with me for the previous question. I desire that the House will come to a vote upon this question. I presume the House does not desire to hear discussion upon it. A special order has been set for a later hour in the day, and I trust this matter will be disposed of before that comes up. I have no desire, however, to cut off discussion, and if the gentleman from Pennsylvania desires to be heard I will yield the floor to him.

The SPEAKER. The Chair will state that the gentleman from Illinois [Mr. Ross] is entitled to the floor. The Chair has recognized no call for the previous question.

Mr. ROSS. I submit the following amendment:

And that we respectfully recommend the appointment of Major General U. S. Grant for the position of lieutenant general.

I understand that my colleague desires that amendment to come in.

Mr. WASHBURNE, of Illinois. My colleague's amendment is now in, and a vote will be taken on it.

Mr. STEVENS. I have one word to say, as I intend to vote against the bill, and desire that it shall be disposed of as expeditiously as possible.

In the first place, I can see no use in it. By the law, as it now stands, the President has the right to appoint any man he chooses as commander-in-chief of the Army—I mean any man of proper grade. If the present General-in-Chief does not discharge the duties of his office satisfactorily, the President has full power, and has had for the past two years, to appoint another in his place. There is, therefore, no necessity for this bill, unless it is proposed to censure the President by it for not doing that. Well, sir, whatever I may think of General Halleck and of the propriety of appointing another man in his place, I am not willing in this way to censure the President for his course. That is my first reason.

In the next place, I desire to know why it is, if a lieutenant general is to be appointed to manage the affairs of the Army during this war, that the choice of the President is limited to the grade of major generals of the Army? If there are other men of a lower grade who are superior in the opinion of the President to all the major generals, give him an opportunity to select from all the officers the one he may deem most meritorious. Nay, sir, if there is a man in civil life, who from his great capacity, his intellect and his power, may be more fit in the opinion of the President than any man in the Army, let the President select him.

When this question was agitated many years ago in Congress, it was supposed a man would have been selected by General Jackson from civil life if the law had been passed; and as a matter of principle I see no impropriety in giving the President the power to select from any profession the man he may deem the most fit. I do not think that it is proper. If it is intended merely as an honor, I am willing to vote any resolution of thanks to any general, successful or unsuccessful, who has fought patriotically during this war. If it is intended simply as an act of honor, as was done with General Scott, who had only a brevet rank, nothing else, as a mark of distinction, carrying with it no emoluments, I am willing to vote it. But I think that we had better wait before we decorate this hero until this war is over. It did not use to be the fashion to canonize saints until they were dead. That was the old fashion. Therefore, otherwise than as a matter of honor, I am not prepared to vote for it. I think as highly of the general pointed out by the gentleman from Illinois, [Mr. FARNSWORTH,] I think as

highly of him as a military man as any other member, and I feel as grateful to him; but I know very well that the reputation of a general depends upon his success. The loss of a battle is often the loss of reputation, sometimes, perhaps, without justice. But whether justly or not, it is always so. Let us wait a little.

Now, Mr. Speaker, as the President has the right to appoint anybody else than the present General-in-Chief now at the head of that department, I confess that I am entirely satisfied when the President shall appoint somebody else. I am not quite sure from the pertinacity with which the President sticks to the General-in-Chief he would not appoint him lieutenant general. There is some danger of it.

Mr. PRUYN. Do I understand the gentleman from Pennsylvania to assert that the President has the power now, without a new statute, to appoint a lieutenant general?

Mr. STEVENS. No, sir; but he has the power to designate who shall be the commander-in-chief of the Army. The gentleman will recollect that we passed a law at the last Congress granting power to the President to appoint any general of the same grade or same rank, without reference to the date of commission, to command all the others. That is the law now.

Mr. PRUYN. I understand that this bill declares that the grade of lieutenant general is hereby established.

Mr. STEVENS. Revived.

Mr. PRUYN. Yes, sir, revived. As I understand it, that grade exists in the person of General Scott.

Mr. STEVENS. As a brevet rank.

Mr. PRUYN. Brevet rank only?

Mr. STEVENS. Yes, sir.

Mr. PRUYN. Perhaps the gentleman can answer another question, which I ought to ask of the chairman of the Committee on Military Affairs. It appears that the original bill uses the word "may," and the substitute the word "shall." Is it intended that it shall be imperative upon the President to make this appointment?

Mr. SCHENCK. It makes it imperative.

Mr. STEVENS. As I read it, the President, if Congress passes this law, must consider himself as instructed to make the appointment. It is hardly proper for me to declare how this act should be construed, if it shall be passed. Any gentleman can construe it as well as I can.

Mr. GARFIELD. I will answer the gentleman from New York. The portion of the bill to which the gentleman refers does not provide for the appointment, but that when appointed he shall be authorized to act.

Mr. STEVENS. When Congress authorizes the President to do a thing, it expects him to do it. I recollect that in Pennsylvania a long time ago the law said that the Governor *may* remove. It was contended and always construed that that meant the Governor should remove in a certain contingency. One stubborn Governor said that *may* meant *shall*, and so construed it. And so will the President understand this law.

Mr. ALLISON. The first section provides that he shall appoint, "if he deems it expedient."

Mr. STEVENS. I do not say that we would impeach the President if he did not appoint; but his understanding would be that we want a lieutenant general, and that he ought to appoint one. That is the fair construction.

Mr. GARFIELD. The result would be that a lieutenant general would be appointed.

Mr. STEVENS. Therefore, while I say again that I have no hostility to any member of the military corps or any general of the Army, I cannot vote for this bill. The President has sufficient power already for the necessities of the country. I will not censure the President by voting for this bill. I do not suppose that he would take my opinion even if I were disposed to give it. While I might desire to have a change in the General-in-Chief, I am not disposed to legislate for it.

Mr. WASHBURNE, of Illinois. The point which the gentleman from Pennsylvania makes is that the President has the power under existing laws to appoint a General-in-Chief without regard to his rank.

Mr. STEVENS. There were five major generals whose commissions were differently dated, and I made the point that the President had the

right, under the law, to appoint either of them as General-in-Chief.

Mr. WASHBURNE, of Illinois. That is true; but the passage of this act would repeal that law. I think that there can be no doubt of that; and when the lieutenant general shall be appointed he will command the armies of the United States, in subordination to the President of the United States as Commander-in-Chief under the Constitution.

I had not intended to submit any remarks on this bill. I have made no preparation whatever to speak to its merits; and if I had I should be unable to do so on account of the present state of my health. No subject of less importance than this, no bill in which I felt a less degree of interest, could have brought me to the House today. I had not looked for the opposition to the bill which has been manifested. The bill having been printed, and its provisions being very simple and easy of comprehension, I supposed we should have come to a vote without extended debate, as every member of the House had undoubtedly made up his mind as to how he would vote on the question.

The proposition is to revive the grade of lieutenant general for the purpose of conferring it not only for the recognition of distinguished and exceptional services already rendered to the country, but for the practical purpose of investing full command of the Army in the party receiving the appointment, in subordination, of course, to the Commander-in-Chief under the Constitution. I do not propose to enter upon the reasons which I supposed would control the House in passing this bill. Those reasons must suggest themselves to all men who love our country and the flag. They spring from the admiration which a great and magnanimous people must ever feel for deeds of heroism and for public service of untold value, and for which no reward can be esteemed too great. The question has been raised as to who will be appointed under the bill in the event of its passage. I take it there is no gentleman upon this floor who has really any doubt upon whom this appointment will be conferred. Under the language of the bill, referring to most eminent and distinguished service, I think one individual, and one individual alone, is pointed out so distinctly that no man can misunderstand.

A great deal has been said as to what might have happened if some such bill had passed two years ago; that such or such a man might have received the honor, and implying that the party upon whom the honor may be conferred under this bill may prove himself unworthy. How much, I would ask, is now to be required of a general before he can have the confidence of this House? Has not General Grant earned that confidence and proved himself worthy of full trust in the greatest positions? I demand to know what would have been our position as a nation in the present struggle had it not been for the achievements of General Grant? Where can you point to a series of greater triumphs than he has achieved, a more complete succession of victories, which are unsurpassed in history, and which for the brilliancy of their achievement, and in furtherance of the great cause in which he has so nobly fought, have made his name and his fame as lasting as the history of the nation?

I have spoken of the interest I feel in this bill, but if I know myself it is a feeling that rises far above the considerations of personal friendship which I entertain for the distinguished soldier whose name has been connected with it. I am not here to speak for General Grant. No man with his consent has ever mentioned his name in connection with any position. I say what I know to be true when I allege that every promotion he has received since he first entered the service to put down this rebellion was moved without his knowledge or consent; and in regard to this very matter of lieutenant general, after the bill was introduced and his name mentioned in connection therewith, he wrote me and admonished me that he had been highly honored already by the Government, and did not ask or deserve anything more in the shape of honors or promotion; and that a success over the enemy was what he craved above everything else; that he only desired to hold such an influence over those under his command as to use them to the best advantage to secure that end. Such is the language of this patriotic and

single-minded soldier, ambitious only of serving his country and doing his whole duty. Sir, whatever this House may do, the country will do justice to General Grant. We can see that. I think I can appreciate that myself.

After the battle of Shiloh, a little less than two years ago, a wave of calumny and detraction swept over General Grant with a power that would have overwhelmed any man of less strength and courage. My neighbor and my friend, appointed upon my own recommendation, I sought in my place on this floor the earliest occasion to tell the country something of this general, denunciations of whom were ringing from one end of the country to the other. I believe I can say I scarcely had the sympathy of a single member on this floor in making that speech, which was only regarded as a somewhat extravagant defense of a friend. Willing to take the responsibility of standing by my record then, I now appeal to history for my justification, and ask if General Grant has not far transcended everything that I claimed for him.

It cannot certainly, Mr. Speaker, be necessary for me to enter into any detail of the services of General Grant to the country. They are as familiar as household words to our constituents, if not to us here. Why necessary to recount that long list of triumphs and of victories from Belmont to Lookout Mountain? Look at what this man has done for his country, for humanity and civilization—this modest and unpretending general whom gentlemen appear to be so much afraid of. He has fought more battles and won more victories than any man living; he has captured more prisoners and taken more guns than any general of modern times. To us in the great valley of the West he has rendered a service in opening our great channel of communication to the ocean, so that the great Father of Waters now goes "unvexed to the sea," which endears him to all our hearts. Sir, when his blue legions crowned the crests of Vicksburg, and the hosts of rebellion laid their arms at the feet of this great conqueror, the rebel confederacy was cut in twain and the backbone of the rebellion broken.

I speak of the fall of Vicksburg. I might speak of what went before. It was my good fortune to be with General Grant and with that noble army, every man of whom is a hero, at the commencement of the expedition which culminated in the taking of Vicksburg. We all know how ill at ease the public mind was last winter pending General Grant's operations on the lower Mississippi. The expedition by Grenada, the opening of the canal, the opening of the bayous, had not succeeded. The country saw all the attempts to flank that stronghold likely to prove abortive, and there was great anxiety. But, with unshaken confidence in himself, General Grant pursued the even tenor of his way, and with entire reliance upon his success in the plan finally adopted, and which could not be undertaken until the river and bayous should sufficiently recede to enable him to move. Then, sir, was seen that bold and daring conception which I say is without parallel in all military history. It was to send his army and his transportation by land on the Louisiana side from Milliken's Bend to a point below Vicksburg, and then run the frowning batteries of that rebel Gibraltar, with its hundreds of guns, with his transports, and thus enable him to cross the river below Vicksburg, and get on to the Mississippi side. The country was startled at the success which attended the running of those batteries by the frail Mississippi steamboats used as transports, and the rebels stood aghast when they saw seven or eight transports and all of Porter's gunboats below Vicksburg.

There was something in this matter of running those batteries by the transports which deserves more than a passing notice, as showing the indomitable spirit and courage of that magnificent army. Certain boats were detailed for the extraordinary and hazardous service of running the batteries, but, with one exception, the crews of all the boats refused to go. The provost marshal was then ordered to beat up for volunteers. No sooner was the notice given than soldiers rushed in for the service, and at once many times the number that was called for was filled—pilots, engineers, firemen, deck-hands, in the greatest numbers offered themselves. From one regiment, known as the Lead Mine regiment, raised in my own section, no less than one hundred and sixteen men and

sixteen commissioned officers volunteered for that dangerous yet glorious service. The consequence of all this was that resort was had to lot as to who should have the privilege of risking life in that unparalleled adventure. One noble boy from my own city who had drawn the prize was offered \$100 in greenbacks for his chance, which he refused to take, but courageously held on and successfully passed not only the Vicksburg but the Grand Gulf batteries. What language can do justice to an army animated by such a spirit? What triumphs and what glories might not justly be expected from it?

The transports and gunboats below the batteries, the army reaches by land marches Perkins's plantation, twenty miles above, and Hard Times landing, nearly opposite Grand Gulf. It was supposed that Admiral Porter, who always seconded General Grant with a zeal equal to his courage and ability, could reduce the batteries at Grand Gulf, after which the troops were to be crossed over in the transports, and were to land and carry the place by assault. But after five hours and a half of the most desperate naval fighting ever seen upon this continent, the brave Porter drew off his shattered fleet, unable to effect a reduction of the principal battery. During all of this time the army had been waiting with intense impatience for the time to come when the guns of the batteries should be silenced and they could land, and great was the disappointment when it was known that the fleet had failed to reduce the works. It seemed then that all had miscarried, and that the expedition on which so many hopes hung would be a failure.

At that moment was seen in General Grant that greatest of all gifts of a military man—the gift of deciding instantly amid the pressure of the greatest emergencies. I was with him when Porter reported his inability to reduce the batteries, and in an instant he made his new dispositions, and gave his orders. They were to debark all his troops, and march them down three miles below Grand Gulf, "and," said he, "after nightfall I will run every transport I have below their batteries, and not one shall be injured." And sure enough, when it became dark, Porter again attacked the batteries with his fleet, and amid the din and clatter of the attack, the transports all safely passed Grand Gulf. And, sir, it was a noble sight as this grand army was about to bivouac at Disharoon landing, three miles below Grand Gulf, with their camp fires burning brightly on that soft April night, when these transports, one by one, escaping all serious injury from the terrific tempest through which they had passed, rounded to, responding to eager inquiries "All is well," and which was followed by such a shout as our brave and patriotic soldiers only can give.

Early the next morning this whole army was again embarked on board the gunboats and transports, bound down the Mississippi "for Cowes and a market," for some place where a landing could be made on solid ground on the Mississippi side. And that was a proud spectacle when the grim old iron-clad Benton, the flag-ship of Admiral Porter, on which was General Grant, led the way down the river, the entire fleet and the transports following. She landed at a dilapidated plantation called Bruinsburg, and General Grant was the first man to go ashore to seek information. He there met a loyal "American citizen of African descent," who gave him trustworthy information in regard to the country and the roads into the interior. Instantly the debarkation of the troops commenced, and the line of march taken up toward Port Gibson. Before two o'clock the next morning, May 1, 1863, the enemy was encountered, and the battle of Port Gibson, the first of the series resulting in the capture of Vicksburg, was fought during that whole day, finally resulting in the complete rout of the enemy.

And that which must ever be regarded by the historian as the most extraordinary feature of this campaign is the astounding fact that when General Grant landed in the State of Mississippi and made his campaign in the enemy's country, he had a smaller force than the enemy. There he was, in the enemy's country, cut off in a measure from his supplies, with a great river in his rear, and in one of the most defensible of countries, through which he had to pass. To his indomitable courage and energy, to his unparalleled celerity of movement, striking the enemy in detail, and beat-

ing him on every field, is the country indebted to those wonderful successes of that campaign which have not only challenged the gratitude and admiration of our own countrymen, but the admiration of the best military men of all nations. My colleague [Mr. FARNSWORTH] has well said that General Grant is no "carpet knight." If gentlemen could know him as I know him, and as his soldiers know him, they would not be so reluctant about conferring this honor. If they could have seen him as I saw him on that expedition; if they could have witnessed his terrible earnestness, his devotion to his duty, his care, his vigilance, and his unchallenged courage, I think their opposition to this bill would give way.

When he left his headquarters at "Smith's plantation," below Vicksburg, to enter on that great campaign, he did not take with him the trappings and paraphernalia so common to many military men. As all depended on quickness of movement, and as it was important to be incumbered with as little baggage as possible, he set an example to all under him. He took with him neither a horse, nor an orderly, nor a servant, a camp chest, an overcoat, nor a blanket, nor even a clean shirt. His entire baggage for six days—I was with him at that time—was a tooth brush. He fared like the commonest soldier in his command, partaking of his rations and sleeping upon the ground, with no covering excepting the canopy of heaven. How could such a soldier fail to inspire confidence in an army, and to lead it to victory and to glory? Confer upon him the rank contemplated by this bill, and you excite the enthusiasm of all your armies, and all your soldiers will be eager to follow his victorious banners.

But, gentlemen say, wait and confer this rank when the war is over. Sir, I want it conferred now, because it is my most solemn and earnest conviction that General Grant is the man upon whom we must depend to fight out this rebellion in the field, and bring this war to a speedy and triumphant close. It is said that he will have to leave his army if this rank is conferred upon him and come to Washington. Let me say to gentlemen that they need have no uneasiness upon that score. General Grant, if this appointment shall be conferred upon him, will never leave the field, but he will be with his army wherever his presence is most needed; he will be with his soldiers to lead them on in this gigantic struggle to preserve our God-given Government, in which he, in common with all loyal men, have so great an interest.

Mr. WHALEY. I would inquire of the gentleman from Illinois whether the appointment of General Grant to the rank of lieutenant general would have the slightest tendency to deprive him of the privilege and honor of becoming a candidate for the next Presidency?

Mr. WASHBURN, of Illinois. Mr. Speaker, I do not intend to go into any political considerations. I profess, in my action, so far as regards this question, to have been influenced by the highest considerations of public duty. I cannot conceive why gentlemen upon this side of the House should be so sensitive in reference to the conferring of this rank. I do not understand why they are so unwilling to come to a vote. I believe that upon this question there is but little difference of opinion among the great people of this country who are to control its destinies, and who want this war closed and this hideous rebellion suppressed at the earliest moment. Gentlemen may sit here in their seats and refuse to second the demand for the previous question, so that their record may not be known, but I tell them that there will be a record made hereafter. The people of this country now want a fighting and a successful general to lead their armies. They want a man who is willing to risk his own life upon the field. They have seen General Grant successful in every fight from Belmont to Lookout Mountain, and they now wish to see him marshal our whole armies and strike the last, greatest, and most deadly blow at the rebellion.

Mr. Speaker, I might go on much further, but I have extended my remarks far beyond what I intended when I took the floor. I want the House to come to a vote, and shall insist upon my motion for the previous question.

Mr. HUBBARD, of Connecticut. Mr. Speaker, I accord in the full measure of praise that has been bestowed on General Grant. There is not a man in all the nation for whom I feel more respect

or a deeper regard. But the war is not yet ended. Other battles are to be fought; and some gentlemen on this side of the House doubt the expediency of passing this bill at the present time. We believe it to be more prudent, more wise, for the President to delay the appointment for some three or six months longer, so as to enable the major generals already in the field, and such as may be put into the field, to compete for this high honor. I am very glad, Mr. Speaker, that the bill has been introduced, because I believe it will be an occasion of emulation among the commanders in the field, through which this Republic may be enabled to have her own again, and be highly benefited.

Mr. WASHBURN, of Illinois. Mr. Speaker, my friend from Connecticut says the war is not yet ended. It is not yet ended; and I tell my friend that I believe it never will be ended unless we place a fighting general in the command of the armies. That is what is the matter.

Mr. BOUTWELL. Mr. Speaker, I object to this bill as it stands, because I think it at once creates a partisan feeling in the country and disorganizes the Army, and not because I am opposed to the appointment of General Grant to the office of lieutenant general when the war is ended. If the motion for the previous question shall not be sustained, and if the amendment shall be rejected or adopted, I wish to propose an amendment by which the President shall be authorized to confer this office on such person as he sees fit, with the advice and consent of the Senate, when the present war shall have been brought to a conclusion; but not now.

I wish to say still further, that the office of lieutenant general, as an administrative office, is inconsistent with the administration of public affairs; and the office of General-in-Chief, in as far as it affects the administration of the military department of the Government, however well it may have succeeded, is also inconsistent.

Mr. WASHBURN, of Illinois. The gentleman has indicated his amendment, which is no more nor less than to kill the bill. The effect is to do indirectly what it appears the gentleman does not wish to do directly. I trust there is no hostility from Massachusetts because this is a western general and has fought western battles. I am sorry to see this opposition come from the quarter it does. I move the previous question.

Mr. GARFIELD. I move that the bill and the pending amendments be laid upon the table.

Mr. J. C. ALLEN. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. SCHENCK. The hour has arrived for taking up the enrolling act.

The SPEAKER. That bill is in the same position as this. It cannot come up until this is disposed of.

Mr. SCHENCK. May I inquire of the Chair whether it is not in order to move to postpone the consideration of this subject for one week?

The SPEAKER. It is not, pending the demand for the previous question and the motion to lay on the table.

The question was taken; and it was decided in the negative—yeas 19, nays 117; as follows:

YEAS—Messrs. Ashley, Baily, Beaman, Broomall, Clay, Cole, Henry Winter Davis, Driggs, Garfield, Hale, Harding, Hutchins, Long, McAllister, James R. Morris, Noble, Orth, Williams, and Yeaman—19.

NAYS—Messrs. James C. Allen, William J. Allen, Allison, Ames, Ancona, Arnold, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Francis P. Blair, Bliss, Blow, Boutwell, Brandegee, William G. Brown, Ambrose W. Clark, Cobb, Coffroth, Cravens, Creswell, Thomas T. Davis, Dawes, Dawson, Deming, Eden, Edgerton, Eldridge, Eliot, Farnsworth, Fenton, Finck, Ganson, Grider, Grinnell, Harrington, Benjamin G. Harris, Herriek, Higby, Holman, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Knapp, Law, Lazear, Loan, Longyear, Marcy, Marvin, McBride, McClurg, McDowell, McIndoe, McKinney, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Norton, Charles O'Neill, Pendleton, Perham, Perry, Pike, Pomeroy, Price, Pruyn, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schofield, Shannon, Sloan, Smith, Spalding, John B. Steele, Stiles, Strouse, Stuart, Sweet, Thayer, Thomas, Tracy, Upson, Voorhees, Wadsworth, Elihu B. Washburn, William B. Washburn, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Wilson, Windom, Winfield, and Woodbridge—117.

So the bill and amendments were not laid on the table.

The question recurred on the previous question.

The previous question was seconded, and the main question ordered; which was first on the amendment offered by Mr. Ross.

Mr. ROSS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 17; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Ames, Ancona, Arnold, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Francis P. Blair, Blow, Boyd, Brandegee, William G. Brown, Chanler, Cobb, Coffroth, Cravens, Creswell, Dawes, Dawson, Deming, Dennison, Eden, Edgerton, Eldridge, Eliot, Farnsworth, Fenton, Finck, Ganson, Grinnell, Harrington, Herriek, Holman, Asahel W. Hubbard, Hulburd, Hutchins, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Knapp, Law, Lazear, Loan, Long, Marcy, Marvin, McAllister, McClurg, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Norton, Charles O'Neill, John O'Neill, Orth, Perham, Perry, Pike, Pomeroy, Pruyn, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schofield, Scott, Sloan, Smith, Spalding, Stevens, Stiles, Strouse, Stuart, Thayer, Thomas, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Elihu B. Washburn, William B. Washburn, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Wilson, Windom, Winfield, and Woodbridge—111.

NAYS—Messrs. Ashley, Baily, Broomall, Clay, Henry Winter Davis, Driggs, Garfield, Grider, Hale, Higby, Hotchkiss, John H. Hubbard, Julian, Longyear, Shannon, Upson, and Williams—17.

So the amendment to the amendment was agreed to.

The question recurred upon the adoption of the amendment reported from the Committee on Military Affairs, as amended.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Illinois, demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. STEVENS demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 41; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, Ancona, Arnold, Augustus C. Baldwin, John D. Baldwin, Baxter, Blaine, Francis P. Blair, Jacob B. Blair, Blow, Boyd, Brandegee, William G. Brown, Ambrose W. Clark, Cobb, Coffroth, Cravens, Creswell, Dawes, Dawson, Deming, Dennison, Driggs, Eden, Edgerton, Eldridge, Eliot, Farnsworth, Fenton, Finck, Ganson, Gooch, Grinnell, Harrington, Herriek, Higby, Holman, Asahel W. Hubbard, Hulburd, Hutchins, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Knapp, Law, Lazear, Longyear, Marcy, Marvin, McBride, McDowell, McIndoe, McKinney, William H. Miller, Moorhead, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Perham, Pike, Pomeroy, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, Schofield, Smith, Spalding, Stuart, Thayer, Thomas, Tracy, Voorhees, Wadsworth, Elihu B. Washburn, Webster, Whaley, Chilton A. White, Joseph W. White, Wilder, Wilson, and Windom—96.

NAYS—Messrs. Ashley, Baily, Boutwell, Broomall, Chanler, Cole, Henry Winter Davis, Thomas T. Davis, Garfield, Grider, Hale, Hall, Harding, Benjamin G. Harris, Hotchkiss, John H. Hubbard, Julian, Kelley, Loan, Long, McAllister, McClurg, Middleton, Samuel F. Miller, Morrill, James R. Morris, Noble, Perry, Price, Pruyn, Scott, Shannon, Stevens, Stiles, Strouse, Van Valkenburgh, William B. Washburn, Williams, Winfield, Woodbridge, and Yeaman—41.

So the bill was passed.

During the call of the roll,

Mr. STILES stated that his colleague, Mr. JOHNSON, was detained from the House by sickness.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled a resolution in relation to the public printing; when the Speaker signed the same.

MONTANA TERRITORY.

Mr. BEAMAN. I rise to a question of privilege. I desire to enter a motion to reconsider the motion by which the bill providing a temporary government for the Territory of Montana was referred to the Committee on Territories.

The SPEAKER. The motion will be entered.

ENROLLMENT ACT.

Mr. SCHENCK. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, with an amendment reported by the Committee on Military Affairs.

Mr. SCHENCK. The motion pending, I believe, is to refer the bill and amendment to the Committee of the Whole on the state of the Union.

The SPEAKER. That motion is pending.

Mr. SCHENCK. I am very willing it shall go there if by unanimous consent it can be made a special order in committee to-day, and from day to day until disposed of.

No objection being made, the bill was referred to the Committee of the Whole on the state of the Union, and made a special order from day to day until disposed of.

The SPEAKER. The Chair will suggest that the bill relative to claims of the State of Pennsylvania has been made a special order in committee for to-day.

Mr. SCHENCK. Then I ask that that special order may be postponed for one week.

Mr. STEVENS. If it is in order I will move that that bill be postponed as a special order until the enrollment bill shall have been disposed of.

Mr. RANDALL, of Pennsylvania. I desire to ask my colleague whether his proposition will make the Pennsylvania bill a special order in committee after this bill has been disposed of?

The SPEAKER. It has been made a special order, and would take precedence of all other bills except appropriation bills made special orders.

There being no objection, the bill heretofore assigned as a special order for to-day in Committee of the Whole on the state of the Union was postponed until the enrollment bill shall have been disposed of.

Mr. SCHENCK. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The bill was read.

The amendment reported by the Committee on Military Affairs was read, as follows:

Strike out all after section one, and insert in lieu thereof the following:

SEC. 2. *And be it further enacted*, That the quota of each ward of a city, town, township, or precinct, or of a county where the same is not divided into wards, towns, townships, or precincts, shall be, as nearly as possible, in proportion to the number of men resident therein subject to draft, taking into account, as far as practicable, the number which has been previously furnished therefrom; and in ascertaining and filling said quota there shall be taken into account the number of men who have heretofore entered the naval service of the United States, and whose names are borne upon the enrollment lists as already returned to the office of the Provost Marshal General of the United States.

SEC. 3. *And be it further enacted*, That if the quota from any State shall not be filled within the time designated by the President, the provost marshal of the district within which any ward of a city, town, township, precinct, or county, where the same is not divided into wards, towns, townships, or precincts, which is deficient in its quota, is situated, shall, under the direction of the Provost Marshal General, make a draft for the number deficient therefrom; but all volunteers who may enlist after the draft shall have been ordered, and before it shall be actually made, shall be deducted from the number ordered to be drafted in such ward, town, township, precinct, or county. And if the quota of any district shall not be filled by the draft made in accordance with the provisions of this act and the act to which it is an amendment, further drafts shall be made and like proceedings had until the quota of such district shall be filled.

SEC. 4. *And be it further enacted*, That any person enrolled under the provisions of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, or who may hereafter be so enrolled, may furnish, at any time previous to the draft, an acceptable substitute, who is not liable to draft, nor at the time in the military or naval service of the United States, and such person so furnishing a substitute shall be exempt from draft during the time for which such substitute shall be exempt from draft, not, however, exceeding the time for which such substitute shall have been accepted.

SEC. 5. *And be it further enacted*, That boards of enrollment shall enroll all persons whose names may have been

omitted by the proper enrolling officers; all persons who shall arrive at the age of twenty years before the draft; and all persons discharged from the military or naval service of the United States who have not been in such service two years during the present war; and said boards of enrollment shall release and discharge from draft all persons who, between the time of the enrollment and the draft, shall have arrived at the age of forty-five years, and shall strike the names of such persons from the enrollment.

Sec. 6. *And be it further enacted*, That any person drafted into the military service of the United States may, before the time fixed for his appearance at the draft rendezvous, furnish an acceptable substitute, subject to such rules and regulations as may be prescribed by the Secretary of War. If such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted; and if such substitute is liable to draft, the name of the person furnishing him shall be liable to draft in filling future quotas. And if any drafted person shall hereafter pay money for the procurement of a substitute, under the provision of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft in filling that quota, and his name shall be retained on the roll in filling future quotas; but in no instance shall the exemption of any person, on account of his payment of commutation money for the procurement of a substitute, extend beyond one year; but at the end of one year in every such case the name of any person so exempted shall be enrolled again, if not before returned to the enrollment list under the provisions of this section.

Sec. 7. *And be it further enacted*, That any drafted person who shall be declared to be exempt by reason of physical disability, and whose annual gains, profits, or income, as ascertained by the provisions of the act to provide internal revenue to support the Government, and to pay interest on the public debt, approved July 1, 1862, and the acts amendatory thereof, exceed the sum of \$1,200, exclusive of all deductions authorized to be made in said acts, such person shall pay the sum of \$300 to the person authorized to receive commutation money from drafted persons not exempted. And it shall be the duty of the provost marshal of each district to transmit to the collector of internal revenue of such district the names and residences of all persons drafted and declared to be exempt by reason of physical disability; and if any drafted person so declared to be exempt, and whose annual gains, profits, or income exceed the sum of \$1,200, to be ascertained as aforesaid, shall neglect or refuse for the period of ten days after his name shall have been transmitted to the collector of internal revenue to pay the sum of \$300 as aforesaid, it shall be the duty of the collector of internal revenue to collect said sum in the manner provided by law for the collection of income tax in default, together with all the penalties and costs therein provided, and to pay over the said \$300 to the person authorized as aforesaid; and such drafted person so declared to be exempt, by reason of physical disability, who shall pay the sum of \$300 within ten days after his name shall have been transmitted to the collector of internal revenue, shall not again be liable to draft during the time for which he was drafted; but if such person shall neglect or refuse to pay said sum for the period of ten days as aforesaid, he shall be liable to draft whenever the President of the United States shall call for men from the district in which he resides. And it shall be the duty of the collector of internal revenue to transmit to the provost marshal the names and residences of all such persons required to pay the sum of \$300 as aforesaid who shall neglect or refuse, for the period of ten days, to pay said sum.

Sec. 8. *And be it further enacted*, That no person of foreign birth shall, on account of alienage, be exempted from enrollment or draft under the provisions of this act, or the act to which it is an amendment, who has at any time assumed the rights of a citizen by voting at any election held under authority of the laws of any State or Territory, or of the United States, or who has held any office under such laws or any of them; but the fact that any such person of foreign birth has voted or held, or shall vote or hold, office as aforesaid, shall be taken as conclusive evidence that he is not entitled to exemption from military service on account of alienage.

Sec. 9. *And be it further enacted*, That any mariner or able seaman who shall be drafted under the act approved March 3, 1863, entitled "An act for enrolling and calling out the national forces, and for other purposes," shall have the right, within eight days after the notification of such draft, to enlist in the naval service as a seaman, and a certificate that he has so enlisted being made out in conformity with regulations which may be prescribed by the Secretary of the Navy, and duly presented to the provost marshal of the district in which such mariner or able seaman shall have been drafted, shall exempt him from such draft: *Provided*, That the period for which he shall have enlisted into the naval service shall not be less than the period for which he shall have been drafted into the military service: *And provided further*, That the said certificate shall declare that satisfactory proof has been made before the naval officer issuing the same that the said person so enlisting in the Navy is a mariner by vocation, or an able seaman.

Sec. 10. *And be it further enacted*, That whenever any such mariner or able seaman shall have been exempted from such draft into the military service by such enlistment into the naval service, under such due certificate thereof, the ward, town, township, precinct, or county, when the same is not divided into wards, towns, townships, or precincts, from which such person has been drafted, shall be credited upon its quota to all intents and purposes as if he had been duly mustered in the military service under such draft.

Sec. 11. *And be it further enacted*, That all enlistments into the naval service or marine corps that may be hereafter made of persons liable to service under the act of Congress entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall be credited to the ward, town, township, precinct, or county, when the same is not divided into wards, towns, townships, or precincts, in which such enlisted men were or may be enrolled and liable to duty under the act aforesaid, under such regulations as the Provost Marshal General of the United States may prescribe.

Sec. 12. *And be it further enacted*, That no pilot, engineer, or master-at-arms, having an appointment or acting appointment as such, and being actually in the naval service, shall be subject to military draft while holding such appointment.

Sec. 13. *And be it further enacted*, That the following persons be, and they are hereby, excepted and exempted from the provisions of this act, and shall not be liable to military duty under the same, to wit: such as are rejected as physically or mentally unfit for the service; the Vice President of the United States, the judges of the various courts of the United States, the heads of the various Executive Departments of the Government, the Governors of the several States, all persons actually in the military or naval service of the United States at the time of draft, and all persons who have served in the military or naval service two years during the present war and been honorably discharged therefrom. And no persons but such as are herein excepted shall be exempt.

Sec. 14. *And be it further enacted*, That section three of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and so much of section ten of said act as provides for the separate enrollment of each class, be, and the same are hereby, repealed; and the two classes mentioned in the third section of said act shall be consolidated.

Sec. 15. *And be it further enacted*, That any person who shall forcibly resist or oppose any enrollment, or who shall incite, counsel, encourage, or who shall conspire or confederate with any other person or persons forcibly to resist or oppose any such enrollment, or who shall aid or assist, or take any part in any forcible resistance or opposition thereto, or who shall assault, obstruct, hinder, impede, or threaten any officer or other person employed or aiding in making such enrollment, or employed or aiding in the performance of any service relating thereto, or in arresting or aiding to arrest any spy or deserter from the military service of the United States, shall, upon conviction thereof in any court competent to try the offense, be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding five years, or by both of said punishments, in the discretion of the court; but nothing in this section contained shall be construed to relieve the party offending from liability under proper indictment or process for any crime against the laws of a State, committed by him while violating the provisions of this section.

Sec. 16. *And be it further enacted*, That the Secretary of War shall detail or appoint such number of additional surgeons for temporary duty in the examination of persons drafted into the military service, in any district, as may be necessary to secure the prompt examination of all such persons, and to fix the compensation to be paid to surgeons so appointed while actually employed. And such surgeons, so detailed or appointed, shall perform the same duties as the surgeon of the board of enrollment, except that they shall not be permitted to vote or sit with the board of enrollment.

Sec. 17. *And be it further enacted*, That the Secretary of War is authorized, whenever in his judgment the public interest will be subserved thereby, to permit or require boards of examination of enrolled or drafted men to hold their examinations at different points within their respective enrollment districts, to be determined by him.

Sec. 18. *And be it further enacted*, That provost marshals, boards of enrollment, or any member thereof, acting by authority of the board, shall have power to summon witnesses in behalf of the Government, and enforce their attendance by attachment without previous payment of fees, in any case pending before them, or either of them; and the fees allowed for witnesses attending under summons shall be five cents per mile for mileage; and no other fees or costs shall be allowed under the provisions of this section; and they shall have power to administer oaths and affirmations. And any person who shall wilfully and corruptly swear or affirm falsely before any provost marshal or board of enrollment, or member thereof, acting by authority of the board, or who shall, before any civil magistrate, wilfully and corruptly swear or affirm falsely, to any affidavit to be used in any enrollment, pending before any provost marshal or board of enrollment, shall, on conviction, be fined not exceeding \$500, and imprisoned not less than six months nor more than twelve months.

Sec. 19. *And be it further enacted*, That copies of any record of a provost marshal or board of enrollment, or of any part thereof, certified by the provost marshal, or a majority of said board of enrollment, shall be deemed and taken as evidence in any civil or military court in like manner as the original record: *Provided*, That if any person shall knowingly certify any false copy or copies of such record, to be used in any civil or military court, he shall be subject to the pains and penalties of perjury.

Sec. 20. *And be it further enacted*, That all claims to exemption shall be verified by the oath or affirmation of the party claiming exemption; and the truth of the facts stated, unless it shall satisfactorily appear to the board of enrollment that such party is for some sufficient reason unable to make at present such oath or affirmation; and the testimony of any other party filed in support of a claim to exemption shall also be made upon oath or affirmation.

Sec. 21. *And be it further enacted*, That if any person drafted and liable to render military service, shall procure a decision of the board of enrollment in his favor upon a claim to exemption by any fraud or false representation practiced by himself or by his procurement, such decision or exemption shall be of no effect, and the person exempted, or in whose favor the decision may be made, shall be deemed a deserter, and may be arrested, tried by court-martial, and punished as such, and shall be held to service for the full term for which he was drafted, reckoning from the time of his arrest.

Sec. 22. *And be it further enacted*, That any person who shall procure, or attempt to procure, a false report from the surgeon of the board of enrollment concerning the physical condition of any drafted person, or a decision in favor of such person by the board of enrollment upon a claim to exemption, knowing the same to be false, shall, upon conviction in any district or circuit court of the United States, be punished by imprisonment for the period for which the party was drafted.

Sec. 23. *And be it further enacted*, That the fifteenth section of the act to which this is amendatory be so amended that it will read as follows: that any surgeon charged with the duty of such inspection, who shall receive from any person whomsoever any money or other valuable thing, or agree, directly or indirectly, to receive the same to his own or another's use, for making an imperfect inspection, or a false or incorrect report, or who shall wilfully neglect to make a faithful inspection and true report, and each member of the board of enrollment who shall wilfully agree to the discharge from service of any drafted person who is not legally and properly entitled to such discharge, shall be tried by a court-martial, and, on conviction thereof, be punished by a fine not less than \$300 and not more than \$10,000, shall be imprisoned at the discretion of the court, and be cashiered and dismissed the service.

Sec. 24. *And be it further enacted*, That the fees of agents and attorneys for making out and causing to be executed any papers in support of a claim for exemption from draft, or for any services that may be rendered to the claimant, shall not, in any case, exceed five dollars; and physicians or surgeons furnishing certificates of disability to any claimant for exemption from draft shall not be entitled to any fees or compensation therefor. And any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act, and any physician or surgeon who shall, directly or indirectly, demand or receive any compensation for furnishing said certificates of disability, shall be deemed guilty of a high misdemeanor, and, upon conviction, shall, for every such offense, be fined not exceeding \$500, to be recovered before any court of competent jurisdiction in an action of debt, one half for the use of any informer who may sue for the same in the name of the United States, and the other half for the use of the United States, and shall also be subject to imprisonment for a term not exceeding one year, at the discretion of the court.

Sec. 25. *And be it further enacted*, That no member of the board of enrollment, and no surgeon detailed or employed to assist the board of enrollment, and no clerk, assistant, or employee of any provost marshal or board of enrollment, shall, directly or indirectly, be engaged in procuring or attempting to procure substitutes for persons drafted, or liable to be drafted, into the military service of the United States. And if any member of a board of enrollment, or any such surgeon, clerk, assistant, or employee, shall procure, or attempt to procure, a substitute for any person drafted, or liable to be drafted, as aforesaid, he shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by imprisonment not less than thirty days nor more than six months, and pay a fine not less than one hundred nor more than one thousand dollars, by any court having competent jurisdiction.

Sec. 26. *And be it further enacted*, That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved on the 3d day of March, 1863, as may be inconsistent with the provisions of this act is hereby repealed.

The Clerk then proceeded to read the bill by sections for amendment.

The first section was read, as follows:

That the President of the United States shall be authorized, whenever he shall deem it necessary, during the present war, to call for such number of men for the military service of the United States as the public exigencies may require.

Mr. A. MYERS moved to add the following:

And all persons drafted and entering the military service of the United States to continue in the same for a term not exceeding eighteen months.

The amendment was disagreed to.

Section four was read, as follows:

Sec. 4. *And be it further enacted*, That any person enrolled under the provisions of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, or who may hereafter be so enrolled, may furnish, at any time, an acceptable substitute, who is not liable to draft, and such person so furnishing a substitute shall be exempt from draft during the time for which such substitute shall not be liable to draft, not exceeding three years; but no person in the service of the United States shall become a substitute to serve in any regiment or company except among the troops of the State in which he originally enlisted or from which he was drafted.

Mr. FINCK. I move the following amendment:

In line six strike out the words "who is not liable to draft;" and in line eight strike out "not be liable to draft," and insert "be mustered into the service."

Mr. Chairman, this section refuses to allow a party enrolled and subject to draft, before the draft actually takes place to furnish a substitute; and furthermore, it limits the kind of substitute to be presented by the drafted man—it confines the substitute to those persons who are not liable to the draft. I think that it would be right after the enrollment and the draft have taken place to allow drafted men to furnish as substitutes those not drafted, whether their names are upon the roll or not. It appears to me to be the true policy of the American people to raise men by a voluntary system. Now, before this draft takes place, when you have half a million, or a million in a State, if you make a provision that the party whose name appears upon the roll as drafted may procure a substitute without limiting him to that class of persons who are not liable to duty under this section, then there is a probability that those who are enrolled and able to procure a substitute can

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avoid the draft. By this bill the substitutes are confined to those who are not liable to the draft. That is what I object to. I want drafted men to go wherever they please to obtain substitutes. Not only that, when a man procures a substitute and he is mustered into the service, the time for which he is mustered in ought to be put to the credit of that man. For these reasons I have moved my amendment.

Mr. SCOTFIELD. That amendment, if I understand it, takes two names instead of one from the list of men enrolled. Now, the person who furnishes a substitute has his name taken off, and if the amendment be adopted it will take his own name and that of another from the list. It makes the number to be drafted only one half.

Mr. FINCK. It will give the Army the benefit of one half at least.

Mr. HOLMAN. I ask that the gentleman's proposition be divided.

Mr. FINCK. I agree to that. The first portion of the amendment was rejected.

Mr. FINCK. I withdraw the remaining portion of the amendment.

Mr. ROSS. I move that the fourth section be stricken out. If it becomes necessary to have a draft, I want to have some means to reach the speculators and contractors, and I know of no other way than to strike out this commutation section.

The motion was disagreed to.

Mr. STEVENS. I move to amend the fifth section by striking out the words, "on that call, and his name shall be retained on the roll, and he shall be subject to draft on future calls," and insert in lieu thereof, "during the time for which he was drafted, or until the whole roll shall be exhausted;" so that it will read:

And if any drafted person shall hereafter pay money for the procurement of a substitute, under the provisions of an act to which this is an amendment, such payment of money shall operate to relieve such person from draft during the time for which he was drafted, or until the whole roll shall be exhausted; and the maximum of commutation under said act shall hereafter be \$400 instead of \$300.

Mr. Chairman, my object is to provide that a man who is drafted and pays his commutation of \$400 shall be exempt from any further draft during the time for which he has paid commutation, unless the roll should be exhausted, when he shall again be liable to draft. I think that the money which he pays to procure a substitute—for that is the object of it—ought to stand in lieu of his actual service.

Mr. GANSON. That puts the man who pays commutation on the same footing as the one who procures a substitute.

Mr. FARNSWORTH. I desire to say to the committee that many of the amendments which will be proposed to this Senate bill are already in the substitute which is proposed by the Committee on Military Affairs, and if the Committee of the Whole could pass over the Senate bill and take up the substitute reported from the committee, it seems to me it would very much facilitate our discussion and consideration of the bill.

The CHAIRMAN. That can be done by general consent.

Mr. STEVENS. I cannot consent, because if we can amend the original bill of the Senate so as to make it as good or better than the substitute, then we can take it when so amended and save the trouble of going over the substitute. There are one or two provisions in the original bill which I like, and which are not in the substitute.

Mr. FARNSWORTH. If we are to perfect the original bill, there are many amendments I desire to propose, which I should not offer if we were to proceed directly to the consideration of the substitute. There is, for instance, in this very section a clause which should be stricken out.

The CHAIRMAN. The course proposed to be pursued can only be done by general consent; and the gentleman from Pennsylvania objects.

Mr. FARNSWORTH. I am opposed to the amendment offered by the gentleman from Penn-

sylvania, for this reason: by his amendment, I understand, he desires to place the man who pays his commutation money upon the same footing precisely as the man who furnishes a substitute.

Mr. STEVENS. It does place him precisely upon the same footing, unless the whole enrollment shall be exhausted.

Mr. FARNSWORTH. The gentleman's amendment would place them upon the same footing substantially, because the man who furnishes a substitute who is liable to draft can himself be drafted again as soon as that roll is exhausted.

Now, what the Government wants is men, and it is believed that by retaining the commutation clause, but with this restriction, we will get men; that persons who are drafted will employ substitutes as far as they can rather than pay the commutation money into the Treasury. Now, it is very easy to suppose a case where the whole roll may be exhausted without procuring the men necessary to fill up the Army, if you allow men to be exempt upon paying \$300 for the term of three years. We think it is better, if we retain the commutation clause at all, to retain it with the restriction that persons paying it shall only be exempt from draft on that call. The President has now called for five hundred thousand men to be drafted. Now, a man who pays \$300 after being drafted under this call, is exempt from service, and cannot be drafted again under the same call. But should the President find it necessary one month later to issue another call for one hundred thousand men, or any number more, that man's name would be placed upon the roll, and he would be subject to draft on the new call.

Again, I do not know how you are going to manage this matter of a draft with a provision that a man shall, if he pays his money, be exempt from draft until that roll is exhausted. Suppose, for instance, an enrollment is made in a district. The names of all men subject to the draft are put into a box, and as fast as other men become liable to draft by arriving at mature age, their names are added and put into the box also. So the names in this box are being added to every little while, and there is no time when it can be said that the roll is exhausted. This course will also require more clerical force to keep the accounts and to manage the matter; because it will be necessary, whenever a man pays his \$300, that an account should be kept of it, in order that he should not be liable to be drafted again until all the names in the box at that time shall be exhausted.

I do not know that I make myself understood by the committee. This roll or box is never exhausted; you are all the time adding to or drawing from it, and you can never know when the names are exhausted which were upon the roll at any particular time.

Mr. STEVENS. You make a draft, and draw out of the box, for instance, fifty names; and they are not put in again, but kept out. If another call is made, you go on and draw from the names remaining.

Mr. FARNSWORTH. The difficulty lies here: that between the first drawing of names and a subsequent drawing other and new names are added, by men moving into the district or by young men arriving at mature age; and so you are constantly putting in and drawing out. Therefore it was thought by the Committee on Military Affairs to be the wisest course to fix some definite period during which a man should be exempt from draft in case he furnished a substitute not liable to draft; and they put in the provision that if the substitute was liable to draft or the man had paid his commutation money, such person should be relieved from draft only on that call, but that his name should be retained on the roll and be subject to draft on future calls.

Mr. HOLMAN. I move to strike out all after the word "enlisted" in line nineteen of the section, and to insert what I send to the Clerk's desk. The part which I propose to strike out embraces what is proposed to be stricken out by the pending amendment.

The CHAIRMAN. That is hardly in order as an amendment to the amendment.

Mr. HOLMAN. It strikes out a still larger portion of the section.

The CHAIRMAN. It will be in order after the pending amendment is disposed of.

The question was taken on Mr. STEVENS's amendment; and it was agreed to—ayes 76, noes 37.

Mr. HOLMAN. I now move to strike out all after the word "enlisted" in line nineteen, page 4, down to the end of the section, as follows:

And if any drafted person shall hereafter pay money for the procurement of a substitute, under the provisions of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft on that call, and his name shall be retained on the roll, and he shall be subject to draft on future calls, and the maximum of commutation under said act shall hereafter be \$400, instead of \$300.

And insert in lieu thereof the following:

And so much of the thirteenth section of the act of which this act is an amendment as authorizes exemption from military service by the payment of a sum not exceeding \$300 is hereby repealed.

Mr. Chairman, inasmuch as this section embraces the idea in the main of substitution, I have submitted this amendment, so that this question shall be presented to the House at the earliest moment, as the action of the House upon subsequent sections relating to the same point must necessarily depend upon its action on this.

This amendment presents the simple, naked question whether it is policy to perpetuate the provision of the act of 1862 which accords exemption from military duty on the payment of \$300.

I have but this to say upon the subject, that our experience thus far under the provisions of the act has proved it to be an entire failure so far as its main object, the raising of troops, is concerned. I have noticed in looking over the reports from the New England States where a draft has taken place, that while a large amount of money has been raised, there has been an entire failure in the main object of obtaining troops.

Mr. BOYD. I move to amend the amendment so as to strike out all the provisions of the act which authorize the payment of commutation money or the employment of substitutes, and upon that amendment I desire to make one or two remarks.

The CHAIRMAN. The gentleman's amendment is in effect the same as the amendment of the gentleman from Indiana.

Mr. BOYD. If it is the same, I have nothing to say upon the subject.

Mr. GANSON. I am opposed to that part of the amendment of the gentleman from Indiana which proposes to repeal the commutation clause of the act to which this is amendatory, and thereby to deprive those drafted of the right to purchase exemption from the liability to do military duty by the payment of \$300. And, sir, I am opposed to it for the reason that that act has already been enforced in a portion of the States, and I do not know but in all; and many persons who have been drafted have purchased exemption from liability to do military duty by paying \$300. I think that a proper construction of the act exempts a person so paying to the same extent as if he had furnished a substitute. There may be a difference of opinion, however, in regard to that construction; but I think that it would be unjust toward others in the same States who may be drafted in the future to deprive them of an opportunity of purchasing exemption on the same terms as those heretofore drafted have been allowed to avail themselves of. This amendment would deprive them of that right, and hence I am opposed to it. I am in favor of retaining the \$300 commutation clause as it now stands in the original act, and opposed to increasing the amount to \$400 for the same reason as I have assigned.

Mr. WILSON. Mr. Chairman, I have had some difficulty, in reading over the Senate bill and the substitute reported by the Military Committee, in determining whether the committee intend this as a bill to raise money or as a bill to raise men. But the gentleman from Illinois, [Mr. FARNS-

WORTH,] who is a member of the committee, tells us that the object of the committee is to raise men, and not money. Now, sir, if that be the object, then we can arrive at it better by striking out the whole of the fifth section, and prohibiting exemption from military service by the payment of commutation money or the procuring of substitutes. If it should be known to the country that after the 1st of March no substitutes could be provided by persons drafted, and that no persons could be exempted from military service by the payment of \$300, the pending call would be filled, and the five hundred thousand men called for to-day would be had; for every person who does not desire to engage in the military service would at once set to work to fill up the number of men called for by the President. More than that, it is the only just method of securing men to fill up the ranks of the Army.

We have been told that it is unjust to permit a man to escape from the service who is able to pay \$300 for that escape and to require a man not possessed of the \$300 to go into the Army. We have been told that that is a provision in favor of the wealthy and in opposition to the poor. If that be so, the only way in which we can remedy it, and the only way in which we can establish perfect equality in the country, is to require every man to take his chance in the wheel, and if he be drawn, to go into the Army, or procure a volunteer before coming to the draft. Let every man take his chance, whether he be rich or whether he be poor, whether he be pursuing one avocation in life or be pursuing another avocation. If his fate, as the wheel turns, assigns him to the role of Government duty, let him go. That establishes an equality. That secures to the Government the service that every citizen owes to the Government in times like these. That is a complete enforcement of the right of the Government to demand from a citizen that military service without which no Government can be maintained. If Congress shall adopt that rule, striking out the commutation clause and prohibiting the employment of substitutes, then every citizen will stand before the law on a perfect equality with every other citizen. I shall, therefore, favor such an amendment of this bill as will abolish not only the commutation clause but also the right of persons to employ substitutes.

Mr. BLAINE. I am sorry, Mr. Chairman, that the gentleman from New York [Mr. GANSON] could not find a broader reason for opposing the pending amendment than that a few had escaped by reason of the commutation clause, and that therefore it would be unjust to deny the same avenue of escape to those who may be drafted in future. For myself, I support the commutation principle because I believe it is expedient and just; and I hope that the gentlemen on that side of the Chamber who intend to vote to retain it in the enrollment act will not base their action on so narrow a ground as the gentleman from New York has based his—

Mr. GANSON. I desire to say that I am in favor of retaining the commutation clause on the ground that I regard it as proper and just, and that the amount is sufficient. I merely said that I was opposed to striking it out entirely, because I thought it unjust toward that portion of the community who were not in a situation to avail themselves of the right to purchase exemption from the performance of military duty, and that I was in favor of retaining the \$300 because it is eminently just and proper that it should be retained.

Mr. BLAINE. I am very glad to hear the explanation of the gentleman from New York. The reason why I commented upon his position was that, as we all know, very grave and very great excitement was produced in a portion of the State of New York last summer in consequence of the passions and prejudices of a portion of the population being aroused against the principle of commutation.

Mr. GANSON. I desire to inform the gentleman that I have never been engaged in that.

Mr. BLAINE. I am very glad to know that the gentleman was not. I never heard that he was. But this commutation clause was everywhere denounced by gentlemen on that side of the Chamber as favoring the rich and oppressing the poor. Now, sir, if the commutation clause favored any class, and should be retained for any class, it is the great "middle interest" of society—the class

on which the business and the prosperity of the country depend. If that clause be stricken out, as the gentleman from Iowa [Mr. WILSON] proposes, and if every person drafted be compelled to serve in the Army, without the right either of commutation or substitution, you will have placed upon the statute-books of the country a law which the first Napoleon said took all the strength and all the absolutism of the French empire to enforce; and he recorded it as his deliberate judgment that a conscription thus enforced, as it was in France, would always prove to be "the dread and desolation of families." I warn gentlemen with whom I am politically associated on this side of the Chamber against any such harsh and radical law as that; and I am very glad to see on the other side of the Chamber a general disposition to support the commutation principle just as it has thus far existed in the enrollment act.

Mr. GANSON. You will always see it.

Mr. SPALDING. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration as a special order the act (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had come to no resolution thereon.

And then, on motion of Mr. KELLOGG, of Michigan, (at a quarter past four o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, February 2, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read.

Mr. TRUMBULL. I perceive that the Journal states that the report of the Judiciary Committee in reference to the case of Mr. HALE concludes with a resolution. That is not so. The committee asked to be discharged from the further consideration of the subject. No resolution was annexed to the report.

The VICE PRESIDENT. The Journal will be so corrected.

NEW SENATOR.

Mr. SAULSBURY. Mr. President, Hon. GEORGE READ RIDDLE, the Senator elect from the State of Delaware, is present and ready to take the oath and to enter upon the discharge of his trust as a Senator.

The oaths prescribed by law were administered to Mr. RIDDLE, and he took his seat in the Senate.

PETITIONS AND MEMORIALS.

Mr. HALE presented the petition of J. N. Carpenter, paymaster in the United States Navy, praying for compensation for clothing stolen from him on board United States sloop Saratoga, while in the port of Philadelphia, January 4, 1863; which was referred to the Committee on Naval Affairs.

He also presented the petition of Captain H. Clay Wood, of the eleventh United States infantry, praying for compensation for property lost by the evacuation of Fort Cobb, Texas, under post order No. 87, issued for the evacuation of that post; which was referred to the Committee on Claims.

He also presented the memorial of Captain John P. Sherburne, first infantry, United States Army, praying for indemnification for losses caused by the surrender of the department of Texas to the rebels; which was referred to the Committee on Claims.

He also presented the memorial of Captain John P. Sherburne, first infantry, United States Army, praying for indemnification for losses caused by public money being stolen, for which he was accountable; which was referred to the Committee on Claims.

He also presented the petition of Elizabeth Mills, widow of John Mills, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented the memorial of John Christie, clerk to the commandant of the navy-yard at Portsmouth, New Hampshire, praying that the accounting officers of the Treasury may be authorized to allow the payment of the sums that

have been appropriated for the pay of the clerks at the Portsmouth and Philadelphia navy-yards from October, 1857, to July, 1859; which was referred to the Committee on Naval Affairs.

Mr. MORGAN presented three petitions of citizens of New York, praying for the formation of a properly organized ambulance and sanitary corps for our armies, and the enlistment of men for such service; which were ordered to lie on the table.

Mr. SUMNER. I offer the petition of the president and directors of the South American Steamship Company, a corporation established by law, in which they set forth that they propose to inaugurate communication by means of steam vessels between the United States and St. Thomas, in the West Indies, and Pernambuco, Bahia, and Rio de Janeiro, and they pray that an appropriation from the United States may be made in their behalf, either by way of subsidy or for mail service. I move the reference of this petition to the Committee on Commerce.

The motion was agreed to.

Mr. SUMNER. I also offer the petition of Richard Yates, Governor of Illinois; which, as it is brief, I will read:

STATE OF ILLINOIS, EXECUTIVE DEPARTMENT,
SPRINGFIELD, January 13, 1864.

To the Honorable the Senate and House of Representatives of the United States:

I do earnestly petition your honorable body to exercise its utmost constitutional power, at the earliest practicable period, in emancipating all persons of African descent held to involuntary service or labor in the United States.

RICHARD YATES.

I ask the reference of this petition to the select committee on slavery and freedmen.

It was so referred.

Mr. WILSON presented a petition of soldiers of the regular Army of the United States, praying for a bounty of \$100; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Milwaukee, Wisconsin, praying for the passage of a law prohibiting members of Congress or persons holding office under the General Government from acting as attorneys or counselors or taking fees in any case, whether civil or criminal, or from acting as attorneys for any claim against the United States; which was referred to the Committee on the Judiciary.

Mr. COWAN presented a memorial of the Board of Trade of Philadelphia, remonstrating against the passage of a bankrupt law; which was referred to the Committee on the Judiciary.

Mr. WADE presented a petition of citizens of Greene county, Wisconsin, praying that the pay of the officers of the Army may be reduced, and that of the privates increased; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of merchants of Cincinnati, remonstrating against the principle of retroactive taxation; which was referred to the Committee on Finance.

Mr. JOHNSON presented the petition of John Robb, of the State of Maryland, praying for compensation for services rendered as acting Secretary of War between the 8th of June, 1832, and the 9th of October, 1833; which was referred to the Committee on Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 26) reviving the grade of lieutenant general in the United States Army; in which it requested the concurrence of the Senate.

NAVY REGISTER.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That three hundred copies of the Navy Register be printed for the use of the Senate.

GENERAL GRANT'S REPORT.

Mr. HENDRICKS submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That five thousand copies of the report of Major General Ulysses S. Grant upon the operations of the army of the Cumberland, the printing of which was recently ordered by the House of Representatives, be printed for the use of the Senate.

MILITARY AFFAIRS IN ALEXANDRIA.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Joint Committee on the Conduct of the War be instructed to inquire into the military administration in all its departments in the city of Alexandria, and especially into the system of military police there established; and the place and mode of imprisonment and punishment; and whether punishments of a "cruel and unusual character" are not inflicted without authority of law in the place known as "the slave pen" in that city; and that said committee inquire what fines and forfeitures are levied and declared in said city, and how and by whom and by what authority they are levied and declared, and to what purpose they are appropriated; and especially whether imprisonment in "the slave pen" and flogging are resorted to by the military authorities for the punishment of soldiers.

BILLS INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 87) to extend the provisions of an act entitled "An act to provide compensation for the services of George Morell in adjusting titles to land in Michigan," which was read twice by its title, and referred to the Committee on Claims.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 88) regulating proceedings in criminal cases, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 89) in relation to proceedings in the courts of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 90) to provide for the employment of the Sioux Indian captives in the military service of the United States; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. MORGAN, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 91) to quiet titles in favor of parties in actual possession of lands situated in the District of Columbia; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

HOUSE BILL REFERRED.

The bill (H. R. No. 26) reviving the grade of lieutenant general in the United States Army was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

REPORTS FROM COMMITTEES.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 122) to increase the internal revenue, and for other purposes, reported it with amendments.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred the petition of A. R. Davis, of Montgomery county, Maryland, praying compensation for slaves alleged to have been freed by the operation of the act emancipating slaves in the District of Columbia, reported adversely thereon, and asked to be discharged from the further consideration of the subject.

The VICE PRESIDENT. Does the Senator ask for the present consideration of the report?

Mr. GRIMES. Yes, sir.

Mr. JOHNSON. Let it lie on the table.

The VICE PRESIDENT. It objected to, it cannot be considered at the present time.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 82) concerning notaries public for the District of Columbia, reported it without amendment.

Mr. DIXON, from the Committee on the District of Columbia, to whom were referred the petition of Lucy Gwynne and others, praying for the incorporation of Providence hospital; and also a bill (S. No. 79) to incorporate Providence hospital in the city of Washington, District of Columbia, reported the bill with amendments.

Mr. HARDING, from the Committee on Public Lands, to whom was referred a bill (S. No. 19) for the relief of L. F. Cartee, reported it with an amendment.

Mr. POMEROY. I am directed by the Committee on Public Lands, to whom was referred a joint resolution (S. No. 17) relative to a certain grant of lands for railroad purposes made to the

Territory of Minnesota in the year 1857, to ask that it be printed and recommitment to the Committee on Public Lands.

The motion was agreed to.

Mr. FESSENDEN. The Committee on Finance, to whom was referred a bill (H. R. No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1865, have directed me to report it back with sundry amendments. The Committee on Finance have been placed in possession of a large number of communications from the State Department in reference, one of them, to a change of laws, and the rest to an increase of the compensation of consuls at certain places. They consider that this is matter of legislation which is not appropriate to that committee, and they have instructed me to report them to the Senate and request that they be referred to the Committee on Commerce, to which they properly belong; and I will say to the Committee on Commerce that if they sanction the propositions they will be appropriate amendments to the consular appropriation bill which I have just reported, and I shall let that bill lie for some days in the hope that the question may be taken up at an early day by the Committee on Commerce, so that they may be ready with their amendments when the bill shall come up.

The VICE PRESIDENT. That disposition will be made of the papers, if there be no objection. The Chair hears none.

WASHINGTON AQUEDUCT.

Mr. GRIMES. I am instructed by the Committee on the District of Columbia to offer the following resolution:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the subject of the Washington aqueduct, and the necessity for further appropriations therefor; and into the subject of sewerage in the city of Washington, with power to send for persons and papers.

The resolution was considered by unanimous consent, and agreed to.

NOTICE OF A BILL.

Mr. WADE gave notice of his intention to ask leave to introduce a bill to repeal so much of the acts of Congress, approved March 3, 1845, and of August 6, 1846, as authorize the transportation of goods imported from foreign parts through the United States to the Canadas, or from the Canadas through the United States to foreign countries.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HOWE, it was

Ordered, That the petition and other papers of Phoebe Ann Fisk, executrix of Almond D. Fisk, praying for an extension of the patent issued to her husband, on the 14th of November, 1818, for an improvement in coffins, usually called Fisk's metallic burial-cases, be taken from the files of the Senate and referred to the Committee on Patents and the Patent Office.

On motion of Mr. HOWARD, it was

Ordered, That the memorial of Ross Wilkins, late judge of the Territory of Michigan in 1832, praying that he may be included within the provisions of the act of August 1, 1851, to provide compensation for the services of George Morell in adjusting titles to land in Michigan, be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. HOWARD, it was

Ordered, That the petition of B. F. H. Witherall, a legal representative of James Witherall, deceased, late a judge of the Territory of Michigan, praying for compensation for adjusting titles to land in said Territory, be taken from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. WILKINSON, it was

Ordered, That the petition and other papers relating to the claim of Louis Roberts, for indemnification for losses sustained by him by the burning of certain Indian supplies while being transported to the Indian country, in November, 1855, be taken from the files of the Senate and referred to the Committee on Indian Affairs.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (S. No. 18) in relation to the public printing; which thereupon received the signature of the Vice President.

THANKS TO COMMODORE RINGGOLD.

Mr. HICKS. I desire permission to withdraw a resolution which I had the honor of reporting on the 19th of January, tendering the thanks of Congress to Commodore Cadwalader Ringgold, the officers and crew of the United States ship

Sabine, for the purpose of making some corrections. I desire to withdraw it and substitute for it a corrected resolution.

The VICE PRESIDENT. The Senator will allow the Chair to suggest that he will perhaps meet the question more appropriately by offering his new proposed resolution as an amendment to the original resolution.

Mr. HICKS. Very well, I will take that course.

The VICE PRESIDENT. Does the Senator move to take up the resolution now?

Mr. HICKS. Yes, sir.

The motion was agreed to; and the joint resolution (S. No. 19) tendering the thanks of Congress to Commodore Cadwalader Ringgold, the officers and crew of the United States ship Sabine, was considered as in Committee of the Whole.

Mr. HICKS. I move to amend the resolution by striking out one "l," in the name Cadwalader, as it is printed; and in line nine by striking out the letter "S," which is put in as a middle name of Major Reynolds; and in lines ten and eleven, before the word "ship," by inserting "line-of-battle;" so as to make the joint resolution read:

Resolved, &c. That the thanks of Congress are hereby tendered to Commodore Ringgold, the officers, petty officers, and men of the United States ship Sabine, for the daring and skill displayed in rescuing the crew of the steam transport Governor, wrecked in a gale on the 1st day of November, 1861, having on board a battalion of United States marines under the command of Major John Reynolds, and in the search for, and rescue of, the United States line-of-battle ship Vermont, disabled in a gale upon the 26th of February last, with her crew and freight.

The amendments were agreed to. The joint resolution was reported to the Senate as amended, and the amendments were concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

THANKS TO GENERAL THOMAS.

Mr. NESMITH. I move that the Senate proceed to the consideration of the joint resolution (S. No. 11) of thanks to Major General George H. Thomas and the officers and men who fought under his command at the battle of Chickamauga.

The motion was agreed to; and the joint resolution was considered as in Committee of the Whole. It proposes to present the thanks of Congress to Major General George H. Thomas and the officers and men who fought under his command, for their gallantry, good conduct, and soldierlike endurance at the battle of Chickamauga, on the 19th and 20th of September, 1863.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

INVESTIGATING COMMITTEES.

The Senate resumed the consideration of the resolution submitted by Mr. DOOLITTLE on the 28th of January, which was modified to read as follows:

Resolved, That in all sessions of committees to take the testimony of witnesses in relation to any matter of fact pertaining to the conduct of any Department of the Government or of any branch thereof, the head of such Department shall be requested to employ some proper and competent person connected with the same to aid in the examination and cross-examination of witnesses, and to furnish any other evidence or proof pertinent to the matter inquired into.

Mr. HALE. Mr. President, in regard to that resolution I shall say something presently; but before I do it I want to notice some remarks which fell yesterday from the Senator from Iowa, [Mr. GRIMES,] in which he took occasion to comment on the statement I had made in the Senate a few days before, and to characterize it as an attack on the Navy Department. I was not in the Senate when the Senator commenced his remarks, but I have looked them over in the Globe, and I do not understand, either from what I heard or from what is printed as having been said, that the Senator questioned in the slightest degree the entire accuracy of the statement which I made. I gave the authority upon which I made the statement when I made it. I said that it was from one of the officers in charge of the Library who furnished me the statistics. But the Senator finds fault not with what I did say, but with what I did not say. He says there were a great many things that I ought to have said and that I might have said, and he intimates that if I had been on the stand and he had been cross-examining me, he would have put a great many questions to me, some of which would be relevant and some irrelevant, and to some of which I should have to answer one way and to some another.

Mr. President, I have not the slightest doubt on earth that if I had been on the stand and the Senator from Iowa had been my cross-examiner he could have kept me on the stand all day, if he chose, putting questions, some of which would have been relevant and some irrelevant, some of which would have been pertinent and some not, some of which I might have answered and some of which I could not answer. Some of them might have been like the question proposed by the Irish tailor to Captain Simms when lecturing on hollow spheres; and that was, whether if the atmosphere combined with the hemisphere and produced a concussion, animal heat could be generated? [Laughter.] A great many such questions might have been put; but, sir, I stand on what I said.

The Senator finds fault that I did not, when I gave the account of the estimates, go on and reduce our currency to gold. He says I ought to have told the Senate when I stated that they asked for \$142,000,000 for the Navy this year that it was in a depreciated currency. Sir, was there a member of the Senate, was there anybody on earth that had the slightest doubt as to what I meant; that I meant \$142,000,000, such as we commonly speak of, when we speak here, every time we mention the currency? Does every gentleman here, when he has occasion to speak of dollars, find himself under the necessity of quoting the price of gold and telling the Senate what the real value of it is in gold? I supposed that when a man addressed the Senate he ought to understand what Chief Justice Marshall told a young attorney who was arguing before him. He told him that counsel ought to consider that the Supreme Court of the United States knew something; that he need not tell them everything; that they were acquainted with some of the first principles of the law. [Laughter.] Sir, I supposed when I spoke of \$142,000,000 that everybody knew I meant \$142,000,000 of the common currency in use; and I do not think the facts stated were subject to the charge of disingenuousness because I did not reduce the sum to gold currency. Nothing on earth was further from my mind than that in making that statement I was making an attack on the Navy Department. I wanted to call the attention of the Senate to the fact that we were called upon to appropriate an immense sum for that Department. I wanted the eyes of the Senate directed to that fact, in order that they might take every precaution to see that it was wisely and well appropriated.

But, sir, there is another matter that the Senator spoke of in those remarks which seems to me to require a single word of comment. He represents that he himself has been dissatisfied with some of the proceedings of the Navy Department, and indeed of all the Departments; but the difference between him and me is, that he is cool, imperturbable, not easily excited by passion, and does not come into the Senate to "ventilate his griefs" here. That, he says, constitutes the difference between him and me. Now let me say a single word. I defy that honorable Senator, I defy any gentleman that sits around me, or ever sat around me, to point his finger to a word that I have spoken in the Senate in which, to use the classical language of the Senator, I ever "ventilated my private griefs." No, sir, never. Upon that subject I have a rule to which I have invariably and religiously adhered ever since this war commenced; and that was, that I would have no enemies but the enemies of my country; if I had griefs, they should be buried; if I had wrongs, they should be submitted to in silence; if I had resentments, they should be smothered; but while this contest lasted, while this tremendous struggle endured, I have sworn an oath like that of the ancient crusaders when they started to redeem the holy sepulcher from the profanation of the infidel, that every private quarrel, every resentment, every wrong should be buried, and they would have no feeling but one settled, determined purpose to redeem from the profanation of the infidel the holy place they went to conquer; that they would have no resentments, and would have no foes but the foes of Christ and his church. That, sir, has been the sentiment by which I have endeavored and shall endeavor to be governed from the beginning to the end of this conflict.

Let me say to the honorable Senator that if I felt disposed to "ventilate my griefs" and wrongs

here I could tell a tale of quiet and patient submission to wrongs, contumely, insults, and assassin-like stabs at my reputation that would astonish those who would listen to me. But, sir, I will do nothing of the sort. They shall be buried never to reach the light until the clouds of war that now hang over this distracted country shall be dispelled; then and not till then shall I undertake to vindicate myself from what I conceive to be wrong, contumely, and insult. Sir, I have no purpose, no end, no aim, no desire but for a vigilant, a faithful, and an energetic prosecution of this war. But, Mr. President, I will be candid. I want the war prosecuted with energy, with vigor, and with effect, but I do not want those who are doing it to console themselves for their patriotic efforts in behalf of the country by filching from the public Treasury. I stand here, and I will stand as long as I do stand here, a guardian of the public Treasury, faithful according to my abilities to what I conceive to be the interests of my country. Having said this, I have nothing more to say on that matter, and I leave that question; and now I want to say a word in regard to the resolution and in regard to the honorable Senator from Wisconsin [Mr. DOOLITTLE] who has offered it.

The Senator says that the reason why he has offered the resolution calling upon the head of every Department, whenever his conduct is under investigation by a committee, to send a person to examine the witnesses, is because some two years ago I expressed a sentiment which I have not retracted, and which he seems to think disqualifies me from doing justice to the Departments. Sir, let me tell that honorable Senator that the transaction to which he refers and of which he complains was not brought under the cognizance of the Senate till after it had been referred to the Secretary of the Navy, and the Secretary of the Navy had submitted a written statement, which was printed and referred to the Committee on Naval Affairs before they made a report upon it. I think the practice of the Senate and of every committee of the Senate invariably has been, when they have had before them any matter of this sort, or any matter calling for information from any of the heads of Departments, to inclose the communication to the head of the Department who was interested in it, and ask for any light or any suggestions that he might see proper to make. I know that, without exception, such has been the course of the Naval Committee since I have been connected with it, whether I was chairman of it or not.

Now, Mr. President, where is the necessity for this new rule? I tell you, sir, it will work infinite mischief. It is a proclamation to the country that the Senate are incompetent to their work, and they invite the heads of Departments to send somebody in to help them to make their investigations. What will be the result? There is hardly one of your large committees that does not have to bring the conduct of some head of a Department under its supervision; and you will have every meeting of the Senate committees turned into a pettifogging justice's court, and some pettifogger will be sent by the heads of Departments to interrogate and cross-examine the witnesses, and the sittings of the committees will not be under the direction and control of the committees themselves, but they will be subject to the cross-examination of those agents who may be sent there.

Has any practical injustice resulted from the present course? Is there any head of a Department, or any subordinate of a Department, who has been injured, aggrieved, or wantonly assailed by any committee of this body? Has there been any injustice done, or is there any fear of injustice, that this extraordinary course is proposed at this time? Adopt it, and you cannot hold a committee meeting to discuss the ordinary measures of any of the Departments of the Government without being under the necessity of sending outside the Senate to invite some one to cross-examine everybody who makes statements before you.

Mr. President, we must have confidence in ourselves, in the members of this body. If we cannot, let us abandon the duties which we are here to discharge. The reason for introducing this resolution as given by the honorable Senator from Wisconsin is that, from the opinions I have entertained and the sentiments I have expressed, I am unfit

and incompetent, disqualified to act upon the committee of investigation which has been ordered about the naval expenditures, for it is no more than that. If it be so, if that is the judgment of the Senate, let them say so, and do not undertake to change the law and change the rule, and introduce a new rule simply because you have got an improper person at the head of one single committee.

It is intimated, and more than intimated, that I am governed by hostility to the Navy Department. God knows there never was a more false and more atrocious calumny uttered. I have sought no such place. I have not sought to be at the head of the Naval Committee, nor at the head of this committee of investigation. The honorable Senator from New York [Mr. MORGAN]—he will pardon me for the allusion—knows that at the commencement of this session I went to him and earnestly entreated him that he would himself consent to be chairman of the Committee on Naval Affairs, and that I would gladly stand by and make way for him and consent to act second upon the committee under his lead. I thought it was due to the great and patriotic State of New York, to her immense mercantile interests, to her great population, to her as the first in point of wealth, commerce, and everything that relates to the protection which the Navy is to afford, that he should occupy that place, and most gladly would I have consented to sit under him. But, sir, the Senate thought differently. Without any solicitation of mine they thought differently, and they placed me where I am. I shall endeavor, so long as I occupy that place, faithfully, fearlessly, and impartially to discharge the duties that pertain to the place, and if it becomes me to express censure for any act that comes under my supervision, I will express it, God helping me, let the censure fall where it may and on whom it may. Sir, as I said before, I have no friends but the friends of my country, and I have no enemies but those that are striving for her overthrow; and if ever I have governed myself for a single moment in this body on this floor, or out of it, in committee or elsewhere, on any other principle than that, I desire the condemnation of the Senate, and of every honorable man in the Senate.

But, sir, the honorable Senator once made an excuse for me that I had been long schooled in the Opposition. It is true that I have been long schooled in the Opposition, and perhaps I have not sufficiently learned all the morality which ought to belong to a majority. I have not learned to approve that in the majority which I condemned in the party in power when we were in a minority; but I have endeavored and I will endeavor, while I do anything, to discharge the duty that belongs to me faithfully and impartially. Let me say to the honorable Senator right here that it is true, as he says, that I have not retracted what I said two years ago. What is more, I have never seen occasion to retract it; and I will say further, that if I had occasion I very much fear I should repeat it more emphatically than I ever did in my life before. If these things disqualify me, so be it; but I pray the Senate not to pass a rule which will inevitably work mischief from any such temporary considerations.

Mr. DOOLITTLE. Mr. President, so far as I am concerned, certainly I care nothing about this resolution applying to any other committee except the committee of which I have been made a member, and of which the honorable Senator from New Hampshire is chairman; but I repeat that the declarations which have been made by that Senator to-day, as well as the declarations made by him two years ago, the declarations which he made upon the occasion of moving for the appointment of this committee, are such as to satisfy the mind, as it seems to me, of every reasonable man that he acts from the belief, made up already in his mind, that he is pursuing in the Department transactions of fraud and corruption practiced in the Department itself as well as practiced upon the Department. His language was this:

"I declare upon my responsibility as a Senator that the liberties of this country are in greater danger to-day from the corruptions and from the profligacy practiced in the various Departments of the Government than they are from the enemy in the open field."

And he says to-day that he has no enemies but the enemies to his country, and he declares that the Departments of this Government are this day

greater enemies of the liberties of this country than the rebels in the field. That is substantially what he says, sir; and saying that, he moves a committee of investigation upon the Navy Department.

Mr. President, in his speech the other day the Senator substantially charged that the expenditures of this Department were greater than the expenditures of all the civilized nations in the world in the support of their navies annually, leaving out Italy and one of the other smaller Powers of Europe. If this be true, the investigation by this committee requires an examination into every branch of the conduct of the Department; and if it is to arrive at the truth it requires that every power should be used that the Department is capable of, as well as the Senate, in order to ascertain the facts necessary to give the truth to the country. I feel perhaps more deeply, Mr. President, than I should otherwise were it not for the fact that I am not personally acquainted with the administration of the Navy Department. I have not been placed upon any committee where I have had an opportunity to make that acquaintance.

The VICE PRESIDENT. The Senator will pause. It becomes the duty of the Chair to call up the special order at one o'clock.

Mr. DOOLITTLE. I think that perhaps this can be disposed of in a short time.

Mr. FOSTER. I move that the special order be postponed, in order that the Senator from Wisconsin may at least finish his remarks. It may be done by common consent, if there be no objection.

The VICE PRESIDENT. If there be no objection, the Chair will allow the Senator to proceed. The Chair hears no objection.

Mr. DOOLITTLE. This inquiry, sir, if directed to any purpose, must of necessity go into the whole question of the building of steam vessels for the Navy, steam-engines for the Navy-guns for the Navy. It must extend to everything connected with the Navy Department if it is to be efficient for any purpose in reducing the enormous and gigantic expenses of which the Senator complains; and, as I was saying, nothing in my experience in this body has fitted me to be a person proper to investigate into such facts. The honorable Senator from Iowa, [Mr. GRIMES,] ever since he has been a member of this body, has been upon the Naval Committee, has made himself perfectly familiar with all its details in all its branches; and if there be any reason why the honorable Senator from Iowa should decline to sit on this committee that reason would apply with tenfold force to myself. And before I am willing to go into this investigation, I feel that it is a necessity to the committee and a duty to the committee and to the Senate, as well as to the Department itself, that the Department should be permitted to send before the committee some person connected with the Department who is perfectly acquainted with the whole business of the Department in all its details, with the mode of its making contracts, with the steam-engines that are employed, with the kind of vessels that are constructed, with the management of navy-yards, and all that vast amount of business of which I for one do not profess that I have any sufficient knowledge to enable me to go into an investigation.

I feel, sir, that this committee raised at this time, with this avowal of the Senator from New Hampshire that the Departments by their profligacies and corruptions are greater enemies to the people of this country than the rebels themselves, is an attack on the Navy Department.

Mr. HALE. I simply want to say that the Senator is using language that I never used, conveying an idea which I never uttered, and is altogether wide of anything that the limits of debate ought to justify him in. He says that I said the profligacies of this Department of the Government were greater enemies than the enemy in the field. I said no such thing. What I said two years ago could not possibly have reference to this; but I said nothing like that.

Mr. DOOLITTLE. What the Senator said was, as I understand, "The liberties of this country are in greater danger to-day from the corruptions and from the profligacy practiced in the various Departments of the Government than they are from the enemy in the open field;" and he reasserts it to-day, and declares that if he had the power he would assert it in still stronger language.

If this is not an attack upon the honesty, the integrity of a Department in the administration of its affairs, I do not understand language; and when such an attack is made by the person who takes the position as chairman of a committee of investigation, I think it is but just on the part of the Senate to say that such a committee, raised under the lead of one who makes such declarations to investigate into the conduct of a Department, should be called upon to request the head of the Department to send some one to be present at the examination of witnesses who has some knowledge of its transactions and may shed light upon them, and enable the committee to arrive at the truth.

Sir, who does not know that the disappointed office-seekers who cannot get office at the hands of the Departments, the disappointed contractors who cannot get such contracts as they desire, to make themselves rich upon the Government; who does not know that these men by hundreds and by thousands are all around us, ready at all times to fill the ears of all who listen to them with stories of the corruptions practiced in the Departments themselves? That sometimes the Departments may be imposed upon, I do not doubt; that they often are, is undoubtedly true; and I am willing to go with that Senator, or any other, for the purpose of ferreting out the truth, and to pass any law that may be necessary to prevent these abuses. I undertake to say, however, that I believe the heads of the Departments of this Government are to-day just as anxious to ferret out these abuses as the Senators upon this floor; and I put this question to the Senate: suppose the honorable chairman of the committee on the conduct of the war should rise and make an avowal in relation to the War Department similar to that made by the Senator from New Hampshire, and declare that the corruptions practiced in that Department were more dangerous to the country than the enemy in the open field, and declare his firm belief that such corruptions existed, would it be anything more than just to the head of the War Department to say that Mr. Stanton should be permitted, when an investigation was going on involving the good faith of his Department, to send some one, an Assistant Secretary or some clerk in his Department familiar with the facts, to be present with the committee, and to furnish them the information which is necessary?

That is all I ask. I seek to cover up no truth, to defend no Department against any wrong which may have been committed by them; but what I seek is that justice shall be done as well to the heads of Departments as to the Senate. The country can only suffer by misrepresentation and falsehood, and in my judgment the country suffers whenever there is an unfounded declaration that any Department of this Government is guilty of fraud and corruption, because it goes to the confidence of the people in the Government, and the people, as they rule this country, must have confidence in their rulers if the Government is to be sustained.

Mr. SHERMAN. Before the Senator takes his seat I desire simply to ask him one question. Has he, as a member of the committee, requested the committee to give notice to the Navy Department that they are ready to call on them for information?

Mr. DOOLITTLE. I have never as yet attended any meeting of the committee, and no such proposition has been made in the committee to my knowledge.

Mr. SHERMAN. I will submit this proposition to the Senator from Wisconsin, based upon the experience I have had as a member of these committees. I have no doubt, at least I have every reason to suppose, that every committee of the Senate would, on proper representation by a member of the committee, give notice of any accusation to the party accused, and give that party an opportunity to cross-examine witnesses and to testify to facts to the contrary. If I supposed the special committee referred to would not do this I should vote for a resolution of instruction requiring them to do it; but until they refuse to do that I submit to the Senator from Wisconsin whether we ought to place on our Journals a resolution requiring any committee not to deny this plain justice to any one accused.

Mr. DOOLITTLE. I have no objection myself to have this resolution confined to this par-

ticular committee, if that be the pleasure of the Senate; nor would I have any objection, if it would better suit Senators, that the resolution should be postponed until the question is raised in the committee. I have no objection to that; but I give notice that if the committee in its meeting shall determine not to invite the head of the Department which is assailed (for I look upon this as an assault upon the head of the Department and its administration) to send some one connected with the Department to attend the meetings of the committee, I shall renew the resolution in the Senate.

There was one other question upon which I wished to say a single word. The Senator from New Hampshire says that on a former occasion I reminded him of the fact that he was always trained in the minority, and he trained so little in the majority that he hardly knew how to conduct himself in the majority. Sir, it was not I who said it. It was the honorable Senator from New Hampshire who said it himself, and I assented to it by saying that I believed what he said was true. Those are the facts upon that subject. There is perhaps considerable force in what the Senator has said, that the long habit of continual denunciation against the Administration or the party in power for fifteen or twenty years in succession has had some effect upon the habits of his mind, both in thought and in action; but I did not assume to make that remark upon my own responsibility. It was simply reaffirming what the Senator had said.

Mr. HALE. I simply rise to say that I think now we shall behave ourselves, because the honorable Senator has given us notice that if we do not behave well he shall certainly apply a corrective; and I think that is a better way to govern a school than to flog them at first. [Laughter.]

Mr. TRUMBULL. Mr. President, I do not participate at all in this feeling which is manifested here between different Senators. I only look at the merits of this resolution as a general proposition offered by the Senator from Wisconsin to adopt a new rule, virtually placing the committees of this body under the direction of the Departments which we may wish to examine into, making it peremptory, whenever a committee is organized in this body to inquire in reference to any matter in any Department of this Government, to send to that Department and receive its attorneys before the committee.

If the Floyd transaction or the case of a clerk of the Interior Department, as during the administration of Thompson, and the purloining of Indian trust bonds by the hundred thousand were to be examined into by a committee of this body, the first thing peremptory upon the committee under this resolution would be to send to those Departments and bring before the committee the attorneys of the parties implicated!

Now, sir, I have some confidence in the action of this body and of its committees. I am opposed to such a rule. In regard to the particular committee which has called for this resolution, I have no knowledge. I have no desire to embarrass that committee more than any other, and I would say to my friend from Wisconsin in all kindness, that if great harm has resulted from the speech made by the Senator from New Hampshire two years ago, and the remarks to which he gave utterance at that time were so objectionable, it seems to me it cannot make them any better to keep reading them day after day in the Senate. Possibly the country might have forgotten those execrable expressions of the Senator from New Hampshire if they had not been repeated to us so often. However, if some good is to result from their repetition, I suppose it is proper that they should be repeated and the Senator from New Hampshire held responsible for them.

But, sir, it is in regard to this resolution that I desired to speak. The Senator from Iowa [Mr. GRIMES] yesterday on this resolution went into an elaborate defense of the Navy Department; and I will take occasion here to say that I have as much confidence in the Navy Department of this Government as in any of its Departments. I believe that Department has been managed with signal ability, notwithstanding the complaints which have been made. It is possible that contractors may have defrauded the Department; but I have not the slightest suspicion that the head of that Department is in any way implicated in any contracts or frauds. I believe, with the Senator

from Wisconsin, that he is as much opposed to them as any of us. I will not undertake to say whether the criticism of the Senator from Wisconsin upon those who have not got office and have not obtained contracts is just. He seems to suppose that all these complaints come from disappointed office-holders and disappointed contractors. Did it never enter the mind of the Senator from Wisconsin that contractors and office-holders themselves are likely to be a little biased also? Did it never enter into his mind that the contractor who is defrauding the Government might have a little bias upon his mind against an investigation as well as the disappointed contractor in favor of it?

Mr. DOOLITTLE. Does my friend from Illinois suppose that I asked that a contractor should be sent before the committee?

Mr. TRUMBULL. Not at all.

Mr. DOOLITTLE. What then is the purpose of the inquiry?

Mr. TRUMBULL. I will tell the Senator. I understood him to denounce these investigations; that they were got up by disappointed contractors and office-holders. I merely wanted to remind my friend—

Mr. DOOLITTLE. I desire to correct the honorable Senator. I said no such thing. I did not say that these investigations were got up by disappointed office-seekers or contractors either. I say it is these disappointed office-seekers and contractors that come to members of Congress filling their ears with these stories of what they have received at the hands of the Government, and many of these stories are false and exaggerated—not that the Senate got up these committees of investigations to accommodate those men at all.

Mr. TRUMBULL. It seems then that they are only the originators of the complaints in the opinion of the Senator from Wisconsin. That may be so, and doubtless many of the accusations are false; but I tell the Senator from Wisconsin, and the friends of the Administration and of the Government, that nothing is to be made by undertaking to hide or cover iniquity, and this attempt to—

Mr. DOOLITTLE. Mr. President, I am not disposed to allow my honorable friend to place me in a false position. Have I said anything in favor of hiding or covering up any transaction? Not at all, sir; not at all. I have said that I believed, for the purpose of obtaining the truth, it will serve the Government better that the head of the Department who knows all the facts, or has persons who do know all the facts as to the transactions of the Department, should detail some one to sit with a committee that know nothing about them; for I confess that I do not know anything about the transactions of the Navy Department.

Mr. GRIMES. If the Senator from Illinois will allow me just here, to my personal knowledge I know that the chief of the Navy Department has been desiring for the last two years to have just such an investigation as this that has been moved by the Senator from New Hampshire, the chairman of the Naval Committee, on this identical subject.

Mr. TRUMBULL. I have no doubt of it. I should expect it, from the opinion I entertain of the head of the Navy Department; and I think it is an over-zeal on the part of some gentlemen to undertake to oppose these investigations. The Senator from Wisconsin tells us he is not disposed to cover up anything. What is the purport of his whole speech? Why is it that he comes in here denouncing men who are not office-holders, and who have not got contracts, except it is to prevent investigation? As a true friend of the Government and of the Administration, I believe, as the Senator from Iowa has remarked, that they will court an investigation into any charges that may be made against their fidelity or honesty in managing the Departments, and I will not take it for granted that a committee of this body is inspired by hostility to any Department in its investigation. I will not assume that.

This resolution is brought into the Senate, it seems, before the committee has ever met. I concur entirely with what the Senator from Ohio [Mr. SHERMAN] has said. If, when this committee meets, in the opinion of the committee, or any member of the committee, matters are being investigated about which the Department should be

advised, and it is desirable to have a resolution passed to allow the head of the Department or any of his officers to appear before the committee, I will go with the Senator from Wisconsin for it. But why this sensitiveness in advance? I believe that nothing wrong will be found that will reach the head of the Department at all. There may be wrong in some of the ramifications of the Department. It would be wonderful if in the expenditure of one hundred millions of money annually no frauds and corruptions were practiced by the numerous agents that have to be employed in the expenditure; but that it goes to the head of the Department I do not believe. I have heard nobody make any such accusation.

Whenever such facts are developed as justify any member of this body, acting on his responsibility as a representative of one of the States of the Union, in coming forward with a resolution to investigate a transaction which he believes to be wrong, I am for giving him his committee and allowing a fair opportunity for investigation, and I will not assume in advance that that investigation is to be an attack on the Administration or any Department of the Administration; and I do not believe that the Navy Department so regard this investigation.

I trust that no such resolution as this will be adopted. I regard it as a reflection upon the committees of the Senate, upon ourselves; but I say to the Senator from Wisconsin, if, when this committee is organized, it is made to appear to the Senate that information cannot be had from the Departments, or that it is desirable to have any of the officers of the Departments before the committee and they cannot be obtained, which I do not believe, for I think there is no difficulty—I think every committee has got along without the least difficulty in all these investigations with the Departments; I have always been so informed—but if difficulty does arise and the information cannot be obtained, or injustice is likely to be done to any Department of the Government for want of an opportunity to explain its transactions, the Senator from Wisconsin can have my vote any time to bring the proper facts before the Senate. However, I would not do this in advance by a general rule which looks like a reflection on our committees, and which, it seems to me, is wholly unnecessary.

Mr. DOOLITTLE. I will move that this resolution be postponed until Monday next; and the special order of the day, on which the honorable Senator from Ohio [Mr. SHERMAN] has the floor, can then come up.

The motion was agreed to.

ENLISTMENTS IN THE ARMY.

The VICEPRESIDENT. The special order of the day, being the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes, is now before the Senate as in Committee of the Whole.

Mr. WILSON. I move to amend that bill by substituting for it the amendment I send to the Chair.

The VICEPRESIDENT. The question now before the Senate is on the amendment proposed by the Senator from Missouri, [Mr. HENDERSON,] which will be read, after which the amendment of the Senator from Massachusetts will be in order.

The Secretary read the amendment, which was in section three, line five, after the word "he" to strike out the words "his mother, and his wife and children," and after the word "notwithstanding," in the seventh line, to insert:

And his mother, his wife, and children shall also be free, provided that by the laws of any State they owe service or labor to any person or persons who have given aid or comfort to the existing rebellion against the Government since July 17, 1862.

So that the whole section will read as follows:

That when any person of African descent whose service or labor is claimed in any State under the laws thereof shall be mustered into the military or naval service of the United States, he shall forever thereafter be free, any law, usage, or custom to the contrary notwithstanding; and his mother, his wife, and children shall also be free, provided that by the laws of any State they owe service or labor to any person or persons who have given aid or comfort to the existing rebellion against the Government since July 17, 1862; and all laws and parts of laws inconsistent herewith are hereby repealed.

The VICEPRESIDENT. Upon this question the Senator from Ohio [Mr. SHERMAN] is entitled to the floor.

Mr. SHERMAN. Mr. President, the bill now before the Senate presents not only the question of the employment of negroes in the military service of the United States, but also in my judgment the question of the emancipation of the whole negro race in this country. The second section of the bill provides that all persons of African descent who have been or may be hereafter employed in the military or naval service shall receive the same uniform, pay, arms, and equipments as other soldiers of the regular or volunteer forces of the United States other than bounty. The third section provides that "when any person of African descent whose service or labor is claimed in any State under the laws thereof, shall be mustered into the military or naval service of the United States, he, his mother, his wife, and children, shall forever thereafter be free." It is manifest, Mr. President, that if a slave is employed in the military service the inevitable result of that employment is emancipation. It would appear to be just, when a slave renders military service and exposes his life in a civil war like this, that it should inure to the benefit of his wife, his mother, and his children. It is equally clear that if by the laws of war all slaves who enter into the military service in the southern States, and all who are connected with them by the ties of blood shall be emancipated, the tenure of slavery in this country would become so uncertain as to result in universal emancipation. I will, therefore, treat this proposition according to its logical effect, and as involving the emancipation of the negro race in this country.

Mr. WILSON. Will the Senator from Ohio allow me a moment? I had proposed, in order to avoid raising that question just now, to amend the entire act by striking out the whole bill, and simply providing to pay the negro troops now in the field, as there is a great deal of suffering in regard to it, great discouragement as to enlisting, and to let the other matter stand to some future day. If the Senator chooses to debate the bill, however, very well.

Mr. SHERMAN. In my view of the subject, this will make very little difference, because I believe that the employment of negro slaves in the southern States will result in emancipation in all those States, and as the amendment of the Senator from Massachusetts proposes to employ negro slaves in the Army and Navy, and to invite them by bounties, by high pay, by uniform, by all the inducements now held out to our own soldiers and sailors, the result will be universal emancipation in this country. I therefore prefer to discuss all these kindred propositions as a whole.

Has Congress or the President power to employ slaves in the military service? Can we emancipate them either as a punishment of rebels, or as a reward for military service? If these powers exist, to what extent and in what way should we exercise them? These questions present the most difficult problem of the war, which requires in its solution more than human wisdom. I certainly would not engage in the discussion did not the responsibility of my position require me to meet them as practical questions of legislation. For many years this Senate Chamber has rung with angry discussions on the slavery question. The most eloquent, the most gifted, the wise, the learned, each and all of the great names that have adorned American history in Convention and in either House of Congress, have expended their eloquence, their learning, all the artillery of excited debate on the slavery question as it affected a single slave or an unpopulated Territory. It devolves upon us now to pass upon a guarantee, a pledge, which if made, honor and public faith will never hereafter allow the nation to withdraw; a pledge which, if redeemed, will directly emancipate a majority of the slaves in this country, and in its logical consequence within a short time will make every human being within our limits free, unless he forfeits his freedom by his crime. In the discussion of such a question it becomes vital that we carefully examine our powers. The race whose military service we require has yielded forced labor, unrequited toil to ours for generations. If we induce them to incur the risk of death and wounds in war upon the promise of emancipation, and do not redeem that promise, we add perjury to wrong. The soldier who has worn our uniform and served under our flag must not hereafter labor as a slave. Nor would it be tolerable that his wife, his mother, or his child should be the

property of another. The instinctive feeling of every man of generous impulse would revolt at such a spectacle. The guarantee of freedom for himself, his mother, his wife, and his child is the inevitable incident of the employment of a slave as a soldier. If you have not the power, or do not mean to emancipate him and those with whom he is connected by domestic ties, then in the name of God and humanity do not employ him as a soldier. Let him in his servitude at least be free from the danger incident to a free man. If I had doubts about the power to emancipate the slave for military service, I certainly would not vote to employ him as a soldier.

And so vast a subject as this deserves the dignity of a separate bill. The Military Committee have unwisely incumbered this bill with provisions about adjutants, quartermasters, and other minor details of legislation. The guarantee of freedom has annexed to it no provision to secure it. No details are given. We know that the relation of husband and wife is not recognized with slaves, and yet this relation is spoken of as a measure of emancipation. Who is the wife of a slave? If reference is had to local law it declares that a slave can have no wife, and if you mean to make this guarantee effective you must define who shall be considered the wife of the slave. It is one of the worst features of the system of slavery that a man who will render you military service under this bill is not recognized by the law as the father of children; but the children follow the condition of their mother. Who will be held to be the children of the slaves who may fight and die in your service? This bill does not define them. A great act of emancipation like this, intended to have effects upon future generations, certainly should have more ample provisions to secure its execution, and should be clothed in such language as to show that we appreciate the dignity and importance of such legislation. If we examine this bill we find that it is not only incomplete in its details, but that it merely modifies existing legislation. By the act of July 17, 1862, we authorized the President to employ persons of African descent in the military and naval service. So careless were we in legislating upon this subject that on the same day in separate bills we passed provisions upon this subject almost identical, and yet these provisions contain no details. We must then look to the present law in order to determine whether any further legislation is needed. The principal difference between this bill and the law as it stands is that this bill includes the slaves and their relatives of loyal masters in adhering States, and yet contains no provision for their compensation.

In the view I shall take of this matter, it is indispensable that in adhering States where slaves of loyal citizens are taken for the public service, provision must be made for their compensation. Heretofore in practice, the Secretary of War has appropriated the bounty paid in for substitutes to the purchase of negro slaves; but this has been done in the absence of legislation from the necessity of the case. Surely in treating so vast a subject we ought to make the law simple, plain, effective, and complete.

Nor ought we to leave the question of the emancipation of slaves who serve in our armies to rest solely on the President's proclamation. Some of the ablest lawyers in this country have declared that the President has no power to proclaim the emancipation of the slaves. This power has not been settled by any court or tribunal, and has been denied not only by political parties, but by able lawyers who are friends of the Administration. It is difficult to perceive in the Constitution of the United States where he derives this power. In his recent message he casts doubts upon the subject, and invites interference by the courts. This proclamation was never sanctioned by Congress, and can only have effect so far as it is executive. It cannot have effect upon slaves who are not brought within its operation during actual hostilities. The exceptions contained in this proclamation make it partial and ineffective. If executed in the seceding States it impairs the value of slaves in loyal States, and yet leaves slavery an existing institution.

If negroes of the southern States, as they are now gathering about our banner, fight for us nobly and well, if they prove by their courage that they are capable of being free men, they should

be free. They are now on trial. My sympathies are not necessarily with the negro race; but if the negro now shows by his courage, by his capacity, by his endurance, by his bravery, that he is able to win his freedom and maintain it, then I wish to secure him that freedom by all the sanctions of law, and not to rest it upon the uncertain tenure of a President's proclamation. We are here independent of the President; it is our duty to examine critically the question of his powers and the effect of his acts.

And, sir, we must not forget that the President who issued this proclamation may abrogate it; he may modify it, or extend the exceptions by a new amnesty. We know that he entered upon this path of emancipation only after the country became wearied and almost exhausted under the unnatural protection extended by his officers to slavery. We know that when General Fremont, early in the war, refused to surrender slaves to rebel masters and by proclamation emancipated slaves who came within his lines, the President set aside his proclamation and extended his confidence only to those who protected the property, even of open public enemies, in their slaves. When General Hunter issued his proclamation in South Carolina, where, if anywhere, such a proclamation could be justified, in the presence of the enemy, in the nest of secession, in the sight of the worst rebels of the country, the President set aside that proclamation. When we were legislating here in anxious deliberation, and finally concluded that it was our duty to emancipate the slaves of the leading rebels in the southern States, those who held high offices, and not only to emancipate their slaves but to confiscate their land and other property, our legislation was suspended, and we were compelled to change it and modify it at the desire of the President, and in that way to destroy the vitality of our legislation. We must also remember that within one month before the first proclamation of emancipation was issued the President ridiculed his power to emancipate slaves, and a common remark was attributed to him that such a proclamation on his part would amount to nothing more than the Pope's bull against the comet.

So far was this conservatism carried—for I will call it by the name its friends choose for it—that the political party to which the President belongs lost every election that fall. Ohio is now represented in the other House of Congress by thirteen gentlemen who certainly do not represent the opinion of the majority of her people, and who owe their seats entirely to the discouragement caused by the mode in which the war was then conducted. The whole of this state of feeling grew out of the backwardness of the President in meeting this question of emancipation and the employment of negroes in this war. We must also remember that the exceptions contained in the President's proclamation very much impair the value of the proclamation, even if it should be sustained by the courts. It has never yet been tested in a single tribunal; no judge has ever yet pronounced in favor of its validity. No constitutional provision can be pointed out to sustain its power. Men have doubts about it. Under these circumstances, can you expect the negroes of the southern States who are informed upon the subject to rally around your banner? Or if, as I know they are, they are ignorant and take your promise for your power, I ask you whether you are willing to let them risk their lives upon the basis of a proclamation on the validity of which you yourselves have doubts, especially if you have the power by law to sanction that proclamation and to give it validity.

We must remember that the Executive is but one branch of the Government. His powers are defined by the Constitution. They are simply executive. He can neither make nor suspend the operation of a law. In time of war he is Commander-in-Chief of our Army and Navy; but is this power sufficient to change the laws of States and communities, or do they extend beyond the lines of our armies, and especially will they extend into the future peaceful times which we hope may soon come upon us? I shall hereafter endeavor to show that Congress is invested with clear power to guaranty emancipation to slaves who enter our armies; but where can such a power be found for the President? Even if, in the opinion of Senators, the proclamation is effective, if

it has the power and efficacy of law, it is our duty to give to that proclamation the sanction of the legislative authority. We must, by some act carefully conceived and carefully worded, give additional sanction to that proclamation. If you have the power to arm slaves, and if they fight for you, you must make them free, and if you guaranty their freedom you must adhere to that guarantee to the bitter end. The idea of getting these poor ignorant Africans into our service, calling upon them to risk their lives for us, to be slaughtered in our civil war, and then not to secure them emancipation, would be the height of injustice. If the negro fights for us his freedom must be secured if we have it in our power to secure it. I would never authorize a single slave to be employed in this civil war unless I had the power to emancipate him. Why, sir, if you put him in your ranks, and make him fight for you, and then do not give him liberty, you treat him worse than the meanest slaveholder that ever lived. The slaveowners only rob him of his wages; they only take from him the sweat of his brow; but if you take his life and then do not secure to him and to his children their freedom, you do him a still greater wrong.

Have we this power, and if so whence is it derived and to what extent can we execute it? The power to emancipate a slave by Congress or the President certainly does not exist in time of peace. This is an axiom in American politics. The Second Congress, upon the petition of Benjamin Franklin, declared that the national Legislature had no power over slavery in the States. The declaration has been repeated by almost every Congress since that time. No political party that has ever been organized in this country has claimed the power of interfering with slavery in the States. At the very last session of Congress before this war broke out the House of Representatives, by a unanimous vote, declared that Congress had no power to emancipate slaves, and no power over the subject of slavery in the States. It was so declared by the President; it was so declared in the Chicago platform. It is, as I have said, an axiom in American politics that Congress has no power over slavery in the slaveholding States; that slavery is simply a local institution protected by local law, having existence commensurate only with that local law; that Congress has no power over it whatever except as that power grows out of the enforcement of the provision of the Constitution of the United States for the recapture of fugitive slaves. This, I believe, is admitted on all hands. If, therefore, we have power to emancipate, we must derive it from some other source, and not from the ordinary powers of Congress in time of peace.

It is equally clear that the existence of a mere insurrection in our country will not justify interference with slavery. This has been settled now by many cases in our courts. I have listened very often to the argument made by the Senator from Kentucky [Mr. Davis] on this point, but the difficulty with him—and I submit it to his judgment, for I intend to appeal to his candor to-day—is that he does not distinguish between insurrection and war. The line is broad and deep. We have had some insurrections in this country, but we have never before had a civil war. There was an insurrection in Massachusetts, Shay's rebellion, before the formation of the Constitution, growing out of the depressed condition of industry. That was simply an insurrection, a rising of ignorant men against the authorities of the State of Massachusetts. It was put down partly by judicial proceedings and partly by mild force. Then we had an insurrection in western Pennsylvania, called the whisky insurrection. A large body of armed men were called out, but it was finally put down rather by marshals and constables than by military force.

My friend from Kentucky says they had one in Massachusetts in the Burns case; and he has arraigned the Senator from Massachusetts for some complicity in that matter. The Burns case was a mere mob, a mutiny, if you please; but suppose it was an insurrection, what then? Insurrection is not war, as I shall show by the authorities; very far from it. We had an insurrection, or what I may call an insurrection, in Kansas when the people of Missouri invaded the Territory of Kansas. Armed men marched over from that State into an infant Territory, seizing upon

their ballot-box, and controlling the operations of their government. That was an insurrection, and none the less an insurrection because the executive authorities of the country sustained and sanctioned it, to their dishonor. It was an insurrection against the laws, but it was not war; very far from it. We had a kind of insurrection, an *émeute*, in Utah; but it never rose to the dignity of war. It was simply a dissatisfaction on the part of the people there with the acts of certain executive authorities, and resistance to those acts; but the resistance disappeared on the approach of a military force. It was at most insurrection. To show that this distinction is laid down in the law-books, I will refer to Mr. Lawrence's recent edition of Wheaton's International Law. In a note on page 522 it is said:

"Publicists distinguish between popular commotion (*émotion populaire*) or tumultuous assemblage, which may be directed against the magistrates or merely against individuals; sedition, (*sédition*), applying to a formal disobedience particularly directed against the magistrates or other depositaries of public authority; and insurrection, (*soulevement*), which extends to great numbers in a city or province, so that even the sovereign is no longer obeyed; and civil war. Popular commotion, sedition, and insurrection are all State crimes, even though arising from just causes of complaint; every violent measure being interdicted in civil society. These cases are always supposed to be susceptible of being suppressed by the sovereign; and it is usual, in doing so, to grant an amnesty in all but exceptional cases."

"A civil war is when a party arises in a State which no longer obeys the sovereign and is sufficiently strong to make head against him, or when, in a republic, the nation is divided into two opposite sections, and both sides take up arms. Usage applies the term civil war to every war between members of the same political society. If it is between a part of the citizens on the one side and the sovereign and those who obey him on the other, it is sufficient that the malcontents have some reason to take up arms in order that the disturbances should be called *civil war*, and not *rebellion*. The prince never fails to call all his subjects who openly resist him rebels; but when the latter become sufficiently strong to make head against him, to compel him to carry on war regularly against them, he must be contented with the term *civil war*. Civil war breaks the bonds of society and of the Government; it gives rise in a nation to two independent parties, who acknowledge no common judge. They are in the position of two nations who engage in disputes, and, not being able to reconcile them, have recourse to arms. The common laws of war are in civil wars to be observed on both sides. The same reasons which make them obligatory between foreign States render them more necessary in the unhappy circumstances where two exasperated parties are destroying their common country."

It will be necessary for Senators to keep in view these distinctions, because upon them rests the whole argument in this case. Civil war is where an insurrection has assumed such power and strength as to invoke armies, when victories and defeats alternate, when the matter ceases to be a mere insurrection or rising against the civil authority, and when marshals and constables are no longer necessary, but armies must be called upon to decide the conflict. The law of 1795 defines what an insurrection is. I have not the law before me, but the words are familiar. In such cases, the President must call out the militia of the State, through its Governor, the riot act must be read, and various precautions are prescribed; constables and marshals must be employed to a certain extent; notice must be given to the insurgents; and they must be dispersed in that way, if possible. The law of 1795 provides the manner in which an insurrection shall be treated, but when the insurrection assumes the magnitude of civil war, other laws must govern; the law of 1795 ceases to apply; and THE LAWS OF WAR as recognized among the civilized and Christian nations of the world must then decide the contest.

It is sometimes difficult to ascertain when an insurrection melts into rebellion, and when a rebellion assumes the proportions of civil war is often difficult of ascertainment; but in the present case, the character of the struggle in which we are engaged has been ascertained and definitively settled by every department of the Government. The Supreme Court of the United States has already declared that this is no longer an insurrection, but a civil war. Every department of the Government concurs that this is a civil war and not an insurrection. When the President of the United States originally called out seventy-five thousand volunteers he treated it partly as an insurrection and partly as a civil war—a kind of incongruous condition not easily understood; but Congress, as soon as it convened, treated it as a civil war, authorized the employment of half a million men, and called it war. The President issued a proclamation declaring a blockade, a thing not known as against insurgents. Finally,

the decision of the Supreme Court in the prize cases during the December term, 1862, declared that it was civil war and not insurrection. I will read a short extract from that decision; and I shall have occasion to refer to it frequently:

"This greatest of civil wars was not gradually developed by popular commotion, tumultuous assemblies, or local unorganized insurrections. However long may have been its previous conception, it nevertheless sprang forth suddenly from the parent brain, a Minerva in the full panoply of war. The President was bound to meet it in the shape it presented itself, without waiting for Congress to baptize it with a name; and no name given to it by him or them could change the fact."

"It is not the less a civil war, with belligerent parties in hostile array, because it may be called an 'insurrection' by one side, and the insurgents be considered as rebels or traitors. It is not necessary that the independence of the revolted province or State be acknowledged in order to constitute it a party belligerent in a war, according to the law of nations."—*2 Black's Reports*, page 669.

The decision goes on upon that basis, treats these rebels as we commonly call them, these enemies, as enemies in war, open war, to be put down according to the laws of war. That point was, however, previously settled by another tribunal. We are one of the family of nations. Great Britain, with a hasty indecency, before the facts were known, when our minister was on his way to take his place at that court, a minister whose very name should have commanded the respect of Great Britain, recognized the insurgents as belligerents; and France followed her example. By that fact we are bound, as one of the family of nations; and after that acknowledgment by Great Britain and France we dared not treat the rebels as simple insurgents, but we were bound to wage the war against them according to the laws of war. Each nation must decide this question of belligerent for itself. Great Britain did decide it; France decided it; and we have concurred in that decision. Every department of this Government has held the insurgents to be belligerents, entitled to the benefit of the laws of war, and the war must be waged against them according to the laws of civilized nations.

I have heard in this Senate Chamber very often the ridiculous idea that these people are our erring brethren, insurgents, whom it is our duty to conciliate with kindness. That is no longer their condition. They are enemies, and we are bound to treat them as enemies. We are bound to wage war against them according to the laws of war. We dare not treat them as insurgents. If Jefferson Davis should be captured to-morrow he would be a prisoner of war, and we dare not, according to the laws of war, until we put down all opposing force, hang him as a traitor. That very principle was decided early in this war in the case of General Buckner. Buckner was not only a traitor to his country, the United States at large, but he was a traitor to Kentucky. He had inveigled the young men of that State into an organization, and finally led them off into the armies of the rebels. He was a traitor to Kentucky as well as to the United States, and the authorities of Kentucky demanded him for trial, but the national authorities very properly said that he was no longer an insurgent, and could not be treated by them according to the laws of Kentucky, but he must be treated as an enemy, a prisoner of war, according to the laws of war, to be exchanged in due time, and he was exchanged.

We can no longer, then, consider these men as insurgents; and Senators who talk about them as erring brethren who must be coaxed and wheedled and brought back to our embraces to their old place in the Union by anything but force of arms, misunderstand the legal relation that now exists between us and these enemies. They are no longer erring brethren. We, as members of a common community, owe that community obedience, allegiance, love, and affection, and we are bound as citizens to treat the open enemies of our country as our personal enemies.

Mr. President, the effect of civil war in substituting new laws for our Government is stated very clearly by Vattel, and at the risk of being wearisome I will read an extract:

"A civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. Besides, who shall judge them? who

shall pronounce on which side the right or wrong lies? On earth they have no common superior. They stand therefore in precisely the same predicament as two nations who engage in a contest, and, being unable to come to an agreement, have recourse to arms."—*Vattel*, page 425.

The Constitution of the United States now furnishes no guide. There are no rules prescribed in the Constitution pointing out how we shall treat public enemies who are regarded as such. The Constitution only deals with people in a state of peace, or, at most, in a state of insurrection. It does not define our relations or our duties to enemies. When these people assumed the power and position of enemies, you could no longer look in the Constitution of the United States, or to the laws made in pursuance thereof, for the mode and manner in which you should treat them. This principle is clearly laid down in the laws of nations. By their unity, by their vigor, by their strength they have won the position of enemies, and you cannot treat them as insurgents. Civilized society would not allow you to treat these enemies, who by their vigor and courage have held you at bay for nearly three years, as common insurgents or traitors and felons. You must treat them as enemies. The legal consequences that grow out of this relation I shall follow up hereafter.

The same doctrine which I have quoted from Vattel is laid down in Wheaton's International Law, a work of more modern date, but I will not read the quotation. It is also laid down by the Supreme Court in the decision to which I have already referred, and from which I shall take the liberty of reading another extract. The counsel for the defendants insisted that these people in the South were simply insurgents, and that therefore the blockade, which was the matter in controversy, was not legal. The Supreme Court, after repeating the arguments of the counsel, go on to say:

"This argument rests on the assumption of two propositions, each of which is without foundation on the established law of nations. It assumes that where a civil war exists, the party belligerent claiming to be sovereign cannot, for some unknown reason, exercise the rights of belligerents, although the revolutionary party may. Being sovereign, he can exercise only sovereign rights over the other party."

This is an argument I have heard adduced over and over again in the Senate.

"The insurgent may be killed on the battle-field, or by the executioner; his property on land may be confiscated under the municipal law; but the commerce on the ocean, which supplies the rebels with means to support the war, cannot be made the subject of capture under the laws of war, because it is 'unconstitutional.' Now, it is a proposition never doubted, that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights, (see 4 Cr., 272.) Treating the other party as a belligerent, and using only the milder modes of coercion which the law of nations has introduced to mitigate the rigors of war, cannot be a subject of complaint by the party to whom it is accorded as a grace or granted as a necessity. We have shown that a civil war such as that now waged between the northern and southern States is properly conducted according to the humane regulations of public law as regards captures on the ocean."

"Under the very peculiar constitution of this Government, although the citizens owe supreme allegiance to the Federal Government, they owe also a qualified allegiance to the State in which they are domiciled. Their persons and property are subject to its laws."

"Hence, in organizing this rebellion, they have acted as States claiming to be sovereign over all persons and property within their respective limits, and asserting a right to absolve their citizens from their allegiance to the Federal Government. Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State. Their right to do so is now being decided by wagers of battle. The ports and territory of each of these States are held in hostility to the General Government. It is no loose, unorganized insurrection, having no defined boundary or possession. It has a boundary marked by lines of bayonets, and which can be crossed only by force; south of this line is enemy's territory, because it is claimed and held in possession by an organized, hostile, and belligerent power."

The doctrine is here laid down distinctly that an insurgent may be killed on the battle-field or by the executioner, that his property on land may be confiscated under the municipal law, and his property on the ocean may be seized and taken as that of a public enemy. The particular case was one of seizure on the ocean, and the seizure was held to be legal, and the property was divided among the captors according to our law for the distribution of captures taken from the public enemies.

Now, Mr. President, let us apply these principles to the bill before us. We are in war. Have we the right in war as against public enemies to emancipate their slaves? Have we a right according to the laws of war to employ the slaves of our own citizens in arms against the public enemy? Have we a right in accordance with the laws of

war to emancipate them and their families, those that are connected with them by domestic ties? These are the questions. I have already passed over the principal difficulty in the way, and that is the argument so often made that we are restrained from doing this because these enemies are our fellow-citizens. I have shown you that the men in rebellion have won a position beyond the reach of your Constitution; that our war with them must be tested by the laws of war; and these questions must be decided by the laws of war as recognized and practiced among civilized nations in ancient and modern times. That is the position which I hold.

Then, by the laws of war, have we a right to arm our own slaves, and to arm the slaves of our enemies and emancipate them? Now, sir, I say that there never was a country in the world, in ancient or modern times, which held slaves, that did not at some period of its history arm them, and employ them against the common enemy; and there never was a case where, when those slaves were so employed, they were not emancipated. This proposition, I think, will be sustained by the most careful examination of history. Slaves fought for the Greeks on the battle-field of Marathon; and to the credit of the Athenians they were emancipated for their services. The Spartans marched with their Helots into the battle-field. The Thessalian mountain Penestæ were bond-servants. There were many slaves on board of the Athenian fleet at the successful naval engagement before the islands Arginusæ, and as the honor of the victory belonged to them, it is to the credit of the Athenians that they emancipated them and invested them with all the rights of Platæan citizenship. The Helots attended the Carthaginians as light-armed troops; and on the battle-field of Platæa there were thirty-five thousand Helots to five thousand Spartans. The warlike habits of the Thessalians imposed upon their slaves the duty of following them to the army. During the Peloponnesian war a single citizen of Thessaly put twelve thousand of them at the disposal of Athens. And when Jason of Pheræ strove to gain the ascendancy over Greece, he counted upon the slaves to equip the vessels with which he disputed the empire of the seas with the Athenians.

The right of emancipation denied to individuals was exercised by the State. The supreme authority and traces of its exercise pervade the entire history of Sparta. Seven hundred Helots were raised to the rank of Hoplites and placed under Brasidas as general, who employed them to aid in the conquest of the cities of Thrace. Three or four hundred Athenians were, a little later, sent to the succor of Syracuse, and when Epaminondas threatened the Spartans at their own hearthstones they brought out as auxiliaries a thousand recently emancipated Helots. According to Xenophon, liberty was offered to all those who volunteered to defend the republic, and in an instant more than six thousand were enrolled. During the protracted and often renewed wars between the Spartans and the Athenians slaves were much employed as help to one belligerent or hindrance to another. Thus we learn from Xenophon that when the Spartan general Callicratidas had captured the town of Methymna, in Lesbos, the whole of the property there was plundered by the soldiers, but all the slaves Callicratidas collected into the market-place, and when his allies urged him to sell the Methymnæans also, he said that while he was commander none of the Greeks should be enslaved so far as he could prevent it. The next day he set at liberty the freemen and the Athenian garrison, and sold all the slaves that were of servile origin.

I know that many denominated slaves among the Greeks were not strictly slaves, according to our meaning of that term, but they were servitors. I cannot stop to define the various kinds of servitude known to Greece in ancient times, but it appears that all the grades of slaves or servitors fought for or against their masters, and in all cases won their freedom by so doing. I shall not stop now to discuss the difference between the slaves of Greece and our own slaves, because I shall be able to quote more pertinent examples. My purpose is only to show that among the Greeks in all their wars, civil and foreign, on land and at sea, slaves were employed as soldiers, and were always emancipated as the result of their employment.

The Romans did the same from the very foundation of their Government. In the palmiest days of the Roman republic they employed their slaves as soldiers. There are many cases which I might adduce; but there is one to which I will take the liberty of referring particularly. In the war between the Romans and the Carthaginians, which was a desperate war for life or death, things assumed that position after the battle of Cannæ that the Romans had either to submit to the Carthaginians or the Carthaginians to the Romans. There was no longer room enough in this little world of ours for those two rival nations, very much the same condition in which we are now placed. Livy tells us:

"The urgent necessity and the scarcity of men of free condition occasioned their adopting a new mode of raising soldiers, and in an extraordinary manner. They purchased, with the public money, eight thousand stout young slaves, asking each whether he was willing to serve in the wars; and then gave them arms."

And they did serve, and were emancipated. In the same war, at a later period, under Tiberius Sempronius:

"In the mean time Tiberius Sempronius, the Roman consul, after performing the purification of his army at Sinuesæ, where he had appointed them to assemble, crossed the river Volturnus and encamped at Liternum. As he had in this post no employment for his arms, he obliged the soldiers frequently to go through their exercise that the recruits, of whom the greatest part were *volunteer slaves*, might learn from practice to follow the standards and to know their own centuries in the field. In the midst of these employments the general's principal care was, and he accordingly gave charges to the lieutenants general and tribunes, that 'no reproach east on any one on account of his former condition should sow discord among the troops; that the veteran soldier should be satisfied at being put on a level with the recruit, the free man with the volunteer slave; that they should account every one sufficiently honorable and well-born to whom the Roman people intrusted their arms and standards; observing that, whatever measures fortune made it necessary to adopt, it was equally necessary to support these when adopted.'"

I think this is very wise and pregnant advice even to the people of our own time. Still another case, to show how these soldiers fought in battle when the idea of liberty was held out to them. In the same war, under Quintus Fabius:

"The legions which he had with him consisted mostly of volunteer slaves who had chosen rather to merit their liberty in silence, by the service of a second year, than to request it openly. He had observed, however, as he was leaving his winter quarters, that the troops on their march began to murmur, asking whether 'they were ever to serve as free citizens?' He had, however, written to the senate, insisting not so much on their wishes as on their merits, declaring that 'he had ever found them faithful and brave in the service; and that, excepting a free condition, they wanted no qualification of complete soldiers.' Authority was given him to act in that business as he himself should judge conducive to the good of the public. Before he resolved upon coming to an engagement, therefore, he gave public notice that the time was 'now come when they might obtain the liberty which they had so long wished for; that he intended next day to engage the enemy in regular battle, in a clear, open plain, where, without any fear of stratagems, the business might be decided by the mere dint of valor. Every man then who should bring home the head of an enemy, he would instantly, by his own authority, set free; and every one who should retreat from his post he would punish in the same manner as a slave. Every man's lot now depended upon his own exertion; and, as security for their obtaining their freedom, not he himself stood pledged, but the Consul Marcellus, and even the whole senate, who, having been consulted by him on the subject of their freedom, had authorized him to determine in the case.' He then read the consul's letter and the decree of the senate, on which a universal shout of joy was raised. They eagerly demanded the fight, and ardently pressed him to give the signal instantly. Gracchus gave notice that they should be gratified on the following day, and then dismissed the assembly. The soldiers, exulting with joy, especially those who were to receive liberty as the price of their active efforts for one day, spent the rest of their time until night in getting their arms in readiness."

I intend to follow out this occasion, and show the effect of the promise of emancipation on those slaves, who were blacks, as will appear in the course of the narrative:

"Next day, as soon as the trumpets began to sound to battle, the above-mentioned men, the first of all, assembled round the general's quarters, ready and marshaled for the fight. At sunrise Gracchus led out his troops to the field, nor did the enemy hesitate to meet him. Their force consisted of seventeen thousand foot, mostly Britanni and Lucanians, and twelve thousand horse, among whom were very few Italians. Almost all the rest were Numidians and Moors."

If there is any distinction on account of color, we here have the case of Numidians and Moors fighting for their liberty.

A SENATOR. They were not negroes.

MR. SHERMAN. The distinction between them and negroes I leave to others whose sight is very refined.

"The conflict was fierce and long; during hours neither

side gained any advantage, and no circumstance proved a greater impediment to the success of the Romans than from the heads of the enemy being made the price of liberty; for when any had valiantly slain an opponent he lost time, first in cutting off the head, which could not be readily effected in the midst of the crowd and tumult, and then his right hand being employed in securing it, the bravest ceased to take part in the fight, and the contest devolved on the inactive and dastardly. The military tribunes now represented to Gracchus that the soldiers were not employed in wounding any of the enemy who stood on their legs, but in maiming those who had fallen; and instead of their own swords in their hands they carried the heads of the slain. On which he commanded them to give orders with all haste that 'they should throw away the heads and attack the enemy; that their courage was sufficiently evident and conspicuous, and that such brave men need not doubt of liberty.' The fight was then revived, and the cavalry also were ordered to charge; these were briskly encountered by the Numidians, and the battle of the horse was maintained with no less vigor than that of the foot; so that the event of the day again became doubtful, while the commanders on both sides vilified their adversaries in the most contemptuous terms; the Roman speaking to his soldiers of the Lucanians and Britanni as men so often defeated and subdued by their ancestors; and the Carthaginian of the Romans as slaves, soldiers taken out of the work-house. At last Gracchus proclaimed that his men had no room to hope for liberty unless the enemy were routed that day and driven off the field.

"These words so effectually inflamed their courage that, as if they had been suddenly transformed into other men, they renewed the shout and bore down on the enemy with an impetuosity which it was impossible long to withstand. First the Carthaginian vanguard, then the battalions, were thrown into confusion; at last the whole line was forced to give way; they then plainly turned their backs and fled precipitately into their camps, in such terror and dismay that none of them made a stand, even at the gates or on the rampart."—*Baker's Livy's Rome*, vol. 3.

The Romans gained a complete victory, and Tiberius Gracchus in an imposing spectacle, which is here described at great length, gave them their freedom and secured it to them forever. It was afterwards secured permanently by a decree of the Roman senate. There are many cases of this kind in Roman history. It is full of examples where slaves fought for their freedom. Cato used them at the defense of Utica, and required their masters to emancipate them. Plutarch is full of examples of the kind. Tacitus, in the later periods of Roman history, recites many similar examples. In the republic, in the empire, in their civil wars, in their foreign wars, slaves were used, and in every case they were emancipated. The distinction in the character of the slaves, whether white or black, was never made. The Romans held different degrees of slaves, and of various nations. Some of the Germans, many of the Asiatic nations, and many of the African tribes were held as slaves. There was no distinction ever made between them on account of their color. Their condition, not their color, fixed their slavery.

But, sir, this employment of slaves in the military service was not confined to ancient times. At the present day they are used by many nations. On a recent occasion in the Spanish colony of Cuba, with a population of one half slaves, a militia of free blacks and mulattoes was directed by General Pezuela to be organized in 1854 throughout the island, and it was put upon an equal footing with regard to privilege with the regular army. This measure was not rescinded by Governor General Concha in 1855, but the black and mulatto troops have been made a permanent corps of the Spanish army in this slaveholding island. So with the Portuguese. Slaves have been used by the Portuguese in their wars; and now in the Portuguese colonies on the coast of Africa the regiments are composed chiefly of black men. So at Prince's Island, St. Thomas, Loanda, and many other places where they hold colonies, their soldiers are negroes. In the Dutch colony on the Gold Coast of Africa with a population of one hundred thousand, the garrison of the fortress consists of two hundred soldiers, whites, mulattoes, and blacks, under a Dutch colonel. In the capital of the French colony in the Senegal on the same coast, at St. Louis, the defense of the place is in the hands of eight hundred white and three hundred black soldiers. In the Danish island of St. Croix, in the West Indies, for more than twenty-five years past there have been employed two corps of colored soldiers in the presence of slaves. So in Brazil, so in Turkey. Our English friends, who were so eager to recognize the belligerent powers of the confederacy, also employ manumitted slaves. The British army stationed in the West Indies consists of four regiments. These regiments, the last of which was raised in 1862, were formerly recruited exclusively from liberated Africans, that is, from negroes captured on the slave traders voy-

aging to Sierra Leone. These slaves generally belonged to different tribes, who supplied the creole negroes. When the slave trade was prohibited there were no more liberated Africans to be had, and the regiments are now recruited among the population of the islands themselves, and they are composed of negroes and creoles in the proportion of sixty per hundred soldiers of the former and forty per hundred of the latter. There is one European sergeant to each company.

It is equally clear that in our own country in the revolutionary war and in the war of 1812 colored soldiers were employed on both sides. We are of course all familiar with the ordinary incidents of the revolutionary war; and we know that Lord Dunmore issued his proclamation in 1776 inviting the slaves to leave their masters, and he organized them into regiments. He formed two regiments near the site of Fortress Monroe. It is a remarkable fact that our revolutionary fathers feared the arming of the negroes more than anything else; and what tended to defeat the general arming of them was the fact that a large portion of the loyalists in the southern States owned slaves. Many of the men who were the traitors to our country at that time were the owners of slaves, although that was not true of them as a class, because many of the noblest, ablest, best men in the revolutionary service were the owners of slaves. In South Carolina it was manifest that the large owners of slaves were men who joined the British, and insisted on the surrender of Charleston. That fact is proven by many passages in revolutionary history. In the works of John Adams, volume two, page 428, he gives the reason why the negroes were not more generally employed by the British. He says:

"All the king's friends and tools of Government have large plantations and property in negroes, so that the slaves of the Tories would be lost as well as those of the Whigs."

That was a reason why the British did not organize more negro troops in South Carolina at that time. Their own friends, upon whom they depended for aid, would lose their slaves as well as the Whigs. When Lord Dunmore's proclamation was issued, it was answered on our side by a manifesto that I will read a short extract from, to show how far the men who now justify and sustain slavery have departed from the teachings of their fathers. The reply to Lord Dunmore's proclamation will be found in the American State Papers. It was addressed to the negro slaves in Virginia, and it used this language:

"Let them further consider what must be their fate should the English prove conquerors. If we can judge of the future from the past, it will not be much mended. Long have the Americans, moved by compassion and actuated by sound policy, endeavored to stop the progress of slavery. Our assemblies have repeatedly passed acts laying heavy duties upon imported negroes, by which they meant altogether to prevent the horrid traffic. But their humane intentions have been as often frustrated by the cruelty and covetousness of a set of English merchants, who prevailed upon the king to repeal our kind and merciful acts, little, indeed, to the credit of his humanity. Can it, then, be supposed that negroes will be better used by the English, who have always encouraged and upheld this slavery, than by their present masters, who pity their condition; who wish in general to make it as easy and comfortable as possible; and who would, were it in their power or were they permitted, not only prevent any more negroes from losing their freedom, but restore it to such as have unhappily lost it?"

Mr. President, remember this was a manifesto issued in Virginia to the slaves to show them why they ought not to join the English; and in that very manifesto they were told that the English had always been their enemies; that the English had insisted upon the continuance of the slave trade; that the English could not better their condition; but that they themselves had always pitied their condition; had always opposed the slave trade, and earnestly wished, as soon as the measure could be effected, that those who were then held as slaves should be made free. I have no doubt that that was the language held out by nearly all the great men of the Revolution. I have before me an extract from a letter of Mr. Jefferson on that subject. Lord Cornwallis, in the course of the revolutionary war, occupied the plantation of Mr. Jefferson and took some thirty of his slaves. Mr. Jefferson said that if it had been done for the purpose of making them free it would have been right; but that was not the purpose. I have no doubt that if during our revolutionary war the English had treated the negroes as they might have done, if they had not been cut off by their being tied to the loyalists of South Carolina, who were large owners of slaves, if the negroes them-

selves had not been impressed with the conviction that it was better for them to adhere to the present masters, who were kind and wished them freedom, the negroes would have thrown their weight into that contest probably at a doubtful period, and might have changed the result. It is remarkable that the opinions then held by the people of Virginia should be so changed that within less than a century the very descendants of those men who promised their negroes freedom in the Revolution should be supporting and sustaining a government based solely on negro slavery, and intended to perpetuate and extend it.

Mr. President, I wish to show the action of the different States on this subject, because my argument depends on the fact that at all times, in all ages, by our own countrymen as well as by others, negroes have been employed in the military service. If so, we, in this terrible war, entered upon for the purpose of perpetuating the institution of slavery, ought surely to be able and willing to arm the negro slaves to secure their own freedom. I find that slaves and negroes fought in the New England States during the Revolution. I read an extract from Bancroft's History of the United States, volume seven, page 421:

"Nor should history forget to record that as in the army at Cambridge, so also in this gallant band?"

That is, at the battle of Bunker Hill—

"the free negroes of the colony had their representatives. For the right of free negroes to bear arms in the public defense was, at that day, as little disputed in New England as their other rights. They took their place, not in a separate corps, but in the ranks with the white man; and their names may be read on the pension rolls of the country, side by side with those of our soldiers of the Revolution."

There are many cases that I might cite. Salem, who killed Major Pitcairn at the battle of Bunker Hill, was a negro.

In Virginia, slaves were employed as substitutes for white soldiers, and here is an act of the General Assembly of the Commonwealth of Virginia, passed in 1783:

"An act directing the emancipation of certain slaves who have served as soldiers in this State, and for the emancipation of the slave Aberdeen."

"1. Whereas it hath been represented to the present General Assembly that, during the course of the war, many persons in this State had caused their slaves to enlist in certain regiments or corps raised within the same, having tendered such slaves to the officers appointed to recruit forces within the State, as substitutes for free persons whose lot or duty it was to serve in such regiments or corps, at the same time representing to such recruiting officers that the slaves, so enlisted by their direction and concurrence, were freemen; and it appearing further to this Assembly that on the expiration of the term of enlistment of such slaves that the former owners have attempted again to force them to return to a state of servitude, contrary to the principles of justice and to their own solemn promise."

"2. And whereas it appears just and reasonable that all persons enlisted as aforesaid, who have faithfully served agreeable to the terms of their enlistment, and have thereby of course contributed toward the establishment of American liberty and independence, should enjoy the blessings of freedom as a reward for their toils and labors."

Here then it appears that the Legislature of Virginia emancipated all the slaves who had served in the revolutionary Army, and there is a recital that many cases of that kind had occurred where slaves had served in the Army. Many other instances are cited in this connection where slaves served in Virginia, and were rewarded for their services by their liberty. So in South Carolina, one of the most interesting incidents of the war was the earnest effort made by Colonel Laurens to arm the negro population in the southern States upon the promise of emancipation. The correspondence between Colonel Laurens and George Washington and Mr. Hamilton and Congress on this subject is voluminous. I will read one or two extracts to show the opinion of several distinguished revolutionary leaders as to the employment of slaves even in South Carolina, and to show that they were defeated in that project by the very motive that now holds from us the services of thousands of able-bodied men. Here is a letter from Henry Laurens, dated March 16, 1779, to General Washington:

"Our affairs in the southern department are more favorable than we had considered them a few days ago; nevertheless the country is greatly distressed, and will be more so unless further reinforcements are sent to its relief. Had we arms for three thousand such black men as I could select in Carolina, I should have no doubt of success in driving the British out of Georgia and subduing East Florida before the end of July."

That was his opinion, and George Washington replied to that:

"The policy of our arming slaves is, in my opinion, a

moot point unless the enemy set the example. For, should we begin to form battalions of them, I have not the smallest doubt, if the war is to be prosecuted, of their following us in it, and justifying the measure upon our own ground. The contest then must be who can arm fastest. And where are our arms?"

In a subsequent letter, General Washington considered that the time had arrived when slaves should be armed; but I read this now so that I may show the correspondence fairly. A committee of Congress, consisting of Mr. Burke, Mr. Laurens, Mr. Armstrong, Mr. Wilson, and Mr. Dyer, appointed to take into consideration the circumstances of the southern States, and the ways and means for their safety and defense, on the 29th of March, 1779, reported to Congress this resolution:

"Resolved, That it be recommended to the States of South Carolina and Georgia, if they shall think the same expedient, to take measures immediately for raising three thousand able-bodied negroes."

General Lincoln, who was in command at Charleston, in a letter to Governor Rutledge, dated March 13, 1780, says:

"Give me leave to add once more that I think the measure of raising a black corps a necessary one; that I have great reason to believe if permission is given for it that many men would soon be obtained. I have repeatedly urged this matter, not only because Congress have recommended it, and because it thereby becomes my duty to attempt to have it executed, but because my own mind suggests the utility and importance of the measure, as the safety of the town makes it necessary."

I find a letter from Mr. Madison, written November 20, 1780, to Joseph Jones:

"Yours of the 18th came yesterday. I am glad to find the Legislature persist in their resolution to recruit their line of the army for the war; though, without deciding on the expediency of the mode under their consideration, would it not be as well to liberate and make soldiers at once of the blacks themselves as to make them instruments for enlisting white soldiers?"

James Madison makes the very recommendation that we now propose—to free them first and then enlist them afterwards, always connecting the two ideas together. He says further:

"It would certainly be more consonant with the principles of liberty, which ought never to be lost sight of in a contest for liberty, and, with white officers and a majority of white soldiers, no imaginable danger could be feared from themselves, as there certainly could be none from the effect of the example on those who should remain in bondage, experience having shown that a freedman immediately loses all attachment and sympathy with his former fellow-slaves."

There is the idea held out distinctly that those who were employed in service were to be emancipated as the result of their employment. Here is Colonel Laurens again, to show how persistently he adhered to this idea of arming the negro population of South Carolina, he being a native of South Carolina, in a letter to General Washington, dated May 17, 1782:

"The plan which brought me to this country was urged with all the zeal which the subject inspired, both in our Privy Council and Assembly, but the single voice of reason was drowned by the howlings of a triple-headed monster, in which prejudice, avarice, and pusillanimity were united."

This is the indignant language used by Colonel Laurens:

"It was some degree of consolation to me, however, to perceive that truth and philosophy had gained some ground, the suffrages in favor of the measure being twice as numerous as on a former occasion. Some hopes have been lately given me from Georgia, but I fear, when the question is put, we shall be outvoted there with as much disparity as we have been in this country."

Here is the reply of General Washington to Colonel Laurens:

"I must confess that I am not at all astonished at the failure of your plan. That spirit of freedom which, at the commencement of this contest, would have gladly sacrificed everything to the attainment of its object, has long since subsided, and every selfish passion has taken its place. It is not the public, but private interest which influences the generosity of mankind, nor can the Americans any longer boast an exception. Under these circumstances it would rather have been surprising if you had succeeded, nor will you, I fear, have better success in Georgia."

Here General Washington, in reply to the indignant letter of Colonel Laurens, especially commends the undertaking, and says he is not disappointed that the effort had failed, because self-interest, prejudice, and hate now had taken the place of a manly love of liberty. I will show you further that General Greene had this same subject brought to his attention while in command of the southern department. In a letter to Washington, dated January 24, 1782, he said:

"I have recommended to this State to raise some black regiments. To fill up the regiments with whites is impracticable, and to get reinforcements from the northward pre-

carious, and at least difficult, from the prejudice respecting the climate. Some are for it; but the far greater part of the people are opposed to it."

Then he goes on to suggest how available the blacks might be if used in the Army. I might go on at some length, because I find here ready to my hand a collection of all the historical incidents connected with the employment of negroes, showing that they were employed in Rhode Island and indeed in all the colonies; but I will not weary the Senate with these details. It is sufficient to say that nearly all the leading men of the Revolution, Washington, Jefferson, Hamilton, Madison, Laurens, Greene, and Lincoln, were in favor of using slaves, and at the same time emancipating them as the result of the service, and it was resisted in the southern States partly from a fear that the British would arm them, and partly from the fear of losing their own property in slaves.

Mr. President, I will go further. Slaves and negroes, especially free negroes, were used by us in the war of 1812. You are all familiar with the proclamation of General Jackson issued at Mobile to the free negroes. When white men faltered, when they involved him in judicial controversy, when the danger was imminent that the English would bombard the city of New Orleans, the free negroes, at the proclamation of General Jackson, rallied to his standard. What did Old Hickory do? Did he turn his back on them and say, "You are negroes, and are beneath me in the social scale?" That was not the answer. Old Hickory enrolled them in his ranks; they were mustered into the service, and they bravely aided to beat back the waves of the British army. General Jackson, with a manly heroism that does him credit, issued his proclamation giving them especial thanks for their services. I am afraid that some of those gentlemen who are so fastidious, if negroes, whether free or slave, should come up and offer their lives in the service of their country, if they were willing to assume all the burdens of war, if they were willing to risk wounds and pains and death, would answer them with contempt, and would spit upon them. That was not the example set by the great men of the Revolution or of the war of 1812.

I do not know that I can express myself in better language than General Jackson did in his proclamation calling out the free negroes of Louisiana, and I shall therefore take the liberty of reading that proclamation, which was dated at Mobile, September 21, 1814. He says:

"HEADQUARTERS SEVENTH MILITARY DISTRICT,
MOBILE, September 21, 1814.

"To the Free Colored Inhabitants of Louisiana:

"Through a mistaken policy you have heretofore been deprived of a participation in the glorious struggle for national rights in which our country is engaged. This no longer shall exist.

"As sons of freedom you are now called upon to defend our most inestimable blessing. As Americans, your country looks with confidence to her adopted children for a valorous support as a faithful return for the advantages enjoyed under her mild and equitable Government. As fathers, husbands, and brothers, you are summoned to rally around the standard of the eagle to defend all which is dear in existence.

"Your country, although calling for your exertions, does not wish you to engage in her cause without amply remunerating you for the services rendered. Your intelligent minds are not to be led away by false representations; your love of honor would cause you to despise a man who should attempt to deceive you. In the sincerity of a soldier and the language of truth I address you."

He goes on to state the inducements offered to them; and afterwards, after they had served faithfully, he issued the following address to them:

"To the Men of Color:

"Soldiers! From the shores of Mobile I collected you to arms—I invited you to share in the perils and to divide the glory of your white countrymen. I expected much from you, for I was not uninformed of those qualities which must render you so formidable to an invading foe. I knew that you could endure hunger and thirst and all the hardships of war. I knew that you loved the land of your nativity, and that, like ourselves, you had to defend all that is most dear to man. But you surpass my hopes. I have found in you, united to these qualities, that noble enthusiasm which impels to great deeds.

"Soldiers! The President of the United States shall be informed of your conduct on the present occasion; and the voice of the Representatives of the American nation shall applaud your valor, as your general now praises your ardor. The enemy is near. His sails cover the lakes. But the brave are united, and if he finds us contending among ourselves it will be for the prize of valor, and fame, its noblest reward."

Commodore Perry used negroes on the lakes. A considerable portion of the force employed by him at the battle of Lake Erie were free negroes; and he regarded them as good soldiers. They aided him in repelling the British in their very

formidable attack on our northern frontier. I am not ashamed to acknowledge that the people of Ohio, in the war of 1812, owed their safety from further invasion from the British not only to the bravery of white soldiers but also to the large number of negroes who enlisted in the service. In our naval service, I am informed that they have been always used. I believe that in every vessel-of-war over which our flag now floats, in whatever country it may be found, the negro fights side by side with the white man; and our tars do not consider themselves as degraded because a man of a different race and a different color can show bravery and courage as well as themselves.

The State of New York, in the war of 1812, organized negro regiments. I find among the statutes of New York "An act to authorize the raising of two regiments of color," passed October 24, 1814.

But not only did we use negro soldiers in that war, but the British employed them against us. They organized a negro force within one hundred miles of Washington, and if they had made extensive inroads into our country no doubt they would have employed more. To establish this let me read from Alison:

"Three regiments of Wellington's army arrived in Chesapeake Bay in the middle of August, 1814. General Ross commanded the land forces, Admiral Cockburn the fleet; their first measure was to take possession of Tangier Island, where they erected fortifications, built store houses, and hoisted the British flag; inviting at the same time the negroes in the adjoining provinces to join the British force in the island, and offering them emancipation in the event of their doing so. Seventeen hundred speedily appeared, were enrolled and disciplined, and proved of no small service in subsequent operations."—*Alison's History of Europe, English edition, vol. 13, p. 435.*

I have thus, Mr. President, perhaps at the risk of being wearisome, shown that in ancient and in modern times, by all civilized nations, by our own country and by our enemies, in all of our wars, negro soldiers both free and slave have been used in the military service, and in every case where slaves have been so used they have been secured their liberty. It would be an intolerable injustice, to which no people would ever submit, to serve in the military service without securing that greatest of boons. My answer, then, to the main question, whether the employment of negroes, free or slave, is justified by the laws of war is, that by the practice of all nations it is justified.

I come then to another question that it is necessary for me briefly to refer to, and that is whether there is anything in the Constitution of the United States that forbids us from employing free negroes or slaves. On that point there can be no doubt. The only restraint upon the law of war contained in the Constitution is in article three of the Amendments, which provides that "no soldiers shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law." With this exception, all the practices of civilized nations may be used in this war. There is nothing in the Constitution of the United States prescribing the mode and manner of dealing with an enemy; nothing which affects the power of the President or the power of Congress over the Army or Navy except the simple restraint that soldiers shall not be quartered in any house in time of peace without the consent of the owner, nor in time of war but in a manner prescribed by law. When I look again to the powers of Congress I find that Congress is invested with the broad power to declare war; no such power is conferred on the President.

There is no reference in the Constitution to the power of the President in time of war except that he is Commander-in-Chief of the Army and Navy; but Congress is empowered to "raise armies." Congress may "make rules and regulations for their government." Congress alone has all those powers which are called war powers in other countries. In England, in France, in all monarchies, as a matter of course the executive authority embraces all the war power; but under our Constitution the President has no war power except simply to command the Army and Navy according to the laws that we prescribe. Congress must pass rules and regulations; Congress must raise armies. By the Constitution the President has no power to enlist a single soldier, black or white, bond or free, except as is authorized by law, or, as is said by the Supreme Court, in the decision to which I have already referred, in a case of public exigency he may anticipate

at his peril the action of Congress, and if his action is subsequently ratified and approved by Congress it then becomes operative from the beginning. But as an original question, the President does not possess any war powers. They are all vested in Congress. Congress alone can raise armies; Congress alone can make rules and articles for their government.

Now, sir, is there any exception in the Constitution as to our power to raise armies? Where is the clause limiting our power to free men, to white men, to aliens, or to any other class of people? The power to raise armies is as high as heaven, as broad as our own country, and includes every man within it. We may muster in the whole population. We may by conscription laws force our whole population into the Army. We alone can do it. Congress, by a law sanctioned by the President, can exercise this power, and no other authority can.

Why is it that we are called upon every day to fix the price of service, to fix the pay of the soldier? Why is it that we are now called upon to raise the pay of the soldier from thirteen dollars to sixteen dollars a month? Why does not the President do it? Simply because Congress alone has the power to prescribe the mode of raising an army and the pay of an army. If the President cannot raise the pay of a private soldier from thirteen dollars to sixteen dollars a month where does he find the power to offer as pay to the black soldier his liberty—the highest reward? There is the question. Remember, I do not object to the exercise of this power; I am in favor of it. I believe the war has been protracted so long because we have feared, through prejudice and probably on account of old party relations, to exercise the great powers that are invested in us. I believe that from the beginning, when the rebels assumed the position of enemies, we should have armed against them the whole negro population of their country. They need not tell me that if we arm the negroes they will arm them. They cannot arm their negroes unless they promise them their freedom. If they promise them their freedom their whole confederacy crumbles into dust. Their whole confederacy is built, as Mr. Stephens said, on the idea that man should own property in man; that the negro is inferior and must be held subordinate to the white race; that he must be held as a slave. If they arm the slaves and promise them freedom their whole confederacy would crumble into dust. I do not fear any empty threats of that kind. I say from the beginning we should have armed the slaves; but before doing so, in my judgment, we ought to secure them by law, by a great guarantee, in which you and I and all branches of the Government would unite in pledging the faith of the United States, that forever thereafter they should hold their freedom against their old masters.

It is not that I object to the proclamation of the President. I simply want to give it the form and sanction of law. I have doubts about his power to issue this proclamation, or that it will be of any validity. I fear this as the great injustice of the times; that when this war shall be over, if Congress allows this matter to rest solely on the President's proclamation, and a negro comes up and shows that proclamation in a court of law as his charter of freedom, your court of law will turn him adrift, and tell him it was a mere piece of parchment issued by a man who had no authority to guaranty it. That is what I fear. I wish to guard against that contingency by clothing this promise of emancipation with all the guarantees and sanctions of law; and with my view of the powers of Congress I have not the slightest doubt that we can do it. I have not a doubt that we may declare that we will enlist into the Army of the United States negroes, whether bond or free, in the southern States; and that, as wages or as pay for their services, we may decree their emancipation.

Mr. President, we give bounties to soldiers; we give land to soldiers. By what authority do we do this? I ask you, if we can induce white men to enter the service by a promise of one hundred and sixty acres of land and by \$300 bounty, why can we not induce a negro to enter the military service for the highest of all compensations—the emancipation of himself? Why, sir, we take your son who owes you service for a short period; we take him under age; we enlist him in the service;

we induce him to enter that service by bounties, by the promise of lands, and by the liberal inducements held out to our soldiers; and by that very act we deprive you of the labor of your son. Under what authority of law do we do this? Under the simple authority to raise armies. That authority overrides all your rights.

I agree with the sentiment expressed by the Senator from Maryland [Mr. Johnson] the other day, if I understood him correctly, that Congress in the exigencies of the country may arm the negro population of this country and muster them into service. The only question on which he and I would differ would be as to the measure of compensation that ought to be held out to these negroes for that service. He admits that we have the power to use their physical force; and in the face of the historical cases I have quoted no man can doubt our power to muster these blacks into our service. The only question is whether, as a compensation for their services, we can promise them emancipation; and upon this point I see no limit to our power. Why, sir, you are about to confer the highest honor on General Grant as a reward for his services. You make our white soldiers generals, and give them the star, the garter of our republican form of government. You give them honor, name, that for which men fight and struggle more than anything else. You give them all these. I ask you, when you can take money, lands, honor, property, everything, and give them to your white soldiers, can you not give to the negro who is put into your service his own liberty and secure it to him forever? It is a narrow view of the powers of Congress to say we have no right to give a negro freedom as the result of military service.

What is the consequence of this doctrine? It is this: in prosecuting war against these rebellious States we may exercise against them the powers of war. But, sir, in dealing with another class of people we are restrained by certain constitutional obligations. Upon this point I shall probably differ with many of my political friends; but I am here to speak my earnest convictions. As against the rebels of the South, I say, you can seize their slaves; you can put them in your armies; you can make them serve you; you can emancipate the whole race as a measure of war, because by the laws of war emancipation and the employment of slaves are proper incidents of war. Therefore in the seceding States there is no difficulty in the way; and even as to the loyal men in those States the decision of the Supreme Court is that as those States have gone out of the Union you may prosecute even against your loyal citizens in those seceding States the laws of war. States as communities have gone out, and the Supreme Court have decided in the very case to which I have referred that the laws of war obtain against all loyal citizens in the seceding States. I will read an extract from that decision:

"All persons residing within this territory whose property may be used to increase the revenues of the hostile power are, in this contest, liable to be treated as enemies, though not foreigners. They have cast off their allegiance and made war on their Government, and are none the less enemies because they are traitors."

Therefore it is that if a loyal man in the seceding States loses his property it is not by our act, it is by the act of the enemy. By a well-recognized principle of international law the government of a State is not responsible for the acts of the enemy. The destruction of slavery in the seceding States is the act of the enemy necessarily growing out of the state of war; and if our own loyal citizens are affected by the operations of the laws of war in the seceding States they have no right to complain against the United States. If my house is burned over my head by a public enemy I have no right to reclaim the value of that house from the United States. The Government is never responsible for the act of the enemy. It is bound to use all necessary force, so far as it can, to protect its citizens; but if it cannot do so, or if, in the course of the war, the private property of a citizen is destroyed, that citizen has no right to reclaim the property from the Government. This is a clear principle of international law. Therefore, as to the loyal people in the seceding States, they take the fortune and chances of war. It may be hard on them. I confess it is. I pity them from the bottom of my heart. I have seen brave and true and loyal men from those States who have lost all their property, who

have been dragged into unwilling servitude in the southern States; but that is the fortune of war. We cannot protect them. If their property is destroyed and their slaves emancipated as the result of this war it is not the act of the Government, it is the act of the rebels with whom it was their misfortune to be associated.

Now, sir, you come to another class of citizens in the adhering States, as they are called, in the loyal States. I ask you whether they are not entitled to certain constitutional privileges which you are sworn to give? You cannot use against these loyal men in the adhering States the laws of war. As against all the enemies of the Government, those who do anything whatever to contribute to overthrow the Government, living in the adhering States, you have a right to prosecute the laws of war. The people of Ohio decided that in a very mild case in our own State. They believed that a certain gentleman who was very prominent had committed such acts as indicated him as a public enemy. The military authorities seized him and expelled him beyond the limits of the State of Ohio. His friends endeavored to excite a great deal of compassion for him on that account. On what ground was it justified? If any true friend of his country had been seized in Ohio, had been deprived of his liberty, had been expatriated, the whole people of the gallant State would have risen in arms to defend him, although he was the humblest of their citizens; but they believed he had taken such a course in this war that he was a public enemy; that he had done all he could to aid the public enemy; that he was regarded by them as their friend, and by us as an enemy. Therefore the act of the Government in seizing him and forcing him beyond our lines was justified by an overwhelming vote of the people of Ohio; but upon what ground? On the ground that he was a public enemy. Therefore, as to all those men who in the adhering States have been false to the Government, who have by acts—not by mere words, because I would not hold a man responsible for his words—done anything to aid and contribute to the success of the rebels in this war, they may be treated according to the laws of war. If they lose their slaves so much the better. If they lose their property so much the better. No one ought to complain of it. They have taken the chances of the success of this war; let them enjoy them.

But now, sir, you come to another class of people; and I ask my political friends this plain question: when there are loyal men in the adhering States—I do not speak of that class who live in southern States—but when there are loyal men in the adhering States who have been true to your country and true to your flag, I ask you whether you do not owe them the application of a different rule? I say you have the right to take the slaves of those loyal people. You have the right to take the slave of my friend from Kentucky, [Mr. Davis:] you have the right to take the free negro in his neighborhood; you have the right to take his son; you have the right to take him, if it is necessary, to crush the rebellion; and I believe he would be as ready to respond, if his personal services were needed to put down the rebellion, as any man in the Senate. Although I do not agree with many of his opinions I believe him to be patriotic, courageous, and brave. I know he has in the hour of danger stepped forward and been mustered under our flag and carried a musket by the side of the common soldier. This Government has the right to his slave if they want him. They have the right to a free man. They have the right to use them in the military service. I ask you, when the slave of a loyal man is taken in the adhering States are you not bound to give him fair and legitimate compensation? It is not a sufficient answer for you to say to me that you do not recognize property in slaves. The answer to that is that by the local law of the State which has remained true to the Government he is recognized as property, and the master is protected in the enjoyment of that property within the limits of that State. If you deprive him of that property you are bound in honor and conscience to share with him the loss.

Here is a feature of the bill introduced by the Committee on Military Affairs that I cannot approve. I do not think it will take very much money to pay for such slaves. I am in favor of using the slaves of the people of Missouri, of Kentucky, and West Virginia, and Maryland

wherever they can be mustered into our service; but, sir, I think when you take the slave of a loyal master you should pay a fair and reasonable compensation for the labor of that slave. It is true, as my friend from Maryland said the other day, that the value of the slave is very small in Maryland. I would only pay the master that depreciated value. That depreciated value is caused by the rebellion. That depreciation which has been brought upon his property by the act of the rebels he is not entitled by the laws of war to have compensation for. My property may be depreciated. The property of all loyal citizens may be depreciated. I have no right to complain of this. I have no right to ask compensation for this. Therefore, to the extent his property is depreciated by the rebellion in Maryland, he should not be paid; but to the extent his property is of value in Maryland at the time we take it, we ought in justice and honor and good conscience to give him a reasonable compensation.

That is my view, and I believe the people of the State of Ohio, who in this war have certainly shown their willingness to meet all the sacrifices that have been put upon them, who have done their full share in furnishing you officers and men to fight your battles, will not begrudge the small pittance that may be paid under this system of compensated emancipation to the people of the border States who have been true to the flag of our country in the hour of its great danger. By these principles in the further discussion of this bill I shall be guided.

I think, therefore, to conclude, we ought, by a wise, carefully prepared law, to enroll the negroes of this country into the armed service of the United States so far as they can be properly used. I believe they will fight well. We ought to secure to them their freedom. To all the slaves in all the rebel States I would secure freedom to the last man, woman, or child. I never would allow the men who have rebelled against the best Government God ever gave to man to own a slave, or, I was about to say, to own any other property. They are outcasts. They have rebelled. Their rebellion was causeless. I have no pity for them in all the sufferings that may be heaped upon them in their own generation. For those men who domineered in this Senate, who domineered in the other House, who converted our political bodies into arenas for the defense of slavery, for those men who when fairly beaten in a political contest took up arms to overthrow the Government, I have not the slightest sympathy or respect. They are not only enemies but they are traitors, and I will enforce against them not only the laws of war but the municipal laws of our own country as to treason. So as to all those men living in the northern States, slave or free, who in this hour of danger have been active in their opposition to the Government, who have not given what the Government has a right to have, a manly, generous, free support, I have no sympathy whatever. I do not speak of mere political opposition evinced in words or with a desire to have somebody else selected President rather than Mr. Lincoln; but for those men who have actually aided the rebels in the adhering States I have no sympathy. I do not care how many of their slaves you put into the service; how much of their property you take; how much you confiscate. I perhaps will go as far as the farthest. All I ask is that when you touch the local rights and the local property of those brave and true men of the southern States who have been true to the country in this hour of danger you ought to extend to them reasonable consideration for the circumstances by which they are surrounded.

In this war we are all called upon to make sacrifices. Those men in the border States have suffered worst of all. Missouri has been trodden over by armed men in all directions. So to some extent has Kentucky; so to some extent has Maryland. Tennessee has been ridden over with the hoof of war. These people have suffered. We cannot help that. We cannot spare them all suffering. All the property of all the people of the United States could not redress the wrongs of this war. All we have got to do is to fight it through. But I say, for one, I never will consent to deprive true and loyal men of the adhering States who have been true and have rendered good service, not merely lip service, but have rendered good service in the hour of the country's peril—I will

not take from him even his own local rights without giving him a fair and honest compensation. That, I believe, is the true theory of this whole difficulty.

On the subject of emancipation I am ready now to go as far as any one. Like all others, I hesitated at first, because I could not see the effect of the general project of emancipation. I think the time has now arrived when we must meet this question of emancipation boldly and fearlessly. There is no other way. Slavery is destroyed, not by your act, sir, or mine, but by the act of this rebellion. I think, therefore, the better way would be to wipe out all that is left of the whole trouble, the dead and buried and wounded of this system of slavery. It is obnoxious to every manly and generous sentiment. The idea that one man may hold property in the life of another, may sell him like cattle, is obnoxious to the common sentiment of all. Now, when the power is in our hands, when these rebels have broken down the barriers of the Constitution, when they must be treated by the laws of war, when we dictate those laws, not the President, let us by law meet this question of emancipation boldly and fearlessly. I am prepared to do it, and to vote to-day, to-morrow, or any day for a broad and general system of emancipation. Then, sir, I would couple with that idea fair, honest compensation to those loyal men who, in the adhering States, own this class of property. The amount paid to them would be insignificant compared to the cost of this war.

These sacrifices we must make. I know we are called upon to make more. What homestead in this country has not made a sacrifice? What family can you enter in this broad land where the drapery of mourning is not hung over the hearthstone, where there are not sons and brothers and kindred who have fallen in this war? Why, sir, if you tell the young widow who has lost her husband in this contest that she has not suffered as much as the slaveholder of Kentucky will suffer by the loss of his slaves she would consider you a fool or a madman. The mother who has seen her noble son depart from her side full of the lusty vigor of manhood and seen him again return broken by disease, ready almost to die—I ask you whether her sufferings and sacrifices are not greater than that of any slaveholder in the world?

I tell you, Mr. President, this war has in my judgment demonstrated the necessity in this republican form of government of doing what our forefathers hesitated about doing, to wipe out with one bold and manly stroke of legislation, not of proclamation, the whole system of slavery in this country. Then, when this is done, for the good that it will bring upon us, for the honor it will bring upon our race, for the glory it will bring on our country, then free in every sense of the word, we can afford to deal generously with those whose local interests we have sacrificed and whose property we have taken.

I see before me, then, a plain path of duty. I shall insist that, as the result and consequence of this rebellion, the system of slavery shall disappear from among the institutions of our people, and I shall desire to protect and compensate all I can the loyal slaveholder, to preserve unimpaired every feature of our Government, to preserve unimpaired the rights of all the States. I am willing to temper this system of compensation to the action of the States themselves. I am willing to move slowly, surely; and as I see movements are going on in Maryland, Missouri, West Virginia, and I trust soon in Kentucky and Tennessee, to wipe out this system by the action of those States, I shall not interfere with that action. But, sir, for one, while I hold a seat on this floor I shall insist that, as the result of this war, as the great punishment of this rebellion, as the great good to be derived from it, the system of involuntary slavery shall disappear from among us. Although our generation may have made all the sacrifices of the war I believe the future will reap all the benefit. Our nation, now thirty millions, in fifty years will be an untold number. Throw open the South, throw open the West to emigration from all the countries of the world, and a single generation of men, free, industrious, and happy, will compensate our nation for all the losses and sacrifices of this great war.

But, sir, while you leave upon our national record a single spot of that institution which has created all our broils and all our controversies,

which has lain at the root of all our troubles, we are not safe. The framers of the Government believed that this institution would pass gently away. It has not done so. Where it once gets a foothold it will extend itself. Therefore, I am for the broadest extirpation, the broadest eradication of this institution, so far as I can within the power contained in the Constitution of the United States. But, sir, in doing that I consider this nation rich enough and strong enough to deal generously and liberally with those who, while they owned this property, have yet been true to our country and true to our flag.

Mr. BROWN. I desire to ask the Senator from Ohio, with his permission, whether I understood him as saying in the course of his argument that he was prepared to enter upon a system of compensation to all the non-slaveholders for the losses and sacrifices they had suffered in this war?

Mr. SHERMAN. Oh, no. I expressly stated that by the laws of war all the losses and sacrifices by private citizens in the course of the war were not to be compensated by the Government.

Mr. BROWN. Then I wish to know why it is that the Senator distinguishes on the point of compensation in favor of the slaveholder as against the non-slaveholder.

Mr. SHERMAN. I will answer very promptly I do not. If I go into Missouri and take the personal property of the Senator from Missouri, and use it in the service of the United States, I am bound to pay for it; but if the public enemy should go there and take his private property, and use it or destroy it, the Government is not bound to pay for it. I would apply the same rule precisely to this class of property as to other personal property; and in considering the question of compensation I would make all deductions for that necessary diminution of value which the rebellion has caused to slavery.

Mr. COWAN. I should like to ask the honorable Senator from Ohio a question. I want to know whether I understand him on this point: I understand him to say that, in his opinion, the power of this Government to free slaves is a belligerent right. Do I understand him to say that this Congress, the municipal legislature, is the organ through which the nation manifests itself in the exercise of that right, or whether the Executive is the organ?

Mr. SHERMAN. The Senator could not have listened to me, or he would have answered that question himself. I think Congress must pass rules and regulations by which our Army shall be organized, say who shall be in the Army, what they shall be paid being in the Army, and how they shall be managed; that is, the rules and regulations governing the organization of the Army. When they are in the field in the face of the enemy, the President, as Commander-in-Chief, as a matter of course designates that this division shall go here, and another division there, &c.

Mr. COWAN. That is not exactly the question I put. It is this: I understand the bill now before the Senate provides not only for liberating the enlisted person, but it also goes further and declares that his mother, his wife, and his children shall also be liberated. As I understand the argument it is that by virtue of our belligerent rights against the rebels—who are belligerents, this being an actual war, we have the right to do that thing—we have the right to liberate slaves. But the question I desire to ask is this: which is the proper organ of the Government for that purpose? Is it the municipal legislature or is it the Executive of the nation? Which of the two is it that comes in contact with belligerents when the nation is in war, after the declaration of war has been made? As I understand it, Congress has the right to declare war. That is an exceptional power that it enjoys. In other countries the executive or the monarch, the sovereign, has the right to declare war; but in this country Congress decides that question. If war is declared, then who is it that is to determine what shall be done as against the belligerent; or, in other words, who shall determine what shall be done under the laws of war as against this belligerent? Is it the President, or is it the legislature?

Mr. GRIMES obtained the floor.

Mr. SHERMAN. I think—

Mr. GRIMES. If the Senator wishes to answer the question of the Senator from Pennsylvania, I will give way. I rose merely to move an

adjournment; not that I want the floor, but the idea of catechizing a Senator after making a speech over two hours long, seems rather a strange one.

Mr. SHERMAN. I am perfectly willing to answer the question.

Mr. COWAN. I want to understand the Senator's position on that point.

Mr. GRIMES. If the Senator wants to make a speech now I will give way; otherwise I will move an adjournment.

Mr. CARLILE. I ask the Senator to withdraw that motion for a moment.

Mr. GRIMES. Certainly.

Mr. CARLILE. The profound respect I entertain for the sincerity of the convictions of the Senator from Ohio, who has just addressed the Senate, as well as the importance of the subject under consideration as presented by him, has caused me to rise and say to the Senate, if they will indulge me by an adjournment, I shall attempt to discuss this proposition and reply to some of the erroneous positions, as I think, taken by my friend from Ohio. In order that I may not at the moment do him injustice, I desire to have the speech of the Senator as it will be reported in the Globe before me before I reply; and therefore I am willing to have an adjournment now.

Mr. WILSON. Will the Senator allow me to move to go into executive session instead of an adjournment?

Mr. CARLILE. Certainly.

EXECUTIVE SESSION.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 2, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

VERMONT RESOLUTIONS.

Mr. MORRILL, by unanimous consent, presented a joint resolution by the Legislature of the State of Vermont approving of the plan for ship navigation from the Mississippi river to the eastern seaboard by means of a ship canal, and requesting their Senators and Representatives to use their exertions to the accomplishment of the object.

He also, by unanimous consent, presented a joint resolution by the Legislature of the State of Vermont instructing their Senators and requesting their Representatives to use their influence to secure such modification of the post office laws as to allow the transmission through the mails of packages to soldiers at the same rates as now required for the transmission of books.

He also, by unanimous consent, presented a joint resolution by the Legislature of the State of Vermont instructing their Senators and requesting their Representatives to exert their influence for the passage of a law which shall secure equal pay to all soldiers now or hereafter mustered into the service of the United States.

The resolutions were laid on the table.

COMPENSATION OF INSPECTORS.

On motion of Mr. FENTON, by unanimous consent, Senate bill No. 66, to increase the compensation of inspectors of customs in certain ports, was taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means.

PURCHASE OF NAVAL SUPPLIES.

Mr. FENTON asked the consent of the House to introduce the following resolution:

Resolved, That the Secretary of the Navy be requested to inform this House, if not incompatible with the public interest, whether the supplies for that Department during the past fiscal year were purchased upon contract, as required by law; and if not, what proportion thereof and of what kinds were purchased in open market; that he also inform the House whether purchases were made in any of the bureaus of his Department without advertising for proposals, and whether by other officers than the Navy agents, and by what authority purchases were so made, and of what articles; and that he also inform the House of the practice of asking proposals for supplies in classes, giving the contract to the lowest average bids for a class of articles, oftentimes at the great pecuniary disadvantage of the Government, inasmuch as the price may be low on certain articles when few are required and high on others of which large quantities are required; and whether the practice of inviting pro-

posals and awarding bids in this manner is required by law; and that he also inform the House whether any, and if so what, alterations in the laws relating to the purchase of naval supplies are, in his opinion, necessary.

Mr. HOLMAN. I will not object to the resolution if the gentleman will modify it by striking out "if not incompatible with the public interest," and also strike out the word "requested" and insert in the place of it the word "directed." I believe it is not usual to insert the words "if not incompatible with the public interest" in resolutions calling for information from the head of a Department, and I can conceive of no possibility of the information now called for being not compatible with the public interest.

Mr. FENTON. Understanding that the modifications suggested by the gentleman from Indiana are in accordance with the usual custom in such resolutions, I will accept the modifications.

The resolution was then, by unanimous consent, received, considered, and adopted.

ARMY APPROPRIATION BILL.

Mr. STEVENS, by unanimous consent, reported from the Committee of Ways and Means a bill making appropriations for the support of the Army for the year ending the 30th of June, 1865; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for Tuesday next, and from day to day until disposed of.

PRINTING OF NAVY REGISTER.

Mr. RICE, of Massachusetts, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed two thousand five hundred copies of the Navy Register for the year 1864, for the use of the members of this House.

BOUNTIES AND ARREARS OF PAY.

Mr. HALE. In response to inquiries which have been made as to the cause of the great delay which has arisen in the payment of the bounties and arrears of pay in the cases of wounded and deceased soldiers, I have received the following communications, which I ask to have read, and printed in the Globe.

The Clerk read, as follows:

TREASURY DEPARTMENT, January 18, 1864.

SIR: I beg leave to inclose a report of the Second Auditor of the Treasury, in response to inquiries made by you as chairman of the Committee of Claims in the House of Representatives.

It will gratify you to observe that the principal cause of delay arising from want of room for the accommodation of an increased clerical force having been partially removed, and the force largely, though still insufficiently, augmented, the settlements are now made with much greater promptitude and rapidly than heretofore. Five thousand four hundred and thirty-five more claims were settled than were received during the months of December and November. It is my hope that sufficient room may soon be obtained for all clerks that are needed for the prompt dispatch of this important business.

I agree with the Auditor that the bill proposed by Hon. Mr. FENTON in the House will, if it shall become a law, greatly facilitate the settlement of these meritorious claims, and share his conviction that nothing has been left undone that could be done by any bureau with the same room and force to settle them at the earliest possible moment.

I trust it will be possible within a short time by the aid of the legislation now in progress to bring up all work of this description as to leave no cause to complain of delay to any one.

Very respectfully,

S. P. CHASE,
Secretary of the Treasury.

Hon. J. T. HALE, Chairman Committee of Claims, House of Representatives.

TREASURY DEPARTMENT,

SECOND AUDITOR'S OFFICE, January 14, 1864.

SIR: In compliance with your request and in reply to inquiries relating to the claims of deceased and discharged soldiers, and to the causes of delay in their settlement, made by Hon. JAMES T. HALE, chairman of the Committee of Claims of the House of Representatives, I have the honor to report:

That such claims have been generally settled up to the 31st of December, 1862, where the rolls could be obtained, and in cases where the muster and pay rolls for November and December embraced also the months of January and February, 1863, settlements are being made to the latter period.

On the 1st day of January, 1863, there were on hand and unsettled of this class of claims 1,870. There were settled during the year 13,467.

On the 1st day of January, 1863, the number on hand and unsettled was 37,354. The number settled during the year was 45,767, and there remained on hand unsettled, on the 1st day of January, 1864, 74,590.

A variety of causes have contributed to delay the settlement of this class of claims. Inability to obtain the necessary rolls, defective rolls, and insufficient proof of death may be referred to as among them, but the principal cause

of this vast accumulation is chargeable to an insufficiency of clerical force.

This subject has been the constant source of deep solicitude. In my annual report, under date of November 19, 1861, and some three months after I was placed in charge of this bureau, the following language occurs:

"By reference to the monthly reports from this office, made to your Department since the close of the fiscal year, it will appear that there has been a constant and rapid increase of its business beyond the capacity of my present clerical force to perform, and that, in some of its divisions, there has been an accumulation of unsettled claims. This has been unavoidable.

"The present clerical force in this office was intended to be and is only adequate to the prompt settlement of the current business arising under the peace establishment of the Army, demanding an annual expenditure of twelve or fourteen million dollars. It is limited by law to one chief clerk, eleven clerks of the third class, seven of the second, and three of the first.

"During the Mexican war, and for several succeeding years, the force was increased to forty-nine clerks, and yet the business fell sadly in arrears, and the delay attendant upon the adjustment of claims and debts against the Government was the occasion of great inconvenience and injustice to claimants and creditors.

"The true interest of the Government, as well as justice to claimants, demands that settlements should be made promptly and without delay. To accomplish this object a sufficient force of competent accountants should be employed to prevent an accumulation of claims in the office.

"If the increase of the Army and its expenses during the Mexican war created a necessity for more, than doubling the number of clerks in this office, it will be apparent that the business growing out of the employment of an Army of half a million men, and the disbursements of three or four hundred million dollars per annum, will require a much larger clerical force in the offices auditing war accounts and claims.

"In view of the recent increase of the business, I believe that within the next six months at least fifty additional clerks will be necessary to perform the current work of the office, and I hope that you may deem it proper to urge upon Congress the necessity of authorizing such a temporary increase of the clerical force as a prompt adjustment of claims may require."

The attention of Congress was invited to the recommendation, and in the following May the authority for a general increase of clerical force in the Treasury Department was given, but at that time the current business of the office had so increased that, notwithstanding the additional force which the Secretary had assigned to it in anticipation of the action of Congress, it became necessary to employ a large portion of the additional force in registering, briefing, examining, and filing claims and letters, and in attending to the correspondence necessary to prepare the claims for settlement.

With the increase of clerks came the necessity for suitable rooms for their accommodation. Earnest efforts were made by the Department from time to time to obtain them at my request, but only with partial success, as the other portions of the building were wanted for the accommodation of bureaus of other Departments.

As the files of this office embrace all the vouchers of disbursements for the pay of the Army, the purchase of ordnance and ordnance stores for recruiting, for medical and hospital purposes, and for the Indians, since 1817, they could not with propriety be removed into a building not fire-proof, and thus expose them to destruction; and no suitable building other than the one now occupied could be obtained. Nor could settling clerks be detached and distributed in other buildings without seriously impairing the efficiency of the office, and increasing the risk of losing the muster and pay-rolls, which are usually vouchers in paymasters' unsettled accounts, and borrowed from those accounts to settle the claims of deceased and discharged soldiers. Under these considerations no course could be pursued but to fill such rooms as could be obtained with clerks, and use every possible effort to keep down the accumulation of business until suitable rooms for a sufficient clerical force could be obtained. This has been done, and there has been no time since the first allowance and appointment of additional clerks to this office in 1862 when the rooms have not been filled beyond their capacity for convenience and health.

Since the 22d day of September last about sixty clerks have been added to this bureau to occupy the rooms vacated by the removal of the office of the Fourth Auditor to the Treasury building, and, as the general details of its business had been provided for, nearly the whole number were assigned to the duty of settling soldiers' claims. They were entirely unacquainted with the principles or details involved in such settlements, and will yet become more effective as they become more familiar with the business; but it gives me pleasure to inform you that, through their aid, five thousand four hundred and thirty-five more cases were settled than were received in the months of November and December. The number of cases settled in October was 4,390; in November, 6,446; and in December, 9,690.

It may be fairly estimated that, under favorable circumstances, settlements may be made at the rate of about ten thousand a month without any further increase of clerical force; and that by the middle or last of August next all claims now in the office, where the necessary evidence can be obtained, will be settled. During the last six months the receipts of applications have fallen off several thousand from those of the six preceding months, or of the corresponding months of 1862, so that, while the delay now existing in making settlements will be constantly diminishing, it must diminish more rapidly as the business of the last six months of 1863 is reached, and so continue until the short period within which settlements can be made will have been attained.

More room is needed for the convenience, comfort, and health of the clerks than is now assigned to this bureau. With the exception of four, the rooms are not large, are lighted by but a single window, and are without any proper ventilation; yet eight clerks, and occasionally nine, are compelled to work in each of these rooms. If it shall be

deemed advisable to expedite the settlement of accumulated claims by a still larger temporary increase of clerks, additional office room is imperatively required.

Allusion has been made already to some other causes of delay. Although settlements are still delayed by the want of the pay and muster-rolls necessary to settle the accounts, there is reason to believe that an administrative examination of the paymasters' accounts, in the order in which payments are made, will remove that obstruction and place the rolls in possession of this office as rapidly as they may be required.

The bill proposed by Hon. Mr. FENTON in the House of Representatives, if enacted, will remove the difficulties which now exist in relation to evidence of death, and also as to payments and allowances to soldiers in hospitals, and, if strictly enforced, will very greatly facilitate the settlement of claims.

Sharing in the anxiety often expressed by you that this class of claims should be settled at the earliest possible moment as a solemn duty of the Government to a class of citizens suffering by reason of patriotic sacrifices, nothing has been left undone that could be done by this bureau to accomplish that end; and it gives me great pleasure to assure you of the zeal and patient industry with which the clerks in this bureau have struggled to meet the almost overwhelming demand upon it.

I have the honor to be, very respectfully, your obedient servant,

E. B. FRENCH,

Second Auditor.

Hon. S. P. CHASE, Secretary of the Treasury.

PAYMASTER GENERAL'S OFFICE,

WASHINGTON, December 21, 1863.

SIR: I have the honor to forward herewith a copy of a communication from Hon. JAMES T. HALE, chairman of the Committee of Claims of the House of Representatives, dated December 19, 1863, and requesting information with regard to the delay in settling claims of deceased and disabled soldiers in the offices of the Paymaster General and Second Auditor, with any suggestions to remedy the same that can be offered.

In reply to this communication I would respectfully submit the following report:

As regards disabled soldiers who are discharged from service on account of wounds or disability, their final accounts are not settled in the office of the Paymaster General, but by the various paymasters in the field or at the numerous posts where such paymasters are stationed throughout the country. I am not aware of the slightest delay in the settlement of such claims having occurred, nor has any well-founded complaint of that character ever been made to this Department. On the contrary, it is believed that the discharged soldiers have been paid with commendable promptness. These soldiers are required to have certain discharge papers, which contain a statement of the amount of pay, clothing, &c., due them at the time of their discharge, and according to which the paymasters settle their accounts. These papers are made out by their company officers in the field, or surgeons in charge of the hospitals from which they may be discharged, and the paymasters have no control whatever over the same, but must be guided conclusively by what is stated in them. These papers are often grossly defective or incorrect; and the soldiers or the United States are thereby (as the errors are on one side or the other) made the losers by the ignorance or carelessness of the officers who thus make out these discharge papers. The only remedy that can be suggested for this evil is to require greater care on the part of such officers in the performance of this duty, and to punish, as a military offense, any neglect or omission in making out correct discharge papers.

By act of 3d March, 1863, the \$100 bounty previously granted to soldiers who had served two years was allowed to all soldiers who were discharged on account of wounds received in action before having rendered such two years' service. The paymasters were instructed to pay the claims under that act at the same time that they settled the arrears of pay, &c., due such disabled men on their discharge papers.

The Second Auditor of the Treasury, however, refused to pass any accounts of paymasters for such disbursements, and directed that the same should be at once suspended. The reason given by the Second Auditor was that Congress had made no appropriation for the payment of such claims. All payments of such bounty to wounded men were therefore suspended under this ruling of the Auditor, and all claims under that act are still unsettled.

This Department was and is ready to pay this bounty as soon as authorized by the proper authority.

As regards the settlement of the claims of deceased soldiers, I would respectfully state that such settlements are assigned by a formal and standing and well-considered regulation of 1832 to the Second Auditor of the Treasury, and that neither the Paymaster General nor any of his officers have any control or authority in the matter. The reasons for placing the settlement of these claims in charge of the Second Auditor are obvious. The rolls of the different regiments, batteries, &c., in service on which the paymasters make payments are forwarded by them in the course of a few weeks after such payments to the office of the Paymaster General, where they receive a preliminary examination, and are then forwarded to the Second Auditor of the Treasury for final settlement of the paymasters' accounts as disbursing officers responsible to the Treasury Department for the public funds received from it. These accounts remain forever after on file in the office of the Second Auditor, where they can at any time be referred to; and from the date contained on such rolls, &c., as relates to the deceased soldiers, the necessary information is obtained to settle the amounts due them at the time of their decease.

It is apparent, therefore, that it would be impossible to commit the claims of deceased soldiers to the paymaster who pays the regiment, &c. He returns the rolls and the required information only for a few weeks, and the necessary claims of the heirs, &c., could not possibly be prepared and proved in that time. For the same reason these claims could not be settled in the office of the Paymaster General, where these accounts and rolls remain only a short time in

transit to the office of the Second Auditor. But in that office these rolls are frequently retained, and can be at once referred to when the claims of the heirs are presented, whether such claims come in in a month or two after the soldier's death, or, as is frequently the case, not for a long period, even years, after his decease.

Another reason for placing the settlement of these claims in charge of the Second Auditor and his revising officer, the Second Comptroller, is the character of the claims themselves. In determining the right of parties to come in as heirs of a deceased soldier, in settling whether sufficient proof of such heirship has been given, and in numerous other similar questions constantly arising under these claims, the accounting officers of the Treasury act in a sort of judicial capacity, and with an authority that could not be allowed ordinary paymasters, or even the Paymaster General, who is simply a military officer and exercises only military authority. The determining such questions can only be vested in officers having final jurisdiction in the matter, and whose decisions are binding, and not in subordinates, whose accounts are liable to revision and suspension, and disallowance, even, if incorrect.

Since the present rebellion attained the vast proportions it has grown to, the large number of troops in service and consequently large number of paymasters required to pay them has multiplied to an enormous extent the number of accounts required to be rendered. Every exertion has been made to have these accounts promptly rendered to this office and examined, and forwarded to the Second Auditor as soon as possible. Owing to the want of sufficient clerical force, and of office accommodation, some accumulation of these accounts occurred in this office, but never to a sufficient extent to interfere with the settlement of these deceased soldiers' claims in the Second Auditor's office. This will more fully appear from the report which was made on this subject from this office on — Instant, a copy of which I have the honor herewith to inclose, marked A. From this report it will be seen that while this office had forwarded to the Second Auditor the accounts of paymasters up to April 30, 1863, the claims of deceased soldiers were only being settled up to September 1, 1862, or more than six months behind the date to which the necessary rolls and accounts were filed with the Auditor, which were required for reference in such cases. Under arrangements lately authorized by the honorable Secretary of War, the clerical force of this office has been and still is being increased, and it is intended to examine and forward to the Second Auditor all the accounts now in this office, and hereafter to have these preliminary examinations made immediately on the receipt of the accounts, and they at once transmitted to that officer for final settlement.

It is presumed that the delay in settling the claims of deceased soldiers in the office of the Second Auditor has arisen from the same cause as that in settling the disbursing accounts of paymasters in the same office, namely, want of sufficient examining clerks both there and in the revising office of the Second Comptroller. A simple remedy, therefore, would be to increase the clerical force in both those offices to such an extent that all claims can be taken up as soon as filed, examined, and passed upon. What increase would be necessary for this purpose can, of course, be best determined by the officers.

Some additional force has already been added in the Second Auditor's office, and he is now settling daily a much larger number of these claims of deceased soldiers than formerly, though still not enough, it is believed, to keep up with the number of fresh ones daily presented.

It is not seen that any other remedy is required, and it is doubted whether any change of the method of settling these claims could be adopted advantageously at the present time, even if such change had some certain benefits or improvements. It is a dangerous experiment to alter a long-established and well-considered method of transacting business in the midst of such great pressure and amount of work as is now existing in every branch of the Government. A new scheme would require time and experience to perfect it; and meanwhile constant trouble and difficulties would interfere, and cause many more delays and complaints than those sought to be removed.

I have the honor to be, sir, with the highest consideration and esteem, your obedient servant,

T. P. ANDREWS,
Paymaster General.

Hon. E. M. STANTON, Secretary of War.

The communications were laid on the table, and ordered to be printed.

Mr. HALE. In connection with these communications I have been instructed by the Committee of Claims to report the bill which was submitted by the gentleman from New York, [Mr. FENTON], and which, as I understand, was prepared in accordance with the wishes of the Secretary of the Treasury.

Mr. HALE, by unanimous consent, then reported from the Committee of Claims a bill to facilitate the payment of bounties and arrears of pay due for the service of wounded and deceased soldiers; which was read a first and second time.

The bill was read at length. It provides that upon the death of a non-commissioned officer, private, musician, artificer, or other enlisted person employed in the military service of the United States it shall be the duty of his commanding officer, or, if a member of the non-commissioned staff, it shall be the duty of the adjutant of such command immediately to make triplicate statements thereof, specifying the date, place, and cause of death, embracing the full military history of the deceased, one to be forwarded to the Adjutant General, one to the Surgeon General, and one to the Second Auditor of the Treasury.

The latter officer shall cause such statement to be filed and entered in alphabetical order in books covering all the data contained in such statements.

Upon the death of an officer in the military service the commanding officer is to make full statements in the case of non-commissioned officers, &c. Upon proper proofs of heirship, the Second Auditor of the Treasury is to issue immediately a certificate of the sum found to be due to the deceased for bounties, arrears of pay, clothing, &c., which certificate shall be paid by any paymaster of the United States Army—the certificate to issue and be made payable to heirs in the order now prescribed by law and the rules of the Auditor. Where the death takes place in a hospital, away from the command of the deceased, the surgeon in charge is to make the triplicate statement, and also notify the command to which deceased belonged.

The second section makes it the duty of the commanding officer, on pain of dismissal, to furnish a full descriptive list to the officer or soldier detached from his command, furloughed, or sent to hospital, sick or wounded.

The third section makes it the duty of the Commissioner of Pensions to adjust all claims for bounty, under rules and upon proofs as required in cases of invalid pensions, and to issue certificates therefor, payable by any paymaster of the United States Army.

Mr. SCHENCK. I will only say a word.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor.

Mr. HALE. I desire to call for the previous question.

Mr. SCHENCK. All of this subject has been referred to the Committee on Military Affairs, to which it properly belongs.

Mr. FENTON. I ask the gentleman to withdraw the call for the previous question.

Mr. HALE. I withdraw it.

Mr. FENTON. Mr. Speaker, I do not rise for the purpose of making an extended remarks in favor of the pending bill. I suppose it is well understood by the House that the bill simplifies the mode and facilitates the payment of arrears of pay and bounty due to the widows, children, parents, brothers, or sisters of deceased soldiers, about which there has been so much complaint. In addition, the bill provides for the adjustment of claims for bounties now provided by law to soldiers wounded in battle by the Commissioner of Pensions, and upon the same proofs required to obtain invalid pensions, thereby obviating the necessity for making two sets, separate claims and duplicate papers. No one can object to this.

The delay in the payment of these dues to the relatives of deceased soldiers, arrears of pay and bounty, has been the source of wide-spread complaint, and the subject had, early in the session, my earnest investigation in search of the cause and the proper remedy, so that the heirs of those who laid down their lives in defense of the institutions and liberties of the country should not complain of unnecessary delay in the adjustment of their claims. The bill before us accomplishes the object, in my judgment. At all events, it points out the way for payment within sixty days from the death of the soldier, if proper proof of heirship is made, and with less clerical force, instead of taking twelve to eighteen months, as now.

One word in reference to what the chairman of the Committee on Military Affairs has said, that this whole subject has been referred to that committee. Early in this session this bill was introduced by me, and referred to the Committee on Military Affairs, and a few days subsequently, by order of the House, the whole subject in reference to the delay of payment of arrears and bounty due to disabled or deceased soldiers was sent to the Committee of Claims. The attention of the Secretary of the Treasury and the Second Auditor was called to the bill which I had introduced and referred to the Committee on Military Affairs. It was thought by them, and so communicated to the House, that this would obviate the defects in the present method, and reduce it to the most speedy and perfect system. In compliance with the resolution of the House, the Committee of Claims have submitted the pending report and bill, which is a transcript of the bill introduced by me, and I hope that there will be no objection on the part of the Committee on Military Affairs because it comes from the Committee of Claims. It can make no difference to the

House, nor will the country care, what committee brings in the measure; it should be passed without delay.

But I did not intend to speak to the bill, but to defend a most faithful public officer from the charges of neglect or needless delay in the settling of these claims; and I ask to submit a statement, for I am convinced that the Second Auditor (Hon. E. B. French) has done all any person could, with the force under him, and with the law as it now stands, to dispatch with promptness and fidelity the business relating to these accounts.

The data in the Auditor's office will show that in addition to those causes of delay generally known to exist, there are many other very fruitful and annoying ones which those engaged in the settlement of this class of claims meet with constantly, and which are difficult to be fully understood by persons not somewhat acquainted with the manner in which settlements have to be made.

First. In the volunteer regiments of many of the States consolidations are made of two or more regiments; and frequently, in such cases, no mention is made upon the rolls of the date at which the consolidation took place; in consequence of which much time and labor are required in ascertaining to what period the deceased soldier was last paid, which fact is essential to the just settlement of the claim of his heirs. For instance, suppose the third Kentucky regiment was united with the seventh Kentucky September 10, 1862, but the date does not appear upon the rolls. John Jones originally enlisted in the third regiment June 4, 1862, but dies a member of the seventh regiment February 20, 1863, some months after the consolidation. The period to which he was last paid is sought for. The muster-roll of the seventh regiment for January and February, 1863, contains his name and states that he enlisted June 4, 1862, not saying in what regiment. The roll of the seventh for November and December, 1862, has his name, but it is found that he was not paid for those two months; the roll for September and October, 1862, also has his name, but he was not paid for those months; the roll for July and August, 1862, is examined, but his name is not upon it; the clerk then, thinking his name may have been omitted by mistake, examines the next preceding roll, that for June and July, which covers the date of his enlistment. His name is not found. It is then concluded that he must have originally enlisted in some other regiment; but in what one, and when was he transferred? None of the rolls of the seventh mention the consolidation, and other means must be resorted to in order to ascertain, which necessarily requires much time and labor in addition to that already expended.

Second. Cases are met with where the name of the soldier does not appear upon any roll of the company of which he was a member, in which case, of course, after much looking up and examining of rolls to no purpose, the application must be suspended while a correspondence is going on between the office and the attorney acting for the claimant, and between the attorney and his client in turn. This defect in rolls is of frequent occurrence, and retards the action of the office to a great extent. It requires as much time to look up the rolls and examine them, and write to the attorney for further evidence, in a case of this kind, as to settle a perfect claim. Additional proof may be received in three weeks, but probably not under six; meanwhile the rolls are needed, perhaps, by the clerks settling paymasters' accounts, or at the Second Comptroller's, and when the requisite evidence arrives they must be hunted up again, and as much time is required in the final settlement of the claim as would have sufficed to settle many claims at first.

Third. Regiments, particularly of cavalry, are frequently divided into several detachments and remain so for a long time. The rolls of such detachments often utterly fail to give any data necessary to the settlement of the claims of the heirs of those who may have died. Only the names of those who are paid appear, no information as to what has become of the others being given; and as members of the same company are put into several different detachments, it is found to be almost impossible to obtain the necessary information for the settlement of claims arising under them.

Fourth. Perhaps the failure of company officers

to note upon the rolls the several dates at which soldiers die is the cause of more trouble and delay than any one of the above-mentioned defects, and is of frequent occurrence.

These are some of the prominent impediments in the way of the settlement of claims, for which the remedy is to be found in this bill. There are other serious difficulties, arising from the confused manner in which clothing accounts are stated upon the rolls and final statements. The amount of delay produced by this cause is nearly equal to that incurred by any of the defects heretofore named. This, however, is rather a subject for departmental than legislative action, and can be entirely and completely remedied by the Department. The difficulties with which the Secretary of the Treasury and the Auditor have had to contend are great; pass this bill, and you give them relief from the pressure of obstacles and complaints, and make the poor and deserving claimants, the relatives of our brave soldiers, rejoice.

Mr. SCHENCK. It is very true, as I have stated, that this whole subject has been referred to the Committee on Military Affairs. It is equally true that that committee have submitted it to a sub-committee for close investigation; that it was recently the subject of discussion before that committee; that that committee is engaged upon this whole matter thus sent to them by the House for examination; and now, sir, while thus engaged we are surprised with what has just taken place. We have the explanation of the gentleman who introduced the bill and had it referred to the Committee on Military Affairs, while the subject has been sent to that committee, by some reference or in some way it has also been brought before the Committee of Claims, which committee, satisfying themselves after consultation with some of the Executive Departments, have now submitted the pending proposition, and ask that it be put on its passage under the operation of the previous question. I submit, and I do so in plain words, whether this is acting with a proper respect toward the Committee on Military Affairs—the very same subject having been referred to that committee and having been at different times under discussion there, that committee also having under consideration a bill which covers this and kindred matters? When that is the case, is this subject to be brought before the House by this side-wind? And I say this without meaning any disrespect to the Committee of Claims, or to anybody bringing forward this bill. I ask whether it is proper to report it when the same subject has been referred to the Committee on Military Affairs, and on which they have bestowed close and careful attention?

Mr. Speaker, I have not had time to look at the pending bill. The gentleman from New York [Mr. FENTON] says that it corresponds with that which, on his motion, was referred to the Committee on Military Affairs. Suppose it does, the Committee on Military Affairs have been revising that bill to ascertain whether it contains all of the provisions that it ought to contain.

Mr. FENTON. I will say that the pending bill, I believe, meets with the entire approval of the sub-committee of the Committee on Military Affairs, to which it was referred. I can see no reason for objection in the manner in which the proposition has been brought before the House.

Mr. SCHENCK. It is not a question of pride at all.

Mr. HALE. The Committee of Claims examined into the subject, and on the recommendation of the Second Auditor they have reported in favor of this bill becoming the law. There has been delay for considerable time to get it before the House. There is no idea of doing anything discourteous to the Committee on Military Affairs. If that be the only objection, we are perfectly willing that that committee shall report the bill, and put it on its passage. Our only object is to save time. We think that the payment of these claims of disabled soldiers should be speedily accomplished. It was because the Committee on Military Affairs did not report the bill that the Committee of Claims felt it to be their duty to bring the subject before the House. It is to expedite a meritorious class of claims, the delay in paying which has been the cause of just complaint. This bill will facilitate the payment of a large class of meritorious claims. There can be no objection to the bill by anybody except upon the mere matter of courtesy. I had no idea of committing any act of discourtesy to-

ward the Committee on Military Affairs. I disclaim any such intention. I therefore move the previous question.

Mr. SCHENCK. I desire to be heard one moment longer.

Mr. HALE. I have no objection, but I do not wish to lose my right to move the previous question.

The SPEAKER. The gentleman from Pennsylvania will retain the floor.

Mr. SCHENCK. I have not supposed there was any intentional discourtesy upon the part of the Committee of Claims. I have simply stated to the House the facts of this matter, and I submit to the House whether, under the circumstances, having once referred the whole subject to a committee which has not, as a committee, had an opportunity to read or to examine the bill, (it not having been printed,) or to ascertain whether it contains all that is desired, they will, merely upon the assurance of a member of the sub-committee to which the matter was referred, be setting a proper precedent of action toward a committee of this House by passing this bill in this manner? If the House will examine the bill they will find that it provides for the dismissal of officers from service for penalties, and for various matters connected with military discipline as well as military law—matters which have been referred to the Committee on Military Affairs for examination and report. If the House feel disposed to dispense with committees whose duties are defined by the particular subjects intrusted to their charge, perhaps it may be well that any committee should make a report upon any subject without reference to the duties devolved upon them.

Mr. SPALDING. Under ordinary circumstances I should agree with my colleague from Ohio, [Mr. SCHENCK,] but I understand that this bill simply provides a way whereby our disabled soldiers may in a more speedy manner recover their back pay and bounty. It is a matter which is pressed upon us from all quarters, and I beg gentlemen to forego their objections, and let this bill pass now. It is a bill which, I am told, is entirely unexceptionable, and will give these men their pay in sixty days, which they could not otherwise get in twelve months. I hope we shall waive all questions of courtesy in behalf of this class of men, and pass this bill without delay.

Mr. HALE. I now demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced that the Senate had passed the following joint resolutions; in which he was directed to ask the concurrence of the House:

Joint resolution (No. 19) of thanks to Commodore Cadwalader Ringgold, and the officers and crew of the United States ship Sabine; and

Joint resolution (No. 11) of thanks to Major General George H. Thomas and the officers and men who fought under his command at the battle of Chickamauga.

THE ELECTORAL COLLEGE.

Mr. DEMING, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be, and they are hereby, instructed to inquire, and report by bill or otherwise, whether the condition of the country imposes any difficulties in the way of such an organization of the electoral college as will enable it legally and constitutionally to elect a President of the United States for the term commencing March 4, 1855; and whether, if such difficulties exist, they can be remedied by any legislation of Congress.

Mr. F. CLARKE introduced, by unanimous consent, the following resolution; which was read, considered, and agreed to:

Resolved, That in order to secure beyond a contingency the permanent payment of interest on the public debt in coin, and prevent an undue increase of debt, and restrict within proper limits the aggregate paper circulation of the country, the Committee of Ways and Means are hereby instructed to inquire into the expediency of increasing the

duties on foreign imports upon articles of luxury of a class, as far as practicable, not manufactured or produced in this country, so as, in their opinion, to produce a revenue of \$120,000,000 per annum. Also, into the expediency of increasing the internal revenue tax upon articles of luxury, and upon such articles of domestic manufactures as come in competition with foreign articles upon which the import duties are advanced, so as in the opinion of the committee to produce an annual revenue of \$330,000,000. Also, into the expediency of restricting the bank circulation of the country, State and national, to \$330,000,000. Also, into the expediency of authorizing the issue of bonds to the amount of \$200,000,000, the whole or any portion thereof to be disposed of at the discretion of the Secretary of the Treasury, when, in his judgment, he may deem it expedient and proper to use the proceeds for the redemption of Government legal-tender notes; and report at an early day by bill or otherwise.

CONFISCATED PROPERTY.

Mr. ELIOT. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports, under which the House will resume the consideration of the joint resolution (H. R. No. 18) to amend a joint resolution explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862, on which the gentleman from Kentucky [Mr. SMITH] is entitled to the floor.

Mr. SMITH. I had intended to proceed with my remarks this morning, but I am so indisposed that I will yield the floor to the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. Mr. Speaker, the question before the House is upon the motion to go into Committee of the Whole for the purpose of amendment. The proposed amendment is to strike out the body of the resolution, and insert a repeal of the resolution of the last Congress explanatory of the act of July 17, 1862. Neither the resolution nor the proposed amendment can be said to be in violation of the Constitution of the United States, but as the act itself is said to be, the Constitution is necessarily drawn into the discussion. And the questions to which it gives rise are, first, whether the lands of a person engaged in the present rebellion may be taken from him absolutely by the process of law prescribed by the act of 1862 without violating that provision of the Constitution which says, "No attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted;" and, secondly, whether it is expedient to take the lands of such persons absolutely.

I have examined these questions wholly outside of their political bearings, if they have any, and with a determination to be in the right without regard to consequences; and, having arrived at a settled conviction, I desire to be heard upon the course of reasoning which has convinced me.

It is necessary, in the first branch of the inquiry, to go somewhat into the doctrine of attainder.

In the English law there were two processes by which attainder was produced. One was by bill of attainder, an act of Parliament passed for the purpose of attainting a person charged with crime. This might be done either in the presence or absence of the person charged—either in his lifetime or after his death. In bills of attainder there was no arraignment, no conviction, no judgment, no sentence. These bills were legislative acts, passed for the purpose of reaching persons who had fled the kingdom, or whose high power overawed the courts of justice, or whose alleged offenses were not cognizable by those courts. The persons charged were not convicted; they were enacted guilty and attainted.

The other mode by which attainder arose was, as a consequence of judgment of death for treason or felony after trial and conviction. There was no judgment or decree of attainder. The judgment was simply one of death, and the attainder was an incident to that judgment, inseparable from it. The moment the judgment was pronounced the culprit became *ipso facto* attainted. The common law knew no such thing as a judgment of death for treason or felony that did not attain the person against whom it was pronounced.

Attainders were, therefore, either legislative or judicial.

The consequences of attainder were the same in both these cases, except that in a bill of attainder it was competent for Parliament to modify those consequences in any particular case at will, though this was rarely done, whereas the consequences

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of attainder resulting from judgment or death were fixed and uniform. In the language of the old law writers, an attainer was said to *work* corruption of blood and forfeiture of estates and chattels.

By the corruption of blood the person attainted was deprived of the power of inheriting and transmitting lands. There could be no descent to him, or *through* him, or *from* him. The forfeiture of lands related back to the time of the commission of the offense; that of chattels only to the time of conviction.

It is necessary for us to bear in mind this much of the law on a subject familiar to the framers of the Constitution, in order properly to interpret their meaning in the clause in question. It is very certain they had no allusion to the first of these species of attainder—that by bill or act of Parliament. A prior clause of the instrument, in article one, section nine, disposed of that by providing that “no bill of attainder shall be passed.” Our inquiry, therefore, is limited to the attainer consequent upon judgment of death. The Constitution prohibited bills of attainder, and restricted judicial attainers for treason by providing that they should not work corruption of blood, or forfeiture except during the life of the person attainted, but it neither prohibited nor restricted attainers for murder or other felony not amounting to treason. There is no restriction upon the power of Congress to prescribe the punishment of crime, unless it be found in this provision, or in the one which prohibits “cruel and unusual punishments.” It may not be so easy to ascertain what the framers of the Constitution meant as to ascertain what they did not mean.

The gentleman from Ohio [Mr. Cox] maintains that by the restriction the lands of the offender can only be taken for life as a punishment for the crime of treason, whether the process be by attainer or by a sale of the lands for the payment of a fine imposed upon the offender as a part of the sentence. This position is singular. There are other crimes against the United States besides the crime of treason, running from it down the scale of depravity to the fraudulent use of postage stamps. A few of these are punished with death, but most of them by fine and imprisonment. To satisfy the fine imposed for some small larceny committed on the high seas, the lands of the offender may be sold from him absolutely; and yet it is gravely urged that for the crime of treason—the highest known to the law—they can only be sold for the life of the offender. The absurdity of this position becomes the more manifest when it is remembered that at the time of the formation of the Constitution there was no punishment known for the crime of treason in any country in the world except that of death. We have therefore a grave assembly actually providing in an instrument intended to perpetuate their collected wisdom to the latest posterity that the lands of a convicted traitor, under sentence of death, and just about to be hanged, should be taken from him *for life* as a part of the punishment of his crime; and the same assembly in the same instrument allowing the lands of a convicted *thief*, where the life estate would really be worth something, to be sold from him absolutely in expiation of his offense. Surely the framers of the Constitution did not mean this.

Another theory is that Congress may impose a fine as a part of the sentence of the convicted traitor, under which his lands may be seized and sold absolutely, but that where the lands themselves are forfeited as an incident to the judgment of death they revert back to the heir immediately upon the death of the traitor. This position is open to the same objection as the former. Why should the lands be forfeited at all if for so short a period as elapses between the conviction and execution of the criminal? I say between the conviction and execution, because although the forfeiture relates back to the commission of the offense, yet it does not carry *mesne* profits and so does not avail the Government anything until after the conviction.

There is still another objection to this position.

Why should the framers of the Constitution permit that to be done by one of these processes which it prohibited by the other? Why should they allow the lands to be sold *absolutely* for the fine and in the same case only forfeited *for life* by the attainer?

It may be said that Congress, having the power to fix the punishment for treason, might make it a long imprisonment instead of death, and thereby render the forfeited life estate of some value to the Government, and its forfeiture a corresponding punishment to the criminal. This would make a material change in the doctrine of attainer, yet it would be possible. But the question recurs, why single out the crime of treason for this immunity from punishment? Why favor the traitor more than the murderer, the pirate, the forger, the thief? Again, fine is the usual accompaniment of imprisonment, and for the fine it is conceded by these theorists the lands may be sold absolutely. Of what use then would the provision be?

It would be curious to trace the results of this theory. A man commits treason. By the very act a life estate in his lands is forfeited. What becomes of the remainder? It either remains in the traitor unforfeited or does not. If it remains unforfeited, the traitor may sell it for the entire value of the whole estate; for it must be remembered that the purchaser only awaits the hanging to go into possession, and so the Government would forfeit nothing. But it may be said that the execution may be put off for twenty or thirty years to obviate this *pro tanto*, or the traitor may shelter himself within the enemy's country, and so not get hanged. Grant this; still the traitor may sell the remainder and use the proceeds in aid of the enemy. This is supposing the remainder to remain unforfeited. Now suppose it forfeited. Then it is true the traitor cannot sell it or use it for the enemy, but it is forfeited, and the Constitution says, according to these theorists, that the remainder *cannot be forfeited*. But suppose the Constitution does not mean what it says, but directly the opposite: that is to say, that both life estate and remainder can be forfeited. What becomes of the remainder? It will be said it vests in the traitor's children. Yet there is no warrant in the Constitution for such a conclusion. That document says nothing about the children nor of the remainder. There ought to be some clear, unequivocal provision to justify legislating one man's property from him and vesting it in another. We must bear in mind that we are assuming the power to take the remainder from the traitor against the clear prohibition to forfeit more than a life estate, and then vesting it in third persons without the smallest warrant in the Constitution for it.

But grant all that is asked on the other side of the question. Insert or imagine all that is necessary to carry out that view. Thus, a man commits treason. By the act his estate in lands is divided into a life estate and remainder. The life estate is forfeited to the Government and the remainder is vested in the children immediately. This is a mode of creating a remainder of which Ferne and Blackstone knew nothing; but the present is an age of inventions, and remainders created by crime, though very novel, cannot be said to be impossible things! But why confer a benefit upon the children of the traitor? We are asked not to punish them for the crime of the father. This we readily accede to, but why give them a premium upon it? No law-maker would intentionally make the crime of the father a pecuniary benefit to the children.

It is important to the inquiry in hand to trace out the consequences of forfeiture for life by attainer, because the same results would follow confiscation for life, and if life attainers are impracticable, life confiscations are equally so. If the argument is not conclusive upon the first branch of the inquiry, the right to confiscate absolutely, it will at least have a strong bearing upon the second, the policy of doing so.

Suppose a father and an only son be implicated in the same treason. What becomes of the remainder then? It cannot be cast upon the son. His blood is corrupted. He can take nothing.

Whatever he would otherwise take passes immediately to the Government. But the Government can only take a life estate, and that it has already. What then becomes of the remainder? Would it go to the children of the son? No. His blood is corrupted during his life. He takes nothing. Hence nothing can be taken through him or from him. What then becomes of the remainder?

It must be borne in mind that this is no improbable state of facts. In this rebellion there are cases of two and even three generations of traitors.

There is much force in the views of the gentleman from Indiana [Mr. ORTH] and the gentleman from Maryland, [Mr. DAVIS,] that the forfeiture was not to be worked at all unless it should be worked in the lifetime of the offender. They would interpret the clause thus: “but no attainer for treason shall work corruption of blood or forfeiture except it *shall do* it during the life of the person attainted.” The sentence is elliptical. In all renderings, something must be implied after the word *except*. To make the interpretation of the gentleman from Ohio, we must insert or imply proper words: thus, “but no attainer for treason shall work corruption of blood or forfeiture except *such as shall continue only* during the life of the person attainted.” I use the word *except* in both versions because I find it in the original. Webster and the gentleman from Ohio differ in opinion about its meaning. Webster says it is equivalent to *unless*. Probably I ought to let posterity settle the question between these learned and honorable gentlemen. But at the risk of being accused of presumption in offering an opinion where such high authorities differ, I will suggest that *except* always means *unless*, *except* (or *unless*) where it is used as an imperative verb or preposition, *with its object expressed*; and that there is no object expressed in the clause in question. Congress did not, however, adopt the system of attainer. Hence which of the interpretations is the true one is of no importance whatever, unless (or except) an attempt shall be made to adopt that system.

If the framers of the Constitution intended to forfeit the lands of a traitor only for his life and restore them to his heirs at his death, they selected a very unfortunate word in the word “during.” If the phrase had been “except for the life of the person attainted,” the meaning contended for would have been more apparent. To say that a man cannot convey lands except during his life is to say what everybody knows, that he cannot convey them except while he is alive. But to say he cannot except for life, is to say he cannot except for a life estate. Both these words as they are used have reference to *continuance*. The difference is this: “during” refers to the happening of the event, requiring it to happen within the period specified. “For” has reference to the extent of the event, requiring it to cover the entire period, and no more. In the language of grammarians, “during the life of the person attainted” may be a phrase in the nature of an adverb, modifying the meaning of the verb “work,” while “for the life of the person attainted” would be a phrase in the nature of an adjective, modifying the meaning of the noun “forfeiture.” One limits the time of working; the other the duration of the forfeiture. An event may happen *during* a period, without continuing *for* the period.

All claim here is that “during” is an unfortunate word if the intention was to limit the continuance of the forfeiture, since its more obvious function would be to limit the time of the working. It may, however, do either. An estate may vest *during* widowhood, or an estate *during* widowhood may vest. In the former case the estate may be for years, for life, or in fee; in the latter it can be only for or during widowhood.

Again, why is this argument limited to the *lands* of the offender? What warrant is there in the language of the Constitution or in the doctrine of attainer to exclude from the operation of the restriction the personal estate of the traitor? The words of the Constitution are that “no attainer for treason shall work forfeiture.” The forfeiture of attainder is of *all* the property of the of-

fender, personal as well as real. By what peculiar contrivance has the personal property of the traitor escaped the constitutional restriction? The answer is that by the common law there can be no life estate in chattels; that the possession carries with it the entire property. Let this be granted, yet by the laws of England and of the several States of the Union there is what is equivalent to a life estate in personality. When justice requires it, the courts have no difficulty in giving one the income of personality for life and another the principal in *quasi* remainder. But if this were not the case, where the organic law of the land provides expressly that the chattels of a traitor shall only be forfeited for his life, it is the business of the law-making power to contrive some process by which this provision can be carried out.

There is, therefore, no warrant for the distinction attempted to be made between realty and personality, and either the latter cannot or the former can be forfeited absolutely for treason. Now, a pecuniary fine is a forfeiture of the personality of him on whom it is imposed, and, as far as it goes, it is an absolute forfeiture. It follows, then, that not the smallest pecuniary fine can be imposed upon the traitor, or that all his estate, real and personal, can be taken in expiation of his crime.

The statute of 7 Anne, chapter twenty-one, enacted about the beginning of the eighteenth century, was intended to have the effect now attributed to the clause in question of the Constitution. That statute must have been familiar to the framers of the Constitution, and the fact that they did not copy it or embrace its provisions would naturally give rise to the suspicion that they did not intend to produce the consequences it did. The statute provides that

"No attainder for treason shall extend to the disinheriting of any heir, nor to the prejudice of the right or title of any person other than the right or title of the offender during his natural life only; and that it shall and may be lawful for every person to whom the right or interest of any lands, tenements, or hereditaments, after the death of any such offender, should or might have appertained if no such attainder had been, to enter into the same."

On the other hand, the words of the Constitution are:

"But no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained."

The statute limits its operations by express words to realty; the Constitution not only does not, but uses a term which embraces all property of all kinds. The inference is that the Constitution was intended to embrace all property of all kinds. The statute fixes by express words the duration of the forfeiture, limiting it to the life of the offender, and expressly restoring the estate at his death to the heir; the Constitution does not expressly limit the duration of the forfeiture. It possibly requires it to be worked in the lifetime of the offender, but whether it intended to limit its duration to that period is by no means clear. With a statute before them expressly providing for the restoration of the estates to the heir on the death of the traitor, it is singular that the framers of the Constitution did not follow its provisions if they intended the same result.

The purpose of the constitutional clause was certainly to limit in some degree the effect of attainder. Its authors might wholly have prohibited this relic of a darker age, but they chose not to restrict the powers of Congress to that extent.

Notwithstanding the absurd consequences of attempting to carry out a system of attainders restricted according to this theory of the constitutional provision, I am of the opinion that the framers of the instrument really intended to prohibit attainders from having any effect except for the life of the offender. I am forced to this conclusion partly by what seems to have been the opinion of contemporaneous writers, partly by the fact that England had done the same thing by the statute of Anne, and partly by the consideration that that could have been the only possible intention. The words refer either to the time of working or to the duration of the forfeiture. That they do not refer to the time of working, restricting that to the lifetime of the offender, is evident when we reflect that the clause relates to judicial attainders only, legislative attainders being prohibited altogether by the previous provision, and that judicial attainders were always consummated during the lifetime of the person attained. The time of working, therefore, needed no fixing, and would admit

of none, and the duration of the forfeiture is all that could have been intended to be restricted by the clause in question.

If it be asked why the framers of the Constitution inserted a provision the carrying out of which leads to consequences so absurd, the answer is this: they were more intent upon restricting this relic of a darker age than upon seeing how it could be put in operation so restricted. They knew that if Congress found difficulty in enforcing the system of attainders under the restriction there was this remedy: not to enforce them at all. And accordingly the first Congress that met after the adoption of the Constitution took the alternative, and did not attempt to enforce the system, but in so many words abolished the consequences of attainder for all offenses.

Will it be said, therefore, that there can be no forfeiture of lands or chattels for treason or other crimes because there can be no attainder; that therefore a man's property cannot be taken as a punishment for crime?

If the Constitution had provided that "judgment of death for treason shall not produce attainder" would it have followed that Congress could not make fine and forfeiture a part of the punishment of treason? The judgment of death for murder does not produce attainder. Yet no one doubts the power of Congress to make fine and forfeiture a part of the punishment for murder.

There is no constitutional limit of the power of Congress to affix fine and forfeiture to crime as a punishment, and this power has been exercised without limit from 1790 to the present time. All the Constitution does is to limit the effect of attainder. It might be curious to examine into the extent to which attainder is limited if Congress were about to establish a system of attainder. But this is not the case; so far from it, the act of 1790 renders the constitutional provision wholly useless for the time by abolishing attainders altogether, or, which is the same thing, abolishing their consequences: "But no conviction or judgment for any of the offenses aforesaid shall work corruption of blood or any forfeiture of estate."

It is worthy of remark that this very act of 1790 which abolished attainders specifies twenty-six different crimes, including treason, and prescribes their punishment in a few instances by death, but mostly by fine and imprisonment. Did the act that imposed the fines enact that no fines should be imposed when it said that "no judgment for any of the crimes aforesaid shall work forfeiture?"

The act of 1790 affords us a clue to the meaning of the clause of the Constitution in question. It was enacted immediately after the adoption of the Constitution, and to some extent by the same men who framed that instrument, and who therefore were likely to know its meaning. The act enumerates the offenses and fixes the punishments, mostly by taking away the property, more or less, of the offender; and yet after this it provides that no judgment for any of the offenses shall work forfeiture. Did the act intend to defeat itself? Did it mean that an offender's property should be taken from him for his crime, but that he should not forfeit his property? By no means: It intended the offender to forfeit that part of his property which the court should fix by the sentence, but it intended the mere judgment to have no forfeiting effect whatever. In short it intended to abolish attainders with all their consequences.

We can see a reason for this. At common law the judgment in cases of felony forfeited all the offender's property, whether much or little, and without regard to the grade of the crime. This was unequal, unjust. The spirit of a more enlightened age required the laws to graduate the forfeiture to the offense, and to make the courts say in the sentence how much of the offender's property should be forfeited. The act of 1790 says in effect that the courts must fix the forfeiture by the sentence, and that the mere judgment shall work neither forfeiture nor corruption of blood.

The clause of the Constitution is singularly correspondent with the act of Congress. It provides that Congress shall have power to fix the punishment of treason. It does not limit this power in any degree except by prohibiting cruel and unusual punishments. It then limits the effect of a judgment for treason, not by abolishing attainders, but by restricting their effects. Congress acts under both these clauses. It fixes the punishment

of treason, first, by death; afterwards by fine and imprisonment. It limits the effect of the judgment by abolishing attainders altogether, in both cases keeping within the bounds of the Constitution.

Now, until and unless and except an attempt shall be made to revive the system of attainders, it is only a curious inquiry to what extent the Constitution restrains their effects. As long as the law stands as it does now by the act of 1790 there is no danger of violating the constitutional provision in question. If there are no attainders at all, *a fortiori* are there no attainders working forfeiture except during the life of the attainted.

Upon the whole matter I am convinced, first, that the framers of the Constitution did not intend by the clause in question to limit the power of Congress to prescribe the punishment of treason, but to limit the effect of attainders; and, second, that attainders being abolished by the act of 1790 no act of Congress that does not reestablish them can in any way come in conflict with that clause of the Constitution.

Now, the act of 1862 is not itself a bill of attainder. It is a public and not a private act of Congress. It is a general law, not one affecting an individual and his lands, and it does not revive the doctrine of corruption of blood. Neither does it revive the other species of attainder, that consequent on judgment of death. It provides no arraignment, no judgment of death, and, of course, no attainder. It merely provides a process of law by which the property of public enemies shall be taken for the use of Government, a power possessed and exercised by all nations in all ages of the world, necessarily incident to a state of war, and expressly provided for in that clause of the Constitution which empowers Congress to declare war. It will not do for those at war with us to say they are only rebels, not public enemies. That position would do for us. They have denied all allegiance to our Government and have set up one for themselves antagonistic to ours. Possibly we might consider them rebels and traitors and hang them as we catch them; but certainly they cannot claim the benefits of allegiance after repudiating it. They therefore cannot complain that the act of 1862 treats them as public enemies and confiscates their estates as such.

There are two positions taken by very opposite parties upon the status of those engaged in the rebellion. One is that they are for all purposes public enemies, and to be treated as such; the other is that for all purposes they are our fellow-citizens, and entitled to the benefits of the Constitution and laws of the United States. I think both these positions erroneous. I think the true theory is this: the rebels are in the wrong by their own voluntary act; they are therefore not entitled to any of the advantages of their position, but are subject to all the disadvantages of it. Against the Government they cannot claim to be either public enemies or subjects, but the Government at its election may treat them in either capacity, sometimes and for some purposes in one, and sometimes and for other purposes in the other. When subjects revolt the sovereign, if they are few, applies the civil law, and hangs them or pardons them. In theory he may do so without regard to the number of the revolting subjects. But in practice, as the number increases, the difficulty and the cruelty of enforcing civil law increase, and the more humane laws of war gradually step in. Captives, instead of being hanged for treason are treated as prisoners of war. Other nations interfere in defense of their subjects. Aiding and abetting traitors is treason; supplying traitors with food and arms is aiding and abetting them. To prevent the consequences of this, other nations require the granting of belligerent rights to insurgents. Thus the laws of war take the place of the civil law. But as between the sovereign and the revolted subjects the right to enforce civil law is not changed. The laws of war are only super-added, to be exercised at the option of the sovereign, subject to the rights of other nations and of humanity. Subject to these rights it is for the sovereign to elect, in every particular case, under which code of laws he will treat those in revolt. The Government therefore may seize and confiscate the property of traitors absolutely, under the laws of war; or it may fine and forfeit absolutely under the civil law; but it cannot extend the effects of attainder for treason beyond the life of the person attainted.

The second branch of the inquiry is whether it is policy to forfeit the lands of traitors *absolutely*. This question must be governed by the extent to which the forfeiture is proposed to be carried. All loyal men ought to agree that the entire property of the rebel leaders should be confiscated absolutely, and all reasonable men ought to agree that the lands of the unwilling conscript ought not to be confiscated even for his life. Two questions, therefore, arise: 1. Between these extremes where ought confiscation to begin and cease? And, 2. Is there a class of intermediate cases in which confiscation should be for life only?

The first question will afford little trouble. The act of 1862 limits the confiscation to the rebel leaders; men holding commissions to rob and murder, and to the property in loyal States of those who have voluntarily left their property and homes and joined the rebels. There is no wholesale confiscation of the property of rebels provided for by the act. It contemplates punishing only the few leaders by confiscation; men who, if caught, would be convicted of treason, murder, robbery, by even a jury of tender-hearted conservative gentlemen.

The next inquiry is, ought confiscation to be for life for the lesser degrees of guilt? If you could take chattels for life, and so punish all similar offenders alike; if you could not take part of the offender's property absolutely and leave him the rest, and so graduate the punishment to the crime; in short, if there was a necessity to confiscate for life the idea might be tolerated. Life estates, the remainder being in persons in whom the life tenant has no interest, have a baneful influence upon the country. They impoverish the soil. They waste the buildings. Where ever they exist the remainder-man succeeds but to a ruin and a desolation. I would not willingly fix upon a country already impoverished by the institution of slavery and desolated by civil war the blighting effects of a system of life estates. No! Where confiscation is resorted to let it be absolute. If in particular cases that should be too much punishment, confiscate absolutely only a part of the offender's property. If the Congress of 1790 found life forfeitures impracticable, that of 1864 ought to hesitate before inaugurating a system of life confiscation.

It is gravely urged upon this floor that the laws of war do not authorize the seizure and confiscation of the property of enemies except taken as prize at sea. This is wholly a mistake. No writer upon the law of nations can be cited to sustain such an opinion. Writers discourage such confiscations. They argue against their policy. They take the ground that it is not done in modern warfare, but they do not deny the *right* of the captor to appropriate all property of enemies to his own use. In a state of war there is no limit to the power of the conqueror. He may do whatever is necessary to be done to achieve or maintain his position, and he alone is the judge of the necessity. What are called "war powers" are powers arising from the law of necessity, the highest of all laws, at least of all human laws—laws which every sovereign Power must enforce and follow without writ of error, or liability for mistake of law or fact to any human tribunal. This may bear hard on individuals, but they have no redress. War is a state of hardship on individuals, and the responsibility is on those who inaugurate it. Writers may talk of what ought to be in a state of war, but they cannot fix what must be. Whenever a state of war exists, however, the sovereign Power must judge carefully and honestly what is necessary. In doing so it ought to keep in view the dictates of humanity, though in this there is no binding obligation. England committed no crime against the law of nations in her treatment of the rebels in India, though the civilized world read the tale of her doings with horror. Whatever measures the victor judges necessary must be submitted to by the vanquished, because the appeal to arms is the submission of the cause to the arbitrary will of him who shall prove to be the stronger.

But while denying all limit to the powers arising from a state of war, I would not willingly assent to measures which the sense of impartial lookers-on would denounce as cruel. I would therefore vote against a universal confiscation of lands in the rebel territory until satisfied that such course is necessary, just as I would oppose the

extermination of those in rebellion until satisfied of the necessity of it. But when satisfied of the necessity in either case, I should fearlessly advocate both these extreme measures in order to save the Government.

The act of 1862, wholly unaffected by the resolutions which accompanied it, proposes only the confiscation of the estates of the leaders, the willing and ardent workers in this unholy crusade against the best Government ever framed by man. In doing so, it strikes me that it keeps far within the limits to which it might reasonably go. It exhibits an example of moderation to the civilized world. I shall therefore vote the most willingly for that measure which interferes the least with the operation of the act of 1862.

Mr. WADSWORTH obtained the floor.

Mr. DAWES. Has the morning hour expired?

The SPEAKER. It has not.

Mr. SCHENCK. I would suggest to the gentleman from Massachusetts that he can call up his election case at any time.

Mr. DAWES. While I can call it up at any time, I do not desire to crowd it as against the enrollment act, which I consider a matter of greater consequence. If the gentleman from Ohio is not prepared to proceed with the consideration of that bill, I will call up the election case.

ENROLLMENT ACT.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of the special order, being Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The CHAIRMAN stated the pending question to be upon the amendment offered yesterday by the gentleman from Indiana, [Mr. HOLMAN,] to strike out all after the word "enlisted" in line nineteen, page 4, down to the end of the fifth section, as follows:

And if any drafted person shall hereafter pay money for the procuration of a substitute, under the provisions of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft on that call, and his name shall be retained on the roll, and he shall be subject to draft on future calls; and the maximum of commutation under said act shall hereafter be \$400 instead of \$300.

And insert in lieu thereof the following:

And so much of the thirteenth section of the act of which this act is an amendment as authorizes exemption from military service by the payment of a sum not exceeding \$300 is hereby repealed.

Mr. SCHENCK. Mr. Chairman, before the committee proceeds to vote upon that amendment, I desire to make some remarks in relation to the general character of the substitute reported by the Committee on Military Affairs, in order that there may be a clearer understanding in the mind of the House as to the questions presented between that substitute and the bill as it came from the Senate. Gentlemen inquire of me so frequently as to whether this or the other thing is intended, and there seems to be so much confusion prevailing, owing probably to the length of the bill, as to the comparison between the provisions of the Senate bill and the proposed substitute, that I go into this more lengthened explanation to avoid the necessity of replying to such questions hereafter.

This is a Senate bill, and the House committee propose to amend it by a substitute. After watching the course, progress, and history of the bill which has come to us from the Senate after due deliberation there, the House committee found themselves constrained in so many respects to follow the lead of the Senate, and found upon conference that they were so agreed upon most of the points, that they were willing to accept in the main the Senate bill, and let it be passed, instead of a separate House bill; and thus, in a manner, whatever credit may attach to the construction of the bill or the provisions made for the matters contained in it, will rather belong to the Senate than to the House committee or the House, if there be any feeling upon that subject.

But in order to a clear understanding of the

amendments proposed by the House committee, it seemed to be advisable to put them in the form of a substitute, because, in the revision of the several sections of the Senate bill, sometimes phraseology is altered, sometimes a slight modification is made in some matters of detail, sometimes a slight change is made in some of the principles involved; and thus it was thought that the matter would assume a better and more convenient shape for legislation by putting the amendments that suggested themselves to the Committee on Military Affairs in the form of a substitute for the Senate bill.

Now, gentlemen ask me wherein the substitute differs from the bill brought in from the Senate. In the first place, many seem to think that while the bill of the Senate has provided for retaining a commutation clause with this change, that they have increased the amount to be paid for the procuration of substitutes from \$300 to \$400, the House committee have made no provision upon the subject. Well, it is true that the House committee have presented nothing upon that subject; but why? Because the act of Congress passed March 3, 1862, is an act to which this bill is an amendment, and that act, which is still in force, contains the \$300 commutation clause. The House committee have been unwilling to disturb it; they prefer not to amend the existing law upon that subject. The difference, therefore, gentlemen will please to observe, between the Senate bill and the substitute offered by the Military Committee of the House is this: that whereas the Senate bill retains the commutation clause, increasing the amount from \$300 to \$400, the House committee proposes no change in that particular at all, but leaves the law as it now exists.

Again, it will be found that in one part of the Senate bill provision is made for substitutes to be obtained from the Army or Navy. The House committee propose no such provision in their substitute. They think it better not to let substitute agents get among the troops at all. They think it better that those who have enlisted in the Army or Navy shall remain where they are unless they are transferred, or re-enlist under the general provisions of law, and shall not be permitted to be made subjects of search and bargain, nor be hunted for to be procured as substitutes for other persons regularly drafted.

Without dwelling upon this—for I do not propose now to argue these points—I will, in passing, remark that it struck the House committee as being exceedingly inexpedient to throw open the ranks of the Army and Navy to those persons who may be hunting for substitutes, and thus perhaps have substitute agencies established in every camp where the commanding officer will allow substitute agents to go.

Mr. ELDRIDGE. Will the gentleman from Ohio allow me to ask him a question?

Mr. SCHENCK. Certainly.

Mr. ELDRIDGE. It is upon the first point to which the gentleman has spoken. Do the House Committee on Military Affairs intend to leave the effect of paying the \$300 commutation the same as under the old law?

Mr. SCHENCK. Yes, sir.

Mr. ELDRIDGE. And it is to relieve the party paying the commutation for the same length of time?

Mr. SCHENCK. There is nothing in the original law in regard to the length of time that it shall relieve the party. That is provided for in another part of this bill. The law on that subject is silent. A construction has been put upon the law in two different ways. The last and prevailing construction is that it relieves the party for a period of three years.

To avoid all ambiguity hereafter, and to limit the length of time for which freedom from draft is purchased by the payment of commutation money, a provision will be found in the substitute reported by the committee. What I mean to say is this—and I repeat it in order that there may be no misunderstanding—that as far as the \$300 commutation is concerned, the House committee proposes to leave it precisely as it is, having concluded that it is not expedient to report any change.

Mr. STEVENS. The old law has received the construction that the payment of the \$300 exempts the party from service for three years. If I understand the substitute aright it changes that.

Mr. SCHENCK. The gentleman is right in

regard to that matter. It leaves the law as it is, but defines clearly by law a construction as to the time of exemption, not leaving it hereafter to executive interpretation.

Mr. ELDRIDGE. That is just the question I desired to ask, whether it is the intention of the House committee to leave that matter as it is under the last construction given to it.

Mr. SCHENCK. Not as I understand the last construction to be. The Committee on Military Affairs has defined a limit of time, which may be varied at the pleasure of the House if it does not agree with the committee in regard to that limitation.

Mr. STROUSE. Is the limit which the gentleman speaks of stated in the bill now before the House?

Mr. SCHENCK. It is stated in the substitute. There is a section introduced in it which does not appear at all in the Senate bill. It is the fifth section in the amendment offered by the committee. Members will recollect that, by the existing law, all able-bodied persons between the ages of twenty and forty-five are placed on the enrollment list. The Senate bill has provisions looking to the exhausting of that enrollment. The House committee proposes a principle to be incorporated by legislation for future purposes into the provisions of this bill, which will make the enrollment, as it were, continuous as long as there shall remain a necessity, from time to time, of ordering or making drafts. The fifth section of the substitute (with an omission which we propose to remedy at the proper time) provides:

That boards of enrollment shall enroll all persons liable to draft under the provisions of this bill, or under the act to which it is an amendment, whose names may have been omitted by the proper enrolling officers; all persons who shall arrive at the age of twenty years before the draft; and all persons discharged from the military or naval service of the United States who have not been in such service two years during the present war; and said boards of enrollment shall release and discharge from draft all persons who, between the time of the enrollment and the draft, shall have arrived at the age of forty-five years, and shall strike the names of such persons from the enrollment.

The effect of this will be to make the enrollment, as I said, continuous. It is a provision that instead of enrolling those who are now, or were at the time of the first enrollment, between the ages of twenty and forty-five, and then drawing from time to time until there remains a residuum which itself would be exhausted, there will be a keeping up of the enrollment, by adding the name of every person who becomes liable to the draft. For instance, aliens who become naturalized will fall within the description of persons liable to draft, and when they thus become naturalized or declare their intention to become naturalized, if not before placed on the enrollment lists, they will then rightfully take their places there. Their names will be entered by the enrolling board in each district without any further legislation.

Again, Mr. Chairman, it is provided that every person arriving at the age of twenty years will be, when he reaches that age, placed on the enrolling list, and that every person arriving at the age of forty-five—thus passing the maximum at which he may be rightfully drawn—passes off the enrollment list. Thus, without enlarging on this section, the committee will see that the Committee on Military Affairs has introduced a new feature in the bill, providing that this enrollment shall be like a scroll moving along, on which from time to time and as fast as they become liable to military service, the names of all persons shall be placed, and from which the names of all persons on it, as they reach the age of forty-five, shall be removed.

The seventh section also introduces a new feature, but I will state to the House now that the Committee on Military Affairs proposes to drop that section from the amendment.

Mr. ELDRIDGE. Mr. Chairman, will the gentleman from Ohio allow me now to call his attention to the inquiry which I made before, and which refers to the sixth section? I wish to know whether the intention of the Committee on Military Affairs is to make the payment of \$300 an exemption from the one draft only?

Mr. SCHENCK. For the one draft, provided that in no instance shall it apply for more than one year. That is the intention of the Committee on Military Affairs.

Mr. ELDRIDGE. I do not now understand the answer of the gentleman. I cannot find the words in the bill which limit it to one year.

Mr. SCHENCK. The gentleman will find that we have used the word "quota" in the House bill, and that we have confined our legislation to each successive quota or call. We propose that the commutation shall purchase exemption from that call, from that quota; but that the exemption shall not extend, in consequence of such commutation having been paid, beyond one year. The gentleman will find the provision in the sixth section of the substitute which the committee have reported.

Mr. BALDWIN, of Michigan. I ask the gentleman from Ohio to explain the language in lines fourteen and fifteen of this section: "Such payment of money shall operate only to relieve such person from draft in filling that quota."

Mr. SCHENCK. It is proposed that at the end of the year these persons shall be enrolled again, and in this way that this continuous enrollment shall be kept up.

Mr. ELDRIDGE. Suppose there were two drafts in the same year?

Mr. SCHENCK. I suppose then a year's exemption would be allowed. The committee did not, however, anticipate in their bill so frequent drafts as are now taking place.

But in these remarks my intention was to point out the general features of difference between the Senate bill and the substitute reported by the Committee on Military Affairs. Afterwards, I would be glad to take it up section by section and clause by clause, in determining the correctness of the phraseology to which we have resorted to carry out these ideas. I think we shall simplify the matter by doing so, and I will therefore proceed with these general views.

Section seven, gentlemen will see, contains a provision that those who are exempted from physical disability, but who have an annual income equal to \$1,200, shall not be exempt except upon the payment of \$300 commutation.

This was introduced by us with some hesitancy, as a new principle in our legislation; and I am instructed to say that upon subsequent reflection, it being inconsistent, independent of any other reason, with the original act of which this is an amendment, requiring that only able-bodied persons between the ages of twenty and forty-five shall be enrolled at all, the committee have thought it proper to withdraw it from the substitute which they offer. If gentlemen will look at the original act to which this is an amendment they will find a provision that the enrollment shall consist of all able-bodied male citizens of the United States, and persons of foreign birth who shall have declared their intention to become citizens of the United States under the laws thereof, between the ages of twenty and forty-five, except as thereafter exempted. Inasmuch, therefore, as only able-bodied persons are to be enrolled at all under the original law, it would be inconsistent to require a man who is physically disabled, and who ought therefore never to have been enrolled at all, to pay \$300 commutation.

If gentlemen will look at the matter, they will see that however there may be equity in this provision, however strong the desire may be to ingraft some principle upon our legislation to reach those who, although they may be physically disabled, yet ought, in some form, to contribute to the support of the Government in its time of need beyond the payment of their ordinary taxes, yet when they take into consideration that they were not rightfully placed upon the enrollment list at all, you will see that they have the right to claim that, having been improperly included in the list, their names shall be taken off.

For this reason the Committee on Military Affairs have determined to drop the seventh section from their substitute, and at the proper time, by their direction, I shall move to strike it out.

The substitute of the House leaves out the provision of the nineteenth section, that is, the provision which provides for the conscientious scruples of Friends and other religious denominations who are unwilling to perform military service or to pay anything as commutation therefor, for I understand that their scruples go the whole length. If that be so, I do not see how the Senate, by the provision that they may be drafted to go into the hospitals to act as nurses, would much benefit them.

But I do not rise for the purpose of discussing the merits of any of these amendments. That

will come up at the proper time, when we consider the bill section by section. I only attract the attention of the House to the fact that the bill proposes to leave out section nineteen of the Senate bill.

The other exemptions are in the main, I believe, precisely the same in the Senate bill as in the substitute—that is, we have limited them to the President and Vice President of the United States; to certain official persons, and those who are disabled by reason of mental or physical infirmities. They are left out in the House amendment as they are left out in the Senate bill.

Now, in reference to what may be called the humanitarian provisions of the existing law. When this shall become the subject of discussion, it will be considered whether the benevolence and kindness of the Government toward citizens who could not well perform military service, because they had others dependent upon them, have not in practice and will not continue to be overbalanced by the frauds and abuses committed under the existing law. However that may be, as between the Senate bill and the House amendment, there is no difference on that point.

There is another change by the introduction of new matter, to which I will next call attention of members. Section seventeen of the House amendment provides that the Secretary of War shall be authorized, whenever in his judgment the public interest will be subserved thereby, to permit or require boards of examination of enrolled or drafted men to hold their examinations at different points within their respective enrollment districts, to be determined by him.

Many applications for relief have been referred to the Committee on Military Affairs by the House on account of the inconvenience of the present law. It has been found in practice that it works great inconvenience when boards of enrollment are required as now to sit only at some one place as headquarters. Though it may be convenient enough in the cities, or in populous districts, consisting of only one county, as in New York State, yet it is a great inconvenience to the citizens of large districts, who are compelled to travel fifty, sixty, and sometimes even one hundred or one hundred and fifty miles to the headquarters of the enrollment board. There are instances in Pennsylvania, among the mountains, where men in traveling to the enrollment board where they were summoned, or before which they went for examination, had to go one hundred and fifty miles. They did that where roads are not of the best, and at an expense which they could ill afford.

The reason why county seats were not selected—

Mr. ELIOT. Let me interrupt the chairman of the Committee on Military Affairs for a moment. I am desirous to call his attention to section seventeen of the substitute, and to ask him whether, in his judgment, the law as it now stands does not contain full power to the Secretary of War to do precisely what this section authorizes? whether the law does not give full authority to fix different places in a district for holding the sittings of these enrollment boards? I understand that such is the case.

Mr. SCHENCK. The committee were of the opinion that it did not, except by a violent construction. There is a provision in regard to sub-districts from which that power might be inferred.

Mr. ELIOT. I inquire whether in point of practice this power has not been assumed by the Secretary of War?

Mr. SCHENCK. It may have been in some instances, but of this I know nothing. In some districts where it might properly have been done I know that it has not been done. The committee thought it better, instead of leaving this matter to be determined hereafter by construction which may vary from time to time, to give the express power and to make it directory on the Department to give this migratory character to boards of enrollment. It is different from the provision in the existing law in reference to sub-districts. The petitions on this subject, not only from the people but from the officers of the enrollment boards, are that the boards may sit in the different districts at the county towns. But it has been thought better that the Secretary of War should define the places where they might be authorized to sit, for this, among other reasons: that though there may be two, three, or four county towns in

an enrolment district, they may be so situated as not to make it important that the enrollment board should hold sessions in each one of them. A further reason exists in the fact that in such States as Kentucky and Missouri, and in other parts of the country still held to be loyal, or where elections at least have been held, it would be found exceedingly inconvenient for the enrollment board at all times to go to the county towns. They might be met by guerrillas, if not by rebels in more formidable bodies, who would render their peregrinations uncomfortable. The committee prefer the shape they have given this matter in the seventeenth section, thereby leaving the Secretary of War to determine the points at which the enrollment boards shall hold their sessions.

As far as I recollect, I have now stated all the material differences between the substitute and the original bill itself. There are some sections in the two which are precisely identical, which are the Senate sections properly. There are other sections of the Senate bill which were changed somewhat in phraseology, or in matters not affecting the body of the section as the Senate left it. But it was thought advisable, on account of these changes, to rewrite the whole bill. The bill, however, as I said before, comes before the committee in the convenient shape of the Senate bill, as it was believed by the committee that in that manner they could present it easier, and have an earlier consideration of it, than by attempting to pass a bill of their own. The substitute embodies all the changes, as well as what remains of the Senate bill, and in that shape the House committee chose to present it to the committee and the House.

Mr. CHANLER. Mr. Chairman, the history as well as the ultimate object of this bill is clearly expressed in the words of the Provost Marshal General's report, namely:

"The act of March 3, 1863, for enrolling and calling out the national forces, is the first ever passed by Congress in which the Government has appealed directly to the citizens of the United States to create a large army without the intervention of the authorities of the respective States."

By this act, Congress strikes at State sovereignty with a mailed hand; aiming to establish a standing army of gigantic proportions, to be drawn directly from the body of the people of each State, without any check from, or consultation with, the State governments. Such, sir, is the avowed intention and the unmistakable spirit of this law. Moreover, it is an imitation of a French edict, of most questionable origin and dangerous results; an edict born of the French Revolution. A child of the republic, it became the guardian of the empire and dynasty of Napoleon. It carries the stamp of tyranny upon its face, and in its course has been fatal to representative government.

A French Secretary of War, Carnot I think, first conceived the idea of raising an army by lottery. The modifications of his plan have resulted in the system now fastened by this Administration on the American people.

Would it not be well, sir, to examine the career of France, once a sister republic, under the influence of this method of raising national forces? The conscription began in France at that period of her eventful history when she was reeling in frenzy, scarce free from the Reign of Terror. Her condition was hopeless, beyond perhaps that of any people of modern times. By the happy inspiration of despair, Carnot drew an army from the prostrate nation by lottery. The first coalition was broken by its victories. The foe was hurled back from her frontiers with Gallic fierceness, and France became again a power among nations.

But, sir, I hope here you will weigh well the import of these words: France became a military republic from that hour, an aggressor upon every border, an enemy to every neighbor. The stride onward from a military republic to a military, imperial despotism was so swift and so sure and so destructive to constitutional liberty, that we who propose to fix this vital principle of the military system of France as the law of this Union may well look back, around, and beyond, before we dismiss this subject. We should remember that the French republic fell at the bidding of General Bonaparte; that he and a handful of veteran conscripts closed the doors of the senate of his country, bound liberty to his throne, and transmitted his claim to be master of the French to his now most Christian Majesty. It is true that he reestablished order and conquered the enemies of

his country. But it is also true that he overthrew the independence of her people, and on the ruins reared the dazzling mausoleum of a military aristocracy. For that work the conscript law furnished the machinery, and his own great genius the method. Thus centralized power found its great exemplar in Napoleon, who fixed centralization as the law of government for his successors. Whoever holds Paris rules France; who controls the army rules Paris. The consent of the army once gained, and the will of the people is invited to express itself through the *formality* of a ballot. The sweet voices all chime in most suspicious harmony; not unlike the rumored elections in some border States of this Union.

Such, sir, is an imperfect sketch of the working of a conscript law in what was once republican France. There it found a congenial soil and a fit occasion. Here I sincerely hope it may never take root; if it should, I believe it will pervert the native courage of our people, and turn their noble enthusiasm for this Government into callous indifference; or it will rouse their just indignation against those who have signalized their political career by the adoption of and adherence to such laws as this under the specious plea of military necessity. Sir, the national defense and the suppression of this rebellion undoubtedly call for all our available force at this time, and I am in favor of using all constitutional and necessary means to preserve the integrity and to restore the lawful and undisputed authority of this Government over this whole Union. I believe that the Constitution has clearly and sufficiently provided the power to carry the country safely through this rebellion or through any subsequent crisis. But this bill is inconsistent with the Constitution, and inimical to the welfare of every free people. It creates justifiable dissatisfaction which may very naturally lead to discord between the people and this Government, and may eventually sever those ties of sympathy and interest which have bound them together in harmony and strength up to and through this war. No necessity exists, has existed, or is now imminent which calls for this law; and having been tried fairly and found insufficient as a means of enrolling and calling out the national forces, it should be repealed, or at least so amended as to be limited in its objects as a law, first, to enroll all persons liable to military duty; second, to secure the return of deserters and prevent desertion.

Mr. Chairman, if this general review of the bill justifies the hope that it may be repealed, the consideration of the practical bearing and effect of the details of this enrollment act will certainly strengthen that hope. The disposal of human life by lottery is a solemn theme, which every just man contemplates with feelings akin to awe. With a humble deference to the wisdom which devised it, and with an earnestness of purpose due to the object of the law, I looked upon it as one of that sacred order of appeals which puts man's destiny upon the throw of a die; such as we are told of in the sad stories of shipwreck, when men, forced to the alternative of dooming one to death lest all should perish, cast lots in silent prayer to the great Judge that the blood of the one taken may not be on the heads of the survivors. But the truth soon burst through the solemn farce which clothed the law with flimsy dignity, and the positive injustice of its spirit, and the downright wrong done in its practice, stood revealed in ridiculous absurdity. The mystery of fate was made manifest in a money equivalent; and the majesty of law had the hopeful chink of cash, which rang the changes on the merciful chance of escape to the tune of \$300. The die was to be cast to fix the fate of a mortal, but blind justice loaded the dice for capitalists. The lot was to be drawn, but he who might be taken could buy exemption. The game was to be played and human life the stake, but he who knew how the cards were pricked was sure to win. Sir, as the truth revealed itself, every honest mind felt a thrill of indignation. The law for "enrolling and calling out the national forces" had become a mere money question. The Government plays highwayman in shoulder-straps, and cries, "Stand and deliver—your money or your life!"

By its operation upon the individual citizen an invidious distinction is drawn between those who have \$300 to spare and those who have not. In an honorable cause, the service of the country, where all should share the common danger with-

out distinction of class, (whenever necessity may demand such an extreme measure as a conscript law,) we find a preference given to *capital*, which can always take care of itself, over *labor*, which is always dependent on law for protection: letting the one go free and forcing the other to serve; cheating the working man of his chief and priceless privileges of independence and equality under the law.

Sir, this act lowers the dignity of labor and compels every sound, able-bodied mechanic to assume the pauper's plea, or follow the drum in default of a miserable money equivalent. It compels him to accept public charity or private bounty, or march to the music of a provost marshal's order. It *degrades* the laboring classes, without whose sturdy arms and brave spirit, patient long-suffering and noble fortitude, this Government would soon die out and fall from its high place like a young oak blighted at the root. By the operation of this law upon the States of this Union, a most unfair distinction is made between those which furnish men to fill the quota fixed by Congress and those which furnished the equivalent in money. The blood of the people of one State is drained from every artery of industry and every vein of enterprise on the one hand, while a roll of greenbacks issued from the national Treasury building to meet the necessity created by war, or waste, or corruption, may, on the other hand, be paid as the price of human blood in compensation for military service. One State may thus lose the pith and marrow of her population, while the other, her more canny or crafty sister State, loses only a bundle or two of national paper currency, which is depreciating every month by the natural laws of finance. Sir, at least let the price of an American citizen when put up at public sale be fixed in coin.

The Administration has not made it very clear to the country why the innovation should be made upon the well-established custom and constitutional precedent of relying on the militia and volunteers for the national defense. It has been suggested that economical views had induced the change; that the loss of public money by contractors, and the outcry made over it, led the party in power to filter the Army appropriations to some extent through a Provost Marshal's Bureau. To this end a law was necessary which should compel each citizen drafted to come up to the captain of cavalry's office and settle; and to enable that functionary to bring them to a speedy and satisfactory settlement he was supplied with a well-paid corps of spies, detectives, and informers, and empowered to arrest and imprison on his mere suspicion, in direct violation of every principle of the Constitution established for the protection of personal liberty. The whole sum raised by this most magnanimous Administration, through this praiseworthy process of law, is estimated to be about \$10,518,000; the whole force enrolled and mustered into the service, after deducting those who enlisted and were credited on the quotas after the draft was ordered, about 25,000 men; the cost of the Provost Marshal's Bureau about \$1,200,000, without estimating the cost of enforcing the draft in districts where disturbance arose from resistance to this law of enrollment.

Mr. Chairman, as an economical measure, the practical experience of the Administration relative to this act is forcibly set forth by Mr. Secretary Stanton in his letter to the President dated January 4, Executive Document No. 17, namely:

"And although much difference of opinion exists in respect to the merits of the system of raising troops by volunteers and the payment of bounties, and the system of raising an adequate force by draft, two things are certain:

"First. That whatever may be the weight of argument or the influence of individual opinion, a large portion of the people in every State prefer the method of contributing their portion of the military force by bounty to volunteers, rather than by draft.

"Second. That veteran soldiers who have become inured to service, even when paid bounty, constitute a cheaper force than new recruits or drafted men without bounty."

Mr. Chairman, could I be convinced that there existed in this country an overwhelming necessity, such as gave rise to a similar law in France at the time of the first coalition, then, sir, I would yield all my objections to this bill and submit cheerfully to the evils which it threatens and the injustice which it perpetuates, provided always the exemption clause were reduced to a nominal sum or stricken out.

But I see no necessity for the law. I deny that any exists, has existed, or is imminent. The Constitution has fully provided for "calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion." The volunteer system has furnished all the national forces we have needed or can need. We have not made full use of the power given and provided to do the very thing this bill proposes to do in a most obnoxious manner.

Certainly, sir, until we shall have exhausted the remedy prescribed by the Constitution for the very evil which now deranges the Union, it is unnecessary to empiricize with new and untried remedies. But how much more unnecessary is it to continue a practice which has proved so utterly ineffectual as this. Besides, the Administration are bound to show that no adequate constitutional power existed for meeting this crisis before they can claim a necessity for introducing a measure which is doubtful in its nature, having been declared unconstitutional by high judicial authority in the State courts, and being without any sanction from the United States court.

Moreover, sir, it is not difficult to show that the claim which is set up by the Administration for the necessity of this law is a manufactured thing of their own making, and that whatever necessity seems to exist for this law is really the result of the policy of this Administration. The people of this Union cannot be charged with having created it. They have never refused to support this Government. From the dark dawn of this rebellion, the most dismal hour of our national history, up to this moment the people have ever been true. Even when, groping in ignorance and fear, our leaders failed in council and faltered in the field, and lying here supinely on their backs cried lustily for help, then, sir, the militia rushed to the rescue, cutting their way through every obstacle; doggedly and eagerly they pressed on to save this capital and its archives from the rebel, if such might be, or perish in the common ruin of all that was dear to this nation. From the far West, the East, the South, and the North armed men flocked toward Washington as eagles gather around the eyrie threatened by the spoiler.

"They left untended the herd;
Left the flock without shelter;
Left the corpse uninterred,
The bride at the altar."

* * * * *
"Came as the winds come when
Forests are rended;
Came as the waves come when
Navies are stranded."

Never before in the history of any people did citizens more readily, resolutely rally to the defense of their rulers. Abandoning every tie and habit of peace, they hastened to the scene of civil strife.

The Army formed at the uprising of the people has fought well and desperately through nearly two years of varying fortune. Its numbers, dwindled from hundreds of thousands to a force still formidable from its strength and discipline, now offers you again its scarred and battle-worn veterans to bear the banner of "Union and victory" against every foe. The same readiness with which the people first enlisted has been frequently manifested since the fall of Sumter. Often and sorely have you tried their fortitude and zeal by the untimely cry of "Wolf! wolf! The enemy are upon us." Nobly and promptly have they responded. The people are therefore innocent. You cannot charge the State authorities with embarrassing the national Government. Such a charge, if true, would unseat Republican Senators, and strike down the leaders of your own party. Nor would the people tolerate their existence in places of power and trust, even if the Administration were blind and bad enough to overlook such treason. Every aid in money, munitions of war, advice, comfort, and men, have been freely given by the whole people, and by the whole body of our rulers in every State not now in rebellion, and the necessity which you claim to have given rise to this draft certainly cannot be laid to their charge. Besides, sir, we have survived the crisis of this conspiracy against the people. If not unscathed, still we are masters of the broad sea and inland waters. We are impregnable on land. Our volunteers and regular Army have won a glorious name under the organization and enrollment established by previous experience to be the best suited to our man-

ners and habits of life. Our foe is driven from many of his chosen strongholds; weakened and hemmed in, he confesses himself crippled. He has ceased the senseless boast of northern subjugation in a starving cry for food and clothing. The Secretary of the Treasury, Mr. Chase, informs us in cheerful tones that it is a distinguishing characteristic of our financial history of this rebellion that the public credit has steadily improved in the midst of the terrible trial it has brought upon the country. Our foreign relations have long ceased to threaten an armed intervention. Every department of the Government is represented by the members of the Cabinet to be in a thriving and promising condition.

The Executive, assured by his constitutional advisers of the gratifying state of each branch of his Administration, has put forth the capacious antennae of his sagacious mind to feel for peace through an amnesty proclamation. With his usual foresight and seriousness he has begun to prepare the public mind for a speedy end of this war by the olive-branch. Certainly, sir, in view of the present state of the nation as guaranteed to us by the highest authority, we ought not to continue a system of enrolling and calling out the national forces which could only be justified by the most desperate exigencies—a system that promises to become the nursery of a standing army, of a military aristocracy, and perhaps at no very remote day of a military despotism.

As this bill has, however, been introduced for amendment, it is evident that the Administration deem the experiment of the draft not yet fully made, and mean to continue the conscription. On this point they are no doubt resolved, and for very natural reasons: it is a creature of their making, a pet measure for attaining certain advantages held as invaluable by those who aim at centralized power and who wield the patronage of the Army.

But it becomes a paramount duty of every Representative on this floor, who is opposed to an unnecessary increase of administrative patronage at this time, to look narrowly into the course pursued by those in power in regard to this new and costly system of enrollment.

Well, sir, with reference to the point already made, that the only necessity that can be urged by those who foster and call for this bill arose from the policy of this Administration. If this be so, certainly both common sense and the common welfare forbid that the evils consequent to their policy should become law *ex necessitate*.

Now, sir, in the opinion of a very large and patriotic portion of the American people, "the party in power" never understood, nor do they now understand nor appreciate properly the crisis which came so near overwhelming this Government. They have never learned to know the true motives of earnest and honest opposition, but have in their greed for power grossly and coarsely rioted in the spoils of party. Insolent from excess of strength, the voice of remonstrance from the great heart of the people has been silenced in the jail, by banishment and death. Every name that mean malice could invent or party hate could suggest has been given to the legally chosen representatives of the Democratic party, not only by the press and on the stump, but even here on this floor by members of Congress in what should be courteous debate. Further than this, the almost daily proof of an inherent radical corruption and a mercenary spirit among all branches of this Government has shaken the faith of many in the so much boasted "honesty" of those in power, who set themselves up as sole judges of the necessities and rights of this nation at this time. By an overweening presumption on the one hand, and by a well-feigned or a real ignorance of the deep-seated love for the Union among the people, the Administration has created a necessity for a vigorous violation of the Constitution in every department of the Government, until the usurpations of legislative power by the Executive are as unblushing as the bold outrages committed by this Government previous to the rebellion, and the peculations of Secretary Floyd are dwarfed into insignificance by the reckless robbery of the Treasury by the agents of Mr. Chase.

Sir, it seems to have become a self-evident fact of history that had the authorities been equal to and conversant with their real powers, and had they known and trusted in the true heart of the

people, the plea of military necessity could never have been urged with any honesty of purpose. Had the Administration rightly understood the nature of this crisis, they never would have informed the world that this war was to last only a few weeks or a few months, and that nobody was to be hurt. They would not have joked in the face of a devoted people rushing to death at their mad cry of "on to Richmond." They would not have hesitated at the outset to enroll and call out the whole force for the war. They would not have telegraphed over the country to close the enlistments, actually turning men away from joining our Army, while the enemy was threatening Washington. By this unwise course, the current of opinion was turned back, and men were made to believe that all enthusiasm for the public service was a waste of zeal; that no more soldiers were wanted. Thus the chain of sympathy was broken, which, up to that time, had bound the people to our Army as the career of every citizen until an honorable peace should be secured. By this isolation of the citizen from the Army, the Administration found a plausible ground for its present military system. No necessity could be urged for a draft so long as volunteers flocked to the national standard, and the old militia system worked well. Nor could a centralized national power be reared upon the ruins of the rights of the States of this Union without the aid of an armed organization whose initial idea should be implicit obedience to this Administration, whose very existence could be traced to its fostering care, and whose independence of all other influences should be complete.

As this policy began to develop itself enthusiasm cooled and enlistments became few. Suspicion that the real motive under this scheme was or might prove fatal to this Union; that the suppression of the rebellion was not the sincere wish of those in power; that, lost in the Egyptian darkness of a fanatical heresy about the superior worth of citizens of African descent, they were ready to sacrifice all other interests and classes of men to one idea. Freedmen, fresh from slavery, seemed the chief care of this Administration. Such narrow and short-sighted policy checked enlistment and made an increase of bounty, doubling the cost of this war by millions of dollars. An opinion soon fastened itself on the public mind that the old dragon under ground had got possession of some leading spirit of our rulers and filled him with the gift of persuasion over the reason and conscience of men. These peculiar and arbitrary bills looked like a bold stroke for a standing army whose body should be pliant to the will of the loyal league; that the judiciously adjusted patronage should be dispensed through proper committees in Congress; that the pliant head of this military machine should be a movable thing, fitting all the whim-whams of the supreme chief; while its other extremities should be left to the tender mercies of the contractor. The morale of this body was to be left to the care of a select few, all patriots of a certain stripe and color, most honorable men, capable of acting as legislators or as members of the bar, to suit circumstances. As if to confirm these suspicions and fears of the people, the Administration commenced a most undignified persecution of certain major generals personally objectionable to Republican leaders, and unwisely filled the hearts of our soldiers with a distrust of their officers, causing in consequence most disastrous defeats to our arms, and sowing dissension among our troops, until the vigor of our struggle with the enemy of our country and Constitution was weakened by a bitter rivalry among ourselves, until the sickening record of a second Bull Run forced the proud spirit of our people to the verge of despair.

And those who displaced McClellan were fain to shelter themselves in this capital under the genius and courage of an army led by its favorite general. The invader hurled back and the capital safe once more, Antietam was forgotten, and the favorites of the Administration were ordered to the head of our victorious soldiery, only to lead them to defeat and death at Fredericksburg and Chancellorsville. By a course of policy so unwise, ungenerous, and unconstitutional the party in power had apparently labored to alienate the people from sympathy and enthusiasm for the increase of the Army. By a happy coincidence everything planned to discourage volunteering has

resulted in a return to that system as the cheapest and most consistent with our national character. When the pet measures of the draft, negro enlistment, and a Provost Marshal's Bureau were forced on the country, we were promised great things. Immense levies and large subsidies were to be the result. Public expectation was raised to the highest pitch, and private responsibility reduced to an equivalent in dollars and cents. Anybody could be a hero for \$300. When lo! the armies were still un replenished, the coffers of the Treasury still subject to the visitations of the Secretary of War and his subordinates. Commutation money, the promised talisman by which blood was to be turned to gold, failed to work its charm. The gold was as the hid treasure of the pirate Captain Kidd, sought for in vain by the uninitiated, and spoken of in secret and with reverence by the knowing ones. Bounty continued to increase, the ranks were not filled, and enrollment by draft was far behind the demands of the service.

But the great and crowning testimony of the utter failure of the conscription act is found in the President's proclamation of the 17th of October last. By a stretch of power, before almost unequalled by even this reckless Administration, the public credit was pledged, without sanction of Congress, in the sum of over one hundred and five million dollars, calling for three hundred thousand more men at the rate of \$300 for new recruits, and \$400 for veterans who should enlist after that date without limit of time. In the blindness of a reckless spirit, our rulers appear not to have seen, or seeing did not care, what wholesale proof they were putting before the world in favor of the old constitutional militia and volunteer system: proving incontestably on the statistical tables of the exchequer that the draft was a failure; that to escape from its snare and delusion even national bankruptcy should be risked, and the sacred limits of the Constitution trampled under foot by the Executive. The people were kept ignorant of the fearful cost to the Constitution by which freedom from this conscript law had been secured: a thrill of satisfaction at this much desired result ran through the whole nation. Nearly every local newspaper is congratulating its readers that since Congress has gone back to the militia and volunteer system laid down in the Constitution, and are encouraging men to enlist by bounty, the fear of and necessity for a draft have ceased. Judging from the events of the past year we have had many and timely tokens that the genius of the American people clings to the hallowed associations which cluster around the Constitution. That protecting genius seems now to beckon us back from the wayward and perilous path of military enthusiasm to the sober consideration of right and justice. With a warning hand on the history of this law, she points to a future fraught with danger to the Constitution.

The failure of the draft to procure the necessary force to recruit our armies furnished the pretext to the President to violate the Constitution by pledging the public credit without due authority from Congress. He seized the sword under the specious plea of military necessity. He then cut the purse of the public with the point of that keen and convenient instrument of usurpation and tyranny. By this bold assumption of unconstitutional power over the destiny of the Army, the President has given a happy and well-timed pledge to the military element of this country that he alone, unaided, and untrammelled by constitutions or by oaths, stands ready to carry on the Government.

There seems no further need of Congress to check executive power. A general order from the War Department, or a Janus-faced proclamation from the White House, disposes of every question. When the *habeas corpus* act was violated; when the personal liberty of the citizen was violated; when the sacredness of the ballot was violated by armed men; when the right of free speech was violated, the Administration party cried traitor on all who dared denounce those treasonable violations of the Constitution. Are you still so blind, so insatuated, so mad with party zeal, that you are ready to applaud this last act of reckless violation of your own constitutional powers by the Commander-in-Chief? Do you not see the gradual encroachment upon every constitutional privilege and right closing around you slowly but with relentless purpose?

Are you true to the interests of the people and to the honor and welfare of this nation? Are you faithful to your oath to support the Constitution in submitting to these encroachments by the Executive? While you have yet the power to resist repeal this conscript law, a link in the chain being forged for your humiliation.

Repeat this law. It is unnecessary, a failure, and obnoxious to the best feelings of our people. An effort should now be made to strike it from our statutes. It is an insult to the masses of this country, who are justly proud of all they have done and suffered in this struggle for free government as embodied in this Union. By every voluntary sacrifice they stand ready, I firmly believe, to offer up all they have on earth save honor and independence in the cause of their country. They have proved this by many and unmistakable tokens, in spite of defeat, of sickness, of treachery, of future poverty to themselves; in spite of administrative corruption, of the waste of public money, and of the sacrifice of human life. The first instinct of every people is to preserve its national existence, in glory if it may, in sorrow if it must.

Sir, history is filled with outrages consequent upon an effort of the ruling class to force obnoxious laws upon the people. England has become wiser since the Boston tea-party, and unpopular laws are not now forced upon her subjects. Let the lesson of experience not be lost on us.

That this conscript law is obnoxious to the people of many parts of that section of this country faithful to the Constitution needs no proof here. The Administration needs no testimony to establish that fact. The past few months have been full of pregnant warning. The rage of the mob has been heard in our cities, and order has been restored only by armed force, at great cost of money and blood. No one deprecates the recent riots more than myself. I have no sympathy with such deeds of violence and inhumanity. But, sir, the terrible fact of armed resistance to the laws of this Union by an infuriated mob demands a calm and thorough examination by the law-making power. It is our duty, it should be our zealous desire to remove all causes of public disturbance from our midst at this time. The voice of the people has prophetic power; and in stormy times like these wise men seek to interpret its dark sayings. When that voice uttered in madness surges up from the depths of human society it seems to call on those to help who can the desperate and lost, as a signal gun booms forth at sea its dismal cry for rescue.

But, sir, danger besets us on every side. The wild deeds of a disorganized rabble cannot overthrow, although it may disturb this Government; it is too strongly rooted in the hearts of the people. Our real danger comes from the encroachments of the Executive upon legislative power. Whenever the Commander-in-Chief of the Army and Navy assumes the power of the sword and purse, then, sir, we have cause to begin to tremble for the existence of our independence. He and his Army can plant a phalanx of mercenary bayonets around the citadel of the Constitution. Then this Union must perish and leave the spirit of representative liberty in duress here, it may be forever.

Sir, consistently with the views which I have just laid before this committee, I shall at the proper time move to recommit the whole subject to the Military Committee, with instructions to amend the House and Senate bills so as to strike out all that refers to a draft, and report a new bill which shall provide, first, for enrolling the names of all persons liable to military duty in the United States; second, for arresting deserters and preventing desertion.

Mr. DAVIS, of New York. Mr. Chairman, I do not pretend to be the most devotional of men, but I do most profoundly thank God that this Government at this hour of its solicitude has not to rest for its support upon such patriotism as has been exhibited in the language uttered by the gentleman who has just taken his seat. I do not even claim to be a party man. I am here in this House as the representative of no party, declining even to take a party nomination. I came here in the character of an American citizen, and stand at all times and in all emergencies by the Constitution and the country. I came here to support the Administration in the prosecution of this war for the suppression of rebellion, and in the suppression of treason whether it be abroad or at home.

This is a free Government, and the gentleman [Mr. CHANLER] may thank God that it is a free Government. The sentiments he has uttered here to-day against the power of conscription he could not utter in the halls at Richmond as a confederate representative without being sent to the gallows. He talks about the merciless disposition of this Government, and the abuse of power by the Administration. Has the gentleman any sympathy with that other government which is now conscripting without reference to age or condition? Has he, in all the anathemas which he has heaped upon this Government and Administration, uttered one word of reproach for that act of tyranny which is now being enforced throughout the southern States, by which even a man who has paid his commutation money is no longer exempt from the power of the conscription?

I regret most seriously that necessity compels me to use language of this character, but when I hear such sentiments uttered as I have listened to to-day I will use it, because I believe it to be my duty. This Government is attacked for an arbitrary use of power, for a violation of the Constitution, and we are told that this conscription law is itself unconstitutional; that it interferes with the constitutional and vested rights of the States, through whose instrumentality alone such a conscription should be enforced in calling soldiers into the service. I deny the proposition. I assert that this is a sovereign and supreme Government, and that it has power over every acre of the public domain to enforce the conscription, if the duty of self-protection renders it necessary.

Let me ask you, before I turn to the Constitution to see what powers it confers, in what position would this Government be to protect itself if the ruling authorities of the State governments held such opinions and entertained such feelings as the gentleman has expressed who immediately preceded me?

Mr. CHANLER. I desire to say to the gentleman, as he is pointing to me, that I desire he shall speak so loud that I can hear him, if he is making any personal remarks in regard to myself. It would afford infinite satisfaction to me to know what he is saying, though I shall not interrupt him to reply at present.

Mr. DAVIS, of New York. I referred to the gentleman's charge that this Administration were guilty of palpable interference with the rights of the States in passing such a law of conscription as this. You said that the President was guilty of an abuse of executive power in making arbitrary arrests. You charge the President with centralizing the powers of this Government in derogation of the rights of the States and of the citizen. I rise to deny it. I have said, sir, that the position of this Government would be most unfortunate if it were left to call upon the States when gentlemen holding positions and opinions such as have been expressed here held control of the governments of those States. Under the Constitution, sir, we either have or have not a right to enforce the power of the Government over every State in calling upon it for troops to defend the Government. What is our power in the rebel States to-day? We claim that they are under the Constitution. The gentleman claims that they never have been out. How effective would be a call upon the Governor of South Carolina, or of North Carolina, or of any other rebel State, to raise troops for the defense of this Union?

Again, sir, I believe that the Constitution, as I construe it, expressly prohibits any State from raising troops except in certain contingencies save in obedience to the call of the General Government. And now, sir, cannot the Government do directly of its own volition and action what it may do by an agency? The whole question hinges upon the sovereignty of the States or the sovereignty of the Government. When I look to the Constitution of my country I find that it clothes the Government with every attribute of sovereignty; that it gives every power necessary to suppress this rebellion, and to make all laws which shall be essential to that end. It gives it power to declare war, to grant letters of marque and reprisal, to raise and support armies, to provide and maintain a navy, to make rules for the government and regulations of the land and naval forces, and it restricts every State in this Union from the exercise of every one of these powers, showing that

the sovereignty is in the General Government, and not in the individual States.

But this is not the time for an elaborate argument on the constitutional powers of the General Government, and on those powers which, by its terms for local and social and not national purposes, are reserved to the States or the people.

I will only say that under the Constitution I can recognize, I can find, no sovereignty save that of the American Union, to which every State is subordinated in all affairs of national concernment.

I have heard arguments before made against conscription; I have heard that conscription is unconstitutional; and yet, sir, when a proposition was before the country to fill up our armies by volunteering, these same men who are now charging conscription to be unconstitutional, were saying that the only way to do equal justice was to enforce a conscription, and not to rely upon volunteering.

Now, sir, I do not know that so far as the gentleman or his particular friends and those who sympathize with him are concerned, this conscription act is to interfere with any evidences of their patriotic disposition. It does not prohibit him or any one else from going into the Army as a volunteer. The ranks are open, and all those who sympathize with him in his sentiments are welcome to go in and to array themselves in support of the country against its enemies. I have heard these arguments before, and the moment that the Government enacted the conscription law, that moment the argument was changed, and they said that volunteering was the only true way of raising troops to support the Government; and then the charge was made that the conscription act, which they before recommended, was utterly and entirely unconstitutional.

Now, sir, it is unfortunate indeed that the Representative of a district in New York city should be in favor of volunteering when all his constituents are opposed to enlistment; it is exceedingly unfortunate. If that were the disposition through the whole country, I doubt whether our armies would be filled very speedily. There is one thing to which I have made up my mind, and that is, that this rebellion is to be put down, and that it is to be put down notwithstanding the menaces which may be made on the other side, and notwithstanding all the opposition of rebels in arms. This Government is of too great value to be sacrificed for political purposes. When the gentleman alluded to the response which the people of this country made to the first call upon them after the fall of Sumter, he forgot that it was an expression of the popular feeling, that Democrats and all other citizens of this country came forward as one man to the support of the Government, except the political leaders; and it was only when the political leaders counseled together to see what was to be the result of this expression of patriotism upon party power that you saw the patriotism of many who had been ranked with the Democratic party waning away.

I well remember, sir, that those who favored a prosecution of this war without reference to party called a convention to be held in the city where I reside on the same day for which the Democratic party of New York called their convention, and they did it for the purpose of proposing a prosecution of the war for the country without reference to parties. And yet, sir, party leaders defeated that proposition, and we have the result of their action in the character of some of the Representatives who have been returned here from the State of New York. I thank God that there are men from my own State, sitting on the other side of this Chamber, who have been Democrats, who are Democrats now, but who are as true and loyal to the Government as I am, who are prepared to stand by it in emergencies, and who, although differing with me in some political views, are true to the Union and to the country. You will find them so. I have taken occasion elsewhere, in speaking in public of the elections in New York, Ohio, and Pennsylvania, to claim the results not as the triumphs of a political party but as the triumphs of the American people determined to support this Government, the triumphs of patriotic and Union men without reference to party.

But there is, unfortunately, another class which has never been able to withdraw itself from party

influence, whose affiliations with party views have been so strong that patriotism is lost and ignored, and every interest of the country subordinated to the interest of political partisanship. For such men I have no sympathy and no respect.

This Government, Mr. Chairman, is charged with doing great injustice by means of arbitrary arrests. I deny the charge. I doubt not that in some of the numerous cases where that power has been exercised, injustice may have been done. But I tell you that if full justice had been done many a man who is now abroad at liberty would have been looking out upon the fields of the country through the bars of some prison, or studying the beauties of New York harbor through the port-holes of Fort La Fayette. I do not know but that the sufferings of men who have been under the operation of military arrests may have been suggested to the gentleman from New York by some individual member near him who has had a personal experience of its effects. Where has the power of the Government been exercised for the purpose of doing wrong to any man? I deny that the President, the Secretary of State, or any other man connected with the Government has, for personal or for party reasons, sent any person to prison or placed him under arrest. When a man has suffered in this way it has only been because he was considered and believed, upon reliable or at least *prima facie* evidence, to be a public enemy, sympathizing with rebellion and treason, and plotting the ruin of his country.

Now, I hold that every man within the jurisdiction of the Government, who claims its protection for his person and property, is bound to loyalty to that Government and fidelity to its laws, and is restricted either from communicating with its enemies or doing anything for their aid and comfort. No, sir; this Government has exercised no power except for the constitutional purpose of preserving its own existence. That it has a right to preserve that existence I find not only in the Constitution, but I find it as the inherent power of every Government. It is incidental to it. It is a right higher than the Constitution. It springs from the first law of nature, which gives to every creature the right of using his own powers for the protection of his own life. Even those who talk treason and who sympathize with treason in this hour and in this presence have that same right of self-protection.

The gentleman informs us that he regrets exceedingly the violence which occurred in the city of New York, denominated the New York riots. I have no doubt that many men who sympathize in the sentiments which led to those riots, and the expression of which sentiments precipitated and forced them on, do regret it; and some of them may express opinions now which are but the evidence not of original opposition but of subsequent repentance. I was in that city when the riots occurred, and I found to my astonishment that a person clothed with high authority in the suppression of the riots by the civil authorities of the State of New York was a celebrated individual who had declared at the outset of this rebellion that he would, if necessary, raise a regiment within that city, and march to the South for the purpose of aiding the rebels against this Government.

I regret those riots as much as the gentleman does, but I tell you they came because politicians prepared the way for them by anathemas against the Government, by charging the Government with the abuse of power and with an attempt to centralize the authority and power of the Government and subvert the Constitution. I believe that the leaders who proclaimed these sentiments knew better, and knew that the sole object of the Government was, under the Constitution, so far as in its power, to perform that duty which the Constitution imposed upon it, for suppressing the rebellion and protecting the liberties of the people.

Mr. Chairman, this conscription act, I trust, will be amended. It is no new process; we are but modifying an existing law. We are attempting here to adjust it to the wants and the circumstances of the country, to do equal justice to all men irrespective of party; and although if that conscription were enforced it might perhaps affect some of the constituents of the gentleman, who, like him, have no sympathy here with the Government, in their personal rights, and may force them to the ranks of our armies, it will be but placing them in my judgment where they should

be placed, and where they would never go except by force of public law.

I deny the right of any man upon this floor or elsewhere to say that every citizen of this country is not bound in his person and by the use of all of his property, if necessary, to protect and sustain this Government. And if it be necessary to resort to conscription, let it come. If increased taxation be necessary, let it come. Let us submit to all sacrifices. Let us even, if necessary, drive out from among us those who, faithless to their country, are loyal only to its enemies.

Let us do full justice to the present, and let us retain for coming ages that glorious inheritance which has been guaranteed to us by our fathers. We shall do it. It requires but the united effort of all loyal citizens, the subordination of all party attachments, and the firm resolve that whatever we possess of material wealth, of intellectual power, or of physical vigor, shall be freely offered in the national cause to preserve our country in the unity of its empire and the beneficence of its institutions.

War is to be regretted. Its evils are multiform; and yet though life must be sacrificed, though onerous public burdens must be borne, we must submit to all like patriots, determined to protect our liberties from the machinations of men who feel sympathy only with rebels and with treason.

Mr. Chairman, in this struggle liberty is to triumph, and the country is not to be divided; its physical conformation forbids it. The interests of the human race forbid that the tide of civilization and of freedom should be rolled back for two hundred years by the indorsement upon this floor and the prevalence through the country of the sentiments uttered here to-day for the encouragement of rebellion.

This Union will be preserved for free labor and free men. The power of that social institution which inaugurated the rebellion for its aggrandizement and extension, and which still seeks to exert its influence here through political sympathy and political organization, has lost its hold upon every loyal citizen. The day of grace has been sinned away in the commission of crimes against the Union, the laws, and the human race, and by the irreversible decree of the American people it must be destroyed.

I wish, Mr. Chairman, that we might never again have uttered on the floor of this House a speech which is only worthy of being printed by order of the rebel congress.

Mr. YEAMAN obtained the floor, but yielded to Mr. ANDERSON, who said: I rise for the purpose of personal explanation.

The CHAIRMAN. By a vote of the House this bill has been made a special order, and nothing that does not pertain to it can be discussed except by consent of the committee. If there be no objection, the gentleman from Kentucky will be permitted to make a personal explanation.

No objection was made.

Mr. ANDERSON. While absent last week, confined to my room by sickness, a member of the House with whom I am totally unacquainted, Mr. W. J. ALLEN, of the State of Illinois, made a speech.

The CHAIRMAN. The gentleman will understand that it is in violation of the rules of the House to call members by name in debate.

Mr. ANDERSON. The gentleman from Illinois, then, I should say, made a speech which I find published in the Congressional Globe of the 26th, in which I find the following language used in reference to myself. In speaking he says:

"With a cruelty quickened by public exposure, with his avarice stimulated by the success of former pillaging, and with a slavish subserviency to those whose motives he denounced for many years of his life, he is turned loose upon a rebellious people, who, whatever their sins may be, are at least sincere in regarding him as a monster. And when a few days ago a member from New York [Mr. FERNANDO WOOD] submitted a resolution calling for a committee to inquire into his conduct, the Republican members of this House, aided by one of the President's military appointees from Kentucky, [Mr. ANDERSON,] voted to suppress the investigation; and it was suppressed."

Now, Mr. Chairman, I am totally unacquainted with the gentleman from Illinois, and why it is that he went outside of the legitimate sphere of his action to make this attack upon me I am unable to state; but I will inform the gentleman to-day that that statement in reference to myself is false and slanderous, without any foundation in fact.

I will further inform the gentleman that I was elected by as true, unflinching, sturdy Union men

as breathe upon the continent of America; not professed Union men, but Union men who have been tried by the fires of persecution, Union men who have come out of this rebellion with unspotted garments, without the smell of treason upon them, Union men who have been robbed and plundered, who have been imprisoned, Union men who have been hunted with hell-hound ferocity by the rebels in arms against this Government, and who seem to have an apologist upon this floor to-day in the person of the gentleman from Illinois.

In reference to my election he must have known, because he lives in an adjoining district, how it was conducted. He knows that in January, 1862, the rebel sympathizers in that congressional district went to the ballot-box, voted and sent a member to represent that district in the so-called southern confederacy at Richmond. That was in January, 1862. The Union men took no part in that election, which they regarded as treasonable. They regarded it as a violation of the law and precedent. In 1863, when the election came on in that congressional district to send a Representative to the Congress of the United States, those men who had gone to the ballot-box in 1862 went to vote to send a rebel and traitor to the Congress of the United States, but they were prevented from voting, and therefore the Union men there have secured the indignation of the gentleman from Illinois. They were denounced simply because those rebels and traitors were not permitted to go to the ballot-box side by side with the Union men.

The gentleman from Illinois has the audacity to stand up in the Congress of the United States and say that I have been appointed by the President of the United States. Mr. Chairman, I will inform the gentleman from Illinois and the world that the election as conducted in my congressional district has been decided by the supreme court of the State of Kentucky to have been in accordance with the constitution and laws of that State. At the last August election in that district the Union man run for the office of county clerk was opposed by a rebel sympathizer, a man with the oath upon his conscience and treason in his heart and perjury upon his soul. The unconditional Union man was elected, but a traitorous county judge refused to qualify him and appointed another man in the place of this man who was regularly elected. Suit was brought, and the judge decided that the Union man was not elected. He took the case up to the higher court, and on the 25th of last month, while the gentleman from Illinois was howling his denunciations, that court decided that the Union man was entitled to the office.

One word further. The gentleman from Illinois pretends to be the friend of Union men in the border States. He makes the declaration that he is an unconditional Union man. If it had not been for that declaration, made over and over again by the gentleman in his speech, I would have thought that it was one made in the so-called confederate congress at Richmond. [Laughter.] He denounces the proclamation of the President of the United States of 8th December last, as applicable to the Union men. Do you find any Union men in the border States denouncing the President of the United States for that proclamation? No, sir. But not satisfied with denouncing Union men in my district, he goes further, and denounces men like Andrew Johnson, Brownlow, and Maynard, of Tennessee, and Hamilton, of Texas. Why, sir, they stand in patriotism and in loyalty as far above the gentleman from Illinois as heaven is above hell. [Laughter.] Andrew Johnson needs no defense from me; Maynard and Brownlow need none; Hamilton needs none. Their acts will live in the memory of the American people when the gentleman's name will go down to posterity "unwept, unhonored, and unsung."

There are other things I should like to reply to, if the committee will permit me. [Cries from the Republican side of the House of "Go on! Go on!"]

Mr. Chairman, from the commencement to the end of the gentleman's speech there is nothing but denunciation after denunciation poured upon the men who are to-day controlling the destinies of this Government. He says the President has raised an army by fraud, that he has obtained soldiers under the false pretense that they were to crush the rebellion and to maintain the Consti-

tution and the laws. He asserts that the President and the Congress of the United States have changed the character of the war, and that they are now endeavoring to subvert the liberties of the American people. Why, does not the gentleman know that in his own State the very men upon whom he says that fraud has been practiced, that these old veteran regiments are again enlisting in this war? These men who, he says, were defrauded in their first enlistments are reenlisting—twenty-five regiments from Illinois in one day. Those men who have borne the heat and burdens of the conflict with armed rebels and traitors were again enlisting when the gentleman from Illinois was talking about the great Democratic party. [Laughter.] They are reenlisting East, West, North, and South; and I tell the gentleman that the American people can crush this rebellion of armed traitors, and when these soldiers return it may be they intend to crush out the disloyal men who have been vilifying them when they were fighting the battles of the Republic.

The gentleman says that there are one hundred thousand traitors in the North, and that there are many of them in this House. If that be the fact, why does he not move to expel them? Now, to show that the gentleman is not acting in good faith, let me say that the gentleman from Kentucky, from the Covington district, [Mr. SMITH,] offered a resolution in this House since the commencement of this session in which it was declared that there were but two parties in this country, patriots and traitors, and the gentleman from Illinois voted on that resolution in the negative. Why did the gentleman vote against that resolution when he had just before made the declaration in this House that the House was filled with men who are as base traitors as Jefferson Davis? To what is his vote attributable? Simply to the fact that the gentleman knew that the resolution struck him as one of the parties to which it referred.

Mr. W. J. ALLEN. Do I understand the gentleman to say that his colleague introduced a resolution into this House, declaring that there were but two parties in this House, patriots and traitors, and that I voted against it?

Mr. ANDERSON. I said that such was my recollection.

Mr. W. J. ALLEN. Your recollection is sadly at fault.

Mr. ANDERSON. Then I stand corrected. One other thing I have to say. But before that, let me ask the gentleman if he voted for that resolution.

Mr. W. J. ALLEN. I do not know what you are referring to.

Mr. ANDERSON. To the resolution offered by the gentleman from Kentucky, from the Covington district, on the 17th of December last. I find on referring to the Globe of that date that Mr. SMITH introduced the following resolutions:

"Resolved, That as our country and the very existence of the best Government ever instituted by men, are imperiled by the most senseless and wicked rebellion that the world has seen, and believing, as we do, that the only hope of saving this country and preserving this Government is by the power of the sword, we are for the most vigorous prosecution of the war until the Constitution and laws shall be enforced and obeyed in all parts of the United States; and to that end we oppose any armistice, or intervention, or mediation, or proposition for peace, from any quarter, so long as there shall be found a rebel in arms against the Government; and we ignore all party names, lines, and issues, and recognize but two parties in this war, patriots and traitors."

"Resolved, That we hold it to be the duty of Congress to pass all necessary bills to supply men and money, and the duty of the people to render every aid in their power to the constituted authorities of the Government in the crushing out of the rebellion, and in bringing the leaders thereof to condign punishment."

"Resolved, That our thanks are tendered to our soldiers in the field for their gallantry in defending and upholding the flag of the Union, and defending the great principles dear to every American patriot."

And among the negative votes on that resolution I find the name of the gentleman from the State of Illinois, [Mr. W. J. ALLEN.] What I stated before was upon information; and now I state it from the record. On the 17th of December, 1863, the gentleman votes, under the sanction of an oath, that the parties are not divided in this war into patriots and traitors.

Again, in a speech made on the 26th day of January last, the gentleman said that this House was filled with traitors, and yet the gentleman's act and conduct do not correspond with that declaration. Further, the gentleman said:

"The soldiers who volunteered for the sole purpose of

putting down rebellion and vindicating the law are often forced to march among the women and children of the South, who are too often insulted and plundered by the bad spirit and pillaging propensity which seems to enter so largely into the policy upon which this war is to be conducted; and they who impatiently listened for the airs and anthems which once told of union and nationality, often hear only from negro soldiers doggerel praises of John Brown and his murderous crew. The uniform which is the badge of a gentleman and the ensign of honor is worn now by depraved negroes whose instincts are almost as low and brutal as those at whose instance the profession of arms has been disgraced."

The gentleman charges that the armies of this Government are sent South for the purpose of pillaging and robbing the women and children.

The gentleman further says in his speech:

"Jefferson Davis and his adherents who sought to destroy the Union by dismemberment are traitors to the Constitution; but they were bold enough to avow their purposes, to appeal to the sword, and risk the dreadful consequences of their crimes. Their followers may have been wicked or misguided, but they have made the issue boldly, and have so far met the consequences like brave and fearless men."

Yes, the followers of Jeff. Davis and his crew may have been wicked, in the gentleman's estimation, but the soldiers of the United States Government are robbers; but the former "made the issue boldly, and have so far met the consequences like brave and fearless men."

Nobody knew better than the gentleman from Illinois that the soldiers of Jeff. Davis, as they are called, the men in armed rebellion against this Government, not more than one month before the assembling of this Congress, invaded that portion of Kentucky adjoining his district. The gentleman must have known that fact. He knew that they robbed and plundered by wholesale almost every Union man in that district. He knew that they destroyed the railroad leading from Paducah to Mayfield. He knew that they fired into a train of cars as it was running, filled with innocent women and children. Yet no denunciation falls from his patriotic lips against those men; but the soldiers of this Republic, the men who have bared their bosoms to the thickest of the fight, and carried the flag of the Union down into the rebel States, he denounces as robbers and thieves. He says nothing against Jeff. Davis and his thieving gang, who are no less than murderers and robbers.

I said I was unacquainted with the gentleman from Illinois. I never have been introduced to him; but from reading his speech, if the declaration were not in it that he was an unconditional Union man I would not believe he was a Union man. I should take him to be one of those men who live in my country—Union men, but constitutional Union men. They are Union men, but they would not violate the Constitution by the further prosecution of this war.

I will ask the gentleman one question, if he has no objection. I see in the proceedings of a meeting held by this great Democratic party at Springfield, Illinois, on the 17th of June last, the following resolution was passed:

"Resolved, That the further offensive prosecution of the war tends to subvert the Constitution and Government, and entail upon the nation all the disastrous consequences of misrule and anarchy; that we are in favor of peace upon the basis of the restoration of the Union, and for the accomplishment of which we propose a national convention to settle upon terms of peace, which shall have in view the restoration of the Union as it was, and securing by constitutional amendments such rights to the several States and the people thereof as honor and justice demand."

I ask the gentleman whether he voted to adopt that resolution? [A pause.] Oh, come now, do not be bashful. [Laughter.]

The CHAIRMAN. Does the gentleman from Kentucky yield to the gentleman from Illinois?

Mr. ANDERSON. I do, sir; I want him to answer the question.

Mr. W. J. ALLEN. I decline to answer it now.

Mr. ANDERSON. The gentleman from Illinois is called, but there is no response.

Now, Mr. Chairman, there is no question but that there are two parties in this country: the men who are for crushing this rebellion by the strong arm of the Federal Government and who are willing to bring all the power of the Government to bear upon this rebellion, and the men who are opposed to that. The gentleman from Illinois refuses to respond to the inquiry whether he indorses a resolution adopted at one of his great Democratic meetings in 1863; he refuses to say whether he does or does not. Sir, I repeat there are two parties in this country: the men who are for this Government and those who are against it.

A man whom I delighted to honor in 1860 made the same declaration. I refer to Stephen A. Douglas, of Illinois, for whom I voted for President. In the last speech that he ever delivered he said there were two parties, patriots and traitors; and it is true to-day, and every man must take his side.

But, sir, the Union men coming from the district that I do, having been persecuted and hunted down by these fiends in human shape, as I have been because I would not turn traitor to my country, being assaulted in the manner that I have been, and having unjust and unfounded insinuations made against them, and that too by an "unconditional Union man," I thought that it would be unjust to myself and unjust to the people I represent to submit silently to the imputation and not hurl it back into the teeth of the gentleman and tell him that it is false and untrue.

Now, sir, the armies of the Government are going to crush out this rebellion; the supremacy of constitutional law will be upheld and maintained; the rebellion will be put down; and when it is, then gentle peace will return to the homes and firesides of this our once glorious and happy country. And when the soldiers of the Republic return, war-scarred, worn-down veterans as they are, to their homes and firesides and find that men have been engaged in persecuting and denouncing them while they have been facing armed traitors, then it is that the gentleman from Illinois may look for his doom, because these soldiers will sink him so low, in an infamy so profound, in damnation so deep, that the hand of resurrection will never reach him.

Mr. W. J. ALLEN. Mr. Chairman, with the permission of the committee, I desire to make a very few observations in justice to myself, and not in the light of a reply to what has fallen from the member from Kentucky.

In his personal explanation, the member has exhibited sufficient courageousness to say upon this floor that I have made false accusations against him and have placed him in a false position. I perhaps ought to apologize to the House and to the country that so much time should have been consumed about so unimportant a matter, and if I had known that it would have taxed the people to the extent that it has, the member's name would never have escaped my lips or appeared in my printed speech. But, sir, I could not foresee what was to follow. I charged, he says, that he is one of the military appointees of the President. He says he is not. He says he is not acquainted with me. I am in the same condition with regard to him. The charge I made he says is not true. I reiterate it; I say it is true. I am very well acquainted with the gentleman who opposed the member from Kentucky, the Hon. Mr. Trimble, of Paducah, and I am aware of the fact that that opponent of the gentleman was under military arrest until after the election. Does the member dare deny that? Does he dare to deny that it was for the sole reason that he was a candidate in opposition to the member that he was imprisoned, and that the day after the election he was liberated without any charge being brought against him or any proceedings had in reference to trial or punishment?

Mr. ANDERSON. Allow me to explain.

Mr. W. J. ALLEN. Do you deny the charges?

Mr. ANDERSON. I want to explain.

Mr. W. J. ALLEN. Well, you can explain after I am through.

Mr. ANDERSON. I will explain afterwards.

Mr. W. J. ALLEN. I decline to yield to the member now. I have stated the facts. I have them from the mouth of Judge Trimble himself, and from other gentlemen whose character and veracity stand infinitely higher with all men who know them than the member from Kentucky; men whose loyalty was never questioned, men whose integrity is above suspicion, men whose moral character is above reproach. He says that the Union people of southern Kentucky elected him. The Union people! The bayonets were the Union people that elected him. To be sure, he may have received some Union votes; but, Mr. Chairman, do you not recollect, is it not a fact with which every member of this House is conversant, that the order of General Hurlbut, issued at Memphis, went over to and was in force in Kentucky at the very time the election occurred? It is a fact in our public history. Those who were allowed to vote had to do so in accordance with that order, and not otherwise.

The remark has fallen from the lips of the member from Kentucky that he thinks I would make a good representative down with Jefferson Davis, and that we ought to abuse Jefferson Davis a good deal more than we do. I have heard such contemptible twaddle from similar sources before. Let me tell you, Mr. Chairman, that the length and breadth and height and depth of the Unionism of many men, of that member's professions, consist in the abuse of Jefferson Davis to a much greater extent than in love for the Union and in reverence for the Constitution of the country. It is there that they have to go for the record of their Unionism. I have nothing to say in regard to my own. I have entertained but one view with reference to this war from its inception to the present moment. That view has been made known to my constituents from the very time of the commencement of hostilities, and I am here, by a free, untrammelled vote, backed up by a majority of more than six thousand voters of my district—given at a time, too, when such men as the member from Kentucky were harping about my having secession sympathies. I have nothing but the most sovereign and profound contempt for any such slang coming from any such quarter.

But, sir, I am threatened by the member from Kentucky with the vengeance of the soldiers; and in regard to that I desire to make this remark, so that the country may understand it. He says that I have charged the soldiers with being robbers. Mr. Chairman, were any man of standing or character to make such a remark as that I should not content myself with denouncing it as false, absolutely false. As it is, I will not even put myself to that trouble. The remark which I made, and which the member from Kentucky read here, was that the spirit which entered into the conduct and policy of this war made the soldier do many things and offer insults which that honest and brave soldier would instinctively have shrunk from if left to act upon his own impulses or ideas of right. That is the reading, the text, the language, the spirit of what I said; and the member from Kentucky has not criminal ingenuity enough, whatever other qualities in that direction he may possess, to make my remarks bear any other interpretation. I honor the soldier. I honor the man who went forward for the purpose of putting down this rebellion. I honor the soldier and I honor the officer who obeys orders looking to the restoration of the Union and the putting down of the rebellion. I have said so everywhere. I say so to-day. I am not afraid to trust the honest soldier. He cannot be deceived by such falsehoods as we have just listened to. I have talked with him in camp, talked with him when he was at home on furlough, and I understand him and he understands me. I may be allowed to say that the district which I represent has sent a larger percentage of men to the war than any other district in Illinois, though perhaps not so large as has been sent by the Union people of the southern district of Kentucky, which the member claims to represent! It may be that down there in that Union-loving region, in that region of Union men—a sample of whom we have had an exhibition of to-day on this floor—a larger proportion of the population has gone forward to aid in putting down the rebellion than has gone from my portion of the State; but I would like to see the evidence of it.

He says that the people of his district had the right to elect anybody they chose to represent them in Congress. I have not had the opportunity of seeing the returns from that district lately. It would be somewhat curious to see how many votes the member received, although his chief competitor was held in bonds, surrounded by a guard. The member himself knows something about the surveillance of guards, for I believe that he has had some experience of the kind, and that it is to the good offices of a system of exchange he owes the opportunity of being able to circulate freely in this Hall to-day and manifest his base subserviency to his masters and his contempt for the popular will of his district.

Now, sir, it is well known in my section of the State—for I represent a district running down the Ohio, from the mouth of the Wabash to Cairo—it is well known that the election in Kentucky was a mere farce; everybody so speaks of it, especially in that Union portion of Kentucky the member hails from.

Again, he asks me upon this floor if I indorse a certain resolution passed by a convention held at Springfield. Well, I do not exactly know what business he has to ask me any such question, but if anybody else, any respectable gentleman seeks to know my views about this matter, or anybody, however small, of respectable gentlemen, I hope he or they will select some other organ than the member who has spoken this afternoon. I cannot see for the life of me what particular interest that member has to know my views, and I take it for granted, out of respect for the opposite portion of the House, that the inquiry originated with himself; certainly he could not have been appointed by any respectable body of men as their medium for obtaining the information.

Now, sir, he asks me in reference to the resolution of the gentleman from Kentucky, [Mr. SMITH,] whom I most pleasurably speak of as being a gentleman.

Well, sir, I will be frank and candid with respect to this matter. I think there are more than two parties in this country. I think there are men who do not belong to either one of the two parties mentioned in the resolution of the gentleman from Kentucky, [Mr. SMITH.] The great Democratic party, with which I am proud to act, I believe is the great Union party of patriots, and I am unwilling to believe that all those who are opposed to it upon the other side of the House are traitors. [Laughter.] I cannot believe any such thing as that. There may be a sprinkling and a pretty large sprinkling of them who are really good Union men and good patriots, and I would not like, therefore, with my views of patriotism, to vote any such thing as that, or place them in the company of the member from Kentucky, [Mr. ANDERSON.] I do not include—I wish it to be distinctly understood—by any means in that list the member who has just spoken.

Now, sir, one other remark in reference to a matter personal to myself, and I have done. It was least in my thought a few minutes ago that this attack was to be made upon me. I was sitting quietly at my desk writing a letter, and one of the very best character, [laughter,] when my attention was arrested by the remarks of the member from Kentucky, and I felt it due to myself to notice them as I have done. I will add that whenever gentlemen in this House think proper to characterize the views that I entertain of this Administration and its policy as tainted with secession, I hurl back such puerile insinuations as absolutely false.

I am an unconditional Union man. I believe, as I have always said, that the rebellion was unauthorized by the Constitution, and that the Constitution vested the Government with power to put it down. I am willing to sustain the Government in the execution of that duty which devolves upon it by the Constitution. I am willing to give it all the constitutional aid necessary for that purpose, and I believe the Constitution gives the Government all the support, power, and authority necessary to accomplish it.

The member says that I characterized that portion of the House among which he seeks to affiliate as not being Union men. I do, sir, and whether the member falls in that category is perhaps not important now to consider. I know that many of the members on that side of the House with whom he seems disposed to consort have avowed upon this floor that they would not have the Union restored as it was; that they would have no union with slavery; that they were sick and tired of this talk about "the Union as it was and the Constitution as it is." Sir, I say here in my place that any man who entertains such sentiments at this critical juncture in the affairs of the nation is in my opinion an enemy to the best, the highest, and the dearest interests of the Government.

The Democratic party to which I belong stand pledged to restore to the Union the States that have endeavored to get out of it, with all their constitutional rights unimpaired.

I must be pardoned for still one other remark, in justice to one who was the friend of my youth and the pride of the nation. Sir, I do not like to hear sacrilegious mouths talking about Stephen A. Douglas. I do not like to hear those whose characters are as far removed from his as light is from darkness quoting him, or rather misquoting him. Douglas was, it is true, opposed to the re-

bellion, but while opposed to the rebellion, it is also true that he was opposed to the Black Republican party. He was opposed to making war upon the institutions of the southern States. He was for putting down this rebellion. He said in his last speech, save one, which he made at the capitol at Springfield, that the moment the character of the war was changed to one of aggression, to a servile war, and to a war upon the institutions of the South, he would fly to the rescue as quickly as any man in the country. That is the sum and substance of the speech. The member cannot quote the name of Douglas in making war upon the Constitution and the laws.

I have said, perhaps, more than I ought to have said. Lest, however, there may be some solicitude on the part of those who telegraph for the papers, as I have been charged with falsehood, I will add that I shall have no personal controversy unless strictly on the defensive. I cannot consent in justice to my own character to pay further attention to the characterless member from Kentucky. I have said what I have for the vindication of myself and those who act with me. This is the last of it.

Mr. A. MYERS obtained the floor.

Mr. ANDERSON. I ask the gentleman to yield to me fifteen minutes to reply.

Mr. ANCONA. I think that we have had enough of this.

Mr. STROUSE. I move that the committee rise.

Mr. FARNSWORTH. The gentleman has not the floor to make that motion.

Mr. YEAMAN. I rise to a question of order. I only yielded to my colleague, and did not give up the floor entirely.

The CHAIRMAN. If that be the case, then the gentleman from Kentucky is entitled to the floor.

Mr. ANDERSON. Will my colleague yield to me?

Mr. YEAMAN. I will with the consent of the committee.

Mr. PERRY. I object.

The CHAIRMAN. The gentleman can yield unconditionally to his colleague.

Mr. YEAMAN. I yield to him and to all others who want to debate it.

The CHAIRMAN. This is a special order, and debate must be confined to it unless by unanimous consent.

Mr. ANDERSON. I ask unanimous consent. Objection was made.

Mr. ROBINSON. I object, unless it is agreed on the other side of the House that my colleague may reply if he chooses. [Cries of "Agreed!" from the Republican side of the House.]

Mr. PERRY. I object.

Mr. ANDERSON. I obtained the floor for the purpose of making a personal explanation. I did not intend to carry the war into Africa, but only into Egypt, from which the gentleman from Illinois comes.

Mr. HARRINGTON. I object to any further personal controversy.

Mr. A. MYERS again obtained the floor, and yielded to

Mr. STROUSE, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration as a special order the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had come to no resolution thereon.

COMMITTEE ON NATIONAL ARMORY.

The SPEAKER announced that he had appointed the following members as the select committee on a western national armory: Mr. KELLOGG of Michigan, Mr. MOOREHEAD, Mr. O'NEILL of Ohio, Mr. ARNOLD, Mr. DAWES, Mr. McDOWELL, Mr. RANDALL of Kentucky, Mr. LOAN, and Mr. ELDRIDGE.

AGRICULTURAL REPORT.

The SPEAKER also laid before the House a communication from the Superintendent of Public Printing in regard to the agricultural report; which was referred to the Committee on Agriculture.

NAVY REGISTER.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed for the use of the House two thousand five hundred copies of the Navy Register for the year 1864.

MISSISSIPPI AND TIDEWATER CANAL.

Mr. DAVIS, of New York, asked leave to introduce the following resolution:

Whereas the President of the United States, in virtue of a joint resolution of the Thirty-Seventh Congress, appointed Colonel Charles B. Stuart, civil engineer, a commissioner to examine the canal between the Mississippi and tide-water on the eastern coast, with a view to a more perfect water communication:

Resolved, That the said commissioner be requested to report to this House the results of the examination made by him in conformity with said joint resolution.

Mr. HOLMAN objected.

And then, on motion of Mr. BAXTER, (at a quarter past four o'clock p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, February 3, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in answer to a resolution of the Senate of the 26th of January, copies of orders issued by military authority concerning elections in the States of Kentucky, Missouri, Maryland, and Delaware; which was ordered to lie on the table and be printed.

The VICE PRESIDENT also laid before the Senate a communication from the Postmaster General, transmitting, in compliance with a resolution of the Senate of the 22d of December, 1863, information in relation to the failure of the mails between the cities of Washington and New York.

Mr. SUMNER. I had the honor to offer the resolution referred to in that communication some time ago, and I am glad that we at last have an answer to it. I move that the answer be printed for the use of the Senate, and referred to the Committee on Post Offices and Post Roads.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. POMEROY presented eight petitions of military storekeepers in the United States Army, praying for the passage of an act conferring on them the rank, pay, and allowances of captains in their respective departments; which were referred to the Committee on Military Affairs and the Militia.

Mr. COLLAMER presented a petition of fifty citizens of Vermont, praying for the emancipation of all persons of African descent held to involuntary service or labor in the United States; which was referred to the select committee on slavery and freedmen.

He also presented a petition of twenty-one women of Vermont, praying for the emancipation of all persons of African descent held to involuntary service or labor in the United States; which was referred to the select committee on slavery and freedmen.

Mr. COWAN presented the memorial of Charles B. Ford, of Kenosha, Wisconsin, praying for relief against the operation of the "Act to promote the progress of the useful arts," approved March 3, 1863; which was referred to the Committee on Patents and the Patent Office.

Mr. SUMNER. I present a memorial of a large number of citizens of Boston, chiefly Germans, protesting against the proposed system of reconstruction by the President of the United States, and calling upon Congress to make arrangements which will render the rebels politically harmless until a well-regulated condition of the seceded States has been secured. I ask that the memorial may be referred to the Committee on the Judiciary.

It was so referred.

Mr. POWELL presented the petition of Waters & Fox, and others, importers, merchants, and dealers in castor oil, and producers of castor seed, praying for a reduction of the duty on castor seed; which was referred to the Committee on Finance.

Mr. TRUMBULL presented the memorial of R. Gregg & Co., and others, protesting against an increase of the tax on spirituous liquors retrospective in its action; which was ordered to lie on the table.

MILITARY AFFAIRS IN MISSOURI.

Mr. BROWN. Mr. President, I ask leave to submit to the Senate a memorial signed by some three hundred loyal citizens of Harrison county in the State of Missouri, setting forth the grievances under which they now labor—grievances of a most oppressive and humiliating kind. It is as follows:

To the Honorable the Senate and House of Representatives:

We, your memorialists, citizens of Harrison county and State of Missouri, men who have always been loyal and true to the Government of the United States, would respectfully represent that in this county and in many other parts of this State former militia companies that have shown every anxiety to have this unholy rebellion put down, and who were in favor of restoring peace to our distracted State, have been mustered out of the service and deprived of their arms, while rebels and rebel sympathizers (men who have been loud in their denunciations of the Federal and State Governments) are organized to fill their places.

We, your memorialists, who have the interest of the whole country at heart, feel justly the insult thus offered, and, as there is no difficulty in the enforcement of the civil law, pray for such action at your hands as will hereafter prevent the arming of the disloyal population and returned fugitives in the midst of loyal men, and that such troops may no longer be permitted to organize in this county or State; and investigation of these matters is asked.

And, as in duty bound, we will ever pray,

HOWARD T. COMBS,
JOHN GRUCHER,
J. W. CARROLL,
JOSEPH F. BRYANT,
T. H. TEMPLEMAN,
Rev. S. G. ANDERSON,
And about three hundred others.

Mr. President, let me say here in explanation that the county of Harrison is one of the most loyal in the State, one situated near the Iowa line, one that has never had but four slaves in it if I remember aright, and has been correspondingly resolute to maintain the Government and put down the rebellion. The three hundred loyal citizens who concur in this memorial set forth, however, that the rebellion has virtually put them down; that they stand disarmed and disbanded, in presence of their wives and children, while rebel sympathizers, noted as such, or at least believed to be such by them, and to have no hearty sympathy with the national Government, are made their custodians. All this, if my advices are correct, has been done under the direction immediately of the district commander, General Guitar, who has been kept in command of the northern half of Missouri for many months past, in defiance of the almost universal protest of the loyal men of that section. Nor do I hazard anything in saying that, so odious has he made his rule, it has required an armed force, such as he has gathered there, to protect him in his person and his peregrinations.

Without going further, however, into the discussion of matters of complaint at present, it will suffice for the purpose I now have in view to say that among the leading causes of animosity entertained by the loyal citizens of north Missouri were, first, a system of vindictive arrests of those conspicuous for their devotion to the cause of freedom, and, secondly, conduct at variance with the regulations prescribed for the government of our armies, in seizing and returning into slavery, or permitting to be returned into slavery to disloyal claimants, colored persons actually employed as teamsters for the regiments. I do not repose these citations upon my own knowledge or assertion, but submit herewith, and to accompany this memorial, the affidavits I hold in my hand, which set forth specifically instances in which the wrongs were perpetrated. They are marked one and two and three and four.

And now let me say in conclusion, Mr. President, that believing such offenses should not be permitted to pass without scrutiny, first to ascertain their truth, nor without rebuke afterwards to prevent their repetition in the same or other States, I desire to refer these papers to the joint committee on the conduct of the war. It is, I believe, in contemplation by that committee, and if not, certainly it will devolve on them as a duty, to investigate the conduct of affairs in the department of Missouri, and I cannot but think that if transactions shall appear such as these glanced at—violative at once of citizen liberties and Army regulations—they will not hesitate to present a

report such as will demand a dismissal from the service of all officers guiltily implicated; nor can I doubt, furthermore, that all officers so presented will be dismissed by the proper authority in deference to public opinion. I believe, sir, that the recent change in department commanders in Missouri, if followed up by a change in policy such as will no doubt suggest itself to the very able and sagacious general placed there, will right much of this wrong that has been complained of and restore a harmony that should never have been interrupted; and so trusting, I shall close my statement in this behalf by asking that the memorial and accompanying affidavits may be referred to the joint committee of the two Houses on the conduct of the war.

Mr. WILKINSON. I hope that reference will be made, and that the committee on the conduct of the war will take up and thoroughly investigate the operations of the military department of Missouri. I say this because my State has had several regiments in the field in Missouri, and they have fallen under the influence, and, as I believe, the evil influence of that department, and many of the most prominent men have written to me concerning the maladministration of affairs in that State. I have a large number of letters from men of intelligence from the State of Minnesota who are now in Missouri attached to the military department in that State, complaining in the most bitter terms of the whole management of that military department. I believe that if it shall be carried on in the future as it has been managed in the past it will have a tendency to demoralize the troops and to render them of very little effect in suppressing the rebellion or restoring order in that State. I am very glad that the Senator from Missouri has brought up this matter in the shape that he has, and I trust that the committee on the conduct of the war will give it that attention which the importance of the case requires.

The VICE PRESIDENT. The papers will be referred to the joint committee on the conduct of the war.

REPORTS FROM COMMITTEES.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 81) to amend the charter of Georgetown, in the District of Columbia, reported it with an amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a bill (S. No. 28) relating to members of Congress, reported it with amendments.

He also, from the same committee, to whom was referred a bill (S. No. 51) amendatory of and supplementary to "An act to provide circuit courts for the districts of California and Oregon, and for other purposes," approved March 3, 1863, reported it with amendments.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred sundry petitions and memorials concerning the enrollment act, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (S. No. 85) to provide for the examination of certain officers of the Army, reported it with an amendment.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a bill (H. R. No. 144) to indemnify the owners of the British schooner Glen, reported it without amendment.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred the memorial of Edward C. Doran, submitted a report accompanied by a bill (S. No. 94) to authorize the settlement of the accounts of E. C. Doran.

The bill was read and passed to a second reading, and the report was ordered to be printed.

COMMITTEE SERVICE.

Mr. TRUMBULL. I will state that there is a vacancy in the Committee on the Judiciary occasioned by the resignation of the Senator from Delaware, (Mr. Bayard.) I move that the President of the Senate be authorized to fill that vacancy.

The motion was agreed to.

Mr. FOSTER. There are two vacancies upon the Committee on Pensions, one occasioned by the death of the late Senator from Virginia, (Mr. Bowden,) the other in consequence of the Senator from Kansas [Mr. POMEROY] having been ex-

cused from service on the committee at his own request. I move that the President of the Senate be authorized to fill those vacancies.

The motion was agreed to.

The VICE PRESIDENT appointed Mr. Foor and Mr. Brown to fill the vacancies upon the Committee on Pensions.

On motion of Mr. CHANDLER, the Vice President was authorized to appoint a member on the Committee on Commerce to fill the vacancy occasioned by the death of Hon. Mr. Bowden.

The VICE PRESIDENT appointed Mr. LANE, of Kansas.

CHARGES AGAINST MR. HALE.

On motion of Mr. HALE, the Senate proceeded to the consideration of the report made by the Committee on the Judiciary on the 1st instant, upon the resolution instructing them to inquire whether Mr. HALE had been guilty of any improper conduct in connection with the case of one Hunt, charged with crime by direction of the War Department.

The report was agreed to; and the committee was discharged from the further consideration of the subject.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (No. 199) to facilitate the payment of bounties and arrears of pay due for the service of wounded and deceased soldiers; in which it requested the concurrence of the Senate.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 26th of January, a bill (H. R. No. 65) to change the place of holding the circuit and district courts of the United States for the district of West Tennessee, and for other purposes.

And that on the 29th of January he had approved and signed a bill (H. R. No. 33) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1865.

PIER NEAR LEWES.

Mr. SAULSBURY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency or necessity of constructing a pier near or opposite to the town of Lewes, in the State of Delaware, for the protection of vessels navigating the Delaware bay and river.

BILLS INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 22) in reference to lands belonging to certain States; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WADE, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 93) to repeal so much of the acts of Congress approved March 3, 1845, and August 6, 1846, as authorize the transportation of goods imported from foreign countries through the United States to the Canadas, or from the Canadas through the United States to be exported to foreign countries; which was read twice by its title, and referred to the Committee on Foreign Relations.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 199) to facilitate the payment of bounties and arrears of pay due for the service of wounded and deceased soldiers, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

ENLISTMENTS IN THE ARMY.

The VICE PRESIDENT. There being no further business of the morning hour, with the unanimous consent of the Senate the Chair will lay before it the unfinished business of yesterday, which is the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes, the pending question being on the amendment proposed by the Senator from Missouri, [Mr. HENDERSON.]

Mr. CARLILE. I move that the further consideration of that bill be postponed until to-morrow.

The motion was agreed to.

INTERNAL REVENUE.

Mr. WILSON. I move to take up for consideration the bill (S. No. 30) to establish a uniform system of ambulances in the armies of the United States.

Mr. FESSENDEN. I make no objection to that if it will not take time; but I was about to suggest to the Senate that if all the Senators were ready to consider the question now, I would move to take up the bill for the increase of the revenue, which I reported yesterday. I shall not, however, urge it now if any Senator desires that it shall be put off another day, inasmuch as the bill has just been laid upon Senators' tables. If Senators are all ready for the consideration of that bill, the sooner we take it up and act upon it the better for the revenue and for the country; and if no Senator suggests that more time is desired, I submit to my friend from Massachusetts whether he had not better withdraw his motion and let me move to take up that bill.

Mr. WILSON. Certainly, if the Senator from Maine desires to take up to-day the bill reported from his committee I shall most cheerfully give way for that purpose. I withdraw my motion.

Mr. FESSENDEN. I now move to take up House bill No. 122.

The motion was agreed to; and the bill (H. R. No. 122) to increase the internal revenue, and for other purposes, was considered as in Committee of the Whole.

The Secretary read the bill at length.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The bill is now before the Senate, and is open to amendments. The amendments reported from the Committee on Finance will first be considered.

Mr. FESSENDEN. Before proceeding to the consideration of the amendments proposed by the Committee on Finance to this bill, it may be well enough for me to say a few words in explanation of the views which governed the committee in proposing their amendments to the bill. I shall endeavor to make what I have to say as brief as possible, because I presume the question is one which Senators can readily understand without much explanation on my part.

The Committee on Finance in considering this bill did not suppose they had anything to do other than to determine, as well as they could, what action it was best to take in order to benefit the revenue as much as possible, having in view at the same time the interests and the feelings of the community at large, and doing as little damage as possible to the business of the country. If this view they did not feel that they had any right to consider any question outside of those. They determined that they would consider the question of distilled spirits precisely as they would any other article of commerce; that it was not their business to look at it in a sumptuary point of view, or with reference to any opinions that might be entertained in the community with regard to the question of temperance or otherwise. Our laws recognize distilled spirits as an article of traffic, as an article upon which it is proper to levy a tax for the benefit of the Government and the people; thus recognizing its existence as an article of merchandise, and to be treated, therefore, as all other articles of merchandise are. Neither did they consider that they were bound to inflict punishments upon any class of the community.

Much has been said with reference to speculation and speculators, and a desire to punish speculators for their action in reference to this subject within the last few months. For myself, sir, I am rather inclined to consider speculators, as a general rule, as a very useful part of the community. They are engaged in one particular branch of business, or in a particular mode of carrying on business; they bring their capital, if they have any, to bear upon it; and their "speculations," as they are called, are mercantile enterprises. At any rate, the committee did not feel inclined to go into the question of whether good or harm had been done by them; but simply to recognize the subject as one before them for their consideration, with the single view, as I said before, to see how far an additional revenue could be derived from the article itself, and, as I before remarked, with as little injury or oppression to the community or any branch of business as possible.

It will be remarked that the first amendment which we have made is one grading the tax in

some measure. The bill as it originally came from the House of Representatives provided a tax of sixty cents on all liquor distilled after a certain day, which is the date of the passage of the bill. We have provided that that tax of sixty cents shall be levied on all spirits distilled from and after the date of the passage of the bill up to the 1st day of July next; and that upon all liquors that may be distilled after the passage of the act (in order to carry out the idea which we had of excluding spirits previously distilled) and sold or removed for consumption and sale on and after July 1st, and previous to the 1st day of January next, there shall be an additional sum of ten cents per gallon levied; and on all liquors that may be distilled after the passage of this act and sold or removed for consumption and sale on and after the 1st of January next, still another additional sum of ten cents, making it eighty cents in the whole.

With reference to the amount of tax that might be levied on liquors, the testimony before the committee convinced me that a tax of eighty cents might very well be added without doing injury in any way; that the article would bear that, and perhaps a still greater amount. With reference, however, to that portion of liquor which goes into the manufactures of the country, where the manufactures depend necessarily on this article, it must be obvious that the tax will be very burdensome; and I am not sure, although we do not undertake to make the exception here in any way, that it may not be necessary in the course of the session to legislate somewhat, if it can be done safely, with a view to that particular part of the article referred to which is used in the process of different manufactures.

With regard to the grading of the tax in the manner I have mentioned, there was some diversity of opinion in the committee; but a majority of the committee decided in favor of it. One argument that is used in favor of it is that, in spite of the additional tax levied, it will encourage distillers to keep their distilleries open and at work during these periods, in view of the additional tax that is to be levied at these several times. The main argument against it, as will be obvious to every Senator, is that this very thing encourages perhaps a rush of work with a view to the rise, and may operate in the same way with reference to this speculation by individuals in the community, which is so much deprecated, and of which so much has been said. That question, therefore, will be before the Senate for them to consider: whether it is advisable to adhere to a single rate of taxation, or whether it is best to increase the rate at different times as we have fixed it, or in any other way.

The next amendment is one of very considerable importance, and has created more discussion than any other. The Senate is familiar with it. That part of the bill, as it came from the House of Representatives, imposed an additional tax on spirits on hand, a considerable portion of which—how much we do not know—was made before any tax was laid upon liquors, and on another portion the tax of twenty cents has already been levied. The question arose—and it is a very important one, and one about which much may be said on both sides—whether that tax was advisable on the whole or not. Of course it has been very maturely and thoroughly considered by the committee, and considered, too, with the advantage of having testimony before us, most of which, and I do not know but all of which, was directed against the proposed tax upon liquors on hand, and which were manufactured before the passage of the act.

On that subject the arguments are various. I confess that my mind has been somewhat in doubt about it. I do not know but that I might have been willing under some circumstances—I speak now simply for myself—to put a less amount of tax on liquors on hand than that imposed by the bill upon liquors which were hereafter to be distilled after the passage of the act. That you cannot with any degree of justice, in my judgment, and I simply speak for myself, impose the whole amount of the tax, must be obvious, I think, to anybody who is acquainted with and has remarked the course of business in reference to this article. There has undoubtedly been since last fall a very considerable degree of speculation in the article.

The great argument for imposing the tax is

that by the imposition of a tax upon that which is to be manufactured hereafter we immediately give a market value, by the amount of the tax levied, to that which is on hand, and that that market value, that increased price, would go into the hands of those who hold the article, whether they are the original manufacturers or those who have purchased it from time to time in the course of their business, or otherwise. The argument has been urged with much force that, after all, it would be no more than fair, as this tax must be paid by the consumers, the people of the country, that it should be divided at least between the Government and the persons deriving the benefit from the increased tax laid by the Government upon the article.

But, sir, although that may be true in some cases—that is to say, in the case of those manufacturers of the article who have held it from the beginning and not parted with its possession, and they would derive this additional benefit—yet with reference to the trade in the community it must be obvious that it is not true to any very considerable extent, because there is nobody probably, or but very few persons, and it is that class of the community particularly that I now speak of, who purchased the article originally at the then market price, before what is called "speculation" began, and have held on to it to this time. On the contrary, it has been gradually varying from its original start, whatever that may have been, forty-five or fifty or fifty-five cents, up as high as ninety-five cents, which is a very high figure; adding in fact the whole amount almost of the proposed tax, but perhaps not quite, and I am told that some have been sold as high as a dollar. That was the amount paid by the purchaser who now holds it. If you put on the whole amount of this tax so far as the speculator, as he is called, or the trader in liquor, is concerned, the result must necessarily be a very heavy loss to him, because if you put the tax on the purchase money that he paid it raises the price to a higher amount than the article can actually be made for by the manufacturer and the tax paid and then sold, creating very considerable loss. In addition to that, there are many men who carry on a regular business of one kind and another who are obliged to purchase and keep on hand a considerable amount of spirits, not for any long period of time, in carrying on manufactures largely, who must purchase at the market price, and buy, not for speculation, but for use in their manufactures, and consequently the effect on them would be very injurious, because it would create a loss.

That is one view that is taken of it. There is another which, perhaps, was not without very considerable influence in the minds of the committee. To tax an article of this kind on hand, and more especially in the hands of an owner, whether an imported article or whether an article subject to internal domestic duties which has already paid a tax, or which perhaps has not, is a thing entirely new in the revenue system of any country. I am told, and told on authority—I have not personally examined it myself, because I was told there was no doubt about the fact—that it never has been done in England in any case; and if we introduce it here it will be the first time in the history of any system of this kind, that you take an article of property which has already gone through the hands of Government and paid this tax to Government and again assess a tax upon it in the hands of the owner. I am told it has never been done at all heretofore in any country, and consequently we should be introducing an entirely new system, and one which might be attended with very considerable embarrassment.

Again, sir, if we undertake to do anything of this kind it must be obvious that we are departing from what we seemed to establish as a system when we passed the original internal revenue law. This very question was then very much discussed. I believe my friend, the Senator from Ohio, who is one of my colleagues on the committee, [Mr. SHERMAN,] proposed at that time that we should assess a tax on liquor on hand, half, if I remember rightly, of the amount which was assessed on liquor distilled afterwards. I think I favored it; but the Senate on very great consideration refused to adopt the suggestion, and the House of Representatives refused to adopt the suggestion, and we established then in the beginning as our system that we would not place any tax upon liquors

except those that should be afterwards manufactured; that is to say, that we would not touch property in existence. There is a fairness, there is an evident propriety in saying to everybody, If you choose to create a certain kind of property you shall pay such a tax upon it; but if that property is already created and in their hands there would seem to be an injustice in singling it out to pay a tax (because all taxes should be equal) simply on account of the particular kind of property, whatever it may be.

It was considered—and I confess that I gave very great weight to the suggestion—that we had in the beginning settled what our policy was to be in that particular; and if there is any principle with reference to taxation which is considered an important and vital one it is that there shall be a certainty in the system; that there shall not be a continual variation and change. Trade needs something of that sort. It is subject to continual fluctuations. If it is to have no idea of what the policy of the Government is, no idea of how articles may be caught up and seized in the hands of those into whose possession they have gone after they have once passed through the hands of the Government, the tendency naturally is to create uncertainty, confusion, distress, doubt, and a feeling that the Government has no system and no principle, and that all trade in reference to such articles, whether large or small, is utterly unsafe. Thus creating confusion, it will have a tendency to diminish the respect which is entertained for the Government itself, to diminish confidence in the Government, confidence in the legislation of the country, and will thus create very considerable evils.

These, sir, were the principal considerations; but I do not know still—with the inclination that was upon my mind to reach the article of whisky if I could have been satisfied that the game was worth the candle—that I might not have adhered to my original impression with regard to it. Although, perhaps, the weight of the argument is against it, my desire to get money for the Government is so strong and my feeling of the necessity of it is so pressing that I do not know but that I might have yielded to the force of the argument the other way. There is, however, a great question, what we shall gain by it. Mark you, in laying a tax we are administering a system which is to run through a series of years. We do not calculate simply upon what we are to get this year or next year, but for a series of years; and it is very questionable whether there is any good policy in laying our hand upon an individual article at a particular time for the sake of getting a certain sum of money, and then stopping, which must necessarily end with the time the very first effort is made. If we lay a tax upon the liquor on hand it is only on that now on hand. There is none to be on hand next year in the same condition. It is to be only an effect to be produced for a single year.

How much should we gain by it? Upon this opinions vary. The opinion given before our committee was very general that two hundred and fifty thousand barrels would be the extent of all that the bill could cover. I had it calculated, and I believe that would produce, according to the rate of forty cents additional tax, \$5,000,000. If it would produce only \$5,000,000, you see at the rate of our expenditures at the present time, and the money we want, it would be a mere bagatelle. But then should we get the whole of that sum? These two hundred and fifty thousand barrels are scattered all through the community. Some of them are in the hands of the original manufacturers; you might get the tax on that. Some are in the hands of large dealers; you might find that. But very large quantities are scattered about in shops and in different directions in small amounts, and where you would not be very likely to get at it. If \$5,000,000 is the amount, and you could reach the whole of it, the result would not be very productive; but regarding the thing as unjust and wrong as the community probably would, or at any rate those interested would, there would be a sort of feeling with every man that if the Government could be defrauded in this case it would be after all no very great violation of conscience. The effort would certainly be made, the community being so disposed under the circumstances.

Then again, sir, there are other evils connected with it. You must necessarily have a very great

increase of officers, for the officers that are engaged in levying the taxes cannot now do this duty, scattered so largely and widely as the article is throughout the community. That would be out of the question; and my judgment is that, supposing on the whole it amounted to \$5,000,000, the result would be that you would not get more than half that sum out of it, and you would spend a large portion of that in the expenses of collection; and besides that, you would excite and render angry a great many people in the community, perhaps with some appearance of justice, so that, as I said before, if that is the whole amount, I should consider that the game was not worth the candle, not worth trying for. Even if you go further, and double the estimate (and I think that is the utmost extent to which you could go) and call it \$10,000,000, the amount you would really get might hardly be considered sufficient to pay you for the evils that would necessarily follow.

In saying these things, I am but repeating the arguments which have been adduced one way and the other with reference to this matter, and stating what I consider to be the several views to be presented to the Senate with reference to it. I have not gone through the whole of them, but stated the main considerations that have been advanced to us and that have occurred to us in the course of conversation with each other.

That is the main question, and is to be considered by the Senate, and it involves about all the amendments of any consequence which have been proposed, because you will observe that the same provision was made in regard to the duty which is imposed on cotton of two cents per pound, and an additional cent and a half a pound on all that in the hands of the owners which has already paid half a cent a pound. So also with regard to the seventh section, which provides for laying this same additional duty upon foreign liquors in order to make it conform. We have struck out there the same provision in substance, and made the additions necessary, grading the duties to conform to the amendment in the first section. One depends upon the other, and if the Senate should adopt the amendment proposed by the committee in reference to the particular subject to which I have referred, the liquor on hand, they will undoubtedly adopt the others in order to make the whole system conform.

There is another provision which we have struck out to which I will call the attention of the Senate. It is that which lays a duty on what are called rectified spirits. That also was considered very much at large and very thoroughly by the Senate when we passed the original bill, and it was then decided that we should confine our tax to the original article. The argument with regard to that perhaps it is not necessary for me to repeat; but the committee are entirely satisfied that it is impossible to levy a tax of this description, because spirits can be rectified by any man in his own house, in his own cellar, in his own garret, without any kind of difficulty. The system of passing it through charcoal is simple. I do not understand the whole process, but it is said to be entirely simple, such as anybody may carry on himself; and the result would be that if you attempted to lay a duty on rectified spirits you must necessarily break down all the large establishments where spirits are rectified for the benefit of individuals in their houses and shops and barns, because there you will find it impossible to get the tax, while you could reach it in the establishments where the business is openly and largely carried on. For that reason the committee adhere to the original decision which they made two years ago, when we passed the original bill, and recommend that the Senate adhere to it now.

To be sure, sir, much may be said with regard to the adulteration of liquors, &c.; but the answer is one that I gave in the beginning, and that is, that we are not legislating in regard to the morals of the community. If we were, sir, we should perhaps prohibit the article altogether; but we are considering what the interests of the Government require with reference to the raising of revenue, and we are satisfied that the effect of laying this duty would rather be to diminish than to increase revenue.

The other amendments are with reference to details, verbal amendments, which can be readily understood by the Senate without any explanation from me. They are very slight, many of them of

very little consequence, except as correcting the phraseology of the bill. The ninth section we have struck out entirely, because it is predicated upon the part of the bill of which I have been speaking, that is, the duty upon liquors on hand; and if that should be struck out by the Senate, of course the ninth section will not be necessary. We have added one section which I suppose Senators will readily understand. Although it is not exactly appropriate here, it is necessary to pass such a provision very soon, for the reason that many suits have been commenced against revenue officers, and they are now pending in the courts, and they desire to remove them as other suits against original revenue officers into the courts of the United States; but the courts hold that by "revenue officers" under the original act, which is referred to in the amendment, are not meant internal revenue officers, and that they are not entitled to the advantages of that act. The design of this new section is simply to place them on the same level, and we desire to place them under the same protection.

This is all I desire to say in reference to the bill itself. I have not gone into any extended remarks on the subject, as I should think I was not treating the Senate properly if I were to do so; as members unquestionably understand now perfectly the whole subject as well as I do.

The PRESIDING OFFICER. The first amendment of the committee will be read.

The Secretary read the first amendment of the Committee on Finance, which was in section one, line nine, between the words "or" and "removed," to insert "distilled and."

The amendment was agreed to.

The next amendment was after the word "sale," in line nine of section one, to insert "previous to the 1st day of July next;" so as to make the section read:

That from and after the passage of this act, in lieu of the duty provided for in section forty-one of an act entitled "An act to support the Government, and to pay interest on the public debt," approved July 1, 1862, and in addition to duties payable for licenses, there shall be levied, collected, and paid on all spirits that may be distilled and sold, or distilled and removed for consumption or sale previous to the 1st day of July next, of first proof, the duty of sixty cents on each and every gallon.

The amendment was agreed to.

The next amendment was after the word "gallon," in section one, line eleven, to insert:

And upon all liquors that may be distilled after the passage of this act, and sold or removed for consumption or sale on and after the 1st day of July next, and previous to the 1st day of January next, seventy cents on each and every gallon; and on all liquors that may be distilled after the passage of this act, and sold or removed for consumption or sale on and after the 1st day of January next, eighty cents on each and every gallon.

Mr. HENDRICKS. Mr. President, this bill is one of much importance, affecting important interests, particularly of the Northwest. It has just within the last hour been laid in a printed form upon the desks of Senators. For one, I must say that I am not prepared to consider it at this time, although the explanation of the amendments proposed by the committee, by its chairman, has been very full and very clear. Still I do not feel prepared to act upon the bill at this time, and as it is a measure of importance, I feel justified in moving that its further consideration be postponed until to-morrow.

Mr. FESSENDEN. I do not rise to object to what the Senator proposes, if the Senate shall see fit to agree to it; but I wish to inform him that before calling up the bill—probably he was not in at the time—I stated that if any Senator desired that it should go over until to-morrow I had no objection; because it had just been laid upon the tables of Senators, and I should not press it if any member desired further time; but as no one did desire any further time I called it up.

Mr. HENDRICKS. When the bill was called up I was out of the Chamber, having been called out on business, and did not hear that statement of the Senator.

Mr. FESSENDEN. I will state to the Senator from Indiana that it is very desirable, as he will see, that the action should be as speedy as possible, because it is probable the bill will have to go back to the House of Representatives.

Mr. JOHNSON. There was no objection to the bill being called up. I suppose every Senator desired that it should be called up, in order that we might hear the explanation of the several

amendments proposed by the committee. That having been made, I am sure the chairman will not object to a postponement.

Mr. FESSENDEN. I make no objection if Senators desire that the bill be postponed until to-morrow; but I wish to notify them that I shall then ask the Senate to proceed with it. [Certainly.]

The PRESIDING OFFICER. The Senator from Indiana moves that the further consideration of this bill be postponed until to-morrow.

The motion was agreed to.

ALBERT BROWN.

Mr. HOWE. I am instructed by the Committee on Claims, to whom was referred the petition of Albert Brown praying for relief, to make a report on that subject accompanied by a bill.

The bill (S. No. 92) for the relief of Albert Brown was read a first time by its title.

Mr. HALE. I ask the indulgence of the Senate to consent to consider the bill now, and if I state it I think they will do so. It is a bill to pay for a lot of wagons made for the Army, but there was some trouble among the inspectors about receiving them. The report of the committee will show that the contractor did everything he was bound to do under an inspection by an inspector furnished by the Department, and he has been out of the \$14,000 due him ever since. The case has been before the Senate once, when it was thoroughly investigated by the Committee on Claims, and the bill passed the Senate upon an explanation unanimously, without a division, at the last session. It is now reported again unanimously. It is the case of an honest man suffering for \$14,100 which the Government withholds from him, and the consideration for which it received two years ago. I hope the Senate will pass the bill at once.

By unanimous consent the bill was read a second time, and considered as in Committee of the Whole. It provides for the payment to Albert Brown, of Kingston, New Hampshire, of \$14,000 in full for one hundred Army wagons manufactured by him under a contract made with Morris S. Miller, quartermaster of the United States Army, dated July 1, 1861, and duly delivered to the order of the Quartermaster General, dated August 13, 1861.

Mr. GRIMES. I call for the reading of the report in that case.

The Secretary read the report made by Mr. Howe on the 20th of January, 1863, from which it appears that the petitioner claims pay for one hundred Army wagons manufactured for the Government under a contract made with Morris S. Miller, of the quartermaster's department, which was entered into on the 1st of July, 1861. The wagons were to be built according to specifications contained in the contract, which are very full and minute.

The contract contains clauses which provide that the work might be inspected from time to time as it progressed by an officer or agent of the quartermaster's department, and that none of it should be painted until it had been inspected and approved by the officer or agent authorized to inspect it. When finished, painted, and accepted by an officer or agent of the quartermaster's department, and delivered as therein agreed, they would be paid for. The wagons, boxes, &c., were to be stored at Kingston, New Hampshire, at such place as the quartermaster or his agent might designate, and the contractor was to assist in taking them apart for shipping. It was agreed that forty of the wagons, complete, should be ready for delivery on or before the 31st day of July, 1861, and the remainder on the 31st day of August, 1861.

The evidence in the case shows that on the day of the date of the contract Major Miller appointed Mr. W. C. Patten, of Kingston, the agent of the department to inspect the wagons, instructing him, at the same time, in writing, how to inspect, and what sort of a certificate to give. On the same day Major Miller addressed to Mr. Brown, the contractor, a note in the following terms:

"SIR: The wagons to be manufactured under your contract with the United States of this date should be shipped when ordered by the Quartermaster General, on bills of lading or railroad receipts taken in duplicate; one to be sent by you to the consignee, the other to be sent, with your certificates of inspection and bill of wagons, to the Quartermaster General. The bill of lading is proof of delivery."

On the 13th day of August, 1861, the Quartermaster General, by letter of that date, directed the

contractor to send the wagons to Perryville, Maryland, consigned to Captain C. G. Sawtelle, assistant quartermaster. Forty of the wagons were thus shipped on the 17th of August, and the remaining sixty on the 28th of the same month. The wagons were inspected by the agent, Mr. Patten, and approved by him in the very terms prescribed by Major Miller. The wagons arrived at Perryville, where it seems they have been allowed to remain. The Quartermaster General refused to use, to sell, or to pay for them. On the 4th of January, 1862, the Quartermaster General informed the agent of the railroad company at Perryville that the United States had "condemned and rejected the wagons," and that the railroad company, having a lien upon them for charges of freight, was at liberty, as far as the United States was concerned, to do what it found for its interest to secure itself.

Thus, through the action of the quartermaster's department, one hundred new wagons, purchased for \$141 each, to which a team had never been harnessed, were squandered. Considered in connection with the fact that the same department disburses about two hundred and fifty millions annually, that is perhaps the most significant fact in the case. It suggests this problem. If the expenditure of \$14,100 produces nothing to the United States, how much is likely to be produced by the expenditure of \$250,000,000? The value of these wagons was lost. Whether the loss should fall upon the Government or upon the contractor was the question to be considered.

The committee addressed a note to the Quartermaster General asking him to communicate any evidence in his possession or any reasons he might have to urge why the claim of Mr. Brown should not be allowed. In his reply he states, "that because these wagons were not made in accordance with the contract, and because they are of inferior quality and workmanship, and worthless for use as Army wagons, they have not been received, and should not be paid for."

The committee were of the opinion that the Quartermaster General was mistaken in saying the wagons had "not been received." The wagons had been shipped from Kingston, New Hampshire, to Perryville, Maryland, a distance of several hundred miles. They had been shipped upon the written order of the Quartermaster General. They had been consigned to an officer of his department. They had reached Perryville. Bills of lading had been forwarded. The maker had been instructed by that department that such bills would constitute a delivery. The committee were of the opinion that, after all these things had been done, it was too late for the maker to reclaim the wagons, or for the Government to reject them. After having ordered the maker to send the wagons to Perryville, the committee did not think it becoming in a just Government to order him to come to Perryville, to pay the charges for transportation, and to take them back again. Whether the wagons were, in fact, of inferior quality and workmanship, and useless as Government wagons, was a question upon which the evidence was not entirely harmonious. In support of his allegation against the quality of the wagons, the Quartermaster General submitted to the committee copies of the reports made by Captain C. G. Sawtelle, of that department, of two different inspections made by him. The one was dated on the 31st of August, 1861, and the other on the 10th of September following. According to those reports it was evident to the committee that the wagons did differ from the specifications contained in the contract; but it was equally evident that neither of those reports exhibits a greater difference between the wagons and the specifications than do the two reports exhibit to each other.

The fact of making two reports and the discrepancies between them was explained by the Quartermaster General upon the ground that Captain Sawtelle made his first inspection of the wagons by comparing them with a copy of specifications upon which other contracts for Army wagons had been made, whereas the second inspection was made by comparing them with the specifications in the contract made with Mr. Brown himself. Captain Sawtelle himself urged the same explanation. The committee, however, felt bound to say that the explanation was not satisfactory. Indeed, it seemed not less extraordinary than the fact itself. For Captain Sawtelle himself asserted that the difference between the specifications on

which his first inspection was made and those of the second was in the following particulars, namely: the one required hubs to be of elm and felloes of yellow oak, while the other required hubs to be of gum and felloes to be of white oak. The committee did not think these slight discrepancies imposed upon Captain Sawtelle the necessity for making a second inspection and a second report; and they are confirmed in that opinion by the fact that he has not, in either of his reports upon the wagons in controversy, informed them whether the hubs and felloes were of one material or the other. If, therefore, the testimony of Captain Sawtelle was the only evidence in the case, it would be somewhat difficult to say that the wagons were unsuited to the purpose for which they were built, because that testimony is contradictory in itself. But his testimony is also contradicted by the certificate of Mr. W. C. Patten, who certifies that the wagons were "made of good stock, and in accordance with the specifications laid down in the contract."

This evidence seems to the committee much more satisfactory than that of Captain Sawtelle; for even if it be not consistent with truth, it is, at least, consistent with itself, while the evidence of Captain Sawtelle is not. Besides, there is evidence in the case which shows that Mr. Patten is an experienced wagon-builder. There is no evidence to show that Captain Sawtelle ever made one. Mr. Patten saw the wagons while they were building; he inspected them before they were painted. There was no evidence that Captain Sawtelle ever saw them until they were completed and painted and removed to Perryville. The evidence shows that Mr. Patten was the agent of the Government, specially appointed for the very purpose of inspecting and reporting upon the construction of these wagons. There is no evidence that Captain Sawtelle had any more authority to inspect and reject those wagons than any teamster would have had who might be hired to drive them. There was evidence in the case to show that Mr. Patten is "a man of high moral character, and above the suspicion of practicing fraud in any capacity in which he may be placed." There was no such evidence in reference to Captain Sawtelle. Moreover, the evidence of Mr. Patten was corroborated by the statements of other witnesses. Robert Rowe made a part of the work and sold a part of the material. He certifies to the good quality of both. He examined the first forty wagons, and he certifies to their good qualities. J. R. Locke superintended the building of all the wagons. He certifies that they were "thoroughly made, of good stock, well seasoned, and, in every particular, agreeably to the specifications;" that he has had the experience of twenty years in building heavy wagons, and in that time has superintended several Government jobs.

Edward Riddle, of Boston, swears that he has had an experience of twenty years in the carriage business; that he examined these wagons as they passed through Boston on their way to Perryville; that he had frequently examined wagons made for the Government by other parties, and that these wagons were fully equal to any Army wagons that he had seen made in that State. There was, on the contrary, no evidence in the case corroborative of the testimony of Captain Sawtelle. Besides, the agent of the "Portland Company" certifies that he sold to Mr. Brown the axles for those wagons; that the latter purchased the best quality of axles, when he might have purchased the same articles made of common iron two dollars per set less than he paid. There was no evidence in the case to show that he purchased of any one inferior material for the sake of getting it at a reduced price. And, upon summing up the whole case, the simple question presented seems to be this: whether, when the Government of the United States has purchased goods, has received them, and removed them hundreds of miles from the former proprietor, it ought to pay for them. In the opinion of the committee it ought, and they accordingly reported a bill for the payment of Mr. Brown.

Mr. FOSTER. I confess, Mr. President, that from the reading of that report I come to a different result from that at which the committee have arrived. It appears that there was a contract made with this claimant for the making of one hundred Army wagons. That contract was made through the Quartermaster General. The claimant shows

that he made the wagons, that they were sent to the place specified by some officer connected with the Government, and that when there, after an inspection directed by the Quartermaster General, they were rejected because not made conformably to the contract. There is in the report of the committee a comparison of the evidence on the question whether they were made conformably to the contract or not.

Mr. HALE. The honorable Senator will allow me to correct him right there, for I see he is in error. When the Government made this contract they put in it that William C. Patten should inspect the wagons while they were being built, and after they were built; and Mr. Patten did inspect them while they were being built, he having been agreed upon by the Government as the man who was to do it, and he inspected them after they were made and gave a certificate that they were properly made. He was the only man on earth who was agreed upon to inspect them. When they got to Perryville, an unauthorized individual, who had no authority in the case, made a second inspection.

Mr. FOSTER. Whether the individual who made the examination after they got to Perryville was unauthorized may admit of doubt. It seems that his action was recognized by the Quartermaster General, who is certainly an authorized officer of the Government and the authorized officer of the Government to make contracts of this description. He may make mistakes; he may commit frauds; but he is the officer through whom this Government acts in relation to matters of this description. As I understand his communication to the committee, he expressly states that these wagons were not made conformably to the contract and were not by him accepted, and that is the reason they were not paid for. It must, therefore, certainly be admitted that an authorized agent of the Government, the agent who made the contract, says it has not been complied with, and that is the reason why payment has not been made. I would not support an officer of the Government in doing injustice or in allowing injustice to be done to a contractor; but I would not assume that the officer had done wrong, nor would I find the fact that he had done wrong, until there was more evidence than I discover in the report of the committee in this case.

It may be that this is all right. I know nothing about the matter except what I gather from listening to the report as it has been read at the desk. The committee no doubt have more full and ample means of knowledge on the subject than I have; but from a single reading of the report it does seem to me that we shall be going further than it is prudent to go in the payment of claims to pass this bill while, at the same time, we are reproaching the officers of the Government for making improvident contracts, and unnecessarily wasting the public money. If that be the case, and we by way of correcting the evil vote to pay those whom they refuse to pay, the people, who after all pay these bills, will stand a chance of being twice fleeced, first by the officers of the Government and next by us; for we now propose to order payment where the officers refuse to pay, and they, as it is constantly asserted, pay much more than they should. I am in favor of the Government paying its debts. I am also in favor of having those who make contracts with the Government perform those contracts. I do not believe as a general thing that the officers of the Government are too strict in holding contractors to a performance of the contracts which they make; and I cannot therefore on this evidence vote to pay a contractor where the Government officer says the contract has not been performed.

Mr. HOWE. I have no sort of doubt that the Senator from Connecticut is in favor of the Government paying its debts, and therefore I have no sort of doubt that he will vote for the passage of this bill. I think the Senator from Connecticut has not had a fair opportunity to understand the question at issue.

Mr. GRIMES and others. Let it lie over, then.

Mr. HOWE. I have not the slightest objection. I did not ask to have it considered now.

Mr. GRIMES. The bill has only been presented this morning, and we are called upon to vote for it at once. I have never heard of it before. It ought to lie over until we have had an opportunity to look into it.

Mr. HOWE. The Senator from Iowa called for a statement of the case when it was called up a year ago. The report was not then finished, but I made a statement of the case and the Senator himself was perfectly satisfied with it, and the bill was passed without any sort of objection from any quarter. I think I am not mistaken in saying that the Senator from Iowa called for an explanation of the claim. I have myself not the slightest wish that the case should be acted upon to-day. I did not ask for it; it was asked for by the Senator from New Hampshire. I have no more doubt of the entire justice and equity of this demand than if the man held the note of hand of the Government attested by every organ and every tribunal of the Government; but still if Senators wish to examine it I shall not object to its going over.

Mr. CLARK. Let the Senator from Wisconsin state now what he proposes to state, as he has the matter in charge, and then let it lie over.

Mr. GRIMES [to Mr. HOWE.] Say what you have to say when it comes up.

Mr. CLARK. Just as the Senator from Wisconsin prefers about that.

Mr. HOWE. I think, as there is a wish to have the bill go over, and there is no necessity for pressing it to action now, I had better not make any further statement at the present time, but allow the report to be printed, as I hope it will be, with the bill, and give Senators an opportunity to look at it.

The report was ordered to be printed, and the further consideration of the bill was postponed until to-morrow.

AMBULANCE CORPS.

On motion of Mr. WILSON, the bill (S. No. 30) to establish a uniform system of ambulances in the armies of the United States was considered as in Committee of the Whole.

The bill provides that the medical director, or chief medical officer, of each Army corps, shall have the direction and supervision of all ambulances, medicine wagons, horses, harness, and other fixtures appertaining thereto, and of all officers and men who may be detailed or employed to assist him in the management thereof, in the Army corps in which he may be serving; that the commanding officer of each Army corps shall detail for service in the ambulance corps of such Army corps one captain, who shall be commander of the ambulance corps; one first lieutenant for each division in such Army corps; one second lieutenant for each brigade in such Army corps; one sergeant for each regiment in such Army corps; three privates for each ambulance, and one private for each medicine wagon; and the officers and non-commissioned officers of the ambulance corps are to be mounted. The officers, non-commissioned officers, and privates so detailed for each Army corps are to be examined by a board of medical officers of such Army corps as to their fitness for such duty; and such as are found to be not qualified are to be rejected, and others detailed in their stead.

There is to be allowed and furnished, and permanently attached to each regiment of infantry, three two-horse ambulances; to each regiment of cavalry two such ambulances; to each battery of artillery one ambulance; to the headquarters of each Army corps two such ambulances; and to each division two Army wagons; and each ambulance is to be provided with such number of stretchers and other appliances as shall be prescribed by the Surgeon General. The ambulances and wagons are to be furnished, so far as practicable, from the ambulances and wagons now in the service. The captain is to be the commander of all the ambulances, medicine and other wagons in the corps, under the immediate direction of the medical director, or chief medical officer, of the Army corps to which the ambulance corps belongs. He is to pay special attention to the condition of the ambulances, wagons, horses, harness, and other fixtures appertaining thereto, and see that they are at all times in readiness for service; that the officers and men of the ambulance corps are properly instructed in their duties, and that their duties are performed, and that the regulations which may be prescribed by the Secretary of War or the Surgeon General for the government of the ambulance corps are strictly observed by those under his command. It is to be his duty

to institute a drill in his corps, instructing his men in the most easy and expeditious manner, of moving the sick and wounded, and to require in all cases that the sick and wounded shall be treated with gentleness and care, and that the ambulances and wagons are at all times provided with attendants, drivers, horses, and whatever may be necessary for their efficiency; and it is to be his duty also to see that the ambulances are not used for any other purpose than that for which they are designed and ordered. It will be the duty of the medical director or chief medical officer of the Army corps to issue the proper orders to the captain for the distribution of the ambulances for getting up the sick and wounded previous to and in time of action, and for the conveyance of the same while on the march, and it will be the duty of the captain faithfully and diligently to execute such orders; and the officers of the ambulance corps, including the medical director, are to make such reports from time to time as may be required by the Secretary of War, the Surgeon General, or the commanding officer of the Army corps in which they may be serving.

The first lieutenant assigned to the ambulance corps for a division is to have complete control, under the captain of his corps and the medical director of the Army corps, of all the ambulances, medicine and other wagons, horses, and men in that portion of the ambulance corps. He will be the acting assistant quartermaster for that portion of the ambulance corps, and will receipt for and be responsible for all the property belonging to it, and be held responsible for any deficiency in anything appertaining thereto. He will have a traveling cavalry forge, a blacksmith, and a saddler, who will be under his orders, to enable him to keep his train in order. He will have authority to draw supplies from the depot quartermaster, upon requisitions approved by the captain of his corps and the commander of the Army corps to which he is attached; and it shall be his duty to exercise a constant supervision over his train in every particular, and keep it at all times ready for service.

The second lieutenant will have command of the portion of the ambulance corps for a brigade, and will be under the immediate orders of the first lieutenant, and he will exercise a careful supervision over the sergeants and privates assigned to the portion of the ambulance corps for his brigade; and it will be the duty of the sergeants to conduct the drills and inspections of the ambulances of their respective regiments.

It is to be the duty of the surgeon-in-chief of the division to detail two medical officers and two hospital stewards daily, by roster, to accompany the ambulances of the division when on the march, to attend to the sick and wounded in the ambulances, and to see that they are properly cared for; but no person is to be allowed to enter and ride in an ambulance after the march is commenced without the written permission of the senior medical officer of his regiment. No sick or wounded man, who requires to be carried in an ambulance, will be rejected for want of such written permission, but the senior surgeon with the train will report to the surgeon-in-chief of the division the name of the surgeon of the regiment who may have neglected or refused to give such written permission. When on the march, one half of the privates of the ambulance corps are to accompany, on foot, the ambulances to which they belong, to render such assistance as may be required. The remainder will march in the rear of their respective commands, to conduct, under the order of the medical officer, such men as may be unable to proceed to the ambulances, or who may be incapable of taking proper care of themselves until the ambulances come up. When the case is of so serious a nature as to require it, the surgeon of the regiment, or his assistant, will remain and deliver the man to one of the medical officers with the ambulances. At all other times the privates are to be with their respective trains. The medicine wagons will, on the march, be in their proper places, in the rear of the ambulances for each brigade. Upon ordinary marches the ambulances and wagons belonging to the train will follow immediately in the rear of the division to which such train is attached. Officers connected with the corps must be with the train when on the march; but nothing contained in this bill is to be construed to prohibit the commander of an army, of an Army corps, or of an expedition, on the march, from

giving the necessary orders to meet any exigency which may arise.

The ambulances in the armies of the United States are to be used only for the transportation of the sick and wounded, and, in urgent cases only, for medical supplies, and all officers are to be prohibited from using them, or requiring them to be used, for any other purpose. It will be the duty of the officers of the ambulance corps to report to the commander of the Army corps any violation of this provision, or any attempt to violate the same. And any officer who shall use an ambulance, or require it to be used, for any other purpose than as provided in this bill, for the first offense is to be publicly reprimanded by the commander of the Army corps in which he may be serving, and for the second offense be dismissed from the service. In all cases when ambulances are used the officers, non-commissioned officers, and men belonging to them will accompany them. When ambulances are required for the transportation of sick or wounded at division, brigade, or regimental headquarters, they may be obtained, as they are needed for that purpose, from the division train, but no ambulances belonging to this corps are to be retained at such headquarters. Whenever it may be necessary for a regimental medical officer to use one or more ambulances for transporting sick or wounded, or to accompany an expedition where they may be required for that purpose, he will make a requisition upon the first lieutenant of the ambulance corps for his division, whose duty it will be to comply with the requisition. No person except the proper medical officers, or the officers, non-commissioned officers, and privates of the ambulance corps are to be permitted to take or accompany sick or wounded men to the rear, either on the march or upon the field of battle. The officers, non-commissioned officers, and privates of the ambulance corps will be designated in such manner as the Secretary of War shall deem proper. Officers and men may be relieved from service in the corps, and others detailed to the same, subject to the examination provided in the second section, in the discretion of the commanders of the armies in which they may be serving.

The first amendment of the Committee on Military Affairs and the Militia was to insert, after the word "shall," in line four of section one, the words, "under the control of the medical director of the army to which such Army corps belongs."

The amendment was agreed to.

The next amendment was in line six of section one to insert, after the word "medicine," the words "and other;" so as to read, "medicine and other wagons."

The amendment was agreed to.

The next amendment was in section two, line two, after the word "detail," to insert "officers and enlisted men."

The amendment was agreed to.

The next amendment was in section two, after the word "corps," in line three, to insert "upon the following basis, namely:"

The amendment was agreed to.

The next amendment was in line nine of section two, to strike out the word "medicine" before "wagon."

The amendment was agreed to.

The next amendment was in section three, lines two, three, four, and five, to strike out the words, "and permanently attached to each regiment of infantry, three two-horse ambulances; to each regiment of cavalry, two such ambulances; to each battery of artillery, one ambulance," and in lieu of them to insert these words:

To each Army corps two-horse ambulances, upon the following basis, namely: three to each regiment of infantry of five hundred men or more; two to each regiment of infantry of two hundred men or more; and one to each regiment of infantry of less than two hundred men; two to each regiment of cavalry of five hundred men or more; and one to each regiment of cavalry of less than five hundred men; one to each battery of artillery—to which battery of artillery it shall be permanently attached.

Mr. WILSON. I desire to make a slight amendment in that amendment. Instead of reading "two to each regiment of infantry of two hundred men or more," I propose to make it read, "two to each regiment of infantry of more than two hundred and less than five hundred men." It only expresses the idea more clearly.

The amendment to the amendment was adopted; and the amendment, as amended, was agreed to.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

FRIDAY, FEBRUARY 5, 1864.

NEW SERIES....No. 30.

The next amendment was after the word "division," in line fifteen of section three, to insert the words, "train of ambulances;" so as to read, "to each division train of ambulances two Army wagons."

The amendment was agreed to.

The next amendment was in section four to strike out the words, in lines twenty-five, twenty-six, twenty-seven, and twenty-eight, "to issue the proper orders to the captain for the distribution of the ambulances for getting up the sick and wounded previous to and in time of action, and for the conveyance of the same while on the march;" and in lieu of them to insert:

Previous to a march, and previous to and in time of action, or whenever it may be necessary to use the ambulances, to issue the proper orders to the captain for the distribution and management of the same; for collecting the sick and wounded, and conveying them to their destination.

The amendment was agreed to.

The next amendment was after "Surgeon General," in line thirty-seven of section four, to insert "the medical director of the army."

The amendment was agreed to.

The next amendment was to insert after "serving," in line thirty-nine of section four, the words, "and all reports to higher authority than the commanding officer of the Army corps shall be transmitted through the medical director of the army to which such Army corps belongs."

The amendment was agreed to.

The next amendment was to strike out the seventh section of the bill, in the following words:

SEC. 7. *And be it further enacted*, That it shall be the duty of the surgeon-in-chief of the division to detail two medical officers and two hospital stewards daily, by roster, to accompany the ambulances of the division when on the march, to attend to the sick and wounded in the ambulances, and to see that they are properly cared for; but no person shall be allowed to enter and ride in an ambulance after the march is commenced without the written permission of the senior medical officer of his regiment: *Provided*, That no sick or wounded man, who requires to be carried in an ambulance, shall be rejected for want of such written permission, but the senior surgeon with the train shall report to the surgeon-in-chief of the division the name of the surgeon of the regiment who may have neglected or refused to give such written permission. When on the march one half of the privates of the ambulance corps shall accompany, on foot, the ambulances to which they belong, to render such assistance as may be required. The remainder shall march in the rear of their respective commands, to conduct, under the order of the medical officer, such men as may be unable to proceed to the ambulances, or who may be incapable of taking proper care of themselves until the ambulances come up. When the case is of so serious a nature as to require it, the surgeon of the regiment, or his assistant, shall remain and deliver the man to one of the medical officers with the ambulances. At all other times the privates shall be with their respective trains. The medical wagons will on the march be in their proper places in the rear of the ambulances for each brigade. Upon ordinary marches the ambulances and wagons belonging to the train will follow immediately in the rear of the division to which such train is attached. Officers connected with the corps must be with the train when on the march: *Provided*, That nothing contained in this section shall be construed to prohibit the commander of an army, of an Army corps, or of an expedition, on the march, from giving the necessary orders to meet any exigency which may arise.

The amendment was agreed to.

The next amendment was in section eight, line four, to strike out the word "officers," and to insert the word "persons."

The amendment was agreed to.

The next amendment was in section eight, line fourteen, after the word "service," to strike out the following words:

In all cases when ambulances are used the officers, non-commissioned officers, and men belonging to them will accompany them. When ambulances are required for the transportation of sick or wounded at division, brigade, or regimental headquarters, they may be obtained as they are needed for this purpose from the division train, but no ambulances belonging to this corps shall be retained at such headquarters. Whenever it may be necessary for a regimental medical officer to use one or more ambulances for transporting sick or wounded, or to accompany an expedition where they may be required for that purpose, he shall make a requisition upon the first lieutenant of the ambulance corps for his division, whose duty it shall be to comply with such requisition.

The amendment was agreed to.

The next amendment was in section nine, line three, after the word "corps," to insert the words

"or such persons as may be specially assigned, by competent military authority, to duty with the ambulance corps for the occasion;" so that the section will read:

That no person except the proper medical officers, or the officers, non-commissioned officers, and privates of the ambulance corps, or such persons as may be specially assigned, by competent military authority, to do duty with the ambulance corps for the occasion, shall be permitted to take or accompany sick or wounded men to the rear, either on march or upon the field of battle.

The amendment was agreed to.

The next amendment was in section ten, line three, after the word "designated," to insert "by such uniform or;" so that it will read:

That the officers, non-commissioned officers, and privates of the ambulance corps shall be designated by such uniform or in such manner as the Secretary of War shall deem proper.

The amendment was agreed to.

The next amendment was to insert the following at the end of the bill as a new section:

SEC. 11. *And be it further enacted*, That it shall be the duty of the commander of the Army corps to transmit to the Adjutant General the names and rank of all officers and enlisted men detailed for service in the ambulance corps of such Army corps, stating the organizations from which they may have been so detailed; and if such officers and men belong to volunteer organizations, the Adjutant General shall thereupon notify the Governors of the several States in which such organizations were raised of their detail for such service; and it shall be the duty of the commander of the Army corps to report to the Adjutant General from time to time the conduct and behavior of the officers and enlisted men of the ambulance corps, and the Adjutant General shall forward copies of such reports, so far as they relate to officers and enlisted men of volunteer organizations, to the Governors of the States in which such organizations were raised.

The amendment was agreed to.

The next amendment was to insert the following at the end of the bill as a new section:

SEC. 12. *And be it further enacted*, That nothing in this act shall be construed to diminish or impair the rightful authority of the commanders of armies, Army corps, or separate detachments, over the medical and other officers and the non-commissioned officers and privates of their respective commands.

The amendment was agreed to.

THE VICE PRESIDENT. That disposes of the amendments reported by the committee.

MR. WILSON. In section three, line fifteen, after the word "wagons," I move to insert these words:

And ambulances shall be allowed and furnished to divisions, brigades, and commands not attached to any Army corps upon the same basis.

The amendment was agreed to.

MR. WILSON. Mr. President, I desire to say a word or two in explanation of the provisions of this bill. The amendments that have been adopted by the Committee on Military Affairs and sanctioned by the Senate were the suggestions that came from officers in the Army and medical men connected with the Army. After the bill was introduced, the committee sent to several generals in different parts of the country and to leading medical men copies of the bill with the request that they should give us their opinions of it. We have the opinions of quite a number of general officers and of some of the medical directors of the Army, and we have made these modifications in accordance with their suggestions, keeping the bill substantially as it was introduced.

The bill was framed upon the order of Colonel Letterman, providing for an ambulance corps for the army of the Potomac, which was adopted at Harrison's Landing in August, 1862, and has been modified by orders since that date. Other armies have since organized ambulance corps on substantially the same plan that was introduced into the army of the Potomac. The bill introduced into the Senate and now before it for consideration is based substantially upon these various Army orders. We have stricken out an entire section of the bill relating to operations in the field, with a view of leaving that matter to such modifications and directions as may be necessary at different times and in different locations of the country, and in different armies; but the bill is substantially the bill as first introduced into the Senate.

It will be remembered that at the last session of Congress numerous petitions were presented and referred to the Committees on Military Affairs in both Houses, asking for a uniform ambulance system in the country. The Committee on Military Affairs of the Senate gave a great deal of time to the consideration of the subject. We had before the committee gentlemen who took an interest in the subject from various parts of the country. They gave us their views and their opinions. We consulted with the leading medical men of the Army and many generals in the Army, and we found the weight of opinion both of medical men and of Army officers to be overwhelmingly against the plan submitted to us. That plan provided for the appointment of some four or five hundred officers, and for the enlistment of from ten to twelve thousand men to have the care of the ambulances. It was desired by the gentlemen interested that the ambulances and all matters pertaining to them should not be under the control of the quartermasters of the Army, but should be under the control of the medical department of the Army.

This measure was for a long time before the Committee on Military Affairs. While they were considering the subject, it was introduced into the House of Representatives and, as the Journals and the Globe will show, considered very lightly, and passed through the House of Representatives. Their bill came here and was referred by the Senate to the Committee on Military Affairs in this body, and after the most thorough examination that we could give the subject, the committee could not come to the conclusion to adopt that bill. They believed that the system that had been organized in the army of the Potomac, which had been adopted in General Grant's army and General Rosecrans's army and General Foster's army and General Banks's army with certain modifications adapted to their armies and their sections of the country, was a far better system than the one proposed by that bill. They were sustained in that opinion by nineteen twentieths of the medical men and the officers of the Army. It was believed by the committee that the plan ought not to be adopted. They reported against its adoption, and their report was accepted without any division in the Senate.

The committee believed, and subsequent reflection sustains them in the belief, that the existing system was an admirable system; that, like everything else connected with our Army, it was improving; and that it might be made just as perfect as anything connected with the Army could be made. By that system, officers could be detailed from the various corps to perform this duty. If they failed to do their duty well they could be sent back again immediately. Privates could be detailed from other regiments to do this duty. If they did not do it well they could be immediately sent back to their regiments and new men detailed. Most of the men engaged in this service had been in it for months, and some of them for nearly two years. Many of those men had been wounded on fields of battle in the performance of their duty. It was believed that new officers and new men enlisted for this purpose would not compare in efficiency with the officers and men who had been detailed to perform that service, and that it would be a cruelty and a wrong to our soldiers in the field to take away veteran officers and veteran soldiers and enlist new officers and raw soldiers to perform this great duty.

Well, sir, time has passed by. We are here now considering this bill. Every hour's reflection goes to justify the position we then held; and to-day there are but few men in the country that ask us to make four or five hundred new officers and to enlist eight or ten thousand raw men to perform a duty that is now being performed by detailed officers and detailed men who have become veterans in the service and thoroughly understand their business. The committee, therefore, accepted the system that had grown up in the Army, and desired to make it a uniform system for all the armies of the country.

We sent to several of our leading officers to know their opinion on the subject. General Grant writes that the system as now proposed is a good one; that it may be subject to modifications that can be made by orders; but it is an admirable system to be adopted for all our armies. General Hooker says in regard to it, after suggesting a modification which has been adopted by the Senate, "in other respects I regard the bill as unexceptionable."

Mr. JOHNSON. Was a copy of the bill sent to him?

Mr. WILSON. Yes, sir, a copy of the original bill was sent to him. General Sykes, who commands a corps in the army of the Potomac, says:

"In its main provisions, it is identical with orders No. 85 of this army, of August 24, 1863. The system established in those orders has been tested and found highly satisfactory."

General Sedgwick, who commands the sixth Army corps, says:

"It is essentially the same as now organized in this army, and has been found to work admirably."

General French says of this bill:

"The system as embodied in the bill is almost practically perfect."

General Pleasanton who commands the cavalry of the army of the Potomac, says of the bill:

"I am very glad to find it so nearly accords with the system adopted for the service in this army. The experience of the past eighteen months has shown that the necessities of the service will be fully met by the provisions of your bill. While it provides in the most ample manner for the care of the sick and wounded, the checks against any abuse are well considered, and will prove effective."

General Thomas writes a letter indorsing the bill and suggesting an amendment which has been adopted by the committee. All the amendments recommended by general officers to modify the bill were mere matters of detail, and have been incorporated into the bill, and with those modifications it has the sanction of these general officers and also the sanction of several leading medical men who have examined the subject. I have full confidence, therefore, that the bill as it now stands will answer all the purposes needed. It is a general direction and guide, leaving sufficient scope for medical directors of armies to issue orders and make such modifications and changes of detail as may be necessary from time to time in their several armies. By striking out one section of the bill which provided for the administration in the field, we leave that whole subject to be regulated by orders, as we think it ought to be; for there should be, and must be, perhaps, some little difference of detail of operation between an army like the army of the Potomac, moving on land entirely, and an army situated in some other part of the country where they use boats and river communication or railroad communication, and have them at their command.

I think, therefore, sir, that the bill as it now stands will meet the needs of the country. It extends to all our armies the system adopted eighteen months ago in the army of the Potomac, and which at Fredericksburg, at Chancellorsville, and at Gettysburg, according to the testimony of our officers, worked most admirably. It has been improving every day, and no doubt will continue to improve so long as the war lasts; for, in this department, as in every other, they are every day learning something.

It has been suggested that we might introduce into the service mule litters. I think that power now exists in the War Department, and could be put under the same regulation; but if any gentleman thinks it necessary to introduce it into this bill, I certainly have no objection, leaving the matter optional with the Government to introduce it. I would not say here that they should do it, but would leave it to their option to introduce it. The present kind of ambulance has been found by experience to work very well. There are persons in the country who think they make better ones. That may be so; but we choose not to settle that question here, but to allow the proper departments to settle it. It is a matter of administration, and not of legislation.

Mr. JOHNSON. The explanation of the chairman of the Committee on Military Affairs, so far as I am able to understand the subject, seems to be quite satisfactory. I understand him to say substantially that the system which his bill proposes is the system which has been in operation in the army of the Potomac for some fifteen or

eighteen months, and the effect of the bill is merely to make that system uniform throughout the several armies of the United States. I was about to ask him whether in addition to the approval which he has cited, which is satisfactory to me personally, the bill has been submitted to the War Department and has received their sanction, or whether they have been consulted on the subject?

Mr. WILSON. The bill has not been formally submitted to the War Department, but I understand from conversations with the Secretary of War that the plan adopted in the army of the Potomac, and which has been used in the country, was such as he was in favor of, and such as General Halleck was in favor of. The plan proposed last year differed from this one in three respects. In the first place, the ambulances, horses, and all matters pertaining thereto, were to be under the direction and control, not of the quartermasters of the Army, but of the medical men of the Army. That was objected to on the ground that it would make it cumbersome, would require two quartermaster's assistants in reality in the same army, and that it was a thing that must not be. Nearly all the general officers of the Army were against it, and the overwhelming mass of the best medical men connected with the Army.

The next point was to organize the system in this way. By the system adopted in the army of the Potomac, and in all the other armies, the officers and men are detailed temporarily. If they do their duty well, they are retained; if they do not, they can send them back again at any hour. The practice has generally been to examine the officers and see if they were fit for the service. We provide in this bill that the officers shall be examined by a board to see if they are fit for this special duty. The proposition last year was to appoint some four or five hundred additional officers for all the armies of the country, which would create a large expense, and bring in a new class of officers. We thought that the old officers who would not add to the expense, being detailed for the service, would be better than the new ones. They would certainly be better until the new ones had learned a little of their duties.

That plan proposed also to enlist the men for this particular service. You would have to enlist new men, and it would take six or twelve months to enable those men to perform their duties as well as they are now performed by the men detailed for that purpose. We thought that was not a good plan. If we had time to prepare these men for the service, it might be a better plan, or it might be just as good, although, in my judgment, nothing can be better than the plan of detailing for this service; because, if a man is detailed to perform this duty and does not do it well, all that it is necessary to do is, not to bring him up and try and punish him, but send him back to his regiment and call for a good man.

It so happens that the soldiers like this duty. They are desirous of getting into this very corps, and just as many of them are desirous of getting into the quartermaster's and commissary's departments. These places are sought for. Under the present system we have the security where men seek the place that they can be sent back if they do not do their duty. It is said to be punishment enough generally to the soldier to tell him that if he fails in this duty again he will be remanded back to his regiment; and it is said that is a good corrective for the future.

Now, sir, this bill is simply a recognition of the present system in the army of the Potomac, applying it to all parts of the country. It has the weight of nearly all the Army officers and nearly all the experienced medical men of the country; and I am told in letters from some gentlemen who have strongly urged the other system, and who now find that that system will not be adopted, as consideration shows that it is not so good as the present system, that they are abundantly content with the bill as it now stands.

Mr. GRIMES. I have no amendment to propose to the bill, and have no objection to it, and shall vote for it; but I wish to call the attention of the committee to what I have already called the attention of the chairman of the committee to; and that is this: this bill goes upon the idea that there are to be no other than two-horse ambulances. It assigns a certain number of two-horse ambulances to every division, corps, brigade, and regiment, and assigns the number of officers who

shall be connected with any particular number of wagons and the number of privates. Now, sir, we do not know where this war is going to be carried on in the future. It may be in the mountains of Tennessee or it may be in the swamps of Louisiana. If carried on in either of these places it will be just as necessary to have an ambulance corps there as it is on the plains of Maryland; but it may not be possible to have the same system there that you have here.

We all know that in the French service the mule litters or horse litters are almost exclusively used, and they are pronounced by French officers and surgeons to be superior to the wheel vehicles. It seems to me there ought to be a section attached to this bill which would authorize the War Department, or the commander of an army or a corps—I do not care where the power is vested—to change the character of these ambulances and to assign officers and men to the horse and mule litters in about the same proportion as they are now assigned to wheel ambulances. That is all I have to say. The bill is entirely satisfactory to me.

Mr. JOHNSON. We had better lay it on the table for the present.

Mr. GRIMES. I would not want to do that unless the Senator from Massachusetts is willing.

Mr. JOHNSON. I understood him to say he had no objection to it.

Mr. GRIMES. I think that amendment ought to be made.

Mr. JOHNSON. I move to lay the bill on the table until to-morrow morning.

Mr. WILSON. Wait a moment, and I will try to prepare such an amendment.

Mr. GRIMES. Very well.

Mr. JOHNSON. I withdraw the motion.

Mr. WILSON. I offer the following amendment as an additional section:

And be it further enacted, That horse and mule litters may be adopted by the Secretary of War in lieu of ambulances when judged necessary, under such rules and regulations as may be prescribed by the medical director of each army.

Mr. JOHNSON. I think the amendment should read that they may be adopted "or authorized." I will move to insert the words "or authorized" after the word "adopted."

Mr. WILSON. I have no objection to that.

The VICE PRESIDENT. The amendment will be so modified.

The amendment as modified was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PAY OF COLORED TROOPS.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom the subject was referred, reported a joint resolution (S. No. 23) to equalize the pay of soldiers in the United States Army; which was read twice by its title.

Mr. WILSON. I should like to have the joint resolution read in full, if there is no objection to it.

The VICE PRESIDENT. It will be read at length, if there be no objection. The Chair hears none.

The Secretary read it. It directs that all persons of color who have been or may be mustered into the military service of the United States shall receive the same uniform, clothing, arms, equipments, camp equipage, rations, medical and hospital attendance, pay and emoluments other than bounty, as other soldiers of the regular or volunteer forces of the United States, of like arm of service, during the whole term in which they shall be or shall have been in such service; and every person of color who shall hereafter be mustered into the service is to receive such sums in bounty as the President shall order, in the different States and parts of the United States, not exceeding \$100.

Mr. WILSON. I suppose it is not in order to discuss this bill unless with the unanimous consent of the Senate. I should like to make an explanation of it.

The VICE PRESIDENT. The Senator from Massachusetts asks the unanimous consent of the Senate to proceed to the further consideration of this bill at the present time. Is there any objection?

Mr. POWELL. I object.

The VICE PRESIDENT. Objection being made, it must go over.

EXECUTIVE SESSION.

On motion of Mr. LANE, of Kansas, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 3, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

ADMISSION TO THE FLOOR.

Mr. PENDLETON asked unanimous consent to introduce a bill to provide that the Secretaries of Executive Departments may occupy seats on the floor of the House of Representatives.

Mr. HOLMAN objected.

SHIP CANAL AROUND NIAGARA FALLS.

Mr. SPALDING, by unanimous consent, introduced a bill to facilitate the construction of a ship canal around the Falls of Niagara; which was read a first and second time, and referred to the Committee on Roads and Canals.

OBJECTS OF THE WAR.

Mr. COFFROTH asked unanimous consent to introduce the following preamble and resolution:

Whereas this once happy and prosperous nation has been for nearly three years attempting to crush a cruel, unjust, and unrighteous rebellion; and whereas Congress did on the 22d of July, 1861, with unparalleled unanimity declare "that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest, or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of these States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease;" and whereas the President of the United States did, on the 22d of September, A. D. 1862, and on the 1st of January, A. D. 1863, and on the 8th of December, A. D. 1863, issue proclamations in direct violation of this resolution; and whereas said proclamations have divided the Union people of the North, who at one time were united in their efforts to crush the rebellion: Therefore, in order to unite all the Union-loving people, and to carry out the spirit of said resolution and restore the "Union as it was" under the "Constitution as it is,"

He *it resolved*, That the President of the United States be respectfully requested to withdraw said proclamations, so that all the Union-loving people may again unite to maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired.

Mr. GRINNELL objected.

STOCKBRIDGE INDIANS IN WISCONSIN.

Mr. SLOAN, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Indian Affairs be, and are hereby, instructed to inquire into the condition of the Stockbridge Indians in the State of Wisconsin, and the quality of the lands as regards soil and productiveness assigned to and now occupied by said Indians; and if it shall be found that said lands are unproductive and sterile, then to inquire into the justness and propriety of taking the necessary steps to exchange such lands for those that are sufficiently productive to enable said Indians, by the exercise of a reasonable amount of industry, to subsist and to acquire some of the comforts of life; and to report by bill or otherwise.

Mr. HOLMAN. On Friday last the committees were not called for report of private bills. I ask leave now to report a bill from the Committee of Claims for reference to the Committee of the Whole on the state of the Union.

Mr. PENDLETON objected.

HARRIET K. BELTON.

On motion of Mr. WASHBURN, of Massachusetts, it was

Ordered, That leave be granted to withdraw from the files of the House papers in the case of Harriet K. Belton, to be returned to the claimant.

BOUNTIES TO VOLUNTEERS.

Mr. KELLOGG, of New York, asked unanimous consent to introduce the following resolution:

Resolved, That the Committee on Military Affairs be requested to inquire into the expediency of providing by law for bounties to be paid to such volunteers as regularly enlisted into the regiments first called out by the President for two years, and were honorably discharged from the service with such regiments, and before the expiration of two years, and that they report by bill or otherwise.

Mr. HOLMAN. As there is no objection to the introduction of that resolution, it is before the House, and I propose to offer an amendment. I

move to amend by striking out the words "requested to inquire into the expediency of" and insert the words "directed to report a bill." The subject has been referred to the Committee on Military Affairs without producing any kind of result. From the number of resolutions submitted of this character it is manifest that the House deems this a legitimate subject of legislation.

Mr. ELIOT. I objected.

Mr. HOLMAN. I submit the motion to strike out all the resolution which makes it a matter of inquiry, and to insert what will make it a resolution imperative upon the Committee on Military Affairs to report a bill for paying that class of soldiers who have been discharged within two years' service.

Mr. ELIOT. I want to debate that resolution.

The SPEAKER. The resolution was introduced by unanimous consent, and it is therefore before the House for action.

Mr. FENTON. The gentleman from Massachusetts, I believe, objected to the introduction of the resolution.

The SPEAKER. The Chair did not hear the objection of the gentleman from Massachusetts, and it is impossible for the Chair to recognize objections unless gentlemen rise in their seats and object.

Mr. ELIOT. I rose in my seat and objected.

The SPEAKER. Did the gentleman object when the resolution was introduced?

Mr. ELIOT. I did.

The SPEAKER. The Chair heard no objection; but as the gentleman from Massachusetts says he objected in proper time, the resolution is not before the House.

CONFISCATED PROPERTY.

The regular order of business being called for, the House proceeded to the consideration of the joint resolution (H. R. No. 18) to amend "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, on which the gentleman from Kentucky [Mr. WADSWORTH] was entitled to the floor.

Mr. WADSWORTH. The discussion of this subject, I am aware, has lasted long enough to take away its principal attractions. Certainly a great deal has been said that I would wish to say, but I believe not all; otherwise I should not now trouble the House, content to listen to others where so few will listen to me.

I shall not consume much time in discussing the constitutional interpretation of article three, section three. I think that part of the debate is pretty well exhausted, and I only wonder at that ingenuity which can say so much about so plain a matter. And, sir, without intending any disrespect to anybody, I must be allowed to say I have very little regard for that discovery which declares that, in the meaning of the Constitution, (article three, section three,) Congress has unlimited power to declare the punishment of treason, a discovery first introduced to the privileges of a courthouse by an adventurer whom the plastic hand of the President has indeed made a judge, but can never make a lawyer; and I would waste my time and the time of the House to dwell at any length upon that subject. It is left to the lesser file upon the other side of the House, by interpretations "too picked, too spruce," to find a justification in the Constitution for unlimited power in Congress to confiscate for the crime of treason, a construction already confuted and repudiated in this discussion by the ablest minds on the other side. I shall dismiss that part of the subject with a few observations, and advance to the discussion of the only ground upon which a respectable argument can be made in favor of that confiscation act to which the Judiciary Committee have offered their amendment. I mean, sir, that argument which places the right of confiscation among our war rights, among the rights conferred by the laws of nations, the right of conquest. And, sir, I feel that I am indebted to the honorable gentleman from Pennsylvania, [Mr. STEVENS], and I cordially return him my thanks, for having led this discussion away from this ingenious and novel interpretation of a plain clause of the Constitution, which we all supposed was well understood, to an inquiry into what are our rights in this war, not "public war," as he calls it, but this civil war against a rebel belligerent power.

I am not, sir, in the habit of admiring discoveries in legal science. I receive them at all times with the greatest caution and the greatest suspicion. That which has escaped the observation of Marshall and Story and other judicial luminaries for so many generations I may be permitted to doubt the value of, although brought to my attention by the great jurists of this House; I may be permitted to doubt whether this new light is indeed the true sun in heaven or only a jack-o'-lantern that has arisen to dazzle and lead us astray.

Sir, in times like these, questions of public law, questions of constitutional law do not depend upon commas dragged from the dust and cobwebs of seventy-seven years, nor upon the torture of a poor plain word, nor the depreciation of protesting jurists, crowned by the judgment of Christendom. And, sir, I do not suppose that this House or this country would undertake to march forward in the career of conquest and subjugation or of reconstruction upon any such nice interpretations or any such discoveries as those to which I have alluded. There are a few old-fashioned principles that are ineradicable from the American heart and mind, upon which I am content to rest, believing that the time will come when the American people, escaping from the jaws of revolution, will return to them for shelter and security. Among these are the right of trial by jury for "all crimes except in cases of impeachment," (article three, section two,) the right to be secure in our liberty, our lives, and our property except they be taken from us "by due process of law," (Constitution, fifth Amendment,) which rights are all violated by the act which the committee propose to amend.

I trust, sir, I will be pardoned for making one or two observations, before I proceed to discuss the matter which chiefly attracts my interest, upon the interpretation of article three, section three, of the Constitution. Gentlemen who invoke its aid yet differ upon it. Some assign one reason why this clause does not limit confiscation as punishment for treason, and some another. We are told, for instance, that the sole purpose of the language qualifying the power conferred upon Congress to declare the punishment of treason was to take away from Congress the power exercised in times past by the Parliament of Great Britain to attain and punish by confiscation or forfeiture persons who had long been dead, as in the case of Richard the Third, who fell at the battle of Bosworth field. Such a purpose as that would have been idle, because the Constitution had already declared that Congress should pass no bill of attainder, and had already adopted the fundamental principles of process, indictment, and trial by jury of "all crimes except in cases of impeachment." There could be no judicial punishment of a criminal deceased by our laws, nor was it so by the laws of England. Parliament only in the exercise of an assumed omnipotence punished the dead.

But, sir, this act confiscates the property of a man long since dead; long after death it takes the property of the person described in the act; it makes no matter in what disastrous battle he fell or by what dispensation of Providence he was removed from the presence and power of his fellow-men; the courts by this novel proceeding in criminal cases, the proceeding *in rem*, are to persevere, seize, condemn, and sell his property. How can there be two opinions upon the subject? There can be but two sorts of attaints, a legislative attain and a judicial attain. The Constitution forbids a legislative attain, and then it proceeds, after giving Congress power to declare the punishment of treason, in this way and in the same sentence: "But no attainder of treason shall work corruption of blood," &c.; a qualification of the unlimited power to declare the punishment of treason contained in the first part of the sentence. But gentlemen say that that means the common law shall not "work corruption of blood or forfeiture," &c., but that Congress, by its enactment, may provide penalties which shall work corruption of blood and forfeiture for treason. And yet, sir, strange enough, the whole power and its limitation is in one sentence: "The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted." What sort of attainder? None which Congress by any enactment can provide, for Congress cannot *stain* by bill nor empower the

courts to stain by sentence. Our ancestors thought they had put an end to the war upon the family and upon property for the political crime of treason. So the people ever since supposed, until Underwood & Co. poured the flood-tide of a new light upon the subject.

I pass from that. Let it go. The true inquiry is that into which the gentleman from Pennsylvania, [Mr. STEVENS,] the chairman of the Committee of Ways and Means, went the other day with sufficient boldness, if not with sufficient candor. He who takes his position as a leader in times like these ought always to take it boldly and in advance, and thus make himself responsible to his followers, to contemporaries, and to history. We are in a war, he says, in a public war, a war between two foreign nations. He says that, being in a state of war, the laws of nations confer upon us certain belligerent rights which not only exist while the war continues but remain when the war shall be over. Among these rights, he says, is the right of conquest. It is a war, he says, which treats every person inside the hostile territory as an enemy, be he friend or foe, citizen or foreigner, who is in the predicament of residence in the hostile territory.

I desire, Mr. Speaker, since I have the greatest respect for the intelligence of that gentleman, for the boldness with which he meets all these questions, for the great ability which he brings to the discussion of them, and for the spirit of courtesy and fairness which he always extends to an opponent in debate, to state with some precision the exact position that he assumes. It is not the position of a solitary unimportant individual, but the position of a leading man in this House and in the country. My own opinion is that "whoever hits him on the head will knock out the brains of" the Republican party. [Laughter.] He says:

"I begin simply by denying that the Constitution has the least reference to any one of the provisions of the bill in question, and I intend to show that the act of 1862, which was modified by a resolution which, it has been truly said, was passed under duress very little to the credit of the Congress that passed it—that act of 1862 is not affected directly or indirectly by any one of the provisions of the Constitution, and that especially that part of the act which provides for seizing property and confiscating it in fee simple is purely a proceeding under the laws of war and under the laws of nations, over which the Constitution has no control, and in regard to which it has no effect whatever."

And he proceeds to argue that the property is to be seized and condemned not as the property of persons guilty of the crime of treason, but as enemies under the laws of nations. He says:

"This act of Congress, so far as it refers to seizures of property in fee, refers to them as seizures of the property of alien enemies, to be treated as such."

I understand him distinctly to repudiate the idea that we may hold these persons criminally responsible to our municipal laws for acts done since they have risen to the dignity of belligerents. He says that we cannot do it, and that in point of fact we do not do it; that having ourselves appealed to the laws of nations to interpret our rights in this war; having claimed the benefit of that condemnation in prize courts which the laws of nations authorize; having captured on the high seas the property of our own friends—perhaps the most loyal men of the South—we cannot now repudiate the laws of nations in any particular when applicable to the contest; and that, consequently, for acts done by any of those men since they have been subject to a belligerent power, with the rights of belligerents, they are not criminally responsible to our municipal laws, but only as enemies and to the laws of war. I agree with him in that.

The speaker's views as to the source of our right of confiscation as well as the relation of the States held by the rebel power to the parent Government are still further illustrated by another passage which I will read:

"It is, however, essential to ascertain what relation the seceded States bear to the United States, that we may know how to deal with them in re-establishing the national Government. There seems to be great confusion of ideas and diversity of opinion on that subject. Some think that those States are still in the Union and entitled to the protection of the Constitution and laws of the United States, and that, notwithstanding all they have done, may at any time, without any legislation, come back, send Senators and Representatives to Congress, and enjoy all the privileges and immunities of loyal members of the United States. That whenever those 'wayward sisters' choose to abandon their frivolities and present themselves at the door of the Union and demand admission, we must receive them with open arms, and throw over them the protecting shield of the Union, of which it is said they had never ceased to be members. Others hold that, having committed treason, re-

nounced their allegiance to the Union, discarded its Constitution and laws, organized a distinct and hostile government, and by force of arms having risen from the condition of insurgents to the position of an independent Power *de facto*, and having been acknowledged as a belligerent both by foreign nations and our own Government, the Constitution and laws of the Union are abrogated so far as they are concerned, and that, as between the two belligerents, they are under the laws of war and the laws of nations alone, and that whichever Power conquers may treat the vanquished as conquered provinces, and may impose upon them such conditions and laws as it may deem best."

Again he says:

"Is the present contest to be regarded as a public war, and to be governed by the rules of civilized warfare, or only as a domestic insurrection, to be suppressed by criminal prosecutions before the courts of the country?"

The honorable gentleman answers in the affirmative, and repudiates the idea that they are traitors, criminally responsible to our municipal laws for acts done during the war. He endeavors, by citing a line from Judge Grier in the prize cases, to prove it a public war. And subsequently he inquires, "What, then, is the effect of this public war between these belligerents, these foreign nations?" He answers, in substance, that it abrogated all constitutional relations between the parent Government and the "organized States" in revolt, and put them out of the Union, with the right of conquest on their part as against us and the right of conquest on our part as against them. If conquered, all the people, loyal and disloyal, with their property, real and personal, are subject, not to the Constitution, but the laws of nations and of war.

"From all this the legitimate conclusion is, that all the people and all the territory within the limits of the organized States which, by a legitimate majority of their citizens, renounced the Constitution, took their States out of the Union, and made war upon the Government, are, so far as they are concerned, subject to the laws of the State; and, so far as the United States Government is concerned, subject to the laws of war and of nations, both while the war continues and when it shall be ended."

"By the laws of war the conqueror may seize and convert to his own use everything that belongs to the enemy. This may be done while the war is raging to weaken the enemy, and when it is ended the things seized may be retained to pay the expenses of the war and the damages caused by it. Towns, cities, and provinces may be held as a punishment for an unjust war, and as security against future aggressions. The property thus taken is not confiscated under the Constitution after conviction for treason, but is held by virtue of the laws of war. No individual crime need be proved against the owners. The fact of being a belligerent enemy carries the forfeiture with it. Here was the error of the President when he vetoed the confiscation bill passed by Congress. In the confusion of business he overlooked the distinction between a traitor and a belligerent enemy."

After claiming these extensive and extraordinary rights and powers, derivable from the laws of war and from the laws of nations, he proceeds to declare that he would execute them. "Towns, cities, provinces;" "every inch of soil of the guilty portion of this usurping power," he would confiscate, sell, and put into the Treasury. He would emancipate, of course; but that is done already; he would therefore only amend the Constitution and forever forbid slaveholding (of negroes) in America.

Finally, he winds up with this saying:

"The Union as it was and the Constitution as it is is an atrocious idea. It is man-stealing."

To some of these positions I give my assent. From others I dissent. The conclusion to which he comes I protest against and abhor. We are belligerents and have belligerent rights. Everybody inside the hostile territory is an enemy of the United States, be he friend or foe, in the prize-court sense of the term, but not in the common-law sense of the term. Their property on the high seas we may justly capture, condemn, and appropriate. All that are in line of battle or in any hostile position toward us, we may smite down with physical force, friend or foe; our bullets may not choose between them; the best and most loving heart that ever throbbed in the bosom of man may thus be pierced by our bullets, and we stand guiltless before God and man. They are necessarily public enemies, whether willingly so or not in individual cases; that is their predicament, and I accept the consequences that legitimately follow from it.

I admit that we must go to the laws of nations and not to the Constitution of the United States to interpret what war means, and for the rules to be observed in conducting it.

Our Constitution gives to us—to Congress and not to the President—the right to make war, but

it does not define what war is. The laws of nations define that.

WAR IS THE REMEDY AND NOT THE RIGHT. It is said to be the prosecution of a national right by force (2 Black, page 666.) Some right has been obstructed, denied, or attacked by a hostile belligerent power, and we prosecute it, defend it, vindicate it, by war. The laws of nations define what public war means—a war between foreign nations; and what civil war means—a war carried on within the State, like the present contest.

And I submit that the honorable gentleman has fallen into an error in characterizing this as a "public war," or in supposing that Judge Grier meant to characterize it as a public war. I find in the very sentence from which the gentleman takes his quotation, the distinction clearly laid down between public and civil war. Public war is declared to be between independent and foreign nations, and civil war a struggle carried on within the State in which one party may have both sovereign and belligerent rights.

Our sovereign rights, it is true, are for the time obstructed, until by the exercise of our belligerent rights we have restored them. But, sir, whether this contest be a war carried on within the State or between "foreign nations," we must look to the laws of nations, to the laws of war, to interpret the manner in which the contest must be conducted.

But I am astonished how any gentleman can refer us to the laws of nations in support of this act which the bill now before us proposes to amend, in the support of the amendment or in support of the position taken by the gentleman from Pennsylvania [Mr. STEVENS] and those who agree with him.

Why, sir, the usages of nations in modern times forbid the very means which the gentleman would employ and the whole policy which he advocates. The laws of nations recognize the right of conquest between the parties to a public war, but do not authorize the seizure and confiscation of private property on land only in excepted cases; they do not authorize the conquest of individual property. On the contrary, they forbid it.

I am not going into a lengthy citation of authorities. They have been quoted freely in the discussions upon this bill. They were cited fully and pertinently the other day by the honorable gentleman from Ohio, [Mr. FINCK,] and I content myself now, in the main, with a mere reference to them. I rely upon all writers upon the public law who state the rule among civilized nations in modern times. Their testimony is uniform and explicit, uttering a united voice of condemnation upon the policy which the honorable gentleman from Pennsylvania [Mr. STEVENS] demands. I rely upon the principles declared by all the civilized nations of the world in modern times, French, British, and American, in State papers, treaties, and diplomatic assemblies, to support the declaration of the elementary writers, that by the usages of the civilized nations of modern times, private property upon land is exempt from the spoiliations of war, exempt from seizure and confiscation, except in certain specified cases. Wheaton states the rule in clear and precise terms:

"But by the modern usages of nations, which has now acquired the force of law, temples of religion, public edifices devoted to civil purposes only, monuments of art, and repositories of science are exempted from the general operations of war. Private property on land is also exempt from confiscation, with the exception of such as may become booty in special cases, when taken from enemies in the field or in besieged towns, and of military contributions levied upon the inhabitants of the hostile territory. This exemption extends even to the case of an absolute and unqualified conquest of the enemy's country."—*Elements*, &c., p. 421.

This doctrine is supported by all writers who state the usages of modern nations. I forbear to quote them again to the House. But I call attention to the language of Chief Justice Marshall in *United States vs. Petersham*, 7 Peters, 86:

"It is very unusual, even in cases of conquest, for the conqueror to do more than to displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law, would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confiscated, and private rights annulled. The people cherish their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other and their rights of property remain undisturbed."

In another part of the opinion he speaks of the attempt on the part of the new sovereign to con-

fiscate the private property of the inhabitants occupying the acquired territory as "a wrong to individuals condemned by the practice of the whole civilized world." Again, speaking of the eighth article of the treaty by which we acquired Florida, Chief Justice Marshall says:

"This article is apparently introduced on the part of Spain, and must be intended to stipulate expressly for that security to private property which the laws and usages of nations would, without express stipulation, have conferred."—Page 88.

I cite also the letter of a former American Secretary of State of distinguished reputation to the French minister, written in the course of that discussion which grew out of the Paris declarations of 1856. By the laws of nations as previously existing, private property on land was exempt from seizure and spoliation in time of war; and it was proposed by the Paris conference to abolish privateering, and to that extent accord the same immunity to private property on the ocean. This Government was asked to assent to that principle being embodied in the laws of nations. The then Secretary of State (Mr. Marcy) replied very properly in behalf of this Government that this Government would not assent to the proposition unless the nations represented in the Paris congress would also agree to abolish the right to seize private property on the seas by public armed vessels, placing all private property on the high seas in the same position as private property on land. Mr. Marcy in that letter gives the weight of his sanction to the principle I now contend for, and I quote a part of it to establish the fact:

"The prevalence of Christianity and the progress of civilization have greatly mitigated the severity of the ancient mode of prosecuting hostilities. It is a generally received rule of modern warfare, so far at least as operations on land are concerned, that the persons and effects of non-combatants are to be respected. The wanton pillage or uncompensated appropriation of individual property by an army even in possession of an enemy's country is against the usage of modern times. Such a proceeding at this day would be condemned by the enlightened judgment of the world, unless warranted by particular circumstances. Every consideration which upholds this conduct in regard to a war on land favors the application of the same rule to the persons and property of citizens of the belligerents found upon the ocean."—Mr. Marcy to the Count de Sartiges, July 28, 1856.

The proposition of this Government to extend the principle recognized as prevailing on land to the sea was declined. On the whole I am inclined to doubt the propriety of the proposed extension so far as we are concerned. I do not know how blockades are to be made effective if private property of the enemy on the high seas is to be exempt from capture; nor does it seem wise to exempt commerce, the parent of so many wars, from its principal dangers.

Yet the present Secretary of State, by direction of the President, has offered to accede to the Paris declaration, so great regard has the present Administration for the sanctity of private property not only on land but on the sea also.

John Quincy Adams, in his correspondence both with the British minister and the American Secretary of State, affirmed the inviolability of private property on land, even in the case of slaves. I call the attention of the House to this great authority. In a letter to the American Secretary of State, August 22, 1815, he says:

"Our object is the restoration of all the property, including slaves, which by the usages of war among civilized nations ought not to have been taken." "All private property on shore was of that description. It was entitled by the laws of war from capture."

Again, to Lord Castlereagh, February 17, 1816:

"But as by the same usages of civilized nations private property is not the subject of lawful capture in war upon the land, it is perfectly clear that in every stipulation private property shall be respected, or that upon the restoration of places taken during the war it shall not be carried away."—*4 American State Papers*, 116, 117, 122, 123.

Mr. Adams contended that the British Government had violated the usages of civilized nations in taking away after the war was over, or in capturing during the war, slaves, because they were property upon land. It is known, sir, that by the treaty of 1814 indemnity was accorded by Great Britain for this very violation of the laws of war.

But it has been said, and there is a case—Brown's case—8th Cranch, referred to often to maintain the position that a nation has a right to do these things which the laws of nations forbid; that a sovereign accepts the laws of nations as addressed to his reason and justice and morality, but that if he chooses to disregard them he may

do so. But, sir, my own opinion on that subject has been so well expressed by a distinguished judge—I mean Judge Hoffman—and concurred in by two of the judges upon the supreme bench in the New Almaden mine case, (2 Black,) that I beg the attention of the House while I read a short extract from it:

"But if it be admitted that humanity, Christianity, and the usages and rules observed by all civilized nations (which constitute public law) forbid even in war the use of certain means, the discussion whether such rights abstractly exist would seem to be a disputation savoring rather of the subtlety of the schools than of that practical sense which seeks to discover and establish the actual rules by which nations in a state of war are governed. That the rights of war, as deduced by Bynkershoek, from a consideration of its abstract nature, are mitigated by the laws of war as established by the general consent of nations, with respect to the effects of conquest as well as to the mode of warfare, is proved by the general recognition of the principle that, on the conquest of an enemy's territory, private rights of property are to be protected."

"But if a nation which has injured another is to be considered as confiscated with all that belongs to it to the nation that has received the injury, this confiscation must extend to private as well as public property."—Judge Hoffman, with concurrence of Catron and Wayne, 2 Black, *United States vs. Castillero*, p. 368.

I can add nothing to the force of these observations. Let it be remembered that it does not matter how much power or how little the Constitution gives Congress to seize and confiscate private property on land, the laws of nations and of war stamp the exercise of such power as inhuman, immoral, infamous.

I consider, sir, the maxims of Christian nations in modern times on that subject too well established to detain the House with further reference to them. They deny the right in this Congress, in the exercise of its war powers, or its belligerent powers, to attack temples of religion, to spoil works of art, or in general to seize and confiscate private property upon land, and when we do it we do it in the face of the indignant and protesting Christian world. We are then outside of the pale of Christian nations. We boldly spurn their maxims and despise and trample under foot their morality; and unless Christian nations reverse the judgments of the best and most enlightened men and multitudes and times we must stand condemned and disgraced.

The honorable gentleman takes the position that the eleven States now and formerly subject to the rebel power are out of the Union, and that we may make a conquest of them. Suppose I were to grant it. Shall we then put aside that law of nations which protects private property—a law sanctified by the self-interest of the conqueror, all the dictates of humanity, and the public opinion of the world? No; even conceding, which I do not, his right of conquest, no right to seize and confiscate private property upon land in general would be conceded.

BUT, SIR, TOUCHING THIS CONTEST CARRIED ON WITHIN THE STATE, RIGHT OF CONQUEST AND ALL OTHER SOVEREIGNTY RIGHTS ADMITTED BY THE LAWS OF NATIONS ARE LIMITED AND DEFINITELY BOUNDED BY OUR CONSTITUTION. I must recur to the distinction I have endeavored to establish, or which at all events I have stated—and I cannot do much more than state my position upon this occasion—that we do not look to the law of nations or the laws of war for a definition of our rights either in a public or civil war, for that matter. War is the remedy for a violated or obstructed right. We prosecute our right by force; that is, make war. We look to the laws of nations for the rules which are to govern the conduct of the war, but not for the objects for which we may lawfully wage it, or the manner in which we may realize its acquisitions, or the extent of our sovereign rights. Where are our rights declared? Whence do they come? Our rights for which we wield the sword—where do we get them? From the laws of nations? If we get them from the laws of nations one of two things follows: either the laws of nations carry over the conquered country the qualified and limited sovereignty of the United States, or it gives them an unlimited sovereignty.

I undertake to say that the laws of nations recognize in the conqueror an unlimited sovereignty. In a conquered province the laws of nations consent that you may set up a monarch, found orders of nobility, erect churches dependent upon the State, pass *ex post facto* laws, strike out equal State representation in the Federal Senate—you may do everything and anything you choose to do by

your sovereign power. The laws of nations favor this. The laws of nations have no objections to kings, emperors, nobles, bishops. The protest against this infringement of the rights of man comes from America. Almost solitary and alone in the family of nations we are found to protest against the State with a king united to a church with a bishop. Yet, if it is there that we get our right of conquest and our sovereign right to rule the conquest, if it is there we go for a definition of our sovereign rights against a foreign and a domestic foe, and to interpret the manner in which we may enjoy the rights of conquest won either from foreign or domestic foes, to these conclusions must we come at last, or we come to the other, that by the laws of nations the conqueror does not conquer the sovereignty of a hostile Power, but merely substitutes his own sovereignty in place of that which has been expelled.

When Russia conquers Poland she strikes down elective monarchy and substitutes hereditary despotism in its place. If Turkey conquers a Christian province, the crescent is substituted for the cross. England makes a conquest, and by the omnipotence of unlimited power Parliament governs it according to its will. But if the Republic of America acquires territory, the exercise of sovereign right in that territory depends not upon the laws of Congress, of nations, of war, but upon the will of the sovereign people of America as expressed in the Constitution.

I understood the gentleman from Pennsylvania [Mr. STEVENS] to inquire where is the sovereignty of this country. The sovereignty of Russia is in the emperor. The sovereignty of Great Britain is in Parliament. Both are unlimited. The sovereignty of the United States is in the President and the Army. But should it be there? I deny it. It is in the sovereign American mass, in the people. There is no sovereign but the people. The people of America have delegated a portion of their sovereignty to the States, and another portion they have delegated to the Federal Government, our glorious, and, I trust, imperishable Union. The rest they have reserved to themselves. Consult that tenth article of the Amendments, which I believe this House did not quite lay upon the table when I had the honor to move it the other day; consult that and see "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." That sovereignty which in America can do no wrong like the sovereignty of Europe, at least no wrong for which it is criminally responsible, has delegated a portion only of that mighty sovereignty to the Federal Government. And in whom does it rest? In Congress, and not in the President and his Army. Conquests made by this country, foreign or domestic—if you admit such a monstrosity as a domestic conquest—are to be appropriated and settled and enjoyed and governed according to the laws of Congress, and by Congress admitted to the equal fellowship of States.

The war powers, whatever they may be, are vested in Congress and not in the Executive; and if the gentleman from Pennsylvania [Mr. STEVENS] is as logical in action as in argument, the Executive of the United States must meet with his determined opposition. I understand him, indeed, in the very speech to which I have directed my attention, to sneer at the pretense that the Executive of the United States is vested with the Federal or State sovereignty at all. He denies the right of ten men to govern a hundred by the aid of the Army and Navy. I deny it, too, and it is an error which will die in the midst of its worshipers sooner or later, unless the central idea of American civilization is a falsehood, and the Declaration of Independence a cheat and delusion.

If I am correct in the position I have stated, that the sovereignty was in the mass of the American people, and that they delegated a part to the States and a part to the Federal Government, how then, admitting the principle of the gentleman from Pennsylvania of the right of conquest, does the successful conquest of eleven States vest the President with sovereign power in the States?

MR. STEVENS. I will interrupt the gentleman one moment to correct him. My position was that the sovereignty was vested in Congress.

MR. WADSWORTH. That was the position I assumed. I said there was no sovereignty in

this country but in the sovereign mass, and that they had vested a portion of that in the States, and a portion in the United States, to be exercised by Congress. We seem, then, to agree. I was only inveighing against the presidential plan, and contended that the gentleman himself should lend his weighty support to overthrowing that plan, and all who plant their feet upon the neck of popular sovereignty. By his own principle Congress should undertake to settle the fate of eleven States. I prefer that Congress should do it. Woe worth the day when the American people consent that that portion of the sovereignty which they delegated to the States shall, by the accidents of fortune, or the malice of men, be vested in one man, and he the holder of the sword and the purse. But it is plain to any man who recurs to first principles that none of these consequences follow. These States are in the Union, and there is no power short of successful revolution that can drive them out of it; and, Mr. Speaker, it is no longer worth while for men of intellect and courage to deny the fact—rebellion, double damned as it is, has been met on our part and confronted with revolution, a revolution of the Federal Government against the States, of the rulers against the people, the sword against privilege, of power against liberty.

The States are not out of the Union. They are in the Union, in the old Union, thank God! not an "atrocious idea," but a living, imperishable reality, "dear to every true American heart;" a Union, sir, that will be the theme of historian and bard while time flies through the coming centuries; no degradation of this present, no recreancy of the friends of "liberty and union, one and inseparable," can dim the glory of its secure past. The old Union an atrocious idea! Founded by the most earnest, convinced, disinterested, and able men that ever blessed any age, by its career of prosperity it has demonstrated the value of its ideas and vindicated the wisdom of its wise founders, placing them on the roll of fame side by side with the builders of nations. At the mention of Romulus and Numa Pompilius the names of Washington and Madison rise spontaneously to our lips; and although not one complete century has labored upon the work projected and founded by these men and their compeers, yet the most sublime monument built to the glory of the fathers of nations has been the history by land and by sea; at home and abroad, of this old Union. That old Union, home of religion, of laws, of letters, of arts, of arms, in the career of greatness had no parallel in all the times before it, and distanced every contemporary nation; in the period rounded by one man's life, it rose from three million people to thirty million, from thirteen States to thirty-four; and the thousand years to come, should Heaven decree its restoration, will augment its renown. That Union an "atrocious idea!" The thought itself is the only atrocity. Is it necessary to destroy that Union that slavery may perish? No, whatever else may chance in this great convulsion, let the old Union be preserved with its central idea of popular sovereignty—sovereignty in the States in matters purely domestic, and in the United States in national matters, but behind and above, most powerful, invigorating all, the sovereignty of the people.

Sir, this is a much larger business, developing by the logic of events, than African slavery. We have got far beyond that. In this very act which you propose to amend there are the seeds of ruin that stretches beyond all questions of African slavery. You have heard it proclaimed that it rests upon the right of conquest, the obliteration of eleven—therefore of thirty-four—States. What, then, is in truth the real issue before the country? It is a question whether revolution shall go on or whether the American people shall arrest it. What a spectacle does it present in this the nineteenth century! A revolution of power against the people, of the ruler against the masses, of the Executive and the Army, if I am to believe its representatives on this floor, against the people. Shall the Executive of the United States have these vast powers confided to him? Shall we consent that by the conquest of Louisiana and ten other States he has become lord paramount in that country, the sovereignty of this people vested in him to be parcelled out to his sworn adherents, and we to furnish our blood and money to support the ten men against the ninety? Will it not

be a question, when the question of African slavery shall be settled and forgotten, whether the people of this country shall rule or whether the Executive shall rule; a question whether Congress shall exercise the sovereign powers delegated to the United States or one man with the sword and the purse shall grasp and wield them all? And do not gentlemen fear for the stability even of that great party which now holds the nation trembling in its grasp when they go beyond that theme with which they have moved the masses in America and fomented those passions that now rage in the land, and attack the very ideas upon which our institutions are founded, the sovereignty of the masses and the right of self-government?

It will be seen, then, Mr. Speaker, that I agree this far, that in this civil war all the people inside of the hostile territory, and subject to rebel sway, are our enemies, and that we have a right to treat them as such while the war lasts; but it will be seen also that I maintain they are citizens as well as enemies, not responsible criminally since they became belligerents for their acts to our municipal laws, but against whom we wield the weapons of war to beat down the rebel force and restore our qualified sovereignty. The time will come, I trust, when the rights for which we wage war shall be restored to the localities from which they have been expelled, and the qualified sovereignty of the United States again asserted there; when our custom-houses shall be opened, our navy-yards reestablished, our forts recaptured and garrisoned, and our courts again opened, with the judge upon the bench. Then questions of protection and allegiance, the reciprocal rights and duties of Government and citizen, will be discussed and decided. I apprehend that it will be decided that all who levied war against the United States when the United States offered them protection, and was in a situation to protect them, are guilty of treason; but that all who submitted to a belligerent power, a revolutionary conspiracy at a time when the United States were neither willing nor able to protect them, might lawfully do so and pay their allegiance to that rebel power, and keep it faithfully in peace and war. I believe that from that time forward, while the Government of the United States continued unable to protect them they were enemies and not traitors, responsible to the laws of war, and not to our municipal laws; but that afterwards from the moment our flag again flew over them, and its authority was again restored, and the offer of protection made to them, the Government might lawfully challenge the obedience and allegiance of every man, whether willing or unwilling, and hold him criminally responsible thenceforward for every act of "levying war."

But these are not all the objections I have to confiscation. No, those which remain are insurmountable. Even if we had the power, under the Constitution or the laws of nations, to do this mighty mischief, on grounds of policy and justice I oppose and protest against it. Look at the power you put into the hands of one man. By this act you put the lives and property, real and personal, of six million men, women, and children in the hands of the President of the United States. He holds the power to execute that savage law upon them, or to grant them an amnesty upon such terms as he may dictate.

That man is again a candidate for reelection to the Presidency of the United States, and by our Constitution he may be a candidate a third, a fourth, a fifth time, or as often as his ambition prompts or the pressure of party necessities compels him. It will not do to tell me that he is a virtuous and unambitious man. I might concede that to the fullest extent, but the people of this country have not intrusted their rights and privileges to any single man upon a blind faith in human virtue, and they will be deaf to the teachings of their ancestors and the warning voice of history if they ever do.

But in addition to that power over six million people, this same man has an Army of veterans of five, six, or eight hundred thousand. He has at his control \$800,000,000 per annum. The moral power of wielding that Army, of controlling that immense sum, and of exercising powers of life and death over six million of our fellow-citizens tends necessarily to the destruction of our liberties. There is no safety for democratic institutions when we confide those large powers to one man. I concede the necessity, I concede the pro-

priety and duty of putting in his hands the sword and the purse to secure victory to our arms. We must do it. But I would do it surrounded with all those guards which a jealous love of our liberties demands at our hands; nor would I go one step further than the direst necessity compels. A candidate for reelection, with five hundred thousand men armed to the teeth, representing nearly every family in the land, with another army of one hundred thousand office-holders or more stationed in every village in the land, with \$800,000,000 per annum—a fabulous sum—should we not tremble with apprehensions for the future in view of such a power?

You will recollect that the idea of \$20,000,000, \$30,000,000, or \$40,000,000 a year in gold set the nation crazy with the discovery of the precious metals in California. You will recollect how the adventurers of Europe swarmed on the discovery of America, when they learned that it was rich in silver and gold. But all the gold that has arrived from California since its discovery would not amount to the sum which the President of the United States now has within his control every year, and falls far short of the wealth which confiscation surrenders to rapine and plunder. Behold the moral influence of it. We are a money-loving, a money-seeking nation. Be it mentioned among all the glorious virtues of the American people that they love money and seek it with passion and avidity. What expectations and hopes will not that \$800,000,000 a year and the plunder of the South inspire! How many sycophants, flatterers, *convertites*, apostates, and plunderers will it make! The love of gain, the passion for sudden riches, already heated to fever, will spring up in all hearts and debauch the nation. Invited or uninvited, all look to and will be dependent upon the man who dispenses this coveted patronage and wealth, and all with active zeal will celebrate his virtues, and in spite of his shrinking modesty "buckle honors unwillingly on his back." How will the horse contractor, Mr. Shoddy, Mrs. Shoddy, Miss Shoddy, and Master Shoddy celebrate the praises of that one man, and cry "copperhead! copperhead!" upon every man animated by the ancient spirit of freedom and democratic jealousy of power who protests against this policy! In the midst of it all you arm this one man with power over the lives and property of six million people. Ah! you say, he will not exercise it. I pray Heaven he may not; but I have so often seen him driven from positions that he occupied and promised to keep that I fear the pressure of that power of plunder which this policy evokes and augments.

Then again it breeds a crop of venal plunderers, heartless and ravenous and limitless, to swarm over eleven States, to prey on helpless men, women, and children. We have had a specimen of it. Talk with those who have been down the Mississippi and in the West as to the influence on the Army and on citizens of those measures of the last Congress which authorized the Secretary of the Treasury to seize and appropriate the products of the South. How many lately holding official stations, or sitting in the halls of legislation, have gone where these richer fields of adventure invite? How many have resigned commissions in the Army to engage in speculation in the midst of those scenes of social chaos, where the only law is "the good old rule, the simple plan," the law of fraud and force? Do you think the passion for plunder is confined alone to shoddy and horse contractors? No, it is to be found everywhere. Everywhere in all classes the passions of avidity, venality, riches-getting rage. The clergy, the laity, soldier, civilian, contribute to the flood of venality that pours a lava tide of blight and death over the land; and Congress cries havoc! and hounds it on.

I maintain that the virtue and the integrity of the citizen are the surest bulwark in peace or war; and that system of legislation which places temptations mighty as these before the citizen aims a fatal stab at democratic institutions.

The leading jurists of America, as of the world, have expressed their hearty condemnation of confiscation. Are we wiser and better than them all? I beg now, sir, to call the attention of this House and of the country to the voice of only one—Judge Story. Judge Story, speaking of the reasons advanced by the advocates of confiscation, says:

"But this view of the subject is wholly unsatisfactory.

It looks only to the offender himself, and is regardless of his innocent posterity. It really operates as a posthumous punishment upon them, and compels them to bear not only the disgrace naturally attendant upon such flagitious crimes, but takes from them the common rights and privileges enjoyed by all other citizens, where they are wholly innocent, and however remote they may be in lineage from the first offender. It is surely enough for society to take the life of the offender as a just punishment of his crime without taking from his offspring and relatives that property which may be the only means of saving them from poverty and ruin. It is bad policy, too; for it cuts off all the attachments which these unfortunate victims might otherwise feel for their own Government, and prepares them to engage in any other service by which their supposed injuries may be redressed, or their hereditary hatred gratified."—*Commentaries*, page 172.

Upon these and similar grounds Judge Story thinks the Convention adopted article three, section three.

And again he says:

"The history of other countries abundantly proves that one of the strong incentives to prosecute offenses, as treason, has been the chance of sharing in the plunder of the victims. Rapacity has been stimulated to exert itself in the service of the most corrupt tyranny, and tyranny has been thus furnished with new opportunities of indulging its malignity and revenge; of gratifying its envy of the rich and good; and of increasing its means to reward favorites and secure retainers for the worst deeds."—*Commentaries*, page 173.

Sir, I cannot forbear to enrich and fortify my argument against this policy with another quotation from an authority already great on both sides of the ocean, destined to be still greater when history comes to estimate the men and events of these times. It is a general order published by that soldier, statesman, and patriot, George B. McClellan. He says:

"The general commanding takes this occasion to remind the officers and soldiers of the Army that we are engaged in supporting the Constitution and laws of the United States and in suppressing rebellion against their authority; that we are not engaged in a war of rapine, revenge, or subjugation; that this is not a contest against populations, but against armed forces; that it is a struggle carried on within the State, and should be conducted by us upon the highest principles known to Christian civilization."

This policy surrenders society in fifteen States to confusions and strifes that will afflict and convulse them long after war is nominally at an end. Peace will be no peace to us, Mr. Speaker, with this policy. Unhappily the contest now rages in our part of our common country; armed forces of both belligerents trample down our fields, eat out our substance, and struggle in our midst; our fences, our houses, (public and private,) our villages are consumed by fire; robbery and murder do their demon work; from sections thus afflicted the remnant of the people depart and leave it a desolation. From calamities like these, for which we of all other people of the United States are least responsible, (since we never hated any, but loved all the States and peoples of the great family,) we would fain at some early date escape. But confiscation will perpetuate these strifes and render peace and harmony to our people impossible. Neighbor from neighbor, friend from friend, father from child, husband from wife are divided; and thus the body-politic is paralyzed, the family cursed, and each honest heart broken in pieces. Will the plunder of estates reconcile these differences, heal these divisions, and give us peace when the war is over? No; with a refinement of vengeance our sectional enemies, heated by long political strifes with which the heart of Kentucky never sympathized, propose to curse our future with emancipation and confiscation, and thus destroy the only hopes and happiness which desolating war might otherwise leave us.

From these woes, Mr. Speaker, most of the honorable gentlemen of this House with their constituencies are happily exempt. I rejoice that it is so; our true and brave people crave no fellowship in misery. But though thus removed far from these scenes let them not close their eyes to our situation, despise our advice, mock at our calamities. Why should they hate treason more than we do? We have suffered most from its crimes, and had most to dread from its success in the future; yet all whom we are willing shall live at all we are anxious shall live upon terms that will not degrade them and make it impossible to reconcile them to the State and to us.

Gentlemen try to scold this policy by continually assuring us that the lands of the South are held by few; but in that, sir, they are mistaken. In many of those States, if not in all, the distribution of real estate is general. As members of the family, or by the ties of blood, much

the larger part of the population is interested in the real estate. But, sir, the confiscation act in terms embraces the entire population, since all have been compromised by the rebellion, and proposes the most widespread and barbarous robbery of property of which history furnishes an example. It cannot be executed to any extent without a sum of human misery at which every humane man must shudder. Sir, it is not only the policy of endless future strifes, but the policy of extermination and recolonization. Some boldly and audaciously proclaim this, like Wendell Phillips, the Anacharsis Clootz of this revolution. And can such a policy succeed? Why, more than half of the people of thirty-four States oppose it. How magnificent, sir, is the confidence of that minority, which, in the face of growing discontents and ever widening divisions of the people, each day multiplies its tasks and amplifies its projects. It proposes to conscript one half the nation to exterminate and recolonize the other half.

The policy prolongs the war indefinitely by compelling a brave and numerous people to struggle, not for national independence, but for liberty and existence. I confess I shudder for the consequences to our Union as the contest assumes that form. Is it possible upon these principles to subdue six million people, occupying so vast and fertile a territory, a warlike and intelligent race like ourselves, and, too, by a people divided in half upon this policy, and, to judge from the tone and temper manifested on either side, separating further and further day by day? How long will it take to make the conquest? How much will it cost to keep it? It is a lifetime since Poland fell a prey to the Russian; battle and halter and scourge have dealt upon Hungary; Ireland is in chains; but the despots who rule those people have never broken their spirit nor crushed them into quiescence. Are the people of the eleven States less intractable, or have they been less free? Or would they remain more passive slaves to the executive ten percent, guarded by a negro army, with all that makes life supportable irreparably lost? From time to time, as occasion served, the injured and oppressed would break their chains and strike for liberty. Sir, it will be a difficult task to keep Americans in slavery in sight of Camden, Eutaw, Guilford, and Yorktown. They cannot crouch down there in abject submission to a servile, oath-bound minority, remembering where they are, and what they were. They would prove but restless subjects in this democracy. Let us not try subjugation and forfeiture. Arms against arms, pardon, immunity, equality, liberty to all who submit, will be found more potent, more secure, more speedy, more honorable. The greatest of human seers and bards has said, speaking by the mouth of England's greatest conqueror, "When lenity and cruelty play for a kingdom, the gentle gamester is the soonest winner."

But the gentleman from Pennsylvania [Mr. STEVENS] urges the seizure and sale of the lands of the South to pay our huge debt and relieve our heavy taxation. Sir, confiscation will produce but a trifle; the plunderer will get all, the Treasury nothing. The estates must go for nothing. What buyer will risk them at a tolerable price? How enviable the lot of that northern man who drives out the family of some lost father, and sits down beneath the vine and fig-tree he never planted! What a welcome guest at every good man's feast! But his bed will not be a bed of roses; the torch will rouse him from his slumbers, the crack of outlaw's rifle will stretch him lifeless on his new domain. Or when the yellow harvests crown his fields, and he is ready to say, "Soul, take thine ease," the southern Roderick Dhu, beholding his ravished birthright from his glen, will sally forth to "spoil the spoiler" as he may. Revenue from such a source accursed is a delusion. I would farm these "conquests" another way. I would cut the national debt in twain by halving it with restored and reconciled brethren; I would lighten the load of taxation by widening its basis, and giving to the South order, self-government, and peace. Under that policy I would expect to see "grim-visaged war smooth his wrinkled front," industry revive throughout her borders, her great products once more cumber the levees, once more fill our tonnage, and on "woven wings" fly to eager foreign marts, thence to flow back on America in golden streams reinvigorating our finances, augmenting our revenues, con-

solidating our credit, and scattering the blessings of prosperity and plenty throughout the whole land. And by the blessing of God, under this wise, honorable, humane, and constitutional policy I should hope at no distant period, these sad days remembered only as a horrid dream, to see the great Republic clothed with all its former strength and beauty, advancing to realize the hopes of its founders.

[Here the hammer fell.]

Mr. GARFIELD. I move that the gentleman from Kentucky have permission to go on and finish his remarks.

The SPEAKER. The gentleman will proceed, if no objection be made.

Mr. PRICE. I object.

Mr. WOODBRIDGE obtained the floor.

Mr. DAWES. Has the morning hour expired?

The SPEAKER. It has expired.

ENROLLMENT ACT.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. Before doing so, however, I will move that all general debate upon the bill under consideration in committee be terminated at three o'clock to-day.

The motion was agreed to.

Mr. SCHENCK. I now ask for the vote upon going to committee.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of the special order, being Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The CHAIRMAN stated the pending question to be upon the amendment offered yesterday by the gentleman from Indiana, [Mr. HOLMAN,] to strike out all after the word "enlisted," in line nineteen, page 4, down to the end of the fifth section, as follows:

And if any drafted person shall hereafter pay money for the procurement of a substitute, under the provisions of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft on that call, and his name shall be retained on the roll, and he shall be subject to draft on future calls; and the maximum of commutation under said act shall hereafter be \$400 instead of \$300.

And insert in lieu thereof the following:

And so much of the thirteenth section of the act of which this act is an amendment as authorizes exemption from military service by the payment of a sum not exceeding \$300 is hereby repealed.

Upon which the gentleman from Pennsylvania [Mr. A. MYERS] was entitled to the floor.

Mr. A. MYERS. Mr. Chairman, I hope the committee will not be alarmed at the small bundle of papers I have before me. The remarks I have to submit have not been committed to writing. Last evening when, after the little storm of debate which occurred in this House, I had obtained the floor, I went home, sat down in my room, and jotted down a few notes as heads of the disconnected remarks that I shall make upon the subject which is properly before the committee; for I may get into the congressional habit of wandering somewhat from the subject under debate.

I have had the pleasure of listening to several speeches during my short experience in this Hall upon both sides of the House, and on various subjects; yet I am sorry to say that from the other side of this Chamber, from judicial experience and astuteness down to juvenile congressional verbiage, I have failed to discover a warm support of my country in its trying hour. And until I hear a different train of argument, until I hear words indicating different motives, I shall have to continue, as I have in the past, to admire the persons more than the principles of the honorable gentlemen on the other side of the House.

In the discussion of the various questions that have come up I have scarcely heard one speech, I have scarcely listened to one argument, and I believe scarcely a resolution coming from the left side of this Chamber, the beginning, the middle, and the end of which has not been denunciation, abuse, misrepresentation, and obstruction of every effort of the Administration, while the country is struggling for its existence. Perhaps I have not always heard correctly, but that has been my understanding.

The question now before the committee is, shall we pass or amend so as to make a more effective enrollment law? Now, sir, before going into the discussion of the merits of this bill, I had almost betrayed myself into an anecdote. They tell me they are not dignified in an assembly like this; and it may be that in my little efforts in my oleaginous district, [laughter,] which always runs smoothly upon questions of the Union, I am sometimes betrayed into such undignified diversions to illustrate a position.

I know not whether some gentlemen in this Chamber ever pray for their country; I know not whether some gentlemen in this Hall ever pray for the Administration, that its counsels may be guided by a wisdom that may be transmitted to its successors; perhaps they may be like a clergyman in the heart of the rebel States, after we had defeated the armies of Jeff. Davis at one point. The next day the religious people at that place got together for prayer, but they could find nobody good enough to pray except one nervous, excitable clergyman. He arose, and lifting his holy hands to pray in reference to the disaster which had befallen the rebel arms the day before, looking up toward heaven, he said, "Oh, Lord! I never saw such a day as yesterday, and I don't believe you did either." [Laughter.] I say, sir, if prayers go up for this Administration from some quarters it will be to tell the Ruler of all things that neither the person petitioning nor Him supplicated ever saw such an Administration, including that of Jeff. Davis.

We are told, Mr. Chairman, that the draft law is unpopular. It may be in the estimation of some. Who made it so? It is the declarations of such traitors as Chauncey C. Burr, Clement L. Vallandigham, John U. Andrews, formerly of Virginia, and lately, as that word has been introduced here—I did not introduce it—lately the copperhead orator of the city of New York. And I am sorry that language such as that which has been used has found repeaters in this House. Chauncey C. Burr said, in a speech in New York concerning the draft, that "it is merely a highwayman's call on every American citizen for \$300 or his life." Did we not hear yesterday the remark, "your money or your life?" "It is to your clemency," he goes on to say, "that Abe Lincoln and all his satraps were not upon the gallows eighteen months ago. The old booby thought he was king. Jeff. Davis never did anything half so bad as Lincoln." Honorable gentlemen do not use the last sentence affirmatively, but they adopt its sentiment or acquiesce in it.

What did Clement L. Vallandigham say upon the same subject? I read from the Philadelphia Inquirer:

"VALLANDIGHAM IN NEW YORK.—One thing the Government may as well understand first as last, and that is, if the sentiments which were uttered and applauded last evening at the Democratic Union Association meeting are to prevail, the enforcement of the conscription bill in the city of New York is entirely out of the question. Vallandigham was the orator. Referring to the insurrection in Poland, he said 'The people there had risen up against a conscription, which, bad as it was, was not half as odious as ours. Austria was considered a tyranny until she had ours. As long as free assemblies and free discussion were allowed, he was in favor of seeking redress for these grievances at the ballot-box, but when those safeguards were invaded, he was in favor of seeking some other and more efficient mode of defending their liberties.'

"Then, in regard to the bill empowering the President to suspend the *habeas corpus*, 'that bill,' he said, 'was unconstitutional, and the same right of resistance that common law gives a man to prevent a trespasser from entering his house, exists with reference to that enactment.' These are specimen 'bricks' from the rhetorical temple of disloyalty, which the gentleman from Ohio constructed for the edification of his hearers, and his hearers stretched their lungs to give expression to their delight. A stranger dropping into that hall, with but little effort of the imagination, might have fancied himself in Richmond or Charleston—not in one of the loyal cities of the North."

But there was one specimen of Democratic oratory presented to the city of New York, by Captain J. U. Andrews, formerly from the first families of Virginia, I suppose. Did we not hear yesterday the demagogical cry—the same cry that he uttered to create prejudice between the white men and the black men—that our purpose is to elevate the black man to an equality with the white man? If I dared to use the *argumentum ad hominem*, I think that gentleman would be sorry to rise up to the height or go down to the depth of that position.

What were the declarations of Andrews? "You must resist the draft. You must be careful, for

the Republicans will endeavor to elevate the black man to an equality with the white man." Let us follow him. After making one of these eloquent, soul-stirring speeches to the Democracy of the city of New York, let us follow this immaculate gentleman. Let us see him as he winds his way through the streets and lanes until finally he reaches the little house which he calls home. Arrived there he is within the paramount influence of the one whom he loves. Byron, once looking up at the moon, carrying away the inspiration for which England loves him so well; when he was looking at the moon, which at the time happened to have retired behind a black cloud, Byron said:

"The pale round moon looks dimly, darkly down."

Captain J. U. Andrews, when he found his home, falling upon his knees and looking up into the face of her who sat before him, might truthfully exclaim, "You look dimly, darkly down, Josephine, my dear." [Laughter.] Ah, sir, the equality sought to be fixed upon black men, indeed!

If honorable members, Mr. Speaker, would recollect the great distinction that they might make from moral science—I trust that they have learned it, and I have the charity to believe that they have forgotten it—that God has created all men equal so far as their rights are concerned and their condition as diversified as the individuals themselves. Now, I believe that I have almost brought myself within the congressional rule of not speaking to the question.

I was almost tempted to refer to the doctrine of States rights, of which we hear so often and so eloquently. I will not argue the question; but I will state a proposition. When was it that the States were sovereign? Was it when they were dependent colonies of the mother country? No, sir. When was it that the States could revolve in a radius wider than that of the national Government? These States when born were born in the United States. They never had the so-called doctrine of States right attached to them. I would like a political philosopher of this day to tell me when the States were born into the national sovereignty, except such as ties them to the Union. Let us ask ourselves the question, "Have we a right to pass anything like what is called a draft law?"

I may be a little dry now—and the committee will excuse me—while I resume the track from which, for a while, I switched off.

I say, sir, that without one single syllable in that Constitution except what is contained in that preamble we have a right to pass a law like this, or any law which will bring to the help of the Government the military power of the nation. Who so well qualified to frame a Government as those who had just come out of the conflict and storm of the Revolution? The preamble to that instrument contains words which are sufficient as a foundation upon which to build legislation like that which the majority of this House intend by this bill.

"To provide for the common defense" was a part of the purpose for which this people compacted—not leagued, but compacted—together, and it is the power by which they were united. But, sir, in section eight of the Constitution we have these words: "to raise and support armies." There is our power as clear as the English language can express it; and whenever a power is granted to Congress, all the means, all the appliances, and all the ways are necessarily given for the purpose of carrying the granted power into effect. Would not this section alone be sufficient? But to make the thing perfectly clear, these clear-headed fathers of the Republic wound up that section with the following language: Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." What is an enlistment act but a law to carry into execution powers delegated to Congress to raise and support armies?

But we are not without authority upon that point; and you, Mr. Chairman, and every lawyer, know that if we can place our hands upon the case, then, unless something is presented more authoritative against it, we have carried the court and jury. The Supreme Court of the United States long since has decided or announced the doctrine that all the powers vested by the Constitution in Congress are full and complete in themselves, may be exercised to their utmost limit,

and that there are no restrictions upon them, only those prescribed in the instrument. (See Gibbons vs. Ogden, 9 Wheaton, 196.)

But we have other authority; we have the authority of a man who was once Chief Justice of the Supreme Court of the United States, who was a soldier in the armies of the Revolution, and one of the first soldiers of the nation, and one of the first judges of the land. What does he say in his *Life of Washington*? In showing that the draft was made use of, he says:

"In general the Assemblies (of the States) followed the examples of Congress, and apportioned on the several counties within the State the quota to be furnished by each. This division of the State was again to be subdivided into classes, and each class was to furnish a man by contributions or taxes imposed on itself. In some instances a draft was to be used in the last resort."—*Marshall's Life of Washington*, vol. 3, p. 241.

Do we want better authority than this as to the power of Congress, or as to the practice of our nation in the days of its infancy?

I find my time is rapidly passing, though I did not intend to occupy my hour. I must hastily proceed. I ask this question, "What is a draft?" Before answering that question, I would like to lay down a proposition which I believe to be sound, with all due deference to those who differ with me. I say every man in this country owes it to his country to support it in time of trial; that every man is bound to take up arms in defense of the life of the nation. Every man is bound to do that; and I know that Government, in its humanitarian ideas, in its liberal notions, in its exercise of sovereignty as it pleases, may exempt whom it will and how it will. But, sir, the great proposition stands out boldly, and as the truth, that every man is bound to march to the battle-field to defend his country in the day of its danger. In other words, the Government at this time has a draft upon every man. She has her hand upon every man's shoulder saying, "Come; my life is in danger; I am drawing you to my support; come, help me out of these troubles." That is the position that the Government occupies toward every citizen. Every man is bound to go. There is a connecting link, a sort of drawing-string between the Government and its citizens; and the draft is to ascertain which of those strings shall be cut. We have been told that the draft is to ascertain who shall go to fight the battles of our country. Sir, that is a mistaken definition. The draft is to ascertain who may stay at home, for all are bound to go; and the man who cannot see that has studied the Constitution and the meaning of the true requisitions of our Government to very little purpose, or he has gone to a very bad school teacher for patriotic education.

Now, sir, will you recruit your forces? I do not approve of some of the provisions of the bill now before the House. I was not on the Military Committee. I never thought of such a thing. I am not sufficiently a fighting man for that, that is, in practice, although I may be almost as bold as some other gentlemen in profession. I say that the true policy would be to make a draft for a shorter period. I believe the committee has decided that against me. I think the true policy would be to retain the \$300 commutation clause, and perhaps it may be right to exempt those persons also who from conscientious scruples and by the articles of faith to which they are attached are opposed to engaging in actual conflict, yet to make them pay something and appropriate it to peaceful purposes. But, sir, I am not going to argue that question. There is another point I might add, and I will add it for fear some one else may get up and do it at some other time when it has nothing to do with the question before the House, that I think we ought to increase the pay of the soldiers, which will aid in drafting, as drafted men will get the same pay as other soldiers.

We are told by some that we can rely upon volunteers, and that the people prefer that mode of recruiting our forces. By what process of reasoning, by what sound logical conclusion can we arrive at the result that because we have an enrollment act volunteering is prevented? Ah, sir, I can imagine why some of us are so much in favor of volunteering and so terribly opposed to drafting. I can imagine it for this reason, that I find when there is volunteering all the willing go, and when there is drafting some of the unwilling have to go. There might, perhaps, be a parti-

san motive—though I do not charge it—in saying let us have nothing but volunteering, especially when the returns show that the volunteers all vote one way. I think this is germane to the question, as showing one of the reasons why opposition is made to the passage of this or any similar bill.

Now, sir, I have here the vote of the volunteers, and I will give it you in a very brief and condensed form. I will commence with Pennsylvania. I like to begin with her, not only because she is my own State, but for a better reason, because on her soil is the field of Gettysburg, and there, like Bunker Hill in Massachusetts, "it will be forever." The Pennsylvania soldiers, before our would-be Governor decided that they were not fit to vote, cast their suffrages thus—

Mr. STILES. I would ask my colleague who decided that the soldiers were not fit to vote?

Mr. A. MYERS. I do not like to have my time consumed.

Mr. STILES. Perhaps my question is troublesome.

Mr. A. MYERS. I will yield to my colleague for a moment.

Mr. STILES. I ask him what candidate for Governor in Pennsylvania decided that the soldiers were not fit to vote?

Mr. A. MYERS. The Hon. George W. Woodward decided that soldiers had no right to vote when they were away from home in the field, because they were not at home, and last fall, when they came home, the Democratic judges at election boards decided that they had no right to vote because they were at home. [Laughter.]

Mr. STILES. He decided no such thing. He decided your act to be unconstitutional, together with a majority of the supreme court of Pennsylvania, which decision you disregarded.

Mr. A. MYERS. Yes, sir, he did decide that the act was unconstitutional, and when the soldiers got a chance to vote they decided that he was unconstitutional. [Laughter.]

But, sir, Pennsylvania soldiers in 1861 gave 11,351 votes for the Union ticket, and 3,173 votes to the other ticket, making a majority of 8,178 in favor of the Union ticket. Iowa—oh, I like to come to her next, she stands right here, not alphabetically, it is true, but she stands right on the record everywhere and all the time, and her increasing majorities for the Union make one love to call her next on this roll—Iowa, in 1863, gave 17,041 for the Union and 3,004 for the Democratic ticket, making a majority of 14,037. No wonder that some of us are opposed to a draft! Wisconsin, glorious State—it does not take long to count her votes—Wisconsin polled 9,257 for the Union and 747 for the other side of the political Jordan. Sir, I come to another State, and perhaps I ought to have said that I come to one more gladly than all the rest; for, sir, the question was squarely made between the soldier and a man who was as much like Judge Woodward as the Siamese twins were alike. If you sever the political cartilage that binds them together both will die. Ohio soldiers in 1863 cast for the Union 41,453 votes, and for the man who now sits near Niagara's roar and sings "God save the Queen," 2,391. Here is the vote from Libby prison, not rebel, but Union prisoners: for Brough, 162; for Jewett, 1; for Vallandigham, 0. [Laughter.]

Sir, these are interesting statistics. I would not have read these figures but that I want them to go on the record of the nation. This little book in which I have them entered might not live long enough.

But, sir, the Administration could not be let alone without a fling at it the other day in respect to its treatment of what was called the favorite general of the army of the Potomac. I did not intend, if it had not been thrown out in this way, to say one word against that once favorite general, either here or elsewhere. But when an attempt is made to stab this Administration, to misrepresent this Administration, one which the people have taken up, determined that he who for four years has held the helm of State so steadily shall run the good ship into port, I cannot be silent. Politicians may think and say and do as they please, but God and the people are for Abraham Lincoln. Jeff. Davis and the others may be for whom they like. [Laughter.]

General McClellan may have been the favorite of the army of the Potomac for a while, and per-

haps he was to a great extent until, the night before the Pennsylvania election, he changed his base. What did he do? He issued a bulletin which was posted upon the street corners throughout the city of Philadelphia and in all the eastern towns which could be reached by print, and which was flashed to the utmost extent of the telegraphic poles on swifter pinions than the wings of the wind, that he had been in consultation with George W. Woodward; that on comparing notes, on looking at the report of the peninsular campaign, and at the last report of the decisions of the Pennsylvania supreme court, he came to the conclusion that they were exactly alike. Well, the soldiers do not like the man who says he agrees with one who, in 1863, said he was in favor of withdrawing our troops to north of Mason and Dixon's line. They do not like the man who decided that soldiers had no right to vote in Pennsylvania. They have no love for the man who was an original Know-Nothing in Pennsylvania, commencing this principle in 1837, when he thought that foreigners were not good enough to vote. And when their favorite general undertakes to say that he agrees in such sentiments, he is to be the favorite no longer. Our people, sir, are an adaptive people. You can make them a nation of soldiers from being shepherd boys in six months; and you can make them worship and curse the same idol within twenty-four hours.

I think, sir, that I have heard it said, after claiming that this act was unconstitutional, that if the necessity existed the member would waive all objection and vote for it. That is: "I swear to support the Constitution of the United States. That law is unconstitutional, but if it is necessary, I will violate my oath a little and vote for it." [Laughter.] Sir, we did no such thing as that.

We want this draft for the purpose of filling up to as great an extent as we can our ranks from the unwilling. We want to put them into the old regiments. I care not how much of a copperhead (the word has been brought into this debate and I take the liberty of using it) a man may be, just sandwich him between two old veterans, and I will insure you he goes into the fight. [Laughter.]

Sir, there may be a great struggle in the spring, and we owe it to our country that we should speedily fill up our Army. The way to make the struggle brief is to present a bold, united, strong front to the enemy, and that is the object of this bill. We want men to be drafted into the Army. The soldiers in the Army want a draft, and I say let the soldiers' will be done. Let us have a draft and an increase of the Army, so that we may encourage the daring and heroism of our brave soldiers to crush out the last rebel foe that comes against them. Let us do that, and then let us, oh, let us confiscate every species of property of rebels now and forever.

"What will you do with this property when confiscated?" I have a way of disposing of it. I would take a part of it and throw it into our Treasury, about the solvency of which some people have so much concern. The rest I would parcel out into sections and give them to the men who have fought our battles. I do not know as it is necessary to go into the details of that division, but I think I would give to every single man eighty acres, to every married man one hundred and sixty, to every married man with a child one hundred and eighty acres, and if God bless them with twins, three hundred acres; and tell all the soldiers that like merit shall have a like reward. [Great laughter.]

Sir, when this war is over, when the contest is ended, there will be some men in our country heartily ashamed of their expressions. Oh, they would give their fortunes to have the record of their words blotted from the archives of the nation. When the contest is over two classes of people will leave the North: the colored man will go South because the North is too cold for him, and the copperhead will go South because the North will be too hot for him. [Laughter.] The first will be the result of geographical frigidity; the second the result of a mental patriotic burning torridity.

Sir, I say again, fill up our armies. Let us have no more of this whining, faltering, partisan spirit. At first, some tell us, we were all united. Yes, sir, we were, and if we have become divided, pray, sir, which side are you on? If it be true that Abraham Lincoln has been guilty of some wrong,

does that make traitors and rebellion right? Never. Away with such nonsensical, illogical arguments as that.

One word more, and I have done. I say, let us come back then to our first unanimous outburst of patriotism upon this subject. Let us have no more of this party cry. The people, the soldiers, and all the unconditionally loyal are for a draft. Who are the men who oppose it? I have heard it said that men are subject to two births. I am not going to argue the theological distinction. I believe it is true that one marks the entering of a man upon his existence—an important period—and that the other marks the period when a man, looking up to the great Creator of all things, hopes for a better life beyond the grave, enters upon a new existence which shall never end. And may it not be also true that nations are the subject of two births? Would it be illogical to say that this nation, when it first took its stand among the nations of the earth passed its first birth, retaining in its nature, it is true, some grains of original sin, and that it is now in the throes of its second birth? I know that in this great trial an ocean of patriot blood has been and must be poured out; yet beneath that purple flood the nation is to be cleansed, and she will arise from her baptism, washed from every guilty stain, to walk away in newness of life. When that happens the goddess of Liberty which stands above us will then look over all this country, from Maine to the Gulf, from ocean to ocean, and she would say, if she could speak: "This, all this, is my country." But, sir, years after this she will look over one hundred million people, and if she could speak she would announce: "These, these are my countrymen, and all of them free."

Mr. STILES. Mr. Chairman, I have listened with some amusement to the rambling tirade of my colleague [Mr. A. MYERS]—I cannot characterize it as a speech—and I rise for the purpose of vindicating the character of a prominent citizen of my own State, perhaps the most prominent to-day, and whose private and public character scarcely needs vindication before this House and before the country. I refer to Hon. George W. Woodward, late candidate for Governor in Pennsylvania. I do not intend to reply at length to my colleague's unwarrantable attack, uncalled for and unwise, in a discussion upon the bill before the House. He said that the gentleman to whom I have alluded, who was a candidate for Governor of Pennsylvania in October last, as a judge of the highest tribunal of the State had decided that the soldiers were not fit to vote. I repeat that charge as not true. The distinguished gentleman to whom my colleague refers I believe was legally elected Governor of Pennsylvania at that election. But, sir, he was defeated by the vote of the Army then stationed in many portions of the State to carry out your draft under this bill, and the numberless men sent from the field pledged before obtaining furloughs to vote against him. He never decided in any opinion delivered by him that the soldiers were unfit to vote, nor that they were not entitled to vote. He did decide in the case of Chase vs. Miller that their vote out of the election district where they resided before enlisting was against the constitution of the State, and under the law of the State their vote taken in camp was illegal. In this I believe all the judges of the supreme court of Pennsylvania, with perhaps a single exception, concurred. The decision was expressly that the soldiers could vote upon complying with the requisites required by our laws. That decision has been approved by the people, for since it was pronounced the necessary steps have been taken to change the constitution allowing soldiers to vote in the field. The decision was entirely upon the statutes of Pennsylvania under its constitution, and no judge of that or any other State ever denied the right of a soldier to vote when at his legal residence, and after complying with the requisites of the law.

My colleague has referred to the fact that Judge Woodward was defeated for Governor. It was believed at the time and is now believed that if there had been a fair expression of the sentiment of the people at the ballot-box, that if the soldiers who returned to their homes had been uninfluenced by the officers in command, and the Administration had not interfered, the majority would have elevated him to the highest office in their

gift. He received two hundred and fifty-four thousand votes—a much larger Democratic vote than was ever polled in that State by many thousand. The soldiers who returned to their homes expressly to vote against him were pledged, before they left the field, in opposition to him, and upon that pledge alone they were allowed to return; and I have evidence of the fact that those who refused so to pledge themselves were denied furloughs. As I said, sir, I did not rise to answer the rambling and incoherent remarks of my colleague, but for the purpose of placing the foremost man in my State in a proper position before the country. Judge Woodward has, however, decided the act conscripting the people, the amendments to which are now under consideration, unconstitutional. That is why the attack is made upon him. A majority of the supreme court, as it was then constituted, concurred with him in that opinion, and the court pronounced their judgment that the act was unconstitutional and void. It is true that the injunctions granted in the case of *Kneeder vs. Lane*, and the other cases decided in November last, have been dissolved by that court, as it is constituted now, a Republican judge, who was elected by the same influence that defeated Judge Woodward, having taken the place of Chief Justice Lowrie upon the bench. However, while the decision stood as the law of the State, it was wholly disregarded by the persons holding positions under the Administration, although it was the law of the State. It was disregarded by my colleague and his whole party. The officers conducting the draft everywhere set the decision at defiance, together with the whole civil authority of the State.

Mr. Chairman, while I did not propose to discuss at length the bill before the House, I cannot allow this bill to pass without protesting against the whole provisions of the original bill and the amendments now proposed. Your draft has been a failure, so acknowledged by the Secretary of War, by the Provost Marshal General, and it is admitted here that thus far it has been a failure. Out of the three hundred thousand men called but fifty thousand were raised, and nine tenths and perhaps more were substitutes. It was a good revenue measure, it is true, because ten to twelve millions of money was raised, which was to have been expended for the procurement of substitutes, but which I believe has never been so expended according to the spirit and intention of the act. Some portion of it has been applied, we are told, for the purpose of procuring negro soldiers from the insurgent States. I say, sir, the people are opposed to the conscription bill, and that opposition is confined to no party, no classes; all alike are opposed to it. It is not the plan for raising men to fill up your mutilated Army.

I say, sir, that the people of this country ratify and confirm the decision of this court to which I have alluded. That public expression is now denied because the freedom of elections does not exist; and the people are powerless before your Army, who are compelled to do the bidding of their masters. If this war were honestly waged to restore the Government in all its power and its unity, there would exist no necessity for a draft of its citizens. Enlistments would be ample for this or any other war. You cannot fill your Army with conscripts. Your purpose in this bill is to impress into the service under the name of "the national forces" every civil officer of the States except its executive, and every citizen between twenty and forty-five years of age. You go further and impress every civil officer of the General Government, with the few exceptions named in the thirteenth section. The judiciary of the States, all the officers of the public Departments, all the municipal officers are to be conscripted, and enter the service as common soldiers. Stripped of all the machinery necessary to make a State organization, you leave it utterly defenseless. The Federal Government in this sweeping stretch of its power overshadows and breaks down State rights, State sovereignty, and assumes all power reserved to the States and the people.

Speaking of this in the case which I have referred to, Chief Justice Lowrie says:

"It seems to me this is an unauthorized substitute for the militia of the States. If valid, it completely annuls, for the time being, the remedy for insurrection provided by the Constitution, and substitutes a new and unprovided one; or rather it takes that very State force, strips it of its officers, despoils it of its organization, and reconstructs its ele-

ments under a different authority, though under somewhat similar forms. If this act is law, it is supreme law, and the States can have no militia out of the class usually called to militia duty; for the whole class is appropriated as a national force under this law, and no State can make any law that is inconsistent with it. The State militia is wiped out if this act is valid, except so far as it may be permitted by the Federal Government. If Congress may thus, under its power to raise armies, constitute all the State militiamen into 'national forces' as part of the regular Army, and make them 'liable to perform duty in the service of the United States when called out by the President,' I cannot see that it may not require from them all a constant military training under Federal officers as a preparation for the greatest efficiency when they shall be so called out, and then all the State militia and civil officers may be put into the ranks and subjected to the command of such officers as the President may appoint, and every one would then see that the constitutional State militia becomes a mere name. The Constitution makes it and the men in it a national force in a given contingency, and in a prescribed form; but this act makes them so irrespective of the constitutional form and contingency. This is the substantial fact, and I am not able to refine it away." * * *

"If Congress may institute the plan now under consideration, as a necessary and proper mode of exercising its power 'to raise and support armies,' then it seems to me to follow with more force that it may take a similar mode in the exercise of other powers, and may compel people to lend it their money; take their houses for offices and courts; their ships and steamboats for the Navy; their land for its fortresses; their mechanics and workshops for the different branches of business that are needed for Army supplies; their physicians, ministers, and women for Army surgeons, chaplains, nurses, and cooks; their horses and wagons for their cavalry and for Army trains, and their provisions and crops for the support of the Army. If we give the latitudinarian interpretation, as to mode, which this act requires, I know not how to stop short of this. I am sure there is no present danger of such an extreme interpretation, and that even partisan morality would forbid it; but if the power be admitted we have no security against the relaxation of the morality that guides it. I am quite unable now to suppose that so great a power could have been intended to be granted, and yet to be left so loosely guarded.

"It may be thought that even voluntary enlistments in the regular Army have the same sort of inconsistency with the militia system as forced recruiting has; but more careful reflection will show that it is not so. Enlistment in the Army takes away a part of the militia; but every militia system allows for this, and the general purpose of both is the same—the constitution of a military force. And, besides this, it is of the very nature of the system that it leaves every man free in the pursuit of his ordinary calling, and binds no man to any part of the militia, except by reason of his residence, which he may abandon or change as he pleases."

You thus deprive the State of its means of defense against an invasion, and leave its government, its capital, its cities, and its people without any means of protection or defense, and ignore all its rights which are guaranteed independent of Federal power.

This question affects the rights of the States. Thus usurpation assumes complete and absolute control of the militia of the States. Judge Woodward, in the case to which I have alluded, says:

"To raise armies—these are large words; what do they mean? There could be no limitation upon the number or size of the armies to be raised, for all possible contingencies could not be foreseen; but our question has not reference to number or size, but to the mode of raising armies. The framers of the Constitution, and the States which adopted it, derived their ideas of government principally from the example of Great Britain—certainly not from any of the more imperial and despotic Governments of the earth. What they meant to make was a more free constitution than that of Great Britain—taking that as a model in some things—but enlarging the basis of popular rights in all respects that would be consistent with order and stability. They knew that the British army had generally been recruited by voluntary enlistments, stimulated by wages and bounties, and that the few instances of impressment and forced conscriptions of land forces had met with the disfavor of the English nation, and had led to preventive statutes. In 1704, and again in 1707, conscription bills were attempted in Parliament, but laid aside as unconstitutional. During the American Revolution, a statute, 19 George III, chapter 10, permitted the impressment of 'idle and disorderly persons not following any lawful trade, or having some substance sufficient for their subsistence,' and this was as far as English legislation had gone when our Federal Constitution was planned. Assuredly the framers of our Constitution did not intend to subject the people of the States to a system of conscription which was applied in the mother country only to paupers and vagabonds. On the contrary, I infer that the power conferred on Congress was the power to raise armies by the ordinary English mode of voluntary enlistments."

"The people were justly jealous of standing armies. Hence they took away most of the war power from the executive, where, under monarchical forms, it generally resides, and vested it in the legislative department, in one branch of which the States have equal representation, and in the other branch of which the people of the States are directly represented according to their numbers. To these representatives of the States and the people this power of originating war was committed, but even in their hands it was restrained by the limitation of biennial appropriations for the support of the armies they might raise. Of course no army could be raised or supported which did not command popular approbation, and it was rightly considered that voluntary enlistments would never be wanting to recruit the ranks of such an army. The war power existing only for the protection of the people, and left, as far as it was possible to leave it, in their own hands, was incapable

of being used without their consent, and therefore could never languish for enlistments. They would be ready enough to recruit the ranks of any army they deemed necessary to their safety. Thus the theory of the Constitution placed this great power, like all other governmental powers, directly upon the consent of the governed."

"The theory itself was founded on free and fair elections, which are the fundamental postulate of the Constitution. If the patronage and power of the Government shall ever be employed to control popular elections, the nominal representatives of the people may cease to be their real representatives, and then the armies which may be raised may not so command public confidence as to attract the necessary recruits, and then conscript laws, and other extra-constitutional expedients, may become necessary to fill the ranks. But governmental interference with popular elections will be a subversion of the Constitution, and no constitutional argument can assume such a possibility."

"Supposing, then, that the people are always to be fairly represented in the Halls of Congress, I maintain that it is grievous injustice to them to legislate on the assumption that any war, honestly waged for constitutional objects, will not always have such sympathy and support from the people as will secure all necessary enlistments. Equally unjust to their intelligence is it to suppose that they meant to confer on their servants the power to impress them into a war which they could not approve."

"When to these considerations we add the ability of a great country like ours to stimulate and reward enlistments, both at home and abroad, by bounties, pensions, and home-steads, as well as by political patronage in countless forms, we see how little necessity or warrant there is for implying a grant of the imperial power of conscription."

"If the very improbable case be supposable, that enlistments into the Federal armies might become so numerous in a particular State as sensibly to impair its own proper military power, is it not much more improbable that the States meant to confer upon the General Government the power to deprive them, at its own pleasure, altogether of the militia by forced levies? Yet this might easily happen if the power of conscription be conceded to Congress. There are no limitations expressed—nothing to compel Congress to observe quotas and proportions as among the several States—nothing to prevent their raising armies wholly from one State, taking every able-bodied citizen out of it to the endangering, if not utter undoing of all its domestic interests."

I did not intend and do not now propose to discuss the question which is necessarily raised by this bill relative to the rights of the States and the citizens of States. This question was exhaustively discussed in the last Congress, and then unheeded. It will be so now.

This act rests upon the provision of the Constitution which declares that—

"Congress shall have power to provide for calling forth the militia to execute the laws of the Union, to suppress insurrections, and repel invasions."

And further—

"Congress shall have power to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress."

These provisions were never intended to take from the States their power over their militia, but in another provision giving Congress the power to raise and support armies, they had the power to "organize, arm, and discipline," that all the militia of the respective States when called should be regulated by a uniform system. But to the States is reserved the right to officer all who are mustered into the service of the United States.

Your bill not only takes the militia of the States but gives the President the power to appoint all the officers. You transfer to the President the absolute control over any citizen between certain ages, and through the machinery of this bill the power is transferred to the district provost marshal, who exercises absolute control in his military district. From his judgment there is no appeal, no remedy is given; and where is the remedy given by which the conscript can escape though he be under or over the age of the persons here named? Though you are threescore and ten, a political foe, raised to the dignity of a member of the press-gang, can make you of proper age, under forty-five, for the purpose of your being compelled to perform service. You give no appeal, and from his decision there is no review. Your indemnity bill protects every officer. With the writ of *habeas corpus* suspended and the civil courts, national and State, closed, you are at the mercy of him who says you are of proper age.

I say, sir, that your provost marshal holds in his hands the liberty of us all. The citizen says, I am under the age to which your bill is limited. He is told he is twenty years old. Where is the legal remedy if your wife is conscripted as a male citizen, if he says she is a male citizen? You say, perhaps, there is an appeal to the Provost Marshal General, or the Secretary of War, or the President. There is no such appeal, as I have been informed. The judgment cannot be re-

viewed. Your *habeas corpus* is suspended everywhere, and if you do not comply with notices and orders you are court-martialed, and must suffer the pains and penalties provided for cases of desertion. Says the bill, if the drafted person does not comply with the orders issued by the provost "he shall be deemed a deserter, and shall be arrested by the provost marshal, and sent to the nearest military post for trial by court-martial;" and the penalty, though you never were in the service, may be that of death.

There can be no such thing as desertion before the party is in the service. No one is subject to the articles of war who is not mustered into service. Inflicting the penalty of death upon one because he neglects or refuses to obey the orders of a marshal would be murder.

The dangers of an army in repose or in active service as a standing army was debated long and well when this Government was formed. It is the bane of republican forms of government, and the people wanted no standing armies. The reserved powers were to prevent standing armies and raising a military power. You strike down those rights and anarchy will follow, and that power most to be feared, an army extending its dominion, will rear here at your very capital a military despotism more to be feared and more dangerous than that of Russia or France, with not even the semblance of a Government republican in form. Transfer all your rights under your general and local laws to a provost marshal holding rank in the Army, allow him to be the arbiter, and there is no safety even now. You will blot from the great charter the amendment which declares that "no person shall be deprived of his liberty or property without due process of law." And by what tortuous language will you say that a trial before a military court is "due process of law?" Is the tenure of your liberties to hang upon the judgment of such a tribunal? Was that the meaning of those words which the highest and humblest understand to mean judges learned in the law and a jury of his peers?

Your draft has failed; it will fail again. The President has issued a call for eight hundred thousand men. Can you raise them under this bill? The free citizens of this country are opposed to this mode of replenishing your Army.

Mr. KELLEY. I desire to inquire of my colleague where he hears that a call, of which he speaks, for eight hundred thousand men has been made?

Mr. STILES. I should hope to get that information from my colleague. I have seen a call for three hundred thousand men, and lately another call for five hundred thousand; which makes eight hundred thousand.

Mr. KELLEY. If the gentleman will take the pains to read the President's proclamation he will find that the five hundred thousand call embraces the three hundred thousand of which he speaks.

Mr. STILES. That is not in the proclamation. There is no such statement. Does my colleague speak from authority?

Mr. KELLEY. I would inquire whether my colleague does not very well know that the entire call is for only five hundred thousand men?

Mr. STILES. The first call of the President was for three hundred thousand, and now there is another call for five hundred thousand. In the order for five hundred thousand nothing is said about the three hundred thousand.

Mr. KELLEY. The whole call is embraced within eight lines of printed matter; and the five hundred thousand expressly embraces the three hundred thousand as a part of it.

Mr. STILES. Is that embraced in the order?

Mr. KELLEY. It is.

Mr. STILES. It is not mentioned.

Mr. KELLEY. The order is plain, I apprehend, and if my colleague will permit me I will read it. The President gave notice that he would call for three hundred thousand men, but no such call was made. The order for five hundred thousand men is now made, and it is in these words:

EXECUTIVE MANSION,
WASHINGTON, MONDAY, February 1, 1864.

Ordered, that a draft for five hundred thousand men to serve for three years or during the war be made on the 10th day of March next, for the military service of the United States, crediting and deducting therefrom so many as may have been enlisted or drafted into the service prior to the 1st day of March and not heretofore credited.

ABRAHAM LINCOLN.

Mr. STILES. I say that that order says nothing about the three hundred thousand men, and the inference is that eight hundred thousand are called for. I have so understood it. If the gentleman speaks by authority I would like to know whether five hundred thousand men are to be drafted or eight hundred thousand?

Mr. KELLEY. Were one to rise from the dead to explain to the man who does not understand that, he would not speak by sufficient authority to convince him.

Mr. STILES. I would take it from a dead man as soon as I would from my colleague. [Laughter.]

Sir, this question was alluded to yesterday by the gentleman from New York [Mr. CHANLER] with some apprehensions of alarm. The people in some of the States have submitted willingly, it may be; in others they have not so willingly submitted. The danger of this experiment, because it is an experiment, may not now manifest itself, but I fear that the time will come when a power greater than you can control will boldly declare that it is a violation of personal liberty which the people of the country will never submit to. The right of all redress by the civil authority denied in the clearest case, subjecting us all to the iron power of military courts, the people may take into their own hands the question of their reserved rights, and the question of their own individual liberty. Amending your bill, giving the right of appeal before a civil court in case of illegal and unwarrantable restraint, may do much to change the bitterness and harshness of this obnoxious measure.

Mr. Chairman, the people are to be overshadowed by an army, an army of millions; a standing army it may be, because the President, under this bill, can make it as perpetual as his ambition for power; thus vested with a power never contemplated in the powers delegated to him. With an army there can be no elections; they cannot exist together; they never existed in any country, and never will. The citizen, knowing his own individual weakness, would give way before the power of an armed soldiery. He would surrender settled opinions and fixed principles before the army that any Executive might raise and maintain under this bill. An impending draft and the power of the Army carried the elections in my State last fall. In the border States, it is said, the bayonet is in some districts at least represented here, and not the people.

Sir, the people are watchful, but impatient. They are looking to this Congress, without hope, I fear, for restoration, for quiet, and for the "beginning of the end" of this great struggle. They are looking to you, the dominant party here, you who ask nothing from this side of the House, to give them a ray of light in this dark night. They have had your promises for three years that this conflict, terrible and devastating, would soon be over. "What of the night" now? I charge you not to deceive them longer. Your bills and your speeches calling for all—the last man and the last dollar—will be sad news now. "Tax, fight, emancipate," said the gentleman from Maine [Mr. PIKE] two years ago. Add to that confiscation and conscription, and what will not be added to the objects and aims of those in power? Surrender up all will only satisfy.

Sir, it matters little to the people whether their liberties are lost by armed rebels or by daring usurpations of power. You must leave to them the freedom of elections, at least. They have resolved to maintain that right to the last. The resolution of the New Hampshire Democratic State convention, recently held, will meet with approval everywhere, and I insert it here as the determined sentiment of my people:

"Resolved, That the freedom of the ballot must and shall be maintained sacred and inviolable; and that we, the Democracy of New Hampshire, will unite with our brethren of other States, by force of arms, if need be, in resistance to every attempt, from whatever source it may come, to overturn or abridge, by menaces or direct interference by military force, the independence and purity of the ballot-box in the ensuing elections, State and national; and to this end we pledge, each to the other, and to our brethren of other States, our lives, fortunes, and sacred honor, being firmly resolved to maintain at all hazards our rights as free and patriotic citizens of the American Union."

Mr. Chairman, I have detained the House longer than I had intended. My purpose was to say a word in reply to my colleague who might have been supposed to speak the sentiment of our State,

and I deemed it proper to make an immediate reply. Having been drawn into some remarks upon the immediate question before the House, I repeat that this bill is unpopular, and the people of my State have not submitted to a draft without murmuring. In my own county where there is a large Republican vote, but one single man, I believe, out of nearly thirteen hundred drafted, went to the Army under the conscription bill. I say again, conscription is unpopular, and the people are opposed to that mode of raising men to replenish the armies. They are opposed to it in every portion of my State, and in every other portion, I believe, of this country. You must resort to some other mode by which to raise up men to fill the Army, if filled it is to be. This will not do it. That is utterly impossible. If it be that after this bill is passed, the people shall refuse to obey this law which you inflict upon them, you will have been warned in time. I tell you the people are opposed to it. They have submitted to your taxation, unequal and unjust as it is, and will, I suppose, submit; but this bill should be repealed. The raising of volunteers for the armies should be by paying bounties, and not by force.

My colleague says this rebellion will be put down and the country restored. I hope it may be. I have doubts whether it will be put down under this Administration with its present policy. As was said by the gentleman from New York, [Mr. FERNANDO WOOD,] this country could not survive with a war that should continue through another Administration. My colleague says Mr. Lincoln is to be reelected, and that he is to bear the ship of State safely into port. The gentleman from New York said he did not believe this country could endure another four years of an Administration like this. I believe it, sir; and I believe that during the next four years, under the policy inaugurated in the beginning, if continued, we shall not see the end of this war nor the restoration of the Union.

Mr. WILLIAMS. Mr. Chairman, if this had been a new question I should have felt greatly embarrassed as to the policy or propriety of commencing military service for money. This is a war measure, and not a revenue measure. The Government wants men and not money. The latter has been furnished by the people with unstinted and ungrudging liberality; nay, with a prodigality which has surprised ourselves, and at which the world stands amazed. I do not know how to value the stout heart or the strong arm of the American freeman in the current money of the merchant. I do not like the traffic in men and muscle and sinew, whether it be white or black. Looking to the experience of other republics, I should greatly deprecate the conversion of the soldier of ours into a mercenary. Between men of American growth and training and the richest of the metals I know no common standard of comparison. With me they are quantities incommensurable. When the Republic demands the services of her children I know no answer they can make except that of Isaac, that they are ready for the sacrifice. It is the answer which their uncalculating instincts prompted when the echoes of the guns in Charleston harbor thrilled along their nerves, and half a million of them sprang to their arms at the first summons of the President to avenge the insult to our flag; when the very yearnings of maternity were hushed, and the American, like the Spartan mother arrayed her youngest born as though it had been for the bridal, put the musket in his hands, and sent him out with the invocation of God's blessing upon his errand, and the injunction to do his duty and come back upon his shield, if such were the fortunes of war, but not without it. It is the answer which they would still make if their ardor were not chilled by the fatal and inglorious inaction, the wearisome delays, the inadequate results, and the want of earnestness, which have distinguished so many of our commanders; or, what is worse still, if their love of country was not overlaid and smothered by the devilish suggestions of wicked counselors who have squatted at their ears and distilled into them the subtle venom of party.

They have ceased, however, to make that answer. Enthusiasm was too weak to survive rebuffs and disappointments, while treason at home was but too ready to make them the occasion for denunciations against the Government and questions as to the rightfulness and the successful

results of the war. It has become, of course, a necessity to remind the backward of their duty, and to insist that it shall be performed. These arguments have prevailed, however, with many of the people who had been accustomed to take counsel from the malcontents. They have held back accordingly until it has become indispensable to awaken them to a sense of the obligations which they owe to their country. Their advisers do not, however, deny the duty; so far as lip-service is concerned, there is an abundance of it. But they insist that the performance shall be a voluntary one, or, in other words, that it shall rest in their own discretion. Like Falstaff, they would do nothing on compulsion. To compel a Democrat to fight would be anti-republican, or if there is to be compulsion it must be, upon the authority of a great casuist of the Romish church, who has not read Bellarmine in vain and knows how to turn a corner as adroitly as the original and inimitable Jack himself, a voluntary one, a sort of compulsion in the Pickwickian sense. To compel him in any other way would be a violation of his prerogative as a freeman. A perfect liberty is the right of doing what we please, but never anything on compulsion.

And now a word or two in sober earnest on the objection taken seriously here, and urged throughout the country, in relation to the legitimacy of the draft. I need not apologize for speaking on that point. It is always important to satisfy the people not only that a thing is law but that it is right. It is always well to add the sanctions of conscience and the sense of duty to the mandates of the lawgiver. Without this laws are practically impotent. The "*sic volo, sic jubeo, stet pro ratione voluntas*" of an imperial rescript is not the argument for an American citizen. He wants more than this, and he wants it here because immense pains have been taken to cloud his perceptions and pervert his moral sense by representing the compulsory performance of the highest of his duties as a violation of his liberties. The oracles of the Opposition have proclaimed—their highest legal authorities in Pennsylvania, in the exercise of a jurisdiction heretofore unknown, have decided—that the act of the last session was unconstitutional. Men equally trusted by them here have insisted that its principle was anti-republican. It is important, therefore, to inquire whether these things are so—whether there is anything here to authorize these imputations or to excuse even a reluctant submission to a measure which is essential to the safety of the nation and has been made necessary by the counsels of the very men who now complain of it.

I do not propose to enter into objections of detail arising out of the peculiar features of the law or to argue the question upon merely technical or professional grounds. These are for the courts. This is a higher forum, and the objection made to the principle, radical as it is; an appeal from the lawyer to the publicist, from the courts to the people. It is the statesman who must decide it, and not the judge.

Is it true, then, that a compulsory levy of troops—a conscription, if you please—in the extremity of a State is anti-republican in principle, or, in other words, at war with the spirit of our institutions and the genius and character of this Government? It has been so announced on this floor, on authority supposed to be conclusive, and has gone to the country without contradiction. It was a challenge of the law from a higher point than the Constitution. It was not the assertion in terms that the law was at variance with the Constitution, but in effect that the Constitution itself was not republican, and did not conform to the fundamental idea on which it rested. It was the proclamation of a higher law which the authority "to raise and support armies" had impinged upon.

Well, I am no higher-law man, except so far as the consideration of the public safety or the nation's life may make me so. I am not ashamed or afraid to recognize thus publicly the maxim of the *salus populi suprema lex*. It was a provision of consummate wisdom in the constitution of republican Rome, and one which in the judgment of one of the acutest and profoundest statesmen of any age was the source of all its grandeur as well as the guarantee of its stability, which created a dictatorship for times of great public peril, for the reason that such a power must be invoked in the extremities to which every State is subject,

and that where it is wanting it becomes necessary to violate the constitution—which is always of bad example—in order to the salvation of the State.

For the sake of greater clearness, I quote the passage itself, translated by me from the French version in default of an English one, of the "Treatise on the Republic," by Machiavelli:

"This part of the constitution of Rome deserves to be remarked, and ranked in the number of those which contributed the most to the greatness of its empire. Without an institution of this nature, a State cannot escape but with great difficulty from extraordinary convulsions."

"It follows from this that all republics must have in their constitutions a like establishment. When it is wanting it becomes necessary, by pursuing the ordinary track, to see the constitution perish, or rather to depart from it for the purpose of saving it. But in a State well constituted no event must happen for which there shall be occasion to resort to extraordinary ways; for if extraordinary means do good for the moment, their example constitutes a real evil. The habit of violating the constitution to do good afterwards authorizes its violation to color evil. A republic, therefore, is never perfect if its laws have not provided for everything, held the remedy always in readiness, and furnished the means of employing it. And I conclude by saying that republics which in imminent dangers have no recourse either to a dictator or to like magistrates must inevitably perish therein."

The war power of our Constitution is the equivalent of the Roman dictatorship. It is, however, here as well as there, the extreme medicine of the Constitution, and not its daily bread. The mission of a republic is peace; war is a state of violence. To conduct an army upon the principles of republican equality would be fatal to all subordination and discipline. For such an exigency as this the normal condition of a republic will not serve. Its very organization would forbid it. War is anti-republican in its effects, and can only be successfully waged on anti-republican principles. While it prevails the law itself must almost necessarily be silent. Its code of laws is necessarily anti-republican. With such a Government, therefore, it is an unnatural condition, and the thirst for territorial aggrandizement through the agency of the sword does violence to its nature and its life. But while wars of conquest are anti-republican, a war of self-defense to preserve the nation's life is a legitimate because it is a necessary one. The doctrine of non-resistance would be fatal to any Government. When there is no mode left of supporting the Constitution, except by suspending the enjoyment of an individual right, that right must yield to the occasion. It is not the Constitution that authorizes the suspension of the *habeas corpus*. Recognizing, as its framers did, the necessity of putting the highest privilege of the citizen in abeyance, they do not grant but only qualify or abridge its exercise, by providing that it shall not be suspended except in the cases indicated. Every attribute of sovereignty which pertains to any Government that is supreme may be exercised when necessary, unless it is expressly forbidden. Thus the right of eminent domain, as it is called by the publicists, or that which authorizes the seizure or destruction of private property for public uses, and the kindred power of taxation which seizes it without other equivalent than the protection which the Government affords, are not the subjects of special grant, but only of special limitation. Establish a Government that is independent and sovereign, and they belong to it of course, because they are essential attributes, inseparable from its very being. If a Government can, however, take private property, which is the mere product of labor, without compensation, for a public use, it is but a step further, and an easy one, to take the producer himself, as it does when it compels him to work on the highway on the ground of public necessity.

It is not disputed, as I understand, by anybody here, that the Government is entitled to the military services of all its citizens when they are needed for its defense. The objection is only that a compulsory levy is anti-republican. If this be true, then the idea of such a thing as a republican Government is the wildest of chimeras. Admitting the duty, the right to enforce it is a corollary, a necessary consequence, in this case as in all others. The notion of any Government at all presupposes supremacy, subordination, and constraint. No Government ever did or ever can rest upon the mere voluntary principle. All the duties of the citizen, except those merely moral ones that are said to be of imperfect obligation—all that are political at least—rest upon the idea of coer-

cion. That is the principle of every law. That is the import of the whole judicial machinery with which we are surrounded. The *posse comitatus* itself is nothing more nor less than a compulsory levy, an army improvised to execute the laws. When the time arrives—which will not be until the millennium foreshadowed by the prophets, and several years after the modern Democracy shall have died out like the extinct monsters of the earlier geological epochs—when men shall perform their duties voluntarily, there will be no further occasion for either Government or laws. The notion that the mob of New York, and the unnatural sympathizers with the rebellion everywhere, shall not be compelled to defend the Government that protects them in all their rights and endows them with the unwanted privilege of governing other people, is but the extension of the argument of the late Attorney General of the United States, and now reporter of its Supreme Court, that there could be no coercion of States, and that this great Government was without even the power of self-defense, was helpless against the parricide, and must uncover its bosom or wrap its robes around it and submit to death without a struggle whenever the murderous blow was aimed by the hands of its own children. That was according to programme. Both have the same purpose and meaning. That would have crowned the work of the traitors with immediate success. This is a slower poison, which would leave the defense of the nation to the loyal Unionist in the field, and transfer the direction of the Government to the hands of the auxiliaries of the rebellion, who choose "to kiss my lady peace at home;" who know that they can serve the cause they love with more effect and greater safety here by affecting loyalty, misrepresenting the designs of the Government, discouraging volunteering, and denouncing compulsory levies of men, than by taking their places openly in the armies of the confederacy. I do not know a man of them who is not now an "unconditional Unionist;" provided he can have "the Union as it was," which he knows to be impossible, whether we succeed or fail, or treat, as he desires us to do, and hopes to bring about by cherishing the disease, preserving the cause of the disunion, and declining to employ the most necessary and effective weapon which Providence has placed in our hands for compelling the eventual restoration of the Union itself. Thank God! the instincts of the people, the loyal army at home, have revolted at the special plea of the attorney, and even converted him at the late elections into the noisiest of patriots and the professed advocate of the vigorous prosecution of the war; that is to say, on peace principles, and provided you will refuse to allow the willing negro or compel the reluctant and recalcitrant Democrat to fight. The fear is, in view of the well-known Army sentiment, that it would change the very nature of the latter by showing him the realities of war and making him a radical, or, in other words, an earnest man.

We have the authority of one of the apostles of the new Democracy now holding a seat on this floor, if the newspapers have not misrepresented him, for the opinion publicly expressed in the great peace convention at New York, that a war Democrat is an impossible thing; and that any man who would draw a sword here in such a quarrel—I mean on this side of it—is no better than a Black Republican. And so it is that, while all the Democracy of Butler and Burnside and Hooker and other fighting generals of that stamp, who have proved that they were in earnest, has failed to shelter them from the denunciations of the rebel papers in Richmond and New York, the non-combatant qualities of the grave-digger of the Chickahominy and the loiterer at Bull Run have made him the idol of the Democracy in both those capitals. If the gentleman from Kentucky, who was taxed a few days ago by his colleagues with infidelity to his pledges to vote for a war Democrat, had adhered to the sentiment to which I have just referred, he might have answered that a war Democrat was a myth—a personage even more apocryphal than Prester John or the man with the iron mask.

If it be true, however, that a compulsory levy of men for the protection of the Government or the enforcement of its laws is anti-republican, then I say again that republican government is just as impossible a thing as a war Democrat. The nation which cannot command the military ser-

vices of its people has no guarantee of life, and must inevitably perish in its first formidable convulsion. To presume that they will all rush to its standard at the first summons, and that they will adhere to it alike through good and ill fortune, alike through sunshine and through storm, is to suppose in the face of our present experience that it contains no bold traitors who will lift their hands against it in battle, no cowardly miscreants who, with professions of loyalty on their lips, will adopt the safer policy of skulking from its defense, or aiding and encouraging those who are endeavoring to overthrow it. The time was when this service was a privilege of rank or fortune; when the soldier served without wages, although he derives his name from the idea of pay, and when the craven who refused to respond to the summons of his country was visited with the dire anathema which is so well paraphrased by the genius of the immortal Scott, and finds its climactic in the imprecation "Woe to the traitor, woe!" A greater than he has remarked that "the age of chivalry is gone, and the age of sophists and economists has succeeded." It was not so at the commencement of this rebellion.

I happened to be at the seat of government of Pennsylvania when the news of the bombardment of Sumter came over the electric wires and shook its capital as with an earthquake throe, and then sped on its fiery errand along the Susquehanna and the Delaware and the limpid Alleghany, until it reached the distant shore of the great lake which bathes her northwestern confines. The fiery cross that passed from hand to hand and gathered the clansmen of the hills around the banner of their chief never so traveled, never lighted such a conflagration as was kindled by that message. Before the setting of another sun a hundred thousand Pennsylvania men were begging for the privilege of laying down their lives in the defense of the insulted flag of their fathers. The political managers of the Democratic party who had bargained against coercion and pledged themselves that Pennsylvania would take sides with the rebellious States were appalled by the demonstration, and slunk away from the public gaze which would have blasted them. It was only when reverses overtook our arms—reverses which were the consequence of the unsuccessful effort to propitiate themselves by taking counsel with and employing men of the same type of thought—that they ventured to reappear, and managed to seduce the loyal men of the Democratic party into the belief that a Republican Administration was unfit to conduct the war, which they reinforced by the argument that it was obliged to borrow its generals almost exclusively from the Democratic party. If a draft was made necessary after such a demonstration it was through their agency. If it has proved ineffective or unpopular it is because they have endeavored to make it so.

The country knows how the question was dealt with by the Democratic authorities of New York. It knows, too, the process by which the Democratic judges of the supreme court of Pennsylvania undertook, with indecent precipitancy, and in the exercise of a jurisdiction entirely new, to restrain the execution of the law which authorized it. And we are reminded here from day to day that there are men among us who apparently do not intend that the country shall find soldiers, either white or black, if they can prevent it; who insist that we shall not enlist the negro because it is a privilege which belongs only to the white man; who say to the white man that he ought not to volunteer because it is an abolition war; and that the conscription is unlawful and unnecessary because we ought to depend on volunteers; and who, after doing everything in their power to render the law ineffective, come here and, with a coolness that would be absolutely refreshing if the times were not so much out of joint, demand its repeal on the ground that they have succeeded! I have heard it stated that the district of the gentleman from New York who is most importunate on this point has yielded—under his patriotic auspices, no doubt—about three hundred and fifty soldiers, leaving his voters, of course, most comfortably intact, and in a condition to govern the nation at least, if they will not fight for it. If he favors the war, however, as he says he does, why does he not endeavor to amend the law? If the commutation clause is the difficulty with his constituents, and he thinks that a poor man can pay

\$1,000 for a substitute more easily than he can pay \$300, why does he not move to strike it out?

I fear it cannot be made to suit gentlemen of that cast of mind and heart unless it can be so framed as to defeat the object entirely. Their constitutional scruples will not allow them to do anything for the salvation of this nation. They have found no difficulty heretofore in discovering in that instrument every power that was required to further the interests of the divine institution. They had no difficulty in regard to the Louisiana or Florida purchases; none as to the annexation of Texas; none as to the assumption of its debts; none as to the purchase or seizure, at the expense of another war like the Mexican if necessary, of the gem of the Antilles. When the attempt is made, however, to extract anything valuable from that instrument for the interests of humanity or the preservation of the nation's life, it is no better than a *caput mortuum*—without vitality, full of obstructions, impotent for good, but alive all over, in all its members, and actively omnipotent, too, for mischief. These constitutional expounders who strain at a gnat make no account of taking in a camel at a breakfast. I should despair of making anything out of them by a constitutional argument.

The CHAIRMAN. The hour of three o'clock having arrived, all further general debate is out of order. The first question is upon the amendment offered day before yesterday by the gentleman from Indiana, [Mr. HOLMAN,] which will be reported.

The amendment was as follows:

Strike out on page 4, line nineteen, after the word "enlisted," all down to the end of the fifth section, as follows:

And if any drafted person shall hereafter pay money for the procurement of a substitute, under the provisions of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft on that call, and his name shall be retained on the roll, and he shall be subject to draft on future calls; and the maximum of commutation under said act shall hereafter be \$400 instead of \$300; and insert in lieu thereof the following:

And so much of the thirteenth section of the act of which this act is an amendment as authorizes exemption from military service by the payment of a sum not exceeding \$300 is hereby repealed.

Mr. SCHENCK. Is that an amendment to the fifth section?

The CHAIRMAN. It is.

Mr. SCHENCK. The committee had not concluded their amendments to the fourth section, and I intended to propose a substitute for that section.

The CHAIRMAN. A motion was made to strike out the fourth section, and that motion was rejected. The committee then passed to the fifth section. If there be no objection, the gentleman from Ohio will be permitted to offer an amendment to the fourth section.

Mr. HOLMAN. I will hear the amendment read, reserving meanwhile my right to object.

Mr. SCHENCK. I propose to amend the fourth section before any amendments are offered to the fifth.

The CHAIRMAN. The gentleman from Ohio is laboring under a mistake. An amendment to the fifth section has already been considered and adopted, and a second amendment to it is now pending. If, however, there be no objection the Chair will entertain an amendment to the fourth section. The gentleman will state his amendment for information.

Mr. SCHENCK. I move to strike out all of the fourth section after the word "time," in the fifth line, which is as follows:

An acceptable substitute, who is not liable to draft, and such person so furnishing a substitute shall be exempt from draft during the time for which such substitute shall not be liable to draft, not exceeding three years; but no person in the service of the United States shall become a substitute to serve in any regiment or company except among the troops of the State in which he originally enlisted or from which he was drafted.

And to insert in lieu thereof the following:

Previous to the draft an acceptable substitute, who is not liable to draft nor at the time in the military or naval service of the United States, and such person so furnishing a substitute shall be exempted from draft during the time such substitute shall be exempted from draft, not, however, exceeding the time for which said substitute shall have been accepted.

The CHAIRMAN. Is there objection to this amendment being entertained?

Mr. ELDRIDGE. I object.

The question recurred on Mr. HOLMAN's amendment.

Mr. BLAINE. I hope the committee will un-

derstand that that amendment strikes out the entire privilege of commutation.

The CHAIRMAN. Debate is not in order.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. HOLMAN, and KELLOGG, of Michigan, were appointed.

The committee divided; and the tellers reported—ayes 26, noes 73.

So the amendment was rejected.

Mr. STEVENS. I move to amend the section by striking out the word "four" and inserting "three," so as to leave the commutation as it is under the present law, at \$300; and if that amendment carries, I shall move to strike out the balance of the section.

Mr. BALDWIN, of Michigan. I move to strike out after the word "calls" in the twenty-fifth line the words, "and the maximum of commutation under said act shall hereafter be \$400 instead of \$300." That will leave the law in relation to commutation as it now stands.

Mr. STEVENS. That amendment will accomplish my purpose, and I withdraw mine.

The amendment was agreed to.

Mr. GARFIELD. I move to strike out all of section five after the enacting clause, and to insert in lieu of it the corresponding section, section six, of the substitute reported by the House Committee on Military Affairs; which is as follows:

That any person drafted into the military service of the United States may, before the time fixed for his appearance at the draft rendezvous, furnish an acceptable substitute, subject to such rules and regulations as may be prescribed by the Secretary of War. If such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted; and if such substitute is liable to draft, the name of the person furnishing him shall be liable to draft in filling future quotas. And if any drafted person shall hereafter pay money for the procurement of a substitute, under the provision of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft in filling that quota, and his name shall be retained on the roll in filling future quotas; but in no instance shall the exemption of any person, on account of his payment of commutation money for the procurement of a substitute, extend beyond one year; but at the end of one year in every such case the name of any person so exempted shall be enrolled again, if not before returned to the enrollment list under the provisions of this section.

Mr. Chairman, if the labors of the Committee on Military Affairs of this House are of any value whatever to the House their substitute ought to come in competition, section by section, with the Senate bill. It is for that purpose that I offer this amendment, and I propose to pursue the same course with each section as we pass along. That seems to me to be the only way in which the labors of the committee can be made of any avail if they are valuable at all to the House.

Now, if the committee will notice one or two points of change, they will see the reason why we adopted our language instead of the language of the Senate. For instance, in the third line of the Senate bill we have added a clause, so that the first paragraph of the section will read "any person drafted into the military service of the United States may, before the time fixed for his appearance at the draft rendezvous, furnish an acceptable substitute." The language of the Senate bill on this point is ambiguous. We put in these words in order to provide that the substitute shall be brought in before the time fixed for the appearance of the drafted man at the rendezvous, so that men shall not be allowed to bring in their substitutes at any time, even after the time when they should have themselves appeared. It shall not be sufficient for the man to bring a substitute forty days after he is notified to appear, but he must bring his substitute before the day or by the day he was to appear for duty at the draft rendezvous. That limiting clause is found in our section of the substitute, but is not in the Senate bill.

Mr. COFFROTH. I desire to ask the gentleman from Ohio whether the person drafted is to be allowed to offer a substitute after he has undergone an examination for physical disability?

Mr. GARFIELD. That question is not touched, so far as I know, in this section. I do not know that I quite understand the gentleman.

Mr. COFFROTH. After the drafted man is notified to appear before the provost marshal, and after he has undergone an examination for physical disability, is he entitled to put in a substitute?

Mr. GARFIELD. Yes; any time previous to the time that he should appear for duty at the rendezvous.

courts to *stain* by sentence. Our ancestors thought they had put an end to the war upon the family and upon property for the political crime of treason. So the people ever since supposed, until Underwood & Co. poured the flood-tide of a new light upon the subject.

I pass from that. Let it go. The true inquiry is that into which the gentleman from Pennsylvania, [Mr. STEVENS,] the chairman of the Committee of Ways and Means, went the other day with sufficient boldness, if not with sufficient candor. He who takes his position as a leader in times like these ought always to take it boldly in advance, and thus make himself responsible to his followers, to contemporaries, and to history. We are in a war, he says, in a public war, a war between two foreign nations. He says that, being in a state of war, the laws of nations confer upon us certain belligerent rights which not only exist while the war continues but remain when the war shall be over. Among these rights, he says, is the right of conquest. It is a war, he says, which treats every person inside the hostile territory as an enemy, be he friend or foe, citizen or foreigner, who is in the *predicament* of residence in the hostile territory.

I desire, Mr. Speaker, since I have the greatest respect for the intelligence of that gentleman, for the boldness with which he meets all these questions, for the great ability which he brings to the discussion of them, and for the spirit of courtesy and fairness which he always extends to an opponent in debate, to state with some precision the exact position that he assumes. It is not the position of a solitary unimportant individual, but the position of a leading man in this House and in the country. My own opinion is that "whoever hits him on the head will knock out the brains of" the Republican party. [Laughter.] He says:

"I begin simply by denying that the Constitution has the least reference to any one of the provisions of the bill in question, and I intend to show that the act of 1862, which was modified by a resolution which, it has been truly said, was passed under duress very little to the credit of the Congress that passed it—this act of 1862 is not affected directly or indirectly by any one of the provisions of the Constitution, and that especially that part of the act which provides for seizing property and confiscating it in fee simple is purely a proceeding under the laws of war and under the laws of nations, over which the Constitution has no control, and in regard to which it has no effect whatever."

And he proceeds to argue that the property is to be seized and condemned not as the property of persons guilty of the crime of treason, but as enemies under the laws of nations. He says:

"This act of Congress, so far as it refers to seizures of property in fee, refers to them as seizures of the property of alien enemies, to be treated as such."

I understand him distinctly to repudiate the idea that we may hold these persons criminally responsible to our municipal laws for acts done since they have risen to the dignity of belligerents. He says that we cannot do it, and that in point of fact we do not do it; that having ourselves appealed to the laws of nations to interpret our rights in this war; having claimed the benefit of that condemnation in prize courts which the laws of nations authorize; having captured on the high seas the property of our own friends—perhaps the most loyal men of the South—we cannot now repudiate the laws of nations in any particular when applicable to the contest; and that, consequently, for acts done by any of these men since they have been subject to a belligerent power, with the rights of belligerents, they are not criminally responsible to our municipal laws, but only as enemies and to the laws of war. I agree with him in that.

The speaker's views as to the source of our right of confiscation as well as the relation of the States held by the rebel power to the parent Government are still further illustrated by another passage which I will read:

"It is, however, essential to ascertain what relation the seceded States bear to the United States, that we may know how to deal with them in reestablishing the national Government. There seems to be great confusion of ideas and diversity of opinion on that subject. Some think that those States are still in the Union and entitled to the protection of the Constitution and laws of the United States, and that, notwithstanding all they have done, may at any time, without any legislation, come back, send Senators and Representatives to Congress, and enjoy all the privileges and immunities of loyal members of the United States. That whenever those 'wayward sisters' choose to abandon their frivolities and present themselves at the door of the Union and demand admission, we must receive them with open arms, and throw over them the protecting shield of the Union, of which it is said they had never ceased to be members. Others hold that, having committed treason, re-

nounced their allegiance to the Union, discarded its Constitution and laws, organized a distinct and hostile government, and by force of arms having risen from the condition of insurgents to the position of an independent Power *de facto*, and having been acknowledged as a belligerent both by foreign nations and our own Government, the Constitution and laws of the Union are abrogated so far as they are concerned, and that, as between the two belligerents, they are under the laws of war and the laws of nations alone, and that whichever Power conquers may treat the vanquished as conquered provinces, and may impose upon them such conditions and laws as it may deem best."

Again he says:

"Is the present contest to be regarded as a *public war*, and to be governed by the rules of civilized warfare, or only as a domestic insurrection, to be suppressed by criminal prosecutions before the courts of the country?"

The honorable gentleman answers in the affirmative, and repudiates the idea that they are traitors, criminally responsible to our municipal laws for acts done during the war. He endeavors, by citing a line from Judge Grier in the prize cases, to prove it a public war. And subsequently he inquires, "What, then, is the effect of this public war between these belligerents, these foreign nations?" He answers, in substance, that it abrogated all constitutional relations between the parent Government and the "organized States" in revolt, and put them out of the Union, with "the right of conquest on their part as against us and the right of conquest on our part as against them. If conquered, all the people, loyal and disloyal, with their property, real and personal, are subject, not to the Constitution, but the laws of nations and of war."

"From all this the legitimate conclusion is, that all the people and all the territory within the limits of the organized States which, by a legitimate majority of their citizens, renounced the Constitution, took their States out of the Union, and made war upon the Government, are, so far as they are concerned, subject to the laws of the State; and, so far as the United States Government is concerned, subject to the laws of war and of nations, both while the war continues and when it shall be ended."

"By the laws of war the conqueror may seize and convert to his own use everything that belongs to the enemy. This may be done while the war is raging to weaken the enemy, and when it is ended the things seized may be retained to pay the expenses of the war and the damages caused by it. Towns, cities, and provinces may be held as a punishment for an unjust war, and as security against future aggressions. The property thus taken is not confiscated under the Constitution after conviction for treason, but is held by virtue of the laws of war. No individual crime need be proved against the owners. The fact of being a belligerent enemy carries the forfeiture with it. Here was the error of the President when he vetoed the confiscation bill passed by Congress. In the confusion of business he overlooked the distinction between a traitor and a belligerent enemy."

After claiming these extensive and extraordinary rights and powers, derivable from the laws of war and from the laws of nations, he proceeds to declare that he would execute them. "Towns, cities, provinces;" "every inch of soil of the guilty portion of this usurping power," he would confiscate, sell, and put into the Treasury. He would emancipate, of course; but that is done already; he would therefore only amend the Constitution and forever forbid slaveholding (of negroes) in America.

Finally, he winds up with this saying:

"The Union as it was and the Constitution as it is is an atrocious idea. It is man-stealing."

To some of these positions I give my assent. From others I dissent. The conclusion to which he comes I protest against and abhor. We are belligerents and have belligerent rights. Everybody inside the hostile territory is an enemy of the United States, be he friend or foe, in the prize-court sense of the term, but not in the common-law sense of the term. Their property on the high seas we may justly capture, condemn, and appropriate. All that are in line of battle or in any hostile position toward us, we may smite down with physical force, friend or foe; our bullets may not choose between them; the best and most loving heart that ever throbbed in the bosom of man may thus be pierced by our bullets, and we stand guiltless before God and man. They are necessarily public enemies, whether willingly so or not in individual cases; that is their *predicament*, and I accept the consequences that legitimately follow from it.

I admit that we must go to the laws of nations and not to the Constitution of the United States to interpret what war means, and for the rules to be observed in conducting it.

Our Constitution gives to us—to Congress and not to the President—the right to make war, but

it does not define what war is. The laws of nations define that.

WAR IS THE REMEDY AND NOT THE RIGHT. It is said to be the prosecution of a national right by force (2 Black, page 666.) Some right has been obstructed, denied, or attacked by a hostile belligerent power, and we prosecute it, defend it, vindicate it, by war. The laws of nations define what public war means—a war between foreign nations; and what civil war means—a war carried on within the State, like the present contest.

And I submit that the honorable gentleman has fallen into an error in characterizing this as a "public war," or in supposing that Judge Grier meant to characterize it as a public war. I find in the very sentence from which the gentleman takes his quotation, the distinction clearly laid down between public and civil war. Public war is declared to be between independent and foreign nations, and civil war a struggle carried on within the State in which one party may have both sovereign and belligerent rights.

Our sovereign rights, it is true, are for the time obstructed, until by the exercise of our belligerent rights we have restored them. But, sir, whether this contest be a war carried on within the State or between "foreign nations," we must look to the laws of nations, to the laws of war, to interpret the manner in which the contest must be conducted.

But I am astonished how any gentleman can refer us to the laws of nations in support of this act which the bill now before us proposes to amend, in the support of the amendment or in support of the position taken by the gentleman from Pennsylvania [Mr. STEVENS] and those who agree with him.

Why, sir, the usages of nations in modern times forbid the very means which the gentleman would employ and the whole policy which he advocates. The laws of nations recognize the right of conquest between the parties to a public war, but do not authorize the seizure and confiscation of private property on land only in excepted cases; they do not authorize the conquest of individual property. On the contrary, they forbid it.

I am not going into a lengthy citation of authorities. They have been quoted freely in the discussions upon this bill. They were cited fully and pertinently the other day by the honorable gentleman from Ohio, [Mr. FINCK,] and I content myself now, in the main, with a mere reference to them. I rely upon all writers upon the public law who state the rule among civilized nations in modern times. Their testimony is uniform and explicit, uttering a united voice of condemnation upon the policy which the honorable gentleman from Pennsylvania [Mr. STEVENS] demands. I rely upon the principles declared by all the civilized nations of the world in modern times, French, British, and American, in State papers, treaties, and diplomatic assemblies, to support the declaration of the elementary writers, that by the usages of the civilized nations of modern times, private property upon land is exempt from the spoils of war, exempt from seizure and confiscation, except in certain specified cases. Wheaton states the rule in clear and precise terms:

"But by the modern usages of nations, which has now acquired the force of law, temples of religion, public edifices devoted to civil purposes only, monuments of art, and repositories of science are exempted from the general operations of war. Private property on land is also exempt from confiscation, with the exception of such as may become booty in special cases, when taken from enemies in the field or in besieged towns, and of military contributions levied upon the inhabitants of the hostile territory. This exemption extends even to the case of an absolute and unqualified conquest of the enemy's country."—*Elements*, &c., p. 421.

This doctrine is supported by all writers who state the usages of modern nations. I forbear to quote them again to the House. But I call attention to the language of Chief Justice Marshall in *United States vs. Percheman*, 7 Peters, 86:

"It is very unusual, even in cases of conquest, for the conqueror to do more than to displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law, would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confiscated, and private rights annulled. The people change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other and their rights of property remain undisturbed."

In another part of the opinion he speaks of the attempt on the part of the new sovereign to con-

the simplest, plainest, and best until our attention was called to the fact that it had been agreed in the Senate that the enrollment should be continuous; that the very day that a young man in a district arrives at the age of twenty his name shall be put on the list of the enrollment board.

Whenever an alien becomes a citizen his name is to be put upon the list and into the wheel. Thus the roll is to be added to every day. Now suppose the proposed amendment prevails and a man is drafted to-day and pays his commutation money; the provost marshal must commence an account with him to-day to ascertain when all the names now on the roll and in the wheel are drawn out before his name can be again entered. Another man is drafted to-morrow and the provost marshal must commence an account with him for the same purpose. And so he must do with every man who is drafted and pays his commutation money. If this measure prevails it will require more clerks than are in any Department in Washington to keep the accounts and conduct the business of the draft. And it is in this view of the matter, as a question of practical importance, that I urge the impossibility of carrying out, with any degree of fairness and justness, the amendment of the gentleman from Pennsylvania.

Now, the bill as reported from the committee does not, I repeat, allow a man to be drafted a second time until another quota is called for, and they are limited to one year as the time for which the \$300 shall be available as an exemption. That may not be a perfect arrangement, and it may not be the best; but to the other there is a practical objection which cannot be got over. Gentlemen may think it a very easy thing to keep these accounts; but those men who have been keeping them for the last year tell us that it is impossible to keep these accounts under the proposed amendment with any degree of accuracy, and without the greatest entanglement and labor. I therefore appeal to the committee whether they will ingraft a provision on this bill which will put the whole matter in a state of interminable entanglement?

The question recurring on the amendment offered by Mr. STEVENS to the amendment, Mr. FARNSWORTH demanded tellers.

Tellers were ordered; and Mr. WASHBURN, of Massachusetts, and Mr. STEELE, of New Jersey, were appointed.

The committee divided; and the tellers reported—ayes 79, noes 49.

So the amendment to the amendment was agreed to.

Mr. BLAINE. I move to amend the amendment by striking out the last word. I do it in order to reply to what I conceive to be an erroneous statement made by my friend on the Military Committee, [Mr. GARFIELD.] I am not willing that his statements shall go to the country if I can correct them in a five minutes' speech.

The gentleman has presented to the committee the fearful issue, that under the operation of the enrollment bill, as it has just received the sanction of the committee, the entire available military force of the country will be exhausted without adding anything to the Army. Now under the enrollment act as it stands by the vote just given no man is exempt except for physical disability. Every man has got to serve, or offer a substitute, or pay the commutation. Under the late draft, the Provost Marshal General says—and he said so to me in the presence of the gentleman from Ohio, [Mr. GARFIELD]—that every commutation produced its man. Suppose you run entirely through the enrolled forces of the United States, amounting to several millions, excepting those exempted by physical disability who are not fit for soldiers, and you hold every man. Well, if they all pay commutation, all I have got to say is you have a full Treasury and you can fill up your Army at \$5,000 apiece bounty. You get the drafted men, or the substitutes, or you get money by the hundreds of millions of dollars. That is the effect of the bill as it stands now, my friend from the Military Committee notwithstanding.

I withdraw my amendment to the amendment.

Mr. GARFIELD. My recollection is entirely at variance with that of my friend from Maine, [Mr. BLAINE.]

Mr. DAVIS, of Maryland. I move to amend the amendment by adding the following:

No one shall be entitled to pay commutation money except ministers actually in charge of some religious congrega-

tion; men having a wife or child dependent on them for support, and not having an income of \$1,200 independent of their industry; members of the religious Society of Friends, or other religious denominations conscientiously opposed to bearing arms. Any drafted man on whom a parent, wife, child, sister, or brother may depend for support, shall be allowed for each dependent ten dollars a month, not exceeding \$300 in all, payable directly to such dependent or the guardian or person charged with the care of such dependent, and not subject to the control of the drafted man.

I suppose that those of us who desire to raise armies ought to be held responsible for doing that which will assuredly accomplish our purpose. The enemy now presses our forces in the field at every point within rifle-shot. Any sudden freeze may bring them directly into collision with our depleted Army. In any event, early in March the armies will come into collision. It is therefore important, unless the United States mean to abandon the contest, or unless they mean to be beaten directly at the outset of the campaign, that they should restore their armies to an adequate strength to meet and overwhelm the enemy.

A balanced campaign is a lost campaign; a balanced fight is for the United States a lost day, wasted blood, wasted honor, wasted time, wasted treasure. How are we to have armies? We are exhausting the resources of the country in stupendous bounties, paying men to discharge the duty that they owe to the country. I am opposed to it always and at all times. The Republic has a right to have the services of every man competent to bear a musket. The way, the democratic way, the republican way, the wise and efficient way to raise an army is to make every man within the military ages liable to military duty; and if there is to be any alleviation it should be only by allowing substitutes to be furnished by parties, and for the furnishing of a substitute the drafted man ought to be held responsible.

I therefore propose that there shall be no exemption by commutation money excepting in the narrowly limited classes that the amendment which I propose defines. There is no reason for that most odious, most undemocratic, most indefensible, most irrational discrimination between the poor who have no money to buy themselves off from military service, who leave their families dependent on the charity of their country, when they go out to fight, and the man who, merely because he is rich, chooses to say, "I can fling my \$300 commutation in your face and exempt myself from the responsibility of service." There has never been an argument that can defend the gross and crying iniquity of it. Any Government that undertakes to defend it stands condemned before the civilized world, and above all condemned before a free and democratic Republic.

But let the ministers of the gospel remain to discharge their holy calling, and pay their commutation money. Let men who have persons dependent upon them and upon their industry for support pay their commutation money and remain at home to discharge those duties if they prefer. Let those whose religious scruples prevent them from bearing arms pay their money and remain at home. And then you will have only touched the outer rim of the great mass of the body of the people responsible to the Republic for military service. And when you have drawn them all, then take the charities of life under the protection of the law, and make allowances directly to the individuals who, when they leave their homes, leave persons whom they are bound to support and whom they commit to the charity of the Government when they go to render their highest duty to the Republic. Pay them reasonable sums; relieve them from the poor-house; relieve them from the variable charity of a cold or a liberal world, as the case may be; put it upon the same foundation that you put their pay, and then you will have an Army, and you will violate none of the charities of life.

Mr. FARNSWORTH. Mr. Chairman, I do not agree to the amendment of the gentleman from Maryland, [Mr. DAVIS.] I will say, however, that if the House determines to adopt the amendment proposed by the gentleman from Pennsylvania, [Mr. STEVENS,] and which has been adopted by the committee, I will vote against any and all commutation. But, sir, in that case I would make it universal, and except from it no class or profession whatever. I do not see the propriety of exempting any class of men because of their profession. I do not think that the holy preaching of ministers is so requisite in time of

war as the labors of the farmers and producers to maintain the Army.

I think it was in Pennsylvania, at the time of the adoption of the constitution of that Commonwealth, that some gentleman rose in the convention and moved that, as ministers of the gospel were set apart for the cure of souls, they should not be entitled to the elective franchise; whereupon another gentleman moved in amendment that whereas shoemakers were also set apart for the cure of soles, they should also be exempted. [Laughter.]

Now, sir, I said that I would vote for the abrogation of the commutation clause entirely, provided the amendment proposed, and which has been adopted by the committee, should be adopted by the House.

Sir, as I said the other day, the Government wants men, wants them by enlistment if it can obtain them in that way; but if not, it wants men and must have them. Strike out the commutation clause from the bill and you get no men whatever by enlistment. Then all recruiting your Army by means of enlistment ceases. But by retaining the clause, with the restriction proposed by the Committee on Military Affairs, making it the duty of the board of enrollment to return to the roll the name of the man who commutes, you have both things going on together. There is enlisting going on. Some men are drafted. Some men pay the commutation money. This keeps down the price of substitutes within the reach of men of moderate means. The Government is enabled to offer reasonably large bounties, such as are being now paid—from three to four hundred dollars—and the Army is replenished. But if this House shall adopt the amendment adopted by the Committee of the Whole on the state of the Union exempting for three years the man who pays \$300, the military power of the Government will be exhausted long before the three years expire—if the war shall last so long—and you may have a pléthoric Treasury but no men for your Army.

Mr. Chairman, I am in favor of either the one thing or the other. If we retain the commutation clause we should retain it with a restriction which enables the Government to obtain men by the offering of reasonable bounties; or else let us strike out the commutation clause altogether, and depend solely and entirely on the draft, as you must do in that case. For my own part, I am in favor of filling the armies, as far as possible, by voluntary enlistment. My experience teaches me that the volunteer is the best soldier; that a regiment of volunteers is worth two or three regiments of drafted men. Even if you do sandwich the drafted man between two veterans you do not make him as good a soldier as the veteran himself.

I hope the committee will reconsider its former action in regard to the exemption for three years of a man who pays his commutation money, and that it will adopt the bill as reported by the Committee on Military Affairs.

[Here he hammered fell.]

Mr. KASSON. For the purpose of giving the committee an opportunity to see the amendment in print, and to consider it with more reflection before voting on it, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration as a special order the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had come to no resolution thereon.

DR. WILLIAM TREVITT.

Mr. SPALDING asked and obtained leave to have withdrawn from the files of the House the papers in the case of Dr. William Trevitt.

CAPTAIN STICKNEY.

Mr. FARNSWORTH asked and obtained leave to have withdrawn from the files of the House the papers in the case of Captain Stickney.

PROPOSITION OF ADJOURNMENT OVER.

Mr. STILES offered a resolution that when the House adjourns to-morrow it adjourn to meet on Monday next.

The SPEAKER. The Chair thinks it is hardly

in order to decide to-day what the House is to do to-morrow.

ASSAY OFFICE IN ST. LOUIS.

Mr. BLAIR, of Missouri, by unanimous consent, introduced a bill to establish an assay office in the city of St. Louis, State of Missouri; which was read a first and second time, and referred to the Committee of Ways and Means.

UNION GAS-LIGHT COMPANY.

Mr. ASHLEY, by unanimous consent, introduced a bill to incorporate the Union Gas-Light Company of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

THE STEAM TRANSPORT UNION.

Mr. RANDALL, of Pennsylvania, by unanimous consent, introduced a joint resolution to provide for the payment of the officers and crew of the United States steam transport Union, wrecked November 3, 1861, off the coast of North Carolina; which was read a first and second time, and referred to the Committee on Naval Affairs.

CONFISCATION ACT.

Mr. MILLER, of New York, by unanimous consent, introduced a resolution, which was read, considered, and agreed to, instructing the Judiciary Committee to inquire into the propriety and expediency of amending the confiscation act passed July 17, 1862, so as to require the court making any order or decree under it for the sale of estates containing more than five hundred acres, to cause the same to be divided and offered for sale in lots of not more than one hundred and sixty acres.

JACOB WEAVER.

Mr. NOBLE, by unanimous consent, introduced a bill for the relief of Jacob Weaver; which was read a first and second time, and referred to the Committee of Claims.

PERSONAL EXPLANATION.

Mr. ELIOT. I rise to a personal explanation. During the morning hour, or before the commencement of the morning hour, a resolution was proposed by the honorable gentleman from New York [Mr. KELLOGG] who sits near me. To that resolution an amendment was proposed by the honorable gentleman from Indiana, [Mr. HOLMAN.] I heard the amendment, and supposed it to have been an original resolution, and so supposing, I rose in my place and objected to it. The point was made that I did not rise in season, the resolution being already before the House, and the Speaker so adjudged. I insisted that my objection was in season, supposing that the amendment of the gentleman from Indiana was an original resolution; and on my statement the resolution of the gentleman from New York was not received. I desire now to say that my objection was not intended at all to have been made to the resolution of the gentleman from New York.

The SPEAKER. The Chair will state that he was confident the facts were as now stated by the gentleman from Massachusetts; but when he stated positively that he had risen in time, and his statement was confirmed by other gentlemen sitting near him, the Chair, deferring to the testimony of gentlemen on the floor, supposed he might possibly have been mistaken, and therefore entertained the objection.

Mr. ELIOT. What I objected to was the resolution of the gentleman from Indiana.

The SPEAKER. If there be no objection, then, the resolution will now be presented.

Mr. KELLOGG, of New York. It is merely a resolution for reference.

The SPEAKER. Understanding that the resolution is in the hands of the reporters, the Chair, if no objection be made, will consider it as pending in the morning.

No objection was made.

TONNAGE ON VESSELS.

Mr. MARCY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be requested to inquire into the expediency of amending section fifteen, chapter one hundred and fifty-three, of an act increasing temporarily the duties on imports, and for other purposes, passed July 14, 1862. Registered ships from ports subject to paying ten cents per ton, as now required by law, said registered ships after paying ten cents per ton shall have the privilege extended to them of proceeding to any other port

in the United States, if on the following voyage, free of foreign tonnage money as now required by law the second time.

NATIONAL FOUNDRY.

Mr. STROUSE, by unanimous consent, introduced a bill to establish a national foundry in the coal and iron region of Pennsylvania; which was read a first and second time, and referred to the Committee of Ways and Means.

LOUISIANA LAND TITLES.

Mr. JULIAN, by unanimous consent, introduced a bill authorizing the issue of patents for locations made and certificates granted under the authority of an act of Congress, approved March 17, 1862, allowing floats in satisfaction of lands sold by the United States Government within the Las Omegas and La Nana grants; which was read a first and second time, and referred to the Committee on Public Lands.

H. A. KLOPFER.

Mr. BROWN, of West Virginia, by unanimous consent, obtained leave to withdraw from the files of the House the papers in the case of H. A. Klopfer, for reference to the Court of Claims.

MISSISSIPPI AND MICHIGAN CANAL.

Mr. ARNOLD. I ask the consent of the House to report from the Committee on Public Lands a bill to construct a ship canal for the passage of armed naval vessels from the Mississippi river to Lake Michigan, and for other purposes, for the purpose of having it printed and recommitted.

Mr. HOLMAN. If the gentleman will allow the bill to go to the Committee of the Whole on the state of the Union I will not object.

Mr. ARNOLD. The object is simply to have the bill printed and recommitted to the Committee on Roads and Canals.

Mr. HOLMAN. I object to that.

RAILROAD TO PUGET SOUND.

Mr. COLE, of Washington, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the committee on the Pacific railroad be instructed to inquire into the expediency of extending the projected railroad from Sacramento to Portland, Oregon, to Puget Sound, Washington Territory.

SHIP CANAL.

Mr. HOLMAN. I objected to the reporting of a bill in reference to a ship canal unless it was referred to the Committee of the Whole on the state of the Union. The gentleman from Illinois [Mr. ARNOLD] proposes to report it, I understand, to have it printed and then recommitted. For that purpose I do not object. I only want the subject open to discussion when it comes before the House. I withdraw my objection.

Mr. ARNOLD, from the Committee on Roads and Canals, reported a bill to construct a ship canal for the passage of armed naval vessels from the Mississippi river to Lake Michigan; which was read a first and second time, ordered to be printed, and recommitted to the same committee.

Mr. HOLMAN moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

OVERLAND MAILS.

Mr. COLE, of California, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of so modifying the law in relation to carrying the mails as to authorize the Postmaster General, at any time, upon notice, to modify any contract for carrying the overland mails to the Pacific by shortening the schedule time on said route or altering the same; and also as to the expediency of such alterations, and that they report by bill or otherwise.

LEWIS BOLLMAN AND OTHERS.

Mr. HARRINGTON introduced the following resolution; which was read, considered, and agreed to:

Resolved, That there be referred to the Committee of Claims to consider, and report by bill or otherwise, on the claim of Lewis Bollman and others, for contributions to the agricultural volume of 1861, which contributions, it is alleged, are unpaid; and also that the papers accompanying said claim be referred to said committee.

And then, on motion of Mr. MORRILL, (at twenty minutes past four o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, February 4, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. BROWN presented a memorial of citizens of St. Louis, Missouri, remonstrating against additional taxes on rectified spirits and on spirits on hand, and praying that a tax may be imposed on the raw material in the hands of distillers; which was ordered to lie on the table.

He also presented the memorial of the National Land-Transfer Association of the State of Missouri, praying that aid may be given to them to promote the emigration of skilled and other laborers to that State; which was referred to the Committee on Finance.

Mr. CONNESS presented a petition of citizens of California, praying for the establishment of a mail route from Los Angeles, California, to La Paz, in the Territory of Arizona; which was referred to the Committee on Post Offices and Post Roads.

Mr. SHERMAN presented the petition of A. J. Conter, treasurer of the Overland Mail Company, praying that their present contract for carrying the mail may be extended for the term of five years from the time of its expiration, subject to such modifications as may be deemed necessary; which was referred to the Committee on Post Offices and Post Roads.

REPORTS FROM COMMITTEES.

Mr. LANE, of Kansas, from the Committee on Territories, to whom was referred the bill (S. No. 45) to set apart a portion of the State of Texas for the use of persons of African descent, reported it with amendments, and submitted a report, which was ordered to be printed.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the petition of George Henry Preble, commander in the United States Navy, submitted a report accompanied by a bill (S. No. 95) for the relief of George Henry Preble, a commander in the Navy of the United States. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. MORRILL, from the Committee on Commerce, to whom was referred the bill (S. No. 39) for the relief of William Porter and William Lurkins, reported it with an amendment.

PAPERS WITHDRAWN.

On motion of Mr. RICHARDSON, it was

Ordered, That Michael Nash have leave to withdraw his petition and other papers from the files of the Senate.

On motion of Mr. COWAN, it was

Ordered, That the papers in relation to the claim of John Hastings be taken from the files of the Senate and referred to the Committee on Claims.

Mr. HALE. I desire to ask leave of the Senate to withdraw from the files the papers relating to the claim of Captain John H. Aulick. I will state the circumstances. There has been an adverse report in the case, but there are among the papers some private letters from some distinguished friends who are now deceased that Captain Aulick is very desirous of keeping for his own use and the use of his family, and he asks as a favor that the Senate will allow him to withdraw them from the files.

Mr. GRIMES. Withdraw merely the letters?

Mr. HALE. Only the letters.

The VICE PRESIDENT. That order will be made, if there be no objection. The Chair hears none.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed, on the 3d instant, a joint resolution (S. No. 18) in relation to the public printing.

COMMITTEE ON MANUFACTURES.

Mr. ANTHONY. I offer the following resolution:

Resolved, That there be added to the 34th rule of the Senate, providing for the appointment of the standing committees, the following, namely: A Committee on Manufactures, to consist of five members.

The VICE PRESIDENT. This resolution will lie over one day, under the rule.

Mr. ANTHONY. If there is no objection, I will ask its present consideration.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

FRIDAY, FEBRUARY 5, 1864.

NEW SERIES.....No. 31.

The VICE PRESIDENT. The Senator from Rhode Island asks the unanimous consent of the Senate to consider this resolution at the present time.

Mr. WILSON. Let it lie over.

The VICE PRESIDENT. Objection being made, it will lie over under the rule.

TREATY WITH SANDWICH ISLANDS.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interests, to communicate to the Senate any recent correspondence at the Department of State relating to a proposed reciprocity treaty between the United States and the Sandwich Islands.

SALE OF DOCUMENTS.

Mr. HOWE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library be instructed to inquire into the expediency of authorizing the Secretary of the Interior to sell, at public auction, all books and documents in his custody and control, as reported to the Senate on the 25th ultimo; and to report by bill or otherwise.

COMMITTEE SERVICE.

Mr. HARRIS. Mr. President, there are two vacancies upon the Committee on Private Land Claims, one created by the resignation of Mr. Bayard, and the other by the declension of service of Mr. McDougall. I move that the Vice President appoint Senators to fill those vacancies.

The motion was agreed to, there being no objection.

Subsequently the Vice President announced the appointment of Mr. RIDDLE and Mr. HARDING on the Committee on Private Land Claims, and Mr. JOHNSON on the Committee on the Judiciary in the place of Mr. Bayard.

PAY OF COLORED TROOPS.

Mr. WILSON. If there is no further morning business, I move now to take up the joint resolution to equalize the pay of soldiers in the United States Army.

The motion was agreed to; and the joint resolution (S. No. 23) to equalize the pay of soldiers in the United States Army was considered as in Committee of the Whole.

Mr. FESSENDEN. As these soldiers enlisted to serve for a given sum, I wish simply to inquire what propriety there is in our going back and paying them this increase for services already rendered. So far as putting these men on the same footing with other soldiers is concerned, I have always been in favor of it, and shall favor it now; but I think we ought to be a little careful in our expenditures. We must not consider that the Treasury can meet everything. If there is any particular reason for going back and paying them this increase for the time they have been in the service I should like to hear it.

Mr. WILSON. I think as an act of justice that this bill should be retrospective; in fact I have no doubt about it. Many of these men were assured when they entered the service they would receive the same compensation as other soldiers. The first colored regiment in the country was raised in South Carolina under an express order that they should have the same pay as other troops, and the first pay they received was the same pay; but since that time it has been changed.

Mr. HOWE. Will the Senator allow me to inquire how it has been changed; whether by act of Congress or by order of the Department?

Mr. WILSON. By order of the Department, in the case of the first South Carolina regiment.

Mr. GRIMES. Oh, no; by act of Congress.

Mr. FESSENDEN. Congress fixed the pay at ten dollars per month.

Mr. WILSON. The change in the case of the South Carolina regiment to which I have referred was made by order of the Department.

The Secretary of War authorized the Governor of Massachusetts to raise regiments of colored

troops. The Governor understood and made the pledge that they were to receive the same pay and stand on the same footing with other troops. He might have erred in his construction, but some of the best lawyers in the country contend that when you put a colored soldier in the Army of the United States he is entitled to the same compensation as a white soldier. They think the distinction in the act of 1862 applies to men working for the Government, not soldiers.

Now, sir, the gross injustice that has been done by the country toward these men I think ought to be corrected. I have letters on this subject from several colonels in the field, Colonel Halliwell, of the Massachusetts fifty-fourth; Colonel Hartwell, of the Massachusetts fifty-fifth; and Colonel Tilghman, of one of the United States colored regiments. Colonel Tilghman says that some of the men in his regiment enlisted with the expectation and understanding that they were to have the same compensation as other troops. The raising of the Massachusetts fifty-fourth was commenced on the 10th day of last February, and it went into the service on the 28th day of May. They have never received a dollar, and will not receive a dollar, because they were promised the same compensation as other troops, and they demand it as a right. The Legislature of the State has authorized them to be paid by the State, and they have declined to take pay from the State. They say they were promised to be put on the same footing with other troops; that they were enlisted under the act of 1861, and they do not choose to take it from the State. I have a letter from Colonel Littlefield, and I will read it for the information of the Senate:

January 25, 1864.

SIR: I have the honor to transmit the following facts and suggestions in relation to the colored troops that have been engaged in the operations against the defenses of Charleston harbor during the past summer, agreeable to your request. The facts here stated are such as came under my own observation, or have been reported officially by the colonels who have been in command of them, and the suggestions are the result of nearly one year's experience as an officer among them.

The colored troops have been severely tested:

1. As fatigue men performing hazardous duties under the concentrated fire of the enemy's batteries.

2. As soldiers in action before the enemy and performing the general duties of the camp and garrison.

1. When the operations began before Charleston harbor, and when it was determined to approach Fort Wagner by a regular siege after the repulse of July 18, and to demolish Fort Sumter over the heads of the garrison of Forts Wagner and Gregg, directions were given by the major general commanding to carefully record from time to time, as they were developed, such facts and statistics as would enable us to realize the maximum amount of practical and experimental knowledge to be derived from the novel operations about to be inaugurated.

To the officers charged with working the colored troops the following questions were asked when the work began, to be answered when the work was completed:

1. Courage as indicated by their behavior under fire.

2. Skill and appreciation of their duties, referring to the quality of the work performed.

3. Industry and perseverance, with reference to the quantity of work performed.

4. If a certain work were to be accomplished in the least possible time, i. e., when enthusiasm and direct personal interest is necessary to attain the end, would whites or blacks answer best?

5. What is the difference, considering the above points, between colored troops recruited from free States and those from slave States?

To these questions six replies were received, as follows:

1. That the blacks were more timorous than the whites, but they were more obedient, hence more completely under the control of their commander and influenced by his example.

2. The statements do unanimously agree that the black will do a greater amount of work than the white soldier, because he labors more constantly. In this trial the men were without their arms or accoutrements, and worked continually for about four months with little or no rest; such were the exigencies of the service. About three fourths of this work was executed during the night time, and at least nine tenths of it under fire of artillery or sharpshooters or both. The amount of this work performed by the black as compared with the white infantry was as fifty-six to forty one. The white soldiers having had more experience, they were used for grand guard in the trenches. There was a great scarcity of officers with the colored troops, which rendered it necessary to send large details under one officer, frequently two hundred men with but a lieutenant to command them; he had to march through the camps to the place of operation, giving them good chance to shirk, a crime not frequent among them provided they were under officers whom they respected. Thus it will be

seen that much depends upon their obedience to the will of their commanders.

3. The siege has been conducted through the hottest and most sickly part of the season, commencing in July and terminating in November. During this period the average amount of sickness was, with the black infantry, thirteen and nine tenths per cent., while with the white infantry it was twenty and one tenth per cent. I have found little or no difference as to sickness between the blacks recruited in the North and those recruited in the South. The command was a mixed one, composed of the fifty-fourth and fifty-fifth Massachusetts colored volunteers, the third United States colored volunteers, and the soldiers recruited from the freed slaves of North and South Carolina and Florida. My experience with both classes will not warrant the conclusion that those from the North are superior to those from the South. The efficiency of each depends upon the officers placed over them.

4. These men as soldiers have been as severely tried as they were for fatigue men. On the 6th of July the enemy made a vigorous attack upon that portion of our line held by the fifty-fourth Massachusetts and the second South Carolina volunteers, under command of Colonel Montgomery. These men received and repelled the attack with as much coolness and bravery as veteran troops. They entered into the engagement with enthusiasm rarely equaled and never excelled.

5. On the 18th of July the assaulting column on Fort Wagner was led by the fifty-fourth Massachusetts, and their decimated ranks, and the number of the dead picked up in the ditch, on the parapet, and in the fort, speak plainer than words of their bravery in that sanguinary conflict.

6. In the camp they perform their duties with alacrity and good faith. They are readily brought to the highest state of military discipline, and no white soldier can excel them in drill or proficiency. They ask no questions, but seem to obey so as to reflect the will of their commander.

The experiment whether the American negro would make a soldier has received a practical and satisfactory solution; the problem has been solved under circumstances not at all advantageous to the colored man. They have been made constantly to feel that they were regarded by the country as far inferior to other soldiers by not receiving the same benefits for the same duties performed. I have a few facts to submit showing the great injustice of the present law regulating their pay. The fifty-fourth Massachusetts volunteers entered the field on the 28th day of May last with full ranks. This regiment has lost, killed in battle or died of disease, fifty-nine, and every one of these men died actually in debt to the Government, having received no pay and their families receiving no pension or bounty. There have been wounded in this regiment one hundred and fifty-five; a great proportion have been discharged with no pay; every man who fell in the engagement on James Island, July 6, and the assault on Fort Wagner, July 18, were in debt to the Government for their clothing; they died having received no pay.

The first North Carolina enlisted also on the understanding that they were to have the same pay as white soldiers. They have been seven months in the service, and the average amount charged to each man for clothing is fifty-one dollars, leaving nineteen dollars due to each for the whole term of his enlistment—less than three dollars a month; and there are due and unpaid to the regiment about thirty thousand dollars for work done in the quartermaster's department in North Carolina before they enlisted.

The third United States colored volunteers has lost nine men killed in battle, each one of whom is charged with thirty dollars' worth of clothing and credited with half that amount as pay. Each dies in debt to the Government, leaving no bounty or pension, or provision of any kind for his family. Of the eighteen men who died from disease, the same is true; and the clothing issued to those living has absorbed more than four fifths of their pay.

The fifty-fifth Massachusetts has been in service since June, 1863. The average amount of clothing charged to each man is fifty-three dollars, and there remained due to each for seven months' service seventeen dollars. And in every regiment of colored troops now in the United States service, whether raised North or South, substantially the same state of facts exists. The officers who have been in charge of the colored troops have promised that the Government would pay them the same as other troops, and these promises were made under the sanction of the Government. And if some action be not immediately taken to increase their pay, great difficulty will be created among the colored troops first organized.

I have the honor to be, sir, very respectfully, your most obedient servant,

M. S. LITTLEFIELD,

Colonel Commanding Colored Troops, Fortly Island.

Hon. HENRY WILSON,

Chairman of the Military Committee, United States Senate.

Colonel Littlefield in this letter states the case of these colored regiments clearly, and all must admit their condition to be hard indeed. He is for giving colored soldiers the same pay and making the act retrospective. General Gillmore recommends the same action, and I trust the Senate will do justice to brave men who are doing their duty to the country. We can right the errors of the past, and I hope we shall do it promptly.

Mr. TEN EYCK. Mr. President, I did not hear an additional reason suggested by the Senator from Massachusetts for this legislation which has been called to my attention. I know it is not

a ruling reason, and ought not of itself to control the action of this body; but perhaps, taken in connection with the facts stated by the Senator from Massachusetts, it may afford an additional reason why this increase of pay should be retroactive. I understand that so far as regards the first South Carolina colored regiment, they were expressly enlisted under an order of the War Department which contained a promise that they were to be paid the regular pay of white troops, or a pay similar to that which was allowed to white troops volunteering or enlisting in the Army; and some of them have been so paid. Perhaps other regiments are in the same condition; but that regiment was so paid for a certain time; and after that payment went on for some period of time other orders came from the War Department counteracting the payment; and wherever there has been a payment made by any officer in the paymaster's department under these circumstances a difficulty arises in relation to the settlement of his accounts, and unless special legislation is granted in that behalf, I suppose there is not one of them who will not be ruined. That is not a controlling reason, as I said before, but it is a reason proper to be considered in our action upon this joint resolution.

I am also aware from different sources that the withholding of this pay that was promised by the Government at the time of the enlistment of these troops has occasioned great dissatisfaction not only in the minds of these troops themselves but of all their friends at home—colored men at home who helped to raise the regiments, who were engaged in recruiting them; and I know that many of them have expressed so much dissatisfaction as to declare that unless justice is done them in this particular they will have done with furnishing any further aid and assistance in the persons of their sons and their relatives to go into the Army for the purpose of rendering this service down along the southern coast.

I have not been specially interested in matters of this kind, but I can clearly see that this is a matter of justice so far as regards certain portions of the colored troops now engaged in the Army of the United States; and if such promises have been held out to them by the Department of War, perhaps it would be no more amiss in us to recognize and correct that difficulty, which has grown out of the transaction, than it has been for us in times past to recognize and correct other difficulties that have grown out of orders, perhaps given by the President of the United States himself, and by the heads of several of the Departments, where there was no special law in existence at the time authorizing their action, but which appeared to Congress to be reasonable, and proper to be recognized and ratified.

I suggest these reasons as being sufficient in my mind, in addition to those that have fallen from the chairman of the Committee on Military Affairs, backed up by the various letters of recommendation to which he has referred, to give my vote in favor of this joint resolution as it has been reported.

Mr. LANE, of Kansas. Mr. President, the first Kansas colored regiment, being the first regiment of colored troops that was raised in the United States, were raised in July and August, 1862. For the first six months of their service they have not been paid at all. The Government from some cause or other did not think it had the authority to pay them. During that time they lost a great many men in battle and by sickness. I do hope this joint resolution will be made retrospective in its operation so as at least to cover that want of payment. In raising that regiment I said, I thought I was authorized to say, that they would be put upon the same footing as other soldiers in point of pay. They rendered from four to six months' hard service, the pay for which is due to them, they not having yet received it.

Mr. FESSENDEN. I simply wish to call the attention of the Senate to the fact that this is a proposition not only to raise the pay of certain soldiers, but also to go back to the period of their enlistment, and pay them from that time the amount received by others. Mr. President, at the time the amount of ten dollars a month was fixed as the sum to be paid to colored troops, I was in favor, and so expressed myself, of putting them on a level with white soldiers. The chairman of the Committee on Military Affairs at that

time was of a different opinion. He thought that ten dollars a month was enough, and that sum was fixed.

Now, sir, what is the ground upon which we have gone? Massachusetts has gone on under the law, which was introduced and recommended and sustained by the chairman of the Committee on Military Affairs, and enlisted two regiments of colored troops; and the Senator avers that the Governor of that State undertook to promise them that they should receive the same pay as white troops, and that the Legislature of Massachusetts has provided for the difference. I do not know but that it would be fair to make that up. On that point I am not expressing an opinion, but I wish to correct some mistakes that have been made.

The first South Carolina colored regiment was raised by General Hunter without any authority from the War Department or anybody else. He did not have the authority of the War Department; he did not pretend that he had the authority of the Department; but still he wanted to do it; and I have no doubt that if at that time he had had from the Executive authority to go on as he wished to do, he would have raised a large number of men; but he did not receive that authority. He raised the men; they were drilled and disciplined for a considerable time; but as they were not recognized by the Department or by the Government, directly or indirectly, he disbanded them. They were afterwards reorganized, and, I suppose, received their pay. There was no pledge on the part of the Government to pay them the same as other troops. The Government did not recognize them at all for a considerable time, as I am informed, and I think there is no doubt about it.

Now, sir, if the Senator will show me that the Department authorized a larger offer, an offer of more money than the law provided for—we provided by law what they should be paid ten dollars a month, on the recommendation of the Committee on Military Affairs—if the Senator will produce the orders from the War Department showing that such an authority was given, it might place the matter in a different position with regard to these troops; but allow me to suggest that it is a very loose way of legislating to come in here and merely make a statement that the Department authorized it because officers undertook to tell these colored men that they would receive it from some authority or other; for experience has shown that officers enlisting men sometimes make very strong statements which are not authorized by any orders of the Department. I should like to know whether there were any such orders given, whether the Department of War did undertake in the face of the law to say that they would pay more than the law prescribed. I undertake to say that no such order can be shown, there is none such in existence. The whole thing is mere supposition, because officers undertook to make these loose promises to soldiers when they were enlisting them.

I do not believe, and I shall not believe until somebody brings in the order here, that any such order was ever issued by the War Department. We can easily ascertain the fact by applying to the Department. In that way we may readily ascertain whether the Department directly or indirectly authorized the offer to be made, after the passage of that law, of more than ten dollars a month, which the law authorized to the colored soldiers. I do not believe it for a single instant. The Senator does not produce the order that was sent to Massachusetts, or the instructions to the Governor, or the permission given to the Governor. He says that Governor Andrew undertook to do it. Whatever he undertook to do he undoubtedly undertook to do with the highest honesty and integrity and good faith, for there is no man of whom I have a higher opinion than Governor Andrew in relation to this or any other matter. But I believe that it was an entire misapprehension on his part, and that no order whatever will be found from the War Department justifying any such departure from the law. At any rate, before we act upon that supposition, we ought to inquire and see whether the fact was so. If the Senate are to vote upon that supposition, I beg them to wait until they find out the fact; but if on the contrary the Senate are disposed to say that, notwithstanding whether there were orders or

not, law or not, colored troops should be placed upon the same level from the beginning with other troops, I of course shall not object to it. I only say this, that I think it is dealing very curiously with the Treasury, when we have entered into a contract to pay a certain number of troops a certain sum of money, and they have enlisted with a knowledge that that was the amount they were to receive, for us to go back and pay them more. If they have been abused and have not received enough, it may be a very good reason for it; but I should like to have the matter definitely and distinctly understood.

I repeat what I said originally, that we ought to have placed the colored troops precisely on the same footing with other troops from the beginning. I thought so for various reasons. I gave my opinion then that if we paid them a less sum of money we should, in a degree, give an excuse to the confederates for saying, as they did say, that they were not soldiers to be regarded in the same light that other soldiers were, and I wished to take away from them even the shadow of an excuse for placing them on any other footing than white soldiers. In fact the whole thing ought to stand on this level: that all soldiers, without the slightest allusion to color in any way whatever, that all soldiers of the United States belonging to the same arm of the service should receive the same pay. No distinction should be made. These soldiers are men. They render the same service as others, and perhaps as good service. Whether as a whole class they render as good service or not I do not know, but certainly a great many of them are much better than a great many of the white soldiers, if one may judge from the experience of the country.

Now, sir, having explained my view on this subject and called attention to this departure from principle in our undertaking to deal with the Treasury in this matter as it is my duty to do, that is to say, to the fact that we are called upon to pay what the Treasury does not owe, if Senators choose to say that it is right and that we ought to do it in this particular case, I acknowledge that there are very good reasons for doing it, but I want them to understand precisely what it amounts to.

Mr. CONNESS. By way of getting a vote on this proposition distinctly, I move to amend the resolution in the ninth and tenth lines by striking out the words "during the whole time in which they shall be or shall have been in such service," and to insert in lieu thereof the words "from and after the passage of this act."

Mr. LANE, of Kansas. I hope that amendment will not be adopted. In January the Government of the United States accepted the first regiment of Kansas colored troops organized in July and August, who had been in the service of the United States and fighting its battles from August to January. That regiment has not yet been paid for that period. The families of the men who fell have not the advantage of the pension laws. The adoption of the amendment of the Senator from California, it seems to me, will do an act of injustice that this Government cannot afford to indulge in. With the same organization in January they accepted a regiment that had been in the service from the August previous, having lost a great many men in battle and by disease. I think the Senator from California should not attempt to perpetrate such an outrage upon that gallant regiment.

Mr. CONNESS. It is not my purpose to perpetrate any outrage upon the troops from Kansas or any other portion of the Army of the United States; and I think it may be safely said that my sympathies go as strongly as those of the Senator from Kansas with the soldiers, black and white, who are in the field and fighting the battles of the country. The amendment proposed simply meets the suggestions so clearly presented by the Senator from Maine. I agree with him that we should not go back and make this act retroactive; but we should recognize no difference hereafter in the compensation to be paid to soldiers; and that from and after the passage of this act all soldiers should be paid alike. In my opinion neither the condition of the Treasury nor the public credit can afford these "acts of justice," as they are termed. I do not think it is wise. Congress has legislated on this subject heretofore, and the law-making authority did not see fit at that time to raise

the compensation of black soldiers to that of the white soldiers. I should like to know what demand there is at the present time that we should go behind that legislation simply because there are a few regiments who enlisted at an early period and have fought bravely and are entitled to all credit. I do not see any "outrage" in the case at all. I think the amendment will be a matter of exact justice.

Mr. POMEROY. I hope the amendment of the Senator from California will not be adopted, not on account of any particular reference to any one regiment in the service, but because there is a manifest injustice in it. I think the Treasury of the United States can stand justice, and I do not think that we do well in legislating any injustice anywhere. If there is a manifest propriety and justice that the colored soldiers should have the same pay as the white soldiers, they should have it. I was in favor of it when the bill on the subject was before Congress a year or two ago, and, with the chairman of the Committee on Finance, I thought they should have that pay. If we neglected it then, if it did not pass then, and there is an opportunity now to retrieve that error, why not let us do it?

I can see very well why the confederates would not recognize our colored soldiers: because we did not recognize them. I can see why they would not exchange them: because we have never put them on a level with our other soldiers. We ourselves are measurably responsible for that. I think it commends itself strongly to us that we should vote this appropriation in this bill. We should give them the precise pay and place them in precisely the same position as white soldiers. Their lives are as dear to them; their services are as valuable; at any rate they are as valuable in proportion to the ability they have to render; and when a man does all he can for the Government and the country that is the measure of his ability with regard to it, and that is a reason why he should be put on—

Mr. COWAN. The Senator will allow me to ask him whether he would be willing to go back and put all the white soldiers in the Army on the same footing as to past pay, emoluments, and bounties?

Mr. POMEROY. I would have all the white soldiers on one footing. I would not make any distinction between our soldiers. If, at a particular time, they all had so much, that should be the law for the whole; and if at a particular time a part of the forces of the United States had one pay and a part another, that would be a reason why we should change it. We should apply that principle here. We have enlisted these colored soldiers. Some were enlisted under one order and some under another; some with law and some without law. Now I say there is a manifest propriety in paying them reasonably and paying them alike, and paying them from the date of their enlistment, making soldiers of them really, if we pretend to call them so. Let us respect them and then they will be respected abroad. Let us respect them and they will begin to respect themselves. But if we depress them, if we put a stigma on them, they will feel that they are not properly treated and respected.

Mr. CONNESS. Do I understand the Senator from Kansas to say that passing this increase of pay to the colored soldiers will cause the so-called confederate government to recognize them and to treat in regard to them? Do I understand him to say that, or to be of that opinion? I rather think the passage of this bill will have no effect upon that subject at all.

Mr. POMEROY. Mr. President, I think that in passing this act we shall do what we ought to have done in the beginning; we shall do what I think will recognize these men as full soldiers, not half soldiers, not two thirds soldiers, but really soldiers.

Mr. FESSENDEN. I will ask my friend whether we shall not do that as fully and fairly by passing a law to give them the same pay from this time forward as by going back and giving it to them for their service heretofore? Can we act on what the confederates have done heretofore?

Mr. POMEROY. I was replying to the argument made by the Senator from California, that the Treasury of the United States could not afford to do justice; that it could not stand an act of justice to these men.

Mr. CONNESS. If the Senator will permit me, I did not recognize that there was any necessity for this act on the ground of justice at all; and if the Senator will permit me to say so, neither do I recognize the propriety of introducing the question of sympathy or the disparity arising from color in this discussion. I regard it as a simple proposition involving money, and nothing more. I think that, as a proposition involving money, we should pay this increase from and after the passage of this act. We have performed our contracts up to this time. If the legislation of the past was not wise, if it was not magnanimous, if it was not in accordance with the Senator's opinion of what the country could do, then, sir, that has become history. We cannot correct it now. We can vote the pay of these soldiers, it is true; but we cannot call back the act of disparity to the extent that it was such.

I am not in favor of lugging these considerations into the discussion of every proposition involving the payment of money. The mode of discussion pursued by the Senator from Kansas is calculated to raise, as it does, this entire question of the negro race. There is no difference of opinion, I apprehend, between that Senator and myself on that subject; but I submit that there is no necessity for its introduction here. This is a mere question of whether we shall pay a given amount of money to a certain number of men with whom we made a contract, and to whom we have performed our part of it. The volunteers that enlisted in the State of California have been paid five dollars a month by the State to make up to them the loss they suffer in being paid in legal-tender notes of the United States. I might as well ask that the Treasury of the United States should refund that. I do not see that strict justice demands that this back pay should be voted. I do not see that it invokes any considerations of humanity. I admit fully the rights of these colored soldiers. I agree with the Senator from Maine that there should be no difference recognized between soldiers of the United States, and we propose from and after the passage of this act that there shall be no such difference. I think that is the proper view of the question.

Mr. LANE, of Kansas. I should like to ask the Senator from California a question. In January, 1863, the Government accepted the first Kansas colored regiment as organized in August. They had fought, drilled, and labored from August to January. They were not paid by the Government at all for that service. Did not the Government by accepting their services in January take upon themselves the moral obligation at least to pay them for the services they had rendered between August and January?

Mr. CONNESS. I believe we have made an appropriation to pay white soldiers who enlisted in the State of Missouri, and fought the battles of the country, without the authority of the laws of the United States. I believe we have recognized their services and paid them. If the Senator from Kansas desires to pay Kansas soldiers that entered the service and fought the battles of the country before they were mustered in, let him make that proposition as a distinct one to Congress, and let it stand upon its exact merits; but if you are going to legislate in regard to this question of the equal payment of all the soldiers of the United States, let it begin now.

Mr. RAMSEY. I should like to inquire of the chairman of the Committee on Military Affairs what number of colored troops there are now in the service, and what charge, probably or approximately, this retrospective feature of the bill will make upon the Treasury?

Mr. WILSON. I cannot give a definite answer to the Senator. I suppose, however, taking all parts of the country, the men who are enlisted in regiments already in the field, and who are in depots to enter regiments, that we may have now about forty-five or fifty thousand colored troops. I suppose the number does not exceed fifty thousand. Most of these troops have been raised during the last six or eight months. We did very little in raising colored troops previous to the latter part of last summer.

Mr. DOOLITTLE. Mr. President, I believe nothing can be clearer than that the Government should carry out in good faith what it has promised to soldiers in enlisting in the Army. If the Government has in good faith made a promise to

soldiers who have enlisted in any particular regiment, whether in Massachusetts or any where else, that promise ought to be kept. I agree that justice demands that. We ought not to make a promise by which soldiers are induced to go into a regiment and then deceive them when they go into that regiment. That certainly is not just. At the same time there are some considerations in relation to this retrospective legislation that should be considered. In my judgment, if we go into it we shall involve ourselves in very great difficulties. We shall not be able to go through with that kind of legislation and do justice to white and black soldiers in the Army. There are a great many soldiers who have been in the Army almost three years without any bounty whatever; who have served simply for the common monthly wages; who have borne the heat and burden of the day, and have gone through these terrible battles. We have subsequently given large bounties to new recruits and to those that are reenlisted. If we undertake to deal justly from the beginning, if we adopt this principle, we shall be called upon by a power that Congress will not be able to resist, it seems to me, which will demand for those old veteran soldiers the same bounties that are given to other recruits.

Again, sir, there is, I think, some difficulty growing out of this very question of wages—

Mr. FESSENDEN. If the Senator will allow me a moment, I wish to reply to the question that has been asked by the Senator from Minnesota as to how much this provision will amount to. If I figure it right, considering that we have fifty thousand of these soldiers, and that they have been in the service six months, on an average, it will amount to \$900,000; and then the bounty will be \$500,000 more. This retrospective provision will take out of the Treasury about a million and a half at the lowest calculation.

Mr. ANTHONY. The bounty is not involved in this.

Mr. FESSENDEN. I thought it was. Then it will be about a million dollars, supposing six months to be the average time.

Mr. ANTHONY. I understood the chairman of the Committee on Military Affairs to say that the average time was about four months. Nearly all of them have enlisted within the last six months. Many of them are not a month in the service.

Mr. FESSENDEN. Many of them are in the service a year.

Mr. DOOLITTLE. In some of the States colored troops enlisting into our armies are precisely in a similar condition to the white troops; but I can very readily conceive in that section of the country where it is probable we shall enlist more colored men in our armies than anywhere else, that they are not altogether situated the same as white soldiers that are enlisting into our armies, and for this reason: I understand, practically, that as our armies advance into the country thickly settled with a colored population, they advance, men, women, and children, to our lines. The able-bodied man with his wife and children comes within our lines. He is put into the Army, and the women and children in a great many instances remain on our lands and are now receiving rations, as I understand, at the hands of the Government. Now, is it doing exact and equal justice between the two kinds of soldiers for us to put the colored soldier into our Army and give him precisely the same pay as the white soldier, while at the same time we are feeding his wife and his children with rations issued from the quartermaster's Department, and our white soldiers must support their families, and support them out of their wages?

This is a consideration that does not apply, I agree, to all the States where these men may enlist; but it does apply to certain localities and districts. It would seem as if some kind of legislation ought to be made to reach that case. If we are to pay them the same wages as white troops and the Government is at the same time supporting their wives and children, there ought to be some account kept and some deduction made of a portion of their wages. I know in my own State, practically, this system is adopted to a very great extent in our regiments. The white soldiers are permitted to set apart a certain portion of their wages to be sent home to their families, and when the paymasters call upon our soldiers to pay them,

that amount which is agreed upon is set apart for the benefit of their families, and is sent home to the treasurer of our State for distribution among their families. I suggest to the honorable chairman of the Committee on Military Affairs whether there ought not to be some such legislation for the peculiar localities and States where this system most prevails.

My attention has been called to this subject for this reason: I am more particularly connected with Indian affairs. A large number of refugee Indians, on account of the war in the Indian territory, fled into the State of Kansas. They fled there in a most destitute condition. Out of these refugee Indians, who at one time numbered nearly twelve thousand, as I was informed by the Commissioner of Indian Affairs, some three or four regiments of Indians have been raised and put into our service, and at the same time we are feeding their wives and children as refugees on our hands to this day in the territory of Kansas. Is it possible that we shall be called upon to pay the same amount of wages to these Indians serving as soldiers as we pay our white troops, and at the same time that we shall feed their wives and children as refugees?

I agree with the Senator from Massachusetts in the principle with which he sets out, and that is to do justice between all the soldiers in the service. My opinion is, he will do the best justice which is attainable by us by providing that wherever the faith of the Government has been given to those enlisted under the authority of the Department they shall receive what the Government has promised. That legislation should have reference to the future. It seems to me there ought to be some provision in the bill requiring some kind of an account to be kept, if, at the same time that we place the able-bodied colored men in the Army, their wives and children are receiving rations from the quartermaster's department. I do not know precisely the shape in which it ought to be placed; but it may be a very material item; for I understand that the feeding of these refugee Indians on our hands in Kansas costs now more than a thousand dollars a day, and has done so for a long time. I do not know whether any one is prepared to state how many there are of the persons denominated "contrabands," women and children, in the camps, who have clustered around our armies and are fed on Government rations. I have no doubt their number is very great, and that the drain on that department is very great. I simply call the attention of my honorable friend from Massachusetts to this question.

Mr. FESSENDEN. I will inquire whether the morning hour has not expired.

Mr. WILSON. Let us finish this resolution.

Mr. SUMNER. I should like to make a remark before this question is disposed of.

Mr. FESSENDEN. We cannot get through with it this morning.

Mr. SUMNER. If the Senator will indulge me a minute I wish to say a few words.

Mr. FESSENDEN. I will yield if the Senator will renew the motion.

Mr. SUMNER. It seems to me the Senator from Wisconsin made an allusion which, if practically carried out, will perhaps be the solution of the present question; for I cannot but think that the difference of opinion here comes from Senators not bearing in mind that there are different classes of cases. It is well known that there are two different statutes under which enlistments have been made. The first is the original statute of 1861, and the second is the statute passed in July, 1862, which the Senate will remember provides especially for the employment of persons of African descent as laborers or as soldiers, and it proceeds to assign them ten dollars per month as pay. It is obvious that any enlistment made under the statute of 1862 can entitle the party to nothing more than the pay of ten dollars per month; but if the enlistment has been *bona fide* made under the previous statute of 1861, which contains no limitation on the pay, and especially if at the time of the enlistment there was an understanding on the part of those who enlisted that they were to have the full pay allowed to soldiers in the Army of the United States, it seems to me the faith of the Government is bound accordingly.

I have gone into this distinction in order to remark that there are obviously persons who have

enlisted under these two different statutes. I suppose that the larger part of the enlistments in Tennessee and in the Southwest have been under the second statute; and therefore none of those persons can be entitled to more than the ten dollars. But it cannot be doubted that there are enlistments which, whether rightfully or not, were made under the statute of 1861.

Since this debate has commenced I have received a letter—it came with the mail which has been put on our desks just now—from a sergeant in the Massachusetts fifty-fourth regiment actually on Morris island. The letter is dated in his camp, and among other things it contains a copy of the paper which these soldiers signed at the time of their enlistment, which, with the indulgence of the Senate, I will read. It is brief:

"We, the undersigned, by our signatures hereto annexed, do severally agree to serve for a period of three years from the date of being mustered into the United States service, unless sooner discharged, as volunteers from Massachusetts in the force authorized by an act of Congress of the United States, approved on the 23d day of July, 1861, entitled 'An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property,' and we severally agree to serve in such companies as the Governor and commander-in-chief may designate."

It seems to me that all who have signed that paper, and in pursuance of it took the risks of a soldier of the United States—and we know how gallantly they performed them under the lead of that brave and ever-to-be-lamented officer who fell on the parapet of Fort Wagner—have the faith of this Government pledged to them that they shall receive the pay of a soldier, under the statute of 1861, before there had been any limitation on that pay or any special provision with reference to persons of African descent.

Mr. FESSENDEN. There had been.

Mr. SUMNER. The Senator says there had been at that time. He is right as to the existence of the statute; but, in point of fact, the contract was entered into under the statute of 1861.

Mr. FESSENDEN. It was a simple mistake of the Governor.

Mr. SUMNER. The Senator says it was a simple mistake of the Governor. Granted that it was a mistake, the Governor of Massachusetts has had the idea—and I must say I share it with him—that under the statute of 1861 any person of African descent might be enlisted and be entitled to the same pay as a white soldier. There was no limitation in the statute. There was no color there. There was nothing against the enlistment of colored men under that statute except a blind prejudice which we ought to forget. Governor Andrew thought he was entitled to enlist them under that statute. He did so, and as the representative of the Government of the United States he pledged its faith to pay them the full pay of a soldier under the statute of 1861.

I know the impatience now, and that other business waits; but I cannot take my seat without making the suggestion that it seems to me a line may be run between these two different classes of cases, first, those to whom the faith of the Government is pledged directly or indirectly, and even through mistake, if the Senator from Maine pleases, and that other larger class to which this faith is not pledged. It seems to me if the bill shall be amended in conformity with that distinction, we can all vote for it, and, indeed, there will be no difference of opinion.

I wish to see our colored troops treated like white troops in every respect. But I would not press this first principle by any retroactive proposition, unless where the faith of the Government is committed, and there I would not hesitate. The Treasury can bear any additional burden better than the country can bear to do an injustice.

Mr. FESSENDEN. I hope now that the tax bill will be suffered to be taken up. It is obvious that this resolution is not in a state that the Senate can agree upon it, and it will lead to much longer debate, and there is a necessity for passing the tax bill to-day. I move that the Senate proceed to the consideration of the revenue bill.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) It is moved by the Senator from Maine that the further consideration of the joint resolution now before the Senate be postponed until tomorrow, and that the Senate proceed to the consideration of the bill (H. R. No. 122) to increase the internal revenue, and for other purposes.

The motion was agreed to.

INTERNAL REVENUE.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the bill (H. R. No. 122) to increase the internal revenue, and for other purposes, the pending question being on the amendment of the Committee on Finance to insert after the word "gallon," in line eleven of section one, the following words:

And upon all liquors that may be distilled after the passage of this act, and sold or removed for consumption or sale on and after the 1st day of July next, and previous to the 1st day of January next, seventy cents on each and every gallon; and on all liquors that may be distilled after the passage of this act, and sold or removed for consumption or sale on and after the 1st day of January next, eighty cents on each and every gallon.

Mr. HENDRICKS. I offer the following amendment—

The PRESIDING OFFICER, (Mr. CLARK.) Is it an amendment to the amendment?

Mr. HENDRICKS. It is an amendment to the text.

The PRESIDING OFFICER. It is not in order unless it is an amendment to the amendment now pending. It will be in order after going through with the amendments of the committee.

Mr. HENDRICKS. The amendment that I propose is not inconsistent with the amendments of the committee, but ought to be considered, I think, before the amendments proposed by the committee. My amendment proposes to reduce the tax from sixty to forty cents on the gallon, which ought to be considered first.

The PRESIDING OFFICER. The Senator will allow the Chair to suggest that when the amendment comes up in regard to the amount of tax that may be in order as an amendment to that amendment.

Mr. FESSENDEN. I suppose the Senator's object is to move to reduce the sixty cents in the eleventh line to forty cents.

Mr. HENDRICKS. That is my proposition.

Mr. FESSENDEN. And if he succeeds in that he would reduce the others, I suppose, to fifty and sixty cents respectively.

Mr. HENDRICKS. I do not know that I would agree to that proposition.

Mr. FESSENDEN. Then I would suggest to him that if he has no objection to this clause as it stands, and would not attempt to alter it, he may as well let us act upon it, as that is the ordinary course; but if he desires to reduce the sixty cent duty to forty cents, and the others to fifty and sixty cents respectively, his mode would be to move to amend the amendment proposed by the committee which is now under consideration by striking out the seventy cents and inserting fifty, and by striking out the eighty cents and inserting sixty, and he can move afterwards to reduce the sixty in the eleventh line to forty; but if this amendment is once adopted it will not be amendable, I suppose. Therefore, if he proposes to amend this, he can do it now, and he can amend the sixty after we have gone through with the amendments of the committee.

Mr. HENDRICKS. I am not choice about it.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the committee.

Mr. HENDRICKS. The Chair decides that an amendment to the text is not now in order.

The PRESIDING OFFICER. The Chair so understands.

Mr. HENDRICKS. Then I move to strike out the word "seventy," where it occurs in the amendment of the committee, and the word "eighty," where it occurs, and to insert instead thereof "forty," in each case.

The PRESIDING OFFICER. The Senator proposes to amend the amendment of the committee in the manner suggested by him.

Mr. FESSENDEN. The Senator of course can vote against the whole amendment after it has been amended; but he will excuse me for suggesting that I presume that if he intends to insert forty in the eleventh line, he ought not to propose to insert the same sum in the fifteenth line.

Mr. HENDRICKS. I will state to the Senator that—

The PRESIDING OFFICER. Will the Senator from Indiana state his amendment to the amendment again, and let it be repeated from the desk. The Senate will then understand it.

Mr. HENDRICKS. My amendment is to strike out "seventy" and "eighty," where they

occur in the committee's amendment, and insert in lieu thereof in each place "forty" cents.

The PRESIDING OFFICER. The amendment to the amendment will be reported.

The Secretary read the amendment to the amendment.

Mr. HENDRICKS. Mr. President, I have a very few suggestions to make to the Senate upon this question. The bill, as it came to the Senate from the House of Representatives, was not satisfactory to me as a representative of a northwestern interest. I am free to say that the amendments proposed by the Committee on Finance of this body have made the bill more acceptable. Clearly, the proposition to impose an additional tax upon liquors already in the market, and which have already borne their tax, was so unjust, so unwise, in my judgment, as that it could not receive the favorable consideration of so enlightened a committee or of the Senate; and the proposition to strike out that feature of the bill I will certainly support with great cordiality.

But, sir, the entire measure is one that I cannot support. This bill proposes to tax an article of northwestern production, while it does not propose to change the rate of taxation upon the other productions of the country. This is not an amendment of the act of 1862. I admit that very properly, by way of amendment, an old law may be amended in one of its sections; but this is an original bill proposing "to increase the internal revenue, and for other purposes."

What was, Mr. President, the plain duty of Congress in undertaking to increase the revenue? First, it seems to me that it was proper that we should consider how much additional revenue the condition of the country required. We have not been informed by the chairman of the committee who made his exposition of this bill yesterday how much revenue the Government now requires in addition to that which is raised by the present law. We certainly ought to be informed upon that subject. I presume that the committee have come to a conclusion upon that question; and if so, the Senate ought to be advised of it. Does the committee propose that there shall be an increase of the revenue by internal taxation to the extent of one hundred or two hundred millions? We ought to come to a conclusion that it is necessary to increase the revenue to a certain amount, and then that increase ought to be apportioned among the several interests of the country fairly, equitably, and justly.

The act of 1862 did not impose a tax upon one single interest of the country. It imposed a tax upon almost all the interests of the country. It was a revenue measure. It taxed liquors; it taxed other western interests; it taxed eastern interests, making an entire system. It has been in operation now nearly two years; and of course if the Committee on Finance in this body find that that measure is defective in some particular that defect might be removed by legislation; but it is not stated by the committee, this bill is not based upon the proposition, that the original measure in its adjustment of the burdens of Government upon the several interests of the country has been found to be defective. That is not the position of the committee, nor is that the proposition of this present measure; but the present bill proposes to increase the tax upon an article of western production two hundred per cent. without informing the Senate what additional burdens are to be borne by other interests of the country. If, instead of bringing in such a bill as this, we had had an entire change or an increase of the tax upon the different interests of the country, we could then tell whether it was equitable, just, and fair to the different sections; but the committee has not brought in any such measure, and therefore I say it is unjust toward the Northwest.

I know there is a sentiment that liquor will bear a high tax. It was not alluded to by the chairman of the committee yesterday, in explaining this bill, that liquor should be taxed with a view to decrease its use in the country. This measure is a revenue measure, and is not based upon that idea. This measure rests upon the proposition that liquor will be produced and used, and that from its production we can realize a revenue; and the simple question, then, as a revenue measure, without reference to the encouragement or discouragement of the production of liquors, is, how can this measure be considered with reference to its fair-

ness, its equality in adjusting the burdens upon the several interests of the country?

The chairman did not state to us why it was right to impose upon a production of the Northwest an increased tax of two hundred per cent. The law of 1862 was considered to have imposed a very great burden upon this production. Liquor in the Northwest at the time of the passage of that law was perhaps worth from twelve to twenty cents a gallon, and then a tax was imposed of more than one hundred per cent. upon the production; and it was considered a very high tax, when other interests of the country were taxed three per cent. upon their productions. Now this interest is selected out for an increase of two hundred per cent. upon the tax of 1862. I am not able to see that that is just. Indiana, according to the census of 1860, produces eight million gallons; Ohio and Illinois each about fifteen million gallons. The State of New York, the largest producing State of this article, produces about twenty million gallons. The largest production is in the State of New York; yet the liquor manufactured in the State of New York is produced from western corn almost entirely; and this tax, whatever it is upon liquor, is a tax in fact upon a northwestern production, and in the end must fall on the corn producer upon our rich lands. I know that just now, under the stimulated condition of the currency, liquor will bear a very high tax; but this I suppose is intended by the committee to be a permanent law, which is not to cease to be enforced at the end of one year or two years, and in considering it it is proper that we should look forward three or four years to a period when our currency shall have been greatly reduced, when it shall have approached a specie standard. Then I ask the chairman of the committee whether whisky will bear such a tax as this? While everything is increased in price in the country, and while men are willing to pay almost any price for any article they desire, perhaps liquor will bear a much increased tax over that which it now bears; but after three or four years shall have passed, when the war shall have come to a close, when the currency shall have been greatly reduced, when men will not be willing if they are able, and when perhaps they will not be able to pay the present extraordinary prices, I ask the chairman if then he believes that liquor will bear such a burden as he proposes to impose upon it?

My amendment proposes that we shall double the tax on this production. Is not that quite enough? Are the interests of the other sections of the country willing that their taxes shall be doubled? Whether or no we cannot say, because the increase upon the other productions does not accompany the proposed increase in this bill. It is first proposed that this article of northwestern production shall be burdened with this extraordinary tax, and that afterwards the revenue shall be adjusted according to the pleasure of the majority upon the other interests of the country. If so, this is not a fair mode of legislation. If the system is to be changed by an increase of the taxes generally, we ought to have it in one measure, so that we can tell whether a northwestern interest is unequally taxed in comparison with the tax that the measure proposes on the other interests of the country.

I do not intend, sir, to discuss this matter further. I desired simply to express my dissatisfaction at an extraordinary tax upon a production of great importance to the Northwest. Corn, sir, is an article that will not bear expensive transportation to market. It is bulky; it is weighty; it is cheap; and therefore we cannot carry it to market when the transportation costs so very much; but when we can put fifteen or sixteen bushels of corn into one barrel, and increase its value very much, we have an article then which we can carry to market either over the rivers running toward the South or over the railroads running to the great commercial metropolis, the city of New York. We can then find our way to market; we can then make a profit upon our labor; but if a policy is adopted here now imposing a tax that at the end of two or three years, when hard times come upon the country, when the currency is reduced, when it is hard to meet the taxes of the Government, will destroy the production of liquor entirely, you strike very materially at the interest of the Northwest; and I desired to express the reason why I could not support such a measure.

Mr. FESSENDEN. Mr. President, I cannot but regard the remarks which have been made by the honorable Senator from Indiana as intended rather for the coming campaign in the Northwest than for the Senate or the bill, for I will not do a gentleman of his high intelligence the discredit to suppose that he thinks remarks of that kind are not fully understood by the Senate, and very easily answered. Does the Senator not know that the mere proposition to impose a tax upon whisky originally led to a very great increase of the quantity produced; that the whisky establishments ran night and day to increase the quantity as much as possible before the tax went into operation? Does he not know an additional fact, that the tax put upon whisky has not decreased the amount produced a gallon since it was put on? Does he not know that since it has been proposed to increase this tax two hundred per cent., as he states, the same effect has been produced as to the quantity manufactured? And does he not know also that before the original tax was put on distilling was at a very low ebb, and a losing business, and since whisky has been taxed it has become a money-making business, owing to one cause and another, and that there has been no decrease of production? Now, sir, if that is the case, the assessing a revenue upon it has produced no effect in decreasing production, and consequently we may infer that those engaged in the production have not considered themselves injured.

In answer to the Senator further, let me tell him what I think he cannot but know, that there never has been the slightest objection to a tax, and a large tax, upon this article, and that the amount put upon it and put upon certain other articles of the same description, that is, articles of luxury particularly, is not predicated at all upon the same idea with the taxes laid upon articles of necessity. And the large number of whisky distillers who were before us from the Northwest, men from the Senator's own State as well as other States of the Northwest, all admitted that this tax of sixty cents was not too high; some, perhaps, thought it might be a little lower, while the large majority said that the article would bear a still further tax, that you might go up to eighty cents without injuring the business, and perhaps to a dollar. The Senator must know that it is predicated upon different principles. When we adjust the taxes upon different articles, do we put the same amount upon each, for the reason that one is produced in one section of the country and one in another? Do you put twenty cents on a gallon of whisky, and twenty cents on a yard of cotton cloth because you put twenty cents on a gallon of whisky? Is that the system of taxation the honorable Senator would recommend as a statesman? And yet, to carry out his idea of equalizing the burdens of the country, you must put the same amount of taxation on all articles, because it will not do to say, "You must adjust them from time to time; if you increase the tax on one you must therefore increase the tax on another." Does not the honorable Senator know that in taxation you tax each article according to what it will bear?

Then again, does he not perfectly well understand, for I suppose he must, that the amount of tax is paid by the consumer and not by the producer of the article? Is all the whisky produced in the Northwest used in the Northwest? Do they drink it all? Does none of it go to the Atlantic border? Is none of it sent to the city of New York? Is none ever sent, at the proper season, or was it not before the war broke out, down the Mississippi river? And who pays the tax when it is laid on an article? Is it the man who produced it and who pays it in the first instance, or the man who uses it afterwards? What led, let me ask the honorable Senator, to the vastly forced production of whisky the moment the idea was suggested of putting a tax on it? Did the producer think he would have to pay it and lose it out of his own pocket, and therefore run his mill night and day to get as much made as he could make? Was that the idea on which he proceeded? And yet the Senator's argument is predicated on the idea that this is a tax on a northwestern production. Would it benefit the people of the Northwest who wear cotton shirts if because we put a tax on whisky we should increase the tax in the same ratio upon cotton, or if because we put a tax on one article which happens to be produced

there we therefore for their benefit put a heavy tax on an article of necessity that is used but not made there? Who would suffer, let me ask the Senator, in that case, the manufacturer who put on the increased price or the purchaser in the Northwest who had to pay the increased price in order to use the article? The Senator will see that the whole of it goes upon a totally different system. Let me tell him that in England the tax on spirituous liquors is more than double what we propose to put on here, and it was for a time a constantly increasing tax; and yet the production increased with it; nobody was injured, but the Government was benefited.

This is an article of luxury in a very great degree. So far as it is not it is an article used in manufactures; and where is it used in manufactures? Is it used in the Northwest or on the Atlantic border in the States where manufactures exist—I mean in the greatest proportions? And if it is used on the Atlantic border, and the tax is put on that which is used in manufactures among us, who pays the tax in the first instance? The manufacturer who buys the article. Who pays the tax in the second instance and in the last? The consumer who uses the article, and not the producer who originally pays the tax.

So I say that I cannot possibly do the honorable Senator's intelligence the injustice to suppose that he intends the speech he has made here with reference to principles so obvious, based upon such ideas as he has advanced, for anything else than campaign use instead of applying to the bill itself. Why, sir, let me tell him that of all the gentlemen who appeared before the committee from the Northwest, the largest distillers there, representing the interests of Indiana, Illinois, and Ohio upon this very point, it was not suggested by one of them that any tax we put upon whisky was taxing a sectional interest, and that therefore we ought to tax in the same relative proportion everything else that is made in every other section of the country, and which they must buy and put upon their backs, in order to equalize the burden upon them. That is, because we tax their production in the first instance, which tax will be refunded to them by those who use the production, we must therefore burden them still more by taxing other articles, which tax they are compelled to pay in the last instance for articles of necessity.

So, then, my answer to the Senator in relation to that matter is obvious. We tax this as an article of luxury. We tax it because all experience has shown that the tax which has been put upon it has never affected the question of production in any way; and let me say to him now that all that the distillers of the Northwest requested of us was that we should not tax the article on hand. They did not allude to the fact that they would be injured or touched by a tax upon production. They asked for a tax upon production in the first place, willingly submitted to it, and the distillers who were before us two years ago said it would bear a much higher tax than the twenty cents we put upon it at that time, and experience has shown that it would. It has not been affected in the slightest possible degree; and why? Because it is very well known that men who use liquor as a beverage will not hesitate about a cent or two a glass, even if the tax came upon them; but in point of fact it is well known that if you take a gallon of whisky and divide it up into drinks it will bear twice or three times the tax it does now, and yet pay the retailer a large profit. That is perfectly well understood, and the Senator may easily calculate it for himself.

There is nothing, then, in the Senator's argument on this subject, and I say so with all respect to him. It does not apply; and more especially does not his argument apply that because you tax an article of luxury which people will have, and which it has been demonstrated by experience is not affected by any amount of tax that has been put upon it or that we propose to put upon it, therefore, for the good of his constituents, we must tax everything they wear in the same proportion, and increase the burdens of living upon them, simply because most of those articles happen to be made in another section of the country.

Sir, I deprecate all these sectional appeals, especially when they are so unfounded. Let me warn Senators that the difficulty under which we are laboring at the present time, the rebellion that

is upon us, the trouble that this country is suffering under, has arisen by the constant iteration and reiteration of talk about sections, about one interest and another interest, and the endeavor to excite a sort of feeling as if one interest was working against another. I hope that my friends from the Northwest will not begin at this early day, until we have settled the other questions, or my friends from the East, where I live myself, if it ever comes from there, to raise any question with reference to the separate interests of the various parts of the country, as if one was disregarded while the other was sustained. Sir, I do not believe there is any such feeling among the people, and there never will be unless it is got up for political purposes.

Mr. HENDRICKS. Mr. President, I have but one or two words to say in reply to the Senator from Maine. The argument which he has presented to the Senate is an old one. At first it seems to have force that a tax imposed upon a production falls upon the consumer entirely. I admit, and I admitted so in the course of the remarks which I had the honor to submit to the Senate, that during the war, while the currency is inflated, that is the effect; but when the times are changed, when the currency is reduced, when hard times come upon the country, that is not the case. Then the producer has to share in the burden that is imposed with the consumer. It cannot be true that you can tax that which is produced from corn and yet not burden that interest. But I do not propose to discuss that point further. My proposition is, as I stated before, that the liquor produced in the Northwest and in other localities out of northwestern corn will, in the present state of the country and of the currency, admit of a heavy burden; but when the currency is reduced it will not bear this burden, and it will be hard upon the corn-growing section of the country.

Upon another subject, to which the Senator has alluded, I desire to say a word. He deprecates sectional appeals. He cannot do that more earnestly than I; but the Senator will allow me to say that words do not cause the ill-feeling between sections. That feeling is produced by measures. No Senator, by what he says in this body, can make one section of the country love another section less, or be less devoted to the union of all the States. Even if I had so bad a heart as to desire such a thing, I could not hope to be able to do that by anything I could say. But, sir, any Senator who gives a vote that will impose the burdens of Government unjustly, produces the state of things which the Senator deprecates; and because I love this Union, because I wish these States to remain together in harmony and affection, I will oppose now, and while I have the honor to hold a seat in this body, every unequal distribution of the burdens of Government. If there had been no other reason than this one now suggested I should oppose this measure. The Senator cannot expect that the Northwest will be entirely content to bear an unequal portion of the burdens of Government. I think that section of country has shown that it is ready and willing to bear its fair proportion. It has not objected to the tax that was imposed two years ago, because that tax was upon an adjustment of the burdens upon the several interests of the country; and I ask the Senator why that same course is not pursued now.

Mr. FESSENDEN. I deny utterly that the tax bill had any reference to the several sections of the country. It had reference to the articles, and was imposed according as the interests of the whole country required that the taxes should be laid upon the different articles. We did not ask ourselves whether this comes from the Northwest, and this from the East, and this from the South, &c., but what tax will the article bear consistently with the interests of the whole country. It was no adjustment with reference to different sections. We did not dream of sections. That is an imagination of the Senator. He frames his whole argument upon an assumption, and not upon any facts that exist. We took it as a principle that all taxes, unless they went to an unreasonable extent, must fall upon the consumer. To be sure, it was supposed with regard to some things, not with regard to whisky, because if there is one article in the whole catalogue where the tax falls exclusively upon the consumer it is whisky, but with regard to other articles, articles of manufacture, it was doubted whether it would be so; but

as to whisky nobody who knew anything about the subject had any doubt about it at all.

Mr. HENDRICKS. What I stated was because I found in the act of July 1, 1862, a law which adjusted the burdens of Government upon the several interests of the country, and I presumed that the Senator, as chairman of the Committee on Finance, had considered what was the burden that each interest of the country ought to bear. I supposed that he considered how much it—

Mr. FESSENDEN. The Senator will allow me to ask him whether there is not a very great difference between "the several interests of the country," and "the several sections of the country?" His speech had reference to "sections." Now he has got it "interests."

Mr. HENDRICKS. I beg the Senator's pardon. I have not changed my position at all. I have spoken of the several interests of the country. I spoke of the production of liquor as being a matter of great interest to the Northwest. I said that it would bear a burden at the present time which three or four years from this time it cannot bear without great loss to the men who labor to produce corn.

Mr. GRIMES. Cannot the law be changed then?

Mr. HENDRICKS. Perhaps it can, but I am afraid it will not be. I said that two years ago the taxes were distributed upon the several interests of the country. That is what I said before, and I repeat it; and I wanted to know of the Senator why the same course was not pursued now. If it was found right two years ago that liquor should be taxed twenty cents on the gallon, and that cotton productions should be taxed three per cent., why has not the same course been adopted now? And if you increase the tax on liquor two hundred per cent., why not make a like increase of the taxes on the other productions of the country?

Mr. FESSENDEN. I will answer right here. I did not think the question meant more than the others, and I did not answer it before. It is simply because some articles will bear increased taxation and other articles will not. From some articles we can raise a larger revenue; some we cannot raise a larger revenue from without laying too heavy burdens upon the country.

But with reference to this particular bill and the reason why it is urged now; I will say that it is the beginning of legislation. Unquestionably the whole law will be revised; but it was thought expedient as this was so large an interest, and speculations were going on from day to day upon the subject, and it was growing more and more difficult and more and more involved, to take it up immediately and lay the tax. It does not follow that we shall not correct the general bill if anything can be found to apply a correction to. The Committee of Ways and Means are endeavoring to find other articles upon which an increased burden can be laid, and from which additional revenue may be derived.

Mr. HENDRICKS. I thought when I read this bill that the same course ought to be now pursued that was pursued two years ago. If a production of the Northwest is to be taxed, let us know for what amount of revenue the tax is to be imposed. I asked the Senator how much additional revenue it was desired to realize by the increase of the taxes. Of course we can only know that when he brings in his entire measure; when he proposes to tax not only whisky but the other interests of the country. Then we can tell what his measure is, but until the entire measure is submitted to the Senate, we cannot judge whether the adjustment is equal to the different sections.

When I spoke of the interests of the Northwest I did not speak with a view of exciting any sectional prejudice. I have always deprecated that; I hope while I hold a seat here to continue to deprecate it; but I repeat to the Senator that if he wishes to maintain friendly relations between the two sections every burden of the Government must be imposed equally upon the different interests of the country; let the Northwest bear its burden equally with the other sections, and then she will cheerfully discharge her full duty; but if it be not equal, the Senator very well knows what is the effect. A law that is not equal cannot receive a cordial support, and efforts will be constantly made through the ballot-box and through public meetings to bring about

a change of that legislation, and the interests that look to existing laws will be constantly disturbed. The Senator knows the importance of an equal adjustment of the burdens of the Government. My purpose in speaking upon this question at all was to call his attention, and to call the attention of the Senate, to the fact that this bill proposes to increase the tax upon an important production of the Northwest two hundred per cent. without informing us what additional increase we are to expect upon other articles of production. I think we should have known it, and then we could tell whether the increased burdens were equally adjusted upon the different interests of the country.

There is one other matter to which I wish to allude. The Senator has informed us that the tax in England is much higher, more than twice as high as the tax now proposed by this bill. I understand that in England liquors produced for other purposes than for drink are not taxed at all, and that liquors produced for the purpose of being drunk are taxed \$2 50 per gallon. That is because of the policy of the English Government. She wishes to discourage the conversion of grain into liquor. She wishes to encourage the production of breadstuffs, while our policy has not been the same. The Senator has not said that he wishes by this bill to discourage the production of liquor; he has not placed the measure upon that ground, but he has presented it simply as a revenue measure. Then, considering it as a revenue measure, I desired to know what is equal and just toward the different interests of the country, and on that question simply I desired to be heard.

Mr. FESSENDEN. In reference to what the Senator has last stated, he will allow me to say that the time being so pressing in reference to this matter, it was considered by the committee that in regard to some one or two manufactures, especially the manufacture of patent medicines, this might operate pretty severely. What effect it will have I do not know; but there was no time to consider that matter and to devise a system. If there is any possibility by which that can be reached it will undoubtedly be done in the course of the session. I understand that in England they have a style of getting up a kind of mixed liquor of some sort or description, with which the spirits have very little to do, that may take the place in manufactures of the spirits themselves. I forget at this moment the name of it. That very subject is under consideration at the present time. But the Senator is very much mistaken if he supposes that it is predicated on the desire of the British Government, or that the tax is laid with any view to discourage the use of spirits. That is the last thing that has been thought of in their legislation; and in my judgment it is the last thing that will be thought of in ours, for we do not undertake to legislate on the question of morals for anybody in reference to these matters. I still say to the Senator, having answered the questions that he put to me—and he admits now that this article will bear the tax at present—if three or four years hence it shall be found that the thing works injuriously in consequence of a changed state of the currency, we can then change the law if it be necessary; and I repeat to him that I wish, when he tells his people that this amount laid upon liquor has increased the sum that they have to pay for each glass, and consequently affects their drinking so much, he will tell them at the same time that his remedy was to double the price of the shirts they wore, and they would be very much better off!

Mr. POMEROY. Mr. President, I submit that this is no question affecting the Northwest or the Northeast or any other section. I am glad that the committee have reported a large increase in the tax upon whisky. I am only sorry that we did not lay an increased tax two years ago. I believe I proposed then to increase the tax to a dollar a gallon. There never was a greater fallacy than to suppose that the producer is burdened by this tax. It would be just as appropriate for a Senator from New York or Boston to undertake to say that because the duties on imports are principally paid in the first instance at the custom-houses in those cities therefore New York and Boston pay all the tariff duties. At the various custom-houses in the country the duties are paid in the first instance; but the amount of

them is immediately put upon the articles themselves, and the consumers in the West and in the Northwest and all over the country pay them.

Precisely so with this tax upon whisky. The producer in the first instance pays the tax. I know that when we put on twenty cents a gallon two years ago the producer immediately put up the price of his whisky twenty-five cents higher than it was before. Twenty cents he put on because it was the tax, and five cents as a kind of apology because he had to pay the tax. He felt himself justified in advancing, and the effect of it was to advance it twenty-five cents per gallon, because the tax was twenty cents. Precisely so now, this tax of sixty or eighty cents a gallon, if it has not already gone into the price, certainly will if this bill passes, and there is not a man who sells a gallon that will not be sure to add that tax to the price, and if he does not add it twice I shall be mistaken. He will certainly add it once to every gallon he sells. The consumers pay the tax on the article, I care not where they live, and I am sorry to say they do not all live in the Northwest. They live everywhere. I do not know a State where it is not consumed. Where it is consumed as a beverage its use is certainly very generally distributed in the West and the East. Where it is used for manufacturing purposes and for making patent medicines it is very generally used in the East, and they do in the first instance there pay the tax.

I merely want to say, in one word, that this tax is no burden upon any section of the country. If it is a burden anywhere it is a burden upon the man who puts the cup to his mouth. Every time he lifts the cup he pays the tax, if he pays for his drink. There is where it falls, and there it is that it ought to fall. So it is with the tariff duties collected at the custom-houses; they are put upon the articles, they follow the articles, adhere to them, and there is not a retailer in the country but has to pay them, and the consumer at the end of the route pays them. It is like the color dyed in the wool, the tariff duty never gets off until the article is consumed.

Mr. HOWE. Mr. President, I would not say a word upon this amendment but for the fact that it is proposed as a measure of justice to the Northwest, and the fact that I happen to represent a portion of that great constituency myself, and for the other facts that I was a member of the committee which reported this bill, and cordially acquiesced in the increase of the tax proposed. I believe it is a just measure, and I was influenced by two considerations. One I am afraid was somewhat sectional in its character. I did desire by increasing this tax to do something, if we could, toward bringing about a little reciprocity in the trade between the East and the West, or the Northwest and the Northeast. I notice that all the boots and shoes the East manufactures for us, and all the cotton and all the woolen goods and all the petroleum they produce are taxed. They send them out to us and charge the tax over to us. We manufacture but very little, at least we manufacture but very few kinds of goods. Our staple happens to be whisky. That is the only article that the East buys of us; and in order to bring about some equality we had to put the whole tax on this one article, and I thought it was best to do it; and I believe we shall get as much revenue out of our eastern friends who drink our whisky as they get out of us in the West who wear their shirts and their boots and shoes. So far my judgment was influenced by sectional considerations.

I was further induced to think that we promote the national character by raising this tax. There is scarcely any necessary of life under the present exigencies of the Government that we are able to afford to anybody at any reasonable or tolerable price. You cannot get a pair of boots, you cannot get a gallon of oil, you cannot get a coat, you cannot get a shirt, you cannot get anything that is a necessity, at a reasonable price; but in spite of the tax which we imposed on liquor two years ago, whisky, distilled spirits have been furnished to the people ruinously cheap. I am told that when corn is worth a dollar a bushel whisky can be manufactured for about forty cents a gallon. If you impose a tax of eighty cents on it it can still be furnished to the people at a dollar a gallon. Now, I suppose a gallon of whisky is equal to getting four men drunk. I do not

know what the exact figures are; I presume the chairman of the committee can tell us just how much it takes. [Laughter.] At least it will get four men drunk.

Mr. FESSENDEN. It may depend on the section of country they come from. [Laughter.]

Mr. HOWE. It might depend something on that. We are in a state of war; we have to tax, as I said before, all the necessities of life, and it did strike me as a scandal that we should still continue to furnish these large quantities of whisky at these scandalously low rates. I thought it would be more respectable to put on a tax which would make a gallon of whisky cost a respectable price, and I think everybody who consumes it will feel a little better in his own conscience if, when he pays ten cents for a glass of whisky, he reflects that the Government gets about seven and a half cents out of that, and, as is suggested by the Senator from Iowa, [Mr. GRIMES,] he is very likely to get a better article; it may improve the quality. I cannot say about that. I thought it would improve, as I said before, the national character to put on this tax.

It is said that it will influence the price of a great agricultural product of the Northwest. I am utterly incredulous upon that point. If I had ever seen a man so squalid, so poor, so miserable, so impoverished, so destitute, that he could not get a glass of liquor when he wanted it, I would hesitate from the fear that we might get the price up to a point at which it would influence the consumption, and so influence the price of the material which goes into it and influence the revenue to be derived from it. I never have seen that individual. I never have seen the individual who had an appetite for drink, no matter what his circumstances might be, no matter what his ability might be to procure anything else, who could not procure enough of liquor to send him into the gutter, and who did not do it. So I am utterly incredulous that the consumption of this article is to be at all influenced by the cost of it; and until it is, it is not going to influence the price of any of the materials which enter into it. But if I am mistaken upon this point, if the time shall arrive when our currency is less inflated, or when from any cause it does influence the price of the materials which enter into this manufacture, if it does diminish the consumption, those who are engaged in the manufacture will know it; and whenever they cannot sell it to the consumer at the cost, whenever they cannot afford to pay this price, they will make it known; and that will be the time to modify the tax on every article we have taxed for the purpose of raising internal revenue. Whenever the time comes that the Northwest will not take the cotton manufactures, the woolen manufactures, and the leather manufactures, and pay the manufacturers for the tax which they pay to the Government, they will cease to manufacture, and we shall have to modify the tax on those articles. That such a time may come in reference to these last articles, I do not at all doubt. When it does come we shall hear from it, and hear from it authoritatively.

Mr. POMEROY. I should feel very well reconciled to this proposition, if the fact was that every time a man paid ten cents for a drink seven cents of that went to the Government. This tax is altogether too slight for any such computation as that. I do not think the Government will get one cent a glass. Suppose we put a tax of sixty cents on a gallon of pure spirits; that gallon by some process gets made into about five by the time it is consumed; and there ought to be among moderate men at least sixty glasses, perhaps eighty, but sixty at any rate to the gallon. If the gallon paid but sixty cents tax at the start, each glass does not pay over one third of a cent by the time it is consumed. This tax is altogether too light; persons who indulge in this kind of luxury can afford to go beyond that.

Mr. HOWE. Allow me to say to the Senator that I was not asserting that that would be the fact in regard to the liquor drunk under the rate of taxation proposed in this bill, but that it would be the case if a rate of taxation was put on which would enable the drinker to reflect that he was paying seven and a half cents to the Government every time he paid ten cents for a glass of liquor.

THE PRESIDING OFFICER. The question is on the amendment proposed by the Senator from

Indiana [Mr. HENDRICKS] to the amendment of the committee.

The amendment to the amendment was rejected, and the amendment of the committee was agreed to.

The next amendment of the committee was to strike out the following clause in section one, from lines twenty-four to thirty:

And all whisky or any other spirit, on being rectified or mixed with any other spirit or fluid whatever, or into which any matter whatever may be infused, and to be sold as whisky, brandy, rum, gin, wine, or by any other name, and not otherwise provided for by this act, or the act to which it is amendatory, shall pay an additional tax of twenty cents per gallon.

The amendment was agreed to.

The next amendment was to strike out the following proviso at the end of the first section:

Provided further, That all spirits on hand for sale, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act from and after the 12th day of January, 1864; except that spirits which have been already taxed under the law approved July 1, 1862, shall not bear more than the additional or increased tax provided for by this act.

Mr. GRIMES. Upon this question I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 30, nays 8; as follows:

YEAS—Messrs. Buckalew, Carlile, Chandler, Clark, Collamer, Conness, Cowan, Davis, Dixon, Fessenden, Foster, Hale, Harris, Henderson, Hendricks, Hicks, Howe, Johnson, Lane of Kansas, Morgan, Powell, Richardson, Riddle, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, and Willey—30.

NAYS—Messrs. Anthony, Doollittle, Grimes, Harding, Harlan, Morrill, Pomeroy, and Ramsey—8.

So the amendment was agreed to.

The next amendment was in line thirty-two of section two, after the word "recovered," to insert "and applied."

The amendment was agreed to.

The next amendment was to strike out the words "also that" in lines thirty-three and thirty-four of section two.

The amendment was agreed to.

The next amendment was to strike out the following proviso to section two:

Provided, however, That where, owing to the perishable nature of the property seized, expense of storage or other circumstances, the value whereof may be diminished by delay of sale, the owner thereof may, if he so choose, apply to the assessor of the district, who shall, if he deem it expedient that the property so seized should be sold, appraise, or have the same appraised under his direction and control, and the owner may give bond or bonds in an amount equal to the appraised value, with such sureties as the assessor shall adjudge good and sufficient, which shall be by him transmitted to the Commissioner of Internal Revenue, to be held and collected, or any part thereof, or surrendered in accordance with the final judgment, order, or decree of the court having jurisdiction of the case; or, if the owner shall not apply as aforesaid, the assessor, upon the application of the marshal of the said district in whose custody and control said spirits or other articles seized as aforesaid may be, shall appraise or have the same appraised under his direction and control, and shall issue and return to the marshal aforesaid an order to sell the same, and the said marshal shall thereupon advertise and sell the same, and the proceeds of sale, after deducting therefrom the costs of seizure and sale, shall be paid into the court having jurisdiction of the case, and paid out as the said court shall on final judgment order or decree.

And in lieu of it to insert:

That when the property so seized may be liable to perish or become greatly reduced in value by keeping, or when it cannot be kept without great expense, the owner thereof, or the marshal of the district, may apply to the assessor of the district to examine said property. And if, in the opinion of said assessor, it shall be necessary that the said property should be sold to prevent such waste or expense, he shall appraise the same; and the owner thereupon shall have said property returned to him upon giving bond, in such form as may be prescribed by the Commissioner of Internal Revenue, and in an amount equal to the appraised value, with such sureties as the said appraiser shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the marshal, or otherwise, as he may be ordered and directed by the court, which bond shall be filed by said appraiser with the Commissioner of Internal Revenue. But if said owner shall neglect or refuse to give said bond, the appraiser shall issue to the marshal aforesaid an order to sell the same. And the said marshal shall thereupon advertise and sell the said property, at public auction, in the same manner as goods may be sold on final execution in said district. And the proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court aforesaid, to abide its final order, decree, or judgment.

The amendment was agreed to.

The next amendment was to strike out the word "to" before "be" in line fourteen of section three.

The PRESIDING OFFICER. That amendment will be made without a vote, being a mere verbal one.

The next amendment was to strike out the letter "s" at the end of the word "provides" in line thirty-three of section three.

The PRESIDING OFFICER. That verbal amendment will be made.

The next amendment was to add to section three the words, "or which provide for an allowance or drawback on cordials and other liquors when exported;" so as to make the latter clause of the section read as follows:

But no provision of this act shall be construed to repeal existing laws which provide that distilled spirits may be removed from the place of manufacture or bonded warehouse for the purpose of being redistilled for exportation, or which provide for the manufacture for exportation of medicines, preparations, compositions, perfumery, and cosmetics, or which provide for an allowance or drawback on cordials and other liquors when exported.

The amendment was agreed to.

The next amendment was to strike out the following provisos at the end of the fourth section:

Provided, That on all cotton on which the duty of a half cent has been paid, the additional duty of one and a half cent shall be levied and collected: *And provided further*, That all provisions of law, whereby cotton in the hands of manufacturers of cotton fabrics on October 1, 1862, and prior thereto, is exempted from taxation, are hereby repealed, and the same shall be subject to the rate of taxation imposed by this bill.

The amendment was agreed to.

The next amendment was in lines seven, eight, nine, and ten of section five, to strike out the words in reference to a permit to remove cotton on which the tax has been paid, "which shall be dated and contain a description, including the weight and other marks of the bales or packages, and a statement of the fact that the duty has been paid," and in lieu of them to insert:

Stating therein the amount and payment of the duty, the time and place of payment, the weight and marks upon the bales and packages, so that the same may be fully identified.

The amendment was agreed to.

The next amendment was in line six of section seven, after the word "countries," to insert "previous to the 1st day of July next;" so as to make the section read:

That from and after the passage of this act, in addition to the duties heretofore imposed by law, there shall be levied, collected, and paid on spirits distilled from grain or other materials, whether of American or foreign production, imported from foreign countries previous to the 1st day of July next, of first proof, a duty of forty cents on each and every gallon.

The amendment was agreed to.

The next amendment was, after the word "gallon," in line seven of section seven, to insert:

And on all such spirits imported from foreign countries, on and after the 1st day of July next and previous to the 1st day of January next, a duty of fifty cents on each and every gallon; and on all such spirits imported from foreign countries on and after the 1st day of January next, sixty cents on each and every gallon.

The amendment was agreed to.

The next amendment was to strike out the following clause at the end of section seven:

And that upon all such spirits imported prior to the passage of this act there shall be levied, collected, and paid an additional tax of forty cents per gallon, to be collected under the direction and according to regulations established by the Secretary of the Treasury.

The amendment was agreed to.

The next amendment was to strike out the ninth section of the bill, in the following words:

SEC. 9. *And be it further enacted*, That it shall be the duty of the assessors and assistant assessors appointed as provided in the act to which this act is an amendment, to assess the additional duties levied by this act upon all spirits and cotton on which the duty prescribed in said act shall have been paid or assessed at the time when this act takes effect; and the lists thereof shall be returned to the several collectors and the collections made in the same manner as in the case of monthly returns of manufacturers. And the duties so assessed shall be a lien in favor of the United States upon all the real and personal estate of the owner of such spirits or cotton, to be enforced in the same manner as is provided in the case of the manufacturers who neglect or refuse to pay the duties provided by the act to which this is in addition: *Provided*, That the additional duty of one and one half cent per pound shall be levied upon cotton sold by the United States previous to the passage of this act, and on which a duty of one half of one cent per pound has been paid; and upon all cotton so sold on which no duty has been paid, a duty of two cents per pound shall be assessed and collected.

The amendment was agreed to.

The next amendment was to insert as an additional section:

SEC. —. *And be it further enacted*, That the provisions of the act entitled "An act further to provide for the collection of duties on imports," approved March 2, 1853, now in force, shall be taken and deemed as extending to and embracing

all laws for the collection of internal duties, stamp duties, licenses, or taxes which have been or may be hereafter enacted; and all persons duly authorized to assess, receive, or collect such duties or taxes under such laws are hereby declared to be, and to have been, "revenue officers" within the true intent and meaning of the said act, and entitled to all the exemptions, immunities, benefits, rights, and privileges therein enumerated and conferred.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is still in Committee of the Whole, and open to amendment.

Mr. VAN WINKLE. I offer the following amendment: in lines thirteen and fourteen of section seven, to strike out "and no lower rate of duty shall be levied or collected than upon the basis of first proof, and shall be increased in proportion for any greater strength than the strength of first proof;" and to insert in lieu thereof, "and the said duty shall be levied and collected at no lower rate than the basis of first proof." The words proposed to be changed are somewhat obscure, and the amendment is intended to substitute for them a similar provision to be found on the second page of the bill.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. How shall the question be taken on the amendments agreed to as in Committee of the Whole?

Mr. DOOLITTLE. In relation to that amendment which has reference to the tax on the liquors already on hand that have been distilled, I desire that there shall be a separate vote.

Mr. FESSENDEN. The vote was 30 to 8 in committee.

Mr. DOOLITTLE. I do not know that it is of any use to have a separate vote.

The PRESIDING OFFICER. That amendment will be reserved if the Senator desires.

Mr. DOOLITTLE. It is true that the vote of the Senate seems to have determined that the amount of tax which is proposed by the House of Representatives—sixty cents a gallon—should not be imposed upon the liquors on hand. I did not know but that if the matter was called to the attention of the Senate particularly, perhaps they would agree to a tax of at least twenty or thirty cents a gallon upon the liquor on hand; and it was with a view to that that I desired to take the sense of the Senate, and therefore I ask for a separate vote upon it.

The PRESIDING OFFICER. That amendment will be excepted.

Mr. DOOLITTLE. I ask that the amendments to the first section of the bill be reserved.

The PRESIDING OFFICER. Does any Senator desire a separate vote on any other amendment?

Mr. DOOLITTLE. Upon the amendments to the first section of the bill which bear on that question I ask for a separate vote.

Mr. FESSENDEN. Only the one striking out the proviso in regard to the liquors on hand is what is reserved.

Mr. DOOLITTLE. I desire to inquire before that matter is determined, whether if a separate vote is to be taken upon that amendment it allows the proviso as it stands to be amended before the vote is taken.

The PRESIDING OFFICER. Undoubtedly.

Mr. DOOLITTLE. I desire a separate vote on that.

Mr. POWELL. I desire a separate vote on the amendment to the first section of the bill from lines twelve to seventeen, increasing the tax to seventy and then to eighty cents.

The PRESIDING OFFICER. That amendment will be reserved. Does any Senator desire a separate vote on any other amendment? If not, a vote will be taken together on the other amendments.

The remaining amendments were concurred in.

The PRESIDING OFFICER. The first amendment on which a separate vote is desired will be read.

The Secretary read it, as follows:

In section one, line eleven, after the word "gallon" insert:

And upon all liquors that may be distilled after the passage of this act, and sold, or removed for consumption or sale, on and after the 1st day of July next, and previous to the 1st day of January next, seventy cents on each and every gallon; and on all liquors that may be distilled after the passage of this act, and sold, or removed for consumption or sale, on and after the 1st day of January next, eighty cents on each and every gallon.

The PRESIDING OFFICER. The question is on concurring in this proposition.

Mr. DOOLITTLE. I ask if there is anything contained in that branch of the section which would prevent the full effect of the amendment which I wish to make in the last proviso to the section, and that is that twenty cents additional tax shall be levied upon the liquors on hand.

Mr. FESSENDEN. This amendment has reference to the liquors to be distilled hereafter, after the passage of the bill.

The amendment was concurred in.

The next reserved amendment was the amendment striking out the following proviso to the first section:

Provided further, That all spirits on hand for sale, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act from and after the 12th day of January, 1864; except that spirits which have been already taxed under the law approved July 1, 1862, shall not bear more than the additional or increased tax provided for by this act.

The PRESIDING OFFICER. The question is on concurring in this amendment made as in Committee of the Whole.

Mr. DOOLITTLE. I desire to amend that proviso so as to make it read:

Shall be subject to a rate of duty of twenty cents per gallon in addition to that imposed by the law of July 1, 1862.

Mr. FESSENDEN. The Senator will hardly accomplish his purpose by that. There are two classes of liquors affected by the proviso as it stands in the House bill: one class which has paid no duty at all, and another which has paid a duty of twenty cents a gallon; and the proviso is that the same rate of duty on that which has paid no tax shall be imposed as is imposed by this bill, and upon that which has already paid twenty cents, only enough to make it equal.

Mr. DOOLITTLE. Perhaps I can accomplish my purpose by proposing to strike out the word "the" after the word "than," in the fortieth line, and inserting "twenty cents per gallon," and striking out the words "provided for by this act," in the forty-first line; so as to read:

Except that spirits which have been already taxed under the law approved July 1, 1862, shall not bear more than twenty cents per gallon additional or increased tax.

Mr. FESSENDEN. Let me make another suggestion to the Senator. He will see that we have altered the previous provision by making a grade of duties. This proviso was drawn before that was so altered:

That all spirits on hand for sale, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act from and after the 12th day of January, 1864.

Is it to be subject to all of them, to the sixty cent tax, the seventy cent tax, and the eighty cent tax, or which of them?

Mr. DOOLITTLE. I have not myself examined very critically the whole language of this section, I confess. This bill is being passed very rapidly through the Senate. My purpose is—

Mr. TRUMBULL. If the Senator from Wisconsin will allow me, I desire to suggest an amendment which perhaps will accomplish his purpose. It is to change the proviso so as to read as follows:

Provided further, That all spirits on hand for sale, whether distilled prior to the date of this act or not, shall be subject to a tax of twenty cents on each and every gallon from and after the 12th day of January, 1864, in addition to the tax already imposed under the law approved July 1, 1862.

Mr. DOOLITTLE. That would cover it.

Mr. FESSENDEN. Then it puts a tax of twenty cents—

Mr. TRUMBULL. On that on hand.

Mr. FESSENDEN. On that on hand which was made before the passage of the first act, and forty cents on that which was made after.

Mr. TRUMBULL. Oh, no.

Mr. FESSENDEN. Certainly. There may be an amount on hand which has paid no tax at all, and another amount on hand which has already paid twenty cents.

Mr. TRUMBULL. Twenty cents in addition to the tax imposed by the old law.

Mr. FESSENDEN. But twenty cents in addition to the tax imposed by that law—

Mr. TRUMBULL. Would make forty cents on all of it, would it not? Twenty cents was imposed by the prior law. Now if you put on twenty cents more it makes forty.

Mr. COWAN. But there is whisky that was

not taxed by the prior bill, and to that the Senator from Maine alludes.

Mr. TRUMBULL. But it is subject to pay, is it not?

Mr. FESSENDEN. Not at all, because it was manufactured before the first law was passed.

Mr. DOOLITTLE. It may be that it would require a little more time in order to draw a proviso so as to put it precisely in proper shape to reach the liquor which is on hand; but the point at which I aim is to impose a tax upon the liquor on hand, which has been purchased undoubtedly with a view to the rise which would be the result of the tax about to be laid by Congress upon that article.

Mr. FESSENDEN. Let me suggest that the bill may be laid aside for a few moments till the Senator can draw his proviso.

Mr. DOOLITTLE. Let it go over until tomorrow.

Mr. FESSENDEN. No; I want to finish the bill to-day.

Mr. SHERMAN. The Senator from Wisconsin will allow me to suggest to him that he will find it extremely difficult to frame any amendment to this bill without a careful study of the whole subject-matter. I may state that I myself have been in favor of a moderate tax upon the spirits on hand, and a graduated tax on those to be manufactured in the future; but it is impossible to frame an amendment to this bill to carry out that idea without applying your amendment to three or four different sections of the bill. For instance, if the Senator should propose a tax upon the spirits on hand he must propose a corresponding tax on the imported liquors now in this country that have already paid a duty at the custom-house. That duty is imposed in another section of the bill which has been amended by the Senate. It will be necessary to change this bill in many important particulars, in several sections, to carry out the Senator's idea. I state to him the difficulty in the way of doing that now. If the bill is changed, if the Senate should agree to tax the liquor on hand, it would be much wiser to recommit the bill with instructions. It is impossible now in the Senate Chamber to frame the necessary amendments in carefully selected language.

I did not intend to say a word on this bill; I intended to follow the committee, and let the matter go over for future consideration upon the disagreement between the two Houses. If the House of Representatives shall insist on its proposition to tax spirits on hand, the question will again come before us in some form, and we can then propose a modified tax on the spirits on hand, if the Senate shall think it advisable. I think it would be much wiser for us to agree to the report of the Committee on Finance, and let the subject be disposed of in that way.

Mr. DOOLITTLE. I am not precisely prepared to allow this thing to go by default. It is true the sense of the Senate was expressed on the vote which was taken on this subject, and expressed pretty decidedly against standing on the bill as it came from the House of Representatives in this respect; but upon the question whether there should or should not be some portion of this tax put upon the liquor which is in the hands of speculators who purchased it in view of this very legislation, the Senate has not expressed its opinion. It seems to me that it would be just that some additional duty should be laid upon them. I do not care in what shape the thing is placed, whether in the shape of a motion to recommit with instructions, or a test vote on some proposition now before the Senate.

Mr. COWAN. Make your proposition in the shape of a motion to recommit.

Mr. DOOLITTLE. I will at the suggestion of my friend from Ohio and other Senators move to recommit the bill to the Committee on Finance, with instructions to so amend it as to provide for an additional tax of twenty cents per gallon on the liquors on hand in addition to what has already been imposed; and on that point I desire to submit a single remark to the Senate; I shall detain them but a moment. I have received a communication from a firm who I believe are the greatest distillers in the State of Wisconsin, in which they say:

"DEAR SIR: We take the liberty of addressing you on the matter of taxing distilled spirits, as the action of Congress will affect us materially. We are distillers using three

hundred bushels of grain per day, and under the present law taxing spirits twenty cents per gallon we pay about two hundred and ten dollars per day.

"If under the new law now before Congress spirits on hand are not taxed, we must stop our works whenever the law goes into operation, as we shall not be able to compete with speculators who have large quantities on hand in anticipation of the increased tax.

"We are feeding about two hundred and fifty head of cattle which will not be fit for market till May next, and if we stop our works we must sell our cattle, half fattened as they are, at great loss; and if a prospective tax is laid upon all spirits manufactured after some future day, say May 1, 1864, then those who have large stocks on hand will suffer no loss.

"We think it unfair for Congress to ruin us by altering the law. The law can be changed and we left unharmed, and by the same means the revenue enhanced. If the distillers are ruined we cannot pay any more revenue, and the speculators who have the spirits stored make the profit instead of the Government."

This is a letter from gentlemen interested in this legislation, and it must go for what it is worth. It is their decided opinion, they being distillers running their distilleries, purchasing corn, making it into whisky, and selling it, and then putting the proceeds back again into the purchase of grain for manufacture again into whisky, that if the law goes into effect as it now stands before the Senate, the distillers themselves will be broken down in competition with the speculators who have large stocks of liquor on hand. I do not profess to understand this question very well. There may be, perhaps, insuperable objections to this view, but I am not quite satisfied to allow the matter to go by default without an effort at least to put something of a tax upon the liquor on hand, and therefore I make the motion as a test question of the sense of the Senate whether there shall be a tax put upon the liquor on hand.

Mr. FESSENDEN. I think I can explain this matter very readily. We had a whole room-full of distillers before us from all sections of the country, and they were unanimous in the opinion that if we put the proposed tax upon the liquor on hand it would ruin them. These gentlemen write that if you do not put it on, it will ruin them. Now, what is the explanation? It is a very simple one.

A large portion of the distillers through the Northwest, in contemplation of this action of Congress, and especially the proposition to tax liquors on hand, have for the time broken down in their credit. Nobody will lend them anything. The banks will not lend to them; the commission merchants in New York will not advance to them; and they are, as they say, and as I can readily suppose, in a very uncomfortable situation about it. If they have to pay such an enormous increased tax, the inference drawn by moneyed men is that it must stop their works. But the distillers as a general rule have a considerable quantity on hand themselves that they have not been able to send forward during the winter, and they say that if you put the tax on what may be made hereafter and leave them the profits to be made on what they have on hand and on what they may make before the bill shall pass, they can get through, because that will bring up their credit.

There are, however, some few distillers in the country—and this firm in Wisconsin may be in that condition—who have disposed of all their whisky at a high profit, have got rid of it, and have none on hand. The way they will be ruined will be that in case we put a tax on the liquor on hand they will not have a dollar to pay while everybody else will, and they can undersell the market! That is the simple secret of it, because there is no way in which you can talk of their being ruined by a duty on the liquor on hand if they have not got any! How is it going to hurt them? They say because the speculators have got so much; but there are very few speculators who can sell it at any less price, and all those who have liquor to sell derive an advantage from it. That is the simple fact. Some few in the country have been fortunate enough, if it may be considered fortunate, to dispose of all they had and make their profit. Now, if you will just put the tax on all that is on hand it will not touch that which they have sent to market and disposed of, and leaving them to manufacture anew they can sell at a much less price than those who are now in the market. That is the explanation of it.

Mr. TRUMBULL. I think I can explain to the Senator from Maine how persons could be injured by putting this tax exclusively upon the

whisky produced hereafter. There are in my State large manufactories of whisky, and to tax the whisky on hand the same amount that you do that which may be hereafter produced would operate very injuriously upon them. They live at a considerable distance from the market, and they necessarily have on hand a quantity of whisky, whether they have been manufacturing more than ordinarily or not in consequence of the expectation that an increased tax would be laid upon whisky. It takes some thirty, forty, fifty, or sixty days at this season of the year to transport their whisky from the place where it is manufactured to the markets of the East. They have, therefore, a large amount on hand; and if you tax that whisky forty cents a gallon you break them up; they cannot pay the tax; and hence I voted against placing the same tax upon whisky on hand as upon that which should be manufactured hereafter. I thought the operation of it would be unjust and unequal, although I was aware that persons have been speculating out of what they supposed might be the legislation of the country, and I was aware that the manufacturers of whisky had been running their manufactories to the greatest extent, in order to have on hand a large amount which should supply the market for a long time, and upon which they would not have to pay this additional duty. But still I can see, and I think I can explain to the Senator from Maine, how not laying any tax at all upon the whisky on hand is to operate against the manufacturers in some instances.

The manufacture of whisky is not carried on by itself. All the manufacturers of whisky feed large numbers of cattle and hogs. That is a part of the business carried on by them. They have got these cattle and hogs on hand. Now, what will be the result if you levy a tax on the future production of whisky of sixty cents a gallon and no tax on that which is now on hand, which I understand is a very large quantity? The Senator from Maine knows much better than I do how long it will supply the country, but I have been told it would supply the country for six months, and some say even longer than that. The manufacturer cannot enter into competition with those persons who have the whisky on hand, and pay sixty cents a gallon tax on it when they have paid only twenty.

Mr. FESSENDEN. Will it help him any if you make him pay twenty cents on what he has got on hand himself?

Mr. TRUMBULL. Suppose he has none on hand, or if he has but a small quantity on hand, I submit to the Senator that by putting a tax upon that on hand, and making it equal with the other, he may be able to continue the running of his manufactory and go on with his business. Now, is it just to allow those persons who had more capital, the large distillers, if you please, who have been able to accumulate a large stock, and to anticipate what they supposed might be the legislation of the country, to supply the country for months and months without paying any tax at all, or only the twenty cents which they have paid, and require a man who has sold his whisky as he manufactured it to pay sixty cents on all that shall be manufactured hereafter? I know the Senator asks, will it help him to have others pay? Suppose I were to reply to that in this way: if you do not raise the tax on whisky at all what would be the condition of these whisky dealers who are complaining? They say they will be ruined. They come here and they say they will all be ruined if you impose this tax upon the whisky on hand. What would be their condition if you did not tax the future production of whisky at all? They would be exactly in the same condition that they would be in if you put the sixty cents on all of them. It is precisely the same thing. They would be ruined then. The amount of it is that they want you to tax (and that is why they are so willing to have a heavy tax put on hereafter) the future production of whisky, and they would be glad to have you tax it one dollar or five dollars a gallon. That is the reason they are ready to have a very high tax put upon the future manufacture of the article, because they have got a quantity on hand that is to make their fortune. But if you are not to raise the tax at all these men tell you they will be ruined. They may not say that, but the Senate will see the effect upon them would be precisely the same as it

is if you put the additional tax of forty cents on, because then they would all stand on the same footing, all paying sixty cents a gallon, or now, as the law stands, all paying twenty cents a gallon. The only difference possible would be that it would require perhaps more capital. Having to pay an additional tax, it would require some increased capital; but it is only in that respect that I can see that their condition would be any different from what it would be if you leave them precisely where they were.

I think the fair way of doing this is to adopt the proposition of the Senator from Wisconsin. I think the men who have undertaken to speculate in whisky and take advantage of the anticipated legislation of the country will make money enough if they are required to pay twenty cents additional tax, that is forty cents on the gallon altogether, and let those who manufacture whisky hereafter pay sixty cents. I think that would be as near doing justice as we can get at it. I would not tax the whisky on hand to the same extent that I would that manufactured hereafter; but I am willing to divide it and impose a tax of twenty cents upon the whisky which has already paid twenty, forty cents upon that which has paid nothing, and sixty cents, seventy cents, and eighty cents, according to the grades provided by the bill, on that which shall be manufactured hereafter.

Mr. RICHARDSON. I do not think there is any soundness in the argument which has been submitted by gentlemen in favor of a tax upon liquor on hand. The bill as introduced by the Committee on Finance proposes to tax all liquors distilled after the passage of the act according to certain rates. Under it the distillers can come in competition with those who now hold whisky, and can prevent them from making that vast amount of money which I anticipate they may make.

There is another reason why a duty should not be laid upon liquor on hand. Every interest in the country wants stable legislation. It is destructive to business when you have put one tax on an article to put an additional tax on the same article. It unsettles trade and is a ruinous operation. Now, I shall not say here that these speculators will not make a great deal of money in this case. Why, sir, they will make money out of any legislation that we may have which changes in any particular what we have done heretofore. For these reasons I have supported and intend to sustain the report made by the Committee on Finance.

Mr. DOOLITTLE. In moving to recommit this bill with instructions, I did not intend to make the instructions so definite as to raise any particular question upon the exact amount of tax to be levied. I want the principle, and it is upon that that I ask for the sense of the Senate; and I will therefore modify my motion as to the instructions, by instructing the committee to report a bill which shall levy a duty upon liquors on hand, not specifying the particular amount of duty.

Mr. POWELL. I cannot concur in the motion of the Senator from Wisconsin. I am very confident that the distillers in this country do not desire a tax to be imposed upon the whisky on hand. I do not think it is wise or politic to tax the whisky on hand, and I am not sure that it would not be an act of bad faith on the part of the Government if it were to do so. By our legislation heretofore we have imposed what was regarded as a very heavy tax on whisky. Persons throughout the country engaged in that branch of business have conducted their operations with a view to the existing law. They have paid the tax upon the larger portion of the whisky on hand; and I ask is it just, is it proper, is it keeping faith with these people to make them pay another tax upon that article upon which they have already paid the tax imposed by law? It would be just as proper to cause each and every individual in the community to pay an additional tax upon his income as to pay an additional tax upon whisky. Under the law I suppose that every gentleman in this Chamber has been called upon by the assessors in his region of country and has paid his income tax to the collector. Should we not think it bad faith if by any law now proposed we were to be reassessed and made to pay an additional tax upon that income?

But the honorable Senator from Wisconsin has read a letter from a distiller who says it will ruin his business if this tax is not imposed upon the

whisky on hand but is simply imposed upon that hereafter to be made. I have had very large intercourse and correspondence with gentlemen engaged in the manufacture of whisky. My own State is very largely interested in it, and the States immediately adjoining, Indiana, Illinois, and Ohio, are very largely interested in this matter of the manufacture of whisky. I have within the last week seen some dozen or more gentlemen engaged in the business, and all the distillers with whom I have talked and with whom I have corresponded say to me that if whisky is taxed, "let that which is to be made in the future be taxed, let us know what we are about, and do not tax that which is on hand."

I held a conversation with three very intelligent gentlemen from the State of Illinois, engaged in this business, who called at my lodgings the day before yesterday. They are men of sense, men of much practical experience, who have been evidently thrifty in their business. They told me by all means resist the tax upon whisky on hand, for they said, "if you lay a tax upon that on hand you will ruin us; we shall have to stop our business;" and they assigned to me what were very conclusive reasons for their opinion. They said that in consequence of their distance from market they have a large quantity of whisky *in transitu*, they have a great deal on hand, and if this increased tax is imposed upon that it will destroy the profit they would otherwise make upon it; and the profit they make upon that, surrounded as they are, is the only thing that will save them from bankruptcy and from ruin. They told me that they had laid in large quantities of grain at very high figures; that the contemplated action of Congress, and the passage of this bill in the other House, had reduced the price of corn some fifteen or twenty cents a bushel in the West, and consequently they had paid twenty cents a bushel more for their corn than they could now get it for; and in consequence of having to pay such high prices for the stocks of grain they have on hand, which they are to work up, the passage of this bill would be very onerous upon them. There is scarcely a distiller in the West engaged largely in this business who has not more or less whisky on hand in his still-house and *in transitu*. If you do not impose a tax upon that they will derive a profit from that whisky on which the Government has already laid a tax, and on which in most instances it has collected the tax. I do not think that we should strike down these persons.

I venture to say that the case of the distiller who wrote to the Senator from Wisconsin is an exceptional case. I know that I have received no such correspondence, and I know that a large number of distillers have called upon me, knowing that my State was interested in this matter, and they say to me precisely what the Senator from Maine, the chairman of the committee, says they said to him in his committee room. In fact some of the gentlemen that have conversed with me told me they had already been before that committee.

This is an interest of very great magnitude in the western country. It will affect these people there more seriously than any other. In a word, it will affect the great corn-growing States; it will affect the State of Ohio, the State of Indiana, the State of Illinois, the State of Kentucky, and the State of Missouri more than any other States in the Union. The very fact of Congress indicating an intention to make them pay such a heavy tax on whisky has already, so these gentlemen from Illinois told me, thrown down the price of corn about twenty cents on the bushel. So you not only strike the whisky-maker but you strike every small farmer who raises a bushel of corn to sell, and I am very happy to say that in the matter of raising that cereal there are very few people in the States I have mentioned that have not more than one bushel of corn to sell. They produced heavily of that article for sale.

So far, then, as the report of the committee indicates a desire not to tax the whisky on hand, I heartily and fully concur with them. I have no doubt that they have acted wisely, circumspectly, and prudently in that matter. It is the only thing that will save the distiller. Take one of those heavy establishments now that has a good deal of whisky on hand, lay this additional tax upon it, and require them to work up their very large stocks of grain, when that grain, they

having purchased it some time back, was worth twenty cents a bushel more than it is now, and all the stock in their pens will have to be turned out unfattened. That will be the result, and it will work very serious injury to the great grain-growing interests of the country. The growers of rye, the growers of corn, and of every other grain that is distilled into whisky will be the sufferers. I hope the motion of the Senator from Wisconsin will not prevail, and that the Senate will adhere to the position of the Committee on Finance on this question.

Mr. COWAN. Mr. President, to recommit this bill now with instructions to levy a tax upon liquors on hand is to change totally and entirely the principle which is involved in the original law to which this is an amendment, as well as the amendment itself.

There are two kinds of taxation. The first is taxation upon property already in possession, in enjoyment. I suppose there is no principle better settled than that if a Government resorts to that kind of taxation the taxation must be equal; it must be uniform; and it must be upon the property of all citizens. When did a Government single out a certain class of its citizens and tax their property while the property of other citizens was exempt? Let us suppose, for instance, that one man has a thousand barrels of whisky and another man has a thousand barrels of flour; both in possession; both bought and paid for; both being to them the same as any other property. The Government proposes to tax the man owning the whisky \$5,000 if you please, or in this case it would be a great deal more, almost asking him to pay for it over again. Has he not a right to inquire, "Did you tax my neighbor's flour?" "Oh, no." "Why?" "Because yours is whisky." "Well," he replies, "suppose it is. Is it not a lawful article of commerce? Is there anything to forbid me from buying it and selling it? If there is I should like to know it. Otherwise, I should like to know why I am singled out to bear the burdens of the Government and my neighbor to escape them."

Mr. TRUMBULL. If the Senator will allow me—

Mr. COWAN. One moment, if the Senator pleases. I shall be through directly.

The principle involved in this bill is a different one. It is what has been called in the books indirect taxation; that is, it proposes to tax nothing that anybody has now on hand, but something they are going to get hereafter; and therefore they have the option, if they do not want to pay the tax they need not get the article. We propose to tax liquor which is hereafter to be made. The man who does not like to pay the tax need not make whisky. As it is admitted pretty generally that the tax falls on the consumer, if the consumer does not like to pay the tax he need not drink the whisky. That is the principle which pervades this bill all through, I think, with perhaps a single exception in the article of cotton. The cotton on hand is taxed, and I think improperly. However, I have no quarrel to make about that.

Mr. FESSENDEN. That has been stricken out.

Mr. COWAN. I have no quarrel to make upon that.

Mr. President, in my opinion, to levy a tax upon the whisky on hand in this country would be totally impracticable, utterly impossible. It would require you to quadruple the number of your officers, and it would require you to make domiciliary visits into a thousand houses where you only enter one now; and let me say further, into a thousand of the most dangerous houses in the country for the peace of the country. Is the United States officer to visit the grog-shop where there is a barrel upon the tap and say to the owner, "You must pay for this over again?" The owner may say, "I cannot; it is all the capital I have. Everything I have in the world is in that barrel, and out of that barrel I expect to make my living." Are you to go to the cross-roads in the same way? Are you to follow this commodity everywhere wherever it is to be found for sale, even in the smallest quantities? because that is what is contemplated if this bill should be recommended.

I think the Senate is not prepared to do that. I do not think the country is prepared to do it. Certainly the dominant party in the country ought

not to be prepared to do it, because its effect in a political point of view cannot now be estimated; and I am not so very certain that it was not introduced in the first place in the other House with a view to that effect.

Mr. JOHNSON. I understand the honorable member from Wisconsin to desire the vote to be taken on the proposition he submits to be a test vote. I propose, therefore, very briefly to state why it is that I shall vote against the instructions which he proposes.

I am in favor of the amendment reported by the Committee on Finance as far as this particular question is concerned; and in what I am about to say I shall not stop to inquire (because in the view in which it presents itself to my mind I deem it immaterial) what effect upon individual interest the amendment proposed by the Committee on Finance will have. My vote is governed entirely by what I believe to be a sound principle. I do not question the constitutional power to levy this tax; I mean to levy a tax on the quantity on hand. My objection is founded entirely on what I believe to be a principle of sound and enlightened policy; and so thinking, my impression is that every departure from it must be more or less dangerous.

The original tax itself, as has been stated by the honorable member from Pennsylvania, is an excise. It is not a tax upon anything on hand. It is a tax upon what is hereafter to be manufactured. It is therefore in the nature of a license which Congress have provided shall be paid for by him who thinks proper to manufacture whisky. You have levied, therefore, in your antecedent legislation a tax of twenty cents upon the gallon, not upon the whisky that was on hand at the time you levied the tax, but upon the whisky that should thereafter be manufactured. In other words, you say to the distiller or whoever thinks proper to engage in distilling, "You are at liberty to distill and to sell what you distill if you will pay to us twenty cents upon each gallon you make and sell." You do not tax him for the making. In order to render your tax effectual you require that there shall be a sale as well as a manufacture. You tell him, therefore, that if he makes and sells he shall pay, not for the privilege of making, but for the privilege of selling, twenty cents.

Now, it will readily be perceived, as I think, unless I am very grossly mistaken, that this is holding out an inducement to every one in the country who thinks proper to embark in that particular enterprise to engage in it. He engages in it, therefore, on the faith of that promise, that if he does make and does sell, he shall be at liberty to sell if he will pay you twenty cents. He makes all his arrangements accordingly. He abandons any antecedent business in which he may have been engaged and engages in this, supposing that it will be more advantageous to him. He enters into all the engagements which are necessary to enable him to carry on advantageously this new business in which, at your instance, he is about to embark. He buys property; he borrows money. He makes, in a word, all his business transactions to suit the business in which he is about to engage; and now you say that after he has thus manufactured in this business his million gallons of whisky, having done it upon your faith that he should be at liberty to sell it, for twenty cents per gallon, he shall not be at liberty to sell unless he pays you forty cents.

I think everybody will see that so far as such a tax will operate on the quantity in the hands of the original distiller it will be clearly unfair. It might be ruinous to him. You imagine, and perhaps it is true as far as the particular article is concerned, that he might be able to bear the additional twenty cents or sixty cents and still make a profit; but he might not be able to bear it. Nobody can tell whether he will be able to bear it. But whether he is able to bear it or not is not, in my judgment, a fit inquiry. If he can make a large profit out of the material which he has manufactured upon the faith of your promise he is entitled to it. He has a right to say, "I would not have engaged in the manufacture at all but for you. I saw that I would be able, or thought I would be able to make a successful matter of it upon paying you twenty cents; and now, when I have run the risk, for there is always more or less risk, of changing my business

and embarking largely in this new business, you come in and say I must pay you forty cents more." As far as my reading has gone (and upon this particular question it has been by no means extensive) I do not think I can be mistaken when I say, as was said by the chairman of the Committee on Finance, that there is no instance in England in which an additional excise has been levied upon an article manufactured under an antecedent excise, and for the reason the chairman stated; and to which I have just briefly referred.

Now, it may be that these dealers into whose hands large amounts of this whisky have come, subject only to a tax of twenty cents, may make a very large profit. As I have said, they have a right to have a large profit. The United States are not the losers. It does not escape taxation, but it escapes the taxation of an additional excise. It goes into the property of the distiller, if he has on hand what he has manufactured, or it goes into the mass of the property of him who has purchased from the distiller, and is liable to general taxation. You may get at him by your income tax. Every other tax he pays except this additional tax, and he disputes not the constitutional right, but your right in principle to mulct him with an additional tax, not for manufacturing more whisky, but for the privilege of selling what he has already manufactured and paid for.

Mr. President, a case not exactly analogous except perhaps in principle has been decided by the Supreme Court. You levy a duty upon imports. The State of Maryland undertook to provide that no man should be at liberty to sell the original package in which the goods were imported without taking out a license. The importers contested the constitutionality of that act, and the Supreme Court sanctioned their objection. Upon what ground? Upon this ground: that that tax of itself was a tax which authorized the importer to dispose of the article, and over it the State had no control at all; and the principle necessarily, as I think, goes to the extent of denying to Congress the authority to increase any imposts upon that which has come in under an existing impost. That would be a violation of what is a contract as between the Government and the importer. The Government says to the importer, "Import your dry goods, or your brandies, or your wines in tierces, or in hogsheads, or in barrels, and upon your paying so much to the Government you shall be at liberty to sell them." The State steps in and says, "Over all transactions within the State, all contracts within the State, all sales made within the State, you are subject to our jurisdiction, and we say that you shall not sell them unless you will pay to us a license fee for selling; or, looking to the act of Congress alone, you are authorized to sell as against the Government upon paying the amount levied by the act of Congress." The Supreme Court said, No; the Government has the exclusive control over imposts, and the Government therefore has a right in levying its imposts to say to the importer, "If you will pay the amount charged as imposts you shall sell not only as against us, but as against every State in the Union, what you have thus imported."

What difference in principle between that case and the case before us can there be? You have told these distillers, Distill your whisky and pay us twenty cents and you may sell it. The Government says to the importer, Import your goods in the original package, or in the tierce, or in the barrel, and you shall sell it. If in the last case it became in the nature of a contract between the importer and the Government, over which the States had no control, why is it that in this case it is not *quasi* a contract between the United States and the distiller who has manufactured the article, that if he pays the twenty cents required to authorize him to sell he shall not be required to pay any other tax upon that article for that purpose?

The principle may be illustrated by imagining other things. Suppose the enterprising shoemakers of Massachusetts were told by an act passed last year, as they were, "You may manufacture boots and shoes and you may sell them if you will pay us so much a pair."

Mr. COLLAMER. Three per cent.

Mr. JOHNSON. Three per cent. Would it not be obviously unjust to say to them or those of them that now have large amounts of stock on hand, or to those who have purchased from them,

"You shall not sell them unless you pay six per cent. or twelve per cent. or any other amount we think proper to impose?" because, as the Senate will see, if you have the right to increase this tax to twenty cents or forty cents you have the right to increase it to any amount. The result will be, as I think, that the mercantile public, the trading public, in whose success the interest of the United States is so intimately connected, will never be able to know where they are, whether they are safe or not in engaging in any enterprise; because if it is to be subject to your right by legislation to interfere with its beneficial employment you may interfere to the extent of ruining them. Every man, therefore, will say to himself, It is better that I should cease altogether to rely upon your legislation than to engage in business on the faith of that legislation.

Mr. President, it is for these reasons, therefore, entirely, and without inquiring whether in the particular condition of the country the adoption of the amendment proposed by the committee or its rejection will benefit or injure any particular class of citizens for the time, that I cannot agree to the proposition made by the Senator from Wisconsin.

Mr. GRIMES. The friends of the report of the Committee on Finance have finally taken refuge where I had no doubt they would when this discussion began, behind some constitutional objections which they think stand in the way. The Senator from Pennsylvania [Mr. COWAN] insisted upon it that this is class legislation that is proposed by the amendment of the Senator from Wisconsin; and he wanted to know whether or not it was possible that any gentleman believed it to be constitutional to select out a particular class of citizens and impose a tax upon them. Who but the Senator from Pennsylvania could have imagined that there was any class legislation here? We do not select any class of individuals. That is not the proposition of the Senator from Wisconsin; but it is to tax a species of property which we all admit it is competent for Congress to tax under certain circumstances. That property may be in the hands of different classes of individuals.

The Senator said also it would be exceedingly improper for Congress to tax this species of property unless it taxed all other kinds of property equally. Why, sir, is that the case? Are we not in the habit of taxing some particular species of property and not taxing others? Do we not require some kinds of manufacturers to pay a tax and not require it of others? Is not this also the case in the States? Do they not in some States tax some kinds of real estate and exempt others? In my State we exempt sheep from taxation, because we desire to encourage the production of sheep. No doubt they may exempt other kinds of property in other States. But here is a kind of property that we regard as a luxury, and there are some of us who propose to tax it much heavier than we are in the habit of taxing other kinds of property; and the committee's own report is based upon the very principle contained in the amendment of the Senator from Wisconsin.

A good deal has been said here about distillers appearing before the Committee on Finance, and making representations also to individual members of the Senate. It should be borne in mind that there are two classes of distillers. There is one class of distillers who unite in themselves two characters, distillers and speculators; and there is another class who are purely distillers. The latter class have not been before Congress. The gentlemen who are speculators as well as distillers very likely have been. But let me inform the Senate what has been my information on this subject from a State that is one of the corn-producing States, and has a great many distillers. I have never yet received the first communication from any man who was at all connected with the whisky trade who has expressed the slightest indisposition to the imposition of some tax on the amount of whisky on hand, but I have received divers and sundry letters from distillers who were in favor of it.

Mr. President, I suppose the real purpose we should seek to attain is the interest of the Government; what will pay the largest amount of taxation with the least amount of injury to the business of the country. I think the chairman of the Committee on Finance in his statement to us yesterday did not tell us how much he sup-

posed would be derived from the tax on whisky during the next six months if his ideas and the ideas of the committee were carried out on this subject. If he did, I wish he would repeat the statement.

Mr. FESSENDEN. I did not. Of course I did not know. The Senator will recollect, however, that all the whisky on hand except that manufactured before the passage of the act pays twenty cents. How much there is of it I do not know.

Mr. GRIMES. I understand from those who profess to be pretty thoroughly acquainted with the subject, and who are not at all interested, although the distillers and the speculators in liquors about here will tell a different story doubtless, that there is a vast amount of this article on hand; that in anticipation of the imposition of this tax by Congress all the distilleries have been run to their highest possible capacity, and that there is hardly a vacant storeroom in Cincinnati, or St. Louis, or Chicago, or in any of the smaller classes of towns throughout the Northwest that is not chock-full of whisky, most of it having passed actually out of the hands of the distillers and now being held by speculators. If that be so and we do not put any tax at all upon the amount already distilled I suppose we shall be in about the condition we were in when we passed our last tax upon whisky. I recollect that the results did not correspond with the statement that had been furnished to the Committee on Finance by the Treasury Department by several millions; I do not remember how much.

If we want to get money into the Treasury, if that is what we are about, it seems to me we should impose some tax on the whisky on hand. I do not pretend to say how much it should be. I am willing to trust the Committee on Finance to investigate the subject and report how much they think the interests of the country require it should be taxed; but I think that a tax can be imposed on this article without any violation of the Constitution, with great advantage to the Government, and without the sacrifice of any private interests.

The Senator from Pennsylvania told us that he did not think the dominant party ought to be in favor of this proposition of the Senator from Wisconsin. I am not going to allow my conduct here to be influenced by any such appeals as that; but if I were influenced by any such thing, one of the last votes I would give would be against the proposition of the Senator from Wisconsin; for I believe the vast majority of the people will imagine, whatever may be the fact, that we may have possibly been influenced in our votes in behalf of the speculators rather than in behalf of the men who raise the corn and who manufacture it into whisky at home. But, sir, I am not to be affected by any such appeal as that from the Senator from Pennsylvania. I am going to vote for the proposition of the Senator from Wisconsin because I believe that the best interests of the Treasury will be conserved by it.

Mr. DOOLITTLE. The Senator from Kentucky, in speaking of the distillers in his neighborhood, I have no doubt spoke of the situation of distillers who have large quantities of whisky on hand. The statement made by the Senator from Iowa has correctly shown the distinction between distillers who are simply distillers, who purchase the grain and manufacture it into whisky and put it upon the market for sale as a regular business, and those who buy up large quantities of liquor for purposes of speculation. I agree also with the Senator from Kentucky that stability in legislation is necessary so far as it is attainable; but we know very well that stability in our legislation on the subject of taxation during this great war is an impossibility. Our legislation of necessity is unstable. The purpose which it seems to me we should have in view is to make that very instability which the necessities of the times force upon us weigh with as little injustice as possible upon the various interests of the country.

Now, my first proposition is this: that a tax, if it be practicable to be laid, which reaches every gallon of whisky now in existence, is the most just and equal tax that can be imposed upon it; because it raises the price of the article in the hands of the distiller, or in the hands of the purchaser. Whoever has the whisky on hand is benefited by the legislation, so far as the raising of the price of the article on hand is concerned.

Mr. FESSENDEN. Unless he bought it be-

fore the price was raised on account of the tax, he is out of pocket.

Mr. DOOLITTLE. How is he injured?

Mr. FESSENDEN. I am not speaking about that. You say he is benefited.

Mr. DOOLITTLE. When we undertake to benefit the Government by our legislation, and that is our purpose, we should undertake to benefit the Government with as little injury as possible to the individual. I do not say we are to legislate for the purpose of benefiting either the manufacturer or the holder of the spirits on hand; but we should injure neither if we can but shape our legislation so as to accomplish that purpose.

Now, sir, what are the facts? A very intelligent gentleman conversing with me on this subject estimated the annual consumption of spirits at eighty million gallons. There are now about forty million on hand. There is six months' consumption of the country on hand now in the hands of these distillers and speculators who have manufactured it for the purpose of holding it, or in the hands of those who purchased it for the purpose of holding it for speculation. What is a tax of twenty cents a gallon on four million gallons? It is \$8,000,000. You put that into the Treasury substantially if you tax the liquor on hand. If you do not tax the liquor on hand you do not get the \$8,000,000. It does not injure the distillers, because the very tax we put on the liquor raises the price of liquor usually more than the amount of the tax. Why, sir, you cannot go into a drug store to buy anything that contains alcohol but they put on it more than three times the amount of the additional tax on any article which they offer for sale.

But my honorable friend from Maryland says that there is a principle involved which would be violated by this kind of legislation. I do not so understand it. I understand that we can put a tax on sales as well as a tax on manufactures, and this bill can be so framed that this additional tax shall be levied on the sales of the whisky which is now on hand. If our legislation in times like these was stable or likely to be stable there would be perhaps great force in an appeal that might be made in behalf of the *bona fide* purchaser; but, sir, it does not apply with any force here, because it has been known with just as much certainty as anything which has not occurred can be known, that upon this article of liquor an additional tax was to be levied, and these distillers have manufactured and hold up this article on hand for the purpose of defrauding the Government, for it amounts to that. I use it in the sense in which a person may be said to do an act in fraud of the law or in fraud of the Government, as we say of a monopoly; for I have been informed there have been large companies formed to monopolize the liquor on hand. Knowing, as they did, to a moral certainty that this very legislation must take place, that there must be an additional tax laid on liquor, it seems to me they cannot appeal to us that we are inflicting a wrong and an injustice on them when by our legislation we propose to levy an equal tax on all the liquor on hand, which will raise the price of all the liquors in the hands of speculators as well as in the hands of the manufacturers and everybody else, and put them on a footing of equality. If you allow the six months' supply of liquor which is now on hand of forty million gallons to escape from taxation, you will get no revenue to the Government for six months to come, and these men will take the whole of this revenue to themselves.

I do not know any reason why we cannot tax this species of property as well as we can tax horses. I suppose there is no doubt that we might levy a tax on all the horses of the country, whoever owns them at the present time, or that we could levy a tax on the sale of horses. We must make it uniform, apply it to everybody and all sections of the country. So we can put a tax on the sale of liquor, and not violate any constitutional provision, nor, as it seems to me, violate any vested rights or any good faith on our part. We tax carriages. Everybody who has a carriage worth more than two hundred dollars has to pay a certain tax under the laws as they now exist. I do not see the injustice of the imposition of this tax which is expressed by my friend from Maryland. It seems to me to be the fairer way to tax this property in the hands of all alike.

Mr. HOWE. The question which is now under

discussion before the Senate is one perhaps that I have had as much difficulty about as any one, arising on this bill. If I could discover any way of collecting a large revenue by taxation without injuring anybody I should certainly adopt that method.

Mr. COLLAMER. And get a patent for it.

Mr. HOWE. If I was the discoverer I certainly should apply for a patent. I have not made any such discovery as yet. It is very certain that whether you do or do not tax the stock of whiskies now in the possession of different parties throughout the United States, you will do somebody an injury and a wrong.

It is assumed here in the argument, as I understand it, that the class who are to be injured by omitting to tax the stock on hand is the distillers. I think that is a mistake. Undoubtedly a portion of the distillers will be injured by that omission; but if we can trust to the distillers themselves, so far as their testimony has been adduced before the committee, we ought to believe that as a class the distillers are going to be injured by imposing the tax upon the stock on hand; for I believe every member of the committee will bear witness to the truth of what I say, that the great bulk of the testimony, the weight of the testimony, so far as it comes from the distillers, is, that they are to be injured. I know very well it is going to be an injury to the individual distiller who has no liquors on hand but proposes to manufacture hereafter, that the purchasers who now hold the liquors he has made in the last six months shall be allowed to sell them in the same markets to which he must apply hereafter without the imposition of this tax, whereas every gallon he manufactures hereafter must go into the same market and compete with them subject to this tax of forty cents additional. It is an injury to that individual.

But there are two or three other considerations that must be taken into account, one of which is that almost every distiller, and every western distiller, must have a quantity of liquor on hand. It takes them about thirty or forty days to send the product of their distilleries from Illinois and Indiana to the eastern markets and dispose of it. They have therefore about thirty or forty days' product necessarily on hand. So far they are interested in having the tax kept off.

But almost every manufacturer in the country is using other capital than his own. Distillers are no exception to this remark. The great bulk of them, if I may judge of the character of their business by what they say of it themselves, are enabled to go on with their business mainly through the facilities furnished them by commission merchants. When they are unable to draw on their commission merchants or their consignees they are unable to go on with their manufactures. Whatever blow you strike, therefore, which cripples the consignees of this article and disables them from furnishing these facilities to the distillers, is a direct injury to the distillers. Take away from them these facilities and they can no longer manufacture. How much this consideration influences the great body of these manufacturers I am unable to say. That it has great weight with them is certainly very evident to every one who has conversed with them. If we were to pass upon this measure with sole reference to the interests of the distillers, unless we have been deceived by their testimony I should be inclined to think that their interests required us to withhold the tax from the stock on hand and not to impose it.

But they are not the only class. What is the influence of this tax upon the commission merchant himself, or upon that class of our community—as legitimate a class as any other, and as much entitled to protection; at all events, as much entitled to be exempt from direct wrong and injury? What do you say of them? They do not own any liquors. They have been receiving liquors from the distillers, and advancing them money. The market in anticipation of this legislation has been steadily advancing, and they have been increasing their advances to the distillers in view of the imposition of this tax. Before there was any talk about the imposition of this tax, and when liquors were worth sixty-five cents in New York, they would perhaps advance sixty cents. When they came up to seventy-five cents they would probably advance seventy cents. Now the commission merchants have large stocks of liquor

on their hands on which they have advanced to the distillers a large portion of the tax that you now propose to impose. What do you say? Make them pay over again to the Government? How are they to be reimbursed?

The market to-day is ruled by the fact that you are about to put on this tax, and they have advanced this tax to their consignors. Since this legislation has been talked of whisky has been sold in New York for ninety-five cents. It will not be worth over a dollar or a dollar and five cents when this law has passed. Is it just to make them pay this over again? They may have a remedy against their consignors, but not one in ten of the consignors will be able to meet it.

But there is another class. There is a class of manufacturers, of chemists, and mechanics, who are using these spirits in their business for various chemical and mechanical purposes. They have to buy from week to week, and every one of them has got more or less on hand. They have bought in the market when prices were established by this very legislation that you propose. They bought sixty days ago for sixty-five cents. They have bought within three weeks at ninety-five cents, bought for their business, not to sell but to use.

Mr. TRUMBULL. If the Senator will allow me to interrupt him, the bill proposes to tax only that which is to be sold. "On hand for sale" is the language of the bill.

Mr. HOWE. The proposition is to recommit the bill to the Committee on Finance for the purpose of imposing a tax upon the liquors on hand.

Mr. TRUMBULL. For sale.

Mr. HOWE. No; I do not understand such to be the instructions; and under a provision to impose a tax only on that which is sold as liquor you will find it very difficult practically to distinguish between the liquor which is to be sold as liquor and that which is to be sold for mechanical or other purposes, after it has entered into combination with other articles and has been used for other purposes.

It is, as I said before, very difficult, and I think I may say it is impossible to enact a measure of this kind without injuring somebody. Now what is the benefit to be derived from it? My colleague has assumed that there are now on hand forty million gallons. We have heard a great many estimates on that point. The result to which my own mind has been driven by all these statements is, that I do not know how much liquor there is on hand. That is as near as I can come to the thing. I have no doubt there is a good deal; and I am willing to compromise on that proposition, that there is a good deal of liquor on hand. I am rather incredulous about the quantity coming up quite as high as my colleague states; and I am altogether incredulous as to your being able to realize \$8,000,000 by imposing a tax of twenty cents a gallon on that stock provided it does reach forty millions, for the reason that it is an article that may be put out of the reach of the assessor so readily; and for these very reasons that I have stated it seems to me injudicious. It will not be put out of the way by the honest man who is willing to pay taxes rather than smuggle or to lie. It will be put out of the reach of the assessor by the dishonest man who would rather lie or smuggle than pay taxes; and we know remarkably well that there are men of that class in all communities.

What is to be the result of this? The legislature decrees a specific tax upon a specific article of property, irrespective of the locality where it is, the market in which it is, or what it is worth where it is, and decrees the collection of it. Honest men come forward and pay it, and can only sell at a loss or by imposing that additional tax upon the article. Dishonest men do not pay the tax, and bring their whisky upon the market at a cost of from forty to sixty cents, as the case may be, less than the honest man is able to sell his at. I do not believe, when the community sees such an operation of any law, that they will be entirely satisfied with it. I think we must all concede that great dissatisfaction will grow out of it.

Then again, the expense should be considered. You must have special machinery to reach this article and collect this tax, and the expense of it would be very considerable. I will not stop to estimate the amount in figures. Great expense would have to be incurred; and I do not think it

is worth the while of this legislature to establish a precedent which seems to me objectionable in itself, to impose a tax which is in violation of every principle which has heretofore guided us in the imposition of taxes for the chance of getting an inconsiderable revenue at a very extravagant cost and to the dissatisfaction of a great portion of the community. I think we had better forego the experiment; and so I vote to strike out that clause of the bill as it came from the House; and for these reasons I shall vote against the proposition of my colleague.

Mr. HARLAN. I differ with those who maintain that this bill proposes a license for the sale of whisky. If it were a license to the seller that license ought to be paid every time the commodity is sold. No man under this law is required to pay a per cent. for the sale. If so, each man who sells it ought to pay the per cent. If a tax has been paid on the commodity once it may be sold five hundred times afterwards without any additional charge. It is therefore manifest to my mind that it is a tax levied on the thing itself.

If this be true it seems to me to be an absurdity to argue that the Government has not the right to levy a second tax; or, in other words, that there is an implied contract between the Government and the party who has paid a tax once that it shall not be taxed a second time. I have not in my limited reading ever read of such a principle in constitutional law, that if an article shall have once been taxed by a Government it may not be taxed a second time. That this clearly was not contemplated by those who framed the original law to which this is proposed as an amendment I think will be manifest by examining it in detail.

I observe a tax levied on carriages kept for use. Is it a tax levied on the use of the carriage, or a tax levied on the thing itself? If it be a tax levied on the use of the carriage, and there is an implied contract that if this tax shall be once paid and the license taken out it cannot be changed without violating the plighted faith of the Government, then you never can change the rate of tax on carriages that have once been taxed.

If, then, it be a tax levied on the thing itself there can be no violation of principle in taxing the whisky that is now held by those who may have once paid a light tax; and since it is manifest from the argument we have heard here to-day that the difference between the cost of the commodity under the present tax when bought of the distiller, and the cost of the commodity under the tax that is here proposed will go into the pocket of those who now hold the article or into the Treasury of the United States, it seems to me it is a very plain proposition for the Finance Committee to decide the direction in which this money shall go.

A tax is now levied of twenty cents on a gallon of spirits. The chairman of the Committee on Finance tells us that that is a tax to be paid by the consumer on the liquor. A distiller distills a gallon of liquor the next day after this amendment to the revenue law shall have become a law, and then you levy a tax of sixty cents. The party who has paid the twenty cents has an advantage of forty cents in the original cost of the commodity. If the price should go up so as to enable the distiller to sell his liquor distilled the next day, then the holder of that bought previously will clear forty cents a gallon unless you tax the liquor in his hands. I therefore see no violation of principle in levying this tax. It is a mere question as to who shall receive the additional forty cents, the Government of the United States or those who are now holding distilled spirits. I therefore can have no difficulty in voting for the resolution to recommit the bill with instructions to report an amendment to levy a tax of twenty cents, which is one half of the proposed increase on liquor heretofore to be distilled, on liquor now on hand.

Mr. HENDRICKS. I am sure that the Senator from Iowa would not do any injustice to any interest in the country; but the view which he takes I think would produce that result. He discusses this question as if the rise in the price of liquor had all taken place since it has been in the hands of the present holders. That is not the case. Liquor had a price last summer and fall; and when it came to be understood in the trading circles that there was to be an additional tax probably imposed by this Congress it commenced to rise. It went up in the hands of one man one or two cents. He sold. It then went up in the hands of

that holder two or three cents, and he sold, until finally it came to be in the hands of the present holder at a rate of near ninety-five cents a gallon. Perhaps the advance in his hands has not been more than one or two or three cents. Now the proposition of the Senator is that he, for the benefit of the Government, shall lose the entire forty cents.

Mr. HARLAN. I will inquire of the Senator if the price of spirits has not been going down in the same way since this bill has been pending in the House, after it became known that probably a tax would be levied on the spirits on hand?

Mr. FESSENDEN. The market price has gone down, but there have been no sales.

Mr. HENDRICKS. I believe that is the case; that it has somewhat fallen since the action of the House of Representatives.

Mr. HARLAN. I will inquire, then, if the loss is not being distributed in precisely the same way as the increase of price was distributed?

Mr. HENDRICKS. But it has fallen into the hands of men who gave much above the present price for it; for instance, the man who purchased liquor at ninety or ninety-three cents, and then Congress proposed to tax that article which had already paid its tax, and it fell in his hands. Is that an argument why the tax should be imposed? If the statement of the Senator was exactly correct there would be much force in his argument. If the question were really whether the holder should make a profit of twenty cents or the Government should make a revenue of twenty cents a gallon there would be much force in his statement; but the question is whether the Government shall refrain from taxing when by taxing they make the holder lose from fifteen to twenty cents on each gallon. Certainly the sense of right on the part of the Senator will not sustain that.

The Senator from Wisconsin, who has made the present proposition, read to the Senate a letter from a distiller in his State, and the Senator from Iowa [Mr. GRIMES] stated that he has several letters from distillers in the State of Iowa, all urging that the tax shall be imposed upon the article now in market. Those two Senators represent a liquor interest of less than one million gallons. The State of Indiana produces annually about eight million gallons; the State of Ohio about fifteen millions, and the State of Illinois about fifteen millions. In those three States nearly forty million gallons are produced. I have seen representatives of the distilling interest of those three States since this question has been before the Senate, and I have not known one of them to be in favor of imposing this tax.

I cannot see how it is that such large interests in those three States should all be opposed to the tax on the article now on hand and the distillers in the two States of Iowa and Wisconsin should be in favor of it. I choose to be governed by the wishes of the largest class. I think I know that interest, and the gentlemen with whom I have conversed are not of the class described by the Senator from Iowa. They are not speculators. They are gentlemen engaged in good faith in the business, and upon whose word I would rely as soon as I would upon the word of any other business men in the community. I know that this large interest in Indiana, Ohio, and Illinois is opposed to the tax proposed upon the article now in market.

It is not necessary to discuss the principle further. That has been so clearly stated by the Senator from Maryland, it seems to me, that it cannot be answered. I listened with much interest for an answer to that argument, but I have not heard it. This article now in market has paid its tax. The men who produced it paid for the right to produce it and sell it, and whether it be in their hands or in the hands of purchasers from them it matters not. They have the faith of the Government, as I think, that it shall not be taxed further.

There is another interest largely involved in this. Of course the distillers of Indiana, Illinois, and Ohio are not able to keep on hand large quantities for a great length of time, and the course of business is that they ship their whisky to New York or some other important commercial point to some consignee. That consignee advances as largely as it is safe for him to advance on the shipment being made, and the money is received by the distiller to go on with his operations. In the mean

time the whisky is finding its way over the railroads and canals and lakes to the important commercial points. Within the last month large advances have been made upon the price that has been given to whisky by the proposed tax upon that which was hereafter to be produced. The consignees have made the advances upon the late rates. If we tax that which is now approaching market or that which is now on hand we strike down the interest of the consignee unless he can get his money back again from the persons who have made the shipments. Certainly we do not wish to disturb trade in this way. The interests of the Government do not require it. I think the present and the future interest of this Government require that we should promote stability and security in trade.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of executive business.

Mr. FESSENDEN. I hope not. This is the last question on this bill, and it is very important to get through with it.

Mr. LANE, of Kansas. It is not at all likely that we can get through with the bill to-night.

Mr. FESSENDEN. Yes, it is. This is the last question to be considered, and it will not probably be debated any further. Gentlemen have discussed it very fully.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) The question is on the motion of the Senator from Wisconsin [Mr. DOOLITTLE] to recommit the bill with instructions to the Committee on Finance.

Mr. DOOLITTLE. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. POWELL. I desire to state that my colleague [Mr. DAVIS] is absent from the Senate in consequence of indisposition.

The question being taken, resulted—yeas 14, nays 29; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Doolittle, Foster, Grimes, Harding, Harlan, Howard, Morrill, Ramsey, Sherman, Sprague, and Trumbull—14.

NAYS—Messrs. Buckalew, Carlile, Clark, Collamer, Conness, Cowan, Dixon, Fessenden, Hale, Harris, Henderson, Hendricks, Hicks, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Pomeroy, Powell, Richardson, Riddle, Sumner, Ten Eyck, Van Winkle, Wade, Wiley, and Wilson—29.

So the motion to recommit was not agreed to.

The PRESIDING OFFICER. The question recurs on concurring in the Senate with the amendment made in Committee of the Whole.

The amendment was concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

ADJOURNMENT TO MONDAY.

Mr. DOOLITTLE. I desire to say to the Senate that I will ask them to go into executive session for the simple purpose of entering a privileged motion.

Mr. CONNESS. I have just such a purpose also, and I hope the Senate will go into executive session.

Mr. LANE, of Indiana. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The PRESIDING OFFICER. There is a question before the Senate. The Senator from Wisconsin moves that the Senate proceed to the consideration of executive business.

Several SENATORS. Put the other question.

The PRESIDING OFFICER. The Chair puts the questions in the order in which they are moved. The second question is not in order until the first is withdrawn or acted upon.

Mr. DOOLITTLE. I have no objection to withdraw my motion for the purpose of allowing the other motion to be made.

The PRESIDING OFFICER. The motion for an executive session is withdrawn.

Mr. LANE, of Indiana. Now I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. ANTHONY. I understand that the chairman of the Committee on Military Affairs has business of much importance that should be acted upon. If that is not so, he can state it to the Senate.

Mr. WILSON. I think we ought to meet to-morrow. We have measures enough to occupy our attention. The Senator from Virginia [Mr.

CARLILE] is entitled to the floor to speak on an important question, and I think we had better meet to-morrow. At any rate I should like to take up and pass the joint resolution in regard to the pay of colored troops, and get it out of the way.

Mr. FESSENDEN. We want information about that before we pass it.

Mr. WILSON. I hope we shall meet to-morrow.

The PRESIDING OFFICER. The question is on the motion to adjourn over.

Mr. LANE, of Kansas. On that motion I will ask for the yeas and nays. ["Oh, no."] I will withdraw the call.

The motion was agreed to; there being, on a division—yeas twenty-five, noes not counted.

EXECUTIVE SESSION.

Mr. DOOLITTLE. Now I move that we go into executive session.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 4, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

ESTABLISHMENT OF ARSENALS.

Mr. WASHBURN, of Illinois, introduced a bill in addition to an act for the establishment of certain arsenals; which was read a first and second time, and referred to the Committee on the Judiciary.

FORTIFICATION APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1865; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for the 11th proximo, and from day to day until disposed of.

GRADE OF NAVAL OFFICERS.

Mr. SCHENCK introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be directed to communicate to the House of Representatives the report of the advisory board appointed under the act of July 16, 1862, "to establish and equalize the grades of line officers of the United States Navy," together with the instructions given to said board, and also all documentary and other testimony submitted to or examined by the board, and all memorials, protests, or other papers from officers of the Navy not recommended for promotion, or from others in their behalf, relating to or in any way connected with the proceedings or report of said board.

WASHINGTON JUSTICES' COURTS.

Mr. STEELE, of New York, from the Committee for the District of Columbia, reported a bill to establish justices' courts in the District of Columbia, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted to the same committee.

PENITENTIARY IN DISTRICT OF COLUMBIA.

Mr. STEELE, of New York, from the same committee, also reported back House bill No. 169, authorizing the construction of a penitentiary, jail, and house of correction in and for the District of Columbia; which was ordered to be printed, and recommitted to the same committee.

UNITED STATES REGISTER.

Mr. STEELE, of New York. I ask unanimous consent of the House to introduce the following resolution:

Resolved, That the Clerk of the House of Representatives be authorized and required to purchase one thousand copies of the United States Register for 1864, as published by J. D. Durnell, at a price not to exceed fifty cents a copy, and charge the same to the contingent fund, being for the use of the members and officers of the House.

Mr. HOLMAN. I object.

FRANCIS CHARLES WEEKLY.

Mr. THOMAS introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the expediency of granting a pen-

sion to Francis Charles Weekly, who gallantly joined the twelfth regiment of Massachusetts, before the fight at Gettysburg, and was twice wounded in that battle.

DISTRICT OF COLUMBIA RAILROAD COMPANY.

Mr. THOMAS also introduced a bill to incorporate the District of Columbia Railroad Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

PREEMPTION CLAIMS.

Mr. BENNET introduced a bill amendatory of the act of June 2, 1862, in regard to preemption claims in Colorado; which was read a first and second time, and referred to the Committee on Public Lands.

RELIEF OF DENVER CITY.

Mr. BENNET also introduced a bill for the relief of the citizens of Denver City, in the Territory of Colorado; which was read a first and second time, and referred to the Committee on Public Lands.

PRESERVATION OF BUFFALO.

Mr. BENNET also introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Territories be instructed to inquire into the propriety of enacting a law to restrain the wanton destruction of buffalo upon the great western plains by the white emigrants during the spring and summer months, and report by bill or otherwise.

REBELLION LOSSES.

Mr. HALE, by unanimous consent, reported from the Committee of Claims a bill to provide for ascertaining and adjusting claims against the Government for injuries to and destruction of property by the Army of the United States, or by military authority, during the present rebellion; which was read a first and second time, recommitted to the Committee of Claims, and ordered to be printed.

BOUNTY LANDS TO SOLDIERS.

Mr. NOBLE, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Pensions be directed to inquire into the propriety of granting bounty lands to all soldiers of the United States in the existing war who have been or may be honorably discharged; and also all soldiers who served in the war with the Indians in Oregon, and who have been honorably discharged; and that said committee report by bill or otherwise.

CAPTURED COTTON.

Mr. KASSON, by unanimous consent, introduced a bill relating to the capture of cotton and the disposition thereof by the military forces of the United States; which was read a first and second time, and referred to the Committee of Ways and Means.

COMMUTATION MONEY.

Mr. ELDRIDGE asked unanimous consent to introduce the following resolution:

Resolved, That the Secretary of War be required, and he is hereby required, to furnish to this House information as to the amount of moneys received up to this time for commutation by drafted men; also, what disposition has been made of said moneys; if substitutes have been purchased for drafted men, how many, where, and who have been procured as such substitutes. What sum has been paid for each, and whether for white or black, and how much for each.

Mr. WASHBURNE, of Illinois, objected.

DIPLOMATIC CORRESPONDENCE.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution:

Resolved, That ten thousand additional copies of the papers on the subject of foreign affairs, which accompanied the President's annual message, be printed for the use of the State Department.

Mr. WASHBURNE, of Illinois. I am willing to vote for all the additional copies necessary, but it seems to me that ten thousand copies is a greater number than there is any necessity for printing. I hope the gentleman will permit the resolution to be amended so as to make the number five thousand.

Mr. DAVIS, of Maryland. If I can be indulged for an instant, I would say that the number of ten thousand copies is requested by the Secretary of State; and he expressed to me his very earnest desire that that number should be allowed, assigning this reason for it: that the diplomatic correspondence of the Government is the only mode that the Government has of stating

its case authentically and fully to the nations of Europe. If it is not allowed to state it in that form it will be driven to the very questionable if not disreputable method of buying up the public press of Europe, as the rebels are in the habit of doing continually, for the purpose of manufacturing public opinion. The Secretary thought it better to have an authentic declaration of the opinions of the Government spread before the nations of Europe, official in form, for which we are responsible, and carrying with it the weight of official declarations. He said the first thousand copies did not at all approach supplying the necessities of the case, but that at least the number he asks could be usefully disposed of.

Mr. J. C. ALLEN. I simply desire to ask the chairman of the Committee on Printing to incorporate into that resolution the printing of ten thousand copies of McClellan's report. We are annoyed to death with applications for it not only from various individuals in the western country, but nearly every officer in the Army from my section of the country has written to me, "For God's sake send me a copy of that report."

Mr. A. W. CLARK. The Committee on Printing have reported in favor of printing that report, and it is now being printed and will soon be ready for delivery to the members of the House.

Mr. J. C. ALLEN. Was that in favor of an additional number, or only for the usual number?

Mr. A. W. CLARK. The usual number.

Mr. J. C. ALLEN. That only gives to each member about forty copies. The demand is so great that it appears to me that the public exigencies require that we should print a greater number.

Mr. GRINNELL. I will say to the gentleman from Illinois that I will supply him with my portion. [Laughter.]

Mr. COX. I suppose the gentleman does not want his people to read the truth. That is the amount of his remark.

Mr. J. C. ALLEN. I simply suggest to the chairman of the Committee on Printing that he incorporate the amendment I have suggested into his resolution, and that we print ten thousand additional copies of that report.

Mr. A. W. CLARK. I will state, in answer to the gentleman from Illinois, [Mr. J. C. ALLEN,] that that matter was referred to the Committee on Printing a day or two since. The committee have held no meeting since, but we shall meet to-morrow, when the question will come up.

Mr. J. C. ALLEN. I hope the committee will hold a meeting soon, and report the resolution.

Mr. WILSON. I wish to ask the chairman of the Committee on Printing if he can state to the House the amount which it will cost to print the additional ten thousand copies.

Mr. A. W. CLARK. Probably quite a large amount, for it is a large book.

Mr. WILSON. I do not think we ought to pass on this resolution without knowing what the cost will be, and I suggest, therefore, that the resolution be postponed until the committee can furnish us with that information.

Mr. COX. I hope the resolution will not be postponed. Gentlemen upon the other side of the House ask for the printing of the documents issued by one of the Departments. Gentlemen upon this side of the House do not make any objection to laying before the people all that has been done in all the Departments of the Government. Let this document be printed, and let it have full circulation. Let all books be printed that are connected with the public service. We do not object upon this side of the House. We are anxious to have this diplomatic correspondence circulated: whether it will do the Secretary good or not, no matter; let it be laid before the nation.

But I do hope and trust that my friend from New York [Mr. A. W. CLARK] will report a resolution for the printing of an additional number of General McClellan's report, so that the demand for it by the people may be satisfied. And I will say to the gentleman from Iowa [Mr. GRINNELL] that his own constituents have written to members upon this side of the House asking for this report of General McClellan, begging for it, and demanding to know why it has been kept back so long from the public. We can distribute three times the number already ordered. I hope my friend from New York will hurry on the resolution for the printing of additional copies.

Mr. WASHBURNE, of Illinois. Why did not

the gentleman put in a larger number in his original resolution?

Mr. COX. I did not know that the House would be so generous. I did not know there would be such a demand for the report. I did not know that General McClellan would be so popular all through the country, almost equal to General Grant himself. [Laughter.]

Mr. WASHBURNE, of Illinois. Not quite.

Mr. WILSON. I will state, in reply to the gentleman from Ohio, [Mr. COX,] that the diplomatic correspondence has already been printed, so that the appeal which he makes to have that correspondence printed has no force whatever. The book has been printed, and is now, I understand, ready for distribution. The type has been distributed, and if we order an additional number the whole work will have to be done over again. I want to know before I vote on this resolution what it is going to cost. I suggest, therefore, to the gentleman from New York that he postpone this resolution or withdraw it, as he can report at any time, until he can give this information to the House.

Mr. POMEROY. It seems to me that this discussion is taking a wide range not germane at all to the question before the House. The question is a very simple one. Under the rule established last session there have been printed, without any order from the House, simply the number of one thousand copies of the diplomatic correspondence for the use of the State Department. That will not even supply the consulates and offices of the Government. It is the only work issuing from the Department of the Secretary of State and giving a history of the intercourse of this Government with foreign Governments.

Mr. WILSON. Can the gentleman state the entire number of copies printed by the order of the House?

Mr. POMEROY. Seven thousand for the House and one thousand for the State Department. But I am talking now only about the State Department. I say that only one thousand copies have been ordered for the State Department, and that too of the only book issued from that Department giving to the country and to the world any history at all of its business during the past year.

Now, there is no man in this country who does not know that the public interest within the past year has been more drawn to our foreign intercourse than to any other subject in our political history. Foreign intervention is the rock upon which the world at large and our enemies at home expected us to split. There is no subject upon which to-day the people of this country demand and have a right to demand light more than upon that subject.

Mr. DAWES. I would ask the gentleman if there is any objection to our knowing what this will cost?

Mr. POMEROY. I will say this, that if we are going to print any additional copies at all, the cost of setting in type and getting ready to print five thousand copies will be almost equal to that of printing ten thousand copies.

Mr. DAWES. I am aware of that, but just for the curiosity of the thing I should like to know the cost. If the gentleman has any objection to stating it I will yield my curiosity; but it strikes me that there cannot be any real objection to stating the cost.

Mr. POMEROY. If the gentleman will yield his curiosity, I prefer that he should, because it seems to me the question is here whether any additional copies of the correspondence shall be printed or not. It is not a question of one, three, five, or ten thousand copies, because if the type be set at all there should be an edition published such as will be satisfactory to the Secretary of State, and such as he says the wants of the country demand.

Mr. STEVENS. I understand that eight thousand copies of this book have been already ordered.

Mr. POMEROY. Seven thousand for this House and one thousand for the Department of State.

Mr. STEVENS. As these copies have not been distributed, I propose that we shall divert two thousand of those ordered by the House to the use of the Department of State, so as to give the Secretary a sufficient number. I am quite sure the House does not care much for such excellent reading. Let me state now that the public print-

ing, without these accumulations, already has run up to \$1,250,000 a year, and it is becoming alarming.

Mr. POMEROY. I am aware that there may be a difference of opinion among gentlemen on this floor not only as to the expediency of publishing the correspondence, but as to its value when published. That question I do not propose to discuss here. But I do say, and repeat, that the only question before the House now is whether any additional number whatever of this work shall be printed for the use of the State Department. If the House say there ought not to be any printed I will submit cheerfully to that decision.

Mr. A. W. CLARK. I move the previous question.

Mr. WASHBURN, of Illinois. I ask the gentleman from New York to withdraw the demand for the previous question, in order that the proposition of the gentleman from Pennsylvania may be brought before the House. I think it is a fair proposition. I think it is but just and proper that we should give up the number of copies which belong to us to the Secretary of State. I am sorry that the gentleman from New York [Mr. POMEROY] has sought to change the issue before the House. The objection to print this very large number of extra copies is made, not from disrespect to the Secretary of State, or from want of confidence in his distinguished ability, or from any indisposition to give him the benefit of a full and fair hearing before the country and before the world. I fully recognize the value of this correspondence. But it is a question how far we are willing to go in increasing these enormous printing expenses. The cost of these ten thousand copies must be enormous. It would amount to a very large sum, and make an additional charge upon an already overburdened Treasury. This is my ground of objection.

Mr. STEVENS. If the gentleman will withdraw the demand for the previous question, I will move the amendment which I have indicated, and take the sense of the House upon it.

Mr. A. W. CLARK. Since the question was propounded to me as to the expense of this edition, I have learned from the printer, who is here and who has made an estimate, that it will be about seventeen thousand dollars.

Mr. STEVENS. If the gentleman will allow me to test the sense of the House on the question, I move as an amendment that two thousand copies of those already ordered by the House be transferred to the Department of State.

Mr. A. W. CLARK. I decline to yield for that purpose.

Mr. DAVIS, of Maryland. May I be allowed to make a single observation?

There was no objection.

Mr. DAVIS, of Maryland. It seems to me, Mr. Speaker, that common respect for the judgment of the gentleman who is considered worthy to be intrusted with the foreign correspondence of this Government ought to carry this House to the extent of allowing him to have as many copies of a document as he deems necessary for the purpose of stating our case to the nations of the world. If the House mean to higgler over the small sum of ten, fifteen, twenty, thirty, fifty, or a hundred thousand dollars, required in the pleading of our cause before the nations of Europe, let it do so. For my part I trust that the gentleman at the head of the Committee on Printing will accept no amendment, and let the House express its judgment on the worth of the diplomatic correspondence abroad.

The previous question was seconded, and the main question ordered, which was on the adoption of the resolution.

Mr. SPALDING called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 118, nays 17; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Atley, Allison, Ames, Ancona, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Bliss, Blow, Boyd, William G. Brown, Chandler, Ambrose W. Clark, Cobb, Cole, Cox, Cresswell, Henry Winter Davis, Thomas T. Davis, Dawson, Denning, Dennison, Donnelly, Eden, Edgerton, Eldridge, Eliot, Finck, Frank, Ganson, Gooch, Grinnell, Hall, Harrington, Herrick, Higby, Hooper, Asa Hol W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Jencks, William Johnson, Kallbelsch, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Le Blond, Long, Longyear, Marvin, McAllister, McBride, McClurg, McIndoe, McKimney, Middleton, Samuel F. Miller, Moorhead, Daniel Morris, James R. Morris, Amos

Myers, Leonard Myers, Nelson, Noble, Norton, Charles O'Neill, John O'Neill, Orth, Patterson, Perham, Perry, Pike, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Edward H. Rollins, Schenck, Scofield, Scott, Shannon, Sloan, Smith, Smithers, John B. Steele, Stiles, Strouse, Stuart, Tayer, Thomas, Tracy, Upson, Van Valkenburgh, William B. Washburn, Webster, Whaley, Wheeler, Joseph W. White, Windom, Winfield, and Yeaman—118.

NAYS—Messrs. Boutwell, Brandegee, Brooks, Broomall, Davies, Driggs, Farnsworth, Grider, Holman, Julian, McDowell, Spalding, Stevens, Elihu B. Washburne, Chilton A. White, Williams, and Wilson—17.

So the resolution was adopted.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a bill to establish a uniform system of ambulances in the Army of the United States; in which he was directed to ask the concurrence of the House.

UNITED STATES REGISTER—AGAIN.

Mr. STEELE, of New York. The gentleman from Indiana [Mr. HOLMAN] withdraws his objection to my resolution for the purchase of one thousand copies of the United States Register for 1864, provided that it be referred to the Committee on Printing. I agree to that reference.

There was no objection; and the resolution was received and referred accordingly.

BOUNTIES.

The SPEAKER stated the first business in order to be the consideration of the following resolution, submitted yesterday by the gentleman from New York, [Mr. KELLOGG:]

Resolved, That the Committee on Military Affairs be requested to inquire into the expediency of providing by law for bounties to be paid to such volunteers as regularly enlisted into the regiments first called out by the President for two years, and were honorably discharged from the service with such regiments, and before the expiration of two years, and that they report by bill or otherwise.

The pending amendment, moved by the gentleman from Indiana, [Mr. HOLMAN], is to strike out the words "requested to inquire into the expediency of," and insert "directed to report a bill."

Mr. HOLMAN. I withdraw that amendment, and move the following as a substitute for the resolution:

That the Committee on Military Affairs be instructed to inquire into the expediency of reporting a bill providing for paying to the private soldiers who enlisted for two years, and who have served for that term and been honorably discharged, the bounty of \$100, and for paying to said soldiers who enlisted for three years or for the war, and who have been honorably discharged before a service of two years for disabilities incurred in the service after enlistment, (for other causes than wounds received in battle, which have been provided for,) an amount of the bounty of \$100 proportionate to the time of actual service, and apply the same principle to the soldiers who enlisted for two years, and before the term of service were in like manner discharged.

Mr. KELLOGG, of New York, demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. SCHENCK. I ask the gentleman to amend his substitute, so as to request the committee to inquire into the expediency of reporting such a bill.

Mr. HOLMAN. I would do so without hesitation if there were any prospect of the Committee on Military Affairs reporting on the subject. It was among the earliest matters referred to that committee, and so far there has been no report.

Mr. SCHENCK. We will report on that subject as soon as we can get the floor to report on anything. A bill has been referred to the committee embodying those things, which will be reported on.

Mr. HOLMAN. When?

Mr. SCHENCK. So soon as we can get an opportunity.

Mr. HOLMAN. Then I modify my substitute so as to make it a request instead of direction.

The substitute, as modified, was then adopted.

CONFISCATED PROPERTY.

The regular order of business being called for, the House proceeded to the consideration of the joint resolution (H. R. No. 18) to amend "An act to suppress insurrection, to punish treason and

rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, on which the gentleman from Vermont [Mr. WOODBRIDGE] was entitled to the floor.

Mr. WOODBRIDGE. Mr. Speaker, I had not intended to occupy the time of the House in discussing the subject now under consideration, but as the debate has assumed proportions which I did not anticipate, and as I am a member of the committee which reported the joint resolution, it is due to myself, briefly as I may, to express the views which control my action. I shall treat the confiscation act, so far as legislation is concerned, as "*res adjudicata*." The various questions arising under it, upon which the best minds of the last Congress honestly differed, will doubtless, when the proper occasion arises, receive a judicial construction from the highest legal tribunal in the land.

Admitting confiscation to be the settled policy of the country, and the confiscation act to be the law of the land, I shall direct my remarks to the point as to how far the property of the rebels may be taken under it, and whether there is any constitutional objection to enforcing its provisions to the extent claimed by its friends.

Respecting the rebellious States, two extreme grounds seem to have been taken. First, that they are still in the Union, with all their former rights not impaired, but temporarily suspended by violence and wicked rebellion, and that upon its suppression all these rights again vest. Second, that they are out of the Union, having forfeited, by solemn renunciation of their obligations to the Federal Government and war upon it, all claim to the rights and privileges accorded to them by the Constitution, and hence are to be treated as alien enemies. I confess, sir, that with my present views, I am inclined as between the two to adopt the first position, with important modifications.

I am accustomed to listen to the distinguished and experienced gentleman from Pennsylvania with the greatest interest, and always distrust myself when I differ from him; but, sir, when we admit the rebellious States to be belligerents and alien enemies, the war assumes an aspect and is controlled by laws and principles which I do not propose to extend to rebels in arms. As alien enemies they are to be treated under the law of nations, and no municipal regulation or law of ours can affect their status either as to person or property; or in other words it can neither add to nor detract from their rights as established by the law of nations. When we concede them to be alien enemies, we concede the territory which they occupy to be alien territory. By force of arms we may occupy it, but by occupancy we do not divest the title to the realty except so far as it may rest in the public. Suppose we were at war with Great Britain, and marched our armies into Canada. By the law of nations we may occupy and use their lands for the convenience and comfort of our armies, or we may use or take away, subject to our own municipal regulations, whatever personality we may capture; but could we divest under the law of nations the title to the realty? I think not; and hence if we treat the rebels as alien enemies the confiscation act is unnecessary.

Are the rebels alien enemies? If the rebellious States are *de jure* out of the Union, they may be. If the rebellious States are within the Union, they cannot be. The position of the South, so far as the character of the war is concerned, depends, in my judgment, upon the solution of a single question. Can a State, either by an ordinance of secession or by the uprising of the people, take itself out of the Union? I do not consider it necessary to discuss this point to loyal and intelligent gentlemen. Upon the other hand, if we adopt the view that the rebellious States have not dissolved their allegiance to and connection with the Union, then a confiscation law is not only wise but may be legally enforced. Treat the rebels as rebels, and the war as a rebellion, and the confiscation act as a municipal regulation is effective, and effective upon the ground that it operates upon the property of those who have wickedly renounced and opposed by arms the Government to which they owe allegiance. Treat them as alien enemies, and the war as a contest between nations, and the element of allegiance drops out, and the law of nations alone is applicable to the conflict. The municipal regulations of neither one side or the other

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can change the status or condition of either person or property.

Now, sir, the confiscation act proceeds upon the distinct ground that the war is a *rebellion*, and that those engaged in it are *rebels*. The first section provides that every person who shall commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years, and fined not less than ten thousand dollars, and all his slaves be declared free; and that said fine shall be levied and collected on the property, real and personal, excluding slaves, of which the person was the owner when the crime was committed.

The second section provides that if any person shall hereafter incite, set on foot, assist, or engage in any *rebellion* or *insurrection* against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in or give aid or comfort to any such existing rebellion or insurrection, and be convicted thereof, he shall be punished by imprisonment for a period not exceeding ten years, or by fine not exceeding ten thousand dollars, or both of said punishments.

Section five—and the objections from the other side are mainly to this section—provides that, to insure the speedy termination of the present rebellion, property may be seized by the President in certain cases without trial and conviction of the owner, and applied for the support of the Army, after condemnation as provided in the subsequent sections of the act. Thus the whole bill is based upon the fact that the war is a *rebellion*, and the penalties are against those engaged in it as *rebels* and because they are *rebels*.

Now, sir, let us for a moment examine the arguments used by gentlemen upon the other side of the House against the constitutionality of the law.

It is said that the law is unconstitutional because it takes the real estate of persons engaged in a war against the Government and forfeits it in fee; that the persons are *de facto* and *de jure* traitors; that their acts constitute the crime of treason as defined by law; and that by the provisions of the Constitution no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted. The answer is, there is no attainder of treason under the law. What is an attainder? There never has been such a thing in this country. In England it was the necessary incident to and consequence of conviction and judgment for treason, and carried with it corruption of blood, whereby the descendant of the felon could not inherit through the guilty ancestor, and forfeiture in fee not only of the real estate which the felon owned in perpetuity, but also that which he held in entail. The forfeiture for an attainder of treason is not involved in the confiscation law.

As a punishment for treason *per se* there is no forfeiture of estate, for in 1790 Congress expressly declared that there should be no corruption of blood or any forfeiture of estate.

Now, the confiscation act simply declares that whosoever shall commit the crime of treason and be adjudged guilty thereof shall suffer death and forfeit his slaves, or be imprisoned and fined not less than ten thousand dollars. It also declares that any person setting on foot any rebellion or insurrection, or who shall give aid or comfort to any person engaged in any rebellion or insurrection, shall, upon conviction, be imprisoned, fined, and forfeit his slaves.

I do not understand that it is contended that slaves, personal chattels, may not be forfeited absolutely, as it is doubtless the law, as stated by the gentleman from Pennsylvania, that the forfeiture of personal property for an hour is a forfeiture forever. Certainly Congress has power to declare what shall constitute treason, and what the punishment shall be. Under the law of the last Congress one portion of the punishment was, a fine of not less than ten thousand dollars, to be levied and

collected upon the estate of the offender, both real and personal. As there is no provision of the Constitution which by any construction can render such punishment illegal, it necessarily follows that by indirection Congress can work an absolute forfeiture of all the real estate of the convicted offender, while as a direct measure, if the gentlemen on the other side are correct, it can only forfeit a life interest. To a practical man this is rather absurd.

The great difficulty, however, upon the other side of the House seems to rest in the fifth section. Under this section the forfeiture is not as a penalty for the crime of treason, inasmuch as the section does not provide for a conviction of treason, and without conviction there can be no punishment. It merely provides for the seizure of the estate of certain persons who, as citizens of the United States, have assumed to throw off their allegiance to the Government, and by force of arms seek to destroy it.

Is this seizure lawful? In my judgment, under all the circumstances, it is. By natural law, which is the only law by which individual rights are governed before men form themselves into organized societies, there is no such thing as the right of property in real estate. A person can only own and enjoy what he occupies, and hence he is under the protection of no law except the law of force. When, for the sake of mutual protection, men form themselves into societies and organized governments those natural rights are abandoned, and obligation to Government is assumed and protection from Government guaranteed, both as to person and property. When our Constitution was established it was not done by States as such. Its preamble is, "We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." Now, under this Constitution and the Government based upon it, what were the rights and duties of the citizen, and what the power and duty of the Government? The duty of the citizen was *allegiance*, and upon the performance of that duty rested his right to protection. The duty of the Government was to extend to the citizen protection both to person and property, and that obligation was only imposed by virtue of the allegiance of the citizen. The duty of the Government and the obligation of the citizen are mutual. Whenever the citizen disregards his obligation, throws off his allegiance, and thrusts the assassin's dagger at the heart of the Government, he not only commits the highest crime, but forever absolves the Government from the duty of extending its protection either to his person or property.

The rebels in arms are in this position. They have broken the compact, and it is the right and duty of Congress to authorize the seizure of their persons and property—to restrain their persons and to appropriate their property, not as a forfeiture for treason *per se*, but as an exercise of a just and sovereign power over a rebellious subject; and this in accordance with paramount law. Hence, in my judgment, the confiscation act can be administered without involving the great constitutional question about which we have heard so much said, and read respecting the forfeiture in fee of real estate upon an attainder of treason. As I have before said, there is no such thing known to our law as an attainder. By the common law attainder was a necessary incident to conviction and judgment of treason. In this country Congress determines what constitutes the crime of treason, and declares what its punishment shall be. There are no attendant effects to the judgment beyond the prescribed penalty. There is neither corruption of blood nor forfeiture. Whether Congress as a punishment for treason can forfeit the real estate of the offender in fee is another question. The authority quoted from one of the articles of Mr. Madison in the *Federalist*, does not settle the point either way. It merely asserts that Congress is re-

strained in punishing treason from extending the consequences of guilt beyond the person of its author; or, in other words, that punishment for treason does not work corruption of blood, or forfeiture of interests in property, except so far as those interests pertain to the person of the offender. Mr. Justice Story—whose memory I hold in the profoundest reverence—seems to go further, and his language would naturally enough indicate that, as a punishment for treason, there can be no forfeiture of estate beyond the life of the offender. I have ever admired the juridical scholarship of Mr. Justice Story, and been accustomed to receive his opinions with the greatest respect. If, however, his reasoning upon this subject—which, to say the least, is somewhat desultory and unsatisfactory—will only bear the construction which the gentlemen upon the other side give it, I must with great humility disagree with the learned commentator.

The Constitution is to be construed in accordance with the intention of its framers, and that intention may be determined to some extent by an examination of history contemporaneous with the adoption of the Constitution. Our fathers were striking out upon a system entirely different, in most respects, from that of England. They had seen the effect of bills of attainder, and hence wisely provided that no bills of attainder or *ex post facto* laws should be passed by Congress. They had seen the effect of attainder of treason under the common law, whereby corruption of blood was worked and inheritable qualities destroyed. Hence they provided that upon an attainder of treason there should be no corruption of blood. They had seen interests in the realty, *absolutely vested in the innocent descendant*, forever taken in fee upon the attainder of the ancestor. Estates in England were held generally by virtue of feudal grants from the Crown, and each tenant held only a life estate, and hence corruption of blood was necessary, as a consequence of an attainder of treason, to destroy the entail, and revert the title in the Crown. Otherwise the heir would inherit, for in entailed estates there is an interest *in esse* in the remainder-man during the life of an ancestor; an interest that may be legally incumbered by way of mortgage.

In this country at the time of the Revolution and the adoption of the Constitution, entailed estates abounded, and the Constitution leaves it wholly to the several States to regulate the descent of property and to allow or prohibit entails; and they now exist, probably in large numbers, in the States, limited by law to terms of years, or the lives of persons in being when created; but still entailed estates, where one person has the life interest and another the remainder; and the Constitution undoubtedly provides against legislation which shall deprive innocent persons of their legal rights *in esse* for the crime of an ancestor through the doctrine of corruption of blood. But *nemo est hæres viventis*; and because the conviction of the tenant in tail shall not work injury to the remainder-man through corruption of blood, can it be said that treason may not be punished by depriving the convicted person of that property which belongs solely to him, to which no one else during his life has any legal claim, and that he is to be permitted before he mounts the scaffold to dispose of it for the furtherance of the very cause for engaging in which we deprive him of life? Could the fathers have gravely discussed this question of forfeiture and inserted in the Constitution the mere shadow without a particle of substance? Did they mean that for the highest crime known to the law the forfeiture should attach only long enough for the convicted felon to be transported from the prison to the scaffold? No, sir, our fathers never were cheated by shadows or grasped at straws. They meant something by the insertion of this clause. Forfeiture was to have some practical operation as a punishment for treason. If so, the forfeiture was intended to operate upon the interest of the offender in whatever estate he possessed, and upon the whole of that interest and nothing more; and wisely and humanely, contrary to the English law, it was not intended

to operate upon an interest *in esse*—a vested interest in an innocent descendant to the property in possession of the convicted traitor by virtue of an heirship which the ancestor himself could neither divest nor affect. In other words, the forfeiture could not operate upon any title or interest not resting in the person attained; and this, in my judgment, is all that was intended by the clause "or forfeiture beyond the life of the person attained."

The tears which we have seen shed here in behalf of innocent heirs are crocodile tears; tears like those of the play-actors on the boards, got up for the occasion, for effect; always bottled and ready for use. No more like the tears which flow from the true fountain than the muddy waters of the Potomac are like the waters of the crystal brooks which leap from the mountains of my own noble State. Suppose the innocent little children do suffer in estate? Suffering is the consequence of crime. There is an authority upon this point. I hope the gentlemen upon the other side will recognize it and be comforted thereby. It is older and higher than Blackstone or Mansfield or Marshall or Story; more potent than the edict of kings or the judgment of courts. It is the authority of God himself, who says to those who rebel against His government and bow down to and serve other gods:

"I the Lord thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me; and showing mercy unto thousands of them that love me, and keep my commandments."

So much, sir, in regard to forfeiture. Sir, I do not wish to be misunderstood. I have taken the ground that as the right of secession does not exist no State can take itself out of the Union, either by ordinance of secession passed in convention or by the uprising of the people in rebellion. Such, as I understand, is the position taken by the gentleman from Kentucky, [Mr. MALLORY,] who addressed the House in a labored and polished argument a few days since, upon certain joint resolutions introduced by him, and still undisposed of. While I admired the argument of the accomplished gentleman as tasteful and replete with the subtle refinements of the schools, I cannot agree with his conclusions as being either necessary or logical.

If I understood the honorable gentleman he contended that a State cannot secede. I agree with him. He then contended that inasmuch as a State cannot secede she may at any time, although she is *de facto* and not *de jure* out of the Union, come back into the family of States with her old constitution and institutions, and that Congress is bound to receive her. Upon this point I take issue with the gentleman from Kentucky. This may not be the time to discuss this question. When the proper occasion arises I may submit my views upon the subject.

Sir, there is no one upon this floor who deprecates this unhappy and unhallowed war more than I do. There is no one who desires peace more than I do; but, sir, that peace must be an honorable peace, and based upon principles consonant with the integrity, the honor, and the purposes of a free Government. Slavery caused the war, and it is to protect it that the war is continued by the rebels. When the Constitution was framed slavery existed, inherited from our mother who now in the day of our trial claims to stand with folded arms an indifferent spectator of a war upon the issue of which depends the progress of Christian civilization more intimately than upon any or all the conflicts and struggles of all the centuries. Our fathers supposed that this great evil would gradually melt away before an advancing civilization as the snows of a northern winter before the genial rays of an April sun. But the evil grew. Agencies arose which stimulated it, until it became a monster "whose tread made the continent shake." The invention of the cotton-gin gave a stimulus to the production of cotton, and the adaptation of the climate and soil of the South to the production of this leading staple of the world increased the demand for labor. "More laborers," was the cry, and whole States, Virginia, the mother of Presidents, leading the rest, gave themselves to supplying the market. "More land," was the cry; and Texas was thrown to the insatiable leech. The free North stood back agast as this crowned and unclean leper, under the claimed sanction of the Constitution,

marched to its new domain. The institution which our fathers had looked upon as an evil had become divine. It occupied the bench, it controlled the Administration, it struck down Senators in the Halls of Congress, it cajoled and flattered and threatened and lied, till its all-absorbing maw swallowed Congress itself. The intelligence and moral sense of the nation were against it. The wealth of the nation was against it. The popular vote of the nation, when uncontrolled by demagogues and doughfaces, was against it. In God's good time the people, seeing that the administration of their Government was a cheat, arose in their majesty. The weak and pliant Buchanan, the pilfering Floyd, the cultured but traitorous Davis, were hurled from power, and an honest man, the noblest work of God, placed in the presidential chair. The propagandists of slavery, like their great prototypes, deeming it better to rule in hell than serve in heaven, rebelled. To them alone belongs the responsibility. To them alone attaches the consequences of their awful crime.

The gentlemen upon the other side, in words whose persuasive sweetness might almost raise mortals to the skies or bring angels down, call for peace and the restoration of the Union as it was. Sir, let them restore the crumbled walls of Sumter surmounted by our starry banners; let them call from its depths to the surface of the James, the Cumberland and her gallant crew who went down with their proud flag still flying; let them revivify the scores of thousands whose martyr forms consecrate the hundred battle-fields of this contest, and whose blood has given our land in holiest baptism to freedom henceforth forever; let them give us back our Winthrop and Lyon and Stevens and Kearney and Richardson and Reno and the comrades who with them "sleep their last sleep and have fought their last battle;" let them summon back to our Senate Halls the moldering dust that once was Baker, the noble heart and eloquent tongue now stilled forever; let them hush the grief that fills our land for the loss of those who died that our country might live—grief that proudly mourns and asks no sympathy from traitorous hearts; let them rebuke the gaunt demon of famine now stalking with his triumphal train of woes throughout the South; let them change the stars in their courses, and turn back the hands upon the dial-plate of time, and obliterate the bloody record of the past three years. Then, sir, they can have peace and the Union as it was—a peace which the North would never break. When they shall have done all this, then "may the dog return to his vomit and the sow to her wallowing in the mire." But never until then, sir, shall the crack of the slave-whip again make sweet music in their ears.

Sir, the gentlemen are the Bourbons of our country—they learn nothing and forget nothing. But,

"There's a divinity that shapes our ends,
Rough-hew them how we will."

And has there not been, sir—and I quote from another—a divine purpose controlling all the political and military phases of this conflict; snatching from us victories; granting successes; forcing us at last by the gigantic proportions of this revolt, to shear it of its strength in pronouncing a doom upon its cherished institution and arming against them those of their own household; in frustrating our military campaigns that in the delay public sentiment might conform to the ever-changing condition of things, that slavery by the ravages of war might more effectually be extirpated? Can a man with clear-eyed vision, with reverence in his soul, with a belief within him in the righteousness of Jehovah, fail to read that purpose—the extinction of slavery?

Sir, I was greatly delighted with the beautiful apostrophe to our Union pronounced yesterday by the gentleman from Kentucky. It is, indeed, the palladium of our liberty, the only ark of our safety, and it will stand. Let no loyal heart be discouraged. The lines of the rebellion are already greatly circumscribed. Its means are already greatly crippled. Its hopes of foreign aid are destroyed. Let the people who love the Union and freedom still stand by the old flag, and not a single star shall be blotted out. Star after star shall be added to the constellation, until it culminates in one splendid galaxy spanning the free continent of North America.

Sir, I have been astonished at the spirit evinced by certain gentlemen upon the other side against the Administration which is so earnestly endeavoring to put down this rebellion. While they proclaim that they would prosecute the war, they seem quite indisposed to sustain the measures of the Administration or of Congress by which alone the war can be carried on. Distinguished gentlemen from Ohio—I learned from the remarks of my friend from Ohio upon this side of the House—who now prate their patriotism so loudly, are fresh from the support of Vallandigham in the recent gubernatorial controversy in that State. If so, sir, we must somewhat distrust them, for I cannot be charitable enough to believe that, like poor dog Tray, they were only caught in a very bad company. Sir, had it not been for the Vallandighams of the North, the rebellion, if inaugurated at all, would never have assumed its gigantic proportions. The traitors of the North have held up the hands of the rebels of the South, and, like poor and despised Vallandigham, by the verdict of a loyal people they will receive their reward. Vallandigham, now without a Government, without a home, friendless and alone, seeks the shelter of a foreign land; and future history will write his name among the Arnolds and Burrs of his country.

The gentleman from New York [Mr. F. Wood] a few days since delivered a most remarkable speech. Its only virtue, in my judgment, was its frankness, and hereafter loyal people will have no doubt as to where the gentleman's sympathies are. He quotes liberally from Burke and Chatham, those immortal English statesmen who always defended the people against the encroachments of the Crown, and applies the quotations to the present rebellion. Is the gentleman honest or is he blinded? Can he see no distinction between that great and manly struggle for independence involving the right of self-government and free institutions, and this rebellion which seeks to overthrow and destroy them both? Can he see no distinction between a people rising in arms who are taxed without representation, who are humiliated and oppressed by unjust decrees and ordinances and regulations, and a people rising in rebellion against the most beneficent Government on earth? Sir, I do not wonder that he is the representative of a city which required forty thousand national troops to protect it from the violence and rapine of his own constituency and the peculiar friends of the Union-loving Governor of the State of New York.

The unjust and unwarrantable assertion of the gentleman from New York respecting New England merits and meets my hearty contempt. New England needs no vindication from the aspersions of the defenders of treason, or the advocates of human bondage. Her "airy buildeth in the cedar's top, and dallies with the wind, and scorns the sun." Her soil is made sacred by the first blood of the Revolution. Liberty was first cradled upon her bosom, and the history of her sons is written upon a scroll which I apprehend the gentleman will never reach. Her's was the first martyr of this godless rebellion, and she will stand in the front ranks, with all her men and all her money, until this Government shall be restored and the old flag shall float in triumph over our entire Union, redeemed, regenerated, and disenthralled from the curse of American slavery. It is impossible to foresee what effect the teachings of such gentlemen may have upon the passions of men. Before to-day, the clouds of secession have lowered over our land. Before to-day liberty-loving New England has been treated with contumely and scorn. Before to-day has the old Bay State, the mother of New England and the mother of freedom, been unjustly assailed. But there she stands as she stood more than thirty years ago when the immortal Webster, in his reply to Mr. Hayne, said, "There is her history. The world knows it by heart. The past, at least, is secure. There are Boston and Lexington and Concord and Bunker Hill, and there they will remain forever. The bones of her sons, fallen in the great struggle for independence, now lie mingled with the soil of every State from New England to Georgia, and there they will lie forever. And, sir, where American liberty raised its first voice, where its youth was nurtured and sustained, there it still lives in the strength of its manhood and full of its original spirit. If discord and disunion shall wound it; if party strife and blind ambition shall

hawk at and tear it; if folly and madness, if uneasiness under necessary and salutary restraint shall succeed in separating it from that Union by which alone its existence is made sure, it will stand in the end by the side of that cradle in which its infancy was rocked, and will fall at last, if fall it must, amidst the proudest monuments of its own glory on the very spot of its origin."

Mr. YEAMAN. Mr. Speaker, there are two propositions before the House: one to repeal the joint resolution explaining and limiting the confiscation act so that under its operation only an estate for the life of the offender will pass, and the other only so modifying the explanatory resolution as to give the act such scope and effect as it may have under the Constitution.

It is mainly a legal question, both propositions involving an inquiry into the legal signification of the language used in the Constitution, and both do in some degree, and one more than the other, involve the policy and wisdom of confiscating in fee all the real estate made subject to the operation of the act, which, it must be said, embraces about all within the lines of the rebellion. While it is impossible for the act or the resolution to *enlarge* the Constitution, or do more than it will allow, it is competent for the resolution as it now stands to limit, not the meaning of the Constitution, (nor scarcely of the act, for that can mean nothing against the Constitution,) but to limit the extent of confiscation, or do less than might be done under the Constitution, if under it, as many think, the fee may be confiscated.

I have very much regretted to see the discussion of a great and interesting legal question soiled on both sides of the House by so much of a bitter partisan character. It were to be wished that gentlemen in discussing a question so great and so interesting would observe that decorum of argumentation and that rigid exclusion of foreign and personal matter for which they are so honorably distinguished in those tribunals so often illustrated by their forensic prowess.

"Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained." As was well remarked by the gentleman from Ohio, [Mr. SPALDING,] these words have a legal signification or they have not. The difficulty is to determine what they do mean in the connection in which they are used. The meaning of a technical word or word of art can generally be learned, but it is the misfortune of human language, the attempt to describe things and express ideas by signs and sounds, that it is often doubtful what or how much is meant by one or more words, owing to the relation in which they stand to each other in the sentence or the manner in which they are used in treating of the subject in hand. The attempt to arrive at the meaning of this clause has been marked by much ability and ingenuity, and a singular inattention to the meaning of the words *attaint* and *attainder*.

"*Attainder*. The stain or corruption of the blood of a criminal capitally condemned; the immediate, inseparable consequence by the common law on the pronouncing the sentence of death." "He is called *attaint*, *attainted*, stained, or blackened. He is no longer of any credit or reputation; he cannot be a witness in any court." "This is *after judgment*, for there is great difference between a man *convicted* and *attainted*." "Upon judgment, therefore, of death, and not before, the attainder of a criminal commences." "The consequences of attainder are forfeiture and corruption of blood."—*Toulmin*.

"When sentence of death, the most terrible and highest judgment in the laws of England, is pronounced, the immediate inseparable consequence from the common law is attainder." "The doctrine of *escheat* upon attainder taken singly is this: that the blood of the tenant, by the commission of any felony, is corrupted and stained, and the original donation of the land is thereby determined, it is legal always granted to the vessel upon the implied condition of *non haec se gesserit*, upon the thorough demonstration of which guilt, by legal attainder, the mutual covenant and bond of fealty are held to be broken, the estate instantly falls back from the offender to the lord of the fee, and the inheritable quality of his blood is extinguished and blotted out forever."—*Blackstone*.

These are the best texts I have been able to find, and yet they are a little loose. *Toulmin* seems to use attainder as either cause or effect. He first puts it as the *corruption of blood*, which at common law was immediately and inseparably consequent upon judgment of death for felony, and next says the consequences of attainder are *forfeiture and corruption of blood*, thus using attainder as judgment and putting corruption and forfeiture as the conse-

quences. This convertible use of the word occurs through all the books. *Blackstone* puts attainder as the consequence of judgment of death. And the expression "that the blood of the tenant, by the commission of any felony, is corrupted and stained," would seem inaccurate, unless immediately qualified by the words "upon the thorough demonstration of which guilt by legal attainder," or unless he means that upon such demonstration the consequences attach and revert back to the commission of the felony. And to say that the guilt may or must be demonstrated by *attainder*, is using attainder in the sense of judgment.

A previous clause prohibits *bills of attainder*. By bill of attainder, passed by Parliament, either during the life of the party thus attainted or after his death, he was found or declared guilty by legislative enactment, without judicial trial, his blood was corrupted, his heirs disinherited, and his estate forfeited or confiscated. It was deemed so important to exclude this engine of oppression, whose motive-power had always been passion, malice, revenge, and avarice, that it was specially prohibited, though a fair interpretation of other provisions would really attain the same thing.

Then another clause gives to Congress power to punish treason, but limits the effect of an "attainder of treason." That attainder is here used in the more comprehensive sense of judgment, judicial demonstration of guilt, is proved by the prohibition of legislative attainder, and by putting corruption and forfeiture as the things *worked* by attainder. The limitation is "except during the life." To what does the limitation apply? To the power to punish? or the extent of corruption and forfeiture, the time for which they may occur? or to the time during which they must be accomplished, leaving them, when accomplished, as extensive as they were at common-law? or only upon the common-law effect of attainder or judgment, leaving statutory punishment as broad as the discretion of Congress? or does it limit both the mode and the extent of corruption and forfeiture as a punishment for treason? To a legal mind these questions are as interesting as they are important.

It is a starting point to say the limitation was put there for some purpose. It is our duty, therefore, to give it a meaning that is not absurd, a meaning consistent with the language used, consistent with other parts of the same instrument, and hostile to or inconsistent with the evils to be avoided. But, for the purpose of construction, it ought always to be remembered that the object aimed to be effected by the legislator, when well known and admitted, is rather a lamp to read by than a pen to write with. When language palpably does not accomplish an object, we need not presume, we are required to conclude, that the object was not intended. This case is rendered the more complex because many clear minds have doubts of the objects as well as the language. While the object must always be gathered, if possible, from the language used, it is fair and competent to call to our assistance the light of previous history, existing evils, and contemporaneous opinions. It does not require much generosity to admit that without these aids the technical argument on the other side would have much force.

I have not omitted to observe the point of punctuation made by the gentleman from Massachusetts, [Mr. BOUTWELL,] and, while I would avail myself of any real assistance to get at the truth, and would not fall back on what he admits to be true, that the law does not punctuate, I must say that I have not been able to see that the clause would mean differently with or without commas from the word *but* to the word *attainted*; and the fact that different editions have it three different ways would seem to prove this rather than that either was right or that any was necessary. There are some sentences in our language where right punctuation is not only necessary, but wrong punctuation changes the whole meaning. This is not one of them. If it had said "shall not work any corruption of blood; neither shall it work forfeiture except," &c., it would have seemed to mean what he would have it mean as to forfeiture. It would be quite an era in the history of punctuation when the title to the real estate in half an empire should turn on the question of a sentence being pointed or not pointed here or there by a comma.

In attempting to fix the true meaning of the

clause the gentleman from Indiana [Mr. ORTH] makes an ingenious philological argument to prove that *except*, as there used, is synonymous with *unless*; that they are, or were at that day, convertible terms, and that therefore the clause means the same as if it had read "*unless during the life of the person attained*." If the two words are of the same import exactly, I cannot see what is gained to the argument by an exchange or substitution of one for the other, for it would still be a question, what is the limitation? The argument leaves us where we began. If *unless* means anything different from *except*, or suits a given construction better, then that difference of meaning destroys the foundation of the argument, the supposed synonymy.

It may be the most apt words have not been used for limiting the effect to a life estate, saving the fee to the heir. If it had read "for the life of," or "for the term of the life," or "for and during the life," or "an estate for the life of," all doubt would have been excluded. While it is admitted that in conveyancing a life estate may be raised or limited by the *habendum* to hold during a given life, yet the fact that good lawyers did not use the most apt words of the law to define a life estate, lends plausibility to the idea that they used the word *during* to express the time when, or during which, a thing must happen or be done, rather than the quantity of estate that should pass, or the time for which it should be held.

But would not the last-named construction involve the absurdity of gravely prohibiting the trial and condemnation of a dead man, and requiring that he shall be accused, convicted, and condemned by judgment pronounced (whereof comes attain) while he yet lives? It palpably could not be done by judicial proceedings except while he lives. Then since the words must have a meaning if possible, and a sensible and consistent meaning being always preferred, are we not driven to the conclusion that the limitation is upon the estate taken, the time for which it may be confiscated to the Government, and not upon the time during which the forfeiture may occur? The latter is in the nature of things and of the attainder here mentioned, and the Constitution could not make it more certain.

The *reductio ad absurdum* so much relied on, to wit, the alleged folly and impolicy of inflicting for the highest and blackest of crimes a lesser punishment than is or may be competently inflicted for lighter offenses, and of prohibiting to attainder what may be accomplished by sale of the fee under a *capias pro fine*, and of Government receiving and disposing of a title enduring only from the prison to the scaffold, or as was aptly said the other day, "of the length of the hangman's halter," would be more conclusive to my mind in framing an instrument than in construing it. And then it is no absurdity in a logical or legal sense; the *reductio* has not occurred, for if the law is so, the absurdity is not in the construction that so reads it, but in the legislation that so made it.

That forfeiture might occur under the Constitution, whether by statute or as the common-law incident of attainder, is sufficiently proved by the use of the word and the limitation "except during." But whether it must come of the statute or of the common law, and if by either then for what time, is quite a different question. The gentleman from Pennsylvania [Mr. STEVENS] says it could not come of the common law, because, as to the Government of the United States there is no common law in this country. Is this quite clear? It is readily admitted that there are none but statutory courts, and that jurisdiction of treason and other felonies is conferred by statute, and that the statute does enumerate various offenses and denounce the punishment. But suppose jurisdiction were conferred of treason, murder, and other felonies, without saying more, would not the common-law definition of murder, and the common-law punishment of murder attach as of course? And when the man is on trial for his life, where does the court look for those vital tests and rules by which to determine the sufficiency of the indictment and the relevancy and competency of evidence? To the statute or to the common law? Evidently to the latter. If we say there can be no attainder in this country, or no effect of judgment, as of the common law, for that under the United States there is no common law,

everything depending on positive enactment, then seeing the language is used, we can give to it no other effect or sense than as a limitation of the estate to be divested by the law of Congress punishing treason. The gentleman's reasoning drives us infallibly to this conclusion, and without intending it, he has struck the heaviest blow yet dealt against the construction contended for by his friends.

I have partly discussed and must now dispose of the greatest difficulty I have felt in this matter. Congress has power to punish treason, but a limit is put upon the work or effect of an attainder of treason. In the same sentence a power is conferred and a limitation expressed upon the effect of that judicial finding by which alone the power can be executed. Does this limit the power to declare the punishment, or only the effect of the punishment when adjudged? Is it a limitation upon punitive power, upon the legislation by which punishment is declared, or only upon the judgment by which punishment is ordered to be inflicted? Would limiting one be of any effect without limiting both? Does not a limit placed upon one operate as a limit upon the other? Does it only take away from conviction and judgment of death the effect (corruption and forfeiture) resulting under the common law? If so, may not Congress declare what punishment it pleases? In some of the writers, as we have seen, attainder and judgment are used as convertible or synonymous terms, and so are the words attainted and condemned. I think the more accurate and technical use of the word is as a consequence, the tincture, the corruption of blood, its incapacity to inherit or transmit, which invariably and inseparably resulted at the common law from a judgment of death for felony. Technical attainder was not so much the judgment as the corruption worked by that judgment. The judgment did not, in terms, forfeit or corrupt, but worked or drew to itself and upon the criminal these consequences by the ancillary operation of the common law. But the two being so inseparably blended, we may easily see how even good lawyers and accurate writers would come to speak of attainder as judgment. So it seems to be used in the Constitution, else the words "no attainder shall work corruption of blood, or forfeiture except," &c., being rendered, would read "no corruption of blood or forfeiture shall work corruption of blood or forfeiture except," &c.

Then if the term is used as a judgment of treason, is the limitation merely upon the effect of the judgment, or upon the power of Congress to punish? If the expression of one excludes the other, and if Congress is empowered to declare the punishment of treason, and if the limitation is in terms that the attainder or judgment shall not work certain things, is it not a fair conclusion that, if Congress will, the same things may be declared by enactment? May not technical yet correct and legitimate reasoning confine the limitation to the judgment, leaving the punitive power and discretion of Congress unbridled? This construction would make the Constitution mean that Congress may, by enactment, punish treason as it will; but in the absence of any such enactment, or of any penalty other than death, the judgment shall not of itself work corruption or forfeiture beyond or longer than the life of the guilty party. That it must be done, if at all, during the life is in the nature of things, for no dead man is adjudged to be hanged; and, as to judgments, they never did attain anything but warm blood. After bills of attainder were prohibited, an attainder or corruption of blood by judgment could only happen to blood coursing through the veins of a live man. And this is shown by the opinion in all the books, that if a man die or escape in the interval between conviction and judgment of execution, there was no attainder.

It would be disingenuous in me to say that this view has occasioned me no doubt or difficulty. Such a construction would at first seem technically to satisfy the language used. Whether it attains the object intended to be accomplished is quite a different question. The weight of authority, until just now, seems to be decidedly in favor of the idea that the Government can only take a life estate, an estate for the life of the party convicted; that the limitation is upon the punishment, and not merely upon the incidents of the judgment ascertaining guilt and pronouncing punishment. And this idea is in harmony with the avowed purpose

of preventing the enormous abuses and the "appetizing effects" that have occurred in other countries, and the growing modern tendency to abandon confiscation, and to punish the person by death or imprisonment. What was accomplished by taking away the common-law effect of sentence, which was not merely the forfeiture of his estate, but the corruption of his blood in himself and posterity, if the same effect might be denounced as a punishment by act of Congress? The heats of civil war and the passions of majorities were things sedulously guarded against in the Constitution. The limitation is equally upon corruption of blood as upon forfeiture, and the limitation shows that corruption might occur. Then here is the fallacy of the technical construction I am combating. If "during the life of" means *while he yet lives*, it is no limitation upon corruption, which would then occur as fully as of old, since, by judgment, it could only occur to a living man. But if "during" meant for the term of the life the heir is saved of corruption, and the only effect upon the inheritable quality of the blood is to prevent the party from taking during his own life, or the melancholy span of it between the dungeon and the halter, leaving his heir to take his own estate, and whatever the attainted one might have taken but for the temporary disability. It would seem this construction would not prevent the transmission through his blood from his ancestor to his offspring, since the disability of the blood is removed at the death of the guilty party; and had it not been tainted during his own life it would have taken that which now passes at his death. By this construction the heir is not injured either in blood or estate. *Nemo est heres viventis*. Suppose descent cast by death of a guilty person's ancestor after attainder, and before final execution. Is the whole inheritance defeated, or only held in abeyance until execution, after which the heir of the convict may enter? Or will the heir of the convict take from his remote ancestor during the natural life of his immediate ancestor, upon the ground that the latter is already civilly dead? There is no legal difficulty as to what becomes of the estate. If the Government takes an estate for life and the inheritance is held in abeyance, the Government may enter and hold until the execution of judgment. The alleged folly of the Government concerning itself about receiving and disposing of so short a tenure, or making itself a trustee to support a remainder, does not quite amount to legal reasoning. It may be said that it makes corruption and forfeiture practically nugatory as punishments, and that it had been as well to prohibit them altogether. That may be. But, on the other hand, I ask to be pointed one reason in law, one fact in history, one grievance or misfortune of our ancestors, that would have induced the Convention to take away the well-known, inseparable, immediate, well-defined common-law effect of judgment or attainder of treason, and leave the Congress power to restore it. Congress might punish treason by imprisonment for life, and a forfeiture for that life, which might as easily be a quarter or half a century as a few days. The supposed absurdity involves the death penalty as a fixed fact, when it is not fixed by the Constitution. If no attainder of treason shall of itself work the things prohibited, can Congress say the attainder shall work them? And if they cannot give to the attainder this effect, can they give any such effect to their own legislation? The subject-matter treated of is the power of Congress to punish treason, and can they do by a statute that which it is declared shall not be done by judgment? How would or how could such a statute be enforced except by the judgment of a court? And when the judgment is rendered in exact pursuance of the statute, corrupting the blood for all time and forfeiting the fee, would it not be rather a nice distinction to say this was worked by the statute and not the judgment? The consequences of attainder or judgment of treason were as definitely fixed and known as anything else under the common law. When the Convention took away these consequences, did it not take them away from the punishment of treason to be declared by Congress? Would any other construction be entirely consistent with the constitutional prohibition against bills of attainder? The Constitution is clearly more jealous of the legislature than of the judiciary; it absolutely prohibits Congress from doing it directly by bill acting immediately

on the person without trial. If they may accomplish the same thing, as to the living, by statutory punishment to be imposed by a court, when the Constitution says the attainder of treason shall not work this effect, then practically the only effect of the clause against bills of attainder is as to the dead. Is it not probable that the word attainder is here used in the compound or comprehensive sense of *guilt, trial, punishment, judgment*, and that thus the limitation is upon the punishment, the power of Congress, the consequence of crime, and not merely upon the consequences at common law of the judgment ascertaining the guilt? All will admit that Congress might competently punish treason, or declare the punishment to be fine and imprisonment without the death penalty and without either corruption or forfeiture. Query: would not that be an "attainder of treason" in the sense in which those words are used in the Constitution? If so, and I cannot now see it otherwise, my view is strengthened.

I have not omitted to notice the suggestion of the gentleman from Massachusetts that it would be incompetent for the United States to raise and pass an estate for life by carving it out of the fee, and vest such an estate in the purchaser within those States wherein an estate for life in realty is unknown to the local law, the regulation of titles and estates being under the control of State governments. This is a nicer deference to the power of the State governments than we are in the habit of hearing from those who are urging the measure now before the House. I am quite sure such estates could be raised by deed under the common law in States that do not prohibit such conveyances, and I do not know of any such prohibitions. In any event, if they result from the operation of a "supreme law," they are competent.

Nor have I overlooked the argument of the folly of prohibiting to an attainder what, it is alleged, might be worked by a *capias pro fine*; of prohibiting the attainder from forfeiting the fee, and yet allowing an amercement which will exhaust the whole estate and pass the fee under execution sale, thus accomplishing indirectly what is prohibited from being directly done. There might be a doubt whether that could be done. I will not give an opinion. But the argument, if well founded, does not quite reach the case. It would be pertinent as touching the fitness of such a distinction, and when the fine goes to the Government, the reason against the "appetizing effect" would be nearly as strong in one case as in the other. But I am now discussing the legal effect of an instrumentality and not the soundness of its policy.

The language of Mr. Madison, in No. 43 of the *Federalist*, "the Convention have, with great judgment, opposed a barrier to this peculiar danger, by inserting a constitutional definition of the crime, fixing the proof necessary for a conviction of it, and restraining the Congress, even in punishing it, from extending the consequences of guilt beyond the person of its author," shows clearly Mr. Madison's opinion to have been that the limitation is upon the power of Congress, and not merely on the effects of the judgment. Then what was meant by confining the consequences of guilt to the person of the author? It has been urged with much zeal that taking a man's property is punishing his person in the sense here used. I think that it is correct, and think Mr. Madison so viewed it. Then the inference is drawn that taking the fee is a punishment of the person and not of the heir, since the heir has neither natural nor legal right to the estate while the ancestor lives, and therefore a forfeiture or confiscation of the fee is no violation of the Constitution. But the social right of the heir to the inheritance has come to be so universally recognized that with nearly all but legal minds it has come to be regarded as a natural right, so much so that taking away the inheritance does practically punish the heir; and Mr. Madison was addressing the people, and not a learned court, giving them the reasons why they should adopt the Constitution. He offered one they could understand, and his putting it in this unlearned form is the strongest evidence of his understanding of the Constitution. Moreover, Mr. Madison was speaking of the whole clause, and the clause treats of corruption as well as forfeiture; the limitation applies to both, and it is difficult to say that corruption of blood, though occurring in the person of the guilty party, did

not injuriously and disgracefully affect posterity, until removed by statute or pardon. Therefore the pertinence of the suggestion that the Convention desired to limit the consequences of guilt to the person of the offender, which would not have been done if unlimited corruption might follow guilt either by statutory denunciation or as the technical consequence of judgment.

The action of the Congress of 1790, in enacting that "no conviction or judgment for any of the offenses aforesaid shall work corruption of blood or any forfeiture of estate," is not of very clear value or import in construing this clause. The prohibition may be held an admission by the Legislature that without the prohibition corruption and forfeiture might have occurred, and, as they had not yet been inflicted by statute, that they would have occurred under the common law as a result or consequence of judgment under the statute; and thus far that section of the act supports the idea that the limitation of the Constitution is upon the effect of a judgment and not upon the power of Congress. On the other hand this legislative judgment of the First Congress, embracing many of the members of the Convention, against all corruption and forfeiture, not allowing the Government to take even a life estate between the judgment and the scaffold, by showing the tendency of opinion would indicate a policy consistent only with the idea that the limitation is upon the power of Congress as well as upon the effect of the judgment. I am inclined to think it does not so much indicate any opinion of the meaning of the Constitution as it does a legislative judgment against the whole policy of confiscation and forfeiture.

The gentleman from Pennsylvania [Mr. STRIVENS] has attempted to cut the gordian knot by a stroke of argument as able as it is bold, in which I understand him to maintain that the rebellion has become a public war, and as such has invested the parties to it with belligerent rights, that the rebel States, so called, are not now a part of the Union, that the Constitution and laws of the United States are inoperative there and have no application, that they are alien enemies, and that the contest is to be governed in all things by the rules of war and international law. I have, for the sake of brevity and grouping, stated the results of his argument in my own language, rather than made extended quotations, and believe I am substantially right. His premises about the publicity of the war are correct, and his conclusion that the war must be managed under the usages of war and of international law is correct. But that his conclusions about the status of the States and people of the South and our power over them and their territory are incorrect, I must be permitted to think I have shown in my speech upon the restoration of civil authority, and will not now repeat the argument.

For the purpose of waging the war the rules of war under the law of nations do obtain; but for all dealings with the citizen and his estate for the purpose of punishing crime, or raising revenue, for anything not a necessary or legitimate war measure the Constitution and laws must obtain. It does not alter the case or help the argument on the other side to call this act a "war measure." Any bill for raising men and money in time of war is a war measure, but the authority therefor is derived, not from the being in a state of war, but from the Constitution. So with the power to punish treason. The laws of war relate to action by military forces and commanders, and not to legislation by this body. The soldier may strike according to those laws and they do not tie his arms. We enact by and under the Constitution. It seems to me that the learned gentleman, instead of gaining power by relying on the laws of war and of nations in lieu of the Constitution, loses it in this, that under our Constitution, and indeed under any Government in the world, the power of the sovereign over the person and property of a rebellious citizen or subject is greater than the power of the same sovereignty over the persons and property of alien enemies. I cannot think this will be denied, and will not argue it. Since the irruption of the Franks and Huns into southern and western Europe, and the conquest of England by the Normans, and the establishment of feudal tenures, I do not believe any war between aliens has been followed by so sweeping a change in the title to realty as has been proposed here. Whatever writers upon international law

may say about the text, the practice and the judgment of civilized and Christian nations are against it.

Would it not be more harmonious to say that a war of such dimensions bestows belligerent rights and powers upon both parties for war purposes, whether offensive or defensive, during the existence of the war, and that when armed resistance is overcome and their *de facto* civil governments dissipated our success will have deprived them of belligerent rights, and reduced them from the status of soldiers to that of citizens and traitors? I extremely regretted the position of the gentleman for another reason. Such a declaration, coming at this time from one who is here and at the South and in other nations esteemed a leader of the dominant party, might have a political and moral effect not at all desirable.

The gentleman from Ohio, [Mr. GARFIELD,] while disdaining going so far as the gentleman from Pennsylvania, yet says that the real question in the case is whether the unlimited confiscation now sought is a competent war measure under the laws of war, and refers to the late prize case. The court only decided what was before them, and held that the blockade was competent, and that for the purpose of captures on water we might treat persons domiciled in the limits of the rebellion as we would aliens. This does not cover the case. That capture was an act of war, and was adjudged valid for the reasons assigned. We are now treating of legislative power. There are two insurmountable objections to this theory. It would seem to render inoperative and void the constitutional definition and punishment of treason, which is levying war. If, as soon as war exists, the Constitution is suspended, and international law alone obtains, treason, in its guilty sense and punishable form, cannot exist, for under the international code, while you may shoot your enemy as an enemy, you cannot hang him as a traitor. We cannot answer to this that there might be clear cases of treason, under the ruling in Burr's case, where armed resistance in force would amount to a levying of war but would not attain the dignity of a public war. The Constitution does not draw this line. Treason is levying of war, and the argument on the other side strips the levying of much of its guilt and the nation of much of its power. Then such a distinction would be odious. According to it, resisting the tax on a few barrels of whisky would be a greater crime than an immense war to break up the Government. The other objection is, the rule is too uncertain. Under it, our power over men and estates is not derived from a known law and the personal guilt of the party, but the fact of the person and estate being within rebel lines. Then our power ebbs and flows with the successes and defeats of war. As we advance, the area of our power decreases, and as we are driven back the area of our power increases, unless the power, having attached as an incident of accidental and temporary rebel control, remains. Then half of Missouri, two thirds of Kentucky, and all of Tennessee, are to-day obnoxious to this power, even in large districts that are the most intensely loyal on this continent. And, moreover, if the power depends on the source alleged, then traitors and rebels in those parts of States not made alien by rebel possession and control are either exempt or less easily reached, no matter how guilty. It ought to occur to gentlemen that a rule so uneven and uncertain in its workings is not the true rule of the case.

Whoever sees his way clearly to the real and avowed end aimed at by the repealing resolution, which object is the most extensive and the most unmitigated confiscation and forfeiture in the world's history, has stronger convictions and clearer legal perceptions than myself. And when gentlemen denounce as traitors or as rebel sympathizers all who cannot see this matter as they would have it seen, or who, having a doubt, are slow to abandon a construction which has obtained since the foundation of the Government, they forget the amenities of life, and do a thing on this floor which they would be ashamed to do in the presence of any court where their logic has so often vanquished error, and where the graces of their courtly professional demeanor have so often robbed defeat of its ruder pains.

I prefer to leave the original resolution as it was passed on the President's recommendation. It

has been my painful duty so often to differ with our amiable Chief Executive that it is now with unaffected pleasure I come to his rescue and hold up his hands; doing this from a conviction of right, and not to prove my loyalty to those who so lately held that to agree with the President in all things was the only true standard of loyalty. The time is not far distant when gentlemen will forget their passions and honor human nature by being ashamed of the day when they allowed a difference of opinion upon a legal question to be made the occasion for the imputation of improper and unworthy sentiments.

Mr. WILSON. I now withdraw the motion to recommit the resolution, and move to strike out the words "except during his life." This amendment being intended to limit the operation and effect of the said resolution and act, and the same are hereby limited, only so far as to make them conformable to section three of article three of the Constitution of the United States; and in lieu thereof to insert, "contrary to the Constitution of the United States;" so that it would read:

That the last clause of a "joint resolution, explanatory of 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,'" approved July 17, 1862, be, and the same hereby is, so amended as to read: "nor shall any punishment or proceeding under said act be so construed as to work a forfeiture of the estate of the offender contrary to the Constitution of the United States: *Provided*, That no other public warning or proclamation under the act of July 17, 1862, chapter thirty-five, section six, is or shall be required than the proclamation of the President made and published by him on the 25th day of July, 1862, which proclamation so made shall be received and held sufficient in all cases now pending, or which may hereafter arise under said act."

I now demand the previous question on the resolution and amendment.

Mr. SCHENCK. This subject will come up to-morrow if we now go into Committee of the Whole on the state of the Union on the enrollment bill, and I make that motion.

The SPEAKER. That motion is not in order pending the demand for the previous question.

Mr. COX moved that the resolution be laid upon the table.

Mr. CRAVENS called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 71, nays 53; as follows:

YEAS.—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, William G. Brown, Chandler, Clay, Caffroth, Cox, Cravens, Dawson, Dennison, Eden, Eldridge, Finck, Ganson, Gilder, Hale, Hall, Harding, Hargrout, Benjamin G. Harris, Herriek, Holman, Hutchins, William Johnson, Kalfheis, Kernan, King, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Nelson, Noble, Odell, John O'Neill, Prayn, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, James S. Rollins, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Wadsworth, Webster, Whaley, Wheeler, Clifton A. White, Joseph W. White, Winfield, and Yeaman—71.

NAYS.—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Thomas P. Davis, Dawes, Deming, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Hulburd, Jencks, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McLeod, McClure, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward B. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilson, Windom, and Woodbridge—53.

So the House refused to lay the resolution upon the table.

During the vote, Mr. STEELE, of New York, stated that his colleague, Mr. STEBBINS, had gone home on account of sickness.

Mr. PERRY stated that he would have voted in the affirmative if he had not paired with Mr. WILDER.

The vote was then announced as above recorded.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the amendment offered by Mr. WILSON was adopted.

The resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WILSON. I move the previous question upon the passage of the bill.

Mr. COX. I demand the yeas and nays upon the passage.

Mr. CRAVENS. As this is an important vote, I move that there be a call of the House.

The motion was not agreed to.

The previous question was then seconded, and the main question ordered to be put.

The yeas and nays were ordered on the passage of the resolution.

Mr. WILSON. I shall not probably occupy the hour which is allotted to me in closing this discussion.

The SPEAKER. The Chair doubts whether the gentleman from Iowa can now speak upon the passage of the bill. He certainly could upon the third reading, but the practice has not been to allow it after a bill or resolution has been read the third time. The previous question has been seconded upon the passage of the resolution.

Mr. WILSON. If such is the case I have been under a misapprehension.

The SPEAKER. The Chair will state his decision to the House, and they can then dispose of it. The rule of the House allows a gentleman reporting a bill from a committee, after the previous question is sustained, and when no other gentleman has a right to speak, to close debate upon the question. That, under the practice, has always been upon the third reading. The gentleman from Iowa demanded the previous question upon the third reading, but did not avail himself of the opportunity. The joint resolution was then engrossed and read the third time, and the previous question was seconded and the main question ordered upon the passage of the resolution. The Chair decides that the gentleman has not the right to occupy the floor upon the passage of the bill, when he has declined to occupy it upon the third reading.

Mr. WILSON. If that is the rule—and I do not doubt it—I have been misled by some instances which have occurred in the House, one of which was upon an election case.

The SPEAKER. That was on a simple resolution, which is read only once.

Mr. WILSON. Another instance was when the gentleman from Pennsylvania [Mr. STEVENS] closed a discussion upon one of the bills of the Committee of Ways and Means.

The SPEAKER. That was while amendments were being adopted. The Chair ruled then, in accordance with the usage, that he claimed his right too late—that it should have been exercised before the House commenced voting under the previous question on amendments; and the House gave the gentleman unanimous consent. The gentleman from Iowa has allowed the time to pass when he was entitled to close the debate, but the gentleman can proceed by unanimous consent.

Mr. GANSON. I hope there will be no objection upon this side of the House, provided that my colleague, [Mr. KERNAN,] a member of the Committee on the Judiciary, may be heard also, each to be confined to half an hour.

Mr. WILSON. I think I might conclude my remarks in half an hour.

Mr. GANSON. I hope that courtesy will be extended to my colleague.

Mr. WILSON. I have no objection.

The SPEAKER. Is there any objection to such an arrangement? The Chair hears none.

Mr. WILSON. I will yield for the present to the gentleman from New York, [Mr. KERNAN.]

Mr. KERNAN. Mr. Speaker, I am very reluctant to occupy the time of the House, and it was upon no suggestion of mine that objection was made to the chairman of the Committee on the Judiciary closing the debate, to the end that I should say a few words. I had a desire at an earlier stage of this debate to state my views in reference to this question.

Now, sir, as I have observed this discussion, and as I understand it, those who insist that the Federal Government can forfeit the lands of the people in rebellion in fee, may properly be divided into three classes, first, those who insist that by a correct interpretation of the Constitution we can so forfeit them; secondly, those who insist that though, when we punish traitors by a trial and conviction, we cannot forfeit their lands in fee, nevertheless we may in some other mode than by trial and conviction punish them by a forfeit-

ure in fee; and, thirdly, those who insist that the law under consideration has nothing to do with treason; that we are not dealing with traitors in the eye of the law; are not seeking to punish them for treason; but that we are dealing with them as belligerents, and, by virtue of the law of nations, may confiscate their lands forever.

Now, sir, I dissent from these propositions, and although I must express myself briefly, I desire to say a few words upon each of these points. I regard the question involved a very important one; I feel as earnestly as man can feel, that the policy of Congress in reference to this question of confiscation has very much to do with the present and future welfare of the country; and I would urge upon our political opponents that they have as deep an interest in this question as we have, their welfare is bound up in the preservation of this Government and this Union, and if we can satisfy them that this policy of confiscation is unwise, that it does not tend to the preservation of this Union and this Government, I should hope that they would vote with us on this question; and I appeal to each man—not in the hope that in a brief half hour I can argue them into my belief—but I appeal to every man who differs with me to consult his own good judgment, and then say whether we can pass this law without violating the Constitution, without running against the laws of nations, or without inaugurating a policy which will be destructive rather than preservative of this Government in which we have all so much at stake.

Now, sir, first, what is the correct interpretation of the Constitution on this subject, and to that point I shall give but a few minutes of the time accorded to me. Let it be remembered that when the Constitution was made, there were but two modes by the law of England by which a man's property could be forfeited in punishment of treason; one was by bill of attainder, by an act of Parliament which condemned a man and forfeited his estate without allowing him to be heard in a court of justice, and without any of the safeguards which, by the law of England, in the most arbitrary times, a man had, when he was brought into a court of justice and condemned through its instrumentality.

Now, sir, this mode the Constitution expressly prohibits in the language so often alluded to, that "No bill of attainder or ex post facto law shall be passed." This mode of forfeiting estates for treason, to wit, by act of Parliament, equivalent under our form of Government to doing so by act of Congress, the framers of the Constitution deemed it wise to forbid absolutely, and they did so in the first article of that instrument by the provision I have stated.

There was then left the other mode known to the law of England of forfeiting a man's estate for treason, a political offense, namely, by trial and condemnation by a court of justice. The framers of the Constitution made provisions as to this mode. In article three, section three, they define treason; they declare that no person shall be convicted of this crime unless on the testimony of two witnesses, or on his confession in open court, and that Congress shall have power to punish it, but "no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained."

Now, sir, mark that the framers of the Constitution were in this article dealing with the only mode known to the law of England, after the bill of attainder was abolished, by which a person could be punished by forfeiture of his estate for treason. They prescribe that "no attainder of treason" shall work forfeiture of estate except during the life of the person. What is the meaning of "attainder of treason" in legal language? It is the effect, the consequence of judgment pronounced by the court against a person who had been tried and convicted of treason. Blackstone says:

"Upon judgment of death, and not before, the attainder of a criminal commences; and therefore either upon judgment of outlawry or of death for treason or felony, a man shall be said to be attained."

Again he says:

"Forfeiture does not take effect unless an attainder be had, of which it is one of the fruits; and therefore if a traitor dies before judgment is pronounced, or is killed in open rebellion, or is hanged by martial law, it works no forfeiture of his land, for he never was attained of treason."

That is, he never was convicted and judgment pronounced against him for treason. "Attainder

of treason," therefore, in its legal and constitutional sense, signifies one of the consequences, one of the effects of conviction and judgment by a court for the crime of treason. This effect, by the law of England at the time the Constitution was made, was the forfeiture of the estate of the offender. When, therefore, the framers of the Constitution, in the article which defines treason, prescribe the evidence requisite to convict, and grant the power to Congress to declare its punishment, and declare that "no attainder of treason," that is, no conviction and judgment against a person for treason, shall work a forfeiture of his estate except during his life, is it not clear that they intended to, and by the language used clearly did, limit the power of Congress in punishing by forfeiture to the taking of a life estate? Is it not clear that we are forbidden by the Constitution to forfeit the lands of those in rebellion by way of punishment for their treason against the Government, beyond their estates therein for life?

This is the construction given to this portion of the Constitution by Mr. Madison in the Federalist. Judge Story is clear and unequivocal that this is its meaning. In section twelve hundred and ninety-two of his Commentaries on the Constitution, after speaking of the grant of power to Congress to declare the punishment of treason, he says:

"Two motives probably concurred in introducing it as an express power. One was, not to leave it open to implication whether it was to be exclusively punishable with death according to the known rule of the common law, and with the barbarous accompaniments pointed out by it; but to confide the punishment to the discretion of Congress. The other was to impose some limitation upon the nature and extent of the punishment, so that it should not work corruption of blood or forfeiture beyond the life of the offender."

Now, I appeal to gentlemen whether they will at this time, in the midst of civil war, under the influence, to a greater or less degree, of the passions which civil war always excites, attempt by ingenuity to interpret the Constitution differently from the sages who framed, and the learned commentator who, in peaceful times, gave a construction to this part of it which commanded the approval of all who sought a correct interpretation of it. Unless the latter part of the clause of the Constitution under consideration limits the power of Congress in punishing treason by forfeiture, why was it inserted at all? The first part of the clause grants to Congress the power to declare the punishment of treason. If it was intended that there should be power to forfeit estates in fee the latter part is meaningless, I submit.

Again, there is another fact to which I wish to call attention. Every man interpreting the Constitution or a statute should see what the law was when it was made. What was the law of England on this subject when our Constitution was made? The framers of the Constitution were naturally acting on this subject in reference to the laws of England, whence we drew most of our laws and most of our traditions. Now, it should be remembered that as early as 1708, by the twenty-first chapter of Anne, the British Parliament abolished forfeiture for treason beyond the life of the offender. Chancellor Kent says that the humanizing and Christianizing influences of modern times and the force of public opinion had wrought to that degree in England, a land at that time often torn by treasonable factions and practices, that by that statute they changed their law; and although it may be true, as the gentleman from Vermont [Mr. WOODBRIDGE] stated this morning, that in England the tenures to lands are different from ours, yet this was so then; and from that time down to this the law has been that no conviction of treason produced a forfeiture of estate beyond the life of the party convicted. The founders of our Government, the framers of a Constitution for a country which from its institutions would naturally have political excitements, factions, and treasonable practices perchance, think you that they meant to leave to the majority the right to do, in reference to forfeiting lands in punishment of treason, that which had been abolished in England for more than fifty years at the time this Constitution was made?

I therefore submit to gentlemen, to lawyers, to statesmen, to the constructors of constitutions and statutes, whether they will stand for a moment on the interpretation that, by a fair reading of the Constitution, we have power to take away as punishment for treason anything but the life estate of the offender.

Mr. DAVIS, of Maryland. My respect for the gentleman's opinion as a lawyer moves me to ask him to indulge me in putting to him a single question on which I wish to have his opinion.

Mr. KERNAN. I will hear the gentleman's question.

Mr. DAVIS, of Maryland. Does the gentleman suppose that the prohibition in the Constitution applies to personal property as well as to real estate?

Mr. KERNAN. Well, sir, I myself would so suppose on reading the Constitution, and I cannot see why it ought not to be so. And yet, although I have thought on that subject, the gentleman from Maryland will pardon me for not wishing to discuss it now, because "sufficient unto the day is the evil thereof." This legislation is with reference to taking the lands of the people of the South and confiscating them forever. It is our power to do this which I wish now to discuss. I fear it will be one of the most disastrous lines of policy on which we can enter, hoping and desiring as I do that we shall bring the mass of the inheritors of these lands and their fathers to live with us and our children in peace in the old Union and under a common Government.

Gentlemen see what the law in England was at the time our Constitution was adopted. There was no forfeiture of lands in England beyond the life estate for treason. Gentlemen see that one mode of forfeiting estates, by bill of attainder, was prohibited in express language by the Constitution.

They see what evidence was required by our Constitution for a conviction of treason; and that it was declared that no attainder of treason (that is, a conviction and judgment on a trial in a court) should take away lands beyond the life estate. Gentlemen see what have been the opinions of commentators on the subject from that time to this. I appeal to every lawyer here and throughout the land whether he ever dreamed that Judge Story was not right when he said that the intention of the framers of the Constitution was to *limit* the punishment by forfeiture for treason so that it would not extend beyond the life estate of the offender.

Shall we not then adhere to this construction of the Constitution, and legislate in accordance with it? Let us not yield to this new interpretation, which has been put forth elsewhere, and which has been contended for here, and by which the clause in question is made to mean *only* that the proceeding against a party for treason or the attainder of treason must be during the lifetime of the traitor. When bills of attainder were abolished I am not aware of any mode known to our or the English law by which a dead man could be tried or attainted for treason.

Secondly, it is true, as argued by the gentleman from Ohio [Mr. SPALDING] and others, that although the meaning of the Constitution is what we claim on this side of the House, which he conceded, and that where a person is tried, convicted, and sentenced, his life estate only can be forfeited, nevertheless that his lands may be forfeited forever by act of Congress or in some other mode, provided we do not try or convict him at all, provided we take his lands by a proceeding wherein he has not the opportunity to prove he is innocent of treason if this be true, and wherein it is not required to confront him with "two witnesses to the same overt act" to establish his guilt? I submit that this position is not tenable; regarding the act of Congress under consideration as one to forfeit a man's property for treason without trial, it is equivalent to a "bill of attainder," which is expressly prohibited by the Constitution, and is therefore a void act.

But again, the wise men who framed the Constitution, when they declared in that instrument that you could only forfeit a man's life estate where you gave him a fair trial in court and convicted him of treason did not intend to be and were not so careless in reference to the principles of justice and of freedom, or so inconsistent as to give power to the majority of a legislative body, likely to be often moved by political excitement and by partisan feelings, to forfeit forever the lands of a party for a political offense without his having the benefit of a trial. No, sir, they were men who knew too well the dangers of such proceedings; the history of proceedings in England by bills of attainder was familiar to them; they

were too loyal to liberty and those principles by which alone free Governments are sustained and perpetuated to be guilty of such folly.

The gentleman says that by this act of Congress we are dealing with men in armed rebellion against the Government; that we are not proposing to try them for treason. What is armed rebellion against the Government but treason? Can you punish by legal proceedings armed rebellion differently by calling it by some other name than treason? It is treason, and nothing else. Does the gentleman mean to contend that while we cannot by trying and convicting the offender of treason in a court of justice forfeit his land beyond his life estate we can under and by virtue of an act of Congress forfeit his land forever without trial, without the evidence required by the court to convict him, and without his having an opportunity to be heard in his defense?

But I must pass from this point. Gentlemen say that this is a proceeding *in rem*, and that the right of trial by jury is got rid of because it is a trial in a court of admiralty. I will not argue that question. With great deference to others, I ask any lawyer in the House where he ever heard of a proceeding *in rem* in a court of admiralty against *real estate*; where he ever heard of setting a court in motion under our Constitution to proceed and condemn *lands* because the owners had violated the laws, and that, too, without their being entitled to a trial before a jury?

It is not disputed that in cases falling within the admiralty and maritime jurisdiction the courts of the United States may condemn property without trial by jury. But I am not aware that *lands* can be thus adjudicated and condemned, or that the court can, according to the Constitution, be vested with any such jurisdiction over real estate. In common-law cases, as distinguished from those of admiralty and maritime jurisdiction, a party in the courts of the United States is entitled to a trial by jury. The Constitution, article three, section two, provides that "the trial of all crimes, except in cases of impeachment, shall be by jury." Article seven of the Amendments declares, "in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." Again, the Constitution declares, "no person shall be deprived of life, liberty, or property, without due process of law." In view of these provisions of the Constitution, I submit to the House that so far as this law purports to authorize the courts to proceed in the manner of courts of admiralty and adjudicate upon, condemn, and sell the lands of those charged with treason, it is unconstitutional and void. I submit to the sound judgment of every member of the House whether title to property can, under our Constitution and laws, be divested or conferred by such proceedings.

Mr. Speaker, I pass from this question to the proposition which was put forth with so much boldness and ability by the gentleman from Pennsylvania, [Mr. STEVENS.] He insists that the law under consideration has nothing to do with treason; that it is not a law to punish treason or traitors; that the people within the insurrectionary States are at war with the United States, and by this law we are dealing with them, not as rebels against the rightful authority of the United States, but as "alien enemies;" that the insurgents are not subjects of the United States Government, but of foreign States at war with the United States; that the territory of the so-called confederate States is foreign territory; that by the acts of secession and war against the authority of the Constitution and laws of the Union they have abrogated them, and are to be treated, during the war and after resistance is suppressed, as foreign people, and their territory as foreign territory acquired by conquest. And he insists that by the law of nations we are authorized, regarding them as foreign enemies, to confiscate their lands in fee, absolutely and forever.

I understand him to derive the authority to confiscate the lands of those in rebellion not from the Constitution, but from the law of nations. That I may not misstate his position, I extract the following from his remarks as reported in the Globe:

"Here is no attainder for treason, here is no confiscation of property under any provision of the Constitution. Then the law goes on to state how you are to seize and condemn property. It is to be seized and proceeded against *in rem*, according to the law for that purpose, and condemned. As what? As the property of traitors? No such thing. Con-

demned as 'enemies' property.' Does not that show that the Constitution has nothing to do with it on the question of treason? Here are a body of men in arms against the United States. This act of Congress, so far as it refers to seizures of property in fee, refers to them as seizures of the property of *alien enemies*, to be treated as such."

"Others hold that, having committed treason, renounced their allegiance to the Union, discarded its Constitution and laws, organized a distinct and hostile government, and by force of arms having arisen from the condition of insurgents to the position of an independent Power *de facto*, and having been acknowledged as a belligerent both by foreign nations and our own Government, the Constitution and laws of the Union are abrogated so far as they are concerned, and that, as between the two belligerents, they are under the laws of war and the laws of nations alone, and that whichever Power conquers may treat the vanquished as conquered provinces, and may impose upon them such conditions and laws as it may deem best."

"In order rightly to determine this question we must inquire whether the 'confederate States' are to be considered as a hostile people, entitled to no other protection or privileges than are due to foreign nations at war with each other. Is the present contest to be regarded as a *public war*, and to be governed by the rules of civilized warfare, or only as a domestic insurrection, to be suppressed by criminal prosecutions before the courts of the country? If the latter, then the insurgents when proceeded against have a right to invoke the protection of the Constitution and municipal laws. If the former, then they are subject to the laws of war alone."

"It is not a question of punishing under the Constitution but outside of it. These men are enemies, and we are treating them as enemies; and I have no doubt that as States they are at war with us."

"We do not so treat them until we have conquered the country held by the confederate States. Covered by the confederate flag it is foreign country. When we do conquer it, it is a conquered country. Any other principle would render all our conduct inconsistent and anomalous."

"From all this the legitimate conclusion is, that all the people and all the territory within the limits of the organized States which, by a legitimate majority of their citizens renounced the Constitution, took their States out of the Union, and made war upon the Government, are, so far as they are concerned, subject to the laws of the State; and, so far as the United States Government is concerned, subject to the laws of war and of nations, both while the war continues and when it shall be ended."

"By the laws of war the conqueror may seize and convert to his own use everything that belongs to the enemy. This may be done while the war is relating to weaken the enemy, and when it is ended the things seized may be retained to pay the expenses of the war and the damages caused by it. Towns, cities, and provinces may be held as a punishment for an unjust war, and as security against future aggressions. The property thus taken is not confiscated under the Constitution after conviction for treason, but is held by virtue of the laws of war. No individual crime need be proved against the owners. The fact of being a belligerent enemy carries the forfeiture with it. Here was the error of the President when he vetoed the confiscation bill passed by Congress. In the confusion of business he overlooked the distinction between a traitor and a belligerent enemy."

In answer to these positions I submit, and I put this to every member of the House, is not the act under consideration a law to punish treason—to punish men who have been or shall be engaged in rebellion against the rightful authority of the Government of the United States; who have in violation of their duty and allegiance attempted and are now endeavoring to overthrow the Government of the United States, which Government it is our right and duty to defend, and the authority of the Constitution and laws of which we have a right to compel them to submit to? If we abandon this position—if it is true, that by this act we are legislating in reference to public enemies in the legal sense, and not in reference to domestic traitors—I cannot believe that any considerable number of the members of the House would vote for the bill. Does one sovereign Power, while at war with another, enact laws confiscating the lands owned by individuals of and which lands are situated within the enemy's territory? I submit it is an unheard-of proceeding.

This law is one designed to punish treason, not to apply to public enemies engaged in a public war; and it must not be in violation of the provisions of the Constitution of the United States. A public war is that waged by one people by its sovereign or Government against another which carries it on through its sovereign or Government. This is not such a war. The United States wage it to suppress armed resistance by individuals owing obedience to its laws; to retain its rightful jurisdiction and authority over a portion of its territory. We are not waging war against a foreign nation to redress a wrong or to vindicate a right, but we are employing armed force to suppress rebellion within our own territory against the authority of our Constitution and laws over it.

It appears to me that if the gentleman from

Pennsylvania [Mr. STEVENS] is correct, then secession is an accomplished fact. By the void and illegal ordinances of secession, and the armed rebellion against the authority of the United States Government in support of them, those in rebellion have taken the southern States out of the Union. This I deny. They have not abrogated the Constitution and laws of the Union as to the territory or the people who inhabit it. By illegal violence they have and do prevent the enforcement thereof of the Constitution and laws; we have the right to and are engaged in restoring their authority by suppressing the rebellion. In doing this we have certain belligerent rights, but when this is accomplished the southern States are a part of the Union, not by virtue of reconstruction or readmission, not as conquered territory, but because they were never out of the Union. The exercise of the jurisdiction of the Federal Government was obstructed and suspended by armed insurrection within the territory of these States. When this is subdued the States are constituent members of the Union, and the people within them are amenable to the Constitution and laws of the United States, to be protected by them in their rights, and to be punished as prescribed by them for their crimes. If the views of the gentleman from Pennsylvania [Mr. STEVENS] are correct, then we should recognize the so-called confederate authorities; then they are rightfully entitled to treat with the Government of the United States for and on behalf of the people of the States in which the rebellion exists. This I deny. These leaders, in my view, are usurpers, having no rightful authority to negotiate with the Government of the United States on behalf of the southern people. The States have not rebelled; it is individuals or combinations of individuals within those States who have rebelled. The States are not to be punished or disfranchised on account of the rebellion; the individuals who have violated the laws by organizing armed resistance are liable to be punished according to law when we have overcome the insurrection so that the law can be enforced.

But, if it be conceded that this is a public war against a foreign enemy or government, and that the southern people are to be regarded as alien enemies, and their territory when the rebellion is suppressed is to be deemed territory acquired by conquest, rather than our own territory in which the authority of the Constitution and laws has been vindicated against rebels, we have no right by the law of nations to confiscate lands owned by private persons. What is the law of nations? I understand it to be that usage which prevails and is sanctioned by civilized and Christian nations. The law of nations governing war and the rights of belligerents and conquerors is this usage among nations which has come to have the authority of law, and the violation of which would subject the offending Government to the condemnation of the civilized and Christian world. The gentleman from Pennsylvania [Mr. STEVENS] contends that this law authorizes us to confiscate in fee the lands of the inhabitants of the southern States, and he derives our right to do so from this law of nations and not from the Constitution; that we do not forfeit their lands in punishment of them for treason, but as a right over them which we have by the law of nations, treating them as persons who never owed allegiance to our Government, whom we had conquered.

I submit that the law of nations as understood and practiced in modern times gives no such right; and that all modern publicists and authorities are against the position contended for.

Whenton, in his *Elements of International Law*, page 420, says:

"But by the modern usage of nations, which has now acquired the force of law, private property on land is also exempt from confiscation with the exception of such as may become booty in special cases when taken from enemies in the field, or in besieged towns, and of military contributions levied upon the inhabitants of the hostile territory. This exemption in extends even to the case of an absolute and unequal conquest of the enemy's country. In ancient times both the movable and immovable property of the vanquished passed to the conqueror. Such was the Roman law of war, often asserted with unrelenting severity; and such was the fate of the Roman provinces subdued by the northern barbarians on the decline and fall of the western empire. A large portion, from one third to two thirds of the lands belonging to the vanquished provincials, was confiscated and partitioned among the conquerors. The last example in Europe of such a conquest was that of England by William of Normandy. Since that period, among the civilized nations of Christendom, conquest, even when confirmed by a

treaty of peace, has been followed by no general or partial transmutation of landed property. The property belonging to the Government of the vanquished nation passes to the victorious State, which also takes the place of the former sovereign in respect to the eminent domain. In other respects private rights are unaffected by conquest."

Vattel lays down in substance the same law. Mr. Adams in 1816, in a letter to Lord Castlereagh, said:

"But as by the same usage of civilized nations private property is not the subject of lawful capture in war upon the land, it is perfectly clear that in every stipulation private property shall be respected, or that upon the restoration of places during the war it shall not be carried away."—*American State Papers*, 116, &c.

Chief Justice Marshall says, in 7 Peters, pages 86, 87:

"It may not be unworthy of remark that it is very unusual, even in cases of conquest, for the conqueror to do more than to displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law, would be violated, that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confiscated and private rights annulled. The people change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other and their rights of property remain undisturbed. If this be the modern rule even in cases of conquest, who can doubt its application in the case of an amicable cession of territory?"

Another gentleman who has addressed the House stated that the law of nations authorized the party successful in war to do what he pleased with the subjugated people. Vattel, who wrote over one hundred years ago, and when the law of nations was harsher than it can be successfully claimed to be at this day, says in Book III, page 388:

"But if the entire State be conquered, if the nation be subdued, in what manner can the victor treat it without transgressing the bounds of justice? What are his rights over the conquered country? Some have dared to advance this monstrous principle, that the conqueror is absolute master of his conquest, that he may dispose of it as his property, that he may treat it as he pleases, according to the common expression of treating a State as a conquered country; and hence they derive one of the sources of despotic government."

Now, I submit whether there is a member of this House who desires or is willing to have this great nation of ours, great and powerful as I believe it to be, able to vindicate itself in any just cause, violate the usage of Christian and civilized nations; disregard those rules and maxims which in the language of Chief Justice Marshall have become law; and whatever Government violates them, particularly if it be powerful and its opponent weak, subjects itself to the scorn and condemnation of the civilized world. Are we prepared to say that we are willing to enter upon a system of confiscation, in virtue of our right as conquerors which the civilized world denounces, which Wheaton says has never been exercised in Christian Europe since the time of William the Norman, and which, he says, the code of civilized and Christian countries forbids under the ban of being barbarous, and of going back to the times when force alone, untempered by mercy or Christianity or civilization, rode destructively over all that came in its way? For the sake of the character of our country, for the sake of our reputation, claiming to be a great civilized and Christian people, for the sake of keeping that standing before the civilized world which we are entitled to in this war, I protest against the idea that we are to enter upon a system of confiscation which has been ignored by civilized nations at war during the last five or six hundred years. Why, sir, it seems to me that nothing could be more fatal to us. While we stand before the world prosecuting this war to defend and maintain the Union, to subdue those who are endeavoring to destroy it, who are in arms to overturn this beneficent Government, we will have the respect and sympathy of foreign nations. Let us not forfeit this position. Let us take no step, inaugurate no policy which will authorize it to be said that we, over twenty million people, are waging a war against eight million with the purpose of making it a war of conquest to strip them of their property, and to distribute it among camp-followers and speculators, among the men who are not of the Army when battles are to be fought, but follow in its wake to share in the plunder when with safety it can be reached. Why, Story says, in substance, that one of the reasons for prohibiting confiscation for treason beyond the life estate was to cut off that swarm of greedy and insatiate plunderers who are ever, under the cry of loyalty and the public good, pushing those in

power on to vindictive measures, with no higher or more patriotic motive than a desire to share in the plunder which they call for in the name of patriotism.

Why, sir, if the gentleman from Pennsylvania [Mr. STEVENS] is right we ought to recognize these confederate authorities. Then they are the leaders of the people waging war with us, rightfully their leaders. Now, I have been opposed to recognizing them, opposed to negotiating with them. I consider them, in the language of a resolution for which I voted, usurpers and traitors, having no right or authority over the people of the South and no right to bind them; and therefore I have been for overthrowing them, for scattering their armies, for delivering from their rule the mass of the people of the South who owe allegiance to this Government, and whom the Administration should desire to bring back under the Constitution and laws of the Union, that we may go on hereafter peacefully and happily as we have hitherto in a career of individual and national prosperity.

But again, if we had the constitutional and legal right to forfeit forever the lands of the mass of the people who have taken part in this rebellion, to turn them and their children from them, and sell them to others, do gentlemen believe it would be a wise policy to do so? Would this tend to the speedy suppression of resistance or to that state of things among the people of the southern States which all, when they divest themselves of the irritation produced by this civil war, must hope and desire to see after it is successfully ended? I consider that our main object is to bring the mass of these people back to form a part of and strengthen our Government. Do gentlemen believe that such legislation as this under consideration will aid in this matter? Will it not strengthen those leaders in the South? Will they not be able to point to it and say to their people, "You have nothing to hope for but victory or death; you see it declared by the legislative assembly of the United States that we are alien enemies, and that they have the right to forfeit all our lands, and are disposed to do it?" Will it not be worth everything to them in these despairing times of their rebellion? Will it not enable the leaders to stimulate and intensify the southern people by pointing to the Congress of the United States as being engaged in making laws the policy and effect of which will be to take from the mass of the people of the South and their children all their property? Let us rather unite our people and exert all our power in overthrowing armed resistance, showing at the same time that when that is overthrown the mass of the people in these States are not to be treated as a conquered or subjugated people, but dealt with according to the Constitution and laws of the Union; that as to the mass there will be amnesty on liberal terms, to the end that they may be contented citizens of this Republic; that they may again be devoted to the Union; that they may return feeling how much they were wronged by the leaders who led them into this rebellion, and how much they profited by its overthrow and the restoration of the authority of the Constitution over them.

Mr. WILSON. Mr Speaker, in closing the discussion on this joint resolution, it is not my purpose to follow the general course of argument in which gentlemen opposed to it have indulged. The discussion has taken a wide range, embraced a great variety of topics, and treated of almost every question connected with the subject of confiscation except the one presented by the resolution. This course having been adopted by the other side of the House, rendered it proper for the friends of the policy of confiscation to reply to the arguments advanced in opposition thereto. This has been done, successfully done; and I shall not waste the time of the House by adding anything to the lengthy discussion which has taken place concerning questions not presented by the measure now before us for our consideration.

That confiscation should be a part of our public policy with regard to persons engaged in this wicked rebellion was settled by the Thirty-Seventh Congress after most careful consideration of the subject and elaborate discussion. That policy is now embodied in the living law of the land, and is not before us for reconsideration; and all that has been said upon it by the opponents of this resolution has resulted in a waste of time. Whether the policy established by the confiscation act of

1862 is wise or unwise, constitutional or unconstitutional, unjust or merciful, creditable to the civilization of the high noon of the century, or a relapse into barbarism, are not questions upon which we are now called to pass judgment. When some gentleman opposed to the policy established by that act can so far defy the loyal people of this nation as to introduce a bill to repeal the act, these questions can be with propriety discussed. But they are demanding no attention at our hands now. The measure before us excludes them all from the bounds of legitimate discussion. We are dealing with another question, as I shall endeavor to show before I conclude my remarks.

The main object with gentlemen on the other side of the House has been to avoid the question presented by the joint resolution by talking about something else, taking in their range almost every subject from a bloody-handed traitor to an unborn babe. The effort to avoid the issue upon which we are to pass has been studiously and persistently pursued. But, sir, I do not intend to let this system of opposition succeed because gentlemen have raised a cloud of dust, composed of particles of almost every foreign subject, under cover of which to escape. The fact shall appear patent to the whole country that they stand here objecting to an application of the penalties which the Constitution has provided for the punishment of traitors to the Government to those wicked men who have filled this whole land with sorrow and mourning, and dotted our broad dominion with the graves of liberty's martyrs. A pretended respect for the teachings of our advanced civilization, an assumed reverence for the great humanitarian principles of the age, an arrogated love for the divine attribute of mercy cannot shield them from that just condemnation which is due to all who stand between this imperiled nation and the just exercise of its admitted powers in the great trial to which the old-time allies of the opposers of this resolution have subjected it. I would not be harsh beyond the just measure of the hour; but my patience has been exhausted by this prolonged effort to shield rebels from the infliction of the merited punishment which their unparalleled crimes invoke, and which the opposers of this measure admit may be inflicted without breach of our national Constitution, which admission shall stand in proof against them before I conclude; and, sir, this admission shall perform the additional office of lodging against the Constitution every denunciation and blow which has been aimed at the joint resolution. The other side of the House shall stand as the party assailing the Constitution, not this side. This shall be the attitude of the case, or the gentlemen who sit over the way must admit that their denunciations of the joint resolution are void of sincerity, and wholly without justification; and I care not which position they assume, for both are bad enough, and either is discomfiture and defeat to them.

The positions assumed by the gentleman from Ohio [Mr. Cox] are substantially those of every other member who has spoken in opposition to this joint resolution. His premises have been adopted by all the rest; and by them all may be tested. They are all sailing in the same leaky and dilapidated boat. The treacherous craft was constructed and launched by him, and his crew has headed her on the shoals since her first sailing. Rudder and compass she has had none, and she belongs to the confederate navy.

The gentleman from Ohio told us that the Constitution of the United States does not authorize the forfeiture of real estate in fee simple, that the words, "no attainer of treason shall work corruption of blood, or forfeiture except during the life of the person attainted," absolutely prohibit the forfeiture of realty in fee simple, and based his argument on the limitation contained in the words "except during the life of the person attainted." This he solemnly affirmed as his belief. How sincerely he believes it, and how sincerely those believe it who have since reiterated it, I will endeavor to show as I progress with my remarks.

I would not do the gentleman injustice; and that I may not misstate his position, I quote from his speech as follows:

"It seems to have been adopted by the dominant party in this House that this confiscation system shall, if possible, be carried out in the South. They cannot do it and make it effective under the Constitution. They must do it

over that instrument and in spite of its limitations. All the forfeiture which they can obtain under the Constitution is simply the life estate of those who are convicted of treason; and, as that life estate is no longer than the halter with which a man is hung, the results would not be worth the pains."

Early in his speech the gentleman assured us that this was his understanding of the Constitution. Doubtless he gave utterance to the conviction which directed his judgment at the moment; but the conviction gave way and his judgment stood reversed before he had progressed far with his remarks. In no other way can I account for his subsequent attacks on the joint resolution under consideration, unless I should charge him with want of sincerity in stating his construction of the Constitution. The latter would be uncharitable, perhaps unparliamentary, but most likely true.

When the gentleman came to speak of the joint resolution, he told us:

"This bill reaches beyond the guilty traitor, and involves by a posthumous punishment the innocent and good, ay, even the unborn innocents. It inflicts on the children of the guilty the punishment due to the parents; and the gentleman from Indiana, who seems from his speech and countenance to be benevolent, shows that in fact he partakes of the ferocious humanity of the hour by arguing in favor of a bill to punish the inoffensive offspring of the traitors."

Further on the gentleman renews his attack in these words:

"I am shocked that in this age and in this country and in this House I am required to stand up before the American people, and, as a matter of pure philanthropy and common decency, protest against the cruel and remorseless character of bills of this kind, and to defend the rights of those who have committed no crime, but upon whom it is proposed to visit, after the death of the parent, the crimes of the ancestors."

Sir, the "common decency" which "required" the gentleman to make these attacks on the joint resolution, in view of his own construction of the Constitution, was enough to shock any man, and I do not wonder that he felt "shocked." But I am inclined to the opinion that it was the conflict between his own positions which "shocked" him, and not the character of the resolution; for the conflict was certainly as great as the "decency" of the attack was "common."

The joint resolution was printed; he had it before him; he had read it; and found in it this language:

"Nor shall any punishment or proceeding under said act be so construed as to work a forfeiture of the estate of the offender, except during his life."

This is the constitutional limitation repeated. The joint resolution follows the Constitution; and yet the gentleman would have us believe him sincere when he tells us that certain words used in the Constitution forbid the forfeiture of real estate in fee simple, but that the same words, when used in a joint resolution of Congress, authorize the forfeiture of real estate absolutely and forever, and call upon him "as a matter of pure philanthropy and common decency to protest" against the great outrage of overriding the Constitution of the United States with a congressional joint resolution, thus placing, by his peculiar system of reasoning, a joint resolution of Congress above and beyond the Constitution. Did ever man invent a more absurd proposition? Can it be a matter of surprise that the gentleman was "shocked," "shocked" by the unsurpassed absurdity of his own proposition?

Sir, the gentleman need not be alarmed. His associates may repose in perfect tranquillity and undisturbed security. We propose to give them "the Constitution as it is"—nothing more, nothing less. It may be that this is just the thing they do not want. I think most likely this is the case; for their opposition to the proposed use of the language of the Constitution evidences the existence of a fear in their minds that the Constitution is against them. Indeed, sir, I will go further, and say that this fear has quickened into a conviction and ripened into the fruit of an unqualified admission that the Constitution is against them and receives on its firm breast all of the malignant shafts which have been hurled at the joint resolution. It is the Constitution which these gentlemen have denounced, not the joint resolution. May we not soon expect the gentleman from Ohio, [Mr. Cox,] in response to the requirement of "common decency," to rise in his place and "protest against the cruel and remorseless character" of the Constitution? The long line of generations of "unborn innocents," whose guardian he seems to be, stands in danger from the free

exercise of the powers of the Constitution, soon to be unfettered by the passage of this resolution. And as the gentleman cannot climb over the Constitution nor push it out of its firm and faithful track, it would be well for him to cast himself before it and let it pass over him, that he may die a martyr to the doctrine that leniency toward rebels is of more importance to this nation than that stern justice which demands that the full measure of punishment shall be meted out to the traitors who have written three years of this country's history in the best blood of the Republic.

It may be that some gentlemen on the other side of the House do not believe that the Constitution will permit the forfeiture of real estate in fee simple. Of course this remark does not apply to the gentlemen over there who have spoken upon the joint resolution; for they have all denounced the "cruel and remorseless" terms of the Constitution which are copied into the resolution because they do authorize such forfeiture. But all of those who have not spoken may not concur in this opinion of their political associates, and therefore it may be proper for me to further remind them that the resolution is not the monster it has been represented to be. It is not a legislative Procrustes, insisting that all things must conform to its inexorable measure of length; stretching constitutions and cutting off the legs of political confessions of faith so as to fit all to its unyielding bed. It neither affirms nor denies any proposition which has been advanced on either side of the House. It does not attempt to construe the Constitution, nor does it require any one to surrender his opinions concerning that instrument. Those persons only who are opposed to the Constitution have any reason to declaim against this resolution. You have all had it before you. You have all read it, and know that its office is declared in these plain words:

"This amendment being intended to limit the operation and effect of the said resolution and act, and the same are hereby limited, only so far as to make them conformable to section three of article three of the Constitution of the United States."

This does not read like an attempt to give a legislative construction to the Constitution, or a demand upon sensitive gentlemen to surrender their convictions as to the true intent and meaning of that instrument. There could be no plainer declaration of an intention to conform the law to the Constitution than this. But this is the "cruel and remorseless" proposition which so sadly "shocked" the sensitive organization of the gentleman from Ohio, [Mr. Cox,] and produced such painful effects on the minds of those of his associates who, like him, believe in "the Constitution as it is." I am sorry for them, and deeply regret that they have so poor an opinion of the Constitution they profess to adore.

Sir, the supporters of this joint resolution do not claim that their construction of the Constitution shall be embodied in the law, nor do they insist upon excluding that which is entertained by others. The proposition has all the time been to place the language of the Constitution in the law, and then submit the whole to the courts for interpretation. And I am surprised, almost "shocked," to find gentlemen who have so persistently insisted on the infallibility of the courts now shrinking from an application of their long-cherished doctrine. Why fear the Constitution? Why shrink from the courts? Is it because old friends are in danger from both? Is it because those who "wait and watch over the border" of this rebellion are more anxious to preserve the friendship of the men whose treason has carried sorrow to almost every loyal hearthstone than they are to do their duty to their country in this its sorest trial? Are these the causes which "shock" gentlemen on the other side, and cause them to regard the Constitution as a "cruel and remorseless" instrument? Are these the things which make them tremble before the courts? If not, why do they refuse to support this joint resolution?

We have been told that a forfeiture of real estate in fee simple is unconstitutional. We allege that it is not. Here is an issue joined, a grave constitutional issue. Who shall decide it? The joint resolution now before the House says, "the courts." The supporters of the resolution say, "the courts." Gentlemen on the other side of the House have been accustomed to give the same answer in regard to every question arising under the

Constitution. Why not give the same answer now? Why get "shocked" just at this particular time, and by this single proposition? No loyal man is to be hurt. The Constitution is not to be injured, for it is to be placed in the hands of those whose duty it is to interpret it, whenever such questions as the one now before us arise. Why resist this purely constitutional method of disposing of an exciting question? If the blow should fall heavily it will only crush the men who have enveloped this nation in the red flame of war. Broken allegiance to the best, the mildest of human Governments, alone will sever the cord which suspends the dead weight of constitutional forfeiture, and cause it to descend upon the heads of those whose criminal hands are engaged in the dread work of an unparalleled treason. Traitors have assumed all of the risks connected with their stupendous crime. Why should gentlemen in this House voluntarily step forward and become their underwriters? Gentlemen may christen their strange conduct "philanthropy," "humanity," or by any other kind name they please, but history will draw black lines around this baptismal ceremony, and expunge it from the page of truth.

The vital part of the joint resolution as reported by the Committee on the Judiciary is that which substitutes the language of the Constitution for that used in the joint resolution of July 17, 1862. No argument can force the resolution into any other shape than the strictly constitutional form in which it was molded by the committee. There it stands as inflexible as the Constitution itself. The Constitution and the courts against rebels and their property form the sole question on which we are to pass. From this question gentlemen recoil. They fear the courts which heretofore have received their adoration, and are "shocked" by the "cruel and remorseless character" of the Constitution. Why? Because both are against traitors. Let him give a better answer who can.

Sir, I want no stronger evidence of the utter want of faith on the part of the gentlemen who stand opposed to me in the position they have assumed in relation to the extent of constitutional forfeiture than that which their opposition to this resolution affords. I ask not for a more complete admission from them of the perfect harmony of this resolution with the Constitution and of its ability to render more swift and sure the punishment due to treason. I am content with their denunciation of this joint resolution, for it only exhibits their hatred of that stern justice of the Constitution with which the fathers clothed it for the purpose of arming it against the infernal assaults to which it is now subjected by the armed traitors who seek to destroy it. I love to read the motives of men, and in my reading I never spurn the indexes furnished by those whose secret springs of action I would understand. I trust I am not at fault in my reading now, although it may force me to the conclusion that those who oppose this joint resolution are more intent upon the hope of future power than they are concerning that justice which the present demands. Justice to rebels is mercy to loyal men, and I regret that this rule is not recognized by those who are constantly telling us that they are anxious to vote for every constitutional measure to put down this rebellion, and who now stand in solid array against one which is the Constitution itself. Men who intend to strike rebels do not waste their time in warding off blows which other men aim in the same direction. Professions do not amount to much when confronted by a hostile fact. Words are as feathers in the scale when acts bring down the other end of the beam.

Mr. Speaker, my mind has never entertained a doubt of the power of Congress to provide for the forfeiture, absolutely and forever, of the interest a rebel may have in property of every kind, character, and description; real, personal, and mixed; quadruped and biped. All may be reached, and it is a mere question of policy for Congress to determine how far the power shall be exercised. He who raises his traitorous hand to destroy the Constitution and Government is entitled to but little protection from either. Both were made for the protection of the loyal, but neither was created to shield men who turn from loyalty to treason, from being peaceful citizens to bloody-handed rebels. Such rights as the laws of war accord to a public enemy, an active belligerent, are those which the rebels of this country can claim, and

none other. The constitutional guarantees concerning life, liberty, and property, are the just and rightful possessions of the loyal people; but the traitor who would destroy all has no right to set up these great securities to save himself from the righteous inflictions which an outraged and imperiled Government may see proper to impose upon him. The Constitution was established to organize, protect, and perpetuate the Republic, not to strengthen the hands of those who would destroy it. Traitors have invoked the laws of war, and to them must they look for their rights and protection. They understand this as well as we ought to. The rebels do not claim the protection of the Constitution. They boldly, resolutely, defiantly spurn the Constitution, and reject the theories which are advanced in this House in their behalf. They fully comprehend their position as belligerents. It is their own creation, and they are content with it. I will not enter upon an argument to sustain these views, for, as I have heretofore remarked, they have nothing to do with the subject before us. Congress has already expressed its opinion upon these questions by the passage of the confiscation act, so called, of 1862, which is now the law of the land, its policy approved by the people, and its constitutionality sustained by the courts.

It has been said that it is inexpedient to pass this joint resolution; that we should not do anything which would tend to the enlargement of the forfeiture now provided by law; that we must conciliate, not punish, traitors; that kindness should be our weapon instead of the stern powers which the Constitution has provided for the punishment and subjugation of rebels; that we must win back our "erring brethren" by manifestations of forgiveness, charity, and love. Sir, what kind of advice is this, in view of the fact that we are now engaged in the organization of a new army of five hundred thousand men to complete the overthrow of the military power of the rebellion? The recruiting officers are in every county in the loyal States, and the nation is resorting to every means it can command in preparing for the grand campaigns of the coming spring. Treason is forcing into its army every man and boy between fifteen and sixty years of age. The war cloud settles densely upon the nation. The heavy tread of armies is heard in every part of the land. Is this the time for gentlemen in the Congress of the United States to talk of forgiveness, charity, love, peace? Our "erring brethren" are in arms, and not on their knees asking for mercy. They intend to fight us. Their rebellion is a great military fact which must be crushed out by the exercise of power; and cannot be subdued by an exhibition of olive-branches, or soothed by honeyed words, even though they drop from the lips of members of the American Congress.

While gentlemen in this body have been talking about "conciliation," "charity," "love," "olive-branches," "peace," and a thousand other ill-timed subjects for the benefit of our "erring brethren," and "wayward sisters," those interesting relatives have been employing their time very differently as regards their present and future action toward us. On the 23d day of last month the rebel senate, as if responding to the "peace and conciliation" utterances of gentlemen in this House, passed the following resolutions by a unanimous vote:

"Resolved, That the thanks of congress are hereby tendered to all the brigades and other troops in service who have taken the patriotic and gallant resolution to reenlist for the war.

"Resolved, That the manifestation of such a spirit in our armies is a happy omen of the ultimate triumph of our struggle for independence, indicative, as it is, of the fixed determination of our people never to lay down their arms while our soil is exposed to the hostile tread and barbarous ravages of our malignant enemies."

This is the emphatic answer which comes back from Richmond to the peace resolutions of the gentleman from New York, [Mr. FERNANDO WOOD,] the kind words of his colleague, [Mr. KERNAN,] the imploring tones of the gentleman from Ohio, [Mr. COX,] and to the fine-spun arguments in behalf of the "constitutional" rights of bloody-handed rebels submitted by the gentleman from New Jersey, [Mr. ROGERS,] the gentlemen from Ohio, [Messrs. FINCK and BLISS,] and others, who have labored to argue away the powers upon which the Government must depend for its safety and its life. When these marvelously kind-hearted

gentlemen can stay the fury of a tornado by singing to it a lullaby they may expect to put down a rebellion such as is now oppressing this nation by the course they are pursuing in this House. Their chances of success would be just about equal in either case.

Sir, until we can disperse the armies of the rebellion, crush out its military power, and thus destroy the hopes of its leaders, it is idle to talk of abstaining from the use of any proper means which will aid us in the accomplishment of the great work we have in hand. We have enough to do now without wasting any of our precious time in trying to administer soothing sirups to men whose bloody hands are feeling for the throat of the Republic. So long as the banner of armed revolt is thrust in the face of the nation we must use power and exercise justice. Mercy will have its proper work to perform in due season. When justice has subdued these armed rebels it may introduce all of them but the leaders to mercy. But the time for this ceremony has not yet arrived, nor will it ever come for the leaders of this rebellion.

Mr. Speaker, has it never occurred to the minds of the gentlemen who object to the passage of this joint resolution that it will have no effect on the great mass of the people of the southern States? The property in those States is owned by comparatively a few persons. Property is not distributed among the people there as it is in the northern States. A sale and division of the large landed estates in the South would be of incalculable benefit to the mass of the people after the rebellion passes into history. The people can then become landholders, and no longer be subject to the despotism with which a privileged class has heretofore ruled that whole country. Thus we see that the anguish which some gentlemen have experienced has all resulted from the danger in which the leaders of the rebellion are placed. The great mass of the people will not be affected by the passage of this joint resolution otherwise than favorably. The leaders, the great lordly landholders who have almost crushed humanity out of the poor people who are squatted on their princely estates, are the men who are to be injuriously affected by the passage of the resolution.

I am amazed at the position which these gentlemen have elected to occupy. Why they should join hands with an aristocratic class which has used the immense slave and land power in its hands for the purpose of crushing and grinding the common people into an intellectual darkness almost as dense as barbarism itself is something which requires an explanation different from any we have yet received. With their strange position unexplained, and, I may say, unexplainable, they stand before the country as the defenders of the leaders of the rebellion, and not as the advocates of the crushed and bruised and misguided mass of the southern people; for they stand here objecting to the passage of a law admitted by themselves to be constitutional, which, if passed and properly executed, will open up a future to the poor non-landholders of the southern States as bright as the sunbeams which tint the roses of that sunny land. This is their love for the people. This is their idea of mercy. With the lordly few they stand opposed to the poor, the oppressed, the betrayed mass of the southern people. They seem to regard the aristocratic few who ruled their present defenders and the people of the South with a rod of iron which pierced and seared every subject conscience before the rebellion, and now rule it, as embracing all of the human family to be found in the southern States worthy of our consideration and mercy. While such views are sustained by gentlemen, who can wonder at the bitterness they have manifested toward this joint resolution? They are hoping for the return of power through the hands of leading rebels now dripping with loyal blood. They are hoping for the establishment of the old order of things when despotism ruled the Republic; when the public conscience was imprisoned in a slave pen; when plantation manners were practiced in this Hall, and slavery was regarded as the most perfect result springing from the revelation of divine will to man. They well know that any legislation which will convert the mass of the southern people into landholders will place the blight of eternity on these hopes. Hence they oppose this resolution, and denounce the doctrine of the Constitu-

tion as "cruel and remorseless." It is this sympathy with the slaveholding and land-possessed aristocracy which leads the rebellion, and the hopes which the passage of this resolution would blight, which caused the gentleman from New York [Mr. FERNANDO WOOD] to tell us that we must treat for peace, and that we cannot conquer the armed powers of the rebellion—a declaration worthy of a man who discards the term "loyalty," but unworthy of one who holds a seat in the Congress of the United States.

Mr. Speaker, the friends of this joint resolution look beyond the limits of this rebellion. They do not expect an extermination of the people of the southern States. They look for that submission which has always followed the overthrow of military power—the submission of the defeated people to the authority of the stronger side in the contest. We have full faith in the strength and perpetuity of the Republic. We have faith in the principles of our Constitution, and look with full confidence for the coming of the time when the people shall enter upon the perfect enjoyment of the rights, privileges, and liberties which the Constitution was ordained to establish and perpetuate. We expect to meet, in the onward and triumphant march of this Republic, a "redeemed, regenerated, and disenthralled" South. We expect to join hands with it, and march forward in the accomplishment of the grand mission of this Republic. We expect to see the power of the southern States taken from the hands of a "cruel and remorseless" aristocracy and restored to the rightful possession of a whole people. We expect to labor for the elevation of that people, and knowing that the first step toward that elevation is the destruction of that aristocratic and semi-feudal system which has heretofore existed in the South, we favor the pending resolution, favor it for the masses against the despotic and traitorous few, favor it for democracy against aristocracy. We would make the mass landholders by breaking up the land monopoly of the rebel slaveholders of the South and placing land within the reach of the poor, and thus add to the dignity and assert the individuality of every man. We are working out the problem which the fathers bequeathed to us, the establishment of a pure Republic. By the reduction of the great land power of the leaders of the rebellion, through the operation of our system of sales of land delinquent under the law for direct taxation, and the enforcement of the constitutional power of forfeiture, we expect to reach the grand result of a general distribution of the land of the South among the people. An accomplishment of this expected result works the death of that aristocratic power which is compassing the destruction of the Republic.

Sir, we are looking to the ultimate elevation of the "common people" of the southern States. We expect to make them a power in opposition to that which has heretofore crushed their spirit and made them political slaves. We expect our policy to result in the establishment of those great industrial, economical, and educational principles which have made the free States supreme in this great contest between despotism and liberty. We expect to realize as the fully ripened fruit of our policy the perfect establishment of a republicanism which has ever lived in theory but never enthroned itself on the continent of America except where the sway of freedom was perfect and no slave appealed to the God of justice. We look forward to the time when the school-house, the academy, the college, and the church shall in the South measure numerical strength with the same great guardians of republicanism and morals in the divinely-favored land of the North. We look forward to the time when the child of the "poor white" of the South shall possess the same educational advantages which the free spirit of the North has accorded to the offspring of the rich and the poor in common. We are looking to the advantages of a whole people, and not merely to the privileges of a caste, as seems to be the case with gentlemen who oppose this joint resolution. We keep pace with the measured step of the civilization of the nineteenth century, and urge those who are behind us to advance to our position. Whatever of good we possess, we desire to extend to others—not as cowards to those whom they fear, but as a magnanimous people to those whom they can conquer and forgive.

I will consume no more of the time of the House

with this subject. The case is made up and fully understood. Those who approve the passage of the joint resolution must stand before the country as opposed to the Constitution, opposed to the true interest of the country, opposed to the elevation of the poor whites of the South, and in favor of shielding the leaders of the rebellion from the punishment which their enormous crime deserves. They have made their own issue, and all the speeches they have delivered—filled with hollow pretensions of devotion to the Constitution, love of the Union, regard for the rights of the people, and reverence for the teachings of our civilization—will not enable them to disguise the true character of the issue. Fine words will not mislead the people. Talking for the Union, and acting and voting for a disunion rebellion, is a mask too thin to conceal the complexion of the face which it covers. Protestations of loyalty to the Government, coming from lips which, in regard to our armed defense of the nation, ask "When shall this hellish crusade of blood and famine cease?" are no more sincere than was the kiss of Judas. The latter was an act of betrayal, and the former are intended to accomplish no nobler end.

Mr. Speaker, I cannot close without calling the attention of the House and of the country to one significant fact. For some two weeks we have been listening to speeches made by gentlemen who approve this joint resolution, filled with the bitterest denunciations of the Administration, of congressional action, of every act resorted to by the Government for the suppression of the rebellion and the restoration of the authority of the Republic throughout its entire dominion, but in no one of these speeches can be found a sentiment which would excite the ire or even wound the feelings of Jefferson Davis and those who are holding up his hands in Richmond. Sir, this is not the result of accident. The speeches are too numerous and the practice too uniform to admit of any such explanation. Sympathy with rebels and traitors alone could produce such a shameful and extraordinary result. I leave this fact with the country, feeling assured that the people will fully understand it, and properly dispose of its author.

During the course of the above speech,

Mr. COX said: I ask the gentleman to give way to me for a moment.

Mr. WILSON. I cannot; I have not time.

Mr. COX. He dare not.

The SPEAKER. The gentleman from Ohio is out of order, and will take his seat. The gentleman from Iowa is entitled to the floor without interruption.

Mr. COX. I beg pardon of the Chair.

Mr. WILSON's time having expired before he had concluded his remarks, he asked unanimous consent of the House to print the residue of his speech.

Mr. COX objected.

Mr. PRUYN. I was not in the House this morning when this subject was taken up. I had expected to make some remarks upon it, and being precluded from doing so I ask leave to print them.

Mr. BOUTWELL. I object.

Mr. RICE, of Maine. I object inasmuch as objection was made upon the other side of the House to the gentleman from Iowa having the same privilege.

Mr. PRUYN. I hope objection will be withdrawn on both sides of the House.

Mr. RICE, of Maine. I will withdraw mine if the gentleman from Iowa [Mr. WILSON] is permitted to print the balance of his speech.

Mr. COX. I object to that because the gentleman did not show proper courtesy to this side of the House when he was speaking by our courtesy.

Mr. RICE, of Maine. Then I object to any printing by gentlemen on that side of the House.

Mr. COX. I will withdraw my objection if there can be general consent for members all round the House to print their speeches.

Mr. WASHBURN, of Illinois. Oh, no; I object to that.

Mr. BLAIR, of Missouri. I have sought the floor for two weeks past to address the House upon this question, in which I feel much interest, but have been unable to obtain it. I should like to do so now.

Several MEMBERS objected.

The SPEAKER. The main question having been ordered on the passage of the bill, no further debate is in order.

Mr. PENDLETON. Is it too late to move to reconsider the vote by which the main question was ordered?

The SPEAKER. It is not.

Mr. PENDLETON. Then I move to reconsider that vote, so that gentlemen upon both sides of the House may have an opportunity for further discussion.

Mr. WILSON. I move to lay the motion to reconsider upon the table.

Mr. PENDLETON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 79; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Daves, Deming, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburt, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoo, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scheuch, Scofield, Shannon, Sloan, Smithers, Spalding, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilson, Windom, and Woodbridge—81.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Francis P. Blair, Bliss, Brooks, James S. Brown, William G. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Demison, Eden, Edgerton, Eldridge, Fink, Ganson, Grider, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, Hutchins, William Johnson, Kalfbeisch, Korman, King, Knapp, Law, Lazear, Le Blond, Long, Malloy, Marcy, McAllister, McDowell, McKimney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, Smith, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Tracy, Voorhees, Wadsworth, Webster, Whaley, Wheeler, Joseph W. White, Williams, Winfield, and Yeaman—79.

So the motion to reconsider was laid upon the table.

Mr. VOORHEES moved that the House do now adjourn.

Mr. PENDLETON demanded the yeas and nays.

The yeas and nays were ordered.

Mr. VOORHEES. With the consent of the House, I would like to make a statement.

Mr. FARNSWORTH. I object.

Mr. VOORHEES. Then call the roll.

The question was taken; and it was decided in the negative—yeas 16, nays 89; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, James S. Brown, Chanler, Clay, Demison, Edgerton, Grider, Harding, Kalfbeisch, Noble, Pruyn, and William G. Steele—16.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Daves, Deming, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburt, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Lazear, Loan, Longyear, Marvin, McBride, McClurg, McIndoo, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, William H. Randall, John H. Rice, Ross, Scheuch, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Williams, Wilson, Windom, and Woodbridge—89.

So the House refused to adjourn.

Mr. CRAVENS moved that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. PENDLETON demanded the yeas and nays.

Mr. WILSON called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. Wilson and PENDLETON were appointed.

The House divided; and the tellers reported thirty-seven in the affirmative.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 4, nays 82; as follows:

YEAS—Messrs. Ganson, Holman, Lazear, and James S. Rollins—4.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter,

Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, William B. Washburn, Webster, Whaley, Wilson, Windom, and Woodbridge—82.

No quorum voting.

Mr. WILSON. I ask that the House be counted, in order that the Speaker may ascertain whether there is a quorum present.

The SPEAKER counted the House, and announced that a quorum of the House was present; one hundred and thirty-four members being in their seats.

Mr. STILES, (at twenty minutes to four o'clock, p. m.) I move that the House do now adjourn. Mr. PENDLETON. On that motion I call for the yeas and nays.

Mr. WILSON called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. VOORHEES and SLOAN were appointed.

The House divided; and the tellers reported—ayes thirty-five.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 4, nays 88; as follows:

YEAS—Messrs. Bliss, Grider, Lazenar, and Whaley—4. NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Dawson, Deming, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, William B. Washburn, Webster, Williams, Wilson, Windom, and Woodbridge—88.

The SPEAKER voted in the negative, making a quorum.

So the House refused to adjourn.

The vote having been announced as above recorded, the question recurred on the motion that when the House adjourns to-day it adjourn to meet on Monday next, on which the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yea 1, nays 90; as follows:

YEA—Mr. Holman—1.

NAYS—Messrs. Alley, Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Deming, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Schenck, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Webster, Whaley, Williams, Wilson, Windom, and Woodbridge—90.

The SPEAKER voted in the negative, making a quorum.

So the House refused to adjourn over.

During the roll-call,

Mr. NORTON stated that his colleague, Mr. ARNOLD, being called away by pressing business, had paired off with Mr. W. J. ALLEN.

The vote was announced as above recorded.

The SPEAKER. The question recurs, "Shall the resolution pass?"

Mr. HOLMAN moved that it do lie upon the table.

Mr. VOORHEES called for the yeas and nays. Mr. WASHBURNE, of Illinois, demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. WASHBURNE, of Illinois, and HOLMAN, were appointed.

The yeas and nays were ordered; the tellers

having reported—ayes thirty-three, more than one fifth of those present.

Mr. PENDLETON moved that when the House adjourns to-day it adjourn to meet on Monday next; and on that motion demanded the yeas and nays.

Mr. FARNSWORTH called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. FARNSWORTH and NOBLE were appointed.

The yeas and nays were ordered; the tellers having reported—ayes forty, more than one fifth of those present.

Mr. ELDRIDGE. I ask that I may be excused from voting on the pending motion.

The SPEAKER. The Chair declines to entertain the gentleman's motion, and for this reason: a motion to adjourn and a motion to adjourn over are privileged over all other questions. If members were allowed to ask votes on being excused on them, the House might be unable to adjourn or adjourn over. Therefore no Speaker has entertained a motion to be excused from voting on either motion.

Mr. RANDALL, of Pennsylvania. From that decision I take an appeal.

The SPEAKER. The Chair, for the same reason, must respectfully decline to entertain the appeal.

Mr. WADSWORTH. I think that this thing can be accommodated if gentlemen will hear me.

Mr. BEAMAN. I object.

Mr. WASHBURNE, of Illinois. I hope objection will be withdrawn.

Mr. BEAMAN. I insist on my objection.

The question was taken; and it was decided in the negative—yeas 4, nays 88; as follows:

YEAS—Messrs. Grider, Holman, Perry, and Shannon—4.

NAYS—Messrs. Alley, Allison, Ames, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Deming, Donnelly, Driggs, Eliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Webster, Williams, Wilson, and Woodbridge—88.

So the House refused to adjourn over.

Mr. DAVIS, of Maryland. Mr. Speaker, if gentlemen on the other side of the House are inclined to keep up this sort of tactics, of course we can do nothing by remaining here, and in order that they may begin fresh in the morning I move that the House do now adjourn.

The motion was agreed to; and then (at half past four o'clock, p. m.) the House adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 5, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

SIGNAL LIGHTS.

Mr. BRANDEGEE introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be, and they are hereby, requested to examine into the existing legislation relative to the subject of signals and signal lights upon sailing vessels in Long Island Sound and the waters adjacent, with a view to the adoption of some more effective system for the protection of life and property against collision from steamers and other vessels in the night season; and that said committee have leave to report by bill or otherwise.

CONFISCATED PROPERTY.

Mr. CLAY. I ask unanimous consent to submit a report from the Committee on Agriculture.

Mr. HOLMAN. What is the regular order of business?

The SPEAKER. The regular order of business is the consideration of House resolution No. 18, to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, reported from the Committee on the Ju-

diciary. The pending motion is that the resolution and amendment be laid upon the table; on which the yeas and nays have been ordered.

Mr. HOLMAN. I ask by unanimous consent, it not having been done on Friday last, that this morning be devoted to receiving reports from committees of a private nature, for reference only.

Mr. ORTH. I object.

Mr. HOLMAN. Then I demand the regular order of business.

Mr. DAWES. I rise to a question of privilege.

The SPEAKER. This subject cannot be now interrupted, the main question having been ordered.

ADJOURNMENT OVER.

Mr. J. C. ALLEN moved that when the House adjourns to-day it adjourn to meet on Monday next.

On a division, there were—ayes 58, noes 55.

Mr. SCHENCK demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 65, nays 78; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Francis P. Blair, Bliss, James S. Brown, William G. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Hale, Harding, Harrington, Benjamin G. Harris, Herriek, Hutchins, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Le Blond, Long, Malloy, Marcy, McDowell, McKinney, Middleton, William H. Miller, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Pike, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, William G. Steele, Strouse, Stuart, Voorhees, Wadsworth, Webster, Wheeler, Chilton A. White, Williams, Winfield, and Fernando Wood—65.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Deming, Donnelly, Driggs, Eliot, Fenton, Frank, Garfield, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, John B. Steele, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Whaley, Wilson, and Windom—78.

So the motion was not agreed to.

Mr. CLAY. I now ask unanimous consent to make a report from the Committee on Agriculture.

The SPEAKER. The gentleman from Indiana demanded the regular order of business.

Mr. CLAY. I understood that the gentleman withdrew that demand.

The SPEAKER. The Chair did not so understand.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKY, their Chief Clerk, announced that the Senate had passed a bill of the House (No. 122) to increase the internal revenue, and for other purposes, with amendments; in which the concurrence of the House was requested.

CONFISCATED PROPERTY—AGAIN.

The SPEAKER. The question recurs on the motion that the joint resolution of the House (No. 18) be laid on the table; upon which the yeas and nays have been ordered.

The question was put; and it was decided in the negative—yeas 72, nays 80; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Francis P. Blair, Jacob B. Blair, Bliss, Brooks, James S. Brown, William G. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Hale, Harding, Harrington, Benjamin G. Harris, Herriek, Holman, Hutchins, William Johnson, Kalbfleisch, Knapp, Law, Lazenar, Le Blond, Long, Malloy, Marcy, McDowell, McKinney, Middleton, William H. Miller, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Strouse, Stuart, Thomas, Voorhees, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—72.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Alex-

ander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilson, Windom, and Woodbridge—59.

So the resolution was not laid on the table.

THE SPEAKER. The question recurs upon the passage of the resolution.

MR. ASHLEY. By unanimous consent I desire to make a suggestion. I propose that the House, by unanimous consent, permit the gentleman from Missouri [Mr. BLAIR] to make his speech, and the gentleman from Kentucky [Mr. SMITH] to reply, after which the vote shall be taken without any further debate, or the entertaining of dilatory motions.

MR. PENDLETON. Another gentleman upon this side [Mr. PRYNN] desires to speak. I hope the gentleman will include him in his proposition, and it will be satisfactory to this side of the House.

MR. SCHENCK. I suggest an amendment to the proposition, without which I shall be compelled to object. It is that the subject shall then be laid over until some day fixed upon in the next week.

MR. COX. That will be more satisfactory upon this side. Will the gentleman name the day?

MR. ASHLEY. If there is no objection upon the part of the chairman of the Judiciary Committee, that will be agreeable to me, with the understanding that the gentleman from Missouri [Mr. BLAIR] shall first occupy the floor, the gentleman from Kentucky [Mr. SMITH] shall reply, the gentleman from New York [Mr. PRYNN] shall follow, and the debate be closed by some gentleman upon this side, and that after that the vote shall be taken without further debate or dilatory motions.

MR. STEVENS. In my judgment the right time for action has arrived, and I will make a proposition; that is, that a vote of a majority of this House shall rule, and I consent to nothing else.

MR. VOORHEES. We accept that. The rules of this House shall govern, and we will avail ourselves of them.

THE SPEAKER. Objection being made, the question recurs on the passage of the joint resolution.

MR. PENDLETON. I move that the House adjourn, and upon that I demand the yeas and nays.

MR. FARNSWORTH called for tellers upon the yeas and nays.

Tellers were ordered; and Mr. ORTH, and Mr. STEELE of New Jersey, were appointed.

The House divided; and the tellers reported—ayes forty-three; a sufficient number.

So the yeas and nays were ordered.

MR. SMITH. I ask permission of the House to make a single statement.

MR. SPALDING. I object.

MR. COX. I move that when the House adjourns it adjourn to meet on Monday next.

MR. PENDLETON. Upon that I demand the yeas and nays.

MR. FARNSWORTH. I call for tellers upon the yeas and nays.

Tellers were ordered; and Mr. THAYER and Mr. PENDLETON were appointed.

The House divided; and the tellers reported—ayes twenty-nine; not a sufficient number.

So the yeas and nays were not ordered.

The question was taken on the motion to adjourn over until Monday; and it was not agreed to.

The question recurred on the motion that the House adjourn, upon which the yeas and nays had been ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 85; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bliss, James S. Brown, Chandler, Coffroth, Cox, Dawson, Deunison, Eden, Edgerton, Eldridge, Finck, Harding, Harrington, Benjamin C. Harris, Herrick, Holman, Hutchins, William Johnson, Kalbfisch, Knapp, Le Blond, Long, Mallory, Marey, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, Strouse, Voorhees, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—53.

NAYS—Messrs. Ailey, Allison, Ames, Anderson, Arnold, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Clay, Cobb, Cole, Creswell, Daves, Deming, Donnelly, Driggs, Eliot, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Julian, Francis W. Kellogg, Orlando Kellogg, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilson, Windom, and Woodbridge—79.

Hubbard, John H. Hubbard, Jenckes, Julian, Kelley, Francis W. Kellogg, Longyear, Marvin, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilson, Windom, and Woodbridge—85.

So the House refused to adjourn.

MR. J. C. ALLEN: Is it now in order to move to lay the joint resolution on the table?

THE SPEAKER. It is not. That motion has been rejected at this stage of the bill, and cannot be renewed under the rule.

MR. J. C. ALLEN. Then I move that when the House adjourns to-day it adjourn to meet on Monday next; and on that motion I demand the yeas and nays.

MR. RICE, of Maine, called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. J. C. ALLEN, and KELLOGG of New York, were appointed.

The House divided; and the tellers reported fifty-one in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 79; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Broomall, William G. Brown, Chandler, Coffroth, Cox, Dennison, Eden, Edgerton, Eldridge, Finck, Herrick, Holman, William Johnson, Kalbfisch, Kason, King, Law, Le Blond, Mallory, Marey, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Perry, Prun, Radford, Samuel J. Randall, Rogers, James S. Rollins, Scott, William G. Steele, Strouse, Voorhees, Webster, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—51.

NAYS—Messrs. Ailey, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Clay, Cobb, Cole, Creswell, Daves, Deming, Donnelly, Driggs, Eliot, Fenton, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Julian, Francis W. Kellogg, Orlando Kellogg, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilson, Windom, and Woodbridge—79.

So the House refused to adjourn over.

MR. ASHLEY. I ask unanimous consent of the House to submit a proposition. [Cries of "Go on!"]

MR. SPALDING. I object.

MR. GRIDER. I hope I will be allowed to make a suggestion to the House.

MR. SPALDING. I object.

MR. J. C. ALLEN. I move that the House do now adjourn; and on that motion I call for the yeas and nays.

MR. FRANK called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. FRANK and J. C. ALLEN were appointed.

The House divided; and the tellers reported thirty-nine in the affirmative.

So the yeas and nays were ordered.

MR. WILSON. I desire with the consent of the House to submit a proposition. [Cries of "Go on!" and "No objection!"] My proposition is that the gentleman from Missouri [Mr. BLAIR] and the gentleman from Kentucky [Mr. SMITH] be allowed to make their speeches, and that immediately thereafter the vote be taken on the passage of the joint resolution.

MR. VOORHEES. We will accept no proposition of the kind unless it includes the gentleman from New York, [Mr. PRYNN.] It is an insult to this side of the House to make such a proposition.

MR. J. C. ALLEN. Will the gentleman from Iowa permit me to make a suggestion?

MR. WILSON. Certainly.

MR. J. C. ALLEN. The gentleman from New York [Mr. PRYNN] desires to have an opportunity of speaking, and if he be allowed to make his speech we will consent that a gentleman on the other side may reply, and then there will be no objection on this side to have the vote taken on the joint resolution at any time that may be suggested.

MR. WILSON. I do not ask for this side of the House any privilege of that kind, and for this reason: this side of the House maintained the call

for the previous question on the resolution. My desire is in submitting this proposition to advance the business of the House, and I think we can close up action on this resolution sooner under the proposition that I have submitted than we can by permitting these dilatory motions to go on.

MR. COX. The gentleman from New York informs me that he only wants half an hour to speak. If the gentleman from Iowa will include that time in his agreement, there will be no objection to his proposition.

MR. WILSON. I have no objection to letting the gentleman from New York have half an hour.

MR. J. C. ALLEN. Then we will consent to that.

MR. WILSON. And immediately thereafter the vote is to be taken on the resolution without further debate or dilatory motions.

MR. J. C. ALLEN, (and several other members on the Democratic side.) Yes, that is the understanding.

MR. ANCONA. I wish to understand when the vote is to be taken.

MEMBERS on both sides. To-day, to-day.

THE SPEAKER. Is there any objection to that arrangement? [After a pause.] The Chair hears none. The gentleman from Missouri [Mr. BLAIR] has the floor. The Chair understands the gentleman from Illinois to withdraw his motion to adjourn, as a dilatory motion.

MR. J. C. ALLEN. Yes, sir, I withdraw the motion to adjourn.

MR. BLAIR, of Missouri. Mr. Speaker, there is abundant evidence that the end of this wicked rebellion is near at hand, and that peace on a firm and enduring basis will soon return to our afflicted land. The triumphs of our arms, the depression and outspoken discontent among the rebels themselves, the respectful bearing of the great Powers of Europe, and the all-pervading confidence of our own people, are the harbingers of the approaching peace which will make us a reunited nation. The great body of our people have from the beginning looked with unshaken confidence to this result. Neither the disasters which have at times fallen upon our armies, nor the exultations of foreign rivals and domestic traitors, nor the gloomy forebodings of faint-hearted friends, nor the ill-judged policy which has sometimes prevailed, have for one single moment shaken the faith of the nation in its great destiny to rule supreme on this continent.

What remains to be done is to fill up the ranks of our armies to encounter the expiring efforts of the desperate and despairing traitors, and to fix the terms upon which the States which have been in insurrection may resume their allegiance to the Government. The first duty is pressing and peremptory; and I rejoice to see that all parties, with very rare exceptions, are prompt and zealous in its performance. The second duty presents many and great difficulties, and calls upon all for the exercise of the utmost forbearance and moderation. It is of paramount importance to the permanent peace of the country that these difficulties should be met and solved in a statesmanlike manner, and that we should not approach a question of such vast moment in a vindictive or acrimonious spirit. I deem it most fortunate that the people of the country—the same brave and magnanimous people who have borne with such fortitude the sore trials through which the nation has passed—must be consulted on the terms of this settlement of our difficulties, and that their voice will finally decide upon the various schemes which have been or may be proposed. I think it fortunate, also, that the moment is near at hand when these different schemes must be submitted to the popular arbitrament in the approaching presidential election; because I believe in the aphorism of Senator Benton, that "our troubles come from the uneasy politicians and our safety from the tranquil masses." My hope for wisdom and moderation in the decision of these great issues is from the salutary influence which responsibility to the people exerts over all who exercise their power.

Already it seems to me that this salutary influence has made itself felt and is gradually and almost imperceptibly working out a satisfactory solution of our troubles. The resolve which our people of all political parties have evinced to maintain their Government and preserve the integrity of its territory, at any cost and at whatever sacrifice it may require, has not only had its effect

upon our enemies in the field, in the destruction and rout of their armies and the occupation of their territories, but it has wrought a greater victory if possible, in that revolution of sentiment which is preparing for us a lasting peace upon the ruins of that institution which was the cause of our disquietude. The determination of the people to maintain their Government by the sacrifice of everything which threatened its existence, has with unerring instinct marked for destruction the system of slavery as the cause of all our woe. Thousands who in former years did not believe in the dangerous tendencies of the system have been convinced by the deplorable events of the last few years, and no human power can now reverse the decree rendered by a public sentiment which is almost universal.

There is some discussion as to the authority of the President under the Constitution to make certain proclamations, giving effect to public sentiment upon this subject. I shall not pause to debate this question. I have heard enough and seen enough to convince me that if any other sanction or guarantee is required it will not be withheld. If a constitutional prohibition of slavery in all the States and Territories of the Union is considered essential, it will be conceded by the consent of the southern States themselves; and if I am not greatly mistaken such an amendment will be supported by the Democratic party of the northern States as soon as it is seen that it is desired by the Union men of the South. The President, in my judgment, expressed more clearly the sense of the entire nation in his proclamations than was supposed by either those who most applauded or those who denounced the act. The pledge which he gave to use all his efforts to compensate the loyal owners of slaves, which was ignored by one class and distrusted by the other, was, in my opinion, the pledge of the nation, and will be redeemed. It was an act too grand and noble to be stained by any leaven of injustice or dishonesty.

If the judgment of the nation in condemning slavery as the cause of the rebellion is correct, and I am not mistaken in the belief that it is irrevocably doomed to destruction, then it is safe to assume that the great obstacle to the restoration of the Union has been substantially removed, and that as our victorious armies advance, driving back into narrower limits the organized armies of the rebels, the States will resume their places in the Union which has rescued them from usurpation, purged by their own consent of that element which alone supplied a motive for disunion.

I am well aware that many do not assent to this mode of settlement for our difficulties and for the restoration of the Union; but I believe that this is the plan which the people have resolved upon, and which is now working itself out in spite of opposition from men of ability and influence who take a different view of the question. The President has unquestionably marked out this policy, and in so doing has the sanction and support of a vast majority of the loyal people of the country.

The discussion upon the pending resolution has brought out very distinctly the grounds of opposition to this policy, and disclosed the quarter from which that opposition comes. The proposition is simply to repeal the joint resolution of the last Congress by which the confiscation of landed estates of persons in rebellion was limited to the life of the offender; but it makes a distinct issue with the President upon one point of the policy he has adopted for his guidance, and which he has made known in the most solemn and authentic manner; and the debate upon it has disclosed a determination upon the part of leading men of his own party to make an issue with him upon all points of his policy, and either compel him to yield or to divide the party which has hitherto supported him.

To the President is confided the whole military power of the country to save its Government from overthrow by rebellion. Those who wage war to accomplish that overthrow commit treason. The punishment for that crime on conviction is expressly declared in the Constitution shall be prescribed by Congress; but it is provided that "no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained." Capital punishment, the death penalty, in this as in other countries, has been in all time applied to treason. The head that plots and attempts the destruction of the Government

is always forfeited to the society that looks to its Government for preservation. In England and other monarchies condemnation for treason not only forfeits the head but the landed as well as personal estate of the offender.

This visited the sin of the traitor upon his innocent heirs, and was the device of monarchs to hedge around their life and crown by superadding to the terror in conspirators the fear of sacrificing the dignities, influence, and wealth of their posterity by the loss of inheritance, imputing it to corruption of blood to degrade a race and name. The motives of monarchs prompting such unjust and cruel inflictions upon blameless and helpless heirs of one condemned to expiate by death the offense imputed to him do not belong to our Republic. It does not, like the crowned head, apprehend that the stroke of an assassin may terminate, with one life, the safety and peace of a people. Nor has it favorites to pamper with the estates of victims whom they may conspire to sacrifice as traitors to quiet the fears of a dynasty into whose ear they whisper. Multitudes of illustrious public men have perished and their families been ruined under the Governments from which our laws have been mainly derived, upon constructive, unfounded, or ill-proved charges of treason, originating in the desire of the reigning favorites of the court to destroy those whom they have supplanted, and to create support for themselves and their followers by the confiscation of the estates of rivals whom their intrigues brought to the block.

It was these horrid tragedies of the English history of treasons that induced the authors of our Constitution to insert so precise a definition of treason; and in providing for its punishment to declare "it should not work corruption of blood, or forfeiture except during the life of the person attained." The first act of Congress passed in virtue of this article prescribed the punishment of death for treason, and added the exception in the words of the Constitution in superabundant caution to exclude by legislative enactment the consequence of a condemnation of treason which the common law of England had drawn with it as a part of the code of our country.

The Federalist—the work of Jay, Hamilton, and Madison—a more authoritative commentary on our Constitution than Blackstone's on the laws of England, had pointed to this article as a bar to such congressional interpretation as was given in the bill submitted for the President's approval at the last session. It was the security given by the Constitution to save the unoffending heirs of condemned criminals from that forfeiture of estates so apt to be voted in heated party times by parliamentary majorities, and so the sages of the Federalist say the clause meant to abate the mischief by the limitation to "the life of the person attained."

The President entertained the view of this provision sanctioned by Congress and all the jurists of the country up to the passage of the bill presented to him by the last Congress. Then he was constrained to express the opinion contained in the message in which he communicated his reasons for approving that bill, because it was coupled with the enactment of a resolution embodying the terms of the constitutional limitation. But now it is attempted to repeal the resolution which adjusted the conflicting views of the executive and legislative departments in regard to the confiscation act, and if successful in Congress, the demand is to be made of the President that he resign his constitutional convictions, and strike from the law what he deemed essential to make it compatible with the Constitution and his oath to support it. And how is this demand justified? There stands the letter and spirit of the Constitution, an insurmountable obstacle to concession on the part of the President; but the new-fangled doctrinaires seeing the hopelessness of straining the simple terms of the Constitution to justify the extension of confiscation "beyond the life of the person attained," nevertheless now urge expedients to accomplish that object. The gentleman from Ohio [Mr. SPALDING] presents this aspect of the conscription act:

"We take up the act to which this joint resolution applies, we find that a new punishment for treason is given by the last Congress. Treason is punished with death; and it is provided that the offender's slaves, if there be any, shall be free. Here may be the pinch after all. It is in the discretion of the court whether he shall be imprisoned for not less than five years, and fined not less than ten thou-

sand dollars, and his slaves, if any, shall be free." Let us pause to inquire what would be the result if a person should be apprehended and brought before the court for treason, and the court should under the discretion given by this enactment instead of taking the life of the offender imprison him for five years and fine him in a sum of not less than ten thousand dollars. Would not that be levied on the real estate of the offender? And if that real estate did not amount to more than ten thousand dollars would it not be taken in perpetuity to answer the fines?"

The gentleman settles his own question affirmatively, and adds:

"It seems, then, the same thing in substance to the offender found in arms against the Government to take his lands in satisfaction of the fine, and to confiscate his lands, goods, and chattels."

The gentleman from Ohio comes to this conclusion notwithstanding he concurs with Judge Story's opinion that confiscation of real estate for treason cannot extend "beyond the life of the person attained." So he would attain his object, in contravention of that of the Constitution, by altering phrases in the law, and using the words "levying a fine and selling the estate in perpetuity" instead of confiscation, which he says are in substance the same thing, and thus he defeats the purpose of the Constitution, which Jay, Hamilton, and Madison in the Federalist say was "restraining the Congress even in punishing it (treason) from extending the consequences of guilt beyond the person of its author." This is a little touch of old Polonius's craft, "by indirections to find directions out."

The gentleman from Pennsylvania [Mr. STEVENS] followed suit to the gentleman from Ohio [Mr. SPALDING] in disposing of the President and the Constitution. On rising he said, "The gentleman from Ohio [Mr. SPALDING] has said nearly all I intended to say upon this subject." From this we may infer that he adopts the plan of making the penalty of death and levying a fine and selling in perpetuity the estate of a person attained by treason, accomplish what a parliamentary attainder did in England, and that in defiance of the Constitution.

But the gentleman from Pennsylvania is too daring and resolute to rest the sweeping measures he aims at on such narrow footing. He goes for conquest, and while giving a passing smile to the Polonius scheme of circumvention, marches on to achieve greater results than can come of mere confiscation of rebel estates. He treats with scorn the idea that the States held in duress by the rebel military power have any right to look to our laws and Constitution for protection. Yet he knows this power was installed by the Buchanan Administration, by giving the arms, the forts, and munitions of war of the nation to the Knights of the Golden Circle in the South, constituting a secret standing army to compel the unarmed citizens to submit to secession, and that thus the Federal Government surrendered to rebel usurpation States it was bound to protect. With a sneer he says:

"Some think that these States are still in the Union and entitled to the protection of the Constitution and the laws of the United States," &c.

This he scouts, and thus comes to what he holds to be the true doctrine:

"Others hold that, having committed treason, renounced their allegiance to the Union, discarded its Constitution and laws, organized a distinct and hostile government, and by force of arms having risen from the condition of insurgents to the position of an independent Power *de facto*, and having been acknowledged as a belligerent both by foreign nations and our own Government, the Constitution and laws of the Union are abrogated so far as they are concerned, and that, as between the two belligerents, they are under the laws of war and the laws of nations alone, and that whichever Power conquers may treat the vanquished as conquered provinces, and may impose upon them such conditions and laws as it may deem best."

Upon this theory he assumes that the Government will punish the leading traitors, seize their lands and estates, sell them in fee simple, pay the proceeds into the national Treasury, &c., and then he answers the objections to the doctrine he broaches for us, founded entirely upon that which Jeff. Davis and his confederates rely to maintain the stand they have taken, and to secure themselves from its fatal consequences in case of final defeat, in this wise:

"But it is said that this must be considered a contest with rebel individuals only, as States in the Union cannot make war. That is true so long as they remain in the Union. But they claim to be out of the Union; and the very fact that we have admitted them to be in a state of war, to be belligerents, shows that they are no longer in the Union, and that they are waging war in their corporate capacity under the corporate name of the Confederate States, and that such major corporation is composed of minor corpo-

rations called States, acting in their associated character. It is idle to say that townships and counties and parishes within such States are at peace while the States by acknowledged majorities have declared war. It is still more idle to say that individuals within the belligerent territory, because they were opposed to secession, and were loyal to the parent Government, are *the State*, though comprising but five per cent. of the people, and hence that the States are not at war. This is ignoring the fundamental principle of democratic republics, which is that majorities must rule, that the voice of the majority, however wicked and abandoned, is the law of the State. If the minority choose to stay within the misgoverned territory, they are its citizens and subject to its conditions. The innocence of individuals forms no protection (except in a personal point of view) to those residing in a hostile territory.

"Even the innocence of women and children does not screen them from the fate of their nation. True, in dealing with them personally, great difference is made between the innocent and the guilty. But how can it be said that the States are not at war? Individuals do not make war. Individuals may take life, but they cannot make war. They cannot be recognized as belligerents. War is made by chartered or corporate communities, by nations or States."

He bolsters these assertions by assumptions of this sort:

"When an insurrection becomes sufficiently formidable to entitle the party to belligerent rights, it places the contending Powers on precisely the same footing as foreign nations at war with each other." *

"No one acquainted with the magnitude of this contest can deny to it the character of a civil war. For nearly three years the confederate States have maintained their declaration of independence by force of arms."

Here is his conclusion:

"What, then, is the effect of this public war between these belligerent, these *foreign nations*? Before this war the parties were bound together by a compact, by a treaty called a 'Constitution.' They acknowledged the validity of municipal laws mutually binding on each. This war has cut asunder all these ligaments, abrogated all these obligations."

Was ever confusion more confounded than in the facts, arguments, and conclusions on which the gentleman from Pennsylvania would construct a platform of ultraisms? The main fact on which he builds is utterly untenable. The statement that the rebels "have been acknowledged as belligerents by our own Government" is untrue, as well as that on which it is predicated, "the hostile government by force of arms having risen from the condition of insurgents to the position of an independent Power *de facto*." At the threshold of the war the rebels were by England and France proclaimed *belligerents*, without waiting to hear one word from our Government. The motive was evidently to give all the encouragement they could at the start to enable them to become "an independent Power *de facto*," with a view to acknowledge them as such as soon as a decent respect for the opinions of the world would warrant it.

But neither England nor France, much as their rulers wish it, have ventured to recognize them. The gentleman from Pennsylvania is the first man in public station of importance, on this or the other side of the Atlantic, who has had the hardihood to do it. Our Government, so far from admitting, have remonstrated with the foreign Powers for admitting them to be belligerents; and instead of having risen by force of arms to a position of an independent Power, "the consummation so devoutly wished" by the confederating rebels, they have sunk to half their original dimensions under the compressing force of the Union. Upon what pretext, then, can the gentleman say "the confederate States have maintained their declaration of independence by force of arms?" He insists on it because "the magnitude" of the contest gives it "the character of a civil war;" and because "the effect of this public war between these belligerents, these foreign nations," is to cut asunder all the ligaments, abrogate all obligations mutually binding on each. What an entanglement of contradictions is here! In the beginning, when the rebellion included Missouri, Kentucky, Maryland, Virginia entire, Tennessee, Arkansas, Mississippi, and Louisiana, it was but an insurrection; now that it is reduced to the sparse and starving population of a portion of the Gulf States, its magnitude makes it a civil war! Then, because it is "a public war between belligerents," the civil war changes its nature and becomes a war between "foreign nations!" And out of this catalogue of inconsistencies comes the conclusion that, the war being between "foreign nations," by the laws of war the conqueror may seize and convert to his own use everything that belongs to the enemy; and on this ground he assumes the right of confiscating all the real and personal estates, not merely of the rebels, but of the entire popula-

tion. This he admits "may work a hardship on loyal men opposed to the war;" but to escape the condition of enemies they must "change their domicile—leave the hostile State." "Even the innocence of women and children," he adds in another passage, "does not screen them from the fate of their nation."

The gentleman egregiously cheats himself in attempting to clutch the landed estates of the South by conquest, as sanctioned by national law, instead of by forfeiture under the law of treason. Here is the national law with regard to the right of the conqueror of a country to appropriate the real property of private proprietors, as laid down by the American jurist, the latest and ablest compiler of European authority on the subject. After discussing the exemption in certain cases of personal property falling into an enemy's hand at sea and on land, he thus treats of the exemption of lands on the permanent conquest of a country:

"This exemption extends even to the case of an absolute and unqualified conquest of the enemy's country. In ancient times, both the movable and immovable property of the vanquished passed to the conqueror. Such was the Roman law, often asserted with unrelenting severity, and such was the fate of the Roman provinces subdued by northern barbarians in the decline and fall of the Roman empire. A large proportion, from one to two thirds of the lands belonging to the vanquished provincials, was confiscated and partitioned among their conquerors. The last example in Europe of such a conquest was that of England by William of Normandy. Since that period among civilized nations of Christendom, conquest, even when confirmed by treaty of peace, has been followed by no general or partial transmutation of landed property. The property belonging to the Government of the vanquished State or nation passes to the victorious State, which also takes the place of the former sovereign in respect to eminent domain. In other respects private rights are unaffected by conquest."—Wheaton, page 420.

This principle, well established as it is by the uniform practice in modern times and among civilized nations, would preclude the gentleman from Pennsylvania from appropriating a single tenement even in South Carolina belonging to a citizen and enemy, on his assumption that it is to be considered a foreign State, and placed by conquest in subjection to the United States under the law of nations. The whole drift of his argument is to show that in such cases the conquered people are to look to the law of nations for the protection of their lives and property. When it is admitted, as it is by the gentleman from Pennsylvania, [Mr. STEVENS,] that the war is waged by the confederates as independent States against the United States, and it is a war between nations foreign to each other, how does treason attach to one more than the other? Thus the gentleman, to get rid of the constitutional restriction limiting the duration of title to estates derived from confiscation to the life of the condemned owner, and grasp at a permanent holding under the national law of conquest, like the greedy animal which leaped at the shadow of what he saw in the stream beneath, dropped the substance which he might have held.

But let us suppose now that the constitutional limitation and the inhibition of national law preventing the appropriation of the lands of private citizens by their conqueror are both overleaped and the present owners driven from their possessions. What a scene would be presented to the world in its most enlightened Christian era! The expulsion of the Jews and the deletion of the Moors by the fanaticism of Spain afford but a faint picture of the spectacle. Such a purpose avowed could only be effected by the extermination of our whole kindred race in the South. The world would expect them to shed the last drop of blood rather than submit to such a spoliation, which would leave no other alternative but to perish as paupers. But with the inclination of foreign Powers to make a foreign Power of the confederate States, and to maim and cripple the united national Republic and arrest the march of its principles, might they not accept the statement of the organ of the Treasury Department in this debate, that by force of arms the confederates had asserted their independence; were a foreign nation, and entitled to their recognition as such, and to their sympathy and support in maintaining their rights, and especially in upholding the national law to which the people of all civilized States look for security? In such case how would they meet the doctrine of spoliation broached by the gentleman, which despoils women and children of all the means of living after conquest, and assumes that the men of the country, whether in or out of the war in its

defense, whether for or against the object for which it is waged, are traitors, nevertheless, to the foreign country engaged against them in the conflict? Would not the nations of Europe be justified in intervening to put down such an innovation on the national code of humanity? They would read to us the article in our own Constitution and the clause from Wheaton, our own jurist on national law, and give emphasis to both by bringing the opinion of all Europe to enforce them, to arrest the barbarities proposed in their defiance. I must do the gentleman the justice to declare that I cannot believe he means what he has said. He has a shrewd tongue, but it does not find its severity in his heart. His speech is that of a party advocate, seeking to embody selfish interests in aid of the ultraisms of frenzied philanthropy which would sacrifice our whole kindred in the South to the blacks, and ultimately the blacks themselves by violating the laws of nature in the attempt to amalgamate repugnant races in the name and by the charm of equality. It is to effect this that the gentleman would cut the States of the South from their constitutional moorings, and make a hotch-potch of all the established republican governments there by throwing them into a revolutionary caldron.

The gentleman holds that the rebel usurpation has accomplished what it designed; that it has utterly extirpated the governments which the loyal people everywhere recognized and still recognize as existing in the constitutions which have been partially suppressed only in the districts where the rebel power prevails for the moment. As ours prevails, the power of the Union being vindicated, the form of the State government, which from the beginning of the war the Constitution of the Union has held to be indestructible, again emerges. How was it in Missouri? The rebels there had foisted themselves in power by a legitimately elected Governor and Lieutenant Governor and Legislature, and they declared secession. But what did the supreme Government declare? It said a State has no right to secede. The Government of the United States is permanent here and everywhere throughout the boundaries of the Union. The nation claims that it has "eminent domain" over every inch of country within its limits, and that the duress which holds the State governments in abeyance has neither extinguished the legitimate local sovereignty within them nor the supreme sovereignty of the General Government which has sent its armies to vindicate both. The Army and Navy of the United States, surrounding the whole of the rebellion, gradually crushing the life out of the usurpation, are the national functionaries which execute the constitutional duties of the Union there, and put their veto on the assumption of the gentleman from Pennsylvania in declaring "the State governments in the rebel States to be as perfect now as before the rebellion," and that "being subsisting States, capable of corporate action, they have as States changed their allegiance from the United States to the confederate States." If we admit this doctrine there is not a loyal citizen among the confederates who is not guilty of treason against the rebel usurpation in supporting the republican form of State government under which they were born, which the Government of the United States is solemnly bound "to guaranty," and which our national forces by land and by sea at this moment in every one of the States belonging to our Union are upholding. Yet the gentleman has the hardihood to contend that "the republican States" guarantied by our Constitution are now independent, and "as perfect now as before the rebellion," and he argues:

"The idea that the loyal citizens, though few, are the State, and in State municipalities may overrule and govern the disloyal millions, I have not been able to comprehend. If ten men fit to save Sodom can elect a Governor and other State officers for and against the eleven hundred thousand Sodomites in Virginia, then the democratic doctrine that the majority shall rule is discarded and dangerously ignored. When the doctrine that the quality and not the number of voters is to decide the right to govern, then we have no longer a republic, but the worst form of despotism."

Here, then, we have the secession doctrine absolutely recognized, and with more distinctness than Calhoun ventured to urge it. He had always some pretense to justify it, namely, "monstrous oppression." But here the majority of disloyalists in a State have the right admitted to override a minority of loyal men and make them forswear their allegiance to the Union. "If the minority,"

he says, "choose to stay in the misgoverned territory they are its citizens and subject to its conditions."

"From all this the legitimate conclusion is, that all the people and all the territory within the limits of the organized States which, by a legitimate majority of their citizens, renounced the Constitution, took their States out of the Union, and made war upon the Government, are, so far as they are concerned, subject to the laws of the State; and, so far as the United States Government is concerned, subject to the laws of war and of nations, both while the war continues and when it shall be ended."

No man North or South ever asserted the secession cause so boldly in the forum as the gentleman from Pennsylvania. He founds the rebel government upon the will of a majority of the people; proclaims that the minority, though loyal to the General Government, which has the constitutional right to the allegiance of all the people of all the States, must abandon the States or subscribe to their authority; insists that the usurpation which heads an insurrection in the very bosom of the Government of the Union, but which it holds in the grasp of its military power, has established independent States in its midst, and endows it with all the immunities and rights of a foreign nation carrying on legitimate war. There is not a foreign Government on earth, however disaffected to our constitutional forms, that recognizes either the facts or the inferences so conceded to the confederates by the gentleman from Pennsylvania. If they were, how could the Governments of Europe withhold a recognition of their independence? England will never admit a principle which would authorize Scotland to break her covenant of union, assume the character of an independent nation, and, as a foreign Power at war, exempt her citizens engaged in it from treason; thus justifying France or any other Power in giving her aid and severing the island of Great Britain into two nations. England while at war with the French republic never recognized La Vendée, although for years in insurrection in the heart of France, as an independent people. No insurrection in a fragment of any nation has ever been recognized as independent of the national Government with which it was in juxtaposition, forming a part of that integral Government, while the great body of the nation exhibited a power and purpose sufficient to maintain itself and suppress the insurgents.

Does the Government of the Union show any sign of tottering to a fall? On the contrary, does it not stand in full vigor, while the insurrection is struggling in deathlike paroxysms? While ferocious secession exhibits an energy which it may cost more blood to quell, no sane man can see in its desperate convulsions anything but the writhings of a paricide condemned to expiate guilt in the folds of an anaconda. It is almost pressed to death, when an honorable member from Pennsylvania would invoke for it (albeit unwillingly) the support from foreign Powers by the assurance that it had "by force of arms established its independence," and that moral right was on its side, inasmuch as it was declared by a vast majority of the people to be affected by it. Never were facts so perverted to reach such a conclusion. The doctrine of secession was never countenanced by the votes of a majority of the people of all the southern States, much less by that of all the United States, the whole people of which are entitled by their interests and the authority of numbers, and still more positively by the articles of the Constitution, (the common bond,) to control all questions arising under it. The attempt to sustain the doctrine by force of arms has also failed as completely as that by argument.

In concluding the speech from which I have quoted the leading points, the gentleman from Pennsylvania says:

"At the extra session of 1861 I advanced the same suggestion, and I have repeated them on all occasions that I deemed proper since. They were not then quite acceptable to either side of the House. I am glad to find that the President, after careful examination, has come to the same conclusion. In details we may not quite agree, but his plan of reconstruction assumes the same general grounds."

The House will bear with me a little, while I examine the details by which the gentleman and the President reach the same general grounds of reconstruction.

The gentleman [Mr. STEVENS] begins by asserting that the usurpers have by force of arms become an independent power *de facto*. The gentleman pretends that the President has acknowledged the

rebels as belligerents and entitled to the immunities of a foreign Power engaged with the United States in war.

So far from this being true, the President has manifested dissatisfaction that England and France have, by acknowledging the rebels as belligerents, favored these pirates, although at the same time they disavow the conclusion drawn from it by the gentleman from Pennsylvania, that they are an independent and, as regards the United States, a foreign power.

The gentleman declares the confederates out of the Union and not subject to the Constitution and laws of the United States.

The President, on the contrary, holds that they are in the Union; that he will hold them to it, as liable to all the penalties of treason, under the form and under the restrictions prescribed in the Constitution and laws.

The gentleman insists that the heirs of rebels can claim no interest in the confiscated estates of parents condemned for treason, although the reversion is expressly reserved for them under the clause of the Constitution that the punishment under condemnation for treason shall not extend to forfeiture of estates except for the life of the person attainted.

Per contra, the President holds that the law which passed without this saving clause for the heirs violated the Constitution, and Congress inserted the provision to comply with his opinion, which was embodied in a message to the House, giving his sanction to the modified bill.

Here I stop a moment to inquire whether the President has, "after careful examination, come to the conclusion" to retract the opinion declared in this message. If not, why the attempt to repeal the constitutional saving inserted in the act by the last Congress? It looks like an attempt to play into the hand of some rival who would array a party against the President to drive him to surrender his convictions and break his oath to support the Constitution, or, by maintaining his convictions and his oath, draw on the embarrassment of an opposition, disappointed of their scheme of monopolizing inheritances at the expense of the public interests. Certainly nothing could be worse for the Government and the masses of our countrymen than that the great landed estates should fall again into the mortmain of great capitalists. By being divided up in small leaseholds among the laboring soldiers of the war, the result would be either compromises between the lease-holders and the heirs in reversion—the first giving immediate possession of a part of his holding to the heir as a price for the fee simple of what he retained—or the lease-holder during the life of the rebel owner forfeiting it would realize out of the product of his tenement means to purchase a freehold of a portion. This sort of division between industrious lease-holders and heirs would be beneficial to both. The one would be stimulated to industry and economy, the other by the increased value imparted to the property ultimately returning by subdivision among a multitude of intelligent, active, thriving, though temporary, owners, who, once having taken root in the soil, would endeavor by utmost effort to make the means of rendering their possession permanent. The presence of such a population in the rich lands of the South would surely enhance their value. The forfeiting rebel refugee would find an advantage in having a great community interested in his long life, which would result probably in arrangements meliorating his condition.

But to continue the details which, according to the speech of the gentleman from Pennsylvania, bring him and the President to the same general grounds in closing the conflict.

The gentleman, assuming that it is a war of foreign States, adds: "By the laws of war the conqueror may seize and convert to his own use everything that belongs to the enemy;" and by the enemy he says expressly he means every man, woman, and child who now remain in the confederate States, including those who are loyal.

The President in all his proclamations touching this subject shows that he holds sacred the law of nations as expounded by Wheaton; confiscating no lands but such as are forfeited by treason; no personal property even in virtue of conquest, except slaves, who are taken from the hands of the enemy as instruments of warfare and liberated with a pledge of remuneration to

loyal owners for their loss, and indemnity for injuries that they may receive from our armies.

The gentleman holds that the State governments now under the usurpation, although recognized and established as part of the Union by the Constitution and the laws made in conformity with it, are "abolished," and "we may hold them in subjection and legislate for them as a conquered people."

The President holds no such doctrine, but directly the reverse. He looks upon the Constitution of the United States, and the constitutions of all the States heretofore recognized by it, as still subsisting, all uniting to establish, as written charters and muniments of title, a right to that eminent domain and political supremacy which the national Government holds over this whole country. The President, in virtue of military power which, as the representative of the supremacy of the United States, he is called by the Constitution to exert to save it and the Government, the State constitutions and their governments, has struck down slavery in certain sections, upon the principle on which the enemies of these States and constitutions are struck down in battle-fields. What has thus perished in the war, ceases to be a part of the institutions which have existence sanctioned by any Constitution, State or national. The President's plan of reconstruction takes this ground in the instructions given to General Steele to carry it out on the petition of the people of Arkansas. In that instruction he lays it down "that it be assumed at the election," (proposed by the people,) "and thenceforward, that the constitution and laws of the State as before the rebellion are in full force, except that the constitution is so modified as to declare that there shall be neither slavery nor involuntary servitude except in punishment for crimes whereof the party shall have been duly convicted."

The gentleman asserts that "it is mockery to say that according to any principle of popular government yet established a tithe of the resident inhabitants of an organized State can change its form and carry on government because they are more holy or more loyal than others."

The President holds that men disloyal and hostile to a Government, disabilitated by the commission of treason to exercise the rights of citizens, abdicate their place in the Government, and devolve its administration on the loyal portion; and he has ascertained from the precedents in the State governments that a population equal to one tenth of the whole number existing in any State are adequate to its administration. He therefore, when desired by them, invites elections in the several States freed from the armies of the rebellion, to ascertain whether a tithe of the loyal population remain to supersede by civil government under the republican constitutions that belong to them, the military administration imposed by the necessities of war.

The gentleman proposes to supersede popular elections by the loyal people of a State to renew the action of their republican institutions, by the Roman military law for conquered countries, "*væ victis*," woe to the vanquished, thus ignoring national law as ameliorated in modern times among civilized Christian nations, and abolishing the State governments which the President by his oath of office and the national Government he administers is bound to guaranty.

The President on his part resolves to respect his own and the good faith of the nation; he recognizes the existing governments held in abeyance for a time by rebel arms, the rights of loyal citizens suffering under them, opens to all such access to the blessings of the Union through a renewal of their allegiance, and tendering to the mass of those who were forced into the rebel ranks by the betrayal of false functionaries wielding the power in the State and national Governments the healing measure of an amnesty—the felon conspirators and agitators, the authors of our calamities, being excluded.

The gentleman from Pennsylvania assumes "that if you were to liberate every slave now, and then readmit them as free States, the moment they had acquired that standing they would reestablish slavery and enslave every colored man within their limits."

The President denies this; holds that the freedmen are under the protection of the arm to which they owe their liberties; has taken the precaution, with the sanction of Congress, to place them beyond State jurisdiction, and to assure them in the

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mean time of a safeguard under such an organization, with the national force, as will preclude all apprehension of the danger suggested.

This parallel, in my opinion, is a fair *exposé*, showing that the gentleman looks to reconstruction on quite a different basis from that of the President. He admits that in details they do not quite agree, but assumes that they come to the "same general grounds," that is, that "his (the President's) plan is wholly outside of and unknown to the Constitution." It is thus that he would make the President take the responsibility of the secession, abolition, absolute-conquest doctrine he [Mr. STEVENS] broaches in defiance of national and State constitutions, the law of the civilized world and of all humanity. I take my stand on the Lincoln platform.

I would say a word in reference to the remnant of slavery which does not fall under the proclamations called out by military necessity. I would implore Congress to redeem its pledge to make compensation for emancipation in the border States, by making specific appropriations to each, enabling the President to tender the remuneration which may in his opinion be requisite to accomplish a universal deliverance. I hope the States may vote it with or without compensation. If not, then it may be sought through an amendment of the Constitution in the prescribed mode, with or without compensation as the public will may demand.

The great consummation for the peace and happiness and glory of our country should be wrought out with unflinching zeal. The sooner the better will be the success. To make it a blessing to the victims of centuries of oppression, in my judgment it is necessary that they should be transplanted to some of our vacant regions, if remote colonization cannot be effected in such an emergency. The plan proposed by Senator LANE, of Kansas, of acquiring a home for the "laboring landless race" on the southern frontier of Texas seems to promise the best results. They never can enjoy freedom, equality, civil rights, or even safety of property or person unless separated from the dominant race under institutions administered by themselves.

Allow me to say to the gentleman from Pennsylvania that the President's policy of amnesty, reconstruction of the States, and the segregation of the white and black races, bears not the slightest resemblance to the doctrine of the spoliation of an entire people, the annihilation of the States, and the disfranchisement of the people of our own race, thus putting them upon equality with the blacks. So far from being the truth that the President and the gentleman from Pennsylvania stands upon "common ground," I am apprehensive that the gentleman is anxious to saddle the President with the odium of doctrines which are known to be those of rival aspirants for the Presidency, and which have proved fatal to their aspirations. It is because the President has soared above these unconstitutional and inhuman dogmas, and has shown in his whole Administration, and more especially in his recent proclamations, that he was for amnesty and the restoration of the Union as soon as the inhabitants of the revolted States would resume their allegiance and provide against the recurrence of revolt by removing its cause, that the great body of the loyal people of the country have responded to his words of wisdom and patriotism, and have demanded his re-nomination by an almost universal acclaim, thus dissipating the hopes of those rival aspirants, built on the supposed exasperation of the people against the South and their lust for its spoils. I am not without the apprehension that the gentleman from Pennsylvania wishes also to destroy the President by attributing to him sentiments so justly obnoxious to a great and magnanimous people. The gentleman from Ohio, [Mr. GARFIELD,] who said the other day on this floor that "we had an army of abolitionists" in the field, and who added that our soldiers and those with whom they have fought felt no animosity or personal bitterness toward each other, not only said

that which was entirely true, but his words will equally apply to the whole people of our country, who have shown by their almost universal support of the President that they mean utterly to destroy slavery, and that they do not mean either to degrade or exterminate their own race in the South.

Of a piece with the ingenious but rather disingenuous assault of the gentleman from Pennsylvania upon the President is an occurrence which took place in the other end of the Capitol some days since, and which I find recorded in the Daily Globe. A Senator from my own State [Mr. BROWN] presented what purported to be a memorial from members of the Legislature of Missouri, and a protest of four Representatives from that State, against the confirmation of General Schofield as a major general. I do not mention this circumstance to comment on the extraordinary and most unbecoming declaration contained in that protest, in which these four members claim to be the only representatives of the Union men of Missouri, for there is nothing in the character or history of either of them to warrant this arrogant assumption, but for the purpose of exposing a covert assault upon the President under the pretext of defeating the confirmation of General Schofield. If it had been the object to effect the latter purpose this paper would have been presented in executive session, where nominations are considered, and not in the open session of the Senate, as it purports to have been done, when no such matter can properly come before that body. The memorial and protest contained only matters which had been previously submitted to the President by a great committee of radicals, which visited Washington for that purpose; and these statements had been examined into by the President, who, in his reply, plainly declared that he did not believe them to be true. Yet the President is arraigned upon these same stale and discredited statements before the country upon the memorial of members of the Missouri Legislature and four members of this House, under the pretense of asking that General Schofield should not be confirmed, and that, too, after an agreement was had with the President that no opposition should be made to Schofield's confirmation, but that he should be, on his own request, relieved from the command in Missouri. The President, I presume, in his desire for peace among those who professed to be loyal, was willing to make this concession; but after accepting the concession, these parties flew from their agreement, under the dictation of bolder and more open enemies of the President and his Administration, who would not permit the opportunity for assailing him to pass. To show the spirit which animated this assault upon the President by his professed friends, I will read to the House a few brief extracts from the leading radical papers of Missouri.

The Westliche Post, the most influential German paper in Missouri, says:

"It is scarcely necessary to repeat—apart from this serious and general danger with which the reelection of Lincoln threatens us—all his special sins *ad nauseam*. We have at present nothing to do but to declare herewith, once for all, that we, supported by honest conviction of all friends of freedom in our State, cannot support Mr. Lincoln's reelection under any circumstances whatever."

The Missourian, a radical paper printed at Springfield, snuffing the danger of Lincoln's nomination, says:

"The earnest radicals of this Union will never be bound by the proceedings of any but a radical national convention, and such convention will be called at an early day, in spite of all the obsolete republican conventions that can be gathered together."

The Missouri Democrat, a paper bought up by Fremont with public patronage and which went heartily into his scheme for a western dictatorship, whines over the recent defeat of the radicals in Missouri, and says it was accomplished by three administrations combined—"one at Washington, one at Richmond, and one at Jefferson City."

It was the spirit which animates these extracts and which broke out in fury when it was rumored in Missouri that all opposition to the confirmation of Schofield was to be withdrawn and he relieved

from the command, at his request, that drove these gentlemen from their agreement and produced the extraordinary spectacle at the other end of the Capitol. I should have had more respect for those engaged in it if the assault on the President had been characterized by the same bold and open spirit as that which compelled it. I trust that the friends of Mr. Lincoln's Administration will hereafter be able to appreciate the assumptions of those who claim to be the only representatives of the Union men of Missouri, in derogation of the character of others who have sustained the policy of the Government from the beginning up to this hour.

In conclusion, Mr. Speaker, I will say that the policy of the Administration, sanctioned and sustained by the great masses of the loyal people of the country, is silently and surely working the extinction of the rebellion and the restoration of the Union upon the firm and enduring basis of universal freedom. I have seen myself how the resistless march of our victorious armies is followed and their victories secured by a peaceful tide of population, sprung from the loins of the great North, bringing with them their industry and thrift to heal the wounds and restore the waste inflicted by the fierce conflicts of war, and even bringing a better civilization and a more healthful prosperity than ever yet reigned in the fair lands of the South. The city in which I live, and which I in part represent on this floor, has risen renewed under the influence of this life-giving tide. Washington city, which lies open before our eyes, gives signs of life never felt before, and which will soon build it up to rival the greatest and fairest cities of the North. That which all of us can see here I have seen in Nashville, Memphis, Helena, and Vicksburg, an influx of new people to supply the places of the flying rebels, and repentant and contrite rebels returning to their homes, all alike determined to eliminate that dreadful evil which brought them all their woes. New Orleans, I am told, is almost a New England city; and along the banks of the Mississippi the plantations are rapidly passing into loyal hands; and with cotton at eighty and ninety cents a pound every northern man can easily compute the time it will take to renew the number of its inhabitants, and make its rich delta produce more cotton than ever grew on its banks in any former season. I speak of that which has fallen under my own observation, where the arms of our troops give security to the citizen.

Is it likely that these vigorous men of the North who have gone to win wealth in the South will agree to see those States reduced to the condition of Territories? Is there any reason why it should be done? I doubt not that every State that is wrested from the military power of the rebels will be re-peopled by the men of the North, who, in conjunction with the loyalists of the South and those who have become sick of the rebellion, will equal in numbers those who composed the States prior to the rebellion. Why should not Louisiana—in which not even the Knights of the Golden Circle, armed with the muskets and cannon furnished by Buchanan's Administration, could coerce a majority vote for secession—come back into the Union and accept now the protection which the Constitution guaranteed to her, and which was too long delayed when first assailed by the conspirators armed by the Government itself? Let her return renewed and made vigorous with the blood of the men of the North.

Shall Tennessee be repulsed, whose devoted loyalty, bright and pure as in the soul of Jackson, still burns in the breasts of her sturdy mountaineers, and which no despotism can extinguish? In Arkansas slavery has already been abolished by a convention, and her allegiance renewed at the price of that which severed it. Shall Arkansas be excluded from the Union from which she was torn by force and fraud and against the declared will of her people? To do so would be a grosser fraud and a more intolerable crime than the act of the traitors to whom we furnished the arms with which their temporary usurpation was accomplished.

In my judgment none of these States will be excluded from their just rights in the Union. Nor will any other State when the triumph of our arms makes it possible for the loyal men of those States to assert their claim to its protection.

The first State which returns to the Union under the President's proclamation of amnesty and resumes its rights under the Constitution will inflict a heavier blow upon the cause of rebellion than a victory won by our Army.

Mr. SMITH. Mr. Speaker, I enter at this time upon the discussion of this question with much diffidence from the fact that there has been manifested such a disposition on the part of the House to come to a direct vote upon it. I had intended to offer an amendment to the bill under consideration which I believed of much importance, but the operation of the previous question cut me off. It was this:

Provided further, That nothing in the act aforesaid entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, shall be construed to bar or prevent any bona fide original loyal holder of, and creditor of, any promissory note or account against the rebel owner whose estate may be condemned under this act.

I shall now say nothing on this subject; but, sir, in submitting the few remarks I have to offer at this late hour I hope I shall be prompted by the highest considerations of justice and truth. I present myself to-day as a Representative of a portion of the people of the United States, and in all I shall say, and in the vote I shall cast, I hope to rise higher than a partisan and look alone to the future interest of the whole country. I am not here as a Republican, as an Abolitionist, a Whig, or Democrat, but as a Union man to do my duty toward the whole country North and South.

We are now considering a proposition which, if made a law and is acted upon, will become in all probability a precedent or rule of action for generations to come. And looking not alone to the present but future of our country, when you and I, Mr. Speaker, and all of us shall have passed away, and our children and grandchildren shall control the destinies of this Republic, our desire above all things, as honest men, patriots, and philanthropists, should be in this our day of trouble and danger to so conduct ourselves and legislate as will give them little trouble, good examples, and wholesome laws. As for myself I mean this; and what I shall say to-day will be in no spirit of revenge, but a sense of duty to the innocent and proper arraignment of the guilty and criminal.

In discussing this question I shall pursue my own course and manage it in my own way, plainly, honestly, and fairly, that every man here and in the country shall fully understand me and accord to me my proper position.

The United States is one Government, and the Government of one people, with a Constitution defining its principles, its rights, and its powers; so also are the rights and powers of the several States which make up this Government clearly defined and established, as well as the rights of each individual citizen of the State and General Government. There is no conflict in the rights, powers, and privileges of either Government, State, or citizen; but, on the contrary, remarkable harmony and consistency characterizes that instrument, thereby demanding of the patriot and philanthropist the warmest support and defense. The Government in its Constitution says that a more perfect Union is formed "to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity;" and the people pledged, after much deliberation and discussion, to accept and maintain it, not that they yielded their right or power to alter, or amend, or abolish this one when they saw proper, but that in altering, amending, or abolishing, they were to conform to the rule laid down in this. They were one people in many States; it was a more perfect Union of the people which the Constitution made. Yet prior to the adoption of the Constitution there was a Union of the sovereign people of the colonies, which I will undertake briefly to show as necessary to the conclusion I desire to arrive at in discussing the right of Congress constitutionally to pass this law.

Originally the thirteen colonies were but integral parts of the British nation, their head and fountain, the land of their fathers and home of

their brethren; they belonged to and were identified with their nationality, and in all their relations, externally and to some extent internally, were subject to the authority of the King and Parliament. In leaving their homes and coming to America they brought with them all the rights and privileges of native-born English freemen, and were organized into separate colonial communities and governments for the enjoyment, exercise, and protection of those rights, and the better management of their municipal and local affairs. In this relation to the British Government, feeling, knowing, and appreciating their position, the colonies, when first called together in council to consider the aggressions made upon them by the British King and Parliament, felt that they had common cause for complaint, and their sympathies, privations, and privileges of colonial life were alike equal, and called on all to unite in a common appeal for redress and justice and the maintenance of their rights as freemen at all hazards.

Oppressions working injuriously upon any part of the country were felt and experienced by the whole. The imposition of heavy taxation on Massachusetts Bay fell alike on each one of the thirteen colonies. And when the stamp act was passed the people of the thirteen colonies were all equally interested and concerned. And in the Continental Congress of 1765 assembled in New York the question was asked, "Upon what ground shall we vindicate our liberties? On the faith of our charters, or on the principles of natural rights?" "A confirmation of our essential and common rights as Englishmen," said Christopher Gadsden, of South Carolina, "may be pleaded from our charters safely enough. But any further dependence upon them may be fatal. We should stand upon the broad common ground of those natural rights that we all feel and know as men, and as descendants of Englishmen. I wish the charters may not ensnare at last by drawing different colonies to act differently in this great cause. Whenever that is the case all will be over with the whole. There ought to be no New England man, no New Yorker known on the continent, but all of us Americans." This was the universal feeling, and then and there a Union was formed, an agreement entered into, a compact made, not between States, for there were none; not by Constitution, there was none; not by Articles of Confederation, they had none; but by the whole people, as Americans, to defend, establish, and maintain their liberties.

The people proceeded unitedly to send up their remonstrances and memorials to the King and Parliament, asking for a redress of their grievances, praying for nothing but justice and the restoration of peace and quiet to a disturbed country. The oppression and wrongs were general, and they asked for general relief. With relief came quiet, order, and submission, as in the case of the repeal of the stamp act; but with renewed outrages, greater oppressions, and a manifest disposition on the part of King and Parliament to press down harder and severer upon the people, and instead of recognizing the rights and liberties to which they were justly entitled, even as equals and of the blood of Englishmen, constant efforts to reduce them to abject vassalage were exhibited; then was there united resistance, a firm and fixed purpose to come together as one man and demand of their lords and masters the justice and rights and privileges—moral, civil, and political—to which they were justly entitled. The sentiment then was, looking to the present and future interest of the colonies, that all lines and divisions were blotted out, sectionalism was hushed, Massachusetts shook hands with South Carolina and Virginia and the other colonies joined in and pledged to the Union. Then it was that the great statesman of Virginia, Patrick Henry, exclaimed:

"Government is dissolved, fleets and armies, and the present state of things show that Government is dissolved. Where are your landmarks, your boundaries of colonies? We are in a state of nature. I did propose that a scale should be laid down. That part which was once Massachusetts Bay, and that part which was once Virginia, ought to have some weight." * * * "The distinctions between Virginians, Pennsylvanians, New Yorkers, and New Englanders, are no more. I am not a Virginian, but an American."

Would that this were the language and feeling to-day of all the members of this House, and the people everywhere. This great and patriotic sen-

timent rang throughout the colonies, and electrified the nation. And their Congress, assembled in the midst of this unhappy and excited condition of the people, said, in an address delivered to the inhabitants of the thirteen colonies, "that they had met to consult together for the welfare of our common country." So, sir, were the titles of Union, American, United Colonies assumed and adhered to as the style of the Government about to be established. The entire legislation of the Continental Congress was in the name and by the authority of that Union which had been made. Troops were called into the field for common defense, an army was organized, and a commanding general-in-chief appointed; and such was the universal understanding of the former Union and its present and undeniable existence, that the Congress of 1774 passed in the name and by the authority of the United Colonies resolutions of non-importation, non-consumption, and non-exportation as between England and America, and declared:

"We do for ourselves and the inhabitants of the several colonies whom we represent, firmly agree and associate under the sacred ties of virtue, honor, and love of country, as follows:

"First. That from and after the 1st day of December next we will not import into British America, from Great Britain or Ireland, any goods, wares, or merchandise whatsoever; or from any other place any such goods, wares, or merchandise as shall have been exported from Great Britain or Ireland; nor will we, after that day, import any East India tea from any part of the world; nor any molasses, sirups, panicles, coffee, or pimento from the British plantations, or from Dominica, nor wines from Madeira or the Western Islands, nor foreign indigo.

"Second. That we will neither import nor purchase any slave imported after the 1st day of December next; after which time we will wholly discontinue the slave trade, and will neither be concerned in it ourselves nor will we hire our vessels, nor sell our commodities and manufactures to those who are concerned in it."

With other resolutions and articles of a similar character, showing the power of Congress, authorized by the people, to legislate and prescribe rules for their government, it proceeded to recommend and direct the organization of the colonial Legislatures and municipal authorities by which these laws should be freely and effectually carried out; and further to determine who were the friends of American freedom, and who its enemies. So did the Congress of 1774 further declare:

"And we do further agree and resolve that we will have no trade, commerce, dealings, or intercourse whatever with any colony or province in North America which shall not accede to, or which shall hereafter violate this association, but will hold them as unworthy of the rights of freemen and inimical to the liberties of this country."

I have been thus minute in regard to the original organization of this country to show that its first powers were inherent in the people, and that they spoke through their Congress, composed of members chosen as we have been chosen, and that that Congress, in reflecting the will of the people by resolutions or acts, made a rule of conduct from which there was no appeal or no relief except the people themselves. So you may trace the acts and doings of the Congress of 1775, who, feeling a consciousness of strength and unity guaranteed by the indorsement of their constituents, assumed the highest functions of sovereignty over the colonies and their armies. And in their address to the Army they said:

"We are reduced to the alternative of choosing an unconditional submission to the tyranny of irritated ministers or resistance by force. The latter is our choice. We have counted the cost of this contest, and find nothing so dreadful as voluntary slavery. Honor, justice, and humanity forbid us tamely to surrender that freedom which we received from our gallant ancestors, and which our innocent posterity have a right to receive from us. We cannot endure the infamy and guilt of resigning succeeding generations to that wretchedness which inevitably awaits them if we basely entail hereditary bondage upon them. Our cause is just. Our union is perfect. Our internal resources are great." * * * "In our native land, in defense of the freedom that is our birth-right, and which we enjoyed till the late violation of it; for the protection of our property, acquired solely by the honest industry of our forefathers and ourselves; against violence actually offered, we have taken up arms. We shall lay them down when hostilities shall cease on the part of the aggressors and all dangers of their being renewed shall be removed, and not before."

With war upon them, and a solemn resolve never to surrender, Congress proceeded to establish communications by post routes with the colonies, and to issue bills of credit for war expenses, amounting to near two million dollars, which was increased a hundred fold afterwards from time to time. Thus passed event after event, the Congress controlling the destiny of citizen, colony, and Government, in life, liberty, and property, until on the 4th of

July, 1776, when the United Colonies as *one people* declared themselves free. In 1777, on the 15th of November, the Articles of Confederation were adopted only to make the Union stronger and the security of the people greater; and when, in 1789, to form a "more perfect Union, to establish justice," &c., the Constitution was adopted and made the supreme law of the land, all powers of people, of executive, of legislative, and judicial authority were clearly and fully defined and established. It declares that Congress shall have power to lay and collect taxes, duties, imports, and excises to pay debts and to provide for the common defense; to borrow money, regulate commerce with foreign nations, among the States, and with the Indians; to establish uniform laws of naturalization and bankruptcies, to coin money, regulate its value, and the value of foreign coin, and fix the standard of weights and measures; to provide for counterfeiting the securities and coin of the Government; to establish post offices and roads, to constitute tribunals inferior to the Supreme Court; to define and punish piracies and felonies committed against the laws of nations; to declare war; grant letters of marque and reprisal, and make rules concerning captures on land and water; to raise and support armies; to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Now, sir, after enumerating what Congress has the power to do, and shall and may do, it goes on to say what shall not be done. No bill of attainder or *ex post facto* law shall be passed. No direct taxes shall be laid except, or rather unless, in the language of the Constitution, in proportion to the census taken, and so on are there many other prohibitions laid down. Now, then, when any emergency shall arise which shall require the exercise of any of these powers it is the duty of Congress to put them forth; it is its duty to make rules or enact laws for the Government by a general law of each particular case. When there is an invading or threatening army hostile to the country Congress shall raise an army to meet it, and shall support that army. When there is gold dug from the earth and made ready for molding Congress shall coin that gold and regulate its value. And when foreign coin is imported Congress shall regulate the value of that. When hundreds and thousands of people from other countries land on the shores of this to become inhabitants thereof Congress shall make uniform rules of naturalization; and by its grant of powers to regulate commerce shall determine everything concerning commodities and the intercourse of foreign countries. When a man or set of men counterfeit the coin of the Government or any of its securities Congress shall provide by law for the punishment of such parties. And when war is declared, when the country is engaged in war, Congress shall make rules concerning captures on land and water. Now, sir, in regard to the laws made for coining money, of the value of foreign money, of fixing the conditions of naturalization, of the punishment of counterfeiters, and so on of all the laws made under the powers of Congress as granted by the Constitution, where is there a man or set of men, a court, or any other tribunal will say they are not right, necessary, or constitutional? Nowhere; the action of Congress is final, and it is but the duty of the courts and the Executive to carry out the laws, for they are the statutes and constitution of the people, and the people are sovereign. So also in times of war Congress can pass such laws and regulations concerning captures on land and water as in its judgment seems best, wisest, and most conducive to the public welfare. And when it has made its laws, in obedience to this Constitution, what court or power, the creature of the people, shall say it is wrong, nugatory, and invalid? None, sir, nowhere dare say so.

Congress shall have power to declare the punishment of treason. Suppose, sir, there was no law fixing punishment for the crime of treason, would it not be within the power of Congress to say by statute what that punishment should be, whether death, confinement for life, forfeiture of property, or anything else? Most assuredly. But, say some, "no attainder of treason shall work corruption of blood, or forfeiture except during the

lifetime of the person attained"—quoting the language of the Constitution. But the question may be well put to these gentlemen, where is there or ever was there a case where attainder of treason worked corruption of blood or forfeiture except upon trial by a court of proper jurisdiction, judgment, and sentence, or attainder by bill or *præmunire*? I assert that there can be no attainder of treason, working corruption of blood, without first the action of the court as I have suggested. But the question is, has Congress the power to pass a law which shall say that the property of a traitor, whether it be in lands, negroes, horses, or anything else, shall be forfeited forever to the Government in consequence of that treason?

I lay down the broad proposition, nay, I assert it as a truth, that when a man becomes a traitor to his country, rebels against its authority, and resorts to arms to overthrow and destroy it, he forfeits everything he possessed, even unto his life, when the Government has manifested its power and possessed that which the traitor had while in resistance and rebellion, and whatever he may be possessed of thereafter is alone by the grace of the Government, not by any legal or constitutional demand he may make or ever enjoyed. I can see no reason for making classifications or distinctions in property. I see no reason in admitting the right to seize, possess, and apply to the use of the Government chattels, personality, or movable property, which may be in the possession of the enemy used for the destruction of the Republic, and at the same time denying the right to seize and confiscate realty, which also does its work toward supporting by its herds, its grasses, its minerals, and its timber the same enemy. Lands are inheritable, it is true—so also are money, and horses, and negroes, according to the laws of the southern States, but no one, I presume, will doubt for a moment the power of the Government to seize and apply to its own use forever any property of this latter kind. Will gentlemen say that as our Army moves along, fights a great battle, and conquers the enemy, that the horses, the mules, the cattle, the money, the negroes, the cannon, the small-arms, ammunition, &c., property of the men in arms, the conspirators and leaders of this wicked rebellion, are not subject to immediate seizure and confiscation? Shall we not, have not the people, through their representatives, the power to say that the horses shall be taken and our cavalry mounted on them—the mules hitched to our wagons, the negroes taken from their fortifications, and rifle-pits; and teams, and ranks, and put upon ours? Shall we not take their money (if it is of any value) with which they paid their expenses and defray our own? Shall we not take their cannon, and small-arms, and ammunition, with which they killed and wounded us, turn it upon them, kill, wound, and destroy them? Certainly no one will question this right. Then why exempt the land, the field which the traitor has come forward and voluntarily given up to the enemy upon which to build his fort, his arsenal, his magazine or to pitch his camp?

Sir, there seems to go forth a deep sympathy for the offspring of the landed master of this southern rebellion. You may go forward with your laws and your Army, cut down the humble tenant who has been misguided in this great affair, sweep away all he has, turn his wife and children out upon the cold charities of the world, and make to him no redress for the capture and use of his only horse or barrel of meal; but when you reach the landed proprietor, the aristocratic traitor of the South, who has done all he could against you, you cry aloud, Walk light, be careful, this is sacred ground; you cannot, say the opponents of this bill, touch this land except during the lifetime of the traitor, because the Constitution forbids; it must revert to the heirs of the traitor after his death.

Suppose, sir, a battle is fought to-day on a large plantation in Georgia, and the enemy is defeated, and with that defeat one hundred bushels of wheat, one thousand bushels of corn, five thousand pounds of bacon, fifty horses, several tons of hay, twenty negroes, and \$10,000 in gold, the remainder of a rebel's proffer to the enemy, falls into our hands, the rule is, and it is right, apply all to the use of the Army and Government. When you have thus done Mr. A. approaches you and says, All this personality you have taken and used belonged to Mr. B., and since it came into your

possession Mr. B. has died; therefore I want some evidence of this indebtedness for the benefit of his innocent children; you have taken all they had, they are helpless and needy. Says the sympathizer, these things we had a right to take as Mr. B. was a traitor; but see here, we have left you the land, that according to our Constitution we could not take except during the life of the party. But, says Mr. A., that land does not belong to Mr. B., it is the land of another. What becomes of the kindness and sympathy of the great philanthropist? Let him answer. So again, sir, upon the forfeiture of land. A. commits murder, or arson, or any other felony; he is arrested, tried, convicted, and hung; his landed estate is small, his personality smaller. Upon execution for cost may not and has not all been sold, and the title in fee forever pass? Certainly the records of nearly all the courts will verify this.

Again, a prodigal and unfortunate man becomes indebted beyond his estate; suits are brought, judgments obtained, executions levied, property in land and all sold without the right of redemption, and the title passes forever to the purchaser. Are the wives and children to blame? Yet they are made penniless by operation of law because of the crime of the father. Why, then, make a distinction in the case of treason? Sir, it was never intended by our fathers, the framers of the Constitution, that a traitor to his country, a man who without a cause should inaugurate a war which would almost deluge the country with blood and clothe the whole nation in the habiliments of mourning should be held more sacred in rights and privileges than the unfortunate inebriate who in half wit lost his estate, or his liberty, or life.

The framers of the Constitution had before them all the English laws on treason, corruption of blood, forfeiture, and confiscation. They perfectly understood the meaning of attainder and the legitimate consequences of a conviction. They knew that the man attainted of treason was in law dead. He could not transmit property; he could not hold office; in short he was forever deprived of the franchises of citizenship. These punishments were a consequence of the heinousness of the crime, for none could be greater, more diabolical than willful, premeditated, armed resistance to the Constitution and laws, the shooting and murdering of loyal citizens, and an attempt to overthrow the Government which had protected him in his life, his liberty, and his property, and had never wronged him. The moment these things became patent, by declarations, resolutions, and other manifestations of opposition, he could no longer claim the guarantees of the law or Constitution in any particular, but became an enemy and was disfranchised. And our fathers, looking at this with an appreciative understanding, declared that Congress should have power to make laws for the punishment of treason. They knew the Government had power and right to do this, to take the life of the offender and to confiscate his property. This opinion is sustained by the courts of the country. In the case of Brown against the United States, (8 Cranch,) which came up from Massachusetts in 1812, on appeal from the circuit court, which had condemned property belonging to the enemy, Chief Justice Marshall says:

"Respecting the power of Government no doubt is entertained. That war gives the sovereign full right to take the persons and confiscate the property of the enemy where ever found is conceded. The mitigations of this rigid rule which the humane and wise policy of modern times has introduced into practice will more or less affect the exercise of this right, but cannot impair the right itself. That remains undiminished and when the sovereign shall choose to bring it into operation the judicial department must give effect to its will. But until that shall be expressed no power of condemnation shall exist in the court."

Again:

"War gives an equal right over persons and property, and if its declaration is not considered as prescribing a law respecting the person of an enemy found in our country, neither does it prescribe a law for his property."

Again, sir, he says:

"Like all other questions of policy, it is proper for the consideration of a department which can modify it at will, not for the consideration of a department which can pursue only the law as it is written. It is proper for the consideration of the legislature, not of the executive or judiciary."

In obedience to this rule Congress proceeded, in 1862, to pass a law of confiscation, the first clause of the fifth section of which act reads as follows:

"That to insure the speedy termination of the present

rebellion it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons herein-after named in this section, and to apply and use the same and the proceeds thereof for the support of the Army of the United States, that is to say,

"First. Of any person hereafter acting as an officer of the army or navy of the rebels in arms against the Government of the United States.

"Second. Of any person hereafter acting as president, vice president, member of congress, judge of any court, cabinet officer, foreign minister, commissioner or consul of the so-called confederate States of America.

"Third. Of any person acting as a governor of a State, member of a convention or legislature, or judge of any court of any of the so-called confederate States of America.

"Fourth. Of any person who, having held an office of honor, trust, or profit in the United States, shall hereafter hold an office in the so-called confederate States of America."

Now, sir, the sixth section directs that a public warning shall be given to all these people if they would lay down their arms and come back to their allegiance, then the law was of no avail, inoperative. But notwithstanding that warning and counsel and advice they persisted in their course of rebellion, defiance, and war.

The joint resolution of July 17, 1862, reads as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the third clause of the fifth section of an Act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, shall be so construed as not to apply to any act or acts done prior to the passage thereof; nor to include any member of a State legislature, or judge of any State court, who has not, in accepting or entering upon his office, taken an oath to support the constitution of the so-called confederate States of America; nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

Where is the necessity of this resolution? The act in all of its sections begins by declaring "that for all crimes, misdemeanors, &c., hereafter" committed, the punishments and penalties therein mentioned shall be inflicted. There is no *ex post facto* law nor any bill of attainder passed by Congress in this act of 1862. If any claim that the act of the last Congress providing for the confiscation of the property of rebels is either *ex post facto* or a bill of attainder I will be under lasting obligation to him if he will produce a commanding authority for such assertion, either pagan or Christian. Sir, where is there attainder in this bill working corruption of blood at all? Blackstone says, 4 Com., page 388:

"Another immediate consequence of attainder is the corruption of blood, both upward and downward so that an attainted person can neither inherit lands or other hereditaments from his ancestors, nor retain those he is already in possession of, nor transmit them by descent to any heir, but the same shall escheat to the lord of the fee, subject to the king's superior right of forfeiture. And the person attainted shall also obstruct all descents to his posterity whenever they are obliged to derive a title through him to a remote ancestor."

Where is there corruption of blood upward and downward in this bill whereby the son, or the grandson, or a collateral heir shall be deprived of any estate, real or personal? There is none; the case is not mentioned. The action of the law is upon the person himself, the man who has committed treason, who is living and in possession of property; and I believe there is a maxim of law—and if I am mistaken I hope some gentleman will correct me—that no one can be heir to the living.

Now, then, we only propose to deal with the living, acting rebel; punish him, to take his life if needs be, his property of every description, and declare to the world and all future generations that this punishment was because he was a traitor. What declaration has been made in this bill by its friends or anywhere else that innocent children and women are made to suffer? I declare, sir, that I can see no legislation as to the estates of children or innocent people. The law declares precisely the opposite, that it is the guilty, the criminal against whom it shall work. There are some gentlemen on this floor who are so tenacious of being recognized as Union men, devoted to the Union and its cause, that no day scarcely passes by without some protestation of Unionism. Indeed, sir, some are so fearful of being called or considered sympathizers of this hellish rebellion that they will not recognize the living, old or young, south of Mason and Dixon's line, but belch forth strong and unmistakable manifestations of love and affection for the *unborn children of traitors*, and declare that the action of Congress in this case would

be monstrous, cruel, wicked, and inhuman upon the poor little child that some unborn child is to beget by some other child yet unborn, at some future period of the world. Sir, is not such attempted reasoning wonderful? What is its object if it is not to stir up and keep alive party envy and strife to the prejudice of the country and the interest of the rebellion?

The repeal of this resolution is said to be monstrous and desperately wicked, and that by such legislation we are but increasing the rebel hatred toward us and making the breach wider and wider; that it is a persecution inhuman in its nature, unheard of, and condemned by the civilized world. Indeed, sir, I have been surprised at the utterances of gentlemen on this floor; the tenor of their speeches and the sympathies of their hearts it seems run alone toward the rebels in arms. The unfortunate and miserable condition of these men is beautifully and eloquently portrayed by their friends on this floor, the orphan and widow of the traitor calls forth their tears and their wailings, but the Government of their fathers, the trampled Constitution of their country, the weeping of the orphan, and wailings of the widow of their own homes and defenders find no sympathy, no cheering word, no solace in those cold and heartless souls of theirs. They find and offer excuses and apologies and reasons for the rebels, and nothing but abuses, denunciations, and crime for the Government. And with all this before the country the effort is made to soft-sawder the people by saying they will support the Government and the war by voting men and money to fight the battles of the country in a conservative and constitutional manner. I desire above all things to see a soldier who has fought a conservative fight, a general who has led a conservative charge, and gained a conservative battle, or a commander who would carry on a conservative war. Sir, it cannot be done; in war you must have audacity, your Army must have audacity, your leaders, your President, and your legislators must have audacity, and without it you fail.

In war times like these many innocent persons suffer; the law works hard upon them, it is to be regretted, deeply deplored; but the life of the nation is at stake; the lives, liberty, and property of thirty million people are jeopardized. Shall we risk all for a few conspirators and rebels whose purpose it is to destroy and kill? No, sir. We dare not sit quietly by and see our people overrun and trampled in the dust when it can be avoided by prompt and proper legislation. The oft-repeated story that we must reconcile this people by moderate and humane legislation (moderate and humane fighting, too, it would be well to add) is but idle and ridiculous. That has been tried, and failed. We pleaded and coaxed and begged, but availed not. We held out the olive-branch of peace for months; instead of accepting it they scorned it and fired at your flag. We have been more or less since this war began pandering to the South, trying to coax her back into the Union; but she has only answered by insult and taunt and injury. Let us stop this whining, childish play, and whip her back. Crush this wicked and hellish rebellion; annihilate, if needs be, this people who have sought and now seek to break up the Union, usurping power by infamy, perjury, and crime; who have trampled the Constitution under their feet; who have by marauding bands invaded your beautiful fields, robbed you of your public revenues and private property, destroyed your public records, burnt your houses and your towns, carried away your non-combatant citizens into long and loathsome imprisonments, where many still languish; murdered many of them, sometimes in their own homes and the presence of their families, and sometimes by cruel and infamous deaths, extending their atrocities even to women and children, thus setting at defiance all laws of civilized warfare. Let us never cease our efforts for our own protection and the infliction of condign punishment upon the authors of these wrongs and the overthrow of the rebel confederacy.

Sir, I charge any man, and all men, whether in office or out of office, here or elsewhere, who refuse to support their Government and fellow-citizens against such unprovoked wrongs and cruelties, or profess to sympathize with such enemies, as false to their allegiance, to friends, neighbors, State, and nation. Mr. Speaker, I charge them

not only with being false to neighbors, State, and nation, but false to that glorious and grand band of soldiers composing the armies of the Union to-day—those men who have breasted the storm, thrown themselves in the breach, and maintained the integrity of the Republic and the honor of the Government from the beginning of the war to the present moment. Go with me to-day if you please, dark, gloomy, and dismal as it is, to the tented fields of the Rappahannock, of Chattanooga, and of Charleston, and behold a spectacle such as the eye of man never rested on before: five hundred thousand American freemen standing as a mighty wall between loyalty and treason, free government and despotism, liberty and slavery. They were once the happy occupants of pleasant homes and full well appreciated the endearments of family, kindred, and neighbor; but when they discovered this foul and wicked conspiracy against their Government, their homes, family, and friends, they paused not, nor did they falter, but, like men, patriots, and philanthropists, rushed forward to stay the tide of desolation, misery, and woe, wantonly to be inflicted upon their happy country. Their bosoms swelled with as much affection for mother, wife, and children as ours, and terrible was the sorrow and grief when all was left behind; but they saw that glorious tree of liberty under whose benign shades they had rested, prospered, and grown strong, being belted around by treacherous and wicked hands, and, bidding adieu to mother, farewell to wife and children, breathing a silent but earnest prayer for God's protection and blessing to them, they threw themselves into the mighty conflict and stayed the murderous hand. Almost three years have they stood between us and danger, and there they are to-day, noble, gallant, and brave, immovable, undaunted, unconquerable.

Sir, to my mind the proudest and sublimest evidence of patriotism is to be found in the brave sentinel with knapsack on his back, musket on his shoulder, pacing back and forth his narrow round in sunshine and in rain, in tempest and in calms, in winter and in summer, watching the stealthy approach of a desperate enemy. No condition of climate, no hardships, no deprivations, no abuses, swerve him from his line of duty, love and defense of country. Sir, he stands there in the front, the proudest, loftiest, and grandest monument of patriotism and glory. God bless the private soldiery and the Army of the Union, and accursed be the tongue that would defame them, or the man that would not support them.

Sir, your sentinels have been shot and killed while upon the watchtowers of the country; your Army has been sometimes almost depleted, and the three hundred thousand new graves that dot the land all over but too sadly tell the story of yesterday and to-day; the homeless, friendless, and landless, together with the weeping and the mourning everywhere, but too plainly tell us of the hour; but the unerring finger of truth and justice points us to the cause, and humanity, honor, Christianity, liberty, and God call for redress and the infliction of punishment, just punishment on those who have done all this. The widow and orphans of the dead patriot of Gettysburg ask at your hands food and raiment. Make the rebels pay it. The armless, legless, eyeless soldier demands of you support for the future. Get it from the rebels. They caused the war; they undertook to resist and overthrow the very best Government known on earth, and elected the sword as arbiter. Then let them die by the sword.

Mr. ROLLINS, of New Hampshire, (interrupting.) I hold in my hand a letter written at the Clarendon Hotel, dated January 6, 1860, addressed by Franklin Pierce to Jefferson Davis, in which I find these words:

"Without discussing the question of right, of abstract power to secede, I have never believed that absolute disruption of the Union can occur without blood; and if, through the madness of northern abolitionism that dire calamity must come, the fighting will not be along Mason and Dixon's line merely. It will be within our own borders, in our own streets, between the two classes of citizens to whom I have referred. Those who defy law and scout constitutional obligations will, if we ever reach the arbitrament of arms, find occupation enough at home."

It is frequently stated by gentlemen upon the other side of the House that the abolitionists caused the war. Now I wish to ask the gentleman from Kentucky if in his judgment that class of politicians in the North represented by such

men as Vallandigham of Ohio, Seymour of New York, and ex-President Pierce of New Hampshire, entertaining and proclaiming such sentiments as those I have just read, have not done infinitely more to stimulate and encourage the rebels to take up arms against the Government of the United States and prolong the war than all the speeches and efforts of all the abolitionists combined?

Mr. COX. If it be in order, I object to the gentleman bringing in the New Hampshire election on a question of this kind. Besides, he distorts the intention of that letter. Unless I am allowed to reply, I object to the interruption.

Mr. SMITH. Mr. Speaker, in answer to the gentleman from New Hampshire, [Mr. ROLLINS,] I say emphatically *yes*; and in reply to the objection of the gentleman from Ohio, [Mr. COX,] I say let the letter of the ex-President speak for itself. This is not a war between abolitionists and pro-slavery men, but a war between loyal men and traitors; a war resulting from a deep-laid conspiracy many years ago on the part of bad, ambitious, and despotic men of the South. And when they began it they hoped, doubtless from pledges made, that they would have aid in the North. They confidently expected a million of men from the free States to join in their unholy crusade against the Government, and it is too true they had their aiders, abettors, and comforters in the North, and to-day every word spoken, every sentiment uttered, every sympathy expressed in the North in favor of the rebels but hinders the Government and strengthens the rebellion; and he who does thus speak or feel finds no friends among the loyal men of Kentucky, for we hate the rebels South and despise the rebels North; and I declare from my place here, for myself and for them, that whether the leaders and conspirators of this great crime be southerners or northerners, in the South or in the North, they deserve death, and should be hung summarily as a terror to those who shall live after us.

It must in justice, however, be said that the great mass of the rebel army, those who carry the musket, handle the artillery, and wield the sword, are the poor men of the South, and are compelled to follow the commands of their leaders. For these I have a due regard and would show proper consideration; but for the wily, ambitious, and wealthy traitor I can make no excuse, offer no apology; he must meet his fate. I have none for Davis, nor Toombs, nor Mason, nor Silldell, nor Breckinridge, nor any of that class of men.

If the soldier is considered as an accessory to this crime of treason it would be well to favorably consider his acquittal and hold the principal responsible in life, property, and liberty.

This Government must so act and this Congress must pass such laws that the punishment of treason will be so severe, so terrific, so alarming that no future generations will undertake it. Decide that question now; let us come up to the work like men; let us not shift the responsibility on our children or our children's children. Let us be faithful to our trust; let us not indulge in crimination and recrimination; let us not find abuses and condemnations for those who are in authority and are using all their efforts to put down this rebellion.

I have no charge to make against this Administration, no words of condemnation. The President is there as the Chief Executive of the nation, not by my vote, yet by a majority vote of the people of the United States. He therefore is their President and my President, and it is their duty and my duty to stand by him, uphold him, and encourage him during his term of office. If he has exercised extraordinary powers it was alone because of the rebellion; if lives and property have been taken it is because of the rebellion; if the great institution of slavery has been irrecoverably crippled or destroyed the rebellion was the cause; if five hundred thousand graves have been filled in the last two years the rebellion was the cause; if the whole country has been draped in mourning it was because of the rebellion; if, sir, we cannot legislate here to-day in harmony the rebellion is the cause. The rebellion then being the cause of all our troubles, our misery, our woe, our mourning, our heavy taxes, our war, and our battles, we should do all in our power to destroy it and restore to our whole land,

from Maine to Florida, from the Atlantic to the Pacific, peace and quiet, happiness and prosperity, with one Constitution, one Government, and one flag.

Mr. PRUYN. Mr. Speaker, I had supposed until yesterday afternoon, from what I could learn in regard to this discussion, that it was to be considerably prolonged, and that I would not have an opportunity to speak to the question for some days to come. I mention this, as the debate is now to close, in order to account for any want of arrangement in the remarks which I am thus hastily called upon to make.

I do not propose to discuss the constitutional limitation on the power of Congress to punish the crime of treason. That question has been exhausted by the very able arguments of my colleague from New York, [Mr. KERNAN,] which he presented yesterday. But there are other views of the subject of a more general character to which I shall ask the attention of the House during the limited time allowed to me.

From the leading position occupied by the gentleman from Pennsylvania, [Mr. STEVENS,] who addressed the House at an early period of the debate, we are fairly authorized to look upon his views as those upon which the friends of the Administration rely in support of the pending proposition. His argument seemed to me to be one of an extraordinary character, which, had it come from the Democratic side of the House, would have been received by the other side with strong marks of disapproval. He admitted the doctrine of secession, practically, to such an extent that I do not see how this House can escape its acknowledgment, if, after the enunciation of such views, they adopt the joint resolution now before us.

The gentleman from Pennsylvania assumed two positions which I will notice. The first was, that the confederate States having renounced their allegiance to the Union, and organized a distinct and hostile government, have, by force of arms, risen from the condition of insurgents to that of an independent Power *de facto*, and having been acknowledged as belligerents both by foreign nations and our own Government, the Constitution and laws of the United States are abrogated as far as they are concerned, and that as between the two belligerents, they are under the laws of war and the law of nations alone; and that whichever Power conquers may treat the vanquished as conquered provinces, and may impose upon such conditions and laws as it may deem best.

This position, it will be seen, clearly asserts the South to be a distinct and independent nationality, and whichever party is the victor in the struggle may, under the law of nations, impose such terms on the other as it deems proper. It is a clear and distinct recognition of the doctrine of secession; for it admits that the moment a rebellion passes the line of an insurrection and the rebels renounce their former allegiance, as soon as it assumes form and substance sufficient to organize, equip, and maintain an army in its support, the rebels become an independent nationality, entitled to all the rights conceded to an established Government. And the gentleman asks:

"What, then, is the effect of this public war between these belligerents, these foreign nations? Before this war the parties were bound together by a compact, by a treaty called a 'Constitution.' They acknowledged the validity of municipal laws mutually binding on each. This war has cut asunder all these ligaments, abrogated all these obligations."

This is not the view taken by the northern mind of this subject. Nor is it that under which the Administration has acted. If sound, we are then waging an unjustifiable and causeless war, which should be ended at once. I had supposed we were engaged in a struggle to enforce respect to our Constitution and laws, but if the gentleman from Pennsylvania be correct we are waging a war of subjugation and conquest. He stands on the same ground in this respect as the gentleman from New York, [Mr. FERNANDO WOOD.]

I hold, on the other hand, that in virtue of the "Constitution," to which the gentleman has referred, the acts of legislation by which the southern States attempted to throw off their allegiance and to create a new nationality were utterly void; that those States still belong to the Union, and are still subject to our Constitution and laws; that although as far as foreign nations are concerned the rebellion may have reached a condition to justify them in calling it a civil war, so far as

our Government is concerned it is a rebellion, and nothing more.

If this be not so, and the war be continued in the spirit in which it has been conducted thus far, involving a destruction of property and a loss of life such as has not been witnessed in modern days, we must soon expect that the Christian Powers of the world will interfere to arrest its course. The right so to interfere has thus far been stoutly denied by this Government, but if the doctrine now contended for be sound, and be approved by the vote of this Congress, that interference may soon come.

But I must pass on to the other position of the gentleman from Pennsylvania to which I intend to refer. He says:

"No one acquainted with the magnitude of this contest can deny to it the character of a civil war. For nearly three years the confederate States have maintained their declaration of independence by force of arms. True, they have met with sad defeats. But success has not been all on one side. But what renders their position beyond controversy is, the great Powers of Europe have acknowledged them as belligerents, entitled from foreign nations to equal rights with the parent Government. What is still more conclusive, we have acknowledged them as belligerents ourselves. With unfortunate haste we blockaded their ports: A blockade is declared only against a foreign nation. If they were still members of the Union we should repeal the laws granting ports of entry. A nation does not blockade itself. We have treated their captive soldiers as prisoners of war, not as rebels; we have exchanged prisoners; we have sent and received flags of truce. This is not the usage awarded to an unorganized bandit."

The first position is, in substance, that the rebels by their own acts made themselves a separate nationality; the second is, that by blockading their ports and in minor ways we have acknowledged that nationality.

Now, it seems to me that there is a principle lying behind this which has been overlooked. It is that every Government, every State, has the right within its own limits to enforce respect to its own laws in its own way. A police officer with a few of his men puts down a street disturbance; a sheriff goes out with proper assistance to arrest persons engaged in resisting the service of process, and if need be calls a military force to his aid; and the State to put down a rebellion uses not only the civil powers it can command, but its armies and navies if need be. Nor is it a violation of treaty arrangements with foreign Powers which permits them to trade at our ports if we find it necessary to close those ports in order to suppress an outbreak against the laws. The right to compel respect to them in such way as any Government may find to be necessary lies behind all treaty obligations, and is a power which cannot from its very nature be granted away or extinguished.

That the President looked at the matter in this light when he issued his proclamation of blockade on the 19th of April, 1861, is clear from the language of the instrument. He recites the existence of the insurrection and the determination of the Government to repress it, and declares that with the view of aiding in this object and in the protection of the public peace a blockade of the ports in the rebel States is established.

No southern nationality is recognized by this instrument; its objects and its language are utterly inconsistent with such an idea. No foreign nation could possibly have been misled by it. But to show even more conclusively the President's view, he declares in the last paragraph of the proclamation that if any person under the pretended authority of the States in rebellion should molest a vessel of the United States, or the persons or cargo on board of her, such person would be held amenable to the laws of the United States for the prevention and punishment of piracy. Surely this is not the language of one belligerent to another. It is that of the supreme power of the State to its own people.

But if I am wrong in this, then it follows as a logical result from the premises laid down by the gentleman from Pennsylvania that the President, by what the gentleman calls his "unfortunate haste" in instituting the blockade, and thus, as it is claimed, conferring belligerent rights on the confederates, and acknowledging their existence as a nation, dissolved the Union. If such be the result of the President's acts, then there certainly was an "unfortunate haste" in it, a haste which cannot be too much deplored.

The war power of the President has been alluded to in this discussion, and one gentleman, a

few days ago, spoke of it as a power equivalent to that of the Roman dictatorship. Could the dead revisit the earth how indignantly would Washington and Hamilton and Franklin and Madison and the other great men who framed our Constitution deny that in its broad and liberal provisions intended to "secure the blessings of liberty" to them and their posterity there lay concealed the powers of a Roman dictatorship. I earnestly protest against this doctrine, and deeply regretted to hear it asserted in this House. It is too great a heresy, I trust, to be entertained here or elsewhere. Nor do I believe this House to be prepared to subscribe to the doctrine legitimately resulting from the position assumed by the gentleman from Pennsylvania, that the President may dissolve the Union by a proclamation of blockade such as that we have considered. This doctrine recognized and we at once recognize secession. Nor can we complain of foreign Powers who recognize the South as belligerents, for they simply followed our example, as none of them did so until a long time after the proclamation of blockade had been issued.

I must now pass to other views of this matter; but before doing so it may be well to look very briefly at the origin and history of the doctrine of secession. It is one which has at different times been theoretically and practically presented to the American mind. The first and a strong approach to it was in the case of Vermont, which practically seceded from New York. Shortly after the Declaration of Independence the people residing in the northeastern counties of New York, now constituting the State of Vermont, dissatisfied with their relations with New York, determined to erect a separate sovereignty. They held public meetings, discussed the matter, and resolved to organize a new State. They claimed in substance that they had as good right to refuse to recognize the authority of New York as New York had to cast off her allegiance to Great Britain. The movement soon resulted in the organization of the State of Vermont.

The nullification movements of South Carolina during General Jackson's Presidency are so well known to our history that I need but to refer to them. The question was then discussed in all its bearings by the greatest minds of the country, and it was hoped forever settled. The decisive and energetic conduct of General Jackson at that time secured for him the warmest applause and respect of all political parties.

Not many years since the Legislature of Wisconsin, the majority of its members being then Republicans, passed resolutions which, as I recollect them, and I have no doubt many of the House do also, distinctly recognized the doctrine of secession. I had intended to read these resolutions at length, but unfortunately the volume of the Statutes of Wisconsin which I am informed contains them is not at present in the Library.

In the Law Lectures of St. George Tucker, one of the most distinguished jurists of Virginia, I find it stated that secession is revolution.

On the other hand, Mr. Rawle, equally distinguished in his own State, (Pennsylvania,) holds to views widely different. I wish to have read to the House an extract from Rawle on the Constitution, commencing on page 295 of that work. The Clerk read, as follows:

"The secession of a State from the Union depends on the will of the people of such State. The people alone, as we have already shown, hold the power to alter their constitution. The Constitution of the United States is, to a certain extent, incorporated into the constitutions of the several States by the act of the people. The State Legislatures have only to perform certain organic operations in regard to it. To withdraw from the Union comes not within the general scope of delegated authority. There must be an express provision to that effect inserted in the State constitutions. This is not at present the case with any of them, and it would be perhaps impolitic to confide it to them. A matter so momentous ought not to be entrusted to those who would have it in their power to exercise it lightly or precipitately on sudden dissatisfaction or causeless pique, perhaps against the immense majority of their constituents. But in any manner by which a secession is to take place nothing is more certain than that the act should be deliberate, clear, and unequivocal."

Mr. PRUYN. Mr. Speaker, I differ entirely from the views thus put forth by Mr. Rawle. I do not believe that any State has the right, by incorporating a clause in its constitution providing for a secession from the Union, to give to its Legislature or to any other body that power. I have referred to these things not by way of approval,

of the doctrine of secession, for I do not believe in it, but simply to show somewhat of the history of this matter, and that this idea of the right to secede was not confined to the public men of the southern States.

Mr. SLOAN. I understand the gentleman to state that the supreme court of the State of Wisconsin, and the Legislature of the State, first recognized the doctrine of secession. I desire to ask the gentleman when and in what case?

Mr. PRUYN. By certain resolutions of the Legislature, passed in 1858 or 1859.

Mr. SLOAN. I ask the gentleman if those resolutions were anything more than what are called the Kentucky resolutions, which have been incorporated into the platform of the Democratic party for sixteen years?

Mr. PRUYN. I have quoted from memory, and I am corroborated by the statement of one of the members from Wisconsin, who has told me that such was the purport of the resolutions. And that corresponds with my recollection.

Mr. SLOAN. The substance of those resolutions was only the Kentucky resolutions which were incorporated into the platform of the Democratic party in the national convention in 1852, and in nearly every convention since.

Mr. BROWN, of Wisconsin. I desire to make a single statement in reference to the resolutions to which the gentleman refers. In the year 1859 resolutions were passed by the unanimous Republican vote of the Legislature of Wisconsin, declaring that the Government of the United States was a compact, that there was no common arbiter in case of dispute between a State and the Government, and that each State was judge for itself of the infraction of the contract and of the mode and measure of redress.

I state beyond that, that the supreme court of the State of Wisconsin, in the case of *ex parte* Booth, on application for a writ of *habeas corpus*, decided that they would not entertain a writ of error from the Supreme Court of the United States to themselves, taking almost the same ground in reference to the matter which the Legislature of Wisconsin did, and refused to make any return to the Supreme Court. But for the credit of Wisconsin I will say that last year those resolutions were repealed.

Mr. SLOAN. I desire to ask the gentleman from Wisconsin if the language of the resolutions of the State of Wisconsin was not almost identical with the language of the famous Kentucky resolutions of 1798; and if all that the supreme court held was not simply that, in a proper case brought before that court, they had the right to judge of the constitutionality of an act of Congress, within the Union, as a simple judicial remedy, exercising their functions as the highest judicial tribunal of our State? And I ask him further if either those resolutions or the decision of the supreme court had the least taint of this doctrine of secession about them?

Mr. BROWN, of Wisconsin. I state in reply that I used the language of those resolutions. It was that the Government of the United States was a compact, and that in case of dispute between a State and the Federal Government there was no common arbiter, and that each State was a judge as well of the infraction of that compact as of the mode and manner of redress.

I state beyond that, that at the last session of the Legislature those resolutions were repealed, and repealed with the declaration that those were the sentiments indorsed by Jeff. Davis, and every Democrat voted against the repeal because it had such a declaration as that, which they deemed to be false; and every Republican voted for it.

I will say, while I cannot quote from the lengthy decision of the supreme court of our State, it did refuse at that time—though it has changed since—to make a return to the writ of error from the Supreme Court of the United States. Does the gentleman stand upon those resolutions of 1798 and those of 1859, or does he abandon them?

Mr. SLOAN. The gentleman from New York will allow me a moment to reply. The gentleman from Wisconsin evades my question. I asked him whether the resolutions of the Legislature of the State were not identical in substance with the famous Kentucky resolutions, and he declines to answer that question. I assert that they were, and that those resolutions have been in the platform of the party to which the gentleman belongs

for the last sixteen years, and have been adopted by every Democratic national convention. I ask the gentleman now whether he repudiates the platform his party has acted upon in every presidential election during the last sixteen years.

Mr. BROWN, of Wisconsin. I understand that the resolutions of 1798 contain no such doctrine as that incorporated in the resolutions of the Wisconsin Legislature in 1859. And if I thought the resolutions did I would repudiate those resolutions. It is because I think they do not contain any such sentiments that I give my adherence to them.

Mr. SLOAN. That is an issue of fact between the gentleman and myself which the records must determine. I think the gentleman shows his ignorance of the political history of the country and of his party in asserting that there was any substantial difference between the resolutions of the Legislature of Wisconsin and the resolutions of his party.

Mr. BROWN, of Wisconsin. Mr. Speaker, I will not either defend myself against the charge of ignorance which my colleague makes upon me, nor impugn the knowledge of the gentleman. I have not stood at any time on the platform which I have alluded to, adopted by the Republican party in Wisconsin. I have opposed it from the very beginning, and I believe that in that respect I have been at variance with my colleague.

And now, having answered the question which he asked me, I will ask him if, while I was opposing these resolutions of the Legislature and the decision of the supreme court of the State of Wisconsin on these points, my colleague did not stand on the opposite side to me defending them both?

Mr. SLOAN. I am willing to answer any question put to me. Under the circumstances in which those resolutions were passed I approved them, and I still approve them; and, with a proper opportunity, I am willing to defend my position in regard to them.

Mr. PRUYN. And now, Mr. Speaker, the gentlemen from Wisconsin having made their explanations, I will briefly state some other views on the subject I was considering.

Had the Constitution of the United States contained an express provision authorizing any State at any time it saw fit to withdraw or secede from the Union it is quite evident that our present struggle would have been avoided. It is admitted by all that many of the public men of the South have from an early period of our history claimed that by the true construction of that instrument the right to secede existed, if not in terms, by clear implication; while at the North this claim has been strongly denied. Should not the fact that the right has been thus uniformly asserted lead the North, while it denies its existence, to moderate the violence with which those who hold it have oftentimes been denounced. Let us deal with the rebellion with the firm determination by united and vigorous efforts to suppress it, but let it be done in the spirit of philanthropy combined with power which should mark the conduct of a great and magnanimous Commonwealth.

Nor does this imply any sympathy with the erroneous principles which the South has advocated. On this subject the North has been united. Its rising after our flag was struck at Sumter was magnificent; nothing in history compares with it; and it will never be satisfied until that flag shall once more float over that fortress, the emblem of a common Government and a restored Union.

I can claim for those whom I more particularly represent that they have at all times responded to the call of the Government, and have furnished men and money for the defense of our institutions with a readiness unsurpassed in any part of the Union; and those with whom I act politically have united in all this with just as much energy as their neighbors. All that the Democratic party demanded from the Administration was that it should respect the Constitution; and when the restraints of the Constitution were overlooked and broken down, when the great principles of civil liberty were disregarded in the despotic measures adopted by the Administration, it was our duty to express plainly and boldly, and I trust we did, the dissatisfaction we entertained.

The measure now before us, which contemplates in its results the confiscation of the lands of private individuals in the rebel States, neces-

sarily leads us to consider the manner in which this war should be conducted. In the language of General McClellan's celebrated letter, it should be conducted (I quote from memory) "in the highest spirit of Christian civilization." During the debate extracts have been read to you from Vattel, from Wheaton, and other writers, to show how utterly incompatible this measure is with the law of nations. Let me add an extract from another standard authority. Manning, in his Commentaries on the Law of Nations, (page 135,) says:

"Formerly the lands of the individual subjects of a conquered State were confiscated by the victors; many such instances will immediately present themselves to the memory of the classical student or to the reader of modern history in the examples of the conquest of the Gauls by the Franks, and of England by the Normans. But at the present epoch lauded property and immovable property in general is not liable to confiscation from the effects of war." * * *

"This moderation is a great improvement upon the ancient custom; it mitigates the evils of war without interfering with its results; it was a change introduced as civilization advanced; it has been for many centuries the constant usage of European warfare, and is now firmly established as part of the European law of nations."

I do not propose to enter upon this subject at length; much has been said about it already. But I may remark that Mr. Adams, (John Quincy,) in the discussions growing out of the arbitration between this country and Great Britain before the Emperor of Russia in 1822, denied the right to emancipate enemy's slaves.

Mr. Bancroft in his history, (volume eight,) speaking of the proclamation of Governor Dunmore, the last royal Governor of Virginia, forfeiting life and property, and declaring freedom to all the negroes belonging to the rebels if they would join his army, says:

"At Dunmore's proclamation a thrill of indignation ran through Virginia, effacing all differences of party, and rousing one strong impassioned purpose to drive away the insolent power by which it had been put forth."

Mr. Hamilton denied the propriety even of confiscating debts. He said, in discussing the treaty of 1794:

"So degrading an idea will be rejected with disdain by every man who feels a true and well-informed national pride, by every man who recollects and glories that in a state of still greater immaturity we achieved independence without the aid of this dishonorable expedient."—*Hamilton's Works*, vol. 7, p. 329.

Chief Justice Marshall said, (in 7 Peters's Rep., page 86:)

"The modern usage of nations which has become law would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged if private property should be generally confiscated and private rights annulled."

The confiscation of property as a political measure has been abolished by positive law in Spain, in Belgium, in France, and, I believe, in some other European countries; and its incompatibility with the present state of civilization is established by the most incontestable authority.

Let me quote, the eloquent words of the late Senator from Kentucky, (Mr. Crittenden,) when this subject was discussed in this body nearly two years ago. He said:

"Here are ten States, and by your law of confiscation you proscribe man, woman, and child. The whole history of mankind does not furnish anything like it. Such a proscription was never before issued by human authority. No plague, no pestilence which ever descended upon mankind has ever wrought such mischief as this would. To inquire whether such a measure is against the Constitution of the United States would seem to be mockery. It is against the very instincts of mankind, against the lessons of human policy, against all lessons of Christianity and humanity."

The principles upon which the war was to be conducted were declared to the world in the celebrated resolutions of Congress after the great battle of Bull Run, and again in the President's proclamation of 22d September, 1862, in which he says: "I do hereby proclaim and declare that hereafter, as heretofore, the war will be prosecuted for the object of practically restoring the constitutional relation between the United States and each of the States and the people thereof in which States that relation is or may be suspended or disturbed."

And in one of the resolutions introduced into the Senate last year by Senator SUMNER, which passed both Houses, it is declared that the United States "hereby announce as their unalterable purpose that the war will be vigorously prosecuted according to the humane principles of Christian States until the rebellion shall be overcome, and they reverently invoke upon their cause the blessings of Almighty God."

Let Congress adhere to this declaration. Let us

do nothing to disgrace our country before the civilized world. Let the humane principles of the law of nations and the benign influences of Christianity regulate our conduct in the fearful struggle in which we are engaged.

We may then hope that the time will soon come when the Constitution will again be respected throughout our whole country, and our Union be restored to its former strength and proportions.

But if this is not to be, and a wholesale system of confiscation is to be entered upon, such as modern history cannot parallel; if we are thus to be held up to the denunciations of all Christendom, the responsibility must rest with those who adopt the measure now proposed.

The SPEAKER. The question recurs on the passage of the joint resolution.

Mr. BRANDEGEE. I hope the gentleman from New York who has just spoken and occupied but half an hour [Mr. FRYN] will have permission to print the remainder of his speech; and that gentlemen on the other side will withdraw their objections made yesterday to the gentleman from Iowa [Mr. WILSON] printing the remainder of his remarks.

Mr. WILSON. I wish to state that my remarks are published in the Globe to-day, except the portion I was not able to deliver within the time.

Mr. COX. I consider my objection as having been withdrawn before it was published.

Mr. WILSON. Of course I cannot publish it now.

No objection was made to publishing the speeches referred to.

Mr. HOLMAN. I call for the yeas and nays on the passage of the resolution.

The SPEAKER. The yeas and nays have been ordered.

The question was put; and it was decided in the affirmative—yeas 83, nays 74; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Brandegee, Broonall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McCloud, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilson, Windom, and Woodbridge—83.

NAYS—Messrs. James C. Allen, Ancona, Bailey, Augustus C. Baldwin, Jacob B. Blair, Bliss, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, Hutchins, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pruyn, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Strouse, Stuart, Thomas, Voorhees, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—74.

So the resolution was passed.

Mr. WILSON moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

During the call of the roll,

Mr. ASHLEY stated that Mr. WILDER had paired off with Mr. PERRY; that Mr. WILDER would have voted in the affirmative, and Mr. PERRY in the negative.

Mr. SMITH stated that he had paired off with Mr. BLAIR, of Missouri, who would have voted in the negative, while he would have voted in the affirmative.

Mr. PIKE stated that Mr. BLAINE was detained from the House by sickness.

Mr. ANCONA stated that Mr. JOHNSON, of Pennsylvania, who would have voted against the resolution, was detained from the House by sickness.

Mr. ALLISON stated that Mr. PRICE was absent on important business.

The result was then announced as above stated.

INTERNAL REVENUE BILL.

Mr. STEVENS. I ask the unanimous consent of the House to go to the business on the Speak-

er's table for the purpose of taking up the internal revenue bill, which has been returned from the Senate with amendments, with a view to its reference to the Committee of Ways and Means.

Mr. COX. I object.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union.

ADJOURNMENT OVER.

Mr. COX. I rise to a privileged motion. I move that when the House adjourns to-day it adjourn to meet on Monday next; and I ask for tellers on my motion.

Tellers were ordered; and Messrs. Cox and SCHENCK were appointed.

The House divided; and the tellers reported—ayes 79, noes 69.

Mr. SCHENCK demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 73; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brandegee, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Deming, Dennison, Driggs, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Harding, Harrington, Benjamin G. Harris, Herrick, Hutchins, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pike, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Strouse, Stuart, Thomas, Tracy, Wadsworth, Elihu B. Washburne, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Winfield, and Fernando Wood—75.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Spalding, Stevens, Thayer, Upson, Van Valkenburgh, William B. Washburn, Wilson, Windom, and Woodbridge—73.

So the motion was agreed to.

And then, on motion of Mr. HOLMAN, (at seven minutes to five o'clock, p. m.,) the House adjourned until Monday.

IN SENATE.

MONDAY, February 8, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Thursday last was read and approved.

CREDENTIALS PRESENTED.

Mr. HARLAN presented the credentials of Hon. JAMES W. GRIMES, chosen by the Legislature of Iowa a Senator from that State for the term commencing March 4, 1865; which were read, and ordered to be placed on the files of the Senate.

PETITIONS AND MEMORIALS.

Mr. POWELL. I present resolutions of the Legislature of the State of Kentucky in favor of the passage of a bill to reimburse that State for losses sustained by rebel raids. I desire, if the Senate will allow me, to call the attention of the Committee on Military Affairs to the importance of this question, and I hope they will give it their very prompt attention. I move that the resolutions be referred to the Committee on Military Affairs and the Militia, and be printed.

The motion was agreed to.

Mr. TRUMBULL presented the petition of Isaac Reede, a soldier of the war of 1812, praying for a pension; which was referred to the Committee on Pensions.

Mr. COWAN presented five petitions of J. Galusha Staunton, praying that certain patents may be issued to him upon the payment of the "balance fee" into the United States Treasury; which were referred to the Committee on Patents and the Patent Office.

Mr. POMEROY presented resolutions of the Legislature of Kansas in favor of a grant of land for the endowment of Olathe College in that State; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature

of Kansas in favor of indemnifying the loyal citizens of that State for losses incurred by raids of guerrillas, and also of granting pensions to the widows and children of those killed; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. LANE, of Kansas, presented a petition of citizens of Johnson county, Kansas, praying for an appropriation of \$100,000, one half to be applied to the endowment of a college located at Olathe, and the residue for the relief of the widows and orphans of citizens murdered by Quantrell's bushwhackers and other rebel bands; which was referred to the Committee on Military Affairs and the Militia.

He also presented resolutions of the Legislature of the State of Kansas, in favor of a grant of land for the endowment of the Olathe College in that State; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. SHERMAN presented a petition of citizens of Cincinnati, Ohio, praying for the sale of the mineral lands of the Rocky mountain country, and also for aid for the construction of the Northern and Central Pacific railroads; which was referred to the Committee on Public Lands.

Mr. WILSON presented a memorial of the religious Society of Friends of Pennsylvania, New Jersey, Delaware, and adjacent parts of Maryland, praying for exemption from military duty; which was ordered to lie on the table.

He also presented a petition of soldiers of the State of Massachusetts who volunteered and enlisted into the service of the United States for the term of nine months in the autumn of 1862, praying for a bounty of twenty-five dollars; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented two petitions of citizens of Oconto, Wisconsin, praying for a modification of the reciprocity treaty; which were referred to the Committee on Foreign Relations.

Mr. MORGAN presented resolutions of the Assembly of the State of New York in favor of an increase of the facilities for convenient and expeditious travel and transportation of troops between the cities of New York and Washington; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. SUMNER. I offer the petition of a large number of colored citizens of Philadelphia, in which they ask Congress to take all steps toward universal freedom; and they especially pray that they will do everything in their power toward granting the elective franchise to the colored people of the United States.

In presenting this petition I am reminded of an incident which occurred during the last Congress before this rebellion. I then presented a petition from colored citizens, which, by a vote of the Senate, was duly referred to a committee known as the Harper's Ferry committee, of which the Senator from Virginia, Mr. Mason, now a rebel, was the chairman. The Journal of the Senate shows the action of that committee on that occasion. I read from the Journal. It is under date of June 15, 1860:

"Mr. Mason, from the select committee on the Harper's Ferry invasion, to whom was referred the petition of citizens of Massachusetts of African descent, submitted a report, accompanied by the following resolution:

"Resolved, That the paper purporting to be a petition from citizens of the Commonwealth of Massachusetts of African descent, presented to the Senate by CHARLES SUMNER, a Senator from Massachusetts, on the 5th of June instant, and on his motion referred to a select committee of the Senate, be returned by the Secretary to the Senator who presented it."

The Senate never acted upon this resolution, but it stands on our record as one of the last efforts of a person who is now in open rebellion. I content myself with remarking that it is natural that one who was preparing to be a rebel should deny that colored persons were citizens of the United States. I ask the reference of this memorial to the committee on slavery and freedmen.

The VICE PRESIDENT. It will be so referred.

Mr. GRIMES. I present the petition of T. H. Robinson, president of the Columbia Fire Company, and of the other members of that company, in the city of Washington, representing that they are deeply impressed with the inefficiency of the mode of extinguishing fires now and heretofore practiced in this city by means of hand fire-engines.

They say that they have observed with great

satisfaction the mode practiced in Baltimore, Philadelphia, and other cities, by means of steam fire-engines, and they earnestly petition Congress for an appropriation to purchase a steam fire-engine for the protection of the public and private property in this city, which the members of the Columbia Fire Company propose to take charge of and keep free of expense to the Government. They say that the amount necessary to make the purchase is \$6,000, and that their company buildings are situated very near the Capitol building, and that it would be a vast advantage to the Government if their prayer should be granted. I move that the petition be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. TRUMBULL. I desire to present the petition of Issac N. Haynie and others, of Cairo and its vicinity, in the State of Illinois, asking for the establishment of a western navy and dock-yard and naval depot at that point. This petition sets forth at some length the advantages of that location for a navy-yard and naval depot, showing among other things that it is at the confluence of all the great rivers of the valley of the Mississippi; that it is below the point where the rivers freeze or are obstructed by ice, and also at a point which is navigable at all seasons of the year; that boats are never obstructed by low water in coming to Cairo; that nearly the whole commerce of at any rate the upper part of the valley of the Mississippi passes Cairo, reaching through Kentucky and Tennessee away to Alabama up the Cumberland and Tennessee rivers, and reaching up the Ohio to Pittsburg, and up the Mississippi to its sources; that the commerce of all that country passes this point; that it is a healthy location; and that it possesses superior advantages to any other in the country for the location of a navy-yard.

The petitioners accompany their petition with a map showing the depth of water at this point, the elevation of the land above low-water mark, the extent of the floods, and also the certificates of physicians and Army surgeons who have had experience there as to the health of the location. The petition is also accompanied by a proposition from the proprietors of the Cairo city property, who own nearly all the land there, proposing to donate to the Government of the United States forty acres of land upon which to locate this navy-yard and depot. I move that these papers be referred to the Committee on Naval Affairs.

The motion was agreed to.

CLAIMS OF KENTUCKY.

Mr. DAVIS. I present a resolution passed by the General Assembly of the State of Kentucky in relation to the adjustment and payment of claims of citizens of that State against the United States; and I will accompany the presentation by a few remarks.

The State of Kentucky has lain open to the incursions of the rebels on the whole of her eastern line, extending from the river Ohio to the angle made by the lines of that State, Tennessee, and Virginia upon the Cumberland mountains, a distance of more than one hundred miles, and along her whole southern boundary separating her from the State of Tennessee, which is upward of two hundred miles in length.

Since the commencement of the war she has been exposed along both to frequent incursions by large bodies of troops as well as by guerrilla parties, and three heavy invasions. About two years ago last September she was invaded at Columbus by General Polk at the head of eight or ten thousand rebel troops; and at the same time by Zollicoffer through Big Spring Gap, commanding a force of some six or eight thousand; and about the same time she was invaded from the region of Abingdon, in Western Virginia, through the gaps of Big Sandy, by a body of troops under the command of Humphrey Marshall, numbering some three thousand. In the summer of 1862 she was invaded from East Tennessee by about fifteen thousand troops, and shortly afterwards by Kirby Smith, commanding an army of more than thirty thousand men. Both before and since those invasions there have been constantly incursions and raids into that State by large detachments of troops and by that portion of the rebel forces denominated guerrillas. About one third of the territory of the State has been for a good portion of that

period overrun and occupied by rebel forces; and last fall a year ago about three fourths of the entire State was occupied by their armies. The consequence is an immense amount of depredation upon property as well as upon person by the rebel troops in that State. There is no State in the Union that has suffered more than the whole of the southern portion of that State. She early felt that she was competent to defend herself if she was granted that permission by the United States Government. In January, 1862, a bill was introduced into the House of Representatives authorizing that State to raise twenty thousand volunteer troops for her defense. It was passed in the other branch of Congress by a vote of about two to one, and was reported in the month of February, 1862, to the Senate, and referred to the Committee on Military Affairs. It could not and did not receive the action of that committee until March last, and the committee then made a report modifying the bill that had been passed by the House of Representatives, and instead of authorizing that State to raise twenty thousand volunteer militia for her own defense they changed it into a United States force to serve for twelve months, and placed it under the command of the President of the United States as Commander-in-Chief.

I do not know why this subject was so long neglected. I know of no sufficient reason for the delay. I am well assured, though, that if that State had been permitted by the legislation of Congress to raise a force for her own defense she would have raised one amply sufficient for that purpose, and in defending herself against the rebel invasions she would have rendered the most essential service that she could render to the cause of the United States. But if the force raised by her had proved inadequate for the work then from the northwestern States, from Illinois, Indiana, and Ohio, we should have got ample assistance to render the work of defense most effectual, and in that way protect the whole Northwest against rebel incursions and invasions from the South.

I have listened, Mr. President, again and again to the contemptuous reproaches thrown at the State of Kentucky in this Chamber, that she was not defending her own soil, and that that work had to be performed by troops from other States as far north as Massachusetts. The cause for that condition of things in Kentucky is obvious. Her own sons who enlisted into the Army of the United States, almost as fast as they were organized were ordered into other States, and in that way were compelled to leave their own State and her proper defense, and that made it necessary that other troops should be thrown within her borders to perform the work.

In June last there was an invasion of the State of Maryland by the rebel army. Within three days after that invasion the President of the United States issued his proclamation authorizing Maryland and Pennsylvania and Ohio to raise one hundred thousand volunteer troops for six months to repel that invasion and to defend those States against the invaders; and within ten days afterwards that proclamation was amended by authorizing the raising of twenty thousand more State militia for six months for that work.

Now, sir, why there should be such prompt interposition to authorize that character and that number of force for the defense of those States, while for more than two long years Kentucky has been denied the privilege upon her own earnest importunity of being allowed to raise any force of that character for her defense, I cannot altogether comprehend; but if there had been early the same disposition and promptness to authorize Kentucky by her own sons and her own children to organize for her own defense, she would have made it in the most effective and successful form.

But, Mr. President, I believe on the 3d of March, 1863, this transformed bill that had come from the other House to enable that State to raise troops for her defense, and that was here converted into a measure to raise United States troops, became a law. The Governor of Kentucky and the other authorities of that State immediately set to work to organize a force under that law. Its passage in any form had been so long delayed, however, that many of the people in the exposed parts of the State who would have been disposed to volunteer, and would have gladly volunteered for the defense of their sections and their homes, had been driven from them into the northwestern States, or

had taken refuge in the Union armies, or had been conscripted by the rebels, before it went into operation. Nevertheless the Governor was so successful as to organize about seven thousand troops under that law, which as it was passed contained a form of a pledge that they were to be for the defense of the State. What has resulted? That pledge has turned out to be a delusion. These seven thousand troops thus raised under pledges of form at least that they should be held in the State for her protection, some weeks since were ordered, every man of them, out of the State into other fields of service, and the whole State has been left entirely destitute of any defense, except a few straggling regiments and corps from other States. The Governor has recently recommended and I believe the Legislature has passed a bill authorizing the raising upon State authority of a body of five thousand militia for her defense. I greatly regret that that description of force was not resorted to earlier, two or three years ago, and that a much larger force was not then organized. If such a measure had been adopted the defenses of the State would have been much more effective than they have proved to be under the patronage and control of the General Government.

Now, sir, our State is limited in its wealth and resources. Its revenues especially are limited and it wants all of its means, all of its available resources for the purpose of enabling it in this day of its trouble and of its abandonment by the General Government to raise its force for its own defense; and while it is in this strait the United States is its debtor for money advanced by the State on account of the General Government to the amount of about three hundred thousand dollars as long ago as between two and three years. Two years since, and from that time up to the last session of Congress, Kentucky was sending her special agents here from time to time, importuning and almost dogging the Government of the United States for a settlement of her accounts and the payment of this balance to her, that it might thus be appropriated to her own defense and incidentally to the common defense. Her Governor came here the winter before last in person, and impudently the President day after day for a settlement and the payment of this balance, that it might receive the direction I have indicated in its expenditure; but he was unable to get a settlement. The matter remains in the same condition still. She has asked the President in vain for that settlement. It has never been conceded to her, and does not seem likely to be in any reasonable time.

For the purpose of having a settlement of the account of the State against the United States, and of having a settlement and adjustment of the claims which her citizens have against the Government for use, appropriation, and damage to the property by the authorities of the United States, I now give notice that I shall ask leave to introduce a bill at an early day embracing both these objects, and I will appeal to the justice of the Senate to pass the measure after this long delay. Surely, sir, if there ever was a claim against the Government under any state of case that demanded a favorable consideration it is these claims of Kentucky as a State and of her citizens against the United States; while other States have been allowed by the Treasury officers, and by special acts of Congress, large amounts for both classes of claims.

She has perseveringly from the beginning of the war been denied the privilege to raise militia to be mustered into the service of the United States for her own defense, while other States have been promptly and spontaneously offered that privilege to the amount I have indicated. After she had raised under that bill that made some sort of a promise for that object seven thousand troops, that force was ordered from the State into other States to carry out the military objects of the Government; and she is now determined to raise a force on her own authority. Is it then asking too much that the sum which is due to her by the Government of the United States, and that due to her people also, shall now be paid to enable her and them to meet in part the charge of raising troops for her own defense?

She is now overrun almost from day to day by guerrilla parties. If these State forces had been left for her defense these guerrillas could have been repelled, and they could have been met and annihilated as they ought to have been. This sort of

guerrilla warfare consisting of predatory incursions attended with robbery, rapine, and murder, ought not to be recognized by the authorities of the United States as war. The forces engaged in them ought not to be treated as public enemies but should be regarded as robbers and brigands. They ought not to be captured but attacked, pursued, and exterminated.

But, sir, if the State of Kentucky could have retained these seven thousand troops, or if now, at this late day, she was allowed to raise her own militia for her own defense, and the bill was footed by the United States, as it ought to be, because their services would be as much to the general cause as the service of any other forces, she could yet make her defense effective. As it is now, along this whole line of three hundred miles of frontier she is exposed from week to week and from day to day to bloody and cruel and devastating inroads. When driven at length to her own resources to defend herself, I hope the Senate will regard these claims of her government and people, and will pass a law authorizing a commissioner to settle them, and when they are liquidated direct their payment by the disbursing officers of the Treasury.

The VICE PRESIDENT. The resolution will be printed, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON. I should like to have it go over until to-morrow morning. I want to make two or three inquiries in regard to the subjects that have been started here this morning.

The VICE PRESIDENT. If there be no objection, the resolution will be laid on the table.

PAPERS WITHDRAWN.

On motion of Mr. RICHARDSON, it was

Ordered, That Henry Charles De Alina, colonel, United States volunteers, have leave to withdraw his petition and other papers from the files of the Senate.

On motion of Mr. JOHNSON, it was

Ordered, That the petition of John Robb and the opinion of the Court of Claims in his favor be taken from the files of the Senate and referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 96) to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; which was read twice by its title, and referred to the Committee on Territories.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 97) to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; which was read twice by its title, and referred to the Committee on Territories.

Mr. SUMNER, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 98) to repeal all laws for the rendition of fugitive slaves; which was read twice by its title, and referred to the select committee on slavery and freedmen.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 100) authorizing the holding of a special session of the United States district court for the district of Indiana; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. LANE, of Kansas, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 101) amendatory to the act entitled "An act for a grant of lands to the State of Kansas in alternate sections to aid in the construction of certain railroads and telegraph lines in said State;" which was read twice by its title, and referred to the Committee on Public Lands.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 102) to establish certain post roads, and to regulate commerce among the States, and for other purposes; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. COWAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 103) to define the rank, pay, and emoluments of chaplains in the United States Army and volunteer force, and for other purposes; which was read

twice by its title, and referred to the Committee on Military Affairs and the Militia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed a joint resolution (No. 16) to amend a joint resolution explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862; in which the concurrence of the Senate was requested.

ABOLITION OF SLAVERY.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 24) to provide for submitting to the several States an amendment of the Constitution of the United States; which was read twice by its title.

Mr. SUMNER. I move that it be referred to the committee on slavery and freedmen.

Mr. TRUMBULL. I suppose the proper committee to which to refer bills to change the Constitution would be the Judiciary Committee. There are already several propositions before that committee in reference to amendments to the Constitution, and I submit to the Senator whether that is not the proper committee to have charge of these subjects.

Mr. SUMNER. Let the amendment be read, and then perhaps the Senate can determine best.

The VICE PRESIDENT. The joint resolution will be read.

The Secretary read it, as follows:

Be it resolved, &c., That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of such Legislatures, shall become a part of the Constitution, to wit:

Article —. Everywhere within the limits of the United States, and of each State or Territory thereof, all persons are equal before the law, so that no person can hold another as a slave.

The VICE PRESIDENT. The question is on referring this joint resolution to the committee on slavery and freedmen.

Mr. TRUMBULL. I will state to the Senator from Massachusetts that at a very early stage of the session the Senator from Missouri [Mr. HENPERSON] introduced a proposition to change the Constitution of the United States so as to prohibit slavery everywhere within its territorial limits. That proposition has been under consideration, and has been somewhat discussed and considered by the Committee on the Judiciary. This is a proposition in another form on the same subject. I submit to the Senator from Massachusetts whether the appropriate committee for all propositions to change the Constitution is not the Judiciary Committee. It seems to me that would be the proper committee. At any rate we are considering that very subject, and these propositions had best all go together. If the Senator from Massachusetts and the Senate should think that the proper committee to consider amendments to the Constitution is the committee on freedmen and slavery, the Committee on the Judiciary had better be discharged from all these propositions which are pending before it in regard to amendments of that character or relating in any way to the subject of slavery.

Mr. FESSENDEN (to Mr. TRUMBULL). Move to amend the motion so as to substitute the Committee on the Judiciary.

Mr. TRUMBULL. I submit it to the Senator from Massachusetts; I thought probably he would give it that direction.

Mr. SUMNER. I am obliged to the Senator from Illinois for his remarks. He will remember that only a few days ago he reported from the Committee on the Judiciary the petitions relating to the fugitive slave law with a recommendation that they be referred to the committee on slavery. Now, on general grounds, indeed, on the grounds suggested by the Senator, that subject should properly go before the Committee on the Judiciary; but the Committee on the Judiciary have thought otherwise, and it has now been referred to the committee on slavery. Still further, there are propositions which have already been referred to the committee on slavery relating to an amendment of the Constitution so far as to prohibit slavery throughout the United States. I presume the reason for that reference was that the committee

on slavery was specially constituted to take into consideration that subject and what should be done with reference to it, whether great or small, whether with regard to the treatment of the freedmen, or amendments in the laws of the land, or even in the Constitution. The language of the resolution under which the committee has been raised is broad enough to cover every proposition relating to slavery; and I simply follow the lead of my distinguished friend, who the other day moved the reference of all papers relating to the fugitive slave law to that committee, when I propose to refer this proposition to the same committee. If the Senator wishes to take charge of it I certainly shall not object; but I understand that already the same question is now pending before the committee on slavery, as the Senator says it is pending before the Committee on the Judiciary. If the Senator desires, after this statement, that this joint resolution which I introduce to-day be referred to the committee of which he is the honored head, I shall consent with the greatest pleasure.

MR. SAULSBURY. I move that the further consideration of this resolution be indefinitely postponed; and on that motion I ask for the yeas and nays.

MR. TRUMBULL. Does that question have precedence of a reference? However, it is immaterial. Either is open to discussion, and I only wish to say a word in reply.

THE VICE PRESIDENT. It has precedence.

MR. TRUMBULL. I only wish to say a word in reply to the Senator from Massachusetts. Personally, I have no desire to take charge of this proposition which the Senator submits. It is only because I supposed that the Judiciary Committee was the proper committee to consider amendments to the Constitution.

The Senator remarks that the Committee on the Judiciary the other day were discharged from the consideration of certain petitions relating to the fugitive slave law and asked that they be referred to the special committee on the subject of freedmen and slavery. That is true, sir. That was deemed by the Committee on the Judiciary to be the appropriate committee to consider all these propositions in reference to a change in the law; but none of the petitions which the Committee on the Judiciary asked to be discharged from related to an amendment of the Constitution. If petitions have been referred to the committee on freedmen and slavery asking for a change of the Constitution, it has been inadvertently done, I presume, so far as the Senate is concerned. I had not observed it, and was not aware that petitions of that character had gone to the committee on freedmen and slavery. Certain it is that petitions of that character and a resolution to amend the Constitution in that respect were referred to the Committee on the Judiciary at a very early day in the session. I have certainly no personal desire to take charge of this matter because I happen to be on the Committee on the Judiciary. It is for the Senate to determine which are the appropriate committees for the business that is presented. It seemed to me that the appropriate committee for all propositions to change the Constitution was the Judiciary Committee. If the Senate is of a different opinion I shall certainly acquiesce in any disposition of it. It is only because I thought, as this subject was pending before the Judiciary Committee, they had best be together, that I made the suggestion.

MR. DOOLITTLE. I never heard before in my life that an amendment to the Constitution was ever referred to any other committee than the Judiciary Committee. It seems to me this is one of those cases that cannot admit of any serious question as to where this proposition should go. I shall not take up time in discussing the subject, but clearly it ought to go to the Judiciary Committee.

MR. SUMNER. I am perfectly willing to follow the suggestion of the Senator from Illinois. I only hope the committee will take charge of it and act upon it soon.

THE VICE PRESIDENT. The question is on the motion of the Senator from Delaware to postpone this resolution, proposing an amendment to the Constitution, indefinitely.

MR. SAULSBURY. Upon that question I ask for the yeas and nays.

The yeas and nays were ordered.

THE VICE PRESIDENT. The morning hour

having expired, it becomes the duty of the Chair to announce the special order.

MR. SUMNER. I hope we shall be allowed to finish the morning business. There is some other morning business yet to be presented.

THE VICE PRESIDENT. The Chair will receive morning business if there be no objection. The Chair hears none. The question is on indefinitely postponing the joint resolution before the Senate.

MR. FOOT. I ask for the reading of the resolution. I have not yet heard it read.

The Secretary read the joint resolution.

The question being taken by yeas and nays, resulted—yeas 8, nays 31; as follows:

YEAS—Messrs. Buckalew, Carlile, Davis, Harding, Hendricks, Powell, Saulsbury, and Wright—8.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Van Winkle, and Wilson—31.

So the motion to postpone indefinitely was not agreed to.

MR. SUMNER. At the suggestion of the Senator from New York I modify the motion so as to have the joint resolution go to the Committee on the Judiciary.

THE VICE PRESIDENT. The joint resolution will be so referred.

MR. SUMNER. I also ask leave, without having given previous notice, to introduce a bill.

THE VICE PRESIDENT. The title of the bill will be read.

THE SECRETARY. "A bill to secure equality before the law in the courts of the United States."

MR. SAULSBURY. I object to its introduction.

THE VICE PRESIDENT. Previous notice not having been given, the bill cannot be introduced as an objection is made.

MR. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 25) repealing a joint resolution to amend the Constitution of the United States; which was read twice by its title.

MR. ANTHONY. I ask to have the resolution referred to the Committee on the Judiciary. It proposes to repeal a joint resolution approved March 2, 1861, and as that resolution is short I ask to have it read.

The Secretary read, as follows:

A joint resolution to amend the Constitution of the United States.

Resolved, &c., That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid to all intents and purposes as part of the said Constitution, namely:

ART. XIII. No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere within any State with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State.

Approved March 2, 1861.

MR. ANTHONY. Mr. President, I voted, as did two thirds of the members present of both Houses of the Thirty-Sixth Congress, for this resolution. I would have gone much further than this in any reasonable and proper effort to avert the evils of civil war and to assure the people who had been disaffected by the misrepresentations of demagogues, and made to believe that the Republican party meditated the invasion of their constitutional rights. But the offer was spurned by those whom it was intended to conciliate. So far from accepting it in the spirit in which it was tendered, they threw off their allegiance to the Government and organized rebellion, with the avowed purpose of preventing a Republican Administration from doing what it solemnly avowed it had no purpose of doing, and what they had the power, in a perfectly constitutional manner, to prevent it from doing. Not only was the revolt made upon a false pretext, but even if the pretext had been true there was abundant remedy by peaceable means and within the Constitution.

It does not consist with the dignity of the Government to continue this offer after it has been so received; and it is no longer proper that such a restriction should be put upon the power of Congress, or should be kept upon the power of Congress, even if those to whom it was tendered should be willing to accept it. The grand events of the last two years have altered the whole as-

pect of the question, and have advanced public opinion to a point which it would not have attained in scores of peaceful years. The policy that then would have been only the affirmation of a political truism would now be an outrage upon the sense of the country and a shame in the face of the civilized world. The true policy now is to strike at slavery wherever it can be reached. So far from adding new guarantees to its existence and its safety, so far from reaffirming the old ones, the true policy is to remove by legal measures the securities that now protect it. The amendment which the Constitution requires on the subject of slavery is quite in the other direction. It has been indicated by the Senator from Massachusetts, [MR. SUMNER,] and the Senator from Missouri, [MR. HENDERSON,] in their propositions so to amend the Constitution as to give to Congress the power to abolish slavery, and thus to secure the public tranquillity by removing the disloyal cause of the troubles which afflict the land, to secure the sympathy of the world by placing our institutions upon the basis of progressive civilization, to invoke the favor of Heaven by ceasing to violate its laws. This proposition comes most appropriately from a Senator from that State which declared that slavery was inconsistent with the Declaration of Independence and the Bill of Rights, and from the Senator of a State that has felt the curse of slavery and the terrible evils of the rebellion that slavery has inaugurated. Wisely has Missouri, wisely has West Virginia, wisely has Maryland determined to remove that curse, and wisely will Congress, and the States determine when they shall resolve that the curse shall never be restored where it has been removed by the people, or where it has been practically abolished by its own suicidal revolt against the Government.

It may be argued that to confer upon Congress the power to abolish slavery may be an implication that the power already exercised in that direction and the larger exercise of it contemplated are not legitimate. The inference is not a necessary one. And the States where the slaves are emancipated by the President's proclamation or by acts of Congress directed against rebels and the source of rebel supply may reenact slavery as soon as the pressure is removed. It is necessary to guard against that; it is necessary not only to proclaim and to establish freedom, but to secure it.

Nor is such a policy inconsistent with the declarations of the Republicans, that originally they had no design of interfering with slavery in the States where the people chose to retain it. We had no such design. It is not we, it is they who have opened the way to freedom, and have made it our duty to tread in the path before us. Slavery in the States never was stronger than it was on the 4th of March, 1861. The election which had pronounced its downfall in the Territories and in this District had affirmed its accursed rights in the States. But God maketh the wrath of man to praise Him, and the remainder of wrath He restraineth. What the Republican party could not do, what no election could do, what no peaceable movement would have been likely to accomplish in many years, slavery has done of itself and to itself. It has sealed its own doom; it has made its existence incompatible with the safety of the Republic, with the continuance of the Union. It has committed suicide. If we had been asked a few years ago, Do you purpose to invade Virginia? do you intend to blockade Mobile? do you mean to batter down the walls of Sumter? no one will doubt the sincerity with which we should have answered, No. Yet we have done all this and much more of the same character, and the only complaint is that we have not done enough of it nor with sufficient vigor. Equally sincere was our denial of the intention to interfere with slavery in the States. But they who have made it necessary that we should invade Virginia, that we should blockade Mobile, that we should batter down Sumter, have equally made it necessary that we should strike at slavery, the primal cause, the sustaining power of the rebellion. The responsibility, so far as their own interests are affected, is theirs; the duty is ours; the benefit will be to the country, to the world.

MR. SAULSBURY. A few moments ago, when the Senator from Massachusetts asked leave

to introduce a bill of which previous notice had not been given, I objected, not on account of the source from whence the application was made, but simply because I thought we had had enough this morning of the negro. Since that, the resolution of the Senator from Rhode Island has been introduced and entertained, and we have had a speech on the same subject. I therefore withdraw the objection I made to the introduction of the bill of the Senator from Massachusetts, so that the whole batch may go to the committee together. When the committee reports, I inform the Senator from Rhode Island that I shall take occasion to review the consistency and the honesty of his party in reference to this whole subject of slavery.

Mr. ANTHONY. I beg to say one word in reply. If the Senator from Delaware has ever made any speech in this Chamber the whole staple of which was not upon the negro, it is one that I did not have the pleasure of listening to.

The VICE PRESIDENT. The joint resolution introduced by the Senator from Rhode Island will be referred to the Committee on the Judiciary. The Senator from Delaware having withdrawn his objection to the introduction of the bill proposed by the Senator from Massachusetts, the question is upon granting leave to introduce that bill.

By unanimous consent leave was given to introduce a bill (S. No. 99) to secure equality before the law in the courts of the United States; which was read twice by its title, and referred to the select committee on slavery and freedmen.

REPORTS FROM COMMITTEES.

Mr. RAMSEY, from the Committee on Naval Affairs, to whom was referred the petition of John F. Denson, paymaster's clerk in the Navy, praying for an increase of compensation of paymasters' clerks, submitted a report, accompanied by a bill (S. No. 104) to regulate the pay of clerks to paymasters in the Navy. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print twelve hundred extra copies of the report of the Superintendent of the Coast Survey for the use of the Senate, and three thousand copies to be distributed by the Superintendent, reported it without amendment; and the resolution was adopted.

Mr. CLARK. The Committee on Claims, to whom was referred the petition of John C. Magill, have directed me to ask that the committee be discharged from its further consideration, and that the petitioner have leave to take his papers if he chooses to file them with the Court of Claims, it being a case on a contract and no resolution directing the Senate committee to take cognizance of it.

The report was agreed to.

Mr. CLARK. The Committee on Claims, to whom was referred the petition of F. B. Groff, ask that the same disposition be made of this petition, it being a matter arising on a contract.

The report was agreed to.

Mr. CLARK. The same committee have also directed me to report adversely upon the claim of Samuel L. Linah. The claim has already been submitted to the War Department, and they have allowed upon the claim what the Department thought just, and the committee do not see any reason for revising that report. I move the indefinite postponement of the petition.

The motion was agreed to.

Mr. CLARK. The same committee, to whom was referred the petition of sundry soldiers asking for a bounty under the act of Congress, have directed me to ask that the committee be discharged from its consideration, with a view that it may go to the War Department as the proper place.

The report was agreed to.

Mr. CLARK. The same committee, to whom was referred the petition of Charles W. Denison, asking to be reimbursed for expenses incurred on a mission to England, have directed me to make an adverse report, and I move that that case be postponed indefinitely.

The motion was agreed to.

Mr. CLARK. The same committee, to whom was referred the petition of Susan W. Harris, praying for compensation for four slaves which she alleges were set free and emancipated under

and by virtue of an act of Congress emancipating slaves in the District of Columbia, have directed me to make an adverse report, it appearing that her claim was presented before the commissioners and rejected by them, and the law provides that that shall be a final disposition of it unless in certain cases within which this case does not come. I move that the petition be indefinitely postponed.

The motion was agreed to.

SLAVERY AND THE REBELLION.

Mr. SUMNER submitted the following resolutions for consideration; and they were ordered to be printed and laid on the table:

1. *Resolved*, That, in order to determine the duties of the national Government at the present moment, it is of the first importance that we should see and understand the real character of the contest which has been forced upon the United States, for a failure truly to appreciate this contest must end disastrously in a failure of those proper efforts which are essential to the reestablishment of unity and concord; that, recognizing the contest in its real character, as it must be recorded by history, it will be apparent beyond controversy that this is not an ordinary rebellion, or an ordinary war, but, that it is absolutely without precedent, differing clearly from every other rebellion and every other war, inasmuch as it is an audacious attempt, for the first time in history, to found a wicked power on the cornerstone of slavery; and that such an attempt having this single object—whether regarded as rebellion or as war—is so completely penetrated, and absorbed, so entirely filled and possessed by slavery, that it can be justly regarded as nothing else than the huge impersonation of this crime, at once rebel and belligerent, or in other words, as slavery in arms.

2. *Resolved*, That, recognizing the unquestionable identity of the rebellion and of slavery, so that each is to the other as another self, it becomes plain that the rebellion cannot be crushed without crushing slavery, as slavery cannot be crushed without crushing the rebellion: that every forbearance to the one is a forbearance to the other and every blow at the one is a blow at the other; that all who tolerate slavery, tolerate the rebellion, and all who strike at slavery, strike at the rebellion: and that therefore, it is our supremest duty, in which all other present duties are contained, to take care that the barbarism of slavery in which alone the rebellion has its origin and life, is so utterly trampled out that it can never spring up again anywhere in the rebel and belligerent region; for leaving this duty undone nothing is done, and all our blood and treasure have been lavished in vain.

3. *Resolved*, That, in dealing with the rebel war the national Government is invested with two classes of rights—one the rights of sovereignty, inherent and indefeasible everywhere within the limits of the United States, and the other the rights of war, or belligerent rights, which have been superinduced by the nature and extent of the contest; that, by virtue of the rights of sovereignty, the rebel and belligerent region is now subject to the national Government as its only rightful Government, bound under the Constitution to all the duties of sovereignty, and by special mandate bound also "to guaranty to every State a republican form of government and to protect it against invasion;" that, by virtue of the rights of war, this same region is subject to all the conditions and incidents of war, according to the established usages of Christian nations, out of which is derived the familiar maxim of public duty, "indemnity for the past and security for the future."

4. *Resolved*, That, in seeking the restoration of the States to their proper places as members of the Republic, so that every State shall enjoy again its constitutional functions and every star on our national flag shall represent a State, in reality as well as in name, care must be taken that the rebellion is not allowed, through any negligence or mistaken concession, to retain the least foothold for future activity, or the least germ of future life; that, whether proceeding by the exercise of sovereign rights or of belligerent rights, the same precautions must be exacted against future peril; that, therefore, any system of "reconstruction" must be rejected which does not provide by irreversible guarantees against the continued existence or possible revival of slavery, and that such guarantees can be primarily obtained only through the agency of the national Government, which to this end must assert a temporary supremacy, military or civil, throughout the rebel and belligerent region, of sufficient duration, to stamp upon this region the character of freedom.

5. *Resolved*, That, in the exercise of this essential supremacy of the national Government a solemn duty is cast upon Congress to see that no rebel State is prematurely restored to its constitutional functions, until within its borders all proper safeguards are established, so that loyal citizens, including the new-made freedmen, cannot at any time be molested by evil-disposed persons, and especially that no man there may be made a slave; that this solemn duty belongs to Congress under the Constitution, whether in the exercise of rights of sovereignty or rights of war; and that, in its performance, that system of "reconstruction" will be found the best—howsoever it may be named—which promises most surely to accomplish the desired end, so that slavery, which is the synonym of the rebellion, shall absolutely cease throughout the whole rebel and belligerent region, and the land which it has maddened, impoverished, and degraded, shall become safe, fertile, and glorious from assured Emancipation.

6. *Resolved*, That, in the process of "reconstruction" it is not enough to secure the death of slavery throughout the rebel and belligerent region only; that experience testifies against slavery wherever it exists, not only as a crime against humanity but as a disturber of the public peace and the spoiler of the public liberties, including the liberty of the press, the liberty of speech, and the liberty of travel and transit; that obviously, in the progress of civilization, it has become incompatible with good government, and especially with that "republican form of government" which the United States are bound to guaranty to every

State; that from the outbreak of this rebel war, even in States professing loyalty, it has been an open check upon patriotic duty and an open accessory to the rebellion, so as to be a source of unquestionable weakness to the national cause; that the defiant pretensions of the master, claiming the control of his slave, are in direct conflict with the paramount rights of the national Government; and that, therefore, it is the further duty of Congress, in the exercise of its double powers, under the Constitution, as guardian of the national safety, to take all needful steps to secure the extinction of slavery, even in States professing loyalty, so that this crime against humanity, this disturber of the public peace, and this spoiler of the public liberties shall no longer exist anywhere to menace the general harmony; that civilization may be no longer shocked; that the constitutional guaranty of a republican form of government to every State may be fulfilled; that the rebellion may be deprived of the traitorous aid and comfort which slavery has instinctively volunteered; and that the master, claiming an unnatural property in human flesh, may no longer defy the national Government.

7. *Resolved*, That, in addition to the guarantees stipulated by Congress, and as the cap-stone to its work of restoration and reconciliation, the Constitution itself must be so amended as to prohibit slavery everywhere within the limits of the Republic; that such a prohibition, leaving all personal claims, whether of slave or master, to the legislation of Congress and of the States, will be in itself a sacred and inviolable guarantee, representing the collective will of the people of the United States, and placing universal emancipation under the sanction of the Constitution, so that freedom shall be engraved on every foot of the national soil, and be woven into every star of the national flag, while it elevates and inspires our whole national existence, and the Constitution, so often invoked for slavery, but at last in harmony with the Declaration of Independence, will become, according to the holy aspirations of its founders, the sublime guardian of the inalienable right of every human being to life, liberty, and the pursuit of happiness; all of which must be done in the name of the Union, in duty to humanity and for the sake of permanent peace.

MANAGEMENT OF HOSPITALS.

Mr. NESMITH submitted the following resolution for consideration:

Resolved, That the Secretary of War be requested to procure and transmit to the Senate the record of proceedings of a court-martial, convened in New York city by virtue of special order No. 118, December 7, 1863, for the trial of Assistant Surgeon Webster, for refusing to permit a dangerously wounded soldier to be removed from the McDougall general hospital, in a cold storm of rain, without permission of the medical director of the department, together with the defense of the accused read at the trial, the finding of the court, the recommendation of its members in respect to a remission of the sentence, and the decision of Major General Dix thereon. Also, that the General-in-Chief of the Army be requested to report in detail what authority, if any, subordinate military commanders have, by existing regulations, independent of the medical department, over general hospitals; what distinction, if any, there is in that respect between field or post hospitals and general hospitals; what orders or decisions have been made by the Secretary of War, General-in-Chief, or Surgeon General on the subject; and whether the interests of the service do not require that all orders relating to the management of general hospitals, and the reception, treatment, and transfer of patients, should pass through the Surgeon General or his immediate representative, the medical director.

Mr. WILSON. I think that resolution had better lie over until to-morrow.

The VICE PRESIDENT. It will lie over.

NAVAL COAL-HEAVERS AND FIREMEN.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of providing by law for granting honorable discharges to coal-heavers and firemen in the naval service, as are now granted to seamen, ordinary seamen, landsmen, and boys.

REVISION OF DISTRICT LAWS.

Mr. MORRILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the District of Columbia be instructed to inquire whether any further legislation is necessary to complete the revision of the laws of said District contemplated by the act of March 3, 1863.

PACIFIC RAILROAD.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Pacific Railroad be requested to consider the question of so amending the ninth section of the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean," &c., as to make the cities of Lawrence and Topeka points on said road.

POST ROUTE.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of establishing a post route from Fort Scott, Kansas, by the military road to Fort Smith, Arkansas.

MILITARY INTERFERENCE WITH ELECTIONS.

Mr. POWELL. I offer the following resolution, and I ask for its present consideration:

Resolved, That the Secretary of War be directed to transmit to the Senate all orders or instructions issued from the War Department to provost marshals in the States of Kentucky, Delaware, Maryland, and Missouri, concerning elections in those States.

Mr. TRUMBULL. I will inquire of the Senator from Kentucky if the report which has been laid on our tables this morning does not embrace everything of that kind?

Mr. POWELL. It does not. It only gives us the orders issued to and by generals commanding in the field. This resolution calls for the orders issued to provost marshals.

Mr. TRUMBULL. Does not what is in this report appear to be all?

Mr. POWELL. It does not.

Mr. WILSON. I do not believe there is any reason for making objection to the inquiry. I am perfectly willing for one that it shall be made.

Mr. TRUMBULL. I have certainly no objection to the inquiry. I merely wished to call the attention of the Senator from Kentucky to the report which has been laid on our tables. I did not know that he had examined it.

Mr. POWELL. I will say to the Senator that I examined it particularly this morning, and it is incomplete. There are matters not embraced in that report which this resolution will bring out.

Mr. TRUMBULL. I have no sort of objection. I wish to know myself whether there has been any interference with elections by the military.

The resolution was considered by unanimous consent, and agreed to.

HOUSE BILL REFERRED.

A joint resolution (H. R. No. 18) to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, was read twice by its title, and referred to the Committee on the Judiciary.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, in answer to a resolution of the Senate of the 26th ultimo, transmitting a report of the Secretary of War, communicating the correspondence between the authorities of the United States and the rebel authorities on the exchange of prisoners, and the different propositions connected with that subject; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State on the subject of a reciprocity treaty with the Sandwich Islands; which was referred to the Committee on Foreign Relations, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to law, a statement showing the balances to the credit of that Department on the 1st of July, 1862, the amounts appropriated for the year ending June 30, 1863, the amounts drawn from those appropriations or carried to the surplus fund, and the balances remaining in the Treasury at the last named date; which was referred to the Committee on Finance.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (No. 30) tendering the thanks of Congress to Major General W. T. Sherman, in which it requested the concurrence of the Senate.

ENLISTMENTS IN THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes; the pending question being on the amendment of Mr. HENDERSON, in section three, line five, after the word "he," to strike out the words "his mother, and his wife and children," and after the word "notwithstanding," in the seventh line, to insert:

And his mother, his wife, and children shall also be free, provided that by the laws of any State they owe service or

labor to any person or persons who have given aid or comfort to the existing rebellion against the Government since July 17, 1862.

So that the whole section will read as follows:

That when any person of African descent whose service or labor is claimed in any State under the laws thereof shall be mustered into the military or naval service of the United States, he shall forever thereafter be free, any law, usage, or custom to the contrary notwithstanding; and his mother, his wife, and children shall also be free, provided that by the laws of any State they owe service or labor to any person or persons who have given aid or comfort to the existing rebellion against the Government since July 17, 1862; and all laws and parts of laws inconsistent herewith are hereby repealed.

Mr. CARLILE. Mr. President, "in these unhappy times, when good men are rendered odious and bad men popular, when great men are made little and little men are made great," he who would serve his country must be "above the reach of personal considerations." It has been the habit of those who

"Crook the pregnant hinges of the knee,
Where thrift may follow fawning,"

to charge with disloyalty all who differ with the party in power, and to denounce as sympathizers with rebellion all who attempt to confine the General Government within the limits prescribed by the Constitution. If a warm and undying attachment to the Constitution which created the Union constitutes disloyalty, then am I disloyal. If sincere, fervent, impassioned, burning desire for the overthrow of the rebellion and the return of peace is sympathy with the rebellion, then am I a sympathizer. At the hazard of my life I opposed the secession of my State. "Solitary and alone," when stout hearts quailed and strong men faltered, I inaugurated and organized the movement that rolled back the wave of secession and kept within the fold of the Union the section of the State in which I reside. There is not to-day a spot of earth over which the confederate flag floats upon which I would dare to tread.

That Virginia which gave to the Colonies the commander of their armies, and to the States the president of the Convention that framed the bond of union between them, as well as the father of the Constitution and the author of the Declaration of Independence, should have been betrayed into secession, is one of the wonders of the age. That her people should oppose the exercise of arbitrary power is but consistent with her past history, around which cluster so many precious recollections. Glorious old State! even now, while striving to release herself from a Union in the formation of which she acted so conspicuous a part, and for which she gave away an empire, she stands proud and defiant, the wonder of the world, the valor of her sons and the fortitude of her people challenging the admiration of mankind. With almost every acre of her soil red with the blood of her children, she still is, as she has been from the beginning, the main stay and support of a cause into which she was betrayed.

I am not, Mr. President, as hopeful as some of an early cessation of hostilities, nor do I believe that the "starvation" which has kept the confederates alive for the last three years is likely to terminate in their early death. I believe with Andrew Jackson that the Constitution cannot be maintained nor the Union preserved in opposition to public feeling by the mere coercive powers of the General Government. It is because I have so believed that for near two years I have been thrown in opposition to those with whom I would have gladly acted, and with whom I expected at the opening of the extra session and of the first regular session of the last Congress to act.

We have, however, in the progress of this struggle reached a point where its nature and its character must be settled, and settled definitely. Upon that settlement depends, in my judgment, not only the restoration of the Union but the perpetuation of the liberties of the people inhabiting the States represented in this Chamber as secured to them by the Constitution of 1789. For near two years it has been patent to my mind that the theory advanced by the Senator from Ohio [Mr. SHERMAN] in the very able and ingenious speech with which he favored the Senate last week, although not the declared policy of the Administration, governed in this fierce and mighty struggle which is sapping the foundations of public liberty and rapidly exhausting the resources of the nation.

Is the struggle—and these are the questions that are forcing themselves upon the Senate now for its determination—is the struggle in which we are engaged an exercise by the Government of the United States of its constitutional power to suppress an insurrection within its constitutional jurisdiction, and to put down a rebellion against its lawful authority, or is it a war waged by the States represented in this Chamber, commonly called the northern States, against the southern States? If the former, it is a struggle between the Government of the United States and its rebellious citizens, and in its prosecution we must draw all our legislative power from the Constitution. If the latter, we are under no constitutional restraint, and are only responsible to the civilized world for the manner in which we conduct the war. That the latter is the opinion of the chairman of the Committee of Ways and Means in the other House is to be ascertained from his recent speech, in which is the following paragraph:

"But it is said that this must be considered a contest with rebel individuals only, as States in the Union cannot make war. That is true so long as they remain in the Union. But they claim to be out of the Union; and the very fact that we have admitted them to be in a state of war, to be belligerents, shows that they are no longer in the Union, and that they are waging war in their corporate name of the 'confederate States.'"

I regard this as an admission that at some period or other in the prosecution of this struggle we have been so affected by the conduct of the people of the seceded States who are in arms against the authority of the General Government as to have lost to the people of the adhering States that form of Government to preserve which they in the commencement of the struggle resorted to arms. I regard the positions assumed by the Senator from Ohio, though not so broad, as leading to the same conclusion as that which I have read. The Senator still maintains that we are under the Constitution, and while admitting that in time of peace there is no power conferred on the Congress of the United States by the Constitution to interfere with the domestic relations as recognized by the States of the Union, he claims by virtue of that very Constitution to derive legislative authority from the laws of war. Let me state as I understand them the positions assumed by the Senator in the speech to which I have referred. They are these: That the struggle in which we are engaged is with States as such united under a common Government and not with individuals; that we are not engaged in suppressing an insurrection or rebellion, but in open, flagrant war with a belligerent Power, which we have recognized as such; that being engaged in civil war we are only bound by the laws of public war and are not restrained by the Constitution of the United States in the means we employ, the measures we adopt, or the manner in which we conduct the war; that Congress is not authorized by the Constitution to emancipate slaves, but in time of civil war Congress derives the power to emancipate from the laws of war.

To prove that such power is conferred upon Congress, the Senator cites the clause authorizing Congress to raise armies. He denies that the President possesses the power under the Constitution. He denies that his emancipation proclamation can have any effect upon slaves who are not brought within its operation during actual hostilities. Now, sir, granting that we have the constitutional power, where can any law that we may enact on this subject have any effect during the existence of this rebellion beyond our military lines? If you can derive the power to emancipate slaves from the power to raise armies, it seems to me it would be a less stretch of the imagination to suppose that the President possessed the power when he has sworn to preserve, protect, and defend the Constitution.

In opposition to the authority of the Senator on this subject, that we derive any legislative power from the laws of war, I will quote the opinions of Mr. John Quincy Adams. In a speech made by him in New York in 1839, in speaking of the powers of Government as divided between the different departments, he said:

"The legislative powers of Congress are, therefore, limited to specific grants contained in the Constitution itself, all restricted on one side by the power of internal legislation within the separate States, and on the other by the laws of nations, otherwise and more properly called the rights of war and peace, consisting of all the rules of intercourse between independent nations. These?"

That is, the laws of war—

"are not subject to the legislative authority of any one nation, and they are, therefore, not included within the powers of Congress."

But the very nature of the Government, being one of limited and delegated powers, being a compact between the people of the several States in their separate and distinct character of States, is conclusive as to the power of Congress to legislate beyond the grants contained in the instrument which creates Congress itself. The very first section of the very first article of the Constitution declares that

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

To the Constitution, then, not to the laws of war, we must look for all power which we can rightfully exercise as the legislative branch of this Government. All powers not granted were not reserved to the people in the aggregate, but were reserved to the States respectively and to the people thereof; clearly showing that the Government of the United States is the result of compact between the States, and that the Union created by the Constitution is a Union only to the extent of the powers granted, and no further. To attempt, therefore, to make war against the States as such, is, in my judgment and in the view which I have presented of the power of the Federal Government, an unwarrantable and arbitrary assumption of power which the States as such would be justified before the civilized world in resisting. To assume such a position is to give to the rebellion, which we have been engaged for nearly three years in subduing, a position which it never could have obtained for itself. It is to acknowledge that the experiment our fathers made and the institutions under which we have lived and grown can no longer be maintained by the people; not that the experiment itself or that the institutions themselves are failures, but that the people to whom their preservation has been intrusted have become unworthy of them and are lacking in that virtue and intelligence which are necessary to enable them to preserve institutions won for and bequeathed to them by the founders of the Government.

The whole scope and plan of the powers of the Government, as ascertained by the Constitution, is to operate upon individuals and not States. The Government of the United States enforces obedience to its Constitution and laws by exacting their rigid observance from individuals and not from States. You have no power under the Constitution to coerce a State; you have no power under the Constitution to use force against a State as such; but you are confined in the employment of all the force which belongs to you under the Constitution to its assertion as against individuals and not against States. This very proposition, to authorize the Government that was about to be formed to use force against a State, was made in the Convention that framed the Constitution of the United States, and was postponed without a dissenting voice. In the plan of a constitution and form of government submitted to the Convention by Mr. Randolph in the shape of resolutions, the sixth resolution contained a grant of power "authorizing an exercise of the force of the whole against a delinquent State," and when it came up for consideration—

"Mr. Madison observed that the more he reflected on the use of force, the more he doubted the practicability, the justice, and the efficacy of it, when applied to people collectively and not individually. An union of these States containing such an ingredient seemed to provide for its own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment; and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound. He hoped that such a system would be framed as might render this unnecessary, and moved that the clause be postponed. This motion was agreed to, *nem. con.*"—*The Madison Papers*, vol. 2, p. 761.

Here, then, we have the authority which is claimed by the Senator from Ohio denied in the Convention that framed the Constitution, and the nature of the force and against whom it is to be used clearly defined.

Now, sir, what are the war powers of the General Government? They are contained in the Constitution. Congress has the power

"To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water; to raise and support armies; but no appropriation of money to that use shall be for a longer term than two years; to provide and maintain a Navy; to make rules for the government and regulation of the land and naval forces."

That is the extent of the war powers of Congress. When Congress has declared war, when Congress has raised its army, the mode and manner of conducting that war is intrusted to the Executive and the military authorities of the Government, and they are to be bound in its conduct, by the laws of war. To suppose that a Government created by each State for itself, a Government that could have no force or effect in any single State until it was ratified and adopted by that State for itself, would contain a grant of power to make war upon the State so adopting, is to suppose that the men who created it were wholly irrational. It is to suppose that they had learned nothing in the war out of which they had just come. The Government of the United States is the child of civil war. It is the creature of civil war. It was framed by men who resorted to civil war for the purpose of severing the tie which united them with the mother country. It was established upon the principle that there could be a union in the same Government for common purposes between States of different local interests and different local institutions. The principle that was established by the foundation of this Government was, that a union of States having different interests and dissimilar local institutions could be formed for purposes of common defense. If the power which is proposed to be exercised here is exerted, and if it is necessary to be exerted to maintain territorial unity, it is a declaration that after seventy years of trial that principle has proven to be a failure, and we are at war in 1864 to destroy what it took seven years of war, from 1776 to 1783, and six years of peace, to establish.

Mr. President, I have no interest in this question of slavery. I dislike to discuss it. I only refer to it because it has been selected as the institution to be annihilated, and because through it State rights are to be stricken down and State sovereignty ignored. The argument that slavery is the cause of the war, that there can be no union with slaveholding States, is an argument against the facts asserted and the principles established by the formation of the Government; it is an argument against the right of a State to govern itself and to prescribe and regulate within its own jurisdiction its own domestic and internal policy; it is an argument which, if acquiesced in, must inevitably destroy our present beautiful system of Government and erect upon its ruins a strong central Government; it is an argument tending to consolidation of power in the central Government; it is an argument against any union between States of different geographical interests and of dissimilar local institutions. If we are unable by constitutional means to resist the power of secession and preserve the Union then has our experiment proven a failure. Such was the view taken by the distinguished Senator from Vermont, [Mr. COLLAMER,] at the second session of the last Congress, when he said:

"Mr. President, our nation is in a stage and condition of its national existence where undoubtedly it attracts more than it ever did before the notice of the nations of the world, not merely in relation to the skill which is shown in our new projectiles or improved ordnance or invulnerable ships, or even in our battles, but the attention of the world is attracted to what is to be the result on this great occasion of this national experiment of ours. They say, 'Your experiment of a republican form of government succeeds well enough in time of peace, when there is no occasion to try it, when there is nothing to test it; but they have looked forward to some time which might bring periods of trial and convulsion; and the question before the world is, is our system competent to that occasion, does it possess strength and elements of power sufficient to meet the shock of such a contingency? If it will not do that, they say it is not what we have claimed it to be before the world—the great and successful experiment in popular government.' Now, say the world, 'we shall see whether you can succeed with what appears to us a feebly formed Government in a period of trial.' That we may be enabled to sustain the integrity of the nation—I mean its entirety, not its sense of justice—by the physical force of the nation is but one step in it. That is not the point. The great question before the world to be now settled by us is, can we sustain the integrity of our Government, and perpetuate our institutions, and do so according to the limitations and provisions of the Constitution? That is what is to show that our Constitution is competent to the trial, and nothing short of that. If, when this occasion arises, we are compelled to resort to means which, in effect, are the means used by stronger Governments, our experiment is a failure. If we are constrained to call up, invoke, and put in exercise in any one department of the Government—it is immaterial in what department of the Government—more of power, more of force than the Constitution provides, or than is limited by that Constitution—the moment we do that, or are constrained from our supposed necessities to do that, we acknowledge before the world that our institutions are insufficiently founded, and that we are after all compelled, in the period of trial, to resort to the force which, they say, is necessary

to the existence of a nation, and our experiment is a failure. We should, therefore, particularly in a period like this, carefully study and sacredly regard all the limitations and provisions of the Constitution. It is vain and idle in us to war against a part of our people because they have made war upon this Government, if we at the same time have to sap the foundations of the Government by stabbing through the vitals of the Constitution."

I concur with the Senator from Vermont; and if we have arrived at that period in this struggle when the legislative authority of this Government is compelled to acknowledge that the rebellion has so far proven a success that they have established for themselves a government of their own which we are bound to recognize and acknowledge, then the time has arrived when the people of the adhering States, as they are called, ought to pause and consider well whether a continuance of the war for the purpose of liberating the African and against the right of self-government in the States is not more likely to result in their own enslavement, by the loss to them of their constitutional liberties, than in the benefit of the African.

We have never as a Congress recognized the confederate States as a belligerent power. If it be true, as the Senator from Ohio says, "that they have won a position beyond the reach of your Constitution, that our war with them must be tested by the laws of war, and these questions must be decided by the laws of war as recognized and practiced among civilized nations in ancient and modern times," I ask you for your authority under the Constitution of the United States, and as a Government created by it, to wage this war. I regard the admission contained within that sentence as pregnant with meaning, and, if correct, fatal to the cause of reunion.

Much of the Senator's speech was devoted to showing that we could not put slaves in the Army without committing ourselves to their emancipation, assuming without proving the authority in this Government to emancipate; and to prove that assumption he read from an act of my own State emancipating slaves who had aided in the war of the Revolution. The power of a State to emancipate its slaves has never been doubted. The power of the Federal Government or the power of the Confederation which preceded it never was invoked for the purpose of emancipating a single slave.

The Senator is for arming the slaves of the confederates. He says:

"Their whole confederacy is built, as Mr. Stephens said, on the idea that man should own property in man; that the negro is inferior and must be held subordinate to the white race; that he must be held as a slave. If they arm the slaves and promise them freedom, their whole confederacy would crumble into dust. I do not fear any empty threats of that kind."

Let me say to that Senator if it shall become necessary in this struggle for the confederates to arm their slaves they will arm and emancipate them too; and I will say further if their confederacy never crumbles into dust until it does so from the arming and emancipating their slaves it will last until

"Heaven's last thunder shakes the world below."

The slaves know that their owners have the legal right to emancipate them. Many of them know that you have not. They do not concur in the opinion that the Congress derives from the laws of war legislative authority to emancipate, "by bill or otherwise." They may have faith in the power of your Army to protect them.

I have been and am willing to assert the power of this Government against rebellion, and have, by virtue of my location, a deeper interest in the preservation of the Union under the Constitution than gentlemen residing in States remote from the scene of hostilities. I therefore would go as far as he who goes farthest to exert every constitutional power for the restoration of the Union; but I cannot, consistently with what I believe to be the true policy in the attainment of that end, consent to the exercise of powers clearly not within the scope of the Federal Government.

Let the contest, therefore, be conducted against individuals in arms, and not against States; let it be the use of force for the purpose of breaking up and dispersing the military power of the seceded States; let your army be not an army for conquest; let not war be visited upon populations and homes; let us not have in our morning papers achievements such as were accomplished by that bad man, Butler, the other day in my own State when he sent his transports and his artillery, his

gunboats and his infantry, to a widowed lady's plantation, not residing upon it, but who had collected for the support of her servants some twenty or thirty thousand pounds of pork and other provisions for their subsistence. Butler's division destroyed the provisions thus collected for the servants, ninety-nine of whom he captured and brought away with him, and thereupon a dispatch appears in the papers of the day headed, "Great battle at Brandon; General Butler's great victory; an achievement of which the nation ought to be proud;" all of which, the destruction of the private property of an absent widow lady and the capture of her slaves, was accomplished without the loss of a man or the sinking of a transport.

No, Mr. President, those people are entitled, not only under the Constitution of the United States but by the laws of war, to your protection. They have a claim upon your sympathy. They were your fellow-citizens. They are now, because of your inability to protect them, compelled to acknowledge what is to them a government *de facto*. You should be able to afford protection where you demand allegiance.

Mr. President, I have said from the beginning, and I have been confirmed in that opinion by every day's experience, that the mere coercive powers of this Government never will restore the Union. What progress have you made in its accomplishment? Where has your Army gone one hundred miles from your water or your rail transportation? Do you not know the utter impossibility of carrying it any distance where you will have to wagon over miserable roads the supplies to subsist the men? The further you go into the interior, the further you recede from the great lines of communication and thoroughfares of travel, and the larger your Army, the weaker it becomes.

I claim no sympathy for the authors of this rebellion; I grant your power to use physical force against armed rebellion; but I think true policy requires, as well as humanity dictates, that we should distinguish between those in rebellion against your authority, those in arms, and those who are not willingly engaged in an effort to sever the connection that heretofore existed between them and this Government. Bring to bear your power against offending individuals; but at the same time bring to bear your power in favor of those who are not engaged in the strife, or who have been made the unwilling instruments of a power which they were unable to resist.

In the war with Mexico instructions were sent out from the War Department to our generals to purchase even their supplies from the Mexicans. No one doubts the right in time of war to levy contributions on the enemy for the support of the Army; but that law of war was modified by our Government in its instructions to the commanding general in Mexico. Shall we treat these people worse than we treated the Mexicans? If it was deemed right to accompany the Army with one empowered to treat for peace with a foreign nation, is it improper to accompany the Army with the olive-branch now? Will you exact obedience to your laws where you are unable to give protection?

In the beginning of the struggle we clearly defined its character, clearly defined the power of the Government of the United States as against the citizens of the seceded States. We declared it to be, what alone it can constitutionally be, an exertion of the physical power of the nation against individuals, and not against States. In the instructions of Mr. Seward to our ministers in Great Britain and France, in April, 1861, he expressly disclaimed all right or all power on the part of the Government of the United States to interfere during this war, if you call it such, with the rights of any State; and he said, in so many words, that whether the rebellion should succeed or should fail the status of the slave would remain the same. The President of the United States, in his inaugural address delivered from the eastern portico of this Capitol, expressly disclaimed all authority to interfere with the domestic institutions of the States, and all desire to do so. Let us adhere to the position taken by these different organs of the Government and by the Congress of the United States in its resolution of July, 1861, prosecute this struggle against individuals for the purpose of asserting the supremacy of the Constitution and enforcing obedience to the laws made in pursuance thereof.

So late as last July Mr. Seward, in a letter to Mr. Adams, taking a survey of our domestic relations, which I shall not detain the Senate by reading, for I presume Senators are familiar with it, characterizes the struggle in which we are engaged as an insurrection, and denies that the Confederate States are entitled to recognition as a belligerent Power. A discussion in this body urging that they have won a position outside of the Constitution and acknowledging them as an independent Power, and recognizing them as a belligerent, will not be likely to facilitate what I presume was the object of the Secretary's dispatch to our minister in England.

What is a war of conquest, Mr. President? Who can tell when it ends? It is interminable; never ending; always existing. It may for a time be lulled into quiet, but only to gather renewed strength and to renew the combat.

Mr. DOOLITTLE obtained the floor; and on his motion the further consideration of the bill was postponed until to-morrow.

EXECUTIVE SESSION.

On motion of Mr. LANE, of Kansas, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, February 8, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Friday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER stated that the regular order of business was the call of the States and Territories for bills for reference, not to be brought back into the House by motions to reconsider.

DEPARTMENTAL REPRESENTATION.

Mr. PENDLETON, in pursuance of previous notice, introduced a bill to provide that the Secretaries of Executive Departments may occupy seats on the floor of the House of Representatives; which was read a first and second time by its title, and referred to a select committee of seven.

FUGITIVE SLAVE LAW.

Mr. SPALDING, in pursuance of previous notice, introduced a bill to repeal the fugitive slave law; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

DEPARTMENT OF INDUSTRY.

Mr. ORTH, in pursuance of previous notice, introduced a bill to create and organize a Department of the Government to be called the Department of Industry; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

LAND ENTRIES IN MISSOURI.

Mr. BLOW, in pursuance of previous notice, introduced a bill to confirm certain entries of land in the State of Missouri; which was read a first and second time by its title, and referred to the Committee on Public Lands.

PAY OF ARMY OFFICERS.

Mr. WILSON, in pursuance of previous notice, introduced a bill to amend the sixteenth section of the act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862; which was read a first and second time, and referred to the Committee on Military Affairs.

IMPORTED GOODS FOR CANADA.

Mr. JULIAN introduced a bill to repeal so much of the acts of Congress approved March 3, 1845, and August 6, 1846, as authorizes the transportation of goods imported from foreign countries through the United States into Canada, or from Canada into the United States, to be exported to foreign countries; which was read a first and second time, and referred to the Committee on Commerce.

UTAH INDIAN RESERVATION.

Mr. KINNEY introduced a bill to vacate the present Indian reservations in Utah Territory and to settle the Indians in the Uinta valley; which

was read a first and second time, and referred to the Committee on Indian Affairs.

INDIAN DEPREDACTIONS IN UTAH.

Mr. KINNEY also introduced a bill to provide for the appointment of commissioners to ascertain and report to the Secretary of the Interior the losses sustained by the people of the Territory of Utah by Indian depredations; which was read a first and second time, and referred to the Committee on Indian Affairs.

INDIAN LANDS IN UTAH.

Mr. KINNEY also introduced a bill to extinguish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes; which was read a first and second time, and referred to the Committee on Indian Affairs.

SEVENTH DISTRICT IN VIRGINIA.

Mr. DAWES, from the Committee of Elections, presented a report, accompanied by two resolutions, declaring that Lewis McKenzie is not entitled, and that B. M. Kitchen is not entitled, to a seat in this House as a Representative in the Thirty-Eighth Congress from the seventh congressional district in Virginia, and asked that the report be printed and laid upon the table.

It was so ordered.

Mr. SMITH presented the views of the minority of the Committee of Elections on the same question, and asked that they be printed and laid upon the table with the other report.

It was so ordered.

CALL OF STATES FOR RESOLUTIONS.

The SPEAKER proceeded, as the next business in order, to call the States for resolutions, commencing with the State of Wisconsin.

CHICAGO HARBOR IMPROVEMENTS.

Mr. ARNOLD. As I was not present when the State of Illinois was called for bills, I now ask unanimous consent to introduce an act to improve the Chicago harbor.

Mr. HOLMAN called for the reading of the bill.

The bill was read in full.

Mr. ARNOLD. I move its reference to the Committee on Commerce.

Mr. BROWN, of Wisconsin. As this is a bill to levy a tax on all the commerce of the lakes, I move that it be referred to a select committee of nine.

Mr. ARNOLD. Mr. Speaker, I desire to say that I have introduced the bill for the purpose of having the subject investigated. I am not prepared to say I shall support the bill. I want the subject examined.

The SPEAKER. Under the present call there can be no debate on any bill introduced.

Mr. BROWN, of Wisconsin. I have no opposition to the reference of the bill, provided it be sent to a select committee.

The SPEAKER. Bills introduced under this call are to be referred, under the rule, to their appropriate committees. The House can determine which is the appropriate committee.

Mr. BROWN, of Wisconsin. Then I object to the introduction of the bill.

The SPEAKER. The objection comes too late.

The question was taken on the reference to the Committee on Commerce; and it was agreed to.

So the bill, having been read a first and second time, was referred to the Committee on Commerce.

Mr. GRINNELL, having been absent when the State of Wisconsin was called, asked leave to introduce a bill.

Mr. BLAIR, of West Virginia, objected.

PLEDGE OF PUBLIC ECONOMY.

Mr. BROWN, of Wisconsin, offered the following resolution, and moved the previous question on its adoption:

Resolved, That the thanks of this House are due to those noble women who, as members of Sanitary Commissions, Ladies' Aid Societies, and Christian Commissions, have contributed in labor and means to the relief of our soldiers; that this aid has become necessary, not because Congress is unwilling to meet every demand which justice to our brave men in the field may require, either in the way of bounties, pay, or relief, but because we recognize the fact that the resources of the country in money and credit form a material part of our power to crush out the rebellion, and that the mite bestowed by the poor and the bounty contributed by the rich are material aids in the righteous work before us; that this House recognizes its own duty to respond to the patriotic efforts referred to, and to reserve, so far as possible, the public funds and credit for the uses of the war;

that, while acknowledging and encouraging these individual efforts, which have (considered as the results of the labor of the fair hands of our ladies alone) brought important sums, and which at the great northwestern fair at Chicago alone produced \$75,000, it would be cruel mockery to those noble women for this House to expend millions upon any schemes, however specious, to which public faith is not already pledged, or not demanded by the immediate necessities of this war; and that, in view of the premises, this House pledges its faith alike to the women of the country, to the men who have liberally contributed of their substance, and to our creditors, that it will pursue a course of rigid economy, and, while exercising a wise and cautious liberality toward all objects immediately connected with the suppression of the rebellion, it will strictly refrain from all schemes, whether of internal improvement or otherwise, to which public faith is not already pledged, and which, not materially affecting the war now before us, may constitute a charge either upon the credit or means of the country.

Mr. ARNOLD. I propose to debate the resolution.

The SPEAKER. The gentleman from Wisconsin has moved the previous question.

Mr. MORRILL. Is it in order to ask for a division of the resolution, letting it end at the close of the first paragraph?

The SPEAKER. The Chair thinks it is susceptible of division.

Mr. DAWES. If the previous question be not seconded, the resolution will be open to debate.

The SPEAKER. The gentleman from Illinois [Mr. ARNOLD] has given notice of his intention to debate it.

The previous question was not seconded; there being, on a division—ayes 34, noes 67.

The SPEAKER. The resolution goes over, under the rule.

Mr. STEVENS. I would like to offer an amendment to the effect that "therefore each member of this House shall pay fifty dollars to the Sanitary Commission." [Laughter.]

The SPEAKER. That amendment will be in order when the resolution comes before the House.

COMMUTATION MONEY.

Mr. ELDRIDGE submitted the following resolution:

Resolved, That the Secretary of War be, and he is hereby, required to furnish to this House information as to the amount of moneys received up to this time for commutation by drafted men; also what disposition has been made of said moneys. If substitutes have been purchased for drafted men, how many; where and who have been procured as such substitutes; what sum has been paid for each, and whether for white or black, and how much for each.

The SPEAKER. This being a resolution calling on one of the Executive Departments for information requires unanimous consent to be considered.

Many MEMBERS objected.

The SPEAKER. It will lie over for one day.

COLORED TROOPS.

Mr. BROWN, of Wisconsin, submitted the following resolution:

Resolved, That the Secretary of War be directed to communicate to this House: 1. The number of regiments of negro troops already enlisted, the time when each regiment was organized, and the number of privates in each regiment. 2. The amount paid for bounties, pay, and equipments of each regiment, and all other sums paid out in connection with their organization. 3. In what battles negro regiments have been engaged, and what regiments have been so engaged, and how many belonging to such regiments have been killed and how many wounded in such battles, discriminating between the different battles.

Objection was made; and the resolution was laid over for one day, under the rules.

THANKS TO MAJOR GENERAL W. T. SHERMAN.

Mr. COBB, on leave, introduced a joint resolution tendering the thanks of Congress to Major General W. T. Sherman; which was read a first and second time.

Mr. COBB demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ARREST OF CONSUL GENERAL.

Mr. HIGBY submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to communicate to this House all information in

the State Department touching the arrest of our consul general to the British North American provinces; and all official communications touching Canadian commerce that have been made by the Colonial Secretary or other Canadian or British officer since the 1st of November last to our Government.

INDIAN AFFAIRS IN CALIFORNIA.

Mr. SHANNON presented joint resolutions of the Legislature of California relative to Indian affairs; which were referred to the Committee on Indian Affairs, and ordered to be printed.

FREEDMEN.

Mr. WINDOM submitted the following resolution; on which he demanded the previous question:

Whereas James E. Yeatman, president of the western sanitary commission, who has recently visited the plantations and camps of the freedmen along the Mississippi, has, in reporting his observations of the same, made the following statements, namely: Dr. Littlefield, who is the physician of the Infirmary Farms, is located at the Savage place, where he has established a freedmen's hospital. He appears to take a very deep interest in this people, and is desirous to aid in improving their condition. He reports he has to furnish medicines and attendance to many of those on leased plantations, especially to those on the places leased by one man who had leased five plantations, whose negroes are greatly neglected and poorly provided for. The testimony of quite a number of persons fully corroborated this statement. One of the freedmen, Henson Jackson, working at Wilton's plantation, said that they got corn wherever they can find it on abandoned plantations; that they frequently have to go as far as Texas Bayou; that he has been without bread for days; that four pounds of meat per week is all that is allowed him; that he pays for his flour, and has worked since April without receiving any pay or clothing whatever; that he only receives tickets for actual day's work, to be paid when the crop is sold. Others from the same farm testified to the same thing, and laborers from other plantations gave similar testimony. None received molasses, rice, or beans, and hominy only when they choose to make it themselves. The poor negroes are everywhere greatly depressed at their condition. They all testify that if they were only paid their little wages as they earn them, so that they could purchase clothing, and were furnished with the provisions promised, they could stand it; but to work and get poorly paid, poorly fed, and not doctored when sick, is more than they can endure. Among the thousands whom I questioned none showed the least unwillingness to work. If they could only be paid fair wages they would be contented and happy. They do not realize that they are free men: Therefore,

Resolved, That the committee on emancipation be instructed to inquire what, if any, legislation is necessary for the relief and proper management of said freedmen; and that said committee be authorized to report by bill or otherwise.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

THE REBELLION.

Mr. BLAIR, of West Virginia, submitted the following resolutions; on which he demanded the previous question:

Whereas the present deplorable civil war was inaugurated and is still carried on by a few desperate but daring men who, without any cause whatever, have not only filled the land with widows and orphans and caused almost untold millions of treasure to be spent, but have put in peril the very life of that Government which never deprived them of one solitary right, but which was so mild and beneficent it was only known by the blessings it conferred. And whereas Jefferson Davis, the chief of rebels, is reported to have said in a speech delivered in Jackson, Mississippi, in December, 1863: "My only wonder is that we consented to live so long a time in association with such miscreants (referring to the people of the North) and have loved a Government rotten to the core. Were it ever to be proposed again to enter into a union with such a people I could no more consent to do it than to trust myself in a den of thieves." And whereas this same high official in the great synagogue of freedom has repeatedly since, in his messages to the rebel congress utterly repudiated the idea of ever ceasing his wicked designs and returning to his allegiance to the Government, whose Constitution and laws he has trampled under foot; and has also declared that no compromise would be entertained by him, or those he represents, that did not secure to the States in rebellion their independence and final separation from the United States. And whereas Alexander H. Stephens, the vice president of the so-called southern confederacy, is reported to have said in a speech delivered in the month of July, 1863, at Charlotte, North Carolina, "As for reconstruction, such a thing was impossible; such an idea must not be tolerated for an instant. Reconstruction would not end the war, but would produce a more horrible war than that in which we are now engaged. The only terms on which we can obtain permanent peace is final and complete separation from the North. Rather than submit to anything short of that, let us all resolve to die like men worthy of freedom." And whereas John Letcher, in one of his messages to the rebel legislature of the State of Virginia, declared, "The alliance between us is dissolved, (meaning between the United States and the southern States,) never I trust to be renewed, at any time, under any conceivable state of circumstances." And whereas the Richmond Enquirer, one of the organs and advocates of this imaginary southern confederacy, in its issue of January 9, 1863, says, "Separation is inevitable. War has failed to prevent it. Peace cannot stop it. An armistice with propositions for reconstruction by constitutional amendments of conventions of States would very soon reveal the fact that separation was final; and, so far

as one generation can speak for its successors, it is eternal." And whereas the Richmond Dispatch of January 10, 1863, another organ of the leaders of this wanton and unprovoked rebellion, said in response to a peace and reunion speech, delivered in New York by the editor of the Express, "That we assure him that the people of the confederate States would infinitely prefer being the vassals of France or England; nay, they would prefer to be serfs of Russia, to becoming in any manner whatever associated politically or otherwise with the Yankee States." And further, "that President Davis expressed the sentiment of the entire confederacy in his speech the other night, (in Richmond,) when he said 'the people would sooner unite with a nation of hyenas than with the detestable Yankee nation. Anything but that. English colonization, French vassalage, Russian serfdom—all, all are preferable to any association with the Yankees.'" And whereas the Richmond Sentinel, still another advocate of this new-fledged confederacy, in its comments on the proceedings of what is known as the Frank Pierce meeting, held at Concord, New Hampshire, on the 4th day of July, 1863, says, "Do the New Hampshire Democrats suppose for one moment that we could so much as think of a reunion with such a people? Rather tell one to be wedded to a corpse; rather join hands with the fiend from the pit. The blood of many thousands of martyrs is between us. A thousand feelings of horror repel the idea of a renewal of affection." And whereas the Richmond Whig, another mouthpiece of treason and of crime, in its issue of the 10th of January, 1863, speaking of those who are opposed to breaking up the Union bequeathed to them by their fathers, says, "They are by nature menials, and fitted only for menial duties. They are in open and flagrant insurrection against their natural lords and masters, the gentlemen of the South. In the exercise of their assumed privileges they deport themselves with all the extravagances, the insolence, the cruelty, the cowardice and love of rapine, which have ever characterized the revolt of slaves. The former leniency of their masters only serves to aggravate the ferocity of their nature. When they are again reduced to subjection, and taught to know their place, we must take care to put such trammels about them that they will never have an opportunity to play their tricks again." It is therefore,

1. *Resolved*, That any attempt on the part of the Government of the United States to conciliate the leaders of the present rebellion, or compromise the questions involved, would be but an attempt on the one hand to rob the gallows of its own, and on the other to humiliate and bring into utter contempt this Government in the estimation of the civilized world.

2. *Resolved*, That every State which has ever been is still a State in the Union, and that when this rebellion shall have been put down each of the so-called seceding States will have the same rights, privileges, and immunities under the Constitution as any one of the loyal States, except so far as the holding of African slaves in bondage is affected by the President's proclamation of the 1st of January, 1863, the action of Congress on the subject, or the events of the war.

3. *Resolved*, That this House utterly repudiate the doctrine advanced by some, that the so-called seceding States have ceased to be States of and in the Union, and have become Territories thereof, or stand in the relation of foreign Powers at war therewith.

During the reading of the proposition, Mr. MALLORY said: Mr. Speaker, is there no rule excluding such resolutions on account of their extreme length?

The SPEAKER. If there be any such rule the gentleman will point it out.

Mr. MALLORY. I ask the Chair for information.

The SPEAKER. The Chair is not aware of any which will affect lengthy resolutions, except the hour rule. [Laughter.]

Mr. MALLORY. Watch carefully and see whether it does not occupy more than an hour.

Mr. W. J. ALLEN. Is it in order to offer a resolution with a stump speech in the body of it?

Mr. GRINNELL. If gentlemen wish them left out of the resolution I ask that they have privilege to insert the extracts in their speeches.

The SPEAKER. The resolution is in order.

Mr. MILLER, of Pennsylvania. Is it in order to have the preamble reprinted?

The SPEAKER. Not now.

Mr. ANCONA. I move that it be laid upon the table.

The SPEAKER. The resolution is being reported for information. Gentlemen of the House have the right to know what it is they are to lay upon the table.

Mr. ELDRIDGE. Is it proper to insert in a resolution speeches of rebels who have seceded from the United States?

The SPEAKER. The Chair is not aware of any rule that prevents it.

The resolution was then read through.

Mr. HOLMAN. I ask that the proposition be divided.

Mr. COX. I move that it be laid upon the table. It is balderdash.

Mr. STEVENS. I suggest to the gentleman to withdraw that motion.

Mr. COX. I withdraw it.

Mr. ROGERS. I renew it.

The previous question was not seconded.

Mr. STEVENS. I propose to debate the resolution.

The resolution was then laid over, under the rules.

PROSECUTION OF THE WAR.

Mr. BROWN, of West Virginia, introduced the following resolution, upon which he demanded the previous question:

Whereas our beloved country, our highly cherished institutions, Constitution, and Union of the States are all imperiled by a causeless and wicked rebellion:

Be it therefore resolved, That it is the duty of every loyal citizen to give to the Government, and to the agents in its employ, both in the cabinet and in the field, all the legitimate aid and comfort in his power in their efforts to put down such rebellion.

Resolved, That, as the rebels began the war, we will prosecute it until the last insurgent is disarmed and the authority of the United States acknowledged over every foot of ground rightfully belonging to the Republic.

Resolved, That in the prosecution of the war we will use all the military power of the Government, but will combine with it all the means of conciliation calculated to give to the Government and country an honorable and lasting peace.

Resolved, That it is the duty of the Government, so far as it is in its power, to give equal protection to all loyal citizens without reference to their locality, whether residing within the seceded or loyal States; and one of the strong incentives to a vigorous prosecution of the war is to rescue our loyal brethren of the rebellious States from the domination of a military despotism.

The previous question was not seconded.

Mr. STEVENS. I propose to debate the resolution.

The SPEAKER. Then the resolution goes over, under the rule.

PAY OF CADETS.

Mr. WHALEY introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be requested to inquire into the expediency of increasing the pay of the cadets at the Military Academy at West Point; and to report by bill or otherwise.

EXPENSES AT PORT ANGELOS.

Mr. COLE, of Washington, introduced the following resolution:

Resolved, That the Secretary of the Treasury be directed to furnish this House with a statement of the amount of money paid out of the Treasury of the United States to Victor Smith, or other parties, in liquidation of donation or preemption claims, building or rent of custom-house, or other expenses connected therewith, at Port Angeles, Washington Territory.

Mr. WASHBURN, of Illinois. I move that the resolution be referred to the Committee on Commerce.

The motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The call of States for resolutions having been concluded, resolutions calling upon the Secretaries for information, and which have been laid over heretofore under the rule, are next in order. The first resolution is one presented by the gentleman from Maine [Mr. BLAINE] on the 7th of January last, directing the Secretary of the Treasury to report the amount of debt incurred in the several States in their efforts in suppressing the rebellion.

Mr. DAWES. I desire to inform the House that I am anxious to call up to-day the Louisiana election case, which was partly finished on a former day, and then postponed for other business.

Mr. SCHENCK. I would say to the gentleman that the morning hour will expire in five minutes, when I desire that the House shall proceed to the consideration of the conscription law.

Mr. COX. I call for the regular order of business. I hope the gentleman from Massachusetts will not press his matter until this order of business is disposed of, as there are several resolutions on the Calendar calling for information, and it will consume but a few moments to dispose of them.

WAR DEBTS INCURRED BY STATES.

The SPEAKER stated the first business in order to be the consideration of the following resolution, reported by the gentleman from Maine [Mr. BLAINE] on the 7th of January:

Resolved, That the Secretary of the Treasury be directed to ascertain and report the amount of debt incurred in the several States in their efforts to aid in suppressing the rebellion, and that in the judgment of this House all debts legitimately and necessarily contracted for this purpose should ultimately be assumed and liquidated by the General Government.

Mr. RICE, of Maine. I demand the previous question.

Mr. WASHBURN, of Illinois. I hope the previous question will not be seconded. I think the resolution ought to be debated.

Mr. BOUTWELL. Is an amendment in order?

The SPEAKER. Not unless the demand for the previous question is withdrawn.

Mr. BOUTWELL. I desire to move to amend by striking out the last clause of the resolution.

Mr. RICE, of Maine. I withdraw my demand for the previous question.

Mr. WASHBURN, of Illinois. I propose to debate the resolution.

Mr. RICE, of Maine. My colleague who introduced the resolution is not present, but I understand he desires that the resolution shall go over to another day.

No objection being made, the resolution was laid over until another day.

UNITED STATES TREASURY NOTES.

The next resolution in order was the following, introduced by Mr. SCOFIELD on January 7, and laid over from that day:

Resolved, That the Secretary of the Treasury is hereby requested to inform the House whether under existing legislation the seven-thirty United States Treasury notes, due August 19 and October 1, 1864, will be paid in coin of the United States; and also whether any additional legislation is necessary to make the interest and principal of the twenty-year bonds, into which the seven-thirty United States notes are convertible, payable in coin.

Mr. SCHENCK. The morning hour having expired, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. DAWES. I want to suggest to the gentleman from Ohio that the Louisiana election case was partially finished a week ago yesterday, and was then postponed for other business. I yielded to that arrangement then because I thought the importance of the bills which the gentleman himself had in charge was sufficient to justify it. The claimant from Louisiana has partly finished his speech, and I suggest to the gentleman from Ohio that he yield long enough to allow the claimant to conclude his remarks, when I will call the previous question and take the vote. Although I desired to say some things in reply to what has already been said on that matter, I will refrain from any remarks myself. I will say, further, that it is highly inconvenient for the gentleman from Louisiana to remain here longer.

Mr. SCHENCK. I would yield almost anything as a matter of courtesy, but I think the public interest requires that we should go on with the consideration of the enrollment bill.

Mr. W. J. ALLEN. I ask the permission of the gentleman from Ohio to introduce a resolution calling for information, and having no political reference.

Mr. SCHENCK. I must decline.

EXECUTIVE COMMUNICATIONS, ETC.

The SPEAKER, by unanimous consent, laid before the House a communication from the chief justice of the Territory of Dakota, transmitting the report of the board of canvassers of that Territory relative to the contested election from that Territory; which was referred to the Committee of Elections.

Also, a communication from the Secretary of the Interior, transmitting a statement of the balances of appropriations upon the books of the Treasury to the credit of his Department on the 1st of July, 1863; also the amount of appropriations by Congress for the fiscal year ending 30th June, 1863, and the balances remaining in the Treasury at the last named date; which was referred to the Committee on the Expenses in the Interior Department, and ordered to be printed.

EXPENSES OF THE INTERIOR DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a statement of the contingent expenses of his Department for the fiscal year ending June 30, 1863; which was referred to the Committee on the Expenditures of the Interior Department, and ordered to be printed.

CLERKS IN INTERIOR DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior transmitting a list of the clerks in his Department, the time they have been employed, and the amount paid to each during the

fiscal year ending December 30, 1863; which was laid upon the table, and ordered to be printed.

CONSCRIPTION BILL.

The question was then taken on Mr. SCHENCK's motion, and it was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The CHAIRMAN stated the question to be upon the amendment offered by the gentleman from Maryland [Mr. DAVIS] to the amendment offered by the gentleman from Ohio, [Mr. GARFIELD.]

Mr. DAVIS, of Maryland. I have modified my amendment to the amendment, and I ask the Clerk to read it as modified.

The Clerk read, as follows:

No one shall be entitled to pay commutation money except ministers actually in charge of some religious congregation; men having a wife or child depending on them for support, and not having an income of \$1,200 independent of their industry; members of the religious Society of Friends, or other religious denominations conscientiously opposed to bearing arms. Any drafted man on whom a parent, wife, child, sister, or brother may depend for support shall be allowed for each dependent ten dollars a month, not exceeding \$500 in all, payable directly to such dependent or the guardian or person charged with the care of such dependent, and not subject to the control of the drafted man.

The question was taken on the amendment to the amendment, and it was disagreed to.

The question recurred upon Mr. GARFIELD's amendment to strike out section five of the Senate bill, and insert in lieu thereof the following:

And be it further enacted, That any person drafted into the military service of the United States may, before the time fixed for his appearance at the draft rendezvous, furnish an acceptable substitute, subject to such rules and regulations as may be prescribed by the Secretary of War. If such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted; and if such substitute is liable to draft, the name of the person furnishing him shall be liable to draft, in filling future quotas. And if any drafted person shall hereafter pay money for the procuration of a substitute, under the provision of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft in filling that quota, and his name shall be retained on the roll in filling future quotas; but in no instance shall the exemption of any person on account of his payment of commutation money for the procuration of a substitute extend beyond one year; but at the end of one year in every such case the name of any person so exempted shall be enrolled again, if not before returned to the enrollment list under the provisions of this section.

Mr. SMITHERS. I desire to offer an amendment to the amendment of the gentleman from Ohio, and I offer it with the concurrence of the Military Committee.

The Clerk read the amendment, as follows:

Amend section six in line eleven by inserting after the word "quotas" as part of the same sentence, "but if any substitute would have become liable to draft if he were not in military service, then the person furnishing him shall, from the time such substitute would have so become liable, become and be liable to draft in filling any quota thereafter to be filled."

Mr. SMITHERS. I will state briefly that the object of this amendment is to qualify the first clause of the section, so as to provide that if a substitute is not liable to draft the person furnishing him shall be exempt from draft during the time for which the substitute may be exempt, not exceeding the term for which he was drafted. It may be that a substitute is not liable to draft at the time he becomes a substitute, but he may become so afterwards. The object of my amendment is to make his principal liable to serve from the time when the substitute would have become liable. For instance, a substitute may be obtained who is only nineteen years of age, and he would soon become liable to draft. The object of my amendment is to make the principal, in such a case, liable after his substitute shall have become liable to military service.

Mr. STEVENS. I call the attention of the gentleman from Delaware to the fact that the fifth section already contains that provision.

Mr. SMITHERS. I will say to the gentleman that I have no doubt myself that that would be the legal construction; but inasmuch as this bill is to be enforced by persons who are not lawyers, I think it well to make it so specific that there can be no mistake.

Mr. GARFIELD. Mr. Chairman, that was

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the question I was about to propound to the gentleman from Delaware. I know that the clause of the section which we are now considering—from the sixth line to the eleventh—was drafted for that very purpose, and I think it accomplishes it very plainly.

Mr. SMITHERS. My amendment is offered for the sake of certainty.

The question being on the amendment to the amendment, tellers were ordered; and Messrs. SMITHERS, and STEELE of New York, were appointed.

The committee divided; and the tellers reported—yes 29, noes 71.

So the amendment to the amendment was rejected.

The question recurred on Mr. GARFIELD's amendment.

Mr. GARFIELD. I move to amend the amendment by striking out the last two words. I do this for the purpose of saying, in a sentence or two, what I said on the last occasion when we had this question before us. The amendments made to the section of the substitute bill are so numerous that they have cut out most of the differences between it and the section in place of which we desire to put it. But still there are two differences, and in voting for the substitute section we will vote for or against these two differences. I will state them briefly.

The committee will notice, in the sixth section of the substitute, these words: "before the time fixed for his appearance at the draft rendezvous." These words do not appear in the section of the Senate bill which we are considering. The Senate bill provides that any person drafted into the military service of the United States may furnish an acceptable substitute; but it does not say when he must furnish him. It does not limit him in any way. The Committee on Military Affairs thought it best he should be limited, and that he should be required to furnish his substitute some time before the day that he was summoned to appear at the draft rendezvous to do duty. That line we put in to limit the time within which the person drafted is to be permitted to furnish a substitute. We thought it best to do so, in order that every man may know that if he furnishes a substitute at all he must do it at or before the time he is to appear at the draft rendezvous for duty.

Mr. PIKE. I suggest to the gentleman from Ohio that those words may be added to the Senate section.

Mr. GARFIELD. There is one other difference. We have changed the language in the Senate bill in another respect. The Senate bill says that the person furnishing a substitute shall be liable on future calls.

Throughout that bill the words "calls" is used. We thought that word too indefinite. In the present law the word "draft" is used. A man shall be liable or shall not be liable, as the case may be, on future "drafts." The interpretation given by the Judge Advocate General, the Provost Marshal General, and the Solicitor of the War Department—and those interpretations have been numerous, following each other almost at the rate of one a week—have held the word "draft" to mean something quite different from the meaning which Congress attached to it.

It was found to be an unfortunate choice of a word. Some thought that the word "draft" merely applied to the drawing of that day, some thought that it applied to all the drafts made under a certain call. The Senate used in this bill the word "call" instead of the word "draft," providing that persons shall or shall not be liable to any future "call." It seemed to the Committee on Military Affairs that the word "call" was equally an unfortunate expression to make use of. It may mean the President's call for a quota, or it may mean the call of the provost marshal. We have, therefore, substituted for the word "call" the word "quota," and in going over the bill we have found it necessary to adapt it to these general changes. I do not care particularly whether the Senate section be changed or the House sec-

tion adopted; but it seems to me that we would save time by adopting the substitute. I withdraw the amendment to the amendment.

Mr. SMITHERS. I move to amend the amendment by inserting after the word "appearance" the words "for duty;" so that it shall read:

That any person drafted into the military service of the United States may, before the time fixed for his appearance for duty at the draft rendezvous, &c.

Mr. GARFIELD. I accept that.

The amendment to the amendment was agreed to. The question recurred on Mr. GARFIELD's amendment, and, on a division, it was agreed to.

The sixth section was read, as follows:

Sec. 6. And be it further enacted, That the commutation money paid by persons drafted in any congressional district shall be applied by the War Department for the procurement of substitutes, which substitutes shall be credited to that district in filling its quota. And if the quota of such district shall not then be full a further draft shall be made in said district, according to the provisions of this act and the act to which this is an amendment, and like proceedings had until the quota of such district shall be filled. But this section shall not be construed to affect in any way the commutation money paid under section nineteen of this act: Provided, That colored troops enlisted and mustered into the service of the United States in any State shall not be credited upon the quota of any other State. And the bounty, pay, or expense of said enlistment shall not be paid out of said commutation fund.

Mr. SCHENCK. I move to strike out the whole of that section. In regard to the first five lines relating to the crediting of the commutation money, I send a communication from the Provost Marshal General, which expresses the opinion of the committee on that subject.

The Clerk read, as follows:

"Sir: I respectfully ask your attention to section six of Senate bill 38, to amend the enrollment act.

"The first five lines of the section will result in a double credit being given to certain districts. We credit a district with a man for every \$300 paid by persons drafted in it, and if, as required by section eight of the act named above, we also credit the district with the man procured with the \$300, a double credit will be given. It is true that this may be avoided by not crediting the district with men who pay commutation money, but this would not agree with the interpretation given by the Government to the present law and to the late practice, and would probably produce dissatisfaction. In addition to this, it will be exceedingly difficult, and will add greatly to the labor of this office, to keep the accounts with each district necessary to carry out the provisions of the section referred to."

Mr. SCHENCK. The objection of the Provost Marshal General to that portion of the section is, that by crediting the \$300 commutation money paid and also the substitute obtained, the Government gives two credits while it gets only one man.

From the fifth to the ninth lines of the section, the clause relating to further drafts has been provided for elsewhere by the House committee. We propose to move to add it to the third section of the substitute which we shall propose.

As to the remaining portion of the section, it seems to me, as it did to the committee of the House, to be entirely unnecessary. The portion of the nineteenth section of the Senate bill to which reference is made in the latter part of this sixth section is that which relates to the exemption of persons on account of conscientious scruples, and provides that where drafted they "shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of \$400 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of sick and wounded soldiers; and such drafted persons shall then be exempted from draft during the time for which they shall have been drafted."

They have, sir, without any such provision of law, the right to such exemption upon paying their commutation, whether it be \$300 as the House committee propose, or \$400 as the Senate bill provides. That portion of the section which gives to this class of persons, when drafted, the right to be employed in hospitals, &c., it seemed to the committee to be proper to retain, and they have therefore directed to have embodied in their substitute the first portion of the nineteenth section down to and including the word "men" in the ninth line. The remaining portion in relation to

paying the commutation we have deemed entirely unnecessary, and we propose to strike it out.

Then again the clause of section six, "that colored troops enlisted and mustered into the service of the United States in any State shall not be credited upon the quota of any other State," is entirely unnecessary. Under the general provisions of the bill every one drafted and mustered into the United States-service from any State must be credited not only to that State but to the district, county, and even the township or ward of a city in which he shall be obtained. I suppose that but for some jealousy in regard to these colored troops this provision would never have been inserted. There is, however, no distinction whatever made in this respect. The committee have, therefore, considered this clause as entirely foreign to the bill, and therefore propose that it shall be stricken out. The latter portion of the proviso is precisely as the law now stands, and is therefore unnecessary. We propose, therefore, to strike out the whole of the sixth section, and to incorporate the single clause to which I have referred in the substitute, as we have done in the second section.

Mr. ELIOT. Is it in order to move to amend the original text of the section before the vote is taken on striking it out?

The CHAIRMAN. It is.

Mr. ELIOT. I move to amend the sixth section by striking out the first five lines, and inserting in lieu of them the following:

That the commutation money paid by persons drafted in any congressional district shall be credited and applied by the War Department as now provided by law.

If the motion of the chairman of the Committee on Military Affairs to strike out the whole section shall prevail this amendment, if adopted, will of course go with it. The object of the amendment is to perfect the original section. If it be stricken out no harm will be done, but if, on the contrary, the House should prefer to retain the section as it is, the amendment which I offer is necessary, in order to make the section conform to the existing law.

If the Clerk will be kind enough to read the amendment again I will call the attention of the chairman of the Committee on Military Affairs to it.

The amendment was again read.

Mr. ELIOT. The objection to the present form of the section is this, that in the judgment of the Provost Marshal General there will be a double credit. That objection rests upon the construction which has heretofore been given to the law as it now stands; that is to say, it has been construed that when the commutation money has been paid the credit shall be at once given to the person paying it. Now the law provides that the district shall be credited, and the objection is made that if these two credits be given there will be a double credit for the same commutation. As the law now stands, as soon as the money is paid it goes into the Treasury by virtue of a resolution passed during this session of Congress. It goes directly into the Treasury of the United States, and it is impossible to give credit to any district. It is impossible to apply the money in any particular case. The amendment is that when commutation money is paid it shall be credited as the law now requires; that is to say, it will go into the Treasury, and as the law is now, credit will be given to the party paying the money.

Mr. SCHENCK. I propose to strike out that part of the sixth section. The gentleman proposes to strike out that section and to insert that the law shall stand as it now is. If we strike out that part of the sixth section, the law will stand as it now is; therefore the gentleman's amendment is not necessary.

Mr. ELIOT. One word in reply to the chairman of the Committee on Military Affairs. If the section be stricken out, the consequence he suggests will follow; but if the House shall retain the section, then it is desirable that my amendment shall be adopted. That is all. I want to perfect the section in case it shall be retained.

Mr. SCHENCK. If the gentleman from Mas-

sachusetts will withdraw his amendment, I will move to strike out the first sentence of the section.

Mr. ELIOT. I withdraw my amendment to the amendment.

Mr. SCHENCK. I modify my amendment so as to strike out the following:

That the commutation money paid by persons drafted in any congressional district shall be applied by the War Department for the procurement of substitutes, which substitutes shall be credited to that district in filling its quota.

Mr. Chairman, I propose to leave the law where it is now. I think that the law is better left where it is by saying nothing about it than by any legislation cumulative of the law.

Mr. STEVENS. I do not believe in the construction given by the Provost Marshal General, who seems to me to be a bad lawyer. I do not believe that this bill would require more than one credit. I move to add to what is proposed to be stricken out the words, "and shall be credited to no other district." I move to perfect the words proposed to be stricken out.

Mr. KELLOGG, of Michigan. I have a word to say in reference to those first five lines. I am assured by the Provost Marshal General that it will require an additional number of clerks, at least fifty, to do the work of the Department should the first five lines be retained. I hope therefore that the whole section will be stricken out. I can see no benefit to result from it. The business of the Department will be increased to such an extent that fifty extra clerks will be required, and perhaps one hundred.

Mr. STEVENS's amendment to the amendment was adopted.

The question recurred on Mr. SCHENCK's amendment as amended.

The committee divided; and there were—ayes 44, noes 56.

Mr. FARNSWORTH demanded tellers.

Tellers were ordered; and Messrs. FARNSWORTH and CLAY were appointed.

The amendment was rejected; the tellers having reported—ayes 50, noes 60.

Mr. ELIOT. I understand that the amendment which proposed to strike out the first five lines of section six is lost. I move now to amend by striking out those lines, and inserting in lieu thereof the following:

That the commutation money paid by persons drafted in any congressional district shall be credited and applied by the War Department as now provided by law.

Mr. STEVENS. That is precisely as the law now stands. The law is just as the amendment would make it.

Mr. ELIOT. I do not understand it so at all. The amendment was not agreed to.

Mr. STEVENS. I move to amend by adding at the end of section six the following:

All male able-bodied persons of African descent, resident in the United States, whether citizens or not, between the ages of eighteen and forty-five years, shall be enrolled according to the provisions of the act to which this is a supplement, and form a part of the national forces of the United States.

The practice of the President and the officers of the different Departments now amounts to what this amendment provides. They do take all able-bodied colored men, whether under any particular law or not I am not able to say. I wish to legalize what has been done, and enable them to enroll all able-bodied persons in the United States, whether they be black or white, in order that they may form a part of the national forces and be subject to draft with the others.

Mr. W. J. ALLEN. I would inquire of the gentleman from Pennsylvania whether his amendment places colored soldiers upon an equal footing in every respect with white soldiers?

Mr. STEVENS. It places him, as to liability to be drafted, upon the same footing with white persons.

The amendment was agreed to.

Mr. MALLORY. I would like to inquire of my friend from Pennsylvania, whose amendment has just been adopted, whether he looks upon his amendment as having the scope and effect of enrolling in all the loyal States of the Union all the slaves, and of having them drafted without compensating their owners when they shall be taken from them?

Mr. STEVENS. I will answer the gentleman if it is in order.

The CHAIRMAN. No further debate upon that matter is in order.

Mr. DAWSON. I move to amend the sixth section by adding thereto the following proviso:

Provided, That in ascertaining the quota of troops hereafter to be raised by conscription a credit shall be given to the States and counties for their citizens who shall have enlisted in the military organizations of other States, the same to be ascertained by the Secretary of War.

In reference to this amendment, I merely wish to say that at the commencement of the rebellion a number of counties in the western States, and several counties in western Pennsylvania, sent a large number of volunteer troops into Western Virginia, and for whom no credit has been given to those various counties. The object of the amendment is to secure to those States and counties the credit to which they are entitled. The object of the proposition is manifestly correct.

Mr. GARFIELD. The Committee on Military Affairs had that matter under consideration, and they felt that there was force in the reasons urged by the gentleman from Pennsylvania. There is not a State from which a large number of persons have not gone and enlisted in the military organizations of neighboring States. Especially has this been the case in Pennsylvania and Ohio, and other States which lie upon the borders of Western Virginia and Kentucky.

But it has been found that it will be difficult, and indeed quite impossible, to adjust the account of the States if we attempt to carry out this principle. In the first place, we shall have to prove that the parties have not changed their residences. We should have questions of difference between contiguous States. Upon a careful consideration of that matter we found that more harm would be done to the Government by attempting to change this matter than by allowing it to remain as it is.

Mr. DAWSON. The question is so important that I trust the committee will not reject it upon any slight objection, such as is urged by the gentleman from Ohio. My amendment provides that the Secretary of War shall ascertain and determine the question. Now, can there be any such difficulty as that suggested by the gentleman from Ohio which shall outweigh the injustice which is now being perpetrated? The counties of Pennsylvania were patriotic and prompt, and sent large numbers of men from Greene and Fayette counties to fill up the ranks in Western Virginia to resist invasion. Those counties have received no credit for such troops, and the different drafts which have been made since that time have drawn out a large number of the able-bodied men of those counties; and if this bill as it now stands becomes a law, I doubt whether they will be able to furnish any considerable number of troops unless they are credited for those they have already furnished. I trust the committee, therefore, will adopt the amendment.

Mr. SLOAN. Will the gentleman allow me to ask him a question?

Mr. DAWSON. Certainly.

Mr. SLOAN. I would ask the gentleman if these men have not received local bounties in the places where they enlisted; and would it be just to the localities where they have enlisted and received bounties to deprive them of the credit of these men?

Mr. DAWSON. I understand that in no instance have they received local bounties other than contributions from individuals, and in addition to that I may say that the people of those districts have generously contributed to support the families of these absent soldiers.

Mr. BROWN, of West Virginia. I move to strike out the last word of the amendment.

Mr. FARNSWORTH. Is there not an amendment to the amendment already pending?

The CHAIRMAN. There is, and no further amendment and no further debate is in order.

Mr. DAWSON called for tellers on the amendment to the amendment.

Tellers were ordered; and Messrs. DAWSON and BEAMAN were appointed.

The committee divided; and the tellers reported—ayes 58, noes 60.

So the amendment to the amendment was disagreed to.

The question recurred on Mr. SCHENCK's motion to strike out the entire section as amended; and being put, it was agreed to.

Mr. SCHENCK. I move to strike out the seventh section, which is as follows:

SEC. 7. *And be it further enacted*, That the fourteenth section of the act hereby amended shall be amended so as to read as follows: That all drafted persons shall, on arriving at the rendezvous, be carefully inspected by the surgeon of the board, who shall truly report to the board the physical condition of each one; and all persons drafted and claiming exemption from military duty under the second section of said act shall present such claims to the board of enrollment, which board shall be governed in making their decision by the rules prescribed by the Provost Marshal General, under section six of said act.

I care very little whether the section is stricken out or not, but I will state that it is a mere reenactment, almost in precise terms, with a slight alteration which is rather for the worse, of the fourteenth section of the original conscription act. I call the attention of gentlemen to the fourteenth section of the act now in force, which provides that all drafted persons shall, on arriving at the rendezvous, be carefully inspected by the surgeon of the board, who shall truly report to the board the physical condition of each one; and that all persons drafted and claiming exemption from military duty on account of disability or any other cause shall present their claims to be exempted to the board, whose decision shall be final. The Senate bill provides, as a substitute for that section, a simple provision that this thing shall be done under such rules as may be prescribed by the Provost Marshal General. That is now the practice; that is the present understanding of the law. This adds nothing, therefore, to the existing law upon the subject. This section of the Senate bill is a mere reenactment, almost in terms, of the existing law.

The amendment was agreed to.

Mr. HUBBARD, of Iowa. I offer the following to come in as a proviso at the end of the eighth section:

Provided, That when any person subject to military duty has been enrolled in any of the States of the Union, and after such enrollment removes or intends to remove from the district where thus enrolled into another district, and desires to have his enrollment changed he shall procure from the provost marshal of the district where enrolled a certificate of such enrollment, removal, or intention to remove, and file the same with the enrollment board of the district into which he has removed or intends to remove, and upon proving to the satisfaction of such board that he has actually removed into such district, with the bona fide intention of making the same his permanent residence, said board may place his name upon the enrollment of said district, and give him a certificate of such fact, and upon filing the same with the enrollment board of the district where first enrolled his name shall be stricken from the enrollment of such district, and thereafter he shall be liable to draft in the district to which he may have removed: *And provided further*, That such change shall not be made after a call and pending a draft.

Mr. Chairman, I offer that as a proviso to the section. I find on examining this enrollment bill that the enrollment is to be continuous; that it is to continue for a series of years, with such alterations as may be made in the enrollment by the respective enrollment boards.

But I find no provision whatever made in the bill for the removal from one district into another of a person liable to draft. As the bill now stands, the person enrolled must, if drafted, answer that draft in the district where he is enrolled, although at the time of the draft he may reside a thousand miles from the district. I think that some provision should be made for these removals, especially in the western States, where persons are continually removing from one district to another, from one county to another, from one State to another, and I offer this amendment for the purpose of meeting cases of that kind where the removals are bona fide.

Mr. GARFIELD. Some of the members of the Military Committee had designed to prepare such an amendment. I have no objection to this one, inasmuch as it seems to meet the case.

Mr. SCOFIELD. I move to amend the amendment by striking out the last line. I would like to know, Mr. Chairman, what would prevent any man residing in a district which had not furnished its quota or any part of it from removing to a district which had furnished or nearly furnished its quota, thus evading the greater danger of being drafted in the district where he resided. These districts are divided only by a line, and a person liable to be drafted in one district will have only to remove across the line into another district where there is to be no draft. While I think that something ought to be done to provide for bona fide removal it does seem to me that this amendment, unless it be better guarded than it now is, will only produce mischief.

Mr. GARFIELD. If the amendment is liable to that objection it is certainly a grave one. I listened carefully as the amendment was read, but it did not seem to me that it was liable to that objection.

Mr. HUBBARD, of Iowa. I think the amendment is not liable to that objection. The amendment applies only to *bona fide* removals. It provides also that before a person's name shall be stricken from the enrollment lists he shall prove to the satisfaction of the enrollment board that his removal is in good faith.

Mr. SCOTFIELD. The most numerous class on which the draft will fall consists of unmarried men, who, having no local attachments or incumbencies, can pass from one district to another. Gentlemen who represent the State of Pennsylvania know very well that it is customary with young men there to go from one township to another ten days before an election for the purpose of voting under our constitution and laws. There is nothing in this amendment to prevent such young men going for a period of ten days, or twenty days, or for a month, or even for a year, and taking up their residence in a district whose quota is very nearly full, for the purpose of avoiding the greater risk of being drafted in the district where they lived. If this risk could induce, as it did, many young men to go to Canada some years ago, how much stronger will be the temptation for them to remove from one county to another, just across the line, or from one State to another, to avoid liability to the draft in the county or State where they lived?

Mr. SCHENCK. Mr. Chairman, this is not a new idea. It has been discussed in the Committee on Military Affairs. It has been considered there; and the attempt at any legislation on that subject was only abandoned because of a supposed inconvenience that would arise in the effort to execute such a provision of law. It was so considered by the executive officers engaged in applying the law. That seemed to make such an impression on the minds of the committee, that although we considered a proposition of that sort, it was determined not to propose it in the House substitute any more than it is incorporated in the Senate bill. The gentleman from Pennsylvania [Mr. SCOTFIELD] has suggested some of the difficulties that will arise. If an amendment of this kind is to prevail, I hope it will be drawn with very great care, to prevent such almost inevitable difficulties, inconveniences, and wrongs. I thought, at least, to be provided that if a removal take place, it shall be prior to the occurrence of the draft in the district to which the person removes, or after its occurrence in the district from which he removes; otherwise you will find persons who are enrolled at one place waiting until the draft has taken place at another, and then removing there.

But it seems to me that it is only necessary to state these difficulties to show that, although there seems to be an equity in this, yet in its practical application it will be surrounded with a good deal of difficulty, and especially if the amendment is not prepared with a little more precision than I think it has now been in guarding against these difficulties.

Mr. HUBBARD, of Iowa. I am willing that my amendment shall be so modified as to provide that such removals shall not take place pending a draft. In that way I think the objection of the gentleman from Ohio, the chairman of the Committee on Military Affairs, will be obviated.

Mr. KELLOGG, of New York. I suggest to the gentleman from Iowa that he make his modification read, "after a call and pending a draft."

Mr. HUBBARD, of Iowa. I will accept the suggestion of the gentleman, and make my modification conform to it.

Mr. FARNSWORTH. I oppose the amendment offered by the gentleman from Iowa. I hope this amendment and the one to which it is an amendment will not be adopted. I believe that the difficulties in the way of the execution of an amendment of that kind are far greater and will embarrass the operation of the law much more than they will be embarrassed in the execution of the law as it now stands.

Now, sir, in the State of Illinois there will be no draft. I mention this as an illustration. Our quota is already full under the last call for five hundred thousand men. Now, under this amend-

ment, with men living in the adjacent States who do not like to go into the service, how easy will it be, especially such young men, and men without incumbencies, as the gentleman has alluded to, for these men to rush over into the State of Illinois and avoid the draft.

In Iowa, too, the gentleman's own State, there will probably be no draft. Men liable to draft in other States will remove into that State for the purpose of evading the draft; and gentlemen know how easy it is for such men to make it appear that their change of residence has been a real and *bona fide* change. Men who have, as has already been stated, moved over into Canada for the purpose of evading the draft, will all the more readily evade it when they can do it by removing from one district to another, or from one State to another. They will go over for ten days or two weeks, long enough to accomplish their purpose, and then return.

Another objection to this amendment is that it will result in enabling these men removing from one State to another to escape any enrollment or draft at all, even if the draft has not yet taken place in the State to which they remove, or in the State from which they remove.

A man, for instance, removes from New York to Pennsylvania, and when the Pennsylvania enrolling officer comes round, he says to him, "I am not a resident of Pennsylvania. I have only recently come over here, and am going shortly to return," and his name is therefore omitted from the enrollment. But in the State of New York from which he has removed, the enrolling officers, knowing that he has removed to Pennsylvania, have dropped his name from the enrollment. He will be left out altogether under this amendment unless you make it the duty of the provost marshal of the district from which he comes to find out where he has gone, and notify the provost marshal of the district to which he has removed that he has been omitted, so that his name may be included in the enrollment in the State to which he has removed.

The amendment to the amendment was disagreed to.

Mr. MORRIS, of New York. I submit the following amendment:

Page 5, section eight, at the end of line eleven, insert: And said boards of enrollment shall have authority to inquire into any case of alleged fraud in enlistments, with power to send for persons and papers, and authority to suspend the operation of any recruiting officer or agent to await the action or order of superior authority upon the report of said board. And the provost marshals, boards of enrollment, or any member thereof, acting by authority of this act, shall have power to administer oaths and affirmations.

The object I have in view in this amendment, by the first clause of it, is to correct an abuse that is prevalent, at any rate in my locality. Recruiting officers, in order to increase the number of their recruits, have been in the habit of inducing youths under eighteen years of age to enlist, having complied formally with the provisions of the law, without the consent of their parents or guardians. The writ of *habeas corpus* being abolished, or suspended, many youths have been drawn in, and those interested have no redress. They can have no hearing in court.

It is proposed that the boards of enrollment shall have jurisdiction of such cases of fraud, so that they may inquire, and if they find any cases of that kind, suspend the operation of the enlisting officer until the case can be heard. I have known cases of this character. The enlisting officer would induce intoxication first, and then enlistment while in that condition and without the parties having any free volition—an abuse which should be guarded against, although we may need soldiers to march forward in a good cause which we are all in favor of. It seems to me that abuses of this character should be prevented by provisions in this act.

The further clause clothes the members of the board of enrollment with power to administer oaths, which I believe the substitute provides for, and I therefore want it to be provided in the Senate bill. I want to have ingrafted upon the law a provision to enable them to administer oaths.

Both, sir, are eminently proper, and will relieve in many instances where hardship and injustice are done to minors under eighteen years of age.

Mr. GANSON. If the amendment of my colleague permits, where fraud has been practiced upon the board of enrollment, a review of the ac-

tion in such cases, I suggest that he also embrace a provision for a review of the action where fraud is alleged to have been committed against a drafted person.

Mr. MORRIS, of New York. I will state that the amendment is broad enough to cover all cases of alleged fraud. Wherever fraud is charged they may inquire and suspend action.

Mr. GANSON. I only suggest the propriety of giving the drafted person, where fraud has been practiced upon him, the right to review the action of the board upon proof.

Mr. MORRIS, of New York. My object is to insert a provision in reference to frauds practiced by enlisting officers so that they may be corrected.

Mr. DEMING. Mr. Chairman, the committee had the whole matter under consideration. The great objection to the amendment is that it will establish in every congressional district petty United States courts, with the machinery of marshals, &c. In regard to the particular amendment which the gentleman suggests, it will be better to provide in a separate bill for it rather than incorporate it into this general conscription bill. The proposition that these boards shall have power to inquire into all frauds in regard to enlistments you will see at once will open the widest scope for inquiry. It will involve the necessity of sending for persons and papers, and the summoning of witnesses. It will also involve the necessity of providing a table of fees to be paid to the enrolling officers and the witnesses who are to attend these petty United States courts. The Committee on Military Affairs objected to establishing these courts of inquiry in every congressional district, and they unanimously voted against adopting any scheme like that proposed by the amendment of the gentleman from New York.

Mr. SMITHERS. Is the amendment germane to the section?

The CHAIRMAN. The point of order comes too late.

Mr. HOTCHKISS. I move to strike out the last word of the amendment. These courts exist to-day in every congressional district in the Union, yet there seems to be no redress against enrolling officers dragging children into the Army of the United States. It is impossible to get relief. I know of a lad fifteen years old who was dragged from his home and enlisted in the service, and no redress could be obtained by his father, who remained in Washington for weeks. Some provision should be made for these cases.

Mr. GANSON. Let me suggest to the gentleman that it can be done by restoring the writ of *habeas corpus*.

Mr. HOTCHKISS. It can be done in a better way. Let us adopt a provision of law applying to these cases of infants—a provision that need not be abused—that these boards of enrollment in these different districts shall be competent to take charge of this matter.

Mr. MORRIS, of New York. In reply to the remarks made by one gentleman I will say there will be no extra fees paid to the members of these enrollment boards. They are paid salaries, and no extra expenses will accrue from the adoption of this amendment.

Mr. HOTCHKISS. The question of fees will have no weight whatever with me. I am controlled by the question of right and by the outrages which are now being perpetrated. The greed of these enlisting officers to fill up their companies is doing the most serious wrong. My object was to call the attention of the committee to this matter, and if the amendment of the gentleman from New York will cure the evil I shall be satisfied.

Mr. KERNAN. I hope this amendment will not be adopted. The grievance referred to is a very serious one, and there is no opportunity upon the part of a parent whose child has been stolen away, perhaps while in a state of intoxication, to get any redress before the law, to see whether the child shall be held or not. But, however great the grievance is, I am opposed to giving the powers of a court to these boards. Let every person look to his own district and see how these boards are constituted. They are usually purely partisan, as we all know, proceeding and ruling in many districts only in reference to how men shall vote. I suggest that the remedy proposed by my colleague is a practical one. In the States which are loyal; where there is no insurrection; where there are able judges in every neighbor-

hood who can give redress without a particle of expense to the Government, that should be done. We should provide by law that the writ of *habeas corpus* shall not be suspended in communities where there is really no need that it should be suspended. Where there are courts which can investigate these cases summarily and without expense they should be authorized to do so. I hope therefore we will not confer this power of the courts upon the enrollment boards.

Mr. SLOAN. Is the gentleman in favor of that while Judge McCunn is in office?

Mr. KERNAN. I am in favor of it everywhere, where the courts are open, where the laws are enforced, and where there is no insurrection. I am in favor of the regular judges exercising their powers; and although there may be sometimes unworthy judges, like those in Wisconsin, who would not allow their records to be reviewed, I would still stand by the law, and seek my rights under it.

Mr. MORRIS, of New York. I will modify my amendment so as to provide that the suspension shall only be in reference to the act of the recruiting officer in the particular case in hand, and not to suspend its operation generally.

Mr. WASHBURNE, of Illinois. I move to amend the amendment by striking out the last word. I do it for the purpose of asking a question. Will the gentleman explain to me what the effect of his amendment will be upon the existing law, which makes the oath of the recruit conclusive as to his age?

Mr. MORRIS, of New York. I understand that the oath is only conclusive after the recruit is mustered in. This amendment contemplates a remedy after the party has enlisted, but before he is actually mustered into the service of the United States. Under it the father may go before the enrollment board and show that fraud has been practiced upon his infant son in the matter of his enlistment.

Mr. WASHBURNE, of Illinois. The statute provides that after its passage no person shall be enlisted under the age of eighteen years.

Mr. MORRIS, of New York. I am well aware of that fact by reason of half a dozen cases of the most outrageous frauds committed in my district in enlisting persons under that age. I have had occasion to go to the Secretary of War to obtain relief in cases of infants not over fifteen years of age who were dragged into the service by fraud, the parties signing a paper and swearing to it when they had no idea that they were swearing that they were of a certain age. The grossest outrages have been practiced upon boys in order to satisfy the greed of enlisting officers. The object of my amendment is to provide a remedy for this thing. I propose that the writ of *habeas corpus* shall not be suspended in these particular cases, and that is the extent to which I am willing to go.

Mr. WASHBURNE, of Illinois, by unanimous consent, withdrew his amendment to the amendment.

Mr. ELDRIDGE. I move to strike out the last word of the amendment. I move the amendment for the purpose of making a single remark. I am very glad to see this evidence of returning reason on the other side of the House. It always seemed to me that the time would come when they would see the necessity for some tribunal to determine the question of the right of the Government to take into its service every person upon whom they could lay their hands.

I have no doubt that within the knowledge of every man cases as outrageous and as flagrant as those mentioned by the gentleman from New York have occurred. I know an instance in the town from which I come, where an insane man was actually drafted, and when in his frenzy he resisted the officer his friends were unable to convince him that the man was insane. That man, insane as he was, was dragged away from the protection of his friends because there was no power and no tribunal by which his sanity could be determined.

I am glad that a proposition of this kind has come from the other side of the House, but I am opposed to it. The old writ of *habeas corpus*—the writ of liberty—is the one upon which we can all rely for just such protection as the gentleman seeks by the amendment which he proposes.

Mr. Chairman, I hope that gentlemen upon the other side of the House will move to do away

with that order of the President suspending the writ of *habeas corpus* in such cases, and give a chance to try the question whether the man upon whom the Government may lay its hand has a right to protection or not. There can be no danger; it is all nonsense to talk about there being danger; but if there were danger, the same interruption of the Government would occur in case this amendment were adopted as would occur in trying the question under a writ of *habeas corpus*.

I am opposed, therefore, to the amendment proposed by the gentleman. I trust that this matter will bring gentlemen upon the other side of the House back to their senses, and that they will, with us, rely in future upon the old writ of liberty upon which we have heretofore relied.

Mr. FARNSWORTH. I cannot see for the life of me what the good old writ of *habeas corpus* would do to remedy the evil complained of. Congress has passed an act that the oath of the enlisted man shall be conclusive.

Mr. KERNAN. Will the gentleman allow me to make a suggestion?

Mr. FARNSWORTH. Certainly.

Mr. KERNAN. The gentleman is doubtless aware that some judges have held that while Congress could make the oath conclusive as to the party taking it they could not make it conclusive as to his parents or guardian.

Mr. FARNSWORTH. When Congress passes a law that the oath of a person shall be conclusive of a given fact, without any limitation of terms, I do not see why it is not conclusive upon the parents as well as upon the person enlisted. I know that some evils do occur from young men being inveigled into the service by some recruiting officers anxious to fill up their companies, but the trouble universally is that the young man swears that he is eighteen years of age.

Now, I should have no objection to a law requiring every mustering officer to be sure that every man mustered in is over eighteen years of age, or has the written or oral consent of his parents or guardian to enlist; but I do not think it proper to allow these provost marshals to examine into the affairs of every recruiting officer in their districts.

Gentlemen talk a great deal about the suspension of the *habeas corpus*. I never saw a loyal man who was afraid of the suspension of the *habeas corpus* during this war; never. It is only the guilty who flee when no man pursueth.

Now, my own impression is that although the *habeas corpus* in some instances of military arrests would have been useful, in more cases it would have been better for the Government not only to have suspended the *habeas corpus* but to have suspended the *corpus* without the *habeas*. The trouble has been, not that the *habeas corpus* has been suspended in a few instances, but that it has not been suspended in more cases; where one arrest has been made by the Government there should have been fifty.

Mr. ELDRIDGE. I withdraw my amendment to the amendment.

The question recurred on the amendment of Mr. MORRIS, of New York.

Mr. BEAMAN. I move to add after the word "enlistments" the words, "and in all cases of the enlistment of minors under eighteen years of age."

Mr. MORRIS, of New York. I accept that as a modification of my amendment.

Mr. COFFROTH. I move to insert after the words "forty-five," in line ten of section eight, the following:

That the affidavit of two respectable witnesses regularly sworn before a person authorized to administer an oath will be conclusive upon the board as to the age of the drafted or enrolled man.

In the district in Pennsylvania in which I reside a grave difficulty occurred under the draft in 1862. A man in Fulton county, over forty-five years of age, was drafted. He went before the board of enrollment with evidence of the fact. That evidence satisfied the commissioner for the time being, and the man was discharged. He was subsequently arrested as a deserter.

Mr. MORRIS, of New York. I rise to a question of order. I am not quite sure what the proposition is.

The CHAIRMAN. The gentleman from Pennsylvania proposes to amend the text.

Mr. MORRIS, of New York. Then the amend-

ment proposed is not germane to the amendment before the committee.

The CHAIRMAN. It is not proposed as an amendment to the amendment, but as an amendment to the original text, which takes precedence of the amendment offered by the gentleman from New York.

Mr. COFFROTH. The person I speak of was arrested as a deserter. He sued out his writ of *habeas corpus*, and went before the judge of that county. He was discharged from custody on the proof furnished that he was over forty-five years of age. Subsequently the lieutenant in charge of a party for arresting deserters in that county, in disregard of the action of the court, went to this man's house to arrest him again for desertion. In the attempt to do so the officer was shot. The man surrendered himself for trial, and on a fair hearing before a jury of his country he was acquitted.

The amendment which I offer is required to meet such cases.

[Here the hammer fell.]

The question was taken on Mr. COFFROTH's amendment, and it was rejected.

The question recurred on Mr. MORRIS's amendment, and it was rejected.

Mr. MILLER, of New York. I move to amend the eighth section of the Senate bill by adding after the word "therefrom" the words "and all persons whose names have been struck from the rolls on grounds of exemption not allowed or recognized by this bill," so as to make it the duty of boards of enrollment to enroll such persons.

This amendment, Mr. Chairman, proposes to reenroll those whose names have been struck from the roll on grounds of exemption that are not now recognized in the bill. Every member understands that by the bill of last year, which we are amending, exemptions were allowed on grounds that were considered by the Senate and by the Military Committee of this House as insufficient. This amendment proposes that these men shall be reenrolled.

I understand from the report of the Provost Marshal General that this list of exemptions covers nearly seventy thousand men. If these men were justly struck from the rolls no one would propose to put them in again; but the Senate has decided that these were struck from the rolls on grounds that were insufficient, and that is the opinion also of the Committee on Military Affairs in the House.

Now if we can, justly and rightly, and without injury to any one, add some seventy thousand persons to the military force of the country we ought to do so. What injustice would be worked to them by doing so? What have they paid for being exempted? Nothing at all, except the mere trouble and expense of going to the headquarters of the provost marshal of the district and making out their papers. What have they gained? They have been already exempted from one draft. They have gained just so much as you now propose to allow a man to gain by paying his commutation money—\$400 according to the Senate bill, and \$300 according to the amendment. Have they not gained sufficient? Can it work any wrong to them? Not to do this would work wrong to all the other classes. The hardest cases on which these men were exempted were no harder than those of every man who is called away from home and family, and who leaves nothing behind him for their support.

[Here the hammer fell.]

Mr. SCHENCK. The gentleman who has offered this amendment has anticipated the purpose of the committee. I suggest to him, however, to modify the language of it so as to give it more precision. The language which we propose is that all persons who have been exempted under the provisions of the second section of the act to which this is an amendment, but who are not exempted by the provisions of this act, shall be reenrolled.

Mr. MILLER, of New York. I consent to that modification.

Mr. SCHENCK. I will then simply add a remark to what has been said upon the necessity of some amendment of this kind, by calling the attention of the committee to this fact. Among the persons who have been exempted under the provisions of the existing law have been seventy-four thousand under what are known as the humanitarian provisions of the law; that is, persons

who have been exempted because they had aged parents depending upon them for support, or who had a younger brother or sister, or who had motherless children.

Gentlemen who have not the opportunity of examining the record the administrative department of the Government have made in carrying out this law, will be astonished to find that men of wealth, bankers and merchants, men of large incomes, because they have happened to have living with them an aged mother have taken advantage of this provision of the law to accomplish their exemption from the draft. Persons who from some former marriage have children who by the death of that former wife are left motherless; men who, though men of wealth, merchants and bankers, living with those children in luxury, have in many such instances escaped both the draft and the payment of commutation by bringing themselves in this way within the letter of the law. Now, this amendment is to enable the officers of the Government to revise the frauds—or rather I should say wrongs, for having complied with the letter of the law they are not frauds—and to place such men again upon the enrollment list and require them to make new cases out under this law somewhat more stringent in its character.

The amendment was adopted.

Mr. SCHENCK. I now propose to amend further by inserting after the word "persons," in the second line, the words "liable to draft under the provisions of this bill, or of the act to which this is an amendment."

The provisions of this eighth section, as they now stand, would require all persons to be enrolled who have not been enrolled. This is too sweeping, and may be capable of misconstruction and misrepresentation. It evidently points to those only who are liable to enrollment; and to make the language of the section express the object with greater precision, I have offered this amendment.

Mr. GARFIELD. If my colleague will allow me, I will say that I have prepared an amendment in the shape of a substitute for the whole section, embracing the amendments which have already been adopted and embracing also the amendment just offered by the chairman of the Committee on Military Affairs. I desire to have it read, and if it meets the views of the gentleman, I will ask him to accept it in place of that which he has offered. Before having it read, I desire to call the attention of the members of this committee to the differences that occur between it and the printed section. They will discover them by comparing the printed section as it is read.

The Clerk read, as follows:

Strike out section eight and insert as follows:

And be it further enacted, That boards of enrollment shall enroll all persons liable to draft under the provisions of this act and the act to which this is an amendment, whose names may have been omitted by the proper enrolling officers; all persons who shall arrive at the age of twenty years before the draft; all aliens who shall declare their intention to become citizens; all persons discharged from the military or naval service of the United States, who have not been in such service two years during the present war; and all persons who have been exempted under the provisions of the second section of the act to which this is an amendment, but who are not exempted by the provisions of this act; and said boards of enrollment shall release and discharge from draft all persons who, between the time of the enrollment and the draft, shall have arrived at the age of forty-five years, and shall strike the names of such persons from the enrollment.

Mr. GARFIELD. This amendment, as it will be seen, directs the enrolling officers to place on the list all those who may have been improperly omitted, all those who shall arrive at the age of twenty before the draft, all aliens who shall declare their intention to become citizens of the United States, all persons who have been discharged from the military or naval service of the United States without having been in such service as long as two years during the present war, as well as the persons who have been exempted under the second section of the act to which this is an amendment, and who are not exempted by the provisions of this act. It also provides for striking from the rolls such persons as shall have arrived at the age of forty-five years between the time of the enrollment and the draft.

Mr. SCHENCK. As that includes the three or four amendments adopted by the committee as well as that now offered by me, I will withdraw my amendment, and allow my colleague to offer his in place of it.

Mr. GARFIELD. I will now, then, offer the amendment just read. I believe it embraces every amendment which has been offered, acted upon, and carried in committee, and two others. One is that aliens who have declared their intention to become citizens of the United States are to be added to the enrollment list; and the other is the one just offered by my colleague, the chairman of the Military Committee. The section provides for placing on the rolls all such as have not been previously enrolled. Now, we do not want all persons whatever between the ages of twenty and forty-five to be placed upon the list, and this, therefore, restricts them to such as are liable to draft by this act or the act of which this is an amendment.

Mr. MORRIS, of New York. Let me ask the gentleman whether it is provided by the committee in the bill that aliens who have voted although they have not made application for citizenship shall be subject to this draft?

Mr. GARFIELD. That is provided for in another part of the bill. If the committee will notice the language of the Senate bill in regard to persons who have not served two years becoming liable to the draft they will discover that it is unfortunately worded. They say exactly the opposite of what they mean. It is to correct that error that I have moved the amendment now pending.

Mr. GARFIELD's amendment was adopted.

Mr. MILLER, of Pennsylvania. I move to add the following as an additional section to the bill:

That it shall be the duty of the board of enrollment to cause a list of the names of persons enrolled to be published in the newspapers of the district in which the draft is proposed to be made for at least three weeks next preceding the day fixed for the draft, and when a sufficient number is drawn from the wheel or box it shall be the duty of the board to select three respectable citizens living within the district so drafted, to take from the box or wheel the names left therein, make out a certified list of the same, and cause it to be published for the length of time and in the manner fixed for the publication of enrollment list; nor shall any one drafted be compelled to report at rendezvous until the provisions of this section are complied with.

Mr. Chairman, by way of giving a reason for that amendment, I suggest to the committee, so far as the operations of the conscription law have fallen under my observation, that it will obviate one of the most prominent difficulties and objections. A conscription law in a country like ours, put it in the most acceptable shape you can, is apt to fail in giving satisfaction to those upon whom it is intended to operate. My amendment is intended to obviate one of the main difficulties in the operation of the law. I care not what guards you may throw round the draft, without a provision to secure the publication of the names left in the box after the draft has been made, people will never be satisfied that it has been faithfully executed. I make the amendment for the benefit of the boards of enrollment as well as for the people themselves. It is not right or just that these men upon whom these duties are imposed shall be subjected to animadversion and suspicion when they have discharged their duties faithfully; and there is nothing which will prevent that but this provision of my amendment.

Mr. GARFIELD. I oppose the amendment.

The amendment was rejected; there being, on a division—ayes 28, noes 65.

The Clerk read the ninth section, as follows:

SEC. 9. *And be it further enacted, That whenever a mariner or able seaman shall be drafted under the act approved March 3, 1863, entitled "An act for enrolling and calling out the national forces, and for other purposes," he shall have the right within eight days of the notification of such draft, to enlist in the naval service as a seaman, and a certificate that he has enlisted being made out in conformity with regulations which may be prescribed by the Secretary of the Navy, and duly presented to the provost marshal of the district in which such mariner or able seaman shall have been drafted, shall exempt him from such draft: Provided, That the period for which he shall have enlisted into the naval service shall not be less than the period for which he shall have been drafted into the military service: And provided further, That the said certificate shall declare that satisfactory proof has been made before the naval officer issuing the same that the said person so enlisting is a mariner by vocation, or an able seaman.*

Mr. RICE, of Massachusetts. I offer the following to come in at the close of that section:

And any person now in the military service of the United States who shall furnish satisfactory proof that he is a mariner by vocation or an able seaman, may enlist into the Navy under such rules and regulations as may be prescribed by the Secretary of the Navy: *Provided, That such enlistments shall not be for less than the term of his military service, nor for less than one year: Provided further, That the number of transfers shall not exceed ten thousand.*

Mr. SCHENCK. Insert the words "and the Secretary of War."

Mr. RICE, of Massachusetts. I accept that as a modification of my amendment.

Mr. Chairman, I believe that the adoption of that amendment, or something equivalent to it, is absolutely necessary to relieve the Navy of the great embarrassment under which it is at present laboring for want of seamen. The original act, to which the bill now before the committee is an amendment, provided exclusively for the increase of the Army, and contained no provision for supplying the other great arm of the national defense, the Navy. In that act there was no provision exempting from draft persons employed in the Navy of the United States, and seamen when drafted were not allowed to enlist in the Navy if they wished to do so. My amendment is made for this purpose. Seamen drafted will be permitted to enlist in the Navy if they wish to do so, and those who enlist will be credited to the quota of the city or town to which they belong. It is absolutely necessary that there should be an additional provision for transfer of those from the Army who are seamen by vocation. That is necessary, for a large proportion of the seamen of the country have already entered into the military service of the United States, or are employed in the mercantile marine. The operation of the local bounties and the desire to increase the quotas of cities and towns have conspired under this act to drive them nearly all into the Army. It is doubtful whether the number of seamen to supply the present wants of the Navy can be obtained by volunteering and recruiting. Hence it is necessary that some provision of law should be enacted for their transfer from the Army.

It is known that great embarrassment is now experienced to provide the number of seamen to keep our naval vessels afloat. Several have been detained from going to sea by want of men. I am informed that for the several vessels fitting out at the several navy-yards fifteen hundred men will be required, and that there is a large number of men now engaged in the naval service compelled to serve after the expiration of their time, because there are no seamen to replace them if they are discharged. Taking these two classes—those held in the service beyond their time, and those required to supply the vessels fitting out at the navy-yards—there will be needed not less than twenty-five hundred men immediately. I trust there will be no objection to the passage of the amendment.

Mr. SCHENCK. I am very well aware of the necessity of doing something to promote enlistments in the Navy, and we might very well, as far as practicable, take cognizance of that great public want in the bill we are now considering, and which has more immediate reference to the Army. With that view this section, among the rest, was introduced; but I think the gentleman from Massachusetts will himself see, upon reflection, that by adding to the section as it now stands the provisions of his amendment he will be going too far, be treading upon dangerous ground, and be holding out even a premium for the commission of fraud upon the public. It is proposed that any able-bodied seaman or mariner, by vocation, being in the Army, may, upon application, be transferred into the Navy under rules and regulations to be prescribed. What will be the effect of that? A man wanting to go into the Navy would first enlist in the Army and get the local bounty, amounting in many cases to three, four, and five hundred dollars, together with whatever portion of the Government bounty may be paid, and immediately afterwards make his application to be transferred to the Navy, where he would stand his chances for a portion of the prize money. Every one understands that no bounties are offered to sailors because the chances of receiving prize money are considered equivalent to a bounty, the prize money not unfrequently amounting to far more than any bounty that is paid to a soldier.

Now, this amendment offers an inducement to go first into the Army for the military bounty, and then to be transferred to the Navy to take the chances of receiving prize money there. Does it not strike the gentleman that there is this objection to opening the door to fraud in the manner he proposes?

Mr. RICE, of Massachusetts. In reply to the chairman of the Committee on Military Affairs,

I would say that I supposed I had sufficiently guarded the amendment I have offered by inserting a limitation upon the number that might be so transferred, namely, ten thousand, and by the provision that this transfer can only be made under such rules and regulations as may be agreed upon by the Secretary of the Navy in conjunction with the Secretary of War. I suppose they can, in their regulations, make any provision that may be required against any improper transfer.

I think, however, there is some weight in the suggestion made by the gentleman from Ohio in respect to bounties. It is the influence of these public bounties which has induced seamen to enter into the Army in such great numbers instead of enlisting in the Navy; and if those bounties are continued to be offered for entering in the Army, while none are offered for entering the Navy, seamen will continue, to some considerable extent, to enter the Army as soldiers.

With a view to meet the suggestion of the chairman of the Committee on Military Affairs, I am entirely willing to add to my amendment the provision that seamen who have received a bounty on enlisting in the Army shall have the amount of such bounty deducted from any prize money to which they may be entitled. That, I think, will meet the objection of the gentleman. I modify my amendment by adding:

Provided, That any bounty money which a seaman may have received on entering the Army shall, on his being transferred to the Navy, be deducted from any prize money to which such seaman may become entitled.

Mr. SCHENCK. The proviso still does not appear to remove the difficulty which exists. The amount of bounty paid by the Government on enlistment is proportionately small, as it is paid in installments. The principal bounty obtained by those who enlist or reenlist, as the case may be, comes from local corporations, cities, counties, and States.

Mr. RICE, of Massachusetts. Inasmuch as the bill now provides that seamen enlisting in the Navy shall be credited to the cities and towns from which they come, there will be no inducement upon the part of the local authorities to withhold bounties from seamen who are willing to enlist as soldiers.

The gentleman's point, as I understand it, is that the local authorities pay large bounties to men enlisting in the Army. They have been doing it because persons so enlisting are credited to the quota of the city or town to which they belong. Now, under the new provision of this bill which authorizes men enlisting in the Navy to be credited to the quotas in like manner as men enlisted in the Army, there will be no inducement for the authorities to withhold bounties from the sailors.

Mr. SCHENCK. I do not see that that removes the objection. It is true that under this bill the localities get credit for the men who enlist in the Navy, but they pay no bounty to those seamen. In order to get into the military service, however, these persons being seamen, have drawn these local bounties. If they had entered the Navy directly they could not have drawn these local bounties, but the day after being mustered into the military service, they suddenly discover that their propensities are entirely for the ocean, and having pocketed the bounty and been transferred to the Navy, they come there within the class of those who may get the benefits of prize money which is the equivalent to the sailor for the bounty paid to soldiers.

Mr. RICE, of Massachusetts. That will not be the future operation of the law.

Mr. RICE's amendment was agreed to.

Mr. MALLORY. I offer the following proviso to come in at the end of the section:

And provided, That no regularly licensed pilot on the rivers and harbors of the United States shall be liable to draft under the provisions of this bill.

Mr. Chairman, I offer that amendment with a view of reserving for the use of the Government of the United States a class of men whom I think as meritorious as any we have in the West or any where else.

Mr. GARFIELD. Has the gentleman looked at section twelve?

Mr. MALLORY. I have, but section twelve does not cover the case. I wish to exempt from the draft pilots engaged on the western waters, a class of men who acquire knowledge and skill by long practice and the education of years. They are men whose services it is difficult to obtain, and

nearly all the skillful pilots in the western country have been impressed into the service of the United States for the gunboats on those waters. I think, for this reason, that they ought certainly to be exempt from draft. You do not want to take men like them and put them into the Army—men who can be so much more usefully employed elsewhere.

Mr. SCHENCK. I would ask the gentleman what are the ordinary wages of pilots?

Mr. MALLORY. I do not know, but they are very high—probably \$500 a month.

Mr. SCHENCK. So I have understood, and therefore I think they are fully able to pay their commutation money and stick to their business if they choose to do so. It is a profitable profession.

Mr. HOLMAN. I would state that the ordinary pay of a river pilot is from two hundred and fifty to three hundred dollars per month.

Mr. MALLORY. Surely the chairman of the Committee on Military Affairs does not mean to provide by this conscription bill that those whose skill and attainments enable them to make large sums of money shall be subjected necessarily to extraordinary requisitions from the Government?

Mr. SCHENCK. No, sir; but no extraordinary exceptions should be made in their favor. My position is just the reverse.

Mr. MALLORY. Well, sir, I am for proceeding in relation to pilots as in relation to everybody else. I am for no discrimination for or against men because of the wages they receive. I am in favor, however, of providing for the necessities of the Government; for if pilots are drafted and do not choose to pay the commutation money, they will be put in the Army, and the Government will be unable to have their services in the Navy. The gentleman, I suppose, does not intend by his bill to compel them to pay commutation money; and if he does not, the pilot, when drafted, may go into the Army when his services are indispensable needed on the gunboats.

[Here the hammer fell.]

Mr. HOLMAN. I propose to amend the amendment by adding the words "that such exemptions are to be regulated by such rules as may be established by the Secretary of the Navy."

Mr. MALLORY. I think that does away with the whole matter.

Mr. SCHENCK. I am opposed to the original amendment and also to the modification, and to anything that makes a provision of that sort. I am well aware of the necessity of having pilots on the rivers. I am well aware, also, that these pilots are paid very high wages, that theirs is a very profitable employment. Now, it may be that in particular cases it would be an inconvenience if one of those pilots, being drafted, should go as a drafted man, thus depriving those who employ them of his services. I feel very certain that that inconvenience would not arise in many cases; that pilots being engaged in a business by which they are making \$500 a month, more or less, would, like other men having profitable employments, pay their commutation rather than go as drafted men. There might be instances in which the patriotism of the pilot would be so great as to induce him to go to the Army. In such a case I would be disposed to commend him for it as I would commend any other man who would do the same thing. But I am afraid that those exceptional cases would not be so very frequent as gentlemen seem to imagine. Instead of making an extraordinary exception against pilots, or against any particular class, I am for making no extraordinary exception for or against anybody. But as far as practicable, where persons are not actually in the employ of the Government, I am in favor of letting drafted men either go and perform military duties, or send substitutes who will do so for them, or pay some equivalent to the Government so that the Government may employ some one else.

Mr. MALLORY. I think the gentleman expects the President of the United States from the operation of this bill. Why not let him take his chance, and if drafted pay the commutation money?

Mr. GARFIELD. The President of the United States is not excepted, as he is already in the military service of the United States as Commander-in-Chief.

Mr. MALLORY. The Vice President of the United States is not in the military service, and he is excepted.

Mr. SCHENCK. Yes, sir; we do except the Vice President. My answer to that is, that we do make exceptions in some very few cases, where from the inconvenience of taking the only officer or some of the few officers of this kind, filling the most important positions in the country, not to do so might derange the whole working system of the Government, including this among the rest. We have more than one pilot, but we have not more than one President and Vice President of the United States. We also except judges of courts; but gentlemen will recollect that we do not except members of Congress. We do not except Senators. We confine exceptions to a very few, exceedingly few, important personages of the Government, the taking away of whom would operate to derange the very working machinery of the Government.

I was going to remark with regard to pilots that the argument in favor of their exemption from liability to draft might be presented in respect to any other class. A tavern-keeper sometimes cannot well be spared, neither can a blacksmith nor shoemaker nor—

[Here the hammer fell.]

Mr. HOLMAN. As the gentleman from Kentucky [Mr. MALLORY] imagines that my amendment may embarrass his proposition I withdraw it, and will offer another. I move to amend by inserting, after the words "United States," the words, "while actually employed in the naval service."

Mr. MALLORY. I will say to the gentleman from Indiana that the twelfth section makes the provision which he contemplates. His amendment, therefore, is useless.

Mr. HOLMAN. Then I withdraw it.

The question was taken on Mr. MALLORY's amendment, and it was rejected.

Mr. WADSWORTH. I move to amend by adding to the amendment to section nine as follows:

Provided, That no regularly licensed pilot upon the rivers and harbors of the United States shall be compelled to render service in any of the vessels of the United States, except when drafted under the provisions of this bill, unless in cases of volunteer enlistments upon such vessels.

Mr. Chairman, I suppose there can be no objection to such an amendment as that. The only wonder is that such an amendment should be deemed necessary, but I propose to explain the necessity for it.

The number of pilots on the western rivers is quite limited. It takes a good many years to familiarize a pilot with the waters of the West. There has, during the present war, been a very large draft upon that class of our fellow-citizens in the West. They have been pressed into the service of the Navy time and again by officers in command of our fleets, or in command of the departments there. It is evidently unjust that they should be liable to conscription into the military service and liable at the same time, at the pleasure of any man in command of a naval vessel, to be taken from their employment and put into the naval service. All I ask is that the pilots of the West shall bear the same liability and no more than other citizens of the country touching the rendition of military and naval service, and if this House will not exempt them from the performance of military duty on account of the great necessity there is for the services of pilots in the fleets of the West and the distinguished services they have rendered time and again under this system of impressment, but will still continue their liability to military duty, I say it is as little as we can do to exempt them from being impressed into the naval service so long as they remain liable to conscription into the military service.

Mr. ALLISON. I oppose the amendment.

The amendment was disagreed to—ayes 50, noes 64.

Section ten was read, as follows:

Sec. 10. *And be it further enacted*, That whenever any such mariner or able seaman shall have been exempted from such draft in the military service by such enlistment into the naval service, under such due certificate thereof, then the ward, town, or township, or county, when the same is not divided into wards, towns, or townships, from which such person has been drafted shall be credited with his services to all intents and purposes as if he had been duly mustered into the military service under such draft.

Mr. GARFIELD. I move to amend section ten, in line five, by inserting after the word "township" the word "precinct," and after the word

"townships," in line six, the words "or precincts."

The amendment was agreed to.

Mr. CRESWELL. I suggest to the gentleman that he also insert the words "election district."

Mr. GARFIELD. I suppose that is hardly necessary. I propose also to amend, in the seventh and eighth lines, by striking out the words "with his services" and inserting in their place the words "upon his quota." Upon that amendment I desire to make a single remark in respect to the suggestion of the gentleman from Maryland.

We find that in the Senate bill there is no provision made for such subdivisions as occur in a good many of the States of the Union. The Senate bill says simply towns, townships, and wards. Now, in several of the States there are no subdivisions known as towns at all, and therefore it has been thought proper to insert the word "precinct," which I believe will cover the subdivisions in every State. I believe in Maryland they are called "election districts;" but I was informed by some gentleman with whom I conversed that the phrase "precinct" would cover the case of Maryland; and if so, I do not wish to incur the bill with any unnecessary words. I am informed that the words towns, townships, precincts, and wards would cover the case of Kentucky and Missouri, and probably every State.

My amendment now, I repeat, is to strike out the words "with his services," and to insert "upon his quota."

The amendment was adopted.

Mr. CRESWELL. I move to amend in the fifth line by inserting after the word "precinct," as inserted on motion of the gentleman from Ohio, the words "election district." I do not think the word "precinct" is equivalent to the term "election district" in the sense in which it is used in Maryland. The term "precinct" is used to designate the subdivisions of a ward, for instance, in the city of Baltimore. In all country localities in Maryland the term is "election districts." In order, therefore, that the counties may have the benefit of those subdivisions as well as the cities I move to insert "election districts."

The amendment was agreed to.

Mr. RICE, of Massachusetts. I move to amend in the fourth line by inserting after the word "thereof" the words "or have been transferred from the military to the naval service as hereinbefore provided." I offer that amendment simply to make the section conform to the action of the committee heretofore.

Mr. UPSON. I ask whether that amendment is at all necessary; whether the object is not already provided for.

Mr. RICE, of Massachusetts. It meets the case of a person already in the military service who may be transferred to the naval service. However, the amendment may not be needed, and I will withdraw it.

The Clerk read the eleventh section, as follows:

Sec. 11. *And be it further enacted*, That all enlistments into the naval service of the United States, or into the marine corps of the United States, that may be hereafter made of persons liable to service under the act of Congress entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall be credited to the ward, town, or township, or county, when the same is not divided into wards, towns, or townships, in which such enlisted men were or may be enrolled and liable to duty under the act aforesaid, under such regulations as the Provost Marshal General of the United States may prescribe.

Mr. GARFIELD. I move to amend that section by inserting after the word "township" where it occurs the words "precincts or election districts," and to strike out the word "or" which precedes it.

The amendment was agreed to.

The Clerk read the twelfth section, as follows:

Sec. 12. *And be it further enacted*, That no pilot, engineer, master-at-arms, or other person having an appointment or acting appointment, and being actually in the naval service, shall be subject to military draft while holding such appointment and forming one of a ship's complement.

Mr. SCHENCK. I move to strike out the words, "or other person," so as to make the section conform to the substitute of the committee.

The amendment was adopted.

Mr. SCHENCK. I move to strike out the words, "and forming one of a ship's complement." The reason for that is simply this: it now excepts men from military draft who hold

such appointments. Now a man may not form one of a ship's complement; he may be at a navy-yard as an engineer or as a master-at-arms in the employment of the Government. If the words I have indicated be stricken out the section will then provide for all that was intended.

The amendment was agreed to.

Mr. MOORHEAD. I move to add the following:

And any pilot, engineer, or master-at-arms now in the military service, or who may hereafter enter the same, by draft or volunteering, may upon application be transferred from the Army to the Navy, upon sufficient evidence that his services are wanted in that capacity, under such order as the Secretary of War may direct.

Mr. Chairman, a large number of our western pilots and engineers are now in the Army. Applications were constantly made to Admiral Foote and Admiral Porter for transfer by these men from the Army to the Navy. The Secretary of War said that there was no law for it. He has ordered, however, such transfers as were absolutely necessary for the good of the service. My amendment will give authority of law for such a practice hereafter.

Mr. SLOAN. I move to amend the amendment by adding the words, "provided that the Secretary of War shall so order."

Mr. GARFIELD. That is already practiced by the Secretary of War every day in the year, and the amendment is not necessary. It has been done in every army I have any knowledge of. Whenever a man is found who desires to go into the naval service, and is an able seaman, he is mustered out and enlisted in the Navy. The amendment is not necessary, for the thing is done already.

The amendment to the amendment was rejected.

Mr. MALLORY. I hope that the chairman of the Committee on Military Affairs will move that the committee do now rise. It is late, and we are all hungry and tired.

Mr. SCHENCK. Wait until we get through with the pending section.

Mr. MOORHEAD. I move to strike out the last word of the amendment, in order to say a word in reply to the gentleman from Ohio. I agree with him that it is and has been the practice to make these transfers, but the Secretary of War has told me that there was no provision of law for it. All my amendment does is to clothe the Secretary of War with power to make transfers of these men from the Army to the Navy. It will provide for doing under the law what is now done without law. I think it proper, and I do not know why the gentleman should object to it.

Mr. GARFIELD. My only objection to it is that it will allow the men to get into the Navy by the way of the Army, and to have these bounties, &c.

Mr. MOORHEAD withdrew his amendment to the amendment.

Mr. MOORHEAD's amendment was then disagreed to.

Mr. MORRIS, of Ohio. I move to strike out the word "and" and in lieu thereof to insert the word "or;" so that the section will read, "or being actually in the naval service," &c.

Mr. Chairman, military officers in the West have decided that pilots are in the military service or in the service of the United States, and they have, within my knowledge, pressed them into the naval or gunboat service. If that construction is given I do not see why it should not be provided for in this bill. I hope that the amendment will be adopted.

Mr. HOLMAN. I suggest to the gentleman from Ohio that the amendment should be amended so as to leave the exemption to those actually employed.

Mr. MORRIS, of Ohio. Pilots are required to obtain a license from United States officers; and because of that fact the military authorities have decided that they are liable to be pressed into the service. If the word "and" be stricken out and "or" substituted, it will accomplish the object I have in view. If any of the pilots on our western rivers who may be pressed into the gunboat service should be so unfortunate as to be killed while piloting these boats neither their wives nor children would receive the benefit of the laws of the United States providing for bounties or pensions. This, it seems to me, is a sufficient reason for exempting them.

Mr. DAWSON moved that the committee rise. The committee refused to rise.

The amendment was rejected.

Mr. ELIOT. I move to amend the twelfth section by inserting after the words "master-at-arms," in the second line, the words "acting master, acting ensign, or acting master's mate."

The amendment was agreed to.

Mr. GARFIELD. I was about to move that the committee rise; but if there is any gentleman who has any other amendment to offer to this section I will wait until it is presented.

Mr. BROWN, of Wisconsin. I move to strike out the whole section. The reason of my motion is that there is nothing in the provisions of the section which guards against abuses. A man may be in the service a day or a week, and yet by the provisions of this section we exempt him from the draft. There are other provisions which, in case a man is permanently in the service, will protect him against the liability of being drafted.

Mr. FARNSWORTH. I am opposed to the amendment.

The amendment was not agreed to.

Mr. HOLMAN. I move to amend the section by striking out the words "having an appointment or acting appointment," in the second and third lines.

Mr. SCHENCK. I rise to a point of order. It is that we have refused to strike out the section.

The CHAIRMAN. The amendment applies to only a part of the section, and therefore the Chair overrules the point of order.

Mr. HOLMAN. It will be remembered that the Committee of the Whole have added quite a number of persons besides those enumerated in the section as it was reported by the Military Committee. Not only are pilots, engineers, and masters-at-arms to be exempt, but we have enumerated other persons who are to be exempt by having an appointment or acting appointment, without their being in actual service. The effect of my amendment is to provide that only those persons enumerated and who are in the actual service of the country when the draft takes place shall be exempt.

Mr. FARNSWORTH. I am opposed to the amendment.

The amendment was not agreed to.

Mr. MORRIS, of Ohio. I move to amend the section in lines two and three, by striking out the words "having an appointment or acting appointment," and inserting in lieu thereof the words "or other persons."

Mr. GARFIELD. I rise to a point of order. It is that the words he proposes to insert have already been voted down.

The CHAIRMAN. The Chair does not so understand, and therefore he overrules the point of order.

Mr. HOLMAN. I move that the committee rise.

Mr. SCHENCK. I have said to gentlemen upon the other side, and to those who are impatient to have the committee rise, that as soon as we get through the twelfth section, and read the thirteenth section, I will move that the committee rise.

Mr. HOLMAN. The trouble is over the twelfth section, and we want the opportunity to amend it. I call for tellers upon my motion.

Tellers were ordered; and Mr. ASHLEY and Mr. DAWSON were appointed.

The committee divided; but before the result was announced,

Mr. HOLMAN said: As there seems to be a desire to pass this section, I will withdraw my motion.

The amendment was not agreed to.

Mr. HIGBY. I move to amend the section by inserting after the word "engineer," in the second line, the word "or."

The CHAIRMAN. That amendment is not in order, it having already been rejected.

Mr. FARNSWORTH. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWSON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the Senate (No. 36) to amend an act entitled "An

act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had made progress therein, but had come to no conclusion thereon.

INTERNAL REVENUE BILL.

Mr. MORRILL. I ask unanimous consent to take from the Speaker's table the internal revenue bill, that it may be referred to the Committee of Ways and Means.

Mr. WASHBURN, of Illinois. I object. I am not opposed to taking it from the Speaker's table, but I am opposed to referring it to the Committee of Ways and Means.

Mr. MORRILL. I move to suspend the rules for that purpose.

Mr. HOLMAN. I move that the House adjourn.

The motion was agreed to.

The House accordingly (at forty-five minutes past four o'clock p. m.) adjourned.

IN SENATE.

TUESDAY, February 9, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a letter from the Treasurer of the United States, transmitting copies of his accounts with the United States for the third and fourth quarters of the year 1862 and the first and second quarters of the year 1863; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. HOWE presented the petition of Gustavus A. Balzer, asking to be remunerated for losses sustained by him by the capture and destruction of his stores by the rebels, while acting as sutler of the seventy-fifth regiment Pennsylvania volunteers; which was referred to the Committee on Claims.

Mr. TEN EYCK presented a memorial of members of the bar of the District of Columbia, praying that the salary of the judges of the supreme court of the District of Columbia may be increased; which was referred to the Committee on the Judiciary.

Mr. HALE presented the petition of Moses Kelly, administrator of Major W. W. Russell, deceased, late paymaster in the United States marine corps, praying for certain allowances in the settlement of the accounts of Major Russell; which was referred to the Committee on Naval Affairs.

Mr. JOHNSON presented papers relating to the claim of George C. M. Roberts; which were referred to the Committee on Claims.

ABOLITION OF SLAVERY.

Mr. CLARK presented a petition of citizens of Auburn, New Hampshire, praying for the abolition of slavery throughout the United States, and for the adoption of such measures as will forever prevent its existence in any portion of the country; which was referred to the Committee on the Judiciary.

Mr. SUMNER. Mr. President, I offer a petition which is now lying on the desk before me. It is too bulky for me to take up. I need not add that it is too bulky for any of the pages of this body to carry.

This petition marks a stage of public opinion in the history of slavery and also in the suppression of the rebellion. As it is short I will read it:

To the Senate and House of Representatives of the United States:

The undersigned, women of the United States above the age of eighteen years, earnestly pray that your honorable body will pass at the earliest practicable day an act emancipating all persons of African descent held to involuntary service or labor in the United States.

There is also a duplicate of this petition signed by "men above the age of eighteen years."

It will be perceived that the petition is in rolls. Each roll represents a State. For instance, here is New York with a list of seventeen thousand seven hundred and six names; Illinois with fifteen thousand three hundred and eighty; and Massachusetts with eleven thousand six hundred and

forty-one. But I will read the abstract with which I have been furnished:

State.	Men.	Women.	Total.
New York.....	6,519	11,187	17,706
Illinois.....	6,382	8,998	15,380
Massachusetts.....	4,249	7,392	11,641
Pennsylvania.....	2,259	6,366	8,625
Ohio.....	3,676	4,654	8,330
Michigan.....	1,741	4,441	6,182
Iowa.....	2,025	4,014	6,039
Maine.....	1,925	4,362	5,587
Wisconsin.....	1,639	2,391	4,030
Indiana.....	1,075	2,591	3,666
New Hampshire.....	393	2,261	2,654
New Jersey.....	824	1,709	2,533
Rhode Island.....	827	1,451	2,278
Vermont.....	375	1,183	1,558
Connecticut.....	393	1,162	1,555
Minnesota.....	396	1,094	1,490
West Virginia.....	82	100	182
Maryland.....	115	50	165
Kansas.....	84	74	158
Delaware.....	67	70	137
Nebraska.....	13	20	33
Kentucky.....	21	-	21
Louisiana (New Orleans).....	-	14	14
Citizens of the United States living in New Brunswick.....	19	17	36
	34,399	65,601	100,000

These several petitions are consolidated into one petition, being another illustration of the motto on our coin—*E pluribus unum*.

This petition is signed by one hundred thousand men and women, who unite in this unparalleled number to support its prayer. They are from all parts of the country and from every condition of life. They are from the sea-board, fanned by the free airs of the ocean, and from the Mississippi and the prairies of the West, fanned by the free airs which fertilize that extensive region. They are from the families of the educated and uneducated, rich and poor, of every profession, business, and calling in life, representing every sentiment, thought, hope, passion, activity, intelligence which inspires, strengthens, and adorns our social system. Here they are, a mighty army, one hundred thousand strong, without arms or banners, the advance guard of a yet larger army.

But though memorable for their numbers, these petitioners are more memorable still for the prayer in which they unite. They ask nothing less than universal emancipation; and this they ask directly at the hands of Congress. No reason is assigned. The prayer speaks for itself. It is simple, positive. So far as it proceeds from the women of the country, it is naturally a petition, and not an argument. But I need not remind the Senate that there is no reason so strong as the reason of the heart. Do not all great thoughts come from the heart?

It is not for me, on presenting this petition, to assign reasons which the army of petitioners has forborne to assign. But I may not improperly add that, naturally and obviously, they all feel in their hearts, what reason and knowledge confirm, not only that slavery is the guilty origin of the rebellion, but that its influence everywhere, even outside the rebel States, has been hostile to the Union, always impairing loyalty, and sometimes openly menacing the national Government. It requires no difficult logic to conclude that such a monster, wherever it shows its head, is a national enemy, to be pursued and destroyed as such, or at least to be abated as a nuisance to the national cause. The petitioners know well, that Congress is the depository of those supreme powers by which rebellion, alike in its root and in its distant offshoots, may be surely crushed, and by which unity and peace may be permanently secured. They know well that the action of Congress may be with the cooperation of the slavemasters, or even without their cooperation under the overruling law of military necessity or the commanding precept of the Constitution "to guaranty to every State a republican form of government." Above all they know well, that to save the country from peril, especially to save the national life, there is no power, in the ample arsenal of self-defense, which Congress may not grasp; for to Congress, under the Constitution, belongs the prerogative of the Roman dictator to see that the Republic receives no detriment. Therefore to Congress these petitioners now appeal. I ask the reference of the petition to the select committee on slavery and freedmen.

Mr. SAULSBURY. I beg leave to delay that motion for a moment by a single remark. We

have heard the remarks of the Senator from Massachusetts on this petition. He has evidently presented it with a view that it shall have some effect upon the legislation of Congress. The petitioners, doubtless, have sent it here with that view, and the length of the petition and the large number of signers to it will be paraded in the papers of the country as evidence not only that the judgment of the country requires that the prayer of the petitioners should be granted, but as evidence also that there is a disposition in Congress to listen to a popular appeal. Sir, I was a member of this Senate only three years ago, before the hand of brother was raised against brother, before civil war trod this land as with the crushing step of a giant, before one single drop of blood had been shed in this unnatural war, at a time when the hearts of the people of this country were palpitating, when they were filled with alarm lest the consequences which now unhappily afflict the country should come to pass. I recollect, sir, that one of the connecting links of the great men of the past with the present proposed in this body measures to allay agitation, to preserve the Union, to keep off civil war and to keep it off forever. I recollect that a Senator from New York, now holding a distinguished place in the Cabinet, on one occasion presented a petition from that State signed by twenty-eight thousand citizens, and at another time a petition signed by over thirty thousand citizens, and I recollect that a distinguished Senator from Kentucky now dead, (Mr. Crittenden,) presented a petition signed by seventeen thousand five hundred citizens of Massachusetts, and when other Senators loaded your tables with petitions calling upon the majority of Congress to listen to their prayers, and to do something to prevent civil war; and what was the effect of their petitions then upon this body?

They were scouted, spurned; a deaf ear was turned to the supplications of an agonized country; and rather than listen to those petitions coming up from every section of the country, and more numerous signed than this bugbear of a petition to-day, they were disregarded. No compromise then; no heeding by Congress of the importunities of the people then. But now, lo and behold, this petition is presented, and it is sent as the voice of the country: "Heed ye the voice of the country!" Sir, it becomes gentlemen who disregarded that voice in the past, who would not listen to the petitions of the American people when the clouds of war were gathering in darkness over this land—it becomes them now, after having treated those petitions as of little worth, to parade this as the evidence of the sense of the country, and say, "Heed it and be governed by it."

But, sir, I will not detain the Senate. My object was simply to show that the Senate had disregarded heretofore petitions more numerous signed under other circumstances, and to say to the country that this petition, whatever may be the object of presenting it, is not to be considered as having any very great effect, or to meet with any great respect I apprehend from this body, because they have heretofore rejected petitions more numerous signed, and under circumstances which were calculated to command the attention of the Senate more favorably.

Mr. HALE. As this statement has been made, I want another statement which is strictly true to go with it to the country. Those petitions were presented here by an honorable and honored member of the Senate, now deceased, in favor of a series of resolutions submitted by him. I have nothing to say about them or of them; but I will mention this fact, and I should like it to go out to the country with the eloquent tribute of the Senator from Delaware to the petitions of that day. The report, accompanied by what was mainly called the Crittenden compromise, failed in this body because the party that the Senator from Delaware acted with, associated with, counseled with, and voted with, voted against it. The Journals of the Senate will show that those resolutions were defeated by the leading members of the party associated with the honorable Senator from Delaware.

Mr. SAULSBURY. I do not wish to continue this debate, because I know it is not regularly in order; but in answer to the Senator from New Hampshire I wish to make one statement. The Senator is well aware that the propositions of Mr. Crittenden were proposed amendments to the Constitution of the United States, which would

require, in order to pass them, a two-thirds vote of both branches of Congress. On every proposition to take up and consider those resolutions, as I believe, every member of what was then the dominant party voted uniformly in favor of taking them up and considering them. On one occasion, when the Senator from New Hampshire [Mr. CLARK] proposed a substitute for them, there were five or six Senators from the Gulf States who sat in their seats and refused to vote; I think wrongly refused to vote; but if they had voted on that substitute it could not have accomplished any practical purpose, because if every member of the then dominant party had voted for the passage of the Crittenden compromise resolutions, it being necessary to have a two-thirds vote in order to pass them, they being propositions to amend the Constitution of the United States, they could not have been constitutionally passed in this body. Sir, no member of the then dominant party ever voted against the Crittenden propositions or against taking them up for consideration, or said that he would not accept them as a settlement of sectional differences.

Another word, sir. The Senator says they were defeated on that account. I ask the Senator from New Hampshire, because I believe he is a frank Senator, whether at any time there was a single Senator of his party who voted for the Crittenden propositions in any stage of them; and whether every other member of the Senate, whether he was a Democrat, or what you might call a Bell and Everett man, or American, did not consistently and uniformly, whenever they were presented, and in all stages vote in favor of the consideration and the passage of those resolutions? Does it then become the Senator from New Hampshire to say that they were defeated because of the fact that those four or five gentlemen from the Gulf States, Mr. Sidel, Mr. Benjamin, Mr. Iverson, I think, and some two others, perhaps, when a proposition was made to substitute another resolution for them, refused to vote on that proposition? I ask the Senator as a frank man, does it become him to say that the resolutions were defeated because those five gentlemen refused to vote on that occasion, when no member of his party on any occasion voted in their favor but uniformly voted against them? Will he answer? Could the entire vote of the then dominant party have constitutionally passed the Crittenden propositions without the aid of some votes from the Republican party? Was there one Republican Senator under these circumstances that gave them his support? Will the Senator answer?

Mr. WILSON. Mr. President, I rise to thank the Senator from Delaware for saying on the floor of the Senate to-day that those of us who were here then when the Crittenden proposition was made steadily voted against it. I do not raise the question who defeated that proposition; but I do say that it was a proposition the most wicked that was ever proposed in the deliberative body of any Christian or civilized country on the globe. It was a proposition to recognize, establish, and protect slavery south of 36° 30' in all territory now in our possession or that might hereafter be acquired. It was a proposition forbidding this Christian nation to abolish slavery in the national capital without the consent of the slavemongers of Virginia. It was a proposition to allow slave-traders to take their slaves through and all over the free States and hold them as slaves. It was a proposition to take away from colored men the right of citizenship and the right of voting that they had enjoyed from the Declaration of Independence to this hour in several of the free States. It was the most wicked and devilish proposition ever proposed on earth, unworthy the support of a Christian people or any man professing to revere God or love man. I think the time has gone by forever in this country when anybody is to be reproached for having voted against a proposition that every man ought to glory in trampling under his feet. I denounced it then, I denounce it now. I thank God that I was permitted to utter my voice and give my vote against incorporating into the Constitution of my country amendments so barbarous, wicked, and inhuman. God in His abounding grace might have pardoned such a crime, but humanity would have reproached us forever.

Mr. SAULSBURY. I shall enter into no discussion with the Senator from Massachusetts as to the wisdom or folly, the virtue or contrary

characteristic of the Crittenden resolutions. It is not possible for the Senator from Massachusetts or for any other Senator on this floor, or for any man in this country, whatever may be his opinions of those measures, to make the American people believe that John J. Crittenden, of world-wide fame, whose patriotism was evidenced by every act of his life and in his dying moments, and whose character is dear to every American heart, would ever present a proposition to the American Senate unbecoming a Christian gentleman or a lover of constitutional liberty.

Sir, seventeen thousand five hundred citizens of Massachusetts, if I mistake not, of the city of Boston, sent a petition here and placed it in the hands of John J. Crittenden, asking this Senate and this Congress to pass measures of compromise and conciliation. A large majority of the people of this country at that time, in my judgment—I may be mistaken—were honestly in favor of the adoption of those measures; and there is no man living now, I presume, but what believes that had they been adopted, civil war would have been averted and we should have been united and at peace.

The VICE PRESIDENT. The petition is referred. Petitions are still in order.

Mr. POWELL. I should like to say a single word on that petition before it is referred.

The VICE PRESIDENT. In the opinion of the Chair it has gone from the Senate. Before the Senator rose, the Chair announced that it was referred.

Mr. FOSTER. I hope that by common consent the Senator may have leave to express his views. There has been rather a free discussion, and I should be sorry to have any Senator cut off from saying what he wishes to say on the subject.

The VICE PRESIDENT. It will be regarded as before the Senate if there is no objection. The Chair hears none.

Mr. POWELL. Mr. President, I do not propose to say a word in regard to the petition presented by the Senator from Massachusetts, but I will make a remark in reply to his colleague [Mr. WILSON] in defense of my late colleague, Mr. Crittenden. That Senator has chosen to denounce the Crittenden resolutions as unworthy of any Christian man or any Christian people. He reflects very harshly, too, upon the memory of Mr. Crittenden. Allow me to tell that Senator that those propositions that were presented by my late colleague, and which were rejected by the Republican party, in my judgment were eminently wise, eminently just, and eminently proper. They were worthy of the high reputation of the illustrious Senator who presented them; and I know that no assault that can come from the Senator from Massachusetts will impair the just fame and the high reputation of that illustrious man. He was an elevated statesman and a Christian gentleman; and I know that when those propositions were under consideration the most illustrious and distinguished gentlemen from Massachusetts were here desiring their adoption. I remember having interviews with such men as Edward Everett and other distinguished men from that State. The people throughout the length and breadth of this land, in my judgment, desired the adoption of those propositions. If they had been adopted we should now be a united and happy people. We should not have witnessed the horrid scenes that we have seen in consequence of this unfortunate civil war.

One word, sir, as to those who rejected those propositions. The Senator from Massachusetts seems to congratulate his party that they did reject them because they were monstrous, unchristian propositions. The Senator from New Hampshire desires to throw the onus on certain gentlemen from the Gulf States. Allow me to say, Mr. President, that those resolutions were rejected by the Republican party. They, and they alone, are responsible. The Senator from Massachusetts glories in it, but the Senator from New Hampshire desires to throw the blame upon others. I was a member of the committee of thirteen to whom all those measures were referred, and I speak what the journals of that committee will attest when I say that no Republican upon that committee voted for the Crittenden propositions, while every Senator on that committee who was not a Republican voted for them. Upon one or two propositions Mr. Toombs and Mr. Davis finally changed their votes, but they declared that

they were ready to take the Crittenden propositions and to stand by them. Mr. Toombs declared it in open Senate.

I well remember the day when Mr. Johnson, the Senator from Tennessee, made a speech in reply to the Senator from Delaware, who has just taken his seat, in which he declared that they were defeated in consequence of four gentlemen from the Gulf States sitting in their seats and not voting. Such was not the fact. The question came up between those resolutions and the substitute of the Senator from New Hampshire, [Mr. CLARK,] and it was upon that question that those gentlemen, I think wrongfully, refrained from voting. It required only a bare majority to substitute the amendment of the Senator from New Hampshire for the Crittenden propositions, but it required a two-thirds vote to pass the Crittenden propositions. We afterwards did get a vote upon them, and the Republican party caused their defeat. There never was a Republican who voted for the Crittenden propositions either in the committee of thirteen or in the Senate. The members of that party, and they alone, are responsible for their defeat, as the journals in the committee and the Journals of Congress will show. There was no Senator on that side of the Chamber that I remember who ever cast a vote for the Crittenden propositions.

I know the statement has gone out which has been made to-day by the Senator from New Hampshire, [Mr. HALE.] It has been stated in the newspapers over and over again, but it is not true. If the Republicans had given their support we could have carried the Crittenden propositions, and they would have averted civil war and saved the Union. I have no question on that fact. I believe the people of Massachusetts by an untold majority were in favor of the Crittenden propositions. There was every evidence before the Senate of that, but the Senators from Massachusetts stood out as we on this side thought against the will of their constituents.

The Senator from Massachusetts did not at that time denounce those propositions in such terms as he has now used. He opposed them, I admit, but he indulged in no such denunciations as he has uttered to-day. When that pure, just, and elevated man, Mr. Crittenden, occupied a seat on this floor, the Senator did not assert that he could be the author of propositions so damnable as the Senator has characterized them. He is out of the Senate; he is in his grave, respected and honored by all virtuous and intelligent men. Now it is that the Senator comes forward and makes his assault. When the reputation of the man and the circumstances are considered, it does look to me like an atrocious assault upon one of the most pure and elevated statesmen that this or any other country has ever produced. The virtues and eminent public services of John J. Crittenden will live embalmed in the hearts of his countrymen; and no assault from the Senator from Massachusetts will dim the luster of his fame.

Mr. WILSON. I desire simply to say, sir, to the honorable Senator from Kentucky and to the honorable Senator from Delaware that it was not my purpose to cast any reflection upon the memory of John J. Crittenden. I entertained for him, while living, sincere regard; and, sir, I am not here to reproach his memory. He was an old statesman, an old man, and under the pressure of the times he stepped forth with the proposition he miscalled a compromise. I characterized the proposition just as I characterize now the acts of men—of personal character that I regard disloyal—acts against liberty, humanity, and Christian civilization. Honest, sincere men may be deluded, may be deceived. I choose to judge men with charity, but to speak of the acts of men and characterize those acts as they are. The Senator says that I did not speak of these resolutions when they were before the Senate as I have to-day. If the Senator will read a speech of mine made upon the resolutions he will find that I characterized them quite as severely as I have to-day. I spoke fully upon the subject, and expressed the fear that if we dared to vote for those resolutions we should sink, when life's duties were performed, into dishonorable graves, with the curse of God and the scorn of mankind upon us. I believed it then; I believe it now. I believe that an overwhelming and uncounted majority of the people of the country to-day would reject with unutterable scorn

those unchristian propositions. I have no doubt of it. I am glad that Senators rise in their places to-day and acquit all of us of the Administration of ever having stained our souls by voting for a proposition so abhorrent to the sentiments of mankind.

MR. SUMNER. Mr. President, before the debate closes I desire merely to add one word. The proposition known as the Crittenden resolutions and all the petitions in its support were in favor of the crime of human slavery. On that there is no doubt. Every petitioner in favor of that proposition petitioned for the crime of human slavery; the proposition itself was to establish the crime of human slavery. The petition which I have had the honor to present to-day, signed by one hundred thousand men and women of the United States, is for human freedom.

MR. POWELL. One single word. The Senator from Massachusetts [Mr. SUMNER] has stated that these petitioners who were in favor of the Crittenden compromise were petitioners in favor of human slavery. I do not think there was any such thing mentioned in the petitions. There was nothing in the Crittenden compromise measures that put the shackles upon a single slave. They left that matter precisely where it is under the Constitution. They did not attempt to do it; but there was a proposition in them that gave a large portion of territory and dedicated it to what the Senator would call freedom. All that the resolutions did in that direction was to give further guarantees and securities to the protection of property in the southern States. That was all; nothing more; nothing less; and I am astonished to hear the Senator speak of those petitioners coming up here in favor of human slavery. Such is not the fact, and if you look at the petitions they will attest what I say to be the truth.

MR. JOHNSON. Mr. President, I rise for the purpose of stating that I do not see that any profitable result can be the consequence of such a debate as this. Whatever may have been the causes which have brought us into our present condition, we are in it; and it is a part, as I think, becoming the statesmen of the day to devise any and every measure to get us out of it happily and prosperously. To deal in harsh epithets against those who have preceded us, to deal in such epithets to those who are here and who have participated in the deliberations of the past can do no possible good. Whether they have in fact done or whether they have been willing to do what in the sight of God would be a crime, is a matter that perhaps can best be settled between themselves and Heaven; and when the day shall come when the hearts of all shall be disclosed it may be found possibly that those who sustained what are called the Crittenden propositions and those who were anxious either by sustaining them or by sustaining others to avoid this war, will stand at least an even chance of mercy at the throne above with those who think proper now—I was about to say to vilify them. Slavery in my opinion is what I have heretofore said of it; but there are men wiser than I am, more patriotic than I can pretend to be, men who have served their country in spheres infinitely higher than any to which I aspire, who have not thought it a sin. The Father of his country held in bondage his slaves up to the last moment of his existence on earth; and can either of the Senators from Massachusetts suppose for a moment that at that great day when we are to give an account of our deeds in this life his chance of mercy will be less than theirs?

MR. SUMNER. I have simply to say in reply to the last remark of the Senator from Maryland, that George Washington appeared before his Maker as the emancipator of his slaves.

MR. CONNESS. Mr. President, I do not propose to enter into this debate, which is somewhat irregular at best; but as it appears to have taken almost entirely the direction of a review of the past I wish to add a single word. If the Republican party prevented the adoption by their acts and votes of what was known as the Crittenden proposition, I wish to say to that party that I honor them for it; and leaving the question of slavery or what was involved as the protection of slavery contained in the Crittenden proposition, it is enough for me to base the honor that I now bestow upon the Republican party for that transaction upon the fact that the Crittenden proposition was brought forward at a period of time when

a traitor Cabinet and a traitor President were organizing war against this Government in the South. Sir, when a single individual may retire orderly and properly with a clenched fist in his face, and make an apology to the party that aggresses him, then a great nation may retire or accept a proposition while war is being organized against it even by the participation of the constituted authorities. I honor the Republican party or whoever put their feet upon that proposition at that time. I had not the honor then to have a seat in this body or in Congress; but I was honored by a constituency in my own State with a seat in the Legislature of that State. The Crittenden proposition came up there for indorsement, and I am very proud to have to say to-day that, consistent with my own ideas of personal and national honor, I gave not only a vote but all the action that I could give to prevent that indorsement by the State of California.

I am one of those who believe that the propositions contained in the Crittenden compromise could not have been received without eternal dishonor to the American people, and I glory in the spirit of the men who refused to adopt it; and I equally glory in the period that has finally evolved and developed the movement represented by the action of the Senator from Massachusetts this morning. I thank God, sir, that the day is coming, and that we are here as its ministers in part, when our country shall be relieved of that curse, that crime, and that treason which are contained in African slavery. I will hail the day when we can rise up and say that it exists no more in our land.

THE VICE PRESIDENT. The petition will be referred to the select committee on slavery and freedmen.

MODE OF ELECTING A PRESIDENT.

MR. POWELL. In pursuance of notice given yesterday, I present to the Senate and ask leave to introduce a joint resolution proposing certain amendments to the Constitution of the United States. I am not prepared to say that the amendments proposed all meet my approval. They were drawn by one of the most eminent and distinguished citizens of Kentucky, Judge Nicholas, of Louisville, who is one of the first lawyers and statesmen in the valley of the Mississippi, a gentleman of worth and eminence and patriotism. The object of these amendments is to provide the mode and manner of electing the President of the United States. Judge Nicholas thinks that his proposition, to which he has given very grave thought, will be calculated to allay party and sectional strife, and do away with the "spoils" system. Coming from the source they do, I think I can without fear of contradiction state that they are worthy of the calm consideration of the Senate. They touch upon a matter that has received the earnest thought of many eminent statesmen since the organization of the present Government. I ask that the resolutions be read, printed, and referred to the Committee on the Judiciary.

Leave was given to introduce the joint resolution (S. No. 26) proposing certain amendments to the Constitution of the United States, and it was read twice, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Constitution of the United States be amended as follows:

ARTICLE NO. —.

SEC. 1. Congress shall at its first session after the adoption of this amendment, and from time to time thereafter, apportion among the several States the electors of President and Vice President according to the following ratio of population in Federal numbers: One elector to each State having less than a million; two to each State having one but less than two million; three to each having two but less than three million; four to each having three but less than four million; five to each having four but less than six million; six to each having six but less than eight million; and seven to each having eight million of population. Each State having but one elector shall be an electoral district, and each of the other States shall be divided by Congress into districts equal to the number of its electors, to be composed of coterminous territory, and as near as may be the districts to have equality of population.

SEC. 2. The voters of each district, qualified to vote for members of the most numerous branch of its Legislature, shall elect an elector.

The elections for electors shall be held during the month of October next preceding the commencement of any presidential term.

The several State Legislatures shall prescribe the time and manner for holding those elections and making returns thereof; also, for deciding them when contested, and making new elections therein; but Congress may discharge this duty, in whole or in part, when deemed necessary.

SEC. 3. The electors shall convene in the Senate Chamber at the seat of Government, at noon of the first Monday in February next preceding the commencement of the ensuing presidential term, and form an electoral college.

Two thirds of all the electors elected shall be a quorum of the college.

The Chief Justice of the United States, or in his absence the President of the Senate, or in the absence of both, the Speaker of the House of Representatives shall be the presiding officer of the college.

The presiding officer shall cause all the electors elected, whether present or not, to be listed in the alphabetical order of their names, and in that order divide them into six classes of equal numbers, distributing by lot separately among the several classes such electors at the bottom of the list, if any, as are left out in the division.

He shall by lot, under the supervision of one from each class, designate the several classes by numbers from one to six.

When a quorum is present he shall announce that the college is formed, and note the time at which the enunciation is made; but, when necessary, the enunciation shall be postponed until after the verification, by a majority of the electors present, of the returns and qualifications of members.

SEC. 4. After the college is formed the electors present of each class shall choose an elector from the class next succeeding it in number, except class six, which shall choose from class one.

In open session of the college the presiding officer, under the supervision and control of the six so chosen, or a majority of them, shall cause two of those six to be designated by lot.

From those two the college shall choose one, who shall be President for the next ensuing term of four years, and the other shall be the Vice President for that term.

The voting by class or college shall be *viva voce* in open session of the college.

In cases of tie, the casting vote shall be given by the presiding officer, who, if he be also an elector, shall not vote except in cases of tie.

The college may adopt rules for expediting a decision by the several classes, and to prevent more than two persons from receiving an equality of votes on the final vote of a class.

If there be a failure to choose one of the six from any class within the time prescribed by the college, the members of that class shall themselves make the choice.

There shall be no reconsideration of a vote given.

SEC. 5. If the college fail, except from exterior violence or intimidation, to make an election of President and Vice President within twenty-four hours from the time when the college was formed, it shall be dissolved, and the offices of its electors vacated.

Thereupon the presiding officer shall order a new election of electors on any day, not less than thirty from the date of his proclamation, and at least thirty before the next month of June, which election shall be held, and the electors chosen shall convene at the time and place designated by the proclamation, and proceed to the election of a President and Vice President as before directed, within twenty-four hours from the time of their formation into a college, and under like penalty for their failure.

Should the failure to elect be caused by exterior violence or intimidation, the functions of the college shall not cease, but it shall reconvene when and where a majority of its members shall by proclamation direct, and make or complete an election as before directed, within the time specified, under like penalty.

SEC. 6. Should no election of President and Vice President be made by an electoral college before the 1st day of June next ensuing the commencement of a presidential term, the Senate of the United States shall convene in its Chamber at noon of the first Monday in July next thereafter, constitute all its elected members, whether present or not, into an electoral college, as though each Senator had been elected an elector, and proceed in all respects as before directed, within twenty-four hours, to choose a President and Vice President to fill the vacancy.

Should the Senate fail to elect, the discharge of the duties of President and Vice President for the residue of that term shall devolve upon such officers of the Government as Congress shall have theretofore directed.

SEC. 7. No office shall be incompatible with that of an elector except the office of Chief Justice of the United States.

SEC. 8. An act or resolution passed by Congress, which shall be returned by the President with his objections, shall be valid without his signature, if repassed by each House of Congress by a vote equal to a majority of all the members elected thereto.

SEC. 9. It shall not be deemed compatible with the duty of a President habitually to use the patronage of his office for the special advantage of any particular political party, or to suffer the patronage of any subordinate officers so to be used.

SEC. 10. Should a vacancy occur in both the office of President and in that of Vice President while there are two years remaining of the then presidential term, the Chief Justice of the United States, or in his absence the Secretary of State, shall convene the electoral college after thirty days' notice by proclamation, who shall fill the vacancies for the remainder of the term in all respects as if it were an original election.

SEC. 11. Every elector before entering on the duties of his office, shall, by oath or affirmation, promise to support the Constitution of the United States, and declare that he has not, and will not, pledge his vote as an elector in favor of any person or toward aiding any political party.

The joint resolution was referred to the Committee on the Judiciary, and ordered to be printed.

REPORTS FROM COMMITTEES.

MR. ANTHONY, from the Committee on Claims, to whom was referred the memorial of E. F. and Samuel A. Wood, praying for an issue of duplicates of certain Oregon war bonds and

coupons attached, amounting to the sum of \$7,350, destroyed on board the steamer Golden Gate, submitted a report accompanied by a bill (S. No. 105) for the relief of E. F. and Samuel A. Wood.

The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. MORRILL. The Committee on Claims, to whom was referred the petition of Berendt A. Froiseth, praying for the payment to him of fifty dollars which he alleges to be due him as assignee of Charles Colter on a voucher dated May 10, 1861, against the Government of the United States, issued by the quartermaster and approved by the colonel, W. A. Gorman, of the first regiment Minnesota volunteers, to Charles Colter, ask to be discharged from its further consideration, the claim having arisen under a contract, and therefore being cognizable by the Court of Claims.

The report was agreed to.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 86) to authorize the appointment of a warden of the jail in the District of Columbia, reported it with amendments.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (H. R. No. 26) reviving the grade of lieutenant general in the United States Army, reported it with amendments.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 156) making appropriations to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1864, reported it with amendments.

PAPERS WITHDRAWN.

On motion of Mr. CLARK, it was

Ordered, That James Pool have leave to withdraw his petition and papers from the files of the Senate.

HOUSE BILLS REFERRED.

The joint resolution from the House of Representatives (No. 39) tendering the thanks of Congress to Major General W. T. Sherman, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

NOTICE OF A BILL.

Mr. LANE, of Kansas, gave notice of his intention to ask leave to introduce a bill providing for extending the Leavenworth and Galveston railroad and telegraph line to intersect the Hannibal and St. Joseph railroad at Cameron, in the State of Missouri.

BILLS INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 106) prohibiting speculative transactions in gold, silver, and foreign exchange, and for other purposes; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 107) to establish an additional judicial district in the State of New York; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 108) relating to acting assistant paymasters in the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 109) to expedite the settlement of titles to lands in the State of California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 110) for the relief of John H. Shepherd and Walter K. Caldwell, of Missouri; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

PRIMARY SCHOOLS.

Mr. GRIMES. I submit an amendment which I intend to propose to the bill (S. No. 26) to provide for the public instruction of youth in primary schools throughout the county of Washington, in the District of Columbia, without the limits of the

cities of Washington and Georgetown, and I move that it be printed.

The motion was agreed to.

MANAGEMENT OF HOSPITALS.

Mr. NESMITH. If it is in order, I move that the Senate now proceed to the consideration of the resolution submitted by me yesterday.

Mr. DOOLITTLE. I should like to know whether the resolution will lead to debate.

Mr. NESMITH. I think not. It is a resolution calling on the Secretary of War for certain information relative to the management of hospitals, and the reception, treatment, and transfer of patients. I do not apprehend that it will lead to any debate. If it does, I shall withdraw it.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Secretary of War be requested to procure and transmit to the Senate the record of proceedings of a court-martial, convened in New York city by virtue of special order No. 118, December 7, 1863, for the trial of Assistant Surgeon Webster, for refusing to permit a dangerously wounded soldier to be removed from the McDougall general hospital, in a cold storm of rain, without permission of the medical director of the department, together with the defense of the accused read at the trial, the finding of the court, the recommendation of its members in respect to a remission of the sentence, and the decision of Major General Dix thereon. Also, that the General-in-Chief of the Army be requested to report in detail what authority, if any, subordinate military commanders have, by existing regulations, independent of the medical department, over general hospitals; what distinction, if any, there is in that respect between field or post hospitals and general hospitals; what orders or decisions have been made by the Secretary of War, General-in-Chief, or Surgeon General on the subject; and whether the interests of the service do not require that all orders relating to the management of general hospitals, and the reception, treatment, and transfer of patients, should pass through the Surgeon General or his immediate representative, the medical director.

Mr. WILSON. I asked yesterday to have this resolution laid over. I thought there were some expressions in the resolution that ought not to be there; and I think now it would be better that they should not be; but I do not object to its passage. I think the object sought for is an excellent one. The information asked for we ought to have.

The resolution was adopted.

ENLISTMENTS IN THE ARMY.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of Senate bill No. 28.

Mr. DOOLITTLE. Will it give rise to debate? If it does not, I have no objection.

Mr. TRUMBULL. I was not aware that the Senator from Wisconsin was entitled to the floor on another bill. If he desires to go on with his remarks, of course I will withdraw my motion.

The VICE PRESIDENT. The special order is before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes; the pending question being on the amendment of Mr. HENDERSON, in section three, line five, after the word "he," to strike out the words "his mother, and his wife and children," and after the word "notwithstanding," in the seventh line, to insert:

And his mother, his wife, and children shall also be free, provided that by the laws of any State they owe service or labor to any person or persons who have given aid or comfort to the existing rebellion against the Government since July 17, 1862.

So that the whole section will read as follows: That when any person of African descent whose service or labor is claimed in any State under the laws thereof shall be mustered into the military or naval service of the United States, he shall forever thereafter be free, any law, usage, or custom to the contrary notwithstanding; and his mother, his wife, and children shall also be free, provided that by the laws of any State they owe service or labor to any person or persons who have given aid or comfort to the existing rebellion against the Government since July 17, 1862; and all laws and parts of laws inconsistent herewith are hereby repealed.

Mr. DOOLITTLE. Mr. President, war and not peace is our real situation. It is war—

Mr. DAVIS. Will the honorable Senator allow me just a minute? Before he proceeds with his remarks I will observe that it is my desire to say something on this bill. I do not feel physically able to perform that task to-day; but as there does not seem to be a great deal of particular interest felt in this bill, if he will allow me I will make this suggestion to the Senate: when he and other gentlemen who wish to address the Senate on the subject shall have concluded their remarks, I will

take it kindly of the Senate to make the subject the special order for some particular day that will least interfere with the working hours of the Senate. My object is to consume as little of its valuable time that could be devoted to labor and to business as practicable. If the Senate would have an understanding that this subject should be made the special order for Friday next for the purpose of accommodating me I would be obliged to them for their courtesy. But whatever the Senate may do in relation to the matter of course I will cheerfully submit to.

Mr. DOOLITTLE. If there is any desire to take up another bill I am perfectly willing that this subject shall go over until to-morrow; but there is a habit growing up here which does not seem exactly proper. The moment a gentleman takes the floor there are half a dozen who desire to say this and say that, or make some suggestion, until we are constantly interrupted. It seems to me it is hardly within the rules of the Senate.

The VICE PRESIDENT. The Senator from Wisconsin is entitled to the floor.

Mr. DAVIS. I hope the Senator will excuse me. I did not intend to interfere with his remarks by the request that I made, and I hope the Senator will be permitted without interruption to continue his remarks at the present time.

Mr. DOOLITTLE addressed the Senate. [His speech will be published in the Appendix.]

Mr. RICHARDSON. Mr. President, the Senator from Wisconsin [Mr. DOOLITTLE] who has just taken his seat has asserted over and over again, read extracts from the speeches of others, and resolutions of public meetings to show that slavery is dead. If that is so let it be buried, and we can turn our attention and invoke the coöperation of the other departments of the Government in the work to restore peace, and with it union, harmony, confidence, prosperity, security, and happiness to our national Republic.

I propose to refer for a few moments to the remarks of the Senator from Ohio [Mr. SHERMAN] in his speech delivered here last week. I will not detain the Senate long.

That Senator and the Senator from Massachusetts [Mr. SUMNER] I understand now to occupy precisely the same ground, though they arrive at their positions by different roads. I propose now to examine for a short time some of the positions taken by the Senator from Ohio. He said:

"Have we this power, and if so whence is it derived and to what extent can we execute it? The power to emancipate a slave by Congress or the President certainly does not exist in time of peace. This is an axiom in American politics. The Second Congress, upon the petition of Benjamin Franklin, declared that the national Legislature had no power over slavery in the States. The declaration has been repeated by almost every Congress since that time. No political party that has ever been organized in this country has claimed the power of interfering with slavery in the States. At the very last session of Congress before this war broke out the House of Representatives, by a unanimous vote, declared that Congress had no power to emancipate slaves, and no power over the subject of slavery in the States. It was so declared by the President; it was so declared in the Chicago platform; it is, as I have said, an axiom in American politics that Congress has no power over slavery in the slaveholding States, that slavery is simply a local institution protected by local law, having existence commensurate only with that local law, that Congress has no power over it whatever except as that power grows out of the enforcement of the provision of the Constitution of the United States for the recapture of fugitive slaves. This, I believe, is admitted on all hands. If, therefore, we have power to emancipate, we must derive it from some other source, and not from the ordinary powers of Congress in time of peace.

"It is equally clear that the existence of a mere insurrection in our country will not justify interference with slavery. This has been settled now by many cases in our courts."

The Senator has at least made a fair statement of the case. I do not understand that Congress has any power in time of war that it has not in time of peace. Since our national existence we have passed through two wars, and no party, no department of the Government, no man in the Government, no court has ever held that Congress had more power in time of war than it has in time of peace. The power of Congress in both cases is derived from the same source—the Constitution of the United States. It can draw no power from any other source. The claim that the President or Congress has power derived from war above the Constitution is of recent origin.

But, Mr. President, extraordinary as it may seem, the Senator from Ohio says that we are engaged in a war, that this is not an insurrection which we are putting down, that the war is being

carried on between belligerents, and that Congress derives its power from the law of nations governing war. Sir, let me ask what power Congress can derive from the law of nations? Is there any additional power whatever it can derive which is not granted by the Constitution? Can Congress change the law of nations in any particular? Of course we must be governed by the laws of civilized warfare, but how can Congress derive any authority from the law of nations?

If the Senator from Ohio is right, if his position is correct, I maintain that there are but two things which can be done in reference to this matter. If this is a war between belligerents all we can do is to treat or conquer, and no law that Congress may make will have any influence or power on our enemies so long as they are belligerents. I shall not trouble myself to hunt up the writers on the law of nations and read long extracts, but I lay down the proposition, and I invite the Senator from Ohio to discuss it.

The Senator from Ohio says there is nothing in the Constitution preventing the course which he proposes. I do not state his precise language, but that is the substance of what he said. Sir, that statesman in search of power for Congress who is driven to this argument is argumentless. It cannot be supported by precedent; it cannot be supported by reason; it cannot be supported by principle. I do not propose to amplify on these propositions; I merely state them. I am speaking without notes and with very little preparation.

But the Senators, however much they may differ in reference to the point from which they derive the power, all seem to concur in the proposition that it is necessary in order to bring this war to a successful issue that you shall dispose of the question of slavery. I concur to some extent with those who say that the institution of slavery is gone; but I say you may wipe it from existence to-morrow, and you advance no step toward the putting down of the rebellion, if it is a rebellion, or the ending of the civil war, if it is civil war. We have tried that for three years, and how far has it advanced our cause? Your proclamation of emancipation gave to Jeff. Davis fifty thousand bayonets when his cause was sinking. Your acts of confiscation gave to him armies when he could not have got armies by any other means. You have pursued this line of policy, this course of legislation, and it has accomplished nothing. All the interests of the country, the interests of the white race, demand that we should bring this war to a speedy close, preserving the integrity of the Union and the rights of the States.

Now, Mr. President, I differ from some of my own friends on this side of the Chamber. In the army of the confederacy they have not to-day over two hundred and fifty thousand men; they had not during last year over three hundred thousand; they have never had over four hundred thousand men at any time during the progress of the war. We have to-day seven hundred thousand, that is we are feeding and paying that many. The President has called for five hundred thousand more. We have never had less than six hundred thousand in the field, often eight hundred thousand.

The credit of Mr. Davis's government is worthless. The people inside of their lines are suffering for many of the necessities of life, and the supplies both of materials of war, ammunition, and the like, and food are scarce and difficult to be obtained for their army.

Why is it that this civil war has been permitted to linger so long? You have all the departments of the Government and such an army as the sun has never shone upon. Why did you not end it last year? Why do you not do it now? You have armies and resources, credit and money. Why don't you end the war?

I will tell you why you cannot. Your thoughts are turned upon the negro; your legislation is directed for his benefit; your ideas all float in and around him, from your Executive down. Instead of turning your attention to putting down the rebellion, to enforcing the laws of the Union under the Constitution, which you have the right to do, you are legislating for the benefit of the negro. That white man who has borne civilization so far, you have lost sight of and ignored. Sir, you are responsible before the American people to-day for the continuance of this war. You have made no

call for troops that has not been answered. You have had the resources of the country with you. Any other country on the face of the earth with the blunders of this Administration would have been destroyed and utterly ruined. It shows the immense resources of this country and its great powers of endurance, when it can stand so many blunders and so much mismanagement. But, sir, suppose we adopt a little different policy; suppose that instead of pursuing this policy that has done so much mischief we turn our attention to another. We have the lights of history thrown along our path. Let us be instructed by them. Let us proclaim to these people real amnesty—not such as has been proclaimed by Mr. Lincoln—and give them six or nine months to accept it, and limit the time of its operation. Do that, and this difficulty will be settled very speedily. Open some door to those men who have gone into rebellion by which they can escape from the position which they are in, and they will retire from it very soon. My opinion is that if the President of the United States had proclaimed universal amnesty at any time within the last eighteen months, this war would now be over.

But an objection is urged that we shall soon have back all the leaders in political positions. There is no fear of this. The leaders in unsuccessful rebellion cease to lead when their cause declines.

But, sir, I agree there is justice in the proposition that the men who originated such a war as this should be punished. The proclamation of amnesty by the President is more for the negro than ending the rebellion. He excludes from his amnesty all officers above the grade of colonel in the army, besides others. It is very easy to give amnesty to all except the leaders.

If I understand the relation between the citizen and his Government it is that, while the citizen owes to the Government the duty of support, the Government on the other hand owes to him the duty of protection; and where the Government permits a *de facto* government in opposition to its own authority to be raised up, and the citizen has no courts to appeal to, no armies to protect him, he has nothing left but to lend acquiescence and support to the *de facto* government that exists and claims his obedience. Apply that principle here. There are many men in the southern country who held out to the last, who refused to have anything to do with this rebellion, as we once called it; but this Government had no forts there; it had no courts there to which they could appeal; they had no tribunals in which their rights could be protected. They had then necessarily to give in their acquiescence to the *de facto* government. There may be many such men that have risen to be colonels or brigadier generals, and the President says he will not pardon them, he will not forgive them. By the terms of his proclamation the most mischievous of all the men that were in the southern country may be included within the amnesty, while those least guilty may be excluded.

Now, Mr. President, that we may avoid all this difficulty and escape from all this embarrassment, suppose Congress, as it has the power to do, should pass an act of amnesty to every man now engaged in the rebellion or living in the rebel States who would lay down his arms and lend his support to the Government, excluding from the provisions of that amnesty all those who engaged in the rebellion prior to April 15, 1861, for that was the day on which Mr. Lincoln issued his proclamation calling for seventy-five thousand troops, which was a concession on the part of this Government that we were not able to lend our protection to citizens living in the rebel States. That would exclude all the leaders.

Suppose Congress should embrace in a bill a provision like this: that amnesty be tendered to those who have engaged in rebellion against the United States upon condition of submission by them to the Constitution and laws, excluding from its protection only those who took part in said rebellion before the 15th day of April, 1861, as being the prime movers of the insurrection, originating it, and leading it on before the usurped governments in the several States had established an authority to compel citizens to enter the ranks of the army, giving the color of law to its violence. If they do, in six months the rebellion will be over.

But, Mr. President, I do not feel very much

like discussing the rights and privileges, the benefits and glories of the negro, while there is denied every guarantee of the Federal Constitution to the white man if he happens to differ in opinion from the Executive. I would rather discuss with these gentlemen—and I invite them to that discussion—where is your *habeas corpus*, where is your due process of law, where is your trial by jury, where is your right to bear arms, where is your free ballot, where are your free speech and free press, where are all those great privileges and rights for which our ancestors fought during the American Revolution, and which have been our boast from that time up to this? They are stricken down; they are gone. If gentlemen suppose they can amuse or interest us with the negro, while these inestimable rights are menaced or when they are lost, they are simply mistaken.

The Senator from Ohio, speaking of the case of a citizen of his own State whom the military seized and transported beyond our lines, said the people of Ohio sat as a jury, and a majority of them decided that he ought to have been banished. What is liberty worth in this country if it is to be decided by a popular majority? It has been the boast of our English ancestors, and it has been ours, that the humblest citizen in the land, as well as the most eminent, could appeal to the courts of his country and get security for his rights by that means. The Senator from Ohio says the citizens may be tried and punished by military power, and that all that is necessary to make it right is to pass a sentence at a popular election in the State sustaining the military. Sir, the Constitution of the United States guarantees, in time of war as well as peace, indictment for a criminal offense, trial by jury, to confront his accusers, and due process of law to any man who is not in the Army or Navy of the United States. The Senator says that Mr. Vallandigham was clearly guilty. Guilty of what? There is a slight difference between him and the President of the United States. The President declared that he was guilty of no offense; that juries were made to try criminals who had committed offenses; that that was too slow a process in that case, and he was afraid the person would commit some offense, and hence he was tried and punished in the manner which was adopted.

We have heard that eloquent Senator's voice proclaim again and again in favor of universal freedom to the negro, universal rights to the negro; but when it comes to the white man, he is not entitled to quite so many rights, and the provisions of the Constitution made for his benefit are to be trampled under foot; and he is to be oppressed if he differs from him in political opinion. Sir, it is more important to me, it is more important to those who are to come after me, it is more important to Christianity and civilization, that the white race should be preserved than any other. Sir, you may turn back in history and you will find that wherever they have been, they have borne along with them civilization, improvement, and advancement. In the search of knowledge they have traversed all the earth. What have the other race done? What improvement have they made? What advancement have they made? Sir, I would preserve the superiority in this country of the white race.

I will not now discuss the question of slavery. I will not be provoked into its discussion. Gentlemen say it is dead or dying. Let it die. But while Senators are struggling for the rights of the negro they forget the white race—the race that has made this country so great and so glorious, that has upheld your flag in triumph on every ocean, and has carried your commerce to all the civilized ports of the earth. I maintain that that race is entitled to the protection guaranteed to them by the Constitution and laws.

Sir, the gentleman from Ohio is progressing very fast. It is among the dangers that threaten us at the present time when we find one who has heretofore thought so correctly and been so moderate throwing the weight of his influence in favor of the most extreme measures and leading the van of those who support them.

While speaking of this subject of amnesty there was one point that I had almost forgotten. Senators say they do not want to forgive the leaders in this rebellion. There was flourishing around here the other day a man by the name of Gantt, from Arkansas. When a portion of the

convention in Arkansas refused to sign the ordinance of secession this Gantt and Hindman, as I have heard, with violence and threats forced them all to sign it except one man who had the courage to refuse. You have forgiven him, and yet you tell me that you will not forgive the men who, under his influence, were driven out of the Union.

There is another gentleman, who comes from the State of Tennessee, whom you have not only forgiven but have given him a profitable office. I do not question his patriotism. I do not doubt his devotion to the country; but he has taught some very bad doctrine heretofore, calculated, from his high position, to mislead very many men who are now unfortunately not in a position to receive this amnesty.

The President of the United States, in 1861, called upon the Governor of Tennessee for some troops. Harris refused to give the troops. An address was issued by some thirteen gentlemen indorsing the position of the Governor, and laying down for future conduct the position which Tennessee should hold. I will read from that document. The gentleman, R. J. Meigs, is clerk, I believe, to a court made at the last session of Congress, where you turned out the judges of the old court because you doubted their fidelity to the Government:

"Tennessee is called upon by the President to furnish two regiments, and the State has, through her Executive, refused to comply with the call. This refusal of our State we fully approve. We commend the wisdom, the justice, and humanity of the refusal."

Why, sir, if I had said anything of that sort before this rebellion broke out you would have expelled me from the Senate. To differ with you makes us disloyal; to agree with you now wipes out all former offenses.

"We unqualifiedly disapprove of secession, both as a constitutional right and as a remedy for existing evils; we equally condemn the policy of the Administration in reference to the seceded States. But while we, without qualification, condemn the policy of coercion as calculated to dissolve the Union forever and to dissolve it in the blood of our fellow-citizens, and regard it as sufficient to justify the State in refusing her aid to the Government in its attempt to suppress the revolution in the seceded States, we do not think it her duty, considering her position in the Union, and in view of the great question of the peace of our distracted country, to take sides against the Government. Tennessee has wronged no State or citizen of this Union."

"The present duty of Tennessee is to maintain a position of independence, taking sides with the union and peace of the country against all assailants, whether from the North or the South. Her position should be to maintain the sanctity of her soil from the hostile tread of any party."

"We do not pretend to foretell the future of Tennessee in connection with the other States, or in reference to the Federal Government. We do not pretend to be able to tell the future purposes of the President and Cabinet in reference to the impending war. But should a purpose be developed by the Government of overthrowing and subjugating our brethren of the seceded States we say unequivocally that it will be the duty of the State to resist at all hazards, at any cost, and by any means, any such purpose or attempt. And, to meet any and all emergencies, she ought to be fully armed, and we would respectfully call upon the authorities of the State to proceed at once to the accomplishment of this object."

"NASHVILLE, April 18, 1861."

I find this paper signed by a number of gentlemen, and among the rest by R. J. Meigs.

The evil, as I have attempted to point out before, is this: that while those who planned and aided in bringing about this revolution, this rebellion, this civil war, or whatever it is, are forgiven, those who have been misled by the high position of the gentlemen who signed the address that I have read, and by the high position of Mr. Gantt, are left to suffer the consequence of their advice; no amnesty being extended to them.

Mr. President, I ought to apologize for the disjointed manner in which I have submitted these remarks. I do not think any gentleman ought to submit to the Senate remarks that he has not prepared with more care than I have done these; but, sir, they are my sentiments and my views on this subject. I do not know how soon I may be called home, and have therefore availed myself of this occasion to give my views without reservation or preparation.

Mr. SHERMAN. Mr. President, the Senator from Illinois has made one or two remarks to which I desire very briefly to reply. He quotes with approbation a portion of what I said the other day with regard to the powers of Congress in time of peace; but he seems to imply from what I said that I was in favor of exercising extraordinary powers to remove slavery. I am happy to inform

the Senator from Illinois that the powers of Congress which I would exercise to remove slavery are those that he himself confesses to be proper. In my remarks the other day I was very careful not to state what in my view was the best plan to abolish slavery in this country. The object I seek to accomplish I boldly affirm. Reflection since that time has further convinced me that it is absolutely indispensable to the peace of our country that we should remove every vestige of slavery. I did not the other day, nor shall I now, enter into a discussion of the various propositions as to the mode of removing slavery, except that I affirmed then, and now affirm, that it is within the undoubted power of Congress to employ slaves in the military service, to emancipate those slaves as a consequence of military service, and as a necessary consequence to emancipate those persons who are connected by domesticities with the slaves thus employed. To that extent I proceeded, and that was the extent of my argument.

Mr. RICHARDSON. I certainly understood the Senator, and I so read his speech now, that he thought the power in Congress to abolish slavery, this being a civil war, was derived from the law of nations. Am I mistaken?

Mr. SHERMAN. I have no doubt that in all those States in which the rebellion has assumed the power and magnitude of a civil war, where by the decision of the Supreme Court they are regarded not only as rebels but as enemies, that by the laws of war we may emancipate every slave within the limits of those States. I think no gentleman can read the history of the world which forms the laws of war without coming to this conclusion. Nor do I think the gentleman from Illinois has himself contested that point. It is true he denies that Congress may enlarge the laws of war. I never claimed that Congress had the power to enlarge the laws of war; but I claimed that Congress in prescribing regulations for our Army may authorize our Army, and the President, as Commander-in-Chief of that Army, to wage against these rebels all the laws and usages of war, emancipation of slaves included.

But, Mr. President, there is an easier road through all this difficulty, a road that is now being indicated by public sentiment, a road that is as plain as noonday, a road which I trust the gentleman from Illinois will tread with me. He says, and he makes the significant declaration, that slavery is dead in this country. How dead? Destroyed by the civil war; not by our acts. He tells us that our acts, our legislation, and the proclamation of the President have had no effect in destroying slavery; and yet he says slavery is dead.

Mr. RICHARDSON. No.

Mr. SHERMAN. I understood him to say so.

Mr. RICHARDSON. I repeated what the gentleman from Wisconsin and what the gentleman from Ohio had said. It was not what I said, but what they said. They said slavery was dead, and I say if it is dead let it alone.

Mr. SHERMAN. I understood the Senator to go further than that, and to say that slavery was dead. Well, sir, he does not deny the proposition. Then I come to the main point. Why cannot he and those with whom he acts politically join with us in removing slavery by a constitutional amendment?

Mr. RICHARDSON. Wait until the vote is taken.

Mr. SHERMAN. The Senator asks us to wait until the vote is taken. I will, in the sincere hope that then we may vote together.

And, sir, this is the simplest, plainest way to get rid of slavery. Various propositions have been introduced to that effect at this session. I have not heretofore debated them. The first proposition was introduced by the Senator from Missouri [Mr. HENDERSON] to get rid of slavery by a constitutional amendment. I hope that after this subject is fairly discussed and deliberately considered that there will be found the requisite majority in both Houses of Congress in favor of a proposition abolishing, by constitutional amendment, slavery in all the States. I believe that if that proposition is submitted to the States, disconnected with all other propositions to amend the Constitution, it will be adopted by the requisite number of three fourths of all the States. There is not a non-slaveholding State in this Union but would eagerly embrace the opportunity of wiping out all that is left of the institution

of slavery, and I believe that all the southern States as they come back into their old places in the Union will one by one adopt that policy, and in this way we can get rid of this whole trouble. It is an obvious and plain way; but until that plan can be considered and acted upon I am in favor of any other means to get rid of slavery.

There was another remark made by the Senator from Illinois in which he evidently misapprehended what I said the other day. He said that I treated these rebels simply as enemies subject only to the laws of war; and he says, if that is their relation, there is no way for us but to conquer them or to treat with them. Why, sir, this question has been decided already by the Supreme Court. That court has, in so many words, said that we may treat these rebels both as enemies and as rebels. We may wage against them the laws of war, and we may enforce against them the municipal laws; we may punish them as traitors and we may treat them as enemies. The laws of war are but the modified rules practiced among civilized nations as between public enemies. They do not prevent us from punishing the leaders of this rebellion as traitors. It is true that while their military power exists, while they are recognized by us as belligerents, while they hold the position of being at war with us, we cannot hang them according to our civil law; but the very moment that resistance is borne down by our superior strength, then we may treat them as rebels and punish them as such.

Mr. RICHARDSON. I do not desire to do the Senator from Ohio injustice. I certainly understood him the other day to go to the full extent that this was war. I understood him to assume that if we were to capture Jeff. Davis we could not do anything with him except what was authorized by the rules of war.

Mr. SHERMAN. The Senator, if he will read what I said, will find I said expressly that if we captured Jeff. Davis to-day, we could not hang him until we subdued the opposing military power. That is the decision of the Supreme Court, if I correctly apprehend it. That court, in so many words, say that as against this rebellion or those enemies we may wage the laws of war, and after we have overthrown their military power then we may treat them as rebels, and punish them in the mode prescribed by our law. That is precisely what I said. We cannot try Jefferson Davis under our civil law until we have broken down the military power of the rebels which makes them belligerents. These distinctions and these principles are obvious.

But the Senator brings into the Senate the argument that is so often heard on the stump, that while we desire to deprive white men of their rights, we are very anxious to secure freedom to the negro. No man is more sensitive of the rights of an American citizen than I am, nor than I think I have shown myself to be; but, sir, as against an enemy, or a man who in time of war aids the enemy, no treatment can be too severe. What I said about Mr. Vallandigham the other day grew out of this very position. Mr. Vallandigham, by the decision of a military tribunal, sanctioned and sustained by the highest United States judge in our State, had placed himself in the position of a public enemy. It was not simply as a man who talked as a certain party talk in our State, and, indeed, all over the country, who could find occasion to denounce everything that was done by the Government, and to exonerate everything that was done by the rebels, who could find no good at all in those who are compelled to administer the Government, and no harm in those who are waging war against the Government. The motive of such opposition may be harmless or justifiable, or may be but the latitude granted to free discussion; but in the case of Mr. Vallandigham it exceeded these limits. It was found by the decision of a military tribunal that that gentleman had committed such acts in the State of Ohio as placed him in the category of a public enemy. I say that by the laws of war he may be seized even in a loyal neighborhood, and may be punished according to the laws of war. Mr. Vallandigham in his position was not less a public enemy because he carried on his enmity within the State of Ohio. If he had been seized in the State of Tennessee, or within the lines of military operations, every one would have said that he would be subject to court-martial, and

might be tried and hung or shot. He was not the less a public enemy because he was carrying on his active opposition to the Government in the State of Ohio, than if carried on in the State of Tennessee.

Mr. President, I do not think that any party in this country desires to deprive the white men of our country of any of their constitutional rights. This is an allegation that is very often made; but there is no foundation for it. The Administration party, the Union party that now controls the Government, are as anxious to preserve the rights of individuals as the Senator from Illinois. This talk about the desire of the President, or the desire of the party to protect the rights of the negro at the sacrifice of the rights of the white man is, to say the least of it, empty declamation. If that idea could be instilled into the American mind, you would make rebels of the whole American people, because we are proud and sensitive. Senators ought to be cautious before they lend the weight of their names to such a proposition.

The President of the United States is not an especial favorite of mine, and yet I will say this: I have seen nothing in his conduct to show that he would desire to trample upon the rights of a single American citizen. He has been kind and lenient and forbearing, yielding sometimes when he ought not to have yielded. I have never known a case in the history of this war where he has willfully trampled upon the rights of an American citizen; nor do I believe he will do so. If he was actuated by bad motives, if he was a dangerous man using his vast authority for the purpose of overthrowing the liberties of the people, I would be ready to step to the side of the Senator from Illinois and resist him even to the extent of war; but I do not believe there is any such case. There is no man within the limits of the United States who has reason to believe that the President of the United States desires to overthrow this Government and deprive the white men of the country of their liberty; nor do I believe the Senator from Illinois really in his heart thinks so; and yet these constant reiterations of this statement that the President and his party are endeavoring to subvert the rights of the white men of the country in some way or other will have a very injurious effect, and I think it ought not to be repeated here.

Mr. President, I have said all I desire to say in correction of some of the statements made by the Senator from Illinois. I again repeat what I said the other day, that I believe it is our duty at this session of Congress, by some carefully considered act, to do all we can to wipe slavery out of existence in the United States; that the best, plainest, and broadest road is by proposing to the States amendments to the Constitution; that besides that we may authorize the employment of negroes in our Army and secure them their emancipation. We may, to the extent of our power, in other ways aid in the abolition of slavery. I believe that it is our duty to close up this troublesome controversy at this session, and I think the Senator from Illinois ought to join with me in doing it.

What would be the effect of a broad act of emancipation? Suppose we had no slavery in this country. Where then would be this angry excitement, this angry turmoil that for years has disturbed our party politics? The occupation of many who have been exciting the people of the country both North and South on this subject would be gone. The time has arrived when we should reap the great fruit which springs out of this civil war; when we may make our institutions more harmonious, when we may remove from our Government that feature which has been obnoxious to every just mind from its foundation; that feature which was denounced by all the framers of the Government. If by the sacrifice of thousands of lives and millions of money we can not only preserve the Union but can remove from our system this incongruous element, it will be money wisely spent and lives nobly sacrificed.

I would not have entered into this war nor would I have waged it for the purpose of freeing the negroes of the country; but since we are in it, since these rebels have themselves by their act of war given us the power to strike at slavery, I, for one, am in favor of doing it. Since they are at open war with us I would avail myself of this action of theirs by a constitutional amendment to wipe out every vestige of slavery. Then the States

that are now acting harmoniously in the Government and the States that shall hereafter come in with us and take their places by our side, both new States to be formed out of the Territories and the disloyal States of the South that shall return, will give us the requisite consent by a majority of three fourths of the States, and then this problem and controversy will cease and determine. I believe it will never cease until the cause of the war is ended by a great act of emancipation.

Mr. RICHARDSON. The Senator from Ohio does not answer the question I propounded to him in reference to Mr. Vallandigham. There is no dispute about the facts in his case. We all understand what was done. Where did they get the authority? The Senator says that if Mr. Vallandigham had done inside of our lines, in the State of Tennessee, what he had done in Ohio, a military court-martial could have tried him; and why? There was no law in Tennessee but military law. But while the courts were open in Ohio, if he was a public enemy, contributing to this rebellion, he was guilty of treason, and ought to have been tried by the laws.

Mr. SAULSBURY. If my friend from Illinois will pardon me, I should like to make this inquiry: what did Mr. Vallandigham do in Ohio which, if done in Ohio or anywhere else, would give the Government power to court-martial him?

Mr. RICHARDSON. I do not desire to get into any collateral controversy on this point. I do not myself admit even that he did anything of the sort. But even admitting it, the courts were all open in Ohio; there was no pretext for the exercise of military power at all; he was neither in the naval nor military service of the United States; and where did you get your authority to do what was done? Sir, it was a clear violation of the Constitution.

The Senator says in reference to the President of the United States, and probably I will make some admission on that point, that he is kind-hearted and has allowed a great many men to go free whom he ought not to have let go free. I do not know how that is. The Senator from Kansas [Mr. POMEROY] says it is so, and the Senator from Ohio says it is so; and I suppose they have examined the subject. But I will tell you what he has not done. He has not restrained his subordinates in striking down the guarantees of the Constitution of the United States which were thrown as a broad panoply around every American citizen wherever he may be. That is my reply, so far as the President may have done those acts himself. It is his duty to restrain his subordinates. They have done the oppression; they have violated the law; they have trampled upon the Constitution; and he being the only power that could restrain them, and not doing it, he is responsible for their acts.

I will say to the Senator from Ohio, in reply to his observation in reference to the constitutional mode which he now points out of amending the Constitution on the subject of slavery, that I do not know what objection there is to submitting that question to the States and allowing them to act upon it; but I was replying to the heresies, the dangerous and monstrous doctrines, that I find in the speech of the Senator from Ohio. I did not intentionally misrepresent the Senator. I certainly understood him most clearly and positively to take the ground that this being a civil war, the parties to it being belligerents, the laws of nations conferred upon Congress the power to abolish slavery without any other enactment whatever. I so stated at the time.

Mr. SHERMAN. I again repeat that in those States which are recognized as belligerents I think there is no doubt on that point; and the gentleman can scarcely controvert that by the laws of war the Government of the United States have the right to emancipate their slaves and employ them in their armies, and that as Congress prescribes the mode and manner in which our armies shall be used Congress may direct the application of that Army.

Mr. RICHARDSON. I am not discussing the question of what force Congress may employ and what it may not.

The Senator referred to precedents in history the other day to show that nations in all time had employed their slaves in war. I shall enter into no discussion in reference to that point. That is not the question in issue between the gentle-

man and myself. The question in issue between us is this: can you legislate upon the property of a belligerent, your enemy, before you have conquered him? I say you cannot. The gentleman has not controverted that point. What you may do after you have conquered him is another question. I am not discussing that question. I have not investigated it. I have not thought about it. When the time comes to think about it and to discuss it I shall do so.

This controversy, therefore, Mr. President, leads us to precisely where it found us, I imagine. I certainly did not intend to misrepresent the gentleman in any particular in any position he has taken. It was not my purpose to do so. I thought I made a fair statement, as I certainly endeavored to make a fair statement, of his position.

Mr. WILSON. I move that the further consideration of this bill be postponed until Thursday next.

The motion was agreed to.

EXAMINATION OF OFFICERS.

Mr. WILSON. I now move to take up the bill (S. No. 85) to provide for the examination of certain officers of the Army.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs that every quartermaster and assistant quartermaster, and every commissary and assistant commissary of subsistence, and every paymaster and additional paymaster, shall, as soon as practicable, appear for examination as to his qualifications before a board to be composed of three officers of the corps to which he belongs, of recognized merit and fitness, which board shall make a careful examination as to the qualifications of all officers who may appear before them in pursuance of this act, and shall also make a full and true record of the examination in each case.

Boards of examination are to be constituted, under the direction of the Secretary of War, by the Quartermaster General, the Commissary General of Subsistence, and the Paymaster General, at convenient places, and general rules of examination and a standard of qualifications are to be prescribed by those officers, subject to the approval of the Secretary of War, and are to be published in general orders.

After the board shall be constituted, and after the general orders shall have been published for a period of ninety days, none of the officers mentioned in the first section of this act are to receive any pay, allowances, or emoluments, until they shall have appeared before the proper board of examination; but if any officer shall be unable to appear before such board by reason of sickness or wounds, he shall, upon the certificate of a medical officer of the Army, or of a practicing physician, when a medical officer of the Army is not accessible, be entitled to receive the usual and lawful pay and allowances until such disability shall cease to exist, unless sooner discharged or dismissed from the service, and thereafter he is to receive no pay or allowances of any kind until he shall have appeared before the proper board of examination.

If the board of examination shall report that any officer does not possess the requisite business qualifications, they are to forward the record of the examination of such officer to the head of the bureau to which he may belong, and if the head of such bureau shall approve the finding and report of the board, the officer so failing in his examination shall, if commissioned, be dismissed from the service with one month's pay, and if not yet commissioned his appointment shall be revoked. If the board shall report that any officer fails to pass a satisfactory examination by reason of intemperance or vicious habits, and if the head of the bureau shall approve the finding and report of the board as to his lack of the requisite business qualifications, then such officer is to be dismissed from the service without pay, and is not to be permitted to reënter the service as an officer; but such dismissal is not to relieve him from liability, under existing laws, for any offense he may have committed.

The boards of examination are to forward all their records of examination to the heads of the bureaus to which they appertain, and such records are to be filed in the proper bureaus with a suitable index, and any officer who may desire it is

to be entitled to receive a copy of the record in his own case upon paying the cost of copying the same.

The Committee on Military Affairs reported the bill with two amendments. The first amendment was in section one, line eleven, after the word "also" to insert the words "keep minutes and."

The amendment was agreed to.

The next amendment was to insert at the end of the first section the following words:

And all members of such boards of examination shall, before proceeding to the discharge of their duties as herein provided, swear or affirm that they will conduct all examinations with impartiality, and with a sole view to the qualifications of the person or persons to be examined; and that they will not divulge the vote of any member upon the examination of any officer who may appear before them.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PAY OF THE ARMY.

The VICE PRESIDENT. The bill (S. No. 7) to increase the bounty for volunteers and the pay of the Army is the first bill on the general orders, and is now before the Senate for its consideration.

Mr. WILSON. I move that the bill lie on the table. It is a subject on which there should be further consideration.

The motion was agreed to.

Mr. CONNESS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 9, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. FURNESS, of Philadelphia.

The Journal of yesterday was read and approved.

TREASURER'S ACCOUNTS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Treasurer of the United States, transmitting copies of his accounts with the United States for the third and fourth quarters of the year 1862, and the first and second quarters of the year 1863, as adjusted by the accounting officers of the Treasury; which was laid upon the table, and ordered to be printed.

RAILROAD GRANT.

Mr. HOTCHKISS, by unanimous consent, and in pursuance of previous notice, introduced a bill granting lands to aid in constructing the Lake Superior railroad, and providing for the use of the same by the United States free of charge; which was read a first and second time by its title, and referred to the Committee on Public Lands.

CONFISCATION.

Mr. STILES. Mr. Speaker, I ask leave to record my vote on the joint resolution explanatory of the confiscation act.

Mr. STEVENS. I object.

Mr. STILES. I was necessarily absent. If I had been present I should have voted "No."

LOUISIANA CONTESTED ELECTION.

Mr. DAWES. I desire to have the patience of the House for a few moments this morning to dispose of the Louisiana election case. The gentleman who claims the seat desires to be heard, but he will be brief, and then I propose to move the previous question. I therefore call up the case.

The House accordingly proceeded to the consideration of the following resolution, reported from the Committee of Elections:

Resolved, That A. P. Field is not entitled to a seat in this House as a Representative from the State of Louisiana in the Thirty-Eighth Congress.

Mr. FIELD, (claimant.) I regret very much indeed, Mr. Speaker, that I am compelled to ask the indulgence of the House for the short time which it will take me to conclude the remarks which I commenced the other day. Business of more importance has since occupied the time of the House and demanded the attention of members. I design, however, to present to the consideration of the House, in the conclusion of my remarks, some documents which bear upon the claim of Louisiana to be represented upon this floor. I have submitted to the House the correspondence between the committee representing the people of

that portion of Louisiana loyal to the Government of the United States and the military authorities or the military governor. That committee also, in order to act in harmony with the military authorities and to do nothing which could be complained of, addressed a communication to the commanding general of that district. On the 19th of September of last year, after having addressed a communication to the military governor of the State of Louisiana, the committee also addressed a letter to General Banks, commanding the department of the Gulf, a copy of which letter I hold in my hand now and ask to have read.

The Clerk read the letter, as follows:

NEW ORLEANS, September 21, 1863.

GENERAL: In conformity with a resolution unanimously adopted at a meeting of citizens of the first and second congressional districts of the State of Louisiana, convened for the purpose of taking measures for the reestablishment of civil government in Louisiana, we have the honor herewith to transmit you copies of all the proceedings.

In fulfilling this duty we indulge the hope that the success which you have achieved in the cause of our national unity will speedily be followed by a restoration of civil government in Louisiana, under the Constitution of the United States.

We subscribe ourselves, with great respect, your obedient servants,

J. L. RIDDELL, President.

ROBERT J. KERR, Secretary.

General NATHANIEL P. BANKS.

Mr. FIELD. The Committee of Elections maintain, in their report, that I am here without a constituency. It will be remembered from the documents which I have presented to the House that in our unfortunate divisions in Louisiana a portion of the loyal men—because I will call them loyal—contended that the State was out of the Union, that we were a conquered territory, and that, therefore, we could not rightfully hold any election in the State under any circumstances whatever.

Mr. STEVENS. Will the gentleman allow me to ask him a question?

Mr. FIELD. I will if it is not to be taken out of my time.

The SPEAKER. It will come out of the gentleman's time.

Mr. STEVENS. The gentleman speaks of his having been uniformly loyal. I desire to ask him one question. I ask him if he did not in May, 1862, publish a card in the New Orleans Delta stating in substance that "some persons had slandered him by saying that he had gone on board a Yankee gunboat, a part of Farragut's fleet then lying in the river, but that his known character for loyalty to the South should forbid the imputation from being believed by any person who knew him?" Such a card was published over the signature of a person bearing the same name as the claimant, and I want to know if he was the author of that card?

Mr. FIELD. I desire to know the author of the communication from which the gentleman has read.

Mr. STEVENS. The author is Major General Butler, whose name is signed to this paper.

Mr. FIELD. So far as any charge upon my loyalty is concerned—

Mr. STEVENS. I would like an answer to my question.

Mr. FIELD. I deny having been anything but a loyal man from the commencement of this rebellion.

Mr. DAWES. I hope the gentleman from Louisiana will give way to me for a moment.

Mr. FIELD. Certainly.

Mr. DAWES. I think it due to the gentleman from Louisiana that I should state that he brought letters to me from gentlemen well known to this House, and especially from Hon. Michael Hahn, who, although he differs with Mr. Field as to his right to a seat here, takes pleasure in certifying his loyalty and his support of the Government. I am glad of this occasion to bear testimony to the character of the gentleman from Louisiana in this respect, after the remarks of the gentleman from Pennsylvania, [Mr. STEVENS,] who believes in foreign nations rather than in sister States. [Laughter.]

Mr. STEVENS. That is a very poor answer to my question. I asked a question, and I should like to have an answer to it.

Mr. FIELD. Mr. Speaker, I must return my thanks to the distinguished chairman of the Committee of Elections for having made this communication to this House. I am prepared upon

this floor, or anywhere, to vindicate my loyalty to the country. I have had no feeling in my life unless it was that of loyalty and devotion to this great and glorious Government. Some men who have communicated with the honorable gentleman from Pennsylvania [Mr. STEVENS] may have distrusted my loyalty because I could not subscribe to the doctrine contended for by a certain portion of those who opposed my election.

Mr. Speaker, I was going on to say, when interrupted, something in reply to the statement of the report of the Committee of Elections, that I am here without a constituency. Let me read one resolution of the party in Louisiana that maintains the same doctrine that the gentleman from Pennsylvania does. In answer to the communication of the people of Louisiana to join them in holding an election, they resolved—

"That, in the opinion of the committee, the constitution and the government of Louisiana were and remain overthrown and destroyed by the rebellion and subsequent conquest of the State, and that until a new constitution shall have been adopted by the loyal citizens of the State no elections for a member of a State Legislature can or ought to be held."

Here is a large party sustaining the very views of the gentleman from Pennsylvania. Certainly those gentlemen were of the belief that our Government had been overthrown, our Constitution destroyed, and our land virtually gone, and they could not of course enter into any effort to bring the State into the Union except upon their own terms.

I will now read from the National Intelligencer. Men of that party have taken pains to write letters here assailing the commanding general—General Banks—who is now in charge of that department. Here is what I find in the National Intelligencer under the heading of "Reconstruction in Louisiana:"

NEW ORLEANS, January 9, 1864.

DEAR SIR: President Lincoln has started a Missouri case in Louisiana, and has made Banks our master; and Banks is another Schofield, only worse than he. Our mass meeting last evening was a complete success; but its object will be defeated by Banks, who, under orders direct from the President, declares his purpose to order an election for a convention; thus playing into the hands of Cottman, Riddle, and Fields, and their crew. The Union men—the true Union men—are thunderstruck by the course of the President in this matter.

We were not informed of the President's orders to General Banks until the hour of the meeting last night, and the meeting was not informed at all. General Shepley, who is generally liked, and who has done all he could to promote the free State cause, and to organize a free State government, will resign, and the election ordered by Banks will be purely at military dictation, and will be so regarded.

I know not the secret spring of all these acts of the President, and think the President has probably been deceived by interested and base men. His true friends, and the friends of his measures, are much grieved by the course he has authorized. It is certain that Banks has the unchanged confidence of Mr. Lincoln. Here he is regarded as another Schofield, without the military talent of that officer. Is it not possible to get the President to countermand his orders to Banks immediately, and let the people manage matters as they have begun to do?

Mr. Speaker, it will be now seen by the House that the President nor any other in charge can please a certain portion of the people of Louisiana who call themselves loyal. Unless the President conforms his plans precisely to their plans, or if he happens to charge some man in the department of Louisiana with control of the reconstruction of the State, they are shocked at it. They call upon the President to displace him, and they denounce him worse than was General Schofield who had charge of the department of Missouri.

So you see, Mr. Speaker, that every effort on the part of the people of Louisiana who are desirous of a return to the Union was made for the purpose of harmonizing all of the elements to bring the State back at the earliest period possible. She ought to have been brought back more than twelve months ago. More than twelve months ago she would have been in the Union and represented here if the people of Louisiana had been allowed to pursue the course which they desired in reference to that election.

It is contended on the part of gentlemen in this House that we had no authority to hold an election, that we were in a condition which forbade an election to be held in Louisiana. I ask those gentlemen to look at the State of Arkansas. She has gone to work in the proper way. She has inaugurated a mode of bringing the State back into the Union less objectionable than any other. The loyal people entitled to vote have assembled in convention. I believe that they have also elected

a member of Congress from one of the districts, who, I understand, is here and will present his credentials. I further understand—I do not speak from authority—that the proceedings of the people of Arkansas, all independent of the military authority, have been approved by the authorities here, or at least sanctioned to some extent by the President of the United States.

Mr. Speaker, after the address to General Banks in September last by the convention of loyal people of Louisiana, they proceeded to publish an address calling upon the people of New Orleans to assemble on the day of election for the purpose of holding an election. They proceeded to publish election notices, one of which I will read:

ELECTION NOTICE.

State of Louisiana, Parish of St. Bernard.

Notice is hereby given to the electors of the parish of St. Bernard that an election will be held, according to law, on the first Monday in November next for the following officers, namely: Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor, Attorney General, Superintendent of Education, one member of Congress for second congressional district, one member of Congress for State at large, State Senators for senatorial district, and members of State Legislature, &c., &c.; and that the polls will be open on the aforesaid Monday, the 2d day of November next, from nine o'clock a. m. to four 4 p. m. at the several places designated by law, being the usual places where elections are held in said parish, as follows:

Here is another notice which I will read:

ELECTION NOTICE.

State of Louisiana, Parish of St. Bernard.

Notice is hereby given to the electors of the parish of St. Bernard that an election will be held, according to law, on the first Monday in November next for the following officers, namely: Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor, Attorney General, Superintendent of Education, one member of Congress for first congressional district, one member of Congress for State at large, two State Senators for first senatorial district, one member of State Legislature; and that the polls will be open on the aforesaid Monday, the 2d day of November next, from nine o'clock a. m. to four 4 p. m. at the several places hereafter designated, being the usual places where elections are held in said parish, as follows:

In the first district, the first poll to be held at the house of Francisco Asvedo, lately known as the Battle-Ground Coffee-House, under the superintendence of MM. Victor Debouchel, jr., Francisco Asvedo, and Guillaume Watrigny as commissioners.

The second poll, at the coffee-house of Mr. Francisco Arteta, under the superintendence of MM. Francisco Arteta, I. Meunier, and William T. Price.

In the second district, at the coffee-house of Mr. Santiago Pendas, under the superintendence of MM. Antoine Chilaire, Joseph R. Serpas, and H. Turner.

In the third district, at the coffee-house of Mr. H. Gutierrez, under the superintendence of MM. Pierre St. Germain, jr., Adolphe Estopinal, and Francisco Estopinal.

In the fourth district, at the house of Mr. Pablo Felian, under the superintendence of MM. Manuel Serpas, Melcior Bienville, and Cyprien Serpas.

For the fifth district, first poll at the coffee-house of Mr. Dominguez Florez, under the superintendence of MM. Augustus Nufiez, Leon Nufiez, and Vincent Morris.

Second poll, at the grocery of Mr. B. Gutierrez, at the Island, Lake Lery, under the superintendence of MM. Bernard Gutierrez, Joseph Des Grains, and Louis Serigny.

For the sixth district, at the house of Mr. Pierre Ruiz, at the Chiboula, under the superintendence of MM. Edgard Ruiz, Pierre Thiel, and P. A. Roussau.

The said elections to be held and the returns made agreeable to the constitution and the laws on that subject, and triplicate returns to be made by the commissioner for each district according to law.

PARISH OF ST. BERNARD, 20th of October, 1863.

It will be perceived by the notice I have read to the House that everything was done which could be done under the state of things which existed in Louisiana. No order having been made by the military authorities, and they declining to order any election, we thought it eminently proper that the people should assemble for the purpose of expressing their views and voting for their officers. They being the source of all power, being interested in this matter, being desirous of returning to the Union, we thought it eminently proper that that mode should be pursued by which they could as speedily as possible return to the Union.

Those who were opposed to us in all these plans, who declared we were a Territory, would not have united with us in an election, even if an order had been made by the military governor. They had determined that we were out of the Union, and that they would not participate in any election for members of Congress, Governor, or members of State Legislature. If these were their doctrines, they could not have participated in any election under any order that may have emanated from either Washington or from the military authority.

Those who were opposed to the election maintain that doctrine now, notwithstanding an order has been issued by General Banks, under direc-

tion of the President of the United States, for holding an election there. We are satisfied with that. I am satisfied with it, because if I cannot get the State back into the Union in one way, I am not opposed to getting her back into the Union in some other way which I might not think quite so proper.

Upon what principle will they require that a gentleman shall present himself to this House, claiming to be a member of Congress elected from Louisiana? The committee say he has no constituency. How many votes do you demand he shall have to make his claim here valid? In the district I represent there were but twenty-four hundred voters. The election was not held in the city of New Orleans, or in that portion of the district in which I reside, by reason of the interference of the military authorities. Is it not reasonable to suppose that that portion of those people who are opposed to the State coming into the Union would not have gone into the election anyhow, even if they had been permitted by the military authorities to do so? The people in the two parishes below the city assembled and voted. Now, would you require thirteen hundred votes—that would be a majority of twenty-four hundred—to entitle a man to a seat? According to the President's plan of reconstruction only one tenth of the number of the voters is required. Then suppose that one tenth of the loyal people of that district voted for me, upon what principle will it be contended now that because they voted prior to the President's proclamation of his plan of reconstruction they should be deprived of their representation and this election be declared void? I can see no reason in it.

Besides this, let me inform the House that the city of New Orleans has furnished to the Federal Army, as I am assured by two paymasters who have paid the troops there, seven thousand men, as good soldiers as ever shouldered a musket and marched to the battle-field. Since the election twelve months ago we have furnished upward of five thousand fighting men from that city, who have gone into the Federal Army; and consequently our voting population has been greatly decreased thereby.

But it is said by some gentlemen that we do not know whether these men are loyal who voted then. Sir, I can tell you that nobody but loyal men, those who have taken the oath, and that is the only standard by which we can determine loyalty, voted at that election. If they took the oath they were entitled to their rights, and their property was exempt, according to the President's proclamation, from seizure and confiscation.

It is said that we are not all of us loyal men, and that probably some disloyal men voted. I can tell gentlemen that by an order issued long ago all men who did not take the oath of allegiance and who were not considered loyal by the authorities were sent beyond the lines, and there are no disloyal men there now excepting those who have taken and subscribed an oath to support the Constitution of the United States, and to observe strict loyalty to this Government. That is my answer to the charge of disloyalty. I contend that the people of that region are more loyal in proportion to their numbers than are the people in any of the States called loyal. I do not wish, sir, to be invidious, but I traveled through some of your loyal States in coming here, and I heard expressions from men which, if made in Louisiana, would have sent them to Ship Island or Fort Jackson. It costs a man nothing to be loyal here, but in my country it costs a man his property, and perhaps his life. I believe that a majority of the people of Louisiana have always been loyal, and that if the Administration that preceded this had done its duty faithfully my adopted State would not have been dragged out of the Union by traitors. If instead of withdrawing all the United States forces from our forts and arsenals they had supplied us with arms, the loyal people of Louisiana would have rallied to your standard, and the blood of the valiant men from Massachusetts and Illinois and other States, would not have stained the soil of Louisiana; she would have remained true to the Union.

[Here the hammer fell.]

Mr. SMITH. I hope that by unanimous consent the gentleman will be allowed to proceed with his remarks.

Mr. FIELD. I want only about fifteen minutes.

The SPEAKER. The gentleman can proceed

only by unanimous consent. The Chair hears no objection.

Mr. FIELD. I had designed, Mr. Speaker, submitting an affidavit from a very prominent Union man, and a large slaveholder, from the Red river country, who traveled on here with me, and who had been in the swamps for six weeks, to show his feeling and that of his neighbors. Many of these men have voluntarily given up their property of every species, including their slave property. I can give the instance of a gentleman of the name of Dr. Duncan, one of the largest slaveholders in Mississippi or Louisiana, who has fought this rebellion from the beginning to the end, and who is now in Philadelphia. This gentleman declares to me that he is in favor of the abolition of slavery throughout the country if necessary to save this Government. These men are willing to sacrifice all their property and all their means for the salvation of this country.

Sir, the question of slavery never was in my way. I owned but few negroes; but if I had had a thousand I would not have hesitated to sacrifice them upon the altar of my country rather than see one single star blotted out from that bright galaxy that floats above you; I have never had any difficulty upon that point.

And now, Mr. Speaker, it becomes me to tell you that I know the decision of the House will be against me. I shall submit to it without complaint or murmur. I shall return to my adopted State with my loyalty undiminished. I shall battle there with what little ability I have to sustain this glorious Union; and though the star of Louisiana has been obscured by the hands of traitors it will yet shine forth as brightly as that of any of her sister States.

And furthermore, if I had a seat in the convention that is to amend our constitution I would perpetually disqualify every man who has been a leader in this rebellion from ever holding office under this Government. I would never let the soil of Louisiana be polluted by the footsteps of Sidel, Benjamin, or any of that fraternity as long as I could raise my voice against it.

There is my loyalty, and there is my Unionism; and I ask gentlemen if any man could go further. I have no sympathy with traitors. They have desolated our firesides; they have ruined our people; they have brought mourning to almost every hearth and every fireside in our country. That, sir, rests upon them, and with my consent never shall they be permitted to return to that country which has been made a wreck of by their treason and traitorism.

I designed to say one word to the honorable gentleman from Pennsylvania, [Mr. STEVENS,] who I regret not to see in his seat. I however feel compelled to make the remark.

A MEMBER. He is here.

Mr. FIELD. When my credentials were presented to this House and my name was placed upon the rolls of the House at the commencement of the session, the gentleman from Pennsylvania rose in his place and remarked that the members from Louisiana had already at the time he was speaking gone to the Sergeant-at-Arms for the purpose of getting their pay.

Mr. STEVENS. If the gentleman will allow me to correct him, I said one of these members.

Mr. FIELD. So far as I am concerned, Mr. Speaker, I do not know the Sergeant-at-Arms, I have never seen him, nor did I dream of any such thing. Poor as I am, and poor as my people are, I would scorn in these times of peril and danger, in these times when the Government wants money so urgently, I would rather endure my poverty in silence than to ask for one dollar unjustly. I am not amenable to that charge. Thank God, I am not.

I have made sacrifices to come here. I am poor, and it is no crime to be poor. What little I had was swept away by this rebellion. All that was left to me was my little practice as an humble lawyer. That I have given up for the purpose of coming here to see if I could not do some good in favor of unfortunate Louisiana.

And now, Mr. Speaker, as I am about to take my leave of you and of the House, let me implore you to look kindly upon poor Louisiana. Guard her rights if you can. Protect her people who have been under military law for nearly two years, who have had no voice either here or elsewhere in their own government. Look upon her kindly, protect her if you can, and give her at least some

THE CONGRESSIONAL GLOBE.

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right to be heard, if not now, at least in some future time, upon this floor. Remember, I say, Louisiana; remember Chalmers, the glorious battle-field of the immortal Jackson; remember that we marched side by side with you upon the plains and mountains of Mexico. The bones of her sons lie mingled on that soil with those of glorious Massachusetts, of Vermont, and many of the other States; they lie there side by side, and they will rise together.

Remember all these things, and remember, too, that she has always been open, frank, and generous. It is said that we hate the North. It is false. I have scarcely ever voted for any other than a northern man. Our city, in the election when Mr. Fillmore was made a candidate, gave forty-two hundred majority in favor of him. No, sir, we know no distinctions. A Massachusetts man is as much a brother to me as if he were born upon my native soil of Kentucky, and I glory in his patriotism as much. Never let it be said that we dislike the North. We buy from them almost all we consume. We do not make even a plow, a wheelbarrow, or a carriage. We get them from Massachusetts, from Connecticut, or from Pittsburgh. All our machinery, everything of the kind, we have heretofore willingly bought of you, and we will do it again whenever this rebellion ceases and our channels of commercial intercourse are again open.

One word, and I am done. I cannot close my remarks without returning my profound thanks to the chairman of the Committee of Elections, as well as to each and every member of that committee, for the impartial, able, and patient manner in which they heard all I had to say in favor of my claim to a seat in this House. They have my profound gratitude. I will not say that they have been wrong in reporting against me. They have reported according to the dictates of their own consciences and judgment, and it is not for me to complain.

Mr. DAWES. I desire to call for the previous question on the resolution at this moment. The gentleman from New York [Mr. GANSON] desires to be heard. Under the rule I am entitled to an hour after the main question has been ordered to close the debate. I do not propose to occupy an hour, and I will, with the consent of the House, permit the gentleman from New York, [Mr. GANSON,] a member of the Committee of Elections, to occupy a portion of my time.

Mr. BROWN, of Wisconsin. I also want to be heard for a moment.

Mr. DAWES. I do not feel at liberty, as chairman of the Committee of Elections, to call the previous question when members of the committee desire to be heard.

Mr. WASHBURN, of Illinois. The attention of the House has been called to a card said to have been published in New Orleans by the gentleman from Louisiana [Mr. Field] about the time of the surrender of the city. I have not seen that card, but I desire to bear a word of testimony in regard to the gentleman who claims a seat here from Louisiana. He was formerly a respected and patriotic citizen of Illinois, long and well known for his patriotism and ability. I have known him for nearly a quarter of a century, and it affords me pleasure to speak from my personal knowledge in this regard. I received a letter from a distinguished citizen of Illinois, who has been long in New Orleans, in relation to this claimant. He states that he was always one of the most loyal men in that State to the flag and the Union. He commended him to me for devotion to the Union under the most trying circumstances. That is all I desire to say. I have made the statement in justice to the claimant for a seat upon this floor, and what I believed to be due to truth and justice.

Mr. DEMING. Mr. Speaker, when the loyalty of the claimant to this seat was brought into question the chairman of the Committee of Elections appealed to me, and I am unwilling that he should labor under an imputation and suspicion of disloyalty which my silence under such an appeal might possibly create. I entered the city of

New Orleans with the Federal forces on the 1st of May, 1862. We found all the machinery of justice broken up; the courts were closed; and one of the first necessities which the emergency brought upon us was to organize some means by which justice might be administered. One of the first orders of the commanding general was to organize a provost's court. We had long known the claimant in the city. He was a distinguished lawyer in that municipality. He was the first man who came forward under these trying circumstances to take the oath of allegiance; and he commenced to practice in the courts which the commanding general had created. From that time forward he was not only regarded as a loyal man, but as an exemplar of loyalty—"faithful among the faithless found."

This, sir, was at a time when a profession of loyalty had its inconveniences, its perils, and its dangers. We were there with a feeble force. The enemy was at no great distance. We were apprehensive that we could retain possession of the city but for a few weeks. None of the gentlemen who have been since loud in profession of devotion to the Union ventured to come forward to take the oath of allegiance, because they did not suppose that we had a sufficient force there to protect them. He came forward and continued to practice in the courts during my sojourn in the city.

But that is not all. Shortly after we went there he was the nucleus around which the Union sentiment of the city gathered. Public meetings were held in various wards, and the claimant was among the most prominent speakers at those meetings in his profession of unconditional attachment to the Union, and I have heard him present remarks to these meetings which I would have hesitated myself to present. I have heard him avow, before the proclamation of the President was issued, the necessity of issuing a proclamation of emancipation for the purpose of crippling this rebellion. He avowed in New Orleans very similar principles to those the gentleman from Kentucky [Mr. SMITH] has avowed upon this floor; and during our continuance in the city I never heard his loyalty questioned for one instant. He took the same position with Mr. Hahn, and the same position with Mr. Durand; and was one of the leading Union men in that city.

I know in these days it is exceedingly difficult to define loyalty; but according to any definition I can understand of it, I can say to this House that I believe him to be as loyal a man as I am myself, or any member upon this floor.

I should not have obtruded these observations upon the House had not the loyalty of that gentleman been called in question. I supposed that this question would turn upon the legal merits of the election; and as I am now convinced, I shall be disposed certainly to vote against the claim of the gentleman to a seat; but I was unwilling to sit still here when I was appealed to by the chairman of the Committee of Elections and not present to the House the evidences in my possession that the claimant is a thorough-going and unconditional Union man.

Mr. DAWES. I only desire five minutes myself, but it is well known I cannot call the previous question against the members of my own committee, and therefore I yield the floor to the gentleman from New York, [Mr. GANSON.]

Mr. GANSON. It was my intention to say nothing upon this occasion; but since the disclosures which have been made to this House by the applicant from the first congressional district from Louisiana relative to the condition of the people of that district, and the treatment they have received at the hands of the military governor of that district, I deem it not only right, but suitable, as a member of the Committee of Elections, that I should state very briefly the considerations which induced me to cooperate in recommending to the House the adoption of the resolution reported by the committee; and also to express my regrets, if the recommendation of the committee is sustained by this House, that the action of that

military governor will result in disfranchising as loyal a district in my judgment as there is in the Union.

As has been stated by the applicant, and as it also appears by the report of the committee, the 2d day of November, 1863, was the day designated by the laws of Louisiana for the regular election. A year ago an election was permitted in the first and second congressional districts of Louisiana by this same military governor, and he supervised that election. It resulted in sending two Representatives to the Thirty-Seventh Congress, and they were admitted by a vote of this House to their seats, and they participated for the remainder of the session in the legislation of the country. There had nothing occurred since to change the loyal character of that people. Patriotism and loyalty had been increasing there more and more daily; people had resumed their peaceable avocations; the courts were opened, and justice was unobstructed. An election of this character having taken place under the supervision of the military governor a year ago, the people, the rightful source of all power, thought they would take upon themselves to initiate an election. And I wish the House to bear in mind that this was an election not only for Representatives in Congress, but also for State and local officers. A convention was called; it assembled; they appointed a committee of nine to wait upon this military governor. They did wait upon him; they respectfully asked him to cooperate with them in their efforts to initiate a popular election; and he not only declined to do that, but absolutely forbade the people to hold an election within his jurisdiction. That jurisdiction extended over this congressional district, save two parishes, which were outside of the lines of the city. The polls, by reason of this arbitrary, unwarranted action of this military governor, were not opened within the limits of the city of New Orleans. They were opened in the two precincts outside. The people attended the polls according to the laws of the State of Louisiana, cast their votes, and in one parish, as appeared before the committee, the applicant received one hundred and fifty-six votes; and those are all, so far as the committee knows, that he did receive within his congressional district. As a member of that committee I could not conscientiously recommend that the gentleman should be admitted to a seat upon the floor of this House as a Representative. I therefore, simply and solely upon the ground that the gentleman had not, in my judgment, a sufficient constituency to entitle him to a seat upon this floor, concurred in recommending the passage of the pending resolution. But, sir, while I do that, I desire at the same time to express my decided disapproval of the usurpations of this military governor.

It may be said by some gentlemen, and the idea has been thrown out, that the reason why an election was not held was that the State had not been redistricted. I ask the House to bear in mind that these persons who called upon this military governor for permission to hold an election not only desired to hold an election for Representatives in Congress but also for State and local officers, and if the military governor had given as a reason that the State was not redistricted, it would have been a mere subterfuge, and therefore he did not place himself upon that ground. I do not subscribe to the doctrine that an election, even for Representatives in Congress, would have been illegal without redistricting the State, because it should be borne in mind that under the old apportionment the State of Louisiana was entitled to only four Representatives in Congress, and under the new apportionment to five; and if the people of the State saw fit to send only four Representatives when they were entitled to five no other State could complain, and their four Representatives would be entitled in my judgment to their seats. But it is enough for me to know that this military governor did not base his refusal to allow the election to be held upon that ground. The record shows that he had become, between the date of the election which he permitted and that which

he prohibited, a convert to this new, pernicious, and revolutionary doctrine that by reason of the rebellion the relations of the State of Louisiana to this Union had been changed, and that she stood in the attitude of a conquered province.

Now, sir, I state this upon proof which is entirely satisfactory to my own mind. The House will recollect that this military governor has an attorney general, "the law officer of the crown" in that locality. This attorney general was president of the State Union association of the city of New Orleans, and was the president of the meeting which passed resolutions to this effect:

"Resolved further, That in the opinion of the committee the constitution and government of the State of Louisiana were and remain overturned and destroyed by the rebellion and subsequent conquest of the State, and that until a new constitution shall have been adopted by the loyal citizens of the State no election for members of a State Legislature can or ought to be held.

"Resolved, That we approve a registration of loyal citizens with the view of providing for the election of a constitutional convention; that in our judgment this is the only true and just path to the restoration of civil government in the State, and that no unauthorized body of men should be permitted by the military governor to supersede and set at defiance his orders.

"Resolved, That a copy of these resolutions be transmitted to the military governor, and his action on the subject earnestly and respectfully requested."

This same Attorney General Durand was also the commissioner of registration, and, under the rules and regulations which he prescribed for voting, any person who had been a resident of Louisiana for six months was entitled to vote, although the constitution of the State prescribes that no person shall vote who has not been a resident for twelve months. This position was officially approved by the military governor. Well, now, we see why it is that this military governor would permit an election in 1862 and would not permit one in 1863. It was because he had become a convert to this revolutionary and pernicious doctrine that the constitution and laws of the State of Louisiana had been abrogated by reason of the rebellion, and that that State stood to the Union in the attitude of a conquered Territory. But, sir, if that were so, admitting it to be a Territory of the United States, what clause is there in the Constitution of the United States which confers upon Brigadier General Shepley the power of determining whether or not the loyal people of Louisiana shall exercise the elective franchise? The committee say in their report that they were unable to ascertain whether General Shepley's action was authorized by any superior power or has been subsequently sanctioned by his superiors. I care not whether any superior authority undertook to give him power to do that which he did. If any superior should so undertake it would only present a case of higher wrong. And, sir, I hope that this House, if they sustain the action of the committee in this case—and I hope they will not sustain that action unless they are bound in conscience to do it—I hope they will not permit the action of this military officer to go unrebuked. For one I will not silently acquiesce in any such action.

Sir, I believe that the Union is to-day, in view of the Constitution, unbroken, and that the constitution and laws of each and every one of the rebellious States stand unimpaired, and that the ordinances of secession are null and void, and that neither Congress nor the Executive nor any military officer can abrogate the constitutions of such States, and that they stand beyond and above every other power, save that of the loyal people of the States respectively, who alone can change the fundamental laws of the several States in convention convened for that purpose.

I have always, at all times and under all circumstances, advised and advocated the prosecution of this war until the rebels will bow their necks to the yoke of the Federal Constitution. I propose to continue to do that. But whenever the rebellion is suppressed within any State or portion of the State, and the people become loyal, so that the civil authorities can resume their sway, I propose to treat them as citizens belonging to the Union, having the rights of citizens which are guaranteed to them by the Constitution, that whenever they will submit to the Constitution and the enforcement of the laws all contention and strife should cease. I do not believe it is the proper purpose or object of this war to propagate ideas by the sword. I would leave that to the march of morality and of civilization, and not to the sword and to the tread of armies.

I believe that whenever any portion of the country that has been in rebellion will submit to the Constitution and the laws the people thereof should have their constitutional rights restored to them; and if there are any institutions in that portion of the country which the people desire to remove it should be done by a change of constitution in a peaceable and proper way.

I am in favor of giving a cheerful and cordial support to the Administration in bringing every foot of our territory within the jurisdiction of the Constitution; and when we have done that I am opposed to the suffrages of the people being subjected to the control of the military power.

It is for the reason that the people within the first congressional district of Louisiana were forcibly prohibited from voting, and that solely, that I believe this applicant should be excluded from a seat in this House. I desire at the same time to protest most earnestly against the action of this military governor. But I should be sorry to see this applicant, whom I believe to be a truly loyal man, sent to his home to bear the tidings to the loyal people of Louisiana, who have been subjected to everything, suffered everything, and lost everything by reason of their adherence to the Union, that he was not only by this Congress excluded from a seat as their Representative, but that the arbitrary action of the governor, which resulted in disfranchising them, had met the approval of the Thirty-Eighth Congress.

Mr. SCHENCK. For the purpose of bringing to a conclusion this matter, which now stands in the way of the House going to the consideration of what I believe to be more important business, I now demand the previous question.

Mr. BROWN, of Wisconsin. I appeal to the gentleman from Ohio to withdraw that demand, to enable me to make an explanation of my course in giving my assent to the report of the Committee of Elections.

Mr. SCHENCK. I should be as willing to yield to the gentleman from Wisconsin as to any other gentleman in this House, but I cannot, in consistency with what I believe to be my duty, withdraw my demand for the previous question.

Mr. MALLORY. I ask the gentleman to withdraw his motion to enable me to offer a merely verbal amendment to the resolution reported by the Committee of Elections.

Mr. SCHENCK. If the gentleman has a merely verbal amendment to offer which will meet with the approval of the Committee of Elections, I will yield for that purpose.

Mr. MALLORY. My amendment is simply to strike out the word "not" in the resolution. [Laughter.]

Mr. SCHENCK. That would just reverse the resolution of the committee. I insist upon my demand for the previous question.

Mr. BROWN, of Wisconsin. I appeal to the gentleman to withdraw his demand for the previous question, to enable me, as a member of the Committee of Elections, to make an explanation.

Mr. SCHENCK. If the gentleman desires to make an explanation personal in its character, and the gentleman from Massachusetts is willing that it shall come out of his hour, he can make his explanation during his time after the previous question has been seconded.

Mr. DAWES. I do not want five minutes, and I am willing to yield the gentleman from Wisconsin a portion of my time if the House has no objection.

No objection was made.

The previous question was seconded, and the main question ordered to be put.

Mr. DAWES. If the gentleman from Wisconsin does not wish to occupy too much time I will now yield to him.

Mr. BROWN, of Wisconsin. I do not think I shall occupy more than from five to ten minutes at most. I wish simply in justice to myself to explain the process by which I arrived at the result set forth in the resolution reported by the Committee of Elections.

In the first place I shall dispose of the legal objections that arose against this election in Louisiana. I believe all the members of the committee, certainly as far as I heard an expression of opinion, concurred in the idea that the State of Louisiana had never been out of the Union, and that by her own act she could not go out. They regarded the time during which the rebellion held

its sway over the State as so much time practically annihilated, and that when the jurisdiction of the United States was reestablished she stood precisely as she did prior to the act of secession.

The United States were bound to protect every loyal citizen of Louisiana against this very rebellion; they were bound to prevent the oppressions and exactions of which the rebel authorities were guilty. This, however, the United States had been unable to do, and thousands of loyal citizens of that State had suffered in consequence. But for us not only to fail in that duty of protection, but, taking advantage of our own wrong, to make that failure an excuse for robbing them of their property or their rights as citizens of a State, would be in the highest degree unjust.

There was the further legal objection that, although the right of electing members of Congress remained, still, by the utter destruction of the State organization, the machinery for conducting elections and making returns was wanting. This is easily answered. The right to elect a member of Congress grows out of the Constitution and laws of the United States. It is proper for State Legislatures to regulate elections, and to provide some safe mode of determining who has the majority of legal votes. But regulations of this nature are at all times mere matters of convenience, and Congress have always in cases of disputed elections looked to the actual majorities, and admitted members not only without the regular certificates of State officers but against such certificates. I conclude, therefore, that if by any competent proof it had been established that Mr. Field had actually received a majority of votes in his district there is no legal impediment growing out of want of State organization to giving him a seat.

The next objection is scarcely more tenable. It is that by the apportionment of the last Congress Louisiana was entitled to one additional Representative, and having failed to redistrict cannot have even her original four. This additional Representative was assigned to her not as a burden, but as a right which she had, and of which she might avail herself. If a State refuses to acknowledge her right to the full number awarded by Congress I can hardly see upon what principle you can say that she forfeits her right to send the smaller number.

In this instance, the failure or refusal of her Legislature to redistrict was an affirmation in the law of the old districts, and although under the apportionment of Congress each district was entitled to more in the way of representation, still it did not lose what was assigned to it. The greater right always contains the less.

I base my assent to the resolution solely upon the ground that there was, in fact, no election; that the arbitrary order of the military governor, enforced by bayonets, had prevented the vast majority of the legal and loyal electors from voting; and therefore the claimant was not entitled to his seat.

I dissented from the mild language in which the conduct of that military official was censured in the report. This was not the case of a military interference under pretense of regulating the election; it was not the administering of an oath of loyalty; but it was the arbitrary exercise of brute power to prevent citizens avowedly loyal from being represented in this Congress. It was done in violation of the Constitution, in violation of the rights of an independent State, and in utter and wilful contempt of the wishes and interests of a large body of loyal citizens, who had suffered all and braved all for their country.

Only about five hundred persons were allowed to vote, but the greater part of the district was absolutely coerced from voting; there therefore could have been no election, and the claimant is not entitled to his seat.

Mr. DAWES. Mr. Speaker, I do not intend to occupy more than a few moments of the time of the House. The Committee of Elections were unanimous in the resolution which they reported. No gentleman has ventured to object to the adoption of that resolution. I beg pardon, the gentleman from Kentucky [Mr. MALLORY] did. With that exception no member has objected to the resolution.

Mr. MALLORY. I learn from the chairman of the Committee on Elections, if I understand his report correctly, that the committee object to

the admission of Mr. Field only for the reason that he did not receive the number of votes sufficient, in their estimation, to entitle him to a seat upon this floor. The legality of the election is unquestioned. The only objection the committee urges is that he did not receive votes enough. Now, I ask the gentleman from Massachusetts what number of votes that committee has decided to be sufficient to entitle a man to a seat upon this floor?

Mr. DAWES. I was saying that the committee were unanimous in the conclusion they came to; that they were unanimous in the resolution they agreed to report. But in reference to the report, no member of the committee, except the gentleman who made the report, is responsible for the statements contained in it. The committee were entirely unanimous upon the resolution; the gentleman from Michigan [Mr. UPSON] having one reason therefor, the gentleman from Wisconsin [Mr. BROWN] having another, and my distinguished friend from New York [Mr. GANSON] holding perhaps still another reason. But they all agreed that the resolution should be reported, and by no process of reasoning could they come to the conclusion that the gentleman from Louisiana was entitled to a seat upon this floor. This covers the whole merits of the case, and it is quite unnecessary for me, or for any member of the committee, in the full discharge of the duty imposed upon him, to go further than to show that that gentleman is not entitled to a seat here.

The reason why the gentleman is not entitled to a seat seems to be briefly this: he has neither law nor a constituency to sustain him. He has not law to support him for this reason: the Constitution of the United States has provided, in article one, section four, that the Congress of the United States may prescribe the mode of holding an election for Representatives in Congress. The Congress of the United States has prescribed the manner of holding this election. That manner has not been conformed to in any respect in the State of Louisiana, and therefore thus far and to that extent the claimant has no law upon his side. Neither did the election conform to the statute of Louisiana, for the reason that the votes were not cast in conformity to law, nor were they counted or canvassed in conformity to law. So, then, the law, so far as that prescribed the manner, the method, and the requirements of an election, is totally against this gentleman. Now, he had no constituency. By that I mean that there was no election, even in that which the claimant calls his district, which can be considered by any sort of rule a proper and just election—a choice by the Union voters of that district, admitting that the old first congressional district was the proper district in which the election should have been held.

In order to show that this gentleman was the choice of the legal voters of that district, you must show that the legal voters of that district had an opportunity to express their choice. I do not mean to say that a man may not be elected to Congress, under some circumstances, with only one hundred and fifty-six votes, the total number polled for this claimant. But when a man in a congressional district of one hundred and twenty-three thousand inhabitants, and ten thousand legal voters, actually receives only one hundred and fifty-six votes, there are almost ten thousand who have not expressed their choice. If they choose to stay away from the polls they are taken to acquiesce in what the one hundred and fifty-six men do at the polls. Under such circumstances it is right and proper to take the vote actually cast as the vote of the district. But when nearly ten thousand of the voters are found to have been prevented from appearing at the polls, and you can bring no charge against them that they voluntarily remained away, they cannot be held to have acquiesced in what one hundred and fifty-six men may have done. Their mouths were stopped, and they were not permitted to protest.

Without stopping for one moment to discuss the propriety or right of military interference here, I have to say that the evidence was abundant that armed men prevented nine thousand eight hundred and forty-four voters in that district from expressing their choice at the polls. By what process of reasoning, then, can it be said that one hundred and fifty-six men who were permitted in one corner of the district, in the parish of St. Bernard, a fraction of the district, to go to the polls and express their choice, expressed the choice of

the remainder of the district, and that that remainder acquiesced in what the one hundred and fifty-six men did?

'This is the state of the case, and this is all I desire to say.

The question being on the resolution reported by the Committee of Elections,

Mr. ELDRIDGE demanded the yeas and nays.

Mr. HOLMAN called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The question was taken, and the resolution was agreed to; there being, on a division—yeas 85, noes 48.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SMITH. I ask unanimous consent to offer the following resolution:

Resolved, That A. B. Field be allowed the mileage and pay that he would have been entitled to had he been a member of this Congress.

Mr. HOLMAN. I move that the resolution be referred to the Committee of Elections. [Cries of "Oh, no; withdraw it."]

Mr. SCHENCK. The resolution being objected to, I must insist on my motion.

Mr. WASHBURN, of Illinois. I submit that this is a question of privilege, and has been so held by the House on former occasions.

The SPEAKER. Such a resolution, at the close of a contested-election case, has not been held to be a question of privilege.

Mr. SCHENCK. I am willing that the resolution should be referred to the Committee of Elections.

Mr. COX. I hope my colleague will allow the matter to be disposed of now.

Mr. SCHENCK. Well, I have no objection.

The SPEAKER. The resolution is received, and referred to the Committee of Elections.

CONSCRIPTION BILL.

The question was then taken on Mr. SCHENCK's motion, and it was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded as a special order to the consideration of Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

Mr. STROUSE. I move to amend the thirteenth section by adding after the words "United States" the words "and of the State courts of record;" so that it will read:

That the following persons be, and they are hereby, excepted and exempted from the provisions of this act, and shall not be liable to military duty under the same, to wit: such as are rejected as physically or mentally unfit for the service; the Vice President of the United States, the judges of the various courts of the United States and of the State courts of record, &c.

I desire to say but a few words in support of this amendment. In the section of the original bill the exemptions are very few, including the Vice President of the United States and the judges of the courts of the United States. My amendment adds to the exemption list the judges of the State courts of record. In my opinion it is necessary that the amendment should be ingrafted on this bill. The chairman of the Committee on Military Affairs, speaking yesterday of the subject of exemptions, gave as a reason why the Vice President and judges of United States courts should be exempted that in some cases great public inconvenience might arise from their being drafted.

Well, Mr. Chairman, we are in the midst of a great war. We know that, at present, everything must give way to the demands of the military service; but I think that this committee will concur with me in saying that notwithstanding the fact that we have a tremendous rebellion on our hands we still believe in the old and, I trust, never-to-be-forgotten doctrine, that in this Republic the military must ever be subordinate to the civil power. We are here the Representatives of loyal States and Commonwealths, sovereignties in themselves, having their own constitutions and laws, and their courts of justice where matters are adjudicated, involving large amounts of property as well as the lives and liberties of citizens. The power to decide these questions rests in the

judiciary. I believe that the judiciary of the country should be, and is, above suspicion, and that it should not be annoyed or interfered with by anything like a conscription or draft.

I offer this amendment because it is my firm conviction that to take away the judges of courts of record or even to make them pay commutation money would be something of a degradation to them, and would have a tendency to bring our judiciary into contempt.

Mr. SCHENCK. I understand the amendment now offered to exempt the judges of the various courts of record in the various States. It has been impossible for me to hear the remarks of the gentleman who proposed it. This Hall is so miserably adapted for hearing, so much worse than the old Hall of the House of Representatives, that it is almost impossible to ascertain what is going on in it. Without having heard the remarks, therefore, in support of the amendment, yet understanding the amendment to be as I have stated, I have a single remark to make in reply.

A great many very plausible reasons and a great many specious arguments may be adduced in support of amendments of this kind; but if the House listen to such arguments and begin to ingraft them upon this bill it is impossible to say where they will end.

It will be observed that this bill does not exempt the heads of the several bureaus of the Departments of the Government. It does not exempt members of Congress, either in the House or the Senate; it does not exempt the sheriffs of counties in the States, nor the prosecuting attorneys, nor any of the various official personages whose services at home are necessary for carrying on the various branches of the State and Federal Governments.

Now, sir, if you begin to exempt these officers on the ground of the inconvenience of their absence from their offices, if you listen to the many specious reasons that may be urged in favor of the exemption of all these various classes of persons, you will have rendered the bill, like the present law, worthless almost for the purpose of raising troops to meet the enemy. Such is the character of the existing law that it has been found almost a failure in its practical operations in consequence of the large number of exemptions provided for.

We have cut off a large class contained in this so-called humanitarian section of the existing law; and we have done it with as much regard as we properly could to making this bill as stringent as possible, and as effective for the purpose of raising men to fill our armies, of raising a force sufficient to put down this rebellion, which, without some such stringent provision, we shall not succeed in.

The amendment was not agreed to.

The thirteenth section was read, as follows:

SEC. 13. *And be it further enacted*, That section two of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, shall be, and the same is hereby, amended by striking out all of said section after the word "enacted," and inserting the following, to wit: that the following persons be, and they are hereby, excepted and exempted from the provisions of this act, and shall not be liable to military duty under the same, to wit: such as are rejected as physically or mentally unfit for the service; the Vice President of the United States, the judges of the various courts of the United States, the heads of the various Executive Departments of the Government, the Governors of the several States, and all persons actually in the military or naval service of the United States at the time of draft, or who have been in such service for the term of two years during the present war, and been honorably discharged therefrom; and no persons but such as are herein excepted shall be exempt.

Mr. COFFROTH. I move to amend section thirteen by striking out, commencing in line ten, the words, "the Vice President of the United States, the judges of the various courts of the United States, the heads of the various Executive Departments of the Government, the Governors of the several States." I understood the chairman of the Military Committee a moment ago to say that all the able-bodied men who can be obtained are wanted to put down this rebellion, and that exemptions should be suspended as far as possible. Well, sir, it is as much the duty of the Vice President of the United States, the judges of the various courts, the heads of the Executive Departments, and the Governors of the several States to aid in the work of suppressing the rebellion as it is the duty of the private citizen. I am opposed to the discrimination.

When Senators and members of Congress are not exempted from the draft why is it that the

Vice President and these other officers are exempted? They are holding high positions under the Government, and they are as able to pay their \$300 for the support of the armies of the United States as any other set of men in the country. They receive their employment and pay from the Federal Government, and why should they not contribute to the putting down of the rebellion?

Now, sir, take a different class of society. When the farmers, the mechanics, the merchants, the lawyers, the physicians look over this law, will they not have good cause to complain that these men holding high offices and receiving large salaries are exempt? When I look over this body I see that perhaps two thirds the members here are not exempt by reason of age.

[Here the hammer fell.]

Mr. BROOMALL. I move to amend the amendment by striking from it the judges of the courts of the United States. My object in moving this amendment is to limit down the exemptions to the smallest possible number consistent with the good of the Government. I suppose the amendment just offered by the gentleman from Pennsylvania will hardly carry in this House, because it seems to me to be inconsistent with the requirements of the public service to say that the Vice President and the various heads of Departments should be compelled to go into the military service, but I see no good reason why the judges of the several courts of the United States should not be compelled to go into the military service of the United States, if drafted, or pay their commutation, as well as the judges of the State courts. I therefore offer the amendment I have submitted.

Mr. ROSS. I am opposed to the amendment to the amendment, and in favor of the amendment as originally offered by the gentleman from Pennsylvania, [Mr. CORFORD.] I have been unable to learn any good reason why the Vice President of the United States, heads of Departments, and the judges of the several courts of the United States should be exempted from the performance of military duties under the provisions of this bill. It is said that there is but one Vice President of the United States, and that it is inconvenient for him to leave his duty to enter the military service. There are two provisions in this bill of which these individuals may avail themselves. In the first place they may procure a substitute, and in the second place they may pay the \$300 commutation. I want to know whether the poor man, who is unable to raise \$300, shall be torn ruthlessly from a helpless family and forced into this war whether he is willing to go or not when these individuals who are receiving high salaries shall be exempted from furnishing a substitute or paying the commutation money. I shall vote for the amendment of the gentleman from Pennsylvania, so that all citizens shall stand upon a dead level in regard to this matter.

The amendment to the amendment was rejected. The amendment was then rejected.

Mr. KERNAN. I move to amend section thirteen, line seventeen, by adding after the word "therefrom" as follows:

And ministers of the gospel of every denomination who devote themselves exclusively to their profession, and who do not engage in any trade, secular business, or profession.

Mr. Chairman, I hope that that amendment will commend itself to the committee. I trust that it will meet with no opposition from members of the Committee on Military Affairs. I submit that it is right in itself that the avocations and duties of ministers of the gospel are inconsistent with those of soldiers; that their avocations and duties are to reconcile differences between individuals, to make all men more charitable, to inculcate peace, and that their character should not be associated with that of men who take part in war.

Again, sir, I submit that this bill, unless we adopt this amendment, will put us in an improper position before the world. It will not give us many men or much money, and yet it makes us stand before the world as declaring that we are so pressed for men to carry on this war that we are compelled to draft ministers of the gospel; that we are compelled, although we are a civilized people, to make them take part in a war, and that a civilized people believe that heathen nations have not been accustomed to take their priests, or those who occupy the same position that ministers of the gospel do in Christian countries, and compel them to

go to war. I believe that they do not allow them to go to war. The practice has been in all civilized nations that those who minister at the altar of God, and whose duty is to inculcate peace and good will, shall not take part in war; that they shall not stain their hands with human blood.

Mr. Chairman, this is not a party question. I do not want this House to stand where this bill would have them without my amendment. And when the war is successfully closed I trust that we shall have churches and ministers useful instrumentalities in again bringing about a proper state of feeling between the citizens of the various portions of the Union, and that we shall not have upon our statute-book a law compelling these men to take part really, practically, in this war, or theoretically by furnishing substitutes.

Mr. FARNSWORTH. I am opposed to the amendment. In the first place, a minister of the gospel really useful to his congregation or society will find no difficulty in getting the commutation money provided for by this bill to exempt him from being drafted.

I am perhaps more fortunate than some members upon this floor in this respect, that not a single minister in my district has ever written to me a line or said to me a word intimating a wish to be exempt from liability, with his neighbors, to be drafted to go into the Army during this rebellion. The ministers of my district believe that this war is a Christian war, and that it is the Christian and religious duty of every good Union man, every God-fearing man, although he may carry the Bible in one hand, to take the sword in the other, and fight this hellish rebellion until it is crushed. The chaplain of my old regiment, a most godly man, and a man of great dignity, has resigned his chaplaincy and gone into the fighting line, and he is now a major in a new regiment which I had the good fortune to raise recently. He is a fair type of the godly ministers in my district, and I think of my State. It is a religious duty they take upon themselves, and which they believe is resting upon them, to engage actively in this war.

It seems to me it comes with ill grace from that side of the House, who have been moving to strike out the exemption of the Vice President and the judges of courts, to now seek to ingraft upon this bill a provision which shall exempt the whole class of ministers of the gospel in the United States from this draft. Why, sir, what will their poor constituents, those God-fearing and excellent men down on the Five Points in the city of New York say to them when you announce to them that you have exempted all the ministers of the United States and have not exempted them?

[Here the hammer fell.]

Mr. THAYER. I move to strike out the last word of the amendment. I move the amendment for the purpose of offering a few observations upon the amendment proposed by the gentleman from New York. In my opinion the proposition of the gentleman from New York is eminently just and proper. If we are to make a law which is to be susceptible of execution and which shall carry with it that moral force which shall render it effective, we must make a law the discrimination of which shall be apparently just to the people. I think it highly proper that clergymen should be exempt from bearing arms, not that they have a right, as a class, to claim any such privilege, but because, as I believe, it would be for the interest of the community and promotive of public morality that that class of men who are actually engaged in the discharge of ministerial and religious duties, whose principles and practices are opposed to the shedding of human blood, should not be compelled by law to take up arms and engage in actual warfare. We all know that this class of persons in the loyal States are among the most loyal and among the truest citizens of the Government. I know no one of them who would not make any sacrifice which is necessary for the preservation of this Government, and the putting down of this rebellion; but I know there is a unanimous sentiment among a large class of people that the interests of religion demand their exemption.

It is a false notion which is suggested by the gentleman from Illinois, that this exemption is claimed upon any personal ground. I know of no respectable clergyman who would refuse to go into the ranks if that were necessary to vindicate the authority of their country. Their opinion is

founded upon the highest and holiest ground, upon the necessity of retaining at home that small class of individuals who are engaged in bringing up the youth of the land, in celebrating the ordinances of the churches, and in all those various religious duties which are of so much importance to the preservation of a sound state of religious opinion and the foundations of society. For one I believe in that opinion; for one I believe, if you refuse this exemption, you will not get out of all the clergymen of the United States an additional corporal's guard in the Army. If this amendment is refused it will be the first time, I say it confidently, in which any nation on the face of the earth has ever made a conscription law which included the clergymen of the country in the classes who are to bear arms.

Now, sir, I do not stand here to plead for clergymen as a class; but I do stand here to express my opinion in favor of the proposition to exempt clergymen, in favor of public morality and of religion. We should not disregard their claims. Let me say to members of this committee that they are claims which, in our present position as a nation, we cannot afford to disregard. We should remember while voting on this question the high character of these claims. We should remember who it is that has said, "Them that honor me I will honor, and they that despise me shall be lightly esteemed."

Mr. COX. Mr. Chairman, I am opposed to exempting ministers of the gospel from their share of the duty of putting down this rebellion. It is a general belief among a large part of the people of this country, both North and South, that the most pestiferous class of human beings—those who have fomented secession at the South and disunion at the North—have been the clergymen. And they are still fomenting hate, ill will, and unkindness among the people. And now gentlemen come here and say that their profession forbids them to engage in the shedding of blood, and that therefore they should be exempt from military service. Sir, I cannot recognize that as any argument for such exemption.

Mr. GRINNELL. I ask the gentleman from Ohio whether the proposition to exempt clergymen did not come from his own side of the House, from a Democratic Representative from New York, the gentleman from the Utica district?

Mr. COX. Does the gentleman suppose, Mr. Chairman, that I care what side it came from?

Mr. GRINNELL. Yes, sir.

Mr. COX. It does not make any difference to me, Mr. Chairman, if a proposition be right or if it be wrong, where it came from. I stand upon the intrinsic merits of the proposition itself. "Is it right or is it wrong?" is the only question that I ask.

Mr. GRINNELL. A new-born saint!

Mr. COX. I am opposed to this class legislation. I cannot recognize any difference between ministers of the gospel and men belonging to any other profession. After all it is nothing but a business, and in the matter of allegiance every man, whatever may be his business, owes his allegiance to his country.

[Here the hammer fell.]

Mr. KELLEY. I move to amend the amendment by striking out the last two words. I oppose the amendment offered by the gentleman from New York, [Mr. KERNAN,] but for reasons very different from those which the gentleman from Ohio [Mr. Cox] has assigned. I am against exempting clergymen from liability to military service. I do not want to put into this bill an insult to their patriotism. No class of men in my State has been more free or prompt to respond to the call of the country than clergymen. I remember one instance that will serve to illustrate this. At the close of the three months' term of service the lieutenant colonel of a Pennsylvania regiment was invited by our Governor to reorganize his regiment. In response to the invitation he said, "No; but I will name a man for the colonelcy, and will be glad to aid him and serve under him as lieutenant colonel. Give us our little chaplain as colonel. He was at the head of the regiment in every hour of danger and in every fight."

The clergymen do not ask to be exempted. I have not had a letter from a single one in the State of Pennsylvania asking that his class shall be exempted from draft. I have, on the other hand, had a letter from the good and pious bishop of the Episcopal church of my diocese asking that

the \$300 commutation clause be retained, so that those clergymen whose conscientious scruples may prevent them from entering the active arena of war may be honorably exonerated from service. Beyond the wish for the retention of that clause no Pennsylvania clergyman has made known his wishes to me on the subject.

I remember that during one of the midnight debates of the last session of the last Congress a ribald attack was made upon the clergymen of the country, and a note was sent to me from the gallery by a Pennsylvania clergyman, Rev. J. Addison Whitaker, stating the number of clergymen who had left their prosperous churches and large congregations to serve as privates and non-commissioned officers in the cavalry brigade to which he was attached. It was, if my memory serves me, five who were then on duty.

Let us not, Mr. Chairman, by incorporating such a clause as this in the bill, give to the other side of the House the chance to appeal to the prejudice of those who live by manual labor by saying: "True, the proposition was made by a member of our party, but they were in the majority; they controlled the legislation of the House; and they exempted this petted class." Nor am I willing to fling into the face of the clergymen of the country a taunt by expressing in the body of this bill a doubt of their courage, manhood, or patriotism. Some of them now command Pennsylvania regiments; others have done so; and all have proved themselves brave and able soldiers. Let our laws recognize their services, and not disparage them by treating them as less than men who recognize and are willing to perform their duty to a bleeding country.

Mr. KERNAN. I do not desire, Mr. Chairman, to say one single word on this or on any other measure to that small class of gentlemen who, in legislating on questions like this or on any other question looking to the welfare of the country, can only see what side of the House it came from, who are afraid that they will be caught voting for something proposed by some gentleman who does not agree with them on all questions. I think that if we are true to our duty we should come here to consult with one another, and, so far as we can, to agree on that which is wisest and best, no matter from what side of the House the proposition comes. I recognize the fact that there are many questions on which we are divided into parties, and that party prejudices and party views will control on them. But I trust that when the question is whether we shall stand forth the only Christian people who ever in this world made it the legal duty of their ministers of the gospel to march to the battle-field, while we are not short of men, I trust that when that question is before us there will be men enough to vote, as the gentleman from Ohio says, on the intrinsic merits of the proposition, and not on the circumstance of what member proposed it.

[Here the hammer fell.]

Mr. KELLEY withdrew his amendment.

Mr. SPALDING. I move to amend the amendment by striking out the last three words.

Mr. Chairman, I am opposed to any amendment of this bill that shall relieve clergymen, or any other class of men, from the service of their country, when the welfare of that country demands their services. I agree with the eloquent gentleman from Pennsylvania [Mr. KELLEY] that we would be libeling the virtuous and patriotic clergymen of our country if we were to give this taunt to the world, exempting them from the draft. So far as regards the clergymen of my parish, I distinctly enter a protest against any such exemption; and I say to you that if a clergyman should object to standing the draft with his fellow-men I would suspect his piety as well as his patriotism.

Now, sir, in regard to the charge which fell from the lips of my colleague [Mr. Cox] I have simply to observe that I think Dr. Olds' church will rectify all the difficulties of which he complains. The clergymen of the country are charged by him with exciting to rebellion. Is that so? I direct the attention of that gentleman to a gallant colonel of an Ohio regiment—the brave Colonel Moody—one of the most pious as well as of the most patriotic citizens of our patriotic State, who never quails in the presence of an enemy, who is always proud to follow the standard of his country in the thickest of the fight, as his prayers, I

trust, are as sincere as those of any other man on the altar of his God. Sir, I believe the voice of a majority of our clergymen would not be heard in this Hall claiming this paltry exemption. I protest against it, and I shall individually vote against it in whatever shape it comes.

Mr. ELDRIDGE. I move to amend—

The CHAIRMAN. Does the gentleman from Ohio [Mr. SPALDING] withdraw his amendment to the amendment?

Mr. SPALDING. I withdraw it with a good deal of reluctance.

Mr. COX. I object to its being withdrawn. I oppose the amendment. Mr. Chairman, my colleague the other day made a speech in my absence, in which he impugned my loyalty and patriotism; and now he makes a slight attack upon me, and then withdraws his amendment, so as to cut off the chance of a reply. I submit to my colleague that that does not come up to that high courtesy which should distinguish him. My colleague thinks I am mistaken when I say that rebellion has been fomented by ministers of the gospel, South and North. My colleague said in his speech the other day that he had shaken hands with rebels on Johnson's island, and that he would rather shake hands with such rebels than with some men on this side of the House.

Mr. SPALDING. They were not clergymen.

Mr. COX. You referred, no doubt, to some gentlemen, your colleagues, on this side of the House.

Mr. SPALDING. I did, sir. [Laughter.]

Mr. COX. Yes, I know you did. You were at home shaking hands with rebels. I was not here when you made that reference or I could have given you something more than mere words about loyalty and patriotism. I would have proved you to be a seditious man.

The CHAIRMAN. The gentleman from Ohio will address the Chair.

Mr. COX. Yes, sir; I am coming to that, coming right to the preaching. [Laughter.] My colleague has been himself engaged, along with ministers of the gospel in his own district, singing anthems and glorifying old John Brown's sedition. [Laughter.] More than that, sir, my colleague was engaged again and again in Ohio in trying to break down the laws of the United States, and I can prove him from papers in my desk to be a seditious and revolutionist. He is a conspirator against the Federal Government.

Mr. SPALDING. Mr. Chairman—

The CHAIRMAN. Does the gentleman from Ohio yield to his colleague?

Mr. COX. Of course I cannot do so, in a five minute speech. He would have cut me off from reply to him. This is the first opportunity I have had to repel the assault of my colleague.

I can prove, Mr. Chairman, by papers in my hand, if I had time to do it, that the gentleman, along with these ministers who would now be exempted, have for years persistently rebelled against the Federal Government, have striven to stir up hate and revolution between the States, to imbroil them in conflict, and by violence to overturn laws which had been decided to be valid by the Supreme Court of the United States. You presided over a convention called for that purpose, and you are not the man, sir, to impugn my loyalty! I stood here fighting against secession and revolution, while you, in Ohio, during all that time, were alienating the sections and producing civil war by your insurrectionary and rebellious conduct.

The amendment to the amendment was not agreed to.

Mr. ARNOLD. I move to amend the amendment by striking out the last word of it; and I do it for the purpose of enabling me to say a word to the committee in regard to the importance of immediate and efficient action in regard to this bill. We are on the eve of the last and decisive campaign. While we are wasting time in this House in these discussions, in these attacks upon each other, and replies, I submit whether it is not better that we should perfect this bill and fill up the Army? Within less than thirty days a draft is ordered. It has been already twice postponed to await the action of Congress on this bill. We are about to enter upon a new campaign, the most important and decisive of all the campaigns since the rebellion broke out, a campaign which I trust is to end the rebellion. I wish I could impress upon the minds of the members of this commit-

tee the importance of adopting immediately the most efficient and stringent enrollment law which the ingenuity of the committee can devise for the purpose of speedily filling up the depleted ranks of the Republic. If disaster should befall our Army, in consequence of a failure to fill up the ranks, the responsibility will rest largely on this House.

I beg both sides of the House to allow these personal discussions to pass by until this bill is perfected and shall have been placed upon the statute-book, so that when our soldiers meet the rebels again we may have the means of making our victories decisive. Let us have a campaign like the last. One more campaign like the last and this rebellion is ended, and when it is ended we can meet and discuss these questions of difference between gentlemen and sections. Do not let us endanger our triumph by a failure to fill up our ranks.

Sir, my own State, I am proud to say, will fill up its quota without resort to the draft. No call has ever been made by the Executive of the United States for troops upon the State of Illinois that she has not immediately responded. I hold in my hand a statement showing that in every call that has been made during the present war, from the first call for seventy-five thousand men down to the late call of the President, Illinois has been in excess of her quota; at one time thirty thousand in excess, at another time over forty thousand in excess. I offered a resolution the other day which I was sorry the gentleman from Pennsylvania [Mr. STEVENS] objected to, calling on the Secretary of War to furnish a statement showing what States have been in excess of and what behind their quotas. I have had prepared a statement showing the conduct of Illinois in that regard. She has always responded to more than was required of her, as she will continue to respond until this rebellion has been crushed out. The following is the statement to which I refer. I am proud to place it on our records:

Call.	Whole number.	Class.	Quota of Illinois.	Troops furnished.			Strength.
				Infantry.	Cavalry.	Artillery.	
Proclamation of April 15, 1861.....	75,000	3-month militia.	4,683	6 reg'ts.	1 company.	2 batteries.	5,260
Act of Congress of July 22, 1861.....	500,000	Volunteers.	43,380	60 " "	14 reg'ts.	25 " "	73,500
Telegram of Sec'y of War of May 25, 1863.	Emergency	3-month militia.	No quota.	5 " "	3 " "	5 " "	5,000
Proclamation of July 6, 1863.....	300,000	Volunteers.	26,148	60 " "	3 " "	5 " "	57,250
Proclamation of August 5, 1863.....	300,000	9-month militia.	26,148	60 " "	3 " "	5 " "	57,250
Total.....	1,175,000		100,359	131 reg'ts.	17 reg'ts.	33 batteries.	141,000
Troops not Credited.							
General Swift's Cairo expedition, April 19, 1861.....							908
Engineer regiment, disbanded January, 1862.....							1,053
Busick's battery, disbanded November, 1861.....							150
In Missouri regiments.....							9,000
New York marine artillery, (disbanded).....							100

* Filled under the call of July 6, 1862.

Statement of Troops furnished by the State of Illinois under the several Calls.

Not counting enlistments in the Mississippi militia, and allowing for credits due from Illinois to other States, it is safe to adopt the above figures as a calculation upon the draft. This calculation, however, does not include returns of the recruiting service done in the past six months.

Upon the quotas of July and August, 1862, the Secretary of War allowed for an excess at that time of 16,978, although a much larger excess has since been found to have existed. And yet both these quotas—to an excess of 5,000 over the original total of both of them—were filled with *three years' troops*; which, by the rule of equivalents, would give 70,636 as the relative value of "three years' men" supplied where "nine months' men" were called for, or 110,000 as the whole product of those two calls, one three years' man being equal to four enlisted for nine months. When the quota for the late draft was made up, Illinois was found to be over 43,000 ahead of her quota.

Mr. GRINNELL. I oppose the amendment to the amendment, as I am not in favor of the exemption of clergymen from the draft; yet perhaps I ought almost to distrust my own judgment when I find myself advocating the same proposition as the gentleman from Ohio, [Mr. Cox,] although from different reasons, whose ethics and politics I most thoroughly abhor.

The gentleman from Ohio has seen fit to stigmatize the clergymen of the country as a class of pernicious instigators of sedition and revolution. Sir, I should like to inquire if there is a clergyman in this broad land, who has not hitherto abjured the obligations of religion and the claims of patriotism, who is opposed to standing in his place like a man and taking his chance under a conscription bill? I have no such acquaintance. Rather, to include them is regarded as a compliment to their patriotism, manhood, and religion.

I have no doubt the gentleman from Ohio may have found very uncomfortable friends among the clergymen of the West, and why? For the reason that many of them have most conscientiously apportioned their time and ministrations, giving one day in the week, the Sabbath, to the destruction of the devil and his works, and the other six days to the pestilent doctrines of pro-slavery sham Democracy. [Laughter.] This is the secret of the gentleman's ire against clergymen; that is the reason why he considers them pestiferous instigators of sedition; they do not belong to his party. No, sir, the clergymen of this country who are imbued with the pure spirit of Christianity are not second to any class of men in the land in their patriotism, and they ask no exemption from the draft. They joyfully take their chance with the rest of their countrymen in fighting to put down this rebellion.

Again, there is no clergyman whose ministrations are highly valued by his congregation who would not find parishioners ready to purchase his exemption should he be drafted and he would consent to remain at home. I speak for the clergymen of the West, with whom I have been more nearly identified, when I say that they have regarded fighting to put down this rebellion not alien to, but as a part of their Christianity. The bones of many of them who were beloved pastors now repose alongside of those of the private soldier beneath the soil of the South. Many of them are to-day immured in rebel prisons. Their children have gone into the Army by tens of thousands with the warm paternal benediction. Their sermons begin and end with the patriotism of the prophets, and when tried by a higher tribunal than this there will be found nothing inconsistent with the religion they profess; and so ardent is their love of country that they pray unceasingly in the ears of their congregation to the God of battles for success, and shout, "The sword of the Lord and of Gideon." [Laughter.]

Mr. ARNOLD withdrew his amendment to the amendment.

Mr. ELDRIDGE. I move to amend the amendment by adding the following:

Provided, Such ministers have not heretofore and will not in future preach politics.

Mr. Chairman, that seems to involve the only question of division in the committee. I believe, myself, with the gentlemen who have spoken on this question, that there are some ministers of the gospel that I would be willing to exempt from the draft. I respect a godly minister who makes

preaching the gospel his whole duty; but I have no respect for that class of clergymen referred to by the gentleman from Ohio, [Mr. Cox.] We have them in our community, intermeddlers, stirrers-up of strife and mischief. They ought to go to war; they are fitted for war; they are not fitted for peace; they are not proper men to preach the peaceful doctrines of the Christian religion; they are fighting men, and the Army needs them. The country and the Government are at stake, to use the cant expressions of the other side of the House, and these gentlemen ought to be willing to go and give some evidence of their fighting disposition against the enemies of the country for the purpose of restoring the Union. They are loyal men—they claim to be loyal men—and it is a fact that in every argument where we beat gentlemen on the other side they always turn around and say that we are disloyal men. That is the argument they resort to in every case where they are worsted in debate. These ministers preach in the same way. I want to see the ministers who are fighting men go to war, and that those who preach peace and good will shall remain at home.

Mr. GARFIELD. For the purpose of cutting off debate, which has wandered from the subject before the committee, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had made progress therein, but had come to no conclusion thereon.

Mr. GARFIELD moved that when the Committee of the Whole on the state of the Union resumed the consideration of the bill the debate on the pending section shall be closed in one minute. The motion was agreed to.

Mr. GARFIELD moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union. The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The CHAIRMAN stated the question to be upon the amendment offered by the gentleman from Wisconsin [Mr. ELDRIDGE] to the amendment offered by the gentleman from New York, [Mr. KERNAN.]

The amendment to the amendment was rejected; and then the amendment was disagreed to.

Mr. DAWSON. I move to add the following:

Provided, That in assigning the quotas of troops hereafter to be raised by conscription credit shall be given to States and counties for such of their citizens as may have enlisted in the military organizations of other States for a period of three years or during the war, the same to be ascertained and determined by the Secretary of War.

Mr. Chairman, this provides that the counties and States furnishing troops which have entered into the military service from other States shall be credited to the States and counties from which they went and enlisted for three years or the war.

On a division there were—ayes 50, noes 64.

Mr. DAWSON demanded tellers.

Tellers were ordered; and Messrs. DAWSON and ORTU were appointed.

The amendment was disagreed to; the tellers having reported—ayes 65, noes 71.

Mr. FERNANDO WOOD. I move to amend the thirteenth section by inserting, in line seventeen, after the word "therefrom," the following:

And all persons who from conscientious disbelief in the humanity, necessity, or eventual success of this war, are opposed to its further prosecution until an effort has been made and failed to end it by negotiation.

Were it in order to discuss this proposition—

Mr. FARNSWORTH. I rise to a point of order. Debate has been closed upon this section by order of the House.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FERNANDO WOOD. The amendment explains itself.

Mr. BRANDEGEE called for tellers on the amendment.

Tellers were ordered; and Mr. FERNANDO WOOD and Mr. SLOAN were appointed.

The committee divided; and the tellers reported—ayes 23, noes 103.

So the amendment was not agreed to.

Mr. MORRIS, of Ohio. I move to amend this section, in line seventeen, by inserting after the word "therefrom," the words "and husbands of insane wives."

The amendment was not agreed to.

Mr. COX. I move to amend by inserting after the word "therefrom" the following:

Any person having children under twelve years of age, and a wife so afflicted as to be unable to provide for herself and children and depending entirely on her husband for support.

Mr. ASHLEY. I demand tellers upon that amendment.

Tellers were ordered; and Mr. Cox and Mr. ELDRIDGE were appointed.

The committee divided; and the tellers reported—ayes 39, noes 57.

So the amendment was not agreed to.

Mr. ROSS. I move to amend the section by adding thereto the following proviso:

Provided, however, That any poor person unable to pay \$300 commutation who has a large family entirely dependent upon his daily labor for support shall not be forced against his will to enter the service.

The amendment was not agreed to.

Mr. HOLMAN. I move to amend by striking out of line sixteen the words "two years" and inserting "eighteen months."

The amendment was not agreed to.

No further amendments being offered to the thirteenth section, the Clerk read the fourteenth section, as follows:

Sec. 14. *And be it further enacted, That section third of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, and so much of section ten of said act as provides for the separate enrollment of each class, be, and the same are hereby, repealed; and it shall be the duty of the board of enrollment of each district to consolidate the two classes mentioned in the third section of said act.*

Mr. WADSWORTH. I move to strike out that section.

Mr. ANCONA demanded tellers on the motion to strike out.

Tellers were ordered; and Mr. A. MYERS and Mr. ANCONA were appointed.

The committee divided; and the tellers reported—ayes 45, noes 60.

So the amendment was not agreed to.

Mr. COFFROTH. I move to amend the section by adding thereto the following:

Provided, That the boards of examination of enrolled or drafted men are required to hold their examinations within each county in their respective enrollment districts.

Mr. A. MYERS. I suggest to the gentleman that he insert after the word "county" the words "at the county seats, where practicable."

Mr. COFFROTH. I accept the modification. I desire to say a single word in favor of the amendment. Under the last draft the provost marshal of the sixteenth district of Pennsylvania held his examinations where he resided; and I expect that was the case in almost every district. In my district the examination was held at Chambersburg. In my own county six hundred and eight persons were drafted, and most of those men had one hundred and twenty-five miles to travel to reach the place of examination. We had no railroads leading through the county to the place where the men were bound to report. They had to travel that distance in October over the bad roads which existed in the mountains, and the expense to the Government amounted on an average to seven or eight dollars a man. The expense of that single county in the district was over five thousand dollars. If the amendment is adopted the expense of holding the examinations in the different counties will not be more than one tenth what it would be by compelling the men to report at the place where the examinations are now held by the provost marshal.

Mr. GRINNELL. I ask the gentleman from Ohio to accept this modification: "in all counties where there are not less than five thousand inhabitants."

Mr. COFFROTH. Certainly I will accept that modification. Now, sir, as a general thing in Pennsylvania outside of the cities, drafted men have to undergo the hardship, fatigue, and expense of traveling long distances, sometimes from seventy-five to eighty miles, to appear before the board of enrollment. My own district is about two hundred miles in length, running west nearly to the Monongahela river, and down to the State of Maryland, at Carroll county. Some of the drafted men of my district have to cross five or six mountains in order to reach Chambersburg; whereas if the examinations had been held in the county towns it would have been accommodating to them and would have saved money to the Government.

I claim this out of justice to the people. We are legislating here not to impose greater burdens than are absolutely necessary upon the masses of the people. We are here to make the burden as light as possible upon their shoulders. This we can do by the adoption of the amendment which I have offered. At the same time it will effect a saving of expense to the Government. As a matter of justice, therefore, I ask the other side of the House to consider this amendment, and to adopt it.

Mr. STEVENS. May I ask my colleague to modify his amendment by making it read "authorized" instead of "required"?

Mr. COFFROTH. I would yield to my distinguished colleague, but I am afraid that if we used the word "authorized" the object would not be accomplished.

Mr. STEVENS. The great difficulty before was that the Secretary of War considered he was not authorized to order this to be done. I think my colleague had better accept the modification.

Mr. COFFROTH. Then I will accept my colleague's suggestion, and modify my amendment so as to make it read "authorized."

Mr. SCHENCK. I move to amend the amendment by inserting as a substitute for it the seventeenth section of the House bill, as follows:

That the Secretary of War is authorized, whenever in his judgment the public interest will be subserved thereby, to permit or require boards of examination of enrolled or drafted men to hold their examinations at different points within their respective enrollment districts, to be determined by him.

The Committee on Military Affairs was satisfied that there was much reason in asking that the law should be amended in this particular. The committee had the whole subject before it, and, after consideration, adopted this as the best form in which that authority or requirement could be placed. At first it was thought of providing that these sessions of the boards of enrollment should be held in the several districts, at the county seats, but there was found to be a difficulty about that.

There are States—Missouri and Kentucky, for example—where it might be impossible, or at least dangerous, to hold the sessions of the enrollment board at the county seats; and yet they may be within districts of country the greater part of which may be occupied by our troops or by loyal citizens. Then there are districts in which the county seat would not be the best place for the sessions of the enrollment board. This was felt to be the case in regard to the State of Michigan, a member from which State is on the committee. And yet there are large districts over which men must travel a great distance if the board is to sit in only one place. It was therefore thought advisable that instead of requiring absolutely that the sessions of the enrolling boards should be held at the several county seats it should be left to be determined, under the administration of the law, by the War Department, whether they are to be held at particular points, of such a prominent character, of such accessibility and convenience, as make them the most proper points. There are places where it may be well to hold sessions at more than one point; and on the other hand there are places where sessions at one point may do for two counties. I think the committee has put the matter in the best shape, all things considered; and therefore I hope the substitute will be adopted.

Mr. WINFIELD. I think that the question presented to the committee by the amendment offered by the gentleman from Pennsylvania, and by the substitute proposed by the chairman of the Military Committee, comes before us in this light: while it is conceded that perhaps some reformation of the evil complained of by the gentleman

from Pennsylvania [Mr. COFFROTH] is necessary and important, the question arises whether the local boards of enrollment are not better judges of the necessity of affording this relief than the Secretary of War can possibly be. It appears to me that the Secretary of War in the midst of his multifarious duties would not desire to assume the responsibility and trouble of determining with reference to each of these congressional districts where this authorization to change the place of holding the sessions of the board of enrollment is necessary. While I believe that he would act with as much impartiality and fairness as it would be possible for any officer to exercise with the vast amount of labor and responsibility which is resting on him, yet I have no idea, Mr. Chairman, that he desires to assume the increase of labor which the determination of these applications would devolve upon him; and I submit that the local boards, having a better knowledge of the localities and the interests of each particular community, are entirely competent to determine this question if it shall be left as a matter of choice or determination with them. I therefore prefer the original amendment.

The question being on the amendment to the amendment,

Mr. COFFROTH demanded tellers.

Tellers were ordered; and Messrs. COFFROTH and SCHENCK were appointed.

The House divided; and the tellers reported—ayes 57, noes 52.

So the amendment was agreed to.

The amendment as amended was then adopted.

Mr. A. MYERS. I understand the section has been amended by incorporating the seventeenth section of the House bill into it. I now move to amend that section by adding the words "preferential county seats where practicable."

The amendment was disagreed to.

The fifteenth section was read, as follows:

SEC. 15. And he it further enacted, That any person who shall forcibly resist or oppose any enrollment, or who shall incite, counsel, encourage, or who shall conspire or confederate with any other person or persons forcibly to resist or oppose any such enrollment, or who shall aid or assist or take any part in any forcible resistance or opposition thereto, or who shall assault, obstruct, hinder, impede, or threaten any officer or other person employed in making or in aiding to make such enrollment, or employed in the performance of or in aiding in the performance of any service in any way relating thereto, or in arresting or aiding to arrest any spy or deserter from the military service of the United States, shall, upon conviction thereof in any court competent to try the offense, be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding five years, or by both of said punishments in the discretion of the court. And in cases where such assaulting, obstructing, hindering, or impeding shall produce the death of such officer or other person, the offender shall be deemed guilty of murder, and, upon conviction thereof upon indictment in the circuit court of the United States for the district within which the offense was committed, shall be punished with death.

Mr. W. J. ALLEN. I move to amend the section in the thirteenth line by striking out the words "competent to try the offense," and inserting the words "of civil jurisdiction." The object, Mr. Chairman, I have in offering that amendment is to test the sense of the committee as to the proper tribunal before which to try offenders under this section. It is well known among lawyers that the line of demarcation between the jurisdiction of courts which exercise military authority and those which by law have civil jurisdiction is not very clearly defined.

Mr. THAYER. I desire to ask the gentleman from Illinois whether it is customary in his State to try criminal offenders before courts having civil jurisdiction.

Mr. W. J. ALLEN. I will say to the gentleman that in Illinois our civil courts have criminal jurisdiction. They do there try men for criminal offenses in courts having civil jurisdiction. It is customary and it is law, if common law and common right are respected. We have no criminal courts there as contradistinguished entirely from civil courts, except such as have been created by recent legislation.

Mr. THAYER. It is entirely different in my State. Our courts having criminal jurisdiction have no civil jurisdiction.

Mr. W. J. ALLEN. That is very likely. What I want to get at is to test the sense of the committee whether or not these cases arising for offending against this section shall be tried by the civil courts of the country as contradistinguished from the military, self-constituted courts.

Let me say, Mr. Chairman, that there is a grow-

ing distrust in my section of the country of the exercise of unwarranted and despotic authority by military courts. It is believed that they are trenching upon the authority of the civil courts of the country, that they have neither the learning nor the honesty of heart of the civil tribunals.

Now, sir, all strictly military offenses the military courts or authorities, in my opinion, should have jurisdiction of; but for all offenses not exclusively military in their character the civil courts having criminal jurisdiction ought to have exclusive jurisdiction. My object, therefore, is to prescribe by this amendment the duties devolving upon these several courts respectively. I want military courts to try military offenses, and I want civil courts (and that is the term I desire to use) to try offenses not exclusively military.

It will not be contended by anybody in reference to this section that the offenses defined in the section are military offenses. It is merely the citizens' opposition to the enrollment act because of deeming it wrong. It is not a military offense in any sense whatever.

Mr. Chairman, don't use your gavel for the present, for under the rule I am done.

The question being on the amendment,

Mr. W. J. ALLEN called for tellers.

Tellers were ordered; and Messrs. GRINNELL and W. J. ALLEN were appointed.

The committee divided; and the tellers reported—ayes 48, noes 68.

So the amendment was disagreed to.

Mr. SCHENCK. I move to amend that section by striking it out, and inserting section fifteen of the House bill, as follows:

SEC. 15. And he it further enacted, That any person who shall forcibly resist or oppose any enrollment, or who shall incite, counsel, encourage, or who shall conspire or confederate with any other person or persons forcibly to resist or oppose any such enrollment, or who shall aid or assist or take any part in any forcible resistance or opposition thereto, or who shall assault, obstruct, hinder, impede, or threaten any officer or other person employed or aiding in making such enrollment, or employed or aiding in the performance of any service relating thereto, or in arresting or aiding to arrest any spy or deserter from the military service of the United States, shall, upon conviction thereof in any court competent to try the offense, be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding five years, or by both of said punishments, in the discretion of the court; but nothing in this section contained shall be construed to relieve the party offending from liability under proper indictment or process for any crime against the laws of a State, committed by him while violating the provisions of this section.

It will be observed that there are some slight verbal alterations made in the section of the Senate bill, but that the sense is in no way changed except in one particular. The only material alteration is in the last sentence. If gentlemen will turn to page 9 they will find in the original section of the Senate bill this sentence:

And in cases where such assaulting, obstructing, hindering, or impeding shall produce the death of such officer or other person, the offender shall be deemed guilty of murder, and, upon conviction thereof, upon indictment in the circuit court of the United States for the district within which the offense was committed, shall be punished with death.

The Senate provided for two offenses: where they commit an offense in resisting the enrolling officer, and where they committed the crime of murder. It is possible that those who resist the draft may commit not only the crime of murder, but arson and other crimes. Therefore we struck out the whole of that and provided that "nothing in this section contained shall be construed to relieve the party offending from liability under proper indictment or process for any crime against the laws of a State, committed by him while violating the provisions of this section." They allow the men engaged in the mob resisting the draft to be proceeded against under the laws of the States for arson or any other crime.

Mr. RICE, of Maine. I move the following amendment to the amendment:

Strike out the word "shall" in line twelve, section fifteen, and insert:

And any person who shall resist any draft of enrolled men into the service of the United States, or shall aid or counsel any person to resist such draft, or shall assault or obstruct any officer in making such draft, or in the performance of any service in relation thereto, or shall counsel any person to assault or obstruct any such officer, or shall counsel, aid, or willfully dissuade them from the performance of military duty, as required by law; all such persons shall be subject to summary arrest by the provost marshal, and shall be forthwith delivered to the civil authorities, and

Mr. Chairman, this section as it now stands

provides a penalty for the offenses set forth—a fine not exceeding \$5,000 and an imprisonment not exceeding five years. That is for offenses of resistance to the enrollment. I observe by the twenty-fifth section that a penalty is provided for offenses of resistance to the draft of a fine not exceeding \$500 and an imprisonment not exceeding two years. I think that the penalty for resisting the draft should be as great as that for resisting the enrollment. Most of the resistance has been to the draft and not to the enrollment. In my district the resistance has been by advising persons to escape over into the British provinces. There are many miles of border there, and drafted men have been induced to escape over them into a foreign country. The penalty in these cases should be as great as that for resistance to the enrollment. Therefore I hope that my amendment will be adopted.

Mr. SCHENCK. I am inclined to think that the amendment ought to be adopted. It changes nothing.

Mr. BROOKS. I hope that that amendment will not be adopted. The provost marshal is to be made the judge whether a person counsels or dissuades from the draft. He, of his own caprice, whim, or will, is to imprison for what length of time he pleases. Then he is to turn over to the civil authority the person who, in his judgment, shall dissuade from the draft. Now, the dissuasion may be by a counselor-at-law, or by a father to his child, or by a wife to her husband. It is not an unnatural crime for a wife to dissuade her husband. I beg gentlemen to look at the provisions of this act, which seem to me to be sufficiently penal for any purpose whatever. It provides for punishing for obstructing the draft in the provost marshal's court or in some military court. It provides for another punishment in the civil courts of the States. And here steps in the gentleman from Maine, [Mr. RICE,] who, with the sanction of the chairman of the Committee on Military Affairs, proposes that if a parent dissuades a child, a wife a husband, or a counselor a client to test the constitutionality of the law, he shall be arrested by the provost marshal and punished. I beg gentlemen to be content with the inflictions of this bill as they are. I beg them to stand upon the record as it is, and not add too much for human endurance.

The CHAIRMAN. Does the Chair understand the gentleman from Ohio to accept the amendment?

Mr. SCHENCK. I do not.

The CHAIRMAN. The question, then, is upon the amendment to the amendment.

Mr. SCHENCK. I move that the committee rise, with the view to close debate upon this section.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had made progress therein but had come to no conclusion thereon.

Mr. SCHENCK. I move that when the House again resolves itself into the Committee of the Whole on the state of the Union all debate upon the pending section be closed in one minute after the committee resumes the consideration of the bill.

The motion was agreed to.

Mr. J. C. ALLEN. I move that the House do now adjourn.

The House being divided, and there being—ayes 57, noes 73.

Mr. STILES demanded the yeas and nays.

The yeas and nays were not ordered.

The motion to adjourn was not agreed to.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of Senate bill No. 36, to amend an act entitled "An act for enrolling

and calling out the national forces, and for other purposes," approved March 3, 1863; the pending question being on the amendment offered by Mr. RICE, of Maine, to the amendment offered by Mr. SCHENCK.

Mr. WADSWORTH demanded tellers.

Tellers were ordered; and Mr. WADSWORTH, and Mr. RICE of Maine, were appointed.

The committee divided; and the tellers reported—ayes 50, noes 59.

So the amendment to the amendment was not agreed to.

Mr. W. J. ALLEN moved to amend the amendment by adding thereto the following:

Provided, That arrests for offenses under this section shall be made only upon written authority issued from courts of civil jurisdiction, or upon view, with the liability under the common law for abuse in making arrests.

The amendment to the amendment was not agreed to.

The amendment was agreed to.

No further amendment being offered to the fifteenth section, the Clerk proceeded with the reading of the bill.

Mr. SCHENCK. I move to amend by striking out the seventeenth section, as follows:

SEC. 17. *And be it further enacted*, That provost marshals, boards of enrollment, or any member thereof acting by authority of the board, shall have power to summon witnesses and enforce their attendance by attachment without previous payment of fees in any case pending before them, or either of them, and the same witness fees and costs shall be allowed as may be allowed in the district courts of the United States, and they shall have power to administer oaths and affirmations; and any person who shall swear or affirm falsely before any provost marshal or board of enrollment, or member thereof acting by authority of the board, or who shall, before any civil magistrate, swear or affirm falsely to any affidavit to be used in any case pending before any provost marshal or board of enrollment, shall, upon conviction, be fined not exceeding \$500, and imprisoned not less than six months nor more than twelve months.

And inserting in lieu thereof the eighteenth section, as reported by the committee, as follows:

SEC. 18. *And be it further enacted*, That provost marshals, boards of enrollment, or any member thereof acting by authority of the board, shall have power to summon witnesses in behalf of the Government, and enforce their attendance by attachment without previous payment of fees in any case pending before them, or either of them; and the fees allowed for witnesses attending under summons shall be five cents per mile for mileage, and no other fees or costs shall be allowed under the provisions of this section; and they shall have power to administer oaths and affirmations. And any person who shall willfully and corruptly swear or affirm falsely before any provost marshal or board of enrollment, or member thereof acting by authority of the board, or who shall, before any civil magistrate, willfully and corruptly swear or affirm falsely to any affidavit to be used in any case pending before any provost marshal or board of enrollment, shall, on conviction, be fined not exceeding \$500, and imprisoned not less than six months nor more than twelve months.

The difference between the two sections is to be found, first, in the words inserted in the section of the committee, "in behalf of the Government," after the words "shall have power to summon witnesses." This is for the purpose of enabling the enrolling officer representing the Government to bring before them such witnesses as they think proper on behalf of the Government, leaving the parties to make their own defense. The committee supposed that without this provision parties might examine clouds of witnesses at the expense of the Government, because those witnesses are to be paid mileage for their attendance. The Senate bill provided that such witnesses should not only be paid mileage but be allowed the same witness fees and costs as may be allowed in the district courts of the United States. It has been thought by the Military Committee not advisable to permit these enrollment boards to sit as a court and run up large bills of costs and fees in that way. Every lawyer is acquainted with the fact that the costs and fees allowed and charged in the district courts of the United States are very much above the standard of fees in the several States. It has been supposed by us that such a provision as that contained in the Senate bill would only afford a chance for persons to come before the board and bring up persons for the mere purpose of running up a bill of fees against the Government. We have provided, therefore, simply for paying to witnesses who may be brought before the board travel fees at the rate of five cents per mile.

Our amendment also inserts in lines ten and thirteen respectively, the words "willfully and corruptly swear" instead of the word "swear."

These are the principal differences between the two sections.

Mr. DRIGGS. I move to amend the amendment of the gentleman from Ohio by adding to it the following:

Provided, That in all districts over one hundred miles in extent, and in such as are composed of over ten counties, the board shall hold their sessions in at least two places in such district, and at such points as are best calculated to accommodate the people thereof.

I am aware, Mr. Chairman, that an amendment has already been adopted providing that the Secretary of War may cause the boards to hold sessions in different counties, but I wish to say that my district is over eight hundred miles in extent. I am almost as near to my residence now as I would be in the remoter parts of my district. I hope it will not be left optional with the Secretary of War to say whether the board shall hold sessions at one or more points. I desire to compel the boards to hold two sessions in districts which are over eight hundred miles in extent. I have twenty-eight counties in my district, and it is eight hundred miles in length.

The amendment to the amendment was agreed to—ayes sixty, noes not counted.

Mr. SCHENCK. At the suggestion of the gentleman from New York, [Mr. Brooks,] and to remove all ambiguity, I will modify my amendment by inserting after the word "mileage" the words "counting one way."

Mr. KASSON. I wish to say to the gentleman from Ohio that that would not pay the actual cost of travel in regions of country which are not supplied with railroads; in the region west of the Mississippi, where railroads are not as abundant as they are in Ohio, that would not pay the actual expense of travel.

Mr. SCHENCK. In order to accommodate gentlemen I will modify my amendment so as to make the mileage six cents per mile, counting one way.

Mr. STEVENS. Mr. Chairman, if I understand this section there is no process provided by which the defendant, if you may so call him—the drafted man—can bring his witnesses before the court. It is only in behalf of the Government that subpoenas can be issued; and the drafted man who claims that he has been wronged can subpoena no witnesses. Now, I ask the Committee on Military Affairs if that is intentional?

Mr. GARFIELD. It is intentional.

Mr. STEVENS. The gentleman says it is intentional. Then I think that a different provision should be made, and that the defendant should have a right to subpoena witnesses also. But, in order that we may have an opportunity to consider this question, and as it is late and we are all very hungry, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration, as a special order, the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had made progress therein, and had come to no conclusion thereon.

APPOINTMENT OF A COMMITTEE.

The SPEAKER announced that he had appointed the following as a select committee on the question of allowing Cabinet ministers to occupy seats in the House, namely, Messrs. PENDLETON, STEVENS, MORRILL, MALLOY, KASSON, GANSON, and BLAINE.

And then, on motion of Mr. COX, (at twenty minutes past four o'clock, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, February 10, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. JOHNSON presented the petition of Charles Vinson, praying for compensation for extra services as a clerk in the office of the Third Auditor; which, with his papers on the files of the Senate, was referred to the Committee on Claims.

Mr. HOWARD presented a memorial of the Bay de Noquet and Marquette Railroad Company of the State of Michigan, remonstrating

against any further legislation for the benefit of the Peninsular Railroad Company; which was referred to the Committee on Public Lands.

He also presented a memorial of L. H. Morgan, one of the directors of the Bay de Noquet and Marquette Railroad Company, and also of the Marquette and Ontonagon Railroad Company, in behalf of the directors and stockholders of those companies, praying for an extension of the time for the completion of their roads; which was referred to the Committee on Public Lands.

Mr. SHERMAN presented the petition of Hon. Lewis D. Campbell, of Butler county, Ohio, praying for such an amendment to the naturalization laws as to provide that no person who has sought during the present rebellion or who hereafter in time of war may seek exemption from military service on the ground of alienage shall ever be entitled to the privileges of a citizen of the United States or to vote or hold any office or appointment under the Federal Government; which was referred to the Committee on Military Affairs and the Militia.

Mr. WADE presented a petition of citizens of Grand Traverse county, Michigan, praying for the abolition of slavery throughout the United States; which was referred to the select committee on slavery and freedmen.

PAPERS WITHDRAWN.

On motion of Mr. SAULSBURY, it was

Ordered, That Samuel A. Ward have leave to withdraw his petition and other papers from the files of the Senate.

BILL INTRODUCED.

Mr. CLARK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 111) ratifying and confirming the proclamation of the President of the United States dated January 1, 1863, and giving it the force of statute; which was read twice by its title, and referred to the select committee on slavery and freedmen.

REPORTS FROM COMMITTEES.

Mr. FOOT, from the Committee on Public Buildings and Grounds, to whom was referred a bill (S. No. 43) relating to the office of Commissioner of Public Buildings, reported it with amendments.

Mr. HALE. The Committee on Naval Affairs, to whom was referred the memorial of Samuel Chase Barney, praying that inquiry may be made into the causes of his dismissal from the naval service, have instructed me to report it back and to ask that the committee be discharged from its further consideration. The committee think they have no jurisdiction of it.

The report was agreed to.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred a bill (S. No. 108) relating to acting assistant paymasters in the Navy, reported it with an amendment.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 40) to define the pay of the officers of the Army of the United States, reported adversely thereon.

Mr. HARRIS, from the Committee on the Judiciary, to whom was referred a bill (S. No. 42) repealing certain statutes of limitation, reported it with amendments.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a petition of citizens of Wisconsin, praying for the passage of a law prohibiting members of Congress and other persons holding office under the Government of the United States from acting as attorneys or counselors in any case in which the United States is a party, have instructed me to report it back, and ask to be discharged from its further consideration, a bill being before the Senate on that subject.

The report was agreed to.

Mr. TRUMBULL. The same committee, to whom was referred a bill (S. No. 53) to provide for the summary trial of minor offenses against the laws of the United States, have instructed me to report it back to the Senate with an amendment in the shape of a substitute for the bill.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 103) to define the rank, pay, and emoluments of chaplains in the United States Army and volunteer force, and for other purposes,

reported it with a recommendation that it do not pass.

ENLISTMENTS IN THE ARMY.

Mr. BROWN. Mr. President, there is a bill made the special order for to-morrow (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes. I should like to offer an amendment to or a substitute for the third section now pending, for the sake of having it laid upon the table and printed, with the consent of the Senate, so that Senators may see it before it comes up.

The VICE PRESIDENT. The Chair will receive it, if there be no objection. The Chair hears none.

The amendment was ordered to be printed.

COURTS IN INDIANA.

Mr. POWELL. I am instructed by the Committee on the Judiciary, to whom was referred a bill (S. No. 100) authorizing the holding of a special session of the United States district court for the district of Indiana, to report it back with amendments, and recommend its passage. It is a matter of very special interest to the people of that district, the late district judge there having died during the term of the court, and a special term is very much desired. I therefore ask that the bill be now taken up and considered.

By unanimous consent the bill was considered as in Committee of the Whole. It provides for the holding of a special session of the United States district court for the district of Indiana at the usual place, on the second Tuesday in March, 1864, to continue in session so long as the business may require. All suits and proceedings of a civil or criminal nature now pending in or returnable to the court are to be proceeded with, heard, tried, and determined at the special session, in the same manner as at a regular term of the court; and the judge may order the impaneling of a petit jury for the special session, but not a grand jury; and no case is to be considered which stands continued to the May term by order of the court.

The amendments of the committee were to strike out in section one the words "and continue in session so long as the business thereof may require;" and also to strike out section three, in the following words:

Sec. 3. *And be it further enacted*, That this act be in force from and after the passage thereof.

Mr. POWELL. These two amendments are merely to strike out what is surplusage in the bill. The court will, of course, have a right to continue its session while there is business before it, and the act will necessarily be in force from its passage.

The amendments were agreed to, the bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

ABOLITION OF SLAVERY.

Mr. TRUMBULL. The Committee on the Judiciary, to whom were referred various petitions from different parts of the country, praying for an amendment of the Constitution of the United States so as to incorporate a provision prohibiting slavery in all the States and Territories of the Union, and also a joint resolution (S. No. 16) proposing amendments to the Constitution of the United States, and a joint resolution (S. No. 24) to provide for submitting to the several States an amendment of the Constitution of the United States, instruct me to report back an amendment to the Senate of the joint resolution No. 16, in the way of a substitute. I will state that the amendment, as recommended by the Committee on the Judiciary, provides for submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States so that neither slavery nor involuntary servitude, except as a punishment for crime, whereof a party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction; and also that Congress shall have power to enforce this article by proper legislation. I desire to give notice to the Senate that I shall, at an early day, call for the consideration of this resolution.

COMMITTEE ON MANUFACTURES.

Mr. ANTHONY. I ask the Senate to take up the resolution which I offered several days ago to

amend the 34th rule of the Senate by appointing a standing Committee on Manufactures.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. ANTHONY on the 4th instant:

Resolved, That there be added to the 34th rule of the Senate, providing for the appointment of the standing committees, the following, namely: "A Committee on Manufactures, to consist of five members."

The resolution was adopted; and on motion of Mr. ANTHONY, the Vice President was authorized to appoint the committee.

Mr. ANTHONY. I desire to state that I do not wish to be upon the committee.

EXCLUSION OF COLORED PERSONS FROM CARS.

Mr. SUMNER. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on the District of Columbia be directed to consider the expediency of further providing by law against the exclusion of colored persons from the equal enjoyment of all railroad privileges in the District of Columbia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. POMEROY. I wish the Senator would so amend his resolution as that it might prevent the difficulties which colored men have in getting out of this District. They cannot go on a railroad car or get out of the District.

Mr. SUMNER. The first question is on taking up the resolution.

The VICE PRESIDENT. The resolution is now before the Senate.

Mr. SUMNER. My special motive in offering this resolution is to call attention to a recent outrage which has occurred in this District. I do it with great hesitation. At one moment I was disposed to keep silence with regard to it, believing that upon the whole the good name of our country required silence; but I notice that it has already found its way into the journals, and I think therefore it ought to find its way into this Chamber.

An officer of the United States with the commission of a major, with the uniform of the United States, has been pushed off one of these cars on Pennsylvania avenue by the conductor for no other offense than that he was black. Now, sir, I am free to say that I think we had better give up railroads in the District of Columbia if we cannot have them without such an outrage upon humanity and upon the good name of our country. An incident like that, sir, is worse for our country at this moment than a defeat in battle. It makes for our cause abroad enemies and sows distrust. I hope, therefore, that the Committee on the District of Columbia—I know the disposition of my honorable friend the chairman of that committee—in the bills which we are to consider relative to the railroads in this District will take care that such safeguards are established as will prevent the repetition of any such outrage.

Mr. HENDRICKS. Let the resolution be read.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) It will be again read.

The Secretary read it.

Mr. SAULSBURY. Let us have the yeas and nays on that proposition.

The yeas and nays were ordered.

Mr. JOHNSON. I have not heard the resolution. Is it a resolution of inquiry only?

The PRESIDING OFFICER. It is a resolution directing the committee to inquire into the subject named.

Mr. WILKINSON. I saw in a New York newspaper the other day an account of a transaction similar to the one alluded to by the Senator from Massachusetts. I was in hopes then, and indeed I thought, there was some mistake about it, because I did not know that any colored persons were commissioned with the rank of major by the President of the United States; and I was in hopes, for the honor of the country and for the honor of the capital, that there was some mistake in regard to it.

Mr. SUMNER. He was a surgeon in the military service.

Mr. WILKINSON. It appears that he was a surgeon in the Army; I suppose a surgeon of a colored regiment.

Mr. SUMNER. Certainly.

Mr. WILKINSON. Sir, I hope this reference will be made; and that the Committee on the Dis-

trict of Columbia will see to it that no corporation shall hereafter commit such an outrage.

Mr. HENDRICKS. I would have given a silent vote on this resolution, indeed, I should not have cared to vote any way, except for the explanations that have been made by the Senator who introduced it and the Senator from Minnesota. It seems to be considered a great outrage that the negroes in the District of Columbia are not allowed to take their seats in the same cars with the white men and women who travel on the railroads of this city. If I were to express any opinion on the subject, I should say the outrage would be the other way. But perhaps it is due to the company to say that I have observed the fact, as I suppose other Senators have observed it, that there are cars furnished for the colored people of the District, and those cars are plainly indicated, so that there can be no mistake.

I do not understand from the Senator who has introduced this resolution that any negro has been denied the right to ride in the cars which, at the expense of the company, have been provided for their accommodation; but the difficulty, I suppose, has arisen because the negro declined to ride in the cars that are provided for persons of his color, and claimed the right to ride in the cars that are provided for the white men and women who travel on these railroads. I am perfectly willing that upon all questions the committees shall investigate and report what their investigations require them to report to the Senate, and this being a mere resolution of inquiry there can be no objection to it, perhaps, except for the meaning that is given to it by the explanations of Senators, and therefore I shall vote against the resolution.

Mr. GRIMES. Mr. President, I have no objection to this inquiry, and I am in favor of it, although I hope and am inclined to believe that there must be some mistake about the facts. I saw a telegraphic dispatch that had been sent through from this city to one of the New York papers, making this statement, and that the matter had been referred to General Martindale, who is the military governor, I believe, of this District. I had supposed, situated as I was, that if there was any occurrence of this kind it would be brought to my attention by somebody, or in some manner other than through a New York newspaper, but I have never heard any allusion to it by anybody either before I saw it in that paper or since. My friend from New Hampshire says it has been mentioned in the papers of the District, but it escaped my observation.

I think the Senator from Indiana is right in saying that there were or have been cars for colored people, but I doubt whether there are any now. At any rate no one has attracted my attention for some weeks.

Mr. CARLILE. I saw several yesterday.

Mr. SHERMAN. I rode in one a day or two ago.

Mr. HENDRICKS. I will say to the Senator from Iowa that very recently, without observing it, I found myself crowding on the colored population in one of their own cars, and as I did not choose to press upon their rights I of course gave them the car. It was their right; it was provided for them, and of course I did not question that right. So I am sure that provision has been made for their accommodation.

Mr. GRIMES. I have found myself in some of the cars, and I did press myself upon their attention and rode with them, and I did not consider myself disgraced by riding to the Senate Chamber in a car with some colored people.

Mr. SUMNER. Mr. President, I am sure that the Senator from Indiana is mistaken in regard to the provision for colored persons. There may be here and there, now and then, once in a long interval of time, a car which colored persons may enter; but any person who traverses the avenue must see that those cars come very rarely, and if any person takes the trouble to acquaint himself with the actual condition of things he will know that there are great abuses and hardships, particularly among women, growing out of that outrage. I use plain language, sir, for it is an outrage; it is a disgrace to this city; it is a disgrace to this Government which sanctions it under its eyes. It is a mere offshoot of the slavery which happily we have banished from Washington.

But now go back to the facts on which I predicated my motion. The Senator from Iowa has

referred to the case of the colored officer. I have in my hand the letter of that officer addressed to his military superior making a report of the case, and as it is very brief I will read it:

WASHINGTON, D. C., February 1, 1864.

Sir: I have the honor to report that I have been obstructed in getting to the court this morning by the conductor of car No. 32, of the Fourteenth street line of the city railway.

I started from my lodgings to go to the hospital I formerly had charge of to get some notes of the case I was to give evidence in, and hailed the car at the corner of Fourteenth and I streets. It was stopped for me and when I attempted to enter the conductor pulled me back, and informed me that I must ride on the front with the driver, as it was against the rules for colored persons to ride inside. I told him I would not ride on the front, and he said I should not ride at all. He then ejected me from the platform, and at the same time gave orders to the driver to go on. I have therefore been compelled to walk the distance in the mud and rain, and have also been delayed in my attendance upon the court.

I therefore most respectfully request that the offender may be arrested and brought to punishment.

I remain, sir, your obedient servant.

A. T. AUGUSTA, M. B.,

Surgeon Seventh U. S. Colored Troops.

Captain C. W. CLIPPINGTON, Judge Advocate.

I believe that the writer of this letter had just as much right in that car as the Senator from Indiana, and I believe that it was just as great an outrage to eject him from the car as it would be to eject that Senator. I go further and I say—I merely take him for illustration—that the ejection of that Senator from a car would not bring upon this capital half the shame that the ejection of this colored officer from the car necessarily brings upon the capital, or any other Senator, for I do not mean of course to make the remark personal; but as the Senator from Indiana has entered into this discussion and chooses to vindicate this inhumanity, I allude to him personally.

Mr. WILSON. Mr. President, I saw this statement in the New York papers, and I supposed, of course, it was true; for we all know that a very large quantity of the knowledge we get of what is going on, not only in the city, but in Congress, is obtained from the New York papers; but, as is suggested by the Senator from New Hampshire, I have also seen it in the Washington papers. It is a case that I think calls for the action of Congress. I know no right that this company has to make these distinctions here in the capital where all persons are free and equal before the law.

But, sir, this is not the only place that needs reform. There are other portions of the country that need reform also where, perhaps, the matter is not under our control. On our own cars that we are running on our own military roads these outrages are committed. The other day a friend of mine came up from the Army, and with him two colored men, and they were forced into a cattle car while he rode alone in a freight car over that road, forced there by the persons exercising the control under the authority of the United States.

The truth about it is, sir, that slavery has had its corrupting and malign influences upon the country. The country will yet, however, be abolitionized and civilized and humanized, but it must be abolitionized before the high civilization or the high humanity will come. It is all going well and right. I hope that some action will be taken in reference to this matter, and I hope the Federal Government will correct these outrages that are perpetrated by persons employed by them on some of our own military roads.

Mr. HENDRICKS. I desire to add a single remark to what I have felt it my duty to say. And first I wish to ask the Senator from Massachusetts who has just taken his seat if he has not heard of tens of thousands of cases where white soldiers have been compelled to ride in cattle or burden cars. I know that nothing is more common in the pressure upon the railroads of the Northwest than for that very thing to occur.

Mr. WILSON. In reply to the question of the Senator I will say that there is no doubt that it is true. That, however, I take it was a matter of necessity. I have no idea that any soldiers in any part of the country have been driven into the cattle cars while other cars used for carrying freight and being clean and neat go without passengers. In this case these persons were forced into the cattle car, and the gentleman told me he rode nearly all the way alone, when there was room for a large number of other persons in the car. He inquired about it of two officers, and the

answer was that the cattle cars were for "the niggers."

Mr. HENDRICKS. During the very cold winter weather toward the commencement of this session, under the very eye of Senators, the veterans from the Potomac and the Rapidan came into this city in cars that were not at all fit for white people, in which they suffered extremely for the want of fire; and yet neither that Senator nor any other Senator felt that the cause of humanity and right required them to call the attention of the Senate to the circumstance.

I am satisfied, sir, that the Senators have now declared the end to which we are to come, and that by the action of the Federal Government the social as well as the political equality of the negro is to be forced upon the white race. If that be the judgment of the country we shall have to accept it. The people that I represent in this Chamber have not yet adopted that sentiment. The distinction between the two races is yet maintained in Indiana. How much longer it will be maintained I am not able to say.

The Senator says that abolitionism is to do its work, and one of its works, as I understand from him, is to bring about social equality. I presume he means also political equality. I think that we will not consent to that very readily in the State of Indiana. Indiana has not been for a great number of years in fact or in law a slave State. At one time there were a few slaves in that State, but it has been substantially a free State since 1816, the time of its admission, and yet, sir, accustomed as we are to white labor there, and to none other, we are not content that equality, social and political, of the black race shall be forced upon us; and I am glad now that in plain terms the two distinguished Senators from Massachusetts and the Senator from Minnesota have told the country that this is the end we are to come to, that this war is not only for the freedom of the negro but for the equality of the negro socially as well as politically, and the country can now appreciate the issue that is before it.

Mr. POMEROY. I think, Mr. President, the Senator is mistaken in saying that Indiana is a free State. I never heard of that, because I have noticed that white men in Indiana are not free. There is a law in that State which prohibits white men from employing colored men unless they were in the State at the adoption of the constitution. Colored men who happened to live in Indiana at the time the State constitution was adopted can be employed as laborers; but if any white man in that State employs a colored man who has gone in since, he is subject to a fine and also to a forfeiture, and I believe imprisonment. If that makes Indiana a free State it is not such a free State as I would make if I were to make one.

Mr. CLARK. I think the Senator from Indiana has mistaken the resolution. I understand him to characterize this as a resolution to force the negro into the cars. I understand it to be a resolution to prevent you from forcing him out—not to force social equality, but to prevent an outrage upon him.

Mr. HENDRICKS. Mr. President, I did not intend to say another word, and I should not now say anything except for the remarks of the Senator from Kansas in respect to the policy which Indiana has seen fit to adopt. In this Chamber, sir, it is not a part of my labor to defend the policy that the people of that State see fit to adopt; but I will simply say this: we lie alongside of the State of Kentucky, and free negroes were constantly coming into our State, and our people thought we would have the negro there neither as a free man nor as a slave, and they decided in favor of that policy by the largest vote that was ever given in the State upon any question submitted to the people—by a majority, I think, of ninety-three thousand. That has been the policy of Indiana; and in this connection I will simply add that under that policy the colored population of Indiana between 1850 and 1860 increased but about one and a half per cent., while in the adjoining State of Ohio, in which they had no such protection to free white labor, the negro population increased, I believe, about forty-one per cent.

Mr. WILSON. A single word, Mr. President, in regard to what the Senator from Indiana has said of our soldiers and how they are carried. I never learned that over the military road of the Government between Alexandria and the Army any abuses were made of our soldiers. If I had

learned such a fact in any form I think I should have been likely to refer to it. I am sure of one thing, that if ever I saw any conductors on that road drive soldiers from the freight cars which had carried freight to the Army, into other cars that had carried cattle to the Army, while the freight cars were empty and were retained for some privileged or favored persons to ride in, I should have denounced it here and elsewhere.

I will say further, as we are speaking to-day in regard to the management of these roads, that I have no reason to complain of the management of the railroad in the city of Washington, or of any of its conductors toward myself. I believe the most of them are men who do their duty, and do it faithfully, but I have seen cases where I have remonstrated with them, not for driving black men out of the cars, because I have never seen that done, although I have seen black men, and women forced on to the front part of the cars to ride in cold and stormy weather; but I have seen soldiers traveling in this city in some cases slighted and abused by conductors on this road. I have remonstrated with them for such conduct; and I know other persons who have witnessed the same thing.

What I mean to say about this matter is this: I do not want to force on the Senator from Indiana or anybody else any class of men with whom he does not choose to associate, but I think the true policy is to let men stand equally before the law, to let men win their own positions, let them have the privilege of making out of themselves all that God and nature intended they should be.

The question being taken by yeas and nays, resulted—yeas 30, nays 10; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Col-lamer, Comess, Cowan, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, Lane of Kansas, Morgan, Morrill, Pomerooy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—30.

NAYS—Messrs. Buckalew, Davis, Harding, Hendricks, Nesmith, Powell, Richardson, Riddle, Saulsbury, and Van Winkle—10.

So the resolution was agreed to.

MEMBERS OF CONGRESS AS COUNSEL.

Mr. TRUMBULL. I move to take up for consideration Senate bill No. 28, relating to members of Congress. I think we can pass it in the morning hour.

The motion was agreed to; and the Senate proceeded to consider, as in Committee of the Whole, the bill (S. No. 28) relating to members of Congress. The bill as originally introduced by Mr. WADE provided that no member of the Senate or of the House of Representatives of the United States shall, during his continuance in office, hereafter appear or act as counsel, attorney, or agent in any cause or proceeding, civil or criminal, in any court, civil, criminal, military, or naval, or before any commission in which the United States is a party or directly or indirectly interested, or receive any compensation of any kind, directly or indirectly, for services of any description rendered by himself or another in relation to any such cause or proceeding; and that no member of the Senate or House of Representatives shall, during his continuance in office, receive or agree to receive any compensation whatsoever, directly or indirectly, for any services rendered to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party or directly or indirectly interested, before any Department, bureau, officer, or any civil, military, or naval commission whatever. A person so offending, on conviction, is to be deemed guilty of a misdemeanor, and be punished by a fine not less than \$—, and by imprisonment for a term not less than — years, and be forever thereafter incapable of holding any office of honor, trust, or profit under the Government of the United States.

The bill was reported from the Committee on the Judiciary with amendments, the first of which was to strike out the following words:

No member of the Senate or of the House of Representatives of the United States shall, during his continuance in office, hereafter appear or act as counsel, attorney, or agent in any cause or proceeding, civil or criminal, in any court, civil, criminal, military, or naval, or before any commission, in which the United States is a party or directly or indirectly interested, or receive any compensation of any kind, directly or indirectly, for services of any description rendered by himself or another in relation to any such cause or proceeding. And.

Mr. JOHNSON. I am not sure that I heard the bill read very distinctly. The most of its provisions, so far as I understand them from the reading, appear to be reenacting the laws as they are. An act passed several years ago prohibits any member of Congress from prosecuting any claim against the Government except in the courts. This bill, I think, repeats that provision. I did not rise so much for the purpose of suggesting that merely, as to suggest to the honorable chairman of the Committee on the Judiciary whether he thinks it is advisable to exclude the privilege of members of the Senate who happen to be professional men of appearing before courts-martial.

Mr. TRUMBULL. The Senator from Maryland will permit me to say that the amendment now under consideration does not involve that. That will come up hereafter. We are now considering the question of striking out from the third to the twelfth line; and the words proposed to be stricken out prohibit a member of Congress from attending to any business whatever in any court, before any Department of the Government, either with or without compensation. If the bill as it was introduced were to pass no member of Congress would be permitted to act for his constituents before any of the Departments or in any of the courts of the country anywhere, either with or without compensation. The committee propose to strike that out. By the subsequent provisions of the bill it will be seen that, as the committee report it, they propose to restrain members of Congress and clerks in the Departments and heads of bureaus from receiving a compensation from any person for doing any business before any Department or any commission or anywhere else except in the judicial tribunals of the country. The bill as reported by the committee does not prohibit members of Congress from practicing in the courts of the country; but it does prohibit them from appearing before courts-martial, commissions, Departments, bureaus, or anywhere else for a fee or consideration received from any one. The question now is, however, on striking out these first twelve lines.

The amendment was agreed to.

The next amendment was in line twelve, after the word "shall" to insert the words, "after his election and," and in line fourteen after the word "office" to insert the words "nor shall any head of a Department, head of a bureau, clerk, or other officer of the Government," and in line seventeen after the word "rendered" to insert the words, "or to be rendered;" so that the clause will read:

That no member of the Senate or House of Representatives shall, after his election and during his continuance in office, nor shall any head of a Department, head of a bureau, clerk, or other officer of the Government, receive or agree to receive any compensation whatsoever, directly or indirectly, for any services rendered, or to be rendered; &c.

The amendment was agreed to.

Mr. TRUMBULL. While we are on that line, it has been suggested, to make the bill clear from any ambiguity, that after the words "or to be rendered," which have been inserted, there should be inserted the words "after the passage of this act;" so that it will apply to services rendered or to be rendered after the passage of this act. Otherwise it might cut off compensation which has been agreed on for a person attending before a court-martial or some other place where the law heretofore did not prohibit his attending. I move in the seventeenth line after the word "rendered" to insert those words, "after the passage of this act."

The amendment was agreed to.

The next amendment of the committee was in line twenty-two, after the word "Department" to insert the word "court-martial."

Mr. JOHNSON. That is the particular provision—

The VICE PRESIDENT. If the Senator from Maryland will pardon the Chair a moment, it becomes the duty of the Chair at this hour to call up the special order of the day, the morning hour having expired.

Mr. TRUMBULL. It will take but a moment probably to get through with this bill. I do not apprehend that it will lead to discussion. I will therefore move to lay aside all other orders until we get through with this bill.

The VICE PRESIDENT. If there be no objection on the part of the Senate that course will be pursued.

Mr. HALE. I suggest to the Senator from

Illinois that possibly there may be some discussion on it. It is an important bill and marks out a new policy in the Government, a pretty wide departure from what has been practiced heretofore. I wish that it might be printed as it has been amended.

Mr. TRUMBULL. It is printed as amended, and is before the Senator. It has been on our tables for a week or two.

Mr. WILSON. I will suggest to the Senator to let this bill go over, and then we can take up a measure which I think it is very important to act upon, and that is the joint resolution to equalize the pay of soldiers of the United States Army.

The VICE PRESIDENT. Does the Senator submit that motion?

Mr. WILSON. I make that motion.

The VICE PRESIDENT. The Senator from Massachusetts moves to postpone all prior orders for the purpose of proceeding to the consideration of the joint resolution indicated in his motion.

Mr. TRUMBULL. I think we had better finish this bill. The bill has been printed, but the Senator from New Hampshire did not have it before him; that is all. It is a short bill. If he will send for a printed copy of Senate bill No. 28 he can have it before him in a moment.

Mr. WILSON. I understood the Senator from New Hampshire to suggest that that bill would lead to considerable debate, and therefore I made my motion. If the Senator from Illinois thinks we had better go on with the bill I have no objection.

Mr. HALE. I have no objection.

Mr. FESSENDEN. I wish to suggest to gentlemen that if they postpone everything that leads to debate it will take them some time to get through with this session of Congress.

Mr. HALE. I do not want any postponement of it.

The VICE PRESIDENT. Does the Senator from Massachusetts withdraw his motion?

Mr. WILSON. Yes, sir.

The VICE PRESIDENT. The Chair then, if there be no objection, will proceed with the pending question. The bill (S. No. 28) relating to members of Congress is still before the Senate, the pending question being on inserting after the word "Department," in the twenty-second line, the word "court-martial," and on that the Senator from Maryland was on the floor.

Mr. JOHNSON. I was under the impression it was postponed.

The VICE PRESIDENT. It is now before the Senate at the point where the Senator arose.

Mr. JOHNSON. As I said just now, I suggest to the honorable chairman of the committee, and the Senate, whether it is proper in itself to make this amendment, at the present time particularly. You have extended to courts-martial jurisdiction over almost every variety of crimes. There is hardly an offense known to the criminal statute which is not more remotely, indirectly, or directly of such a character that these courts-martial or military commissions are supposed to have, and certainly assume, jurisdiction. My impression has been, and still is, (with no disrespect to the Executive,) that these courts-martial are assuming jurisdiction which Congress never contemplated. In all cases of contract to furnish materials to the United States in any Department of the Government, if the Government believe, or have reason to believe, that the party has acted fraudulently in his execution of that contract, he is tried before what they call a military commission, and from what I have understood—I speak from no personal knowledge—very great injustice has been done, and very often has been done because of the absence of counsel. But besides that, cases are occurring every day where the reputation of an officer or his life is involved before a court-martial. The earnings of his life, in character as well as in everything else, may depend upon the result of the decision of that tribunal.

Now, I suppose that the only ground upon which it is proper—and to that extent I agree with the policy as a good one—to exclude members of Congress who happen to be professional men from prosecuting their profession is, that in certain cases they are imagined to have, because they are members of Congress, an improper influence upon the bureau or the Department or the tribunal before which the case is to be tried. A clerk in these Departments, whether at the head of a bu-

reau or anywhere else, or a Secretary of a Department, is in contemplation of law thought to be more or less under the influence of members of Congress; and from a desire to gratify a member of Congress he may at times decide unjustly as against the Government, or at least erroneously. He trusts to the member of Congress. He believes that his statements are true because of the character which every member of Congress is supposed to possess; and acting upon that, he decides accordingly; as very often what decision is to be given depends upon the authenticity of the facts which are laid before the particular Department.

But I submit whether that applies to a case depending before a court-martial. The influences upon the judges of a tribunal of that description are much stronger, I think, than any influence a mere counsel can bring to bear because of the fact that he is a member of Congress. The judges themselves, the members of the court, are appointed directly by the President or by the President's authority. They depend more or less for their advancement in their profession upon presidential favor. There are, besides—it is useless to deny; we all know it; in the nature of things it must be so—existing in every army and in every navy what may be called cliques; and where that is the case, if the judges who are to try a man belonging to one of these cliques happen themselves to belong to another, they bring, or are supposed to bring, and in all probability do bring without knowing it, the prejudices which arise from that fact.

Now, the great security, or one of the great securities, as it seems to me, of having a fair trial, notwithstanding the outside influences or internal influences which the members of these courts-martial may, as I have said, unknowingly to themselves, be under, is to have before them some professional man whose character in the country may be supposed to be more or less a guarantee that he will do nothing professionally that he does not think is right, and upon whose judgment after the result of any particular case may have been known the court may think the public themselves will in some measure rely. I cannot conceive it possible that because a man happens to be a member of Congress he can have any influence with the judges of a court-martial which could operate prejudicially at all to the attainment of justice.

Then, on the other hand, why is it—I ask in the name of humanity and in the name of justice, why is it that a man tried for his life before one of those tribunals, more or less ignorant of all the laws of evidence, and more or less ignorant of the proper construction to be given to the statutes, should not have the benefit of the best counsel that he in his opinion may think is to be procured? The meanest man in the community who happens to be tried for his life, or for any offense which involves his character, has a right to select any counsel that he thinks proper before any of the civil courts. He may come into this Senate Chamber or go into the other House and select anybody that he can get to defend him; and it is one of the duties of the profession, and one, as far as I know, that they never shrink from, to render that service whether the party charged is able to compensate or not.

If you give the lowest man in the community the privilege of being defended before any court in the community other than a court-martial the privilege of selecting his own counsel without reference to the political status of that counsel, why is it that you will not give to a general in the field, who has passed his life in the service of his country, and added to its honor, as it may sometimes happen, and who is upon his trial for his life, the privilege of being defended by the counsel that he may think best fitted to serve him? If I believed it to be possible, because of the relation in which that counsel may stand to the Government and because of the relation in which standing to the Government, he may stand, or be supposed to stand, toward the tribunal before whom he is to appear, that it would work an erroneous result and do mischief to the country, I would be the last person in the world to object to such a proposition as this.

Before I sit down, permit me to say, Mr. President, that so far as I am individually concerned such an amendment as this will have no effect upon me except to save trouble. In many of the cases

in which I have heretofore been engaged in behalf of parties before courts-martial, I have got nothing and charged nothing; and in those cases where I have charged, or rather where I have been paid without charging, it was a compensation that I would not have taken under any other circumstances; much less than I charged in ordinary cases; because nine times out of ten the party who is being tried, no matter how high his rank may be in the military or naval service, is unable to pay. He has spent his life in maintaining the honor of the country, sustaining the glory of her flag, representing her abroad, if he is in the naval service; gone far from his home, if he is in command of a corps or division, and spent, nine times out of ten, not only all, but more than you give him; and when he gets involved in a difficulty which may lead to a court-martial he is penniless, literally penniless, so far as concerns his ability to pay counsel the professional fees which they have been in the habit of getting.

Now here we are in 1864. The Constitution was adopted in 1789. Our forefathers went through the war of the Revolution without such a provision as this. You went through the second war of independence, as it has been termed, the war of 1812, and the war with Mexico in 1846 without such a provision as this, and you have gone through the present war up to the present time without such a provision. What harm has resulted from permitting members of either House to appear as counsel before courts-martial? I am aware of none at all; that is to say, I am aware of no harm resulting to the country or to the individual because of the fact that the counsel of the party happens to stand toward the Government in the relation of Senator or Representative. I think it has been found, on the contrary, no matter who is the counsel, that the commanding influence, the controlling influence, is the Executive.

A man from Maryland was tried, for aiding the enemy, before a court-martial composed of some of the most intelligent and honorable officers in the service, and he was subjected to the punishment of a mere reprimand. The record of that judgment was hardly filed in the War Department before the Secretary of War lectured them by an order, reprimanding the court, and ordering the party who had been found not guilty, free of the offense with which he was charged, to be handed over to the civil tribunals to be there prosecuted.

In another case where the party charged had the benefit of the counsel of a member of the other House, and who was tried, before a court composed again of as high-minded and honorable men as are to be found in the military service, upon five or six or seven specifications of charges all involving fraud, was not only acquitted, but was said to be honorably acquitted. Such was the finding upon each one of the charges, and upon each one of the specifications. When it came here it was filed in the same Department. The Secretary of War—I am not finding fault with him; I am not saying that he did not do what he thought to be his duty; I think he transcended it, but that is a matter of opinion—issued an order dissolving the court, reflecting upon the intelligence of the court, insinuating disloyalty upon the members of the court, and had influence enough with the President to get the President to say in an official order that the man who had been pronounced not guilty, and pronounced as having been honorably acquitted, was dishonorably discharged from the service. His counsel could not save him.

I mention these facts not for the purpose of finding fault with the Secretary of War, but merely for the purpose of submitting to the Senate, as illustrated by these two cases, that it is perfectly clear that whatever influence can be brought to bear upon the minds of a court-martial comes from another quarter than that of counsel.

With these remarks, Mr. President, I leave the subject.

Mr. FESSENDEN. Mr. President, this Senate and the House of Representatives undoubtedly contain a very fair sprinkling of the legal talent of the country, and probably possess an average share of that integrity that belongs to the profession; but it makes a very small portion, an almost infinitesimal portion of the legal ability of the country. We really deprive nobody of any privileges, and submit nobody to injury or loss by simply saying that the members of this

Senate and of the House of Representatives who are lawyers shall not practice in certain cases in which the Government is concerned.

Mr. TRUMBULL. We only prohibit them from receiving fees. They can go there if they want to do so without fees.

Mr. FESSENDEN. Then we should not exclude the honorable Senator from Maryland, whose practice it seems to be to defend persons without charge, especially in court-martial cases.

I think the proposition is a sound one and a good one. In the first place, with reference to all other officers connected with the General Government except members of Congress, their whole time is, or ought to be, necessarily taken up in the discharge of their duties for which they receive pay. With regard to us, the greater part of our time is so, or ought to be so appropriated. When we are at home some of us engage in professional pursuits, and perhaps we do no injury in any way in that particular. For myself, however, I have been so long now in public life that I have pretty much lost the capacity for professional pursuits, and therefore do not have much to do.

I think this rule a sound one. If we do not give our whole time to the Government we ought at least to see that we are not mixed up in affairs with which the Government are connected by which we may be influenced in the discharge of our public duties. That, I think, is the great difficulty.

Take the case, for instance, of a court-martial: A member of the Senate may be counsel for an officer tried before a court-martial. It is impossible, in the very nature of things, that his feelings should not be strongly enlisted for his client; and there are few counsel whose minds are so exceedingly well balanced that they can keep clear of that prejudice and afterwards act without prejudice as judges upon the case. How often has it happened that persons who have been tried before courts-martial make complaints to Congress, and efforts are made here to bring in the record and spread it before the country. Perhaps we may have occasion to act upon that very thing in some other form, and it is impossible, in my judgment, that we can bring to it, after having been ourselves employed as counsel, that clear and unbiased judgment which we ought to possess with reference to all such matters.

This matter of courts-martial has been suggested as one illustration. Perhaps it is the strongest one. I think it is a case particularly where members of the Senate and House of Representatives should not act as counsel, either with fees or without fees. All these matters, in which the interests of the Government are so particularly connected, and are perhaps adverse to the interests of individuals, are not such matters as we should engage in; for I hold that having accepted our offices and taking the pay that we receive for the services we render, and being members of the Government itself, we should take care to keep not only our time ready for the service of the country, but our minds also in such a state that they are unbiased in their action with reference to public affairs. More particularly do I hold it not only advisable but essential that we should receive no fees with reference to such matters, although I see no impropriety in it as a general rule, and do not wish to cast the slightest reflection on anybody. I believe the true doctrine is that as public servants, acting in the capacity and the high capacity we do, we should keep ourselves in regard to the affairs of the Government entirely clear of everything which might tend to cast a bias on our minds in reference to any particular matter or similar matters at any subsequent period.

It is with this view and on this general consideration, and this general consideration alone, that I shall give my vote for this bill, not exactly as it stands, for I think it needs some little amendment. It has been suggested to me that there are some amendments, which will be proposed, that I suppose will address themselves to the sense of the honorable Senator who is chairman of the Judiciary Committee. On those I have nothing to say; but with reference to the general principle, I disagree entirely with the honorable Senator from Maryland, for the reason that I have stated. It is a single and simple one. Perhaps it will not be considered so forcible by anybody else as by

me; but it is a matter on which I have reflected more than once during my congressional career, and I came to the conclusion early that, so far as the Government was concerned, members of Congress should devote themselves in all these matters particularly to their own duties, keeping clear of any complications with others that might in any way bias their opinions or affect their action.

Mr. FOSTER. Mr. President, upon the question whether members of Congress should be allowed to practice before courts-martial, I entertain a very decided opinion. I did so in committee; I believe it was at my suggestion that the prohibition was placed in the bill; and the more I have considered the subject the more certainly I have felt convinced that such prohibition will be salutary.

I agree with the Senator from Maine as to the reasons for this prohibition which may be considered personal to ourselves why we should not thus act. But there are additional reasons not less strong, in my judgment, than those, strong and indeed conclusive as they may be.

When we consider the composition of these military tribunals, there are, it seems to me, very strong reasons why members of the Senate certainly should not practice as counselors and attorneys before them. The members of those courts are all looking to promotion; they all expect at a proper time to be elevated from lieutenants to captains, and from captains to majors, and so on up to major generals or lieutenant generals, as the case may be. It is true that Senators have not the power of promoting these several officers; but we are supposed to exert a very considerable influence in procuring their promotion. Whether that be so or not, it is quite certain that sitting here in executive session we have some power in deciding whether they shall be promoted or not. A single vote in the Senate is sometimes very important upon the question of the promotion of a military officer. A single Senator may have it in his power to prevent a man from being made a major general or a brigadier general or any other military officer of a higher or a lower grade. Taking human nature as it is, it is utterly inconceivable that members of these military courts should not have this fact in their minds while they are trying causes brought before them. I do not say that they will be improperly biased by any influence which a Senator, acting as counsel, could exert before them. No doubt they, as honorable, upright men, would intend to decide the cause just as they would if any other person were counsel, decide it on its naked merits, and try the cause, and not the particular party, much less the counsel of the particular party. But after all it is perfectly clear that the influence of a Senator, should he choose to exert it, might, quite unconsciously to the members of the court, lead to a result which all would deprecate and regret.

The honorable Senator from Maryland, it seemed to me, was unfortunate in his illustration on that very point. He alluded to the decisions of several courts-martial where the judgment of the court, pronounced as he said by as intelligent, high-minded, and honorable men as could be found in the military service, was by the Secretary of War set aside; and an officer who had been honorably acquitted by the judgment of his peers was by the President of the United States, influenced by the Secretary of War, dishonorably discharged from the service. Why? Because in the opinion of the Executive that judgment was one which ought not to be carried out; it was an erroneous finding or an erroneous judgment upon the finding; and so flagrant was this judgment that the Executive discharged dishonorably from the service one who had been honorably acquitted by the court-martial. How was the judgment of that military court brought about? Who was counsel for that man thus acquitted by the court and dismissed by the Executive? A member of Congress. I understood the honorable Senator to state that the counsel for the accused in that case was a member of Congress. Far be it from me to impute any wrong to that member, or to charge that any erroneous influence was exerted by that member upon the mind of the court; but it is a fact which cannot be winked out of sight that the judgment was one which struck the Executive with surprise, and one which he would not carry out. The Executive may have been

wrong and the court right, but it is quite possible also that the court may have been wrong and the Executive right. At all events, under these circumstances I would as soon accept the judgment of the Executive, insisted upon, as I understand the honorable Senator to say it was, by the Secretary of War, as correct, as take the judgment of the court; and if there chanced to be an unfortunate element of congressional influence, in the character of counsel, introduced into the trial extraneous to the merits of the cause, it would account for the result at which the court arrived.

I have heard—I do not know that it is true, I trust it is not, but it is an illustration of the principle to which I am alluding—I have heard that on a certain occasion before a court-martial a member of Congress, appearing as counsel, and being dissatisfied with some preliminary decisions made by the court, said in very decided language to some member of the court, "You expect soon to be promoted, and I give you to understand that your confirmation will not get through the Senate without some difficulty." I am desirous, and I presume every member of the Senate, as well as every citizen who desires that justice should be administered fairly, both by military and civil courts, is desirous to avoid these evils, if it be possible to avoid them by legislation. I think it is; and I think that the difficulties which our citizen soldiers will sustain in consequence of not being able to avail themselves of the services of members of Congress to act as their counsel are more imaginary than real. No doubt there are honorable members of this body and of the House of Representatives who could act most efficiently and ably as counsel, either before military or civil courts; but as the honorable Senator from Maine suggests, these two bodies composing the Congress of the United States by no means contain the whole legal ability of the country. There will be no danger but that innocence may be defended and justice vindicated before all the tribunals of the country if we have nothing to do with the administration of justice.

To make the law its own proper duty, and I think as a general thing it is better to leave to others the administration of the law which we may have enacted; certainly before all courts where those who compose them may be considered in any manner dependent upon us either for their continuance in place or for their promotion to a higher place. If the members of a civil court held their offices at our will, or we by our vote could remove them from office readily, I would prohibit members of Congress from appearing before that, though a civil tribunal. The consequences are quite too apparent, quite too full of evil, to permit such a course as that to be followed safely for a single day. Judges should be independent. I trust that this amendment will be adopted, and that members of Congress—at least members of this body, and I would not discriminate between the two Houses in that respect—will not be allowed to practice as counsel for pay before courts-martial.

Mr. FESSENDEN. I did not know when I was up before to what two cases the Senator from Maryland alluded, and therefore I made no comment about them. I have since been informed what they were, and I find that they are cases of which I had heard before. One is the case of a man in Pennsylvania or Maryland who gave to the enemy when they were there information of where a large number of cattle belonging to the Government could be found, the result of which was that the enemy got possession of them. The court found him guilty, found that he had done the thing, and sentenced him I believe to be reprimanded; told him he must not do it again. Mr. Stanton, the Secretary of War, I understand, did dismiss the court with a great deal of contempt, and gave expression to it openly; and I think that feeling of contempt was shared by the whole country who knew the facts and saw the sentence. The case was a very gross one, and no one could throw the slightest imputation upon any officer of the Government, having the authority, for reprimanding the court in such a case for not having done its duty.

The other was the case of Major Belger. In that case the record, as I have been informed, was such as satisfied the Government at once, on its face, of the guilt of the officer. The very facts reported showed him to be guilty. It is well known that there is a sort of fellow feeling or

something of the kind that very often operates on courts-martial, not constituted as civil courts are, that unquestionably needs correction; and I do not think the slightest reproach should be thrown upon the Executive in such cases for trying to make these courts, which after all are mere military tribunals, do their duty; and I presume the honorable Senator from Maryland did not mean to insinuate that anything had been done in those cases without very good and sufficient cause. I have stated the cases in order that they may go into the same record with the remarks he has made, so that the country may understand what they were. I remember that at the time of their occurrence I was informed of them, and for myself I fully justified the whole action of the Government in relation to those two cases, and I am satisfied that if they had carried it further and taken the same course in regard to some other cases they would have benefited the country.

Mr. JOHNSON. Both the Senators who have spoken in support of this amendment and the chairman of the committee seem to suppose that this bill prohibits members of Congress from trying causes before courts-martial. It does no such thing. That is not the amendment which I understand has been suggested by the Senator from Connecticut. It only says that no member of Congress shall try a case before a court-martial for a fee agreed upon in advance, or paid in advance, or to be paid in the future. He is perfectly at liberty to go before a court-martial and try a cause without a fee; and I said, therefore, that so far as I was concerned it would create no impediment in the way of any such duty as that should I be called upon to perform it.

Now, a word in answer to the Senator from Maine. He has said—perhaps he misunderstood me or he would not have said it—that all our time is due to the public. He does not mean to say that every day of the year is due to the public. I suppose he means to say that all our time while we are here, which is necessary for the public service, the public have a right to demand.

Mr. FESSENDEN. The Senator misunderstood me. I said that all our time that was necessary for the public service, that the public needed, was due to the public; I went no further than that; but I expressly stated that we had much time, perhaps in the recess, when we could attend to professional duties. I placed my objection to members taking this particular class of duties on them upon another ground.

Mr. JOHNSON. I understood that, and was going to state it. The Senator placed it on a double ground. Now, Mr. President, I am to be informed for the first time—and I am now being instructed by Senators—that there is anything improper, looking to the full duty which a Senator owes to the country, of his becoming counsel in any case before any court, as an abstract proposition. I concede with the Senator from Maine that nothing is more plainly the duty of a member of Congress than to give his entire time to the service of the country in that relation, as far as his time is necessary for that purpose. But as the Senator says, and no doubt he illustrates it by his own example, there is time not due to the public. While he is away from here he tries causes in the State of Maine. He has done it; he has not grown too old to do it yet; and he is certainly not less able to do it now than he ever was, but a great deal more able if there can be said to be anything more able in reference to such a counsel, and he gives his time, when he goes home, to the prosecution of his profession. Do the public suffer by that? Some critic who might be astute to find out that the honorable Senator from Maine was not discharging the full measure of his public duty might say that he ought to be studying political economy, mastering all questions connected with finance, studying the slave question, and studying anything and everything which might at any time become a public measure before Congress.

I do not wish, therefore, to be understood that I would or that any member of Congress should in my opinion undertake to defend a case before a court-martial while Congress is in session. I had no such idea. What I mean to say is this, not as a right due to the member of Congress, but as a right due to the citizen, he should have the privilege of selecting his own counsel. If I supposed that in the exercise of that right his selection of a member of Congress would operate to the preju-

dice of the Government I should be as much in favor of this amendment as the Senator from Maine.

I understand the honorable Senator to say, and I understood him to say from the first, that he is not for excluding a member of Congress from appearing as counsel in cases, except cases of a certain class, and he supposes that the class of cases before courts-martial is of that description that members of Congress should not be permitted to appear in. The Senator from Connecticut takes the same ground. Now, a word in reply to him first.

He ought not to appear there, says the Senator from Connecticut, because the members of the court are looking to promotion; and it may happen that a man who is so looking for promotion may fear to offend counsel who happens to be a member of Congress, and especially if he happens to be a member of the Senate, because if he is nominated for promotion, his nomination may be rejected by the influence of that particular member. Now, in the first place, I shall be exceedingly unwilling to believe, and I certainly do not believe, that there is any member of this body now, or that there can be at any time hereafter a member of this body, who, because acting as counsel he was dissatisfied with the finding of a court-martial, would use his influence in this body to punish the members of the court. I should be unwilling to associate with counsel who would lend themselves—I was about to say with all deference to the Senator from Connecticut—to such a low, miserable, pitiful feeling as that. Dissatisfaction with a judge because he happens to decide against your client! Deny to him honesty because he differs in opinion from yourself! Take advantage of your official position in order to punish him because he differs from you!

In the next place, how is he to come before the Senate? The Senate have no right to appoint. They have no right to nominate. The Senate's right in regard to appointments arises after nomination, and there can be no nomination except at the hands of the Executive. If, therefore, any member of the court should be capable of shaping his judgment in order to secure promotion he will look to the Executive. What do they want? "I feel for myself," one of them may say, "that I am willing to pander for promotion, abuse my conscience in order to accomplish my end; that end is elevation in my profession; I cannot obtain it except through the instrumentality of the President or the immediate advisers of the President, the Cabinet, and particularly the head of the military Department of the Cabinet, and I will take care not to offend him." Is there not more danger—I submit it to the Senator from Connecticut—of there being an abuse in that quarter such as he deprecates, than of such an abuse arising from the mere fact that the party employed as counsel happens to be a Senator?

Now, a word in reply to my friend from Maine. There is a certain class of cases, he thinks, in which members of Congress should not be permitted to act as counsel, and this is one of them. Why is it one of them? Because these names may be brought before us either by nomination for promotion, or in the event of conviction by appeals for justice at the hands of the Senate, and he who has been counsel, unknowing to himself, cannot avoid feeling a bias which would prevent his doing justice or being in a state of mind to do exact justice.

In the first place, the honorable Senator from Maine, if he wishes to carry out practically his theory, must pass the bill as it was originally presented, and that is to exclude any member of Congress from trying in any court any cause in which the United States may be interested. Those cases may come before us. Land grants are ruled to be invalid, and an appeal is made to Congress—

Mr. FESSENDEN. I should like to ask my friend a question with his permission.

Mr. JOHNSON. Certainly.

Mr. FESSENDEN. Does he ever consent to sit as referee in a case where he has been counsel?

Mr. JOHNSON. No, sir, I am not a referee in a case of this description.

Mr. FESSENDEN. You may be.

Mr. JOHNSON. No, sir, I cannot be—neither a referee in point of fact or name, nor a referee in point of substance. A land grant is ruled to be

invalid, and the claimants come here to have it made valid. Does anybody suppose that because that might be, it would be improper for a Senator of the United States, before the decision was made, to appear as counsel? I say to the Senator from Maine—and I suppose that any lawyer who knows what is due to himself and due to his profession would come to the same conclusion—that in a case of that description I certainly would not vote to affirm such a grant, nor would I vote to pay any claim which had been ruled by a decision of a proper tribunal to be invalid, in a case in which I had been counsel. I would not vote at all.

In relation to the two cases which have been spoken of, my friend from Maine knows more about them than I do. I have no knowledge at all of what were the charges in either case. What I said was founded entirely on the fact of the judgment of reprimand, I think, in the one, and a judgment of honorable acquittal in the other; but the Senator from Maine seems to suppose that because the Executive in each case found fault with the decision of the court, the decision must have been wrong, and from an explanation of the facts which he has got from the Department he thinks and says that in his judgment the cases were perfectly plain.

Nobody knows better than the Senator from Maine that the true rule by which judgment should be guided in all inquiries of that sort, is to hear both sides. Has he heard the court? No, sir. Has he seen the witnesses? No, sir. Does he know the character of the witnesses, their title to credit? No, sir. Does he know the demeanor of the accused? No, sir. And nobody knows better than the honorable Senator from Maine that all these things enter largely into the elements for a correct judgment.

My honorable friend from Connecticut, not now in his seat, has told us that the mere fact that those judgments were disapproved, proves, at least in relation to one of the cases in which a member of Congress appeared as counsel for the accused, that the judgments must have been erroneous. I suppose it is barely possible—I put the case now as a supposition that the mind is able to entertain without doing any violence to the power of reason or to its experience—that the judgment of five respectable men before whom the whole case was heard may be right, and the judgment of Hon. Edwin M. Stanton wrong. That is a fair possibility; and if you are about to place these courts-martial in a situation to be not obnoxious at all to any suspicion of injustice, let the rights of courts-martial be understood. They are appointed by the Executive; and what has been done—I speak from what I have heard from officers of the highest distinction, not members of either of those courts—what has been done has been construed as teaching the members of courts-martial that if the Executive desires a conviction, a verdict of acquittal, no matter what is the evidence, will be of no avail. "Acquit if you please, or rather if you dare, and if in our judgment the acquittal has been erroneous, then we not only set it aside, but we censure you." What would my friend from Maine have said if he had been one of the members of that court? Assuming that the court were wrong, I can understand that the conduct of the Executive in the particular case might have been right; but if the Senator had been a member of that court, and had, after hearing all the evidence, decided that a man should be honorably acquitted, and he had been announced at once as dishonorably discharged, and the court-martial itself dissolved as having shown mental imbecility, or what is worse, moral imbecility, what would he have said? I know him so well as to know he would say, "I may have erred; that is possible; but the chances of my having erred are infinitely less than the chances of error in the Department of War, where the Secretary is obliged to act without the benefit of many of the means of correct information which must be possessed by a court."

As I have already said, sir, I have no possible interest in the result; I merely wished to defend what I consider the rights of the profession, or more especially what I consider to be the rights of the individual citizen, so far as the particular amendment proposed by the committee is concerned.

Mr. FESSENDEN. Mr. President, as I stated to the Senator, the bill would have suited me bet-

ter as it was originally drawn, to prohibit members of Congress, so far as it is applicable to members of Congress, entirely from appearing as counsel in cases to which the Government is a party. The Committee on the Judiciary, however, have chosen to put it in another attitude, and I do not object to it, for the reason that I think it will substantially accomplish the purpose, and I do not feel disposed to urge my own particular views in opposition to the views of the committee.

I do not see the danger that is apprehended from this legislation. There are not many of our profession who are situated precisely as is my honorable friend from Maryland. We are generally men who work for pay in our profession. We like fees. We are not disposed to give our time and our labor and our study, as the gentleman from Maryland is, for weeks to the defense of people whom we do not know, merely from love of the profession or a sense of professional duty; and therefore the bill as it stands will apply to everybody but him. As he is not interested in it it will have all the effect desired, because it will exclude about everybody else; and I have no doubt he will be governed, as I trust we all shall be, by the implication of the bill itself, that the thing is improper. I really have no fears but that the bill as drawn, if we pass it, will accomplish all its purpose, of prohibiting members of Congress from appearing as counsel in similar cases, and that, I think, is highly desirable. Therefore I give it my support without attempting to amend it, and I do not see the difficulties that my honorable friend does.

It struck me that when he alluded to those two cases which have been spoken of, it was not necessary to introduce them by way of illustration. They illustrated nothing except that the Secretary of War and the President had disapproved in two instances the findings of courts-martial. I have been so long out of practice that I have forgotten to apply in all arguments here in the Senate the mere technical notions that we have in practice with regard to the effect of evidence, &c., but I put myself on broader ground. We know with reference to members of courts-martial that they are generally not lawyers; they are not educated judges, and they belong to the same class of men with those whom they try; and it is a fact in many cases in our own Army, and we know it, that however good soldiers we may have among our officers, we have many whose sympathies are not over-strongly with us. It is a fact too well known to be contradicted, and a fact the fatal effects of which we feel every day. I do not say that that is the case with the courts-martial which have been alluded to; I do not apply it to any particular court; but I say these different principles and feelings prevail, and there necessarily may be in many cases such gross errors committed by courts-martial that it becomes the duty of the President, who has the power to disapprove their findings, to exercise that power, and who has the power moreover to strike from the rolls any officer that he finds guilty of a misdemeanor, to strike him from the rolls notwithstanding the finding of a court-martial, and it is not to be imputed to him as a fault, or to the Secretary of War as a fault, and I cannot imagine that there is any occasion in these particular cases for the reasons I have stated to find fault with either the President or the Secretary with reference to them, because the facts are known to the country. In the first case the court-martial found the fact and fixed the punishment, which was a mere nominal punishment, and it was that which the President and the Secretary of War found fault with in reference to the court itself. It is very proper that a court-martial should be dissolved when it is found that the occasion for its being called together no longer exists. That certainly is not to be found fault with by the honorable Senator.

Mr. JOHNSON. It was to try many cases.

Mr. FESSENDEN. That does not appear; and if the Senator puts it as a matter of legal reasoning, I say that does not appear; it was not part of the charge. He now says it was a court established to try many cases. The Secretary of War properly did not choose that it should try any others, when, from the sample he had of the discharge of their duty in that case, he came to the conclusion that they were not fit to try other

cases; and in my opinion that course was proper. I am expressing my opinion, not the Senator's opinion, in order that the matter may stand right so far as I am concerned before the country. At the time I gave my approval to that act, when I saw the account in the newspapers of what the finding of the fact was and what the punishment was, I do not think the Secretary would have done his duty if he had suffered a court which made such a finding to exist any longer to try any case. I applauded him then as I applaud him now, and so I did in the other case, for the facts were equally well known, all spread on the record and appeared. What motive the officers could have had, what particular influence they labored under, what feeling existed on their part, I do not know, and I presume the Secretary and the President did not see fit to inquire. They acted, however, upon evidence before them, and that this very court furnished, and they acted wisely and justly, and it was time, in my judgment, that some power should be exerted to bring not only traitors, but those who are almost if possible worse than traitors, to justice, who are preying on the public funds while they are holding office. That was all that was done in that case, and it was necessary by way of example. This is my answer. To be sure the Secretary of War and the President did not see the witnesses, but they knew what facts were found because they were spread upon the record, and were therefore quite as well able to judge as the court-martial was, and very much better able to judge than the court, because they are both eminent lawyers and can judge of the effect of evidence better than a mere military court such as that was or such as would be likely to be gathered together.

I have repeated this simply for the purpose of again replying to what after all is the insinuation of my honorable friend, that there was wrong in these cases on the part of the Government. The Government commits errors undoubtedly. Mr. Stanton is not without his faults; he does not pretend to be, any more than the rest of us; but that he is a most faithful, and devoted, and true public officer, trying to do his duty under immense difficulties and with immense labors, I do believe; and as far as a man can say he knows anything of such a matter, I know. Certainly for an act like this which the public mind when it sees the facts must approve, he ought not to be called to account in this way before the country.

Mr. HALE. Mr. President, for myself I am entirely indifferent as to the amendment, whether it is adopted or not. I shall vote against the bill whether it is adopted or not, and I propose to say a few words in regard to it. I want to meet the bill as a whole. I do not consider the bill altered in the slightest degree by the amendment which has been adopted, because the part that is left retains in another form precisely the provisions which have been stricken out; for the bill is that it shall not be lawful for any member of Congress "to receive or agree to receive any compensation whatsoever, directly or indirectly, for any services rendered or to be rendered to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party." That covers everything which has been stricken out in the first clause, and prohibits members of Congress from appearing as counsel anywhere in any matter in which the United States is a party; and to that I want to address myself for a few moments.

This bill makes as a misdemeanor and punishes as a crime, with a fine and imprisonment, the doing of an act which our predecessors from the foundation of the Government have constantly done, unchallenged and unrebuked either by the press, public opinion, or anybody that I know of; and, Mr. President, let me say that upon this subject I feel sensitive. I am an old offender in this line. Of the little fame that belongs to so humble a name as my own, no small share has been acquired in precisely the transactions which this bill proposes to punish as a misdemeanor with fine and imprisonment. I remember, sir, some twelve years ago or more, about the time of the passage of the fugitive slave law, when the Government with its iron heel was trying to trample upon the humblest creatures that walked God's earth in the city of Boston, it was my proud lot to be called by the friends of the humble and lowly from my

home in New Hampshire to come down and stand in the city of Boston between the oppressor and his victim.

That was a "matter," a "charge," an "accusation," and an "arrest" in which the Government of the United States was a party; and, sir, let me appeal to my honored friend who sits before me, [Mr. WILSON.] Suppose at that time some gentleman had come to him and said to him, "Mr. WILSON, we hope, in the progress of an enlightened and philanthropic-public opinion, to see such a regeneration of the politics of this land as shall place you one of the honored members of its highest tribunal. We give it to you in charge that the first thing you do when you get to the Senate, shall be to use your influence to prevent this pestilent fellow from New Hampshire from coming down to the courts of the United States here and standing between power and its victims." What would he have said? Why, sir, in the honest indignation of his heart, he would have said, "Keep your rewards to yourselves and let your gifts go to another, but I will maintain the consistency of my character, and the purity of my life, and the instincts of my manly heart; I will be found in the Senate as I have been found everywhere else, the foe of oppression, the friend of right, and the vindicator of the innocent."

And again, sir, I will tell you another case where the United States Government was a party to an "arrest," a "charge," an "accusation." The Government of the United States, under the cruel and arbitrary sway of the slave power, in the madness of its power undertook to shut up Faneuil Hall and to punish as sedition the manly, the noble, the Christian, and the godlike utterances of such men as Theodore Parker and Wendell Phillips. A prostituted grand jury, under the lead of an arbitrary court, found an indictment in the circuit court of the United States for the district of Massachusetts, against Theodore Parker for seditious words spoken in Faneuil Hall. He was brought to a trial, and, sir, it was the lot of so humble an individual as myself again to go down and stand in the city of Boston between Faneuil Hall and the slave power, and to bid defiance to every attempt and every exertion that they made to close its doors and silence its eloquent utterances. I went there, and, God helping me, triumphed. The cause of right, of free speech, of manly utterance triumphed even in Boston, and by the judgment of the court itself the Government was rebuked; the infamous attempt was frustrated, and Liberty again walked erect, as she did in the earlier days of our history, through the streets of Boston. And, sir, what would the Senator from Massachusetts have said if the friends that elevated him to place and power had come to him deprecating this action and said to him, "We want the first act you do when you take your seat on the floor of the Senate of the United States to be to make punishable with imprisonment and fine any appearance to defend anybody anywhere against any 'arrest,' 'charge,' or 'accusation,' where the United States is a party?" Sir, he would have sooner gone to the place of departed spirits than come into this Senate upon any such price.

In legislating upon this subject we ought to remember that parties fluctuate. The party that is in power here to-day, but a little while ago was in a minority. God knows that they may be in a minority again. But, sir, minority or majority, if I know myself I will preserve in the humble sphere in which I act a consistent record. No man shall reproach me or those that I leave behind me to whom my fame will be dear, the accusation that in power I did one thing and out of power another.

Let me ask you again, sir, where is the necessity for any such legislation as this? What abuse has been practiced? Any? If there has, I have not known it. The most illustrious men that have sat in this body; nay, sir, the most illustrious men over the water, the great statesman and the great lawyer of England, I refer to Lord Brougham, commenced his career when he was a member of the House of Commons in Great Britain, and acquired his fame by the zeal and the ability and the success with which he defended criminals against charges brought by the Government. And in a later time, when the gigantic energies of the British Government, with all its power and all its

patronage, were brought to bear upon the unfortunate head of one poor woman, and she a forger, when she was made the victim, and the whole power of the Crown and the Parliament was brought to bear upon her, Lord Brougham, to the honor of himself, to the everlasting honor of the profession to which he belonged, stood unaided and alone breasting the storm with which power and oppression would crush his female client, and again he triumphed. Pass this bill, sir, and you in substance declare that that glorious exhibition, the most glorious to which human power and human eloquence ever ministered, and all transactions like that should be punishable by fine and imprisonment, and you thus cast a stigma upon the noblest record of our race.

Sir, I know that it is easy to get up popular clamor. Ever since I have known anything of politics—and I have known as much of it in New Hampshire as anywhere else—it has been fashionable, constantly fashionable, to be throwing out slings and insinuations against the character of lawyers. I have known before to-day men eminent in the profession who, when party spirit ran high, and it was popular to indulge in such kind of slang—I have known some of the honored heads of the profession that have forgotten their manhood and their self-respect, and have given themselves up blind tools to the madness of party spirit. Sir, I say it, I say it openly, a majority of the members of this body are lawyers, a majority of the other House, I think, are of the same profession; and from the earliest period of our history such has been the character, the bearing, the conduct of the legal profession that, in despite of calumny, in despite of party jeers and taunts and threats, they have kept on the even tenor of their way, commanding the public confidence and the public respect as no other class of the community have. And let me say, sir, that the history of the legal profession in the worst of times has been such as to vindicate the justice of that confidence. In bad times, in evil times, when might has triumphed over right, when power has sought its victims, and its victims have suffered, who, in the history of this country, in the history of England, in the history of any country that had even the semblance of a free constitution, have ever stood up as the defenders of constitutional and civil liberty like this profession that it is now proposed—I say it; I must speak as history will understand it—to ostracize by the passage of such a bill as this.

Sir, I shall vote against it, if I vote alone. I will go from this Chamber, and from this life if it be necessary, before I will consent by my vote to pass a stigma upon the reputation of the illustrious dead, or a reproach against the illustrious living. There is no necessity, there is no call for it.

And now let me appeal again to the members of this body that now constitute its majority. What is your history in respect to this very matter? Before the present party came into power there was no legislation upon this subject; but from the moment that you came into power the legislation of this country seems to have proceeded upon the assumption that if there were any scoundrels in the land, if there was anybody that neither feared God nor regarded man, but whose sole object was to filch from the Treasury, it was members of Congress; and so your statute-books are covered over with statutes making this and that illegal, which before was not so adjudged to be. Since I have been a member of this body I have seen week after week, and month after month, an advertisement in the journals of this city, the National Intelligencer and some others, of members of the Senate in high standing proffering their services to anybody that had claims against the Government, or against any department of it, and at that time it excited no reproach. That has been condemned now, and against that condemnation I have not a word to say; but let me tell you that if you pass this act you virtually pass a sentence of condemnation against yourselves. It is a confession before the country that the integrity of a profession that has hitherto been above reproach, that has maintained itself in all time against popular clamor, is now gone, that their self-respect is abandoned, and that it is necessary to guard their conduct even in matters which heretofore have required no legislation at all with penal enactments of fine and imprisonment.

Mr. President, I shall be very loth, loth indeed, if you pass this act, to subject myself to its censure, but there are some things that must be preserved at all hazards, and among them are certain individual inherent constitutional rights. Among these rights are the right of a full, and free, and fair trial. Let me ask if the Senate are blind or deaf to the teachings of history? Where has danger come from in times past? Where is this necessity of now submitting the Senate at the feet of the military power? Does the history of the world teach you that civil liberty is in more danger from the arts and chicanery of lawyers than it is from the encroachments and oppressions of military despotism? I would sustain the President, I would sustain the Secretary of War and the Secretary of the Navy and any of the heads of Departments, in the time of this great emergency, in doing a great many things that I think should not be tolerated in time of peace; but I cannot be blind to the teachings of history, and if history has a lesson to teach anybody, it is that the danger to liberty is from the aggressions of the military power rather than from anything else.

Let me refer again to the case to which I alluded before in Boston. Suppose that when Theodore Parker was indicted by the grand jury of the circuit court of the United States in Boston the Administration at that time had seen fit to do what has since been done, and had said that his seditious words, which were subversive of the Government and its authority, should instead of being tried by the civil courts be tried by court-martial? The military power is competent to that, and it has done it. Then, sir, a defense against the attempt to brand as a crime free speech in the ancient cradle of American liberty, to volunteer or to appear in such a defense as that, would have been a crime.

Mr. FESSENDEN. I should like to suggest to my friend that both of the cases he has mentioned are not excluded by this bill. He may practice in such cases as much as he chooses.

Mr. HALE. My friend is totally mistaken. Let me read the bill as it is. The bill is not altered at all by the amendments in the slightest degree. I will read the bill. It does not allow a member of Congress "to receive any compensation whatsoever, directly or indirectly, for any services rendered, or to be rendered, to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party, or directly or indirectly interested."

Mr. TRUMBULL. Before what?

Mr. HALE. "Before any department," &c. That is qualified by the sentence after "or," in the twentieth line.

Mr. FESSENDEN. It is a part of the same sentence.

Mr. HALE. Let the construction of that be as it may, it is just exactly the same. I was putting the case of the Government undertaking to try by court-martial those whom they formerly tried in the civil courts, and then there would be no right of appearing, no right of defense—

Mr. FESSENDEN. The Senator in the beginning gave us, with a great deal of eloquence, the account of two cases in which he stood between oppression and the oppressed; and he said that by the bill he would be precluded for the future from appearing in similar cases. My answer to that is that those were both cases in the civil courts of the country, and there is nothing in this bill which prevents the Senator, or any other Senator or Representative, from appearing in the civil courts of the country.

Mr. HALE. I am a little surprised that a gentleman ordinarily so accurate as the Senator is should make that statement.

Mr. FESSENDEN. If the Senator will read the bill he will find that I am right.

Mr. HALE. I will read to your heart's content. I said when I got up that I intended to address myself to the whole bill, and the whole bill is:

"That no member of the Senate or of the House of Representatives of the United States shall, during his continuance in office, hereafter appear or act as counsel, attorney, or agent in any cause or proceeding, civil or criminal, in any court."

Mr. TRUMBULL. That is all stricken out.

Mr. HALE. That part is not stricken out. It

has been recommended by the Committee of the Whole to be stricken out, but it is in the bill before the Senate.

Mr. FESSENDEN. The Senate have voted to strike it out.

Mr. HALE. The Senate have voted it when? In committee.

Mr. FESSENDEN. We all agree to that.

Mr. HALE. But it is in the bill before the Senate, and was the original proposition; and when I began my address, I said that I should address myself to the whole bill. That is the proposition which is before the Senate now. It is true that the Committee of the Whole have recommended that that part be stricken out; but it stands and is in the bill.

But the question I was discussing when the honorable Senator from Maine broke in upon me was this: suppose the Government should undertake now to try in courts-martial those matters which they tried in 1851 in the civil courts, this bill would apply; it would apply then to just exactly those cases, so that the argument is just as good, because we know that the Government does assume the authority to try men for seditious words, before courts-martial. I am not saying whether it is right or wrong; but I am speaking of the fact that the Government of this country at this day does assume the power of trying men for seditious words before courts-martial. I am far from saying that they have not the right to do it; I am far from saying that it is not wise to do it; but I do say that it is neither wise nor right, in case the Government assumes to try before courts-martial those offenses which have been ordinarily tried in civil courts, to preclude members of the Senate and House of Representatives from appearing before them.

I do not know that anything which I can say will retard or delay or prevent the action of the Senate upon this subject. I presume that it will not; I presume that the bill will be passed, and the honorable Senator from Maine says he would have preferred it in the manner in which it was originally presented; and that is total and entire exclusion of members of Congress from any practice in any court in any suit to which the Government may be a party.

Some gentlemen, I think the honorable Senator from Maryland and others, have said that this is a matter which will do very little injury to those who will be interested by it. I care not whether it will effect injury to them or not so long as in my humble judgment it is wrong. There is a wrong principle involved in it, and whenever such a principle is involved I am opposed to it.

I do not know, sir, that I have occasion to say anything more upon the subject. I do not know that I can elucidate it any further. I do not pretend to be less selfish than the rest of mankind. I am selfish. I am a lawyer by profession, and I work for fees; and the larger the fee that I can get honorably the better I like it. I have no concealment upon that subject. I am not one of those to whom the good things of fortune have been so bountifully showered down that I can afford when I am not here in the Halls of Congress to retire at ease and live at my pleasure without doing anything. I work. I work in the courts. I hold myself out for engagements whenever they come. I have received more or less almost every year. I hold that this is a legitimate part of my profession. If extraordinary courts are instituted I think it is more than ever incumbent upon those who stand as advocates to interpose every defense which they may in those extraordinary courts, more than they would before the ordinary tribunals.

Sir, when power was in the ascendancy and principle was trampled under foot in the dark periods of British history, when extraordinary tribunals, or commissions, or whatever they might be called, were instituted in England, would the honorable Senator from Maine or would this honorable Senate have then said that it should be a criminal offense for the advocates of England, at a time when power was enlarging itself and rights were being contracted and principles trodden under foot, to take part in the contest, and to require that they should retire from the contest, and let power have its own way? No, sir. When the ordinary tribunals of the country, the customary courts, are open, those charged with offenses should be defended there; but when, from purposes of public

State necessity or of public State policy, it becomes necessary to institute new and extraordinary modes of proceeding, instead of its being proper that the ordinary defenses should be abandoned, and the defendants shorn of their full right of defense, in my humble judgment they should be enlarged; and it is not only the right but the duty of every man belonging to an honorable profession to stand by the victim, whoever may be upon the other side.

Sir, where is the necessity of ostracizing lawyers and advocates? Why not reach your prohibition out to merchants? Why not prohibit them from exercising their legitimate business during time of war? Why not apply it to mechanics and to everybody else? Why single out lawyers? Have there been, sir, within your knowledge, within the knowledge of the Judiciary Committee or of anybody, any great abuses practiced that ought to be remedied? No, sir. It is nothing more nor less than an attempt to interpose extraordinary prohibitions in the case of trials that are instigated by the Government.

As I said before, I would sustain the Government, but in sustaining the Government I trust it is not necessary to believe—for if it is I cannot sustain them—that everybody they employ is as immaculate as the angels. I believe that when you are spending the amount of money that you now spend there will from necessity be bad men, corrupt men, who will fasten themselves upon the Government and obtain place and power, and resort to bad and evil practices. I have a very high respect for Mr. Stanton. I believe that he is a patriotic and upright and honorable man, and a man of great talents; and I will say that there is one talent that he has in a remarkable degree, I think in a greater degree than any man I ever knew, and that is, when there is a mean thing to do, he can get the meanest men to do it. [Laughter.]

And now, Mr. President, having said thus much, I leave this case to the consideration of the Senate.

Mr. FESSENDEN. I wish to say one word in reply to the honorable Senator, lest I should be misunderstood. I certainly have made no attack upon the profession; I do not think this bill makes any attack upon the profession as a general rule. The answer which I have to make to the Senator is simply this: as I said in the beginning, the lawyers in this and the other branch of Congress are almost an infinitesimal part of the lawyers in the country; if we embraced even a very large proportion or any considerable proportion of the legal lore and legal ability of the country, there might be something in what the honorable Senator has said as to our duties in defending liberty outside of this Hall; but the Senator well knows that in the part of the country we come from there are many members of the profession, large numbers of them, very much abler than I am, to say the least—not more able perhaps than the honorable Senator—and as honest and patriotic and upright men as he is himself. Sir, we may safely leave the business of defending criminals and defending liberty in the courts of the country to the multitudes of men we have in all sections of the United States who are able for that defense, and there is no want of them anywhere, if we have something else to do.

Sir, have we not a sufficient theater upon which to exhibit our love of liberty by standing here in the view of the whole country to speak for it? Is there no opportunity afforded us as Senators of the United States to defend here the rights of the people and the principles of liberty which have come down to us from our ancestors? Is this theater too contracted for the honorable Senator? Can he not make his voice heard here? Is there any necessity that he should go before a court-martial in order to defend the liberty of the country and the freedom of the press and the freedom of the people? Why, sir, I had no idea but that this theater was large enough even for him. It is certainly too large for me. I find myself, with all the labor which I am able to give to my duties here, unable to accomplish so much as I would wish, and I certainly do not feel that the rights of the people at home, in the courts of the country, even as against the Government, are in any danger because they have placed me in another position and called upon me there to guard the great interests which are submitted to all men whom the people have placed in positions like ours. Therefore, although I have listened to and have

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been charmed as I always am by the eloquence of the honorable Senator on the great subject of human liberty and the teachings of history, I confess that I cannot feel in my heart that liberty would suffer anything even if we were prohibited, himself and myself, from appearing before courts-martial for pay.

Mr. COWAN. Mr. President, I desire simply to say a word. I believe it is proper in making a new law to inquire first what the old law is; second, the mischiefs; and then to look at the remedy. Now, as I understand the mischief which is to be corrected here, it is that members of the Senate and of the House of Representatives are in the habit of appearing in cases where the United States are concerned. I suppose there can be no mischief in their appearing on behalf of the United States. I suppose there is nobody who complains of that here. If there be any mischief at all it must exist in their appearing before certain tribunals, not the judicial tribunals of the country, against the United States. If that is the mischief, then I propose to read the law as it stands already. I read from the act of the 26th of February, 1853:

"Sec. 3. And be it further enacted, That any Senator or Representative in Congress who, after the passage of this act, shall, for compensation paid or to be paid, certain or contingent, act as agent or attorney for prosecuting any claim or claims against the United States, or shall in any manner or by any means for such compensation aid or assist in the prosecution, or support of any such claim or claims, or shall receive any gratuity, or any share of or interest in any claim from any claimant against the United States, with intent to aid or assist, or in consideration of having aided or assisted in the prosecution of such claim, shall be liable to an indictment as for a misdemeanor in any court of the United States having jurisdiction thereof, and, on conviction, shall pay a fine not exceeding \$5,000, or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court in its discretion shall adjudge."

I should think that was severe enough. It is almost equal in its severity to the punishment that we inflicted on treason a few years ago. Now the question for our consideration is whether we will prevent Senators and Representatives from appearing for the United States. If there be no mischief in that, then this bill is useless except as to another item, and that is the item of courts-martial, because that is the only place, I believe, where they are not prohibited now from appearing.

I suppose, Mr. President, that the true rule on this subject is that a lawyer has a right to appear before any regularly constituted court. Now, is a court-martial that kind of court? Is that a kind of court before which we can be trusted? I have never appeared before a court-martial, and I have never found any place indeed where my influence as a Senator seemed to help me anything beyond that which I possessed before I became a Senator. I think that it is casting a reflection on the officers of the Army who are now defending us in the battle-field, who are now periling their lives day after day for us, to say that when they are constituted into a court-martial, and when they sit in judgment on their fellow-officers they could be influenced by any such considerations as have been suggested here as a reason for passing this bill. If that be true, sir, then indeed the country is in danger, and if that be true it is too late now to help it by legislation.

But there is another view of this subject. When a soldier or officer from the State of Pennsylvania is brought before a court-martial here I shall defend him. As was said by the honorable Senator from Maryland the other day, I shall defend him with or without fee. I shall not stop to ask him for compensation. But what is the effect of this bill? It is to take away from him a right which he possesses now by law; and that is to compel me to do it. He has a right now to compel my service there as a lawyer by tendering me the proper compensation; and he may desire to do so. That will be the effect of it, and that will be about all the result of it. The result will be that perhaps no gentleman, if a Senator or Representative, will go before one of these courts-martial, because he will not want to incur the suspicion that he is going there for compensation when the law forbids him to receive any, knowing very well that the malice of mankind will attribute the worst motive to him.

I hope, therefore, that the Senate will throw out this bill and not pass it.

There is another feature in it that is exceedingly significant of the times, as it seems to me. That which this bill makes a crime was yesterday innocent. It was a thing, not that the humblest or the worst of mankind could do with impunity, but it was a thing which honorable Senators of the United States could do without the imputation of crime. To-day it is to be a crime, not *malum in se* but simply *malum prohibitum*. How is it to be punished? It may be punished almost as treason is made punishable under the amended act we passed some two years ago, "by a fine not exceeding \$10,000 and by imprisonment for a term not exceeding two years, at the discretion of the court trying the same." Why, sir, this is worse than the punishment that is inflicted for the most violent and aggravated assault and battery in any of the States; worse than is inflicted for assault and battery with intent to kill, in nineteen out of twenty cases; worse than is inflicted for a larceny; worse in the way of fine than is inflicted for horse stealing. It may be supposed, however, that we can stand it, but I have very great doubts about that.

In my judgment, this part of the bill is obnoxious to another and a fatal objection. The Constitution of the United States provides, in a section derived strictly from Magna Charta, that this kind of fine shall never be levied. "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." What is an "excessive fine?" An "excessive fine" is a technical term as well known to the law as that of larceny or any other legal term susceptible of exact definition. It is that fine which, in the language of the law, saved to the freeholder his tenement, to the merchant his merchandise, to the villain his wainage, and it was formerly assessed by a jury in order that it might be determined from the condition of the man how much he could pay without touching the sustenance of his wife and children. They are not to be punished for the offenses of the husband and father; and yet this bill would do it, because this fine might be imposed in such a way as to sweep away the inheritance from the children of those who are convicted. I think it is atrocious in its severity.

Mr. TRUMBULL. Mr. President, the debate which has ensued on this bill is an illustration of the truth that we know not what is before us. I had no expectation that we should be led into a discussion of the great principles of liberty and in defense of the legal profession when I called the attention of the Senate to the bill, and supposed that we could dispose of it in a very few minutes.

The Senator from New Hampshire has made, as he always does, a very eloquent speech against a provision not in the bill as it is before us. He says that before the Senate struck out a provision in the bill it contained a clause that was very objectionable. The Senate has stricken it out. When the question comes up whether it is to be put back again, his speech, perhaps, may be applicable to it. But he has made his speech on a proposition to insert the words "court-martial" in the bill. That is the only question pending.

The Senator from Pennsylvania, not satisfied to discuss that proposition, has gone into a general discussion of the rights secured by Magna Charta. He says that this bill provides severe and unusual punishments. Why, sir, the punishment is left in the discretion of the court. The Constitution, it is not to be presumed, will be violated by the court. The court may assess a fine of a dollar and imprisonment for an hour, if, in its judgment, that is the proper punishment for a person convicted under the act; or it may assess the fine without imprisonment. Because the bill authorizes a punishment of a greater degree to be inflicted, it does not follow that the court will impose the heaviest penalty provided by the law.

But, sir, this provision as to penalty, if it is to be discussed, is taken from a statute passed at a former session of Congress prohibiting members

of Congress and officers of the Government of the United States from taking consideration for procuring contracts, offices, or places from the United States; and the punishment prescribed by the bill now under consideration is precisely the same as that prescribed by the act to which I have just referred. It was thought necessary some years ago to pass a law to prohibit members of Congress from receiving compensation for procuring contracts or places for others, using their influence in that way, selling their influence.

Since this bill has been under consideration I have been informed that money has been paid to procure recommendations to West Point. If that be so, I trust the offender will be brought to justice. Since this bill has been pending, I have heard that officers in the Departments of this Government have received money in order to facilitate claims that were passing through the Departments of the Government. I have heard that where there were many claims pending and it was a great object on the part of the contractors to have their claims acted upon and passed at the earliest day, they have given money to clerks in order to shuffle up their claims, so that they could be acted upon sooner than others.

These are the abuses that we are to guard against by this bill. The Senator from Pennsylvania denounces the bill. He says he knows of no mischief to be remedied. Are not the practices I have just stated mischiefs? Is it not time, when the country is rife with these statements and when the confidence of the people is being impaired in the transactions of their Government, that we should legislate to stop such abuses?

Mr. COWAN. May I ask, is there any provision for punishing that in this bill?

Mr. TRUMBULL. There is.

Mr. COWAN. In the bill now before the Senate?

Mr. TRUMBULL. Yes, sir, in the bill now before the Senate. It provides that no "head of a Department, head of a bureau, clerk, or other officer of the Government" shall "receive or agree to receive any compensation whatsoever, directly or indirectly, for any services rendered or to be rendered to any person" in reference to a matter that is pending before a Department.

This is not a bill to prevent attorneys from practicing in courts of law, but it is a bill to prevent Representatives and Senators in Congress and officers of the Government who are paid for their services from receiving a compensation for advocating claims in the Departments and before the bureaus of the Government, and before courts-martial. That is the particular question that is pending.

Now, sir, I was in favor of extending this bill so as to embrace courts-martial for the two reasons which have been mentioned here in the Senate. In the first place the officers composing a court-martial are officers who are likely to be in a position to ask favors of the Senate. They are made up always of military officers. We all know that military officers are seeking promotion, and all the officers of the Army of the United States are passing in review before the Senate, receiving their confirmation from the Senate every few years. Hence I thought it was improper that Senators having to pass upon these officers should practice before them lest they might exercise an undue and improper influence. Another reason, which has been already stated, is that the proceedings of these courts-martial are often brought in review before Congress. We are daily passing resolutions calling for their proceedings to be submitted to us upon which to base legislation. I thought it was proper, therefore, to embrace courts-martial in the provisions of this bill; and that is the direct question which is now pending.

I am sorry that we have taken up so much time on the bill; but as we have had it so long under consideration I trust we may now hold on to it until we dispose of it one way or the other. I trust, also, that the Senate will let us come to a vote, for I think this question whether courts-martial shall be embraced within the provisions of the bill

has been very thoroughly discussed, and must be understood by every member of the Senate.

THE PRESIDING OFFICER. (Mr. CLARK in the chair.) The question is on the adoption of the amendment proposed by the Committee on the Judiciary, in line twenty-two, after the word "Department," to insert the words "court-martial."

The amendment was agreed to.

The next amendment was in line twenty-six after the word "not" to strike out the words "less than," and to fill the blank by inserting the words "exceeding ten thousand;" and in line twenty-seven after the word "not" to strike out the words "less than," and to fill the blank by inserting "exceeding two;" and after the word "years" to insert the words "at the discretion of the court trying the same;" so that the clause will read:

And any person offending against any provision of this act shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding \$10,000, and by imprisonment for a term not exceeding two years, at the discretion of the court trying the same, &c.

The amendment was agreed to.

MR. COWAN. I move to strike out all after the word "no," in the twelfth line, to the word "any" in the fourteenth line, in the words, "member of the Senate or House of Representatives shall, after the election and during his continuance in office, nor shall any;" so that the clause will read:

That no head of a Department, head of a bureau, clerk, or other officer of the Government, shall receive or agree to receive any compensation whatsoever, &c.

I ask for the yeas and nays on the amendment. The yeas and nays were ordered.

MR. SAULSBURY. I regret that it has been found necessary in the judgment of the majority of the Senate to present this bill for the consideration of the Senate. I have always supposed that any person who had the confidence of his State sufficiently to cause him to be chosen a member of this body ought to be above all suspicion. Inasmuch, however, as that is found not to be true, according to the judgment of the majority of the Senate at this time, I shall vote for this bill as reported by the committee without any amendment. For one, I can freely say that since I have been in public life I have never received any fee, or acted in any case in which the United States was concerned; and I can say what few men can say, that I have never recommended any man to office, nor asked for a contract for any man.

MR. COWAN. The result of this amendment will be to leave Senators and Representatives obnoxious to the provisions of the act to which I referred the attention of Senators some time ago, the act of 1853. That makes it a penal offense for them to prosecute claims against the United States. That, I think, is enough. I think, when that law is upon the statute-book, that that is a sufficient protection and a sufficient assurance to the community that members of Congress will not abuse their privilege for filthy lucre.

The Secretary proceeded to call the roll.

MR. JOHNSON (when Mr. HICKS's name was called) said: I am sorry to inform the Senate that the absence of my colleague is caused by very severe illness. He will not probably be here again during the session.

The call of the roll was then concluded, and the result announced—yeas 10, nays 28; as follows:

YEAS—Messrs. Buckalew, Cowan, Harding, Hendricks, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Riddle, and Wright—10.

NAYS—Messrs. Clark, Collamer, Conness, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Howe, Johnson, Morgan, Morrill, Pomeroy, Powell, Ramsey, Sanlisbury, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—28.

So the amendment was rejected.

The bill was reported to the Senate as amended.

THE PRESIDING OFFICER. The question now is on concurring in the amendments made as in Committee of the Whole. How shall the vote be taken?

MR. TRUMBULL. I suppose the vote may be taken on concurring in all the amendments together unless some Senator desires a separate vote.

MR. HENDRICKS. I ask for a separate vote on the amendment in relation to courts-martial.

THE PRESIDING OFFICER. That amend-

ment will be reserved, and the question on the others will be taken together, if there is no objection. The question is on concurring in all the other amendments made as in Committee of the Whole.

The remainder of the amendments were concurred in.

THE PRESIDING OFFICER. The question now is on concurring in the amendment reserved, which was in line twenty-two of the bill, after the word "Department," to insert the words "court-martial."

MR. JOHNSON. On that I ask for the yeas and nays.

The yeas and nays were ordered.

MR. VAN WINKLE. I desire to state that my colleague [Mr. WILLEY] has been absent from the city since Friday night.

The question being taken by yeas and nays, resulted—yeas 26, nays 14; as follows:

YEAS—Messrs. Carlile, Chandler, Clark, Conness, Dixon, Doolittle, Fessenden, Foster, Grimes, Harlan, Harris, Howard, Howe, Lane of Kansas, Morgan, Morrill, Ramsey, Saulsbury, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, and Wilson—26.

NAYS—Messrs. Buckalew, Collamer, Cowan, Foot, Hale, Harding, Hendricks, Johnson, Lane of Indiana, Nesmith, Pomeroy, Powell, Riddle, and Wright—14.

So the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MR. FOSTER. I propose that the title be amended so as to read: A bill relating to members of Congress, heads of Departments, and other officers of the Government.

THE PRESIDING OFFICER. It will be so amended, if there be no objection.

PAY OF COLORED TROOPS.

MR. WILSON. I now move to take up the joint resolution (S. No. 23.) to equalize the pay of soldiers in the United States Army.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution; the pending question being on the amendment proposed by Mr. CONNESS, in line nine, after the word "service," to strike out the words, "during the whole time in which they shall be or shall have been in such service," and to insert the words "from and after the passage of this act;" so that the resolution will read:

That all persons of color who have been or may be mustered into the military service of the United States shall receive the same uniform, clothing, arms, equipments, camp equipage, rations, medical and hospital attendance, pay and emoluments, other than bounty, as other soldiers of the regular or volunteer forces of the United States of like arm of the service, from and after the passage of this act; and that every person of color who shall hereafter be mustered into the service shall receive such sums in bounty as the President shall order in the different States and parts of the United States, not exceeding \$100.

MR. FOSTER. The amendment will make the resolution prospective only. As it stands in the text it is prospective and retrospective. That is the difference. It brings up the question whether we shall pay the colored troops from the time they entered the service as we pay white troops, or whether we shall so pay them only from the time of the passage of the resolution. It was debated at some length a day or two ago when the question was before the Senate, perhaps when it was in connection with another bill, and I do not propose to prolong the discussion, except to say that it seems to me we ought not to make this amendment. We ought to pass the resolution as it is.

Two considerations at once suggest themselves to us in this connection: the justice and the expediency of the measure. I have heard no member express the opinion that were it an original question, it would not be right to pass the resolution, and pay the black troops as we pay white ones; but inasmuch as we enacted a law a year or two ago in which we made a distinction, giving the black troops but ten dollars a month, when we paid the white troops thirteen dollars, we are told that justice is fully done by paying the black troops ten dollars a month up to this time, and after this time paying them the same that we do whites. It is said that that is all that justice requires, because that was the law, and they went into the service under that law. Now, sir, were it between party and party, and they had made a contract under the law, there would certainly be a show of force in that claim; but when the claim is made as

against us who made the law, and when we agree that the law is not a just and fair one, it seems to me we ought to change it and to pay these men as we pay the white troops, although the strict letter of the law may not entitle them to the same amount. This is supposing they have gone into the service under the law understanding it, and knowing that they were to receive but ten dollars a month.

But, Mr. President, that is not the fact. These black troops did not understand that they were going into the service and to receive a compensation less than that paid to the white troops. It is true that the letter of the law made a difference, and if they read the statutes of the United States they would see there was a difference. But, sir, how many of these black men ever had access to those statutes? How many of them could have read them if they had? Most of them were born and bred where it was penal to teach them to read, and where, had they been found with a book in their hands, the penalty would have been the raw-hide or the branding-iron. Shall we now stand up here and insist that these men, having gone into the service under a statute of the United States fixing their pay at ten dollars a month shall receive no more because that is the contract? Sir, it was not the contract. They did not so understand it. The instructions which were sent from the War Department and the assurances made by the officers who enlisted these men were that they should be paid and treated in all respects as the white troops were.

MR. FESSENDEN. Let me ask my friend how he knows that fact; because if that can be established it would have an important bearing on this question.

MR. FOSTER. I believe it is admitted in regard to several departments; the department I believe of South Carolina, where instructions were sent from the War Office to enlist black troops, or, if not direct instructions, at least authority was given to General Saxton, the military governor of that State, to enlist black troops. He was authorized, as I understand it, and I supposed it was agreed that he was authorized to assure those troops that they should receive the same compensation as the white troops received.

MR. FESSENDEN. How was it in Maryland?

MR. FOSTER. I believe the same, but I am not so sure of it. In regard to South Carolina, I think it is admitted that the faith of the Government through its officers was pledged to those black men that their compensation, their rations, their clothing, &c., should be the same as those of the whites. The Government required from them the same service as from the white troops, and stipulated that they would render the same compensation. I believe the good faith and honor of the Government were pledged under these circumstances, and that it would be an evasion to fall back upon the written law and hold those men to the statute instead of carrying out fairly these assurances made to them by the officers of the Government.

Mr. President, these black men have not, as I insist, had the privilege of knowing what the law was. They could not know. They must have relied, they did rely upon the assurances of our public officers. I know it is said that Governor Andrew had not authority to pledge the faith of the Government of the United States to the black troops enlisted in Massachusetts that they should receive the same compensation as whites. Suppose we grant it. Suppose we grant that Governor Andrew, as the chief executive of a State, could not pledge the faith of the United States, still nobody doubts the fact that he acted in good faith as a man of honor and uprightness, as he is, and as a patriotic man, and that the blacks enlisted there gave full faith and credit to his assurance that they should be paid as the white troops were paid. I for one am disposed to stand by that assurance, even if made by a State and not by a national officer, though I think his instructions authorized him to make it. I think justice requires that we carry it out. Justice to any class, even of whites, it seems to me, would require it; but justice especially requires it when we consider that we are dealing with men a great portion of whom, as I have suggested, were never taught to read, and never could, therefore, know what the written law of the country was. We ought to

treat them differently from what we treat men who are intelligent, educated, and able to ascertain what the law was by actual examination. The rule to be applied in the one case is very different from what ought to be applied in the other. This is on the simple ground of justice.

And, sir, if it is just to do this it is certainly expedient, for justice is always the highest expediency. But passing by for the time that maxim, let us look at the expediency of paying these men, not only for the future but for the past, as we pay white troops. If we say to these black men, "We take you on an examination as to your condition just as rigorous as that applied to white men; we exact from you the same service; we place you under the same military law; we subject you to the same discipline; we call upon you to put your lives in peril, just as we call upon white men to peril theirs; but we consider you an inferior class, and we will not pay you as much as we pay white men," is there any more direct way than that to make these men greatly inferior to other men in service, much more inferior than they would otherwise be? Do we not make the fact true by this course, however it might be? Do we not make these men inferior by this legislation, even if they were not so before?

Sir, I believe that all men who are called upon to serve their country in the field, who take arms in their hands and go into the ranks, putting life in peril, all men who serve in the same grade, should be regarded alike and should be paid alike—that it is a most inexpedient thing to undertake to discriminate between them, and especially on the ground of different complexions, and say to a man with a black skin, "You shall put your life in peril for ten dollars a month but we will give a white man thirteen dollars a month." Why not discriminate on the difference of color in the hair as well as in the color of the skin? Is not the one as sensible as the other? If the men are fit for service they should be regarded alike, treated alike, paid alike, and if it is just and right to pay these men for the future as we pay whites it is but just and right to pay them for their past services as we pay the whites. We cannot do the one, that is, pay them in the future, and refuse to pay them in the past, without an inconsistency, without creating among them such dissatisfaction and discontent with the service that will cost the Government very much more than it will to make up their back pay. Let this be refused to them, if they continue in service they will continue with a dissatisfied spirit. They will feel that you have fixed on them the mark of inferiority. They will feel that they have not been honestly dealt with. Most of them, credulous from their previous education and character, relying upon the assurances of men to whom they gave their confidence, and not relying on the law, will consider that they have been duped and defrauded and cheated into the service. Let that feeling be spread abroad among fifty thousand soldiers, (for that is about the number we have got of this class of troops,) and who can estimate the evil which will be produced in the armies of the United States?

It will cost us \$1,000,000, more or less, to pay these men from the time they entered the service up to the present time, so as to make their compensation equal to that of white troops. Will \$1,000,000 compensate for the dissatisfaction, the almost mutinous spirit which will be rife among these men if you thus deny them justice? No, sir; millions will not pay for it, and millions will never remove the stain of bad faith from the Government if we do not pay them. It will be a reproach and a shame to our Government.

Putting the question, therefore, either on the ground of justice or on the ground of expediency, it seems to me this amendment should not be made; but the resolution should be passed making these men, so far as compensation is concerned, equal with the white troops.

Mr. SUMNER. I am grateful to the Senator from Connecticut for his admirable argument on this question; and yet, it seems to me, if he will pardon me, that even in point of law he has not stated the case as strongly in favor of this obligation as it might be stated. It may be remembered that when this discussion was closing the other day I ventured to throw out some remarks to this effect, that there were evidently two classes of cases: the first, where enlistments in good faith

were made under the statute of 1861; and the second, where the enlistments were made under the statute of 1862.

In point of law it seems obvious, if the enlistments were made in good faith under the statute of 1861 and there was no legal objection to making those enlistments under that statute, then the United States are bound. If, on the contrary, they were made under the subsequent statute, then it is simply a question of policy and expediency whether we shall make this payment. The whole subject is open to discussion, first, in the light of sentiment, which may involve expediency and policy; and secondly, in the light of law. I do not propose to say anything upon it in the first aspect except to make one remark: that our country at this moment can ill afford to take the responsibility of refusing an act of justice to colored soldiers whom it has allowed to shed their blood in its cause. The soul repudiates in advance any such sacrifice; for sacrifice it will be, at once of honor and of interest. I do not follow out this idea; but I pass at once to the second aspect of the question, which I called the question of law; and there I differ from my learned friend from Connecticut when I say that there are certain colored regiments in the field who, in point of law, are entitled to the full wages of thirteen dollars a month.

Mr. FOSTER. If the Senator will pardon me, I insisted on that fact, and said they were enlisted, not under the law, but under instructions from the Department authorizing the officers to enlist them on the same terms that white troops were enlisted, which would be thirteen dollars per month.

Mr. SUMNER. Very well. I still understood the Senator to imply that perhaps in point of law there might be some doubt whether the Government was liable for the thirteen dollars a month. I propose to carry the argument a little further than the Senator did, and to show by calling attention for one moment to the statutes—not at any great length—that under the statutes themselves the Government is obliged to pay certain regiments thirteen dollars a month.

I begin with the Massachusetts fifty-fourth and fifty-fifth regiments; and these may be taken as examples. I have before me the actual order under which those two regiments were raised. It is in the following words:

"WAR DEPARTMENT, WASHINGTON CITY,
January 26, 1863.

"Ordered, That Governor Andrew, of Massachusetts, is authorized, until further orders, to raise such number of volunteer companies of artillery for duty in the forts of Massachusetts and elsewhere, and such corps of infantry for the volunteer military service, as he may find convenient, such volunteers to be enlisted for three years"—

Mark, sir, if you please, the period of service; "for three years"—

"or until sooner discharged, and may include persons of African descent, organized into separate corps. He will make the usual needful requisitions on the appropriate staff bureaus and officers for the proper transportation, organization, supplies, subsistence, arms, equipments, of such volunteers."

"EDWIN M. STANTON, Secretary of War."

Now, on the face of this order, the Governor of Massachusetts is empowered to raise certain regiments in the volunteer service of the United States for three years. Under what statute? Under no other statute than the statute of 1861, for it was under that statute that the organization for three years was authorized. If you come to the later statute—and to that I ask particular attention—of July 17, 1862, which contains a special provision with reference to African troops, you will find that it is to raise troops for nine months. The words are as follows:

"Sec. 3. And be it further enacted, That the President be, and he is hereby, authorized, in addition to the volunteer forces which he is now authorized by law to raise, to accept the services of any number of volunteers, not exceeding one hundred thousand, as infantry, for a period of nine months, unless sooner discharged."

And then, sir, in section twelve of this same statute, the President is further empowered to employ persons of African descent. In section fifteen we come to the question of pay. That section I will read:

"And be it further enacted, That all persons who have been or shall be hereafter enrolled in the service of the United States under this act"—

"Under this act"—an act authorizing enrollments for nine months, not for three years—

"shall receive the pay and rations now allowed by law

to soldiers according to their respective grades: *Provided*, That persons of African descent, who under this law shall be employed, shall receive ten dollars per month and one ration, three dollars of which monthly pay may be in clothing."

Mr. HOWE. What page do you read from?

Mr. SUMNER. I read from page 599, volume twelve, of the Statutes at Large.

Now, sir, you have the question presented to you precisely: under what statute were these enlistments made? Were they made under the nine months' statute, or were they made under the three years' statute? Look, in order to answer that question, at the order of the War Department:

"Ordered, That Governor Andrew, of Massachusetts, is authorized, until further orders, to raise such number of volunteer companies of artillery for duty in the forts of Massachusetts and elsewhere, and such corps of infantry for the volunteer military service, as he may find convenient, such volunteers to be enlisted for three years or until sooner discharged."

Here are no nine months' men. There is nobody under the second statute; but all are clearly under the first by the plain language of the order. And this is none the less so even if the second statute, so far as Africans are concerned, may be interpreted to sanction a longer term of enlistment.

Mark well that "all persons who have been or shall be enrolled in the service of the United States under this act shall receive the pay and rations now allowed by law to soldiers," (section fifteen.) But were not the soldiers of the fifty-fourth and fifty-fifth Massachusetts regiments "enrolled in the service of the United States?" Unquestionably, if troops ever were enrolled.

But it is the proviso that follows which causes the mischief. "Persons of African descent who, under this law, shall be employed, shall receive ten dollars," &c.

It is said that these colored soldiers were "employed." That is all. Not "enrolled;" but "employed;" and on this distinction the promise of Governor Andrew, in the name of the national Government, and the honest expectations of the soldiers, are to be set aside.

The order of the Secretary of War is for "volunteer companies of artillery," also for "corps of infantry," "to be enlisted for three years," "and may include persons of African descent." The persons of African descent are to be included in the "corps of infantry enlisted." Such persons are in advance declared to be enlisted men. And yet the argument which denies them their well-earned wages asserts that they are only "employed" and not enlisted. But if they are "employed" then are the "corps of infantry" with which they are included "employed" also.

To me the conclusion seems irresistible, on the face of these facts, that these troops were enrolled or enlisted under the earlier statute. It is clear that Governor Andrew thought so at the time; and it is equally clear that the troops themselves thought so at the time.

But there remains behind another question. Is there anything in the existing legislation of this country to prevent the enlistment of a colored person under the statute of 1861? To that I answer positively in the negative, and I challenge any contradiction. There is no color in that statute. There is no color in any statute raising troops for the Army of the United States, nor any color in any statute raising sailors for the Navy of the United States. It is only in our militia statutes that you find the word "white." In all our Army and Navy statutes there is no such limitation. The statute of 1861, therefore, I say, in point of law embraced all persons, whether black or white; and it was entirely at the option of the President, before the passage of the statute of 1862, to organize or receive colored troops under the statute of 1861. He hesitated to do it. I regretted at the time his hesitation. I thought it was an error by which the country suffered. We endeavored to repair that error by adopting the amendment which was introduced by the brave Senator from New York, who is no longer here, [Mr. King,] which you will find in the statutes of 1862. But I doubt if any person at the time, who had given attention to the subject, supposed that this amendment was necessary, except as an encouragement to a policy which the Government had been too slow to adopt. For myself I remember well my own feelings when I voted for it. I accepted it as in the nature of notice to the Administration that, in the opinion of Congress, the time had come when colored troops must be used.

In point of law it was plain that it could not stand in the way of an enrollment under the earlier statute.

And the Secretary of War seems to have acted on this interpretation, for, in undertaking to raise colored troops, no allusion was made to the statute of 1862, but the language of his order in every particular pointed to the statute of 1861. Am I wrong, then, if I say that in point of law these colored troops have just the same right to the full pay of a soldier that any Senator on this floor has to his compensation? It is by just as good title, and as firm in the statute-book as your own pay, sir.

I suggested the other day that there were two classes of cases: one where the enlistments had been made in good faith under the earlier statute, and a second class where they had been made under the later statute, and I suggested that if we were disposed to recognize the difference between these two classes it might afford a solution to our present difficulties. I am not disposed on any ground of sentiment to impose an unnecessary tax upon the burdened Treasury of my country, although there is no tax required by justice that I would hesitate to impose. But if there are colored troops now in our service who at the time they were mustered in had no reason to suppose that they were enlisted under the statute of 1861, who were led to believe that they came in under the statute of 1862, that is, for the pay of ten dollars, I am not disposed to press with regard to them any claim on the ground of sentiment; that is, for the past. I take the past as it is; but for the future I insist that they shall be put upon an equality. But true equality in the past is for the national Government to redeem its pledges, whether these pledges are direct or only implied, whether there is an absolute promise, of which you have a record, or only an inference or an understanding, founded, it may be, in a misconception, but still embraced in good faith by innocent parties. On this ground, at a proper moment, I shall be ready to propose an amendment something like the following, to come in immediately after the word "service":

Provided, That, with regard to all past service, it shall appear to the satisfaction of the Secretary of War that such persons, at the time of being mustered into service, were led to suppose that they were enlisted under the act of Congress approved July 22, 1861, as volunteers in the Army of the United States.

Mr. LANE, of Indiana, obtained the floor.

Mr. FESSENDEN. Will the Senator allow me to call his attention to the law which I have before me?

Mr. LANE, of Indiana. Certainly.

Mr. FESSENDEN. Mr. President, I was struck by the legal point made by the Senator from Massachusetts, and was rather anxious to find that it was sustainable. I have looked over the law with reference to it, and I submit to him whether he has not gone a little too far in stating that, as a matter of law, this subject was covered by the law. The act to which he refers authorizes the calling out of the militia for nine months, in the first section. In the third section it authorizes the raising of one hundred thousand volunteers for nine months. In the fourth section it authorizes the filling up of the regiments in the field. The Senator says that the fifteenth section necessarily refers to the nine months' men, and to them alone. I think the Senator has overlooked the twelfth section. It is the twelfth section that authorizes the receiving of persons of African descent, not for nine months particularly, or for a year, but generally into the service of the United States. The twelfth section of the bill, which contains a considerable number of sections, reads in this way:

"SEC. 12. And be it further enacted, That the President be, and he is hereby, authorized to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any military or naval service for which they may be found competent, persons of African descent; and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe."

The Senator will not contend that that section confines the enlistment of these persons to nine months.

Mr. SUMNER. That is my impression.

Mr. FESSENDEN. Certainly not. It is general, and it must be so construed. He is to receive them into the service of the United States for any purpose, "for the purpose of construct-

ing intrenchments or performing camp service, or any other labor, or any military or naval service for which they may be found competent," "not inconsistent with the Constitution and laws, as the President may prescribe." That certainly does not confine them to the nine months' service. Then take the first part of the fifteenth section. Does that confine them to nine months? It is this:

"That all persons who have been or shall be hereafter enrolled in the service of the United States under this act shall receive the pay and rations now allowed by law to soldiers according to their respective grades: *Provided, That persons of African descent*."

It refers to all that may come under this act of all kinds: in the first place the nine months' militia, the nine months' volunteers, the persons who are brought in under the fourth section to fill up the old regiments, and the persons of African descent under the twelfth section. They are all to receive the pay and rations allowed by law; and then it says:

"*Provided, That persons of African descent who under this law shall be employed.*"

What law? The twelfth section, which expressly authorizes the enrollment and receiving of such persons into the service, and does not specify or intimate whether it is to be for nine months or a year or three years or any other time authorized by the Constitution and laws as they at present exist; but it specifically authorized the receiving of such persons, and then it says that the persons who shall be received "under this law"—that is, under the authority conferred by this act, which is the twelfth section—"shall receive ten dollars per month and one ration." I cannot accede, therefore, to the legal point raised by the Senator from Massachusetts, whatever I might think of the rest of his argument.

Mr. LANE, of Indiana. The honorable Senator from Maine has anticipated precisely the point I wished to make on this law.

Mr. FESSENDEN. Then I beg the Senator's pardon. I thought he rose to speak on another point.

Mr. LANE, of Indiana. Not at all. The Senator stated it much better than I could.

As I understand this question—and I shall detain the Senate but a very few moments—it is just this: in 1862 this law was passed authorizing the President to receive into the service persons of African descent. In the same law there was a provision that they should be paid ten dollars per month. That bill was referred to the Committee on Military Affairs, and they reported it with the pay of ten dollars per month. It was brought into the Senate, and the Senate concurred in that opinion, and supposed that ten dollars per month was sufficient pay for those soldiers. Now, after the expiration of almost two years, we are asked to go back and to pay them from the time of their enlistment, not ten dollars, as the law provided and as Congress determined, but thirteen dollars; and we are told it is in violation of the good faith of the Government and against a proper sense of justice if we do not go back and make this payment. It does not seem so to me at all. We promised them ten dollars a month. We have paid them ten dollars a month.

But gentlemen say they were deceived by the representations of their recruiting officers. The recruiting officers were the agents of the General Government. If they transcended their power and made representations that the law did not authorize, they, as agents, are legally liable, but the principal, never.

But I cannot see any injustice or any possible breach of good faith if we pay these soldiers all that we promised to pay them; and I think we have paid them an abundant compensation. They do not deserve to be paid as much as white soldiers. Many of our white soldiers left a profitable business at home, by which they were able to make money. These colored soldiers are refugees from the house of bondage, who have never heretofore got one cent of pay, and ten dollars is more compensation to them than thirteen dollars to a white soldier. They are fighting for a higher freedom. They are fighting for their freedom. They were receiving not one cent at the time we agreed to pay them ten dollars a month; and I cannot conceive of any possible injustice or hardship in the Government holding them to their bargain.

It may be that the two regiments referred to by the honorable Senator from Massachusetts were organized prior to the passage of this law, by an act of the Secretary of War. If so, it does seem to me that they should be paid if there was a law authorizing their enlistment at that time; but that is the very question which we contest. There was no law, as I conceive, authorizing the employment of African troops until the law of 1862, and that fixed their compensation at ten dollars a month, which I thought then sufficient, which the Senate thought sufficient, and which I think now ample for the services they have rendered. There can be no breach of good faith in carrying out the law precisely as we have passed it.

Now, suppose this state of things: I believed when this first law was passed that thirteen dollars a month was not sufficient pay for our white soldiers. I believe it now. The Senate believes it. A bill is now pending to increase their pay three dollars a month. Does any man propose to go back and pay your white soldiers three dollars a month in addition from the time they enlisted? If you will not do that for your white troops, why are you asked to go back and establish a different rate of pay for your colored troops from the one which the law fixed and authorized? I can see no possible reason why we should go back and thus oppress the Treasury with a burden which we have never assumed by law. Some of our white troops served for eleven dollars a month. At one time in the regular Army they served for three dollars a month; at another time for seven dollars a month; and because we believe that was not enough, are we going back now to reverse the whole legislation of Congress on the subject from the beginning of the Government, or the beginning of the rebellion, and place hundreds of millions as a burden upon the Treasury for the sake of paying two or three of these colored regiments? If I understand aright the history of these Massachusetts colored regiments—

Mr. COLLAMER. There is a mistake as to when those regiments were mustered in. It was after the passage of that act.

Mr. LANE, of Indiana. If they were mustered in after the passage of the act, then no distinction can be made, because they come in under the act, by virtue of the act, and without the act they could not have been received at all. I believe that such was the understanding of the authorities in Massachusetts themselves, because they, by law, made provision to pay the three dollars that the United States Government did not agree to pay; and now, because they agreed to pay it and we did not, we are asked to take the burden from their shoulders, and pay this three dollars a month to the colored troops. I, for one, will not consent to do it. If we place colored troops hereafter on an equality with the white troops it is surely as much as they can ask either from the justice or the generosity of this Senate; for no man in his sober senses will say that their services are worth as much, or that they are as good soldiers, or that they should be paid as much. This, as it seems to me, is the truth about this whole question, and I regret to have said one word or to have troubled the Senate.

Mr. TEN EYCK. I recollect distinctly when the act was passed which has been referred to by the Senators from Maine and Indiana, and I voted for it with the distinct understanding that the colored troops were to receive ten dollars a month. I have a distinct recollection of my understanding of the act at the time. I thought that it was enough, and was satisfied with it. But it does appear from some evidence that it was not so understood by the colored troops who did volunteer, nor was it so understood, with respect to at least one regiment, by the Government itself; and my object in rising now is simply to furnish an additional piece of evidence on that subject.

I have in my possession a letter received from a paymaster stationed at Beaufort, South Carolina. He states that under an order of the Secretary of War, an advisory letter addressed to General Saxton, military governor, he paid the first South Carolina regiment, Colonel Higginson, the same as white soldiers to February 28, 1863, and since then ten dollars a month. He adds:

"It must be borne in mind that this regiment was a pioneer regiment composed of volunteers of very excellent material, and raised under a special contract with and authority of the Secretary of War that they should receive the same pay as white soldiers."

If the survivors of those men who fought under Higginson in the attack upon Wagner volunteered, entered into the service, with the distinct understanding that they were to receive thirteen dollars per month, and the Government of the United States or the Secretary of War so understood it and directed them to be so paid, I say it is but a simple act of justice that they should now receive the thirteen dollars per month; and in that view I shall vote in favor of the resolution in the way in which it stands, although originally I thought ten dollars a month was sufficient pay.

Mr. WILSON. Mr. President, the Senator from Indiana in the course of his remarks I thought referred specially to the troops raised by the State of Massachusetts. Now, I wish to say for the information of the Senator that there are other troops having quite as strong a claim for this back pay as the two regiments raised in Massachusetts, and even more, perhaps. The first South Carolina regiment, under the command of Colonel Higginson, and another, I think the second regiment raised down there, under the command of Colonel Montgomery, were raised under an express order of the Government that they should have thirteen dollars a month.

Mr. COLLAMER. What was the date of that?

Mr. WILSON. I think those troops were raised in South Carolina before the act to which reference has been made was passed. Certainly Colonel Higginson's regiment was. I have here a letter from Colonel Montgomery, received yesterday, in which he says that his men were raised under an order of General Hunter that they should have the same pay as other troops. Colonel Higginson makes the same statement; and, in fact, the order is in existence.

Mr. COLLAMER. What is the date of it?

Mr. WILSON. Those troops were raised, I am confident, before we passed the act, under an order of General Hunter in South Carolina.

Mr. LANE, of Indiana. General Hunter did not go to South Carolina until 1862.

Mr. WILSON. He was there before this act was passed. The Senator says the pay is sufficient. Does the Senator remember that the pay is only ten dollars a month, while the pay of other soldiers is \$16 50 a month, being a difference of \$6 50, nearly double.

Mr. LANE, of Indiana. How is that?

Mr. WILSON. The white soldiers in the service receive thirteen dollars a month and \$3 50 for clothing; the black soldiers receive ten dollars a month and nothing for clothing, but three dollars is deducted for clothing. Many of the men who have been killed before Charleston were in debt to the Government thirty or forty dollars for clothing. They never received a dollar's pay, and were in debt for clothing. Then the white volunteers receive a bounty; the colored men receive none. Then in most of the communities in the loyal States the families of the soldiers receive certain sums. In my own State a soldier's wife with two children receives twelve dollars a month, and has throughout the war.

Now, sir, a word in regard to the soldiers raised in South Carolina. We have had two drafts made there by order of General Hunter, and I received a letter from there the other day which stated they were about making another which was breaking up the plantations. We take nearly all the men there and put them into the service, when a man can earn \$300 a year there now. Women there have earned and have received for their own toil more than \$250. They cultivate the soil, raise cotton, and get the fruits of their own labor, and some of the women have sold their cotton for \$250. We are taking the men that are fit for service there whom we can lay our hands upon, and forcing them into the service of the United States at ten dollars a month. We did pay them thirteen dollars a month when they were first raised, but we now pay them only ten dollars a month.

I was told the other day by Mr. Webster, of Philadelphia, a gentleman who has devoted days and nights to the raising of troops, black and white, in Pennsylvania, that they have raised in Philadelphia nearly five thousand colored troops, five regiments, and he said to me that they pledged their word to these colored men that they should receive the same pay as other soldiers, and that no doubt Congress would pass such an act, and that the act would be retrospective.

As to the order given to the Governor of Massachusetts, there cannot, in my judgment, be any doubt about it. He understood it to authorize him to promise them the same pay, and in all the advertisements, in all the meetings, in all the promises to these men, they were assured that they would receive thirteen dollars a month. They received no bounty. They have gone to the field. From two to three hundred of one of these regiments have been killed or wounded.

Now, it does seem to me that we ought, at any rate, to pay those who have been in active service this sum. It is true we are raising colored regiments to-day, and I am glad to say that we have more colored troops than I supposed we had by several thousand.

Mr. ANTHONY. How many have we?

Mr. WILSON. I do not wish to state precisely; I am not authorized to state it; but we have raised more of these soldiers than I supposed the other day we had, by several thousand. We are doing well. Many thousands of these men, perhaps half of them, are in regiments that are being raised and have never yet performed any service. We have raised eight thousand of these men in the State of Tennessee. Perhaps one or two regiments of them have rendered small service, but they have just been organized and officered ready to go into the service. All the testimony goes to show that these soldiers are as faithful and perform duty as well as any other soldiers. I hold in my hand a letter received yesterday from General Terry, who commands the colored troops in South Carolina, and he describes the services of these men, and he says their services have not been surpassed by any men, and that we ought to pay them the same compensation, and we ought to make it retrospective as a matter of justice to the men who have performed the labor, who have suffered and toiled before Charleston in the trenches, and have fought and some of whom have died for the country, and that too without receiving any bounties. It will cheer their hearts, they will go on in the future, and it will be money well expended. I believe it.

The colonel of a regiment in Virginia called on me the night before last. He was in a recent expedition into North Carolina, and he says he marched his regiment forty-three miles without a straggler. He says that the colored men can march further than any other troops in the country, and he has served in the best regiments throughout the war. He says that in the six months that he has had command of a colored regiment he has had but one case of drunkenness in it. All the testimony of our officers, who took these troops with prejudices against them, goes to show that they are industrious, that they are obedient, that they are deferential in their manners, that they make the best kind of scouts, that they know the country well, that they are performing their duty with a zeal and an earnestness unsurpassed. There is a reason for this. Take a colored man who has been degraded by popular prejudice, or by law, or in any other way, put the uniform of the United States upon him, and let him follow the flag of the country, and he feels proud and elevated. Besides that, they are fighting for the elevation of their race, as well as for our country and our cause, and for the emancipation of their race, and well may they perform that duty. As suggested by the Senator from Indiana, they are fighting for something higher and nobler than pay. But while I recognize all that, it does seem to me that we ought at any rate to make their pay equal to that of other troops, and we ought, in addition to that, at least apply that equality of pay retrospectively to those men whom we raised with this understanding, and who have been in active and hard service during the last year or two.

Mr. SUMNER. I hope the Senator from Indiana will pardon me if I refer to him for one minute. He is so uniformly generous and just that I was the more surprised when I listened to his remarks just now. I was surprised at his lack of generosity and his lack of justice—he will pardon me—toward these colored soldiers. I was surprised—he will pardon me—at his injustice to the State of Massachusetts. He spoke disparagingly of the colored soldiers. He thought they had been paid enough. He thought that the gallant blood shed on the parapets of Fort Wagner had been paid enough; and he failed to see that those men who died for us on that bloody night and were

buried in the same grave with their colonel who led them, now stood alive in this presence to plead for the equality of their race. How could I help regretting that the Senator was led into any such remark?

Also in the ardor of his utterance—he will pardon me still further—the Senator undertook to say that if we entered on this payment we should charge the Treasury with some one or two hundred millions in addition to its present burden. Why, sir, that is an entire mistake. Even if we pay everything that is contemplated by the resolution of my colleague, I am told that the whole sum will be little more than a million; much, I admit, for us to charge unnecessarily upon the Treasury; but not the very large sum which seemed to fill the patriotic vision of the Senator.

Mr. LANE, of Indiana. The Senator misunderstood my statement altogether. My statement was, that if we were called upon now to go back and increase the pay of the colored troops three dollars a month more than the law provided, with the same propriety we might be called upon to go back and increase the pay of our white soldiers because they thought that their pay had not been enough; and that would add to the burdens of the Treasury to a very large amount.

Mr. SUMNER. I accept the correction gladly. Certainly I have no disposition to press anything beyond the meaning of the Senator. But he will allow me to say that I was hardly mistaken in his argument. It was that we should charge the Treasury with a burden which it could ill bear. Now, if this money is due, let us charge the Treasury with the burden; and that brings me again to the direct question, is not the money due? The Senator denied it; but he will pardon me again if I say he hardly went into an argument on that head. I repeat, then, is the money due? I dislike to trouble the Senate by going over topics that have already been too much discussed; but I trust they will excuse me if I state the case yet once more. On many accounts I confess a special interest in this question; but not the least is that I would not have my country do an injustice, least of all an injustice to people of a race too long crushed by injustice.

The argument need not be long. In the first place the statute of 1861 contains no words which can be interpreted in any way to exclude the enrollment of persons of color under it. I challenge any Senator to point to a single word in that statute which would authorize any such exclusion. You have then the statute in the case. That is the first point. In the second place, you have the order already read from the Secretary of War addressed to Governor Andrew authorizing an enrollment for three years, making in his order no discrimination in any way between persons of African descent and white soldiers. That is the second point. You have then in the third place the open promises and pledges of Governor Andrew, under that order, and for the time being undertaking to act as the agent of the United States, solemnly promising the full pay of thirteen dollars a month to these colored persons as soldiers of the United States. Then in the next place you have the very terms of the enlistment subscribed by these soldiers at the time of their enlistment, which I read the other day, where it is expressly stated that they entered into service under the statute of 1861.

These four points—the statute of 1861, the order of the Secretary, the promise of Governor Andrew in behalf of the United States, and the terms of enlistment—all these make a case by which, as it seems to me, the Government is bound. In face of these, how can it be said that these colored troops were "employed" under the statute of 1862? There is no ingenuity of interpretation which can place them there.

That I am not mistaken in the facts on which I found this argument, is apparent from a letter which I hold in my hand, written by one of these soldiers now on Morris Island. But I shall content myself with a brief extract:

"In the month of February, 1863, Governor John A. Andrew announced that he had permission from the War Department to raise a regiment of infantry to be composed of men of color. Enlisting began immediately, and the fifty-fourth regiment was filled to overflowing in three months. The only inducement he offered to these men was an acknowledgment of their manhood. For he promised that the United States Government would treat them in every particular the same as other volunteer regiments from the State of Massachusetts."

Mr. LANE, of Indiana. Will the Senator pardon me a moment just there?

Mr. SUMNER. Certainly.

Mr. LANE, of Indiana. They were to be treated in every respect as the volunteer troops from Massachusetts. Will the Senator contend that the commissioned officers of colored regiments might be drawn from the colored troops themselves, after the passage of the law of 1862? Was not that a disparity? Was that treating them like other troops?

Mr. SUMNER. Of course the order is applicable simply to the enlisted men; and this is my answer to the Senator. It is not applicable to the officers.

The letter goes on to say:

"The enlistment rolls signed by these men bound them to obey the President," &c.

How?

"In pursuance of the law passed in July, 1861, calling for volunteers."

Such was the understanding on which the enlistment took place. It was by this lure that you won these men to the field of sacrifice.

I have already said too much, but before I sit down I cannot forget that the Senator from Indiana in his impetuous movement brushed against the commonwealth of Massachusetts. I do not remember his precise words; nor do I care to remember them. But he more than intimated that there was on the part of this State something else than a patriotic motive in pressing this obligation. I think he said this whole effort is now to save the payment of this extra money. Does not the Senator know that the commonwealth of Massachusetts has already provided for the payment of this sum, so far as its own two regiments are concerned, and that those regiments have refused to receive it? These colored troops declare that they were enlisted as soldiers of the United States, and as such they are entitled to the pay of soldiers of the United States from the Government of the United States. If it be wrong to maintain their claim then is Massachusetts wrong, then am I wrong on this occasion. If the claim is maintained earnestly it is because, both in law and in sentiment, and on every ground of policy or expediency, it commends itself to those who represent Massachusetts. And now, since this State has been called in question, I shall not content myself with merely giving my own opinions and arguments, but I shall ask you to listen to her honored Governor.

In an official message to the Legislature of Massachusetts Governor Andrew has discussed this whole question with his accustomed lucidity and thoroughness. Here is something of what he says:

"To my own mind, the right of these men under the existing statutes to the lawful pay and allowances of volunteers is demonstrably clear. But if it is doubtful it is agreed, I believe, in all quarters that it will be the duty and the pleasure of Congress to embrace an early opportunity to prevent by positive legislation the continuance of that doubt. Meantime I must embrace the earliest occasion to invoke the Legislature of Massachusetts to render justice to the men of these regiments beyond the possibility of a doubt by the appropriation of the needful means out of our own treasury until the national Congress or the Executive Department shall correct the error."

The Governor, after considering some details of the argument, proceeds as follows:

"I think there can be no proposition of law more clear than this, namely: that colored men are competent to be enlisted into the regular Army of the United States, into the volunteer army of the United States, into the Navy of the United States, and to be employed in any arm of either service."

"The military enlistment law of 1814 required only that the recruit shall be a 'free, effective, able-bodied man, between the ages of eighteen and fifty years.' (See act of December 10, 1814.) It did not require a man to be under forty-five, nor a citizen, nor white, in which three respects it differs from the old militia act. The naval act of 1813 is not the less clear."

Such is the statement of the Governor on this question in point of law. At the time these regiments were mustered into the service he believed that he was acting legally under the statutes of the United States. He so instructed these men, and these men naturally believed him and gave themselves generously, nobly, beautifully to the public service. Will the country now disown them? Will the country now fasten a ban upon them, and lead them to say in their hearts that they have been duped?

Mr. DOOLITTLE. I do not know whether this joint resolution will be disposed of to-night;

but I have drawn two amendments in the shape of provisos that if adopted will put it precisely on the ground that the Government may keep its faith entire; that where a promise has been given under the authority of the War Department, and the Secretary of War shall be satisfied of that fact, they shall be paid according to the rate of thirteen dollars a month, and also a provision which would provide for a large class of cases arising in the insurrectionary districts where these men, women, and children all come in together upon our hands.

Mr. SUMNER. Be good enough to read it, if you please.

Mr. DOOLITTLE. I will read my proposed amendments in order that they may be printed if the resolution goes over until to-morrow, or if they meet the views of the Senate that they may be acted on to-night. To meet those cases which have been referred to by the honorable Senators from Massachusetts I propose this proviso:

Provided, That in all cases where, under the authority of the War Department or the order of the War Department, the Secretary of War shall be satisfied that such persons of color have been heretofore mustered into the service upon a promise to pay them at a rate of thirteen dollars per month, the same shall be paid at that rate for such services heretofore rendered by such persons.

Mr. SUMNER. That is identical with the proposition I have already proposed.

Mr. DOOLITTLE. And the other proviso is this:

And provided further, That from the monthly pay of every such soldier mustered into the service in the States or parts of States where by the proclamation of the President the insurrection exists, there shall be reserved the sum of—dollars—

It has been suggested by some friends that the sum be made four dollars—

per month for the purpose of reimbursing the expenses incurred by the United States in feeding and clothing the women and children of color in said States or districts.

I believe these two provisos would disentangle the bill, and I send them to the Chair.

Mr. JOHNSON. I do not think there is any chance of terminating this measure to-night, and I move that the Senate adjourn.

Mr. DOOLITTLE. I ask that those amendments which I propose to offer to-morrow be printed.

The order to print was made.

Mr. JOHNSON. I withdraw my motion, as I understand an executive session is desired for a short time.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California.

Mr. CONNESS. As I offered the amendment, and as the proposition contained in it has been assailed, as I think very unjustly and very ungenerously, by the Senator from Massachusetts, [Mr. SUMNER,] in at least half a dozen speeches, I desire to say something on the subject before the vote shall be taken. At present I am not at all attached to the proposition I have made, and if any other shall be made by any other Senator that will mete out justice to the country and to the colored troops together, I shall be prepared to accept it, but I am not prepared to listen to the mode of discussion indulged in by the Senator from Massachusetts without having an opportunity to say a few words in reply. Therefore I move now that the Senate go into executive session.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 10, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Dr. PRESLEY.

The Journal of yesterday was read and approved.

PLATTSBURG COLLECTION DISTRICT.

Mr. WASHBURN, of Illinois. The gentleman from New York from the Plattsburg district introduced a bill to change the location of a custom-house in his district, which was recommended by the Secretary of the Treasury. The bill also provided for an increase of the salary of the collector. To that the Committee on Commerce were unwilling to agree, but they have instructed me to report a bill for the change of location of the cus-

tom-house, and I ask unanimous consent to report it.

Mr. ELDRIDGE. I object.

Mr. WASHBURN, of Illinois. The gentleman from Wisconsin has no particular interest in the matter, and I hope he will withdraw his objection.

The objection was not withdrawn.

CUSTOM-HOUSE INVESTIGATIONS.

Mr. FERNANDO WOOD. I ask the unanimous consent of the House to offer a resolution to which I am sure no gentleman will object when he hears it. It is in these terms:

Resolved, That the Secretary of the Treasury be requested to communicate to this House the reports made by the Solicitor of the Treasury on the investigations made by him in New York into the conduct of prize business, the management of the custom-house and public stores, and the manner of taking bonds for goods shipped to certain interdicted foreign ports, with copies of all the testimony taken by him in each of these three several branches.

Mr. HULBURD. I object.

Mr. FERNANDO WOOD. I desire to state that this resolution was especially designed for the committee of which my colleague is chairman.

PERSONAL EXPLANATION.

Mr. BOYD. I ask, with all the kindness of my heart, unanimous consent of the House, as a question of privilege or a privileged question, to make a personal explanation.

Mr. COX. I demand the regular order of business.

Mr. BOYD. In the printed remarks of my colleague [Mr. BLAIR] there is a paragraph which relates to myself in a manner that requires me to notice it.

Mr. SCHENCK. I must object to anything that interferes with the progress of the enrollment bill.

VOTE ON CONFISCATION BILL.

Mr. SWEAT. On account of sickness of myself and of my family last week it was impossible for me to be present to vote upon the confiscation bill. I ask the consent of the House to record my vote.

Mr. STEVENS objected.

Mr. SWEAT. I will state that had I been here I would have voted against the bill.

BUREAU OF FREEDMEN'S AFFAIRS.

The SPEAKER. The regular order of business having been called for, the call of committees for reports is in order. Under that call the first business in order is the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs, which was reported back with amendments from the select committee on emancipation on the 13th of January last, and postponed to Wednesday, January 20. It comes up as the first undisposed-of bill reported from a committee.

Mr. ELIOT. I send to the Clerk's desk an amendment, which I offer as a substitute for the bill.

The bill was read *in extenso*.

Mr. HOLMAN. I move to lay the bill on the table.

The SPEAKER. The gentleman from Massachusetts is upon the floor.

Mr. COX. I move to refer the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman cannot make that motion, as he has not the floor for that purpose. The Chair would state that when reports from committees are in order, the reports of committees undisposed of come up first as unfinished business.

Mr. KALBFLEISCH. Will the gentleman yield to me a moment?

Mr. ELIOT. I will hear what the gentleman desires.

Mr. KALBFLEISCH. I desire to say that there is a minority report upon this subject which has not yet been seen by members of the House, and—

Mr. ELIOT. I cannot yield for that purpose. The minority report has been printed for a fortnight, and been in possession of every member of the House who felt disposed to see it.

Mr. Speaker, in introducing this bill I bespeak for it the favor of the House, and invoke their attention to the arguments constraining us to its speedy passage. It is not my wish to interfere with the debate so long as it shall seem necessary

to illustrate its provisions or to show its demerits or its worth. If it cannot stand discussion it ought to fail. But a fair and free argument will bring to an affirmative vote upon the passage of the bill a large majority of those who are willing to legislate in view of the great facts which exist in our country, rather than in sight alone of party questions and differences of judgment as to the policy which has resulted in producing those facts.

In December, 1860, the Legislature of South Carolina enacted her ordinance of secession. The evil example of that traitor State was followed by the independent action of other States, and the rebel confederacy was organized. Its object was to destroy this Union and to build upon its ruins another government to be known as the great slave Power of the century. The first act of war was committed in April, 1861. On the 15th of April the President made his proclamation calling for seventy-five thousand men and summoning both Houses of Congress in extra session. The Thirty-Seventh Congress assembled on the 4th of July, 1861. On the 6th of August an act was passed "to confiscate property used for insurrectionary purposes." The fourth section of that act provided that when persons "claimed to be held to labor or service" were required or permitted to take up arms against the United States, or to work or be employed in military service against the United States, the person who claimed such labor or service should forfeit his right thereto. It was a gentle act, but it was the beginning of a good work. By virtue of its provisions many thousands of slaves have been made free. At the second session of that Congress I had the honor to report from the select committee a confiscation bill, and after full debate the bill, as amended in committee of conference, was finally passed. By the ninth section of that act it was provided that slaves of rebels escaping within our lines or captured from them or deserted by them and coming under our control, or found within any place occupied by rebel forces and afterwards by our own forces, should be deemed captives of war and forever freed from slavery. On the 1st of January, 1863, the President, as Commander-in-Chief of the Army and Navy in time of armed rebellion, and as a fit and necessary war measure for suppressing the rebellion, declared free all persons held as slaves in certain specified States and districts. In his proclamation the President recommended to those people so declared free to abstain from all violence unless in necessary self-defense, and advised them to labor faithfully for reasonable wages. And upon that great act, which the President sincerely believed to be an act of justice warranted by the Constitution upon military necessity, he "invoked the considerate judgment of mankind and the generous favor of Almighty God."

The immediate effect of such legislation and of the proclamation of the President was to bring under the control of our Government from rebel States, and in districts conquered by our arms, large multitudes of freedmen who had ceased to be slaves but had not learned how to be free.

On the 19th of January, 1863, I introduced a bill to establish a Bureau of Emancipation. It was referred to a select committee, but for want of time was not reported by them to the House. That bill, again introduced at this session, and made more efficient in the light of a year's experience, is now before us. Its provisions have been carefully examined in committee, and I will endeavor to explain them and the necessity of this legislation, its object, and its expected benefits to the freedmen and to ourselves.

The question is not now whether Mr. Lincoln was correct as a statesman when he declared that his proclamation was "warranted by the Constitution upon military necessity." The question is not now whether Congress did or did not transcend its powers in August, 1861, or in July, 1862. Upon those questions we have all arrived at a judgment. During the debate upon the confiscation act they were fully discussed; and whatever our judgment may be, a great fact now exists which we must recognize, and which cries out to us for legislation. By reason of that proclamation and of our past legislation and of the successes which have been achieved by our armies under their valiant generals, three million persons held as slaves have become and are becoming in fact free.

By the census of 1860 the following slave population is found to have been in the rebel States:

Alabama.....	435,080
Arkansas.....	111,115
Florida.....	61,745
Georgia.....	462,198
Louisiana.....	331,726
Mississippi.....	436,631
North Carolina.....	331,059
South Carolina.....	402,406
Tennessee.....	275,719
Texas.....	182,566
Virginia.....	490,865

Slaves.....	3,521,110
Deduct the slaves in Tennessee, to wit, 275,719	
And estimate the excepted portions of Louisiana and Virginia at.....	245,391
	521,110

And there will remain affected by the terms of the proclamation..... 3,000,000

When Mr. Lincoln declared that "all persons held as slaves within the designated districts" are and henceforward shall be free, he did an act as Commander-in-Chief which was irrevocable. Whatever rights it conferred cannot be withdrawn. He may, as Commander-in-Chief, strike off the chain, but he cannot in any capacity, as chieftain or as President, make of a freedman a slave. And we know that Mr. Lincoln so holds the law to be. And as his heart was in that great proclamation of freedom, so his matured judgment rests upon it firmly content. In his message to the present Congress he says, "While I remain in my present position I shall not attempt to retract or modify the emancipation proclamation; nor shall I return to slavery any person who is free by the terms of that proclamation or by any of the acts of Congress." Shortly after that proclamation was made I had an interview with the President, and he then said, "I think that proclamation will not of itself effect the good which you anticipate, nor will it do the mischief which its opponents predict." But he "builded better than he knew." That act was the great act of his life. It has become greater daily in the judgment of the world, and in the ages that are to come it will be the corner-stone of his immortal fame. Never before had such opportunity been given to man. For one I reverently recognize the hand of God. He created the occasion, and His servant obeyed the divine command which it involved.

But Mr. Lincoln's proclamation cannot effect the good it contemplated unless, first, it be vindicated and made effective by military success, and, secondly, by appropriate legislation. The shackles have been loosened from the slave, but defeated armies would leave the conquerors free to weld them on again with bolts that could not be stricken off. Mr. Lincoln referred to this possibility in his recent annual message. "It was all the while deemed possible," he says, "that the necessity for it might come;" that is to say, the necessity of emancipation as a military measure; "and that, if it should, the crisis of the contest would then be presented. It came, and as was anticipated it was followed by dark and doubtful days. Eleven months having now passed, we are permitted to take another review. The rebel borders are pressed still further back, and by the complete opening of the Mississippi the country dominated by the rebellion is divided into distinct parts, with no practical communication between them." The successes which our Union armies have achieved during the past year have been undisturbed by any failure that can cast a shadow upon the bright certainty of final triumph. In the graveyard at Gettysburg the rebel hopes of victory on northern soil were buried. The stricken hosts of Lee's army will not revisit those fields of blood, where the unaided ghosts of rebel traitors would taunt them with their defeat. Upon the Mississippi, when Vicksburg fell before the consummate genius of Grant and the heroism of his officers and men, and when the keys of Port Hudson were yielded to Banks by hands unwilling to surrender but impotent to resist, a free highway was again thrown open, dividing the region where treason had prevailed and breaking its strength in twain, while it drew together again the North and the loyal South by that bond of living waters which God from the beginning had established. All honor to those men, heroes all of them, in those great battles which crushed the hopes of rebel leaders in the East, and northern traitors, their allies and true friends, and have sealed our assurance of ultimate success. At every

step made by our armies upon southern soil freedmen have come within our actual control, and have sought to prove their allegiance and to receive protection. The President tells us that—

"Of those who were slaves at the beginning of the rebellion full one hundred thousand are now in the United States military service, about one half of which number actually bear arms in the ranks, thus giving the double advantage of taking so much labor from the insurgent cause and supplying the places which otherwise must be filled with so many white men. So far as tested, it is difficult to say they are not as good soldiers as any. No servile insurrection or tendency to violence or cruelty has marked the measures of emancipation and arming the blacks. Those measures have been much discussed in foreign countries, and contemporary with such discussion the tone of public sentiment there is much improved. At home the same measures have been fully discussed, supported, criticized, and denounced, and the annual elections following are highly encouraging to those whose official duty it is to bear the country through this great trial. Thus we have the new reckoning. The crisis which threatened to divide the friends of the Union is past."

Mr. Speaker, the President refers to the one hundred thousand men who were slaves and are now free and in our service. But three times that number would not more than state the aggregate of those who were slaves at the beginning of the rebellion and are now under the protection of our Government. In November, 1862, a committee of Friends, or Quakers, under appointment from the New York Yearly Meeting, visited Washington, Alexandria, Fort Monroe, Hampton, Norfolk, and Craney island, to investigate the condition and wants of colored refugees. At that time, before the military proclamation of the Commander-in-Chief, there were in and around Washington about six thousand refugees, at Alexandria twelve hundred and thirty, at Fort Monroe, Hampton, Fort Norfolk, Craney island, and Norfolk, six thousand and fifty-four, and many others, whose numbers they could not then ascertain, at Yorktown, Suffolk, and Portsmouth; that is to say, at that early day within this territory there were known to be thirteen thousand two hundred and eighty of these freedmen who wanted work and wages. This commission issued from the New York Yearly Meeting of Friends was one of the pioneer missions in this great work. The report of William Cromwell and Benjamin Tatham is full of interesting facts and of sound practical suggestions.

The destitution of these people, their suffering from neglect and disease, their willingness and ability to work, their wages promised and earned and half paid, and the ascertained value of their labor to the Government beyond the whole expense involved, are stated in brief and plain language, without exaggeration, and with no harsh comment. Before this action by the New York Yearly Meeting, associations had been initiated in several places by humane men, who contributed freely both time and money in this work; ascertaining facts by personal investigation, and working with the Government so far as they might to relieve, to educate, and to employ those freedmen of the South. The educational commission of Boston, the national freedmen's relief association of New York, the Port Royal relief committee of Philadelphia, had been organized and were actively at work.

Mr. Edward L. Peirce, under instructions from the Secretary of the Treasury, before the supervision of affairs at Port Royal was transferred from the Treasury to the War Department, went to Port Royal and examined and reported on the condition of the freedmen and on their self-sustaining ability when aided in their early efforts by the Government that had made them free. His earnest labors, aided by the associations of New York, Philadelphia, and Boston, and his admirable reports to Mr. Chase, whose personal and official care have been given heartily to freedmen as well as to finance, have furnished to the committee information of the highest practical character and value. The friends of emancipation in the West have contributed their proportion of money and labor to ascertain the condition of the freedmen upon the Mississippi and to give them the welcome and protecting hand which their untired freedom might require. The contraband relief commission of Cincinnati, Ohio, has recently appointed a committee to suggest a plan for the benefit of freedmen and for the occupation of the lands from which white traitors had fled and on which loyal black men lived. In an able report made by George Graham and John W. Hartwell

the establishment of a Bureau of Emancipation is recommended.

At St. Louis the western sanitary commission has been actively employed in the same direction. Of the humane agencies which this rebellion has called into life no one has done more to relieve the soldiers of our western army than this commission. From the beginning of the war these earnest men have labored in their great work. And now they have found opening to them this new field of labor. Their president, Mr. James E. Yeatman, has recently returned from a tour of observation in the lower Mississippi valley from Cairo to Natchez. He has gone in person to the camps where the freedmen are collected and has examined into their condition that he might "ascertain their wants and how they can be relieved and make such recommendations and suggestions for their management and improvement as will bring them as speedily as possible to the enjoyment of the blessings which the President's proclamation of freedom was designed to confer upon them." Mr. Yeatman has done his work as thoroughly as it was possible to accomplish it within the time assigned him, and his full report shows how deeply his heart and his mind have been engaged. Besides his report he has made and his commission has published suggestions of a plan of organization for freed labor under a Bureau of Emancipation, which will give to the Commissioner, if this bill shall become a law, the experience of a wise practical man who has known what were the oppressions of slavery, and who knows the early perils of unused freedom.

During the past year the Secretary of War, Mr. Stanton, and the Secretary of the Treasury, Mr. Chase, have done all that could be done without definite legislation by Congress to make the labor of the freedmen profitable to themselves and serviceable to the country in the camp and in the field. How the freedmen have become soldiers, and what brave soldiers they are, I do not stop to consider. Gentlemen doubted last year whether they would fight. Nobody doubts now. I would that I had time, for I could tell of one from my own city, Sergeant Carney, of the Massachusetts fifty-fourth, whose dark complexion covers but cannot cloud a true soul and a brave heart. I could tell you how he seized the regimental colors and planted them upon Fort Wagner; how he was shot down holding firmly aloft his sacred banner; how he kept his post while men were falling around him, his own blood pouring out the while, until the attack was over; how after his regiment retired he remained, his colors flying and within the fort, but no one there to defend or to support him; how he dragged his shattered body alone, holding his banner up, supporting himself with it as with a staff; how he was again sorely wounded by a rebel ball but kept on his way undaunted and unsubdued until he had drawn himself, his colors flying, toward his regiment; and how, wearied and fainting, he found his men, saying as he fell exhausted and spent, "Here are the colors, boys; they have not touched the ground!" Other men wear stars upon their shoulder; but this man, black though he may be, shall live in history, himself a star, fixed and luminous forever.

Sir, where these men have had opportunity they have vindicated their full manhood. They have shown more manly treatment than they have received. They have not feared to fight or to die in battle. We have feared to pay them as soldiers or to acknowledge them as men. At some time prior to June, 1863, Messrs. Robert Dale Owen, James McKay, and Samuel G. Howe were appointed commissioners from the American freedmen's inquiry commission, under authority from the Secretary of War, to examine into the condition and the management of emancipated refugees. In June they made their preliminary report, which has been published by authority of the War Department. It concerns the refugees in the District of Columbia, Virginia, North Carolina, South Carolina, and Florida. This report describes their condition as refugees, speaks of them as military laborers, and discusses their ability as soldiers, and it recommends also the establishment of a bureau in the War Department for the supervision and conduct of these affairs.

Mr. Speaker, your committee has sought and acquired information from all these sources. I have also conferred in person and by correspondence with parties whose business has led them

among these refugees, and whose means of personal knowledge of their condition and wants have enabled them to speak with some authority.

Upon one proposition we have found a decided and united judgment. Every one whose knowledge has been personal declares the imperative and immediate importance of such a bill as your committee has reported to the House. For it is true that military successes alone cannot make the great proclamation of Mr. Lincoln fully effective as an act of justice to the freedmen, nor as a benefit to the nation at large. To that end there must be appropriate and efficient legislation. Without that a generation of freedmen would be destroyed before a generation of freemen would live. Mr. Lincoln says, "I recommend to them," that is, the freedmen, "that in all cases, when allowed, they labor faithfully for reasonable wages." So they will, if allowed. But who is to allow them? Will you let harpies go among them, or white blood-hounds whose scent is keen for prey, whose fangs are remorseless, whose pursuit is for gold at any cost of human life? Such men have been there; they are there now, under color of Government authority; and the abuses practiced by them sadden and depress the freedmen. The president of the western sanitary commission, speaking from his own observation, says, "he sighs to return to his former home and master. He at least fed, clothed, and sheltered him. Something should be done, and I doubt not will be done, to correct these terrible abuses, when the proper authorities are made to comprehend them. The President's proclamation should not thus be made a living lie, as the Declaration of Independence has too long been, in asserting the inalienable rights of man, while the nation continued to hold millions of human beings in bondage." Neither the considerate judgment of mankind nor the gracious favor of God can be reasonably invoked upon the President's act of freedom unless the law shall protect the freedom which the sword declared.

The President submitted recently to the consideration of the House a letter which he had received from a joint committee of the freedmen's aid societies of Boston, New York, Philadelphia, and Cincinnati. The sources of accurate knowledge which have been open to these parties entitle what they say to great consideration. We look into history and it is silent. No voice of the past can define the duties which the great facts of the present time enjoin upon us. We look to England, and the story of her emancipation in the West India islands is fresh in our memory. The English oak is thrifty in its green old age, in whose shade Wilberforce and Pitt took counsel together before the bill to abolish the slave trade was introduced. But the act of June, 1833, declared to be free some six or eight hundred thousand persons. We have, and shall have, as the free fruits of this rebellion, more than three millions. Yet the act of England also provided for the early years of freedom. Ten years before, Parliament had voted to adopt decisive and effectual measures to ameliorate the condition of the slave population. Those who are familiar with the literature of abolition know what those measures were. The Colonial Secretary of State addressed the colonial Governors, directing them to submit certain propositions to their Legislatures. The propositions were submitted, but they were all rejected, and the condition of the slaves remained unchanged. Then, ten years afterwards, came the act of emancipation. But that act sought to break gently to the eye the light of day. The slave was to be an apprentice before he became a man. For these apprentices special guardians were appointed and their duties were defined. Before the term of apprenticeship had expired full freedom was proclaimed in all the colonies. But between the date of the act of emancipation and the final proclamation of freedom in 1839, the Government of England published in documents of all kinds—orders, dispatches, reports, and decrees—fifteen folio volumes, which contained more than seven thousand pages, and we may learn there how their early freedom affected the freedmen and the colonies.

But the condition of things in the West India islands differed so essentially from the state of facts caused by this rebellion that colonial experiences are only or chiefly valuable to us as demonstrating the necessity of timely and efficient legislation. And if we turn to France, and recall the story of her action to liberate the colonial

slave and to elevate the enfranchised man, and review the facts with which that nation had to deal, we find after years of discussion and inaction convulsive abolition decreed in 1794 and deliberate slavery reestablished in 1802, until another convulsion created the republic and compelled the decree of 1848. And here also we find legislation and decrees and regulations aiming to protect both freedman and Government, and although we may learn no other lesson we are compelled to learn this—that emancipation, while it restores rights to the slave, devolves high duties upon the Government by whose decree it has been proclaimed. If we look to what was done in Sweden two years before the provisional Government of France had acted, or in Denmark following her example the next year, or in Portugal, or much later in Russia, we still come back to consider our own present duties, guided by this light alone which the experience of other nations gives to us, and which reveals to us the need of immediate and efficient action. No nation upon the face of the earth with whose history I am conversant has held in bondage over so wide extent of country so many millions of human beings as this nation has dared to hold under a Constitution which the people ordained to secure the blessings of liberty and to establish justice; nor has human ingenuity ever devised a system of slavery more debasing in its character to the slave or to his master. Even in Spanish colonies, where the condition of the negro slave has been and is degraded below the level of humanity, rights are secured by law which the master is bound to respect. He may ransom himself and his wife and children by the produce of his labor. He may have a wife by law, and he may change his master if he can find a purchaser whom he confides in. No such rights, nor any others that I know of, are so secured by law as to be made available to the slave in our southern States. Yet the *service of a person*, and not the body and life of a human being, is all that our Constitution ever meant to recognize as the subject of property. Where slavery has been most uncompromising and cruel the freedman is found most helpless and most deserving aid.

Mr. Speaker, this war has been continued for nearly three years. From its commencement it was plain that the freedom of the slave must follow military success. But up to this day not one act has been done by the Congress of the United States to protect freedmen or to aid them in self-protection or self-support. This great work, the greatest work which this rebellion casts upon the Government, has yet to be commenced. And now all that your committee has asked for at this time is the creation of a bureau. If this bill shall become a law, and a wise, judicious, and humane system shall be devised and carried into operation, it may appear that more than a bureau is demanded. In considering the subject you intrusted to us, your committee has sought the judgment of private men acquainted with these affairs and with officers of our Government. Mr. Stanton, whose able conduct of the War Department will be more fully appreciated when the whole work which he has accomplished shall be fully known, does not court the immense labor which this bureau will impose upon him, but he will discharge all the duties that shall be assigned him, and he appreciates fully the great responsibility of the work that must be performed. The Solicitor of his Department, Mr. Whiting, whose varied learning and wide range of legal study have eminently qualified him for the work, has examined the bill now before the House, and in his reply to the committee has made some suggestions that deserve careful thought. He says:

"I hope, however, that it will not be deemed an impropriety for me to make another suggestion. The work laid out for the Bureau of Emancipation is of immense magnitude. Two and a half millions of wards driven from their accustomed shelters by the sharp catastrophes of war, landless, homeless, helpless, appeal to the Government to guard and save them. From their earliest years deprived of the light of knowledge, they are children able as yet to see only the star of freedom. They feel with hope and confidence that the flag which brings to them liberty, will spread over them the mantle of its protection. In the heart of this great people every pulsation thrills for freedom. The instincts of national honor will allow no filtering and no failure in our duty to the oppressed freedmen who stand shoulder to shoulder in this struggle for our country's safety and renown. I therefore honor you gentlemen who see your high duty and mean to perform it.

"The plan proposed in this bill is for the organization of a bureau in the War Department. Perhaps this is the best means of commencing the great work, but I think the time

will soon come, if it has not already arrived, when the duties of this bureau will require the powers and merit the dignity of a separate Executive Department.

"There are several subjects which might be advantageously grouped together, and ought to be placed under the management of one controlling mind. Among them are the following:

"1. Taking possession, on behalf of the United States, of all real estate abandoned by its owners, who have joined the rebels.

"2. Taking possession of all real estate forfeited to the United States to be sold for taxes, whether bought in by order of the President of the United States, or sold to settlers and others.

"3. Taking possession of all lands confiscated to the United States.

"4. Taking possession of all personal property of the enemy derelict, abandoned, or captured, except prizes at sea.

"5. Taking care of and making provision for all persons now freed or hereafter to be freed under any laws of the United States or proclamations of the President, or acts of manumission.

"6. Taking care of all colored men in the rebellious districts who were free before the war, and all fugitives thereto from loyal States.

"7. All legal proceedings for the confiscation of rebel property in all the courts. The United States attorneys, or special attorney, to act under orders of the new Department so far as respects these proceedings.

"8. The administration of all laws, rules, and regulations relating to the migration of colored persons to and from the rebel States.

"9. And of all laws relating to the compensation, if any, which the Government may hereafter give to aid loyal States in emancipating slaves.

"10. All other matters relating to the emancipation and its processes, its rules and regulations, &c., and the protection of the interests of the colored men on one hand, and the United States on the other.

"These subjects are intimately connected together; they would require genius and active energy of the most powerful executive talent. The Secretary of War or of the Treasury are already so overwhelmed with labor and responsibility that it is ungenious to demand of either of them to assume this herculean task. The labors of this Emancipation Department will be unsurpassed by those of any other executive minister. Its importance to the ultimate issue of the war, to the reputation of our country abroad, to the moral character of our people in the southern States, to the Treasury, to the soldiers, and to the industrial interests of this great nation can hardly be overestimated. Whoever is competent to fill the office of Secretary of Emancipation should have a seat in the Cabinet, and should also enjoy the confidence and cooperation of that great and good man whose proclamation of freedom has recreated a nation, and will cause his name to be venerated wherever the flag of the Union shall cast its shadow."

But, sir, for reasons which controlled the committee, it has not been deemed advisable at this time to report a bill creating a Department. Is it too much to hope that in offering this bill for your action we may be sustained by the House without reference to party differences? Why, sir, what has been done hitherto? Let me tell you: The rebellion began in April, 1861. In August, at the extra session, an act was passed providing for an annual direct tax of \$20,000,000, duly apportioned among all the States. There were \$5,153,981 28 apportioned to the rebel States. In June, 1862, an act was passed for the collection of those taxes in insurrectionary districts. The lands were charged with the payment of the tax, and sales of the lands were provided for. Tax commissioners were created and their duties specified. After sales had been effected and the lands purchased on account of the United States, under the terms of the act these commissioners were empowered to lease certain of the lands together or in parcels, the leases to be "in such form and with such security as shall, in the judgment of said commissioners, produce to the United States the greatest revenue." By the tenth section of the act the commissioners are empowered to make rules and regulations, and insert such clauses in the leases as will secure proper and reasonable employment and support, at wages or on shares, of persons and families residing on the lands. That was the first notice taken by legislation of the freedmen.

It is important, because it was a recognition by Congress of an obligation to see that some proper and reasonable employment and support were given to these loyal men. But it was an act whose object was to raise money and to get revenue. The lands are to be leased in such form and with such security as will produce the "greatest amount of revenue." The act itself was not dictated by humanity, but by prudence and national thrift. And, sir, I greatly fear that in its administration the "greatest revenue" has had the largest consideration. I trust in God the time is not remote when they may have fair wages for fair work. At this moment there is, as I believe, in the Treasury more than a million dollars which the freedmen have contributed largely to produce.

The testimony of parties who have personally examined into the facts concerning work and wages of the freedmen is uniform that not only are those men often employed upon leased lands at less than half wages, but that in many cases, when employed directly by officers of the Government, they are compelled to receive less than one third of the wages that similar service from others at the same place and at the same time demanded and received. I know very well how difficult it may be to protect from the calculating speculator who has power the thoughtless and improvident man who wants bread. But over the thoughtlessness and improvidence which oppression has caused it is both a privilege and a duty to keep kindly guard until the liberty we have vouchsafed shall give to the freedmen mental nerve and moral self-reliance.

Mr. Speaker, besides the law I have referred to there have been three distinct appropriations of money made for purposes of colonization. When freedom was decreed in the District of Columbia the act of emancipation provided that the sum of \$100,000 should be expended in aid of those, whether free or freed by that act, residing in the District who desired to emigrate.

By the act of June 7, 1862, section twelve, one fourth part of the proceeds of sales and leases of land acquired by the Government under the tax act is made payable to the State as a fund to aid voluntary emigration to some tropical colony. There has been also an appropriation made to provide for the emigration of men made free under the confiscation act of July, 1862. Already the experience of a year, with the embarrassments created by disloyalty, timidity, distrust, and avarice, has satisfied all who have sought to know the facts that at the end of this rebellion there will be no freedmen whom the economical interests of this Union can afford to spare. My friend from Illinois [Mr. WASHBURN] is seeking to make it easier by legislative provision for white emigrants to come among us. I wish him success. Let them come—the healthy, sturdy, and studious German from the Rhine to the Vistula. We will welcome them all—and the impetuous Irish and the canny Scotch! We have room enough for all loyal men from all lands under the sun. But we cannot spare the freedmen. In those tropical regions of the South where they have been deprived of themselves they have a right to live. And the industrial interests of our country require that their compensated labor should enrich the land which has been cursed by their unpaid toil. But, sir, all our legislation thus far has been for ourselves. We have imposed taxes upon the lands and subjected them to sale. The Government of the United States has become the owner of large tracts of abandoned property. We have appointed tax commissioners and laid on them the duty of leasing lands so as to bring to the Treasury the greatest revenue. We have provided for the expatriation of the freedman, but not for his relief. The necessity for practical legislation upon this great subject is thus made plain.

Mr. Speaker, the purposes and objects of this law are twofold; and they are vindicated by the plainest considerations of justice and of self-interest. The Government of the United States stands committed before the world this day by the laws which we have passed, by the proclamation of the President, and indeed by the necessary issues of this rebellion, to a humane and enlightened policy toward the freedmen of the South. Our laws have made them free; the proclamation of the Commander-in-Chief has declared them free; and day by day, as this war has culminated toward the meridian of freedom, hundreds of thousands of loyal men, slaves heretofore, stand before your armies waiting your action, that the freedom you have vouchsafed shall be a blessing and not a curse. Why were these men made free? Was it because slavery was wrong, because it degraded the slave and tempted the master away from the great truths of our common Master who spoke upon the mount? Was it that we might "render unto Cæsar the things that are Cæsar's?"

Was the conscience of the nation troubled by reason of its sins, and did the Commander-in-Chief therefore proclaim his gospel of glad tidings, and did the Congress of the United States therefore emancipate the slaves of rebels? If that had been so in fact, if Congress could have seen that it was better in the sight of God to obey the laws of

God rather than the constitutions of men; if the Commander-in-Chief could under his oath of office as a high act of justice, justified as such and not by military necessity, have decreed freedom to the enslaved, it would nevertheless have been incumbent on us to lead them gently into the land of promise, and not to permit them to wander through the wilderness until a generation had died by the way.

But it was not so, and upon the facts of history it would be an act of meanness which no language can fitly describe, and for which no national suffering could fitly atone, if we should leave those men, freshly freed after a life of servitude, children of the nation as they are, to grope their way into the light without parent or guardian or friend. Why, sir, we freed them for our own selfish ends. It was to weaken the enemy. It was as a means of crushing the rebellion. It was because they were made to work while the rebels fought. It was because we wanted their strong arms upon our side. It was because we began to see that we must fight them or free them. Let us not be too self-righteous, for "even the publicans" would have done "thesame." Look back and recall the arguments upon which the constitutionality of all our legislation has been defended. Sound arguments they were, and by slow degrees they have commended themselves to magistrates and to men, until now the heart of the nation rests contentedly upon the logic of their conclusions. But they were arguments drawn from the arsenal of military necessity. They were hurled by the power of the laws of war against a national iniquity, it is true, but against it, not because it was a sin, but because it was a strength to the enemy which we had a right to annihilate and destroy. Well, sir, we have destroyed it, and as our armies march on, its destruction becomes more certain and more universal, and now a great national duty looks us in the face.

Sir, we had no right to decree freedom and not to guaranty safe guidance and protection. It does not meet the case to say we had no right to free them, and therefore we will not act. And I invoke the practical statesmanship and the personal humanity of those who do not see their way open to act with us who are now charged with the administration of this Government, to unite with us here and now upon this legislation which existing facts demand. For, whether it was right or wrong under the Constitution to decree emancipation by law or proclamation, it has been done, and it cannot be undone. We are responsible for it. But because of it, and because of the rebellion itself, which preceded military orders and all congressional enactments, three millions of enslaved men have become and are becoming free. Concede it was wrong. What then? Is there a man upon this floor who would send them back to slavery? If not, what shall be done? Shall the Government support them? They must do so in some way, with law or without law. They must not starve. They have been driven into their graves by hunger and by neglect already. Shall this continue? Mr. Yeatman, of the western sanitary commission, after his examination into the condition of freedmen between Memphis and Natchez, writes as follows:

"Dr. Littlefield, who is the physician of the infirmary farms, is located at the Savage place, where he has established a freedman's hospital. He appears to take a very deep interest in this people, and is desirous to aid in improving their condition. He reports he has to furnish medicines and attendance to many of those on the leased plantations, especially to those on the places leased by one man who had leased five plantations, whose negroes are greatly neglected and poorly provided for. The testimony of quite a number of persons fully corroborated this statement. One of the freedmen, Hanson Jackson, working at Wilton's plantation, said that they get corn wherever they can find it on abandoned plantations; that they frequently have to go as far as Tensas bayou; that he has been without bread for days; that four pounds of meat per week is all that is allowed him; that he pays for his flour, and has worked since April without receiving any pay or clothing whatever; that he only receives tickets for actual days' work, to be paid when the crop is sold. Others from the same farm testified to the same thing, and laborers from other plantations gave similar testimony. None received molasses, rice, or beans, and hominy only when they chose to make it themselves.

"The poor negroes are everywhere greatly depressed at their condition. They all testify that if they were only paid their little wages as they earn them, so that they could purchase clothing, and were furnished with the provisions promised they could stand it; but to work and get poorly paid, poorly fed, and not doctored when sick, is more than they can endure. Among the thousands whom I questioned none showed the least unwillingness to work. If they could only be paid fair wages they would be contented and happy.

They do not realize that they are free men. They say that they are told they are, but then they are taken and hired out to men who treat them, so far as providing for them is concerned, far worse than their 'secesh' masters did. Besides this they feel that their pay or hire is lower now than it was when 'the secesh' used to hire them. This is true. A good negro man would hire for from \$200 to \$240 per annum, and a woman for from \$150 to \$180 per annum, and be fed and clothed besides, and that too when cotton was only worth ten cents a pound. Now it is worth seventy cents. Why should not the freedman now get at least as much for his labor as the slaveowner did for it when he was a slave? The planter who formerly hired a negro slave obtained from \$450 to \$500 as the result of his labor; now he will obtain at least \$2,500, while the laborer, if he should obtain his entire year's wages, will only receive \$62; \$2 per head being deducted to pay his medical attendance, which is never given. But the poor freedman fares even worse than this. He does not get his \$7 per month, or \$84 per annum, less \$2 for medical attendance. He only gets paid at that rate for the actual number of days which he may work, that is twenty-seven cents per day, so that if the planter furnishes but ten days' labor in the month, the laborer receives but \$2.70 for his month's labor. Was there ever a greater iniquity than this? I am confident that it is only necessary for this commission to present these facts at Washington to have them corrected.

"The parties leasing plantations and employing these negroes do it from no motives either of loyalty or humanity. The desire of gain alone prompts them, and they care little whether they make it out of the blood of those they employ or from the soil. There are of course exceptions; but I am informed that the majority of the lessees were only adventurers, camp followers, 'Army sharks,' as they are termed, who have turned aside from what they consider their legitimate prey, the poor soldier, to gather the riches of the land which his prowess has laid open to them. I feel that the fathers and brothers and friends of these brave men should have an opportunity to reap, under a more equitable system for the laborer, the reward of the months of toil and exposure it has cost to open this country to the institutions of freedom and compensated labor. If these plantations were required to be subdivided into parcels or tracts to suit the views and means of our western men, say in farms of from one to two hundred acres, thousands would soon flock to the South to lease them, especially when it is known that one acre of ground there cultivated in cotton would yield, in dollars, ten times as much as at home. Besides this subdivision would attract a loyal population, who would protect the country against any guerrilla bands that might infest it.

"General Hawkins, who has been for several months in command of troops in this region, a man of sound judgment, has given much thought to this subject, and he fully convinced me that the true interest of our country, and justice to our loyal people, who have given their sons to the crushing out of this rebellion, require that they should have the opportunity to share in the fruits of their victories."

This testimony from one who speaks of what he saw and knows does not stand alone. It is indeed the voice of many who have gone among the freedmen in their new homes along the Mississippi. Yet the Government at Washington has endeavored to do all that in the absence of any legislative authority could have been done without more means of knowledge to guide them in their action. General Thomas, who has been organizing colored regiments under orders from the War Department, found that some plan should be adopted at once to regulate the labor and wages of the freedmen. Such work was not fairly within the scope of his authority, and great errors have been committed; but experience was gained which will be made available both to control the rapacity of men whose sole object is gain and to secure to the honest laborer his fair compensation. But to illustrate somewhat the treatment these freedmen have been receiving at Memphis, I call attention to one other statement made by Mr. Yeatman:

"Within the city of Memphis, not directly connected with any of the camps or with the colored regiments, there are some three thousand freed men and women, mostly freed men, who are employed in various ways and at various rates of compensation. Those employed by Government receive but ten dollars per month; while many could readily earn from thirty to fifty dollars per month. Those thus employed are outside of the military organization.

"To give an instance: One quartermaster told me that he had in his employment a harness-maker, to whom they could only pay ten dollars per month, while they were paying white men doing the same work forty-five dollars per month; and that the colored man could readily procure the same wages were he allowed to seek a market for his labor in the same town. I saw a number of colored men pressed into service (not military) to labor at the rate of ten dollars per month, one of whom petitioned to be released as he had a good situation at thirty dollars per month. The freedmen on the steamboat on which I was a passenger from St. Louis to Memphis were all colored, and were receiving forty-five dollars per month. These men were afraid to go ashore at Memphis for fear of being picked up and forced into Government employment at less than one fourth their existing wages. Besides the fact that men are thus pressed into service, thousands have been employed for weeks and months who have never received anything but promises to pay. This negligence and failure to comply with obligations have greatly disheartened the poor slave who comes forth at the call of the President, and supposes himself a free man, and that by leaving his rebel master he is inflicting a blow on the enemy, ceasing to labor and provide food for him and the armies of the rebellion. Thus he was

promised freedom, but how is it with him? He is seized in the street and ordered to go and help unload a steamboat, for which he will be paid, or sent to work in the trenches, or to labor for some quartermaster, or to chop wood for the Government. He labors for months, and at last is only paid with promises, unless perchance it may be with kicks, cuffs, and curses."

Now, sir, I have faith to believe that this House will, by no party vote, determine that these abuses, so far as they are controllable by legislation, shall be controlled. These facts are not isolated. Indeed I fear they are not exceptional. But they demonstrate that on grounds of humanity—and it is the argument for humanity that I am trying to present—the time has come when the representatives of the people should act. Longer delay is criminal. Why, sir, if this bill as it was introduced one year ago had then become a law, and if the bureau it contemplates had been organized by a man of genius and of heart—for both are wanted for this work—many hundreds of lives would have been saved, much gross injustice would have been prevented, and a large profit would have been realized by the Government that would have amply reimbursed their entire outlay. And that brings me to consider the object of this bill as connected with the interests of the people and of the Government. That it is for our interests, material, political, and pecuniary, to protect these men so far as they require protection, and no further, it will not be difficult to prove. It is almost to be regretted that the argument is so strong. The necessities of war compelled us to make them free. We are entitled to small praise for that. And if now, besides all reasons resting on broad grounds of justice and humanity, it shall appear that a decent regard to prudential and pecuniary considerations requires just such legislation as we are trying to initiate, it will not become us, I fear, to assume much credit for a philanthropy which will be profitable as well as godly!

It would be but fair in this argument to credit the freedmen with one hundred thousand men in the military service of the Government. That number will be doubled before many months have passed. Every man of them stands for a son, a brother, or a friend. By just so many men our own homes are the happier and the more productive. What would those lives be worth to us if we could compute their value in money? But it may be said that does not tend to prove that a bureau is wanted: we may take all the strong men that can bear arms without being troubled with women and children. I do not believe any gentleman will be found with hardihood enough to make such suggestion. But it is not true. How long will those strong men fight in our ranks when it shall be known to them that the Government for which they peril their lives permits the unarmed freedmen and all the women and children upon the plantations of the South to be oppressed? These freedmen are men, and although they have been humbled by their condition they have the affections of men. They know their value to us, and they know our value to them; they will fight bravely, heroically, to the death. But you may depend upon it they will not fight, and they ought not to fight, if the Government shall declare its policy to be that plantation lessees may absorb the muscle and sinew and labor of all who do not fight but can work, and that for half wages half paid, while they wage battle with rebels at the risk of slaughter upon the field and with the certainty of death if captured by the enemy.

It is then but fair, when we consider the selfish reasons urging us to action in the direction of this bill, that we remember the priceless value of these fighting men, and that we appreciate the importance of giving to them legislative assurance that those who are left at home are not left subject to the caprices and the avarice of men who regard them as serfs of the soil, and as instruments by which to work out their own way to fortune.

But, Mr. Speaker, the uniform testimony of the men who have witnessed the willingness and the ability of these freedmen for profitable employment demonstrates that, by judicious and timely aid and under the supervision of superintendents able and willing to "organize and direct their labor and to adjust with them their wages," the liberated slaves who shall not have been received into our ranks will return to the Government in produce and in money more than shall be expended on their account.

At Fort Monroe more than a year ago it was

ascertained that although the colored laborers employed by the Government were paid less than half the price paid for the same service here at Washington, a sum not less than thirty thousand dollars was due to them for work. At Lawrence, in Kansas, where a school for refugees had been established before October, 1862, a stranger who visited them and saw the cleanliness and good order that prevailed said to the superintendent, "This must have cost a good deal of money." "Not a cent, not a cent," was the reply. "These children are dressed at the expense of their parents from the proceeds of their own earnings since they have been here." These refugees had gone from Missouri and Arkansas. There were but a few hundreds, but where they found employment they accumulated money and property at once. But they had required help. One man of some means had given to them orders for supplies to the amount of five or six hundred dollars. But the whole sum excepting eight dollars had been paid by the refugees themselves. Captain E. W. Hooper, aid to General Saxton, one year since wrote from Beaufort that after an experience then of eight months among the freedmen of South Carolina, where we know that slavery has done its worst to brutalize the master and to enfeeble its victims, and with good opportunity to observe the conduct of the freed negroes as laborers, it was his "personal conviction that almost without exception they would readily become industrious and productive laborers under any liberal system which should offer a fair and reasonably certain compensation proportioned to the work actually done." From Craney island, in Virginia, from Helena, in Arkansas, from St. Helena and other islands in South Carolina, the proof is plenary that with judicious aid and under a fair system of labor and wages the expenses involved in the first necessary outlay would be reimbursed by the productive labor of freedmen within a reasonable period of time. The "facts" published by the emancipation league and the letters and reports to which I have already adverted permit us to entertain no doubt that this bureau will, if placed in the charge of able and administrative men, be conducted substantially without cost to the Government.

Mr. CLAY. May I ask the gentleman a question?

Mr. ELIOT. Certainly, if it does not come out of my time.

No objection was made.

Mr. CLAY. I wish to know whether the gentleman intends to include within this emancipation bill the State of Kentucky; whether he intends to trample under foot the constitution and laws of Kentucky, and free every slave without the consent of their owners?

Mr. ELIOT. I am happy to say to the gentleman that Kentucky is this time out of the ring altogether. This bill does not contemplate Kentucky at all, and has no reference to it.

Mr. CLAY. I will say that the gentleman goes so far as not only to take all the negroes in the South, but he is disposed to seize all the lands in that country, under the idea that they are abandoned. I have many constituents who hold property in that country who are all loyal men, but who are living in the State of Kentucky and never have lived in the South. I wish to know whether the lands of residents in Kentucky are to be considered as abandoned, and hence to be seized and disposed of under this bill?

Mr. ELIOT. Where do the loyal citizens, the constituents of the honorable gentleman, reside?

Mr. CLAY. In my district.

Mr. ELIOT. Where are their plantations?

Mr. CLAY. In Mississippi, Arkansas, Louisiana, and Tennessee.

Mr. ELIOT. And those plantations are owned by men residing in the district of my honorable friend?

Mr. CLAY. Yes, sir.

Mr. ELIOT. If they are not abandoned plantations they do not come at all under the range of this law. If those plantations are abandoned I think the honorable gentleman's constituents are rebels.

Mr. CLAY. I go further, and say that I am the owner of a plantation there myself. [Laughter.] Because I am attending to my duties here on behalf of my constituents is my plantation there to be considered as abandoned and to come under this law?

Mr. ELIOT. No, sir; the gentleman is constructively upon his plantation.

Mr. CLAY. The overseers on those plantations have been driven off by the military authorities; and are the plantations to be seized as abandoned property on that account?

Mr. ELIOT. Why did they not remain upon their property if they were loyal men? If they were rebels they have probably gone South and are in the ranks of the rebellion. But the desertion by the overseer does not leave the gentleman's farm "abandoned."

Mr. CLAY. They have gone off because the law did not protect them on their plantations. I was myself in Kentucky, and had to go over into Ohio for protection.

Mr. ELIOT. If the owners of these plantations are rebels, we will take their slaves if we can, and take care of them until they can contribute to their own support.

Mr. HOLMAN. I desire to ask the gentleman from Massachusetts whether, under the sixth section of this act, abandoned plantations in Kentucky, Maryland, or any one of the slave States, may not be subject to colonization and settlement through the agency of the commission? I call his attention to the proposed amendment to the sixth section, which expressly provides for colonization on these plantations which have been abandoned, without making any distinction between loyal and disloyal slave States.

Mr. ELIOT. If I understand the inquiry of the gentleman from Indiana, it is whether, under the provisions of this bill, some portion of the State of Kentucky may not be taken as colony ground. No, sir; it may not be. This bill proposes no such scheme.

Mr. MALLORY. I wish to ask the gentleman from Kentucky—

Mr. ELIOT. Massachusetts, sir.

Mr. MALLORY. I beg pardon of Kentucky, and of the gentleman from Massachusetts. [Laughter.] I wish to ask the gentleman from Massachusetts whether, when he made the remark just now that Kentucky was out of the ring for the present, he intended to bring Kentucky into the ring, and how and when?

Mr. ELIOT. I should like right well to answer that question, but it will take a little time. It is a mere matter of personal opinion that the gentleman inquires about, how long it would be before I should want to bring Kentucky into the ring, and what I would do with her. I have no sort of objection to answer the gentleman's question.

Mr. MALLORY. I want to ask the gentleman from Massachusetts whether he wants to confiscate the landed estate of my colleague [Mr. CLAY] in the State of Mississippi, knowing my colleague to be a Union man? Is he willing that this bill shall so operate as to call my colleague's property in Mississippi abandoned property, and to have that property taken and settled by freedmen, perhaps by the slaves of my colleague?

Mr. ELIOT. Certainly not, sir. Certainly not. We are kind-hearted people on this side of the House.

Mr. MALLORY. The gentleman's bill does that very thing.

Mr. ELIOT. Oh no, sir. I pray you read it.

Mr. MALLORY. I have read it, and I think the gentleman himself does not clearly comprehend it.

Mr. KNAPP. If I understand the gentleman, he claims that it is not proposed that this bill shall operate in the State of Kentucky at all.

Mr. ELIOT. No, sir, it does not.

Mr. KNAPP. I call the attention of the gentleman from Massachusetts to that part of the sixth section which gives the commissioners power to permit persons of African descent, and persons who are, or shall have become, free, to occupy, cultivate, and improve, all lands lying within those districts now or heretofore in rebellion, and all real estate to which the United States shall have acquired title. Now, under the operations of the various confiscation laws, the United States may acquire title to lands in Kentucky, and I desire to know from the gentleman from Massachusetts whether this bill is not intended to operate on these lands.

Mr. ELIOT. I ask the gentleman whether he intends to say that the State of Kentucky is in rebellion?

Mr. KNAPP. No; but I understand that a good many of the citizens of Kentucky have joined the rebellion, and that their property in Kentucky is liable to confiscation.

Mr. STEVENS. Mr. Speaker, has the morning hour expired?

The SPEAKER. It has.

Mr. STEVENS. Then I move to go to business on the Speaker's table.

Mr. HOLMAN. I raise the point of order that the gentleman from Massachusetts [Mr. ELIOT] having the floor the gentleman from Pennsylvania [Mr. STEVENS] cannot take the floor from him.

The SPEAKER. The gentleman from Indiana is familiar with the rule that allows any member to take the floor and move to go to the Speaker's table. The gentleman from Massachusetts has twelve minutes of unexpired time.

Mr. STEVENS. I merely want the Senate amendments to the internal revenue bill referred to the Committee of Ways and Means.

Mr. ELIOT. The gentleman from Pennsylvania has already consumed two minutes, and I have only twelve minutes in which to finish my remarks.

Mr. HOLMAN. I do not think that the gentleman from Massachusetts should be taken off the floor by the motion of the gentleman from Pennsylvania.

The SPEAKER. The Clerk will read the rule on that subject.

The Clerk read from Barclay's Digest a sentence stating that it is the invariable practice to permit a member, on the expiration of the morning hour, to take the floor, even though another member may be occupying it, to make the motion to proceed to business on the Speaker's table.

Mr. STEVENS. I merely wanted to have a bill referred to the Committee of Ways and Means. I have no objection to the gentleman going on and finishing his remarks. I withdraw my motion if the gentleman does not take it kindly.

Mr. ELIOT. Mr. Speaker, there is another view to take of this question of expense. There has not been a day since the fortunes of war first opened to the slave his way to freedom when there have not come to our forts and military camps and within our lines, everywhere when fort or camp or line was accessible, men and women, old and young, of all ages and conditions, healthy and strong, disabled and infirm. Everywhere our banner has been raised these fugitives have tended toward it as the needle turns toward its pole. And they have come under the stars of our flag with the faith of the mariner who holds his helm so that his disabled bark may keep its course northward although the tempest shall threaten and darkness is all around him, for he knows right well that above the storm the north star is shining and will guide him safely to his home. When they began to come General Butler received and retained them, for they were "contraband of war."

In old England when, by mischance, a man was killed, the thing that caused his death was held sacred, and called "deodand." The Union "as it was" has been dashed against the slave and destroyed. Let the slave be "deodand" forever, for he has been forfeited to God! But coming as these slaves did before proclamations or confiscation acts, our Government has been compelled to take them, to feed them, to clothe them, to shelter them, and they still come, and they would come without proclamation or law. They hail our successful generals as angels of deliverance, and when the Galena chieftain, who is sometimes alluded to on this floor by his irrepressible Representative, shall advance again his conquering armies, he will hear sounding through rice field and cane-brake and savanna and swamp, hearty and earnest hosannas to Universal Salvation Grant! These freedmen must live at the Government charge until they are permitted to support themselves. We cannot help it. We have not been able from the beginning to avoid it. In Virginia and Maryland and North Carolina and all down the Mississippi, and upon the sea islands of the South, the same causes have operated and the same results have followed. We have no means of knowing until the facts can be gathered from the different military departments how many rations or what other aid it has been necessary to provide for refugees from bondage. It ought, indeed, to be stated that such aid has been given not alone to colored refugees, but to the

"poor whites" to keep them from starvation. In the report of Messrs. Owen, McKay, and Howe to the War Department, it is said that—

"In November last General Butler was feeding in New Orleans thirty-two thousand whites, seventeen thousand of whom were British-born, and only ten thousand negroes; these last chiefly women and children, the able-bodied negro men being usually employed on abandoned plantations. Nor where relief has been required by both whites and blacks have the latter usually applied for or received in proportion to their number nearly as much as the former. Mr. Vincent Colver, appointed by General Burnside at Newbern, North Carolina, superintendent of the poor, white and black, reports that while seven thousand five hundred colored persons and eighteen hundred white persons received relief," * * * * "the average proportion dealt out?" * * * * "was about as one to each colored person to sixteen for each white person. At the time this occurred work was offered to both blacks and whites—to the whites at the rate of twelve dollars a month, and to the blacks at the rate of eight dollars a month."

It is also true that no needless expense has been incurred. Captain Hooper, in speaking of the department of the South, says:

"Where the Government has been obliged to support destitute contrabands it has issued only such portions of the Army ration as were absolutely necessary to support life. No fair-minded man acquainted with the facts of the case can say that in this department they have so far been a great burden to such a Government as ours."

I have no reason to believe that in any of our departments aid has been given where it was not necessary.

But the point I make is that large expenses are now incurred. And it is impossible to prevent this charge from being continued needlessly unless the Government shall take this matter in hand and by its own organized and systematic action enable the freedmen to support themselves. The sooner this bureau is efficiently established, the sooner that expense will be avoided.

Mr. Speaker, it is not possible that the work of this bureau can be properly performed by any agency except that of the Government. The argument on this point is well stated in the letter to the President from the freedmen's societies of Boston, New York, Philadelphia, and Cincinnati:

"There is not yet in the public mind any duly awakened sense of the magnitude of the negro question, as for two years there was not of the war itself. The Government must know, even better than the people, what the vastness of the question is, and it is not proper for us to ask it, Mr. President, the Government is doing, or preparing to do, what is necessary to meet it; to reduce the evils connected with emancipation to their lowest point, and elevate its blessings to the highest; to establish a system, carefully considered and adapted, and executed with energy and zeal, for the thorough and general dealing with the freedmen? It is plain to us, with our experience, that the question is too large for anything short of Government authority, Government resources, and Government ubiquity to deal with. The plans, the means, the agencies within any voluntary control are insignificant in their adequacy to the vastness of the demand. Our relief associations have discharged their highest duty in testing many of the most doubtful questions touching the negroes' ability and willingness to come under direction when direction has lost its authoritative character. They have proved the freedman's diligence, docility, and loyalty, his intelligence and value as a laborer. They have alleviated much want and misery also. But were their resources ten times what they are, and ten times what they can be made, they would be no substitute for the governmental watchfulness and provision which so numerous a race under such extraordinary circumstances requires. In our judgment the present and the future of the freedmen demands a kind and degree of study, of guidance, and of aid, which it is in the nature of things impossible the Government should give indirectly, or by means of any existing bureau or combination of bureaus. The case is large enough, serious enough, urgent enough, involving the nation's interest, its humanity, the respect of the people for the Administration, and our reputation throughout the world, to require the best ability the country offers, organized in a regularly constituted Government bureau, with all the military and civil powers of the Government behind it, with all the existing machinery of transportation, commissary stores, and quartermaster's facilities, with all the omnipotence of the national agencies coordinated and brought to bear upon the treatment of the case."

"We ask, then, your interposition with Congress, recommending the immediate creation of a Bureau of Emancipation, charged with the study of plans and the execution of measures for easing, guiding, and in every way judiciously and humanely aiding the passage of our emancipated and yet to be emancipated blacks from their old condition of forced labor to their new state of voluntary industry. We ask it for many reasons, but we will content ourselves with stating only two:

"1. It is necessary that there should be a central office, to collect from original investigations, and to receive from investigations already made and making, the now scattered information and varied and undigested testimony respecting the condition, wants, and prospects of the freedman. The amount of knowledge now existing in private hands, or local spheres and associations, is already great; but it is nearly useless for want of being arranged and brought into systematic order. If offered to officials already overburdened with care and duties, and laid before Departments which are not yet agreed as to the precise sphere within which it

falls. The honest differences of Departments as to their authority and responsibility in the case have been a chief obstruction to the methods of dealing promptly with the necessities of the freedman. Were a bureau in existence with no other duty but to attend to this vast and ever-expanding class of our fellow-creatures, countrymen, and citizens, it would at once be able to concentrate, and in the shortest possible time to methodize, the now diffused and disjointed testimony in the case, and from its central and commanding point of view to devise plans and measures which would satisfy the humanity and relieve the anxieties of the nation.

"2. It is not merely a central office that is wanted. It must be a Government bureau. The various freedmen's associations—rich, numerous, and powerful—might unite and establish a central office at Washington, in which should converge all the light and knowledge collected at the most distant points of the circumference, and from which wise and humane plans might originate and radiate in all directions. But such a central office, disconnected from the Government, as in that case by the hypothesis it would be, without any right to official information or assistance, would lack the chief illumination now required, which is simply this: a knowledge how the existing machinery of the Government in all departments can be brought to bear on the problem of guidance, support, and relief in this temporary though not brief state of the transition of millions of bondsmen from forced to free labor. This is a problem in which the vast, costly, omnipresent machinery and agencies of the Government already existing, with the least possible additions and the least possible disturbance, are to be economized and applied to the work of starting and aiding a humane process of emancipation."

Mr. Speaker, I will not at this time discuss at length the brief and simple provisions of this bill. The duties imposed on the Commissioner are large, but not more so than is necessary to make the bureau effective. It is connected with the War Department for obvious reasons. From the beginning of the rebellion the military power which effected the freedom of the slave has been invoked for his protection. The power of the War Department is required to command respect and obedience where rebellion has so recently had control. In fact, most that has hitherto been accomplished to organize and adjust labor, excepting the action under the tax act of June, 1862, has been done under authority and pursuant to orders which have emanated from that Department, and for the present there can be no doubt that the functionaries employed should find their official chief in the Secretary of War.

Sir, my duty will not have been performed without stating distinctly the clear constitutional power of Congress to legislate in the direction of this bill.

1. By the Constitution the President is made Commander-in-Chief of the Army and Navy of the United States. He has, therefore, in time of war all the powers which by the recognized laws of war are conferred upon that high office. Such powers are as constitutional as that to appoint an ambassador with the advice and consent of the Senate, or a judge of the Supreme Court. By the rebellion the war powers of the President and Congress have been invoked and are in force; among them the power to liberate the slaves of the enemy is one of the most efficient and humane. That has been used. But the power to liberate three million slaves involves the duty of their needful protection. Without that the exercise of the power to liberate might be a crime. Such protection by the Government which made free cannot be given without the action of Congress. Without that the power of the President cannot be carried into effect. By the direct terms of the Constitution Congress has power to make all laws necessary to carry into execution all the powers conferred upon the President.

2. Congress has power to declare war and to "make rules concerning captures on land." The slaves liberated by the confiscation act, and to be liberated by its provisions, are captives of war, and as such are proper subjects of our legislation.

3. Congress has power "to make rules for the government and regulation of the land and naval forces." Legislation has become necessary and laws have been passed to regulate the conduct of the Army in regard to slaves found in the enemy's country, and to prohibit our officers from returning them to slavery. But those laws would be imperfect in their operation and might be oppressive in their results without further legislation; and so a necessity has arisen for an act to protect the freedmen.

4. The President, as Commander-in-Chief, has a right to issue all proclamations within the power of military commanders, as recognized by the laws of war, addressed to the public enemy. The faith of the nation is pledged to make good those proclamations, to maintain their provisions, and to ful-

fill the pledges which they contain or by necessity imply. The proclamation of freedom has liberated men oppressed by a life-servitude. Those men are now subjects of the Government. They owe it allegiance, and are as such entitled to its protection. To that end this legislation is required.

Upon all these grounds this bill may securely rest. But if all proclamations were wrong and all laws were without constitutional support which have sought to liberate the slaves of enemies, still the rebellion itself has freed them and they are subjects of our charge. We must protect them or be faithless in our office.

And now, Mr. Speaker, I have stated the imperative necessity of this bill, the high objects which we would accomplish, its brief provisions, and its legal right to our support. It remains to discuss its expected benefits to the freedmen and to ourselves. But first I would invoke the attention of the House to a report submitted by the honorable gentleman from New York, [Mr. KALBFLEISCH,] and signed by him and by his colleague on the committee, [Mr. KNAPP,] in opposition to this bill, for it assumes to present the argument against the legal power of Congress to legislate and against the expediency of our present action. Its formidable exordium is worthy of note:

"That a careful examination of the provisions of the bill under consideration has convinced your committee that it not only involves grave and important questions, but likewise a task of great magnitude to overcome the legal and apparently just objections which arise upon a fair scrutiny of its contents. Humanity may be pleaded in favor of the passage of the bill, but great caution will have to be exercised, not only that the plea be well founded, but that no unintentional injustice be perpetrated thereby."

One may feel justified in approaching with some timidity an argument thus heralded. But there need be no fear. These four questions are proposed for discussion:

"1. Has Congress the legal power to establish a bureau for the purposes contemplated in the bill; and are the matters intended to be legislated upon within the province of and of a character to make them proper subjects for national legislation?"

"2. Has Congress the constitutional power to impose a tax upon the citizens of one State to support the indigent freedmen of another State, no matter how humane and charitable the motive prompting the act?"

"3. Will the passage of the bill in question produce the effect intended or desired? May not results directly opposite to those anticipated by its friends flow from it, and a new system of vassalage, only differing in its appellation with the one hitherto existing between the freedmen and their masters, be inaugurated?"

"4. Should not the bureau, if established, be under the control and direction of the Department of the Interior, instead of the War Department?"

It would be a figure of speech which I am not bold enough to use, to say that these questions are argued. The legal argument upon the first two propositions is disposed of summarily. This is it:

"Your committee are of opinion that Congress has no legal power to carry into effect all the provisions of the contemplated bill. A plea of humanity, policy, or war necessity may be urged in favor of assuming the power, and a forced construction placed upon the plain letter of the Constitution to sanction the act. But a great stretch of power and an unwarranted perversion of the language of the fundamental law will have to be resorted to in this instance to attain this end."

But the minority of the committee do not deem it to be worth their while to state the grounds of their opinion, or any reasons or authority in its behalf. The Commander-in-Chief has used the power of war to declare freedom to the slaves of enemies. Had he a right to do so? The minority of the committee do not deny it. Laws of Congress have been passed to the same end. But the validity of these laws is not brought in question. The fact exists that a nation of freedmen has been created, and that many hundreds of thousands of men, women, and children who had been in slavery are now within our lines and under our protection, and that they must be at Government charge until aided to self-support. The great question is not approached. But the "committee fail to comprehend" "why the freedmen of African descent should become these marked objects of special legislation to the detriment of the unfortunate whites." These freedmen when in slavery composed the working power of the rebellion. That power has been wrested from the enemy so far as the proclaimed freedom has been enforced. We have a right to make that power available to ourselves. But to this end legislation is required. That is one reason. After a life of servitude, inherited from slave ancestors stolen from their

homes and subjected by force to the control of their masters, these freedmen thus invited to freedom for our own security, and recognized as men, have this right, which will not be denied by any theorist of any party; that is to say, the right to earn among us their own subsistence. To that end this legislation is required.

But to what "detriment" of what "unfortunate whites?" The burden of their support is now on the Government and must be borne, and if a "tax upon the labor of the poor" is the detriment and the "less favored white men" are the "unfortunate whites" referred to by the report, who must bear the tax? Then let this bureau be quickly organized, for so the burden will be at once lifted up and the "detriment" be converted into profit. It is objected to this bill that its "machinery" is insufficient, and that it will be well to leave it with its originators until an intelligent and well-defined system has been matured. Then let the objectors suggest more operative machinery, and by judicious amendments perfect the system. Men, who know by study and by sight the wants of the freedmen and of the Government, have carefully examined the provisions of this bill. The "machinery" by which this bureau will become most useful and effective must be made in the light of experience and by judicious and wise men, mindful equally of the rights of the Government and the necessities of the freedmen. A detailed system of government embodied in this organic law would be unwise and prejudicial to all the interests concerned. But two gentlemen, who represent the minority of the committee, say:

"If these freedmen of African descent are still slaves, and the Government have inherited or taken by conquest the position of their masters, they are of course liable to be separated from the free population, have their tasks assigned them, and their wages controlled and established by the representatives of their masters; but if the presidential proclamation has had any effect, and if they are freedmen in anything else but in name, in the opinion of your committee, the Constitution of the United States and of the several States prescribes that jurisdiction over most of the subjects mentioned in the bill shall be vested in the judiciary."

Mr. KALBFLEISCH. Do I understand the gentleman from Massachusetts to say that only two members of the committee dissented from the majority report?

Mr. ELIOT. I say so.

Mr. KALBFLEISCH. That is not my understanding. The gentleman from New Jersey [Mr. MIDDLETON] was not present in committee, but I believe he coincides with our views.

Mr. ELIOT. The gentleman from New Jersey is present now, and can contradict my statement if it is not correct.

What does this mean? This bill does not seek to separate the freedmen from the free population, or to assign them tasks, or to control and establish wages. But assuming the effectiveness of the proclamation, on what does the "opinion" rest that the constitutions of the several States vest in the judiciary "jurisdiction over most of the subjects mentioned in the bill?" What constitutions and what States are referred to? Is the sovereign State of South Carolina one of them? But the report finds that too many clerks may be appointed at Washington; that in fact they may be appointed without any limitation as to number "except that they are restricted to two in a class, but without any limitation as to the number of classes." The "careful examination" which the minority of the committee have given to this matter has failed to inform them that there are just four classes of clerks, and that two of each class would therefore give eight clerks precisely, if the whole number authorized by the bill should be appointed. "It appears," argues the report, "depending entirely upon the necessity existing in his mind whether" "the power of disposing" of "these freedmen may not revive most of the odious features of slavery without its name." This argument defies analysis, and cannot be made more clear than by its statement; but it was not quite fair to refrain from showing how it appears that such contingency might depend on such necessity existing in the mind of the Secretary of War.

But the minority of the committee feel it to be right to say:

"Under the provisions of the bill the freedman may be as effectually stripped of the proceeds of his labor to build up the fortunes of an avaricious superintendent as though he were under the control of a master, without enjoying

the benefits of the protection and support the system of slavery affords."

This gratuitous statement is without justice or fairness, or foundation in fact. Under the fair administration of this bureau no superintendent can oppress the freedman for personal gain. This must have been obvious if examination had been given to the provisions of the bill. The criticism is, not true. But this remarkable report proceeds to say:

"Large sections of rebel slave territory have been brought within the military power of our Government; and it is highly probable that still larger portions of such territory will be added thereto. Your committee cannot conceive of any reason why this vast domain, paid for by the blood of white men, should be set apart for the sole benefit of the freedmen of African descent, to the exclusion of all others, and leased for an unlimited time, thereby preventing its occupation, except by them, at least for a long time to come. It seems to your committee incomprehensible, nay, extremely unjust."

What seems "incomprehensible, nay, extremely unjust?" These gentlemen cannot conceive of any reason why this domain should be set apart for the exclusive benefit of freedmen! But why complain because of that inability? This bill does not tax their power in that direction. Such proposed use of these lands would be simple enough and "comprehensible," whether just or unjust, but the proposition before the House involves the consideration of no such question.

The report of the minority becomes more unfair as it draws to its close. It says:

"The bill proposes to give to each petty superintendent the determination of all questions relating to the disposition and direction of all persons of African descent becoming free under any proclamation, military rule or order, or by any act of the State governments, with power to establish and enforce regulations such as may be deemed proper for the judicious treatment and disposition of such freedmen, and with power to assign lands, &c. An institution like this, which assumes the functions of the judiciary over a large portion of the population, and combines with it the domestic management of the master over the personal and household matters of the freedman, cannot be carried out without spreading a network of officials over all the conquered States as numerous as the slavemasters whom this system supersedes."

The bill proposes no such thing. It is difficult to see how one of fair intelligence could examine its provisions and make such a statement. But it is as difficult to believe that any honorable opponent could make it without examination. Upon this point the bill shall speak for itself. The President is empowered to appoint, with the advice and consent of the Senate, a "Commissioner of Freedmen's Affairs"—

To whom shall be referred the adjustment and determination, under the direction of the Secretary of War, of all questions arising under this act, or under any laws now existing or hereafter to be enacted, concerning persons of African descent and persons who are or shall become free by virtue of any proclamation, law, or military order issued, enacted, or promulgated during the present rebellion, or by virtue of any act of emancipation which shall be enacted by any State for the freedom of such persons held to service or labor within such State, or who shall be otherwise entitled to their freedom. And the said Commissioner shall have authority, under the direction of the Secretary of War, to make all needful rules and regulations for the general superintendence, direction, and management of all such persons, and to appoint a chief clerk who shall be also a bonded disbursing officer, and shall have an annual salary of \$2,000, and such number of clerks, not exceeding two of each class, as shall be necessary for the proper transaction of the business of said bureau.

The sixth section of the act provides as follows:

That the said assistant commissioners shall, under such regulations, directions, and orders as may be given by the Commissioner of Emancipation from time to time, appoint all necessary resident superintendents and clerks, who shall be paid for their services such reasonable compensation as the Commissioner shall determine, under the direction of the Secretary of War, not exceeding the ordinary and usual compensation for similar service in other Departments; and the said Commissioner, and by his direction the said assistant commissioners, shall have power to permit persons of African descent and persons who are or shall have become free, as aforesaid, under such rules and regulations as may be from time to time prescribed by said Commissioner and approved by the Secretary of War, to occupy, cultivate, and improve all lands lying within those districts now or heretofore in rebellion, which lands may have been or may hereafter be abandoned by their former owners, and all real estate to which the United States shall have acquired title, and which shall not have been previously appropriated by the Government to other uses, and to advise and aid them, when needful, to organize and direct their labor, adjust with them their wages, and receive all returns arising therefrom, which shall be duly accounted for to the Commissioner of Freedmen's Affairs; and all balances, if any there be, after defraying the charges and expenses of the bureau, shall be annually paid into the Treasury of the United States. The said assistant commissioners and superintendents shall have power, as arbitrators, to bring to conciliation and settlement all difficulties arising between freedmen, except when resort to a provost judge or other legal tribunal becomes necessary.

The closing paragraphs of this report are as follows:

"Could this at once be made a self-sustaining system, to be supported by the labor which it controls and directs, and for whose benefit it is intended to act, there might be a semblance of propriety and justice in its proposed inauguration. But if it is to be converted into a grand almshouse department, whereby the labor and property of the white population of the country is to be taxed to support the pauper labor of the freedmen and mendicant officials of the country, its operations cannot be too closely scrutinized."

"The Government have as yet been rather unfortunate in their efforts in behalf of the freed slaves, and it seems to your committee to be very desirable that legislation upon this subject, if it can be done legally, should be confined to the absolute existing wants of the country. After the transition state through which we are now passing shall have ended, and the character and position of this class of our population shall have become better defined, the rights of the Government to the title of the confiscated property determined by competent authority, it will be time enough to initiate a system adapted to their wants and capacities, and calculated for their protection and humane treatment."

How can this system be made self-sustaining until it is inaugurated? We have no doubt, and the minority of the committee do not deny, that the labor for whose benefit it is proposed to act will support this bureau. Its propriety and justice will then be vindicated upon industrial and material grounds as fully as upon grounds of humanity its necessity is now apparent. Of course its operations must be closely scrutinized if it is converted into an "almshouse department." But the scrutiny will be in season when the conversion is apprehended. But what if it be true that Government has been unfortunate in its efforts in behalf of the freed slaves? The Government has done what it could. But Congress has done nothing. The fact asserts the need of action, at once and effective, that such reproach shall be removed. Let legislation be confined to the "absolute existing wants of the country." That is all we propose. But that which is demanded should be had without delay.

Is it true, Mr. Speaker, that we should wait until the quiet of peace shall have hushed the echoes of this war before we initiate any system adapted to the wants and capacities of these freedmen? What can there be in the "character and position of this class of our population" that needs to be defined before we act? Their "character" is not unknown to us. Their social degradation compelled by slavery, their trustful nature, their thirst for knowledge, their willingness to work for the wages of labor, their yearning after what the white man also covets—position, and property which will secure position—we know these things. But we do not know, and shall not until we give them the rights of men, what are their full capacities for that life which is above the material life and that "pursuit of happiness" which aims at ends beyond the horizon which slavery defines.

But what shall be done before that time arrives? Is it the purpose of these gentlemen and of those who act with them in this House that our Government shall maintain these freedmen without system and at unlimited and indefinite cost, furnishing rations and hospital supplies and clothing and keeping them in camps under military rule? If this were possible is it wise? And when the time shall have come at which the gentleman from New York (Mr. KALBFLEISCH) suggests that a system for their humane treatment may be initiated will it be more lawful or constitutional to act then than now? Why, sir, the case is too plain for argument. Now is the accepted time. And this Congress will bear the deserved reproach not only of this great-hearted nation, but of all nations of Christian men, if we falter in this work.

Mr. Speaker, it has somewhat appeared already how the parties to this bill will be the better for the law. But I would take a wider view of this grand work which the war has put upon us. From its commencement no man has been able to anticipate events; nothing has occurred as the wisest seer predicted. Great generals have failed, and men unknown to fame before have conducted us to victory. Battles have been won in the valleys and "above the clouds" by a rank and file bravery which the annals of military history cannot rival. Who of us has not had occasion to say, "Not unto us, but unto Thee, O God! be rendered praise!"

And now out of the war a new nation of men has arisen. No power in Constitution, in President, or in people outside of the rebel States could have held out to them its liberating arm in time of

peace. The mad ambition of slaveowners, which struck at the life of the nation to give new life to slavery, disclosed the power to strike back the blow, and in the fullness of time a man was found commissioned to the work.

We read that in the beginning God said, "Let there be light, and there was light." But since the beginning human agencies have worked out the ways of Providence; and never in history since that great fiat has it been given to more than one man to lift up from three million souls the darkness and the doom of slavery. Our duty He has assigned us now. It may be that by some other phrase of law or form of act the mutual interests of the Government and of the freedmen within its borders might be secured. I believe that this bill, wisely administered, will complete the work.

It will enable the Government to help into active, educated, and useful life a nation of freedmen who otherwise would grope their way to usefulness through neglect and suffering to themselves, and with heavy and needless loss to us.

They are children of the Government. By the necessities of war deprived of the guiding and controlling hand which had held in stern mastery their earthly destinies, they are unused to rights heretofore denied them, yet they know somewhat of them by instinct and by association. No matter how abject the slavery, the idea of freedom is in the soul, and when the friendly hand has been extended the freedman has shown capacity and will to walk as a man among men. What they require is to be made sure that they are free, and to be furnished a chance to work and to be guaranteed their reasonable wages. Work they understand. Their mothers worked before them, and went down into dishonored graves, cursed by the unpaid toil of bondage. But wages they have not owned, and in the right to earn and to enjoy them they find their manhood. Soon they will find the place they have a right to fill. Quick to learn, appreciating kindnesses, and returning them with veneration and affection, earnest to acquire property, because that too is proof of manhood, they ask but opportunity, and guidance, and education for a season, and then they will repay you some thirty, and some sixty, and some an hundred-fold.

Without your legislation the freedmen able to fight will be alienated from your cause; the freedmen unfit for service, with the young and the aged and infirm, will be a charge upon your Treasury. But give the aid which this bill can secure to them and you will quickly find not only that peace which comes from duty well discharged, but material strength and a recompense of reward which after all the expenses of your bureau shall have been defrayed will contribute to your wealth.

So shall this, your act, give to the freedmen of the South and to all the freedmen whom you represent, "beauty for ashes, the oil of joy for mourning, and the garment of praise for the spirit of heaviness."

Mr. COX. Mr. Speaker, I move that this bill be referred to the Committee of the Whole on the state of the Union, where there may be the fullest discussion of this whole subject.

Mr. STEVENS. I move that the House proceed to the business upon the Speaker's table. The morning hour has expired.

Mr. COX. I wish to state that the members on this side of the House are willing that this subject shall be referred to the Committee of the Whole on the state of the Union. I hope that will be agreed to by unanimous consent.

Mr. WASHBURN, of Illinois. I object.

Mr. COX. Who has the floor the next time the House resumes the consideration of the bill for the establishment of a Bureau of Freedmen's Affairs?

The SPEAKER. The first business in order will be the gentleman's motion to refer the bill to the Committee of the Whole on the state of the Union.

INTERNAL REVENUE.

Mr. STEVENS moved that the House proceed to the business upon the Speaker's table.

The motion was agreed to.

The SPEAKER laid before the House amendments of the Senate to House bill No. 122, to increase the internal revenue, and for other purposes.

Mr. STEVENS moved that they be referred to the Committee of Ways and Means, and ordered to be printed.

The motion was agreed to; there being, on a division—ayes 83, noes 14.

Mr. STEVENS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ARKANSAS CONGRESSIONAL REPRESENTATION.

Mr. DAWES. I rise to a question of privilege. I have the credentials of JAMES M. JOHNSON, from the third congressional district of Arkansas, which I ask may be read and referred to the Committee of Elections.

The credentials were read.

Mr. DAVIS, of Maryland. I move that the credentials be laid upon the table.

Mr. DAWES. I ask the gentleman to forego his objection, and to extend the usual courtesy to this gentleman, to permit his credentials to be referred to the Committee of Elections.

The SPEAKER. Debate is not in order, except by unanimous consent. This being a question of privilege, can be called up at any time.

Mr. DAWES. I appeal to the gentleman to withdraw his objection, and let the credentials be referred to the Committee of Elections.

Mr. DAVIS, of Maryland. I think that we might as well decide the question at once. I do not wish to take up the time of the House, but this question involves mileage and pay and other questions, such as we had in the Louisiana case.

Mr. DAWES. The gentleman moves that the credentials shall be laid upon the table, where no one can be heard.

Mr. DAVIS, of Maryland. Let it rest for the present.

UNEMPLOYED GENERAL OFFICERS.

Mr. SCHENCK. I ask unanimous consent to report from the Committee on Military Affairs a joint resolution to drop from the rolls of the Army unemployed general officers, that it may be printed and recommitted to the same committee.

Mr. COX. I ask, my colleague one question. Has not the President the power to dismiss these officers at his own pleasure without any further legislation by Congress?

Mr. SCHENCK. I do not think that he would feel that he has that right. Whether he has or not there is no harm in passing this and stimulating him. I do not propose to discuss it now.

Mr. COX. I object, because this is a thrust at some generals who have been unjustly unemployed.

CONSCRIPTION.

Mr. SCHENCK moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The CHAIRMAN stated the question to be upon the amendment offered by the gentleman from Ohio, [Mr. SCHENCK,] as follows:

Amend by striking out the seventeenth section as follows:

Sec. 17. *And be it further enacted*, That provost marshals, boards of enrollment, or any member thereof acting by authority of the board, shall have power to summon witnesses and enforce their attendance by attachment without previous payment of fees in any case pending before them, or either of them, and the same witness fees and costs shall be allowed as may be allowed in the district courts of the United States, and they shall have power to administer oaths and affirmations; and any person who shall swear or affirm falsely before any provost marshal or board of enrollment, or member thereof acting by authority of the board, or who shall, before any civil magistrate, swear or affirm falsely to any affidavit to be used in any case pending before any provost marshal or board of enrollment, shall, upon conviction, be fined not exceeding \$500, and imprisoned not less than six months nor more than twelve months.

And inserting in lieu thereof the eighteenth section as reported by the committee, as follows:

Sec. 18. *And be it further enacted*, That provost marshals, boards of enrollment, or any member thereof acting by authority of the board, shall have power to summon witnesses in behalf of the Government, and enforce their attendance by attachment without previous payment of fees in any case pending before them, or either of them; and the fees allowed for witnesses attending under summons shall be five cents per mile for mileage, and no other

fees or costs shall be allowed under the provisions of this section; and they shall have power to administer oaths and affirmations. And any person who shall willfully and corruptly swear or affirm falsely before any provost marshal or board of enrollment, or member thereof acting by authority of the board, or who shall, before any civil magistrate, willfully and corruptly swear or affirm falsely to any affidavit to be used in any case pending before any provost marshal or board of enrollment, shall, on conviction, be fined not exceeding \$500, and imprisoned not less than six months nor more than twelve months.

Mr. STEVENS. I move to amend the amendment by adding after the word "attachment," in the fifth line, the words, "and process shall issue in behalf of the drafted man to bring in his witnesses." I merely wish to say that I think the drafted man, if there be a trial, ought to be allowed process to compel the attendance of witnesses. In all criminal cases the commonwealth always allows the accused process to secure the attendance of his witnesses, and it is done at the cost of the commonwealth.

Mr. SCHENCK. I will explain in a very few words why, after due consideration, this was not adopted by the Committee on Military Affairs as a feature of this section, and why I think the committee were right in their conclusion. The practice now is for persons claiming exemption on the ground of age, physical disability, or any other cause, to produce before the board of enrollment the certificates of their neighbors, their own affidavits, and such other documentary proofs as they may desire to present. The gentleman now proposes that in addition to that the board of enrollment shall summon and examine such witnesses as the drafted man may indicate. Now, if witnesses are brought in under summonses they will get mileage under the provisions of this bill, and if they are to get mileage what is there to prevent enormous abuses? The person drafted may summon all his neighbors, pretending that he wants their testimony, thus giving them an opportunity to visit the county seat with the assurance that their mileage will be paid by the Government. If this rule were adopted it would be liable to great abuses.

Mr. W. J. ALLEN called for tellers on the amendment to the amendment.

Tellers were ordered; and Messrs. BALDWIN of Massachusetts, and W. J. ALLEN, were appointed. The committee divided; and the tellers reported—ayes 50, noes 54.

So the amendment to the amendment was disagreed to.

Mr. STEVENS. I move to amend the amendment by adding to it the following words:

That drafted men shall have process to bring in their witnesses, but without fees or mileage.

Mr. GARFIELD. I hope that amendment will not prevail, for the reason that it will lead to a long array of trials; every man who desires to escape the draft will ask a postponement and the summoning of witnesses, and it will drag out the business indefinitely. Drafted men constantly bring in their testimony now.

Mr. STEVENS. I will save the gentleman trouble. If it is thought that drafted men ought to have no chance, I will withdraw my amendment.

Mr. GARFIELD. I have thought nothing of the kind, and have said nothing of the kind. Drafted men now have a right to bring their witnesses before the boards, and do bring them; but what we propose is that they shall not have the authority of the Government to compel all men everywhere that they choose to name to come in as witnesses. I will remark that all kinds of amendments to this bill which tend to prolong the time of deciding whether a man is properly drafted or not will simply burden it and destroy its efficiency, and this amendment will have that effect, although not intended to do so at all.

The CHAIRMAN. Does the gentleman from Pennsylvania withdraw his amendment?

Mr. STEVENS. I have withdrawn it already.

The CHAIRMAN. The gentleman had not the floor to withdraw it at that time. Does he withdraw it now?

Mr. STEVENS. No, sir; I will take a vote upon it.

The question was taken on the amendment to the amendment; and it was agreed to—ayes 66, noes 37.

Mr. KELLOGG, of New York. I offer the following amendment to come in at the end of the section:

And when claim is made for the discharge of a person in

any manner in military service, and under the age of liability therefor under this act, without the consent thereto of his parent or guardian, the board of enrollment of his district shall hear evidence adduced and decide thereon; and if found entitled to exemption on such claim shall discharge such person and strike his name from the enrollment: *Provided*, Such person or his parent or guardian shall first pay back in such manner as shall be directed by the Provost Marshal General all bounties, general and local, he may have received for entering such service.

On looking over this provisions of the bill, Mr. Chairman, I do not see that any provision is made for the cases enumerated in the amendment. Under the operation of the suspension of the writ of *habeas corpus* there is no remedy that I can discover in cases of minority. There are undoubtedly cases where minors enter the service for the purpose of defrauding the Government, of receiving local and general bounties, and then claim to be discharged from the service on the ground of their minority. My amendment guards against that by requiring that where the discharge of a minor is claimed, and where the claim is authenticated by evidence, he shall first pay back all the bounties, local and general, that he has received, in such a manner as may be approved by the Provost Marshal General. I have even thought that clothing also should be reimbursed; but it seemed to me that that would extend the difficulty too far; although I should be willing that that be made a condition also.

I consider that it is our bounden duty here to provide some remedy for cases of this kind. I suppose there are cases within the knowledge of every member on this floor where exemptions are claimed for minors who have been wheedled into the service; but inasmuch as there is no tribunal established by which their cases can be adjudged, they are cut off. It seems to be our duty to supply this defect. I ask, therefore, that my amendment be considered, and if it meet the approbation of the committee that it be incorporated in the bill.

Mr. GANSON. I agree with my colleague [Mr. KELLOGG] that there should be some remedy in the cases of minors who are in the service without the consent of their parents and guardians. I agree with him, also, that if they are to be discharged they should return, as a condition precedent to the right of discharge, whatever bounties they have received. I am happy to state that I had drawn a section, which I proposed to offer, restoring the privilege of the writ of *habeas corpus* to all cases relating to an alleged minor who has been, or may hereafter be, enrolled or drafted into the Army. I proposed to modify the first section of the act of 1863 which authorizes the suspension of the privilege of that writ so as to allow the writ to issue in the cases referred to. I do not myself think it best for us to confer on these local boards the power of examining into these cases, but that we ought to extend to them the privilege of the writ of *habeas corpus*.

In my section of country—I do not know how it is elsewhere—the judges have uniformly in the cases of minors made it a condition precedent that the minor whose discharge is claimed shall restore any bounty he may have received. Of course he should do that under all circumstances. I should prefer to the amendment proposed by my colleague the adoption of the section which I have drawn.

In my judgment there is no well-grounded apprehension that if the privilege of the writ be restored it will be abused. In the northern district of New York, comprising two and a quarter millions of people, there were applied for, in the United States district court within the twelve months preceding the suspension of this writ, only twelve writs. Four or five of them resulted in the discharge of the parties. I have therefore never been able to see the necessity for the suspension of this privilege, at least in that section of country; and I think there should be no objection to restoring the privilege to children. I do not see how the Republic can suffer by it. That does not come within the class of cases referred to by the gentleman from Illinois the other day, who was speaking of arbitrary arrests. I desire to serve notice on the other side of the House that in this proposition I am not actuated by any political motive at all. I am only actuated by what I deem to be right and proper. I think that the proper tribunals to examine these cases are the judicial tribunals established by the laws of the land, and that it is neither necessary nor proper

for us to create any other local tribunal to examine them.

[Here the hammer fell.]

The CHAIRMAN. Does the gentleman from New York [Mr. KELLOGG] accept the substitute of his colleague?

Mr. KELLOGG, of New York. I do not. I desire to state to the committee that, on consultation with the Provost Marshal General, he informed me that some provision of this kind should be incorporated in this bill, or be enacted by Congress in some shape or form.

The question was taken on Mr. KELLOGG's amendment, and it was rejected.

The question recurred on Mr. SCHENCK's amendment, to substitute the eighteenth section of the House bill for the seventeenth section of the Senate bill, and it was adopted.

The Clerk read the nineteenth section, as follows:

Sec. 19. *And be it further enacted*, That members of religious denominations, who shall by oath or affirmation declare that they are conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denomination, shall, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of \$400 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers; and such persons shall then be exempted from draft during the time for which they shall have been drafted.

Mr. STEVENS. I move, in order to make this section harmonize with the previous amendments, to strike out "four" and insert "three," so that the commutation shall be \$300.

The amendment was agreed to.

Mr. SCHENCK. I move to strike out these words:

Or shall pay the sum of \$300 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers; and such drafted persons shall then be exempted from draft during the time for which they shall have been drafted.

Mr. Chairman, I am instructed by the Committee on Military Affairs to say that they are disposed to incorporate into any general substitute for the Senate bill as much of this section as will be left by my amendment. The remaining portion of the section simply treats of commutation money, and provides for the application of it to a special fund. So far as that is concerned these persons will have the same prejudice to this that they have had previously. I propose to strike out the provision for the special application of this fund. I think that it would be improper; that it would be inconvenient. I believe that it would be a bad precedent to undertake to direct that the commutation money paid by these men shall be diverted from the general uses of the fund to procure substitutes and to create a special fund, even though for as benevolent an object as that indicated. I think that all commutations should go into the same general fund and be used in the same general way. Much unnecessary inconvenience and expense would result from breaking that fund into parts.

Mr. STEVENS. I oppose the amendment. The whole question involved in this section is covered by the amendment of the chairman of the Committee on Military Affairs. We all know what are the conscientious scruples of the Society of Friends. While they are loyal men, it is against their religious belief that they shall either themselves bear arms or pay money to procure others to bear arms to destroy their fellow-men. They will not object if the fund can be appropriated to anything but actual slaughter. They do not object to furnish their portion of the money necessary to carry on the war, and to bear the general expenses of the Government. If you mix it with the general fund, whether their scruples are sensible or not, they exist; and to put their commutation money into the general fund to procure substitutes to bear arms against their fellow-men is against their religious belief—one which they honestly entertain, and rather than sacrifice which they would suffer any punishment.

We all know that the amount to be paid by these men would not amount to one tenth of what is the expense of the hospital service to which this commutation money is to be applied. There is no difficulty in paying it for that purpose; and we thereby relieve the conscientious and religious scruples of a worthy class of men who, while they

are willing to pay it, ask that they shall not be drawn into any violation of the faith in which they have been raised, and to which they honestly adhere. I do not think it right to coerce the consciences of any class of men because their religious belief is not such as meets with the approval of our judgment. I think that the only true sect is the old Hardshell Baptists. There are those who think otherwise. So far as it is a religious question, I consider myself bound by the Constitution and policy not to violate their religious belief. While we compel them to pay commutation money, we ought not to make them pay it for any purpose inconsistent with their religion or oppressive upon their consciences. I trust, therefore, that the House will see the propriety of retaining what is proposed to be stricken out.

Mr. FARNSWORTH. I move to strike out the last word and insert the words "upon that quota." I think that we ought not to make a distinction between this class of persons and other classes as to the length of time for which they shall be exempted on payment of commutation.

Mr. STEVENS. I would say to the gentleman from Illinois that we have already amended the fourth section of the bill, and this section as it stands is right. If the proposed amendment is adopted it will be contradictory to the fourth section.

Mr. FARNSWORTH. I do not so understand it. The amendment to the fourth section was that a person under certain circumstances should be exempt from draft on that particular quota. The language of this section is that he shall be exempt during the time for which he shall have been drafted. The roll may be exhausted long before the expiration of the three years. It may be exhausted in one year, or in two years. At all events, it strikes me that the committee ought not to make a further distinction in favor of that class who may, by oath, declare that they are conscientiously opposed to bearing arms. We all know how easy it is for men to take such an oath. We had an amendment proposed the other day by a gentleman from New York exempting all persons who would swear that they were conscientiously opposed to bearing arms in this war. Many men, when drafted, will not scruple to swear that they are conscientiously opposed to bearing arms when they have no religious belief about it, and when they do not belong to any church.

[Here the hammer fell.]

Mr. DEMING. The committee, in drafting their amendment, proceeded upon the ground that every citizen in time of war owes military service to the Government, unless he pays a certain sum in lieu of such service, or unless he furnishes a substitute. They were urged by a great many gentlemen to adopt a broader principle, that every citizen in time of war owed military service, thus summarily rejecting both commutation and substitution as an exemption for personal service.

But after reading a great multitude of letters, after examining the reports from different provost marshals in the office of the Provost Marshal General, and after having examined the conscription law of England, of France, and of Prussia, they determined to adopt the narrower principle, and, in order to carry out that rigidly, they were opposed to making conscientious scruples a ground for exemption.

The committee had before them most voluminous petitions from all parts of the country; from clergymen whose consciences tell them that their office is too holy to engage in a contest which the nation is waging for its life and for its honor; from Evangelical Lutherans, whose consciences tell them there is no national emergency which calls their pastors to the war; from Quakers and Friends, whose consciences tell them that if their right cheek is smitten they shall turn their left to the smiter also; from the Society of Ebenezer, who claim special inspiration, and whose consciences tell them they must use no deadly weapon against a human being; and from the elders of the Anama society supporting the Ebenezer elders.

The committee found that in addition to those before them by petition there was a vast crowd ready to rush in for exemption if the door was once opened, and the principle once admitted that conscientious scruples is a ground of exemption. There are the Dunkers, the Shakers, and the Mo-

ravians, all holding principles in common with the Quakers. There are also the Mennonites, whose conscience tells them to take no oath, to do no violence to any man, to take patiently the spoiling of their goods, to pray for their enemies, and to feed and refresh them when hungry or thirsty. We also had petitions from the Rog-erens, whose consciences tell them to obey no human law; and last, but not least, we had an application from the peace Democrats to be relieved from service upon the ground of being conscientiously opposed to the war. [Laughter.]

It was thought such a vast door would be opened by admitting conscientious scruples as a ground of exemption that the committee were in favor of rejecting it entirely. From the best information we could get there are now five hundred thousand non-resistants in the country; and if this principle is once adopted there will be an active revival among all the non-resistants soon, and their ranks will be suddenly and fully recruited, at least. It was in view of the immense number that might claim conscientious scruples as a ground of exemption, either truly or falsely, that induced the committee to oppose exemption from conscientious scruples altogether.

Mr. STEVENS. I do not understand that this bill grants exemption to any conscientious men, nor does any proposed amendment do it.

Mr. DEMING. The clause now under consideration certainly grants exemption from conscientious scruples. It exempts from field duty, at least; and it was upon the grounds I have avowed that the committee determined not to provide in their amendment any exemption whatever from conscientious scruples. But upon consultation with members upon this floor, particularly members representing non-resistant constituencies, we found that there is an earnest wish, so far as their respective districts are concerned, that some amendment of this kind should be introduced into the bill.

Well, now, if we are to legislate for gentlemen's particular constituents, instead of looking over the whole field and legislating for the country at large, there will be wisdom in introducing the section which is in the Senate bill, to wit, section nineteen. But if you wish that those men who either feign or really have conscientious scruples shall engage in the service and do their share in sustaining the public burdens, it will certainly be unwise, and it would be a very bad precedent, to adopt this principle of exemption from conscientious scruples. If the House intends to adopt any such section as this then I think that the section in the Senate bill is as well worded and as well guarded as any section upon such a topic could be.

Mr. SCOTFIELD. I wish to make a single suggestion.

The CHAIRMAN. No further debate is in order.

Mr. SCOTFIELD. I was not going to debate, but merely to make a suggestion.

The CHAIRMAN. No further suggestion is in order.

Mr. HOLMAN called for tellers on the amendment to the amendment.

Tellers were ordered; and Messrs. BALDWIN of Massachusetts, and FARNSWORTH were appointed.

The committee divided; and the tellers reported—ayes 71, noes 30.

So the amendment to the amendment was agreed to.

Mr. SCOTFIELD. I move now to strike out the twelfth line of the section, which is, "and such drafted person shall then be exempted from draft." If the twelfth and thirteenth lines of this section are both stricken out it will leave the exemption of the persons included in this section upon the same ground as that of those who pay the \$300 commutation money under the preceding section of the bill. Under the amendment which has been adopted they may have to pay \$300 two or three times while other men only have to pay once. If these two lines are stricken out and not a word is said upon the subject the payment of commutation money will have the same effect in their case as in all others. This was the suggestion which I desired to make to the gentleman from Illinois, who, I was very sure, would have adopted it, because I suppose no one wishes that a person who is conscientiously opposed to war, and who pays his \$300 commutation money, shall stand in a worse position than the man who is not

conscientiously opposed to war and who pays his \$300. Let all stand upon the same footing.

The amendment was agreed to—ayes 73, noes 27.

Mr. J. C. ALLEN. I move to amend the original text by striking out in the first and second lines of the section the words "members of religious denominations," and inserting in lieu thereof "any person;" and also by striking out from the word "arms" in line four down to the word "shall" in line six, so that the section will read as follows:

SEC. 19. *And be it further enacted,* That any person who shall by oath or affirmation declare that they are conscientiously opposed to the bearing of arms shall, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of \$400 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers; and such drafted persons shall then be exempted from draft during the time for which they shall have been drafted.

Mr. GRINNELL. Is not that in the nature of two amendments?

The CHAIRMAN. A division can be called for.

Mr. GRINNELL. Then I call for a division.

The CHAIRMAN. In the opinion of the Chair the amendment is in order.

Mr. GRINNELL. I do not insist upon a division.

Mr. J. C. ALLEN. Mr. Chairman, the effect of this amendment is simply to exonerate from bearing arms all persons who may file their affidavits or make affirmation that they are conscientiously opposed to bearing arms, not in this particular war, but in any war. It seems to me that if we exonerate a class of individuals who are conscientiously opposed to bearing arms simply because they belong to a particular religious society whose articles of faith prohibit it, we ought to extend the exemption so as to embrace all who have conscientious scruples on the subject. I cannot understand why it is that mere membership in a particular religious society should exempt a man because he happens to have conscientious scruples. It is not with the articles of faith of religious societies that we have to do, but with the conscience. The mere fact that a man has cast in his lot with the Quakers, the Moravians, or the Dunkers ought not to exonerate him unless we exonerate those who have conscientious scruples against bearing arms who may belong to some other religious society, or to none whatever. We may just as soon exempt the one as the other. It does seem to me that if we retain this provision of the Senate, and exempt Quakers, Moravians, Dunkers, and those belonging to other like sects, we ought to extend the exemption so as to include all others who do not belong to these religious denominations, but who are nevertheless conscientiously opposed to bearing arms. Place them all upon terms of equality. If we look to men's consciences in drafting them let us put all who are conscientiously opposed to military service in the same category. Put them into hospitals, or assign them to such duties as they can discharge without any violation of their conscientious scruples.

Mr. GRINNELL. Mr. Chairman, I think that the amendment proposed by the gentleman from Illinois should not prevail. I believe that it is due to the age, due to the country, due to the world, that we respect that religious class of persons who are known as Quakers. I have seen letters written by Quakers residing in the Carolinas, who had fled to the mountains to escape tyrants rather than serve in the armies of Jeff. Davis. If you examine the conscription bill enacted in the rebellious States you will find that even there, having found the Quakers would not fight, they exempted them. Thus even the demons of rebellion do not now drag into their service the Quakers. In fact they could not. There is no power that could compel them effectively to bear arms. Their history shows that for more than two hundred years no nation has ever succeeded in bringing that denomination into the ranks as fighting men. Their religious conviction and zeal are stronger than the chains that would bind them or the dungeons that would confine them. We propose here that Quakers who are drafted shall go into hospitals. They make the best, being practiced, nurses. Taking care of the sick is part of their religion. They will render as good service and as valuable to the country in that capacity as they would if

they went to the field and faced the foe. We should not at this day trifle with religious scruples and these men, who have laid the foundations of commonwealths in peace, whose children are reared in principles of peace, who have been always in favor of peace and opposed to bloodshed. We cannot put forth any claim to religious and Christian principles if we fail to respect the conscientious scruples of men who have no new-born creed; who have been firm and decided in their principles, and patriotic and just as citizens, ever since the nation has had an existence.

Mr. J. C. ALLEN's amendment was rejected.

Mr. CRESWELL. I move to insert after the word "members" the words "in good standing."

Mr. SCHENCK. Inquire whether that amendment is in order.

The CHAIRMAN. The amendment is not in order.

Mr. ELDRIDGE. I move to amend by including in the words to be stricken out the words "or to the care of freedmen."

The CHAIRMAN. The Chair thinks that the amendment is not in order at this time.

Mr. ELDRIDGE. Will it be in order after the vote has been taken on the pending amendment?

The CHAIRMAN. It will be then in order.

Mr. GARFIELD called for tellers on Mr. SCHENCK's amendment.

Tellers were ordered.

Mr. GARFIELD. Before the vote is taken, I move to amend by striking out the last word. I desire simply to speak one sentence to the committee. As the section now stands, the Secretary of War is required to make a separate special fund of all the money paid by persons of this religious denomination as commutation. We propose to strike out that language, leaving all the money paid for commutation to go into the one fund. The amount that would be received from Quakers would not be worth the time and trouble of having a separate fund established for it. This does not interfere with any man's conscience. A Quaker that is drafted can go and serve in a hospital. The petitions that we have received on this subject show that it would be quite satisfactory to Quakers to be placed in care of hospitals or of freedmen. We desire not to burden the Secretary of War with the necessity of establishing a separate fund for the moneys to be received from that source. I thought that the committee did not understand what the question was, and it was for that reason that I called for tellers.

Mr. STEVENS. I think the committee understood it half an hour ago. It goes to the gist of the question whether we are to coerce the consciences of these men simply because we think they have erroneous ideas. The committee of Quakers asked for the provision made in the Senate bill. It satisfies them. They are willing to pay the commutation money as set forth here, and that will satisfy their consciences.

Mr. GARFIELD. I withdraw my amendment.

Mr. ALLEY. Mr. Chairman, I move to strike out the last line for the purpose of saying a word in reply to the gentleman from Ohio, [Mr. GARFIELD.] He says that that would be satisfactory to those gentlemen who are here memorializing Congress on this subject. I think that he is entirely mistaken. Certainly in my conversations with those who came here representing the religious Society of Friends I received no such impression. On the contrary it seems to me to be a great hardship upon that sect to adopt that amendment. They to be sure would be allowed the alternative of serving in the hospitals, but they would be compelled to enter that service during the war. They would not obtain their discharge by paying commutation money. Everybody knows, who knows anything of the professors of that religious denomination, that they think they cannot pay a single dollar consistently into the Treasury to be appropriated to any of the war purposes. No, sir, they cannot pay the commutation money to be appropriated to general war purposes; that would be in entire violation of their faith. They have held that view of the case from the beginning, and with now and then an exception it has been universally adhered to by the Society of Friends. It would be practically saying to that body of citizens, "You must enter the service, and you may then be designated for duty in hospitals; beyond that we cannot go." And if they adhere to their religious faith, no matter how hard

the circumstances, they must be forced from their homes into the service, for they cannot conscientiously pay the commutation money which shall be used for general war purposes. I do not believe, sir, that that is the intention of those who are in favor of this bill at all. It seems to me from what I have seen that it is the determination and purpose of Congress to relieve from all unnecessary burdens this class of persons, and it certainly can make no difference except a little extra trouble to the War Department. If that is the purpose, then the section ought to be retained as it is.

Mr. Chairman, this is no new thing to recognize and respect the conscientious scruples against bearing arms of the members of this Society. They have been exempted in the State of Massachusetts for more than a century from military duty in any form, upon the certificate of the overseers of their meetings that individuals are members of that Society, that they have conscientious scruples against bearing arms. Massachusetts ever since the organization of her government under the State constitution, if I mistake not, with the exception of a single year, has recognized that principle. Accordingly they have been exempted, as I have said before, for nearly or quite a century in that State. I believe, as was stated by the gentleman from Pennsylvania, [Mr. STEVENS,] that there is no class of persons more loyal or that ought to receive all of the consideration from the Government that can be consistently given to them. They have ever been loyal, and they are certainly characterized throughout the country as not being behind any other Christian denomination for their benevolence, Christian character, and good citizenship, and for performing every duty that should be required of them. It was the declaration of that great apostle of Democracy, Thomas Jefferson, that that great leader of the Quakers and founder of Pennsylvania, William Penn, was the greatest lawgiver that ever existed upon the face of the earth since the days of Moses; and I believe that all history does not furnish such triumphs for civilization and progress by the use of the sword as were furnished by that illustrious Quaker in the practical operations of his conduct and teachings to the aborigines of Pennsylvania. And while I would not exempt them from their share of the public burdens in this hour of trial and peril, I would so far respect their conscientious convictions as to give them the privilege of serving their country and paying their money in such form as will not compel them to surrender the faith of their fathers.

[Here the hammer fell.]

Mr. GARFIELD. Mr. Chairman, I would not detain the committee at this time but for the fact that the gentleman from Massachusetts [Mr. ALLEY] in what he has said has put me in a light in which I am unwilling to stand before this House. I was one of the few members of the Committee on Military Affairs who were in favor of exempting Quakers and the like religious denominations; but that committee saw fit not to report the section at all. I have been willing to exempt men who, from their religious creed, were absolutely prohibited from engaging in war. I feared that it was not practical to do so without making a great distinction in favor of a class. Now, I am in favor of the proposition of the chairman of the Committee on Military Affairs to strike out the last clause.

The gentleman from Massachusetts says that I have misrepresented the Quakers in this respect. I think that I can convince him that I have not. They objected to the commutation money being expressly declared for the purpose of procuring a substitute to go into the Army. We obviated that by providing that the money thus paid should go into the general Treasury; and those Quakers with whom I conversed and who appeared before the committee thought that it would be paid, because they could not discriminate in a general fund what went for war and what went for other purposes. And therefore the act already passed, providing for paying \$300 into a common treasury, obviates the entire difficulty in the case. I have therefore not misrepresented the Quakers; and the striking out of this clause, as suggested by the chairman of the committee, will not in any way interfere with their consciences; and not only that, but it will leave them free as they were before.

Mr. THAYER. I desire to ask whether by a

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prior section of the bill it is not provided that commutation money shall be applied to the procuration of substitutes?

Mr. GARFIELD. No, sir, I think not. An attempt was made to put on that provision, but the answer to it was that it could not be carried out as applied to districts.

Mr. THAYER. I move to strike out the last word of the amendment.

Mr. SCHENCK. This debate has gone on to such lengths that I must insist that gentlemen shall confine their remarks to their amendments, which, in this case, is the last word.

Mr. THAYER. I only want the last word. I find in the sixth section the provision to which I referred, that commutation money shall be applied to the procuration of substitutes, and I am not aware that that portion has been stricken out by the committee. If it has not been, of course the argument of the gentleman from Ohio goes for nothing. We must do either one thing or the other in this matter. We must retain the section as it is reported from the Senate, or we must strike it out. It is in the highest degree disrespectful to the Quakers to propose that they shall be exempt from service and yet shall be compelled to furnish a substitute. Any one who knows anything of the opinions of the Society of Friends upon this subject, knows that such a provision, so far from being a provision in their favor, would be regarded by them as a mere evasion of their demand for a fair and honest consideration of their conscientious scruples.

I withdraw my amendment to the amendment.

Mr. PIKE. I renew the amendment merely for the purpose of saying that in my judgment it is much better to have the \$300 from the Quakers than to have them as hospital soldiers. That is the only question before the committee. Now \$300, together with some local bounty, will procure a substitute for active military service. To give \$300 to the hospital is the same as to furnish it for other purposes, because it will take another \$300 to procure a substitute. For these reasons I shall vote for the bill as it stands.

I withdraw my amendment.

Mr. SCHENCK. I move that the committee rise, with a view to close debate on this section.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had made progress therein but had come to no conclusion thereon.

Mr. SCHENCK. I move that when the House again resolves itself into the Committee of the Whole on the state of the Union all debate upon the pending section be closed in half a minute after the committee resumes the consideration of the bill.

The motion was agreed to.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

Mr. J. C. ALLEN. I move to strike out the nineteenth section.

Mr. HOLMAN. Upon that I demand tellers. Tellers were ordered; and Mr. J. C. ALLEN and Mr. GARFIELD were appointed.

The committee divided; and the tellers reported—ayes 66, noes 66.

The CHAIRMAN. The Chair votes in the negative; and the amendment is not agreed to.

The question recurring on the amendment offered by Mr. SCHENCK, it was put, and the amendment was not agreed to.

Mr. JOHNSON, of Ohio. I move to amend section nineteen by striking out all after the word "non-combatant," and insert in lieu thereof the words "and shall thereupon be exempt from that draft."

The amendment was not agreed to.

Mr. EDGERTON. I move to strike out the nineteenth section, and insert what I send to the Chair.

Mr. CRESWELL. Is it not in order first to perfect the section before it is stricken out?

The CHAIRMAN. An amendment to perfect the section will take precedence.

Mr. CRESWELL. I move to amend by adding at the end of the nineteenth section the following:

Provided, That no person shall be entitled to the benefit of the provisions of this section unless his declaration of conscientious scruples against bearing arms shall be supported by satisfactory evidence that his deportment has been uniformly consistent with such declaration.

The amendment was agreed to.

The question recurred on Mr. EDGERTON's amendment to strike out the nineteenth section of the bill, and insert in lieu thereof the following:

SEC. 19. *And be it further enacted, That in addition to the persons exempted by section thirteen of this act, the following persons shall be exempt from draft, namely: all ministers of religion not engaged in any secular employment and in regular ecclesiastical standing in any church or religious society, who by the canons or laws of such church or society are prohibited from bearing arms or taking part in war, under penalty of forfeiting their ministerial office; and all other persons who shall, by oath or affirmation, declare that they are conscientiously and religiously opposed to the bearing of arms in war.*

The amendment was disagreed to—ayes twenty-four, noes not counted.

Mr. ELDRIDGE. I move to strike out in lines eight and nine of the nineteenth section the words "or to the care of freedmen."

The amendment was disagreed to—ayes 53, noes 67.

Mr. RICE, of Maine. I move to add after the word "denomination," in line six, the words "adopted before the 1st day of January, 1863."

The amendment was disagreed to.

Mr. KELLOGG, of New York. I move to add to section twenty of the bill the following:

*And when claim is made for the discharge of persons in any manner, in military service and under the age of eighteen years, without the consent thereto of his parent or guardian, the board of enrollment of his district shall hear evidence adduced and decide thereon, and, if found by such board entitled to exemption on such claims, it shall discharge such person and strike his name from the enrollment: *Provided, Such person or his parent or guardian shall first pay back, in such manner as shall be directed by the Provost Marshal General, all bounties, general and local, and all clothing supplied by the Government which he may have received for entering such service.**

Mr. SCHENCK. I rise to a point of order. That amendment is palpably out of order. It is not germane to this section. It might perhaps be in order as an independent section.

The CHAIRMAN. The Chair sustains the point of order.

Mr. KELLOGG, of New York. Well, I will offer it hereafter as an independent section.

Mr. STROUSE. I offer the following amendment:

Add to section twenty-one: And any person claiming exemption for any cause, and believing himself aggrieved by the decision of the board of enrollment, may within ten days after such decision, appeal to the district court of the United States for the district in which the appellant was drafted; and the board of enrollment shall certify the proceedings to said court, where a speedy examination shall be had, and the decision of said court shall be final and conclusive.

I offer this amendment, Mr. Chairman, with little prospect of its adoption, but with a faint hope that some plan may be developed which may enable the unfortunate victim of the illegal and unjust decision of a district provost marshal to apply to some tribunal for redress, and have justice done. As the law now stands, and as is contemplated by this bill, every man, however much entitled to exemption from draft under the provis-

ions of the act of Congress, is subject to the caprice, malice, ignorance, or prejudice of a petty tyrant, clothed with brief authority, known as a deputy provost marshal, and from whose decision there lies no appeal. Some appellate jurisdiction is imperatively demanded for the protection of our people. Many outrages have been committed in this matter of illegal holding to military service of parties by partial, dishonest, and corrupt improvised "captains and provost marshals" of the different congressional districts. If the majority of this House has not entirely ignored the rights of the white man, then I beg leave to say with all due deference to the superior claims of the negro—slave and free, citizens of African *scut*—that a passing thought may be bestowed on the poor and now subordinate white man, who, in the present war for "universal emancipation," is likely to change place with the negro and become himself the slave.

Mr. DAVIS, of Maryland. I move to amend the amendment by adding to it these words:

Provided, That the President of the United States shall order General Robert E. Lee not to move on Washington until the appeal is decided.

The amendment was adopted.

The question recurred on Mr. STROUSE's amendment as amended, and it was rejected.

Mr. KELLOGG, of New York. I propose the following amendment:

*And when claim is made for the discharge of a person in any manner, in military service, and under the age of eighteen years, without the consent thereto of his parent or guardian, the board of enrollment of his district shall hear evidence adduced and decide thereon, and if found by such board entitled to exemption on such claim, it shall strike his name from the enrollment: *Provided, Such person or his parent or guardian shall first pay back in such manner as shall be directed by the Provost Marshal General, all bounties, general and local, and all clothing supplied by the Government, which he may have received for entering such service.**

Mr. Chairman, the main point of this proposition I submitted before; but I have changed it in some respects. I am satisfied that the committee did not understand that the amendment was being voted on when it was introduced before. I am so informed by gentlemen around me. I certainly did not understand it. I appeal to gentlemen on this floor that there ought to be some provision of this kind inserted in the bill. I appeal to their individual knowledge on that subject. We meet constantly with cases where minors have got into the service in some way without the consent of their parents or guardians. Now, boards of enrollment are acting in a judicial capacity in the matter of exemptions; and my amendment only proposes to extend their jurisdiction so as to let them examine these cases. There is no provision of any law, so long as the writ of *habeas corpus* is suspended, by which a remedy for this can be obtained.

I will not stop here to discuss the propriety of the suspension of the *habeas corpus*. Some gentlemen are disposed to revive it for the purpose of meeting cases of this kind and other cases. I do not propose it. I rest content with this provision if it be adopted. It is thought by some persons that if the writ of *habeas corpus* was not suspended the copperhead judges in some districts of the United States might nullify the entire objects of this bill. I hope that gentlemen on all sides of the House will so act upon this matter as to give a tribunal for cases of this description, where minors are in the service without their parents' consent.

Mr. GANSON. I would like to inquire of my colleague whether his amendment covers the case of enlisted men.

Mr. KELLOGG, of New York. It does, sir.

Mr. GANSON. I should like to know what propriety there is in conferring jurisdiction on these enrollment boards over that class of cases, making them judicial tribunals to that extent.

Mr. KELLOGG, of New York. Enrollment boards have now to pass upon the question of minors enrolled and drafted, and I do not see why they should not also pass upon the case of enlisted minors.

Mr. GANSON. As I understand, these enroll-

ing boards thus far have had no jurisdiction over volunteers.

Mr. KELLOGG, of New York. I differ with the gentleman very much. That is not my experience.

Mr. GANSON. I ask my colleague in what respect these boards of enrollment have any jurisdiction, as the law now stands, over that class of persons in the service?

Mr. KELLOGG, of New York. In this respect: when volunteers as substitutes are produced before a board of enrollment authorized to receive them it is a duty incumbent on the board to ascertain that they are of legal age. If a person comes in and swears that he is twenty years of age, and his parent or guardian afterwards comes in and claims his discharge on the ground that he is only sixteen, and offers to produce evidence of the fact, I propose that that evidence be received and that the board act upon it. I understand that, in so far, boards of enrollment have jurisdiction already as refers to persons enrolled. I propose to extend that jurisdiction to cases where men have already enlisted through mistake, or fraud, or for any other reason, when they are under age.

Mr. GANSON. I was not aware myself that boards composed of provost marshals of the various districts had anything to do with regiments composed of volunteers. I would like to know whether I am correct or not?

Mr. KELLOGG, of New York. I think that you are not.

Mr. GANSON. Wherein?

Mr. KELLOGG, of New York. The proposition is that they shall correct the enrollment and strike from the list the names of all minors placed there by fraud or otherwise.

[Here the hammer fell.]

Mr. WINFIELD. I move to strike out the last word.

Mr. SCHENCK. I shall insist upon the gentleman confining his remarks to striking out that word "service."

Mr. WINFIELD. I move to strike out the word "service," because it destroys the effect of the whole amendment; and I will speak to the proposition. I desire to say with reference to the imputation that has been cast by my colleague upon the judiciary of the State which I have the honor in part to represent, that there are copperhead judges to be found in every judicial district.

Mr. KELLOGG, of New York. The gentleman misunderstood me. I made no such remark. I said that it was alleged that some copperhead judges would defeat the execution of this bill if allowed to act.

Mr. WINFIELD. The remarks of my colleague involved an imputation upon the purity of the judiciary of the State we both come from. In defense of that judiciary and particularly of that part within my own district, I desire to say that the imputation is exceedingly unjust and entirely unfounded. I would say, if it were not for the friendship and good feeling I have for my colleague, that it was not only unjust and unfounded, but unparliamentary.

The CHAIRMAN. The gentleman is wandering from his amendment.

Mr. WINFIELD. I will try and keep in order. So far as the operation of this law in my congressional district is concerned, it has received no embarrassment from the judiciary.

Mr. GARFIELD. I call the gentleman to order. He is not speaking to his amendment to strike out the word "service." I give notice that I will continue to object to gentlemen who are not in order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WINFIELD. I understand the proposition to be to prevent the exercise by the judiciary of a State—

Mr. GARFIELD. I call the gentleman to order.

Mr. WINFIELD. I am approaching the question. [Laughter.] I hope that the gentleman from Ohio will bear with me.

Mr. GARFIELD. The gentleman from Ohio will not bear with the gentleman, and calls him to order. He can only speak to the amendment to strike out the last word, "service."

The CHAIRMAN. The gentleman from New York proposes to show reasons why the amend-

ment of his colleague should not prevail. He proposes to strike out the last word in order to destroy it. The Chair thinks that he is in order.

Mr. GARFIELD. I understand the Chair at first sustained my point of order. [Cries of "Order!"]

Mr. WINFIELD. I take this occasion to thank the Chair for the uniform kindness which has characterized—

The CHAIRMAN. The gentleman is not in order. [Laughter.]

Mr. WINFIELD. I was about to say when interrupted by calls to order on the other side that there is no district—

The CHAIRMAN. The gentleman's time has expired. [Laughter.]

Mr. WINFIELD, by unanimous consent, then withdrew his amendment to the amendment.

The amendment of Mr. KELLOGG, of New York, was rejected.

Mr. FARNSWORTH. I move to amend the twenty-first section by adding thereto the following proviso:

"Provided, That the Secretary of War may order the discharge of all persons in the military service who are under the age of eighteen years at the time of the application for their discharge, when it shall appear by duly attested evidence that such persons are in the service without the consent, either expressed or implied, of their parents or guardians: And provided further, That such persons, their parents or guardians, shall first repay the Government all bounties and advanced pay which may have been paid to them; anything in the act to which this is an amendment to the contrary notwithstanding."

I think this amendment meets a difficulty which has presented itself. I presume every member upon this floor has been written to in reference to the discharge of persons who have enlisted and are under eighteen years of age. They cannot be discharged by the Secretary of War now, for the reason that the law provides that the oath of the minor shall be conclusive as to his age.

Mr. TIAYER. I move to amend the amendment by inserting the words "shall order" in the place of "may order."

The amendment to the amendment was not agreed to.

Mr. HOTCHKISS. I suggest to the gentleman that he modify his amendment by substituting the words "upon due proof" for the words "by duly attested evidence."

Mr. FARNSWORTH. I accept that suggestion.

The amendment as modified was agreed to.

Mr. BOYD. I move that the committee rise.

The motion was not agreed to.

The Clerk proceeded to read the twenty-second section, and commenced reading the twenty-third section.

Mr. KERNAN. I desire to call the attention of the chairman of the Committee on Military Affairs to the twenty-second section. Who shall decide whether there has been any fraud practiced in obtaining a decision of the enrollment board in favor of the applicant for exemption? And if a man is arrested as a deserter because of such decision, fraudulently obtained, who is to decide that he is a deserter, in the meaning of the section? It seems to me that here might originate a great deal of abuse. The committee will observe that the section declares that any man who has practiced a fraud or made false representation shall be deemed a deserter. Who will decide whether he has done so or not? May an officer go and arrest him without some decision by somebody? [A Voice. A court-martial.] No, sir, he is to be arrested as a deserter without any sort of evidence that he ought to be arrested as such.

Mr. SCHENCK. I rise to a point of order. There is no question before the House.

Mr. KERNAN. Then I move to strike out that section.

Mr. WILSON. I rise to a point of order. It is that the committee had passed by the twenty-second section, and that the Clerk had commenced reading the twenty-third section; and that it is not in order to entertain any proposition to amend the twenty-second section.

Mr. KERNAN. I suggest that that is rather too shrewd practice, when the only desire is to make the section practical in its working.

The CHAIRMAN. If objection is made, the Chair decides that the committee cannot go back to the twenty-second section.

The Clerk proceeded to read the twenty-third and the twenty-fourth sections.

Mr. BALDWIN, of Michigan. I move to amend the twenty-fourth section by inserting after the word "disability," in line thirteen, the following:

And any officer, clerk, or deputy, connected with the board of enrollment, who shall receive compensation from any drafted man for any service, or for obtaining the performance of such service required from any member of the said board by the provisions of this act, shall be deemed guilty of a high misdemeanor.

I offer this amendment for the purpose of supplying a defect in the bill; and to meet a case which occurred in the State of Michigan—

Mr. SCHENCK. I desire to say to the gentleman that I think there will be no objection to the adoption of that amendment.

The amendment was agreed to.

Mr. SMITH. I move that the committee do now rise.

The motion was not agreed to.

The Clerk proceeded with the reading of the bill.

Mr. BALDWIN, of Michigan. I offer the following as a new section, to come in after section twenty-six:

Sec. 27. And be it further enacted, That within thirty days after the passage of this act it shall be the duty of the board of enrollment in each congressional district to cause lists of the names of each and every person enrolled under the provisions of this act, and of the act of which this is amendatory, to be printed, arranging alphabetically each and every name of such persons in the township or ward in which he resides, and that at least two copies of such lists of names of the persons in any township or ward be posted in public places in such township or ward, and that five printed copies of the full lists in each and every county be deposited for public inspection in the office of the county clerk, or of the proper custodian of the county records of such county.

I would remark that in my State there was no public exposition of the names; and that in the district in which I reside, after the names were enrolled, the record was taken some distance from the office and deposited in a safe, where no person could have access to it. In other States the lists of names were printed and posted up as this amendment proposes to require. The only object of my amendment is to make that practice uniform, so that every person who may be enrolled shall have an opportunity of knowing whether the names of his neighbors are also upon the list. Such a provision would do away with a great deal of prejudice that may be engendered against this conscription law.

The question was put; and there were—ayes 62, noes 61.

Mr. STEVENS demanded tellers.

Tellers were ordered; and Messrs. BALDWIN, of Michigan, and FARNSWORTH, were appointed.

The committee divided; and the tellers reported—ayes 68, noes 68.

The Chairman voted in the affirmative.

So the amendment was agreed to.

Mr. GANSON. I offer what I send to the Clerk's desk as an additional section to the bill.

Mr. SCOFIELD. I desire to offer an amendment to the section we have been considering, which will take precedence of a new section. I move to strike out "thirty" in the amendment which has just been adopted, and to insert in lieu thereof "ten," so as to make the time within which the lists shall be published ten days instead of thirty.

Mr. DAVIS, of Maryland. I move that the committee do now rise. It is very evident that we cannot get through with this bill to-day.

The CHAIRMAN. The gentleman has not the floor for that purpose. The gentleman from New York [Mr. GANSON] is upon the floor.

Mr. GANSON. I ask that my amendment be read.

The Clerk read the amendment, as follows:

Sec. —. And be it further enacted, That the writ of *habeas corpus* shall not be suspended in any case relating to an alleged minor who has been, or shall hereafter be, enlisted or drafted into the service of the United States; and the first section of the act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, is hereby modified so far as it authorizes the suspension of the privilege of the writ of *habeas corpus* in the cases of alleged minors who have been or shall be enlisted or drafted into the service of the United States.

Mr. COFFROTH. I ask the gentleman from New York to modify his amendment so as to make it apply to men over forty-five years of age as well as to those under eighteen.

Mr. GANSON. I prefer to confine myself to children.

Mr. SCOFIELD. I would ask the Chair if my amendment is not in order?

The CHAIRMAN. The gentleman from New York [Mr. GANSON] is on the floor.

Mr. SCOFIELD. He offers a new section; but my amendment is an amendment to the section we have been considering.

The CHAIRMAN. The amendment of the gentleman from Pennsylvania is to strike out a portion of what the committee has already inserted, which is not in order.

Mr. SCOFIELD. The gentleman from Michigan [Mr. BALDWIN] is willing to have that modification of his amendment made.

The CHAIRMAN. The matter has passed beyond the control of the gentleman from Michigan.

Mr. SCOFIELD. It had not when I first made the motion.

The CHAIRMAN. The gentleman from New York is upon the floor.

Mr. GANSON. Mr. Chairman, I offer this additional section notwithstanding the amendment proposed by one of my colleagues to one of the sections of the bill, which has been adopted by the committee. As I understand the amendment which has been adopted, it authorizes the Secretary of War, upon affidavits being furnished relative to the age of drafted men, to discharge them from the military service, provided they are under the age of eighteen years.

Now, from the experience I have had since I have been a member of this House, I think this would add very much to our labors, and would, in fact, raise a member of Congress to the dignity of an errand boy employed at \$3,000 a year. It would also add very much to the labors of the War Department. We know now that that Department has more work than it can well and properly do. I think, also, that it would put parties having claims of this description to too much trouble, expense, and delay. I hope the House will adopt this additional section, because I deem it eminently just and proper. It cannot lead to any abuse, in my judgment, and even if there should occasionally be some abuse, it will be insignificant compared to the injustice daily done in every neighborhood within the northern States, as every gentleman upon this floor well knows.

Mr. SMITH. Is an amendment in order to that amendment?

The CHAIRMAN. An amendment to the amendment is in order.

Mr. SMITH. I move, then, to add to the amendment of the gentleman from New York the following:

Provided, Said enlistments are not compulsory or against the will of the persons thus enlisted.

The amendment to the amendment was disagreed to.

Mr. COFFROTH. I move to amend the amendment of the gentleman from New York by inserting after the word "twenty" the words "and all over forty-five."

The amendment to the amendment was disagreed to.

Mr. ASHLEY. I move to strike out "twenty" and insert "eighteen."

Mr. GANSON. I will inform the gentleman from Ohio that the word "twenty" is not to be found in my amendment.

Mr. ASHLEY. Then I move to amend the amendment by inserting the words "minors under eighteen years of age."

The amendment to the amendment was rejected.

The question recurred on Mr. GANSON's amendment, and it was rejected.

Mr. FARNSWORTH. I propose an additional section, to come in after the twenty-seventh section.

Mr. WADSWORTH. I have an amendment to offer to the twenty-seventh section.

Mr. SCHENCK. I rise for the purpose of moving to strike out the twenty-seventh section, as follows:

Sec. 27. And be it further enacted, That nothing contained in this act shall be so construed as to prevent or prohibit the enlistment of men in the States in rebellion under the orders of the War Department.

Mr. WADSWORTH. I have no objection to that.

Mr. SCHENCK. In the first place I do not quite understand that there are any "States in re-

billion under the orders of the War Department." [Laughter.] But that is not my objection to the section. If gentlemen will read it they will see that it actually means nothing at all. It was left out of the substitute on that account.

Mr. COLE, of California. I move to amend by inserting at the end of the section the following:

And the Secretary of War is directed to offer a bounty of \$100 for each and every recruit to the Army of the United States that may be obtained from the condition of actual slavery, which bounty may be increased to the amount offered for other recruits, one half to be paid to the recruit, or his family, if he have a family, and the other half to meet the expenses of the enlistment.

Mr. Chairman, we are now nearly through this bill; and although there are abundant provisions for raising troops in the loyal portions of the United States, there seems to be no provision for raising troops in the portions of the United States that are in insurrection. There are, however, in the insurrectionary States large classes of people who would very gladly exchange their present condition for that of United States soldiers. This amendment is to provide for that case. It does not propose to exercise any compulsion over them, but to let them volunteer to become soldiers of the United States. It seems to me that this will supply a defect in the bill, and help to perfect it.

The amendment was rejected.

Mr. DAVIS, of New York. I move to strike out the twenty-seventh section, and insert the following in its place:

Sec. —. And be it further enacted, That any person who, for the purpose of procuring or aiding in the procurement of a substitute under the provisions of this act, or for the purpose of procuring or aiding in the procurement of any volunteer for the service of the United States under any call or requisition of troops by the President of the United States, makes any false statement or representation in writing, or any affirmation or oath in respect to the age of the proposed substitute with the intent of procuring the acceptance of a substitute or volunteer who by reason of his being under the age of eighteen years is legally disqualified from the military service of the United States, or who by reason of his being between the ages of eighteen and twenty-one years is disqualified in the absence of the consent in that case required by law, shall be deemed guilty of a misdemeanor, and shall, upon conviction before a court of competent jurisdiction, be subject to a fine or penalty of not less than \$250, nor more than \$1,000, and to imprisonment or commitment until such fine or penalty shall be paid. And it is further provided, That any person who, with the intent of procuring the acceptance of a substitute or volunteer, shall falsely represent himself as the father or guardian of any minor proposed as a substitute or volunteer, and shall in such assumed character give the assent required by law, such person so offending shall be guilty of a misdemeanor, and shall, upon conviction in manner before provided, be subject to a fine of not less than \$300, nor more than \$1,000, and to commitment until such fine shall be paid, and in addition thereto to such imprisonment, not more than six months, as the court shall direct.

The amendment was rejected.

Mr. STEVENS. I move to strike out the twenty-seventh section and insert the following:

All able-bodied male persons of African descent, between the ages of twenty and forty-five years, whether citizens or not, resident in the United States, shall be enrolled according to the provisions of the act to which this is a supplement, and form part of the national forces. And when a slave shall have been drafted and mustered into the service of the United States his master shall have a certificate thereof which shall entitle him to receive \$300 from the United States, and the drafted man shall be free.

Mr. Chairman, I have offered this amendment, and I hope it will prevail. I think that that class of persons ought to form a part of the national forces. I know that they are now taken, as in Maryland for instance, and I suppose they will be in other places. I do not say that it is contrary to law, but I prefer that it should be done under a known law. If we are to use these persons—and I think we ought to use them—it should be in pursuance of the action of Congress rather than under the direction of any executive branch of the Government.

Mr. BOYD. I suggest that the gentleman from Pennsylvania alter his amendment so as to pay loyal men only for their slaves.

Mr. STEVENS. I modify my amendment in that respect, by adding the words, "provided that the slaves of loyal men only shall be paid for." My amendment will not only make this class of persons bear their part of the fighting burden of the nation, but it will also tend finally to eradicate slavery from all the States; eradicate it under necessity, and with compensation to the masters. Although we are now doing it—I will not say against law, but I do not precisely know under what law—I think it right that it should be done according to law. Of course this refers only to the

loyal States. We are not legislating for the Confederate States, although I am told by gentlemen about here that they are still in the Union. We are not legislating for them just now. We are legislating just as if they did not exist. This, therefore, applies to Maryland, Delaware, Kentucky, and Missouri. I hope, therefore, the amendment will prevail.

Mr. CLAY. I hope that the gentleman from Pennsylvania will not insist upon that amendment. You have told us in the border States, when we have appealed to you, that you intended to respect the laws and constitutions of those States. The enemies of the Union, those in those States called secessionists, have charged against the northern people that it was their intention to seize upon all of our slaves; with or without law; that they intended to seize the personal property and finally the real estate of the slaveholding States. These charges have been made in my State against the Government. We have denied them. We have stated that there was no such intention; that the northern people proposed to respect our constitutions and laws; and that we had no fear when the case was presented justice would be done to us.

Now, when good feeling exists in those States, and is increasing, why should we pass these radical laws? If you pass them you will detract from that increasing good feeling; you will excite and confuse the communities there, and throw a stumbling-block in the way of the restoration of a general Union feeling on the part of the people of the border States. Why should you do this? I would prefer to have you come out at once; however, for I do not like this indirect mode of legislation. Let us know what you are at, so that we may not be any longer deceived. We told the people when the charges were made to which I have referred, we, the friends of the Government, who occupy seats upon this floor, that when this matter was properly presented, with the exception of a man scattered here and there, the people of the North would be disposed to respect the laws and the constitutions and the rights of the border States under them. We told the people of those States that when the question was presented in the courts the people of the North would do justice to the people of the border States, and to their rights of property under their constitutions and laws. If you are going to legislate on the subject, if you intend to do this thing, do it, so that we may not be longer deceived. Let us, when we return to our constituents, say that we have presented the case, and that there is no trust to be placed in the northern people to do justice to the border States.

We do not object to your taking the slaves of those who are engaged in this rebellion, or to using them for a legitimate purpose. But we do object to your taking slaves from any loyal man, because the constitution of Kentucky says that you shall not take the property of any of its citizens unless you first compensate them. I read the speech of the honorable gentleman from Massachusetts [Mr. BOUTWELL] who took the position now advanced. He sought to advocate it as coming from the great statesman of Kentucky, Henry Clay. He stated that what the law made property was property. Why then do you propose to take our slaves without compensation?

[Here the hammer fell.]

Mr. BOUTWELL. I move to strike out "\$300" and insert "twenty-five." I desire to say in reply to the gentleman from Kentucky that in the laws of Kentucky, so far as I know, slaves were recognized as property but still recognized as persons; and I think that we have reached that emergency when men in the border States should understand, at least so far as I am concerned, that slaves as inhabitants of the country are to be used as other men are used to put down this rebellion. No constitution or law of any State shall stand between me and what I believe to be my duty to my country.

Mr. MORRIS, of New York. Mr. Chairman, as I understand existing laws, the Government, when it deems it to be necessary, may seize the property of any citizen and use it for the purpose of prosecuting this war. I see no difference between seizing the property of the northern States and that of the border States. I do not see why the property of the border States should be exempted.

Mr. CHANLER. I now move that the com-

mittee rise and report the bill to the House, with the recommendation which I send to the Clerk's desk to be read.

The CHAIRMAN. The gentleman from New York moves that the committee rise and report the bill to the House, with a recommendation that it be referred to the Military Committee with certain instructions. While an amendment is pending in Committee of the Whole such a motion is not in order.

Mr. CRESWELL. I desire to say a word or two in reply to the remarks of the distinguished gentleman from Kentucky. The matter of negro enlistments has been carried on in Maryland to an extent which I suppose Kentucky has not yet experienced. As far back as six months ago the matter was there canvassed, and received not only the attention of the people of Maryland but such attention as induced a conference with the War Department in this city. The people of Maryland after canvassing the subject in every light, after having borne the burdens of this war as they had done up to that time without intrenching in any way upon the slave interest of the State, determined that the time had arrived when that portion of our population should be called upon to perform its duty in endeavoring to crush out this rebellion.

In Maryland, as in most of the other border slave States, there are two classes of population, the one the slaveholders, and the other the non-slaveholders. In the district which I represent, having a total population of 146,000, there are 92,000 whites, 28,000 free negroes, and 25,000 slaves. Out of the 92,000 free white people there are not more than 4,000 slaveholders. In my district there are, between the ages of sixteen and sixty of male slave population, some 6,600 capable of bearing arms. In my district alone there had been, previous to the last draft ordered in October, some five or six thousand, perhaps eight thousand white men furnished for the service of the United States.

When the draft of October was ordered the question came home to my people, and the issue was then definitely presented as between the non-slaveholders and the slaveholders. The slaveholders furnished comparatively few men for the war. They either paid their commutation money or furnished substitutes. But when the non-slaveholders were drafted, in number nineteen or twenty to one, they were compelled to go because most of them were destitute of the means wherewith to pay the commutation. Gentlemen will remember that in assigning the quota to the several States the population was first reduced to federal numbers, and the assignment made upon that ratio, and that in assigning the proportion among the several districts and counties federal numbers were also regarded, so that the free white people of my district during this war have been compelled all the while to furnish men to represent not only their ninety-three thousand whites but the other fifty-three thousand—twenty-eight thousand free negroes and twenty-five thousand slaves. They labored under that burden until the last draft was ordered, and that, too, without grumbling.

And not only that, but the non-slaveholders in Maryland have submitted to taxation to support this institution almost unparalleled. If gentlemen will turn to-day to the code of public laws of Maryland they will find that in every case of the conviction of a slave in any court of an offense punished by death or sale it is the duty of that court to assess the full value of the slave to the end that payment may be made to the master out of a fund derived from taxation levied upon the whole county. They will find further that under the code of Maryland all property except slaves is assessed by sworn assessors to its full cash value.

[Here the hammer fell.]

Cries of "Go on," "Go on," and "Object," "Object."

Mr. ELDRIDGE. I object.

The CHAIRMAN. Objection being made, the gentleman cannot proceed.

Mr. FARNSWORTH. I am opposed to the amendment of the gentleman from Pennsylvania. In the first place the Government will only pay loyal white men \$100 bounty after the 1st of March next. It is only by virtue of the joint resolution passed a few weeks ago that \$300 bounty is being

paid until the 1st of March for the purpose of filling up the old regiments. I certainly am not going to put \$300 into the pocket of the slaveholder because he puts his slave into the Army when it is his duty to put him into the Army anyhow without bounty. We of the North have put our sons into the Army.

Mr. CRESWELL. Will the gentleman allow me one word on this question of the compensation of slaveholders?

Mr. FARNSWORTH. Certainly.

Mr. CRESWELL. The question of the value of slaves was recently fairly tried on the death of one of the distinguished Carroll family in my State. An appraisement of his property became necessary, and respectable gentlemen acting under oath set down the value of the negroes at five dollars apiece.

Mr. FARNSWORTH. Will this interruption come out of my time?

The CHAIRMAN. It will.

Mr. FARNSWORTH. Then I must decline to yield further.

Mr. Chairman, we pay no bounties to the loyal colored men in the northern States who enlist, and we pay them only seven dollars a month wages; and I am not going to vote to put money into the pockets of slaveholders and not into the pockets of loyal black men at the North. Furthermore, I am a little opposed to buying slaves anyhow.

Mr. SMITHERS. Mr. Chairman, I rise simply for the purpose of expressing my opinion very briefly upon the subject which now attracts the attention of the House. Coming from what is ordinarily termed a "border State," a State in which the institution of slavery exists, I beg leave to say to the gentleman from Kentucky [Mr. CLAY] that we have no scruples there in relation to this question. I know not how it may affect other States. I speak only for my own.

Mr. CLAY. Will the gentleman allow me to ask him a question, just to show how the system he supports would operate?

Mr. SMITHERS. I will answer a question with pleasure, but I do not desire the gentleman to interpolate a speech into my five minutes.

Mr. CLAY. I will just ask a question. We have been discussing here day after day propositions to equalize this thing of putting men into the United States Army. Now suppose that one man owns one negro and another ten negroes, will you take all the negroes of the man who has ten?

Mr. SMITHERS. I will say in relation to that, that when Maryland was subjected by the War Department to a draft of her slaves, Delaware was left out, and a deputation from Delaware came here and requested the Secretary of War to extend the order in relation to Maryland to Delaware also. We were anxious that the slaves in our State should be put into the Army of the United States and form part of our quota. I can see no reason myself why a slave should not be taken just as much as the son of the white man. I agree entirely with the proposition of the gentleman from Massachusetts [Mr. BOWEN] that while under the laws of particular States a slave may be property, yet he is nevertheless a man, and I say to you without hesitancy that no proposition could emanate from this House that would be more popular in Delaware than one to take her slave population from her.

Mr. DAVIS, of Maryland. I move to amend the amendment by striking out so much of it as provides for the payment of \$300 to the owner of the drafted slave. I do it upon this ground: if the slaves are liable to military duty at all they are liable to military duty on the same ground as every person is who owes obedience to the laws; on the same ground that the citizen of the country, the subjects of the country, the denizens of the country, owing temporary allegiance to the Government, are bound to defend it. If they owe military service we owe the master nothing for taking what the slaves owe. If they do not owe military service to the country I do not mean, for one, to buy slaves for soldiers. In my judgment they do owe military service to the Government. Can anybody contend for one moment, in the eye of reason and common sense, that four million men, strong, stalwart, and energetic, and who have proved themselves on the field of battle to be as courageous as white men, more amenable

to discipline, and more inured to the vicissitudes of climate and to daily labor—can anybody suppose that that great body of men are not liable to be taken by the law for the defense of our country? If they are it is because they owe the duty to the Government; and if they do we owe the masters nothing for taking them.

Gentlemen say—and I am ready to meet the objection—that you are likewise taking the property of the owner. I beg pardon, sir. The son owes to the father labor by the law of every State in the Union as assuredly as the slave owes the master labor. We do not make the slave a freeman by taking him for a soldier. We may make provision that he shall be free thereafter. The obligation of military service is not at all inconsistent with the obligation of service to the master afterwards. When the son is taken, when the apprentice is taken, somebody is taken who is quite as dear, quite as necessary, quite as valuable to the father and to the employer as when the slave is taken from the master. In other words, where the obligation of military service rests, the law pursues it and insists upon it, leaving the burden of other losses to follow the necessities of the times. For these reasons I make that motion.

Mr. MALLORY. Mr. Chairman, I think that no legal proposition is better established in this country than that property is held in slaves. I do not mean that the person of the slave is property and can be used as property, that he can be killed and eaten like a hog, but that men own property in the labor and service of slaves in this country. The gentleman from Maryland has lived his whole life, I believe, in States where this law exists, and where, I have no doubt, he has held to the validity and correctness of that law, to its existence, at least if he believed the law ought not to have existed.

Mr. DAVIS, of Maryland. I have never disputed for a moment.

Mr. MALLORY. The President of the United States, in a conversation that I had with him on a remarkable occasion, observed to me, "I do not believe that property in slaves ought to exist; but I know that property in slaves does exist, and is held by a tenure as strong as that by which any other property is held; and I know that the Government of the United States has no more right to deprive you of that property in slaves, of the labor of your slaves, without that just compensation mentioned in the Constitution, than the Government has to take from you any other property without a just compensation."

I think, Mr. Chairman, that the question is narrowed down simply to this: if the Government of the United States have the right to take from me my property in the service and labor of my slave it is restricted and limited by that provision of the Constitution which says that private property shall not be taken without just compensation. Then, I ask the gentleman from Maryland, how is just compensation ascertained? Is it done by a law of the Government fixing it, or by any *ex parte* proceedings of that kind? He knows it is not. He knows that that would be unjust and unconstitutional. If you propose to compensate the owner of a slave you must ascertain the value of the property as you do the value of any other property that the Government chooses to take for its use. You must ascertain the value of that property as you ascertain the value of land taken for a road, by a jury summoned under a writ of *ad quod damnum*. The amendment of the gentleman from Maryland ignores this right, violates it in a plain, distinct, and palpable manner, and is contrary to the Constitution of the United States. And that gentleman, if he would speak his opinion freely, would acknowledge that. I oppose the amendment.

Mr. ODELL. I move that the committee do now rise. This is a fresh subject, and I want to start fresh on it.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVIS reported that the Committee of the Whole on the state of the Union had had under consideration, as a special order, the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had come to no conclusion thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate had passed an act (S. No. 85) to provide for the examination of certain officers of the Army; and an act (S. No. 100) authorizing the holding of a special session of the United States district court for the district of Indiana; in which he was directed to ask the concurrence of the House.

Mr. DAWSON. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at fifteen minutes past five o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, February 11, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

COMMITTEE ON NAVAL SUPPLIES.

Mr. HALE. I am directed by the select committee on naval supplies to offer the following resolution; which I wish to have considered now:

Resolved, That the select committee of the Senate on naval supplies have leave to sit during the sessions of the Senate.

The resolution was considered by unanimous consent, and agreed to.

COMMITTEE ON MANUFACTURES.

The VICE PRESIDENT announced the appointment of the following Senators as the Committee on Manufactures under the resolution yesterday:

Mr. SPRAGUE, Mr. MORGAN, Mr. RIDDLE, Mr. WILKINSON, and Mr. HENDRICKS.

PETITIONS AND MEMORIALS.

Mr. ANTHONY presented the memorial of Joshua C. Brown, praying that he may be authorized to locate upon and acquire title to certain parcels of lands in Utah and Nevada Territories upon the same terms and conditions that he could acquire title thereto if such lands were open to private entry and could be purchased at private sale; which was referred to the Committee on Public Lands.

Mr. JOHNSON presented a memorial of a committee of the Board of Trade of Baltimore, Maryland, praying that the amount of tax upon leaf tobacco may be accompanied with a corresponding drawback on exportation; which was referred to the Committee on Finance.

Mr. LANE, of Indiana, presented the memorial of Edward De Rue, praying that proper fencing masters may be appointed to instruct officers and privates of the Army in the use of their arms; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented a petition of citizens of Newton, Massachusetts, praying that the father, mother, and sister of Lieutenant Eber White, who was murdered by John Southron and his son at Benedict, Maryland, on the 20th of October, 1863, while recruiting colored troops, may receive a portion of the proceeds of the estate that is liable to confiscation; which was referred to the Committee on Military Affairs and the Militia.

He also presented the memorial of Henry Charles De Alma, praying an investigation into the causes of his being deprived of his rank and pay as colonel of volunteers in the United States service; which was referred to the Committee on Claims.

He also presented a memorial of the Suffolk Medical Society of Massachusetts, signed by the president, D. Humphreys Storer, and by the secretary, David W. Cheever, praying for the passage of the ambulance bill now before Congress, and that hereafter belligerents should regard surgeons and their assistants and the men of an ambulance department while engaged in their humane calling, as inviolable in their persons and property, and never, save under extraordinary circumstances, to be retained as prisoners of war; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER presented a petition of men and women of the United States, praying for the speedy and universal emancipation of all persons of African descent held to involuntary service or labor in the United States; which was referred to the select committee on slavery and freedmen.

Mr. ANTHONY. I present a memorial of boatswains, gunners, carpenters, and sailmakers, warrant officers of the Navy, asking that some definite rank be assigned to them. The memorial sets forth that they are intrusted with grave, responsible duties, frequently with military authority over the crew, and that in emergencies sometimes the actual command of a vessel may devolve on them. They ask that for five years' service they may rank with ensigns; after five years, with masters; and that after faithfully serving the country ten years they may receive a commission not in conflict with the present commissioned officers. I move that the memorial be referred to the Committee on Naval Affairs.

The motion was agreed to.

ALMOND D. FISK.

Mr. SAULSBURY. I am instructed by the Committee on Patents and the Patent Office, to whom were referred the papers in the case of Phoebe Ann Fisk, widow of Almond D. Fisk, deceased, to report a bill for her relief, and by instruction of the committee I ask that the bill be now considered.

By unanimous consent, the bill (S. No. 112) for the relief of the heirs of Almond D. Fisk, deceased, was read twice, and considered as in Committee of the Whole. It proposes to authorize Phoebe Ann Fisk, as executrix of Almond D. Fisk, deceased, who obtained a patent for a new and useful improvement in coffins, dated November 14, 1848, for fourteen years, which has now expired, to apply to the Commissioner of Patents for an extension of the patent for seven years, under the rules and regulations now in force for the extension of patents, as if she had made application previous to its expiration as required by law; and the Commissioner is to investigate and decide the application for extension on the same evidence and in the same manner as other applications for extension are decided, notwithstanding the surrender and reissue of March 6, 1860; but the application for extension is to be made within thirty days from the approval of the act, and the decision of the Commissioner is to be rendered within ninety days from the filing of the application in the Patent Office. Nothing contained in the bill is to be so construed as to hold responsible in damages any persons who may have manufactured coffins containing Fisk's improvement between the expiration of the patent and the approval of the act.

Mr. TRUMBULL. Is there a report accompanying the bill?

The VICE PRESIDENT. There is a former report.

Mr. TRUMBULL. I should like to hear that report.

Mr. HOWE. Let me explain to the Senator from Illinois that this bill is one which was reported by the same committee at the last session of Congress, and passed the Senate then. The committee report back the same bill, and they make the same report they did then. If the Senator wants to hear that report read, very well.

Mr. TRUMBULL. That will state the case, I suppose.

Mr. HOWE. It does state the case.

The VICE PRESIDENT. The report will be read.

The Secretary read a report made by Mr. SAULSBURY on the 14th of January, 1863, from which it appears that Almond D. Fisk received a patent on the 14th of November, 1848, as the inventor of a metallic coffin, or burial case; that after the issue of the patent, and to enable him to commence the manufacture of those cases, he erected buildings and provided machinery at an expense of over ten thousand dollars; that in the fall of 1849 these buildings were in the night time destroyed by fire, together with nearly all his machinery, tools, and the cases in process of finishing; that by this calamity Fisk lost his entire capital, and by exposure at the time of the fire he took a severe cold, from the effects of which he died in the month of October, 1850, leaving a widow, this petitioner, and four infant children.

After the fire, and before the death of Fisk, he borrowed about the sum of fifteen thousand dollars to enable him to erect other buildings and procure other machinery, stock, &c., to secure the payment of which sum he mortgaged his patent and buildings in course of erection, machin-

ery, and stock. In September, 1850, he put the mortgages into possession of the mortgaged property. The assignees of the original mortgages surrendered the patent and obtained a reissue on the 6th day of March, 1860, for the remainder of the term it had to run. Before the expiration of the term, the petitioner applied to the Commissioner of Patents for an extension of the patent for seven years, as it stood upon the record; but the Commissioner decided that he could not extend the reissued patent of 1860. This decision was made only a few days before the expiration of the original patent, so that sufficient time was not left to give the required notice of application for its extension.

It appears from the evidence that the invention has been valuable to the public and profitable to the assignees, but that the widow and children of Fisk have never received any benefit therefrom, with the exception of a small sum as a gratuity from the assignees.

Mr. ANTHONY. I would rather have this bill postponed for a few days. There may be adverse parties who are not aware that this bill is now pending.

Mr. HOWE. I cannot object, of course, to its postponement if it is insisted upon; but I think after all we had better pass the bill now. I know there are adverse parties; but I suppose the contest must arise before the Commissioner of Patents. I so understand.

Mr. TRUMBULL. I think it had better arise here before we suffer the bill to pass.

Mr. HOWE. If there were any doubt about the bill being right, of course I would not object to its going over.

The VICE PRESIDENT. If objection be made it must go over under the rule.

Mr. HOWE. If it is desired to examine it, I have no objection to its going over. It is too late, however, I apprehend, for a single objection to carry the bill over under the rule.

Mr. GRIMES. What is it for?

Mr. HOWE. A patent burial case.

The VICE PRESIDENT. The Chair thinks a single objection carries it over. The bill has had its second reading to-day, and cannot have a third reading if objection is made.

Mr. HOWE. The Chair asked if there was any objection to the consideration of the bill at this time, and none was made.

The VICE PRESIDENT. The first question was whether there was any objection to the second reading of the bill to-day, and, like every other bill, it was then subject to an objection, and if an objection was made it could not have a third reading on the same day. It goes over now, objection being made.

COURTS IN CALIFORNIA AND OREGON.

Mr. CONNESS. I ask the consent of the Senate to take up Senate bill No. 51, which has been reported by the Judiciary Committee with amendments. It will not take a very long time to consider it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 51) amendatory of and supplementary to an act to provide circuit courts for the districts of California and Oregon, and for other purposes, approved March 3, 1863. It directs that a term of the circuit court of the United States for the districts in California shall be held in San Francisco on the first Mondays of February, June, and October, of each year; and in the city of Monterey on the first Mondays of April, August, and September of each year; and that a term of the circuit court for the State of Oregon shall be held at Portland on the first Mondays of January, May, and September of each year. Each term is to continue until the fourth Saturday after its commencement, inclusive, unless all the cases ready for trial or hearing be sooner disposed of. If all the cases ready for trial or hearing be not disposed of, the term may be continued as much longer as, in the opinion of the court, the public interest shall require.

Whenever the circuit judge is absent, or, from any cause, is unable to hold a term of the circuit court, it is to be the duty of the district judge of the district to hold such term. No term of the circuit court in one district of the tenth circuit is to be deemed to be ended from the commencement of a term in another district. A circuit court

may be held in the different districts at the same time. The circuit judge of the tenth circuit may, at his discretion, appoint special sessions of the circuit court, to be held at the places where the stated sessions thereof are to be holden, by an order, under his hand and seal, addressed to the marshal and clerk of the court, at least fifteen days previous to the day fixed for the commencement of the special sessions, which order is to be published by the marshal in one or more of the gazettes or newspapers within the district where such sessions are to be holden. At special sessions it is to be competent for the court to entertain jurisdiction of and hear and decide all cases in equity, cases in error, or on appeal, issues of law, motions in arrest of judgment, motions for new trial, and all other motions, and to award executions and other final process, and to do and transact all other business, and direct all other proceedings in all causes pending in the circuit court, except trying any cause by jury, in the same way and with the same force and effect as the same could or might be done at the stated sessions of such court. At such special sessions the court may also try and determine all issues of fact in cases in which, by the stipulation in writing of the parties, or their attorneys, and filed with the clerk, a jury shall be waived.

The clerks of the circuit courts for the districts of California are to be appointed by the circuit judge of the tenth circuit. The appointment is to be in writing, under the hand and seal of the circuit judge, and is to be filed in the clerk's office and entered at large upon the records of the court. The circuit judge may revoke the appointment at any time by filing in the office of the clerk a notice in writing under his hand and seal, stating that the appointment is revoked, which revocation is to be entered on the records of the court. The clerk, before entering upon the discharge of his duties, is to take the oath of office prescribed by the act "to prescribe an oath of office, and for other purposes," approved July 2, 1862, and such oath is to be indorsed upon his appointment. The clerk is also to execute a bond to the United States with two or more sufficient sureties in such sum as the circuit judge may designate, conditioned for the faithful performance of his duties. In case of a vacancy in the office of clerk, the district judge is to have power to fill such vacancy by appointment, which is to continue until an appointment is made by the circuit judge. The clerks of the circuit courts of the United States for the districts of California are to be *ex officio* clerks of the district courts of the United States for those districts, and are to have all the powers and perform all the duties and be subject to all the liabilities of the clerks of district courts of the United States as prescribed by law.

The clerks of the circuit courts of the tenth circuit are to have power to appoint one or more deputies, who are to have the same authority in all respects as their principal, and to take the same oath. The clerks of the circuit courts and district courts of the United States for the districts of California are severally to be entitled to charge and receive for the services they may perform double the fees and emoluments allowed to the clerk of the southern district of New York for like services.

Issues of fact in civil cases may be tried and determined by the circuit court without the intervention of a jury whenever the parties or their attorneys of record file a stipulation in writing with the clerk waiving a jury. Upon the trial of an issue of fact by the court, its decision is to be given in writing and filed with the clerk, and the facts found and the conclusions of law are to be separately stated. The review of the judgment or decree entered upon such findings by the Supreme Court of the United States upon appeal or writ of error is to be limited to a determination of the sufficiency of the facts found to support the judgment or decree entered, and to the rulings of the court in admitting or rejecting evidence offered, and in the construction of written documents produced and admitted. The Supreme Court may affirm or modify or reverse the judgment or decree entered, or may, in its discretion, order a new trial or further proceedings to be taken.

All proceedings under the act "to ascertain and settle the private land claims in the State of California," approved March 3, 1851, and acts sup-

plementary to or amendatory thereof, for the confirmation of claims to lands situated wholly or in part within the city and county of San Francisco, pending before the district court of the United States for the northern district of California, are to be transferred to the circuit court for that district; which is to proceed to hear and finally determine such proceedings, and the validity and extent of the claims, and the correctness of the surveys made of the lands confirmed.

A term of the district court for the southern district of California is to be held in the city of Monterey, on the first Mondays of February, June, and October of each year; and a term of the district court for the northern district of California is to be held in San Francisco on the first Mondays of April, August, and December of each year; and a term of the district court for the district of Oregon is to be held at the city of Portland on the first Mondays of February, June, and October of each year. Each term is to continue until the fourth Saturday after its commencement inclusive, unless all the cases ready for trial or hearing be sooner disposed of. In case the business of the district court of any of the districts shall not be disposed of by the day fixed for the holding of a term of the circuit court of the United States in the district, and the circuit judge of the tenth circuit is not present to hold the term of the circuit court, it is to be the duty of the district court to adjourn over its business to some future day, to be designated, in order that the district judge of the district may hold such term of the circuit court.

In case proper rooms in which to hold the courts and for the chambers of the judges be not otherwise provided in any of the districts of California and Oregon, together with attendants, furniture, fuel, lights, and stationery, suitable and sufficient for the transaction of business, the district judge of the district may direct the marshal of the district to provide such rooms, attendants, furniture, fuel, lights, and stationery; and the expenses thereof, certified by the district judge to be correct, are to be paid out of the Treasury of the United States, and the money is appropriated for that purpose; but no rooms for any of the courts or chambers are to be hired for a period exceeding six months, without the previous approval of the Attorney General of the United States.

This act is to take effect on the first Monday of May, A. D. 1864.

The first amendment of the Committee on the Judiciary was in section one, line nine, to strike out the word "September," and insert "December."

The amendment was agreed to.

The next amendment was in line thirteen of section one, after the word "year," to strike out:

Each term shall continue until the fourth Saturday after its commencement, inclusive, unless all the cases ready for trial or hearing be sooner disposed of. If all the cases ready for trial or hearing be not disposed of, the term may be continued as much longer as, in the opinion of the court, the public interest shall require.

The amendment was agreed to.

The next amendment was in section four, line twenty-one, after the word "judge," to strike out:

The clerks of the circuit courts of the United States for the districts of California shall be *ex officio* clerks of the district courts of the United States for said districts, and shall have all the powers, and perform all the duties, and be subject to all the liabilities of the clerks of district courts of the United States as prescribed by law.

The amendment was agreed to.

The next amendment was to strike out section eight, in the following words:

Sec. 8. *And be it further enacted*, That all proceedings under the act entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3, 1851, and acts supplementary to or amendatory thereof, for the confirmation of claims to lands situated wholly or in part within the city and county of San Francisco, pending before the district court of the United States for the northern district of California, shall be, and are hereby, declared to be transferred to the circuit court for the said district; and said circuit court shall proceed to hear and finally determine such proceedings, and the validity and extent of the said claims, and the correctness of the surveys made of the lands confirmed, and is hereby invested with full power and jurisdiction for that purpose.

The amendment was agreed to.

The next amendment was in section nine, line fourteen, after the word "year," to strike out:

Each term shall continue until the fourth Saturday after its commencement inclusive, unless all the cases ready for trial or hearing be sooner disposed of. In case the business of the district court of any of said districts shall not be dis-

posed of by the day fixed by this act for the holding of a term of the circuit court of the United States in said district, and the circuit judge of the tenth circuit is not present to hold the said term of the circuit court, it shall be the duty of the district court to adjourn over its business to some future day to be designated, in order that the district judge of the district may hold such term of the circuit court.

The amendment was agreed to.

The next amendment was to strike out section ten, as follows:

Sec. 10. *And be it further enacted*, That in case proper rooms in which to hold the courts, as herein designated, and for the chambers of the judges, be not otherwise provided in any of the districts of California and Oregon, together with attendants, furniture, fuel, lights, and stationery, suitable and sufficient for the transaction of business, the district judge of the district may direct the marshal of the district to provide such rooms, attendants, furniture, fuel, lights, and stationery; and the expenses thereof, certified by the district judge to be correct, shall be paid out of the Treasury of the United States, and the money is hereby appropriated for that purpose: *Provided*, That no rooms for any of said courts or chambers shall be hired for a period exceeding six months, without the previous approval of the Attorney General of the United States.

The amendment was agreed to.

The next amendment was in section twelve, line two, after the word "May," to strike out the words "anno Domini," so that the section will read, "that this act shall take effect on the first Monday of May, 1864."

The amendment was agreed to.

Mr. CONNESS. In the first section I move to strike out in the sixth line and in the eighth line, the word "first," and insert "second" in their places, so as to read, "the second Monday of June, and the second Monday of August."

The amendment was agreed to.

Mr. CONNESS. In the ninth section, to make it correspond, I move to strike out "first" in the ninth line, and insert "second;" and in the thirteenth line to strike out "February," and insert "March;" in the same line to strike out "June" and insert "July;" and in the fourteenth line to strike out "October" and insert "November."

The VICE PRESIDENT. The Chair will put the questions on these amendments in one motion.

The amendments were agreed to.

Mr. HARDING. In the sixth section, line three, after the word "California," I move to insert the words "and Oregon," so that the clerks of the courts in Oregon as well as in California shall be entitled to receive the fees provided for in that section.

Mr. TRUMBULL. There is no objection to that. The same reasons apply in Oregon as in California.

The amendment was agreed to.

Mr. HARDING. I have one other amendment which I desire to offer to this bill, to raise the salary of the district judge for the district of Oregon. His salary is now \$3,000, and as a matter of justice to ourselves we ought to adopt an amendment to raise his salary to \$3,500 per annum. My amendment is to add to the bill as a new section:

And be it further enacted, That the salary of the district judge for the district of Oregon shall hereafter be \$3,500 per annum.

Mr. TRUMBULL. I am sorry the Senator from Oregon has offered this amendment. It will lead to an effort to raise the salaries of all the judges. The salary of the judge in Oregon at this time is \$3,000. There cannot be a very large amount of business, I think, in Oregon; and if we once commence raising the salaries of judges there will be a great pressure upon Congress to raise the salaries of other officers; and in the midst of this war, at this time, I trust the Senator from Oregon will not press it. Let it go over until we get in a better condition.

I will state to the Senator from Oregon that the salary of the district judge in Oregon is already much higher than that of many of the district judges. Some of them have but \$1,500, and some \$2,000, who sit a good part of the year. I think the salary of the district judge of Connecticut, and who holds court in the city of New York a good part of the year, is only \$2,000. If we once commence raising these salaries, we shall find it very difficult to stop. I trust the Senator will not press the amendment.

Mr. HARDING. On an examination of the facts, I supposed that the district judge of the northern district of California had a salary of

\$5,000; and the district judge of the southern district of California had a salary of \$3,500. Our State judges in Oregon receive a salary of \$2,500, payable in gold. That is higher than the district judge of that district receives when you take into consideration the difference between gold and greenbacks. His salary being paid in Government currency, it falls below \$2,000 in gold, while our State judges receive \$2,500. If, however, the judges in California receive only \$3,000, I do not think myself we should ask that the judge of Oregon should receive any more. My understanding is that the judge in the northern district of California receives \$5,000; the judge of the southern district \$3,500.

Mr. CONNESS. I believe the judge of the northern district of California at present receives \$6,000. It was \$5,000 previous to 1860, when an act was passed increasing the salary. It will be remembered that the business of that district is very large. As for taking the southern district of California in comparison with the district of Oregon or any other, I do not think it will do very well, because I am of opinion myself that we should have no southern district in California. I think that one district in the State is enough, and that we are paying one salary too much in that State. I shall very gladly support a bill that shall give us one district there instead of two. I have not felt disposed to introduce such a bill, because it might be interpreted as against myself as a stroke against the gentleman who is occupying the position of judge in that district, for whom I have a great deal of respect and consideration. So much on the subject of salary.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Oregon.

The amendment was not agreed to; there being, on a division—ayes nine, noes not counted.

Mr. CONNESS. I have one more amendment to offer to the sixth section. It will be observed the compensation of the clerk of the northern district of the circuit court is fixed at double the fees and emoluments allowed to the clerk of the southern district of New York for like services. I want to change the verbiage there by simply striking out all after the word "double" in the fourth line and directing attention to the act under which compensation is allowed by inserting the words "the fees and the compensation allowed by the act entitled 'An act to regulate the fees and costs to be allowed the clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes,' approved February 26, 1853." I propose the amendment simply to make it more specific.

Mr. HOWARD. I will suggest to the Senator from California, in case of the repeal or modification of that act relating to the district in New York—

Mr. CONNESS. This does not repeal anything.

Mr. HOWARD. But in case that law should be repealed, what would be the rule in regard to the court in California?

Mr. CONNESS. We shall have to take care of that in the future. It is more specific in this language, because it refers to the title of the act, than it is in the bill as it now stands, and we prefer it to the language of the bill.

Mr. HOWARD. But suppose that act that you incorporate in this bill should be repealed?

Mr. CONNESS. I apprehend that will not occur. We are willing to take risk on that. It would not affect this act at any rate. It allows the clerk the fees provided by a specific act named, and even if it were repealed I do not think it would affect this measure.

Mr. TRUMBULL. I have not looked into the act to see what the effect of this amendment will be; but I should like to inquire of the Senator from California whether the fees fixed by the act of 1853 are the same as are now allowed to the clerk of the southern district of New York?

Mr. CONNESS. They are the same fees.

Mr. TRUMBULL. Then I have no objection to it.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading. It was read the third time, and passed.

POST ROADS IN NEW JERSEY.

Mr. COLLAMER. The Committee on Post Offices and Post Roads had referred to them some days ago a bill (S. No. 102) to establish certain post roads, and to regulate commerce among the States, and for other purposes. It is a bill involving the exercise of large powers, and raises the question of the conflict of jurisdiction between the United States and the State authority in relation to roads, involving large constitutional questions. The Committee on Post Offices and Post Roads find no occasion for any action on the subject in relation to their department, because by law now every railroad is made a mail route. The railroads, then, being mail routes, we have no further occasion to act upon the bill. I am therefore instructed by the committee to ask that they be discharged from the further consideration of this bill, and that it be referred to the Committee on the Judiciary, to which the question belongs.

Mr. TRUMBULL. I should like to know what the bill is. I have no objection to the discharge of the Committee on Post Offices and Post Roads that I know of; but I should like to know what bill it is that is being sent to the Judiciary Committee. That committee is not certainly organized for the purpose of giving legal opinions.

Mr. COLLAMER. We get them from you pretty often.

Mr. TRUMBULL. I should like to know what the title of the bill is.

The VICE PRESIDENT. The title will be read.

The SECRETARY. A bill to establish certain post roads, and to regulate commerce among the States, and for other purposes.

Mr. TRUMBULL. A bill to establish post roads certainly has no business before the Committee on the Judiciary. The bill relates also it seems to commerce. The bill then certainly belongs to the Post Office Committee or to the Committee on Commerce. Surely the Committee on the Judiciary has nothing to do with it, and I object to its taking any such disposition. Manifestly a bill relating to post roads belongs to the Committee on Post Offices and Post Roads; and there is nobody in the Senate, I am sure, better capable of framing a bill in reference to post roads, so as not to interfere with the conflicting jurisdiction of New Jersey or of other States, than the very able Senator from Vermont who has had charge of this bill. I am quite sure that the Senate would have as much confidence in the result of his examination into a bill of that character as they would in any other member of the Senate. I object to its going to the Committee on the Judiciary.

Mr. COLLAMER. I had hoped to save the time of the Senate in making the brief statement I did; but as the chairman of the Committee on the Judiciary seems to object to the reference of this bill to that committee, I must occupy more time.

It seems, Mr. President, that in the early history of railroads in this country, the State of New Jersey granted a charter for a railroad all within that State from Camden to Amboy, and to induce them to make the road they provided that no other road should be granted without their consent, which should interfere with the carrying business between New York and Philadelphia through that State. Subsequently they granted another road, with the consent of the Camden and Amboy road, which is now much used, the Trenton road. Afterwards they made two other railroads, subject to this same provision in their grant; that is, they granted a road from Camden directly east to Atlantic City; and another one from somewhere down upon the New York bay within their own State to join with the Delaware bay. They cross each other. During this war there have been some troops and munitions of war conveyed by that route between New York and Philadelphia, coming down through New York bay by steamboat about twenty miles, then taking this road till it strikes the Atlantic road, and then following that road to Camden. The chancellor of that State has, I believe, granted an injunction upon that route against carrying between those two States, as being in contravention of the grant to the Camden and Amboy road.

This bill seems to be somewhat complicated in its purposes. It invokes the exercise of the power of Congress to regulate commerce between the

States. It invokes the exercise of the power of Congress in relation to the making of military roads, and also of mail routes. It proposes to declare that circuitous road by way of the Atlantic road a highway of the United States, a mail route, and I do not know but a military route, in the exercise of these various, different powers of Congress. Great questions arise whether the power of Congress to regulate commerce between the States extends to the regulating of the railroads within a State different from the provisions of the State authority, interfering with that authority, or controlling it in the view of preventing monopoly; in short, involving the great questions of conflicting jurisdiction, the largest we have ever had before us, between the States and the General Government in relation to concerns within the body of the State itself.

Now, Mr. President, so far as the bill relates to mail routes, I before said, and I now state again, that we have a general statute which makes every railroad a mail route.

The VICE PRESIDENT. The Senator will pardon the Chair. It becomes the duty of the Chair at this hour to call up the special order. If there be no objection upon the part of the Senate, however, the Chair will proceed with the unfinished business of the morning hour.

Mr. COLLAMER. Let us dispose of this.

The VICE PRESIDENT. The Chair hears no objection, and the Senator will proceed.

Mr. COLLAMER. I say so far as the bill relates to mail routes nothing is necessary to be done. The general law has provided for all that is wanted in relation to the mails on any road. Every railroad is declared a mail route, and that is all we can do with it.

But that is not what the bill desires. It proposes a settlement of the great question whether a State can create what they call a monopoly within the State itself, or whether Congress can have the control of that subject under the exercise of the various powers contained in the Constitution, and the exercise of which is invoked by the present bill. They are great and important questions, and they are judicial and legal and constitutional questions, not relating to the Post Office at all. I think it properly belongs to the Judiciary Committee, and I have been directed by the Committee on Post Offices and Post Roads to ask to have it referred there. Because of their direction, I do ask to have it so referred, and I think it a very reasonable request.

Heretofore it has been the usual rule for the chairmen of committees in the two Houses of Congress to watch and see to it that none of their business was sent away from them; to see that they magnified and justified their own jurisdiction, and laid claim to all that could properly belong to them. This bill properly undoubtedly belongs to the Committee on the Judiciary, and the chairman of that committee, instead of trying to get rid of it, should take it magnanimously and consider it, as it belongs to him. As to what is said in relation to myself and my committee that we are competent to consider all questions of this kind, I merely say I do not disclaim that. I have not the exceeding modesty to disclaim it at all; but I would say this: this body has selected another board for that purpose, and did not put me on it, and I do not therefore think it proper to undertake a duty of that kind to which I have never been selected by the body, however much I ought to have been. I leave that as another question entirely. I hope, Mr. President, the subject may take its proper direction.

Mr. ANTHONY. I ask the Senate to take up—

Mr. COLLAMER. Let this question first be disposed of and referred to the Committee on the Judiciary.

Mr. TRUMBULL. I will ask a division of that question.

The VICE PRESIDENT. A division of the question is asked. The first question, then, is on discharging the Committee on Post Offices and Post Roads from the further consideration of the bill. The second question will be on referring it to the Committee on the Judiciary.

Mr. POWELL. Mr. President, this is "a bill to establish post roads and to regulate commerce among the States, and for other purposes." The whole subject-matter of the bill is the establishment of a postal and military road through the State of

New Jersey. I think it is now before the committee to which it properly, in my judgment, belongs, and I hope it may remain in that committee. I do not think it is a question that should be referred to the Judiciary Committee. Every matter touching this bill is a matter for the proper consideration of the Committee on Post Offices and Post Roads; and even should constitutional questions arise, growing out of the establishment of this or any other road as a post road, that committee certainly are as competent to settle it as the Committee on the Judiciary.

The Judiciary Committee is not organized for the purpose of settling legal questions that may arise in other committees. That is not the purpose, in my judgment, of its organization. Each committee of this House, when a proper subject-matter is referred to them, should settle all the legal questions arising upon it. The idea of sending a bill establishing post roads to the Judiciary Committee is certainly to me a novel kind of proceeding. I think it is now before the proper committee and the only committee to whom it should have gone. I think they should retain the bill, and make their report upon it; and I know of no committee in this Senate more competent to discharge that duty than the Committee on Post Offices and Post Roads. Even were the gravest constitutional questions to arise upon it I know of no chairman of a committee better competent to settle them than the honorable Senator from Vermont, the chairman of the Committee on Post Offices and Post Roads. I hope that this bill may be allowed to remain with the Committee on Post Offices and Post Roads, and that it may not be sent to the Judiciary Committee. In my judgment the Judiciary Committee have nothing to do with it, and should not have.

Mr. JOHNSON. I have no knowledge of this bill except that derived from a very cursory reading of it and what I understand to be its title. It has three substantial provisions: one of them relates to commerce, another relates to military matters, and the third relates to the Post Office Department. It may be true, and certainly is true, that each one of those subjects when it is before the Senate very often presents a legal inquiry. No legal questions are more frequently presented than those which are involved in all financial propositions. So in Post Office propositions; and so in military propositions. I understand the honorable chairman in whose hands the whole bill is supposed that it should go to the Committee on the Judiciary because of their supposed fitness to dispose of all merely legal questions, whether those questions involve the construction of the Constitution or the meaning of any of our statutes. That cannot be true, as a general proposition, I submit to my honorable friend from Vermont. All questions relating to the judiciary are proper questions for the consideration of that committee, because they do relate to the judiciary. All questions relating to the Post Office for the same reason belong to that committee; and all questions relating to finance or to military matters belong to the respective committees of Finance and Military Affairs. The fact that there are or may be in all such measures legal questions is no objection to the jurisdiction of the respective committees. If it was, it is difficult to imagine how any measure proposing to change the existing law could go to any other committee than to the Committee on the Judiciary. If that were the case the function of the other committees in the Senate would be at an end; their vocation would be gone. That cannot be so.

I understand my friend from Vermont to say that so far as relates to that part of the bill which affects the Post Office establishment by providing the roads over which the mail is to be carried, the law which is proposed is unnecessary because it is still the law. In that I have no doubt the Senator is, as he always is, very correct. That is a very good reason for reporting against that part of the bill, and if he reports upon that ground, that it is unnecessary, if the law is still as it is proposed to make it, and the honorable member thinks that committee is not in a condition to dispose of what may be termed the military part of the bill or the financial part of the bill, he has the right, it having been referred to him, and I submit it is the proper function of the committee when they find themselves in a condition of that kind, to report against the whole bill. It can afterwards be in-

troduced so as to provide for each of the other two provisions which, as I understand, propose to incorporate into the law of the United States that which is not now a part of the law of the United States.

I agree with the honorable Senator from Vermont that there is a question involved in one of the measures of very great constitutional importance, and perhaps a very great constitutional difficulty. On that question I do not propose to commit myself, because really I have no opinion on the subject; but, as I understand it, the roads that are now constructed through New Jersey have been constructed under the guarantee of a charter which stipulated that New Jersey should not at any time thereafter, or for a period of time, I forget which—

Mr. COLLAMER. A period of time.

Mr. JOHNSON. For a period of time authorize the construction of any other road. It may be—I am not prepared, as I have stated, to say whether it is so or not—it may be that that constituted a contract as between the present roads and the State which is protected by that clause of the Constitution of the United States which guards a State against impairing the obligation of contracts. But there is another question behind that.

Mr. COLLAMER. I beg the gentleman's pardon for a moment. The roads that ask our interference here now do not claim that they have any grant by the State inconsistent with those other grants.

Mr. JOHNSON. I was about to say that I so understand.

Mr. COLLAMER. This is not a breach of the contract of the State.

Mr. JOHNSON. I was about to say, without looking to the road to be affected by this bill, or what are claimed to be their rights, that it may be, and perhaps is, a very grave question whether a State can by contract deprive itself of the power over its own internal improvements in this way. I know that the particular road which is to be affected by this bill is a road constructed under a charter which does not present that difficulty. There is, as I understand, no objection at all to the validity of that charter.

Mr. COLLAMER. None at all.

Mr. JOHNSON. But the holders of that charter, or those who may be interested in it, although they are willing to have it conceded for the sake of the argument that the charter under which they are acting gives no authority to them to interfere with the exclusive franchise granted to the antecedent road, believe that that object may be accomplished by calling upon Congress to give them the power to do under their charter that which, without the authority of Congress, they would be unable to do.

That presents the question I was about to state. Congress—it has always been the received doctrine, certainly for many years, at any rate—Congress has within the last thirty or forty or fifty years through every branch of the Government before whom the question has arisen—I mean the executive and legislative branches of the Government—denied that there existed in the Government of the United States any authority under the power to establish post offices and post roads to construct roads. General Jackson took that ground in his Maysville message, and, as far as we know anything on the subject, certainly Congress have sanctioned it as the true meaning of that term. I am not prepared to say it is a true meaning; but it presents a very grave question.

If the power is not to be found under the authority to establish post offices and post roads, the next question is whether it is to be found under the war power. It is, I know, contended that under the war power whatever is necessary to facilitate the operations of the armies of the United States to bring to a successful termination the war may be done, however it may conflict with what otherwise would be the admitted rights of a State; and that upon the ground of necessity. That I can understand. But one would suppose that when that necessity is to terminate, whatever has grown out of the necessity is to die with it, because otherwise the power to establish roads, construct internal improvements, or do anything else which is supposed to be involved in the power to declare and carry on a war becomes a substantial power in the Constitution of the United States,

and controls, not only during the period of the emergency, but during all time, the authority of the State.

To illustrate: Maryland has constructed, at very heavy expense, a railroad system. Pennsylvania has constructed her canal system to even a greater extent, and her railroad system. New Jersey has done the same thing. New York has done the same thing. The great West has done the same thing at, I believe, a still more heavy expense. If, under this military power, you can say that any road in New Jersey is to be a military road you can say that all railroads in the country are hereafter to be military roads, and take them under your own charge; and if, because of the authority to do that during the period which exists now, because of the necessity which may be supposed to exist now, of which the Congress and the Executive can alone judge, you can take all these roads to yourselves and enlarge the authority which the charters gave, and give to the corporations powers which the charters did not give to them, why you make the war power not a temporary but a continuing source of authority.

I have said all that I contemplated saying on this subject, except this: that I think it would be better that these two subjects, which are not, as I admit, legitimately before the Committee on Post Offices and Post Roads, should be reported to the Senate, the Post Office Committee discharged from their consideration, and they should be referred to their appropriate committees—the Military Committee and the Committee on Finance.

Mr. COLLAMER. I have nothing further to say, except this: after all, the remarks of the gentleman, so far as they have been heard, show most conclusively that this subject is one with which the Committee on Post Offices and Post Roads have nothing in the world to do, relating to the military power of this Government and the duty of regulating commerce between the States. It is claimed that that power extends to the regulation of roads within the States. All the law that is needed to make any of these roads post roads already exists. There is no occasion for any further law. I did not wish, and the committee did not wish, to make a report on the merits of other parts of the bill, or to say that we report entirely against it. If we show there is no occasion of our having it in our hands for Post Office purposes, I think we should be discharged from its consideration.

Mr. HOWARD. Mr. President, I do not see why the Committee on Post Offices and Post Roads should desire to be relieved from the consideration of this bill. It is certainly *prima facie* the proper committee to take it into consideration; and if there be any question of constitutional law growing out of it I am very certain that committee is as competent to decide that question as any other committee of this body. I shall, therefore, vote against the motion to discharge the committee, because I think the matter belongs to them appropriately, and that it does not belong to any other committee of the Senate as appropriately as to that committee.

Mr. COLLAMER. I think the gentleman could not have heard what I said.

Mr. HOWARD. Perhaps I did not.

Mr. COLLAMER. I say that so far as the bill relates to post offices and post roads there is no occasion for any action by us on any part of it at all.

Mr. HOWARD. Then I can hardly imagine why that part of it is here.

Mr. COLLAMER. There is no occasion for our action, because the railroad which it is suggested to make into a mail route is now a mail route by law.

Mr. HOWARD. Then if it is a mail route already by law what is the use of this bill so far as it purports to make it a mail route? Why is it here? Why refer it to any committee?

Mr. COLLAMER. Because it contains two other various and important subjects besides.

Mr. FOSTER. I can see no possible objection to discharging the Committee on Post Offices and Post Roads. Indeed, I think they ought to be discharged from the consideration of this bill. The residue of the bill, from the statement of the honorable chairman of the committee, seems to belong a part of it to the Committee on Military Affairs and a part of it to the Committee on Commerce. The Judiciary Committee have nothing

to do with either of those questions. I hope the question to discharge the Committee on Post Offices and Post Roads may be assented to readily, for I see no objection to it.

THE VICE PRESIDENT. The question is on the motion to discharge the Committee on Post Offices and Post Roads from the further consideration of this subject.

The motion was agreed to.

THE VICEPRESIDENT. The question now is on referring the bill to the Committee on the Judiciary.

The question being put, there were, on a division—yeas 16, noes 15; no quorum voting.

MR. CONNESS. I call for the yeas and nays. The yeas and nays were ordered.

MR. TRUMBULL. As it seems this is to become a question of dispute, and the yeas and nays are to be taken, I wish Senators to understand it. It is simply a question whether, when bills come before the Senate that committees desire to get rid of they are to be put upon the Judiciary Committee. There has been a good deal of that practice. The Senator from Maine [Mr. FESSENDEN] smiles. He has, I believe, been a party to some of these motions before.

MR. FESSENDEN. I beg my friend to specify a case, as he makes a charge against me.

MR. HOWARD. They are so numerous that they cannot be specified.

MR. TRUMBULL. I think I can specify a case. I think I could be able to show, if it were necessary, that the Senator from Maine urged the reference to the Judiciary Committee at this session of Congress of a resolution in regard to the Senator from Kentucky [Mr. DAVIS] with which the Judiciary Committee had nothing to do; and also a bill for bounties, introduced by the Senator from Minnesota, [Mr. WILKINSON.]

MR. FESSENDEN. It was to the Committee on Military Affairs.

MR. TRUMBULL. It was referred to the Judiciary Committee; and I think the Senator from Maine advocated it. He is mistaken if he supposes that he has not been engaged in it. If he wants more specifications perhaps I could specify more; but there are two cases within a few weeks.

It has now become a question, and the yeas and nays are called upon it, whether a bill on which a constitutional question can be raised shall be sent to the Committee on the Judiciary. Is there any bill that we cannot raise a constitutional question about? When the Senator from Maine at the last session of Congress brought in a bill to make Treasury notes a legal tender was not that a constitutional question? Was it not argued here on that ground? Why did he not ask to discharge the Finance Committee from the consideration of that subject, and refer it to the Judiciary Committee, because possibly somebody doubted the right to make a Treasury note a legal tender? When a bill is before the Committee on Commerce to appropriate money for the improvement of rivers and harbors, because somebody doubts the constitutionality of the appropriation, why is not the Committee on Commerce discharged from the consideration of that subject, and it sent to the Committee on the Judiciary? I will tell you why it is not done. Whenever these questions arise incidentally out of a bill which properly belongs to a certain committee, the committee never shirks its duty and never seeks to refer it to another committee because a constitutional question may be raised. It has never been done. The Judiciary Committee has nothing more to do with this question than any other committee of the Senate. It is organized to take charge of matters relating to the courts and the judicial business of the country; and if constitutional questions arise out of bills of that character they consider them. But because a constitutional question arises in a financial matter is the Committee on Finance to be discharged from its consideration? By no means. That has never been the practice of the Senate; and until very recently these attempts to turn bills of that character over to the Judiciary Committee were never made.

Now, sir, here is a bill relating to post roads and military roads; and because a question may arise as to the authority of Congress to make a post road or a military road of a certain railroad, therefore the Committee on Post Offices and Post Roads ask to be discharged from its consideration,

and the chairman of the committee tells us that there is no occasion for a bill to create such a road as a post road. Very properly then that committee may be discharged from its consideration. But because another question might by possibility arise, whether there was any authority, if a road was needed, to construct the road, or for the Government of the United States to take charge of it, therefore it is to be sent to the Committee on the Judiciary. For what purpose? I really cannot see any purpose to be accomplished by it, and I trust the Senate, upon the yeas and nays, will give it no such reference.

MR. FESSENDEN. I really feel that an apology is due from me to the honorable chairman of the Committee on the Judiciary. I only feel it because he seems to have taken such offense at an involuntary smile that I gave when he commenced his remarks. This motion is made by the honorable Senator from Vermont. I have taken no part in it. I have said nothing. I have sat quietly in my seat and listened to the debate; but because when the Senator commenced his remarks and seemed to think that the Judiciary Committee had been practiced upon I could not help smiling, the Senator has addressed all his remarks of obfuscation—if I may so call them—to the Senator from Maine.

Now, sir, it is very possible that on one or two occasions I have moved that bills should be sent to the Committee on the Judiciary because I thought they ought to go there, and I believe the Senate sustained me in sending them there. I cannot see that I committed any very great offense against parliamentary propriety, or really subjected myself to censure from the honorable Senator. Let me say, however, that the reason why I have made such motions was simply because I thought the Committee on the Judiciary was so ably constituted and possessed so much learning in reference to all those matters, and were so abundantly able to deal with questions of this description, that I really thought it was a duty to send questions of this description to that committee to be investigated. It seems that my thinking so has given offense; and therefore, by way of apology, I take it back, and say that the Judiciary Committee is not, in my judgment, (because that will suit the Senator better,) fit to have charge of questions of this description.

MR. CONNESS. I voted this morning in the Committee on Post Offices and Post Roads to ask to be discharged from the further consideration of this question, and also to move its reference to the Committee on the Judiciary. I beg to say simply—

MR. DAVIS. Tell us what occurred.

MR. CONNESS. No, sir; I will not tell what occurred in committee; but I beg to say that the motive there was simply this: this being an important bill, the question involved in it being of the first consequence, we desired to get the benefit of the great ability and learning of that committee upon the great question involved in it. It was not from any desire to shirk labor in the premises at all. I say that in great sincerity. It is a question in which I feel a good deal of interest as to whether a State may not only say who shall do business within its borders, but who shall travel or trade between two of the great cities of the Union, and whether a State can control that question. I am sincerely desirous, and the Committee on Post Offices and Post Roads are desirous, that that question should now at this time be examined by the Committee on the Judiciary. I hope that it will go there, and I beg to assure the committee that we were most sincere in the recommendation that we made.

MR. POMEROY. While I would not say anything about what was done by the committee particularly, yet I will say there was no disposition on the part of the Committee on Post Offices and Post Roads, nor on the part of any one that I know of, to give this bill the go-by, or to assume that there was anything asked for in the bill that should not be granted.

MR. CONNESS. Quite the contrary.

MR. POMEROY. The committee simply desired the expression of the Judiciary Committee on certain constitutional questions. It need not be imagined from this motion that this subject of having at least two lines of road, of which this is one of the links between here and New York, is to have the go-by, or is to be voted against. I

do not think that is the sentiment of Congress or the country. I believe they are prepared to consider that question; and if there are no constitutional objections in the way I think public policy and public interest will demand it. It is simply a question whether we can do it constitutionally, and upon that question it was supposed that the Judiciary Committee could express their opinion.

MR. FOSTER. Will the honorable Senator allow me to ask him a question?

MR. POMEROY. Of course.

MR. FOSTER. I wish to ask whether the opinion of the Judiciary Committee upon the power of Congress to do this would not, after all, depend upon the necessity of the case; and whether, in his judgment, it would not be best first to get the opinion of the Military Committee whether it was necessary to have this road; or if it proposes to regulate commerce to get the opinion of the Committee on Commerce as regards the necessity of that case?

MR. POMEROY. I do not think the opinion of the Judiciary Committee on the constitutionality of the bill would depend upon any necessity of the case; because necessity does not make constitutional what would be otherwise unconstitutional. Necessity may be a reason why we may override the Constitution; necessity may be a reason why we may do a great many things; but the Judiciary Committee will not declare a thing to be constitutional simply because we think it is necessary. My own conviction with regard to the matter is that it is both within the Constitution and necessary, and I think the Judiciary Committee will so decide.

MR. FOSTER. If it should be constitutional but not necessary would not the labor of the Judiciary Committee be all lost?

MR. POMEROY. Then it will become a question for the Senate, after the committee decide that it is constitutional, to say whether they think it is expedient or not. The objections to it will be removed, I judge, when men find that this measure is within the provisions of the Constitution. It is clearly a part of the public policy, I think, to have better facilities between here and New York, and to increase them and have more of them; and it is simply a question of public policy, provided it does not interfere with any constitutional restrictions.

THE VICE PRESIDENT. The question is on the motion to refer this bill to the Committee on the Judiciary, and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 13, nays 27; as follows:

YEAS—Messrs. Buckalew, Clark, Collamer, Conness, Cowan, Dixon, Doolittle, Fessenden, Grimes, Harlan, Henderson, Pomerooy, and Ramsey—13.

NAYS—Messrs. Carlile, Chandler, Davis, Foster, Hale, Harding, Harris, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Powell, Richardson, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Wilson, and Wright—27.

So the motion was not agreed to.

THE VICE PRESIDENT. What disposition will the Senate make of the bill? It is now before the Senate.

MR. WILSON. I move that it be laid on the table.

The motion was agreed to.

ORDER OF BUSINESS.

THE VICE PRESIDENT. Reports from committees are still in order.

MR. WILSON. I move that the Senate now proceed to the consideration of the joint resolution to equalize the pay of soldiers in the United States Army. That is the regular order of the day.

MR. TRUMBULL. I desire to make a report. I believe that is in order.

THE VICE PRESIDENT. Does the Senator from Massachusetts insist on his motion before the morning business is disposed of?

MR. WILSON. The morning hour has passed some time ago.

THE VICE PRESIDENT. The morning hour has gone by long since, but the morning business is not yet finished.

MR. WILSON. I withdraw the motion for the present.

THE VICE PRESIDENT. Reports from committees are in order.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed a bill (No. 225) making an appropriation for rebuilding the stable at the President's, in which the concurrence of the Senate was requested.

REPORTS FROM COMMITTEES.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom was referred a bill (S. No. 62) to remove all disqualification of color in carrying the mails, reported it with an amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, reported it with an amendment.

Mr. HENDERSON, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 110) for the relief of John H. Shepherd and Walter K. Caldwell, of Missouri, reported it with an amendment, and submitted a report; which was ordered to be printed.

BILL INTRODUCED.

Mr. DAVIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 113) to provide for ascertaining and adjusting claims against the Government for injury or destruction of property by the Army of the United States or by military authority during the present rebellion, and for settling the claims of the State of Kentucky against the United States; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

REBUILDING OF PRESIDENT'S STABLE.

The bill (H. R. No. 225) making an appropriation for rebuilding the stable at the President's, was read twice by its title.

Mr. GRIMES. I am instructed by the Committee on Public Buildings and Grounds to ask for the present consideration of that bill.

The VICE PRESIDENT. It requires the unanimous consent of the Senate to consider the bill at the present time.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill, which appropriates the sum of \$12,000, or so much thereof as may be necessary, to enable the Commissioner of Public Buildings to cause the stable at the President's to be rebuilt forthwith.

Mr. GRIMES. In order to explain fully the necessity for the passage of the bill at this time, and the amount that is specified in it, \$12,000, I desire to read a letter addressed by the Commissioner of Public Buildings this morning to the chairman of the Committee on Public Buildings and Grounds of the House of Representatives. It is as follows:

OFFICE OF THE COMMISSIONER OF PUBLIC BUILDINGS,
CAPITOL OF THE UNITED STATES,
WASHINGTON, February 11, 1864.

DEAR SIR: The stable attached to the Executive Mansion was destroyed by fire last night. It is very necessary, for the convenience of the President, that it should be rebuilt as soon as possible. At an interview with him, early this morning, he expressed a desire that I would bring the matter to the attention of Congress to-day, if possible, that measures might be taken to have it rebuilt.

Isaiah Rogers, Esq., the Architect of the Treasury, with a master bricklayer, accompanied me to the ruins, and after a careful examination Mr. Rogers came to the conclusion that it would cost \$12,000 to rebuild it, and has given me a written estimate to that effect, which accompanies this letter.

The walls of the stable are of the best pressed brick, but are so cracked and warped that nearly the whole will have to be taken down. The inside of the stable is entirely burned out. The window caps and sills are of brown stone, and most of them so injured that new ones will have to be procured.

The stable cost originally, I understand, about seventeen thousand dollars.

Respectfully, your obedient servant,

B. B. FRENCH,
Commissioner of Public Buildings.

Hon. JOHN H. RICE, Chairman Committee on Public Buildings and Grounds, House Representatives United States.

I also have in my hand the estimate of Mr. Rogers, the Architect of the Treasury, which accompanies the letter of the Commissioner of Public Buildings and corroborates the statement made in that letter.

Mr. JOHNSON. How many horses will the stable accommodate?

Mr. GRIMES. I do not know.

Mr. JOHNSON. Twelve thousand dollars is rather a large sum for a stable.

Mr. GRIMES. It cost originally \$17,000.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COLONIZATION OF TEXAS.

Mr. LANE, of Kansas. I now move that the Senate take up Senate bill No. 45, for the purpose of making it a special order for Tuesday next.

The motion was agreed to; and the Senate proceeded to consider the bill (S. No. 45) to set apart a portion of the State of Texas for the use of persons of African descent.

Mr. SUMNER. I think we had better not go into the consideration of that bill now. I have not had an opportunity of reading the report of the Senator on the subject. It is one of the most important subjects that can be presented to the Senate. It involves the question of the treatment of freedmen, of colonization, and I fear also a very considerable expenditure of money. But I do not wish to anticipate the discussion. I simply suggest to the Senator from Kansas that he had better let the bill lie a little longer, until we have had at least an opportunity of reading his report.

Mr. LANE, of Kansas. In answer to the suggestion of the Senator from Massachusetts I have this to say: I shall be compelled, on account of sickness in my family, to leave here next week for home, and I desire to submit some remarks to the Senate on the subject of this bill. After that I shall let it take such direction as the Senate may desire.

Mr. CLARK. We will take it up at any time for that purpose.

Mr. SUMNER. If the Senator wishes merely to state the case I certainly have no objection to that. I had supposed that the Senator proposed to make it a special order with a view to press it to a vote, and I thought the Senate were not ready for that.

Mr. LANE, of Kansas. The Senator from New Hampshire suggests that the Senate would take it up at any time. I have already stated that I shall be compelled to go home next week. It is uncertain whether I can have it taken up at any time, and as I design to start perhaps on Wednesday I should like to have it a certainty.

Mr. CLARK. I meant simply to say that, after his statement, we would take it up at any time to accommodate the Senator, whenever he desired to address the Senate upon it, without making it a special order. I will vote to hear him now if he desires to go on at present.

Mr. LANE, of Kansas. I am not prepared now. I should like very much for the Senate to make it a special order.

The VICE PRESIDENT. For what day?

Mr. LANE, of Kansas. For Tuesday next.

The VICE PRESIDENT. The Senator from Kansas moves to postpone the further consideration of this bill until Tuesday next, and make it the special order for that day at one o'clock.

The motion was agreed to; two thirds of the Senate concurring.

BRITISH SCHOONER GLEN.

Mr. SUMNER. There is a little bill which I ask the Senate to take up and act upon now, which will cause no debate. It is House bill No. 144, to indemnify the owners of the British schooner Glen.

The motion was agreed to; and the Senate as in Committee of the Whole proceeded to consider the bill, which directs that there be paid to the owners of the British schooner Glen the sum of \$17,150 66, the same being the amount awarded as an indemnification to the parties interested by the district court of the United States of America for the southern district of New York, for costs, damages, and expenses by reason of the illegal seizure of that vessel and cargo as prize.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LIEUTENANT GENERAL.

Mr. WILSON. I now move that the Senate proceed to the consideration of the bill (H. R. No. 26) reviving the grade of lieutenant general in the United States Army.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to con-

sider the bill. It proposes to revive the grade of lieutenant general in the Army of the United States; and authorizes the President, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a commander of the Army, to be selected, during war, from among those officers in the military service of the United States, not below the grade of major general, most distinguished for courage, skill, and ability; and who, being commissioned as lieutenant general, shall be authorized, under the direction of the President, to command the armies of the United States; and respectfully recommends the appointment of Major General U. S. Grant, of Illinois, for the position of lieutenant general.

The lieutenant general thus appointed is to be entitled to the pay, allowances, and staff specified in the fifth section of the act approved May 28, 1798; and also the allowances described in the sixth section of the act approved August 23, 1842, granting additional rations to certain officers; but nothing in this bill contained is to be construed in any way to affect the rank, pay, or allowances of Winfield Scott, lieutenant general by brevet, now on the retired list of the Army.

The Committee on Military Affairs reported the bill with several amendments. The first amendment of the committee was in line seven, section one, to strike out the words "commander of the Army," and to insert "lieutenant general;" and in line eight, after the word "selected," to strike out the words "during the war;" so that the clause will read:

And the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a lieutenant general, to be selected from among those officers in the military service of the United States, not below the grade of major general, most distinguished for courage, skill, and ability.

Mr. TRUMBULL. That amendment involves the whole character of the bill and its importance, as it seems to me. The bill as it came to us from the House of Representatives was intended not simply to confer the honor of lieutenant general upon the person who should be selected by the President of the United States as most distinguished for his courage, skill, and ability, but it was intended also in conferring this high honor upon him to give him some command corresponding with the title conferred by it. If you strike out these words as proposed by the Committee on Military Affairs you deprive the resolution of its value so far as it is intended to place the lieutenant general in command over other generals. I suppose it is competent for the Congress of the United States to determine by law the powers which the officers in the Army shall exercise. For instance, we have provided that a brigadier general shall have command of a brigade. We cannot place the brigadier general over the brigade; we cannot appoint the brigadier general; the President selects the man; but we provide, by Congress, what authority the brigadier general shall have when he is selected by the President.

The virtue of this bill to my mind is the principle contained in it, which gives the lieutenant general when selected command over the armies of the United States. I am as willing as any one to confer honor on General Grant. He has performed distinguished services; he has done well for his country; he deserves well for his gallant deeds any honors that Congress can confer upon him. But, sir, when we are conferring honors upon him and placing him in a position at the head of the Army, as this bill proposes, I propose that you shall give him the authority which the position is entitled to. One of the excellencies of this bill to my mind is that provision in it that when he is made lieutenant general he shall be commander of the armies of the United States under the President. I speak of General Grant because the bill as it comes to us from the House recommends General Grant. We cannot compel the President to confer this honor upon him. He has the selection; and it would be in his power to select some other individual. But whoever is selected by him as most distinguished for courage, skill, and ability during this war, let that individual when selected by the President and confirmed by the Senate have command of the armies of the United States, under the authority, of course, of the President, who is Commander-in-Chief by the Constitution.

I hope the amendment of the committee will not be agreed to. I desire for one, and I will not dis-

guise it, that the armies of the United States shall be commanded by a different person from the one who now exercises authority over them; and if you strike these words out you do not accomplish that object. What will the bill amount to as amended by the Committee on Military Affairs? Simply to confer upon General Grant the empty honor of being called lieutenant general; that is all. Sir, I want him when the honors of the lieutenant generality are conferred upon him to have the power to command the armies of the United States; and therefore I trust this amendment will not be adopted.

Mr. NESMITH. I differ with the Senator from Illinois in relation to the construction that he puts on the amendment which was made in the Committee on Military Affairs. I do not apprehend that it is necessary in a bill creating additional rank for an Army officer to determine in the terms of that bill what his rights shall be as a commanding officer. If a lieutenant general is appointed he will be superior in rank to any officer that we now have in the United States Army, and in virtue of that superiority he will be entitled to command all other officers while in service with them. The bill which we passed at the last session of Congress providing that the President might select any one of two officers of the same grade serving in the same field or in the same department, and place him in command of that field or department without reference to his relative rank with other officers of the same grade in the service, does not apply to the lieutenant general, as there is no lieutenant general now; and if the rank is created there can be but one. The plain inference to my mind is, that if a lieutenant general is created he is the superior military officer in the Government, subordinate only to the President of the United States, who is Commander-in-Chief, and that all other officers are subordinate to him. There is no power by law now to make him subordinate to any major general, or to place him under the command of any other officer.

Now, sir, I am opposed to providing by law that any single individual shall be commander of the armies of the United States, for this simple reason: the contingencies and the incidents which are always occurring in war sometimes make it necessary to have changes. Suppose you pass this bill with a provision that the lieutenant general shall be the commander of the armies of the United States. During the recess of Congress a dozen contingencies might arise which might render it necessary that some other person should have the command of the Army; that this officer should be retired from active duty, or at least deprived of his command. I think with all these contingencies, all these probabilities likely to arise, that the President should not be deprived of the discretion of determining in a time of great public danger when Congress is not in session who should exercise that command. I shall vote for no bill that provides that any particular individual shall be the commander of the Army of the United States for these very reasons.

Mr. TRUMBULL. The Senator from Oregon will allow me to inquire of him if it would not be within the power and discretion of the President at any time to dismiss him if during the recess of Congress or at any other time he was found not to be a proper person to command the Army?

Mr. NESMITH. I apprehend he would have the power to strike him from the rolls.

Mr. TRUMBULL. Then it is in his discretion.

Mr. NESMITH. Admitting that point, circumstances may arise wherein it would be proper to deprive him of his command as commander of the armies of the United States, and where it would be very improper to strike him from the rolls and dismiss him from the service. Many contingencies of that kind may arise.

Mr. TRUMBULL. Would not that be entirely within the President's discretion if the bill passed?

Mr. NESMITH. It would not.

Mr. GRIMES. Let me answer the question. He might strike him from the rolls, but he could not remove him as he removed General McClellan from the command of the army of the Potomac. If there had been an act of Congress making General McClellan lieutenant general instead of General Grant he would have been lieutenant general in command of the armies by act of Congress,

and not by the appointment of the President of the United States. The President can strike him from the roll, but he cannot detach him, if you pass this law, from having command of the Army.

Mr. TRUMBULL. I do not agree with the Senator from Iowa or the Senator from Oregon on that subject. The Commander-in-Chief could displace him at any time; could relieve him of his command and put him on trial before a court-martial or before a court of inquiry. The fact that Congress designates this officer as being the commander is no more of a designation than that which is made in the law in regard to a brigadier general or in regard to the Quartermaster General. Have we not provided by law that there shall be one Quartermaster General to have charge of the quartermaster's department? Is it not an occurrence within the knowledge of us all that the Quartermaster General has been sent to remote parts of the country, and the duties of the office devolved upon others? Has it not been so in the commissary's department? And yet the law reads that there shall be one Quartermaster General, one person with the rank of general at the head of that department who is to have charge of that department. Is there any trouble about it practically? Will the Senator from Iowa undertake to say that it is not competent for the President of the United States in his discretion to relieve that Quartermaster General?

Mr. GRIMES. There is no analogy between the cases.

Mr. TRUMBULL. I do not see why the analogy is not complete. The Quartermaster General has just as supreme control over the quartermaster's department by act of Congress as this bill proposes to give to the lieutenant general as commander of the Army over the Army.

Mr. GRIMES. Show us the law that gives the Quartermaster General that power.

Mr. TRUMBULL. I can refer to the law. I think it will be found so in reference to several of the Departments of the Government.

Mr. NESMITH. I will ask the Senator from Illinois if it is not in the power of the President to make any major general, to say nothing about the rank of lieutenant general, commander of the armies of the United States? If the President already has that power, where is the necessity of repeating it in a law of this kind merely establishing the rank? The President already has the power. General Grant, or any other general who succeeds in obtaining this rank, by virtue of the rank will be entitled to exercise the authority, whether you look to this law or not.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) The question is on the adoption of the amendment proposed by the Committee on Military Affairs.

Mr. RICHARDSON called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

Mr. JOHNSON (when his name was called) said: Am I at liberty to state the reason for my vote?

The PRESIDING OFFICER. It can be done by unanimous consent. ["No objection!"] The Chair will hear the Senator from Maryland.

Mr. JOHNSON. Mr. President, sharing as I do in common with every man in the country an admiration and gratitude for the services of Major General Grant, yet I am by no means certain that this bill does not go, if the amendment is not adopted, further than perhaps it is in our power to go, or, if in our power, further than it is expedient to go. Independent of legislation, it has been a question whether the President could dismiss from the service an officer of the Army. You have by legislation given him that power. If it requires legislation to give the power, it is the function of legislation to take from the Executive the power. The difficulty that I have is not as to General Grant, because I hope he may be selected, and I hope he may be put in command of the Army, but whether you do not take from the President, if you pass this bill as it stands, a power which he ought to have, of dismissing any officer of the Army, particularly in a time like this, who shall in the future prove to be unfit for the particular service. I do not anticipate that that will be the case with General Grant; but still it may be. He is but one of ourselves, human, and he may be found to err in the future. He may lose the confidence of the Army, and if he does it

would be very improper that he should continue in the command of the Army. Now, what influences me in the vote which I am about to give, and I submit it to the Senate, is, that perhaps without this amendment you take from the President the power which I think he ought to have, of dismissing whoever he may select, whether it be General Grant or anybody else; and I think so for this reason: assuming the right of Congress to give the power to dismiss, it necessarily carries with it the other power, the power in Congress to take away the right to dismiss. The language of the resolution as it comes from the House of Representatives is:

"And the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a commander of the Army to be selected during war from among those officers in the military service of the United States, not below the grade of major general, most distinguished for courage, skill, and ability; and who, being commissioned as lieutenant general, shall be authorized, under the direction of the President, to command the armies of the United States."

Now, I should greatly fear whether, if you say that the lieutenant general who is to be appointed is to be by your law authorized to command the armies of the United States, you give or reserve to the President authority to take from him the command merely by the provision that his command is to be under the direction of the President. To direct a commander and to dismiss a commander are entirely different things. If, therefore, you by legislation say that the lieutenant general shall command and put no restraint upon that command except that it is to be under the direction of the President, I submit it is plain that it will not be in the power of the President to take from him that command or to interfere with it in any way except to direct the manner in which the command shall be conducted. Being under that impression, I am obliged most unwillingly to vote in favor of this amendment.

Mr. SAULSBURY (when his name was called) said: As unanimous consent was given to the Senator from Maryland to make a remark, I presume the Senate will yield the same privilege to me. I decline to vote on this question for this simple reason that in my capacity as a Senator I will have nothing to do with President-making.

The PRESIDING OFFICER. The call will proceed. All debate is out of order.

The calling of the roll was then concluded, and the result announced—yeas 25, nays 15; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Cowan, Dixon, Fessenden, Foster, Grimes, Harding, Harlan, Harris, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Powell, Ramsey, Riddle, Sprague, Sumner, Ten Eyck, Van Winkle, and Wilson—25.

NAYS—Messrs. Buckalew, Carlile, Chandler, Conness, Doollittle, Hale, Hendricks, Howard, Howe, Richardson, Sherman, Trumbull, Wade, Wilkinson, and Wright—15.

So the amendment was agreed to.

The next amendment of the committee was in line eleven, after the word "ability," to strike out the following words:

And who, being commissioned as lieutenant general, shall be authorized, under the direction of the President, to command the armies of the United States; and that we respectfully recommend the appointment of Major General U. S. Grant, of Illinois, for the position of lieutenant general.

Mr. SHERMAN. Is it competent to call for a division of that proposition? It contains two distinct clauses. If so I desire a separate vote on each of those clauses. I desire to retain the last clause of the proposed amendment and to strike out the first clause.

The PRESIDING OFFICER. It is competent for the Senator to call for a division, or to move an amendment to the committee's amendment.

Mr. SHERMAN. In order to raise the question directly, I will move that the amendment of the committee be so amended as to strike out the first clause, retaining the second.

The PRESIDING OFFICER. It is moved by the Senator from Ohio that the amendment of the committee be so amended as to strike out from the amendment recommended by the committee the following words:

And who, being commissioned as lieutenant general, shall be authorized, under the direction of the President, to command the armies of the United States.

The question will be on striking out these words. Mr. SHERMAN. My only objection submitting this amendment is to retain the compliment designed by the House of Representatives to Gen-

eral Grant. This is really a compliment and nothing more, since the Senate have by a decided vote taken from the rank of lieutenant general the command which formerly followed that rank in the case of General Scott and also in the case of General Washington; that is, the command of the armies of the United States, under the President. That seems to have taken out of the bill all its vitality except simply the compliment. I wish to retain in this bill the compliment to General Grant, which is nothing more nor less than a recommendation of Congress that General Grant be appointed to this high position. There is only one man who has so distinguished himself in the Army of the United States during this war as to deserve this rank, and I wish to designate that man by an act of Congress, so that it shall be clearly a compliment tendered to General Grant personally. I have no doubt that the President would appoint General Grant if the words were omitted, but I wish to make the compliment marked.

Mr. NESMITH. If the Senator from Ohio will allow me I will ask him if he thinks it is competent for Congress to pass an act designating to the President whom he shall nominate to an office?

Mr. SHERMAN. I say, emphatically, no; Congress has no power to appoint any one; but Congress may request, by a vote, the appointment of a particular person to a particular office. We may in our individual capacities do so. Now here we are passing a compliment to General Grant. There is nothing more nor less in it. You give him by the bill, as it is now emasculated by the Committee on Military Affairs, nothing but a compliment. You give him increased pay, it is true, but you give him no command, no additional rank.

Mr. FESSENDEN. Yes, we do. Is not the rank of lieutenant general an additional rank?

Mr. SHERMAN. What command does it carry by law? None whatever.

Mr. GRIMES. It gives him additional pay.

Mr. SHERMAN. It gives him additional pay, but no additional rank, no right to command. It simply confers on him the title of lieutenant general, and nothing more, without any additional rank.

Mr. NESMITH. I will ask the Senator from Ohio if General Grant would not be entitled to command the armies of the United States if the President appointed him lieutenant general under this act?

Mr. SHERMAN. I will read it to show precisely what it is:

That the grade of lieutenant general be, and the same is hereby, revived in the Army of the United States; and the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a lieutenant general, to be selected from among those officers in the military service of the United States, not below the grade of major general, most distinguished for courage, skill, and ability.

This bill does not define his powers or the extent of his command, or what rights are conferred by it. Then the next clause of the bill provides:

And who, being commissioned as lieutenant general, shall be authorized, under the direction of the President, to command the armies of the United States.

That is proposed to be stricken out. The first clause of the House bill gave the rank of lieutenant general; the second clause gave the right to command the armies of the United States; and the third was a petition by Congress to the President to appoint a particular person. The Committee on Military Affairs of the Senate have stricken that all out except a mere titular rank of lieutenant general, without fixing the extent of that command.

Mr. ANTHONY. If the Senator will allow me, does not the very designation of the rank of lieutenant general place him above a major general, which is the highest rank we have now? If the lieutenant general and a major general should meet in one command, would not the lieutenant general be supreme? Suppose we create the rank of captain; does it not follow that that controls the rank of lieutenant? In the same way a lieutenant general controls the rank of major general. It is a perfectly well understood distinction.

Mr. SHERMAN. Then what is the object of striking out? If the legal effect of making him lieutenant general is to give him command of the Army, why do you strike out the very words that

make him the commander of your Army? The only object, as I understand, of the vote of the Senate is to take away from him something he would have had under the House bill, but which the Military Committee for some reasons do not propose to give him; that is, the command of the Army. If the rank of lieutenant general carries with it the command of the armies of the United States, why did you strike it out by your vote?

Mr. FESSENDEN. As I voted for it I will answer the Senator.

Mr. SHERMAN. All I desire is information.

Mr. FESSENDEN. For the simple reason that I do not think it proper to control by act of Congress the President in his unlimited power under the Constitution to be Commander-in-Chief of the Army, to provide by law that another man shall command the Army in the field.

Mr. WILKINSON. It is to be under his direction.

Mr. SHERMAN. The words which the Military Committee propose to strike out do not limit the power of the President.

Mr. FESSENDEN. They do. They provide that the lieutenant general shall command the Army.

Mr. SHERMAN. Under the direction of the President. The President is still Commander-in-Chief.

Mr. FESSENDEN. But the President could not take away the command from him if it was deemed necessary, because it is conferred by Congress.

Mr. SHERMAN. If General Grant was appointed lieutenant general under the act of Congress, he might be assigned to duty in the city of New York and a major general allowed to command a particular army in the east, and another in the west, and another in the south. They are all officers under the command of the President. That will be the effect of it if you pass the House bill in the very words in which they send it here. It clearly appears to me to be so. But even if the view taken by Senators is correct, what objection can there be to inserting in this law a designation of the particular officer whom we desire to compliment and elevate to this rank? The words I wish to retain are certainly respectful to the President:

And that we respectfully recommend the appointment of Major General U. S. Grant, of Illinois, for the position of lieutenant general.

Now, sir, I have no doubt General Grant is an unambitious man. I do not believe he desires this position of lieutenant general. I know he did not ask it. I doubt very much whether he desired it. I have some doubts myself whether we ought to confer it until the war closes and until the great hero is designated, if he should be designated in the progress of the war. I have had some doubts about voting for the proposition at all; whether it would not be proper to postpone it until the end of the war; but if we do pass a resolution of this kind, I wish in the resolution to designate the officer, so that he may have the full force and benefit of the compliment; that he may have the vote of both Houses of Congress designating him, as the whole country has designated him, as the man who has won the highest honors of this war. Therefore, if we pass this resolution at all—I shall vote for it—I think we ought to retain this designation of General Grant personally, and make the compliment personal, and not leave it simply to the designation of the President. It is true he may overrule the recommendation of Congress, he may refuse to appoint a lieutenant general at all, or he may designate any one else in spite of our recommendation; but I do not suppose he will do so. The only effect of making this designation is to add to the value of the compliment.

Mr. HOWE. I should like to have the Secretary report the amendment proposed by the Senator from Ohio.

The Secretary read the amendment, to strike out the first clause of the amendment, in the following words:

And who, being commissioned as lieutenant general, shall be authorized, under the direction of the President, to command the armies of the United States.

The PRESIDING OFFICER. The committee propose to strike out the whole of the last clause of the first section; but the Senator from Ohio, in order to retain a part, proposes to strike out of the amendment the words which have been read.

Mr. HOWE. The amendment would have an effect directly the contrary to what the Senator desires, it seems to me. He proposes to strike out the first clause of the amendment proposed, and that, if the particular amendment carried, would retain that clause in the bill, and would strike out the latter clause, which is the very clause the Senator wishes to retain.

Mr. SHERMAN. Oh, no. If you strike out the first clause you leave the remaining clause; and then the vote can be taken on the recommendation of the committee.

Mr. HOWE. Then the proposition is simply to strike that clause out of the bill, and not to strike out the amendment.

Mr. SHERMAN. I cannot understand the Senator precisely. If a majority of the Senate vote with me in favor of striking out the first portion of the amendment of the committee, as a matter of course that will be stricken out, leaving nothing remaining of that portion of the bill except the compliment to General Grant, and then we can vote to retain that.

Mr. HOWE. The Senator will understand me in a moment. The question before the Senate is on agreeing to the amendment reported by the committee, which is to strike out these two clauses.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio to the amendment of the committee.

Mr. HOWE. That was the question before the Senate.

The PRESIDING OFFICER. That is the question now before the Senate.

Mr. HOWE. Yes, sir, that is the question now; I am trying to get at it. The Committee on Military Affairs reported by way of amendment a recommendation to strike out these two clauses. I understand that the Senator from Ohio moves to amend that amendment by striking out from it the first clause, which if it carries will then leave the amendment of the committee to be to strike out these words: "and that we respectfully recommend the appointment of Major General U. S. Grant, of Illinois, for the position of lieutenant general."

Mr. TRUMBULL. I wish to appeal to the Senator from Ohio to withdraw his amendment. It places us in a false position to move to strike out those words. Let us take the vote directly, as he first proposed. I do not suppose we should like to record a vote to strike out those words, though I agree entirely with the Senator from Ohio.

Mr. SHERMAN. I have no objection at all to take the vote on the whole.

Mr. TRUMBULL. That will relieve it of all complication.

Mr. SHERMAN. I withdraw my amendment.

The PRESIDING OFFICER. The amendment to the amendment being withdrawn, the question recurs on the amendment proposed by the committee.

Mr. HOWE. Mr. President, I wish to say one word upon the amendment proposed by the committee as it now stands. I expected, I wished, I could even have hoped that the Senate would not concur in the amendment; but by the indications given by the last vote, I suppose I must be prepared to anticipate that the Senate will concur, and yet I shall regret it extremely. Whether it was or was not wise to bring forward this measure at this time, and to vest in the President of the United States the power to grant such a commission as is here contemplated, we are not called upon now to discuss or to consider. The measure is here, and we must act upon it. The proposition would never have been brought forward, I take it, at this time, but for the single fact, to which none of us can shut our eyes, that there was just one general in the armies of the United States who had rendered such distinguished services, who had achieved such brilliant deeds, deeds not merely brilliant, but deeds of such decided and transcendent value to the whole country, that the eyes of the whole country had been fixed unalterably upon the transcendent merits of that man, and desired to confer upon him some decided and unmistakable evidence of that public appreciation. It is to that cause that is to be attributed the bringing forward of this measure at this time.

Does the cause exist? Is there any such gen-

eral? No one controverts it here. No one says here or elsewhere but that there is a general worthy to wear this title and to adopt this rank and to fill this command to-day.

If we make a lieutenant general at all it seems to me we should make him for some other purpose than merely to wear a new title or to draw an additional sum from the Treasury. We can dispose of all the money we can collect without making a lieutenant general, and we can find objects enough throughout the country to wear all the titles we see fit to confer, and who are good for nothing else but to wear titles and to absorb money. General Grant, to my understanding, has proved himself capable of doing something different from either of these. He has proved himself capable of filling commands the highest; and it is because he has that it is proposed to confer this title and this command upon him.

Now, Mr. President, there are those in the Senate who say that they are entirely willing to see the pay and the title conferred upon General Grant, but they hesitate about expressing a wish to see the command of the Army conferred upon him. I put it to every Senator here to say if he would deem it an honor conferred upon him to have his Government say that he had earned a different title from that which he now bears, and was entitled to more pay, but was not entitled to any higher trust. I put it to the Senate if it would not be a rebuke and a reproach to General Grant, rather than a compliment or an act of justice, to say, "Sir, you have done well; you have won from the rebellion an empire; we are grateful to you; you have led our armies further and faster and surer than any other man toward victory; we are grateful for this; we will give you a new title; we will give you additional pay; but we dare not trust you with any additional command; we will give you a title which signifies in itself the highest command in the Army; we will give you the highest pay given to any officer in the Army; but we will not trust you with the highest command." I put it to the Senate if that is not anything but a compliment; I put it to the Senate if that is not a distinct rebuke and a reproach.

But it is said that to do this thing transcends the power of the Legislature. I conceive that the Legislature has already set us a precedent upon this very subject. I have before me the original act which created the rank of lieutenant general; I read from the fifth section of it:

"That whenever the President shall deem it expedient, he is hereby empowered to appoint, by and with the advice and consent of the Senate, a commander of the Army," * * * "who, being commissioned as lieutenant general, may be authorized to command the armies of the United States," &c.

This is no new precedent; and I did not understand the force of the answer made to the question put by the Senator from Ohio. It is said here by one portion of those who insist upon striking out these provisions, that without them the lieutenant general will *ex officio* have command of the armies of the United States. The Senator from Ohio then put the question: why do you wish to strike out these words? I do not understand what answer is made to that. If it be the direct effect of creating the grade of lieutenant general and filling it to give the lieutenant general the command of the armies then the insertion of these words effects nothing whatever.

Mr. FESSENDEN. I will answer the Senator's question. It is to leave with the President the power of depriving him of the command of the Army, if he sees fit so to do, at any moment.

Mr. HOWE. I ask again how he gets command of the Army. We make him a lieutenant general. That does or does not give him command of the Army. The Senator says it does give him command of the Army.

Mr. FESSENDEN. With these words in it does.

Mr. HOWE. But without these words?

Mr. FESSENDEN. It does of necessity because he is the highest officer. Nobody else is in command while he is present.

Mr. GRIMES. Was not General Scott in command of the Army when lieutenant general?

Mr. WILSON. It puts him over everybody else.

Mr. HOWE. The rank of lieutenant general does or does not carry with it the authority to command the armies of the United States. If it

does carry with it that authority, these words carry with it no more than that authority, and the President's power over the lieutenant general, it seems to me, remains just as absolute and as unconditional as it is over every other officer. He is still liable to be dealt with by military law, and can be suspended from command just the same as any other officer can.

Mr. GRIMES. Let me say to the Senator what I understand the law is. If the President of the United States details or directs a lieutenant general to go into the field, nobody can command him; the lieutenant general is entitled to the command; but, without the provision which gives him the command, the lieutenant general can be left in retirement by the President, and a major general can be put in command of the Army, just exactly as it was in the case of General Scott. The Senator has read the law under which General Washington was made a lieutenant general, but he has failed to read to us the law under which General Scott was made a lieutenant general. That did not include any of the provisions which the Committee on Military Affairs have very properly proposed to strike out of this bill which has been sent from the House of Representatives, and did not confer the rank which it is attempted here to confer upon General Grant in the first instance. Under that General Scott could be sent to the field and no other person could be put in command over him. If they saw fit to retain him here he would be in command of the armies of the United States; or they could use some other person's services in the place of General Scott. That is all that I as a member of the Senate want to reserve to the President the right to do in this instance.

Mr. HOWE. I am not here to trench at all upon the constitutional powers of the President; but I do oppose, I do resist, and will resist so far as I can, the idea of making officers with nothing to do, of making officers without office, or without any authority. When you make a brigadier general you make him for the purpose of commanding a brigade. When you make a colonel you make him for the purpose of commanding a regiment. But because you make them for this purpose it does not repeal the power of the President to relieve them from their commands or dismiss them from their offices. When you make a lieutenant general you make him to command the armies of the United States, and he is no more independent of the President than another officer under him. I must insist on that. I cannot see how, because you designate the authority which the lieutenant general is to fill you therefore take away from the President the power to relieve him from that authority. I feel, as I said in the outset, that the striking out of this clause is really a reproach to this gallant officer. I dislike extremely to see the words go out of the bill.

Mr. WILSON. I am sure, Mr. President, that the Senator from Wisconsin is altogether mistaken in the views he has expressed. There is no reproach intended, and there certainly is no reproach in the amendments themselves. I hope that the amendments proposed by the Committee on Military Affairs will be accepted by the Senate, for the bill as thus amended makes a lieutenant general who commands the armies of the United States under the authority of the President. Full, ample, and complete authority is given. If General Grant should be appointed—and everybody knows that he will be appointed—

Mr. WILKINSON. Then why not say so?

Mr. WILSON. Why should you say so? Why is it proper for the Congress of the United States to tell the President whom he shall nominate? There is an impropriety in it, if not an indecency in it toward the President. There is certainly an impropriety toward the Senate of the United States that is to pass upon the nomination in putting into the act a declaration that a certain man is recommended for the appointment. Everybody knows that the country expects that General Grant will be appointed. We expect it. The President expects it. The President is willing and anxious to do it; he intends to do it. Then why should we put this provision in this act? Why not trust the President? Why not trust the man who has stood firmly by General Grant? If General Grant should be appointed, as he will be appointed, there will be no man in America who can give an order to him but the President of the United States. General Halleck could not give him an order; nobody

could give him an order. General Halleck cannot command the armies with a lieutenant general in the field. The President of the United States had no authority to make a junior brigadier or major general command a senior brigadier or major general until we gave him that authority nearly two years ago. Now the President has authority when officers meet in the field to designate which officer of the same rank shall command, but he cannot make a brigadier general command a major general. The President of the United States cannot put any major general under the command of a brigadier general. There is no law in the country authorizing him to do it.

Mr. SHERMAN. I should like to ask the Senator from Massachusetts a question, so that we may understand this matter. Suppose the amendments of the Committee on Military Affairs be adopted and the bill is passed and General Grant is made a lieutenant general and is in the field as such, can General Halleck command him?

Mr. WILSON. No, sir; no, sir; and no other man in the country can command him but the President of the United States.

Mr. SHERMAN. Then the argument of the Senator from Massachusetts does not extend to the amendment, but simply extends to the whole bill, because his argument will defeat the whole bill.

Mr. WILSON. My argument is that the bill as proposed to be amended by the Military Committee is framed in the proper manner and uses the proper language. By it the authority of the Executive is not trenching upon; the proprieties in regard to the Senate are not interfered with; and the bill in that form makes a lieutenant general who cannot be commanded by anybody but the President. He will be the commander of the Army unless the President of the United States chooses to set him aside and send him to some special command, retire him; in other words, disgrace him. The bill as proposed to be amended gives him the entire power, under the President of the United States, to command the armies, and the President has not the power to put any major general over him.

Mr. SHERMAN. Does the Senator from Massachusetts propose to make a lieutenant general whom the President may at any time dishonor and displace by putting a major general in command over him? If so, I would not vote for such an honor as that.

Mr. WILSON. He cannot do it.

Mr. SHERMAN. If we take the bill precisely as it is reported by the Military Committee will it be within the power of the President to place in power over General Grant a major general?

Mr. WILSON. No, sir; the President cannot put a major general over the lieutenant general. He cannot put an officer of inferior grade over an officer of superior grade, and I would not vote for a bill giving him that power.

Mr. SHERMAN. Then if we take the bill as it comes from the House of Representatives will it not stand precisely as the Senator says it ought to stand? I see no distinction.

Mr. WILSON. We understood that it did not do so, that it forced an officer upon the President, and that the language in which it was couched was improper, and that it ought not to be passed in that form; but by this bill as we propose to amend it we make him the first military officer in the country.

Mr. RICHARDSON. Will the Senator from Massachusetts permit me to make an inquiry of him?

Mr. WILSON. Yes, sir.

Mr. RICHARDSON. I desire to know, if the Senator can give me the information, if the bill as reported from the Military Committee conforms to the bills that were passed when Washington was made a lieutenant general and when the same rank was conferred on General Scott, or whether the House bill conforms to them or either of them?

Mr. TRUMBULL. I can inform my colleague, if the Senator from Massachusetts will allow me to do so. I have before me the statute of 1798 that authorized the appointment of a lieutenant general, and this resolution as it passed the House of Representatives is drawn in strict conformity with it. I will read it:

"That whenever the President shall deem it expedient he is hereby empowered to appoint, by and with the advice

and consent of the Senate, a commander of the army which may be raised by virtue of this act, and who being commissioned."

"That is the language of this bill—

"and who being commissioned as lieutenant general may be authorized to command the armies of the United States."

This bill as it passed the House of Representatives was modeled, as near as it could be to adapt it to the present condition of things, upon the law passed in 1798 and the resolution in regard to General Scott.

Mr. JOHNSON. Permit me to ask the Senator a question. Is he perfectly certain that this bill as it passed the House of Representatives and now before us is identical with the resolution passed in 1798?

Mr. TRUMBULL. I think in principle it is identical.

Mr. JOHNSON. The language of the act of 1798 is "may be authorized;" this is "shall."

Mr. TRUMBULL. "Who, being commissioned as lieutenant general, shall be authorized, under the direction of the President," is the language of this bill. I do not think that alters it at all. Whether the language is "shall be authorized, under the direction of the President," or "may be authorized," makes no difference. The words "under the direction of the President," are left out in the act of 1798. They are inserted in this House bill, and I think the word "may" and the word "shall" would have the same meaning in that sentence. I am sure that the Senator from Maryland is too good a lawyer not to know that it would not be changed by the changing of those words in that connection and in connection with the other words which are inserted.

Now, sir, the resolution under which Major General Scott was appointed a lieutenant general did not authorize the creation of a lieutenant general except by brevet. It was a different thing entirely. I will read that resolution:

"That the grade of lieutenant general be, and the same is hereby, revived in the Army of the United States, in order that when, in the opinion of the President and Senate, it shall be deemed proper to acknowledge eminent services of a major general of the Army in the late war with Mexico, in the mode already provided for in subordinate grades, the grade of lieutenant general may be specially conferred by brevet, and by brevet only, to take rank from the date of such service or services: *Provided, however,* That when the said grade of lieutenant general by brevet shall have once been filled, and have become vacant, this joint resolution shall thereafter expire and be of no effect."

That was the joint resolution under which General Scott was breveted a lieutenant general. It will be found on examination that the words are not identical, as the Senator from Maryland says; but in principle there is no difference, I venture to say, between the bill as it passed the House of Representatives and the act of 1798, under which General Washington was appointed lieutenant general. I have that appointment before me. The appointment of General Washington at that time was, if possible, broader than the law. I do not think it could give any additional power; but it shows how the men of that day understood the Constitution and the authority of Congress to provide by law for a commander of the Army. John Adams, then the President of the United States, in making the nomination to the Senate used this language:

"I nominate George Washington, of Mount Vernon, to be Lieutenant General and Commander-in-Chief of all the armies raised or to be raised in the United States."

That was the communication sent by President Adams to the Senate when General Washington was nominated for lieutenant general; and it will be observed that by the act of 1798 it was declared that the person appointed lieutenant general should be commander of the army "which may be raised by virtue of this act, and who being commissioned as lieutenant general may be authorized to command the armies of the United States, and shall be entitled to the following pay," &c.

"May be authorized" was the language of that act, and "shall be authorized under the direction of the President" the language of this. The Senator from Maryland undertakes to draw a distinction. I cannot see it. If a person may be authorized to command the armies of the United States by the act of 1798, does he get any greater power when the act of 1864 says he "shall be authorized to command under the direction of the President?" It is all left to the President. He cannot have this authority without the President's direction.

Now one of two things is true in regard to this bill. If, as the Senator from Massachusetts says, when the bill is amended as the Committee on Military Affairs propose to amend it, General Grant will still as lieutenant general have a right to command all the armies of the United States, then leaving the words in does not alter it at all. The very fact of your making a lieutenant general, according to the Senator's argument, places him above every other officer in the Army of the United States, and the President has no power to put any other officer over him. The Senator asserts that. If that be so, the House bill does no more. Why then amend it? I am rather inclined to think that the Senator is right; that it will come to that; because I observe that this joint resolution declares that "the grade of lieutenant general be and the same is hereby revived." How is it revived? It is revived as it once existed according to the acts of the Congress of the United States, that is, the act of 1798. We revive that act. That act declares that he may be commander of all the armies.

Mr. FESSENDEN. "The grade is hereby revived." We do not revive the act, but the grade.

Mr. TRUMBULL. "The grade is hereby revived in the Army of the United States." If the grade is revived it is revived with its incidents, probably; but I will not undertake to say, and I think it is much safer to leave the words in the resolution as it stood when it came from the House of Representatives.

Mr. NESMITH. I should like to ask the Senator from Illinois if the word is "may" or "shall" in the act of 1798.

Mr. TRUMBULL. It is "may." I have stated it two or three times; but the construction of those words, in the same connection, is precisely the same.

Mr. NESMITH. Very well; then why not use the same word here?

Mr. TRUMBULL. For myself I have no sort of objection to putting in the word "may" here. I am perfectly willing to strike out the words "shall, under the direction of the President," and to insert the word "may," if that will satisfy my friend from Oregon and my friend from Maryland. If we can have their votes to retain this proposition, I, for one, will agree to strike out "shall" and insert "may," and also to strike out the words "under the direction of the President," and let it read exactly like the act of 1798. Let us all harmonize then upon that, if that will satisfy gentlemen, and not dispute about words.

Mr. GRIMES. Would you not be content with the act of 1847?

Mr. TRUMBULL. No, sir; I would not be content with the act of 1847. There is no act of 1847 that I know of in regard to this matter. I suppose the Senator alludes to the act authorizing the brevet rank of lieutenant general to be conferred on General Scott.

Mr. GRIMES. Yes, sir.

Mr. TRUMBULL. No, sir; I will not vote for empty honors for General Grant. General Grant has achieved a reputation for himself independent of Congress, and it is not in our power to take it away. He has won it by his bravery and skill and daring at the head of our armies. He has led them to victory too often to be affected by any resolution that Congress may pass here refusing him a command. I do not think since we have already passed a resolution thanking him for his gallantry that a great deal will be added to his laurels by this resolution as the Military Committee have reported it—the mere empty honor of the title of lieutenant general. If the revival of the grade does not carry with it any power it simply entitles him to be called lieutenant general, and nothing more.

Now, sir, I think we shall be safe if we follow the precedents of the fathers. I do not think they supposed in 1798 that they were encroaching on the constitutional prerogative of the President, and I trust that the Senate will consider before it strikes out the words which are now under consideration. If it is desirable to change these words to conform to the very language of the very act of 1798, for one I have no objection to it.

Mr. WILSON. Mr. President, I am surprised to hear Senators talk about degrading General Grant. We have seventy major generals and we propose to make a lieutenant general who shall

rank all these major generals; and by the consent of the country, by the consent of Congress, by the intention of the President, without opposition from any quarter, it is proposed to single out General Grant and make him a lieutenant general. That puts him over every officer and every soldier in the armies of the United States, and gives \$1,100 a month as compensation—thirteen or fourteen thousand dollars a year. He is to be selected from among all the major generals of the regular or volunteer forces of the country, made a lieutenant general ranking everybody in the country, and no man can be put by the President over him, and any order he receives must be from the President of the United States. But because we want to put this bill in proper form, to couch it in proper language, it is said here on the floor of the Senate that there is a disposition to degrade General Grant. Sir, I know that the Committee on Military Affairs had no desire to degrade General Grant. Every member of that committee entertains for General Grant, and they have all expressed that opinion, profound respect, admiration and gratitude for past services, and a willingness to give him the honors of the country, and to place him in a position to command the armies of the country. I am sure I speak the sentiments of every member of that committee when I make this declaration.

I therefore express the hope that we shall amend the bill as proposed, and the hope that the other House will concur in the amendments, and that the bill thus amended will become the law of the land, that the President of the United States will promptly nominate General Grant, that the Senate will unanimously confirm him, that he will take the place the law will give him at the head of the military forces of the United States, and that in the future as in the past he will win victories for the Republic.

Mr. RICHARDSON. Mr. President, I have a very few words to say in reference to this question, and I propose to confine them principally in reply to the remarks that have fallen from the Senator from Massachusetts. The bill as it came from the House of Representatives so far as regards the point we are now discussing conforms to the act that was passed in 1798; and I know therefore no reason why we should amend it in the particulars reported by the Committee on Military Affairs.

If this is to be a mere empty honor conferred on General Grant I am not so anxious to have the bill passed. In order that we may make it available to the country I desire to see somebody in command of our armies who will concentrate them. I believe that if General Grant shall be nominated and placed in command he will concentrate our forces and make them available, as he has made his army in the West available, and strike blows and strike them fast. I want to get done with this thing. I want to have it over. We have armies enough in the field if we had them concentrated now to soon end it. I desire to see somebody in command of our armies who will concentrate our forces and not scatter them from Maine to the Rio Grande, and expect small bodies of men to meet the combined forces of an adversary who combines his forces on a given point.

It is for that reason that I desire to pass this bill. I think General Grant has won the distinction that is sought to be conferred upon him. So far as the amendments proposed by the Senate committee are concerned, they have this effect: while General Grant may be made lieutenant general, if he is not by virtue of that appointment placed in command of our armies subordinate only to the President of the United States, if he is sent off into a particular department, into the department of Texas or Arkansas or Mississippi, where, if the Senator from Massachusetts is right, no other general in the Army could command him, some other general in the Army could command all the other departments; and General Grant, although he might be lieutenant general, would only command the department in which he was placed. It is for the very purpose of placing him in command of all the departments that I desire to see the bill as it came from the House of Representatives in this particular retained; and it is for this reason that I voted against the first proposition made by the Military Committee to amend the House bill.

The Senator from Massachusetts has stated, and stated correctly, as I think, that it is true General Grant, if a lieutenant general, would outrank all the other officers of the Army; but while thus outranking them, if he shall be placed in command of a department and not in command of the whole, a major general may command all the other departments, but he cannot command the lieutenant general in the particular department that is set apart for him.

Mr. HOWARD. I should not, sir, by my silence, suffer it to be inferred that the Committee on Military Affairs were perfectly unanimous in suggesting the amendments contained in the bill reported by them. They were not unanimous. There was at least one dissenting member, and that was myself. I could see no propriety in making these amendments.

As I understand the bill as it came from the House of Representatives it only creates a general who shall be second in command to the Commander-in-Chief of the armies of the United States; and although I am not sure that the amendment suggested by the committee, adding the words "lieutenant general," and striking out the words "commander of the Army," does not effect the same end, still I am satisfied, for one, that we had better not, if we can avoid it, suffer this bill to go back to the House of Representatives to become there the theme of discussion hereafter. That House, like this, has much other business of great importance on its hands, and unless there be some reason more weighty than any I have heard here for sending it back I shall vote against amending it.

I do not regard the amendment which has been concurred in by the Senate, striking out the words "commander of the Army," as of any importance whatever. I look to the subsequent clause of the bill which is also recommended to be stricken out by the committee reading as follows, referring to the lieutenant general:

"Who being commissioned as lieutenant general shall be authorized under the direction of the President to command the armies of the United States."

If that language be tantamount to the mere expression "lieutenant general" then there is no necessity for striking it out, and we may as well save the time and attention of the House of Representatives from a reconsideration of this question.

The objection is raised to the bill as it come from the House of Representatives, that it recommends to the President the appointment of Major General Grant as a fit person to occupy the position of lieutenant general created by the bill; and it is said by the chairman of the Committee on Military Affairs that this is both an indelicacy in reference to the President and an impropriety in reference to ourselves, an "indecentry."

Mr. WILSON. In regard to the President.

Mr. HOWARD. I perhaps do not state the precise language of the chairman on that subject. But, sir, I do not so regard it. It seems to me this comment of the Senator from Massachusetts contains in itself a refinement of delicacy that is unintelligible to many others; it certainly is to me. Is it an indelicacy for the Senate of the United States respectfully to recommend to the President the appointment of a man who from the beginning of this contest to the present time has given the highest evidences of military talent and a heroic genius such as raised him, in my judgment, far above even the expectations of nine tenths of the other commanders in the field? Is it an indelicacy in us to ask that the armies of the United States may have the benefit of the talents of that general who has already distinguished his career by the capture of more than one hundred thousand prisoners and a vast amount of artillery, who has gained for us the Mississippi river, given us command of it, and enabled our commerce to float safely up it and down it? Is it an indelicacy in us, although we may have possibly to judge upon his fitness when he shall be nominated to this place, to ask that a man of this character be appointed lieutenant general to command the armies of the United States?

Sir, I think it is not indelicate. I think it is necessary. I think the President of the United States can have no ground whatever to complain either of indelicacy or indecency on the part of the Senate in making this respectful request to him. Give us, sir, a live general; give us some

man who has talent, who has character and force enough within him to give a successful direction to the enthusiasm of the armies of the United States, and who will, if properly supported here, give us victory even upon the Rappahannock, and not let us be dragging along under the influences such as have presided over the army of the Potomac for these last many tedious and weary months—an army oscillating alternately between the Rappahannock and the Potomac, defeated to-day and hardly successful to-morrow, with its commanders changed almost as frequently as the moon changes its face. Sir, for one I am tired of this; and I tell you and I tell Senators here that the country is getting weary of it, and unless we do something in order to remedy this evil and do it speedily, we shall hear such clamors from our constituents as we have never heard thus far. I go for retaining the bill in all its forms and expressions as it came from the House of Representatives.

Mr. LANE, of Indiana. With the permission of the Senate for a very few moments, I will endeavor to state what is the present position of the question.

The House of Representatives passed a joint resolution creating the rank of lieutenant general and making him, in the terms of the resolution, the commander-in-chief of the armies of the United States, and recommending to the President the appointment of General Grant to that office. That resolution when it came up to the Senate was referred to the Committee on Military Affairs. The committee proposed two amendments, going to the points, first, whether we should not make him by law commander-in-chief of the armies of the United States, and, secondly, that we should not by law of Congress recommend any man for appointment by the President.

In reference to the first one of these amendments I have only to say that I have no doubt if the bill shall pass General Grant will be appointed the lieutenant general. I hope so. I think that so far in the history of this rebellion he has shown himself the successful hero; but "let not him that girdeth on his harness boast himself as he that putteth it off." Is it proper that the Senate of the United States shall make a commander of the armies of the United States—a commander over whom the President would have no power? Under the Constitution of the United States the President himself is the Commander-in-Chief of the armies of the United States. You now propose by law to create the office of commander and say he shall command your armies. What power will the President have over him? It may at least be doubtful whether he is not made commander forever, and whether, instead of a republican general, he is not clothed with the powers of a Roman dictator. I am unwilling to do any such thing.

The course of the debate seems to indicate that the Military Committee are opposed to General Grant and to the appointment of General Grant, and that they do not recognize his transcendent services. Nothing is further from the truth. We wish to compliment General Grant and hope he may be appointed. We wish to compliment him by the creation of this grade of lieutenant general; nor can we see that there is any possible disparagement in that. What is the law on that subject? There is no kind of doubt about it. Under the Army regulations prior to the rebellion officers commanded when they were thrown together according to seniority; that is, the oldest officer commanded all junior officers.

Under the law of 1862 the President of the United States was authorized to assign officers of equal rank, the one to command the other, and so it stands to-day. But if General Grant is appointed lieutenant general there can be no officer of equal rank, and consequently no man can command him; but the President of the United States has a right to dispose of him at any moment under the amendment of the committee, and that right he should have. We should never for a single moment deprive the President of the power to say who shall command the armies of the United States, for the Constitution makes him the Commander-in-Chief of the armies of the United States. Even if we were disposed to do it, I should doubt the power and much more the expediency of any such legislation.

Another provision of the House bill was to

recommend by act of Congress the appointment of General Grant. I have no objection to that appointment; Congress has no objection to it; but is it dignified in the Congress of the United States to recommend to the President by an act of Congress whom he shall appoint to office? Under the Constitution he nominates officers to us for confirmation, and his duty there ends and ours begins. But shall we anticipate that duty by saying to him in advance whom he shall appoint to command the armies of the United States? I, for one, am unwilling to do it. It does not comport with the dignity of the Congress of the United States to engage in any such huckstering for office. So it seems to me.

But, Mr. President, we are told there are precedents, and high precedents, for that which is asked in reference to General Grant. The act creating the office of lieutenant general and making General Washington the commander-in-chief of the armies was conferred under far different circumstances. He had been tried in the fires of the seven years' conflict of the Revolution prior to conferring that rank upon him. He had been tried as the Chief Magistrate of the nation for eight years prior to conferring that rank. He was an exceptional case in the history of the country, in the history of the world, in the providence of God, and I might be willing to confer that power upon him which I would not confer this day upon any living man upon the earth. Congress then forbore to recommend this mode. They left out this recommendation which the House put in their joint resolution. How did that amendment get into the House joint resolution? It was not in the original bill; it was not reported by the Military Committee of the House; but it was put in as an amendment in the House of Representatives in Committee of the Whole. It has not had the sanction of any committee of even the other House; and we are asked to-day to descend from our high place and the pride of our position to become legislative recommenders for office to the President of the United States. There is, as the Senator from Massachusetts has well said, as it seems to me, an indelicacy in it. To-day we recommend the appointment of General Grant. He is sent in for confirmation. To-morrow we believe he should not be confirmed. Our hands are tied, for the President turns upon us and says, "Here by a solemn act of Congress you have requested me to appoint this man to office."

I, for one, will have neither part nor parcel in any such legislation as this. Is it not enough to follow the precedent in the case of General Scott, where the rank was not conferred, but simply the power given to confer a brevet rank? Does General Scott stand lower in the history of this country than General Grant does? What satisfied General Scott and his friends in 1847, it seems to me, is no empty compliment to General Grant to-day; and yet in this resolution the House have passed over the precedent in the case of General Scott and gone back to the precedent in the case of General Washington. General Scott, when this rank was conferred by brevet, not by an act of Congress, felt honored and complimented. The whole country felt that it was a just tribute of a great nation's gratitude and affection and confidence in that great man. And who was General Scott? Was he disparaged by the passage of this resolution that we are told is a reflection on the great military talent and achievements of General Grant? Sir, the history of the Niagara campaign, when he first made his name familiar to the American people, at Lundy's Lane and at Queenstown Heights, and the triumphant close of the Mexican war, marked him as one of the grandest captains of the age and the world. He was not complimented by an act of Congress making him lieutenant general and commander of the armies. He was not complimented by an act of Congress requesting his appointment as lieutenant general; but simply a law was passed authorizing the President to confer by brevet rank this honor upon General Scott.

Now, sir, it does seem to me perfectly apparent that the report of the Committee on Military Affairs should be adopted, and that it is all that should be required. We should not in advance tell the President who he shall appoint. I have no doubt he will appoint General Grant, and I should rejoice at the appointment; but I am unwilling to pass an act of Congress recommending

him for it. I have no doubt he will be placed by military law and usage in the command of the Army of the United States; but I am not willing to tie the hands of the President and say he shall not displace him the very first moment he finds him incompetent to the task imposed upon him.

I am not willing that this discussion shall assume the shape that all those who sustain the report of the committee are necessarily opposed to General Grant. There was no such feeling in the committee. We wished to compliment General Grant according to the legislative precedents heretofore established. We wished to compliment General Grant, always reserving our own proper self-respect and the dignity of the Congress of the United States.

Mr. NESMITH. It is perhaps proper that I should join in the declarations which have been made by members of the Military Committee in relation to the feeling of the committee at the time this bill was pending before them. There was no disparaging remark made there toward General Grant; neither was there any intention manifested to deprive him of any honor. As I took the initiative before the committee in suggesting the amendments which have been reported, it is perhaps proper that I should make this statement. I had no intention to offer any indignity to General Grant; neither have I any intention of offering him any now when I advocate the adoption of the amendments proposed by the Military Committee.

This has been constantly treated as a resolution. It is a bill; it will be, when passed, an act of Congress; but whether it were a bill or a resolution, this Congress could do nothing derogating from the great attainments of General Grant. General Grant's reputation rests upon something higher than mere acts of Congress. Congress can neither confer honor upon him nor deprive him of honor by the mere passage of acts here. His own acts have been such as to commend themselves to the country, and I have no doubt that if we pass this act with the amendments of the Military Committee the President will recognize what is the universal expression of the country and appoint him to the office. But while I so believe, and while as an individual I would to-day sign a petition to the President to appoint General Grant lieutenant general, I would not in my capacity as legislator incorporate that recommendation in a bill when we are only a coördinate branch of the Government. Every bill requires the sanction of the President of the United States. Now, suppose the President of the United States should be impressed with the propriety of creating the rank of lieutenant general, and at the same time should be impressed with what I conceive would be equally a matter of propriety, that the Congress of the United States had no right to encroach on his executive authority by designating in a bill the person whom he should nominate to fill that office, would it not be clearly his duty (while he was in favor of creating the rank) to veto the bill as an encroachment upon executive power?

I appreciate the services of General Grant; I am anxious for the passage of the bill, and I am anxious that General Grant shall have the appointment. There is no honor that I would not confer upon him, as I expect myself to vote for him for President of the United States; and being willing to cast a vote of that kind I should not be willing to do anything here to-day which tended to degrade him. This talk about degradation is mere talk; there is no point in it. The facts are, as has been ably demonstrated by the Senator from Indiana, that other officers who have been appointed under previous acts or resolutions of Congress were not designated in those acts or resolutions, and it was not considered as derogating anything from their character or their reputation, because there was no such intention.

We pledge ourselves by the passage of this bill to the confirmation of a man in advance of his nomination. Suppose that between the time of the passage of this bill and the time when it receives the executive sanction, or before the nomination is sent to the Senate, General Grant should do something which rendered it clearly proper that he should not be confirmed, we shall have placed ourselves in the position of having determined in advance that he should be appointed, and then in the end be compelled to turn around

and vote against his confirmation. There is another consideration. General Grant is a man occupying a very distinguished position in this country. If he is appointed his nomination is to come before the Senate in executive session. You now thrust him before the Senate in open session. Suppose that some gentleman here—which I do not apprehend is the fact—should entertain objections to General Grant's appointment, it would scarcely be proper in open session in advance of his nomination to discuss that question. I say no Senator would like under the circumstances to discuss openly a question around which is thrown all the sacredness of secrecy, and matters which every Senator has a right to divulge in secret session there would be an impropriety in his alluding to or discussing in open session.

As I stated before, Mr. President, I have no desire to detain the Senate on this question. I shall vote for the bill establishing the rank of lieutenant general, but I shall not vote for any bill which makes him permanently commander of the Army; neither will I vote for any bill designating the person who is to fill that high place.

Mr. DOOLITTLE. Mr. President, I have listened to this debate with great interest, and as far as I can understand the views of Senators all agree in the purpose and object of this legislation. All agree that there ought to be a lieutenant general with the grade, the rank, and the power of a lieutenant general, and all agree that General Grant is the man for the place.

Now, Mr. President, all the question that arises is the question of arriving at this result. For myself, I am very frank to say that I would not vote for a bill creating the rank of lieutenant general now were it not for the express purpose of conferring that grade upon General Grant. I would not create such an office now but for the purpose of putting General Grant into it. The question, therefore, arises whether, because in the act creating the office Congress chooses to express its opinion upon the fitness of General Grant for the office which it creates there is anything improper, anything disrespectful to the President, or anything undignified so far as we ourselves are concerned?

I do not see it in the light in which some Senators see it, or I should doubtless vote as I suppose they will vote on this question. I do not believe that it is unconstitutional for us to express our opinion upon a military officer, and to say in the expression of that opinion that we believe he is the officer who should be appointed to fill a rank which we ourselves are about to create. There is nothing in the language which is disrespectful to the President. It is barely the expression of opinion on the part of Congress, and the very terms are used, "we respectfully recommend the appointment of Major General U. S. Grant, of Illinois, for the position" which we now create.

Nor do I look upon it in the light that some gentlemen do, that we as Senators are acting an undignified part in giving our advice, if you please, in advance to an appointment. The Senate of the United States under the Constitution is to advise and consent to every appointment; and what is there improper that the Senate of the United States as a body should express an opinion to the President, and say to him that in their judgment such a person would be a proper person to fill a given office? If we express that opinion it would be nothing more than the Constitution authorizes us to do. Besides, so far from this being expressed with any feeling of opposition to the President or to the power of the President, I believe on the contrary it is in fact and would be received in no such sense whatever. I believe it would be a relief to the President to know the opinion of Congress on a matter so important as this. What subject, I ask, has there been on which there has been so much denunciation of the President as the very question of the men he has made in fact commanders of our armies. When McClellan was called here and made the General-in-Chief of the armies under the President, and now that General Halleck is retained here as General-in-Chief of the armies, what subject is there upon which the President has been, through the country, more criticised, more denounced, if you please, by certain parties than on that subject, and what subject is there upon which the President would be more desirous of having the

united expression of both Houses of Congress than on this most important of all questions, who shall command the armies of the United States?

I do not believe it is undignified. I do not believe it is unfriendly toward the President, nor do I believe that it would be accepted in any unfriendly sense. It is no encroachment, it seems to me, and no want of dignity on our part to express frankly in the law itself what we all here express on the floor of the Senate.

Mr. President, my honorable friend from Illinois, [Mr. TRUMBULL,] it seems to me, has demonstrated, and I have as yet heard no answer to his demonstration, that if the words of this bill are not identical with those of the act of 1798, the powers conferred by that act were the same as are contained in the clause now proposed to be stricken out by the amendment of the Military Committee. By the act of 1798 it was declared by law that the lieutenant general should be the commander of the Army, and may be authorized to command all the forces now raised and hereafter to be raised. The language of this provision sought to be stricken out is that "he shall be authorized." But that word is qualified "under the direction of the President." The old act was "he may be authorized." By whom and under whose direction but under the direction of the President? So it comes to precisely the same thing when you critically look into the language of the act of 1798 and the language contained in this bill as it came from the House of Representatives. He shall command "under the direction of the President." That is precisely what we want, and I, for one, am willing to take the responsibility of saying so.

Mr. LANE, of Indiana. The Senator will pardon me one moment. That law did not recommend anybody for command.

Mr. DOOLITTLE. That I acknowledge. There is nothing contained in that act recommending any particular individual. In this act as it came from the House of Representatives there is a recommendation of General Grant, and I do not think it is unconstitutional for Congress to express its opinion in this way. I do not think it would be regarded as unfriendly to the President, nor do I think that it could by any possibility be accepted by him as unfriendly to him, for the power would certainly remain in him to make the appointment, and when he is appointed the President commands him. He must command "under the direction of the President," and the President can command him in every act, in every military proceeding, in every step he takes. He is still under the command of the President. I do not understand this act to clothe him with power above the President, that is, to make him a dictator and commander above the President, above the Constitution; but a commander under the Constitution and under the direction of the President.

I, for one, feel satisfied that we shall not make a mistake if we say that we create the office of lieutenant general, and that General Grant is the man to fill it. For two years in succession he has done nothing but win victory—from the capture of Fort Donelson, at Grand Gulf, on Black river, at Jackson, around Vicksburg, and last and not least, at the last battles of Chattanooga, where he secured, in my opinion, forever within our military possession Eastern Tennessee. He has gained and earned by two years of continual success this rank and grade, and he is the man whom the war has demonstrated to be the proper man, and which all concede has demonstrated to be the proper man to be next to the President and under the President, the commander-in-chief of our armies. As a friend says, he has won seventeen battles, he has captured one hundred thousand prisoners, he has taken five hundred pieces of artillery, and innumerable thousands of small-arms on all these fields. He has organized victory from the beginning, and I want him in a position where he can organize final victory and bring it to our armies and put an end to this rebellion. I have nothing to do, Mr. President, with the political question which seems to be raised here by our friends SAULSBURY from Delaware, and NESMITH from Oregon. They seem to give out some intimations that this question has something to do with the Presidency.

Mr. NESMITH. I did not.

The VICE PRESIDENT. The Senator will recollect that it is not in order to refer to a Senator by name.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

SATURDAY, FEBRUARY 13, 1864.

NEW SERIES.....No. 38.

Mr. DOOLITTLE. I withdraw, then, all I said in that light.

Mr. NESMITH. I made no such suggestion.

Mr. DOOLITTLE. It was Mr. SAULSBURY, of Delaware, that made that insinuation, I think.

Mr. JOHNSON. Mr. President, I do not deem it necessary to disclaim any purpose in what I have said or in what I am about to say to disparage General Grant or the President of the United States. The former has covered himself all over with a renown which the country recognizes. The latter is the President of the United States, and as such is entitled to our respect; and whatever rights may belong to him in that capacity it is our duty and it should be our pleasure to recognize. Nor is it my purpose to reflect upon what has been the conduct of other officers in whose charge our military operations have been conducted. It might be possible, if I was disposed to indulge in any remarks of that description, that whatever faults they may have committed, whatever errors they may have fallen into, might be attributed perhaps to defects in the Executive, interference on the part of the Executive,—not an interference that the Executive thought they had not the right or it was not their duty to make, but an interference that may have been unfortunate, because, as happens no doubt in this case, nobody would be more ready to acknowledge it than the President of the United States. He has not been educated to the military service, and he does not claim to have been born a soldier. He has done the best: he has fulfilled the measure of his ability, and it would be in my judgment an ungracious task if I were to assume it, to call in question at all the propriety of his conduct, at least as things now are. The sole question before the Senate is whether it is proper that the Senate should pass the bill that came from the House of Representatives without the amendments suggested by the military committee.

If I thought by amending this bill in any particular in which we had the authority to pass it there would be by any implication, the most remote, a reflection upon the character and reputation and patriotism and skill of General Grant, I would leave the bill to stand as it is; but for the soul of me—it may be because I am not as enthusiastic naturally, it is not a part of my temper, as other gentlemen, members of the Senate—for the soul of me I am unable to discover how any possible disparagement can be supposed to arise from the amendments contemplated by the committee. Suppose the bill had passed the other House as the Senate committee propose to amend it, and it had come to this House, and had been passed exactly as we propose to amend it, would General Grant have been disparaged then? Everybody will say, certainly not. When would he have been honored? Not by passing the bill, but when the President should have appointed him under the bill a lieutenant general, and he would then have been honored precisely as Major General Scott was honored when he was appointed to the brevet rank of lieutenant general under the resolution of 1855, and precisely as the Government of the United States and the people of the United States tried to honor more than he had honored himself, Washington, when Washington was appointed a lieutenant general under the act of 1798. And because we propose to alter this bill so as to put it in the shape in which there may be conferred, if the Executive shall think proper to confer it, an honor upon General Grant precisely under the same circumstances in which a like honor was conferred upon Scott and upon Washington, is it to be supposed, can the most sensitive when he throws aside the peculiar and acute sensitiveness of the moment imagine, that any reflection will be cast upon the conduct of General Grant?

Having said so much, Mr. President, I proceed to answer very briefly the suggestion which fell from the honorable chairman of the Judiciary Committee, [Mr. TRUMBULL.] He did me the favor to intimate that I was too good a lawyer to place any other construction upon the words to

be found in the act of 1798, as compared with those to be found in the bill upon your table, than the one which he gave to them. I must run the hazard of forfeiting in this particular instance the estimate which the learned Senator thought proper to place upon whatever legal ability I may have, by saying that I cannot put the same interpretation upon those words; and if I had designed to couch the bill upon your table so as to render it more imperative, so as to give to it a different effect from that which it would have if it was drafted in the words of the act of 1798, I would have used the words which are to be found in the bill upon your table. What are they? The President of the United States is to select from the major generals most distinguished for courage, skill, and ability one who, "being commissioned as lieutenant general, shall be authorized, under the direction of the President, to command the armies of the United States."

My friend the chairman of the Committee on the Judiciary tells us that the word "shall" there is synonymous with the word "may" used in the act of 1798. There are, I know, every lawyer knows it, every intelligent and educated man knows it, various occasions in which the word "may" is to be construed "shall;" but that depends upon the subject-matter; that depends upon the context. If the thing to be done is provided for so as to make it a clear and imperative duty then it often happens that the word "may" is equally imperative with the word "shall," but not because the word "may" standing by itself means the same thing with the word "shall," or because the word "may" standing in connection with some subject other than that which becomes an imperative duty is equivalent to the word "shall."

Now, sir, what is the object that Congress has, or is supposed to have, according to the interpretation given to the word "shall," as it is here found, by the honorable chairman of the Judiciary Committee? The object is to appoint a lieutenant general. What for? To supersede the President of the United States? Certainly not; because the Constitution of the United States would render any act of that description upon our part wholly nugatory. The Constitution of the United States provides, as against Congress, that the President "shall be Commander-in-Chief of the Army and Navy of the United States." Then it is not the purpose by this bill to constitute a lieutenant general in order that he may interfere in any way with the paramount authority of the President to command the armies of the United States, paramount to the legislative power, and to any other power known to the Constitution. It is intended to do something else. It is intended to create an officer who is to be, in that respect at least, subordinate to the President. How subordinate?

As I stated when I was up before, it was for a long time a question of doubt, and is still considered as a question of doubt, irrespective of legislation, whether the President of the United States, merely because he is as President Commander-in-Chief of the armies of the United States, has a right by his own mere will to dismiss a military officer without trial. I do not speak from any distinct recollection now of any particular case; but there are one or two decisions of the Supreme Court of the United States, and more to be found in elementary writers upon the Constitution of the United States, in which that power has been very seriously questioned; but as crimes against the United States may be punished under laws which Congress may think proper to adopt, and as it is within the province of legislative power to say when a man shall forfeit an office the tenure of which is not secured by constitutional provision, it has been held, and you have acted on that construction, that it is competent for Congress by legislation to provide that the President of the United States may dismiss an officer. If not saying so that power would be a doubtful one, if it becomes a clear one only because you do say so, it follows as equally clear that if you say any particular officer shall command the armies of the Uni-

ted States you take from the President the power to interfere with him. He can interfere because as the President of the United States he is *ex officio* Commander-in-Chief, but how interfere? Only interfere by taking away from him the particular command, by going into the field in person, directing all the military movements himself; and by doing so, being chief in command under the Constitution, all subordinate authority must submit to him.

Now, what do you say by this provision? Appoint him, and, being appointed, you tell the President when he appoints him that he shall command, or "shall be authorized, under the direction of the President, to command the armies of the United States." To what do the words, "the direction of the President," as these words are there used, refer? Do they refer to the incidents connected with the office itself? Not as I understand them. They mean only that the President may direct the movements of this lieutenant general, tell him where he shall go and where he shall not go, what he may do and what he may not do; but he cannot interfere with him as lieutenant general. There he will remain without any responsibility, as far as the mere office is concerned, to the President or to the Government of the United States until the law shall be repealed.

My friend from Illinois maintains that these words mean only what was meant by what he supposes to be the synonymous phraseology of the act of 1798. A word or two on that point. The language of the bill, as it came from the House of Representatives, is that the general selected "shall be authorized, under the direction of the President, to command the armies of the United States." The language of the provision in the act of 1798 is:

"That, whenever the President shall deem it expedient, he is hereby empowered to appoint, by and with the advice and consent of the Senate, a commander of the army which may be raised by virtue of this act, and who, being commissioned as lieutenant general, may be authorized to command the armies of the United States."

Does the word "may," as there used, say that the President of the United States shall give him the command of the armies of the United States? The chairman of the Judiciary Committee says it does. Now, if I stopped here I would submit as perfectly plain that the word "may" was intended to mean only what its ordinary import implies, to mean discretion, discretion to be vested somewhere. But I am not obliged to stop at that part of the section which I have read, because it is followed afterwards by a provision which shows that in the view of the Congress who passed the act of 1798 they knew and they intended to express a different purpose in using the word "may" from that which they would have intended to express by employing the word "shall," as the Senator will see in a moment:

"May be authorized to command the armies of the United States, and shall be allowed all the pay," &c.

They had the two words before them. When they intended to impose it as an imperative obligation on the Government, and to give an absolute right to the officer, they said that that right should be his. They intended to give him the right to the additional pay, and they intended, of course, to create upon the Government the obligation to give that additional pay; and when they designed that they used the word "shall" as contradistinguished from the word "may" in the immediately preceding part of the clause. I maintain, therefore, with all the respect which I feel for the judgment of the chairman of the Judiciary Committee, that the word "may," as there used, was intended to be a very different thing from the word "shall" as the word "shall" is used in the bill upon your table.

Now, Mr. President, a word upon the other part of the bill which the Military Committee move to strike out—the clause in which the Congress of the United States recommend to the President of the United States that he appoint Major General Grant. In the first place it would be sufficient to govern my conduct that such a thing is unexampled in the legislative history of the Govern-

ment. Everybody knows how certain it is that a bad precedent once set is sure to be followed by subsequent mischief. The Senate of the United States especially, in my judgment, to say nothing of the other House, should keep themselves altogether clear from all possible embarrassment in acting upon the official acts of the President of the United States which, under the Constitution, are to come before the Senate for approval or disapproval. They should reserve to themselves the whole measure of their own authority, and because they should do that they should studiously avoid—I speak it very respectfully—interfering with any portion of the authority of the President.

The honorable member from Wisconsin [Mr. DOOLITTLE] has told us that he sees nothing unconstitutional in this particular clause of the bill. Nobody has said it was unconstitutional. But why is it not unconstitutional? It is only because it has no operation whatever; I mean no legal operation whatever. If it had the effect of controlling the President legally or constitutionally, or if that was the purpose of the provision, and the words in which the provision was made were words which would effect that purpose if the power existed, everybody would say that the whole was an idle attempt, because the Constitution of the United States stood as a barrier between the legislative department of the Government and the President as far as such provisions are concerned.

How are you to start? This war may not end for a year or two, or if it does, nobody can tell how soon we may be involved in other wars. Glories in the future, as well as in the past, may be won upon the ocean as well as upon the land. Other Scotts may arise, other Grants may spring up, and thousands of other people may fancy themselves Scotts and Grants, and they may come to Congress, they and their friends, and besiege every member of the Senate to recommend them for promotion. The case of each man is in his own judgment and the judgment of his friends an exceptive case. He doubts the President, is afraid to trust his claim to promotion to him, but through his immediate representatives upon this floor or in the other House he thinks he may be able to bring to bear upon him an influence which he will be unable to resist.

A presidential election is coming on. He who holds the presidential chair may be looking to a reelection. A popular man is brought up for promotion, one who stands high and deep in the affections of the people. Ingratitude as against him, or any reason for charging ingratitude as against him, upon the part of the incumbent of the presidential chair, strikes at his popularity and will tell at the ballot box; and if he be one of the mere ordinary men whom ordinary times bring upon the public arena he may not be superior to such a temptation; he may be willing to sacrifice the interest of the country to promote his own political ends, to win power, win a continuance in office rather than to perform the full measure of his duty, and he yields his conscience and his judgment and he appoints the man that you recommend.

But suppose he does not. If he is made of the stuff of which Presidents should be made he would not. Suppose he does not, what a conflict is that to bring about as between the President of the United States and his official advisers! How do both stand before the country when that condition of things is brought about, the Senate of the United States voting for a law like this or any other law amounting to the same thing in substance, telling the President of the United States whom he shall appoint to one of the highest offices in the gift of the people of the United States, and he sending in another? I do not speak of the present Senate: courtesy would of itself alone restrain me from speaking of the present Senate; and more than courtesy, a full sense that no such conduct could be attributed to the present Senate of the United States. Yet who knows in the course of time who may fill these chairs and constitute a majority, and try to master the President, to control him in this admitted, exclusive, constitutional function, by telling him virtually, "Take our man or take the consequences."

I submit, because it strikes me as very obvious, that to proceed in that way will be to open the door to thousands and thousands of ills that may result in very great public calamity. But

more than that, my honorable friend from Wisconsin tells us, and I always listen to what he says with the highest respect, that he cannot see how the provision which the committee recommends to be stricken out reflects upon the President. In one sense it does not, because it approaches the President with words of respect; but in another sense it seems to me that it does very materially, more particularly when the provision is to be construed with reference to this debate, and the debate which I believe took place in the other House. The honorable member has said (every member has said who has spoken, I believe, except myself, and I have expressed no opinion upon the subject) that there is no man in the United States connected with the Army who ought to be selected for the place but General Grant. The glowing eulogy passed upon him by the honorable member from Wisconsin, not overstated except perhaps in the number of small arms which he said were captured. I think he put these at some fifteen or twenty millions more or less, [laughter,] "innumerable!"

Mr. DOOLITTLE. I could not count them. Mr. JOHNSON. He says, however, in that eulogy, that he stands above all the military men of the age; that the whole country points to him. What is the use, then, of putting this provision in unless it be that the President has not the sense or the gratitude or the discernment of the whole country? The President is a pretty shrewd man; just at this time, perhaps, he would be particularly shrewd on anything that affects the public pulse. And if it be true—it is not for me to deny it—that the public finger points to this man and to no other, do you not think the President of the United States will follow the guide of the public and make the selection which they designate? If you do not, what a reflection it is upon the President! If you suppose that he would not—and this provision finds its way into this bill because you suppose that he does not—what an imputation upon the President; the only man in the United States, if the honorable member from Wisconsin is right, who doubts at all that General Grant should be selected.

But, sir, not only is it, as I think, a reflection upon the President of the United States and a dangerous innovation upon his actual authority, (an authority with which the Senate of the United States as a Senate should not interfere,) but I submit, as clear to my mind, that it is rather disparaging to the stand which General Grant himself is supposed to hold in the public estimation. It is as much as to say that it is by no means certain that General Grant's claim to popular confidence and executive favor, to the gratitude of the country and to the gratitude of the Government will be sufficient to induce the President to give him this office. It is as much as to say, "Upon that point we doubt, and we prefer, therefore, in order to serve Grant, to accomplish for Grant what we think it is possible might not be effected without our aid, to tell the President that of all the men in the world Grant is the only one whom he should select for this high place."

I submit, then, with entire respect, that on every ground in which the subject strikes my mind, it is our duty, our clear duty, to accept of the amendments proposed by the committee.

Mr. CONNESS. Mr. President, I suppose there will be no vote taken upon this bill to-night. ["Move an adjournment."] I desire to submit an amendment that it may be printed, which I shall offer when this bill comes up for consideration again.

The amendment was received informally, and ordered to be printed.

Mr. CONNESS. I now move that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. FESSENDEN. I hope the honorable Senator from California will withdraw that motion. The Committee on Finance have some important appropriation bills before them which it is desirable should be submitted to the consideration of the Senate at an early day. I trust we shall be able to act upon some of the measures from that committee to-morrow, and hence I must object to an adjournment over. I hope my friend from California will withdraw his motion.

Mr. CONNESS. I withdraw the motion.

On the motion of Mr. HENDRICKS, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 11, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

ILLNESS OF MR. LITTLEJOHN.

The SPEAKER laid before the House the following communication:

OSWEGO, NEW YORK, February 8, 1864.

MY DEAR SIR: I had hoped to so far have recovered my health by this time as to have resumed my duties in the House of Representatives, but my physician now tells me it will be imprudent for me to leave here in less than two weeks.

This being so, I most respectfully resign my position on the Committee on Rules, fearing my prolonged absence may embarrass the committee in case of differences of opinion in regard to the revision or amendment of the rules. Very truly yours, D. C. LITTLEJOHN.

HON. SCHUYLER COLFAX,
Speaker House of Representatives, Washington.

The SPEAKER. The gentleman from New York being already on two committees has, under the rules, the right to resign, and no vote, therefore, is required on his resignation.

PERSONAL EXPLANATION.

Mr. LOAN. I ask the consent of the House to make a personal explanation.

There was no objection.

Mr. LOAN. Before proceeding with my explanation, I will send to the Clerk's desk and ask to have read a paragraph from the Globe of the 8th instant.

The Clerk read, as follows:

"A Senator from my own State [Mr. Brown] presented what purported to be a memorial from members of the Legislature of Missouri, and a protest of four Representatives from that State, against the confirmation of General Schofield as a major general. I do not mention this circumstance to comment on the extraordinary and most unbecoming declaration contained in that protest, in which these four members claim to be the only representatives of the Union men of Missouri, for there is nothing in the character or history of either of them to warrant this arrogant assumption, but for the purpose of exposing a covert assault upon the President under the pretext of defeating the confirmation of General Schofield. If it had been the object to effect the latter purpose this paper would have been presented in executive session, where nominations are considered, and not in the open session of the Senate, as it purports to have been done, when no such matter can properly come before that body. The memorial and protest contained only matters which had been previously submitted to the President by a great committee of radicals, which visited Washington for that purpose; and these statements had been examined into by the President, who, in his reply, plainly declared that he did not believe them to be true. Yet the President is arraigned upon these same stale and discredited statements before the country upon the memorial of members of the Missouri Legislature and four members of this House, under the pretense of asking that General Schofield should not be confirmed, and that, too, after an agreement was had with the President that no opposition should be made to Schofield's confirmation, but that he should be, on his own request, relieved from the command in Missouri. The President, I presume, in his desire for peace among those who professed to be loyal, was willing to make this concession; but after accepting the concession, these parties flew from their agreement, under the dictation of bolder and more open enemies of the President and his Administration, who would not permit the opportunity for assailing him to pass."

Mr. ROLLINS, of Missouri. With the consent of my colleague, I wish to make a suggestion before he proceeds. I learn from the paragraph just read by the Clerk, that the purpose of my colleague is to make some explanation or reply to something that has been said by my colleague, [Mr. BLAIR,] who is absent at this time. I suggest, therefore, to my colleague that he defer his explanation or reply until the return of General BLAIR. I understand that he is out of the city, but that he will return this evening or to-morrow. I make this suggestion in justice to my colleague who is absent.

Mr. LOAN. I would be more than pleased to comply with the suggestion of my colleague, but the circumstances are such at this time as not to permit it. It is a direct personal charge against me.

Mr. KING. I rise to a question of order. I ask if my colleague can be permitted to proceed at this time if objection be made?

The SPEAKER. When the gentleman from Missouri rose, the Chair asked if there was objection to his proceeding; and no objection was made. It is now too late to object.

Mr. KING. Then I ask the Speaker whether, after my colleague has concluded his explanation, other members from Missouri will be permitted to reply?

The SPEAKER. That will depend on the consent of the House.

Mr. LOAN. I would be more than pleased, as I said, to postpone this matter, were it possible in justice to myself to do so. But, sir, this charge containing a direct personal assault upon me is published in the papers without my knowledge and against my consent. I have waited a sufficient length of time to enable that gentleman to be present, and it is not my fault that he is not present here at this time. Why he is absent I know not. It is enough for me to know that my duty to myself and my constituents requires me to make this explanation at this time.

The attack contained in the paragraph which has been read at the Clerk's desk is introduced with a great deal of ingenuity, not as he alleges, for the purpose of defending the President from a covert attack, for none has been made, but it was for another and a very different purpose. It was to strike at individual men under the plea of defending the President.

But, sir, I have yet to learn whether a bare statement of facts can ever be construed into an assault on any officer of this Government.

The complaint which he makes here, and urges as reason why it is really an assault upon the President, is that a memorial was presented in open session in the Senate. In answer to that I have to say that it was no fault of mine. I did not publish it. I said it, as I had the right to say it, to the proper tribunal, for the information of that body in an important matter on which they were called to decide. If they have seen fit to publish it, the responsibility of the publication is with them; and not with me.

My colleague alleges that this matter had been submitted to the President by a body of radicals which appeared here in September last. Well, sir, I was one of that body of men, and was present when we presented our address to the President; and I heard him say in the presence of that delegation that he believed the facts stated in that address were true. We have numerous witnesses who will bear testimony to that statement. The President said, "I decline to examine witnesses, because I believe the statements are true." If he has ever denied those charges since I have no knowledge of it.

But, sir, I differ with the gentleman in believing that the address presented to his excellency the President last September and the protest presented to the Senate are the same in purpose and substance. Those charges are entirely different, and bear on different subjects, and if the President has ever denied them I have no knowledge of the fact. I should regret to believe that the President has ever denied them, as they relate to General Schofield. I speak now of the protest. Did the President deny the signal failure of General Schofield as a district commander in Missouri? I do not believe that he would deny it. Does he not know the marchings and counter-marchings of that army? Does he not know the gallant fight made by General Herron at Prairie Grove? Does he not know that that occurred when General Schofield was absent in the city of St. Louis? I think that he was then providentially afflicted with sickness so that he could be kept away from the army. It was to that providential interference that we owe the great victory at Prairie Grove.

The President could not deny that he transferred General Schofield to the army of the Cumberland. Will he deny that he has failed to perform anything which gives the promise of success in that field of action? Will he deny that the Senate has confirmed General Herron and General Blunt for their gallant conduct in the field when they refused to confirm General Schofield? Will he deny all of these facts? Will he deny that he took General Schofield from the army of the department of Missouri, and that General Curtis was removed without any reason being assigned? If he does, then he will deny his own official acts that are well known to the history of the country. Will he deny the signal failure of General Schofield's administration? Will he deny the delegation from the loyal people there? Will he deny the presence of the delegation which visited him in July last? If he does, he is as reckless in his statements as the gentleman himself. But these are matters which cannot be denied, and I do not believe that the President has denied them, the

declaration of the gentleman to the contrary notwithstanding. They are not to be denied. These were the charges of that protest.

The gentleman was not content with that. He went further. He says that the President has been arraigned on these stale charges. He says more, that it was done after agreement had been made with General Schofield to be confirmed. I do not know who made that agreement. That statement, so far as I am concerned, is unqualifiedly false in every particular, without color or pretense to excuse it. But I do not believe that the President is so far capable of disregarding the duties of his office as to bargain official influence for a consideration. I admit that the gentleman is more intimate with the President than I am; that he has had opportunities of knowing him better, and that he may estimate him more justly. I am free to say that I have never believed, nor do I now believe, the President is capable of so dishonorable a proceeding. I do not believe that any contract, agreement, or understanding has ever been made by the President for the confirmation of General Schofield.

He charges us further with acting in this matter at the dictation of other gentlemen. I can deny that statement, and do deny it, by saying that there was no person concerned except those whose names are indicated. They believed it to be their duty to advise the Senate and to furnish the necessary evidence to protect their constituents.

Mr. BOYD. I ask unanimous consent to make a statement.

Mr. FARNSWORTH. I object.

PRESIDENT'S STABLE.

Mr. RICE, of Maine, by unanimous consent, from the Committee on Public Buildings and Grounds, reported a bill making appropriation for rebuilding the stable at the President's; which was read a first and second time.

The Clerk read the following letter:

OFFICE OF THE COMMISSIONER OF PUBLIC BUILDINGS,
CAPITOL OF THE UNITED STATES,
WASHINGTON, February 11, 1864.

DEAR SIR: The stable attached to the Executive Mansion was destroyed by fire last night. It is very necessary, for the convenience of the President, that it should be rebuilt as soon as possible. At an interview with him, early this morning, he expressed a desire that I would bring the matter to the attention of Congress to-day, if possible, that measures might be taken to have it rebuilt.

Isaiah Rogers, Esq., the architect of the Treasury, with the master bricklayer, accompanied me to the ruins, and after a careful examination Mr. Rogers came to the conclusion that it would cost \$12,000 to rebuild it, and has given me a written estimate to that effect, which accompanies this letter.

The walls of the stable are of the best pressed brick, but are so cracked and warped that nearly the whole will have to be taken down. The inside of the stable is entirely burned out. The window caps and sills are of brown stone, and most of them so injured that new ones will have to be procured.

The stable cost originally, I understand, about seventeen thousand dollars.

Respectfully, your obedient servant,

B. B. FRENCH,

Commissioner of Public Buildings.

Hon. JOHN H. RICE, Chairman Committee on Public Buildings and Grounds, House Representatives United States.

Mr. RICE, of Maine. The committee have considered this matter this morning, and, regarding it as a case of emergency, and by the special request of the Commissioner of Public Buildings and of the President, they have seen fit to report this bill and ask that it be passed this morning, so that the work may be commenced upon the building immediately. I think there will be no objection, and I call for the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Maine, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TAXES ON GOVERNMENT LANDS.

Mr. STEVENS. I ask unanimous consent to report a joint resolution, and ask that it be put on its passage now.

No objection being made, the resolution was introduced and read a first and second time by its title.

The bill provides that for the purpose of paying taxes on lands owned by the United States

the sum of \$20,000, or so much thereof as may be necessary, be appropriated out of any money in the Treasury not otherwise appropriated.

Mr. KALBFLEISCH. What lands does the joint resolution refer to?

Mr. STEVENS. I ask leave to state the reasons which make the appropriation necessary.

Mr. BROOKS. I know nothing about this matter, but I do not object if I can understand it thoroughly.

Mr. STEVENS. I do not propose to call the previous question. I only wish to state the reasons for bringing in the bill. The Government of the United States owns a little land liable to taxes in the States the same as lands of individual owners. Some tracts have already been sold for taxes, and now several other tracts are advertised for sale, and will be sold in a few days if the taxes are not paid. The Department asks for \$20,000 to pay those taxes. If anybody objects I have nothing more to say.

Mr. BROOKS. I do not wish to object to anything that is necessary; but the gentleman from Pennsylvania is not prepared to state where these lands are, or to give us any information on the subject. And besides, if the bill is admitted it must be referred to the Committee of the Whole on the state of the Union.

Mr. STEVENS. Certainly; if any gentleman asks for it. I move that the resolution be referred to the Committee of the Whole on the state of the Union, and made the special order for to-morrow after the morning hour.

The motion was agreed to.

INTERNAL REVENUE BILL.

Mr. STEVENS. I ask leave to report back from the Committee of Ways and Means the bill (H. R. No. 122) to increase the internal revenue, and for other purposes.

Mr. STILES. I object.

Mr. STEVENS. I merely wish to report it back that some time may be fixed for its consideration.

Mr. STILES. I object.

FACILITIES FOR TRANSPORTING TROOPS.

Mr. CHANLER. In accordance with a request of the Assembly of the State of New York, I ask leave to introduce a resolution calling for information.

The resolution was read, as follows:

Whereas the facilities for convenient and expeditious travel and transportation of troops between the cities of New York and Washington, especially between New York and Philadelphia, are at present notoriously inconvenient and inadequate; Therefore,

Resolved, That the Military Committee of this House be requested to inquire into the expediency of making immediate provision for an increase of the facilities for transporting troops between the cities of New York and Washington.

Mr. BROOKS. I must object to the reference, as there is a special committee upon that subject now.

Mr. WASHBURNE, of Illinois. I am glad to see that New York is moving in this matter.

Mr. BROOKS. If the gentleman will refer the matter to the select committee I will not object.

Mr. CHANLER. I will modify the resolution by striking out the words "Military Committee" and inserting "select committee heretofore appointed on that subject."

The resolution, as modified, was adopted.

LOUISIANA ELECTION CASE.

Mr. SMITH. I am directed by the Committee of Elections to report the following resolution:

Resolved, That there be paid out of the contingent fund of the House the sum of \$1,500 as compensation in full to A. P. Field, a claimant for a seat in the Thirty-Eighth Congress from the State of Louisiana.

Mr. UPSON. I rise to express my dissent from the resolution as reported. It is a report in a different form of the resolution which was referred to the Committee of Elections, and which was originally intended to give full pay and mileage to the gentleman from Louisiana. It may be that it is rather discourteous to raise an objection to an allowance of this kind in any case, but I find that the circumstances in this case compel me to dissent from the report of the committee, and I find no reason to justify me in giving my vote in its favor. If the gentleman from Louisiana is entitled to anything he is entitled to his full pay and mileage, and that full pay and mileage, as I am informed by a member of the Committee on

Mileage, would amount to \$4,487. I suppose that in order to entitle a claimant to his mileage and per diem there should be at least some shadow of a right on the part of the claimant to the seat which he seeks. In this instance the applicant simply presented himself with a certificate made out in the city of Washington, subsequently to his arrival here, signed by a gentleman who had no authority whatever to give such a certificate, and stamped with his own seal instead of the seal of the State.

I consider, Mr. Speaker, that it was an outrage on the part of the Clerk of the late House of Representatives to place on the roll of members the names of the gentlemen mentioned in that certificate. The Committee of Elections unanimously reported against the right of any of these claimants to a seat here. There was not a dissenting voice in the committee. There was not even the semblance of an election there; no canvassing of votes, no authority on the part of any one to canvass votes, and no authority on the part of any one to give a certificate. It was a matter that was notorious, and which must have been well known to the late Clerk of the House of Representatives, that there was no civil Governor in Louisiana, that the person claiming that office was nothing but a bogus Governor, and that he had no authority whatever to give a certificate of election. Even on his own showing he had no rights at all at the time of giving the certificate. The certificate was issued in November, but he did not even claim a right to his seat until the January following.

It strikes me, therefore, Mr. Speaker, that the claimant here had not the shadow of a right to his seat, either in law or in fact, and that he was well aware of that when he presented his claim. I do not wish to say anything discourteous to the gentleman from Louisiana, nor to impeach either his loyalty or devotion to the Union; but I think that his claim could not be substantiated on any ground whatever.

The names of three gentlemen were given in this certificate. If one of them had a right to come here and make a claim, and then get compensation for making it, we may expect the other two to come and do the same thing, for each of them may have a different state of facts on which to base his claim. To show the House what evil might arise if we were to admit claimants under such circumstances I need only allude to the fact—of which I have no personal knowledge, but of the correctness of which I am assured—that one of the persons named in that certificate, Mr. Thomas Cottman, was one of those who signed the original ordinance of secession in the State of Louisiana. If, therefore, we were to encourage or to countenance applications of this kind we can see what kind of men we might be admitting to membership.

I dissent from some of the statements contained in the report of the Committee of Elections, censuring somewhat the military authorities of Louisiana. I consider that an unnecessary and gratuitous censure. I saw nothing whatever in the action of the military governor of Louisiana to justify any such condemnation. There was nothing whatever in the state of the law or the facts there to authorize the holding of an election at that time. A State may, by her own authorities, abrogate her constitution and laws, and still remain in the Union. She may repeal her constitution and her code of laws, or may take such action as will temporarily suspend their operation. The State of Louisiana did, in effect, by adopting an ordinance of secession, and by being carried away in this rebellion, abrogate, repeal, or suspend her constitution and laws, and they are not yet in operation, further than they may be recognized by the military power. Before an election can be legally held there, there must be some provision made, there must be some action on the part of loyal men in that State which will be recognized by the General Government, in the way of making an organic law, or adopting such a code of laws or such a constitution as may be conformable to the new condition of things. The constitution and laws of a State do not immediately revive on our occupying their territory by military force and establishing military government there.

There being, then, no claim of an actual election, nothing presented here but the certificate of a bogus official, no canvass of votes having been had,

I can see no propriety whatever in voting pay of any amount to the gentleman from Louisiana. If there was the least claim on his part he should be entitled to the full amount, and that amount, as I have stated, would be between four and five thousand dollars.

Mr. STEVENS. I ask the gentleman why the Committee of Elections do not embrace in this resolution the other gentlemen who came up here from Louisiana at the commencement of the session?

Mr. UPSON. Their cases were not referred to the Committee of Elections. There has been but one case from that State submitted for our action. I did, however, suggest to the committee that, if this action were sustained, the others claiming to have been elected may come hereafter, claiming a like compensation upon the precedent which it is here proposed to establish. And there is nothing to prevent men coming up from all these States disorganized by the rebellion, under the election of a town meeting, or otherwise going through the form of a contest for a seat, and claiming compensation at the hands of the House.

I submit, then, that in justice to ourselves we cannot vote to pay this claim, for the claimant has utterly failed to support his claim by any show of law or right. If he had not so failed he would have been entitled to his full pay and mileage as a member up to the time his case was decided. But, sir, he has not the vote of any constituency. I see no reason for complaining of the acts of the military authorities in Louisiana in connection with this election. There was no color of law for holding that election, and if there had been there were no officers known to the law to canvass the votes.

I submit, therefore, that this claimant came here with no color of right to a seat, and as such is entitled to no compensation; while if he had a reasonable claim for a seat he would be entitled to full compensation, and I know of no rule by which the Committee of Elections could compromise the rate of compensation to be allowed.

Mr. J. C. ALLEN. I hope the House will pass this resolution. I shall not go into a discussion of the question which has been raised by the gentleman on the other side against it.

I do know that the claimant for this seat from the State of Louisiana came here and presented his case to the House. It was referred to the Committee of Elections at an early day. They have but recently made a report. It is true that the committee were unanimous in their report against his claim for a seat. But it was questionable in the minds of many members of the House whether he was not entitled to a seat upon this floor. There was certainly sufficient in his application to occupy the attention of the committee for a considerable length of time in their investigation, and to occupy the attention of the House after the facts were presented for a considerable length of time.

And it is a question yet whether the loyal portion of the people of Louisiana are not entitled to a Representative upon this floor. However, this question has already been passed upon; and I do not propose at this time to reopen that discussion. But this applicant has been kept here for two months, awaiting first the decision of the committee and then the decision of the House upon this question.

It does seem to me that in accordance with the precedents which this House has established heretofore this allowance ought to be made. In the peculiar condition of things in this southern country, questions of this kind must necessarily arise, and perhaps some man may be kept from coming here to claim a seat in this House who may be entitled to it because he cannot afford to do it at his own expense. In their peculiar position such questions, I repeat, must continually arise, and although we may have properly denied to this applicant his right to a seat, yet I ask whether it is proper to discourage all applicants who may have been legally elected in those States from coming here and allowing the House to pass upon their claims without the necessity of doing it upon their own expense?

It seems to me from the peculiar circumstances of this case it is but reasonable to allow the compensation now asked for. I am willing to believe that the Committee of Elections, who have not only examined the claim of this gentleman to a

seat, but who have examined his right to compensation, have reported in favor of allowing this sum. He came here not as a mere contestant, without any right to a seat, but he came here representing what he conceived to be the right of a constituency.

Mr. WASHBURN, of Illinois. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. SMITH. Mr. Chairman, I propose to say a few words in the hour allowed me under the rules to close this debate. While I do not believe that Mr. Field was entitled to a seat upon this floor from the State of Louisiana, yet I believe that he has come here for a good purpose, honestly believing that he was entitled to be received as the Representative of his people. There was a difference of opinion in that State among Union men, not as to the result, or the end they were both working for, or to the means by which they were to arrive at it. There was nothing before the committee in the way of testimony or speeches which did not accord to Mr. Field the highest devotion to the country from the beginning. Speeches were made the other day upon this floor, as the House will remember, bearing the strongest evidence in his behalf to his early expressed determination to sustain the Federal authority when the Federal troops arrived in the city of New Orleans.

It is said that there were few votes cast. That is true. Some were prevented from voting. It was in evidence before the committee that one third of the State of Louisiana was under the jurisdiction of the Federal authority; and it was also in evidence that at the last session of Congress Representatives from that State presented themselves and were admitted to seats upon this floor with a greater or less vote. At this election upon which Mr. Field based his claim for a seat in this House, the people not only voted for members of Congress, but for municipal officers and members of the State Legislature. Members of Congress, judges, and members of the Legislature were all elected at the same time, and those judges are now sitting upon the bench adjudicating upon the rights and property of the people of Louisiana. Not only that, the loyal people of the State of Louisiana have been compelled to pay into the United States Treasury the sum of from four to six million dollars. These people, recognized as loyal people, were alone the men who voted at this election. It was not thought by the committee that a sufficient number of votes were cast to entitle the members elected to seats upon this floor. But it was admitted that those who did vote were good and loyal men. Now, I put it whether it is not the duty of members of Congress to pay this claimant under the circumstances.

Mr. BOUTWELL. I understand that the usage has been to pay the contestant where the opinion is entertained by the House that the claimant had such ground of contest or claim to a seat as to leave the inference that he acted honestly and fairly in presenting himself before the House. In all those cases, so far as I know, pay and mileage have been granted. If that be so, I ask why the report of the committee has fixed a specified sum, and not provided for pay and mileage?

Mr. WASHBURN, of Illinois. I can answer the gentleman. I recollect a case where the seat of the Delegate from Nebraska was contested by Mr. Chapman. We then refused to pay him the whole pay and mileage, and voted him a fixed sum of \$2,000, when he was entitled to something like \$5,000.

Mr. SMITH. I cannot recollect at this time of contestants who have been paid. In looking over the reports of contested-election cases from various parts of the country I find that the House has not only paid the whole amount, but it has paid a fixed sum to those who came here to contest the seats of members. In this case there was an honest purpose on the part of the people of the State of Louisiana to send a Representative here. They wanted to be heard. They were and are a loyal people. They had been subjugated. They had been oppressed. They had been ground to the dust; and I believe as firmly as I am here today that there are good and loyal people in every one of the southern States to whom we give encouragement by our speeches and action here.

Mr. WILLIAMS. Let me say a word. I desire to know from the Committee of Elections whether there is any precedent, any case presented, where compensation has been paid to an alien enemy? I desire the gentleman, moreover, to state what is the status of the individual claimant in reference to a seat upon this floor. I refer him to the common law. I refer to the additional fact that by the act of Congress a state of war exists, and that by positive enactment all intercourse of a civil character between the citizens of the loyal States and citizens of rebellious States has been interdicted. I want to know from that gentleman whether the claimant to a seat in this House, whom he proposes to compensate by this resolution, could maintain an action in our courts; whether he could make a valid contract with any member of the Committee of Elections; whether he could make a contract with any other member of this House; whether for the time being, at all events while Louisiana is under the armed occupation of a foreign force, any contract can be enforced; and whether he has any rights until we have a public proclamation and declaration that the rebellion has been suppressed in those districts? I do not say that the gentleman from Louisiana is not loyal, but I say *prima facie*, by presumption of law, in accordance with the common law of nations, in accordance with the act of Congress of July, 1862, and in accordance with the declaration of the Supreme Court of the United States, he stands in the position of a rebel. The presumption is against him, and when questioned upon a point entirely pertinent to this issue he stood mute. It may be he is loyal; it may be he is not. In contemplation of law he is not. In point of fact, one of his colleagues, who claimed a seat here without right, without law in his favor, and without a constituency—as this claimant is—was, by his own admission, a member of the secession convention of Louisiana, and put his name to the ordinance.

Mr. BLAIR, of West Virginia. I would ask the gentleman if he thinks all the people of the seceded States are rebels?

Mr. WILLIAMS. I do not.

Mr. SMITH. I can answer very definitely, as I understand it, the question suggested by the gentleman from Pennsylvania. I lay down the proposition that there is in no State that ever has been a State under the Government of the United States that has by any act of its own, either by convention or Legislature, or any other body, seceded from the Government of the United States. I lay down the proposition that whatever has been done upon the motion of that people, whether by a minority or by a majority of them, as against this Government, is null and void; and that those people who have thus acted in violation of law and Constitution are enemies of the country, are rebels to it, and can and ought to be subdued and brought back under the Government. Ay, so far as they are concerned who have acted thus, it is the duty of this Government to act summarily with them and punish them for the crimes they have committed. Yet there is a great saving clause in the Constitution of the United States, and it was exercised by the President of the United States when he proclaimed that when the Government had exercised its power, and had brought them under its control, those persons should, by an oath of allegiance, be admitted back and entitled to the privileges and immunities they were entitled to before.

Now, sir, when the State of Louisiana seceded by the action of a portion of its people, the whole country said it was wrong, that it was treason, and against the Constitution of the United States. The people rose *en masse* and denounced that action. Now, sir, when the Government obtained, through the agencies of its soldiers, the control of that people, the claimant in this case staid there and remained loyal. And when it was declared by the proper authority that those who were loyal should take an oath of allegiance, among the first to take that oath was this man Field. Whether he had ever done any disloyal act there was no evidence before the Committee of Elections; nor is there any evidence before this House that he had ever done any such thing. Upon the arrival of Federal troops in New Orleans he came forward and took the oath, and he has kept it, and has been true to the Union; and, so far as any man upon this floor knows, he has been as

true to his allegiance to the Government as anybody.

Now, sir, these loyal people of Louisiana are not enemies, they are not belligerents, they are not out of the Union; but they are in the Union; they are friends to the Government; and it is the duty of Congress to protect them. I say if there is but one loyal man in the State of Louisiana, I care not how humble he is, I care not how poor he is, I care not how ignorant he is, if he loves his country and asks its protection it is the duty of the Government to give him protection if it requires a million men to do it. He is entitled to all the privileges and all the rights he was entitled to before. It is a matter of history that the State of West Virginia, by its Legislature, and by a convention, seceded from the Government and repudiated it. Yet I observe upon this floor three Representatives from the State of West Virginia, though West Virginia was in the rebellion by the act of the convention which was called and which carried that State out of the Union—if it could be carried out. All the members of its Legislature, or nearly all of them, proved traitors. In the Senate of the United States are representatives from the State of Virginia. They have a State organization, a Legislature, a Governor, a judiciary. They are paying their revenue to the Government, and are represented in the Congress of the United States.

What is the difference, I ask, between the State of Louisiana and the State of Virginia, except that on many bloody battle-fields Virginia has evinced most clearly her hatred to the General Government and her determination to overthrow it? A portion of the people of Louisiana have acted badly; but those of them who have acted well, those of them who have stood by the Government through fire and through storm, through treason and rebellion, should share at the hands of this people a warm and hearty welcome whenever they manifest a disposition to return to loyalty and allegiance to the Government. In giving a fair compensation to the man who came here honestly and faithfully to represent them, you say to them that while you cannot admit such persons as Representatives in Congress you at least recognize their right to appeal to Congress and to the Government, and that you are ready to give them due and proper consideration.

Mr. PIKE. I desire to ask the gentleman a question.

Mr. WASHBURN, of Illinois. I object to any interruption.

Mr. SMITH. I hope the gentleman will withdraw his objection.

The objection was not withdrawn.

The question being on the substitute reported by the Committee of Elections,

Mr. STEVENS called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 60; as follows:

YEAS—Messrs. James C. Allen, Ancona, Anderson, Arnold, Ashley, Augustus C. Baldwin, Baxter, Jacob B. Blair, Bliss, Blow, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Clay, Coffroth, Cole, Cox, Cravens, Thomas T. Davis, Dawson, Denning, Demisson, Donnelly, Driggs, Eldridge, English, Finck, Gauson, Grider, Griswold, Hale, Hall, Charles M. Harris, Herrick, Holman, Asahel W. Hubbard, John H. Hubbard, Hutchins, William Johnson, Kalbfleisch, Kasson, Kernan, King, Law, Lazear, Le Blond, Long, Mallory, McKim, Samuel F. Miller, William H. Miller, Nelson, Noble, Norton, John O'Neill, Pendleton, Perlman, Perry, Samuel J. Randall, William H. Randall, John H. Rice, Rogers, James S. Rollins, Ross, Scofield, Scott, Shannon, Smith, Smithers, Stiles, Strouse, Stuart, Sweet, Thayer, Thomas, Tracy, Wadsworth, Elisha B. Washburne, Webster, Wheeler, Chilton A. White, Joseph W. White, and Winfield—88.

NAYS—Messrs. Alley, Allison, Ames, Baily, John D. Baldwin, Beaman, Boutwell, Brandegee, Freeman Clarke, Cresswell, Henry Winter Davis, Dixon, Dumont, Eckley, Eden, Edgerton, Eliot, Farnsworth, Fenton, Frank, Grinnell, Harrington, Benjamin G. Harris, Higby, Hotchkiss, Hulburt, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knapp, Loan, Longyear, McClurg, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Pike, Pomeroy, Radford, Edward H. Rollins, Schenck, Sloan, Spalding, Stevens, Upson, Van Valkenburgh, William B. Washburn, Williams, Wilder, Wilson, Windom, and Fernando Wood—60.

So the substitute was adopted.

During the vote it was announced that Mr. DAWES was absent on account of sickness.

The question recurred on the resolution as amended.

Mr. BEAMAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 63; as follows:

YEAS—Messrs. James C. Allen, Ancona, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, Baxter, Jacob B. Blair, Bliss, Blow, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Denning, Demisson, Briggs, Eldridge, English, Finck, Gauson, Grider, Griswold, Hale, Hall, Charles M. Harris, Herrick, Holman, Asahel W. Hubbard, John H. Hubbard, Hutchins, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, McKim, Samuel F. Miller, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Norton, John O'Neill, Pendleton, Perlman, Perry, Pruy, Samuel J. Randall, William H. Randall, Rogers, James S. Rollins, Ross, Scofield, Scott, Smith, Smithers, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thayer, Thomas, Tracy, Wadsworth, Elisha B. Washburne, Webster, Wheeler, Chilton A. White, Joseph W. White, and Winfield—85.

NAYS—Messrs. Alley, Allison, Ames, John D. Baldwin, Beaman, Boutwell, Brandegee, Freeman Clarke, Cole, Cresswell, Henry Winter Davis, Dixon, Dumont, Eckley, Eden, Edgerton, Eliot, Farnsworth, Fenton, Frank, Gooch, Grinnell, Harrington, Benjamin G. Harris, Higby, Hooper, Hotchkiss, Hulburt, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Odell, Charles O'Neill, Orth, Patterson, Pike, Pomeroy, Radford, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Spalding, Stevens, Upson, Van Valkenburgh, William B. Washburn, Williams, Wilder, Wilson, Windom, and Fernando Wood—63.

So the resolution as amended was adopted.

Mr. SMITH moved to reconsider the vote by which the resolution as amended was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSCRIPTION.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. ELIOT. I rise to a point of order. I inquire whether the morning hour has commenced?

The SPEAKER. The morning hour has not yet commenced.

Mr. ELIOT. I call for the regular order of business.

The SPEAKER. That can be interrupted by a motion to suspend the rules. By the 59th rule a gentleman has the right at any time to move to suspend the rules for this purpose. The usage has been not to make the motion till after the morning hour, but he has a right to make it.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. FENTON in the chair, in the absence of Mr. DAWES through sickness,) and proceeded as a special order to the consideration of Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, the pending question being on the amendment offered by Mr. DAVIS, of Maryland, to the following amendment offered by Mr. STEVENS:

All able-bodied male persons of African descent, between the ages of twenty and forty-five years, whether citizens or not, resident in the United States, shall be enrolled according to the provisions of the act to which this is a supplement, and form part of the national forces. And when a slave shall have been drafted and mustered into the service of the United States his masters shall have a certificate thereof which shall entitle him to receive \$300 from the United States, and the drafted man shall be free: *Provided*, That the slaves of loyal men only shall be paid for.

Mr. DAVIS's amendment was to strike out the words "which shall entitle him," &c.

Mr. STEVENS. I accept that as a modification of my amendment.

Mr. DAVIS, of Maryland. I now propose to amend that amendment by adding as follows:

The Secretary of War shall appoint a commission in each of the slave States represented in Congress charged to award a just compensation to each loyal owner of any slave who may volunteer into the service of the United States, payable out of the commutation money.

Mr. Chairman, I submit that amendment for this reason: not because I think it is due at all to the owner of the slave, but because the President and the Secretary of War in executing the law of 1862, allowing the President to use and organize persons of African descent to suppress the rebellion, have seen fit to appoint a commission, which is now in session in Maryland, for the purpose of estimating the value of and awarding reasonable compensation to the loyal owners of slaves who may volunteer in the service of the United States under the law of 1862. That brings the

volunteering of slaves into some sort of correspondence with the established policy of the Government in paying bounties to volunteers, the difference being that in the case of the slave the bounty is paid to the master instead on his freeing the slave, whereas the bounty in the case of the white volunteer of course goes to himself.

But the difference between that proposition and the proposition to pay drafted men is this: the volunteer having offered his services to the Government, the Government is of course at liberty to alleviate the burden which may be thrown upon the slaveowner, as far as it sees fit. It is a very different thing to impose upon the Government when it is driven to draft men the necessity of paying to every slaveowner a compensation for any slave that may be drafted. It is unequal, and I am sure every gentleman will see that it is in a moment. The poor man whose son works for him on his ten acres receives no compensation for that son when he is drafted into the service, while the wealthy slaveholder, who has three or four hundred slaves alongside, is to receive a compensation of \$300 for every one of his slaves who may be drafted.

It is apparent that if the Government has the right to draft slaves into the service, and if the Government has the right to take the slave, it has the right to take him exactly as it takes the son, the father, or the brother of any citizen of the Republic, with no more compensation, and no less compensation for discharging the duty he owes to the country.

Mr. ANDERSON. I desire to offer an amendment to the amendment.

The CHAIRMAN. The amendment of the gentleman from Maryland is an amendment to the amendment.

Mr. ANDERSON. Then I desire to say a word in opposition to the gentleman from Maryland. Many gentlemen upon this floor know that the people of my district are in some respects situated unlike the people in any other district of any loyal State of the Union. At the very commencement of the rebellion a very large number of the people of that district having strong sympathies with the rebellion induced the able-bodied young men of the district to take their fortunes with the rebellion. And the result has been that a large majority of the young men there who were fit for military service have gone into the rebellion, and as a consequence the district has never been able to fill its quota of troops in the calls which have been made upon it by the United States Government; so that now, on the approaching 10th of March, when a draft is ordered, that district will owe the Government something near seven thousand men.

It will result, therefore, unless the slaves of rebels who have cheated the Government out of the young men it was entitled to, unless they are taken, every poor Union man who is capable of bearing arms will be sent off, torn away from his wife and children, while those who have been guilty of inducing the young men to go into the armies of the rebellion will be permitted to stay at home in peace and quiet with their families and slaves.

Sir, I am in favor of taking the slaves of rebels in Kentucky, and of rebel sympathizers. I think it is just, right, and expedient. But I am opposed to taking the slaves of Union men of Kentucky. They have suffered already sufficiently in consequence of this rebellion, and particularly when, under the circumstances I have stated in my district, every Union man there upon the enrollment list is made responsible for two rebels who have gone off into the southern army. The men in my district are unable to pay the amount of money required to be paid for the men who are drafted. It will take \$1,000,000, and it is impossible for the men there to raise that amount of money. I think, therefore, it is the duty of the Government to take the slaves of these men who induced and persuaded our young men to go into the rebel army. I am willing that they should take all of the slaves of the rebels that they can reach.

The question recurred on the amendment of Mr. DAVIS, of Maryland, to the amendment.

Mr. FARNSWORTH demanded tellers.

Tellers were not ordered.

The amendment to the amendment was adopted.

Mr. WEBSTER. I move to insert in the amendment of the gentleman from Pennsylvania

after the word "volunteer" the words "or drafted into the military service of the United States."

Mr. Chairman, the effect of this amendment is to put the drafted slave on the same footing with the volunteer slave.

Mr. UPSON. I rise to a question of order. I make the point that the amendment is not in order.

The CHAIRMAN. The Chair holds that it is in order.

Mr. WEBSTER. I repeat that the object of my amendment is to put the owners of slaves who are drafted upon the same footing with the owners of slaves who volunteer.

Now, sir, upon the question of the right of the Government to take slaves when necessary for the military service, I have no trouble. No gentleman on this floor, however much he may be opposed to the Government exercising this right, has undertaken to deny the right.

Mr. SMITHERS. Will the gentleman tell me whether they are taken as persons or property?

Mr. WEBSTER. With a great deal of pleasure. The Government takes them both as persons and property. In my opinion they are recognized in the Constitution both as persons and property, and the Government has the right to take them either as persons or property, or as both combined. But when the Government takes the slave for military service it takes away from the master the service of the slave which is due to him, which is his property, and the case is then that of "private property taken for public use," and just compensation should be made. This my amendment proposes to give.

Now my colleague from Baltimore, [Mr. DAVIS,] in the able argument he made yesterday to the committee against compensation for drafted slaves, took the position that while the Government had the right to the military service of the slave without compensation, yet when that term of military service had expired the slave could be reclaimed by his master and he was still his property. I admit, sir, if no compensation were made, and consequently no agreement with the master for the manumission of the slave, that the conclusion of my colleague is correct. But, sir, for one I am unwilling that any man who has been lawfully clothed in the uniform of an American soldier, who has borne arms as an American soldier, who has endured the privations and dangers incident to a soldier's life, who has upheld the flag and the honor of the country and perhaps shed his blood in their defense, I am unwilling that such a man should ever again be returned to slavery. To permit it would bring shame and disgrace upon us and the Republic. It is in part to prevent this iniquity that I propose to give compensation to the master and freedom to the slave.

Sir, the question before us is not the right to take slaves for military service, but the expediency of so doing. For myself, I am free to confess that in the earlier stages of the war, when it seemed probable that the rebellion would be crushed at no distant day, and without serious interference with the domestic institutions of the States, believing as I did and do in the superiority of the white man as a soldier, I was unwilling to arm the negro. But now, sir, when we approach the end of the third year of this war, and it is still huge in its dimensions; when call for troops follows call in quick succession; when draft after draft is made, and the drain upon our people for soldiers is grievous to be borne, I am for using all the means known to the law in suppressing the rebellion. I would put arms in the hands of all men capable of bearing them. The experience of the last twelve months has shown that the negro, though not so efficient a soldier as the white man, will fight bravely, and can be made a valuable auxiliary in the prosecution of the war and the restoration of the Union. Sir, his aid is not to be rejected, at least I will not assist in its rejection.

Now, sir, while I say this I also wish to say that the loyal slaveholder, the man who has stood by you and the Government through all the changes of this war, who stands by you now, though he sees and knows that the inevitable result of the war will be to wipe out slavery, is deserving of the highest and kindest consideration at your hands. His loyalty has no condition. His devotion to his country bears tests, and endures sacrifices which other men are exempt from. He says, "If it be necessary let my property be de-

stroyed, but let my country be preserved." For such a man, and many such there are in my district, I invoke—

[Here the hammer fell.]

Mr. KELLEY. We do not give the northern father compensation for his minor son who is drafted. We do not give the northern wife compensation for the husband whose labor was her support, if he be drafted. We do not give the northern orphan child compensation for having withdrawn the father whose labor was its support. We do not give compensation to the poor wife and child of a poor man of Maryland or Kentucky when the draft designates her husband or its father. And I cannot see that the relation of this slaveowner to his slave is one whit more sacred than that of the father to his son, the wife to her husband, or the child to its parent. Slaves are persons. They are never alluded to in the Constitution of the United States as slaves; and every able-bodied man in the country owes it military service, be he black or white, bond or free.

I am ready to appropriate money to pay for the slaves of loyal owners whose masters consent to their volunteering in the service. I will do it readily; I will aid it with my vote and voice whenever I can. But why, when under our law an able-bodied man is designated by law as one upon whom military duty is imposed, shall we hand to another the sum of \$300? I hope it will not be done. I am heartily opposed to the proposition.

The amendment to the amendment was not agreed to.

Mr. HARRIS, of Maryland. I move to strike out the last word of the amendment, with a view to a few remarks. This is a proposition, as I understand, made by the gentleman from Pennsylvania, [Mr. STEVENS.] He is an avowed abolitionist, and frankly says so; but with his abolition comes also a sense of justice. He is for compensating or establishing the position that we are entitled to compensation when our slaves are taken. After that we may consider that he is disposed to do justice to the slaveholder whenever his property is taken. To my astonishment, however, I find gentlemen representing upon this floor slaveholders in Maryland and other slave States who are for depreciating the rights of the slaveholder and the property of the slaveholder, and for turning out those of that class whom they represent to starve upon the moors and hills of their country. Sir, I contend that this is an injustice unworthy of patriots, unworthy of statesmen, and unworthy of any deliberative body. And I will say I look more for justice to the gentleman from Pennsylvania [Mr. STEVENS] than I do to the two gentlemen who spoke yesterday, and who represent the upper portion of Maryland, [Mr. DAVIS and Mr. CRESWELL.] I deny that you have a right to enlist or enroll a slave.

Mr. DRIGGS. I call the gentleman to order. That question has already been decided by a vote.

Mr. HARRIS, of Maryland. I contend that I am fully in order. I say I believe it will be decided by the highest legal tribunal in the land that you have not a right to enlist or enroll a slave as a soldier. If the Government chooses to take him at all the only relation in which it may take him is as property; and as property you are bound to pay the compensation which the Constitution says you shall pay for taking private property.

If you could properly enlist slaves, I am opposed to the degradation which such an act would bring upon a nation situated as this is. What are you fighting? Five million white men. You claim to be twenty million white men, and yet with such odds in your favor, and with means of blockading southern ports and almost starving them into subjection, you come here and command that the flag of your country shall be entrusted to the poor slaves. I say it is a degradation of the United States flag, and no man who duly honors that flag has heretofore ever undertaken at such odds to deprave the country and tarnish its honor by any such proceeding.

Mr. KASSON. The gentleman from Maryland [Mr. HARRIS] applies a portion of his remarks to his own colleagues from that State, touching their representation, or rather misrepresentation, of the interests of their constituents. To that they are abundantly able to answer, and I do not wish to reply. To that other part of his remarks, which charges a portion of this House with a dis-

position to do injustice to any portion of the people of this country by this provision of the bill, I wish to reply. Also to that other charge he makes, that we are doing injustice to the honor of the country in intrusting its flag to a portion of the black people of the country, I wish to reply. I call his attention, sir, to the fact that by the men of the Revolution, among the most prominent of whom were members from the slave States, that flag was intrusted in this identical manner to the safe-keeping and honorable conduct of the black men of the country. The pension rolls at this day show the names of black men by the side of white men who fought to establish the independence of the country. More than that, sir, the statute-book of the State of Virginia bears, up to this time, the laws by which black slaves who had fought in the battles of the Revolution were emancipated in recognition of their honorable conduct. So, too, the State of Rhode Island, which was then a slave State, expressly authorized the enrollment of black slaves in the armies of the country. This is not a new thing that we are doing. It is a thing called for by the necessities of the country at this time, and which a Representative from a slave State ought to be the last to object to.

I wish to say, further, sir, that under the Constitution of the United States we know no such thing as a slave *per se*, as property in the same sense as we know of property in cattle. They are known as persons, and are spoken of and described as persons, and as nothing else. When slaveholders make a claim for compensation for slaves enlisted or drafted, that compensation should be adjudged, if at all, on the basis of two fifths of their value, at the utmost, inasmuch as they represent but two fifths as property and three fifths as man. That being the fact, I say we ought not to regard this as we regard other property when it is taken for the use of the Government. There is some property known as such by all the nations of the earth. By the common sentiment of mankind certain things are recognized as property. Certain other things are recognized as property by exceptional statutes, and of that class exclusively is the property in slaves.

Under these circumstances, while I will vote for giving to loyal owners some compensation for those of their slaves who will volunteer, as an inducement to masters to encourage their slaves to volunteer—giving them deeds of manumission at the time—I cannot vote for a compensation in case of slaves that may be drafted, because that would leave masters free to obstruct the volunteering of their slaves, knowing that they would get the same compensation whether they volunteered or were drafted. Therefore, while I will vote to give compensation in the case of slaves volunteering, I am opposed to giving compensation in the case of slaves drafted.

In this connection I again appeal to history as sustaining the proposed action of the House in employing all classes of people, irrespective of color, in defense of the honor and dignity of the country.

[Here the hammer fell.]

The question being on Mr. HARRIS's amendment to the amendment,

Mr. HARRIS withdrew it.

Mr. BALDWIN, of Massachusetts. I move to amend the amendment by striking out the words "owner of any slave" and inserting in lieu thereof the words, "the person to whom the colored volunteer may owe service." I am opposed to the provision for compensation, in the amendment offered by the gentleman from Maryland, on this ground, that I do not think the interest touched by the amendment of the gentleman from Pennsylvania should have a superior privilege over others. I know that we have been accustomed to see conceded to it a sort of supremacy over other interests. I deny its right to such supremacy. But, passing that by, if we are to adopt the amendment of the gentleman from Maryland, I wish to have it in language conforming as nearly as possible with the Federal Constitution.

Mr. MALLORY. Mr. Chairman, I rise to oppose the amendment of the gentleman from Massachusetts; not that I understand the amendment very well, nor that I believe it effects much in this matter, but in order that I may say a word on the subject now before the committee. I appeal to

the reason of the gentlemen on that side of the House, unless reason has fled, to know why they manifest such a solicitude in this matter. In the States of Missouri, Maryland, Kentucky, and Delaware, the States in which slaves are now held in that portion of the United States subject to the authority of the Federal Government, the quotas to be furnished by them are fixed by the bill now under consideration. What does it matter to gentlemen on the other side what sort of soldiers those States furnish provided they furnish the number asked for? Says a gentleman to me, "Our people cannot consent that the white men shall fight these battles and shed their blood for the country and the flag while there are thousands of black men who can go into the Army and do this thing also."

I ask the gentleman from Pennsylvania, the gentleman from Iowa, and the gentlemen on that side of the House what they have got to do with the matter? If we allow you to put your free negroes into the Army—and I have no objection to your putting them upon your enrollment list—what right have you to insist that our slaves in Kentucky shall be placed upon our enrollment list? You demand from Kentucky a certain number of men for the Army upon this call. We who live in Kentucky say that we have the right to decide who those men shall be. If you are in earnest, if you really desire to raise men to fill our armies, that is the course by which you will accomplish that object. But if you are not in earnest; if you have another and a different object to accomplish, covertly, by the operation of the bill; if you wish to demoralize and destroy the institution of slavery in my State, then the amendment of the gentleman from Pennsylvania [Mr. STEVENS] is a wise one for the accomplishment of that purpose. Sir, I know the gentleman from Pennsylvania, I know him to be a bold man, I know him to be a frank and candid man, and I know this to be his argument; I know that if his simple, sole object by this bill was to raise an army he would admit that the course I have marked is the proper one to accomplish that object.

Sir, I again invoke this House, I invoke their sense of justice, if they have any remaining, if they have not determined upon a reckless crusade upon an institution, which I believe will work the destruction of my country if that crusade is persisted in, I appeal to them not to pass the amendment of the gentleman from Pennsylvania. I ask it not as a boon. I would scorn to ask a boon from any party in this House, or from the Government itself. I ask it as a right of the people of Kentucky that we be allowed to fix this matter in any way we choose.

If gentlemen from Maryland choose that their slaves shall go into the Army, let them go, but let that question be determined by the State of Maryland as a State. Do not decide by a statutory enactment by the Congress of the United States who shall compose this quota in the State of Kentucky. Let Kentucky decide that for herself.

[Here the hammer fell.]

The amendment to the amendment was adopted.

Mr. BROOMALL. I move to amend the amendment by adding the following:

Provided, That this section shall not apply to any congressional district if the Representative of such district shall expressly ask that the slaves in his district be exempt from draft, letting it fall the more heavily upon the white men.

Mr. Chairman, I do not offer that amendment because I am in favor of it, but with a view of affording those who are opposed to the proposition of my colleague [Mr. STEVENS] an opportunity to put their own congressional districts in such positions as they seem to want them. I can very well understand that if gentlemen were seeking to send only a particular class of men to the war from my district my constituents would object to such a discrimination.

Mr. MALLORY: If the gentleman will make his amendment read "Governor of the State," instead of "Representative" of a congressional district, I will go for it.

Mr. BROOMALL. I cannot do that, because I find that States are divided upon this question. The Representatives of some congressional districts would not want this amendment of mine to apply to their districts, while others would.

I take it for granted those gentlemen who are opposed to the original proposition of my col-

league will vote for my amendment, which I have drawn to meet their views. If any man is seriously and earnestly opposed to the original proposition, I present this as an acceptable qualification to him. I do not propose to vote for it myself. My constituents do not require any such qualification, and I may remark that should my amendment be adopted and applied to any district in any State, the voters of that district will have the question before them when the draft comes to be enforced, and they will remember to make a decision in the next election.

Now, Mr. Chairman, I have only to remark that I want to see how many will vote for this amendment, because I shall consider it a test as to how many are opposed to the original proposition. I have never found the most sneaky constituent of mine who when he was drafted refused to let the blackest negro in the district go as a substitute for him.

Mr. STEVENS. I am opposed to the amendment. It is not for members of Congress or congressional districts to say what kind of soldiers we shall have. We want to select our own soldiers and get the best. Therefore I am opposed to the amendment of my colleague. [Laughter.]

Mr. BROOMALL's amendment to the amendment was disagreed to.

Mr. WEBSTER. I move to insert after the words "certificate thereof" these words:

The bounty of \$100 now payable by law to each drafted man shall be paid to the person to whom said drafted person owes service at the time of his muster into the service of the United States.

Mr. Chairman, one word in explanation of that amendment. The enrollment act of the last Congress put a drafted man upon the same footing as regards pay and bounty as the volunteer; that is, each drafted man was entitled to the bounty of \$100. I propose in the case of the slave who is drafted that the bounty shall be paid to the master, provided he is a loyal man, and provided that the drafted slave shall be manumitted by his owner. That is the whole effect of the proposition, and I think that the committee will recognize its justice.

Mr. KELLEY. I rise nominally in opposition to the amendment, but really to answer the question the gentleman from Kentucky [Mr. MALLORY] put to me when he was upon the floor. He inquired whether it was the desire that this war should extinguish slavery.

Mr. MALLORY. I made no such inquiry. I said if it were the desire of gentlemen to fill the Army by this bill that it could be as well done without the amendment as with it; but if the House is desirous of demoralizing the institution of slavery then it will agree to the amendment.

Mr. KELLEY. My object is to obtain an army; and not only to demoralize but to extinguish the institution of slavery, because it is right and has become one of the necessities of the country. The President's proclamation having wiped it out of the whole insurgent region, and Maryland, Missouri, Delaware, Louisiana, and Arkansas having determined to extinguish it, its abolition must go over the whole country. Fate decrees it; it is in the order of Providence; and it is necessary to the peace of the country. I am willing that the \$300 paid by the northern men for exemption shall be given to the slaveholders of Kentucky and the other border States if they will give us an army of colored men. I tell the gentleman that we desire to work with and not against Providence. With Providence we shall be successful; against Providence we shall be overwhelmed. The just aim of the majority of this House is to adjust the means of bringing the rebellion to a speedy termination—a termination which shall be followed by a lasting and prosperous peace. It will undoubtedly not only demoralize, but extinguish human slavery within the limits of our country. [Here the hammer fell.]

The amendment to the amendment was agreed to; there being, on a division—ayes 67, noes 44.

Mr. CLAY. Mr. Chairman, I move to strike out the last word. Some gentlemen would seem to consider this a small matter, and I want to call attention to its magnitude so far as my State is concerned. In 1862 the whole property of the State was valued at \$516,000,000. The year before this rebellion broke out, that is, in 1860, the slave property of Kentucky was valued at \$107,000,000. Therefore one-fifth of the whole property of Ken-

tucky is included in the subject on which you are now legislating. It is owned principally by women and children, and here is a proposition to take it away from them. For what? Because we have not furnished our quota with the balance of the States? No, sir; that is not the case, because you have not given us an opportunity. To do this at this time would show that you have another motive than to fill the Army of the United States. I put it to the conscience of the gentleman from Pennsylvania [Mr. KELLEY] whether he would vote for a proposition of that character?

Mr. KELLEY. I will answer the gentleman.

Mr. CLAY. I cannot yield. I want the House to know the magnitude of this subject. We feel that private property cannot be taken for public use without just compensation. We do not deny that it can be taken. You might as well tell me that you have a right to burn a house in the State of Maine, while the army of the enemy is down in Tennessee, and call it a matter of military necessity. Now I am opposed to this whole thing. I am opposed to establishing a recruiting office in my own State. Why? Because it would demoralize that whole population. It will create a civil war among us. It will lead one neighbor to shooting another neighbor; and it will result in compelling the Union men to leave the State. What is the necessity of doing this thing? It will crush out the Union sentiment which is growing up there, and will embrace in its effects the population of the adjacent States. You are in danger of creating a state of feeling which you will never see ended in this country.

Mr. SCOFIELD. I wish to commend to the gentleman from Kentucky—I mean the one who bears the name most honored in that State, [Mr. CLAY]—the philosophy of Macbeth. We are in the midst of emancipation,

"Stept in so far, that, should we wade no more,
Returning were as tedious as go o'er."

Suppose that slavery is the defensible institution its friends claim it to be; suppose further that it is a beneficial institution, there will come a time, perhaps, in the progress of the pressure for emancipation by a large portion of the American people when it becomes those most interested in negro ownership to consider whether restoration is not more difficult, more expensive, and more dangerous even, than final abolition. I submit that that time has come already. If abolition was madness at one time it may be good sense and sanity at another. Sometimes it is wisdom to pursue a path upon whose unknown and threatening dangers it were folly to enter. And this may be one of these. We are near the middle of the stream: which shore is nearest and safest?

I have always understood, sir, that with the slaveholders, themselves being judges, there were two conditions to the existence of slavery on this continent: non-instruction to the slave; non-discussion by the white man in localities where it exists. These are acknowledged to be the two safeguards of slavery by the statutes of almost every slave State, where ignorance is commanded to the slave and silence to the white man by penalties which seem to us at the North to be unnecessarily severe. If anywhere the law was at fault the mob supplied the deficiency.

I do not mention these things to complain of them, but only as an evidence of the depth and sincerity of the conviction of the slaveholders that these two conditions are necessary to the safety and prosperity of the institution. Those safeguards have been wonderfully broken down by the necessities of the war. Commencing with the District of Columbia, following around the eastern and southern coast, up the Mississippi, and all along the northern borders, slavery is surrounded by a cordon of missionary schools for the black man. In those schools the slaves of all ages are taught, not only what can be learned from books and charts, but also that they are and of right ought to be free, made so by the laws of God and the President's proclamation, and that it is a duty they owe to God and the President to maintain that freedom. I am not now speaking to justify or condemn those schools. Call it fanaticism if you like; I speak only of the fact.

But there is more—something worse or better, as you please—one hundred thousand of those slaves are in the Union Army, and one hundred thousand more will be there by spring. The

Army is a great school in which to learn and to unlearn—to unlearn submission and docility to their masters, and to learn the value of freedom and the power of association and organization to defend it.

When God shall please again to bless the land with peace, shall the negro lay aside his military belt and resume the master's collar? If the country would allow it the master would not. He would as soon introduce to his plantation a person charged with some fatal infection as his former slave filled with anti-slavery ideas and military skill. He might court his industry, but not his demoralized will.

But the other safeguard of slavery, the silence of the white man, is broken also. Discussion has opened in all the border States, and can never again be hushed.

[Here the hammer fell.]

The amendment to the amendment was not agreed to.

Mr. FERNANDO WOOD. I move to amend by striking out the last word. I desire to call attention to the fact that while we are here discussing a measure clearly and palpably in violation of the Constitution of the United States, oppressive and destructive, the confederate house of representatives is probably this very day discussing measures of peace, reunion, and conciliation.

I repeat that while we are preparing to violate the Constitution—a Constitution which recognizes slavery, which even recognized the slave trade for twenty years—while the Congress of the United States is preparing by its measures for entire and inevitable disunion, the people of the southern States in congress assembled by their representatives are extending the olive-branch of peace.

Mr. SMITH. I desire merely to ask the gentleman—

Mr. FERNANDO WOOD. I cannot yield. I have risen especially for the purpose of calling the attention of the committee, of the House, and of the country, that there is now pending in the house of representatives of the confederate government a proposition for peace, and is being debated in secret session at this time.

I read from the Richmond Examiner of February 8, three days since:

"The following extraordinary resolutions were yesterday introduced in the house of representatives by Mr. Wright, of Georgia. The house went into secret session before taking any action upon them:

"Whereas the President of the United States, in a late public communication, did declare that no propositions for peace had been made to that Government by the confederate States, when, in truth, such propositions were prevented from being made by the President of the United States, in that he refused to hear, or even to receive, two commissioners appointed to treat expressly of the preservation of amicable relations between the two Governments. Nevertheless, that the confederate States may stand justified in the sight of the conservative men of the North of all parties, and that the world may know which of the two Governments it is that urges on a war unparalleled for the fierceness of the conflict, and intensifying into a sectional hatred unsurpassed in the annals of mankind: Therefore—

"Resolved, That the confederate States invite the United States, through their Government at Washington, to meet them by representatives equal to their representatives and senators in their respective congress, at —, on the — day of — next, to consider, 1st. Whether they cannot agree upon the recognition of the confederate States of America. 2d. In the event of such recognition whether they cannot agree upon the formation of a new Government, founded upon the equality and sovereignty of the States; but if this cannot be done, to consider, 3d. Whether they cannot agree upon treaties, offensive, defensive, and commercial.

"Resolved, In the event of the passage of these resolutions, the President be requested to communicate the same to the Government at Washington in such manner as he shall deem most in accordance with the usages of nations; and in the event of their acceptance by that Government, he do issue his proclamation of election by delegates, under such regulations as he may deem expedient."

In these resolutions may be found the basis of negotiations leading to reunion under the Constitution.

Now, Mr. Chairman, this is a Government of white men, made by white men, for the purpose of preserving law and order, and preserving the liberties of the people, and for the protection of the States and of the white people thereof, and yet it is proposed by this bill to disregard each of these provisions and requisites; to oppress the white and to elevate the social and political condition of the black race, which, under the Constitution, the Congress of the United States has no authority to do. I desire now to speak directly

to the proposed amendment, and to say that under the organic law slaves are property. They have no other status in the Constitution, and, as property, cannot be taken except by giving "just compensation" in return.

[Here the hammer fell.]

Several MEMBERS on both sides of the House proposed that Mr. FERNANDO WOOD should be permitted to conclude his remarks.

Mr. BOUTWELL objected.

Mr. CRESWELL. I do not rise to reply to the remarks just uttered. I admit that I have not the means of information which the gentleman from New York [Mr. FERNANDO WOOD] seems to possess to enable me to speak of what is going on at Richmond, or what propositions the rebel congress may be about to make to this Government. But I propose, with the permission of the committee, to confine myself to a brief reply to my colleague on the other side of the House, [Mr. HARRIS.] That gentleman has said that the two members from Maryland who spoke yesterday are not in favor of doing justice to the owners of slaves, and that he would prefer, as their special representative, I suppose, to submit their case to the gentleman from Pennsylvania, [Mr. STEVENS.] I have not the slightest objection in the world to that. I am willing to unite with the gentleman from the fifth district of Maryland to make an assignment of all the slave interest of Maryland, and to submit the whole question to the tender mercies and grim justice of the gentleman from Pennsylvania. [Laughter.]

Mr. HARRIS. Will my colleague allow me—

Mr. CRESWELL. I cannot give way.

Mr. HARRIS. I have only to say that that is a misunderstanding.

Mr. CRESWELL. The gentleman speaks of injustice to slaveholders in Maryland. I call his attention to the fact that the proposition before the committee, made by the gentleman from Pennsylvania, and sustained by those on this side of the House, awards to every slaveholder whose slave volunteers the sum of \$300. In addition to that, I inform the gentleman that the proclamation of the Governor of Maryland, just published, offers \$100 additional to slaveholders for each of their slaves that shall volunteer. These two sums make up \$400.

And now I call my colleague's attention to another fact, of which I well know he is already clearly informed. It is that by the sixth section of the eighty-first article of the code of public general laws of Maryland the slaveholders of that State, while they ruled it with a power which the non-slaveholders could not resist, fixed the valuation of slaves, in the following words:

"Slaves shall be classified according to their ages and sex, as follows: male slaves under the age of twelve years shall be assessed at \$75; male slaves from twelve to twenty-one at \$250; male slaves from twenty-one to forty-five at \$400; male slaves from forty-five to sixty at \$160; female slaves under twelve years of age at \$50; female slaves from twelve to twenty-one years of age at \$300; female slaves from twenty-one to forty at \$300; from forty to sixty years of age at \$100." &c.

By this section of the public general laws of Maryland the slaveholders, while ruling the State, determined that sworn assessors should not put a fair valuation on this class of property, but that it should be taxed on the valuation of it which they themselves fixed. And gentlemen will find that the highest valuation put upon the most valuable class of slaves in Maryland is \$400, precisely the same now proposed to be paid to the slaveholder for each of his slaves that volunteers. Is that unjust? We propose to pay them at their own valuation. Never, in the history of Maryland, have slaveholders paid taxes on any slave valued at a higher sum than \$400. It is their own assessment, their own valuation, when they were sworn to do justice to all the people of the State alike.

One word more—

[Here the hammer fell.]

Mr. FERNANDO WOOD withdrew his amendment.

Mr. SCHENCK. I move that the committee do now rise, for the purpose of closing debate on this section.

The motion was not agreed to.

Mr. COX. I renew the amendment offered by the gentleman from New York, [Mr. FERNANDO WOOD.] I do so for the purpose of calling the attention of the committee to the proposition in

the rebel congress referred to by the gentleman, which seems to have been received by the committee with some mistrust and a little levity.

I, too, am opposed to this bill of conscription, because I believe it will fail of execution, because it is unconstitutional, unwise, anti-democratic, and a scheme of involuntary servitude for white men, not authorized by anything in our system of government. I do not believe it will raise the army which you need to put down this rebellion. I have indicated heretofore my plan for raising troops for this purpose.

And while I have always been ready in this House to vote all the money and all the means called for to meet and overcome the armed resistance against this Government—while, after force was arrayed against the Government, I felt it to be my duty to resist it by all the force needed for its suppression—still, sir, as my resolutions and votes demonstrate, I have also been as ready at all times, at every hush and pause of this dread conflict, at every period of decided success to our arms, to meet with favor any tender of conciliation and peace calculated to restore the integrity of the Union and the supremacy of the Government.

Now, sir, this proposition made in the Confederate congress, and debated by them in secret session, is made by Judge Wright, of Georgia, a former member of this House and a firm friend of Judge Douglas. If rightly understood and interpreted it is a proposition of peace and kindness, on the basis of the old Union. Disguised as it is by much verbiage, and hidden under the phraseology which has become common in the South, still it means substantially the return of the South to the old Government when it says, "a new Government founded upon the equality and sovereignty of the States." In the same proposition it is declared that "if this cannot be done"—that is, if recognition of their independence and the formation of such a "new Government" as above cannot be accomplished, they are then to consider—what? Mark how, by seeming to disguise their real meaning, they really express themselves in favor of the old basis. In case they cannot be recognized as independent, they would "agree upon treaties offensive, defensive, and commercial;" meaning clearly that if they do not obtain recognition they are ready to accept under the old Government such an accommodation of our difficulties as will draw us together, politically and commercially, as against all the world. Could we expect more as the initiative of a negotiation for peace, based on Union? To what would not negotiations begun in this spirit lead? Is it not worth the while to make the experiment?

Now I propose to the gentlemen on the other side to meet that proposition. Pass your resolution, either to receive from or send a commission to Richmond. Send the distinguished gentleman from New York, [Mr. FERNANDO WOOD,] who you assert is with the South in sympathy, [laughter,] and if he does not come back within sixty days with a proposition of peace based upon the old Union and the "equality and sovereignty of the States" he will agree to join you in fighting the rebellion to its overthrow. I cannot speak for the peace Democracy, not being recognized as one of them, (for I am simply a Democrat;) but I can speak for the gentleman from New York, who is a representative man of that element, and who sits behind me, that he will in case of failure join you in every proper war measure until the rebellion is ended. Dare you do it? Dare you try this experiment for peace and Union? Will you not hear, will you not receive commissioners with a view to end the horrors of this war and this species of legislation?

Mr. SPALDING. If he will go there and stay I will vote for it.

Mr. COX. I want to know whether gentlemen on the other side are willing to restore the old Union, and whether they are ready to receive such a commission here and listen to a proposition to restore it upon that basis, of State equality and sovereignty? Or are they in favor of still continuing the strife without any effort at conciliation and accumulating pains and penalties until our statute-book groans with them? Are they still determined to make this a war of extermination and of everlasting separation? Will you continue this war for subjugation when there is at least a scintilla of hope held out by the South that they

are ready to retrace their steps and return to their allegiance? Have you magnanimity enough, in the midst of our successes and their depression, to stop this piling up of debt and taxation, and to stay the further effusion of blood?

I am for restoring this Union of equal and sovereign States as it was in the peaceful days of the Republic; and if we cannot succeed in that, if we cannot treat with those men on the basis of the old Union and the equality and sovereignty of the States, then after a fair trial of this peaceful remedy, never yet tried, I believe every true man, of whatever name in politics, in the North will be, as when Sumter fell, thoroughly united to fight down the rebellion.

But, sir, you have not tried peaceful settlement. My proposition falls upon sodden hearts. You will not try it. You dare not try it. Your object is not, as at least I infer from the remarks of the gentleman from Pennsylvania, [Mr. KELLEY,] so frankly spoken just now, to restore the Union. It is to blot out a domestic institution with which you never had any business, and which was recognized by the Constitution, but which in dragging down, you are dragging down our system of local sovereignties and constitutional freedom. [Here the hammer fell.]

Mr. SMITH. I oppose the amendment. I do not propose, Mr. Chairman, to answer the remarks of the gentleman from Ohio. I am the last man in this Congress to give a vote for any commission to be appointed to treat with the southern confederacy until they have laid down their arms and yielded their submission unconditionally to this Government.

But I desire, upon the question under consideration, to say this, and I call the attention of my colleagues to the fact. It is true, and cannot be denied, that in the Commonwealth of Kentucky, not by any law, not by any proclamation, but by the circumstances of war, the loyal people of Kentucky have lost to a greater or less extent in the property of slaves. My colleague from the Ashland district [Mr. CLAY] was correct when he said that in 1860 the value of that description of property in Kentucky was \$107,000,000. It is also true that in the year, or from 1859 to 1860, the decrease in the number of slaves in the Commonwealth of Kentucky was near twelve thousand. But in 1862 the decrease of slaves in that State, notwithstanding the presence of two hundred thousand Federal troops, those men who are charged with stealing negroes from the loyal men of Kentucky, was only four hundred and seventy-seven. Yet, sir, the decrease in the total valuation of the slaves of Kentucky in that period was over \$50,000,000. While in 1860 the value of the slaves in that State was \$107,000,000, in 1863 it was only \$57,000,000.

All that, sir, is true according to the auditor's report which I hold before me; and what is the cause of it? I must repeat again it is not by law, it is not by proclamation, it is not by any interference of the Government with that institution in the Commonwealth of Kentucky, but it is in consequence of war, in consequence of the invasion of that State by rebels, and in consequence of the great outrages committed upon the people of that State. Your people came there from the North at our request to defend us, to preserve our homes and our wives and children. They came there to save us from sacrilege. We received them with open hands; and for the two years that they passed through our Commonwealth we have lost only four hundred and thirty-seven slaves. The decrease of valuation there was some fifty million dollars. Look at this thing not as politicians. It is true, this is the inevitable result of this thing. I believe that the amendment of the gentleman from Maryland is a good one, and I shall therefore support it.

Mr. STEVENS. I move that the committee do now rise.

The House divided; and there were—ayes 67, noes 66.

Mr. J. C. ALLEN demanded tellers.

Tellers were ordered; and Messrs. MORRIS, of New York, and STEELE, of New Jersey, were appointed.

The motion was agreed to; the tellers having reported—ayes 71, noes 67.

So the committee rose; and the Speaker having resumed the chair, Mr. FENTON reported that the Committee of the Whole on the state of the Union

had had under consideration, as a special order, the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had come to no conclusion thereon.

Mr. SCHENCK. I move to close all debate on the pending section of the enrollment bill in one minute after its consideration shall be resumed in the Committee of the Whole on the state of the Union.

Mr. HARDING. I move to amend by making it five minutes.

The House divided; and there were—ayes 63, noes 60.

Mr. J. C. ALLEN. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MALLORY. I will make a proposition to the gentleman from Ohio. Let it be agreed that, when we go into committee, my colleague [Mr. HARDING] shall have leave to submit a five-minutes' speech on his amendment, and there will be no further objection on this side.

Mr. SCHENCK. I am willing to agree to that.

Mr. J. C. ALLEN. I withdraw the demand for the yeas and nays.

Mr. KING. If Kentucky is to have five minutes I want Missouri also to have five minutes on this subject.

Mr. SCHENCK. I move that debate be closed in five minutes after the Committee of the Whole on the state of the Union shall resume the consideration of the section, so that the gentleman from Kentucky may be heard; and I cannot yield any further.

Mr. CRAVENS demanded the yeas and nays.

Mr. MALLORY. Let me make another proposition. I do not want to delay action on the bill, nor, I think, do the gentlemen upon this side of the House. I suggest that the gentleman from Missouri also be allowed five minutes.

Mr. SCHENCK. I agreed at the gentleman's request to let his colleague have five minutes, and it was promised that there should be no farther objection from that side of the House. Here we have them filibustering again. I do not agree to the gentleman's proposition.

Mr. ROLLINS, of Missouri, demanded tellers on the yeas and nays.

Mr. MILLER, of Pennsylvania. Did the gentleman from Ohio agree to give only five minutes to the gentleman from Kentucky? Was not his proposition to give five minutes to this side of the House generally?

Mr. SCHENCK. I made no reference to any gentleman on either side of the House. The gentleman from Kentucky [Mr. MALLORY] arose and proposed that, instead of debate being closed in one minute, I should move to close it in five minutes, for the purpose of allowing his colleague [Mr. HARDING] to be heard. I modified my motion accordingly, and then I was exceedingly surprised to find that gentlemen continued to delay business.

Mr. MALLORY. The statement of the gentleman from Ohio is correct; but in justice to myself I will say that I did not know any other member desired to be heard. I have voted with the gentleman against those who are trying to postpone action. I must also add that I did not consult with the members on this side, so that my proposition could not be considered as binding upon them.

Mr. MILLER, of Pennsylvania. That is a very charitable proposition from the Committee on Military Affairs! They have run this bill through pretty much as they pleased. It was very magnanimous of them to grant five minutes.

Mr. SCHENCK. I ask consent to make a remark.

Mr. HARRINGTON. I understand that tellers were demanded. I desire to know upon what question?

The SPEAKER. Upon the demand for the yeas and nays.

Mr. HARRINGTON. Upon what amendment?

The SPEAKER. Upon the motion to limit debate in the Committee of the Whole.

Mr. SCHENCK. If there is no objection, I wish to say in reply to the gentleman who has spoken of the manner in which this bill has been rushed through the House, that I repel and deny,

upon the part of the Committee on Military Affairs, any such suggestion. On the contrary, I appeal to gentlemen upon the other side of the House if there has not been from the commencement a disposition to be liberal, and to allow debate to run on. It is true, we have found it necessary from time to time to stop debate upon particular sections; but never until there had been a prolonged debate upon each particular section, and upon point after point relating in the main to the subject-matter of such section. And this very day we are voting upon the first and the only proposition to amend this one section of the bill, and upon various amendments to that amendment. We have not advanced a line in the bill. And similar was the debate yesterday. Yesterday we occupied more than an hour upon the same amendment we have been discussing today.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKY, its Chief Clerk, announced that the Senate had passed, without amendment, a bill of the House making appropriations for rebuilding the stables of the President.

Also, a bill (H. R. No. 144) to indemnify the owners of the British schooner Glen.

Also, that the Senate had passed an act (No. 51) amendatory of and supplemental to an act to provide circuit courts for the district of California and Oregon, and for other purposes, approved March 3, 1863; in which the concurrence of the House was requested.

CONFISCATION BILL—AGAIN.

Mr. HOLMAN. I desire to suggest that but two gentlemen upon this side of the House have expressed any desire to be heard—the gentleman from Kentucky [Mr. HARDING] and the gentleman from Missouri, [Mr. KING.] Probably if they should be allowed to occupy five minutes each the consumption of time by calling the yeas and nays would be avoided. I am not authorized to speak for this side of the House, but I think that arrangement would be satisfactory.

Mr. SCHENCK. I was about to say when I was interrupted by a message from the Senate, that I have been earnestly desirous of making this a business debate, with a view to have this bill passed as soon as possible, in order to meet the emergency of the times. For that reason, and no other, I have refrained, myself, as far as possible, from indulging in debate; and gentlemen will bear witness that I have confined myself to short explanations of the views of the committee as the different points arose. It has not been done because I did not desire to enter into some of these discussions. I had a strong desire to pitch in a few moments ago, and I mean to exercise that privilege at some future time.

It will take about twenty minutes to call the yeas and nays. Will gentlemen be satisfied with two five-minute speeches upon the other side and two five-minute speeches on this side?

Mr. J. C. ALLEN. I will say to the chairman of the committee that a five-minute speech from the gentleman from Kentucky and one from the gentleman from Missouri will satisfy this side of the House.

Mr. SCHENCK. With that understanding I modify my motion and move that all debate be closed in twenty minutes after the Committee of the Whole on the state of the Union resume the consideration of this bill.

Mr. CRAVENS. I withdraw my call for the yeas and nays.

Mr. J. C. ALLEN. I understand that the gentleman from Missouri [Mr. KING] desires to occupy five minutes. I do not know upon which side he is.

Mr. SCHENCK. I have already modified my motion so as to give that side ten minutes and this side the same time.

Mr. MILLER, of Pennsylvania. I renew the call for the yeas and nays upon the motion of the gentleman from Ohio.

The yeas and nays were not ordered.

The motion was agreed to.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

So the rules were suspended; and the House

resolved itself into the Committee of the Whole on the state of the Union, (Mr. FENTON in the chair,) and resumed the consideration of Senate bill No. 36, to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

Mr. HARDING. I move to amend the proposed amendment by adding thereto the following proviso:

Provided, That the provisions of this section in regard to slaves shall not apply to the State of Kentucky.

I regret that it becomes necessary, on a matter of such vital importance as this, to plead and plead for even five minutes' time. As my colleague [Mr. MALLORY] very properly remarked, what more do gentlemen desire than that Kentucky shall furnish her proper quota of men and contribute her proper amount of money? It is manifest to every man that this seeks to inaugurate a general scheme of emancipation in the loyal slaveholding States. That can no longer be disguised. Gentlemen are disposed to pass it by as if that was a clear constitutional right. Sir, it is an absolute violation of the constitutions both of Kentucky and of the United States. No man can meet that proposition in argument. From the foundation of the Government to the present time the right to slave property was secured by all the laws, and approved by the Constitution, as much as the right to land was secured. It is a constitutional right in the State of Kentucky to hold slaves; and there can be no system of general emancipation inaugurated under the pretense of raising soldiers except by a plain and palpable violation of the Constitution.

Moreover, sir, slaves have never been regarded as forming part of the military force of the country. They are property. A man in Kentucky holds his slaves by the same title as he holds his land. I defy any man to draw a distinction between the two. The title is as clear to slaves in Kentucky as it is to a man's home and land; and that spirit which will run lawlessly over the one would need but little temptation to run as lawlessly over the other. I beg gentlemen of the Republican party to look back a few years to the Chicago platform, and see what its language was. It was, that the maintenance inviolate of the rights of the States, and especially of the right of each State to order and control its own domestic institutions according to its own judgment exclusively, was essential to that balance of power on which the perfection and endurance of our system depended. I embodied that same profession in a resolution which I offered a few days ago, and it was unceremoniously laid on the table; seventy-three members on the other side rising and voting to lay it on the table. I deny that there is any constitutional power to wrest a slave from his owner, either by taking the slave as a volunteer or as a conscript. You have no right to do it even though you allow compensation. You cannot inaugurate emancipation in that indirect way. The President has disclaimed, and the Republican party has again and again disclaimed, all power to do so. And yet now it is proposed to violate all these pledges, to trample under foot this platform, and with it the Constitution of the United States, in order to bring about emancipation by a wholesale system of robbery. Do you propose to take the loyal man's slave at a fair valuation? No, you propose to take him by conscription, to take him by an arbitrary process, and to fix his price by the same power. It amounts to nothing but robbery. It is a mockery of justice. The highwayman might as well seize my horse and take him from me, and then offer me a pittance.

[Here the hammer fell.]

Mr. HIGHY. Mr. Chairman, I am opposed to the amendment. When slavery fired on Sumter it left the Republican party of the United States without a platform. That is the answer to the gentleman's speech. To my mind the whole argument on this question is clearly in advance of our action. The Government of the United States as a national Government recognizes no such institution as members have been talking about for the last two hours. When the national Government goes out into the States for men to assist in fighting the battles of the country, it knows no such institution in reality or in argument. Every single recognition of such an institution is a concession to it.

Now, sir, I put one distinct proposition to an-

swer all these arguments. If the States were at peace with one another, and if we were at war with a foreign country, some of the States might find it difficult to fill their quotas to an army of the size that we are now demanding. Some members upon this floor, or some States upon this floor, have at least one Representative of this species of property about which they talk. When they come to take their slaves and count them five for three white men, I think they will find they have more than one Representative upon this floor who is representing what they call property.

Well, sir, you will say the Constitution recognizes this. Very well; then you may imagine that for instance a dozen men in some State may own slaves enough to entitle them to a Representative here in Congress; and yet, when the Government goes into that district to get soldiers to fill up our armies, it must depend upon those twelve men alone to supply the quota of the district. Suppose the quota for that district, for instance, is twenty thousand men, are those twelve men all you may call on to fill their quota?

I think if gentlemen will look at this matter in a practical way they will see that, with that construction of the Constitution of the United States, you will be prevented from raising the men you require to fill up the armies of the Union.

Sir, in my judgment, the Government may properly go into every State and every district and take men to fill up its armies, no matter what the color of their skin. They cannot properly, in my judgment, take the white and leave the black men; but the enrollment should include all able-bodied men throughout the country.

And why should these States which are clinging to this institution be made an exception to the general rule that has to be complied with in all the free States? Sir, this whole opposition is but the cry that there is more in this question of property than there is in the Union. When men come here to contend for such a proposition, they place this question above the Union itself. I have no confidence in such men, I care not how loud they may proclaim their unionism, when they place a mere question of property above the Union.

[Here the hammer fell.]

Mr. KING. I propose to amend by adding the following at the end of the section:

Provided, No slaves shall either be recruited or drafted in any State which has passed an ordinance of emancipation: *Provided, however*, That this shall not prevent any master or owner of a slave, by the consent and agreement of said slave, from putting him into the United States military service, and as a consideration for which the master or owner shall release any further claim to the service of said slave.

Mr. CHAIRMAN. I have no expectation that this amendment will meet with the approval of a majority of the House, but I have felt it my duty to offer it, and upon it I propose to say a few words about the peculiar circumstances in which Missouri is placed in connection with this subject.

No State in this Union has made or will make so much sacrifice upon the altar of her country as the State of Missouri. It was demanded when there was no sentiment in the State at all that could control such a proposition that slavery should be abolished in our State. It was urged that that would be a means of the restoration of the Union, that so long as the institution remained in the State the Union could not be restored.

The slaveholders of my district, owning according to the last census twenty-nine thousand slaves, agreed to sacrifice the last one upon the altar of the country, if that could be instrumental in bringing again peace and a restoration of the Union. It would have been very easy for them to have said, "We will not pass an ordinance of emancipation," and it would not have been done. It could not have been passed except with their consent. But they acceded to it, and upon what ground? Upon the pledge, implied certainly, if not positive, made upon the floor of the convention which passed the ordinance of emancipation, by the provost marshal general of the department of the Missouri, himself an able and honorable man, and who would not have made a pledge unless he thought he had authority upon which to make it, that if the ordinance of emancipation was passed they should not be molested in their slaves, but the owners should be allowed to possess them in quiet for the time allowed by the ordinance. He himself proposed that we should emancipate them in six years. Every other proposition was thrown by, and under that pledge our

State agreed to emancipate her slaves in six years. Yet, sir, right on the heels of that action, we were not treated with that courtesy with which they treated Kentucky. They sent recruiting officers through our country, not only to the military headquarters, to invite the negroes to come, but they sent men round to the plantations and into the houses of the negroes, telling them they had got to join the Army; that if they did not they would be drafted into the Army and get no bounty, while if they volunteered they would get \$300 bounty; all such talk as that. In that way they are taking all the able-bodied negroes, and leaving only the lame, the halt, the blind and helpless in the hands of the people. Is not that injustice? Is not that a wrong upon the people of Missouri? I offer the proposition, and I do not know whether it will be agreed to or not.

Mr. DAVIS, of Maryland. Mr. Chairman, the gentleman from Kentucky, [Mr. HARDING,] who last occupied the floor, and the gentleman from Maryland, [Mr. HARRIS,] who spoke some time before, said that slaves were recognized and guaranteed as property by the Constitution of the United States. I desire, categorically, to deny that assumption as a point of law. The Constitution of the United States never recognized a slave as property. He is property, not by law of the United States, but by the laws of the respective States. The Constitution of the United States treats him as a person, and only as a person. Slaves go to increase representation. Direct tax is required in proportion to numbers, and slaves are counted; and the provision which prohibits the exclusion of emigrants prior to 1858 authorizes Congress to tax them as persons not exceeding ten dollars. They are directed to be surrendered up when they shall have fled from service. They are there treated as persons, and not as property. They are property by the laws of the States. If gentlemen say that the local law of a State can so change the relations between men that it can exempt them from the military service of the United States they place the existence of the United States at the mercy of the subordinate law of the States. The States have only to declare that every wife shall own her husband, and every parent his son, and the Government is stripped of everybody that can be subjected to military service.

The gentleman spoke of robbery. Sir, the advocates of slavery should seek some other term of reproach. Its origin was in robbery, and if time and law have sanctioned it, they have not obliterated its historic origin.

When the gentleman from Maryland [Mr. HARRIS] says that he looks for justice rather than the gentleman from Pennsylvania [Mr. STEVENS] than from the two gentlemen from Maryland, I desire to say that I owe no justice to the slaveholders of Maryland. They began the war—who will triumph I think events now show. When he speaks of justice, allow me to say that they have assessed their slaves at \$14,000,000, and we are now told that we are depriving them of property to the value of \$30,000,000 to \$40,000,000. Before they speak of justice, let them return to the treasury of the State the amount out of which they have plundered it. Then they can deal in imputations of robbery and injustice.

I think that we have reached a fair, reasonable, and equitable settlement, and I have contributed to the best of my ability, as every one in this House knows, to its attainment. I want to smooth the roughness of the transition from one condition to another. I have done more than I owed them, and I will do no more.

Mr. HARRIS, of Maryland. I want to make a short reply to the gentleman who has just spoken. I am not surprised at the position that he has taken. He has declared that he owes no justice to the slaveholders, that they have been his opponents. Does the gentleman take the position that because they have been opposed to him—

Mr. SCHENCK. I call the gentleman to order. Mr. HARRIS, of Maryland. I was about to say—

Mr. SCHENCK. I call the gentleman to order. Mr. HARRINGTON. I call the gentleman from Ohio to order.

Mr. SCHENCK. I would inquire of the Chair what the order of the House was?

The CHAIRMAN. The Chair understood

that after the twenty minutes were exhausted, debate should be closed in one minute.

Mr. SCHENCK. That is entirely contrary to the understanding, and gentlemen over the way know it.

The CHAIRMAN. The Chair was not paying strict attention to the action of the House, and he will call upon the Speaker to state what the action of the House was.

Mr. COLFAX. The first proposition made was to close debate in one minute, the usual way of stopping debate. Upon that the gentleman from Kentucky [Mr. MALLORY] moved to amend by increasing the time one additional five-minute speech. After some debate upon that, suggestion was made for ten minutes. Subsequently a suggestion was made for two more speeches, and the motion was finally put to limit debate to twenty minutes; giving four five-minute speeches. That was the understanding of the Speaker, and that was the way the motion was put.

Mr. J. C. ALLEN. I fully concur in the statement of the Speaker of the House.

The CHAIRMAN. Such being the action of the House, the gentleman from Maryland [Mr. HARRIS] is not entitled to the floor.

The amendment to the amendment was not agreed to.

Mr. ROLLINS, of Missouri. I move to amend the amendment of the gentleman from Pennsylvania, by striking out "\$300," and inserting "\$500."

The amendment to the amendment was not agreed to.

The amendment offered by Mr. STEVENS was agreed to.

Mr. FARNSWORTH. I offer the following, to come in as an additional section after section twenty-seven:

And be it further enacted, That this act shall not be so construed as to authorize substitutes for drafted persons to be procured from men already in the Army.

Mr. HARDING. I rise to a point of order. The Chairman omitted to take a vote upon the amendment I offered by way of a proviso.

The CHAIRMAN. The Chair put the question to the House, and it was rejected by a very emphatic majority. The Chair is sustained in his recollection by the record at the Clerk's desk.

Mr. FARNSWORTH. In reference to my amendment I will say that, in the fourth section of this act, which was passed over very hurriedly by the committee—no amendment being proposed at the time—there seems to be an implication that drafted persons may procure substitutes from the Army.

Mr. STEVENS. Your amendment applies to persons "already in the Army." But suppose their terms shall expire. If the gentleman will adopt the words "while in the Army" it would be very well.

Mr. FARNSWORTH. I have no objection to that. The object of the amendment is to prevent the Army from becoming a recruiting field for substitute brokers—a state of things which would be demoralizing to the Army itself. I modify my amendment by adopting the word "while" in place of "already."

Mr. J. C. ALLEN. I do not understand the object of that modification.

Mr. FARNSWORTH. It is to prevent substitutes from being obtained among men who are in the Army at the time.

The amendment, as modified, was adopted.

Mr. MALLORY. I move to amend by adding a new section to the bill.

The CHAIRMAN. It is proper to state here that a new section cannot be added to the bill until after the twenty-eighth section—the last one of the bill—is read. The gentleman can offer his amendment as an amendment to the twenty-seventh section, but not as an independent section.

Mr. MALLORY. My amendment is a forlorn hope, anyhow, and I will offer it as an amendment to the twenty-seventh section.

The amendment was read, as follows:

Provided, That the right is hereby reserved to the States respectively to commission the officers to command the men enrolled and drafted into the service of the United States under the provisions of the bill.

The amendment was not agreed to.

Mr. KERNAN. Is it in order to move an additional section here, to come in after the twenty-seventh section?

The CHAIRMAN. It is not.

The Clerk then read the twenty-eighth section of the bill, no further amendments being offered to the twenty-seventh section.

Mr. WEBSTER. I move to amend the twenty-eighth section of the bill by striking out the words "so much" and inserting the words "sections nineteen and twenty," and by inserting after "1863" the words, "and so much of said act," so that it will read:

Sec. 28. And be it further enacted, That sections nineteen and twenty of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved on the 3d day of March, 1863, and so much of said act as may be inconsistent with the provisions of this act, is hereby repealed.

The sections to which the amendment refers are those which provide that whenever a regiment of volunteers shall be reduced to half the maximum number prescribed by law, the President may direct the consolidation of the companies of such regiment. Under these sections, which I propose to repeal, promotions are virtually stopped in regimental organizations. Whenever the number of men in a regiment is reduced below the minimum, which is about eight hundred, there can be no promotion made to the colonelcy if it be vacant; and whenever a company is reduced below the minimum there can be no promotion to a second lieutenant. The practical effect of this is that there are now scarcely any promotions among the field and line officers in the Army. That takes away one powerful motive for distinction and for the display of gallantry which actuates soldiers. That motive is the desire for honorable promotion. I have a letter here from a distinguished officer in the army of the Potomac. He is a lieutenant colonel, and is at present commanding a brigade. His regiment was reduced at the battle of Fredericksburg below the minimum of eight hundred, and from that day to this no sergeant in it could be or has been promoted. He himself is lieutenant colonel, although the Governor of the State issued a commission to him as colonel just after the battle of Gettysburg, for his gallant conduct there.

I appeal to the committee that when it is offering all these bounties to volunteers it repeal these two sections which take away from men in the field that reward for meritorious services which they should receive. There is to-day scarcely a regiment in the army of the Potomac in which, if it lose its colonel by death, promotion, resignation, or any other cause, the lieutenant colonel can be promoted to the colonelcy. I have myself left in command of the regiment with which I have been lately connected as gallant and able an officer as can be found anywhere, a lieutenant colonel commanding upward of six hundred men, and who has been commissioned as colonel by the Governor of Maryland, who yet cannot be mustered in as such, because of the orders of the War Department founded on the sections I wish to repeal.

[Here the hammer fell.]

Mr. GARFIELD. I oppose the amendment of the gentleman from Maryland. If the object of this bill were to encourage or regulate promotions it might be well to adopt the amendment; but if its object be, as it is, to get men into the ranks the adoption of the amendment would be a mistake. The best way after all to secure promotion for these officers is to give them plenty of men to command. Then they will not be cut out of their promotion in consequence of the diminution of companies and regiments. While the operation of this rule may have been hard in some cases it has in the main had a good effect. It has allowed the cutting off of a lot of bad material from the Army. I know that it has done much good, although in some cases it may have worked hardship. But by filling up the Army as we propose to do under this bill, promotions will go on as before.

Mr. FARNSWORTH. Will the gentleman from Ohio yield to me?

Mr. GARFIELD. I yield to my colleague on the Military Committee.

Mr. FARNSWORTH. I wish to say a word in addition to what the gentleman from Ohio has said. I am opposed to the amendment offered by the gentleman from Maryland for the additional reason that the fact that promotions are not made where regiments are reduced below the minimum

is in itself a very strong inducement for the officers of regiments to procure recruits.

Mr. WEBSTER. Will the gentleman allow me to ask him how can officers in the field do anything to fill up their regiments?

Mr. FARNSWORTH. I think there has been no time within the last twelve months when regiments in the field have not had the opportunity of sending home recruiting parties to fill up their ranks. If these sections were repealed the result would be that in all the departments of the Army there would be hundreds of skeleton regiments, reduced perhaps to two or three hundred men, with a full corps of officers—colonel, lieutenant colonel, major, captains, and first and second lieutenants—while there would not be enough men to make more than two or three companies. The practice of the Government is not to muster out the officers when the regiment falls below the minimum, but to let the colonel receive his pay, until by death, promotion, or otherwise the position becomes vacant.

[Here the hammer fell.]

Mr. WEBSTER. I move to amend the amendment by striking out the last word. I do it simply for the purpose of making one or two suggestions in answer to the distinguished members of the Military Committee who have addressed the committee. If these two sections are repealed as my amendment proposes it will then be left discretionary with the Secretary of War whether officers shall be mustered into regiments which are below the minimum or not. The proposition is that if, for instance, a regiment has seven hundred and ninety men, the Secretary of War may in his discretion permit it to have a colonel. If a company has seventy-nine men he may in his discretion determine to allow a second lieutenant to be mustered in; but if, on the contrary, a regiment has not more than two hundred men and a company not more than fifteen or twenty men, in his discretion he might then decline to permit new officers to be mustered in. It will prevent hardships from being imposed upon gallant officers in the field.

I withdraw my amendment.

Mr. SPALDING. I renew the amendment, and I desire to say in support of it that I approve highly of the amendment of the gentleman from Maryland, [Mr. WEBSTER,] and I oppose the views presented by the gentleman representing the Military Committee on this question.

I have seen some little of the workings of that law, and I believe its direct tendency is to do injustice to the gallantry of our Army. Why, sir, when a regiment is decimated upon the field of battle, will you not allow the gallant men who remain the poor compliment of promotion? Will you not give them the poor pay of promotion for the risks they have run? Will you not rather compel the Government to fill up their wasted ranks and allow promotion to go forward notwithstanding they have fallen below the minimum in numbers? There are vast numbers of regiments, some of them the most distinguished for gallant service and heroism, who have fallen below the minimum in numbers, and who cannot have a promotion from corporal to second lieutenant simply because the number falls one man, for instance, below the minimum.

I say, Mr. Chairman, that this law operates injuriously to the service, and that it strikes a death-blow to the heroism of our gallant men. I ask that this provision of the law shall be repealed.

The amendment to the amendment was disagreed to.

The amendment submitted by Mr. WEBSTER was agreed to.

Mr. KERNAN. I propose the following as an additional section:

And be it further enacted, That whenever the President of the United States shall call for men for the military service of the United States by virtue of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and of this act amending the same, the several States of the Union shall be allowed and have twenty days, and such further time as the President may grant, from the time when the Governors thereof, respectively, shall be officially notified of the quota of his State and of the several districts thereof under such call, to furnish said quota of men to and for the military service of the United States; and no draft shall be had under or by virtue of said acts except for the deficiency of such quota at the expiration of said twenty days or such further time as may be granted by the President; and then the draft shall be had in each district for the deficiency of its proportion of said quota.

Mr. Chairman, I had drawn this section giving a longer time than twenty days between the official notifications to the Governors of the States and the draft, within which they might furnish their quotas if they were able and willing; but with the belief that the President would be wise enough, if at the expiration of the twenty days a State was proceeding successfully to fill up its quota, to extend the time, and wishing to make the proposition as reasonable as possible I have limited the time to twenty days, so that if the section should become a law the Governors of the States would have twenty days within which to fill their quotas, and if at the expiration of that period the President did not extend the time the draft would then take place.

Now, sir, it seems to me the experience we have had during this war is such as to demonstrate the propriety of this section. The States have been patriotic and successful in furnishing volunteers, while the draft has hardly been so successful as to make it a remedy unless in the last resort.

Now in the State where I live, the State of New York, between April, 1861, and the 15th of December, 1863, we have furnished two hundred and ninety-two thousand nine hundred and eighty-two men. Of these, two hundred and thirty thousand four hundred and forty-two were mustered in for three years. The residue of the thirty thousand one hundred and thirty-one were mustered in for two years; thus making two hundred thousand and odd men for three years mainly, the rest being for two years. Never prior to the conscription act did the State fail to fill its quota. My proposition gives the opportunity to do it.

[Here the hammer fell.]

Mr. GARFIELD. I move to insert after "States of the Union" the words, "if in the judgment of the President it be consistent with the public service." I wish to say that with that limitation it seems to me that the amendment will be in better shape.

Mr. KERNAN. It only gives twenty days. My suggestion is to go on preparing for the draft, and if this stimulant be allowed you will never have a draft.

Mr. GARFIELD. I think that a section like that would be considered directory on the President, and, unless in a great emergency, he would follow it. I think that we ought not to tie him down to the provision; that, however great the danger or emergency, these twenty days should be allowed.

The amendment to the amendment was rejected.

ENROLLED BILLS.

The committee informally rose.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 144) to indemnify the owners of the British schooner Glen, and an act (H. R. No. 225) making an appropriation for rebuilding the stable at the President's; when the Speaker signed the same.

CONSCRIPTION—AGAIN.

The committee then resumed its session.

The question recurred on Mr. KERNAN's amendment.

The House divided; and there were—ayes 55, noes 63.

Mr. KERNAN demanded tellers.

Tellers were ordered; and Messrs. KELLOGG, of Michigan, and KERNAN, were appointed.

The amendment was rejected; the tellers having reported—ayes 68, noes 72.

Mr. DAVIS, of New York. I move to add the following as a new section:

Sec. —. And be it further enacted, That any person who, for the purpose of procuring or aiding in the procurement of a substitute under the provisions of this act, or for the purpose of procuring or aiding in the procurement of any volunteer for the service of the United States under any call or requisition of troops by the President of the United States, makes any false statement or representation in writing, or any affirmation or oath in respect to the age of the proposed substitute with the intent of procuring the acceptance of a substitute or volunteer who by reason of his being under the age of eighteen years is legally disqualified from the military service of the United States, or who by reason of his being between the ages of eighteen and twenty-one years is disqualified in the absence of the consent in that case required by law, shall be deemed guilty of a misdemeanor, and shall, upon conviction before a court of competent jurisdiction, be subject to a fine or penalty of not less than \$250, nor more than \$1,000, and to imprisonment or commitment until such fine or penalty shall be paid: *And it is further provided,* That any person who, with the intent of procuring

the acceptance of a substitute or volunteer, shall falsely represent himself as the father or guardian of any minor proposed as a substitute or volunteer, and shall in such assumed character give the assent required by law, such person so offending shall be guilty of a misdemeanor, and shall, upon conviction in manner before provided, be subject to a fine of not less than \$500, nor more than \$1,000, and to commitment until such fine shall be paid, and in addition thereto to such imprisonment, not more than six months, as the court shall direct.

Mr. Chairman, I offer this section with the intention of remedying an evil of which great complaint has been made. That complaint has existed in my district. I know that it has existed in other districts in New York. I suppose that it is general. I have known of numerous instances where infants have been taken without the parent's consent, produced before boards of enrollment by recruit brokers, enlisted, and placed upon the list of volunteers and sent into the service of the United States. I know of instances where the infant was over eighteen and under twenty-one, and required the consent of his parent or guardian, and where persons who had never seen him before have come forward and entered themselves as guardian or parent. Through these instrumentalities fraud has been perpetrated upon the Government and upon parents; and the section I have proposed is to remedy the evil.

Mr. WHALEY. I move to amend the amendment by adding the following:

And be it further enacted, That the troops of African descent enlisted under this act shall be organized into companies, battalions, and regiments of their own color, and shall be commanded by white officers.

Mr. DAVIS, of New York. Is the amendment germane? I make the point of order that it is not.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WHALEY. I now offer my amendment as an additional section.

The CHAIRMAN. That is not in order at this time. The question is upon the section offered by the gentleman from New York, [Mr. DAVIS.]

Mr. SMITH. I rise to a point of order. I wish to inquire at what point, if not at the point immediately preceding the amendment now pending, the additional section proposed by the gentleman from West Virginia [Mr. WHALEY] could come in? If it could come in as an additional section it seems to me the gentleman had a right to offer it at any time when he could get the floor.

The CHAIRMAN. The gentleman from West Virginia has withdrawn his amendment, and the question stands upon the amendment offered by the gentleman from New York.

Mr. SMITH. The question I wished to raise was whether the gentleman's amendment, as an additional section, would not take precedence over the other, if it was germane to the question under consideration.

The CHAIRMAN. The gentleman from West Virginia can hereafter offer his proposition as an additional section. The only question now before the committee is the proposition of the gentleman from New York.

Mr. WHALEY. Is it in order now?

The CHAIRMAN. It is not.

The amendment offered by Mr. DAVIS, of New York, was not agreed to.

Mr. WHALEY. I now move to amend by adding the following additional section:

And be it further enacted, That the troops of African descent enlisted under this act shall be organized into companies, battalions, and regiments of their own color, and shall be commanded by white officers.

I desire to say that there is a deep interest not only upon this floor, but a deep interest among all the people North and South upon this subject. The people are desirous of knowing whether we are to put these colored persons into the service and mix and mingle them with the white troops in our regiments or not. I suppose that this deep interest has arisen from the fact that a few days ago, in violation of law, there was a colored gentleman in these galleries clothed in a major's uniform, and with a major's shoulder-straps upon his shoulders. It is an almost daily occurrence that we meet with cases of this kind in this city, and I desire to inquire upon what authority these men are commissioned.

Mr. STEVENS. Does the member from West Virginia know that this colored gentleman had a commission?

Mr. WHALEY. If I am not mistaken, there

is an order of the War Department prohibiting any person from wearing shoulder-straps unless he is commissioned.

Mr. STEVENS. I believe he was nothing but a doctor.

Mr. WHALEY. In conclusion, let me say that I am in favor of taking every man if necessary, old and young, white or black, bondman or free-man, capable of bearing arms, for the purpose of putting down this rebellion, because I do not consider this any longer a contest between the North and the South, but between republican and monarchical institutions. There is already an attempt to establish an empire on this continent. I am in favor of taking white and black, bond and free men; but I want to know whether or not these black men are to be commissioned, and whether, when law is established by an act of Congress, as it was last session, it is to be respected or not.

Mr. STEVENS. I am afraid the gentleman from West Virginia is a little too sensitive. I am sorry a man of color should have good clothes, [laughter;] but the Government does not issue commissions to them. They allow black surgeons to attend to black men who have the small-pox, and the colored gentleman to whom he refers was nothing more nor less than an innocent, harmless surgeon.

Mr. WHALEY. I would ask the gentleman if the military law of this country allows any man of any color to wear the insignia of an officer unless he is commissioned?

Mr. STEVENS. He was a surgeon, and nothing else; and he had a right to wear the insignia of a surgeon.

Mr. SMITH. Is not a surgeon an officer holding a commission?

Mr. STEVENS. He was nothing but a surgeon; he kills in another way; that is all. [Laughter.]

Mr. BOUTWELL. I move to amend the amendment by striking out the words "shall be commanded by white officers." I wish to say that I am opposed to the whole amendment; not that I have any particular anxiety upon the matter, but I think it unwise for the Government to say unnecessarily upon this matter what they will or what they will not do. I suppose the policy of the War Office at present is to organize colored men into companies and regiments and brigades as an exclusive class, and officer them by white persons.

I cannot say what this war will develop as to the capacity of the colored people upon this continent. I, for one, am disposed to remove all restraints which exist in reference to this class of people as far and as fast as we can; and I am utterly opposed to instituting any new restraints or infringing upon the statute-book any proposition calculated to degrade or oppress this people. If they show capacity, if they show ability, that capacity and that ability ought to be recognized and will be recognized. It is an imputation on the white people of the country to say that in a fair contest they are not able to maintain, socially, intellectually, and morally, the ascendancy. I am for a free struggle. If these four million black people enter into this contest and make sacrifices for the maintenance of the institutions of the country, they have a right to share in the benefits of those institutions. Public service by men capable of performing it is the right of the people, black and white.

Sir, I am opposed to this amendment. I do not offer any antagonistic proposition; but I say that, so far as I am concerned, the field shall be open to black men as well as to white. If, with the ascendancy which twenty-five million white people have in a struggle with four millions of an oppressed and degraded race, we are not able to maintain the ascendancy, then I say—surrender. I believe we are able to maintain that ascendancy; but whatever positions these people show themselves capable of holding, with honor to themselves and advantage to the country, never shall my vote restrain them from obtaining.

Mr. SCHENCK. I am opposed to the amendment offered on the other side not because I differ with the gentleman in his statement to the committee. I know that the system adopted by the War Department for the management of these colored troops is precisely as he represents it. And I have yet to ascertain that there is any reasonable complaint on that account. These troops are

not only officered by white officers, but by officers who have undergone very close examination. The consequence is that they have a good class of officers. I have seen no disposition to depart from that fixed policy of keeping whites to themselves and blacks to themselves, unless it be a matter of taste outside of the Army.

But the reason that I oppose the amendment is that I think it will interfere with what I propose to do; and I will tell the committee what that is. It is not the wish of the Committee on Military Affairs to pass over, section by section, the substitute which it has reported; but with the consent of the committee I shall withdraw that substitute, with a view of having it perfected and offered in the House. It is the purpose of the Committee on Military Affairs to embody in that substitute all those amendments that have been passed upon here, and that the committee has indicated a purpose and wish to have incorporated in the bill.

When I have thus offered the substitute in the House I shall ask that the whole bill, with the series of amendments adopted in committee, be printed, and that along with them shall be printed this substitute which I propose to offer to-morrow. We can then adjourn, and have the whole matter before us in print to-morrow.

Mr. BOUTWELL, by consent, withdrew his amendment to the amendment.

The question recurring on Mr. WHALEY's amendment,

Mr. HOLMAN demanded tellers.

Tellers were not ordered.

The question was taken by division; and the amendment was rejected.

Mr. ROLLINS, of Missouri. I offer the following amendment to come in as an additional section:

And be it further enacted, That in all cases where slaves have been heretofore enlisted in the military service of the United States, all the provisions of this act, so far as the payments of bounty and compensation are provided, shall be equally applicable as well as to those who may hereafter be recruited.

Mr. Chairman, in the State of Missouri, under the order of the military commander of that department, the enlistment or recruiting of slaves has been going on for the last three or four months, and I suppose that three fourths of the whole number of slaves that will be procured for the Army in that State have already entered the military service. I do not know how far the provisions of this bill as it stands without my amendment are applicable to those slaves that have already enlisted; but in order to make that point clear I have offered this additional section; that all the provisions of the bill, so far as bounty and compensation are concerned, shall apply to those slaves who have already enlisted as well as to those who shall hereafter enlist.

Mr. Chairman, it would be eminently unjust to the loyal slaveholders of Missouri not to give them all the advantages that are conferred by this bill, and the purpose of my amendment is simply to place them upon the same ground with the loyal slaveholders whose slaves shall hereafter be drafted or enlist. I hope there will be no objection to this amendment.

The amendment was adopted—ayes 52, noes 51.

Mr. SCHENCK. I propose now to withdraw the substitute which is pending in committee, and that the committee rise for the purpose of offering another substitute in the House.

Mr. STEVENS. I desire to ask the gentleman from Ohio whether he proposes to allow an opportunity of amending his substitute in the House?

Mr. SCHENCK. That will be for the House to determine. My intention is to ask for the previous question.

Mr. STEVENS. Then I object to the withdrawal of the substitute in committee.

The CHAIRMAN. The committee can give its consent to the withdrawal of the substitute if it is its desire.

Mr. SCHENCK. I suppose it is competent for us to dispose of it without going through it section by section.

Mr. WASHBURN, of Illinois. There is certainly no necessity for that.

The CHAIRMAN. The Chair decides that it is unnecessary to consider the substitute section by section.

Mr. WASHBURN, of Illinois. I move that the committee rise and report the bill to the House.

The CHAIRMAN proceeded to put the motion.

Mr. HOLMAN. I rise to a question of order. I submit that so long as any member desires to offer an amendment the committee cannot rise and report the bill to the House.

The CHAIRMAN. The Chair was not aware that any gentleman desired to offer an amendment.

Mr. HOLMAN. I do not desire to offer an amendment, but the gentleman from Pennsylvania [Mr. HALE] was upon the floor for that purpose.

Mr. HALE. I submit the following as an additional section:

Sec. — And be it further enacted, That the pay of privates in the regular Army, volunteers, and drafted men in the service of the United States, shall be eighteen dollars per month, for three years from and after the passage of this act, and until otherwise fixed by law.

Mr. SCHENCK. I rise to a question of order, that the amendment is not germane to the bill. There is nothing in the bill about the pay of soldiers.

Mr. HALE. I offer it as an additional section, and I think it is certainly germane.

The CHAIRMAN. The Chair thinks it may be received as an additional section.

Mr. SCHENCK. Do I understand the Chair to decide that this provision is germane to a bill which has nothing in it about the pay of soldiers?

The CHAIR. The Chair upon further consideration thinks it is not germane.

Mr. HALE. I will withdraw the amendment.

Mr. COX. I renew it, fixing the sum at twenty-five dollars a month.

The CHAIRMAN. The Chair will be compelled to rule the amendment out of order. So far as it relates to drafted men the Chair will not now say that it would not be in order, but in its reference to the volunteers and regular Army it is certainly not in order.

Mr. HOLMAN. I renew the proposition in this form:

Sec. — And be it further enacted, That the pay of privates drafted under the provisions of this act shall be twenty dollars per month, for three years from and after the passage of this act, and until otherwise fixed by law.

Mr. SCHENCK. I rise to a question of order. I submit that the amendment is out of order in the shape in which it is now presented. There is nothing about pay in this bill, and if an amendment of this kind is admissible you might as well fix everything relating to the rations and clothing and all emoluments in this bill. I certainly think the amendment is out of order.

The CHAIRMAN. The Chair will be compelled to rule the amendment out of order.

Mr. HOLMAN. The Chair will allow me to state that the original act to which this is an amendment contained a provision relating to the pay of the men, and if it was in order in that bill it certainly is in order in this.

The CHAIRMAN. The Chair decides that the amendment is not in order.

Mr. COX. I take an appeal from the decision of the Chair upon that point. I am very sorry to do it, but I think the amendment is germane.

The question was taken on sustaining the decision of the Chair, and the vote was announced—ayes 64, noes 49.

Mr. COX called for tellers.

Tellers were not ordered; and the decision of the Chair was therefore sustained.

Mr. FARNSWORTH. I move that the committee do now rise.

Mr. BROWN, of Wisconsin. I make the point of order that it is not in order for the committee to rise and report the bill until every amendment has been received.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FARNSWORTH. Who has any amendment to offer?

Mr. BROWN, of Wisconsin. I have. I move to add the following:

And be it further enacted, That the President is authorized to offer such bounties to volunteers who may hereafter be required as he shall deem expedient, not exceeding, however, \$500 for each, one half of such bounties to be paid in advance, and one half upon the final discharge of the soldier; and that all proceedings under the draft be suspended until it shall have been ascertained by actual experience that a sufficient number of volunteers cannot be procured through the bounties hereby authorized; and that the President, upon being convinced that volunteers cannot so be obtained, may by proclamation resume proceedings under the draft.

Mr. Chairman, I wish to call the attention of gentlemen on the other side of the House to this fact, that the amendment which is now proposed is unlike any that has been offered to it. It is proposed to persist in the draft, and yet offers to us on this side of the House a chance for larger experiment by means of bounty to reach the object of filling our armies.

Mr. Chairman, I am opposed to the system of draft so long as we can resort to volunteers, upon this ground, that the Government for all other purposes, when it employs men in the navy-yards, when it provides for laborelsewhere, goes into the market and competes with others by paying a higher price. There is no reason why the Government, when it needs the service of soldiers, should force that service more than there is when it needs the service of men to work in its ship-yards, that it should draft them and compel them to work at such prices as the Government chooses to offer.

We all know that the circumstances of the country have changed materially within the last two years, that labor which a few years ago could be had for from fifteen to thirty dollars a month has gone up to \$100. I insist, when the Government desires the labor of any man worth now \$100 a month, that it should pay that man accordingly. You allow the additional value of labor to enter when you make iron-clad ships. If the Government says that it cannot compete with these prices, why not do then as in the case of the soldier? Why not draft the laborers? Why not, when you want clothing for the Army or Navy, seize upon it and say that we will give so much and so much only? Why, when the Government wants anything else, should it not seize upon it and condemn it at the price it can afford to give?

I insist that the soldier is as much entitled to fair compensation under the present circumstances, under the changes caused by depreciation of our currency, as any other individual. I ask any gentleman whether the Government can go into the market, take whatever it wants, and fix a price upon it? The whole principle is wrong. We should pay the soldier enough to go into the service, enough to induce him to enlist. If you want to carry out the old feudal system, that the Government has the right to call upon the service of those under it, then you reverse our system. [Here the hammer fell.]

Mr. GARFIELD. I am opposed to the amendment.

Mr. HARRINGTON. I move to amend the amendment by inserting the word "white" before the word "volunteers." I do not wish to consume the time of the House in discussing this question, but I will say that I understand the conscript act has already provided both for colored conscripts and other acts for negro volunteers. Under the former act there are some States that must furnish to the Army white soldiers whose blood is to be put into the balance as against Africans, or negroes furnished by other States. It seems to me that when you take a white man who can readily become an efficient soldier in the Army of the United States and place him in those States that prohibit by legislative enactment or organic law the immigration of negroes into their borders upon an equality with a negro who may be found in other States not only as a citizen free to emigrate there, but as an elector in such States, you do an act of injustice.

It seems to me further, that when you take a slave, unacquainted with those impulses of freedom, and those aspirations which induce one to take up arms in defense of liberty and free institutions, and place him in a scale against a white man of the Anglo-Saxon or any other race you commit an unjust and humiliating act. I insist, therefore, that so far as this provision in reference to bounty is concerned, it should be limited to white men who have enjoyed and who know the benefits of freedom, and that such men shall not be weighed in the scale against those who have not known and who cannot appreciate the benefits of free institutions. I know that gentlemen on the other side say that the African race have proved themselves chivalrous and gallant, but I say that those who say this intend to deceive the people.

[Here the hammer fell.]

Mr. DAVIS, of Maryland. I am opposed to

the amendment, and I will say I am sorry he should exclude the Celtic race.

The amendment to the amendment was rejected. The amendment was not agreed to.

Mr. SCHENCK. I move that the committee rise and report the bill to the House with the amendments.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FENTON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and had directed him to report the same to the House with sundry amendments.

Mr. SCHENCK. I now propose to modify the substitute offered by the Committee on Military Affairs of the House, and offer it as a substitute for the bill and amendments just reported from the Committee of the Whole on the state of the Union. I propose to keep the floor upon that motion, but will ask the House to agree that all the amendments which have been made by the Committee of the Whole on the state of the Union shall be printed, and also the substitute offered by the Committee on Military Affairs.

Mr. COX. We have no objection to that.

Mr. HOLMAN. Is the substitute offered at this time?

The SPEAKER. It is.

Mr. HOLMAN. Will that give it priority to the amendments reported from the Committee of the Whole on the state of the Union?

The SPEAKER. It will not.

No objection being made, the amendments and substitute were ordered to be printed.

Mr. COX. When will this matter come up in the House again?

The SPEAKER. In the morning, as unfinished business.

Mr. WASHEBURNE, of Illinois. I move the House do now adjourn.

The motion was agreed to.

And thereupon the House (at fifteen minutes past five o'clock, p. m.) adjourned.

IN SENATE.

FRIDAY, February 12, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. TRUMBULL. I desire to present the petition of Thomas Drummond and others, judges of the district courts of Illinois, Iowa, Wisconsin, and New Jersey, representing that the compensation which they receive is wholly inadequate to their support in the present condition of things, and that by recent legislation of Congress large duties have been devolved upon them in addition to those which were formerly performed by district judges, and in consequence of which they ask for an increase of their salaries. I move the reference of the petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. JOHNSON presented a memorial of assistant assessors of internal revenue of the third district of Maryland, praying that their compensation may be increased to five dollars per day; which was referred to the Committee on Finance.

Mr. MORRILL presented a memorial of the president of the Great Falls Manufacturing Company, praying that an investigation may be made in relation to the condemning of their property by Government agents, and taking the water of the Great Falls of the Potomac for the use of the aqueduct; which was referred to the Committee on the District of Columbia.

REPORTS FROM COMMITTEES.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred a bill (S. No. 24) granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the southern or eastern boundary of said State, and also the bill (S. No. 23) granting lands to the State of Oregon to aid in the construction of a military road from the Dalles of Columbia river to a point at or near the mouth of Owyhee river, reported them with amendments.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (S. No. 1) granting a pension to John L. Burns, of Gettysburg, Pennsylvania, reported it without amendment, and submitted a report, which was ordered to be printed.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a bill (S. No. 31) making a grant of lands to the Lake Superior and Mississippi Railroad Company, in the State of Minnesota, to aid in the construction of the railroad of said company from St. Paul to Lake Superior, reported it with amendments.

ADDITIONAL POST ROUTES.

Mr. HARDING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of establishing a daily mail line, by two or four-horse coaches, from Salt Lake City, Utah Territory, via Boise City, Idaho Territory, to Dalles City, Oregon, and report thereon.

Mr. HARDING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of establishing a post route from Portland via Chehalis Gap to La Fayette, Yamhill county, Oregon, and report thereon.

JURISDICTION OF SUPREME COURT.

Mr. LANE, of Indiana, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be directed to inquire into the expediency of so amending the present laws regulating the jurisdiction of the Supreme Court of the United States as shall confine the court to the consideration of questions of law alone, except as is provided by the nineteenth section of the act to establish the judicial courts of the United States, passed September 24, 1789; and to report by bill or otherwise.

GENERAL M'CLELLAN'S REPORT.

Mr. RIDDLE submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That ten thousand additional copies of the McClellan report, without accompanying maps or documents, be printed for the use of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the bill of the Senate (No. 100) authorizing the holding of a special session of the United States district court for the district of Indiana.

The message further announced that the House of Representatives had passed a bill (No. 120) to reestablish the principal port of entry for the district of Champlain at Plattsburgh, and for other purposes; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the Vice President:

A bill (H. R. No. 144) to indemnify the owners of the British schooner Glen;

A bill (H. R. No. 225) making an appropriation for rebuilding the stable at the President's; and

A bill (S. No. 100) authorizing the holding of a special session of the United States district court for the district of Indiana.

COMMISSIONER OF PUBLIC BUILDINGS.

Mr. FOOT. If there is no further morning business, I ask the indulgence of the Senate to allow me to call up Senate bill No. 43.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 43) relating to the office of Commissioner of Public Buildings. It directs that from and after its passage the work on the Capitol extension, the new dome, and the Patent Office building shall be under the supervision and control of the Commissioner of Public Buildings, who shall give bond in the penalty of \$50,000 for the faithful disbursement of all money appropriated for those works, subject to the approval of the President. All appropriations hereafter made for the public buildings and grounds belonging to the United States in the city of Washington are to be disbursed by the Commissioner, unless it be otherwise provided in the act making the appro-

priation. The office of the Commissioner is to be under the supervision and control of the President of the United States. The Commissioner is to transmit his estimates annually to the Secretary of the Treasury, and his annual report to the President. He is to draw all his requisitions upon the Treasury direct. His salary is to be \$3,000 per annum, in full for the performance of all his duties. The fourth section of the act of May 2, 1828, conferring certain powers on the President of the Senate and Speaker of the House of Representatives relative to the Capitol and its police, so modified that the appropriations to pay the Capitol police shall be disbursed by the Commissioner of Public Buildings, is continued in force.

Mr. FOOT. I do not propose to occupy any considerable time in debate upon this bill. The bill simply provides that the work on the Capitol extension, the new dome, and the Patent Office building shall hereafter be under the supervision and control of the Commissioner of Public Buildings, and that all appropriations hereafter made for the public buildings in the city of Washington, excepting for the enlargement of the Treasury building, which has always been under the control and direction of the Secretary of the Treasury, shall be disbursed by the Commissioner of Public Buildings, subject, however, if the proposed amendment be adopted, to the appellate and supervisory power of the Secretary of the Interior, as provided by the act of 1849 creating that Department.

From the commencement of these works, I think in the spring of 1851, until their suspension in the spring of 1861, they were placed under the supervision and control of the War Department; and during all this period of time they were placed by the War Department under the general superintendence of an Army officer, a scientific military engineer. The reference of the supervision of these works to the War Department was made, not by act of Congress, but by order of the President of the United States.

In April, 1862, by joint resolution of Congress, introduced in the first instance by myself, reported and recommended by the Committee on Public Buildings, the supervision and control of these works was transferred from the War Department to that of the Interior Department. Upon the immediate resumption of the works, Mr. Walter, who had been the architect on the building from the beginning, was reappointed by the late Secretary of the Interior, Hon. Caleb B. Smith, and the Commissioner of Public Buildings was appointed disbursing agent, and without any compensation aside from his salary of \$2,000 a year as Commissioner of Public Buildings. Congress, however, and upon the recommendation of the Secretary of the Interior, appropriated \$500 as a compensation to him for this extra service. But no general superintendent was appointed, and for the very good reason that at that stage and progress of these works there was no necessity for it. The contracts for the marble, the granite, the iron castings—all the contracts for the principal materials of the building, with the exception of certain lighter articles purchased from year to year in open market—were made, many of them years before, and while these buildings were under the superintendence of the War Department; and most of them were executed in full or in part. The plans and drawings and designs of the building and its various compartments had been made for the most part; and there were also overseers or foremen of the stonework and brickwork, and of the various departments of the Capitol extension.

What possible necessity or occasion could there be for incurring the expense of a general superintendent at this time? What was there for such an officer or agent to do which did not fall within the proper duties of the architect and of the Commissioner of Public Buildings acting at that time as the disbursing agent of the buildings? The architect himself, by virtue of his office, is a general superintendent of the whole work, so far forth, at least, as to see to it that the work is properly and faithfully executed.

I repeat, then, that there was no possible need of a general superintendent in addition to the Commissioner of Public Buildings and the architect, and so thought the late Secretary, Mr. Smith; and none was appointed during his administration of that Department, and none was appointed until

the commencement of the present fiscal year, on the 1st of July last, when the present Secretary of the Interior, influenced, no doubt, by an honest and earnest desire and expectation of facilitating the progress of the work and of reducing the expenses of the work, especially in the executive or administrative force employed upon it, discharged the Commissioner of Public Buildings from his office as disbursing agent, and appointed a general superintendent and disbursing agent at a salary of \$2,500 a year, and who receives also an additional salary of \$500 a year as disbursing agent of the Washington aqueduct.

How far the desire and expectation of the Secretary of the Interior have been realized in this regard, I am unable to say. I have great respect for the Secretary of the Interior; I have confidence in his judgment; I have entire confidence in his integrity; I accord to him an earnest desire and purpose, so far forth as he may be able to do it, to facilitate the progress of this work, and to do it with the greatest possible economy. He may have erred, however; he may have misjudged, as I think he has, in the matter of this appointment of a general superintendent at this time, and yet governed by the most earnest desire and purpose of subserving the public interest.

Nor would I attempt to disparage the character or the conduct or the qualifications of the person selected by him as general superintendent. I place the argument in favor of this bill and of this change upon broader grounds than upon the mere personal consideration of the fitness or the unfitness of the present incumbent for the position of general superintendent. I put it upon the broad ground that there is no occasion for such an office or for such an agency at the present time. I have only to say, and to insist upon it, that at the present advanced stage of these works the appointment of the present incumbent or of any other person as general superintendent was not called for by any considerations of public interest.

The office, or agency, or whatever you please to call it, is virtually a mere sinecure; and what I mean by that is, that there is nothing for such a superintendent to do but what may be done and ought to be done, and which for more than an entire year was done, and equally well done, by the architect and the Commissioner of Public Buildings, and the several overseers or foremen of the several departments of the public works, especially when we consider that all these were under the supervision and control of the Secretary of the Interior himself. If any of these executive employes, any of these overseers or foremen upon the works, or even the architect himself, proved incompetent or unfaithful, it was the duty, as it is the province of the Secretary of the Interior, and of him alone, to remove them. If there are more of them than the public service requires at any time it is the province of the Secretary, and his alone, to reduce the number to the necessities of the public service. Does the Secretary of the Interior require the aid or the advice of a general superintendent in that behalf; or cannot the architect, under whose constant observation these persons are placed, aid and advise him as well?

Mr. President, if the Commissioner of Public Buildings, in conjunction with the architect, and one as eminent as Mr. Walter is acknowledged to be, can do all that is required of this general superintendent, and can do it as well, why shall we incur the additional expense of employing this additional officer? Why shall we pay the salaries of two officers instead of one when the duties of both can as well be performed by one? Is there any reason for it? Is there any real justification for it?

Besides, the unnecessary multiplication of these officers or agents acting in some sort of capacity as general superintendents over and about the same work, their duties and powers not being severally and distinctly defined, is calculated to produce, and in fact it does produce, disagreement, misunderstanding, and embarrassment, and necessarily divides and lessens the responsibilities of each, and causes serious practical inconvenience, not to say positive mischief. This is the inevitable consequence. It is but another illustration of the homely old household proverb, that "too many cooks spoil the broth."

Moreover, the immediate charge and direction of these works, now so near completion, seem to belong most appropriately to the office and to

come within the scope of the general duties of the Commissioner of Public Buildings. The title of the office itself indicates the general nature and character of its duties. The supervision of this work pertains to and is part of the very business for which the office of Commissioner of Public Buildings was created. This bill confers no new or peculiar duties upon the Commissioner of Public Buildings outside of his general duties as Commissioner of Public Buildings, and as prescribed by law. It invests him with no new or extraordinary powers. Section eleven of the act of July 21, 1840, United States Laws, volume six, page 815, provides:

"That it shall be the duty of the Commissioner of Public Buildings to form all the contracts and to disburse all the moneys for materials furnished or labor performed for the public buildings," &c.

And this is the law to-day, unrepealed and without modification, except so far as the acts of the Commissioner of Public Buildings may be controlled by the appellate and supervisory power of the Secretary of the Interior, as provided by the subsequent act of 1849; and it is not proposed by this bill to take away from him that supervisory power.

Another consideration. This office of general superintendent about which we are speaking is one not known to the law. Its powers and duties are not prescribed or defined by any law. Indeed it is not an office in any sense within the technical meaning of that term. It is a mere agency, and a secondary agency at that.

Mr. COLLAMER. What fund is he paid out of, and by what authority?

Mr. FOOT. He is paid by the Secretary of the Interior or by his authority, out of the appropriation for these buildings, just as the architect and other employes are paid. I say it is a mere agency, and a secondary agency at that. The Secretary of the Interior—being unable to give his personal attention to the supervision of this work, for it is practically impossible—selects whom he pleases as his agent to act in his stead, fixes his salary, and prescribes his duties.

Now, I submit, is it not better, is it not safer, will it not be more satisfactory to the public, that the immediate supervision and control of these works, (subject, of course, all the while to the supervisory power of the Secretary of the Interior,) and the disbursement of the large sums of money appropriated for these objects, shall be confided to some person, to some officer of the Government in whose appointment the Senate have a voice, appointed upon nomination of the President, with the advice and consent of the Senate, in reference to whose fitness and qualifications for this important and responsible trust the Senate may have an opportunity to make investigation and to form its own judgment?

I ask, will not this course be more safe, more satisfactory to the public, than to commit so important and responsible a trust as this to a mere secondary, private appointment, to a mere agent of some Government officer, and about whose fitness and qualifications for so important a position we have no knowledge, no means of knowledge, and have not the opportunity of making inquiry into and of informing ourselves in advance of his appointment? Without further remark I submit the question to the Senate.

Mr. HENDRICKS. Mr. President, as a member of the committee from whom this bill comes I was very reluctant to differ with the chairman, but upon an examination of the question I was compelled so to differ. I was the more reluctant from the fact that when I was appointed upon that committee I felt that my manner of life and habits of study did not very well qualify me for the investigation of the subjects that would properly come before it; but I felt that I was bound to discharge my duty upon the committee as well as I could.

I have looked into this subject somewhat, and I cannot support this bill, and I think that Senators who have listened to the argument of the distinguished Senator from Vermont will be unable to perceive any very strong reason why the bill should be adopted. Does he say that the work is not well enough progressing now? Does he say that this work, as it is now according to law under the charge of the Secretary of the Interior, is not being conducted with economy? Neither of these points is made by the Senator from Vermont in favor of his bill; but it is simply an arbi-

trary proposition that the control of this important work shall be taken away from the Secretary of the Interior and given to the Commissioner of Public Buildings. When it is proposed to make this change in the control of this work, certainly the Senator presenting the measure should be able to give us some reason for it. There ought to be some existing evil to be corrected by the proposed law before we favor the measure.

I believe that about two years ago the law was enacted which placed this work under the charge of the Secretary of the Interior. It has progressed under his charge from that time until the present; and is it known to the Senate that the Secretary has not well and efficiently done his duty in respect to the charge thus devolved upon him? Has the Senator been able to say in what respect the Secretary of the Interior has failed in the management of this public work? On the contrary, the Senator concedes the ability and the integrity of the Secretary of the Interior, and he also concedes that the work is being well done, rapidly enough done, and done with economy. Then why take it away from the Secretary of the Interior and give it to the Commissioner of Public Buildings? I understand that he assumes that it properly belongs to the Commissioner of Public Buildings. I do not so understand it, sir. For a very great number of years, how far back I am not able now to say, the construction of new buildings in the city of Washington has not been placed under the charge of the Commissioner of Public Buildings; but practice has given a definition to the law creating the office to this effect: that the Commissioner of Public Buildings has the chief control of the public grounds and the management of the buildings already constructed, but that he shall not have the control of the construction of the public buildings in the city of Washington.

What is the next reason given by the Senator? That the Secretary of the Interior has appointed a superintendent, and that that appointment was unnecessary for the reason that we have an architect, Mr. Walter, and that Mr. Walter can well enough, as architect, do all that the superintendent is called upon to do. Why, sir, the duties belonging to an architect and those that properly belong to a superintendent are entirely different. The one is to look over the work as an executive officer, and the other is a professional gentleman looking to the construction of the work with a view to the plan. The Secretary has given us some information upon this subject. In his report, communicated to Congress at the commencement of this session, the Secretary says:

"The duties properly appertaining to the office of Commissioner of the Public Buildings and Grounds have been greatly augmented within the past few years, and sometimes by the imposition upon him of duties not strictly belonging to his office. In justice to him, therefore, as well as to the public service, at the commencement of the present fiscal year I relieved him, to some extent, by the appointment of a general superintendent and special disbursing agent for the Capitol extension, the Patent Office building, and the Washington aqueduct. In making this arrangement a saving to the Government was effected, while I at the same time secured for these important works the services of a professional and practical architect."

With such a report before Congress I cannot conceive that the Senate will agree to take the control of the work from the Secretary of the Interior.

Mr. FOOT. Will the Senator from Indiana allow me to ask him, in reference to the paragraph he reads from the report of the Secretary of the Interior, how it is that it works a saving to the Government by relieving Major French from the duty of disbursing agent at \$500 a year, and appointing a general superintendent and disbursing agent at \$2,500 a year? So far as that item goes, how is it a saving to the Government?

Mr. HENDRICKS. I did not suppose that I need fortify the general statement of the Secretary of the Interior by particulars. Nor have I such information upon this subject as that I would venture to give an answer with confidence; but my impression is that by the change, taking the work away from the Commissioner of Public Buildings and giving it to this superintendent, persons employed to do comparatively nothing have been dropped from the public service, and a very large saving in that respect has been secured to the Government. But unless the Senator is prepared by the facts to show that the Secretary is wrong in his statement I stand upon that. The Secretary states in his report that by the change in the man-

agement of this work a saving has been made to the Government, the work has progressed as well, and economy is secured. Then I ask, with that statement before the Senate, how it is that we propose indirectly to rebuke the Secretary of the Interior by taking the work away from him and giving it into the charge of the Commissioner of Public Buildings, in view of the fact that while he had charge of it it cost more than it now costs? I desired to be well informed on this subject, and I asked the present superintendent to give me a statement.

Mr. FOOT. Allow me to ask, does the Senator from Indiana mean to be understood as saying that the Commissioner of Public Buildings has had the superintendence of the work itself, has been anything more than the mere disbursing agent to pay money to the workmen, the watchmen, the laborers, &c.?

Mr. HENDRICKS. Just how far the Commissioner of Public Buildings had control of this work at any time I am not prepared to say, except as I am informed by the Secretary of the Interior, who says as I read:

"The duties properly appertaining to the office of Commissioner of the Public Buildings and Grounds have been greatly augmented within the past few years, and sometimes by the imposition upon him of duties not strictly belonging to his office. In justice to him, therefore, as well as to the public service, at the commencement of the present fiscal year I relieved him to some extent by the appointment of a general superintendent and special disbursing agent for the Capitol extension, the Patent Office building, and the Washington aqueduct."

I take it from this that the Commissioner of Public Buildings had some charge of the construction of this work when the Secretary says that he felt it to be his duty to relieve him because his duties had become too onerous. I called upon the present superintendent to give me a statement in respect to this question, and he replied. In the course of his reply he says:

"Upon the accession of the present general superintendent and disbursing agent, after carefully viewing the manner in which these works were conducted, he submitted a report to the honorable Secretary of the Interior, embodying his views as to the reorganization. It will be seen that the proposition was to reduce the expense and secure efficiency. With the result of this reorganization the Secretary and the general superintendent are abundantly satisfied, as the pay-rolls for the following month show a decrease of expense amounting to about one thousand dollars, while the work performed was far more than during any previous corresponding period."

Then if the work exceeded the work done during any previous month and at a saving of \$1,000 under the plan adopted by the Secretary of the Interior, I ask upon what principle of economy and right the Senate will take this work from under the control of the Secretary of the Interior and give it to the Commissioner of Public Buildings?

The Senator has stated that the duties of the two offices of architect and superintendent are inconsistent and clashing, and that it is likely to produce confusion if not injury to the public service. The Secretary has not informed us of this. It seems to me that the duties belonging properly to an architect need not clash at all with the duties of a superintendent. The Secretary did not think they clashed; he does not think so now; and the Senator has not informed us of any facts showing us that the public service has suffered because of any conflict in their jurisdictions.

I have said about all I desire to say on this question. This work was devolved upon the Secretary of the Interior. He found it to be proper to appoint an architect as a superintendent. Is it an objection that a superintendent shall be an architect? Certainly the Senator will not say so. He will admit that the Secretary of the Interior did well in selecting an architect, if he could get him at a reasonable compensation, for superintendent. This superintendent has had charge of the work now since the commencement of the present fiscal year. He and the Secretary both say that by the present organization of the force and by the present management of the business there has been more work done and at a less cost to the Government; and now I want to see if the Senate will, in the face of this report of the Secretary of the Interior, take the work away from him and give it to the Commissioner of Public Buildings.

The VICE PRESIDENT. The question is on agreeing to the amendments reported by the committee.

Mr. FOOT. I suppose there will be no objections to the amendments reported by the com-

mittee. Do I understand there is any objection to them from the Senator from Indiana?

Mr. HENDRICKS. Of course I do not wish to be understood as objecting to the amendments.

Mr. FOOT. I hope the amendments will be acted on. I believe the committee were entirely unanimous in regard to them, and they had the assent of the Senator from Indiana. The first amendment excepts the enlargement of the Treasury building from the general supervision of the Commissioner of Public Buildings.

Mr. HENDRICKS. Although I oppose the measure, I desire to see it made as perfect as possible.

The VICE PRESIDENT. The question is on the first amendment reported by the Committee on Public Buildings and Grounds.

The amendment was agreed to.

The next amendment was to strike out the following words:

And the office of said Commissioner shall be under the supervision and control of the President of the United States.

Mr. FOOT. That amendment being adopted, it leaves the Commissioner of Public Buildings subject to the appellate supervision and control of the Secretary of the Interior, as now.

The amendment was agreed to.

Mr. POMEROY. I have not had my attention called to this bill until this moment. I have not conversed with the Secretary of the Interior or any one else on the subject. It does not occur to me that there is really any necessity for this measure; but if there is a necessity for it, I must call attention to the fact that there seem to be some provisions in the bill not entirely in harmony with our usual policy. I have not known that there has been any complaint in regard to the management of this matter in the hands of the Secretary of the Interior. I have not known that it was supposed it could have been done with any more economy in the hands of any other man. I notice in the bill a provision that "the Commissioner shall transmit his estimates annually to the Secretary of the Treasury, and his annual report to the President. He shall draw all his requisitions upon the Treasury direct." The Postmaster General cannot do that.

The VICE PRESIDENT. It becomes the duty of the Chair at this hour to call up the special order, which is the unfinished business of yesterday.

Mr. FESSENDEN. If this bill can be disposed of at once, or in a very short time, I shall not interpose.

Mr. JOHNSON. It cannot pass now.

Mr. LANE, of Indiana. I object to it. I want to look into it. I want it to go over.

Mr. FESSENDEN. Then I move to postpone all prior orders with a view to take up the deficiency bill, which I should like to have passed to-day.

The motion was agreed to.

THE DEFICIENCY BILL.

The Senate, as in Committee of the Whole, accordingly proceeded to consider the bill (H. R. No. 156) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864.

The first amendment of the Committee on Finance was to strike out from line nine to line forty-nine.

The Secretary commenced to read the words proposed to be stricken out.

Mr. FESSENDEN. I think it is hardly necessary to read all that; about two pages are to be struck out. I will simply state to the Senate it is a mere change of form. The committee thought it better to strike it out there and put in a new section at the end of the bill specifically authorizing the appointment of clerks and making provision for them. It is a mere change of place, and I suppose there will be no objection to it. At any rate, it cannot be necessary to read over the clause. If anything is read, I think it would be well to read the amendment at the end proposed as an additional section.

The VICE PRESIDENT. The question is on striking out the words in brackets, which will not be read unless the reading be desired.

The amendment was agreed to.

The next amendment was after line fifty-three to insert:

For supplying a deficiency in the current expenses of

THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 1ST SESSION.

SATURDAY, FEBRUARY 13, 1864.

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the branch mint at Denver for the current fiscal year, \$18,377 69.

The amendment was agreed to.

The next amendment was to strike out from line fifty-nine to line sixty-seven, in the following words:

For compensation of returns clerk, from January 1 to June 30, 1864, \$600.

For compensation of the surveyor general of Illinois and Missouri, the office to be hereafter closed, \$1,668 48.

For compensation of clerks in the office of the surveyor general of California, \$1,350.

The amendment was agreed to.

The next amendment was from line eighty to line eighty-two, to strike out:

For two additional clerks of class four in the office of the Secretary of the Navy, \$3,600.

The next amendment was in line ninety-three to strike out "ninety-one" and insert "eighty-three," so as to make the appropriation for the salary of the commissioner to codify the naval laws \$3,983 67.

The amendment was agreed to.

The next amendment was to strike out "\$9,632" and to insert "\$9,062 50," so as to make the appropriation for the salary of the minister at Salvador, from April 16, 1863, to June 30, 1864, at \$7,500 per annum, \$9,062 50.

The amendment was agreed to.

The next amendment was to insert after line one hundred and twenty-four the words "furniture and for," and in line one hundred and twenty-seven to insert "and;" so that the clause will read:

For the payment of claims due various parties for furniture and for the alterations in the offices of the Assistant Treasurer and collector of customs at New York, and for constructing burglar-proof vaults, \$80,000.

The amendment was agreed to.

The next amendment was to strike out lines one hundred and sixty-five, one hundred and sixty-six, one hundred and sixty-seven, and one hundred and sixty-eight, as follows:

For deficiency to pay for goods furnished to Peter Boyce, Indian farm agent at Coon creek, Utah Territory, in 1859, \$710.

The amendment was agreed to.

The next amendment was to strike out lines one hundred and ninety-seven, one hundred and ninety-eight, and one hundred and ninety-nine, as follows:

To supply a deficiency in the appropriation for the support of the light-house establishment, \$14,156 65.

The amendment was agreed to.

The next amendment was in line two hundred and seven to strike out:

For erecting naval hospital at Portsmouth, New Hampshire, \$25,000.

Mr. HALE. I would ask the chairman of the Committee on Finance what is the reason for striking out this appropriation.

Mr. FESSENDEN. The reason is that there seems to be such a determined quarrel in relation to that hospital, where it shall be located and how the money shall be expended, that the committee thought it was much better to leave it out altogether. The Senator will notice that there is a proviso in the original bill, in lines two hundred and twelve and two hundred and thirteen:

"Provided, That neither of said hospitals shall be erected within the present limits of the navy-yards; and the cost of said hospitals and extension of said asylum shall be paid out of the accumulated hospital fund."

That proviso is general in its terms, but so far as it limits the location it really applies to the Portsmouth hospital alone, because the other two are already outside the limits of the navy-yards. But at Portsmouth there is an old building for a hospital which I believe is the oldest in the country, which is within the limits of the navy-yard. This is an appropriation for a new one. That proviso is that it shall be built outside of the navy-yard; and that brings up another question which does not appear on the face of the bill. The navy-yard is in Maine, at Kittery, and the whole of Seavey's island is in Maine; but it is called in the bill the "Portsmouth, New Hampshire, yard."

Some two or three years ago we passed a bill here authorizing or directing the purchase of a certain quantity of land on Seavey's island which adjoins the Kittery navy-yard. That could not be purchased for the reason that the law did not define what land, and other difficulties existed with regard to it, so that no land was purchased.

If we pass this appropriation directing the erection of a hospital and say that it shall be outside the navy-yard, we have no land at present upon which to put it, as I understand, and it involves therefore a long delay until the disputed question with regard to the purchase of the land can be settled; and hence if we design to have any good effect from the appropriation of this money to build a hospital, we must strike out that clause, or we shall not have the hospital building until that question is settled, of which there seems to be a very remote prospect, because there is a difference of opinion between some persons and the Navy Department on that subject.

In regard to the other clause of the proviso, it is still more objectionable. It directs that this money for these hospitals shall be taken out of what is called the hospital fund. That fund is raised by an assessment upon the wages of seamen for their own benefit, to pay their own bills in hospital, and this Government never has in any case attempted to make the seamen, out of their own fund, out of their own wages, build a hospital. This is a new idea, and it would be most unjust and ungenerous to the seamen to attempt to do any such thing. In addition to that, if you appropriate this money to be paid out of the hospital fund it will more than exhaust the fund by some \$7,000 or \$8,000, and there will be nothing left.

These were the reasons for striking out the proviso. The Committee on Finance thought the best way to settle it was to strike out the appropriation for the hospital also with the proviso, leaving the other matter to stand by itself. Under these circumstances I, for myself, am perfectly willing to make the appropriation for the hospital, but I am not willing to burden it with a provision that will prevent its erection, and still more unwilling am I to take the money out of the funds of the seamen, which would be entirely a new thing, and exhaust the hospital fund.

Mr. HALE. I hope that after the explanation of the honorable Senator from Maine we shall be able to agree on this subject. I have not the slightest objection to that amendment which strikes out the proviso which the Senator says is so exceptionable. Now I want to state the exact merits of this question, because I do not like to have it bluffed off by saying that there is a quarrel or a difficulty, or anything of that sort. The matter is just as plain as anything can be. Some two years ago the Congress of the United States appropriated fourteen thousand and some odd dollars for buying a specific quantity of land upon Seavey's island, adjoining the Kittery or Portsmouth navy-yard.

Mr. FESSENDEN. Not a specific quantity, I think.

Mr. HALE. It was specific even to the thousandth part of an acre, and the Senator will so find. It was an appropriation for the purchase of so many acres and so many thousandths of an acre. It was delineated on a plan before the House committee and the Senate committee, and the committee of conference finally passed the bill, and passed it as understandingly as anything ever was in the world. Still that law was not executed, and the chief of the Bureau of Yards and Docks sent a communication to the Secretary of the Navy explaining why he had not executed it. As I did not expect this bill to be called up to-day when I came in this morning, and did not know that the chairman of the Finance Committee was going to call it up, I have not that communication with me, but I can state what it was.

The chief of the Bureau of Yards and Docks gave several reasons why he did not execute that law. One was that the form of the plot of land which was supposed to be indicated was irregular

and inconvenient. Another was that there was a highway laid out through it. Another was that Congress in making the appropriation had been governed by private instead of public considerations. I endeavored to have an explanation of that, but it was at a time when the session was nearly closed, and the chairman of the Committee on Finance had weightier matters on his mind to which he asked the attention of the Senate, and I did not press it, and it went over and went by for that session.

Besides the land being irregular in its formation, and Congress being governed by private instead of public considerations in making the appropriation, the chief of the bureau said that the State of Maine by its Legislature had not consented to cede jurisdiction over it, and for these reasons he recommended that it be left to the further consideration of Congress. It was left to the further consideration of Congress, and at the next session the Committee of Ways and Means of the House of Representatives had the subject before them. In the mean time the Legislature of the State of Maine passed an act, which I now hold in my hand, and which by the indulgence of the Senate I will read:

STATE OF MAINE.

In the year of our Lord one thousand eight hundred and sixty-three.

An Act ceding jurisdiction over certain lands on Seavey island in the town of Kittery to the United States.

Be it enacted by the Senate and House of Representatives in Legislature assembled as follows:

Sec. 1. Jurisdiction is hereby granted and ceded to the United States of America over such portion of Seavey island in the town of Kittery as may be purchased for the purpose of using the same as a part of the navy-yard located in that town; and consent is hereby given to the purchase of the same by the United States: *Provided always*, That this State shall retain and does retain concurrent jurisdiction with the United States in and over all lands hereby ceded, so far as that all civil and all criminal processes issuing under the authority of this State may be executed in said lands, and in any buildings thereon, or to be erected thereon, in the same way and manner as if jurisdiction had not been granted as aforesaid: *And provided*, That the exclusive jurisdiction shall revert to, and revert in, the State of Maine whenever the said lands, so ceded, shall cease to be used by the United States for the purpose hereinafore declared.

Sec. 2. This act shall take effect from and after the purchase of any portion of said Seavey island by the United States; the evidence of such purchase being duly recorded in the registry of deeds for the county of York.

This act was signed and approved by the Governor on the 10th of January, 1863.

When this subject was before the Committee of Ways and Means of the House of Representatives this act was submitted to the committee. The committee decided to make no alteration in the law, and it thus had a revision. Knowing that I took some interest in this matter, the committee were kind enough to send to me at the time it was before them and ask my views upon it, and what I wanted in regard to it. I sent word to them that I was obliged to them for their courtesy; but the only thing on earth that I wanted was to let the law stand as it was; because the main obstacle, as stated in the report of the chief of the Bureau of Yards and Docks, was the cession of this jurisdiction on the part of the State of Maine.

Well, sir, it so remained. Some time after this act was passed, knowing something of this matter, I addressed a respectful letter to the Secretary of the Navy asking him if this law had been executed or if it was his intention to execute it, and he sent me back this remarkable answer: that Commodore Smith—I believe he is now Admiral Smith—to whom the question appropriately belonged, did not think it was expedient to execute the law. That letter I have. Here is a law of Congress passed with a full and perfect understanding; upon the suggestion of this Rear Admiral Smith it was postponed a year and submitted to Congress; Congress reaffirmed the action they had had heretofore; and after all this the Secretary of the Navy says that on a reference of the matter to Admiral Smith to whom the question properly belonged, he deemed it inexpedient to execute the law. In other words, you may pass an act of Congress, but it appropriately be-

longs to Admiral Smith to say whether the act shall be executed or not.

So the question remains. That law is not executed. That law will not be executed. It stands upon the statute-book. It is as clear of any obstruction, of any controversy, or of any quarrel as it is possible for an act to be. It is as plain as language can make it. Sir, your sick seamen who are crowded in great numbers in a very small yard, which is crowded and covered all over with buildings, and a vast number of workmen in want of a hospital, are postponed and denied the humane offices which could be ministered to them through such an establishment because Admiral Smith does not think it expedient to execute the law.

If that is the way we are to be treated I do not know that it is of any use to appropriate \$25,000 for the erection of this hospital; for it properly belongs to Admiral Smith to say whether such an appropriation shall be executed or not, just as much as it does in the other case. I think the necessities of the service require the erection of this hospital at Portsmouth. I think there is a greater demand for it there than there is at Washington, though I think there ought to be one at both places. I have no desire to limit it; and if the honorable Senator from Maine will turn to the law creating this hospital fund I think he will find—I have not the act before me, as I did not know this subject was coming up to-day—

Mr. FESSENDEN. It is made up from a deduction of twenty cents a month from the pay of seamen.

Mr. HALE. Yes, sir; but I think there is an express provision in the law (though I will not be positive, because I have not seen it lately) that sites for hospitals shall be paid for out of that fund.

But I am indifferent about that. I do think, however, that this amendment striking out this appropriation ought not to prevail, because I think the necessities of the service absolutely require a hospital there. And let me tell the honorable Senator from Maine that this obstinate and persevering attempt to force this hospital on to the navy-yard is an anomaly in naval history. The yard is small. The number of workmen there is immense. It is one of the best yards for constructing and repairing vessels that there is in the whole country. It is the best harbor by far that there is in the country. The best work is done there, and at the cheapest price. There are something like three thousand workmen there. The whole yard, I believe, consists of only about sixty acres, and I think half or two thirds of it is covered with buildings. To put a hospital where they would be liable to have small-pox and fever patients right in the midst of a population of three thousand, crowded together in a space of sixty-three acres, more than half of which is covered with buildings, it seems to me would be an absurdity that ought not to be tolerated. Every other naval hospital we have in the country is out of the navy-yard and a considerable distance from it.

I hope, then, that the amendment to strike out this appropriation of \$25,000 will not prevail, but that it will be left just exactly on the same footing as the naval hospital at Washington is left. Let us appropriate \$25,000 for it, and let the question of the site be settled hereafter.

Mr. FESSENDEN. I do not understand exactly what the Senator intends. Do I understand him to say that he shall make no objection to striking out the proviso?

Mr. HALE. Yes, sir.

Mr. FESSENDEN. And he has no objection, I suppose, to altering the phraseology with regard to the place. It now reads "at Portsmouth, New Hampshire." He would not have this hospital built at Portsmouth.

Mr. HALE. No, sir; I have not the slightest objection in the world to that change. It is within the territorial limits of Maine, but it does a good deal of its business in New Hampshire, and it is sometimes called the Portsmouth and sometimes the Kittery navy-yard.

Mr. FESSENDEN. I have no objection at all then to the appropriation of the \$25,000. In fact I am in favor of it, and I think the committee would be in favor of it. But I have stated the difficulty, I shall not go into this matter, as the speech of the Senator seems to be a personal explanation on his part. All I have to say is, that he has stated

but one of the objections made by Admiral Smith. I looked into the matter myself, and I thought then, and still think, that his objections to executing the law were conclusive.

Mr. HALE. I stated three.

Mr. FESSENDEN. One of his objections was in reference to the shape of the land. But as that matter does not come up now, and as the question is settled, or at any rate does not arise on this bill, I will not detain the Senate by attempting to answer the statements of the Senator, inasmuch as he yields the point I desire with reference to striking out the proviso.

I will move an amendment to this amendment before we act upon it. The clause now reads:

For erecting naval hospital at Portsmouth, New Hampshire, \$25,000.

I move to strike out "Portsmouth, New Hampshire," and to insert "Kittery, Maine."

Mr. HALE. I have no objection to that.

Mr. GRIMES. I move to add after the word "Kittery" the words "navy-yard."

Mr. HALE. I hope that will not be agreed to. I hope the Senate will not embarrass the amendment with a proviso that this hospital shall be built in the yard. I think it had better be left without any direction.

Mr. FESSENDEN. On investigation of the subject I am of the same opinion with reference to it as the Senator from Iowa; but I suggest to him whether if we say "at Kittery, Maine," it does not leave it to the discretion of the head of the Department to build it within the limits of the yard which is in Kittery if he sees fit and can find no other place as suitable. Is not the object accomplished in that way? I do not see that it makes any difference.

The VICE PRESIDENT. The first question is on the amendment to strike out the words "Portsmouth, New Hampshire," and insert "Kittery navy-yard, Maine."

Mr. CLARK. No, sir; that is not the amendment. It was to insert "Kittery, Maine." The motion of the Senator from Iowa is not in order, as it is an amendment in the third degree.

Mr. FESSENDEN. Well, sir, I will vary my motion, so that the opinion of the Senate can be taken upon it, and if that fails the other proposition can be offered. I move to strike out the words "Portsmouth, New Hampshire," and insert "Kittery navy-yard," simply.

The VICE PRESIDENT. That, then, is the question before the Senate.

Mr. HALE. I hope the amendment will not be adopted. I think the Kittery navy-yard is the smallest yard in the United States except one, and that is the Philadelphia navy-yard, if I am not mistaken. The Senator from Iowa made a speech a year or two ago in which he gave the area of all these yards. My impression is that the Philadelphia navy-yard is the smallest, and the Portsmouth navy-yard is the next smallest. I think the area of the yard is only about sixty acres, and of that nearly half of it is covered with buildings. I speak that only from general impression, not recollection. I think it would be unjust and invalid to compel the Government to build the hospital within the limits of that yard. They are not required to build these hospitals within the limits of any other yard in the United States, but they are always removed to some suitable distance. I think the naval hospital in Massachusetts is miles from the navy-yard. It certainly is in Philadelphia. If you compel them to build this hospital within this yard you incur the danger, you endanger the life of everybody who works there, and you affix an addition to the yard that is not affixed to any other yard in the United States.

Mr. GRIMES. The yard at Kittery has sixty acres as the Senator has told us, and that at Philadelphia has only between thirteen and fifteen acres. The purpose I have in offering this amendment is this: I do not suppose there is any necessity for the Government purchasing any more land. If I am correctly informed it is not the opinion of the chief of the Medical Bureau of the Navy that they should purchase more land. The Senator from New Hampshire can state whether that is so or not. I have not talked with him for a year or two about it, but I think the chief of the Medical Bureau, who is supposed to be better informed about a matter of this kind than anybody else, was in favor of building the hospital in one

corner of the yard. And there are very many sanitary reasons that may be assigned in favor of that proposition which it is not necessary for me to detail here. There never would have been any trouble about having a hospital there if it had not been for personal conflicts that have grown up between gentlemen who felt a particular interest in this yard. There never has been any indisposition on the part of the Secretary of the Navy, or of Admiral Smith, or of the chief of the Medical Bureau, to build a hospital at Kittery navy-yard; but they did not think Congress ought to compel them to build it at a particular spot, in the first place, and, in the second place, they do not understand the specific directions given by Congress as the Senator from New Hampshire understood them. They did not like the location in the first place. Admiral Smith stated, in a communication which he made to the Senate, the reasons why he thought the public interest would not be subserved by adopting the proposition embraced in the law, which was placed there, I believe, at the instance of the Senator from New Hampshire.

Mr. HALE. No; it came from the House of Representatives.

Mr. HOWE. If the Senator from Iowa will allow me, I understand him to say that there is no disposition on the part of the Navy Department to build this hospital within the limits of the navy-yard?

Mr. GRIMES. No, sir; I did not say that. I said there was no indisposition on the part of the Navy Department to build a hospital at Portsmouth. They have been anxious to do it; and I think at every session since I have been in Congress, certainly every session since this war began, the chief of the Bureau of Surgery and Medicine, Dr. Whelan, has recommended that it should be done. He has in each of his reports called the attention of Congress to the necessity of building a hospital at this particular place; but I think Dr. Whelan is not in favor, although he does not say anything in his report in regard to it, of going outside of the yard to build it. I am inclined to think, from the best recollection I have of the conversation I had with him, he thinks there is ground enough in the yard and at present owned by the Government, and that the expenditure of so much money as would be required to purchase the new land would be unnecessary.

But that is a matter for the discretion of Congress, whether it shall be within the yard or not. I only repeat what the Senator from New Hampshire has already said, that we have sixty acres of land in this yard. But instead of one third of it being covered with houses, I suppose there are not five acres of it covered with houses; ship-houses, the houses of the commandants, &c., certainly not to exceed six or seven acres. I suppose gentlemen have been in the Philadelphia navy-yard, and there in the whole limits of that yard we have but fifteen acres, and we have commandants' houses, ship-houses, and everything else that they have at the Portsmouth navy-yard; and yet, although it is somewhat crowded, there is quite as much business done there, and done, I suspect, with as much facility, as there is in the yard at Kittery.

Mr. SHERMAN. We have had more discussions about this hospital at Kittery navy-yard, I think, than is necessary to elucidate the subject. It always struck me so. For three years, I think, this same controversy has been in the Senate nearly every year about the Kittery navy-yard, and the land outside of it. Now, it is the desire of Congress to appropriate a sum of money to build a hospital adjacent to or within the navy-yard there. As the House sent us the bill, they appropriated \$25,000 for a navy-yard at Portsmouth, but expressly required it to be built outside of the navy-yard. Now, the Senator from Iowa wants us to appropriate \$25,000 for that purpose, upon the express condition that they shall build it within the navy-yard. It seems to me the proper way would be to appropriate \$25,000 to build this hospital, and let the executive officers build it wherever they choose. If I was an executive officer called upon to disburse this money I should not, without very good reasons, build it within the navy-yard on account of the danger arising from contagious diseases. There are many reasons why it should be built beyond the navy-yard. But I am perfectly willing to leave that question to the executive officers. It seems to me,

therefore, we had better either strike out the appropriation entirely with all the conditions, or else insert simply a proposition to build the hospital at any place at Kittery, Maine, if that is a sufficient description; and I would not require it to be built within or without the navy-yard.

Mr. CLARK. I have not entered at all into this controversy that has been going on in regard to a piece of land adjacent to the navy-yard at Kittery; but it seems to me that the course suggested by the Senator from Ohio is the true course for the Senate to pursue; and that is to leave it to the Department to select the place for this hospital, either within the navy-yard or without the yard. There may be room in the yard, for it is a little rising sixty acres—I think sixty-three or sixty-four acres—where this hospital may be crowded in; but the yard is occupied for the various uses of the Government and the residences for the officers of the Government, and it has for a long time been desirable to have an addition to that yard. If it is desirable, then, to have an addition to the yard itself for the storage of coal and various other purposes, why should we take up a portion of the yard, which is already too small, in order to put a hospital upon it if the authorities deem it best to build that hospital without the yard? There are abundance of places all about that harbor where a hospital could be erected. Within the past year a ship infected with disease entered that harbor and was obliged to lay to down in the lower harbor. She could not come up to the navy-yard on account of the danger of communicating that disease to the people about the yard.

Mr. GRIMES. Would she come up if a hospital were there?

Mr. CLARK. She probably would not come up if there was a hospital there. I think a vessel infected as she was should lie at quarantine, or send her inmates to pest-houses.

But if it is desired there is an abundance of room about that harbor to erect a hospital where it will be convenient to ships, and where persons can be put in the hospital, or where they can be removed from the ship without danger of communicating disease to the people in the yard. I do not see why, if left to the authorities, they will not select a proper place. I do not see why the Senator from Iowa should wish to confine the Department to the yard itself, if the Department think it best to erect it outside of the yard. I am entirely willing to leave it to the authorities to select any place in that vicinity. I am willing to confine them to the town of Kittery; I do not want to bring it over to Portsmouth; and within the town of Kittery there is an abundance of room from which to select a site. If they think it best to go into the yard I am entirely content. If they think it best to have it on an island in the harbor I am entirely content. I only desire that the public service shall be subserved in this matter.

Mr. HALE. I simply want to say in answer to the Senator from Iowa, who says that if it had not been for my interference this hospital would have been built two or three years ago—

Mr. GRIMES. I did not say so.

Mr. HALE. You said so substantially.

Mr. GRIMES. The gentleman may apply it to himself, if he chooses; but I did not say so.

Mr. HALE. What did you say?

Mr. GRIMES. I said that if it had not been for the parties who manifested a particular interest in this subject, it would have been built three years ago, and I think so yet.

Mr. HALE. Let me say to the Senator that so far as I am concerned, I knew nothing about it. This law as it stood was proposed in the House of Representatives and passed by the House of Representatives, and I did not know it was passed until it came here in a printed bill. I never had a word with any human being about it. It came here and was referred to the Committee on Naval Affairs. We had a discussion about it and the law was passed; and all under heaven that I ever asked the Secretary or anybody else to do was to execute the law, and that the Department refused to do, obstinately refused to do, in my judgment perversely refused to do.

Mr. HOWE. Mr. President, I felt some little interest in this discussion simply with a view of ascertaining what the right of the matter is. It strikes me it is a very peculiar controversy. I understand that Congress has made an appropri-

ation to purchase a piece of land to use as a part of the navy-yard. I understand, for some reason or other, that law has not been executed; the land has not been purchased. Then there came before the Committee on Finance the other day this bill making an appropriation to build a hospital at this place, and there was a proviso in that appropriation which prohibited the erection of the hospital within the limits of the navy-yard. There seems to be on the part of some Senators a very serious objection to that prohibition; and yet it seems to be conceded that that clause prohibits nothing but what has been observed in reference to every other navy-yard in the country. It seems to be admitted that there is no other navy-yard within the limits of which a hospital is placed.

I thought it curious that there should be a controversy about a clause in the bill which prohibits the doing of that which has not been done anywhere else. Accompanying that fact with the fact that the law which appropriated money for the purchase of lands adjacent to the navy-yard has not been executed, I confess I got the impression that somebody connected with the Navy Department wanted to get an unrestricted appropriation for the purpose of building a hospital, and to hold that over the owners of the adjacent land in *terrorem* with a view of compelling a purchase at their own terms. It seemed to me manifestly improper that such a hospital should be placed within the limits of a navy-yard; for if persons are confined within it with contagious diseases it would endanger the workmen. If they are confined from any diseases whatever the noise necessarily experienced where work of that kind is going on must be injurious to the sick; and therefore I thought the prohibition was a proper one.

But whether proper or not, inasmuch as the Department has observed that very thing in reference to all other navy-yards, as it is conceded, I cannot see why there should be any strenuous objection to putting this prohibition here. It effects nothing; it is only just such prudence as that which they, without the dictation of Congress, have observed with reference to every other hospital. But the Senator from New Hampshire, who is the chairman of the Committee on Naval Affairs, and who knows the locality, and who knows more about the matter than I do, seems to be entirely willing that this prohibition shall be stricken out, and if so, of course I shall not make any objection.

I state these views simply for the purpose of explaining the difficulty I had in getting at the right of the case.

The VICE PRESIDENT. Senators in favor of the proposed amendment will say "ay."

Mr. GRIMES. I should like to know what the amendment is.

The VICE PRESIDENT. It is to strike out "Portsmouth, New Hampshire," and insert "Kittery navy-yard, Maine."

Mr. HALE. No, sir.

The VICE PRESIDENT. That is the pending amendment. It has been modified by the Senator from Maine so as to strike out "Portsmouth, New Hampshire," and insert "Kittery navy-yard."

Mr. GRIMES. If it will be more satisfactory I will suggest that we amend it so as to read "for erecting naval hospital for the Kittery navy-yard, Maine," and then they can put it where they have a mind to.

Mr. FESSENDEN. I have no objection to that modification.

The VICE PRESIDENT. The Senator so modifies his amendment, and it will be so put, to strike out "Portsmouth, New Hampshire," and to insert the words "for the Kittery navy-yard, Maine."

Mr. JOHNSON. I do not know what may be the object of the honorable Senator from Maine, but I think they will be sure to put it in the yard under that amendment.

Mr. CLARK. I suggest, if the Senator will pardon me, that if we leave it now as it was originally moved it will be expressive of what I think the Senate desire, "for erecting a naval hospital at Kittery, Maine." The yard is in Kittery, and that seems to me to be all the limitation we ought to put upon it.

The VICE PRESIDENT. The question is on agreeing to the amendment as modified.

Mr. CLARK. How does that modification read?

The VICE PRESIDENT. The amendment as modified is to strike out the words "Portsmouth, New Hampshire," and insert "for the Kittery navy-yard, Maine."

Mr. CLARK. That, I hope, will not be agreed to.

Mr. JOHNSON. Can the proposition be divided?

The VICE PRESIDENT. No, sir. By the rules of the Senate a motion to strike out and insert cannot be divided.

Mr. GRIMES. I am willing to accept the amendment of the Senator from New Hampshire.

Mr. CLARK. Then I presume we can all agree upon that. I suppose the Senator from Maine has no objection to it.

Mr. FESSENDEN. None at all.

Mr. CLARK. Then I propose to strike out "Portsmouth, New Hampshire," and insert "Kittery, Maine;" so that it will read:

For erecting naval hospital at Kittery, Maine, \$25,000.

Mr. GRIMES. I agree to it with the understanding that the Department has unlimited power to go within or without the navy-yard.

The VICE PRESIDENT. The question, then, is on the motion of the Senator from New Hampshire to strike out "Portsmouth, New Hampshire," and insert "Kittery, Maine."

The amendment was agreed to.

The VICE PRESIDENT. The question now is on striking out the whole clause as amended.

The amendment was rejected.

The next amendment of the committee was on page 9, line two hundred and twelve, after the appropriation for a naval hospital at Washington City, to strike out the following proviso:

Provided, That neither of said hospitals shall be erected within the present limits of the navy-yards; and the cost of said hospitals and extension of said asylum shall be paid out of the accumulated hospital fund.

The amendment was agreed to.

The next amendment of the committee was on page 10, after line two hundred and sixteen, to strike out the following clause:

For furniture, stoves, carpets, cases for records and papers, fuel, stationery, and contingent expenses, in the office of register of deeds for the District of Columbia, \$959.

The next amendment of the committee was on page 10, after line two hundred and twenty, to strike out the following clause:

To supply deficiency in the appropriation for purchase of tenth and eleventh volumes Statutes at Large, \$2,765.

Mr. TRUMBULL. I should like to inquire why that is proposed to be stricken out. I believe we have those books on our tables here, and if so they ought to be paid for.

Mr. FESSENDEN. I will state the reason. Congress in 1855 inserted an item in the appropriation bill appropriating \$7,000 for the purchase of two thousand volumes of the tenth volume of the Statutes at Large under the direction of the Secretary of State. There was a contract for the purchase of one thousand volumes; but under that appropriation they purchased all they wanted, which was one thousand six hundred and five volumes. The same thing took place again in 1858 or 1859 with regard to the eleventh volume, and they then purchased one thousand six hundred and five volumes, and they were distributed according to law.

A few days after Mr. Usher came into office as Secretary of the Interior a clerk came to him and told him that those appropriations had not been expended; that there were two thousand volumes authorized to be purchased and only one thousand six hundred and five had been purchased, and it was advisable, as the books were on hand, to take the balance. They had, mind you, at the time this conversation took place, only twenty-two sets. Mr. Usher was ignorant with regard to the subject, and he gave the order for the purchase, thinking they were provided for by law, whereupon nearly eight hundred volumes, three hundred and ninety-five volumes of each of these odd volumes, were ordered and sent on by Little & Brown to the Department. When they came there Mr. Usher applied for money to pay the bill, but found that all the appropriations had gone into the surplus fund of the Treasury and there was nothing to pay with. When Congress met he sent a communication here, which he did not write but which was written probably by the same clerk, saying

that this had been done, but he found no money with which to pay it, and these books had been received and distributed according to law and the exigencies of the public service.

Before passing upon the appropriation, however, in the Committee on Finance, I thought I would inquire into it. I could not see what use was to be made of three hundred and ninety-five odd volumes of the tenth and eleventh volumes of the Statutes at Large. I went up there and found the facts to be as I have stated them; but instead of the books being distributed they were all there at the Interior Department. When the clerk was called upon in reference to it he said we should authorize the purchase of all that was necessary to make up the sets; that is, the other nine volumes, and about four hundred of each. It was a simple trick of the clerk with Little & Brown, as I understand it, to get the Department to purchase these odd volumes. They were sent there and were not wanted, and could not be used. Mr. Usher, on examining the matter, was very glad to have it explained in the Senate, have the books sent back, and not pay the bill.

Mr. WILSON. Can the Senator tell us whether that clerk is now retained in that office?

Mr. FESSENDEN. I do not know. I trust he is not. But that is the explanation I had of this appropriation; and I am informed—and we may as well talk out about these things, because the Government ought to understand them—that Mr. Usher ascertained that this clerk had received a very handsome present of a full set of the English classics from Little & Brown for his kindness in looking after the books.

The amendment was agreed to.

The next amendment of the committee was on page 11 to strike out section two, in the following words:

Sec. 2. *And be it further enacted*, That the remainder or unexpended balance of \$21,207 56, for engraving, electrotyping, and lithographing, be, and the same is hereby, transferred to the miscellaneous item of the contingent fund of the House of Representatives.

Mr. FESSENDEN. The Committee on Finance thought it best to strike that out and have a specific appropriation made. On an explanation received from the Clerk of the House of Representatives I am satisfied that it is just as well to transfer it. They want the money. It enables them to close up an old account, and I therefore recommend that the Senate non-concur in the amendment, and strike out that particular section.

The amendment was rejected.

The next amendment of the committee was on page 11, section three, line five, to strike out the words, "the same as the present Assistant Secretary of the Treasury," and to insert "\$3,000 per annum;" so that the clause will read:

That the President shall appoint in the Treasury Department, by and with the advice and consent of the Senate, an additional Assistant Secretary of the Treasury, whose salary shall be \$3,000 per annum; &c.

The amendment was agreed to.

The next amendment of the committee was to add the following as a new section:

Sec. —. *And be it further enacted*, That in addition to the clerical force now authorized by law, the following clerks and employes are hereby authorized in the several Departments and offices hereinafter specified, to be employed and continue only during the rebellion and for one year after its close, namely:

In the office of the Secretary of the Treasury, one clerk of class four, one of class three, eight of class two, and fourteen of class one.

In the construction branch of the Treasury, one superintending architect, one assistant architect, two clerks of class four, four of class three, two of class one, and one messenger at an annual salary of \$600.

In the First Comptroller's office, five clerks of class four and one clerk of class four substituted for one of class one.

In the Second Comptroller's office, eight clerks of class four, eight of class three, eight of class two, and fifteen of class one.

In the First Auditor's office, two clerks of class four and one of class two.

In the Second Auditor's office, two hundred and six clerks of class one and one clerk at \$900 per annum.

In the Third Auditor's office, two clerks of class four, two of class three, five of class two, twenty-four of class one, and one messenger at a salary of \$700 per annum, and two laborers at an annual salary of \$600 each.

In the Fourth Auditor's office, five clerks of class four, nine of class three, nine of class two, thirty-five of class one, and one laborer at an annual salary of \$600.

In the Treasurer's office, four clerks of class four, two of class three, seventeen of class two, and six of class one. In the Register's office, four clerks of class four, six of class three, six of class two, eight of class one, and one messenger at a salary of \$700 per annum.

In the office of the Commissioner of Customs, one clerk of class three, three of class two, and four of class one.

In the office of the Secretary of the Navy, two clerks of class four.

In the office of the Adjutant General, two clerks of class four, eight of class three, nineteen of class two, and seventy-four of class one.

In the office of the Quartermaster General, thirty clerks of class three, sixty of class two, seventy of class one, and six laborers at an annual salary of \$600 each.

In the Paymaster General's office, nine clerks of class three, twenty-six of class two, seventy-five of class one, three messengers at an annual salary of \$840 each, and four watchmen at an annual salary of \$600 each.

In the Commissary General's office, ten clerks of class two and thirty of class one.

In the Surgeon General's office, two clerks of class four.

In the office of the Chief of Ordnance, two clerks of class four, seven of class three, eleven of class two, seventy-four of class one, and nine laborers at an annual salary of \$600 each.

In the office of the Chief Engineer, one clerk of class four and one of class two.

And the several clerks and employes authorized by this section shall be appointed by the heads of the departments to which they are severally attached, and the amount necessary to pay their salaries from the time of their appointment to the 30th of June, 1864, is hereby appropriated therefor; and the heads of said several departments are hereby authorized to employ females instead of any of the clerks herebefore designated, at an annual compensation not exceeding \$600 per year, whenever in their opinion, the same can be done consistently with the interests of the public service.

Mr. FESSENDEN. I wish to propose an amendment to that amendment. After line thirty-two, on page 13, I move to insert the following:

In the Fifth Auditor's office, one clerk of class four to be substituted for one of class three.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I have another amendment to propose to that amendment. It is to insert at the end of the section:

Provided, however, That the clerks hereby authorized in the Treasury Department and its bureaus shall not be in addition to the temporary clerks now employed therein, under former appropriations for that purpose, but shall include the same.

The amendment to the amendment was agreed to.

The amendment as amended was adopted.

The next amendment of the committee was to insert the following as a new section:

Sec. —. *And be it further enacted*, That so much of the act entitled "An act to provide for the appointment of an Assistant Register of the Treasury Department and a Solicitor for the War Department, and for other purposes," approved February 20, 1863, as limits the office of the Assistant Register of the Treasury to a term of one year is hereby repealed.

The amendment was agreed to.

Mr. SHERMAN. I wish to offer an amendment. On page 4, after line seventy, under the head of "Interior Department," to insert the following:

To supply deficiencies in the Department of Agriculture for the current year, as follows:

For the purchase of sorghum seed, \$2,000.

For rebuilding shop in the propagating garden, \$800.

For postage, \$1,320.

For carpets, furniture, and cases for fruit, \$350.

For fuel, \$300.

Mr. FESSENDEN. I should like to know of the Senator how much that amounts to in the whole?

Mr. SHERMAN. About four thousand dollars.

Mr. FESSENDEN. I have no objection to any part of that amendment except the \$2,000 for sorghum seed. I should like to have some explanation of that.

Mr. SHERMAN. I will inform the Senator that the Committee on Finance received a long communication from the head of the Department of Agriculture asking for an appropriation of \$12,470 to supply certain deficiencies. Most of the items, much the larger items, were not strictly deficiencies; they were new expenditures which he proposed to incur, and which we, on reflection, thought ought not to be granted. But on inquiry I found that sorghum seed had been purchased, and the Commissioner of Agriculture justified himself on this ground, that by the early frosts of last fall the great body of this seed in the country was destroyed, and he thought that it was his duty to make a purchase to supply that deficiency; and on the whole, as the great body of the seed was destroyed, and this crop was becoming very valuable indeed, we thought it was perhaps proper that he should supply the seed. It is true it is not the duty of the Government to keep the farmers of the country in sorghum seed, but as it could not be purchased in this country, and could only be got by importation, I thought, on the whole,

the item was a reasonable and proper one, although the Commissioner asked for a much larger sum than we propose to appropriate.

The other items are made necessary by a change in the laws. For instance, there is the item of postage. At the time of the passage of the last appropriation bill he had the power to frank seeds, &c. Now he must pay his postage, and it is therefore necessary to appropriate money for postage. It seems, besides, that one of the buildings in the propagating garden was burnt during the last summer, and it was necessary to repair or rebuild it. The other items are made necessary by the increased price of fuel, and also by putting up in one of the rooms of the Department some cases for specimens of fruit from different parts of the country.

Mr. FESSENDEN. The great objection which I have to this amendment is that the principle, the precedent is a very bad one, in my judgment. In the first place, I do not think it was the intention of Congress, when it made appropriations for the purchase of seeds, to do anything more than make experiments by introducing seeds into the country to ascertain whether the particular seed was a desirable addition to the farming interest; and if that fact was once ascertained the purchase of the seed that might be necessary to carry it on, the experiment being made, was to be left to the people themselves if they chose to continue the culture. This goes still further. It goes upon the principle that after the Government has introduced new seed from a distance and it has been found to be available and beneficial, the Government, if the seed should fail in any year, is to go on and supply the farmers with that kind of seed. In my apprehension nothing more was ever intended than merely to try the experiment in the first place, and then to leave the people of the country to purchase their own seeds, as they purchase other things for their own use. That, I take it, is as far as the Government ought ever to go. If we are to be held responsible to keep on hand a supply of every seed that is found to be valuable it necessarily supposes a great and continuing and increasing burden upon the Treasury; and it looks to me as if it would be very unwise and very dangerous to establish such a precedent.

There is another consideration. Is this matter to be left to the discretion of a Commissioner of Agriculture? We appropriate a certain amount of money and put it into the hands of the Commissioner, or the head of the Department of Agriculture, as he is called. Finding that his money is failing, or that he has spent the amount which Congress has chosen to appropriate, he says it is his business to look out and see what the necessities of the farmers of the country are with reference to seeds and other things, and if in his judgment they need more money, then he will spend the money without consulting Congress, and bring in a deficiency to Congress to pay the bill.

I take this occasion to say that I think the communication which was sent by the Commissioner of Agriculture to the Committee on Finance upon this subject, and which was afterwards passed over to the Committee on Agriculture, is certainly either one of two things: it is either the most impertinent or the most stupid communication that I ever read in my life, for it goes on to lay down these principles with absolute coolness: finding that there was a deficiency of money here and a deficiency of money there, and he thinking it best, considering the necessities of the country, to appropriate it here and there, he, in the exercise of his judgment, had spent this amount of money, and he now calls on Congress to make it good, and he insinuates that Congress made a very gross mistake in not giving him all he asked for last year, because he says if they had he should not probably be obliged to call for this deficiency, although it is altogether for a new thing. [Laughter.]

Several SENATORS. Let us have the letter.

Mr. FESSENDEN. The Senator from Ohio has it. I think it would be a very interesting document as showing the views of the Commissioner of Agriculture or the head of the Department—I do not know exactly what they call him—the Secretary of the Department of Agriculture, on the subject of appropriations.

Mr. JOHNSON. I should like to hear it.

Mr. SHERMAN. I have the letter, and I send it to the desk to be read. As the honorable Sen-

ator from Maine has characterized it rather strongly, I think it had better be read.

The Secretary read, as follows:

DEPARTMENT OF AGRICULTURE,
WASHINGTON, D. C., February 5, 1864.

SIR: I have the honor to submit to you, with the reasons therefor, a request for an appropriation to supply a deficiency in the appropriation for the Department of Agriculture made March 3, 1863, as follows:

For the purchase of additional seeds, sorghum, wheat, and vegetable, with exchange.....	\$5,000
For ten thousand cocoons of alanthus silkworm from France.....	1,000
For expenses in the propagating garden, and rebuilding shop burned last summer.....	800
For material for report of 1863 by contributions, at five dollars per page, five hundred pages.....	2,500
For additional postage required by change of postal law, July 1, 1863, in collecting agricultural and meteorological statistics.....	1,320
For increased clerical expenses.....	1,200
For carpets, furniture, and cases for fruits.....	350
For increased expense of coal, &c.....	300
	<hr/> \$12,470

The amount required for properly conducting the Department of Agriculture for the fiscal year ending July 1, 1864, was stated by me at \$130,000. As, however, the Department has only just completed its first year and was regarded in some respects as an experiment, the amount asked was looked upon by the Senate as larger than was necessary under the circumstances, and \$90,000 only were appropriated.

I have endeavored earnestly, by contracting in many respects the operations of the Department which I had wished to enlarge, by reducing the number of some clerks and employes, and keeping others at lower salaries than I ought, and by the most rigid economy in every branch of the Department, to keep the expenditure within that limit. I have not been entirely successful, and am obliged to ask for a further appropriation of \$12,470 to finish out the fiscal year ending July 1, 1864. This added to the amount originally appropriated will still be much short of my former request and of the amount voted by the House of Representatives.

Some of the causes of this deficiency have been occasioned by circumstances unexpected at that time and beyond my control; while others which were anticipated could not be restricted.

The destructive frosts of last autumn in a large part of the West rendered entirely worthless many important seeds which I have been called upon to supply, chief of which is the sorghum, now becoming one of the most important crops of the country. In several of the large States the seed was so generally destroyed that I have felt obliged at the urgent call of the farmers to send abroad for a fresh supply of pure seed.

An increasing belief among the people in the feasibility of producing an excellent article of silk from the alanthus silkworm, and repeated inquiries for the means of its production, have led me to order a large quantity of cocoons from France, where it has proved a perfect success.

The extensive failure of the corn crops, with other causes, has created a great demand for new and different varieties of wheat for both fall and spring sowing, which has been met by importations from England, Russia, and the Mediterranean, and by purchases of improved varieties of American growth.

The very great and increasing interest in the culture of the grape, and the consequent demand for vines, has induced a large increase in the expenses of the propagating garden. I have also had to rebuild a workshop destroyed by fire last summer.

The success of my first annual report, and the eagerness with which it is sought, has led me to incur a somewhat larger expense in the collection of material and preparation for the coming one. The change in the postal law taking effect on the 1st of July last, under the decision of the Postmaster General, has forced upon me quite a large expenditure for postage in being obliged to send prepaid envelopes to several thousand correspondents who furnish at home and abroad the statistics, agricultural, commercial, and meteorological, from which the monthly reports have been compiled. The vastness of the work, too, calls for a large clerical force to conduct it properly.

The increased demand made upon me by the farmers from all parts of the country for everything within the scope of the Department has exceeded my most sanguine expectations, and has in a measure compelled me to exceed by a small amount the original appropriations.

I have the honor to be your most obedient servant,

ISAAC NEWTON, Commissioner.

Hon. W. P. FESSENDEN, Chairman Finance Committee, United States Senate.

Mr. HARLAN. Mr. President, I agreed as a member of the Committee on Agriculture that the items now pending should be reported as an amendment to this bill. If I understand the remarks of the chairman of the Committee on Finance he agrees to all except one item amounting to \$2,000, to be expended in the purchase of sorghum seed. The chairman of the committee objects to that on two grounds: the first is, that this seed having once been introduced into the country it is not the duty of this Government to supply deficiencies hereafter. If the appropriation were intended to supply the demands of the country for the seed the objection would be well taken; but the amount proposed by the committee is so very small as to negative this idea. They propose it for the purpose of reintroducing the seed, early frosts over

many of the States during the last autumn having destroyed the seed and partially destroyed the crop. Two thousand dollars is not a very large sum with which to procure pure seed from abroad to reintroduce it into these States. It is not to be sent to farmers in large quantities to enable them to plant fields, but in small packages of one or two ounces to enable them to again introduce it on their farms and plantations.

The other objection is, if I understand the chairman of the committee, that no head of a Department has a right to exceed an appropriation; and this, I think, as a general rule, is well stated; but the Senator will observe that the year has not yet expired, nor has the period of the year occurred when this expenditure need be made. It is only a proposition from the head of this Department. The crop need not be planted until the 1st of May. There is ample time to make the expenditure, if Congress should make an appropriation, in time to aid the farmer. If Congress should differ from the head of the Department on this question of course they will withhold the appropriation; the purchase will not be made; and no work will be done. I think the suggestion coming from the head of the Department at this time is wise and proper. He has not, as I understand it, exceeded the appropriation, but says that a few thousand dollars more will be necessary to enable him to carry out the ordinary purposes for which the Department was organized. I do not think, therefore, that the communication of the head of this Department is justly subject to the severe criticism implied in the Senator's remarks.

Mr. FESSENDEN. The amount, to be sure, is small; but the question is as to the principle of the thing. I laid it down as what I believe to be a safe principle, and the only one which we ought to act upon in this matter, that Congress ought to go no further (if so far as that) than to introduce the seed in the first place, and try the experiment to see whether it would be successful. We have agreed to that policy by our appropriations for the simple reason that perhaps private enterprise cannot afford to make these experiments. After we have made them, and they are successful, if there is then a failure of the crop let private enterprise introduce the new seed wanted in order to continue the crop, and not require Congress, because it is a small sum, or because it is for the benefit of the farmers, to appropriate more money and keep on introducing seed after the experiment has once been found to be successful. It makes no difference in principle whether it is to be sent out in large packages or in small packages. The question is whether it should go at all; whether, after having once settled the propriety of the thing, Congress should be called upon to make up to the farmers of the country their necessities in regard to continuing the crop afterwards. If you establish that principle there is no end to it; and now let me illustrate what is done in its application to other things.

For the last six years, to say the least of it, we have had the same kinds of small seeds, such as cabbages and other vegetables, introduced from Europe and distributed over the country, because they were found to be beneficial—the same kinds of seed over and over again. What is the object of introducing these seeds? It is to see whether we can get improved varieties. The whole system is wrong, in my judgment; but that is past; it has been adopted. But when we have once established the fact that those varieties are useful, and the people become acquainted with them, let the people send for them, if they want them afterward, and not hold that the Government is to buy them year after year and distribute them through the Department of Agriculture all over the country. Why should we pay for purchasing Winningstadt cabbage seed for six or seven years and send it all over the country? One year will establish the fact whether it is a good variety or not, and when that is done people will judge for themselves; but yet we have year after year precisely the same kinds of seed, the same qualities and the same descriptions, purchased by the Department and sent throughout the land. I think the principle is a bad one. We ought to confine ourselves to simply trying the experiment in the first instance, and if it is successful the people will get their own seeds; and if unsuccessful they will not want those varieties; and there is no reason why we should go on buying them.

As to the style of the communication which has been read, I read it entirely different from the reading of my honorable friend from Iowa, [Mr. HARLAN.] If I have done the Commissioner injustice as to the style of his communication as addressed to Congress, and the principles he has laid down, I am very sorry, and I shall be ready to apologize to him; but really I can put no other construction upon it than that which I have already stated, that having an appropriation for a specific object he thought in his wisdom that certain other things for which Congress had made no appropriation should be done; and therefore he ordered them to be done, and now sends the bill to Congress for payment. If I have misjudged him in that particular I shall be ready to retract anything of that sort, but I certainly cannot mistake the tone of his letter in which he says the House of Representatives voted a certain sum of money, the Senate chose to cut it down so much, and that was all that was agreed to; but experience has demonstrated that if his first recommendation had been followed there would be no necessity of asking for this deficiency!

Mr. HARLAN. I do not see that there is anything very remarkable in this. It was a new Department. The House of Representatives agreed to appropriate for it \$130,000 and the Senate cut down the appropriation to \$90,000. The Department had been established, and the number of clerks and the purview of the work of the office indicated in the law. The House of Representatives intended to make an appropriation to cover the necessities of the Department. In the opinion of the Senate a smaller sum would answer the ends of the law and the office. In practice it turns out during the year that the House of Representatives and the Senate were both wrong, that \$130,000 were not necessary, and that \$90,000 were not enough; that in the opinion of the head of the Department one hundred and two or one hundred and three thousand dollars would answer the ends for which the office was created for the current year. That is all there is in it, a difference of opinion between the two branches of Congress, alluded to by the head of the Department, and an expression of his opinion that both erred, one placing the sum a little too high and the other a little too low; that experience shows a larger sum to be necessary than the Senate thought sufficient and a smaller sum than the other House deemed sufficient.

I think it very probable that if the Senator from Maine [Mr. FESSENDEN] was at the head of the Department all the papers that emanated from it would be of a higher style; but I suppose the principal question to be settled by the Senate is whether these items are necessary to carry on the proper functions of the Department. In my opinion this appropriation is necessary, is eminently proper, and hence as a member of the Committee on Agriculture I gave my concurrence to the opinion of the chairman of that committee that it should be recommended, and I am prepared to vote for it.

Mr. FESSENDEN. I move to amend the amendment by striking out the first item, which appropriates \$2,000 for the purchase of sorghum seed.

Mr. SHERMAN. I feel very indifferent in regard to the fate of this appropriation, but I think the Senator from Maine has done injustice to the Commissioner of Agriculture. I think no one can read his communication and come to the conclusion that it was the intention of the Commissioner to be disrespectful to the Senate, or to any one. He goes on, probably not in the most formal and diplomatic way, to ask for certain additional appropriations. He says that he organized his Department upon a certain basis, that he estimated that it would require for the expenditures of the present year \$130,000. He says that the Senate reduced the appropriation from that amount to \$90,000. Of that he does not complain; he says nothing disrespectful to the Senate, but he says that after this reduction he did make an earnest effort to confine the expenditure within the appropriation. He states that in some cases he gave less salaries than he might have given according to law, and he employed a less number of persons. He finally reduced his expenditures so that at the end of the year, if he was allowed his own way, his Department would not cost over \$102,000. The \$12,000 which he now asks for he has not

expended, as I understand, but he simply submits to Congress his estimates for additional appropriations.

The Committee on Agriculture were desirous to economize as far as possible. We desired to see this bureau—it ought to be called a bureau and not a department—started on as economical principles as possible, and therefore we reduced his estimate from \$12,700 to something between four and five thousand dollars; I have not computed the precise sum, but it is something over four thousand dollars. We allowed only those items which were really deficiencies. Postage, for instance, is one of them. When the regular appropriation was made he did not anticipate the payment of postage, but by a change of the law he is required to pay \$1,200 postage. We allowed him that. A fire occurred which destroyed one of the buildings at the propagating garden. We allow for repairs of that. The only contingent item of the several he asked for which we have allowed is the appropriation for sorghum seed. He gives a reason why it may be politic to distribute sorghum seed among certain agricultural districts where the frosts destroyed the seed. If any kind of seed should be distributed among the agricultural community it is this kind of seed which cannot be bought in the market, and which must be imported from China.

Mr. GRIMES. I should like to know whether the committee informed themselves as to there being no sorghum seed in the market.

Mr. SHERMAN. I cannot say how the fact is from personal knowledge, but the Commissioner says that in certain large districts of country, and I know that fact myself as to a large portion of the State of Ohio, the sorghum was destroyed and the corn was very materially injured, probably to the amount of half the crop.

Mr. GRIMES. That I understand to be the fact, but I wanted to know whether the committee had informed themselves that there was no sorghum seed in the market, and hence the necessity for the appropriation.

Mr. SHERMAN. We did not go to inquire whether it could be bought here or there; we must take the report of the Commissioner of Agriculture. He said it became important by reason of the failure of the crop to send abroad for seed, and we thought \$2,000 was a small enough sum to be expended for that purpose, and we allowed it.

Mr. GRIMES. Why do you allow it if you do not know that the seed stores do not sell it?

Mr. SHERMAN. Because the Commissioner of Agriculture said it was necessary. Now allow me to say to the Senator from Maine and to the Senator from Iowa that they apply to this estimate a different rule from that which they apply to the estimates of any other Department of the Government. The Senator from Maine has reported a bill here which contains this item:

"For the continuation of the north wing of the Treasury extension, fencing, grading, and miscellaneous items, \$250,000."

That is a deficiency. If the Senator from Maine were to declare here, "We will not allow the Secretary of the Treasury to go on and anticipate so large an appropriation; it is a violation of first principles," &c., &c., it would be well enough; but you are applying to this small Department or small bureau rules which you do not apply to others. I say you ought to overlook some of the strict rules as to the smaller matters of appropriation and look chiefly to the large ones.

Now, in regard to deficiencies. Our deficiency bills have always been in my judgment too large, and I have been in favor of applying as strict rules to them as anybody else; but there are contingencies arising in the management of a Government like ours when deficiency bills become necessary. They are submitted to our judgment. If they are submitted to us in proper language we consider them, and this bill contains millions of dollars of appropriation—

Mr. FESSENDEN. I propose to add nearly a hundred millions more.

Mr. SHERMAN. One hundred millions to be put in, and one hundred millions that grow out of a violation of the law.

Mr. FESSENDEN. Oh, no.

Mr. SHERMAN. We can discuss that hereafter; that is my opinion; but at any rate these deficiencies grow up. If the Senator will only prescribe some rule in regard to deficiencies, and stand

to it, and enforce it against all the Departments of the Government, I shall be very ready to join him, but we know it is not done. Every Department of this Government has in this bill appropriations for deficiencies, and we have not applied to any Department or to any branch of the Government the rule that the Senator now says is a correct one, and which I agree with him in principle is correct.

Mr. FESSENDEN. The Senator from Ohio does not understand me. If I am wrong as to the money having been spent, if the fact appears from the communication that the Commissioner has not actually made the purchases, the remarks which I made on that point do not apply. What I objected to was that the head of a Department should undertake to do a thing which he was not authorized by law to do, and create a deficiency in that way. If he has not done that I am mistaken about it, and have done him injustice.

Mr. SHERMAN. I do not think he has done it, judging from his communication. I have no other information from him on the subject than as I derive it from his communication. I have had no conversation with the Commissioner; but judging from his communication I infer that he has not incurred this expenditure, but he only says that he will need this money to carry out such and such objects during the current year. I do not understand that he has incurred this expenditure. He has not the money; he cannot draw money from the Treasury without an appropriation; and if he makes contracts in anticipation of the appropriation we have a perfect right to reject those contracts. The Committee on Agriculture have not allowed his estimates, but have gone on the supposition that the money is asked for future expenses. He may perhaps buy the seed that is wanted from the seed dealers in this country. He may perhaps buy the seed in Iowa, and thus facilitate its distribution among the farmers of Kentucky, Ohio, and Indiana, where the frosts were more seriously felt. He may not go out of this country, and probably he will not have time now to go out of the country to get this seed. It seems to me it is a very small matter to apply a strict rule upon. I think it is better to deal with this Department of the Government as we deal with others.

Mr. FESSENDEN. Will the Senator from Ohio—and I also call the attention of the Senator from Iowa, [Mr. HARLAN]—listen to the language of the communication:

"The destructive frosts of last autumn in a large part of the West rendered entirely worthless many important seeds which I have been called upon to supply, chief of which is the sorghum, now becoming one of the most important crops of the country. In several of the large States the seed was so generally destroyed that I have felt obliged at the urgent calls of farmers to send abroad for a fresh supply of pure seed."

Has he not sent? Again, and here is a new thing:

"The increasing belief among the people in the feasibility of producing an excellent article of silk from the silkworm, and repeated inquiries for the means of its production have led me to order a large quantity of cocoons from France, where it has proved a perfect success."

Has it not been done?

Mr. SHERMAN. It seems from the communication that it has been done; but we have not allowed the cocoons.

Mr. FESSENDEN. That brings him within the scope of my remark, that he undertook, without authority of law, without having any money for the purpose, of his own motion, because he judged it necessary, to introduce a totally new thing into the country.

Mr. SHERMAN. I will venture the assertion that there is not a head of a Department who has not done the same thing. This criticism is not applied to any Department or anywhere except to this little office, to the head of the Bureau of Agriculture.

Mr. FESSENDEN. Will the Senator point out such a case? I know of none.

Mr. SHERMAN. I will point out a case. Take the very case that the Senator suggested before. He is going to offer an amendment to provide for a deficiency of about ninety million dollars in the Department of the Secretary of War, where he proceeded without law to give a bounty of three or four hundred dollars to every soldier who might enlist in the service.

Mr. FESSENDEN. Let me state to my friend that the deficiency called for here, and for which

I shall offer an amendment, does not touch that, and does not apply to it in any shape or form.

Mr. SHERMAN. But it is one of those cases where the head of a Department has, in anticipation of Congress, made an order or a contract. That contract is void, and we may throw upon the Commissioner of Agriculture the purchase of these seeds, and compel him to pay for them out of his own pocket. He does all these acts at his own peril. But I say this strict rule which is now spoken of is not applied to any other Department of the Government, because they all do anticipate legislation by Congress. I will give the Senator another case, in which we all concurred and all approved and ratified the conduct of the Executive. The President of the United States, before we convened here in July, 1861, increased the regular Army of the United States, and issued several proclamations which it was conceded on all hands were not justified by law. He did those acts in anticipation of the action of Congress, and we all justified him, and I now justify him for that course. The Supreme Court of the United States had that very question before them in a recent case, and they said that those proclamations of the President, although not justified by law, although not within the constitutional power conferred upon the President, were yet valid because they were ratified by the subsequent action of Congress, and that ratification extended to the original act of the President and made it valid, legal, and binding.

So in this case. All these Departments do in anticipation of our action sometimes make contracts, and whenever they do so they do it at their own peril, and if we do not approve them we reject them.

I hope, therefore, this \$2,000 will be allowed for the sorghum seed, and I think the Commissioner of Agriculture will, from the reproaches that have been cast upon him by the Senator from Maine, learn a lesson, and will probably be more careful in the future, and so undoubtedly some good will result from the debate.

Mr. FESSENDEN. One word in regard to the Senator's instances. If he can find any similarity between a state of the country when in order to save the country the President was justified in anticipating the action of Congress and the action of the Commissioner of Agriculture in purchasing cocoons, he may make the most of it. I think there is a very striking difference between the two cases. I stated before and I state now that there may be cases where the President is authorized to take very strong measures, but I have never applied that to the Departments; and with reference to what he calls the action of the Secretary of War, let me say that action was not the action of the Secretary of War out of which the case grew, but it was the action of the President when he issued his proclamation and authorized or directed that three hundred thousand further troops should be raised, and a certain amount of bounty paid them. That was where the difficulty arose. So far as the Secretary of War had taken any action he acted strictly within the law; he attempted to appropriate the money which he had received for commutation in a way in which he had a perfect right to apply it, and if it had been confined to that there would have been no breach of the law. But the President chose afterwards to issue his proclamation in which he ordered the levy of three hundred thousand men and promised them this large amount of money. It was his act, and not that of the Secretary. So far as that is concerned I expressed my opinion upon that heretofore, and just as readily and just as strongly as I now express my opinion in reference to the action of the head of the Department of Agriculture. I have not known such instances in the cases of heads of Departments, and I do not think an instance can be found of such action as this.

Mr. HARLAN. I do not agree with the Senator from Maine in the inference he draws from the language of the head of the Department, that these expenditures have absolutely been made. He does not say so, and it is not clearly inferable from the manner in which he makes these purchases. A large appropriation is made of many thousands of dollars to enable him to procure seeds generally. These are for spring crops and summer crops and autumnal crops. He has ordered from abroad, he says, a supply of wheat

and other seeds. Other purchases will be made for the spring crops. He may have ordered seeds anticipating this appropriation in larger quantities than he otherwise would have purchased to supply the demand at this immediate period; but if Congress should withhold this appropriation he will limit the purchases for the spring and summer supplies; and this is all there is of it.

The appropriation has not been made in items, so many thousand dollars for sorghum seed and so much for wheat and so much for cabbage; but it is made in gross, and he makes a distribution of it so as to cover the various crops of the whole year, and I have no doubt that if Congress withholds what he requests he will be enabled to balance his accounts at the end of the year. I think that at any rate this part of the request ought to be granted. The committee do not recommend the whole of it. The purchase of silkworms and some other items that he asks for they do not recommend.

Mr. POWELL. As one of the Committee on Agriculture I will say a single word in favor of the proposition offered by the chairman of that committee. It strikes me that the appropriation which he has proposed for the Agricultural Bureau is so small a one that it should be adopted by the Senate without any hesitation. But the Senator from Maine, with his usual zeal in watching the Treasury, has poured out the vials of his wrath on the head of that bureau, in my judgment without sufficient cause. I think the Commissioner of Agriculture has managed his Department with eminent skill and ability. He is a man who is eminent for his practical knowledge as a farmer. He asks, for certain reasons set forth in a respectful communication to the Senate, an increase of the appropriation for his Department. The Committee on Agriculture partially concur in his recommendation, and propose an appropriation of four or five thousand dollars. For that the commissioner is very harshly denounced by the Senator from Maine.

Now, sir, where the head of this bureau asks one dollar for deficiencies, if you please, the heads of other bureaus and Departments ask millions, and we hear no such censure upon the heads of those Departments. We have voted \$20,000,000 here at this session for the purpose of paying bounties which Senators declared were not authorized by law. Somebody did it, but nobody was denounced for it. The Senator speaks of other deficiencies of \$90,000,000. Why did he not exhibit his ire toward the persons in whose Departments that deficiency occurred? If it is wrong to exceed an appropriation why not deal with the large criminals instead of the insignificant sum of four or five thousand dollars?

The Senator has made a general assault upon the distribution of seeds more than once. The Commissioner of Agriculture distinctly states in the paper which has been read to the Senate why he asks for this appropriation. The frosts of last summer destroyed in many parts of the country seeds of the greatest importance to the people throughout the whole country, and particularly in the great valley of the Mississippi. If the head of the Agricultural Department under the circumstances had ordered the seed and distributed it, when a frost in the month of August destroyed it, I think he would stand justified before the country. He is at the head of an interest that pays a larger amount of taxes than any other interest, that furnishes the soldiers to fight your battles, and yet it seems there is very grudgingly meted to this great agricultural interest a thousand or two thousand dollars to meet a deficiency caused by severe frosts and for the purpose of introducing some matters of the gravest and most important interest to the people.

If you say the law shall be obeyed strictly let it be so, but do not throw off all your ire upon a small appropriation of four or five thousand dollars for this great interest of the people, this great agricultural interest. The Senator from Maine says that when seeds are once introduced, if they are approved we should never call for another importation. He is much mistaken in that. It is known to every agriculturist in the whole country that these seeds frequently deteriorate, and the Commissioner should be able to bring them from the countries in which they grow to the greatest perfection and introduce them where they do not perfect themselves so well. Every agriculturist

in the whole country, I venture to say, very frequently brings seeds from different latitudes and from different climates for the purpose of improving the article that he grows. It is so with the cereals, and it is so throughout all the vegetable kingdom. It would be exceedingly difficult for the farmers scattered through the country to send to China for an improved kind of sorghum seed. The Government should, by an appropriation of this kind, collect them where they can be distributed.

It seems to me that the assault of the Senator from Maine on this little appropriation has been very ferocious indeed. I hope that Senator will indulge his great powers in that way by assaulting some of the heads of those bureaus and Departments who ask for millions, and not for hundreds or thousands. I hope that the amendment of the chairman of the Committee on Agriculture will be sanctioned by the Senate.

Mr. FESSENDEN. All I will say in reply to the Senator is that he evidently does not understand the distinction, the point I made, and I shall not trouble myself to state it again.

Mr. POWELL. I understood it as the Senator made it. If he cannot make it clear it is not my fault.

Mr. FESSENDEN. I cannot accommodate myself to some people.

The VICE PRESIDENT. The question is on the amendment of the Senator from Maine [Mr. FESSENDEN] to the amendment of the Senator from Ohio, [Mr. SHERMAN.]

The amendment to the amendment was rejected. The amendment offered by Mr. SHERMAN was agreed to.

Mr. FESSENDEN. I offer the following items, to come in as one amendment after line seventy-eight:

To supply a deficiency in the appropriation for the purchase and manufacture of arms for volunteers and regulars, ordnance and ordnance stores, \$7,700,000.

To supply a deficiency in the appropriation for the manufacture of arms at the national armories, \$700,000.

To supply a deficiency in the appropriation for the Surgeon General's department, namely:

For medical instruments and dressings, \$1,330,000.

For hospital stores, bedding, &c., \$1,200,000.

For hospital furniture and field equipments, \$300,000.

For books, stationery, and printing, \$36,000.

For ice, fruits, and other comforts, \$100,000.

For hospital clothing, \$40,000.

For citizen nurses, \$38,000.

For sick soldiers in private hospitals, \$17,000.

For artificial limbs for soldiers and seamen, \$16,000.

For citizen physicians, and medicines furnished by them, \$185,000.

For hire of clerks and laborers in purveying depots, \$25,000.

For contingent expenses of the medical department, \$5,000.

For medicines and medical attendances for negro refugees, commonly called "contrabands," \$33,000.

For washing and washing machines for hospitals where matrons cannot be employed, \$1,000.

To supply a deficiency in the appropriation for the subsistence of the Army, namely:

For volunteers and drafted men, \$5,824,000.

For employes, \$640,640.

For women, \$218,400.

To supply a deficiency in the appropriation for the engineer department, for contingencies of fortifications, including field-works, \$500,000.

To supply a deficiency in the appropriation for the quartermaster's department, namely:

For purchase of cavalry and artillery horses, \$17,500.

For regular supplies of the quartermaster's department, \$18,500,000.

For barracks, quarters, &c., \$3,500,000.

For transportation of the Army, \$30,000,000.

For incidental expenses of the quartermaster's department, \$2,000,000.

For transportation of officers' baggage, \$100,000.

For clothing, camp and garrison equipage, \$7,000,000.

To supply a deficiency in the appropriation for the Adjutant General's department, for the purchase of books of tactics, \$35,000.

Mr. FESSENDEN. I send to the desk a letter from the Secretary of War which explains the amendment.

The Secretary read, as follows:

WAR DEPARTMENT,

WASHINGTON CITY, February 11, 1864.

SIR: The large increase of our military forces called for by the President's order of the 1st February, and the necessity for providing equipments, supplies, and transportation without delay, so that these forces may be ready at once to take the field, will more than exhaust the appropriations made at the last session for the present fiscal year; so that deficiencies should be immediately provided for to meet the necessities of the case. I have directed the heads of the bureaus of this Department to make out estimates, so as to cover all contemplated outlay and deficiency in existing appropriations for the remainder of the present fiscal year, which are herewith submitted to your committee.

You will notice that the greater part of this deficiency

arises in the quartermaster's department, and relates to the purchase of artillery and cavalry horses, the provision of buildings and quarters, regular supplies of forage, &c., and mainly transportation of the Army, which last item constitutes nearly one half of the whole estimate of that Department. This large outlay is occasioned by the necessity of transporting the troops from the various States to the field of operations, of repairing and equipping the railroads constituting the lines of supply for the principal armies in the field, and of chartering vessels for transportation on the western rivers and at sea. The estimate is furnished by the Quartermaster General, upon whose accuracy and economy, in this respect, the Department is compelled to rely. Accompanying the estimates will be found detailed statements, from which the gross items are made up. Any further details that may be required will be furnished upon the call of your committee or of the Senate.

You will perceive, without any further remark from me, the importance of making this provision, in order that the bureaus may have funds in hand for the required purpose. It is hardly necessary to add that the appropriations will, of course, remain unused unless the exigencies of the service should require their expenditure.

Your obedient servant,
EDWIN M. STANTON,
Secretary of War,

HON. WILLIAM P. FESSENDEN, Chairman Committee on Finance, United States Senate.

The amendment was agreed to.

Mr. HALE. I am instructed by the Committee on Naval Affairs to offer some amendments to come in after line ninety-four of the bill. I will state in relation to them all that they are recommended by the heads of the respective bureaus and sanctioned by the head of the Navy Department. The first of these amendments is:

For additional repairs at the Norfolk navy-yard, \$150,000.

Mr. FESSENDEN. Is not that a large sum? What necessity is there for it?

Mr. HALE. I will state that if my own individual opinion had been asked I could give a very short answer to the question which the Senator from Maine has put to me; but I have here a communication to the Secretary of the Navy from the chief of the Bureau of Yards and Docks, dated December 28, 1863, in which the chief of the bureau says:

"I have the honor to present herewith a supplemental estimate for repairs at the Norfolk navy-yard. This additional estimate for present purposes is based on the large demands upon that yard for repairs of vessels of the Navy and their machinery. It is much more convenient both in time and money to make repairs at this yard than to send vessels to northern yards, where they are already so overrun with work that the wharves are now crowded with vessels awaiting repairs. The amount already appropriated and that asked for the next fiscal year will be inadequate to meet the demands upon this yard, which are far more extensive than it was supposed they would be when the estimates for the next year were presented.

"The ship gate to the dock must be entirely new, and is now progressing as rapidly as practicable, and, with the engine already completed, will absorb the money now appropriated and available."

That is all he says about that, and then he goes into a detailed estimate. I have nothing to say about it; it is the estimate of the bureau, and recommended by the Secretary of the Navy. The Senate will act according to their pleasure in voting upon it.

Mr. FESSENDEN. Do the Committee on Naval Affairs recommend it?

Mr. HALE. Yes, sir.

The amendment was agreed to.

Mr. HALE. I offer another amendment of which the same thing may be stated: it is recommended by the bureau and the Department and the committee:

For wharf, machine-shop, bridge, buildings for naval stores, and other works at Port Royal, South Carolina, \$144,600.

In regard to that the head of the bureau says:

"I also submit estimates for works at Port Royal, which at this time are indispensable; the stores for the South Atlantic squadron are concentrated at this point and at present there are no storehouses for their safe-keeping; consequently a very heavy expense is constantly incurred for demurrage, amounting in some cases to more than the first cost of coal. The machine-shop is indispensable; in fact this depot is one of the most important at this time of any of our naval stations. The expenditures on the wharf, so far as progressed, amounting to \$34,987 50, have been charged to an appropriation under the Bureau of Equipment and Recruiting, and should be refunded as soon as a specific appropriation for this object can be obtained."

This is signed "Joseph Smith."

The amendment was agreed to.

Mr. HALE. I now offer the following amendment:

To supply a deficiency in the appropriation for filling in the grounds for the new foundry at the Brooklyn navy-yard, \$45,975.

Mr. FESSENDEN. What is the explanation of that?

Mr. HALE. The same as before. It is recommended by the bureau and the Secretary of the Navy and the committee.

The amendment was agreed to.

Mr. HALE. I now offer a small amendment which is recommended by the Bureau of Provisions and Clothing, and also by the Secretary of the Navy and the committee:

For temporary storehouse for provisions at the Brooklyn navy-yard, \$2,000.

The amendment was agreed to.

Mr. HALE. I offer a similar amendment as a provision for Boston:

For temporary storehouse for provisions at the Boston navy-yard, \$2,000.

Mr. SHERMAN. I wish to make an observation in regard to these appropriations, and I do it now once for all. It is impossible in time of war for the legislative body to restrain appropriations. I have come to that conclusion, and I shall make no further effort. It is impossible for any committee to restrain appropriations, or for the Senate or for both Houses of Congress to do it in time of war. The matter must be left to executive discretion. I do not believe that any action of ours, however carefully guarded, will limit the expenditure of the Government in time of war. We must trust to the Executive. But if I could speak a word of warning I would enjoin on every Department to remember that money is the life-blood of this nation, and I do believe that there are many expenditures incurred by the Departments that are not necessary in time of war. They do not seem to know, they do not appreciate the value of money. Each Department of the Government looks only to the success of its own Department. The War Department necessarily looks to the force and power of the armies, the Navy Department looks only to the efficiency of the Navy. Each head of a Department expends money and calls for large appropriations, sometimes without remembering the difficulty of getting the money. I do not think we can restrain them. I do not know whether it is within the power of the President to restrain them; but I must make the assertion, with no purpose of creating alarm or trouble, that I do think all the Departments of the Government are lax and negligent sometimes in the amounts they call for for particular objects of expenditure that might be avoided. The chairman of the Committee on Finance, of which I am a member, I know is careful in regard to the expenditures of the Government; but he has offered an amendment to this bill which covers many millions; I do not know the aggregate; probably fifty or sixty million dollars.

Mr. FESSENDEN. Near a hundred millions.

Mr. SHERMAN. We cannot tell whether these appropriations are necessary or not. Here is an appropriation of \$30,000,000 for transportation and \$7,000,000 for ordnance. How is it possible for us to say that \$30,000,000 is not required for transportation, that \$20,000,000 is enough? We cannot do it. We must take the estimates of the Departments, whatever they are, and upon them must depend this expenditure.

Now, sir, take a few cases that have occurred recently. Regiments whose term of service has yet one year to run have been transported a thousand miles and back, their services taken away from Knoxville—the very point where we are now in danger—they taken home, given thirty days' holiday, and taken back as veteran regiments; and this when their terms have nearly a year yet to run. Senators can easily compute the cost of transporting a single regiment from the places of service to the places of enlistment. In one case I am told there was a regiment which was either brought from Colorado to the States or taken from here to Colorado for the purpose of reenlistment. It seems to me that these expenditures are sometimes unnecessary, but we cannot restrain them now, and I want simply on this occasion for myself to enter a caveat. We cannot judge of the necessity of these appropriations; we must leave it to the Departments; but I wish there was some means in our power to restrain these enormous expenditures, and I believe that in some cases—I will not say where or when—these expenditures are beyond all reasonable limits.

Mr. HALE. In reference to this amendment,

which is a very small one, and in justice to the bureau, I propose to read—

Mr. SHERMAN. I have no objection to the amendment.

Mr. FESSENDEN. There is no objection to it. It has been fully explained to me, and I concur in the propriety of it; but I wish to say a word on the general question.

Mr. HALE. Very well.

Mr. FESSENDEN. What has been said by the Senator from Ohio may render me excusable for saying a word. In a very great degree what he has said is just and true. We cannot judge, unless upon some new proposition to incur expense for a specific object, and when that proposition comes before us we can examine for ourselves, and come to a conclusion whether it is advisable under the circumstances to incur the expense to effect that object. But the Senator has justly said that with reference to those appropriations which are made for war purposes, and merely for the purpose of paying expenses for troops, it is impossible for us to ascertain to what extent they may be necessary, and all we can do is to take the estimates in detail of the Departments as they are furnished.

For instance, we have conferred power on the President to call out a certain or an uncertain number of troops. We must leave that to him. The war must be carried on. If there is anything that the people of this country are agreed upon it is that no money that is necessary should be spared in order to accomplish the purposes of this war; and all the people of the country are calling upon the Government to put men into the field and to finish up the war as fast as possible. What can we do? Obviously we can do no more than to put power into the hands of the President to call out the men at his discretion to a certain amount, if we chose to limit him, knowing that he is the only person who can judge of the case. We cannot judge of it because we do not carry on the war, although we authorize it to be carried on. We must have our information from the Executive Government. Having put that power into the hands of the President he chooses to exercise it, and he calls for a certain number of men. When he has called for them we must provide the means for paying them and paying the expenses. Where do we go? For the expenses of the quartermaster's department we must go to the Quartermaster General, and he will tell us—estimating as well as he can from what things have cost heretofore under similar circumstances—what the expense will be in the future for the particular number of men called for. So with regard to subsistence we go to the Commissary General. There it is a little more definite. So in regard to ordnance of all kinds, large and small, we must get our information from those who are familiar with the subject, and we must trust to the officers themselves for economy in administration, because we do not appoint them; we have no power over the appointments except to reject them if we deem proper; we cannot tell what their qualifications may be, nor can they tell themselves perhaps until they are tried.

If I were in a position to make a suggestion to the executive department, if I might dare to raise my voice so high as to expect that it would reach the executive department, I would say that I should deem it a very wise course, if he was about to call out a certain number of men, to inquire, in the first place, how many were necessary, (as he undoubtedly does,) and whether he could dispense with any of them, and what they would probably cost; and then, in the next place, to ascertain from the Treasury Department whether the money could be had to pay them. If they cannot be dispensed with, if they are indispensable, we must have them without reference to money, and pay as we can; but if we can get along with a less number and accomplish our purpose, although not so well, the question is well put whether the Treasury will meet this expense.

That, however, is a matter for the President. If he does not choose—it is to be presumed that he does—to call his Cabinet around him and lay before them his plan and say, "I propose to call out so many men; can the money be had?" &c., and to ascertain all those things before he issues his proclamation, what then? If he chooses to do so he will have a certain number of facts and all the Departments of the Government will be pre-

pared for it. But if he prefers to go on and call out the men and take his luck about it and inquire afterwards, we must take our luck with reference to getting money to pay them. There is no other way. It is to be presumed—and I dare say we cannot presume otherwise—that all this is done and that it is accomplished in the most economical and proper way possible, with due and formal consultation of all the Departments of the Government, to know whether a specific plan can be carried out. If, however, it is not done so, when the law is in the process of being executed as we have made it and the President is exercising his discretion as to a certain number of men and calling them into the field, then when that is done, as we have authorized it we must provide the means, and we must act simply on the data we get from the Departments, for we can get none anywhere else. We have no judgment to exercise on the subject.

They will make many mistakes, undoubtedly; and the country must take the consequences of their mistakes. If they are very gross ones they arise from not having the proper kind of officers. If we have not got the proper kind of officers it is the duty of the President to find men who are capable of carrying on the Government and doing these things properly, if there are any such in the country. I suppose it cannot be done any better than it is.

I make these suggestions for the consideration of Senators to show the infinite difficulties under which, as my friend from Ohio says, we labor. In regard to some of these items we cannot undertake to cut them down, we cannot take that responsibility; we do not know but that they are necessary, and we must leave things to their ordinary course.

Mr. TRUMBULL. Mr. President, I was apprehensive that the state of things which has been disclosed by the remarks of the Senator from Ohio existed. I was afraid it was so, that we had surrendered up to the Executive not only the control of the Army but the money of the nation; and that Congress was simply here to vote what was asked. Now we are told both by the chairman of the Committee on Finance and the Senator from Ohio that we can know nothing about it, we have got to take these bills just as they come to us from the Department. Surely, if that is so—

Mr. SHERMAN. The Senator will pardon me. I confined my remarks exclusively to war expenses, and did not extend them to what are civil expenses.

Mr. TRUMBULL. Well, war expenses; an estimate comes in here, as I understood the Senator from Ohio to say, \$30,000,000 for transportation; and he says we cannot tell anything about it, whether \$30,000,000 is necessary or not. How can they tell in the War Department any better? Surely a committee of this body could have the same sources of information that they have there. If we are simply to take their statement, if we are to have no investigation beyond that, there is the end of it. But is it not practicable to have some inquiries made as to the expenses of transportation, outside of the quartermaster's department, to test to some extent the correctness of these claims of the Government? That, surely, was the intention of the men who framed the Constitution. The theory of our Government is that Congress is to have some control over the expenses of the Government; and so particular were they in regard to that point that they provided that appropriations for the Army should not be made for more than two years; we cannot make them for a longer period.

It seems that we have come to a state of things when the Finance Committees of the two bodies tell us that we have nothing more to do in regard to these large appropriations than simply to vote the amounts that are asked. I confine it to the large appropriations, for of course the Finance Committee can see how much is necessary to be appropriated to pay for particular services where the amount of compensation is prescribed by law, and can see that only the necessary amount is appropriated for that purpose. They can determine how much it will take to pay our ministers and consuls abroad when their salaries are fixed by law. It is a mere matter of computation to see how large an appropriation will be necessary to pay the annual expenses. So of all the salaried

officers of the Government. But it does seem to me that we ought to have some check on these other expenses.

Mr. SHERMAN. I would like to submit the matter to the Senator from Illinois, because I do not wish him to misunderstand me. I will take the case of the Quartermaster General. How is it possible for the Quartermaster General to know beforehand what will be the operations of the Commander-in-Chief? Sometimes a single movement will cost an immense sum of money which he could not have anticipated. Take, for instance, the transporting of several army corps from Vicksburg to Knoxville. The cost of that transportation and the necessity for it could not have been foreseen by the Quartermaster General. The number of horses that would be killed in such a terrible march as that could not be known by him when he made his estimates. It is impossible even that the best officers could estimate precisely for such contingencies. The Quartermaster General has written enough letters—they are on the desk of the Senator from Maine—giving the details and the bases of his opinion. If the Senator from Illinois wants to know the details he can examine the letters. We have them. We have the bases of the opinions of all the heads of bureaus; but when you come to examine the subject you find that you cannot fix upon an estimate or even approach an aggregate of the expenses of that character. In regard to the pay of soldiers we know precisely. We can state the exact sum it will require to pay one hundred thousand soldiers a year, and can show the materials on which the estimates are based; but in regard to the quartermaster's expenses it is not so. The expenses of the quartermaster's department may be safely set down to be greater than the pay of the soldiers. That you will find to be a correct rule. The expenses of the quartermaster's department are generally greater than of the pay department, and so with the commissary department, and so with many other departments of the Army.

Mr. TRUMBULL. If the committee cannot arrive at it, how in the world can the Quartermaster General arrive at it? It is a mere guess on the part of the Quartermaster General, it would seem.

Mr. FESSENDEN. He gives the data on which he bases his opinion. The transportation of so many men such a distance has cost so much, and if we go over precisely the same ground in the same way, it may be the same thing, but as the Senator from Ohio suggests it may be entirely a different thing.

The Quartermaster General asks for what he thinks will be necessary. If it is not all spent, very well. If it is all spent, and more, we must make up the deficiency. The Senator will see that in the very nature of things all the expenses cannot be foreseen. A single battle may destroy an immense quantity of ammunition, and an immense number of horses, as well as a very large number of men. These losses must be made up. So of other things. We must, as I said before, get the best information and the best judgment we can from the officers at the head of the several bureaus who are accustomed to consider these things, and act on their judgment, for ours is absolutely good for nothing. Unless the same circumstances again occur, even the estimate of the Quartermaster General may be of little value.

Mr. TRUMBULL. It seems to me that his would be worth just as little as that of any of us, because he cannot tell what battles are to be fought next September any better than we can. It is a mere matter of conjecture. It looks, then, as if it was mere guesswork as to what would be required. If that be so I think that the Finance Committee ought to provide for a permanent committee of Congress who should be in session all the time to keep a watch on this thing.

Mr. FESSENDEN. We have a committee on the conduct and expenditures of the war.

Mr. TRUMBULL. But the committee on the conduct of the war is charged with other duties. I should think it would be quite enough for one committee to look after expenditures.

Mr. FESSENDEN. Let me tell my friend they are at this very time examining into contracts made by the War Department for transportation and supplies.

Mr. TRUMBULL. But in connection with a

great many other things. I am speaking now particularly of those expenditures of the Government which it seems there can be no basis upon which to estimate, and it does seem to me that under the system we have adopted and upon which we are acting, and according to the disclosures of the Finance Committee, we leave to the discretion of the officers to use just as much money as they please, without any limitation whatever upon them. They may pay four prices for transportation.

Mr. FESSENDEN. We cannot help that. We cannot say they shall not do it.

Mr. TRUMBULL. A Senator says they have done it. Certainly Congress ought to exercise in some way supervisory power over it. I hope it can be done.

Mr. FESSENDEN. How can Congress say beforehand what prices they shall pay?

Mr. TRUMBULL. I think we could tell something about what the prices should be. We may not be able to tell them exactly, but we know something about the ordinary prices of transportation. We know what a wagon costs, or we can tell about what it costs. Certainly Congress could exercise some sort of supervision over it. After the disclosure that has been made here to-day, I would be in favor of having a permanent committee of Congress, not only during the sessions but during the recess, whose business and sole business it should be to inquire into the expenditure of the vast amount of money which is appropriated for these uncertain objects. I would charge them with no other duty than to see that the \$50,000,000 appropriated for transportation purposes, and the large amounts appropriated for other similar purposes, were properly expended.

Mr. FESSENDEN. Would you give them the expenditure of money?

Mr. TRUMBULL. No; I would give them a supervisory power over the Executive Departments of the Government. I think that is what the Constitution means; and I do not think we discharge our duty properly if we just come in here and vote money by the hundred million without looking at all to the disbursement of it. If there is no way by which we can get estimates to show how much money is needed, then I say we ought to keep the power in our hands, or keep a committee in session all the time to supervise the expenditures, because the intention of the Constitution and of the people of this country is that Congress shall supervise the disbursement of their money.

Mr. WILSON. How would a committee do it during the recess?

Mr. TRUMBULL. During the recess they could keep control of the public money so far as to see how it is disbursed; and they could report to Congress when it meets. We could learn whether abuses exist or not. And let me tell the Senator from Massachusetts we can sit ourselves. Congress ought not to adjourn one day in the year if it is necessary to stay here in order to retain control over the moneys of the country. We should not be saddling on the people of this country an expense of a thousand million dollars annually, or half of it, without knowing where the money goes. If it be so that there is no other way, I would appropriate the money from month to month, and see where it went; and I think we but poorly discharge our duty to come here and remain a short time and vote money by the hundred million without knowing whether it will be needed or how it is to be disbursed.

Mr. CLARK. Mr. President, the difficulty, I apprehend, arises in the nature of the service in which we are engaged, and not in the supervision of the committee. War is an uncertain matter, and we are obliged to have a large fund appropriated in advance out of which we can expend according to the exigencies of the service. Now let me ask the Senator from Illinois what would be the use of his committee to sit in the vacation? They cannot appropriate the money when Congress is away. You would have to appropriate the money beforehand and while Congress was here; and then, if there should be a great exigency for the transportation of an army, or a call for money, must the War Department run after that supervisory committee to inquire whether they shall have wagons to carry a hundred thousand men to Knoxville? Certainly not. To make that scheme effectual they must; otherwise it would be of no use whatever. I would suggest that they

take the committee along with them and appropriate as they go. [Laughter.]

Nor if Congress stayed here could we do any better. From the very nature of the thing we must trust to the men who have this matter in charge and who expend the money. Could we be called on from month to month and day to day by the heads of Departments to appropriate money for this purpose and that, saying, "We want to use it to-morrow?" The difficulty is in the very nature of the service. We must trust to the men who have these services in charge. The best they can do is to say to us, "In our judgment we may want so much money. To make the thing perfectly secure for the nation, for we do not mean to fail, you had better appropriate a little more, so that we can have abundance to carry us through, and trust to us who administer the fund."

It is the only way we can do and administer the fund and carry on the war as we ought to do; and no hand of mine and no vote of mine shall ever withhold from the Executive the money he wants, and then throw upon me the responsibility of the failure of this undertaking. I am ready to put the resources of the Government at the use of the Executive, and I would put upon him the responsibility, and say to him, "Sir, the country looks to you to carry this through, and to carry it through quickly and effectually." I will withhold nothing; and it is in the nature of the service in which we are dealing that this difficulty arises.

Mr. TRUMBULL. I simply want to tell the Senator from New Hampshire that I will not shirk my responsibility. I will not shirk from the responsibility that is on me as a Senator, as a representative of one of the States here, and put the responsibility on the President, and tell him that I will hold him responsible. I will hold him responsible for the discharge of the duties that the Constitution confers on him; but when the Constitution has imposed a duty upon me I will not put all the men and all the money of this country into the Executive's hands, when the Constitution has placed it partially in my hands as one of the representatives here in the Senate. I am not disposed to do any such thing. I think there is a responsibility on us, and that we are charged with seeing where the people's money goes. While I am for putting down this rebellion as quickly as the Senator from New Hampshire, while I am willing to use the power of this Government to accomplish it, I will use it according to the Constitution; and when the authority to raise armies is placed in Congress, when the authority to raise money is placed in Congress, I will not come here and abdicate, and say that the people of the nation and the money of the nation, without law, without the action of Congress or the supervision of Congress, shall be all placed in the hands of the Executive. The declaration of the Senator from New Hampshire goes to that extent. We had better abdicate, then, and go home, and say to the people, "The President is clothed with the whole power of the nation; your Congress need meet no more."

Mr. CLARK. I do not think I shall be found shirking any duty or responsibility that may be cast upon me. People may differ as to responsibilities, and have different views. The Senator from Illinois may think as a member of the Senate that before he votes a dollar or a hundred dollars the quartermaster or the commissary must tell him exactly what he wants it for. "Now, Mr. Quartermaster, what do you want this hundred dollars for; where are you going to carry your men?" "Well, I want it for the purposes of the war." "But where exactly?" "Well, I do not know where the army may be; it may be at Knoxville, it may be at Chattanooga, it may be toward Mobile." "But where? I want to know just how many men you are going to move, and how much it is going to cost apiece." "I cannot tell," says the quartermaster. "Then you shall not have any money; I will not appropriate anything; we will not vote anything if you do not tell us exactly where you are going to spend it." "Well, I cannot do that." Then where is the quartermaster to get his money?

I am not by any means for abdicating, and I said no such thing. No remark that I made can be construed, or tortured, even, in that way.

Mr. TRUMBULL. I understood the Senator from New Hampshire to say that he would place

the whole power in the hands of the President and hold him responsible.

Mr. CLARK. I said no such thing. I may have used language that possibly the Senator may have misunderstood, and interpreted that way, but I did not mean any such thing. I do not mean to abandon any right or prerogative of Congress, but I do mean to give the President power enough to put this rebellion down, if I know what it is. I mean that he shall have men enough, if they can be raised, and I mean that he shall have money enough to arm those men, and to provide for those men when they go into the field, and I do not mean to hold the purse-strings so tight that those men shall be sacrificed without accomplishing the purpose. I am willing to assume my rightful share of responsibility; I want the Executive to assume his, and I have no doubt he will, and we must act together. We must give him the means and hold him to the execution. That is what I mean. We must look to him for the execution when we have provided him with the means, nothing more.

Mr. JOHNSON. Mr. President, I do not think it is at all probable that such a committee as is suggested by the honorable member from Illinois will be appointed, and if it should be appointed I would ask in advance that I may not be made one of its members. They will have a very troublesome time of it. If I thought that such a committee was necessary I would be as willing to serve upon it as anybody else; but with due deference to the member from Illinois, I do not see that the committee could effect any good purpose with reference to the mischief of which he complains and we all complain. The honorable member is right in saying that the Treasury of the United States is by the Constitution placed under the control of Congress. That is done by the provision which says that money shall not be drawn from the Treasury without an appropriation by law; but it happens to us, as it must happen to all Governments, that it is impossible in advance to tell what money will be necessary for the purposes of Government during any one year, and that difficulty is very much enhanced if the country at that time is in a state of war. That may be illustrated by mentioning a few instances with which the Senate must be very familiar.

When we commenced this war very many hoped, very many believed, that it might be terminated in a year. I think the Secretary of State was so sanguine as to believe that sixty days would bring about a restoration of the Union; but he has been obliged to continue his prediction from sixty days to sixty days almost *de die in diem*. Under the impression which certainly prevailed throughout the country that the Government would not want the means that we now find we do want to bring about a termination of this rebellion, you were able in the beginning to buy horses for \$100, and mules for a much less price than they can be obtained for now. You got your forage for your horses, your oats, for some thirty cents a bushel; you cannot get them now for less than a dollar. You got hay for some fourteen or twenty dollars a ton; you have to pay now forty dollars a ton; and so on in proportion. At that time nobody supposed, I think, that it would be necessary to bring into the field such immense armies as we have; that it would be required of us to travel over the country through which these armies are now traversing and must continue to traverse for some time. The expense, therefore, of the transportation is infinitely more than anybody supposed would be the case.

All that can be done even in a time of peace, and it is peculiarly true of a time of war, is for the proper Departments of the Government who are to superintend the particular expenditures connected with their Department to approximate to accuracy by their estimates.

There is no danger to the Treasury, as I think the Senator from Illinois will see when he comes to reflect in a moment. The question is whether if an appropriation is exhausted and the country is not served as it was supposed that that appropriation would serve it, the Executive Departments are authorized to go beyond it, not by paying money, because they cannot pay any money, they cannot exceed the appropriations, but upon their own responsibility, trusting to the approval of Congress afterwards, by incurring debts. Whether these debts are to be paid or not must

depend on Congress, and when the matter comes before Congress they have the clear right, restrained only by the moral obligation under the necessities of the country, to refuse to make the appropriation.

But how would the difficulty be obviated by the appointment of a standing committee? I do not understand the honorable member from Illinois to propose that that committee should have the privilege of appropriating money from the Treasury or of taking money out of the Treasury without the consent of Congress. Congress would not be willing if it had the authority to transfer to any committee the power to take money out of the Treasury in point of fact in any mode in which it could be done. All that such a committee could do would be to see that the money which Congress has appropriated is not misapplied by the Executive. How are they to do that, situated as we are now? They may say to the Executive, "You are giving too much for oats, you are giving too much for hay, too much for horses, too much for mules, or paying too much for transportation." The executive officers say they cannot get them for less. If they are honest, (and nobody charges them with dishonesty,) if the heads of these bureaus are not themselves pilferers from the Treasury, you are bound to believe that they are not giving more than they found to be necessary in order to obtain what the service of the country demands. Is the committee to tell them what to give for horses and for mules, for oats and for forage, for transportation; what they are obliged to give in order to obtain the forage, to obtain the transportation? If so the war stops; must stop.

But there is another thing connected with the expense. Not only does it depend on such elements as those to which I have just referred, but it depends very much on the nature of the campaign in which the Executive is about to embark. Where shall the war be carried on? Shall it be carried on upon the Mississippi, throughout the Southwest into the mountains of Tennessee? The Executive may think that it is there that the rebellion is to be finally destroyed, and the committee may be of a different opinion; and the committee may say, "Keep the fight here, where transportation is less expensive, forage is less expensive, everything else will cost Government less." That certainly would not be the function of such a committee, because to give the committee that function would be directly to usurp a function exclusively given to the Executive by the Constitution.

I do not see that any possible good could arise either from Congress remaining in session permanently or from their constituting a committee to superintend the expenses of the Government. It is true, as stated by my friend from Ohio, that perhaps these gentlemen in the several Departments, each being anxious that his own Department shall achieve perhaps more than any other Department, or at least not to be behind any other Department, do not look to the necessity of limiting their disbursements as closely as they should. All that we can do, as I agree with him, is, to let them know in advance that however willing we may be, in order to save the good name of the Government, to meet all the obligations which they incur in behalf of the Government for the use of the Government, it is our purpose to hold them to a moral responsibility before the country if they unnecessarily exhaust the appropriations which have been made, or unnecessarily incur obligations outside of the appropriations. I think the apprehension that they will be held so responsible, as they certainly will be, is the only restraint that we can in the nature of things submit them to.

Mr. TRUMBULL. Mr. President, it comes, then, in the opinion of the Senator from Maryland, to this: that the provision of the Constitution which declares that no money shall be drawn from the Treasury except in pursuance of appropriations made by law merely means that the Congress of the United States shall make a general appropriation of any amount which the Executive shall ask; and that is the check which the Constitution places upon the Executive!

Mr. JOHNSON. I do not like to interrupt the Senator, but he certainly could not have heard me. I said we were under no obligations to make the appropriation. It is for Congress to say whether they will appropriate or not.

Mr. TRUMBULL. I understand the Senator so. It is for Congress to say whether they will appropriate; but he is advocating an appropriation just such as the Executive asks. Now I wish to inquire what the provision of the Constitution amounts to if it is the duty of Congress, his duty and mine, to vote for any appropriation that the Executive asks?

Mr. JOHNSON. I have said nothing of the sort.

Mr. TRUMBULL. The Senator did not say that in so many words.

Mr. JOHNSON. I did not say it in substance, if the Senator will permit me.

Mr. TRUMBULL. I am not undertaking to quote the language of the Senator. I am trying to state his position for him.

Mr. JOHNSON. What I mean to say is that you have misunderstood my position, or I was very unfortunate in explaining myself. I have not said, and certainly do not think we are obliged to appropriate any amount the Departments may ask. When the appropriation is before us it is for us to decide whether that appropriation is required or not. We may rely as evidence of that necessity upon the estimates made by the Departments; but we have a clear right to go into an investigation of those estimates and satisfy ourselves if we can that the estimates are greater than they should be, for the same reason that I think we have a right, and that it is our duty, if we are satisfied the estimates are less, to make the appropriation larger.

Mr. TRUMBULL. Mr. President, let us go back and see what this discussion has sprung up about. It arose out of some remarks made by the Senator from Ohio in regard to the large appropriation here—I think he stated it at \$30,000,000—for transportation. He said we could know nothing about whether this estimate was right or not, and he could see no way to supervise it. I do not attempt to give the words of the Senator from Ohio, but the purport of what he said was that we had to appropriate just what was asked by the Executive for this particular kind of service. Now, when I tell the Senate we ought to exercise in some way some supervision over these vast appropriations of thirty millions and fifty millions and a hundred millions for transportation, I am met by the Senator from Maryland and the Senator from New Hampshire by a specific case. The honorable Senator from Maryland talks about the price of oats, and desires to know whether an inquiry shall be made as to how much is given for oats or not. Sir, I do not advocate any such proposition as that.

The Senator from New Hampshire goes into detail in the same way, and desires to know whether we must first inquire what it will cost to take a man from this place to that before anything is done. I propose no such thing. Sir, I think the Constitution means something, and that we should not simply appropriate in large sums of tens of millions what the Executive asks, without knowing whether it is necessary or not, and without keeping any supervision over it. I believe that to do that is a departure from the requirement of the Constitution and a shirking of the responsibility that is upon us. Now I want to know what the Constitution means? What is virtually the position that these Senators assume? It comes to this; this is the principle that is laid down here: that in a time of war we are to appropriate whatever is asked.

Mr. CLARK. I did not say any such thing.

Mr. TRUMBULL. No, you did not say any such thing; but you did say you were for placing the power in the Executive and holding him responsible.

Mr. CLARK. Not without limit.

Mr. TRUMBULL. The limitation was subsequently. I know the Senators say not without limit; but what limit does he propose? I have made no motion, but I have suggested that it might be possible to exercise some sort of supervision over these large appropriations, and because I made the suggestion I am assailed. Now I say if we do not exercise some sort of supervision over these large appropriations we do not in my opinion perform our constitutional duty. I repeat, when the Constitution said no money shall be drawn from the Treasury except in pursuance of appropriations made by law it did not mean simply that we should get together, and, by

a general appropriation of \$50,000,000 for one item, place that sum in the hands of the Executive and let him use what he pleases of it.

Mr. FESSENDEN. Suppose \$50,000,000 is needed for that item, how would you do? Cut it up in twenty different pieces?

Mr. TRUMBULL. I can hardly conceive of a single item that would amount to \$50,000,000.

Mr. FESSENDEN. Transportation will amount to that.

Mr. TRUMBULL. Transportation embraces a great many things. I am not very familiar with these appropriation bills; but I have looked a little at the appropriation bills made by the British Parliament, and I observe they are a great deal more particular than we are in their estimates. Things are not lumped to the extent that they are here. I think it would be practicable for us to exercise a greater supervision over these appropriations than we do. That is what I want. I am unwilling to agree to the declaration of the Senator from Ohio that we can exercise no supervision at all over them. He did not use that language, but he said substantially we made these appropriations without knowing whether they were necessary or not, simply relying on the estimate of the Department. Then when we come to inquire about that estimate we are informed that it is a mere guess there. I say the spirit of the Constitution requires us to resort to all the means within our power to keep control of the money of the Government. I do not think we do that when we appropriate \$50,000,000 to a single item without knowing anything about how it is to be expended.

Mr. MORRILL. It seems to me that the difficulty with which the honorable Senator from Illinois contends is a difficulty inherent in the nature of the case. As has been said it is impracticable to know what the expenditures of the quartermaster's department, for instance, for any particular branch of that service will be for any six months or any shorter or longer time; and hence the Quartermaster General cannot in the first place make an estimate. All he can do is to make an approximate estimate; and in the nature of the case the committee can have no better evidence than he himself can furnish. The remedy, it seems to me, is not in the appropriation, but in the expenditure of the appropriation.

• If it is fair to assume that the appropriations made by Congress fall into the hands of honest, faithful men, then there need be no particular apprehension about the appropriations. Suppose an appropriation of \$50,000,000 be made for the quartermaster's department for the single item of transportation, specifically. Upon the assumption that the officers of that department are faithful and honest, where is the harm?

Mr. TRUMBULL. If the Senator from Maine will allow me I should like to inquire where would be the harm, then, according to that argument, to just say to the Executive in a bill of five lines that he shall have all the money that he wishes to carry on the war, and could take it out of the Treasury? If our officers are all honest and faithful they will only take what is proper.

Mr. FESSENDEN. If my colleague will pardon me, I will ask the Senator from Illinois whether he means that we in making the appropriation shall say, You shall have so much for railroads, so much for steamboats, so much for sailing vessels, so much for mules, so much for wagons? If that is what he means I should like to have him sit down and do it.

Mr. TRUMBULL. Perhaps not all those items, but I think there might be some subdivision of them; something better than a mere appropriation of two or three hundred millions. I have not before me what the amount for the year is, but I suppose it will amount to about two hundred million dollars for transportation. I should like to be informed as to the amount.

Mr. FESSENDEN. This is a deficiency for this year.

Mr. TRUMBULL. I know this is a deficiency; but what is the appropriation for the year for this item?

Mr. FESSENDEN. I forget. I suppose it will be something like the appropriation for last year.

Mr. TRUMBULL. Probably \$100,000,000.

Mr. FESSENDEN. More than that.

Mr. TRUMBULL. Two hundred millions probably. I think there might be some restriction.

Mr. FESSENDEN. I should like to have the Senator make it.

Mr. MORRILL. It seems to me, therefore, the committee in the nature of the case are obliged to make such appropriations as the department having that particular branch of the service under consideration ask for; and in that view I should have no hesitation in voting the appropriation provided I had confidence in the department asking the appropriation. Now, sir, I am sorry to say, and I am sorry to feel obliged to stand here as a sense of duty to say, that in the case of the quartermaster's department of the Army I have not that confidence which would enable me to vote an unlimited appropriation for expenditure under the direction of the officer at the head of that department.

Mr. CONNESS. Will the Senator permit me a moment?

Mr. MORRILL. Certainly.

Mr. CONNESS. I should like to ask the Senator, even in that view of the case, how he can help it; whether the war must not go on? Even though the quartermaster's department may not be fit to be trusted, yet where is there a remedy? Must not the appropriations continue to be made? Otherwise, how shall the war be continued? Will you send your armies to battle without supplies?

Mr. MORRILL. I was about to say what remedy possibly Congress might have over a subject of that sort; and that is, in supervising the expenditure. Now, I want to state a case within my own knowledge touching this branch of the service, and touching this question, as I think.

The Senate a year ago or more directed a special committee to investigate certain charges which had been preferred against the quartermaster's department in the outfit of the Banks expedition, so called. The committee, in the discharge of their duty, proceeded to New York to investigate the outfit of that expedition. They found that a steamer called the Niagara had been chartered for that expedition at a cost of some six hundred dollars a day, that she had proceeded on her voyage carrying some five or six hundred soldiers, and the first night out had foundered and put into Philadelphia, was there condemned as unseaworthy by the inspectors, and forbidden to go to sea. The troops were disembarked and sent to their place of destination in other transports. The committee further found on testimony from the best men connected with the service in New York, inspectors of the port and persons who had been familiar with the character of that vessel since she came upon that route, that she was notoriously unseaworthy. In the language of one of the inspectors who had given special attention to her, and who testified that he had known her since she was brought there from the lakes, she was so rotten and defective that he would not put a dog on board of her to go to sea unless he wished to drown him; and furthermore, that she was not only unseaworthy but she was not even suitable to run upon the North river.

With the knowledge of that fact reported by the committee to the Senate, and published by the Senate, and of course within the knowledge of this department, the quartermaster's department purchased that vessel to run to New Orleans, and there to be employed in the service on the river, for the sum of \$30,000—paying \$30,000 for a vessel known by the department to have been condemned as unseaworthy, so rotten and decayed as to be unfit for any service at all. An inspector of the Government at New York had declared that her value consisted alone in her iron and her machinery, and that the whole of it was not worth over six or seven thousand dollars. With that knowledge testified to, and reported to the Senate, and by the Senate published to the country, this quartermaster purchased her at the sum of \$30,000.

That is not all, sir. With this evidence before the country and before the department thus authoritatively by a committee of the Senate, that committee declaring as its conclusion that she was unseaworthy, and that the charter was a fraud on the Government by the contractor, and ought to be canceled and the contractor held to responsibility—with the knowledge of that evidence and those facts, that quartermaster, since this Congress has convened, has sent an account made up for her service of some twenty-five thousand dollars to the Comptroller, to be audited and paid this claimant, when that vessel performed no service

except the service from New York to Philadelphia under the circumstances I have related.

Sir, I take no especial pleasure in stating these facts; but they are facts ascertained by a committee of the Senate.

Mr. JOHNSON. I will ask the Senator whether he did not offer a resolution to inquire into the subject some time ago?

Mr. MORRILL. Yes, sir.

Mr. JOHNSON. Has it been answered?

Mr. MORRILL. It has.

Mr. JOHNSON. I should like to know what the answer is.

Mr. MORRILL. I am inquired of by the Senator from Maryland whether a resolution of inquiry was not offered in the Senate some days ago in relation to this subject. There was; and an answer has been made to the effect that such an account has been presented but has not been paid. I have followed the account to the Second Comptroller and to the Auditor, and know the fact that the account was sent to the Second Comptroller, and it not being passed and audited there, was afterwards presented to the Second Auditor. Since that resolution was introduced into the Senate it has been withdrawn by the quartermaster.

Now, in answer to my honorable friend from California, I suggest that there ought to be some remedy over the expenditure of these large appropriations which I agree the committee is bound to report to the Senate.

Mr. CONNESS. I have but a word to say, sir, on the statement now made by the honorable Senator from Maine. I cannot conceive, notwithstanding this important statement that he has made, that a corrective can be applied by limiting the appropriations. I do not think the remedy is there; but I will suggest a remedy.

Mr. MORRILL. If the Senator will pardon me, I agree that the remedy is not in that direction.

Mr. CONNESS. Very well. Then I will take the responsibility, on the statement made by the Senator from Maine, of which we can have no doubt as it is stated by him, to meet just that class of cases, and meet them by meeting that one first; and that is by a resolution passed by this Senate requesting the President of the United States to dismiss that officer from the head of the quartermaster's department. I undertake to say further, that if the President of the United States retains such a man in such a position, with such facts proven, he perverts the executive function; and finding that that was done, I would then resort to a resolution by the Senate requesting his dismissal from the public service. I am prepared also, I will say further, upon such a state of facts to introduce such a resolution.

Mr. HOWARD. I merely rise to make an inquiry of the Senator from Maine, whether it is within his knowledge that the facts which he has just narrated have been brought home to the knowledge of the President of the United States?

Mr. MORRILL. I have no information on that subject.

Mr. FESSENDEN. I suppose my colleague did not mean to say that the Quartermaster General personally had anything to do with this, but some inferior officer in the department.

Mr. MORRILL. I mean to say that what I have stated was done with the knowledge of the Quartermaster General, as I understand.

Mr. CONNESS. That is the way I understood it.

Mr. HOWARD. I concur then cordially with the suggestion made by the Senator from California, that if these facts are so, and I see no reason to doubt them, as they are narrated upon the credit of the Senator from Maine, it is high time they were laid before the President of the United States in order that he may exercise his proper functions upon the case, and dismiss that officer in disgrace from the service of the United States, if it shall turn out that these facts are substantially true.

Mr. SHERMAN. I have nothing to say in regard to the Quartermaster General of the United States. That is a matter that he must answer upon his official responsibility; but I wish to call the attention of the Senate to one very important departure in the intercourse between the executive and legislative departments.

When I first became a member of the House of Representatives the annual letter of the Secretary

of the Treasury always conveyed to us the estimates, and the appropriation bills were framed upon those estimates. If any other Department of the Government called for appropriations, the estimates were sent to the Secretary of the Treasury to know whether or not they were proper. That was the practice then. I want to call the attention of the Senate to this important change. The estimates do not now come from the Secretary of the Treasury. None or very few of the estimates that are included in this deficiency bill come to us from the Secretary of the Treasury. At the beginning of the annual estimates submitted to us by the Secretary of the Treasury there are estimates for deficiencies amounting to \$4,180,581 13. That is all that by law the Secretary of the Treasury provided for. He submits these deficiencies to us, and we are bound to recognize them as proper, unless Congress thinks differently. But the whole of the estimates of the War Department come to us directly, not through the Secretary of the Treasury. What is the effect of it? How can any person, how can any Secretary of the Treasury tell what he will be required to furnish day by day, or month by month, or year by year?

Mr. FESSENDEN. The Senator is certainly mistaken. All the deficiencies that were known at that time were submitted to the Secretary of the Treasury. These other deficiencies have all been ascertained since. There was no need of sending them to the Secretary. They come directly to us while the bill is before us.

Mr. SHERMAN. Then this remarkable state of facts occurs: on the first Monday of December, when these estimates were submitted to us, there was only a deficiency of \$4,180,000; and in the War Department only a deficiency of \$156,000. Now, does the Senator see, or can he see, where all these deficiencies, amounting to nearly a million dollars, have grown up since this estimate was submitted to us?

Mr. FESSENDEN. If the Senator will look at the bill he will find that there are only two items in it for the War Department. One is that very \$156,000, and the other is for the salary of the new Secretary, created by a bill which we ourselves have passed at this session. That is the only deficiency that was known.

Mr. SHERMAN. The amendment last offered by the Senator from the Committee on Finance embraced over fifty million dollars for the War Department.

Mr. FESSENDEN. One hundred million; and what are the facts? Did the Senator attend to the reading of the letter of the Secretary of War? They come up in consequence of the proclamation which the President has issued since that book of estimates was printed and sent to us calling out two hundred thousand more men.

Mr. SHERMAN. I do not think that is a sufficient explanation.

Mr. FESSENDEN. Here are all the items in this letter. The Senator can look at them.

Mr. SHERMAN. I have seen them. That is not sufficient to account for this large deficiency.

There is another important consideration. By the Constitution of the United States the House of Representatives is the body that must control the expenditures in a great measure. They are made the guardians of the public Treasury. This Senate is not. From its peculiar organization it is supposed not to have charge of financial questions, taxes, and the like; and therefore it has been the practice of the Government for appropriation bills to originate in the House of Representatives. I am not technical about the rights of the two Houses; but I wish to call attention to the fact that this communication for these large expenditures is not sent to the House of Representatives, at least until after they have passed the deficiency bill.

Mr. FESSENDEN. Because it was not known until after they passed the deficiency bill.

Mr. SHERMAN. The deficiency bill came to us a good many days ago; and how long is it since that proclamation was issued? I am calling attention to these facts to show that the executive department does not observe those rules and restraints which in times of peace have been held to be necessary. It seems to me we ought to enforce those rules.

Mr. FESSENDEN. I take upon myself to deny the statement made by the honorable Sena-

tor from Ohio entirely. The estimates are made precisely in the same way under this Administration that they always have been. All the deficiencies that are known at the commencement of the year are given to the Secretary of the Treasury, and by him are sent in, as they have been heretofore. After the session commences divers other deficiencies are found; and they always have been since I have been in Congress; and in the course of the examination of a deficiency bill we have communications from the several Departments stating what they have discovered or what they want. It is sometimes found, as in this instance, after the committee has reported the bill. This deficiency bill as originally reported to the House of Representatives was reported several weeks since, before the President's proclamation was issued, and it passed the House of Representatives a fortnight since. The estimates could not be made up in an instant. As soon as the proclamation was issued and the Departments had time to turn round they sat down and made their estimates for the expenditures occasioned by this new proclamation calling out additional men and sent them here. They are sent to the body that has the bill in charge—the body is acting upon it. They were sent here for the reason that we had the bill. It is the customary and ordinary mode of proceeding. I know from my acquaintance with the course of business on the Committee on Finance that there has not been the slightest departure in any one particular from the ordinary course of business about it; and I do not think my friend from Ohio will be able to point out any such departure.

As to the principle that he lays down in regard to these appropriation bills, I say the House of Representatives has no more right under the Constitution to originate an appropriation bill than the Senate itself, and the Senator cannot find it anywhere. The custom has grown up in the House to start them. I am very glad it has, because it saves me a great deal of labor, and we have submitted to it. But once since I have been a member of the Senate we examined this whole subject of the constitutional right of the Senate to originate an appropriation bill, and we decided here unanimously that we had that right, and we passed an appropriation bill and sent it to the House. The House put itself on its dignity. They did not undertake to say we had not the right to introduce it, but they laid it on the table, and sent us back the same bill *verbatim* as it originated with us as a House bill. That is all the difference. There was no departure from our bill at all. We submitted to it, because we did not want to have a quarrel.

Mr. SHERMAN. The Senator from Maine undertakes to correct the statement I made, and he is erroneous in his statement. This bill passed the House of Representatives and was sent to us on the 27th of January, 1864. I say that nearly all the items that have been put on this bill were within the reasonable knowledge of the War Department, and within the knowledge of these various Departments, and might have been sent to the House of Representatives. I know it has always been a dispute whether the Senate can originate an appropriation bill, and that depends on the construction of the language of the Constitution whether an appropriation bill is a money bill.

Mr. COLLAMER. The Constitution uses the words "revenue bill."

Mr. SHERMAN. At any rate there was always a controversy between the two Houses on that point. The Senator has referred to the case where the Senate originated an appropriation bill. The House, if I remember aright, unanimously laid that bill on the table, and then took up the bill *seriatim*, and sent it back as a House bill. There was no objection to the items in the bill, but the House refused to pass it because it originated in the Senate.

My only design in calling attention to this subject was to make this remark, that it is absolutely impossible for the Government to be carried on unless there is more information, harmony, and acquiescence in its various Departments. It is impossible for the Treasury Department to know how much money is to be provided for a certain purpose unless the estimates are submitted to the Treasury Department. I know that a practice has grown up recently of throwing these deficien-

cies into either House by bureaus and by heads of Departments. I have not complained of it, but only wish to show that it is not in accordance with the original practice of the Government, and I think the correct practice of the Government.

Mr. HALE. I simply rise to ask what is the question before the Senate.

The VICE PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from New Hampshire.

Mr. HALE. Let the amendment be read.

The Secretary read it, as follows:

For temporary storehouse for provisions at the Boston navy-yard, \$2,000.

Mr. JOHNSON. The statement made by my friend from Maine [Mr. MORRILL] affects the character of an officer of this Government with whom I have had some personal acquaintance for many years, and for many more years an official acquaintance. This is the first time that I ever heard he was ever suspected of doing anything designedly wrong; and it was therefore that I asked my friend from Maine whether the resolution of inquiry had been answered and how it had been answered. I have not seen the answer. I understand, however, the answer to be that the money was not paid; that the account sent in by the deputy quartermaster to be audited and settled had not been paid. Now if the honorable member from Maine spoke from his own personal knowledge, that the acts which he has detailed to us were known to the Quartermaster General, and that he authorized the purchase of the vessel, it would present him in an attitude in which it would be the duty of the President of the United States I think at once to interfere by his removal.

I do not understand the honorable member to state that he has any personal knowledge on the subject at all. He supposes that the Quartermaster General was informed, first, of the appointment of the committee, and, second, of the result of the investigation, and that he purchased the vessel with that knowledge. Now I cannot suppose that there was actual knowledge brought home to him before the vessel was purchased that these acts had been done. The transactions in that department are so numerous that I can very readily believe an investigation into any particular transaction is not at all times in the mind of the Quartermaster General. I should be very unwilling to believe, without proof which would leave the mind free from all doubt, that the Quartermaster General, who has reached now a life of some fifty years, was capable of a transaction so gross as that which has been stated by the Senator, provided he was acquainted with all the facts.

I only rose for the purpose of saying that when the credit of an officer of the Government, whether he be a high officer or a low officer, is impeached on the floor of the Senate, it is but just—and nobody, I am sure, would recognize the justice of it more readily than the honorable Senator from Maine—that he should have an opportunity of defending himself in some way or other.

Now, in relation to the other matter stated by my friend from Ohio as to the mode in which these estimates are sent in, I think the trouble arises very much from what I understand is a practice, so far as I know, for the first time adopted by the present Administration. From what I can learn they have no Cabinet meetings. I do not know what the practice of General Washington's Administration was; but in all the antecedent Administrations, except, perhaps, his and that of Mr. Adams, nothing was done of a general nature which affected the country at large, more particularly when the country should happen to be in a state of war, which was not brought home to the knowledge of every member of the Cabinet, and his opinion taken as to the influence of a particular measure proposed upon his own Department, as well as his opinion upon the propriety of measures with reference to the country at large. I understand that the practice which has been adopted by this Administration is, when the Secretary of State wants to effect anything in his Department he comes and speaks to the President for himself, and the first knowledge any other member of the Cabinet gets of what is going on is when he sees it in the newspapers; and so in relation to the other members of the Cabinet.

I have no potential voice with the President. If I had I would try to keep him in a path much

straiter than the one he is pursuing. I believe that he and his Cabinet are doing what they understand to be for the best. If I believed what I have heard coming from his friends on this floor in relation to him and his Cabinet I should think the sooner we got rid of the whole of them the better for the country. But I suggest the mistake arises from the very fact of their not getting together and deciding for themselves in joint council what is the best policy to be pursued. The President is entitled not only to the advice of each individual member of his Cabinet, but he is entitled to the advice of every member, not given separately to him, because he does not hear what are the opinions of the other members. He may not be as well informed as the other members of the Cabinet, and the collective wisdom may be a great deal better than the wisdom of any one member of the Cabinet. We have been going on in this way, I fear, from time to time ever since this Administration came into office, not from any practice that they thought would lead to any bad result, but from the fact that the antecedent usage has been departed from. I speak from some personal knowledge of what the usage has been, and I will be confirmed in that by my friend, the honorable member from Vermont, [Mr. COLLAMER.] Nothing was ever done during the Administration of General Taylor without the knowledge and approval or disapproval in part, if anybody disapproved, of every member of the Cabinet.

Now the Secretary of the Treasury, who ought to be advised of what are to be the demands on his Department, cannot, in the nature of things, know what they are to be unless the Secretary of War tells him, or the President tells him, "It is probable we shall call for some two or three hundred thousand men." But as I understand it, according to their practice, and according to their practice it must be so, the President determines to make a call for some two hundred thousand men without consulting the Secretary of the Treasury, or without consulting anybody but the Secretary of War. The call is made, and the attention of the Secretary of the Treasury is first called to it by seeing in the gazettes of the day a proclamation from the President calling for five hundred thousand more men. He sees what the trouble is to be in his Department; he sees, or may fancy that he sees, almost bankruptcy. It is enough to run the man mad. That would be bad in itself to those who know him; but it is enough to run the country mad, as I think.

I hope, therefore, that more potential voices than I can claim for my voice will inculcate upon the President, and upon every member of the Cabinet, but especially upon the President, that it is important he should on all these occasions take the advice of his Cabinet; and if he cannot get a united Cabinet, if there is a difference among them which cannot be reconciled, if there are any personal animosities among them, let him get rid of them, and get men who can agree.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

Mr. FESSENDEN. I should like very much to finish this bill to-night. I think we can do it now. The debate is almost concluded.

Mr. WILSON. At the request of the chairman of the committee I most willingly withdraw my motion.

The VICE PRESIDENT. The question then is on agreeing to the motion proposed by the Senator from New Hampshire.

The amendment was agreed to.

Mr. HENDRICKS. The chairman of the Committee on Public Lands, who was compelled necessarily to leave the Senate a few minutes ago, desired me to offer this amendment—an amendment which he was instructed by the Committee on Public Lands to propose to this bill.

Mr. CONNESS. I wish to make a motion in relation to adjournment.

Mr. FESSENDEN. You cannot make it until this bill is finished.

Mr. CONNESS. I wish to move that when the Senate adjourns to-day, it adjourn to meet on Monday next.

Mr. FESSENDEN. That will depend on whether we finish this bill to-night.

The VICE PRESIDENT. The amendment proposed by the Senator from Indiana will be read.

The Secretary read the amendment, to insert after line seventy of the bill the following:

That the salary of the Assistant Secretary of the Interior shall hereafter be the same as that of the Assistant Secretary of the Navy; and the sum of \$500, or so much thereof as may be necessary, is hereby appropriated for the payment of such salary for the remainder of the current fiscal year.

Mr. FESSENDEN. I hope that amendment will not be adopted by the Senate.

Mr. HENDRICKS. If it had not been for the suggestion of the Senator I was just going to say that I presumed no Senator would object to this amendment. It places the First Assistant Secretary of the Interior, in respect to his salary, precisely in the same position as the principal assistant in the other Departments. Why shall it not be so? Will the Senator from Maine, or any other Senator, say that the Secretary of the Interior ought to have a less salary than the Secretary of any other Department? If the rule ought to apply to a Secretary—and they ought all to be equals in respect to salary—ought not the First Assistant Secretary of the Interior to be equal in respect to his salary to the First Assistant Secretary of any other Department? It seems to me the announcement of the proposition is sufficient without argument.

I need not speak of the Assistant Secretary of the Interior. He is known to all Senators. He brings to that important position very substantial abilities and very highly accomplished attainments; and I hope this amendment will be adopted. It is right and fair.

Mr. FESSENDEN. The Senator is not familiar with the previous legislation on this subject, I think. There are but two of the Assistant Secretaries who receive more than three thousand dollars: one is the Assistant Secretary of the Navy, and the other the Assistant Secretary of the Treasury. I regret very much myself that the salary of either of them was raised, because it has led us into very great difficulties. At the last session of Congress a proposition passed the House of Representatives to increase the salary of the Assistant Secretary of State to \$4,000. We rejected it in the Senate. The Committee on Finance reported against it. The reason was that as soon as that bill was introduced propositions came in from all the other Departments pretty much, from the Department of the Interior and from the Post Office; that is to say, from the Assistant Postmasters General, and from all except the Assistant Secretary of War. The Assistant Secretary of War has an infinitely harder place than the Assistant Secretary of the Interior, and he receives but \$3,000. We have made another Assistant Secretary of the Treasury in this bill, and we have fixed his salary at \$3,000. We struck out \$4,000, as it stood in the bill as it came from the House of Representatives. Senators must be aware that the moment they extend this matter any further they must necessarily increase the salaries of the whole of these Assistant Secretaries.

It is but very recently that there was any Assistant Secretary of the Interior at all. The bill creating that office was passed a few years ago. I think it is since this Administration came into power that we made an Assistant Secretary of the Interior. There never had been one before. They got along without it.

Mr. TRUMBULL. What necessity is there now for the office?

Mr. FESSENDEN. That is a question that is gone by. But the Secretary of the Interior applied for an assistant. He gave his reasons for it. They were thought sufficient. We gave him an Assistant Secretary and the salary he asked for him. The present Secretary of the Interior took the office of Assistant Secretary under the then Secretary. Everybody knows that there is not anything like the business in that Department now that there has been heretofore. It has fallen off very much in the Patent Office, very much in the Land Office, although it has increased very considerably in the Pension Office. But since this Administration came in we have given them a new officer, and now the new officer comes in and claims to have his salary raised on account of the labor.

I have as much respect for that officer individually as I have for any of the Assistant Secretaries. He is a man of ability, a man of integrity, and I dare say a most estimable gentleman; but there is no reason why we should raise his salary

in particular; or at least there is less reason for raising his salary than that of almost any other Assistant Secretary in the Government; for while the business of the other Departments has very largely increased the business of that Department as a whole has not increased at all. As I said before, we made him, or rather his predecessor, who is now the Secretary of the Interior, Assistant Secretary when there was no assistant before in that office. Why should we raise his salary now and bring upon ourselves the necessity of increasing the salaries of all the Assistant Postmasters General and of all the other assistants in the different Departments? As I said before, we made a mistake, in my judgment, in ever raising the salary of any of the assistants from \$3,000 in the first instance; but we stopped at the last session on a full discussion of the matter, and I hope we shall adhere to our determination as then expressed.

Mr. HENDRICKS. My understanding is that the Assistant Secretary of the Navy, of the Treasury, and of War, get \$4,000 each.

Mr. FESSENDEN. The Assistant Secretary of War has but \$3,000; and the business of that Department is infinitely larger than that of the Department of the Interior.

Mr. HENDRICKS. The Second Assistant Secretary of War gets but \$3,000; but my understanding is that the First Assistant gets \$4,000.

Mr. FESSENDEN. He gets but \$3,000, and more than that, he said he would resign if we raised his salary.

Mr. HENDRICKS. I did not anticipate that there would be any hostility to a proposition which seemed so entirely fair as this. As opposition shows itself, if the bill is not likely to pass to-night, and the amendment can be proposed on Monday morning, I will withdraw it until the chairman of the Committee on Public Lands is in his seat, because I desire his assistance. I do not want this proposition to be defeated. Before I take my seat I desire to say that the Committee on Public Lands felt it proper to present this amendment for the reason that among their other duties is found the duty of revising all the operations of the General Land Office. I will withdraw the amendment for the present.

Mr. TRUMBULL. That being withdrawn, I wish to suggest an amendment, to strike out lines sixty-eight, sixty-nine, and seventy, on page 4 of the bill, in the following words:

For compensation of the surveyor general of Arizona and the clerks in his office, \$4,250.

Now, sir, when the bill to create the Territory of Arizona was under consideration I opposed its passage. I did not think there was any necessity for any such Territory there; and among other reasons which I gave was that it was incurring an unnecessary expense for the salary of Governors and judges and surveyors and other officials.

The Senator from Wisconsin [Mr. DOOLITTLE] I remember—I think it was he—replied to me that these officers were not to be paid until they entered upon the discharge of their duties down in Arizona. I know I made the point that the officers could not go there, and that it would be incurring an expense for nothing. I was answered and it was put in the bill that they should have no pay, and here it is in the law:

"No salaries shall be due or paid to the officers created by this act until they have entered on the duties of their respective offices within the said Territory."

I want to know from the chairman of the Committee on Finance if this surveyor general and his clerks have ever been there at all.

Mr. FESSENDEN. I confess my inability to answer the question.

Mr. TRUMBULL. Then I hope he will consent to strike it out.

Mr. FESSENDEN. I find the estimate coming from the Interior Department. There are four items coming from the Interior Department. Three of them were stricken out. We have left the fourth, thinking as the law provided for these officers it was well enough to make an appropriation.

Mr. TRUMBULL. But the law provided that they should not be paid unless they had been there.

Mr. FESSENDEN. These appropriations all came from the House; and I confess that having exercised the pruning-knife so strongly, cutting off three fourths, three out of the four items, I

thought it would seem no more than reasonable under the circumstances to leave the fourth. [Laughter.]

Mr. DOOLITTLE. The Senator from Illinois is a very good reasoner provided you give him the premises to stand upon. He assumes that there is no surveyor general in Arizona; but, unfortunately for his argument, his assumption is a false one. There is a surveyor general in Arizona.

Mr. TRUMBULL. That is what I wanted to know.

Mr. DOOLITTLE. That is a fact. He went on last fall.

Mr. TRUMBULL. Who is he?

Mr. HOWARD. Has he got there yet?

Mr. DOOLITTLE. I have not received a communication from him since he went to Arizona; but I had a communication from him from Santa Fé while on the way. Has not the Governor entered on his duties?

Mr. TRUMBULL. I suppose not; and I hope there is no appropriation for him. I shall oppose it if it comes in.

Mr. DOOLITTLE. Certainly; I suppose he is in Arizona long ago.

Mr. TRUMBULL. No, sir; there never has been a Governor there; and I do not believe the surveyor general has done any duty there at all.

Mr. POMEROY. Yes, sir; they are all there.

Mr. HOWARD. The Governor and judges started some time ago, in September or October, to go there, and have been traveling ever since. They are on their road there. I do not know whether they have reached there or not as yet.

Mr. FESSENDEN. As my friend from Michigan suggests that they have started to go there and are on their way, it is our business to make an appropriation, and the business of the Executive Government not to pay them until they have entered on their duties. We should make the appropriation, otherwise they will not be able to pay them.

Mr. TRUMBULL. But this is a deficiency bill. We should appropriate for that in a general bill.

Mr. FESSENDEN. Considerable time will elapse between now and the 1st of July next.

Mr. TRUMBULL. Then it is providing for a deficiency before it occurs. I understand some gentleman from Wisconsin was appointed surveyor general. My friend from Wisconsin may be able to tell us his whereabouts; but I am informed that no surveying has been done in Arizona. I may be incorrectly informed. I should like to inquire of the Land Office to know whether there has been any surveying done there. It appears that he has had several clerks in his office, and we are to pay him for his salary and that of his clerks \$4,250. I do not remember what the salary of the surveyor general is, but I think that that would certainly pay his salary for a much longer period than he can have been there. One of the arguments used to pass that bill was that they were not to be paid until they entered on their duties there. Now I want to hold gentlemen to the arguments that they presented when they got that bill through the Senate, to create a Territory that we did not have any control of. I am very sure no Governor went to the Territory last summer, because Mr. Gurley, of Ohio, who was appointed Governor, died, and he never went to Arizona. That is very certain.

Mr. DOOLITTLE. And Mr. Goodwin, of Maine, was appointed Governor of Arizona, and is undoubtedly in Arizona discharging the duties of his office. I received a communication at the commencement of this session from some of these gentlemen from Santa Fé, and they were then on their way.

Mr. POMEROY. I saw all these Government officers on their way last summer after they left the Missouri river, crossing the plains. I presume they are there now. They had all got an outfit, and were on their way with an escort.

Mr. DOOLITTLE. I agree entirely with what my friend from Illinois says, that the Arizona bill expressly provided that the salaries of these officers should not begin until they got there. That is all perfectly right.

Mr. CONNESS. Do I understand the Senator from Kansas to say that these gentlemen went out there with a military escort?

Mr. POMEROY. Yes, sir; I undertake to say

that. They got their escort at Fort Leavenworth furnished by the Government.

Mr. CONNESS. Then all I have got to say is to suggest to the Government that they continue to draw all the officers for the Territories in the extreme West from the extreme East. Wherever they can find a man in the East who wants an office, let them send him to the extreme West with a military escort. It will not cost much.

Mr. DOOLITTLE. My friend from California will allow me to suggest that he is a little mistaken when he regards Wisconsin as in the extreme East. Wisconsin is just the center.

Mr. CONNESS. I forgot about the Wisconsin man.

Mr. DOOLITTLE. And when, in the good time coming in the future, we come to embrace all North America within the United States Wisconsin will be just about the center of the whole.

Mr. GRIMES. I should like to inquire whether these surveys were made under military escort?

Mr. POMEROY. I do not know whether any surveys were made. I am talking about the officers of the Territory; and by the way, as their traveling expenses are not paid by the Government it does not make much difference to the Government whether they come from Maine or California.

Mr. TRUMBULL. I should like to know if the military escort is not under pay?

Mr. POMEROY. Yes, sir.

Mr. TRUMBULL. Then it does cost something.

Mr. POMEROY. But no more than if they remained at Fort Leavenworth. The escort get no extra pay for going out there. I forgot to state that the secretary of New Mexico, who has been a secretary for years, and was entitled to an escort, was with them when I saw them.

Mr. TRUMBULL. Is a secretary of a Territory entitled to a military escort?

Mr. POMEROY. We never have sent a secretary to New Mexico without an escort.

Mr. NESMITH. I move that the Senate do now adjourn.

HOUSE BILL REFERRED.

The VICE PRESIDENT. The Chair before putting that motion will lay before the Senate a House bill for reference.

The bill (No. 120) to reestablish the principal port of entry for the district of Champlain at Plattsburg, and for other purposes, was read twice by its title, and referred to the Committee on Commerce.

REPORT FROM A COMMITTEE.

Mr. HOWARD. I ask the unanimous consent of the Senate to make a report from the Committee on Military Affairs. ["No objection."] The Committee on Military Affairs and the Militia to whom was referred the bill (S. No. 37) relating to the interference of military and naval officers in elections, have had the same under consideration and have instructed me to report it back to the Senate with a recommendation that it do not pass, accompanied also by a written report, which I ask to have printed.

The report was ordered to be printed.

The VICE PRESIDENT. The question is on the motion of the Senator from Oregon that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 12, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. YEAMAN asked leave of absence for four weeks, on account of pressing business in Kentucky.

Leave of absence was granted.

CONTINGENT EXPENSES OF THE HOUSE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Clerk of the House of Representatives, transmitting his annual report of the contingent expenses of the House of Representatives; which was laid on the table, and ordered to be printed.

POST OFFICE FINES AND DEDUCTIONS.

The SPEAKER also laid before the House a communication from the Post Office Department, transmitting statement of fines imposed on and deductions made from the pay of contractors during the year ending 30th June, 1863; which was laid on the table, and ordered to be printed.

DISTRICT COURT IN INDIANA.

Mr. ORTH asked unanimous consent to have taken from the Speaker's table and passed an act (S. No. 100) authorizing the holding of a special session of the United States district court for the district of Indiana.

There being no objection, the bill was taken up, and read a first and second time.

Mr. ORTH demanded the previous question on the third reading.

The previous question was seconded and the main question ordered; and under its operation the bill was read the third time, and passed.

Mr. ORTH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSCRIPTION.

Mr. SCHENCK. I ask whether the report of the Committee of the Whole on the state of the Union on the conscription bill does not come up in order this morning as the unfinished business?

The SPEAKER. It does.

Mr. KELLOGG, of New York. Will the gentleman from Ohio yield to me?

Mr. SCHENCK. I wish first to make an explanation to the House. I am instructed by the Committee on Military Affairs to ask consent of the House to take up this bill at two o'clock to-day. The bill has just come in from the printers, and gentlemen would perhaps like to run their eye over the amendments reported from the Committee of the Whole on the state of the Union before voting on them. We think it right that they should have the opportunity of doing so. If that arrangement can be made I propose to go on with the bill at that time.

There being no objection, the bill was postponed till two o'clock to-day.

Mr. SCHENCK. I wish to advise gentlemen of one or two modifications that are necessary to be made in the printed bill. For instance, in section seven, the commutation to be paid by Quakers is printed at \$400. It should be \$300. There should also be added to section twenty-six the amendment adopted on the motion of the gentleman from Missouri:

And in all cases where slaves have been heretofore enlisted in the military service of the United States, all the provisions of this act, so far as the payments of bounty and compensation are provided, shall be equally applicable as well as to those who may hereafter be recruited.

CHAMPLAIN COLLECTION DISTRICT.

Mr. KELLOGG, of New York. I ask consent that the chairman of the Committee on Commerce may report back a bill recommended by the Secretary of the Treasury, in which my constituents are interested.

Mr. WASHBURN, of Illinois. It is a bill for removing the port of entry in the Champlain collection district. The bill, as introduced, provided also for an increase of salaries. The Committee on Commerce refuse to recommend an increase of salaries, and only recommend that portion of the bill which has a local interest.

Mr. HOLMAN. If the amendment of the committee be concurred in, I will have no objection.

There being no objection,

Mr. WASHBURN, of Illinois, reported back a bill to reestablish the principal port of entry for the district of Champlain at Plattsburg, and for other purposes.

The bill repeals the act of March 3, 1863, changing the port of entry for the Champlain district from Plattsburg to Rouse's Point, and reestablishes Plattsburg as the principal port of entry for that district, at which the collector of customs is to reside, with a deputy collector at Rouse's Point.

The amendment striking out the section providing for an increase of salaries was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to re-

consider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CAROLINE M. HUGHSTON.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported back the petition of Mrs. Caroline M. Hughston, and asked that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Foreign Affairs.

It was so ordered.

REPORTS FROM COMMITTEES.

The SPEAKER proceeded, as the regular order of business, to call committees for reports of a private character, commencing with the Committee of Elections.

CONSCRIPTION.

Mr. STEVENS. I want to call the attention of the House to a mistake made in the printing of the conscription bill.

Mr. STILES. I object.

LOWRIE AND GRAY.

Mr. LONG, from the Committee of Claims, reported back a bill (H. R. No. 171) for the relief of Jacob S. Lowrie and George A. Gray; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

WILLIAM G. BROWN.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of William G. Brown; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

ELI THAYER AND OTHERS.

Mr. BROWN, of West Virginia, from the Committee of Claims, reported a bill for the relief of F. A. Holden, Eli Thayer, Hannah Barton, D. W. Frisby, and Hiram Bloss; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

DARIUS S. COLE.

Mr. HOLMAN, from the Committee of Claims, reported back a bill for the relief of Darius S. Cole; which was referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

GRANT OF LANDS TO MICHIGAN.

Mr. DRIGGS, from the Committee on Public Lands, reported a bill granting lands to the State of Michigan for the construction of certain wagon roads for military and postal purposes; which was read a first and second time.

Mr. WASHBURNE, of Illinois. Is that a private bill?

The SPEAKER. It is not.

Mr. HOLMAN. I object to it, unless it be proposed to refer it to the Committee of the Whole on the state of the Union.

Mr. DRIGGS. I make that motion.

The bill was accordingly referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

CHURCH LANDS IN CALIFORNIA.

Mr. HIGBY, from the Committee on Public Lands, reported back House bill No. 179, concerning lands in the State of California.

Mr. HIGBY. Mr. Speaker, the object of this bill is simply this: these lands belong to the Catholic church, and the bishop is acting as trustee. They are in a remote part of the State, and the church desires to sell them that they may use the funds for their institutions elsewhere. I move that the bill be put on its passage.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

WASHINGTON UNIVERSITY LANDS.

Mr. HIGBY, from the Committee on Public Lands, reported back a bill to amend an act approved July 17, 1854, entitled "An act to amend an act approved September, 1850, creating the office of surveyor general of public lands for Oregon," &c., with a substitute.

Mr. COX. This is a public bill, and I object, as there are others entitled to precedence.

Mr. COLE, of Washington. This is a private bill, and I hope the gentleman will withdraw his objection.

Mr. HIGBY. I indorse what the Delegate has stated. This is purely a local matter.

Mr. COX. If there is no discussion of the bill, I withdraw my objection.

The substitute reported by the Committee on Public Lands was agreed to.

Mr. COX. Has this bill been recommended by the Committee on Public Lands?

Mr. HIGBY. The Committee on Public Lands has recommended the passage of this bill. The committee had full information on the subject before they took action. The lands have been disposed of by the Territory of Washington. They have erected thereon buildings, and have a fine, flourishing school, and they have some thirty thousand dollars as a fund out at interest. They had power to dispose of the lands. The people who have the lands, however, and to whom they were transferred by the Territory of Washington, feel uneasy with the title given, and come to Congress for a sufficient title. The bill is only for the purpose of quieting title to these lands.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COLE, of Washington, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DICTIONARY OF CONGRESS.

Mr. BALDWIN, of Massachusetts. I am directed by the Committee on Printing to submit the following report:

The committee having come to no agreement on the following resolution, report it as committed:

Resolved, That there be printed for the use of the members of the House the regular number of copies of the work prepared by the late librarian, entitled "A Dictionary of the United States Congress;" and that the Clerk of the House shall pay a suitable copyright, provided the same does not exceed two dollars per copy.

Mr. HOLMAN. I rise to a point of order. I desire to know whether such a resolution was adopted by the House and referred to the Committee on Printing?

The SPEAKER. The Chair will examine and ascertain.

Mr. WILSON. I move to lay the resolution on the table.

The SPEAKER. The gentleman who made this report can state whether this resolution was referred by the House to the Committee on Printing.

Mr. BALDWIN, of Massachusetts. It was.

Mr. HOLMAN. Does not this resolution involve an appropriation?

The SPEAKER. It does not. The money is to be paid out of the contingent fund of the House.

Mr. BRANDEGEE. I hope the gentleman from Iowa will withdraw his motion to lay on the table. It seems to me that this book is as important to this House as Barclay's Digest is.

Mr. HOLMAN. I call the yeas and nays upon the motion to lay on the table.

Mr. WILSON. I suggest to the gentleman from Indiana that we take the yeas and nays upon the adoption of the resolution.

Mr. BRANDEGEE. I call the previous question upon the adoption of the resolution.

The previous question was seconded, and the main question ordered to be put.

Mr. WILSON. I call the yeas and nays upon its passage.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 77, nays 61; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Al-ley, Ancona, Anderson, Bailey, Augustus C. Baldwin, Bliss, Brandegee, Brooks, Broomall, James S. Brown, Clay, Coffroth, Cox, Cravens, Creswell, Dawson, Denison, Denison, Dixon, Eden, Edgerton, Eldridge, Finck, Frank, Ganson, Grider, Griswold, Hale, Herrick, John H. Hubbard, Hutchins, William Johnson, Kalsfleisch, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, William H. Miller, Moorhead, Morrison, Nelson, Noble, John O'Neill, Perry, Radford, William H. Randall, Alexander H. Rice, Rogers, James S. Rollins, Ross, Scott, Smith, Spalding, Starr, John B. Steele, Stiles, Strouse, Stuart, Sweet, Thayer, Voorhees, Wadsworth, Webster, Whaley, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—77.

NAYS—Messrs. Allison, Ames, Ashley, John D. Bald-

win, Baxter, Beaman, Boutwell, William G. Brown, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Briggs, Eckley, Eliot, Farnsworth, Fenton, Gooch, Grinnell, Higby, Holman, Hooper, Hotchkiss, Hulburd, Kasson, Kelley, Orlando Kellogg, Longyear, Marvin, McBride, McClurg, McIndoe, Morrill, Daniel Morris, James R. Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Pendleton, Perham, Pike, Pomeroy, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, and Windom—61.

So the resolution was adopted.

Before the above result was announced,

Mr. HOLMAN said: I rise to a question of order before the result of the vote is announced. I do not know how the matter is to be remedied, but I am assured by the clerk who would properly have control of the file of resolutions that this resolution upon which the Committee on Printing has acted, and which they presumed was properly referred to them, was never in fact acted upon by the House and referred to that committee.

Mr. BRANDEGEE. I submit that that is no question of order.

Mr. HOLMAN. I submit that there has been a misapprehension upon the part of the committee in submitting the report to the House acting upon the supposition that the House had referred the matter to them. I suppose the House can arrest proceedings as soon as the fact was known that the ground upon which their action was predicated was erroneous.

The SPEAKER. The Chair cannot take the responsibility of arresting proceedings after the action which the House has taken upon it. The House can reverse its action by a motion to reconsider. Committees have cognizance of matters in two ways—by bills or resolutions being referred to them, and secondly, by petition. The Chair inquired of the gentleman from Massachusetts [Mr. BALDWIN] if the resolution had been referred to the committee. He said it had been, and the House has now acted upon it.

The result of the vote was then announced as above recorded.

Mr. BRANDEGEE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

Mr. HOLMAN. Upon the motion to reconsider I demand the yeas and nays.

Mr. MORRILL. If the motion to lay on the table should not prevail, would not the motion to reconsider be before the House?

The SPEAKER. It would.

Mr. MORRILL. And it would be in the power of any member to move to amend the resolution so as to allow any member who desires to have the book in his library to pay the money out of his own pocket.

The SPEAKER. The Chair cannot answer that question.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 76, nays 69; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Anderson, Bailey, Augustus C. Baldwin, Bliss, Brandegee, Brooks, Broomall, James S. Brown, Chanler, Coffroth, Cox, Cravens, Creswell, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Frank, Ganson, Grider, Griswold, Hale, Hall, Herrick, Hutchins, William Johnson, Kalsfleisch, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, William H. Miller, Morrison, Nelson, Noble, John O'Neill, Perry, Pruyn, Radford, William H. Randall, Alexander H. Rice, Robinson, Rogers, James S. Rollins, Ross, Scott, Smith, Spalding, John B. Steele, Stiles, Strouse, Stuart, Sweet, Thayer, Voorhees, Wadsworth, Webster, Whaley, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—76.

NAYS—Messrs. Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Boyd, William G. Brown, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Briggs, Eckley, Eliot, Farnsworth, Fenton, Grinnell, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Starr, Stevens, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wheeler, Williams, Wilder, Wilson, and Windom—69.

So the motion to reconsider was laid on the table.

During the roll-call,

Mr. KASSON stated that Mr. Blow was absent from the House on account of sickness.

Mr. VAN VALKENBURGH stated that his colleague, Mr. A. W. CLARK, was confined to his room by sickness.

The result of the vote having been announced as above recorded,

The SPEAKER said: As there has been a question raised in regard to this resolution, the Chair will state that upon an examination of the files and Journals of the House it has been found that upon the 17th of December last the memorial of Charles Lanman, including this resolution, was presented by the gentleman from Connecticut [Mr. DEMING] and referred to the Committee on Printing; so that the committee had cognizance of the subject.

Mr. HOLMAN. It appears, then, that the House did not in fact refer the resolution to the committee, but it was filed with a memorial under the rules.

The SPEAKER. The House did not adopt it, or it would not be before the House now; but it was referred under the rules.

Mr. HOLMAN. It would seem that under the act of 1856 members have to pay for these books or have the amount deducted from their salaries; so that the result of the vote does not materially affect the public interests. In this I may be mistaken.

RAILROAD FROM NEW YORK TO WASHINGTON.

Mr. BROWN, of Wisconsin. I ask the unanimous consent of the House to introduce a bill to provide for the construction of a line of railroad communication between the cities of Washington and New York, and to constitute the same a public highway, a military road, and a post route of the United States.

Several MEMBERS objected.

DANIEL WORMER.

Mr. W. J. ALLEN, from the Committee of Claims, reported a bill for the relief of Daniel Wormer; which was read a first and second time by its title, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

GRANT OF LANDS TO MICHIGAN.

Mr. DRIGGS. I ask the unanimous consent of the House to let the vote referring the bill in relation to a grant of lands to Michigan to the Committee of the Whole on the state of the Union be reconsidered, and let the bill be printed, and recommended to the Committee on Public Lands.

Mr. HOLMAN. It seems to me that the bill ought to be considered in Committee of the Whole on the state of the Union. I recommended the committee may report it back and put it upon its passage without due consideration.

Subsequently Mr. HOLMAN withdrew his objection, the vote on the motion to refer the bill to the Committee of the Whole on the state of the Union was reconsidered, and the bill was recommended to the Committee on Public Lands, and ordered to be printed.

CIRCUIT COURTS ON THE PACIFIC.

On motion of Mr. McBRIDE, by unanimous consent, bill of the Senate No. 51, amendatory of and supplementary to "An act to provide circuit courts for the districts of California and Oregon, and for other purposes," approved March 1, 1863, was taken from the Speaker's table, read a first and second time by its title, and referred to the Committee on the Judiciary.

SPEEDY TRANSPORTATION OF MAILS.

Mr. ALLEY, by unanimous consent, from the Committee on the Post Office and Post Roads, reported back a bill to secure the speedy transportation of the mails, and moved that the same be recommitted to the committee, and printed.

The motion was agreed to.

JOHN W. CLARK.

On motion of Mr. PATTERSON, the Committee for the District of Columbia was discharged from the further consideration of the petition of John W. Clark and the affidavits of John Brannon and McIntyre Key, and the same were laid upon the table.

PAY OF OFFICERS OF UNITED STATES COURTS.

On motion of Mr. WILSON, the Committee on the Judiciary was discharged from the further consideration of the petition of criers and officers attached to the United States courts for the south-

ern district of New York for fixed salaries; and the same was laid upon the table.

SALARIES OF JUDGES OF DISTRICT COLUMBIA.

On motion of Mr. BOUTWELL, the Committee on the Judiciary was discharged from the further consideration of the memorial of members of the bar of the District of Columbia, praying an increase of the salaries of the judges of the District of Columbia; and the same was laid upon the table.

JOSEPH FORD.

Mr. THAYER, from the Committee on Private Land Claims, reported a bill confirming the title of Joseph Ford to certain lands in Rice county, in the State of Minnesota; which was read a first and second time by its title.

Mr. THAYER. I will ask the House to put this bill upon its passage; and with the consent of the House I will make a very brief explanation of the facts on which the bill is founded.

The bill is unanimously reported by the Committee on Private Land Claims, and the facts upon which it is based are these: Joseph Ford is a private soldier in the Army of the United States. In 1855 he filed a preemption claim to one hundred and sixty acres of land situate in Rice county, in the State of Minnesota. In 1858, three years afterwards, he purchased, in good faith, a land warrant which he located upon those one hundred and sixty acres. He entered into possession and expended about twelve hundred dollars in improvements upon the land thus entered. Five years subsequently, to wit, in the year 1863, he was notified that the land warrant which he had purchased in good faith and located, and under which he had entered upon and improved those lands was invalid, for the reason that it had been obtained, as was alleged, by false and fraudulent pretenses, and that his title was consequently void. About the time of receiving this notice which, as I have said, was five years after he had purchased and located the warrant and made his improvements, he volunteered as a private soldier in the Army of the United States, and he has been in the Army ever since. It has thus been utterly impossible for him to raise the money necessary to make a fresh entry of the lands, or to buy a new land warrant. He purchased the original land warrant in good faith. It had passed through several hands, and he paid a full price for it. The invalidity of the warrant, if it be invalid, was owing probably to the neglect of the officers of the United States in issuing it originally. The committee have thought that whatever might be the state of the law with regard to the question arising as between Ford and the United States, owing to the peculiar circumstances of his case, he having abandoned his home and family in order to fight the battles of his country, and it being thus out of his power to raise a sufficient sum to pay twice for his lands, and his wife and children being in danger, unless Congress interferes for his relief, of being turned out of their home, while he is in the service of his country, the committee under these circumstances unanimously reported this bill.

Mr. WASHBURN, of Illinois. With the permission of the gentleman from Pennsylvania, I desire to say a word.

Mr. THAYER. I yield to the gentleman for that purpose.

Mr. WASHBURN, of Illinois. The case which the gentleman from Pennsylvania states appeals very strongly to the sympathy of the House, but it seems to me that in passing this bill we should be making a very dangerous precedent hereafter.

Now, as I understand the law in relation to the location of land warrants, where a land warrant is located in good faith and it turns out afterwards to be defective, the Land Office, in consideration of that good faith, permits the party to get another land warrant and thus secure his title to the land. It seems from the statement that the gentleman makes that this party would have that right precisely as any other party would have; but the gentleman makes the point that he, being in the military service, is unable to raise the money necessary to replace this defective land warrant.

Now, sir, if it be true that this land is worth \$1,200, it seems to me very strange that the money could not be raised to replace this land warrant, which at most would not amount to more than

\$100. I think this is improper legislation, and I think the House should hesitate to make a precedent in a case like this which will change the rule.

Mr. THAYER. I am not able to appreciate the point made by the gentleman from Illinois. I will, however, correct one statement of fact which he has made. The land warrant which Ford located cost him \$200.

Mr. WASHBURN, of Illinois. I did not make any point on that. I made the point that land warrants are now worth only about half the minimum price of the public lands—but seventy-five cents an acre, or a little more—and it would therefore cost about one hundred and fifty dollars to replace the defective land warrant which Ford located.

Mr. THAYER. I do not know how much it would cost to replace the warrant which was bought and located in good faith by this soldier, but I do know that he paid \$200 in cash for it in 1858, and that in the interval that elapsed between 1858 and 1863, a period of five years, he received no notice whatever affecting his title, and that during that time he made valuable improvements upon the lands which he had located.

Mr. WASHBURN, of Illinois. Was he not advised that he could, at any time after the discovery that the land warrant which he had located was defective, replace it by another land warrant?

Mr. THAYER. Certainly; I have expressly stated that in 1863, five years after locating his warrant, and after he had expended such money as was at his command in building a house for the shelter of his family and improving a portion of these one hundred and sixty acres—for that is the whole amount in controversy—he was suddenly notified by the Land Office that the warrant under which he had located his land, and which he bought in good faith, was invalid, not by any fault of his, but because, as I maintain, there was *laches* on the part of the officers of the Government of the United States in issuing a land warrant to a person who was not entitled to it.

Mr. WASHBURN, of Illinois. I wish to ask the gentleman a question, for I desire to understand this matter. He speaks of *laches* on the part of officers of the Government in issuing this land warrant. I would like to know in what respect? There is no pretense, I presume, that the land warrant issued by the Government was not a good warrant. It may have been invalid, perhaps, on account of a defective assignment, and if that be the case, if this party bought the warrant with a defective assignment, then the party who sold it to him is responsible for the amount which he paid. If we vote this man his land he not only gets the land, but he recovers from the party of whom he purchased the land warrant the whole amount that he paid for it.

Mr. THAYER. The gentleman from Illinois is entirely mistaken. It is not owing to any defect in the assignment of the land warrant. It is expressly found by the committee and shown to the committee that the invalidity is owing to the fact that it is alleged by the land officers that the warrant was originally obtained by false and fraudulent pretenses. There is no allegation on the part of anybody that the warrant is not a perfectly good warrant on its face. There is nothing on its face to put anybody on his inquiry about it. It is on its face as good a warrant as any Treasury note issued by the Treasury of the United States is on its face a good Treasury note. It was under such circumstances that the soldier bought the warrant. The assignment was perfectly regular. He had entered the land and had expended the accumulations of his toil upon it. And five years after he had purchased the warrant, thus perfectly good on its face, he is suddenly notified by the Land Office that it was obtained by the original owner from the Land Office by false pretenses. No one, I apprehend, can impute to this man any *laches* or neglect. No one can say that anybody would not be deceived in purchasing this warrant.

The gentleman from Illinois thinks that this man ought to buy another warrant and locate it. I am disposed to think that perhaps a very nice question of law might arise between the legal title of the United States and the equity of this man. I do not propose now to argue that question. I think that the circumstances of the case are such as appeal to every man in the House. On receiving notice of the invalidity of the warrant he

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

MONDAY, FEBRUARY 15, 1864.

NEW SERIES:—No. 40.

abandoned his home and family and entered the Army as a private soldier. He has been in that service ever since. His farm has been neglected, his family abandoned, and he has found it utterly impossible to raise money enough to purchase another warrant. He has before him the prospect of having to witness his home being taken from him and his wife and children turned out while he is himself engaged in bearing arms in the service of his country.

I suppose, Mr. Speaker, that this man could get his land free under the homestead law, but I am unwilling to put him to that course. The committee thought that, under the circumstances, owing to the peculiar hardship of the case, through the *laches* of the Government in putting into circulation a warrant which it subsequently alleges was obtained by false pretenses, taking into consideration the good faith of the soldier, the service he is now rendering, and the impossibility of redeeming himself through absence in the Army, I believe the House will feel disposed to pass the bill for his relief.

The question being on the engrossment and third reading of the bill,

Mr. WASHBURNE, of Illinois, called for a division.

The SPEAKER ordered tellers; and appointed Messrs. WASHBURNE of Illinois, and YEAMAN.

The House divided; and the tellers reported—ayes 90, no 1.

The SPEAKER voted in the affirmative to make a quorum.

Mr. WASHBURNE, of Illinois. The Chair has no right to vote.

The SPEAKER. The Chair has a right to vote on every question.

Mr. WASHBURNE, of Illinois. Under the rules the Chair has no right to vote unless there be a tie vote.

The SPEAKER. The Chair will have a precedent on the subject read, as he claims the right to vote. The Clerk will read from the note to page 159 of the rules of the House of Representatives.

The Clerk read, as follows:

"On a very important question taken December 9, 1803, on an amendment to the Constitution so as to change the form of voting for President and Vice President, which required a vote of two thirds, there appeared 83 in the affirmative and 42 in the negative; it wanted one vote in the affirmative to make the constitutional majority. The Speaker, (Mason,) notwithstanding a prohibition in the rule as it then existed, claimed and obtained his right to vote, and voted in the affirmative; and it was by that vote that the amendment to the Constitution was carried. The right of the Speaker, as a member of the House, to vote on all questions is secured by the Constitution. No act of the House can take it from him when he chooses to exercise it."

The SPEAKER. The Chair chooses to exercise the right in this instance.

Mr. WASHBURNE, of Illinois. I ask that the rule of the House be read.

The SPEAKER. The Clerk will read rule 7. The rule was read, as follows:

"In all cases of ballot by the House, the Speaker shall vote; in other cases he shall not be required to vote unless the House be equally divided, or unless his vote, if given to the minority, will make the division equal; and in case of such equal division, the question shall be lost."

The SPEAKER. When there is a tie vote or a ballot vote, the Chair can be required to vote; but as the House will observe, on one of the most important questions that can come before the House, a proposed amendment of the Constitution of the United States, one of the predecessors of the present occupant of the chair, (Mr. Mason,) claimed the right to vote, and the right was conceded, notwithstanding the prohibitory character of the rule then existing, but which has since been modified as just read. The Chair therefore thinks, although it is not usual to vote except in cases of a tie vote or to make a quorum, that he has the right to do so.

Mr. WASHBURNE, of Illinois. Then the Chair disregards the rule of the House.

The SPEAKER. No, sir; the Chair enforces the rule of the House.

The bill was engrossed and read the third time.

The question recurred on the passage of the bill.

The bill was passed; there being, on a division—ayes 90, noes 2.

Mr. THAYER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The House was divided; and there were—ayes 81, noes 2; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. RANDALL of Kentucky and ROSS.

The motion to reconsider was laid upon the table, the tellers having reported—ayes 114, noes 2.

AGRICULTURAL REPORT.

Mr. CLAY. I am directed by the Committee on Agriculture to report the following resolution:

Resolved by the House of Representatives, That the Superintendent of Public Printing be, and he is hereby, instructed to print one hundred thousand additional copies of the annual agricultural report for the year 1863, eighty thousand of which for the use of the members of the House, and twenty thousand for the use of the Agricultural Department.

Resolved further, That the said copies shall be bound with the plates or pictures distributed throughout the volume where the subject-matter is treated of, similar to those heretofore printed and bound for the Commissioner of Agriculture.

Mr. WASHBURNE, of Illinois. I hope that the gentleman from Michigan [Mr. BEAMAN] will present and have read to the House a petition which he has received on this subject.

Mr. BEAMAN. It is in the hands of the Committee on Agriculture.

The SPEAKER. The resolution, under the rules, must go to the Committee on Printing.

Mr. CLAY. Why?

The SPEAKER. Because it provides for printing of extra numbers of a public document.

DEPARTMENT OF AGRICULTURE.

Mr. WHALEY. I am directed by the Committee on Agriculture to report the following:

Whereas the space assigned to the Department of Agriculture, in the Patent Office building, included between the central crypt and the west wing, in the first story on the south front, is entirely inadequate to the necessities of the Department—two of the rooms within these limits being used as furnace-rooms for the Patent Office, one as a chemical laboratory, and another having recently been taken for the use of the Land Office—having but five rooms within one small store-room for the business of the Department; and whereas additional rooms are indispensably necessary for the convenience of the Commissioner, for the accommodation of the clerks engaged in the collection and compilation of statistics and in other official duties, for the better accommodation of the operations of the chemist in making agricultural tests, analyses, and experiments, and for the arrangement and exhibition of pomological, entomological, and agricultural specimens, models, and paintings: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the rooms now occupied by the Department of Agriculture there shall be, and hereby is, assigned to the said Department the suite of rooms upon the first floor included between the southwest corner and the western entrance of the Patent Office building.

Mr. MORRILL. Mr. Speaker, this is an important matter, and I hope that it will not be passed without further investigation. As I understand the purpose of Congress in creating the Department of Agriculture, it was not intended that it should grow and increase in magnitude so as to be equal to almost any Department of the Government in point of expenditures. It was created rather for the benefit of agriculture than the employment of a large number of clerks. The appropriation made last year is, I understand, already expended, and there have been additional sums expended without any authority of law whatever. I understand further that the Commissioner of Agriculture has already applied to the Senate for \$20,000 as a deficiency.

By looking at the estimates for this year I observe that there are to be two clerks employed solely for the purpose of disbursing the amount to be paid to employes of that Department. On looking at the number I find that those who are permanently employed exceed the number of those employed in the State Department, and that there is a much larger excess in the number of tempo-

rary employes. I do not believe that Congress intended so large an outlay. I do not believe it was the purpose of Congress to authorize so expensive an establishment, though no man in this House is a better friend of agriculture and agriculturists than I am. By a simple provision of a few lines creating this Department power was given to employ a chief clerk and a botanist, chemist, and entomologist for such time as their services might be needed. We have now all these permanently employed for each of the purposes indicated. The law only permitted the Commissioner to employ other persons as Congress might from time to time provide, but a draughtsman and translator have been asked for, and many other persons have been employed without the sanction of law. I do not know but all these unlicensed expenditures are necessary, but I believe that it would be wise in Congress to wait until the select committee appointed to investigate certain matters in reference to the Department can have time to report, until that committee can examine whether the moneys we have already appropriated have been wisely and properly expended, and until we know whether the rooms proposed can be set apart without inconvenience to other Departments or not.

Mr. WASHBURNE, of Illinois. I move that the resolution be referred to the select committee.

Mr. ORTH. The select committee, of which I am chairman, have no power to investigate the expenses of the Department of Agriculture.

Mr. MORRILL demanded the previous question.

Mr. RICE, of Maine. I move that the resolution be referred to the Committee on Public Buildings and Grounds.

The SPEAKER. That motion is not in order.

Mr. WHALEY. We do not upon this joint resolution propose to enter into any discussion on the subject of expenditures. We do not choose to keep that Department in a cramped condition where they have not room, at the present time, to be even comfortable. The Committee on Agriculture will probably have an opportunity hereafter to discuss this question of expenditures. I propose by this resolution, as instructed by the committee, to give them the four additional rooms which they need.

The motion to refer the joint resolution to the select committee was not agreed to.

The resolution was then ordered to be engrossed and read a third time.

Mr. FARNSWORTH. Has the resolution been engrossed?

The SPEAKER. It has not.

Mr. FARNSWORTH. I call for the reading of the engrossed bill.

Mr. MALLORY. I move that the House adjourn; and upon that I demand the yeas and nays.

Mr. COX. I move that when the House adjourns it adjourn to meet on Monday next.

Mr. WILSON. Upon that I demand the yeas and nays.

Mr. DAVIS, of Maryland, demanded tellers on the yeas and nays.

Tellers were ordered; and Mr. MALLORY, and Mr. DAVIS of Maryland, were appointed.

The House divided; and the tellers reported—ayes thirty-three, a sufficient number.

So the yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 77, nays 75; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Jacob B. Blair, Bliss, Boyd, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Eden, Edgerton, Eldridge, English, Ganson, Grider, Griswold, Hale, Hall, Harding, Benjamin G. Harris, Herriek, Holman, Hotchkiss, Hutchins, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Lazarus, Le Glond, Long, Mallory, Marcy, McDowell, McKinney, Moorhead, James R. Morris, Nelson, Noble, Patterson, Poudleton, Perry, Pike, Prunyn, Radford, Samuel J. Randall, Rogers, Edward H. Rollins, James S. Rollins, Ross, Scott, Smith, Starr, John B. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, and Fernando Wood—77.

NAYS—Messrs. Alley, Ames, Arnold, John D. Baldwin, Baxter, Beaman, Boutwell, Brandegee, Broomall, Freeman

Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas F. Davis, Dawes, Deming, Dixon, Driggs, Eckley, Eliot, Farnsworth, Fenton, Fluck, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Longyear, Marvin, McBride, McClung, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orrin, Perham, Pomeroy, William H. Randall, Alexander B. Rice, John H. Rice, Schenck, Seefeld, Shannon, Sloan, Smithers, Spalding, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, Windom, Woodbridge, and Yeaman—75.

So the motion was agreed to.

Mr. SCHENCK. Is there any question now pending?

The SPEAKER. There is a demand for the yeas and nays upon the motion to adjourn.

Mr. MALLORY. I withdraw the motion to adjourn.

Mr. SCHENCK. Is there anything to prevent proceeding now to the consideration of the enrollment act?

The SPEAKER. The question is on the third reading of the joint resolution.

The resolution being engrossed, it was then read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the joint resolution was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSCRIPTION BILL.

Mr. SCHENCK called up the consideration of the enrollment bill, and proceeded to correct several errors which occurred in the printing of the substitute offered yesterday by the Committee on Military Affairs, and concluded by calling the previous question.

Mr. STEVENS. I ask the gentleman to withdraw that demand for a moment.

Mr. SCHENCK. I will hear what the gentleman has to say.

Mr. STEVENS. I suppose, from looking over this bill, that there will be no disposition to go over all the amendments which have been made by the Committee of the Whole on the state of the Union if we can get a vote on those matters in which the substitute and the amendments differ. What I propose is that before the previous question is called we shall be permitted to offer an amendment. I propose that we shall dispense with going over those amendments of the Committee of the Whole, provided the gentleman will allow us to offer an amendment, which I will indicate, and which will make the two conform. If the House reject the amendment I offer, the question will come up as between the substitute and the original bill. If the House adopt or reject my amendment by a fair vote, of course I shall vote for the bill. My proposition is to strike out all after the word "draft," in the sixth section, and to insert in lieu thereof the words "during the time for which the person was drafted, unless the rolls shall sooner be exhausted," so as to make the section conform to the amendment which, by a very large vote, was adopted by the Committee of the Whole.

If the gentleman will allow me to offer that amendment and take a vote upon it, I think we will all agree to take a vote between the substitute and the original bill. I do not ask the gentleman to accept the amendment, but only to let us have a vote upon it.

Mr. GARFIELD. It would not do at all in the shape in which it now stands.

The SPEAKER. Unless by unanimous consent the amendment could not be voted on at this time.

Mr. STEVENS. I know that, and I am therefore asking it.

The SPEAKER. The first question will be upon the various amendments reported from the Committee of the Whole on the state of the Union.

Mr. STEVENS. I am aware of that, but a vote can be taken on my amendment by unanimous consent.

Mr. SCHENCK. I suggest to the gentleman from Pennsylvania that instead of saying "unless the roll has been previously exhausted," he shall say "unless the names placed in the box for draft shall sooner be exhausted, in which case they shall be returned to the box." If he will modify it in that way I will accept it as part of my substitute.

Mr. STEVENS. Well, I will do so.

Mr. SCHENCK. Then I will accept it.

The SPEAKER. The Clerk will now read the amendment as modified.

The Clerk read, as follows:

Strike out all after the word "draft," in the fifteenth line of the 25th page, which is as follows: "in filling that quota; and his name shall be retained on the roll in filling future quotas; but in no instance shall the exemption of any person, on account of his payment of commutation money for the procuration of a substitute, extend beyond one year; but at the end of one year in every such case the name of any person so exempted shall be enrolled again, if not before returned to the enrollment list under the provisions of this section," and insert in lieu thereof the following: "During the time for which the person is drafted, unless the names placed in the box shall be sooner exhausted, in which case the names shall be returned to the roll;" so that the clause will read:

And if any drafted person shall hereafter pay money for the procuration of a substitute, under the provision of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft during the time for which the person is drafted, unless the names placed in the box shall be sooner exhausted, in which case the names shall be returned to the roll.

Mr. GARFIELD. It seems to me that the gentleman should state in his amendment to what time he refers when he speaks of the names being placed in the box.

Mr. STEVENS. Placed in the box for draft.

Mr. GARFIELD. The names are in the box for draft all the while.

Mr. STEVENS. The amendment refers to the names in the box at the time the commutation money is paid.

Mr. GARFIELD. If it refers to the names in the box at the time the commutation is paid that will do; but if it does not it will not do at all.

Mr. STEVENS. I suggest to the gentleman that there are names being put in the boxes all the time, and I suggest that those thus put in and who have never been liable to draft should take their chance of draft before those who have already been liable to draft. I will, however, modify my amendment so as to read:

During the time for which the person was drafted, unless the names placed in the box for draft shall be sooner exhausted, in which case the name of such person shall be returned to the box.

Mr. COPFROTH. I ask the gentleman from Ohio to allow me to offer an amendment to the seventeenth section, for the purpose of calling the yeas and nays upon it, so that gentlemen may face their constituents when they go home and meet the responsibility of rejecting the proposition which I now make.

Mr. SCHENCK. Let us hear it.

The Clerk read, as follows:

That the board of examination of enrolled or drafted men are required to hold their examinations in the county town of each county where the inhabitants thereof exceed seven thousand; and the Secretary of War is authorized, whenever in his judgment the interests of the people will be subserved thereby, to permit or require the board of examination of enrolled or drafted men to hold their examination at one or more points in any county of the enrollment district.

Mr. SCHENCK. That matter was fully considered by the Committee of the Whole on the state of the Union, as it had been before by the Committee on Military Affairs, and it was settled in the shape in which it now stands. I must, therefore, decline to yield.

Mr. COPFROTH. If the gentleman will yield to me I will make no objection to his bill. What I want is the yeas and nays on my amendment.

Mr. SCHENCK. If I were to do it, there are fifty or more amendments which were offered in Committee of the Whole on the state of the Union and voted down on which gentlemen will want the yeas and nays.

Mr. PENDLETON. I call the attention of the chairman of the Committee on Military Affairs to the close of the twenty-sixth section of his bill, which is in these words:

The Secretary of War shall appoint a commissioner in each of the slave States represented in Congress charged to award a just compensation not exceeding \$300 to each loyal person to whom the colored volunteer may owe service, who may volunteer into the service of the United States, payable out of the commutation money, upon the master freeing the slave.

I think he will find that there has been a material omission. That last sentence as it now stands makes no sense at all.

Mr. GARFIELD. To whom does the "who" refer? To the loyal master?

Mr. SCHENCK. The section can be amended by striking out the words "who may volunteer into the service of the United States."

Mr. MALLORY. Let me suggest to the gentleman from Ohio that I think he would save all the trouble if he would strike out the whole section. We will not object to it. [Laughter.]

Mr. SCHENCK. That is so comprehensive a modification that I cannot consent to it. I ask my colleague [Mr. PENDLETON] whether that will not effect his purpose?

Mr. PENDLETON. I think not; for as the section then stands there is only a provision of \$300 for the loyal master, no matter how many of his slaves are taken. The "each" refers to the master, not to the slave. It seems to me that some words ought to be inserted in the seventeenth line to indicate that the payment is to be made for each colored volunteer.

Mr. DAVIS, of Maryland. The sentence is very awkward, but perfectly intelligible.

Mr. GARFIELD and Mr. PENDLETON consulted as to the best language in which to put the section.

Mr. GANSON. I ask the chairman of the Committee on Military Affairs to let me offer the amendment extending the privilege of the writ of *habeas corpus* to children.

Mr. SCHENCK. The gentleman must excuse me.

Mr. ELIOT. I want to call the attention of the chairman of the Military Committee to section twelve. The words "acting volunteer lieutenant" were inadvertently omitted.

Mr. SCHENCK. I have no objection to their being added.

The section was amended so as to read:

Sec. 12. *And be it further enacted*, That no pilot, engineer, master-at-arms, acting volunteer lieutenant, acting master, acting ensign, or acting master's mate, having an appointment or acting appointment as such, and being actually in the naval service, shall be subject to military draft while holding such appointment.

Mr. FARNSWORTH. I ask the chairman of the committee to modify the twenty-seventh section so as to make it conform to the action of the Committee of the Whole on the state of the Union, in the substitution of the words "persons owing service" for the word "slaves."

Mr. SCHENCK. I care little about the word "slave" so long as we understand what the thing is. When I look on the statute-book I find the word "slave" running through it in a thousand cases, because the term of slave was recognized as an existing relation between man and man under the laws of the State, although not under the laws of the United States.

Mr. GARFIELD. I now submit the amendment agreed on to the twenty-sixth section. It is to strike out after the words "charged to award" the words "a just compensation not exceeding \$300 to each loyal person to whom the colored volunteer may owe service," and to insert in lieu thereof the words "to each loyal person to whom the colored volunteer may owe service a just compensation not exceeding \$300 for every such colored volunteer, payable," &c.

Mr. SCHENCK. I accept that modification.

Mr. STEVENS. I ask the gentleman from Ohio to substitute for the word "slaves" in the clause providing bounty and compensation for those who have heretofore enlisted the words "persons of color." I cannot see why slaves should be put upon a different footing from other colored persons.

Mr. SCHENCK. I accept that amendment. I suppose that such was the intention of the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from Ohio cannot accept amendments to the report of the Committee of the Whole on the state of the Union.

Mr. SCHENCK. No, sir, but there is a similar provision in the substitute offered by the Military Committee, and the modification is made in that.

Mr. COX. I desire to suggest to my colleague that, owing to the mistakes in the preparation and printing of the bill, and to the confusion existing in the Hall, which prevented us understanding here a word of what has been going on for the last half hour, he should let this bill go over until Monday, so that he may have Saturday and Monday morning to examine it more fully.

Mr. SCHENCK. I would be willing to give a month of time to its consideration if I could, but, as it is, I cannot give an hour.

Mr. COX. I do not ask it on behalf of myself, but on behalf of my colleague.

Mr. SCHENCK. I have been as liberal as possible in this matter. I have taken time, and wasted time, as some may think, in hearing what might be said in the way of suggestion. I propose now to go on and make a few remarks explanatory of the bill, although I believe I should first, according to the rule, move the previous question.

Mr. GARFIELD. I suggest that the twenty-sixth section be modified as was intended by the Committee of the Whole on the state of the Union by adding after the word "slave" the words "of a loyal master or owner;" so that it will read:

Sec. 26. *And be it further enacted*, That all able-bodied male persons of African descent, between the ages of twenty and forty-five years, whether citizens or not, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master or owner shall be drafted and mustered into the service of the United States his master shall have a certificate thereof; and the bounty of \$100, now payable by law for each drafted man, shall be paid to the person to whom such drafted person owes service or labor at the time of his muster into the service of the United States, on freeing the person.

Mr. SCHENCK. That was the intention of the Committee of the Whole on the state of the Union. I accept the modification.

Mr. CLAY. Will the gentleman from Ohio allow me to offer an amendment to the twenty-sixth section?

Mr. SCHENCK. I will hear what it is.

The Clerk read the amendment, as follows:

Provided, That in no one State shall there be recruited more than three fifths of the able-bodied men of African descent in said State. All those who have already or may hereafter enlist or be drafted into the military service of the United States shall be credited to that State and district from which they may be taken or recruited, and where they may owe service.

Mr. CLAY. I just want to place it on the Federal basis.

Mr. SCHENCK. I cannot accept any such amendment. That whole subject was gone into in Committee of the Whole on the state of the Union.

Mr. MALLORY. I will say to the gentleman from Ohio that we are anxious on this side of the House that something should be said on this bill before it shall be put on its passage. We do not want to have any long debate; two or three speeches on this side of the House will satisfy us, and then we will be willing to vote upon it. My colleague just before me [Mr. HARDING] desires to speak upon the bill, and one or two others I believe desire to be heard. I hope the gentleman will afford that opportunity.

Mr. SCHENCK. I cannot open this bill to debate again. So far as I am concerned I have no objection to every gentleman who desires printing his speech.

Mr. MALLORY. Does the gentleman mean to intimate to the House that nothing which can be said except by himself will enlighten the House upon the subject of this bill?

Mr. SCHENCK. No, sir, I have no such confidence in myself as that. But, sir, I believe it to be our bounden duty to pass this bill as soon as possible. I believe that the interests of the country demand that we dispose of the measure before us as soon as under the circumstances we can, and I therefore now demand the previous question.

Mr. HARDING. Will the gentleman from Ohio yield to me for a moment to make a suggestion?

Mr. SCHENCK. Certainly.

Mr. HARDING. The gentleman will remember that at a late period last night an entirely new section was introduced upon which there has been no discussion at all.

Mr. SCHENCK. On the contrary, that subject has been more fully discussed than any other in connection with this bill. It began the previous evening, and continued all day yesterday.

Mr. HARDING. It has not been discussed at all. It was not brought up until a very late period last evening.

Mr. SCHENCK. I differ with the gentleman upon that point. I demand the previous question.

The previous question was seconded—ayes 78, noes 56.

The main question was ordered to be put.

Mr. SCHENCK. I propose now, briefly, to run over the provisions of this bill. I understand that by the rules I am entitled to an hour from the ordering of the main question.

The SPEAKER. The Chair understood the

gentleman's hour to commence when he began to modify the substitute. The gentleman has twenty-three minutes left.

Mr. MALLORY. Let the gentleman from Ohio print his speech. We will not object. [Laughter.]

Mr. SCHENCK. I would if it related to anything except the real practical question in hand.

The SPEAKER. Does the gentleman desire to ask the consent of the House for permission to extend his remarks?

Mr. SCHENCK. Oh no, sir; I will go on. Mr. Speaker, the first three or four sections of the House bill are precisely like the Senate bill, with the exception that in the House bill the words "precincts" and "election districts" are inserted, in order to conform it to the political divisions in the several States; and that being the case I shall pass on to the remaining differences between the two bills.

I desire, however, at the outset, to make this general remark: I would gladly occupy an hour of the time of the House in some observations, more at large than I shall now have an opportunity to present them, upon the subject of a draft as a means of raising troops for the protection of the country and the putting down of the rebellion; but, as the House will bear me witness, from the beginning I have desired that the whole discussion and consideration of this bill and its merits should be confined as far as possible to a business debate and a business consideration.

I will now take up the amendments in the order in which they have been made in Committee of the Whole and reported to the House. On pages 3 and 4 the committee report that section five be stricken out of the Senate bill, and a substitute inserted. The history of that amendment is simply this: the original section was amended by the committee in two or three particulars, one of which was on motion of the gentleman from Pennsylvania [Mr. STEVENS] to strike out "\$400" and insert "\$300." Several other amendments were proposed and adopted, when on motion of my colleague, [Mr. GARFIELD,] seconded by a majority of the Military Committee, the whole section as amended was stricken out, and section six of the House bill inserted. The motion was then made to amend that substitute by striking out the last sentence from the eleventh line, which motion prevailed. And this House section, or the section proposed by the Committee on Military Affairs, was adopted as a substitute for the Senate section thus curtailed of its proportions.

In the House-proposed substitute we have restored the latter part of section five, now section six. This morning it has been modified to suit the gentleman from Pennsylvania [Mr. STEVENS] and those who agree with him. No further comment is necessary, then, for we coincide in opinion.

So far as the other amendment is concerned, we have put it in a form agreeable to the friends of the bill.

Section six of the Senate bill was entirely stricken out, partly because it provided for double credits, partly because the second sentence was included in another part, and because from line nine was deemed entirely unnecessary. Upon that we shall have no vote to take.

Section seven was also struck out, for the reason that the section is simply a reenactment, almost in words, of the existing law. We shall have no vote to take upon that.

Section eight has been modified by an amendment at the end of page 6. The same amendment will be found embodied in the substitute. That will be found upon pages 23 and 24.

Section nine has been amended by adding what is printed upon page 7:

And any person now in the military service of the United States who shall furnish satisfactory proof that he is a mariner by vocation, or an able seaman, may enlist into the Navy under such rules and regulations as may be prescribed by the Secretary of the Navy and the Secretary of War: *Provided*, That such enlistment shall not be for less than the unexpired term of his military service nor for less than one year: *And provided*, That the numbers so transferred shall not exceed ten thousand: *Provided*, That any bounty money which a seaman may have received on entering the Army shall, on his being transferred to the Navy, be deducted from any prize money to which such seaman may become entitled.

That very section will be found in the substitute, page 27, section nine, with some slight difference of phraseology. I ask gentlemen to refer to it.

Sec. 9. *And be it further enacted*, That any mariner or able

seaman who shall be drafted under the act approved March 3, 1863, entitled "An act for enrolling and calling out the national forces, and for other purposes," shall have the right, within eight days after the notification of such draft, to enlist in the naval service as a seaman, and a certificate that he has so enlisted being made out in conformity with regulations which may be prescribed by the Secretary of the Navy, and duly presented to the provost-marshal of the district in which such mariner or able seaman shall have been drafted, shall exempt him from such draft: *Provided*, That the period for which he shall have enlisted into the naval service shall not be less than the period for which he shall have been drafted into the military service: *And provided further*, That the said certificate shall declare that satisfactory proof has been made before the naval officer issuing the same that the said person so enlisting in the Navy is a mariner by vocation, or an able seaman. And any person now in the military service of the United States who shall furnish satisfactory proof that he is a mariner by vocation or an able seaman, may enlist into the Navy under such rules and regulations as may be prescribed by the Secretary of the Navy and the Secretary of War: *Provided*, That such enlistment shall not be for less than the unexpired term of his military service nor for less than one year. And the bounty money which any mariner or seaman enlisting from the Army into the Navy may have received from the United States, or from the State in which he enlisted in the Army, shall be deducted from the prize money to which he may become entitled during the time required to complete his military service: *And provided further*, That the whole number of such transfer enlistments shall not exceed ten thousand.

Gentlemen will see at once in what the change consists.

Section ten of the substitute will be found on pages 27 and 28, the same as the section in the Senate bill, with the exception of the words "precinct or election district," which are inserted.

The same is true with regard to section eleven.

Section twelve is the same as that of the substitute, with this addition, upon the suggestion of the gentleman from Massachusetts, [Mr. RICE:] "Strike out the words in brackets and insert the words in italics:"

Sec. 12. *And be it further enacted*, That no pilot, engineer, master-at-arms, [or other person,] acting master, acting ensign, or acting master's mate, having an appointment or acting appointment, and being actually in the naval service, shall be subject to military draft while holding such appointment [and forming one of a ship's complement.]

Section thirteen of the Senate bill, on page 9, has a corresponding section, section twenty-eight in the substitute, with the five or six unnecessary lines at the commencement left out.

Upon page 10 will be found section fourteen. By referring to page 29 of the House bill you will find section fourteen, containing the same matter, with the exception of the amendment. That amendment printed in italics in connection with the Senate bill, will be found in the House bill, page 30, section seventeen. Instead of being attached to section fourteen it is attached to a section to which it properly belongs, as far as subject-matter is concerned. Section fifteen has been struck out, and section fifteen of the House amendment has been substituted. That will also be found still in the House bill. The same with section sixteen. There are two sections seventeen, I find, printed in the Senate bill—another error—except that the latter part of that section, page 14, which was one of the amendments of the Committee of the Whole, and which reads as follows—

Provided, That in all districts over one hundred miles in extent, and in such as are composed of over ten counties, the board shall hold their sessions in at least two places in such districts, at such points as are best calculated to accommodate the people thereof. The drafted men shall have process to bring in witnesses, but without fees or mileage—has been inserted in the House bill on page 31 at the end of section seventeen, a section to which it more properly belongs from its subject-matter. Section eighteen of the Senate bill will be found in section nineteen of the substitute on page 31, the same as it is there. Section nineteen of the Senate bill will be found the same as it has been amended upon page 25, section seven, of the House bill. The amendment consists of the proposition made by the gentleman from Maryland, to be found on page 15, beginning at line fourteen, and is as follows:

And provided, That no person shall be entitled to the benefit of the provisions of this section unless his declaration of conscientious scruples against bearing arms shall be supported by satisfactory evidence that his deportment has been uniformly consistent with such declaration.

That language is still preserved, as we considered the action of the Committee of the Whole an instruction to the Military Committee upon that subject. On page 15, section twenty will be found to correspond with section eighteen of the substitute. On page 16, section twenty-one will be found corresponding so far as the first sentence

is concerned and down to line eight, with section twenty of the House amendment.

The remainder of that section, beginning in line eight, and printed in italics, will be found in section twenty-one, page 33, of the substitute. The language has been preserved, and has only been transferred to the section to which its subject-matter allies it. On page 32 will be found section twenty-one of the House bill, which is the same as section twenty-two of the Senate bill, found at page 16. Section twenty-three of the Senate bill corresponds to section twenty-two of the House bill upon page 33. Section twenty-four of the Senate bill has been amended. The substance of that section and the section itself, indeed, will be found in section twenty-four of the House bill, on page 34, excepting that instead of being exactly like the bill of the Senate it contains the amendment to be found on page 17, at the foot of the page. Section twenty-five corresponds with section twenty-five of the House substitute. Section twenty-six of Senate bill corresponds with section twenty-three of the House substitute. Section twenty-seven of the Senate has been amended, and that amendment is embodied, with the rest of that section, in section twenty-six of the House amendment. Section twenty-eight, on page 20, corresponds with section twenty-seven on page 36 of the House bill.

Now I come to a section to which I wish to call the particular attention of the House. Section twenty-nine is a section printed here in the Senate bill as an amendment made by the Committee of the Whole on the state of the Union; and yet, as I distinctly recollect—and I have refreshed my recollection by consultation with other members—it was not adopted by the Committee of the Whole. That amendment, which constitutes now in the Senate bill section twenty-nine, is not to be found in the House substitute. According to my recollection it was rejected when it was offered in the Committee of the Whole on the state of the Union. Section thirty, on page 21, will be found constituting a part of section four in the House bill, the same in matter and almost the same in words. On page 21 the matter which constitutes section thirty-one will be found in the House substitute at the end of section twenty-six, page 36.

Now, Mr. Speaker, having gone through, item by item, with these amendments, I have only this general remark to make, that by the modification of the House substitute which has been made this morning, upon the suggestion of the gentleman from Pennsylvania, [Mr. STEVENS,] the great and leading difference in principle between the two bills has been obviated. If that modification had not been made there would have been upon one of the points connecting itself with the consideration of the fifth section of this bill a wide difference between the House substitute and the Senate bill. The House substitute looks to the returning of the names of parties drafted to the roll or to the wheel to be drawn again whenever those previously in the wheel subject to draft shall have had their names taken out. The Senate bill, as amended by the gentleman from Pennsylvania, [Mr. STEVENS,] contemplates the purchasing of exemption for \$300 by all persons, to extend over the whole period of three years. Here is a radical difference which would, perhaps, have occasioned some struggle between the friends of the substitute and of the Senate bill had that difference remained. I am glad that by the modification made this morning we have been enabled to reconcile as between the friends of the enrollment act this difference, and that the House substitute as it now stands amended is in such form as to be equally acceptable to the gentleman who made this amendment to the Senate bill and those who reported the bill and have hitherto been sustaining it in the form given to it by the Military Committee of the House. If, therefore, the Senate bill shall be amended by the substitute of the House all these differences cease.

Those, however, who are in favor of allowing drafted men to buy exemption for the full term of three years and of leaving the principle of exemption to stand precisely where it does now, without returning the names of drafted men to the wheel rendering them liable to be drawn again when the original draft has exhausted all those in the wheel, will vote against the House substitute and stand by the bill of the Senate as originally amended by the Committee of the Whole on the state of the Union.

I think it proper that I should state this thus distinctly in order that all may understand what is the issue. I repeat that those who are for permitting all persons subject to draft to buy exemption for three years and to have their names taken entirely from the roll will vote against the House substitute; while those who desire such a modification of the law as that the names shall be returned to the roll and put again into the box when one draft shall have exhausted all the names placed there—thus keeping up a continuous enrollment and draft and preventing men from buying off their time so as to cripple the means and resources of the Government—will vote for the House substitute. The issue is now thus fairly made between the friends of the House substitute, the friends of this more stringent process by which to effect the obtaining of men for the Army, and that looser system which now prevails and which we have sought to amend.

That issue having been fairly made, I am disposed to leave it to the decision of the House. Having promised to confine my remarks to such as should be purely of a business character, and such as should relate to an explanation of the bill and of the substitute which I propose for it, I have nothing further to add excepting to ask the friends of the Government on both sides of the House—those who are in favor of providing the means of enabling the Government of this country to put down a wicked and causeless rebellion—to stand by the bill in the shape in which it is now placed, and to pass it, and pass it speedily, in order that the armies of the Union may be reinforced, the Union thus sustained, and—

[Here the hammer fell.]

Mr. COX. I hope my colleague will be allowed to proceed with his remarks, with the understanding that he will then allow the gentleman from Kentucky [Mr. HARDING] to be heard for the same length of time.

Mr. SCHENCK. No, sir. I should have liked an opportunity to conclude my sentence, but I shall open no door for debate. The House will bear me witness that I have not troubled it with any extended remarks.

The SPEAKER. The question is now on the first amendment reported from the Committee of the Whole on the state of the Union.

Mr. ARNOLD. I would inquire of the gentleman from Ohio [Mr. SCHENCK] if he wants to have separate votes on all the amendments reported from the Committee of the Whole on the state of the Union to the Senate bill?

Mr. SCHENCK. That will be for the House to determine.

Mr. HARDING. I would inquire whether the vote must not first be taken on the substitute?

The SPEAKER. Under the parliamentary law the House must first vote on the amendments reported from the Committee of the Whole on the state of the Union to the Senate bill.

Mr. HARDING (at twenty minutes to four o'clock, p. m.) moved that the House do now adjourn.

Mr. MALLORY demanded tellers.

Tellers were ordered; and Messrs. HARDING and ELIOT were appointed.

The House divided; and the tellers reported—ayes 21, noes 86.

So the House refused to adjourn.

Mr. GARFIELD. I ask unanimous consent to make a suggestion. I am informed by gentlemen on the other side that all that they require is that the gentleman from Kentucky [Mr. HARDING] shall be allowed to speak half an hour in reference to the section of the bill introduced last evening. They say they will then proceed to the regular taking of the question on the amendments, and that they will not interpose dilatory motions. If that be so I ask that by unanimous consent the gentleman from Kentucky will be allowed half an hour.

Mr. SCHENCK. It is entirely out of order, and I call my colleague to order.

Mr. J. C. ALLEN. Will the chairman of the committee permit me to make a single remark?

Mr. MALLORY. I call for the yeas and nays on the motion to adjourn.

The SPEAKER. The call comes rather late. The result has been announced.

Mr. MALLORY. Then I move an adjournment.

The SPEAKER. The motion cannot be en-

tained, as no business has been done since the same motion was disagreed to.

Mr. HARDING. I intended calling for the yeas and nays on the adjournment, and was immediately interrupted by this conference.

The SPEAKER. The gentleman from Kentucky may have intended it, but he certainly did not do so. The Chair announced that the noes had it.

Mr. J. C. ALLEN. Will the chairman of the Committee of Ways and Means give me his attention one moment? I desire to say to him that I, for one, am entirely disinclined to engage in any of this filibustering. I have not engaged in debate on this question.

Mr. SCHENCK. I object to debate.

Mr. WADSWORTH. I move that the House do now adjourn.

The SPEAKER. That motion is not in order.

Mr. WADSWORTH. I submit that business has been transacted since the motion was rejected.

The SPEAKER. No business has been transacted.

Mr. MALLORY. I appeal from the decision of the Chair.

The SPEAKER. The Chair has decided that a motion to adjourn cannot be entertained, as no business has intervened since the same motion was rejected. From that decision the gentleman from Kentucky [Mr. MALLORY] takes an appeal. The question is, "Shall the decision of the Chair stand as the judgment of the House?"

Mr. MALLORY. I call for the yeas and nays on the appeal.

The yeas and nays were ordered.

Mr. MALLORY. Have I not the right to state the ground on which I appeal? I take this point of order, that I rose to ask for the yeas and nays on the motion to adjourn, when the gentleman from Ohio [Mr. GARFIELD] rose, and by unanimous consent was allowed to make a proposition.

Mr. GARFIELD. I was called to order.

Mr. MALLORY. Consent was given, and the gentleman made his proposition. Immediately after that failed to meet the assent of the House I called for the yeas and nays on the motion to adjourn. These remarks of the gentleman from Ohio, by unanimous consent, were not business in the sense of the rule.

The SPEAKER. That is the very thing the Chair decided, [laughter,] that they were not. The Chair will restate his decision. After the vote by tellers on the motion to adjourn it was reported that there were 21 votes in the affirmative and 86 in the negative. The Chair decided that the noes had it. Then the gentleman from Ohio [Mr. GARFIELD] rose and asked unanimous consent to be heard, and went on with his remarks. Consent to his proposition was refused. Then the gentleman from Kentucky demanded the yeas and nays on the motion to adjourn. The Chair decided that the call came too late. Then a motion to adjourn was made, and the Speaker having refused to entertain it, the gentleman from Kentucky appealed from the decision of the Chair.

Mr. MALLORY. I withdraw the appeal.

Mr. HARDING. I move that there be a call of the House.

The SPEAKER. The motion is not in order, the main question having been ordered.

Mr. HARDING. I move that the House do now adjourn.

The SPEAKER. The motion is not in order, no business having intervened since it was rejected.

Mr. ROGERS. I move that when the House adjourns to-day it adjourn to meet on Tuesday next.

The SPEAKER. The House has already fixed the time to which it shall adjourn.

Mr. ROGERS. Then I move to reconsider the vote by which the House agreed to adjourn over to Monday next.

Mr. WASHBURN, of Illinois. I move to lay the motion to reconsider on the table.

Mr. ELDRIDGE called for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 39; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Al-ley, Allison, Ames, Ancona, Anderson, Baily, Augustus C. Baldwin, Blaine, Jacob B. Blair, Bliss, Boyd, Brandergee, Brooks, Broomall, James S. Brown, William G. Brown, Chauler, Freeman Clarke, Cobb, Cox, Cravens, Creswell,

Henry Winter Davis, Dawson, Deming, Dennison, Driggs, Eckley, Eden, Edgerton, Eldridge, Farnsworth, Garfield, Grider, Grinnell, Hale, Hall, Harding, Benjamin G. Harris, Herrick, Holman, Hooper, Asahel W. Hubbard, Hutchins, William Johnson, Kalbfleisch, Kasson, Kelley, Orlando Kellogg, Kernan, Knapp, Law, Lazar, Le Blond, Long, Longyear, Mallory, McBride, McDowell, McKinney, Samuel F. Miller, William H. Miller, Morrill, Morrison, Amos Myers, Nelson, Noble, Odell, Charles O'Neill, Orth, Pendleton, Pomeroy, Pruyn, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, Schenck, Scott, Shannon, Sloan, Smith, Spalding, Starr, John B. Steele, Stiles, Strouse, Stuart, Thomas, Tracy, Voorhees, Wadsworth, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Joseph W. White, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—107.

YEAS—Messrs. Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Cole, Thomas T. Davis, Dawes, Dixon, Eliot, Frank, Gooch, Higby, Hotchkiss, John H. Hubbard, Hulburd, Jenckes, Julian, Francis W. Kellogg, Loan, Marvin, McClurg, McIndoe, Moorhead, Daniel Morris, Leonard Myers, Patterson, Perham, Pike, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Scofield, Smithers, Thayer, Upson, and Van Valkenburgh—39.

So the motion to reconsider was laid on the table.

Mr. HARDING. I move that the House do now adjourn.

The question was put; and on a count there were—**ayes 32, noes 76.**

Mr. WADSWORTH demanded tellers. Tellers were ordered; and Messrs. **WADSWORTH** and **BAXTER** were appointed.

The House divided; and the tellers reported—**ayes 14, noes 72; no quorum voting.**

Mr. WASHBURN, of Illinois. I ask for a count of the House.

The **SPEAKER.** A quorum is not required on a motion to adjourn. The lack of a quorum, however, suspends all other business.

Mr. BEAMAN. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—**yeas 13, nays 90; as follows:**

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bliss, James S. Brown, English, Le Blond, Long, McDowell, Noble, Pendleton, James S. Rollins, and Sweat—13.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Driggs, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, and Woodbridge—90.

So the House refused to adjourn.

Mr. CLAY. I ask for leave of absence until Monday.

Mr. WADSWORTH. I call for the yeas and nays on granting leave to my colleague.

Fourteen members voted for and 89 against ordering the yeas and nays.

Mr. WADSWORTH called for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. **WADSWORTH** and **WINDOM** were appointed.

The House divided; and the tellers reported twenty-five in the affirmative.

So the yeas and nays were ordered.

Mr. CLAY then withdrew his request for leave of absence.

The **SPEAKER** stated the question to be on the first amendment reported from the Committee of the Whole on the state of the Union, to strike it out and insert in lieu of it a substitute.

Mr. STEVENS. Before the question is taken on the substitute for that section, I ask if there are not amendments to the original section to be voted on.

The **SPEAKER.** The Chair will state that the Committee of the Whole reported but a single amendment, to strike out and insert. When the motion prevailed to strike out the section and insert other matter in place of that stricken out, the amendments inserted in the original section fell with the original section itself.

Mr. STEVENS. How will it stand if the substitute is rejected? Will it not stand then as it was amended in committee before striking out?

The **SPEAKER.** The original section of the Senate bill will remain without amendment; all

the amendments made to it in committee having fallen when it was stricken out and a substitute inserted.

Mr. WADSWORTH. I move to lay the bill and amendments on the table.

The House divided; and there were—**ayes 39, noes 82.**

Mr. ASHLEY called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—**yeas 48, nays 87; as follows:**

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bliss, Chandler, Coffroth, Cox, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Grider, Hall, Harding, Benjamin G. Harris, William Johnson, Kalbfleisch, Law, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, James H. Morris, Morrison, Nelson, Noble, Pendleton, Pruyn, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, John B. Steele, Stiles, Strouse, Sweat, Wadsworth, Chilton A. White, Joseph W. White, Fernando Wood, and Woodbridge—48.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Driggs, Eckley, Eliot, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, and Windom—87.

So the bill was not laid on the table.

Before the vote was announced,

Mr. WASHBURN, of Illinois, stated that **Mr. FENTON** had paired upon all questions in reference to the conscription bill with **Mr. PERRY.**

Mr. PERRY. I understood that I was only paired on the main question.

Mr. WASHBURN, of Illinois. I will state that I only announced, as I was requested to do, the statement to me of the gentleman from New York. I supposed this was the main question, as a vote in the affirmative is a vote directly to kill the bill.

Mr. PERRY. As there may possibly be some misunderstanding in reference to the matter I will withdraw my vote. If **Mr. FENTON** were here he would vote in the negative and I in the affirmative.

Mr. FRANK stated that **Mr. A. W. CLARK** was confined to his room, and had paired with **Mr. STEELE**, of New Jersey.

Mr. GRINNELL. **Mr. Speaker**, is there not a rule requiring gentlemen to vote?

The **SPEAKER.** There is a rule requiring members to vote.

Mr. GRINNELL. I observe several members on the other side in their seats refusing to vote on this, the important military bill of the session.

The vote was announced as above recorded.

The amendments of the Committee of the Whole on the state of the Union were agreed to *en masse*, with the exception of the following, on which a separate vote was asked:

Twenty-second amendment:

Strike out the following:

Sec. 27. And be it further enacted, That nothing contained in this act shall be so construed as to prevent or prohibit the enlistment of men in the States in rebellion under the orders of the War Department.

And in lieu thereof insert:

All able bodied male persons of African descent, between the ages of twenty and forty-five years of age, whether citizen or not, resident in the United States, shall be enrolled according to the provisions of the act to which this is a supplement, and form part of the national forces; and when a slave of a loyal citizen shall be drafted and mustered into the service of the United States his master shall have a certificate thereof. The bounty of \$100, now payable by law for each drafted man, shall be paid to the person to whom such drafted person owes service or labor at the time of his muster into the service of the United States, on freeing the person. The Secretary of War shall appoint a commission in each of the slave States represented in Congress charged to award a just compensation, not exceeding \$300, to each loyal person to whom the colored volunteer may owe service, who may volunteer into the service of the United States, payable out of the commutation money upon the master freeing the slave.

Mr. MALLORY demanded the yeas and nays. The yeas and nays were ordered.

Mr. ARNOLD. I ask for a division of the amendment—of the part that provides for a draft from that which provides for compensation.

The **SPEAKER.** It is one amendment as reported from the Committee of the Whole on the state of the Union, and cannot be divided.

The question was taken; and it was decided in the affirmative—**yeas 83, nays 67; as follows:**

YEAS—Messrs. Alley, Allison, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Boyd, Brandegee, William G. Brown, Cobb, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Driggs, Eckley, Eliot, Frank, Garfield, Gooch, Grinnell, Hale, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—83.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chandler, Coffroth, Cole, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Herrick, Higby, Holman, Hutchins, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazar, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Sweat, Voorhees, Wadsworth, Wheeler, Joseph W. White, Winfield, and Fernando Wood—67.

So the amendment was concurred in.

During the vote,

Mr. ARNOLD said: Believing that the Government in its necessity has a right to the service of every able-bodied man without regard to color, and that such right supersedes all claim to service, either for years or for life, under the laws of any State, I am in favor of enrolling all men without regard to color. Not recognizing any claim to service under the laws of any State as a valid exemption from the draft, I am opposed to making compensation for such claim to service, especially unless given to parents whose sons are taken without compensation. I am for the enrollment and against the compensation. I vote "ay."

Mr. COLE, of California. I voted "no" because I cannot consent to pay the bounty to the pretended owner of the negro and not to the negro himself who fights.

Mr. GRINNELL. I have voted for compensation on condition that the whole family of the colored soldier shall also be entitled to freedom.

Mr. WILSON stated that he was opposed to compensation, but that under the rule he was constrained to vote for the proposition as a whole as an amendment of the Committee of the Whole on the state of the Union.

Messrs. **JULIAN**, **ORTH**, **ASHLEY**, and **ALLISON** made the same statement.

Mr. MILLER, of Pennsylvania, not being within the bar when his name was called, asked leave to vote.

Objection was made.

Mr. MILLER, of Pennsylvania, stated that he would have voted in the negative.

The vote was then announced as above recorded.

Twenty-fifth amendment:

Sec. 29. And be it further enacted, That within thirty days after the passage of this act it shall be the duty of the board of enrollment, in each congressional district, to cause lists of the names of each and every person enrolled under the provisions of this act, and of the act to which this is amendatory, to be printed, arranging alphabetically each and every name of such person in the township or ward in which he resides; and that at least ten copies of such list of names of the persons enrolled in any township or ward be posted in public places in such township or ward; and that five printed copies of the full lists, in each and every county, be deposited for public inspection in the office of the county clerk, or of the proper custodian of the county records of such county.

Mr. SCHENCK. I hope that that amendment will not be concurred in.

Mr. ELDRIDGE demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—**yeas 65, nays 81; as follows:**

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chandler, Coffroth, Cox, Cravens, Dawson, Dennison, Driggs, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Benjamin G. Harris, Herrick, Holman, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazar, Le Blond, Long, Longyear, Mallory, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Samuel J. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Sweat, Voorhees,

Wadsworth, Wheeler, Joseph W. White, Winfield, and Fernando Wood—65.

NAYS—Messrs. Alley, Allison, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Boyd, Brandegee, William G. Brown, Cobb, Cole, Cresswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Eckley, Eliot, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward U. Rollins, Schenck, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Thomas, Tracy, Upton, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—81.

So the amendment was not concurred in.

Twenty-seventh amendment:

SEC. 31. And be it further enacted, That in all cases where slaves have been heretofore enlisted in the military service of the United States, all the provisions of this act, so far as the payment of bounty and compensation are provided, shall be equally applicable, as well as to those who may be hereafter recruited.

Mr. UPSON demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was concurred in.

The question then recurred on the following substitute:

Strike out all after the first section, and insert the following:

SEC. 2. And be it further enacted, That the quota of each ward of a city, town, township, precinct, or election district, or of a county, where the same is not divided into wards, towns, townships, precincts, or election districts, shall be, as nearly as possible, in proportion to the number of men resident therein subject to draft, taking into account, as far as practicable, the number which has been previously furnished therefrom; and in ascertaining and filling said quota there shall be taken into account the number of men who have heretofore entered the naval service of the United States, and whose names are borne upon the enrollment lists as already returned to the office of the Provost Marshal General of the United States.

SEC. 3. And be it further enacted, That if the quota from any State shall not be filled within the time designated by the President, the provost marshal of the district within which any ward of a city, town, township, precinct, or election district, or county, where the same is not divided into wards, towns, townships, precincts, or election districts, which is deficient in its quota, is situated, shall, under the direction of the Provost Marshal General, make a draft for the number deficient therefrom; but all volunteers who may enlist after the draft shall have been ordered, and before it shall be actually made, shall be deducted from the number ordered to be drafted in such ward, town, township, precinct, election district, or county. And if the quota of any district shall not be filled by the draft made in accordance with the provisions of this act and the act to which it is an amendment, further drafts shall be made and like proceedings had until the quota of such district shall be filled.

SEC. 4. And be it further enacted, That any person enrolled under the provisions of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, or who may hereafter be so enrolled, may furnish, at any time previous to the draft, an acceptable substitute, who is not liable to draft, nor at the time in the military or naval service of the United States, and such person so furnishing a substitute shall be exempt from draft during the time for which such substitute shall be exempt from draft, not, however, exceeding the time for which such substitute shall have been accepted. But no private soldier, musician, or non-commissioned officer being actually in the military service of the United States shall be procured or accepted as a substitute.

SEC. 5. And be it further enacted, That boards of enrollment shall enroll all persons liable to draft under the provisions of this act, and the act to which this is an amendment, whose names may have been omitted by the proper enrolling officers; all persons who shall arrive at the age of twenty years before the draft; all aliens who shall declare their intention to become citizens; all persons discharged from the military or naval service of the United States who have not been in such service two years during the present war; and all persons who have been exempted under the provisions of the second section of the act to which this is an amendment, but who are not exempted by the provisions of this act; and said boards of enrollment shall release and discharge from draft all persons who, between the time of the enrollment and the draft, shall have arrived at the age of forty-five years, and shall strike the names of such persons from the enrollment.

SEC. 6. And be it further enacted, That any person drafted into the military service of the United States may, before the time fixed for his appearance for duty at the draft rendezvous, furnish an acceptable substitute, subject to such rules and regulations as may be prescribed by the Secretary of War. If such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted; and if such substitute is liable to draft, the name of the person furnishing him shall be liable to draft in filling future quotas. And if any drafted person shall hereafter pay money for the procurement of a substitute, under the provision of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft during the time for which the person was drafted unless the names placed in the box for draft shall be sooner exhausted, in which case the name of such person shall be returned to the box.

SEC. 7. And be it further enacted, That members of re-

ligious denominations who shall by oath or affirmation declare that they are conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denomination, shall, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of \$300 to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers: *And provided,* That no person shall be entitled to the benefit of the provisions of this section unless his declaration of conscientious scruples against bearing arms shall be supported by satisfactory evidence that his department has been uniformly consistent with such declaration.

SEC. 8. And be it further enacted, That no person of foreign birth shall, on account of alienage, be exempted from enrollment or draft under the provisions of this act, or the act to which it is an amendment, who has at any time assumed the rights of a citizen by voting at any election held under authority of the laws of any State or Territory, or of the United States, or who has held any office under such laws or any of them; but the fact that any such person of foreign birth has voted or held, or shall vote or hold, office as aforesaid, shall be taken as conclusive evidence that he is not entitled to exemption from military service on account of alienage.

SEC. 9. And be it further enacted, That any mariner or able seaman who shall be drafted under this act, or the act to which this is an amendment, shall have the right, within eight days after the notification of such draft, to enlist in the naval service as a seaman, and a certificate that he has so enlisted being made out in conformity with regulations which may be prescribed by the Secretary of the Navy, and duly presented to the provost marshal of the district in which such mariner or able seaman shall have been drafted, shall exempt him from such draft: *Provided,* That the period for which he shall have enlisted into the naval service shall not be less than the period for which he shall have been drafted into the military service: *And provided further,* That the said certificate shall declare that satisfactory proof has been made before the naval officer issuing the same that the said person so enlisting in the Navy is a mariner by vocation, or an able seaman. And any person now in the military service of the United States who shall furnish satisfactory proof that he is a mariner by vocation or an able seaman, may enlist into the Navy under such rules and regulations as may be prescribed by the Secretary of the Navy and the Secretary of War: *Provided,* That such enlistment shall not be for less than the unexpired term of his military service nor for less than one year. And the bounty money which any mariner or seaman enlisting from the Army into the Navy may have received from the United States, or from the State in which he enlisted in the Army, shall be deducted from the prize money to which he may become entitled during the time required to complete his military service: *And provided further,* That the whole number of such transfer enlistments shall not exceed ten thousand.

SEC. 10. And be it further enacted, That whenever any such mariner or able seaman shall have been exempted from such draft into the military service by such enlistment into the naval service, under such due certificate thereof, the ward, town, township, precinct, or election district, or county, when the same is not divided into wards, towns, townships, precincts, or election districts, from which such person has been drafted, shall be credited upon its quota to all intents and purposes as if he had been duly mustered in the military service under such draft.

SEC. 11. And be it further enacted, That all enlistments into the naval service or marine corps that may be hereafter made of persons liable to service under the act of Congress entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall be credited to the ward, town, township, precinct, or election district, or county, when the same is not divided into wards, towns, townships, precincts, or election districts, in which such enlisted men were or may be enrolled and liable to duty under the act aforesaid, under such regulations as the Provost Marshal General of the United States may prescribe.

SEC. 12. And be it further enacted, That no pilot, engineer, master-at-arms, acting volunteer lieutenant, acting master, acting ensign, or acting master's mate, having an appointment or acting appointment as such, and being actually in the naval service, shall be subject to military draft while holding such appointment.

SEC. 13. And be it further enacted, That the following persons be, and they are hereby, excepted and exempted from enrollment and draft under the provisions of this act and of the act to which this is an amendment, to wit: such as are rejected as physically or mentally unfit for the service, all persons actually in the military or naval service of the United States at the time of draft, and all persons who have served in the military or naval service two years during the present war and been honorably discharged therefrom. And no persons but such as are herein excepted shall be exempt.

SEC. 14. And be it further enacted, That section three of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and so much of section ten of said act as provides for the separate enrollment of each class, be, and the same are hereby, repealed, and the two classes mentioned in the third section of said act shall be consolidated.

SEC. 15. And be it further enacted, That any person who shall forcibly resist or oppose any enrollment, or who shall incite, counsel, encourage, or who shall conspire or confederate with any other person or persons forcibly to resist or oppose any such enrollment, or who shall aid or assist or take any part in any forcible resistance or opposition thereto, or who shall assault, obstruct, hinder, impede, or threaten any officer or other person employed or aiding in making such enrollment, or employed or aiding in the performance of any service relating thereto, or in arresting or aiding to arrest any spy, or deserter from, or in the military service of the United States, shall, upon conviction thereof in any court competent to try the offense, be punished by a fine not exceeding \$5,000, or by imprisonment not exceed-

ing five years, or by both of said punishments, in the discretion of the court; but nothing in this section contained shall be construed to relieve the party offending from liability under proper indictment or process for any crime against the laws of a State committed by him while violating the provisions of this section.

SEC. 16. And be it further enacted, That the Secretary of War shall detail or appoint such number of additional surgeons for temporary duty in the examination of persons drafted into the military service, in any district, as may be necessary to secure the prompt examination of all such persons, and to fix the compensation to be paid to surgeons so appointed while actually employed. And such surgeons, so detailed or appointed, shall perform the same duties as the surgeon of the board of enrollment, except that they shall not be permitted to vote or sit with the board of enrollment.

SEC. 17. And be it further enacted, That the Secretary of War is authorized, whenever in his judgment the public interest will be subserved thereby, to permit or require boards of examination of enrolled or drafted men to hold their examinations at different points within their respective enrollment districts, to be determined by him. *Provided,* That in all districts over one hundred miles in extent, and in such as are composed of over ten counties, the board shall hold their sessions in at least two places in such district, and at such points as are best calculated to accommodate the people thereof.

SEC. 18. And be it further enacted, That provost marshals, boards of enrollment, or any member thereof acting by authority of the board, shall have power to summon witnesses in behalf of the Government, and enforce their attendance by attachment without previous payment of fees, in any case pending before them or either of them; and the fees allowed for witnesses attending under summons shall be six cents per mile for mileage, counting one way; and no other fees or costs shall be allowed under the provisions of this section; and they shall have power to administer oaths and affirmations. And any person who shall wilfully and corruptly swear or affirm falsely before any provost marshal, or board of enrollment, or member thereof acting by authority of the board, or who shall, before any civil magistrate, wilfully and corruptly swear or affirm falsely to any affidavit to be used in any case pending before any provost marshal or board of enrollment, shall, on conviction, be fined not exceeding \$500, and imprisoned not less than six months nor more than twelve months. The drafted men shall have process to bring in witnesses, but without mileage.

SEC. 19. And be it further enacted, That copies of any record of a provost marshal or board of enrollment, or of any part thereof, certified by the provost marshal, or a majority of said board of enrollment, shall be deemed and taken as evidence in any civil or military court in like manner as the original record: *Provided,* That if any person shall knowingly certify any false copy or copies of such record, to be used in any civil or military court, he shall be subject to the pains and penalties of perjury.

SEC. 20. And be it further enacted, That all claims to exemption shall be verified by the oath or affirmation of the party claiming exemption to the truth of the facts stated, unless it shall satisfactorily appear to the board of enrollment that such party is for some good and sufficient reason unable to make at present such oath or affirmation; and the testimony of any other party filed in support of a claim to exemption shall also be made upon oath or affirmation.

SEC. 21. And be it further enacted, That if any person, drafted and liable to render military service, shall procure a decision of the board of enrollment in his favor upon a claim to exemption by any fraud or false representation practiced by himself or by his procurement, such decision or exemption shall be of no effect, and the person exempted, or in whose favor the decision may be made, shall be deemed a deserter, and may be arrested, tried by court-martial, and punished as such, and shall be held to service for the full term for which he was drafted, reckoning from the time of his arrest: *Provided,* That the Secretary of War may order the discharge of all persons in the military service who are under the age of eighteen years at the time of the application for their discharge, when it shall appear, upon due proof, that such persons are in the service without the consent, either express or implied, of their parents or guardians: *And provided further,* That such persons, their parents or guardians, shall first repay to the Government and to the State and local authorities all bounties and advance pay which may have been paid to them, anything in the act to which this is an amendment to the contrary notwithstanding.

SEC. 22. And be it further enacted, That any person who shall procure, or attempt to procure, a false report from the surgeon of the board of enrollment concerning the physical condition of any drafted person, or a decision in favor of such person by the board of enrollment upon a claim to exemption, knowing the same to be false, shall, upon conviction in any district or circuit court of the United States, be punished by imprisonment for the period for which the party was drafted.

SEC. 23. And be it further enacted, That the fifteenth section of the act to which this is amendatory be so amended that it will read as follows: That any surgeon charged with the duty of such inspection, who shall receive from any person whomsoever any money or other valuable thing, or agree, directly or indirectly, to receive the same to his own or another's use, for making an imperfect inspection, or a false or incorrect report, or who shall wilfully neglect to make a faithful inspection and true report, and each member of the board of enrollment who shall wilfully agree to the discharge from service of any drafted person who is not legally and properly entitled to such discharge, shall be tried by a court martial, and, on conviction thereof, be punished by a fine not less than \$500 and not more than \$10,000, shall be imprisoned at the discretion of the court, and be cashiered and dismissed the service.

SEC. 24. And be it further enacted, That the fees of agents and attorneys for making out and causing to be executed any papers in support of a claim for exemption from draft, or for any services that may be rendered to the claimant, shall not, in any case, exceed five dollars; and physicians or surgeons furnishing certificates of disability to any

claimant for exemption from draft shall not be entitled to any fees or compensation therefor. And any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act; and any physician or surgeon who shall, directly or indirectly, demand or receive any compensation for furnishing said certificates of disability; and any officer, clerk, or deputy connected with the board of enrollment who shall receive compensation from any drafted man for any services, or obtaining the performance of such service required from any member of said board by the provisions of this act, shall be deemed guilty of a high misdemeanor, and, upon conviction, shall, for every such offense, be fined not exceeding \$500, to be recovered upon information or indictment before any court of competent jurisdiction in an action of debt, one half for the use of any informer who may prosecute for the same in the name of the United States, and the other half for the use of the United States, and shall also be subject to imprisonment for a term not exceeding one year, at the discretion of the court.

Sec. 25. *And be it further enacted*, That no member of the board of enrollment, and no surgeon detailed or employed to assist the board of enrollment, and no clerk, assistant, or employe of any provost marshal or board of enrollment, shall, directly or indirectly, be engaged in procuring or attempting to procure substitutes for persons drafted, or liable to be drafted, into the military service of the United States. And if any member of a board of enrollment, or any such surgeon, clerk, assistant, or employe, shall procure, or attempt to procure, a substitute for any person drafted, or liable to be drafted, as aforesaid, he shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by imprisonment not less than thirty days nor more than six months, and pay a fine not less than \$100 nor more than \$1,000, by any court having competent jurisdiction.

Sec. 26. *And be it further enacted*, That all able-bodied male persons of African descent, between the ages of twenty and forty-five years, whether citizens or not, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States his master shall have a certificate thereof; and the bounty of \$100, now payable by law for each drafted man, shall be paid to the person to whom such drafted person owes service or labor at the time of his muster into the service of the United States, on freeing the person. The Secretary of War shall appoint a commissioner in each of the slave States represented in Congress, charged to award to each person to whom the colored volunteer may owe service a just compensation not exceeding \$300 for each such colored volunteer, payable out of the commutation money, upon the master freeing the slave. And in all cases where men of color have been heretofore enlisted in the military service of the United States all the provisions of this act, so far as the payment of bounty and compensation are provided, shall be equally applicable, as well as to those who may be hereafter recruited.

Sec. 27. *And be it further enacted*, That the nineteenth and twentieth sections of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved on the 3d day of March, 1863, and also so much of said act as may be inconsistent with the provisions of this act, are hereby repealed.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were not ordered.

Mr. PENDLETON. Is not the amendment of the gentleman from Pennsylvania [Mr. STEVENS] pending?

Mr. STEVENS. It is in the precise words in the substitute.

The substitute was concurred in.

Mr. SCHENCK demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 60; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Dixon, Driggs, Eckley, Elliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Huburd, Hutchins, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McAllister, McBride, McClurg, McInloe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Thayer, Thomas, Tracy, Upton, Van Valkenburgh, Elihu B. Washburne, William R. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, and Woodbridge—94.

NAYS—Messrs. James C. Allen, William J. Allen, Anna, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Herriek, Holman, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazarus, Le Blond, Long, Mallory, Marcy, McDowell, McKimney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, Stiles, Srouse, Stuart, Sweat, Voorhees, Wadsworth, Joseph W. White, Winfield, and Fernando Wood—60.

So the bill was passed.

During the vote, Mr. WASHBURN, of Illinois, stated that his colleague, Mr. LOVEJOY, was detained from the House by illness, and that if present he would have voted in favor of the bill; also, that Mr. FENTON had paired with Mr. PERRY; that Mr. FENTON would have voted for and Mr. PERRY against the bill.

Mr. STEELE, of New York, stated that his colleague, Mr. STEBBINS, was absent on account of sickness.

Mr. CHANLER made the same statement in reference to his colleague, Mr. WARD.

Mr. BALDWIN, of Massachusetts, stated that his colleague, Mr. AMES, was paired with Mr. PRYNN; that his colleague would have voted for and Mr. PRYNN against the bill.

Mr. FRANK stated that his colleague, Mr. A. W. CLARK, was paired with Mr. STEELE, of New Jersey.

The vote was then announced as above recorded.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

INDIAN SERVICE IN NEW MEXICO.

The SPEAKER laid before the House a communication from the Secretary of the Interior recommending an appropriation asked for by the Commissioner of Indian Affairs for the Indian service in New Mexico; which was referred to the Committee of Ways and Means, and ordered to be printed.

And then, on motion of Mr. SCHENCK, (at five minutes to six o'clock, p. m.), the House adjourned.

IN SENATE.

SATURDAY, February 13, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War communicating, in answer to a resolution of the Senate of the 7th of January, a statement showing the number of each grade of officers belonging to the regular and volunteer service in the Army of the United States, now stationed in and around Washington and drawing commutation for quarters and fuel, or commutation for either quarters or fuel; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a communication from the Secretary of the Interior, transmitting a letter of the Commissioner of Indian Affairs and accompanying papers, representing the necessity existing for an appropriation to meet the expenses of the Indian service in New Mexico for the remainder of the current fiscal year, and recommending that an appropriation be made for the objects contemplated; which was referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

Mr. WADE. I have received a letter from First Lieutenant Stephen S. Balk, of the sixth regular cavalry, stating that he was a recruiting officer, and that he had in his possession some six hundred dollars in money belonging to the Government; that his house was robbed of his private funds and those belonging to the United States; and he prays that he may be released from the payment of the amount belonging to the Government. I move its reference to the Committee on Claims.

It was so referred.

Mr. LANE, of Kansas, presented a resolution of the Legislature of Kansas in favor of a grant of land for the construction of a railroad and telegraph line from the eastern line of said State via Paola and Emporia, to intersect the Atchison, Topeka, and Santa Fé railroad; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of the State of Kansas in favor of a grant of lands to the State of Kansas, so as to extend the Neosho valley road northwestwardly to a con-

nection with the Union Pacific railroad at or near Fort Riley in that State; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. POMEROY presented resolutions of the Legislature of Kansas in favor of a grant of land to aid in the construction of a railroad from Wyandotte to connect with a railroad from the City of Leavenworth via Lawrence and Ohio City, crossing the Osage river in the direction of Galveston Bay in Texas; which were referred to the Committee on Public Lands, and ordered to be printed.

The VICE PRESIDENT. The Chair desires to state that it has also received duplicate copies of the same papers that have been presented by the Senators from Kansas. Having been so presented, the Chair does not deem it necessary to present the duplicates.

Mr. CONNESS presented resolutions of the Legislature of California in favor of a reduction in the present schedule time for the transportation of the mails between Atchison, Kansas, and Folsom, California; which were referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented a petition of citizens of Coloma, California, praying for the establishment of a post route from Folsom City to Coloma, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. HOWE presented a memorial of the Chamber of Commerce of the city of Milwaukee, praying for the construction of a wagon road to Idaho Territory through Minnesota and Dakota; and that such military protection be given as will afford safety to emigration and quick and secure transit of merchandise and the precious metals; which was referred to the Committee on Public Lands.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SUMNER, it was

Ordered, That the petition and other papers of the heirs of Jean Hudry, praying for reimbursement of moneys advanced and expended in 1814-15 by said Hudry for the United States, be taken from the files of the Senate and referred to the Committee on Claims.

J. W. JENNINGS.

Mr. LANE, of Indiana, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Contingent Expenses of the Senate be directed to inquire into the propriety of paying J. W. Jennings, late Postmaster of the Senate, the amount of his salary from the 1st of July, 1863, until the meeting of the present Congress, the 7th of December, 1863.

BILL INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 114) to amend section five of an act entitled "An act to continue, alter, and amend the charter of the city of Washington," approved May 17, 1848, and further to preserve the purity of elections and guard against the abuse of the elective franchise by a registration of electors for the city of Washington in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

THANKS TO GENERAL W. T. SHERMAN.

Mr. LANE, of Indiana. The Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 30) tendering the thanks of Congress to Major General W. T. Sherman, have directed me to report it back without amendment, and with a recommendation that it pass. They also direct me to ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It declares that the thanks of Congress and of the people of the United States are due and are tendered to Major General W. T. Sherman, commander of the department and army of the Tennessee, and the officers and soldiers who served under him, for their gallant and arduous services in marching to the relief of the army of the Cumberland, and for their gallantry and heroism in the battle of Chattanooga, which contributed in a great degree to the success of our arms in that glorious victory.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE HENRY PREBLE.

Mr. HALE. I move that the Senate take up for consideration the bill (S. No. 95) for the relief of George Henry Preble, a commander in the Navy of the United States. It will take but a moment.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It directs the proper accounting officers of the Treasury, in settling the accounts of George Henry Preble, a commander in the Navy of the United States, to allow him pay as a commander from the 16th of July, 1862, in the same way and manner as if the order discharging him from the naval service had never been issued.

Mr. HALE. There is a report accompanying the bill, which is very short. Let that be read, and I shall have nothing more to say.

The Secretary read the report of the Committee on Naval Affairs, from which it appeared that the petitioner alleges that being an officer in the Navy on the 5th of August, 1862, he was promoted, to his present rank, to date from the 16th day of the preceding July; that the Senate, on the 21st of the then next February, confirmed him as such commander. He further alleges that while he was on duty, on the 12th of October, 1862, he received official notice by a letter from the Navy Department, dated September 20, 1862, that he was dismissed from the naval service; and that he remained in that situation until he was, on the 21st of February, 1863, confirmed as commander by the Senate on a nomination of the President made on the 12th of the same month. Under these circumstances, he prays that he may be allowed pay as commander afloat from the 16th of July, 1862, to the 12th of October in the same year, and of a commander waiting orders from the latter date to the 21st of February, 1863, when he was confirmed in his present office by the Senate. The facts alleged in the petition the committee find on reference to the official records of the Government to be true. The nomination of Commander Preble, made by the President on the 12th of February, 1863, to take rank from the 16th of July previous, the precise time from which his former appointment was to date, and its subsequent confirmation by the Senate on the 21st of the same month, in the opinion of the committee, had the effect, and was manifestly intended to have the effect, of putting him precisely where he would have been if the order of the Navy Department of September 20, 1862, discharging him from the naval service, had never been issued, and must be considered and taken to be a full revocation of that order, and a condonation of any real or supposed offense or delinquency on his part subsequent to the period from which his commission was to entitle him to take rank. Under these circumstances, the committee were of opinion that the prayer of the petitioner is just and reasonable, and ought to be granted.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PAY OF COLORED TROOPS.

Mr. WILSON. I move to take up the joint resolution (S. No. 23) to equalize the pay of the soldiers of the United States Army. I hope we shall be able to dispose of it in a short time.

Mr. HOWE. That will lead to debate. Let us get through with the business of the morning hour.

Mr. WILSON. I have given way to the business of the morning hour for three days, and I will not do it any longer. Insist on my motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 23) to equalize the pay of soldiers in the United States Army; the pending question being on the amendment proposed by Mr. CONNESS in line nine after the word "service," to strike out the words "during the whole time in which they shall be or shall have been in such service," and to insert, "from and after the passage of this act;" so that the resolution will read:

That all persons of color who have been or may be mustered into the military service of the United States shall receive the same uniform, clothing, arms, equipments, camp equipage, rations, medical and hospital attendance, pay, and emoluments, other than bounty, as other soldiers of the regular or volunteer forces of the United States of like arm of the service, from and after the passage of this act; and that

every person of color who shall hereafter be mustered into the service shall receive such sums in bounty as the President shall order in the different States and parts of the United States, not exceeding \$100.

Mr. CONNESS. Is there not another amendment pending, offered by the Senator from Massachusetts, [Mr. SUMNER?]

Mr. SUMNER. No. My amendment is at this moment but a proposition to amend just so soon as it may be in order. It is not in order to offer my amendment while the amendment of the Senator is pending.

The PRESIDING OFFICER. (Mr. FOOT in the chair.) The pending question is on the amendment moved by the Senator from California, and that is now the question before the Senate.

Mr. CONNESS. On that subject I have but a few words now to say. I need not say that in offering this amendment I was not governed by any desire to do injustice to any portion of our people who are engaged in the service of the United States or under the orders of the War Department. I believe fully that every man employed as a soldier, without reference to color, should be paid the compensation that is provided by law for his rank and position; but it occurred to me, as there was a considerable difference of opinion, owing to the question of whether we should pay all the soldiers thus employed under other forms of contract for the period of time during which they were engaged in the service, that an amendment of this kind would meet the case and do no injustice to any portion of the soldiers of the country. I find, however, a considerable difference of opinion growing out of the amendment that I have proposed. I find that to some extent there has been an understanding with a portion of these colored men that they should receive full compensation, or that all efforts would be made to procure it for them, and that their enlistment was induced by those promises of full compensation. Let it should be the medium of injustice to any of those men, I wish now, with the consent of the Senate, to withdraw the amendment I offered, as I am told that an amendment about to be proposed by the Senator from Massachusetts [Mr. SUMNER] will cover the entire case. If it does I shall support it.

The PRESIDING OFFICER. No action having been taken on the amendment moved by the Senator from California, it is competent for the mover to withdraw the amendment.

Mr. CONNESS. I withdraw it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. SUMNER. I now offer an amendment in the nature of a proviso, to come in at the end of the bill:

Provided, With regard to all past services, it shall appear to the satisfaction of the Secretary of War that such persons at the time of being mustered into the service of the United States were led to suppose that in fact they were enlisted under the act of Congress approved July 22, 1861, as volunteers in the army of the United States.

Mr. ANTHONY. I do not think that covers the case. I think there were a number of these men—I know it was so in my State—who were led to suppose that they would have the same pay as the white soldiers as soon as Congress assembled; that the manifest injustice of paying white soldiers one price and colored soldiers another price would be at once corrected. I do not say that that statement was made to them by the authority of the War Department. They had not that authority; but the statements were made to them by those who induced them to enlist, and who, they had reason to suppose, would be able to effect the relief desired. I think where it shall appear that the persons who enlisted them or the State authorities gave them to understand that they would have this additional pay, they ought to have it. I do not think we ought to hold them to the strict letter of the law.

Mr. SUMNER. I agree with the Senator entirely.

Mr. ANTHONY. I think those who were enlisted years ago for ten dollars a month and never expected any more ought to have ten dollars a month; but I think those who have enlisted since that time and were promised, whether by the War Department or by the State authorities, that they should have thirteen dollars a month ought to have thirteen dollars. That is a clear obligation it seems to me.

Mr. SUMNER. Now, for instance, here are certain facts that have come to my knowledge

since this matter was under discussion the other day. The day before yesterday I was called into the lobby by two paymasters from Louisiana who assured me that there were four colored regiments there, excellent soldiers, who were enlisted in pursuance of a handbill posted about the streets, purporting to bear the signature of General Ullman and offering thirteen dollars a month. They assured me that when they came to pay those soldiers and it appeared that the pay was only ten dollars, the soldiers felt pained and mortified, and they complained of their treatment as an outrage. The paymasters then paid them at the rate of \$6 50 a month and entered it in pencil on their rolls, adding "on account." At the same time they gave the soldiers to understand that unquestionably at some future day they would be authorized to make a full payment of thirteen dollars a month for their services as soldiers. That is the case in Louisiana, and it seems a very strong case.

But the case in Massachusetts is much stronger. Since this subject was under discussion the other day I have received from Governor Andrew a copy of the enlistment papers—I have them here—which were actually signed by the Massachusetts fifty-fourth and fifty-fifth regiments, and also the company papers that were signed by their officers. The enlistment roll with the printed caption signed by these soldiers of African descent is as follows:

UNITED STATES VOLUNTEER ENLISTMENT LIST.

We the undersigned, by our signatures hereto annexed, do severally agree to serve for a period of three years from the date of our being mustered into the United States service, unless sooner discharged, as volunteers from Massachusetts in the force authorized by an act of Congress of the United States, approved on the 22d day of July, A. D. 1861, entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," in accordance with the provisions of said act and other acts in addition thereto.

Mr. ANTHONY. What was the date of that?

Mr. SUMNER. It was in the month of March, 1863.

I hold in my hand a printed duplicate of the actual paper subscribed by these soldiers. It is plain and positive. I am at a loss to see how there can be any question with regard to it. I submit also that the case in Louisiana is clear. I understand also that the case of the soldiers of African descent enlisted in South Carolina is equally clear. They also entered into the service understanding that they should be paid thirteen dollars a month under the act of 1861; and I think the troops to which the Senator from Rhode Island refers would fall in the same class.

Mr. ANTHONY. If the Senator will make his amendment to include also all those who enlisted after the date of the act of March, 1863, it would cover the case. I think those enlisted after that time, although they might not have signed the same paper, and did not in fact, had the same understanding.

Mr. SUMNER. But let me remind the Senator that there have been large enlistments of colored troops in Tennessee. Does the Senator know on what terms?

Mr. ANTHONY. I do not.

Mr. SUMNER. I do not. It is this case that from the beginning has seemed to me to be the only difficulty in the solution of this question. We know nothing of the terms on which those enlistments in Tennessee were made. The Senator will remember that they were made on a large scale by the patriotic services of General Thomas, the Adjutant General of the Army of the United States. If they were actually at the rate of ten dollars a month I do not propose on any ground of sentiment, by retroactive legislation, to burden the Treasury with thirteen dollars a month. I propose to treat this question in a practical way, and to try to carry out the contract of the United States—contract I call it—express or implied, made by agents of the United States, rightfully or wrongfully, but made under such circumstances that, it seems to me, the honor of our country is pledged.

Now, sir, I do not wish to trouble the Senate further. The whole subject was considered amply the other day, on grounds of sentiment and on grounds of law. I content myself now with a simple statement of the case, and the expression of an earnest hope that the Senate will adopt the amendment without debate.

Mr. JOHNSON. Perhaps the Senator from

Massachusetts is not more willing than I should be to pay these soldiers the same amount of compensation that we give to white soldiers. But there is involved in this measure a principle which I think is quite dangerous, and will be in its practical operation in future. The law itself—at least I assume that to be the true construction of the law, and it is upon that construction that the particular motion which is now contemplated is based—did not authorize any such promise as was made to these soldiers.

Mr. SUMNER. I do not hear the Senator.

Mr. JOHNSON. The law as it stood at that time—I mean the law under which they were enlisted—did not authorize any such promise as is said to have been made to these soldiers.

Mr. SUMNER. May I interrupt the Senator just there?

Mr. JOHNSON. Certainly.

Mr. SUMNER. On that the Senator understands there is a difference of opinion. The Governor of Massachusetts most sincerely interprets the statute of 1861 as authorizing the enlistment of persons of African descent as volunteers.

Mr. GRIMES. And entitled to thirteen dollars a month?

Mr. SUMNER. And entitled to thirteen dollars a month. He has stated that in his message; he has argued it; and I take the liberty of saying here I have seen no answer to it; and I do not see how it can be answered. I merely venture to interpose this suggestion at this particular moment, as the Senator from Maryland was observing that these soldiers were not enlisted under the statute of 1861.

Mr. JOHNSON. I did not mean to particularize any statute, nor did I mean to say what in my opinion is the meaning of the act of 1861, or either of the other acts on this subject, nor whether the construction put upon the law by the Executive of Massachusetts is the correct one or not. It is sufficient, however, for my purpose to say that if the Governor of Massachusetts is right, and these men because of the law under which they are enlisted are entitled to thirteen dollars a month, the Treasury will pay them and there is no necessity for any legislation; but the very object of this legislation, the very necessity for the proposed law is that the Executive Departments of the Government do not so construe the law. They therefore are of opinion—and upon that opinion I act—that, under the law as it stands, these soldiers are not entitled to more than ten dollars a month; and it is proposed now to get rid of that difficulty, not by an amendatory act to operate in the future, but by an act declaring that, whatever may have been the law before, or assuming that the law before would not entitle the soldier to more than his ten dollars, he is to have his thirteen dollars from the day of his enlistment. I understand the Senator from Massachusetts to put it upon the ground, which is generally true, that where the agent of a principal in the execution of his agency makes a promise, that promise is as binding upon the principal as it would be if made by the principal himself. But that does not apply to a public agent. If it did, the Treasury of the United States would soon become bankrupt. The rule on the subject is very familiar, and nobody can be better acquainted with it than the member from Massachusetts, that whoever deals with a public agent, who is executing a duty devolved on him by the authority of an act of Congress, is supposed to know and bound to know the extent of that authority, and if he thinks proper to trust to any representation made by the agent which the agent had no power to make, his only redress is in a proceeding against the agent. Otherwise, as I stated just now, the United States would be in a very unpleasant predicament, particularly at this time. In Massachusetts, for example—I do not state it as having occurred, for I am sure it has not occurred; I have confidence in the integrity of Governor Andrew; perhaps he is a little wild upon a particular subject, but that wildness is not confined to the Governor of Massachusetts—

Mr. SUMNER. "Wise" the Senator meant.

Mr. JOHNSON. "Wild" I said. He may be a little "wise." I think he is certainly wild. But so far as the question is concerned it is very probable—I speak only of the Governor as I am sure I might be spoken of myself—it is very probable that the Governor of Massachusetts was induced to put his construction upon that act be-

cause he thought such ought to be the law and wished that such should be the law. Now, I have in my possession a letter received from one hundred and forty-two soldiers belonging to the fourteenth regiment of New York, in which they state this to have occurred, and they make a very strong case of it if their facts are true: that when they were mustered into the service they were told by the recruiting officer and by the mustering officer that they were to be discharged from the service at the same date that the regiment in which they were to be enlisted was to be discharged under its enlistment; that is to say, at the end of two years, the regiment to which they were attached having already served one year. They with the original members of the regiment were to go at the expiration of two years. There is no doubt that they were so told, and they came into the service of the United States under what they believed to be a rightful pledge made to them in behalf of the Government. They come here to the Department, or I went there for them, and I was told—and I have no doubt the Department act right—that they could not recognize any such pledge as that; if made at all, it was made without the authority of the Department, and it is a matter that the soldier is bound to know in advance before he enters upon the service what is in point of law the obligation which he is about to contract with the Government.

Now, Mr. President, the honorable member from Rhode Island tells us, and I have no doubt it is true, that some of these men were told that they were to get thirteen dollars a month. Told by whom? Told by the man who enlisted them. Who was he? You give two dollars a man to every person who will enlist a soldier, and with a certain description of men two dollars is very apt to make them believe they have an authority which they have not got, and to make statements by which they will be able to make their two dollars, but nobody pretends, as I understand, that there was any assurance given by the War Department to any one of these soldiers that upon coming into the service of the United States they were to be paid any more than ten dollars a month.

In my view, therefore, there is no obligation, either legal or moral, upon the Government to pay these men more than the law entitles them to. If Senators think the Treasury of the United States at this time is in a condition to give away eight or nine hundred thousand or a million dollars; I do not know how much it will come to; there are differences of opinion in relation to the amount involved in it—

Mr. CONNESS. Will the Senator permit me to make a suggestion on that point?

Mr. JOHNSON. Certainly.

Mr. CONNESS. I do not understand that the discretion given to the Secretary of War by the amendment now proposed by the Senator from Massachusetts will permit of such a loose application as the Senator from Maryland describes. I ask the Senator if he has paid attention to the amendment?

Mr. JOHNSON. I heard it. The amendment provides only—I do not give its exact words—that the Secretary of War is to be satisfied that some assurance was made to these men that they were to get the same pay as white troops.

Mr. SUMNER. The language is "that they were led to suppose."

Mr. JOHNSON. "Led to suppose." By whom? By anybody; and all that would be required by the Secretary would be to get an affidavit from some man that these soldiers were told that they were to get thirteen dollars a month. He does not sit as a court, with testimony on both sides, and bring the witness before him and ask him how he came to give any assurance.

The Senator from Massachusetts tells us, and I believe he has written evidence of it, that General Ullman, who commands a brigade of the Corps d'Afrique in Louisiana, made that assurance. That may be true; but I cannot help doubting it, because I know General Ullman is a lawyer, and a very good lawyer, and I take for granted he knew what the law was, and if he did not know what the law was I also take it for granted that he would not have so far forgotten his duty as to induce those men to go into service by promising them thirteen dollars a month when he knew they could only get ten dollars. If he did it he ought to be no longer in the command of that brigade, because,

according to my view of conduct of that description, he would be a dishonor to his cloth. There may be and will be sent to the Department, in all human probability, for we all know how easy those affidavits are procured, affidavit after affidavit that General Ullman was heard to make this promise.

Mr. SUMNER. There is the handbill signed by him.

Mr. JOHNSON. Yes, a handbill. How issued? Under what authority issued? Who believed it when issued? I do not think the practical effect as to the amount to be paid out, if you pass the joint resolution without the amendments suggested by the honorable Senator from Massachusetts, will be at all affected by the adoption of the amendment. That honorable member says that he deals with this as a practical question; that with him it is not a matter of sentiment in this particular instance. He has some little sentiment on the general subject; he seems to have studied that *con amore*; I do not blame him for it. But he says he deals with this question as a practical question. That is true; he does deal with it very practically, for he takes out of the Treasury \$800,000, or whatever may be the amount of it. That is being practical with a vengeance! The true way as I think to deal with it is, throwing sentiment aside, which the honorable member says he has done—he will permit me to say that he would have been more accurate if he were to say that he thinks he has done it—throwing all sentiment aside, let us ask are these soldiers entitled to this money? If they are, in God's name give it. If they are not, then give it to them if you think the Treasury is in a condition to part with eight or nine hundred thousand dollars for nothing.

Mr. GRIMES. It is very evident to my mind that this matter is compromised by attempting to cover some individual cases in a general law. It may be the case, and no doubt it is so, that there have been individual instances of hardship, or would be if we passed the bill as it now stands, and should not pass some subsequent act for the relief of those particular regiments. I think, however, that the chairman of the Committee on Military Affairs had better not involve this bill with any reference to the Massachusetts regiments or to the Rhode Island men who have been enlisted or to the South Carolina regiments. Let us agree by this bill that from this time forth every man who is in our employment as a soldier, no matter what may be his color, shall be entitled to the same pay; and then, if it is necessary to pass some special legislation to cover the fifty-fourth and fifty-fifth Massachusetts regiments, or to apply it to the regiments in South Carolina, let the chairman of the Committee on Military Affairs introduce a bill for that purpose, and call it up, and if it contains merit I for one will vote for it. But I do not think this bill ought to be retrospective.

We shall have accomplished a great deal when we shall have accomplished as much as this bill proposes; and that is to give to colored soldiers the same pay, and authorize the President to give them the same bounties that are given to white soldiers. I trust the chairman of the committee will see that the policy which I have suggested is the best one, to withdraw that part of the bill which makes it retrospective; and then if we want a retrospective bill applied to particular cases let us pass it afterwards.

Mr. HOWE. I rise simply to assent to the advice just given by the Senator from Iowa. It seems to me it is eminently sensible. I take it you cannot, by a general bill, undertake to do justice to a great variety of special cases. We do not know upon what facts they rest. It does seem to me that the Senator from Massachusetts, in urging the propriety of making this bill retrospective, has put it upon the right ground; and that is that there is a legal right vested in at least some portion of the colored troops which have been mustered into the service of the United States to receive thirteen dollars a month. If the fact is so we cannot take away that right; nor can we by any action of ours strengthen it; and it strikes me that if the fact is not so it would be dangerous to undertake, after these troops have been paid and the rolls have been returned to the office of the Paymaster General, to reopen these accounts and to put the Treasury of the United States in the hands of all these paymasters and authorize them

to go into the country and readjust and settle the services rendered by these troops. I think it would be very dangerous indeed.

But it seems to me the Senator from Massachusetts is mistaken upon the question of law. When he read the other day the order issued by the War Department, under which it was said certain regiments in Massachusetts had been recruited, I was inclined to think he was entirely right in supposing that at the time that order was issued there was no law which distinguished between the pay to be made to colored soldiers and the pay made to white soldiers; and I was inclined to think he was right, and I still think he was right in saying that there was no law then which prohibited Governor Andrew from enlisting colored troops. I always thought there never should have been such a law. I always thought they should be employed wherever they could be had just as freely as persons of any other color. I understand, however, this morning that in point of fact these troops were not enlisted at that time, nor under the laws then existing; that they were not enlisted until after the law of 1862 was passed, which did discriminate between colored and white troops, both as to the pay they were to receive, and as to the services they were to render. It did not put colored troops upon the footing of soldiers. It was a qualified kind of service that that act contemplated, and it was a modified pay that it provided for. So that upon the question of law I think the Senator is mistaken in assuming that there is any legal right vested in these men by any previous legislation of ours to receive more than ten dollars a month.

Upon the question of justice, it is said that assurances have been held out by different parties, some acting as the agents of the different States, some acting as agents of the United States, none speaking in the name of the law; that they have given assurances here and there that a rate of pay should be allowed which the law did not warrant, and it is assumed that that creates a sort of equity in favor of these troops which we are bound to recognize. Now, I wish to state one single individual instance showing what is the action to the Government in such cases. I know a man who was in the employ of the Government of the United States, under the authority of an Indian agent, acting as blacksmith for a tribe of Indians, and receiving a pay of forty dollars a month. When the second regiment of cavalry was raised in Wisconsin he was urgently solicited by an officer who was recruiting for one of the companies to enlist in his company. He assured him that he would be put on extra work, and would be entitled to the same pay he was then getting, to wit, forty dollars a month, for extra service. The man had some doubt about it. The officer assured him that the fact was so, and to make him more certain he took him to Milwaukee where the regiment was then in camp, the regiment being commanded by Colonel, now Major General Washburn. Colonel Washburn looking at the law and at the regulations saw that for extra services blacksmiths were entitled to receive forty dollars a month. He overlooked the fact that the act under which those regiments were raised authorized the enlistment of blacksmiths at, I think, fifteen or sixteen dollars a month. He thought that the way to secure him forty dollars a month was to enlist him as a blacksmith. Accordingly the man was enlisted as a blacksmith, and sent into service. The paymaster said at once he could only receive the pay allowed to blacksmiths by the act, and he could not receive the pay due for extra services. That soldier is to-day in the second regiment of Wisconsin cavalry, having given up a situation under the Government in which he was getting forty dollars a month, and he is doing duty for, I think, fifteen dollars a month, if that is the rate of pay allowed to blacksmiths.

Upon the evidence of the officer who enlisted this man and upon the certificate of the colonel of the regiment stating these facts I applied to the War Department either to give him the forty dollars a month which it was expressly stipulated he should have, or to discharge him from the regiment. It was referred to the general-in-chief. The general decided that he enlisted in due form and they could not discharge him; and they could not pay him forty dollars a month, because there was no law authorizing it; that if any officer acting in the name of the United States or on behalf

of the United States promised to pay him more than the law authorized, the officer must make it good to him, the Government would not.

That is the rule of action had in reference to an individual, and upon just the facts I state. Now are we prepared to say that we shall hold the Treasury of the United States responsible for all the assurances and all the guarantees and all the promises that all the persons in the employment of the Government see fit to make?

The PRESIDING OFFICER. (Mr. Foor in the chair.) The Senator from Wisconsin will suspend his remarks. The morning hour having expired, the unfinished business of yesterday comes up as the special order of the day, and by positive rule of the Senate is now before the body for consideration.

Mr. WILSON. I move to postpone the consideration of all other subjects, for the purpose of going on with this joint resolution. I think we can finish it soon.

Mr. SHERMAN. I hope that the special order will be merely laid aside informally for the present until the chairman of the Committee on Finance, who has charge of the bill which is the special order, shall come in.

The PRESIDING OFFICER. By common consent of the Senate the special order may be postponed for the time being. Is there any objection? The Chair hears none. The joint resolution to equalize the pay of soldiers in the United States Army is still before the Senate as in Committee of the Whole.

Mr. WILSON. If we are to stand strictly on the law, of course we can do nothing in this case; I mean if we stand on the construction of the law which holds that these men were raised under the act of 1862, instead of the act of 1861. Some of these regiments certainly have been raised with the promise of their officers and of general officers that they should have the same pay as other troops. I hold in my hand a letter from Colonel Higginson, commanding the first South Carolina regiment, in which he gives an extract from the order of General Saxton raising that regiment, which says: "The persons to be received into the service and their officers to be entitled to receive the same pay and rations as are allowed by law to volunteers in the service." From the 1st day of October, 1862, to the 28th day of February, 1863, the men of this regiment received thirteen dollars a month; now it has been reduced to ten dollars, and in reality they are paid only seven dollars, as I explained the other day. What is said of this regiment applies to Colonel Montgomery's regiment and to some other regiments, which were paid thirteen dollars a month for a time and then were cut down to ten dollars. The Government has not only done that, but it proposes to go back and deduct the excess over ten dollars which they were paid in the past.

It is evident to my mind, however, after what has been said here this morning, that this joint resolution is delayed by this attempt to do justice to some ten or fifteen or twenty regiments to whom this promise was made. I think the amendment proposed by my colleague would not apply to more than fifteen or twenty regiments at most, and it would be at the discretion of the Secretary of War. I should be perfectly willing to trust it in his hands. But as I see that I cannot get the resolution through promptly in its present shape, I propose to amend it by striking out that portion which makes it retrospective, by striking out all after the word "service" in the ninth line down to the word "and" in the tenth line, and inserting "from the 1st day of January, 1864," so that it will read "as other soldiers of the regular or volunteer forces of the United States of like arm of the service from and after the 1st day of January, 1864."

I propose this so as to make the law begin to operate from the commencement of this year. It may be that the resolution may not get through Congress for the next two months; it may be held up in the other House; and the gross injustice of allowing these men to remain in the service performing the same duty as other men without the same compensation is apparent, I think, to every body.

The PRESIDING OFFICER. Does the Senator from Massachusetts move his amendment as an amendment to the amendment of his colleague, or as an amendment to the body of the joint resolution?

Mr. WILSON. To the body of the resolution.

The PRESIDING OFFICER. Then it is not yet in order. The pending amendment is that offered by the Senator from Massachusetts [Mr. SUMNER] in the form of a proviso.

Mr. CONNESS. I should like to know whether the Senator from Massachusetts who offered that amendment as a proviso withdraws it, or whether he desires a vote of the Senate upon it.

Mr. SUMNER. I shall not resist the request of my colleague, the chairman of the Military Committee, who has this bill in charge, but I cannot withdraw the amendment without expressing my regret that the course of this debate seems to render such a measure at all advisable; nor can I withdraw it without making one word of reply to some of the suggestions that have fallen from Senators.

The Senator from Maryland, with that felicity which enters into all of his arguments, has given a glowing picture of what would ensue from this simple act of justice. He says there would be a very large draft upon the Treasury. He talks about hundreds of thousands of dollars. Now, sir, I have no reason to suppose that there will be any such draft. I believe that if my proposition be adopted the draft will be very small. The proposition will be applicable to only a few regiments. My colleague says some fifteen regiments; I doubt whether to so many as fifteen. I therefore put aside all that eloquent portion of the Senator's remarks. There is to be no draft on the Treasury which the Treasury cannot bear easily, and, when I consider the nature of our obligations, I would almost say gratefully.

The Senator went further on grounds of law, and he said that there was no legal obligation. I am aware that the Secretary of War is of the same opinion, for if there were a legal obligation recognized at the Department under his charge there would be no occasion for any discussion in this Chamber. But there are persons who differ from the Secretary on that question. I do not wish to obtrude my own opinion upon it, but I have no hesitation in declaring just as confidently as the Senator—

Mr. JOHNSON. Oh, no; I did not.

Mr. SUMNER. That there is a legal obligation.

Mr. COWAN. Will the Senator from Massachusetts allow me to ask him whether under this act of 22d July, 1861, there is not a fair and certain test by which to determine the question? The act reads: "The President be, and he is hereby, authorized to accept the services of volunteers, either as cavalry, infantry, or artillery, in such numbers," &c. Now, the question I put is whether he has accepted these regiments under this act. If he has, then I agree with the Senator from Massachusetts. If he has not, then I think there is no question about it.

Mr. SUMNER. The answer to the inquiry of the Senator is very easy. I do not wish to go over the ground discussed here to-day; but the Senator will remember that the order of the War Department which I read made no allusion to any statute under which they were to be enlisted, but it called for volunteers, "including" persons of African descent. Such were the terms of the order under which Governor Andrew acted. The Governor read the statute. He is a good lawyer. In his opinion he was authorized under the statute of 1861 to enlist colored troops. He finds no "color" in that statute. But the Senator asks, have they been accepted?

Mr. COWAN. Did he offer them, and were they accepted? Because if he did, then they were within the terms of this statute, and we should be obliged to pay them.

Mr. SUMNER. The answer to that is this: that they were mustered into the service as the fifty-fourth and fifty-fifth regiments of the Massachusetts volunteers; that they have been accepted as such; that as such they have been passed to the credit of Massachusetts; also that at the time of their enlistment Governor Andrew assured them that they were volunteers in the service of the United States, enlisted under the statute of 1861; and still further that, in point of fact, the enlistment papers which they signed, and according to which they were mustered into the national service, expressly declared that they were enlisted under this statute. If this be not acceptance practically, I know not what can be acceptance.

Mr. COWAN. Then we ought to pay for them. Mr. SUMNER. I say, therefore, we ought to pay for them; and this brings me round again to the point of law raised by the Senator from Maryland. I have no hesitation in saying that on strictness of law we are obliged to pay those good soldiers thirteen dollars a month; but I am reminded that there is a difference of opinion on this obligation. There are learned Senators in this Chamber who, as the question of law, adopt the conclusion of the War Department. How, then, shall we proceed in order to regulate this matter? Admitting that there is a difference on the point of legal obligation, it seems to me reasonable and just that, discarding this question for the moment, we should, by a careful consideration of facts, endeavor to arrive at a proper conclusion on principles of justice which unhappily sometimes differs from law.

And this again brings us to the terms of these enlistments. Forget, if you please, the obligation of law—although for myself I cannot forget it—forget whether the War Department or Governor Andrew is right in their respective interpretation of the acts of Congress, I ask you to consider candidly under what statutes and by what terms these enlistments were actually made, or at least the soldiers supposed they were made.

I have already read to the Senate the actual enlistment papers of the Massachusetts fifty-fourth and fifty-fifth regiments. You do not forget the terms. What follows? Why, sir, clearly this: that in conscience the Government is bound to treat them as soldiers under the statute of 1861, and to pay them accordingly. Now, I plead before the Senate that the Government shall do what in conscience it is bound to do. Our present delay is mischievous. This discussion is painful.

But the Senator from Iowa [Mr. GRIMES] says that it would be better to bring forward a distinct measure providing for these different regiments. Why, sir, would he have the Senate undertake to audit all these claims? and this it must practically do if by a distinct measure it undertakes to decide upon them. I think the Senator will not find any such proposition practical. The proposition now before the Senate is more practical; if the Senator from Maryland will pardon me for using the word. It proposes to refer the whole matter to the discretion of the Secretary of War. He has the means of instituting the proper inquiries. He can ascertain better than anybody else, better than anybody in this Chamber, under what terms these soldiers were actually enlisted, and if to his satisfaction it shall appear that, in point of fact, when they took service they supposed that they were soldiers under the statute of 1861, then it will be his duty to pay them accordingly.

Now, sir, I am unwilling to occupy too much of the time of an enlightened Senate; but it seems to me I should do injustice to the case of these brave and well-deserving soldiers if I did not at least state it plainly and urge it as earnestly as I can. In my opinion, if you set their claim aside now you sacrifice them; you do an act of injustice. I know Senators do not intend to do any such act; but I cannot doubt that such will be the consequence of the vote of the Senate. And I do not think that at this time the national Government can afford to do an act which shall have so much as a semblance of injustice toward those colored troops who are shedding their blood for our cause.

Sir, I am unwilling to withdraw the proposition. I shall do it if my colleague desires it. At any rate, I should rather, for my own satisfaction, have a vote upon it. If the Senate choose to reject it I shall at least have the satisfaction of having done my duty.

THE DEFICIENCY BILL.

Mr. FESSENDEN. I wish to make a motion which ought to be made now. The Committee on Finance have been further looking into the deficiency bill which was under consideration yesterday; and we have had some more deficiencies coming in for our consideration this morning which perhaps require immediate attention; and inasmuch as the specifications of deficiencies that we had from the War Department yesterday may be interesting to the Senate, and members may like to see them, and I propose to have the bill go over until Monday. I ask that they may be printed. I should like to have them printed so that we may

have them on our tables on Monday morning. I shall not call up the bill to-day.

The PRESIDING OFFICER. By common consent the motion of the Senator from Maine will be entertained, and the papers presented by him will be printed; and the deficiency appropriation bill, if the Chair understood the motion of the Senator from Maine, will be postponed until Monday next. That order will be made, if no objection be interposed. The Chair hears no objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 116) in relation to university lands in Washington Territory;

A bill (H. R. No. 179) concerning lands in the State of California;

A bill (H. R. No. 228) confirming the title of Joseph Ford to certain lands in Rice county, in the State of Minnesota; and

A joint resolution (H. R. No. 32) to grant additional rooms to the Agricultural Department.

AMENDMENT OF ENROLLMENT BILL.

The message further announced that the House of Representatives had passed the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, with an amendment, in which the concurrence of the Senate was requested.

On motion of Mr. WILSON, the bill and amendment were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 116) in relation to university lands in Washington Territory—to the Committee on Public Lands.

A bill (H. R. No. 179) concerning lands in the State of California—to the Committee on Public Lands.

A bill (H. R. No. 228) confirming the title of Joseph Ford to certain lands in Rice county, in the State of Minnesota—to the Committee on Public Lands.

A joint resolution (H. R. No. 32) to grant additional rooms to the Agricultural Department—to the Committee on Agriculture.

PAY OF COLORED TROOPS.

The PRESIDING OFFICER. The joint resolution (S. No. 23) to equalize the pay of soldiers in the United States Army is before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from Massachusetts, [Mr. SUMNER.]

Mr. JOHNSON. I rise for the purpose of setting myself right in the view of the honorable member from Massachusetts, as well as of the Senate itself. The Senator from Massachusetts understood me as saying that the construction put upon the act of 1861 by the War Department is the correct construction. I have not said a word about that act. I have not looked into the act of 1861.

Mr. SUMNER. I understood the Senator to assume that. I know that the Senator did not go into any statement of his own opinion on that point.

Mr. JOHNSON. I have not examined it, but I act upon that assumption from what is presented here.

Now, a word or two more. The member from Massachusetts tells us that there will be no heavy draft upon the Treasury by the passage of this bill, because the effect of the proviso will apply to but a portion of these regiments, six, or seven, or ten, or whatever may be the number; that therefore the sum taken from the Treasury will be comparatively very small. If the amendment should prevail and become a law, all that will be paid will be the amount due to those particular regiments. I suppose it will be one or two hundred thousand dollars at least.

The regiments that have been recruited in Ma-

ryland, and those that have been recruited in Ohio, or in Tennessee, or anywhere else, had no such assurance held out to them, and they can get nothing under the provisions of your contemplated law. Suppose they come here afterwards, or suppose that we the representatives of these several States rise up after you have passed this law and say, If your colored men ought to receive thirteen dollars a month because they were told so, ought not our men to receive it? Are they not risking their lives and shedding their blood in defense of the country, fighting for the same object, running the same peril? Why will you pay Massachusetts soldiers thirteen dollars a month and pay Maryland and Ohio and Kentucky soldiers only ten dollars a month? The reason that would be given in such a case is that, as far as those regiments were concerned, the Governor of Massachusetts told them they were to get thirteen dollars a month, and the regiments raised in other States to be provided for by this bill were told by somebody—the Lord only knows who—that they would get thirteen dollars a month. They are to get this money; but our people who knew what the law was, and who were not dishonest in representing it to be what it was not—I do not mean by that to include the Governor of Massachusetts; I have no doubt he was under the impression under which he has acted—because our people have not held out such representations, our men are not to be paid the money. I should say, in point of justice, in point (if my friend from Massachusetts prefers it) of sentiment, the moment his troops get thirteen dollars a month, why ought not ours to get thirteen dollars a month? How is he going to resist it? Not by saying that the black man in Maryland is not as good as the black man in Massachusetts; because the theory of my honorable friend from Massachusetts is that the black man everywhere is just as good as the white man.

Mr. SUMNER. All men are born free and equal.

Mr. JOHNSON. Certainly, and just as good as the white man. He has not gone, I believe, to the extent of stating it in a different form of expression by saying that the white man is no better than the negro.

Now, if our black men are as good as his black men, why should they not get this money? I should insist upon it, if the Treasury would bear the infliction, that if you pay the colored soldiers of Massachusetts thirteen dollars a month, those of Maryland must be paid thirteen dollars a month, and those of Ohio and of Tennessee must be paid, so that it shall operate in favor of all, and then it will take out of the Treasury eight or nine hundred thousand dollars, or, as I understand, a million or a million and a half.

My friend from Massachusetts is not accomplishing his object by this amendment. He is not getting at the justice which he says belongs to the case. He says, and he supports by his opinion the opinion antecedently expressed by his Governor, that under the act of 1861 these men are entitled to it, and that they are in the service under that act. That is his view of it; and he considers it disreputable to the United States after these men have come into the service of the United States and have been acting on this promise of thirteen dollars a month, on any technical ground to refuse to give it. If it be true that they are in under the act of 1861, upon what ground of morality—if he will permit me so to put the question—is it that he undertakes to distinguish in favor of his men from our men, when our men are all, if his men are, under the act of 1861?

Mr. SUMNER. Does the Senator wish an answer?

Mr. JOHNSON. Certainly.

Mr. SUMNER. I do not understand that all are under the act of 1861. I understand some come in under the act of 1861 and some under the act of 1862.

Mr. JOHNSON. They were all mustered under the act of 1862. They are all just as much under the act of 1861 as any portion of them, except we admit that because certain of them are told, without authority, that they are to come in under the act of 1861 they are in under that act. That was not the construction given by the Department.

Mr. GRIMES. Their muster-roll was dated March 3, 1863.

Mr. JOHNSON. They all come in the same way. The honorable member from Massachusetts does not distinguish, as I think, with the accuracy and perspicuity that generally characterizes him, the facts of the case in their application to the law. They are in under the act of 1861, or they are not. If they are in under the act of 1861, and it is clear they are in, then they ought all to be paid. If they are in under the act of 1861, and they cannot be paid under that act, because the Secretary of War is not sufficiently astute to see that that act covers their case, pass a resolution telling him that the act does cover the case and that he must pay them. But that would take eight or nine hundred thousand dollars out of the Treasury and would provide for all, and that would be presenting a case which, according to the reply just made by the honorable member from Massachusetts, is rather startling in the present condition of the finances.

If they come in under the act of 1861 why should they not be paid as the white men are being paid and give them bounties and all, and instead of being eight or nine hundred thousand dollars, you will establish a precedent by which you will be equally bound to give them millions and millions; and all for what? They are in the service now; good soldiers. They are not to become better because you pay them for what they have done in the past. You propose to pay them in the future the same as white troops. I am for that, and I would have paid them in the beginning the same as white soldiers if I had supposed we could not get them for a smaller sum. I would not have paid the white man as much as he is getting now provided you could raise the soldiers for a smaller bounty and smaller pay. The mere pay is nothing. In the contingency that the poor fellows lose their lives fighting the battles of the country, or are worn down and die by disease contracted in that service, the pay is literally nothing. You offer them pay to induce them to come in, and you give them only what will induce them to come in, and you provide for their families afterwards by a pension.

But you have not done that in relation to the negroes. The Treasury could not bear it. It was not necessary, and the exigencies of the country did not demand it. There is a point beyond which we cannot go. The Secretary of the Treasury clearly intimates so. The chairman of the Committee on Finance and every member of that committee tells us so, and every man of them cautions you you had better be careful and husband your resources to meet the necessary demands of the great exigency in which the country is placed. It is no trifling matter, as it seems to me, to pay out of the Treasury upon the ground of any supposed morality, or upon the ground of any sentiment, if that is the ground on which the application is made, some eight or nine hundred thousand dollars. If the Governor of Massachusetts has made a promise which the law did not authorize; if he has created as between the Massachusetts soldiers and the Governor of Massachusetts an obligation which ought to be redeemed, let Massachusetts redeem it.

Mr. FESSENDEN. They have done it. They have passed a law to redeem it.

Mr. JOHNSON. Then why pay it twice?

Mr. FESSENDEN. As I understand the statement, those regiments refuse to receive it from Massachusetts. Was not that the statement?

Mr. WILSON. Yes, sir.

Mr. JOHNSON. Your money is about as good as ours, I should think, if not a little better, if you pay in your bank notes.

Mr. WILSON. Will the Senator allow me to say a word?

Mr. JOHNSON. Certainly.

Mr. WILSON. The Legislature of Massachusetts assembled a few days after the call for three hundred thousand men last autumn, and passed an act authorizing the payment to these colored regiments that were in the field of the difference between the pay of the Federal Government and that which was promised them. I think it was the difference. At any rate they authorized a payment to those troops. The fifty-fourth regiment left Massachusetts the latter part of May last, and they have not been paid at all. They have never received a dollar as yet. The other regiment followed a short time afterwards. Those two regiments declined to receive the extra pay

from the State on the ground that when they were enlisted they understood they were to receive the same compensation that was paid to other troops: that they enlisted under that expectation; and that they held the Government to the pledges made, or else they should be discharged from the service, as was their right. They have declined to receive their pay.

Mr. JOHNSON. They are gentlemen of most extraordinary sensibility. That is all I have to say. We are told they want the money, and Massachusetts tells them, "Our Governor has told you you are to get the money; the Government of the United States, says he, had no authority to tell you any such thing; but Massachusetts is willing to pay you;" and my friend from Massachusetts tells us that these colored gentlemen in their excessive sensibility and their determination to stand upon their rights refused to receive the money from Massachusetts.

Mr. COLLAMER. I understand they refused to receive the three dollars a month that was voted by Massachusetts in addition to their pay. I believe they have not received the pay of ten dollars a month either.

Mr. FESSENDEN. They have been offered the ten dollars a month, but they will not receive that.

Mr. COLLAMER. They will not receive the three dollars from the State or the ten dollars from the United States?

Mr. JOHNSON. Without saying anything particularly unkind of that description of soldiers, I will say, if they are made up of that material they will not be as good soldiers as we hope the others will be, because they have not common sense.

Mr. WILSON. They have made their record on that point.

Mr. JOHNSON. I mean in the future.

Mr. GRIMES. It was under the persuasion of their officers that they refused to receive their pay.

Mr. JOHNSON. I know men of that class better than either of the honorable Senators from Massachusetts. I have been brought up among them. They are docile, very easily persuaded; they believe almost anything, and I can imagine—I imagine it only for the sake of argument—that the colonel or the captains and other officers of these Massachusetts regiments said to them, "Boys, the Government of the United States is bound to pay you; don't let poor Massachusetts be paying you out of her treasury;" and they persuaded them to suffer for the want of the money rather than take it from Massachusetts, who is willing to pay them this amount of money. I have nothing more to say.

Mr. GRIMES. The Senator from Massachusetts [Mr. SUMNER] seems to suppose, at any rate he expresses that opinion, that a great deal of injustice is going to be done if the suggestion made by his colleague from Massachusetts shall be adopted. I am willing for myself, as I happened to suggest that amendment or something tantamount to it to the chairman of the Military Committee, to compare my record with that of his colleague on the subject of paying these troops. From the very outset my colleague from Iowa and myself have been in favor of arming negroes. We believed from the beginning of this war that it was not only the right of the Government to do it, but it was the duty of the Government to do it. We have insisted from the beginning that they should be paid and put upon a perfect equality with white men; and nobody knows that better than the chairman of the Committee on Military Affairs.

Mr. WILSON. I know it.

Mr. GRIMES. Whether his colleague, who now accuses me of trying to perpetrate an injustice to these colored men, entertained that opinion or not, the country and the Senate do not know.

Mr. SUMNER. I beg to say that it arises, then, simply from my obscurity, because the Senator has not read what I said.

Mr. GRIMES. I think the Senator is not on record on that subject. He did not give expression to his sentiments in regard to it when the subject was under consideration. I did.

Mr. SUMNER. May I interrupt the Senator?

Mr. GRIMES. Yes, sir.

Mr. SUMNER. It is very well known that in a public speech long before that I urged this very policy, and I made use of this remark. I venture

to quote it now simply in reply to the Senator. I said this: "It is sometimes said that this war ought to be carried into Africa. There is something better: carry Africa into the war." I said that in a public speech in the month of September, I think it was, 1861.

Mr. GRIMES. The difference, however, between the Senator and myself was that I was willing to carry the war into Africa with a bounty and pay of thirteen dollars a month.

Mr. SUMNER. So was I always.

Mr. GRIMES. The Senator, I think, does not stand on the record as being in favor of carrying it there, except at the rate of ten dollars a month. I only allude to that in answer to the charge which the Senator has hurled at me of attempting to perpetrate an injustice because I want these colored people to be paid under a special bill applicable to their particular case, if they are to be paid at all.

I know perfectly well that if this amendment of the Senator from Massachusetts should be adopted it will take millions of dollars out of our Treasury. We have heard a great many statements made here in regard to the number of colored troops now in public employment. Sometimes it has been stated at thirty thousand, and sometimes at fifty thousand; I undertake to say there are to-day not far from seventy thousand. I have seen this morning and last night a gentleman from Tennessee, one of the most gallant officers in the public service, who tells me there are exceeding thirty of these regiments in the State of Tennessee alone. Now I should like to know what answer there is to the argument that has been made by the member from Maryland. If we are going to pay the men who enlisted into the public service from Rhode Island and Massachusetts or from South Carolina, why shall we not pay these men in Tennessee? Does the Senator suppose that if his amendment is adopted there will not spring up all around through Tennessee men who have been in our Army, and who have been recruiting these men, who will insist and many of them will be ready to swear that they did represent to these men that they were hereafter to be paid as white men were, at the rate of thirteen dollars a month? If there are any such statements made as that, if these recruiting agents will come forward and so state, or if other parties besides the recruiting agent will make affidavit to that effect, then the Treasury is to be depleted just to the extent that they may swear to that fact.

Suppose the bill passes with the amendment proposed by the Senator from Massachusetts. You pay one regiment in the department of South Carolina thirteen dollars a month. You pay another regiment that is brigaded with it only ten dollars a month. What kind of justice will those men who receive only ten dollars a month think is meted out to them? Do you suppose that is not going to demoralize your Army? Do you not suppose that that is going to create even more difficulty than exists in it at present? I apprehend that you could not pass an act that would be so well calculated to create trouble and difficulty and demoralization in the Army as this very proposition which the Senator from Massachusetts seeks to have adopted.

Mr. President, I sympathize a great deal with those gallant and patriotic noble young men who have gone out in command of the Massachusetts fifty-fourth and fifty-fifth regiments, and who are in command of the first and second South Carolina regiments. I know a great many of them. I know them to be gallant and patriotic young men. But I cannot help thinking that they have involved us unnecessarily in trouble in connection with this subject; for I know perfectly well that it was through their persuasions these colored troops in South Carolina declined to receive the money that Massachusetts voted to pay them. They seem to think that if we do not make this bill retrospective we thereby cast some reproach on them and their commands, while they ought to remember that the real question is, not what the country or Congress thought of colored troops twelve months ago or twelve years ago or twelve days ago, but what does Congress think of them now. Are we willing at this moment to put them upon an equality as soldiers with white men? That is making great progress; that is an advance in the right direction; and with that, it seems to me, they ought to be satisfied.

As I said before, sir, the only way that I can see that we can get out of the labyrinths of difficulty in which this question is involved is to declare, as has been proposed by the Senator from Massachusetts, the chairman of the Committee on Military Affairs, that from a given day, say the 1st of January or the 1st of February, all persons of African descent in the military service of the United States shall be paid thirteen dollars a month; and then, if there are any particular regiments or any particular members of regiments who would be entitled to a greater pay for their past services than ten dollars a month, no man in this Senate or in the country would be more willing to render the most ample and complete justice to them than I would be; but I cannot conceive that I am doing any injustice to these men by voting for the proposition of the chairman of the Committee on Military Affairs.

Mr. WILSON. Mr. President, I am so anxious to have a vote on this joint resolution that I shall not detain the Senate but a moment in making any remarks upon it. My own judgment is that it would have been a wise thing in the Congress of the United States when it assembled to have promptly passed this joint resolution, or a bill like it, and made it retrospective, and paid all the colored troops that have been raised the same compensation. Senators see a difficulty in that, and my colleague offers a proposition which will cover perhaps somewhere from twelve to twenty regiments that were enlisted by orders from the War Department, which the Governor of Massachusetts supposed authorized him to promise this pay, or by orders of General Saxton, or General Ullman, or other officers. There is difference of opinion in regard to this subject. It is said that the amendment proposed by my colleague cannot be worked out. I shall vote for it as the best proposition that we can get; but if it fails, as I have no doubt it will fail, from the expressions made in the Senate, I shall move the amendment I have indicated, fixing a day when the payment of this increased pay shall commence.

I certainly feel that there ought to be no radical difference of opinion between my colleague and the Senator from Iowa. They have both from the beginning comprehended this rebellion, understood its cause, and advocated the proper remedies. If their opinions had been the opinions of the Senate and the House of Representatives, of the President and his Cabinet, and had been sustained by the country, I believe this rebellion would have been crushed long ago, and the cause of all this trouble and misery ground to atoms.

I hope, sir, that we shall be able to get a vote on this amendment, unless my colleague thinks proper to withdraw it. I leave the matter in his hands without advice.

Mr. COWAN. I do not see very well how this question can arise here in the Senate on this bill. These men are serving the United States under a contract, I suppose. That contract was made by the War Department, and, whatever it is, of course that Department is bound to carry it out. It is alleged by the honorable Senator from Massachusetts that they were offered by the Governor of Massachusetts and accepted under the act of 1861. If that be true, then of course they should be paid as all other soldiers who were offered and accepted under that act were paid. Of that I think there cannot be a doubt, because by that act there was no distinction made as to color between black and white volunteers. The black was considered a citizen; or at least all over the Union he was three-fifths of a citizen. As such he owed allegiance to the Government, and as such he was bound to render military service to it. If, therefore, any State organized them into regiments and offered them to the General Government, and they were accepted, they were accepted under the general terms of the act, and they would be paid as other soldiers are paid under that act.

But I understand the General Government have decided otherwise. They say that these men were not offered by the Governor of Massachusetts under the act of 1861; that they were not accepted by the Government under that act; but they were employed by the Government under the act of July 17, 1862; and that act fixes their wages at ten dollars a month. If that be true, then the Government is bound to pay them ten dollars, and no more; and it makes no kind of dif-

ference as to what was said to them at the time of that enlistment by Governor Andrew or by anybody else. If they relied upon outside promises and outside assurances of that kind that they would get thirteen dollars a month, and the law only allowed them ten dollars, that was their own folly and the wickedness of the men who offered it in fraud of their ignorance and simplicity.

Still, sir, there are cases where I would be willing to give equity to men who had been imposed upon by officers of the General Government under circumstances of that kind; but this is not that case. It is very well known to every Senator here that there are men who have been serving in our armies now for two years and a half, sun-browned veterans of almost a hundred battles. Those men went into the service without such bounties as are now offered to the eleven-hour men who are coming in. If we are to relax the law, if we are to open up the contracts made by the Government with these colored men and go back and readjust our accounts with them upon the principles of exact equity, then, sir, I am for going back first to the white man and doing him equal and exact justice. If anybody is to be rectified and placed upon an equal and exact footing with the rest, it is the man who was our first and our earliest volunteer, the man who has borne the heat and burden of the day; and I will not agree to override the law and override the decisions of the Executive Departments in order to do justice to these negro troops until, in the first place, equal and exact justice has been done to the white men who have been serving us longer and still more faithfully and at still greater sacrifices than the negro troops have done.

I do not wish to detract from the services of anybody or of any class of our soldiery; but I think the only safe way that remains for us now is to stand strictly upon the letter of our contracts with these men; and then, when the hour of success comes, when the war is over, when the country is restored to its wonted prosperity, we shall be able to go back and do justice to all in proportion to the services they have rendered; but that we should do it now, in the condition of the country and in the condition of the Treasury, I think is exceedingly dangerous; and I, for one, am opposed to it.

I have only to say further, that if the chairman of the Committee on Military Affairs will fix the 1st of this month as the time when this increase of pay shall commence, I will vote for his amendment. I have no objection to go back for a few days; but I do not want to go back for a month or more in order to rectify what may be supposed to be a difficulty in this case, for fear it will open the door to a clamor to go back and rectify as to half a million of other men. If he will fix it on the 1st day of February I will vote for his proposition. I am perfectly willing that from henceforth every man who carries a musket in the service of the country, no matter who he may be, if the country accepts his services, shall be paid equally with any other soldier who carries a musket. I have always looked upon this question as one for the Executive to determine. The negro is either to be a soldier or he is not to be a soldier. That the Commander-in-Chief of our armies must decide. If he can control and discipline him and subject him to the rules and regulations of civilized war, he is just as much a soldier as anybody else; certainly he is as much a citizen as anybody else in this country; and if so, he should be paid the same as the others. But that is not the question that is before us here. We are asked to go back and to grant him rather equity than law. To that I am opposed at this time.

Mr. COLLAMER. I have listened with much interest to the remarks of gentlemen on various sides of this question. I shall entirely confine my remarks, which will be very short, to this proposition of the Senator from Massachusetts. I understand him to say that he has the form of the enlistment which was used by these colored regiments raised in Massachusetts.

Mr. SUMNER. I have it on my desk.

Mr. COLLAMER. I have looked at it. An enlistment in writing is always signed by the soldiers. The written enlistment which the Senator from Massachusetts has shown that these men were enlisted under the act of 1861 expressly; and I believe it is conceded on all hands that if they were enlisted under the act of 1861 they are enti-

led to the pay of thirteen dollars a month. That is not disputed. I have not looked into that subject, but I take it for granted that a soldier enlisted under the act of 1861 is entitled to thirteen dollars a month pay. They were enlisted under that act. Now when they were enlisted, though they were colored men, if they could not, in the view of the Department, be enlisted under that act and be entitled to that pay, they had no right to muster them in, and they should have discarded the enrollment at once. They should have said to the officer, "You have enlisted them under an act and for pay which the Government are not now authorized to give to people of that color. Their enlistment is altogether void, and good for nothing." If the Government took them under that written enlistment which entitled them to this pay, and mustered them into the service, they are bound to pay them according to that enlistment. There is no doubt about the law in regard to that point. It would be the most extraordinary law on earth if the Government could say to a man, "We will hold you by your enlistment. We will not be bound ourselves to reciprocate to that enlistment, and yet we will hold you."

If this be so, that law is perfectly clear, and the mustering in by an officer under the enlistment binds the Government to the terms of that enlistment. Even if they never authorized it in the world, as it is made and they agreed to it and the raising of the men under it, they must be bound by the terms of it. Otherwise they should say to the men, "You were irregularly enlisted; we cannot muster you into the service;" and let them go.

It seems to me, however, that the amendment proposed by the honorable Senator from Massachusetts does not reach the case at all. It puts the question of paying these men back to the time of their enlistment upon whether they were led to believe or did believe that they were to receive thirteen dollars a month. I do not think it makes any difference what they were led to believe or did believe. It is not to be put upon any contingency of that kind. There is the written enlistment, and it speaks for itself. If that enlistment be, as I understand it to be, under that act, and binds the Government of course to pay under that act, then if they will not give them this pay, having received the men and mustered them in and used them under that enlistment, we ought to pass a declaratory act, declaring the Government bound to pay them, and directing them to pay them in all cases according to the terms of the enlistment which was written and received. It should be an act by itself directing them to pay according to the terms of the contract made at the time. I would not put it upon any contingency as to whether the men were led or not led so to believe. That does not alter anything at all. That is the loosest of all possible modes of legislation. It so strongly reminds me of an anecdote of the last war, that will be an illustration of it, that I cannot but tell it.

We had a lieutenant by the name of Bezeau, who was a famous recruiting officer. I say "we" because I was then in the service. He was sent down to Middleburg, in Vermont, to recruit in the winter of 1812-13. In the spring the recruits were brought in. There were about seventy or eighty of them. When we came to muster them in according to their enlistment it was found on examining the men that he enlisted one as a major, two as chaplains, about twenty men to each base drum, and three or four as lieutenants. [Laughter.] When we came to take off the citizen clothes and put the soldier's uniform on them and place them in the ranks, there was distress and trouble enough. If we had been compelled to carry out the assurances they had received, I do not know how we should ever have done it. I will only add that Bezeau took care to stipulate that he should never serve with his own recruits. [Laughter.]

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Massachusetts, [Mr. SUMNER.]

The amendment was rejected.

Mr. WILSON. I now move after the word "service" in the ninth line to strike out the words "during the whole time in which they shall be or shall have been in such service," and to insert in lieu thereof "from and after the 1st day of January, 1864."

The amendment was agreed to.

Mr. DOOLITTLE. I offer an amendment, to insert at the end of the resolution the following:

Provided, That from the monthly pay of every such person mustered into the service in States or parts of States where, by the proclamation of the President, the insurrection exists, there shall be reserved the sum of four dollars per month for the purpose of reimbursing the expenses incurred by the United States in feeding and clothing women and children of color in said States or districts.

I do not desire to take up the time of the Senate on this subject, but simply to call their attention to a fact which was stated the other day. In those districts where the insurrection exists, and where our armies enter into a territory where there are large multitudes of persons of color, the men, women, and children come flocking together in crowds to them. The men are enlisted into our service, and the women and children and the decrepit old men are upon our hands to clothe and feed and provide for. This item of expense is very large, and will probably grow larger upon the Government as we proceed with these enlistments. I can conceive a very great difference between the colored people, situated as they are in the insurrectionary districts, from their situation in Massachusetts or Ohio, where they live with their families regularly like all other citizens of the United States. In the insurrectionary districts they are entirely broken up. The men, women, and children, as I have said, come together and cluster around our camps. They are fed and clothed at the expense of the Government; and it is but just that a portion of the pay of the able-bodied men who are enlisted in those districts should be reserved to meet these expenses. Otherwise if we give to these men precisely the same pay that we give to the white soldiers, who have to provide for their wives and children at home, and if we, at the same time, have these persons on our hands to feed and clothe, we do more than justice; we do injustice.

In conversation with a person of great knowledge, in the commissary department, on this very subject the other day, it was estimated by him that in those sections of the country, for every able-bodied soldier we put into our ranks there will be about four persons, women and children or decrepit old men, upon our hands. We must in some way or other prevent their starving. The expense of providing for them is very great. As I said the other day, my attention has been called to this subject from the fact that, being connected with the Indian department somewhat, the great expense of providing for the refugee Indians in Kansas has been pressed upon my attention. I suppose the expenses we have incurred there have been at the rate of \$1,000 a day for feeding refugee Indians. The men have been enlisted in regiments, and have gone to help us to subjugate the rebel Indians and take possession of the Indian country, but the women and children are on our hands. It is a very important consideration. It seems to me the amendment is strictly just.

Mr. CONNESS. I hope this amendment will not be adopted. It is simply mustering into the service of the United States these colored soldiers, and then taking a portion of their pay to support colored persons in those districts. I hope the United States will not assume any such position as that; will not institute any such system. I think the means of supporting dependent persons in those districts should come from some other source than from the thirteen dollars a month of the private soldier. I do not undertake, and will not follow the matter out in detail as to the difficulty, the injustice that will arise from such an application, and the difficulty of carrying it out. Upon the face of the proposition it is an ungenerous and an unjust one, in my opinion. Of course I attribute and ascribe no such motives to the honorable Senator who has presented it. It is entirely repugnant both to my feelings and my reason.

Mr. SHERMAN. The proposition of the Senator from Wisconsin is not only just, to my mind, but it is in accordance with the practice of the Government with regard to other employes of the Government. We retain a portion of the pay of persons in the Navy in order to constitute a fund from which the expenses of naval hospitals are paid. We levy a tax, or rather the State of New York does, upon emigrants who arrive in this country in the city of New York for the purpose of providing for the sick and disabled and poor who come over as emigrants. There are several

funds provided for by law which are made up by contributions levied upon the labor of persons in that particular employment, sailors and soldiers. I am not familiar with the law, but I know that a fund connected with the Navy is made up by contributions levied upon persons in the employ of the Navy.

When a soldier, a white freeman, enters the service, he must provide out of his pay for his family. In some cases they may depend upon local charity; but in the great body of cases he must take his pay or a large portion of it to provide for his family at home. That lessens, therefore, his compensation to that extent. But in the southern States the relations of families do not exist; they are not recognized by law, and therefore, when an able-bodied negro man enters the military service he leaves dependent on charity, in want of the common necessities of life, those who have been connected with him by ties of blood or marriage. When we pay to the negro soldier in the southern States the same pay we pay our most favored sons in the northern States, there is no reason, there is no justice why he should not be burdened with the expense of taking care of his wife and children, his father and mother, and those who are dependent upon him. As you cannot by law require him to take care of those who are connected with him by the domestic ties, it is but proper to levy a contribution on his compensation, so as to make him pay a reasonable share to provide for these contingencies.

I say, therefore, it is not only justified by reason, but it is justified to some extent by the practice of the Government. If we pay the negro soldiers the full pay allowed by law to our own soldiers, and then do not charge them with taking care of the poor and indigent, the old and the infirm of the population from among whom they enlisted, we give them an advantage, we make a discrimination in their favor as against the white soldiers; because you will be compelled by the common motive of charity to provide for the women and children in the southern States when you take from among them the able-bodied men. We shall be compelled by a necessity which we all recognize to appropriate money for that purpose, and there is no reason in the world why they should not be charged with providing for the very class of people who are left unprovided for by our soldiers at home. There is no injustice in it at all.

There is another consideration. These negroes for the first time will receive pay, money. They will not know the value of that money. They will not take care of it, probably, with that care to the same extent as our northern people would. They have not yet become accustomed to the care and custody of money; and therefore I think it is but wise that Congress should, as the agent of these negroes, take care of a portion of their wages and distribute it to those who are connected with them by blood or marriage.

It seems to me, therefore, the principle of the amendment is justified. If you do not do it you will pay the black soldier what is allowed by law to the white soldier, and in addition to that you will have to incur a very large expense in taking care of the wife or children, or the father or the mother of this very soldier to whom you pay the full pay of the white soldier. I do not think that is just.

Mr. GRIMES. It seems to me there are some objections to this proposition of the Senator from Wisconsin. There is not much analogy between the naval case that he has cited and the case here. There is a very great difference between taking fifty cents a month out of the sailor's pay who enlists with the perfect knowledge that that sum is going to be taken out of his pay and given to the support of a naval hospital, and taking four dollars out of the monthly pay of the man who has already enlisted and been rendering service for six months and expects to render it for thirty months longer. We have entered into a contract with these colored men to pay them ten dollars a month; and according to the construction of some gentlemen we have entered into a contract to pay them thirteen dollars a month. Now, it is proposed by this proposition of the Senator from Wisconsin, by an act of Congress, to take four dollars of that pay so that it will leave him only nine dollars a month, a little less than he had before the passage of this bill.

Mr. FOSTER. We give with one hand and take away with two.

Mr. GRIMES. Yes, sir.

Mr. DOOLITTLE. This bill provides that we shall not only pay him that sum, but it gives him clothing besides; in fact, making his pay \$16 50 a month. We raise the pay by this bill. As to the particular sum with which the blank is filled, whether it is four or three dollars, I am not so particular about that. It is the principle that I contend for. If other gentlemen prefer that it should be fixed at three dollars I have no objection to that.

Mr. GRIMES. We have clothed all these soldiers before the passage of this bill.

Mr. FESSENDEN. This adds to the clothing.

Mr. GRIMES. Mr. President, it may be true, as has been stated by the Senator from Ohio, that the marital relation is not recognized by the laws of the States where colored people are enlisted or to be enlisted; but they exist in fact, and those men who are enlisted in our service have wives that they recognize as such, and many of them have children. Many of them have not. But is it just to take four dollars from the pay of a man who has no wife and put it into a common fund? Would that be just here among ourselves? Would it be just as applied to white soldiers? As an illustration, if Robert Small, that gallant man who brought out the Planter from the harbor of Charleston and delivered her to Admiral Du Pont, and who afterwards piloted our naval vessels into Stono Inlet from whence Charleston might have been taken with the proper amount of energy, if he was in the Army of the United States, supporting, as he does, his wife and family by his own labor, just as white soldiers support their wives and children by their own labor, would it be just to Robert Small to take four dollars from his pay and put it into a common fund for the benefit of other people's families? Why should this rule be applied to the colored soldiers there and not to the white soldiers?

Mr. WILSON. We have had to support a great many of the wives and children of white men down there as a matter of humanity.

Mr. GRIMES. Yes, sir; I am told that in some portions of the country where our armies are in possession we support as many white people as we do colored people, refugees, Union men, I suppose, at heart, or supposed to be Union men. I learn it from a gentleman just from Tennessee, who has been engaged in recruiting a loyal white regiment in Tennessee. Why should not the same rule extend to those men who have been enlisted in Tennessee that you are going to extend to these colored men? Is there any reason?

Mr. CONNESS. Why should it not exist all over the country?

Mr. GRIMES. Yes, sir; why should it not exist all over the country? I am in favor of applying the same rule to these people that is applied to other soldiers. Let them stand on a perfect equality before the law.

Mr. SHERMAN. By this bill we propose to increase the pay of black soldiers substantially nine dollars a month.

Mr. WILSON. Six dollars and a half.

Mr. SHERMAN. I will show that it is nine. By the present law a colored soldier gets ten dollars a month; and from that is deducted three dollars for clothing, which leaves him seven dollars. We have already given our assent to the bill which raises his pay to sixteen dollars a month, besides clothing. That will undoubtedly pass the House. There is no opposition to it. Then the addition is nine dollars a month. That raises his pay from seven dollars net to sixteen dollars net, or from ten dollars gross to nineteen dollars gross, including his clothing, of course. Under the bill as it will pass he gets sixteen dollars a month and clothing. That is the effect of it. We have therefore raised the pay of these black soldiers nine dollars a month. It is not, as Senators have been arguing here for the last day or two, only an addition of three dollars a month. It is an addition of nine dollars a month.

Now is it unjust, when we are about to double the pay of this class of soldiers, negro soldiers in the southern States, because the amendment only applies to the negro soldiers raised in the southern States, for us to provide that out of this increased pay a fund shall be raised out of which the women and children and the poor of those States shall be

supported? I do not think so at all. Otherwise you might just as well appropriate money to be distributed and disbursed in charity among those negroes in the southern States in addition to this large increase of pay. It may be, and I think myself the Senator from Wisconsin has put the amount too high. Four dollars a month may be too high. Perhaps a less sum would be sufficient. But it seems to me that we ought to provide out of this increased pay a fund to take care of the women and children in these States; otherwise you do not put these negro soldiers on an equality with the white soldiers, but you give them an advantage over the white soldier, who by his domestic relations recognized by law is bound by law to take care of his wife, his children, and, by our law, his parents. The slave who enlists in your service has no such legal obligations resting on him. While the soldier who enlists from Ohio is fighting for us his wife and his children are contracting legal liabilities for him which he by law is bound to pay. In the southern States that does not exist.

I say, therefore, there ought to be a discrimination there in the pay between black soldiers enlisted in the southern States and white soldiers, or there ought to be a fund reserved from their pay to provide for these contingencies. The Senator says it would be unjust to take two dollars a month or four dollars a month out of the pay of a single black man in the southern States for this purpose. He thinks we should not take the same amount out of his pay as out of the pay of one who has a family. I do not think there is any injustice in it. We are raising the pay of these soldiers. If we were not raising their pay we could not change the existing contract. They have enlisted under a contract which gives them but seven dollars a month net. We propose to increase that to sixteen dollars net. We may decide what shall be done with this increased pay. It seems to me it is but fair and just.

Mr. GRIMES. The Senator will allow me to ask him a question. It is the purpose of the Senate and the country to enlist just as many of these colored soldiers as possible. If they go into the civil service or if they are employed in any ordinary vocation of life they will probably get at the present rates twenty dollars a month.

Mr. JOHNSON. Oh, no.

Mr. GRIMES. Yes, sir, in Tennessee, in Memphis, in Vicksburg, and all the places along the Mississippi river they are getting as high pay as that. There is to be no deduction from the pay of the men engaged in that work. Now how will it be possible for us to raise any more recruits if we are going to give them but nine dollars a month when they can get at least nineteen or twenty dollars in any other avocation?

Mr. SHERMAN. I say we are doing for the negro what is not done for the white man. By this bill we are giving to the negro more pay than he could possibly get for any service in the southern States, even if he were a free man, while we do not give to the white soldier anything like what he could get as a laboring man on the farms of the West or in any of the manufacturing establishments of the North. A laboring man in the northern States in almost any civil employment can get more pay than he can get as a soldier, while a negro, slave or free, in the southern States cannot ordinarily get anything like what you give the black soldier under this bill. Therefore I say the discrimination is all in favor of the black as against the white soldier. I want to put them on a footing of perfect equality. I am in favor of the principle of this resolution, and shall vote for it; but I do think we ought to reserve from the compensation paid to the black soldier an amount sufficient to charge him with the obligation that by law is imposed upon the white soldier, and that is the support of those who are naturally dependent upon him, or those in a dependent condition of life among whom he lives. I think it is but fair, reasonable, and right.

Mr. POMEROY. Mr. President, I think we shall be in inextricable difficulties so long as we legislate for one class of persons one way and another class another way; and the remark I would desire to make I would apply not only to this bill, but to legislation generally. If we intend to make colored men soldiers, why not have the same law apply to them that applies to other soldiers? So long as we undertake to make this

class legislation, we shall be compelled to change it at every session, and be involved in difficulties that will never terminate.

I do not see the necessity of this amendment for another reason. The laboring class at the South is not confined to the men at all. The man whom we enlist as a soldier feels no particular responsibility for his family. Slavery has not allowed him to feel any such responsibility. His family has been owned off in another portion of the county or State, and he does not see them perhaps once a week or once a month. From the very nature of the case, the family follows the fortunes of the mother. She supports them, takes care of them, and labors for them. It is a great fact that in slavery there is just about as much work performed by the females as by the males; and the state of society to which the Senator from Ohio alludes as existing at the North does not exist in the South at all. There is no reason why we should take a portion of the wages of these colored soldiers to support their families; because their families support themselves, and have always done so. These men never did contribute a dollar to the support of their families unless they got it by overwork, or in some way their masters did not know of. Every family has been separate and distinct from the head of the family. The state of society from the condition of slavery is such that it has rendered it necessary that the father feels no particular responsibility, and cannot be held to responsibility for his family.

I think, therefore, we should not attempt to set apart a fund out of a portion of the pay of colored soldiers to support other portions of the colored people in their vicinity. It is only necessary that we have certain cities of refuge for them, as we have here on the border. To be sure, the colored people run out of Virginia and into Washington, and, this being a kind of city of refuge, we had to establish places and camps for them so that they can be taken care of. But this state of facts does not exist at all in a State where we propose that they shall all go free, and it would not have existed here if we could have had this country bordering on the District of Columbia. The true principle is that the soldiers enlisted in our armies should be on one level, have one pay, and no more money should be reserved from the pay of one class than from the pay of another; and until we come up to that standard we shall be in inextricable difficulty.

Mr. WILSON. I will state that this joint resolution was framed to meet, to some extent, the point made by the Senator from Wisconsin in this amendment. If Senators will read the joint resolution, they will see that we provide for the payment to colored men of such a bounty as may be determined upon by the President of the United States. The President may pay in the loyal States a bounty of \$100 to colored men who shall enlist. In the States covered by the proclamation, or the rebel States, he may, in his discretion, pay no bounty at all. He may save this bounty for the very purpose of taking care of the women and children in that portion of the country. We framed the bill with that view. I think that will be ample and sufficient.

I do not believe that since this rebellion commenced the colored women and children have cost this Government anything at all. I know that on the Atlantic coast we owe them money to-day. We owe them thousands of dollars. Down on the coast of South Carolina some women are earning more than two hundred dollars a year by raising cotton. I know parties that have paid families from two to three hundred dollars a year for the cotton they have raised themselves and brought into market. I tell you further, the Government of the United States is paying colored men to-day on a fortification in Florida from thirty-five to forty dollars a month. They are employed by regular officers there, and paid that amount because they are skilled workmen, and are admitted to be among the best mechanics in the country.

The truth is, we are picking up men on the Atlantic coast and forcing them into the service of the United States at seven dollars a month who outside can earn twenty or twenty-five dollars a month easily. They are running away from our recruiting officers and hiding themselves in order to do work at a great price instead of going into the service at the small rate we pay them. Along the Mississippi river, in the great breakings up

we have had there, they may be some expense to the country. But we take those people and set them to work; and, as was said by the Senator from Kansas, those women and children are accustomed to outdoor work; they are readily employed on the plantations; and instead of being a burden they are a benefit, and earn more than they cost to the Government.

Now, sir, we are dealing out rations to colored people in some portions of the southern country. They are working for us at the same time; and many of the men and boys are receiving as high as twenty or twenty-five dollars a month for services rendered our officers, and this labor is scarce; it can hardly be obtained at all.

We are dealing out rations to white people, some of them the wives and children of rebel soldiers, by the tens of thousands. I was told by a colonel of the Army a day or two ago that we are giving out at Norfolk or in that neighborhood nearly three thousand rations daily to white people who do nothing at all. The colored people come around our encampments or go on the plantations, on lands that are let out to work. If we give anything to them they are set at work as early as possible and earn their living. White people come around, and, as a matter of humanity to keep them from starving, we are dealing out rations to them, but they do not go to work.

I do not think we need trouble ourselves at all about the women and children of these colored people. I believe they can take care of themselves. There may be times and occasions when they cost the Government something; but taking the year through and the country through, since this war commenced, they have paid for what has been given, and they are the only class of people in that country to whom we have given anything that have done it. All over that country where our armies are going we are dealing out rations as a matter of humanity to keep the life in the white people, and many of them are the families of men who are fighting us on the battle-field.

Now, sir, I think as we have made this distinction in the resolution in regard to bounty so that we can reserve the \$100 bounty or a large portion of it in that part of the country, I think that will be ample. We placed that provision in the resolution for that very purpose. When a colored man enlists in the loyal States, there is no reason why he should not have the \$100 bounty; and we provide for it and we authorize the President if he chooses to give it to him; but we leave the amount discretionary in his hands. General Butler says that in that portion of Virginia under his command he can get men for a bounty of ten dollars. There is no need then of giving any more there. We propose to give more where we do need it; but we can reserve out of this bounty ample means to support these people.

Mr. TEN EYCK. I do not mean to detain the Senate for any time at all upon the point of the injustice of taking from these men the pay to secure which has occasioned a struggle here running through parts of five or six different days, in a full debate each day. But I should like to know, before I vote in favor of this amendment, what is to become of this fund, or who is to have the control and distribution of it? If we have fifty thousand colored troops in the southern States this sum of four dollars a month retained from their wages would amount to \$200,000 a month, and it will be more or less according to the number of these men enlisting in the service. I do not understand that the amendment of the Senator from Wisconsin proposes any plan or disposition whatever. The money, then, will either lie in the Treasury, to be disposed of under the direction of the President or the Secretary of War in any way they may see fit, or we shall be required to enact another law creating commissioners or officers, with salaries and perquisites, for the purpose of disposing of this fund and seeing that it is properly applied; and after we have passed such a law I am by no means certain that the agents and commissioners and persons charged with the distribution of the fund will not receive by far the largest part of it.

Mr. DOOLITTLE. My friend from New Jersey—

Mr. CONNESS. Will the Senator from Wisconsin permit me to ask him a question?

Mr. DOOLITTLE. Certainly.

Mr. CONNESS. I desire him while he is up,

if he pleases, to answer this question: what does he propose to do in the case of those negroes who enlist as soldiers who have no wives or children, who leave no poor behind them? Does he propose taking four dollars per month from their pay to be given to the support of the poor of their district? I desire an answer to that question.

Mr. DOOLITTLE. If the Senator from California did not hear the speech of the Senator from Kansas I desire to call his attention to some facts which he stated. He stated the fact to be that in all that section of the United States to which this provision applies, the able-bodied men, although they have women and children, are not under any obligation to support them, and never have been. Therefore those who have women and children enlist perfectly free from all obligation to support them. The support of the women and children heretofore devolved upon the masters who employed them, and now will devolve on the Government; whereas in the other section of the country, where the institution of slavery does not exist, colored men have their families, their wives and their children, which they are bound legally to support, just as much as white men are. The white soldier who enlists in our armies has persons dependent upon him for support and whom he is bound to support, his wife and children and his decrepit and old parents. If you give him but thirteen dollars a month to pay him for his services with all those legal and binding obligations upon him to support during his absence his wife and children, and at the same time go into another section and enlist by hundreds and thousands colored men who have wives and children and yet are not bound to support them, who are without any legal obligation to support them, and give them the same pay while their women and children flock in crowds around our armies to be fed from our commissary stores and clothed from the clothing that comes from our quartermaster's department—if you do that, I say you have forgotten that white men are as good as negroes at least.

Mr. CONNESS. Mr. President—

Mr. DOOLITTLE. I shall be through in a single moment. I wish to reply to the inquiry of my friend from New Jersey. He asks what will become of this fund? Why, sir, the fund will remain in the Treasury. It will not be paid out. It is to remain in the Treasury to reimburse these expenses which the United States Government incurs in its commissary and quartermaster's department that are issuing rations by thousands and hundreds of thousands to these people. I repeat it has been estimated, by a gentleman fully acquainted with this subject, that for every able-bodied man in this section which you will put in your Army you will have four persons to be fed and provided for till you can get your plantation system arranged. Perhaps when the plantation system shall be arranged and all these people set at work, they will earn sufficient to pay for their food and clothing. But this is an expense that we are now subjected to; and while we are contending for equality and justice, I demand justice for the white man as well as the negro.

Mr. LANE, of Kansas. I desire briefly to state the reasons that will govern my vote on this question. The negro soldier has now proved his capacity for endurance equal to the white soldier. He has shown his fighting qualities to be, if not equal to those of the white soldier, valuable to the country. So far as I am concerned, I desire to put the one upon the same footing as the other. Let us have no discrimination between the soldiers who sustain the flag of the country and who mingle their blood in the same great cause. I desire to remind the Senator from Wisconsin of a fact which he seems to have forgotten. The white soldier has his family supported and sustained by the States or communities from whence he comes.

Mr. HARRIS. Oh, no; that is not the case in most of the States.

Mr. LANE, of Kansas. I beg the Senator's pardon; so far as the State I in part represent is concerned, the destitute families of soldiers are liberally sustained by the patriotic community in which they reside. There are some, I grant you, who are not; but it is the benevolent and the patriotic that sustain the destitute families of white soldiers in Kansas, and I presume it is the case in every State of this Union. Some of the States,

I believe, appropriate money for that purpose, not to sustain the families of colored soldiers, but to sustain the families of white soldiers.

Sir, we have lost a great deal by discriminating against the colored soldiers. In my opinion, had they been placed on the same footing at the outset with the white soldiers, the so-called confederate government would not have dared to discriminate against them in the exchange of prisoners. We invited that pretended government to discriminate against them. We made the discrimination ourselves, and said to Jeff. Davis and his accursed pretended government, in effect, You may discriminate between the black and the white soldiers clothed in our uniform and shedding their blood for the same cause. We induced the pretended confederate government to discriminate against the colored soldier. In violation of all the rules that govern civilized warfare, they have dared to do it upon our invitation. It is time for our own honor that we strike down the discrimination between the soldiers of the United States. We have catered to this prejudice too long. When we put the uniform of the United States upon a person, he should be the peer of any one who wears the same uniform, without reference to complexion.

Let me say to the Senator from Wisconsin, as has been said by my colleague and by the Senator from Massachusetts, that the families of the colored soldiers are self-sustaining machines almost from the moment they enter our lines. They have been taught to sustain themselves, and they do sustain themselves. I hope that this amendment will not receive a single vote in this Chamber, for it is a discrimination between the soldiers of the Army of the United States, and an invitation to Jeff. Davis to persist in his brutal treatment of our gallant troops.

Mr. CONNESS. My understanding has always been, in addition to what the honorable Senator from Kansas has said just now, that the families of the blacks are and have been self-sustaining, that they have also sustained the whites in those States in addition.

Mr. LANE, of Kansas. That is so.

Mr. CONNESS. I knew the Senator would assent to it, because it is a palpable fact, and I think it would be very hard to controvert it. To controvert it, it would be necessary to prove that the producers of the country were not the source of its wealth. But I will not debate that proposition.

The Senator from Wisconsin tells us that it is not proposed to take this money derived from the four dollars per month to be deducted from the pay of the soldiers from the Treasury at all, but it is to be kept in the Treasury as an equivalent for the amount that is now spent by the Government in giving rations to the poor blacks. Then I should like to ask that Senator why he proposes to raise the pay of the black soldiers to thirteen dollars a month? Why does he not honestly and fairly propose that it shall be four dollars less than thirteen dollars, namely, nine dollars, with rations and clothing? Is not that what it means? Are you going to tell an official falsehood by telling the country and these black soldiers that they shall have precisely the same amount per month for their services that white soldiers receive, and then when the paymaster comes to pay them they are to have four dollars a month less? Why less? The amendment proposed says it is for the purpose of feeding their families.

But the Senator who offers the amendment constructs his own language, and we are bound to take his construction as a correct one, that so far from going to support their families it is simply to be retained in the Treasury and is not to be paid out at all. I asked him the simple question, which he did not answer, but that was his privilege, what he was to do in case deductions of this kind were made from the pay of soldiers who had no families? I should like to know whether he means to say there are not such soldiers, that there are not colored men who enlist and are mustered into the service who have no families? I should like to know what kind of justice there is in taking his money to be applied to the support of colored persons living in his district? Is he to be mulcted in a fine because he happens to live in or come from a district where there are impoverished persons of his color? I apprehend there is no justice in that.

Now, a word in regard to the remark of the Senator from Ohio and the comment upon it of the Senator from Iowa, that it is a corresponding case to the retention of a portion of the pay of sailors and soldiers for soldiers' homes and for sailors' homes and hospital purposes. I say there is no correspondence or parallel in the cases. In the one instance there are established institutions that are intended to be and remain through all time. The machinery for carrying them on, the rules and discipline according to which they shall be maintained, are existing facts, and they are to continue to exist; and such small pittance as is retained from the compensation of sailors and soldiers to be applied to the support of those institutions is known by the sailor or the soldier before he enters the service; and in addition to that it is to be most economically and exactly applied.

But if, contrary to the construction put by the Senator from Wisconsin on his own amendment, this four dollars a month is to constitute a fund which would be distributed, as the Senator from New Jersey says, by a new corps of officers and retainers, who in fact would be supported by the black soldiers, I apprehend it would make a condition of things that would be rather a shame and a disgrace to our country than the contrary. If, however, we are to accept the construction placed on the amendment by the honorable Senator who has presented it here, namely, that the money is never to leave the Treasury at all, and yet we are to write in our law that they shall be paid the same amount that white soldiers are, and that all distinctions, after the 1st of January, 1864, in that respect are to cease, I should like to know how we can escape from the glaring inconsistency that we pretend to do that which we do not do. I agree entirely with the Senator from Kansas in the hope that such an amendment will not be sustained by any considerable vote.

Mr. DOOLITTLE. Mr. President, the Senator from California seems to think that I am involved in some inconsistency by saying this money will be reserved in the Treasury. The amendment provides that it is to be reserved in the Treasury to reimburse the expenses which we incur. The fact is that we are incurring these expenses every day by thousands of dollars. And in relation to this amendment, so far from drawing a distinction against the colored man, it is simply placing the colored soldier and the white soldier upon something like a footing of equality. If you pay an equal sum to the colored soldier that you do to the white soldier, and support his family too, you do more for him than you do for the white soldier.

Mr. CONNESS. I ask the Senator right there, suppose he has no family?

Mr. DOOLITTLE. The Senator from Kansas, as I stated before, explained the state of society within those States where this amendment would apply; that, while these men have not families which they can legally be compelled to support as a family, they have women and children in fact—

Mr. CONNESS. I submit to the honorable Senator that he should answer the question. What is he going to do in the case of those soldiers who have no families?

Mr. DOOLITTLE. Under the laws of those States and the statement made by my friend from Kansas, none of them have any families; but they are the able-bodied men who enlisted into the armies; and I say that if they enlisted into the armies, their women and children should be provided for; and if they are not in that state of society where those women and children are regarded as constituting families, whom they are legally bound to support, we have a right ourselves to impose upon the able-bodied men a portion of the duty at least of supporting their women and children. That is the difference, and my friend will be unable to get rid of that difference. Let me tell him, though it is a matter he may smile at now, that the time will come when the proposition to give the colored soldiers additional advantages to those which the white soldiers possess will not be a proposition at which the Senator will smile. It is a proposition that will take hold of the heart of this country, and the people will insist that, while they may be put on a footing of equality, they shall not be put upon a superior footing to the white soldiers in the Army.

Mr. CARLILE. Mr. President, in the good

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old days of peace, in the slaveholding States the negroes had holiday every Saturday afternoon, and as all persons are now equal before the law, I think we are entitled to it. [Laughter.] But half of the afternoon has already been spent in the service of our colored friends. Still, if we can have a vote soon upon this proposition, I shall not submit the motion which when I rose I intended to submit, that the Senate do now adjourn.

Mr. SUMNER. Let us finish this bill.

Mr. GRIMES. Oh, let us finish it.

Mr. CARLILE. I do not make the motion.

Mr. LANE, of Kansas. I desire to make an appeal to the Senator from Wisconsin. We have the spectacle presented to us to-day of a mass of people, every one of them loyal, enlisting in the armies of the United States under officers of a different race, and willingly so enlisting. We have presented to us the fact that those men, of a different race from ourselves, are enlisting with a knowledge that if captured by the enemy they are not to be treated as prisoners of war. They are enlisting in a body whenever they have the opportunity; and at a time like this, for us to attempt to discriminate against them seems to me to be highly unjust and highly impolitic. It is a spectacle never before witnessed. The announcement that persons captured were not to be treated as prisoners of war, if made to our race, would have stopped enlistments; and yet these men are coming in, confident that this Government will finally compel a recognition of their rights.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Wisconsin.

Mr. SUMNER. Mr. President, I merely wish to make one remark to call the attention of the Senate to a fact which shows the incongruity of the proposition of the Senator from Wisconsin, and I presume the Senator is not aware of the fact which I am about to mention, or he surely would not have brought forward this amendment. In point of fact, the regiments numbered one and three in Louisiana are composed of freemen, not old slaves, but of men who were born freemen, with wives and families; and yet those two regiments would come under the provision of the amendment of the Senator from Wisconsin, and they would be reduced to a pay of nine dollars a month.

Mr. DOOLITTLE. My friend is mistaken. The proclamation did not apply to the district where they were enlisted. They were enlisted where the proclamation did not apply.

Mr. SUMNER. The Senator, I think, is mistaken.

Mr. DOOLITTLE. I think not. They were enlisted in New Orleans.

Mr. SUMNER. The regiments were enlisted in Louisiana; and the Senator carries a doubt into the question of their pay. I have been assured this morning by a colonel of one of those regiments that these are persons who were born freemen. The Senator assumes that they might have been enlisted in New Orleans. It does not follow from any knowledge that we have that they were enlisted as the Senator supposes. At any rate, his proposition if adopted by Congress would throw a doubt over the question of their pay.

But I will not go into any discussion of the merits of this measure. The Senator from Wisconsin concluded his first remarks on the proposition by sentimentally saying that he regarded it as strictly just. I content myself with saying that I regard it as strictly unjust.

Mr. DOOLITTLE. As a question has arisen in relation to the amount with which the blank is filled, and some suggest that it had better be three dollars instead of four dollars, I shall amend the proposition by inserting three dollars instead of four dollars. And as the Senator from Massachusetts raises a question whether it may not apply to freemen with families, I am willing to insert "those who have been slaves and are enlisted."

The PRESIDING OFFICER. The amendment will be so modified upon the suggestion of the mover.

The amendment was rejected.

Mr. POWELL, (at five minutes to three o'clock.) I move that the Senate do now adjourn.

The motion was not agreed to.

Mr. HOWARD. I offer this amendment to come in at the close of the joint resolution:

And that all recruiting officers of colored troops already mustered into the service or hereafter to be mustered into the same shall be entitled to the same premium allowed to recruiting officers of other troops.

As the law stands now recruiting officers are allowed nothing for the recruits that they procure for the regiments of colored troops—I believe not a cent. This state of the law has operated in some instances to produce great hardships to the recruiting officers, and has occasioned heavy losses in several instances that have come within my own knowledge. And as it seems to be the desire and purpose of the Senate to put the colored troops and the white troops of the United States on the same footing, I can certainly see no reason why the recruiting officers of colored troops should not be placed on the same footing with those of white troops, and it is for this purpose that I offer the amendment. As I have said, there are many cases of very severe hardship which have grown out of the fact that recruiting officers of colored troops receive no compensation in the shape of premium.

Mr. COWAN. I propose to amend by striking out all after the enacting clause—

The PRESIDING OFFICER. If the Senator's proposition applies to the body of the joint resolution it is not now in order. If it applies simply to the amendment moved by the Senator from Michigan, it is in order; if it embraces other portions of the resolution, it is not in order.

Mr. COWAN. I propose my amendment as a substitute for the whole resolution.

The PRESIDING OFFICER. Then it is not in order at this time. The question is on the amendment of the Senator from Michigan.

Mr. LANE, of Kansas. I desire to suggest to the Senator from Michigan that he should limit his amendment. It is not right certainly to allow recruiting officers in the disloyal States, where when our Army moves these men are recruited by the thousands, the same fees as in the loyal States. It would become a source of wonderful profit. They will be recruited by thousands and tens of thousands.

Mr. HOWARD. It is very possible that there may be an inconvenience of that sort growing out of the amendment, and I will submit a further amendment, that it be at the discretion of the Secretary of War.

The PRESIDING OFFICER. It will be so modified.

Mr. GRIMES. I would like to know if the Senator from Michigan intends that this provision shall be retrospective?

Mr. HOWARD. Yes, sir.

Mr. GRIMES. To apply to the seventy regiments now in service?

Mr. HOWARD. Yes, sir.

Mr. GRIMES. I trust it will not be adopted, then.

Mr. SAULSBURY. I should like to hear the amendment reported. I did not hear it.

The PRESIDING OFFICER. It will be reported as modified by the mover.

The Secretary read, as follows:

And that all recruiting officers of colored troops already mustered into the service or hereafter to be mustered into the same shall be entitled to the same premium allowed to recruiting officers of other troops, at the discretion of the Secretary of War.

Mr. LANE, of Kansas. This amendment ought not to pass. I desire to say to the Senate that the first regiment of Kansas colored troops were raised by one sloop; just by sending out patrols they were brought right in. The recruiting officers of that regiment, who really had no duty to discharge, will receive pay that they ought not to receive under this amendment. Although I would be glad to have it done so far as profit to my State is concerned, I must say that it would be highly unjust.

Mr. HOWARD. The Senator from Kansas will observe that the whole subject is left to the discretion of the Secretary of War. If a fact of that sort should be brought to his knowledge, as a matter of course he would be cautious how he applied the rule, but as a general rule it seems to me that it is correct. I know of a single instance where a recruiting officer of colored troops has almost ruined himself in consequence of the undertaking which he assumed, to raise a regiment of colored troops, from the very fact that he could not obtain any compensation whatever in the shape of premium.

Mr. LANE, of Kansas. It places a very great temptation before me. I raised a regiment of troops in the way that I say, as commissioner of recruiting for the Government, by just one swoop, and as commissioner of recruiting I should be entitled to these fees. I do hope that the amendment will not be entertained.

Mr. HOWARD. The Senator would not be entitled to the money if that fact should come to the knowledge of the Secretary of War, because he would administer the law, I suppose, with equity.

Mr. LANE, of Kansas. I think the temptation should not be held out.

The amendment was rejected.

Mr. COWAN. I propose to strike out all after the enacting clause and insert this amendment:

That from and after the passage of this resolution, the soldiers of the United States of America of the same grade and service shall be entitled to the same pay, rations, and pension.

Mr. SUMNER. I have an amendment to offer to the original proposition, which will be in order before the amendment of the Senator from Pennsylvania, being to perfect the original resolution.

The PRESIDING OFFICER. That is in order. No question can be taken upon substituting the proposition of the Senator from Pennsylvania for the original resolution until amendments to the resolution itself shall have been exhausted.

Mr. SUMNER. I propose to take advantage of the suggestion of the Senator from Vermont, [Mr. COLLAMER,] and I offer this amendment:

Provided, That in all cases of past service, where it shall appear to the satisfaction of the Secretary of War by the actual papers of enlistment, that such persons were enlisted as volunteers under the act of July, 1861, the pay promised by that act shall be allowed from the commencement of such service.

I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. COLLAMER. I merely wish to say a word in relation to what the gentleman has said about consulting my suggestion. If he would take my whole suggestion, it would do. That was that if the Government should refuse to pay men according to their enlistment papers under which they were mustered in, there should be an act relating to that special case directing them to do it; but it should not be ingrafted into any general law.

Mr. GRIMES. I desire to say that if this were submitted as an independent proposition I should vote for it; but I have steadily voted against incumbering this bill with any propositions that have come in from different quarters; and I intend to continue to do so until we get it through.

Mr. SUMNER. This can be no incumbrance to the bill; it will help to make the bill lighter.

Mr. GRIMES. I do not think so.

The question being taken by yeas and nays, resulted—yeas 16, nays 21; as follows:

YEAS—Messrs. Anthony, Carlile, Conness, Dixon, Foster, Howard, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sprague, Sumner, Ten Eyck, Wade, Wilkinson, and Wilson—16.

NAYS—Messrs. Buckalew, Collamer, Cowan, Davis, Doolittle, Fessenden, Foot, Grimes, Harlan, Harris, Hendricks, Howe, Johnson, Powell, Riddle, Saulsbury, Sherman, Trumbull, Van Winkle, Willey, and Wright—21.

So the amendment was rejected.

The PRESIDING OFFICER. If there be no further amendment either to the original resolution or to the proposed substitute, the question now is on the amendment moved by the Senator

from Pennsylvania [Mr. COWAN] in the form of a substitute for the whole resolution.

Mr. COWAN. I will simply state, Mr. President, that in the Constitution there was no distinction taken as to color between the citizens of this Republic. The word "slave" was sedulously kept out of that instrument. And in the first place, I think in the first clause of the instrument, where he was alluded to at all he was put upon the same footing with our wives and our children and our people who are non-electors. He was counted in the census in order to entitle him to a representation upon the floor of the House of Representatives; and although he might not have been counted as a unit, he was counted as a fraction. In the next clause he was considered the same as though he were a foreigner—that clause which prevents a tax from being levied upon the importation of any persons after a particular year; and lastly he was put upon precisely the same footing with our apprentices in the fugitive clause.

Now, Mr. President, I am in favor of continuing that idea and proceeding upon that hypothesis throughout. I can conceive of no greater mischief in a republic than that it should have two classes of citizens requiring separate classes of laws and making distinctions between them; and I think it would have been better from the outstart of this difficulty just to consider the negro as the Constitution considers him, to consider him as a person, not as a chattel, not as property, but as a citizen protected in his life and limb. I do not know whether his reputation was protected or not; but certainly it was an offense to murder him, and equally an offense to maim him. Then being protected, he owed allegiance; and owing allegiance he was bound to render military service just the same as any other man was. I think that idea should be carried out.

I cannot conceive of a republic existing at all recognizing all through in its laws such a distinction as we have been taking between the negro and the white man. I suppose you could just as well make it between the men who have red hair and the men who have black hair, or the men who have fair hair and the men who have gray hair. To me it would have precisely the same significance under our Constitution. I have been, therefore, from the beginning in favor of the hypothesis I now suggest, that the negro be treated precisely the same as another man, particularly in the suppression of this rebellion. I think I long ago said to the Senate that when our armies proceed southward, for the purpose of restoring peace and order, and the influence of the Government and the laws, if they found the negro an enemy and in arms they would kill him, capture him, just as another man; if they found him a friend, they would use him.

Now, Mr. President, what could be simpler? Nothing that I can conceive of. But it was said then and perhaps will be said now, "Suppose somebody comes and claims this man as a chattel from the military officer?" The answer is obvious. He has a right to say, "I cannot tell whether this is your chattel or no;" or as somebody put it very well, "I cannot tell whether you own the nigger or the nigger owns you. I find this man a person, so designated by the great charter of the Government which I serve, and I will treat him as such. If it so happens that he is not that you must find your remedy elsewhere. I have no authority to determine."

In the same way when the militia of the nation are to be enrolled I would make no distinction whatever; I would enroll all able-bodied male citizens between the ages of twenty and forty-five as we have it now, if you please, without stopping to ascertain whether one man was fairer or darker than another. If we cannot get along upon that hypothesis here we shall never get along. If we cannot administer our laws by considering the citizens all upon the same footing we cannot get along by dividing them into classes and legislating for classes.

But this mischief has to a certain extent taken place; it has prevailed. We gave to white men thirteen dollars a month and we gave to black men ten dollars a month. Now what is the simple remedy? Why, sir, I would suggest, with all deference to the opinions of other men who have more wisdom and more experience in regard to this matter than I have, that we should retrace

our footsteps and from henceforth just simply put them all on the same footing; let it be enacted from this time henceforth that all soldiers of the Republic of the same grade and in the same arm of the service shall be entitled to the same pay, the same rations, and the same pension. Who can object to that? Is it not effecting justice to everybody? It puts us on ground upon which we can stand not only now but in all time hereafter, and we stand, too, precisely where our fathers did when they made the Constitution; we stand without recognizing this distinction among our people.

I trust, therefore, that this amendment will prevail, that this substitute will be adopted for the original resolution, and that henceforth we may hear nothing about this distinction which has been supposed to prevail among our citizens. I think it will be fair to every one.

Mr. SAULSBURY. Mr. President, after the explanation given by the Senator from Pennsylvania of the reason which has induced him to offer this amendment, even if I had been disposed to vote for it before, I will not vote for it now. When that Senator rises to address the Senate on questions in which legal principles are involved, I always listen to him with great attention and great respect. But I understand him here to advocate in his place as a Senator the doctrine that within the sense and the meaning of the Constitution a negro is a citizen of the United States. Sir, I will not enter into the discussion of that question; but the fact that such an idea has been presented to the Senate by the Senator from Pennsylvania, for whose legal knowledge I have the greatest respect, causes me to rise and simply to enter my protest against that doctrine, and to say that if that is the basis of his proposition for amendment, if that is the principle that he wishes to be recognized by the adoption of the amendment, it is so abhorrent to my views both of constitutional law and of what ought under all circumstances, not only in the past and in the present, but in the future, to be constitutional law, that I will not give it my support by my vote.

Sir, whatever may be my opinions in reference to the propriety of war as a means of settling our sectional difficulties, no vote of mine shall ever be given by which equality in any respect shall be recognized between the white soldier and the black soldier. Since I have listened to this debate and heard the words "colored soldiers" and "colored persons" used in it, I have tried to recollect how old I was before I ever heard that term "colored person" used. I think I was a man twenty-one years of age before I ever heard the term "colored person" used. In the section of country from which I come we use plain language and language of known signification, and the term that we have been accustomed to is "negro." Now, lo and behold, in the advancement of civilization and Christianity and refinement of which we hear so much, the negro has got to be a "colored person." [Laughter.] And when you come to provide for calling them into the public service there must be perfect equality!

Mr. HOWE. Will the Senator from Delaware allow me to inquire if the negroes in Delaware are not colored? [Laughter.]

Mr. SAULSBURY. I doubt very much whether they are so colored as they are in Wisconsin, according to the population. [Laughter.]

I did not rise, however, Mr. President, to enter into any general discussion of this question, but simply to enter my protest against the constitutional view of it presented by the Senator from Pennsylvania, and to say in conclusion that by no vote of mine and by no act of mine while I am a member of this body, while in public life, nor in any relation of private life which I may hereafter sustain, will I ever recognize the equality of the negro race socially, politically, or otherwise, with the white race.

Mr. COWAN. I only wish to say a single word. I think the honorable Senator from Delaware exaggerates very much the position which I assumed for the negro. He seems to confound the word "citizen" with the word "elector."

When I say that the negro is a citizen, I do not mean to say that he is equal to the white man. I mean no such thing. I do not mean to say that he is equal to a white woman, or to a white child, or to a white apprentice. I have no concern whatever with that question. That is a mere matter of

taste which the Senator from Delaware and the Senators from Massachusetts may settle if they choose.* What I mean to assert, however, is that the negro under the Constitution has a particular legal status, which in my judgment makes him a citizen; and why? He is protected by the law. Being protected, and protection and allegiance being reciprocal, he is therefore a citizen. I would ask the Senator from Delaware whether a negro could not commit treason; whether he might be indicted, and convicted, and executed for treason? If he cannot be punished for treason, then we have four million people existing in the United States to-day all of whom may become traitors with impunity. I suppose no Senator would be willing to admit that such a state of affairs exists in this country, or that it ever could be allowed to exist in any country.

Mr. President, although I might be willing upon another occasion to controvert the doctrine of the Dred Scott case, and to show or attempt to show that the negro is a citizen and entitled to enter the United States courts under our judiciary laws, yet I waive that even here. I do not assert here, as against that decision, that he is a citizen for that purpose; but I do assert that he is a citizen owing allegiance to this Government, and owing that allegiance he is bound to military service, and no greater mistake in the world could be made by the Government or its Legislature than to discriminate between him and any other class of citizens owing military service. I should just as soon think of providing for the case of minors as for the case of negroes, or for the case of apprentices as for the case of negroes. And therefore I think it is that we should abolish this distinction and begin at last to legislate for the nation and to talk for the nation, and to leave those distinctions which exist between its people to be settled by the social judgment of common life, instead of the political judgment of the nation. All people are not equal anywhere. In every society there are grades superior and inferior; but who in legislation talks about those grades and proposes to legislate for them? Nobody. The lawgiver is supposed to leave that to the neighborhood in which it is found, and to allow them to adjust it, and I think properly.

Mr. CARLILE. Will the Senator allow me to ask him a question?

Mr. COWAN. Certainly.

Mr. CARLILE. Do I understand the Senator to say that no one can commit treason against the Government unless he be a citizen; to advance the idea that because a negro can commit treason against the Government he must be a citizen?

Mr. COWAN. No; that is one of the *non sequiturs* of which I have not been guilty. I say that when the negro is protected he owes allegiance, and that as he owes allegiance he is a citizen and liable to military service. Although that allegiance may not be the allegiance to which the honorable Senator from Virginia alludes and which he evidently has in his eye, that is, the allegiance of a naturalized citizen, still it is that allegiance which makes him a citizen—the same allegiance, if you please, which makes a sojourner among us liable to treason for the time being. An alien who comes here and is protected in his sojourn among us, if he commit treason may be punished for it, and therefore owes a qualified allegiance.

I hope that this proposition will prevail, and I further hope that if it prevail and we proceed upon that theory we shall get rid of a very exciting and troublesome subject, and for the future perhaps banish "the inevitable negro" from the halls of legislation.

Mr. LANE, of Kansas. I now move that the Senate adjourn.

Mr. TEN EYCK. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. Before the vote is taken, I wish to state that my colleague [Mr. LANE, of Indiana] has been kept from the Senate during the latter votes of to-day's session by indisposition.

Mr. POWELL. I will state that the Senator from Illinois [Mr. RICHARDSON] has been summoned home in consequence of illness in his family, and he has gone to his lodgings to make preparations to start on his journey.

Mr. WADE. I will state that the Senator from

Michigan [Mr. CHANDLER] and the Senator from Oregon [Mr. HARDING] have gone to Alexandria on committee duty.

The question being taken by yeas and nays, resulted—yeas 20, nays 14; as follows:

YEAS—Messrs. Buckalew, Cardie, Collamer, Cowan, Davis, Foot, Harris, Hendricks, Howe, Johnson, Lane of Kansas, Powell, Ramsey, Riddle, Saulsbury, Sprague, Trumbull, Van Winkle, Wiley, and Wright—20.

NAYS—Messrs. Anthony, Conness, Dixon, Doolittle, Foster, Harlan, Howard, Morgan, Pomeroy, Sumner, Ten Eyck, Wade, Wilkinson, and Wilson—14.

So the motion was agreed to; and the Senate adjourned.

IN SENATE.

Monday, February 15, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Saturday was read and approved.

PETITIONS AND MEMORIALS.

Mr. WADE presented a petition of citizens of Ashtabula county, Ohio, praying for an appropriation for the repair and improvement of the harbor of that place; which was referred to the Committee on Commerce.

Mr. HOWE. I present resolutions of the Chamber of Commerce of Milwaukee, Wisconsin, recommending the construction of a ship canal around the Falls of Niagara on the American side. I move that they be referred to the Committee on Commerce, and printed.

The resolutions were referred to the Committee on Commerce, and the motion to print was referred to the Committee on Printing.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for the emancipation of all persons of African descent, held to involuntary service or labor in the United States; which was referred to the select committee on slavery and freedmen.

Mr. COWAN presented a petition of the commissioned officers of the one hundred and first regiment Pennsylvania volunteers, praying that all enlisted men now in the service or who hereafter may be mustered in during the present war may be indemnified for all unavoidable loss of clothing destroyed or abandoned by order of commanding officers, or in any other manner where the soldier is not responsible; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of E. D. Gird, and the petition of David D. Stelle, praying to be allowed to take out letters patent for their respective inventions on payment of the "balance fee;" which were referred to the Committee on Patents and the Patent Office.

Mr. GRIMES. I present the petition of R. W. Carter and many other citizens of the county of Washington, District of Columbia, who represent that they are subject to taxation without representation; that the levy court of the county in whose hands is the power of taxation is not chosen by them, not responsible to them; and that a majority of its members have been appointed from among the residents of the cities of Washington and Georgetown, and not from among the residents of the county. They therefore pray the passage of an act which shall give a fair representation to the citizens of the county in the levy court. I move that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. HENDRICKS. I have received a communication from Lawrence A. Stimpson and Charles J. Winship, a committee appointed by the mayor and common council of Michigan City, Indiana, in relation to the improvement of the harbor at that place. It is addressed to myself; but as it discusses the importance of the improvement of that harbor, and as it is a work of much importance to the northern part of Indiana especially, I ask that it be considered and received as a petition to the Senate.

The VICE PRESIDENT. It will be received by the unanimous consent of the Senate. The Chair hears no objection.

Mr. HENDRICKS. I move that it be referred to the Committee on Commerce.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. ANTHONY, it was

Ordered, That the petition and other papers in the case of J. F. Simmons, praying for compensation for the illegal seiz-

ure of a vessel and cargo by Commander Worden, of the United States gunboat Stars and Stripes, and the subsequent wreck and loss of the same on Long Island, be taken from the files of the Senate and referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. GRIMES. I have been requested to ask leave to present a bill, of which previous notice has not been given, in compliance with the petition which I had the honor to present this morning from citizens of the District of Columbia.

There being no objection, leave was given to introduce the bill (S. No. 115) for the proper organization of the levy court of the county of Washington, in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 116) relating to stamps; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 117) to provide for the consolidation of certain surveyor generals' districts; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 118) to promote the efficiency of chaplains in the Army of the United States, and define their rank, pay, and emoluments; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 119) to reorganize and promote the efficiency of the Army chaplains' department; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed on the 12th instant a bill (S. No. 100) authorizing the holding of a special session of the United States district court for the district of Indiana.

AMENDMENT OF ENROLLMENT ACT.

Mr. WILSON. I have been directed by the Committee on Military Affairs and the Militia, to whom was referred the amendment of the House of Representatives to the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, to report that the Senate disagree with the House amendment, and I ask that the vote be taken at once. Then it will go back to the House of Representatives, and they may recede or appoint a committee of conference.

Mr. SHERMAN. I should like to ask the chairman of the Military Committee if the other House propose a substitute for the whole bill, or simply amendments to it?

Mr. WILSON. I will simply say in reply, that the House of Representatives have struck out all but the first section of the bill, and then put in an amendment which is really our own bill with a few slight modifications. We propose to disagree and let it go back; and then if they propose a committee of conference, very well. I think that is the shortest way to reach a result.

The amendments of the House of Representatives were non-concurred in.

PAYMASTER E. C. DORAN.

Mr. ANTHONY. I move to take up Senate bill No. 94. I think it will lead to no debate. It is a bill to authorize the settlement of the accounts of Paymaster E. C. Doran.

The motion was agreed to; and the bill (S. No. 94) to authorize the settlement of the accounts of Paymaster E. C. Doran was read the second time and considered as in Committee of the Whole. It proposes that all the payments made by William H. Peters, of Virginia, to the mechanics, laborers, and other employees of the Norfolk navy-yard for services and labor rendered to the 20th of April, 1861, and the rolls and vouchers therefor on file in the office of the Fourth Auditor of the Treasury, shall be legalized for the benefit of

Paymaster Edward C. Doran, of the United States Navy; and the accounting officers of the Treasury are to credit him in the settlement of his account with the sum of \$29,381.

The bill was reported to the Senate without amendment.

Mr. ANTHONY. There is a report accompanying this bill. I do not desire to have it read, but if any Senator desires to hear it, it can be read.

Mr. HENDRICKS. The bill is all right.

Mr. CLARK. I think the report had better be read.

The Secretary read the report of the Committee on Naval Affairs, made by Mr. ANTHONY, from which it appears that Edward C. Doran, a paymaster in the United States Navy, was stationed at the Norfolk navy-yard in the month of April, 1861. In obedience to the orders of the commandant of the yard he proceeded to Washington to obtain instructions and advice, touching his official duties, from the Secretary of the Navy. He arrived at Washington on the 19th of April, 1861, and on the same day was ordered by the Secretary of the Navy to return to Norfolk and take charge of the vacant Navy agency, and to pay the employees of the Norfolk navy-yard the sums due them from the United States, under an arrangement approved by the Secretary. On that day an expedition left Washington to maintain possession of or destroy the Norfolk navy-yard and property, to prevent its falling into the hands of the insurrectionists; and the navy-yard was partially burnt and abandoned by our naval forces on the night of April 20, 1861. Paymaster Doran arrived at Norfolk early the following morning, and found everything in full possession of the insurgents. He was immediately seized, with all his books, accounts, and rolls, (which were vouchers to him for upward of one hundred and thirty thousand dollars,) by the rebel authorities there, and, after protesting and remonstrating in vain against the demands of the rebel officers, he was finally compelled to yield his checks to them, while he was under duress, for \$29,381, under written protest, in the name and behalf of the United States Government and his securities, and upon condition that if the money were realized upon them (and he did not think it could be) it should be appropriated to the payment of the claims of the workmen and employees of the navy-yard for wages due them by the Government to April 20, 1861.

As Paymaster Doran could not negotiate drafts in Norfolk on the 18th of April, which fact he made known to the Secretary of the Navy and the deputy depository in Baltimore, he had great hopes that his checks, dated "Gosport navy-yard, April 23, 1861," (three days after its abandonment and supposed destruction by our naval authorities, an event of such magnitude as to have wide-spread notoriety before the checks could be presented for payment,) could not then be negotiated in Norfolk, and that they might not be paid by the depositories upon whom drawn.

The money was realized on those checks and paid to the employees of the Norfolk navy-yard by one William H. Peters, rebel paymaster, who forwarded to the Fourth Auditor of the Treasury duly receipted rolls therefor, amounting to \$24,140 14; also a schedule of other payments, amounting to \$3,125 49; making together \$27,265 63, leaving \$115 37 to be accounted for.

A letter, of which the following is a copy, was transmitted with the rolls by Captain F. Forrest, of the rebel service, to the Secretary of the Navy:

PAY DEPARTMENT,
NAVY-YARD, GOSPORT, May 26, 1861.

SIR: I have received from Paymaster E. C. Doran, of the Federal Navy, through Commander Thomas R. Rootes, of the Virginia navy, the net proceeds of two drafts on the sub-Treasurer at New York, one of \$18,750, and one of \$10,631.

Your explicit directions to me to apply this money to the purposes to which Paymaster Doran was himself instructed by the Navy Department at Washington to apply it, namely, to the payment of arrears due the employees of this yard and station to the 20th of April, ultimo, have been strictly complied with.

I hand you herewith pay-rolls of mechanics, &c., employed in this yard from the 1st to 15th of April, 1861, and from the 16th to 20th, amounting, in the aggregate, to \$24,141 34. I also hand you a list of such officers on Mr. Doran's transfer-roll to whom payment has been made by me, (with the sums paid to each,) amounting to \$3,125 49. There is quite a number of officers on this transfer-roll yet unpaid, and since, in its incomplete state, it would be useless to Paymaster Doran as a voucher in the settlement of

his accounts, I have retained it until I can complete it, which I hope soon to accomplish.

Respectfully, your obedient servant,
WILLIAM H. PETERS, Paymaster,
Flag-Officer F. FORREST,
Commander of Naval Station, Norfolk.

The following letters on the subject of the rolls were addressed by the Fourth Auditor to Paymaster Doran, and Hon. JOHN LAW of the House of Representatives:

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE, December 16, 1861.
SIR: In reply to your communication of the 14th instant, I desire to state that the rolls of the Norfolk yard, transmitted by yourself on the 15th of July last, are certified to by Mr. W. G. Webb, who was clerk of the yard to the 20th of April last. The official acknowledgment of their receipt bears the date of August 5.

I am, sir, very respectfully, your obedient servant,
HOBART BERRIAN.
Paymaster E. C. DORAN, Washington, D. C.

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE, December 17, 1861.
SIR: I have the honor to acknowledge the receipt of your communication of the 15th instant.

In compliance with the request therein contained, I beg to inclose the letter of Paymaster Edward C. Doran on the subject of the pay-rolls of the Norfolk navy-yard.

The sums disbursed on these rolls appear to have been for balances due for wages which had accrued prior to the abandonment of the yard, on the 20th of April last.

They are certified to by Mr. Webb, who was the authorized clerk of the yard.

I have the honor, sir, to be, respectfully, your obedient servant,
HOBART BERRIAN.
Hon. JOHN LAW, House of Representatives.

The incomplete roll promised to be sent forward as soon as completed by William H. Peters has never been received, although Paymaster Doran, who made diligent inquiry by letter and in person, of parties in Norfolk, has been informed that all the rolls had been forwarded to Washington by Peters. As that roll either failed to arrive or has been mislaid, the exact amount paid on it cannot be ascertained.

The accounts, rolls, and vouchers for over one hundred and thirty thousand dollars, which were restored to Paymaster Doran after the surrender of his checks, have been formally audited and settled by the Treasury Department, while the informality, to wit, the said Peters, rebel paymaster, being an unauthorized agent of the United States, and the non-receipt of the one roll alluded to, prevent the settlement of Paymaster Doran's accounts from the 1st to 20th of April, 1861.

Having been frustrated, by events beyond his control, in making the payments to the employes of the Norfolk navy-yard, under the arrangement approved by the Secretary of the Navy, Paymaster Doran prays Congress for relief, by legalizing the payments and rolls and vouchers of William H. Peters for his benefit, and hopes that, in equity, under the following general order of the Navy Department of April 26, 1861, relating to balances due resigned officers of the seceded States, he is justified in asking for relief to the amount seized from him, believing that if the missing roll could be found it would appear that a large portion of the balance unaccounted for (\$2,115 37) was paid.

NAVY DEPARTMENT, April 26, 1861.
SIR: The amounts found to be due to resigned officers from States which claim to have succeeded will heretofore be paid them from the United States funds heretofore sent to or deposited in those States, except in cases where the Department shall otherwise direct.

I am, respectfully, your obedient servant,
GIDEON WELLES.
The Fourth Auditor of the Treasury.

The House bill No. 575 of last Congress authorizes the accounting officers of the Treasury to credit Paymaster Doran, in the settlement of his accounts, with the sum of \$29,381. A letter addressed to a resigned officer by the Fourth Auditor shows that the order of the Navy Department of April 26, 1861, was adopted as a rule for the settlement of balances due by the United States to officers who joined the seceded States. Paymaster Doran states that he sustained private losses to the amount of twelve thousand to fifteen thousand dollars by the secession of Virginia and the abandonment of the navy-yard by our naval forces, and hopes the committee will take that fact into consideration in determining their action in his case.

It appeared to the committee that Paymaster Doran is entitled to the relief prayed for in his memorial, and they therefore report this accompanying bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

L. F. CARTEE.

Mr. HARDING: I move to take up Senate bill No. 19.

The motion was agreed to, and the bill (S. No. 19) for the relief of L. F. Cartee was considered as in Committee of the Whole.

It authorizes the Commissioner of the General Land Office to pay to L. F. Cartee \$3,033 50 for services performed in surveys of the public lands in Oregon in excess of his contract with the surveyor general of Oregon, dated October 14, 1860; but before any payment is made, the work performed by him is to be tested in the field by actual examination, under the direction of the surveyor general of Oregon, and any correction made necessary to make it conformable to the laws of the United States and the instructions governing the surveys of the public lands at his expense, and the balance only of the appropriation is to be paid him after deducting the expense of inspection and correction, if needed, and when the certificate of the surveyor general of Oregon is filed with the Commissioner of the General Land Office that the survey is complete according to the law and regulations governing public surveys.

The Committee on Public Lands reported the bill with an amendment in line twenty, after the word "correction," to strike out the words "if needed;" so that the clause will read:

And the balance only of said appropriation paid him after deducting said expenses of inspection and correction, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

JOHN L. BURNS.

Mr. FOSTER. I move to postpone all prior orders and take up Senate bill No. 1, a bill reported from the Committee on Pensions for the relief of John L. Burns. There is a very short report accompanying the bill, and if after its reading any Senator objects, I shall not ask for its present consideration.

The motion was agreed to, and the bill (S. No. 1) granting a pension to John L. Burns, of Gettysburg, Pennsylvania, was considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of John L. Burns, of Gettysburg, Pennsylvania, upon the pension roll, at the rate of eight dollars per month, for patriotic services at the battle of Gettysburg, where he was wounded on the 1st day of July, 1863, at which time the pension is to commence.

The Secretary read a report made by Mr. FOSTER from the Committee on Pensions, which shows that it appears from the evidence before the committee that John L. Burns was wounded at the battle of Gettysburg on Wednesday, the 1st day of July, 1863, soon after General Reynolds engaged the enemy. A few days previous to the battle he volunteered with other citizens to fell timber upon the mountain near Gettysburg, west of the town, for the purpose of obstructing the passes. On the morning of July 1, about ten o'clock, General Buford became engaged with the enemy's pickets between one and two miles from the town. Shortly after the first corps advanced to the support of General Buford, passing within sight of Burns's house on the double quick, Buford's skirmishers having been driven in. On seeing this advance Mr. Burns immediately seized an old musket and hastened to the battle-field. He fell into the ranks of the seventh Wisconsin regiment of the first brigade, honorably known as the "Iron brigade." Being challenged as to his purpose, having on citizen's dress, he made known his desire to fight the enemy, and some one handed him a rifle. Immediately thereafter the regiment came into action, and charged through a piece of woods into a small run. Here, however, the enemy rallied in superior force, and the regiment gradually fell back through the woods to a commanding slope, the Seminary Hill, in the rear of their former position. As they were emerging from the woods, Mr. Burns, in the act of firing upon a rebel in advance of the enemy's line, received a ball in his leg, which brought him to the ground, where he lay bleeding freely, unable to rise. As the first corps fell back to the heights south of the town, the field where Burns lay was occupied by the enemy. He remained where he fell all the night of July 1, and was carried by the

rebels on the morning of the 2d to a house near the town, where he was recognized by the inmates and cared for, and at evening, by permission of the enemy, was taken to his own residence, which was used temporarily as a hospital by them, and here his wounds were dressed by a surgeon. It was then ascertained that he had received five wounds—one in his arm near the elbow, a flesh wound upon his hip, two contusions from spent balls, and the wound in his leg which disabled him. He was unaware of all these wounds except the last, but says that he previously felt a stinging sensation in his arm during the fight, and noticed the blood on his hand; but, supposing it a flesh-wound, kept on fighting, until the last wound brought him down and disabled him.

Mr. Burns is in the seventy-first year of his age; his wife is sixty-five, and in very feeble health. They have no children but an adopted daughter, about twenty years of age, who resides with them. Mr. Burns served in the war of 1812, and has volunteered twice in the present war; once in the company of Captain (now Colonel) C. H. Buckler, and once in the company of Captain E. McPherson, now Clerk of the House of Representatives; Captain Buckler thought him too old, and declined accepting him. He marched with Captain McPherson to Westchester, the rendezvous of the company, but failed to pass the surgical examination on account of age, and returned home. After being thus rejected from the military service, he joined General Banks's army in the autumn of 1861, then near the Potomac river, and did service through the fall and winter of 1861 and 1862 as a wagonmaster and teamster.

He is a man of exemplary character, commanding the respect of the community where he resides; and, although many years ago somewhat free in his habits as to drinking, he has for some twenty years past been a strictly temperate man, not having tasted liquor during that time. He has no means of support other than his daily labor, and although, owing to a vigorous constitution, he has in a great measure recovered from his wounds, yet, in the opinion of the committee, the granting of a pension is but an act of justice for gallant and patriotic services, and will furnish no dangerous precedent; they therefore recommend that this bill do pass.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ALBERT BROWN.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 92.

The motion was agreed to; and the Senate as in Committee of the Whole resumed the consideration of the bill (S. No. 92) for the relief of Albert Brown.

Mr. HOWARD. I beg to inquire whether there is a report upon that bill.

The VICE PRESIDENT. There is.

Mr. HOWE. I will state to the Senate what the bill is. There is a report accompanying the bill, which has been printed and has been laid on the tables of Senators, and I believe it was read at length when this bill was before the Senate the other day. The Senator from Connecticut (Mr. FOSTER) on that occasion offered some objections to the bill.

Mr. FOSTER. I will suggest to the Senator that I propose to make a motion in regard to this case, and I am willing to make it now or wait until he is through with his remarks, just as he pleases. I shall move that the claim be referred to the Court of Claims. I do not wish to interrupt the Senator, but I will suggest that I shall make the motion now if he gives way for it.

Mr. HOWE. I suppose we may just as well have the motion made now. I have no objection to its being interposed now, but I shall have something to say on that motion.

Mr. FOSTER. Then, with the Senator's permission, I will make the motion now, and state briefly my reasons for it. This is a claim by a citizen of the United States on a contract made between him and the Government through the quartermaster's department; a written contract under which he was to furnish a given number of wagons for a given price under the circumstances stated in the contract. He claims that he has complied with the contract and has furnished the

wagons, and that the Government has refused to pay him. It is therefore clearly a case which it is provided by law shall go to the Court of Claims, and it is not a proper case for the consideration of Congress, at least in the first instance. The law regarding the Court of Claims was revised at the last session, and in the second section of that act, which was approved March 3, 1863, it was provided:

"That all petitions and bills praying or providing for the satisfaction of private claims against the Government, founded upon any law of Congress, or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government of the United States, shall, unless otherwise ordered by resolution of the House in which the same are presented or introduced, be transmitted by the Secretary of the Senate or the Clerk of the House of Representatives, with all the accompanying documents, to the court aforesaid."

That is, the Court of Claims. Now there is no case which by possibility can come before Congress more directly provided for by this section of the law than this present application of Mr. Brown. If we receive this case in the Senate, and consider it here, and send it to the other branch of Congress, and they consider it, there is certainly no reason on the earth why we should not thus entertain jurisdiction of every claim against the Government founded on any contract which has been or shall be made with the Government of the United States. If that be the case, at least so far as contracts are concerned, there is no occasion to have a Court of Claims, and we had better abolish it. If, on the other hand, it be deemed best that the law we have passed shall continue to be the law, and that the Court of Claims shall pass upon claims of this character, this claim surely, as well as others, should go there; and it is a claim which it seems to me ought for manifest reasons to go there.

This is a claim on a written contract. The party claims that there has been an entire performance of the contract on his part. It is a case which ought most especially to be examined in a court where testimony can be taken and is taken on both sides, and where the Government can be represented. Before a committee of this tribunal, or before a committee of the House of Representatives, no doubt a claim can be examined; but the Government is not represented, and the examination almost of course is *ex parte*. We may come to a fair, equitable, legal result; but it is surely better that we have both sides of a case presented rather than one. Before the Court of Claims both sides are presented. The party petitioning has his claim presented by himself or by counsel, sustained by his evidence. The Government is represented; it can present its side of the question and be represented by counsel. Before a committee of Congress that is not the case; and for that reason among others, as I suppose, this court was created by law. I think, therefore, that this case should go there, or else we certainly ought, as I have said, to entertain the jurisdiction of all claims of like character; and if we do that there is no occasion for the Court of Claims to exist; it is a useless incumbrance, a useless expense.

Mr. HOWE. I hope, Mr. President, that the motion submitted by the Senator from Connecticut will not be agreed to. I concede that the case provided for by this bill does come as clearly as any case can within the purview of the law just cited by the Senator; but the case also comes as clearly within the exception mentioned in that act as any case that can possibly be conceived of. The second section of the law cited provides:

"That all petitions and bills praying or providing for the satisfaction of private claims against the Government, founded upon any law of Congress, or upon any regulation of an Executive Department, or upon any contract, expressed or implied, with the Government of the United States, shall, unless otherwise ordered by resolution of the House in which the same are presented or introduced, be transmitted by the Secretary;" &c.

That act was approved on the 3d of March, 1863, and this claim was then pending before the Senate.

Mr. FOSTER. The Senator will pardon me: that is but a reenactment of an old law which has existed ever since the Court of Claims has existed. I only referred to this as a recent law. It did not change the then existing law in that particular.

Mr. HOWE. I think the Senator is mistaken. I have not the other act before me, and cannot point out the distinction, and it is not material. This claim was presented to the Senate of the United States, and the Senate have by resolution

ordered otherwise, have ordered that it be referred to the Committee on Claims. It was referred to that committee in 1863, at the last session of Congress. The Committee on Claims reported a bill for the settlement of this claim and for the payment of this claim, and the Senate, I think by a unanimous vote, passed the bill. It did not pass the House of Representatives for want of time. Again it was presented to the Senate at the present session, and again by resolution of the Senate it was referred to the same committee, and that same committee have unanimously reported this bill the second time.

And now, Mr. President, I want to say in the outset that the Government of the United States has not issued a bond which more sacredly binds the Government to the payment of the sum of money than does the contract on which this claim is based; and if the Government will repudiate this claim, I know of no reason in honor which should preclude it from repudiating any bond it has issued.

The facts are simply these: a quartermaster in 1861 made a contract with Mr. Brown, the claimant, for the building of one hundred Army wagons. They were to be built within a very short space of time, and they were to be built according to specifications which were drawn up, reduced to writing, and signed by the contracting parties at the time. The wagons were built. The contract provided that the work should be inspected from time to time, as it progressed, by an officer or agent of the quartermaster's department; that none of it should be painted until it had been fully inspected by that officer or agent; that when finished, painted, and accepted by that agent and delivered as therein agreed, the wagons should be paid for. It then provided that the wagons, boxes, &c., should be stored at Kingston, New Hampshire, at such place as the quartermaster or his agent might designate, and the contractor was to assist in taking them apart for shipping. It was agreed that forty of the wagons complete should be ready for delivery on or before the 31st day of July, 1861, and the remainder on the 31st day of August, 1861.

An agent was appointed to examine these wagons as they were in process of construction. He attended to his work. He certifies that he did examine them, that he examined the timber which went into them, and he examined them fully before they were painted. He gave a certificate that they were completed and painted; that they were in accordance with the specifications. The Quartermaster General wrote to the builder to ship the wagons to Perryville, in the State of Maryland. They were shipped. When they reached Perryville an officer of the quartermaster's department reported to the Quartermaster General that they were not in accordance with the specifications.

Now, the committee say, as a matter of law, that it was too late for the Quartermaster General to refuse to receive those wagons after his agent appointed for that specific purpose had carefully examined them, had certified to their sufficiency, and upon that certificate the Quartermaster General had ordered the wagons to be shipped several hundred miles from the residence of the builder. I do not understand the Senator from Connecticut as controverting that proposition. He said it was a matter of some doubt. I will not undertake to say that any legal proposition can be submitted that is not open to some doubt; but if there be anywhere in the books a clear, unquestionable, indisputable legal proposition, I think the one submitted by the Committee on Claims is one of that class. When I have hired a mechanic to build me a house according to certain specifications, and the sufficiency of the house is to be determined by an agent of my own, and the mechanic has built the house, and my agent has certified that it complies with the specifications, with the terms of the contract, I think it is too late for me then to object to receiving the house and paying for it. So that, whether the wagons were in accordance with the specifications or not, the committee say, and I say again, it was too late for the Quartermaster General to refuse to pay for the wagons on that account.

But the committee have examined the evidence in this case, and they are decidedly and unanimously of opinion that the wagons were in accordance with the specifications, and that they were well built. The objection of the Quar-

master General was based upon the statement of a Captain Sawtelle of the quartermaster's department. He made two reports; and if there had been no other evidence in the case I am inclined to think the committee would have felt compelled to reject those reports as competent evidence, as evidence to be considered upon the question of the sufficiency of the wagons. There were two reports, as I say. They were contradictory of themselves. One contradicted the other. The quartermaster explained, that by saying that when he made the first inspection and report he had not the contract before him, and therefore did not know what the specifications were. Now, I think every Senator will say that before a quartermaster undertook to pass upon work of this kind, and to declare that it did not comply with the specifications of the contract, he ought to have known, and a prudent and careful officer would have taken the pains to know, what the specifications were; what the contract was. He says he did not. Subsequently he says he obtained the contract, ascertained what the specifications were, and then made a subsequent report; and in that subsequent report he undertook to say that the wagons, as they were constructed, did differ from the specifications. These two reports, contradicting each other, were the only evidence in the world which the Quartermaster General had before him on which to base his allegation that the work was not in accordance with the specifications. It was not the only evidence the committee had before them. They had the testimony of several competent witnesses, wagon-builders, men who had been engaged in doing just such work for the Government at different times, and who all certify to the good character of this work. The testimony of Captain Sawtelle is uncorroborated by any testimony whatever. The testimony of the agent of the quartermaster's department, who was specially appointed to examine this work, is corroborated by that of a great number of witnesses, and I wish the Senator from Connecticut would say, if he has taken pains to read the report, whether the weight of testimony does not sustain the allegation of the agent who made the first examination, and who was specially appointed to make an examination. I wish he would say if the testimony of Captain Sawtelle is not wholly uncorroborated.

Mr. FOSTER. Does the gentleman wish me to answer now?

Mr. HOWE. Yes, sir; I wish the Senator to answer now.

Mr. FOSTER. I say, from reading the report, I think the weight of testimony, as it appears on the papers, is in favor of the claim; but I have taken a little pains to inform myself somewhat further, (not much, it is true), and from additional evidence which has come to my mind, it is changed from what it would have been if I read only the report.

Mr. HOWE. I cannot be answerable for, and I cannot myself of course act upon the information which the Senator has been able to obtain outside of the papers in this case; but I wish to say that the Government was not represented before the committee. I wish to say that the chairman of the Committee on Claims called upon the Quartermaster General to inform the committee the reasons he had for disallowing this claim, and the Quartermaster General submitted to the committee, as the only reason upon which he acted and which influenced his conduct, these two reports from Captain Sawtelle. That is all the evidence he furnished to the committee.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order.

Mr. FESSENDEN. Mr. President—
Mr. HOWE. I wish the Senate would allow this case to be acted upon.

Mr. FESSENDEN. It will be argued here all day.

Mr. HOWE. Then, if it is to be, allow me to say—

Mr. FESSENDEN. I think it more important to pass the deficiency bill, for which many people are waiting.

Mr. HOWE. We shall wait the deficiency bill immediately afterwards I admit; but here is a mechanic who did this amount of work in 1861 and he is not paid for it yet, and I undertake to say that there is not an honest claim against any

one of us nor against the Government than this is; and I undertake to say that it strikes me to be bearing a strong resemblance to a shame that such a claim should be allowed to linger so long.

THE VICE PRESIDENT. The special order is now before the Senate, being the unfinished business of Saturday.

MR. CLARK. I suggest to the Senator from Wisconsin that perhaps he had better let the claim go by for the present time. The Senate undoubtedly will give us an opportunity of hearing it when there is no deficiency bill and nothing else pressing, and a better opportunity perhaps. I agree with the Senator from Wisconsin in regard to the justice of the claim. I hope the Senate by and by will hear this claim as it ought to be heard. If we push it when the deficiency bill is pressing we should not get so full and candid a hearing as we ought.

MR. HOWE. I give way, but I do not like to have creditors kept outside of these Halls.

THE VICE PRESIDENT. The business before the Senate is joint resolution S. No. 23, to equalize the pay of soldiers in the United States Army.

MR. FESSENDEN. I move to postpone all prior orders for the purpose of taking up the deficiency bill.

The motion was agreed to.

DEFICIENCY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 156) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864.

MR. FESSENDEN. There is an error in one of the amendments submitted by me on Friday last which I should like to have corrected.

THE VICE PRESIDENT. The pending amendment is one submitted by the Senator from Illinois, [Mr. TRUMBULL.]

MR. FESSENDEN. I hope the Senator will allow me to have the amendment corrected.

THE VICE PRESIDENT. The Chair will entertain it if there be no objection.

MR. FESSENDEN. It is the appropriation for the purchase of cavalry and artillery horses, which was written by mistake \$17,500. It should be \$17,500,000. That slight alteration is necessary. [Laughter.]

THE VICE PRESIDENT. The amendment will be so altered if there be no objection. The Chair hears none. The question now is on the amendment submitted by the Senator from Illinois, [Mr. TRUMBULL.] to strike out the following clause:

For the compensation of the surveyor general of Arizona and the clerks in his office, \$4,250.

MR. HENDRICKS. The Senator from Illinois suggested in support of his amendment that the surveyor general had not gone to that Territory and had not an office open there. I made inquiry at the General Land Office this morning and found that he had gone to the place for the establishment of the office and had established it. Therefore the proposition of the Senator from Illinois should not be adopted.

MR. HARLAN. The facts in relation to the case are about these: a year ago when an appropriation bill was pending containing an appropriation for the salary of the surveyor general of Arizona and other officers connected with that office, it was suggested in the Senate that the appropriation for surveys in that Territory amounted to about five thousand dollars; that the whole country had been included in the district of the surveyor general of New Mexico, and that that amount could be disbursed by him as advantageously after the organization of the new Territory of Arizona as before; that there would probably be no opportunity of engaging in public surveys in the Territory during the year; and further, that there was no necessity for the office; and on that statement the Senate struck out the appropriation.

The facts are as was contemplated at the time; there have been no surveys either in New Mexico or Arizona during the year, and no necessity whatever for the office. I understand that the gentleman who was appointed when he came on here to solicit the office was told that there was no appropriation to pay the salary, that no surveys were contemplated, that there was no necessity for his services, and yet he insisted on being appointed, and suggested that he would run his haz-

ard about getting an appropriation to pay the salary. It seems to me it is a case that ought to be met squarely. In possession of all the facts, Congress last year refused to make an appropriation to pay the salary, on the ground that there was no necessity for the office, that no work of that kind could be done during the year, and it seems to me if a case can be presented that is strong enough to induce us to reject a deficiency, this is one.

THE VICE PRESIDENT put the question, and declared that the amendment of Mr. TRUMBULL was rejected.

MR. JOHNSON. I am instructed by the Committee on the Library—

MR. FOSTER. I doubt whether the attention of the Senate was called to the last vote. I wish that question may be put again. It is the fault of the Senate, certainly, and not of the Chair.

THE VICE PRESIDENT. The Chair will again put the question, if there was misunderstanding. The question is on striking out the words which were read, being lines sixty-eight, sixty-nine, and seventy, containing an appropriation for the surveyor general of Arizona.

MR. ANTHONY. It seems to me that if there have not been any surveys made in Arizona there ought to be some made. Why are not surveys going on there as well as in other Territories? I was not at all satisfied last session with our striking out the appropriation. I think the land there ought to be surveyed. The Territory ought to be treated as the other Territories are. The Senator from Iowa says that a man came here and insisted upon being appointed to the office. A great many men have insisted on being appointed to office; but I do not think they can get office unless they have a nomination by the President and the confirmation of this body. If the President has appointed an officer and we have confirmed him, it seems to me it is rather too late for us to say we will not pay him.

MR. HARLAN. I am not sure that the officer has been confirmed. The Commissioner of the General Land Office says in his report that the appointment was made by the President, and that the appointee started for his field of labor some time in July, since which he has not heard from him. The reasons why surveys have not been made there, I suppose, are as manifest to the Senator from Rhode Island as to every one else. It is owing to the condition of the country, the hostility of the Indians and of guerrillas, who have had possession of Arizona ever since its organization.

MR. ANTHONY. But was not the office of surveyor general authorized by the law? Was not the President authorized to appoint him? If the President was authorized to appoint him and did appoint him, ought we not to pay him? He has gone out there. The Senator from Indiana says he has gone. He went in July, I think.

MR. HENDRICKS. Yes, sir.

MR. ANTHONY. If the Senate had stricken out, not the appropriation for the office, but the office itself, we should have no trouble; but here we authorize the appointment of an officer; the President appoints him and sends him out to attend to his duties; and because we think on the whole it is an unnecessary office, we will not pay him.

MR. TRUMBULL. The law expressly provided that he should not be paid.

MR. ANTHONY. I think not.

MR. TRUMBULL. Certainly it did, until he entered upon the discharge of his duty.

MR. ANTHONY. But he has entered upon the discharge of his duty.

MR. TRUMBULL. No; there is no evidence of it.

MR. JOHNSON. The law does prohibit any payment being made until the officer gets there; but I understand the officer is now on his way there, and if he gets there and discharges the duty of the office, from the time he gets there he ought to be paid, and he cannot be paid unless there is an appropriation in advance.

MR. ANTHONY. Precisely. I do not desire that he shall be paid before he gets there; and I suppose he cannot be, under this appropriation.

MR. JOHNSON. He cannot be paid under this appropriation until he shows that he is entitled to be paid under the law creating the office. All that the appropriation does is to set apart in the Treas-

ury a fund with which to pay him when he becomes entitled to payment; that is all.

MR. ANTHONY. Then there can be no objection to the appropriation.

MR. GRIMES. Then there is no deficiency, and it ought not to be put in this bill.

MR. JOHNSON. Certainly there is a deficiency. You are providing for an office for which you promised to pay say \$2,000. The gentleman who is to go into the office enters on his duties two or three months hence, and you will not be in session. Is he to go without pay until you meet again?

MR. TRUMBULL. I wish to say a word in addition to what I said the other day upon this appropriation. The Arizona bill provides that

"No salary shall be due or paid to the officers created by this act until they have entered on the duties of their respective offices within the said Territory."

Now, we have no evidence of their having entered upon the discharge of their duties within the Territory.

MR. FESSENDEN. Will my friend allow me to ask him a question? Suppose that intelligence satisfactory to the Land Office or to the accounting officers is received that in fact they did arrive and enter upon the discharge of their duties last November or December; if we make no appropriation there will be no fund out of which to pay their salaries from the time they entered upon the discharge of their duties. If no such evidence is received of their entering upon the discharge of their duties before the expiration of the fiscal year, of course the money will not be paid. This is only providing a fund out of which they may be paid if they have complied with the law, and the presumption is that they either have entered or will enter upon the discharge of their duties before the close of the year.

MR. TRUMBULL. I think it will be time enough to provide for paying them when we ascertain that they are in a position to claim the salary; but at any rate the Senator from Maine will see that no such sum as four thousand and odd dollars can be due this surveyor general under any state of case from now to June. I do not remember his salary; I suppose it was fixed at \$2,000. His salary is but \$2,000 for a whole year, as the Senator from Iowa [Mr. HARLAN] informs me. Here you propose to appropriate upward of four thousand dollars to pay him between now and June.

MR. FESSENDEN. For himself and clerks.

MR. TRUMBULL. It is very manifest that no such sum as that can be due; and now when such vast appropriations are being made, and when my friend from Maine is such a close custodian of the Treasury, I am a little surprised that he should want to swell the appropriations larger than can possibly be necessary. This officer did not start until July, at any rate, and I think I have seen an account in some of the papers that later than that, some time in August, he had not gone to Arizona and was not in Arizona. It seems to me that a portion of the appropriation at least should be stricken out.

MR. FESSENDEN. How much?

MR. TRUMBULL. Certainly there cannot be a year's service to pay for.

MR. FESSENDEN. I suppose this appropriation is made on the basis of a year for himself and his clerks; but the law is perfectly plain; he can only be paid from the time he entered on the duties of his office. We cannot tell now when he did enter upon the discharge of his duties; we know nothing about it; and I suppose the Secretary of the Interior recommended the appropriation of the sum to which he and his clerks would be entitled by law, provided he entered upon the discharge of his duties at the beginning of the fiscal year; and the Secretary did not undertake to guess at what time he arrived, because there is no danger about it. Under the act he can only be paid for a specific time; and if we appropriate more than enough, the money that is not paid to him goes into the surplus fund of the Treasury. His account must be audited under the act already passed.

MR. TRUMBULL. That argument is the one which I tried to meet the other day. It is true this is not a very large sum; but now the chairman of the Finance Committee takes the ground that if more money is appropriated than is necessary, it will not be expended. Suppose we act upon

that principle in regard to all the appropriations, what does the check of Congress over the money of the people amount to? If we appropriate \$40,000,000 for a particular object, and in the opinion of the men who disburse it only \$30,000,000 is necessary, they will only expend \$30,000,000; and what is the harm in it? If to pay the judicial expenses of the Government, to pay the expenses of our foreign ministers and consuls abroad, we appropriate \$5,000,000 and the Government only has occasion to use \$4,000,000, the rest of it will remain in the Treasury. Why should we trouble ourselves with details and with looking to see what is the necessary appropriation to pay the officers created by law? Why make any calculation about it? No more will be paid than the law allows, and we may just as well lump it and be sure to appropriate enough to pay all these expenses, and of course the disbursing officers will pay out no more than is proper!

If that argument is a sound one, of course the Finance Committee and this body and Congress will be relieved from any supervision over the Treasury, except to be sure and make appropriations big enough to cover everything. I submit, is that the kind of care that Congress should exercise over the Treasury? Is that what is meant by prohibiting money being drawn from the Treasury except in pursuance of appropriations made by law?

It is very manifest that when the law to create the Territory of Arizona was passed it was passed under the impression that it was to be no expense to the Government to establish that Territory unless the officers went there and discharged their duties in the Territory. I know that at the time the bill creating the Territory of Arizona was up I opposed it upon this very ground, and I think the Senator from Maine concurred with me, though I am not sure about that. I think he voted with me against the bill; but Congress thought proper to pass it. I have nothing to say now about the creation of the Territory, but Congress passed it with this provision in the law. As we have positive evidence in the official reports that the whole appropriation for a year cannot be due to this officer, it seems to me we ought not to make the whole appropriation for the year.

Again, I should like to know whether appropriations are made in this bill for attorneys and marshals and judges and all the officers in Arizona. I see nothing in this deficiency bill for any officers there except the surveyor general. Let me inquire of the Finance Committee why the bill does not embrace an appropriation for the Governor and judges? They have been appointed.

Mr. ANTHONY. An appropriation was made to pay them.

Mr. TRUMBULL. I was not aware that that was so.

Mr. ANTHONY. The appropriation for surveyor general was not made because it was not supposed the man would be appointed.

Mr. TRUMBULL. We have confirmed no surveyor general, as I understand. There has been no person who has received the confirmation of the Senate, and this appointment was made, I believe, after the Senate adjourned. That would not prevent his being entitled to his pay, I agree, if he has gone to the Territory and is discharging his duties.

Mr. ANTHONY. Then I do not see any difficulty. The Senator from Illinois is willing that the surveyor general shall be paid from the time he went there and entered upon his duties. That is all he can be paid under the appropriation contained in the bill. If the amount contained in the clause is not correct, and if the Senator from Illinois can tell what the proper amount is, I am perfectly willing to have it cut down to the precise sum necessary; but I am not willing that a man shall be appointed by the President under the law and go out there, and then that you shall refuse to give him his pay.

Mr. TRUMBULL. It is for the committee to know the precise amount. I am not on the Finance Committee; perhaps the Senator from Rhode Island is.

Mr. ANTHONY. I am not, but I take the amount from the committee. Perhaps that amount is too large. It may be. If the committee have made a mistake I am willing to have the appropriation cut down to the proper amount.

Mr. FESSENDEN. By referring to the an-

nual report of the Secretary of the Interior, I find that the surveyor general left Fort Craig, in New Mexico, for Arizona on the 9th of July last, and that on the 31st of the same month he was in the Territory and visiting different localities to select a place for his office, so that by the 1st of July it will not be very far from a year since he was on the spot, and actually in the discharge of his duties, if I read this report aright.

Mr. TRUMBULL. How would he be entitled to four thousand dollars and upward for a year?

Mr. FESSENDEN. For his clerks and the expenses of the office.

Mr. TRUMBULL. I should like to see the law that allows an appropriation for the clerks.

Mr. FESSENDEN. They all have clerks. They cannot get along without them.

Mr. TRUMBULL. It is not in the act creating the Territory.

Mr. FESSENDEN. The clause is "for compensation of the surveyor general and the clerks in his office, \$4,250." We allow clerks in all these offices.

Mr. TRUMBULL. Under what law?

Mr. FESSENDEN. I cannot speak of the law particularly. I know it is the practice. I have not examined this matter minutely to ascertain about it; but it having passed the supervision of the Secretary of the Interior, he having recommended it, and it having passed through the Committee of Ways and Means and of the House of Representatives, I supposed that the estimates were made rightly. This is according to an estimate sent in. I do not know how much precisely is required.

I do not exactly understand my honorable friend from Illinois. He seems to argue all these questions precisely as if he was before some public meeting out in Illinois attacking the Administration, where there is nobody to reply and where they do not understand the manner in which this business is done. I think that is hardly a fair way of presenting it. The Senator knows very well that it is impossible for us to ascertain precisely how everything is to be done. He goes upon the presumption that every officer in all the Departments, every accounting officer, is a rascal and will disobey the law, and that there is no honesty anywhere except in himself, or at least no sufficient degree of honesty and of looking after the public business on the part of any one else. I cannot understand it in any other way, because he is attacking the mode in which business has been done from the foundation of the Government, and must be done. We cannot ascertain to a certainty in a great many cases exactly how much money is necessary to meet a particular contingency. This is one of those cases, and the difficulty arises from the fact that we do not know when the man entered upon the discharge of the duties of his office under the law. But a question of that kind comes to the accounting officer always, and it is to be presumed, to say the least, that the accounting officer will do his duty in scrutinizing the account. The question of money not being drawn from the Treasury except under an appropriation made by law does not arise. We make the appropriation; but it does not follow from that that all the money we appropriate for a given purpose is necessarily to be drawn out of the Treasury, unless it is due when the account is stated.

For myself, I believe that the accounting officers of the Treasury Department, both under this Administration and previous Administrations, have always been stringent and careful in examining the accounts presented. The complaint has been that they have been too stringent and too careful and too minute, and raised too many technical objections, rather than that they allowed too much. Undoubtedly there are to be found in all large bodies of men some who are subject to temptation and are not honest; but as a general rule the accounting officers, in my judgment, are honest men and do their duty strictly, and perhaps as strictly as the public interests require.

Now, sir, let the people understand in connection with this attack made by the honorable Senator, that here we appropriate the money that we find the law requires us to appropriate in order to carry out certain purposes of the Government. We can go no further than that. We may examine, and if the sum is too much cut it down; but it does

not follow that all the money that is appropriated is necessarily to be paid out. The object is, in order to prevent any obstacle in the way of effecting the public service, to appropriate enough to accomplish the purpose. If that money is earned under the law, the accounting officers will allow and pay it. If it is not earned under the law, it will not be paid but will remain in the Treasury, and no harm is done. Money is not taken out of the Treasury simply by appropriating it, because if the contingency does not arise, if the service is not rendered, it remains in the Treasury; it is just as good for our purposes as if we had not made an appropriation. We pass thousands of appropriations, I was about to say, to be paid "out of any money in the Treasury not otherwise appropriated." It is there in mass; if not drawn it remains there, and there is no harm done. It is very common with the honorable Senator to make these attacks upon the Committee on Finance, as if they did not do their duty, as if they did not look into things, as if they did not know enough minutely. I have the highest respect for my honorable friend, for his intelligence and for his integrity, and I do wish that he stood in my place, that he was chairman of the Committee on Finance. If he were we should have the expenses of this Government figured out to a copper in every particular, and everything placed in such minute, pimlico order that everybody could understand exactly what it was in every respect, because the complaint he makes of the Committee on Finance is that it is not so done. I only say that with the limited capacity I am enabled to bring to the investigation of questions I am perfectly unable, and any other man, even he, would be unable, to ascertain to a shilling how every appropriation is to be made and how it is to be paid. The thing is impossible in the nature of things. We must, after all, trust to those persons who are appointed to administer another branch of the Government—I mean those who look and see that the accounts are properly kept and then pay them. We have nothing to do with the payment of money. If we appropriate \$1,000 or \$5,000 too much in a particular instance by accident, as we may do, and perhaps as we frequently do—I cannot tell how that is; I hope it is not the case, however, and I do not think it is—it does not follow that the Treasury is injured or that the money is to be paid out. In such a case all the money cannot be drawn unless there is dishonesty or blundering in the statement of the accounts for which the particular sum may be appropriated. That is the fact, and I think it may as well be understood so. It is one thing to get up here to find fault and another thing to correct the fault. If in this case the honorable Senator will undertake to say when this officer did get there, when he entered upon the discharge of his duties, what the legal amount of his expenses is, and cut the appropriation down to that, we shall all vote for such an amendment; but if he cannot tell, if he cannot correct it, let us not strike out the whole when the man is there, and when if he is not there he will not be paid under the law.

Mr. TRUMBULL. Mr. President, I am sorry that an attempt to call attention to this item in the appropriation bill should have been so unpleasant to the Senator from Maine.

Mr. FESSENDEN. Let me say to my friend if he will allow me to explain, that it is not to the attempt to call attention to it that I object, but to his iterated and reiterated attacks upon the Committee on Finance for their looseness and carelessness in the examination of these bills, of which he does not know anything himself except to find fault.

Mr. TRUMBULL. I admit that I know very little in regard to the financial operations of the Government, and less as to the action of the Finance Committee. I have the greatest confidence in its ability, and feel very grateful to that committee for the care with which it ordinarily watches over the Treasury. The Senator from Maine is very much mistaken if he supposes that I designed to make any attack either upon the Committee on Finance or upon the Government, or if he supposes that I charged every officer of the Government with dishonesty, or presumed that every officer of the Government was dishonest, or if he supposes that I set up any peculiar claims for honesty on my part. These are all imaginations on the part of the Senator from Maine. I have very great confidence in the honesty and the in-

tegrity of the officers of the Government, as a general thing, and have very great confidence in the ability and integrity and the superior knowledge of the Committee on Finance, especially of its chairman; and I will not reply to him in the spirit that he manifested when he said that I know nothing about such things. I admit that I know altogether less about such things than he does, and I am willing to admit that he possesses very great knowledge about them; but still here happens to be an appropriation for one single item that the Senate generally, I suppose, can understand, and all of us can understand when attention is called to it.

I find by looking at the report of the Secretary of the Interior that he estimates for the compensation of the surveyor general of Arizona, (and refers to the act of February 24, 1863, 12 Statutes at Large, page 665, section 2), the sum of \$2,250; and for the compensation of the clerks in the office of the surveyor general, \$2,000. The act referred to makes no provision for clerks at all. I did inquire of the chairman of the Committee on Finance as I supposed he had superior information on the subject, and I wanted to be informed what the law was in regard to clerks. I confessed my ignorance in regard to it. I had not looked into the statutes. I did know, I happened to recollect, that when we passed the bill to organize the Territory of Arizona, it was the understanding that the officers were not to be paid until they went there and entered upon the discharge of their duties. I was not aware that there was any law allowing clerks to the surveyor general; I am not aware now that there is. But if we pass this appropriation bill in the shape in which it comes to us we make an appropriation for the payment of clerks there, and undoubtedly clerks will be employed if there is money appropriated for their payment.

The salary of the surveyor general, as I am informed by my friend, the chairman on Public Lands, [Mr. HARLAN,] is \$2,000 a year. The sum estimated here is \$2,250. If I thought it would not be an offense I would really like to inquire of the Senator from Maine how it is possible that \$2,250 can be needed to pay until June next an officer who, the same report states, had not reached Arizona in July last. If we were to appropriate enough to pay the salary for a year, that certainly would cover the whole of it, and reach until the 1st of July next; and then the sum needed could be but \$2,000 by possibility, if the salary is \$2,000 and we appropriate it for the year. It is not a large sum, it is true, and I am not disposed to take up time in regard to it; but I did not wish the Senator to suppose that I acted in a fault-finding spirit with anybody, as I certainly would not with him, at any rate. I know that the labors of his committee are very great; I know he is very exact in the reports which he makes from the committee, and in common with the Senate and the whole country I feel under great obligations to him for the care with which he scrutinizes these appropriation bills. I only regret that my calling attention to a small matter in this bill should have led him to suppose that it was in a spirit of fault-finding with him or with anybody else. The only object I had was to correct the appropriation in reference to this item if it was wrong; and if not, to ascertain that it was right, and then let it pass as it was.

I think the principle which the Senator laid down, that we should appropriate a gross sum and leave it to the Department to use the money or not, is an improper principle upon which to legislate. I think it would be wrong to appropriate a larger amount to pay the salaries of the Government officers than they would amount to by a computation. I have no doubt the committee does see to that, and takes care that we do not appropriate a sum without examination and leave it to the officers to pay out the proper amount. What I understand by our appropriation bills is that we see that they are based upon acts of Congress or upon estimates which will require the amount that we appropriate. That is all that I desire in this case.

Mr. GRIMES. Is the proposition susceptible of amendment now?

The VICE PRESIDENT. It is.

Mr. GRIMES. I move then to strike out the sum now in the clause and to substitute \$2,000. That will pay the surveyor general his salary and will

leave nothing for the clerks. As I understand it, there have been no surveys made in that district, and there is no probability of any surveys being made there very soon. There are no records to take care of, and there is no necessity for any clerical force whatever. We got ourselves into a scrape by authorizing the creation of the office, and I do not see that we can get out of it otherwise than by paying the salary we agreed to pay; but I do not think there is any law that authorizes the appointment of clerks, and I do not see that there is any necessity for clerks being appointed. I therefore move to reduce the sum to \$2,000 and strike out the clerks.

Mr. HENDRICKS. I find this appropriation estimated for on page 151 of the estimates: "For compensation of the surveyor general of the Territory of Arizona, per act February 24, 1863, \$3,000." And then, "For compensation of his clerks, \$4,000." That is based upon the act organizing the Territory of Arizona; and I am surprised that the Senator from Illinois should say to the Senate that he is not able to see any authority of law for the employment of clerks in that surveyor general's office. It would have been a very singular thing if Congress had recognized an office of that sort without allowing clerks to aid the surveyor general. The second section of the act, on page 665 of volume twelve of the Statutes at Large, provides:

"There shall also be a secretary, a marshal, a district attorney, and a surveyor general, for said Territory, who, together with the Governor and judges of the supreme court, shall be appointed by the President, by and with the advice and consent of the Senate; and the term of office for each, the manner of their appointment, and the powers, duties, and compensation of the Governor, Legislative Assembly, judges of the supreme court, secretary, marshal, district attorney, and surveyor general aforesaid, with their clerks, draughtsmen, deputies, and sergeant-at-arms, shall be such as are conferred upon the same officers by the act organizing the territorial government of New Mexico;" &c.

So that we shall have to refer to the act organizing the territorial government of New Mexico to see what number of clerks are allowed, and at what compensation, if that law is the law governing this case. It does not devolve on me, sir, to vindicate the integrity or the intelligence of the Commissioner of the General Land Office, but when he sends in an estimate it is fair to presume that the facts do exist under the law which authorize the expenditure of the money. The law provides that there shall no salary be due to the surveyor general or to his clerks until they are upon the ground and have entered upon the discharge of their duties; and when the Commissioner of the General Land Office sends in his estimates it is fair to presume that the facts justify the estimates, that the officers have entered in fact upon the discharge of the duties of their offices; and I should not go beyond these estimates on the question of fact whether they had entered on the discharge of their duties under this law, because until they had so entered, the Commissioner could not make an estimate for their salaries. But I am also informed at that office that they have gone to that Territory, and of course I shall vote for their payment.

I do not undertake to go back and question the propriety of the passage of the law organizing the territorial government of Arizona or establishing a surveyor general's office therein. I do not suppose that if I had been a member of this body at that time I should have voted for the law; I do not think it is very important for the public interests that there should be such an office in that Territory. But it is provided for by law; the surveyor general has gone to the place where his duties are to be discharged; the estimates are sent in; and I think we have but little to do except to vote for the estimates. And I will call the attention of the Senate to the fact that the appropriation proposed in this bill is now much below the estimate of the Commissioner. It is only \$4,250. This will allow but the employment of a very small clerical force; and any one acquainted with the business of a surveyor general's office knows that there must be clerks of very considerable skill and knowledge, there must be draughtsmen, and the corps of clerks necessarily is considerable. I suppose that this appropriation is a very small one, and I will agree with the Senator from Iowa [Mr. HARLAN] if he thinks that this surveyor general ought not to be continued, that we should take hold of the thing and dispose of it; that is, repeal the law creating the office, or con-

solidate that office with some other. If he says that is right and proper, I shall go with him for it.

Mr. ANTHONY. I would suggest to the Senator from Iowa [Mr. GRIMES] to modify his amendment so as to put in the amount reported by the committee, and add, "or so much thereof as may be necessary." Nobody wants to appropriate more than is necessary to pay for the actual service. I suppose everybody is willing to pay for that. I supposed those words were unnecessary; but still Senators seem to be apprehensive that under the appropriation the accounting officers will pay money for services not rendered. I do not think it is at all necessary to add the words I have suggested, but I think it would meet the objections of Senators.

Mr. GRIMES. I would be willing to do it, but we all know that this is to pay for no service, but to reward a man who has rendered some political service to somebody and been sent out to Arizona.

Mr. ANTHONY. I do not know who the surveyor general is. There was a man appointed from my State, and his appointment was withdrawn because there was no appropriation made. I will say here that I expected that when an appointment was made it would be made from the State of Rhode Island; but some one has been appointed, I do not know who he is, and he has gone out there.

Mr. GRIMES. I think the State of Rhode Island was very badly served because the appointee was not taken from that State, for I believe the State of Rhode Island has special and particular interests in Arizona, her people owning some of the mines there.

Mr. ANTHONY. I think so too.

Mr. GRIMES. It was greatly through that influence that this Territory was created and these officers put as a burden on the Treasury.

Mr. ANTHONY. But because the State of Rhode Island has been badly treated by not giving us the surveyor, I am not therefore in favor of treating badly the man who was appointed.

The VICE PRESIDENT. The question is on the amendment of the Senator from Iowa, [Mr. GRIMES.]

The amendment was rejected.

The VICE PRESIDENT. The question now returns on the amendment of the Senator from Illinois, to strike out the clause.

The amendment was rejected.

Mr. FESSENDEN. The Committee on Finance have instructed me to offer an amendment, after line two hundred and twenty-three to insert:

To supply a deficiency in the appropriation for Capitol police for the Senate, \$4,300 75.

To supply a deficiency in the appropriation for stationery for the Senate, \$6,000.

To supply a deficiency in the appropriation for miscellaneous items for the Senate, \$20,000.

I wish to say a word upon these items. In regard to the first two, I take it there is no objection to them, and I do not know that there is to the last. The first is to supply a deficiency in the appropriation for the payment of the Capitol police, and that arises from our own legislation in increasing their compensation twenty per cent., and making no appropriation for the increased compensation. The next is a deficiency for stationery, which arises, as I am told, from the increased price of stationery since last year, the original estimates being made somewhat upon the old prices. The third item is for a deficiency in the "miscellaneous items," so called, of the contingent fund of the Senate. There is already an absolute deficiency; that is to say, there are bills due amounting to something over ten thousand dollars, and which bills have not been paid, as I understand; and then there is a very considerable portion of the time from now until the 1st of July left to provide for.

I suppose the sum is small enough. I do not know how that is, however. It is not so large as was at first proposed, and we must necessarily, as in other cases, form the best estimate we can from what has previously taken place. But, sir, I wish to call the attention of the Senate to the fact that, in my judgment, there is some legislation necessary by way of check upon the expenditure of money in the Senate and connected with the Senate. There is either some legislation necessary, or it is essential that the legislation we have had should be enforced. My attention has been called to the fact that for the last three ses-

sions we have had every year large deficiency bills for contingent expenses in the Senate, and also in the House of Representatives; but of that they must take care themselves. One time we appropriated \$30,000 deficiency. The amount called for this year was much larger than we propose to appropriate. Two or three items were left out because we had not sufficient information on which to predicate an opinion.

Mr. JOHNSON. What is the aggregate amount asked for now?

Mr. FESSENDEN. About thirty thousand dollars. Twenty thousand dollars of it is for these miscellaneous items; the other \$10,000 is absolutely necessary. In the way the thing is done, in fact, there is great liability to abuse. The Secretary of the Senate keeps the money, but he has nothing to do with the expenditure of it. The Sergeant-at-Arms, for instance, expends the money in some cases, and other officers do it in other cases. The Sergeant-at-Arms contracts at his discretion for the purchase of articles of furniture and repairs of furniture, and different things for the Capitol, and he approves the bills, and all the Secretary or the cashier has to do is to pay the bills. In one instance I inquired of the cashier how it had been done: he is recently in his office, and I do not think any fault comes upon him. This appropriation is for money absolutely paid, in some instances overpaid, more than the amount appropriated. I asked him how that was done. His reply was that it is paid out of some other fund and then made up by a deficiency. That is all wrong. The books, in my judgment, should be kept in such a way as to show how every particular fund appropriated is used; and when the officer gets to the end of an appropriation for a particular fund he should stop paying and not go to another fund at discretion and pay out of that.

I think there should be an additional check upon the expenditure. Now, when an officer exercises his discretion and approves the bills, the money is paid simply upon that. There should always be a check upon him. A bill should be properly investigated, or we should in some way be assured of its correctness, before it is paid. I am not throwing any imputation on anybody; but the Senate will see that from the manner in which the fund has been managed it is necessarily liable to very considerable abuse.

I make the remarks that I do now so as to call the attention of the Committee on the Contingent Expenses of the Senate to the subject, in order that they may if necessary provide some legislation with regard to it. As it is, as a general rule, as I understand the accounts that are rendered for these contingent expenses, the payments are not examined by the committee until after the bills have absolutely been paid, and then they are exhibited to the committee for their approval. It may not be so in all instances, but it has been in a great many. What the remedy should be the Committee on Finance have had no time to examine, and I do not know that it is their business to provide checks in this matter: it properly belongs to other committees to do that. It is evident to me at least that the thing is wrongly managed as it is, and I am tired of having these very large deficiencies in our own Chamber come in at every session of Congress. At any rate, I think the matter should be properly investigated.

Mr. CLARK. As a member of the Committee to Audit and Control the Contingent Expenses of the Senate, perhaps it is right that I should say something in regard to the contingent fund. I do not know that the chairman of the Committee on Finance intends to cast any reflection upon the Committee on Contingent Expenses. I do not suppose that he does. That committee, however, have been very careful in regard to the expenditure of that fund; but there are some things which are beyond the control of the committee, and in regard to which additional legislation is required. It is true, as stated by the Senator from Maine, the chairman of the Committee on Finance, that bills are paid out of the fund, over which we have no control in the first outset. They are approved by some officer of the Senate whose duty it is to contract the debt, and then they go to the Secretary of the Senate, and by his clerk are paid under that approval; and we have nothing to do except to audit the account after it has been paid, examine the voucher, and see that the voucher corresponds with the ac-

count. But a practice has grown up here which I think is entirely wrong, and I desire to call the attention of the Senate to it, and to what the Committee on Contingent Expenses have done; and that is a matter which was referred to by the chairman of the Committee on Finance. There is a practice of paying a bill, say, for instance, under the "miscellaneous" head, out of any fund set apart for any other particular purpose.

Mr. JOHNSON. Is that done?

Mr. CLARK. The committee thought that they had put an end to it, but it seems they have not. I am told it has been the practice for years. At the last session of Congress, the attention of a committee then, which is the present committee, was called to that practice, and they told the Secretary of the Senate, or rather his clerk, that it must not be done further, because in the judgment of the committee it was entirely without authority of law. For instance, Mr. President, you set apart a fund for the payment of Senators, and I am told that they go to that fund to pay for miscellaneous items, if they have any of it left. I am charging no fault upon anybody, because it has been the practice. The committee thought they had put an end to it by calling the attention of the Secretary of the Senate and of his clerk to it and expressing their disapprobation of that practice; but I find that it has been continuing through all the summer. There can be no security for any portion of that fund if it is allowed to be exhausted in that way. But I understand, and I ought to say for the present clerk of the Secretary of the Senate, that he had not any knowledge of such action on the part of the committee, and I presume now it will be at once checked by calling his attention to it. We shift the clerks, and the one going out does not communicate his knowledge to the one coming in, and so a practice obtains and continues which ought not to exist. It may be necessary to have legislation on the subject to check it, but I think it will be checked on the suggestion of the committee now. I hope it will. Otherwise a resolution must be brought into the Senate to check such a practice, for I think it is entirely wrong.

Then, again, the committee undertook at the last session to put some restriction on the payment of these bills, and they passed a resolution directing the Sergeant-at-Arms, for instance, that no purchase of new furniture should be made unless it was absolutely necessary. With that provision of the committee and that resolution, the committee are bound to say the Sergeant-at-Arms in their opinion has complied and has shown a disposition to comply; but the committee went further and provided that whenever a bill was presented to the Sergeant-at-Arms for his approval and payment, or to the Secretary of the Senate for his approval and payment, a certain oath should be taken by the party presenting it. I will read to the Senate the nature of the oath, the form of the oath prescribed, so that the Senate may see that the committee have not been in fault about this matter, their attention having been called to it:

"Resolved, That bills and accounts presented to the committee for allowance or to the Secretary of the Senate for payment must be proved to be correct by the oath of the claimant, or some disinterested person in his behalf who knows the facts, in the manner following: I, A. B., do solemnly swear that the foregoing account is correct and just; that the labor was actually and faithfully performed, and the whole of the articles named in said account were furnished as stated; that the prices charged for such labor and articles are reasonable, and as low as they are furnished by regular dealers to private individuals in Washington, and that no officer of the Government has been or will ever be directly or indirectly benefited because of my being employed to furnish the labor and articles named in this account."

That is the oath which the committee required to be taken in every case of account; but owing to the shifting of the clerk there, I am sorry to say it has not been done. There are, however, reasons why a deficiency may exist, and why the sum allowed should be increased. It is the same in regard to the contingent fund as to all other funds of the Government in times of excitement and war; they want more money than they do at other times; as, for instance, this body raised a committee and gave to that committee power to send for persons and papers; the money necessary is paid out of this fund, which was not contemplated when the appropriation for it was made. On account of one committee raised this year, there has already been paid out of that fund \$1,000, and so these deficiencies come up.

I desire to say that I do not know of any wrong payment out of the fund; I do not know that anybody has done intentional wrong; but I desire to call the attention of the Senate to the action of the committee and to the practices that have obtained, so that the Senate may know what the committee are doing to stop those practices and to bring the fund to a regular and proper administration.

Mr. SHERMAN. I think this difficulty has grown out of the action of Congress four or five years ago in passing a joint resolution withdrawing the expenditure of the contingent fund from the supervising action of the accounting officers of the Treasury. A question of dignity then arose between the two Houses and Comptroller Whittlesey. Comptroller Whittlesey rejected certain accounts of the House of Representatives, and the joint resolution to which I have referred was introduced on the ground that it was beneath the dignity of either House to submit its contingent accounts to the Comptroller of the Treasury. Since that time there has been a great deal more latitude in expenditure, and the expenditures have been very largely increased.

There is another difficulty in the way. Accounts are presented and are paid without being audited by any committee of either House. The Sergeant-at-Arms buys furniture; those accounts are presented to the paying teller and are paid without having passed the scrutiny of the committee of which the honorable Senator from New Hampshire [Mr. CLARK] is a member.

Mr. CLARK. I must correct the Senator in that respect. We scrutinize the accounts before they are paid. I must say, in justice to the Sergeant-at-Arms, that he submits them to us and states them carefully.

Mr. SHERMAN. I must state that we had this morning this very teller before us, and he told us distinctly that he paid these accounts before they were examined by the committee, and then sent them to the committee, and that they were examined by the committee after they were paid. The question was put to him distinctly, "Suppose accounts are rejected, what then?" "Why, we have to collect them back." That was the information we had this morning.

Mr. CLARK. I do not know but that may have been so in some instances, but what I mean is that the accounts are presented to us for scrutiny, and then we approve them. We did not suppose they were paid before presentation to us. If that is so, if they are paid before we have approved them, then the presentation of them to us is a mere farce, and it ought to be corrected.

Mr. SHERMAN. I will state to the Senator that we had that information directly from the paying teller this morning, that his accounts were paid solely on the certificate of the Sergeant-at-Arms, or whoever may be the contracting officer, and did not await the action of the committee before they were paid. He says that under the law and under the practice existing for years, that habit has grown up that they are paid before examination by the committee; and not only that, if there is no balance in the Treasury belonging to the particular item of the contingent fund applicable to the bills, they are still paid out of other appropriations, so that there is no check. This appropriation is intended to cover a deficiency of some \$10,000. The paying teller has, in accordance with the custom, as he says, continued to pay these accounts; but the appropriation has been exhausted, and upon being inquired of out of what money he paid it, he said he paid it out of other appropriations disbursed by him, moneys being drawn from the Treasury on other appropriations in his hands, and he continued to pay them. It seems to me this ought to be checked; and I will state that I made a proposition to the Committee on Finance, but they thought it was better to come from the Committee on Contingent Expenses, to add this proviso:

Provided, That hereafter no payment shall be made from the contingent fund of either House unless the amount is fixed by law, or the account is first audited by the proper committee.

That would require all the contingent accounts to be laid over until the committee can convene and pass upon them, and then upon their approval they may be paid. This would not extend to the pay of clerks and other employes whose compensation is fixed by law; but as to all contingent items, as furniture, repairs, and contingencies of

that kind, the accounts ought to be presented to the committee, and not paid until they are properly audited; but I will offer my amendment for the purpose of bringing the subject to the attention of the Committee on Contingent Expenses.

The VICE PRESIDENT. Does the Senator from Ohio propose to attach it to the amendment pending?

Mr. SHERMAN. Yes, sir; as a proviso.

The VICEPRESIDENT. The Senator from Ohio proposes to amend the amendment by adding a proviso which will be read.

The Secretary read, as follows:

Provided, That hereafter no payment shall be made from the contingent fund of either House unless the amount is fixed by law, or the account is first audited by the proper committee.

Mr. CLARK. This bill is in committee, and I suggest to the Senator that he let the amendment lie over until the bill comes into the Senate, and I will then try to perfect it.

Mr. SHERMAN. I withdraw it for that purpose. I will state to the Senate another difficulty. Many of these bills come in during the recess, and it is said that it is a hardship for the creditors to wait until the Senate meets. It seems to me it is better for them to suffer that hardship than to have no supervision over these accounts.

Mr. CLARK. Allow me to say in regard to that, that the committee at the last session directed that none of the bills should be paid during the vacation. It had been the practice to send these bills around to the Senators at their homes to be approved by the committee one after another. I called the attention of the committee to it as a practice which ought not to obtain, and the committee directed that the bills should be approved by the committee when in session, and at no other time, and we also directed that bills should not be paid during the vacation.

Mr. JOHNSON. Still they have been paid.

Mr. CLARK. It seems we have not had quite force enough.

The VICEPRESIDENT. The Senator from Ohio withdraws his amendment. The question is on the amendment of the Committee on Finance. The amendment was agreed to.

Mr. GRIMES. For the purpose of eliciting an explanation of the second section of this bill, I move to strike out in the tenth line, after the word "law," all that there is in that section: that which relates to a new Assistant Secretary of the Treasury. The first part of the section authorizes the creation of a Second Assistant Secretary of the Treasury, and gives him a salary of \$3,000. To that I have no objection, if it be deemed necessary that there should be another Assistant Secretary in that Department. Then the section goes on and appropriates "the sum of \$2,000, or so much thereof as may be found necessary, out of any money in the Treasury," for the payment of the salary to the end of the current fiscal year. The amount that would be due upon the salary of this officer, if he is to be a new officer, would be only \$1,000, one half of the amount included in this bill. If he is to be an old officer, if we are paying the First Assistant Secretary of the Treasury \$4,000, and this is intended as a deficiency to pay the salary of the present Assistant Secretary of the Treasury, then I am opposed to the whole appropriation. But if it is merely designed to pay for the salary of a Second Assistant who is hereafter to be appointed, it ought to be \$1,000.

Mr. FESSENDEN. With regard to the last suggestion made by the Senator from Iowa, I presume the explanation is that the salary was originally fixed at \$4,000 by the other House, and as this bill was brought in on the 27th of January, and the gentleman was there acting as Assistant Secretary, I suppose they put the appropriation at one half a whole year's salary in order to date from the 1st of January, and added, "or so much thereof as may be found necessary." Those words are in. Of course they can pay him no more than he is entitled to under the law. It is that "loose" practice of appropriation spoken of by Senators before; and that is, where we are not certain as to the exact sum, we put in enough and take it for granted there will not be anything more allowed by the accounting officers than is absolutely earned, for the payment of the officer. It will be so when this goes into operation.

Mr. GRIMES. The Senator speaks of the Assistant Secretary being there in office now. Do

I understand the Senator to mean that this Assistant Secretary—

Mr. FESSENDEN. I was about to explain it. I said the gentleman who has been filling that place is designed to fill this. I so understand.

Mr. GRIMES. Then the old one remains.

Mr. FESSENDEN. If you do not be quite in so much of a hurry I will explain the matter as I understand it. Mr. Harrington was for a long time quite unwell, and sometime last fall—I do not know the exact time—he became so very sick that he was entirely broken down and obliged to leave the Department for a time, intending to be absent for a short period, I do not know how long. He concluded to go to Europe, having found by experience that it was no use for him to remain on this continent anywhere where he could be reached, for there would be continual calls on him; and if he was going to derive any benefit, he must put the water between him and this place. I am informed that he was dealt with in reference to that precisely as every clerk in a Department is dealt with in similar circumstances. If he gets sick and broken down in the service of the Government, he is allowed a leave of absence for a time, and ordinarily his place is supplied by somebody else, and they make it up as they can.

Mr. Harrington having gone, the Secretary of the Treasury invited Mr. Field, who I believe is a very accomplished officer, to come into the place while he was absent, and he came there with the understanding that he was to be paid precisely the same as the Assistant Secretary was paid. He has been discharging the duty. I understand, however, in point of fact, that Mr. Harrington has drawn his salary and Mr. Field has also drawn his. That I understand to be so; I am so informed; Mr. Harrington being allowed leave of absence and being dealt with precisely as all clerks are in the Departments under similar circumstances.

But the Secretary has become convinced, I am satisfied, that it would be very beneficial to the Department, in fact it is almost necessary, that there should be another Assistant Secretary. In authorizing it, however, we reduce the salary from \$4,000 to \$3,000, and agree to the House proposition with that amendment. Now it is to be considered whether or not the Senate will sanction what the Finance Committee have recommended in relation to that matter, and will make an appropriation to pay the Assistant Secretary his salary without reference to what may be paid the other. Mr. Harrington is on his way back and perhaps will be back in a very short time. We must provide in some way or other for the payment of the salary of the Second Assistant Secretary that we make. I presume there is no objection to that. If we strike this clause out we appoint an officer without any appropriation made to pay him.

There is no sort of concealment or mystery about it. The question simply is as to the practice. For myself I do not see any particular wrong; on the contrary I feel that it is due to a public officer who has by very great labor, if such is the fact, broken down his health in the service of the Government and there is a prospect of his recovery by taking a vacation, to allow him a little rest and let him draw his salary, unless it is understood that he is to be absent for so long a period as to make it very material. We do not pay pensions, and therefore the pension principle cannot be applied.

I do not know that I am correct exactly in the statement I have made. I only state my understanding of it from what I have picked up and what I infer. I suppose myself substantially to be correct in what I have stated.

Mr. JOHNSON. Permit me to ask whether there was any law authorizing the appointment of an assistant, or is it proposed as a law now for the first time?

Mr. FESSENDEN. No; there was no law for it; but this gentleman simply took the place of Mr. Harrington.

Mr. JOHNSON. Have salaries been paid to both?

Mr. FESSENDEN. I suppose so. I do not know the fact; but I suppose so from this appropriation being made large enough to cover the length of time that is stated. How the fact is I do not know. I am merely stating my supposi-

tion. I am not so correctly informed as to the facts that I would have the Senate place any particular reliance on my statement; but I suppose the case to be as I have stated it. I think that ordinarily in the case of short absences of a clerk or any officer of that sort, his duties may be performed by some other clerk; and the thing is made up so that both of them can get along.

Mr. JOHNSON. I was about to say that I think the practice has been where any officer of the Government is unwell, or from any cause is unable for a short time to discharge the duties of his office—and that includes the higher as well as the inferior officers—his place is supplied by some one in the same Department; and all that the United States pay in a case of that description is the difference between the salary which that officer is getting and what he would get if he really held the office whose duties he temporarily discharges. What has been done in this case may be right for aught I know; but it seems to be new to me. I understand the case to be, on the supposition of fact which the Senator has stated, that Mr. Harrington being broken down by the business of the particular office, was obliged to leave the country for his health; and while he was gone, because he was gone, the Secretary appointed this gentleman who was not in the Department—

Mr. FESSENDEN. It was not possible in reference to the Assistant Secretary of the Treasury, an office so important, as the Senator will see, to merely transfer a clerk to fill the place.

Mr. JOHNSON. I suppose, however, the appointment is not more important than heads of Departments and other places that are always filled by somebody in the Department, or almost always, with very rare exceptions. The difference is only the difference between the pay the particular officer who is made the *locum tenens* for the time is getting and the pay due to the duties which he is temporarily performing. In the beginning, I think, and I believe it was so held by the present Chief Justice of the United States when he was Attorney General, it was supposed that an officer who was appointed to fill another office was entitled to the salary of both offices; but that was corrected (either by legislation or by the subsequent opinion of some other Attorney General, or perhaps under a subsequent opinion of the Chief Justice himself as Attorney General) so as to authorize an officer who was taken out of any particular office and placed in the discharge of the duties of another office, whether he went on to discharge the duties of both or not, to be paid only one salary, and that salary he had a right to select for himself, and of course he always selected the one which was the largest. But this is the first case I have ever known where a person has been taken entirely outside of the Department and put into an office of this description, both salaries being paid.

Mr. FESSENDEN. The Senator will see that it is not so, as far as this time is calculated here. This bill was brought in on January 27, 1864. The Senator will observe this office is created by the other House at a salary of \$4,000, and \$2,000, "or so much thereof as may be found necessary," is appropriated only to pay his salary for the year, and calculating from the 1st of January it would cover the whole \$2,000, so that there is no appropriation here for any such thing as is supposed. What the arrangement was between Mr. Harrington and Mr. Field I do not know.

Mr. JOHNSON. When was Mr. Field appointed?

Mr. FESSENDEN. I do not know when he was appointed, but it was some time in the course of the fall. There is no appropriation for him here except from the 1st day of January.

Mr. GRIMES. Let me suggest to the chairman of the Committee on Finance the propriety of striking out this whole section, and letting this proposition for a new Assistant Secretary of the Treasury stand on its own basis by itself, as all other propositions of like character. In the first place, the Senator is not able to inform us, as he usually is in regard to propositions of this sort, as to what the exact facts are; whether two men have been paid for performing the duties of this office. In the second place, I think this comes within the rule that the chairman laid down last Friday, that it is not a deficiency based upon a law that has been passed by Congress, but a new proposition entirely.

Mr. FESSENDEN. Many of these things get into deficiency bills, however.

Mr. GRIMES. I think the chairman resisted one on that ground the other day.

Mr. FESSENDEN. The Senator is mistaken about that, but there is no difficulty about this. That question does not arise here. I have made these statements simply in reply to the Senator; but it is manifest the question does not arise here except to a very small amount, because the section of the House bill authorizes the appointment of an Assistant Secretary at \$4,000, and they appropriate only \$2,000, or so much as may be found necessary to pay the salary up to the 1st of July. That would only go back to the 1st of January, you will see, if you pay the whole \$2,000. It is evident, therefore, that all they meant to appropriate was just what he would be entitled to receive from January 1.

Then the question that the Senator puts to me is outside of this entirely, and that is how this matter has been done heretofore. That I do not know anything about. I understand incidentally that Mr. Harrington has drawn his salary. The presumption is that he has settled that matter with Mr. Field himself. How it is, I do not know; but so far as this provision is concerned it does not embrace the question any way whatever. If an officer has been employed there to take Mr. Harrington's place, it is perfectly manifest that he must be paid somehow or other, and he knows on what presumption he went in there. That remains to be settled between him and Mr. Harrington, if you please, or between him and the Secretary, but so far as this provision is concerned, there is no impropriety in it, for under this he can only receive the amount of money that he is entitled to receive according to his salary, from the time of his appointment up to the 1st day of July.

Mr. GRIMES. I should like to know exactly where we stand. I should like to know in the first place whether it is not a rule that no appropriation shall be paid out on this bill in consequence of an attempt to perform or to carry out some law of Congress, or to carry into execution some previous and original appropriation.

Mr. FESSENDEN. But there are a great many other things put upon these bills. In the first place there is no rule of the Senate in relation to the matter. There is a rule of the Senate that any committee of the Senate may move a money appropriation upon any bill they please, unless it is to pay a private claim, and some limitations of that sort. The consequence is that a great many items get on these bills which are not strictly germane to them. It has always been the practice that anything pressing and absolutely necessary to be done in the judgment of the Committee of Ways and Means of the other House may be put on these bills, and something of the kind must necessarily come on these bills incidentally. If the Senator will look at the last section of the bill providing for new clerks he will find that that is new legislation. The only difference is that it presented itself in the first place in the shape of an appropriation; the House of Representatives appropriated to pay clerks in such a place so much, in such a place so much, and so on; in fact all along in the first two pages of the bill authorizing the clerks and providing to pay them, there being no previous law for it. The Committee on Finance thought it best to recognize the necessity of the thing and provide that it should be done at once. We simply put it in the shape of a section authorizing the clerks specifically, and then making an appropriation to pay them. Of course in every case where the thing is not pressing and can wait, I make the point upon it and keep it off if I can.

Mr. GRIMES. I did not expect the Senator to answer me accurately, because I have discovered that he is not very well informed in regard to this subject himself; but I should like to know from the Senator whether or not Mr. Field and Mr. Harrington has each been receiving his pay at the rate of \$4,000 a year, or whether one has received it at \$4,000 and the other at \$3,000 provided by this section.

Mr. FESSENDEN. With regard to that I can only say to the Senator that I do not know, and I am not bound to know in reference to this provision here, because it has nothing to do with it. It is only an attempt of the Senator to find

out something which he thinks I may answer. I cannot tell. I told him that I understood incidentally that Mr. Harrington had drawn his salary. Whether it is so or not I cannot say. It is proposed to pass a law authorizing the appointment of an Assistant Secretary, and to make an appropriation to pay him his salary from the time he is appointed up to the 1st day of July. This is all that is proposed here. It is nothing to that question whether Mr. Harrington has drawn his salary or not, or whether Mr. Field has been paid or not. The Senator can investigate that by a resolution of inquiry addressed to the Secretary of the Treasury to inform the Senate how the fact is. It has nothing to do with the question before the Senate, and I am not bound to know how it is. There are a great many things that I ought to know which I do not know; but I utterly deny that I am bound to know particularly a great many things which other Senators ought to know as well as myself. If the Senator is ignorant it is his fault, not mine.

Mr. TRUMBULL. I am inclined to sustain this bill as it is, on the principle laid down a short time ago, that if too much money is appropriated the officers will pay out only what is proper; so that they will correct it at any rate if we appropriate too much.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from Iowa, [Mr. GRIMES.]

Mr. FESSENDEN. I suggest to the Senate that if they sustain the amendment they provide for the appointment of an officer, but say he is to receive no pay.

The amendment was rejected—ayes six, noes not counted.

Mr. HENDRICKS. I offer now the amendment which I offered on Friday afternoon, to insert after the seventieth line:

That the salary of the Assistant Secretary of the Interior shall hereafter be the same as that of the Assistant Secretary of the Navy; and the sum of \$500, or so much thereof as may be necessary, is hereby appropriated for the payment of such salary for the remainder of the current fiscal year.

I desire to add but a word or two to what I said on Friday afternoon in favor of this amendment. The Assistant Secretary of the Interior now receives \$3,000 a year—

Mr. FESSENDEN. Does the proposition come from a committee?

Mr. HENDRICKS. Yes, sir; from the Committee on Public Lands. The Assistant Secretary of the Interior now receives \$3,000 a year. The amendment proposes that his salary shall be \$4,000; or, as it is expressed in the amendment itself, the same as received by the Assistant Secretary of the Navy. I understand the fact to be that the Assistant Secretary of the Navy and the Assistant Secretary of the Treasury receive each \$4,000 a year. This amendment proposes to place the Assistant Secretary of the Interior, in respect to his salary, on the same ground.

It was suggested by the chairman of the Committee on Finance on Friday that the labors of this officer have decreased, and it is now proposed to increase his compensation. I do not understand that the compensation is regulated by the amount of physical or even of intellectual labor performed by an officer. It is the importance of the position, and the importance of the questions that he is called upon to consider, that control our judgments on questions of salary. If it is right to give the Assistant Secretary of the Navy and the Assistant Secretary of the Treasury \$4,000 a year, I am not able to perceive why the Assistant Secretary of the Interior should not receive that sum.

I say there is a reason in favor of the Assistant Secretary of the Interior that does not apply to the Assistant Secretary of the Treasury. The Treasury Department is furnished with a law officer whose business it is to investigate all legal questions that arise in that Department, while the Interior Department is supplied with no such officer. I understand that in the division of labor of that Department all law questions are referred to the Assistant Secretary of the Interior, and that he is not only an executive officer of the Department, but that he is the law officer for the entire Department; and the Senator from Maine, the chairman of the Committee on Finance, will allow me to say that the labors of that officer, in

my judgment, cannot be materially diminished by the change of the condition of the country. He has to supervise the operations of several very important bureaus. I know that the labors in the Land Office have diminished, and that therefore there cannot be so many questions going from that office to the Interior Department on appeal as in past years; but yet there are very important questions going up every day. California questions growing out of the surveys of private land claims in California are not yet fully disposed of. There are very important questions connected with the surveys of private land claims in Missouri yet to be adjudicated in that Department. The grant of lands to States to aid agricultural colleges adds very much to the labors of these particular officers, and also the railroad grants and the swamp land grants. I need not refer to the other grants of public lands which raise in the execution of the laws very important and delicate questions. These all go, in case of appeal, to the Assistant Secretary of the Interior.

Then, sir, from the Indian office very important questions go to him for consideration. I do not know, for I have not investigated it, to what extent the Interior Department has appellate jurisdiction or supervisory jurisdiction over the operations of the Patent Office; but I believe there is a supervising jurisdiction.

This is an important office, and its incumbent has an inferior salary to that given to similar officers in other Departments. He is an able, he is a learned man. He is qualified to discharge the executive duties of the Department as well as to settle the legal questions that come before him; and I say that his compensation of \$3,000, in view of the fact that a higher compensation is given to Assistant Secretaries in other Departments, is a distinction that we ought not longer to tolerate. In the Post Office Department I can conceive of but very few law questions arising, but in the Interior Department, one of the most important Departments of the Government, regulating the domestic questions that arise in the different important bureaus under it, it seems to me the reason is very strong in favor of giving a compensation to the Assistant Secretary equal to that given in any other Department.

Does the Senator who is at the head of the Finance Committee say that the Secretary of the Interior, because there is not quite so much labor there as in the Treasury Department, ought not to have the same compensation as the Secretary of the Treasury? Would he be willing to make a distinction of that sort? I am sure he would not. The salary is the same. Then, by the same reason that controls that question, the First Assistant Secretary of the Interior ought to have the same compensation as the First Assistant Secretary of the Navy or of the Treasury. I think it is an act of justice. The Assistant Secretary of the Interior gets now the same compensation that the Commissioner of the General Land Office receives, and the same that the Commissioner of Indian Affairs receives, and a less compensation than the Commissioner of Patents receives. If, indeed, he is an officer having jurisdiction over these bureaus, ought not his compensation to correspond with his grade and his responsibility? Shall he control the operations of the Land Office upon appeals, and have just the same compensation as the Commissioner of the General Land Office?

Mr. CHANDLER. I desire to move an amendment to the amendment. The Senator from Indiana has given a very good reason why the Commissioner of the General Land Office should receive \$4,000 a year, and I move that "the Commissioner of the General Land Office" be added to "the Assistant Secretary of the Interior" in his amendment. His argument is wholly in favor of the Commissioner, who has all these important cases to decide, whose labors are enormous and continuous, and whom I consider to be a man of very great ability. If there is any Assistant Secretary or any head of a bureau who is to receive \$4,000, I desire to add the Commissioner of the General Land Office.

Mr. FESSENDEN. I do not propose to repeat what I said the other day in reference to this matter. The Senate already begins to see what will be the consequence of increasing those salaries; but I wish to notice one thing—

Mr. HENDRICKS. Will the Senator from Maine allow me to interrupt him? He asked me

whether the amendment which I proposed was from a committee. I suppose that was with a view to a rule on that subject?

Mr. FESSENDEN. Yes, sir.

Mr. HENDRICKS. I will inquire from him why he does not ask the same question of the Senator who proposed an amendment just now?

Mr. FESSENDEN. This is an amendment to an amendment. The Senator from Michigan proposes to amend the amendment offered.

Mr. HENDRICKS. Is it not within the rule? It is within the spirit of it very clearly.

Mr. FESSENDEN. I simply want to say to my honorable friend from Indiana that I listened with some, I was about to say, amusement to his argument that the Assistant Secretary of the Interior had these law questions to settle, because when I was first applied to as I was by the late Secretary of the Interior, Mr. Smith, now dead, to let him have an Assistant Secretary, he put it upon the ground that his time was so employed in the investigation and decision of law questions that he must have somebody to do the business of the office, that all his time was taken up in settling law questions and appeals. Now, it seems Mr. Otto, the Assistant Secretary, is occupied in settling law questions in that office, his time is so taken up, and they are of so much importance that he must be paid extra. I should like to know what there is left for the Secretary of the Interior to do. He got rid of the ordinary business of the office before by the appointment of an Assistant Secretary, because he had the law questions to investigate and settle himself, and now it seems the law questions are investigated by the assistant. It seems, then, that the Secretary of the Interior holds only an honorary position and has nothing to attend to there, because he has now divested himself of the law that took up all his time before he had an assistant.

Mr. President, I refused to have any agency in the appointment of an Assistant Secretary of the Interior. I did not see any reason for it. But my friend from Iowa [Mr. HARLAN] came in from the Committee on Public Lands and moved that an Assistant Secretary of the Interior be allowed, and gave, I suppose, the same reasons that had been given to me by the then Secretary of the Interior; and he succeeded in persuading the Senate that it was necessary to appoint this officer, and Mr. Usher took the place knowing what the salary was, and performed the duties; and when he was made Secretary of the Interior he appointed Mr. Otto, and he knew what the salary was when he took it. Now I really hope that the Senate will not go any further than it has gone. Sir, we made a great mistake when we increased the salary of any of them in these times. It was an oversight, and if the thing was to be done over again I should object to the whole of it, and would not do it for the Assistant Secretary of the Navy or the Assistant Secretary of the Treasury. The first, in fact, passed without my knowing it or observing it. It was not in an appropriation bill; it was in a different law. I afterwards consented to the raising of the salary of the Assistant Secretary of the Treasury, and I am sorry I did that; but I hope the Senate will go no further.

The PRESIDING OFFICER. In the apprehension of the Chair the amendment of the Senator from Michigan is not in order. It proposes to increase an appropriation, and is not in order unless it comes from some standing committee. The question is on the amendment proposed by the Senator from Indiana, [Mr. HENDRICKS.]

Mr. HALE. There seems to be a pretty general regret expressed, and especially by the chairman of the Committee on Finance, that the Senate ever departed from the standard of \$3,000 for the salary of any of the Assistant Secretaries. The expression of sorrow implies repentance, but repentance is worth nothing unless it is followed by works, and I think the better way would be to equalize them now. If it was wrong to put any of them higher when it was done, it is wrong now. I have no particular preferences or prejudices in favor of the Treasury Department or the Navy Department, but I think the Assistant Secretaries in those Departments ought to be content to stand with the other Assistant Secretaries.

Mr. President, some men have seemed to think from the commencement of this rebellion that the great remedy was to increase salaries; that if you had a man who was rather inefficient in a position,

instead of turning him out and putting in a more efficient man, you should raise his salary and increase his rank. I think we have tried that long enough. I do not think the rebellion has been at all checked by the increased salaries we have paid, and it seems to be admitted that the step we took in putting one or two of these Assistant Secretaries higher than the rest has led to dissatisfaction and heart-burning and jealousy, and constant movements to have this one put up as high as that one, and so on. I think we had better take the back track. I move, therefore, to amend the amendment of the Senator from Indiana by providing that hereafter the salaries of each and all the Assistant Secretaries shall be \$3,000 per annum.

Mr. FESSENDEN. The effect of that will be to leave two at \$4,000 and the others at \$3,000, unless you repeal the laws allowing \$4,000.

Mr. HALE. Oh, no; I will modify the amendment by saying that after the close of the current fiscal year the salaries of each and all the Assistant Secretaries shall be \$3,000 per annum.

Mr. WILKINSON. The Senator from Indiana, when he was upon the floor a few minutes ago, asked why the Assistant Secretary of the Interior should not receive the same salary as the Assistant Secretary of the Navy. I can tell the Senator why. The Interior Department has but very little business to do on the Atlantic coast. The business of that Department is confined mainly to the western country—to lands, Indians, pensions—and that is the reason why the Assistant Secretary of the Interior cannot be paid as much as Mr. Fox and Mr. George Harrington, not because he has not as much work to do, not because his business is not of as much importance to the country, but because the duties of that Department do not lie on the sea-coast.

I hope the amendment of the Senator from New Hampshire will prevail. It is unjust, unfair, and a discrimination that ought not to be tolerated by this Government, to pay Mr. Fox \$4,000, when he holds the same rank precisely that Mr. Otto does, who receives but \$3,000. If you read what Mr. Dickerson says about the efficiency of Mr. Fox, and if people believe what is said about the efficiency of that officer, he ought not to be paid \$1,500. It is alleged by very scientific men that all his actions tend to embarrass the operations of the Government very much, rather than to aid and prosper them. I do not think so, because I do not know anything about it; but certain it is that so far as the material interests of this country are concerned, the Interior Department is one of the most important Departments of the Government. It relates to those matters and to those interests which uphold the Government in the conduct of this war. It relates to the interests of the great laboring element of the interior of this country, the men who are carrying the burdens of this war on their shoulders, and I am sorry that any discrimination of this kind should be made against it. I do not care particularly about raising the salary of Judge Otto, but I do think it is unjust and unfair, and a discrimination that should not be permitted, that the Assistant Secretary of the Navy or of the Treasury should receive \$4,000, while the Assistant Secretary of the Interior receives but \$3,000.

Mr. LANE, of Indiana, obtained the floor.

Mr. FESSENDEN. I ask the Senator to yield to me for a moment. Mr. President, with reference to the remark which has been made by the honorable Senator from Minnesota I have simply to say that so far as the Assistant Secretary of the Navy is concerned, the bill originating that office and fixing his salary at \$4,000 was brought into the Senate and advocated and carried through by a western man.

Mr. WILKINSON. He has got "Navy on the brain."

Mr. FESSENDEN. That may be the fact. If they have got anything on their brain out there that is troublesome I wish they would get rid of it. [Laughter.] But the fact is as I have stated. Now in reference to raising the salary of the Assistant Secretary of the Treasury, that proposition came from the House of Representatives and was concurred in here. It was not originated here. I have said what my opinion was in reference to that matter, and of course I do not wish to repeat it; but I want to say to the Senator that in my judgment the great West, the almighty

West, the all-pervading West, the without-which-nothing-else-lives-in-the-world, the West, has some interest in the Treasury of the United States, I reckon, as well as the Atlantic coast.

Mr. WILKINSON. We do not get much out of it.

Mr. FESSENDEN. What salary do we give to the honorable gentleman who came from Indiana and has \$5,000 a year, the Comptroller of the Currency—more than the Assistant Secretary very considerably. I believe he was a distinguished citizen of the West.

Mr. WILKINSON. I submit that it was necessary to find the brains competent to manage that department of the Government, and it was necessary to go to the West to find them.

Mr. FESSENDEN. I will put it upon that ground. I have already admitted that the West furnished everything; that there was nothing without it, brains or anything else, in its own estimation. I think this is all idle talk. I am sorry to hear such a remark from the honorable Senator from Minnesota. I believe he is the only Senator in the whole number who ever in this Senate makes an allusion of that kind, which is sectional and calculated to create ill feeling. There are one or two members of the House of Representatives who do the same thing. I have only to say with regard to it that in my experience in this world (because this is an imputation of motive, and of bad motive), those gentlemen who are so anxious to impute bad motives and sectional motives to others in matters of legislation must draw from consciousness, and from nothing else.

Mr. WILKINSON. Mr. President, perhaps I have a little greater reason for making a remark of this kind than most Senators here. The other day I had a little proposition that I offered to pay the Minnesota soldiers and one or two other regiments of soldiers who happened to be mustered in before the time for being mustered in, and who by a technical decision had been excluded from the bounty which was extended by a subsequent act of Congress to soldiers who served two years in the Army. They had been through twenty-five fights; they had served in all the great pitched battles that have taken place in the army of the Potomac. Fifteen hundred of them had been sent from Minnesota to the Potomac, and they came back here the other day, three hundred of them, on their way home. A technical decision had been made in the War Department, which the Paymaster General construed as depriving these men of the right to the benefit of the law which was passed giving a bounty of \$100 to men who served for two years in the Army.

The Senator from Maine, the guardian of the Treasury, rose in his seat and opposed that proposition. He moved to refer it to the Committee on the Judiciary. I felt some sympathy for our soldiers. I felt I suppose about the same sympathy for our men who had fought and been maimed and wounded that the honorable Senator, the chairman of the Committee on Finance feels for a Maine soldier. I felt that it was bad treatment; Mr. President, I felt that it was unkind treatment; and being a radical, being rather impulsive in my nature, seeing opposition so unjust, coming from a quarter so high, from the distinguished chairman of the Committee on Finance, I could hardly restrain my impulsive western nature from throwing out some remarks that the Senator has now rebuked me for to-day.

Well, sir, I suppose it was wrong; I think I was very wrong in saying it; and I would not give a snap for a man who does not do something wrong sometimes. I do not know that the honorable chairman of the Committee on Finance ever is betrayed into an indiscretion on this floor. I have heard Senators around me say so sometimes, but perhaps it would be ungenerous for me to say so, being a western man. I do not know that a western man has any right to have any opinions which the honorable chairman of the Committee on Finance is bound to respect.

Some of the people from the eastern country are very sensitive about anything that is said in favor of the West; they are remarkably sensitive whenever anything is ever uttered here in favor of the West. Sir, they ought to be a little more generous. They ought to know that the West is young, that New England is old. They ought to know that the West is made up from New England and from the eastern country generally; and

the old men of New England and the honorable chairman of the Finance Committee ought to have a little more charity for the young, vigorous, impulsive, and imprudent people of the West, for they are very imprudent. I will say to the honorable Senator from Maine, however, that they will fight for their country; and they fight, not as you do on the Potomac, going forward one day and back the next, but they fight to win. They have gone into this war with a determination to put down the rebellion; and the western people have won more territory than is contained within the dominions of Austria and France combined.

Now, I ask the honorable Senator if we have not a right to be a little impudent? I ask him if we have not a right to assert here our position upon this floor and boast a little in regard to the influence and the rights, if need be, of the people of the West? What have we done, sir? What have these people of the West done since this war commenced? They have won and redeemed for this country the whole State of Missouri; they have redeemed the whole State of Arkansas; they have redeemed the whole of Tennessee and all of Mississippi. What has the eastern army redeemed? What has this great army recovered for the country and for the Union? It has marched down to the Rapidan and it has marched back again, and it has been swinging like the pendulum of a clock, one day going forward twenty miles, and the next day going back thirty miles. [Laughter.]

This, sir, is my excuse for saying things that I ought not to say; and let me tell the honorable chairman of the Finance Committee, in conclusion, that I will take it all back. [Laughter.]

Mr. FESSENDEN. The Senator's taking it back will not do. I have something to say on that subject. In the first place, when he says that I opposed his bill, he states what is not the fact. I did not oppose it. When he endeavors to put the imputation on me of being opposed to paying the soldiers what is due to them, it is an imputation he has no right to make, for it is not true.

What are the facts? The Senator came into this body with a bill for paying soldiers—a subject of which we knew nothing, and of which we could tell nothing. He asked us to take that bill on his statement, and without referring it to a committee, to pass it, to pay money out of the Treasury—a thing that never has been done in such a case—and a bill indefinite in its amount; for nobody could tell how far it would extend from the terms in which it was drawn.

Mr. WILKINSON. The Senator will allow me to say that he did not object to the facts, but he said it involved a legal question.

Mr. FESSENDEN. The Senator should hear me. Of course I did not object to the facts. Was I to say that what the Senator had stated was not true? I did not know whether it was so or not. It might be or might not be. No doubt the Senator believed it to be so.

Mr. WILKINSON. Why, then, did he not move to refer it to the Military Committee, where it belonged?

Mr. FESSENDEN. What difference does it make what committee it went to? The Senator in the course of his remarks stated that there was some legal question about it; that a legal question had been made. He asked that it be passed here on the ground that there was a technical legal question, and that we should take his bill on his say-so, on his statement of facts, taking money out of the Treasury to an indefinite amount, and pass it through the Senate without any investigation at all. That was the claim he made. I objected, as it was my duty to object. Sir, the place which I hold in the Senate compels me to run counter, perhaps, to the wishes of gentlemen. I cannot help it. I must do my duty in reference to these matters. If I see a step about to be taken which is contrary to our ordinary practice and fraught with danger, it is my duty to resist it, whether it is in favor of soldiers or sailors or anybody else. No such thing was ever heard of as a bill being brought in here to pay regiments, and on the statement of a single Senator, without investigation of the facts to know whether he was mistaken or otherwise, to pass it directly through the body, and make it the law so far as the Senate are concerned. That was what I objected to. I do not know who it was about me that suggested in a quiet way that there was a le-

gal question involved, and I moved that it be referred to the Committee on the Judiciary. I did it at the time as a sort of joke. I supposed the Senator would object of course and say it should go to the Committee on Military Affairs. My object was to send it to a committee; but, as I said before, I have great confidence in the Committee on the Judiciary, and if there was a legal question I was willing that they should investigate it. I did not care where it went so that it went to a committee to be investigated. I have no choice in reference to that matter. There was nothing in that. Does the Senator deem it unsafe in the hands of the Judiciary Committee? Will it not be investigated there? Are they not competent to investigate it? Does the Senator mean to insinuate that the bill is killed by being sent to his friends to investigate it?

Mr. WILKINSON. Does the Senator want an answer?

Mr. FESSENDEN. Certainly.

Mr. WILKINSON. That first Minnesota regiment was known to everybody on this floor.

Mr. FESSENDEN. No, sir, I knew nothing about it, except that there was such a Minnesota regiment. I knew there was such a regiment, but I knew nothing as to the question whether it had been paid or not.

Mr. WILKINSON. The bill did not propose any such thing if they had been paid. It merely gave them the same rights as other regiments, and the honorable Senator knows very well that that regiment had been in all these battles if he read the newspapers.

Mr. FESSENDEN. Where had that Minnesota regiment been serving?

Mr. WILKINSON. If the Senator does not know that that regiment has been in this army of the Potomac—

Mr. FESSENDEN. What, and swinging backward and forward, twenty miles one way one day and thirty miles another the next day?

Mr. WILKINSON. Yes, sir.

Mr. FESSENDEN. A western regiment! Is it possible? [Laughter.] And yet the Senator says we must pass their bills without inquiry, whether they deserve the money or not. The Senator has forgotten himself. I cannot believe that it was for the first Minnesota regiment such a feeling appeal was made, and in regard to which we must not even investigate the facts. It had been in this very army of the Potomac, swinging back and forth and doing nothing; and that is the Senator's statement about his own regiment! He tells us that this army of the Potomac has done nothing; that western men fight and win battles; that eastern men, and men in the army of the Potomac, march twenty miles one day in one direction and march back thirty miles the next, and that is all they do. Why, is it possible? I can hardly believe that the Senator would claim anything for soldiers who had been engaged in that way. What a commentary on the soldiers of Minnesota, from their own Senator!

Now, sir, I do not like to be accused in this way before the Senate for simply doing what I conceive to be my duty in all cases. No man is more ready than I am and always have been to render ample justice, ample praise, and all the glory that any man can claim for them, to the gallant soldiers of the West. No man has ever heard a word out of my mouth but of praise for the gallant soldiers of the West on all occasions; and I defy the Senator now here to-day or any other day (and he may search the records) to find when I have given a sectional vote; one that could be fairly construed as such on any question before the Senate; one that looked even that way, or that he could trace to any sectional feeling, in any shape or form. I think I may utter the same defiance for all the gentlemen who represent New England. Of all men, certainly they have a right to claim that they legislate upon a liberal policy. There never has been a day, or an hour, or a moment when we have not been ready to vote anything and everything that justice claimed, or that even liberality claimed, that we could vote for the West as well as for the other sections of the country, without reference to any sectional feeling; and any imputation to the contrary is unjust and unkind.

More especially is it unkind in the Senator, and more especially is it unkind and unjust to throw such imputations upon the gallant soldiers of the

army of the Potomac, who, whenever they have had a chance to fight, have fought as well as any soldiers ever fought under the sun, shed their blood as freely and as readily, and have been and are as ready to lay down their lives as generously, ay, as even the proudest and the bravest men that represent the West; and thank God, many of them, a great number of them, came from our own New England, and I feel proud of them as such, as well as that I am a citizen with them of the same great Republic. The Senator when he comes to reflect upon the gross unkindness, the gross injustice he has been guilty of by sneering at the gallant men who have fought anywhere and everywhere that their leaders would let them fight, will, I dare say, regret it, especially when he finds that he has mixed up many gallant western soldiers, from Michigan, from Minnesota, and from other States, in the same category with them, and thrown an imputation on their courage and their manhood.

Sir, I have nothing to say of any of them except words of praise. I say before God there was never a braver people on the face of the earth than all the people of this country as a general rule—there are individual cowards, of course—not only eastern men and western men, but southern men. I glory in the courage even of our enemies as Americans, and I give them all praise for it. There are no braver men on the face of the earth than they are. It so happens that in some quarters our armies have not been well led. Let the Senator reflect—

Mr. WILKINSON. I cannot permit the Senator to misconstrue my language in this way. I uttered no word against the private soldiers. I spoke of the armies, and of course I had—

Mr. FESSENDEN. What is the Army made up of, I will ask the Senator? Is the Army made up of officers alone?

Mr. WILKINSON. The management of that Army in directing it to go one day forward and another day backward depends entirely on the commanders of the Army, and the Senator well knows it.

Mr. FESSENDEN. Very well. When the Senator speaks of the officers, I cannot tell how far they have acted wisely or otherwise. But let him reflect (and by this be it understood I throw no imputation on anybody, and do not mean to be understood so) that the Commander-in-Chief of the whole Army, who directs the whole, is a western man. Who is your President? He is responsible. He made the officers, and he keeps the officers in command. He directs the course of the Army. Where did he come from? If you mean to impute all this to him, say it to him and say whom you mean. He makes the officers, he keeps them in command, and he instructs them and directs them. Speak of him and do not talk about individual subordinates, what they do and what they do not do. Here is my friend who is at the head of the committee on the conduct of the war, [Mr. WADE,] directing the whole of it. He is a western man, and I wish he was a general officer and in command of an army.

I have said thus much to defend myself from the charge of being sectional and not being willing to do justice here and there and everywhere. I apologize to the Senate. As chairman of the Committee on Finance, I have no business, no right, perhaps, to allow these debates to call me out in this way, and thus spend the time of the Senate, but I cannot stand personal imputations, and more than all, I cannot stand imputations on my section, especially on their courage and their manliness, without replying.

Mr. WILKINSON. I would not say a word but to answer some things that have been said by the Senator from Maine. He has the reputation of being perhaps the best lawyer in New England. He is very well skilled, undoubtedly, in special pleading and in making "the worse appear the better reason." The Senator has endeavored to fasten upon me sentiments which I did not utter, and which he knows very well I did not intend to utter. He ridicules the idea that this Minnesota regiment is entitled to any credit because I said that this army had not succeeded. They have a very little credit; they have left a thousand of their men in Virginia. It is true they have fought to very little purpose—

Mr. FESSENDEN. I said that the Senator denied them credit. I did not.

Mr. WILKINSON. That is an illustration of what I have just stated, that owing to his character for astuteness, which I presume he acquired as a lawyer in his practice at the bar, the Senator has attempted to fasten upon me the utterance of sentiments which I never intended to utter, and he knows it. I submit that that is a little unbecoming the high character of the honorable Senator from Maine. Sir, this is not a place for pettifoggery. I supposed that he quit that business twenty years ago, perhaps thirty. He ought never to have entered into it.

Mr. JOHNSON. Mr. President, I am very unwilling to call the Senator to order, but I submit to the Chair whether personal remarks of that kind are in order.

The PRESIDING OFFICER, (Mr. ANTHONY.) In the opinion of the Chair the remarks of the Senator from Minnesota are not in order.

Mr. FESSENDEN. What was it the Senator said?

Mr. WILKINSON. That the Senator from Maine ought to have quit pettifoggery twenty years ago.

Mr. FESSENDEN. What did the Senator say before that?

Mr. WILKINSON. That was all. That was the remark the Senator from Maryland took exception to.

Mr. JOHNSON. You said that he knew that what he said was not true.

Mr. WILKINSON. I said that the Senator from Maine knew very well that I did not intend to disparage the private soldiers in the army of the Potomac.

Mr. FESSENDEN. I could not put any other construction upon what the Senator said. I will say to the Senator that I have no doubt that if he coolly deliberates on the effect of his own words he will be ready to retract them; and yet his language was distinct; he said "the army of the Potomac."

Mr. WILKINSON. I spoke of the Army in the aggregate. I do not believe there was a braver class of men ever assembled together in an army than the private soldiers who constitute the grand army of the Potomac. It is my humble judgment that the battle of Gettysburg was the greatest and most heroic victory that ever was won anywhere on any battle-field, and it was done by the stubbornness and by the bravery of the soldiers. But, Mr. President, the Senator knows very well and the country knows that this army of the Potomac as an army has not been as successful as the army of the West has been.

Now, in regard to the proposition which I introduced here, and with reference to which I then thought and still think the Senator from Maine acted a very unfair and illiberal part. I offered a proposition that was so fair that nobody need mistake in regard to it, and I asked the Senate as a favor that it might be passed without being referred to a committee. I do not suppose there is another Senator here on this floor who would have raised the least objection to passing it upon the facts being stated. This is not the only case in which that Senator has opposed measures which were fair and just and liberal on their face, and has delayed and hindered the action of this body on propositions similar to that which did not come directly from his own committee, and I may be permitted to say that the honorable Senator has acted sometimes a little like a dictator on this floor, and that, too, to parties who did not occupy much of the time of the Senate. I ask the indulgence of the Senate for what I have already said in regard to this matter.

Mr. LANE, of Indiana. When I yielded the floor to the distinguished Senator from Maine about an hour since I did not apprehend so interesting a debate as resulted from my politeness on that occasion. I am not inclined to interfere in this war at all. I accord perfectly the rights of belligerents to both the gentlemen, one the very able and distinguished representative from the East and one from the West. But if the Senate will pardon me for occupying a moment of its time on the appropriate business before the body, I will endeavor to state precisely what this question is.

This is a bill to supply deficiencies in the appropriations for the current fiscal year. To that bill my colleague introduces an amendment to increase the salary of the Assistant Secretary of the

Interior from \$3,000 to \$4,000 per annum. He is instructed to move that amendment by a committee of this body, the Committee on Public Lands. Your present legislation stands thus: the Assistant Secretaries of War receive \$3,000 a year; the Assistant Secretary of the Interior receives \$3,000; the Assistant Secretary of the Treasury receives \$4,000, and the Assistant Secretary of the Navy \$4,000. It is not for me to state the importance of the Interior Department, the efficiency and skill and ability and great learning which the Assistant Secretary of the Interior brings to the discharge of his duty. I have only to say that your legislation should be equal; for without any disparagement of any of the other Assistant Secretaries in any of the Departments, no gentleman well informed and with a proper regard for candor will say that any of them are in any capacity superior to the Assistant Secretary of the Interior.

Then I ask that your legislation shall be equal; either that the Assistant Secretary of the Interior shall have his salary increased, or that the salary of the Assistant Secretary of the Navy and the Assistant Secretary of the Treasury shall be reduced to \$3,000 a year, and I am rather indifferent as to which course the Senate shall take; but a proper regard to justice and the public interests, it does seem to me, requires that the salaries of these Assistant Secretaries should be made equal. I of course do not enter into this discussion as to the relative merits of soldiers East or West. I am equally proud of their prowess and bravery and patriotism from whatsoever quarter of the Republic they come.

Mr. DOOLITTLE. Mr. President, I will say to the gentleman from Indiana who introduced this amendment [Mr. HENDRICKS] that I am in favor of his proposition, but I do not believe that upon an appropriation bill it is wise to introduce the question of the raising of salaries, because it opens a very wide field of debate. The truth is, if I were to express my opinion on the question of salaries, I am decidedly of opinion that the salaries of these Assistant Secretaries should be put upon a footing of equality, and that they should be raised up to the salary of \$4,000 a year in all the Departments. I will say further—and I do not hesitate to express my opinion—that the heads of bureaus ought to have their salaries raised to at least the sum of \$3,500; for no man in this Government labor so much as these heads of bureaus do day and night upon a salary that cannot support themselves and their families here in Washington. But I do not believe it is wise on a deficiency bill to get up a discussion of that subject, for we enter on a field which is very broad, and which ought to be settled in some special bill on that subject. I hope that a bill on that subject will be brought in, and then we may discuss the matter by itself. It is very important, as I understand, that this deficiency bill should receive the sanction of Congress at an early day.

Mr. President, I have listened, I venture to say, with as much interest as any one to what has occurred here in the Senate between the two Senators, both of whom I claim to be my friends upon this floor, the Senator from Minnesota and the Senator from Maine. I regret myself that any comparison should be made between the armies of the East and the West. We are all one people. The West are the children of the East, the sons of the East, and I believe that the armies in all sections of the country have shown themselves to be equally brave and equally distinguished upon the battle-field. They have not always been as successful in the results of battles, it is true, in the army of the Potomac as in the army of the West; but the soldiers of Maine, the soldiers of Minnesota, the soldiers of Wisconsin, together have been brigaded both East and West, and braver men never met or fought or bled on any field in the history of the world. Sir, in this very army of the Potomac the men of the second and the third and the sixth and the seventh Wisconsin, and the men from Michigan, and the men from Minnesota, side by side with the men from Vermont and the men from Maine and Massachusetts, have stood together in the day of the most terrible conflicts. Freely would they bare their bosoms in each other's defense. Together their life-blood has often gushed and mingled, and side by side their bones now lie upon that soil where they have laid down their lives for Union and for

liberty. Sir, no comparison, in my judgment, ought to be drawn between these brave men.

But, Mr. President, as I said in the beginning, I do not believe this bill is the proper bill on which to raise this question of increasing salaries. I am in favor of raising the salary of the Assistant Secretary of the Interior. I am also in favor of raising the Assistant Postmasters' General, that those gentlemen who have the same rank may have the same pay. I would be willing, as I said, to go for a measure which should raise the salaries of heads of bureaus, for their salaries were fixed as long ago as 1798, I believe, and were fixed at \$3,000, when the heads of Departments were fixed at \$6,000. The heads of Departments have been raised up to \$8,000, and the heads of bureaus have remained the same as before. Now, where is there a man in this Government who labors any more than the Second Auditor of the Treasury or the Commissioner of Pensions or the Commissioner of the General Land Office, and these various officers, men who are distinguished in capacity, and who must be men of great ability to discharge faithfully the duties of these offices? But, Mr. President, I do not think this is the bill on which to discuss this question, or enter into the general subject of raising salaries. You cannot raise the salary of one or cut down the salary of one without opening the whole field of discussion.

Mr. SHERMAN. It seems to me that this question about the salary of Assistant Secretaries might as well be settled now as at some future time. The Committee on Finance have been bothered about this matter probably more than about any other question now pending in Congress. The Assistant Secretary of the Interior very justly complains that a discrimination is made between himself and two other Assistant Secretaries. That discrimination is manifestly unjust. What has been said about Judge Otto is true: he is an able man, and in his profession could undoubtedly earn much more money than he gets here. He has said to me that he does not care so much about the salary as he does about the discrimination in favor of others of the same rank.

I think, therefore, the best solution of this difficulty, as but two of these Assistant Secretaries are receiving the enlarged pay of \$4,000, is to adopt the proposition of the Senator from New Hampshire, [Mr. HALE], and put them all on the same footing, and hereafter discuss the question of raising them. I know very well that it is a sentiment of honor which objects to the discrimination; and if I was one of these Assistant Secretaries, feeling that I was competent to discharge the duties of my office, I should dislike very much that men of the same rank should receive higher pay. I would regard that as a matter of much more moment than a thousand dollars. I should not like to have that discrimination made against the office I held. That feeling of pride is a feeling we must appreciate. We should feel it ourselves if one of our own body should receive more compensation than ourselves; we should think it very hard. I think, therefore, the better way is to adopt the amendment proposed by the Senator from New Hampshire, and put them all on the same footing.

In regard to a general increase of salaries, there is scarcely an officer in the Government but what demands an increased salary, from the judges of the Supreme Court of the United States down to the humblest clerk. I do not see how a clerk can live on \$1,200 a year in this city with a family. It is very difficult indeed; and if I was commencing to increase salaries, I would commence with the lowest, not the highest. These gentlemen can live upon their salaries, but many of the clerks and humbler employes can scarcely do so; but in the present condition of affairs I shall not vote to increase the compensation of any civil officer of the Government, because I think in war, when they are enjoying a peaceful, quiet employment, they ought to be willing to receive even reduced compensation while others are sharing the dangers of war in the field.

The VICE PRESIDENT. The question is on the amendment of the Senator from New Hampshire [Mr. HALE] to the amendment of the Senator from Indiana, [Mr. HENDRICKS].

Mr. FESSENDEN. Let it be read.

The VICE PRESIDENT. Both the amendment and the amendment to the amendment will be read.

The Secretary read the amendment of Mr. HENDRICKS, as follows:

Insert after line seventy:

That the salary of the Assistant Secretary of the Interior shall hereafter be the same as that of the Assistant Secretary of the Navy; and the sum of \$500, or so much thereof as may be necessary, is hereby appropriated for the payment of such salary for the remainder of the current fiscal year.

The amendment of Mr. HALE to the amendment is to strike out all after the word "that," and to insert:

After the close of the present fiscal year the salary of each of the Assistant Secretaries of the several Departments shall be \$3,000 per annum.

Mr. POWELL. Is it in order to amend that amendment?

The VICE PRESIDENT. It is not. It is now in the second degree; it is an amendment to an amendment which is now pending.

Mr. POWELL. I thought it was not in order, and that is the reason I made the inquiry, for I intended, if in order, to propose an amendment to the amendment of the Senator from New Hampshire, providing that these salaries should be paid in coin or its equivalent. If I am rightly informed, these Assistant Secretaries have had as much as \$3,000 for a great length of time. Everybody knows that a salary of \$3,000 before this paper money got in vogue, was worth as much or more than \$4,000 is now; and if you fix the salaries of all these Assistant Secretaries at \$3,000, it is very much reduced. I hope the amendment of the Senator from New Hampshire will not prevail, and that the proposition of the Senator from Indiana will be adopted, to bring them up and make them all equal; not by putting them at such a low figure, but paying for talent, industry, and knowledge. They cannot live if you put the salaries down to \$2,000 in good money, which it will be if you fix \$3,000. No man can stay here and support his family on that salary; and instead of attending to the public business they will turn rogues if they stay here at all, and have to steal for a living. That will be the result of it.

The VICE PRESIDENT. The question is on the amendment to the amendment.

Mr. HENDRICKS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 18; as follows:

YEAS—Messrs. Buckalew, Carlile, Chandler, Clark, Cowan, Davis, Foot, Foster, Hale, Harlan, Lane of Kansas, Morgan, Ramsey, Riddle, Sherman, Sumner, Ten Eyck, Trumbull, Wade, and Wilkinson—20.

NAYS—Messrs. Anthony, Conness, Dixon, Doolittle, Grimes, Harding, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Morrill, Pomeroy, Powell, Sprague, Wilson, and Wright—18.

So the amendment to the amendment was agreed to.

Mr. FESSENDEN. I should like now to hear the whole read with the lines preceding, to see how it looks on the face of the bill.

The VICE PRESIDENT. The previous part of the bill will be read, together with the amendment as it now stands.

The Secretary read as follows, commencing at line sixty-eight:

For compensation of the surveyor general of Arizona and the clerks in his office, \$4,250.

That after the close of the present fiscal year the salaries of each of the Assistant Secretaries of the several Departments shall be \$3,000 per annum.

Mr. HENDRICKS. I move, if it be in order, to strike out "3,000" and insert "4,000."

The VICE PRESIDENT. That is not in order. The Senate have just agreed to the amendment in this precise form. The question is on the amendment as amended.

Mr. FESSENDEN called for the yeas and nays, and they were ordered.

Mr. HALE. A verbal amendment is necessary. The word "and" should be inserted before the word "that."

The VICE PRESIDENT. That will be added if there be no objection. It can only be done by the unanimous consent of the Senate. The word "and" will be inserted preceding the word "that."

The question being taken by yeas and nays, resulted—yeas 25, nays 15; as follows:

YEAS—Messrs. Buckalew, Carlile, Chandler, Cowan, Davis, Foot, Hale, Harding, Harlan, Henderson, Hendricks, Howard, Lane of Indiana, Lane of Kansas, Morgan, Ramsey, Riddle, Sausbury, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wright—25.

NAYS—Messrs. Clark, Conness, Dixon, Doolittle, Fes-

senden, Foster, Grimes, Harris, Howe, Johnson, Morrill, Pomeroy, Powell, Sprague, and Wilson—15.

So the amendment as amended was agreed to.

Mr. CHANDLER. I am instructed by the Committee on Commerce to offer the following amendment, to come in after line one hundred and ninety-nine:

For rebuilding light-house at Cape Charles, Virginia, \$20,000.

Mr. FESSENDEN. Does that come from the Committee on Commerce?

Mr. CHANDLER. Yes, sir; and is recommended by the Secretary of the Treasury and the Light-House Board. It is a light-house which was destroyed by the rebels in August last, and it is very important that the appropriation should be made now.

The amendment was agreed to.

Mr. GRIMES. I move to insert at the end of the two hundred and sixth line:

Provided, however, That no money shall be paid under this item of appropriation except for deficiencies actually existing upon contracts made by the Navy Department.

The clause to be amended is as follows:

To supply a deficiency in the appropriation for ordnance, ordnance stores, labor, and contingent expenses in the Bureau of Ordnance of the Navy Department, \$2,740,000.

Mr. JOHNSON. Will the honorable member permit me to ask him why it is necessary to insert this proviso? What other deficiencies are there?

Mr. GRIMES. I do not know that there are any. The purpose is to have the intention of Congress carried out in the expenditure of the money, that it shall apply to deficiencies alone, and not apply to anything except deficiencies. I will only say to the Senator that I seek to apply to that Department with which I have had some connection and in which I feel great interest, the same rule that I would seek to apply to every other Department if I had control.

Mr. JOHNSON. I do not object to the rule. I only wanted to know why it was necessary here; whether that would not be the case if the bill passes without the proviso. I ask merely for information.

Mr. GRIMES. It will only be a reminder to the Department that that is the principle on which a deficiency bill is passed, and I would apply it to all the Departments if I was connected with them.

The amendment was agreed to.

Mr. JOHNSON. I am instructed by the Committee on the Library to offer an amendment to come in after line two hundred and twenty-eight:

To enable the Librarian of Congress to employ an additional laborer from the 1st of February to the end of the current fiscal year, \$203.

The amendment was agreed to.

Mr. CLARK. I offer the following amendment to come in after the appropriation for a deficiency in the contingent fund of the Senate:

Provided, That hereafter no payment shall be made from the contingent fund of either House of Congress unless the amount is fixed by law or the account is previously examined and approved by the appropriate committee; nor shall any payment ever be made except out of the fund particularly appropriated for the purpose; and no transfer of balances shall be made from one fund to another.

The amendment was agreed to.

Mr. FOSTER. I would suggest by common consent that the amendment adopted on the motion of the honorable Senator from New Hampshire [Mr. HALE] in regard to the salaries of the Assistant Secretaries be placed in some other part of the bill than where it stands. It now has an exceedingly awkward look. I am not prepared to say where it should go; but certainly it should be placed somewhere where it will not look quite like such awkward legislation.

Mr. SHERMAN. It can be placed at the end of the second section with great propriety.

Mr. FOSTER. As it now stands it will have as ungainly a look as anything could have in any bill.

Mr. DOOLITTLE. Are we still in Committee of the Whole or in the Senate?

The VICE PRESIDENT. In committee.

Mr. SHERMAN. The second section provides for another Assistant Secretary of the Treasury, and I think the clause might be added there.

The VICE PRESIDENT. Is there any objection to placing it there?

Mr. HALE. No, sir.

The VICE PRESIDENT. It will be so placed.

Mr. HALE. I desire to call the attention of the chairman of the Committee on Finance for a single moment to a provision in this bill; and to make myself understood I will move to strike out the eighty-eighth, eighty-ninth, and ninetieth lines. I do it because I want an explanation from the chairman of the Committee on Finance, and if that shall be satisfactory, I shall withdraw the motion. Those lines are in these words:

To supply a deficiency in the appropriation for contingent expenses of the Naval Academy, \$38,000.

I will state my reasons for making the motion, and if the chairman of the Committee on Finance will give a satisfactory reason for the appropriation, of course I will withdraw it. The last Congress made this provision by law:

"That the students at the Naval Academy shall be styled midshipmen until their final graduating examination, when, if successful, they shall be commissioned ensigns, ranking according to merit. The number allowed at the Academy shall be two for every member and delegate of the House of Representatives, two for the District of Columbia, and ten at large. They shall be between the ages of fourteen and seventeen, physically sound, well formed, and of robust constitution."

That fixes the numbers, two for every delegate and member, two for the District of Columbia, and ten at large. In another clause of another section it was provided that there should be ten chosen from the sons of sailors or soldiers or officers. The Secretary of the Navy construed that to be ten in addition to the ten at large. The understanding of the Senate was that they were the ten at large; but that is a trifling difference. Notwithstanding this express provision of the law limiting the number to two for every member and delegate, the Secretary of the Navy went on and appointed two for every congressional district in all the seceded States, or nearly that. He went upon that basis. I do not know that he filled them up to that extent.

The subject was brought to the attention of the Senate and it was referred to the Committee on Naval Affairs. They investigated it and made a unanimous report to the Senate, and the Senate unanimously affirmed the construction which the committee put upon the law; and that was that the Secretary of the Navy in making these appointments was limited to two for every member and Delegate, and ten at large, and two for the District of Columbia. Notwithstanding that law, he went on and filled up the Academy upon the basis, as I said, that he had a right to appoint not only two for every actual member and for every Delegate, but two for every district in all the seceded States. The Senate, by a unanimous vote, voted that that construction of the law was wrong. Notwithstanding that vote, notwithstanding the very clear provisions of the act of Congress, clear and unmistakable as human language could make it, and the unanimous judgment of the Senate that the law was what it purports to be, the Secretary tells us this year in his report that he has gone on and repeated the same thing over again, and appointed I do not know how many, but upon the basis of two for every district. If in doing that he has created a deficiency, I am unwilling to vote to pay it. I am willing to vote every deficiency that is wanted to carry out the existing law; but when the Secretary comes in and undertakes to construe the law over our heads, a very simple and plain law, and thereby creates a deficiency, I am not willing to make it up.

Mr. FESSENDEN. I will read the items of the estimate:

"For rent of building for the Naval Academy, for materials, for lighting the Academy and school-ships, for the purchase of stationery, blank-books, copies, and models, for ruling and printing blank forms, &c., and purchase of steam machinery, &c., and for current expenses and repairs of all kinds, \$38,000."

That is the estimate.

Mr. HALE. I withdraw the motion then. I will not press it here, but I shall call the attention of the Senate to this subject hereafter.

The bill was reported to the Senate as amended.

The VICE PRESIDENT. In accordance with the almost uniform practice of the Senate, the amendments made as in Committee of the Whole will be read, and all will be regarded as agreed to except those upon which separate votes may be requested. The first amendment will be read. It is a long amendment, striking out the first clause of the bill and adding to the latter part of the bill the same in substance, only changing its phraseology.

Mr. WILSON. We have heard all those amendments read. I do not think it necessary to read them again. I think we may take the vote on them together, unless a separate vote is demanded.

The VICE PRESIDENT. If that be the sense of the Senate they will be all taken together without reading, except such questions as any Senator may desire a separate vote on.

Mr. SHERMAN. I ask that that long amendment, including quartermaster's supplies, be reserved for a separate vote.

Mr. DOOLITTLE. I desire to reserve the one in relation to the salaries of the Assistant Secretaries, simply to take the sense of the Senate whether we will not say \$3,500 instead of \$3,000.

The VICE PRESIDENT. That will be reserved. All the other amendments will be regarded as concurred in. The first amendment upon which a separate vote is asked will be read.

The Secretary read it: to insert after line seventy-eight the following clauses:

To supply a deficiency in the appropriation for the purchase and manufacture of arms for volunteers and regulars, ordnance and ordnance stores, \$7,700,000.

To supply a deficiency in the appropriation for the manufacture of arms at the national armories, \$700,000.

To supply a deficiency in the appropriation for the Surgeon General's department, namely:

For medical instruments and dressings, \$1,300,000.

For hospital stores, bedding, &c., \$1,200,000.

For hospital furniture and field equipments, \$300,000.

For books, stationery, and printing, \$36,000.

For ice, fruits, and other comforts, \$100,000.

For hospital clothing, \$40,000.

For citizen nurses, \$38,000.

For sick soldiers in private hospitals, \$17,000.

For artificial limbs for soldiers and seamen, \$16,000.

For citizen physicians, and medicines furnished by them, \$185,000.

For hire of clerks and laborers in purveying depots, \$25,000.

For contingent expenses of the medical department, \$5,000.

For medicines and medical attendance for negro refugees, commonly called "contrabands," \$33,000.

For washing and washing-machines for hospitals where matrons cannot be employed, \$1,000.

To supply a deficiency in the appropriation for the subsistence of the Army, namely:

For volunteers and drafted men, \$5,621,000.

For employes, \$640,640.

For women, \$218,400.

To supply a deficiency in the appropriation for the engineer department, for contingencies of fortifications, including field-works, \$500,000.

To supply a deficiency in the appropriation for the quartermaster's department, namely:

For purchase of cavalry and artillery horses, \$17,500,000.

For regular supplies of the quartermaster's department, \$18,500,000.

For barracks, quarters, &c., \$3,500,000.

For transportation of the Army, \$30,900,000.

For incidental expenses of the quartermaster's department, \$2,000,000.

For transportation of officers' baggage, \$100,000.

For clothing, camp and garrison equipage, \$7,000,000.

To supply a deficiency in the appropriation for the Adjutant General's department, for the purchase of books of tactics, \$25,000.

Mr. SHERMAN. When this subject was up on Friday, it will be remembered that there was a difference of opinion between the Senator from Maine and myself in regard to the mode in which this deficiency was made up. He stated to the Senate very positively that this deficiency was caused by the recent proclamation of the President. Not having read the papers at that time, I could only give my impression that such a deficiency could not arise out of that call, and I so stated. Since that time we have had the estimates on which these additional appropriations are based printed, and they are now on our tables.

It seems from these estimates that much the larger portion of these deficiencies are old deficiencies growing out of the ordinary course of the service, and not in any way connected with the recent proclamation of the President. Fifty-five million dollars out of \$78,000,000 are on old items of appropriation. This shows the importance of the rule of which I spoke on that occasion. There was no reason in the world why these estimates should not have been submitted at the beginning of the session, and have gone to the House of Representatives, and have come to us in the regular way. They were withheld until last week, after the bill was considered in the Committee on Finance, after the bill had passed the House of Representatives, and are only introduced now in the form of amendment from the Finance Committee after it had reported the bill. There ought to be some way to correct this mode of estimating. The basis of these amendments the Senator from Illinois [Mr. TRUMBULL] was

very inquisitive about. He can find the basis of the estimates if he will read this paper. The Quartermaster General finds that there was \$254,000,000 appropriated for his department. He finds that the monthly expenditure was so much, and that therefore he will want a certain amount upon the basis of the expenditure. No other items are given. Two hundred and fifty-four million dollars was appropriated for a year; and he finds on hand on the 1st of February, 1864, but \$73,000,000, showing a monthly expenditure of something like twenty-five million dollars, and he therefore wants a certain amount in order to carry him to the end of the fiscal year on the same basis of expenditure. These bases of estimate could have been submitted to us on the 1st of December just as well as on the 1st of February. There is no reason for the delay.

I say therefore that there ought to be some mode devised to compel these officers to submit their estimates in the regular way, so that they may come to us through the regular channel, the Secretary of the Treasury. If it were not for the existence of the war, I should oppose this whole appropriation and seek to compel these officers to go through the regular channel of communication. There is nothing on the face of this paper to show that these estimates have ever been submitted to the Secretary of War. I am one of those who believe that the Secretary of War is one of the ablest and one of the best officers of this Government. I believe he has done more to ferret out and punish fraud in the various branches of his Department than any other officer. He is rough, I know, and sometimes rude to those with whom he is brought in business relations; but, so far as I know, he has been uniformly honest and correct, and strict in his surveillance over all the officers of his Department. There is nothing to show that these estimates came even from the Secretary of War.

Mr. FESSENDEN. Can my friend say that, when I had the letter of the Secretary of War read to the Senate urging these very estimates which he transmitted?

Mr. SHERMAN. I say there is nothing here on the face of the paper showing that it comes from him.

Mr. FESSENDEN. I did not have his letter printed with the estimates because it had been already read to the Senate and printed in the debates. I had simply the detailed estimate printed; that is all; but here is the letter of the Secretary of War.

Mr. SHERMAN. What is the date of that letter?

Mr. FESSENDEN. February 11, 1864, transmitting these very papers, and urging that the appropriations be made according to the estimates. Of course we should never have acted, and the Senator would not as a member of the Committee on Finance, upon simply an estimate from the bureau without its coming with the indorsement of the head of the Department.

Mr. SHERMAN. Then it seems that on the 11th of February the Secretary of War transmitted these estimates, but why could they not have come to us through the regular channel? As I said before, I will not in time of war resist these appropriations; but if it was an ordinary time I would, simply because the ordinary checks are not thrown around these estimates. They are not submitted to us in the proper way, and in the mode contemplated by law. As I said before, I do not believe the Secretary of War would authorize or permit in his Department any improper expenditures. He is watchful, I think strict, and in several cases has inflicted severe and, no doubt, deserved punishment on those guilty of improper practices in the disbursement of money. I have no complaint to make of him except that this mode of submitting estimates to us is not, certainly, the proper one, and in ordinary times I would insist that they should be rejected until they came to us through the proper channel.

Take the estimate for the bureau of the Surgeon General. A year ago we appropriated money for this Department upon the basis of one million of men. A carefully-prepared estimate was made by Surgeon General Hammond showing that seven dollars per man was required to provide the necessary surgery and medicine for an army. Seven dollars a man was more than was provided in any other service. He went on to give the reasons why in our service a great deal more was required,

and upon what basis we made an appropriation of \$7,000,000. It has been exhausted, or nearly so, and the additional appropriation made by this amendment is \$3,379,000. I do not see how we can check this expenditure, because the mode and manner in which the estimates are submitted to us do not give us the necessary details.

We are told so much is required for bedding and hospital stores—\$1,210,000 deficiency estimated for this and that; but the way in which these deficiencies are arrived at is by taking the amount that has been expended up say to the 1st of February, divided by the number of months, and then making an estimate upon the same basis for future expenditure. There is no other mode adopted by them, and perhaps none other necessary; but this same mode of estimate might have been adopted just as well at the beginning of the session as at this present time.

I make these remarks merely to correct the misapprehension into which the Senator from Maine evidently fell the other day, that this all grew out of the proclamation of the President, while only a small portion of it comparatively grows out of that, and also to say a word at least of disapprobation as to the mode of submitting to us estimates for such large deficiencies.

The amendment was concurred in.

The next reserved amendment was to insert at the end of section two the following:

And that after the close of the present fiscal year the salary of each of the Assistant Secretaries of the several Departments shall be \$3,000 per annum.

Mr. DOOLITTLE. I desire to take the sense of the Senate, without saying a word about it, whether we will insert "five hundred" after "three thousand," so as to let them all stand alike at \$3,500.

Mr. TRUMBULL. If that is done, I apprehend it increases an appropriation, and I submit to the chairman of the committee if that amendment can properly come unless from a committee.

Mr. DOOLITTLE. It is a distinct question of legislation. It does not appropriate anything.

Mr. TRUMBULL. If you add \$500 to each salary, it will be necessary to increase the appropriation, and I should like to know from the Senator from Wisconsin what the increase will be. How many Assistant Secretaries are there? It will certainly add several thousand dollars. There are several Assistant Postmasters General, I think.

Mr. DOOLITTLE. It does not appropriate a cent. The amendment of the Senator from New Hampshire was made providing that after the end of this fiscal year the salaries shall be fixed at a given sum, but it does not appropriate a dollar, and in fact it has reduced the salary of two, as I understand. As there is a general desire to put them on a footing of equality, this would fix their salaries, not appropriating a dollar, at \$3,500. It certainly is not out of order.

Mr. FESSENDEN. I should like to have the President rule on the point of order raised by the Senator from Illinois.

The VICE PRESIDENT. In the impression of the Chair, the amendment is in order. The question is on the amendment of the Senator from Wisconsin to the amendment made as in Committee of the Whole.

Mr. FESSENDEN called for the yeas and nays, and they were ordered.

Mr. TRUMBULL. I suppose it is competent to amend that amendment under the ruling of the Chair, so as to propose that the salaries of other persons in the Government be raised also.

The VICE PRESIDENT. Not in this stage, because this is an amendment to an amendment, and it is not amendable in the third degree.

The yeas and yeas being taken, resulted—yeas 19, nays 17; as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Doolittle, Foot, Harding, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Morgan, Powell, Ramsey, Sumner, Ten Eyck, Wiley, and Wright—19.

NAYS—Messrs. Clark, Dixon, Fessenden, Foster, Grimes, Hale, Harlan, Howard, Morrill, Pomeroy, Sherman, Sprague, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—17.

So the amendment to the amendment was agreed to.

The VICE PRESIDENT. The question now is on concurring in the amendment made as in Committee of the Whole as amended.

Mr. TRUMBULL. I move that the salary of

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the heads of bureaus be raised \$500 each. I want it put in the same words as the other amendment, so as to apply from the end of the present fiscal year. I think they are quite as much entitled to it, and labor quite as hard as the Assistant Secretaries.

Mr. WILSON called for the yeas and nays, and they were ordered.

Mr. FESSENDEN. The Senate will be aware that this will reduce the salary of the Comptroller of the Currency and some others.

Mr. TRUMBULL. Not at all. This adds \$500 to all the heads of bureaus, and does not reduce anybody.

Mr. FESSENDEN. Is that the language?

Mr. TRUMBULL. Certainly.

Mr. HALE. I want to inquire for information whether this includes the Comptrollers of the Treasury—whether they are included under the general expression "heads of bureaus."

Mr. FESSENDEN. I do not know.

Mr. HALE. I move to add the Comptroller, then.

Mr. SHERMAN. And so of the Auditors.

Mr. TRUMBULL. I will accept the amendment of the Senator from New Hampshire as part of mine, to include the Auditors of the Treasury and the Comptrollers.

Mr. POMEROY. I think you had better put in the clerks.

Mr. TRUMBULL. We can do that afterwards.

Mr. LANE, of Indiana. I move to lay the amendment of the Senator from Illinois on the table.

The VICE PRESIDENT. That carries the bill along with it.

Mr. LANE, of Indiana. Then I withdraw the motion.

Mr. SHERMAN. I suggest the better way probably now is to adopt the pending amendment. That will let the matter go over and we shall have the same fight over again to-morrow or the next day, because I assure the Senate that an increase of the salaries of this class of officers will only bring upon the Senate and upon the other House every officer in this Government, at least every officer in the city of Washington. If you commence now at the head you will have to run clear down to the foot. I hope therefore that some Senator who voted for the proposition of the Senator from Wisconsin will move a reconsideration and let us have a vote on the subject, because this involves a general increase of salaries, and if we grant it to this particular class we cannot refuse it to others.

Mr. FOOT. I will move to reconsider the vote by which the salary of the Assistant Secretaries was raised from \$3,000 to \$3,500. The vote was a very close one, and there is a decided difference of opinion as to the policy of it. I move a reconsideration.

The VICE PRESIDENT. The motion of the Senator from Vermont is in order, and the first question is on reconsidering the vote by which the amendment of the Senator from Wisconsin was adopted.

Mr. FOSTER. I hope the vote will not be reconsidered. I prefer that we should vote down the main amendment. Let it stand as it is, and then I have great confidence that it will be voted down. With the addition of \$500 now added, I think we can vote it down, and that will be the shortest mode of disposing of it. It is legislation in regard to the future, in regard to the next year. It does not belong to an appropriation bill anyway, and least of all does it seem to me to belong to an appropriation bill at the present time, when none of us can tell what will be on the morrow emphatically, much less what will be next year. Let us take care of this year if we can, and let next year be taken care of by wiser men than we are now.

Mr. HENDRICKS. It was suggested by the Senator from Ohio that the vote of the Senate already caused an increase of salaries. I desire to say in reply to that that I do not so understand it. I desired to see such a result some time ago, but

the Senate has now decided to reduce some Assistant Secretaries to \$3,500 and to raise others to \$3,500, being a reduction equivalent to the increase. It may be ten hundred or fifteen hundred or five hundred dollars difference, but it is very trifling. The vote of the Senate thus far has been an effort to do justice among men whose services and position are the same and whose salaries are different. That is the way I look at it, and therefore I hope it will not be undone.

The VICE PRESIDENT. The question is on reconsidering the vote by which the Senate agreed to the amendment of the Senator from Wisconsin to the amendment made as in Committee of the Whole.

Mr. SHERMAN called for the yeas and nays, and they were ordered.

Mr. DOOLITTLE. I was about to ask the Senator from Vermont who made the motion to reconsider whether the question should not be taken directly on the amendment as amended.

The VICE PRESIDENT. The question of reconsideration is first in order.

Mr. HOWE. I have not said a word on this subject, and I have been recording my votes here differently from what I usually vote on questions of this kind. I have been voting for the purpose and in the hope of equalizing these salaries, and for the purpose and in the hope of getting them fixed at a fair and just rate. I voted for the proposition to raise the salaries from \$3,000 to \$3,500, and I did so upon the belief that this Government can afford to pay \$3,500 for a year's work of such a man as is fit to fill the place of an Assistant Secretary. The duties with which that officer is charged are almost the same as those with which the Secretaries themselves are charged, and at times may be precisely the same, because in the absence of the heads of Departments they act in their place. We pay the Secretary \$8,000, and the substitute for the Secretary, it seems to me, should be paid as high as \$3,500. The men who are fit for those places can command these salaries in any other department of life; and hard pressed as is the Republic at the present time, I do not believe that it is reduced to the condition of a mendicant, or that it is called upon to rely upon the charities of our fellow-citizens to do its work. A just sum the Government can afford to pay, and an unjust sum we never can afford to pay any more in time of peace than in time of war. For that reason I voted for the \$3,500, and I shall vote for it again.

The question being taken by yeas and nays on the motion to reconsider, resulted—yeas 17, nays 22; as follows:

YEAS—Messrs. Chandler, Clark, Dixon, Fessenden, Foot, Grimes, Hale, Harlan, Howard, Morrill, Pomeroy, Sherman, Sprague, Trumbull, Wade, Wilkinson, and Wilson—17.

NAYS—Messrs. Anthony, Buckalew, Conness, Cowan, Doolittle, Foster, Harding, Harris, Henderson, Hendricks, Howe, Lane of Indiana, Morgan, Powell, Ramsey, Riddle, Sausbury, Sumner, Ten Eyck, Van Winkle, Wiley, and Wright—22.

So the Senate refused to reconsider the vote adopting Mr. DOOLITTLE's amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Illinois [Mr. TRUMBULL] to the amendment made as in Committee of the Whole. It will be read.

The Secretary read the amendment of Mr. TRUMBULL, which was to insert at the end of the amendment made as in Committee of the Whole the following:

And that the salaries of each of the heads of bureaus, including the Auditors and Comptrollers, after the end of the present fiscal year shall be increased the sum of \$500 each.

Mr. CHANDLER. I hope that amendment will prevail. There is evident fitness in fixing these salaries equally. It will save a vast amount of trouble to the Senate. We shall be besieged day in and day out, year after year, until it is done. Let us do it at once and have no further trouble. Fix them all alike at \$3,500, and then Congress will be permitted to rest a while from the importunities of these suffering heads of bureaus.

Mr. FESSENDEN. I simply suggest that as it stands now it raises one to \$4,000.

Mr. HENDRICKS. I wish to inquire of the Chair whether the proposition of the Senator from Illinois is not an independent one, which ought not to be hung on to the proposition that the Senate has adopted. It is not really an amendment or modification of that, but an original proposition relating to other officers, and ought not to be made an amendment to this.

Mr. TRUMBULL. I desire to have it understood why I have offered this proposition. I was opposed to increasing the salaries of the Assistant Secretaries. I thought this a wrong time to commence an increase of salaries. The Senate, however, have decided differently, and have determined that it is a proper time to increase salaries, by a yeas and nays vote. They have refused to reconsider that vote. It is manifest, therefore, that a majority of the Senate are in favor of increasing the salaries of the Assistant Secretaries of the various Departments. How many this will embrace I do not know. What the sum required to meet this additional appropriation will be, the Senator from Wisconsin who moved it has not informed us. I do not know how many Comptrollers and Auditors and heads of bureaus there may be, without a computation, but there is certainly as much reason for increasing their salaries as for increasing the salaries of the Assistant Secretaries. These Assistant Secretaries are new officers in the Government. We have been able to get along without them until recently. There is, as has been remarked by some Senator, no class of officers in this Government who are laboring more hours in the day and more efficiently than the Comptrollers and Auditors and the heads of the different bureaus in the various Departments. The war has thrown immense labors upon these officers. They are responsible positions; and if we are to increase the salaries of any officers, then I am for increasing the salaries of these officers; and though I would be opposed to the increase of any, I am for adding this to the amendment, so that if any salaries are increased we shall increase the salaries of these deserving ones.

Mr. CHANDLER called for the yeas and nays on the amendment to the amendment; and they were ordered.

Mr. FOSTER. I ask the honorable Senator from Illinois if he will not accept, as a part of his amendment, the following:

And that the pay of paymasters' clerks in the Navy shall be made equal to the pay of paymasters' clerks in the Army.

They ought to be equalized; they are now unequal, very unequal; and the paymasters' clerks in the Navy have as responsible positions, and I believe do as much work, and are subjected to quite as great expense as the paymasters' clerks in the Army. As it seems to be a time when we are all disposed to act equitably and give persons performing the same service the same compensation, I hope the Senator from Illinois will be willing to accept this as a part of his amendment; I cannot move it, of course.

Mr. TRUMBULL. It will be a very proper amendment after this is voted on.

Mr. GRIMES. I trust the Senator from Illinois will listen to the appeal made to him by the Senator from Connecticut. These are a class of very worthy people who have been laboring for the Government at very inadequate salary for many years, and only get about five hundred dollars a year; and some, the Senator from Rhode Island [Mr. ANTHONY] tells me, get only \$400. It is utterly impossible for them to maintain their families and maintain themselves respectably on such a salary. It is a case that I think appeals to the humanity of the Senator from Illinois which it will be utterly impossible for him to resist.

Mr. HALE. I am not surprised at all these motions and all these attempts to defeat this measure, which I think is the ultimate tendency and object of these motions.

The Senate, I rather think for the first time since the foundation of the Federal Government, has voted to diminish in a small degree the salaries of

these officials. I think it is a new era in the history of the Government, and I do not wonder that gentlemen, particularly those who are conservative in the temper of their minds, are stirred up and horrified, and that they see infinite mischief in this measure. For myself I do not look at it so. I think it is a rational and a convenient step. If it would only be followed up, and the Senate would not be frightened at it, it would do good. I had almost a mind to move an adjournment, so that we might live one night under the effect of a vote of the Senate to reduce salaries.

Mr. TRUMBULL. In the aggregate it increases them.

Mr. HALE. I know it increases them in the aggregate, but still there was a tendency to cut down some of them. Two salaries are cut down.

Mr. TRUMBULL. Which are they?

Mr. HALE. I do not know. I do not think I can throw any light on this subject. [Laughter.]

Mr. FOSTER. The economy which so gratifies the honorable Senator from New Hampshire, is of a very queer kind. The amendment proposes, it is true, to reduce the salaries of two officers—not this year, by the way—from \$4,000 to \$3,500 after this year; and as a part of that economy, to put up some dozen or more that now receive \$3,000 to \$3,500.

Mr. HALE. I voted against that.

Mr. FOSTER. It is upon the measure as it stands that the honorable Senator is congratulating the Senate, and thinking that we are exhibiting a spectacle of Roman virtue here never before seen in the American Senate, because we are disposed to cut down salaries. It is cutting down with one hand and putting up with two.

The question being taken by yeas and nays, resulted—yeas 5, nays 35; as follows:

YEAS—Messrs. Chandler, Dixon, Howard, Trumbull, and Wade—5.

NAYS—Messrs. Anthony, Buckalew, Clark, Conness, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harding, Harlan, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Pomeroy, Powell, Ramsey, Riddle, Saulsbury, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wilkinson, Willey, Wilson, and Wright—35.

So the amendment to the amendment was rejected.

The VICE PRESIDENT. The question now is on agreeing to the amendment made as in Committee of the Whole as amended.

Mr. HOWE. I move to amend so as to fix the salary of the First Assistant Postmaster General at \$3,500.

Mr. GRIMES. He comes within it now.

Mr. HOWE. I understand the amendment agreed to only regulates the salaries of the Assistant Secretaries. I propose to amend it so as to fix the salary of the First Assistant Postmaster General at \$3,500.

Mr. GRIMES. Why not all?

Mr. HOWE. Because others stand in a different position.

Mr. SHERMAN. The Second Assistant Postmaster General has most important duties.

Mr. HOWE. The First Assistant is the deputy of the Postmaster General as I understand. He is the assistant of the Postmaster General. He is the one who takes the place of the Postmaster General in his absence, and I do not understand such is the fact of the others.

The VICE PRESIDENT. The Senator's amendment is to add after "Assistant Secretaries" the words "and the First Assistant Postmaster General."

Mr. HOWE. Yes, sir.

The amendment to the amendment was agreed to—yeas twenty-five, nays not counted.

Mr. GRIMES. If we are going into the Post Office Department, there is a very valuable officer, the Second Assistant Postmaster General, who, I understand, from what I know of the Post Office Department, has a great deal of business to do; he is the most responsible assistant there; the one who has charge of the contract office. I propose to include the Second Assistant Postmaster General also.

Mr. CHANDLER. I move to add the Third Assistant Postmaster General.

The VICE PRESIDENT. That is not in order, as this is an amendment to an amendment.

Mr. HALE. I move that the Senate adjourn. ["Oh, no."]

Mr. CHANDLER. On that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 25; as follows:

YEAS—Messrs. Chandler, Dixon, Hale, Harding, Henderson, Howard, Powell, Ramsey, Riddle, Saulsbury, Sprague, Sumner, Wade, Wilkinson, and Wright—15.

NAYS—Messrs. Anthony, Buckalew, Clark, Conness, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Hendricks, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Pomeroy, Sherman, Ten Eyck, Trumbull, Van Winkle, Willey, and Wilson—25.

So the Senate refused to adjourn.

The VICE PRESIDENT. The question recurs on the motion of the Senator from Iowa, to amend the amendment by inserting "the Second Assistant Postmaster General."

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question now returns on agreeing to the amendment made as in Committee of the Whole as amended.

Mr. HENDRICKS called for the yeas and nays, and they were ordered.

Mr. SUMNER. Let it be read as it now stands.

The Secretary read it, as follows:

Add to the second section:

And that after the close of the present fiscal year the salary of each of the Assistant Secretaries and the First Assistant Postmaster General shall be \$3,500 per annum.

The yeas and nays being taken, resulted—yeas 19, nays 17; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Harding, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Morgan, Powell, Ramsey, Riddle, Sumner, Ten Eyck, Willey, and Wright—19.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Dixon, Fessenden, Foster, Grimes, Hale, Harlan, Morrill, Pomeroy, Sherman, Sprague, Trumbull, Van Winkle, and Wilson—17.

So the amendment as amended was concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed. The title of the bill was amended by adding "and for other purposes."

PAY OF COLORED TROOPS.

Mr. WILSON. I now move that the Senate proceed to the consideration of the joint resolution to equalize the pay of soldiers in the United States Army.

The motion was agreed to.

On the motion of Mr. WRIGHT, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, February 15, 1864.

The House met at twelve o'clock, m. Prayer by Rev. JOHN A. BOWMAN, of Louisville, Kentucky. The Journal of Friday last was read.

CORRECTION OF THE JOURNAL.

Mr. HUTCHINS. I find that upon the final passage of the conscription bill I am recorded as voting in the affirmative, whereas I distinctly voted in the negative. I desire to have the Journal corrected in that respect.

The Journal was corrected accordingly.

ORDER OF BUSINESS.

The SPEAKER. The first business in order is the call of committees for reports of bills which are to be committed, without debate, to the Committee of the Whole on the state of the Union, and not to be brought back by motions to reconsider.

ASSISTANT REGISTER OF THE TREASURY.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill authorizing the appointment of an Assistant Register of the Treasury; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for Friday next, after the morning hour.

PUBLIC STORES.

Mr. STEVENS, from the same committee, also reported a bill to extend the time for the withdrawal of goods from the public stores and bonded warehouses, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

HARRIET MORRIS ET AL.

Mr. WHALEY, from the Committee on Invalid Pensions, reported a bill for the relief of

Harriet and Emily Morris; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

SHIP CANAL AROUND NIAGARA.

Mr. ARNOLD, from the Committee on Roads and Canals, reported back a bill (H. R. No. 126) to construct a ship canal around the Falls of Niagara; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

PACIFIC RAILROAD.

Mr. STEVENS, from the select committee on the Pacific railroad, reported back a bill (H. R. No. 5) granting public lands to the People's Pacific Railroad Company, to aid in the construction of a railroad and telegraph line to the Pacific coast by the northern route; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The call of committees for reports being concluded, the Speaker proceeded to call the States for bills and resolutions.

BRANCH MINT IN IDAHO.

Mr. BENNET introduced a bill to establish a branch mint of the United States in the Territory of Idaho; which was read a first and second time, and referred to the Committee of Ways and Means.

INDIAN SUPERINTENDENCIES, ETC.

Mr. BENNET introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the propriety of detaching and separating all Indian superintendencies from the office of Governors of the Territories; also, the propriety and expediency of a law making individuals of all Indian tribes receiving annuities from the Government amenable to the criminal laws of the United States; and report by bill or otherwise.

POST ROADS IN COLORADO TERRITORY.

Mr. BENNET also introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing the following post roads: From Denver, Colorado Territory, via Poncha Pass, Camijos, to Santa Fé, in the Territory of New Mexico; from Denver to Bijou Basin, in the Territory of Colorado; from Golden City, via Palston creek, Boulder City, to Burlington; and from Denver, via a route along the eastern base of the Rocky mountains, to East Bannack, in the Territory of Idaho; and report by bill or otherwise.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. NICOLAY, his Private Secretary, informing the House that he did, on the 13th instant, approve and sign the following bills:

An act (H. R. No. 144) to indemnify the owners of the British schooner Glen; and

An act (H. R. No. 225) making an appropriation for rebuilding the stable of the President.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, announced that the Senate had passed the following bills; in which the concurrence of the House was requested:

An act (No. 1) granting a pension to John L. Burns, of Gettysburg, Pennsylvania;

An act (No. 19) for the relief of L. F. Carter;

An act (No. 94) to authorize the settlement of the accounts of Paymaster E. C. Doran; and

An act (No. 95) for the relief of George Henry Preble, a commander in the Navy of the United States.

The message also announced that the Senate had passed without amendment a joint resolution (H. R. No. 30) tendering the thanks of Congress to Major General W. T. Sherman.

The message also announced that the Senate had disagreed to the amendments of the House to the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

GOLD AND SILVER MINERS.

Mr. BENNET also introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Expenditures be instructed to inquire into the propriety of an appropriation to

aid in transporting experienced miners from Europe to the gold and silver mines on the public domains of the United States.

MILITARY ROAD IN WASHINGTON TERRITORY.

Mr. COLE, of Washington, presented resolutions of the Legislature of Washington Territory in reference to a military road across the Cascade mountains; which were referred to the Committee on Military Affairs, and ordered to be printed.

BRIDGE IN UTAH.

Mr. KINNEY introduced a bill appropriating \$5,000 to rebuild the bridge over the Provo river, on the military road from Great Salt Lake City to the southern line of the Territory of Utah; which was read a first and second time, and referred to the Committee on Roads and Canals.

UTAH PENITENTIARY.

Mr. KINNEY also introduced a bill appropriating \$5,000 to repair the Utah penitentiary; which was read a first and second time, and referred to the Committee on Territories.

LAND CLAIMS IN UTAH.

Mr. KINNEY also introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of providing a law to enable the owners and claimants of lands in the cities, towns, and villages in the Territory of Utah, to acquire title to the same; and that they report by bill or otherwise.

STATE GOVERNMENT FOR NEBRASKA.

Mr. DAILY presented a memorial and joint resolution of the Legislature of Nebraska in reference to a State government for Nebraska; which was referred to the Committee on Territories, and ordered to be printed.

Mr. DAILY introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of constructing a military road from Fort Laramie to Virginia City, or the most practicable point in Idaho Territory, and report by bill or otherwise.

CAPITOL OF NEBRASKA TERRITORY.

Mr. DAILY also introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be requested to inquire into the expediency of reimbursing the city of Omaha, Nebraska Territory, \$60,000 for moneys expended by said city in completing the capitol of the Territory.

EXPENSES OF MILITIA IN KANSAS.

Mr. WILDER introduced a bill reimbursing the State of Kansas for expenses actually incurred in calling out, subsisting, and paying the militia of the State of Kansas to repel invasion during the present rebellion, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

RAILROAD GRANT TO KANSAS.

Mr. WILDER also presented resolutions of the Legislature of Kansas asking Congress to grant lands to aid in the construction of a railroad from Wyandotte, in the State of Kansas, in the direction of Galveston Bay, Texas; which were referred to the Committee on Public Lands, and ordered to be printed.

KANSAS RAILROADS.

Mr. WILDER also presented the resolution of the Legislature of Kansas memorializing Congress to amend the act of Congress entitled "An act for a grant of lands to the State of Kansas for railroads," which was referred to the Committee on Public Lands, and ordered to be printed.

GRANT OF SCHOOL LANDS TO KANSAS.

Mr. WILDER also presented resolutions of the Legislature of Kansas memorializing Congress to grant school lands to the State of Kansas; which were referred to the Committee on Public Lands, and ordered to be printed.

KANSAS RAILROAD TELEGRAPH LINE.

Mr. WILDER also presented the resolution of the Legislature of Kansas asking a grant of lands for a railroad and telegraph line from the eastern line of the State via Paola and Emporia; which was referred to the Committee on Public Lands, and ordered to be printed.

COLLEGE AT OLATHE.

Mr. WILDER also presented the resolution of

the Legislature of Kansas asking a grant of lands for the endowment of the College of Olathe; which received the same reference, and was ordered to be printed.

POST ROUTES IN OREGON.

Mr. McBRIDE submitted a resolution, which was read, considered, and agreed to, instructing the Committee on the Post Office and Post Roads to inquire as to the expediency of establishing certain post routes in the State of Oregon.

AMENDMENT OF THE CONSTITUTION.

Mr. WINDOM introduced the following resolution; which was read a first and second time, and referred to the Committee on the Judiciary:

Resolved by the Senate and House of Representatives, &c., That (two thirds of both Houses concurring) the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid, to all intents and purposes, as part of said Constitution, namely:

ARTICLE 13.

Sec. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

NEW POST ROUTE.

Mr. COLE, of California, submitted a resolution, which was read, considered, and agreed to, instructing the Committee on the Post Office and Post Roads to inquire into the propriety of establishing a mail route from Los Angeles in California to La Pas in Colorado.

RAILROAD FROM NEW YORK TO WASHINGTON.

Mr. BROWN, of Wisconsin, introduced a bill to provide for the construction of a line of railway communication between the cities of Washington and New York, and to constitute the same a public highway and a military road and a postal route of the United States; which was read a first and second time by its title, and referred to the select committee heretofore appointed upon the subject.

DEPARTMENT OF REVENUE.

Mr. WILSON submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of establishing an Executive Department to be styled "the Department of Revenue," to which shall be intrusted the charge of customs, internal revenue, currency, &c., and that the committee report by bill or otherwise.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

PENSIONS TO WIDOWS OF CHAPLAINS, ETC.

Mr. KASSON introduced a joint resolution relating to pensions, providing that whenever it shall be established by due proof submitted to the Commissioner of Pensions, under regulations approved by the Secretary of the Interior, that any chaplain, commissary, quartermaster, or sutler, duly appointed, and acting, shall engage in actual military service on the battle-field, as acting member of any regiment or company, or acting staff officer, and shall be killed or die of wounds received, the same pension shall be allowed in such cases as is allowed in the case of officers of the grade of second lieutenant.

The joint resolution was read a first and second time, and referred to the Committee on Invalid Pensions.

MILITARY ROAD IN IDAHO.

Mr. KASSON offered a resolution, which was read, considered, and agreed to, instructing the Committee on Military Affairs to inquire into and report at the earliest day the practicability and cost of opening a new road of travel and transportation, with military protection, from the north bend of the north fork of the Platte river to Virginia City in Idaho Territory, with leave to report by bill or otherwise.

ACCOUNTING OFFICERS OF THE TREASURY.

Mr. GRINNELL introduced a bill defining the powers and duties of accounting officers of the Treasury Department; which was read a first and second time, and referred to the Committee on the Judiciary.

GOVERNMENT INDEBTEDNESS TO MISSOURI.

Mr. BLOW introduced a bill to refund certain amounts due the State of Missouri; which was read a first and second time, and referred to the Committee of Ways and Means.

STATISTICAL REPORT.

Mr. BLOW introduced a resolution, which was referred to the Committee on Printing, directing the printing, for the use of the House, of ten thousand copies of the report on the resources of the United States made by Hon. S. B. Ruggles to the International Statistical Congress at Berlin, and of the accompanying report to the Secretary of State.

FOURTH DISTRICT OF MISSOURI.

Mr. BOYD introduced a bill for the relief of the inhabitants of the fourth congressional district of Missouri; which was read a first and second time, and referred to the Committee of Ways and Means.

PENSIONS, ETC., TO HOME GUARDS.

Mr. KING introduced a resolution directing the Committee on Military Affairs to inquire into the expediency of placing all disabled officers and soldiers of the Missouri home guards wounded and disabled in battle in the service of the United States on an equal footing with other United States volunteers in regard to pensions; also to the widows of such as have been killed in battle or have died of wounds received in the service.

Mr. HARDING. I suggest that the gentleman also include in his resolution the home guards of Kentucky.

Mr. GRINNELL. And of Iowa.

Mr. PENDLETON. And of Ohio.

Mr. HOLMAN. Of all the States.

The resolution, modified so as to make it apply to all the States, was adopted.

WESTERN DISTRICT OF MICHIGAN.

Mr. BALDWIN, of Michigan, introduced a resolution, which was read, considered, and agreed to, instructing the Committee on the Judiciary to inquire into the amount of business done in the United States district court for the western district of Michigan, and to report whether the public interest would not be better subserved by abolishing said district and incorporating the territory embraced therein with the eastern district of Michigan.

ABOLITION OF SLAVERY.

Mr. ARNOLD offered the following resolution, and moved the previous question on its adoption:

Resolved, That the Constitution shall be so amended as to abolish slavery in the United States wherever it now exists, and to prohibit its existence in every part thereof forever.

Mr. HOLMAN. I move to lay the resolution on the table.

Mr. PENDLETON. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 58, nays 79; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, James S. Brown, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, English, Finck, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Herriek, Holman, William Johnson, Kernan, King, Knapp, Law, Lazear, Long, Mallory, McAllister, McDowell, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Samuel J. Randall, William H. Randall, Robinson, James S. Rollins, Ross, Scott, Smith, John B. Steele, Stiles, Strouse, Stuart, Sweet, Voorhees, Wadsworth, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—58.

NAYS—Messrs. Alley, Allison, Anderson, Arnold, Ashley, Bailey, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Buntwell, Boyd, Brannan, Broomall, Cole, Creswell, Henry Winter Davis, Thomas F. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Frank, Garfield, Grinnell, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jencks, Julian, Kelley, Francis W. Kellogg, Longyear, Marvin, McClure, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Ord, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Scheuck, Seafield, Shannon, Smithers, Spalding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, and Windom—79.

So the resolution was not laid on the table.

During the roll-call,

Mr. VAN VALKENBURGH stated that his colleague, Mr. A. W. CLARK, was confined to his room by sickness.

The question recurred on the demand for the previous question.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. FARNSWORTH and HOLMAN were appointed.

The House divided; and the tellers reported—ayes 60, noes 55.

So the previous question was seconded, and the main question ordered; which was on the adoption of the resolution.

Mr. WILSON. I suggest that the resolution be referred to the Committee on the Judiciary, which has now charge of the subject.

Debate was objected to.

Mr. HOLMAN called for the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 78, nays 62; as follows:

YEAS—Messrs. Allison, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Frank, Garfield, Goeh, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jencks, Julian, Kelley, Francis W. Kellogg, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Ortl, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smithers, Spalding, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, and Windom—78.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Clay, Coffroth, Cox, Cravens, Dawson, Dennison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, William Johnson, Orlando Kellogg, Kernan, King, Knapp, Law, Lazarus, Long, Malory, McAllister, McBride, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Samuel J. Randall, William H. Randall, Robinson, James S. Rollins, Ross, Scott, John R. Steele, Stiles, Strouse, Stuart, Sweet, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—62.

So the resolution was adopted. During the vote, Mr. EDGERTON said: Mr. Speaker, I desire to state that the gentleman from New York, Mr. KALBFLEISCH, is detained in Brooklyn as a witness in an important suit against the city of Brooklyn, for the recovery of the value of property destroyed at the Atlantic docks by rioters in July last.

Mr. ALLEY, not being within the bar when his name was called, asked leave to vote.

Objection was made.

The vote was then announced as above recorded.

Mr. ARNOLD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. STEVENS. Has the morning hour expired?

The SPEAKER. It has.

Mr. STEVENS. Mr. Speaker, I ask leave to report from the Committee of Ways and Means a bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending the 30th of June, 1865, and to move that it be made a special order for the 23d of this month, and from day to day until disposed of.

Mr. STILES. I object to its being made a special order.

The SPEAKER. The majority can make an appropriation bill a special order on any day.

The bill was received, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEVENS. I move that the bill be made a special order for the 23d of February, and from day to day until disposed of.

Mr. STILES demanded the yeas and nays.

The yeas and nays were not ordered.

The motion was agreed to.

BANKRUPT LAW.

Mr. JENCKES. I ask unanimous consent of the House to report from the select committee on the subject a national bankrupt law.

Objection was made and afterwards withdrawn.

The bill was received, ordered to be printed, and recommitted to the same committee.

Mr. HOLMAN moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LAND WARRANTS HELD BY STATES.

Mr. J. C. ALLEN submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of so amending the act of March 2, 1855, as to authorize States having warrants, scrip, or certificates to locate them; and where there are no lands in said States upon which to locate the same, to locate them upon any lands subject to private entry in any other State or Territory; and that they report by bill or otherwise.

Mr. GRINNELL. I object to that resolution.

The SPEAKER. The objection comes too late.

CONFISCATION.

Mr. JULIAN. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of such legislation as shall deal with all confiscated lands in the rebel States and lands sold for non-payment of taxes as public lands of the United States, which shall be parceled out into suitable homesteads among those who shall have aided in suppressing the rebellion.

Mr. BLISS. I object.

INCREASE OF SOLDIERS' PAY.

Mr. ROSS. I ask the unanimous consent to introduce the following resolution:

Resolved, That in consequence of the increased expense of living and the depreciation in the value of the national currency, it is the opinion of the House that the compensation paid to the officers and soldiers in the Army and Navy of the United States should be increased about thirty-three per cent; and that the Committee on Military Affairs are hereby instructed to report to this House at an early day a bill for that purpose.

Mr. GRINNELL. I object.

INTERNAL REVENUE.

Mr. STEVENS. I ask unanimous consent of the House to report back from the Committee of Ways and Means the amendments of the Senate to House bill No. 122 to increase the internal revenue, and for other purposes, and to ask that they now be considered.

Mr. STILES. I object.

Mr. STEVENS. I move to suspend the rules for the purpose I have indicated. I do not propose to call for the previous question.

Mr. HOLMAN. Ought not the amendments of the Senate to go to the Committee of the Whole on the state of the Union?

Mr. STEVENS. I move to suspend that rule in order that the amendments of the Senate may be considered in the House. I do not propose to call for the previous question, and it will be a great saving of time to consider them in the House.

Mr. STILES. I withdraw my objection.

Mr. FERNANDO WOOD. I renew the objection.

Mr. STEVENS. I renew the motion to suspend the rules.

Mr. STILES demanded the yeas and nays.

The yeas and nays were not ordered.

The rules were suspended, and the amendments of the Senate to the internal revenue bill were received.

Mr. STEVENS. Mr. Speaker, I wish to say that the Committee of Ways and Means recommend a concurrence in those amendments of the Senate, which I will explain in a few remarks.

Mr. WASHBURN, of Illinois. I desire to have a motion to non-concur and for a committee of conference entered before the demand for the previous question.

Mr. STEVENS. I will state in a very few words the difference between the two bills. It will be recollected that the Committee of Ways and Means recommended that after the 12th of January, the time the bill was reported, all whisky distilled and sold, or removed for sale, should pay forty cents per gallon in addition to the present tax of twenty cents. The House, on motion of the gentleman from New York, [Mr. FERNANDO WOOD,] changed that so as to put the tax upon all the stock on hand, without reference to the

time when the same was distilled, or whether it had been taxed or not. The House adopted that amendment, and in that shape the bill was sent to the Senate.

There was a further amendment by which the same tax was placed upon all liquors which had been imported and which were on hand. A new tax was also to be laid upon cotton which had once paid a tax, and not simply that which should be produced in the future.

Such was the bill which we sent to the Senate, and it was entirely changed, in principle, from the bill reported to the House by the Committee of Ways and Means, which was entirely prospective in its nature. The Senate acted upon the bill, and they, in short, amended the bill so that it should be entirely prospective—that from the time of the passage of the bill up to the 1st of July the tax should be sixty cents per gallon on all manufactured; from July to January, seventy cents; and after January, eighty cents.

The difference, therefore, rests upon the question of the time when the tax shall be laid, and upon the amount of the tax, as a permanent law. It changes, as I said before, the time when the additional forty cents is to take effect on that which is on hand, without regard to when distilled and whether it has paid a tax or not; and also as to all that which is distilled and sold, or removed for sale, after the passage of the bill. They then increased the tax from July ten cents more than the House bill put upon it; and then after January next ten cents more—in all, twenty cents more than the House bill provided for.

The question now is whether the House will accept the amendments of the Senate, or will adhere to their own bill. The Committee of Ways and Means are clearly of opinion that the House ought to accept the Senate bill, first, because it is more consistent with the principles of taxation adopted by this and every other Government in laying a tax upon future products, and because it is consistent with the pledge which Congress made to the community at the time they passed the tax law. They adopted, after the most considerate deliberation and extensive debate in this House, the principle of prospective taxation upon every article which shall be taxed. After that the committee is of opinion that there was such a pledge of the House as to the principle of taxation that every manufacturer had a right to rely upon it, and to arrange and carry on his business upon the faith of it. We thought he had a right to manufacture in any branch, whether it be whisky or cotton goods, or any other thing which may be affected by the principle of taxation, under the tax then imposed, until a law should be passed imposing a prospective tax upon all future products. The committee is of opinion that no man will complain of the amount of tax which is laid on him, if it be necessary for the purpose of revenue, provided it be prospective, so that a man can shape his business and arrange his affairs to meet it. And although the prospective tax of the Senate is very heavy—certainly after the 1st of January—yet, as there is no implied faith violated, and there will be time for all distillers to prepare either to proceed with their business under that tax or discontinue it, no injustice will be done thereby.

Mr. SPALDING. I ask the gentleman if the Senate amendments do away with the provision of the House, that whisky on hand shall be subject to an additional tax?

Mr. STEVENS. Whisky on hand is subject to only the old duty.

Mr. SPALDING. Then I cannot support the Senate amendments.

Mr. STEVENS. Of course I did not suppose the gentleman would. The committee placed themselves upon the ground of justice to manufacturers who were pursuing a lawful business, one sanctioned by the country, and one forbidden by no law.

But we think, sir, that as a revenue measure, the bill from the Senate is much better than the one which the House sent to them, a bill which imposed an immediate additional tax of forty cents upon all whisky on hand, whether it were distilled in 1858, 1859, or 1860, which was expressly exempt by our former law, or whether it were distilled since. The House bill laid a tax of forty cents more upon that whisky.

Sir, it is estimated by those who are best ac-

quainted with this subject, that the amount of liquor now on hand, if it could all be got at, which would be subject to the new tax, is at the extremest point two hundred thousand barrels, or about ten million gallons; for although a barrel holds but forty gallons, yet as the proof is generally above first proof, it is estimated by calculation that the two hundred thousand barrels on hand would make ten million gallons. If forty cents were to be laid upon that, it would raise \$4,000,000 upon the stock now on hand.

But I suppose that there is nobody who has seen the operation of our tax laws, and who knows how easy it is now to evade this new tax upon that which has gone into every man's cellar or storehouse, who supposes that more than half of it would be taxed. I calculate, therefore, that the extremest amount which would be produced by the House bill would be \$2,000,000.

Now, sir, although that amount would not be reached by the Senate bill, yet from its passage up to the 1st of July there would be an additional tax of ten cents more upon the amount which is proposed to be laid by the House bill; that is, fifty cents in addition to what is now laid. I will not take into account how much would be probably manufactured in that time. From that time to the 1st of January there would be twenty cents in addition laid, making seventy cents more than is laid by the House bill; and all that is produced between those two periods, being probably thirty million gallons, would pay twenty cents in addition. Now that additional twenty cents would produce more between this and the 1st of January than the whole amount we would get by taxing the amount on hand—I speak of the increased amount between forty and seventy cents.

Then, after the 1st of January, comes the tax of eighty cents per gallon, which, if you lay it upon what is estimated as the product in this country, sixty-six or seventy million gallons, would produce between forty and fifty million dollars annually. The tax being imposed upon the distillers, nearly all of that amount would be made subject to taxation, and instead of getting some thirty million we should get forty-eight or fifty million dollars when this bill came into full operation; that would take place on the 1st of January next. In the mean time it would injure nobody. The distillers who have now grain on hand, or have cattle and hogs on hand, would go on and run out their stock at the ten cents increase, and provide for future operations as the interests of the country might require.

We know, sir, by the prices-current that the tax laid by this House when the bill was last before it—I speak of the amendment offered by the gentleman from New York [Mr. FERNANDO WOOD]—caused whisky to sink immediately in the city of New York twenty-five cents a gallon and in the city of Chicago thirty cents a gallon, and that corn fell from twenty to twenty-five cents in the western country. That is a fact of record as the effect of that unfortunate amendment, affecting, as it did, the large distillers who had sent on to New York for sale and had it in the hands of their correspondents there. There was a large amount of it disposed of in that way. Speculators, it is true, had some, but not a large amount. And they were legitimate speculators according to the laws of the country, and are no more obnoxious to the censure of the House than any man who buys a farm to-day for \$100 an acre and sells it to-morrow for \$150 an acre.

Now, one thing is to be considered. I learn that at Peoria, Illinois, there are several distillers who distill a hundred barrels a day, and are constantly sending it to their correspondents in New York. In the present state of transportation by rail they inform me it takes forty days after the whisky is embarked to reach its place of destination, where it is deposited, not as sold, but, under the law, for sale. Now, there are therefore four thousand barrels of liquor from each of those distilleries *in transitu* each day, passing from their distilleries to their correspondents in New York. All that is to be affected by the House bill, as well as the stock which they had on hand in New York. The amount which would be lost by it is almost incalculable. One distiller, a candid, honest man, told me that the difference to him would be \$140,000; and that loss would be without any fault of his own. He had manufactured his stock on the faith of what he supposed to be the policy of

the Government, and he had honestly kept it, either in his own hands or in the storehouses of his correspondents. I suppose that every member has discussed this matter in all its bearings since the last time the question was before the House.

I have thus, Mr. Speaker, stated the positions of the two bills. It will be for the House to say what it believes to be the most proper course for it to pursue, and what the most profitable for the revenue of the country. The Committee of Ways and Means has no doubt that the Senate bill is not only the fairest and most faithful bill, but that it will produce much more revenue in the coming year.

Mr. FERNANDO WOOD. Mr. Speaker, the question before the House is on concurrence with the amendments made by the Senate to House bill No. 122. It is whether the House shall adhere to its amendment to the bill reported by the Committee of Ways and Means, or whether we shall recede from it. The effect of the motion of the chairman of the Committee of Ways and Means is therefore practically to restrict the revenue proposed to be raised by the bill. Sir, this is the most extraordinary proposition, coming from the quarter it does. We are in the midst of a most expensive and exhausting war. Our receipts from all sources are far below our expenditures. The Government is dependent on its credit and not on its legitimate revenues for the payment of its ordinary contingent expenses. This House, with a proper sense of the propriety of this species of legislation, which looks to a legitimate source of revenue as contradistinguished from a revenue by the expansion of Government credit, adopted an amendment against the remonstrance of the chairman of the Committee of Ways and Means which would increase the revenue, not, as has been just said by the gentleman from Pennsylvania, \$1,000,000, but would increase it instantly at least ten million dollars.

Admitting that this article of spirits is a legitimate subject for taxation, it is a very extraordinary spectacle to see the Committee of Ways and Means opposing a proposition which is to take from the hands of monopolists and speculators forty cents a gallon on the stock on hand, and put it into the public Treasury. Those whose duty it is to protect the public interest have not thronged the avenues to this Hall. They have not button-holed members of the two committees of both Houses of Congress. Gentlemen connected with the Committee of Ways and Means on the one hand and of the Finance Committee on the other have not been button-holed by those who desire to protect the public interest or the public Treasury, but by those who are looking for the protection of their individual interests to the exclusion of the public interest. And it is from that quarter, Mr. Speaker, that the gentleman gets his data and his facts which he has just presented to the House. He says that there are only two hundred and fifty thousand barrels to be affected by the amendment. Why, sir, I can name three men in the city of New York who own almost half that quantity themselves, neither of whom is a merchant or a legitimate trader in any article of merchandise or production whatever. As I said on a previous occasion, I repeat here now, that in advance of the recommendation of the Commissioner of Internal Revenue, in advance of any official publication of the deficit of the revenue arising from this article, in advance of any conclusion on the part of the Secretary of the Treasury, and in advance of the assembling of Congress, persons not distillers, not traders, not merchants, but politicians, who have no other trade or occupation, were in possession of information that enabled them to purchase whisky at forty-six cents a gallon, which went up in November to sixty-one cents a gallon, and in the month of December to ninety-two cents a gallon.

These are facts, Mr. Speaker, and facts are worth all the specious arguments and all the false representations and interested statements of parties who have been caught in their attempts to defraud the Treasury by monopolizing an article on which the necessities of the Government require a heavy tax to be imposed. Therefore, sir, instead of two hundred and fifty thousand barrels, I repeat there are four times that amount to be affected, which would produce an income of at least ten million dollars immediately to the revenue.

We are told, Mr. Speaker, that the distillers are to be affected. I contend that the reverse is the case; and I think there is no difficulty in showing that the reverse is the fact. If you pass these Senate amendments you will have a million barrels in market that have paid this twenty cents a gallon. That will be in the market at forty cents a gallon less than the manufacturer will be able to produce it. The distiller cannot compete with the holders of stock until that quantity has been sold, because upon every gallon sixty cents has to be paid in the way of revenue, whereas one million barrels in existence has to pay twenty cents. Therefore it is the interest of the honest distiller that his production should be put upon a level with that of monopolists and large operators.

Sir, we have one bank in the city of New York that has advanced \$250,000 to persons to buy up whisky in advance of this tax. That is a fact. But we are also told that there is no precedent for this legislation. That is rung in my ears by gentlemen from New York who are interested in this whisky speculation, that the English Government has never done so. There are many things we could imitate with advantage in English legislation, and this thing of direct tax may be one of them. The English Parliament did place an increased tax upon spirits on hand. It was done in the year 1860. By reference to the Statutes General of Great Britain for 1860, it will be seen that a like objection was obviated without difficulty. On the 29th of February an act was passed levying duties upon certain goods and commodities. On the 17th of July, in the same year, an act was passed increasing the duties upon the same articles. And then, to obviate the difficulty in respect to contracts previously made, the following provision was enacted:

"And whereas contracts or agreements may have been made for the sale or delivery of some of the goods or commodities on which increased or additional duties of excise are by this act granted and imposed, which contracts or agreements may have been made with no reference to such additional duties, and thereby the several contractors may be materially affected; for remedy thereof,

"Be it enacted, That every person who shall have made or entered into any such contract or agreement, shall be, and is hereby, authorized and empowered, in the case of any such contract or agreement, to add so much money as will be equivalent to the increased or additional duty hereby granted on such goods or commodities respectively to the price thereof, and shall be entitled by virtue of this act to be paid, and to sue and recover the same accordingly."

Can it be said because Congress has levied one dollar tax upon any specific article, no matter what may be the public necessities, that article cannot be subjected to an additional tax? That doctrine is entirely inconsistent with the practice of this country and Great Britain.

The amendments of the Senate in some respects may be an improvement upon the House bill; but so far as they refuse to concur in the provision to place the tax upon the stock upon hand they are wrong, they are unfair and unjust to the manufacturer. They are a fraud upon the honest trader. They are improper so far as collecting revenue is concerned, and in my judgment this House should not concur in them. We take our position here for the public good. The Government wanted revenue, when the Committee of Ways and Means fixed upon this article from which to derive it. They brought in a bill which upon its face places in the hands of those who have improperly obtained information over ten million dollars—places that amount in the hands of speculators, which would otherwise go into the Treasury. The House non-concurred in that provision of the Committee of Ways and Means by a majority of forty, and it is now for us to determine whether one branch of Congress shall do the legislation for both branches; whether we are to be rebuked and held up before the world as incompetent and incapable legislators; whether, in other words, the Constitution is to be subverted which places into both Houses of Congress equal rights and equal powers? That is the subject on which we are now to act. Therefore, Mr. Speaker, as a matter of justice, as a matter of proper legislation, as a matter of House pride, I hope that we will stand firm in the position we have taken with so much unanimity, or rather with such a large majority, and refuse to concur in the Senate amendments.

Mr. DAVIS, of New York, obtained the floor.

The SPEAKER. The Chair has received a communication from a member who is absent on

account of illness, which will be read if there be no objection. It will take up about five minutes.

A MEMBER. Who is the letter from?

THE SPEAKER. The gentleman from Illinois, Mr. LOVEJOY.

The Clerk read, as follows:

Mr. Speaker, I desire to express the hope that the amendment to the internal revenue bill taxing liquors will not be allowed to remain. I trust the House will concur in the Senate amendments. The more I reflect upon the subject, and the more I become acquainted with the facts, the more I am convinced that this retroactive tax is unjust, impolitic, and destructive of the ends which it apparently is intended to secure. It will require a number of tax-gatherers equal to the frogs which invaded the chambers and kneading troughs of the Egyptians. You will have to visit the cross-roads to find the retailers and gauge their half-sold barrel of whisky, and extort, it may be, a few dollars, and receive multiplied execrations gratis.

The highest amount anticipated from this process is, I believe, \$5,000,000. The city of Peoria alone, if you allow the distillers to go on under the law as amended in the Senate, will give you \$7,000,000, and my whole district \$9,000,000. This large amount, double, and in the estimation of good judges more than three times the amount which you can get from retaxing the amount on hand, will be virtually lost to the Government, for the distillers cannot for any long time carry on their manufactures under this capricious and ever-changing legislation. If this new tax is sprung upon them now they will anticipate a similar process at the next session of Congress; they will therefore be afraid to buy the raw material when its product is subject to this retroactive legislation. What would you think of the farmer who having drawn a full and foaming pail of milk from his cow, should look covetously upon it as he takes it to the milk house and determine to return immediately and obtain another? The kindest animal would get restive and kick under such an exhaustive process. If he will only wait until night and let his cow have grass and water and time he can get his bucket refilled. So, if the Government will deal fairly and justly with these distillers, it will get a large revenue, paid in promptly and cheerfully, but if it attempts this exhaustive process of renewed and double taxation it will receive plenty of kicks and but a scanty revenue. I state this as my honest, candid conviction, and I entreat the House to review its action and concur in the amendments of the Senate.

As to the policy of the measure I will not dwell upon that, but satisfy myself with saying that it appears to me to be one of the most impolitic things that could possibly be done; that if it could be carried into execution—which I believe to be impossible—it would be one of the most odious measures that could possibly be adopted. I have no doubt that was the purpose of the mover. It is the wily Greek bringing the wooden horse into Troy. "*Timeo Danaos et dona ferentes*."

The wise man has said, "in vain is the snare set in the sight of any bird." I hope the House will not be unwise enough to step into a trap that really has no concealment. I trust the House will forgive the seeming egotism of these remarks. I do not distrust its wisdom or its patriotism, but representing a district so largely interested in this subject, I beg the indulgence of submitting these few words to be placed on record, for they are in accordance with my very clear and honest convictions.

Pending the reading of the above, the following discussion occurred:

Mr. HOLMAN, (interrupting.) I desire to suggest that this communication be not read, but be printed as the remarks of the gentleman from Illinois.

Mr. WASHBURN, of Illinois. I hope that this argument of my colleague, who is confined to his house by sickness, will be read; and then I want to have it answered by a paper which I have in my hand.

Mr. COX. I gave my consent to the reading of that paper only under the idea that it was an excuse for the member's absence.

THE SPEAKER. The Chair stated to the House, as he supposed distinctly, that its reading would occupy five minutes, or less than five minutes.

Mr. COX. The Speaker did not state what it was. I move that its further reading be dispensed with.

THE SPEAKER. Does the gentleman from Ohio say that he was deceived by the statement of the Chair?

Mr. COX. I think there will be no objection to printing the paper.

Mr. WASHBURN, of Illinois. The gentleman from New York, [Mr. DAVIS,] who is upon the floor, has yielded to me. Out of courtesy to my colleague, [Mr. LOVEJOY,] with whom I differ *to celo* upon this question, I will have his communication read, and allow it to come out of my time.

THE SPEAKER. The Chair will rule, if the gentleman from Ohio says he has been deceived by the statement of the Chair—

Mr. COX. I will not say that the Chair has ever deceived me upon any subject. I withdraw my motion to dispense with the reading.

Mr. SWEAT. It is very evident that the mem-

bers on this side of the House did get a wrong impression from the remarks of the Speaker. I did for one, most assuredly. I do not think this is the time for letters to be sent here and read upon matters of this kind.

The Clerk resumed and finished the reading of the communication.

Mr. WASHBURN, of Illinois. I do not wish to take up the time of the House in reply to the remarks which my colleague has had read; but I propose to have a tract read which I hold in my hand, and which I think answers pretty much all he has said.

There are some things, however, in my colleague's remarks to which I will allude, and which I have heard a great deal about from other sources, and that is the source from which this proposition to tax whisky on hand comes. I am not in the habit of looking at that so particularly; I look at the thing itself, and judge whether the thing be or be not in itself correct. It makes no difference with me who is the author of the provision.

A word, too, in relation to this trap, this snare, which has been set for us country gentlemen, we who occupy back seats in this House, and who are not supposed to know much about legislation. Sir, I supposed that this matter of taxing liquors on hand was one of the simplest propositions ever presented to this House. It was, as I said when the proposition was made, merely the question in a nutshell, whether we should put this forty cents per gallon into the Treasury of the United States or let it go into the hands of the speculators; and, sir, the people through their representatives here, the men who are the guardians of the people's interests, have by a vote nearly two to one, recorded themselves in favor of this tax, and in favor of the policy and the justness of it. I am aware of the great efforts which have been made—the successful efforts which have been made elsewhere—since this provision passed the House, to sink this bill. And it is to be seen by the vote to be taken here whether those efforts have been equally successful in this House. I ask, as a part of my speech, that this tract which comes from Illinois, and which was got up in that State which is said to be so largely interested in this question, may be read; and I ask the House to listen attentively to its reading.

The Clerk read, as follows:

Reasons for taxing all Highwines and Alcohol sold after date.

Will the Congress of the United States, because of special pleading of speculators, violate the Government's contract with the manufacturer of highwines, and with the people, who, in consuming the wines, pay the tax—submitted to by them because it (the tax) would go into their (the United States) Treasury?

It is asserted by the opponents to a tax being laid on wines on hand, that in doing so the Government violates a contract. But as the violation of contract is really the argument advanced, let us see the results of an investigation of the original law, and how it can be violated.

The original law enacts that any person may manufacture highwines if said person will pay a tax of twenty cents per gallon on every gallon made by him or them. It does not say "on every gallon sold," but on every gallon distilled, or distilled and removed for consumption or sale. Neither does Government, by any provision, provide to reduce such tax of twenty cents per gallon in cases where the consumption or demand will not, by its market price, enable the distiller to save himself from loss. Not at all. On the contrary, the bond is twenty cents for every gallon made, and in case it is not paid, then confiscation of the distiller's property, or his bondsmen's, until it is paid. In making this contract the Government assures the distiller protection against dishonest competitors in distilling, who, from fraud in not paying the tax, can sell his wines so low as to drive the honest distiller from his business. If any contract exists between the Government and any one in highwines, it is clearly stated above to be between the manufacturer on one part and Government on the other—being the manufacturer agreeing to pay (not the consumer) to Government twenty cents on every gallon made, and in consideration Government agreeing to protect him in his rights against all competition, both foreign and native.

Government never made a contract with the speculator in wines or with the consumer of wines that they would not tax wines on hand; but they did agree that they would protect the manufacturer in his legitimate business. This being so, what will be the result of an increased tax on wines made after date, and no increase of tax on wines on hand, or sold after date?

Will not the distiller be compelled to suspend his distillery until the stock of wines on hand is consumed? Can he manufacture wines and pay Government sixty cents per gallon tax when the stock on hand can be sold, from non-taxation, at five, ten, or twenty cents less than his costs him after paying the tax? This being so, does not Government violate its contract with the manufacturer by raising the tax on his products so as to stop his distillery, lose his "half-fed stock," and lose the business in which he invested, under a contract with Government, his money? And must he now be deprived of his rights because of a combination of speculators having banded together to rob the consumers by an increased prospective tax, and to make the

Government rob itself and the people by enacting such law, and for which the Senate committee plead with reasons as follows:

1. That the amount to be collected on would "not be worth the candle."

"As the amount on hand is only some two hundred and fifty thousand barrels, which would give, at forty cents, some five million, or if even double, ten million dollars, would not warrant the trouble; and that the information which was laid before the committee, and on which the committee acted and made the recommendation, has been obtained from parties opposed to taxing wines on hand. This is an honest admission."

2. That it would be establishing a precedent in taxation entirely new. I am told "that it has never been done in England," "on authority." "I have not personally examined it myself, because I was told there was no doubt of the fact." From his obtaining the information that the stock on hand was two hundred and fifty thousand (which does not exceed one fourth of the stock on hand) from parties opposed to the tax, is it not fair to infer that this last information was obtained from the same authority, for the fact is that the English Parliament did place an increased tax on all spirits on hand? It was done in the year 1860. By reference to the Statutes General of Great Britain for 1860 it will be seen that a like objection was obviated without difficulty. On the 29th of February an act was passed levying duties upon certain goods and commodities. On the 17th of July, in the same year, an act was passed increasing the duties upon the same articles. And then, to obviate the difficulty in respect to contracts previously made, the following provision was enacted:

"And whereas contracts or agreements may have been made for the sale or delivery of some of the goods or commodities on which increased or additional duties of excise are by this act granted and imposed, which contracts or agreements may have been made with no reference to such additional duties, and thereby the several contractors may be materially affected; for remedy thereof,

"Be it enacted, That every person who shall have made or entered into any such contract or agreement shall be, and is hereby, authorized and empowered, in the case of any such contract or agreement, to add so much money as will be equivalent to the increased or additional duty hereby granted on such goods or commodities respectively to the price thereof, and shall be entitled, by virtue of this act, to be paid, and to sue and recover the same accordingly."

If information was wanted why not apply to the proper source—the Commissioner of Internal Revenue—who could (or ought to be able to) furnish him with the number and capacity of each distillery per day; which would, by simply multiplying the product of number and capacity per day with the number of days from September 1, 1863, to the 4th, give the quantity made; which, by dividing by two, would give the quantity on hand.

The Government has no right to violate a contract made with the consumers, which was, "if you will enable the distiller to make wines—by your paying the tax—we will see that such tax shall be applied to the payment of your debts, and not into the pockets of speculators."

Mr. DAVIS, of New York. When the vote was taken in the House the other day upon this bill I voted in the negative; and I did so because I was opposed to the principle of retrospective action in legislation. I am in favor of raising revenue for the Government to the fullest extent the necessities of the country may require; but I wish to do it on some principle which shall not unsettle the manufacturing and producing interests of the country.

Legislation should be uniform; it should be just; and I insist that the amendment proposed by the gentleman from New York [Mr. FERNANDO WOOD] the other day is not a just or a proper amendment. It injuriously affects the interest of those who hold property which has been manufactured and which has paid to the Government every penny of duty which the revenue law demanded. When you unexpectedly add a new duty, and go back and retax that which has paid a tax, and which has been bought in the market at the market price, you commit an act of injustice and oppression, and establish a precedent which will be dangerous to every producing interest throughout the land. I voted against the bill because it contained such a provision; and why the gentleman from New York [Mr. FERNANDO WOOD] voted against the bill, containing his own amendment, is a question for him to decide, not for me.

It has been said by the gentleman from Illinois [Mr. WASHBURN] that the vote in this House indicated the disposition and determination of the House to stand by the proposition of the gentleman from New York, [Mr. FERNANDO WOOD.] It may have done so; yet when the gentleman pronounces that amendment an act of wisdom, I cannot agree with him. The legislation of this country should foster our producing interests. It should show the manufacturers that while we call for money from all classes of society, we design to call for it upon principles which shall be uniform and just to all men; and I declare that there is no justice in reaching back to that which has once paid its duty to reimpose another tax before the

article which has already paid duty has gone into the market.

Sir, I suppose the distillers in the State of New York are under contracts for a large amount of spirits to be delivered in future. They are under contract at a specific price. They have bought their material, their corn or other grain, at market prices at the time of purchase, and they are under bonds to deliver on the 1st day of May, or June, or July, a specific amount of liquor or spirits. And now, sir, the Government comes in in the night-time without notice to them, and imposes an additional tax of forty cents a gallon upon that which they are bound to deliver without reference to that duty! Is there any justice in that?

Sir, if this principle were applied to other branches of manufacture, how would it operate? This people have the sovereign right in their legislation to impose a specific tax on cloth or upon any other article produced, and yet will you say that it would be wise, after a man had gone into that manufacture, after he had bought his materials in the market at the market price, paying the duty then existing to this Government, that this Government should come in and lay another duty which may entirely unsettle the market? There is no safety in such a kind of legislation.

This, sir, is a measure for revenue, and although some gentlemen in this House, I know, would like to act upon it as a prohibitory measure, they should remember that this bill is not for prohibition but for revenue, and revenue alone. I have heard members upon this floor, not publicly but privately, say that they want to kill the manufacture of spirits, and they, perhaps, will unite with the gentleman from New York [Mr. FERNANDO WOOD] in this kind of legislation; but I tell them that we cannot in this way legislate a man into morality any more than we can legislate him into heaven. This is not a moral question. It is a question of revenue, and we want to lay this tax in such a way as not to destroy the producing interests from which the revenue must come.

Gentlemen appeal to precedents abroad. Sir, there are precedents in England, to which the gentleman has alluded, which establish a different principle; and even the one to which he referred only shows that where a duty was proposed to be laid by the British Government, they protected the manufacturer who was under contract for the future delivery of his goods, and placed him in the same position in which I think this law should place every manufacturer who is bound to deliver his manufactured article in future. That is the extent of the precedent to which the gentleman referred.

Sir, I do not admire all the English precedents; but there are some that I do admire. In England they have a precedent for putting down rebellion and a precedent for hanging traitors and rebels. There are some gentlemen in this House and in this country who are opposed to both.

I desire, sir, in presenting my views to this House to appeal to their deliberate and calm judgments. I ask gentlemen if they are willing to establish a precedent which will be dangerous and inconvenient and unwise for the future. It is one that may be applied in principle to every producing interest in the land, and we may have appeals here to extend the principle which we now establish to those other interests.

The district which I represent is a large producer of spirits. Other districts in the State are large consumers. I will not say anything about my own in that respect; but those who produce wish the protection of the Government, so that they may not be injured by unwise and hasty legislation. If, sir, we go on and establish a precedent of this kind, following it up, as we shall have a right to do, in regard to other subjects of production, I say that we shall be pursuing a course of legislation which will be disastrous to all the productive interests of the country. We should hesitate before we do it. I am glad that for some reason or other, I care not what, the Senate has had sufficient spirit and conservatism to strike out this odious and offensive measure in the House bill. I trust we shall concur in the amendments of the Senate.

Mr. MORRILL. Mr. Speaker, I have no greater interest in this bill than any other member of the House. My only desire is that we shall pass a bill which will be for the permanent benefit

of the Treasury. I can hardly pretend to equal the gentleman from New York [Mr. FERNANDO WOOD] in his solicitude to organize a revenue measure that shall come up to the emergencies of the Government. But it is somewhat remarkable that that gentleman, feeling this solicitude, and having a pride in the action of the House in regard to this bill, should have been found voting in the negative when the bill was on its final passage in the House.

Now, sir, in regard to the statement that there are some gentlemen in the city of New York who may have large quantities of spirits on hand, I do not doubt that there are many men in New York who deserve to be fined, as this bill will fine them if it should pass in the form as first presented to the House by the gentleman from New York; but I am not in favor of even fining these gentlemen without a fair trial and conviction in a court of law. As I think, it would be nothing but a fine imposed upon them as a punishment for having spirits on hand. I am forced to look at the question as a revenue measure, and not a measure of prohibition. I would be as willing as any gentleman of the House to put money in the Treasury, but I conceive it to be of the gravest importance to do it fairly. As I have said on a former occasion, it is utterly and absolutely impracticable to enforce the universal execution of such a law. How are you to begin? And where are you to stop? There is no limit to it. You are to assess this increased tax on all spirits on hand, whether a man has one hundred thousand gallons, one gallon, or a pint. You impose a duty on assessors that they cannot perform. You compel them to hunt through houses, stores, shops, cellars for every drop of spirits that may be on hand; and I say that that will be found utterly impracticable. Under any system of taxation men who are taxed will generally be perfectly satisfied provided that all are taxed alike. We know beforehand, as well as we can know anything future, that at least half the amount on hand would most likely escape taxation. Men would think they had been unhandsonly treated, and they would resort to evasions. Under such a law as this there can be nothing but heart-burnings and opposition throughout the country. I do not wish to excite any clamor about taxation. I desire that our legislation shall be such as will leave the people content to pay the taxes imposed, and content with the general principles upon which they are based. We are compelled at this time to levy very heavy burdens on the people; and I would give no cause of complaint in any quarter.

Mr. WASHBURN, of Illinois. Speaking of heart-burnings, I would ask my friend from Vermont if it would not be the very occasion of heart-burnings and complaints among the people to have to pay their taxes into the hands of speculators instead of for the use of the Government?

Mr. MORRILL. In reply to the gentleman from Illinois I will say that my bowels of sympathy do not yearn particularly for the consumers of whisky. I am willing that they shall be taxed as much as can be properly got out of them. But the consumer will not pay anything more than he pays now. The retail price, by the glass, is now as high as it can be got.

Mr. GRINNELL. How does the gentleman know that?

Mr. WASHBURN, of Illinois. What does the gentleman pay for his whisky straight?

Mr. MORRILL. The gentlemen are putting questions to me upon a matter about which I have no personal knowledge, except as I am informed by gentlemen near me, and by gentlemen who have appeared before the Committee of Ways and Means. I understand that the price per glass to the gentlemen cannot be increased over its present rate.

There are provisions in the bill which I would wish were somewhat otherwise. For instance, I would be in favor of having the tax go into operation earlier than the date of the passage of the bill. But, as a whole, I deem it more wise for us to accept the bill in its present form, in order that it may become a law as speedily as possible. There are provisions in the Senate amendments which I think are better than those of the House bill, for this reason, that the Senate amendments, taxing whisky sixty cents a gallon from now till the 1st of July, and after the 1st of July increasing it to seventy cents a gallon, and then to eighty

cents on the 1st of January, will enable the distiller to go on and keep his distillery in operation, which he could not do if it were not for the prospective increase of the tax.

Let me say one word in regard to the injustice of this to the holders of spirits. It is known to most who have investigated the subject that for a considerable time past the price of spirits has been so high as that it is utterly impossible that any can be exported. There is to be no drawback hereafter, and only those spirits could be exported that have been placed in warehouse for that purpose. Therefore these parties who have it on hand at any price must pay the tax. It must be consumed in this country, and they must keep it until it can be consumed or at once set their houses in order for bankruptcy. Under the circumstances it would be a positive loss to the Government, and result, I believe, in general disaster and ruin to many of the most worthy merchants throughout the land. I should look for more bankruptcies in the large cities of the country than have occurred at any period within the last five years if this bill should become a law as it passed the House.

There are other provisions besides those, of a kindred nature, which led me to vote against the bill when it passed the House. One is the provision for retaining all foreign liquors which have been imported, levying an additional duty of forty cents a gallon—a proceeding entirely new to this or any other country. Having once accorded privileges to the importer, we go back and extort a new price. Where is our mercantile honor? There is no provision in relation to domestic or foreign liquors where a contract has been made to save parties from ruin.

There is another portion of this bill of a kindred character, namely, the tax on cotton a second time. Now the Government itself has sold large quantities of cotton and received pay for it. Shall the Government go back and tax that same cotton a cent or a cent and a half a pound? I conceive that no ranker injustice can be committed. The Government becomes a dangerous party to have any business transactions with.

But, Mr. Speaker, in addition: the bill we have received from the Senate will put into the Treasury a larger sum the first year of its operation and ever after than that passed by the House; and I trust that the House will feel a just pride, if they have once followed the lead of the gentleman from New York, [Mr. FERNANDO WOOD], by now backing out.

Mr. KASSON. Mr. Speaker, I do not propose at this time to restate the arguments which I submitted to the House in Committee of the Whole on the state of the Union in favor of the general principle that has proved acceptable to the House. The gentleman from New York in opening on that side has so fully repeated those facts and arguments that it is unnecessary for me to go over them. What I desire at this time is to say, first, that again I have the misfortune to dissent from the action of the majority of the Committee of Ways and Means. I have been unable up to this time to discover the proper ground for the charge of injustice against those who assert the propriety of taxing the stock on hand.

I desire also to say, sir, that I agree to several of the propositions of the Senate. They have added some good features to the bill of the House. I was not contented with the shape in which it was put by the gentleman from New York, [Mr. FERNANDO WOOD], at the time his proviso was offered, nor with the subsequent action of the committee in carrying out the principle; not dissatisfied with the principle adopted by the House, but dissatisfied with the form in which it was proposed to apply it, with the details. But I was willing to adopt all then for the sake of the principle.

Mr. COX. Will the gentleman yield to me?

Mr. KASSON. With pleasure.

Mr. COX. I wish to ask the gentleman from Iowa what has become of the amendment which I had the honor to offer to him for the consideration of the Committee of Ways and Means? I proposed in that amendment an accommodation between the House and the Senate, levying a tax of twenty cents upon the stock on hand, and a tax of forty cents upon the manufactured article in the future. I think that such a proposition will be finally agreed upon, or at least something of that nature. I would like, if consistent with

the gentleman's remarks, to have the amendment read to the House and a vote taken upon it, in order that we may know what is the precise position of the House at this time. I am not opposed to putting a tax upon this article of whisky. I believe that the bill of the Senate taxes it too largely, some three or four times the value of the article. I do not believe that any such tax will raise as much revenue as a lighter tax; and therefore I think that the amendment which I gave to the gentleman will meet with the concurrence of a committee of conference if not of the House.

Mr. KASSON. I will read that proposed amendment, if the gentleman desires, presently, when I reach in my remarks what relates to that subject. I first wish to say what, in my opinion, should be the principle of our legislation upon this subject. It will be agreed, I think, on all sides of the House, that our legislation should bear distinct relation to the condition of facts in the country touching the subject in reference to which we propose legislating. What are those facts? They are, first, that by our former act of legislation we authorized the production of distilled spirits upon the payment of a license fee, and charged with the payment upon every gallon produced of a tax of twenty cents. Upon those conditions everybody might introduce any amount of distilled spirits into the market. Further than that our former legislation did not go. It simply authorized the production of this property and putting it forth for sale. But will it be contended, on any sound principle of legislation, that after you have authorized the production of property you never have again the right to touch it with a particle of taxation? Will it be contended that you have created an exclusive class of capitalists in this country who may invest their money in a certain species of property which shall never be liable to be taxed except the first time, and that time, perhaps, before they acquired it? I am opposed to any theory which takes from Congress the right of annual taxation in order to raise revenue. You tax gold and silver plate every year; and you also tax every year land which is tilled for the purpose of sustaining human life, as well as for pecuniary profit. And am I to be told that you cannot tax once a year the investment in the article of whisky because you have once taxed a man for the right of producing it? When the gentleman from Vermont [Mr. MORRILL] therefore says Congress is under a pledge to tax whisky on hand only the original twenty cents, and never to tax it again, I deny the pledge. I say that Congress gave no pledge to the country at that time except the simple pledge that the distiller might under that law produce all the distilled spirits in his power upon the condition of paying a license fee, and twenty cents per gallon when he sent it out for sale.

Mr. SMITH. I desire to inquire of the gentleman from Iowa why the bill does not impose a taxation equally upon all articles produced in the country; or, in other words, why he makes a distinction between this article and other articles which are produced all through the land? Why does he not impose a proportional tax upon those who produce articles for wearing or eating, or for any other purpose?

Mr. KASSON. The answer seems to me very patent to a question of that kind. It is this: that there are certain articles liable to taxation which will bear a very high rate of taxation in consequence of the demand which exists for them, and as articles of luxury. There are certain other articles for which there is but a slight demand, and which would be taxed out of existence by a high rate of taxation. To the former class of articles—luxuries—most of the discussion now before the House relates. This is an article which bears in England a tax per gallon of \$2.42 to-day, and has borne that tax for years, with an increasing production and increasing revenue to the English Government.

Mr. MORRILL. I desire to say to the gentleman that the principle which he endeavored to illustrate by reference to the fact that we tax plate every year does not apply to this article at all. We tax carriages and plate for their use every year, but not as a manufacture. We have a very small tax upon coal. Now, I desire to know if the gentleman is prepared—knowing as he does that coal speculators have made almost as much money as whisky speculators—to place a higher

and much larger tax upon the coal on hand in this country?

Mr. KASSON. Whenever the coal bill comes before the House I will state what principle, in my judgment, should control our legislation upon that subject. And I will state further, that whenever the people demand coal as an article of luxury merely, instead of treating it as an article of necessity, I will apply the same principle to it that I propose to apply to this article. For the present I proceed, and ask what are the further facts in the country to which our legislation should apply in respect to this subject. We find that under the stimulus of the act of 1862, knowing that the article would bear a higher rate of tax, and that the demand for it would be incessant, and hoping that, as in the former case, Congress would exclude from taxation all that had been brought under taxation prior to the taking effect of the act, these distillers ran largely in excess of the public demand; they created an immense stock on hand, which is on hand to-day, and is held, not for the purposes of ordinary trade, but as a pecuniary investment to take the benefit of a rise by way of speculation.

Now I call the attention of the House to the fact that there are two classes of distillers. One class sell what they produce as they produce it, and have not capital sufficient to retain their production on hand until they choose to put it in market. There is another class of distillers who produce large amounts upon a very large capital and who retain under their control nearly every barrel of their late production. These two interests conflict. I have seen a letter from a distiller in Illinois, which is in the possession of one of our associates in this House, in which the distiller says that if the House policy be adopted it will cost him \$30,000 to pay the tax, and yet the tax ought to be imposed. And why? He goes on to say that the distilling interests with which he is connected are such that they cannot afford to have their distilleries stopped, but that other distillers have such immense stocks on hand that they have saved up to take the benefit of the rise that they could afford to have their distilleries destroyed. The purport of it was that they might burn them and yet retire with vast fortunes in their possession realized from the advance upon their accumulated stock.

Now, do not let us forget that we are legislating for these different interests, and also for that other interest, which is pure speculation, where a man has bought of the distiller at a low price, and is holding on for a high price. And I will admit further that some of the stock now on hand is held by men who have bought it at an advanced price, and would consequently, unless the prices should go still higher, lose by the operation.

Now, sir, having reviewed, as I think, sufficiently the condition of the whisky question as to facts and the interests to be affected by legislation, I ask gentlemen to inquire what legislation we should apply to the subject. I say, first, that we ought not to exclude this vast stock on hand, to which our legislation actually adds the price of from forty to sixty cents per gallon, from its fair share in the burdens of the Government, when we give it such benefits.

But I am asked, will you do a hardship to that class who have bought at high prices? I answer in reply to that that they have simply put their property there, taking the chances of legislation, and others will merely be more fortunate than they are, as is the case in all pecuniary races in human life.

In legislation we cannot legislate for each individual case. It is impossible to do that. You do not do it with respect to other taxes which you impose. You simply apply a just principle of legislation and let the consequences fall then as the rain falls, alike upon the farmer who has his harvest in his barns and the farmer whose harvest lies ungathered in his fields.

Mr. SMITH. I would like to ask the gentleman from Iowa to explain to me the difference between speculators in whisky and speculators in cotton or in any other article they choose to speculate in? The whole tenor of the argument to-day seems to be against speculation. If a man engages in a speculation in cotton and invests \$1,000,000 in cotton, why do you not tax him in the same proportion that you tax the man who speculates and invests \$1,000,000 in liquors? I

do not propose to discuss this as a moral question, but merely as a revenue question; and in that view I make the inquiry.

Mr. KASSON. I answer the gentleman that I will follow where the principles of justice lead me touching any article in which investments of money are made. And I say further, that if any citizen of the country seeks to avoid his fair share of the responsibility of all citizens to contribute to the support of the Government in the annual payment of taxes, by investing all his property in a particular article, so as to have the benefit of an anticipated rise to be created by the necessary increase of taxation, I would follow that investment annually to the extent of the power of Congress in the premises—just as much in regard to cotton as in regard to whisky, though not in amount, yet in principle. If the tax on cotton be increased from a half cent to two cents a pound, and if it be found that, in advance of the ordinary operations of commerce, and with reasonable notice, it is held for sale as an article of speculation and for the purpose of taking it out of the range of taxation, I would follow it and make it pay the tax wherever I could find it. Shall we allow investments in any particular article, and say that if a man puts his money in that he must never be reached by taxation? On the contrary, I say that we must give no such temptation to invest in any particular class of property to avoid taxation.

But, Mr. Speaker, I have spoken at greater length than I intended on the general principles of the bill. I wish to return to the bill and to say that I like those Senate amendments which propose a sliding scale for an increase of taxation; and I am willing to adopt that principle. What would be the effect of it? If you put twenty cents a gallon on the stock on hand, as suggested by the gentleman from Ohio, or thirty cents or forty cents, as proposed originally by the House, and then if you have a sliding scale, it ceases to be a question of ultimate loss to the holder of the whisky, and only a question as to the possible loss of interest on the capital that he has invested in it. For instance, a man has one hundred thousand barrels of whisky; you tax him twenty cents a gallon on it, and he has paid ninety cents a gallon for it. That makes the price to him \$1.10. If you impose a sliding scale, and he is able to hold on to it until your taxes raise the price of all whisky to \$1.10, he can then sell without loss; and it becomes merely a question of interest, and of holding it for a few months longer. In that point of view I have called the attention of some members of the House to the propriety of our changing partially the sliding scale adopted by the Senate; that we retain it as they provide it up to the 1st of July, and then, either on the 1st of October or the 1st of January, raise it if necessary to one dollar a gallon in lieu of eighty cents, so that the public and the distillers may know in advance what tax we are likely to assess on spirits next year.

I differ entirely with the gentleman from Ohio [Mr. Cox] as to the proposed tax being excessive. I doubt if he can point to any country in the world which has anything like a large internal revenue, where whisky is taxed as low as we tax it or even as low as one dollar a gallon. But this proposition of a sliding scale will save every capitalist who has money invested in whisky if he will continue to hold it for a few months longer. The stock on hand, as represented by the gentleman from Pennsylvania, [Mr. STEVENS], is two hundred thousand barrels. Be it more or less, it makes a stock of four or eight months' consumption on hand before dealers are compelled to buy the new stock from distillers. As soon as that stock is exhausted the cost of the article comes up to the figure which the holder of accumulated stock requires to save him from loss. That will be the effect of a well-adjusted amendment of this sort. For that reason I am in favor of the sliding scale, alike for the benefit of distillers and for the benefit of holders of accumulated stock. I am also persistently in favor of a reasonable tax, of twenty or thirty cents, on the stock on hand, to enable distillers to go on against the otherwise intolerable competition that they would experience from the holders of the stock on hand. It is not merely that the distillers have got on hand stocks of grain to distill, they have also large amounts of money invested in the cattle that they feed, in the hogs

that they feed, in the fuel that they use in carrying on their operations.

Since I have last spoken on this subject in the Committee of the Whole on the state of the Union, I have had representations from distillers for the first time sustaining these arguments, and showing as clearly to my mind as anything ever has been demonstrated to me that the taxation of the whisky on hand is for their business practically a necessity. They cannot turn their cattle off now, nor can they turn away the hogs they are feeding. They cannot afford to shut up their distilleries, for they tell me that to shut up the distilleries for six months is almost equivalent to their destruction; that they must have some protection, if this increased rate upon the article to be manufactured is determined upon, to enable them to run. One of them tells me that he thinks twenty cents per gallon on the stock on hand will enable the smaller distilleries, of which I spoke in the beginning of my remarks, to continue to run, if the House is not disposed to make a higher rate.

For these reasons I do not ask that the House shall now go into a careful examination of the bill in all its details; but I ask that they shall take such order upon the most important feature of the bill as shall indicate their determination in regard to taxing stocks on hand. If the vote is to non-concur, I hope the whole bill may go to a committee of conference; and I state from information which is before me, and which comes to me as it comes to other members of the House, that the Senate will be disposed to support in part the proposition of the House, as the House will be disposed to support in part the position of the Senate.

For these reasons, I repeat my hope that when the question is put it will be put in such form as shall test the opinion of the House upon concurring or non-concurring in the leading proposition of the bill, which is, as every gentleman knows, that relating to the imposition of an additional tax upon the stock of whisky on hand. If it were proper I would move to amend the motion of my colleague on the Committee of Ways and Means so as to non-concur in the amendments of the Senate, and ask for a committee of conference, for the purpose, as I have suggested, of revising the whole bill and making all its measures harmonize each with the other; it being understood that a vote to non-concur is a vote to adhere to the action of the House in imposing an additional tax upon the stock on hand. If the vote is to concur, the result will speak for itself.

Mr. MALLORY. I do not intend to discuss the provisions of this bill; the State from which I come has for the present but very little interest in it, and I am willing to let those who are interested in it decide to a great extent the features of the bill. I rise, however, to say that I am opposed to an increased tax upon the whisky on hand in the United States; but, sir, there are other provisions in the bill as it comes from the Senate which I desire to see modified, and rather than lose the opportunity of obtaining some modification I shall feel constrained to support the proposition of the gentleman from Iowa, and vote to non-concur in the amendments of the Senate.

Mr. WASHBURN, of Illinois. I understand that I introduced a motion which is now before the House to non-concur and ask a committee of conference.

The SPEAKER. The Chair will state that the first question will be upon the amendments of the Senate; that motion takes precedence of a motion to non-concur.

Mr. WASHBURN, of Illinois. Well, sir, I desire to call the attention of the House to the motion I have made.

Mr. MALLORY. I have not yielded the floor. The gentleman from Illinois is speaking without authority. I call him to order.

Mr. WASHBURN, of Illinois. I have no doubt the gentleman from Kentucky would yield to me if I asked him.

Mr. MALLORY. If you ask me, I will yield to you.

Mr. WASHBURN, of Illinois. My friend is always so polite I know he would grant anything.

Mr. MALLORY. I yield the floor to the gentleman from Illinois.

Mr. WASHBURN, of Illinois. I have already said all I intended to. I did not intend to

interrupt the gentleman, and beg his pardon. [Laughter.]

Mr. MALLORY. So that if it is in order I would move that the House concur in certain amendments with modifications, and non-concur in others.

The SPEAKER. The gentleman from Kentucky is familiar with the rules, and knows that a vote can be taken upon concurring in the Senate amendments as a whole only by unanimous consent. The gentleman has the right to have a vote upon concurring in any separate amendment of the Senate, and when the House has reached the amendment to which he refers, it will be in order if the previous question shall not have been called to move to concur with an amendment.

Mr. MALLORY. I do not expect to be able to make the motion in order, and I have therefore taken this opportunity to say that I am in favor of modifying the bill of the Senate.

The SPEAKER. The motion will be in order if the previous question shall not have been called when the House reaches the amendment the gentleman desires to amend.

Mr. MALLORY. I desire, if I can do so, to so amend the amendment imposing an increased tax upon whisky as that there shall be no increased tax upon whisky to be manufactured from and after the passage of this bill until the 1st of January next, and that then the tax shall be seventy cents per gallon.

The SPEAKER. The Chair will say that the first amendment of the Senate is now the only one before the House.

Mr. MALLORY. I do not ask the permission of the House. I presume that the House will not give it; and I am not in the habit of asking unanimous consent for anything. I would be glad to see the provision adopted. I would like to give the large distillers time to sell their swill. I would like to give them time to dispose of the large material which they laid in under the provisions of the law. I do not think that they could do it in a shorter time. I do not believe any such amendment as this will be passed, and I do not believe when the opportunity occurs that I shall move it.

Mr. Speaker, I have no great interest in this matter as a Representative from Kentucky, because under the orders of the military authority we are prohibited in that State from making whisky. I do not know how soon it will be before we will be prohibited from drinking it. [Laughter.]

I wish to state before taking my seat, that in the Journal I am recorded in favor of the amendment of the gentleman from New York [Mr. FERNANDO WOOD] when he originally offered it. I wish to state that I voted against that amendment, and that when it was carried I voted against the bill because that amendment was in it. That was my position. In the Globe I was made to favor the amendment of the gentleman from New York, when I voted against it, and I ask that the record shall be corrected.

A MEMBER. It is in the Journal in the same way.

Mr. MALLORY. If that be so, I hope that I will be permitted to make a motion correcting the Journal in that respect. I was not here the next day on the reading of the Journal, and I did not pay attention when the yeas and nays were called over.

The SPEAKER. The gentleman is recorded as voting for the amendment of the gentleman from New York.

Mr. MALLORY. I voted against that amendment, and I ask that the Journal be corrected.

There was no objection, and the Journal was corrected accordingly.

Mr. VOORHEES. I desire, Mr. Speaker, briefly to give to the House some views which have occurred to my mind in connection with this important question. Having looked somewhat into the principle adopted by the former action of the House on this subject, I conceive it to be one of the most pernicious principles of legislation that has ever been thrust upon the country. Aside from the question of what this article is that is sought to be taxed, I desire to be heard for a few moments on the principle embraced in this motion. For whatever principle may be applied to the article of whisky may be applied as well to the article of manufactured cotton, or woolen, or any

other commodity of trade. If that is the issue, if this Congress is ready to do that, to make the man who has manufactured spirituous liquors under the promise that he shall pay a tax of twenty cents, pay forty cents in addition thereto, then let it be so. We have the same right, and, I trust, some day the power, to increase the tax upon manufactured cotton and woolen goods, after paying three per cent. for the privilege of manufacturing. Who would for one moment conceive that under the present revenue system, which taxes eastern manufactures three per cent.; we have the right, after they have produced the goods and thrust them upon the market, to tax them ten per cent. more?

Sir, I will call the attention of the House to the fact that never in the history of this country, or any other enlightened and civilized country, was such a principle of revenue declared.

Mr. FERNANDO WOOD. Will the gentleman allow me to ask him a question?

Mr. VOORHEES. Certainly.

Mr. FERNANDO WOOD. I desire to ask the gentleman whether it has not been the practice to tax articles grown or produced in the raw state, and subsequently, and after it has entered into articles of manufacture, to tax it again? Has not that been the fact under the practice of this Government?

Mr. VOORHEES. No, sir; no such principle has ever been asserted; and if such a thing has ever been done at all it has been only as an incident to taxation. I here assert that neither England nor America has ever laid down the principle of inducing the manufacture of an article by a certain amount of license to be paid, and after the manufactured article was produced of laying an additional tax on it for the privilege of selling. It is an unjust, an unfair, and a fraudulent practice upon a man who has been induced to invest his means, to hire the services of laborers, to give his energy, money, and time to the production of this article and then retax it, as we propose to here.

Mr. FERNANDO WOOD. One more question.

Mr. VOORHEES. Yes, sir.

Mr. FERNANDO WOOD. I wish to know whether the law, as it now exists, does not lay a tax of twenty cents upon the distillation; and whether the law now proposed has not this distinction, that it proposes to lay a tax of sixty cents upon the article on hand for sale?

Mr. VOORHEES. If the gentleman from New York will tell me what the article of whisky is distilled for except for sale, I will see the pertinency of his question. The twenty cents imposed upon the article for the purpose of allowing it to be distilled is for the very purpose of allowing it to be sold. And the forty cents additional you propose is for the same purpose—for the privilege of selling.

Mr. KASSON. I desire to call the attention of the gentleman to the fact that the tax now proposed is not for the past production, nor is it collected at the time of the production. It is a tax to be collected after it is sold, or removed for consumption or sale. We propose to increase the tax on the current products of the distiller, as such, only after the law goes into effect, not retroactively.

I repeat, the fact to which I wish particularly to call the attention of the gentleman is, that the debate now turns upon taxing whisky on hand for sale. Nothing additional is charged now in the nature of a license for the past production of the distillery. The point we aim our arguments at is that the very producing interest in behalf of which the gentleman speaks demands this kind of legislation; and I beg leave to read a half dozen lines from a gentleman, a dealer in Boston. He says:

"I have noticed the amendments the Senate have made to the liquor tax as passed by the House of Representatives, and being well posted in these matters, I thought I would give you my views on the subject, (for what they are worth,) which are, that unless the liquor on hand held by distillers and speculators, chiefly by the latter, is taxed, the Government will get but a very small sum from the New England States for two years to come. The quantity held is immense, and is increasing daily. I have held conversation with two of our distillers, who have not the means to hold on, who concur in my views on the subject entirely."

Mr. VOORHEES. I am very much obliged to the gentleman from Iowa for furnishing the views of his friend from Boston, and as his friend

from Boston. remarks that he tenders them for what they are worth, I accept them in that light; and inasmuch as I think them worth very little, I will proceed to answer a question of more importance, propounded by the gentleman from Iowa himself; and that is the question attempted to be raised by the gentleman from New York [Mr. FERNANDO WOOD] and followed up by the gentleman from Iowa, that there is a distinction between licensing a distillery and laying a tax upon the right of sale. Now I understand that twenty cents was in the first place laid upon this article, in order, when paid, to confer the privilege of manufacturing and selling the article. The amendment of the gentleman from New York follows the very language of the original bill in conferring the same privilege by payment of this additional tax. In other words, twenty cents is paid in the first place for the right of distilling and taking the products into the market and disposing of them for money. So the original bill expresses itself.

The amendment of the gentleman from New York imposes this additional tax of forty cents for the same privilege, expressed in the same words. I oppose this whole thing upon principle. If you have a right to go back and touch a man's vested rights upon one article of trade you have a right to do it upon all; and I reiterate the statement which I have already made, that no enlightened country has ever done so. This country has never done it before, if it shall do it now. England has never done it; and our Constitution, in my judgment, expressly forbids it.

Mr. KASSON. I ask pardon of the gentleman for requesting again to make a statement to him in respect to England.

Mr. VOORHEES. I yield to the gentleman. Mr. KASSON. I stated when this subject was before the Committee of the Whole, with the English statute before me, from which I read—I do not know whether the gentleman was present on that occasion—that a law of the English Parliament passed on the 30th of August imposed a rate retroactively, taking effect in the month of March, I think, and another still higher rate taking effect in the month of July upon the former products, with express provisions to provide for sales made on time by compelling the purchaser to pay the increased tax or duty.

I make this statement to correct what I think is an error of observation on the part of the gentleman touching the practice of the English Government on this subject.

I wish to say further, if the gentleman will permit me, that the proposition now before the House is not to tax the distiller more than twenty cents per gallon for the running of his distillery heretofore on products which have been sold or may be sold to-day, but to tax the products of the distillery after this act goes into effect.

Mr. STEVENS. I desire, with the permission of the gentleman from Indiana, to ask the gentleman from Iowa one question.

Mr. VOORHEES. Certainly.

Mr. STEVENS. Suppose a distiller has not sold his product, but has paid his tax on it from month to month, and has a hundred or a thousand barrels on hand; do I understand the gentleman to say that the bill as it passed the House would not tax that quantity the additional forty cents per gallon?

Mr. KASSON. No, sir. The stock accumulated in the distillery will be reached, not as the product of the distillery to meet current demands of trade, but as a stock of merchandise on hand, an investment of money. The ground I take is distinctly that capitalists ought not to be permitted to make any investments of money which will be beyond the reach of annual taxation, if the necessity of the Government requires increased rates of taxation, whether in whisky or in other articles of trade.

Mr. STEVENS. That is to say, the distiller must sell all his whisky while it is green. [Laughter.]

Mr. KASSON. He will be green if he does not. [Laughter.]

Mr. VOORHEES. I wish to present this matter to the House in the order in which it presents itself to my mind. As to the question of fact raised between the gentleman from Iowa and the gentleman from Pennsylvania, I may touch on that presently. But upon the historical question pending between the gentleman from Iowa and

myself, I understand it to be as I stated. I understand it to be so from my own observation and from a very high authority with me—the statement of the careful and learned chairman of the Finance Committee of the Senate, [Mr. FESSENDEN.] I have noticed his statement upon this point, and it is that no country claiming an enlightened jurisprudence has ever resorted to this mode of taxation.

But, Mr. Speaker, if all the nations of the earth had sanctioned it, it would not be relieved of its inherent injustice; and the framers of our Constitution, taking that view of the question, I think have met all such laws as this by an express negative. It may not occur so to other gentlemen, but it occurs to me that this is plainly an *ex post facto* law. It is true that an *ex post facto* law properly applies to a criminal proceeding, but the principle obtains in every affair of life and in relation to every vested right. If this is not such a law in principle, pray tell me what an *ex post facto* law is. An *ex post facto* law, by the very terms used to signify such a law, is a measure of legislation reaching backward and touching vested rights. Whenever any man or any class of the community has obtained vested rights under the law, any law thereafter impairing those rights, nullifying them, abrogating them, is to all intents and purposes, in spirit and in practice, an *ex post facto* law. Look at it in that light. Have these men got vested rights in this property? Have they obtained them by paying to the Government the contract price agreed upon for the carrying on of their business?

The plain fact comes back to a legal mind that these men have paid the price of the privilege which they enjoyed, that of making whisky and selling it. The price of the privilege was to be twenty cents a gallon. That they have paid; and you now come to them and tell them that before they can enjoy this privilege which they were told by the former law they could have, they must respond to the extortionate demand made upon them by the amendment of the gentleman from New York, [Mr. FERNANDO WOOD.]

It is a question that rises up between citizen and his Government. If this Government is to set an example of broken faith, disregarding its own bounden obligations, it will go far to loosen the bonds of allegiance which an honest people now recognize to their Government. When they find that that Government does not keep its own allegiance to them they will no longer feel their own binding upon them. Governments and citizens have reciprocal duties. The citizen owes the Government a duty. The Government owes the citizen a duty; and when one fails, the other has a right to fail. Society is a contract. Government is a contract. The consideration of allegiance and duty on the part of the citizen is the protection and good faith of the Government.

But, sir, I do not stand on that question without authority. The Supreme Court of the United States has decided, in an exactly analogous case, that such legislation as that in which we are now engaged is unconstitutional. In a case in the Supreme Court, coming up from the State of Maryland, a question was decided embracing this point. The Government had laid an impost duty on foreign goods. Foreign goods were landed at the port of Baltimore, and the impost duty was paid upon them. The State of Maryland undertook to charge something for a license to sell the goods within its borders. Is not that exactly parallel to this? Here is a right obtained at the customhouse in the first instance, and then another legislation comes in and says that it will charge an additional license for doing that which the law authorized the man to do on paying the first rate of duty. The Supreme Court of the United States decided that the right in the importer was a vested right, and that the subsequent legislation attempted was in the nature of an *ex post facto* law, disturbing vested rights.

Sir, I say to this House, this whole legislation is null. It will not stand for a moment before any intelligent judicial tribunal. The light which the Constitution sheds on the rights of a citizen under his Government is conclusive to any legal mind.

But now, Mr. Speaker, let me touch on some points raised by the gentleman from Iowa. How will this law work on this interest? That is the question which he tenders. Aside from the abstract legal right how will it work? I assert, sir,

that in principle it is wrong; and I stand here to prove that in practice it is inexpedient, impolitic, and unjust. First let me call the attention of the House to the main question. You want money. You want revenue. You want the sinews of war. How much do you suppose you are going to get by breaking the faith of the Government with the citizen?

One would suppose by the clamorous zeal which the advocates of this measure evince on this floor that you were going to get out of this tax enough to close up the war, to pay the public debt, and to indemnify the people of the country for the losses which they have sustained. What is the fact? Why, sir, the census of 1860 shows that in the States now loyal to this Government some eighty million gallons of spirituous liquors were distilled. On that basis you have some twenty million gallons distilled in any period of ninety days since that time; and it is a liberal estimate, derived from experience, that perhaps one half of that quantity is now on hand.

A word here upon this point. It seems that everybody who holds a stock of liquors on hand is a speculator. Why, sir, I say to the House that *ex necessitate*, from the very force of our circumstances, especially in the West, the distiller must be caught with a large stock on hand. For instance, in the spell of cold weather that occurred a short time since, transportation was almost entirely suspended in the West, and the distiller, who was manufacturing liquors, could not get them to market, and perforce they have remained on his hands; and because of this misfortune you have caught him, and by this law you propose to rob him.

Mr. FERNANDO WOOD. If the gentleman will permit me I desire, on this question of the quantity on hand in the East to be affected by this provision, to read a single item from the list of prices current in New York, from which it appears that there arrived in the city of New York during the months of September, October, November, and December, two million seven hundred and ninety three thousand eight hundred and seventy gallons of whisky.

Mr. VOORHEES. What of that? Suppose you take the quantity at ten million gallons—half the amount I have estimated as the whole product of the manufacture in the country for ninety days—how much do you suppose your proposed tax would pour into the exhausted Treasury of the nation? Well, it will yield \$4,000,000, and that will carry on this Government about thirty-eight hours.

But you do not put all that into the hands of the Government. You increase the large swarm of officers by which revenue is collected, and the most odious class of officers to the American people are the excisemen. You are to increase and swell up the number of excisemen for the collection of this unjust tax, a tax that will not be willingly paid. The humblest mind in the nation knows that it is an unjust law and will resist it. The humblest mind in the land knows that the Constitution confers no privilege upon the Government to take from him his rights. You will have an angry contest then in getting this money; you will have to meet the most expensive litigation; you will have to pay this swarm of officers, and you will not get into the Treasury out of this tax which you propose to levy more than \$2,000,000. And that would not run this Government one day; it did not a year ago, as I proved, I believe, to my friend from Massachusetts [Mr. DAWES] in a contest between us on this floor in regard to the Government expenses at that time.

Therefore, for the sake of a mere one day's expenses of the Government, you will spread dismay and disaffection, if it does not result in bloodshed, throughout the country by this violation of the Constitution of the country and of the faith of the Government. That is what you will do if you persist in this proposed legislation. Are you ready to sanction it?

Remember, too, another thing. This is but once. You will have killed the goose that laid the golden egg; you cannot catch these men again; you grab \$2,000,000 this time, but there is an end of it.

But who do you affect by this legislation? There are three, perhaps four, classes who will be affected by this species of legislation. First,

the distiller; second, the speculator; third, the retailer; and fourth, the consumer. And I here aver that nine out of every ten gallons of liquor which will be affected by this tax are in the hands of the distiller. But suppose it were not so, who so mean as to be envious of another man's prosperity? I speak with entire respect for the opinions of those who are opposed to me when I say that the effect of this legislation is to strike down men who have engaged in a legitimate business transaction. Sir, do not ask me to be a party to any such operation—not certainly for so small a pittance as the Government will realize from this scheme.

If a man has invested his money in whisky with the view that it may rise in price, he has done no more than is done in every other article in every branch of trade, no more than as an honest man he had a right to do; and, having a right to do so, in my judgment I would not be an honest man if I were to interfere with him. Where is our right to do it because some man is going to make a little money? Suppose some man is going to speculate, what is it your business? Where is your right to step between him and his legitimate trade? Conceding that every gallon of this liquor was in the hands of speculators, in the hands of those who bought it to sell at a profit, that would no more shake the principle which prevails in my mind than it would change absolute right into absolute wrong.

And, Mr. Speaker, is this House prepared to send excise officers all over the land to the retailers, to the man who has bought in his legitimate business? And when I say legitimate, I mean lawful. I stop not to make temperance speeches here. I stop not to discuss and split hairs with my friend from New York [Mr. FERNANDO WOOD] or anybody else on the morality of this question. I try it as any other question of business and property is tried. I shall take the instance of the humble retailer who has bought his barrel and is retailing it at the corner of some street in some town of the West or the East. He has paid his twenty cents for the right to sell. Would you like to be the exciseman sent to tell that retailer that he has to pay forty cents in addition to the twenty? There is not a man in this wide land but will cry shame in your face at this injustice. There is where the retailers stand.

Mr. Speaker, I have laid before the House the views which will govern my vote on this subject. I shall vote to concur in the Senate amendment. I have voted against this bill. I have to vote for it as a choice now; and in voting to concur in the Senate amendments shall vote between the original bill of this House and the shape in which it comes now. There can be no doubt in my mind as to the propriety of that course on the part of the opponents of the measure.

I look upon this as a matter of grave importance. It is the assertion of an obnoxious and unjust principle. You cannot come to a compromise on this subject. You cannot compromise away vested rights. If you tell the citizen that he has no protection against this sort of taxation, you have done him all the harm that you can do him. The man who stands upon principle would pay sixty as soon as twenty cents, for if you can lay twenty the exigencies of the revenue will call upon you on some other occasion to levy forty cents or one dollar. If it is right to lay twenty, it is right to lay forty for the revenue of the country. If it is right to touch it at all, it is right to go further and to get all you can. It is wrong *in toto*. It is the assertion of a subversive principle to the private rights of citizens of this or any other country.

I have submitted, briefly as I could, the views I hold on this subject. I regret to differ from some of my friends on this side of the House, but looking on this as an evil I have felt constrained to say what I have.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question before he takes his seat?

Mr. VOORHEES. Certainly.

Mr. ELDRIDGE. Has not the Senate raised the tax upon the production of spirits to eighty cents per gallon; and I ask the gentleman whether he does not think that that is an injustice?

Mr. VOORHEES. I do not think that that is right. My vote stands recorded against it. I have voted against that provision because of its injustice. I have not stopped to argue the injus-

tice of this legislation to the Northwest alone, from which I come. I have not thought it worth while. There is much I could add, much I have felt, but I have contented myself with showing my disapprobation of that bill, and especially those exorbitant features adopted by a former vote of this House. I have the choice between the original bill, which I look upon as less obnoxious, and the bill as amended by the gentleman from New York.

Mr. ELDRIDGE. One further question.

Mr. VOORHEES. Yes, sir.

Mr. ELDRIDGE. I wish to know if my friend from Indiana is not now, in his argument, discriminating against the Northwest and in favor of the speculator who holds whisky?

Mr. VOORHEES. I do not think so, or I would not make the argument. This certainly is a very superfluous suggestion. My love for the Northwest is too well known to subject me to a question of that kind. I may be mistaken in what I am doing, but as to my motive there can be no doubt.

Mr. GRINNELL. When this matter was discussed originally upon the introduction of the bill, I had the honor to move an amendment proposing an additional tax of \$1 20 a gallon. I have not retracted from the position I then took; and I have, on reflection, been confirmed in my opinion that that was a proper rate of taxation also by numerous letters, I may say scores if not hundreds I have received, approving of my course upon the subject. I believe it is the duty of this House to adhere to its bill, and not accept the amendments proposed by the Senate. Why? I am not going to discuss the morality or immorality of this traffic. I did make some allusions on a previous occasion to the whisky business which distressed gentlemen upon the other side of the House; but I do not propose now to call in question their party, their "nurseries," or their principles. I would discuss this as a business question solely; yet I wish to make this remark, that I hold it to be a dereliction of duty on the part of Congress not to discourage a vicious habit—I may say an expensive habit—by making vice more expensive, and that will, to some degree, guide my legislation upon this question: holding, if I can make a habit known to be a vicious habit an expensive habit, I shall discourage it thereby.

I wish to say a word now in reply to the gentleman who has just taken his seat, [Mr. VOORHEES.] He has here, with great apparent feeling, uttered remarks in regard to the bankruptcy of a certain class in this country. Does the gentleman suppose that those who have gone into these speculations in whisky, and invested hundreds of thousands, have put their all into this business? The gentleman from New York, [Mr. FERNANDO WOOD,] who offered the amendment which is the principal cause of division, has answered the question. He knows personally gentlemen in the city of New York who have hundreds of thousands of dollars invested in whisky on speculation. Where do these and other gentlemen live? On Fifth avenue; not in Indiana or Iowa—in country places. They are the millionaires of this country and the bankers of the country; and the gentleman wishes those men who have made their millions out of the country to make their millions more out of these whisky speculations at the expense of the poorer patriotic class of taxpayers. I have no fears in regard to the rich stock-jobbers. When, perhaps, they have lost a little in money in speculation, they will have enough left, and let us turn our thoughts and sympathies in another direction; they do not need them.

The gentleman inquires what they will say who are now retailing whisky in this country; the men who are dealing it out by the glass disturb the gentleman. They will say it is a small practical joke, and will not regard this action as anything serious. What, I ask, does the man make who retails a gallon of whisky? I am told by those who are familiar with this matter that whisky is retailed at ten cents a glass. Never having bought a glass in my life I do not know what the charge is, but I am told that is the latest price. Well, then, he who retails it makes some five or six dollars a gallon, except his customers take wholesale drinks. And yet the gentleman from Indiana almost sheds tears over the hardship imposed upon such men, and comes here to intercede

for the retailer because we propose to lay a tax of forty cents upon his gallon of whisky out of which he makes five or six dollars. My sympathies and ideas of justice do not flow in that channel. I would rather restrict than extend that business. I would rather go to the man who is dealing out this damnation in small quantities, and say, "I am willing you should stop this business, because you lead in your train litigation, misery, woe, and everything the Government should desire to put away from the country." That is my answer to that position of the gentleman. Our sympathies should go with the people who desire to put money into the Treasury, if we must endure the curse of whisky.

Mr. ELDRIDGE. A single question.

Mr. GRINNELL. Yes, sir.

Mr. ELDRIDGE. I would like to know whether the gentleman from Iowa is after revenue or after the gentleman from New York?

Mr. GRINNELL. I am after revenue, and also after the whisky-drinking constituents of the gentlemen from New York and Wisconsin. I would like to reach the foe of this country, and the man who retails whisky to the Democrats who support whisky sentiments. [Laughter.] Is the gentleman answered?

Mr. ELDRIDGE. Another question. I would like to know whether the gentleman is after the Democrats for the sake of getting a drink or not?

Mr. GRINNELL. After the Democrats in this case only by indirection. I intend to look after them by direction by and by, but not to-day.

Now, sir, this is a practical question of money. As I estimate it, it involves the question of \$50,000 to my district alone, a district of one hundred and thirty-four thousand people. It is a question whether this money shall come out of the pockets of the speculators, bankers, millionaires, and the rich of the country, or be drawn from the pockets of the people who live upon their farms. That is the practical question, and I, for one, have no hesitation in deciding it.

If, as the gentleman from Indiana [Mr. VOORHEES] says, the law is unconstitutional, I am willing to leave that matter to the decision of the courts. I believe that he has great respect for the courts of the country—much greater than I have for some of them—and I am willing to leave that question, if there is doubt, where it belongs. But, sir, I happened to be in the Senate when this matter was under discussion, and I heard an honorable Senator, once Attorney General of the United States, remark that, in his opinion, there was no difficulty upon this question, and that there was no constitutional prohibition and no constitutional objection to retaxing whisky. I give that opinion of an ex-Attorney General of the United States in opposition to the opinion of the gentleman from Indiana who has just taken his seat, since I do not propose to be frightened out of my propriety or my vote in this matter by any appeals in regard to the unconstitutionality of the act. Let us pass the law, get the revenue, and if any are wronged they can find redress.

Now, the sum involved is large. It is not less than eight or ten million dollars, as I understand from those who have written to me on the subject, and who ought to know. And perhaps I may as well say here that I have friends who would be injured pecuniarily by the passage of this bill, and good friends too, friends of my boyhood and of my manhood, whom it would be a pleasure to oblige; but can I yield to their appeals, although they say frankly that this is going to injure them, taking money in large amounts out of their pockets? No, sir; there is a higher principle involved; there is a question of revenue and a question of right, of duty, and I cannot yield to any such suggestions.

Sir, the exigency is great. We want this money and we know how we can get it. But the gentleman says that we are going to multiply the swarm of excisemen. Suppose we should add a hundred or even a thousand, what would that be compared with the raising by right and at once of eight or ten million dollars of revenue? It could not cost more than one or two hundred thousand dollars, and what percentage is that on the collection of \$10,000,000! No, sir; that objection is not well taken. There is no man who loves his country, no citizen who would see its Treasury filled, who would object to seeing these excisemen appointed to go forth and find who are the men who have

invested money for speculative purposes in this whisky which we propose to tax.

But the gentleman says that this legislation is unprecedented. The practice of Great Britain on the subject has been quoted, which proves that we do not want a precedent. If it is unprecedented, I answer the condition of the country is unprecedented; and I reply further that the article which we are proposing to tax is an exception to all of the articles manufactured in this country. It does not stand in the same class even with tobacco and the other luxuries of the country. It is useless as a beverage, it is unnecessary save for mechanical purposes, it is destructive to those who use it, and therefore we have a right to come directly to the article and wherever we can find it impose a penalty upon and raise money from those who use it. If, as the gentleman says, it will not decrease the use of it—and in that I differ from him—then I am acting for revenue as well as indirectly with a view to discourage the use of this article and promote happiness and morality among the millions.

It has been said in this discussion to-day that we are doing injustice to those who hold this liquor on hand and who purchased it for speculation. Grant that they may not make as much money, but where are my constituents engaged in distilling? There is a large amount of whisky manufactured in my district—I wish there were none manufactured or consumed—but what is the condition of those who are engaged in this manufacture? They are not large manufacturers. They sell what they manufacture with little delay. As soon as a few loads are manufactured, they are sent off to St. Louis, Chicago, or New York. What must be their appeal; what their interest? Why, "if you now increase the tax on whisky to be manufactured when corn has risen in price and labor is more expensive and impose more on that now in store and held by speculators, you virtually destroy our business. You put us into the hands of the holders of the stocks for the next year or two, and if you stop our distilling now, it is tantamount to winding up our business. There is no distiller in the land, unless one who is very rich, who can afford to suspend business for a year; it would involve bankruptcy." That is the argument on the other side not to tax. The amendment adopted by the House does justice to those who are engaged in the business, to those who have their capital invested in it, and to all who are willing to pay their share of the tax. It works injustice to none.

The question really resolves into this, whether we are willing to forego the advantage of the increased tax, and give it to the speculators. I say, increase the tax first, and then impose it on all the whisky now on hand and hereafter to be distilled. Let those who have been acting on the presumption that the duty would be increased, who have prepared themselves for the storm, who have anticipated the law, pay their share of the increased tax. I have received letters saying that this increase had been expected, that it has been for months the talk on "Change, in distillers' offices, and all over the land. And therefore it cannot be said that these speculators did not go into the business fully aware of the risk they were incurring.

My position, Mr. Speaker, which I believe cannot be controverted, is that we owe it to the country, we owe it to safe precedents, we owe it to the people, not to exempt from the payment of this tax a few men who are wallowing in wealth and luxury, and who have invested some of their surplus in whisky in anticipation of the increased duty. They will not thank us for leniency but will attribute it to our lack of sagacity. They will look upon us as having basely yielded to clamor outside of this Hall as well as in it, that we have yielded to speculators, to those who care not for the condition of the Treasury, but only for their own pockets. Sir, my course is clear. I shall vote to increase the tax to the eighty cents proposed by the Senate bill and to assess it upon all the stock on hand as only even justice to the holder and producer, and a measure of relief in the sum of millions of dollars to our Treasury.

Mr. J. C. ALLEN obtained the floor but yielded to Mr. Cox for a motion to adjourn.

HOMESTEAD LAW.

Mr. HIGBY, by unanimous consent, had taken from the Speaker's table a bill (S. No. 60)

amendatory of the homestead law, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. JULIAN, by unanimous consent, reported from the Committee on Public Lands a bill amendatory of the homestead law; which was read a first and second time, and ordered to be printed, and recommended to the Committee on Public Lands.

NAVY-YARD AT CAIRO.

Mr. W. J. ALLEN, by unanimous consent, introduced a bill to establish a navy-yard, depot, and marine hospital at Cairo, Illinois, which was read a first and second time, and referred to the Committee on Naval Affairs.

STATES IN REBELLION.

Mr. DAVIS, of Maryland. I ask unanimous consent to report a bill from the committee on rebellious States, and to have it printed, and postponed until to-morrow two weeks, after the morning hour.

Mr. BROOKS. I object to the postponement.

Mr. HOLMAN. I trust there will be no objection to the bill being reported and ordered to be printed, but not to be made a special order.

Mr. DAVIS, of Maryland. I ask to have it printed.

Mr. HOLMAN. And that the views of the minority may also be printed.

The SPEAKER. The proposition is that the bill be reported, printed, and postponed, with an opportunity to the minority of the committee to have their views printed. Is there objection?

Mr. BROOKS. I object to the postponement. I do not object to the report of the bill and to its recommittal.

Mr. HOLMAN. I appeal to the gentleman from New York to withdraw his objection.

Mr. BROOKS declined to do so.

Mr. DAVIS, of Maryland. Then I ask that the bill be printed and recommitted.

There being no objection,

Mr. DAVIS, of Maryland, from the committee on rebellious States, reported a bill to guaranty to certain States whose governments have been usurped or overthrown a republican form of government; which was read a first and second time, and ordered to be printed, and recommended to the committee.

WASHINGTON GUARDIAN SOCIETY.

Mr. RICE, of Maine, asked unanimous consent to report from the Committee on Public Buildings and Grounds a bill granting certain privileges to the Guardian Society of the District of Columbia.

Mr. WASHBURN, of Illinois. I insist on the motion to adjourn.

The motion was agreed to; and thereupon (at a quarter past four o'clock p. m.) the House adjourned.

IN SENATE.

TUESDAY, February 16, 1864.

Prayer by the Chaplain, Rev. Dr. SENDERLAND. The Journal of yesterday was read and approved.

SENATE CONTINGENT FUND.

Mr. CLARK. I ask the Senate to give me a moment's indulgence this morning to make a statement in regard to the expenditures of the contingent fund, about which there was some debate and controversy yesterday, and about which some statements were made that might be calculated to do injury to some persons, and to create the impression that the fund was wrongly administered.

I took occasion this morning to go into the Secretary's office and make a pretty full examination of that matter; for I confess I felt a little mortified that a fund under our control and examination should be in that confused condition. I am happy to be able to state that I did not find it so. I did not find that there has been any improper drawing from one fund to another except in one case only; and that was where there was a fund of \$52,164 51 to the credit of binding, from which there had been appropriated \$20,000 for the payment of the printing of the Globe. Mr. Rives wanted the money a little sooner than the appropriate fund could be used, and it was suggested at the Treasury Department that that fund might be anticipated; but the money is in another fund, and is to be replaced, so that it works no mischief to anybody. That is the only individual case I

could find or trace where there has been a transfer of balances or a drawing from one fund to another.

It was also stated by one of the members of the Finance Committee yesterday that bills were brought before the Secretary of the Senate and paid and were afterwards submitted to the Committee on Contingent Expenses for their examination and approval, making it appear almost a farce that the bills were submitted to the committee at all. But such has not been the practice, I am authorized to say, and in no one case that I can find have bills been submitted to the committee for approval except always before they were paid. I can find no instance where it has been done. When the year is through, as an auditing committee, we look over all the bills, and compare the vouchers with the accounts to see that they are properly vouched, and that is probably the reason why the statement was made. I desire to say that I have taken the pains to go and look the bills all over that have been paid out of the miscellaneous fund through the year, and I have not found one that in my judgment is extravagant or improper.

The person drawing did not comply with the requisition of the committee in having the oath put upon the bill as we required; but that was owing to the change of the disbursing clerk in the Secretary's office. Mr. Bowen, who was the disbursing clerk when the committee directed that to be done, went into another office, and the present clerk came in without knowing what had been the requirement of the committee, and so allowed it to go along; but I cannot find any trace or any appearance of any improper conduct on the part of any officer of the Senate.

The deficiency has arisen not so much from anything this year as from what has taken place before. I find that in the year 1862 there was a deficiency in the miscellaneous fund of \$19,111 76. Then that, instead of being paid in 1862, as it should have been, went over into the year 1863, and at the end of 1863 there was a deficiency of \$14,327 55; so that at the commencement of this fiscal year, on the 1st of July, there was a deficiency in the miscellaneous fund; and so far from what was appropriated, \$20,000, this year being deficient, it has paid the expenses so far or nearly so far along, and reduced the deficiency to \$10,000, reduced it quite \$4,000; and if it had not been for the deficiency of previous years there would have been no deficiency this year.

I make this statement because what was said yesterday might be calculated to do injustice to somebody, and I make it also in justice to the committee, because they have endeavored to see that that fund was appropriated properly. I cannot find any trace of malappropriation of the fund.

Mr. DIXON. When the statement was made yesterday by the honorable Senator from Ohio [Mr. SHERMAN] that it was in evidence before the Committee on Finance that the bills presented to the Committee on Contingent Expenses had already been paid before they were submitted for their consideration, I was very much surprised; but as he made it so confidently I was not prepared at that time to contradict it. I am very glad to hear the statement from the Senator from New Hampshire which he has now made. It is entirely in accordance with what I believe to be the facts in the case. The bills that are paid without being presented to the committee are the bills which are excepted in the amendment offered by the Senator from Ohio himself. They are certain payments which are provided for by law; for instance, the payment of pages and certain officers of the Senate, where provision is made by law and there is no doubt in regard to the payment. In those cases the payment is made by the Secretary of the Senate, as has always been the case; as was the case when the late Secretary, Mr. Dickinson, was in office. But wherever there is any doubt on any question, the bills, I believe, are always presented for approval to the Committee on Contingent Expenses. I will state that at this time there are some before the committee the propriety of which we are considering, and which have not yet been paid.

It was also stated yesterday that it was the habit of the Secretary of the Senate, or the disbursing clerk, to take a portion of one fund and appropriate it to the payment of other expenses. I believe that has not been the case. The Senator

from New Hampshire himself, I think, stated that even the fund appropriated for the payment of the compensation and mileage of Senators had been taken for certain contingent expenses. Now, sir, that payment is not made out of the contingent fund. The compensation and mileage of Senators are not paid out of the contingent fund at all; so that in no case would that money be appropriated to the payment of contingent expenses without a great violation of law.

I believe, sir, that the statement which the Senator from New Hampshire has just made is entirely correct. It is in accordance with my own view of the case, and I am very glad that he has made it.

Mr. SHERMAN. I did not hear the statement of the Senator from New Hampshire. I therefore do not know whether he called in question my statement of yesterday or not.

Mr. CLARK. I did in one respect, if the Senator from Ohio will hear me. I think the Senator was wrong in the impression that might have been created in regard to the action of the Committee on Contingent Expenses, when he said that the bills were paid first, and then passed to the committee for examination and approval. If that were so, as I stated at the time, it would make it appear somewhat farcical that they should be paid first and then approved. That is not so. Where there is any doubt about the bills they are passed to the committee before they are paid; but where there is no doubt, where they are clearly authorized by law, they are paid first, and on an examination of the accounts at the end of the quarter the vouchers are compared with the accounts; and that probably is what the Senator referred to, though what he said was calculated, perhaps, to give a wrong impression. I can find no trace where a bill by itself has been presented to the committee for their examination and approval after it has been paid, and I have examined very thoroughly in regard to it.

Mr. SHERMAN. I did not in my statement yesterday design to call in question the conduct of the Secretary of the Senate or of any officer of the Senate. I simply wished to state the facts as they appeared before the Committee on Finance; and I will state again, so that there may be no misunderstanding, that to explain this deficiency the paying teller of the Secretary of the Senate was called before the Committee on Finance and he did expressly say on examination that he paid the accounts before they were examined by the Committee on Contingent Expenses, and that he paid them after the appropriation was exhausted. He furnished us a written statement to show that when he came into office there was a deficiency in the contingent appropriation of nine thousand and some hundred dollars.

Mr. FESSENDEN. He mentioned Mr. Rives's account. That was not examined by the committee at all.

Mr. SHERMAN. He showed that when he came into office the contingent fund had been overdrawn by some nine thousand and odd hundred dollars, and was now overdrawn over ten thousand dollars. He said he had increased the deficiency a little. We asked him then the distinct question, "Out of what money did you pay this sum? How could you pay money after the appropriation was exhausted?" He at once replied that it was paid out of other appropriations that were used temporarily for the purpose until the deficiency was made up by subsequent appropriation. Upon inquiry whether this was the practice, he stated that it was the practice not only of his predecessor, but had been the practice for years; that he had examined and informed himself on that subject. He seemed to be a very honest and candid man, and he stated that he objected to the payment of these claims until he ascertained that it had been the custom, and he simply followed the custom.

I did not make the statement for the purpose of calling in question his accuracy, because my impressions of the paying teller were very favorable, nor the conduct of the Secretary of the Senate, whose attention, I presume, has not been called to it, but simply to show that it was necessary to guard by legislation this rather loose mode of doing business.

Mr. CLARK. I was not calling the attention of the Senate to it for the purpose of preventing legislation. I desire that there should be legisla-

tion; but I want to say to the Senator from Ohio that this morning I have been in conversation and examination with the clerk, and he says he was misunderstood by the Finance Committee on that point. He did not mean so to be misunderstood, and I can find only one instance where money has been drawn from any fund but the appropriate one.

But while I am up I will call the attention of the Senate to another practice which I think is a wrong one; and that is this: we appropriated \$42,790 67 for lithographing. The clerk, Mr. Wagner, supposed that he had that fund on hand, but on going to the Department he found on examination that the fund was very nearly exhausted, that \$40,000 of it had been withdrawn, not by him, not by the Secretary of the Senate, but that the officers at the Treasury Department had paid it out upon the requisition of Mr. Défrees, the Superintendent of Public Printing, for lithographing. The practice is wrong. I think it ought to go through the office of the Secretary of the Senate; else the Secretary of the Senate can never know what his fund is. That was done without his knowledge until the clerk went up there to see how the fund was, and supposing he had that fund, he found it was gone. That is clearly wrong. We find the officers of the Senate very ready indeed to comply with any suggestion made by the committee in regard to any of these matters.

COMMISSIONER OF PUBLIC BUILDINGS.

Mr. FOOT. I move to take up Senate bill No. 43, relating to the duties of the Commissioner of Public Buildings, with a view to recommit it to the Committee on Public Buildings and Grounds.

The motion was agreed to; and the Senate as in Committee of the Whole resumed the consideration of the bill (S. No. 43) relating to the office of Commissioner of Public Buildings.

Mr. FOOT. I move that it be recommitted to the Committee on Public Buildings and Grounds. The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a petition of citizens of Ohio, mostly ladies, praying for an amendment of the Constitution so that it shall not be construed in favor of slavery; which was referred to the select committee on slavery and freedmen.

Mr. POMEROY presented the petition of Edward Williams, praying for a pension; which was referred to the Committee on Pensions.

He also presented resolutions of the Legislature of Kansas in favor of a grant of lands to that State in lieu of the sixteenth and thirty-sixth sections sold for the benefit of certain Indian tribes; which were referred to the Committee on Public Lands.

Mr. DOOLITTLE. I present a memorial of the Chamber of Commerce of Milwaukee, Wisconsin, recommending the construction of a ship canal around the Falls of Niagara, on the American side; which I ask may be referred to the Committee on Military Affairs and the Militia, and be printed.

The memorial was so referred; and the motion to print was referred to the Committee on Printing.

BILL INTRODUCED.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 120) to amend an act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June 30, 1834; which was read twice by its title, and referred to the Committee on Indian Affairs.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed an enrolled joint resolution (H. R. No. 30) tendering the thanks of Congress to Major General W. T. Sherman; which was thereupon signed by the Vice President.

MILITARY ROAD IN OREGON.

Mr. HARDING. I move that the Senate postpone all prior orders, and take up Senate bill No. 24.

The motion was agreed to; and the bill (S. No. 24) granting lands to the State of Oregon to aid in the construction of a military road from the

Dalles of Columbia river to a point at or near the mouth of Owyhee river, was considered as in Committee of the Whole.

The VICE PRESIDENT. The bill will be read.

Mr. HENDRICKS. I think I can save the time of the Senate by the statement that the Committee on Public Lands have amended the two bills granting lands to the State of Oregon to aid in the construction of wagon roads, so as to make them conform to the bills of last year granting lands for similar purposes to the States of Michigan and Wisconsin, putting in all the safeguards and restrictions that are to be found in those two measures.

The Secretary read the bill. It proposes to grant to the State of Oregon, to aid in the construction of a military wagon road from the Dalles of Columbia river to a point on Snake river at or near the mouth of Owyhee river, alternate sections of public land, designated by even numbers, for three sections in width on each side of the road; and if it shall appear that the United States have, when the line or route of the road is definitely fixed, sold any section or any part thereof so granted, or that the right of preemption or homestead settlement has attached to the same, the Secretary of the Interior is to set apart from the public lands of the United States, as near to these even sections as may be, so much land as shall be equal to the lands the United States have sold, or otherwise appropriated, or to which the right of homestead settlement or preemption has attached. The lands thus granted and selected are to be held by the State of Oregon for the purpose stated, but the lands to be selected for, are in no case to be more than fifteen miles from the road. All lands heretofore reserved to the United States by act of Congress, or other competent authority, are to be reserved from the operation of the act, except so far as it may be found necessary to locate the route of the road through them, in which case the right of way is granted. The lands thus granted are to be disposed of by the Legislature of the State for the purpose stated, and for no other; and the road is to be and remain a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States. The road is to be constructed with such width, graduation, and bridges as to permit of its regular use as a wagon road, and in such other special manner as the State of Oregon may prescribe.

The first amendment of the Committee on Public Lands was in section one, line seven, after the word "by," to strike out "even" and insert "odd," so as to read, "alternate sections of public land designated by odd numbers."

The amendment was agreed to.

The next amendment was in line eight, after the word "road" to strike out:

And in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold any section or any part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, then it shall be the duty of the Secretary of the Interior to set apart from the public lands of the United States, as near to said even sections as may be, so much land as shall be equal to such lands as the United States have sold, or otherwise appropriated, or to which the right of homestead settlement or preemption has attached; which lands, granted and selected as aforesaid, shall be held by the State of Oregon for the purpose aforesaid: *Provided*, That lands to be selected for and on account thereof shall in no case be more than fifteen miles from said road.

And to insert in lieu thereof the following:

Provided, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatever.

The amendment was agreed to.

The next amendment was to insert as a new section:

SEC. 4. And be it further enacted, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: that a quantity of land, not exceeding thirty sections, for said road may be sold; and when the Governor of said State shall certify to the Secretary of the Interior that any ten continuous miles of said road are completed, then another quantity of land hereby granted, not to exceed thirty sections, may be sold; and so from time to time, until said road is completed; and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended,

and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time and passed.

On motion of Mr. HARDING, the bill (S. No. 23) granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the southern or eastern boundary of said State; was considered as in Committee of the Whole. It was drawn-in the same form as the preceding bill, the road to be from Eugene City, by way of the Middle Fork of the Willamette river and the most feasible pass in the Cascade range of mountains near Diamond peak, to the southern or eastern boundary of Oregon.

The first amendment of the Committee on Public Lands was in line seven of section one to strike out the words "southern or," so as to read, "to the eastern boundary of the State."

The amendment was agreed to.

The next amendment was in line nine of section one to strike out "even" and insert "odd," so as to read, "designated by odd numbers."

The amendment was agreed to.

The next amendment was to strike out from line ten to line twenty-three of section one in these words:

And in case it shall appear, when the line or route of said road is definitely fixed, that the United States have sold any section or any part thereof, granted as aforesaid, as that the right of preemption or homestead settlement has attached to the same, then it shall be the duty of the Secretary of the Interior to set apart from the public lands of the United States, as near to said even sections as may be, so much land as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the right of homestead settlement or preemption has attached, which lands, granted and selected as aforesaid, shall be held by the State of Oregon for the purpose aforesaid: *Provided*, That lands to be selected for and on account thereof shall in no case be more than fifteen miles from said road.

And to insert in lieu thereof:

Provided, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses; and the same shall be applied to no other purpose whatever.

The amendment was agreed to.

The next amendment was to add the following as an additional section:

Sec. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: that a quantity of land not exceeding thirty sections for said road may be sold; and when the Governor of said State shall certify to the Secretary of the Interior that any ten contiguous miles of said road are completed, then another quantity of land hereby granted, not to exceed thirty sections, may be sold; and so from time to time until said road is completed; and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time and passed. The title was amended by striking out the words "southern or" before "eastern."

WILLIAM PORTER AND WILLIAM LURKINS.

Mr. MORRILL. I move to take up for consideration Senate bill No. 39.

The motion was agreed to; and the bill (S. No. 39) for the relief of William Porter and William Lurkins was considered as in Committee of the Whole. The original bill introduced by Mr. Howe recited that the steam-tug B. F. Davidson was built in 1860 and the W. K. Muir in 1862, within the United States, on account of Henry C. Greenleaf, a citizen of the United States, and of William Lurkins, an alien, who has resided within the United States since 1845, having arrived a minor between sixteen and seventeen years, and declared his intentions to become a citizen on the 4th April, 1853, and who, believing himself to be a citizen of the United States, made the oath of citizenship and ownership required to procure the enrollment and license of the tugs at the port of Milwaukee, Wisconsin, on account of which the tugs have been seized by the collector of customs of that port; that Lurkins did, on the 15th August, 1863, obtain his second papers, and is now a lawfully naturalized citizen of the United States, and has applied to the Secretary of the Treasury to issue enrollments and licenses for these tugs to Lurkins and William Porter, a citizen of the United States, who is now the owner of the interest of Greenleaf, which application was denied for want of authority, with a

recommendation to apply to Congress for relief; and that the services of these tugs are indispensable to the marine of the port of Milwaukee; and it therefore proposed to authorize the collector of any port in the United States, on the application of the owner or owners of these tugs, being citizens of the United States, to enroll and license them in the same manner and upon the same terms as if Lurkins had been a citizen of the United States when the tugs were built; and to release the tugs and Lurkins from all penalties and forfeitures incurred by his taking the oaths and causing the tugs to be enrolled and licensed and run in the coasting trade.

The Committee on Commerce reported an amendment to strike out the entire bill, including the preamble, and to insert:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to grant the enrollment and license of the steam-tugs B. F. Davidson and W. K. Muir, now owned by William Porter and William Lurkins, of Milwaukee, in the State of Wisconsin, upon such terms, not inconsistent with law, as to him shall seem just and proper.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended to read: A bill to authorize the enrollment and license of the steam-tugs B. F. Davidson and W. K. Muir.

ALMOND D. FISK.

On motion of Mr. ANTHONY, Senate bill No. 112, for the relief of the heirs of Almond D. Fisk, was taken up and recommitted to the Committee on Patents and the Patent Office.

Mr. HOWE subsequently said: I move to reconsider the motion which was submitted just now by the Senator from Rhode Island. I was not aware what the bill was that the Senator asked to have recommitted, and he was under a misapprehension in supposing that I agreed to the recommitment of it. I do not wish it to be recommitted at present, because I am not sufficiently acquainted with the matter to be able to consent to that motion now. I have no objection to the motion to recommit being entered, if that is deemed desirable, but I wish the vote recommitting the bill to be reconsidered, and I understand the Senator has no objection to that.

The VICE PRESIDENT. The motion to reconsider is a privileged motion, and can be made; but that does not necessarily carry along with it the consideration of the motion at the present time.

Mr. HOWE. I understand that the Senator from Rhode Island consents to the reconsideration.

The VICE PRESIDENT. If there be no objection, then, the vote will be regarded as reconsidered, and that brings the bill before the Senate.

Mr. ANTHONY. I desire to state that I made the motion to recommit Senate bill No. 112 supposing that the motion had the assent of the Senator from Wisconsin, otherwise I should not have made it; but I do not wish that bill to be considered by the Senate until it has been recommitted. When the bill was brought up before I stated that I thought there was an adverse interest on the part of one of my constituents, but the Senate was told that the adverse interest was satisfied to have the bill passed here and contest it in the other House. That was an entire mistake, besides being, as the Senator from Illinois [Mr. TRUMBULL] remarked, an exceedingly loose way of transacting business.

There is an adverse interest, and it can be heard much better before the committee certainly than it can be here in the body. Of the merits of it I know nothing whatever. I merely want the parties to have a fair hearing; and I wish it to be understood that I do not desire to have the bill taken up before it shall be again considered by the committee; and although I now withdraw the motion at the request of the Senator from Wisconsin because I made it supposing that he agreed to it, I shall renew it again.

Mr. HOWE. I have no objection to that, but I wish simply to correct the Senator from Rhode Island as to what was stated when this bill was before the Senate a few days ago. If he understood that I stated that the adverse interest was content to let the bill be passed by the Senate, he

was mistaken. I recommended that the bill be passed by the Senate and let the contest be made in the other House.

Mr. ANTHONY. That might have been, but I understood it as I have stated. Let the bill go over for the present.

The VICE PRESIDENT. That course will be pursued.

STATUTES OF LIMITATION.

Mr. HARRIS. I move to postpone all prior orders and take up for consideration the bill (S. No. 42) repealing certain statutes of limitation.

The motion was agreed to; and the bill was considered as in Committee of the Whole. As originally introduced by Mr. WILSON, it proposed to repeal all statutes and laws limiting the time within which proceedings in criminal or civil courts or courts-martial may be had, so far as they relate to acts done, or crimes or misdemeanors committed, since January 1, 1860; and to repeal all provisions of any statute or laws which limit the time for any proceedings relating to abandonment, confiscation, or forfeiture of real or personal estate.

The Committee on the Judiciary proposed to amend the bill by striking out all after the enacting clause, and inserting:

That whenever, during the existence of the present rebellion, any action, civil or criminal, shall accrue against any person who, by reason of resistance to the execution of the laws of the United States, or the interruption of the ordinary course of judicial proceedings, cannot be served with process for the commencement of such action or the arrest of such person, or whenever, after such action, civil or criminal, shall have accrued, such person cannot, by reason of such resistance of the laws, or such interruption of judicial proceedings, be arrested or served with process for the commencement of the action, the time during which such person shall so be beyond the reach of legal process shall not be deemed or taken as any part of the time limited by law for the commencement of such action.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended to read: A bill in relation to the limitation of actions in certain cases.

COURTS IN WISCONSIN.

Mr. TRUMBULL. I move to take up Senate bill No. 55. It relates to the time of holding courts in Wisconsin, and has one or two other provisions in it that if passed at all should be called to the attention of the Senate at once.

The motion was agreed to; and the bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin was considered as in Committee of the Whole.

The VICE PRESIDENT. The bill will be read.

Mr. TRUMBULL. As the Committee on the Judiciary report a substitute for the original bill, I think it will be necessary only to read the substitute.

The VICE PRESIDENT. If there be no objection, the reading of the original bill will be dispensed with, and the amendment only will be read. The Chair hears no objection to this course.

The Secretary read the amendment of the Committee on the Judiciary, which was to strike out all after the enacting clause of the original bill and insert the following:

That the act entitled "An act to enable the district courts of the United States to issue execution and other final process in certain cases," approved March 3, 1863, be, and the same is hereby, repealed.

Sec. 2. *And be it further enacted*, That in all cases where in the district courts of the United States within and for the several districts of Texas, Florida, Wisconsin, Minnesota, Iowa, and Kansas had rendered judgments or decrees prior to the passage of an act approved July 15, 1862, creating circuit courts for said districts, which cases might have been brought, and could have been originally cognizable in a circuit court, the original papers and all other papers now on file in the district courts aforesaid shall be transferred into the clerk's office of the circuit court for the district in which said cases were heard and determined. And it shall be the duty of the district court clerks of said districts, respectively, to have said papers so removed. And it shall also be the duty of said district court clerks to transfer to the offices of the circuit court clerks aforesaid the books of records and journals of the district courts aforesaid, in which are any entries, orders, or proceedings affecting, or in any manner relating to cases which were of circuit court cognizance, or which might have been presented in a circuit court, after having first copied into a book, for that purpose provided, all entries, orders, or other proceedings which may be found in said books, journals, or records relating in any manner to cases which were not of circuit court cognizance, and which could not have been prosecuted in a circuit court.

SEC. 3. *And be it further enacted*, That for the necessary costs and expenses of this transfer of books and papers, and for the expense of procuring books to copy the entries and orders above mentioned, and for the copying of said record entries from the original book into the new one, at the same rate of compensation now allowed to clerks of courts for copies from their records, the clerks of the district courts shall be paid, out of any money in the Treasury of the United States not otherwise appropriated, upon the certificate of the judge of the district court.

SEC. 4. *And be it further enacted*, That the transcripts thus made into a new book, after said book shall have been certified by the clerk to be full and true copies from the original book, shall have the same force and effect as records as the originals; and that the clerks of the circuit courts aforesaid shall be the custodians of the books and papers transferred to their offices, and their certificate of a transcript of any said books or papers shall be received in evidence with the like effect as it made by the clerk of the court in which the proceedings were had.

SEC. 5. *And be it further enacted*, That the terms of the circuit and district courts of the United States for said district of Wisconsin shall hereafter be held as follows: at the city of Milwaukee, in said district, on the second Monday of April and the second Monday of September, and at the city of Madison, in said district, on the first Monday of January in each year, respectively. And all writs, process, and proceedings returnable to the terms of either of said courts as now fixed by law shall be deemed returnable, and shall be continued to the terms of said courts, respectively, as fixed by this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. The title was amended by adding the words, "and for other purposes."

WASHINGTON AQUEDUCT.

Mr. JOHNSON. Mr. President, there was a dispute between the United States and persons who claimed to be owners of certain water-rights in the Potomac, and it was agreed by the proper authorities representing the Government to leave it to arbitration. The arbitrators have rendered an award. The arbitrators were Judge Curtis, late of the Supreme Court, and four or five gentlemen of admitted character. The Secretary of the Interior tells us upon page 14 of his report that he has not paid the amount of the award, because he considered it very extravagant. I think there were three plans and three different places from which it was proposed to bring the water into the District. One cost more and one cost less than the rest, and the arbitrators awarded that the parties should be entitled, if one was adopted, to a certain sum, if the second was adopted, to a certain other sum, and if the third was adopted, to still another sum, and awarded for themselves as a compensation I think \$12,000. The terms of the reference, as I understand, authorized the arbitrators to fix their own compensation. I offer this resolution in order to get rid of the difficulty, whatever it may be:

Resolved, That the Committee on the District of Columbia inquire whether it is not the duty of the Secretary of the Interior to pay out of the existing appropriation for the completion of the aqueduct for supplying the District of Columbia with water the amount including expenses or any and what part of such award adjudged to be due to certain parties by the award referred to in the report of the Secretary of the Interior of the 5th of December, 1863.

The Senate by unanimous consent proceeded to consider the resolution.

Mr. GRIMES. I move to amend the resolution by substituting the Committee on Finance in place of the Committee on the District of Columbia. It is a matter with which the Committee on the District of Columbia has very little to do, and in regard to which it is not very well informed, and that is, whether certain fees should be paid, pretty large fees, as is alleged by the Secretary of the Interior, to arbitrators who have been selected by the Government.

Mr. JOHNSON. The member from Iowa perhaps is mistaken as to the meaning of what the Secretary says on the subject. He speaks of the entire award—the amount awarded to the parties who claim to be the proprietors, and the amount awarded to the arbitrators themselves. I do not see that the Committee on Finance have anything to do with it. The money is in the Treasury, and the question is whether it shall be paid out of the existing appropriation. I thought it proper that the subject should go to the Committee on the District of Columbia, and more especially as they have now before them I think a subject of the same description relating to the aqueduct in some way or other. Of course, however, I have no preference for one committee over the other.

Mr. GRIMES. According to the explanation which the Senator from Maryland has made, I misunderstood the reading of the report of the Secretary of the Interior; but connected with this subject is the payment of a large sum of money, as I understand, to the persons who claim water-rights in the Potomac river.

Mr. JOHNSON. Yes.

Mr. GRIMES. It seems to me that would more properly go to the Committee on Finance than to the Committee on the District of Columbia. I do not know the amount, but it is a very large amount, as I have been told, and I would rather that it should go to the committee who have charge of the money affairs of this country.

Mr. JOHNSON. I have no preference as to the committee; but I think the Committee on Finance have nothing to do with this matter. The money is in the Treasury. You have appropriated money for the purpose of completing this improvement; and the Secretary refuses to pay these claims out of that money, because he is of opinion that the amount awarded in the aggregate is too large. It may be or it may not be true. I only propose that the Committee on the District of Columbia, who have subjects connected with it under examination, shall investigate it. I have no objection to the Committee on Finance taking charge of it if they desire to do so; but they probably have enough to do already.

Mr. FESSENDEN. I object to this matter being sent to the Committee on Finance. We on that committee have enough to do in attending to our proper duties without being obliged to look into the affairs connected with the Washington aqueduct. If we had charge of everything relating to money going out of the Treasury we should have more than we could attend to. I do not know but that there may be some legal question connected with this matter, in which case it should go to the Committee on the Judiciary. [Laughter.]

The VICE PRESIDENT. The question is on the amendment of the Senator from Iowa to substitute the Committee on Finance for the Committee on the District of Columbia.

The amendment was rejected.

The resolution was agreed to.

SHEPHERD AND CALDWELL.

Mr. HENDERSON. I move to take up Senate bill No. 110.

Mr. WILSON. I believe the hour has arrived for the special order.

The VICE PRESIDENT. The special order of the day is now in order.

Mr. HENDERSON. I desire to say to the Senator that I have tried for several mornings to get this bill up; it is short, and has been unanimously reported by the Committee on Post Offices and Post Roads, and I must be out of the Senate to-morrow morning. I should like to have it taken up this morning.

The VICE PRESIDENT. The Chair will put the question on the motion of the Senator from Missouri, if there be no objection. The Chair hears none.

The motion was agreed to; and the bill (S. No. 110) for the relief of John H. Shepherd and Walter K. Caldwell, of Missouri, was considered as in Committee of the Whole.

Mr. HENDERSON. I ask that the amendment of the committee be simply read, as it is a substitute for the original bill.

The VICE PRESIDENT. With the consent of the Senate that course will be followed. The amendment will be read.

The Secretary read the amendment, which was to strike out all after the enacting clause and insert:

That the Postmaster General be instructed to allow and pay to the said Shepherd and Caldwell all sums of money remaining due and unpaid, and heretofore withheld by the Post Office Department, for carrying the mails during the years 1854 and 1855 on routes numbered 8818 and 8819, in the State of Missouri; said payments to be made for the time during which service was actually performed on said routes, at the rate of \$2,100 per year on route No. 8818, and at the rate of \$1,400 on route No. 8819, without making any deduction on account of the refusal of said contractors to enter into new contracts for performing extra service, or on account of relating the same. And the Postmaster General is further instructed to pay to said contractors any sums of money due them for carrying the mails on routes numbered 8819 and 8872, in said State, during the years aforesaid, and withheld by the Post Office Department on account of the rejecting of the two routes first named.

The amendment was agreed to.

Mr. SHERMAN. I should like to hear the report read. It seems to me an ordinary claim.

The Secretary commenced to read the report, and proceeded for some time.

Mr. SHERMAN. I withdraw my request for the reading of it. I cannot understand it. I suppose the committee have examined it.

The VICE PRESIDENT. The reading will be dispensed with.

Mr. GRIMES. I have not had an opportunity to read the bill through, but I believe there is no definite sum fixed in the bill that is to be paid to the parties for whose benefit it is to be passed, but it is left discretionary with the Postmaster General.

Mr. HENDERSON. I will state to the Senator that the amount is definitely fixed under the bill. The parties carried the mail from July, 1854, to about January 1, 1855, one route at \$1,560 a year, the other at \$2,100. If the report had been read a little further, the reason for this bill would have been seen. After they sent the bids here they found that they had made a mistake, and they immediately wrote to the Department asking to withdraw the bids; but instead of having them withdrawn they remained here and were accepted; that is to say, they proposed to withdraw that part of their proposition to carry daily mails instead of tri-weekly mails at a certain additional sum. The bids were accepted for doing tri-weekly service and they entered into contracts to that effect, and having performed the service for six months the Post Office Department then sent to the parties to enter into an additional contract for daily service. They refused to do that, and gave up the routes. Then the Post Office Department refused to pay them anything.

The letters were here withdrawing the bids before they were opened. I hold that a man has a perfect right to withdraw the bids when they have not been acted on; unquestionably so. It was the opinion unanimously of the Post Office Committee. But this money has been retained. It is about half of \$1,400 on one route, and half of \$2,100 on the other. I suppose that has been retained, making \$1,780, or in the neighborhood of that sum, that was retained on these two routes. They also had two other small routes. The Post Office Department, in order to make up for the amount that had been deducted for damages for their refusing the daily service and reletting the contracts, deducted also what was due on the small routes; and the bill provides that the amount which was withheld on these small horse routes shall also be paid. I suppose the whole amount will vary between one thousand seven hundred and two thousand dollars.

Mr. GRIMES. I have some recollection of this claim. I believe it has been here ever since I have been here, and a good while longer. I think it descended as an heirloom to the Senator from Missouri from his predecessor, (Mr. Green.)

Mr. HENDERSON. I do not think the question has ever been here in the Senate before. There was a bill introduced into the House of Representatives to pay the claim, and it was neglected there. It was unanimously reported by the Post Office Committee there and neglected. It never has been in the Senate to my knowledge. I have never heard of its being here before.

Mr. GRIMES. It is certainly my recollection that it has been here.

Mr. HENDERSON. A different claim may have been, but this claim, I think, has never been in this body before.

Mr. GRIMES. The main features of it were like this, then.

Mr. HENDERSON. I know nothing of the features of that.

Mr. GRIMES. It strikes me that this is one of the very class of claims that ought to be referred to the Court of Claims to adjudicate. We reorganized the Court of Claims a year ago, and gave them unlimited jurisdiction in cases of this kind; and it was understood at that time, and, indeed, expressly provided, that all questions of damages growing out of an express or an implied contract should go to that court, where they could be fairly investigated according to the settled rules in cases of this description. If we are going to keep up the Court of Claims, if we are going to be at the expense of paying five judges and three attorneys to represent the Government there why not send these claims there? It may be that two

or three gentlemen here may be satisfied as to the justness of this claim, but I am not satisfied myself from what I know of it, and from my recollection of it, sufficiently to vote for it, although I may be doing injustice to the claimants in this case by voting against it.

Mr. HENDERSON. You certainly would be. Mr. GRIMES. It ought to be referred to the tribunal that Congress has established for the purpose of adjudicating on precisely such cases as this. It has no business here.

Mr. HENDERSON. The Senator is evidently mistaken, and he has his mind prejudiced about some other claim of which I have no knowledge whatever. If there is any just claim now pending before either of these bodies or ever was pending before them, this is certainly one. I know the circumstances perfectly well, and it is a claim that ought long since to have been allowed and paid. These gentlemen are two most excellent farmers of my county, worthy, excellent gentlemen, and men who really, I suppose, ought never to have entered into business of this sort. They made a mistake in making out their bid, and after sending it here asked to withdraw it. Immediately thereafter contracts were entered into for tri-weekly service, leaving out that part which referred to daily service; the mistake had been made in the bid for daily service simply. They went on carrying the mail, supposing that that part of the bid for which the contract was made was the only part accepted. After having gone on and done service at an immense loss, as is well known to myself, the Post Office Department required them to enter into new contracts to do daily service; they refused, and then the whole amount due them was retained. The Second Assistant Postmaster General, Mr. McLellan, with this report submitted to him, says in a letter that the facts appear to be as stated in the report. If so, why send these parties to the Court of Claims? If the Government ever owed anything on earth it owes these men. It is a claim that ought to be paid; it is but just to these parties, it is but just to the Government, that it should be paid.

I hope the Senate will pass the bill. The facts were carefully examined by the Post Office Committee. No objection was made; no gentleman made any objection to it whatever. If there is anything in a committee's examining a claim this is entirely correct. It is but a small claim, and ought to be paid.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

AMENDMENT OF ENROLLMENT ACT.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives insisted upon its amendment to the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, disagreed to by the Senate, asked a conference on the disagreeing votes of the two Houses thereon, and appointed Mr. ROBERT C. SCHENCK of Ohio, Mr. FRANCIS KERNAN of New York, and Mr. HENRY C. DEMING of Connecticut, managers at the same on its part.

The Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate (No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; and,

On motion of Mr. WILSON, it was

Resolved, That the Senate insist upon its disagreement to the amendment of the House of Representatives to the said bill, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. WILSON, Mr. GRIMES, and Mr. NESMITH.

COLONIZATION IN TEXAS.

The VICE PRESIDENT. The special order now before the Senate is the unfinished business of yesterday, being Senate joint resolution No. 23, to equalize the pay of soldiers in the United States Army.

Mr. LANE, of Kansas. I hope the Senator from Massachusetts will not press that joint resolution now.

Mr. WILSON. If the Senator desires at this hour to go on with a speech, of course I shall give way to him; but as soon as he gets through I hope to have permission to call up the joint resolution and get it passed.

Mr. LANE, of Kansas. There is a special order for to-day, Senate bill No. 45, on which I desire to speak. I understand the Senator from Massachusetts is willing to have it taken up.

The VICE PRESIDENT. The Chair understands the Senator; but that does not dispose of the question before the Senate, which is the unfinished business of yesterday. It will require a motion to do it.

Mr. LANE, of Kansas. I move to postpone it.

The motion was agreed to; and the bill (S. No. 45) to set apart a portion of the State of Texas for the use of persons of African descent, was taken up and considered as in Committee of the Whole.

Mr. LANE, of Kansas. Mr. President, the present war of slavery against freedom first opened upon the plains of a State which I have the honor in part to represent; there the black flag of piracy was first displayed; for years the relentless war of despotism against liberty was waged with varied success, in disregard of the rules of civilized warfare. As an American, I must say, with profound humility and shame for my country, this unnatural and malignant war had the support of two Administrations, which expended influence and treasure without stint to corrupt the young settlements therein, and to fasten the corroding leprosy of this baleful institution on a free and independent people. In that contest against venial officials and a corrupt institution, we learned that slavery was "the sum of all villainies." And it was then we learned that the colored man possessed the qualities of the soldier.

Guided by this experience, and the knowledge thus obtained, immediately on the fall of Sumter I commenced urging in public speeches and writings the necessity of an emancipation proclamation and the arming of the blacks. I commenced this work as a pioneer, confident that the public sentiment of the country would finally indorse the proposition. Even at that early hour, in my intercourse with the President of the United States, I found him anxiously weighing the grave necessities I was urging, and, with mind and will self-poised, ready to hurl these reserved forces on the rebellion, at the juncture when public sentiment in the loyal States would sustain the act; for it must not be forgotten that such stupendous measures required a political and moral preparation in the public mind to justify such strides in the advance, else the whole fabric of northern society might have been shaken by a counter revolution. Their adoption required in advance the education of the loyal people of the free States to the necessity and wisdom of such measures. For generations the public mind had been taught to regard slavery as a thing sacred to the several States holding slaves; a thing too sacred to be criticised or touched by the stranger; while behind this blind of sacred right the traitor plotted his treason at his leisure, planned his schemes of rebellion, and hatched the political brood of vipers who have at last fastened on the fair form of our Republic, trusting, by their devilish skill and power, to strangle and slay the fairest form of civil government the world has yet seen. It was, therefore, no mean task to eradicate the teachings of many years, and bring the public mind up to the safe condition of support to measures such as proposed in the proclamations of emancipation, and arming the men of color in aid of those measures.

Here in this city, in April, 1861, after delivering a speech in favor of those two propositions, I was notified by many friends if I insisted upon it it would crush our party, and was warned that my life was in danger from the knife of the assassin. Even in my own State I was obliged to keep from public view, for months, the first colored troops we raised therein. And I here express the opinion that had either of these measures been adopted at that date, a counter revolution would have been inaugurated in the house of our own friends. It is well known to the truly able Senator from Ohio that when the proclamations were issued they came near throwing into the hands of the opponents of the Government the political power of the country, which at that date would have been equal to the with-

drawal of our armies from the field, the triumph of the rebellion, the overthrow of liberty, the disgrace and ruin of her defenders, while the hopes and liberal aspirations of earth's crushed millions would have been extinguished for generations to come; for the courts of Europe would have acknowledged the confederacy, and rejoiced in the decline of pure republicanism.

In my opinion, when the history of this Administration comes to be written, the proudest page therein will be the record of the fact that Mr. Lincoln had the self-possession, the wisdom, and sagacity to restrain himself and friends from issuing the emancipation proclamations and arming the blacks until public sentiment was well-nigh ripe to sustain him. To have acted thus before the 22d of September would have been to have acted too soon. It would have imperiled the political power of the Government, a matter we could not afford to lose then any more than now.

From the establishment of this nation to the present time, the hand of an all-wise Providence has been seen in directing our destinies. In doing this He has always furnished proper instruments. In founding the country He put forward a man of singular ability in mind and body, a type of the aristocratic age, to lead our armies and direct our deliberations. In this, the second great struggle for life and liberty, He has raised up in the economy of His providence a type of the republican age, a man of the people, uniting prudence and firmness, wisdom and simplicity, integrity and sagacity, generosity and elasticity of spirit, in a singular degree, with that practical knowledge of men and things which places him, head and shoulders, above his peers for all the purposes of government. In the midst of such a storm, with him as the pilot, the ship of State has thus far passed through the breakers which have threatened her on either hand; and posterity will admit to his honor that the most dangerous acts, and yet the most beneficent of his Administration, were the acts of September 22, 1862, and January 1, 1863.

The proclamations of these dates are not valuable because they freed the slaves at the time of their issue. They did no such thing. They reached no slaves within the lines of the enemy; and all the slaves of disloyal masters who were within our lines were free under the law. The country was complaining for lack of a policy, and none were more loud in their complaints than the Senator from Ohio. The proclamations were intended to supply that want of the country—a policy. By following this policy we know that this fearful, wasting struggle will result in a permanent peace, to us and those who come after us; that the cause of the rebellion is to be forever removed from the land, so that on the close of the war, or soon after, the stars and stripes shall float over the heads of none but freemen.

The proclamations of Fremont and Hunter amounted to nothing, except as indications of the course of public sentiment and the rapid ripening of opinion. Had they not been modified they would have been inoperative in freeing the slave. As a matter of course they furnished no general policy; they were but unauthorized efforts to do out of place and time what their superiors were carefully maturing and preparing to do at the proper time. Let it not be forgotten that Mr. Lincoln has had two great bodies of loyal men to carry with him in all his war measures—the party that elected him, and that which supported Judge Douglas and Messrs. Bell and Everett. The first has clamored for action in the direction of the most radical measures. This I know, for I have aided to swell that cry. The latter, following reluctantly at first, actuated, not by party zeal, but from a love of country and liberty, have followed Mr. Lincoln's lead when he has not gone too fast; and his wisdom and prudence have been shown in not breaking with them by going too fast, but in carrying them along with him and his measures.

The policy controlling the conduct of the war has been announced in the several proclamations of the President, and has been accepted by the loyal men of the country, together with that much dreaded measure, the arming of the blacks. This policy is being pressed forward with vigor and energy; and surely it is high time to arm our blacks in the defense of republican liberty when the chief imperialist of Europe has dared to export from

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Egypt Ethiopian soldiers, and plant them on our southern borders to aid him in his contest with the republicans of Mexico. Such a step, by such a man, is a note of warning to the people of this country, calling for prudential measures, yet measures in harmony with international peace. This is a time for careful and profound reflection on the movements of the armed millions that now crowd earth's surface, and our prayer to Almighty God is that no more such come this way, while duty requires us to arm to the teeth all who are capable of bearing arms in the defense of liberty and right.

Another step remains to be taken under the wise and beneficent policy of the Administration. The colored man is to be freed. To place this beyond question or doubt we must guard against his being reenslaved upon the reconstruction of the Union. This can only be done by an amendment of the Constitution, "declaring that neither slavery nor involuntary servitude, except for crime, shall be permitted in the land."

The black man freed, and his reenslavement rendered impossible by fundamental law, then comes the last step in the programme: to answer safely, correctly, and forever the question, What is our duty as legislators legislating for posterity? What is our duty toward this disfranchised race? Uneducated, dependent, they look to us as helpless infancy, requiring direction, protection, and to a great extent subsistence, and at this time instruction how to obtain it. Emancipation leaves them in the midst of unfriendly influences and an unfriendly people, who, being forced to accept the emancipation of their slaves, will by all means in their power seek to undo what you and your armies have done. It is proposed by some to settle them down on the old estates of the South; this, in view of the well-known temper of the southern masses, is of doubtful propriety, and will, in my opinion, result in a second civil commotion in the course of a few generations; nor will justice to the black man permit us to hide from our eyes the fact that his quiet requires a removal from the scene of his former servitude and degradation. I cannot do better than recite here the sentiment of the report of the committee on this bill, that the nation should make a reasonable effort to secure for the millions of freedmen proper homes in a habitable and desirable country on our southwestern border, where climate and country will be congenial to the wants of our people of color, and where, by acquiring an undisputed title to the soil and an independent local organization, they may enjoy the privileges of republican civilization, and there concentrate their whole strength for mutual improvement.

In exercising our judgment as legislators without prejudice or passion, and regarding the best interests of both races, we are free to say that it appears good policy for us to concentrate by every prudent means consistent with their free choice the large mass of our freedmen in the country named in this bill.

By this act we solve the question, What shall be done with the negro? which has troubled the dreams of anti-emancipationists, and, I have no doubt, actually retarded the work of emancipation heretofore.

The Territorial Committee very properly have declared that a strong desire for a title to the soil is a marked characteristic of the people of our country; and it is reasonable that the man of color should partake of this feeling. We presume that it will not be disputed that a quiet title thereto is indispensable to the proper development and improvement of any country whether in possession of whites or blacks, and that an unsettled title is the worst form of agitation that can afflict any family or race in time of peace—a condition to be deprecated, to be avoided. Wisely your committee express the fear that this will be the fate and future of the freedmen if they remain in the older States once slave, for the majority race, by the aid of courts and laws, will keep their rights and interests unsettled in each of those States, unless by fundamental enactment the government of those States should be placed in the hands of

colored men. This would be impossible if attempted; hence the immediate wants of the country, as well as common equity, impose upon the Government in its attempts to quiet the disturbed social structure of the South the necessity of founding a community where the men of color will be the majority race, possessing undisputed sovereignty over their own affairs, and all the rights which spring from eminent domain.

Observation and experience teach us that the black man cannot hold his ground against the grasping cupidity of the white so long as the theater of competition is confined to northern latitudes. Experience further teaches that the man of color is safe from the cupidity of the white man when the tropical climate becomes his ally and protection. When he has reached the point of the tropical or semi-tropical lands, the vigor of his constitution makes him lord of the soil, so that the destiny of the whole tropical belt, in our opinion, is to pass under the future empire of the educated and civilized children of our freedmen.

Mr. President, with these convictions, it appears to me expedient that we make an earnest effort to secure a country of sufficient capacity for the accommodation of four million persons, should so many wish to go thereto; for be it understood that we leave to all the right of choice to go or stay in the older States; yet, while doing this, we cannot refrain from expressing the conviction in the most formal and solemn manner that it is the duty of the man of color to remove with his family and effects to the land indicated in this bill, and to induce his people to accompany him, having in his mind the noble purpose to concentrate his race in that locality with the view of gaining the support, protection, and power that numbers will afford.

While we admit that there is now a large measure of sympathy for the colored race developed in the public mind by the antagonism of this war, and the struggles over him and his interests between the contending sections of the white race, yet on the close of the war, when human passions return to their former course, the anger of the white man is stilled, the passions and affections involved by this armed antagonism sink to repose, and the public mind returns to the various channels of business, commerce, and self-interest, the known cupidity of our race will again assert its sway and hold in abeyance the now well-developed sympathy for the colored man produced by this rebellion. Especially will this be true in the States once slave, for there the white population will regard the negro as an enemy, and treat him accordingly.

Can we expect the white man to be less selfish toward the man of color than he is toward his own race? Look at the conduct of your own people toward one another. Do not oppression, fraud, and wrong curse the land? Are not the weak and unprotected borne down. Will the man who tramples in the dust the rights of his own kindred and race be less exacting, less oppressive with the man or race of men to whom he is disposed to credit much of the disquiet of his country? The supposition is preposterous. Let us, then, form our own judgment by the heartlessness of the general mass of our people, and not by the philanthropy of the few; for, in my opinion, what has been the history of the two races in the past will be their history, to a great extent, in the future if they remain associated in this country as majority and minority races.

This question, sir, after all, is a question of majorities—to remain such through all coming time; for the prejudice, unfortunate as it may appear to some, which the white race entertains to a legal and honorable amalgamation of the African with the people of this country, will preserve a dividing line between them as long as the world stands; nor should Senators hide from their eyes the fact that without this legal and honorable admixture of the African blood with that of our race the former can attain to neither social nor political equality. I give it here as my opinion that the individual politician or political party that

comes before the country on the platform of amalgamation, either expressed or implied, will be crushed as by an avalanche. Then the freedom we achieve for them is not such freedom as their long-suffering, their universal loyalty, and important services in this rebellion demand at our hands.

With this social and political inequality it is to be expected that they can develop to that point to which they are capable? Is it for us to leave such a mass of disfranchised labor to the caprice and cupidity of the capitalists of the ruling race, many of whom are as heartless as the slave-master? To leave such an element in our social structure is to present the strong temptation to introduce an aristocracy as dangerous to our republican form of government as that we are now struggling to subdue.

Unless you can assure them social and political equality, I submit that it is a duty we owe ourselves and our children after us to separate them from us and place them in a position to govern and care for themselves. Give them a country of their own; give them homes, actual title to the soil; give them the rights and franchises springing from the actual dominion of the country where they reside. Exercise over them for the time being a territorial government, selecting officers whose every pulsation will be in sympathy with them. Thrown upon their own resources, thus educated and elevated, by having a country they can claim as their own, all the circumstances reminding them of their slavery and degradation being absent, they, in my opinion, would soon demonstrate to the world capacity for self-improvement and self-government that will exceed the most sanguine expectations of their friends.

My second reason is, we can thus plant at the door of Mexico, which is a semi-tropical country, four million good citizens, who can step in at any time, when invited, to strengthen the hands of that Republic.

The place of the black man in the older States will soon be filled up by foreign immigrants, who, in filling the vacuum, will give no shock to the sensibilities of a kindred race or endanger the future peace of the country in the process of naturalization, which will incorporate them into the mass of our people without reducing the blood or changing the mutual status. In this way do we avoid all the disastrous consequences which must follow from that repugnance to legal amalgamation with the African almost universal among the people of the North and Northwest. Therefore policy of the highest order requires that we establish on our southern border an independent, self-sustaining, and self-reliant people, loving liberty, and ready to protect it, whose first effort to illustrate the principles they have derived from us may perchance be a combination to expel the imperial eagles from lands once consecrated to republican liberty.

Shall we extend to colored men the opportunity of voluntarily separating from us? That conceded, all obstacles to this humane design at once vanish. I do not propose to remove them at the expense of the Government. They must go, as other emigrants do, at their own expense. The sum required for the journey can easily be brought within the limits of their resources.

First of all, therefore, the land of their destination, their land of promise I think I may say, must be easy of access. They should be able to move there, as did many of our ancestors when seeking their western homes, in wagons, overland, taking their wives and children, their household furniture and their agricultural implements with them. The country should be adjacent to the sea-coast and traversed by navigable streams, so that colonies or companies may be able to reach it in a body, should emigration in large numbers be desirable.

Such a location, Mr. President, is the country selected by the provisions of this bill. It is bounded upon the south by the Gulf of Mexico, on the east by the Colorado river, on the west by the Rio Grande, on the north by almost impassable

mountains, securing them from the inroads of hostile Indians. Through Kansas or southwestern Missouri and the Indian country, it can be reached over the best natural roads in the world, through friendly and sympathizing communities. From Louisiana the way is direct by the Red river or the Gulf. In respect to location no territory on the face of the globe is more desirable for the habitation of the black man.

Now permit me for a moment to refer to the resources of this section and its natural adaptation to the requirements of the colored man. First and foremost, the climate is congenial to his nature; the soil is universally arable, and produces bountifully with moderate cultivation; the surface is fine, deep prairie, yet supplied with timber adequate to the wants of the settler, presenting no obstacle to the opening up of farms. Such is the dwelling-place to which your committee desire to invite the emancipated colored man. It is believed that the President of the United States, were he authorized, could, by proper exertion on his part, obtain title to the greater portion of this territory on the most reasonable terms.

In this connection I call the attention of the Senate to the following extracts from Brannan's Texas, 1857, page 22, which the Committee on Territories have appended to their report on this bill:

"I have, for convenience, divided the State by certain arbitrary designations, as follows, namely, northern counties, western counties, &c.

"Western Texas is an extensive country, and has many varieties of soil and productions. Excepting on the bottom-lands of the rivers and water-courses, the people are mostly engaged in stock-raising, many of them exclusively, and others in connection with farming. The region below 30° and west of the Rio Grande is very subject to long droughts during the summer; still the crops on the bottom-land seldom fail, no portion is sickly, but all is favorable to man and beast. The principal grass on the prairies is the far-famed mesquit, deservedly renowned for its universal abundance and nutritious qualities. During all the winter season, and after it has become sore and yellow, cattle and horses will eat it with the same avidity and benefit as when green. Of late years large quantities have been cured and baled for distant markets. I would advise emigrants who want good, cheap lands, with plenty of mesquit prairie for stock-range, to purchase on the Nueces, Rio Frio, or some of their branches. This is a desirable part of western Texas, and has as many natural advantages as can be asked by any reasonable man. Land sells from \$1 50 to two dollars per acre. The timber on the streams is pecan, hackberry, several kinds of oak, and mulberry; on the prairies are much live-oak and mesquit timber. There are many other portions of the West where the land is better adapted for raising cotton, but none that will so well suit the emigrant of moderate capital, and fill the measure of his utmost expectations and desires."

Of the upper portion of this territory Cordova says, page 49:

"The valley of the Rio Grande is in the vicinity of 32° north latitude, and for one hundred miles is capable of sustaining a large and prosperous population. It grows fine wheat, corn, fruits, and a variety of vegetables, all of the best quality, and is proverbial for producing excellent grapes, from which a native wine of very good quality is made. There are between fifteen and twenty thousand Americans and Mexicans already in the neighborhood of El Paso, and the valley is highly cultivated for many miles, beautiful gardens, with fine apricots, peaches, plums, and various other fruits, abounding."

In Moore's Description of Texas, page 8, he says:

"In the western countries the prairies are beautifully diversified with small groves of timber; most of the prairies of this level region, however, are entirely open, and resemble broad grassy lakes. The soil of the prairies is remarkably uniform in its character throughout the whole country, consisting generally of a black vegetable mold, varying from four inches to four feet in depth, resting on beds of sandy or clayey loam. This soil differs but little in fertility from the soil of the bottom-lands, and is covered with a dense mass of grass, affording an inexhaustible supply of pasturage to the cattle of the southern planters. There is probably no class of men upon the globe who can live more independently or with less care than the herdsmen of Texas. Their herds of cattle feed out upon the prairies or in the wooded bottoms during the whole year, and require almost as little attention as the wild deer." * * *

"Many of the Texan farmers own several thousand head of cattle, and derive from them a very large income."

Again, on page 13, he says:

"The ordinary crop of cotton in the level and undulating regions is from a bale to a bale and a half to the acre; of maize, from forty to sixty bushels; of potatoes, from four to eight hundred bushels. Two crops of maize and potatoes are frequently raised the same year; both the common potato and yam, or sweet potato, thrive well."

"The few attempts that have been made to cultivate sugar, tobacco, and silk, prove that these productions can be raised with great facility, and will, within a short period, become the staples of the country. It is found that the sugar cane attains a larger size in Texas than in Louisiana; and, as the climate is milder, a larger portion of the plant matures; consequently the product of sugar to the acre is considerably greater in the former country."

Some of us, were it possible, would be glad to set aside South Carolina or Florida as the future home of the colored man. I have frequently gone so far myself as to say that I hoped the time would come when the footprint of the white man should not be found on the soil of South Carolina. But to-day we are deliberating for the good of the colored man and the peace of future generations. I think we can afford under present circumstances to sacrifice all feeling to such a noble end.

We may slay all the male traitors of South Carolina, and yet, at the close of the rebellion, to their wives and children, being in occupation and holding the fee of the land, amnesty and pardon must necessarily extend. If we should succeed in settling the black man upon some portion of those States he would be persecuted and oppressed so that his life would be a burden to himself, and his title to his home held by an uncertain tenure. It is a well-founded presumption that the slaveholder and the members of his family will always hate the person who has been released from their service against their consent, and will continue to persecute him to the latest generation.

It is not possible to reëducate a whole population like that of the South, or change their prejudices as to their former slaves. The idea of depopulating an entire State to make a place for new inhabitants is not likely to gain much favor. It is a question of morality whether it should be done.

The same objections would hold in respect to Florida as to South Carolina. In addition, its unsettled sections are densely wooded, and a large proportion of the territory is waste, untillable land. The opening up of a farm would be a work of time and money. What we need for the immediate necessities of this people is a locality that will come as near yielding an spontaneous support as can be obtained, and especially one where the herds of stock may support themselves all winter by grazing, as well as during the summer months. In Florida settlements would be widely separated from necessity, but on the territory of the Rio Grande they would be compact. In South Carolina, Florida, and the States once slave, the colored people would be among those who would despise them. On the territory of the Rio Grande they would have friendly Indians upon the north-east, and on the east Texas, which consulted, and consenting in the settlement, would become their friend and protector. On the west Mexico, whose inhabitants would give the colored man a friendly welcome, associate with him as an equal, and if he desired it, would grant him the privilege of citizenship. There would be marrying and giving in marriage. The institution of matrimony would be honored and respected among them. The blur of illegitimacy would be forever wiped away from their posterity. This people would stand before the world a respected community and an honored Commonwealth.

Neither South Carolina nor Florida are adapted to grazing, while the territory of the Rio Grande is eminently so. If I may be allowed the expression, I would call it the elysium of stock. If you had seen, as I have, during the months I was stationed there, the immense droves of cattle, horses, and sheep subsisting throughout the whole year, troubling the owner no more than the wild deer, you would acknowledge that my statements are unexaggerated.

The subject of expense has been mooted by the distinguished Senator from Massachusetts. I respectfully submit to him and to the Senate what detriment is likely to follow to the public Treasury from vesting in the Government a title to land the only claimants to large bodies of which will be traitors. In doing this great act of justice to the colored man the question of expense should not be raised. But in my opinion, Mr. President, the policy proposed, if adopted promptly and heartily, will, instead of a public burden, prove highly remunerative to the country. In a few years this territory of the Rio Grande would far outstrip any State in this nation in the production of sugar, cotton, rice, the other cereals, and the herds of stock. A country teeming with such an abundance of the prime essentials to human sustenance would soon refund any amount paid by the Government.

The chief portion of the expense of emigration must be paid by the colored man himself. And what greater incentive to industry and economy

can he have than the prospect of a removal to a section which seems to me especially designed by nature for his country and his home? If properly encouraged by the people and by Congress he will not ask the hand of public or private charity to pay the cost of his transportation thither. From the day the well-assured hope of such a destination is held out to him will date those stimulating efforts at elevation and culture which must precede the independence of his race.

The last section of the bill under consideration provides for placing the great work in the hands of the commissioner of emigration. This gentleman has been engaged upon the subject for fifteen or twenty years, laboring assiduously, and I believe with considerable success, in molding public opinion to the absolute necessity of a separation of the two races. He is a man of ability, of integrity, a Christian whose sympathies are with the race proposed to be benefited by the bill. In my opinion, no one can be found to whom the important duty may be more safely intrusted.

This bill also provides for diverting the funds already appropriated for colonization purposes abroad to the present object. That fund was originally \$600,000. But little of it has been expended. It is believed that this amount will be ample to carry out the provisions of this bill.

We devote immense tracts of land and millions of money to a few thousand savages, who are not producers in any sense, but consumers of the nation's wealth. It is true they have a claim on us as the original owners of the country; but have the negroes no claim? Have not they and their fathers for centuries toiled to build up our country and our country's wealth without pay or reward? I trust the Senate will now admit this claim, and permit us to pay, by this poor boon, a debt which has accumulated through generations past.

The country set apart by the provisions of the bill is to furnish homes to four million civilized beings, who in a few years will become extensive producers, and I here venture to repeat the assertion which I have made heretofore, that the territory of the Rio Grande, settled as proposed, will in a few years outstrip in the production of cotton and sugar any of the old States, and will amply remunerate us for any present outlay.

By the theory of the bill, the removal of our colored people must needs be slow, as the movement into their own country would be at their own control. As they thus gradually withdraw, on the close of the war and the establishment of peace, their places will be surely supplied by the numerous immigrants from foreign lands, crowding in almost countless millions to our shores, and thus the much dreaded shock to the labor market and the business of the country will be avoided. I wish this point to engage the attention of the Senate. During the last decade the increase of our population by foreign immigration alone has been two million seven hundred and seven thousand six hundred and twenty-four persons, mostly in the prime of life, and largely of the class that supplies our labor, and it is confidently believed that this amount will be trebled during the decade we are now in. Nor would I be surprised to see that number exceeded on the rendering of the next census. It is likewise known to you that when our Army comes to be disbanded, a sudden and excessive supply of labor will be thrown upon the country, more than will be necessary to fill up the vacuum created by the migration of the blacks.

Such are the provisions of the bill and the policy it foreshadows. The success of that policy of course depends upon the crushing out of the rebellion, which we trust will soon be accomplished.

I have no doubt about the advantages that will accrue to the political party to which I belong, should it pass. It must occur to the mind of every Senator that it will remove, at one stroke, one of the irritating elements which at times has distracted our own party and given political power to our opponents.

I have a higher opinion of the capabilities of the African race than most of my countrymen. Their servile relation has caused us to underrate and undervalue them as a general rule; but what are the facts? They are faithful, confiding, affectionate, industrious, given to neatness, and generally religious, eminently domestic in their habits, and strongly attached to their home. These qualities are sufficient guarantees that when ad-

mitted to rights of landholders and rulers in that land, they have adhesiveness enough to form a community of power, and ambition enough to secure for that community the polish of a high civilization. Extend to them that substantial freedom to which they are so justly entitled; grant them power; the privilege of selecting their own rulers; of framing their own laws, and I venture the opinion that the day will soon come when we will be proud of our protégés.

Reared in the Democratic school, I was taught to revere the memory and respect the opinions of Mr. Jefferson on this important subject, which employed much of the most serious reflections of that profound statesman. He says, in the first volume of his writings, page 49:

"Nothing is more certainly written in the book of fate than that these people are to be free; nor is it less certain that the two races, equally free, cannot live in the same Government. Nature, habit, opinion, have drawn indelible lines of distinction between them. It is still in our power to direct the process of emancipation and deportation, peaceably, and in slow degree, as that evil will wear off insensibly, and their place be *pari passu* filled up by free white labor."

Time has exploded his deportation plan. We have neither the ability nor inclination to adopt it. I have indorsed his position, that the two races cannot live equally free in the same State, but have failed to discover why we cannot give them the same freedom we ourselves enjoy under the national Government, through a territorial organization, in a territory where they constitute the majority, leaving the question of admission to a higher position therein to time and to those who come after us.

The last census shows that, at the commencement of the rebellion, there were in the State of Missouri 114,931 slaves; in Arkansas, 111,115; in Louisiana, 331,726; and in Texas, 182,566, making, in the aggregate, 740,338.

It is safe to say that one tenth of the slaves of Missouri, six tenths of those of Louisiana, three fourths of those of Arkansas, and all those of Texas, reinforced by at least one hundred thousand who have been transferred to the west side of the river from Mississippi and the other States, making in all about six hundred thousand, are now in eastern Texas, and will at once, with but little expense to themselves or trouble to us, seek the new Jerusalem.

The foundations for the contemplated community may be laid deep and strong by a single order issued in just nineteen words, namely: "withdraw the white troops from western Texas, and supply their places by colored regiments, giving transportation to their families."

It was demonstrated by the discussion last Saturday that the families of these soldiers are self-sustaining. They can select land, open up farms, while their husbands and fathers are fighting your battles and their own. The pay of the soldier will aid them in this praiseworthy effort for independence.

At the close of the war we should adopt the same policy in mustering out of the service our gallant regiments as was followed, at the close of the war with Mexico, in respect to the troops in California. Muster out the colored regiments west of the Colorado if they desire it, allowing them transportation pay to the place of enrollment. This method, allowing half of them to be men of family, with four to a family, would give five hundred thousand settlers.

If I could direct the policy of the Government I would tender homes to the colored soldiers west of the Colorado, and to the white soldiers the confiscated estates of traitors east of that line, mustering them out at such points contiguous to their contemplated homes as they might designate. What greater incentive to fidelity to the interests of their country could be placed before them?

My sanguine temperament may mislead me, but I am clear in the conviction that as soon as this settlement is a fixed fact the colored race from Canada to the Gulf will be attracted to it. Every avenue to it will soon be crowded by emigrants hastening thither in every kind of vehicle from a wheelbarrow to a mail coach.

Should the Senate adopt this bill, I can tell the man of color that the hour of his deliverance from the bondage of Egypt has come, and that unless he removes he is doomed to sink into a hopeless minority in the older States for all coming time. The last census tells the story of his future.

The increase of population to this country by foreign immigration alone exceeds the increase of the slave and free people of color in the same period nearly three to one; that of the former being 2,707,624, and that of the latter but 796,947.

You can infer from this the chances of changing the relation of the races by force of numbers. We must ever remain the majority race, and consequently the rulers; they the minority race with no hope of relief in the older States. The colored man must change his latitude to hold his ground. Wisdom, policy, and a military necessity suggest that he change it at once.

I submit the bill, confident that the importance of its provisions will challenge the serious attention of every Senator. Our gallant Army in the field, with the proclamations of the President and laws in aid thereof, insures freedom to the slave, while the proposed amendment to the Constitution, which will no doubt be passed by this Congress and sanctioned by three-fourths of the States, secures the colored man from reenslavement, and this plan extends to him substantial freedom.

Thus that question which has disturbed the peace of the nation during my entire life will be fully settled. Then the Republic can commence her career anew, freed from all her clogs. With the shades that dim her lights removed, she will stand forth before the world a guide to the nations, with power sufficient to command the respect of men and virtue sufficient to secure the approval of the divine Ruler.

Mr. WILSON. I move to postpone the further consideration of this bill with a view of proceeding to the consideration of the joint resolution equalizing the pay of troops.

The motion was agreed to.

PAY OF COLORED TROOPS.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 23) to equalize the pay of soldiers in the United States; the pending question being on the amendment proposed by Mr. COWAN to strike out all of the resolution after the enacting clause and to insert the following in lieu thereof:

That from and after the passage of this resolution the soldiers of the United States of America of the same grade and service shall be entitled to the same pay, rations, and pension.

Mr. WILSON. I move to amend the amendment proposed by the Senator from Pennsylvania by striking out all after the word "that," and inserting what I send to the Chair:

From and after the 1st day of March, 1864, the soldiers of the United States of the same grade and service shall be entitled to receive the same uniform, clothing, arms, equipments, camp equipage, rations, medical and hospital attendance, pay, emoluments, pensions, and bounty.

The high bounties now offered by the Government will cease on the 1st day of March, and then persons enlisting into the service for three years will be entitled to receive the sum of \$100. I have, therefore, in this amendment, fixed the date when this joint resolution shall commence operation, so as to begin at that time. I think, in the form proposed in the amendment, it covers everything, and puts them on the equality that is intended.

Mr. DAVIS. I will inquire whether, if the amendment to the amendment should be adopted, it will be in order to offer an amendment to the amendment as it is adopted?

The PRESIDING OFFICER. (Mr. HOWE in the chair.) In the opinion of the Chair it would not be in order.

Mr. DAVIS. I propose to say something on this proposition. I hope the amendment to the amendment will be voted down. I will ask for the reading of an amendment which I shall offer to the substitute of the Senator from Pennsylvania, if the amendment of the Senator from Massachusetts shall be voted down.

The PRESIDING OFFICER. It will be read.

The Secretary read the proposed amendment, to strike out all of the substitute after the words "this resolution," and to insert in lieu thereof the following:

That all negroes and mulattoes, by whatever term designated, in the military service of the United States be, and the same are hereby, declared to be discharged from such service, and shall be dismissed as soon as practicable; but the President of the United States may retain such of said negroes and mulattoes as he shall deem proper in the military service as teamsters and laborers; and the commanders of the respective regiments to which said slaves may

be attached shall issue to their owner or owners a certificate of their employment in the service of the Government.

And be it further resolved, That every loyal owner of any slave that has been heretofore, or that may hereafter be, taken into the service and for the use of the United States shall be entitled to a fair and reasonable compensation for the services of such slave for the time such slave may have been or may be in such service, to be paid quarterly; and where any slave may have been killed or died through exposure, or may have been disabled by such service, the owner or owners of all such slave or slaves shall be entitled to such compensation as will reasonably satisfy them for all damages that he, she, or, they may have sustained by reason of the death or disability of any such slave or slaves; and where any such slave or slaves may become a fugitive and be not returned to the owner, the United States shall pay the owner or owners the reasonable value of the service of such slave or slaves.

And be it further resolved, That the owner or owners of any slave entitled to pay or compensation as hereinbefore provided for, may make out his, her, or their account therefor against the United States, and upon filing the same at the Treasury Department, sustained by such vouchers and proofs as are required ordinarily to support accounts against the United States, the same shall be audited and paid by the proper officers, out of any money in the Treasury not otherwise appropriated.

The PRESIDING OFFICER. The Chair will inquire of the Senator from Kentucky if he proposes to offer this proposition as a substitute for the resolution before the Senate?

Mr. DAVIS. Not at the present time. I know it is not in order; but I propose to say something upon the substitute offered by the Senator from Pennsylvania and the amendment offered by the Senator from Massachusetts; and I merely desired to have the proposition which I had drawn up read for the information of the Senate. The subject, as I understand, is now before the Senate for consideration.

The PRESIDING OFFICER. It is.

Mr. DAVIS. Mr. President, a great man once asked the question what a public man was worth who would not stand or fall by a great principle. I expand that question, and I ask, what is any man worth who will not stand or fall by a great principle? Sir, I have that amount of value at least.

Some gentlemen have said truly that I was fond of recurring to the past. When I make a retrospect of the past, even for only a few years, how great and melancholy is the contrast with the present! Then we had peace, fraternity, unity, prosperity, power, and the respect of the nations of the world. That retrospect gives me a mournful pleasure. I love to dwell upon those halcyon times, times which I sincerely apprehend have left this country to return no more, at least so long as myself, a much older man than you, and you, sir, [Mr. HOWE in the chair,] shall be living.

Mr. President, I have seen somewhere a fiction defined to be "the madness of the many for the benefit of the few." Parties are inherent, and indeed inevitable, in all popular Governments, and generally arise in all Governments. When parties are formed on diverse opinions of principles and measures of policy, and their effects upon the Government and the country, and the differences of their probable effects are investigated and maintained with truth and candor, they are useful in forming a correct public opinion, in repressing maladministration, and in upholding liberty and the true spirit of the Government. But when these parties turn away from truth and reason, disregard fundamental principles, and support men not because of their fitness for office, their virtues, intelligence, and fidelity to public trusts and measures; not because they are wise and just and promotive of the public good, but because they promise to subserve the ends, the ambition, and passions of individuals, or to attain or hold power, party then becomes faction.

In the first and purer ages of most free Governments the people generally divide into parties, but the selfishness and arts of the leaders and the credulity of the masses soon cause them to degenerate into factions. Country then becomes absorbed by party, truth and reason by falsehood and passion, and the public good and glory by partisan contests and triumphs. Then there is enacted the "madness of the many for the benefit of the few." The masses surrender their judgment, their will, and their conduct to their leaders, and become their followers and slaves, and ignore wholly the merits of men and measures. Party fealty, the *esprit de corps* of party, becomes the strongest bond among men, dominates their opinions, lives, and acts, and directs

the destiny of the nation. Each succeeding faction becomes more venal, corrupt, and desperate than its predecessor, their conflicts become fiercer, the ligaments of society are loosened, law and order are disregarded, private pursuits and industry are disturbed, property is seized upon by rapacious armed men, liberty and life become unsafe, and the people, growing weary and disgusted with the ever-recurring and never-ending turmoil, for a modicum of tranquillity and security at length accept a despotism and a master. The positions here stated are all proved by the successive factions in ancient Rome, of Marius, of Sylla, of Pompey, Julius Cæsar and Crassus, of Antony, Lepidus, and Octavius, and the natural and inevitable consummation, the establishment of an imperial despotism by Octavius Cæsar. Corroborative examples could be readily adduced from the history of many other countries, ancient and modern, as well as the present deplorable condition of the United States; and the measures, purposes, and spirit of the parties North and South which now rule them, give mournful assurance that they too may add another and incomparably the strongest of the numerous examples which the enemies of free institutions are so fond of citing, to prove that well-ordered and permanent self-government is impossible to be achieved by any people.

It seems to me that the decline of the great Republic has commenced in its early immaturity, and has progressed and is progressing with a rapidity beyond all precedent. I never indulged the dream that it could be immortal, perpetual; but I clung to the faith that it would have its periods of active youth, of vigorous manhood, and sound old age; and that each period would be measured by centuries. If its destiny should be thus early to fall, it will not only be the most untimely but the noblest ruin that was ever mourned by mankind, blasting, beyond all comparison, for the present and through long-coming ages, more of the world's hope.

I never for a moment doubted that the rebellion would be suppressed, and when the news of the disastrous battle of Bull Run reached my town, and there struck down the spirit of every other Union man, I expressed to them my conviction that that reverse would arouse a spirit which would call out the entire resources of the loyal States; and although they might be more slow in being made available, they were so superior in force and endurance and all material wealth, that the rebels must be overwhelmed, and that consummation was only a question of time. I have held to that opinion without ever having a moment of doubt.

I came to the Senate soon after the President and the two Houses of Congress had with unprecedented unanimity declared to the people of the United States and to the world in the clearest language the principles and ends upon and for which the war against the rebels should be conducted. I put my trust and faith in those declarations and in the men who made them, and while they were observed I not only supported their war measures, but gave them personally my fullest confidence. But a new policy for conducting the war, and essentially different from that previously announced by the President and by Congress, began to be evolved. The President has since fully developed and is now fearfully executing it. When he violated the many and distinct and emphatic pledges upon which and by which he was bound to conduct the war, for one, my confidence in him died to live no more. But what I consider to be the great perfidy of the President has not and never will cause me to hesitate to support the Government and the Union of these States in this civil war. I have voted for every measure to strengthen the executive arm that I deemed to be constitutional, and for some about which, both as to constitutionality and policy, I entertained serious doubts, and this because of the great stress of the country, and the desire of the Executive to have them enacted into laws. I shall continue this course of official conduct, not for the President or the party in power, but for the Constitution which I have sworn to support, for the restoration of the Union of the States, and for the common and permanent welfare of my country.

It is this great civil war and its continuance that has brought the President to enormous abuses and usurpations of power, and the people to sub-

mit to them so passively. If the war could be closed speedily, they, too, would soon come to an end; but so long as it continues, the only hope of their reformation is in the election of another President; and here arises a mighty motive with those in power and office, and in the receipt of large emoluments, for its continuance. It seems to me, too, that the rebels will rally all their energies for a decisive struggle in the coming campaign. I do not doubt that their great armies will be routed and driven from the field; the mass, however, will fight to extermination before they will submit to the humiliating terms that have been prescribed for them by the President. The rebel armies, unable to maintain great campaigns, will break up into small bodies, and from their swamps and mountain fastnesses will carry on a desolating partisan war for a longer period than Circassia did against Russia; and before it can be terminated by their subjugation, constitutional government and popular liberty throughout the United States may have perished, not for a time, but forever. I have never feared, nor have I now the least apprehension of the permanent overthrow of free institutions anywhere in the United States, by Jefferson Davis and his government; but I am beset by the gloomiest apprehensions that if Mr. Lincoln is reelected, or some other man having his principles, policy, and scheme of government should be his successor, they will perish by him and his government, or by stronger men who will rise up and thrust them from their places.

No men ever charged with the possession and administration of a free Government devised so bold and so extensive a scheme for its revolution, or were so prompt and successful in its execution, as the men who hold possession of the Government of the United States. The strong and fixed attachment of the loyal States to the Union; the general aversion of the people of the free States to slavery, and the fanatical and active hostility of a large sectional party to it; the inauguration of the rebellion exclusively by slave States, and the absorbing devotion of large portions of their people to their peculiar institution; the magnitude of the military power and resources which the rebels brought into the field to support their revolt and achieve their independence; the enormous armies, equipments, and supplies which the United States had to organize to meet successfully their formidable enemy; and the fierceness with which the war has been waged on both sides, have given to ambitious men in power such an opportunity as never occurred before in any country to trample down the Constitution, laws, and liberties of the people, and to seize upon indefinite arbitrary power. Backed by a resistless military force ramified all over the loyal States, the assumptions of power by those in authority have been in proportion to the dimensions of the rebellion, and the people, confounded by the great and threatening danger to the Union and the extent and audacity of those usurpations, have given but little heed to their Constitution, rights, and liberties, thinking that when the terrific storm had passed they would resume their wonted position, security, and vitality. Fatal delusion! Those inappreciable blessings of Government, once yielded by a people, are generally lost forever; they are never regained except at the cost of countless sufferings and seas of blood. The duty that devolved upon the people in this great exigency required high intelligence, virtue, courage, and fortitude; it was at the same time to put down the rebellion, and to hold all their agents, civil and military, strictly and firmly within the limits of their constitutional and legal powers. Had that great duty been performed and the civil and military affairs of the country been wisely administered the rebellion would ere this have been suppressed, the Union and peace restored, and our institutions strengthened and enshrined anew in the hearts of our countrymen and more strongly commended to the acceptance of mankind. The best that can now be done is to occupy as much as possible of that safe anchorage.

Political liberty in England was of Saxon birth. It fell temporarily by the victory of William the Conqueror at Hastings; but the Saxons, who were still much the larger portion of the people, were deeply imbued with its spirit. It soon burst forth vigorously against the tyranny of the feudal system and the Normans, and made vigorous and

unceasing conflict with the Plantagenets for their ancient rights; and the sturdy barons, under the feeble John, achieved their reconquest from the throne. This contest between parliamentary privilege and popular liberty on the one side, and kingly prerogative on the other, was resumed and continued throughout the reigns of the succeeding Plantagenets and all the Tudors. The kings claimed the essential powers of Government, both executive and legislative, as of their prerogative; the Commons of England asserted as of their privilege as the third estate, representing the people, that no laws could be enacted or suspended without their concurrence, and that all the rights, privileges, and liberties founded under their Saxon kings, and restored by Magna Charta, were the birthright of every Englishman. This great contest, extending through centuries, was taken up by Hampden and Cromwell and their heroic associates, and brought to a final issue in favor of the privileges of Parliament and the liberties of the people in the reign of Charles I. They were defined more clearly and established more firmly by various acts of Parliament, passed in the reigns of Charles II, William of Orange, and at the accession of George I; and they have ever since been as firmly moored in the British constitution and Government as the isle itself in its ocean bed.

But in our free and limited Government of a written Constitution, President Lincoln and his party, in utter disregard of its limitations and restrictions, are making for him as President claim to the same boundless and despotic powers, executive and legislative, which the Plantagenets, the Tudors, and the first Stuarts contended for in England as appertaining to the kingly prerogative, through so many generations of convulsive and bloody struggle, and which they ultimately lost, after the longest, truest, most steady and heroic devotion to their rights and liberties by the people of England that is to be found in the history of mankind. Those inestimable rights, liberties, privileges, and institutions, secured forever, it is to be hoped, to that people by their appreciating sense, manly virtues, and invincible fortitude, our ancestors brought with them to this continent; and the founders of our Government thought they had secured them to the people of the United States beyond all changes and chances, by setting them forth as fundamental principles in their written form of Government; and yet the President has seized upon the opportunity of this great rebellion to subvert them for the time, and if he is reelected to the Presidency that subversion will become complete and final. His overthrow, or that of the Constitution and popular liberty, is inevitable; and it is yet in the power of the American people to decide this great issue in favor of Constitution and liberty, if they will throw off their lethargy and arouse themselves to the most important work that has ever been intrusted to man.

Mr. President, no Government could be organized in this enlightened age without adequate provisions for the protection of private property. It is one of the great ends for which society and all government are formed, and consequently it is one of the prominent objects that was attempted to be secured by the Constitution of the United States. The fifth article of the Amendments expresses the principle of the Constitution upon that point in clear and precise language. I will read it:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

Mr. President, some gentlemen assume the most extraordinary and absurd position that negroes are not and cannot be the subject of property. Our Constitution recognizes property in slaves. The courts of the United States, which by the Constitution are expressly empowered to decide all cases arising under that instrument, uniformly and in numerous cases have recognized property in African slaves. There is not a civilized country of the earth, where this question ever arose, whose high judicial tribunals have not sustained the same position. Slavery and property in slaves have been upheld by the laws, usages, and prac-

tice of nations of the highest civilization from before the first dawn of history. This question has been made, not only in the Supreme Court of the United States, but also repeatedly in the circuit courts of the United States for Ohio and Michigan, and in one case at least the honorable Senator from Michigan [Mr. HOWARD] appeared as counsel. The courts sustained, not only the right of property in the owners of slaves, but also that where they were fugitive, and escaped into other States, the owner or his agent could go into that State, and, against its express law to the contrary, seize his slave and take him back; and if he was resisted by any persons to the loss of the slave, or they aided the slave to escape, the owner could sue the persons interfering in the United States courts, and recover from them both the reasonable value of the slave and a penalty for their interference. The man who contends in the United States that African slaves are not and cannot be the subject of property is *non compos mentis*.

In relation to this matter of property in slaves as connected with my own State, how does it stand? We have in Kentucky about, I will say in round numbers, two hundred and fifty thousand negro slaves. Before the commencement of this rebellion they were worth \$600 average at least. A colleague of mine in the other House, who is my near neighbor and among the largest owners of slaves in the State, estimates their value according to an appraisement which he has made of some that he placed upon a cotton farm in the South, men, women, and children, at \$800 a head; but a moderate and reasonable estimate would be \$600 average. Two hundred and fifty thousand slaves at that rate would be worth \$150,000,000. That is one fourth part of the aggregate wealth of the State of Kentucky. What does this measure and the series of cognate measures in relation to the same subject contemplate? To deprive the people of the State of Kentucky of \$150,000,000 of their property which is guaranteed to them not only by their own constitution and laws, but also by the Constitution of the United States and by all the decisions, both Federal and State, of all the courts in the United States, I believe, with one solitary exception in a State court of Wisconsin, and which has been properly reversed by the revisory judgment of a United States court. Is it not a question of a good deal of magnitude to my constituency whether the President or Congress shall, directly or indirectly, deprive them of that amount of property without any compensation? But, sir, the Congress of the United States, nor the President, have not a particle of jurisdiction or power over the subject to the extent of liberating slaves. Neither has any military officer any more rightful authority to set free a slave in the State of Kentucky than has the levy court of the county of Washington.

Mr. WILKINSON rose.

Mr. DAVIS. I would rather the Senator would reserve his questions until I get through, and then I will answer them with great pleasure; but I prefer not to be interrupted. I say it most courteously to the honorable Senator.

The PRESIDING OFFICER. (Mr. HOWE in the chair.) The Senator from Kentucky is entitled to the floor.

Mr. DAVIS. Mr. President, we have a peculiar and unique Government. We have a Government established by a written Constitution. That Constitution is the law of our Government, and limits all its power and authority. It has been decided again and again by the Supreme Court, and it is the plainest dictate of reason and common intelligence, much less of legal learning, that the Government of the United States cannot claim, or exercise without usurpation, a solitary power that is not conferred upon it by that sole law of its creation. The Constitution was formed by separate, distinct, and independent political sovereignties, each one of those sovereignties within its own limits and jurisdiction being clothed with all political power. They saw the necessity of a common national Government, and consequently of a surrender of some of the highest powers of political sovereignty to that national Government for the purpose of securing the welfare of the whole people of the United States. This surrender of power was almost mainly of the character of those that appertain to the foreign relations of the States or their relations with each other. It is one of the essential features of the

system that the domestic institutions, laws, and polity of each State were not surrendered to the General Government, but were retained almost wholly and exclusively by the States.

Now, Mr. President, in the face of the guaranties in the Constitution which I have read, that private property shall not be taken except for public use, and by judgment of law and upon compensation being made to the owner, how can the Government of the United States, in any of its departments, seize and appropriate private property for any other object than public use, public appropriation, public application of the property to some purpose and action of Government? And when it takes private property, even for such ends, how can it presume to take that property, in the face of this provision of the Constitution, without making, or intending to make, compensation to the owners for it?

Mr. President, an error is committed very often in this day, and I think it is for the want of a recurrence to and an examination of the essays and explanations of and that were contemporaneous with the Constitution. Gentlemen attempt to analyze, to define, to enlarge the powers of our Government by comparing it with other Governments. As I said before, our Government is unique. It is formed by a written instrument. That instrument speaks for itself. It was formed upon the general principle of not giving plenary powers to the national Government, but only such as should be delegated to it by the States, and not to be obligatory upon any State that did not ratify it. This principle has been often announced by the Supreme Court, that only such powers are vested in the General Government as are expressly delegated by the language of the Constitution itself or by the necessary, reasonable, and proper implication of that language. A leading feature of the Government is that all the powers vested in the President by the Constitution are enumerated in the second and third sections of the second article; and he is not clothed with a solitary incidental power, but the whole of that unnumbered and indefinite class of powers are vested by the express and unequivocal language of the Constitution itself in Congress, and that only to the extent that they are necessary and proper to enable Congress, or the President, or the judiciary, or any other department or officer of the Government to execute the powers with which it is expressly clothed. Congress may assume and exercise itself at pleasure any of those incidental powers, but the President or any other officer not one of them until authorized by a law of Congress. This Government of limited authority is also by express provisions restricted or forbid to exercise sundry powers; and there is also a direct provision that the express restriction of any powers to the General Government shall have no effect whatever to grant it any additional powers or to enlarge those that are vested by the Constitution.

Sir, what is another general principle of our Government? That all the powers of Government established by the language of the Constitution are expressly in the main parted and divided among three departments, and the powers that are to be exercised by each are expressly enumerated. Then, when a question arises as to the general proposition of the extent of the powers of the Federal Government, or of their investiture in what department or officer, there is but one rule of construction, and that rule is the language of the Constitution itself, and the condition of circumstances of public affairs when it was adopted. There is no other system of government under the sun that can enlighten legislators or the President or courts upon such questions. You may resort to the British Government as it then existed, and the writings of publicists when the Constitution was adopted, to ascertain the meaning, import, and force of terms of art or political science that are introduced into the Constitution, but beyond that you cannot have reference to any Government, not for the purpose of illustrating or ascertaining what are the powers of the Government of the United States, or in what departments and magistracies they may be deposited, but on these questions you have to look to the Constitution alone.

Sir, in construing the Holy Scripture you might as well recur to the Koran, to the Puranas of the Hindoos, to the system of Zoroaster, to the moral precepts taught by Confucius or Seneca or any

other great heathen moralist, with as much propriety as you may resort to other systems of government to determine and ascertain what are the powers and what are the depositories of the powers of our Government. Our Constitution is our political Bible, and as such is as much distinct and isolated from the constitutions and governments of all other countries as the Christian's Bible is from all other systems of religion.

Then, sir, I come to this other cardinal principle, which I lay down as an incontrovertible axiom, that wherever the Constitution of the United States by express language establishes and vests a power of government, or guaranties a right, liberty, or privilege to the citizen, such provision of the Constitution cannot be suspended or abrogated, restricted or impaired in its operation by any implication arising from any other of the provisions of the Constitution. I also state this further principle as axiomatic: that the amendments to the Constitution being the last expressed will of the people upon the subject of their Government, like amendments to all laws and constitutions, if there be any conflict express or by implication between the original text and the amendments, the amendments are to prevail, and are to give the supreme and the undoubted law upon the controverted point. Then, sir, I recur to the Constitution and read the provision guarantying the rights of private property in the most explicit language—one of the cardinal ends for which this and all other legitimate Government was created, without which express guarantee of property and other inalienable rights and liberties the people of the United States were not satisfied in the first instance with the Constitution; and I assert that there are no other express provisions overruling them, or conflicting to any extent with them; and that they cannot be nullified, restricted, or affected by any possible implications springing out of the other provisions of the Constitution, or out of the whole of it. Sir, that position in truth and in sound logic ends the controversy. When I read these guarantees of private property, and the emphatic declaration that it shall be taken only for public uses, and then only on just compensation being made, there is an end to the question of the right of the citizen to have a fair price for his property where it is taken for public use. The argument cannot be answered.

Now, sir, what does this joint resolution propose to do? It proposes to take slave property without making any compensation to the owners; and here let me examine the question: What is just compensation for private property? Has the Government of the United States, or any of its authorities or officers, civil or military, the right to wrest a man's property from him without his receiving compensation for it at the time, or within a reasonable period thereafter? I answer, no. If a military officer says that he takes it for the public service, and because the exigencies of that service require him to take it, and that is all he says or does or is authorized to do by his Government in relation to making just compensation for property, and there are no means of making compensation by law, I ask does that satisfy in any sense the requisitions of the Constitution?

The constitutions of the different States have similar provisions in relation to taking private property for public use. The constitution of my own State has a provision almost in the same words, and I believe that most of the State constitutions have the same provision. What have been the adjudications of the supreme court of the State of Kentucky in relation to that provision? The extreme point which they have ruled in relation to the power of the Government in its favor is, that there must be laws in force and effect authorizing the levy of money upon the State for the purpose of making this compensation; and these laws must be executed by the proper court assessing so much money as will be sufficient to pay a fair and reasonable price for the property that is so taken; and they have decided in explicit terms that any state of case or of law short of such a provision as that does not satisfy the requirements of the Constitution. The legal consequence is, that the taking of property, even for public use, under any other state of case, would be a wrong to the owner; and the officer so taking it could be sued and held liable as a trespasser.

Is not that proposition obvious to every man of

good sense? Shall the Government any more than an individual, in the exercise, if you please, of its high power of sovereignty, take private property without making or offering to make or having made any provision whatever for its fair value to the owner? Yet such is the practice and the constant practice of our Government. It is in derogation of the Constitution and the rights of property guaranteed to the citizen. The question might well arise when the property was taken from the citizen if compensation therefor should not then and there be made. But until there are laws which authorize the valuation of the property and the assessment of money to pay the owner for it, there is not a pretense that the guarantee of the Constitution has been satisfied.

Here is another violation of this principle by the course of the Government in the practices of its military officers. What power has a United States agent, civil or military, to take private property and to place his own value upon it? What right has a recruiting officer, or the Secretary of War, or the President, to enlist a negro man and to assess \$300 as his value, if any be assessed, when, if his time and service were assured to his owner or the hirer from that owner, he would be worth from two to three hundred dollars a year? What right has the Government of the United States, or any of its agents, to seize any property, whatever, that is necessary for the uses of the Army, or for any other branch of the public service, and arbitrarily to assess their own value upon it? There is but one mode in which that can be properly and legally done; and that is for disinterested commissioners or appraisers to be selected by authority of law, to ascertain the fair and reasonable value of the property, whatever it may be; and for the United States to have a course of proceedings ready provided for by law, and to put them in course of execution, for making to the owner of the property the fair compensation for it at the time that he is deprived of its possession. Sir, a Government that acts upon a different principle is oppressive, is tyrannical; it violates flagrantly the requisitions of the Constitution and the rights of the citizen; it does not answer the purposes and ends for which the people organized their Government. They never intended or formed their Government to wrong and oppress them; and the highest obligation of its officials is to be just to the people.

But, Mr. President, a great deal is claimed in this day of insurrection and civil war under the pretext "military necessity." Sir, I deny that there is any such power as that in our Government that will sanction the enormous abuses of power that have been perpetrated during this war. That question was up before the Supreme Court in the case of *Mitchell vs. Harmony*—a case that arose during the Mexican war. I will read from 13 Howard's Reports a page or two of the opinion that will give the general facts of the case, and the principles that arose and that were decided in it:

"He (the defendant) justified the seizure on several grounds:

- "1. That the plaintiff was engaged in trading with the enemy.
- "2. That he was compelled to remain with the American forces, and to move with them, to prevent the property from falling into the hands of the enemy.
- "3. That the property was taken for public use.
- "4. That if the defendant was liable for the original taking he was released from damages for its subsequent loss by the act of the plaintiff, who had resumed the possession and control of it before the loss happened.
- "5. That the defendant acted in obedience to the order of his commanding officer, and therefore is not liable.
- "The first objection was overruled by the court, and we think correctly."

The opinion then goes on to the second and third objections, which contain the material parts of the opinion, as they bear on the principles decided in the case:

"The second and third objections will be considered together, as they depend on the same principles. Upon these two grounds of defense the circuit court instructed the jury that the defendant might lawfully take possession of the goods of the plaintiff, to prevent them from falling into the hands of the public enemy; but in order to justify the seizure the danger must be immediate and impending, and not remote or contingent. And that he might also take them for public use and impress them into the public service, in case of an immediate and pressing danger or urgent necessity existing at the time, but not otherwise.

"In the argument of these two points, the circumstances under which the goods of the plaintiff were taken have been much discussed, and the evidence examined for the purpose of showing the nature and character of the danger which actually existed at the time or was apprehended by

the commander of the American forces. But this question is not before us. It is a question of fact upon which the jury have passed, and their verdict has decided that a danger or necessity such as the court described did not exist when the property of the plaintiff was taken by this court, and the only subject for inquiry in this court is, whether the law was correctly stated in the instruction of the court; and whether anything short of an immediate and impending danger from the public enemy or an urgent necessity for the public service can justify the taking of private property by a military commander to prevent it from falling into the hands of the enemy, or for the purpose of converting it to the use of the enemy.

"The instruction is objected to on the ground that it restricts the power of the officer within narrower limits than the law will justify; and that when the troops are employed in an expedition into the enemy's country, where the dangers that meet them cannot always be foreseen, and where they are cut off from aid of their own Government, the commanding officer must necessarily be intrusted with some discretionary power as to the measures he should adopt; and if he acts honestly and to the best of his judgment, the law will protect him. But it must be remembered that the question here is not as to the discretion he may exercise in his military operations or in relation to those who are under his command. His distance from home, and the duties in which he is engaged, cannot enlarge his power over the property of a citizen, nor give to him in that respect any authority which he would not under similar circumstances possess at home. And where the owner has done nothing to forfeit his rights, every public officer is bound to respect them, whether he finds the property in a foreign or hostile country or in his own.

"There are, without doubt, occasions in which private property may lawfully be taken possession of or destroyed to prevent it from falling into the hands of the public enemy; and also where a military officer, charged with a particular duty, may impress private property into the public service, or take it for public use. Unquestionably, in such cases, the Government is bound to make full compensation to the owner; but the officer is not a trespasser.

"But we are clearly of opinion that in all these cases the danger must be immediate and impending, or the necessity urgent for the public service, such as will not admit of delay, and where the action of the civil authority would be too late in providing the means, which the occasion calls for. It is impossible to define the particular circumstances of danger or necessity in which this power may be lawfully exercised. Every case must depend on its own circumstances. It is the emergency that gives the right, and the emergency must be shown to exist before the taking can be justified."

It goes on then further to state that if the commander of the expedition himself, General Doniphan, who gave the order, had been there doing the act of taking possession of the property, he himself would not have been justified but would have been a trespasser, and that the order of a superior to an inferior to do an illegal act still leaves that act, though performed in obedience to positive orders, a trespass, and the subordinate is responsible for it as a trespasser. But the two main principles decided are these: first, private property cannot be seized by a military man unless the danger that creates this necessity be so immediate and impending, the case so urgent, that it cannot wait for the action of the civil authorities; second, where the urgency and necessity is of that character that cannot wait, still, if the property is seized, it is in every instance upon the condition that the Government is bound to make reasonable and just compensation for it to the owner.

Now, sir, these are the two principles which this case establishes; and they are as favorable to the Government and its agents as the provisions of the Constitution can authorize any enlightened court to lay down. They go to the very verge that can be claimed by any military commander whatever, even the Commander-in-Chief.

But, sir, if that case of urgent, impending necessity that cannot wait the action of the civil authorities be upon an officer, although he may justify himself against an action of trespass, yet in establishing such a case of necessity, it to no extent exempts the United States from their liability to make compensation for the property.

Now, sir, the amendments which I propose to offer, if the joint resolution shall assume a shape to make it in order, contemplate two or three movements upon the part of our Government: first, that so far as negroes free or slave are soldiers they shall be disbanded and disarmed; that as many of them as are necessary in the service of the United States as teamsters or laborers may be so retained by the order of the President, but they are to be retained as private property, and commanders of the regiments to which they are attached in the service are to give a certificate of their employment in the service of the United States, and their owners are to be entitled quarterly to a reasonable compensation for their services.

Sir, it would be the wisest policy that this Gov-

ernment could adopt to accept the first branch of my proposition. These negroes should never have been enrolled as a part of the Army of the United States. It was a great and a fatal mistake. The best that now can be done is to retrace that erroneous step as rapidly as we can. Sir, this rebellion has been strengthened to an incalculable degree by the employment of negro soldiers. The policy, the system upon which the war has been conducted, has had no other effect than to unite and knit together the southern people firmly, indissolubly almost, and to call forth their utmost force and resources to the support of their rebellion. It has alarmed and deeply dissatisfied the loyal population of the border slave States, been a grievous injustice and oppression to that class of population in the rebel States, and caused everywhere oppressive measures that have produced wide-spread discontent in all the loyal States.

Sir, there was not a power necessary to have enabled the Government to subdue, in a reasonable time, this rebellion, that could not have been properly conferred upon it by constitutional legislation, and that would not have been literally in conformity to the Crittenden resolution and of the President's pledges in relation to the war.

But, sir, if the error, and, in my judgment, the fatal error, in enrolling negro soldiers is not to be retraced, we then come to that impregnable constitutional provision that private property, whether a slave or any other class of property, cannot be taken for the use of the Government without making the owner fair, just, and reasonable compensation. If the Senate should be indisposed to accept my first proposition, it ought at least to take the second. If it is resolved to have the military services of the negro, it must, in obedience to all the decisions of the Supreme Court, recognize the negro, where he is a slave, as property, and it must, in obedience to those decisions, as well as to the express provision of the Constitution, make provision for the payment of his fair value to the owner.

Mr. President, I will add one other word in connection with this branch of the subject. There are some gentlemen in this Chamber who were invited with other gentlemen, including myself, from the border slave States, to meet the President in consultation some two years ago in relation to this subject. On that occasion the President renewed his pledges, in the most explicit and clear language, that it was not his purpose to interfere with slavery in the States. He then admitted, in the most plain and distinct terms, that there were the same constitutional and legal guarantees to the owner of that property as to the owner of any other class of property. As I have stated before once or twice on this floor, he put this pointed case. "I," said the President, "earn \$1,000, and I invest that money in land; another individual earns \$1,000 and invests it in a negro slave; he has an indefeasible right to his slave as I have to my land."

He added furthermore, "I am not yet prepared to break with Greeley and company." A gentleman from Maryland suggested to him that the rights of the owners of that description of property were already being threatened to be infringed in that State. He then with emotion asseverated, "If I live until the 4th of March, 1865, I will remain President of the United States, and this property shall be protected in Maryland." A gentleman from that State then suggested to the President that the effect and substance of the conference between him and the gentlemen present should be reduced to writing. The President warmed up somewhat, and with some earnestness directed this question to that gentleman, "Do you see any of the snake in me?" I then thought that he had none of the snake in him, but how I have changed my opinion since! He was then dissembling; he has practiced the obliquity and crawling, stealthy movement of the snake towards its object upon the whole of the institution of slavery, though he then made professions so different to the gentlemen who surrounded him.

But, Mr. President, I have some authority here on the subject of property in slaves that I beg leave to lay before the Senate. Both the members from Massachusetts assume audaciously that there is not and cannot be property in negroes because they are human beings. Sir, Massachusetts herself has a history upon this subject, and I will read a little from that history. Let us see how

Massachusetts used to think and to act and to trade and to legislate upon the subject of negro slavery and property in slaves. I ask those gentlemen when and where and by whom was negro slavery established in the American colonies—who but by Massachusetts herself? What does her history answer on these points of inquiry? A day of recent celebration of the sodality of "the New England Societies" at several points was signalized by this missile:

"The New England Society in the city of New York to the New England Society in Montreal, greeting: Thanks for your generous wishes. We shall not cease to labor for their complete fulfillment; and by the blessing of God, and our still victorious arms, we mean in our next anniversary, in all the States, from Maine to California, to celebrate the national jubilee in honor of the eternal principles of liberty under the law, which the Pilgrims, emerging from the cabin of the Mayflower, laid down as the corner-stone of the nation."

This promised glorification is not to be for the restored union of the States, the vindicated authority of the Constitution and laws of the United States, and the return of peace and good-will to a torn and warring people, but for the violent and revolutionary overthrow of slavery in all the slave States, in disregard of constitutional guarantees and the sanction and protection of laws, by the victorious armies of the United States. I suppose that this grandiloquent piece of fustian and falsehood is the emanation of some half-crazed Massachusetts brain. Never was there a more impudent pharisaism uttered than that the *eternal principles of liberty under the law* were laid down as the corner-stone of the nation by the Pilgrims emerging from the cabin of the Mayflower. The persecutions of Roger Williams and his Anabaptist associates, and the cropping of the Friends, the burning of witches, the most vexatious and tyrannical body of laws and regulations extending to the minutæ of private and domestic life, and the long, habitual, and continuing disregard by Massachusetts of constitutions, laws, and treaties, all proclaim it to be untrue. Her early establishment by law of negro slavery, her enactment of the first and a vigorous fugitive slave law and slave code, declare its bold untruth.

The Mayflower landed her Pilgrims on Plymouth rock in 1620; and the Massachusetts Legislature, called "the General Court," in 1641, established this law:

"It is ordered by this court, and the authority thereof, that there shall never be any bond slavery, villinage, or captivity among us, unless it be lawful captives taken in just wars, as willingly sell themselves or are sold to us, and such shall have the liberties and Christian usages which the law of God established in Israel concerning such persons doth mortally require: *Provided*, That *examples* none from servitude who shall be adjudged thereto by authority."

On the 5th of September, 1672, "Articles of Confederation of the New England Colonies" were ordained at Plymouth. Section seven provides:

"It is also agreed if any servant run away from his master into any other of these confederated jurisdictions, that in such case, upon the certificate of one magistrate in the jurisdiction out of which said servant fled, or upon other due proof, the said servant shall be delivered to his master or any other that pursues and brings such certificate or proof."

Here was the first fugitive slave law of North America.

In 1683, the General Court passed a law concerning the right of men to sell themselves for debt; and providing that the court of the county should regulate the time of service, so that other creditors "should not be deprived of their fair share of the man's lifetime." As early as 1636, the General Court had declared that no "covenant servant in household with any other should hold office or vote."

In 1636, Massachusetts passed a law in relation to "covenant servants," the first section of which is:

"It is ordered that no servant shall be set free or have any lot until he have served out the time covenanted, under penalty of such fine as the quarter's court shall inflict, unless they see cause to remit the same."

This provision continued to be her law for upward of a century.

In June, 1703, she passed this law, from which it appears there were mulattoes in the land of the Pilgrim Fathers at a very early day as well as negro slaves:

An act relating to mulatto and negro slaves.

Whereas great charge and inconveniences have arisen to divers towns and places by the releasing and setting at liberty mulatto and negro slaves: For prevention whereof for the future,

Be it declared and enacted by his Excellency the Governor, Council, and Representatives, in General Court assembled, and by the authority of the same, That no mulatto or negro

slave shall hereafter be manumitted, discharged, or set free, until sufficient security be given to the treasurer of the town or place where such person dwells, in a valuable sum, not less than fifty pounds, to secure and indemnify the town or place from all charge for or about such mulatto or negro, to be manumitted and set at liberty, in case he or she by sickness, lameness, or otherwise, be rendered incapable to support him or herself.

We adopted that law in Kentucky pretty much in the same language and in essentially the same terms.

And no mulatto or negro hereafter manumitted shall be deemed or accounted free, for whom security shall not be given as aforesaid, but shall be the proper charge of their respective masters or mistresses, in case they stand in need of relief and support, notwithstanding any manumission or instrument of freedom to them made or given; and shall also be liable at all times to be put forth to service by the selectmen of the town.

In October of the same year Massachusetts passed this other law:

An act to prevent disorders in the night.

Whereas great disorders, insolences, and burglaries are oftentimes raised and committed in the night time by Indians, negro and mulatto servants and slaves, to the disquiet and hurt of her Majesty's good subjects: For the prevention thereof,

Be it enacted by his Excellency the Governor, Council, and Representatives, in General Court assembled, and by the authority of the same, That no Indian, negro or mulatto servant or slave, may presume to be absent from the families whereto they respectively belong, or be found abroad in the night time after nine o'clock, unless it be upon some errand for their respective masters or owners. And all justices of the peace, constables, tithingmen, watchmen, and other her Majesty's good subjects, being householders within the same town, are hereby respectively empowered to take up and apprehend, or cause to be apprehended any Indian, negro or mulatto servant or slave that shall be found abroad after nine o'clock at night, and shall not give a good and satisfactory account of their business, make any disturbances or otherwise misbehave themselves, and forthwith convey them before the next justice of the peace, if it be not over late in the night, or to restrain them in the common prison, watch-house, or constable's house until the morning, and then cause them to appear before a justice of the peace, who shall order them to the house of correction to receive the discipline of the house, and then be dismissed; unless they be charged with any other offense than absence from the families whereto they respectively belong, without leave from their respective masters or owners; and in such towns where there is no house of correction, to be openly whipped by the constable, not exceeding ten stripes.

In 1718 she passed a law to punish any master of a vessel who should receive on board a hired servant without permission of his master, and making him also liable in damages to the "master or owner." Within twenty years after the landing of the Mayflower the Pilgrim Fathers passed a law of which section three reads:

"Sec. 3. It is also ordered that when any servants shall run away from their masters" * * * "It shall be lawful for the next magistrate, or the constable and two of the chief inhabitants, where no magistrate is, to press men and boats or pinnaces at the public charge to pursue such persons by sea and land, and bring them back by force of arms."

Such are the laws and usages of Massachusetts, which established, regulated, and gave security to slave property, and that seem to have been the models upon which the more southern slaveholding colonies fashioned their laws in relation to the same subject. But the Massachusetts system was the more atrocious in several features: it comprehended *white men, Indians, negroes, and mulattoes*. The title of the masters was by importation from foreign countries, captivity in war, and purchase. It established a *servitude* by the sale of himself of the white man, and forbade his enfranchisement by his master until his term had expired. It enacted an effective fugitive slave law for the white man, Indian, mulatto, and negro, servant and slave; and when they eloped from their "owners and masters," authorized their pursuit at the public charge, and upon a simple official certificate of their being slaves or servants, and directed them to be returned to their slavery or servitude. It required not the testimony of two witnesses and no sworn evidence whatever upon the point. It allowed no trial or examination before court or commissioner, no writ of *habeas corpus*, and no bail nor writ of replevin for the pursued fugitive; but its stern judgment was that he should go back into his former servitude or slavery. It punished the servant or slave, whether white, Indian, negro, or mulatto, male or female, with stripes, to be inflicted at the house of correction or publicly, for disorderly conduct or being from home after nine o'clock at night, unless on some special errand.

But, Mr. President, I now proceed to some of the minutæ of Massachusetts slavery, as established by her early history. I quote from the Historical Magazine:

"Hugh Peter writes to John Winthrop from Salem (in 1637)—

only seventeen years after the landing of the Mayflower—

"Mr. Endecott and my selfe salute you in the Lord Jesus, &c. We have heard of a dividence of women and children in the bay and would be glad of a share, viz: a young woman or girl and a boy if you thinke good. I wrote to you for some boyes for Bermudas, which I think is considerable." (M. H. S. Coll., IV, vi, 95.)

In this application of Hugh Peter we have a glimpse of the beginning of the colonial slave trade.

He wanted "some boyes for the Bermudas," which he thought was "considerable."

It would seem to indicate that this disposition of captive Indian boys was in accordance with custom and previous practice of the authorities. At any rate, it is certain that in the Pequod war they took many prisoners. Some of those who had been "disposed of to particular persons in the country," (Winthrop, I, 232,) ran away, and being brought in again were "branded on the shoulder." (Ib.)

In May, 1637, Winthrop says:

"We had now slain and taken, in all, about seven hundred. We sent fifteen of the boys and two women to Bermuda by Mr. Peirce; but he, missing it, carried them to Providence Isle." (Winthrop, I, 234.)

The learned editor of Winthrop's Journal, referring to the fact that this proceeding in that day was probably justified by reference to the practice or institution of the Jews, very quaintly observes, "Yet that cruel people never sent prisoners so far." (Ib., note.)

A subsequent entry in Winthrop's journal gives us another glimpse of the subject, December 26, 1637:

"Mr. Peirce, in the Salem ship, the *Desire*, returned from the West Indies after seven months. He had been at Providence, and brought some cotton, and tobacco, and negroes, &c., from thence, and salt from Tertugos." (Ib., 254.)

Winthrop adds to this account that "dry fish and strong liquors are the only commodities for those parts. He met there two men-of-war, set forth by the lords, &c., of Providence with letters of mart, who had taken divers prizes from the Spaniard and many negroes." Long afterwards Dr. Belknap said of the slave trade that the rum distilled in Massachusetts was "the mainspring of this traffick." (M. H. S. Coll., I, iv, 197.)

Joselyn says, "That they sent the male children of the Pequots to the Bermudas." (258 M. H. S. Coll., IV, iii, 360.)

In the Pequod war, some of the Narragansetts joined the English in its prosecution, and received a part of the prisoners as slaves, for their services. Mantumomoh received eighty, Ninigret was to have twenty. (Drake, 122, 146. Mather's Relation, quoted by Drake, 39. See also Hartford Treaty, September 21, 1638, in Drake, 125.)

Captain Stoughton, who assisted in the work of exterminating the Pequots, after his arrival in the enemy's country, wrote to the Governor of Massachusetts [Winthrop] as follows: "By this pinnace, you shall receive forty-eight or fifty women and children." * * *

"Concerning which, there is one I formerly mentioned that is the fairest and largest that I saw amongst them, to whom I have given a coat to clothe her. It is my desire to have her for a servant, if it may stand with your good liking, else not."

I reckon that would have been the desire of the two Senators from Massachusetts if they had been there, especially of the gentleman who stands at the head of the Military Committee.

"There is a little squaw that Steward Calicut desired, to whom he hath given a coat. Lieut. Davenport also desired one, to wit, a small one, that hath three strokes upon her stomach, thus: — [11] —. He desired her, if it will stand with your liking. Sosonon, the Indian, desired a young little squaw, which I know not." (MS. Letter in Mass. Archives, quoted by Drake, 171.)

Probably if he had known her Sosonon would not have the privilege of getting her.

An early traveler in New England has preserved for us the record of one of the earliest, if not, indeed, the very first attempt at breeding of slaves in America. The following passage from Joselyn's Account of Two Voyages to New England, published at London in 1664, will explain itself:

"The Second of October, [1639] about 9 of the clock in the morning Mr. Mavericks' Negro woman came to my chamber window, and in her own Country language and tune sang very loud and shrill, going out to her, she used a great deal of respect towards me, and willingly would have expressed her grief in English; but I apprehended it by her countenance and deportment, whereupon I repaired to my host, to learn of him the cause, and resolved to intreat him in her behalf, for that I understood before, that she had been a Queen in her own Country, and observed a very humble and dutiful garb used towards her by another Negro who was her maid."

You see the term "negro" was used in that day. This fashionable shilly-shally language of "colored persons" and "descendant of Africa" was rather too circumlocutory, [laughter,] and they come out with the plain and direct term of "negro."

"Mr. Maverick was desirous to have a breed of Negroes, and therefore seeing she would not yield by persuasions to company with a Negro young man he had in his house; he commanded him witt's she witt's she to go to bed to her, which was no sooner done but she kicked him out again, this she took in high disdain beyond her slavery, and this was the cause of her grief." (Joselyn, 28.)

What a nice specimen of a Puritan "consecrated to human liberty" have we here!

Emanuel Downing, a lawyer of the Inner Temple, London, who married Lucy Winthrop, sister of the elder Winthrop, came over to New England in 1638. The editors of the Winthrop Papers say of him, "There were few more active or efficient friends of the Massachusetts Colony dur-

ing its earliest and most critical period." His son was the famous Sir George Downing, English Ambassador at the Hague.

In a letter to his brother-in-law, "probably written during the summer of 1645," is a most luminous illustration of the views of that day and generation on the subject of human slavery. He says:

"A war with the Narragansett is verie considerable to this plantation, for I doubt whether yt be not synne in vs, having power in our hands, to suffer them to maynteyne the worship of the devil?"

Massachusetts-like. They wanted slaves then, and in order to make slaves of the Narragansetts, fanatical-like they took up the idea that they would make war because the Narragansetts worshiped the devil. I think Massachusetts has been guilty of a good deal of that sort of worship since. But to continue this extract:

"which their paw waves often doe; Alie, If upon a Just warre the Lord should deliver them into our hands, wee might easily have men, women and children enough to exchange for Moores, which wilbe more gaynefull pillidge for us than wee conceive, for I do not see how wee can thrive untill wee gett into a stock of slaves sufficient to doe all our business, for our children's children will hardly see this great Continent filled with people, soe that our servants will still desire freedom to plant for themselves, and not stay but for verie great wages. And I suppose you know verie well how wee shall maynteyne 20 Moores cheaper than one English servant."

A matter of domestic economy entered largely into the subject. They could make valuable exchanges of Indian captives for Moores, a sort of negroes, and this writer says that one white servant was more expensive to his master than twenty Moores.

"The ships that shall bring Moores may come home laden with salt which may beare most of the charge, if not all of yt. But I marvaile Connecticut should any wayes beare a warre without your helpe. (M. H. S. Coll., IV, vi, 65.) E. Y. E."

You see there the Massachusetts thrift. They wanted to put the whole cost of the voyage upon part of the cargo, so that the slaves they intended to purchase should not bear any portion of it.

It is thus shown that negro slavery was a Massachusetts institution. In the Convention which formed the Constitution, the committee of detail reported the form of one with this clause:

"No tax or duty shall be laid by the Legislature on articles exported from any State; nor on the migration or importation of such persons as the several States shall think proper to admit; nor shall such migration or importation be prohibited."

If that provision had been retained, or if one authorizing Congress to prohibit the slave trade had not been adopted, any State could have continued it indefinitely. The people of Massachusetts were at that time largely and profitably engaged in the slave trade to the southern States. Luther Martin, of Maryland, proposed to amend the section as reported, so as to allow a prohibition or tax on the importation of slaves to be imposed by Congress. The members from Massachusetts divided on this proposition of Luther Martin. That section, with others, was referred to a committee of eleven, but Massachusetts failed to vote on the motion to refer, and that committee reported in lieu of it a provision authorizing Congress to prohibit the slave trade after the beginning of the year 1800. Mr. Pinckney, of South Carolina, moved to strike out 1800 and insert 1808. That motion prevailed, Massachusetts voting in favor of it; and thus by her position the slave trade would have been allowed to continue in perpetuity; but other States controlling her on that point, she was enabled to procure a continuance of it for twenty years longer. She, and all the States, voted for the provision authorizing the rendition of fugitive slaves. To that, which she now opposes with frenzied passion, there was no objection in the Convention. Her course is explained by the fact that the slave trade was *her trade*. She furnished the ships and sailors that visited the slave marts on the African coast and purchased negro captives from their savage conquerors for rum and trinkets, and carried them to the southern States and sold them for enriching prices in gold. She voted to continue her trade in slaves.

If Massachusetts had been situated in the low latitudes, and her soil had been rich, inexhaustible alluvion, producing cotton, sugar, and rice, who doubts that she would have been heavily peopled with African slaves, that she would now have held and would continue to hold on to them with the firm grip which has ever characterized the spirit of her all-covetousness, that she would to this day have been intensely pro-slavery; and that her two Senators, if under that state of things

they could have got to the Senate, would be her most faithful representatives; and that she and they would now be resisting vehemently and obstinately such assaults upon the institution as they are making upon it? Massachusetts has always been active, energetic, alert, inventive, intellectual, avaricious, intermeddling, fanatical, and domineering; but her love of acquisition has ever been and still is her master passion. She continued illicitly the slave trade after the law of Congress prohibiting it went into operation, and when it was finally broken up by the combined action of Congress, courts, and cruisers, and could no longer minister to her rapacity by the smuggling of slaves into the southern States her more subordinate characteristics, fanaticism and meddlesomeness, began to spring up, and after a while became dominant. She conceived the project of robbing the people of the southern States of the slaves that she had carried and sold to them for money. In the name of a spurious philanthropy she commenced to agitate in every form most indus- triously and intensely to destroy that property, not in Cuba and Brazil, but among her own countrymen and customers, and set up her impudent and absurd "higher law" conceits to break down the constitutional and legal guarantees with which it had been so long environed, and which she contributed so much to build up. She inaugurated not only in her own borders, but in every locality to which her people could gain access, a general system of talking, lecturing, declaiming, and preaching against the "greater crime of slavery," publishing newspapers, tracts, novels, essays, books, and pictures, all fraught with the basest falsehoods and slanders against and slave-owners, and rendering and intending to render it abhorrent to the northern people.

Massachusetts thus estranged, divided, and exasperated the people of the free and slave States. She, with malice aforethought, schooled them to hate each other with a diabolical purpose of sundering the Union and subverting the Constitution because of the protection which it gave to the owners of slaves. She complained that the freedom of speech and of the press and her rights were violated because the slave States would not open their bosom to her nefarious agitation of that property, and of the right upon which it was founded. Let us look at her deliberate resolves.

Mr. WILKINSON. If the Senator from Kentucky will permit me, I will move an adjournment.

Mr. DAVIS. Well, this is a pretty good stopping place.

Mr. WILKINSON. I wish to move an adjournment; but before doing so, I ask the Senate to take up Senate bill No. 41, to promote enlistments in the Army of the United States, and for other purposes, with a view to make it the special order for Thursday next, at one o'clock.

The VICE PRESIDENT. That motion will be entertained by the unanimous consent of the Senate. If there be no objection, that will be regarded as the sense of the Senate, and that bill will be assigned for Thursday next, at one o'clock, and be made the special order for that hour. The question now is on an adjournment.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 16, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

COMMERCIAL RELATIONS.

The SPEAKER laid before the House a communication from the Secretary of State, transmitting the annual report on commercial relations of the United States with foreign nations for the year ending September 30, 1863.

Mr. WASHBURNE, of Illinois, moved that it be printed, and referred to the Committee on Commerce.

The motion was agreed to.

Mr. ELIOT. I submit the following resolution:

Resolved, That four thousand additional copies of the report on commercial relations of the United States with foreign nations for the year ending September 30, 1863, be printed in quarto form for the use of the House; and also one thousand copies for the use of the State Department.

Mr. BROOKS. Mr. Speaker, I hope that these commercial relations will be correctly printed. They were very incorrectly printed last year. I hope that great care will be taken in reproducing the tables in print.

PERMISSION TO RECORD VOTES.

Mr. BROOMALL. I ask unanimous consent of the House to record my vote on the twenty-second and twenty-fifth amendments of the Committee of the Whole on the state of the Union to the conscription bill. I came in after my name had been called.

Mr. STILES. I shall not object if I am allowed to record my vote on the joint resolution amendatory of the confiscation act.

Mr. BROOMALL. I am willing to do all I can to enable the gentleman to get his vote recorded.

There was no objection.

Mr. BROOMALL voted in favor of the amendments indicated; and

Mr. STILES voted against the joint resolution amendatory of the confiscation act.

Mr. SWEAT. I ask the unanimous consent of the House to record my vote against the same joint resolution.

There was no objection, and the vote was recorded accordingly.

ARKANSAS CONGRESSIONAL REPRESENTATION.

Mr. DAWES. I rise for the purpose of calling up the case of James M. Johnson, claiming to be a Representative to this House from the second congressional district of Arkansas, in order that his credentials may be referred to the Committee of Elections. When I offered them the other day the gentleman from Maryland [Mr. DAVIS] moved that they be laid upon the table. I hope that he will withdraw that motion for a moment, so that I may make a statement.

Mr. DAVIS, of Maryland. I withdraw the motion to lay upon the table for that purpose.

Mr. DAWES. Mr. Speaker, I had no personal acquaintance with the gentleman who brought to me these credentials and asked me to present them. He came to me with a letter of introduction from the commanding general of that department, General Steele, through his brother, the distinguished member from New York. From his statements and from what I learned elsewhere I found these to be the facts: the gentleman himself, his brother, and brother-in-law, the present provisional Governor of Arkansas under the new constitution lately adopted, were residents of the same town in this congressional district, and in the first month of the war, in 1861, they were driven from the State and from their homes by the rebels because of the course they took at the threshold against the rebellion. From that moment they entered into the Union armies. This gentleman has served in those armies, and in many battles of the Southwest he has had the honor, as a colonel of one of the Union regiments of Arkansas, to distinguish himself. He holds a commission in that capacity at this moment. While he was absent in the Army, never being able to set his foot in his own State except at the head of the forces of the Union, the loyal people of the State of Arkansas met in convention and adopted a State constitution, and sent him here as the bearer of the constitution of a free State, the first unwilling fruit which this rebellion has borne. In his absence and without his knowledge the voters of the second congressional district of Arkansas, numbering four or five thousand, elected him as their Representative upon this floor. He offers his credentials through the ordinary channels of the House, and though he has had the honor of bearing here the first free-State constitution out of the fire and smoke of this war, and though he comes here, covered with honorable scars won in defense of the flag of his country, with a commission as a Representative elect to this House, he is denied so much as a hearing.

The gentleman from Maryland does the unusual thing of moving to lay his credentials upon the table rather than they shall be even referred, as all others are by the rules, to the Committee of Elections. The Committee of Elections will be quite willing to be relieved of this additional labor. They are quite sufficiently borne down with work already. But as one of that committee, and as a member of this House, I never will consent, without opening my mouth in protest against it, that any man, however humble he may be, shall

be denied a hearing when he comes here with his petition for a seat; much less a man coming here under these circumstances and with the testimonials of the gentleman from Arkansas.

Mr. HARDING. I wish to inquire of the gentleman from Massachusetts, the chairman of the Committee of Elections, whether the State of Arkansas has been distrusted.

Mr. DAWES. The State of Arkansas was distrusted according to the law of the United States before the rebellion broke out; and it was divided into three congressional districts according to the number assigned by the last census.

I know not whether upon an investigation by the Committee of Elections there will be sufficient law or sufficient facts to justify the admission of this gentleman to a seat upon the floor as a Representative from Arkansas. It is because I want to know whether there is law or constituency enough to justify us in admitting him here that I move that these credentials be referred to the Committee of Elections.

But, sir, I will not say to him, to the men whom he represents, to the State of Arkansas, to the loyal men in the State of Arkansas who have staked all and sacrificed all, and lost all but honor in the defense of the flag upon the outposts and front of this rebellion—I say I will not turn round and say to them here in my seat that this man is an alien enemy. Of course I have no war with the gentleman from Maryland, and with his conviction of what is his duty I make no complaint, but I trust he may see proper, in the line of his duty, to withdraw his motion to lay these papers upon the table, and allow the Committee of Elections to examine them.

The Committee of Elections have taken such action and made such reports to this House that their opinions upon kindred subjects are quite well known to the House, and if the House has not confidence in them in consequence of their known convictions upon these questions, or in consequence of their want of fidelity to their duties and want of industry, it is quite proper for the House to refuse to refer the credentials of claimants to this committee. But unless they have such a charge to bring against the committee, I trust no such reflection will be cast upon them by not permitting even the credentials of a member, coming here and applying for a seat, to be referred to the committee.

Mr. DAVIS, of Maryland, obtained the floor. Mr. STEELE, of New York. Will the gentleman allow me a word?

Mr. DAVIS, of Maryland. Certainly.

Mr. STEELE, of New York. I simply wish to say, inasmuch as the chairman of the Committee of Elections has referred to me, that I did receive from General Steele a letter of introduction brought to me by Mr. Johnson, and at the request of Mr. Johnson I introduced him to the chairman of the Committee of Elections. Mr. Johnson came to Little Rock during the time the convention was there in session, while on his way to present his credentials to this House. He was requested by that convention to remain there until the convention adjourned. He did so, and was made by that convention a bearer of dispatches to the President of the United States. And I think that circumstance of itself indicates that that highly respectable body of men desired at least to give him their indorsement.

I know nothing about the merits of this matter. I only know that this man comes here in this way, vouched here as a highly respectable gentleman; and I do hope this House will extend to him the same courtesy of having his credentials examined by the proper committee that is extended to every other man claiming a seat here.

Mr. DAVIS, of Maryland. Mr. Speaker, if it were a question of confidence in the Committee of Elections, there is no gentleman in this House who would more cheerfully yield to the suggestion of the gentleman from Massachusetts. If it were a question of respect for the gentleman from Arkansas, whose credentials are offered to the House, the testimonies which have been rendered this morning would make me withdraw my motion. It was not made, Mr. Speaker, for the purpose of raising an issue with the gentleman from Massachusetts, still less for the purpose of exhibiting an illiberal spirit toward the gentleman from Arkansas. It was because I supposed, as now it turns out to be the fact, that it is not a

mere question of election law which would be involved, but a question of the recognition or refusal to recognize the organization of a State government in Arkansas. That question I am not willing to have passed upon on the collateral matter of the investigation of the right of a gentleman to a seat upon this floor.

If the gentleman at the head of the Committee of Elections should move this House that the subject should be referred to him to consider whether there exists a State government of the State of Arkansas, making it a direct and substantive topic of examination, nobody would more cheerfully acquiesce in a motion of that kind than I, nor could a more appropriate gentleman be found in the House to preside over such an investigation than my friend from Massachusetts. But when the gentleman presents credentials of a gentleman claiming to be a Representative from the State of Arkansas, and these credentials do not appear to be signed by any officer of any State government known to the United States, nor to be issued under any law known to us of any State in the United States, I desire to say that the reference of those credentials to a committee carries with it an implication that it is possible that, under existing circumstances, he can be a Representative from the State of Arkansas. That implication I am not willing to allow to pass without bringing it directly to the notice of the House.

The Constitution of the United States says that the qualifications of electors for the election of members of this House shall be the same as those of electors for members of the most numerous branch of the State Legislature. Until there be a State Legislature recognized by the United States there can be no electors entitled to vote for any members to this House, and if there be no electors entitled to vote there can be no members elected to this House. Is there, then, any Legislature in the State of Arkansas, now actually existing, recognized by any authority of the United States? There is one legislature of Arkansas carried down into the southeastern corner of the State, swaying about one third of the State, which legislature does not recognize the Constitution or authority of the United States. Do the United States recognize that legislature? Does the gentleman whose credentials are presented profess to represent the State of which that body is the legislature? Are we to understand that a Representative is here from a State whose legislature repudiates the authority of the Constitution of the United States, and which is not recognized by the President or by either House of Congress? If so, that disposes of the whole question. If he do not profess to come here under the authority of the laws of that legislature, which we say is a body usurping the authority of the United States and merely a collection of rebels, having no legal authority, if he do not come from the State which that legislature recognizes, then what other State government exists there? This House has heard of none in any authentic shape. The President has communicated none to this House. The Senate has had no such State government brought to its notice. We have had no such State government brought before us. There is, therefore, no State government in the State of Arkansas recognized by the laws of the United States and that appears to this House in intentment of law or in point of fact. That being the case, sir, when credentials are presented and laid on the table they come from no authority that anybody recognizes; and to accept those credentials, to make them the subject of any reference, is an assumption of the existence of a State government recognized by the United States, which is not true in point of fact.

Now, if it be true, as we have been told this morning by my friend from Massachusetts who is at the head of the Committee of Elections, that there has been an election, that a constitution has been formed, that a State government has been inaugurated, let us have proofs of those facts, and let there be a direct vote of the House of Representatives to say whether they will recognize as a government this thing organized without any authority of law, without the supervision of any official authority, organized merely under the dictation of a military commander, and organized, therefore, without authority of law; we know not with what fairness; we know not according to what rules of election; we know not by what con-

stituencies; we know not by what proportion of the people of Arkansas. Let us inquire directly into these facts, and if they are satisfactory to us let us accept that government, and then we will be in a condition to consider the credentials of the gentleman from Arkansas. But until we have done this thing we have not the essential conditions preliminary to the question.

Mr. WASHBURN, of Illinois. I understood that the object of the gentleman from Maryland in moving to lay the credentials on the table was to prevent examination being made into this matter. Now I want to know whether, if these credentials were referred to the Committee of Elections, as they can be under the rules of the House, that committee would not be authorized and required to take jurisdiction of the whole subject and report to the House.

Mr. DAVIS, of Maryland. Why, sir, certainly not.

Mr. WASHBURN, of Illinois. I would like to know why.

Mr. DAVIS, of Maryland. Palpably, not.

Mr. DAWES. Mr. Speaker, if the gentleman will allow me, I will have the rule read.

The Clerk read the 75th rule, as follows:

"It shall be the duty of the Committee of Elections to examine and report upon the certificates of election, or other credentials, of the members returned to serve in this House; and to take into their consideration all such petitions and other matters touching elections and returns as shall or may be presented or come into question, and be referred to them by the House."

Mr. DAVIS, of Maryland. Assuredly, Mr. Speaker; but was ever, in the history of the United States Congress, the question of the existence of a State government anywhere made to depend on the subordinate question of the right of a member to a seat in this House? It is inverting all the proportions of the matter. The admission, undoubtedly, of a member of the House presupposes the existence of the State. But does the House treat that as a matter of so little moment as to have it decided incidentally by the Committee of Elections, instead of having the matter directly referred to a committee and fully examined? Is it a question of electoral laws? When a gentleman has been elected to a seat in Congress, the condition precedent to his election is the important political fact of the recognizing of the State government.

Allow me, Mr. Speaker, to go a step further. If we recognize a government in Arkansas and the President refuse to recognize it, in what condition are we? If the Senate recognize a government and we fail to recognize it here, in what condition are we? Or, to take the other case, if the President, under the pledge given in his proclamation of the 8th December, 1863, shall see fit to repeal this act of military organization of a State government, and shall see fit to recognize it as the government of a State, and to treat it as entitled to the guarantee of the United States, and if this House or both Houses of Congress refuse to recognize it, where are we? Can there be a recognition of a State government which does not unite the suffrages of all three political departments?

In the course of next February, the seat which you, sir, now occupy will be occupied by the Vice President, and we will be compelled to count the electoral vote for President and Vice President of the United States. Suppose a State Government be recognized by one branch of Congress and not recognized by the other, or be recognized by the President and not recognized by Congress; and suppose the electoral vote presented from that State should determine the presidential election, who will decide that political question? Yet that question is involved here, as the mere incident to the right of a gentleman to a seat on this floor.

If we are willing to say that State governments exist in all the rebel States, though the war is waged against us by their authority, then we take one view of the subject. But if the States have ceased to exist, if the fact of their rebellion has destroyed their relation to the United States governments, if we have to recognize new governments, that is a political question to be determined by the President, by the House of Representatives, and by the Senate of the United States. Neither one of the three nor any two of the three can determine it. It leads to the gravest political questions. It will bring us, if we venture on this collateral and incidental mode of determining this

grave question, very probably within the range of a civil war for the presidency, superadded to the pending civil war for the integrity of the Republic. It was because I saw these consequences involved that I moved to lay these papers on the table. It was because the President has called on General Banks to organize another hermaphrodite government, half military, half republican, representing the alligators and the frogs of Louisiana, and to place that upon the footing of a government of a State of the United States.

Mr. MALLORY. Will the gentleman yield for a question?

Mr. DAVIS, of Maryland. With great pleasure.

Mr. MALLORY. I desire to inquire of the gentleman from Maryland, if he denies that the Committee of Elections has the right to examine and report whether there be a Legislature in the State of Arkansas qualified to fix the qualifications of electors for members of Congress, what right has he to assume, and act upon the assumption, that there is no Legislature there? Where does he get his own information, and how is the House informed on that subject?

Mr. DAVIS, of Maryland. My opinion is exactly that of the gentleman and every one in the House. We know in point of law that there is no government there, just as we recognize the great seal of Arkansas when there is one. We recognize the counterfeit, and know it to be one. We know that Arkansas has thrown off allegiance. We know that she defies the authority of the United States, and resigns all possible State government. We know that we have recognized none, and there is none.

Mr. MALLORY. Does the gentleman from Maryland assert in his opinion that the State government is destroyed in Arkansas; that she is obliterated as a State; that she is no longer one of the States of the Union; and that she must come back into the family of States upon application, just as a State comes in from a Territory?

Mr. DAVIS, of Maryland. I will answer the gentleman. Does the gentleman recognize the constitution under which this gentleman comes here as the constitution of Arkansas?

Mr. MALLORY. I want to know something about that constitution from the Committee of Elections. I want to know all about it, and then I am ready to act. When I have the report of the able Committee of Elections, over which my friend from Massachusetts [Mr. DAVIS] presides, I shall be better able to answer these questions. So much for that.

Mr. DAVIS, of Maryland. I ask my friend from Kentucky to give me a correct and candid answer. He knows as well as I do that this constitution and form of government brought here as the basis to allow this gentleman to enter this House upon were made within a month. Does he recognize that himself as the government of Arkansas?

Mr. MALLORY. Mr. Speaker, I do not like the Yankee mode of proceeding which the gentleman adopts on this occasion of answering one question by asking another. He has not answered the question I put to him, and I do not think it is fair for him to ask me one until he has answered the one I put to him.

Mr. DAVIS, of Maryland. I will answer the gentleman's question. I am not anxious in the least degree to avoid it.

Mr. Speaker, I think that the State of Arkansas is not extinguished. I think that no citizen of Arkansas has lost any personal privilege of citizenship; nor have they withdrawn from any responsibility to the Government of the United States.

Mr. MALLORY rose.

Mr. DAVIS, of Maryland. Allow me to answer the question.

A State should exist with a government. The Constitution of the United States assumes that when it compels Congress to guaranty a government. The Supreme Court of the United States assumed that, when, in the case of Fisher and Walton, they said if a military government be established in a State it would be the duty of the United States to abrogate and remove it. The rebel government in Arkansas is a military government, and therefore not a republican government, and the United States is now engaged in removing it. When it is removed there will be

no government in point of fact, as there is none in point of law. To-day the condition of Arkansas I take to be this: her political privileges depend upon her organization of a State government, and not upon the fact of her being a State. Without her Legislature there are no electors; there is nobody entitled under the Constitution of the United States to vote for members of Congress. She is in the condition where Tennessee was under the administration, I believe, of General Washington. Tennessee was admitted into the Union without the scratch of the pen of a constitution. It was a State without a State government. When Tennessee organized her State government, that was recognized by Congress. When Arkansas shall organize a State government, that will be recognized by Congress and the President. Until that condition precedent representation upon this floor does not exist. A man may live, but without arms he cannot well work; without legs he cannot well walk. The substance of the man is there, but the faculty of action is gone. It is the paralyzed condition in which the rebel States now exist.

Mr. MALLORY. Can he live without brains?

Mr. DAVIS, of Maryland. No, sir, not without brains; and we think Arkansas has the brains, but her hands and arms are tied by the rebellion, and we are going to loose them.

Mr. STEVENS. Arkansas is now under a military governor, and I want to know whether any State under the authority of a military governor and general can enact any civil laws which will be binding. And I refer in this connection to California, in reference to which it was decided by the Supreme Court that while the military law existed the military governor and general could authorize no civil law, and that therefore the law in reference to revenue was void.

Mr. DAVIS, of Maryland. I take it there is no authority to pass any law in Arkansas at this time for anybody; and that any government there not recognized by the United States is a usurpation against authority. The government of California was the government of a foreign territory, directly recognized, without any intermediate territorial existence at all. The State of Texas was a foreign State, recognized without any intermediate territorial government at all. But the State of Texas was no more entitled to representation here until we saw fit to recognize her representatives and herself as a State than is the State of Arkansas at this time to representation here.

Now, having answered my friend with all the distinctness possible, I ask him whether he recognizes as the existing government of the State of Arkansas that government under which the gentleman from Arkansas here claims a seat.

Mr. MALLORY. I recognize the existing constitution which forms the government of Arkansas as the government for that State now; and whenever under that government the people of Arkansas choose to send a Representative to this House, claiming that he is their Representative, if I have any doubt upon the subject whether he is such or not, I would refer his claim to the Committee of Elections to have it decided.

Mr. DAVIS, of Maryland. Still the gentleman has not answered my question; but of course I have no right to press it.

I merely wish to make this observation, that the gentleman labors under the same confusion of ideas which seems to pervade all the gentlemen upon this floor in that respect. They suppose that a constitution, written on paper, laid away in the archives, with no organization to put it in force, is the government. The constitution is the form prescribed; the government is the body of men in whom it is vested, by whom it acts, through whom it lives, whom we recognize; and the constitution of Arkansas is now, by the mere effect of the rebellion, absolutely dead and incapable of revival except by a revolutionary process.

Mr. MALLORY. I wish to say to the gentleman from Maryland that I do not regard the constitution of Arkansas as the government of Arkansas; but I regard the constitution as the organic law which forms the government and gives it power. I had supposed that was the opinion of the gentleman from Maryland. I had supposed the gentleman concurred with me in the opinion that the Constitution of the United States is the organic law which gives power to the Gov-

ernment of the United States. I think that was once his opinion.

Mr. DAVIS, of Maryland. I am not aware that I have changed any opinion upon the subject of the Constitution of the United States that I ever entertained. On the contrary, I have entertained the opinion, and entertain it now, that the solution of this great social struggle, and the solution of the question of the reestablishment of State governments in the States where rebellion exists, is under that great law of the Constitution which says the United States shall guaranty—not may—but shall guaranty a republican form of government in every State. It is their duty, not merely their right, to do so. They are bound to see that it is not merely a mushroom growth under the dictation of a military commander or the President's proclamation.

Mr. MALLORY. I concur in that most fully.

Mr. DAVIS, of Maryland. And in reference to the old constitution of Arkansas, which they destroyed when they rebelled, that has ceased to be their government. They have no republican government there; and the papers read here, no matter by whom made, or how, or under what auspices, are nothing until we have examined and ascertained that they are proper ones.

Mr. HARDING. Will the gentleman yield to me for a single question?

Mr. DAVIS, of Maryland. With great pleasure.

Mr. HARDING. I propound this question to the gentleman, whether, in his judgment, the State of Arkansas is in or out of the Union? I want a direct answer.

Mr. DAVIS, of Maryland. I will not follow the example of my other friend from Kentucky [Mr. MALLORY] by evading it, but I will say that, in my judgment, it is in the Union; in the Union so far that we are bound to see that nothing which has the form without the substance of a government shall control her citizens; so far in the Union that we are responsible that she shall be governed according to republican laws; so far in the Union that the loyal men of Arkansas cannot be governed by traitors who call themselves the Legislature of Arkansas. We are bound to protect them. It is not merely our right, it is our bounden and highest duty; and it is for that reason and under these grave responsibilities—and not for the purpose of making an issue with my friend from Massachusetts, for whom no one in this House has a greater respect or a kinder regard than I have—that I thought I would present this grave question which rests upon our consciences as one which ought not to be passed upon as a secondary and incidental issue in an election case.

Mr. BOUTWELL. I desire to ask the gentleman from Maryland whether by the motion he has made he intends to commit this House, if his motion shall prevail, to the doctrine that the claims of this gentleman are not some time to be considered?

Mr. DAVIS, of Maryland. No, sir. I do not know, nor do I pretend to know what his claim may be. If the people of Arkansas have taken steps to organize a government, and upon investigation we shall be satisfied that what they have done fairly represents the masses of the people of Arkansas; if we shall be satisfied that the thing called a government is one to which we can intrust the interests of the people of Arkansas; if it is such an organization that we feel ourselves entitled to say, "Men of Arkansas, you shall obey it, obey it under all the responsibilities of the United States Government, and if you revolt against it we will compel you to submit to it," for that is the grave aspect of the question; if we shall be of opinion that the government so organized is one which we can say shall be obeyed and which we are ready to commit ourselves to enforce compulsory obedience to, then I will consider the questions of election law involved in this case. But it must be done not by this House alone; it must not be done by the Senate alone; it must be done not under the proclamation of the President, which, so far as it is anything more than a State paper, is a grave usurpation upon the legislative authority of the people of the United States; it must be done by the concurrence of the legislative and executive powers, and without that it is nothing.

Mr. BOUTWELL. Pardon me a moment. I wish to say that, understanding as I do from the

remark of the gentleman from Maryland that he intends by his motion only to lay these credentials upon the table until the great question as to the political condition of Arkansas is settled, I concur entirely in the wisdom of his proposition.

I think it would be a most unfortunate thing for this country, and of course most unwise, for this House, by its action upon an incidental matter, to settle the condition of the State of Arkansas, or of any other State.

But I cannot concur with the gentleman from Maryland in the suggestion I understood him to make as to the lack of good faith on the part of the President or on the part of General Banks, both of whom I believe are acting, with regard to the State of Louisiana, and I have no doubt that the President is also so acting with reference to Arkansas, with the most patriotic intentions.

Mr. DAVIS, of Maryland. My friend misunderstood me. I do not in the least degree cast any imputation upon the faith of the President. I impeach very seriously the legality of his proclamation.

Mr. BOUTWELL. I do not propose to discuss its legality, but I have a settled conviction that this nation in its present condition ought, before it, by any process, either executive, legislative, or judicial, recognizes the existence of these rebel States, to canvass the whole question. The right of this gentleman, if he has any legal right, to a seat upon this floor, is a very subordinate and unimportant claim as compared with the right of the loyal people and the loyal States of this Union to know, first of all, and upon most substantial and thorough investigation, whether Arkansas is a State in this Union. I have examined this matter as much as I was able, from the commencement of the contest till now, and I have the settled conviction that the State of Arkansas and the other ten cooperating States in this rebellion have no legal or constitutional existence as States of this Union.

Mr. GANSON. I would like to ask the question when those States ceased to exist. Was it on the passage of the secession ordinance? If not, I should like to know at what point of time they ceased to exist and got out of the Union.

Mr. BOUTWELL. I will state my own views in my own way, and as I go on I shall answer the inquiry of the gentleman from New York. The foundation of my whole theory is in this political proposition, that on this continent neither a colony nor a State has ever existed except by the will of the people within its limits. From that proposition I infer another, which is that no State can cease to exist as a State except by the will of the people within its limits. If you deny the constitutional power of the people to annul their existence as a State, as a political organization, you have to admit that, whatever may be the constitutional right or absence of right, the fact still is that the power is in the people of a State to declare whether they will exist or not; and there is neither power under the Constitution, there is neither force in the nation, there is neither power in the universe, in the absence of divine interference, to create the State of Arkansas and compel her to take her place in this Union, to send members to this House and Senators to the other branch of Congress, except with the consent and will of the people themselves. We have before us this great fact that for nearly three years past Arkansas has declared, in the presence of the world and in the most formal manner known to human proceedings, that, as a State, she has ceased to exist in the American Union.

Mr. GANSON. Will the gentleman yield to me?

Mr. BOUTWELL. No; I think I will go on. The State has ceased to exist. Call it suicide if you may; but though it be suicide it is none the less a fact. You search human and divine laws in vain for authority that an individual may take his own life. All law is against it. But when an individual commits the act of self-destruction, when his lifeless body lies before you, it is in vain that you reason on law, and say that he had no right to do the deed. He has ceased to exist by his own will. The State of Arkansas, by the will of its people, expressed in some way or other, but according to the form which has had potency and effect during these three years, has ceased to exist as a State of the American Union.

Mr. BLAIR, of Missouri. The gentleman from Massachusetts will permit me to ask him a

question. He says that the State of Arkansas has, by the will of her own people, ceased to exist. Have not all the States of the Union some interest in that question as well as the people of Arkansas?

Mr. BOUTWELL. I answer yes.

Mr. BLAIR, of Missouri. Have not the people of the Union such an interest in that direction as to prevent even the majority of the people of Arkansas from taking out of the State?

Mr. BOUTWELL. If the gentleman asks me whether there is a power in this country—

Mr. BLAIR, of Missouri. I do not mean the power; I mean the right.

Mr. BOUTWELL. If the gentleman asks me whether there be the right in this country to prevent the people of Arkansas going out of the Union I say yes; but if he asks me whether there be any constitutional power by which we can prevent the people of Arkansas from declaring that their State organization has ceased to exist I say no. That is a matter within their own control as a fact; and you cannot escape from a fact whatever your reasons and theories may be. By the voice of the people of Arkansas their State organization has ceased to exist. What remains? The jurisdiction of the General Government under the Constitution over the territory of Arkansas exists unimpaired, exactly as it was before this so-called ordinance of secession was passed. What more remains? Jurisdiction and sovereignty over the people of the State of Arkansas, neither more nor less than it was before the act of secession was passed. What is the condition of the people of Arkansas? Speaking legally and also as a matter of fact, they have just those rights which they can enjoy without a State organization. Of what, then, are they deprived? Of those privileges under the Constitution of the United States which can be enjoyed only through a State organization.

Now what remains for us to do? To wait till the people of Arkansas, "clothed and in their right mind," without the exercise of military force, without coercion, by numbers so great as to give assurance that they will remain loyal to the Union, shall appear before the legislative and executive departments of the Government, and ask to be replaced as a State with a constitution, and admitted to all the rights of the several States of this Union.

There are six essential conditions to the existence of a State as a State of the American Union:

1. Territory or area within the jurisdiction of the United States.
2. Inhabitants.
3. A constitution or organic law in which the existence of the Constitution of the United States is recognized, and its supremacy in certain particulars declared or admitted.
4. Officers of the State appointed or elected and sworn to support the Constitution of the United States, as required by that Constitution, (Article VI.)
5. Admission into the Union.
6. Senators and Representatives appointed or elected to the Congress of the United States.

The third, fourth, and sixth of these conditions are wanting in the case of Arkansas and the other States engaged in the present rebellion, and have been so wanting for three years.

I think that it is a subordinate and unimportant question as to who shall come from Arkansas to represent her upon this floor until we can settle the great question of the right of Arkansas to a State government as a State of this Union. I am, for one, for waiting to give my affirmative vote until a majority of her loyal people shall frame a constitution guaranteeing full and exact justice to all men, black and white. I will wait until we can be satisfied in all particulars that the people of that State will be loyal to the national Government.

Mr. Speaker, I have before me a resolution which I intended to present to the House in the ordinary way, but I now ask to have it read as a part of my remarks.

The Clerk read, as follows:

Resolved, That the committee on the rebellious States be instructed to consider and report upon the expediency of recommending to this House the adoption of the following

Declaration of Opinions.

In view of the present condition of the country, and especially in view of the recent signal successes of the national arms, promising a speedy overthrow of the rebellion, this House makes the following declaration of opinions concerning the institution of slavery in the States and parts

of States engaged in the rebellion, and embraced in the proclamation of emancipation issued by the President on the 1st day of January, A. D. 1863; and also concerning the relations now subsisting between the people of such States and parts of States on the one side and the American Union on the other.

It is therefore declared, (as the opinion of the House of Representatives,) That the institution of slavery was the cause of the present rebellion, and that the destruction of slavery in the rebellious States is an efficient means of weakening the power of the rebels; that the President's proclamation, whereby all persons heretofore held as slaves in such States and parts of States have been declared free, has had the effect to increase the power of the Union and to diminish the power of its enemies; that the freedom of such persons was desirable and just in itself, and an efficient means by which the Government was to be maintained and its authority reestablished in all the territory and over all the people within the legal jurisdiction of the United States; that it is the duty of the Government and of loyal men everywhere to do what may be practicable for the enforcement of the proclamation, in order to secure in fact as well as by the forms of law the extinction of slavery in such States and parts of States; and finally, that it is the paramount duty of the Government and of all loyal men to labor for the restoration of the American Union upon the basis of freedom.

And this House does further declare, That a State can exist or cease to exist only by the will of the people within its limits, and that it cannot be created or destroyed by the external force or opinion of other States, or even by the judgment or action of the nation itself; that a State when created by the will of its people can become a member of the American Union only by its own organized action and the concurrent action of the existing national Government; that when a State has been admitted to the Union, no vote, resolution, ordinance, or proceeding, on its part, however formal in character or vigorously sustained, can deprive the national Government of the legal jurisdiction and sovereignty over the territory and people of such State which existed previous to the act of admission, or which were acquired thereby; that the effect of the so-called acts, resolutions, and ordinances of secession adopted by the eleven States engaged in the present rebellion is, and can only be, to destroy those political organizations as States, while the legal and constitutional jurisdiction and authority of the national Government over the people and territory remain unimpaired; that these several communities can be organized into States only by the will of the loyal people expressed freely and in the absence of all coercion; that States so organized can become States of the American Union only when they shall have applied for admission and their admission shall have been authorized by the existing national Government; that when a people have organized a State upon the basis of allegiance to the Union and applied for admission, the character of the institutions of such proposed State may constitute a sufficient justification for granting or rejecting such application; and inasmuch as experience has shown that the existence of human slavery is incompatible with a republican form of government in the several States or in the United States, and inconsistent with the peace, prosperity, and unity of the nation, it is the duty of the people and of all men in authority to resist the admission of slave States wherever organized within the jurisdiction of the national Government.

Mr. KERNAN. Mr. Speaker, I only desire to say a few words. I agree in that part of this resolution which says that it is the duty of loyal men to strive to preserve and restore this Union; and my only object in asking to say a word is to appeal to the gentleman from Massachusetts [Mr. BOUTWELL] and others, whether they believe, or whether the members of this House believe, we are, as the representatives of the people now involved in these terrible difficulties and this great struggle, whether we are doing anything which tends to the preservation or the restoration of this Union, when we are spending day after day and hour after hour in discussing questions which can be postponed, and when questions are pressing upon us which threaten the destruction of the Government and the ruin of this people? Now, sir, nearly three months have passed, and no bill has yet been considered to strengthen the credit of the Government; and any man who knows anything must know that it is in danger of breaking down daily and bringing ruin upon our cause and country for want of proper legislation to strengthen our credit and enhance our finances. We have spent months here uselessly. The other House spent two months, or the greater part of two months, in discussing the amendments to the enrollment bill before they came to an agreement. There being no opposition to what they did, the House, or a majority of the House who believed in it, passed the bill speedily, without much discussion on either side compared with the Senate; and the reason was put forth that there was no time for long discussion, and the necessities of the country were great. That bill has been returned rejected by the Senate, or returned to us with the amendments of the House non-concurred in. It lies here; yet we can take hour after hour in discussing these mere resolutions on abstract questions, which must tend to divide the people of the loyal States, and which tend to the detriment of the Government and not to its benefit. It seems to me that those of us who have the

desire to save the country should engage our time with practical questions and not with resolutions on abstractions upon which men may well differ. I submit to a majority of the House if we are to have these propositions, let us not have them in the form of crude resolutions expressing the opinion of one man, but let them come in from the regular committee, and let us discuss them if they are to be discussed. But let us first pass upon practical questions which are pressing upon us, and which are important, if we mean to strengthen the Government in the prosecution of this war. In the name of all that is good, let us first address ourselves to the question of how we shall best enforce the Constitution before we embark on the wide sea of resolutions of what we will do in reference to questions that well may be postponed.

I suggest to this House earnestly, therefore, that there are practical questions before us; that there is some importance to be attached to trying to preserve this Government for white men as well as for black men. Let us not, then, spend all our time upon one subject, when every man knows we are endangering the liberties, the rights, and the Government of the country, and are doing no practical good to the unfortunate black man, who is being ground to powder under these circumstances.

Mr. WILSON. I desire to ask the gentleman whether he voted for the passage of the enrollment bill?

Mr. KERNAN. No, sir; I, like the Senate, rejected that bill. But there is nothing improper in that. I did not rise for the purpose of discussing that bill at the time it was under discussion. I proposed a few amendments which we thought wise. But they were voted down, and I have nothing to say. I recognized the fact that that was the policy of a majority of the House, and we did not propose to embarrass them. What I complain of is, that while it is their policy, while they would not give us time to discuss it because they deemed it so important, there is never a want of time to discuss a crowd of resolutions as to what will happen when we put down the rebellion—if we put it down.

Mr. SCHENCK. (interrupting.) I have been watching all the morning for an opportunity to make a proposition to the House, and I think this is a good opportunity. I ask the consent of the House to introduce a motion that the House insist upon its amendments to the Senate enrollment bill, and ask for a committee of conference.

Mr. KERNAN. I yield with the greatest pleasure to anything of that kind.

Mr. COX. I object. I want it to come up in its order.

Mr. SCHENCK. And I wish it understood that my colleague objects.

Mr. COX. I object because I do not know what the amendments of the Senate are.

Mr. SCHENCK. I can inform the gentleman.

Mr. COX. The gentleman should not impugn me in that way.

The SPEAKER. The Chair would state that the Senate merely non-concurred in all the House amendments.

Mr. SCHENCK. The Senate non-concurred in everything we did, and therefore we ask a committee of conference.

Mr. COX. I prefer that the House shall proceed in the regular way; and therefore I keep my objection standing.

The SPEAKER. Objection is made, and the gentleman from New York is entitled to the floor.

Mr. KERNAN. If we—and I address that to myself as well as to everybody else—will turn our attention to necessary, practical legislation, and show the country that we are earnest in doing what the majority think should be done for sustaining the Government; if we postpone those theoretical questions which can do no good and may do harm, referring this question to the Committee of Elections, and allowing other questions which gentlemen are thrusting in by their resolutions to await their time, the country will be satisfied, and we can get through our business and adjourn early in April, and do more good for the country than if we sat here until July discussing humbug resolutions.

Mr. WILSON. I wish to make a short statement in reply to the remarks of the gentleman from New York; it is that while he is now ap-

pealing to the majority of the House to proceed with legitimate business and the practical legislation of the country, that side of the House for two long weeks prevented the action of the House upon the confiscation resolution. They insisted upon debating it, and thereby lost two weeks' time.

Mr. KERNAN. I ask the gentleman to yield to me for a moment. I submit to him that his charge is a most unjust one, when his own side of the House, upon a bare statement of a minority of the committee, said the resolution must be discussed. We only asked for a fair discussion.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. NICOLAY, his Private Secretary.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution tendering the thanks of Congress to Major General W. T. Sherman; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced that the Senate had passed the bill (H. R. No. 156) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1864, with amendments; in which the concurrence of the House was requested.

ARKANSAS REPRESENTATION—AGAIN.

Mr. WILSON. In reply to what the gentleman from New York has said I wish to say—and the House will bear me out in the facts—that on two several occasions I appealed to that side of the House to fix a time for taking the vote upon that measure. I asked them to have it disposed of in order that the legitimate business of the House might go on and that other committees might submit their reports. The objection, as I have said, came from that side of the House. This side of the House, when I first asked that a time should be fixed for disposing of the resolution, had agreed upon what they would support and were ready to take a vote, but we were notified by gentlemen upon the other side of the House that they would resort to all the parliamentary proceedings and all the dilatory motions within their power for the purpose of preventing the action of the House.

I submit further that it is not entirely proper for a gentleman who has taken up as much of the time of the House in discussion as any other one to deliver lectures to the other members of the House in relation to the time they shall consume in discussion.

Now, sir, that is all I desire to say, except to ask one question of the Chair. I desire to ask the Chair whether, if the motion to lay the credentials upon the table shall prevail, they can be brought before the House again by a majority vote, or whether it will require a two-thirds vote?

The SPEAKER. This being a question of privilege, affecting the right of a member to a seat, the credentials can be called up at any time if laid upon the table.

Mr. WILSON. If laid upon the table by a vote of the House?

The SPEAKER. They can be taken up by a vote of the House at any time.

Mr. WILSON. By a majority vote?

The SPEAKER. They can; in that respect privileged questions differ from all other business.

Mr. DAWES. Mr. Speaker, the House is, with good reason, I observe, quite tired of this discussion, and so far as I am responsible for it, I will bring it to a close immediately.

I wish merely to call the House back, if I can, to the simple proposition before it, for as long as I have been here during these times, I have tried at all times to find some common ground upon which we can all stand and all work, rather than to seek points of difference between me and my neighbor whom I know to be just as earnest and as patriotic as myself; and therefore, so far as the peculiar duties of the Committee of Elections are concerned, during the last Congress and during this, whenever questions of this kind have cropped out I have at all times refrained, as far as possible, from seeking points upon which I may be

able to differ from those around me, but have sought rather to gather up at all times those upon which we can all agree.

I have not this morning, sir, sought to break a lance with the distinguished and patriotic gentleman from Maryland, [Mr. DAVIS.] Least of all has my vanity so overcome me as to lead me to seek to wrestle with my friend and colleague from Massachusetts, [Mr. BOUTWELL:] but let me say to him that in his attempt to cooperate with the gentleman from Maryland in stifling even for the time being the simple petition of the loyal men of Arkansas to be heard here in this House, he is not true to the ancient fame of the State of Massachusetts in that regard, however true he may be to her principles in all others, and however shining may be the light he has brought into this House. Sir, I, for one, have been raised in quite a different school at home from this. I have been brought up in a school that stood shoulder to shoulder, through many a fight, with "the old man eloquent" in Massachusetts in securing every one, high or low, to the humblest individual, though he may be in the farthest nook or corner of this great Republic, a right, not merely to come here with his petition and have it laid upon the table to suit our convenience, but to have it referred to a committee to examine into the facts and causes and reasons of his complaint and his grievance, and to report thereon to this House for its action.

Mr. BOUTWELL. I would say to my colleague that my remarks proceeded upon the idea that the pending proposition is to lay these credentials upon the table for the time being and temporarily merely, and not as a final disposition of the matter.

Mr. DAWES. My colleague cannot fail to see that if the matter shall be postponed until the discussions in this House shall bring us to a united course of action in regard to the treatment due to the rebel States it will be equivalent to saying to the petitioners, "Wait till a distant and far-off day." This Congress will have ceased from its labors, and we shall have returned to our constituents to give an account of our delay and waste of time in wrangling over non-essentials here, before these men could be heard here in this Hall, if that day shall be waited for. Sir, I will not stop to say to my friend from Maryland that no familiarity with violence at the polls, no violent interference with the attempt of the people to express their free choice at the ballot-box, however feeble that voice may be, however inadequate may be the expression of their desire and of their loyalty, no matter how little in accordance with legal forms, when they come to the essential and heart of the matter—no familiarity, I say, with that, however long continued on the part of others, has taught me or can ever reconcile me for one moment to the attempt here in this House to stifle their voice.

Sir, the gentleman from Maryland deprecates the decision of important questions like those which lie under and hang about this, on so collateral a matter as the decision of a man's right to a seat on this floor, yet he proposed, himself, to decide it by a motion to lay on the table.

Mr. GANSON. I would like to ask the chairman of the Committee of Elections whether Louisiana was not one of the rebel States, whether persons did not come here with credentials from that State, whether we did not receive their credentials and refer them to the Committee of Elections, and whether the report of that committee was not made, received, and acted upon? I ask whether Arkansas stands in any different relations to the Union than Louisiana does. If not, where is the difference so far as suicide is concerned, or self-destruction, or political or military interference?

Mr. DAWES. Mr. Speaker, on the question of reference of these credentials to the Committee of Elections, I refuse to argue that more important question which so underlies our work here, and which we so trifle with. I do not know how far in the argument of it I may be led to differ with my friend from Maryland or with my distinguished colleague on my right, [Mr. BOUTWELL.] If, however, I understood his enunciation to-day, his principle, and his line of conduct here, I must say, with a good deal of want of confidence in my own ability, that I am unable, as yet, to bring myself to those grounds.

But I propose, sir, to listen, to wait, to learn, and to sit at the feet of these Gamaliels until I shall see the line and the path of duty made clear and plain. If they will throw as few obstacles as a sense and conviction of their duty will permit them in the way of the proper discharge of their functions by the Committee of Elections, I will assure those gentlemen, distinguished heads and leaders of a committee appointed in this House to consider an important subject, I will throw no obstacle in the way of their coming to a grave and proper conclusion. It may be that, in the forming of the Constitution of this Government it was the idea of our fathers that the States, as States, were to be represented in the other branch of Congress, and that the people, as a people, were to be represented in this branch of Congress, and that our fathers foreseeing, not the great and overshadowing proportions of any such rebellion as this, but that there might probably come a time when the State governments would fail to coöperate with the national Government in securing to the people of those States representation, clothed Congress with the power of prescribing the mode and manner of the election of Representatives in Congress by the inhabitants occupying a particular geographical district, without dependence upon or the necessity for the coöperation of the State itself. I simply throw this out as a suggestion, for I am to wait for the learning which will be brought to bear on this subject by that committee which is to this House its eyes and its ears on that great subject.

The gentleman, my colleague, says that there cannot be such a thing as a State while there is no State organization. If the gentleman means by State organization Governors and legislators, then I say there is no more necessity for the existence of legislators in a State, to secure representation here to the people of a geographical district of a State, than there is that there shall be constables, in full glory, in that district. The precedents and history of the whole Government are against any such conclusion as that. If I remember, Arkansas entered this Union as one of the sister States in the olden time, and her Representatives admitted upon this floor before there had existed any State Legislature there. She was admitted in that way in accordance with the opinion of the then Attorney General of the United States. Michigan, by having a constitution which by the act of admission was ratified and sanctioned by the Government as republican in form, sprang into existence as a State by a vote of this House and the other branch without legislators, and her Representatives were admitted here before the organization of her State government. So with Kansas and with California. California was under a military governor, I will tell my friend.

Mr. SHANNON. If the gentleman will permit me I will make a remark in reference to the case of California. She was admitted into this Union when she was under a military governor.

Mr. DAWES. I was going to say that myself.

Mr. SHANNON. By mere formal recommendation of the Secretary of State, on the suggestion of the President of the United States, the military governor of California called a convention to frame a State constitution, and so little was known of the population that the members had to be apportioned according to territory, and not according to population. A constitution of State government was formed, and they sent that here with Senators and Representatives, demanding admission as a State into the Union. The slave power was then in control here, and it refused to admit them, upon the mere pretext that the Missouri compromise line of 36° 30' extended to the Pacific. That would have cut the State in two and made the lower half a slave State. She was under a military governor when she was admitted.

Mr. DAWES. I wish simply to state, in answer to the gentleman from Pennsylvania, [Mr. STEVENS,] what has been so well stated by my friend from California in reference to there being a military governor in that State previous to her admission into the Union. That military governor instituted rules and regulations which had the force of law in that Territory touching the collection of the revenue of the United States. When the question came up before the Supreme Court of the United States they decided contrary

to the position taken by my friend from Pennsylvania, who, the other day, interrogated the gentleman from Louisiana with apparent triumph to know the basis and authority for the appointment of a military governor for that State. The rules and regulations of the military governor of California, which had the force of law for the collection of revenue in that State, were sanctioned by the Supreme Court of the United States. I had the book here and read from it during the last Congress in the hearing of my friend from Pennsylvania and during the discussion of the Louisiana case. Thus much upon the question of referring these credentials to the Committee of Elections.

Mr. Speaker, I can see very well what grave questions are to trouble us in the discussion of this subject upon this floor. In the examination of the questions which come before the Committee of Elections, they have hitherto not found it necessary to involve those graver and more serious questions; and I trust that they may be able to put them off still further. I trust that they may be able to get through without the discussion of collateral questions.

Mr. Speaker, I do not assume, as my friend from Maryland has assumed, that Arkansas or any other State has the power at any time to break up this Union, for I have supposed that we have been for three years long defying and denouncing the men in rebellion, saying to them, "You shall not accomplish what you are attempting to accomplish. You shall not take these States out of the Union and achieve what you seek to accomplish." It was the language here of the leaders of rebellion in the winter of 1860-61, "Secession is an accomplished fact." I pray members not to adopt that language. Never at any moment did the majority of the people of Arkansas, that people that my colleague strangely asserts are omnipotent at all times, whether they spoke constitutionally or not, or according to the limitations they have placed upon themselves or not; never did that majority ever set aside their constitutional obligations; and when the confusion and smoke of this war and this discussion shall have passed away it will appear that at no time did there exist a majority of these people to attempt to do that which we have declared before the nations of the world they shall never do, and that they never can do, because we are one people. Not one third, in my belief, and according to the facts which have come to my knowledge, did there ever exist in that State who were disposed to take that State out of the Union if they had the power; and to say to that one third, that miserable, deluded, wicked set of rebels that have succeeded in accomplishing that which we have waged two years of bloody war to prevent them from doing, is what I do not propose to say at least upon this question of reference to the Committee of Elections, and, I trust in God, shall never be called upon to say. And therefore it is, I trust, the House will dispose of this. I yield to my friend from Maryland, according to agreement, to renew the motion to lay the credentials on the table.

Mr. DAVIS, of Maryland. I will detain the House with but one or two more observations.

Before I proceed I ask to enter a privileged motion. I move to reconsider the vote of the House by which the bill of the House (No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government was yesterday recommitted to the select committee on the rebellious States.

The motion was entered and passed over for the present.

Mr. DAVIS, of Maryland. The observations of the gentleman from Massachusetts conceded everything I desired to accomplish by my action. I merely wished to call the attention of the House to the gravity of the questions involved in the ordinary reference to the Committee of Elections. I wish the House to understand that they do not merely pass upon the question whether the gentleman who is the claimant had received so many votes or whether somebody else had received so many votes; but they pass upon the question whether a small proportion of the small population of Arkansas shall send here a Representative to help control the residue of the nation; whether they shall be entitled to send Senators to the other House of Congress; whether they shall be en-

titled to send electors of President and Vice President, possibly to turn the balance of the presidential electors. Those are the questions involved, and the discussion has developed them to my satisfaction.

When, however, the gentleman from Massachusetts [Mr. DAWES] refers to the mode in which States have been recognized from Territories of the United States, and when he says they have been admitted simply by the admission of their members upon this floor, he concedes everything that justifies the motion I made; because he admits that if this gentleman is admitted upon this floor, it carries with it an admission in this House that there is a State government organized and existing in Arkansas, which we have recognized and which we cannot refuse to recognize. The admission carries with it everything that induced me to make the motion.

As he has referred to the case of Michigan and the case of California, I desire to say that California, as I remember the law, was admitted by an act of the two Houses of Congress, signed by the President. It is said in objection that no precedent act of Congress had authorized them to form a government. That is true; and although it might have been more formal for that act to have preceded it, yet it was in the competency of Congress to recognize what the people had done, and their recognition made it law. And now if we recognize what the people in this district have done we make it a law, not simply with reference to the seat of this gentleman, but with reference to the whole government of Arkansas; because if one man can be so elected and admitted, his admission concludes everything.

Hence the importance of the House deliberately forming its own judgment whether or not there is a government in Arkansas that can send members here to help the rest of the Representatives of the United States, or to increase or diminish the ruling majority in this House, or to help decide the presidential election next fall. For these are the questions we are to decide by our act, and not whether the claimant has votes enough to entitle him, under ordinary circumstances, to a seat in this House.

But there is another point which I am unwilling to pass over without a single observation. For the sake of the American name, for the respect of republican government, for the sake of the precedent to posterity, I enter my protest against any paper being considered a certificate of election whose highest sanction is the name of the provost marshal of the district. Let me refer to the proclamation of General Banks. I refer to it because dangerous doctrines are gaining a hold upon the public mind, in my judgment, touching the foundations of the Republic. No man has a greater regard for General Banks than I have; but I shudder when I find his proclamation summoning the people of Louisiana to an election under a declaration that martial law is the fundamental law of the State of Louisiana.

And here in this case what do we find? The provost marshal at Fort Smith, Arkansas, issues this paper:

"This is to certify that Volney V. Milor is a duly authorized commissioner of elections in and for Sebastian county in the State of Arkansas, and is a duly authorized acting commissioner in and for the congressional district of northwestern Arkansas, appointed as such agent by the Union Association of the State of Arkansas."

A provost marshal certifies that a political caucus, getting together in a corner, authorized a man to erect a State in Arkansas! If there were no other ground, Mr. Speaker, I would protest against referring this paper to any committee.

Mr. DAWES. Let me say to the gentleman from Maryland that the certificates of all the Representatives from Virginia for the last fifty years have been signed by a commissioner of elections, and the gentleman has never been shocked thereat till to-day.

Mr. DAVIS, of Maryland. The gentleman from Massachusetts does not perceive the point. It is not whether the law of a State may prescribe one species of certificate or another, but it is that it appears on the face of the paper produced that the only authentic certificate is that of a provost marshal, the marshal of a camp, the executive officer of a military organization! That is not the law of Arkansas. And he does not certify to the election, but he certifies to the fact that this man Milor was appointed "as such agent by the Union

Association of the State of Arkansas." Is the Union Association a State? Is it, as a body of men, known to the law? Is it a government? Is it anything excepting a caucus collected together, sanctioned by the military authorities, to send members to this House?

Now, in reference to another point made by the gentleman from Massachusetts, I respectfully say that a "military governor" is appointed under no law of the United States; he has no assigned functions. It is a mere name created in an office in Washington and given to a man who is not charged with any legal duties. A general is known to the law and has a right to exercise all over the rebel country within the limits of his command the authority of a military commander; that is, to remove traitors, to suppress violence, and to exercise the ordinary police powers in time of war. Beyond that he has no power. And when the gentleman refers to the judgment of the Supreme Court with reference to California, and says that they recognized the authority of a military governor, I respectfully differ from him as to the judgment of the Supreme Court. They recognized the right of the President of the United States to levy military contributions in Mexico, *flagrante bello*. When that "military governor," as he is called, undertook to create a court to determine on questions of prizes in California, the Supreme Court said there was no authority to exercise that function of Government excepting by the legislative authority of the United States. It is only under the assumption of illegal authority by the Executive—one of the make-shifts of the times; because, in my judgment, Congress has not done its duty in prescribing how the national authority shall be enforced over the rebellious States, that such a thing as a "military governor" is known anywhere.

Mr. DAWES. I will state to the gentleman what I understand the decision of the Supreme Court to have been in the California case. A collector of customs was appointed by the military governor of California. He instituted rules and regulations, attempting to give to them the force of law, as to the manner of collecting and the amount of the customs. They covered three periods of time; one period during the war, a second period after the war had ceased and before the revenue laws of the United States were by act of Congress extended over that Territory, and a third period after by act of Congress the revenue laws were extended over that Territory but before the collector appointed under those laws reached California. The duties collected were paid over by that collector into the hands of the collector appointed under the law of Congress. Suit was brought to recover the money thus paid under protest. The decision of the Supreme Court covered the three points, *flagrante bello*, in peace without revenue laws, and while there were revenue laws but no other officer but the military governor and his collector. I submit to my learned friend that I am entirely mistaken in my reading if the Supreme Court of the United States did not sanction the rules and regulations and give to them the force of law for the periods while war was raging between the cessation of hostilities and the extension of the revenue laws over that port, and while there were no other officers but the military governor. The authority for the appointment of a military governor is discussed in that opinion, discussed by the Secretary of State at that time and by the then President of the United States. It is founded by them all in the authority of the Commander-in-Chief to appoint all the military officers necessary to carry out his functions as Commander-in-Chief. My friend might just as well inquire of me what legal authority there is to place pickets on the frontier line of our forces, or to place a guard over prisoners of war, as to inquire of me what legal authority, if he mean statute authority, there is for the appointment of a military governor.

Mr. DAVIS, of Maryland. A military governor is an officer unknown to the laws of the United States. He is charged with no functions by law. His appointment is not confirmed by the Senate. He has no fixed salary. He is a mere agent of the President without any authority of law whatever to appoint him. If he be an incident of the police of the camp, well and good. That gives him no authority to institute a political movement. By reference to the Supreme

Court reports it will be seen that it was decided that the money collected was not even money in the Treasury of the United States, and I think that Congress had to pass a law subsequently to enable it to go into the Treasury.

Mr. STEVENS. Will the gentleman allow me a single word?

Mr. DAWES. Certainly.

Mr. STEVENS. I do not wish that we shall inadvertently, by any record of ours, so entangle ourselves that hereafter we may be estopped from denying the particular condition of those States. Differing equally with the gentleman from Massachusetts and with the gentleman from Maryland on their expressed notions about the status of those States, and yet considering that before the case goes to the Committee of Elections, the condition of the State ought to be decided, and that speedily. I hope it will be seen by all the gentlemen of the House that the best disposition to make of the case is to refer the question to the select committee on the insurrectionary States.

Mr. COX. Mr. Speaker, is the Congress of the United States confined to that side of the House?

The SPEAKER.—The Chair was waiting for some gentleman to call his attention to the fact that gentlemen are not in their seats, as the rule requires. Gentlemen standing in the aisles must resume their seats.

Mr. DAWES. I would like to inquire of the gentleman from Pennsylvania whether he could not find authority for the Committee of Elections over this subject, when he found authority for his vote to admit West Virginia, and with his leave I will read his views on that subject, that the House may see where he is leading us. This is what my friend said:

"I shall vote for the admission of this State, and I desire to state the grounds for so doing. I do not desire to be understood as being deluded by the idea that we are admitting this State in pursuance of any provisions of the Constitution. I find no such provision that justifies it, and the argument in favor of the constitutionality of it is one got up by those who either honestly entertain, I think, an erroneous opinion, or who desire to justify, by a forced construction, an act which they have predetermined to do. By the Constitution a State may be divided by the consent of the Legislature thereof, and by the consent of Congress admitting the new State into the Union.

"Now, sir, it is but mockery, in my judgment, to tell me that the Legislature of Virginia has ever consented to this division."

Further on the gentleman says:

"But, sir, I understand that these proceedings take place, not under any pretense of legal or constitutional right, but in virtue of the laws of war; and by the laws of nations these laws are just what we choose to make them."

This is the lead of the gentleman from Pennsylvania, and I warn this side of the House against following it.

Mr. STEVENS. I am very much obliged to the gentleman. These are precisely the doctrines that I hold yet. When West Virginia applied for admission, it was pretended that old Virginia had given her consent to the partition, because a few gentlemen in old Virginia had gone to one corner of that State, at Wheeling, and declared that they were old Virginia, and that they consented to the partition, and then that they were West Virginia, and consented to make it a new State.

Mr. DAWES. I am not justifying the vote, for I voted against it.

Mr. STEVENS. I know that the gentleman voted against it, because he did not believe that the Constitution permitted it.

Mr. COX. Will the gentleman from Pennsylvania yield to me?

Mr. STEVENS. Certainly, sir.

Mr. COX. Do I understand the gentleman from Pennsylvania to say that the members on that side of the House voted for the admission of West Virginia, knowing that it was a violation of the Constitution?

Mr. STEVENS. No; it was only I that did that. [Laughter.]

Mr. DAWES. Knowing that it was the gentleman from Pennsylvania who did that, I want to warn the House, lest by again following him they commit other errors.

Mr. COX. Take it as a warning to do so no more.

Mr. STEVENS. I do take it as a warning. I know that the gentleman from Massachusetts has a great respect for me, and I am always glad when he finds something I have said worth reading. As he has read what I said upon the ad-

mission of West Virginia into the Union, I hope that he will read also what I said about the investigating committee last Congress.

Mr. DAWES. The last House disposed of what the gentleman said about that by a majority of four to one.

Mr. STEVENS. To go on with what I was saying: I do not regret having voted in favor of the admission of West Virginia. I do not say that it was in accordance with the Constitution administered in time of peace. I knew that the Constitution and martial law were not at war with each other. I do not regret having voted for the admission of West Virginia, except when I find its members voting against us, and then I wish it the other way. [Laughter.]

I did not rise to make a speech. I am glad that the House is in a good humor, and I expect that it is ready now to vote. I move that the credentials be referred to the select committee on the reconstruction of the States, and on that motion I call for the previous question.

Mr. SCHENCK. I ask the gentleman from Pennsylvania to yield to me for a moment.

Mr. STEVENS. I withdraw the demand for the previous question for that purpose.

Mr. SCHENCK. Mr. Speaker, it is not, in my opinion, important whether this paper, purporting to be the credentials, I believe, of some gentleman elected from the State of Arkansas, shall go to the Committee of Elections, the select committee on reconstruction of the rebellious States, or to the Committee on the Judiciary. Either one of those committees would satisfy me.

I desire to say, Mr. Speaker, that this debate proves one thing, if nothing more: that, as the gentleman from Massachusetts [Mr. BOWWELL] has said, underneath this question of the admission of a gentleman as a member upon this floor there is a more important question, and that is whether there is a State to be represented here or not. Believing that to be the case, I think that the reference should take such shape, whether by going to one committee or another, that it should be accompanied by instructions directing the committee to investigate and report upon the main fact before the incidental question is reached or can be properly disposed of. The gentleman from Pennsylvania has moved that the credentials be referred to the select committee on the rebellious States. I think myself that there is an appropriateness in that. That committee, if I remember the resolution defining its power, was appointed for the purpose of considering the plan of reconstruction contained in the President's message, and all questions pertinent thereto. If it be that that select committee was raised with a view to consider this very question, whether a State exists there or not, then these credentials should properly be referred to it.

But, as I have said, I am indifferent to what committee they should go. Still, to whatever committee they are referred, I want the committee to be instructed to treat first what the gentleman from Massachusetts has called the underlying question before reaching the subordinate questions. I move, therefore, as an amendment to the motion of the gentleman from Pennsylvania, the following instructions: that the committee investigate and report, by bill or otherwise, whether there is any such existing organized government in the State of Arkansas as entitles the State and its people to be represented in the Congress of the United States.

On that proposition I demand the previous question.

Mr. DAWES. What is to be understood by reporting by bill or otherwise? I suggest to the gentleman that there is no particular occasion, either in the position taken by the Committee of Elections or otherwise, to treat the Committee of Elections differently from what you would any other committee.

Mr. SCHENCK. I withdraw my demand for the previous question in order to reply to the gentleman from Massachusetts. The gentleman inquires what I mean by requiring of this committee to report by bill or otherwise. What I mean is, to make the power of the committee broad enough to cover any contingency in the case. If they shall come to the conclusion that there is a State here with a constitution knocking through its Representatives for admission at the door of the United States, that they may present a bill for the

consideration of the House for admitting that State, or for recognizing that State rather, as it is an old State, as an existing organization.

But I do not confine them to a report by bill. Purposely I put in the broad general language, "report by bill or otherwise," so that if they will they may give a special verdict, and simply report back to this House the facts.

Now, as to meaning any disrespect to the Committee of Elections, I thought I had already sufficiently disclaimed any such intention. I have expressed myself almost indifferent as to which one of three or four committees named this question might properly be referred to. I should not much object to its going to the Committee of Elections, or to the Committee on the Judiciary, as involving a great question of constitutional power. But inasmuch as the House has already raised a select committee upon the President's message relating to this very subject and this class of subjects, I think it very appropriate in the gentleman from Pennsylvania to move to refer the matter to that select committee. To whatever committee it may go, thinking it should not go without instructions such as I have proposed, I move those instructions in reference to both the motions to refer. I demand the previous question.

Mr. COX. I rise to a point of order. I had a right to the floor before the gentleman from Ohio called the previous question. I claimed the floor before he offered his amendment and before he called the previous question upon it.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] was upon the floor, but had yielded it momentarily to the gentleman from Massachusetts.

Mr. COX. He did not yield it to the gentleman from Massachusetts until I had claimed the floor.

The SPEAKER. The gentleman from Ohio did not surrender the floor at all; and for that reason the Chair ruled that the gentleman from West Virginia [Mr. BLAIR] could not move to lay the matter upon the table, as he indicated a desire to do.

Mr. SCHENCK. I yielded the floor to the gentleman from Massachusetts, and to nobody else, although half a dozen other gentlemen wanted to take it from me.

Mr. COX. I ask my colleague to yield it to me a moment.

Mr. SCHENCK. I cannot.

Mr. MILLER, of Pennsylvania. I rise to a point of order. I ask the gentleman if he insists upon the demand for the previous question when we did not know upon what specific proposition he proposed to call the previous question until my friend from Ohio [Mr. Cox] took the floor? The Speaker himself was not aware, until long after my friend had the floor, what the specific proposition was which came from the gentleman on the other side of the House.

The SPEAKER. The Chair would state that that is not a point of order. The Chair asked the gentleman from Ohio whether he moved his instructions to apply to both motions of reference, or only to one, and he replied, in the course of his remarks, that he desired it applied to both.

Mr. COX. I rise to another point of order. It is that the amendment of my colleague is not germane to a matter of this kind, for the reason that there is nothing involved in this matter except the reference of this memorial. That reference is under the rule of the House which was read a moment ago by the Clerk. It requires that the Committee of Elections shall "examine and report upon the certificates of election, or other credentials, of the members returned to serve in this House; and to take into their consideration all such petitions and other matters touching elections and returns as shall or may be presented or come into question, and be referred to them by the House." These are privileged questions, and this petition goes to that committee as a matter of course. It can go to no other committee. There is nothing whatever in this question which involves reconstruction.

The SPEAKER. The Chair cannot sustain the point of order; and he does so upon the very rule to which the gentleman refers. It is the duty of the Committee of Elections "to take into their consideration all such petitions and other matters touching elections and returns as shall or may be presented or come into question, and be referred to them by the House." The question of the or-

ganization of the State of Arkansas has come into debate to-day, and any motion to refer that question to the committee is in order.

The Chair would state further, that he thinks the instructions are certainly in order as germane to the very question before the House; but when the Committee of Elections report as to whether a gentleman is or is not entitled to a seat, then the usage is, that no collateral questions can be moved as amendments, because the person claiming the seat has a right to have the question decided whether he is or is not a Representative.

Mr. COX. The Chair will permit me to make one suggestion. It does not appear by the paper presented here that this case involves the question of reconstruction. The Chair only finds it out by hearing the debate here, the loose debate which has sprung up, and which has no relevancy to this petition so far as the face of it shows. And yet, upon simply hearing this loose and irrelevant debate, the Chair holds that the instructions proposed by my colleague are relevant.

The SPEAKER. The Chair holds it to be competent for the House to instruct any committee which they have appointed or authorized to be appointed.

The previous question was then seconded.

Mr. DAWES. I rise to inquire what will be the order of the questions?

The SPEAKER. The Chair was just about to state it. The first question after the instructions will be on the reference to the standing committee, as that takes priority of a motion to refer to a select committee.

Mr. DAWES. That is upon my motion to refer the credentials to the Committee of Elections?

The SPEAKER. Yes, sir.

Mr. STEVENS. Does that cut off the amendment?

The SPEAKER. It does not, as the amendment has priority of either.

Mr. DAWES. I understand the amendment to be to refer to a select committee, and my motion takes precedence of that.

Mr. STEVENS. The amendment is an instruction to both committees, and if it is carried I am entirely indifferent as to which committee the matter is referred to.

The SPEAKER. The Chair would hold that after the main question is ordered the first question will be upon the instructions moved by the gentleman from Ohio, [Mr. SCHENCK] because they apply to both committees. The next question will be upon reference to the standing Committee of Elections, as by the rules that question takes priority. If that fails, then the question will be upon reference to the select committee.

The main question was then ordered to be put.

Mr. DAVIS, of Maryland, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 104; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, John D. Baldwin, Beaman, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Creswell, Henry Winter Davis, Donnelly, Driggs, Eden, Elliot, Frank, Garfield, Hale, Higby, John H. Hubbard, Hulburt, Julian, Francis W. Kellogg, Orlando Kellogg, Knapp, Loan, Longyear, McBride, McClurg, McIndoe, Samuel F. Miller, Daniel Morris, Amos Myers, Orth, Patterson, Perham, Price, John H. Rice, Robinson, Schenck, Smithers, Spalding, Stevens, Stiles, Thayer, Upson, Chilton A. White, Williams, Wilder, and Woodbridge—53.

NAYS—Messrs. William J. Allen, Ancona, Anderson, Arnold, Bailly, Augustus C. Baldwin, Baxter, Francis P. Blair, Jacob B. Blair, Bliss, Brandegee, Brooks, James S. Brown, Chanler, Clay, Coffroth, Cole, Cox, Gravens, Thomas T. Davis, Dawes, Dawson, Deming, Dennison, Dixon, Eckley, Edgerton, Eldridge, English, Farnsworth, Fenton, Finck, Gamson, Gooch, Grider, Grinnell, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Herlick, Holman, Hutchins, Jenckes, William Johnson, Kasson, Kernan, King, Law, Lazear, Le Blond, Long, Mallory, Marcy, Marvin, McAllister, McDowell, McKinney, Middleton, William H. Miller, Moorhead, Morrison, Leonard Myers, Nelson, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Pendleton, Perry, Pike, Pomeroy, Samuel J. Randall, William H. Randall, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Ross, Scofield, Scott, Shannon, Smith, Stebbins, John B. Steele, William G. Steele, Strouse, Stuart, Sweet, Thomas, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Elhu B. Washburne, William B. Washburne, Webster, Wheeler, Joseph W. White, Wilson, Windom, Winfield, and Fernando Wood—104.

So the instructions were rejected.

During the roll-call,

Mr. COBB stated that Mr. SLOAN was detained from the House by severe sickness in his family.

The result of the vote having been announced as above recorded,

Mr. DAVIS, of Maryland, moved to lay the whole subject on the table.

The motion was not agreed to.

The question recurred on the reference of the credentials to the Committee of Elections; and they were so referred.

Mr. DAWES moved to reconsider the vote by which the credentials were referred to the Committee of Elections; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSUL GENERAL TO CANADA.

The SPEAKER laid before the House a message from the President of the United States in answer to a resolution of the House of the 8th instant, transmitting a report to the Secretary of State and the documents by which it was accompanied, touching the arrest of the United States consul general to the British North American provinces, and certain official communications respecting Canadian commerce.

The message and documents were referred to the Committee on Commerce, and ordered to be printed.

CONSCRIPTION BILL.

Mr. ROLLINS, of Missouri, asked and obtained permission to have his vote recorded on the conscription bill; he voted "no."

Mr. PATTERSON obtained the like privilege, and voted "ay."

Mr. STEELE, of New Jersey, obtained the like privilege, and voted "no."

Messrs. C. A. WHITE, HARRINGTON, and KING obtained the like permission, and voted "no."

Mr. SCHENCK. I move that the House insist upon its amendments to the conscription bill, and ask for a committee of conference. The Senate has simply non-concurred in everything that the House did.

Mr. STILES. I object.

The SPEAKER. It is very often the practice for the body that non-concurs to let the other body ask for a committee of conference.

Mr. FARNSWORTH. I hope the gentleman from Pennsylvania will withdraw his objection. This is the usual course in matters of this kind.

Mr. STILES. Let it come up in the regular order.

Mr. GARFIELD. This is the regular order, as I understand, to ask that a committee of conference be appointed.

Mr. STILES withdrew his objection; and Mr. SCHENCK's motion was agreed to.

INTERNAL REVENUE.

Mr. STEVENS. I move that the House proceed to the unfinished business of yesterday, which is the amendments of the Senate to House bill No. 122, to increase the internal revenue, and for other purposes.

The motion was agreed to; and the House accordingly proceeded to the consideration of the amendments, on which the gentleman from Illinois [Mr. J. C. ALLEN] was entitled to the floor.

Mr. COX. With the permission of the gentleman from Illinois, I desire to offer the amendment which I suggested yesterday. It is to amend the fifth Senate amendment by inserting after the word "proof," in the thirty-fourth line, the following:

Provided, That on all spirits on hand for sale distilled prior to the 1st day of March, 1864, there shall be levied and collected, in addition to the duty of twenty cents per gallon as provided by the laws now in force, a duty of twenty cents on each and every gallon: Provided, That this proviso shall not apply to any case where such spirits may be owned and held bona fide in the usual course of business in quantities of ten barrels and under.

Mr. HOLMAN. I raise the point of order that the amendment is not applicable to the Senate amendment.

The SPEAKER. The Chair overrules the point of order, so far as the amendment is concerned to which this is intended to refer; but the Chair holds that the amendment cannot now be offered, as the first amendment of the Senate is now under consideration. The gentleman from Ohio can offer it by unanimous consent.

Mr. COX. Then I offer it by unanimous consent. [Laughter.]

The SPEAKER. Is there objection?

Mr. STEVENS. Yes, sir; I object.

Mr. J. C. ALLEN. Mr. Speaker, if I understand the question before the House, it is upon concurring in the amendments of the Senate to the House bill. I have not looked closely into all these amendments, but there is one important one into which I have looked to some extent, and on which I propose to offer a few suggestions. I allude to that amendment of the Senate striking out the provision in the House bill that taxesspirits on hand forty cents per gallon in addition to the twenty cents per gallon paid under the present law. When the amendment was offered by the gentleman from New York, [Mr. FERNANDO WOOD,] while the original bill was pending in the House, without reflection, without looking to the consequences which would result to those engaged in the manufacture of the article, I gave it my vote. But for that fact I should not trouble the House with any remarks on the subject.

Subsequent reflection and examination, Mr. Speaker, have satisfied me that the provision is wrong. I propose to support the amendment of the Senate striking it out of the House bill.

I propose now to assign a few reasons in support of the amendment of the Senate, and in opposition to the provision of the House bill. In the first place, it is a provision unusual in the history of our legislation. It is certainly unjust to those who, after the passage of the act of 1862, embarked their capital in this manufacture. After the passage of that bill I believe there was an implied obligation on the part of this Government that it would not impose any additional burden upon the manufacture of spirits. When Congress passed the internal revenue law during last Congress, they said to those engaged in that branch of business that the stock manufactured prior to that time should not be taxed; and the implied pledge on the part of Congress may be inferred from its action from that day to the introduction of the House bill now under consideration. Why do I say this? Look at the revenue bills introduced into this House; look to all of our tariffs, and you will find that the Congress of the United States has jealously guarded those who are engaged in any of the trades of the country against any retroactive duty upon articles in hand. Hence it is that in the adjustment of tariffs great care has been taken by Congress not to impose upon those engaged in trade duties beyond those imposed by the law under which they produced the article.

That, sir, has been a very general feature of our legislation. I believe that our tariff bills increasing duties upon imports will bear me out. Heretofore when the Government has imposed additional duties, it has guarded against the imposition of those duties upon articles purchased and in transit to this country—articles purchased and imported from foreign countries under a former scale of tariff. So it is in regard to the tariff that reduces the duty upon imports. The principle is the same, and has been uniformly adhered to by Congress. Relief has been given to those engaged in importing articles by abatement of the duties upon the cargoes that were on the way to this country when the reduction was made.

I think then, sir, that those who were engaged in the manufacture of spirits had the right to infer the Government had given them an implied pledge that it would not increase the tax upon the article after being manufactured. I believe that it is a sound principle, and that it ought to be pursued by the Government.

The amendment of the gentleman from New York incorporated into the House bill will not only subvert the general practice of the Government, if it is adopted, but it will unsettle the trade, and produce among manufacturers the greatest degree of uncertainty in regard to their business. If it be adopted it will bring bankruptcy to many of the most enterprising men in the country, who have engaged in this manufacture relying upon the implied pledge of Congress not to impose an additional tax upon the stock on hand.

It is the duty of the Government in the adjustment of duties and taxes to so adjust them as to do the least possible damage to the trade of the country. When you violently strike one branch of trade, a commercial chord is touched that vibrates throughout the country. I am not willing, therefore, to vote for the House provision that will bring bankruptcy to the doors of the enterprising men who on the faith of a tax already fixed by Government have devoted their capital

and energy to this branch of business. I will not ruin these men in order to reach a few speculators over their destruction.

I have said that by insisting upon the House amendment and imposing this additional tax of forty cents upon all liquors manufactured hereafter, you destroy the manufacturing establishments of this country. And now I will proceed to give my reasons for saying so. The argument made by the gentleman from New York [Mr. FERNANDO WOOD] yesterday, that it would not thus affect those engaged in this manufacture, may apply to the distillers in and about the city of New York. It may apply to them for this reason, that they can put into the market and dispose of in one day what they manufactured the day before; for that being the great commercial emporium of the country, there is always a market there. But it does not so operate upon the distillers in the interior and at the West. Why? Simply because they have to bring their product to the city of New York in order to find a market for it. It takes time to do that. It is not the work of a day or of a week. An inquiry into the matter will satisfy any man that it is almost impossible to get from the State of Illinois into the New York market a cargo of whisky in less than from thirty to forty days. Hence those engaged in its manufacture in the western States are subjected to a loss which those who are near the central market, and who can manufacture one day and sell the next, are not subjected to.

It is for that reason that the panic which has occurred in the whisky market recently, in consequence of the amendment of the gentleman from New York, has caught the western distillers with a large amount of the article on hand, and upon which they must necessarily sustain a heavy loss, if they are not entirely ruined thereby. On this account it is wrong to impose this additional burden on them. Had they been in reach of New York, and in the situation of the distillers of New York, they could have turned over, before this panic in that branch of trade, the stock they had on hand, and thereby have placed themselves in the same situation as the New York distillers.

Owing to the immense amount of business upon the railroads of the West, and the large demand for rolling stock on those roads, it has been for the last ten months almost impossible for men, sometimes for weeks after they had a cargo ready for transportation, to obtain rolling stock to remove it from their distilleries.

Then, again, owing to the pressure of the Government for railroad facilities, and the taking of the cars for the transportation of live stock which cannot be put down and left by the way, cargo after cargo of whisky has from time to time been turned out into the sheds and streets to await a more convenient season for transportation. And thus those who are engaged in the manufacture have not been able to get their product to the market.

This amendment introduced by the gentleman from New York has left upon the hands of the western distillers a large amount of spirits which they have been unable to sell owing to the depressed price of the article, growing out of this proposed additional tax of forty cents upon it. It may be said that it ought not thus to affect them; that they have engaged in the enterprise and should take their chances; that although they may suffer loss, they ought to sell, if their necessities require, whatever the article is worth in the market. One reason why they could not do that is the uncertainty which has hung over this subject since the adoption by the House of the amendment of the gentleman from New York. They could not sell for the reason that if they took the reduced price—and it will be remembered that upon the introduction of that amendment the price dropped down twenty-five cents per gallon—in a few days they were ruined, because it cost them in price of grain, labor, and transportation, a sum far beyond what it was worth in the market.

They could not sell for another reason; they were uncertain what would be the fate of this proposed additional tax of forty cents. They could not sell at seventy or seventy-five cents for the reason that if they did so, they would be liable, if this additional tax passed, to be called upon to pay it, and that was ruin to them. The consequence has been that they have been compelled to hold back the stock they had on hand, await-

ing the decision of Congress, and hoping that our legislative action here might be so directed as not to ruin them utterly and break down this great source of revenue in the western country. To us in the West it is an important interest; to the Government it is an important interest; and I think I will be able to show any reflecting man that the Government can gain nothing by prostrating these manufacturers even though it gets all the taxes it expects to raise by assessing this forty cents per gallon upon the liquor already manufactured.

Illinois, sir, manufactures more gallons of spirituous liquors than any other State in the Union, not even New York excepted. The census returns of 1860 show that she manufactures twenty million gallons per year, while New York and Ohio manufacture only fifteen million gallons each, in round numbers. I am placing the estimate now at what it was when the census of 1860 was taken, not what it is actually at this day owing to the increased facilities and the enlargement of these establishments.

Upon the manufacture of twenty million gallons of this article in Illinois the Government, from the tax of sixty cents per gallon which the Senate's amendment proposes to impose, would derive the immense revenue of nearly forty million dollars per annum. The city of Peoria is manufacturing daily about forty thousand gallons of spirits. A tax upon that of sixty cents per gallon would yield to the Government a revenue of \$24,000 per day, or \$7,200,000 per annum. She has, I believe, twelve or fourteen distilleries in active operation, and she proposes, if permitted to go on and carry out the work in which she is engaged, to pay to this Government a revenue of \$7,200,000 per annum.

The city of Chicago, with four establishments of this character, is manufacturing daily about twenty-four thousand gallons. A tax of sixty cents per gallon upon that will yield to the Government \$14,400 a day, or \$4,320,000 per annum. Thus the two cities of Peoria and Chicago, from the manufacture of this article alone, under the tax proposed in the Senate bill, will yield to the Government a revenue of nearly twelve million dollars per annum.

Now, sir, what is proposed? It is proposed by the amendment of the gentleman from New York, [Mr. FERNANDO WOOD,] by the House bill, to tax these establishments forty cents per gallon, in addition to the twenty cents already paid, on all that they have manufactured, and also to impose that tax on all that may be in the hands of speculators, for the purpose of raising revenue for the Government.

Now, sir, the best estimates that the Committee of Ways and Means could procure, estimates founded upon the best statistical information that was available, show us that there are not more than about two hundred thousand barrels of distilled spirits in the United States to-day, upon which the tax of forty cents, if all the liquor were taxed and all the tax collected, would not yield the Government an amount of more than four million dollars.

I submit, then, if it is a wise policy, aside from the justice of the question, to destroy this vast distilling interest in the West that will yield such a large revenue to the Government merely for the purpose of securing to the Government the \$4,000,000 of taxes which may be assessed and collected on the stock now on hand, when the evidence is that this additional tax of forty cents will break down and effectually destroy a large portion, if not all, of the manufacturers in the western States? It seems to me, sir, that it would be a folly only equaled by that recorded in the fable of the man who slew the goose that laid the golden eggs.

Mr. GRINNELL. I desire to ask the gentleman a question.

Mr. J. C. ALLEN. Certainly.

Mr. GRINNELL. He speaks of the number of million dollars that would accrue from the tax on whisky in the cities of Peoria and Chicago.

Mr. J. C. ALLEN. Yes, sir.

Mr. GRINNELL. I wish to ask him if he means to say that those cities will pay that tax into the Treasury.

Mr. J. C. ALLEN. No, sir; and I did not say so. I mean to say that if this tax of sixty cents per gallon proposed in the Senate bill is imposed

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upon whisky, the amount manufactured in Peoria and Chicago alone will yield to the Government annually over eleven million dollars, if they are not destroyed by this proposed additional tax of forty cents per gallon on what they have already manufactured.

Mr. GRINNELL. I would like to ask the gentleman from Illinois if he does not rejoice over the fact that so much money goes into the Treasury.

Mr. J. C. ALLEN. I do, sir; and it is for the purpose of saving these distillers from bankruptcy and enabling the men engaged in that business to carry it on that I advocate the Senate amendment and oppose the proposition of the gentleman from New York, [Mr. FERNANDO WOOD,] which would entirely destroy the business.

Mr. GRINNELL. Do I understand the gentleman from Illinois to assent to the proposition that a high tax on whisky will not lessen its consumption?

Mr. J. C. ALLEN. It may be that a high tax will lessen the consumption.

Mr. GRINNELL. But not much.

Mr. J. C. ALLEN. The difficulty under which the gentleman from Iowa labors is that he imagines that all spirits manufactured is consumed as a beverage.

Mr. GRINNELL. No, sir.

Mr. J. C. ALLEN. If the gentleman will take the pains to look into the commercial statistics he will find that so far from that being the case, less than one fifth of the quantity manufactured is consumed in the country as a beverage.

Mr. GRINNELL. The gentleman says that this tax will break up the business. Now, if a high tax will not much diminish the consumption I want to know whether, there being an undiminished demand for the article, the supply will not keep pace with it? If so, how are these distilling establishments to be broken up?

Mr. J. C. ALLEN. I think I can answer the gentleman intelligibly, but whether he is able to comprehend it or not is a question for him, not for me. Under the act of 1862, distillers in Illinois engaged extensively in the manufacture of spirits under the implied pledge of the Government that they were to be required to pay but twenty cents per gallon duty. They had to invest immense sums of money in putting up establishments and preparing for the manufacture. They had to invest large amounts in the purchase of grain, corn, and rye to be used in distillation. And all this they did on the implied faith of the Government that on the production of their distilleries a duty of twenty cents per gallon would be imposed and no more. Their entire calculations were made in regard to that state of things. This bill, as it passed the House, imposed on the stock on hand an additional duty of forty cents per gallon. Its immediate effect was to reduce the price of the article twenty-five cents per gallon, and to induce the capitalists on whom distillers relied for advances to withdraw their accommodations. The distillers were informed that this action of the House had unsettled the whisky market, and that there was a danger of loss and bankruptcy in the trade. They were unable to obtain further drafts on the stock shipped from the West to the East, and were compelled to submit to whatever loss might arise.

There is not an establishment in Chicago or in Peoria that can pay this additional tax. They could not raise the funds to do it. The legislation of the House has so unsettled the trade that moneyed men will refuse to advance money to distillers on commission, and they will be left to the mercy of the winds and the waves, and to the mercy of my friend from New York. If they are unable to pay this additional tax their stock must go to the hammer, first to pay the tax to the Government, and secondly to pay for the advances already made by the commission merchants in New York, and they will be left with nothing to prosecute their business, and their establishments must close. Others, taking warning from their fate, will not renew a business liable at any day to be

destroyed by the action of Congress, and this source of revenue will be lost to the Government.

Mr. HUTCHINS. I ask the gentleman from Illinois whether it is not for the interest of the manufacturers who are to have this additional tax upon the article to be manufactured to pay, to require a tax to be paid upon the quantity now on hand?

Mr. J. C. ALLEN. If the manufacturer was fortunate enough, before the introduction of the amendment of the gentleman from New York, or before the passage of the House bill imposing this additional tax, to sell out his stock on hand at a good profit, as I have no doubt the distillers in the gentleman's district did, perhaps it would be for his interest to have an additional tax laid upon the stock on hand, or at least it would not affect him injuriously since he had none on hand to be affected by it. But in reference to these men in the West who, owing to the difficulties of transportation, were caught with large quantities of liquors on hand or *in transitu* by this bill of the House, if you impose these additional burdens upon the stock on hand they will not be able to raise the money to pay it, and they will necessarily go by the board.

Now, sir, what I contend for is that we ought to so conduct our legislation as not thus violently to interrupt the current of commerce, and thus break down those who are engaged in it, in a commerce that if properly cared for by the Government will yield an immense revenue. Sir, the dictates of reason would sustain us in adopting such a course of legislation.

But it is said that speculators have very largely invested in this article with the view of selling for an increased price when an additional tax was imposed. Well, sir, it may be so. I grant it; but when was there a time in the history of the country that speculators have not always invested their capital in commodities which they expected to sell at an increased price? What speculator would invest his money in any article of trade or branch of commerce if he did not expect to realize money from his investment? I cannot understand why there should be such a desire to get hold of the speculators in highwines more than the speculators in anything else.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, informing the House that the Senate have passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (No. 24) granting lands to the State of Oregon to aid in the construction of a military road from the Dalles of Columbia river to a point at or near the mouth of Owyhee river;

A bill (No. 42) in relation to the limitation of actions in certain cases;

A bill (No. 39) to authorize the enrollment and license of the steam-tugs B. F. Davidson and W. K. Muir;

A bill (No. 23) granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State; and

A bill (No. 110) for the relief of John H. Shepherd and Walter K. Caldwell, of Missouri.

INTERNAL REVENUE—AGAIN.

Mr. J. C. ALLEN. Mr. Speaker, the Congress of the United States in 1862 sanctioned this as a legitimate branch of commerce in this country by imposing burdens upon it. They imposed upon it a burden of twenty cents per gallon. And having so sanctioned the commerce, if men, speculators or otherwise, chose to engage in the liquor traffic with the view of making money from it, they had a perfect right to do it. We have a right to manufacture it, and men of means have the same right to purchase it with the view of realizing a profit from its sale.

I see no difference in point of principle or law between a man speculating in highwines and his speculating in gold, flour, grain, pork, or any other article of legitimate merchandise. And why

it is that men who have seen fit to invest their means in highwines should be singled out as the particular class upon whom the vengeance of this House is to fall, I cannot conceive. The article has paid its legitimate tax to the Government; and because men have seen fit to invest in it as an article of commerce, is that any legitimate reason for placing such restrictions upon it as shall utterly destroy the manufacturer?

I was asked by my friend from Iowa [Mr. GRINNELL] a while ago whether if we imposed an increased tax the manufacturer would not be able to sell at a correspondingly higher rate. That as a general rule is true until you reach a point beyond which men will not purchase. I do not know where that point is in the liquor traffic. I do not know that so far as that portion of spirituous liquors is concerned which are drank as a beverage they will be affected by it. I am inclined to think that the more you tax whisky the more will be sold to those who purchase to drink.

But, sir, in reference to that which is not consumed as a beverage, there is a point beyond which if you go you destroy the trade and cut off the Government from all revenue from that source. I do not pretend to say where that point is. I thought the proposition to impose a tax of sixty cents per gallon upon spirituous liquors was an enormous one, and would be so considered by those engaged in the manufacture of them, but I have been told by some of them that they are willing to try it provided you assess no additional tax upon the stock they still have on hand.

They say put what tax you intend to impose upon us on what is hereafter to be manufactured at once, so that we may know what we are to depend upon. Put it as high as you intend to put it, and we will then know how to arrange our business to meet it.

Mr. Speaker, I apprehend if it were not for the fact that a prejudice exists in the minds of some gentlemen as to the use of whisky there would be no controversy on the subject more than there is in regard to other branches of industry. But I implore gentlemen, when they impose a tax upon this article, that they will not fix such a tax as will ruin the men who have embarked their time, their labor, and their capital in this manufacture. But whatever tax the Government shall impose, I implore Congress not to do such gross injustice as to go back and tax what the manufacturers were unfortunate enough to have on hand when the legislation of 22d of February last was proposed. I have information from those who know that if this retroactive tax is imposed upon the stock on hand of these manufacturers, men who have been legitimately engaged in the prosecution of their business, men as honest as are to be found in any other trade, it will destroy many, if not all, of the distilleries of the West. When you destroy them you cut off your entire source of revenue from that quarter merely to get \$4,000,000 from half a dozen speculators in whose hands a portion of it may be found.

I know that my friend from New York imagines there is vastly more than two hundred thousand barrels in New York. The statement of the committee as to the quantity is from the best statistical information which could be obtained and from the capacity of the distilleries in the country to furnish it. I think that, therefore, it may be taken at that amount.

My friend from New York stated yesterday that there was one bank in the city of New York that had furnished \$250,000 to be invested in this article of whisky alone. Suppose it did. That amount at the price of whisky before his amendment was offered would buy just five thousand barrels, and no more. It will be seen that five thousand barrels is a small proportion of two hundred thousand barrels.

He states further that he knows three men in New York who own one half of the amount estimated to be in existence. Suppose they do. Suppose one man does. If he has the capital he has the right to buy it. Because three men own

that amount of the article, is that a reason why they should be wronged? Is that any reason why those who have engaged in this business in the West and risked their money should be wronged? Certainly not. Is there any more reason why three men engaging in the liquor traffic should be wronged than there is that three men engaged in dealing in gold in Wall street should be wronged? Certainly not. It is a legitimate subject of trade. There is no reason in morals or in politics which would induce us to strike down any man, much less when he is engaged in legitimate trade, or engaged in the pursuit of honest industry.

Mr. Speaker, I have no private griefs to avenge. I only look upon this proposition as to the manner in which it is to affect the industry of the country as well as the Government. The more I look into it the more I am convinced that it would be a heavy blow to the distilling interest of the West. It would be wrong, in my judgment, to the distilling interest and unjust to the Government by cutting off the revenue which it would otherwise derive from it. That interest in Illinois is a large one, and it is a large one in the other western States. I have stated the amount manufactured at Peoria and Chicago. There are in other parts of the State of Illinois other establishments capable of making each thirty to fifty barrels a day, at Warsaw, Wesley City, Canton, Pekin, Rock Island, Lucon, Decatur, Danville, Alton, and other points that do not now occur to me, where large amounts are made. It is to the farmers in the vicinity of these establishments an important interest. Railroad rates are so high we cannot send our corn and rye to market over them. The Mississippi river is blockaded, so that we are cut off from that outlet; and to strike down by this tax these markets to our farmers you do us a vast injury.

Sir, it is no small matter that Peoria consumes some ten thousand bushels of corn a day, and that Chicago consumes some six or eight thousand bushels a day. It affords to our people a market for their corn which they could not otherwise have. It enables them to dispose of the products of their labor, and receive its equivalent in cash, to clothe and support their families, and furnish them with the necessities of life. If it were not for this home market, their corn would rot in their cribs for the want of a market. The city of Peoria is now feeding and preparing for the spring market five thousand head of cattle and twenty thousand hogs. The city of Chicago is feeding and preparing for the spring market seven thousand head of cattle; and each one of those other establishments in other portions of the State engaged in this manufacture to a greater or less extent is engaged in feeding cattle and hogs in proportion to its capacity. These afford to us not only a market for our corn and hogs, but they afford to our farmers a market for rye and cattle. As the Government is interested in receiving a revenue out of this manufacture, instead of pursuing such a course of legislation as will destroy it, we should pursue such a course as will stimulate and encourage them.

Mr. WASHBURN, of Illinois. I understand my colleague to be making an argument on this bill to show that the farmers of Illinois are to be injured by the adoption of the House bill, including the amendment of the gentleman from New York. I suppose it is upon the ground that they will not get so high a price for their corn. I ask the gentleman if the addition of this forty cents a gallon will not enhance the price of whisky to that amount, and consequently enhance the price of the materials, the corn, out of which it is manufactured; and if his argument, in fact, is not opposed to the interest of the farmers of Illinois? The higher the price of whisky is, the greater is the price our farmers get for their corn.

Mr. J. C. ALLEN. I might answer the gentleman by referring to the prices current of whisky in the city of New York since the House bill, including the amendment of the gentleman from New York, was adopted. If he wants to know the effect of that bill upon prices, he can find it in that. Not only has the price of whisky receded twenty-five cents per gallon, but the price of corn has fallen twenty-five cents in the gentleman's own district.

Mr. WASHBURN, of Illinois. The gentleman has not answered my question. I ask my colleague if we advance the tax forty cents, will

it not add to the value of the corn which his constituents and my constituents have to sell?

Mr. J. C. ALLEN. Perhaps the adoption of the Senate amendment, which lays the tax at sixty cents from the passage of the bill to July next, at seventy cents after July and up to January, and after January to eighty cents, may increase the price of whisky and the price of corn. But that amendment does not propose to go back and tax that on hand and which has already paid a tax. Such a course would ruin and bankrupt those who have been engaged in the manufacture. Adopt the House bill, and you destroy them and destroy the market. I do not want to place them in such a situation that they cannot buy the cattle and hogs and corn and rye of our farmers to feed, or make whisky to sell. It is that to which I am objecting, and not to an increased tax upon that which may be manufactured hereafter.

I have endeavored to show, and I flatter myself that I have shown to those who have watched my argument, that the effect of this tax will be to ruin and destroy those manufacturers who have large quantities of this article on hand, owing to what must necessarily follow—a depreciation in the value of their articles, from the fact that their spirits, stock, and grain must be thrown into market and sold. If that is to be the effect, you not only cut off the additional revenue which might be derived from what is manufactured hereafter, but you totally ruin those who have invested their all in this enterprise, and cut off from the farmers of the West the corn market, the grain market, the hog market, and the cattle market that these establishments have afforded. And not only that, sir; each one of these establishments employs a large number of hands. There are two establishments in the city of Peoria that employ upon cooperage alone one hundred and fifty men each, besides those engaged in other departments of these establishments. All these men will be made to feel the effect of this tax if it be imposed. What I desire is so to arrange this tax that these establishments may be enabled to continue running and to yield to this Government a revenue of which, as a citizen of the State, I shall feel proud, and which will be materially felt in the coffers of the nation. If, as I have shown, the cities of Peoria and Chicago will yield to the Government a revenue of nearly twelve million dollars under the Senate bill, it is but reasonable to suppose the establishments in other portions of the State to which I have alluded will greatly augment that amount.

I believe that if you adopt the Senate amendment, if you refuse to stand by the House bill, so as to relieve these men from this additional odious burden of taxation and enable them to prosecute their business, instead of raising the \$4,000,000 which you might possibly derive from taxing the stock on hand, the State of Illinois alone will, during the next twelve months, pour into the Treasury \$17,000,000. And for these reasons I shall support the Senate amendment.

Mr. STEVENS. It is now very near the usual hour of adjournment, and I will therefore demand the previous question.

The previous question was seconded.

Mr. COX. Would the previous question cut off all further amendments?

The SPEAKER. The previous question being called upon the amendments of the Senate generally, cuts off all amendments thereto.

Mr. HOLMAN. I hope the gentleman from Pennsylvania will not insist on calling the previous question upon the whole of the amendments.

The SPEAKER. The previous question has already been seconded, and the question now is upon ordering the main question.

Mr. ELDRIDGE. Will that bring the House to a vote upon all the amendments at once?

The SPEAKER. It will not; a separate vote can be had upon each amendment; but it precludes the power of amending the amendments of the Senate.

The main question was then ordered to be put.

Mr. HOLMAN. I demand a separate vote on each amendment.

Mr. STEVENS addressed the Chair.

Mr. WASHBURN, of Illinois. Under what rule is the gentleman from Pennsylvania entitled to the floor?

The SPEAKER. He is entitled to close the

debate, having reported the amendments back from the Committee of Ways and Means.

Mr. WASHBURN, of Illinois. I should like to hear the gentleman, but I do not think he has any right to be heard, under the rules.

The SPEAKER. The Chair thinks he has; and is confirmed in that opinion by the gentleman before him who understands the parliamentary usage so well.

Mr. STEVENS. Mr. Speaker, I will occupy the attention of the House but a very short time. I desire to say, in the first place, that a few of the positions taken by the opponents of the Senate bill, or rather by those in favor of the House bill, I think to be founded on mistakes in fact. The gentleman from Iowa [Mr. KASSON] has referred to a British statute.

Mr. FERNANDO WOOD. I rise to a question of order. Has not the previous question been sustained?

The SPEAKER. It has.

Mr. FERNANDO WOOD. Is debate then to go on?

The SPEAKER. It is, on the part of the gentleman who reported back the amendments.

Mr. FERNANDO WOOD. And nobody else?

The SPEAKER. And nobody else. The gentleman from Pennsylvania is entitled to an hour, under the 60th rule.

Mr. STEVENS. The gentleman understood the British statute of 1860 as imposing an additional tax on the whisky that had been taxed before. Now I have examined that statute and I do not find it to bear the same construction given to it by the gentleman from Iowa, [Mr. KASSON.] On the contrary, the words of that statute are almost precisely the same used in the House bill as it was first reported by the Committee of Ways and Means. By the English laws certain whisky stored in free warehouses did not pay the excise duty until taken out for consumption. And this statute to which we have been referred was simply that that which had not paid the duty before should be subject to the tax then imposed, and it provided that inasmuch as distillers might have made bargains to deliver on time, the additional tax should fall, not upon them, but upon the merchants, just as the bill of last Congress provided.

Mr. KASSON. Will the gentleman from Pennsylvania be good enough to read the section of the British statute to which I made special reference, so that the House may consider for itself its character and interpretation?

Mr. STEVENS. Certainly, sir. Here is a copy of it. It applied to the stock in the hands of the distiller which had never paid the excise duty; for by the English law it was not bound to pay it until removed for consumption. I therefore think that I was right in saying that the British Government has never relaxed anything that had paid the tax before and bore the stamp. In the case referred to yesterday, it was decided by the Supreme Court of the United States that the payment of duty on imported goods carried with it a license to sell, and that the goods could not be retaxed in a State, as was proposed by the State of Maryland. Now, if the payment of the duty gave the right to sell and traffic in the goods, free from further taxation, on what principle is it that the House bill proceeds?

Mr. WILSON. In the case referred to, the additional tax was sought to be imposed by the State.

Mr. STEVENS. Undoubtedly; but the gentleman from Iowa knows that one of the *dicta* of the Supreme Court was that the payment of the tax gave a license to sell, so that no further tax could be imposed. If it did give a license to sell, that could not be afterwards affected by the Government either of the United States or of the State.

Mr. WILLIAMS. I would like my colleague to say whether there is anything in that decision which authorizes the opinion being entertained or expressed that the Supreme Court decided that Congress could not exercise the power?

Mr. STEVENS. It was that a State should not. But I am speaking of a *dictum*, of the opinion of one of the judges. That, I think, authorizes us to infer that when a tax is once paid it carries with it full license to sell without retaxation.

Mr. VOORHEES. As I did not have the opinion at my desk yesterday, I will, with the permis-

sion of the gentleman from Pennsylvania, read some points from it.

Mr. STEVENS. Certainly, sir.

Mr. VOORHEES. I read from the decision in the Maryland case:

"Commerce is intercourse; one of its most ordinary ingredients is traffic." * * * "To what purpose should the power to allow importation be given, unaccompanied with the power to authorize a sale of the thing imported? Sale is the object of importation."

Now, if you will let "manufacture" stand for "importation," you will have a case exactly analogous.

Mr. STEVENS. That is not necessary; because we provide here also for taxing all liquors imported forty cents a gallon additional.

Mr. VOORHEES, (continuing to read:)

"We think, then, that if the power to authorize a sale exists in Congress, the conclusion that the right to sell is connected with the law permitting importation as an inseparable incident is inevitable."

Mr. STEVENS. Undoubtedly that is the true doctrine, and the only doctrine on which the faith of the Government can be sustained.

Mr. WILSON. I ask the gentleman from Pennsylvania whether the point in that case goes beyond this, that the State has no authority to interfere by taxation or other means with the exclusive exercise of the power of the General Government to regulate commerce?

Mr. STEVENS. That was the point before the court; but I speak of the reasoning of the judge, that goes to the full extent that I have already stated, and so the reasoning of the gentleman from Indiana shows.

Now, sir, I understand the gentleman from Iowa, behind me, [Mr. Kasson], to advance the extraordinary doctrine that our tax of twenty cents per gallon, of last year, did what? Only gave the distiller permission to distill the whisky, but not to offer it for sale. So he was reported and so I understood him: an excellent doctrine for this House! We have the right, by the doctrine of the gentleman, to catch it the moment it is distilled, and put another tax upon it before he has permission to sell it.

Mr. KASSON. I ask my colleague on the Committee of Ways and Means, as the previous question will prevent me from replying, to give me permission to explain what my position was.

Mr. STEVENS. I yield to the gentleman.

Mr. KASSON. I wish to say that my proposition was this, in distinction from the opinion the gentleman says I advanced; I say that we licensed the distiller by virtue of the original provision in the bill of the last Congress, requiring him to pay a tax of twenty cents per gallon, to manufacture and sell or remove for consumption.

My further position was, that after it had been sold by him, it became the property of the country and was liable to further taxation by the State or national Government. Under the former law he had unquestionably the right to sell. I stated distinctly that I did not desire the retroactive operation of this law, as the gentleman from Pennsylvania did; that I did not desire it to go back to the 12th of January last, but that it should go into effect from and after the passage of this act.

Certainly, we have a right to revise the action of the last Congress, and authorize a higher rate of duty to be levied for the coming year than was imposed the previous year. I did not take position that the manufacturer had no right to sell under the present law. He may sell to-day what he produced yesterday, and he may sell to-morrow what he produces to-day. But if, when the law goes into effect, he has an accumulated stock on hand, which he has withheld from the market, the same rule will apply to him that applies after the passage of any other act. I do not propose that the bill shall be retroactive in its effect.

Mr. STEVENS. I find from the report of the gentleman's speech, as published, that he took the broad ground that the twenty cents per gallon of the last session only licenses the distiller to manufacture. And if he sees fit to keep it on hand for six months, according to this doctrine you may tax him twenty cents more a gallon for keeping it on hand; at the end of six months more, you may tax him another twenty cents, because he has not sold it, and so on as long as he continues to keep it, you increase the tax. Sir, it is a monstrous doctrine, and as absurd as it is monstrous.

Now, sir, from what examination I have been able to give to the British laws referred to, I un-

dertake to say that no manufactured article that has once paid a tax is required to pay it a second time.

Mr. DAWES. I should like to ask the gentleman from Pennsylvania what is the difference in principle between taxing the manufacturer of whisky for his accumulated stock at the end of the year, because he has it on hand, and taxing me for my carriage because I have it on hand?

Mr. STEVENS. Because in one case you tax the use of an article, and in the other you tax an article that has not been used. When you tax a carriage for the use of it last year, and again for its use this year, you do not tax the same thing twice, but if you tax a man for a drink and then tax him the next year for the same thing, it involves an entirely different principle.

Mr. WILLIAMS. Will my colleague allow me to ask him this question? I believe the act of last year contains a provision looking to the prospective taxation of landed property; now, where is the difference in principle between taxing the same liquors a second time and the taxation of vacant and unimproved land?

Mr. STEVENS. I mean to say that when you tax land you tax an article that is substantial and permanent, that is used and to be used by the farmer, and the principle is very different from the taxation of a mere article of commerce which when once used has no more value.

Mr. WILSON. I wish to call the attention of the gentleman from Pennsylvania to another portion of the decision to which the gentleman from Indiana [Mr. Voorhees] referred. The court in this case says:

"It certainly cannot be maintained that the States have no authority to tax imported merchandise. But the same principle of discrimination between the wholesale and retail dealers as to a license to sell, would seem to me, if well founded, to extend to taxes of every description. And it would present a singular incongruity to exempt a wholesale merchant from all taxes upon his stock of goods, and subject to taxation the like stock of his neighbor who was selling by retail."

"It is laid down in No. 32 of the Federalist, and I believe universally admitted, that the States, with the sole exception of duties on imports and exports, retain authority to tax in the most absolute and unqualified sense; and any attempt on the part of the national Government to abridge them in the exercise of it would be a violent assumption of power unwarranted by any article or clause of the Constitution. Although an impost or duty may be considered a tax in its most enlarged sense, yet every tax cannot be understood to mean an impost or duty in the sense of the Constitution."

The point decided is that the States could not lay an impost duty upon goods which had been imported, and they did not decide that a State could not tax in the hands of the importer. As my colleague says they decided that broken packages may be taxed. The same principle applies here, that the General Government may levy this tax upon the property in the hands of the importer or in the hands of the manufacturer.

Mr. VOORHEES. The case cited and read from by the gentleman is precisely this case under the act of the Maryland Legislature proposing, after the duty had been paid on the articles, to make the holder pay a license.

Mr. WILSON. Before he could sell?

Mr. VOORHEES. Yes, sir; before he could sell. Now, what is this forty cents you propose to make them pay additional, what is this twenty cents for? For the privilege of selling. So this additional tax is for the privilege of selling. The privilege once bought, the question is whether you can come in afterwards and charge an additional sum in order to enable him to enjoy the same privilege. There is the whole case.

Mr. WILSON. In order to get at the precise case, I will refer to the syllabus. It is there declared that a State law requiring an importer to take a license and pay fifty dollars before he should be permitted to sell a package of imported goods, is in conflict with that provision of the Constitution of the United States which prohibits a State from laying any impost, &c.; and also with the clause which declares that Congress shall have power to regulate commerce, &c.

Mr. VOORHEES. By reading the act of the Legislature of Maryland, it will be seen how correctly I have stated it.

Mr. WILSON. I suppose from the syllabus I have referred to that this has nothing to do with the question before the House. That is all I have to say.

Mr. STEVENS. Mr. Speaker, I contend, as

I contended before when this House had the subject under examination and discussion, that Congress had imposed a tax that they declared to be prospective. They inaugurated the internal revenue by saying that in no case should they look to retroactive taxation. When they passed that they authorized every man in the land to manufacture his goods on that principle. I say then that it is faithless in this Congress to assume any other ground. I will not deny the question that the Government has the power to do wrong, but I hope that it will do right. I say, therefore, to attempt to ~~tax~~ production brought into existence under the act of Congress is faithless and ought not to receive our sanction.

I now take it simply on the question of revenue. I understand the gentleman from New York [Mr. Fernando Wood] to be extremely solicitous that the Government shall have revenue to support its expenses. The gentleman behind me says that he wants revenue but is opposed to the Senate amendment. It did not surprise me when the gentleman from New York took that ground. I know with what fidelity he voted for that bill.

A MEMBER. He voted against it.

Mr. FERNANDO WOOD. Will the gentleman from Pennsylvania permit me to say why I voted against the bill?

Mr. STEVENS. I cannot yield. The gentleman expected to catch me in a trap. I want to say that the revenue raised by the House bill is \$2,000,000 less than what will be raised by the Senate amendment for the first year, and every subsequent year it will be \$14,000,000 less.

MESSAGE FROM THE SENATE.

Here a message was received from the Senate, by Mr. Hickey, their Chief Clerk, notifying the House that that body had passed a bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes, in which he was directed to ask the concurrence of the House; and also that it had insisted upon its disagreement to the House amendment to the enrollment bill, agreed to the committee of conference asked by the House on the disagreeing votes of the two Houses, and had appointed Messrs. Wilson, Grimes, and Nesmith managers of said conference on its part.

INTERNAL REVENUE—AGAIN.

Mr. STEVENS. When I have shown, as a question of revenue, that the Senate bill is far preferable to the House bill, I am quite sure the gentleman from New York [Mr. Fernando Wood] and the gentleman from Iowa [Mr. Kasson] will go with us and support the Senate amendment. Let us look at it. By the House bill an additional tax of forty cents is to be laid on all that is on hand. I have said before that I thought not more than half of it would be collected, amounting to \$2,000,000; but suppose we collect the whole, it will be \$4,000,000.

Mr. PRICE. I desire to ask the gentleman whether I understand him that the twenty cents paid by the distiller is to cover for all time to come the liquor he distilled?

Mr. STEVENS. It covers all he had distilled under that law, and covers it for all time to come.

Mr. PRICE asked another question, which was entirely inaudible to the reporters.

Mr. STEVENS. No man ever supposed, and the gentleman is too intelligent to suppose, that a manufacture is to pay more than once. A manufacture pays but once, and there is no exception to that rule, unless you make this an exception, in order to punish the manufacture of whisky.

Mr. PRICE. Do not other manufactured articles pay a tax once a year?

Mr. STEVENS. No, sir; they pay a tax of three per cent.; and when they have paid it they have paid it forever.

Mr. PIKE. I inquire whether some articles were not taxed every year?

Mr. STEVENS. Yes; for the use of them, such as carriages and plate; but not for their manufacture.

Mr. FERNANDO WOOD. I desire to ask the gentleman whether, by the revenue bill to which this bill is virtually an amendment—the bill of July, 1862—the raw material, iron and sugar, for instance, a tax is not imposed upon them; and whether, after they are manufactured, an additional tax is not imposed?

Mr. STEVENS. Wherever the committee could discriminate and lay the tax upon the additional value they did so. There are many cases where that cannot be done. But all taxes which were paid once are deducted from the income tax, and they are never paid a second time. Such was the law of 1862.

But I was proceeding, when interrupted, to show that the Senate bill would produce more revenue than the House bill. I said the whole tax upon the stock supposed to be on hand, provided you could collect it all—which I doubt very much—would amount to \$4,000,000. You would get at once those \$4,000,000. After that you would get by the House bill for one year sixty cents on, say, seventy million gallons, which would make \$42,000,000. Thus you would get under the House bill the first year, including the tax on that on hand, \$46,000,000.

Now how will it be under the amendment of the Senate? During the first four months we would get the sixty cents, the same as we will under the House bill. Twenty-three million gallons is the proportion which will be manufactured the first four months. That would produce \$13,800,000. For the next six months, from July to January, the tax will be seventy cents. The amount manufactured during that time will be thirty-five million gallons, and will pay, at seventy cents, \$24,000,000. We have now disposed of ten months. During the two months after the 1st of January the tax will be eighty cents, and the amount manufactured will be twelve million gallons, and will produce \$9,600,000 of revenue.

Within the year, then, under the Senate bill, we would get \$47,900,000, while under the House bill, including the tax on that on hand collected to the utmost extent, we would get \$46,000,000, making \$1,900,000 more revenue collected under the Senate bill than under the House bill; admitting, as I said before, that you could collect the whole upon that on hand.

How will it be after the first year? After that, every year the House bill would produce the sum of \$42,000,000, and the Senate bill, at eighty cents per gallon, would produce \$56,000,000, making \$14,000,000 more under the Senate bill than under the House bill.

Now I ask gentlemen under these circumstances to give me some other reason than that it is revenue that is wanted, before they insist upon the House bill. And yet, notwithstanding the Senate bill produces for all time to come \$14,000,000 more a year, and \$1,900,000 for the first year, the distillers do not object to the increased tax, because they have time to accommodate themselves to this change.

I hold in my hand a paper signed by seventy-two of the principal distillers in the United States, in which they tell us not to tax the stock on hand, but they do not object to the increased tax proposed in the Senate bill.

Mr. WILSON. I would inquire of the gentleman whether if the bill should be sent to a committee of conference we cannot get the increased tax provided for by the Senate amendment and also retain the tax on the stock on hand, and thereby increase the amount of revenue beyond what is now provided for?

Mr. STEVENS. The gentleman knows that there is an old saying that if the sky falls you can catch larks. [Laughter.] I cannot tell what might be done by a committee of conference.

Mr. WILSON. I ask the gentleman if what I have suggested is not true?

Mr. STEVENS. The gentleman knows as well as I do what a committee of conference can do, and so, I presume, does every gentleman here.

I ask gentlemen who are in favor of revenue to consider this question; I ask gentlemen who are in favor of maintaining the pledged faith of the Government to consider this question; and I ask that we shall not run the risk of having the bill so monstrously framed that we shall tax again what we have already taxed, thus breaking down the present manufacturers.

Mr. WILLIAMS. If I understand my colleague, he supposes that the production will be unimpaired by the Senate's amendment. I desire, in this connection, to ask him what was the effect on the production of the passage of the existing law and what was the amount of revenue which that law yielded?

Mr. STEVENS. I believe the law in one year yielded about four million dollars.

Mr. WILLIAMS. That would indicate a production of about eight million gallons.

Mr. STEVENS. It is ascertained that the production last year was about sixty million gallons, but for various reasons the tax was not collected on the whole amount.

Mr. WILLIAMS. Then the production was reduced by the operation of the law from sixty million to eight million gallons.

Mr. STEVENS. No, the gentleman does not so understand me, because the gentleman can understand what a man says. I said that the ascertained production was sixty million gallons, but that only \$4,000,000 was collected owing to evasions of the law.

Mr. DAVIS, of New York. I desire to answer the inquiry of the gentleman from Pennsylvania, [Mr. WILLIAMS.] He asked the chairman of the Committee of Ways and Means what was the effect of the existing law upon production. Now, I can tell him that, so far as New York is concerned, the passage of that law stopped every distillery in my district for six months, and there were no operations in that district in the way of manufacturing spirits until it was anticipated that the necessities of the country would require a new tax upon spirits hereafter to be manufactured.

Mr. WILSON. I desire to ask the gentleman from New York whether the effect which he now states was not owing to the fact that no tax was levied upon the stock on hand, and that they had all crowded on their distilleries to their utmost capacity so as to manufacture stock enough to last through the first year?

Mr. DAVIS, of New York. They have made no money except it was in anticipation of the imposition of an increased tax by the Government, from which they supposed they would have derived a profit, and that they had a right to suppose.

Mr. STEVENS. Mr. Speaker, I cannot give way further to anybody. I will say to my colleague [Mr. WILLIAMS] that although a sudden tax may check for a certain time the manufacture of this article, yet when you once lay it on and let the manufacturers know how it is to be, I do not think any tax you can lay upon whisky would stop the manufacture of it to any great extent. I know that if you were to break up the manufactories now it would not be six months before they would be in operation again, but that is not what I propose to do. It has been shown in England that that has not been the effect of the tax, and I do not suppose that will be the effect in this country if the manufacturers can have any assurance that there is a design and a disposition on the part of Congress to keep faith with them and with the country.

And now, Mr. Speaker, for fear somebody else should ask me another question, I will sit down and let the vote be taken on the amendments.

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] having demanded a separate vote on each amendment, they will be considered in their order.

Mr. COX (at twenty-five minutes after four o'clock, p. m.) moved that the House do now adjourn.

Mr. MILLER, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were not ordered.

The question was taken, and the House refused to adjourn.

First amendment of the Senate:

In section one, after the word "or," insert the words "distilled and," so that it will read:

There shall be levied, collected, and paid on all spirits that may be distilled and sold, or distilled and removed for consumption or sale.

The amendment was concurred in.

Second amendment:

After the last amendment insert the words "previous to the 1st day of July next."

The amendment was concurred in.

Third amendment:

Add the following:

And upon all liquors that may be distilled after the passage of this act, and sold, or removed for consumption or sale, on and after the 1st day of July next, and previous to the 1st day of January next, seventy cents on each and every gallon; and on all liquors that may be distilled after the passage of this act, and sold, or removed for consumption or sale, on and after the 1st day of January next, eighty cents on each and every gallon.

Mr. STEVENS called for the yeas and nays, and for tellers on the yeas and nays.

Tellers were ordered; and Messrs. STEVENS, and HARRIS of Illinois, were appointed.

The House divided; and the tellers reported—ayes thirty-one.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 41, nays 106; as follows:

YEAS—Messrs. Bailey, John D. Baldwin, Francis P. Blair, Blow, Broomall, Cobb, Cole, Thomas T. Davis, Dawes, Donnelly, Eliot, English, Fenton, Garfield, Higby, Hooper, Kelley, Francis W. Kellogg, Marvin, McBride, McIndoe, Leonard Myers, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Schenck, Scofield, Shannon, Smithers, Stevens, Thayer, Van Valkenburgh, William B. Washburn, Webster, and Wilder—41.

NAYS—Messrs. James C. Allen, William J. Allen, Alley, Allison, Anderson, Arnold, Augustus C. Baldwin, Beaman, Jacob B. Blair, Bliss, Boutwell, Boyd, Brandegee, James S. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Creswell, Dawson, Deming, Dennison, Dixon, Dumont, Eckley, Eden, Edgerton, Eldridge, Farnsworth, Finck, Frank, Ganson, Gooch, Grider, Grinnell, Griswold, Hale, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Jenekes, William Johnson, Julian, Orlando Kellogg, Kernaun, King, Knapp, Law, Lazear, Le Blond, Loan, Long, Longyear, Mallory, Marey, McClurg, McKinney, Middleton, Samuel F. Miller, William H. Miller, Moorehead, Daniel Morris, Morrison, Amos Myers, Nelson, Noble, Norton, Odell, John O'Neill, Pendleton, Perry, Pike, Price, Samuel J. Randall, William H. Randall, Robinson, James S. Rollins, Scott, Smith, Spalding, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Upson, Wadsworth, Elihu B. Washburne, Whaley, Wheeler, Joseph W. White, Williams, Wilson, Windom, Winfield, and Fernando Wood—106.

So the amendment was non-concurred in.

During the roll-call,

Mr. BAXTER stated that he had paired off with Mr. BLAINE, who would have voted to concur in the amendment.

Mr. BLAIR, of West Virginia, stated that Mr. BROWN, of West Virginia, had been detained by illness yesterday and to-day.

Mr. DRIGGS stated that he had paired off with Mr. MORRIS, of Ohio.

Mr. KASSON stated that he had agreed to pair off with Mr. MORRILL, who not being well was obliged to leave the House.

Mr. BAXTER stated that Mr. WOODBRIDGE was detained at home by illness in his family.

The vote was announced as above recorded.

Fourth amendment:

Strike out the following:

And all whisky or any other spirit, on being rectified or mixed with any other spirit or fluid whatever, or into which any matter whatever may be infused, and to be sold as whisky, brandy, rum, gin, wine, or by any other name, and not otherwise provided for by this act, or the act to which it is amendatory, shall pay an additional tax of twenty cents per gallon.

Mr. SMITH called for tellers.

Tellers were ordered; and Messrs. SMITH and A. MYERS were appointed.

The House divided; and the tellers reported—ayes 65, nays 54.

So the amendment was concurred in.

Fifth amendment:

Strike out the following:

Provided further, That all spirits on hand for sale, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act from and after the 12th day of January, 1864; except that spirits which have been already taxed under the law approved July 1, 1862, shall not bear more than the additional or increased tax provided for by this act.

Mr. WASHBURNE, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 73; as follows:

YEAS—Messrs. James C. Allen, Ancona, Bailey, Francis P. Blair, Bliss, Blow, Broomall, Cobb, Coffroth, Cole, Cox, Cravens, Thomas T. Davis, Dawson, Dennison, Edgerton, Eldridge, English, Fenton, Finck, Frank, Grider, Griswold, Harding, Charles M. Harris, Higby, Holman, Hooper, Hutchins, William Johnson, Kelley, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marvin, McBride, McDowell, McIndoe, McKinney, Middleton, William H. Miller, James R. Morris, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Orth, Patterson, Pendleton, Perry, Pomeroy, Samuel J. Randall, Alexander H. Rice, Robinson, Schenck, Scott, Shannon, Smith, Smithers, Stiles, Strouse, Stuart, Thayer, Van Valkenburgh, Voorhees, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, and Winfield—77.

NAYS—Messrs. William J. Allen, Alley, Allison, Anderson, Arnold, Augustus C. Baldwin, John D. Baldwin, Beaman, Jacob B. Blair, Boutwell, Boyd, Brandegee, James S. Brown, Chanler, Clay, Creswell, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eden, Eliot, Farnsworth, Ganson, Garfield, Gooch, Grinnell, Hale, Benjamin G. Harris, Herrick, Asahel W. Hubbard, Hulburd, Jenekes,

Julian, Francis W. Kellogg, Orlando Kellogg, Kernan, Loan, Longyear, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Morrison, Amos Myers, Norton, Odell, Perham, Pike, Price, William H. Randall, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Scofield, Spalding, Stebbins, Sweet, Thomas, Tracy, Upson, Wadsworth, Elihu B. Washburne, William B. Washburn, Webster, Williams, Wilson, Windom, and Fernando Wood—73.

So the amendment was concurred in.

During the roll-call,

Mr. BAXTER stated that Mr. BLAINE, with whom he was paired, would have voted for it and he would have voted against it.

Mr. BOYD stated that although he had received petitions from St. Louis and Jefferson City in favor of the Senate amendment, he would follow his own conscience, judgment, and reflection, and vote "no."

Mr. KASSON stated that if he had not been paired off with Mr. MORRILL he would have voted "no."

The result was announced as above recorded.

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which the House refused to concur in the amendment of the Senate for a sliding scale tax on liquors—the third amendment.

Mr. HOLMAN. I move to reconsider the vote last taken; and move to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The question now recurs on the motion of the gentleman from Illinois to reconsider the vote by which the third amendment of the Senate was non-concurred in.

Mr. STEVENS. I suggest to the gentleman from Illinois that he allow the vote on that motion to go over until we have disposed of the other Senate amendments.

Mr. WASHBURN, of Illinois. I see no reason why the vote may not as well be taken now as at any time; and I therefore call for it now.

Mr. HOLMAN. I move to lay the motion to reconsider on the table.

The House divided on the latter motion; and there were—ayes 45, noes 81.

Mr. ANCONA called for the yeas and nays.

The yeas and nays were ordered.

Mr. MALLORY. I move that the House do now adjourn.

The motion was agreed to; and the House thereupon (at twenty minutes past five o'clock, p. m.) adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, February 17, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. BUCKALEW presented the memorial of Charles F. Anderson respecting the cause of the bad ventilation of the Senate Chamber, and suggesting a mode of remedying the alleged defects; which was referred to the Committee on Public Buildings and Grounds.

Mr. SHERMAN presented a petition of citizens of Ohio, praying that a pension be granted to Margaret M. Stafford, widow of Reuben Stafford, who was killed while assisting the provost marshal at New Bedford, Coshocton county, in that State, in arresting deserters; which was referred to the Committee on Pensions.

He also presented three petitions of citizens of Cincinnati, Ohio, praying for the sale of the mineral lands of the Rocky mountain country, and that aid may be granted for the construction of the Northern and Central Pacific railroads; which were referred to the Committee on Public Lands.

Mr. MORGAN presented the memorial of Francis, Robert P., and Allen Dodge, trustees of Charles Dodge and Sylvanus Mott, of New York, praying for compensation for the schooner Fairfax, taken to shield the United States steamer Resolute, and which was destroyed while being so used; which was referred to the Committee on Commerce.

Mr. ANTHONY presented the petition of Laura M. Newcomb, of Providence, Rhode Island, widow of the late Commander Henry S. Newcomb, United States Navy, praying for a pension; which was referred to the Committee on Pensions.

Mr. TRUMBULL. I desire to present the petition of Daniel Parker and others, volunteers in

the first regiment Illinois cavalry, asking pay for horses lost at the time of the capture of our forces at Lexington, in the State of Missouri. These petitioners set forth that they furnished their own horses, and that without any fault of theirs, by the casualties of war, their horses were captured at the surrender of Lexington, while they were under Colonel Mulligan, and they have not been able to obtain pay for them. They have presented their claims to the proper Department of the Government, and they have been answered that they could not be paid without further legislation. I trust that the petition will receive the favorable consideration of the committee to which I move to refer it—the Committee on Claims.

The motion was agreed to.

Mr. SUMNER. I offer a petition signed in behalf of the Synod of the Reformed Presbyterian Church of the United States by a committee, in which they ask Congress to amend the Constitution of the United States so that it shall contain a distinct recognition of the authority of God, of Christ as the Governor among nations, and of the Scriptures as the supreme law of the land; also to remove from the Constitution all pro-slavery concessions and compromises, and introduce in their place a section declaring that henceforth there shall be neither slavery nor involuntary servitude except for crime in any State or Territory of the United States. I also offer a memorial of a similar character from a mass convention of Christian people, without distinction of sect or denomination, which was held at Allegheny City, Pennsylvania, on the 27th and 28th of January last. I ask their reference to the Committee on the Judiciary.

The memorials were so referred.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State, with accompanying papers, relative to the claim on this Government of the owners of the French ship *La Manche*, and recommending an appropriation for the satisfaction of the claim pursuant to the award of the arbitrators; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations, and ordered to be printed.

PRINTING OF BILLS.

On motion of Mr. JOHNSON, it was

Ordered, That the bill (S. No. 88) regulating proceedings in criminal cases, and for other purposes; and the bill (S. No. 89) in relation to proceedings in the courts of the United States, now before the Committee on the Judiciary, be printed.

REPORTS FROM COMMITTEES.

Mr. JOHNSON, from the Committee on the Judiciary, to whom was referred a joint resolution (H. R. No. 18) to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, reported that it ought not to pass.

He also, from the same committee, to whom was referred the bill (S. No. 46) to remove doubts on the construction of the joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, reported that it ought not to pass.

He also, from the same committee, to whom was referred a resolution directing them to consider the propriety of repealing the joint resolution of July 17, 1862, explanatory of the confiscation act, particularly in regard to the forfeiture of real estate beyond the life of the offender, asked to be discharged from its further consideration; which was agreed to.

Mr. ANTHONY. The Committee on Printing, to whom was referred a motion to print the memorial of the Chamber of Commerce of the city of Milwaukee, Wisconsin, recommending the construction of a ship canal around the Falls of Niagara on the American side, have instructed me to ask to be discharged from its further consideration in accordance with their universal rule not to print memorials.

The report was agreed to.

Mr. HALE. The Committee on Naval Affairs, to whom was referred the petition of Moses Kelly,

administrator of Major W. W. Russell, deceased, late paymaster in the United States marine corps, praying for certain allowances in the settlement of Major Russell's accounts, have instructed me to report it back, and ask to be discharged from the further consideration of the petition. They think it is not a matter that comes within their jurisdiction; and I further move that the petitioner have leave to withdraw his papers, so that he can send them elsewhere.

The report was agreed to.

Mr. WADE, from the Committee on Territories, to whom was referred a bill (S. No. 96) to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 97) to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, reported it without amendment.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (S. No. 117) to provide for the consolidation of certain surveyor generals' districts, reported it without amendment.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (S. No. 21) granting land to the State of Kansas to indemnify her citizens for losses, asked to be discharged from the further consideration of the subject.

The VICE PRESIDENT. The question is on discharging the committee.

Mr. LANE, of Kansas. I should like to have time to consider that question. That is a bill in which my constituents are very deeply interested.

The VICE PRESIDENT. It will go upon the Calendar if the Senator desires it.

Mr. LANE, of Kansas. I desire to oppose the report of the committee.

The VICE PRESIDENT. It will go upon the Calendar.

NOAH WISWALL.

Mr. FOOT. The Committee on Public Lands, to whom was referred the bill (H. R. No. 145) for the relief of the heirs of Noah Wiswall, direct me to report it back with a recommendation that it pass. The claim is a small one, and in the unanimous judgment of the Committee on Public Lands a very just one, and the committee therefore directs me to ask the unanimous consent of the Senate for its consideration now.

By unanimous consent the bill was considered as in Committee of the Whole. Its object is to direct the proper accounting officers to audit an account between the United States and the legal representatives of Noah Wiswall, assignee of Daniel Chilson, for the amount of purchase money paid by Chilson on the 13th of July, 1835, by his agent, Amariah Watson, to J. W. Stevenson, receiver of public moneys at Galena, Illinois, per receipt No. 1282, for eighty acres of the west half of the southwest quarter of section No. 15, in township No. 16 north, of range No. 8 east, of the fourth principal meridian, at the rate of \$1.25 per acre; and the Secretary of the Treasury is to pay the amount, upon such adjustment, out of any money in the Treasury not otherwise appropriated.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

GENERAL M'CLELLAN'S REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred the resolution to print additional copies of General McClellan's report without the accompanying maps and documents, to report the same back to the Senate with an amendment, with a recommendation that it pass. The amendment reduces the number from ten thousand to five thousand. Five thousand have already been ordered to be printed. I am also instructed to ask for its present consideration.

There being no objection, the Senate proceeded to consider the resolution.

The amendment of the committee was to strike out "ten thousand" and insert "five thousand;" so that it will read:

Resolved, That five thousand additional copies of the

McClellan report, without the accompanying maps and documents, be printed for the use of the Senate.

The amendment was agreed to; and the resolution, as amended, was adopted.

WASHINGTON AQUEDUCT REPORT.

Mr. ANTHONY submitted the following resolution, which was referred to the Committee on Printing:

Resolved, That there be printed for the use of the Interior Department, five hundred copies of the report of the chief engineer of the Washington aqueduct.

CENSUS STATISTICS.

Mr. BROWN submitted the following resolution, accompanied by a written statement; which was ordered to lie on the table, and be printed:

Resolved, That the Superintendent of the Census be required to prepare for the Senate statistical tables expressing in full the population of the United States, classing according to the hydrographic divisions of North America, as arranged in the accompanying article. Also, the relative industrial occupations of the population in each hydrographic subdivision, distinguishing the rural from the town populations. Also, the agricultural, manufacturing, and commercial statistics of each, expressed in aggregate totals, specifying the population of each county or part of county, city, &c.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 121) donating public lands to the several States for the support and education of the orphan children of soldiers and sailors who die in the military and naval service of the United States; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HARDING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 122) for the relief of Mary A. Baker, widow of Brigadier General Edward D. Baker; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 123) to abolish slavery throughout all the States and Territories of the United States; which was read twice by its title, referred to the select committee on slavery and freedmen, and ordered to be printed.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 124) to amend the act entitled "An act for a grant of lands to the State of Kansas in alternate sections, to aid in the construction of certain railroads and telegraphs in said State," approved March 3, 1863; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

ABOLITION OF SLAVERY.

Mr. TRUMBULL. I move to take up the joint resolution (S. No. 16) with a view to make it the special order for a future day.

The motion was agreed to.

Mr. TRUMBULL. I will state to the Senate that this is the joint resolution introduced at an early day of the session by the Senator from Missouri, [Mr. HENPSON], and to which the Committee on the Judiciary have proposed an amendment, to amend the Constitution of the United States so as to prohibit slavery throughout the United States, and in all places within its jurisdiction. I move that the resolution be made the special order for Monday next at one o'clock.

The motion was agreed to by a two-thirds vote.

Mr. SUMNER subsequently said: I ask the consent of the Senate to offer an amendment, which I propose to move on Monday next to the joint resolution to amend the Constitution which was made the order of the day for that day at one o'clock, and I desire to have it printed.

The VICE PRESIDENT. The amendment will be received and the order to print will be made, if there be no objection.

ALBERT BROWN.

Mr. HALE. I move that the Senate now take up for consideration a bill that has been before them two or three times for the relief of Albert Brown.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 92) for the relief of Albert Brown.

The VICE PRESIDENT. The impression of the Chair is that the Senator from Wisconsin [Mr. Howe] is entitled to the floor on this bill; he was addressing the Chair when it went over before.

Mr. HOWE. I had concluded what I had to say.

The VICE PRESIDENT. The question before the Senate is on the motion of the Senator from Connecticut [Mr. Foster] to send the bill and accompanying papers to the Court of Claims.

Mr. SAULSBURY called for the yeas and nays, and they were ordered.

Mr. HALE. I would not say a word on this subject, but as I know the whole case I feel exceedingly unwilling that it should take the course proposed, for this reason: I think that no one who will examine the facts in the case can have the slightest doubt that the Government of this country owe this man honestly every dollar that the Committee on Claims have reported, just as clearly, as the Senator from Wisconsin said, as if they had given their bond to pay it.

This man I know. He is a constituent of mine, a highly respectable mechanic; and the inspector that was agreed upon by the parties to inspect these wagons in the course of their construction, and when they were done, is one of the most respectable men in my State. He was originally a mechanic, perfectly conversant with the business, and a man against whose reputation I never heard the breath of suspicion uttered. He has been a member of our Legislature in both its branches, and is a man as much respected as any man in the State. He was agreed upon by the quartermaster's department to inspect the work while it was in progress. He did inspect it. He was the man agreed upon by the parties, and the work was made out to his acceptance.

Mr. HOWE. Allow me to say to the Senator that the claimant here had nothing to do with the appointment of this man. It was agreed that the Government might appoint the inspector, and the Government did appoint him.

Mr. HALE. That makes the case stronger. It was agreed that the Government should appoint an inspector, and they appointed Mr. Patten, as respectable a man as is to be found in the State of New Hampshire or any other State of the Union; a man whose character for fairness and integrity is unimpeached and unimpeachable. He lived in the neighborhood; he inspected the wagons in the course of their construction, and inspected them after they were done; and they were delivered to the Government to all intents and purposes according to the terms of the contract; and the Government took them and transported them to Perryville, in Maryland, some four or five hundred miles away from Mr. Brown's residence. When they got there, another inspector then overhauled them, and reported that they were not fit, when he did not know anything about what Brown had contracted to do. He was not authorized to inspect them, and had not the contract before him.

There was this man who had made these wagons honestly, in exact accordance with the provisions of his contract, and they were accepted by the Government and transported four hundred miles away from his workshop, and then the Government undertook to throw them on to his hands. It seems to me that a clearer case never could be presented to the justice, if not the equity, of the Government; and if this be so, why should he be sent to the Court of Claims? Why should he not have this money? I do not want to occupy the time of the Senate.

Mr. CLARK. I believe the motion is to refer this matter to the Court of Claims. I desire that the Senate will give me their attention for a few moments while I attempt to show, as I think I can show, that it should not go to the Court of Claims.

This man Brown is not a person who sought a contract from the Government, but the Government sought him. When this rebellion broke out, and about the 1st of July, 1861, the Government needed wagons. They sent an assistant quartermaster into my State to some experienced wagon-builders at Concord, New Hampshire, men of a good deal of reputation, to procure the building of certain wagons; the Government needed a hundred wagons in sixty days. The parties to whom the quartermaster applied said that they could not build these wagons, they were so employed, but they recommended the quartermaster to this man Brown, who was then a member of our Legislature. The quartermaster thereupon went to the Legislature and called out Mr. Brown, told him what the Government needed, that they

needed very much to have one hundred wagons in sixty days. Mr. Brown said to the quartermaster that he did not believe he could build the wagons unless the Government would give him more time. The Government were urgent for the wagons, and the quartermaster persuaded Mr. Brown to bid for the wagons at some rate. He did bid for the wagons at a price of \$141 apiece, which was a reasonable price, but on condition that the Government would give him more time. The quartermaster insisted that he must have the wagons within sixty days, and he requested Mr. Brown to go home to Kingston, where he lived, look over the stock he had on hand, examine and confer with his workmen, and see if he could not do it within the sixty days, and then meet the quartermaster at Portland, where he was going.

Mr. Brown assented. He went home and looked over his lumber; he looked over his stock on hand; he called his workmen together, and told them what the Government wanted, and said to them, "Now, can we build these wagons for the Government in the time, forty of them in thirty and the rest in sixty days?" The men said they would take hold for the Government. Mr. Brown thereupon went to Portland, saw the quartermaster, and told him that he would undertake to build these wagons for the Government in sixty days if they would give him an inspector to inspect the work as it went along. Thereupon they concluded the contract. The Government agreed to give him an inspector, and gave him an inspector who was a wagon-maker himself, who had been a mechanic, but by intelligence and skill worked himself up to be a lawyer, and had been a member of both branches of our Legislature, a man of unimpeachable integrity.

Mr. Brown went along with all the force he could command, and in the sixty days he turned out his wagons and he had them inspected. His contract was that when the railroad company gave him a receipt for the wagons that should be a complete delivery. He delivered his wagons according to the order of the Government and took his railroad receipt. What has been the result? Up to this time—more than two years—he has not got a farthing of pay, and you now propose to send him to the Court of Claims, where he must wait a year longer. His interest on this claim already amounts to \$2,100, and yet you will not give him a farthing for it.

When these wagons got to Perryville, the Government put an inspector upon them to inspect them over again. I do not know that Sawtelle was ever appointed inspector, though he undertook to inspect the wagons. He inspected the wagons and made report. Upon seeing that report, Mr. Brown was entirely satisfied that it was wrong, and he said to him it was wrong, and told him if he would go and see the wagons with him he would show him it was wrong. In that first report Sawtelle reported that the covering of the wagons, the canvas, was entirely too small and would not go on, and could not be used. Mr. Brown went and showed him the wagons and told him he had not pulled the bows down into their places, but if he would pull the bows down and put the covering on, he would see that it was all right. He thereupon did it, and then Sawtelle reported that the wagons were good for nothing except the covering, and that was very good.

A SENATOR. Who is Sawtelle?

Mr. CLARK. Sawtelle is a quartermaster in the Army; I think he ranks as a captain or major. I find no fault with Mr. Sawtelle; I only desire to do justice to this man; but I want to say further that when the last inspection was going on, Mr. Sawtelle complained that the wagons were made of unsound wood. "Why," said Mr. Brown, "you cannot tell that; they have all been painted; but I will tell you what I will do: you may take a chisel and chisel out of any place here where it is unsound, and if it is unsound I will lose the wagon." "Agreed," said Mr. Sawtelle. They took the chisel and chiseled it out, and here is the piece of wood which Mr. Sawtelle said was unsound—[exhibiting a round piece of wood]—as hard as a brick.

Mr. JOHNSON. That made it unsound. [Laughter.]

Mr. CLARK. That made it unsound undoubtedly, when they chiseled it.

Mr. JOHNSON. Too hard. [Laughter.]

Mr. CLARK. Too hard a case for Brown, a

great deal. Here this man has been waiting for two years, losing interest amounting to \$2,100 for undertaking to do what the Government wanted him to do, what they went to his home and besought him to do, and still you want to send him to the Court of Claims after his claim has been twice examined by a committee of the Senate. Does any Senator on this statement, if it is true, desire that? And if it is not true I wish to have it contradicted.

Mr. JOHNSON. Mr. President, my attention was called to this claim by seeing the report on my table. It appears to me to be a very clear demand upon the Government, and one which the character of the Government, in my judgment, requires should be disposed of at once, without any delay, assuming the facts stated in the report to be true, as I do, and they are confirmed by the statement made by both the honorable members from New Hampshire. The contract under which these wagons were constructed was entered into on the 1st July, 1861:

"The wagons, boxes, &c., are to be stored at Kingston, New Hampshire."

I read now a portion of the contract—

"at such place as the quartermaster or his agent may designate, and the contractor to assist in taking them apart for shipping. It is agreed that forty of the wagons, complete, shall be ready for delivery on or before the 31st day of July, and the remainder on the 31st day of August, 1861."

"The evidence in the case shows that on the day of the date of the contract Major Miller?"

who represented the Government in getting the contract made—

"appointed Mr. W. C. Patten, of Kingston, the agent of the department to inspect the wagons, instructing him, at the same time, in writing, how to inspect, and what sort of a certificate to give."

The party, therefore, who was to pass upon the wagons was one selected by the Government with the consent of the contractor; and in the absence of any evidence to the contrary—and there is, as I understand, no evidence to the contrary—we are bound to presume that the person selected was competent to discharge this particular duty. It is not pretended, as I understand, that there was any fraud as between the contractor and Patten, the inspector. No collusion is pretended. Brown acted honestly. Patten, the inspector, acted honestly; and he gave the certificate that he was authorized to give by the terms of his appointment. But before that was done, Major Miller, who was still the representative of the Government, wrote to Brown this letter:

"Sir: The wagons to be manufactured under your contract with the United States of this date should be shipped, when ordered by the Quartermaster General, on bills of lading or railroad receipts taken in duplicate."

And the order, of course, was not to be given until they passed the inspection. They did pass the inspection. They were ordered to be shipped, and Brown, by the terms of the letter of Major Miller, was bound to ship them, and he did ship them in good faith, and they arrived at their place of destination. When they arrived there they were subjected to another inspection, not by the man who was originally appointed, but by some other person appointed by the Quartermaster General; and because his inspection differed in its result from the inspection made by their own selected inspector, they have refused to pay Mr. Brown.

All that I have to say is, that if this was a dispute as between individuals, I do not think any lawyer could be persuaded to make a defense, with or without a fee. When I say that Brown is to be supposed to be honest, and Patten is to be supposed to be honest, I say it, not only because there is nothing to prove the contrary, and they are entitled to all the inferences that the law draws in a case of this description, but they are both from New Hampshire, and of course they must have been honest. I submit, therefore, that it is not a case that should go to the Court of Claims any way.

Mr. NESMITH. I have no desire to do any injustice to the claimant in this case, and perhaps he is entitled to something, but I do not think he is entitled to the amount which is provided for by this bill. The bill appropriates \$15,000 for which the Government has never had any sort of consideration whatever.

It seems that a contract was made by this Government with Mr. Brown for the manufacture and delivery of a certain number of Army wagons.

Lawyers, I admit, may very readily make out of it a case which between individuals would perhaps bind them. It appears that a Mr. Patten, a gentleman of multifarious occupations, as has been stated by the Senator from New Hampshire, a member of the Legislature, a lawyer, and at some time a wagon-maker, was selected by the quartermaster, Major Miller, and the contractor to inspect and pass upon these wagons. It seems they were built and were forwarded to the quartermaster at Perryville, who was then Captain (now Colonel) Sawtelle, of the quartermaster's department of the Army. When the wagons reached Sawtelle he saw that they were unfit for the service, that they were worthless, that the putty which had been placed to fill up the interstices caused by the worthless, rotten timber of which they were made was about falling out of them; and that the wagons if loaded and sent to the front were liable to break down and become worthless at any time. He, therefore, as an honest man and the representative of the Government, thought it was his duty to prevent the Government from being swindled, and refused to accept the wagons. He was on the ground; he was the quartermaster to whom the wagons were delivered, and who was to load them and send them to the front, and who was responsible for receiving property of that kind.

Mr. HOWE. Will the Senator allow me to inquire simply where and how he ascertained that Mr. Sawtelle made these discoveries that the putty was falling out of the wagons, and that they were made of rotten wood?

Mr. NESMITH. I do not take the statement of Captain Sawtelle for that fact. The statement is made to me by parties whom I understand to be reliable. The statement that the wagons were not constructed in accordance with the contract, that the workmanship of them was bad, that there was rotten and bad timber in them, comes from two master wheelwrights who were in the employment of Sawtelle, who were directed by him to make a critical inspection of the wagons. They did make that inspection, and they made a report setting forth some eighteen reasons why the wagons did not comply with the contract made for them by the Government, and in which they were deficient.

This report of the Committee on Claims undertakes to make out a case of condemnation against the quartermaster's department. It seems to be designed more for that purpose than to vindicate the claim of Mr. Brown. It is very easy for gentlemen who have claims against the Government to appear before the committees, without any rebutting testimony, and make a fair showing of a case. I do not undertake or pretend to say that the committee acted improperly in this matter; but I do undertake to say that in their report there is more of condemnation against the department than there is in favor of the payment of this claim.

They undertake to say that this man, Mr. Patten, and the contractor were both men of good moral character, upright, honest men; and that they submitted proofs of that sort to the committee. Why, sir, there is not a man in this country who has a contract with the Government who could not appear before one of your committees and make it appear that he is the pink of propriety, that he is upright and honest, and that his inspector was an upright and honest man.

There is an implied attack upon Captain Sawtelle in this report. It says that while those men were of that sort of character there is no evidence before the committee that Captain Sawtelle was a man of good character or a man whom the committee were entitled to believe. Captain Sawtelle is a quartermaster, an officer of ten years' standing in the Army. The proofs of his character are that he has been confirmed two or three times by the Senate. If the committee had desired to ascertain whether he was a man of such a character as could not be believed in his statements and his official reports, there was abundant testimony within their reach to prove what sort of a man he was. I have known Captain Sawtelle for years. I know he is an upright, honest, honorable gentleman, and a competent officer. I know that he would not descend to do a wrong thing, and the evidences before the committee and before the Senate are that it was not his interest to do it. If, as is alleged against quartermasters and against officers who make purchases for the

Navy, bribery and bonuses are resorted to for the purpose of getting bad and worthless property accepted, there might be some reason why Captain Sawtelle might be suspected of having been bribed to do a thing of this kind, but, on the contrary, all his acts go to repel any such idea; and he rejected the wagons. If he had received the wagons, worthless as they were, there might have been some charge of that character brought against him.

The report has several negative points of that kind which I do not propose to examine at length. It goes on to say:

"Besides, there is evidence in the case which shows that Mr. Potter is an experienced wagon-builder. There is no evidence to show that Captain Sawtelle ever made one."

Now, sir, a man who is a quartermaster in the United States Army, though he may never have built wagons, who has crossed the plains, as Captain Sawtelle has done—a journey which is the best possible test of a wagon—and who has had several years' experience in the quartermaster's department in the use of wagons, I apprehend is every way competent to determine the value of a wagon or the propriety of adopting it for use in the service. As I said before, the inducements would have been all in favor of Sawtelle's receiving the wagons, if they were worthless. I think in a case of this sort where an officer exercises an authority of that kind, and rejects worthless property, in place of condemning and denouncing him by a report and fixing an implied aspersion on his character for doing a thing which protects the Government, we should protect the character of the officer who does it. As I said before, Captain Sawtelle is an honorable, high-minded, upright gentleman; and if I thought it would not be an equivocal compliment to him I would say that I believe he is as honest as any member of Congress. [Laughter.]

It was stated by the Senator from Wisconsin [Mr. Howe] the other day that the statements of Captain Sawtelle were uncorroborated. I am in favor of referring this claim to the Court of Claims, in order that that corroboration may be had, and that all the facts in connection with it may be investigated. The wagons were refused by the Government. I understand they were subsequently sold by order of the railroad company that transported them, in order to pay the freight, for about thirty dollars apiece, about the value of the iron. The wagons were never used, were never accepted by the Government, and were subsequently sold by the railroad company for the payment of the freight; and consequently, if \$15,000 is paid this claimant, the Government receives no consideration for the money.

The Senator from New Hampshire [Mr. Clark] went on to state in reference to the soundness of these wagons that a piece was chiseled out of one of them, and that proved to be sound. It strikes me that if this claim is paid the Government will be chiseled more than the wagons were. [Laughter.]

There is scarcely a day here but some officer of this Government is denounced and condemnation heaped upon him for buying or receiving property that is worthless. We hear it almost every day in relation to the quartermaster's department; and we all well recollect how eloquent and indignant the Senator from New Hampshire [Mr. Hale] was, during the last Congress, on account of the purchase of worthless ships for our Navy. He never ceased denouncing those acts. We recollect, when he had given up the idea of getting justice from Congress or from the Government on that subject, how he appealed from Congress to the Almighty, and what his solemn invocation was, as, in the exuberance of his indignant piety, he raised his hands and his eyes to heaven and exclaimed, "O Christ, who with a whip of small cords didst drive the money-changers from the temple of Jerusalem, is there no scourge to lash the backs of those who would turn this temple of our liberties into a den of thieves?" [Laughter.] That was the most eloquent prayer, I think, that was ever offered up to these galleries, [laughter,] and during the thirty years that I have sat under the droppings of the sanctuary I have heard nothing to equal it. It did honor to the head and the heart of the Senator from New Hampshire, and it would have been worthy of an Army chaplain. [Laughter.]

I referred a few moments since to a report which was made to Captain Sawtelle by the inspectors

in his employ whom he authorized to examine these wagons. I will read their report:

"These forty wagons vary from the specifications of the contract in the following particulars:

"1. All the hounds are too crooked, cutting across the grain so as to leave no strength in them.

"2. The slider bar is bolted on the under side of the hound, and does not touch the coupling pole by two inches, and cannot be made to do so without bending the king-bolt.

"3. The king-bolt is only one and one eighth inch, and holes in the plates for it to pass through the same, so that the wagon cannot rock without breaking it.

"4. There are no clips on the ends of the axle stocks to secure the stocks to the axle. The stocks of the axles carry the full size to the end, which butts against the hub, so that there is no room for the sand band to project over the hub, and there is nothing to keep the dirt from working into the box.

"5. The rubber plate on the coupling poles and the lock plates on the bodies are fastened with nails instead of rivets, as they should be.

"6. The back hounds, beside the fault mentioned above, are six inches too short.

"7. The tongues will not fit any other wagons, being half an inch too wide.

"8. The wheels are bad; the boxes all being loose, many of the hubs rotten, and showing unmistakable evidence of very inferior workmanship throughout.

"9. The middle clevis and tall plate are not let in level with the floor, so as to admit the sliding of boxes and barrels. There are no front corner plates. The back stanchions are an eighth of an inch too light, and do not fit above or below.

"10. The floors are fastened with cut nails, and the top rails have neither nails nor pins.

"11. The lock-chains are five inches too short at the short end, having no small links in them, the straight link passing through the middle ring. The breast chains vary in length from two feet four inches to three feet nine inches, and are made of only quarter-inch iron.

"12. The cluck irons are too short, being only two and a quarter inches long on the bolster, and held in place by a quarter-inch bolt, instead of being five inches long and fastened with two three-eighths bolts; some of them are already shaken off. There are no plates on the outside of the hounds to keep the tongue-bolt from wearing, the moon irons are too short, and the hound braces are too short and not made as they should be in any particular.

"13. The back bolsters on the running gear are half an inch too thin and some of them an inch too narrow. The body bolsters are not deep enough by half an inch.

"14. The bows are six inches too high, so that the covers will not come quite down to the top of the side; and the staples for the bows are worthless.

"15. In every body a bar enters the sill at the second stud from each end, cutting the sill more than half off.

"16. Tool boxes are made entirely of white pine and run out square in front, so that the wagon cannot turn without striking the box with the wheel.

"17. The feed troughs are too wide at the top, and are not ironed according to the specifications.

"18. All the timber in the running gear is a soft ash, except the slider bar, which is oak. The bodies are made principally of ash of a poor quality, with a few black oak rails and sills, and a mixture of ash, oak, and birch in the bars.

"The workmanship of these wagons in all the parts is miserably bad; many of the mortises in the sills and rails are a quarter of an inch larger than the tenons, and it may be safely said that there is scarcely a mortise in the whole forty wagons that fits as it should. For use as Government wagons they are entirely worthless."

THE VICE PRESIDENT. It becomes the duty of the Chair to call up the special order of the day at this hour, which is the unfinished business of yesterday.

MR. CLARK. Perhaps we had better finish this bill.

MR. HALE. I move that the special order be postponed with a view to disposing of this bill.

THE VICE PRESIDENT. That motion can only be entertained with the consent of the Senator from Kentucky, [Mr. Davis,] who is entitled to the floor.

MR. DAVIS. If gentlemen would quit speaking and come to a vote I should have no objection.

MR. HALE. I have not spoken on it and do not expect to. We can finish it in a few minutes.

MR. DAVIS. Then I have no objection.

THE VICE PRESIDENT. If there be no objection the bill will be proceeded with. The Chair hears no objection, and the bill (S. No. 92) for the relief of Albert Brown is still before the Senate.

MR. CLARK. I believe the report which the Senator from Oregon has read was the first report made by Captain Sawtelle. I judge so because that report speaks of the covers of the wagons. Am I right in regard to that matter?

MR. NESMITH. In reply to the Senator I am unable to say whether it is the first or second. It was handed to me as a copy of the report. The first and second reports, I presume, are in the papers. I am not able to say which this is.

MR. CLARK. I judge it to be the first, and indeed I know it is the first, but I desire to be certain on that point. In that first report he speaks of the covers of the wagons as being too

small and that they would not come down. In the next report Sawtelle makes, he says the covers of the wagons when he had pulled them down and bolted them into their places were very good and were the best part of the wagons.

The Senate will notice also that in the very report which the Senator has read, he speaks about the hubs being rotten. It was that report which called the attention of Mr. Brown to it, and in the presence of Mr. Sawtelle, who was requested to point out the place which he would select as rotten, this was the result of the investigation. [Exhibiting a piece of wood to the Senate.]

I do not undertake to impute anything against the honesty and integrity of Mr. Sawtelle, except what appears upon the report; and of that I leave the Senate to judge; but I do desire to say here that on an examination of that report and of the things alleged in it, and on an examination of the testimony which was before the committee, the evidence entirely overbore the report. It was that the wagons were well constructed. There was a large amount of testimony on that subject.

I do not desire particularly to go into that subject, but I wish to state here what I know to be a fact, because it is charged here that we make an assault on this officer. I do know—I know it personally—that after this report was made I went to the quartermaster's department. I could not believe but what a claim of this kind would be paid. I called upon the officer in charge to make an examination of this matter because they were wrong in making the refusal of this payment to the claimant, and I was told in the quartermaster's department—I will not say by what officer, because I do not desire to make a personal charge upon anybody—but I was told in the quartermaster's department that they would not overrule the decision of Sawtelle, even if they knew it to be wrong. When I appealed to them that they might go and examine, they said they would not do it if they knew it to be wrong; and now we find the same influence from the quartermaster's department, for I have seen the officer calling out Senators—I know who it is—trying to defeat the claim here. When appealed to in their own department to overrule it if they found it wrong, they said they would not do it if they knew it to be wrong; and still they are following this man and trying to defeat him here in the Senate and postpone him to the Court of Claims.

MR. FOSTER. Mr. President, I made the motion to send the case to the Court of Claims, and I must confess that I have not yet heard any good reason why that motion should not prevail. What is the reason in substance urged against its going to the Court of Claims? This, and this only, that the claim is a just one, that it ought to be paid, and that it is two years or thereabouts old. There are thousands of perfectly just claims against this Government much more than two years old, which if brought to this Senate would be sent to the Court of Claims immediately. Why? Because in the judgment of Congress, the Senate being a constituent part of Congress, we did not think that we could devote our time to the consideration of claims against the Government, but that a tribunal which we have constituted and denominated the Court of Claims is the tribunal for deciding upon such matters.

This it is said is a just claim. Granted: is the principle then to be that this body will entertain all just claims against the Government? If it stands on that ground let us fix that principle. Are we prepared to say that we will entertain jurisdiction of all just claims? If so, we must entertain jurisdiction of every claim brought here, if we are to take the assertion of the party making the claim, for no party will present a claim against the Government without asserting that it is just; and who is prepared to say that it is unjust until he examines it? We must therefore, to be consistent, if we entertain this claim, entertain every claim that is brought, or else we shall discriminate and entertain one claim and not another.

Gentlemen say that this claim is as strong as if it were on a bond against the Government. Granted. Suppose a party comes here on a bond of the Government; he is the holder of a bond, and the Government have refused to pay either the bond or the coupon on the bond, and he petitions the Congress of the United States, and petition is here presented for payment of that bond or of that coupon, will we entertain jurisdiction?

I do not know what the Senate might do on the subject; I would not. On a claim of that sort upon a bond, or a coupon attached to a bond, a petitioner coming here, not doubting the justice of his claim, I would say, as a Senator, "This is not the tribunal to entertain jurisdiction of the matter; go to the Court of Claims." I am prepared to say that, because the law says it, and I am not prepared to repeal the law, or rather I am not prepared to have this body attempt, in effect, to repeal a law which it has not the power of itself to do.

Under these circumstances, if we grant that this claim is just as strong in every particular as its friends contend, it furnishes no reason to my mind why it should not be tried by the proper tribunal. It seems to me clearly improper to attempt to discriminate here between claims that we call just and those that we call unjust, and to say that we will try and dispose of here all the clearly just claims and send all the unjust and all the doubtful ones to the Court of Claims. I may be wrong about this matter; but I would measure out an equal rule to all claims that are brought here of a like character. Those coming within the law should go to the tribunal provided by the law. It seems to me that is the only just, consistent, and proper course for us to pursue. If we take any other course, we shall find ourselves in the difficulty of either having to refuse men who come here, and make discriminations that must be odious and unjust, or we shall have to entertain jurisdiction of all claims that are brought here, and doing that we may as well abolish the Court of Claims at once.

In making these remarks, Mr. President, and in making this motion, I am certainly actuated by no spirit of hostility to this claimant, for I have no knowledge of him except what gentlemen here assert of him, (and nobody asserts the contrary,) that he is a highly respectable man. Taking that for granted, and taking it for granted for the purposes of the argument that he has a just claim properly supported, the Court of Claims is the proper tribunal. It is in session in this building to-day, and will continue in session. The delay occasioned by sending it there will not be great. The delay in this case is no greater than in thousands of other cases. There are a great many claims much older than this that are equally just; and if we at this stage of the session or at any stage take it upon us to entertain jurisdiction of them and try them, Congress must be perpetually in session and engaged in business which the law has provided another tribunal to decide.

MR. CLARK. I shall detain the Senate but a moment, simply to state the history of this claim before Congress. It was presented here early last session, before the law was enacted which authorized the Court of Claims to take cognizance of all questions of contract.

MR. FOSTER. Certainly not before the law existed which took cognizance of this claim, for that is as old as the law organizing the court.

MR. CLARK. The law of 1855 authorized the Court of Claims to hear all cases arising upon contract which were presented to it by petition, but if they came to the Senate or the House of Representatives the Court of Claims was not authorized to hear them unless they were sent there by a direct resolution of the House to which they were presented. But now under the present law they are directed to be presented to the Court of Claims unless either House by resolution directs otherwise.

Last session, before the present law on this subject was passed, this claim was brought into the Senate, and it was referred to the Committee on Claims. The Committee on Claims examined and reported upon it, and the Senate passed the bill unanimously. It went to the House of Representatives, and it was defeated simply for the want of time. At the commencement of this session the claim was again sent to the Committee on Claims of this body. The Committee on Claims did not think that it had jurisdiction of it unless by a resolution of the Senate; and a resolution was passed by the Senate at this session directing the committee to take jurisdiction and cognizance of it; and thereupon they did so, and they examined the case, and they came to the same conclusion which was arrived at last year; and now they report it to the Senate for their action, and there is a motion made to send it before the

Court of Claims. This motion is made after the Senate have directed by special resolution the committee to take cognizance of it, and the motion is, in fact, to reverse the action of the Senate.

Mr. HENDRICKS. I have but one suggestion to make on this case. When the resolution referred to was offered by the Senator from New Hampshire, in a modest way I suggested as an objection to it that the petition itself showed that the claim properly belonged to the Court of Claims; but that objection was not supported by any other Senator, and by almost a unanimous vote of the Senate the resolution was adopted, and by the adoption of that resolution, as I read the law on this subject, the Senate assumed jurisdiction of the case and has jurisdiction. The exclusive jurisdiction before might have been in the Court of Claims; but the law makes the adoption of that resolution operate to confer jurisdiction upon the Senate. There is therefore now no question of the jurisdiction, the Senate having assumed it in that formal way. The Committee on Claims has examined this case, found the claim to be right, and reported the bill to the Senate, and I now submit to the Senator from Connecticut it is too late to raise the question of jurisdiction. That point ought to have been made when the Senator from New Hampshire presented his resolution. I attempted, as I have said, in a modest way to raise the objection; but the Senate did not agree to the view that I suggested, but said, "Although this claim grows out of a contract, the Senate will examine it and decide it." The Committee on Claims has examined its merits and decided that it ought to be allowed. Now, I submit it is too late for the Senator to raise the question of jurisdiction, but we ought to act upon the bill. Such cases, I am free to say, ought to go to the Court of Claims; but after we have adopted a resolution such as was adopted in this case, I think under the law we have exclusive jurisdiction of the case. It is not concurrent any longer, and it is not exclusive with the Court of Claims, but is exclusive with the Senate, in my judgment, and I am in favor of the bill.

As one member of the Committee on Claims I voted for the bill upon just this ground: that the contractor agreed to furnish wagons to be approved by an inspector selected by the quartermaster's department of the Government; he manufactured the wagons; and at the place designated in the contract they were examined, and examined before they were painted, and examined by the proper officer; and, as I understand the case, there is not the least evidence that there was collusion between the officer making the inspection and the contractor. The inspection was made; the wagons were received by the proper person selected by the Government for that purpose; and I cannot agree that when these wagons had been thus received by the Government and sent for the Government use several hundred miles away, Captain Sawtelle, or any other person, be he ever so excellent an officer, should, without having any jurisdiction of the question, without having any right to inspect again, undertake to say that these wagons should not be received, and at a great distance from the man's home that they should be thrown upon his hands, not according to the contract, not according to his agreement with the Government, but long after he had complied with every stipulation in his contract, and after the Government's own officer had agreed to receive the wagons. I think it would not be just toward the man to do it. In the absence of fraud, I think we ought to stand by the inspection which was made pursuant to the contract. There is no evidence of fraud or collusion.

Mr. FOSTER. In respect to the allusion made by the honorable Senator from Indiana to the resolution passed by the Senate to which he said he modestly objected, I can only say that it passed the Senate inadvertently so far as I was concerned. I have no recollection of any such resolution, nor do I believe it was a subject to which the attention of Senators was called. We know how such matters ordinarily are, where the chairman of a committee, and especially a chairman in whom we all have so much confidence as we have in the chairman of the Committee on Claims—

Mr. CLARK. The Senator is mistaken; my colleague offered the resolution, not I.

Mr. FOSTER. But if it had the sanction of the committee in any manner, it would pass al-

most as a matter of course, where it was only to allow a claim to be examined. I can hardly think that the sense of the Senate was expressed upon the resolution in any such way as that we should not now be at liberty to pass upon the question *de novo*. If there be, however, I would offer instead of my original motion, the following resolution:

Resolved, That in accordance with the 29th rule of the Senate, the bill of the Senate numbered ninety-two, for the relief of Albert Brown, together with the reports and papers belonging to the same, be referred to the Court of Claims.

I wish that the latter clause of the 29th rule may be read.

The Secretary read, as follows:

"That whenever a private bill is under consideration, it shall be in order to move as a substitute for it a resolution of the Senate referring the case to the Court of Claims."

Mr. FOSTER. If there be any such difficulty as was suggested by the honorable Senator from Indiana, this meets the case, because it applies to a bill reported from a committee.

Mr. HENDRICKS. On that point, as to the question of order whether this resolution now proposed by the Senator from Connecticut is in order, I have to suggest that the resolution offered by the Senator from New Hampshire was adopted, and it has a certain force given to it by law. The law of last year says that by the passage of such a resolution the Senate shall acquire jurisdiction of the claim. Now, I submit that a rule of the Senate passed before the adoption of that law cannot change the effect or force of the resolution which was adopted by the Senate.

The VICE PRESIDENT. The Chair can have no doubt that the motion submitted by the Senator from Connecticut is in order, because it is clearly appropriate for the Senate to direct a committee to examine a claim; but whatever may be the sense of the committee after that examination is made, the Senate may then refer it to the Court of Claims. That examination cannot be conclusive upon the Senate.

Mr. CONNESS. There can be no doubt, sir, of the jurisdiction of the Senate in this matter, if they choose to exercise it; nor of the fact that the resolution offered by the honorable Senator from Connecticut is in order; but I have only a single remark to make, for I am very anxious to come to a vote on the question and get to other business. While the Court of Claims is established properly to take cognizance of cases of this character, yet where a claim is clearly one of great justice, and where hardship accompanies it, it is very hard indeed to send the parties to it before the Court of Claims, there to employ counsel and fritter it away in prosecuting it against the Government.

I do not undertake to enter this discussion by saying that this claim has character, although it is claimed for it by the honorable chairman of the Committee on Claims, in whom the Senate undoubtedly has great confidence. I am prepared, under his direction, by his advice, to vote upon this question, and I hope we shall come to a vote, first upon the resolution offered by the Senator from Connecticut, and then, if that be not adopted, upon the bill itself, and get rid of it.

Mr. HOWE. I did not intend to take any further part in this debate, and would not but for a remark that was dropped by the Senator from Oregon to the effect that the committee had done more to prosecute an attack upon the department of the Quartermaster General than to maintain the claim of Mr. Brown. I think I may say that the committee had no design whatever to attack the Quartermaster General or to attack Captain Sawtelle. It is known to me that the author of the report which accompanies this bill had never seen either Captain Sawtelle or Mr. Brown, had not the slightest prejudice against them, nor the slightest prepossession in favor of either of them; and if the Senator from Oregon or any one else will take the pains to look at the report he will see but little in it except a summing up of the evidence which was before the committee.

There had been two certificates of inspection presented to the committee; one was by Mr. Patten, who was appointed by the Government especially to inspect the wagons, the other was by Captain Sawtelle, who had no authority whatever to inspect them. The committee had both of these certificates before them. There was evidence in the case maintaining the good character

of Mr. Patten; there was no evidence whatever upon the character of Mr. Sawtelle, and that fact was noticed in the report. It was said by the committee that there was evidence establishing the good character of Mr. Patten, but there was no such evidence in reference to the character of Mr. Sawtelle. That is all. The committee did not say that there was any evidence there impeaching the character of Mr. Sawtelle, and they did not say it themselves.

There was this fact: that a mechanic had furnished one hundred Army wagons to the Government, and the Quartermaster General had so contrived that the Government had received no benefit from those wagons. They were not used. The mechanic who made them had lost them. The Government had seen fit to take no benefit whatever from them; and the committee thought upon the question of law that the Government was absolutely compelled to pay for the wagons whether they were good for anything or not. They were compelled to pay for the wagons as a matter of law, because the contract was complete, as much so, as I said the other day, as if the individual held the Government's bond for the amount. The committee thought, at least I did, that it was a singular administration of the department from which that result followed.

The Senator from Oregon has read one of the certificates of inspection furnished by Captain Sawtelle. He has not read the other. Both of those certificates were before the committee, and they examined them. The report shows that they were both there. Both of these inspections show that the wagons differed from the wagons provided for in the contract; but the difference between either of these inspections and the specifications in the contract is not greater than is the difference between the two inspections themselves. This same inspector, Captain Sawtelle, furnishes two certificates of inspection, and the two differ as much from each other as either does from the specifications of the contract.

And now I want to call the attention of the Senate to the explanation which Captain Sawtelle gives of having these two inspections. Here is his letter, written on the 7th of September, 1861, to the Quartermaster General:

"Mr. A. Brown has just showed me a copy of his contract with Major Miller, of the quartermaster's department, for Army wagons. The specifications shown me by Mr. Brown differed from those furnished me from your office in the following particulars, namely: that the hubs are to be of elm instead of gum; and that the spokes and the felloes shall be yellow oak instead of white oak."

There is the difference between the specifications in the contract which Brown made, and the specifications which Sawtelle says he had before him when he made the first inspection. And now neither of his inspections shows what wood the hubs were made of, or what wood the spokes were made of, but this is the reason why he makes the second inspection. He goes on:

"Mr. Brown also shows me a copy of a letter from your office, directing him to send all the wagons contracted for with him (one hundred) to me. I have only been informed from your office that forty wagons are to be delivered here by Mr. Brown. The inspection of Mr. Brown's wagons (first forty received) was made prior to the receipt by me of a copy of the specifications from your office, and in the inspection and report I was governed by the old specification for Army wagons."

"I shall have made and furnished you as soon as practicable a new inspection-report on Mr. Brown's wagons, agreeing with the copy furnished me from your office. I am satisfied that the sixty wagons now here, not yet unloaded, as well as the forty received last month, are entirely unfit for Government service."

Forty wagons had been received and inspected, and he had furnished the certificate. Sixty wagons had come there, but were not unloaded, and Captain Sawtelle, without any inspection, without seeing them thrown off the cars, notifies the Quartermaster General in advance that he is satisfied that they are entirely unfit for the Government service. They might have been so, but he was satisfied of it without any evidence!

Mr. President, the Senator from Connecticut insists that this question ought to go to the Court of Claims. He says the law so provides. He has been repeatedly reminded that the law only provides that such claims shall go there unless the Senate or the House of Representatives, to whichever body the claim is presented, otherwise direct. He has been repeatedly reminded that the Senate has twice otherwise directed. The first time it sent it, not to the Court of Claims, but to the Committee on Claims, and when they

reported the bill and recommended its passage the Senate by a unanimous vote adopted it, but it did not pass the other House for want of time. Then it was brought up again, and notwithstanding the Senator from Indiana reminded the Senate that it was a proper case for the Court of Claims, the Senate directed it to go to the Committee on Claims; and now the Senator from Connecticut urges, in spite of this action, that it shall go to the Court of Claims, which will have the effect necessarily to delay it one year. Mr. Brown is out of the wagons and needs the money. He is a mechanic. The Senator says that there are hundreds and thousands of claims just as honest as this.

Mr. GRIMES. Was Sawtelle before your committee?

Mr. HOWE. No, sir; but the Quartermaster General was called upon by the committee to furnish any evidence or reasons which the Government had in its possession why the wagons were not paid for, and he furnished these two contradictory reports of Mr. Sawtelle, and that was all the evidence he laid before us.

The Senator from Connecticut says there are hundreds of thousands of dollars just as honestly due as this that the Government owes. I am not surprised to hear it. When a claim like this is made the subject of debate, of settled and fixed opposition here day after day, I am not surprised to hear that the Government has a great many honest creditors whose claims have been delayed year after year. But I want to say this, and I think it is the last thing I shall say, that until the Government can deny such a reproach as that, it will not have the credit that a fair and honest Government ought to have. While Senators can stand up here, so long as they are enabled to stand up here, and say as the Senator from Connecticut does, that there are hundreds of thousands of dollars due from the Government to honest creditors who are deterred from coming here with their claims, the Government will not have the credit it ought to have.

The VICEPRESIDENT. The Chair desires to say that the Senator from Connecticut first informally moved to refer the bill to the Court of Claims, and on that the yeas and nays are ordered. The Chair regards this as the same motion reduced to writing.

Mr. TRUMBULL. I shall detain the Senate but a moment, and that without going into any discussion of the merits of this claim, but I wish to submit to the Senator from California who made the point that this was a clear case, and saw no reason why it should be referred to the Court of Claims, that if he acts upon that principle it involves the examination of every claim brought against the Government, because we cannot determine whether it is a just claim or not till we investigate it, and if we go into the investigation and find it is a just claim, then we are to pay it.

Mr. CONNESS. The Senator will permit me. I did not say that this was such a case. I predicted what I did say upon that subject on the recommendation of the chairman of the Committee on Claims. I simply said this: that where cases were shown upon investigation to be clear and unquestionable, it was hard then to compel the parties to them to prosecute them against the Government in the Court of Claims, and that only the class of claims should be sent there which carried some doubt with them or which were uncertain.

Mr. TRUMBULL. So I understood the Senator; and does he not see that that involves an investigation of every claim here? How is he to know whether there is some doubt about a claim until he examines it?

Mr. CONNESS. I spoke of those already examined.

Mr. TRUMBULL. This has been examined, and the committee having reported in its favor the Senator assumes that this is a proper claim to be paid. Every claim that a committee reported in favor of would be entitled to the same presumption as this, if he places it on the ground of a report of a committee.

This may be a proper claim to be allowed. I will not undertake to say it is not; about that there is a contrariety of opinion; but it does seem to me that if we have a Court of Claims for the investigation of claims we should send all claims of which it has jurisdiction before it. Is there any

doubt that the Court of Claims would have jurisdiction of this case? I do not understand that there is. If there is not, why should it not go there? I think that the Court of Claims is a great deal safer upon general principles to investigate claims against the Government than a committee of Congress; and I mean no disparagement to our committees by this remark, and I do not mean that it shall apply to this particular case.

The reason that I think the court safer than a committee is this: the court is provided with attorneys whose duty it is to attend to the interests of the Government; the court takes testimony on both sides, and the witnesses are cross-examined, and the case is presented there as it is presented in other judicial tribunals. Before a committee of Congress affidavits are received; the statement of the petitioner is received, and our experience is that many unjust claims have passed through Congress on the reports of committees in their favor, because the committees had but a superficial view of the case; they saw but one side of it. If you allow a party to make his own case, bring in *ex parte* testimony, and take no pains to obtain counter testimony, or to ascertain the facts from other sources than such as he presents, he will almost always make a good case.

Now, do not understand me as applying that to this case. I am speaking upon general principles, and I shall vote for the proposition of the Senator from Connecticut upon the ground that we have established a Court of Claims, which I believe is saving to this Government millions of dollars every winter. Millions of dollars are saved by the investigations that the court makes which would be obtained from the Government on *ex parte* testimony without the investigation which the claims are subjected to in that tribunal. Having such a court, I think we should refer all the claims of which it has jurisdiction to it for adjudication; and hence I shall vote upon that general principle to refer this claim there, and it is no argument to me to say that this claim is a just claim. Every claimant says he has a just claim; and if we are to investigate it here to ascertain whether it be a just claim or not, then we are doing that very thing which the Court of Claims was organized to relieve us of.

I trust that the resolution offered by the Senator from Connecticut will prevail, because if we entertain jurisdiction in this case we set a precedent which is to compel us hereafter to examine claims, and whenever a claim shall be presented here from any source and a Senator shall say that it is a just claim and a clear case, we must look into it to see if it be so, and if it be so we must pass upon it without referring it to the Court of Claims, because that reference would occasion delay and put the party to the necessity of employing counsel.

Mr. GRIMES. It seems to me that there is a good deal more in this case than the mere question of paying Mr. Brown for the wagons which, it is said, he has made for the Government. We virtually rebuke one of the officers of this Government by the passage of the bill, taken in connection with the declarations that have been made by the Senator from Wisconsin [Mr. Howe] in regard to Colonel Sawtelle, or Major Sawtelle, or whatever his rank may be. We say to the world in effect that that man has been attempting to perpetrate a great injustice on a Government contractor; that in his capacity as an inspector of Army wagons he has done a great wrong; and it is upon that ground that the appeal is made to us to pass this bill, instead of sending it to the Court of Claims, there to have the question determined whether Colonel Sawtelle acted properly or improperly.

What is going to be the effect of such action as that by the Senate and by the House of Representatives in regard to the operations of our armies? Does not every sensible man in the country know that a great many of the disasters to our arms have been caused by defects in wagons? Put one of the kind of wagons which Colonel Sawtelle described, and supposed these to be, at the head of a vast wagon train, such wagon trains as are now moving across Mississippi, extending sixteen miles in length, and over a poor road and in a narrow way; the defects in one wagon at the head of the train may cause the loss of the whole train and bring disaster to our arms. I am not in favor of passing this bill without giving Colonel Sawtelle and the officers of the Army who are charged

with the very responsible duty of inspecting wagons an opportunity to be heard before the Court of Claims.

As the Senator from Oregon has well said, the inducements are all in favor of the claimant, and if the officer was influenced by anything extraneous and improper the result would not have been in favor of the Government. I cannot conceive it possible that Colonel Sawtelle attempted to perpetrate a great act of injustice on Mr. Brown. And as to the extraordinary discrepancies between the two reports made by Colonel Sawtelle alluded to by the Senator from Wisconsin, they do not strike me as anything very extraordinary.

It does not strike me as anything very extraordinary that Colonel Sawtelle having inspected forty Army wagons, and seeing sixty more on the same pattern, that had arrived on a train and were yet unloaded, should express the general opinion to his commanding officer, the Quartermaster General, that he was satisfied none of them were fit for Army purposes.

I wish the Senate to bear in mind that while we may be doing justice to Mr. Brown by passing the bill we may also be doing a great injustice to Colonel Sawtelle and to the Army and to the country by passing it in the way and manner in which it is attempted to be passed. The whole question ought to be referred to the Court of Claims, and there let the Government be heard as well as Mr. Brown and his attorneys.

Mr. CLARK. I cannot permit what the Senator from Iowa has said to pass unnoticed, because it might be inferred from his remarks that the committee were willing to do injustice to Colonel Sawtelle or Major Sawtelle.

Mr. GRIMES. I did not say so.

Mr. CLARK. I did not say that the Senator said so; I said that it might be inferred from his remarks. Now I desire to state that before this case was examined at all by the committee they sent to the quartermaster's department to know what the department had to say why the claim should not be paid. The department sent to the committee these two reports of Colonel or Major Sawtelle, and nothing else. Since the case has been under consideration at the present session, Colonel or Major Sawtelle has been in this city; he has been here within a week; and instead of coming before the committee and saying that he had any reason in the world why the claim should not be paid, he has kept entirely away.

Mr. GRIMES. Will the Senator permit me to ask him whether or not the committee have had Colonel Sawtelle before them, or have attempted to secure his attendance? I know he is in the city; he has been about the city for a long time.

Mr. CLARK. We have not attempted to secure his attendance, for when we saw him button-holing Senators and calling them out one after another and talking at the door, we supposed he had notice of what was going on.

Mr. FOSTER. Will the Senator pardon me for a word?

Mr. CLARK. Certainly.

Mr. FOSTER. In connection with the remark the Senator has just made, I wish to say that after the first discussion in the Senate upon this report, I went to the Quartermaster General, General Meigs, and asked if Colonel Sawtelle was in town. He told me that he was. Colonel Sawtelle was a stranger to me, and I asked as a favor that the Quartermaster General would order him to come up here and call me out, as I wanted to see him. The Quartermaster General said he would send a message to Colonel Sawtelle, directing him to come up here. He has come, and, as he said, in compliance with a direction from his chief, General Meigs, and I have conversed with him. That, I suppose, is a part of the button-holing to which the honorable Senator alludes. The officer came here because I requested his chief to send him here to see me.

Mr. DAVIS. I rise to a point of order. I yielded for a vote, and not for a long debate.

The VICEPRESIDENT. It is not in the power of the Chair to stop debate. The Senator yielded the floor unconditionally.

Mr. GRIMES. I desire to say that I have never seen Colonel Sawtelle. I do not know him from Adam. He has never button-holed me.

Mr. NESMITH. The Senator from New Hampshire will allow me to say that Colonel Saw-

telle never called me out, but I called for him at his office to make inquiry about this matter.

Mr. CLARK. I do not see any occasion for all this. I did not say that the Senator from Connecticut had been applied to—

Mr. FOSTER. No, but the charge was that Colonel Sawtelle had been to us. It happens to be the other way; we went after him.

Mr. CLARK. Let me ask, are these all the Senators in the Senate? I did not say that the Senator from Iowa was applied to or the Senator from Oregon or the Senator from Connecticut. They are but three out of about fifty. But one thing is shown by these statements, that Colonel Sawtelle was sent for and had notice of the whole thing, and did not choose to come before the committee and say a word to the committee.

Mr. GRIMES. This has been since the bill was reported by the committee to the Senate after it passed out of the committee's hands.

Mr. CLARK. But why not come to the committee and say, "You have made a mistake; let me show it to you." The Government were notified and had nothing to say.

The question being taken by yeas and nays on the motion of Mr. FOSTER, resulted—yeas 18, nays 21; as follows:

YEAS—Messrs. Buckalew, Davis, Dixon, Doolittle, Foster, Grimes, Harding, Harlan, Harris, McDougall, Morgan, Nesmith, Powell, Sherman, Sprague, Ten Eyck, Trumbull, and Wright—18.

NAYS—Messrs. Chandler, Clark, Collamer, Conness, Foot, Hale, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Ramsey, Saulsbury, Sumner, Van Winkle, Wade, Wilkinson, and Willey—21.

So the motion was not agreed to.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 51) amendatory of and supplementary to "An act to provide circuit courts for the districts of California and Oregon, and for other purposes," approved March 3, 1863.

The message further announced that the House of Representatives had passed a joint resolution (No. 35) of thanks of Congress to the volunteer soldiers who have reenlisted in the Army; in which it requested the concurrence of the Senate.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed on the 13th instant the following bills:

A bill (H. R. No. 144) to indemnify the owners of the British schooner Glen; and

A bill (H. R. No. 225) making an appropriation for rebuilding the stable at the President's.

INTERNAL REVENUE.

The message also announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill of the House (No. 122) to increase the internal revenue, and for other purposes, and asked a conference on the disagreeing votes of the two Houses upon the third, fifteenth, and sixteenth amendments of the Senate to the said bill; and had appointed Mr. ELIHU B. WASHBURN of Illinois, Mr. THADDEUS STEVENS of Pennsylvania, and Mr. FERNANDO WOOD of New York, managers at the same on its part.

HOUSE BILL REFERRED.

The joint resolution (No. 35) of thanks of Congress to the volunteer soldiers who have reenlisted in the Army, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

PAY OF COLORED TROOPS.

The VICE PRESIDENT. The special order is now before the body, being the joint resolution (S. No. 23) to equalize the pay of soldiers in the United States Army.

Mr. DAVIS. Mr. President, a philosopher and a poet once published a couplet:

"For forms of government let fools contest;
That which is best administered is best."

There is more truth and philosophy than poetry in that couplet. In point of excellence and perfection of form there is no Government on earth

that ever had existence which is equal to ours; but in its administration at this time I believe that it is one of the most oppressive and grinding that now exist. I think it is practically a military despotism. There is no constitutional provision, there is no law of Congress, there is no constitution or law of a State but what crumbles in its presence and at its touch.

The Constitution of the United States establishes the judicial department of the Government. It refers all questions of a judicial character, whether arising under the Constitution or the law, to that department for its decision. There is no right of the citizen, whether it be personal, appertaining to his life and his liberty or his property, but what is legitimately the subject of the inquiry and judgment of the judicial department of the Government. But in this day of usurpation of power and of practical revolution these provisions of the Constitution and the law are wholly disregarded; and the President of the United States, under a claim of military necessity, repudiates and sweeps away the whole Constitution and all the laws of Congress, and all the civil tribunals appointed by the Constitution and law for their enforcement, and in their stead he substitutes, by his own arbitrary will, military courts, and makes the indefinite and indefinable law of their own will the rule of their proceedings, actions, and judgments, instead of the ordinary and civil law by which to adjudge and punish the citizen.

There is no man whose rights are safe from the assaults of the Government of the United States at this time. There is no man whose property is not subject to be taken from him by the arbitrary action of some subordinate military officer, without compensation, without any proper inquiry for the purpose of deciding whether there is a state of case in which such power may be rightfully exercised. There is no provision made by law to remunerate the owner of property for that which was thus arbitrarily taken from him. The writ of *habeas corpus* is suspended; and on that point I will remark that the only proper effect of it is to prevent the citizen from having that summary and *ex parte* examination of his case that is incident to the return and to the hearing of the writ. The suspension of the writ does not properly arrest or suspend or obstruct the legal trial by the proper civil court, which every citizen is entitled to have according to the guarantee of the Constitution; and any courts which lend themselves to the purpose of suspending the due administration of the law by refusing such trials, make themselves criminally subservient to the same usurpation of power.

There is no citizen of the United States, even in the loyal States, but what is subject, at all times, to be arrested at any hour of the day or the night, without any process issued out according to the requisitions of the Constitution, without any charge of offense or crime, without its being communicated to him what is the cause of his arrest; and he is subject to be dragged from his home to distant prisons, and there to be indefinitely confined in a dungeon without any protection or redress.

Sir, under our form of constitutional government, and of its limited and restricted jurisdiction, in addition to the abuses which I have enumerated, all the State laws of every State, loyal as well as disloyal, are subject to be superseded by the arbitrary will of the President and his military subordinates; courts are deposed; judges are driven from their halls; ministerial officers with process in their hands are interdicted from making execution of them; and armed men invade the courts for the purpose of suppressing the due execution of law and defeating the protection which it should vouchsafe to every citizen.

Sir, not only all this abuse; but when the wave of rebellion is driven back from some of the States, and our conquering armies have taken or are about to take undisputed possession of those reconquered States, the President of the United States assumes the unconstitutional and dictatorial power to prohibit those States from returning to the Union under their constitutions and laws. He imposes upon them conditions which he has no more authority or power to impose than you or I have, and he requires that these conditions shall be complied with by their people before they shall be admitted to their constitutional rights as

States of this Confederacy, and the people of those States to the protection, the rights, and the liberties guaranteed to them by the Federal Constitution and laws and their own States' constitutions and laws.

Sir, under the impression produced upon my mind by this hasty and imperfect review, I come to the conclusion, and I here declare in my place my solemn conviction, that the despotism of Russia or of Austria is not so oppressive, so galling, and so grinding as the military despotism that is now in full operation in the United States. This military despotism has been but partially executed. Reflect the incumbent who now fills the presidential chair, or elect a man of the same or more extreme principles and policy, and you then confirm by the vote and by the majesty of the people of the United States the present usurpations of those in power, their assumptions of that enormous and tyrannical amount of power that never was intended to be, and never was in fact, delegated to them by the framers of the Constitution, and which if it had been proposed would have produced a prompt rejection by that body unanimously, I have no doubt, if it had not broken up the body itself without accomplishing its work.

Sir, what said, as reported in the papers, our Secretary of State to the British minister, Lord Lyons? "My lord, I can touch a bell on my right hand and order the arrest of a citizen of Ohio; I can touch the bell again and order the imprisonment of a citizen of New York; and no power on earth except that of the President can release him. Can the Queen of England do as much?" No, sir; nor the Emperor Napoleon, nor the Emperor Alexander, nor any other potentate of the earth, can enact the same despotism that is expressed in this brief but most true and most terrible picture of arbitrary power.

Mr. ANTHONY. Allow me to ask the Senator from Kentucky when such remarks were made by the Secretary of State?

Mr. DAVIS. I have just stated that all I know about it is its publication in the newspapers.

Mr. ANTHONY. Does the Senator deem that sufficient authority on which to present such a statement to the Senate?

Mr. DAVIS. I should be gratified to find that it was not true; but if it was not true I should suppose the Secretary of State would contradict it.

Mr. ANTHONY. I leave the Senator himself to decide whether it is not more proper to find out that a statement is true before he quotes it in the Senate.

Mr. DAVIS. Here is the report of a most extraordinary declaration by the Secretary of State to the minister of the first Power on earth accredited to our Government. This declaration is published in the papers, and, so far as I know and have understood, it never has been contradicted.

Mr. ANTHONY. I will ask if the Senator from Kentucky—

Mr. DAVIS. Let me proceed, if you please. Make a memorandum of your questions, and present them to me when I get through. I would rather answer them altogether.

Mr. ANTHONY. The only question I wish to ask is whether the Senator himself is in the habit of contradicting the remarks he finds in the newspapers about himself, or are we to believe everything that we see about him in the papers which he does not contradict?

Mr. DAVIS. If I were Secretary of State, and such a remark as that were made about my communications to Lord Lyons, the British minister, and it was not true, I certainly would contradict it.

But, Mr. President, I proceed now in the line of my remarks. It is not my purpose to occupy any more time than is necessary, and I do not wish to trouble the Senate again at any length. I know the Senate are weary with hearing me, and, to acknowledge the God's truth, I am beginning to be really wearied of hearing myself. [Laughter.]

Mr. President, when I yielded the floor yesterday I had advanced to that stage in the history and the progress of action by the great State of Massachusetts when she had reversed all her former principles and positions. And now let me read of some public action and resolves of that State in support of this new and most extraordinary, unconstitutional, illegal, and unjust policy upon which she has entered with so much vim.

A convention was held in Boston in 1855 that unanimously adopted resolutions which I will read:

"Resolved, That a Constitution which provides for a slave representation and a slave oligarchy in Congress, which legalizes slave-hunting and slave-catching on every inch of America's soil, and which pledges the military and naval power of the country to keep four million chattel slaves in their chains, is to be trodden under foot and pronounced accursed, however unexceptionable and valuable its other provisions may be."

When Massachusetts was fulminating such a denunciation as that against the Constitution, why did she not recollect and why was she not brought to shame and to dumbness by her previous course in relation to the same subject? Why was she not struck mute by her course in the Convention which formed the Constitution of the United States? Why did she denounce a provision of the Constitution that was passed by the unanimous support of the members of the Convention, including her own, that provision which secures to the owners of fugitive slaves their rendition from other States into which they may have escaped?

The next resolution of this series is:

"Resolved, That the one great issue before the country is the dissolution of the Union, in comparison with which all other issues with the slave power are as dust in the balance; therefore we will give ourselves to the work of annulling this 'covenant with death' as essential to our own innocence and the speedy and everlasting overthrow of the slave system."

Sir, gentlemen get up now and flippantly and audaciously hurl the charge of treason at other members of the Senate, and at true and loyal citizens over the land—men who have uttered this treasonable sentiment, men who have cherished it as the purpose and object of their lives and of their policy. In January, 1857, Massachusetts held a State convention at Worcester, that passed the resolutions that I will now read:

"Resolved, That this movement does not seek merely disunion, but the more perfect union of the free States by the expulsion of the slave States from the confederation in which they have ever been an element of discord, danger, and disgrace."

There is a slight mistake. The true subject of that denunciation should have been, not the slave States, but the State of Massachusetts herself. "Give the devil his due." Speak of South Carolina and the other States that are now in this wicked rebellion, and when, and where, and how did they ever interfere with the constitutions and laws of the northern or free States, with their domestic institutions, with their rights of property, with any of those interests or affairs that were left to them by the Constitution and over which they had the exclusive jurisdiction? The southern States never intermeddled in the domestic concerns of Massachusetts or any of the other northern States; and if Massachusetts had herself acted with the same forbearance, with the same scrupulous regard to the provisions and the spirit of the Constitution of the United States and to the great principles upon which our system, State and Federal, is based, we should not now have this deplorable war upon us.

The next resolution was:

"Resolved, That it is not probable that the ultimate severance of the Union will be an act of deliberation or discussion, but that a long period of deliberation and discussion must precede it; and this we meet to begin."

They mean to begin for the diabolical purpose of agitating with a view to the dissolution of the Union! Was there ever so treasonable an avowal so boldly made by any body of men?

"Resolved, That henceforward, instead of regarding it as an objection to any system of policy, that it will lead to the separation of the States, we will proclaim that to be the highest of all recommendations and the greatest proof of statesmanship; and we will support, politically or otherwise, such men and measures as appear to tend most to this result."

"Resolved, That by the repeated confession of northern and southern statesmen, 'the existence of the Union is the chief guarantee of slavery'; and that the despots of the whole world have everything to fear, and the slaves of the whole world everything to hope, from its destruction and the rise of a free northern republic."

"Resolved, That the sooner the separation takes place the more peaceful it will be; but that peace or war is a secondary consideration in view of our present perils. Slavery must be conquered, 'peaceably if we can, forcibly if we must.'"

That principle they then took up and they are now acting fully up to its execution, not by the power of Massachusetts alone, but by the aggregate power of the vast armies of the United States.

"Resolved, That the experience of more than sixty years has proved our national Government to be a mere creature and tool of the slave power."

How? Had not the free States preponderated in the two Houses of Congress and in the electoral college which made the President and Vice President ever since the beginning of the Government? Had they not always the power and the strength to make whom they willed President and Vice President, and to pass such laws as they chose? Then the course of presidential elections and of congressional legislation was the judgment and the act of the free States, at least so many of them and such of their representatives and electors as when united with those from the slave States gave them power. But my recollection both of legislation and of presidential elections is that never until sectional parties grew up in the United States were there any divisions of that kind in relation to any subject of policy and legislation, or in the election of President and Vice President; but it was always a mixed vote of free and slave States, without a division and separation by the line of slavery.

"Resolved, That the experience of more than sixty years has proved our national Government to be a mere creature and tool of the slave power, subservient only to the purpose of despotism; a formidable obstacle to the advancement and prosperity both of the free and slave States; a libel upon our democratic theories of government; a disgrace to the civilization of the age, and a bitter curse to the cause of freedom in our own country and throughout the world."

Did not every point and subject of this bitter malediction exist at the time that the Convention framed our present Constitution? Did they not all exist at the era of the Declaration of Independence, and when it was recognized by the treaty of 1783? Were not all these matters that are thus bitterly denounced, originated, built up, and sustained by the action of Massachusetts? These resolutions proceed:

"Resolved, That, in view of this long and painful experience, we have no longer any hope of its reformation, but are fully convinced that the best interests of every section of the country require its immediate dissolution."

"Resolved, That this convention recommends, as the first step toward the accomplishment of this object, the organization in each of the States of a political party outside of the present Constitution and Union—a party whose candidates shall be publicly pledged, in the event of their election, to ignore the Federal Government, to refuse an oath to its Constitution, and to make their respective States free and independent commonwealths."

Sir, was there ever a fouler or more audacious position of disloyalty to our Government, a bolder and more daring disregard of the obligations which every citizen owed to the Government, than is manifested in this series of resolutions? Now, I will read some of the mottoes inscribed upon the banners of this dissolution party in the State of Massachusetts and other States who are members of the loyal leagues and making such lofty claims of unconditional support of the Union:

"Thorough organization and independent political action on the part of the non-slaveholding whites of the South. Ineligibility of slaveholders. Never another vote to the traffickers in human flesh."

"No patronage to slaveholding merchants; no guests to slaveholding hotels; no fees to slaveholding lawyers; no employment to slaveholding physicians; no audience to slaveholding parsons; no recognition of pro-slavery men except as ruffians, outlaws, and criminals."

"Immediate death to slavery, or, if not immediate, unqualified proscription of its advocates during the period of its existence."

Was there ever a fiercer, a more savage and unrelenting war denounced against any institution or any set of men who were faithfully sustaining their Government and laws, their only sin being the adoption of slavery, an institution founded by Massachusetts?

The descendants of those men now turn upon an institution which they fostered and carried to and enlarged in the southern States by the slave traffic, in their own ships and with their own capital. Is it not one of the most extraordinary and extreme inconsistencies ever exhibited to mankind? Could any race of people except the descendants of the Pilgrim Fathers be guilty of it?

Mr. President, Massachusetts in 1843 passed her first law in direct hostility to the fugitive slave law of 1793. That law was enacted in obedience to an express provision of the Constitution, that persons held to slavery in one State escaping into another should be rendered back to their owners. That provision of the Constitution was as valid and as obligatory on the people of Massachusetts and their Senators as any provision in that instrument. The law was passed when Washington was President, and by a Congress many of whose members had been engaged in the revolutionary

struggle and had been members of the Federal Convention. It was passed in the Senate without a division, and in the House of Representatives by a vote of 58 to 7. It came under the revision of the courts of the United States and of the States, and it was sustained by every judicial tribunal, Federal and State. It was approved by the Father of his country, the man at the head of the human race, who rises high above every other specimen of humanity, notwithstanding he was a slaveholder, and who in all his attributes and his whole life was more godlike than any individual man that has appeared upon earth since the days of the inspired apostles.

Shortly after Congress had passed the second fugitive slave law, in 1850, there was formed in Boston an association that combined talent, wealth, office, position, numbers, and permanency, for the special and declared purpose, and by all means, even unto organized armed resistance, to defeat any and all attempts to execute the fugitive slave laws in that State; and now her paramount and darling purpose in the vehement support she gives to the war is, not for restoration, but revolutionary and violent overthrow of slavery and the organism of the slave States, and virtually of the Union and Constitution of the United States, by making their armies the instrument of this her work of destruction.

Will the Senator from Massachusetts at the head of the Military Committee state on this floor that he never had knowledge of that association in the city of Boston and of the special and isolated object of its organization? Did he never meet with it in council? Was he never advised with by its leading and active members? Did he never give it his countenance and support? The other Senator from Massachusetts is too open I presume to deny his position in relation to that organization, but his more covert colleague is dumb and silent in relation to these points of interrogatory. But I will proceed with what I was saying in regard to Massachusetts. Her most sinister, selfish, and wicked ends are in that way to get possession of the rich cotton and sugar lands and the freed negroes of the southern States, and work them in perpetuity for the emolument of the sons of the Pilgrim Fathers; to reduce the southern States to a sort of colonial dependence, and to make them industrially, commercially, and politically subservient to herself and the northern States.

That is the whole scheme, combining fanaticism, avarice, meddlesomeness, and all the other obnoxious characteristics that appertain to that peculiar people, the descendants of the Pilgrim Fathers.

I have before me a Life of the fugitive slave Burns written by Stevens, a Massachusetts man. After speaking of the public excitement produced in Boston by that arrest, he adds:

"No immediate step was taken, however, except by an association styled a committee of vigilance. This association took its origin from the passage of the fugitive slave act. Its sole object was to defeat in all cases the execution of that hated statute. Thoroughly organized under a written code of laws, with the necessary officers and working committees, arranged on the principle of a subdivision of labor, with wealth and professional talent at its command, actuated by the most determined purpose and operating in secret, it was well fitted to strike powerful blows for the accomplishment of its object."

That object was the defeat and the overthrow of an act of Congress by a bold and treasonable band of conspirators, which, if successful, would have been *pro tanto* a dissolution of the Union; and yet men who support and give their presence and countenance and aid to such organization for such a purpose, have the face to come here and take an oath to support the Constitution of the United States, which this whole movement was intended to strike down in part, and to brand as disloyal and semi-traitorous men more true and loyal to the Government and to every principle of good faith than they. The historian further says of this association:

"The roll of its members displayed the most diversified assemblage of characters, but this diversity only secured the greater efficiency. The white and the colored race, free-born sons of Massachusetts and fugitive slaves from the South, here co-operated together. Among them were men of fine culture and of high social position. Some of the rich men of Boston were enrolled in this committee."

The historian then proceeds to give details of the many modes in which this organization operated. He adds:

"By this committee of vigilance the case of Burns was

now taken in hand. Early in the afternoon of the day following his arrest a full meeting for the purpose was secretly convened."

For what purpose? To take Burns from the custody of the law, and in that way to repeal, practically to put down, the law of Congress. I read further:

"On the main point there was but one voice; all agreed that, be the commissioner's decision what it might, Burns should never be taken back to Virginia if it were in their power to prevent."

Burns was arrested on the 24th of May, 1854, and by the judgment of the commissioner was rendered up to his master the 2d of June. In that interval there was addressed a circular letter to the "yeomanry of Massachusetts" adjuring them to rendezvous at Boston with a view to the case of Burns. Some three hundred men were organized in Worcester and marched to Boston, and large numbers from most of the adjacent towns concentrated there. Every sort of appeal was made by the leading friends of Burns to inflame and madden the people in his favor and to rescue him at any cost. One night it was estimated there were from eight to ten thousand infuriated men, and the most of them secretly armed, surrounding the court-house in which he was confined to coerce his release. To execute the fugitive slave law in his case about two thousand armed and drilled men, artillery, infantry, marines, and volunteers, had to be assembled to sustain the civil magistrates.

But for that effective and large military force to sustain the civil officers, what would have become of the law of Congress and of those appointed magistrates for its execution? The whirlwind of passion and crime that then agitated Boston and rocked that city from its center to its exterior would have swept these powerless officers from their places, and Burns would have been rescued and set free, and there would have been a practical revolution of the Government consummated, not total, but to the extent of the overthrow of an important policy and law of Congress, in which nearly half the States were deeply interested. If bold and daring treason had been successful, the Government would virtually have been brought to an end; its whole moral power would have been subverted; and it would have been condemned, not only in relation to that law, but to all others that the treasonable and wicked spirit of Massachusetts might have prompted her to resist.

On the second night after Burns's arrest, and before the forces to rescue him, or those to prevent it, had assembled in large numbers, a portion of his armed friends, led on by Rev. Thomas W. Higginson, made an assault on the court-house in which he was confined and guarded by United States soldiery, to wrest him from the custody of the law. The door was ponderous and strong, but, by a kind of catapult, the assailants broke out one of its panels, and Higginson and a few of his associate traitors made an entry. They were repelled, but Batchelder, one of the assistant marshals, was mortally wounded, it was said by Higginson; and a soldier was also wounded. Higginson was both a murderer and traitor, and, if possible, should have been twice hung in expiation of each offense. But the present Executive has appointed him colonel of a negro regiment.

Sir, what kind of a moral example is that? The President of the United States is sworn to uphold, defend, and protect the Constitution and to execute the laws, and yet he appoints a murderer and a traitor to be a colonel of one of the regiments now in the military service of the United States.

The Senator from Massachusetts—I mean the military Senator—did not answer, but evaded the question whether "he was against the rescue of Burns," and replied, "I had nothing to do with it," and repeated, "I had nothing to do with it, and had no knowledge of it until after it transpired. I was not in my own State at the time." And to the question, "Did you ever condemn that insurrection? Did you ever do anything to put it down—its spirit?" he would not answer directly, but evasively, thus: "There was no occasion; it was put down quickly."

At the time of the attempted rescue of Burns, did not that Senator know that there existed a powerful organization in Boston formed for no other purpose than to defeat the execution of the fugitive slave law as often as there should be an

arrest under it? Was he ever counseled in relation to that association, and its object and *modus operandi*? Had he learned that this rescue would be attempted, and did he run away from his friends and comrades as he did from the battle of Bull Run, to avoid responsibility and danger? Natick, his place of residence, is, I believe, about seventeen miles from Boston. How came he to be away from his home and out of the State for more than nine days from the time Burns was arrested until he was rendered up and taken "back to old Virginny"? Where was he all that time? What was he doing? Is it not most strange that in more than nine days he should not have heard of this most exciting affair, the telegraph, too, being in operation? But the member from Massachusetts said of this demonstration to rescue Burns:

"The Senator [Mr. Davis] prates about a little mob composed of a few men in the city of Boston, and brands their action as insurrection and rebellion. Insurrection! Rebellion! Sir, there was no insurrection; there was no rebellion. It was at most but a mob, and a very small mob at that."

The Senator has become so greatly augmented that he has not only Cyclopean notions of himself but also of rebellions and insurrections. I have presented to the Senate the facts of the attempt to rescue Burns, as published in the newspapers at the time, and as they have since been recorded by a Boston historian. It was one outbreak of a numerous and powerful organization of conspirators and traitors, who had combined and confederated together to defy the authority of the United States, and by force of arms and all other means to defeat wholly and in all cases as they might arise the execution of their law. That organization had then existed for years, and I suppose still exists. It was much more formidable in its plan, arrangement, numbers, wealth, intelligence, duration, and in the force it displayed when the rescue was attempted than was the combination in Pennsylvania to defeat the execution of the law of Congress to levy an excise on whisky. That was at the time and now is in history denominated an insurrection, and so will and so ought the attempt to rescue Burns to be characterized, and if it had been successful would have been *pro tanto* a revolution of the Government by force of arms.

But, Mr. President, in the face of the facts which I have arrayed to the contrary, the member from Massachusetts has the effrontery to declare to the country in this Chamber that—

"No man in her Legislature desired or expected to resist the authority of the Federal Government. What Massachusetts intended to accomplish by her legislation was the protection of her own citizens; and if any question arose between her and the Federal Government, growing out of the attempted execution of the fugitive slave act, she was ever ready to submit those questions to the judicial tribunals of the country and to abide the verdict."

This position is both disingenuous and untrue. It attempts to make a discrimination between the men in her Legislature and her people, and to claim a special immunity for the former alone. All questions arising under the fugitive slave law, however the Legislature of Massachusetts might endeavor to draw those coming up in that State to her own courts, are by an express provision of the Constitution referred exclusively to the decision of the Federal courts. They had all been decided, again and again, by the Supreme Court and the circuit courts of the United States against her positions and assumptions. She would not abide by those decisions; and it was in a treasonable spirit and effort to reverse them, and practically to nullify the fugitive slave laws of Congress, that she passed what is called "her personal liberty bill," by which, against the Constitution of the United States, she sought to bring and retry all those questions in her own abolition courts and by her own abolition juries.

Was Burns and every other fugitive slave who might get to Boston citizens of Massachusetts? That is the position of the Senator and his State; for Governor Andrew ostentatiously published that if Lincoln would publish a proclamation of freedom to the slaves the roads and alleys would swarm with Massachusetts volunteers rushing to the war. Yet in a very short time afterwards the agents of Massachusetts, with the Senator's co-operation, were scouring the rebel and loyal States, the slave and the free States, offering large bounties for negro recruits, free, slave, and freedmen, to fill up her quota and keep her own white peo-

ple from the war. Massachusetts is a great State, but her people have some queer notions, and always think their will ought to control. The member from Massachusetts says:

"Sir, the imputations, the reproaches, the slanders, that so glibly flow from the lips of the Senator from Kentucky will not reach the Commonwealth of Massachusetts. No word of his can soil her name or dim her fame. There is not strength enough in his arm to fling a shaft that shall strike that proud old Commonwealth."

The Senator attempts to pull on the buskins of Mr. Webster, and affects the terseness, dignity, and grandeur of his defense of Massachusetts against the assaults of Senator Hayne, of South Carolina. I advise his successor to quit his attempts to copy Mr. Webster; he only apes his model, and it is miserably bad apeing too; or some time, when he is attempting to swell himself to the stature of Mr. Webster, the scene of the frog and the ox may be reenacted. But I concede one of the positions of the member from Massachusetts: "No word of mine can soil her name or dim her fame." If she has not herself, or such of her degenerate sons as he have not soiled her name or dimmed her fame, they are safe from me. But let us examine that question a little further.

Her arrogant, dictatorial, and "rule-or-ruin" spirit broke forth in opposition to the acquisition of Louisiana during Mr. Jefferson's Administration, and she denounced the treaty by which that vast country was acquired, because of the want of constitutional power on the part of our Government to acquire foreign territory, and also of the impolicy of the measure. She made her similar arrogant condemnation of the treaty in which Spain ceded Florida to the United States. Throughout the war of 1812 with Great Britain, which was declared to protect Massachusetts seamen against impressment by that haughty Power, and to vindicate the freedom of the seas and the rights of international commerce, in which her people were so largely interested, that spirit became so heightened and deepened, so malignant and treasonable, as to break forth in the most vituperative condemnation of the war and our own Government by the people of Massachusetts; in frequent and most criminal attempts to thwart and defeat the United States in their great struggle to bring the war to a speedy and successful close; in a resort by them to manifold devices to weaken, dispirit, and produce the defeat of our land and naval forces, and to strengthen and give aid and comfort and victory to our enemy; in continual and most extravagant laudation of the policy, power, and moral position of England in that war, and the basest disparagement of their own country and Government by imputations of corruption and imbecility, of prejudice against England and subservency to France, and a purpose, not to redress national wrongs, but of rapacity, ambition, and conquest; in efforts to detach the thirteen original States and leave the Federal Government and the other States at war with one of the greatest Powers of the earth; and another most absurd and wicked project, that New England should make a separate peace with Great Britain, and at the end of the war its States should resume their position in the United States. These are grave charges, and most disparaging to Massachusetts, and it is to be deplored that they are true in their fullest force.

She elected a Governor and Legislature hostile to the Government of the United States and opposed to the war, and who exerted themselves continuously and defiantly to uphold the cause of England, and to coerce the President of the United States to make an ignominious treaty, without the concession or acknowledgment by Great Britain of a single right for which the war was undertaken.

Her people first got up the Essex Junto and then the Hartford Convention, both of which were treasonable associations, composed of the enemies of their own Government and the friends and sympathizers of England; and their objects and action were to divide our people, distract the public councils, weaken the military operations of the United States, and to make the war so disastrous as to force them to a shameful peace.

In the summer of 1812, some two months after the declaration of war, President Madison made a requisition on Governor Strong of that State for a portion of her militia to enter the service of the United States. He refused to comply; and

in connection with his council submitted to the judges of the supreme court of that State several questions which it will not be necessary to read, as they are embodied in the answers of the judges. Those answers I will read:

To his Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts:

The undersigned, Justices of the supreme judicial court, have considered the several questions proposed by your Excellency and Honors for their opinion.

By the constitution of this State, the authority of commanding the militia of the Commonwealth is vested exclusively in the Governor, who has all the powers incident to the office of commander-in-chief; and is to exercise them personally, or by subordinate officers under his command, agreeably to the rules and regulations of the constitution and the laws of the land.

While the Governor of the Commonwealth remained in the exercise of these powers the Federal Constitution was ratified, by which was vested in the Congress a power to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions, and to provide for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers. The Federal Constitution further provides that the President shall be Commander-in-Chief of the Army of the United States, and of the militia of the several States when called into the actual service of the United States.

On the construction of the Federal and State constitutions must depend the answers to the several questions proposed. As the militia of the several States may be employed in the service of the United States for the three specific purposes of executing the laws of the Union, of suppressing insurrections, and repelling invasions, the opinion of the judges is requested whether the commanders-in-chief of the militia of the several States have a right to determine whether any of the exigencies aforesaid exist, so as to require them to place the militia, or any part of it, in the service of the United States, at the request of the President, to be commanded by him pursuant to acts of Congress.

It is the opinion of the undersigned that this right is vested in the commanders-in-chief of the militia of the several States.

The Federal Constitution provides that when either of these exigencies exist the militia may be employed, pursuant to some act of Congress, in the service of the United States; but no power is given, either to the President or to the Congress, to determine that either of the said exigencies does in fact exist. As this power is not delegated to the United States by the Federal Constitution, nor prohibited by it to the States, it is reserved to the States respectively, and, from the nature of the power, it must be exercised by those with whom the States have respectively intrusted the chief command of the militia.

It is the duty of these commanders to execute this important trust agreeably to the laws of their several States respectively, without reference to the laws or officers of the United States, in all cases except those specially provided for in the Federal Constitution. They must, therefore, determine when either of the special cases exist obliging them to relinquish the execution of this trust, and to render themselves and the militia subject to the command of the President.

A different construction, giving to Congress the right to determine when those special cases exist, authorizing them to call forth the whole of the militia, and taking them from the commanders-in-chief of the several States and subjecting them to the command of the President, would place all the militia, in effect, at the will of Congress, and produce a military consolidation of the States, without any constitutional remedy, against the intentions of the people when ratifying the Federal Constitution. Indeed, since the passing of the act of Congress of February 23, 1795, vesting in the President the power of calling forth the militia when the exigencies mentioned in the Constitution shall exist, if the President has the power of determining when those exigencies exist, the militia of the several States is in fact at his command and subject to his control.

No inconveniences can reasonably be presumed to result from the construction which vests in the commanders-in-chief of the militia in the several States the right of determining when the exigencies exist obliging them to place the militia in the service of the United States. These exigencies are of such a nature that the existence of them can be easily ascertained by or made known to the commanders-in-chief of the militia; and, when ascertained, the public interest will induce a prompt obedience to the acts of Congress.

Another question proposed to the consideration of the justices is, whether, when either of the exigencies exist authorizing the employing of the militia in the service of the United States, the militia thus employed can be lawfully commanded by any officer but of the militia except by the President of the United States.

The Federal Constitution declares that the President shall be the Commander-in-Chief of the Army of the United States. He may undoubtedly exercise this command by officers of the Army of the United States, by him commissioned according to law. The President is also declared to be the Commander-in-Chief of the militia of the several States when called into the actual service of the United States. The officers of the militia are to be appointed by the States; and the President may exercise his command of the militia by the officers of the militia duly appointed. But we know of no constitutional provision authorizing any officer of the Army of the United States to command the militia, or authorizing any officer of the militia to command the Army of the United States. The Congress may provide laws for the government of the militia when in actual service; but to extend this power to the placing of them under the command of an officer not of the militia, except the President, would render nugatory the provision that the militia are to have officers appointed by the States.

The union of the militia in the actual service of the Uni-

ted States with the troops of the United States, so as to form one Army, seems to be a case not provided for or contemplated in the Constitution; &c.

Now, sir, this opinion decides two principles. It states correctly that there are three exigencies provided for by the Constitution in which the militia of the States may be called into the service of the United States: first, to execute the laws; second, to repel invasions; and third, to put down insurrection; but that opinion assumes as a constitutional principle that the power to decide when any or all these exigencies happen belongs not to Congress or to the President of the United States, but to the Governors of the States; and even when the Governors themselves have decided such an exigency to exist and have ordered their militia into the service of the United States, the militia can be commanded by no United States military officer, except by the President himself.

Sir, there is another specimen of Massachusetts loyalty—

Mr. LANE, of Kansas. I should like to ask the Senator from Kentucky whether he will give way for a motion to go into executive session?

Mr. DAVIS. No, sir; not at present.

The PRESIDING OFFICER, (Mr. POWELL in the chair.) The Senator from Kentucky declines to yield the floor.

Mr. DAVIS. The Governor of Massachusetts having refused to order the militia of that State into the service of the United States, some of the patriotic people of the district of Maine volunteered, and were placed by the President under the command of General William King. In the year 1813 the Legislature of that State passed a resolution inquiring of General King whether he had accepted any agency or commission from the United States, or received from them any arms or munitions by order of the President of the United States. General King replied:

"The volunteers who tendered their services to the President for the defense of their country were accepted and organized, and have been furnished with arms on application to the General Government. Soon after the commencement of the present war, when the services of the detached militia were withheld from the General Government, I aided the War Department in organizing such a volunteer corps as was considered necessary for the defense of this district. After two regiments were organized, the services of such a number of companies were offered as would have made three other regiments, if necessary. As a citizen of the United States I have duties to perform as well as a citizen of the State, in this just and holy war."

A response worthy the friend of that oft-tried and true patriot, John Holmes. Massachusetts afterwards asked and received pay, not for the services but for the time of the militia that she withheld from the United States in their second great struggle for independence.

This traitorous Governor Strong and his coadjutors in Massachusetts procured the weak and corrupt Governor of Vermont, Chittenden, to take their position, that it was the exclusive right of the Governors of the States to decide whether and when there existed an exigency that required the State militia to be put into the service of the United States, and to issue an infamous proclamation commanding the volunteer militia of Vermont to march back from Plattsburg, whither they had rushed to defend that place against the assault of one of the most formidable British armies that was assembled during the war. The traitors of Massachusetts were loud in their promises to stand by their victim, and to sustain him in their common crime; but their guilty souls shrank from the necessary action. The brave and patriotic citizen soldiers of Vermont flung back their contempt upon the treasonable missive of their Governor, who was representing, not his State, but British feelings and interests, and remained to cover themselves with glory in one of the most brilliant achievements of the war. All honor to the memory of those gallant and true men! They were fit representatives of the heroes of Bennington.

In May, 1813, Governor Strong sent a message to the Legislature of Massachusetts in which he reviewed all the grounds for the declaration of war by our Government against England, and argued each one in favor of our enemy; and concluded by charging the Government of the United States with having prostituted itself to subserve the purposes and ambition of Bonaparte. A committee of both Houses responded, echoing the sentiments of the Governor, and denounced the

war as improper, unjust, and impolitic on the part of the United States, and asserted that—

"While the oppressed nations of Europe are making a magnanimous and generous effort against the common enemy of free States, we alone, the descendants of the Pilgrims, sworn free to civil and religious slavery, cooperate with the oppressor to bind nations in his chains and divert the forces of one of his enemies from the mighty conflict. Were not the territories of the United States sufficiently extensive before the annexation of Louisiana, the projected reduction of Canada, and the seizure of West Florida? Already have we witnessed the admission of a State beyond the territorial limits of the United States, peopled by inhabitants whose habits, language, religion, and laws are repugnant to the genius of our Government, in violation of the rights and interests of some of the parties to our national politics. The hardy people of the North stood in no need of the aid of the South to protect them in their liberties."

Such was the loyalty of Massachusetts to the United States in that dark and trying hour.

Josiah Quincy offered in the Senate of Massachusetts this preamble and resolution:

"Whereas a proposition has been made to this Senate for the adoption of sundry resolutions expressive of their sense of the gallantry and good conduct exhibited by Captain James Lawrence, commander of the United States ship-of-war *Hornet*, and the officers and crew of that ship, in the destruction of his Majesty's ship-of-war *Peacock*; and whereas it has been found that former resolutions of this kind passed on similar occasions relative to other officers engaged in a like service have given great discontent to many of the good people of this Commonwealth, it being considered by them as an encouragement and excitement to the continuance of the present unjust, unnecessary, and inglorious war, and on that account the Senate of Massachusetts have declined their duty to refrain from acting on the said propositions; and whereas, also, this determination of the Senate may, without explanation, be construed into an intentional slight of Captain Lawrence, and denial of his particular merits, the Senate therefore deem it their duty to declare that they have a high sense of the naval skill and military and civil virtues of Captain James Lawrence, and that they have been withheld on said proposition solely from considerations relative to the nature and principles of the present war. And to the end that all misrepresentations on this subject may be obviated:

"Resolved, (as the sense of the Senate,) That in a war like the present, waged without justifiable cause, and conducted in a manner that indicates that conquest and ambition are its real motives, it is not becoming a moral and religious people to express any approbation of military or naval exploits which are not immediately connected with the defense of our sea-coast and soil."

This resolution was adopted by the Senate of Massachusetts 15th June, 1813. If the present Senators from that State had been there, they would have voted for it; and if any Senator had introduced one in the same terms in relation to any of our heroes who have fallen in this war, they would have voted the expulsion of such Senator.

The British authorities claimed that many prisoners taken by their cruisers on board American ships, as well native-born as naturalized citizens, were the subjects of their king; and they were thrown into loathsome prisons for safekeeping, to be tried and hung, or shot, as traitors to George III. In retaliation, and to insure the safety of our unfortunate captive countrymen, a United States marshal lodged some English prisoners in the jail of Worcester, Massachusetts, she and most of the States having, soon after the Constitution went into operation, passed a law granting the use of her jails to the United States Government. A mob of Massachusetts traitors and British sympathizers attacked the Worcester jail in force, broke it open, and set free the British hostages. The Worcester Gazette applauded this act of treasonable violence, and denounced the United States marshal as "a lynx-eyed, full-blooded bloodhound of Mr. Madison." The Boston Advertiser exulted over the success of this infamous enterprise, and denominated the liberated English prisoners as "gallant officers whom Mr. Madison desired to answer for the lives of self-acknowledged traitors, victims of a barbarous and cruel policy."

Soon afterwards, the Legislature of Massachusetts, in consummation of the shame and crime of this affair, passed a law prohibiting the use of her jails to the United States even for the confinement of enemy prisoners to be held for the safety of our captive countrymen about to be executed by British authorities on fabricated charges of treason, &c. And that law authorized and required the keepers of all Massachusetts jails within thirty days from its passage to discharge any British prisoners that were confined in them.

At the gloomiest periods of the war, and when our country was most sorely pressed by her powerful foe, the Massachusetts traders and shippers took out licenses from the British consuls to carry supplies to her armies in Spain and Portugal

where they were held from augmenting the armies operating against us in their great struggle with Bonaparte; and her people also smuggled on a large scale to furnish the English armies and fleets acting against us on this continent and its coasts. One of those licensed ships was captured by an American cruiser while on her illicit voyage to Spain; and her owners had the assurance, to be sure many years afterwards, to offer a petition to Congress to be paid by the United States for their ship and cargo.

The ground upon which the British party in Massachusetts urged the original thirteen States to abandon their Government and the other States, and also upon which it proposed and pressed the project that New England should make a separate treaty of peace with Great Britain was, that they were opposed to the war, and it was fatal to their interests. But what language can express adequate contempt for their purpose to skulk back into the Union when the war should have terminated? They themselves furnished the only parallel, and that was in hanging out blue-lights to instruct and lead the public enemy to their country's disaster. That scheme, the separate treaty, was strenuously advocated by the Boston Advertiser.

An embargo law was passed as one of the war measures of the United States; but it was denounced by the traitors of Massachusetts as void and of no effect; and by connivance between them and the British consuls, was so extensively evaded and defeated as to produce but small results.

That party and its presses habitually disparaged and sneered at the victories won by our armies over their English enemies.

After the battle of the Thames, the Salem Gazette announced:

"At length the handful of British troops, which for more than a year have baffled the numerous armies of the United States in the invasion of Canada, deprived of the genius of the immortal Brock, have been obliged to yield to superior power and numbers."

The Boston Advertiser published of that battle:

"We shall surrender all our conquests at a peace. It is indeed a hopeful exploit for Harrison, with five thousand troops, who have been assembling and preparing ever since July, 1812, to fight and conquer four hundred and fifty worn-out, exhausted British regulars, whom the Indians had previously deserted."

Another journal of the same class pronounced Harrison's victory to be "the triumph of a crowd of Kentucky savages over a handful of brave men—no more than a march and their capture without fighting."

Here, sir, is a most flagitious violation of the truth in relation to the force of the British in that battle. They were five times as much as these papers state them to have been.

The gallant Lawrence fell, in the unequal fight of the Chesapeake with the Shannon, on his bloody quarter-deck, and his last words, "Don't give up the ship," became the ocean slogan of America.

Another of our naval captains, Crowninshield, under a flag of truce, sailed for Halifax to bring to Salem the remains of Lawrence, and while he was on this sacred mission, and all the true men of the nation were mourning the untimely death of the hero, and Story had been appointed to speak his funeral oration, one Boston journal announced that this solemn errand had been undertaken "by the privateering captain, Crowninshield," and the Boston Advertiser asked with scoffing malevolence, "What honor can be paid where a Crowninshield is chief mourner, and a Story chief priest?" Governor Strong and his council, and most of the British party, had no honors or respect to pay to the martyrs in the cause of their country's rights and independence, and therefore they staid away from the funeral of Lawrence.

Two years and six months of war brought peace to our country, and notwithstanding Massachusetts had struck in her cause with feeble arm and traitor's heart, yet the nation's prowess on land and ocean won for her *tacitly* but *forever* the great international rights for which she had unsheathed the sword.

Under the stimulants of fishing bounties and high protective tariffs, Massachusetts industry and enterprise soon commenced greatly to prosper. She regarded with sullen but not very vociferous disapprobation the acquisition of Florida. She probably would have been more demonstrative if the negotiator had not been her own Adams. When Texas was about to be annexed she be-

came very eruptive, and not only reprobated the acquisition of foreign territory by joint resolution of Congress, but reiterated her ancient and uniform position, that it could not be legitimately done by the treaty-making power of our Government. Her Legislature passed these resolutions:

"Resolved, That there has hitherto been no precedent of the admission of foreign territory into the Union by legislation, and as the powers of legislation granted in the Constitution of the United States to Congress do not embrace the case of the admission of a foreign State or foreign territory by legislation into the Union, such an act of admission would have no binding force whatever upon the people of Massachusetts."

"Resolved, That the power never having been granted by the people of Massachusetts to admit into the Union States and Territories not within the same when the Constitution was adopted, remains with the people, and can only be exercised in such manner as the people hereafter shall designate and appoint."

It being the deliberate and oft-repeated judgment of Massachusetts that the United States Government had no power to acquire Louisiana, Florida, and Texas, and that their acquisition was detrimental to some of the States, and particularly to Massachusetts, and she having been to so recent a period vociferous and even frantic in the expression of her desire and purpose that the free States should cut loose from slavery and the slave States, one would have thought that she would have rushed to the acceptance of secession by the rebel States. Except a few crazy fanatics her people had always conceded fully that the Constitution and the Union protected slavery in the slave States. Mr. Webster, and all her eminent jurists and statesmen, except John Q. Adams, admitted the truth of that proposition, without any qualification or restriction whatever, and it was because there was no other escape from the protection which the Union and the Constitution gave to slavery that they were both to be repudiated by the abolitionists.

But the abolition party within a few years had got possession of the government of Massachusetts; and an extreme anti-slavery party, at the presidential election of 1856, had manifested a most rapid and extraordinary growth. Here was a new prospect breaking upon her radicals. They were not only meddling and fanatical, they not only loved money, but also power. She had always dominated and hectored over New England, and now opportunity was coming when, by alertness, daring, and decision, she could throw herself at the head of the great new movement, and assume in the nation and its councils the position and controlling influence which she had maintained in New England from the beginning. She would become the leading State of the United States; and above all, she could minister to hollow philanthropy, fierce fanaticism, and insatiable avarice, by procuring the slaves and lands of the rebels to be confiscated, and appropriating to herself the lion's share. She has entered upon this bold, ambitious, and wicked enterprise, driven on by the combined motive-power of all her leading characteristics, each one being highly stimulated by it.

A strong ingredient with the Massachusettsmen also is this sentiment: "I have no slave; there is none who call me master; and in that respect no one shall be above me, and I'll bring all to my level." Never were there truer representatives of that sentiment than her two Senators. Never were there more unworthy and unsafe lights for a great people than they and those whom they represent.

In the excess of their hostility to slavery and slaveowners, I am at a loss to decide which dominates, the madman or the fiend. They show all the infernal malice of the one and the uncontrollable fury of the other. The English language has hardly any term of reproach and obloquy that they have not each, again and again, hurled at slavery and slaveowners. "The pollution of slavery," "the great sin of mankind," "the shame and disgrace of the age," "the foulest stain on Christendom," "the degrading effects of slavery," "the demoralizing influences of slavery," "the brutalizing influences of slavery," "the deformities and degradation of character produced by slavery," "slave-aristocracy," "slave-oligarchy," "slave-mongers," "slave-hunters," "slave-catchers," "slave-breeders," "slave-stealers," and "slave-pirates," are some of the epithets most prodigally used by those Senators in debate in this Chamber.

Sir, since the beginning of the present genera-

tion a new disease has sprung up in the United States. It is sometimes called "nigger on the brain;" and I have never known two subjects that had it in a greater degree of violence than the two Senators from Massachusetts. The negro has made these two Senators. The worship of the negro and their demagoging in relation to him have given them public position and office, and brought them to the Senate of the United States. They have made the negro a hobby. Both have jumped astride of him, and it is impossible to determine which one is before and which one is behind. I believe they alternate their positions in that respect. But, sir, they fulfill the Scripture in one point. We are commanded to remember our Creator in the days of our youth. The negro has created those two Senators; and from their youth to the present time they have been worshipping him with an eastern devotion, and they will continue this idolatry to the end of their lives. If they were to cease it Othello's occupation would be gone.

Let me read one or two passages from the speeches of the Senator from Massachusetts [Mr. SUMNER] in relation to the negro and a dissolution of the Union. In a speech delivered at Faneuil Hall, November 2, 1855, the Senator used these words:

"Not that I love the Union less but freedom more do I now in pleading this great cause insist that freedom at all hazards shall be preserved. God forbid that for the sake of the Union we should sacrifice the very thing for which the Union was made."

What is his position? That the Union was made for negro freedom? Well, sir, it was a long day coming. The Union was first made in 1774, when the old Articles of Confederation were adopted. Independence was declared in 1776, and the present Constitution was framed in 1787, all for the white man, and the negro was never known or dreamed of in any of those great transactions; and yet the honorable Senator says that the Union was made for the freedom of the negro!

On the 19th and 20th of May, 1856, in a speech delivered in the Senate, that Senator held this revolutionary language:

"Already the muster has begun. The strife is no longer local, but national. Even now while I speak, portents hang on all the arches of the horizon, threatening to darken the broad land, which already yawns with the mullerings of civil war. The fury of the propagandists of slavery and the calm determination of their opponents are now diffused from the distant Territory over wide-spread communities, and the whole country in all its extent—marshaling hostile divisions, and foreshadowing a strife, which, unless happily averted by the triumph of freedom, will become war—fratricidal, patricidal war—with an accumulated wickedness beyond the wickedness of any war in human annals."

The gentleman's words were prophecy. They are in terrible course of execution; and he has given all the agency and energy to this war and revolution for the dissolution of the Union to put down slavery that he could command.

I will read one other passage from a speech by that Senator. In a debate in the Senate, June 26, 1854, Mr. Butler, of South Carolina, asked that Senator this question:

"I would like to ask the Senator, if Congress repealed the fugitive slave law, would Massachusetts execute the constitutional requirements, and send back to the South the absconding slaves?"

"Mr. SUMNER. Do you ask if I would send back slaves?"

"Mr. BUTLER. Why, yes."

"Mr. SUMNER. Is thy servant a dog, that he should do this thing?"

"Mr. BUTLER. Then you would not obey the Constitution. Sir, standing here before this tribunal, where you swore to support it, you rise and tell me that you regard it the office of a dog to support it. You stand in my presence, a coequal Senator, and tell me it is a dog's office to execute the Constitution of the United States."

"Mr. SUMNER. I recognize no such obligation."

What obligation? No obligation to support the Constitution of the United States as it relates to the rendition of fugitive slaves. What exempted that Senator from that obligation? Had he not taken an oath to support the Constitution as a totality? What right had he to make any mental reservation? What right had he to except the fugitive slave law, or a provision of the Constitution which every man who swears to support it swears to sustain, to render back fugitive slaves? Sir, if a violation of the oath, taken in the broad terms in which the Senator has always taken it when he qualified as a member of this body, had been by law made perjury, and the Senator had violated that oath, as he has violated it so often, and he had been arraigned on the charge of perjury before any enlightened and independent court, what would have been the judgment?

Now, sir, I will proceed a little with the other Senator from Massachusetts, [Mr. WILSON.] They are *par nobile fratrum*. I do not know, according to their ideas, which is the grandest and greatest. According to my own I do not know which is least, which is most false to the Constitution and to the loyalty that is justly due to their Government and to the Constitution and Union of these States. They come in here and make an exhibit of this almost daily that is abhorrent to every man who has any moral principle.

But, sir, the other Senator from Massachusetts, the chairman of the Committee on Military Affairs, the representative of war, "horrid war," in the Senate, declared in a speech at Syracuse, New York, October 23, 1859:

"I tell you, fellow-citizens, the Harper's Ferry outbreak was the legitimate consequence of the teachings of the Republican party."

Sir, that is the truth, and it is a lesson which the Senator sought to inculcate; which every traitor who meditated the dissolution of the Union and the deprivation of the slave-owners of the South of the protection and guarantee which that instrument gave to their property—it was a lesson leading to an act which they all meditated. Sir, what can we think of a man who so boldly and defiantly announces it? There was a murderous, bloody, and treasonable raid by John Brown upon the Commonwealth of Virginia, carrying blood and violence and treason and crime into a peaceful community, far distant from his residence; and the Senator avows that this act was the legitimate result of the teachings, as everybody knows that it was, of the Republican party.

Mr. WILSON. Will the Senator allow me a word?

Mr. DAVIS. I prefer you to wait until I get through.

Mr. WILSON. I wish simply to say that the records of the Senate show that that statement is not correct. I never made any such assertion. Mr. Hunter once brought it up in the Senate, and I referred to the speech which I actually made, in which I stated precisely the opposite doctrine.

Mr. DAVIS. I accept the Senator's explanation. I withdraw that charge; but I will bring up another, and see what answer he will make to that.

On the 20th day of November, 1859—

"A large and enthusiastic meeting of the citizens of this town [Natick, Massachusetts] was called to consider the following resolutions:

"Whereas resistance to tyrants is obedience to God: Therefore,

"Resolved, That it is the highest duty of the slaves to resist their masters; and it is the right and duty of the people of the North to incite slaves to resistance and aid them in it."

My information is that that Senator was present at this meeting when this resolution passed, and that it passed *nemine contradicente*, and the Senator's voice was not raised in remonstrance against the atrocity of the sentiment expressed in that resolution.

Mr. WILSON. Does the Senator wish an explanation now?

Mr. DAVIS. Is it any denial?

Mr. WILSON. I have to say simply this: that was a meeting called by some anti-slavery men whom we denominate in our country as the "Garrison abolitionists." Some seven or eight hundred persons went to the meeting as lookers-on, and did not vote or disturb the meeting, or take any part in it. Probably not over seven or eight men voted on that resolution, or had any part in it. Not one in twenty of those who were present had any sympathy with the meeting; but it was a meeting called by other persons, and they did not wish to interfere with it. My own views were fully expressed at the time in a letter denying any sympathy with it whatever, and in condemnation of it.

Mr. DAVIS. I accept the Senator's explanation; but I think he was at a very improper place, and in very bad company. [Laughter.]

Now, Mr. President, I will say one word as to negro insurrections, and in relation to the policy of the Government in arming and organizing negro soldiers. I have some knowledge of negro nature. I have studied it from my infancy. I know of no people that have kinder or more benevolent feelings toward a race whom they deem to be their inferiors than have the slaveholders of Kentucky toward their slaves. I know of no slaveholder who would not imperil his life if it

were necessary to defend his slave from wrong and violence. If to support this war in its just and proper conduct in the proper mode of carrying it on, slavery had fallen as a necessary consequence, I know of no man in the State of Kentucky who is for the Union that would have made any complaint. It would have presented itself to them in this aspect: here is an alternative, the preservation of the Union or the overthrow of slavery; and my colleague of the other House, who owns about two hundred slaves, and every slaveholder in the State who is a Union man, would have yielded his slaves, just as he would any of his other property; to the exigencies of the war and to the just demands of the Government in carrying it on. All that was asked was that slaves should share the fate of other property in this war; that the war should not be carried on for their defense nor for the destruction of the institution. We believed that all policy to make slaves a component part of the Army would result disastrously to the Government and to the country, and I have no doubt whatever that this has proved true. But we protested and will continue to protest against making war upon the property of loyal people.

Mr. President, I know the nature of the slaves of that population. There have been contemplated slave insurrections in Virginia; some in the State of Kentucky. We all know the extent of the outrages that ensued in the insurrection of the slaves of San Domingo. This is a general law in relation to the white and black races: the black race desires the white race; and whenever there is an insurrection consummated, or suppressed in its embryo, the leaders of the insurrection generally select in anticipation for themselves the handsomest and most attractive white women for their wives. That is a law of the race; and wherever there is an extensive insurrection, and violence and passion and lust obtain the ascendant, the outrageous enormities that are and will be perpetrated by the black race are fearful and too horrid to narrate. Nevertheless, I will recite one that occurred on the Bayou Teche in western Louisiana.

It was communicated to me by a citizen of one of those parishes on that bayou, a Mr. Carlie, a Spanish creole, a loyal man, a gentleman, a man of intelligence, and of as true integrity to the Government and the Union as there is in it. He had a son who had reached the years of manhood. He urged the noble and educated youth to take a position in the Army as a private, that he might learn the art of war and acquire the capacity for subordinate command. The young man did so. He served out his time, and at the end his father procured him a second lieutenantcy. He returned to Virginia to join his regiment and assume his command; but before he reached their rendezvous they had left for Gettysburg. He followed on, and reached Gettysburg during the protracted conflict. He shouldered his musket, took his position as a private in the ranks, and there poured out his young life, and it and all the bright hopes of a fond father were offered there upon the altar of his country.

His father narrated to me this fact. There was a Mr. Bouchet, a creole planter on the Bayou Teche, a man of wealth, of education, and of refinement. He was aged, was paralytic, and helpless. The march of armies drove from his neighborhood all of his friends, leaving him and his motherless daughter exposed and unprotected. A negro soldier wearing the uniform of the United States came to this defenseless house, and there, in the presence of the powerless father, violated the person of his daughter.

Sir, that is one only of the many and untold and most horrid incidents that have no doubt characterized this war. Shame and ruin, mute despair, and blasted hopes of happiness have silenced the voice forever of most of the victims of such diabolical lust. Mr. President, could there be a stronger case than this appealing to manhood—man the natural protector of woman—to turn from the policy that brings such heartrending enormities? But, sir, such instances as these would be brought up in vain to cause to relent the fanatical, fierce, and frenzied and perverted hearts and souls of the Senators from Massachusetts. At such recitations they would turn with the sardonic smile of fiends from the white woman's direst woe, from the ruin of all that is innocent and lovely in the most cultivated and attractive of the sex of the white race.

Already it is said that the white population in some of the southern States where the negroes have been enlisted are fleeing to places of concealment and safety. The negroes know these hiding-places, and the secret ways and paths to them, and they are organized into the Army, and it is boasted that they are already upon the hunt of their victims. I can fancy the Senator from Massachusetts [Mr. Wilson] in a position where he would feel something of the pride and the glory and valor of war according to the scale and dignity of his courage and great soul. It would be heading one of those black regiments, those fiends inflamed by infernal passions, and leading them on to hunt out, to murder, or to bring to a fate more horrible than murder, these fleeing and helpless women and children.

But, sir, I have something more to say to that Senator. When I took my seat in this body I found him always the most forward and most reckless assailant of property in negroes. According to his judgment, I had the audacity to remonstrate against a series of systematic measures which he introduced to assail and destroy that property. I did this because of the great interests of my constituents in it, and because of the foul injustice and iniquity of the policy generally. I never could say a word by way of remonstrance, argument, reason, or expostulation against those measures without receiving the coarse and the insulting rebuke of that Senator.

I recollect on one occasion he called me to order for speaking treasonable words, as he assumed. He was required by the occupant of the chair to reduce the words to writing. He recited them—I do not recollect whether he reduced them to writing or not—but I pronounced the words as he reduced them to writing, or stated them, to be untrue and false in fact. He called upon the reporter. The reporter read his report of my words, and it corroborated my version and contradicted that of the Senator, and then the matter dropped.

Sir, the Senator has been a sort of general whipper-in, not only of the Black Republican party, but of the whole Senate. He has assumed to rebuke, to chide, to domineer, to bully Senators at his pleasure, without much regard to their political position. Sir, I think there ought to be inscribed on his most impudent front the words, "The self-constituted gagger of the Senate."

Mr. WILSON. I call the Senator to order.

The VICE PRESIDENT. The Senator, in the opinion of the Chair, is out of order. Such language is unbecoming a Senator.

Mr. DAVIS. I will withdraw it, sir.

Mr. WILSON. I wish to say in regard to the words about which I called the Senator to order that he knows, as does every Senator about me, that I have never undertaken to dictate to anybody or to bully anybody or to treat anybody unkindly. If I have uttered an unkind word to a member in the heat and excitement of debate I have always been prompt to tender an apology, and am always willing to do it.

Mr. DAVIS. The Senator knows the contrary.

Mr. WILSON. I leave it to the Senate.

Mr. DAVIS. There is the Senator from Virginia, [Mr. CARLILE,] who received the rudest and most insulting rebuke from that Senator that I have ever heard delivered in a deliberative body.

Mr. DOOLITTLE. I rise to a question of order. The whole tenor of the speech of the Senator from Kentucky, for the last hour at least, has been, as it seems to me, a personal attack upon the Senators from Massachusetts, and is clearly out of order. It is always a painful sensation to me to rise to a question of order upon any Senator; but I feel constrained either to call the Senator to order or to leave the Senate Chamber. I think it beneath the dignity of the body to sit here and allow these personal attacks to go on at such interminable length. I could pardon it if it was a single expression in the heat of the moment; but when it is so continuous and at such great length, I think it entirely out of order.

Mr. DAVIS. I ask leave to say one word in explanation. The Senator from Massachusetts [Mr. Wilson] made three speeches for my expulsion from the Senate. How many opprobrious epithets and what abusive and vituperative language did he use and pile up against me in each and all of them?

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Mr. DOOLITTLE. Upon that subject I remember that the Senator from Kentucky spoke twice, I think, at great length; and in the course of his remarks I am quite confident that he indulged as much perhaps in the use of adjectives and epithets as any other Senator in the course of that debate. But I supposed that that question was disposed of, and that that was not now the subject-matter of controversy; that the personal question had passed by. At all events, the time of the Senate is too precious to be thus wasted, and I think the dignity of the body ought to be preserved above such personal vituperation.

Mr. DAVIS. Mr. President, I think—

The VICE PRESIDENT. If the Senator will pardon the Chair for a moment, the Chair, on the suggestion of the Senator from Massachusetts, did rule that in his opinion the Senator from Kentucky was out of order; that it was unparliamentary and undignified, at least, to use the epithets which the Senator uttered. Such language is certainly not in accordance with parliamentary law, and the Chair so rules.

Mr. DAVIS. I withdraw the language.

The VICE PRESIDENT. The Senator therefore is now under the control of the Senate, and he cannot proceed, under the rules of the Senate, without the leave of the Senate.

Mr. WILSON. In calling the Senator to order, I did not by any means intend to prevent him going on with his speech. I hope he will be allowed to finish his speech. I thought the language certainly of an unparliamentary character, and I wished also to say a word in reply at the same time.

The VICE PRESIDENT. If there be no objection on the part of the Senate, the Senator from Kentucky will proceed in order.

Mr. GRIMES. I must object.

The VICE PRESIDENT. If objected to, then it must be a vote of the Senate that will authorize him to go on.

Mr. JOHNSON. I hope the Senate will permit the Senator to proceed. I concur entirely with the member from Wisconsin and the Chair, that a great deal of what has fallen from the Senator from Kentucky is not suited to the forum in which he is. A debate carried on in that spirit, the spirit of invective and personal crimination, answers no good and can answer no good, and, in my opinion, is attended by nothing but mischief. The Senator from Kentucky, however, has perhaps some excuse (for in my judgment he can have but an excuse, not a justification) in the course which the Senator from Massachusetts, who has called him to order, himself pursued. I understand him now to be replying to what has fallen from the Senator from Massachusetts throughout the debate. In the speech with which the Senator from Massachusetts first supported his resolution of expulsion, which was written out, if I recollect aright, and which was read by the member from Massachusetts, there were a great many things that I am sure he would not have inserted if he had reflected at the time upon their effect, and the rights and the feelings of the member from Kentucky, and upon the decorum, if he will permit me to say so, that should characterize the debates of this body.

I regretted it very much at the time, and I have regretted it ever since, and when the Senator from Kentucky in reply dealt in terms of crimination, which I suppose he would not have done but for what he believed to be a sufficient provocation, I suggested—without saying to whom—that I thought the Senator was going rather beyond the license which parliamentary rules gave him, and the answer I got was that it was true, but it was justified by what had fallen from the Senator from Massachusetts.

When the resolution of expulsion was about to be withdrawn, as the Senate will recollect, the Senator from Massachusetts, instead of asking leave to withdraw it, as I was in hopes he would have done, without making any explanation except such as was necessary to justify his withdrawing it, indulged in very severe remarks. His

personal invective, as it seemed to me, was as bitter as anything I have heard from the Senator from Kentucky. It was because, as I suppose, of the last remarks of the member from Massachusetts and his opening remarks that the Senator from Kentucky thought himself justified in adopting the same course. But the Senate have already told him by the decision of the Chair, which nobody finds fault with, I am sure, but which everybody approves, that that kind of debate is not within the parliamentary rules of the Senate and the license which they give, and not suited to the decorum of the Senate. I am satisfied, therefore, that, with the reflection with which the Senator from Kentucky thinks at all times, he will see that it is not only due to the body and due to the Senator from Massachusetts, but due to himself, that in further prosecuting the debate he should abstain very cautiously from indulging in personal crimination.

Mr. DAVIS. Mr. President—

Mr. WILSON. If the Senator will allow me a word, I hope there will be no objection to the Senator from Kentucky going on and concluding his speech. I certainly should not have risen to a point of order if I had supposed that it would have interrupted the course of his speech.

The Senator from Maryland has alluded to my remarks on a former occasion. The Senator spoke to me personally the other day in regard to one expression of my speech, and I told him that I certainly did not wish to be understood to mean what some persons had inferred I did mean in that remark. In my remarks then, and in withdrawing the resolution, while I spoke and criticised plainly the language of the Senator from Kentucky, I do not know that I uttered a word to demean or to degrade him or to wound his feelings—nothing more than what I supposed to be legitimate debate. If I have ever done so toward any man in the Senate, it has always caused me more pain than it did that person, I am sure.

The Senator in his reply, it will be remembered, spoke very freely, and traveled, as I thought, out of the record, and I felt that I had a right to complain of it. He referred to anonymous information, &c.; and certainly anybody who will turn back and will read the debates will see that that Senator indulged very freely in comments and in remarks upon me personally. He has done so to-day to a considerable extent, and held me responsible for meetings which I have never heard of and never attended, and for one meeting, I think, in particular, in regard to which I wrote a letter condemning it, which was published in the Louisville Journal, which I have in my possession, with nearly a column of commendation for its devotion to the country, its nationality, and spirit of patriotism. I refer to the Worcester meeting. I hope, however, the Senator will be permitted to go on and finish his speech in his own way.

Mr. DAVIS. I will ask leave of the Senate and the Chair to make a remark.

The VICE PRESIDENT. The Senator will make his remark, if there be no objection.

Mr. SUMNER. Before the Senator makes his remark, if the Senate will pardon me, I wish to say I am not aware that since the Senator has been in this body I have ever made any allusion to him in debate. Certainly I took no part in the discussion the other day to which reference has been made.

Mr. DAVIS. I concede that.

Mr. SUMNER. I mean now simply to add that the Senator is perfectly welcome to go on just as long as the Senate will listen, and attack me till doomsday.

Mr. GRIMES. I supposed that the controversy between the Senator from Massachusetts [Mr. Wilson] and the Senator from Kentucky was settled some days ago; and I did not think that it comported with the dignity of the Senate, saying nothing about the dignity and character of the Senator from Kentucky himself, for him to come in here after having gathered up everything in connection with the history of Massa-

chusetts, or what he supposed was disparaging to that State, or in connection with the past political career of the Senators from Massachusetts, and vomit it here in the presence of the Senate. But if Senators see fit to continue to listen for two successive days to a speech of this description, I suppose I can stand it as long as they can. In withdrawing my objection I wish it distinctly understood that I only withdraw it upon the condition that the Senator from Kentucky shall hereafter proceed in order.

The VICE PRESIDENT. That is the rule. If, therefore, there be no objection, the Senator from Kentucky will proceed in order. The Chair hears no objection. The Senator will therefore proceed in order.

Mr. DAVIS. Mr. President, I make my acknowledgments to the Senate for this privilege, and I will make this remark in connection with it: it has been the rule of my life never to be an aggressor, and where I, from the heat of the moment or any other infirmity, become an aggressor, the greatest pleasure that can be afforded me is to make the *amende honorable* at once. But it is an irrepressible principle of my nature, and I cannot avoid its operation, that just as any Senator or any gentleman meets me in the Senate or out of the Senate, precisely in the same temper and manner do I reply to him. Now, sir, I do not wish to attempt to abuse the privilege the Senate has granted me, but I do claim here, after the three speeches of the Senator, the amount of abuse, contumely, reproach, opprobrious epithets that he threw upon me—"babbling fool," "liar," "that is a lie," "ferce," "savage," "brutal," "false"—

Mr. WILSON. Will the Senator allow me a single word there?

Mr. DAVIS. In reply to my statement about your refusal to help a man to remove his wounded and dying son, you said it was a lie, an unmitigated lie.

Mr. WILSON. You said that you had it on information. I said your informant was an unmitigated liar. I did not mean to say that you originated it or told a lie.

Mr. CONNESS. I so understood it.

Mr. JOHNSON. The member from Kentucky will permit me to say a word before he goes on. I understood the Senator from Massachusetts to say in his place just now that, whatever he may have said on a former occasion, he had no purpose at all to wound the feelings of the Senator from Kentucky, and I think that should be a sufficient satisfaction, and I submit it with due deference to the better judgment of the Senator himself.

Mr. DAVIS. I will wholly forego the personal notice which I intended to take of the Senator from Massachusetts. I felt that I had an account, to settle with him, and it was my purpose to have a full settlement; but I acquiesce in the judgment of the Senate, and I will now proceed to the legitimate conclusion of my speech, the terms of which I suppose will be literally in order. It would dovetail a little better if I could have got the interlude; but, be that as it may, I will proceed. Before which I will set the Senator from Wisconsin [Mr. DOOLITTLE] right on a few points of fact. The Senator from Massachusetts opened the debate on the resolution for my expulsion in a written speech, full of personal invective and coarse abuse. I replied at length, but no other speech. The Senator immediately rejoined in a very abusive and vituperative speech. Some days afterwards the Senator withdrew his resolution, but, before doing so, made another speech fraught with gross personalities. I had made a summary from all the Senator's speeches of his many attacks upon me personally, and intended to square the account. The Senate have cut me off from that privilege, and I think have done me injustice; but I must submit to its judgment, and will conclude my remarks.

Mr. President, the people of Massachusetts, as a whole, have always been strongly marked. Intellectual, energetic, active, latently brave, arro-

gant, conceited, inquisitive, meddlesome, not satisfied to manage their own business but ever trying to take charge of other people's, communicative yet secretive, alert, inventive, covetous, selfish, practical in business, ideal in doctrine, rational and skeptical in religion, with a moral sense consisting rather of habit than sentiment, swaying from one extreme opinion to another, and in all dogmatical, intolerant, fanatical, persecuting, and cruel, her people cherish and hug to their bosom all their peculiarities, though many of them are revolting deformities.

It is seen from this sketch that her characteristics are strikingly and extensively mixed, giving efficiency at the same time for great mischief and great good. Yet no State of the Union, and few communities of her numbers in any age, have produced a larger aggregate of mind or more numerous or higher specimens of individual men. At the era of the Revolution she gave, not only to the colonies but to mankind, Franklin, the Adamsses, Hancock, Quincy, Warren, and Prescott, and Copley; in the succeeding generation, King, John Quincy Adams, Story, and Parsons, Whitmore, Whitney, Bowditch; and at a later day Everett, Davis, Choate, Winthrop, and Cushing, Shaw, Parker, and the Curtises, Hilliard, Hillard, and Thomas, Prescott, Bancroft, and Motley, Longfellow and Bryant, Perkins and Healy, Morse, Story the sculptor, and Morton, and a host of others who have shed unfading luster not only upon their own names but upon America. High above all of them, that product of New Hampshire and development of Massachusetts, is the intellectual giant, Daniel Webster, who as a constitutional lawyer, Senator, and Secretary, is without a peer. In Plato, Bacon, Burke, and Webster, man made his grandest development of pure intellect; while oratory and statesmanship have had their highest illustrations in Demosthenes, Cicero, Chatham, and Clay.

Massachusetts has had one unadulterated heroic age, commencing with the dawn of the troubles of the colonies with the mother country and coming down to the adoption of the Federal Constitution. During that eventful period there is no stain upon her escutcheon. She was about to act a first and principal part with the other colonies in a great political drama, involving not only the destiny of them all, and of a continent, but which was to influence materially the woof and color of the world's after-history. In mind, enlarged views, and wise statesmanship; in a just and true appreciation of her rights and duties, and those of the other colonies; in courage, fortitude, wisdom, disinterestedness, and moral principle, she was up to the great occasion. She was in singleness possessed of and inspired by true, noble, unselfish, and patriotic purposes, and throughout all the perils and trials of that momentous time Massachusetts showed no weakness, but always strength and greatness. She made no mistakes, she committed no crimes, no excesses. Her people had the good sense to call for the counsel and guidance of her wise, virtuous, and great men, and the fruits were for the colonies nationality and independence, and for herself one of the purest and brightest chapters in history.

The shock of England's oppressive policy for the colonies first struck Massachusetts. She at once invoked the aid of the southern colonies, and it was rendered not only without hesitation, but with heartiness for a common cause. They knew that one fate awaited them all. In the imperishable language of Mr. Webster, "Shoulder to shoulder they went through the Revolution, hand to hand they stood around the Administration of Washington, and felt his own great arm lean on them for support." Purified by the bloody ordeal of the long war, and instructed by the inefficiency of the Articles of Confederation in peace, the Constitution was the product of all the lessons of their experience, of their concessions, and of their harmonized counsels. It was the consummation of all their work, the perfection of man's statesmanship. If it were possible for the people of the United States to uphold, to guard, and defend it in the same spirit in which it was formed it would be perpetual; the degree of its security will always be proportioned to the prevalence of that spirit.

But after a time Massachusetts swung away from the great political principles and ends to which she had so steadily adhered for more than

a generation. She has since been working with all her characteristic activity, energy, and audacity for the overthrow of that wonderful fabric of government in the building up of which she bore so conspicuous a part. She has kept up an incessant attack upon all its compromises except those which redound to her own advantage. She has repudiated all her able and enlightened national men, with their broad and statesmanlike views of Constitution, laws, and policy; she has surrendered to sectionalists, radicals, and factionists, to knaves and demagogues, to factitious philanthropists and clerical politicians and hypocrites, to men of one idea, and fatally bent on carrying that out, though Constitution and liberty thereby perish, to mannikins in intellect and soul, who are wholly incapable of her wise and good government, or any just appreciation of her relations, duties, and obligations both to the United States and the other States. She has permitted men, who can ruin but not rule, to make her one of the principal architects of the great national ills that are upon us.

She once garnered for herself and the whole country a great crop of imperishable glory; but she is now working as efficiently as the southern rebels for its degradation and ruin. When she shall have returned to her old political moorings, to the principles and spirit that ruled her when the foundations of our Government were laid, and shall have thrown from herself the perverted and deformed dwarfs that now beset her like a legion of horrible incubuses, and have called back into her service her able, patriotic, and virtuous statesmen, the work of reunion and reconstruction will be speedily consummated. For that mighty work then, indeed, would Massachusetts be potential.

EXECUTIVE SESSION.

On motion of Mr. HALE, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 17, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

NAVY SUPPLIES.

The SPEAKER laid before the House a communication from the Navy Department, transmitting, in compliance with resolution of the House, a statement in reference to supplies furnished for the Navy.

Mr. FENTON moved that the papers be referred to the Committee on Naval Affairs, and ordered to be printed.

The motion was agreed to.

GRANT OF LANDS TO IOWA.

Mr. ALLISON, by unanimous consent, introduced a bill to amend an act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State, approved May 15, 1856; which was read a first and second time, and referred to the Committee on Public Lands.

CLAIMS AGAINST THE UNITED STATES.

Mr. HARDING, by unanimous consent, presented the following joint resolutions of the State of Kentucky; which were read, ordered to be printed, and referred to the Committee of Claims.

COMMONWEALTH OF KENTUCKY,
EXECUTIVE DEPARTMENT,
FRANKFORT, KENTUCKY, January 25, 1864.

To the President of the Senate, and Congress of the United States:

I herewith transmit joint resolutions of the Legislature of Kentucky in regard to the payment of claims of loyal citizens of Kentucky, and most earnestly urge the national Government to provide, as early as practicable, some expeditious and equitable mode of ascertaining said claims, and have their prompt payment secured.

In many instances, the sufferers are reduced to absolute want, and reparation is demanded by every consideration of justice and humanity.

THO. E. BRAMLETTE,

By the Governor:
E. L. VAN WINKLE, Secretary of State.

Resolution requesting our Senators and Representatives in Congress to procure the passage of a bill to reimburse Kentucky for loss sustained by rebel raids.

Whereas a bill has been introduced, or is about being introduced, into the Congress of the United States, to re-

imburse the States of Indiana and Ohio for their losses sustained in the Morgan raid; and whereas Kentucky is one of the United States, and as loyal as any State in the Union, and has been subjected, not only to Morgan raids, but rebel raids of every kind, since the beginning of this accursed rebellion, a large portion of her territory having been devastated and many of her citizens having lost their all: Therefore,

1. Resolved by the General Assembly of the Commonwealth of Kentucky, That our Senators in Congress be instructed, and our Representatives requested, to use their every effort to procure the passage of a bill to reimburse Kentucky for losses sustained by rebel raids of all kinds.

2. That our Governor be requested to forward a copy of these resolutions immediately to our Senators and Representatives in Congress.

Approved January 20, 1864.

SALE OF GOLD BY THE UNITED STATES.

Mr. HOOPER. I ask the unanimous consent of the House to report from the Committee of Ways and Means a joint resolution authorizing the Secretary of the Treasury to sell any surplus gold in the Treasury.

Mr. COX. I object to that now.

UNITED STATES COURTS IN CALIFORNIA, ETC.

Mr. WILSON, by unanimous consent, from the Committee on the Judiciary, reported back Senate bill No. 51, amendatory of and supplementary to an act to provide circuit courts for the districts of California and Oregon, and for other purposes, approved March 3, 1863, with the recommendation that it do pass.

The bill was read in *extenso*.

Mr. WILSON. Mr. Speaker, I do not think there will be any objection to that bill. It relates to the circuit and district courts of California and Oregon, and fixes the time for holding them, and the practice in the same.

Mr. WASHBURN, of Illinois. Has it been considered by the Committee on the Judiciary?

Mr. WILSON. It has been reported from that committee. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

THANKS TO REENLISTING VETERANS.

Mr. FARNSWORTH, by unanimous consent, introduced a joint resolution tendering the thanks of Congress to veteran soldiers who have reenlisted in the Army; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

GRANT OF LANDS TO OREGON.

Mr. FARNSWORTH. I ask the unanimous consent of the House to report from the Committee of Ways and Means a bill granting lands to the State of Oregon to aid in the construction of military roads in that State.

Mr. WASHBURN, of Illinois. I object. I think that a bill of that magnitude ought to be considered in the Committee of the Whole on the state of the Union.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by his Private Secretary, Mr. NICOLAY.

SALE OF GOLD BY THE UNITED STATES—AGAIN.

Mr. HOOPER. I hope that the gentleman from Ohio will withdraw his objection to my reporting the bill I have indicated from the Committee of Ways and Means.

Mr. COX. I will if the gentleman will not call for the previous question, and will answer one or two questions.

Mr. HOOPER. I am willing to agree to that. Mr. COX. How much gold is there in the Treasury? Next, what is the object of selling it at this time—the peculiar urgency? And what, in the judgment of the gentleman, will be the effect of throwing so much gold upon the market? Will it cause a convulsion in our commercial system?

Mr. BROOKS. I wish it understood that this discussion is to proceed by unanimous consent, reserving our right to the introduction of the resolution.

Mr. ELDRIDGE. I object. I think that gold will bring more after a little.

STREET RAILROAD IN THE DISTRICT.

Mr. PATTERSON, by unanimous consent, introduced a bill to authorize the construction of a railroad in the District of Columbia, and for other purposes; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

Mr. KASSON. I ask the gentleman from Illinois to yield to me, that I may be allowed to state the reasons why the Committee of Ways and Means bill respecting the sale of gold ought to be reported and acted on this morning, and why I think it will require little if any debate.

The SPEAKER. Does the gentleman from Illinois withdraw his demand for the regular order of business?

Mr. WASHBURN, of Illinois. There are two gentlemen asking this favor at my hands. My friend from Wisconsin asked me first, and I will yield to him.

MILITARY ROAD IN WISCONSIN.

Mr. McINDOE, by unanimous consent, introduced a bill granting lands to the State of Wisconsin to build a military road to Lake Superior; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. WASHBURN, of Illinois. The gentleman from Iowa appeals to me to be heard, and I withdraw my demand, if the House does not object.

SALE OF GOLD BY THE UNITED STATES—AGAIN.

Mr. KASSON. The bill to which the gentleman from Massachusetts, [Mr. HOOPER,] my colleague on the Committee of Ways and Means, asks the attention of the House this morning, rests upon this condition of facts: the large importations into the country have deposited in the Treasury of the United States an amount of gold beyond the demands of the Treasury for the payment of interest and for all disbursements which by law are required to be made in gold. The consequence has been to withdraw from the market in the leading centers of commerce so large an amount of gold as to seriously embarrass the regular merchant in getting the gold necessary to discharge his liability in gold to the Government of the United States, and has necessarily caused a rise of gold in the market, thus putting the Government in the position of being really, in the technical term of the brokers' board, the principal "bull" in the New York market.

Unless, therefore, the Secretary of the Treasury is authorized to relieve this condition of things in New York, the inevitable tendency will be eventually to enhance the price of gold and increase the difference between gold and the common currency of the country. Last Saturday, for instance, the payment into the United States custom-house at New York amounted to over half a million dollars, and all of it was obliged to be paid in gold. So from day to day the amount of gold in the Treasury of the United States at New York is increasing, and the facilities of merchants in New York to obtain gold are diminished.

It is for these reasons that the Committee of Ways and Means have authorized this report to be made to the House, that the Secretary of the Treasury may be authorized, not necessarily to sell the entire amount at once, or in any limited time, but to dispose of some amount of the gold in the Treasury from time to time, as the surplus will allow, and put it upon the market to an amount sufficient to meet the legitimate and constant demand created by the laws of the United States on the part of the merchants of the city of New York and of other commercial places. I believe on yesterday the price of gold ran up to sixty-one premium. If the Secretary is authorized to place in the market from time to time, and thus to restore to the commercial channels of the city, the surplus in the Treasury, the inevitable effect will be to keep down the price of gold to a rate more nearly corresponding to the legitimate demand for the regular transactions of commerce.

It is for this reason, and because the merchants of that and other cities need gold daily for making their payments to the Government itself, that the Committee of Ways and Means ask very early action upon the part of the House, so that the merchants may be relieved, and the importers, who require this gold daily, may have an opportunity to get it without paying the enormous premium created by those who deal in it purely as a matter of speculation, and who enhance the price in proportion as the stock accumulates in the vaults of the Government.

Mr. BROOKS. This is a bill of great importance, and one which should not be hurriedly passed. In the first place, the Secretary of the Treasury has the control of all the paper money of the country. He is the great rag baron.

Mr. WASHBURN, of Illinois. Do I understand the gentleman from New York to object to the introduction of the resolution?

The SPEAKER. The gentleman from Iowa is on the floor and speaking by unanimous consent.

Mr. WASHBURN, of Illinois. If the resolution is not to be introduced by unanimous consent, I shall object to continuing this discussion.

Mr. BROOKS. I do object to discussion upon one side with no discussion upon the other.

Mr. KASSON. My object was to make this explanation of facts to the House.

Mr. WASHBURN, of Illinois. I object unless the bill is brought before the House by unanimous consent.

The SPEAKER. This debate has proceeded by unanimous consent pending the question of its introduction.

Mr. WASHBURN, of Illinois. I wish, then, the gentleman from Iowa would ask the unanimous consent of the House.

Mr. ELDRIDGE. I intended to object to the introduction of this resolution and to any debate upon the question unless it is to be open to general debate in the House. I did not understand that the gentleman from Iowa [Mr. KASSON] was speaking by unanimous consent, or I certainly should have objected.

The SPEAKER. The Chair stated the question distinctly as to whether the House would grant unanimous consent.

Mr. ELDRIDGE. We did not hear it here. The SPEAKER. The gentleman was probably engaged in private conversation; but the Chair did ask unanimous consent.

Mr. ELDRIDGE. Possibly; but I did not intend to object to the resolution being considered provided it should be open to general discussion in the House.

The SPEAKER. Does the gentleman object now?

Mr. ELDRIDGE. I do unless the discussion is to be open.

The SPEAKER. Then the joint resolution is not before the House.

Mr. KASSON. I will state that I have not proposed to debate the joint resolution, but simply to explain the facts which led the Committee of Ways and Means to urge its early consideration.

The SPEAKER. The gentleman from Wisconsin objects, and therefore the resolution is not before the House.

Mr. KASSON. Does the gentleman object to the joint resolution being introduced to-day and made the special order for to-morrow?

Mr. RADFORD. I object.

Mr. DAWES. I rise to a question of privilege. The SPEAKER. The Chair cannot entertain a question of privilege, as the House is now acting under the previous question.

Mr. DAWES. I propose, if the House will permit me, to make a report from the Committee of Elections.

Mr. BROOKS. I object to that.

Mr. COX. What is the previous question acting on?

The SPEAKER. On the amendments of the Senate to the internal revenue bill.

Mr. DAWES. I merely desire to make a report from the Committee of Elections that it may be printed and laid upon the table.

Mr. BROOKS. Is that all?

Mr. DAWES. That is all I desire.

Mr. DUMONT. I object.

INTERNAL REVENUE.

The SPEAKER. The regular order of business is the consideration of the amendments of the Senate to the bill of the House (No. 122,) to increase the internal revenue, and for other purposes. The pending question is upon a motion to lay upon the table a motion to reconsider.

The Chair will state the effect of the motion. The House by a vote of 106 to 41 non-concurred in the amendment of the Senate imposing additional duties on a sliding scale upon whisky. The gentleman from Illinois [Mr. WASHBURN] moved to reconsider the vote by which the House non-concurred in that amendment, and the gentleman from Indiana [Mr. HOLMAN] moved to lay the motion to reconsider upon the table, and the yeas and nays were ordered on that motion. The Clerk will now report the amendment.

The Clerk read the amendment, as follows:

On page 1, line ten, after the word "gallon," insert the following:

And upon all liquors that may be distilled after the passage of this act, and sold, or removed for consumption or sale, on and after the 1st day of July next; and previous to the 1st day of January next, seventy cents on each and every gallon; and on all liquors that may be distilled after the passage of this act, and sold, or removed for consumption or sale, on and after the 1st day of January next, eighty cents on each and every gallon.

The question was taken; and it was decided in the affirmative—yeas 94, nays 44; as follows:

YEAS—Messrs. James C. Allen, Ailey, Allison, Ancona, Arnold, Beaman, Bliss, Boutwell, Brundage, James S. Brown, Chanler, Ambrose W. Clark, Clay, Cox, Creswell, Dawson, Denning, Dennison, Dixon, Eckley, Eden, Edgerton, Eldridge, Farnsworth, Fiuck, Frank, Ganson, Gooch, Grider, Grinnell, Griswold, Hale, Harding, Harrington, Herrick, Higby, Holman, Asahel W. Hubbard, John H. Hubbard, Hubbard, Hutchins, Jencks, Julian, Kaibfeisch, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, Moorhead, Daniel Morris, James R. Morris, Morrison, Norton, Odell, John O'Neill, Pendleton, Perham, Pomeroy, Price, Radford, Samuel J. Randall, John H. Rice, Ross, Scott, Spalding, Stebbins, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilson, Windom, Winfield, and Fernando Wood—94.

NAYS—Messrs. Bailey, John D. Baldwin, Jacob B. Blair, Blow, Broomall, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Driggs, Dumont, Eliot, English, Fenton, Halt, Hooper, Kelley, Longyear, Marvin, McBride, McClurg, Meludoe, Samuel F. Miller, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Patterson, Edward H. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Stevens, Thayer, Tracy, Van Valkenburgh, Wadsworth, Webster, and Wilder—44.

So the motion to reconsider was laid upon the table.

During the roll-call, Mr. NOBLE stated that he had paired with Mr. ASHLEY, who was sick at his room.

Mr. BAXTER stated that Mr. MORRILL was confined to his room by sickness.

Mr. HUBBARD, of Iowa, stated that Mr. ASHLEY was confined to his room by sickness, but if he had been present he would have voted against the Senate amendment.

The result of the vote having been announced as above recorded, the question recurred upon the sixth amendment of the Senate, which is as follows:

Page 4, line six, after the word "recovered," insert "and applied."

The amendment was concurred in.

Seventh amendment:

In line seven of the same section, after the word "and," insert "also that."

The amendment was concurred in.

Eighth amendment:

Page 4, line fourteen, after the words "provided, however," strike out all down to the end of the section, as follows:

That where, owing to the perishable nature of the property seized, expense of storage, or other circumstances, the value whereof may be diminished by delay of sale, the owner thereof may, if he so choose, apply to the assessor of the district, who shall, if he deem it expedient that the property so seized should be sold, appraise or have the same appraised under his direction and control, and the owner may give bond or bonds in an amount equal to the appraised value, with such sureties as the assessor shall adjudge good and sufficient, which shall be by him transmitted to the Commissioner of Internal Revenue, to be held and collected, or any part thereof, or surrendered in accordance with the final judgment, order, or decree of the court having jurisdiction of the case; or, if the owner shall not apply as aforesaid, the assessor, upon the application of the marshal of the said district in whose custody and control said spirits or other articles seized as aforesaid may be, shall appraise or have the same appraised under his direction and control, and shall issue and return to the marshal aforesaid an order to sell the same, and the said marshal shall there-

upon advertise and sell the same, and the proceeds of sale, after deducting therefrom the costs of seizure and sale, shall be paid into the court having jurisdiction of the case, and paid out as the said court shall on final judgment order or decree.

And insert in lieu thereof the following:

That when the property so seized may be liable to peril, or become greatly reduced in value by keeping, or when it cannot be kept without great expense, the owner thereof, or the marshal of the district, may apply to the assessor of the district to examine said property. And if, in the opinion of said assessor, it shall be necessary that the said property should be sold to prevent such waste or expense, he shall appraise the same; and the owner thereupon shall have said property returned to him upon giving bond, in such form as may be prescribed by the Commissioner of Internal Revenue, and in an amount equal to the appraised value, with such sureties as the said appraiser shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the marshal, or otherwise, as he may be ordered and directed by the court, which bond shall be filed by said appraiser with the Commissioner of Internal Revenue. But if said owner shall neglect or refuse to give said bond, the appraiser shall issue to the marshal aforesaid an order to sell the same. And the said marshal shall thereupon advertise and sell the said property, at public auction, in the same manner as goods may be sold on final execution in said district. And the proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court aforesaid, to abide its final order, decree, or judgment.

The amendment was concurred in.

Ninth amendment:

In the phrase "and to be placed," strike out the word "to."

The amendment was concurred in.

Tenth amendment:

In the phrase "or which provides for the manufacture," &c., strike out the letter "s" in "provides."

The amendment was concurred in.

Eleventh amendment:

Add the following:
Or which provide for an allowance or drawback on cordials and other liquors when exported.

The amendment was concurred in.

Twelfth amendment:

Strike out the following:

Provided, That on all cotton on which the duty of a half cent has been paid, the additional duty of one and a half cent shall be levied and collected: *And provided further*, That all provisions of law whereby cotton in the hands of manufacturers of cotton fabrics on October 1, 1862, and prior thereto, is exempted from taxation, are hereby repealed, and the same shall be subject to the rate of taxation imposed by this bill.

The amendment was concurred in.

Thirteenth amendment:

In section five strike out the words "which shall be dated and contain a description, including the weight and other marks of the bales or packages, and a statement of the fact that the duty has been paid;" and insert in lieu thereof the following:

Stating therein the amount and payment of the duty, the time and place of payment, the weight and marks upon the bales and packages, so that the same may be fully identified.

The amendment was concurred in.

Fourteenth amendment:

In section seven, after the word "countries," insert the words "previous to the 1st day of July next;" so that it will read:

Sec. 7. And be it further enacted, That from and after the passage of this act, in addition to the duties heretofore imposed by law, there shall be levied, collected, and paid on spirits distilled from grain or other materials, whether of American or foreign production, imported from foreign countries previous to the 1st day of July next, of first proof, a duty of forty cents on each and every gallon.

The amendment was concurred in.

Fifteenth amendment:

After the foregoing insert:

And on all such spirits imported from foreign countries, on and after the 1st day of July next, and previous to the 1st day of January next, a duty of fifty cents on each and every gallon; and on all such spirits imported from foreign countries, on and after the 1st day of January next, sixty cents on each and every gallon.

Mr. KASSON. I wish to call attention to the fact, and ask the Speaker if it is not so, that this amendment depends upon that other amendment of the Senate which we have rejected.

The SPEAKER. That is in the nature of debate, and the Chair cannot answer it. It is a matter for the House.

Mr. KASSON. It is a fact, and I wish to call the attention of the House to it.

The question being on the fifteenth amendment, Mr. KASSON called for tellers.

Tellers were ordered; and Messrs. WEBSTER and THAYER were appointed.

The House divided; and the tellers reported—ayes 47, noes 60.

Mr. STEVENS called for the yeas and nays, and for tellers on the yeas and nays.

Tellers were ordered; and Messrs. RADFORD and HOOPER were appointed.

The House divided; and the tellers reported—ayes thirty-one, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 76; as follows:

YEAS—Messrs. Bailey, John D. Baldwin, Broomall, James S. Brown, Freeman Clarke, Cobb, Cole, Cox, Thomas T. Davis, Donnelly, Eden, Edgerton, Fenton, Finck, Hall, Harding, Higby, Holman, Hooper, Hutchins, Kelley, King, Le Blond, Long, Longyear, Mallory, Marvin, McBride, McDowell, McKinney, Middleton, Amos Myers, Leonard Myers, Norton, Charles O'Neill, John O'Neill, Orth, Patterson, Pomeroy, Alexander H. Rice, Edward H. Rollins, Schenck, Scofield, Scott, Shannon, Smith, Smithers, Stevens, Stuart, Thayer, Thomas, Tracy, Van Valkenburgh, Wadsworth, Wheeler, Joseph W. White, and Wilder—57.

NAYS—Messrs. James C. Allen, William J. Allen, Alvey, Allison, Ancona, Arnold, Augustus C. Baldwin, Beaman, Jacob B. Blair, Bliss, Boutwell, Boyd, Brundage, Chanler, Ambrose W. Clark, Clay, Coffroth, Cravens, Creswell, Davies, Dawson, Deming, Denison, Driggs, Dumont, Eldridge, Eliot, English, Farnsworth, Frank, Ganson, Gooch, Grinnell, Hale, Herrick, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, William Johnson, Julian, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Kiapp, Law, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Morrison, Odell, Pendleton, Perham, Pike, Price, Radford, Samuel J. Randall, John H. Rice, Robinson, Ross, Spalding, Stebbins, William G. Steele, Stiles, Strouse, Upson, Voorhees, Elihu B. Washburne, Chilton A. White, Wilson, Windom, Winfield, and Fernando Wood—76.

So the fifteenth amendment of the Senate was not concurred in.

During the roll-call,

Mr. NOBLE stated that his colleague, Mr. ASHLEY, was sick and confined to his room, and had requested him to procure a pair. His colleague was opposed to all the amendments of the Senate, but he did not know how he would have voted on this subject.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the fifteenth amendment of the Senate was non-concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Sixteenth amendment:

Strike out the following from the seventh section:

And that upon all such spirits imported prior to the passage of this act there shall be levied, collected, and paid an additional tax of forty cents per gallon, to be collected under the direction and according to regulations established by the Secretary of the Treasury.

The amendment was not concurred in.

Seventeenth amendment:

Strike out section nine, as follows:

Sec. 9. And be it further enacted, That it shall be the duty of the assessors and assistant assessors appointed as provided in the act to which this act is an amendment, to assess the additional duties levied by this act upon all spirits and cotton on which the duty prescribed in said act shall have been paid or assessed at the time when this act takes effect; and the lists thereof shall be returned to the several collectors, and the collections made in the same manner as in the case of monthly returns of manufactures. And the duties so assessed shall be a lien in favor of the United States upon all the real and personal estate of the owner of such spirits or cotton, to be enforced in the same manner as is provided in the case of the manufacturers who neglect or refuse to pay the duties provided by the act to which this is in addition: *Provided*, That the additional duty of one and one half cent per pound shall be levied upon cotton sold by the United States previous to the passage of this act, and on which a duty of one half of one cent per pound has been paid; and upon all cotton so sold on which no duty has been paid a duty of two cents per pound shall be assessed and collected.

And insert in lieu thereof the following:

Sec. 9. And be it further enacted, That the provisions of the act entitled "An act further to provide for the collection of duties on imports," approved March 2, 1833, now in force, shall be taken and deemed as extending to and embracing all laws for the collection of internal duties, stamp duties, licenses, or taxes which have been or may be hereafter enacted; and all persons duly authorized to assess, receive, or collect such duties or taxes under such laws are hereby declared to be, and to have been, "revenue officers" within the true intent and meaning of the said act, and entitled to all the exemptions, immunities, benefits, rights, and privileges therein enumerated and conferred.

The amendment was concurred in.

Mr. HOLMAN moved to reconsider the vote by which the House concurred in the sixth amendment of the Senate, inserting in section two the words "and applied," so as to make the clause read:

And any person who shall have in his custody or possession any such spirits or other articles, subject to duty as aforesaid, for the purpose of selling the same with the design of avoiding payment of the duties imposed thereon, shall be liable to a penalty of \$500, or not less than double the amount of duties fraudulently attempted to be evaded, to be recovered and applied as other penalties provided by the act heretofore mentioned.

Mr. KASSON. I ask whether that is the amendment which the House agreed to on my motion?

Mr. HOLMAN. The House refused to agree to that in the original bill. The gentleman from Massachusetts [Mr. BOUTWELL] suggested the insertion of these words.

Mr. BOUTWELL. The amendment moved by the gentleman from Iowa was quite a different one from this, and with the consent of the House I will state what it was.

There was no objection.

Mr. BOUTWELL. The amendment of the gentleman from Iowa had this effect, that informers were entitled to one half of the penalty. The law as it now stands limits the moiety to those persons who inform officially, deputy collectors, &c. If they furnish information of the violation of the law they are to receive one half. The effect of this amendment is to limit the moiety to official persons.

Mr. HOLMAN. With that understanding I withdraw my motion to reconsider.

The question then being on the remaining motion, that the House ask a committee of conference on the disagreeing votes between the two Houses, proposed before the seconding of the previous question, it was agreed to; and the Speaker appointed Mr. E. B. WASHBURN, of Illinois, Mr. THADDEUS STEVENS, of Pennsylvania, and Mr. FERNANDO WOOD, of New York, as such committee on the part of the House.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed an act (H. R. No. 145) for the relief of the heirs of Noah Wiswall.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit to Congress a report from the Secretary of State, with the accompanying papers, relative to the claim on this Government of the owners of the French ship *La Manche*, and recommend an appropriation for the satisfaction of the claim, pursuant to the award of the arbitrators.

ABRAHAM LINCOLN.

WASHINGTON, February 16, 1864.

Mr. STEVENS moved that the message be referred to the Committee of Ways and Means, and ordered to be printed.

The motion was agreed to.

MASSACHUSETTS CONTESTED-ELECTION CASE.

Mr. DAWES, from the Committee of Elections, submitted a report, accompanied by the following resolutions; which were laid upon the table, and ordered to be printed:

Resolved, That John S. Sleeper is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the third congressional district in Massachusetts.

Resolved, That Alexander H. Rice is entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the third congressional district in Massachusetts.

FREEDMEN'S AFFAIRS.

The SPEAKER stated that the next business in order was the consideration of House bill No. 51, to establish a Bureau of Freedmen's Affairs, reported from the select committee on the subject, on which the gentleman from Ohio [Mr. Cox] was entitled to the floor.

Mr. COX. Mr. Speaker, I did not rise for the purpose of discussing this measure—only to have it referred for discussion. The discussion of its details will be ably conducted by the minority of the committee, the gentleman from New York [Mr. KALBFLEISCH] and the gentleman from Illinois [Mr. KNAPP]. I shall only call attention to its general features. The member who introduced it [Mr. ELIOT] commended it to this side for its humanity. He recalled to our minds the fact that we opposed the confiscation bill for its inhumanity. He hoped that humane considerations would prevail as to this bill. I wish that he had set a better example, by his voice and vote upon the other measure. This bill is founded in part on the confiscation system. If that were inhuman, then this is its aggravation. The former takes the lands which are abandoned by loyal or disloyal whites, under the pressure of war; while the present bill turns these abandoned lands over to the blacks. But motives of humanity, however pure, are not the motives that should prompt legislation altogether.

I only refer to the confiscation part of the measure to show how comprehensive and all-reaching is this scheme. The industrious gentleman from Massachusetts [Mr. ELIOT] states that he is the author of the confiscation bill, of which this bill is the sequel.

Mr. ELIOT. I did not say that I was the author of the confiscation bill. I said that I reported it from the select committee that had that matter in charge.

Mr. COX. I misapprehended the tenor of the gentleman's remarks. I have no doubt that he had a good deal to do with getting it up. The gentleman's modesty will not permit him to claim the credit of it. I rather think that all of these measures spring from the fertile brain of the Solicitor of the Treasury, (Mr. Whiting.) He is the reservoir of all the Republican heresy and legislation proposed in this House; though he is often confounded, I think, with divine Providence, to whom gentlemen are erroneously in the habit of attributing these abolition measures.

But to return to the member from Massachusetts. The effect of former legislation has been, in his opinion, to bring under the control of the Government large multitudes of freedmen who "had ceased to be slaves, but had not learned how to be free." To care for these multitudes he presents this bill, which, if not crude and undigested, yet is sweeping and revolutionary. It begins a policy for our Federal Government of limited and express powers, so latitudinarian that the whole system of our Government is changed. If the acts of confiscation and the proclamations, on which this measure is founded, be usurpations, how can we who have denounced them favor a measure like this?

According to Mr. Whiting, this system, to be complete, must include in its provisions all the abandoned lands, all lands forfeited for taxes, all confiscated lands, all derelict personalty, all colored men free before the war in rebellious districts, and all fugitives thereto from loyal States, all legal proceedings of confiscation, all migrations of blacks to and from rebel States, all laws compensating masters for slaves, and all other matters relating to the colored people, whether bond or free.

This is a new system introduced into our Government. It opens a vast opportunity for greed, tyranny, corruption, and abuse. It may be inaugurated in the name of humanity; but I doubt, sir, if any Government, much less our Federal Government of limited and delegated powers, will ever succeed in the philanthropic line of business, such as is contemplated by this bill.

The gentleman from Massachusetts appeals to us to forget the past—not to inquire how these poor people have become free, whether by law or by usurpation, but to look the great fact in the face "that three million slaves have become and are becoming free."

Before I come to that great fact let me first look to the Constitution. My oath to that is the highest humanity. By preserving the Constitution amidst the rack of war, in any vital part, we are saving for a better time something of those liberties, State and personal, which have given so much happiness for over seventy years to so many millions; and which, under a favorable Administration, might again restore contentment to our afflicted people. Hence the highest humanity is in building strong the ramparts of constitutional restraint against such radical usurpations as is proposed to be inaugurated by measures kindred to this before the House.

If the gentleman can show us warrant in the Constitution to establish this eleemosynary system for the blacks, and for making the Government of the United States a grand plantation speculator and overseer, and the Treasury a fund for the helpless negro, I will then consider the charitable light in which he has commended his bill to our sympathies. It does not follow that because (as General Butler once said) there were as many poor in proportion to the people in the poor-houses of Massachusetts who were killed outright by bad treatment as were killed at the battle of Solferino in proportion to those engaged, that we are to interfere by Federal legislation for the victims of Massachusetts inhumanity.

I would love to do something for the poor blacks who have been thrown houseless, clothless, foodless, medicineless, and friendless on the cold world by the improvident and barbarous philan-

thropy now in vogue; but when my constituents ask me for my warrant thus to tax them, I wish to be able to point it out. If you can so frame your bill as to draw no money from the Treasury, and make your scheme self-supporting; or if you can so perfect the system as to connect it legally with the military without degrading the Army, and still discipline and care for the unfortunate blacks, male and female, old and young, strong and weak, then we may consider its propriety and legality with a view to aid its passage.

We cannot and do not desire to ignore the fact that incalculable misery has been and will be the fate of the freed negroes; but it is another and a difficult problem to reconcile the aid they require from the benevolent with our oaths and well-matured judgments as to the province of the Federal Government over matters like this. The gentleman refers us for the constitutionality of this measure to the war power, the same power by which he justifies the emancipation proclamation and similar measures. We upon this side are thoroughly convinced of the utter sophistry of such reasoning. If the proclamation be unconstitutional, how can this or any measure based on it be valid? The gentleman says, "If the President had the power to free the slave, does it not imply the power to take care of him when freed?" Yes, no doubt. If he had any power under the war power he has all power. He is so utterly irresponsible that even Congress cannot share his monarchical despotism. Under the war power he is a tyrant without a clinch on his revolutions. He can spin in any orbit he likes, as far and as long as he pleases.

He refers us also to that clause of the Constitution which authorizes Congress "to declare war and to make rules concerning captures on land." This latter argument squares with the theory of this war announced by the gentleman from Pennsylvania, [Mr. STEVENS,] for the authority of Congress to declare war is of course only meant as against foreign nations, and Congress can make all rules concerning captures in such a war. But unless the gentlemen on the other side are ready to acknowledge the independence of the South, and recognize them as a separate nation of belligerents, then his argument proves nothing in behalf of this bill, except that he is a theoretical secessionist. The constitutional argument in favor of this bill is one that this side of the House cannot recognize, unless we are prepared to unsay and undo all that we have said and done to protect the Constitution since the abolition measures began to take the form of law.

"But," it is urged, "something must be done for the poor blacks. They are perishing by thousands. We must look the great fact of anti-slavery and its millions of enfranchised victims in the face and legislate for their relief." Such is the appeal to our kindlier natures. Something should be done. The humanity which so long pitied the plumage should not forget the dying bird. But what can be done without violating the Constitution of the United States, or without intrenching upon a domain never granted by the States or the people in their written charter of powers? What can be done? Oh! ye, honey-tongued humanitarians of New England, with your coffers filled from the rough hand of western toil, the beaded sweat of whose industry by the subtle alchemy of your inventive genius is transmuted into the jewels of your parvenu and shoddy splendor, with your dividends rising higher and higher like waves under this storm of war; I would beseech you to go into the camps of the contrabands, as the gentleman described them, who are starving and pining for their old homes, and lift them out of the mire into which your improvident and premature schemes have dragged them, pour the oil of healing into their wounds, and save a few of them at least from the doom of extermination. Here is a fitting and legal opportunity for the exercise of a gracious humanity. I rejoice to know that many good men, even from New England, have embraced it.

But the gentleman urges this legislation, because if it be not passed, the President's proclamation will be made "a living lie." He thinks that "neither the considerate judgment of mankind nor the gracious favor of God can be invoked upon the President's act of freedom unless the law shall protect the freedom which the sword has declared." Not merely has the President's proclamation been made a *living lie*, but the thou-

sands of corpses daily hurried out of the contraband hovel and tents along the Mississippi prove it to have been a *deadly lie*. Neither the judgment of man nor the favor of God can be invoked without mockery upon a fanatical project so fraught with misery to the weak and wholesale slaughter to its deluded victims!

But we are warned to look the great fact in the face that millions unfit for freedom are yet to become free. I know, Mr. Speaker, that we cannot change the fact by closing our eyes. It is true. The revolution rolls on. No effort on the part of the Democracy to achieve a peace through conciliation will now be listened to. The spirit of those in power is the spirit of extermination. The war with its revolutions goes on, and slavery as a political if not as a social institution may fall under its crushing car. It may be that all of the four million slaves will be thrown, like the one hundred thousand already freed, upon the frigid charities of the world. But, sir, if slavery be doomed, so, alas! is the slave. No scheme like this bill can save him. The Indian reserves, treaties, bounties, and agencies did not and does not save the red man. No Government farming system, no charitable black scheme, can wash out the color of the negro, change his inferior nature, or save him from his inevitable fate. The irrepressible conflict is not between slavery and freedom, but between black and white; and, as De Tocqueville prophesied, the black will perish.

Do gentlemen on the other side rely upon the new system, called by the transcendental abolitionists "*Miscegenation*," to save the black? This is but another name for amalgamation; but it will not save the negro. True, Wendell Phillips says it is "God's own method of crushing out the hatred of race, and of civilizing and elevating the world," and Theodore Tilton, the editor of the Independent, (a paper publishing the laws of the United States by authority,) holds that hereafter the "negro will lose his typical blackness and be found clad in white men's skins." But, sir, no system so repugnant to the nature of our race—and to organize which doubtless the next Congress of Progressives, and perhaps the gentleman from Massachusetts, will practically provide—can save the negro.

Mr. ELIOT. I have no doubt that my friend understands all about it.

Mr. COX. I understand all about it, for I have the doctrines laid down in circulars, pamphlets, and books published by your anti-slavery people. But it was not my intention to discuss it now and upon this bill.

Mr. PRICE. If all the blacks are crushed out, how is amalgamation to ruin the country?

Mr. COX. They will all run, according to the new gospel of abolition, into the white people, on that side of the House. [Laughter.]

Mr. ELIOT. Is that what the gentleman is afraid of?

Mr. COX. No, sir; for I do not believe that the doctrine of miscegenation, or the amalgamation of the white and black, now strenuously urged by the abolition leaders, will save the negro. It will destroy him utterly. The physiologist will tell the gentleman that the mulatto does not live; he does not recreate his kind; he is a monster.

Such hybrid races, by a law of Providence, scarcely survive beyond one generation. I promise the gentleman at some future and appropriate time, when better prepared to develop that idea of miscegenation as now heralded by the abolitionists, who are in the van of the Republican movement—

Mr. ELIOT. I hope that the gentleman will go into it.

Mr. COX. If such be the desire of the gentleman I will attempt it, though reluctantly; for my materials, like the doctrine, are a little "mixed."

Mr. GRINNELL rose.

Mr. COX. I cannot yield to the gentleman. I want none of his impertinences in my speech. The other day when I was speaking he interrupted me with them without my consent. I do not recognize him as the member to whom I owe the courtesy of my attention.

But since I am challenged to exhibit this doctrine of the abolitionists—called after some Greek words—*miscegenation*—to *minge and generate*—I call your attention first to a circular I hold in my hand. It was circulated at the Cooper Institute the other night, when a female who, in the pres-

ence of the President, Vice President, and you, Mr. Speaker, and your associates in this Hall, made the same saucy speech for abolition which she addressed to the people of New York. It begins with the following significant quotation from Shakspeare:

"The elements
So mixed in him that Nature might stand up,
And say to all the world, This was a man!"
[Laughter.]

"Miscegenation: the Theory of the Blending of the Races, applied to the American White Man and Negro. Among the subjects treated of are

- "1. The Mixture of Caucasian and African Blood Essential to American Progress." [Laughter.]
- "2. How the American may become Comely." [Laughter.]
- "3. The Type Man a Miscegen—The Sphinx Riddle Solved."
- "4. The Irish and Negro first to Commingle." [Laughter.]
- "5. Heart Histories of the Daughters of the South."
- "6. Miscegenetic Ideal of Beauty in Women."
- "7. The Future—No White—No Black."

If gentlemen doubt the authenticity of this new movement let them go to the office of publication, 113 Nassau street, New York, and purchase. The movement is an advance upon the doctrine of the gentlemen opposite, but they will soon work up to it. The more philosophical and apostolic of the abolition fraternity have fully decided upon the adoption of this amalgamation platform. I am informed that the doctrines are already indorsed by such lights as Parker Pillsbury, Lucretia Mott, Albert Brisbane, William Wells Brown, Dr. McCune Smith, (half and half—miscegen,) Angelina Grimke, Theodore D. Weld and wife, and others.

But these are inferior lights compared with others I shall quote. When I name Theodore Tilton, an editor of the Government paper in Brooklyn called the Independent; when I recall the fact that the polished apostle of abolition, Wendell Phillips, whose golden-lipped eloquence can make miscegenation as attractive to the ears as it is to the other senses; when I quote from the New York Tribune, the center and circumference of the abolition movement, and Mrs. Stowe, whose writings have almost redeemed by their genius the hate and discord which they aided to create; when I shall have done all this, I am sure the Progressives on the other side will begin to prick up their ears and study the new science of miscegenation with a view to its practical realization by a bureau. [Laughter.]

First hear the testimony of Wendell Phillips. He says:

"Now I am going to say something that I know will make the New York Herald use its small capitals and notes of admiration, and yet no well-informed man this side of China but believes it in the very core of his heart. That is, 'amalgamation'—a word that the northern apologist for slavery has always used so glibly, but which you never heard from a southerner. Amalgamation! Remember this, the youngest of you: that on the 4th day of July, 1863, you heard a man say, that in the light of all history, in virtue of every page he ever read, he was an amalgamationist to the utmost extent. I have no hope for the future, as this country has no past, and Europe has no past but in that sublime mingling of races which is God's own method of civilizing and elevating the world. God, by the events of his providence, is crushing out the hatred of race which has crippled this country until to-day."

I put it to gentlemen on the other side, Are you responsible for him? Ah! you received him, how ardently in this city and Capitol last year!

Mr. ELIOT. To whom does the gentleman refer?

Mr. COX. Wendell Phillips. The Senate doors flew open for him; the Vice President of the United States welcomed him; Senators flocked around him; Representatives cheered his disunion utterances at the Smithsonian; and you will follow him wherever he leads. He is a practical amalgamationist, and he is leading and will lead you up to the platform on which you will finally stand. You may seem coy and reluctant now, but so you were about the political equality of the negro a year ago; so you were about abolishing slavery in the States two years ago. Now you are in the millennial glory of abolition. So it will be hereafter with amalgamation!

Here is what Theodore Tilton, editor of the Independent, says in the circular to which I have referred:

"Have you not seen with your own eyes—no man can have escaped it—that the black race in this country is losing its typical blackness? The Indian is dying out; the negro is only changing color! Men who, by and by, shall ask for the Indians, will be pointed to their graves: 'There lie their ashes.' Men who, by and by, shall ask for the negroes, will be told, 'There they go, clad in white men's

skins.' A hundred years ago a mulatto was a curiosity; now the mulattoes are half a million. You can yourself predict the future!"

Mr. ELIOT. The gentleman will permit me to say that surely all this was under a state of slavery.

Mr. COX. I will show the gentleman directly that his friends and leaders propose to continue it in a state of freedom. It will be the freest kind of license.

Mr. ELIOT. The gentleman will allow me to suggest whether the difficulty he labors under is not that the Democratic party is afraid the Republicans will get ahead of them.

Mr. COX. I am not afraid of anything of the kind while white people remain upon which we can center our affections and philanthropy. You can take the whole monopoly of "miscegenation." We abhor and detest it. The circular referred to has other indorsements, which I quote before I reach that Warwick of Republicanism, Horace Greeley. The Anti-Slavery Standard of January 30 says:

"This pamphlet comes directly and fearlessly to the advocacy of an idea of which the American people are more afraid than any other. Assuredly God's laws will fulfill and vindicate themselves. It is in the highest degree improbable that He has placed a natural repugnance between any two families of His children. If He has done so, that decree will execute itself, and these two will never seek intimate companionship together. If, on the contrary, He has made no such barrier, no such one is useful or desirable, and every attempt to restrain these parties from exercising their natural choice is in contravention of His will, and is an unjust exercise of power. The future must decide how far black and white are disposed to seek each other in marriage. The probability is that there will be a progressive intermingling, and that the nation will be benefited by it."

I hold in my hand the Anglo-African, of January 23, which discusses this subject from the purely African stand-point:

"The author of the pamphlet before us advances beyond these lights of the days gone by. What they deemed a remote and undesirable probability he regards as a present and pressing necessity; what they deemed to be an evil to be legislated against he regards as a blessing which should be hastened by all the legislative and political organizations in the land! The word, nay the deed, miscegenation, the same in substance with the word amalgamation, the terror of our abolition friends twenty years ago, and of many of them to-day—miscegenation which means intermarriages between whites and blacks—'miscegenation,' which means the absolute practical brotherhood and social intermingling of blacks and whites, he would have inscribed on the banner of the Republican party, and held up as the watchword of the next presidential platform!"

"We take a deep interest in the doctrine shadowed forth, that to improve a given race of men. It is too late to begin with infant and Sunday schooling: at birth they have the bent of their parents, which we may slightly alter, but cannot radically change. The education and improvement should begin with the marriage of parties who, instead of strong resemblances, should have contrasts which are complementary each of the other. It is disgraceful to our modern civilization that we have societies for improving the breed of sheep, horses, and pigs, while the human race is left to grow up without scientific culture."

The editor of the Anglo-African confesses that he is a little staggered in his theories by what he calls the evident deterioration of the mixed bloods of Central America, but he finds the solution of the difficulty in the fact that the races there mixed, Indian and Spanish, are not complementary of each other. This, to my observation, Mr. Speaker, is as absurd as it is untrue. But I am not now arguing the reasonableness of this doctrine of mixed races. I only propose to show what it is, and whither it is tending.

The New York Tribune, the great organ of the dominant party, is not so frank as the Anglo-African, but its exposition of "miscegenation" is one of the signs which point to the Republican solution of our African troubles by the amalgamation of the races. In indorsing the doctrine of this pamphlet, Mr. Greeley holds that—

"No statesman in his senses cares to put morsels of euticle under a microscope before he determines upon the prudence of a particular policy. Diversity of races is the condition precedent in America, and their assimilation is the problem. High skulls, broad skulls, long skulls, black hair, red hair, yellow hair, straight jaws or prominent jaws, white skins, black skins, copper skins, or olive skins, Caucasians, Ethiopians, Mongolians, Americans, or Malays, with oval pelvis, round pelvis, square pelvis, or oblong pelvis, we have or may have them all in our population; and our business is to accommodate all by subjecting merely material differences to the ameliorating influence of an honest and unlimited recognition of one common nature."

To "assimilate these various races" is the problem which Mr. Greeley approaches. We cannot but admire the delicate phraseology by which his approaches are couched. Not so the pamphlet to which I referred. It is bold and outspoken. It advocates a preference of the black

over the white as partners. The following are the points inculcated by its author:

- "1. Since the whole human race is of one family, there should be, in a republic, no distinction in political or social rights on account of color, race, or nativity."
- "2. The doctrine of human brotherhood implies the right of white and black to intermarry."
- "3. The solution of the negro problem will not be reached in this country until public opinion sanctions a union of the two races."
- "4. As the negro is here and cannot be driven out there should be no impediment to the absorption of one race in the other."
- "5. Legitimate unions between whites and blacks could not possibly have any worse effect than the illegitimate unions which have been going on more than a century at the South."
- "6. The mingling of diverse races is proved by all history to have been a positive benefit to the progeny."
- "7. The southern rebellion is caused less by slavery than by the base prejudice resulting from distinction of color; and perfect peace can come only by a cessation of that distinction through an absorption of the black race by the white."
- "8. It is the duty of anti-slavery men everywhere to advocate the mingling of the two races."
- "9. The next presidential election should secure to the blacks all their social and political rights; and the progressive party should not flinch from conclusions fairly deducible from their own principles."
- "10. In the millennial future the highest type of manhood will not be white or black, but brown; and the union of black with white in marriage will help the human family the sooner to realize its great destiny."

The author finds an emblem of his success in the blending of many to make the one new race, in the crowning of the dome above this Capitol with the *bronze statue of Liberty*! It is neither black nor white, but the intermediate miscegen, typifying the exquisite composite race which is to arise out of this war for abolition, and whose destiny it is to rule the continent! Well might the correspondent of the New York Tribune, in describing the lifting of the uncouth masses, and bolting them together joint by joint, till they blended into the majestic "Freedom" which lifts her head in the blue sky above us, regard the scene as prophetic of the time when the reconstructed symbol of freedom in America shall be a colored goddess of liberty! But to the pamphlet itself. Here we have it, Mr. Speaker. This new evangel for the redemption of the black and white, upon its introductory page begins as follows:

"The word is spoken at last. It is miscegenation—the blending of the various races of men—the practical recognition of the brotherhood of all the children of the common Father." [Laughter.]

Just what our miscegenetic Chaplain prays for here almost every morning; and you all voted for him, even some of my friends from the border States. The "introduction" proceeds:

"While the sublime inspirations of Christianity have taught this doctrine, Christians so-called have ignored it in denying social equality to the colored man; while democracy is founded upon the idea that all men are equal, Democrats have shrunk from the logic of their own creed, and refused to fraternize with the people of all nations; while science has demonstrated that the intermarriage of diverse races is indispensable to a progressive humanity, its votaries, in this country at least, have never had the courage to apply that rule to the relations of the white and colored races. But Christianity, democracy, and science, are stronger than the timidity, prejudice, and pride of short-sighted men; and they teach that a people, to become great, must become composite. This involves what is vulgarly known as amalgamation." [Laughter.] "and those who dread that name, and the thought and fact it implies, are warned against reading these pages."

There are some remarkable things thrown out in this pamphlet, which should be examined by gentlemen upon the other side. The author discusses the effect of temperature on color. Quoting from a German naturalist, he holds—

"That the true skin is perfectly white; that over it is placed another membrane, called the reticular tissue, and that this is the membrane that is black; and, finally, that it is covered by a third membrane, the scarf skin, which has been compared to a fine varnish lightly extended over the colored membrane, and designed to protect it. Examine also this piece of skin, belonging to a very fair person. You perceive over the true white skin a membrane of a slightly brownish tint, and over that, again, but quite distinct from it, a transparent membrane. In other words, it clearly appears that the whites and the copper-colored have a colored membrane which is placed under the scarf skin and immediately above the true skin, just as it is in the negro. The infant negroes are born white, or rather reddish, like those of other people." [Laughter.] "but in two or three days the color begins to change; they speedily become copper-colored." [Laughter.] "and by the seventh or eighth day, though never exposed to the sun, they appear quite black." [Laughter.] "He mentions that it is known that negroes, in some rare instances, are born quite white or are true Albinos; sometimes, after being black for many years, they become piebald, or wholly white, without their general health suffering under the change. He also mentions another metamorphosis, which would not be agreeable to the prejudices of many among us; it is that of the white becoming piebald with black as deep as ebony."

That is an argument to show that we all, black and white, start off in the race of life nearly of the same color, and that we ought to come to it again, by the processes of—miscegenation!

The author, in his second chapter, devotes many pages to considering the superiority of mixed races. Without combating his facts or deductions, let me quote this grand conclusion:

"Whatever of power and vitality there is in the American race is derived, not from its Anglo-Saxon progenitors, but from all the different nationalities which go to make up this people. All that is needed to make us the finest race on earth is to ingraft upon our stock the negro element which Providence has placed by our side on this continent." [Laughter.] "Of all the rich treasures of blood vouchsafed to us, that of the negro is the most precious." [Laughter.] "because it is the most unlike any other that enters into the composition of our national life." [Laughter.]

Mr. WASIBURNE, of Illinois. I wish my friend from Ohio to read an extract from a book which he himself wrote.

Mr. COX. My friend ought not to be so sensitive. These developments will not hurt him. He does not belong to the miscegenists yet; and if he will stand by General Grant and the white constitution—physical and political—he will not "mix" himself in this matter. I again quote:

"It is clear that no race can long endure without a commingling of its blood with that of other races. The condition of all human progress is miscegenation." [Laughter.] "The Anglo-Saxon should learn this in time for his own salvation. If we will not heed the demands of justice, let us at least respect the law of self-preservation. Providence has kindly placed on the American soil, for his own wise purposes, four million colored people. They are our brothers, our sisters." [Laughter.] "By mingling with them we become powerful, prosperous, and progressive; by refusing to do so we become feeble, unhealthy, narrow-minded, unfit for the nobler offices of freedom, and certain of early decay." [Laughter.]

I call the special attention of my friend from Massachusetts [Mr. ELLIOT] to these points, with a view to their incorporation in his bureau for freedmen and freedwomen. All your efforts will be vain, and you will not be able to maintain a healthy vitality, if you do not mix your whites very freely with your black beneficiaries.

The writer gives us his theory of the war. Although the war has not quite reached the miscegenetic point yet, it progresses visibly. After showing how other wars have blended the various bloods of the world, he says:

"It will be our noble prerogative to set the example of this rich blending of blood. It is idle to maintain that this present war is not a war for the negro. It is a war for the negro. Not simply for his personal rights or his physical freedom; it is a war, if you please, of amalgamation, so called—a war looking, as its final fruit, to the blending of the white and black. All attempts to end it without a recognition of the political, civil, and social rights of the negro will only lead to still bloodier battles in the future. Let us be wise and look to the end. Let the war go on until every black man and every black woman is free. Let it go on until the pride of caste is done away. Let it go on until church, and state, and society recognize not only the propriety but the necessity of the fusion of the white and black;" [Laughter.] "In short, until the great truth shall be declared in our public documents and announced in the messages of our Presidents, that it is desirable the white man should marry the black woman and the white woman the black man—that the race should become melaleuketic before it becomes miscegenetic." [Great laughter.]

This is the language of scientific progress, soon to become familiar to the gentlemen on the other side. The author proceeds:

"The next step will be the opening of California to the teeming millions of eastern Asia. The patience, the industry, the ingenuity, the organizing power, the skill in the mechanic arts which characterize the Japanese and Chinese must be transplanted to our soil, not merely by the immigration of the inhabitants of those nations, but by their incorporation with the composite race which will hereafter rule this continent.

"It must be remembered that the Indians whom we have displaced were copper-colored; and no other complexion, physiologists affirm, can exist permanently in America. The white race which settled in New England will be unable to maintain its vitality as a blonde people. The darker shades of color live and thrive, and the consumption so prevalent in our eastern States is mainly confined to the yellow-haired and thin-blooded blondes."

What a sad picture this for our New England friends! Oh, ye yellow-haired and thin-blooded Yankees! Mingle! mingle! mingle while ye may! It is the sure cure for your asthmas and consumptions.

Still speaking of these thin-blooded New Englanders, he says:

"They need the intermingling of the rich tropic temperament of the negro to give warmth and fullness to their natures." [Laughter.] "They feel the yearning, and do not know how to interpret it." [Laughter.] "The physician tells them they must travel to a warmer climate. They recognize in this a glimpse of the want they feel,

though they are hopeless of its efficacy to fully restore the lost vitality. Still they feel the nameless longing.

"Yet waft me from the harbor mouth,
Wild wind! I seek a warmer sky,
And I will see before I die
The palms and temples of the South."

"It is only by the infusion into their very system of the vital forces of a tropic race that they may regain health and strength. We must accept the facts of nature. We must become a yellow-skinned, black-haired people—in fine, we must become miscegens if we would attain the fullest results of civilization." [Laughter.]

This enthusiastic theorist then shows that all religions are derived from the dark races. He calls to us from the tombs of Egypt, and solves the Sphinx riddle of our national destiny. That solution is this: that "if we would fill our proper places in nature we must mingle our blood with all the children of the common Father of humanity." Thus and thus only can we hope for redemption by a pure religion. The cold skepticism of the Caucasian will then be expunged in the more genial faith which miscegenation will produce. Hear him:

"May we not hope that in the happier hereafter of this continent, when the Mongolian from China and Japan, and the negro from his own Africa, shall have bled their more emotional natures with ours, that here may be witnessed at once the most perfect religion as well as the most perfect type of mankind the world has yet seen? Let us then embrace our black brother;" [laughter:] "let us give him the intellect, the energy, the nervous endurance of the cold North which he needs, and let us take from him his emotional power, his love of the spiritual, his delight in the wonders which we understand only through faith. In the beautiful words of Emerson:

"He has the avenues to God
Hid from men of northern brain,
Far beholding, without cloud,
What these with slowest steps attain."

The writer then goes on to show what this miscegen will become physiologically. He will be the realization of the ideal, not of the white or of the black race, but the perfect ideal of the blended races! The artist is called in to adorn by the rarest touches of the facile pencil this production of advanced abolitionism:

"The ideal or type man of the future will blend in himself all that is passionate and emotional in the darker races, all that is imaginative and spiritual in the Asiatic races, and all that is intellectual and perceptive in the whiter races. He will also be composite as regards color. The purest miscegen will be brown, with reddish cheeks, curly and waving hair, dark eyes, and a fullness and suppleness of form not now dreamed of by any individual people."

"Adam, the progenitor of the race, as his very name signifies, was made of red earth; and, like the inhabitants of Syria and Mesopotamia, must have been of a tawny or yellow color. The extreme white and black are departures from the original type. The Saviour is represented very falsely in paintings as being light-haired and white-skinned, when, in truth, he must have been a man of very dark complexion, as were all the Palestine Jews. They were a tawny or yellow race. The fact has been noticed that the Amharic, the language of the Abyssinian, is remarkably analogous to the Hebrew, rendering it probable that the Jews were partly of Abyssinian or negro origin."

The writer makes the same mistake which others have made in confounding the Abyssinian with our Congo negro. They are utterly unlike in form and feature as well as in mind and character. The author's eloquence is better than his science; for with what enthusiasm does he close his appeal to the members of the abolition party:

"We urge upon white men and women no longer to glory in their color; it is no evidence of cultivation or of purity of blood. Adam and Christ, the type men of the world's great eras, were red or yellow, and to men of this color, above all others, must be communicated the higher inspirations which involve great spiritual truths, and which bring individuals of the human family into direct communion with supernatural agencies."

These theories, which seem so novel to us, have been a part of the gospel of abolition for years. The celebrated authoress of Uncle Tom's Cabin has made a pen-portrait of a miscegenetic woman and man in her novel called *Drad*. She makes them the central figures in her graphic scenes of southern life. Harry, the quadroon overseer, and Lisette, his wife, are described as of that "mixed blood which seems so peculiarly fitted to appreciate all the finer aspects of conventional life." Harry's power was such, owing to the constitution inherited from his father, tempered by the soft and genial temperament of the beautiful Eboc mulatress who was his mother, that, through fear or friendship, upon the plantation there was universal subordination to him. Lisette is described as a delicate, airy little creature, formed by a mixture of the African and French blood, producing one of those fanciful,

exotic combinations that give the same impression of brilliancy and richness that one receives from tropical insects and flowers! Her eyes have the hazy, dreamy languor which is so characteristic of the mixed races.

With such sensuous portraiture as his original, the author I am considering finds all the characteristics of perfect ideal beauty in the—negro girl! He copies them with fidelity, if he does not surpass the original.

I call the attention of gentlemen upon the other side to this remarkable picture, for they will find its living counterpart only in the crazed skulls of their fanatic supporters:

"In what does beauty consist? In richness and brightness of color, and in gracefulness of curve and outline. What does the Anglo-Saxon, who assumes that his race monopolizes the beauty of the earth, look for in a lovely woman? Her cheeks must be rounded and have a tint of the sun, her lips must be pouting, her teeth white and regular, her eyes large and bright; her hair must curl about her head, or descend in crinkling waves; she must be merry, gay, full of poetry and sentiment, fond of song, childlike, and artless. But all these characteristics belong, in a somewhat exaggerated degree, to the negro girl. What color is beautiful in the human face? Is it the blank white? In paintings, the artist has never portrayed so perfect a woman to the fancy as when, choosing his subject from some other than the Caucasian race, he has been able to introduce the marvelous charm of the combination of colors in her face. Not alone to the white face, even when tinted with mantling blood, is the fascination of female loveliness imputed. The author may state—and the same experience can be witnessed to by thousands—that the most beautiful girl in form, feature, and every attribute of feminine loveliness he ever saw was a mulatto. By crossing and improvement of different varieties, the strawberry, or other garden fruit, is brought nearest to perfection, in sweetness, size, and fruitfulness. This was a ripe and complete woman, possessing the best elements of two sources of parentage. Her complexion was warm and dark, and golden with the heat of tropical suns, lips full and luscious, cheeks perfectly molded and tinged with deep crimson, hair curling, and

"Whose glossy black
To shame might bring
The plumage of the raven's wing."

This pamphleteer is a thorough philosopher. He holds that the slaveholders South are a superior race, owing to their intimate communication from birth to death with the colored race. Their emotional power, fervid oratory, and intensity of thought and will are attributed to this association. Their ability to cope with the North in battle is found to consist in the fact that the presence of Africans in their midst in large numbers infuses into the air a sort of barbaric malaria; a miasm of fierceness, which after long intercourse between the races comes to infect the white men and even the women also!

I would fail in my promise to elucidate this new creed of abolition, did I not call attention to the argument which the writer draws from the fact that contraries like each other and that the blonde inconspicuously falls in love with the black! From this principle of aesthetics or lust the author deduces his highest type of beauty. From this source of opposite yet mingling emotions he thinks that civilization will be enhanced and glorified!

I give his deductions as well for their novelty as for his felicity in choosing the names by which he illustrates them. Let me again quote:

"Such of our readers as have attended anti-slavery meetings will have observed the large proportion of blondes in the assemblage. This peculiarity is also noticeable in the leading speakers and agitators in the great anti-slavery party. Mr. Horace Greeley, of the New York Tribune, known for his devotion to the negro race, is as opposite as a man possibly can be to the people to whom he has shown his attachment by long and earnest labor for their welfare. In color, complexion, structure, mental habits, peculiarities of all kinds, they are as far apart as the poles. The same is true of Mr. Wendell Phillips. He, too, is the very opposite of the negro. His complexion is reddish and sanguine; his hair in younger days was light; he is, in short, one of the sharpest possible contrasts to the pure negro. Mr. Theodore Tilton, the eloquent young editor of the Independent, who has already achieved immortality by advocating enthusiastically the doctrine of miscegenation," [laughter:] "is a very pure specimen of the blonde, and when a young man was noted for his angelic type of feature." [laughter:] "we mean angelic after the type of Raphael, which is not the true angelic feature, because the perfect type of the future will be that of the blended races, with the sunny hues of the South tinged the colorless complexion of the icy North. But it is needless further to particularize. The sympathy Mr. Greeley, Mr. Phillips, and Mr. Tilton feel for the negro is the love which the blonde bears for the black; it is a love of race, a sympathy stronger to them than the love they bear to woman. It is founded upon natural law. We love our opposites."

"Nor is it alone true that the blonde love the black. The black also love their opposites. Said Frederick Douglass, a noble specimen of the melaleuketic American," [laughter:] "in one of his speeches: 'We love the white man, and will remain with him. We like him too well to leave him; but we must possess with him the rights of freemen.'

Our police courts give painful evidence that the passion of the colored race for the white is often so uncontrollable as to overcome the terror of the law. It has been so, too, upon the southern plantations. The only remedy for this is legitimate melancholic marriage." [Laughter.]

The revelations at Hilton Head and along the Carolina coast might have been added to the illustrations above to show the irrepressible affection between white women and black men and black women and white men. But on that—I forbear!

Sir, I cannot pursue this style of remark further. The contemplation of such disgusting theories is not pleasant. I have been challenged to go into it by my friend from Massachusetts. This is my apology. The gentlemen on the other side may be unconscious of the path they are traveling under the lead of these amalgamationists. But they must follow. They may protest, but we know that they will yield, for they have ever yielded to their extreme men. As this very writer himself truly says, (page 58):

"As the war has progressed, men's minds have been opened more and more to the true cause of our country's difficulties. Human nature is imperfect; it can ordinarily take in only half or quarter truths. It was a great step in the advance when the country willingly accepted the truth that all men should be free. But it might not have been seen by many that further along in the path of progress we should recognize the great doctrine of human brotherhood, and that human brotherhood comprehended not merely the personal freedom, but the acknowledgment of the political and social rights of the negro, and the provision for his entrance into those family relations which form the dearest and strongest ties that bind humanity together. Once place the races upon a footing of perfect equality, and these results will surely follow.

"Let it be understood, then, that equality before the law, for the negro, secures to him freedom, privilege to secure property and public position, and, above all, carries with it the ultimate fusion of the negro and white races. When this shall be accomplished by the inevitable influences of time, all the troubles that loom up now in the future of our country will have passed away. It is the true solution of our difficulties, and he is blind who does not see it. The President of the United States, fortunately for the country, has made a great advance in the right direction. His first thought in connection with the enfranchisement of the slaves was to send them from the country. He discovered, first, that this was physically impossible, and, second, that the labor alone which would be lost to America and the world would amount in value to more than the debts of all the nations of the earth. The negro is rooted on this continent; we cannot remove him; we must not hold him in bondage. The wisest course is to give him his rights, and let him alone; and by the certain influence of our institutions he will become a component element of the American man."

Gentlemen of the other side have here laid down for them the shining pathway that will lead them out of the troubles with which their ill-judged emancipation schemes have environed them. Whether they will follow it, time will show. Events will show whether the American people will not have a thorough and honest white man's disgust for all these African policies, culminating, as they must, in amalgamation, so as in time to reverse the wheel of revolution, and thus save both races—the one from continued slaughter, and the other from eventual and certain extermination.

Mr. WASHBURN, of Illinois. Will my friend be good enough to yield to me a moment?

Mr. COX. The gentleman will excuse me.

Mr. WASHBURN, of Illinois. I only desire to incorporate into the gentleman's speech an extract from his own book. I ask my friend to read it. I know he will do it.

Mr. HARDING. I object.

Mr. WASHBURN, of Illinois. I will endeavor, then, to get the floor when he gets through.

Mr. COX. The gentleman has in his hand a book which I published in 1851—*The Buckeye Abroad*—and desires to read from it. I have had the extracts he would have read published for years in my district as political capital against me, but without much effect. They did not influence even the ignorant. I have heard these same extracts read here in this House by a former colleague, and I answered them thoroughly, as the gentleman knows. He will find my answer to it in the Congressional Globe of 1862.

Mr. WASHBURN, of Illinois. Mr. Speaker—

Mr. COX. No, sir, I do not yield to the gentleman.

Mr. WASHBURN, of Illinois. I do not ask the gentleman to yield. I merely wish to say that I recollect the gentleman's speech. [Cries of "Order!" "Order!"]

The SPEAKER *pro tempore*. The gentleman from Illinois will come to order.

Mr. COX. I have quoted these extracts to show

that there is a doctrine now being advertised and urged by the leading lights of the Abolition party, toward which the Republican party will and must advance. See how they have advanced for the last two or three years! They used to deny, whenever it was charged, that they favored black citizenship; yet now they are favoring free black suffrage in the District of Columbia, and will favor it wherever in the South they need it for their purposes. The Attorney General of the United States has declared the African to be an American citizen. The Secretary of State grants him a passport as such. The President of the United States calls him an American citizen of African descent. The Senate of the United States is discussing African equality in street cars. We have the negro at every moment and in every bill in Congress. All these things, in connection with the African policies of confiscation and emancipation in their various shapes for the past three years, culminating in this grand plunder scheme of a department for freedmen, ought to convince us that that party is moving steadily forward to perfect social equality of black and white, and can only end in this detestable doctrine of—miscegenation!

Gentlemen may deny that this is the tendency of their party. They used to deny that they favored the doctrine of the political equality of black and white, which was once charged upon them, and which they are now so boldly consummating. The truth will appear. After a year or two some member from New England will come here recognizing the great fact that four million blacks are mixing more or less, and ought to mix more with the whites of the country, and will advocate a bureau of another kind—a department for the hybrids who are cast upon the care of the Government by this system of miscegenation.

Mr. Speaker, since I have been upon the floor, the gentleman from Massachusetts more than hinted that the Democracy might desire to compete with his party in this new scheme of miscegenation. Not at all, sir. Our prejudices are strong, but they are in favor of our own color. We have, in times past, affiliated with the Democracy South, but I do not understand that the Democratic party North is responsible for what the Democratic party South did since or when they separated from us, or since and when they divided our party and helped you to divide the Union. The Democratic party of the North never was a pro-slavery party, as has been libelously charged. [Laughter on the Republican side.] Oh, I know you laugh, gentlemen, at that; but your laugh is "like the crackling of thorns under a pot."

The Scripture tells you what kind of laughter that is. It would be unparliamentary to characterize it further. I repeat it, the Democracy North never was a pro-slavery party. I know the contrary has been reiterated by the crew who have floated on the summer current of northern prejudice, until many good people believe it. A grosser falsehood was never uttered. Even Horace Greeley is ashamed any more to repeat it. He stated the other day our position correctly, when he said that "northern Democracy is not really pro-slavery, but anti-intervention; maintaining, not that slavery is right, but that we of the free States should mind our own business and let alone other people's." Our platforms are but the repetition of this idea of non-interference. Beginning with 1840 and ending with 1860, we resolved—

"That Congress has no power, under the Constitution, to interfere with or control the domestic institutions of the several States; and that such States are the sole and proper judges of everything pertaining to their own affairs, not prohibited by the Constitution; that all efforts by abolitionists or others made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences, and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend to our political institutions."

The Democracy ever favored local sovereignty as to slavery and every other domestic matter. They would have extended that sovereignty, and not slavery, from the States to the Territories. On that question of extension, of non-intervention, the Democracy North and South unhappily divided. The consequences are upon us.

I accept events as they transpire. Not respons-

ible for them, yet not unobservant of them, I call the attention of the House to the bold strides which have been made since we last met, by fraud and force, to crush out the institution of slavery. I need not point you to the black recruiting system in Maryland and Missouri. I need not rehearse the orders of generals and subordinates, all working to this end, regardless of the rights of property or local sovereignty. Slavery hangs precariously, by a hair, in Tennessee, Arkansas, Louisiana, Maryland, Missouri, and Florida. Even in old Kentucky, where her loyal people cared less for it and more for their State right over it, anti-slavery is at work. Wherever in our lines slavery yet exists, it is comparatively free and altogether profitless. It works at its own will, and not at the will of the master. Outside of our lines—within the Gulf States—slaves once worth \$2,000 are now only worth their \$100 in gold; and this depreciation will go on if our armies continue to penetrate the South. If it thus go on, where will it end? In the grave of the slave! Read the accounts of mortality among the blacks, especially those in the military. Each camp is a hospital. The deserted families perish by their removal from their homes, by vice and starvation. We of this side have no power to stop it. The war keeps it going. For this condition of the negro let the Abolition party and its savage counterpart South answer to God and the country. To the horrors and calamities of the whites growing out of this war is to be added the miseries and destruction of the blacks; and this indictment of high crime will not be found against the northern Democracy, but against its revilers North, who divided our Union, and its enemies South, who divided our party.

In the forthcoming election for Chief Magistrate you will find the Democracy making no issue about slavery. If it is dying or dead, as you allege, you will find them striving their utmost to preserve what they can of local and personal liberty out of the chaos of this conflict. We have been the champions of local and State liberty, not because slavery was guaranteed by it. No, sir. We have not championed slavery. We never placed it in our northern constitutions. I would fain have seen slavery die, if die it must, by the unforced action of the States, as it has died in the now free States, and not by the rough usages of war, which destroys the slave with slavery; not by usurpations upon the rights of the States and the people, which destroy both freedom and slavery and slave, but by the sovereign intelligence of the people of the States, who alone are responsible for the existence of their own domestic institutions.

I am not insensible to the signs of the times. Judging by what we daily see here in this House, the border States, through the blandishments of power, the fear of ruin, the tyranny of the bayonet, and the corruption of greenbacks, are, I think, gradually being persuaded to yield before the genius of universal emancipation! The music of the old Union is hushed in the bugles of war. The northern Democracy, in struggling to preserve the institutions of those States, and in doing which they have been and are yet in sympathy with their only proper representatives, have done so from no love of slavery; but because, in the language of the Chicago platform, they would by preserving State institutions, "preserve the balance of power, on which the perfection and endurance of our political fabric depended."

When the party in power, by edict and bayonet, by sham election and juggling proclamation, drag down slavery, they drag down in the spirit of ruthless iconoclasm the very genius of our civil polity, local self-government. They strike constitutional liberty in striking at domestic slavery. Hence they must abolish *habeas corpus* when they stab the hated institution. They must invade bills of right when they invade State rights.

When next you meet us at the polls you shall answer for the perfection of our political fabric which you have marred, and the endurance of which you have imperiled. No more wrangling about pro-slavery or anti-slavery. The question shall be, the old order with Democracy to administer it, or continued revolution with destructives to guide it; the old Union with as much of local sovereignty as may be saved from the abrasion of war, or a new abolition and military unity

of territory, with debt, tyranny, and fanaticism as its trinity.

Mr. COLE, of California, obtained the floor.

Mr. WASHBURN, of Illinois. I hope the gentleman from California will yield to me a moment.

Mr. COLE, of California. Certainly.

Mr. WASHBURN, of Illinois. I wish to make an excuse for the author of the pamphlet from which the gentleman from Ohio has read such copious extracts. I think that author has been corrupted by my friend from Ohio. I think he must have been reading a book which the gentleman from Ohio has written, which I now hold in my hand, and which I have read with great pleasure. The gentleman from Ohio said that he had heretofore answered this book in the House, and that I had heard his speech. I always liked to hear the speech he made to-day. [Laughter.] I have listened to it several times. [Laughter.] We shall not probably have the pleasure at next Congress of hearing my friend from Ohio rehearse this speech here, because I think, in the light of the recent elections in Ohio, and particularly in the district of the honorable gentleman, I can say to him in the language of Watts, and in the spirit of the utmost kindness,

"You living man, come view the ground
Where you must shortly lie."

I desire to show the House what the gentleman from Ohio has written in regard to the "African," in a book entitled *A Buckeye Abroad; or Wanderings in Europe and in the Orient*. By S. S. Cox. He is describing St. Peter's, and says: "In the mean time seraphic music from the Pope's select choir ravishes the ear, while the incense titillates the nose. Soon there arises in the chamber of theatrical glitter"—what?—"a plain unquestioned African! [laughter;] and he utters the sermon in facile Latinity, with graceful manner. His dark hands gestured harmoniously with the rotund periods, and his swart visage beamed with a high order of intelligence." [Laughter.] What was he? Let the gentleman from Ohio answer: "He was an Abyssinian. What a commentary was here upon our American prejudices! The head of the great Catholic church surrounded by the ripest scholars of the age, listening to the eloquence"—of whom?—"of the despised negro; and thereby illustrating to the world"—what?—"thereby illustrating to the world the common bond of brotherhood which binds the human race." [Roars of laughter.]

Mr. Speaker, I appeal to the House if it does not appear that the author of that pamphlet must have been corrupted by reading the work of my friend from Ohio.

But the gentleman goes on to say: "I confess that, at first, it seemed to me a sort of theatrical mummery, not being familiar with such admixtures of society." That was the first impression of my young and festive friend from Ohio as he wandered through the gilded corridors of St. Peter's. [Laughter.] "But," he says, "on reflection, I discerned in it the same influence which, during the dark ages, conferred such inestimable blessings on mankind. History records that from the time of the revival of letters the influence of the church of Rome had been generally favorable to science, to civilization, and to good government. Why?" Why, asks my friend from Ohio, is the church of Rome so favorable to science, to civilization, and to good government? Let the gentleman answer: "Because her system held then, as it holds now, all distinctions of caste as odious." [Great laughter.] "She regards no man, bond or free, white or black, as disqualified for the priesthood. This doctrine has, as Macaulay develops in his introductory chapters to his English history, mitigated many of the worst evils of society; for where race tyrannized over race, or baron over villain, Catholicism came between them and created an aristocracy altogether independent of race or feudalism, compelling even the hereditary master to kneel before the spiritual tribunal of the hereditary bondman. The childhood of Europe was passed under the guardianship of priestly teachers; who taught, as the scene in the Sistine chapel of an Ethiopian addressing the proud rulers of Catholic Christendom teaches, that no distinction is regarded at Rome save that which divides the priest from the people.

"The sermon of the Abyssinian"—that is, of this colored person, this Roman citizen of "Afri-

can descent"—"in beautiful print was distributed at the door. I bring one home as a trophy and as a souvenir of a great truth which Americans are prone to deny or condemn." [Laughter.]

Now, I ask my friend from Ohio if he has still got that trophy and souvenir to bring into this Hall?

Mr. COX. If the gentleman will allow me to reply I will do so.

Mr. WASHBURN, of Illinois. I believe I have never in my life refused to yield to my friend from Ohio, but he refused to yield to me when he had the floor just now, and as, of course, I always like to be equal with him in politeness, I must decline to yield now.

Mr. COX. I do not wish to treat the gentleman with discourtesy by refusing to answer his question.

The SPEAKER. The gentleman from California [Mr. COLE] is entitled to the floor.

Mr. COX. Then I will say, with the permission of the gentleman from California—

[Shouts of "Order!" and "Object!"]

The SPEAKER. The Chair will enforce the rule. When a gentleman declines to yield he shall be protected in his right to speak without interruption.

Mr. COX. I have not heard the gentleman from California decline to yield.

The SPEAKER. Does the gentleman from California yield to the gentleman from Ohio?

Mr. COLE, of California. No, sir; I cannot yield any further, as it would be taken out of my time.

Mr. STEVENS. Has the morning-hour expired?

The SPEAKER. It has.

Mr. STEVENS. I move, then, to proceed to the business on the Speaker's table.

The motion was agreed to.

The House accordingly proceeded to the consideration of the business upon the Speaker's table.

DEFICIENCY BILL.

The bill of the House to supply deficiencies in the appropriations for the service of the fiscal year ending 30th June, 1864, and for other purposes, returned from the Senate with sundry amendments, was taken up and referred to the Committee of Ways and Means.

AGRICULTURAL COLLEGES.

An act (S. No. 12) extending the time within which the States and Territories may accept the grants of lands made by the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, was next taken from the Speaker's table, read a first and second time by its title, and referred to the Committee on Agriculture.

CLAIMS OF PERUVIAN CITIZENS.

An act (S. No. 65) to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of January 12, 1863, was the next bill taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means.

THANKS TO MAJOR GENERAL THOMAS.

Joint resolution (S. No. 11) of thanks to Major General George H. Thomas, and the officers and men who fought under his command at the battle of Chickamauga, was the next business taken from the Speaker's table, and read a first and second time.

Mr. GARFIELD. Is it in order to move an amendment to that resolution?

The SPEAKER. It is.

Mr. GARFIELD. Then I move to amend by inserting the name of Major General W. S. Rosecrans before that of General Thomas, so that it will read "to Major General W. S. Rosecrans and Major General George H. Thomas, and to the officers and men under them."

Mr. WILSON. I believe that this House has already passed a joint resolution of thanks to General Rosecrans.

Mr. GARFIELD. The gentleman is mistaken.

Mr. STEVENS. We had better wait and have a separate resolution for General Rosecrans.

Mr. FARNSWORTH. So I think. I believe that these resolutions ought to stand each by itself. This is a special resolution of thanks to the officers and men who fought the battle of Chickamauga, and I am not prepared, with the information I have in regard to that battle, to vote for or against a resolution of thanks to Major General Rosecrans. At all events it seems to me that each resolution should be acted on separately.

Mr. GARFIELD. Mr. Speaker, I regret that this resolution has come before the House of Representatives as it is now presented. I had hoped I should not be compelled to refer publicly to the matters involved in it, and before I speak to the merits of the resolution itself I must be indulged in the expression of my opinion in regard to the custom which is growing up in this body in reference to this class of resolutions. The practice of this House during the brief period in which I have been a member has led me to fear that the thanks of the Congress of the United States are becoming too cheap an article in the eulogistic literature of the world. Time was when a man must stand grandly preëminent in the estimation and affection of the American people to receive through the solemn forms of law the thanks of the nation through its Representatives in Congress assembled. To merit that was worth a lifetime of sacrifice and heroism. We have changed this worthy custom. Since this session began many resolutions of thanks have been passed without being referred to the appropriate committees, without remarks, and almost without notice. They have been passed tacitly by a kind of common consent. We have not only thanked officers who were chiefs of armies, but also those who held subordinate positions in the various armies of the Republic. No question has been asked whether the officer was entitled to this distinction, or whether by thanking one another was not robbed of his merited honor. I repeat that I have seen these things with a feeling that we are cheapening the thanks of Congress by distributing them without discrimination and without question. I have been so willing to thank any man who has served the country in this war that I have not felt disposed to interpose objection.

In many of the instances referred to I have had no knowledge of the merits of the case. But when it comes so close to my own experience and knowledge of the history of the war, I cannot permit a resolution of this kind to pass without my protest against this hasty and thoughtless style of legislation. I have been surprised that the honorable members of this House should treat so lightly the matters involved in thanking the public servants of the nation. I now appeal to your sense of justice whether it be right to single out a subordinate officer, give him the thanks of Congress, and pass his chief in silence. On what grounds are you now ready to ignore the man who has won so many of the proudest victories? I do not believe that such is the purpose or wish of this House.

This resolution proposes to thank Major General Thomas and the officers and men under his command for gallant services in the battle of Chickamauga. It meets my hearty approval for what it contains, but my protest for what it does not contain. I should be recreant to my own sense of justice did I allow this omission to pass without notice. No man here is ready to say—and if there be such a man I am ready to meet him—that the thanks of this Congress are not due to Major General W. S. Rosecrans, for the campaign which culminated in the battle of Chickamauga. It is not uncommon throughout the press of the country, and among many people, to speak of that battle as a disaster to the Army of the United States and to treat of it as a defeat. If that battle was a defeat we may welcome a hundred such defeats. I should be glad if each of our armies would repeat Chickamauga. Twenty such would destroy the rebel army and the confederacy utterly and forever.

What was that battle, terminating as it did a great campaign whose object was to drive the rebel army beyond the Tennessee, and to obtain a foothold on the south bank of that river which should form the basis of future operations in the Gulf States? We had never yet crossed that river, except far below in the neighborhood of Corinth. Chattanooga was the gateway of the Cumberland mountains, and until we crossed the

river and held the gateway we could not commence operations in Georgia. The army was ordered to cross the river, to grasp and hold the key of the Cumberland mountains. It did cross, in the face of superior numbers; and after two days of fighting, more terrible, I believe, than any since this war began, the army of the Cumberland hurled back, discomfited and repulsed, the combined power of three rebel armies, gained the key to the Cumberland mountains, gained Chattanooga, and held it against every assault. If there has been a more substantial success against overwhelming odds since this war began, I have not heard of it.

We have had victories—God be thanked—all along the line, but in the history of this war I know of no such battle against such numbers; forty thousand against an army of not less by a man than seventy-five thousand. After the disaster to the right wing in the last bloody afternoon of September 20, twenty-five thousand men of the army of the Cumberland stood and met seventy-five thousand hurled against them. And they stood in their bloody tracks immovable and victorious when night threw its mantle around them. They had repelled the last assault of the rebel army. Who commanded the army of the Cumberland? Who organized, disciplined, and led it? Who planned its campaigns? The general whose name is omitted in this resolution, Major General W. S. Rosecrans.

And who is this General Rosecrans? The history of the country tells you, and your children know it by heart. It is he who fought battles and won victories in Western Virginia under the shadow of another's name. When the poetic pretender claimed the honor and received the reward as the author of Virgil's stanza in praise of Caesar, the great Mantuan wrote on the walls of the imperial palace—

"Hos ego versiculos feci, tulit alter honores."

So might the hero of Rich Mountain say, "I won this battle, but another has worn the laurels."

From Western Virginia he went to Mississippi, and there won the battles of Iuka and Corinth, which have aided materially to exalt the fame of that general upon whom this House has been in such haste to confer the proud rank of Lieutenant General of the Army of the United States, but who was not upon either of these battle-fields.

Who took command of the army of the Cumberland, found that army at Bowling Green, in November, 1862, as it lay disorganized, disheartened, driven back from Alabama and Tennessee, and led it across the Cumberland, planted it in Nashville, and thence, on the first day of the new year, planted his banners at Murfreesboro' in torrents of blood, and in the moment of our extremest peril, throwing himself into the breach, saved by his personal valor the army of the Cumberland and the hopes of the Republic? It was General Rosecrans. From the day he assumed the command at Bowling Green the history of that army may be written in one sentence—it advanced and maintained its advanced position, and its last campaign under the general it loved was the bloodiest and most brilliant. The fruits of Chickamauga were gathered in November, on the heights of Mission Ridge and among the clouds of Lookout Mountain. That battle at Chattanooga was a glorious one, and every loyal heart is proud of it. But, sir, it was won when we had nearly three times the number of the enemy. It ought to have been won. Thank God that it was won. I would take no laurel from the brow of the man who won it, but I would remind gentlemen here that while the battle of Chattanooga was fought with vastly superior numbers on our part, the battle of Chickamauga was fought with still vaster superiority against us.

If there is any man upon earth whom I honor it is the man who is named in this resolution, General George H. Thomas. I had occasion in my remarks on the conscription bill a few days ago to refer to him in such terms as I delighted to use; and I say to gentlemen here that if there is any man whose heart would be hurt by the passage of this resolution as it now stands, that man is General George H. Thomas. I know, and all know, that he deserves well of his country, and his name ought to be recorded in letters of gold; but I know equally well that General Rosecrans deserves well of his country. I ask you, then, not to pain the heart of a noble man who will

be burdened with the weight of these thanks that wrong his brother officer and his superior in command. All I ask is that you will put both names into the resolution, and let them stand side by side.

Mr. FENTON. I move that the joint resolution be referred to the Committee on Military Affairs; and upon that motion I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion to refer was agreed to.

Mr. FENTON moved to reconsider the vote by which the joint resolution was referred; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

THANKS TO COMMODORE RINGGOLD.

Joint resolution of the Senate No. 19, tendering the thanks of Congress to Commodore Cadwalader Ringgold, the officers and crew of the United States ship Sabine, was next taken from the Speaker's table, and read a first and second time by its title.

Mr. PIKE. I move that the joint resolution be referred to the Committee on Naval Affairs.

Mr. WASHBURN, of Illinois. I hope the gentleman will withdraw that motion, and that we shall pass the resolution. In a matter of compliment, if we do it quickly we do it twice.

Mr. PIKE. I have no objection to the resolution itself; but I think it is a very good rule to send all such resolutions to committees.

Mr. WASHBURN, of Illinois. We have passed, without a single exception, every resolution of this kind that has come to us without any reference. [Cries of "Oh! no."] The resolution which has just been before the House, and to which the gentleman from Ohio [Mr. GARFIELD] offered an amendment, was referred, and perhaps very properly, to the Committee on Military Affairs; but I hope that this resolution will be passed by the House as other resolutions have been about which there was no dispute.

Mr. BRANDEGEE. I hope this resolution will not be passed by the House now. Similar resolutions have been heretofore referred to the Committee on Naval Affairs. If this is all right the presumption is that the committee will report it back. If it is not right, the committee ought to have an opportunity to investigate the facts.

Mr. WASHBURN, of Illinois. The resolution is merely one of thanks to a distinguished naval officer for a deed which entitles him to the thanks of every person in the country—the relief of the storshoop Vermont.

Mr. BRANDEGEE. That is a question on which the committee should be allowed to pass. The House should not be asked to act on the statement of the gentleman from Illinois.

Mr. WASHBURN, of Illinois. Not on my statement, but on the statement in the bill itself.

Mr. MORRIS, of New York. I wish the bill to go to the committee. I am not sufficiently posted in the history of this matter to act upon it, and I wish the instruction of the committee so as to know how to vote.

Mr. RICE, of Maine. I move the previous question on the reference.

Mr. WASHBURN, of Illinois. If this is a matter on which gentlemen have any feeling I will withdraw the motion.

Mr. RICE, of Maine. Then I withdraw the demand for the previous question.

Mr. PIKE. It is not from any hostility to this proposition that I wish it referred. The committee will undoubtedly sanction it, and its reference will delay its passage for a very short time.

The joint resolution was referred to the Committee on Naval Affairs.

ARMY AMBULANCES.

An act (S. No. 30) to establish a uniform system of ambulances in the armies of the United States was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

EXAMINATION OF OFFICERS.

An act (S. No. 85) to provide for the examination of certain officers of the Army was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

RESTRICTION OF GOVERNMENT OFFICERS.

An act (S. No. 28) relating to members of Congress, heads of Departments, and other officers of the Government, was next taken from the Speaker's table, and read a first and second time.

Mr. STEVENS. I move that it be referred to the Committee on the Judiciary.

Mr. WILSON. I ask that the bill be put upon its passage now; and I move the previous question on its third reading.

The previous question was seconded, and the main question ordered, which was on referring the bill to the Committee on the Judiciary.

Mr. WILSON called for tellers.

Tellers were ordered; and Messrs. WILSON and FERNANDO WOOD were appointed.

Mr. WASHBURN, of Illinois. As this is a test vote on the bill I call for the yeas and nays.

Mr. STEVENS. It is no test vote at all.

The yeas and nays were not ordered.

The House divided; and the tellers reported—ayes sixty-seven, noes not counted.

So the bill was referred to the Committee on the Judiciary.

JOHN L. BURNS.

An act (S. No. 1) granting a pension to John L. Burns, of Gettysburg, Pennsylvania, was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

L. F. CARTEE.

An act (S. No. 19) for the relief of L. F. Cartee was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

PAYMASTER DORAN.

An act (S. No. 94) to authorize a settlement of the accounts of Paymaster E. C. Doran was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

COMMANDER PREBLE.

An act (S. No. 95) for the relief of George Henry Preble, a commander in the Navy of the United States, was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

MILITARY ROADS IN OREGON.

An act (S. No. 23) granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

An act (S. No. 24) granting lands to the State of Oregon to aid in the construction of a military road from the Dalles of Columbia river to a point at or near the mouth of the Owyhee river was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

STEAM-TUGS DAVIDSON AND MUIR.

An act (S. No. 39) to authorize the enrollment and license of steam-tugs B. F. Davidson and W. K. Muir was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

LIMITATION OF ACTIONS.

An act (S. No. 42) in relation to the limitation of actions in certain cases was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

HOMESTEAD LAW.

An act (S. No. 60) amendatory of the homestead law, and for other purposes, was the next bill taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

JOHN H. SHEPHERD, ETC.

An act (S. No. 110) for the relief of John H. Shepherd and Walter K. Caldwell, of Missouri, was the next bill taken from the Speaker's table, read a first and second time, and, on motion of Mr. BLAIR of Missouri, referred to the Committee on the Post Office and Post Roads.

UNITED STATES COURT IN WISCONSIN.

An act (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, and for

other purposes, was the next bill taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

ALBERT BROWN.

An act (S. No. 92) for the relief of Albert Brown was the next bill taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims.

SALE OF GOLD BY THE UNITED STATES—AGAIN.

Mr. HOOPER. I consider the matter so important that I again ask unanimous consent to report from the Committee of Ways and Means, for the purpose of considering it at this time, a bill authorizing the Secretary of the Treasury to sell any surplus gold in the Treasury.

Mr. COX. What effect will it have upon commercial exchanges? How much gold is to be sold, and why is it to be sold at this time?

Mr. HOLMAN. This is a matter of importance, and ought to be deliberately considered, and I therefore object.

Mr. HOOPER. Let it be postponed until tomorrow after the morning hour, and then considered as the special order.

Mr. BROOKS. I think that the House is willing to agree to that if we are to have an understanding that debate shall be allowed.

Mr. HOOPER. I do not propose to call for the previous question.

Mr. BROOKS. I think that the House will agree that the bill shall be discussed to-morrow. We are not disposed to delay action unnecessarily, but we want the bill understood before we are called to vote on it.

Mr. HOLMAN. I insist on my objection. I am opposed to making it a special order.

NAVY APPROPRIATION BILL.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union. The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the consideration of the bill of the House (No. 151) making appropriations for the naval service for the year ending June 30, 1865.

The CHAIRMAN. When the bill was last under consideration the gentleman from Illinois [Mr. J. C. ALLEN] moved to amend the clause "for pay of commission, warrant, and petty officers and seamen, including the engineer corps of the Navy, \$19,423,241," by adding thereto the following:

And that the same be paid in gold or its equivalent: *Provided*, That the relative value of any paper currency tendered shall be ascertained by the Secretary of the Treasury, and his certificate shall be conclusive evidence thereof if dated thirty days before payment is made.

The gentleman from Pennsylvania [Mr. STEVENS] moved to amend the amendment by striking out the words "gold or its equivalent," and inserting in lieu thereof "lawful money of the United States." The pending question is on the amendment to the amendment.

Mr. DAWSON. Mr. Chairman, I deem it proper to say that the pending amendment has received the sanction of the Democratic members of the House. It is urged in good faith, as a measure of simple justice to those for whose benefit it is intended. Its object is simply to secure to the sailor, as we propose to secure to the soldier, the price fixed by law for their services in gold or its equivalent. They do not ask or expect more; they certainly should receive nothing less. It is not proposed to apply the provision to any other class of the public servants than those in the naval and military service, for the reason that no other has been called upon to make such sacrifices for the country, and that upon no other rests immediately the burden of its defense; yet this House at the present session, under the lead of the distinguished chairman of the Ways and Means, provided for the payment of the salaries due our representatives in foreign countries according to the gold standard.

The men who are fighting the battles of the country are, in a peculiar sense, entitled to a larger consideration and to the distinction which is thus proposed to be made in their favor. In lieu of home and domestic endearments, they have accepted and are bearing the privations, sufferings,

and perils of a bitter and sanguinary war. Their wives and children are still dependent for support upon their pay, who, deprived by their situation of the means of procuring that support from the ordinary pursuits of life, have relied with undoubting trust upon their engagements with the Government. So long as payment was rendered in coin or its equivalent, the soldier's pay being thirteen dollars per month for the private, and the seaman's about the same, which is not equal upon the average to the earnings from civil occupation, was yet such an approximation to that standard as could be contentedly borne. For some time back, however, owing to the excessive inflation of the paper issues of the Government, the departure from the gold standard has been constantly increasing, until at this time a dollar in greenbacks is worth only about sixty-four cents in gold. In consequence of this depreciation the soldier's pay is actually reduced to about eight dollars per month. It is well known that the means of living have advanced in a ratio even greater than that corresponding with the depreciation of the currency.

This condition of things falls with especial severity upon that class of men who have already made greater sacrifices than any other in taking up arms in the common cause. Can the Government properly do less than preserve the faith of its solemn engagements by at once restoring the compensation to the value which it possessed when the war commenced? They have performed their part of the contract with noble fidelity and zeal. Antietam, Vicksburg, Gettysburg, and Chattanooga are monuments of their bravery and patriotism which will bear their fame to a distant and admiring future. If anything more were needed to commend the proposition to the acceptance of the House, I think it will be found in the effect the passage of such a measure would have upon enlistments. So long as the soldier is paid as at present, enlistments are asked for with an ill grace, and will be rendered with a tardiness which can hardly be surprising when we consider the change which has been wrought in the terms of engaging in the service, by the depreciation of the money substituted for the constitutional currency.

It is true, Mr. Chairman, that many Democrats believe that this war could have been avoided, and now condemn the policy which governs it. Yet at the same time we condemn in unqualified terms the rebellion; are anxious to see it put down; and are determined to stand by any Administration or any policy that will bring the war to a speedy close, and establish in its place peace, an early peace, with the restoration of the Union and the legal and constitutional rights of all the States and all the people fully protected and secured. We believe that when this great object is attained the war ought to cease. But during its progress in the past as well as in the future we recognize the seamen and soldiers of the Army as having gone forward to fight the battles of constitutional government, and are at least entitled to our justice. Wherever any part of that great Army has moved, upon the water or upon the land, its ranks have been filled with thousands of gallant Democrats, many of whom now sleep in soldiers' graves. I am aware, Mr. Chairman, that the Republican gentlemen of the House are in the majority, and that this proposition for the benefit of the soldier cannot be carried by Democrats alone. I trust, then, that it will not be prejudiced for the reason that it has emanated from a Democratic caucus and will receive the undivided vote of the Representatives of the Democratic party, but that it will obtain a generous support and become a law.

Mr. McBRIDE. As the Representative of a people who in my election disregarded all partisan issues, I took my seat upon this floor with an earnest wish to imitate their sacrifice of political associations and to work earnestly and heartily with those whose purpose was to vindicate the imperiled integrity of the nation and compel obedience to its legitimate authority.

Coming from the shores of the Pacific, from among a people many of whom know by experience the inconvenience and the sense of helplessness to which a want of the protection of the national ensign consigned them, I speak for them and their devotion to the integrity of the Union with something of the feeling that is supposed to

be peculiar to those who have suffered from the oppressions of other Governments and have at last found protection and a home beneath the folds of our own banner.

In early youth, after a weary journey of two thousand miles from the border of civilization in the valley of the Mississippi, I found myself on the banks of the Columbia, within hearing of the roar of the great ocean into which it falls, in the midst of a wilderness of mountain and solitude, with only a handful of brave but hardy pioneers to whom I could appeal for protection and a home. The ownership of the country was undetermined; the value and resources of it were unknown; the subjects of the British Crown exceeded in number the residents who were American citizens, and the majesty of national authority was unfelt and unknown.

I often heard, sir, in those days of our young State's early history, the American citizen express his hope that the day might soon come when we could hoist the flag of freedom above our homes again and enjoy its blessings and protection. And when a toil-worn emigrant arrived from the far-off land which we still loved to call home, and brought a tattered newspaper to the friend who preceded him, its soiled pages were eagerly scanned to know if yet the vexed question of boundary had been settled, or whether we still must invoke in vain the rights of American citizenship. The painful disappointment, the deep expressions of regret and despair which were common around me as year by year passed away and we were left without notice and without aid or protection from the home Government, left an impression upon my heart of the passionate devotion of an American citizen to the flag and institutions of his country which I shall ever remember with the pride of one who believes that devotion to be not only just but honorable. And, sir, when after years of longing and impatience the news came that the title to the domain where our weak and scattered settlements were located was confirmed to the American Government a thrill of patriotic joy ran throughout their length; and when, on the 3d of March, 1849, the little ship that bore him to our shores landed the Governor appointed by the President at Oregon City, and his proclamation announcing that the laws of the United States were extended over the country for its protection was issued, none but those who witnessed the feeling that it invoked and the demonstrations which greeted it can realize the joy that pervaded the community at again being beneath the protecting care of the parent Government.

I allude to this part of the history of our State to show how early and ardent has been the attachment of its citizens to the central Government, and when, in the height of its prosperity we felt not only its want of care but its cold and cruel neglect, the first exhibition of a sense of justice toward us was met by demonstrations of gratitude and affection which showed how deep a hold the love of our common country had upon the hearts of our people. And the patriotism which they evinced then they cherish now; no trick of politics or device of traitors can draw them away from the shrine of the Union and their devotion to the Constitution of the Republic. That dream of despairing treason, the establishment of a Pacific republic, though for long years cherished in secret as part of the plan to make feasible a southern confederacy, had no charm to allure the people from their firm allegiance.

Though the Democratic party had, up to the inception of this rebellion, a majority consisting of almost two to one of the votes of the State with it, and the chosen leader of it had been long the recipient of the confidence and highest honors of the people of the State, and in the interests of his treasonable party association forgot his own allegiance, yet all these influences failed to drag the people of our State from the lofty height of patriotic duty. With every reason that partisan association and prejudices could devise to seduce them from the path of patriotism they stood fast and true, and I stand here to-day to express my gratitude to the thousands of patriotic Democrats who, in defiance of the influences that had demoralized their party in the interests of secession and placed its organization in the hands of its friends and sympathizers in the Pacific States, nobly rallied to the side of the constituted authorities and have been their firm and unwavering

supporters through all the storm and doubt of this fierce rebellion.

With these facts illustrating the Unionism of the masses in the State from which I come—and perhaps from the locality, more than anything else, feeling less interest in those questions, the decision of which in favor of the North by the president's election of 1860 furnished the pretext for this rebellion—and having no bitterness to revenge upon political enemies, I repeat, sir, I came here with an honest desire and an earnest purpose to cooperate with men of all parties in aiding to restore the authority of the Government, and, I might add, with the belief that among all parties in this great and glorious work the Government would find friends. A few months, however, sir, passed in the States upon this side of the continent prior to the opening of the present session of Congress dispelled that hope and belief which I had so ardently cherished, and I found myself compelled to choose between two parties upon this floor, as clearly defined in principle and purpose and as antagonistic to each other as two political parties can be under the same Government and yet maintain the public peace.

I find, it is true, some gentlemen upon the other side of the House who evince occasionally both by voice and vote an earnest purpose to aid the constituted authorities in maintaining the integrity of the Republic, but I regret to say that they seem too few in numbers and feeble in influence to materially affect the action of their party; and I have yet to hear the boast of last winter on this floor that the Democratic party, arrayed against the Administration, was a "war party," or has any longer any such pretensions.

As a Union man, therefore, representing a thoroughly loyal Union constituency, I could find no other friends upon whom I could safely rely to honestly labor for the restoration of the national authority than those with whom it has been my pleasure and honor to act.

The pretense upon which the Democratic party carried the election a year ago, that they were for a more vigorous prosecution of the war, seems now no longer insisted upon, and even those who thus succeeded on a belligerent platform are today understood to be as fully indoctrinated with the "peace principles" that propose to disarm this wicked rebellion of its bloody purpose by some scheme of concession to its guilty authors as the known champion of southern interests, Mr. Vallandigham himself.

But I do not make this charge upon that party upon the basis of its action during the past summer only. I go further, and affirm that from the time it drove men like Johnson, of Tennessee, Holt, of Kentucky, Dickinson and Cochrane, of New York, Conness, of California, and Noell, of Missouri, and men like them, outside the pale of its organization, it has been an anti-war party, and a substantial ally of this infamous and treasonable rebellion which seeks to destroy the best Government that human wisdom ever devised.

The fact that such men, the soundness of whose partisan opinions was never impeached, were compelled to renounce their associations, is sufficient evidence of the real animus of the organization, but the developments of the last year are sufficient to establish from their own declarations that the charge which I have made against them is as disgraceful as it is true.

Why, sir, turn to the Journals of this body at its last session. On the 19th day of December, 1862, the bill making appropriations for the Army was voted upon; and you will find that of the forty-eight members upon that side of the House voting that day only ten recorded their votes in favor of the passage of the bill. Thirty-five absented themselves at roll-call, and three, with a manly boldness which is an honor to their sincerity though little to their patriotism, voted against the bill. There, sir, stands their record on the practical question of pay and supplies for the gallant armies that were then fighting to maintain the honor of the Republic, and whose wounds yet bleeding and fresh from the terrible slaughter of Fredericksburg found neither comfort nor aid at the hands of their Democratic brothers in this House, who had in many cases urged them to volunteer and go into the war so long as it was hoped that such a course would make McClellan President, and who utterly forsook them so soon as they found that their po-

litical expectations from the Army were not to be realized. And to show the inconsistency of those who oppose the Government in prosecuting this war, some of the same gentlemen who refused to record their votes in favor of a bill which gave wages and clothing and food to our brave soldiers who were facing the enemy in deadly conflict, have been voting resolutions to increase the pay of the same men at the present session. Last year they would have had the Government violate its contract to pay them by leaving it without the means; this year they propose to pay them more than the Government agreed. This inconsistency in action is explained by its entire consistency of purpose; by leaving them without any pay last year they hoped to create disaffection toward the Government; then by telling them that they ought to have more pay than they now get, they seek to foment disaffection now. To weaken and demoralize the soldiers in the field being their purpose, this singularly diverse action is easily understood. They assail the Government and seek to gain possession of the citadel of its power in as many ways as the burglar does who striving to enter the house which he proposes to rob, tries first to break his way with sledge and bar, and failing resorts to the milder means of a false key, and foiled in all, rings the bell and asks admission to the parlor of his victim in the character of a gentleman!

To prove how soon the Democratic leaders of the country became disciples of peace after the removal of General McClellan from the command of the army of the Potomac, I have but to refer to a few facts known to the country as part of the history of the time. Even the energetic member from Ohio, [Mr. Cox,] who is so frequently and prominently before the House, and who only a short time since deliberately voted and spoke in favor of a resolution to send commissioners to Jefferson Davis to sue for peace, only one year ago was one of the most active friends of volunteering in his section of the State; and yet, sir, strange as it may seem, this rampant "war man" anterior to McClellan's removal, lapses in a few revolving moons into a meek advocate of an inglorious peace, and the warm supporter of his late colleague, Mr. Vallandigham, for the office of Governor of the State of Ohio. The conversion of Saul of Tarsus from the character of a firm persecutor of the disciples of the Prince of Peace into that of a humble follower is said in his own account to have occupied three days, and the process was considered sudden, although the shock was so great as to produce temporary loss of sight. How long the gentleman from Ohio labored under conviction before he rejoiced in the light of a new life we may not precisely know, but in mercy to the subject let us hope that the good Providence who watched over both the ancient and modern conversion permitted the latter's mental vision, as a less punishment, to be totally obscured, but did not allow the three days of bodily agony which the apostle suffered, "sorrowing without meat or drink."

But, sir, I will leave these personal reflections and call attention to other testimony.

The State of Indiana has shown by every act of her patriotic people that she was emphatically in favor of crushing the rebellion by force of arms; and the conclusive evidence of that is found in the creditable fact that in the President's various calls for troops she has always exceeded the demand made upon her. And yet the Democratic committee of her Legislature, chosen in the very height of the war fever which swept through the Northwest in 1862, in the winter following issued an address in which this quotation occurs:

"The State possesses no power in theory or in fact to stay the armies which now stand in battle array; and though the Christian and humane mind of Indiana might desire to see the effusion of blood prevented, it, alas! is powerless to stop the carnage which is hurrying her sons to early and 'stranger' graves."

See the smooth folds of the secession viper beneath this ingenious sentence. Her people are told that their sons are filling "stranger" graves; that when they pass beyond the limits of their own State they are upon "stranger" soil; that though the national flag waves alike in supremacy of law over every rood of ground that ever acknowledged the national authority, yet when the brave defenders of that authority march to its defense, when treason has torn it from its place,

they are told that they are marching upon "stranger" soil, and invading the land of a foreign enemy. They continue:

"The committee are far from thinking that war is the rightful remedy for our national troubles; they believe the reverse to be true;" &c.

So much for the peace organization which so suddenly sprang into vigorous existence at the period of our national adversity a year ago in the State of Indiana. I turn now to Connecticut, one of the New England States. The party having control of the Democratic organization in that State placed in the field as their candidate for the office of Governor at the last annual election a gentleman who, in a letter which was said to have been addressed by him to a southern rebel—to the truth of this I cannot speak, but the authenticity of the letter has, I believe, been admitted—declared that—

"I abhor the whole scheme of southern invasion, with all its horrible consequences of rapine and plunder."

"Thousands of us are beginning to see there can be no Union got in this way."

"Those who drive the car of war at this time have no more idea of saving the Union by their bloody sacrifices than they have of changing the course of nature."

In speaking of the new levies of that year for troops he characterizes them as demands "for the hospitals, the marshes, the ditches, and gun-boat shambles;" and winds up his dolorous epistle by denouncing the war for the Union as an "iniquity which [he] would be found exposing to the end of the chapter;" and adding that "things have gone so far now that the only possible chance [to restore the Union] will be by the adoption of a Christian policy, very different from that which at present prevails at Washington."

See how skillfully the doctrine of secession is again made to underlie this whole letter. The attempt to take possession of the property owned and held by the Government in the southern States and disperse those who were seeking the destruction of its admitted authority with arms in their hands, is called "a scheme of southern invasion," as if this Government had not a right, if necessary, to occupy every foot of the national territory. This talk about the "invasion" of southern territory shows how fully the Democratic organization of the present day has been imbued with the idea of State supremacy which was the political heresy from which all our present troubles have come, and sounds strangely at variance with the denunciations which have been applied within the last few weeks to the honorable gentleman from Pennsylvania who sits near me, [Mr. STEVENS,] for announcing what they call a similar doctrine. Like the inebriate who fancied that his friends were intoxicated and he only sober, these gentlemen charge upon others the sin which is most apparent in themselves, and I suggest to them the language of Scripture, "First cast out the beam out of thine own eye; and then shalt thou see clearly to cast out the mote out of thy brother's eye."

This letter was written in July, 1862, months before that *Christian policy* which the writer alluded to was adopted at Washington. I mean (what he did not) the policy of calling to the aid of the national forces the sympathies and assistance, the hearts and hands of the slaves that had tilled the fields and grown the subsistence upon which the insurgents depended. So that whatever excuses others might have given for their opposition to the war, growing out of the emancipation of slaves, the author of this letter can now plead no such apology.

I will not occupy my time in reading extracts from the speeches of Vallandigham, or from the letters and utterances of Judge Woodward, or of Wickliffe of Kentucky, to prove the unfaithfulness of the Democratic party to the duty of prosecuting this war, as its sentiments are proclaimed by its chosen leaders in the various States. Suffice it to say that the proof is ample and overwhelming. If anything further were wanting, it is found in the votes of the minority upon this floor since the beginning of the present Congress.

It was well said by a friend who sits near me, that when the wants of the Government were such that their aid was not needed it was tendered with alacrity; but when measures which most required unanimity were demanded it was persistently and factiously refused by the minority.

The bill authorizing bounties for volunteers,

when it could be used to postpone the only just and sure method of filling up the wasted ranks of the Army—by draft—was readily sanctioned; but when the bill for the perfection of the system for calling the necessary forces into the field, demanded by every consideration of patriotism and duty, was pending, it was delayed day after day by tedious efforts at amendment, and at last passed after hours of frivolous waste of time in dilatory motions to impede its passage.

Sir, the same impatience of control and denial of the right of the majority to rule, which this southern rebellion has exemplified, finds its counterpart upon this floor. Why was it, sir, that we wasted two days, in large part, upon this floor in deciding dilatory motions by yeas and nays, a proceeding which the people everywhere view as not only disgraceful, but which, if persisted in, would lead to a suspension of the legislative branch of the Government, and finally to anarchy and revolution? And where, sir, is the American citizen who would not blush when told that the measure, the passage of which was thus savagely resisted, was simply a resolution affirming the language of the Constitution on the subject of the punishment of treason! It is because, sir, they are a party of revolution, allied in principle with the causes which led to this rebellion; and, much as they may seek to conceal it, the sympathy between them will, despite all their efforts, color their line of conduct. And, sir, if you want to know whether those gullible men who are bearing our flag through the storm of battle to a final triumph have met with a temporary check, look into the smiling countenance of some gentleman who anathematizes this "abolition war." You can tell from his complacent brow that it is unnecessary to patronize the newsboy to the extent of the price of an evening paper to get the news. Your country's reverses are written in the smile that plays sneeringly on the features before you. And if you want to know how Jeff. Davis's heart beats, take your friend by the wrist, and you will soon get the gauge of the rebel pulse.

I do not mean that these remarks shall apply to all who are associated with the minority in this House. I am happy to know that there are exceptions to this general tendency of the policy of that party, and I regret to be compelled to say they are but exceptions and nothing more.

While I am upon this subject permit me to allude for a moment to the extraordinary spectacle presented on this floor on the day of the organization of this body. By the singular rule adopted by the Clerk of this body at its last session, a number of gentlemen found themselves likely to be defrauded of their right to seats on this floor. And then and here we witnessed a development which startled men for the moment, of a deliberate conspiracy to disfranchise a number of the loyal States, and by a quibble, as narrow as it was mean, give the minority the control of the organization of this House. And, sir, the men who always and persistently claim that they are for the rule of the people were here voting to sustain that infamous conspiracy.

The State of Louisiana, steeped as she is in the crime of treason, without any organized government except what the General Government has established over her by force, without State officers, and without even the semblance of a fair election or legally authenticated certificates, sent here two men to claim seats upon this floor, the name of one of whom was written upon the secession ordinance of the State when she forgot her allegiance to the Union; and though all these facts were known to the world, in defiance of all decency they took their places on the floor of this Hall. And not content, sir, with this outrage upon the privileges of this House, the Representatives from loyal States that had never been in rebellion or in sympathy with rebellion were excluded from their places, while these interlopers, who had no more right than a sinner has to a seat in heaven, were quietly installed in these cushioned chairs in the national Congress. And to prove conclusively that all this had a partisan purpose, members elected by a majority counted by thousands, as was the case with myself, were not only excluded by this arbitrary ruling of the late Clerk, but when the motion was made to insert their names upon the roll of members of the House, the whole vote on the other side of the House, including the two who were swindled in from Lou-

isiana, was cast solid against us. Talk about the crime of secession! What term of reproach can truthfully characterize this bald attempt to disfranchise whole States at a single blow? Gentlemen have shown a great deal of indignation at the alleged usurpations of the military in regard to elections. I do not apologize for these things if true; but I do say that such affected indignation comes with an ill grace from those who deliberately cast their votes on this floor to disfranchise whole States by a legislative decree. Sir, legislative usurpation is no more tolerable with me than military usurpation; and with this record behind them I should think that our friends on the other side would not have much taste for discussing the question of the disfranchisement of the people. But enough of this. I am merely stating the reasons which have operated on my mind as a Union man, whose sole object and purpose here are to serve the cause of our imperiled Union, and to give every aid and assistance that I can to its authorities in maintaining its integrity, for coöperating with those on this side of the House. I have indicated the objects and animus of the organization of the peace party on this floor and in the country, and shown that neither taking its professions or practice is it to be trusted, and now, sir, I desire to state affirmatively why I go heartily with the gentlemen elected as Republicans and as Union men, who occupy seats on this side of the Chamber.

We are in the midst of the grandest struggle of either ancient or modern times. A war whose gigantic proportions stretch along a navigable line of coast and river some five thousand miles in length; that embraces an area of territory larger than was ever before submitted to the arbitrament of a single contest, involving an expenditure of money and of life which has no parallel in modern history, has been for two years and a half drawing upon the resources and exhausting the energies of our people. A war begun strictly on our part in self-defense, and conducted with all the mildness which a kind-hearted Chief Magistrate could throw into the contest, it has at last reached a point where one side or the other must be conquered. Begun in order to perpetuate and aggrandize an institution the very existence of which in our free Government has ever been a standing reproach in the eyes of the civilized world, and has almost neutralized our example as a republican nation, it has gone on increasing in intensity and bitterness until no one pretends, with any sort of reason, that the cause of the war can survive the struggle. Slavery, in a moment of folly, mad with its own power, precipitated a conflict that can now only end in its destruction.

Without cause, and, I may add, without excuse, the champions of slavery began the war, made its existence an issue, and now, sir, they must take the consequences of their action. As an institution which it was thought the national Government dare not attack, it was made the bulwark behind which rebellion was to intrench itself in safety; and standing as it did in front of the enemy, as its breastwork and defense, we were compelled to either demolish it or give up the contest. It is the very life of military success that we strike our enemy where he will most keenly suffer from the blow. If we mean to be victorious we must do that which will inflict upon him the greatest injury and harm as the least; and, sir, by destroying slavery in the rebellious States we deprive our enemies of every essential element of success. We not only destroy the means of success but we destroy the motive to rebel. Take away slavery and they have nothing to fight with and nothing to fight for. Hence, sir, I stand with the Union party of this House. The destruction of the institution in the rebel States is a necessity to the restoration of the Union, and I am for standing by those who will enforce that policy.

It is my misfortune to differ with many gentlemen around me in regard to the capacity and destiny of the African race. While slavery was undermining white society and threatening its ruin it did little by way of enlightening the slave; and I am glad to know that there are gentlemen on this floor, who do not share these opinions with me, and who believe in the capacity of the freedmen to become prosperous residents and owners of the soil, who nevertheless are looking to the means of freeing him from the contact with demoralizing influences and the prejudices of a large portion of our people. I hail with pleasure, there-

fore, sir, every suggestion which looks to their voluntary emigration from among us; and when my friend from Pennsylvania [Mr. KELLEY] the other day alluded to their natural tendency toward the tropical latitude of this continent, he presented a suggestion which, if properly improved, will prove a wise and practical solution of a problem of our social existence which is liable to become a dangerous and disturbing question. Sympathizing fully with the necessity for emancipation, it will nevertheless bring evils upon portions of the country which the highest wisdom can only modify, not neutralize.

Sir, if I may be permitted to say so here, I will say that I never was an abolitionist. It is not perhaps to my credit that I am not. I never believed in that wire-drawn theory of the transcendental reformers who insist upon the propriety of conferring equal political and social privileges upon all races. I do believe, and always have, that every man had a natural right to his liberty, and that could only be taken from him when the good and safety of the community were involved. Slavery I always hated as an abomination in the sight of God and all good men; but because I deny the right for you to enslave Sally and Dinah I do not admit that I am bound to marry one or the other, and because I deny that you have the right to sell and oppress the negro I must place him in the same relative position with other white citizens. Natural rights are God-given and inherent, and I concede them to all; political rights are relative, conferred by the State, and may be given or withheld as the body politic may deem best.

Entertaining these opinions, I confess I have always been too conservative to be able to adopt the opinions of the party known in the history of the country as the abolition party. But these are, for the present of course, only abstract opinions, and I do not choose to discuss them. I only present them that I may not be understood to concede doctrines which I deny, or that such concession is involved by the grounds which I assume.

Auxiliary to this scheme of abolishing slavery in the rebellious territory is that other plan for arming the freed population. We all realize what a change has been wrought in the public sentiment of the country in relation to this question. And, sir, whether it is because the people in the pressure for men to fill the quotas of troops demanded were willing to waive their prejudices in relation to this class of persons, and accept aid wherever it could be obtained, or have come to the conclusion more complimentary to the prowess of the colored volunteer, the fact is that public sentiment not only justifies but demands their employment wherever they can be used to crush this rebellion. It not only aids in recruiting the ranks of our Army and destroying the basis of the rebel power, but it makes the future existence of the institution of bondage impossible.

It is singular that while the prejudices of the northern people long prevented the employment of negroes to aid in overthrowing the power of the rebellion the rebels were too wise to be betrayed into such folly. Within one month from the time when the State of Tennessee was forced out of the Union her Legislature passed and her Governor signed the following enactment:

"*Sec. 1. Be it enacted by the General Assembly of the State of Tennessee:* That from and after the passage of this act the Governor shall be, and he is hereby, authorized, at his discretion, to receive into the military service of the State all male free persons of color between the ages of fifteen and fifty, or such numbers as may be necessary, who may be sound in mind and body, and capable of actual service.

"*2. Be it further enacted,* That such free persons of color shall receive each eight dollars per month as pay, and such persons shall be entitled to draw each one ration per day, and shall be entitled to a yearly allowance each for clothing.

"*3. Be it further enacted,* That in order to carry out the provisions of this act it shall be the duty of the sheriffs of the several counties in this State to collect accurate information as to the number and condition, with the names of free persons of color subject to the provisions of this act, and shall, as it is practicable, report the same in writing to the Governor.

"*4. Be it further enacted,* That a failure or refusal of the sheriffs, or any one or more of them, to perform the duties required shall be deemed an offense, and on conviction thereof shall be punished as a misdemeanor.

"*5. Be it further enacted,* That in the event of a sufficient number of free persons of color to meet the wants of the State shall not tender their services, that the Governor is empowered, through the sheriffs of the different counties, to press such persons until the requisite number is obtained.

"*6. Be it further enacted,* That when any mess of vol-

unteers shall keep a servant to wait on the members of the mess, each servant shall be allowed one ration."

"This act to take effect from and after its passage."

Earnestly engaged in the struggle for rebellious success they did not stop to quibble over the color of the fingers that drew trigger upon the soldiers of the Union, but wisely determined that help was what they needed, and whether it came in the shape of white or black men they accepted it for the good of their cause. They set us the example of arming the negro, and they have no right to complain if we fight them with weapons of their own choosing.

At New Orleans prior to the Federal occupation of the city they had a full regiment of African soldiers; and the first colored regiment organized by General Butler was made of the same men who had been conscripted under rebel rule but embraced the first opportunity to desert to us and declare for the Union.

I do not stop to inquire into the constitutionality of the emancipation of slaves and their employment in the armies of the Union.

When red-handed treason is grappling at the throat of the nation it is no time to higgie about the means of defense. If any man's code of action was such that he could not defend himself from the assault of a robber or an assassin without violating it, he deserves to be mulct or murdered; and if the occasion arose when he must break his rule or lose his life I should honor his breach of a creed not worth preserving. And, sir, if the framers of our Constitution so made it that our Government was to have no powers of resistance when assailed by traitors it deserves the destruction to which such an instrument would be doomed. Such a construction of it would be an imputation upon its illustrious authors of an imbecility which my respect for their memory will not permit me to indulge. I have no scruples on that score. I do not believe that when a traitor raises the sword to strike at the heart of the Union he has a right to cram the Constitution into the face of its defender, and say, "You have no right to take life without due process of law." By the very act of resistance to it he loses all the benefits which it confers upon the citizen.

I will not insult the memories of those who framed our Constitution by intimating that they made a Government which when it most needed it had least power; committed the supreme folly of making a Government that could only exist by sufferance, and was at the entire mercy of any set of traitors who might seek its destruction. Sir, they did not do it. It is of the very essence of Government that it possess the power of self-preservation, as it is of life that its possessor has the right to preserve it by any means which necessity demands. A Government that does not possess this right is a cheat and a shadow. Do gentlemen who deny the right of this Government remember the history of their own party?

The last administration under Mr. Buchanan spent \$20,000,000 in subduing a petticoat rebellion in the mountain-girt Territory of Utah. No lack of power was found while the rebels consisted of only a large assortment of females, but when the champions of slavery were in arms instead of the exhausted defenders of polygamy, we suddenly discover a great want of power!

But, sir, I have a little authority on this subject which I desire to submit. Within the recollection of all of us, Mr. Chairman, Jefferson Davis was Secretary of War of the United States. During the progress of those disgraceful scenes which reddened the virgin soil of Kansas with the blood of brothers it pleased the Chief Magistrate of the nation to declare certain classes of our citizens there in a state of rebellion. They denied that resistance to the bogus laws forced upon them by a Legislature elected by a Missouri mob was rebellion; but the Administration claimed that it was, and Mr. Davis, as Secretary of War, ordered the military forces of the United States to disperse those people wherever found, and here is an extract from his letter of instruction to General Persifer F. Smith, then in command of that department:

"The position of the insurgents is that of open rebellion against the laws and constitutional authorities, with such manifestations of a purpose to spread devastation over the land as no longer justifies further hesitation or indulgence. Patriotism and humanity alike require that rebellion should be promptly crushed."

We have heard of "chickens coming home to

roost," and I think a better illustration of this homely adage was never found than in this case. What he said in 1856 I echo in 1864: "Patriotism and duty alike require that rebellion should be promptly crushed." Sir, when he was in authority and others were supposed to question it no difficulty of a constitutional character was found to prevent his crushing it; no right of the majority to prescribe their own government, nowadays called secession, was permitted to intervene between rebellion and punishment.

As to the lawful rights of those in the rebellious territory I have no difficulty. I believe neither in the doctrine of State rights nor State suicide. A loyal citizen of this Government cannot have his rights taken from him by the act of his neighbors. The result of their action may deprive him of the means of asserting and exercising them, but they exist in him legally unimpaired. And a man who repudiates his duties to this Government can, in my opinion, claim nothing from it. The doctrine that a State can commit political suicide is completely answered by that provision of the Constitution which says that the "United States shall guaranty to every State in this Union a republican form of government." It is made our duty to preserve what a majority of the citizens of a State might seek to destroy, the integrity of the form of the State government; and so long as one man within its limits stands by his allegiance and defies the rule of rebellion, he has a right to claim from this Government the enforcement of the covenant.

Entertaining these views, I have no hesitation in indorsing the plan of the President for restoring the State governments. It looks to their preservation instead of annihilation, and presents a practical plan by which the constitutional guarantee can be made effective. The preliminary oath required seems to me to be without objection. The complaint that it is an imputation upon the loyalty of a faithful citizen seems frivolous. As well might a man claim that to require an oath to speak the truth as a prerequisite to delivering testimony in a court of justice was an impeachment of his veracity. This tenderness about taking extra-constitutional oaths has its origin in a sympathy for traitors which I think is too apparent to be misunderstood.

But our friends on the other side insist upon having the "Union as it was and the Constitution as it is;" a very pretty *ad captandum* phrase, but in my humble opinion a very senseless one. Are our friends in earnest when they say that they want another rule like that which swayed this Government under Buchanan? Do they desire to witness the recurrence of those disgraceful events which brought a stain upon our national honor which can never be wiped away? Are they willing even for the sake of the spoils to see us again wallowing in the slough of infamy into which the last Administration plunged this nation? Do they hunger so for the flesh-pots of Egypt that they are willing to see us prostrating every interest, State and national, to the perpetuation and fostering of that foul curse and reproach to the Republic, human bondage; when Cobb squandered the public moneys till the public Treasury became bankrupt, and your bonds fell to seventy-five cents on the dollar in a time of profound peace; when Thompson embezzled the funds which had been sacredly intrusted to his care to aid in the humane and charitable purpose of elevating the savage from a state of barbarism to that of civilization; when Floyd remained in authority that he might rob and steal on a scale commensurate with his unrivaled capacity; when, in fact, every Department had become so corrupt that the whole fabric came nigh tumbling to pieces from its own rottenness? No, sir. They will pardon me when I say I doubt their sincerity. "The Union as it was?" as well might you seek to crowd the condor who soars among the snowy summits of the Andes into the tiny shell from which he sprang, as to replace the American Union in the same position which it occupied prior to this rebellion.

Sir, these three long years of bloody, wasting, devastating war have not taught us a useless lesson. The noble martyrs who have gone down in this fierce struggle for the nation's existence and regeneration have not made their last sacrifice for the barren, fruitless result of restoring the very condition of things which superinduced the strife. It was for no such ignoble purpose that the gal-

lant Lyon died on the plain of Springfield, or that other martyr from my own far-off State, the lion-hearted, the eloquent Baker, whose brave words rang through this nation like a trumpet-blast calling its people to the defense of the national honor. It was for no such trifling purpose that he fell, the murdered victim of a traitorous commander-in-chief. Go ask the martyred brave who people the graves that line the swamps of the Peninsula and rest in the lonely tombs that rise on the banks and bayous of the Mississippi, if they are willing that their sacrifices should end in replacing the Union in the same condition it was when this wanton, bloody, and infamous rebellion began. It is enough to make them start from their dust to suggest the inquiry. After our terrible experience in taming this monster of slavery we are not going to leave the serpent with his fangs undrawn. The people of this nation, who have yielded up so much of life and treasure in this wicked rebellion, will never be content until they can know that its recurrence is impossible, and gentlemen might as well talk of recalling the past or of reanimating the fallen dead as to talk of the Union as it was.

Mr. Chairman, I am for the Union with every star in its place, redeemed, regenerated, and purified, as it will be by this war.

And now, sir, I wish to make a few observations in regard to our duty here.

This war has shown one thing clearly, and that is, that the people on both sides are in earnest. And I may add that if in this respect there is any difference, the rebels are more thoroughly in earnest than are we. Myself a native of a southern State, and knowing the spirit that animates that people, I can understand the desperate energy which they have thrown into this contest. I do not believe the tales that have from time to time been told us with regard to the affection of the people for the Union and their forced submission to the rebellion. They are, in my opinion, the most thoroughly united people in this contest that ever threw down the gage of battle. Every slaveholder is fighting with the desperation of despair to retain his property; and the poor white man who serves in the ranks is fighting with no less determination to prevent being placed by the law on an equality with the slave. It may be said that this latter feeling is all prejudice, and I may grant it. Still it is a fact; and for proof of the strength and bitterness of that prejudice, I appeal to loyal members from the slave States who sit around me.

In my observation the bitterest and most unreasonable pro-slavery men are those who never owned a slave and never will. However wrong they may be, they will remain so till this war has been fought through.

And right here, Mr. Chairman, let me say that I cannot agree with those humane ideas so frequently advanced on the other side of the House that you ought not to confiscate the property of the rebel in arms—that by doing so you drive him from repentance and prolong the war. I cannot comprehend the principle which permits us to take life with Christian propriety but is shocked at the thought of taking property; and, sir, if we can take life "without process of law," as a means of putting down this rebellion, can we not take property for the same purpose? As to our confiscating property being an incentive to them to continue the contest, they had thrown their all into the contest before, and nothing but success could save it to them.

But to return to the subject. To-day, with all his defeats and reverses, Jeff. Davis defies us with the best army that the confederacy has seen—men who when set in the stern strife of battle are the equals of any in the wide world. The rebellion is compressed, cramped, but it is not broken; and gentlemen deceive themselves who think we are to have an early and easy conquest. A single misfortune to Grant or Meade might place us next autumn no nearer our object than we are to-day; and, sir, I believe that it is our duty to look the danger that threatens in the face and prepare to meet the most tremendous shock of this war. Why was it that Rosecrans lay for months at Stone river after his hard-won victory and the retreat of Bragg? It was his want of men and means to follow. Why was it, when the gallant army of the Potomac had hurled back the discomfited legions of Lee on the bloody hills of Gettysburg,

that with victory, Providence, and the "patriotic Potomac" on our side, he yet escaped safely into Virginia? It was because we had not the men and the means to follow. And lastly, when, beneath the banner of Grant, the gallant Hooker—who was robbed of the glory and the laurel of Gettysburg—stormed the cloud-capped heights of Lookout Mountain, and rolled back the tide of the enemy upon the plains of Georgia, why was it that the results of the splendid triumph were lost? It was because we were still without men or means to follow.

And shall this chapter of failures teach us no lesson, or shall we gather from the experience the wisdom which shall bring triumph to the future? Then, sir, let us vote men and money. Provide the means of filling the ranks of the Army, not by tempting men by the sordid motives of pay and bounty, but by that stern call which every nation has a right to make on its people when its existence is at stake—recruit them until success must crown their arms.

Sir, our national credit is already groaning beneath the accumulating debt. We cannot afford to prolong this war. Every day of its continuance adds more than its million dollars to the public debt, and we must close this strife by quick subjugation or provide for a collapse of the national credit. We can end this war in the next campaign. I think my military friend from Ohio [Mr. SCHENCK] could draw an act which, if placed on the statute-book, would end all organized rebellion within the next ten months. And I will add that I am ready to vote for just as stringent a conscription law as he has the courage to ask for. And while we are voting buncombe resolutions about increased wages to the soldiers, I hope we shall have a tax bill to provide the money.

When the gentleman from Indiana offered his resolution to raise the pay of soldiers, unconscious that I was left entirely alone, I voted in the negative. I did it, sir, because we were informed that the demands upon our Treasury already crowded its resources; and I was unwilling to promise to pay men who had not asked it money that we did not have, and did not know that we could get. I am for filling the Treasury first, and will talk of distributing the contents afterwards.

I pledge myself here and now to stand by every movement which has for its purpose the replenishing of the Army and the Treasury. I will support the President, while, with an honesty of purpose and a clearness of vision which prove him one of the most illustrious men of modern times, he molds and directs the plans which are to throttle this devil of rebellion; and having thus humbly struggled to do my duty here go home to the noble young State which sent me here and tell the Union-loving people who live among her mountains and valleys that when misfortune came I at least had sought to provide against it to the best of my ability.

Now, Mr. Chairman, I wish to say a few words in reference to the pending amendment which has been advocated by the gentleman from Pennsylvania, [Mr. DAWSON.] My people are more than any other affected by the change in the standard of value, and yet they have made no complaint. Very many of them are cheerfully serving in the Army of the United States and receiving as pay what is equivalent to not more than seven dollars a month, and at places where it requires nearly seven dollars a day to live. Notwithstanding that such is the case, and that gold is the standard of value recognized in that country, I have not received a petition from a single soldier asking that they should be paid in gold and not in greenbacks.

Now, I put it to the gentleman from Pennsylvania [Mr. Dawson] and those who agree with him that when those men are willing to receive greenbacks, the lawful currency of the United States, there is no good ground of complaint to induce us to amend the bill as proposed.

Mr. C. A. WHITE obtained the floor, but yielded it to

Mr. CRAVENS, who moved that the committee now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally

under consideration, and particularly bill of the House No. 151, making appropriations for the naval service for the year ending June 30, 1865, and had come to no conclusion thereon.

SLAVERY IN THE DISTRICT OF COLUMBIA.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting tabular statements of the commissioners appointed by the President under the several acts for the release of certain persons held to service in the District of Columbia; which was laid upon the table, and ordered to be printed.

PENALTIES AGAINST TRAITORS.

Mr. HIGBY asked unanimous consent to introduce a bill to exclude traitors and alien enemies from the courts of the United States in civil cases, and from the public lands.

Mr. PENDLETON objected.

Mr. CRAVENS moved that the House adjourn.

The motion was agreed to.

And thereupon the House (at four o'clock and fifteen minutes) adjourned.

IN SENATE.

THURSDAY, February 18, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. MORGAN. I present the petition of seven hundred and eighty-five citizens of New York, asking Congress to pass such laws as will put the soldiers of our Army on the same footing as to bounty, pay, and pension, without regard to difference of the complexion. As a bill on that subject is before the Senate, I move that the petition lie on the table.

The motion was agreed to.

Mr. RAMSEY presented the petition of Lieutenant William L. Church, of Iowa, asking to be indemnified for property destroyed by the Sioux Indians under the lead of Inkpa-dutah, at Spirit Lake, in the year 1857; which was referred to the Committee on Indian Affairs.

PAPERS WITHDRAWN.

On motion of Mr. HOWARD, it was

Ordered, That the petition of Nancy M. Gansally, formerly widow of Lyman M. Richmond, praying for a renewal of pension or half pay on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. ANTHONY, it was

Ordered, That Cornelius Wendell have leave to withdraw his petition and other papers from the files of the Senate.

REPORTS FROM COMMITTEES.

Mr. SHERMAN, from the Committee on Agriculture, to whom was referred the petition of Berendt A. Froiseth, praying for the enactment of suitable laws for the encouragement of immigration, submitted a report accompanied by a bill (S. No. 125) to encourage immigration. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. SHERMAN, from the same committee, to whom was referred a bill (S. No. 64) to incorporate the North American Land and Emigration Company, reported it back and asked to be discharged from its further consideration; which was agreed to.

Mr. TEN EYCK, from the Committee on Commerce, to whom was referred the memorial of George W. Fish, praying compensation for services rendered as consul of the United States from the 1st day of April, 1861, to 30th of August, 1861, asked to be discharged from its further consideration; which was agreed to.

Mr. HENDRICKS. The Committee on Public Lands, to whom was referred the bill (S. No. 32) granting lands to the State of Michigan for the construction of a wagon road for postal and military purposes, have instructed me to report it back, and recommend that it do not pass, upon the ground that it interferes with the grant to a railroad company in 1856.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a bill (H. R. No. 228) confirming the title of Joseph Ford to certain lands in Rice county, in the State of Minnesota, asked to be discharged from its further

consideration, and that it be referred to the Committee on Private Land Claims; which was agreed to.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print three thousand copies of the Navy Register, have instructed me to report it back and recommend its passage. I ask for its present consideration.

The resolution was considered by unanimous consent, and adopted, as follows:

Resolved, That three thousand copies of the Navy Register be printed for the use of the Senate.

BILL INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 126) to amend "An act to incorporate the inhabitants of the city of Washington," passed May 15, 1820; which was read twice by its title, and referred to the Committee on the District of Columbia.

INTERNAL REVENUE.

The Senate proceeded to consider its amendments to the bill (H. R. No. 122) to increase the internal revenue, and for other purposes, disagreed to by the House of Representatives; and

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. FESSENDEN, Mr. HOWE, and Mr. JOHNSON.

ALMOND D. FISK.

Mr. ANTHONY. I ask the Senate to take up Senate bill No. 112, for the relief of the heirs of Almond D. Fisk, deceased, for the purpose of recommitting it to the Committee on Patents and the Patent Office. It is a bill which was recommended to that committee on my motion a day or two since; but at the request of the Senator from Wisconsin [Mr. Howe] I allowed it to be reconsidered. I want it recommitted, because there is an adverse interest that has not been heard; and it is eminently proper that that interest should be heard before the committee rather than before the Senate.

The VICE PRESIDENT. The Senator from Rhode Island moves to postpone all prior orders for the purpose of proceeding to the consideration of the bill indicated in his motion.

The motion was agreed to; and the Senate resumed the consideration of the bill.

The VICE PRESIDENT. The Senator from Rhode Island now moves that the bill be recommitted to the Committee on Patents and the Patent Office.

Mr. HOWE. I do not like to have it recommitted; but if I can have any assurance that the adverse interest to which the Senator refers will be here to be heard in any reasonable time, I shall not be disposed to resist it. The fact is this application was made here at the last session of Congress. The Committee on Patents then heard it, and reported a bill; and it passed the Senate by a very decided vote. At the opening of this session it was again recommitted to the Committee on Patents, and this adverse interest has not appeared here yet, in fact, except by proxy. Unless the Senator can give some assurance that this hearing can be had within a reasonable time, I think it unreasonable to ask this delay.

Mr. ANTHONY. I cannot give any assurance that the adverse interest will come here to protect his rights; but I give this assurance, that if the person does not come here I shall not press any unreasonable delay. But there is an interest that has not been represented here. Now it has got to be represented. It must be heard somewhere. This Senate will not pass a bill affecting any vested right without giving the parties a hearing; and certainly for the convenience of the Senate and all propriety for its hearing before the committee rather than before the Senate. I know nothing about the merits of the case; but I know there is an important adverse interest that has not been represented, and that it is not the fault of that party that he has not been represented. He had reason to believe that this matter was not to be reported upon.

Mr. HOWE. When will he be here?

Mr. ANTHONY. The Senator from Wisconsin

sin wants me to state when the party will be here. I certainly cannot state it; but if he does not come in a reasonable time I shall not ask for any further delay.

Mr. TRUMBULL. It will be in the power of the committee to report the bill back at any time. It cannot be delayed any time. The Senator from Wisconsin will have control of it.

The VICE PRESIDENT. The question is on the recommitment of the bill to the Committee on Patents and the Patent Office.

The motion was agreed to.

BUSINESS OF THE DISTRICT OF COLUMBIA.

This day having been set apart for the consideration of business relating to the District of Columbia, on the motion of **Mr. GRIMES** the mayors of Georgetown (**Mr. Addison**) and of Washington (**Mr. Wallach**) were admitted to the floor of the Senate Chamber for the convenience of consultation with Senators on the pending measures.

NOTARIES PUBLIC.

Mr. GRIMES. I move that the Senate proceed to the consideration of Senate bill No. 82, concerning notaries public for the District of Columbia.

Mr. WADE. I believe the resolution about permitting the judges of the courts of the District to have the privilege of the Library is the first bill on the Calendar. There was an adverse report from the Committee on the Library, and I wish that resolution to be taken up and disposed of, as I believe it is the first District business in order on the Calendar.

Mr. GRIMES. I do not know that there is any order about it. I supposed business relating to the District of Columbia was intrusted to my care to be called up whenever I saw fit.

Mr. WADE. I will not oppose you. I am a member of the Committee on the District of Columbia, but I will not oppose you.

Mr. GRIMES. I am not aware that that resolution was referred to the Committee on the District of Columbia, or reported by them.

Mr. WADE. It is District business.

Mr. GRIMES. I am not aware of that.

The motion of **Mr. GRIMES** was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 82) concerning notaries public for the District of Columbia. The bill provides that notaries public for the District of Columbia may be appointed by the supreme court of the District. No new appointment is to be made until the number in the District is reduced to twenty-five; and afterwards vacancies are to be filled by the court as they may occur. Each notary public hereafter appointed, before entering upon the duties of his office, is to take an oath faithfully to discharge them, and to give bond to the United States in the sum of \$2,000, with security to be approved by the supreme court or a judge thereof, for the faithful discharge of the duties of his office. And the court, with reasonable dispatch, by a general order to be published in one or more newspapers printed in the District, is to require all persons now holding the commission of notary public to give new bond; and all persons failing to comply with that order are to be stricken from the list of notaries. Notaries public are to have authority to demand acceptance and payment of foreign bills of exchange, and to protest them for non-acceptance and non-payment; and to exercise such other powers and duties as, by the law of nations, and according to commercial usages, or for use and effect beyond the jurisdiction of this District as, according to the law of any State or Territory of the United States, or any foreign Government in amity with the United States, may be performed by notaries public. Notaries public may also demand acceptance of inland bills of exchange, and payment thereof, and of promissory notes, and may protest them for non-acceptance or non-payment, as the case may require.

Each notary public is to have power to take and to certify the acknowledgment or proof of powers of attorney, mortgages, deeds, and other instruments of writing, the acknowledgment of any conveyance, or other instrument of writing, executed by any married woman, to take depositions, and to administer oaths and affirmations in all matters incident or belonging to the duties of his office, and to take affidavits to be used before

any court, judge, or officer within this District. Each notary public is to keep a fair record of his official acts, and, when required, to give a certified copy of any record in his office to any person, upon payment of the fees therefor. Each notary public, before he acts as such, is to provide a notarial seal, with which he shall authenticate all his official acts, which seal, together with his records and official documents, are not to be liable to be seized on by any execution. He must deposit an impression of his official seal in the office of the clerk of the supreme court of the District. On the death, resignation, or removal from office of any notary public, his records, together with all his official papers, are to be deposited in the office of the clerk of the supreme court of the District. The original protest of a notary public, under his hand and official seal, of any bill of exchange or promissory note for non-acceptance or non-payment, stating the presentment by him of such bill of exchange or note for acceptance or payment, and the non-acceptance or non-payment thereof, and the service of notice on any or all of the parties to such bill of exchange or promissory note, and specifying the mode of giving such notice, and the reputed place of residence of the party to whom the same was given, and the post office nearest thereto, are to be *prima facie* evidence of the facts contained therein. The certificate of a notary public, under his hand and seal of office, drawn from his record, stating the protest and the facts therein contained, are also to be evidence of the facts in like manner as the original protest.

The fees of notaries public are to be: for each certificate and seal, fifty cents; for taking depositions or other writings, for each one hundred words, ten cents; for administering an oath, fifteen cents; for taking acknowledgment of a deed or power of attorney, with certificate thereof, fifty cents; for every protest of a bill of exchange or promissory note, and recording the same, \$1 75; for each notice of protest, ten cents; for each demand for acceptance or payment, if accepted or paid, one dollar, to be paid by the party accepting or paying the same; and for each noting of protest, one dollar. All acts and parts of acts inconsistent with this act are to be repealed.

Mr. HALE. I desire the attention of the chairman of the Committee on the District of Columbia for a moment to the first section, in which the power of appointment is conferred on the supreme court of the District. It strikes me that the same tribunal that has the appointment ought to have the power of removal for cause. There is nothing of that sort in the bill, however.

Mr. GRIMES. I think that they have that power now; but I am perfectly willing that the Senator should propose an amendment to that effect. I will state that at present there is no law regarding the appointment of notaries public, or controlling them, or defining their powers and duties, or specifying their fees, except such as were in existence in Maryland before this District was ceded to the United States, as I am informed by the notaries public. This bill is designed for the purpose of putting on our own statute-book a law that shall regulate the duties of the notaries public, specifying the manner in which they shall be appointed, and the manner in which they shall be amenable to some higher tribunal, and defining their fees. I think, although I am not confident about it, for I do not pretend to know much about the laws of this District—

Mr. WADE. You have no objection to that amendment?

Mr. GRIMES. No, sir. I think the court have that power now; but I am very well satisfied to accept such an amendment, if the Senator will offer it.

Mr. HALE. Then I move to amend the first section by inserting after the word "District," in line four, the words "who shall have power to remove the same for cause."

Mr. GRIMES. I am satisfied with that amendment. I think there is not any such provision in this bill; but I think the court have the power under it. By reference to the eighth section it will be observed that the bill itself, as reported by the committee, contemplates the power of removal of these officers by the court:

"That on the death, resignation, or removal from office of any notary public, his records," &c.

I am very well satisfied that the court has the power in this District to remove justices of the

peace, notaries public, and other officers of that description. I know that it has been done in regard to the justices of the peace since this session of Congress began.

Mr. JOHNSON. It will do no harm to insert it.

Mr. GRIMES. No, sir; and I have no objection to it.

The amendment was agreed to.

Mr. HALE. There is another amendment which I think should be made, and to which I desire to call the attention of the chairman of the District Committee. Is there any penalty now for notaries public taking higher fees than are prescribed by the statute?

Mr. GRIMES. No, sir.

Mr. HALE. If there is not, I think that matter should be provided for in this bill; and I move after the tenth section to add this provision:

"That any notary public who shall take a higher fee than is prescribed by this act shall pay a fine of \$100 and be removed from office by the court."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. CLARK. Mr. President, I desire to move an amendment to limit the number of years to five during which these officers shall serve. I think that will be better than to leave them to serve for life. I have included in my amendment the amendment of my colleague in substance, to give the bill conformity.

The Secretary read the amendment, which was to insert after the word "District," in the fourth line of the first section, the words, "whose term of office shall be five years, and who may be removed by said court for cause;" so that the clause will read:

"That notaries public for the District of Columbia may be appointed by the supreme court of said District, whose term of office shall be five years, and who may be removed by said court for cause."

The VICE PRESIDENT. The Senate have agreed to the other amendment; but by the unanimous consent of the Senate it can be put in this form.

Mr. CLARK. I only insert it in this amendment so as to modify the words a little.

The VICE PRESIDENT. The Chair will regard this as a substitute for the other amendment, if there be no objection, that having been agreed to.

The amendment was agreed to. The bill was ordered to be engrossed and read a third time. It was read the third time, and passed.

CHARTER OF THE CITY OF GEORGETOWN.

The next bill considered as in Committee of the Whole was the bill (S. No. 81) to amend the charter of Georgetown, in the District of Columbia. It provides that the corporation of Georgetown is not hereafter to be forced to contribute toward the expense of the levy court of the county of Washington, in the District of Columbia, more than a certain proportion of the expenses incurred on account of the orphans' court and the office of coroner, which was left blank in the bill to be filled up by the Senate, and one half the expense of opening and repairing roads in the county of Washington west of Rock creek leading to Georgetown. The residue of the expenses of the coroner and the orphans' court are to be defrayed by the corporate authorities of the city of Washington.

The Committee on the District of Columbia reported the bill, with an amendment to strike out all after the enacting clause, and to insert the following in lieu thereof:

That from and after the passage of this act, the corporate authorities of the city of Washington, the corporate authorities of the city of Georgetown, and the county authorities of the county of Washington, in the District of Columbia, shall contribute to the expenses of the levy court of the county of Washington, incurred on account of the orphans' court, the office of coroner and the jail of said county, in the following proportions, to wit: the city of Washington twelve fifteenths, the city of Georgetown two fifteenths, and the county of Washington one fifteenth of said expenses.

Sec. 2. And be it further enacted, That all laws and parts of laws inconsistent with the provisions of this act be, and they are hereby, repealed.

The VICE PRESIDENT. The question is on concurring in the amendment reported by the committee. That amendment is open to amendment.

Mr. GRIMES. By the acts of 1820 and 1826 the expenses of the levy court of the county of Washington were distributed between the city

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of Georgetown, the city of Washington, and the county of Washington, composing that portion of the territory outside of the two cities, thus: the city of Washington was required to pay one half, the city of Georgetown one fourth, and the county one fourth. At that time the proportion required to be paid by each was about fair and equitable. Since that time the population of Washington has greatly increased. They have all increased, in fact; but Washington has increased in population and wealth to a greater extent than either Georgetown or the District outside of the two cities. According to the census of 1860, there were 75,180 people in the entire District of Columbia, of whom 8,733 were in Georgetown, 5,225 were in the county, and 61,122 in Washington.

The Committee on the District of Columbia have taken the census of 1850 as a basis for the distribution of the expenses between the two cities and the county. That would not be exactly fair to-day, perhaps, toward the county and the city of Georgetown. Perhaps Washington has increased during the last three years in a much greater proportion in wealth and population than Georgetown and the District; but there was no other data that we could assume upon which to reach any very reasonable conclusion.

It will be observed, Mr. President, that in this bill we have inserted the words, "and the jail of said county." The bill, as it now stands, would not require the levy court, or the county, or either of the cities to contribute at all toward the expense of supporting the jail; but the words were inserted there in contemplation of some other legislation of Congress by which a portion at any rate of the expenses of supporting the jail might be thrown upon the county. If Congress does not see fit hereafter to provide by law that the jail shall be taken care of by the county, as it does provide in all the Territories of the United States, which hold very much the same relation to the General Government that the District of Columbia holds to the General Government, then this clause in relation to the jail will be wholly inoperative; but if it shall be deemed best hereafter to provide that the District shall contribute toward the expenses of the jail, then this law will stand, and the distribution between the two cities and the county will be as provided in this act.

Mr. JOHNSON. I will ask the chairman of the committee if the expenses of maintaining the jail are not now paid by the United States out of the Treasury?

Mr. GRIMES. They are.

Mr. JOHNSON. So I supposed; and I ask him to state what, if he recollects, is the amount of maintaining the jail? My impression is that it is very heavy, and it is particularly heavy at this time. The population of Washington, although it has really increased to a very great extent, has nominally increased to a very much greater extent, and consists of a floating population brought here by the peculiar condition of the country; and very many of the offenses, perhaps most of the offenses that are committed, are committed by that class of people who are necessarily brought to a place such as Washington is at this time. It seems very hard to me that the whole expense of maintaining the jail, or the proportion stated here, should be thrown upon the city of Washington.

I am not sure that I understood the chairman, whether he intended to say that this law would not operate at once, so as to throw upon the city the burden of supporting the jail, or whether its operation would be dependent upon future legislation on the part of Congress. As I read it, the moment it passes, the cities of Washington and Georgetown and the county will be liable to pay the whole expense of maintaining the jail. Now, this city has recently determined upon incurring very heavy expenditures for the pavement of its streets, the making of additional sewers, and the improvement of the existing sewers; all of which will throw on the city a very heavy burden. It seems to me the proper policy, so far as we can

do it consistent with justice to the United States, would be rather to increase the inducements for persons to come to the city and make it their permanent residence. That is not done if you heap upon them the expense of maintaining a jail, which for the most part becomes necessary and becomes expensive, not because the city of Washington is here, or is the city of Washington, and has a population of its own, but because, being the seat of government, there are a great many people from all the States of the Union, and from foreign nations, who are assembled here, and who are very apt to increase, and certainly have very much increased, the expense of maintaining the jail.

Mr. GRIMES. Mr. President, the Senator from Maryland reads this bill and construes it altogether different from the manner in which I read it. There is nothing in the bill which makes it obligatory on either of the cities or the county to support the jail. It merely says, "such expenses as may be incurred;" that is, such expenses as may be incurred by them voluntarily if they see fit to do it, or by some act of Congress that may hereafter be passed, shall be distributed in the proportions fixed and established by this bill.

I am unable to answer the question of the Senator as to the expenses of the jail. I do not know anybody who can answer it except the First Comptroller, and I do not know that he can. I know they are very heavy; but I am very well satisfied they would not be one fourth of what they are if the jail was under the control of some local authority, and not under the control of the United States Government.

Mr. JOHNSON. Why?

Mr. GRIMES. In the first place, we pay to all the officers connected with that jail fees twice as large as are paid by the county and by the city for services of a similar or very similar character, and to men of the same grade of capacity for the performance of such duties. We pay twice as much for the support of the persons in the jail, under some extraordinary construction that has been given on the subject of rations to these prisoners, than has been given heretofore. The commutation for rations to the prisoners now in the jail is thirty-six cents, although a year ago it was in testimony before the Committee on the District of Columbia that those rations could be furnished for eight or nine cents, if I remember aright. If we had the corporations of Georgetown and Washington, or the officers of the levy court, to look after that jail, they would see to it that there was not such an extraordinary amount of money squandered as is being squandered now. There is no control over the jail by Congress which appropriates this money.

There is no analogy in the history of the Territories or in the Government for the United States Government paying the expenses of jails. I have lived in my lifetime in three Territories. A Territory holds very much the same relation to the Federal Government that this District does. There never was such a case heard of as the Federal Government paying the expenses of a jail in a Territory. But still, as I said before, this bill does not contemplate producing any change in regard to the expenses of the jail. I think the bill will not admit of any such construction as the Senator from Maryland gives to it. It contemplates, however, that if they shall voluntarily take any action on the subject, the expense shall be distributed in the proportion fixed by this bill; or, if we shall follow it up by some subsequent legislation, and declare that hereafter the District of Columbia shall be burdened with the expenses of the jail, then that those expenses shall be distributed among the constituent parts composing the District in the ratio fixed by this bill.

Mr. JOHNSON. I do not think I have been mistaken as to the meaning of the bill as it stands, if it should become a law. The law as it now stands requires the whole expense of the jail to be defrayed by the United States. As the District is entirely within the exclusive legislative jurisdiction of Congress, Congress of course have a right to change it. There is no doubt about that;

and the only question is, whether if this bill passes as it now stands on our table, the law in that respect will not be changed.

The bill assumes of course that there are certain expenses to be met for the support of the orphans' court, the expenses of the levy court, and the expenses of the jail, and says that those expenses in the aggregate, orphans' court, levy court, and jail shall be paid. Shall, when? Shall under this law. When? When the law passes, I have no doubt, because the chairman of the committee says so, that it was not the purpose of the committee or his own purpose in drafting the bill; but as I read it, it will become at once the duty of these three localities, Georgetown, Washington, and the county, to pay the whole amount of the expense.

The chairman admits that the expense would be a pretty considerable item. He justifies the proposition to throw the whole on this city and Georgetown and the county, on the ground that if the matter were in their hands the expense would not be as great as it is. Whose fault is it that the expenses are so great as the gentleman states? It is not the fault of this city, nor of Georgetown, nor of the county; it is the fault of Congress; it is the fault of the committee, if there be any fault. I ask the honorable chairman of the committee and my friend from Maine, [Mr. MORRILL,] who have these matters in charge, why cannot you by legislation just as well as this city or Georgetown guard against that unnecessary expense? I see no difficulty about it, not the slightest.

It is true, I dare say, that the expenses are a great deal heavier than they should be. The chairman says you pay your jailer and superintendent and different officers a great deal more than they ought to be paid. You can get rid of that by changing the law in that particular. It is said that the amount allowed for rations is much larger than it should be. You can get clear of that just as well as the city can, and you have the same inducement the city has; that is to say, the inducement of saving money. The expenses will be enormous or very heavy, no matter what may be the salaries paid to these officers, or what may be the amount of rations furnished to the prisoners; but that does not justify throwing the whole expense on these three localities, as a very large portion of the expense is caused by the Government itself, not directly but incidentally.

Now, there is a difference, as it seems to me, and upon that difference Congress has acted up to the present time, between the condition of this city and any other Territory. In the other Territories the whole is strictly local; all the population there belongs strictly to that locality. They go there to reside. They are governed by their own territorial legislation. Their territorial Legislatures have entire jurisdiction over the people; but here the city has no jurisdiction at all except so far as you give it to them.

Mr. GRIMES. We propose to give it to them.

Mr. JOHNSON. You do not give them the power of legislation in order to keep down expenses by keeping away criminals.

Mr. GRIMES. We propose to follow that up hereafter.

Mr. JOHNSON. In what way? That cannot be done. There are some things that cannot be done, and that is one of those things. You cannot prevent people from coming to the District as long as we remain a free people. They will come, and in the present condition of things they come in hordes, and where such a mass come into the city, in the nature of things, as long as men are men, there will be a great many men who will soon find their way into the jail.

It is nothing new for the United States to pay the expenses of enforcing its criminal law. The expense of maintaining every man who is convicted here or in the States of an offense under the laws and is sent to the penitentiary, in that penitentiary is borne by the Government; and why? Because he is an offender as against the laws of the United States, and the expense of maintaining the laws of the United States ought to devolve

upon Congress. The laws of the United States are as much in force here as they are in the States. The only difference between the two is that here they are more extensive than they are in the States. The whole here, local and general, is with Congress; but the principle is the same. If it is right that the United States should support its own criminal system in the States out of its own Treasury, it is equally right, as it seems to me, that it should support its own criminal system here out of the Treasury. But whether that be true or not in general, one thing seems to be very obvious, and I submit it to the chairman, whether it would not be better to let the bill lie on the table for a while at least, in order that we may frame some provision by which these localities shall not be required to pay the whole expense.

Mr. GRIMES. I do not think they pay any. That is the difference between the Senator and myself.

Mr. JOHNSON. But I assume now that I am right; that if this bill passes, they will at once be compelled to pay the whole expense. But suppose it is not so. The chairman says he proposes to change it so as to make the law operative. How is that to be done? Merely by saying that these localities shall pay the expenses, and when the law is changed according to his mode of providing for the expenses that will then be incurred, it does not saddle the United States with any portion of the expense. I submit, therefore, to my friend, the chairman of the committee, that perhaps he had better let the bill lie for a moment until we can have an opportunity of examining it.

Mr. MORRILL. I desire to offer an amendment to the bill.

The VICE PRESIDENT. There is a pending amendment—the amendment reported by the committee, which is open to amendment.

Mr. MORRILL. My amendment is to amend that amendment by inserting after the words "and the jail of said county," in the ninth line, the words "when hereafter imposed by law."

I understand the committee did not intend to impose the expense of the jail at present by this bill upon the county; but the bill contemplates an imposition of the expenses in part upon the county by subsequent legislation. The Senator from Maryland thinks that the bill does presently impose the expense upon the county. To obviate that difficulty this amendment is proposed, leaving to future legislation to determine whether any portion of the expenses shall be imposed upon the county. If they are, then of course this bill fixes the ratio; and that is all. With that explanation, I do not suppose it is objectionable.

Mr. JOHNSON. The proposed amendment relieves the bill itself of one of the objections which I stated, or rather makes the bill accomplish what the chairman of the committee says was the object of the committee in drafting the bill, makes it prospective; but it does not remove the other objection. The other objection was that it is not right, as I think, that the cities and county should pay the whole of the expense of the jail. This amendment only provides that when the expense is laid on them it is to be paid in the proportion there stated, whatever you may impose. You do not say the United States shall pay any part of it. Whatever may be imposed in the future, the whole of it is to be paid by these three localities.

Mr. MORRILL. In that proportion.

Mr. JOHNSON. Well, the proportions are in fifteenths, and you have got all the fifteenths named here, and the city of Washington must pay so many fifteenths.

Mr. MORRILL. We may say that the United States shall pay one half and the county one half of those proportions.

Mr. JOHNSON. But you do not say that. At least I do not understand it so. I submit it to the friends of the bill.

Mr. MORRILL. You will have to look at it sharper.

Mr. JOHNSON. Well, I think this is sharp on the locality. The bill, as proposed to be amended, will say, if we pass it in that form:

That from and after the passage of this act, the corporate authorities of the city of Washington, the corporate authorities of the city of Georgetown, and the county authorities of the county of Washington, in the District of Columbia, shall contribute to the expenses of the levy court of the county of Washington, incurred on account of the orphans' court, the office of coroner, and the jail of said county,

in the following proportions, to wit: the city of Washington twelve fifteenths, the city of Georgetown two fifteenths, and the county of Washington one fifteenth of said expenses.

That, according to my calculation, is fifteen fifteenths. Now, what is the United States to pay? If the Senate will consent to let the bill lie on the table for a short time we can easily draft an amendment to free it from the difficulties I have stated. I have no objection to the bill at all, except that I wish to guard this city and Georgetown against what I think would be a very burdensome taxation. If the friends of the bill think that the United States should pay a portion of it, then they should provide what portion the United States is to pay in this bill, instead of saying that the whole fifteen fifteenths is to be paid by these three corporations.

Mr. MORRILL. If I understand the bill, I do not think it is obnoxious to the objection taken by the Senator from Maryland. The committee did not intend by this bill to impose any expense on the county. They considered the question of imposing a portion of the expenses of this jail hereafter on the county, but did not provide for it by this bill, but intended to provide for it by another bill. They say, therefore, that whatever expenses shall be imposed by law on the county in regard to the expenses of this jail, that portion shall be distributed among the cities of Georgetown and Washington and the county in the proportions named. Suppose that Congress should say by a subsequent act that one half the expenses of this jail shall be borne by the cities of Georgetown and Washington and the county. Then it would follow that the rates are simply fixed by this bill; and that is all. The objection that the Senator takes is, that the fifteen fifteenths mentioned in this bill would necessarily make the whole of the expense. That is true; but that proportion only applies to the sum which by subsequent legislation we shall fix for the cities and the county to pay. For that reason I think the objection is not well taken.

Mr. TEN EYCK. It is very difficult for a Senator coming from a distant State to understand the laws of this District, and especially to understand the measures coming from the Committee on the District of Columbia, he not being a member of that committee, and not having heard the discussion on the subject, and the reasons for the proposed statute.

If the view submitted by the Senator who last spoke be the correct one, if that be the correct construction of this bill in its present frame, it does not require these three corporations, the two cities and the county, to pay fifteen fifteenths, but only such proportion of the expenses as may hereafter be levied for the purposes specified by the bill, to be settled in some statute or act of Congress hereafter. Then I suggest whether, if the information I have received be true, the proportions of the amount of the expenses of this levy court, on account of the orphan court, the coroner, and the jail, hereafter to be levied, are proper and right.

I understood the chairman of the Committee on the District of Columbia to say that heretofore the practice had been to assess these taxes according to population. My information is that they have been assessed according to area, and not according to population; and there is some propriety in that. This city is the Federal capital, and is subject to all the burdens which arise from its peculiar character as well as the advantages which it also derives from being the capital of the nation. It has been the practice heretofore, as I understand, to levy these duties according to the area of territory, and not according to the population, in order to equalize the burden, and place it upon those who are better able to pay it, and who in justice ought to pay this expense.

I understand that the proportion heretofore has been one half upon the county and one half upon the cities. I understand that the levy court which is to be authorized by this act to incur these expenses is constituted in the proportion of five from the county to three from the city of Washington, and one or two from the city of Georgetown. All the public officers who have charge of these matters of city and county expenses are appointed in that proportion with a view to represent their respective interests properly, and to have their re-

spective weight and influence in those boards. I have always understood that taxation and representation should go together, and have heretofore gone together; and yet in the bill before us we have a proposition to assess twelve fifteenths of the taxes on the city of Washington, and three fifteenths on the county of Washington and the city of Georgetown, although you give them at least five out of the nine who compose the levy court to incur these expenses.

It was with a view to state these facts that I rose. I do not profess to be at all familiar with the statutes heretofore on this subject, or to have had an opportunity to look into and fully understand the extent and drift of the proposed amendment coming from the Committee on the District of Columbia; but still it seems to me there is an impropriety in changing the whole practice and the whole system which has obtained heretofore in relation to these questions and the raising of these taxes. Therefore, as at present informed, I shall be opposed to the amendment proposed by the Committee on the District of Columbia.

Mr. GRIMES. This is the first time that I have ever heard that the original apportionment was made between the cities of Georgetown and Washington and the county according to their geographical area. Since the Senator has been speaking, I have been in conversation with the mayor of Georgetown, who, I believe, is one of the oldest inhabitants around here, and he tells me the Senator from New Jersey is mistaken about that, and it was originally made, as I had supposed, according to population in these respective localities. But if it had been made according to geographical area, certainly it is time we should change it, and make it, as it ought to be, on population.

What are these expenses to be incurred for? For the orphans' court? Would it be fair to tax five thousand people in the county outside of these cities one half as much as we tax the people here in the city of Washington, where there is such an accumulation of population and of wealth? That is the proportion as it now stands. Would it be fair to tax the eight thousand people in the city of Georgetown one half as much as you tax the sixty or seventy thousand people in this city? Have they all as much business to be transacted in the orphans' court, or half as much business to be transacted in the orphans' court, as the people of this city? Have they got one half as much as the people of this city to be adjudicated upon? Have they got one half as much of the ability to pay fees as the people in this city have? And for whose benefit is it that the coroner performs his duties? Is he called to perform duties outside the city of Washington to one half the extent that he is within the city of Washington?

As I said before, when the apportionment was originally made it was comparatively fair. Our predecessors thought they established it upon a correct and just basis, because at that time the city of Georgetown was nearly one half or quite one half as large as Washington in population, and there were about one half as many people in the District outside of both cities as there are now; and hence they declared that each of the two corporations, the county and Georgetown, should pay one quarter each, while this city should pay one half. Now, there has been such an increase of population and wealth here that Washington is intrinsically worth twelve fifteenths and has population twelve fifteenths as compared with Georgetown, and the county two fifteenths and one fifteenth. Even if it be true, as the Senator from New Jersey suggests, that the original basis was geographical extent, I apprehend it is time we should change that rule and establish population as the basis.

Now let me say one word further, and I believe it is all I shall have to say on this subject. It was never the intention of the Committee on the District of Columbia to require by this bill that the cities or any of these corporations should bear any portion of these jail expenses. The sole purpose of inserting the words "and the jail of said county" in this bill was to prevent the necessity of an appeal to Congress at every session for a reapportionment of the expenses between these respective corporations.

Some gentlemen may suppose it is a mere matter of amusement to be on the Committee on the District of Columbia, where you have one hun-

dred thousand people about you, each one of them having a different interest, each one of them trying to promote his own interests, and some of them perhaps not over-anxious that the interests of other people should be promoted.

We sought to get rid of this kind of importunity that we knew would be constantly addressed to us at every session of Congress in regard to this reapportionment of the expenses of the cities and county. We merely inserted the words in relation to the jail in order to prevent the necessity, whenever Congress, if it should see fit hereafter to require that the cities and county in the District should pay a portion of the jail expenses, of our going into a mathematical calculation or to have a new census taken, or anything of that kind, to determine the proportion of expense that should be borne by each. The amendment of the Senator from Maine obviates to my mind all the objection that has been taken by the Senator from Maryland.

The Senator from Maryland asks us to let the bill lie on the table until an amendment can be drawn which will require the county of Washington to pay only one half. I do not ask the county of Washington to pay anything. I am not in favor and am not prepared to vote to impose one cent of taxation on the county of Washington today in connection with this jail; and I do not know that I shall be ready to do so this Congress. There is, therefore, no necessity for laying the bill on the table for that purpose. It may be that some arrangement may be hit upon hereafter between the representatives of the Government in this Chamber and the authorities of Washington, which will be agreeable to all, by which a portion of this expense shall be thrown upon the city, and let the city have control of the jail, as I think it or some municipal authority should have. I think it would be for the benefit of us all.

Mr. JOHNSON. Move to strike out the jail.

Mr. GRIMES. I have just said I only put it in there for the purpose of preventing these importunities coming to us.

Mr. JOHNSON. If those words were left in, the apprehension I had was that this city, Georgetown, and the county would be compelled to pay the whole expense of the jail. I have no objection to the bill as explained by the chairman and by his associate on the committee, the Senator from Maine. It is intended, I understand, to provide at once, in order to guard against importunity and difficulty in the future, that whatever may be the expense, however incurred and upon whomsoever they may be levied, they shall be borne in the proportions here stated. As I understand the chairman he does not propose by this bill to make the District pay any portion of the expenses now being incurred to support the jail.

Mr. GRIMES. No, sir.

Mr. JOHNSON. That being the case, I do not see why he has put the jail in at all. Let us strike that out, and when we come to provide hereafter by another bill for the manner in which the expense of the jail can be supported, we can provide that it shall be supported by these cities in the proportion of a half or a third or whatever it may be, and have no importunity about it.

Mr. GRIMES. Then we shall have this old question of fixing the rates between the respective proportions over again.

Mr. JOHNSON. There will be no difficulty about that, because, according to the Senator's view, this bill would not fix the rates unless we meant to throw the whole burden on the District.

Mr. GRIMES. Suppose we pass a law hereafter that one half of all the expenses of the jail shall be borne by the levy court and one half by us.

Mr. JOHNSON. Then you would have to state it in the proposition stated in this bill. That you can do just as well if you leave the jail out of this bill altogether. It does not answer any purpose that I see, and if the Senator has no objection I will move to strike out all relating to the jail.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question now is on the amendment proposed by the Senator from Maine to the amendment of the committee. The motion to strike out will be in order when the amendment of the committee is perfected.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question

now is on the amendment of the committee as amended.

The amendment as amended was agreed to.

The PRESIDING OFFICER. Did the Senator from Maryland propose to move to strike out the words "and the jail of said county?"

Mr. JOHNSON. I suggested to the chairman of the committee that perhaps a difficulty that may exist and will exist since this amendment is adopted will be obviated by striking out the word "jail." However, I will not move the amendment.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed; and its title was amended so as to read, A bill to apportion the expenses of the levy court in the county of Washington upon the basis of population.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (No. 42) to enable guardians and committees of lunatics appointed in the several States and other countries to act within the District of Columbia; in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the Vice President:

A bill (S. No. 51) amendatory of and supplementary to an act to provide circuit courts for the districts of California and Oregon, and for other purposes, approved March 3, 1863; and

A bill (H. R. No. 145) for the relief of the heirs of Noah Wiswall.

AMENDMENT OF ENROLLMENT ACT.

Mr. WILSON. I am directed by the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, to submit a report, which I ask to have considered now.

The VICE PRESIDENT. That can be done by the unanimous consent of the Senate. The Chair hears no objection.

Mr. POWELL. Has the report been read?

The VICE PRESIDENT. It has not been read.

Mr. HENDRICKS. I move that the report be printed. This is a very important question, which we ought to understand. I should like to see what legislation was done in the committee of conference about it.

Mr. WILSON. It is a matter of importance to get this bill through as soon as possible, and I do not think it is necessary to print the report. It is very plain, and it will be read.

Mr. HENDRICKS. I do not question what the Senator says about the importance attached to this matter, but it is certainly quite as important that we should understand what is done, and know that it is done as near right as possible.

The VICE PRESIDENT. The Senator has the right to submit his motion. It is in order.

Mr. HENDRICKS. Then, sir, I will move that the report of the conference committee, which I see is very voluminous, be printed; and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. POWELL. Before the vote is taken I will suggest that this report is very long and on a very important subject, and I think it ought to be printed. It can be printed and laid on our tables by to-morrow morning, and then when we have it before us we can take it up and consider it.

Mr. HENDRICKS. That is but reasonable.

Mr. GRIMES. I was a member of the committee of conference on the part of the Senate, and I will state to Senators that there is not any material change, except in two particulars, in the bill now proposed by the committee, from the Senate bill as it passed here; and any gentleman can comprehend them on the mere reading of the sections. In the House of Representatives a substitute was adopted for our bill, and that substitute only differed from the Senate bill by the use of two or three words in each section, or perhaps two or three words in half a dozen places in each section. For instance, the words "election pre-

cinct," to cover the case in the State of Maryland, runs through half a dozen sections, and is incorporated into each section in half a dozen places; and that swells the report of the conference committee, I suppose, two or three pages.

Mr. JOHNSON. I will ask the Senator if the report contains any reasoning why we should concur or non-concur in the amendments? Is it a reasoning report, or only a mere statement of the facts?

Mr. GRIMES. It is merely showing where the provisions of the Senate bill and where the provisions of the House bill are adopted. The chairman of the Committee on Military Affairs is ready to explain it, I apprehend, when it is called up.

Mr. POWELL. The fact that words are inserted in the text is the very reason why this report should be printed. Let us have it all before us, and then we can readily understand the meaning that will be given by the change of those two or three words. It is a matter of very grave importance. The printing of this report will result in very little, if any, delay. I have no doubt it will expedite action upon it to have this report printed and let us all see what we are doing.

Mr. HENDRICKS. I hope this report will be printed. I do not like to vote on so important a question as this under circumstances in which I am not able to know exactly what I am voting for or against. We print bills of ordinary importance and interest before we are called upon to vote on them; and although I would not question a single word, as a matter of fact, that the Senator from Iowa says, still we are not expected to cast votes on what Senators may say is contained in a bill. We ought to have an opportunity of reading it before we are called upon to vote on a question of such importance as this. It will not delay it long.

Mr. WILSON. I admit the importance of the bill; but we are approaching the 1st of March, and it is of great importance that the bill shall be passed as soon as possible. The Senate passed a bill of twenty-eight sections. That bill went to the House of Representatives. The House struck out four of these sections, and added three of their own, and made more or less modifications in twenty-three sections of the Senate bill, which they moved as an amendment to the bill itself. Their amendments were generally improvements, and have been concurred in in the Senate bill. The bill as reported back is substantially the bill passed by the Senate with these slight modifications. There are one or two sections of the bill—one especially, the last section, I think, of the House bill—in which there have been modifications by the committee; but they are very plain, and can be comprehended at once. I do not think there will be any difficulty in understanding them. I think we had better have the report of the committee read and acted upon. I do not see the necessity of printing it.

Mr. HENDRICKS. I wish to ask the Senator whether the amendments adopted by the House of Representatives have ever been printed in this body?

Mr. WILSON. Yes, sir. The bill, as amended by the House of Representatives, came up here for consideration, and was printed and laid on our tables.

Mr. HENDRICKS. I think the Senator is mistaken about that.

Mr. WILSON. We had the printed bills before us in the conference committee. Each member had a copy.

Mr. HENDRICKS. I suppose that was the House print. I have not seen any Senate print. There may have been one, though I think not. I will ask the Chair about that.

The VICE PRESIDENT. It was printed.

Mr. HENDRICKS. Then the part I desire printed now is the report of the committee of conference.

The question being taken by yeas and nays, resulted—yeas 11, nays 25; as follows:

YEAS—Messrs. Buckalew, Catlett, Davis, Harding, Hendricks, Johnson, Nesmith, Powell, Riddle, Saulsbury, and Wright—11.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Comess, Cowan, Dixon, Fessenden, Foster, Grimes, Harlan, Harris, Howard, Howe, Lane of Kansas, Morgan, Morrill, Ramsey, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—25.

So the motion was not agreed to.

The VICE PRESIDENT. The report will be read.

The Secretary proceeded to read the report of the committee of conference. After reading it at some length he was interrupted by

Mr. WILKINSON. I voted against the printing of that report before, and I now wish to make a motion to reconsider that vote. I think it is absolutely necessary that that report should be printed, that we may know what it is. If certain features are in that bill which I am told are in it, I shall vote against it; but I want to know what the provisions of the bill are.

The VICE PRESIDENT. The Senator from Minnesota moves to reconsider the vote by which the Senate refused to order the report of the committee of conference to be printed.

Mr. WILSON. I will state to the Senator that all the changes in the bill are contained in two sections. We have here the printed bill, and the sections are here with our modifications. We have modified the section inserted by the House of Representatives for enrolling and drafting colored persons, and the Senator will see when we come to it what that modification is.

The Senate provided that the commutation money should be \$400, and that the name of the person paying commutation money should go back into the box. The House of Representatives reduced that sum to \$300, and required the name of the drafted person paying commutation to be added to the list, making him again liable only after everybody else had been drafted. That seemed to be a bounty for the payment of money and against the obtaining of soldiers. The committee of conference therefore consented to the House amendment reducing the sum from \$400 to \$300, but provided that that should relieve the person only for one year, instead of providing that he should go back to the foot of the list. We thought that would put him on an equality with the man who procures a substitute, for he is not discharged if his substitute becomes liable.

Mr. HENDRICKS. I do not intend as a Senator to vote without understanding what I vote for or against on an important measure if I can help it; and I do not think it is the right of a majority to ask that of us. While it is not usual to print reports from committees of conference, because they generally relate to but one or two things and are very simple, relating to mere questions of disagreement between the two bodies, yet when we have a report so voluminous as this, reaching to almost every section of the bill, and when a Senator says to the majority that upon the reading of the report he is not sufficiently informed to give that vote he desires to give upon it, it seems to me but a reasonable thing that one day should be given to the printing of the report, that we may vote knowing what we are voting for or against. I think the chairman of the Committee on Military Affairs can secure the passage of his bill at an earlier hour by allowing the report to be printed than by denying it. It is but a fair thing that is asked, and I think it ought to be cheerfully conceded.

Mr. CONNESS. The proposition made by the Senator from Indiana appears fair on the face of it; but he can scarcely fail to see that it is not only unusual but rather out of the line of precedents. These conference committees in legislative bodies are the means of reconciling constantly accruing differences between the two Houses; and if a demand to print their reports when made should be acceded to as a matter of courtesy, or even of right, the Senator can hardly fail to see how important legislation might be delayed and finally lost. I have never heard of such a course in legislation.

If it were necessary in order that a Senator might understand the points at issue before he voted upon them, there would be some reason for asking a change of the course which is not only usual, but universally followed. Certainly the measure now under consideration has been sufficiently understood and debated by the press of the country and in both Houses of Congress until almost every point of it is comprehended by every person in the land. The differences existing between the two Houses of Congress upon it have been accommodated by this committee of conference, and to ask for delay before a vote can be taken on the question of concurring or non-concurring seems to me rather an extraordinary de-

mand. It would be the right of the Senator, and very properly, it appears to me, to call for such a division of the question as to enable the Senate to vote upon the separate propositions.

Mr. TRUMBULL. That cannot be done. The report must be taken as a whole.

Mr. CONNESS. Very well. Then it presents no difficulty to my mind; nor do I see anything in this case that should call for a change from the precedent that is a necessity in legislation, and that has been universally followed.

Mr. WILKINSON. If it were the close of the session the remarks of the Senator from California would be applicable and pertinent.

Mr. GRIMES. It is pretty near the 1st of March, though.

Mr. WILKINSON. But I do not see the necessity of urging the Senate to a vote to-day when this motion, if it prevails, will not detain the bill more than a day. It will be printed to-morrow. It is my opinion, with the feeling manifested by some gentlemen on this floor, that if this matter is urged to a vote to-night, no time will be gained at all; for I do not believe Senators can get a vote upon it. I think, therefore, it had better be printed.

Mr. WILSON. It seems to me to be an unusual thing to print a report of this character, and I thought and still think it of great importance to get through with this bill to-day. But Senators speak with some earnestness, not to say feeling in the matter, and I certainly would not like to adopt an illiberal policy of action here toward anybody. From what has been said, and the earnest manner in which it has been said, I suppose we can hardly hope to get the bill through much sooner by pressing it than by yielding to the wishes of Senators. I will yield, therefore, to allow the report to be printed, with the understanding that we shall have it to-morrow morning, and shall take the vote upon it then.

The VICE PRESIDENT. The question is on reconsidering the vote by which the Senate refused to order the report to be printed.

The motion was agreed to.

The VICE PRESIDENT. The question now is on agreeing to the motion to print the report.

The motion was agreed to.

The VICE PRESIDENT. The subject will therefore be postponed until to-morrow; and the Senate will return to the consideration of business relating to the District of Columbia.

PUBLIC SCHOOLS IN DISTRICT OF COLUMBIA.

On motion of Mr. GRIMES, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 26) to provide for the public instruction of youth in primary schools throughout the county of Washington, in the District of Columbia, without the limits of the cities of Washington and Georgetown.

Mr. GRIMES. Without reading the original bill, I suggest that the Senate proceed to consider the amendment reported from the Committee on the District of Columbia.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) Unless some Senator calls for the reading of the original bill the amendment reported by the committee in lieu of the original bill will be read.

The Secretary read the amendment of the committee, to strike out all of the original bill after the enacting clause, and to insert the following in lieu thereof:

That the school districts in the county of Washington, District of Columbia, without the limits of the cities of Washington and Georgetown, shall be and remain as now laid down according to law, subject to revision and alteration by the levy court of said county, and that the school commissioners now in office shall be and remain so until others are appointed.

Sec. 2. And be it further enacted, That the levy court shall annually, on the first Monday in May, appoint one person from each school district as a commissioner of primary schools, of which appointment the clerk of the levy court shall immediately notify the person so appointed; and whenever a vacancy shall occur in the board of said commissioners, the levy court, as soon as may be thereafter, shall fill the same, and all appointments made by or resolutions of said court concerning said commissioners shall be forthwith communicated by the clerk of said court to the clerk of the said board of commissioners; and each of said commissioners shall hold the office until a successor is appointed.

Sec. 3. And be it further enacted, That each of the said commissioners before he enters upon the execution of his office, and within fifteen days after notice of his appointment, shall take and subscribe before some justice of the peace of said county the following oath: "I, _____, do solemnly swear (or affirm, as the case may be,) that I

will in all things, to the best of my knowledge and ability, well and truly execute the trust reposed in me as commissioner of primary schools for the county of Washington, District of Columbia, without prejudice and according to law;" and every justice of the peace, before whom such oath shall be taken, shall certify the same in writing, and within eight days thereafter transmit or deliver said certificate to the clerk of the levy court for record.

Sec. 4. And be it further enacted, That the said commissioners and their successors shall be a corporation, under the name and style of "the board of commissioners of primary schools of Washington county, District of Columbia," with power to sue and be sued, and to take and hold, in fee simple or otherwise, any estate, real or personal, not prohibited by law, which may be given to or purchased by the said board for primary school purposes, and may alien and sell the same when, in the opinion of the levy court, it will be for the advantage of the said primary schools so to do; and all money in hand, after defraying the whole expenses of the several school districts at the end of each school year, shall be invested in some safe stock in the name of said corporation, and in their corporate name may prosecute and maintain actions for injuries done to the grounds, houses, furniture, or other property in their possession.

Sec. 5. And be it further enacted, That the said board of commissioners shall make and keep a record of all its official acts, and a strict and particular account of all moneys directed to be paid, a statement of which, with the vouchers relating thereto, as well as the record of the levy court of said county; and said record, or a copy thereof, certified to be correct by any one of said commissioners, testified by the signature of the clerk of said board, shall be evidence of their acts in all proceedings, judicial or otherwise; and the said board shall appoint a capable person as their clerk, (who may be one of their own members, or otherwise,) prescribe his duties, and allow him a reasonable compensation for his services.

Sec. 6. And be it further enacted, That the said board of commissioners shall hold stated meetings in January, April, July, and October of each and every year, at such times and places as they may appoint, and at such other meetings as circumstances may require; but if less than four members attend at any one meeting no business shall be done, except to adjourn to a future day; and at the stated meetings in April and October the treasurer of the school funds and the collector of taxes shall render in writing a full statement of their accounts respectively for the next preceding half year.

Sec. 7. And be it further enacted, That the clerk of the levy court of said county shall annually, on or before the first Monday in April, furnish to the said board of commissioners alphabetical lists of the owners of property in each school district, according to the last county assessment, and a statement of the total amount of property assessed to each owner, exhibiting the school tax thereon according to the last levy made by the levy court for school purposes.

Sec. 8. And be it further enacted, That the said board of commissioners shall have power annually (or as a vacancy may occur) to appoint one person in each school district as trustee of that district, who, with the commissioner of such district, shall have charge of the local concerns of the schools therein, and act in concert with the board of commissioners in carrying out all the rules and regulations ordained by the said board, and together may permit the school-house or houses in their district to be used for public worship, or for other purposes of general benefit to the residents of the district.

Sec. 9. And be it further enacted, That the said board of commissioners shall have power, and it shall be their duty—

First. To receive and disburse any fund which may be provided for the purchase of sites and the erection and support of primary schools in said county and district.

Second. To regulate the number of children to be taught in each of said schools, and the price of their tuition.

Third. To select such teachers as are competent, and to fix their salaries and terms of service.

Fourth. To suspend or expel from any school, with the advice of the commissioners and trustees of the district, any pupil who will not submit to the reasonable and ordinary rules of order and discipline therein.

Fifth. To regulate and control the purchase and distribution of books, stationery, and other things necessary for the use of said schools, and generally to prescribe rules and regulations for the management, good government, and well ordering of said schools.

Sixth. To report to the levy court, at the close of each school year, the amount of all expenditures on account of schools in the several districts during the previous school year, and the manner in which the same shall have been expended, specifying what portion and amount thereof has been expended for the services of teachers, and also shall particularly set forth the number of pupils taught, and their average attendance and progress, and such other statistics as the levy court may require.

Seventh. To select, purchase, or otherwise procure suitable sites for school houses in each district, adopt plans, and cause to be built, kept in repair, and furnished, such school-houses with necessary fuel, books, stationery, and appendages, and to defray the necessary or contingent expenses of the board: *Provided*, That the pay of teachers shall always have preference.

Eighth. Each commissioner shall be entitled to receive four dollars per day for every day he shall attend a meeting of the board and not absent himself without permission, and four dollars per day for every day he shall serve on a committee, and all disbursements shall be made through the treasurer of the school fund, on the draft of the president and clerk of said board, drawn by order of the said board.

Sec. 10. And be it further enacted, That, for the purpose of supporting said schools and providing suitable sites, houses, and equipments therefor, the levy court shall annually, on the first Monday in March, impose and levy a school tax not exceeding one fourth of one per cent. on all the assessed property of said county without the limits of Washington and Georgetown owned by white persons;

which tax shall be due at the same time, and be collected by the county collector in the same manner, and under the same regulations and restrictions, as are prescribed by law in relation to the collection of the county taxes, and which are hereby made applicable to the collection of the school tax imposed by this act, and when collected shall be paid to the treasurer of the school fund, and the treasurer of the levy court is hereby constituted treasurer of the school fund; and the said treasurer and collector, each, shall qualify by making oath or affirmation faithfully to discharge the duties required of him, and they shall each give bond to the said board of commissioners, with two sufficient sureties, conditioned for the faithful discharge of the duties required of each of them by this act, in a sum to be fixed by the levy court; which bonds, being approved by the said board of commissioners, shall be filed with the clerk of the supreme court of the District of Columbia, who is hereby required to file the same, and a copy of either of said bonds, under seal of said court, shall be sufficient evidence of the making thereof; and the said treasurer shall be paid such compensation for his services as the said board of commissioners may allow, and the said collector the same fees as are allowed by the said levy court for collecting the county tax.

Sec. 11. *And he it further enacted*, That in addition to the taxes hereby imposed, there shall be paid to "the board of commissioners of primary schools of Washington county, District of Columbia," by the marshal of the District of Columbia, and the justices of the peace for the county of Washington, District of Columbia, one half part of all the moneys now in their hands for fines, penalties, and forfeitures accruing to the United States for violations of law; and it shall be the duty of said marshal and justices of the peace to pay over every three months, from and after the passage of this act, one half part of all the moneys coming into their hands, as aforesaid, to the said board of commissioners of primary schools, for the use of said primary schools, any law to the contrary notwithstanding, and failing so to do shall be liable to the penalty imposed by the second section of the act of Congress approved July 12, 1853, and the whole amount standing to the credit of the school fund when the said levy is to be made shall form a basis to ascertain the amount of tax necessary to meet the current expenses of the school year, which amount shall be levied as aforesaid, and no more.

Sec. 12. *And he it further enacted*, That the said board of commissioners shall apportion the school fund among the several school districts, giving to each one seventh of the whole amount of school taxes collected and then in hand, after deducting the contingent expenses of the board, and one seventh of all other funds paid in, until a sufficient amount shall be in hand to purchase a site and erect and furnish a school-house in each district, the cost of which not to exceed \$1,500, (unless by private subscription,) then according to the number of children in each district attending school: *Provided*, That not more than the actual expenses of each district shall be paid: *And provided further*, That more than one school may be established in any one district if the funds are procured.

Sec. 13. *And he it further enacted*, That in case the said commissioners should not be able to purchase suitable sites for the erection of school-houses, they shall have power to condemn and value a suitable site or sites for that purpose, not exceeding one acre of land in each site, by giving ten days' notice, in writing, to the proprietors thereof, and filing with the clerk of the levy court of the county of Washington, District of Columbia, for inspection, a certificate describing such lands, with the value assessed thereon, signed by the president and clerk of said board of commissioners, which shall be sufficient notice to the proprietors of such land that the said board of commissioners are ready to pay the amount of damages so assessed; and if within thirty days from the filing of said certificate the proprietors of such land shall not appeal from the decision of said commissioners, by written notice left with the said clerk of the levy court, the amount so assessed shall be paid to the proprietors, and the title to such land and premises shall pass to and be vested in "the board of commissioners of primary schools of Washington county, District of Columbia," and the said certificate shall be recorded in the land records of Washington county, District of Columbia, and shall be final; but if the proprietors of such land and premises shall, within the said thirty days, notify the said commissioners, in writing, left with the clerk of the levy court, of their dissent from the valuation of such land as made by the said commissioners, it shall be lawful for the said commissioners, by their president and clerk, to issue their warrant to the marshal of the District of Columbia, commanding him to summon a jury of five freeholders, not interested in the matter, to appear on a day to be appointed by the said commissioners, on the premises, and after having each taken an oath (which the marshal or any one of said commissioners is authorized to administer) that he will, without favor or prejudice, assess the damages sustained by the proprietor of said land by reason of the condemnation of said land by the said commissioners, the jury so qualified shall proceed to value and assess the damages accordingly; and if the amount assessed by the said jury shall not be greater than the amount assessed by the said commissioners, the whole costs of the said appeal shall be chargeable to the appellant, be paid by the said commissioners, and deducted from the cost of the land in settlement thereof; otherwise the said board of commissioners shall pay the expenses incurred by reason of such appeal, the marshal's and jurors' fees to be computed according to the act of Congress approved March 3, 1853, defining the powers and duties of the levy court.

Sec. 14. *And he it further enacted*, That the said jury, immediately after they shall have completed their inquest and assessed the damages, shall make out a written verdict, setting forth a full and distinct description of the land and premises and the valuation or damages assessed therefor, which shall be signed by them, or a majority of them, and, attested by the marshal, shall be immediately returned to the clerk of the levy court of the county of Washington, District of Columbia, and shall be final; and the said damages having been paid, or offered to be paid, to the said proprietors, the title to such land shall pass to and be vested in "the board of commissioners of primary schools of

Washington county, District of Columbia," and the verdict of the jury shall be recorded in the land records of Washington county, District of Columbia: *Provided*, That it shall be optional with the said commissioners to abide by said verdict, and occupy the said land or abandon it without being subject to damages therefor.

Sec. 15. *And he it further enacted*, That it shall not be lawful to locate any site for a school-house in any orchard or garden, nor within three hundred yards of any dwelling-house, without the consent of the proprietor of such dwelling-house; and in order to obtain such consent or refusal, thirty days' notice shall be given to said proprietor by the said commissioners, notifying such proprietor of their intention; and if within thirty days no answer is returned to said commissioners by said proprietor, it shall be taken for consent, and the said commissioners may proceed to erect their school-house without let or hindrance.

Sec. 16. *And he it further enacted*, That if the treasurer or collector, having any school funds in his hands, or neglecting or refusing to obtain such funds as by law authorized and directed, shall refuse to pay for two weeks any order of the said commissioners drawn in conformity with the requisitions of this act, such treasurer or collector shall be liable, on proof before any court of justice or justice of the peace having cognizance, and without stay of execution, to pay the full amount of said order and interest thereon, at the rate of twenty per cent. per annum, from the first refusal until the day of payment, by way of damages. If any collector appointed or acting under the provisions of this act shall in any case collect more than is due, the person aggrieved shall have his remedy against such collector by suit or warrant, and if he recover he shall have judgment for double the amount improperly and unjustly extorted from him, and costs. The levy court of Washington county shall exercise a general supervision over the proceedings of said commissioners, may examine their books and papers, and shall prosecute for any delinquencies or violations of their duty. It shall not be lawful for a member of the levy court of said county to be a commissioner of primary schools or trustee of any of the school districts, nor for any person to be at the same time commissioner and trustee as aforesaid.

Sec. 17. *And he it further enacted*, That any white resident of said county shall be privileged to place his or her child or ward at any one of the schools in said county he or she may think proper to select with the consent of the commissioners of both districts.

Sec. 18. *And he it further enacted*, That the said levy court may, in its discretion, and if it shall be deemed by said court best for the interest and welfare of the colored people residing in said county, levy an annual tax of one eighth of one per cent. on all taxable property in said county outside the limits of the cities of Washington and Georgetown, owned by persons of color, for the purpose of initiating a system of education of colored children in said county, which tax shall be collected in the same manner as the tax named in section ten of this act; and it shall be the duty of the said commissioners to provide suitable and convenient rooms for holding schools for colored children, to employ teachers therefor, and to appropriate the proceeds of said tax to the payment of such teachers, rent of school rooms, and other necessary expenses pertaining to said schools, to exercise a general supervision over them, to establish proper discipline, and endeavor to promote a full, equal, and useful instruction of the colored children in said county. It shall be lawful for such commissioners to impose a tax of not more than fifty cents per month on the parent or guardian of each child attending said schools, to be applied to the payment of the expenses of the school of which said child shall be an attendant, and in the exercise of this power the commissioners may, from time to time, discontinue the payment altogether, or may graduate the tax according to the ability of the child and the wants of the school. And said commissioners are authorized to receive any donations or contributions that may be made for the benefit of said schools by persons disposed to aid in the elevation of the colored population in the District of Columbia, and to apply the same in such manner as in their opinion shall be best calculated to effect the object of the donors, said commissioners being required to account for all funds received by them, and to report to the levy court in accordance with the provisions of section nine of this act.

Sec. 19. *And he it further enacted*, That this act be, and the same is hereby, declared public and remedial, and shall be construed by all courts of justice according to the equity thereof; and no proceedings of the inhabitants or of the trustees of any school district, or of the commissioners of primary schools, or of any other officer created under the provisions of this act, shall be set aside or adjourned to be void for defect of form, or for any irregularity therein, so that the requisitions of the said act are substantially complied with.

Sec. 20. *And he it further enacted*, That the act of Congress entitled "An act to provide for the public instruction of youth in primary schools throughout the county of Washington, in the District of Columbia, without the limits of Washington and Georgetown," except the first and third sections, approved May 20, 1862, be, and the same is hereby, repealed.

Mr. GRIMES. I move to amend the amendment in section nine, line ten, after the word "service" to insert the words, "and to dismiss any teacher who may prove to be incompetent or unfit;" so that the clause will read:

Third. To select such teachers as are competent, and to fix their salaries and terms of service, and to dismiss any teacher who may prove to be incompetent or unfit.

The amendment to the amendment was agreed to.

Mr. GRIMES. I move further to amend the amendment in section thirteen, line six, after the word "writing," by inserting in parenthesis "except in cases where notice cannot be served, which cases shall be considered as appealed and treated

as appealed cases." This is to cover the case of non-residents or those who cannot be reached.

The amendment to the amendment was agreed to.

Mr. GRIMES. I move further to amend the amendment in section seventeen, line two, by inserting after the word "resident," the words "of one district," and in line three by striking out the words "said county" and inserting the words "any other district," so that it will read:

That any white resident of one district of said county shall be privileged to place his or her child or ward at any of the schools in any other district he or she may think proper to select with the consent of the commissioners of both districts.

The amendment to the amendment was agreed to.

Mr. JOHNSON. This bill or amendment in one of its sections provides for the compensation to be paid to the trustees or commissioners. It gives them I think four dollars a day, and it authorizes them to sit just as often as they see proper. Judging from the experience I have had in my own State, and witnessing what has been done in some of the other States where we pay daily compensation for services without any limitation on the number of days, they are very likely to sit every day in the year.

Mr. GRIMES. I shall be happy to accept any amendment the Senator can suggest.

Mr. JOHNSON. I only want to make a suggestion to the committee. I do not rise to oppose the bill. In the eastern States, where their school system is as perfect as it can well be made and answers every purpose and has reached a great degree of prosperity, I am not sure whether they pay anything to their trustees or agents. I do not think they pay anything in the State of Maine. It is considered rather a post of honor, as it should be; but if you make it a post of profit I am afraid the honor will be forgotten in the profit, and they will be meeting every day in the year. Now you have four commissioners. They will sit every day in the year, or may sit every day in the year.

Mr. GRIMES. I think there is a limitation as to the length of time they shall sit.

Mr. JOHNSON. No. At least I have gone through the bill as it was read by the Secretary, and I do not see any limitation.

Mr. GRIMES. What section is it?

Mr. MORRILL. The eighth clause of the ninth section, on page 6. There is no other portion of the bill which relates to it, I think.

Mr. GRIMES. Does the Senator from Maryland wish to strike out the whole clause and pay them nothing?

Mr. JOHNSON. That I should prefer, and I move to strike out this clause:

Eighth. Each commissioner shall be entitled to receive four dollars per day for every day he shall attend a meeting of the board, and not absent himself without permission, and four dollars per day for every day he shall serve on a committee; and all disbursements shall be made through the treasurer of the school fund, on the draft of the president and clerk of said board, drawn by order of the said board.

Mr. CLARK. I hardly think it wise to strike out that provision. I do not know but that you may find public-spirited men enough at first to undertake the office; but I think in my own State it is usual to pay the superintending committee for their services in visiting the schools and also in examining the teachers. In my own city we have a superintendent of schools, in addition to the general superintending committee, and we pay him \$1,000 salary, and he devotes all his time to the superintending of the schools; but in the towns generally there is a superintending committee of three or four persons, and the members of the committee are paid two or three dollars a day for the time they spend in the schools; and perhaps it is wise to do it here. I do not think anybody will be disposed to spend all his time so as to get the pay, but I have no particular wish about it; I only desire to make the measure efficient.

THE PRESIDING OFFICER. The question is on the amendment of the Senator from Maryland to the amendment.

The amendment to the amendment was rejected.

Mr. GRIMES. Now I move to amend that clause by striking out "four" and inserting "two;" so as to make the pay two dollars a day.

The amendment to the amendment was agreed to.

Mr. JOHNSON. I call the attention of the Senate and of the chairman of the committee to the latter proviso in the fourteenth section, on

page 11, of the amendment. The proviso says "that it shall be optional with the said commissioners to abide by said verdict and occupy the said land, or abandon it without being subject to damages therefor." The Maryland courts have decided, I think on the authority of some eastern decision, that in a case of inquiry like this the State may, if it thinks proper, after all the expenses have been incurred, abandon the site or whatever is needed, and throw the whole expenses on the proprietor. These cases before juries are rather expensive. The proprietor very often employs counsel, and independent of that he is obliged to examine witnesses, and sometimes a great many of them, and there is quite a bill of costs run-up by the time he gets his verdict; and under this provision, if the authorities were not satisfied with the verdict, they might abandon it at once and the whole expense would be thrown on the owner.

But not only that, which I think is an objection; but then, if the provision is to stand here so as to give the authorities the right to abandon the verdict, there ought to be a limitation of the time within which that could be done. Under this clause as it stands, the proprietor may have this verdict hanging over his estate, preventing him from selling his estate, he not knowing whether it will be taken or will not be taken, because nothing may be done by the commissioners under this proviso, they may not take possession, they may hold it in that way for months and months, and then abandon it. There ought, at least, to be a limitation; and I propose, therefore, if that will effect the object, (and I submit it to the chairman,) to add to the proviso which I have read these words:

Provided, They do it within fifteen days after the verdict shall have been rendered.

Mr. GRIMES. I can see the propriety of that amendment very readily, and concur in the suggestion of the Senator.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended; and the question was stated to be on concurring in the amendment made as in Committee of the Whole.

Mr. HARRIS. I ask for a separate vote on the motion made by the Senator from Maryland in relation to the pay of the commissioners, whenever that is proper.

Mr. GRIMES. I understand that the Senator from New York asks for a separate vote in regard to the eighth clause in the ninth section. I suppose there is no objection to taking the vote in gross on all the other amendments which have been made in committee.

The PRESIDING OFFICER. (Mr. FOSTER.) There was but one amendment proposed, being in the form of a substitute for the original bill. To that amendment the Senator from Maryland proposed an amendment, and it was adopted as an amendment to the amendment; and the Senate acting as in Committee of the Whole adopted the amendment as amended. The question now is, in the Senate, will the Senate concur in the amendment made as in Committee of the Whole? It is now open to amendment, and it is the prerogative of any Senator to move to amend the amendment in any manner before the question is taken on concurrence. No particular feature of it can be excepted as a distinct proposition, because it was not a separate amendment that was moved. The Senator from New York, however, if he pleases, can move to amend this amendment before the question is taken on concurring in it as a whole.

Mr. HARRIS. If I understand the Chair, then, it is proper to move to strike out this clause in the ninth section which allows compensation to the commissioners.

The PRESIDING OFFICER. It is.

Mr. HARRIS. That I desire to do; and I will state to the Senate that I do it upon the suggestion of a gentleman near me who is quite familiar with the affairs of the District, and who assures me that better men can be obtained to discharge these duties without compensation than if this compensation shall be retained in the bill. I therefore move to amend the amendment by striking out the clause allowing compensation.

Mr. CLARK. Upon looking at the bill, I am disposed to concur in the suggestion of the Sen-

ator from New York from the fact that the pay is to be taken out of the school fund; you are to take from the scholars the means of doing it. In our country we pay it out of the public funds, and never take it away from the scholars. I would not agree to take it from the scholars and give it to the commissioners. I hope the amendment of the Senator from New York will be agreed to.

The amendment to the amendment was agreed to.

The amendment as amended was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended to read: A bill to provide for the public instruction of youth in the county of Washington and District of Columbia.

TRANSFERS FROM THE ARMY TO THE NAVY.

Mr. CONNESS. I ask at this time the unanimous consent of the Senate to introduce a joint resolution, of which I have not given previous notice. I would not make this request but that the resolution is of great consequence, at least to my part of the country, and indeed to the entirety of the country. It is a resolution prepared in accordance with the judgment of the War Department, the Navy Department, and the President. It relates to the making up without any unnecessary delay of full crews for some of our war ships which the Government contemplate sending to the Pacific coast, for which there is immediate demand, and I hope the Senate will permit the resolution to be passed at once.

By unanimous consent, leave was granted to introduce the joint resolution (S. No. 27) relative to the transfer of persons in the military service to the naval service, and it was read twice and considered as in Committee of the Whole. It proposes to direct the Provost Marshal General to enlist such persons as may desire to enter into the naval service of the United States, under such directions as may be given by the Secretary of War and the Secretary of the Navy, and these enlistments are to be credited to the appropriate district; but inasmuch as they receive prize money, they are not to be entitled to any bounty. The President, whenever in his judgment the public service may require it, may transfer persons who have been employed in sea service and are now enlisted in the Army from their regiments to the naval service, upon such terms and according to such rules and regulations as may be prescribed; but the number of transfers from any company or regiment is not to be so great as to reduce it below the minimum strength required by the regulations of the military service, and the sums paid to such persons as bounty for entering the military service are to be transferred from the naval recruiting fund to the credit of the proper appropriation for the land service.

Mr. CONNESS. I simply desire to say that this joint resolution is prepared in accordance with the judgment of the Executive, of the Navy Department, and of the War Department. There is now at Hampton Roads a war steamer intended for the coast of California wanting a complement of sixty men. They are desirous of sending three or four more steamers there. There is necessity for them. Provision should be made for immediately filling up their crews so that the ships may sail. This resolution is the product of the Executive and of the War and Navy Departments, and I trust the Senate will pass it now, so that it may go to the House of Representatives without delay. I do not wish to debate it; I trust it will meet the approval of the judgment of the Senate.

Mr. GRIMES. I move to amend the resolution by adding to it the following additional section:

And he it further resolved, That there shall be paid to each enlisted able or ordinary seaman an advance, as a bounty, of three months' pay, to be refunded to the Treasury from any prize money to which such enlisted man may hereafter be entitled.

Mr. MORRILL. I do not know what the object of the amendment is, but it has this effect as I understand the resolution: the resolution proposes the enlistment of these men by the Provost Marshal; they are enlisted into the military service, and of course are entitled to the bounty which the Government is paying.

Mr. CONNESS. It is provided especially in the resolution that those enlisted and transferred by their consent to the naval service shall receive no bounties, because they will be entitled to prize money.

Mr. MORRILL. As I gathered it, it was read the other way, "shall not receive prize money because they get the bounty." Is it not so?

Mr. CONNESS. No; just the reverse.

Mr. MORRILL. If it is the reverse, my objection does not apply.

Mr. GRIMES. I want to say one word in regard to the amendment. The propositions contained in the joint resolution introduced by the Senator from California are substantially the provisions on the same subject contained in the enrollment bill which has been adopted by the two Houses, or which is submitted by the committee of conference for the adoption of the two Houses. The purpose which the Senator from California has in view is to anticipate the action of Congress upon that enrollment bill, with a view to get immediate action in the Senate and House of Representatives, in order that steps may be taken to-day as I understand to fit out one special ship's crew for a vessel now lying at Fortress Monroe and ready to sail for the Pacific coast.

Mr. CONNESS. It has been there for ten days.

Mr. GRIMES. I will state to the Senate that there are at this time thirteen steamers ready for sea, which are lying at the wharves unable to go to sea for the want of crews. There has been such an immense draft by the Army, or by, I might say, the States and the districts of the States to fill out their quotas in the Army, that it has been impossible for the Navy to get any recruits. All the emigrant-runners, and all the persons in New York who have been in the habit of procuring mariners for vessels, have now turned recruiting agents for the Army, and they even pick up the sailors who get leave to go ashore from our vessels-of-war for a day. As is very common with those sailors, they become inebriated, and when they wake up the next morning they find themselves with a soldier's uniform on, enlisted into one of the United States artillery or infantry regiments. Then they have got to be reported as deserters, punished as such, and restored to the Navy. A large portion of the sailors who come in from our men-of-war or the merchant marine and are discharged, are immediately picked up and thrown into infantry regiments, so that it is impossible for the Navy to procure recruits.

Now, my proposition is simply that there shall be three months' advance pay, in the shape of a bounty, paid to each person who shall hereafter enlist as an ordinary seaman or as an able seaman, to be refunded out of any prize money that may be hereafter due to him, if he shall be so fortunate as to serve on a vessel which captures a prize.

Mr. MORRILL. I do not object to that.

Mr. GRIMES. I understand the Senator from Maine has no objection to it. I thought he had.

Mr. MORRILL. I misapprehended the effect of it.

Mr. JOHNSON. I suggest to the Senator from California, if this resolution is intended to meet a particular object, whether it would not be as well to limit its operation to some specified time.

Mr. CONNESS. I am perfectly willing to agree to that. But I hope before that is done the question will be taken on the amendment of the Senator from Iowa.

Mr. JOHNSON. I have no objection to that.

Mr. CONNESS. I hope that amendment will not obtain; that the Senator from Iowa will not press it now.

Mr. GRIMES. The proposition which I made is more calculated to accomplish the Senator's purpose.

Mr. CONNESS. I understand it; and as a permanent proposition I shall be willing to agree to the Senator's amendment on any other bill or resolution; but I desire to say to the Senator from Iowa and to the Senate that the War Department and the Navy Department agreeing in this resolution, they will, under it, be enabled to get any number of men that they need now for this special service without the Senator's amendment. The Navy Department is receiving every day letters from seamen who have enlisted in the Army, having been discharged from the Navy in our ports after finishing their term of service, and then becoming intoxicated were picked up by those who are seeking to obtain a portion of the bounty offered to soldiers, and placed in the Army. They

write to the Department trying to get transferred to the naval service. There is no provision now by which transfers can be made. This is not a provision to meet their particular cases, but to enable the Navy Department to avail itself of that particular class of men, and with the consent of the War Department to transfer them. The resolution already provides concerning the matter of bounties and the matter of prize money.

I wish to say a word further, and no more. We are liable every hour on the Pacific coast to have our exports of gold stopped. There is but one vessel on that coast that is able to meet a privateer, and her crew to-day is held by force beyond the term of enlistment under Admiral Bell, and he has so telegraphed to the Department here. The condition of affairs there I do not wish to speak of at length, because I do not desire to give it publicity to the country and to expose the danger in which our material interests stand from the assaults of one single ship of the enemy. I hope nothing will be done to delay the passage of this resolution.

Mr. GRIMES. The amendment which I propose is not calculated to delay the Senator's resolution, but is calculated to facilitate it and to enable us to fit out the other vessels which it is proposed to send to the coast of California. I will state to the Senator from California that I hold in my hand a letter from Admiral Smith to me on this very subject.

Mr. CONNESS. Permit me to suggest to the Senator that if he will let the vote be taken without further discussion I shall not oppose his amendment.

Mr. GRIMES. Very well.

The amendment was agreed to.

Mr. JOHNSON. The first of these resolutions, as the Senate have already seen, will cause somewhat of an anomaly in the service. It provides that the Provost Marshal General, an agent of the War Department, shall enlist seamen for the Navy. It is consented to by the Secretary of the Navy, but merely, I suppose, for the purpose of meeting the present exigency which I know exists, not only from the statement made by the honorable member from California, but from other sources. The Pacific ought to be at once supplied with some of our war steamers. I do not know whether the city of San Francisco would be in any danger; I do not know whether the fort at the mouth of the bay is now completed or not.

Mr. CONNESS. I will state to the Senator that there is a fort on one side of the entrance to the bay; but in a fog an enemy's ship could pass in at night by going to the other side of the channel, and lay that city under contribution at any moment.

Mr. JOHNSON. Is that fort itself completed?

Mr. CONNESS. It is in a condition for defensive operations, but it has not all its batteries.

Mr. JOHNSON. I only meant by referring to that to say that I concur with the Senator that something ought to be done, and done at once; and therefore I have no objection to passing the resolution, though it produces what is an anomaly in itself. Inasmuch as the resolution as it stands is a permanent one, and would extend through all time until we changed it, I would propose to add at the conclusion of the first resolution that the authority hereby given shall expire at the expiration of one year.

Mr. GRIMES. It will not be used if it is not necessary. Suppose another exigency like this occurs six months hence.

Mr. JOHNSON. It does not interfere with the President's authority.

Mr. CONNESS. Not at all. It gives the President discretion in the premises. I do not understand the Senator from Maryland to wish to amend it, as the resolution leaves the matter entirely in the discretion of the President.

Mr. JOHNSON. Very well. I do not care anything about it.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

PRICE OF GAS.

Mr. WILLEY. I move to take up Senate bill No. 77.

The motion was agreed to; and the bill (S. No.

77) to amend the act incorporating the Washington Gas-Light Company was considered as in Committee of the Whole. It provides that from and after March 1, 1864, the Washington Gas-Light Company shall not receive from consumers more than thirty-three and one third cents per hundred cubic feet of gas furnished by it, subject to a discount of not less than ten per cent. on all bills for gas if paid at the office of the company within five days from the rendition thereof, provided all arrears have been paid.

Mr. WILLEY. The bill was reported by the Committee on the District of Columbia. I do not wish to detain the Senate by any reasons which influenced the committee in reporting it unless it shall be desired by some Senator.

Mr. TEN EYCK. I should like to inquire what change is made in the existing charter or law?

Mr. WILLEY. I will state briefly that at the commencement of the present war the price of gas fixed by the act of July 25, 1860, was thirty-five cents per one hundred cubic feet. There was an amendment to that, by the act approved July 17, 1862, entitled "An act making further appropriations for sundry civil expenses of the Government," &c., and by section three of that act it was provided that the company should receive only twenty-eight cents for gas furnished to the Government, and thirty cents per hundred cubic feet for gas furnished to citizens. The present bill provides that the rate shall be uniform at thirty-three and one third cents per hundred cubic feet.

The increased price asked for seemed to be justified by the facts which were made known to the committee. In April, 1861, during the operation of the act to which I first alluded, the cost of coal per ton in the shed was five dollars; it is now \$11 50. The cost of lime, another article needed in the manufacture of gas, per bushel was in 1861 seven cents; it is now nine cents. Iron for retorts, &c., at that time was one and one half cents a pound; it is now four cents a pound. Firebricks per thousand could then be purchased for twenty-five dollars; they now cost forty dollars. Labor has increased sixty per cent.; it is sixty per cent. more at this time than it was in 1861.

From the statement that I have made it will be seen that coal and iron have advanced since that time over one hundred and twenty-five per cent., the result of which was that the company at its last meeting on December 30, 1863, was bound to give notice to the stockholders that it could declare no dividend, and I have before me the circular which they published containing the following resolution:

"Whereas the prices of coal, iron, labor, and materials entering into the manufacture of gas, the cost of maintenance and repairs of the works of this company have increased from sixty to over one hundred and twenty per cent., and Congress has reduced the price of gas to consumers more than seventeen per cent., thereby rendering it impossible to manufacture and sell gas without loss; and whereas the operations of the company for the past six months show no profit: Therefore,

"Resolved, That it is not in the power of the directors to declare a dividend."

I suppose that the Senator will hardly expect the company to furnish light to the Government and to the citizens of the District without any compensation or profit. And upon these facts the committee supposed themselves justified in increasing the rates, making them uniform at thirty-three and one third cents per hundred cubic feet, subject to a deduction of ten per cent. for bills presented within five days and promptly paid. This makes the uniform rate paid thirty cents per hundred cubic feet.

With these facts, I think it is but just to the company that the bill, as reported by the committee, should be passed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time, and passed.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 42) to enable guardians and committees of lunatics, appointed in the several States and other countries, to act within the District of Columbia, was read twice by its title, and referred to the Committee on the Judiciary.

PROVIDENCE HOSPITAL.

Mr. DIXON. I move to take up Senate bill No. 79.

The motion was agreed to; and the bill (S. No. 79) to incorporate Providence hospital of the city of Washington, District of Columbia, was considered as in Committee of the Whole. By its provisions Lucy Gwyne, Teresa Angelo Costello, Sarah McDonald, Mary E. Spalding, and Mary Carroll, and their successors in office, are made, declared, and constituted a corporation and body-politic in law and in fact, under the name and style of the Directors of Providence Hospital.

The bill was reported from the Committee on the District of Columbia with two amendments, the first of which was to insert at the end of the first section the following proviso:

Provided, That the real estate held by said corporation shall not exceed in value the sum of \$150,000.

The amendment was agreed to.

The next amendment was to add at the close of the third section this proviso:

And provided further, That this act shall be liable to be amended, altered, or repealed, at the pleasure of Congress.

The amendment was agreed to.

Mr. DIXON. I move further to amend the bill by striking out the word "service" in line five of section two, and inserting "serve," and in line eleven of that section by striking out "who" and inserting "as."

The PRESIDING OFFICER. Those verbal amendments will be made.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

SAVINGS BANK.

On motion of Mr. MORRILL, the bill (S. No. 15) to incorporate the Washington City Savings Bank was next considered as in Committee of the Whole. The corporators named in the bill are William B. Todd, William P. Dole, Edward Clark, Edward J. Simms, Joseph J. Coombs, Z. C. Robbins, and Thomas S. Gardner.

The first amendment of the Committee on the District of Columbia was to insert the name of John R. Elvans among the corporators.

The amendment was agreed to.

The next amendment was to strike out sections two and three of the original bill, as follows:

Sec. 2. *And be it further enacted*, That the said corporation shall not take and hold real estate above the clear annual value of \$10,000, exclusive of the profits which may arise from the interest accruing on the stock or other securities taken on the investment of the deposits made in said bank, or from a sale or transfer of any stock or securities.

Sec. 3. *And be it further enacted*, That the trustees or managers of said corporation shall not, directly or indirectly, receive any pay or emoluments for their services.

The amendment was agreed to.

The next amendment was to strike out sections five, six, and seven, as follows:

Sec. 5. *And be it further enacted*, That the several persons named in the first section of this act shall be the first trustees and managers of said corporation, and shall elect from their number the president and vice president. And all vacancies by death, resignation, or otherwise, either in the office of president, vice president, or trustee, shall be filled by the board of managers at their first regular meeting after such vacancy shall occur, by ballot; and the person having the majority of the whole number present and voting shall be considered duly elected, and not otherwise.

Sec. 6. *And be it further enacted*, That the corporation shall receive as deposits all sums of money that may be offered for that purpose, in such sums and on such terms as are allowed by this act, for the purpose of being invested in any public stock created under and by virtue of any law of the United States, or of any of the United States, or of being loaned out upon bond and mortgage on real estate of double the value of the sum loaned; and such deposits shall be paid to each depositor when required, at such times and with such interest and under such regulations as the board of managers shall from time to time prescribe; which regulations shall be put up in some conspicuous place in the room where the business of said corporation shall be transacted, and shall not be altered so as to affect any one who may have been a depositor previous to such alteration until after personal notice thereof.

Sec. 7. *And be it further enacted*, That no president, vice president, trustee, or other officer of said corporation shall borrow or use the funds of said corporation except to pay the necessary current expenses; and all certificates or evidences of deposit, made by the proper officer, shall be as effectual to bind the corporation as if they were under the common seal.

The amendment was agreed to.

The next amendment was to insert the following new sections, to come in as sections three, four, and five:

Sec. 3. *And be it further enacted*, That said corporation shall meet annually in the month of April, and as much oftener as they may judge expedient; and any seven members of said corporation, the president, secretary, or treas-

urder being one, shall be a quorum; and the said corporation, at their annual meeting, shall have power to elect a president and a treasurer, who shall give bond in the sum of \$10,000 for the faithful discharge of the duties of his office, and all such other officers as may be deemed necessary; which officers shall continue in office one year, and until others are chosen in their stead; and all officers so chosen shall be under oath to the faithful discharge of the duties of their offices respectively.

Sec. 4. *And be it further enacted*, That said corporation may receive on deposit, for the use and benefit of the depositors, all sums of money offered for that purpose: *Provided, however*, That it shall not hold at the same time more than \$1,000 of any one depositor other than a religious or charitable corporation. All such sums may be invested in the stock of any bank incorporated by Congress, or may be loaned on interest to any such bank, or may be loaned on bonds or notes, with collateral security of the stock of such banks at not more than ninety per cent. of its par value, or they may be invested in the public funds of the United States, of the several States, or loaned on a pledge of any of said funds, or invested in loans on mortgages of real estate: *Provided*, That the whole amount of stock held by the institution at one time in any one bank, both by way of investment and as a surety for loans, shall not exceed one half of its capital stock of such bank; and that not more than three quarters of the whole sum deposited in the institution shall be at any one time invested in mortgages of real estate. The income or profits of all deposits shall be divided amongst the depositors, or their legal representatives, in just proportions, with a deduction of all reasonable expenses incurred in the management thereof; and the principal may be withdrawn at such times or in such manner as the corporation shall in its by-laws direct.

Sec. 5. *And be it further enacted*, That no officer, director, or committee charged with the duty of investing the deposits shall borrow any portion thereof, or use the same, except in payment of the expenses of the corporation; and if any officer, director, agent, or other person connected with said bank and interested with the funds or deposits thereof, shall embezzle or fraudulently convert the same to his own use, he shall be deemed guilty of larceny, and shall, on conviction thereof by any court competent to try the offense, be imprisoned in the penitentiary not less than one nor more than ten years.

Mr. MORRILL. I desire to amend the new fourth section by striking out the word "profits" in line twenty, and inserting "interest;" by striking out in lines twenty-one, twenty-two, and twenty-three the words "in just proportions, with a deduction of all reasonable expenses incurred in the management thereof," and inserting "according to the terms of interest stipulated."

The amendments to the amendment were agreed to; and the amendment as amended was adopted.

The next amendment was to add to the tenth section, which requires an annual report to be made to Congress, the following words:

Said returns shall specify the following particulars, namely: The number of depositors; total amount of deposits; amount invested in bank stock and deposited in bank on interest; amount secured by bank stock; amount invested in public funds; loans on security of public funds; loans on mortgage of real estate; loans on personal securities; amount of cash on hand; total dividends of the year; annual expenses of the institution; all of which shall be certified and sworn to by the treasurer; and five or more of the managers shall also certify and make oath that the said return is correct according to their best knowledge and belief.

The amendment was agreed to.

The next amendment was to strike out the twelfth and thirteenth sections of the original bill, in the following words:

Sec. 12. *And be it further enacted*, That a misnomer of said corporation by any deed, gift, grant, or other instrument, contract, or conveyance, shall not vitiate the same, if the corporation shall be sufficiently described.

Sec. 13. *And be it further enacted*, That this corporation may take and hold real estate to the clear annual value of \$10,000, and may sue and be sued, and have all the necessary power for the collection of debts and demands.

The amendment was agreed to.

The next amendment was to insert the following new section, to be section ten of the amended bill:

Sec. 10. *And be it further enacted*, That said corporation may make by-laws for the more orderly management of their business, not repugnant to law; may have a common seal, which they may change at pleasure; that all deeds, grants, covenants, and agreements made by their treasurer, or any other person by their authority, shall be good and valid; and said corporation shall have power to sue and may be sued, defend and be held to answer by the name aforesaid.

The amendment was agreed to.

Mr. LANE, of Kansas. I move to amend the bill by inserting the name of Samuel V. Niles among the corporators.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

WARDEN FOR THE JAIL.

On motion of Mr. MORRILL, the bill (S. No. 86) to authorize the appointment of a warden of

the jail in the District of Columbia was considered as in Committee of the Whole. It proposes to authorize the President of the United States to appoint, by and with the advice and consent of the Senate, some suitable person to be warden of the jail in the District of Columbia, for the term of four years, who shall receive an annual salary of \$1,200. The warden is to have the exclusive supervision and control of the jails in the District, and be accountable for the safe-keeping of all the prisoners legally committed thereto, and to have all the power and discharge all the duties heretofore legally exercised and discharged over the jails and the prisoners therein by the marshal of the District. Before entering on the duties of his office, the warden is to execute a bond to the United States in the penal sum of \$5,000, with sureties to be approved by a judge of the circuit court of the District.

The Committee on the District of Columbia, to whom the original bill introduced by Mr. GRIMES was referred, reported it with amendments. The first amendment was to strike out "\$1,200," in line seven of section one, and to insert "\$1,600, which shall include all fees and emoluments. And said warden shall annually, in the month of November, make a detailed report to the Secretary of the Interior."

The amendment was agreed to.

The next amendment was to insert after section two the following new section:

And be it further enacted, That the warden of the penitentiary in the said District, upon order of the supreme court of said District or the Secretary of the Interior, shall transport all convicts sentenced to imprisonment beyond the limits of said District to the place of confinement, receiving therefor the actual expenses of himself, guard, and of each convict. And in case of absence or other disability of said warden, the warden of said jail, having the custody of said convicts, shall upon order as aforesaid transport them to the place of confinement, receiving therefor the compensation aforesaid.

The amendment was agreed to.

The next amendment was in line six of section three to strike out "circuit," and insert "supreme," so as to read, "with sureties to be approved by some judge of the supreme court of said District."

The amendment was agreed to.

Mr. JOHNSON. It is my fault of course that I have not read the bill, though I believe it has been on the table for some time, but I did not know till I heard it read that such a bill was in the Senate at all. I should like to know why it is necessary to change the law as it is. From the beginning of the Government the marshal has had charge of the jail. Whether this marshal has conducted himself properly or not, I do not know; whether he has charged more than he ought to charge, I do not know. If he has not charged more than the law allows and has received too much, we can reduce the fees. In the other case he is responsible to the President. He is appointed by the President; he is a political and personal friend of the President; he was I believe a law partner of the President; he had, when he was appointed and has still the entire confidence of the President; and although such considerations are not perhaps exactly suited to the deliberations of this body, yet I suggest to the especial friends of the President here whether they should aim by legislation at one of his known friends.

As far as I know, I have no information at all that the duties of the office have not been faithfully discharged. I believe the mere compensation he gets as marshal, except such as may arise from his duties in connection with the jail, is very little. The fees that he gets in the Supreme Court of the United States are little or nothing. He is paid a per diem, I think, but all else that he gets, except from the jail, is what he may get for attending the local courts and what he may get as commissions upon the service of executions. What that amounts to I do not know, but I imagine the whole would be comparatively a trifling compensation. I suppose therefore that the greater part of the compensation of the marshal of the District arises from the fact that he has the duty which you are about to take away from him. Under this impression, unless the gentleman who reported the bill can satisfy me that it is a very wise measure, called for by the public interest, and especially in accordance with the wishes of the President, I shall be inclined to vote against it.

Mr. MORRILL. Of course I do not know

whether it is in accordance with the wishes of the President of the United States or not. I do not know that the marshal, either by virtue of his office as jailer or otherwise, was or was not a partner of the President in the practice of the law. I hardly know that any of these questions arise on the consideration of this bill. They certainly did not arise in the consideration of it in the committee.

This bill was referred to the committee; and we had some facts before us which led the committee to the belief that the public interests would be better subserved by the appointment of a warden, whose especial duty it should be to take care of the jail, and who should not be complicated with those political duties and political relations of the marshal to the President to which the Senator refers, and to which he seems to attach so much importance. All the duties in regard to the jail of course are simply those of a jailer and nothing more; neither political nor confidential; and we found that the marshal had little or no practical duties at all at the jail; no care of it. As a matter of fact it was in the hands of a subordinate appointed by him; and it seemed to the committee that it was proper enough that the person who really had the charge of it should be held responsible to the Government; and that the duties would be quite as faithfully performed probably by the person who should be charged with them and held responsible to the President. That was the principal reason for confiding the duty to a warden.

But, sir, there was another reason which entered into the consideration somewhat, and that was this: the convicts at the penitentiary we found had been taken from the penitentiary and transferred to this jail, and they had been taken from the jail under the order of the Secretary of the Interior, in some respects, in others from another quarter, and had been transferred from the District of Columbia to the penitentiary in the city of Albany, where they were authorized to be confined for punishment by an act of the last Congress. I believe about one hundred and forty prisoners were thus transferred from this jail under the direction of the marshal, and perhaps under his personal supervision, to Albany; and from the papers submitted to the committee we found that the charges of the marshal for transferring them from this city to Albany were \$6,814 20. It seemed to the committee that that kind of exorbitant charge was an improvident transaction, which appeared to call for some interference on the part of Congress to regulate the affairs of the jail; and to provide against a repetition of that, we have made it the duty of the warden who is to have special care of this prison to perform that work as a portion of the duties of jailer, charging therefor simply the actual expenses, and there does not seem to be any good reason why he should charge any more.

I believe that these were the two reasons which influenced the committee to report this bill. If these are at all satisfactory to the honorable Senator from Maryland, I hope he will not find it necessary to oppose the bill further.

Mr. JOHNSON. If they were at all satisfactory I would not oppose it; but they are anything but satisfactory. The fact which the Senator states, that it cost over six thousand dollars to convey more than one hundred and forty prisoners from here to Albany, may or may not be a good ground of charge against the marshal; but it is not so great a charge as one would suppose. Thousands seem large, but it is only about forty-five dollars a man, I think. He has to take them from here, keep them on the road, provide for them—how he provides I do not know. He has to guard them. I suppose that if he takes eight or ten prisoners at a time he must have two or three men to guard them, and he must pay the guards. But if it was not so, if it is true that the committee, with the sanction of the Senate, mean to act upon the principle that every officer is to be legislated out who charges the Government too much, our whole business would be taken up in legislating officers out. The proper way to meet such a case would be to go to the President if the man has not performed his duty. He can be turned out by the President at any time; and I submit to the Committee on the District of Columbia that it is really a reflection on the President to put the necessity of this bill on the ground that there is in office a man who gets his appoint-

ment from the President, who remains in office during the will of the President, because there is no other way of getting him out than by legislation.

Now, as to the other reason assigned by the Senator. In all the States as far as I know, the general practice is that the officer who represents the courts and is called upon to execute the judgments of the courts from time to time, the sheriff, or the marshal, or whatever may be the name by which the officer is designated, shall have charge of the prisoners. The sheriff is bound to execute all judgments and all executions whether against the person of the debtor or against his property. Where he goes against the person of the debtor—you have abolished imprisonment for debt here, and therefore it does not make so much difference in point of fact, but the principle is the same—he gets possession of the debtor, and what is to become of him? Is he to hand him over to the warden? Does the sheriff or the marshal get rid of the responsibility by handing him over to the warden? His responsibility after the judgment rests on the fact that he executes the process, he is to have the prisoner in court at the proper time. If he has him not there his bond is forfeited.

Mr. GRIMES. I should like to inquire how it is in the States. The Federal Government has no jails in the States; and what do the marshals do but turn over their prisoners to the county jailers?

Mr. JOHNSON. The answer to that is that practice exists because the United States have no jails in the States. If the United States had jails there, they would put them as a matter of course under the charge of their marshals.

Mr. GRIMES. That does not follow at all.

Mr. JOHNSON. It would follow if the system was uniform, and the same system will be found everywhere else. You use the jails of the States because you have no other place to put your prisoners in, and your marshals are discharged from responsibility in a case of that description under the law if they do all they can do and deliver the prisoners up to the persons having charge of the jails. The State is responsible by its officer for any damage that may result.

Why is it that these expenses, which you say are enormous, (and I am not prepared to say that they are not) are being incurred? Who is to blame for that? Congress. Why have you not got a penitentiary of your own? You have never had one since you determined to take for the use of the Army the penitentiary that was here before and badly located. Since then you have been obliged to use the State penitentiaries; and I should like to know—it has always been a puzzle to me; I do not know how it is that everything seems to swing northward, if I may use the expression—why is it that the prisoners here are sent to Albany? We have got a penitentiary in Maryland, and we cannot fill it with our own people. We sometimes have succeeded in filling it with people who are caught there temporarily and commit crime; but our penitentiary is quite large enough to take all the prisoners that are sent from here; and for the soul of me I cannot imagine why it is that these prisoners are sent at an expense of forty-five dollars apiece all the way to Albany. It is not the fault of the marshal; he does not send them there; they are sent by the court, or the President, or whoever does order it, under the authority of a special act of Congress.

Mr. GRIMES. They were sent originally without any authority of law whatever; the War Department took possession of the penitentiary without any authority of law, and then we came in and passed a law confirming and ratifying what they had done.

Mr. JOHNSON. That law was to give to the Secretary of the Interior, as I understand from my friend from Maine, the authority to designate the place where the persons convicted here of penitentiary offenses should be confined, and he selected Albany. You had better legislate him out, too. If these expenses are enormous and unnecessary, why not legislate him out because he is the *causa causans*, and the marshal is only carrying out his orders?

But I submit, and it is all I have to say on the subject, that the principle of this legislation is decidedly wrong. The President is bound to see to the faithful execution of the duties of officers

whom he appoints, and who, when appointed, hold their commissions at his pleasure. If he does not think proper to discharge them when in your opinion they should be discharged, hold him responsible, bring public opinion to bear upon him, and if he goes contrary to all opinion, public and congressional, then there is another remedy. Nobody can suppose that the present President of the United States would place himself in the position even of having public opinion operate upon him justly to make him do what he was unwilling to do otherwise; still less would he go to an extent that would call upon Congress to interfere. I cannot help thinking, I must think so because of the very sincere respect in which I hold the President, that if he was acquainted with facts which would satisfy such a committee as we have now in recommending that this gentleman should be removed, he would be removed or certainly would be told that he would be removed if he persevered in proceeding contrary to law or contrary to propriety.

Mr. MORRILL. Mr. President, if the apprehensions of the honorable Senator from Maryland are well grounded, it would turn out that the committee had acted with great indiscretion; but it did not occur to the committee that this was by any possibility a reflection upon the President of the United States. If I had resolved myself into a committee of safety for the President or his friends, I do not believe it would have occurred to me that by any possibility whatever this legislation could affect the President of the United States.

Why, sir, what do we propose? To relieve the marshal of a portion of his duties. Nobody had said, I think, until the Senator from Maryland started the question, that there was a reflection upon the marshal. I had not proposed to offer any testimony implicating the marshal at all. Now that the question is open, and that it becomes necessary for me to state the fact, I will state it a little more emphatically than I did when I was up before, and I think I can satisfy the Senate, if they give me their ears, that here is a wrong against the public which ought to be corrected, and that no suggestion of delicacy toward the President or anybody else should interfere with an honest and fearless discharge of the duty of the Senate upon this question.

Here we find a jail in this city under the exclusive jurisdiction of the General Government, the General Government responsible, paying the bills, and we find the marshal, whose duties are principally of a political character, as we are informed by the honorable Senator from Maryland, enjoying a perquisite in this jail, but performing no duties of a practical character, and having little or no responsibility for the jail. We find, as was stated by the Senator from Iowa this morning on another bill, that there are some three thousand persons going in and out of the jail annually, upon which the marshal gets a fee of half a dollar each time they go in and each time they go out. That is one perquisite. We find that these persons are all supported at the public charge; their expenses are paid out of the public Treasury. They cost to him, the Government paying all his help, about nine cents a day each for support; he receives a commutation of thirty-six cents. It is said that he pockets from twelve to fifteen thousand dollars a year; I have not computed it, and therefore do not say so myself; but you will see from the margin stated a very pretty little perquisite in that way.

By an order of the War Department, as I have already stated, the prisoners in the penitentiary were transferred to this jail. The first prisoners that were sent from the District to Albany, were sent under the order of the Secretary of the Interior, and were conveyed there by the warden of the penitentiary. There were forty-two of them, and it cost the Government in money paid out for conveying the whole forty-two, just \$110 83. The warden as a prudent man, availed himself of the opportunity of a Government transport bound from this city to New York, put those men on board and provisioned them, and from New York took them to Albany. The principal expense, you will perceive, was provisioning the men on board the transport and taking them to Albany; but as the transport was bound to New York at Government expense, that was no additional item, and the whole bill, as I have said, was \$110 83.

After the prisoners were turned over to the marshal to be taken to Albany, the first batch that he took was forty-five in number, and the expense charged to the Government was \$2,650. The amount paid by the Government for transporting those forty-five prisoners was \$2,250. It was brought up in this way: an act of Congress regulating the fees of marshals generally throughout the country, the fee bill, contains a provision that every marshal, for the conveyance of prisoners, meaning the conveyance of prisoners from the courts to the prisons within his district, shall be entitled to the sum of ten cents a mile for himself and the prisoners and the guards. He makes this general statute, applicable to that general class of cases, apply to this specific case, and in that way he is enabled to run up this fee. I believe he took some fourteen or fifteen men with him as guards, charged for them ten cents a mile both ways, and charged for the prisoners ten cents a mile.

It seemed to us that that was a subject which the committee of the Senate ought to consider and provide some remedy for. It is not known how long these prisoners are to be carried from this city to Albany. As I stated before, I believe the whole amount received by the marshal for taking one hundred and thirty-five prisoners was \$6,814 20. Nobody will doubt that, with the facilities of the Government for conveyance between this city and the city of New York, and thence to Albany, this sum is not only exorbitant, but it would seem to be outrageous in times like the present.

Mr. COWAN. Allow me to ask the Senator whether the abuses of which he complains would warrant the alteration of the law contemplated, the settled law of the country, everywhere for hundreds of years, that the executive officer of the court shall have the control of the prisoners; whether it would not require, if you make the alteration contemplated here, an alteration in the forms of writs, and an alteration in a great many particulars which have not been foreseen, perhaps, by the framers of the bill?

Mr. MORRILL. It does not touch the general law at all. It does not propose to alter the general law in a single particular. They are all in the hands of the executive department of the Government. The warden is an executive officer as much as the marshal; and the custody of these prisoners belonged to the warden, and the marshal had no concern with them at all. It was a piece of impertinent interference on the part of the marshal to take custody of these prisoners at all. They had been committed to the warden of the penitentiary; they were in his custody, and if they were to be transported out of this District he was the man to transport them. It was only by force of a special order, to which I have referred, that they were taken out of the custody of the law officer, the man to whom they were confined, and handed over to the marshal. I do not say to enable him to charge the fee, but I say that he availed himself of the opportunity to charge this fee, and I have shown that the proper law officer was the warden.

Mr. COWAN. Those were prisoners who were there temporarily I understand. The question I put is this: by a writ issued from the court the marshal is directed to arrest a prisoner and keep him in custody and have him in court on a certain day. How is he to keep him if the jail is taken away from him and a third person interposed? That is the objection I have to the passage of this bill, because it will beget a very great many alterations in the ordinary administration of courts of justice. For instance, I suppose every time the court directs the marshal to bring in a prisoner they will have to issue a special writ to the warden to deliver up the prisoner, and when a prisoner is to be committed to this warden there must be a special authority on the part of somebody to authorize the marshal to do that. It disturbs the whole frame and texture of the laws as they have been administered for hundreds of years, and are administered I believe without a single exception all over the country. Nobody ever dreamed before of making the sheriff and the jailer different officers. The sheriff himself being charged with the custody of the prisoners may keep them where he will. There is a jail usually provided for him to keep them in, and over that jail he, as a matter of course, from the very necessity of the thing, ought to have control, and supreme

control. Under this bill, as I understand, it will be very difficult oftentime to know whom to sue for an escape. Suppose a prisoner escapes *in transitu*, when he is half in the hands of the marshal and half in the hands of the warden, who is to be sued? The marshal says it is the warden, and the warden says the marshal. How is a man to know? The preliminary question must first be settled. He has either to bring two actions, or run the risk of failing in the first one he brings.

I think we cannot afford to alter this law for the purpose of attaining the end which seems to be contemplated by the committee; and that is to strike the marshal a blow for some abuses of which he has been guilty. If the marshal has abused any of the privileges of this office, the way is not to cure it by tearing up the law which created his office and imposed upon it duties which were perfectly proper, and which have always been recognized to be proper. I hope, therefore, that the Senate will pause before it will attain the purpose in this left-handed way, because I think there is a far better remedy.

Mr. MORRILL. One word in reply. If the honorable Senator from Pennsylvania wants to know who is responsible for these parties, he cannot have given much attention to this bill. In the second section of the bill it is provided that the warden shall have "all the power and all the duties heretofore legally exercised and discharged over said jail," that is all, "and the prisoners therein by the marshal." We impose the same responsibility on the warden that rested on the marshal for the prisoner while he is in his custody, while he is in jail. That is all.

The Senator from Pennsylvania cannot be very conversant I think with the state of affairs in the country if he supposes that we are to disturb the course of proceedings that generally obtains in the country. Can the honorable Senator point me to a single instance in any State where the marshal keeps the jail? Are not all the United States prisoners confined to jail, and when they are in jail are they not under the care of the jailer? I know of no instance in any of the States where the marshal's functions do not cease the moment that he delivers the prisoner over to the jailer.

Mr. COWAN. Will the honorable Senator allow me to ask if he knows of any instance in any of the States where the jailer is not the mere servant of the sheriff or marshal; if the marshal has a jail, where he is not appointed by him; and if the sheriff, where he and his bondsmen are not responsible for the safe-keeping of the prisoners whom the sheriff intrusts to the jailer?

Mr. MORRILL. My recollection is altogether different on that subject. By general comity of the State Legislatures the United States are permitted to use the jails of the States, and when the prisoners are committed to the custody of the jailer the authority of the marshal ceases entirely over the prisoner. All the analogies in all the States are entirely at variance with the argument of the honorable Senator from Pennsylvania. How is it in the case of the sheriffs in the several States? The sheriff arrests and the sheriff brings the prisoner into court; he has the custody of him; the prisoner is tried; he is convicted; he is sentenced; the sheriff has a *mittimus* to commit him to prison. The moment he is inside the prison the authority of the sheriff is gone forever; and he is in the hands of whom? In the hands of the warden precisely under circumstances similar to those provided for in this bill; so that there is no upturning of any practice; there is no repealing of the general statutes of the United States or of the States. I submit, therefore, if the Senate are satisfied that the interests of the Government require some regulation of this jail, there is no reason of a character such as was stated by the honorable Senator from Maryland why the Senate should be deterred for a single moment from passing the bill.

Mr. GRIMES. Neither the Senator from Pennsylvania nor any other person can point to a State in the Union where the marshal, as in this District of Columbia, has charge of the persons in jail. In every State of the Union, persons who are incarcerated in jail for offenses against the laws of the United States are transferred from the Federal to the State authorities, and the marshal's jurisdiction and control of them ceases from the time they are deposited within the precincts of that jail which is owned by the State authorities,

and is resumed when they cross the threshold of it and go out on their way to court or on their way to the penitentiary.

In addition to the reasons stated by the Senator from Maine as having actuated the committee in reporting this bill, I may state that there has been such an accumulation of business thrown on the marshal of this District that it is utterly impossible for him to perform this duty. Everybody who is familiar with him knows that his business has called him for several weeks past to the city of New York, and he has been able to exercise no supervision over this jail, as he ought to do. He ought to look after the sanitary condition of the jail. He ought to make, if not daily, at least weekly visitations to the jail to see what is the condition of the large number of men, women, and children who are incarcerated there.

In addition to the ordinary duties that appertain to the marshal's office in time of peace, there has been a vast amount of business growing up in prize cases that has been thrust upon him. All this business he has been compelled to perform by proxy. There has been such an accumulation of it that the District Committee thought it was necessary to divide the duties of the office. Is there anything unusual in that? Are not Senators and members of the House of Representatives in the habit of introducing bills by which to divide up the responsibilities and cares that appertain to a particular officer among two or three or more? Does this strike a blow at the President of the United States, as the Senator from Maryland seems to suppose, merely because the President originally appointed the marshal of the District of Columbia? I apprehend not. We want a man who is able to supervise the jail himself. It is a vast business. I am not prepared to say how many men and women there may be at this moment in this jail, but I know that a year ago there were between one hundred and two hundred. I apprehend that in any State of the Union where there was a county having as large a number of persons within a jail as there are to be found ordinarily within the jail of the District of Columbia, there would in every such case be a separate and distinct warden who should have charge of the jail; and not only that, but they would have a board of visitors who would visit that jail monthly or weekly to see that the warden fully performed his duties to the persons incarcerated, and to the Government, and to the cause of humanity. I do not concede that there is anything very extraordinary in the proposition which is submitted to the Senate by the Committee on the District of Columbia. They want to subserve the public interest by requiring the jail to be properly kept. They know that it is no inroad on the prerogatives of the marshal. We are only taking from him that which is not conferred on the marshal in any State of the Union, and which ought not to have been conferred upon him here, and would not have been but for the fact that originally there was a very small population here in the District of Columbia. At that time, I can readily conceive that the marshal could very well perform not only the duties that properly appertain to the office of marshal but also the duties of jailer. That, however, has long since gone by. Now the duties are too burdensome and too extensive for any one man to properly perform.

Mr. LANE, of Indiana. I move that the Senate proceed to the consideration of executive business. I think it is very important to have an executive session this evening.

Mr. MORRILL. I should be very glad to have this bill disposed of.

The VICE PRESIDENT. The question is on the motion of the Senator from Indiana.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 18, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

GOLD CONTRACTS.

Mr. CLAY, by unanimous consent, introduced a bill to regulate contracts for gold; which was read a first and second time, and referred to the Committee on the Judiciary.

PAYMENT OF BOUNTIES.

Mr. MORRISON, by unanimous consent, introduced a bill to provide for the payment to volunteers who enlisted before the date of the last call for troops, October 17, 1863, the same bounties paid to those who enlisted subsequent thereto; which was read a first and second time, and referred to the Committee on Military Affairs.

ESTABLISHMENT OF CERTAIN ARSENALS.

Mr. WILSON. I ask unanimous consent to report back from the Committee on the Judiciary a bill (H. R. No. 206) in addition to an act for the establishment of certain arsenals.

I will state that the bill merely provides a method by which the Government may get possession of a portion of Rock island, upon which the Thirty-Seventh Congress directed an arsenal to be erected. It is very important that the bill should be passed now, in order that the title may be obtained and the work carried on in the spring.

I will state further that the bill in addition provides for the condemnation of property by the Government not only in relation to the arsenal at Rock island, but in relation to any other improvements that the Government may desire in future to carry on.

No objection being made, the bill was reported back, and was read *in extenso*.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. FERNANDO WOOD obtained the floor.

GUARDIANS OF LUNATICS, ETC.

Mr. BOUTWELL. I ask the gentleman from New York to give way a moment, that I may report back from the Committee on the Judiciary a bill which I think will be acted on without debate.

Mr. FERNANDO WOOD. I will yield for that purpose.

Mr. BOUTWELL, by unanimous consent, reported back from the Committee on the Judiciary a bill (H. R. No. 42) to enable guardians and committees of lunatics appointed in the several States and other countries to act within the District of Columbia, with amendments.

The amendments were read, as follows:

First amendment:

Strike out all after the word "minor" in the second line, and insert as follows:

Or lunatic, by the proper authority in any State or Territory of the United States, or in any other country, to institute and prosecute to final judgment any suit or action in the courts of the District of Columbia as he might have done if his authority as such guardian or committee had been derived from the proper tribunals of said District; and such committee or guardian may in the same manner collect and receive any sum of money due to such lunatic or minor, and may by deed, duly executed, release and convey to any party entitled to the same, whether by purchase or otherwise, any lands or estates situated in the District of Columbia, the property of such lunatic or minor, or to or upon which such lunatic or minor may have a claim or mortgage, in the same manner as he might have done if his authority had been derived from the tribunals of said District: *Provided*, That such committee or guardian, before making any conveyance of real estate or release of claim or mortgage thereon, shall file in the orphans' court of said District the official certificate of the judge of the court from which such committee or guardian derived his appointment, that he has given a sufficient bond to account to the minor or lunatic for all sums of money received by virtue of the authority conferred by this act.

Second amendment:

Strike out all of the second section after the word "committee" in the second line, and insert as follows:

Or guardian of a lunatic or the guardian of a minor duly appointed at the domicile of the lunatic or minor out of the District of Columbia, whether in the United States or a foreign country, shall be good and effectual: *Provided*, That said guardian or committee shall file in the orphans' court in said District the official certificate of the judge of the court from which such committee or guardian derived his appointment, that he has given sufficient bond to account to the minor or lunatic for all payments so made: *And provided further*, That in all cases the evidence of the appointment and authority of such committee or guardian shall be first recorded in the office of the orphans' court of said District.

The amendments were agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CUSTOM-HOUSE, ETC., AT CAIRO.

Mr. W. J. ALLEN. I ask the gentleman from New York to yield to me for a moment.

Mr. FERNANDO WOOD. I yield.

Mr. W. J. ALLEN, by unanimous consent, introduced a bill to revive so much of the act entitled "An act making appropriations for certain civil expenses of the Government for the year ending 30th June, 1858," as appropriates the sum of \$50,000 for the construction of a custom-house, United States court rooms, and post office, at Cairo, Illinois; which was read a first and second time, and referred to the Committee of Ways and Means.

VETERAN ENGINEER REGIMENT.

Mr. GARFIELD, by unanimous consent, and in pursuance of previous notice, introduced a bill to organize a regiment of veteran volunteer engineers; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

SALE OF GOLD.

Mr. FERNANDO WOOD. Mr. Speaker, I have risen merely for the purpose of calling the attention of the House to the propriety of making some immediate disposition of the joint resolution which the Committee of Ways and Means proposed to report yesterday authorizing the Secretary of the Treasury to sell gold on hand in the Treasury at pleasure. The mere proposition emanating from that committee has unsettled the market of New York; it has deranged the basis of mercantile transactions; it has deranged exchanges and the value of commodities; and I am appealed to by a very large number of the leading bankers and merchants of New York to ask that some disposition shall be made of that question.

Mr. WASHBURN, of Illinois. Is the joint resolution before the House?

The SPEAKER. The Chair supposes that the gentleman from New York is going to ask the consent of the House that the joint resolution shall be considered now.

Mr. WASHBURN, of Illinois. I have no objection to its consideration, but I want to know whether it is before the House or not.

The SPEAKER. It is not.

Mr. WASHBURN, of Illinois. I do not object, but I ask that the question shall be put to the House.

The SPEAKER. The Chair was waiting to hear what the gentleman from New York had to say.

Mr. FERNANDO WOOD. I desire to say that if the House were conscious of the fact that the pending proposition, unacted on and undisposed of, is perpetrating great injury to the mercantile interests of the country, I am sure they would make some disposition of the subject. I have risen merely for the purpose of asking the House to take up the joint resolution, and dispose of it now either by passing it or rejecting it.

Mr. COX. I will not object if we are allowed to offer amendments and discuss this matter somewhat. I have an amendment which I propose to offer to the joint resolution.

Mr. STEVENS. It will take the usual course.

The SPEAKER. Is there any objection to the reporting of the joint resolution?

No objection was made.

Mr. HOOPER, from the Committee of Ways and Means, then reported a joint resolution authorizing the Secretary of the Treasury to sell any surplus gold in the Treasury, which was read a first and second time.

The joint resolution authorizes the Secretary of the Treasury from time to time, at his discretion, to sell any gold coin in the Treasury over and above the amount which in his opinion may be required by the Government for the payment of interest on the public debt, and for other purposes.

Mr. HOOPER obtained the floor.

Mr. COX. With the permission of the gentleman from Massachusetts I offer the following amendment to come in at the end of the joint resolution:

Provided, That all sales of gold under this joint resolution shall take place in market overt, after notice given, under such regulations as may be prescribed by the Secretary of the Treasury.

Mr. HOOPER. Mr. Speaker—

Mr. LONG. I ask the gentleman from Mas-

sachusetts to give way for a moment to allow me to offer an amendment.

The SPEAKER. There is an amendment already pending.

Mr. LONG. This is an amendment to the amendment.

Mr. HOOPER. I should prefer that it should come in after I have made the few remarks I have to make.

I rise, Mr. Speaker, merely to reply to the inquiries made by the gentleman from Ohio [Mr. Cox] yesterday. And first as to the amount of gold now in the Treasury. I understand that the amount on Saturday night was \$18,900,000. Of this sum \$18,200,000 was in the sub-Treasury at New York. The estimates from now to the 1st of July, would increase it some sixteen or eighteen millions more, making, by the 1st of July, an amount of about thirty-seven million dollars. The requirements of gold from now to the 1st of July to meet the payment of the interest on the public debt are less than twenty-four million dollars, showing an excess of from ten to twelve millions which might be disposed of under the authority of this joint resolution.

The gentleman further asked me what would be the effect on commercial exchanges of giving this authority to the Secretary of the Treasury. That is rather a general question, and one that is difficult to answer in any concise way. I shall only refer to two things to illustrate what may be the effect of it. Gentlemen may recollect that reference was made the other day by the gentleman from Pennsylvania, [Mr. KELLEY,] to a letter from Mr. Lamar, in which he advises his friends to get up the price of gold as the true way of attacking the Federal Government. I think the effect of this authority to the Treasury Department would be rather to disarrange the plans of those gentlemen who may propose to follow out Mr. Lamar's suggestion, as it would be impossible for them to judge in advance when the Secretary of the Treasury was coming into the market; and if they undertook any measure by which to raise the price of gold, it might possibly prove to the benefit of the Government.

I call the attention of the gentleman to another fact. He may recollect the circumstance of a sudden demand for \$12,000,000 for payment of the Army being made on the Treasury something more than a year ago. The Secretary made an arrangement with the banks at New York that they should advance that amount, and advance it immediately for use. The gentleman from Ohio is well aware, from his general knowledge on the subject of finance and currency, that there is but a certain amount of the medium used for money required to conduct the business of any place. The effect of that sudden call for \$12,000,000, withdrawing that amount in notes from the circulation of the city of New York, was to produce almost a panic there. It operated as a great check on the operations of the banks; in fact, it was found impossible to pay that amount promptly at the sub-Treasury, and the sub-Treasurer was obliged to grant some facilities—to spread the payment into the Treasury over a few days.

I mention that as an illustration of the effect produced by the accumulation of this amount of gold in the sub-Treasury at this time, thus withdrawing it from use, and putting it where it can not possibly be availed of by the merchants again for several months. The gold is not needed in the Treasury. The effect of this resolution would be to restore the surplus of gold in the Treasury to the channels of trade for the use of the merchants of New York and of other parts of the country. I think its immediate effect would be to prevent what I understand to be now going on in New York—a "corner in gold." There is so much gold accumulated in the sub-Treasury beyond the reach of the community as to enable parties to buy up the small amounts that are offered for sale, thereby forestalling it, and producing what is termed in the language of Wall street a corner in gold. I understand that to be the reason why gold has advanced three or four per cent. during a week or two past in the city of New York.

As to my general opinion of the effect to be produced upon our commercial system, I think the gentleman will be satisfied from what I have said that at least some immediate good will be effected, and will excuse me for declining at present to express any opinion.

Mr. COX. I ask the gentleman from Massachusetts whether this large amount of gold in the sub-Treasury has been placed there from the payment of customs duties or from deposits?

Mr. HOOPER. I understand that the accumulation has arisen from the payment of duties at the custom-house. On Saturday last the whole amount paid for duties in New York was \$526,000, and of that sum \$506,000 was in gold.

Mr. COX. I would ask the gentleman from Massachusetts what effect the amendment which I have offered would have on the bill? Does he regard that amendment as prejudicial to the Government in its transactions in gold, or will he favor that amendment?

Mr. HOOPER. I should think the effect of that amendment would be prejudicial. It would be giving notice beforehand that gold in large amounts is to be offered for sale, and allow combination to be made to control the sale and keep the gold as a monopoly in the hands of the wealthy brokers and speculators. I think it would perhaps facilitate certain other operations so far as this, that it would be a sort of notice to those gentlemen I have alluded to before, who propose to follow out the suggestion of Mr. Lamar and enable them to guard themselves by the forewarning it would give them of the intentions of the Secretary.

Mr. PENDLETON. I regret very much, Mr. Speaker, to be obliged to differ from the majority of the Committee of Ways and Means which reported this resolution; but the consideration which I have been able to give to the subject leads me to the conclusion that the result of the passage of the resolution will be injurious to the interests of the Treasury. I am looking to the interests of that Department of the Government alone in my action upon this resolution. It involves only a question of finance, only a question of sound commercial policy. The Secretary of the Treasury has now power to buy gold whenever he shall deem it necessary. That power was given to him because the law authorizing the issue of notes and bonds provided that the interest on them should be paid in gold. In order to enable him to redeem that obligation it was thought proper to give him power, whenever he should find it necessary, to go into the market and buy gold. He has that power to an unlimited extent. This resolution proposes to give him power to sell gold to the like extent; so that, if the resolution shall pass, the Secretary of the Treasury will have complete power to buy and sell gold whenever he shall think proper.

I call the attention of gentlemen to the fact that they are clothing the Secretary with enormous power; that he will be authorized by law to go into the gold market of the country for whatever amount he pleases whenever he pleases. There is no good purpose to be accomplished by this resolution, except that stated by the gentleman from Iowa [Mr. KASSON] yesterday, and by the gentleman from Massachusetts [Mr. HOOPER] to-day. They told us plainly that the purpose was not to relieve the Treasury, but to relieve the gold market of New York. The premium which could be realized from the sale of this gold would afford no relief to the Treasury. They do not pretend it. They know that if ten millions were sold the premium would scarcely suffice for the expenses of the Government for ten hours. No interest would be saved to the Treasury, for the sale would not be made for interest-paying bonds, but would be made for legal-tender notes, which pay no interest whatever. They did well, therefore, frankly to avow the purpose of this resolution; to state clearly what a moment's reflection would teach any man, that the gold market of New York, not the Treasury of the United States, is the object of solicitude here. To relieve it from stringency is the only good purpose, if that be a good purpose, which can be subserved by the passage of the resolution.

I think I understand the source from which this resolution springs. I know the parties who are urging it forward. My honorable colleagues on the Committee of Ways and Means will understand that I mean no reflection upon them, their motives, or their actions. If statements which I entirely credit are to be relied on, private interests are at the bottom of this movement. Persons using gold in their transactions laid in a "winter's supply" last summer and fall, when the price was low. They have exhausted their supply.

They are compelled to buy. The price is higher now than it was then. They want it to be lower. Not a whimper of Government hoarding has been ever before heard. Suddenly they discover that the Government has \$20,000,000 of gold in its vaults; that it has hoarded that amount; that the Government ought not to hoard; that if \$20,000,000 or \$10,000,000 shall be suddenly brought on the market the price will fall and they will be able to buy at a low rate; and forthwith, upon every conceivable pretext, they urge the sale of that gold, irrespective of every other consideration than the state of the gold market to-morrow and their own interest.

We were told yesterday that great stringency exists in the gold market in New York because of the amount of gold in the Treasury there. How much? Eighteen million dollars of gold have accumulated in the Treasury, and if I am not mistaken the returns show there are more than sixty million dollars now on deposit in New York. So less than one third of the amount subject to draft for the purposes of business is in the vaults of the United States.

I claim, in the first place, it is not the duty nor is it within the scope of the legitimate operations of this Government to control (even though that control be exerted for the purpose of relieving) the money market of the country. That is not within the sphere of its proper functions. It ought not to become either a "bull" or "bear." It ought not to become a speculator. It ought not to seek to control the money market instead of allowing the laws of trade to control it. It is a trite saying that the world is governed too much. The saying was never more true than to-day. It never was applied more truly than to our own country. We have abandoned the principles on which the Government was founded. We have cut loose from all our moorings.

Mr. BROOKS rose.

Mr. PENDLETON. I yield to the gentleman, if he desires it.

Mr. BROOKS. I thought the gentleman was done.

Mr. PENDLETON. No, sir. There are \$18,000,000 of gold in the Treasury at New York. There is the residue of \$60,000,000 there to perform the ordinary and legitimate duties of gold in that market. Can it be that the retention of that amount in the Treasury for a few days, and it will be only for a few days, will so derange the gold market of New York that, in order to restore its normal condition, this great power must be given to the Secretary of the Treasury?

Mr. MALLORY. Will the gentleman yield to me for a moment?

Mr. PENDLETON. With pleasure.

Mr. MALLORY. I inquire, with the consent of my colleague on the Committee of Ways and Means, whether anybody knows what is the desire of the Secretary of the Treasury on this subject? He has not communicated to that committee or to this Congress any information as to the propriety of conferring upon him this additional power for selling gold in the market of the country. He applied for the power to buy gold to pay the interest on the public debt. Now, when it is proposed to confer upon him this extraordinary power, he has never applied to the Committee of Ways and Means or to this House for any such purpose. He has never informed us that the granting of that power would be beneficent or not. I submit whether it is proper to confer upon the Secretary of the Treasury the power to sell gold, he already having the power to buy gold, and go into the market of New York and become a "bull" or "bear" to raise or lower the price of gold, at his discretion, without his calling upon the House?

Mr. DUMONT rose.

Mr. PENDLETON. If the gentleman from Indiana desires to propound a question to me or to any member of the committee, or to answer the question of the gentleman from Kentucky, I will yield to him with pleasure; otherwise I cannot. I am not able to answer the question propounded by the gentleman from Kentucky. If any of my colleagues on the Committee of Ways and Means are prepared to give a categorical answer as to whether or not the Secretary of the Treasury desires this bill to pass, or whether he has recommended it, I will give way that they may make the answer.

Mr. MALLORY. I am very certain that no

member of the Committee of Ways and Means is authorized to give a categorical answer. I merely wished to announce the fact that the Secretary of the Treasury has not applied for this power.

Mr. PENDLETON. Mr. Speaker, I resume the line of my argument. I am prepared to say, sir, that even if the result of this bill would be to relieve the money market in New York; if the very object which the gentleman from Iowa and the gentleman from Massachusetts announce as the one only beneficial object to be accomplished by it could be attained by its passage, I should, nevertheless, be unwilling that the Government of the United States should undertake to accomplish it; and above all I would be unwilling to intrust the operations of the Government in this delicate matter to the head of any Department. I have nothing to say unkind or derogatory of the distinguished gentleman now Secretary of the Treasury. I would not say an unkind word of him, as I have certainly no unkind thought of him. I recognize his ability and his integrity. What I say does not apply personally to him, but to all men alike. I would not intrust to any officer of this Government the power of buying and selling gold, and thus enable him at his pleasure to raise or depress the market.

I would not put it in the power of any man to control speculations, to exhibit favoritism, to reward personal service, or to wreak personal hatred, as might be done under the operation of this bill, if the Secretary of the Treasury were so disposed. It is only necessary for him to throw a few million dollars upon the gold market, and immediately the price goes down. It is only necessary to buy up a few million dollars for the payment of interest upon our obligations, and immediately the price rises. It is only necessary to know when these movements will be made to realize fortunes. It is only necessary to have them made arbitrarily to insure the complete bankruptcy of thousands of citizens.

Mr. HOOPER. I wish to inquire of the gentleman whether the Secretary of the Treasury has not the same power in disposing of bonds, and to a much greater extent?

Mr. PENDLETON. He has great power in that respect—quite as much as any Secretary ought to have—but the disposal of bonds will not affect the market nearly so much, or so suddenly, as the disposal or purchase of gold will. The gentleman knows this far better than I. He could illustrate and account for it more accurately and more easily than I could.

But, Mr. Speaker, another objection I have to this resolution is, that if this money is now sold by the Secretary of the Treasury, before ninety days he will be buying it back, and at a much higher rate. Last Saturday there was in the Treasury in New York \$18,907,218 in gold. I think upon that day, perhaps, some five hundred thousand dollars were added to the amount, and by next Saturday the Secretary of the Treasury supposes he will have more than twenty-one million dollars of gold. This resolution proposes to allow him to sell of that amount so much as he thinks is not needed by the Government. Why shall he sell it? The gentleman tells us, to relieve the market in New York! Now, on the 19th of February—to-morrow—the Secretary is obliged to pay, and pay chiefly in New York, \$1,906,000 in gold, for interest upon the seventy-three notes; on the 4th of March, scarcely more than a week, he is obliged to pay \$851,640 in gold; on the 1st of April, six weeks from this time, he is obliged to pay for the same object \$3,165,973 50; on the 1st of May he must pay for the same purpose \$14,245,141 33; and on the 1st of July, for the same purpose, he must pay \$3,432,282 37; in all \$23,601,943 30.

Thus it appears that within the next four months legitimately, and without this power to sell, there must be paid out of the Treasury an amount of gold greater by \$5,000,000 than there is now in it. And yet gentlemen tell us it is unsafe, injudicious, and unwise to keep in the Treasury the \$18,000,000 which are now there and which we are obliged to pay out within four months to redeem our plighted faith. Yet gentlemen are actually grieving over the amount of gold which we have, and are contriving plans to get rid of it. It is a burden to them; it oppresses them by day and haunts their dreams by night.

They attribute to the possession of that gold all our misfortunes and disasters. They think it not only affects exchanges and the market, but that it affects military movements, and I expect before we close this debate to hear that we must sell our gold—these eighteen million—in order to inaugurate "a more vigorous prosecution of the war," and "to crush this wicked rebellion."

Gentlemen will doubtless reply that the receipts from customs, which must be paid in gold, will furnish an abundant supply, will speedily fill the vacuum created by the sale. The duties are not paid entirely in gold. They may be paid in demand notes. Some of those notes are still outstanding; I do not now remember how many. The amount is not very large; but whatever that amount is, it will be used for this purpose. It is certainly unwise to rely too confidently on a supply from so uncertain a source. Importations may be checked by many causes. If they should be checked, the supply of gold will be reduced or entirely cut off. But we have the estimates of the Secretary of the Treasury himself. He tells us in his report that he estimates the receipts from customs—gold and demand notes both—for the current year, at \$72,562,018 42, while the interest on the public debt is only \$59,164,136 38. This latter amount is obviously liable to be increased by the large amount of interest-paying bonds which are being issued. The balance in favor of the Government is thus \$13,377,782 04. How much of this balance will be in demand notes, I am not able now to state with reasonable accuracy. Some portion of it certainly will be. At best, then, even if the estimates, always liberal, shall prove in this instance correct, the balance will not be so large as the smallest sum which I have yet heard suggested as the amount which the Secretary might feel himself at liberty to sell if this resolution shall pass. But for the next fiscal year the receipts from customs are estimated at \$70,000,000, while the interest on the public debt for the same period is estimated at \$85,000,000, thus showing a deficiency during the year of gold of \$15,000,000; that is to say, immediately after the close of this fiscal year, the 1st day of July next, the necessary drain upon the Treasury of gold will be larger than the supply, and a deficiency, apparent immediately, will increase constantly till it reaches the sum of \$15,000,000. Gentlemen who propose, in the face of these estimates, to deplete the Treasury, must not wonder that I predict that the Secretary will in that case be compelled to purchase gold; and that, too, at an enhanced rate.

But, sir, there is another phase of this question to which I desire to call the attention of the House, and it is this: it is proposed that the Government shall go into the market with the gold which we have compelled the people to pay for customs, and buy up at a depreciation of fifty or sixty cents its own notes, which we compelled the people to take at their par of gold. It is proposed to go into the market with this gold, and purchase at a reduced price the currency which the Government put upon the market and compelled its citizens to take as gold. When these legal-tender notes were issued we were told that they were money. The Government of the United States impressed upon them as far as it could that quality. Citizens were compelled to take them in the discharge of obligations to pay in gold. They were compelled to take them in discharge of private contracts, in payment of debts and in payment of judgments, where the judgment or the contract was that gold should be paid instead of paper. And now gentlemen propose that the Government, acknowledging that its credit is below par, acknowledging that its promises to pay are not worth the money promised, acknowledging its own discredit, shall sell this gold for its own legal-tender notes at a depreciated rate. Surely, sir, that is a transaction in which we ought not to engage. No honorable man would do so in his own private affairs. We cannot shut our eyes to the facts that the paper money of the United States is not equal to gold; but that is no reason why we should traffic in our own discredit, why we should make a profit out of our dishonor. I think that nothing could so endanger the credit of the Government, nothing so tarnish its good faith, nothing could so dishonor it, as to go now into the market with gold which it has forced the citizens of the country to pay to buy at a discount the notes which it forced them to take as of equal value with gold.

But, sir, I go further. While I believe that the immediate effect of this resolution will be to bring down the price of gold; while I believe that the throwing of a few millions of gold upon the market will immediately cause the price to decline, just as the withdrawal of a few millions would cause it to rise, yet I believe that it will be a step fatal to the credit of the country. What will the bondholders of this country at home and abroad think of our financial skill and ability when they see that we so readily part with that which is the only basis of our credit, which alone enables us to fulfill our obligations, without which we cannot pay the interest on our debts as we have agreed to pay it?

Why, sir, there is nothing which will give the Government of the United States more credit than the assured fact that it has in its vaults all the time ready for use, not subject to contingencies, coin to pay the interest on the public debt, and as much more as it is possible to get there to redeem the debt when it falls due. It will give the Government credit. It will bring up Government notes to a closer proximity to gold. It, in my judgment, will give more credit to the Government than anything which is to result from the petty expedient of reducing the nominal price of gold in the market of New York three, five, or even ten cents in the next few days.

In any view, therefore, in which I can look at this question, whether as a financial operation, as a matter of good faith, as a means of replenishing the Treasury, or as an attempt by the Government to regulate the money markets of the country rather than leave them to the legitimate operations of trade, in any aspect it seems to me that the passage of this resolution must be disastrous.

Mr. BROOKS. Mr. Speaker, I must be excused for indulging in a few remarks upon this question, which is one of great importance, because it immediately concerns a large number of persons whom I and other gentlemen from the city of New York represent upon this floor.

We have arrived at last at a crisis in our monetary and commercial affairs which every wise man has foreseen, and that is the period when, from the expansion of our paper currency, our imports largely exceed our exports; and the consequence is from there being in use two species of currency, a cheap paper currency for the people, and a dear specie currency for the Government, so that large sums in specie are accumulating in the custom-house in New York. In other words, we have money so cheap and so plenty that consumption has become enormous, and extravagance universal. Hence we have now become tributary to European nations for all those luxuries that we consume so largely; and payment for them has to be made in that currency which those nations accept, and that is gold.

A glance at the custom-house statistics will bring home this consideration forcibly to the mind of every person. Our increase in imports for the last seven months has been \$13,702,251, while our decrease in exports has been \$17,933,209. The imports in January were \$18,907,000, payable in gold, equivalent to \$30,000,000 in currency; while our exports were only about eight millions' worth in gold, equivalent to \$12,150,000 in currency; making a difference between imports and exports in one month of about eighteen millions in currency. The tide of trade is turned against us. We are becoming tributary as we were in 1836 to all the European nations for the luxuries which we buy from them, if not for some of the necessities of life. I myself have seen imported into the city of New York hampers of potatoes from Normandy, in France, and many of us have seen that large quantities of grain have been imported into this great grain-producing country from the Baltic and Black sea, in consequence of an excess of paper money, in 1836-37.

Where money becomes of little value from a paper inflation, the productions of all countries will be eagerly sought and consumed. Hence we have become so extravagant in this country from this over-production of paper money that the agriculturist can hardly afford to till his farm; the workman has hardly an inducement to labor. Everybody is being tempted to speculate, and is becoming rich, so that now the agriculturists are deserting their farms and firesides and are over-

populating our cities. Chicago, Cincinnati, Philadelphia, New York, and Boston, are overrun with people. There are not now in the city of New York tenements enough to accommodate the numbers crowding into it from all parts for the purpose of speculating. The cities are full, and the country is being more or less abandoned.

In this crisis of the currency there appears, to my utter astonishment, a proposition here to cut loose from the only anchor which society has, that is, the gold basis, by selling out gold as a speculation in the customs. What was the policy of General Jackson and of his party in 1836, when the speculation was somewhat like that of the present day? Then citizens of New York, Boston, Philadelphia, and of the whole country were buying up lands in Illinois, Indiana, Wisconsin, Iowa, and Minnesota. Some constituents of mine owned at that time not only counties but almost whole States in the West. That illustrious man, and those by whom he was surrounded, instead of adopting what is here now proposed, instead of cutting loose from the specie basis, at once issued the specie circular, assumed the responsibility, and ordered all payments for the public lands to be in specie alone, and thereby arrested that enormous speculation at once.

It has been said with great truth that there is a scarcity in gold, or an increase in the price of gold, in New York. Let it be so. In one sense it will prove a benefit if it will only help to stop importations. The curse of the country now is excessive importation—importation of silks and satins and wines, tapestries and cashmere shawls, and luxuries of all kinds. Never was a people so extravagant as is the people of this country at this moment; and if gold will only rise high enough to stop all these importations, it will be the greatest blessing that can possibly be conferred on the country.

Mr. LONG. Will the gentleman from New York allow me to propose a substitute?

Mr. BROOKS. Certainly.

Mr. LONG. It is to strike out all after the words "resolved, &c.," and insert:

That the Secretary of the Treasury be authorized and required to use, from time to time, any surplus of gold in the Treasury of the United States in the payment of the soldiers in the field, and that in making such payments he shall use such precious metal that in a series of months the amount of gold so used be distributed proportionally among the different divisions of the Army.

Mr. BROOKS. It strikes me, too, that the Committee of Ways and Means has overlooked that important act of Congress passed on the 25th of February, 1862, to authorize the issue of United States notes and for the collection and funding thereof, and for funding the floating debt of the United States.

Section five of this act reads as follows:

"That all duties upon imported goods shall be paid in coin, or in notes payable on demand heretofore authorized to be issued and by law receivable in payment of public dues, and the coin so paid SHALL be set apart as a special fund, and shall be applied as follows:

"First, to the payment in coin of the interest on the bonds and notes of the United States. Second, to the purchase or payment of one per cent. of the entire debts of the United States, to be made within each fiscal year after the 18th day of February, 1862, which is to be set apart as a sinking fund, and the interest of which shall in like manner be applied to the payment or purchase of the public debt as the Secretary of the Treasury shall from time to time direct."

Mr. Speaker, the public faith, therefore, under this act is pledged solemnly that the coin shall be reserved exclusively to pay the interest on the public debt or to create this sinking fund. There is the public record. There it is written, and it cannot be got over without an utter violation of the public faith. There is no stab so great, there is no damage so great to the Government of the United States as in the slightest manner whatsoever to affect the public credit.

I stand not upon my record; I stand upon the record of the preceding Congress; and in behalf of the public creditor, and in behalf of those who upon the solemn pledge of the country have taken the public bonds, I forbid, as far as it is in my power by my vote, the violation of that record and that public faith there recorded. If the Secretary of the Treasury has more gold than he knows what to do with let him apply it to the payment of one per cent. of the debt of the United States. Let him create the sinking fund there provided. Let him diminish the public debt. There is the way to get rid of the coin, and not in the

way proposed by the Committee of Ways and Means. Or if he cannot or will not do better, let him anticipate the July interest by act of Congress, if he has not the power now, which will take from the sub-Treasury the excess of gold now complained of.

Now, Mr. Speaker, if there were no other than the mere political objection, if you choose so to call it, it would be sufficient to my mind. It is the worst policy, it is the most dangerous and alarming of measures, to clothe any man with enormous power over the currency of the country. The President of the United States now has in his right hand the sword, and through the Secretary of the Treasury he has in his left hand the purse; and therefore stands completely the impersonation of despotism. If he chooses to exercise that power, the Secretary of the Treasury can now create, manufacture, and dispose of \$1,000,000,000 of paper money. It is now proposed to give him the whole control of the gold of the country. I never before heard a proposition so astounding, that the Secretary of the Treasury shall throw himself into the bedlam of New York and among the "bulls" and "bears" of its money market. I have the greatest respect for the Secretary of the Treasury. I served in Congress with him several years ago, and observed his public acts. I believe him to be an honest man; but I say now, more rigorously than I did the other day, I never in my whole political life saw a man so surrounded with thieves and robbers in every part of the country as the Secretary of the Treasury. I instanced the case of the maker of the public money, Spencer M. Clarke; and I am amazed that the other side of the House has not called for a committee of investigation on the subject. I can go on and name a dozen of men, standing high in the Republican as well as in the Democratic party, that neither a Republican nor a Democrat would trust with the arrangement of his own private affairs.

Yet we now propose to give the Secretary of the Treasury the power over the gold market of the country, to buy at will, to speculate at will. His every breath is to be a breath of gold; his every movement is to be a movement of gold; and it will be worth while to see with whom he talks and to speculate upon his action. The whole property of the country is to be placed in the hands of one man, and that man the Secretary of the Treasury. He is to be clothed with the whole power over the currency of the country. It strikes me as a monstrous proposition from the beginning to the end.

I know the pressure brought to bear upon honorable gentlemen on the other side. A pressure has been made upon me by my constituents. I know some of them will disapprove of the remarks I make to-day, but in four months hence they will think differently and indorse every word I say.

I implore you then, gentlemen of every political party, to hold fast as you can to the specie basis. Throw not open the gold market and let not gold rush through the sluice-ways to Europe, as it will under this resolution. Let there be, at least, a gold dollar to stand upon as a pledge for action hereafter, in that better day when the country will resume specie payment and paper vanish as into thin air.

ENROLLMENT BILL.

Mr. SCHENCK. I rise to a privileged question. I desire to make a report from the committee of conference on the disagreeing votes of the two Houses on the enrollment bill. I send the report to the Clerk's table, and when it shall have been read I will make some explanations in regard to it.

The SPEAKER. The Chair is informed by the Clerk that the papers are now in the possession of the Senate, and according to practice a conference report cannot be made until the papers are returned to this House.

Mr. SCHENCK. I supposed the papers were here. I withdraw the report.

SALE OF GOLD BY THE GOVERNMENT—AGAIN.

Mr. GARFIELD. I propose to detain the House but a few moments on the question before it, as all I wish to do is to state, as it seems to me, as clearly as possible, conditions of the proposition as they exist in the resolution.

By the present law gold can come into the Treasury of the United States through the customs and

the various other avenues by which it reaches the Treasury. But there is only one avenue by which it goes out, namely, the payment of the interest on the public debt. There was in the Treasury on Saturday last \$18,900,000 in gold. That gold is coming in at the rate of four and five hundred thousand dollars a day. Take it at the lowest estimate, and we are having \$400,000 of gold paid into the Treasury every day. If this rate continues until the 1st of July next, we will have \$74,107,213 in gold.

Mr. BOUTWELL. I wish to ask the gentleman whether the Secretary of the Treasury, in his estimate of the receipts and expenditures for the fiscal year 1864-65, does not show that our interest account, which is to be met by the payment of specie, will exceed \$85,000,000, while our receipts through the custom-house will amount to but \$70,000,000, showing a deficiency for the fiscal year 1864-65 of \$15,000,000?

Mr. GARFIELD. I should have answered the gentleman in my next sentence had he not interrupted me. The Secretary of the Treasury reports that there will become due at various periods, ending with the 1st of July next, \$23,601,943, to be paid in gold. That is every dollar of coin which the Treasury of the United States is obliged to pay up to that period. Now, there will remain a surplus in the Treasury of the United States, on the basis of the present receipts—and the receipts have greatly exceeded the estimates—on the 1st of July next, of \$50,505,270 in gold, and there is no law of the United States, according to the present practice of the Government, for the payment or disposition of that \$50,000,000 of gold.

Mr. FERNANDO WOOD. I desire to ask the gentleman upon what basis, or upon what data he estimates the receipts of gold from the custom-house, or any other sources, up to the 1st of July next?

Mr. GARFIELD. The estimates are based upon what we have been receiving for several months past, and the fact that the months immediately to come are always better than the winter months. I base the estimates upon what we have been receiving from day to day for many weeks. These estimates may be too large, but that would not alter the principle involved. No one doubts there will be a surplus.

Mr. FERNANDO WOOD. Has the gentleman averaged the daily receipts of gold from that source for the last three months?

Mr. GARFIELD. I have not.

Mr. FERNANDO WOOD. I have.

Mr. GARFIELD. I say, then, that by taking the average, or a sum rather below the present average—and we have every indication that the average will rather increase than decrease in the coming months—we shall have on the 1st of July \$50,500,000 of gold in the Treasury, with no law for paying it out. Now what is the result? There are probably, according to the estimates of gentlemen, scattered through the country in the feet of old stockings, locked up in trunks, put away in bureaus, laid away under the heads of beds, and in the vaults of banks, \$200,000,000 of gold. I suspect that to be a large estimate, from all I can gather from the statements of trade.

Now, sir, on the 1st day of July next one quarter of all the gold in the United States will be locked up in the vaults of the United States Treasury and lying there as dead matter. Every dollar that goes in there leaves the amount in circulation less, raises the price of gold, disturbs the market, and disgraces our credit, and yet because it is locked up in the Treasury and we will not pass a law under which it may go out, our credit shall thus go down and down, further and further, as Mr. Lamar and his condutors in the rebel States desire it shall go down, and as his condutors in the northern States seem to desire it shall go down. They are talking in the most anxious manner here—witness the last speech to which we have listened—of returning to a specie basis. Do not gentlemen upon this floor know that no great war was ever waged in modern times with specie? It is one of the settled and inevitable laws of trade that great wars must be conducted with a paper currency and not with gold.

Now, why do we ask that this great amount of capital shall be, from time to time, liberated upon the market? For the best reason in the world. Generally I would not interfere with the laws of trade; they are as immutable as the laws of na-

ture, the laws of the universe; but I would now interfere with them because they are not in a natural and normal condition; they are in a condition superinduced by the necessities of war, and it is to counteract this abnormal state of trade that we are disposed to let loose this gold so as to keep up the credit of the Government. What has so changed the character of gold? Now it is hardly to be called the representative of value, of money; it is almost a commodity; it is fast becoming a commodity instead of a medium of exchange; and if the war continues very much longer, it will be merely a commodity and not a circulating medium. It is well known that when paper currency must and does come into use it expels gold; its natural tendency is to expel gold, just as in nature the softer element expels and drives out the harder; just as water wears away stone, so will a lighter and more valueless currency always drive out the precious metals. Our gold is scattered over the border, driven to Canada, sent abroad, and the amount actually in use for the business of the country is so small that if we reduce it by locking up \$50,000,000 in the vaults of the Treasury of the United States, we shall create a panic to such an extent as to ruin the business of the country.

The gentleman from Ohio [Mr. Long] has offered an amendment that this surplus shall be paid to the soldiers in the field. I remember some of the political capital attempted to be made upon the other side of the House on the subject of paying sailors and soldiers in coin, and I remember that remark which was made, and which what I see in the galleries this morning almost prohibits me from repeating, but a sense of justice requires that I should remind gentlemen of it. It was charged on the other side of the House that if we did not pay our sailors and soldiers in gold their wives would become prostitutes. I stood here as a man abashed; I stood amazed and ashamed that I belonged to a body in which such an utterance could be made about the loyal women of this country.

Every gentleman upon this floor knows well that it is impossible now to return to a specie basis. Every man who has looked into the condition of the country knows that it is impossible, without utter prostration and ruin, to attempt to return to a specie basis at this time. It becomes us then to use the gold that we have to keep up the credit of the country, and not to destroy it; and I do not propose to be deterred by references to all these laws and resolutions that have been passed hitherto in regard to the policy of the country.

I am not under such unfortunate circumstances as the gentleman from New York [Mr. Brooks] who has just spoken. I am under no pressure from any quarter, from any particular source, from any particular person. I am under no instructions from any man, in office or out of office, how to vote, think, or act upon this subject. They have not honored me with that pressure, and I am therefore free to act as it seems to me the pressure of the country and its interests require; and I ask gentlemen now whether they are willing to help to carry out the scheme of Lamar, of Georgia, to help to reduce, reduce, reduce the value of our paper currency until we shall be ruined as the confederacy is being ruined in its finances rather than its battles.

There are two elements which decide the question of war. One is military, the other is financial. The man who can destroy the finances of a country can ruin it as much as he who destroys its army. It becomes us, therefore, while we replenish our armies on the one hand, to maintain the credit of the Treasury on the other. For that purpose I believe this measure is wise. I know it ought to be guarded; and any amendment that will make it the more carefully worded, and that will protect it from all chances of fraud or corruption on the part of Government officials I will be glad to vote for. But I am unwilling that we should break down the purpose of the resolution, and lock up this money, on the old idea that money locked in vaults is as good as money in circulation.

Mr. STEBBINS. I regret, Mr. Speaker, that I cannot acquiesce in the views expressed by my colleague [Mr. Brooks] or by the gentleman from Ohio [Mr. PENDLETON] on this subject. I regard this purely as a business question. I can-

not allow myself to identify it in any way with politics. I feel constrained to regard it as having special reference to the traffic in gold that is going on in the country, and to the speculations in all commodities that are now so rife. While the proposition has not come, as I understand, from the Secretary of the Treasury, and while we are only acting on the belief that it would be satisfactory to him to have such power confided to him, still I have no doubt that he regards this question as one appealing with all its strength to every individual in the community precisely in the same way as it appeals to himself.

The speculations going on in the city of New York at this moment are not by any means confined to gold or to any single article. They apply to every article connected with the industrial enterprises of the country. The maintaining of the present high price of gold is absolutely indispensable to the success of these various enterprises. Hence the speculators of the whole seaboard are interested in maintaining the price of gold in special connection with the operations in which they are engaged. Apart from these enterprises is the speculation in gold itself. The operations in gold are not confined to the mere purchases necessary to pay custom duties, nor to the amount necessary to pay for our importations. Gold has become necessary every day, to the extent of hundreds of thousands of dollars, for the purpose of liquidating transactions of a peculiar kind which take place in the city of New York, not only for the account of our citizens, but for the account of citizens of neighboring cities and all over the United States. It is necessary for these speculators that the high price of gold should be maintained. The Government, however, finds itself in the attitude of actually sustaining the price of gold, while all its interests are directly on the opposite side. It is receiving gold to the extent of three or four or five hundred thousand dollars daily. Hence the volume of gold in the city of New York is diminishing every day. The banks hold on to their reserve with the utmost tenacity, and it is not at all likely that that reserve will be seriously diminished, no matter at what prices gold may range for the next six months. There is, therefore, but a certain amount of gold in the market to subserve not only the purpose of exports and the purposes of the independent Treasury, but also all those various purposes connected with transactions growing out of large operations in exchange. The exchange drawer is compelled to go into market and buy gold, as against bills, by a species of traffic known in New York as the right to deliver gold or the right to call for gold. When the contract is for thirty days or for sixty days, one party or the other is compelled to hedge, as against his operation, by a positive purchase. These transactions in gold have prevailed over two and a half years. Hence the operations daily taking place, not only in the stock exchange of New York, which are but an infinitesimal portion of those that take place every day, but in the streets and in the hotels at night.

This House will at once perceive that the amount of gold necessary for the daily transactions in New York is so large that if gold is continued to be hoarded by the Government the advance in its price will be maintained just in proportion as the volume diminishes, and everything else whose value depends upon the price of gold will advance in price as a logical consequence.

Now, sir, I contend that if the Secretary of the Treasury did not ask for the passage of this resolution it may be perhaps for the reason that he supposed this House would of itself appreciate its importance and positively direct him to do this thing. This bill looks to a sale of gold, the excess of what he may have over and above the necessities of the Government. Those necessities are clearly and distinctly defined. We know what they are, and, in my judgment, it is perfectly clear this House ought to move with great unanimity and ask the Secretary of the Treasury not to permit an artificial state of things to take place so that the volume of gold shall not be so reduced as that these innumerable contracts cannot be fulfilled except by daily advancing the price of gold, and so advancing the necessities of life and everything in which the country is directly or indirectly interested.

Mr. Speaker, it has been urged by the gentleman from Ohio, [Mr. PENDLETON,] and also by

my colleague from New York, [Mr. FERNANDO WOOD,] that this is conferring extraordinary powers upon the Secretary of the Treasury. Sir, the powers which have been conceded to the Secretary of the Treasury for the last two years and a half everywhere in this House will be acknowledged to be large, broad, and general. Yet, sir, these gentlemen admit that he has not up to this period manifested the slightest disposition to use these powers to the prejudice of the Union, in which declaration I most entirely and cordially concur. I think we have good reason to suppose that he will not exercise this power except in one direction—and I ask the House to look at it carefully for one moment—and that direction in all respects in favor of the people and the nation, and cannot be used by any possibility in the opposite direction.

Mr. Speaker, this is a power to sell, it is not a power to purchase, although the gentleman from Ohio [Mr. PENDLETON] called the attention of the House to the fact that by a law of the last session he has the power to buy. It is more to the interest of the Secretary of the Treasury to avoid the purchase of gold; more to his interest to bring about a reduction in the price of gold, and all the energies of his administration have no doubt been leveled in that direction for a long course of time.

I cannot say that I agree with him in the policy he has adopted. If I had been in the last Congress, and had the power to cast a vote, I would have voted against the legal tender. I do not believe in it. Yet I come into this Congress and find the principle established and deemed absolutely essential to the prosecution of the war—that is, the principle of paper money. I recognize it and regard it as entitled to everything I can do for it; and I feel it to be the duty of every individual member of this House to do everything to strengthen the Treasury and not to do anything to weaken it. We may oppose the principle, and may at a later day revolutionize it; but I appeal to the House whether it is not our solemn duty to clothe the Secretary of the Treasury with additional power to enable him to get along with the onerous and responsible duty imposed upon him. I therefore shall not hesitate to record my vote for the resolution reported from the Committee of Ways and Means.

Mr. BOUTWELL. Mr. Speaker, as a general principle, the safe way of legislation is to follow the reports of committees. The question before the House is of such importance that I feel justified in expressing an opinion which is in a degree the result of the opportunity I have had to know something of the financial affairs of the Government and to draw certain conclusions concerning the financial interests of the country. I think that the security of the country is in the preservation of the public credit. However successful we may be, within the limits of the most sanguine, in military affairs, if the credit of the Government is destroyed we cannot prosecute this contest to a successful termination.

The first great measure on which public credit rests is the economy of those intrusted with the guardianship of the Treasury; next to that the holding of public officers to a rigid accountability; and next in taxation and judicious legislation to provide means for the payment of the interest on the public debt. We must, moreover, pursue a policy which shall render it reasonably certain in the public estimation that the principal is ultimately to be paid. The national creditors believe that they have a guarantee in past legislation, sanctioned by public opinion, that the interest of the public debt is to be paid in specie. We have, as we are told by the Committee of Ways and Means, or are to have on the 1st of July next, a surplus of \$11,000,000 of coin in the Treasury of the United States.

I do not at all concur in the conclusion reached by the gentleman from Ohio, [Mr. GARFIELD,] that because we have received \$500,000 on one day or on each of two days, that therefore it is reasonable to estimate that during the next four months, or during the next sixteen months, the same sum is to be daily received. We have collected in the office of internal revenue \$750,000 in a single day; but it does not follow that we are to receive three quarters as many million dollars per annum as there are days in the year. We can arrive at a correct result only by looking at the average re-

ceipts for weeks and months, or even for an entire year.

Now, it appears from the report of the Secretary of the Treasury that the estimate of receipts of gold for the fiscal year 1864-65 is \$70,000,000. On the other hand we have to provide, for the payment of interest on the public debt during the fiscal year 1864-65, \$85,000,000 in specie. According to the statement made this morning there will be a surplus of gold on the 1st day of July next of \$11,000,000. To that surplus add the estimated receipts for the fiscal year 1864-65, and we have an aggregate of \$81,000,000—showing a deficiency on the 1st of July, 1865, of \$4,000,000. It is now proposed to sell the temporary surplus of specie which we now have or which we are to have on hand on the 1st of July next. If the estimates of the gentleman from Ohio [Mr. GARFIELD] be correct, the \$11,000,000 anticipated surplus will enable the merchants to pay their custom-house duties for twenty-two days, and no more. When that sum is exhausted they must go into the market and purchase specie at such rates as may be demanded.

And if it should happen after we have sold the gold on hand that the receipts at the custom-house do not meet the estimates of the gentleman from Ohio, and that we are obliged to go into the market and purchase fifteen millions of specie in order to meet the interest for the fiscal year 1864-65, what do you think will be the effect upon the credit of the Government? Instead of gold selling at a premium of sixty per cent., it is more likely to sell at a premium of one hundred or two hundred per cent. Thus you impair the credit of the country at once. And with all deference to the Committee of Ways and Means, I cannot come to any other conclusion than that to sell the surplus specie—which is merely a temporary surplus—will inflict a shock upon the public credit. It is our desire and our duty to strengthen the credit of the Government; and the suggestion I make is that if the propositions already before the House be not accepted I will move to amend the resolution so that it shall read:

That the Secretary of the Treasury be authorized to anticipate the payment of interest upon the public debt from time to time, upon a rebate of interest by the holders of coupons at the rate of six per cent. per annum in gold.

It seems to me the true way of sustaining the public credit and of relieving the business and commerce of the country, is by the payment in coin of the interest on the public debt. The effect of this will be to make the coupons due in July and January next redeemable in gold; and then if the merchant has a custom-house debt to meet, he has but to go into the market and buy coupons, payable in July and January, and convert them into gold. The effect will be to relieve the money market at once from this pressure by paying out the gold from the independent Treasury to the holders of the coupons. We receive the gold again by its payment for custom-house dues, and thus the Government is always kept in funds with which to meet its interest.

It seems to me it is wiser to pay our debts which are to be paid in gold than to sell the gold at any price, and run the risk of being driven into the market, a circumstance which would not only increase the price of coin, but injure the credit of the Government. The public credit to-day is based upon two great facts—the promise of the representatives of the people, and sustained by the judgment of the people of the country, that the interest on the public debt shall be paid in coin when it is due, and that the principal is ultimately to be paid by the development of the great resources of this country, in the character of its people, and in its untold agricultural and mineral wealth. When you destroy public confidence in the disposition or ability of the Treasury to pay the interest in gold you deprive the Government of the means of carrying on this war, because the war, however heavily you may tax the people, is to be carried on upon credit and not upon money.

It is a misfortune, undoubtedly, that gold is at \$1 60; but the truth about it is—and in this, perhaps, I differ from gentlemen around me—that the paper of the country has depreciated. We may as well admit that and take the facts just exactly as they are. Great Britain for twenty years after the suspension of 1797, through its statesmen and financiers, undertook to convince the world that gold had increased in value, and that paper

had not depreciated. Whenever paper money cannot be converted into coin according to the numerical values assigned to each, then the paper has depreciated in value. The policy of the Government should be to restore its paper currency to an equal value with gold as soon as practicable. Admit the difficulty; admit the fact; guard against the increase of the value of gold by increasing taxation and diminishing expenditures; and provide at all times for the payment of the interest on the public debt in specie.

The SPEAKER. The Chair would state to the gentleman from Massachusetts that the amendment he suggests is in order now as an amendment to the substitute.

Mr. BOUTWELL. Then I offer it now.

Mr. HOOPER. My colleague will allow me to remind him of one fact. His argument seems to be based on the idea that this joint resolution proposes to direct the Secretary of the Treasury to sell the surplus gold. It merely authorizes him at his discretion to do so.

Mr. BOUTWELL. My answer to that is that I have not seen the Secretary. I have never heard his opinion; but I assume when the Committee of Ways and Means come here with so grave a proposition as this, that in that proposition they have the concurrence of the Secretary of the Treasury; and I assume that the Secretary of the Treasury will be ready to act upon it as soon as the authority is given him. I have great confidence in the Secretary of the Treasury, and do not concur at all in the censorious remarks made by the gentleman from New York [Mr. Brooks] as to his being surrounded by thieves. Still I am unwilling to place in the hands of any person a power of this character with the expectation that it is to be exercised. If the proposition is that this power shall be exercised, I say it is the duty of the House to consider whether we ought to confer it.

The SPEAKER. The amendment offered by the gentleman from Massachusetts will now be read.

The Clerk read, as follows:

That the Secretary of the Treasury be authorized to anticipate the payment of interest upon the public debt from time to time, upon a rebate of interest by the holders of coupons at the rate of six per cent. per annum in gold.

Mr. BOUTWELL. The question is asked me, How will you compel the holder of coupons to surrender them to the Government? Of course you cannot compel him to do it. But if a person has a bond, the interest on which will be due in July or January next, and he can obtain gold for the coupons now, he will look at it as a matter of business; and the question will be whether he will take the gold from the Treasury now or in July or January next. And therefore, whenever there is a pressure upon the market, as the gentlemen from New York say there is now, and it is difficult to get gold and those who have agreed to furnish it are in a corner, they will be relieved of the pressure. Under such circumstances it will be for the interest of the holder of coupons to convert them into gold, because he can get more for his coupons or their equivalent in gold under the pressure upon his neighbor than he can expect to get next July or January. As a business matter, therefore, whenever there is a pressure for gold, coupons will come into the market, and when there is no such pressure the holders will retain them.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act for the relief of the heirs of Noah Wiswall; and an act amendatory of and supplementary to an act to provide circuit courts for the districts of California and Oregon, and for other purposes, approved March 3, 1863; when the Speaker signed the same.

SALE OF GOLD—AGAIN.

Mr. FERNANDO WOOD obtained the floor. Mr. PENDLETON. I desire, with the consent of the gentleman from New York, to propound a question to my colleague on the Committee of Ways and Means.

Mr. FERNANDO WOOD. With pleasure. Mr. PENDLETON. I desire to ask the gentleman from Massachusetts [Mr. Hooper] a question in regard to some financial operations of the Government in reference to which he can probably give me an answer sooner than I could get it by looking at the Treasury report. With-

in the last two or three years—I am not able to state the date exactly—a law was passed authorizing the Secretary of the Treasury to receive gold coin on deposit at four per cent. interest, for which he was to issue certificates that could be used for certain purposes. I have an impression on my mind that the Secretary has reported to this House at some period that in this way some forty or fifty millions had been deposited in the Treasury of the United States, for which certificates had been issued. I desire to ask my colleague whether there is any such loan, and if so whether it has ever been paid back in whole or in part?

Mr. HOOPER. So far as my knowledge goes, there was in the spring of 1862 a large amount of demand notes in circulation, which were receivable for public dues. There was, as the gentleman from Ohio may recollect, an insufficiency of gold coming into the Treasury to meet the demands for interest on the public debt. And I think that in January, 1862, or later—

Mr. PENDLETON. Not later than 1863.

Mr. HOOPER. In January, 1862, there was a loan made. I do not recollect the amount, but my impression is that it did not exceed five or six million dollars. It was to bridge over the period till these demand notes would become exhausted, and till the duties should be paid in gold. All that loan, I understand, has been paid back. It was made from the banks in gold. Certificates, payable in gold, were issued, and they have been all paid many months since. We have now got to the period where the receipts of gold are in excess of the wants of the Government.

Mr. FERNANDO WOOD. Mr. Speaker, I think it is desirable that a question of the magnitude of this one should be discussed on its merits, and in no factional or partisan spirit. I do not mean to say that any gentleman on either side of the House has indulged in any such spirit. But I do think that if there is any question of importance, next to that of the war itself, it is that question which this resolution necessarily opens up for consideration and discussion. Therefore, sir, in what I propose to submit to the House, I shall make an effort to take a view of this immediate question and of the system of finance out of which this proposition necessarily grows, which shall not reflect personally either on the Secretary of the Treasury or on the President.

This, sir, according to the advocates of the proposition, is a temporary expedient. The proposition, as reported from the Committee of Ways and Means, without the recommendation of the Secretary of the Treasury, is to authorize that officer to put into the market any part of the \$18,000,000 in gold now on hand in the Treasury which may not be required for the payment of interest; and the grounds on which the two gentlemen who advocate the adoption of the resolution and who are attached to the Committee of Ways and Means support it are that it is necessary to relieve the money market. Now, Mr. Speaker, without referring to the novel proposition that the Congress of the United States is to regulate the money market of this country, without alluding to the fact that it is unprecedented, especially in time of war, for the Congress of the United States to pass its time in proposing temporary expedients to affect the money market in Wall street, what are the facts with regard to the money market itself at this time? Sir, I referred this morning to the money articles of three of the leading newspapers of New York of yesterday. The money article of the New York Herald says:

"Money continues plenty, much more so than suits the wishes of lenders, who are forced to seek customers at six per cent., and in some instances even less rates are accepted."

The money article of the New York World of yesterday says:

"New York, February 16.—The deposits in the banks are increasing, and the amount of capital seeking employment in temporary loans is largely in excess of the demand. The market rate for first-class loans is six per cent., and exceptional transactions are made at five per cent."

But, sir, we have another authority, which I think the gentlemen on the other side will not disregard, the New York Tribune:

"Money is more abundant, and at six per cent. the supply far exceeds the demand, and at an early hour in the day it was apparent that less than six per cent. must be

accepted or large balance be left idle. Every day adds to the volume of the currency through the issue of national bank notes and the five per cent. Treasury notes, and there is no indication of any change in the financial wants of the Government by which a reduction can be made of the paper money upon which values now float. The legal tenders are to be withdrawn, and the credits based upon them must be reduced at a future day; but that step will plainly be preceded by a further expansion of national currency and Treasury notes, under which values of commodities will be inflated. The Government is getting all the money it needs at five per cent. per annum, payable in currency, and until the military position changes there is little reason to suppose that a new policy will be adopted."

Therefore, Mr. Speaker, the principal ground on which it is attempted to justify the passage of this joint resolution is, in my judgment, not founded on a basis which this House and Congress should regard for an instant, because it is not the fact. Why, sir, were it the fact that we had a stringent money market I would hail it with pleasure. It is the reverse of a stringent money market that the people have to fear; it is that inflation to which my colleague has made reference; it is expansion; it is high prices of all kinds of commodities; it is the prodigal expenditure not only of public money but of the private money of the country, leading to extravagance, leading to corruption, leading the public mind astray from the great public interests of the country, which makes it for the interest of speculators and public plunderers to continue the vigorous prosecution of the war that enables them thus to keep up the inflation of the currency of the country.

I say, therefore, that were it true that the money market was stringent, that "money was tight," that fact would operate as a wholesome check to the reckless, downward course of this Government and this people under this intoxication of an expanded currency.

Now, Mr. Speaker, this is a mere temporary expedient, according to the arguments which have been adduced in its favor; it is merely for a temporary purpose rendered necessary to sustain a policy which is utterly wrong in principle that this Administration is pursuing in its financial course. I hold that it is pursuing a policy which no sensible gentleman or merchant would pursue; that it is in utter disregard of the plain, common principles of self-security and safety.

The honorable gentleman from Ohio, [Mr. PENDLETON,] from the Committee of Ways and Means, has told you the amount of gold expenditures required to meet the necessities of the Government before the 1st of July next. In answer to that, his colleague [Mr. GARFIELD] told you that according to the average amount of gold received into the Treasury from customs the Government would be more than able to meet the \$25,000,000 required to meet the gold interest that will have accrued on the public debt before the 1st of July next. He has made reference to the fact that from four to five hundred thousand dollars have been received from customs in gold in a single day.

That, sir, was an isolated instance. I have before me an estimate of the entire amount of gold receipts into the Treasury from customs in the last four months. The whole amount from October 1 to February 13 was less than \$26,000,000; while the whole amount that will become due payable in gold—including \$5,000,000 that will become due on the 3d of March for interest on one-year certificates—up to the 1st of July next is \$28,150,000.

Therefore, if the Secretary of the Treasury acts under this proposed legislation and puts this eighteen or nineteen millions of gold into the market, he will place himself in the position of being compelled to go into the market again to purchase gold or fail to meet the public liabilities of the Government as they become due.

Mr. HOOPER. The gentleman will allow me to interrupt him for a moment to make an explanation in reference to the statement he has just made as to the amount of gold received from customs in the last four months, going to show that it is not an exact criterion by which to judge of the future. It will be recollected that in the last four months a very considerable amount of demand notes have been received from customs, but the demand notes have now nearly all returned to the Treasury, so that in future those receipts will be all in gold, and the amount thus received very considerably increased.

Mr. FERNANDO WOOD. The duties for

the four months to which I have referred are reported as follows:

October.....	\$6,238,943
November.....	5,075,846
December.....	5,748,189
January.....	6,180,356
February 6.....	1,171,201
February 13.....	1,785,101

Now, Mr. Speaker, I submit that no individual in the ordinary transaction of his own private affairs, if he had notes to pay within the coming four months to the extent of \$25,000,000, and had in his possession money and securities to that amount, and had no other resources by which to meet his accruing obligations, no rational, sensible, intelligent man of ordinary capacity, under such circumstances, would, I say, part with his only reliance upon which he can maintain his credit and take up his notes. And, sir, this whole system of Government finance is no mystery. The same simple principles which apply to the ordinary affairs and transactions of life, even to the smallest and minutest degree, apply to Governments dealing in their thousands of millions of dollars. Sir, you cannot meet an obligation of \$100,000,000 except you have property to meet it with, unless you borrow the money or get it in some other way. In other words, if the expenses of the war are \$1,000,000,000 you have got to have a revenue of that amount or to borrow it.

And that leads me, Mr. Speaker, to a consideration of the fallacious system upon which the finances of the country are now being conducted. We have had other wars in Christendom. We have had expensive wars. We have had wars costing \$100,000,000 a year. The system of finances attempted to be adopted here is not new in the history of the world. It is as old as Christendom; and whatever merit there is in the present financial system, no man now living can claim the originality of the invention.

Sir, paper money was established originally under Charles I. Previous to his time, when a monarch found himself in a strait, his resource was not to paper money, it was to debase the coin of the country, and give an official stamp to the representative of value by depleting the intrinsic value contained in the coin itself. Charles I originated paper money. What was the consequence? Charles II, whose administration was almost as profligate as this, ended in bankruptcy, ruin, and repudiation. That was the result of the paper-money enterprise in those days, and that will be the result of the present application of the same principle. I could go on with other historical references on this subject, and show in every instance that when a nation has attempted to sustain such astounding expenditures by borrowing, by disseminating its credit in lieu of gold, where its expenditures are in great excess of its income, it must, sooner or later, go to the wall and become bankrupt.

The great Pitt rescued the British nation by his financial system from utter financial ruin; and I believe they have the same sound financial system there now. Take her policy during the Napoleonic wars from 1812 to 1815; and it would be a profitable study for the financiers of this House. What was her policy in 1812? The whole expenditures of Great Britain at that time (she was fighting the great Napoleon and one half of Europe and the United States of America) were \$450,000,000. And how did she raise it? Under our present system they would have raised \$50,000,000 by taxation, and borrowed the rest. Her expenses for 1812 were \$450,000,000. She raised by taxation \$325,000,000, and borrowed only \$125,000,000. In 1813 her expenditures were \$783,000,000, and she raised by taxation \$345,000,000, and borrowed the rest. In 1814 her expenses were \$410,000,000, of which she borrowed only \$55,000,000. In 1815, at the close of the period to which I refer, her expenses were \$675,000,000: taxation, \$360,000,000; loans, \$315,000,000. The population of Great Britain at that time was about two thirds of what it is to-day.

Now that was a system which maintains public credit. Everybody here to-day is discussing the question or rather the expediency of putting into the market the paltry sum of \$10,000,000 in gold, just as if it would have any influence upon this great question. In regard to our finances it is nothing more than a drop of water in the bucket.

Mr. Speaker, we are rolling up here an expend-

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iture for posterity to liquidate to the amount of thousands of millions of dollars. It may be asked, as the Hibernian did, "What has posterity done for us, that we should care for it?" We do not care for it, because we intend to saddle it with an incumbrance which it will be impossible to bear.

But posterity must sit in judgment upon the transactions and events now occurring. Posterity must pass its unprejudiced and disinterested verdict upon what is being transacted in our day and generation in this unfortunate country. Posterity, not ourselves, must dispose of this great public debt which is rolling up at the rate of \$1,000,000,000 per annum beyond the legitimate revenue of the country.

But the ordinary expenses of this war, arising partly from necessity, partly from corruption, are so enormous that the question we are discussing of the expediency or in expediency of selling gold is of very little account. In 1861 the currency of this country consisted of \$150,000,000 of bank notes of all denominations; \$50,000,000 of fractional silver coin, and \$40,000,000 of gold of all denominations. That currency was ample for all purposes at that time.

Three years ago next August our experiments in paper money commenced, and we have already issued \$1,000,000,000 of currency. We have in demand notes, payable in gold, \$760,000,000. We have in greenbacks and legal tender \$450,000,000. We have in two-year five per cent. legal tender, \$50,000,000. We have in one-year legal tender, \$20,000,000. Of postal currency we have \$20,000,000; and of fractional currency legal tender, \$50,000,000. We have national currency, not legal tender, issued by the new banks, \$6,000,000. Thus we have a total currency issued by the Government, and including the issues of the old banks, \$1,000,000,000.

Now, Mr. Speaker, is it not the bounden duty of the Congress of the United States to make some provision of a permanent character with reference to this great question, instead of spending our time from day to day legislating upon measures of trivial consequence? As was truthfully and eloquently said by my colleague [Mr. KERNAN] the other day, why are we disregarding the ruin staring us in the face, which must bring this war to a speedy close whether we will or not, by a collapse of the Treasury?

I tell gentlemen if they are to prosecute this war, if they are to continue expenditures at the rate of the last three years, the end is nearer than they expect. It may be that God, in the infinitude of His wisdom, may be working out this great problem on the continent of America in a way little suspected by us, the immediate actors in this sad tragedy now being performed before the world.

I had risen, Mr. Speaker, more for the purpose of alluding to the great question than to the immediate subject before the House, and to express the hope that at an early day this man so familiar with questions of finance, the Secretary of the Treasury, whose name has been sounded throughout America as a successful financier, may find time from the duties not directly pertaining to his Department, to take up this greater question, the finances of the country, and propose some system which shall enable us to sustain the public credit; that he would, not relying upon the success of our armies, or on the price of gold in Wall street, devise some great system which will satisfy the public creditor, assuring him of the constant liquidation of the public debt, and the prompt payment of its interest, so that he may leave to posterity, as Alexander Hamilton left to posterity, a name that will live in history.

Mr. KASSON. In my judgment, the debate upon this question has wandered somewhat widely from the resolution offered by the Committee of Ways and Means. I regret that the gentleman last upon the floor from New York [Mr. FERRARO WOOD] should have seen fit, upon a practical proposition of this kind, which has not been surpassed in practical importance by any question which has been presented to this House, to have

himself so far departed from the real question before the House as to renew the peace propositions which, I believe, he has incorporated into every speech which he has addressed to the House. I differ, wide as heaven from the earth, from his idea that because we do not accept that theory of his, the public debt of the country is now being increased to the magnitude and extent which we all understand. I will so far depart from the question, to which I shall soon return, as to say that if that gentleman and his audience, which though "select" is certainly "few," both in this House and in the country, would lend their moral power, their efforts, and their powers of eloquence to unite the people of the North in solid phalanx to suppress the rebellion by force of arms this debt of ours would soon cease to accumulate, and those soldiers with whom they profess so much sympathy at this time would be permitted early to return to their families and their homes.

But, sir, I ask again, coming back to the question, what is this proposition before the House? It is not to sell, as was suggested I believe by my colleague on the Committee of Ways and Means from Ohio, [Mr. PENDLETON,] the entire amount of gold in the Treasury of the United States. On the contrary, the discretion of the Secretary is limited to selling the surplus on hand not needed to pay the interest on the public debt and not needed for other purposes; and that is the express language of the resolution.

Mr. PENDLETON. I rise merely to correct the impression which the gentleman seems to have that I made an erroneous statement as to the reading of this resolution. I understood it not to authorize a sale of the whole amount of gold on hand, but only of the surplus which the Secretary of the Treasury may think he has on hand. Understanding the resolution as well as I did, I certainly did not mistake its provisions, and the gentleman has derived a wrong impression as to the person from whom that statement came.

Mr. KASSON. That is probably the case; but one of the gentlemen upon the other side of the House who have opposed this resolution spoke distinctly about giving the Secretary power to put this seventeen or eighteen millions on the market at once. The resolution is especially guarded in that particular, and only gives the Secretary discretion to sell that which is not required by the Government for the payment of interest on the public debt and for other purposes.

And that brings me to the objection of the gentleman from New York on my left, [Mr. BROOKS,] who declares that we are here proposing to perpetrate a breach of the public faith which has been committed to the retention of every dollar of gold received into the Treasury of the United States for customs. I submit to the gentleman that he is mistaken as to the character of the law. The law, which is before me, provides that the coin so paid in shall be set apart as a separate fund and applied first to the payment of interest, secondly to the payment of one per cent. of the public debt, and third that the residue thereof shall be paid into the Treasury of the United States.

Now, this resolution does not propose to touch one dollar of the coin in the Treasury which is appropriated specially for specific purposes, but it only relates to the surplus that shall exist in the Treasury beyond the wants of the Government as now established by written law, and the discretion of the Secretary is limited to that excess, and does not extend to the coin which is specially set apart and reserved by law.

So much, I think, will satisfy the mind of any gentleman as to the proposition of the Committee of Ways and Means touching its conflict with the public faith. Sir, there is no man in this House who has a higher or deeper regard for the preservation of the public credit than myself. I will labor to sustain it, tax to sustain it, fight to sustain it, and my voice will ever be lifted to sustain it.

But the next objection runs against the extent of the discretion conferred. In reply I say

you cannot reach the remedy except by giving this discretion. And nothing in the financial career of that officer should lead us to distrust his fidelity in the use of such a discretion. I challenge any gentleman upon the floor of the House to tell me in what solitary particular, in the exercise of the large discretion granted to the Secretary of the Treasury, he has ever violated the pledges that existed by law or that existed in understandings between him and the financial people of the country. There is not a financial man in or out of New York who will not say to-day that the Secretary of the Treasury has faithfully and honestly observed every obligation he has ever assumed in his transactions with them.

Mr. ELDRIDGE. I wish to ask the gentleman from Iowa if the Secretary of the Treasury has not already, previous to this time, disposed of gold from the Treasury, and in the manner in which it is proposed to give him authority to do it under this resolution?

Mr. KASSON. Will the gentleman mention the time or the fact to which he refers? Does he make that charge?

Mr. ELDRIDGE. I do not know that I can give the time, but I understand that he has heretofore thrown gold upon the market in the manner proposed in this resolution.

Mr. KASSON. My answer is, first, that I never understood such a thing, and do not believe such a thing. If the gentleman knows it I ask him to state the authority on which he makes the charge.

Mr. ELDRIDGE. I was so informed by one member of the Committee of Ways and Means yesterday. That gentleman is here now and can speak for himself.

Mr. KASSON. I hope that if any gentleman knows any fact of that kind he will state it. I have no such knowledge.

Mr. DAVIS, of New York. Will the gentleman from Iowa allow me to answer the inquiry made on the other side of the House? In conversation with the Secretary of the Treasury I learned—

Mr. KASSON. If my friend from New York will allow me, perhaps I ought not to yield for a quotation of private conversation with the Secretary of the Treasury, unless the gentleman's own discretion guide him in that particular. I believe that it is contrary to the usage of the House. Certainly the Committee of Ways and Means has declined to refer to any such conversation.

Mr. DAVIS, of New York. The Secretary informed me that not one dollar in gold from the Treasury of the United States has ever been disposed of contrary to that law.

Mr. KASSON. That concurs entirely with my own opinion, information, and belief. I proceed to say that while this discretion, hitherto vested in the Secretary of the Treasury, has been by general consent, and so far as we know, used for the best interests of the country, I can see no objection to extending that discretion to the point proposed.

Mr. ALLEY. If my friend from Iowa will allow me, I will say that a few days ago I was told by a gentleman who said he knew, that the Secretary of the Treasury had in two or three instances thrown into market a considerable amount of gold; but I have since been informed by a high officer of the Government who knows all the facts, that nothing of the kind has ever occurred, and, further, that there was no authority of law for any such action, and no such sale was ever made.

Mr. KASSON. Again, sir, it comes to the same point—that nobody knows anything about it, and that the proper sources of authority have denied the existence of any such fact.

Mr. ELDRIDGE. I refer the gentleman to one of the members of the Committee of Ways and Means on the other side of the House, the gentleman from Massachusetts, [Mr. HOOPER.]

Mr. HOOPER. If the gentleman will have the goodness to state his question, I shall be very happy to answer.

Mr. ELDRIDGE. I do not know the fact,

and I do not make any such charge; but the question that I asked was whether the Secretary of the Treasury had not heretofore thrown gold upon the market.

Mr. HOOPER. Not to my knowledge. My impression is very decided that he never has done it. If I have conveyed the contrary impression to the gentleman he misunderstood me.

Mr. ELDRIDGE. I so understood the gentleman yesterday, in his conversation with myself and the gentleman from New York.

Mr. HOOPER. The gentleman misunderstood me. I did not mean to convey any such impression as that the Secretary of the Treasury has sold any gold out of the Treasury since this act was passed.

Mr. KASSON. I am glad, on the whole, that this full interpellation has taken place, as it tends to destroy any suspicion that may have existed in any mind on the subject. I am no political or personal partisan of the Secretary of the Treasury, but I will stand by him, as I will by every man who is faithfully using the powers, whether great or small, which he possesses for the best interests of the country; and I believe that this can be truthfully said of the present Secretary of the Treasury.

This resolution, sir, does not run in conflict with any proposition of law. It is not dangerous as giving discretion that surpasses former financial discretions which have been granted and have been well employed. Now, sir, I wish to call the attention of the House to the existing condition of facts respecting gold. I said at the opening that it was a question of great practical importance. It affects this question of the relation between gold and paper currency, every department of business, and every part of the country. There is not a constituent of mine who buys a pound of tea who is not affected by this question; there is not a constituent of yours, Mr. Speaker, or mine, who buys a single article of necessity or luxury imported from abroad, who is not interested in this question; there is not a soldier in the Army, or a sailor in the Navy, who receives his pay from the United States, who is not interested in this question.

Sir, just in proportion as you reduce the inequality between gold and currency, just in that proportion do you increase the value of that currency and enable the consumer to purchase any article in the market at a lower rate of value, enable him to get his money's worth.

Now, sir, if by virtue of the laws of the United States this Government is accumulating gold in its Treasury beyond the legitimate wants of the Government for disbursement, I challenge any gentleman upon the floor of this House to tell me what right we have, as the representatives of the interests of the people of this country, to continue to hoard this gold, inflating the premium thereby, and with it to inflate the price of every article that you and I and your constituents and my constituents have to purchase in this country.

The proposition is simply this, that just in proportion as you lock up the mainstay of commerce, the gold of the country, just in that proportion do you advance the price of everything we have to buy; just in proportion as you advance the price of gold itself do you enhance the price of everything that comes from abroad.

Now, Mr. Speaker, such being the conditions of value, what do we find in the large cities of the country, and especially in the city of New York, from which the gentleman [Mr. FERNANDO WOOD] comes, and to which most of the foreign goods imported into this country come?

A few months ago, having occasion to visit my business agent in New York, as I passed down a principal street, I encountered a crowd collected on the sidewalk, extending down the steps into a subterranean apartment, and stretching away into the dark interior, and two or three policemen standing at the entrance, apparently engaged in preserving order, with an amount of noise and confusion that was the best illustration of the conception we have been taught to have of ancient Babel or modern Bedlam I ever witnessed, a tumult and uproar beyond the power of the imagination to conceive. There were men there of nearly all complexions, the features predominant being hooked noses, bushy eyebrows, and long beards.

I made my way at last through the crowd to the office of my friend and asked him what was going on—whether there was a police court so near to the great mart of business in the city of New York. He said no, it was the gold exchange! There were fifty or one hundred men combining in all the various phases of speculation to raise the price of gold and to inflate the price of every article which my constituents and yours have to buy; bringing, for the sake of advancing their own personal profit, inconvenience and loss upon the people of the whole country. Mr. Speaker, it would require a good deal of self-control upon the part of any man to prevent a blush of patriotism at the sight of such reckless speculation against public credit. Sir, I fear the combinations at these dens in New York—kept open, as these men adjourn from one to another, for almost all hours of the day and night—more than I fear all the combinations of the rebel power at Richmond in their attempts to shake the public faith and break down the public credit.

If it is in the power of this House to give authority to anybody in this Government who we believe will exercise that power for the best interests of the country, to break up that illegitimate traffic, I am for giving that power to its utmost extent.

I repeat that it is in these financial transactions so called, not legitimate commerce, but illegitimate transactions, that the great danger and peril to the public credit exists.

When the gentleman from New York last on the floor [Mr. FERNANDO WOOD] says that this is a proposition to regulate the money market, I reply that on the contrary it is a proposition to allow legitimate merchants and regular traders to conduct their regular transactions without interference on the part of Government by exhausting the market of the material most indispensable to their transactions.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, notifying the House that the Senate have passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (S. No. 81) to apportion the expenses of the levy court in the county of Washington upon the basis of population; and

A bill (S. No. 82) concerning notaries public for the District of Columbia.

Also, that the Senate insist upon their amendments disagreed to by this House to the bill of the House (No. 122) to increase the internal revenue and for other purposes, and agree to a conference asked by the House upon the disagreeing votes of the two Houses thereon, and have appointed Mr. FESSENDEN, Mr. HOWE, and Mr. JOHNSON the managers at the said conference on the part of the Senate.

SALE OF GOLD—AGAIN.

Mr. KASSON. Mr. Speaker, it is proposed to allow the money market to regulate itself without the interference of the United States in thus accumulating the gold of the country.

Now, sir, I pass to the objection raised by the gentleman from Massachusetts, [Mr. BOUTWELL.] He proposes a substitute for the resolution reported by the Committee of Ways and Means. His substitute is to allow the Secretary of the Treasury to buy up interest coupons which are ultimately to be paid in gold, and thus restore the gold to those who possess the coupons. I am willing to commit to him that power. It is right he should do it, and to the extent that affords a remedy I should desire to see him have it. Yet I think the House will see with little reflection that it only shifts the difficulty which now exists in the market. That difficulty is on the part of the merchant in buying gold necessary for the transactions of commerce in the city. What must he do under this proposition? He must buy coupons in lieu of gold, and take them to the Treasury for the gold. The coupons are gold. They will bear the same price with gold. Speculation affects them like gold. The merchant must pay the like premium to get them; coupon holders and gold holders will be identical and will combine. It is proposed to do by indirection what is now done directly. It is the buying up of gold represented by gold coupons instead of gold represented by coin. As I have said, I have no objection to it as

an auxiliary proposition; so that whenever a man, under any circumstances, can get interest coupons cheaper than he can get gold he shall go to the Treasury and get gold for them in advance of their maturity. That is limited, however, by the amount of coupons offered and by the amount of gold in the public Treasury. But in addition to this the committee's proposition is necessary for the purpose of preventing all those combinations to which I have alluded.

The object of this resolution is to restore this surplus gold into the channels of commerce, and undoubtedly its incidental effect will be to check the spirit of speculation so rife in New York. I wish the gentleman from New York, [Mr. Brooks,] who spoke early on this question, would go home to his constituents and lecture them on their indulgence of those luxurious habits respecting which he addressed us to-day. I wish he would tell those gentlemen who are filling their stores with diamonds and gold trinkets, silks and satins, that they ought to discourage importation of those luxurious articles instead of stimulating the luxurious tastes of our people. It is undoubtedly an evil in the land, and I will unite with him to check that evil and retain in the country every useless dollar now sent abroad. I will go for an increase of the tariff so far as is consistent with the maintenance of the public credit. I will do anything to get us back to a self-sustaining system as far as possible.

One of the leading financial men on the continent of Europe told me recently that the moment we got this rebellion so much down that it was a question of time only, from two hundred to four hundred million dollars would come from Europe for investment in securities of the United States—that it would seek our securities without our asking.

I regret from the bottom of my heart to hear gentlemen on the other side declare that we are on the eve of bankruptcy, or there is danger that our public credit will not be sustained. I have not the data here, but I have collected them, to show that with a moderate taxation we are abundantly able to pay the public debt which is now being created, and upon which we are now paying or shall have to pay interest. There is the property in the country to pay it; there is the energy to pay it; and there is the patriotism in the country to pay it and sustain it.

I beg therefore, Mr. Speaker, that the House will consider these propositions with reference to their immediate effect. Suppose that not a single dollar of gold is sold from the Treasury for three months, yet the very existence of this power upon the part of the Secretary to take a million, or two millions, or four millions, from time to time, to relieve the money market in New York, will render it almost impossible for men in the large cities to make what is called in the language of the brokers' board a "corner" in the gold market. They could not do it, for the existence of this power would knock the corner all to pieces. I do not know that that is an expression of the brokers' board, but such will be the effect.

It is for this reason, in part, that I think it of the highest importance that this power should exist upon the part of the Secretary of the Treasury. What is the legitimate use of gold in this country? We want enough of it to pay the interest on our debt, and enough to pay duties, and pay our indebtedness abroad. Aside from that there is no legitimate demand for gold as an article of commerce in this country. We simply want it to pay our public liabilities at home, and, as far as foreign importations are concerned, to pay their duties at the custom-house, and to pay our indebtedness to foreign countries. There is an abundance of gold for those purposes. We are producing enough from day to day in the gold mines of this country to discharge every one of those liabilities. By means of hoarding and making "corners" these speculators are creating an artificial demand for gold; they are making time contracts for gold; they are speculating in it in all shapes; and this power will destroy that system of contracts. A man will not contract to take from you \$1,000,000 of gold a month hence at a specified premium, when, perhaps, the day before the Secretary of the Treasury may have a surplus of four or five million dollars to put upon the market. There can nothing be plainer than this effect of the passage of this resolution. It will

approximate the price of gold to the point which meets the legitimate demand for it. I do not care where you lodge the power if it is only safely deposited and will produce this result.

I think my remarks have covered the principal objections, if not all, which have been raised by the other side of the House. Since I stated a few facts yesterday in explanation of the necessity of this law, I am glad to find that my opinion is concurred in by my colleague on the Committee of Ways and Means from New York, [Mr. STEBINS,] a gentleman whose large experience in financial operations in that city gives, more than any opinion of mine can give, confidence in the propriety of this measure. His testimony to its probable financial result and its efficiency would, aside from any opinion of mine, be conclusive upon my judgment.

I ask the House, to the extent of its power, to relieve the country from this venomous spirit of speculation in hostility to the best interests of the Government, by giving to the Secretary this incidental power, which we now propose, to relieve the regular market from the control of speculators and to reduce the difference between the value of currency and gold to a legitimate rate, proportioned to the supply and demand for real transactions.

Mr. DUMONT. This resolution, as I understand, comes from the Committee of Ways and Means. I am always reluctant to disagree with them, and am always disposed to sustain them in whatever meets the approbation of my mind. The first gentleman from New York who spoke upon this matter [Mr. Brooks] seemed to be exceedingly excited because, under the existing state of things, the importations of the country exceeded the exportations. I have read the history of the country in vain if such has not frequently been the case in periods of profound peace. During the Administration of the younger Adams, the most economical Administration in the history of the country, an Administration under which the whole expenditures of the Government amounted to only \$13,000,000 a year, the importations of the country frequently exceeded the exportations. And now that half the ports of the country are closed, and half of the farming and mechanical interests of the country are withdrawn from their legitimate business, I think that no gentleman ought to be astonished that at a time like this, when the country is engaged in such a war as this, our importations should exceed our exportations.

And the other gentleman from New York [Mr. FERNANDO WOOD] is wonderfully astonished at the inflation of our circulating medium. I undertake to say, Mr. Speaker, that the history of no civilized and enlightened Government that is now known to the world affords a single example of a war being carried on upon a specie basis. Why, the gentleman himself conceded that. He said that the monarchies of the old world, when they are engaged in wars, are in the habit of debasing the coin of the country. Does he want the United States to resort to that expedient at this time? Does he think that that would be a preferable measure to issuing the promissory notes of the Government, valid obligations that have hitherto been faithfully redeemed, which have entered into the circulating medium, and are sought after as the best currency of the country? If the gentleman prefers the debasing of coin, making an eagle worth ten times as much by legal enactment as its intrinsic value, then all I have to say in regard to that financial proposition is that it does not meet my approbation, and I do not think it would meet the approbation of any gentleman who reflected well upon the subject.

The gentleman held statistical information in his hand, and he compared the amount of notes in circulation in the country at the commencement of the war with the amount in circulation now; he made the wonderful discovery that the circulation has vastly augmented within the last two or three years, and he came to the conclusion that it must be the result of this terrible war. Well, sir, that is a legitimate conclusion, almost as legitimate as that of the Hibernian who when a funeral was passing by, and being asked who was dead, replied, "Well, I don't know, but presume it is the gentleman in the coffin." [Laughter.] It is quite a logical inference, quite a legitimate conclusion, one on which he will find very few

gentlemen to differ with him, that all this has been occasioned by and has been the necessary and legitimate result of this terrible strife in which we are engaged.

I understand the gentleman to be for peace; I also am for peace; and the only difference between us is that I am for peace upon the condition of the restoration of this Government in all its integrity, and he is for peace at all events. Well, there are many ways to bring about a peace. One way is at the point of the bayonet; one way is at the point of the naked sword; one way is to crush out this rebellion by the brave soldiers that are in favor of putting it down. Another way would be to concede all the rebels ask; to admit that they waged war for a lawful cause, that the North is all in the wrong and they are all in the right, and that it is our duty to ground the weapons of our unholy warfare against them, to acknowledge their independence, and to give them guarantees for the future. Another way is to fall back on a specie basis, and that in all probability affords the key to the exceeding anxiety of these gentlemen to fall back on a specie basis. That is the end of the war. That is the end of the war instantly. It cannot be prosecuted one single moment after we fall back upon a specie basis. The history of the world may be searched in vain, the history of warfare may be conned over, every leaf ever written on the subject may be looked into; you cannot find the example of any civilized nation where a war of any kind, much less a war assuming such gigantic proportions as this terrible war does, has been carried on upon a specie basis.

I therefore can say, Mr. Speaker, in all candor, that I oppose the passage of this resolution with great reluctance, and that I do not at all chime in with the gentlemen on the other side in their opposition to it. Their plan seems to be to give the Government a dig under the fifth rib. My opposition to it is on a far different basis from theirs. I have no disposition to cavil with the Government. It came not into power by my vote or with the aid of my humble influence. But I have no disposition to cavil with it when to cavil with it is to paralyze its arm and give aid and comfort to the enemy. I am opposed, however, to the passage of this resolution; and why? I have listened to the remarks of the eloquent gentleman from Iowa, [Mr. KASSON,] and would be exceedingly glad to be able to agree with him. I have just as much confidence as he has in the able head of the Treasury Department. I would just as lief commit this power to him as to any man in the Government, or to any man who has been in the Government since the days of Alexander Hamilton, in point as well of integrity as of ability. I oppose the resolution therefore not out of any hostility to the Secretary of the Treasury, but because I think it involves a violation of public faith. I believe that the law has already made an application of this money. The law provides that the duties on customs shall be collected in coin, so that the Government might have money enough to meet its obligations for the payment of interest in coin. It then declares that this coin shall be applied only in a certain way. I do not contend for a single moment that one Congress can bind another; but I think that if Congress pledges the faith of the Government, and if third parties intervene in transactions and act on that pledge, then other Congresses are bound by the pledge thus given.

I do not interpret the act of Congress as the gentlemen from Iowa does. I say that it pledges this money to the creation of a sinking fund to be applied to the payment of the public debt. The Secretary of the Treasury is not bound to take in the public debt at par. It is much better for him to go into the market and buy up the bonds of the Government than it is to throw the surplus gold on the market. I do not care how honest the Secretary of the Treasury may be, I do not care how good a financier he may be, "where the carcass is, there will the eagles be gathered together." This resolution would convert the Treasury Department into a great broker's shop; and the constituents of the gentleman would be seen hovering around it like the eagles around a dead carcass. I have no doubt that the Secretary of the Treasury is an honest man, notwithstanding the character of those who surround him; but we must recollect that he is the successor of a Cobb, and that his successors may not be proof

against such men. And I am not willing to commit this power to everybody who may by chance happen to be Secretary of the Treasury.

I am not generally very much in favor of the amendments that are offered by the gentleman from Ohio, [Mr. COX,] but I concede that the amendment offered by him to this resolution is a very good one—that is; that if the money is to be thrown upon the market it is to be sold in market overt. I shall support that amendment with a view of perfecting the resolution; but I think I shall be compelled to vote against the resolution itself. I have an amendment of my own which I shall offer, before I take my seat, as an additional proviso to the amendment offered by the gentleman from Ohio. I want to guard this matter in every way I can; and my amendment is that a sale of gold shall not take place without the consent of all the heads of the Departments. In our own State, Mr. Speaker, extraordinary power is frequently vested in one of the executive officers; but he is prohibited from exercising that power without the advice and consent of his colleagues. I therefore send up the amendment which I propose to offer to the amendment of the gentleman from Ohio.

Mr. COX. Before the gentleman offers his amendment, I desire to say that I propose to modify mine somewhat, and as the modification may affect the gentleman's amendment, I will state it at this time. I propose to make my amendment provide for giving public notice of at least five days before the Secretary of the Treasury shall sell any gold under this act; and further to give him power to withdraw any gold so offered from sale, if, in his judgment, the public interest requires it.

Mr. DUMONT. That will not interfere with the amendment I propose to offer in the least. I propose further to place restrictions upon the operations to be carried on under this bill, if it shall become a law, by adding as follows:

Provided further, That the Secretary of the Treasury shall not sell any gold under this act without the advice and consent of all the other Executive Departments of the Government, and that the operation of this act shall cease in one year after the passage of this act.

One single word, Mr. Speaker, for I do not desire to take up the time of the House. I think this is a temporary measure. It is not brought forward by those who advocate it as a permanent measure. There would be no surplus of gold in the Treasury if the laws were precisely what they should be. Let us therefore so amend our revenue laws as only to bring into the Treasury what gold is needed by the Government for disbursement, and then if the House decide to authorize the Secretary of the Treasury to sell the surplus now on hand in the Treasury, let us indicate by our legislation that the authority for such sale is merely to meet the present exigency.

Mr. COX. I wish to add just a word in support of the amendment I have offered. I think if this proposition of the gentleman from Massachusetts is to pass at all, it should be with the amendment I have proposed—not that I favor the proposition at all in any shape. I have not been impressed, from the arguments I have heard upon the other side of the House, in its favor. From all I can learn I understand that at least fifteen million dollars more will be required to pay the interest on the public debt before the 1st of July than will probably be received into the Treasury from customs. In other words, the specie in the Treasury, if it is sold to-morrow, will have to be bought back again very soon afterwards.

But, sir, I did not propose to discuss the general question at this time, but merely to make a remark in favor of my amendment. I understand the gentleman from Massachusetts to be opposed to my amendment because it will have the effect of producing combinations among bidders, and so prevent competition, and raise the price of gold. Well, sir, that is not the result of pursuing such a policy in other matters, and I am at a loss to see how the argument of the gentleman from Massachusetts in this regard can apply to the present exigency for which this measure is to provide.

Gentlemen all know how sensitive the article of gold is in the market. Every click of the telegraph from Washington or from the head of the Army will change its price. It is as sensible to every movement as the barometer is to the change of the atmosphere, and it ought not to be placed

in the control of any man, whoever he may be, however large his virtues or wisdom may be. I will not say that he would, by secret operations, control these great financial movements, these great monetary interests, which so pervade and ramify through all the avenues of trade and commerce; but I will not trust any man with the power thus to go into the market and control the currency in that way. No, sir; if it is to be done, let it be done in an open and fair manner, after public advertisement for a proper time, and then there will be competition, then gold will come down. If it is desirable that gold should come down, if gentlemen would not follow the advice of the rebel Lamar, they will vote for my amendment.

Mr. STEVENS. I did not expect this matter would occupy the whole day. I am anxious to get at and pass a little bill to save the public lands from being sold for taxes. When it was proposed to take up and pass this bill this morning, I supposed the gentleman from New York [Mr. FERNANDO WOOD] was anxious to relieve the merchants of his city from the high price of gold, but now I find that he wanted the bill brought up mainly for the purpose of delivering a speech, which had been very ably prepared, upon political questions. As, however, now it seems that the merchants of New York do not desire relief; as I see from the course of their Representatives upon this floor that they are willing to be ground down between the upper and nether millstone, I think it is proper that we should have further consideration of this matter in the Committee of Ways and Means, where it has not yet been considered at all maturely. There are now three important amendments offered which it may be proper to incorporate in this bill in some shape, so as to make it work well. I therefore move to recommit it to the Committee of Ways and Means, with permission to report at any time.

Mr. LONG. I have offered a very important amendment, and I hope the gentleman from Pennsylvania will yield to me in order that I may explain it to the House.

Mr. STEVENS. I cannot yield to the gentleman. I am nearly suffocated now, and I cannot stand any more.

Mr. VOORHEES. I hope the motion of the gentleman from Pennsylvania will not be sustained.

Mr. STEVENS moved the previous question. The previous question was seconded, and the main question ordered.

The SPEAKER. Is there any objection to permitting the Committee of Ways and Means to report at any time?

Mr. ANCONA. I object.

Mr. VOORHEES called for the yeas and nays on the motion to refer.

The yeas and nays were not ordered.

Mr. WASHBURN, of Illinois. I will not vote against the motion to refer if it be understood that the Committee of Ways and Means shall have power to report at any time.

Mr. RANDALL, of Pennsylvania. I wish to inquire of the Chair whether it is in order, if this matter be recommitted, to direct the Committee of Ways and Means to report to-morrow? I deprecate all delay in regard to this important matter, and I want it settled as soon as possible.

The SPEAKER. It is not in the power of the House, except by unanimous consent, to require a committee to report at any particular time.

Mr. RANDALL, of Pennsylvania. Then I hope there will be unanimous consent. I want a speedy decision of this matter, so that the decision may be known and not withheld that speculators may profit thereby.

There was no objection; and the matter was accordingly recommitted to the Committee of Ways and Means, with instructions to report to-morrow.

Mr. STEVENS moved to reconsider the vote by which the matter was recommitted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TAXES ON GOVERNMENT LANDS.

Mr. STEVENS, by unanimous consent, called up the joint resolution (H. R. No. 31) making appropriation for the payment of taxes on certain lands owned by the United States. It appropriates,

to pay taxes on lands owned by the United States, the sum of \$20,000, or so much thereof as may be necessary.

Mr. HUBBARD, of Iowa. This is an important matter, and if I were allowed time to look into it I might be able to furnish the House with some information on the subject. I understand that the taxes which this resolution proposes to have paid were illegally assessed.

Mr. STEVENS. The joint resolution is reported on information furnished by the Treasury. The lands are situated in the State of Iowa, and the Government had to take them from defaulters. The taxes are due, and if not paid the lands will be sold. The appropriation is necessary, and I do not see what objection can be made to it. The amount is only \$20,000.

Mr. WASHBURN, of Illinois. That is a good deal.

Mr. ALLISON. The lands in question are in my district. They have come into the hands of the Government on account of the prosecution of defaulting officers. Unless the taxes are paid the lands will be sold.

Mr. STEVENS moved the previous question. Mr. WASHBURN, of Illinois. Will the gentleman withdraw the demand for the previous question, that I may offer an amendment?

Mr. STEVENS. Yes, sir.

Mr. WASHBURN, of Illinois. I move to amend by adding to the resolution, "and that the Secretary of the Treasury be directed to report to this House where these lands are situated, and what is the amount of taxes paid."

The amendment was agreed to.

Mr. HUBBARD, of Iowa. I should like to offer this amendment:

Provided, That in cases where the Secretary of the Treasury is satisfied that the taxes have been illegally levied, none of the money hereby appropriated shall be applied in payment of the same, but proceedings shall at once be commenced to enjoin the collection of such taxes.

Mr. STEVENS. I cannot yield for that amendment. I hope there will be no such embarrassment offered. I renew the demand for the previous question.

The previous question was seconded, and the main question ordered.

The joint resolution was read the third time, and passed.

COMPENSATION OF CUSTOM-HOUSE OFFICERS.

Mr. STEVENS, by unanimous consent, reported back from the Committee of Ways and Means Senate bill No. 66, to increase the compensation of inspectors of customs in certain ports; which was referred to the Committee of the Whole on the state of the Union.

CONSTRUCTION OF THE ENROLLMENT ACT.

Mr. ODELL asked unanimous consent to report from the Committee on Military Affairs a joint resolution construing the act approved July 17, 1863, calling out the militia for nine months, so as to entitle men called out under its provisions to be paid the bounty of twenty-five dollars.

Mr. ELIOT objected.

Mr. ODELL. I am rather surprised that the gentleman from Massachusetts would object, as petitions on the subject from his own constituents have been referred to us.

Mr. ELIOT. I withdraw the objection.

Mr. VOORHEES. If the resolution is founded on petitions from the constituents of the gentleman from Massachusetts I object to it.

Mr. ODELL. I hope the objection will be withdrawn. It is only a declaratory resolution of the intent and meaning of the enrollment bill.

Mr. VOORHEES withdrew his objection.

The joint resolution was reported from the Committee on Military Affairs, and read a first and second time.

Mr. ODELL. Many petitions have been referred to the Military Committee on this subject, and under the instruction of that committee I have reported this resolution. The President called for one hundred thousand militia for nine months. A large portion of these nine months' men received the bounty of twenty-five dollars, and another portion did not. This joint resolution simply extends that act to the effect that each man shall receive twenty-five dollars. It is an act of justice to the soldiers, who are waiting for this money.

The resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ODELL moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. ELIOT. I call for the regular order of business.

FREEDMEN'S AFFAIRS.

The SPEAKER stated that the next business in order was the consideration of House bill No. 51, to establish a Bureau of Freedmen's Affairs, reported from the select committee on the subject, on which the gentleman from California [Mr. COLE] was entitled to the floor.

Mr. COLE, of California. Mr. Speaker, since obtaining the floor last evening, I have found a little time to condense such views of this bill as I wished to present to the House, and the few notes I have prepared will contribute sensibly to that desirable end. The time of this body while the war lasts, I say it with all deference, is too precious to be taken up with vain utterances, and I acknowledge to a very considerable degree of diffidence, lest betrayed I should be into the use of unnecessary words.

It is clear now that the learned gentleman from Ohio [Mr. Cox] who last addressed the House on this question, and who has written a book—I do not intend to impeach the literary character of other gentlemen from that State; each one, for aught I know, may have written a book; neither do I desire to manifest any of that malevolent spirit that Job displayed when he exclaimed, "Oh that mine adversary had written a book!"—but the literary gentleman from Ohio has not always entertained the opinions in reference to the negro that are generally accorded to him. The elegantly written extracts that were read from *The Buckeye Abroad* by the gentleman from Illinois [Mr. WASHBURN] show that when its author was in Rome he did as the Romans do, and I entertain a lively hope that when he becomes fully convinced that it is the fixed purpose of the nation to put down this insurrection by force, and in no other way, he will again pay respect to the injunction, "when in Rome do as the Romans do," and heartily coöperate with this side of the House, lending his powerful influence toward bringing about a peace in the only proper way. In fact, I thought I discovered in some of his expressions last evening the outcroppings of genuine abolitionism. I should feel a little more certain on this point were it not that another and rather antagonistic idea seemed to predominate throughout the gentleman's speech. He appears to be troubled with a sort of hallucination that the project to establish a Bureau of Freedmen's Affairs is one grand scheme for the amalgamation of the white and the black races, nothing less, nothing more.

I have in vain tried to discover how the providing the means of subsistence for the freedmen, and all the comforts that flow from paid industry, can have a tendency to promote amalgamation; and, notwithstanding the gentleman's most virtuous indignation against the bill, springing out of this idea, I am equally at a loss to know how persons who are exercising their own volition, and have perfect freedom of action, are any worse off in regard to this matter than those whose purposes are subordinated by law to the desires of others.

If the gentleman will consult the census reports he will find that the number of mulattoes in the single State of Virginia was some ten thousand more than in all the free States put together; and if his statement be correct, that mulattoes do not propagate, it leaves a very strong presumption that amalgamation had something to do with this result.

The gentleman entertains strong feelings of distaste toward this side of the House, because, as he somehow infers, we are theoretically in favor of amalgamation; and I will not quarrel with that feeling so honestly entertained by him; for I remember that *de gustibus non disputandum*, and this business of amalgamating is purely a matter of taste. But how happens it that the very learned and astute gentleman from Ohio never conceived any disgust toward his quondam friends down South, who, as the census shows, were so very much addicted to the practice of amalgamating with their black slaves?

I will now turn from the gentleman from Ohio to the proper consideration of the bill, not a more agreeable subject, but more profitable, I hope, and I will leave its humanitarian, its eleemosynary points for the consideration of gentlemen on the other side of the House, whose new-born affection for the black man renders it entirely safe to do so. I propose only to give attention to its bearing upon the war.

Power is virtue in a belligerent. A nation at war ought to strengthen itself in every possible way, or give up the strife. It is worse than folly, it is criminal, to protract a deadly conflict unnecessarily.

This bill to establish a Bureau of Freedmen's Affairs proposes, in effect, to shorten the war. The means of doing it are within our reach; the duty is before us, and we are called upon to act.

The reasons for employing colored men in the military service of the Government, and especially such colored men as are or have been in slavery, are to my mind overwhelming, and I feel constrained to urge extraordinary measures, if necessary, to obtain such service. The bill under consideration must have a powerful tendency to promote this object, and ought therefore to find the favor of loyal men. I choose to consider it from this point of view, because the exigencies of an active, long-continued, and still vigorous rebellion are upon us. In peace times I should consider it in altogether a different light.

The bill provides for the taking in charge by the War Department of the freed people of the country, "to the end that said freedmen and the Government of the United States shall be mutually protected, and their respective rights and interests duly determined and maintained." This I understand to mean that when these people, like any other people, are needed by the Government, so many of them as are fit to bear arms may be thus employed. At all events, there is nothing in the bill to prevent such employment of them, and there appears to be great propriety in giving their supervision to the War Department, at least during the war, rather than to the Department of the Interior, or even to the proposed new Department of Industry, because they can then with greater facility be called into the military service of the Government whenever an emergency might require it.

I do not favor this feature of the measure because of any inability on the part of our white soldiers to maintain themselves. They have done this to the full extent of every reasonable expectation. They have driven in the rebellion on every hand, and routed the minions of treason from many a stronghold. Every fair contest in this war has shown that

"Thrice is he armed that hath his quarrel just;
And he but naked, though locked up in steel,
Whose conscience with injustice is corrupted."

Viewed as a question of expediency, the argument in favor of a colored soldiery is none the less. If the Republic possessed ten times the astounding strength it has already displayed, and if the usurpation at Richmond were much weaker than it has ever appeared to be, still should we employ this agency in sustaining the former and crushing the latter. As Republicans we should certainly favor it, as Democrats should we favor it, and as abolitionists especially should we favor it. It is a matter that appeals directly to our philanthropy. It involves the interests not of this country alone, but of all countries; not of the living merely, but of all generations. It will most surely uproot and destroy slavery from the face of the earth. The example will not be lost upon the only American monarchy, slaveholding Brazil, nor upon the few Spanish American colonies that still foster the barbarous practice of chattelizing humanity. Carry into practice the provisions of this bill, and the New World, at least, will be free again as when first created, and all men be permitted to pursue their own happiness here unmolested by tyrants.

It would be unfair to leave this childlike people uncared for while the stalwart among them are fighting the battles of liberty for us as well as themselves; and equally so to turn them off upon the cold charities of a dominant race after the battles are over. Under the proclamation of the President they became the wards of the Republic, and we cannot, with any show of justice, disclaim the guardianship. Dispel the clouds and darkness

that villainous local laws have imposed upon their minds, and they will no longer need our care.

It will not be possible, in the short time allotted, to revert to all the arguments in favor of this bill, but some of the reasons for it are so patent as to force themselves upon attention. While the scheme will much alleviate the new condition of self-reliance of these people, it will impose no new burdens upon the Government; on the contrary, it promises to yield a handsome revenue to the public Treasury. At the same time, and above all, it will so strengthen the national arm as to speedily crush out the rebellion. To this war view of the subject alone, then, I propose to address my remarks, for these are war times.

Contrary to the general opinion entertained two years ago, or less, the American descendants of the African make excellent soldiers. This has been demonstrated on numerous battle-fields, and in some of the most desperate hand-to-hand conflicts of this war. The testimony of officers over them is full and singularly uniform on this point. Only the other day, in the Chronicle of this city, was the following:

"General M. M. Crocker, of Iowa, one of the very best officers in the Army, who early entered the public service, and was an unwavering and leading Democrat in that State for many years, writes from Vicksburg, where he is now stationed, to a friend in Des Moines, under date of January 12, 1864, as follows: 'The negro regiments now form quite an element in this army, and it is astonishing how completely all prejudice on that subject has been done away with. They make good soldiers—mild, good-natured, and respectful to their officers—easily managed, and, as far as they have been tried, fight as well as any troops.'"

And so, whether the testimony come from Vicksburg, Port Hudson, or before Charleston, from Louisiana, Tennessee, or North Carolina; whether from the general who has been taught from his infancy to despise the negro, or from him whose faith in humanity was imbibed from the Puritans, it is the same. Few of these people comparatively have been put under arms in this contest, and they but recently, yet have they achieved for themselves a new, and certainly a brilliant, reputation. We were told they had been known to fight well under other flags, and that regiments of them had become famous in the wars of the East and also the West Indies; but they were not counted upon to sustain "the flag of our Union." Our excessively chivalrous Democratic friends were horrified at the bare idea of arming in defense of the nation what they were pleased to term property, and it was only when drafting approached too closely that they could see any virtue in it. So scrupulous are some of them on this question of color that they have hitherto strenuously declined the use of colored powder as against rebels.

It is a favorite theory among persons educated at the Military Academy that all men under similar circumstances of discipline and physical condition are about equally brave; that if there is any difference it is owing to the bodily and not to the mental structure of the individual. And pleasant it is to find in that school of theories one theory that is so nearly sustained by the experiences of this war. What with his physical training and discipline to obedience, the colored man will fight, and as bravely, I trust, as his white companion in arms. There is one characteristic about these people that eminently fits them for the sternest realities of war. They manifest more sympathy toward each other than do the white soldiers, and, as a consequence, instead of scattering they become gregarious in time of danger, and maintain the strength that is always found in union. They seldom, if ever, abandon their comrades in distress. During the many expeditions that our soldiers have made within the rebel lines, this peculiarity of the colored population has been observed. The aged, the infirm, and the helpless young have been the objects of their chiefest solicitude while escaping from bondage. Often in this war has the flight of Virgil's hero been illustrated. Many a swarthy Æneas has borne away upon his shoulder some old Anchises, while leading his little Ascanius by the hand, followed by his faithful wife carrying a little bundle, the household lares and penates, from the cruel confederacy.

Another reason for strengthening the military arm of the Government by the employment of this agency, is that the slaves join the Union forces with alacrity whenever an opportunity offers. This is not regarded by them as a politi-

cal contest, and party feeling never intervenes between them and duty. Convince the freedman of the rebellious States that downtrodden humanity needs his assistance, and at once he seizes his weapon and goes into the ranks. Instances are related where they have resorted to the most ingenious expedients to conceal physical defects in order to get into the Army; and they have wept with disappointment over the adverse decision of an examining physician, so anxious have they been for immolation upon the holy altar of liberty. Here is patriotism, here an appreciation of that old Roman adage—"Dulce et decorum est pro patria mori."

But the freedmen of the South are better fitted by nature and habit than the northern people to endure the climate of the insurgent States, and the toils incident to the life of a soldier therein. This is attested in many ways, but in none more forcibly and sadly than by the hecatombs filled with noble young men who perished in the swamps of the Chickahominy, victims not more of the climate than of the sickly sentimentality of that miserable specimen of a general whose chief solicitude while leading a patriot army was to guard rebel property and return fugitive slaves.

Colored soldiers will meet with the sympathy and most hearty coöperation of the entire colored population of the South; and if it is demonstrated by a solemn act of Congress that their hitherto downtrodden race is to be lifted up and be made the recipients of national kindness, the white soldiers that are assisting to bear aloft the American flag will be equally welcome among them. This will give to the Union forces an advantage that has probably not been so fully enjoyed by an army in an enemy's country since the world began. It is an advantage that cannot be overestimated. Why, the idea of an invasion by these people is terribly discomfiting to the usurpers, and hence their desperate exertions to deter us from obtaining their aid by indiscriminately murdering all negroes found under arms or in the uniform of the United States, as also the officers that lead them. Their most barbarous treatment of our poor friends in the Richmond prisons is instigated by their fears upon this point. They dare not recognize their former slaves as soldiers to be treated according to the rules and laws of war. The weapon in the hand of the slave is truly the Ithuriel spear; the rebellion writhes under its touch. An army of colored men becomes an army of liberators in every sense, and if you would put a speedy termination to this war, this awful war, arm so many of these people as will bear arms, and take good care of the balance. Ay, sir, put one of John Brown's pikes in the hands of every traitor's slave and let him earn his liberty. Men that would not be content with all the choicest blessings of the Republic are unfit to live in it. Let them perish. Mercy to them is cruelty toward God and humanity. Whom the gods wish to destroy they first make mad, and though these people are beside themselves, yet are they sensitive to danger. They fear the men they have scourged in the pride of their power. The maned lion is not more dreaded by the lonely traveler in Africa than is he whose fathers destroyed the lion by the trembling despots at Richmond.

Every slave added to the Union Army is, in effect, also taking a soldier from the ranks of the rebels. The efficiency of an army depends upon how it is fed, clothed, and furnished. Without supplies it will fall to pieces in three days; and the man at home laboring for its support is as indispensable to its strength as the one that carries the musket. The plow is equally useful to the belligerent with the gun, and the sickle with the saber. The ex-Secretary of War and his cohorts are so hotly pressed to maintain their ascendancy that they have ordered into their service, as we are told, all able-bodied white men within their lines between the ages of eighteen and sixty; and the rebellion will therefore soon be utterly dependent upon slave labor for its support. By so much, then, as you withdraw this support, by so much do you weaken the rebellion. And this, it seems to me, presents one of the most powerful inducements for the Government to use all available means to enlist colored persons in its service, and to withdraw their support from the rebellion.

But there is still another argument. Those

ingrates who hold nightly carnival at Richmond over the wasted victims of famine, and whose requital for support long rendered is torture and death—these fiends in human shape have already entailed upon this Government, which they cannot destroy, an enormous public debt; and it is a matter of the first importance to prevent as far as possible its augmentation; and among the liveliest considerations for engaging the colored man in the Army is that it is great economy to do so.

The African's powers of endurance, whether in marching under a southern sun or laboring in intrenchments, surpasses that of the white man, and as a consequence his sanitary condition is better. So far as I have been able to gather facts, it excels that of the white soldiers in the proportion of five to one.

It has been stated—I do not vouch for the fact, for I have not the data before me—that since this war began as many of the Union soldiers have perished from disease and hardship as in battle. If this be true, or nearly true, it furnishes another strong argument to the point under consideration. Besides the hardiness and prudence of the colored soldier, he possesses a most commendable aptness for subsisting himself in an enemy's country. The training he has received, in many instances from niggardly masters, eminently fits him for this important duty.

But there is another point of view from which it will appear to be great economy to employ slaves as soldiers. A sufficient and satisfactory bounty for them, if we offer them no more, is their freedom and that of their race. They demand no further subsidy than the privilege of vindicating their rights, their "inalienable rights," of life, liberty, and labor. And shall we not accord them this poor privilege? Rather, shall we not avail ourselves of an opportunity to save millions upon millions which otherwise would need to be paid as bounties in order to keep filled our serried ranks? The aid of the bondman to humble or destroy his and our own would-be proud oppressor can be obtained without the expensive routine of the enrollment and draft; and it shames me that he whose participation in the blessings of the Republic has been so limited should be among the foremost in its defense.

Another fact must not be overlooked. Desertions rarely occur among the colored troops.

From the general framework of our military laws, one is forced to the conclusion that it has been the purpose of the country to fill up and keep up the armies from other sources, and quite independently of the slaves.

The enrollment act as it now stands reads, "all able-bodied male citizens of the United States" shall be liable to do military duty; and this in the face of the fact that colored people are not counted citizens, certainly not in the States where slavery is now or was lately practiced. So that this class of people have been virtually excluded from military duty under the law. And in the amended bill that passed this House on Saturday last you have incorporated a provision making them a part of the national forces; but you declare that the usual bounty payable to the drafted man shall not be paid to the colored soldier when drafted, nor to his family, but to a third party, even to the man to whom that same soldier has, upon compulsion, rendered the service of a lifetime. What justice, what logic, in such a law? It is the old justice of the slavemonger. It is the logic of the tyrant; and shall we never rise above them? Must our Republic be further scourged with bloody thongs before we can do right?

There is little room for disagreement among loyal men upon the proposition that our Army ought to be increased; and is this policy of discouraging enlistments with a whole class to be continued, even by implication? Such certainly will be the just inference if we now fail to adopt the provisions of this act for a Freedmen's Bureau. Do gentlemen suppose that we have already enough colored troops in our Army, and that we need no more of them? Or has the cruelty of the rebels toward these men deterred the Congress from tendering an equal provision to avail ourselves of their further assistance? Would the traitors, think you, forbear to make use of such an agency if they had it within their reach? While they dare not put arms in the hands of slaves, they are nevertheless conscripting them to labor on fortifications. In the Globe of but the other day was

a statement that Extra Billy Smith, now Governor of old Virginia, lately of California, and an exceedingly anxious candidate for United States Senator from there, had ordered a draft for five thousand slaves in certain counties, to work on fortifications. Neither General Smith nor any other traitor has any scruples about this matter.

As to the feasibility of obtaining colored recruits, it is preposterous to deny it. We have already, according to reports, some fifty to a hundred thousand of them in the school of the soldier or under arms. Nearly all of these are from within the rebel lines, and there are full half a million more of them there precisely in the predicament of so many prisoners, scattered over half a million square miles, surrounded by an imaginary wall thousands of miles in extent. Only encourage their coming forth, and the entire rebel army, though it had no other duty, would present but a feeble barrier to their escape.

It is gratifying to know that some of our officers have a keen appreciation of the advantages to flow from this arm of the service; and among them, as worthy of mention, is that live man, who fully understands the rebel character and comprehends the emergency, Major General Butler. How far they are to be supported and encouraged by the Government rests with this Congress, and that is the question.

There is too much of the chivalrous spirit of McClellan and Porter and Paterson in the Army yet; too much of West Point punctilio, and too little of earnest determination to conquer. Unless this nation awakes to the emergency, and takes hold of the instrumentalities that God in His wisdom has provided, this usurpation will not be put down.

The people have not yet fully made up their minds that slavery, the Jonah of our ship, must go overboard. Gentlemen on the other side of the House seem exceedingly anxious to save some remnants of it; and if for that end they will discourage the enlistment of white men, much more may they be expected to oppose the enlistment of negroes, which at once strikes at the root of slavery and saps the foundation of their party. It will require greater audacity than most of the gentlemen on that side of the House possess to return to slavery a man after he has fought for his country.

In my judgment, this war is not nearly over. It possesses a most dangerous element of desperation; and unless you are willing to totally discard the policy that at first and for a long time controlled it, by arming the slaves, you will not see the end. Already a thousand days and nights have the people waited and watched, but peace has not come. Hope has frequently brought it to our doors, but like a phantom has it fled again. Self-delusion may be a pleasant, but it is a most unprofitable business. Armies will move in the spring; other battles will be fought, and fields now unnamed will become noted in the history of this war. Its greatest hero is perhaps still unknown to fame. You may depend upon it, peace has been already postponed by our acting upon the belief that it is near. We have turned aside to discuss the rights of traitors, to the forgetfulness of the more important rights of humanity. The so-called rights of rebellious States have received a great deal of attention at our hands already, and all to no purpose, unless you first put an end to the rule of the slavemongers there.

This that we are dealing with is in no proper sense a rebellion as understood in this day. It is a most impudent usurpation of power by a little junto of men who had been too long trusted by the people. From the very commencement they have maintained themselves by military rule, and in no other manner. They have entirely discarded the plainly expressed will of the nation, and boldly undertaken to subvert free government. The wonder is—if there be anything wonderful under the sun—that they should have had the unbridled audacity to undertake this thing while professing to be Democrats, and to respect republican institutions. But to the philosopher this may not seem strange.

The contest between truth and error is not less active now than at any former period of the world's history. It is said, truth crushed to earth will rise again; and the same should be said of error, for it is constantly putting on new habiliments, the better to appeal to the passions of men. In

fact, nothing has yet appeared upon earth, however good, wise, just, or beneficent, but it has met with opposition. Persecutions did not begin in the case of John Brown of Ossawatimie. Even he in whom both Jew and Gentile now concede there was no guile was pursued, persecuted, and crucified in his own country. Galileo was forced to disavow his sublime theory of the planetary motions. Socrates the Just, was made to drink the fatal hemlock. Religion, science, literature, law, government, have advanced through strifes, contentions, blood. As a general rule, the greater the virtue the more violent the assaults upon it. And our glorious Republic constitutes no exception: its destruction is sought, and no cause whatever is alleged by its assailants for their wicked course.

Apologists for crime have always been found; and this great crime, this crime against the whole human race, this crime, scarcely second in magnitude to the crucifixion, does not lack its apologists. They are found everywhere, even in this Capitol. But no traitor, no abettor of treason, has had the temerity to charge any wrong against the Government of the United States. On the contrary, up to the very moment of the breaking out of the rebellion, it was proclaimed by men of all parties, and everywhere, to be the wisest, the best, most just and beneficent Government that had ever been established in the world. And none were so loud in these declarations as were the very persons who for the last three years have been trying to overthrow it; and none had enjoyed its blessings to so great a degree.

Alexander H. Stephens, lately a member upon this floor, and now the usurping vice president, addressed a convention in his own State of Georgia, after the rebellion was inaugurated, and made use of the following language:

"Pause, I intreat you, and consider for a moment what reasons you can give that will even satisfy yourselves in calmer moments; what reasons you can give to your fellow-sufferers in the calamity that it will bring upon us. What reasons can you give to the nations of the earth to justify it? They will be the calm and deliberate judges in the case; and to what cause or one overt act can you name or point on which to rest the plea of justification? What right has the North assailed? What interest of the South has been invaded? What justice has been denied? And what claim founded in justice and right has been withheld? Can either of you to-day name one governmental act of wrong, deliberately and purposely done by the Government of Washington, of which the South has a right to complain? I challenge the answer." * * * "Leaving out of view, for the present, the countless millions of dollars you must expend in a war with the North; with tens of thousands of your sons and brothers slain in battle, and offered up as sacrifices upon the altar of your ambition—and for what, we ask again? Is it for the overthrow of the American Government, established by our common ancestry, cemented and built up by their sweat and blood, and founded on the broad principles of right, justice, and humanity? And, as such, I must declare here, as I have often done before, and which has been repeated by the greatest and wisest statesmen and patriots in this and other lands, that it is the best and freest Government; the most equal in its rights; the most just in its decisions; the most lenient in its measures; and the most inspiring in its principles to elevate the race of men that the sun of heaven ever shone upon."

No parallel for this rebellion can be found in history. The conspiracy of Catiline approximates it most closely; but the Government against which he plotted possessed few of the excellencies of our own. In one particular have our American traitors faithfully copied after their Roman exemplar. They sought to destroy the Republic while yet intrusted with its affairs; and as with Catiline, so with our modern conspirators, ingratitude is conspicuous among their crimes.

While history furnishes no parallel to the rebellion of Jeff. Davis and his coadjutors, we are not without a picture of their perfidy, for which we are indebted to the genius of that great English republican and poet, Milton. He has shown us how Satan and his followers—a motley crew—rebelled against the authority of Heaven, and for precisely the reason that they were not permitted to control there. They preferred to rule in hell rather than serve in heaven. And so with our late ex-President, our ex-Vice President, ex-heads of Departments, Senators, members of Congress, ministers to foreign courts, ambassadors, consuls, and dignitaries in large number, who hover about the slave-pens of Richmond, and make their headquarters there. Forgetting entirely the source whence was derived all the authority they ever had, they discard the verdict of their masters, the people, and set up for themselves an empire founded upon slavery; even upon slavery possessed of all

the most repulsive and forbidding features of that heathenish practice; a slavery that ever drips with human blood, and fills the whole air with the groans of its victims.

Such is the acknowledged corner-stone of that empire; and are there any that would not relieve these victims from such masters? Ours is the home of the oppressed of all lands, and shall it afford no relief to the oppressed of our own? A shame that we have so long belied our professions! A shame and a disgrace that the great American Republic should suffer its free Constitution to be made the bulwark of tyranny! We have tolerated this fallacy of one man owning another too long. It is utterly indefensible on any ground, and will bring trouble upon any people that adopt it. There is a principle of compensation running through all nature that will not permit the violation of a law with impunity. The reverse tide may be slow, but it is sure to come. I doubt not the next generation of people in Kentucky will wonder that their distinguished Representative on this floor, [Mr. CLAY,] in the third year of this slaveholders' rebellion, should talk so confidently about property in man. Why, it is self-evident that liberty is an inalienable right, no matter what custom may happen to prevail in the border States, or in the Barbary States, or in any other States.

Gentlemen are constantly reverting to some old condition of things, and claiming that we should shape our conduct by what some others have said or done here or elsewhere under other circumstances. As for me, sir, I have no more regard for precedents in these times than had our colonial ancestors when they declared the great truth that "all men are created equal." They had the courage thus to strike down the ancient theoretical distinctions of blood. All the notions of all the nations in all the centuries touching royalty and nobility were swept from the New World on the 4th of July, 1776, and the Old World is learning the lesson slowly. Precedent is only respectable when it accords with right reason. No matter how many examples may be cited to sustain slavery, men are now looking at it in the light of reason. Its pangs are not at all alleviated because of the multitudes that have suffered them.

"Slavery, thou art a bitter draught;
And though thousands in all ages
Have been made to drink of thee,
Thou art no less bitter on that account."

In the United States of America slavery has forfeited every semblance of right to recognition; and I regret that our worthy President has seen fit since this war began to give it any countenance in his public acts. The proclamation would have been still more palatable had it contained only the words, "Slavery has undertaken to destroy the Republic, therefore slavery shall be destroyed. Done: Abraham Lincoln."

Mr. Speaker, if you would put an end to this cruel war be sure in good faith to take good care of these oppressed people. Arm the men. Put sharp weapons in every brawny hand among them; and then soon will the ex-Secretary of War cry out to his followers, in the language of his great prototype:

"Long is the way,
And hard, that out of hell leads up to light."

Mr. KALBFLEISCH obtained the floor.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced that the Senate had passed a joint resolution relative to the transfer of persons in the military service to the naval service; in which the concurrence of the House was requested.

GRANT OF LAND.

Mr. DONNELLY, by unanimous consent, introduced a bill making a grant of land to the Lake Superior and Mississippi Railroad Company, in the State of Minnesota, to aid in the construction of the railroad of said company from St. Paul to Lake Superior; which was read a first and second time, and referred to the Committee on Public Lands.

PENSIONS.

Mr. GRINNELL, by unanimous consent, presented a joint resolution of the Legislature of the State of Iowa in relation to pensions to the widows of deceased chaplains and surgeons in the Army;

which was referred to the Committee on Military Affairs.

SHIP CANAL.

Mr. GRINNELL, by unanimous consent, also presented a joint resolution of the Legislature of Iowa relative to the construction of a ship canal from the lakes to the Mississippi river, and the improvement of the upper and lower rapids of the Mississippi river; which was referred to the Committee on Roads and Canals.

WAGON ROAD IN IOWA.

Mr. HUBBARD, of Iowa, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of constructing a wagon road from the Missouri river, by way of Neabralle, to Virginia City, in the Territory of Idaho.

TRANSFER OF MEN.

Mr. HIGBY. I ask unanimous consent to take from the Speaker's table a joint resolution (S. No. 28) relative to the transfer of men from the military service to the naval service.

Objection was made.

Mr. HIGBY. If gentlemen will hear my reasons, I think they will not object. The object of the resolution is to give power to the Executive to transfer men to such war vessels as are now without men, that they may be sent immediately to California and the Pacific coast. It is an absolute necessity that this should be done. The quicker it is done the sooner the Government can act.

Mr. COX. I must object. The bill ought to go to the Committee on Military Affairs.

Mr. DEMING. I move to refer the bill to the Committee on Military Affairs, with leave to report to-morrow morning.

Mr. COX. There is no objection to that.

The motion was agreed to.

ADJOURNMENT OVER.

Mr. ELDRIDGE. I move that when the House adjourns to-morrow it adjourn to meet on Tuesday next.

The motion was not agreed to.

SUBSTITUTES AND RECRUITS.

Mr. PENDLETON, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire whether any further legislation is necessary to prevent substitute and recruiting brokers from purchasing substitutes and recruits from one township, ward, or district, to be credited to the quota of another; and report by bill or otherwise.

CHANGE OF NAME OF SCHOONER.

Mr. RANDALL, of Pennsylvania, by unanimous consent, introduced a bill to change the name of the American-built schooner Starlight to that of Joseph Brady; which was read a first and second time, and referred to the Committee on Commerce.

ADJOURNMENT OVER.

Mr. ELDRIDGE. The motion I made to adjourn over was not put in the way I made it. I move that when the House adjourns to-day it adjourn to meet on Tuesday next.

The SPEAKER *pro tempore*. Such a motion is not in order. The House cannot decide to-day what it will do to-morrow.

Mr. ELDRIDGE. Then I move that the House adjourn.

The motion was agreed to.

The House accordingly (at forty-five minutes past four o'clock, p. m.) adjourned.

IN SENATE.

FRIDAY, February 19, 1864.

Prayer by Rev. S. D. BURCHARD, D. D., of New York.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. RAMSEY. I present a memorial of the Legislature of Minnesota in favor of a grant of lands to aid in the construction of a railroad from the Mississippi river to Lake Superior. As the committee have already reported on the subject I move that the memorial be laid on the table and printed.

The motion was agreed to.

Mr. RAMSEY presented a memorial of the Legislature of Minnesota in favor of the early payment of the damages sustained by citizens of that State by the Sioux Indian war of 1862 out of the property of the destroyers now under the control of the Government; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota in favor of the erection of a line of military posts from Fort Abercrombie, in Dakota Territory, to Bannock City, in Idaho Territory; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented three memorials of the Legislature of Minnesota in favor of the establishment of mail routes from Carver via Waconia to Wattertown; from Hastings via Empire City, Farmington, and Lakeville, to Shakopee in Scott county; and from Faxon via Glencoe and Koniska, to Hutchinson, McLeod county, in that State; which were referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. HARLAN presented resolutions of the Legislature of Iowa in favor of allowing pensions to the widows of chaplains and surgeons in the Army who may die while in the service of the United States; and in favor of the construction of a ship canal from the lakes to the Mississippi river, and the improvement of the upper and lower rapids of that river; which were ordered to lie on the table, and be printed.

Mr. WADE presented a petition of Horace Binney and others of Philadelphia, praying that such a tax may be imposed upon the circulation of banks chartered by State Legislatures as will compel them to call in all their issues, and insure a uniform national currency; which was referred to the Committee on Finance.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bill and joint resolutions; in which it requested the concurrence of the Senate:

A bill (No. 206) in addition to an act for the establishment of certain arsenals;

A joint resolution (No. 31) making appropriation for the payment of taxes on certain lands owned by the United States; and

A joint resolution (No. 36) to construe the third section of the act approved July 17, 1863, entitled "An act to amend the act calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion, approved February 28, 1795, and the act amendatory thereof, and for other purposes," so as to provide for the payment of bounties to all classes of troops called out under the provisions of that section.

REPORTS FROM COMMITTEES.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a bill (S. No. 73) to enable the trustees of Blue Mont College to perfect the title to their lands, reported it with amendments.

Mr. MORGAN, from the Committee on Commerce, to whom was referred a bill (H. R. No. 120) to reestablish the principal port of entry for the district of Champlain at Plattsburg, and for other purposes, reported it without amendment.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print five hundred copies of the report of the chief engineer of the Washington aqueduct, to report it back without amendment and recommend its passage, and I ask for its present consideration. The printing will cost ten dollars.

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Interior Department five hundred copies of the report of the chief engineer of the Washington aqueduct.

CASE OF H. C. DE ALMA.

Mr. CLARK. The Committee on Claims, to whom was referred the petition of Henry Charles De Alma, have directed me to ask that they be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia. It does not seem to be a proper petition to be referred to the Committee on Claims.

This man does not ask any pay for anything, but he complains that he has been grievously misused by the Senate in being rejected as a brigadier, and by General Halleck, who he says has prevented him from gaining distinction in the Army or an honorable death; and he asks that the Committee on Military Affairs may be directed to inquire into it. The Committee on Claims have no objection to his getting an honorable death at their hands, if he desires it. [Laughter.] So we ask to be discharged, and that it be referred to the Committee on Military Affairs.

Mr. GRIMES. I ask for a division of that question so that we may vote first on discharging the committee and then on the question whether such a petition ought to be received.

The VICE PRESIDENT. A division being called for, the first question is on the motion to discharge the Committee on Claims from the further consideration of this petition.

The motion was agreed to.

The VICE PRESIDENT. The question recurs on the motion to refer it to the Committee on Military Affairs.

Mr. GRIMES. I now move that the petition be indefinitely postponed. It is a petition here remonstrating against the action of the Senate in executive session. It ought not to be received.

Mr. HENDRICKS. The petition goes a little further. The petitioner complains of his treatment before he got to the Senate, and he wants the Senate Military Committee to investigate it. The motion to postpone indefinitely was agreed to.

J. C. G. KENNEDY.

Mr. ANTHONY. I am instructed by the Committee on Claims to report the following resolution, and to ask for its present consideration:

Resolved, That the Committee on Claims be and they are hereby authorized to hear and report upon the claim of Joseph C. G. Kennedy relative to his salary as secretary of the Census Board and superintending clerk on the census.

Mr. HALE. Let that lie over. It is an important matter.

Mr. ANTHONY. It is merely to take jurisdiction.

Mr. HALE. I know that.

Mr. ANTHONY. The claim is before the committee, and the committee had a little doubt whether it did not require a resolution to enable them to take jurisdiction.

The VICE PRESIDENT. It does not admit of debate if objection is made.

Mr. HALE. I will let it be considered now, but I want to say that I was so much impressed with the suggestions made by my friend from Connecticut [Mr. FOSTER] the other day in regard to Brown's case that he entirely converted me as to the impropriety of taking these things from the Court of Claims, and taking cognizance of them in the Senate.

Mr. FOSTER. I am very sorry the Senator from New Hampshire did not give me the benefit of his vote immediately after his conversion. [Laughter.]

Mr. CLARK. I will simply say to the Senate that this case involves no question of fact, but merely the construction of a law, so that it is unnecessary to take any testimony before the court.

Mr. HALE. I confess the longer I think of what the Senator from Connecticut said, the more I am impressed with it, and the only reason why I did not give him the benefit of my vote the other day—and I say this in all faith—was that I thought that was so clear a case that it did not require any further investigation; but I think on the whole the precedent is a bad one; it led us into difficulty then, and I guess we had better adhere to the law.

Mr. ANTHONY. I hope the judgment of the committee will be accepted by the Senate. The committee ask for this.

The resolution was rejected—ayes seven, noes not counted.

Mr. HALE subsequently said: I desire to make a privileged motion. I voted with the majority on the resolution of the Senator from Rhode Island, and after an explanation of his I am satisfied that it may possibly work injustice. I move to reconsider the vote by which the Senate refused to authorize the Committee on Claims to take cognizance of Mr. Kennedy's claim.

The VICE PRESIDENT. The motion will be entered.

HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were read twice by their titles, and referred to the Committee on Military Affairs and the Militia:

A bill (No. 206) in addition to an act for the establishment of certain arsenals; and

A joint resolution (No. 36) to construe the third section of the act approved July 17, 1862, entitled "An act to amend the act calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion, approved February 28, 1795, and the act amendatory thereof, and for other purposes," so as to provide for the payment of bounties to all classes of troops called out under the provisions of that section.

NOTICE OF A BILL.

Mr. LANE, of Kansas, gave notice of his intention to ask leave to introduce a bill providing for an appropriation for the erection of a post office and court-house building at the seat of government of the State of Kansas.

BILLS INTRODUCED.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 127) to authorize the transfer of indictments from the district to the circuit courts of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 128) to provide for the renting of abandoned lands, tenements, and houses in insurrectionary States, and for the care and employment of persons therein set free by proclamation of the President; which was read twice by its title, referred to the select committee on slavery and freedmen, and ordered to be printed.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 129) to amend an act entitled "An act to authorize the corporation of Georgetown in the District of Columbia to lay and collect a water tax, and for other purposes," approved May 21, 1862; which was read twice by its title, and referred to the Committee on the District of Columbia.

NAVY-YARD AT NEWCASTLE.

Mr. RIDDLE. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Naval Affairs be directed to inquire into the propriety and expediency of establishing a navy-yard at or near the town of Newcastle, in the State of Delaware, and to report to the Senate the relative convenience and public advantages of that location compared with others on the Delaware river.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. RIDDLE. Mr. President, I shall not make a speech on this subject, but I desire to call the attention of the Committee on Naval Affairs to the fact that the great States of Pennsylvania and Massachusetts have made a stronger speech for this location as a naval depot than I can make by constructing their railroads to Newcastle in preference to the different sites which have been indicated in the State of Pennsylvania. I merely mention this matter to call the attention of the Committee on Naval Affairs to the fact that the great coal depot and iron exportation depot is at the town of Newcastle, in preference to League island, Marcus Hook, or Chester, which places they have to pass to get to Newcastle, and that the roads leading there have been constructed by the people of Massachusetts and Pennsylvania, the Philadelphia, Wilmington, and Baltimore, Philadelphia and Reading, and Pennsylvania Central railroads. When the proper time comes, I shall, perhaps, discuss the matter further. I hope the resolution will be adopted now, that the Committee on Naval Affairs may make the inquiry.

The resolution was agreed to.

TAXES ON GOVERNMENT LANDS.

Mr. FESSENDEN. There is a little joint resolution on the table that would properly go to the Committee on Finance; but it is very important to pass it at once. I think there can be no possible objection to it, and as it is a pressing matter I wish to have it passed at once.

By unanimous consent, the joint resolution (H. R. No. 31) making appropriation for the payment of taxes on certain lands owned by the United

States was read twice and considered as in Committee of the Whole. It proposes to appropriate \$20,000 to pay taxes on lands owned by the United States, and to direct the Secretary of the Treasury to report to Congress upon what lands the taxes may be paid and the amount paid.

Mr. FESSENDEN. A majority of the Committee on Finance have seen the resolution and recommend its passage. I send to the Chair a short letter which I desire to have read.

The Secretary read the following letter:

TREASURY DEPARTMENT,

SOLICITOR'S OFFICE, January 27, 1864.

SIR: There is a large quantity of real estate held by this office or by trustees in trust for the United States which has been acquired either in satisfaction or as security for debts due to the Government, upon which State and other taxes have accrued, and for the payment of which no provision has been made by law. For want of this the rights of the Government are in danger in some cases of being seriously embarrassed, if not entirely lost. I respectfully recommend that Congress be asked to make an appropriation for this purpose. I think that the sum of \$20,000 should be appropriated, and the appropriation should be made as speedily as practicable, as there are some cases in which any considerable delay in the payment of the taxes would prove very inconvenient.

I have the honor to be, with high respect,

EDWARD JORDAN,
Solicitor of the Treasury.

Hon. S. P. CHASE, Secretary of the Treasury.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

AMENDMENT OF ENROLLMENT ACT.

Mr. WILSON. I move that the Senate now proceed to the consideration of the report of the committee of conference upon the enrollment bill.

The motion was agreed to; and the Senate proceeded to consider the report.

The VICE PRESIDENT. The report of the committee of conference will be read.

The Secretary read the report, as follows:

The committee of conference appointed to consider the disagreeing votes of the two Houses on the bill (S. No. 36) "to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March 3, 1863," having met, after full and free conference do report as follows:

That the House of Representatives do agree to the second section of the bill of the Senate, with the following amendments, to wit: 1. Strike out the word "or," where it first occurs in the second line of said section. 2. After the word "township," in the second line of said section, insert the words "precinct or election district." 3. Strike out the word "or," in the third line of said section. 4. After the word "townships," in the third line of said section, insert the words "precincts or election districts." And that the Senate do agree to the said several amendments.

That the House of Representatives do agree to the third section of the bill of the Senate, with the following amendments, to wit: 1. After the word "if," in the first line of said section, strike out the words "any State," and insert the words "the quotas" in lieu thereof. 2. Strike out the words "fail to furnish," in the second line of said section, and insert the words "not be filled" in lieu thereof. 3. Strike out the words "the number of men required therefrom," in the third line of said section. 5. Strike out the word "or," where it first occurs in the fifth line of said section. 6. After the word "township," in the fifth line of said section, add the words "precinct or election district." 7. Strike out the word "or," in the sixth line of said section. 8. After the word "townships," in the sixth line of said section, insert the words "precinct or election districts." 9. After the word "township," in the twelfth line of said section, insert the words "precinct or election district." 10. After the word "county," at the end of said section, add the following: "And if the quota of any district shall not be filled by the draft made in accordance with the provisions of this act, and the act to which it is an amendment, further drafts shall be made, and like proceedings had, until the quota of such district shall be filled." And that the Senate do agree to the said several amendments.

That the House of Representatives do agree to the fourth section of the bill of the Senate, with the following amendments, to wit: 1. After the word "time," in the sixth line of said section, insert the words "previous to the draft." 2. After the word "draft," in the seventh line of said section, insert the words "nor, at the time, in the military or naval service of the United States." 3. Strike out the words "three years," in the tenth line of said section, and insert the words "the time for which such substitute shall have been accepted" in lieu thereof. 4. Strike out all of said section after the word "years," in the tenth line thereof. And that the Senate do agree to the said several amendments.

That the House of Representatives do agree to the fifth section of the bill of the Senate, with the following amendments, to wit: 1. Strike out the words "enrolled and" in the first line of said section. 2. After the word "may," in the second line of said section, insert the words "before the time fixed for his appearance for duty at the draft rendezvous." 3. Strike out all of said section after the word "draft," in the twenty-fourth line, and insert the following in lieu thereof: "in filling that quota; and his name shall be retained on the roll in filling future quotas; but in no instance shall the exemption of any person, on account of his payment of commutation money for the procurement of a substitute, extend beyond one year; but at the end of one year, in every such case, the name of any person so ex-

empted shall be enrolled again, if not before returned to the enrollment list under the provisions of this section." And that the Senate agree to the said several amendments.

That the sixth section of the bill of the Senate be stricken out.

That the seventh section of the bill of the Senate be stricken out.

That the eighth section of the bill of the Senate be stricken out, and that the Senate do agree to the fifth section of the amendment of the House of Representatives.

That the ninth section of the bill of the Senate be stricken out, and that the Senate do agree to the ninth section of the amendment of the House of Representatives, with the following amendments, to wit: 1. After the word "able," in the second line of said section of said amendment, insert the words "or ordinary." 2. After the word "able," in the ninth line of said section, insert the words "or ordinary." 3. After the word "able," in the sixteenth line of said section, insert the words "or ordinary." 4. Strike out the words "Secretary of the Navy and the Secretary of War," in the twentieth and twenty-first lines, and insert the words "President of the United States" in lieu thereof. And that the House of Representatives agree to the said several amendments.

That the House of Representatives do agree to the tenth section of the bill of the Senate, with the following amendments, to wit: 1. After the word "able," in the second line of said section, insert the words "or ordinary." 2. Strike out the word "or," where it first occurs in the fifth line of said section. 3. After the word "township," in the fifth line of said section, insert the words "precinct or election district." 4. Strike out the word "or," in the sixth line of said section. 5. After the word "townships," in the sixth line of said section, insert the words "precincts or election districts." And that the Senate do agree to the said several amendments.

That the House of Representatives do agree to the eleventh section of the bill of the Senate, with the following amendments, to wit: 1. Strike out the word "or," in the eighth line of said section. 2. After the word "township," in the eighth and ninth lines of said section, insert the words "precinct or election district." 3. Strike out the word "or," in the tenth line of said section. 4. After the word "townships," in the tenth line of said section, insert the words "precincts or election districts." And that the Senate do agree to the said several amendments.

That the twelfth section of the bill of the Senate be stricken out.

That the thirteenth section of the bill of the Senate be stricken out, and that the Senate do agree to the thirteenth section of the amendment of the House of Representatives.

That the House of Representatives do agree to the fourteenth section of the bill of the Senate.

That the House of Representatives do agree to the fifteenth section of the bill of the Senate, with the following amendment, to wit: Add to said section the following: "And nothing in this section contained shall be construed to relieve the party offending from liability, under proper indictment or process, for any crime against the laws of a State, committed by him while violating the provisions of this section." And that the Senate do agree to said amendment.

That the House of Representatives do agree to the sixteenth section of the bill of the Senate.

That the Senate do agree to the seventeenth section of the amendment of the House of Representatives.

That the seventeenth section of the bill of the Senate be stricken out, and that the Senate do agree to the eighteenth section of the amendment of the House of Representatives.

That the House of Representatives do agree to the eighteenth section of the bill of the Senate.

That the House of Representatives do agree to the nineteenth section of the bill of the Senate, with the following amendments, to wit: 1. Strike out the word "four," in the eleventh line of said section, and insert the word "three" in lieu thereof. 2. Strike out all of said section after the word "soldiers," in the fourteenth line, and insert the following in lieu thereof: "Provided, That no person shall be entitled to the benefit of the provisions of this section, unless his declaration of conscientious scruples against bearing arms shall be supported by satisfactory evidence that his department has been uniformly consistent with such declaration." And that the Senate do agree to the said several amendments.

That the House of Representatives do agree to the twentieth section of the bill of the Senate.

That the House of Representatives do agree to the twenty-first section of the bill of the Senate, with the following amendment, to wit: Strike out the words "absent from the country or," in the sixth and seventh lines of said section, and insert the words "for some good and sufficient reason" in lieu thereof. And that the Senate do agree to said amendment.

That the House of Representatives do agree to the twenty-second section of the bill of the Senate, with the following amendment, to wit: Add to said section the following: "Provided, That the Secretary of War may order the discharge of all persons in the military service who are under the age of eighteen years at the time of the application for their discharge, when it shall appear upon due proof that such persons are in the service without the consent, either express or implied, of their parents or guardians: And provided further, That such persons, their parents or guardians, shall first repay to the Government and to the State and local authorities all bounties and advance pay which may have been paid to them, anything in the act to which this is an amendment to the contrary notwithstanding." And that the Senate do agree to said amendment.

That the House of Representatives do agree to the twenty-third section of the bill of the Senate, with the following amendment, to wit: 1. After the word "any," in the fourth line of said section, insert the word "drafted." 2. Strike out the words "drafted, and liable to render service," in the fifth line of said section. And that the Senate do agree to the said amendments.

That the House of Representatives agree to the twenty-fourth section of the bill of the Senate, with the following

amendment, to wit: After the word "disability," in the sixteenth line, insert the words "and any officer, clerk, or deputy connected with the board of enrollment who shall receive compensation from any drafted man for any services, or obtaining the performance of such service required from any member of said board by the provisions of this act." And that the Senate do agree to said amendment.

That the House of Representatives do agree to the twenty-fifth section of the bill of the Senate.

That the House of Representatives do agree to the twenty-sixth section of the bill of the Senate.

That the Senate do agree to the twenty-sixth section of the amendment of the House of Representatives, with the following amendments, to wit: 1. After the word "male," in the first line of said section of said amendment, insert the word "colored." 2. Strike out the words "of African descent." In the second line of said section. 3. Strike out the words "whether citizens or not," in the third line of said section. 4. After the word "thereof," in the ninth line of said section, insert the words "and thereupon such slave shall be free." 5. Strike out the word "owes," in the twelfth line of said section, and insert the words "was owing." 6. Strike out the words "on freeing the person," in the thirteenth and fourteenth lines of said section. 7. Strike out the word "the," in the sixteenth line of said section, and insert the word "a" in lieu thereof. 8. Strike out the words "commutation money, upon the master freeing the slave," in the nineteenth and twentieth lines of said section, and insert the words "fund derived from commutations, and every such colored volunteer on being mustered into the service shall be free," in lieu thereof. 9. After the word "enlisted," in the twenty-first line of said section, insert the words "or have volunteered." 10. After the word "applicable," in the twenty-fourth line of said section, strike out the words "as well." 11. Add to said section the following: "But men of color, drafted or enlisted, or who may volunteer into the military service, while they shall be credited on the quotas of the several States, or subdivisions of States, wherein they are respectively drafted, enlisted, or shall volunteer, shall not be assigned as State troops, but shall be mustered into regiments or companies as United States colored volunteers." And that the House of Representatives do agree to the said several amendments.

That the twenty-seventh section of the bill of the Senate be stricken out.

That the following section be inserted in the bill of the Senate, to wit:

"SEC. —. And be it further enacted, That the words 'precinct' and 'election district,' as used in this act, shall not be construed to require any subdivision for purposes of enrollment and draft less than the wards into which any city or village may be divided, or than the towns or townships into which any county may be divided."

That the House of Representatives do agree to the twenty-eighth section of the bill of the Senate.

That the House of Representatives do recede from their amendment to the bill of the Senate, except as recited in the foregoing report.

HENRY WILSON,
J. W. NESMITH,
J. W. GRIMES,
Managers on the part of the Senate.
ROBERT SCHENCK,
HENRY C. DEMING,
Managers on the part of the House.

Mr. SUMNER. I observe in one case an error either of the pen or of the type. One item of the report proposes to strike out the word "the," in line sixteen of the twenty-sixth section of the amendment of the House of Representatives, and insert the word "a" in lieu of it. The word "the" is in the fifteenth and not the sixteenth line of that section.

Mr. SHERMAN. I have looked over the bill, and I see that the report follows the paging of the original bill.

Mr. WILSON. Of the manuscript copy.

Mr. SUMNER. I have made several marks of the kind I have just stated.

Mr. SHERMAN. So it is all the way through. You can tell nothing from this report.

Mr. WILSON. The numbers are according to the manuscript copy, and not according to the printed bill.

Mr. SHERMAN. We have before us the printed bills; but these amendments are based on the manuscript bills.

Mr. SUMNER. Following the printed copy, I observe several discrepancies. If it is all right in the manuscript, I do not know the use of saying anything about it.

THE VICE PRESIDENT. The question is on agreeing to the report of the committee of conference.

Mr. POWELL. I ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. HENDRICKS. We have been compelled to examine this bill so hastily that I wish to ask the chairman of the Committee on Military Affairs what change, if any, is made in the commutation required by the Senate bill? Does this change the rate of commutation?

Mr. WILSON. It reduces it from \$400 to \$300.

Mr. HENDRICKS. I wish to ask one further

question. I understand that will exempt the party for one year, and no longer.

Mr. WILSON. The Senate provided in the bill that the commutation should be \$400, and that the person paying commutation should be subject to the next call. The House of Representatives reduced the sum from \$400 to \$300; and provided that the name of the person paying commutation should not be placed in the box and be liable to be drafted again until the entire list in the box had been drawn out. That seemed to be a bounty to pay the commutation as against getting substitutes, because if a man got a substitute and the substitute was liable to duty and was drafted in the next draft, then he had to go; and of course a man would not procure a substitute, but would pay the money under those circumstances. The time, therefore, was agreed upon to be one year. The payment of commutation will exempt for one year under this report.

Mr. SHERMAN. There are one or two radical changes in this bill which I should like to have explained. It is a very important bill. I very rarely make any objection to the report of a committee of conference, because I know they have great difficulties to overcome. They must yield as a matter of course, there being differences between the two Houses. But I should like to know if there was any reason given in the committee for striking out the sixth section of the Senate bill? I will state, before the Senator from Massachusetts answers, that the fifth section also has been very materially modified, and I do not think it has been at all improved, by inserting this clause at the end of the section:

And his name shall be retained on the roll in filling future quotas; but in no instance shall the exemption of any person on account of his payment of commutation money for the procurement of a substitute extend beyond one year; but at the end of one year, in every such case, the name of any person so exempted shall be enrolled again if not before returned to the enrollment list under the provisions of this section.

Under the operation of the bill as it is amended, if a person pays commutation money it exempts him from service for one year. Under the bill as it passed the Senate, it exempted him from service only during that call; so that the result of the conference has been to give a greater effect to the payment of commutation money than was given to it by the Senate bill, if I understand it correctly.

The sixth section was carefully considered in the Senate, and was inserted by a very full vote, almost a unanimous vote, and I see no reason for striking it out:

That the commutation money paid by persons drafted in any congressional district shall be applied by the War Department for the procurement of substitutes, which substitutes shall be credited to that district in filling its quota.

And then it requires each State and each district of a State to proceed with the draft to fill its quota. This is the only provision in the bill which compels each State to fill its quota. If you strike out the sixth section of the bill the payment of the commutation money by any of the States would relieve that State from the draft for one year, and in the mean time the draft would go on and be enforced in the other States which do not pay the commutation money. Under the operations of this bill any State might pay the entire commutation money, and thus be relieved from the draft without furnishing a single soldier. It seems to me, unless there is some good reason for it, this should not be adopted. It is a radical change of the law; and in certain districts and communities it may defeat the draft, as has been done under the old law. I should like to understand why that section is stricken out, and also the seventh section; but that is not so material.

I notice also that several sections of the Senate bill are stricken out, and other sections of the House bill which relate to different matters are inserted. It is very difficult to understand it without having the whole bill before us as it will be if this report shall be concurred in. It seems to me that in the printing of this bill, it should have been printed as it will stand if it passes in the form recommended by the committee of conference. As it is printed now we cannot understand it. The references to the pages and lines refer to the manuscript copy, and not to the printed copy. It is impossible for any one to understand this important committee of conference without a great deal of labor, and doing what the

printers might have done by printing it as it will stand in case we adopt the report of the committee of conference.

Mr. WILSON. Mr. President, the House of Representatives struck out the sixth section of the Senate bill. It will be remembered that that section was offered by three Senators, and was made up here in the Senate. The different portions of the sections are retained in the bill.

Mr. SHERMAN. I should like to have the Senator refer to them.

Mr. WILSON. If the Senator will allow me one moment, I will read a portion of it in an amendment made by the committee to the third section. In the report of the committee of conference, on page 32, the Senator will find the following:

10. After the word "county," in the end of said section, add the following: "And if the quota of any district shall not be filled by the draft made in accordance with the provisions of this act and the act to which it is an amendment, further drafts shall be made, and like proceedings had until the quota of such district shall be filled."

That provision is secured. As to the seventh section, the House struck that out, and the Senate committee agreed to it for the reason that it is already in the old law and there is no need for it here. It is merely surplusage.

Mr. SHERMAN. I will ask the Senator where the committee have inserted this provision of the sixth section:

That colored troops enlisted and mustered into the service of the United States in any State shall not be credited upon the quota of any other State.

Where is that inserted; or is it inserted at all?

Mr. WILSON. The committee of conference propose to amend the twenty-sixth section of the bill of the House of Representatives by adding the following:

But men of color, drafted or enlisted, or who may volunteer into the military service, while they shall be credited on the quotas of the several States, or subdivisions of States, wherein they are respectively drafted, enlisted, or shall volunteer, shall not be assigned as State troops, but shall be mustered into regiments or companies as the United States colored volunteers.

They are to be credited where they belong.

Mr. SHERMAN. All I desire is to preserve in some form the features of the sixth section. As the Senator says they are preserved, I have no objection to the report.

Mr. WILSON. The Senator from Iowa has the bill made up this morning just as it will be when the report of the committee of conference shall be adopted, and I assure the Senator he will find it correct.

Mr. LANE, of Indiana. I wish to state at this stage of the proceedings, as it may be as appropriate now as at any other time, that although there are many things in this enrollment bill which I favor, I cannot consistently with my sense of public duty vote for any conscription law that retains the commutation clause in any form. Hence I shall vote against concurring in the report of the committee of conference.

Mr. WILKINSON. Mr. President, I shall reluctantly vote against concurrence in the report of this committee of conference. There are some things in this report that I should be very glad to vote for; but the position assumed by the Senator from Indiana meets my concurrence. I voted with him on the subject of commutation when the bill was before the Senate, and I have seen no reason to change my opinion on that subject. I do not believe the House of Representatives have added anything to strengthen this bill in the way of procuring soldiers for our armies. I believe their amendments will have the other effect.

The twenty-sixth section of the amendment of the House of Representatives, which provided for the mustering in of persons of African descent, has been amended and somewhat improved by the committee of conference, but still it contains provisions that I cannot support. It provides that we shall go into the State of Kentucky, for instance, and muster in the slaves of loyal and disloyal masters alike, and it proposes to pay from the Treasury of the country \$300 apiece for those slaves if they are claimed by loyal masters; and then it proposes to credit these slaves, which the people pay for, to the quota of that particular State. In other words, it proposes to call on the people of Minnesota to furnish her troops, and then whatever money certain of her citizens may pay by way of commutation is to be taken and paid to the slaveholder for his slave, and the State is to be credited with that slave.

I believe that this is wrong in principle. I believe that these slaves owe service to the country just as much as the apprentice or the minor boy. You take the apprentice boy in Massachusetts eighteen years of age and deprive his master of three years' service without paying him one cent. You take the son of the aged father, who is dependent on the service of his son for support, and force him at eighteen years of age into the Army without paying that father. I never will consent to turn round and pay another class of men for the services of their slaves who owe service to the Government just as much as the apprentice or the minor boy.

Besides, you provide for paying for these slaves more than they are worth, admitting that their masters ought to be paid at all. Why, sir, in a year and a half from now the slaves of Maryland and of Kentucky, in my humble judgment, will not be worth one cent, and they cannot be made valuable for one cent; for I believe slavery is going by the board. While the people of the free States are taxed as they have been, and while the resources of the North have been invoked as they have been, I am unwilling that the fund which is raised in the North by the payment of commutation shall be carried down to these slave States for the purpose of compensating the loyal or disloyal masters of slaves.

I will state that there is one great advance made in this bill. It provides that the slave on being mustered in shall be free; but the Senator from Maryland [Mr. JOHNSON] said the other day that the bare fact of mustering them into the service freed them. I shall vote against the report.

Mr. TEN EYCK. I do not think it requisite on every occasion for a Senator to give the reasons of his vote; and yet after the remark that has been made by the Senator from Indiana, I wish to say one word simply.

I feel very much as he does with respect to the effect of allowing the commutation clause in this bill. I think it will greatly impair the value of the bill and retard the filling up of the Army, which is the great and essential thing. But, sir, if I cannot get the bill exactly in the shape I desire, or in the mode in which I think it will be of the most value, still I do not understand that that should control my action so far as to prevent my voting for the bill. If I cannot get it in the best shape in which I think the necessities of the country require it, I feel as if I ought to go for it in the best shape in which I am able to get it. I have reason to believe that the result of this conference committee has combined as near as possible the general sentiment of both Houses of Congress, and perhaps the general sentiment of the country on the subject.

I think the striking out that exemption clause would have filled up the Army, and filled it up in such a way as would have made the spring campaign a perfect success, and would have terminated this war. I believe that no person in the country who is able to bear arms has a right or would have a right to resist the operation of such a law, stringent as it might be, but required by the stern necessities of the case.

Believing that this bill if it passes in its present shape will go far toward filling up the Army and supplying the requisites required by the opening campaign, I shall give my vote in favor of the report of this committee. In doing so I simply desired to express the reason for my own action, without attempting in any way to reflect on the conduct of others in their action.

Mr. DAVIS. I rise merely to state one or two objections which will induce me to vote against this report of the committee of conference. That report would leave much in the bill that I heartily approve of, but it would leave much that I utterly condemn. In the first place, the first section of the bill is untouched. That section is in these words:

"That the President of the United States shall be authorized, whenever he shall deem it necessary, during the present war, to call for such number of men for the military service of the United States as the public exigencies may require."

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The Senator will pardon the Chair. It becomes the duty of the Chair to call up in the order of business the unfinished business of yesterday at this time.

Mr. WILSON. I move the postponement of that measure and all other orders for the purpose of continuing the consideration of this report.

The motion was agreed to.

Mr. DAVIS. Mr. President, there is but one power under our Government that is authorized to raise armies, and that power is the Congress of the United States. The first section, to which I object, surrenders that power wholly and unconditionally to the President during the war, to the extent of the whole military population of the United States. I hold that Congress have no power to make any such surrender, and that the Executive has no competency to accept power to raise armies. The President cannot accept or exercise any legislative power. There is but one other concession on the part of Congress to make the power which it yields to the President over the subject of the armies complete; that is also to authorize him to levy the taxes and borrow the money necessary to support the Army. These are all legislative powers, and are required to be exercised by Congress. It must give the operations of raising armies, levying taxes, and borrowing money to support them, the form and completeness of laws, which the President can then execute. Sir, if it is competent for Congress to surrender to the President the uncontrolled power to raise armies in this war to the utmost extent of the population of the United States, it is equally competent for it to surrender to the President the power to support those armies; neither of which can be done.

Another objection that I have to this bill is that it recognizes the enrolling of negro troops, which I hold to be both unconstitutional and impolitic.

A third objection is that it declares the liberation of slaves immediately upon their being mustered into the service of the United States. As I have frequently stated, I hold that this is entirely without the competency and power of Congress.

A fourth objection which I make to the report of the committee is that it is extensive and quite complicated. It is an extensive maze which I have not yet explored, and do not comprehend; and there has been no sufficient time accorded to the Senate to perform that task. I myself, at least—and I suppose it is so with every other member of the Senate except the committee of conference—have to vote on the question of accepting this report entirely in the dark, without the necessary lights or opportunity to obtain those lights by an examination of the bill.

For these reasons I shall vote against the report.

Mr. LANE, of Kansas. I would have preferred if there had been neither exemption from nor commutation for military service in this bill; but as a bill without these provisions could not be passed, believing that the country demands an enrollment bill of this character, and believing that there is much good to be accomplished by it as it is, I shall waive my objections, and cast my vote for the report of the committee in the performance of my duty to the country.

Mr. GRIMES. As is very well known to the members of the Senate I voted against the passage of this bill when it was originally under consideration in the Senate. The principal reason for thus casting my vote was that which has been assigned by the Senator from Indiana. I was opposed to this commutation clause. But as a member of the conference committee I found it was impossible for us to pass any bill unless I sacrificed some of my personal opinions to the opinions of other gentlemen; and hence, with a good deal of reluctance, I consented to its incorporation into this bill as framed by the committee, and agreed to report it back to the Senate with the modifications that are now contained in it as presented by the committee of conference; that is, reducing the commutation from \$400 to \$300, and making the exemption continue only for one year in place of the time that was fixed in the original bill.

Mr. President, I also sympathized with the opinions which the Senator from Minnesota has expressed here in relation to the twenty-sixth section of the House bill, which the conference committee has adopted with some modifications. That section, as the bill originally passed the House, provided—

"That all able-bodied male persons of African descent, between the ages of twenty and forty-five years, whether citizens or not, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States his master shall have a certificate thereof; and the bounty of \$100,

now payable by law for each drafted man, shall be paid to the person to whom such drafted person owes service or labor at the time of his muster into the service of the United States, on freeing the person."

It gave an opportunity to the master of the slave to retain him as a slave, notwithstanding he was fighting the battles of the country, and take him back into slavery at the end of the war. The committee of conference modified it so as to declare that this man should be free from the moment he was mustered into the service of the United States. We thus secure the freedom of the man for the payment of \$100, and secure a soldier to the Army of the United States. The same provision is extended to those who enlist and to whom the sum of \$300 is paid. They are to be free, and cannot afterwards be thrown into slavery.

The Senator from Wisconsin quoted the remark of the Senator from Maryland the other day to the effect that they were free from the moment they were enlisted into the service of the United States. That was not the spirit of the remark made by the Senator from Maryland. He meant to say, I apprehend, that they were virtually free from the moment they were enlisted into the service. They are not actually and *de jure* free, although they may be *de facto* free. By this bill we make them both *de facto* and *de jure* free; and I submit to the Senator from Minnesota and to all my friends who sympathize with me on this subject that that is accomplishing a great deal.

Mr. President, I can see the hardship of forcing a man's sons into the Army or his apprentice, and not paying him any bounty, when you pay a bounty to the master of a slave; but we cannot carry out all our humanitarian views here in the Senate, or in legislating for the country. We want to fill up the Army; we want to fill it up as rapidly as possible; we want to pass this bill before the 1st of March; we want to prevent any disagreement between the two Houses of Congress, so that it can be immediately put into effect and these men can become efficient for the spring campaign; and hence as a member of the committee I consented to, and as a member of the Senate I shall vote for, some provisions of this bill which are slightly objectionable to me personally. I am not going to allow my personal predilections in regard to any of these questions to control my vote in such a manner as to prevent the armies being replenished under this bill for the spring campaign.

Mr. WILSON. Mr. President, the amendments which have been made by the House of Representatives and accepted by the committee of conference have improved the Senate bill. The bill as it now stands improves the act of last year and makes a more efficient enrollment act. I think that all the features of this bill improve the efficiency of the existing law. It is highly important that it shall be promptly passed, for we must enforce the draft in some portions of the country in order to fill up the ranks of our armies.

The section to which objection is made by the Senator from Minnesota has been improved, as he admits, by the committee of conference. By that section as it passed the House of Representatives, persons held to service or labor drafted or enlisted into the military service were not made free until their masters freed them. Sir, I will not consent to allow any man to wear the uniform of the United States or to follow its flag who is a slave; and this amended section provides that a slave mustered into the service of the United States is free—made free by law on being mustered into that service. I believe that a slave owes higher service to his country than he owes to any man on earth, and that the country has a claim on all her children; and that all who are fit to do military duty, black or white, free or slave, are under obligations to the Government, and the Government has an undoubted right to demand their services. The Government claims and takes our neighbors, brothers, sons, why may it not take the slaves of the slaveholders? Is the blood of the slave dearer to us than the blood of our own sons?

The Senator from Kentucky has objected to the bill, and avows his purpose to vote against it because it proposes to enroll and draft colored persons. I am not surprised at this avowal. Sir, when the act was pending before us a year and a half ago to authorize the Government to employ colored persons for the military service, the Sen-

ator opposed it in the strongest terms. He told us there were from eighty to one hundred thousand slaves in Kentucky owned by disloyal masters, and that the people of Kentucky would welcome foreign despotism or they would arm themselves and fight us to the last if we undertook to arm and free these slaves of disloyal men.

Mr. DAVIS. I said no such thing.

Mr. WILSON. I will read what the Senator did say; I quote from the Globe:

"In my own State I have no doubt that there are from eighty to one hundred thousand slaves that belong to disloyal men. You propose to place arms in the hands of the men and boys, or such of them as are able to handle arms, and to manumit the whole mass, men, women, and children, and leave them among us. Do you expect us to give our sanction and our approval to these things? No, no! We would regard their authors as our worst enemies, and there is no foreign despotism that could come to our rescue that we would not joyously embrace before we would submit to any such condition of things as that. But before we had invoked this foreign despotism, we would arm every man and boy that we have in the land, and we would meet you in a death struggle to overthrow together such an oppression and our oppressors. But we expect to effect our deliverance peacefully at the ballot-box; but we know, if it comes to the trial of arms, we will have the support of the great body of the American people."

Mr. DAVIS. That I admit.

Mr. WILSON. I certainly did not mean to overstate it, and I did not mean to misstate his position, or to comment upon it. I simply wish to state that Senator's position on this question of arming colored men. Sir, I want to be understood in the Senate, and I make no reflections by these remarks upon the position of the Senator which he affirms to-day. Kentucky has sent nearly one half of her men fit for duty into the military service of the country, or they have gone into the rebel service. The State has responded with great patriotism to the calls made upon her. She has, I think, done her duty, and done it nobly and bravely. She is called upon now for eighteen thousand men under the call for five hundred thousand, and she has enlisted less than seven hundred. That State, under this call, owes the Government more than seventeen thousand men, and to draft those men will be an immense call on the one hundred and twelve thousand enrolled men. She has a large population of slaves, and according to the Senator's own statement there must be somewhere from ten thousand to fifteen thousand able-bodied slaves of rebel masters in that State. This bill provides that those persons shall be enrolled, that they shall be drafted, that they may enlist in the service and be credited to Kentucky, and that a commission shall be appointed, if they are enlisted, to make an award to loyal masters of the commutation money, or a portion of it, paid by persons who pay commutation rather than render personal service. This bill will be an immense relief to Kentucky. There is not a State in this Union that will be relieved by the passage of this act so much as the State of Kentucky. There is not a State in the Union where a draft for ten thousand, fifteen thousand, or twenty thousand men would press so hard upon the people as in the State of Kentucky. We provide for enrolling all her colored men, slave and free, the slaves of the loyal and disloyal masters, and for drafting them and bringing them into the military service, and for enlisting them. Sir, this will be a boon to the white men of Kentucky, will be an immense relief to them, and will, I doubt not, be hailed and welcomed by her toiling men, upon whom the burdens of military duties press heavily. Slaveholders, caring more for slavery than for the toiling people or for the periled country, may denounce this act, but it will carry relief to the homes of the poor white men of Kentucky. They will soon realize its blessings. They do not believe the blood of the rich man's slaves dearer than their own.

Mr. HOWE. Do I understand the Senator to say that this commutation money paid from the other States can be applied to the purchase of negroes in the State of Kentucky?

Mr. WILSON. Sir, I refer to the section which reads:

"The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom the colored volunteer may owe service a just compensation, not exceeding \$300, to each such colored volunteer, payable out of the commutation money," &c.

The Government is authorized to draft; it accepts substitutes; it accepts a commutation. The Government takes this commutation money and

employs it in whatever part of the country it pleases. If it raises men in the State where the commutation money is paid, those men are credited to that State. If it raises the men in other States, they are credited to those other States; but they go to fill up the Army, and the Government gets the men called for. We provide, in order to deal equitably and justly, and with extreme liberality, that there shall be a commission appointed which may award to persons claiming the service or labor of colored men a sum not exceeding \$300 for every slave mustered into the military service, to be paid out of the commutation fund. This measure will tend to produce good feeling and harmony among the different portions of the people of the loyal States, and will therefore promote the interests of the whole country. It will put thousands of colored men into the service of the United States, save the blood of thousands of white men, and, to some extent, lighten the burdens of the slaveholding border States which the extinction of slavery may impose upon them. Slavery is destined to perish. It will not, it cannot survive the war into which it has plunged the nation. Slaveholders whose treason, unjust demands, or timidity brought this conflict upon us, have little claim to the generosity of the nation; but, for the harmony of the country, the nation should deal generously with the slave States that have remained faithful to the country.

Mr. DAVIS. Mr. President, I stated in as few words as I could use to express my meaning a few objections that would induce me to vote against this report. In performing that task it was not my purpose to enter into any debate or any examination of the merits of the bill; but merely that my own constituency might know the grounds upon which I voted, I rose to state the grounds of my vote in a few general remarks.

The Senator from Massachusetts comes into the Senate Chamber with an extract from a speech of mine made a considerable time back upon a cognate subject, and reads it to the Senate, having first stated it, and according to his usual habit having grossly perverted, misrepresented, and garbled what I had said.

Mr. WILSON. The report will show that it was exactly right.

Mr. DAVIS. If the Senator had contented himself with reading from my speech as I delivered it, I would have taken no exception whatever to his course; but he first falsely stated the effect of what I said; after he had denounced it on that ground, he then read it. It seems to me, Mr. President, that that Senator is determined to press me to the wall. When I commenced to quote that Senator's personal attacks on me a few days since, made on previous occasions in the Senate, the Senate, I admit in obedience to its rules, sustained a motion calling me to order, and denied me the privilege of quoting and reviewing what he had said in his assaults upon me. I do not complain that the Senate thus enforced its rules, but when the Senate meets out one rule to me and a different one to the Senator from Massachusetts, with all respect and deference to the Senate and its judgment, I think it does me injustice.

Now, I will say one or two words in relation to the bill and report under consideration; and I regret that I am called upon to say anything in addition to the few remarks that I before made. The Senator says this measure is liberal to Kentucky, and it is liberal in the aspect of relieving her white population to some considerable extent from military service and imposing it upon the slaves. Mr. President, I suppose that Kentucky is the best judge of that matter. If she is ready and willing, and offers to raise her full quota of men for this war, it seems to me that it would be not only liberal but it would be nothing more than strict justice to allow her to do it in her own mode. She would greatly prefer to raise all her troops from her white population, and whenever she is in default for an unreasonable time in raising her full quota from her white population, the Government of the United States would then have a pretext and some show of reason for levying the residue in which she was deficient upon her negro population. But she has been in no such default for an unreasonable time. The Senator states truly that the military population of Kentucky according to the rolls is about one hundred and twelve thousand. Her returns to the War Department show that she has supplied upward of fifty thousand

white soldiers to the United States Army, nearly one half of her military population, and if there were an accurate and impartial examination of this matter, I doubt whether there is a single State in the Union that has sent a larger proportion of her military population into the service of the United States than that State.

If the Senator from Massachusetts and the Senate and the Government wish to deal liberally with Kentucky as he professes, for he says this measure will be more liberal and beneficent to her than to any other State, just let that State have the option to raise her full military quota from her white population, and if she fails to produce her full quota from that population, let Congress then take measures to levy the residue upon the slave population.

But, Mr. President, I merely rose to announce the general position that Kentucky and her representatives in the two Houses of Congress do not need the instruction of the Senator from Massachusetts as to what is the just and most liberal mode to her of raising her quota of the armies of the United States. If she is to be dealt with liberally, or even justly, let the State herself be the judge of the mode and her particular population by and from which she is to make her contributions; and if she does not then respond with every man that is required by the rule which she prefers after a reasonable time, and she is still in default, I will then, at least, remain silent.

The bill proposes to make some compensation to the loyal owners for slaves that are to be put in the Army. I pronounce that the compensation which it offers is a mockery. If you take a stout young negro, that may be a mechanic or a field laborer, and that will hire at from one hundred and fifty to three hundred dollars a year, it is no adequate compensation to his owner if the officers of the United States Government, or the Government itself, or Congress, arbitrarily assess him at the value of \$100 or even \$300. If the negro is not to be recognized as property, take him, as the Senator from Minnesota suggests, without any compensation or pay to the owner whatever. If you have the right to make a soldier of him, and the citizen who has possession of him has no right or property in him, the Government ought to pay nothing for him. But if he is the property of the owner—upon which no question can be raised with any show of reason—that owner is entitled to his fair and reasonable value. But, sir, do not mock us with a proposition to pay us only what would be a reasonable hire for one or two years as the value of a slave that is from eighteen to twenty-five or thirty years of age; and which slave, before the commencement of our troubles, would have sold for from fifteen hundred to two thousand dollars.

But, sir, I say that you have no power; it is not competent for the Government of the United States to assess the value itself of property that it takes from the citizen. If the negro is put entirely upon the footing of the white man we are entitled to no pay for him. If he cannot be placed in that status he is property, and as to loyal owners is to be paid for at his value. That value is not \$300. It is not to be ascertained by the dictum or judgment of the Congress of the United States, or of any of its military officers, but the way sanctioned by usage, universal usage and practice, and that is by fair and impartial valuers appointed by the civil courts. I insist that the loyal owner having property in his slave is entitled to the full and fair estimate of his value by impartial men appointed for that purpose.

Mr. POWELL. Mr. President, I rise to state very briefly one or two reasons why I cannot vote for this report of the committee of conference. In the first place, I believe that this whole conscription business, as provided for by this bill and by the act which it proposes to amend, is a gross violation of the Constitution of the country. The whole tendency of it is to overthrow the constitutional rights of the States and to establish a consolidated despotism. I stated my reasons for this opinion at some length when the first conscription bill was up, and I will not repeat them now.

Sir, the proper way to reach the militia of the States under the Constitution is for Congress to indicate the number of men that it wants, and then to let them be apportioned among the States, and let the States furnish them, even by draft if they find

that necessary. That is not done in these conscription bills. They destroy utterly the militia of the States and absorb them into this great consolidated despotism, for it can be wielded for despotic purposes.

This bill makes no limitation as to the number of men that the President may call into the service. It does not limit it to one hundred thousand, to five hundred thousand, or to a million. It leaves the whole matter at the discretion of the President. Sir, I would clothe no man on earth with such power. I do not think that a free people ever should clothe any of their magistrates with such power. It is dangerous to the public liberties, to say the least of it.

There are many features of this bill that to me are objectionable. I do not suppose there is a Senator in this Chamber who was not a member of the committee of conference that understands it, and I doubt whether ever the members of that committee if they were called upon could give a lucid explanation of how the bill stands in many of its features. It is almost interminable in length. The report amends almost every section of the bill; it adopts some sections of the House amendment and excludes others; it adopts some with modifications; it amends some of the sections of the Senate bill; and so on, so that it is almost impossible for us to know how the bill really stands.

The Senator from Massachusetts says that the twenty-sixth section is not only just but exceedingly liberal to Kentucky. Allow me to tell that Senator that the twenty-sixth section is not only unjust and illiberal to Kentucky but it is an absolute and direct violation of the Constitution. What is the Constitution of your country upon the subject of taking private property? "Nor shall private property be taken for public use without just compensation." It will not do for Senators to say that slaves in Kentucky are not private property, for in this very bill you recognize them as private property, and attempt to pay what in the language of the bill is said to be "a just compensation." By the bill you recognize them as private property, and you legislate for payment for them; but I ask you if you do pay a just compensation within the meaning of the Constitution? What is just compensation? It is the full value of the property taken for public use. You take this property for public use and in the very language of the bill you put a limitation on the valuation, and you say that the Secretary of War shall appoint a commission in each of the slave States represented in Congress "charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding \$300, for each such colored volunteer."

Will any Senator here rise in his place and say that that section of the bill is in compliance with the clause of the Constitution which I have read? Is \$300 just compensation? Some Senators may think it is. I know that it is not. If you are going to give just compensation, why put in a limitation? You propose that the Secretary of War shall appoint a commission, and that commission shall be the sole judge. You make no provision for an appeal, for a reversal of that decision if the loyal owner should deem it incorrect. You do not say that the owner shall have just compensation within the meaning of the Constitution, but you say "just compensation" in your bill, and you limit it to \$300. Why the limitation if the purpose really be to give just compensation?

Mr. President, to strip the bill of its technicalities, it is a bill to rob and to plunder the slaveholders of the loyal States. The purpose of the bill, in my judgment, is not so much to get soldiers into your Army as to strike down this institution in the State of Kentucky and the other adhering States; and I should admire the candor of Senators more if they would rise and speak out with the boldness of truth and manhood, and say that was their intention. Whether a man is right or wrong, I like candid words. To use a common expression, I like fair sailing. Sir, the purpose, so far as my State is concerned, is not so much to get soldiers into your Army. Has Kentucky been in default? No, sir. Does that State desire her quota to be filled up from her slave population? No Senator who has watched the proceedings of that State can say so. Her Legislature has over

and over again declared by resolves that the State is opposed to enlisting negroes into the service.

Mr. HOWARD. Will the Senator from Kentucky allow me to ask him one question?

Mr. POWELL. Certainly.

Mr. HOWARD. The Senator may have better information on the subject than I have; but, according to my information, Kentucky has by no means filled up her quota, and is in arrears some seventeen thousand men now. If that be incorrect information, I wish the Senator from Kentucky would set me right. Certainly I shall not complain of any compliment he may see fit to pay Kentucky; but if the fact be as I understand, she is actually in default.

Mr. POWELL. That, I suppose, is under the present call. Before the last call her quota was filled.

Mr. WILSON. That is correct.

Mr. POWELL. I thought it was. Now, why not allow the State under this last call to fill her quota as she chooses? Her Legislature has declared by resolves over and over again that the State does not wish to fill her quota by that description of her population. That is the opinion of her Governor, and indeed of every Governor we have had since this war commenced, and during that period three of our citizens have filled the executive office.

If the object is not to run athwart of the will of the people of Kentucky, why not pass your law in conformity with their oft-repeated resolves? Why not allow her to put her quota of white men in the field as she proposes to do? By this bill you run counter to her declared will in every form in which it could be given to the public, through her public agents in the State and her public officials. And in doing it, the Senator from Massachusetts says you are exceedingly liberal to Kentucky. Sir, we understand the object of this pretended liberality. It is for the purpose that I have indicated. It is a stab at the institution of slavery in the State. That is the object; there can be none other, for I do not believe that any of the Senators think a slave is a better soldier than a white man. I know they often say he is as good as the white man. I do not believe a word of it. I do not believe a negro can make as good a soldier as a white man. I think there is no question of the fact that the white man is a better soldier, and he will prove himself so upon every field.

But when you speak of "just compensation" in this bill and limit it to \$300 when the property may be worth a thousand dollars and more, it is a mockery. I hope this conference report will be voted down. There are many objectionable features in it, but I shall not detain the Senate by going over them, for I know that nothing I can say here will stop this kind of legislation.

Mr. HOWE. Mr. President, I do not regard this bill as a stab at slavery in the States, and if I did it would not hurt me much; but if the honorable chairman of the Committee on Military Affairs has given me the correct interpretation of it, it does seem to me—I wish I could understand it otherwise—as a very direct, if not a fatal stab, at the white population of the free States. I was compelled, very reluctantly indeed, to vote against the passage of the bill when it was before the Senate. I was opposed to those features of the bill, and I could not reconcile myself to them, nor could I be reconciled to those features of the bill which said substantially, said in effect, "Volunteers cannot be obtained for \$400, but any man who will pay \$400 to the Government can be exempted from military service." I could not reconcile myself to those features of that bill. Those features have been, as I understand, somewhat modified by the committee of conference; modified in two respects. They do not by the payment of this commutation money exempt the man from service during the whole period for which the draft is made, but for only one year, as I understand. That is an improvement upon the bill; at least it makes it more satisfactory to my own views than the bill as it passed the Senate. But then, on the contrary, they have put the price of commutation down from \$400 to \$300, and that makes it more obnoxious to me. This other feature of the bill which has just been brought to my attention makes it more obnoxious than anything in the original bill or anything that I could conceive of in any bill, for the bill as it passed the

Senate provided that this commutation money should constitute a fund and should be applied to the procuring of substitutes to act within the several districts and to represent the several districts within which and from which the commutation money was paid; so that if I was drafted and chose to pay three hundred or four hundred dollars, that money was directed by that bill to be employed in procuring some volunteer to serve, and thus save the necessity of drafting a man, another of my neighbors.

That was a beneficent feature so far as it went; but the bill as it now comes from the conference committee, as I understand, authorizes the Secretary of War to take this whole commutation fund and to go down into the State of Maryland or the State of Kentucky and purchase negroes to fill up the quotas of those States. What is the consequence? You may draft within the congressional district in which I live, if you please, five thousand men. Two thousand of them pay their commutation. We are then short two thousand men. The money paid by those two thousand men may be transported into the State of Maryland or the State of Delaware or the State of Kentucky or the State of Missouri, and be invested in the purchase of negroes to fill up the quotas of those States. What is the result on my congressional district? Two thousand men are to be drafted there to fill up that quota.

Now, let me ask the Senate what these two thousand men are in the Army for? Not as substitutes for any of their neighbors, but they are in the Army as substitutes for somebody in States they never saw, within which they never placed a foot, within which perhaps they may never place a foot. The chairman of the committee says that a great object is achieved, that you get these colored men into the Army. I admit that is a great object; I have thought so from the beginning; I have never had any squeamishness about that point; but it is no greater object to get colored men into the Army than it is to get white men into the Army; and the authority which enables you to take the one enables you to take the other. And now, in this the third year of the rebellion, for the national Legislature to tell its people that it has got to tax the people of Maine or of Minnesota, and tax them large sums, heavy bonuses, in order to smooth the way to the enlistment of colored men in the Army of the United States, I do not think will strike them gratefully. If I am mistaken about the operation of this, I shall be very glad to have that mistake removed; but I take it just as I understood it to be explained by the Senator from Massachusetts, and I cannot reconcile myself to the propriety of it by any possibility.

Mr. WILSON. I will say to the Senator that by the existing law the money paid in as commutation is paid out by the Government for soldiers in any part of the country where the Government can get them, and they are credited, not to the States paying the money, but to the place where they happen to live. That has been the practice of the Government under the present law. The Senate bill provided that the money should be used to obtain substitutes in the district where the money was paid. The House of Representatives on consideration struck that out. I may say to the Senator that the Provost Marshal General believes it is a provision which cannot be executed. It was stricken out of the bill, and there was no earthly chance to put it in again.

What the bill now does in this respect is precisely what is done at present. A person is drafted and he pays the commutation money. The Government takes that money and hires a man in Massachusetts, perhaps, or in Maryland, or in Kentucky, but wherever a man is enlisted he is credited to the State from which he is taken.

Mr. HOWE. Exactly; but I understand that Kentucky is called on for eighteen thousand men, and Wisconsin, if you please, for eighteen thousand men also. I do not understand that Wisconsin is at all relieved by the purchase of men in Kentucky? They do not go to get men in excess of the quota of Wisconsin, but to fill up the quota of Kentucky, so that when the money is all expended Kentucky only is full and Wisconsin is minus.

Mr. GRIMES. Let me ask the Senator from Wisconsin if he does not see that by the operation of this act, if it shall be carried into effect as a law, there will never be another conscription,

and Wisconsin will never be called upon for another man? If we can go into Virginia, North Carolina, Kentucky, Tennessee, and Missouri, and there enroll and draft all the colored men as soldiers, and make them fill up the quotas of those States, there will be no necessity for their coming to his State and to mine for new men.

Mr. HOWE. I do not see unless there is a draft how there is going to be any commutation money. Unless you draft soldiers from Iowa and Wisconsin, I do not see how the Government is going to get a fund from commutation with which to get colored men in those other States.

Mr. GRIMES. The money that is to be paid to these drafted men is not to be paid out of this commutation money. The commutation money goes to those who come forward voluntarily and enlist; but the money paid to those who are to be drafted is not required by the bill now under consideration to be paid out of the commutation money at all.

Mr. HOWE. So I understood the chairman. Mr. GRIMES. I am willing to acknowledge to the Senator from Kentucky that I do vote for this measure believing it to be a genuine, good anti-slavery measure. I am not disposed to go beyond the Constitution and the laws for the purpose of striking at slavery, but when I see that there is an opportunity fairly and legitimately for me to strike at slavery, I believe it is not only my right but my duty to do it, and I am going to vote for this measure on that ground among others, because I cannot conceive anything that can be devised in a constitutional and legal form that will strike so severe a blow at the institution as this bill if we shall enact it into a law.

Mr. POWELL. I should like to ask the Senator from Iowa a question. Does he think it would be a violation of the Constitution to take the slave of a loyal man and pay him \$300, provided that slave was worth five hundred or a thousand dollars?

Mr. GRIMES. I believe the Constitution says we shall pay a just compensation to the owner of private property taken for public use. Admitting that this is property, is there any necessity for anybody to determine it but ourselves? Who is to determine what is the value of the property? We say it is three hundred or one hundred dollars. I conceive that that is no violation of the Constitution. There is nothing in the Constitution that requires us to go before a court and jury to determine what may be the value of this kind of property, admitting it to be property.

Mr. HOWE. I want to have this point settled between the Senator from Iowa and the Senator from Massachusetts. I understand from one of them, the Senator from Massachusetts, that it is the commutation money which is to constitute the fund to be employed under the bill in this way. I understand from the Senator from Iowa that it is some other fund, I do not know what fund. I should like to have that point settled.

Mr. GRIMES. If the Senator will permit me, I will read the section now under consideration. The first clause of that section as it was passed by the House of Representatives provided:

"That all able-bodied male persons of African descent, between the ages of twenty and forty-five years, whether citizens or not, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States, his master shall have a certificate thereof; and the bounty of \$100, now payable by law for each drafted man, shall be paid to the person to whom such drafted person owes service or labor at the time of his muster into the service of the United States, on freeing the person."

It allowed the disloyal master to retain his property in his slave, and if the slave was drafted, allowed him to go into the Army and serve in the capacity of a soldier during the war, and then to be dragged back into slavery at the end of the war. The committee of conference have amended this provision by striking out "persons of African descent" in the second line, and inserting "colored persons;" and by inserting after the word "thereof," in the eighth line, the words "and thereupon" (that is upon his being mustered into the service) "such slave shall be forever free;" and by striking out in the twelfth and thirteenth lines the words, "on freeing the person;" so that it shall be no longer optional with the master whether he shall be free or not, provided he has once enlisted.

The clause I have just read provides that the master shall be paid the \$100 bounty now provided by law; and paid it from what? From the commutation fund? It does not say so.

Mr. HOWE. Go on.

Mr. GRIMES. I was talking to the Senator about the question of draft. Now, the section goes on and provides:

"The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer"

not a drafted man; that is referred to in the preceding clause; but "to whom a," not the colored drafted man, but "to whom a colored volunteer may owe service, a just compensation, not exceeding \$300, for each such colored volunteer," not drafted man, "payable out of the fund derived from commutations; and every such colored volunteer upon being mustered into the service of the United States shall be free."

Mr. HOWE. Precisely.

Mr. GRIMES. I was calling the attention of the Senator from Wisconsin to the fact that he was arguing the question as though the money that is to be paid to the drafted men is to come out of the commutation fund; but the bill does not provide that it shall come out of the commutation fund. There are two different classes of persons provided for in this section; one of them the colored men who are drafted under the law, and the other volunteers who have enlisted or may enlist. The contemporaneous history of it in the proceedings in the House of Representatives shows that the first part of the section was inserted in that House upon the motion of a distinguished Representative from Pennsylvania, and the last part of it, relating to volunteers, upon the motion of a Representative from Maryland. Now, what we want to reach in this bill is an opportunity to draft the colored men in the several States. I would not be particular about this last clause of the section if it were not already there.

Mr. HOWE. You get that opportunity to draft colored men in every State where they exist by simply enrolling them. Then you can draft them. But a volunteer is not a drafted man. You propose to use the commutation money raised in one State to secure colored volunteers in other States, to avoid drafts within those other States, drafts either of colored or white men. That is the inevitable interpretation. The Senator from Massachusetts was entirely correct in his statement of it.

Mr. WILSON. You do that now under the existing law.

Mr. HOWE. I understand from the chairman, and I have no doubt he is entirely correct in saying so, that that is the practical application of the fund; but the effort of this Congress has been to amend that law. God knows it needed amendment enough; but do not tell me that this is an amendment, for it is anything but an amendment. It is not an improvement; it is a change, but I do say with all the deference in the world that it is a change for the worse, and not for the better. I cannot see the justice or the propriety of it.

Mr. SAULSBURY. I wish some gentleman would explain to me where is the necessity and what is the use of incorporating into this bill any provision for the purpose of drafting, not colored folks, but negroes. Cannot this Administration get enough of that class of people without attempting to draft them? If there is a slave that is unwilling to leave his master and to go into the public service to fight what he is told is the battle for his freedom, are you going to drag him from his home contrary to his own wish?

Let me say to Senators that perhaps I have had more observation in reference to the power of this Administration to get negro soldiers than most of them. I live in a community where I have seen the operations of this Administration in that regard. I hold in my hand a letter which I received only a few moments ago, stating that they have negro soldiers from Pennsylvania marching through the section of country where I live, inducing away, persuading away the slaves of any and everybody, and that in the little village in which I live these negro soldiers are now quartered, marching up and down the streets with horrid oaths, and snapping their pistols at white men; and the friend that writes to me congratulates me that I am in Washington, and hopes that I will remain here in peace, because that peaceful village has become unfit to live in by this effort

to invade the households of peaceable, quiet citizens, and seduce from their employ their domestic servants.

Surely, sir, with the efforts this Administration is now making in the border slaveholding States, sending there negro soldiers with their white officers, going to men's houses, seducing their slaves from them in their own presence, it can get enough of this class of soldiers without forcing the faithful negro slave into the ranks against his will. The little experience that we have had in the lower county of the State of Delaware where the few slaves we have are, and on the Eastern Shore of Maryland with which I am somewhat familiar, satisfies me that it is not worth while to incorporate in your bill any provision for the compulsory service of this class of beings. You have depicted to them a beautiful political Eden, in which they are to live and enjoy all the blessings of freedom. You have thrown open to them the galleries of this Senate, and to-day they sit among the white gentlemen who here congregate, and almost every day recently we have seen them in the gallery set apart by the Senate for ladies. Do you suppose that they are so blind, so insensible to all the advantages which your wise legislation proposes in their behalf, that they will not appreciate these high favors? When you say that all men and all women are equal before the law, and not only equal before the law but equal socially by throwing open the galleries of the Senate of the United States for their admission, do you suppose that they are so obtuse that they will not join in your cry for universal freedom and universal equality before the law?

Sir, the Eastern Shore of Maryland has become almost depopulated of this class of people on account of the golden visions which you have painted to their eyes, and the hopes which you have excited in their breasts, hopes never to be realized, but still hopes which they fondly believe will be realized.

Sir, I propose not to give counsel to any one, but if I were to give any counsel in favor of the incorporation of this class of human beings into the military organizations of the country, I would not for one moment propose any compulsory mode of service upon their part. I would only take up the beautiful and eloquent diatribes upon the subject of human freedom and human liberty and the equality of all men before the law; and if I was heart and soul in favor of this means of replenishing your armies, I would consent to employ white officers to march slave soldiers through a State, ay, and let those white officers read to them these golden visions of the future which you have painted to their imaginations, and rest assured you would find no occasion for compelling the services of any negro except those who from choice prefer to remain around the original hearthstone near which they were born.

Mr. HOWE. Allow me to say one word to the Senator from Delaware now upon this "golden vision." It has not any particular reference to the pending question, I admit, but I want to say one word because it will explain a recent vote that I gave here in the Senate, and I took no pains to explain it then.

I am a stickler for the right of the States to select their own representatives here. It is a fundamental doctrine with me; and therefore when a resolution was pending before the Senate a short time since, requiring the members of this body before they should take a seat here to subscribe an oath different from and in addition to the oath prescribed by the Constitution, I felt compelled to vote against that resolution, because I thought it imposed a new restriction upon the right of the States to select their own representatives. I voted against that resolution although I knew that my vote might have a tendency to preserve in his seat the late colleague of the Senator from Delaware; and now can that Senator or any one suppose that when I stood up here and by my vote defended the right of the State of Delaware to send here such a representative as his late colleague was, can it be supposed by any one that I would object to the right of Delaware, if she saw fit, to send here for a representative a man a little darker than his late colleague, but a good deal more loyal? Certainly not. No one could suppose me guilty of such an inconsistency as that. It is because I insist on the right of Delaware to send here a colored citizen if she prefers

it. Were I myself a citizen of Delaware, I should not vote for a black man if I could find a white man who was better; but I should vote for a black loyal man rather than a white disloyal man, a great many times; so that whenever the people of Delaware or Wisconsin find that their best representative is blacker than myself or blacker than the Senator from Delaware, I shall insist upon their constitutional right to send him here to represent them, and I hope never to find a Senator here who will gainsay or deny that right.

Mr. SAULSBURY. Mr. President, I do not understand the remarks of the Senator from Wisconsin to have any application to me; but to indulge his wit perhaps, (for I do not think it can be charged to a desire to indulge the malevolence of his heart, because from my association with him I cannot think he possesses that characteristic,) he has made a remark here in reference to my late colleague which I think upon reflection he will see is not only unjust in itself but improper to be made. He referred to the fact that he had no objection to the State of Delaware sending a representative here of a little darker complexion but more loyal than my late colleague.

Now, sir, I shall enter into no defense of that colleague. He was a member of the Senate of the United States for thirteen years, personally known to every member of this body. When the test oath to which the Senator alludes was proposed to be administered to Senators, he deemed that that oath was unconstitutional and asked a judicial determination of the Senate whether he and other Senators should take it. That decision was made, against an unanswerable argument, in my judgment, made by my former colleague, and he came forward and took that oath, having previously told you that there was nothing in it that he could not conscientiously take, and then he retired from this body, surrendering his trust to his State. When he was in his seat, I do not recollect that the Senator from Wisconsin or any other Senator upon this floor charged him here in his presence with disloyalty.

Mr. HOWE. The Senator will do me the justice to recollect that I have not charged his late colleague with disloyalty to-day.

Mr. SAULSBURY. I ask the Senator whether he did not say that he had no objection to the State of Delaware sending a representative here a little darker but more loyal than my late colleague.

Mr. HOWE. Substantially.

Mr. SAULSBURY. Then, sir, what is the implication? That my late colleague was not a loyal man. Well, sir, if the term "loyalty" is to be used in the sense which I saw it was before a committee of investigation, the Committee on the Judiciary, as reported in the papers, "loyalty to the negro"—if that be a test of loyalty, real loyalty to the Government and the Constitution of this country, I have no doubt that my late colleague would rejoice in the appellation of being a disloyal man; and who would not? I would. But if loyalty means fidelity to the constitutional Government established by our fathers, to the Constitution of this country as adopted by men in whose presence—I say it without either meaning or designing personal offense to anybody—the statesmen of the present day are pigmies in the presence of giants; if loyalty means devotion to that Constitution and that constitutional form of government, then when my colleague was here the Senator from Wisconsin and no other Senator charged him with disloyalty in that sense of the term.

Sir, I do not intend to extend these remarks. I have only made them such as I have because my former colleague is not here to defend himself; but I doubt not that on all occasions when he shall be present in any body and he is charged directly or by implication with a want of fidelity as a citizen to the Constitution and Government of his country, he will give such an answer as becomes a gentleman, and such an answer as a brave man knows how to make.

Mr. HOWARD. I find, sir, some difficulty in voting for this amendment suggested by the committee of conference, and in order to show what the bill will be if it shall be enacted in the language of the report of that committee I will read the twenty-sixth section, so that we may know exactly what we are voting for or against. I have taken some little pains to alter the text of the bill as it came from the House of Represent-

atives so as to make it correspond with the report of the committee, and if I am correct in these alterations the twenty-sixth section, which is the one now under consideration, will read as follows:

"SEC. 26. And be it further enacted, That all able-bodied male colored persons, between the ages of twenty and forty-five years, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States, his master shall have a certificate thereof, and thereupon such slave shall be free; and the bounty of \$100, now payable by law for each drafted man, shall be paid to the person to whom such drafted person was owing service or labor at the time of his muster into the service of the United States."

So far for the drafted; now as to the colored volunteer:

"The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation not exceeding \$300 for each such colored volunteer, payable out of the commutation money, and any such colored volunteer on being mustered into the service shall be free. And in all cases where men of color have been heretofore enlisted or have volunteered in the military service of the United States all the provisions of this act, so far as the payment of bounty and compensation are provided, shall be equally applicable as to those who may be hereafter recruited."

To which section, as thus read, the committee of conference proposes to add the following, directly after the last passage I have read:

"But the men of color, drafted or enlisted, or who may volunteer into the military service, while they shall be credited on the quotas of the several States or subdivisions of States wherein they are respectively drafted, enlisted, or shall volunteer, shall not be assigned as State troops, but shall be mustered into regiments or companies as United States colored troops."

Such will be the entire section twenty-six if it shall be enacted according to the recommendation of the committee of conference.

My first difficulty is in paying the master of a slave who has been drafted into the service of the United States the bounty of \$100. What will be the effect? The slave is taken from his master by the draft and coerced into the service of the United States, for which he is to receive his pay and clothing and freedom. He is to receive no bounty; nothing but his pay and clothing. Being a slave when he was enrolled and drafted, he was possessed of no property on the face of the earth; he was totally destitute of property of any kind, whether lands or goods. On being discharged from the service at the end of his term, he goes out upon the world with nothing whatever in his pocket except the remainder of the pay which he may have received. It is true he is a freeman, but he has no money; he is turned out totally helpless upon the world to shift for himself, without any aid whatever from the Government in the shape of bounty or further compensation. We have heard a great deal said about treating the white and colored troops in the same manner, and placing them upon the same footing as to compensation. This makes a distinction greatly to the prejudice of the colored soldier.

But, sir, the section goes on and declares that where colored soldiers have volunteered into the service of the United States, the master, if the negro soldier was a slave, shall receive a sum, to be awarded by a commission to be appointed by the Secretary of War, not to exceed \$300; and the fund from which this payment is to be made is made up of the commutation money which is paid by persons who contribute their money instead of their services. This clause is equally objectionable upon the ground of injustice with the former one; because, instead of giving anything to the colored soldier, it gives everything to his master. The colored soldier, therefore, under this clause is by no means on an equal footing with the white soldier.

Then again as it strikes me—I speak with great respect and great deference to the committee who have reported this amendment—it is doing great injustice to the loyal States whose people make up this commutation fund. What will be the effect? A very large fund, amounting to millions upon millions of dollars, will undoubtedly be accumulated in the form of commutation money, and the effect will be to allow the Secretary of War to lay his hand upon this fund and pay it out in order to procure colored volunteers in the slaveholding loyal States without giving any credit whatever for it to the States whose people contribute the money. Take my own State, for in-

stance. Suppose a certain number of troops are required to be contributed by Michigan, and a large portion of the persons included in the enrollment see fit not to render their personal service but to pay \$300 each. This money is to be taken by the Secretary of War and employed in purchasing up colored troops in Kentucky or in any other portion of the United States to any amount, taking the money of my constituents and procuring black troops with it, without crediting my constituents with a single man for the money they thus contribute, no matter how large the sum may be.

It seems to me this is another case of injustice and hardship. I think it will not be very acceptable to the mass of the people of the loyal States. They will not be entirely willing, I fear, to contribute their cold cash in order to exempt themselves from a draft, and have that cash employed in slaveholding States in the purchase, so to speak, of black troops, while they themselves get no credit for it at home. They may endure it, sir. The times are of such a character as to make us submit to almost anything the Government may ask; but I submit to Senators that this is a case of hardship which ought, if possible, to be avoided.

Much is said, Mr. President, about the slave being private property, and being private property under the Constitution. I cannot regard a slave as private property in the sense of the Constitution. I hold that that instrument contains no guarantee whatever of slave property; and as held by the courts it recognizes slavery only in that clause which authorizes the rendition of fugitives from one State to another; and when gentlemen tell me that a slave is by virtue of the Constitution not a person but private property, I take issue with them. I hold that every person called a slave in the slave States is just as much liable to render military service for the defense of the United States as a white person, and that he is to be treated in the same way we treat white persons who are employed in that service.

The Constitution declares, it is true, that private property shall not be taken for public use without just compensation. What did the Convention mean when they used that language? Did they mean to affirm the modern doctrine that there was or could be property in man? Or did they mean by the word "property" in that connection only those things which are the subjects of property by the common law of England? Do we not always in construing the Constitution of the United States have reference to the common law as it existed at the time of the formation of the Constitution, and will any gentleman tell me that by the common law of England at that time the courts of England recognized property in man? We all know quite well they did not, but they rejected that assumption at that time, and have done so ever since. So that I cannot agree with Senators who contend that under this clause the Government of the United States when it sees fit to lay its hand on negroes for the purpose of defending the country in time of war is violating the right of property by refusing to pay slaveholders for the slaves thus employed.

Sir, there is no doubt about the power of Congress to seize upon the minor son of a citizen of the United States and compel him to render military service, or to seize upon the apprentice of any master and compel him to render the same service; but is the son the property of the father? is the apprentice the property of the master? No, sir, no one will pretend this. They are persons. But are they not just as much property in the sense of the Constitution as negro slaves are property?

When you take the only son of a widow, as you may do, when you take the sole prop of aged and infirm parents and force them into the military service, you do not reward the parents, you do not give the money to the parents, you do not give the bounty to the parents. You give those rewards to the soldier whom you take and force into the military service, and do it because he is a person, not property. And still, sir, there is no more right of property appertaining to the slaveholder than to the father or to the master.

What is this property which is claimed to belong to the slaveholder? Is it property in the flesh and bones of the slave? No, sir. We all know that the negro slave, although a slave, is held to be morally responsible and amenable in

the courts of justice for the commission of crime. Is a mere chattel amenable for crime? No, sir! We know that the son is amenable for crime; we know that the apprentice is amenable for crime. The owner of a slave is restrained by the law of the community where he lives in various ways from committing outrages upon his slave; and there is nothing in the case by which he can lay a claim for property, except the mere service of the slave. You do not own his bones, you do not own his hands, or his head, or his heart, or his soul; you cannot dispose of him as you may of any ordinary article of property. In regard to property as understood at common law, the owner has the absolute right to destroy it at will, provided he commits no injury to his neighbor in so doing. Can you do so with the slave? No.

The only thing, I repeat, to which the master can lay any claim whatever, is the service of the slave. The father enforces the same claim to the service of a son, the master to the service of his apprentice; but, sir, we do not pay the father, we do not pay the master; but we pay the money to the son or to the apprentice when we call the one or the other into the military service. Why not do the same in regard to the slave? Where is the distinction in principle?

Gentlemen say, "If you take our slaves, you ought to pay us for them." The father may make the same reply, and so may the master of an apprentice; but we never do so; we never pay either.

Now, sir, when the necessities of the country are such as to call on any portion of its population for military service for its defense, I see no reason whatever for exempting the slave. I see no ground whatever why the owner of the slave should be entitled to any privilege or any immunity which does not belong at least to the father or to the master of the apprentice. I think, sir, the distinction is entirely without any foundation, and that the Government have a right, whenever they shall say the word, to take the slave, to force him into the military service and compel him to defend the country. But, sir, in doing this I submit we should be doing a very contemptible thing not to give this same slave his freedom. I maintain that the moment you muster a slave into the service of the United States, you do upon principles of law, *ipso facto*, forever emancipate him from the control of his master. I assert it as an abstract principle of law, that the freedom of the slave is an immediate and irresistible result of such an employment of the slave. I would therefore not pay the slaveholder one dollar, either for the emancipation of his slave or for bounty. For these reasons I shall be compelled to vote against this bill.

Mr. JOHNSON. Mr. President, because of the necessity under which we supposed the Government was to raise more troops in order to keep a force sufficient to put down this rebellion, it has been deemed necessary by both Houses of Congress to pass a bill something of the description of the one which I hold in my hand, and which is now before the Senate. The debate which has arisen has grown out of the twenty-sixth section of the bill as reported by the committee of conference. That section, if I recollect aright, was inserted in the bill by the House of Representatives, and the object of the section is twofold: it provides first, that in case a colored soldier be drafted, \$100 shall at once be paid as a bounty to his master; and second, where they have volunteered, that a commission shall be appointed to ascertain how much shall be paid, provided the amount is not to exceed \$300, and that amount, so ascertained to be due by the commission to be constituted under this section, is to be paid the owner provided he be a loyal man.

The Senator from Kentucky and the Senator from Delaware have assumed what I think cannot be maintained, that there is no authority to bring into the military service of the United States slaves. I do not propose to argue that question now, because I have already stated to the Senate on a former occasion what was my opinion in relation to it. But I suppose that the Senator from Delaware and the Senator from Kentucky particularly place their opposition to that power on the ground that there is no authority to conscript soldiers, for, if there is an authority to conscript, it seems to me inevitably to follow that it can be

exercised over all persons in the United States without reference to color or condition who are bound by an allegiance to the United States.

Whether any of these colored persons are in that condition which entitles the master to be paid if he be brought into the service of the United States is another question. The honorable member from Michigan is of opinion that inasmuch as a slave owes allegiance to the United States, and may be called upon to be a soldier of the United States, he is to be considered as standing in the same condition with every white man; and especially in the condition of a minor son of a living father or mother, or of an apprentice; and he says, moreover, that the provision in the Constitution which prohibits the appropriation of private property for public use without compensation—

Mr. HOWARD. Will the Senator pardon me for interrupting him for a moment?

Mr. JOHNSON. Certainly.

Mr. HOWARD. I certainly did not say that a son or an apprentice stood in the same relation to the father or the master that a slave stands to his master. That is an inference of the Senator, not what I said.

Mr. JOHNSON. I did not understand the Senator to say that the son of a white man or woman was a slave; but I meant to say that I understood the honorable member as contending that because of the relationship of son to father or mother, and the relationship of apprentice to master, there is no more reason why you should compensate the owner of a slave if you take him into the service of the United States than there is to compensate, in the one case, the father or the mother, and, in the other case, the master; and the honorable member from Michigan, with that astuteness which very often belongs to our profession, thinks he finds in the fact that the Constitution of the United States nowhere declares—and there is no law outside of the Constitution which declares that the master owned the bone, the heart, or any of the features of his slave—that he has no property in his slave, and he cannot dispose of his bone, nor dispose of his heart, nor dispose of anything else physically belonging to him; and because he cannot, according to the view of my honorable friend from Michigan, he supposes that the master has no property in the slave. Why, sir, he does dispose of the heart and the bone of the slave. The honorable member admits that the Constitution of the United States secures the master in the service of his slave, and we all know that at the time the Constitution was adopted the system of slavery existed in nearly all the States in the Union, and that, under that system of slavery, the right to the service of the slave gave to the master the right to dispose of the slave; and I imagine if he disposed of the slave he disposed of his bones and his heart for the time being. You cannot separate the right to the service from the man himself. If you give an absolute right in one man as against another to the services of that other, and give it to such an extent that he may dispose of it by will and make it responsible for his debts, you give him an interest in everything in the man without declaring by law that he has or shall have a specific interest in his heart and bones.

Then the honorable member tells us that the Constitution of the United States, in that clause which exempts private property from public use except on compensation, is to be construed with reference to the common law, and he assumes as true that by the common law, as it existed in 1789, there could be no property in slaves. That is not so, with due deference to the honorable member. Slavery existed in the common law long after 1789. If the honorable member will look to a decision pronounced at a much more recent period than that, by Lord Stowell, he will find that, overruling the decision of Lord Mansfield in the *Somerset* case, he held, that as slavery was recognized in the West Indies at that time, a slave who came to England, where it was not recognized, was still a slave, and the master had a right to take him away as against the law of England; repudiating the doctrine of Lord Mansfield, that the air of England was so pure that slavery could not exist within its influence. And if my honorable friend will look at his Blackstone (and considering his familiarity with it I am a little surprised that it should have escaped him) he will find that the right to this description

of property is considered as a right to property; and the only question in such a case is, what is the extent of the right? Whatever it is, as between master and slave, the master is, to the extent that he is entitled to the service, the owner; and you cannot, as it seems to me, distinguish, if there be ownership, between this kind of property and any other kind of property.

But, Mr. President, if it was not so I should like to know upon what ground, logical or otherwise, historical or otherwise, the honorable member from Michigan is justified in saying that that clause in the Constitution is to be considered with reference to what was property under the laws of England in 1789. Sir, the Constitution was adopted for the United States. Every one of the provisions put in there with reference to property or to anything else intended to be guarantees, was put in for the purpose of protecting the citizens of the United States, as they then were under their system of laws as that system then existed. My honorable friend from Michigan will not deny, I am sure, that in the slave States in 1789, and indeed in most of the States that are now free, slave property was just as well known as property as any chattel. When, therefore, the Convention put into that clause a provision that no private property should be taken for public use without compensation, upon what ground of reasoning is it that the honorable member claims the right of excepting from that clause any particular species of property?

The only ground alleged is that this particular species of property was property not known to the common law. But we were not making a constitution for England or for any part of the world except for ourselves. What we intended was to protect ourselves by those several guarantees; and whatever, therefore, was the condition of the United States in 1789, with reference to slave property was intended to be protected by that clause as well as any other description of property. Now, in the slave States—I believe some of the States have modified it under the influence which was certain, independent of positive legislation or war, sooner or later to obliterate this stain upon the escutcheon of a free Republic, slavery—their laws have been modified; and under nearly all the laws of all the States this species of property—

Mr. HOWARD. Will the Senator answer me one question?

Mr. JOHNSON. Certainly.

Mr. HOWARD. It is this: whether it would be competent for the Congress of the United States, under that particular clause of the Constitution, to take and set free the entire slave population of the United States on making compensation to the slaveholders? Has Congress that power under the Constitution? What are his views on that question?

Mr. JOHNSON. That is a question I am not prepared to answer. What I mean to say is this: if they cannot do it, it is not because of the objection that this property is not under the provision of that clause. If they cannot do it, it is because such legislation as that would not be an appropriation of this kind of property to public use; that is all. If the court shall decide that the Legislature itself has the authority to decide what is necessary to be taken for public use, and Congress in its legislative capacity shall decide that all the slaves in the United States shall be set free, because it is useful to the United States that they should be set free, then they would decide that the law was operative, but they would require the United States to pay just as much—

Mr. HOWARD. Undoubtedly; but then who is to judge of the necessity for taking property, whether slave property or other property?

Mr. JOHNSON. The sovereign, always.

Mr. HOWARD. Is not the judgment of Congress on that point conclusive? Has a court a right to inquire into the degree of necessity? Is not the decision of Congress final on the subject? Suppose Congress should decide it to be necessary to take all the slave property of the United States on making compensation, would they not, according to the construction of the Senator from Maryland of this particular clause, have the right to emancipate every slave in the United States under this particular clause? It strikes me they would.

Mr. JOHNSON. Unquestionably with this

limitation. Whatever is public use and public necessity with reference to the appropriation of private property must be for the exclusive determination of Congress. There is no doubt about that; and the only question before the court, should the case arise, would be whether this was public use. It does not follow, because Congress in cases of public danger have the authority to decide for themselves the necessity of appropriating property for that purpose, that it binds everybody. It does not follow because they have that power, that Congress is vested with the power to take property for a use not public. For example, Congress could not say that the slaves in Maryland should be taken and given to the owners of slaves or of anybody else out of Maryland, or to take them from the present owners and give them to other citizens in Maryland; for that would be obviously not an appropriation of private property for public use, but a mere change of ownership.

Mr. HOWARD. The language of the Constitution is, "taken for public use," not appropriated for public use.

Mr. JOHNSON. Well, "taken for public use." What I intended to say just now was, that I was not prepared to answer whether Congress under its general power has not the authority to manumit all negroes for the public use; which would be the result of emancipation. But upon that question I do not wish to be considered as standing committed.

But there is a great difference between slave property and the property the father has in his child and the master in his apprentice. The father cannot sell his child; he cannot devise his child; nor can a guardian dispose of his ward; nor is the ward nor the child responsible for the debts of the guardian or the debts of the parent; nor can the apprentice be disposed of by the master. It is a personal service for a temporary period which gives only to the particular master the authority to hold the apprentice, and binds the apprentice only to discharge his duty to the particular master; that is all.

My honorable friend from Kentucky and my friend from Delaware objected to this clause on a different ground. They say, and I do not propose now to discuss that question, there is no authority to take these slaves. That has been decided. They have been taken, and they will continue to be taken. You have now some forty or fifty thousand or more of these troops in the actual service of the United States; and the question for us is, even if I agreed that there was any authority to take them, what is the best thing we can do for the owner? They are taken now without compensation; the master gets nothing; and if you do not pass a bill similar to this section, they will continue to be taken and the master will get nothing.

What does this section do? In the first place it proposes, instead of leaving the matter as it now is—and that, in my view, is a very great improvement and a very great amelioration of the condition of the masters in the slave States—that all the slaves capable of bearing arms shall be enrolled. The difficulty that we have had in Maryland, the wrong, as I think, that has been perpetrated upon the people of Maryland—Kentucky has so far escaped; Delaware has not escaped; she has suffered the same wrong—is, that these recruiting officers go into our households and take away the men and the women just as they please. They take all from one man and none from another. They have the power of selection. They may ruin anybody if they think proper to do it, so far as he can be ruined by taking from him all the labor by which he is able and can alone for the time carry on his farming operations, and they leave another untouched.

My opinion from the start has been, and I ventured to tell the President, that if he wished to have these black troops the proper mode was to have them enrolled and let them be drafted as others were, leaving them, with the consent of their masters, to volunteer; and that is what he did in the last particular in Missouri. When I went to him with our Governor and complained of what was actually being done in reference to our negroes on the Eastern Shore of Maryland, I told him his order to General Schofield and General Schofield's order in pursuance of it, did not authorize the taking of any negroes into the mil-

itary service of the United States without the consent of the owner, and I understood him at the time to say that that was precisely what he intended, and what he should carry out. But other counsels prevailed, and his officers were permitted to go through Maryland and go through Delaware, and go through Missouri afterwards, and take whom they pleased.

Now what I want is, that that should be corrected, to the extent at least of having all enrolled and let each master stand on the same footing. If his servant is drafted, this bill, provided he is a loyal master, gives him \$100. He does not get that now. He does not get a dollar. If his servant volunteers, and he is a loyal master, he receives \$300. That is so much gained. We have lost out of Maryland, I think, some ten or twelve thousand men who have been taken into the military service, and their wives and their children have gone with them. This bill does not propose to pay for the wives and children, but it proposes to pay \$300 for each one of our men, provided the commission for which the section provides shall find that they are worth three hundred dollars or more, limiting the amount, if they should be found to be worth more, to \$300. I do not see upon what ground, as matters now stand, my friend from Kentucky can object to a provision of this description. It gives our people something when, unless you pass it, they will get nothing.

But, Mr. President, it does more than that. It in a great measure satisfies the people whose interests are affected. They are now burning under what they believe to be wrong. Their property is taken without any compensation at all. The majority of the slaveholders in Maryland, I think I can say with truth, have been perfectly willing from the first, or at any rate within the last year, that all the able-bodied slaves in Maryland should be taken provided the master received anything like a reasonable compensation. Now, what have you done? When the honorable Senator from Michigan and the honorable member from Wisconsin and the member from Minnesota say they are unwilling to pay anything for this species of property, they forget what they have done; and in saying that they forget what they have done, I mean what Congress has done. You passed a resolution—and I do not know but those Senators voted for it—promising what was called compensated emancipation. You told Maryland, therefore, and you told us all, "Let your slaves be free and you shall receive compensation." It passed by an almost unanimous vote. It did not appropriate the money, but said in substance the United States would pay. When you emancipated the slaves of this District, you authorized a commission to be constituted, and voted a sum not to exceed an average of \$300 for each slave. You passed a bill for Missouri which appropriated some twenty million dollars for the same purpose.

I submit, therefore, to the honorable member from Minnesota and to the honorable Senator from Michigan that it is too late now to say that that principle was not one sanctioned by the Constitution. Good faith is as dear to a Government as to an individual. A matured policy held out to the citizen as an inducement to regulate his conduct, if not adhered to, is just as much a violation of public faith as the same conduct on the part of an individual would be a violation of private faith.

What are you to do with this money unless you appropriate it in that way? The honorable member from Michigan says that the \$300 which the men of Michigan who are drafted may have to pay into the Treasury, they will not consent shall be appropriated to this purpose. They can avoid that by not paying it and going into the Army themselves. That is a difficulty easily obviated. If their patriotism is so exuberant that they are unwilling that the owner of this slave property who is ruined for the time by having his property taken for the public use shall be paid out of any money coming from themselves, let them show their patriotism and show the indignation in which they hold the feeling by going into the Army and covering their State with still more glory than she has already achieved. What is to be done with the money? You are to use it for bounties, are you not? What difference does it make to you whether you give the bounty to the owner of a black man or to a white man who goes into the service? The result is the same provided it be

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true, (and it is not for the Senator to say that it is not true,) that the black man is as good a soldier as the white man.

But, sir, to conclude, throwing aside all these matters about which these differences of opinion exist, and looking to the actual condition of the country, I appeal to the patriotism of the Senate, and particularly to the patriotism of that portion of the Senate that constitute a majority of this body, and are in favor of the policy of the present Administration, and anxious to bring this war to a determination, to give up all their mere private differences, sacrifice them upon the altar of the public good, and show that with one heart and one mind, shoulder to shoulder, you will meet all the exigencies that the Constitution authorizes.

Mr. HALE. Mr. President, when the Senator from Kentucky was addressing the Senate a few days since on another bill he let fall some remarks which I thought required an answer, and I thought I would make them immediately on that bill; but that bill was crowded out of the way yesterday by the special assignment of the Senate assigning yesterday to the consideration of matters belonging to the District of Columbia, and to-day this report of the committee of conference comes up. I have sat here some two or three hours while this subject has been under discussion thinking I would postpone until that other bill came up the remarks which I thought it my duty to make, deeming them not to be entirely relevant to this bill; but after the experience of to-day I beg pardon of the Senate for ever having thought that anything that anybody thought fit to say upon any subject at any time upon any bill was not in order; and as the same sentiment, to which I propose to respond, uttered by the Senator from Kentucky, has been reiterated again and again in the discussion upon this measure, I propose to submit a few words at the present time upon it; and that is, upon the question whether man can hold property in man.

The honorable Senator from Kentucky in speaking of those who hold the doctrine that man cannot hold property in man, said that nobody but a madman at the present time could entertain such a sentiment. I see that he or somebody else has revised the speech and put madman into Latin, and it reads now that nobody who is not *non compos mentis* would entertain such a sentiment. I think it had more force as it was originally uttered, and that the attempt of the Senator from Kentucky to make his speech a little more classical, while it does credit to his learning does not much to his taste. I prefer to answer it as it was originally uttered, that none but a madman can entertain such a sentiment.

Mr. President, I believe in that sentiment. I believe it as firmly as I believe the truth of my own existence. I believe that when God made man He made something different from anything else He ever had made, and while He gave to man dominion over all other creatures He had created He reserved the immortal soul for His own peculiar worship, and He never intended that merchandise should be made of it. I know that slavery asserts a different doctrine and a different dogma, and it is to that to which I wish to address myself.

Slavery claims to own a man—his bones, his muscles, his heart, his everything. Slavery with impious and defiant aspect stands at the foot of the cross of Christ and challenges the truth of His dying declaration when He bowed His head upon the cross and said "It is finished;" the price of man's redemption is paid. Slavery says no, the price of all souls is not yet paid; we own souls over which we have final control. As somebody else has said what I should like to have been able to say upon this subject so much better than I can say it, I prefer to give that to the Senate. I will read an extract from a speech of Lord Brougham, an eminent "madman" on the other side of the water, made before the British Parliament on the 12th of July, 1830. Lord Brougham said:

"Tell me not of rights. Talk not of the property of the

planter in his slaves. I deny the right. I acknowledge not the property. The principles, the feelings of our common nature rise in rebellion against it. Be the appeal made to the understanding or to the heart, the sentence is the same that rejects it. In vain you tell me of laws that sanction such a claim. There is a law above the enactment of human codes, the same throughout the world, the same in all times, such as it was before the daring genius of Columbus pierced the night of ages and opened to one world sources of power, wealth, and knowledge; to another all unutterable woes. Such it is at this day. It is the law written by the finger of God on the heart of man; and by that law, eternal, unchangeable, while men despise fraud and loathe rapine, and abhor blood, they shall reject with indignation the wild and guilty fancy that man can hold property in man. In vain you appeal to treaties, to covenants between nations. The covenants of the Almighty, whether the old covenant or the new, denounce such unholy pretensions. To those laws did they of old refer who maintained the African trade. Such treaties did they cite, and not truly, for by one shameful compact you bartered the glories of Blenheim for the traffic in blood. Yet, in despite of law and of treaty, that infernal traffic is now destroyed and its votaries put to death like other pirates.

"How came this change to pass? Not assuredly by Parliament leading the way; but the country at length awoke; the indignation of the people was kindled; it descended in thunder and smote the traffic, and scattered its guilty profits to the winds.

"Now, then, let the planters beware! Let their assemblies beware! Let the Government at home beware! Let the Parliament beware! The same country is once more awake, awake to the condition of negro slavery; the same indignation kindles in the bosom of the same people; the same cloud is gathering that annihilated the slave trade; and if it shall descend again, they on whom its crash may fall will not be destroyed before I have warned them; but I pray that their destruction may turn away from us the more terrible judgments of God."

Again, sir, Fowell Buxton, in a speech made on the same bill in the British Parliament, said:

"Is there no difference between a vested interest in a house or a tenement and a vested interest in a human being? no difference between a right to brick and mortar and a right to the flesh of a man? a right to torture his body and to degrade his mind at your good will and pleasure? There is this difference: the right to the house originates in law, and is reconcilable to justice; the claim—for I will not call it a right—to the man originated in robbery, and is an outrage upon every principle of justice and every tenet of religion."

Now, I will give to the Senator the declarations of a "madman" from Kentucky. Dr. Rice, in his speech before the convention which framed the constitution of that State, said:

"The owners of slaves are licensed robbers, and not the just proprietors of what they claim: freeing them is not depriving them of property, but restoring it to the right owner. It is suffering the unlawful captive to escape. It is not wronging the master, but doing justice to the slave, restoring him to himself. Emancipation would only take away property that is its own property, and not ours; property that has the same right to possess us as we have to possess it; property that has the same right to convert our children into dogs and calves and colts, as we have to convert theirs into beasts; property that may transfer our children to strangers by the same right that we transfer theirs."

Mr. JOHNSON. When was that speech made? Before the emancipation of the negroes in the West Indies?

Mr. DAVIS. That speech of Dr. Rice was made in 1849.

Mr. JOHNSON. I mean the speech of Lord Brougham.

Mr. HALE. In 1830.

Mr. JOHNSON. Will the Senator tell me whether Lord Brougham did not vote between twenty and thirty million pounds sterling to pay the slaveholders of the West Indies?

Mr. HALE. I have not the record of his votes before me.

Mr. President, it is certainly true that the honorable Senator from Kentucky, in the discourse which he made on this subject, gave authorities from the Supreme Court of the United States sanctioning this claim. I know it and I regret it; but I will take this occasion to say that in my humble judgment if there was one single, palpable, obvious duty that the Republican party owed to themselves, owed to the country, owed to humanity, owed to God when they came into power, it was to drive a plowshare from turret to foundation stone of the Supreme Court of the United States. They should have done it.

Mr. DAVIS. Will the Senator permit me?

Mr. HALE. I cannot give way now. I am not pleased with that fashion. I intend no discourtesy; but I do not often speak to the Senate,

and when I do speak I prefer to speak and not to have a dialogue.

Mr. DAVIS. I agree with you in that.

Mr. HALE. I am glad you do.

I repeat, Mr. President, that the first and most obvious duty that the Republican party owed to the country was to overturn that whole concern. If that court had been what the fathers of the Constitution intended it to be, we never should have been where we are now. If Chief Justice Taney could have remembered that he was a lawyer and not a politician he would have had an influence that would have prevented that monstrous perversion of law and justice and the Constitution which he pronounced in the Dred Scott case, and which he illustrated by the remark that this people had been considered as having no rights that white men were ever bound to respect.

But, sir, in that time, in that hour, in that opportunity such as God rarely gives to a people or a party, we utterly failed. There was an opportunity to place some of our own friends on the bench, and we were so anxious to place them there, as we had been shut out so long, that we failed in that most obvious duty, and the President nominated to us a number of gentlemen for seats on that bench. I voted when I was in the Senate (for I believe one of them was passed upon when I was not present) against the confirmation of every one of them, not because I had the slightest objection to them as individuals or as lawyers, but because I was averse to the policy of undertaking to build up and patch up that rotten concern. I thought there was a clear warrant in the Constitution of the United States for changing the court. The Constitution provided that the supreme judicial power should be vested in a Supreme Court and such other inferior courts as Congress might from time to time establish, clearly indicating that they might establish a Supreme Court and inferior courts, and if either of them failed in carrying out the purposes which Congress had in view, they might from time to time establish another.

But, sir, the opportunity to place some of our own friends on the bench was too tempting; these gentlemen had friends, and they were nominated, and in our hurry we confirmed them. I do not know personally all those gentlemen. I take this occasion to say of those whose acquaintance I have made that I have been highly gratified with them. I believe some of them at least, those I know, were put on the bench because they were lawyers; and I know the policy that prevailed before this Administration came into power was to put men there not because they were lawyers, but because they were not lawyers, and in all human probability never could be and certainly never would be.

But, sir, in the justice of God, which is sometimes swifter than we think, we got a little retribution there, for one of the first acts of these new judges that you were in such a hurry to place on the bench of the Supreme Court was to decide that we were not at war. Yes, sir, that is a judicial decision; that we are not at war; but it is something else; a riot, or something of that sort; and the provisions of the Constitution applicable to the case of war were decided not to be applicable to our present condition.

Well, sir, the time to change that court has gone by, never to return again. When the old man of the sea mounted on the shoulders of Sinbad the sailor, I believe the book—it is some time since I read it—records that every opportunity he got he made an attempt to throw him off, but he could not, and the old man stuck there and worried the sailor for a long time. Sir, when we had an opportunity to throw off this old man of the sea after it had fastened itself upon this Republic, and had fastened upon the country some of the most odious and damnable doctrines that disgrace our history, we failed to improve it, and we have now got to hug it just as long as we exist; and God only knows how long that will be. I hope for some time to come.

Now, sir, I will address myself more particu-

larly to the honorable Senator from Kentucky. I make these remarks general in their application to everybody that gets up here and tells me that property can be held in slaves, and quotes these old decisions. My reason to them is, that the times of this ignorance God winked at, but now commands all men everywhere to repent.

Mr. President, the honorable Senator from Kentucky, in the commencement of his speech, dwelt in sad retrospects as he contemplated the past history of our country and mourned over those days that he feared had departed forever. Though that was eloquent, it was not original; and it has been the lot—

Mr. DAVIS. Can you tell me anything that is original?

Mr. HALE. Yes; your mode of discussing the question for two or three days past was original. [Laughter.]

Mr. DAVIS. Your mode of preaching here is original too.

Mr. HALE. Well, Mr. President, he lamented those days of the past that had gone, he feared, never to return. Let me read his words; I do not want to do him injustice:

"It seems to me that the decline of the great Republic has commenced in its early immaturity, and has progressed and is progressing with a rapidity beyond all precedent. I never indulged the dream that it could be immortal, perpetual; but I clung to the faith that it would have its periods of active youth, of vigorous manhood, and sound old age; and that each period would be measured by centuries."

The Senator from Kentucky seems always to mourn over the past, and lament the degeneracy of the present, and give way to gloomy thoughts at the prospects of the future. It is nothing new to the Senator from Kentucky. Let me tell the honorable Senator he entirely mistakes the day and the hour in which he lives, the contest in which the country is engaged, the condition of the country, and the traits of character which she has exhibited. In my humble judgment, when this war is over, as over it will be when the impartial pen of history shall write these events, and posterity shall dwell upon the record which we are this day making, this day, this hour, and this emergency over which the Senator from Kentucky laments so much will be set down as the golden day of the Republic, as the day when she displayed such traits of heroism, of real self-devoted patriotism, of self-forgetting and manly sacrifice of everything for the good of country, as was never before witnessed in the history of this nation or any other.

Sir, there have been instances, not a few nor confined to any particular section of the country, that do honor to human nature. The young and the gifted, occupying high social positions, turning their backs upon all the allurements of wealth, the endearments of the domestic circle, the invitations of ambition, and all that men most deem worth living for, have gone out with a heroism, with a devotion, with a piety such as the world never saw before, and devoted themselves willingly with their hearts' blood upon the altar of their country's salvation. And let me tell that Senator this shall not be lost. In the economy of God, such sacrifices as these never are lost. No, sir; every generous and noble sacrifice that has thus been made upon the altar of our country shall tell in the future condition of our country for ages to come. They shall never be lost.

Again, sir, the Senator complains that the President and that the party in power have changed their purposes. I do not stand here to say that it is not so; but let me tell the Senator and the country that is the law of every revolution, of every such contest. How was it in the American Revolution? What did our fathers start for? For revolution and for severance from their dependence upon the British Crown? No such thing. They sought constitutional liberty, and they repelled the idea that they were governed by a desire for independence or for separation from the British Crown as a foul libel upon their motives. They sought constitutional liberty under the protection of the British constitution. They desired that; but when they could not get it they were driven by the force of circumstances into opposition to the British Crown, and they took separation, not because they sought it originally, not because they desired it, but because it was impossible to attain the great end they had in view without taking it, and they took it as an alternative that

they had no idea in the beginning of being pressed to.

Such has been the history of all revolutions. Men begin on a certain course of conduct, but events throw themselves in their way and they are molded and carried along by the course of these events. The part of true wisdom is for statesmen to conform themselves to the existing condition of things. I have no doubt that when the rebellion commenced, Mr. Lincoln and the Republican party and all those that undertook to defend the country and preserve and maintain its life were sincere, honest, and earnest in their professions to leave existing things as they found them. But, sir, they could not do it. They found as the war progressed that slavery was the giant that stood in their way. They saw that slavery obstructed their efforts to preserve, maintain, and defend the nation's life, and they said, "If that is the alternative and it comes to this, that slavery or the nation must die, let slavery die." This is all they have said. That is all they probably intended or thought of; and in saying that, they have said what they must have said or else have given up the contest. That is everything which can be said of Mr. Lincoln and the party that cooperates with him. They have simply conformed themselves in this gigantic struggle to the state of things which they found existing around them.

But, sir, the Senator, not content with that, goes on to make another charge. He says that the party in power have formed a most successful scheme for the overthrow of the liberties of their country. He does not state it as an incident of their policy, but as the intent. It is hardly necessary to spend much time on that; but if it be not denied it may be reiterated and repeated so often that it may go out for true. I deny it utterly.

There is another remark of the Senator to which I desire to call particular attention. It is this:

"I have never feared nor have I now the least apprehension of the permanent overthrow of free institutions anywhere in the United States by Jefferson Davis and his government; but I am beset by the gloomiest apprehensions that if Mr. Lincoln is re-elected, or some other man having his principles, policy, and scheme of government should be his successor, they will perish by him and his government, or by stronger men who will rise up and thrust them from their places."

Sir, that is nothing new. You may read the resolutions of the party in opposition to the present party in power during the canvasses of the elections that have taken place in the last year, and you may begin with the State of Maine and follow them up and go just as far as you find them, in Ohio and in every State in the Union where they organized, and you will find that is just exactly the tenor of their resolutions. They had not a word of condemnation or of reproach or of censure or of reproof for the rebels or the rebellion. They did not even recognize the existence of the rebellion. I remember, sir, a leading Democratic journal in the State of Maine was put into my hand, and it had in it a programme of what the Democratic party of the State of Maine intended to do if they were restored to power. I think there were eleven distinct propositions, and every solitary one of them looked to hampering and harassing their own Government, not a solitary one in regard to the rebellion. They had denunciations in abundance for Mr. Lincoln, not one for Jeff. Davis. They were on the same key-note with the speech of the Senator from Kentucky without exception. Read the resolutions of that party for the past year to a stranger knowing nothing of the history of the country except what he can get from their resolutions, and he would inevitably come to the conclusion that it was Mr. Lincoln and his friends that took Fort Sumter. The idea that it was their friends or that the secessionists had anything to do with it never would present itself. They would inevitably come to the conclusion that it was Mr. Lincoln who had sent war and desolation and bloodshed over the land, and that it was the duty of patriots and patriotism not to move a hand to oppose the rebellion, but to lend all their energies and agencies to the putting down of Mr. Lincoln and his Administration.

That has been the tenor of certain party papers in this country from the beginning. They had all their sympathies with rebels and the rebellion. All their denunciation and condemnation and re-

proof and reproach have been heaped upon the head of Mr. Lincoln. Sir, I am no glorifier of Mr. Lincoln or anybody else. I stand here a free man and a free Senator, ready to do justice to everybody; but I will say of Mr. Lincoln, let him have committed whatever mistakes he may—and I think he has committed some—I believe that a man more honest and a more patriotic man never was in power in this or any other country. That he has sometimes had men around him who were not up entirely to his own standard I believe; and that is one of Mr. Lincoln's weaknesses. He gets sometimes bad men around him, sometimes pretty near to him, and it requires a very great effort for a man of his good nature and pure purpose to get nerve enough to cut them off and drop them and let them go. I believe it would have been the part of policy, of a wise policy, of a patriotic, sagacious statesmanship, when he came into power to make a pretty clean sweep of those gentlemen that had been sitting and roosting in those Departments here for generations. I believe the country would have been vastly better for it. He did not exactly think so, and he has not thought so yet.

But, sir, of his purity, of his patriotism, of his sincere and earnest and honest and zealous desire to bring this war to a speedy and an honorable end, I do not believe there is one man in a million in the free States that has the slightest doubt in the world. It is a good deal in this country to get a man of whom that may be said; and especially when we reflect what kind of men at other times have ruled over the destinies of some other countries, to say nothing of our own, I think it is a very great point gained to have in the chair of State a man of such purity of character and such singleness of purpose. The idea that there should be in his character what the Senator from Kentucky says, the williness and the cowardice of the serpent, I think will fill the country with an abhorrence equal to that with which it would have been filled if he had accused him of any of the most odious crimes that could be committed. The assigning of the character of the greatest felon in a penitentiary in this land to the President would not have created a greater shock in the minds of the public than have the accusations which have been made against him in the speech of the Senator from Kentucky to which I have alluded.

Mr. President, I fear that I am repeating what I have said before. I fear we do not appreciate even yet the tremendous issues which are involved in the contest in which we are now engaged. I believe myself it is the contest of ages. I believe that the effects of all past history are culminating to their consequences in the result of the experiment that we are now making. I believe that we are settling the question of free government for ourselves, for posterity, and for all time; and though it costs us much, very much, much treasure and much blood, I believe that the end we shall reach and attain to will more than compensate us for it all. I believe that those who mourn, as no others do, for the loved and the lost, those who see vacant seats around the domestic board, those who have been called to sacrifice the joy and the pride of their hearts, when the compensation we are contending for shall be obtained, even they will rejoice at the price that Providence permitted them to pay for the great boon that will come to this nation.

Sir, let us not despair. It is a doctrine of revelation, and it is a doctrine of human experience, true in all conditions, that without the shedding of blood there is no remission, that great blessings do not come to us without strife and contest and blood. If it was a part of the divine economy that the great boon of Christian civilization could not be attained for the race without the shedding of the precious blood of the Son of God, let us not arraign Providence if He vouchsafes to us national salvation at the price of the blood of our dearest and best friends.

Mr. FESSENDEN. Mr. President, I do not propose to discuss any of the interesting constitutional questions that have been raised here, nor do I propose to go into a general discussion of the subject of slavery and emancipation. I rise simply to state to the Senate the condition in which I understand this question to be, and to give the reason for my own action.

The draft is to take place on the 10th day of

March, and we are now in the 19th day of February. It is exceedingly important that this bill should be passed in season to be carried into operation before that time, if it is to be passed at all. We have but a very few days to do it; and I understand the House of Representatives has already voted to adjourn over until Tuesday, and nailed themselves on that subject, and are waiting to receive this bill to act upon it as soon as possible. It is in a peculiar stage. It has got to the point where we cannot amend it. This is the report of a committee of conference, and we must take it as a whole or not take it at all. All the discussions upon this and that particular provision of the bill are only to satisfy us that we should vote against it entirely, because there is no hope of amending it in any way.

Now, let me appeal to my friends on this side of the Chamber in a very few words, and I hope I shall not be considered as "a dictator" in attempting to do it. We understand that on the other side of the Chamber, with a certain portion of them, to say the least, it is made a party question somewhat; and it is opposed on that ground. The desire is to defeat any law providing for the conscription or amendatory of the law in existence. I find no fault with those gentlemen for taking that position; they have the right to take it. But let me ask gentlemen on this side of the Chamber, is it wise that we should protract this measure, which is so very important, (because I believe we are all agreed that we need an amendment of the existing law,) by long debates on points which cannot now be amended, unless our design is to defeat the bill by the arguments on these particular points; and more especially let me ask whether it is wise to take this occasion to reply to speeches made on another question and on another occasion in relation to other matters which are not pressing before the Senate, when we are in such a position as we are in with reference to this bill. The interests of the country, in our judgment on this side of the House, require not only that a bill on this subject should be passed, but that it should be passed at once in order to be effective; and gentlemen must see that if this bill fails we can have none in season for the effect that we wish to accomplish by it, that is, in season for the draft which is ordered.

I have not examined this report of the conference committee particularly. I have been so exceedingly engaged in other matters that I have had no time to examine it. I concurred with the majority in passing the original bill that went from the Senate. I understand that the report of the committee leaves the bill substantially the same, altering it in two or three particulars, which have been discussed here. With reference to some of those particulars, I might agree with my friends who have taken exception on the subject. There is one provision, which has not been specially alluded to that I know of, which I am very sorry has been struck out of the bill. I deemed it a very important provision, and was strongly in favor of it. That was the clause as to the appropriation of the commutation money; and substitutes were directed to be so procured that the respective districts might have the advantage, if they could, of the money they had paid. I understand that has been struck out. I would rather it had been retained. I think it would have been more just and more equal.

With regard to the particular proposition that is now under debate, I wish it to be understood that by any vote I may give for accepting the report of the committee I certainly do not mean to commit myself on any general principle. It often happens that in order to accomplish a great and good purpose in this particular crisis of our history we are obliged to take some things that we do not like. I am precisely in that position here. There are some things in the bill as it is left by this report that I do not like, that I would not vote for by themselves; but believing that the bill itself is very important, believing that time too is all-important, I hope we shall at once act upon it; and if my honorable friend from Kentucky has any design to respond to the speech which the honorable Senator from New Hampshire has made in reply to one he made the other day, I will appeal to his magnanimity to defer it to some future occasion.

Mr. DAVIS. I have not any idea of replying.

Mr. FESSENDEN. I will not break my own

rule and make a speech on the subject. I rose simply to appeal to our friends under the peculiar circumstances of the case to act on this question and let us settle whether we are to have the bill or not, and not longer discuss points which we cannot amend.

Mr. CARLILE. I shall detain the Senate but for a moment; and I do not know that I should occupy even a moment but for a remark which fell from the Senator from Maine. The Senator has intimated that probably party considerations will govern Senators in their votes on this bill. Mr. President, if I know myself, no such considerations have governed me in any vote I have cast since I have been a member of the Senate. I have patiently listened to the discussion to-day on this bill and upon the former act during this session and at the last Congress; and everything has been discussed, (if I may be allowed with all respect to say so,) in my humble judgment, but the very question in controversy. It is a misfortune, it may be the result of the troubled state of the times into which we have been thrown, that there is scarcely a proposition which comes before this body but what, in the opinions of Senators, the subject of slavery and the negro enters into its consideration, and upon such subjects almost all of the time of the Senate is expended by way of discussion.

Now, sir, I am free to say that if the Congress of the United States possesses the power to conscript white men it possesses the power to conscript negroes, whether free or slave; and upon that subject I would not hesitate for a moment. Convince me of the power, and I will go with the Senator from Michigan. When I heard the Senator from Michigan say that there could be no doubt of our power to conscript, I hoped he would attempt to prove it. Convince me of that power, and I will go with the Senator and vote for this proposition, but the bill itself assumes the power in the Government of the United States to conscript; and the discussions have all gone on the assumption of that power. Sir, I deny the power.

I not only doubt the power, but I deny the power to conscript either white or black men under the Constitution of the United States for any purpose whatever. I acknowledge your power to raise armies; but how are you to raise them? Is the Constitution to be so construed as to give to one clause efficacy by annulling another? Ought it not be construed so as to make it consistent with itself? Can you not give effect and force to every provision contained in it? If this Government possesses the power to conscript the citizens of the several States into its armies, I ask Senators where is that which is declared to be the only security of a free State, the militia of the State? Where is it but placed at the mercy of this Government? Your Constitution in as plain language as that which confers upon you the power to raise armies, recognizes the existence of the militia of the several States of the Union, and declares that that militia is the only security and protection to a free State, and prohibits you from taking away from it the right to bear arms. If you have the power, therefore, to conscript, it is an unlimited power, and you can destroy the militia of every State, and you can bring every State prostrate and bleeding at the feet of this Government. It is because I deny the power, because no argument has been attempted that I ever heard yet to show that the power to conscript exists in this Government, that I shall be compelled, under the oath I have taken to support the Constitution, to vote against this proposition.

Mr. POWELL. The Senator from Iowa a little while ago attempted to reply to the position I had taken, that the twenty-sixth section of the bill now before the Senate was a violation of the Constitution. He stated that the fixing of the value—

Mr. GRIMES. I take back all I said, if that will be satisfactory to the Senator.

Mr. POWELL. And admit that you were wrong?

Mr. GRIMES. Yes.

Mr. POWELL. Then of course you will vote with me, unless you admit that you vote to violate the Constitution. If you admit that I am right, that this section is unconstitutional, I will say no more. But, sir—

Several SENATORS. Then let us vote now.

Mr. POWELL. If you insult me in that way

I will speak for five hours. I am not in the habit of speaking long in this body. I treat others like gentlemen, and I intend that they shall treat me so. I wish that to be distinctly understood. I have listened to a great many speeches here that were not very pleasant, and which I thought were not calculated to enlighten the Senate or the country, but I never was guilty of the rudeness of proposing to take a vote when a Senator had the floor; and no gentleman will do it.

Mr. President, I have but a very few remarks to make. The Senator from Iowa, when I cited the clause of the Constitution which declares that private property shall not be taken for public use without just compensation as being violated by this bill, declared that the clause of the bill allowing the Secretary of War, on the report of a commission, to fix a value not exceeding \$300 for the slave taken for the military service, was a compliance with the provision of the Constitution. The Senator by that argument admitted that the provision of the Constitution required compensation to be given. I hold that that provision in the bill is not a compliance with the clause of the Constitution which I cited. I think the Senator is utterly and totally mistaken when he says that Congress complies with that provision of the Constitution by fixing the value of the property taken by the Government. That provision of the Constitution cannot be fairly met or complied with unless the private property which is taken shall be paid for, a just compensation made, and that just compensation must be a fair and full equivalent for the value of the property taken.

Now, sir, in this bill you provide that the owner of the slave when he volunteers shall be paid a just compensation, but that that just compensation shall not exceed \$300. I put it to the Senate if that is a just compensation within the meaning of the Constitution? It certainly is not. A just compensation undoubtedly means a fair equivalent. But there is a provision in the bill that when the slave is drafted the master shall only receive the \$100 bounty. If the slave volunteers, he receives \$300. I ask the Senate if the slave that volunteers is of more value than the slave who is drafted? Certainly not. Anybody that knows anything about slave property, knows that the slave who is attached to his home, and does not want to leave his master, other things being equal, is of more value than one that will volunteer; and yet, sir, if the slave is drafted under this bill in which you use the term "just compensation," the master gets but \$100, while if the slave volunteers the master gets \$300.

To tell me that such a provision meets the requirements of the Constitution is mockery, worse than mockery. Here are two slaves of equal age, equal in physique, equal in capacity to labor. One is willing to go away from his master and volunteer, and the other does not want to go, but you draft him; you propose to give the master of one \$300 and the master of the other \$100. I ask Senators, if they respect their oaths, how they can, in accordance with this provision of the Constitution, vote for this bill? It is clearly unconstitutional.

It will not do for Senators to say that there is no property in slaves. In this very bill you recognize that property and propose to make payment for it, but, as I believe, a very inadequate payment. I say you cannot meet the requirements of this provision of the Constitution unless you appoint some tribunal that is to fix the value of the property upon proof. That is the only way in which you can do it. Suppose we were to pass a bill saying that the horses in the State of Iowa should be taken into the public service, and that the Secretary of War should appoint a commission who should go to the State of Iowa and fix the value in order to pay the owners a just compensation, but should pay for no horse a sum exceeding twenty dollars, would the Senator from Iowa think that was a fulfillment of that clause of the Constitution? Certainly not, sir, if the horses be worth three or four or five times that amount, as some of them no doubt are. It is a clear, palpable, unmistakable violation of the Constitution. There can be no doubt about it.

Sir, when the legislature passes laws by which private property is taken for public uses, it must fix some tribunal that is to decide upon the question of value in which the parties can be heard, and a fair, just equivalent can be given. That is

the meaning of the Constitution, and it cannot be tortured into meaning anything else. That has been the practice in all the States. If you take lands over which you make a road you have an inquisition from your courts, you go through the instrumentality of a jury generally and settle the value. It is so if you take any property for public uses in all the States of the Union. There is always some tribunal appointed to adjudge and to fix the value upon proof.

A man may have a slave worth \$1,000, and if you draft that slave under this bill you propose to pay him but \$100. He may have another slave worth \$350, and if that slave enlists voluntarily in the Army you propose to pay him \$300. That is a beautiful carrying out of the provision of the Constitution indeed! In the case of the drafted man you not only take the slave against his will, but in five cases out of ten you take him against the will of his master. Here you run counter both to the will of the slave who is drafted and to the will of the owner, and you attempt to get rid of this plain provision of the Constitution by allowing him \$100 for property worth \$1,000! The proposition is too plain for argument. I do not see how Senators who regard the Constitution as I construe it can cast a vote for this bill.

I will say one word to my friend from Michigan, and I shall not trouble myself particularly with authorities on this subject. The Senator holds that the common law did not recognize property in slaves. The Senator from Maryland to be sure has met that argument. I was astonished when the Senator from Michigan made that statement, knowing as I do his ability as a lawyer. Why, sir, it has been held by the highest tribunals in England over and over again that slaves were the subject of merchandise and property, and it has been so held by every State in Christendom.

Mr. HOWARD. Will the Senator from Kentucky allow me a word?

Mr. POWELL. With great pleasure.

Mr. HOWARD. Can he point out a single case of a commercial transaction where a slave formed a consideration of the contract in England or in any other place where the common law of England prevailed and which contract was upheld by the English courts? If he can do so he can do something towards convincing me of my error; or any case in modern times in which the English courts have recognized the legality of slavery within the limits of England, or any place where the common law of England prevailed.

Mr. POWELL. If the Senator will allow me I will read an extract from the decision of the judges, delivered in 1713, when that question was submitted to them by the Crown in council:

"In pursuance of his Majesty's order in council, hereto annexed, we do humbly certify our opinion to be that negroes are merchandise."

That was signed by Lord Chief Justice Holt, Judge Pollexfen, and eight other judges of England.

Mr. HOWARD. Negroes?

Mr. POWELL. Yes, sir.

Mr. HOWARD. In England?

Mr. POWELL. Yes, sir. Does not the gentleman know that negroes were bought and sold in the streets of London for years? Such is the fact. In 1827, Lord Stowell, in the case commonly called the "Slave Grace" case by the lawyers, delivered a most elaborate opinion, in which he utterly repudiated the opinion of Lord Mansfield in the Somerset case, and held the doctrine that slaves were subjects of merchandise protected by the laws.

Mr. HOWARD. Allow me to inquire of the Senator from Kentucky what was the nature of the transaction to which that case referred?

Mr. POWELL. That was the case of a slave brought from the Bermudas. I do not recollect the particulars minutely.

Mr. HOWARD. In what way did it arise in the courts? Was it on a *habeas corpus*, or was it for the collection of some debt growing out of the sale of a slave? What was the nature of the transaction?

Mr. POWELL. I cannot state the whole facts of the case. I have not got it before me; but I will give the Senator another case. In the high court of admiralty Sir William Scott pronounced an opinion in the case of the *Le Louis* in 2 Dodson's Reports, in which he said:

"Let me not be misunderstood or misrepresented as a

professed apologist for this practice when I state facts which no man can deny, that personal slavery arising out of forcible captivity is coeval with the earliest periods of the history of mankind; that it is found existing—and, as far as appears, without diminution—in the earliest and most authentic records of the human race; that it is recognized by the codes of the most polished nations of antiquity; that under the light of Christianity itself, the possession of persons so acquired has been in every civilized country invested with the character of property, and secured as such by all the protections of law; that solemn treaties have been framed and national monopolies eagerly sought to facilitate and extend the commerce in this asserted property; and all this, with all the sanctions of law, public and municipal, and without any opposition, except the protests of a few private moralists, little heard and less attended to, in every country, till within these very few years, in this particular country. If the matter rested here, I fear it would have been deemed a most extravagant assumption in any court of the law of nations to pronounce that this practice, the tolerated, the approved, the encouraged object of law, ever since man became subject to law, was prohibited by that law, and was legally criminal. But the matter does not rest here."

Sir William Scott in that case decides clearly that slavery was recognized by the law of nations; and I will tell the Senator that at the time the Constitution of the United States was formed, under the law of nations slavery was recognized in every country in Christendom. There can be no doubt of that. Whether that holding be right or wrong, such was the holding of the courts. It was decided so by Chief Justice Marshall in the case of the *Antelope*. It was decided so by Judge Parker, of Massachusetts, in the case of the *Commonwealth vs. Griffith*. It was so held in both of our treaties in 1783 and in 1815 with Great Britain, which treaties recognized property in slaves. I think my friend from Michigan was entirely and utterly mistaken in his legal view of the question.

The VICE PRESIDENT. The question is on concurring in the report of the committee of conference, on which the yeas and nays have been ordered.

Mr. FESSENDEN. Before the vote is taken I will state that I have received a note from the Senator from Vermont [Mr. COLLAMER] stating that he is at his lodgings sick.

The question being taken by yeas and nays, resulted—yeas 26, nays 16; as follows:

YEAS—Messrs. Anthony, Clark, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harding, Harris, Henderson, Johnson, Lane of Kansas, Morgan, Morrill, Newmirth, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Wiley, and Wilson—26.

NAYS—Messrs. Buckalew, Carlile, Chandler, Connors, Davis, Harlan, Hendricks, Howard, Howe, Lane of Indiana, Powell, Riddle, Saulsbury, Trumbull, Wilkinson, and Wright—16.

So the report of the committee of conference was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution of the Senate (No. 27) relative to the transfer of persons in the military service to the naval service.

The message further announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 43) for the relief of Milo Sutliff and Levi H. Case;

A bill (No. 47) for the relief of William C. Walker, and others;

A bill (C. C. No. 114) for the relief of Daniel Werner;

A bill (C. C. No. 115) for the relief of Darius S. Cole;

A bill (C. C. No. 116) for the relief of William G. Brown;

A bill (No. 160) for the relief of Chapin Hall;

A bill (No. 162) for the relief of Nathaniel McLean, Richard G. Murphy, and Charles E. Flandreau;

A bill (No. 163) for the relief of Charles Anderson, assignee of John James, of Texas; and

A joint resolution (No. 39) for the relief of Alexander Cross.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 31) making an appropriation for the payment of taxes on certain lands owned by the United States; and it was thereupon signed by the Vice President.

ADJOURNMENT TO TUESDAY.

Mr. ANTHONY. I move that when the Senate adjourns to-day it be to meet on Tuesday next.

Monday is the 22d. of February—Washington's birthday.

Mr. CONNESS. Why not meet to-morrow?

Mr. ANTHONY. We do not usually meet on Saturday.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 43) for the relief of Milo Sutliff and Levi H. Case—to the Committee on Claims.

A bill (No. 47) for the relief of William C. Walker and others—to the Committee on Claims.

A bill (C. C. No. 114) for the relief of Daniel Werner—to the Committee on Claims.

A bill (C. C. No. 115) for the relief of Darius S. Cole—to the Committee on Claims.

A bill (C. C. No. 116) for the relief of William G. Brown—to the Committee on Claims.

A bill (No. 160) for the relief of Chapin Hall—to the Committee on Claims.

A bill (No. 162) for the relief of Nathaniel McLean, Richard G. Murphy, and Charles E. Flandreau—to the Committee on Indian Affairs.

A bill (No. 163) for the relief of Charles Anderson, assignee of John James, of Texas—to the Committee on Military Affairs and the Militia.

A joint resolution (No. 39) for the relief of Alexander Cross—to the Committee on Claims.

Mr. DOOLITTLE. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 19, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

CLAIMS OF NICARAGUA.

Mr. WASHBURN, of Illinois. I hold in my hand some papers which have been sent to the Committee on Commerce by the Secretary of State in relation to a claim of Nicaragua upon the Government. I ask that they be referred to the Committee on Commerce, and printed.

Mr. COX. Has the Committee on Commerce already control of the subject?

Mr. WASHBURN, of Illinois. No further than that these papers have been sent to it.

Mr. COX. These matters have usually been referred to the Committee on Foreign Affairs.

Mr. WASHBURN, of Illinois. If the gentleman desires the matter to go to his committee, I am sure I have no objection; but the Secretary of State addressed these papers to the Committee on Commerce.

Mr. COX. Well, I have no objection to their remaining there.

The papers were referred to the Committee on Commerce, and ordered to be printed.

WASHINGTON'S BIRTHDAY.

Mr. ELDRIDGE moved that, in order to do honor to the 22d. day of February, the birthday of Washington, when the House adjourns to-day it shall stand adjourned till Tuesday next.

The motion was agreed to.

Mr. COX moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

COMMITTEE ON PUBLIC EXPENDITURES.

Mr. HULBURD, by unanimous consent, submitted a resolution authorizing the committee on public expenditures in their investigation of alleged frauds in the New York custom-house, to take testimony in the city of New York by such members of the committee as they may designate, not, however, to exceed three in number.

The resolution was adopted.

INSPECTORS OF CUSTOMS.

Mr. FENTON asked the unanimous consent of the House to take from the Committee of the Whole on the state of the Union, Senate bill No. 66, to increase the compensation of inspectors of customs in certain ports.

Mr. HERRICK objected.

Mr. HOLMAN demanded the regular order of business.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports of a private nature.

INDIAN CLAIMS.

Mr. WINDOM, from the Committee on Indian Affairs, reported a joint resolution directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians residing in Michigan the sum of \$190,850; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

WINNEBAGO HALF-BREDS.

Mr. WINDOM, from the same committee, reported back bill of the House No. 194, for the benefit of half-breeds and mixed-bloods of the Winnebago tribe of Indians; which was referred to a Committee of the Whole House, and ordered to be printed.

TRANSPORT UNION.

On motion of Mr. RICE, of Massachusetts, the Committee on Naval Affairs was discharged from the further consideration of a joint resolution to provide for the payment of the officers and crew of the United States steam transport Union, wrecked November 23, 1861, off the coast of North Carolina, and it was referred to the Committee on Military Affairs.

SALARIES OF DEPUTY NAVAL OFFICERS.

On motion of Mr. RICE, of Massachusetts, the Committee on Naval Affairs was discharged from the further consideration of the petition of deputy naval officers at New York for increase of salary, and sundry papers in relation to that subject, and the same were referred to the Committee of Ways and Means.

ISAAC R. DILLER.

Mr. DAVIS, of Maryland, from the Committee on Foreign Affairs, reported back a bill of the House for the relief of Isaac R. Diller, and asked that the same be put upon its passage.

Mr. HOLMAN objected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, informed the House that the Senate had passed, without amendment, the joint resolution (H. R. No. 31) making appropriation for the payment of taxes on certain lands owned by the United States.

EX-GOVERNOR BRIGHAM YOUNG.

Mr. WINDOM, from the Committee on Indian Affairs, reported back, with a recommendation that it do pass, a bill (H. R. No. 130) to authorize the Secretary of the Interior to adjust and settle the accounts of ex-Governor Brigham Young as ex officio superintendent of Indian affairs for the Territory of Utah; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

ABANDONED REBEL TENEMENTS.

Mr. BLOW, by unanimous consent, introduced a bill to provide for the renting of abandoned lands, tenements, and houses in insurrectionary States, and for the care and employment of persons therein set free by the proclamation of the President of the United States; which was read a first and second time, and referred to the committee on rebellious States.

WASHINGTON GUARDIAN SOCIETY.

Mr. RICE, of Maine, from the Committee on Public Buildings and Grounds, reported a bill granting certain privileges to the Guardian Society of the District of Columbia; which was read a first and second time, recommitted, and ordered to be printed.

UNITED STATES REGISTER FOR 1864.

Mr. A. W. CLARK, from the Committee on Public Printing, reported back adversely a resolution authorizing the Clerk of the House of Representatives to purchase one thousand copies of the United States Register for 1864; as published by J. Disturnell, at a price not exceeding fifty cents a copy, and to charge the same to the contingent fund, and moved that the resolution be laid on the table.

The motion was agreed to.

R. L. B. CLARKE.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of R. L. B. Clarke; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

ALBERT BROWN.

Mr. HALE, from the same committee, reported back, with a recommendation that it do pass, an act (S. No. 92) for the relief of Albert Brown, and asked that it be put upon its passage.

The bill was read. It directs the Secretary of War to cause to be paid, out of any money in the Treasury not otherwise appropriated, to Albert Brown, of Kingston, New Hampshire, the sum of \$14,100 dollars, in full payment for one hundred Army wagons manufactured by him under a contract made with Morris S. Miller, quartermaster United States Army, dated July 1, 1861, and duly delivered to the order of the Quartermaster General, dated August 13, 1861.

Mr. WASHBURNE, of Illinois. Does not that bill make an appropriation?

The SPEAKER. It does.

Mr. WASHBURNE, of Illinois. Then I object to its being considered now.

The bill was referred to the Committee of the Whole House on the Private Calendar.

ALEXANDER CROSS.

Mr. HOLMAN, from the Committee of Claims, reported back, with a recommendation that it do pass, a joint resolution for the relief of Alexander Cross, and asked that it be put upon its passage.

The joint resolution was read. It recites that Alexander Cross heretofore filed his petition in the Court of Claims praying relief on account of certain rents alleged to be due from the United States to him as assignee of Daniel Saffarans; that the Court of Claims, in January, 1859, rendered a decision adverse to the prayer of the petition on the sole ground of an alleged technical defect in the assignment of the lease. It therefore resolves that the case be remanded to the Court of Claims for further hearing on the testimony heretofore filed therein, and on such other testimony as either party may take and file pursuant to the rules of the court, and that if it shall appear that the petitioner is entitled to the rents, if any, due thereon by the United States, the court is authorized to render judgment therefor in his favor, notwithstanding any technical defect in the assignment of the lease.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JACOB WEBER.

Mr. WINDOM, from the Committee of Claims, reported back, with a recommendation that it do pass, a bill (H. R. No. 203) for the relief of Jacob Weber; which was referred to the Committee of the Whole House on the Private Calendar.

MONTGOMERY COUNTY, KENTUCKY.

Mr. WADSWORTH, by unanimous consent, introduced a bill for the benefit of Montgomery county, Kentucky; which was read a first and second time, and referred to the Committee of Claims.

Mr. WADSWORTH also, by unanimous consent, introduced a bill for the benefit of citizens of Montgomery county, Kentucky; which was read a first and second time, and referred to the Committee of Claims.

NAVIGATION OF POTOMAC RIVER.

Mr. DUMONT, from the Committee for the District of Columbia, reported back a bill to provide for the improvement of the Potomac river; which was recommitted, and ordered to be printed.

COMMITTEE FOR THE DISTRICT OF COLUMBIA.

Mr. DUMONT asked the unanimous consent of the House that the Committee for the District of Columbia have leave to sit during the sessions of the House.

There was no objection; and it was ordered accordingly.

GEORGE PIERPONT AND OTHERS.

Mr. WILSON, from the Committee on the Judiciary, reported back the petition of George Pierpont and others for increase of pay of assistant assessors, and moved that it be referred to the Committee of Ways and Means.

The motion was agreed to.

HON. ANDREW G. MILLER.

Mr. WILSON, from the Committee on the Judiciary, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be authorized to send for persons and examine witnesses upon oath or affirmation touching the allegations against Hon. Andrew G. Miller, judge of the district court of the United States for the district of Wisconsin, as contained in the memorials heretofore referred to said committee by the House as a subject for inquiry.

J. M. SULLIVAN.

Mr. SCHENCK, from the Committee on Military Affairs, moved that that committee be discharged from the further consideration of the petition of J. M. Sullivan for an invalid pension for wounds received; and that it be referred to the Committee on Invalid Pensions.

The motion was agreed to.

JOHN L. DIXON.

Mr. SCHENCK, from the same committee, moved that that committee be discharged from the further consideration of the petition of John L. Dixon in relation to the purchase of corn, and that the petitioner be allowed to withdraw his petition and papers for reference to the Court of Claims.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

An act (No. 15) to incorporate the Washington City Savings Bank;

An act (No. 26) to provide for the public instruction of youth in the county of Washington, District of Columbia;

An act (No. 79) to incorporate the Providence hospital in the city of Washington, District of Columbia; and

An act (No. 77) to amend an act incorporating the Washington Gas-Light Company.

OBJECTION DAY.

Mr. HALE. I ask, by unanimous consent, that this day be considered as objection day in the Committee of the Whole House on the Private Calendar.

There was no objection, and it was ordered accordingly.

Mr. HALE moved that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House, (Mr. HOLMAN in the chair,) and proceeded to the consideration of the Private Calendar.

CHAPIN HALL.

A bill (H. R. No. 160) for the relief of Chapin Hall.

The bill authorizes the Secretary of the Treasury to pay Chapin Hall, out of any money in the Treasury not otherwise appropriated, the sum of \$2,500, in full for damages sustained by him in consequence of the taking and using his lumber, at Louisville, Kentucky, by General McCook's division of the United States Army, in September, 1862.

It appears from the report that the petitioner is a resident of Pennsylvania, engaged in manufacturing and dealing in lumber; that in September, 1862, he had a large amount of boards piled upon the common in the northern portion of Louisville, Kentucky; that on or about the 26th of September, 1862, a division of the United States Army, under command of Major General McCook, came into the city and encamped on the common near where the lumber was piled. The division was without tents or shelter of any kind, and the soldiers, by order of General McCook, took from the piles two hundred and ninety-eight thousand feet of boards of different qualities, valued at \$4,470, and used the same for building tents, shelters, and floors. The petitioner applied to Gen-

eral McCook for relief. The general, in the presence of Hon. R. MALLORY, stated that he ordered the soldiers to take and use the boards, and, further, promised that the proper officer should arrange so that the petitioner should be paid. After repeated efforts the petitioner failed to obtain anything but promises. Immediately after the army removed from the encampment all the boards left were promptly and carefully gathered up by an agent employed by the petitioner, when it appeared that one hundred and fifteen thousand feet were burned, carried away, or otherwise destroyed, and the balance, so gathered, were greatly injured by being muddy and exposed to the weather, split by handling and use, and sawed, cut, and nailed, for which the petitioner claims compensation in the sum of \$2,500.

There was no objection, and the bill was laid aside to be reported to the House with the recommendation that it do pass.

MILLO SUTLIFF, ETC.

A bill (H. R. No. 43) for the relief of Milo Sutliff and Levi H. Case.

The bill provides that there be paid to Milo Sutliff and Levi H. Case, out of any money in the Treasury not otherwise appropriated, the sum of \$2,938, in full of their claim for wool seized, condemned, and sold by the collector of Buffalo in 1849.

It appears from the report that Sutliff & Case, in January, 1849, contracted with William A. Clark, of Toronto, Canada West, to deliver to them in Buffalo, free of all charges, fifteen thousand pounds of wool, at twenty-two cents per pound, upon which they paid \$2,938. It also appears that, subsequent to the contract, in consequence of the embarrassed circumstances of Clark, the wool was delivered to Sutliff & Case at Queenstown, in Canada; Clark, however, agreeing to ship the wool to Buffalo and pay all expenses, according to the original contract. Instead of shipping the wool to Sutliff & Case direct, it was sent by Clark, or his agent, John A. Gamble, with other wool belonging to him, to Messrs. Coit & Farnham, commission merchants of Buffalo, and invoiced the same at ten cents per pound. The collector at Buffalo, believing the wool to be fraudulently invoiced below its real value, to avoid the duty, caused it to be seized, and it was afterwards condemned and sold, and the proceeds, after paying costs and expenses, amounting to \$2,986 67, were duly paid into the Treasury of the United States. The evidence establishes, to the entire satisfaction of the committee, that Sutliff & Case had no knowledge of the fraudulent entry, had no interest whatever in the payment of the duties, and were free from all blame in the matter. The consequence, if the forfeiture is not released by the Government, therefore, will be that innocent parties, chargeable with no crime or neglect, either by themselves or those over whose conduct they had any control, and for whose acts they are in nowise responsible, will be made to suffer.

A penalty for a violation of the revenue laws, or any other, ought to be visited upon the guilty parties, including, of course, all who in any way aid or connive in the violation. But there it should terminate; to carry it further so as to punish, with this extreme severity, those who are wholly innocent of any fault or neglect by themselves or their agents, would be an act of injustice and oppression. It also appears that it has been usual for the Government, in similar cases, to remit the penalty.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

WILLIAM C. WALKER AND OTHERS.

A bill (H. R. No. 47) for the relief of William C. Walker and others.

The bill directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$664 90 to the following persons, and in the sums following, namely: to William C. Walker \$83 25; to John S. Emrie \$70; to A. G. Crane \$97 50; to George W. Pilbean \$21 50; to E. Goodrich \$87 75; to Jacob Cox \$11 25; to Thomas Lamkin \$92 25; to Porter Durell \$90; to Matthew Randall \$96 75; to David Lynn \$5 50; to Andrew Lisk \$4; to William Burkes \$3; to William Depuy \$2 25; for labor done and performed by the above named persons respectively on the bridge across the Ohio river

and floating battery at Paducah, under the direction of General John C. Frémont, while commanding the army of the West.

It appears from the report that William C. Walker and the other persons mentioned in the bill, who are citizens of Indiana, were employed in September, 1861, under the authority of Major General John C. Frémont, to aid in the building of a bridge of boats across the Ohio river, and a floating battery at or near Paducah, Kentucky. Certificates were given to the persons employed by Captain Roderick, who superintended the works, specifying the amount of labor performed by each, at what wages employed per day, and the amount due. These certificates were sent to St. Louis while the commission of which Hon. Joseph Holt was a member was in session, but, from some misunderstanding growing out of a statement made at the assistant quartermaster's department of that city, they were not filed before that commission, and have never been paid. In consequence of the irregular manner in which military operations were carried on in the West during the year 1861, it would appear that these certificates are not in proper form for adjustment by the quartermaster's department; but inasmuch as these claimants performed the labor for the Government, and have not been paid, the committee are of the opinion that the necessary appropriation should be made to pay the sum due, amounting, in the aggregate to \$664 90.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

JOSIAH O. ARMES.

A bill (H. R. No. 161) for the relief of Josiah O. Armes.

The bill authorizes the Secretary of the Treasury to pay to Josiah O. Armes, out of any money in the Treasury not otherwise appropriated, the sum of \$9,500 in full for damages sustained by him in consequence of the burning of his buildings and the destruction of his property at Anandale, Fairfax county, Virginia, by the United States troops.

It appears from the report that the property of the petitioner, situated at Anandale, Fairfax county, Virginia, consisting of a large stone house, together with sundry other buildings on his farm, was destroyed by fire by troops of the United States, also his shrubbery, fruit trees, and fences, during the months of December, 1861, and January, 1862. The evidence submitted establishes the fact that the buildings belonging to the petitioner described in his petition were burned during the period mentioned by troops in the service of the United States, and apparently by order of the officer in command, for military reasons, the buildings affording shelter for the enemy's pickets. The evidence submitted fixed the value of the buildings destroyed at \$11,415, independent of fruit trees, shrubbery, picket fences, and other property, which the committee do not deem legitimate claims against the Government. But the committee, in view of the *ex parte* character of the testimony necessarily received on the question of the value of the property destroyed, have fixed the value of the buildings destroyed at \$9,500. The loyalty of the petitioner is established beyond a question. The committee have not deemed it necessary to consider the question whether property belonging to loyal citizens destroyed by the troops of our Government for military purposes during the present war should be paid for. But, following the policy heretofore adopted by the Government in all former wars within the national limits, the committee recommend the passage of the bill.

Mr. WASHBURNE, of Illinois. That bill involves important questions, and I do not object if it be agreed that the bill shall be thoroughly considered in the House.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

NATHANIEL McLEAN AND OTHERS.

A bill (H. R. No. 162) for the relief of Nathaniel McLean, Richard G. Murphy, and Charles E. Flandreau.

The bill provides that there be paid, out of any money in the Treasury not otherwise appropriated, to Nathaniel McLean, \$916 50; to Richard G. Murphy, \$1,700 32; and to Charles E. Flandreau, \$189 32, for additional pay for their services as agents for the Sioux of Minnesota during

the respective periods when each served in that capacity after the treaty of July 23, 1851, with said Indians, until March 3, 1857, at which last date the pay of that agency was raised by law to \$1,500 per annum.

It appears from the report that Nathaniel McLean was appointed Indian agent of the Sioux, in Minnesota, on the 3d of December, 1849, and continued to hold the office until the 22d of May, 1853, when he was succeeded by Richard G. Murphy, who officiated until the 16th of October, 1856, when he was succeeded by Charles E. Flandreau, who continued to hold the office until the 3d of March, 1857. The compensation was then but \$1,000 per annum, although it was understood by all that the salary should be increased to \$1,500 per annum, being the same as agents of the other tribes received. This was recommended by Luke Lea, Commissioner of Indian Affairs, in a letter sent to Governor Ramsey, who was also acting as superintendent of Indian affairs of Minnesota at that time. Governor Ramsey also recommended the same. George W. Manypenny, Commissioner of Indian Affairs in 1853, and Willis A. Gorman, Governor of Minnesota and *ex officio* superintendent of Indian affairs, also recommended the same. More lately, A. B. Greenwood, the recent Commissioner of Indian Affairs, recommended an increase to the sum which other agents received. William J. Cullen, ex-superintendent of Indian affairs, also urged upon the Government the justice of such allowance. All of these give as their reasons for an extra compensation that the duties of the agent were much more arduous than a large majority of the other agencies; that the disbursements were much greater, and that the receipts exceeded nearly all others; the removal of the Sioux was attended with much trouble, and that the duties in other respects warranted the salary to be equal to the sum paid the other agents. Subsequently, after the retiring of the last-mentioned memorialist, the salary was increased to the sum of \$1,500.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

MARGARET L. STEVENS.

A bill (H. R. No. 195) for the relief of Margaret L. Stevens, widow of General Isaac I. Stevens. The bill and report were read.

Mr. WASHBURNE, of Illinois. I must object to that bill, because it raises the salary of a man after the services have been performed and he is dead.

CHARLES ANDERSON.

A bill (H. R. No. 163) for the relief of Charles Anderson, assignee of John James, of Texas.

The bill, which was read, authorizes and directs the Secretary of War to pay to Charles Anderson, assignee of John James, of Texas, the sum of \$1,041 66, being the amount certified by the Quartermaster General to be due to John James for back rent of camp Hudson, in Texas, prior to the 1st of July, 1859, the same having been regularly assigned to the said Charles Anderson.

The report, which was read, shows that John James, of Texas, had a claim against the United States for the rent of camp Hudson, in Texas, prior to the 1st of July, 1859, which was allowed by the Quartermaster General, who asked for its payment in a special estimate made to the Secretary of War on March 9, 1860. The item was also inserted in the Army appropriation bill in the House of Representatives in 1862, but it was struck out in the Senate because of the action of the State of Texas toward disunion. It was also embraced in the estimate of appropriations for the year ending June 30, 1862. Charles Anderson, in September, 1860, was a loyal citizen of the United States, residing in Texas, which State he was compelled to leave by the "alien enemy act" of the confederate States; and in doing so he exchanged his property, which he could not take away with him, with John James for the latter's claim alluded to above, which is regularly assigned to the said Anderson.

No objection being made, the bill was laid aside to be reported to the House with a recommendation that it pass.

JACOB S. LOWERY.

A bill (H. R. No. 171) for the relief of Jacob S. Lowery and George S. Gray.

Mr. WASHBURNE, of Illinois, objected.

WILLIAM G. BROWN.

A bill (H. R. C. C. No. 116) for the relief of William G. Brown.

The bill directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to William G. Brown the sum of ninety-nine dollars, in full for stone or other materials used by order of the agents of the Government in the construction of a pier in Little Sodus bay, on Lake Ontario, in 1853.

No objection being made, the bill was laid aside to be reported to the House with a recommendation that it do pass.

F. A. HOLDEN ET AL.

A bill (H. R. No. 226) for the relief of F. A. Holden, Eli Thayer, Hannah Bexton, D. W. Frisby, and Hiram Bloss.

Mr. WASHBURNE, of Illinois, objected.

DARIUS S. COLE.

A bill (H. R. C. C. No. 115) for the relief of Darius S. Cole.

The bill directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to Darius S. Cole the sum of \$2,224, in full for materials furnished to the United States for the construction of the pier in Little Sodus bay, Lake Ontario.

No objection being made, the bill was laid aside to be reported to the House with a recommendation that it do pass.

DANIEL WORMER.

A bill (H. R. C. C. No. 114) for the relief of Daniel Wormer.

The bill directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to Daniel Wormer the sum of \$1,778 36, in full for all percentage retained by the Government on payments heretofore made to him, and for all timber or other materials furnished by him in the construction of the pier at Little Sodus bay, on Lake Ontario.

No objection being made, the bill was laid aside to be reported to the House with a recommendation that it do pass.

HARRIET MORRIS ET AL.

A bill (H. R. No. 231) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore H. W. Morris.

The bill and report were read.

Mr. WASHBURNE, of Illinois. It seems to me that this bill introduces an entirely new principle in our pension laws. It proposes to give two pensions for one death, and I must object.

CHIPPEWA INDIANS, ETC.

Joint resolution directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Potawatomi Indians residing in the State of Michigan \$190,850.

Mr. WASHBURNE, of Illinois. I would inquire if that bill and the accompanying report have been printed?

The CHAIRMAN. The bill was reported this morning, and has not been printed.

Mr. WASHBURNE, of Illinois. I think, then, we had better stop where we are, and therefore I move that the committee rise and report the bills to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. HOLMAN reported that the Committee of the Whole had had under consideration the Private Calendar, and had directed him to report to the House sundry bills with a recommendation that they do pass.

The SPEAKER. The bills reported from the Committee of the Whole will be read, and if any gentleman desires a separate vote upon any one of them, they will indicate their desire.

Mr. WASHBURNE, of Illinois. It was understood that the bill (H. R. No. 161) for the relief of Josiah O. Ames should be postponed for consideration.

The SPEAKER. To what time?

Mr. WASHBURNE, of Illinois. I move that its consideration be postponed until one week from to-day after the morning hour.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I understand the gentleman from Missouri [Mr. KING] wishes to offer an amendment, that it may be printed and

come up when the bill comes up for consideration.

Mr. KING. The amendment I desire to offer is a bill already printed, and I propose to offer it now as a substitute.

Mr. HOLMAN. I rise to a point of order. It is that the proposed amendment is substantially the substitution of a general bill for one of a private nature.

The SPEAKER. The Chair would state that that cannot be done except by unanimous consent. The Chair, however, is not aware of the nature of the amendment proposed.

Mr. KING. I admit it is the substitution of a general bill in reference to the subject to which the private bill relates.

The SPEAKER. Then the Chair must rule it out.

Mr. HOLMAN. I call the previous question upon all the bills which have been reported from the Committee of the Whole House on the Private Calendar. I think it better, however, that a separate vote be taken on each bill.

The previous question was seconded, and the main question ordered to be put.

The SPEAKER. If there be no objection, the several bills reported will be considered as ordered to be engrossed and read a third time; and the vote will be taken separately on their passage. There was no objection.

The following bills were then passed:

A bill (H. R. No. 160) for the relief of Chapin Hall.

A bill (H. R. No. 43) for the relief of Milo Sutliff and Levi H. Case.

A bill (H. R. No. 47) for the relief of William C. Walker and others.

A bill (H. R. No. 162) for the relief of Nathaniel McLean, Richard G. Murphy, and Charles E. Flandreau.

A bill (H. R. No. 163) for the relief of Charles Anderson, assignee of John James, of Texas.

A bill (H. R. C. C. No. 116) for the relief of William G. Brown.

A bill (H. R. C. C. No. 115) for the relief of Darius S. Cole.

A bill (H. R. C. C. No. 114) for the relief of Daniel Wormer.

Mr. HOLMAN moved to reconsider the vote by which the several bills were passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. ELIOT. I call for the regular order of business.

The SPEAKER. The Chair will state that two of the standing committees of the House were ordered to report to-day—the Committee on Military Affairs and the Committee of Ways and Means.

TRANSFERS FROM ARMY TO NAVY.

Mr. DEMING, from the Committee on Military Affairs, reported back joint resolution (S. No. 28) relating to the transfer of persons from the military service to the naval service, with a recommendation that the same do pass.

The joint resolution was read.

Mr. DEMING. I will state that the first section of the joint resolution authorizes the provost marshals to enlist seamen. The second section authorizes the President of the United States to transfer seamen into the naval service of the United States from the regiments of the Army.

The necessity for immediate action on the bill grows out of the fact that there is already a vessel at Fortress Monroe which the Department wish to send to San Francisco, and it is impossible to obtain seamen in any other way. There are also several other vessels which the Department wish to dispatch to the same port. There is a great dearth of seamen at present. I move the previous question on the passage of the bill.

Mr. RICE, of Massachusetts. I move to refer the joint resolution to the Committee on Naval Affairs.

The SPEAKER. The motion is not in order pending the demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

The joint resolution was ordered to a third reading, and was accordingly read the third time, and passed.

Mr. DEMING moved to reconsider the vote by

which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PRINTING OF M'CLELLAN'S REPORT.

Mr. A. W. CLARK, from the Committee on Printing, reported back the following resolution, with the recommendation that it be laid on the table:

Resolved, That there be printed for the use of the members of this House fifty thousand additional copies of General McClellan's report.

Mr. COX. I move to amend the resolution by reducing the number to ten thousand.

The SPEAKER. The motion is not in order pending the motion to lay the resolution on the table.

Mr. COX. I ask the gentleman to withdraw the motion to enable me to submit the amendment.

Mr. A. W. CLARK. I will withdraw for that purpose.

Mr. COX. I then submit the amendment; and I wish to call the attention of the House to the fact that we have already ordered ten thousand copies of this report without the documents. We have received but about nine thousand. There should have been about fifty to each member; but we have only got forty-five. I do not know whether we ought to have a committee of investigation on this subject or not. The numbers we have ordered have not been furnished, either by fault of the printer or of the folding-room. I am under the impression that members upon that side of the House, as well as on this side, will not object to ten thousand additional. It will not more than supply the reasonable demands of our constituents for this document.

Mr. A. W. CLARK. I now move to lay the resolution and amendment on the table.

Mr. RICE, of Maine, called for the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 74; as follows:

YEAS—Messrs. Alley, Allison, Anderson, John D. Baldwin, Beaman, Blow, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubard, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smithers, Spalding, Starr, Stevens, Upson, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—67.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Francis P. Blair, Jacob B. Blair, Brooks, William G. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Thomas T. Davis, Dawson, Eden, Edgerton, English, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Benjamin G. Harris, Herck, Holman, Hutchins, William Johnson, Kaibfleisch, Kernan, King, Law, Lazear, Le Blond, Long, Mallory, Marcy, McDowell, McIndoe, McKinney, Middleton, Moorhead, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pomeroy, Radford, Samuel J. Randall, Alexander H. Rice, James S. Rollins, Ross, Scott, Stebbins, John H. Steele, William G. Steele, Stiles, Sweat, Thomas, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Whaley, Chilton A. White, Joseph W. Whitto, and Fernando Wood—74.

So the resolution was not laid on the table.

During the call of the roll,

Mr. BAXTER, not being within the bar when his name was called, asked leave to vote.

Objection was made.

Mr. STEWART stated that he had paired with Mr. THAYER.

Mr. WASHBURNE, of Illinois. Is the resolution now open to amendment?

The SPEAKER. It is.

Mr. WASHBURNE, of Illinois. I move then to amend it by adding, "and ten thousand additional copies of the report of Major General Grant."

Mr. COX. I raise the point of order that that has not been submitted to the Committee on Printing, and cannot come in in that shape.

The SPEAKER. The Chair sustains the point of order.

Mr. COX. I move the previous question on the resolution and the amendment.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Ohio will allow the resolution, together with the amendment I suggested, to be recommitted to the Committee on Printing.

Mr. COX. I will withdraw my objection to the gentleman's amendment.

The SPEAKER. The gentleman cannot withdraw the objection. It is a matter of law, and not even the unanimous consent of the House can dispense with it.

Mr. COX. I withdraw the point of order.

The SPEAKER. The law requires that all propositions for the printing of extra numbers shall be referred to the Committee on Printing.

Mr. COX. Well, if the gentleman will introduce his proposition, and have it referred to the Committee on Printing, I will vote for it when it is brought back.

Mr. WASHBURN, of Illinois. If the gentleman will permit the whole matter to be recommitted to the committee, they can report it back immediately.

The SPEAKER. That can be done by unanimous consent.

Mr. WASHBURN, of Illinois. I ask the gentleman from Ohio then to withdraw the demand for the previous question, in order that I may make a motion to commit both propositions to the Committee on Printing.

Mr. COX. There is no necessary connection between the two resolutions. If the gentleman will vote for our resolution, and then bring in his own, we will sustain it when it comes properly from the committee.

Mr. DAWES. Perhaps the gentleman from Ohio will consent to include General Butler's reports?

Mr. COX. General Butler's!

Mr. DAWES. Yes, General Butler's. The gentleman's early education ought to induce him to stand by General Butler.

The House divided on the demand for the previous question; and there were—ayes 62, noes 61.

The SPEAKER ordered tellers, and appointed Messrs. Cox, and WASHBURN of Illinois, as tellers.

The House divided; and there were—ayes 72, noes 63.

So the previous question was seconded.

Mr. WASHBURN, of Illinois. I demand the yeas and nays on ordering the main question.

Mr. COX. I hope the gentleman will yield gracefully.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 69; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bailey, Augustus C. Baldwin, Francis P. Blair, Jacob B. Blair, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Thomas T. Davis, Dawson, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Herriek, Holman, Hutchins, William Johnson, Kallbfleisch, Kernan, King, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pomeroy, Radford, Samuel J. Randall, Robinson, James S. Rollins, Ross, Scott, Stebbins, John B. Steele, William G. Steele, Stiles, Sweat, Thomas, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Whaley, Chilton A. White, Joseph W. White, and Fernando Wood—76.

NAYS—Messrs. Alley, Allison, Anderson, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scheuck, Scofield, Shannon, Smithers, Starr, Stevens, Upton, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—69.

So the main question was ordered.

During the roll-call,

Mr. O'NEILL, of Ohio, stated that Mr. MILLER, of Pennsylvania, was unavoidably absent.

Mr. TRACY stated that he had paired off with his colleague, Mr. MILLER.

Mr. J. C. ALLEN gave notice that he had paired with his colleague, Mr. NORTON, until Tuesday next upon all questions, Mr. NORTON having been called away by unavoidable business.

The result of the vote having been announced as above recorded, the question recurred upon Mr. Cox's amendment to reduce the number of copies from fifty thousand to ten thousand.

The amendment was agreed to.

The question now being upon agreeing to the resolution as amended,

Mr. FARNSWORTH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 64; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Bailey, Augustus C. Baldwin, Francis P. Blair, Jacob B. Blair, James S. Brown, William G. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Thomas T. Davis, Dawson, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Benjamin G. Harris, Herriek, Holman, Hutchins, William Johnson, Kallbfleisch, Kernan, King, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pomeroy, Radford, Samuel J. Randall, Alexander H. Rice, Robinson, James S. Rollins, Ross, Scott, Stebbins, John B. Steele, William G. Steele, Stiles, Sweat, Thomas, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Whaley, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—76.

NAYS—Messrs. Alley, Allison, Anderson, Arnold, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Dawes, Denning, Dixon, Donnelly, Dumont, Eliot, Farnsworth, Fenton, Gooch, Grinnell, Higby, Asahel W. Hubbard, John H. Hubbard, Hubbard, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, John H. Rice, Edward H. Rollins, Scheuck, Scofield, Shannon, Smithers, Starr, Stevens, Upton, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—64.

So the resolution was adopted.

Mr. COX moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

FREEDMEN'S BUREAU.

The SPEAKER stated that the next business in order was the consideration of House bill No. 51, to establish a Bureau of Freedmen's Affairs, reported from the select committee on the subject, on which the gentleman from New York [Mr. KALBFLEISCH] was entitled to the floor.

Mr. STEVENS. The Committee of Ways and Means was ordered yesterday to report back the gold bill to-day. The committee is now ready to report, if it have the opportunity.

The SPEAKER. The gentleman from New York [Mr. KALBFLEISCH] is on the floor, and cannot be taken off by the report.

Mr. STEVENS. The report is ready whenever there is an opportunity to present it.

Mr. FENTON. I ask my colleague over the way to give way one moment while I ask to have a bill referred to a committee.

Mr. ELIOT. It is objected to all round.

Mr. KALBFLEISCH. Mr. Speaker, the eloquent appeal made by the chairman of the committee on emancipation in behalf of the freedmen of African descent, and his very clever argument to prove the legal power of Congress, as well as his ingenious mode of attempting to demonstrate the sound policy of establishing the contemplated Bureau of Freedmen's Affairs, have, I am compelled to say, signally failed to change my former opinions on that subject, and the remarks made by the gentleman from California were not of a character to shake my previous convictions relative thereto.

There are many other reasons which may be offered in opposition to the passage of the bill, aside from the objections already alluded to in the minority report of the same committee; and although they should, in my opinion, be deemed sufficient of themselves to cause us to pause carefully, and reflect, and weigh without bias its provisions before it be allowed to become a law, they are, nevertheless, worthy of consideration as furnishing at least food for meditation.

The best and I believe the most sincere friends of these freedmen of African descent only demand that they be taken care of during their infancy as freedmen, and a wholesome guardianship be placed over them during that period. This in my opinion should be done by the philanthropist and the charitable.

If these freedmen are incapable of assuming the rights and privileges to which they seem to be entitled under the emancipation proclamation of the President or any legislative action, and are mentally unable to perform the duties devolving upon them in their new social relationship, and are insensible of the fact that they are really freedmen, they should be made aware of it at once to the fullest extent their perception will admit; and to this end Government might perhaps be justified in lending its aid. Not however by undertaking to regulate their affairs through the agency of Government officials; for experience must have long

since convinced the most skeptical that there is no safety in such a system as is proposed by the bill under consideration. Let the intentions of its framers have been ever so pure and honest, the proposed manner of putting the bureau into operation is defective, unjustifiable, and fallacious from its inception; it would be next to impossible to find so large a number of employes as would be necessary to honestly and faithfully carry out the benevolent intentions of the bill.

If it is intended to cultivate the confiscated or abandoned lands or plantations and improvements as they now exist, and place these freedmen upon them with an official to govern and control their labor and domestic affairs, as appears to be contemplated, who can doubt for a moment that it will institute a species of servitude which must prove worse in its results than the system of slavery it seeks to destroy? It ought not therefore to receive the countenance of any one who is opposed to supplanting one evil he knows by another he knows not of, and which may prove the greater of the two.

If on the other hand it is intended to divide the confiscated or abandoned lands into small parcels, tenements and all necessary outbuildings will have to be erected for the accommodation of the freedmen, and farming utensils and cattle procured for their use.

Should the Supreme Court of the United States decide—as I do not doubt in the slightest they will—that the Government only acquires the right to hold confiscated real estate during the lifetime of the person attainted of treason, the incurring of the vast expenditure necessary to carry out the purposes of the bill upon so slight a tenure would be madness in the extreme, entirely unwarrantable; and granting even that it could be legally done, it is without a semblance of justification to urge in its favor. I admit that a majority of the members of this House may and do express views differing from those I entertain in regard to the proper construction of the language of the Constitution controlling this subject. If, however, we allow our legislation in the absence of all legal adjudication, in matters of such vast importance and upon which opinions appear to differ so widely, to be governed by our political impulses and not by the written law which we have sworn to observe, our acts must of necessity be variable and contradictory, and may cause the commission of wrongs which can never be atoned for.

There does not appear to be any limitation as to the amount of money to be expended under the provisions of the bill. The general power it confers to issue bonds for purposes named therein without fixing the amount, even admitting the whole action to be within the scope and power of congressional legislation, is one which should only be delegated in cases of the most urgent necessity.

The amount of money needed for this experiment—for I can call it by no other name—should have been stated in the bill, and the expenditure confined within its limit, for it is after all only a trial, the anticipated results of which may fail to be realized. I must confess that I look upon it with doubt and suspicion and entertain no confidence in its ultimate success. The only case that I know of bearing the least resemblance to the proposed plan was that provided for in the will of John Randolph for freeing and colonizing his slaves; and although this was sanctioned by law, it proved nevertheless a total failure.

I believe that legislation upon this subject should be left with the States, where it properly belongs. They are themselves, as distinct political societies, capable of managing their own affairs and governing their own people, and it is not our province to seek in this manner to interfere with or attempt to destroy their legislative powers.

The proposed project would enable the Federal Government to seize upon lands originally abandoned by their loyal owner under circumstances entirely beyond his control, select a class of people who are to hold them, and prescribe the terms by which they are to be held; an exercise of power more despotic than the imperial Government of Russia within any portion of its territory. It destroys at a blow the solemnly guarded power of States over their lands and inhabitants, and may give to social and political enemies in remote portions of the country supreme legislation in those matters of State and domestic concern which a

free people claim exclusively the right to exercise themselves.

I apprehend that no portion of the American people would for one moment permit their lands to be thus taken from them and placed in possession of the negro race without a bloody resistance. The descendants of a free race who had been despoiled of their rightful inheritance, prompted by a determination to remove an ever-present humiliation, would require for their permanent subjugation a military force that would impoverish our people and jeopardize our liberties.

The project is a disloyal and unpatriotic impediment in the way of restoring this once happy Union. It is a part of a policy which is attempting the impossible thing, that of bringing up the negro race to a participation with the white in the privileges and duties of citizens. It first makes them free by force, and then, because they are an abject and helpless people, they deprive American citizens without process of law of their lands, place the negroes in possession of them, and undertake to maintain them there. The plan proposed by the bill opens the way to great fraud, and places the African freedmen under masters who can have no sympathy with them and are controlled by a legislative body remote from them. If Congress possesses the power to provide in this manner for these emancipated slaves, where, let me ask, is the power to end? Is it confined to freedmen of African descent, or can Congress legislate to provide as well for the unfortunate whites and the remnant of colored people to be found in the free States? If so, it requires but little sagacity to foretell what results might be caused in consequence of allowing this bill to become the entering wedge to a system of legislation which could not be other than deplorable in its effects upon our social condition.

I am well aware that the humane appeals made in behalf of these unfortunate negroes come with some, nay, with great force; and that many of them are in a lamentable condition cannot be denied, and that the war must greatly increase the evil is but too true. Much of it is owing to the zeal with which abolitionists have pursued their avocation. The friends and advocates of abolitionism would now fain compel all to yield to their construction of the laws, to favor their views, and thus assist them out of the dilemma in which by their rashness they find themselves placed, and all through an utter disregard on their part of the plainest provisions of the Constitution, and an unwarrantable violation of State and private rights. No doubt extreme political partisanship has induced many to support radicalisms which, upon mature reflection, or could the consequences which always proceed therefrom have been known at the time, would never have received their sanction. We have only begun to experience some of the results produced by ultra abolitionism; let us beware lest this undertaking to divide and apportion the lands owned by the masters of the slave among these freedmen of African descent may not become the first seed of agrarianism, an ism that, if it once takes root, must affect our social relations in a manner much more to be dreaded than the immediate enforcement of abolition itself.

The chairman, my colleague on the committee of emancipation, looks upon the reasons expressed in the report of the minority of that committee in opposition to his bantering as scarcely entitled to be considered. What motive, if that be so, he could have had for addressing the House for so long a time in an attempt to illustrate the unsoundness of the opinions advanced therein seems somewhat unaccountable to me. Had the gentleman simply discussed the merits of the bill and the law authorizing the establishing the bureau, with the powers conferred therein, without appealing to feelings or prejudices which have already aided materially in causing a loss to the country of hundreds of thousands of valuable lives and thousands of millions of treasure, it would, in my opinion, have been more in consonance with healthy legislation. I do not feel myself called upon to follow the gentleman in all his rambles, but will simply state in reply to some of his remarks that I care not what has been done by the President or any former Congress. The question for us to decide is this: do the objects for which the bill is introduced come within the legitimate province of national legislation, are they just, and will they eventuate in results bene-

ficial and for the best interests of the country? Necessity or any similar excuse will hardly avail as an answer for the assumption of doubtful powers, especially when coupled with very questionable expediency. The war may have created a necessity for the protecting and providing for those negroes, but I do most emphatically deny the power as well as necessity of establishing such a bureau with the host of political hirelings it calls for, and which will have to be maintained at the expense of the Government.

If I understood the gentleman's remarks correctly, the negroes must have been a source rather of benefit than otherwise to the Government, at least in some instances. If this be so, why not let well enough alone until a permanent change in the condition of things can be effected, and adopt such a plan as will be more in accordance with law, in consonance with justice and sound policy, and must meet with universal approval?

I must be permitted to reiterate my sincere and honest conviction that if the bureau be established and the purposes of the bill carried out, the inevitable result must be substantially a change of slave-masters, substituting the Government official for the former owner: the one having no direct interest in, but who controls him, and to whose love of gain the physical welfare of the negro might be sacrificed in making his labor a greater source of profit; the other equally desirous of profiting by his labor, but dictated by motives of self-interest to protect him against suffering and disease.

If a plan for the relief of these freedmen of African descent cannot be dispensed with, and must be adopted, it should be free from the many objectionable features of the present bill. It assumes too many doubtful powers, encroaches upon the private rights of citizens, and must ultimately interfere with State sovereignty.

Mr. BROOKS. Mr. Speaker, perhaps a bill of more importance was never introduced for the consideration of this House and of the country than the bill now presented by the honorable gentleman from Massachusetts, [Mr. ELIOT], and the select committee of which he is the organ. The territory on which it is to operate is larger than were the whole thirteen original States of these United States—a territory extending from the shores of the Potomac to the Rio Grande; and a bill enacting in substance that all that vast territory, in connection with the confiscation bill that we have passed, is to be dispossessed of its present holders and to be occupied by the black race, with masters from a distant country to rule over them. The bill is vast, therefore, in its territory, vast in its objects, vast in its purposes, vast in its intentions. It establishes a new bureau of the Government, a bureau costing, I suppose, \$100,000; it may be more or it may be less; but a bureau having the seeds in it of a great Department, which, as the honorable gentleman who introduced the bill tells us, in a quotation from the Solicitor of the War Department, is in the end likely to produce an officer who is to have a seat in the Cabinet and be an adviser of the President.

I call the attention of the House to the magnitude of this proposition, in order to have for it a full consideration before it comes to a final vote. The bill, too, is illimitable in expense. No one can see or foresee what amount of money is to be expended under it. Modest in purport, with its commissioners and its sub-commissioners, with its clerks and superintendents, yet it is a bill with great pretensions and great consequences, and therefore to have a vast influence on the country.

The third section, which I do not well understand, contemplates the issuing of stock, the delivery of bonds, the use of indemnity money, involving, perhaps, large expenditures and large amounts of money.

Mr. ELIOT. Mr. Speaker, I simply want to say that that provision only contemplates action concerning "bonds" which the United States may be obliged to deliver under any act of emancipation passed within the slave States.

Mr. BROOKS. This is the entering wedge put into the bill. But, Mr. Speaker, it is vain for me to attempt to discuss the details of this bill, for it is a bill which has doubtless been caucused and settled and decided upon elsewhere. I will not, therefore, waste the time of the House in a futile discussion of its details. If it is decreed out of doors to be enacted it will be enacted in doors, and no argument of mine would have any effect

on the gentlemen who have so decreed. Indeed, whenever a gentleman from Massachusetts in these our latter days introduces any bill or propounds any proposition for the consideration of the House, I always listen to him with attentive ears, with apprehension, with something of awe, nay, with that deep interest that the Roman of old must have listened to the unrolling of the leaves of the Sibyl, or the Greek to the utterings of the oracle in Delphos.

Massachusetts is now the leading power in this country. Whatever she decrees is in all probability to be law. She exercises the same control over this vast country which stretches from the Passamaquoddy to the Rio Grande, and from the Rio Grande to the Pacific, that was exercised by imperial Rome on the little Tiber, from the Pillars of Hercules to the Euphrates and Tigris. Boston her capital is well called the hub of our universe, with her spokes now inserted in New York, Pennsylvania, Ohio, the great West, and the great Northwest, the rim of whose wheel now runs with frightful, crushing velocity from that Passamaquoddy to that Rio Grande.

Hence, whenever a gentleman from Massachusetts rises upon this floor introducing a bill like this, if I do not look upon him as a god or a demigod, I look upon him as a power sure to dictate the legislation of the House, and to have a vast control over this country. It is decreed in all probability, as was decreed in the case of the confiscation bill, that this emancipation or land occupation bill shall pass this House. It is written; it is ordained. It is a Massachusetts thunderbolt. There flashes now in the fiery, furious furnace of this bolt, *delenda est Carthago*. Ay, not only that Carthage is to be destroyed, but "*delenda est Africa*."—Africa is to be destroyed also. Slavery is to be abolished, and with it the African. I listen. I tremble before the decree. I hear now from the steeples, the spires, the pulpits of Massachusetts what I have often heard in the Moslem East from the minarets of the mosque, the cry go forth, "*La illahou ila Allah w', Mohammed rasul Allah*." There is but one God, and Massachusetts is his prophet. [Laughter.]

A superior race is now, under the decree of this bill, to come in conflict with an inferior race; the African is to be met with the white man; the poor, humble son of Africa, the negro, is to come into competition and conflict with the astute Massachusetts white taskmaster. Slavery, therefore, in this conflict of races, is not only to be abolished, but the slave is to be abolished also. Two races, the superior and the inferior, cannot live in equality. What was the fate of the Wampanoags and of the Pequods before the Puritan in Massachusetts is to be the fate of the negro slave whenever he thus comes in conflict with the white man.

I know the spirit of Massachusetts. I know her inexorable, unappeasable, demonic energy. I know that what she decrees she will execute, as when she ordered the burning of the witches at Salem, or the scourging of the Quakers, or exile of the Baptists to the rocky shores of the Narragansett or to the mountain-fastnesses and glens of New Hampshire, where my maternal Baptist ancestors were banished. Hence when, as now, she decrees on the African, I tremble for three millions of hitherto happy human beings now doomed to extermination.

Superintendents, masters, clerks, employes, persons of all kinds and classes, are to be transported by this bill from one latitude to another, under the superintendence of the Government. The negro race is thus to come in conflict with the white race, though the law of nature, and especially the law of settlement on this continent, shows that an inferior race perishes when attempting to live on terms of equality with a race that is superior. Disease, desolation, and death are therefore the doom of the hapless negro.

If the census of this city could be taken of the original slaves who were here when emancipation was decreed in this District, thirty per cent. of them would be found in their graves. Look at the hovels that surround this Capitol. Look at the miserable assemblages of emancipated Africans in this city, huddled five or six families in a little room, literally rotting with disease, under your decree of emancipation. Look, how the race is being exterminated in your freedmen's camps on the banks of the Mississippi, the great father of

waters. See what a spectacle is there presented. Death is cutting down hundreds, thousands, and tens of thousands as death seldom cut down mortal man before. Death there is the doomed decree to the African. As surely as the plagues or London or Athens decreed the death of the stricken victims, so surely does the march of the Army, liberating the negro from all protection and surrendering him to the cruel, merciless employment of the calculating white man, doom him to disease, hunger, starvation, and death. I know the philanthropic gentleman from Massachusetts does not design this any more than did his namesake, perhaps his kinsman, the apostle Eliot, when he carried the cross and the Bible among the New England tribes of Indians. But with the apostle came the rifle and the rum, and then opened upon the Indian the whole Pandora's box of terrible diseases that destroyed that Indian and extinguished his race.

Mr. Speaker, there are some things in this world which we Yankees have designated by the vigorous word "fixed," or what the French, in their philosophic phrase, call "*fait accompli*." Sir, the abolition of slavery is "a fixed fact," a fact accomplished. I must accept it. I cannot close my eyes to it any more than upon the sun or upon the sunshine, or upon the tornado or the storm. What is written is written, and I must read it, and I should be blind if I did not see that slavery is abolished, and the African too with it. I cannot help it; I cannot avoid it. Massachusetts has ordained it and the country accepts it, and, if not as a wise man, at least as a public man I must abide by and act upon it. When the border States voted upon the floor of this House at an early period of the session, and by their vote organized this House, it was written, it was decreed, irrevocably decreed, that slavery is abolished, and there was no help for it.

I know, sir, it is said that the States of Missouri and Kentucky are in a good degree under military government. I do not apprehend that all of the gentlemen who voted for the organization of the House intended to carry out this decree. I know that the honorable gentleman from Kentucky, [Mr. CLAY,] who bears an honored name—*clarum et venerabile nomen*—intended no such thing; but nevertheless it is the decree, a decree written out, and he one of the writers. I know the people of Maryland and of Delaware, if they had been allowed to vote, intended no such decree; and I know that it is said those two States are better represented by the honorable gentleman from Ohio, [Mr. SCHENCK,] the chairman of the Committee on Military Affairs, than by their Representatives here. But when these Representatives are accepted and recognized by that people, acquiesced in by that people, and, if not acquiesced in by that people, defended and protected by the military power, I must accept all that as an accomplished fact, and a fact irrevocable, which is to be met. I am bound to act on it; every wise statesman is thus bound to act upon it; every true statesman has so acted in all past time.

I am told that these things are against the Constitution, against the laws of war, against the rights of property. Undoubtedly they are; but how can they be now helped? There are thousands of things against constitutions, against the laws of war, and against the rights of property, which when forced upon the people are fixed forever, facts accomplished, and irrevocable when thus accomplished. There is a higher law written upon the Massachusetts mind, especially and exclusively there written, that slavery is against the law of God, no matter what may be written in constitutions or what may be the rights of property, and this has now become the law of the land. I know there is nothing new in this higher law. It is the doctrine that revolutionized France, and that Frenchmen have obeyed and obey. It is not a New England doctrine born. It was a doctrine cradled in France in the agony and throes of her Revolution, and adopted in Massachusetts. It was the *chanson* of the French Revolution:

"La loi la plus juste, la loi la plus sacrée,
Est d'oublier la loi pour sauver la patrie."

I know that it was not the law of Magna Charta, the law of Runnymede, the law of our Constitution. Nor was the law born in the better days of France. The most beautiful chapter of Telemachus is that in which he is taken to the island of Crete, where, the king having died, there as-

sembled the sages in council to choose a king. They brought forth the laws of Minos, those laws kept in a casket of gold, highly perfumed with incense, and they fell down and kissed them:

"Qu'après les dieux, de qui les bonnes lois viennent, rien ne doit être si sacré aux hommes que les lois destinées à les rendre bons, sages et heureux. Ceux qui ont dans leurs mains les lois pour gouverner les peuples doivent toujours se laisser gouverner eux-mêmes par les lois. C'est la loi, et non pas l'homme, qui doit régner. Tel étoit le discours de ces sages."

Cowper has also beautiful lines inculcating obedience to the laws:

"We love the king who loves the law—respects his bounds,
And reigns content within them; him we serve
Freely and with delight, who leaves us free;
But recollecting still that he is man,
We trust him not too far. King though he be,
And king in England, too, he may be weak
And vain enough to be ambitious still;
May exercise amidst his proper powers,
Or covet more than freemen choose to grant.
Beyond that mark is treason. He is ours,
To administer, to guard, to adorn the state,
But not to warp or cheat it. We are his,
To serve him nobly in the common cause,
True to the death; but not to be his slaves.
Mark now the difference, ye that boast your love
Of kings, between your loyalty and ours:
We love the man; the patrie paysant you;
We the chief patron of the commonwealth;
You the regardless author of its woe;
We, for the sake of liberty, a king;
You, chains and bondage for a tyrant's sake;
Our love is principle, and has its root
In reason; is judicious, manly, free;
Yours, a blind instinct, crouches to the rod,
And licks the foot that treads it in the dust."

Now, Mr. Speaker, I have tried through my whole life to be thus faithful to these laws; "the Constitution and the laws." We all on this side of the House have been loyalists, because loyalty is *loyalty*, fidelity to law. I mourn now over the destruction of the laws of my country. I invoke the genius of history to doom to eternal infamy all these violators of law; but, as a Roman, in the days of Julius Cæsar, or as a Frenchman, in the days of Napoleon, I must cease protesting and resisting. I accept things as they are. I must accept facts accomplished, and abide by the consequences. Hence I recognize the abolition of slavery; hence I intend to act hereafter upon that recognition, because it is inevitable. So far as I have influence I intend to withdraw that question from the exciting canvass of the day, and to go before the people upon other matters of difference. The anxiety I now feel is not for the negro, but for the liberty of the white man; the continued constitutional liberty of the white man. I concern myself less at present what may become of the negro, than what is becoming of the white man. My whole heart and soul are absorbed now that *Magna Charta* and *habeas corpus* are cloven down in rescuring these guarantees for the liberty of the white race. Hence, it is the white man's liberty, not the negro's liberty, that hereafter is to interest me in the discussions before this House.

Mr. Speaker, the violence of Massachusetts has brought about in two or three years only, what Christ, or the church of Christ, was twelve or fifteen hundred years in accomplishing in the Roman empire. The Saviour himself struck not off the chains of the slaves whom he addressed from the Mount of Olives. Nor did the Apostle Paul, in his address on Mars Hill, in front of Athens, strike off the chains of the slave in a moment or an hour. But they inculcated principles, they sowed the seed which was twelve or fifteen hundred years in ripening, but which in the end brought about the desired end, without war or the violent loss of life. But here in two or three years we have madly attempted the liberation of the negro, and at what cost? A million of men have been drawn from their households and firesides into the Army, and a million more are to be sacrificed in the hospitals by diseases, while at the same time a debt is fastened upon us of thousands of millions of dollars. Before we have finished the war the debt will be four thousand millions—a huge, monstrous, and crushing debt—which will inflict upon posterity, upon my children, your children, and their children hereafter for hundreds of years, a taxation under which they will groan as negro slaves have seldom groaned under the white master; a taxation of thirty cents on the day laborer's dollar.

Three years ago we had no national debt worth a moment's consideration; but pending this civil war, in only two or three years, under the spirit which has guided it, we have had inflicted on us

a national debt now nearly, or soon to be, as large as the national debt of Great Britain, and which will grind the people of this country for hundreds and hundreds of years, if this war is longer persisted in in the spirit which now conducts it.

I recognize the abolition of slavery as existing for other reasons than I have given, and I call the attention of the southern border State men, who may not agree with me in opinion upon this subject, to a law of the rebel Congress which I now hold in my hand. When we in the North began to arm the slaves, I foresaw from the beginning that this would force the South to arm their negroes and their slaves.

The first section of this act of the rebel Congress, which I hold in my hand, declares that all male free negroes shall be conscripted and brought into the southern army. The second section of that act provides for organizing twenty thousand of the southern slaves, not exactly as soldiers, but as sappers, miners, and navvies, or laborers, in the southern armies. The South, therefore, has taken the secondary step to the first step which was taken by the people of the North.

There is the southern act, there is the southern record for arming first the free negroes of the South and second for arming the southern slaves. This of itself is the abolition of slavery in the rebel States; for the moment arms are put into the hands of slaves, that moment slavery is abolished, South as well as North. I say, therefore, we must accept the abolition of slavery as a fact accomplished, as a thing done, not only done by the northern people, but of necessity done by the southern people. The necessities of this war will compel the rebels of the South more and more to arm their slaves, and thus more and more to abolish their slaves.

If, then, war lasts two years, we shall see every able-bodied negro in the South that can be spared, either in the battle-field or as laborers in preparation of the battle-field. They must, they will take that course. Imperious necessity exacts it of them. The negro of the North will meet the negro of the South; and when "Greek meets Greek then comes the tug of war."

Go on, then, conscript the negro; reënslave the negro. It is now the best thing you can do in humanity and philanthropy to the negro to reënslave him and doom him to the Army. You have made this a negro abolition war. You have changed its original purpose, and therefore the negro should be called out, and should fight the battles of the party which has taken them into their keeping. I do not, for one, intend to resist your movements in that respect any longer.

Mr. Speaker, two States have in the main governed this vast country since the Declaration of Independence in 1776, and those two States have been Massachusetts and Virginia. Massachusetts and Virginia, from 1776 and 1787 on to the end of Washington's Administration, cooperated together in most beautiful administration of this Government. From 1796 to 1800 there reigned the Administration of John Adams. It was a reign of terror from beginning to end; it was a reign of tyranny, too, as well as of terror throughout the country. Newspapers were silenced, the courts were overawed, the alien and sedition laws were passed, and it was such a reign of violence that in 1800 there was a civil revolution, and Massachusetts was thrown out of power, and kept out of power from 1800 till 1860. During that long period of time never did any country prosper as this country has prospered. The South took its columns of emigration over the Chattahoochee to the Coosa and the Tallapoosa, beyond the Mississippi, on to the Nueces and the Rio Grande, and created an agriculture which subjected to it all the civilized nations of the earth. No more beautiful spectacle of coöperative industry was ever presented. The North presented an equally beautiful spectacle. The columns of emigration marched on beyond the lakes to Minnesota, to Iowa, to Wisconsin, and to the Rocky mountains. During all that time Virginia and Massachusetts cooperated together in the spirit of Washington and Jefferson and Madison and the elder Hamilton. By the secession of the South in 1860 the reign from 1796 to 1800 was restored, and Massachusetts became ascendant in this Government again. Every path of hers has been traced in blood, and the monuments of her destructiveness are to be found on hundreds of battle-fields North

and South. A million of human beings sacrificed unnecessarily is the holocaust of that administration. Four thousand millions of debt upon us and our posterity is the consequence of that administration.

How long the war is to exist I know not, but in God's name let me implore those men who now have control of this Government to take the reins and end it as soon as possible. You have illimitable power; you have the Executive; you have three fourths of the Senate; you have twenty majority here in this body. If you will give the conservative men the power in this Government, by August or September, or certainly by October next, we will end this war, and we will restore the Union. We hold you to that issue. We give you till September or October next to end this war and to restore the Union. Follow out your programme; accept our constitutional remonstrances, but accomplish what you have undertaken. Enter not into side issues. Make not such wicked diversions as that which you have just made in Florida under General Gillmore for the purpose of sending some two Massachusetts men from Florida to the United States Senate, or some Representatives to this House—a diversion made solely for political purposes; but concentrate your armies in solid columns and end this war. Cease to make it a war for politics. If you will not make it a war for the Union, make it a war for the restoration of peace as soon as possible. In the name of humanity, in the name of philanthropy, in the name of the Prince of Peace, I appeal to you to exert the powers which you have immediately to end this war. Protract it not beyond the presidential election for political purposes.

Nor enter not upon the system of settlement and agriculture proposed in this bill as if you were some William the Conqueror, lording it over a Saxon people. This "freedmen's bill," as it is called, is not worthy of the practical mind of Massachusetts. It hardly could have emanated from a Massachusetts mind, and the gentleman who introduced it tells us that he has consulted with others. It has not Massachusetts sense. It must have come from some of the freedmen's commissioners; perhaps from Robert Dale Owen, for the bill itself is socialistic, Fourieristic, Owenistic, erotic, (not erratic—I beg the reporters to bear that in mind.) The whole scheme is one of money-making; the whole scheme is one for the use of the black race by northern masters. But if, in the name of humanity, you are acting for these negroes, introduce some more practical measure, without consolidating and centralizing all the powers of this Government. Do not abandon this beautiful theory of States, and convert this Government into a consolidation and centralization, solely for the money-making purposes of this bill. Make it practical; make it self-supporting. Do not burden the Federal Treasury with it. Let it take care of itself, as is the theory of our Government. We have no more right to feed and support negroes than we have to feed and support white men. The thing is not written in the Constitution. It is not written in human nature. If you are to advance the pay of negroes in the Army, make them, as you make white soldiers, support their wives and children. Give the negro eight or nine dollars a month, and subtract the other four or five dollars for the support of his wife and children. But here is a bill the cost of which no man can foresee or possibly foretell.

I protest against my constituents being taxed for it. I protest in the name of the laborer of the North, in the name of the workman of the North, in the name of the capitalist of the North. I protest against it in behalf of the white women and white children of the North. Burden not the Treasury with the support of southern negroes. If it be a mere scheme of philanthropy and benevolence I will contribute to it, according to my means, as much as other gentlemen will contribute; but come not to the Federal Treasury for the support and sustenance of the negro people. I therefore propose to offer a resolution that this bill be recommitted to the select committee on emancipation with directions to report a bill organizing a system for the care and regulation of emancipated persons, which shall not burden the Treasury. I submit that proposition.

The SPEAKER. There is a motion already pending, to refer the bill to the Committee of the Whole on the state of the Union; but this motion will be reserved and entertained.

Mr. KELLEY obtained the floor.

Mr. STEVENS. Has the morning hour expired?

The SPEAKER. The morning hour has expired.

Mr. KELLEY. I do not desire to interfere with the course of business. I suppose I will be entitled to the floor whenever this bill comes up again?

The SPEAKER. The gentleman will then be recognized.

SALE OF GOLD.

Mr. STEVENS, from the Committee of Ways and Means, reported back the joint resolution authorizing the Secretary of the Treasury to sell gold on hand in the Treasury, with a recommendation that it do not pass.

The SPEAKER. Does the gentleman desire action now on that joint resolution?

Mr. STEVENS. No, sir.

Mr. ALLEY. I should like to inquire what disposition is made of that joint resolution?

The SPEAKER. No action has been taken on it. The House has passed it over informally.

Mr. ALLEY. I suggest to the gentleman from Pennsylvania that as this is a question of so much importance—probably there is none more important before the House—it had better be considered and disposed of at the present time.

The SPEAKER. If it is passed over now it will come up after the bill creating a Bureau of Emancipation, and the bill prohibiting the Court of Claims from taking jurisdiction of war claims, are disposed of. They both come up in the morning hour, and will take precedence of this.

INSPECTORS OF CUSTOMS.

Mr. FENTON asked, and obtained unanimous consent, to have Senate bill No. 66, to increase the compensation of inspectors of customs in certain ports, heretofore referred to the Committee of the Whole on the state of the Union, referred to the Committee of Ways and Means.

NAVAL APPROPRIATION BILL.

Mr. STEVENS. I move that the special order in Committee of the Whole on the state of the Union be postponed.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. FARNSWORTH in the chair, in the absence of Mr. WASHBURN,) and proceeded to the consideration of the naval appropriation bill, on which the gentleman from Ohio (Mr. C. A. WHITE) was entitled to the floor.

Mr. C. A. WHITE. Mr. Chairman, I avail myself of that freedom of debate which by the rules of the House is only allowed in Committee of the Whole on the state of the Union, for a brief space of time to occupy the attention of the House in the discussion of questions which I conceive to be of vital moment to the cause of the Union and of free government. Well knowing that any attempt at legislation in the present temper of the House upon the questions which I propose to discuss would prove unavailing, the only resource left me is to indulge in that freedom and manliness of debate which becomes a member of this body and a representative of the people. Doubtless I shall upon many vital points differ materially, not only with a majority of the House, but with many gentlemen of my own party with whom I have affiliated on this floor. I do not, therefore, speak for any person but myself, nor do I desire that any person may be held responsible for anything I may say, nor will I acknowledge any responsibility for what I may say, or answer therefor to any but my constituents; to them I acknowledge the fullest and completest responsibility, and to them alone will I render my account.

I maintain that the war in which we are at present engaged is wrong in itself; that the policy adopted by the party in power for its prosecution is wrong; that the Union cannot be restored, or, if restored, maintained by the exercise of the coercive power of the Government, by war; that the war is opposed to the restoration of the Union, destructive of the rights of the States and the liberties of the people. It ought, therefore, to be brought to a speedy and immediate close.

These are questions from which the motive for nearly all our legislation springs, and are therefore proper subjects for careful and dispassionate consideration. We all have an equal interest in their rightful determination. Our own happiness and the welfare of those who are to come after us are all equally involved. We should, then, in view of these great interests, strive to banish those passions and resentments which the heat and fervor of a terrible revolution is so well calculated to inspire, and call into requisition all of the higher and more exalted elements of our nature, that we may in the exercise of a clear conception and sound judgment the better conserve the interests and promote the welfare of our common country.

It does not require a very profound study of the philosophy of human nature, or extended research in history, to illustrate to the satisfaction of the commonest understanding that if the war in which we are unhappily engaged is ever brought to a close and a permanent peace established, it must and can only be as the result of negotiation. The President in his inaugural address very wisely and appropriately said:

"Suppose you go to war, you cannot fight always; and when, after much loss on both sides, and no gain on either, you cease fighting, the identical old questions as to terms of intercourse are again upon you."

What then, I ask, can be gained by it? Nothing; a thousand fold worse than nothing. War only tends to exasperate the feelings of the sections, and make the work of reconciliation more difficult, and the probabilities of reunion more remote.

The war is not merely a collision of the passions, but it is a conflict of armed opinions, stimulated, it is true, by the passions, which war always excites and inflames rather than subdues. How, then, is this conflict of opinion to be reconciled? Certainly not by force. You cannot conquer opinion, nor change the convictions of men by corporeal inflictions. It is a trite old saying, full of philosophy, wisdom, and practical statesmanship, as illustrated by the experience of mankind for ages and generations:

"He that compiles against his will,
Is of his own opinion still."

You cannot subjugate opinion; it is as free as the God of which it is a scintillation. You may cast the body of which it is an indweller in a dungeon; you may torture it on the rack, burn it at the stake, execute it on the gibbet, or cleave it down on the bloody field of battle, and so far from having gained the mastery, you will have but given to it a sanctity, purity, and power that it never before possessed. Does any man doubt that if there had never been any conflict of opinion between the North and the South they never would have been at war with each other, or that if that conflict were reconciled that peace would be at once established and the Union restored? It is in the very nature of things impossible that we should all think alike. We view questions and things from different stand-points. Those evidences from which we draw our conclusions strike some minds with greater and others with a less force. Our modes of thinking, our preconceived opinions, our education, and the peculiar organism of different minds will lead us to different conclusions and cause us to adopt different principles of action. An apt illustration of this fact may be found in what is sometimes denominated the religious world, where we find as great diversity of sentiment upon matters affecting the happiness of man for time and eternity as we do in the political world. In fact, some of the most bitter, persecuting, relentless, and sanguinary wars that have ever been waged have grown out of differences in religious opinions.

The people of the South have fixed and settled principles of political action, to which they are strongly attached by tradition, by education, and from a deep and settled conviction, the maintenance of which they believe to be essential to their rights, their liberty, and equality, and therefore their happiness and welfare. In these opinions they may be right, and they may be wrong; whether they are one or the other, it is not for me to say; for were you or I to attempt to do so authoritatively it would be futile. Of that question they will be the sole and exclusive judges, whether rightfully and legally or not it makes no difference.

Do you propose to dig these convictions, rooted in the hearts of a community numbering

ten-million souls, from their breasts with bayonets? Nothing short of the total annihilation and banishment of the population of the South will answer any purpose for which the war can be prosecuted. If you leave the work half done; if you but smother instead of put out the flames, they will break out again with redoubled fury. How shall we extinguish the flames and rescue the superstructure from the devouring element? By adding fuel to the fire? No: By tearing down the building? No. How then? By extinguishing the flames, repairing the structure, and leaving the occupant in its full enjoyment just as he was before the casualty. Make peace, repair the injuries inflicted by the war, and restore all the States to the Union just as they were before the war began, with all their rights unimpaired, except so far as the ravages of war may have made that impossible.

But I may be asked, how would you make peace? I answer, by reconciling the differences of opinion, that conflict of principle which is the sole cause of the war, by fair, honorable, just, and reasonable concessions, not, in the euphonious language of the gentleman of Kentucky, by meeting it, fighting it, and crushing it. I differ with him in the conclusion that this is the whole sum of our moral, social, and political duties. That is the voice of passion, and not the language of reason. It is the sentiment that burns churches and convents, whips Quakers, inspires the horrors of the inquisition, and which has reddened the pages of history with the shed blood of the martyrs, saints, and heroes of all ages. I had cherished the hope that the progress of Christianity and the march of an enlightened civilization had carried us beyond this point. You may kill the heroic and true men of the South—I mean those who will not surrender their principles and what they conceive to be their honor but with their lives. You may make hypocrites and dissemblers of all the rest for a time, but the God in man, struggling ever for the mastery, will ultimately assert His supremacy. Your work can never be accomplished until you transplant the principles of the Puritan in the very heart of the Cavalier, of the New Englander in the Carolinian, a task which the conflicts of centuries have so far failed from accomplishing that they have but served to widen the breach and make the line of demarcation more palpable and distinct. That the South are terribly in earnest, that they are honest in their convictions, that they felt and now feel a conscious sense of insecurity in the possession and enjoyment of what they conceive to be their reserved and constitutional rights, the great sacrifices they have made and are continually making does not permit me to doubt.

Here I might, with great propriety, quote the language of Douglas, a statesman worthy of the best days of the Republic, a patriot whose sympathies were ever in accordance with the true spirit of our institutions, and whose love of country would not permit him to survive its wreck and ruin. Hear him:

"When there is such an irrepressible discontent pervading ten millions of people, penetrating the bosom of every man, woman, and child, and in their estimation involving everything that is valuable and dear on earth, is it not time to pause and reflect whether there is not some cause, real or imaginary, for apprehension? If there be a just cause for it, in God's name, in the name of humanity and civilization, let it be removed. Will we not be guilty, in the sight of Heaven and posterity, if we do not remove all just cause before proceeding to extremities? If on the contrary there be no real foundation for these apprehensions; if it be all a mistake, and yet they, believing it to be a solemn reality, are determined to act on that belief, is it not equally our duty to remove the apprehension? Hence the obligation to remove the discontent, whether real or imaginary, is alike imperative upon us, if we wish to preserve the peace of the country and the union of the States.

"It matters not, so far as the peace of the country and the preservation of the Union are concerned, whether the apprehensions of the southern people are well founded or not, so long as they believe them, and are determined to act upon that belief. Extirpation, subjugation, or separation, one of the three, must be the result of war between the northern and southern States. Surely you do not expect to exterminate or subjugate ten million people, the entire population of one section, as a means of preserving amicable relations between the two sections?

"I see no alternative, therefore, but a fair compromise, founded on the basis of mutual concessions, alike honorable, just, and beneficial to all parties, or civil war and disunion.

"Is there anything humiliating in a fair compromise of conflicting interests, opinions, and theories, for the sake of peace, union, and safety?"

Such is the language of the noble Douglas, worthy of his great name. If the South entertain

serious apprehensions of danger to their rights and institutions, no matter whether such apprehensions are well founded or not, it is the first duty of a wise and beneficent Government to remove their fears and allay their discontents by any necessary guarantee. If the Government intends no encroachments upon their rights, and their fears and apprehensions are unfounded, what can be lost by their removal? If, on the contrary, encroachments on their rights endangering their security in the possession and enjoyment of their property and threatening the stability of their institutions are intended, then their fears and apprehensions are well founded and the Government is under still higher obligation to remove them. In either case there is nothing to be lost and everything to be gained by securing the confidence and affections of the people. The confidence of the people is the strength of the Government. That Government that cannot command the confidence of its citizens or subjects, it matters not what may be its form, will always be the prey of faction, and must sooner or later fall.

If there ever was any room for doubt as to the objects and purposes of the party in power, of those who control and direct the war and its policy, that doubt must now be removed. Their purposes no longer require concealment. With a million men already in the land and naval service, with all of the available military resources of the country at their command, with the judicial, legislative, and executive departments of all the State governments prostrate at the feet of the Executive, who has with the utmost complacency clothed himself with a "war power" that disregards all constraints and overleaps every barrier of the Constitution, and having reduced all the northern States to the condition of subject provinces, by the assumption of absolute dominion over the life, liberty, and property of every citizen, they propose to compensate us for these sacrifices, and for the loss of three hundred thousand of our brothers, by reducing the ten millions in the South (except the negroes) to the same condition, and governing them in the same way for untold years and generations, imposing upon them the like loss of precious blood and countless millions of treasure. With all becoming respect for the opinions of others, I must say I can see no good to come of this war to the country. Can the Union be restored by it? Can the constitutional supremacy of the Government be asserted over the States in revolt by it? Can any conceivable benefit be conferred upon the people North or South by it?

The Union cannot be restored either in semblance or form by war. If we should succeed in overrunning the South with our arms, and reducing them to a state of subjection by force, we would be far, very far, from a restoration of the Union. That would be a Union founded in force, and not consent, the very opposite of that established by the wisdom of our fathers. It would be the union of England with Ireland, of Poland with Russia, of Hungary with Austria, a Union to be execrated and despised by every true American who breathes that spirit of patriotic piety that animated the bosoms of our fathers. It would be a Union of hate pinned together by bayonets, a Union which it would cost us our liberties to maintain, which could only be preserved by the unholy trinity of perpetual war, perpetual taxation, and perpetual conscription. It may in the estimation of some be disloyal in me to say it, but I think it, and will therefore say it. I have no heart for such a Union as that; I reject it, and should regard its establishment as the greatest calamity that ever befell my country except the war which produced it. It has already cost twenty million people at the North their liberties in the effort to establish it, and if it should be established they will never regain them while it endures.

The President, in his recent message and proclamation sent to Congress, proclaims that whenever one tenth of the number of persons who voted at the presidential election in 1860 in any of the revolting States shall concur in the organization of a State government, and swear to support the proclamations he has issued and such as he may hereafter issue, the Federal Government will recognize such State government, and of course employ its bayonets to enforce the decrees and edicts of one tenth of the people upon the remaining nine tenths, the one tenth to be composed of

freed negroes, and plundering speculators, who may be induced to go there for the purpose of making their fortunes out of confiscated property, and working freed negroes upon abandoned plantations in the culture of sugar and cotton. How long does the President expect these plunder-gorged satraps would remain in the South after the Army was withdrawn? My opinion is that they would abdicate their seats of power the very moment the protection of the Army was withheld, and they would never be seen there again. How long will it take the people of the South to become reconciled to a Government placed over them under such circumstances? Certainly not while grass grows or water runs; nor until the laws that govern humanity—which are as pervading as the laws of nature—are all reversed, and man becomes degraded to the condition of the brute.

How long does Mr. Lincoln think that his own great State of Illinois would submit to such a government as he proposes to set up over the southern States? Just as long and no longer than they could throw it off. Just so it is in the South. Human nature North and South is the same. Hence Mr. Lincoln's theory involves the necessity of keeping constantly in the field a large standing army to keep up and enforce the authority of the governments he proposes to set up over the people in the revolting States. After their armies are dispersed and their military power broken, if such should ever be the case, it would take not less than five hundred thousand men to enforce the authority of a government set up over ten million people against their consent, which was repugnant to all their feelings, sentiments, and principles. They would, like Poland and Hungary, whenever any great national emergency occurred, rise up in revolt and assert their freedom and independence. And yet, with all the ingenuity of the men in power, those who control the destinies of the nation, they cannot tell us of any better fruits this war is to bear to us. In the name of humanity, of justice, and of God Almighty, ought it not to cease? In all that I have heard of war for the last three years—and it has been much, scarcely anything else—my mind has not been enlightened by the delineation of any plan whereby the Union as our fathers made it can be restored through its agency, and I confess my utter inability to perceive such a possibility.

The party in power now declare the impossibility of restoring the Union as it was and the Constitution as it is through the agency of war. Then can the supremacy of the Constitution and the laws be asserted and enforced in the insurrectionary States by it? We have, alas! for three long, sad, and bloody years been trying to work out this problem. In the effort at least three hundred thousand of our brave and gallant soldiers have gone prematurely to fill untimely graves; widowed and bereaved Rachels are weeping around almost every hearthstone in the land, and refuse to be comforted because their husbands, sons, and brothers are not; thousands of millions of dollars have been expended, and the country brought to the very verge of bankruptcy, to use the language of the distinguished gentleman from Ohio, [Mr. SPALDING,] and yet not a single law has been enforced in a single revolting State, while the supremacy of the Constitution and the majesty of the law have been set at naught in every loyal State; drum-head courts-martial, with leather-head judge advocates have become the arbiters of the life, liberty, and property of the citizen, and yet after all these sacrifices we have made no progress in the enforcement of the Constitution and laws. On the contrary we are further from it than when we began. The entire population of the South, men, women, and children, are united in one solid mass in their resistance to us. Such have been the results of your policy in the prosecution of the war. The supremacy of the confederate constitution within the confederate States is just as complete as that of the United States is in the loyal States. While the war continues it is impossible in the very nature of things for us to enforce laws in the revolting States. We are without courts, juries, marshals, and all of the ordinary processes of the law are obstructed. Will it be any better if a government is set up over those people by force, against their will, repugnant to the feelings and principles of the great mass of the population? It will constantly require a large standing army as a *posse comitatus* to preserve

the public peace, and enforce laws upon so large a body of unwilling people, expounded by imported judges, and enforced by imported marshals, backed up by an imported *posse comitatus*. The effort, then, to enforce the Constitution and laws of the United States upon the confederate States by making war upon them must ever prove unavailing and abortive. It ought, therefore, to be abandoned.

I have now shown, at least to my own satisfaction if to nobody else, that war cannot restore the Union, maintain the supremacy of the Constitution, and enforce the laws in the revolting States; that the subjugation of those States and the holding and governing of them as subject provinces would involve the loss of our own liberties, require a large standing army, oppressive taxation, and a system of forced conscription revolting to a free people, utterly at war with the fundamental law of the land, and subversive of the principles upon which the Union of the States is founded. Then shall we wage a war against the confederate States with the view and for the purpose of annihilating and driving into banishment their entire white population? Such a war would be revolting to the moral sense of the civilized world and shocking to humanity, and yet right here the real issue of the crisis presents itself: peace by conciliation, concession, and compromise, or war to the full extent of extermination and ostracism. He who favors what is termed a "vigorous prosecution of the war," opposes all compromise, and stops short of this point is illogical and unreasonable. There is no point at which we can halt, putting compromise out of the question, short of extermination. Subjugation is impossible, for, as I have before said, if you leave the work half done, in a little while you will have more than all of it to do again, and at a time when we are less able for the task than now, for the burdens of heavy conscriptions and taxation will be a continual draft upon the vital powers of the body-politic, thus, in the interim, weakening our energies for the renewal of the inevitable struggle, and perhaps disposing the temper of our people in favor of peace.

We are dealing with a proud and stubborn people, Americans all of them, proud of their history, their traditions, and their race, as they may well be; devoted in the last degree to that spirit of independence which our institutions are so well calculated to inspire, they may be our fellow citizens, but our subjects—never! never! No, never! You may bury in bloody graves her brave and gallant sons until resistance shall prove unavailing, you may drive the balance of her people into banishment, confiscate their estates, and send them, men, women, and children, all ages, conditions, and sexes, strangers in a strange land, houseless and homeless wanderers; all this you may do, and more if possible, but you can never make them a subject race. I say this not for the people South alone but for my countrymen, for my blood, and my race. With these remarks I put the question of subjugation aside as not only impolitic but impossible; and repeat that we are impaled upon a dilemma that has but two horns, and we must choose upon which we will throw ourselves, peace by a compromise of conflicting interests, principles, and opinions, or an exterminating war of the North against the South. We had just as well prepare our minds to meet this issue, the sooner the better. Twenty million people possessed of all the physical and material resources with which it had pleased God to bless us may possibly destroy, sweep from the face of the earth the six millions of our race and blood inhabiting the confederate States. I say such a thing may be possible; but before entering upon such a work would it not be wise in us to make some little calculation of the profit and loss which we must necessarily incur? A war prosecuted to such extremities as that cannot be terminated in five, ten, or even twenty years. The constant draft upon the energies of the Government would necessarily compel it to make corresponding requisitions upon the life, blood, and treasure of the people who would have nothing that it was not disloyal to call their own; under this process the Government would, like an athlete man, grow stronger by the continual exertion of its strength, the people grow weak just in proportion as the Government grows stronger, for the Government derives all its powers from the people until they, when the fullness of time had come, like Samson

shorn of his locks and bereft of their power, would become the mere sport and plaything of this new Delilah.

Nor would the necessities of the Government cease with the war; the burdens of an untold amount of national indebtedness and many other causes which I will not stop here to enumerate will create a necessity for a strong centralized Government, that its exorbitant demands upon the fruits of labor may be enforced. The great conflict between capital and labor is just now being inaugurated. The Government bonds which represent the indebtedness of the country are being purchased up by the capitalists of the East at thirty-five and forty per cent. below the par of constitutional currency, and they are receiving six per cent. interest thereon in gold. Our indebtedness is now popularly stated at \$3,000,000,000, and is increasing at the rate of more than two millions per day. All this indebtedness will go into the hands of capitalists exempt from State, Federal, or municipal taxation. The result of all this is that the product of labor or the laboring and producing masses of the country will owe to the capitalist non-producing class an amount equal to one fourth the value of the entire taxable property in the United States. The principal office, then, which your Government will have to perform after this war is at end will be to provide for and enforce payment of these exorbitant demands of the rich upon the poor, acting simply the part of a trustee or receiver, wrenching the money from the fists of one class and emptying it into the coffers of the other. The people in the newer and western States have no money to purchase Government bonds with. Our population is composed of men of moderate means as a general thing; they have expended all their available capital in the purchase and improvement of their lands, and are now just beginning to acquire an easy competency. In the State of Connecticut, having only four hundred and sixty thousand population, they have more capital than the great State which I have the honor in part to represent, having a population of two million three hundred and forty thousand.

What will be the result of this new state of things thrust upon us by the war? The establishment of classes, a peasantry and an aristocracy. The same causes that produced these results in the Old World will in the New; those causes now exist among us, and the result must sooner or later follow. The mutual jealousies of these classes will for a time, it is to be feared, prove to be a fruitful source of commotion among us, and require a strong and vigorous Government to preserve order and enforce the public peace. The vast area of our territory and our rapidly increasing population will do much to militate against these results. The ruin impending our system may be retrieved and averted by a speedy peace; but if the war is to be prosecuted to the extremity of extermination, I can for the life of me see nothing in it but the utter wreck and overthrow of our proud fabric of free government, and the erection upon its ruins of an absolute imperial despotism that may wield its barren scepter over the waste and desolate fields of the South, the prostrate liberties and bleeding forms of freedom at the North. These results are so certain, so inevitable, and so apparent, that I cannot believe that the reflecting, thinking, and reasoning men of the Republican party intend them. I will do them the justice to believe that they entertain no such monstrous ideas and cherish no such hideous purposes.

They are prosecuting the war, as I believe, not for the purpose of restoring the Union, maintaining the supremacy of the Constitution, nor for any purpose of subjugation or extermination, unless subjugation and extermination become necessary to the accomplishment of the real purposes and objects they have in view, for which the war was inaugurated, and has ever since been conducted. That object and purpose is the abolition of slavery in every State where it exists. This never has been a war for the Constitution and the Union, as the popular phrase goes, but it was inaugurated and has been conducted solely and exclusively for the purpose of abolishing slavery, and for no other purpose. There has not been an hour since the war began, and for some time before, when the party in power, those who inaugurated and control and direct the policy of

the war, would have given to a bleeding and distracted country peace for the Constitution and the Union. They would not do it now. War is the great shibboleth with which they expect to scourge slavery from the land, and maintain and perpetuate their political ascendancy. Until these objects are accomplished they do not intend that peace, harmony, and union shall prevail. The measure of the extent to which they will go will be just what the emergencies that arise in the progress of events may require. Should the path to the object of their desire lead them over the ruined, shattered, dismembered fragments of a broken and dismembered Union, a torn, tattered, desecrated Constitution, and the ruins of a Government in which are concentrated all the best hopes of the patriot for freedom and civilization, not halting for a moment, they will press forward to the accomplishment of their wanted object regardless of consequences. Driven on by the irresistible impulse of a blind revolutionary zeal, hugging the delusive phantom of universal emancipation, inspired with the vain hallucination of giving freedom to four million slaves, they seem to know not that they are reducing themselves and more than twenty-six million of their own race to the same condition, and sacrificing all the fruit of our revolutionary struggle.

Let us suppose for a moment that our abolition friends succeed in the emancipation of all the slaves, what will be the result? Will that restore peace to a distracted country? Where will you put them? What will you do with them? Will they be permitted to remain South among the people from whom they have been forcibly torn away? Will they if they desire to continue free take the chances of being reenslaved upon the restoration of peace by remaining South with their masters? It certainly cannot be expected that we will always keep our armies in the South to prevent the masters from reenslaving those who may have been emancipated by force of arms. We cannot wage eternal war against these people; there must be an end of it some time and some way. Then to make these slaves permanently free you must before the war closes force them all out of the slave States to prevent their reenslavement when the war is terminated and the Army withdrawn. To what land will these newborn children of Israel make their exodus? Will it be to the cold, sterile, and barren regions of New England, where their population is already sufficiently dense, and where climate, soil, and labor are all repulsive to the nature and capacities of the poor African who has been cradled with his face exposed to a tropical sun? Would you expect the untutored African to run the New England engines, turn their spindles, or indulge in the ingenious pastime of making pins, combs, buttons, horn gun-flints, and wooden nutmegs? His brawny fingers and untutored capacities do not adapt him to such implements.

In the year 1850 the six New England States had a white population of 2,705,095, and a colored population of 23,003. In 1860 they had a white population of 3,110,572, and a colored population of 24,711, showing an increase of colored population in ten years of 1,708. In 1850 the State of Ohio, a comparatively young State, with a white population of 1,955,050, had a colored population of 25,279; and in 1860, with a white population of 2,302,838, she had a colored population of 36,673, showing an increase of colored population in ten years of 11,394; while New England during the same period shows a gain of only 1,708. Now there must be some reason for this state of things.

It is not on account of any hostility of the people of the New England States to the colored race. Far from it. For thirty years, in fact I might say ever since the African slave trade was abolished and they sold their slaves to the South, their pulpits, their lecture-rooms, their theaters, every forum has resounded with pæans of praise to the downtrodden African. One would suppose, taking New England sermons—now called anti-slavery lectures—and New England literature as the test, that there was no greater degree of compatibility between any two races of the earth than between the modern New Englander and the "free American of African descent." They do not only ask liberty but equality with the white race for him.

Is it not, then, wondrous strange that with all these strong cords and ties of sympathy between

these people the colored people do not seek homes among them? There is but one explanation, and that I have given: the climate, soil, productions, and types of labor in those cold and frigid regions are not adapted either to the nature or capacities of the African race. It is a curious fact that my district, embracing five counties in the southern part of the State of Ohio, has nearly twice as great a colored population as the States of Maine, New Hampshire, and Vermont, and my own county more than the States of New Hampshire and Vermont. The reason for this state of things must be apparent. Our climate, compared with that of New England, is warm and salubrious; our soil rich and productive; our labor is employed in the simpler (but I trust not less honest and beneficial) mechanical and agricultural pursuits, adapted to the nature and the capacities of the negro, and therefore they migrate to that region.

The result of all this is, that if the four million slaves in the South are turned loose upon us they cannot remain South under penalty of re-enslavement; they cannot go North under penalty of starvation and death. The agricultural States bordering on the slave States will become the paradise to which these new-born freemen must and will inevitably flock, and in which they will make their future homes. There is but one way to avert these consequences, by colonization, and that is impracticable and impossible.

Now for a moment let us consider the consequences of turning loose in our midst these four million houseless, homeless, and propertyless fugitives, with all the prejudices of race and caste existing among us. Right here is where their irrepressible conflict about which we heard so much begins. These prejudices are "things which are of ourselves a part." We cannot get rid of them if we would. These freedmen will at once be brought in competition with the laboring masses in that section of the Union where the fates have cast their lots, in the agricultural region of the Northwest, as I have shown, and that, too, at a time of all others least auspicious, when the labor of the country is depressed, crushed to the earth by an almost fabulous amount of national indebtedness. Mischief-making abolitionists will not be satisfied with emancipation, but they will inspire this race with the dream first of political then social equality. The collision of conflicting principles and interests, the conflict of white and black labor, inspired by the prejudices of race and caste, which when fully aroused are stronger than any other, will inevitably produce a collision of races. If it ever begins, and I believe it will, then the poor African will have occasion, if there ever was such an occasion, to exclaim, "God save me from my friends!" Then we shall have a renewal of that terrible conflict between the Spaniards and the Moors, which for cold and implacable ferocity is without a parallel in history. There the prejudices of race and caste were arrayed against each other, inspired by that pride and heroic chivalry which was the characteristic of that age. That contest resulted in the annihilation and ostracism of the Moorish race from the soil of Spain. And if this contest between the races here ever begins, it will not stop short of the extermination of the colored race, and none of us will live to see the end of the demoralizing consequences of such a struggle. Surely, then, this is an unwelcome feast to which we are inviting the colored people of our country. These are the only legitimate fruits of the war. It bodes no good either to the white or colored race.

Now, Mr. Chairman, I have attempted to show that the Union cannot be restored by war; that the Constitution and laws cannot be enforced in the revolting States by it; that the subjugation of the ten million people in the revolting States is impossible, or, if possible, that it will prove to be the destruction of the Union, and involve the loss of our own liberties; that the extinction and ostracism of the white population of those States is alike destructive of the Union, our system of free Government, revolting to the laws of Christian civilization, and can end only in the establishment of an absolute imperial despotism; that a war waged for the abolition of slavery, if successful, will be productive of a conflict between the races, ending in the destruction of the colored race.

In any light, then, in which it can be presented to my vision, it is a useless, fruitless, and criminal waste of precious blood and treasure.

But it is said we are engaged in war, and how can we get out of it without loss of honor? The honor lies not in its continuance, but in putting an end to it. The old Governments of Europe, jealous of the growing power of the United States, and anxious to put a check upon it, would doubtless be glad to see us separate, and that system of checks and balances established on the North American continent which they have established on the European. This they deem essential to the peace of the world. Considering the expansive area of our territory, and our rapidly increasing population, they look forward to the time, not far distant if we are wise, when the dream of Young America will become a reality, and the whole boundless continent shall be ours, teeming with more than a hundred million of the best population on the face of the earth. It is this growing giant that they would strangle in its infancy by the establishment of a monarchy in Mexico whose perpetuity should be guaranteed by a European alliance, and by lopping off the confederate States. They are only waiting and looking on with calm complacency because we are doing the work much more surely and rapidly than they could do it themselves. When the hour shall have arrived when the process of exhaustion through which we are speedily passing shall have reduced us to utter helplessness, and when they can interfere with impunity, they will, dictating to us their own terms.

Sir, we can make peace, and every incentive to humanity and to patriotism conspires to demand it of us. If we had the will to do it we could do it, for where there is a will there is a way; we have never tried it; but on the contrary every effort, every measure looking to a restoration of peace and the reestablishment of fraternal relations has been proudly and scornfully rejected by the President and by Congress, and the parties proposing them subjected to undue and unfounded suspicions. I do not believe that the South are the enemies of our institutions, that they are opposed to the principles of our Union, or of republican free government as embodied in our Constitution; upon these great fundamental principles I do not believe that there is any material difference of opinion among us; for upon their withdrawal from the Union they adopted the Constitution of our fathers and their fathers as the organic law of their government, with immaterial changes affecting matters of construction more than principles, and they established a union under it similar in all respects to our own, and that from which they had withdrawn.

There is then no conflict of principles between us that we cannot or ought not to reconcile, if we would have union and harmony restored to our suffering, bleeding, and distracted country. Our troubles have grown out of differences of opinion as to the construction of the Constitution upon matters affecting the rights of the States, their institutions, and the right of individuals to be secure in the possession and enjoyment of private property. If these conflicting opinions were reconciled, the cause of the war would cease to exist and the war with it. Slavery is not the cause of the war, but it is the conflict of opinions and principles growing out of that relation; and you can no more change those opinions and principles by destroying the institution of slavery, than you could change the opinions and principles of men with reference to their right to possess and enjoy any other species of property by robbing them of it, destroying it, or stealing it from them. Their opinions and principles with reference to their rights would continue to be the same after the property is destroyed as before, and neither they, their children, nor their children's children will ever think any the better of you for your pains.

Then let us reconcile those conflicting opinions, as they only can be reconciled, by mutual concessions: the North by removing every ground of apprehension and making every man, woman, and child feel a conscious sense of security in the Union, in the undisturbed possession and enjoyment of all the institutions of their States and the rights of their persons; the South by coming back into the Union, yielding an implicit and willing obedience to its authority; and, thus united, to devote all our energies to the reparation of the injuries and ravages of war, and as one happy and prosperous people renew our march on the great highway of progress and of Christian civilization

to that goal which a beneficent Benefactor has set in store for us.

Mr. BLOW addressed the committee, but before concluding his remarks the committee rose informally, and a

MESSAGE FROM THE SENATE

was received by Mr. HICKY, their Chief Clerk, informing the House that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 36) to amend the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

The committee again resumed its session, and proceeded to the consideration of the

NAVAL APPROPRIATION BILL—AGAIN.

Mr. SCHENCK. I ask the gentleman from Missouri to yield and allow us to go into the House and dispose of the report of the committee of conference on the conscription bill.

Mr. BLOW. I yield the floor.

Mr. SCHENCK. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FARNSWORTH reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 151) making appropriations for the naval service for the year ending the 30th of June, 1865, and had come to no resolution thereon.

ENROLLED RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a joint resolution (H. R. No. 31) making appropriation to pay taxes on certain lands owned by the United States; when the Speaker signed the same.

CONSCRIPTION BILL.

Mr. SCHENCK. I am now prepared to make a report from the committee of conference on the enrollment bill. I send the report to the Clerk's desk, and ask to have it read.

Mr. HOLMAN. I wish to make a single suggestion. It is very manifest that we cannot dispose of this report to-night, and I will suggest that it be postponed until Tuesday next, by which time the amendments made by the committee may be printed.

Mr. SCHENCK. I cannot consent to that.

Mr. STEVENS. I think it had better be postponed. There is evidently no quorum in the House.

Mr. SCHENCK. I think differently. I would gladly accede to the course proposed by the gentleman from Pennsylvania, but I feel that there is a public duty upon us to pass this bill at as early an hour as possible. I cannot therefore consistently with my sense of duty enter into any such arrangement. I ask for the reading of the report.

The report was read, as follows:

The committee of conference appointed to consider the disagreeing votes of the two Houses on the bill (S. No. 36) "to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March 3, 1863," having met, after full and free conference do report as follows:

That the House of Representatives do agree to the second section of the bill of the Senate, with the following amendments, to wit: 1. Strike out the word "or," where it first occurs in the second line of said section. 2. After the word "township," in the second line of said section, insert the words "precinct or election district." 3. Strike out the word "or," in the third line of said section. 4. After the word "townships," in the third line of said section, insert the words "precincts or election districts." And that the Senate do agree to the said several amendments.

That the House of Representatives do agree to the third section of the bill of the Senate, with the following amendments, to wit: 1. After the word "if," in the first line of said section, strike out the words "any State," and insert the words "the quotas" in lieu thereof. 2. Strike out the words "fail to furnish," in the second line of said section, and insert the words "not be filled" in lieu thereof. 3. Strike out the words "the number of men required therefrom," in the third line of said section. 5. Strike out the word "or," where it first occurs in the fifth line of said section. 6. After the word "township," in the fifth line of said section, add the words "precinct or election district." 7. Strike out the word "or," in the sixth line of said section. 8. After the word "townships," in the sixth line of said section, insert the words "precincts or election districts." 9. After the word "township," in the twelfth line of said section, insert the words "precinct or election district." 10. After the word "county," at the end of said

section, add the following: "And if the quota of any district shall not be filled by the draft made in accordance with the provisions of this act, and the act to which it is an amendment, further drafts shall be made, and like proceedings had, until the quota of such district shall be filled." And that the Senate do agree to the said several amendments.

That the House of Representatives do agree to the fourth section of the bill of the Senate, with the following amendments, to wit: 1. After the word "time," in the sixth line of said section, insert the words "previous to the draft." 2. After the word "draft," in the seventh line of said section, insert the words "nor, at the time, in the military or naval service of the United States." 3. Strike out the words "three years," in the tenth line of said section, and insert the words "the time for which such substitute shall have been accepted" in lieu thereof. 4. Strike out all of said section after the word "years," in the tenth line thereof. And that the Senate do agree to the said several amendments.

That the House of Representatives do agree to the fifth section of the bill of the Senate, with the following amendments, to wit: 1. Strike out the words "enrolled and" in the first line of said section. 2. After the word "may," in the second line of said section, insert the words "before the time fixed for his appearance for duty at the draft rendezvous." 3. Strike out all of said section after the word "draft," in the twenty-fourth line, and insert the following in lieu thereof: "In filling that quota; and his name shall be retained on the roll in filling future quotas; but in no instance shall the exemption of any person, on account of his payment of commutation money for the procurement of a substitute, extend beyond one year; but at the end of one year, in every such case, the name of any person so exempted shall be enrolled again, if not before returned to the enrollment list under the provisions of this section." And that the Senate agree to the said several amendments.

That the sixth section of the bill of the Senate be stricken out.

That the seventh section of the bill of the Senate be stricken out.

That the eighth section of the bill of the Senate be stricken out, and that the Senate do agree to the fifth section of the amendment of the House of Representatives.

That the ninth section of the bill of the Senate be stricken out, and that the Senate do agree to the ninth section of the amendment of the House of Representatives, with the following amendments, to wit: 1. After the word "able," in the second line of said section of said amendment, insert the words "or ordinary." 2. After the word "able," in the ninth line of said section, insert the words "or ordinary." 3. After the word "able," in the sixteenth line of said section, insert the words "or ordinary." 4. Strike out the words "Secretary of the Navy and the Secretary of War," in the twentieth and twenty-first lines, and insert the words "President of the United States" in lieu thereof. And that the House of Representatives agree to the said several amendments.

That the House of Representatives do agree to the tenth section of the bill of the Senate, with the following amendments, to wit: 1. After the word "able," in the second line of said section, insert the words "or ordinary." 2. Strike out the word "or" where it first occurs in the fifth line of said section. 3. After the word "township," in the fifth line of said section, insert the words "precinct or election district." 4. Strike out the word "or," in the sixth line of said section. 5. After the word "townships," in the sixth line of said section, insert the words "precincts or election districts." And that the Senate do agree to the said several amendments.

That the House of Representatives do agree to the eleventh section of the bill of the Senate, with the following amendments, to wit: 1. Strike out the word "or," in the eighth line of said section. 2. After the word "township," in the eighth and ninth lines of said section, insert the words "precinct or election district." 3. Strike out the word "or," in the tenth line of said section. 4. After the word "townships," in the tenth line of said section, insert the words "precincts or election districts." And that the Senate do agree to the said several amendments.

That the twelfth section of the bill of the Senate be stricken out.

That the thirteenth section of the bill of the Senate be stricken out, and that the Senate do agree to the thirteenth section of the amendment of the House of Representatives.

That the House of Representatives do agree to the fourteenth section of the bill of the Senate.

That the House of Representatives do agree to the fifteenth section of the bill of the Senate, with the following amendment, to wit: Add to said section the following: "And nothing in this section contained shall be construed to relieve the party offending from liability, under proper indictment or process, for any crime against the laws of a State, committed by him while violating the provisions of this section." And that the Senate do agree to said amendment.

That the House of Representatives do agree to the sixteenth section of the bill of the Senate.

That the Senate do agree to the seventeenth section of the amendment of the House of Representatives.

That the seventeenth section of the bill of the Senate be stricken out, and that the Senate do agree to the eighteenth section of the amendment of the House of Representatives.

That the House of Representatives do agree to the nineteenth section of the bill of the Senate.

That the House of Representatives do agree to the nineteenth section of the bill of the Senate, with the following amendments, to wit: 1. Strike out the word "four," in the eleventh line of said section, and insert the word "three" in lieu thereof. 2. Strike out all of said section after the word "soldiers," in the fourteenth line, and insert the following in lieu thereof: "Provided, That no person shall be entitled to the benefit of the provisions of this section, unless his declaration of conscientious scruples against bearing arms shall be supported by satisfactory evidence that his department has been uniformly consistent with such declaration." And that the Senate do agree to the said several amendments.

That the House of Representatives do agree to the twentieth section of the bill of the Senate.

That the House of Representatives do agree to the twenty-first section of the bill of the Senate, with the following amendment, to wit: Strike out the words "absent from the country or," in the sixth and seventh lines of said section, and insert the words "for some good and sufficient reason" in lieu thereof. And that the Senate do agree to said amendment.

That the House of Representatives do agree to the twenty-second section of the bill of the Senate, with the following amendment, to wit: Add to said section the following: "Provided, That the Secretary of War may order the discharge of all persons in the military service who are under the age of eighteen years at the time of the application for their discharge, when it shall appear from due proof that such persons are in the service without the consent, either express or implied, of their parents or guardians: And provided further, That such persons, their parents or guardians, shall first repay to the Government and to the State and local authorities all bounties and advance pay which may have been paid to them, anything in the act to which this is an amendment to the contrary notwithstanding." And that the Senate do agree to said amendment.

That the House of Representatives do agree to the twenty-third section of the bill of the Senate, with the following amendment, to wit: 1. After the word "any," in the fourth line of said section, insert the word "drafted." 2. Strike out the words "drafted, and liable to render service," in the fifth line of said section. And that the Senate do agree to the said amendments.

That the House of Representatives agree to the twenty-fourth section of the bill of the Senate, with the following amendment, to wit: After the word "disability," in the sixteenth line, insert the words "and any officer, clerk, or deputy connected with the board of enrollment who shall receive compensation from any drafted man for any services, or obtaining the performance of such service required from any member of said board by the provisions of this act." And that the Senate do agree to said amendment.

That the House of Representatives do agree to the twenty-fifth section of the bill of the Senate.

That the House of Representatives do agree to the twenty-sixth section of the bill of the Senate.

That the Senate do agree to the twenty-sixth section of the amendment of the House of Representatives, with the following amendments, to wit: 1. After the word "male," in the first line of said section of said amendment, insert the word "colored." 2. Strike out the words "of African descent," in the second line of said section. 3. Strike out the words "whether citizens or not," in the third line of said section. 4. After the word "thereof," in the ninth line of said section, insert the words "and thereupon such slave shall be free." 5. Strike out the word "owes," in the twelfth line of said section, and insert the words "was owing." 6. Strike out the words "on freeing the person," in the thirteenth and fourteenth lines of said section. 7. Strike out the word "the," in the sixteenth line of said section, and insert the word "a" in lieu thereof. 8. Strike out the words "commutation money, upon the master freeing the slave," in the nineteenth and twentieth lines of said section, and insert the words "fund derived from commutations, and every such colored volunteer on being mustered into the service shall be free," in lieu thereof. 9. After the word "enlisted," in the twenty-first line of said section, insert the words "or have volunteered." 10. After the word "applicable," in the twenty-fourth line of said section, strike out the words "as well." 11. Add to said section the following: "But men of color, drafted or enlisted, or who may volunteer into the military service, while they shall be credited on the quotas of the several States, or subdivisions of States, wherein they are respectively drafted, enlisted, or shall volunteer, shall not be assigned as State troops, but shall be mustered into regiments or companies as United States colored volunteers." And that the House of Representatives do agree to the said several amendments.

That the twenty-seventh section of the bill of the Senate be stricken out.

That the following section be inserted in the bill of the Senate, to wit:

"SEC. —. And be it further enacted, That the words 'precinct' and 'election district,' as used in this act, shall not be construed to require any subdivision for purposes of enrollment and draft less than the wards into which any city or village may be divided, or than the towns or townships into which any county may be divided."

That the House of Representatives do agree to the twenty-eighth section of the bill of the Senate.

That the House of Representatives do recede from their amendment to the bill of the Senate, except as recited in the foregoing report.

HENRY WILSON,
J. V. NESMITH,
J. V. GRIMES,
Managers on the part of the Senate.
ROBERT SCHENCK,
HENRY C. DEMING,
Managers on the part of the House.

Mr. SCHENCK. The report having been read, and it having been adopted by the Senate, I suppose the question is now on concurring in it by the House.

The SPEAKER. It is.

Mr. SCHENCK. Upon that I propose to submit a very few remarks to the House, entirely of the character of an explanation, so as to enable the House to vote understandingly on the report.

The first thing that will strike gentlemen is, perhaps, the great length of the report. In order to explain that I will recall to the recollection of the House the fact that when the committee of conference was ordered by the two Houses the position of the bill was this: the Senate having passed

the bill the House struck out all after the first section, and inserted from the second section onward a substitute for the entire remainder of the bill. To that amendment the Senate non-concurred, and asked for a committee of conference.

The managers on the part of the House met the managers on the part of the Senate upon this ground. They suggested to the managers on the part of the Senate that the Senate recede from its non-concurrence in the amendments of the House and concur in the House bill with such modifications as the committee had agreed on to the House bill. If that course had been adopted, the report would not have occupied one of these pages. Instead of that, the managers on the part of the Senate preferred to retain their own bill, and to transfer into it piecemeal the bill of the House. Thus, instead of adopting as a substitute for a section of the Senate bill a section of the House bill and transferring it bodily to the report, they preferred to amend the Senate section by inserting a word here and there in place of words stricken out so as to make the section conform with the substitute.

The conclusion then is this, that the committee have thus transferred in these small parcels to the bill of the Senate, the entire House bill with the exception of two or three material changes only. I want the House then to understand that in agreeing to the report of the committee of conference they agree to the House substitute which they have once voted upon and passed, with two single material exceptions.

And to those exceptions, Mr. Speaker, I now call the attention of the House. They will be found in the sixth section of the Senate bill, the latter part of which of the two amendments which were moved and afterwards modified by the gentleman from Pennsylvania, [Mr. STEVENS,] striking that out, the managers on the part of the House were not willing to fall back upon the Senate bill. They struck out the amendment which the gentleman from Pennsylvania introduced and fell back upon their own bill. The committee of conference then agreed upon that originally reported by the Military Committee of this House. That is precisely the condition in which it stands.

Gentlemen will recollect the Military Committee reported back amendments in respect to the payment of commutation money, that that commutation should buy the person free from any difficulty, provided it did not exempt him for more than one year. The bill is made more stringent in reference to the time purchased by the commutation money. The conference committee took the bill as it was originally reported by the committee of this House.

Mr. ELDRIDGE. What is the time for which a man who pays commutation money purchases exemption?

Mr. SCHENCK. For a call not exceeding one year.

There is one other slight change which I did not propose to refer to, but which I will now call to the attention of the House. I am sure it will gratify those gentlemen who are the friends of the amendment offered in the House. We strike out the words "able-bodied seamen" and make it read "ordinary seamen," so as to authorize the transfer of a larger number from the Army to the naval service.

There is no other material change from the substitute of the House until we arrive at section twenty-six, as passed by the House. It relates to colored persons, and the receiving of such persons into the Army of the United States. The changes made by way of modification of that so as to make it correspond to that of the Senate are these: it is provided after the drafted man has served he should be paid for at the rate of \$100, under a commission, and that after thus being paid for the master was to free the slave. In place of providing for the freeing of the slave by the master, it is declared that the slave shall become free by reason of his having been mustered into the service of the United States. It was agreed to modify it so that a man who had served in the Army of the United States, vindicating and maintaining our institutions, should not by want of the consent of his master be remitted to slavery, but should be declared free under the law by reason of his having been mustered into the Army of the United States.

I will read the section for the benefit of the

House, as it will stand, with the amendments and modifications agreed to by the committee of conference:

Sec. 26. *And be it further enacted*, That all able-bodied male colored persons between the ages of twenty and forty-five years, whether citizens or not, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States, his master shall have a certificate thereof; and thereupon such slave shall be free; and the bounty of \$100 now payable by law for each drafted man shall be paid to the person to whom such drafted person was owing service or labor at the time of his muster into the service of the United States. The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding \$300, for each such colored volunteer, payable out of the fund derived from commutation; and every such colored volunteer on being mustered into the service shall be free. And in all cases where men of color have been heretofore enlisted or have volunteered in the military service of the United States, all the provisions of this act, so far as the payment of bounty and compensation are provided, shall be equally applicable as to those who may be heretofore recruited. But men of color drafted or enlisted, or who may volunteer into the military service, while they shall be credited on the quotas of the several States or subdivisions of States wherein they are respectively drafted, enlisted, or shall volunteer, shall not be assigned as State troops, but shall be mustered into regiments or companies as United States colored troops.

The object of the latter provision, which has been added to the section, was this: to leave the colored man to be credited to the several States, townships, &c.; but when mustered into the service of the United States they should remain and be ranked among the United States colored troops, so as to have the benefit of being commanded by officers whose efficiency and capacity had been tested by a thorough examination, as is now done by the board appointed for that purpose.

I have explained, as nearly as I can, the two points of difference.

Mr. DEMING. There was another point which the gentleman has neglected to mention.

Mr. SCHENCK. I thank the gentleman for recalling it to my mind. The managers on the part of the Senate would not agree to the repeal of the nineteenth and twentieth sections of the existing law, which authorizes, at the discretion of the President, the consolidation of regiments. The repealing law stands as in the original substitute as proposed by the Committee on Military Affairs of this House. These constitute the differences, not between the Senate and the House bills, but between the House bill as it was when it left this House, and the act of Congress as it will be if the House agree to the report of the committee of conference.

Hoping that I have made the points clear, I demand the previous question.

Mr. STEVENS. I ask the gentleman to withdraw the call for the previous question, in order that I may say a few words.

Mr. SCHENCK. I would gladly yield to the gentleman from Pennsylvania, he knows, more gladly than to any other gentleman in the House; but I believe the necessity for the speedy passage of this bill is such as to compel me to insist on my demand for the previous question.

Mr. PENDLETON called for tellers upon seconding the demand for the previous question.

Tellers were ordered; and Messrs. STEELE of New Jersey and KELLOGG of New York were appointed.

The House divided; and the tellers reported—ayes 69, noes 27.

So the previous question was seconded.

The main question was ordered to be put.

Mr. COX demanded the yeas and nays upon agreeing to the report.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 71, nays 23; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Arnold, John D. Baldwin, Baxter, Beaman, Francis P. Blair, Blow, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Dawes, Denning, Dixon, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Gooch, Grinnell, Hale, Higby, Hooper, Asahel W. Hubbard, Jenckes, Julian, Kasson, Kelley, Orlando Kellogg, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Amos Myers, Leonard Myers, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smithers, Spaulding, Starr, Stebbins, Upson, Van Valkenburgh, Elihu B. Washburne, Williams, Wilder, Wilson, and Windom—71.

NAYS—Messrs. Augustus C. Baldwin, Brooks, Chanler,

Cox, Dawson, Edgerton, Eldridge, Benjamin G. Harris, Le Blond, Long, McDowell, McKinney, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Samuel J. Randall, James S. Rollins, Ross, Ward, Chilton A. White, and Joseph W. White—23.

So the report of the committee of conference was agreed to.

Pending the call of the roll,

Mr. DAVIS, of New York, said: Mr. KERNAN and myself made an arrangement to pair off after to-day for a day or two. Mr. KERNAN has left town, and I prefer not to vote unless a vote should become necessary to make a quorum, for fear of some misunderstanding between him and myself as to time.

Mr. DAWES stated that his colleague, Mr. WASHBURN, left the House on account of indisposition.

Mr. COBB stated that Mr. SLOAN was detained from the House by the indisposition of a member of his family.

The result was then announced as above recorded.

Mr. SCHENCK moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SALE OF GOLD—AGAIN.

Mr. STEBBINS. I have been requested by the Committee of Ways and Means to move that the bill in relation to the sale of gold by the Treasurer be recommitted to the committee, with instructions to report it back on the morning of Tuesday next. I ask unanimous consent to make that motion.

Mr. HOLMAN objected.

And then, on motion of Mr. FENTON, (at half past five o'clock,) the House adjourned.

IN SENATE.

TUESDAY, February 23, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.

ELECTION OF PRESIDENT PRO TEMPORE.

The CHIEF CLERK, (WILLIAM HICKEY, Esq.) The following letter has been received from the Vice President:

WASHINGTON, February 22, 1864.

SIR: I shall be absent from the city to-morrow. You will communicate information of this to the Senate at its session in the morning, and oblige, yours, very truly,

H. HAMLIN.

Colonel JNO. W. FORNEY, Secretary of the Senate.

Mr. WILSON. I move that Mr. FOOT, of Vermont, take the chair as President pro tempore.

The CHIEF CLERK. It is moved that Mr. FOOT, of Vermont, be appointed President pro tempore of the Senate.

The motion was agreed to; and Mr. FOOT took the chair and called the Senate to order.

The Journal of Friday last was then read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

EXECUTIVE COMMUNICATION.

The PRESIDENT pro tempore laid before the Senate a report of the Assistant Secretary of War, communicating, in obedience to law, a statement of expenditures from the appropriations for contingencies of that Department, its offices and bureaus, during the fiscal years ending June 30, 1862, and June 30, 1863; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. GRIMES. I present the petition of numerous men and women of West Liberty and vicinity, in the State of Iowa, who represent that they believe slavery is the great cause of the present rebellion, that it is an institution fatal to the life of the Republic, and they ask Congress to take measures to amend the Constitution so as to forever prohibit its existence within the jurisdiction of this Government. I move that it be referred to the select committee on slavery and freedmen. The motion was agreed to.

Mr. RAMSEY presented the memorial of Carlisle Doble, praying compensation for services rendered and expenses incurred in carrying the mail on route No. 14006, between Taylor's Falls, Minnesota, and Superior, Wisconsin; which was referred to the Committee on Post Offices and Post Roads.

Mr. MORGAN presented a memorial of the Chamber of Commerce of the State of New York, praying for legislation on the part of Congress to foster and support ocean steam navigation; which was referred to the Committee on Commerce.

Mr. WILSON presented the petition of H. S. Parkhurst, of the thirty-ninth regiment Illinois volunteers, and other soldiers in the service of the United States, praying for a bounty of \$100; which was referred to the Committee on Military Affairs and the Militia.

Mr. SUMNER presented a petition from citizens of New York, praying Congress to pass such laws as will put the soldiers of our Army on the same footing as to pay, bounties, and pension, without regard to difference of complexion; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition from women of Ohio, setting forth that they sympathize deeply with those persons who have been freed from slavery by the present war, many of whom are in most destitute circumstances, and praying Congress to do something to ameliorate their condition; which was referred to the select committee on slavery and freedmen.

Mr. SUMNER. I also offer the petition of Job B. Stockton, of Fort Smith, in Arkansas. He sets forth that he is a citizen of the United States, and that he was one of the first if not the very first person commissioned as an officer in the volunteer service on the breaking out of the rebellion, and that he has remained in that service over two years. He says it is "an established fact, demonstrated every day in the American armies by actual practice, that the American citizen of African descent is the very best material of which to make a complete and perfect soldier; and as his loyalty is beyond question, and his allegiance to the United States cannot be tainted by tampering," he "therefore prays Congress to pass a law establishing the regular standing Army at the close of this rebellion at two hundred thousand men, to be composed entirely of colored men, and to be officered by white men." This is a petition from Arkansas. I ask its reference to the Committee on Military Affairs and the Militia.

It was so referred.

Mr. SUMNER. I also offer another petition from persons who represent that they volunteered and enlisted in the service of the United States for the term of nine months in the autumn of 1862, and that they performed the service faithfully, and at the time of their enlistment believed that they were to receive a bounty of twenty-five dollars, and that they have never received it, and they ask Congress to enable them to receive it. I move the reference of this petition to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. SUMNER. I offer also another petition calling upon Congress to propose an amendment to the Constitution of the United States prohibiting slavery or involuntary servitude any where in the United States. This petition is signed first by Josiah Quincy, the oldest surviving member of Congress and one of our most eminent citizens, next by John A. Andrew, Governor of Massachusetts, and afterwards by the members of the Senate and of the House of Representatives of Massachusetts, and by other eminent citizens. As that subject is already before the Senate, I move that this petition lie on the table.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. RIDDLE, it was

Ordered, That the petition and other papers of the representatives of Hugh Montgomery, praying for remuneration for his losses and sacrifices and compensation for his services during the revolutionary war, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

REPORTS FROM COMMITTEES.

Mr. HARLAN, from the Committee on Public Lands, to whom were referred the following petitions and memorials, asked to be discharged

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

WEDNESDAY, FEBRUARY 24, 1864.

NEW SERIES.....No. 49.

from their further consideration; which was agreed to:

A memorial of the Legislature of Minnesota, for a grant of lands to make up the deficiency in the grant heretofore made to aid in the construction of the Minneapolis and Cedar Valley railroad;

A memorial of Joshua C. Brown, praying for the passage of a law authorizing him to locate upon and acquire title to different parcels of land in Utah and Nevada, upon the same terms and conditions that he could acquire title thereto if such lands were open to private entry and were to be purchased at private sale;

A memorial of citizens of Wisconsin, remonstrating against an appropriation of lands to the State of Minnesota to aid in the construction of a railroad from the end of Lake Superior to the city of St. Paul, to run entirely on the Minnesota side of the St. Croix river;

A memorial of the Bay de Noquet and Marquette Railroad Company, of the State of Michigan, remonstrating against any further legislation for the benefit of the Peninsular Railroad Company; and

A memorial of the common council of the city of St. Paul, praying for a grant of lands to aid in the construction of a railroad from St. Paul to the head of Lake Superior.

ADMISSIONS TO MILITARY ACADEMY.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of increasing the number of cadets at the Military Academy to four hundred, of requiring the age of admission to be not less than seventeen years, of raising the standard of qualifications for admission, and of changing the mode of recommendation for appointment, so as to secure an examination for admission based upon the comparative merits of the several candidates.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed, on the 19th instant, an act (S. No. 51) amendatory of and supplementary to an act to provide circuit courts for the district of California and Oregon, and for other purposes, approved March 3, 1863.

OBJECTS OF THE WAR.

Mr. CARLILE asked, and by unanimous consent obtained, leave to introduce the following joint resolution; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed:

A joint resolution (S. No. 28) declaring the objects of the war.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled: 1. That the military power of the Government can only be rightfully exerted against individuals in arms opposing its authority. That the prosecution of hostilities against the citizens of the States in rebellion ought to be for the sole purpose of maintaining the constitutional Union, and for the restoration of the Union upon the basis of the Constitution, leaving to each State the regulation of its own domestic policy; and protecting each and all in the enjoyment of the right of self-government as recognized by the Constitution of the United States.

2. That the President be requested to declare by proclamation, whenever the people of any of the States now resisting the authority of the United States shall reorganize their State government by repudiating the ordinances of secession adopted in their name, and shall recognize their obligations to the Union under the Constitution, full pardon and amnesty to the people of such State, assuring the citizens thereof that all their rights of person and of property under the Constitution shall be restored to and enjoyed by them; excepting, however, from such pardon and amnesty such persons as shall be designated by the Legislatures of the several States as fit persons to be held for trial before the judicial tribunals of the United States under the laws thereof.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolution:

A bill (S. No. 36) to amend an act entitled "An

act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; and

A joint resolution (S. No. 27) relative to the transfer of persons in the military service to the naval service.

INTERNAL REVENUE.

Mr. FESSENDEN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 122) "to increase the internal revenue, and for other purposes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the third amendment of the Senate, and agree to the same with the following amendments:

In line six of said amendment strike out the word "seventy" and insert in lieu thereof the words "sixty-five;" and in line eleven of said amendment strike out the word "eighty" and insert in lieu thereof the word "seventy."

That the House of Representatives recede from their disagreement to the fifteenth amendment of the Senate, and agree to the same with amendments, as follows: In line four of said amendment strike out the word "fifty" and insert in lieu thereof the words "forty-five;" and in line seven of said amendment strike out the word "sixty" and insert in lieu thereof the word "fifty."

That the House of Representatives recede from their disagreement to the sixteenth amendment of the Senate, and agree to the same.

W. P. FESSENDEN,
TIMOTHY O. HOWE,
REVERDY JOHNSON,
Managers on the part of the Senate.

THADDEUS STEVENS,
FERNANDO WOOD,
Managers on the part of the House.

I dissent from this report.

E. B. WASHBURN.

Mr. FESSENDEN. This report is signed by all the conferees on the part of the Senate, and by two of the conferees on the part of the House of Representatives. Mr. WASHBURN, one of the conferees, dissents from the report. I will explain the only change that is made. The original scale fixed by the Senate was sixty cents up to the 1st day of July; after that and up to the 1st day of January seventy cents; and after that indefinitely eighty cents; and we made a corresponding change in the provision with regard to imported liquors. The conferees have agreed upon a less sum, substituting sixty-five for seventy, and seventy for eighty, raising only five cents instead of ten. There was a disagreement, also, in regard to the duty on imported liquor on hand. The House agreed to strike out the duty on domestic liquors on hand, but disagreed as to the duty on imported liquor on hand. It is manifestly proper that they should compare. If they are retained in the one case they should be retained in the other; and if they are not retained in the one case the same course should be taken in the other. It is substantially the bill as passed by the Senate with the changes in the scale that I have stated. I should like to have action upon the report now.

Mr. POWELL. I did not hear the honorable Senator from Maine. I wish to inquire whether the bill as it now stands taxes liquor on hand?

Mr. FESSENDEN. It does not.

Mr. POWELL. I thought you said so.

Mr. FESSENDEN. No, sir. I said that the House agreed with the Senate in striking out the tax on domestic liquors on hand, but disagreed to striking out the tax on imported liquors on hand. They have now receded from that amendment with regard to the imported liquors. There is, therefore, no tax upon liquors on hand, either domestic or imported.

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee of conference.

The report was concurred in.

MILITARY INTERFERENCE WITH ELECTIONS.

Mr. POWELL. I desire to make an inquiry. Some ten days or two weeks ago I introduced a resolution, which was passed by the Senate, directing the Secretary of War to transmit to this body the orders and instructions he had issued to the provost marshals in Kentucky, Delaware,

Maryland, and Missouri, concerning elections in those States; and I understand that there has been no response to it as yet. I desire to inquire of our Secretary whether or not that resolution was transmitted to the Secretary of War.

The PRESIDENT *pro tempore*, (after consulting the Chief Clerk.) The Chair is advised that the resolution was transmitted on the day of its adoption.

Mr. POWELL. Then I request that another copy be sent to the Secretary of War. I suppose it has been mislaid.

PAY OF COLORED TROOPS.

Mr. WILSON. I move now to take up the joint resolution to equalize the pay of troops.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 23) to equalize the pay of soldiers in the United States Army.

The PRESIDENT *pro tempore*. It is within the recollection of the Chair that the Senator from Pennsylvania [Mr. COWAN] moved an amendment in the form of a substitute for the entire resolution. That leaves the original resolution and the proposed substitute both open to amendment, by way of perfecting them before the question of substitution be taken. An amendment was proposed by the Senator from Massachusetts [Mr. WILSON] as an amendment to the pending substitute, and it will be read.

Mr. WILSON. I desire to modify that amendment, and I now send it to the Chair in the modified form.

The PRESIDENT *pro tempore*. The modified amendment moved by the Senator from Massachusetts to the amendment of the Senator from Pennsylvania will be now read.

The amendment to the amendment was read, as follows:

Strike out all after the word "that," and insert: From and after the 1st day of March, 1864, the soldiers of the United States of the same grade and service shall be entitled to receive the same uniform, clothing, arms, equipments, camp-equipment, rations, and medical and hospital attendance, pay, emoluments, and pensions; and that persons of color shall receive such sums in bounty as the President shall order in the different States and parts of the United States, not exceeding \$100.

Mr. WILSON. I will simply say that the Senator from Pennsylvania proposes to amend the original joint resolution. I propose to amend his amendment to reach, I think, the same object but more fully. If the amendment offered by him is to be adopted, I hope it will be first amended as I propose.

Mr. COLLAMER. The Senator from Pennsylvania is not here, but from the reading of his amendment at the time it was offered and the remarks he made in explanation of it, I should think that this amendment of the Senator from Massachusetts would seem to defeat the purpose the Senator from Pennsylvania had in view. His purpose was to avoid saying anything about color. He said that distinctions of color were not recognized in our Constitution, and he wanted the law made, agreeably to the Constitution, to speak of "persons" and "persons" only, and that was the object of his amendment. Now, we come right back to the use of the term "persons of color" again. I desire to inquire of the Senator from Massachusetts wherein does the amendment he now offers to the amendment of the Senator from Pennsylvania differ from the original resolution?

Mr. WILSON. It provides for perfect equality between the different classes of white troops and black troops. The amendment of the Senator from Pennsylvania does that, and so does this amendment of mine. The difference is that my amendment is more full than that proposed by the Senator from Pennsylvania. The question of bounties stands thus: most of us desire to put these troops on an equality with white troops; but we cannot have equality in regard to bounty among white men. We propose to give veteran soldiers one price and new volunteers another. Then there is a difference of condition and needs in the different sections of the country. A colored man in the loyal States should have the same

bounty as a white man; but in rebel States, when we take these persons into our service and support their families—as we often have to do out of the public Treasury—the question arises whether we should give the same bounty. While I desire to make perfect equality between white and colored troops, I do not want to take money out of the Treasury unless it is necessary to do it.

Mr. COLLAMER. What is the difference, I again ask, between the amendment you now propose as a substitute and the original resolution?

Mr. CONNESS. If the Senator will permit me one instant, I have just been examining these propositions: It appears that the original resolution, as amended, provides for paying the same compensation to colored soldiers after the 1st of January last passed as is paid to white soldiers. The amendment offered by the Senator from Pennsylvania proposes to pay the same compensation and put them on an equality from and after the passage of the resolution. The amendment now offered by the Senator from Massachusetts, the chairman of the Committee on Military Affairs, proposes that this equality shall begin from and after the 1st day of March next. I do not understand why the chairman of the Committee on Military Affairs retires from his former proposition.

Mr. WILSON. I do not. I am for the original proposition, and prefer it to any amendment whatever.

Mr. CONNESS. Then I suggest that we adhere to it.

Mr. GRIMES. The purpose that the Senator from Massachusetts has is to amend the substitute offered by the Senator from Pennsylvania, so that, if that substitute shall be adopted in place of the original resolution, it will be perfect.

Mr. CONNESS. Then I would suggest to him to make the proposition conform to the vote already given by the Senate, to make the compensation begin from and after the 1st day of January.

Mr. GRIMES. That will come up on the question of adopting this as a substitute for the original proposition. I am going to vote for the original proposition; but I am in favor of making the substitute as perfect as I can, so that if I am outvoted in the Senate I shall not have a bill totally objectionable.

Mr. WILSON. If the Senate will allow me a single moment I will state the case as I understand it. I offered the original resolution making this equality of pay among our troops. It was referred to the Committee on Military Affairs, and that committee reported it as it was introduced, making it retrospective. It came into the Senate, and on consideration it was evident that but a very small portion of this body was in favor of the resolution as reported. The retrospective portion of the resolution was stricken out on my motion, and the first day of the year substituted. I saw clearly that the retrospective clause would be stricken out, and that the resolution might not pass for three months to come. I supposed we had gained a great deal for the colored soldiers when we fixed the first day of the year.

Mr. CONNESS. Why not adhere to it?

Mr. WILSON. I am free to say that I prefer the original resolution; but the Senator from Pennsylvania [Mr. COWAN] moved an amendment to it, in order to avoid, as he said, the word "color." I propose to amend that amendment so as to make it as near perfect as I can, so that if the amendment should be adopted we shall have it in the best form.

Mr. CONNESS. Then I suggest to the Senator, in place of offering the amendment that he has offered, to amend the amendment so that the compensation shall begin from and after the 1st day of January. Why leave that position? I do not understand it.

Mr. WILSON. The Senator says he does not understand it. It is very plain. The amendment of the Senator from Pennsylvania [Mr. COWAN] proposes to give equal pay and bounties, to commence on the passage of the resolution, and it may not pass Congress until May or June. By fixing the 1st day of March we have a good starting-point. The original resolution does not contain equality of bounties, and if Senators will not give the bounty of \$100 to all colored persons enlisted in the rebel States, they surely would not consent to go back to the 1st day of January and give the large bounties which expire on the 1st day

of March. But my desire is to stand by the joint resolution as I introduced it, as reported by the Military Committee, and amended by the vote of the Senate.

Mr. CONNESS. Then I would let this amendment go without amendment.

Mr. WILSON. Suppose it should be adopted?

Mr. CONNESS. There is no fear of that.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Massachusetts [Mr. WILSON] as an amendment to the amendment moved by the Senator from Pennsylvania, [Mr. COWAN.]

The amendment to the amendment was rejected.

Mr. DAVIS. I will inquire if the proposition which I offered as an amendment in the form of a substitute to the proposition of the Senator from Pennsylvania be in order now?

The PRESIDENT *pro tempore*. It is in order. Any amendment to the amendment proposed as a substitute, or to the original proposition, is in order.

Mr. DAVIS. Then I move the three resolutions which I offered as an amendment in the nature of a substitute for the proposition of the Senator from Pennsylvania.

The Secretary read the amendment to the amendment, to strike out all of the amendment after the word "that," and insert the following:

All negroes and mulattoes, by whatever term designated, in the military service of the United States, be, and the same are hereby, declared to be discharged from such service, and shall be discharged as soon as practicable; but the President of the United States may retain such of said negroes and mulattoes as he shall deem proper in the military service as teamsters and laborers; and the commandants of the respective regiments to which said slaves may be attached shall issue to their owner or owners a certificate of their employment in the service of the Government.

And he it further resolved, That every loyal owner of any slave that has been heretofore or that may hereafter be taken into the service and for the use of the United States shall be entitled to a fair and reasonable compensation for the services of such slave for the time such slave may have been or may be in such service, to be paid quarterly; and where any slave may have been killed or died through exposure, or may have been disabled in such service, the owner or owners of all such slave or slaves shall be entitled to such compensation as will reasonably satisfy them for all damages that he, she, or they may have sustained by reason of the death or disability of any such slave or slaves; and where any such slave or slaves may become a fugitive and be not returned to the owner, the United States shall pay the owner or owners the reasonable value of the service of such slave or slaves.

And he it further resolved, That the owner or owners of any slave entitled to pay and compensation as hereinbefore provided for, may make out his, her, or their account therefor against the United States, and upon filing the same at the Treasury Department, sustained by such vouchers and proofs as are required ordinarily to support accounts against the United States, the same shall be audited and paid by the proper officers, out of any money in the Treasury not otherwise appropriated.

Mr. CONNESS. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. CLARK. I desire to say a few words upon the amendment proposed by the Senator from Kentucky to the amendment offered by the Senator from Pennsylvania, and the subject-matter of it. I do not think that I shall add or say anything new on the subject; but as that amendment has brought so directly before the Senate the employment of negroes in putting down this rebellion I desire for a moment to be heard on that point.

The Administration have been busy for a year or so in arming and bringing into the service black men, the men who have been held in slavery. I have thought that I could see in the employment of these men the hand of retributive justice visited upon crime. I agree entirely with what was so well expressed by the Senator from Maryland [Mr. JOHNSON] the other day, that we northern men had not been mainly instrumental in destroying slavery, which he conceded was in effect dead, but it was the retribution of Heaven upon a stupendous crime. I think I see a fitness in employing these black men who have been held so long in slavery, to destroy the institution which has bound them.

The Senator from Kentucky now proposes that we disarm those men who have been brought into the service; that we take from them their muskets or their swords, or whatever they wield; that we do not only discharge them from the service, but keep them as teamsters, to dig in the trenches, and to do any service for which they may be taken, except to bear arms. I desire to ask the Senator

from Kentucky, and I should like to have him answer it here now if he will—I submit it in all respect to him—why those men should not be armed and put into the service of the country? I do not insist that he shall answer if it is at all unpleasant to him now, but I should desire him to do so if he could do it concisely, that I might address myself to his objection.

Mr. DAVIS. I will do it very concisely. I have answered that question many times in this Senate, and I do not think it is necessary to repeat it again.

Mr. CLARK. Of course I will take what the Senator says, that he has answered it many times, and he does not desire to answer it again. Then I must look over perhaps the many long speeches he has made in order to see what his answer is. It is a labor I would not impose on anybody; and I did not know but he might tell me in a few words what really was his objection.

Mr. DAVIS. The Senator is much worse employed very often.

Mr. CLARK. It may be that I am very much worse employed, but I have no taste for that kind of employment just now.

Mr. DAVIS. Why do you want me to repeat it, then?

Mr. CLARK. But if the Senator will not answer me now, as I have no time to stop to read these speeches at this time, I must go along and state what are my objections to turning them out of the service.

Mr. President, the question is not one as to the payment of money to the black man; but it is that by the employment of the black man, in addition to what I have said, we save the white man. If the Senator from Kentucky, or any other man who holds the notions which I suppose he does, undertakes to say that the black man is not worth so much as the white man, that he will not make so good a soldier, then I submit to him and to every other person who hears me, that it is a matter of self-interest to this country to employ the black man if he will do even tolerably well in putting down this rebellion; and I desire to say here that I am for employing every black man we can bring efficiently into the service, for the reason that it saves the blood of the white man and helps put this rebellion down quicker. I want that black man to have arms in his hands. I glory in the opportunity of putting arms in his hands, that when he puts down the rebellion he may put down forever the institution which has enslaved him. I hail in it the safety of the black man. I glory in his elevation; and I say here to the Senator from Kentucky, and I say it unhesitatingly, that when you have put arms in the hands of the black man you cannot enslave him; and therefore I would give him arms. I would make his arms his protection. I would teach him to respect himself as a man, and to feel that he is respected, and his rights preserved. It is for this reason, in short, that I oppose this amendment of the Senator from Kentucky.

While I am up, sir, I desire to say further, that I am in favor of the resolution as originally offered by the Senator from Massachusetts, [Mr. WILSON.] I desire to pay these black men who have been put into the service from the earliest time they have been efficiently employed. I do not understand why it is that men are to bare their bosoms for the country's cause, why they are to meet the enemy with arms in their hands, why they are to be slaughtered, why they are to be wounded, why they are to give their blood freely to the country, and not be paid for that service. I do not know that we can conveniently reach the matter so as to give every one of these black men pay from the moment he is called into the service of the country; but I would certainly give this pay to those black men who have been in the field, and especially those who have been in battle. Why should not the men who stood up before Wagner, why should not the men at Vicksburg, why should not the men all along the Mississippi, though they be black men, if they have been in the service, be paid for their service?

I know very well that when we first talked about employing these black men, it was a matter of experiment. This Senate was very timid on the subject. We did not know how these men might fight. We did not know how well the country might bear the service or the employment of the black man; and if Senators will refer to the acts of

Congress, they will find in the first act which we passed on the subject, which was the confiscation act, we provided that the President might employ them in such way as he thought proper, and in such service as he thought proper, and in such organizations as he thought proper, but we did not say a word about their pay. We did not say anything about giving them thirteen dollars per month. We did not say anything about putting them on a level with other soldiers; but we left it for the President if, in his discretion, he thought it well to employ these black men, to put into the service in such way and manner as he thought proper so many of them as he thought proper.

The next act on the subject was the one in which we provided that he might employ them upon intrenchments or in teaming, or any other service for which he found them fit, and give them ten dollars per month. It was not known then that the black man was to be a good soldier; but when the negro was brought into the service of the country he vindicated himself. He showed that he could make a good soldier. He showed that he could make a good fighter. He showed that he could make a good marcher. He showed that he was obedient to discipline. He showed that in some cases he could endure more than the white man, and was equally loyal and ready to fight. Then, if the black man makes a good soldier, if he goes readily to the fight, if he stands up firmly and bravely and gives his blood and his life to the country, I ask, why should he not be paid? Can anybody tell me? I ask you, Mr. President, when in this country there have been those who have trodden down this black man for more than three quarters of a century, and when now in our need and misery and in our affliction we call upon him to come and help us put down this rebellion, I ask you if it is not ineffably mean to refuse to pay him what he deserves? No matter where the country's defender comes from, no matter what be the color of his skin, if he is a brave man, if he is a loyal man, if he stands up to the fight, I am for giving him his pay from the earliest time he is put into the field. I would give those brave men of Massachusetts their pay from the time they were enlisted; I would give those South Carolina men their pay from the time they went into the service; and so with all others. I do not believe that this country is so poor that it must be illiberal or unjust. I say these men should be paid, and I shall give no vote that does not look to their payment.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment moved by the Senator from Kentucky to the amendment moved by the Senator from Pennsylvania, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 7, nays 30; as follows:

YEAS—Messrs. Buckalew, Carlile, Davis, Powell, Riddle, Saulsbury, and Wright—7.

NAYS—Messrs. Chandler, Clark, Collamer, Conness, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harding, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Ramsey, Sherman, Sumner, Ten Eyck, Van Winkle, Wade, Willey, and Wilson—30.

So the amendment to the amendment was rejected.

Mr. COLLAMER. I propose to amend the original joint resolution by adding to it the following:

All persons enlisted or mustered into the service as volunteers under the call dated October 17, 1863, for three hundred thousand volunteers, who were at the time of enlistment actually, and for six months previous had been, resident inhabitants of the State in which they volunteered, shall receive from the United States the same amount of bounty, without regard to color: *Provided, however*, That the foregoing provision shall not extend to any State which the President by proclamation has declared in a state of insurrection.

Mr. President, I ought perhaps to state by way of preface and apology for presenting this proposition the fact that in the State in which I reside difference of color between men is not known either in its constitution or its laws, and our colored men were enrolled, subject to draft, and drafted in the same manner as white people. When the draft was made last summer, some of our colored people were drafted. After that draft was through, when the call was made in October again for three hundred thousand men, which we were assured if filled up would prevent any further draft, exertions were made in the State to do that, and they did it. It was done by adding to the bounty which

the Government offered of \$300 for raw recruits, from \$300 to \$500 apiece by the different towns. The town in which I live had in it some colored inhabitants. We understood that they were to be all the same in the volunteers as they were in the draft; we offered our bounties without regard to color; and black men and white men entered into the service and were mustered in, and they received the town bounty of from \$300 to \$500 apiece without regard to color. After the quota was made up by the State and the men had rendezvoused at Brattleboro', the Government proceeded to muster them into the service by inspection, and on ordering them pay they paid the \$300 Government bounty to all the white men and they told the colored men they must go without any. That was the first intimation our people had that there was any difference between them in relation to pay.

I cannot state the precise number of these men, but there were from forty to sixty, a company of them, and I would mention one thing as showing the character of the men: every man among them wrote his name to his articles of enlistment; not one made his mark. There was no man among them but could have commanded his two dollars a day at home. They were from twenty to forty-five years old, able-bodied men. A very great sensation was produced not merely among them, but among the white people and the white soldiers who surrounded them; but they were carried away without any pay and without any assurance of any or any hope of any that I know of, and went away in great distress.

Under these circumstances I cannot but feel it to be my duty to ask to have the bounty paid to these men. I do not ask that colored men shall be paid where a State has sent off South or elsewhere and procured them. I ask, and that is my proposition, that the bounty shall be paid alike to men, regardless of color, if they were actually inhabitants, residents of the State, and had been so six months before the time of their enlistment. I have no more to say about it. It seems to me a very clear case of equity and justice, and I feel that it is my duty to claim it.

Mr. FESSENDEN. In the individual case to which the Senator alludes I perhaps agree with him; and I do not know but that there may be some other cases of a similar description; but it strikes me, as the amendment is worded, it would be likely to cover many cases where no such promise was made and no such understanding had. Take, for instance, the troops in Maryland. They have raised several regiments there, and raised them under the peculiar promises that were made to them. It would cover them as well. It would cover all, I suppose.

Mr. COLLAMER. I would ask the gentleman if he knows what were the terms on which they were enlisted?

Mr. FESSENDEN. I do not know that they were raised under that particular promise; but this amendment provides for paying so much to volunteers, and may include them.

Mr. COLLAMER. Were those men enrolled and subject to draft?

Mr. FESSENDEN. I do not know.

Mr. COLLAMER. These men went because they might as well go and take the bounties as wait to be drafted. They were all on the rolls.

Mr. FESSENDEN. I am not sufficiently aware of the facts to vote on the Senator's proposition. I say to him distinctly that if these men were enrolled and subject to draft, and were taken into the service on that understanding, and precisely in the same way that white men were, I see no reason why they should not have the same bounty; and I agree with him on that subject. I do not see any reason for the distinction; but in making a general provision we should be careful that we do not run the Government to very great expense in reference to men who really are not entitled to the money, and I want time to look into it.

Mr. SAULSBURY. Will the Senator from Maine allow me a moment? I happened to be on the Eastern Shore of Maryland when many of these enlistments were made. The Government sent steamers to certain towns on that shore, and notice was given out that any negroes who wished to enter the military service would be received on the steamboats; and I saw some of them taken off on a steamboat.

Mr. COLLAMER. Was there anything said about their getting a bounty?

Mr. SAULSBURY. I never heard a word of it. Mr. FESSENDEN. I cannot vote for this amendment if it is to be pushed on this resolution to-day.

Mr. COLLAMER. There is no other on which to put it.

Mr. FESSENDEN. Unless the Senator introduces a new one; and of that he will judge. All I ask is that it may go over until we can get the proper information to see how far it will go, and to what cases it will apply. It is entirely unsafe to legislate here on the assertions and recollection of Senators as to a particular statement that has been made. That we have experienced often. By legislating in that way we may get ourselves into a difficulty that it will be hard to get out of. If the Senator from Massachusetts will consent to let the joint resolution go over to a subsequent day, until we can obtain the requisite information on the amendment proposed, to see how far it applies, it may perhaps be put into a position where I can vote for it. On the statement of the honorable Senator from Vermont, I feel disposed to vote for his amendment; but it is unsafe to act on it until we get more information than we have now. I hope the Senator from Massachusetts will consent to let the resolution go over until to-morrow, so that we may get this information, because it is a very important amendment, and one which we ought not to act upon without more information.

Mr. COLLAMER. I have no objection to that course.

The PRESIDENT *pro tempore*. The pending question is on the amendment moved by the Senator from Vermont.

Mr. FESSENDEN. And it is in order that we may get the requisite information of the extent of that amendment that I suggest that we take a little more time with it, because it may have a vastly more extensive operation than it would appear to have on the face of it.

Mr. WILSON. To accommodate gentlemen, I move to postpone the further consideration of this resolution until to-morrow.

The motion was agreed to.

LIEUTENANT GENERAL.

Mr. WILSON. I now move to take up the House bill reviving the grade of lieutenant general.

Mr. FESSENDEN. Before the question is put on that motion I wish to make a suggestion to the Senator from Massachusetts. I am as ready myself to act upon the bill providing for a lieutenant general now as at any time, but we have already had the roll of the Senate called and it appears that we have barely enough to make a quorum. It would be very desirable that we should have a full Senate when we act upon a bill of that character, and as there is considerable business to be done in executive session I suggest whether we had not better spend the rest of the day in acting on that kind of business to which there is no objection, and thus get rid of it and prevent its occupying our time hereafter.

Mr. WILSON. I am willing after the bill shall be taken up to go into executive session.

Mr. FESSENDEN. Very well; I have no objection to that.

Mr. WILSON. I am very anxious to get this bill through.

The motion to take up the bill was agreed to.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. Oh, no! Let us finish the bill.

Mr. SUMNER. I doubt if we can.

Mr. SHERMAN. Rather than delay a complement of this kind, I would at once consent to agree to the amendments of our Military Committee, and pass the bill in that shape.

Mr. FESSENDEN. We have hard work to get a quorum here, even after sending out for members.

Mr. SHERMAN. I think there will be no difficulty in keeping a quorum here to act upon the bill now before the Senate. It seems to me that we ought not to delay action on a complimentary bill of this character. If we are to pass it at all, let us pass it promptly; and, as a friend of the House bill unaltered, I would rather agree at once

to the adoption of the amendments of our committee and pass it in that shape than have it longer delayed. I shall not detain the body by discussion, but I hope the Senate will act on the bill.

Mr. FESSENDEN. My objection is founded upon the very idea that it is in a great degree complimentary; but perhaps we have no right to assume that, though we know the fact; and I say that in order to make it so we ought to have a full Senate when we act upon it, and not a bare quorum. The Senator must be aware that on the call of the roll before we were obliged to send out for members in order to make a quorum.

Mr. SHERMAN. I do not think the question is one of sufficient doubt to call for a division.

Mr. FESSENDEN. If the bill be passed to-day it will be by a very lean vote.

Mr. SHERMAN. Perhaps as large a vote to-day as at any other time.

Mr. FESSENDEN. I think that on a matter discussed so much we ought to have a full vote.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts that the Senate proceed to the consideration of executive business.

The question being put, it was declared that the ayes appeared to prevail.

Mr. SHERMAN called for a division.

Mr. SUMNER. A division will show that we have not a quorum here.

Mr. SHERMAN. We know that if we go into executive session, divisions will occur almost immediately; and therefore, if we are without a quorum, that fact may as well be ascertained now.

Mr. SUMNER. I will state that there is business which it is important to act upon in executive session, with regard to which I think there will be no division, but which must in the nature of the case take a little time.

The Senate being divided on the motion of Mr. SUMNER, there were 15 yeas and 7 nays.

The PRESIDENT *pro tempore*. There is not a quorum voting.

Mr. SHERMAN. I call for the yeas and nays.

Mr. HALE. I move that the Senate adjourn.

There is no use in sitting here without a quorum.

The PRESIDENT *pro tempore*. The motion of the Senator from New Hampshire is in order.

Mr. SHERMAN. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. HOWARD. I am requested to say that the absence of the Senator from Illinois [Mr. TRUMBULL] is in consequence of severe illness in his family, by which he is called away, and he is not able to assure the Senate at what time he can return.

The question being taken by yeas and nays, on the motion of Mr. HALE, resulted—yeas 3, nays 34; as follows:

YEAS—Messrs. Davis, Hale, and Saulsbury—3.
NAYS—Messrs. Buckalew, Carlile, Chandler, Clark, Collamer, Conness, Dixon, Fessenden, Foot, Foster, Harding, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Powell, Ramsey, Riddle, Sherman, Sumner, Ten Eyck, Van Winkle, Wade, Wiley, Wilson, and Wright—34.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. A quorum being now present, the question recurs on the motion of the Senator from Massachusetts that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 23, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the War Department, transmitting a statement of the expenditure of the contingent fund of that Department; which was ordered to be printed, and referred to the Committee on Expenditures in the War Department.

CONTESTED ELECTION IN MISSOURI.

The SPEAKER, by unanimous consent, laid before the House depositions in the contested-election case between James Lindsey and John G. Scott, from the third congressional district of Missouri, on the part of the contestant; which were referred to the Committee of Elections.

VOTES ON THE ENROLLMENT BILL.

Mr. MALLORY. I ask unanimous consent to record my vote on the report of the committee of conference upon the conscription bill.

Mr. WASHBURN, of Illinois. I object.

Mr. MALLORY. I hope the gentleman will withdraw the objection. I, in common with many others, understood that no vote would be taken on that matter on Friday evening, and under that impression we left the Hall. We were anxious, and we are anxious still, to record our votes on that measure, and I hope the House will not be found wanting in courtesy by refusing us the privilege now of recording our votes. I will say to the gentleman from Ohio [Mr. SCHENCK] I have no idea we can change the result. If he finds there is any danger of that he can withdraw his consent.

Mr. SCHENCK. This is not a matter of courtesy. I expected the first application would come from this side of the House. On Friday we were left very nearly without a quorum, and I shall now object to every application of this kind except where the applicant was absent on account of sickness.

Mr. MALLORY. I was very unwell and had been for some time, and I was worn out with the long session on that day before I left. I ask the gentleman if he will now object to my voting?

Mr. SCHENCK declined to withdraw his objection.

Mr. MALLORY. I should have voted "no."

Mr. GRIDER. I ask unanimous consent to record my vote on the conscript bill.

The SPEAKER. The gentleman from Ohio says he objects to every application to vote, except where sickness prevented the applicant from voting.

Mr. SCHENCK. I am compelled to object.

Mr. GRIDER. I would have voted in the negative.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

Mr. BOYD. I wish to record my vote on the conscript bill.

Objection was made.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, announced that the Senate had agreed to the report of the committee of conference upon the disagreeing votes of the two Houses on the bill (H. R. No. 122) to increase the internal revenue, and for other purposes.

FREEDMEN'S AFFAIRS.

The SPEAKER. The regular order of business is called for. The call for committees for reports is in order; and under that call the House resumes the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs, on which the gentleman from Pennsylvania [Mr. KELLEY] is entitled to the floor.

Mr. KELLEY took the floor.

Mr. HARDING. I ask the gentleman from Pennsylvania to allow me to make a statement. The report of the committee of conference on the enrollment bill was brought up at a very late hour on Friday evening, at a time when no man in the House expected it would be brought up. The hour was so late that the report then took every man by surprise. At that late hour a gentleman was upon the floor making a lengthy speech; and I regard the bringing in of that report then as taking an unfair advantage of those who were absent. I would have voted against that iniquitous measure had I been here.

Mr. BLAIR, of West Virginia. I ask the consent of the gentleman from Pennsylvania to say that if I had been here on Friday I should have voted in favor of the report of the committee of conference on the conscription bill.

Mr. KELLEY resumed the floor.

Mr. STEBBINS. Will the gentleman give way to me for a moment?

Mr. KELLEY. I cannot, if it is to come out of my time; otherwise I will gladly yield.

Mr. STEBBINS. I desire to introduce a resolution which will give rise to no debate.

Mr. SPALDING. I object.

Mr. ELIOT. Will the gentleman from Pennsylvania yield to me for a moment?

Mr. KELLEY. I understand that the chairman of the committee, whose bill I am about to sustain, proposes to offer an amendment to the bill, and I hope the gentleman from Ohio [Mr. SPALDING] will withdraw his objection for that purpose.

Mr. ELIOT. I offer the amendment which I send to the Clerk's desk.

Mr. ANCONA. I object.

The SPEAKER. The gentleman from Massachusetts can modify his amendment.

Mr. ELIOT. That is all I want to do. It will make the bill more acceptable to gentlemen opposite.

Mr. MALLORY. I rise to a question of order. Have I not a right to object to the gentleman from Pennsylvania [Mr. KELLEY] yielding the floor?

The SPEAKER. The gentleman could have done so if he had objected in time, but he did not do so.

Mr. MALLORY. I objected as soon as I found out what the gentleman wanted.

The SPEAKER. The gentleman asked to have the privilege of modifying his amendment.

Mr. ANCONA. And I rose in my place and objected.

The SPEAKER. The Chair heard the gentleman from Pennsylvania, but the objection came too late.

Mr. ELIOT. I propose the following modifications:

At the end of section one add the words "nor concerning any other persons than freedmen."

On page 5, in section six, after the words "real estate," in line nineteen, insert the words "within said districts."

Strike out "therefrom" in section six, line twenty-four, and insert "from said lands."

I now ask that the bill as amended be printed.

Mr. ANCONA. I object.

Mr. KELLEY. Mr. Speaker, mutation is the law of our life. Paradoxical as it may seem, no law is more immutable or inexorable than this. "Passing away" is written on all material things. Nothing bideth in one stay; and, sir, much of pain and anguish as these ever-recurring changes, the inevitable product of swift-winged time, may bring, they are the sole source of hope and aspiration; they are the method and sure guarantee of progress, social and political. Stagnation is death. Bats and owls undoubtedly have their place in the economy of nature, but in their love of the twilight and darkness that succeed the day they do not symbolize the wise and sagacious statesman. That nation is in a bad way whose legislators' intellectual vision is from the back of their heads; whose faith ignores eternal laws because they are invisible, and lays hold only of such palpable facts as that pepper is hot in the mouth, and that when the sun is at meridian it should be noon by the almanac; and whose hope sings no joyful prophecy of a better future, but spends itself on a sad refrain made up of legend and tradition. The wise statesman—indeed, he who is at all a statesman is keen and far-sighted—notes the ever-recurring new facts of the new day. He watches the progress of sentiment and opinion. He observes the development of the material resources of his country and of the world. He pays regard to the great eternal laws of justice, right, and truth, and from time to time so modifies those habits, customs, and institutions which are vicious or essentially temporary and transitory as to bring the order of society into harmony with nature's laws, and thus secure the prosperity and peace of the people.

Sir, statesmanship would have averted the rebellion that now scourges our country. The fathers of the country saw the character of slavery. They gave us the Ordinance of 1787, which forever prohibited it north and west of the Ohio river. They excluded from our Constitution the words "slave" and "slavery," because they believed the institution to be transitory, and would not cause the blush of shame to mantle the cheeks of their descendants by recording in that enduring instrument the fact that an institution so incompatible with its scope and spirit had ever existed under it. Had their counsels prevailed, or had statesmen succeeded them in the government of the country, slavery would have long since been abolished, and other questions than those

which now distract our country would have been in process of solution at the hands of a peaceful, prosperous, and mighty people. But it was not so ordered. The Government was confided to the hands of wicked and short-sighted demagogues, and they, by disregarding the immutable laws of right and justice, have involved us in war; and it is the part of the statesman and the wise legislator to accept the facts of the day as he finds them, to apply to them controlling and enduring principles, and thus to evoke beautiful order out of the sanguinary chaos that surrounds us. This he may do by inaugurating a system of paid labor that shall be in harmony with the spirit of the age and Christian civilization.

The bill under consideration, Mr. Speaker, is well calculated to produce these happy results. The committee charged with its preparation has considered it in no narrow or partisan spirit. The majority of the committee beheld the great need of such a bureau as it contemplates. They have called from far and near the wisest counselors. They have heard slaveowning and other citizens of the rebellious territory. They have called to their aid officers both civil and military who had enjoyed the means of ascertaining what is needed, and after mature deliberation they have reported the bill as it stands before the House. Its immediate passage is demanded by the fact that the ancient order of things has been destroyed over a territory described by the eloquent gentleman from New York [Mr. Brooks] as "larger than were the whole thirteen original States of these United States; a territory extending from the shores of the Potomac to the Rio Grande." The constitutions of the States that once had jurisdiction over that vast territory were extinguished when sovereign conventions of the people severed the ligaments that bound them to the Constitution and Government of the United States. Their able-bodied white men have been or are being conscripted by the despotic and aristocratic usurpers of their government to make war upon us and our institutions. Their slaves, freed by the proclamation of the Commander-in-Chief of our Army and Navy, are fleeing by tens and hundreds of thousands to our standard and within our lines, and the broad territory to which we look for supplies of cotton, rice, sugar, and tobacco lies a wide waste, overgrown with weeds. The bill proposes, by means simple, legal, constitutional, and inexpensive, nay, by which millions, many millions, per annum will be added to the Treasury of our country, to cultivate so much of these lands, and to employ in their cultivation so many of these people as have come or may come within our lines. In the cultivation of its lands a nation finds its wealth. And none can suffer from the employment of idle laborers on abandoned lands.

The future welfare of the freedmen demands such action. They must not be permitted to contract habits of idleness, indolence, and vagrancy. The welfare of the people of the North demands it. They need the commodities yielded by this territory. Their industry is paralyzed by the want of cotton which will be produced on these fields and by the labor of these people. The world at large demands it. The absence of the well-directed toil of these very people upon the neglected lands now and soon to be within our lines has caused gaunt want and starvation to stalk through the manufacturing districts of Great Britain and the continent. And it is our duty, by prompt legislation, to stanch these wounds, as we can do by the coming autumn. The provisions of this bill are well directed to that end. Humanity, the spirit of the nineteenth century, and Christian civilization demand its immediate passage.

Happily, I need not dwell on its details. They were elaborately explained by my colleague on the committee, the chairman, when he introduced the bill to the attention of the House. On that occasion he challenged the free, frank, and full discussion of the bill; and what response has been made to his challenge? The gentleman from Ohio, [Mr. Cox], the gentleman from the Brooklyn district of New York, [Mr. KALBFLEISCH], and the gentleman from the city district of that State, [Mr. Brooks], have all spoken to the bill; but they have not discussed its details. They have not attempted to point out the provisions in it that are unconstitutional, illegal, or unwise. They have heaped upon it invective and denunciation; but its details and its spirit they have evaded. Indeed,

the gentleman from New York [Mr. Brooks] said:

"But, Mr. Speaker, it is vain for me to attempt to discuss the details of this bill, for it is a bill which has doubtless been caucused and settled and decided upon elsewhere. I will not, therefore, waste the time of the House in a futile discussion of its details."

Futile, indeed, would have been the discussion had the gentleman attempted to verify his denunciation of the bill by pointing out the provisions which sustained or justified it. The gentlemen chose rather to evade the bill, its objects, and its provisions, and to entertain us with incoherent rhapsodies, which would have been very well in Committee of the Whole on the state of the Union where we all speak for buncombe, but which sounded dreary and melancholy enough in connection with a great and grave topic like that which should properly have engaged the attention of the House.

Sir, in the absence of assailable provisions in the bill, the gentleman from New York [Mr. Brooks] poured forth his indignation upon the grand old Puritan State. He said:

"I know the spirit of Massachusetts. I know her inexorable, unappeasable, demoniac energy. I know that what she decrees she will execute, as when she ordered the burning of the witches at Salem, or the scourging of the Quakers, or exile of the Baptists to the rocky shores of the Narragansett or to the mountain-fastnesses and glens of New Hampshire, where my maternal Baptist ancestors were banished. Hence when, as now, she decrees on the African, I tremble for three million of hitherto happy human beings now doomed to extermination."

And again he said:

"The spirit of Massachusetts has done in two or three years only what Christ, or the church of Christ, was twelve or fifteen hundred years in accomplishing in the Roman empire."

Sir, I am no son of Massachusetts or New England as the gentleman is; but I remember that, in my wayward youth, being free from the indenture that had bound me to a long apprenticeship, but not having attained manhood, I wandered from my native Pennsylvania, counter to the current tide of emigration, in pursuit of employment, and found a home in Massachusetts, and I may be pardoned if I pause for a moment to feebly testify my gratitude to her in whom I found a gentle and generous foster-mother. I thank God for the Puritan spirit of Massachusetts. A boy, poor, friendless, and in pursuit of wages for manual toil, I found open to me in the libraries of Boston the science, history, and literature of the world. At a cost that even the laboring man did not feel I found, night after night, and week after week, in her lyceums and lecture-rooms the means of intercourse with her Bancroft, her Brownson, her Everett, her Channings, her Prescotts, her Emerson, and scores of other as learned and as able, though perhaps less distinguished sons than these. I thus learned what it was to be an American citizen, and to what a height American civilization will be carried; and I found four years of life spent at well-paid toil worth to me what the same number of years in a college might have been. I thank the men of Massachusetts, as will the scholars in public schools fashioned upon her principles in the city of Charleston in good time. They may be white, they may be black, they may be yellow, but when the civilization of Massachusetts shall have penetrated that dark city, and fashioned its institutions as it will, the pleasure of the pupils in the schools will be to thank God night and morning for the spirit of Massachusetts which kept liberty alive, and finally brought its blessings to the entire people of the country. Yes, sir, Massachusetts in the past two or three years has given a practical application of those principles which in twelve or fifteen centuries gave freedom to Europe, and is about giving it to all the people of America. Not without war, however; and the gentleman ignored the teachings of history when he said that it had been done without war in Europe. Sir, the history of the contest for freedom in Europe is a history of continuous, sanguinary, and destructive war.

The gentleman from Ohio [Mr. Cox] less gravely—I will not say more flippantly, for that might be offensive—devoted his hour, as I have said, not to the examination of the bill, but to a criticism of certain utterances of Wendell Phillips and Theodore Tilton, and the reading of copious extracts from an anonymous pamphlet recently published by Dexter, Hamilton & Co., Nassau street, New York, entitled *Miscegenation*.

I am a little disappointed, Mr. Speaker, that this bill should receive such treatment at the hands of gentlemen on the other side of the House. They profess to sympathize with the people of the South. They profess to wish for peace and to restore them to the blessings of society. Sir, do they not know that this bill relates to four million people of the South, half a million, certainly more than four hundred thousand, of whom are the near relatives of their former associates upon this floor and their partisans in the South, men to whom they and their deluded partisans confided the administration of our Government for more than thirty years? None know better than these gentlemen that one half million of those slaves are the near relatives, the uncles, aunts, and cousins, brothers, sisters, and children of the Democracy of the South; that in the veins of that number of colored people tingles the blood of what the gentlemen have been pleased to consider the master race of this country. The gentleman intimated that, by reason of the utterances to which he referred, he was satisfied that the Republicans and abolitionists of the North would fall into the practice of amalgamation. Sir, he knows very well that the complaint of the alleged illegal and unconstitutional arrest of that specimen of southern chivalry, that representative of Virginia manners and morals, that leader of the New York Democracy, Captain J. U. Andrews, is not their real grievance in the premises. He knows very well that their real grievance, and that out of which they expected to make most capital while they hoped to restore slavery to its old political power, is that when the officers tore that husband of a white woman ruthlessly from the sweltering embrace of his African *inamorata* they violated Democratic usages. Yes, sir; this is their real cause of complaint in the premises.

It is not the men of the North who have been enamored by that complexion which is described as the "shadowed livery of the burning sun." It is not the men of the North who have laid their "snowy hands" in "palms of russet;" or have "hung Europe's priceless pearl that shames the Orient on Africa's swarthy neck;" or realized experimentally the truth of the poet's aphorism, that

"In joining contrasts lieth Love's delight."

These exquisite and delicate sources of enjoyment have been in the exclusive possession of the southern Democracy, the collaborators in politics of the gentleman who charges them so wantonly upon the people of his own section. He has never seen the white northern man choose his companion from that race. I have by me the picture of a band of slaves sent North by General Banks, four of whom are as white as we who hold this discussion. They come from the colored schools recently established in New Orleans. They are children of southern Democrats; born in Virginia and Louisiana, they were owned or sold by their fathers as negro slaves.

I look, sir, upon that picture of Washington's companion in the Revolution [pointing to the picture of La Fayette] and his fit associate in this Hall, and I remember that when on his tour through this country in 1824 he visited the southern States, he very publicly expressed his surprise at finding the complexion of the negro population in their cities so largely changed from what it had been at the close of the revolutionary war, and expressed the hope that in finding the two races thus blending their blood he might discover the solution of the slavery question.

But a few weeks ago, in conversation with a distinguished son of Kentucky, himself a slaveholder, upon the question now under discussion, he said to me that in 1849 he was at school at Danville, Kentucky; that there were there on an average three hundred young men, and that though the colored population of the town numbered six hundred, there were but six of pure African blood. The scholars of that school were not northern abolitionists or Republicans. They were the wealthy and educated young gentlemen of the democratic South.

But, sir, let this question not rest upon isolated instances or narrow localities. Let us look at the census of 1860. I find by it that more than half a million of the colored people of that section are, as I have already intimated, the kindred of the white race of the South. Thus in Louisiana, of the free colored people, 81.29 per cent. are of mixed

blood, while in Pennsylvania only 33.67 are of mixed blood. And here let me say the latter are nearly all of southern birth. I remember while litigation was pending in our courts between two colored natives of Charleston there were on one occasion about fifty witnesses in court. Some of my colleagues remember the occasion. The contest was between Robert J. Douglass and Wilkinson Jones, and among the fifty witnesses, all of whom were natives of Charleston, South Carolina, and its immediate vicinity, there was not a black or one white man. They were all of mixed blood. And in behalf of Pennsylvania, I claim that the South has sent us by far the greater portion of what we have of that stock. In Alabama the percentage of mixed blood is 77.99, and in Vermont 27.08. In Texas it swells to 76.90; in Rhode Island it sinks to 25.23; in South Carolina it rises again to 71.96, notwithstanding her exportations to Pennsylvania and elsewhere; in Connecticut it sinks to 72.04. In North Carolina it is 71.59; in New York it is 15.88. In Florida it is 68.99; in New Jersey it is but 13.64. But these, you say, are freed people; these are persons whose fathers, unwilling to sell their own blood, have manumitted their children. Let us look, then, to the statistics of the slave population. I find that by the census of 1850 there were of mixed blood among the slave population but 7.30 per cent.; and in 1860, so busy had the pro-slavery Democracy been in augmenting the numerical power of the institution, that the 7.30 had swollen to 10.41; and if the negro race is to be saved as a distinct race, the only way to do it is to take it from the embrace of the slaveholders, to acknowledge the humanity of the slave, to give him the rite of marriage, and to teach him those great truths which, according to the gentleman from New York, in twelve or fifteen hundred years gave freedom, and with it morals, to Europe.

But enough and something too much of this. Indeed, I crave the pardon of the House for having followed the gentleman from Ohio so far into this discussion.

It is not for me, Mr. Speaker, to predict the fate of races of people. It is not for me to disclose the providence of God with reference to our country. "Sufficient unto the day is the evil thereof." My business, and yours, sir, and that of this House, is to legislate wisely for the remedy of the evils that now beset our country. The country, the world, humanity at large needs the labor of these freedmen upon the broad lands abandoned by rebel owners, and I beg the House to pass this bill as the sure means of securing present blessings and future peace and national prosperity.

The gentleman from New York [Mr. Brooks] said further:

"I must accept facts accomplished, and abide by the consequences. Hence I recognize the abolition of slavery; hence I intend to act hereafter upon that recognition, because it is inevitable. So far as I have influence I intend to withdraw that question from the exciting canvass of the day, and to go before the people upon other matters of difference."

Sir, I hail the gentleman as friend and brother in the good work of the future. I welcome him as I hope soon to welcome to the ranks of the friends of freedom the gentleman from Ohio, [Mr. Cox,] who told us that the Democratic party had not been a pro-slavery party, and seemed to me to be paving the way for coming forward and joining those who bear the standard of progress. Yes, I shall welcome him too, addicted to persiflage as he is.

But the gentleman from New York says that slavery is dead. Let us, then, give it decent burial. Let us erect to its wicked memory a monument. Let us close the mouth of the sepulcher with a stone so weighty that it shall preclude the possibility of resurrection. Let us put over it the Constitution of the United States, having first written indelibly therein that slavery or involuntary servitude, except as punishment for crime, shall be forever prohibited within the United States, or any State thereof, or any Territory belonging thereto. When we shall have done that, then slavery will be dead indeed, and the United States be freedom's harbinger to mankind, offering perpetual welcome to the oppressed of the world. Will you, gentlemen, give us a vote for that amendment, and thus attest the sincerity of your conversion?

But something more is to be done. Slavery is

not quite dead. It holds a little fastness still in Kentucky, where slaves are gathered, I am told, from all the surrounding States; but it is in the act of death. We may consider it dead, and pass on to the next duty. Having thus eradicated chattel slavery, let us unite in securing freedom to the people who have been its victims. Are they capable of freedom? Are they worthy of our efforts? Let Messrs. Owen, McKay, and Dr. Howe speak. They have had ample means of judging, and have carefully passed upon these questions. In their report of the American Freedmen's Inquiry Commission they say:

"The evidence before the commission establishes, beyond cavil, the fact that these refugees are, with rare exceptions, loyal men, putting faith in the Government, looking to it for guidance and protection, willing to work for moderate wages if promptly paid, docile and easily managed, not given to quarreling among themselves, of temperate habits, cheerful and uncomplaining under hard labor, whenever they are treated with justice and common humanity, and (in the southern climate) able and willing, on the average, to work as long and as hard as white laborers, whether foreign or native born."

Certainly such people are capable of taking care of themselves. Let us then give them freedom, indeed. We have struck the shackles from their limbs, but they are like orphan children. They need such guidance and assistance at the hands of the Government as a faithful guardian would bestow. They have not owned themselves. Marriage has been a rite denied them. They were not permitted to identify themselves or their children by the use of family names. History, science, and literature have been sealed books to them; nay, it has been a felony to teach them to read the word of God! They, their wives and children, have been numbered, counted, bought, and sold, with horses, cows, and other cattle on the plantations of their owners. This can be no more. They are sober, industrious, and skilled in the labor which is required to make these broad acres productive, and all that they need is guidance, fair play in the battle of life, and fair wages for fair day's work. Let us, then, by the provisions of this bill, secure these things to them, and they will prove their fitness for liberty.

But the gentleman [Mr. Brooks] says they will be destroyed; that a harsh and superior race will exterminate them; that liberty is no boon to them. In this he asserts the theory of the despot and the aristocrat of every age and country. No man is, in their judgment, fit for freedom till he has got used to its enjoyment. I tell you, sir, that liberty is not a superstition, a name, an uncertain tradition. It is a fact. It is well embodied in our political institutions, and is confirmed by the equal social and political life of New England. Freedom, sir, is for the laborer

"Broad
And a comely table spread,
When from daily labor come,
In a neat and happy home,
It is clothes and fire and food
For the trampled multitude."

Let us pass this bill. Let the commissioners it calls into being see that these abandoned estates are leased. Let the freedman feel that he is a man with a home to call his own, and a family around him, a wife to protect, children to nurture and rear, wages to be earned and received, and a right to invest his savings in the land of the country, and you will find that no race will prove itself able to blot out of existence these hardy children of toil. According to the gentleman's theory, the Irish race is rapidly disappearing from the world. Look at the census and behold its frightful exhibit. In 1841 the population of Ireland was 8,175,124. In 1861, after a lapse of but twenty years, it had shrunk to 5,764,543. Is the Irish element therefore disappearing? Sir, it is making an empire of Australia. It is taking advantage of our ridiculously misnamed reciprocity treaty with Canada, and building up a rival power beyond the lakes. The names of Corcoran, Mulligan, and Meagher tell you what it is doing in our midst. Although the gentleman from Indiana [Mr. HARRINGTON] would exclude the Celt from the right of citizenship and confine it to the Anglo-Saxon merely, the day never was when the Irish element of humanity was exercising so wide, so powerful, so beneficent an influence as it does today, when the little island of Ireland is apparently being depopulated. You need not fear that this black race will fade away. Give these people homes, give them the sense of proprietorship in the

land, give them families to cherish, give them the pleasures and power of science, literature, philosophy, and the hopes of religion, and you need not fear that you can corrupt them as you have done in slavery or annihilate them by your power. The glowing South, the land of the tropics, genial to them, invites its own development and will insure that of this race.

The people of the South understand this matter better than we. I find in the New Orleans Times of December 16 the proceedings of the convention of the friends of freedom in the State of Louisiana. It was largely attended by the ablest and best men of New Orleans and the contiguous parishes. Thomas J. Durant, Esq., who for thirty years has illustrated the glorious profession of law at the bar of Louisiana, presided, and, on taking the chair, said:

"Fellow-citizens of the convention, friends of the cause of human freedom and of liberty, I feel greatly oppressed by the sentiments which crowd upon me with overpowering influence as I thank you, before taking my seat in the honorable position to which your voices have assigned me, for the honor you have conferred on me. You are assembled in a great and sacred cause. It is the cause for which your forefathers fought; the cause for which your brothers, on many a battle-field, are falling and dying. It is the sacred cause of liberty. We are prompted to the execution of the task which we have undertaken by every sentiment of justice and humanity; of justice to ourselves as men representing the great principles of freedom in the State of Louisiana, and to those wearing the bonds of slavery, but whose bonds are now to be broken. This convention is the first deliberative body in Louisiana that will have proclaimed the freedom of all men. No matter with how dark a hue their skins may be embrowned, beneath the surface there is the soul of a man, and therein we recognize the great principle of equality and fraternity. It is the assertion of this principle which will lead to the reconstruction of our country. It is by the destruction of slavery that, phoenix like, will rise from the ashes of this rebellion the spirit of a new freedom. Out of this insurrection will grow a resurrection that will lead us to a glorious immortality."

The men of Louisiana who know the colored people of that State believe that they are fit for freedom, and do not fear their extermination. I find in the same paper—the New Orleans Times of the 9th instant—an elaborate report of the proceedings of a mass meeting of colored people of New Orleans, held in lyceum hall the preceding evening. I read a more condensed account of the meeting taken from the columns of a leading New York journal, remarking that its statements are all sustained by the report to which I have referred:

"A meeting of the colored people of this city was held last evening in the lyceum hall to meet Colonel McKay, one of the commissioners appointed by the President to investigate the condition of the negroes emancipated by act of Congress and the President's proclamation of January 1, 1863. Long before the hour of commencement every seat in the vast hall was filled, and soon the aisles and all available standing-places were densely packed above and below.

"It is no exaggeration to say that a more respectable audience, so far as external appearances were concerned, was never assembled in New Orleans. The female portion especially were as well dressed and looked as tidy and as genteel as the audience to be found in your fashionable churches on the Sabbath. Many of the quadrons and octorons were of surpassing beauty, and in every line of their countenance expressed intelligence, refinement, and good-breeding.

"The white gentlemen present, who had spent much time among the degraded negroes on the Sea Islands of South Carolina, were astonished to find before them an audience so fashionably dressed, so intelligent in appearance, and in every respect so thoroughly competent to understand all that should be said to them. It is also interesting to know that this lyceum hall is in the court-house; that it is the largest room in the city; that the city authorities have always refused permission to the negroes to hold meetings there, and that in this instance it was obtained only upon the order of Governor Shepley, at the request of Colonel McKay.

"It was in this hall that the convention met to carry the State out of the Union, and it was here that the ordinance of secession was drafted.

"The Rev. S. W. Rogers was appointed president of the meeting. The proceedings opened with prayer by a clergyman present, after which the chairman stated the object of their assembling together. He then introduced Colonel McKay, the commissioner from the President.

"This gentleman on taking the stand was received with great applause. In a short address he stated to the audience that the people of the North and the President felt the deepest interest in the condition of the colored population of this city, and that the President had sent him here as a special commissioner to inquire into their condition and ascertain their wishes. He had visited their schools and was very favorably impressed with the progress they were making. They must go on in the work they had commenced, and must depend in a great measure upon their own labors for their salvation.

"To be really free before the law involved great responsibilities. You have not only rights to achieve but duties to perform—duties to yourselves individually, to your families, and to the community at large. Your enemies say that you are not susceptible of a high degree of cultivation, that your Creator never designed that you should be free men,

and that you will either gradually disappear from the earth or relapse into the condition from which you have but recently been rescued. It remains with you to decide whether you will work out for yourselves a glorious future or return to slavery and obscurity.

"Upon the close of the remarks of Colonel McKay, a committee was appointed to draft resolutions expressive of the sense of the meeting, and while they were absent Mr. J. B. Noble was called upon to address the assembly. He stated that there were two classes introduced here—one of slaves from the wilds of Africa, an ignorant, degraded people, and the other an intelligent, educated, enlightened, and wealthy class from Jamaica and Cuba; that they had contributed by their labors to the wealth and prosperity of Louisiana; that they had always obeyed the laws and paid their taxes promptly, school tax and all, though they had never reaped any advantage from it until within the last year. They wanted public schools. They wanted to be recognized as men. They wanted the odious black code done away with.

"After Mr. Noble had concluded his remarks, in the course of which he related an instance of the workings of the black code which affected many of the audience to tears, the following resolutions were reported by the committee, and after being read in French and English were adopted:

"Whereas his Excellency the President of these United States felt it his duty to inquire into the condition of the colored people of Louisiana for the realization of their new position in social life, to sustain themselves and implant a spirit of independent and free manhood into the minds of their descendants; and whereas we perceive, through the effects of this wicked rebellion, that the power, prosperity, wealth, justice, and liberty of this country will be brought to their greatest perfection only by a wise and judicious legislation for the just equalization of human rights; and whereas the sympathies over the relative condition of society will be notably renovated and improved: Therefore,

"Be it resolved, That we the colored people of this city, in mass meeting assembled, at lyceum hall, in New Orleans, do hereby express our unbounded and heartfelt thanks to the President of these United States, Abraham Lincoln, and his Cabinet, for the palpable interest they take in behalf of the once so unrighteously oppressed people of Africa's blood.

"Be it further resolved, That we acknowledge the power, proceedings, and enactments of the present Administration of the United States, and our sincere prayer is that its legislative acts may be felt throughout the land, like the rain and sunshine on our earthly soil.

"And be it further resolved, That as unto God we send our daily prayers for the welfare, both temporal and spiritual, of the President and his family, so unto the same great Being we offer up our petitions for the longer continuance of his servant, Abraham Lincoln, in his present high and responsible position, and for the progressive development of a higher civilization, refinement, righteousness, truth, peace, and national happiness of the American people."

But gentlemen say that the bureau proposed by this bill is to be expensive to the Government; that if the system could be made lucrative, they "would love to do something for these poor blacks." They do not ask you to give them anything but work and wages. They wish to pay liberally for all beyond this. These men without a name, known as Tom, Joe, and Dick, have rented their one, their five, ten, or twenty acres, and have produced a large amount of cotton, on which they pay to the Government a duty of two cents per pound. I find in Mr. Yeatman's report on the condition of the freedmen of the Mississippi the following statement on this subject:

"I visited quite a number of freedmen who were engaged in planting cotton on their own account.

"Granville Green, (colored,) on the Beard place, works a number of hands, and is supplied by Government with rations, to be paid for when the crop is sold. I was informed that he would make from ten to twelve bales of cotton.

"Tom Taylor (colored) was working seven hands on the Savage place, the Government furnishing rations until the crop is sold.

"Luke Johnson, (colored,) on the Albert Richardson place, will make five bales of cotton, and corn sufficient for his family and stock, and has sold \$300 worth of vegetables. He has paid all expenses without aid from the Government. He commenced work last May.

"Bill Gibson and Phil Ford (colored) commenced work last May, and will make nine bales of cotton. They occasionally hire a woman or two, and have paid their hands in full, and found their own provisions.

"Solomon Richardson, (colored,) on the Sam. Richardson place, will make ten bales of cotton. He has had one hand to assist him, and has a good garden and corn.

"Richard Walton (colored) will make seven bales of cotton. He has only had assistance in gathering it. He has no garden, but has provided for himself, and paid for everything.

"Henry Johnson (colored) will make eight bales of cotton, doing all the work himself.

"Moses Wright (colored) will make five bales. He has had his wife and two women to aid him, and all have paid their own way.

"Jacob, (colored,) on the Blackman place, has made seven bales of very fine cotton, the best I saw, and equal to any ever grown in this section. He had some assistance.

"Jim Blue, (colored,) an old man, has made two bales of cotton.

"George, (colored,) aided by two women, has made eight bales of cotton.

"Milly, (colored woman,) whose husband was killed by the rebels, will make three bales of cotton. She had two boys to aid her in picking, at fifty cents per day.

"Peter (colored) and his son have made two bales, and raised a crop of corn.

"Ned (colored) will make two and a half bales of cotton, besides his corn.

"Charles (colored) will make two bales of cotton, besides his corn.

"Sancho (colored) works part of the Ballard place. I was informed he would make eighty bales of cotton. He works about twenty-seven men, women, and boys. I called to see him, but he was absent.

"Patrick, (colored,) on the Farron place, near Millikin's Bend, has made about twenty-seven bales of cotton. He has six or seven persons to aid him.

"Bob (colored) will make nine or ten bales of cotton on the same place.

"Prince (colored) will make six or seven bales of cotton.

"From the above one can readily see that coercion is not essential to make the negro work. The new boon of freedom had been granted, and still they steadily went forward with their work, some of them accomplishing fully as much as under the eye of a master and the lash of the overseer."

Adjutant General Thomas also tells us that he had leased fifteen plantations to freedmen, and that they worked them well and judiciously, raising from four to one hundred and fifty bales of cotton, on every pound of which the Government received a rent of two cents. I hold in my hand the account of sale of part of the cotton made by a number of these poor freedmen. It is from the second report of Mr. Yeatman—that on the subject of leasing abandoned plantations:

"Ample provision is made for such freedmen as desired to lease ground for themselves. Such as did it last year were eminently successful. I annex a statement of a few account sales of cotton grown by the colored lessees: the sales do not by any means include all grown by them; besides there are many others who leased plantations, or parts of plantations, for which no returns had been rendered.

	Bales.
Solomon Johnson.....	7
Samuel Howard.....	47
William Goodin.....	3
Henry Johnson.....	6
William Gibson and Forst.....	5
George Washington.....	4
York Hardin and J. Hardin.....	4
Thomas Taylor.....	1
Archib Stewart.....	5
Samuel Tousey and son.....	4
Peter Boyes.....	2
Edward Maxwell.....	28
Contraband.....	4
Tom Taylor.....	4
Moses Wright.....	6
Charles Bowman.....	2
Nat Brooks.....	1
Alexander Hamilton.....	1
James Fisher.....	1
Lewis Jackson.....	4
Richard Walker.....	1
Lewis White and Charles.....	5
	153

	Bales.	Bales sold.	Netting
Silas Stepheny.....	27	6	\$1,401 35
Robert Cookley.....	7	3	790 43
York Horton.....	2	2	504 84
Sancho Lynch.....	75	29	6,897 43
Henry Harris.....	31	9	2,251 69
Sol Richardson.....	10	7	1,642 13
	152	56	\$13,487 87
Luke Johnson.....	11	9	\$2,061 18
Richard Walker.....	5	5	1,247 60
Ben Mingo.....	14	2	580 61
William Goodin.....	4	4	1,023 94
J. White.....	28	25	5,838 60
	62	45	\$10,751 93
	152	56	
	153		
		101	

Whole number of bales raised 367
Net proceeds of 56 bales sold.....\$13,487 87

" " 45 " ".....10,751 93

101 " ".....24,239 80

Average of 276 " at \$240.....66,240 00

377 ".....\$90,479 80

Poor Contraband, having twelve bales of cotton as working capital, may yet hope to earn himself a "local habitation and a name."

Under General Thomas's arrangements these people were hired at seven dollars a month for an able-bodied man, and five dollars for a woman. Under the influences which originated this bill their wages have been raised to twenty-five dollars for a first-class, twenty dollars for a second-class, and fifteen dollars for a third-class man, and women of the same character, instead of being compelled to labor for five dollars, now get eighteen, fourteen, and eleven dollars.

Sir, speculators, when they leased lands, said they could not work them and pay such wages; but when the lettings of hands came to be made there was much competition for laborers at the

enhanced price. On this subject Mr. Yeatman says:

"The lessees were necessarily disappointed, having been led to believe that they could employ laborers at the old wages, seven dollars for men and five dollars for women of every age and capacity. There were those who stated that plantations could not be leased, if they had to pay the minimum wages required, say for men graded No. 1, twenty-five dollars; No. 2, twenty dollars; No. 3, fifteen dollars; women of the same grades, eighteen dollars, fourteen dollars, and fifteen dollars; but notwithstanding, when the time for leasing came, there were none that held back on this account."

Pecuniary advantage to ourselves is a mean argument to suggest; but let me ask whether the men of the Northwest do not wish to create millions of consumers, liberal consumers, of their great staples? I know that Pennsylvania and New England will not complain if these four million people who have been non-consumers of their products shall send each fall and spring to buy the products of their workshops. It will do the North no harm to see these freedmen and their families in houses, rather than in dog-hutches called slave quarters; to know that they have carpets upon their floors, furniture in their rooms, and Yankee clocks upon their mantels; and that when on the Sabbath day they repair to the village church, built by their own generous contributions, they dress as their taste may lead them to.

This, Mr. Speaker, is not a political bill. It is required by the exigencies of the case. We are in the midst of a revolution, and it is no answer to the demand for a bureau to say that there has never been a Freedmen's Bureau before. It is no answer to say that there is no precedent. Gentlemen, turn your vision to the front; for to-morrow, and to-morrow, and to-morrow again will come, and each day will bring new conditions and new duties; and the man who is not ready to confront the morrow is not fit to legislate for the leading nation of the world.

But gentlemen inquire whether this bill will benefit the white man. Yes, it will. I find that among the eight million whites of the South, with scarcely any foreigners among them, for foreign labor has been excluded by the system of unpaid labor that prevailed—among the eight million whites there are more than fourteen thousand more who cannot read or write than are found among the eighteen millions of the North, though these embrace almost all the uneducated foreigners who have emigrated to this country. Under the provisions of this bill, by which abandoned plantations are to be occupied, the colored man who has never owned himself, and the white man who has owned nothing but himself for a few acres of mountain side or sandhill, can come and rent from the Government a farm, larger or smaller as his means may justify, for which he will be required to pay two cents a pound on the cotton he may raise and five cents per bushel for corn, and so add to the revenues of the country. It will bless the poor white man quite as much as it will his dark-skinned brother, the freedman.

The bill might well be pressed as a revenue measure. Mr. Yeatman tells us that the lands leased up to February 12 will yield an income of from twelve to fifteen hundred thousand dollars per annum. But let him speak for himself:

"Under the present system all who employ labor, whether owners or lessees, are required to contribute one cent per pound on all cotton grown, which is to be applied for the maintenance and benefit of the aged and infirm freed people and motherless children, and the establishment of schools. If the quantity of land applied for should be cultivated, it will yield an income of from twelve to fifteen hundred thousand dollars per annum to be applied to purposes above mentioned, a sum more than sufficient. Those who labor will support themselves. Schools can and will be established on every plantation leased where there are children sufficient to justify. Teachers are now being supplied by the various missionary and other educational associations; others if required will be raised and supported out of the fund raised by the one-cent contribution. A blessed day will it be when this occurs. The year of jubilee will indeed have come.

"The quantity of land applied for will more than employ all the laborers now under our jurisdiction, but those most conversant with the condition of things at the South say that there will be no difficulty on the score of laborers, that thousands will flock in the moment they hear that there is work for them at fair wages. They have a dread of the freedmen's camp, in which so many have suffered and died."

And again:

"By a judicious fostering of the system of labor proposed, it will not only relieve the Government of the charge of many thousands of these people whom they are now feeding and maintaining in idleness, and who must if so continued sink into a deeper state of degradation and vice than they

were as slaves. With protection such as is asked for, all will find employment at fair wages, and will be able fully to support themselves, besides putting millions into the Treasury in the way of rental and tax and duties on cotton. If the number of acres as applied for are planted and the product derived from it as anticipated, a revenue of not less than eight millions may be calculated on. Besides, the country which is now laid waste and desolate will be made to blossom once more as the rose, and yield a rich return to those who are willing to risk something to aid in bringing about these results. But pecuniary gain should be secondary to the good which is to be done to these poor down-trodden people. It will elevate them in the scale of civilization and prepare them to enjoy the rich boon of freedom which has recently been granted to them."

But my time is almost spent. I appeal to gentlemen to let this bill pass, or better still, to aid in its passage, and for once at least give

"Thanks for the privilege to bless
By word and deed
The widow in her keen distress,
The childless and the fatherless,
The hearts that bleed."

INTERNAL REVENUE.

Mr. DAWSON obtained the floor, but yielded to

Mr. STEVENS, who said: I rise to a privileged question. I submit the following report from a committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 129) to increase the internal revenue, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the third amendment of the Senate, and agree to the same with the following amendments: in line six of said amendment strike out the word "seventy," and insert in lieu thereof the words "sixty-five;" and in line eleven of said amendment strike out the word "eighty," and insert in lieu thereof the word "seventy."

That the House of Representatives recede from their disagreement to the fifteenth amendment of the Senate, and agree to the same with amendments, as follows: in line four of said amendment strike out the word "fifty," and insert in lieu thereof the words "forty-five;" and in line seven of said amendment strike out the word "sixty," and insert in lieu thereof the word "fifty."

That the House of Representatives recede from their disagreement to the sixteenth amendment of the Senate, and agree to the same.

W. P. FESSENDEN,
TIMOTHY O. HOWE,
REVERDY JOHNSON,
Managers on the part of the Senate.
THADDEUS STEVENS,
FERNANDO WOOD,
Managers on the part of the House.

I dissent from this report.

E. B. WASHBURNE.

Mr. Speaker, in a few words I can explain the purport of that report. The committee held that by the action of the two Houses the question of taxing the stock on hand was settled. All that they had left for them to do was to fix the duty prospectively on the articles produced. The Senate had laid a tax of sixty cents; from that up to the 1st of January, seventy cents; after the 1st of January, eighty cents. The committee changed it by making the tax up to the 1st of July at sixty cents; between July and January, sixty-five cents; and after January a permanent tax of seventy cents; reducing the tax as made by the Senate bill and raising it as made by the House bill. They also altered the duty on imported liquors from fifty to forty-five cents, and after January to fifty cents, so as to reduce it in proportion to the reduction of the tax on domestic liquors as imposed by the Senate bill. These are all, I believe, of the changes which have been made by the committee.

Mr. WARD. I would like to ask the gentleman from Pennsylvania, the chairman of the Committee of Ways and Means, whether the retroactive features of this bill have been removed?

Mr. STEVENS. They have.

Mr. WARD. I would like to ask him further, whether any mention is made in the bill in regard to goods on shipboard?

Mr. STEVENS. There is no special provision made for duties on shipboard, but all goods imported after the passage of the bill are to pay the tax. There was a great desire to make some difference, and to fix the duty only upon goods which should be embarked after the passage of the act, leaving those which were already afloat without it. But we found upon an examination of the act of 1862 that a different principle had been adopted, and we thought it would be incongruous to depart from that principle in the present law.

Mr. WARD. Will the gentleman from Pennsylvania allow me to make a few remarks before final action upon this report? I will detain the House but a few minutes.

Mr. STEVENS. My colleague on the committee of conference, [Mr. WASHBURNE,] I believe, desires to make some remarks upon this report before a vote is taken upon it, and I must first yield to him. I will say that the Senate have adopted the report of the committee of conference. I have stated its provisions. There was, indeed, but little left for us to do, the House having agreed to the amendment of the Senate striking out the retroactive feature; having agreed to the amendment of the Senate striking out the tax upon the goods on hand. But, sir, I do not desire to detain the House by any remarks. I yield to my colleague on the committee, [Mr. WASHBURNE.]

ENROLLED BILL AND JOINT RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; and Joint resolution relative to the transfer of persons in the military service to the naval service.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President, by Mr. NICOLAY, his Private Secretary.

Also, a message notifying the House that he did, on the 19th instant, approve and sign a joint resolution (H. R. No. 30) tendering the thanks of Congress to Major General W. T. Sherman.

And on the 22d instant, a joint resolution (H. R. No. 31) making appropriations for the payment of duties on certain lands owned by the United States; and

An act (H. R. No. 145) for the relief of the heirs of Noah Wiswall.

INTERNAL REVENUE—AGAIN.

Mr. WASHBURNE, of Illinois. Being obliged to differ from the conference committee, and withholding my assent from their report, I beg the indulgence of the House to state in a few words some of the reasons which have governed me in my action. Believing not only in the principle but in the justice and policy as well as the necessity of taxing liquors on hand for the purposes of revenue, I have consistently voted in every stage of the bill for the proposition imposing that tax. My convictions have never been clearer upon any subject on which I have been called upon to act in my capacity as a legislator. Those convictions were shared by nearly two thirds of the House, after a full and elaborate and able discussion, and against the opposition of the Committee of Ways and Means. The House adopted the following amendment to the bill originally reported by the Committee of Ways and Means:

"Provided further, That all spirits on hand for sale, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act from and after the 12th day of January, 1864; except that spirits which have been already taxed under the law of July 1, 1863, shall not bear more than the additional or increased tax provided for by this act."

The proposition contained in this amendment seemed to strike the House as an eminently proper one. It was known that in anticipation of an additional tax being put on whisky, and that it would thereby be enhanced in price, an immense quantity of it was made, and the question was then, whether this vast amount of taxable property, which had only been taxed one third of what was now proposed to be assessed by Congress, should go free of any additional tax; that is, whisky having paid a tax of twenty cents a gallon, and we by our legislation having added sixty cents a gallon to its value, which had to be paid by the consumer, whether that forty cents should go into the hands of the speculator and holder of whisky, or into the Treasury? This is all there is in the whole question; the talk of the faith of the Government pledged to the whisky-holders that there should be no additional tax, being contrary to what we have acted on and are acting on every day in our legislation and prac-

tice, is only one of those specious arguments so easily advanced by interested parties.

The public will not and cannot lose sight of the great fact that they have to pay this additional tax in any event. Whisky has advanced in proportion to the tax we have put on it, and that advance comes out of the pocket of the consumer, and it now, under this proposed law, will go into the pockets of the speculator and holder instead of going where it should go, into the Treasury, which is reeling and tottering under our vast and unheard-of expenditures. There is no faith of the Government, either express or implied, pledged to the whisky speculators, or any other class of individuals in the same position. The faith of the Government is just as much pledged to the consumer of liquors, that it will not legislate to raise the price on him, as it is not to raise the tax on the holder. What claim have these liquor holders and liquor speculators on us over and above the great masses of the community who consume the liquors for manufacturing, medicinal, and other purposes? Sir, they have no special claims upon Congress; they took their chances when they undertook to gamble upon congressional legislation, and they must accept the consequences. It should be the province of Congress to repress rather than to encourage this curse of speculation, which is the handmaid of that venality, corruption, and extravagance which always attend the prosecution of great wars.

Well, sir, this House, as I said before, by a vote of nearly two to one in a matter which seemed to have been fully discussed and thoroughly understood, determined that a tax should be imposed on the stocks of liquor on hand. Then it was that this vast private interest in the country became alarmed; it was a question whether \$10,000,000 of tax, after being paid by the public, should go into the hands of private individuals or into the Treasury of the United States. Soon the city becomes filled with these interested gentlemen who besiege the Halls of Congress and the doors of committee-rooms, urging their peculiar views of taxation in this particular with a degree of ingenuity and eloquence proportioned to the amount of interest each man had in the result of our legislation. They said to Senators and Representatives, "Let there be light," and, sure enough, "there was light." In speaking of the speculators and holders of liquors I speak in no personal sense, for I know nothing and would suggest nothing prejudicial to the personal character of any of them. They are insisting upon legislation in favor of their own interests and against what I believe to be the interests of the public generally, and it is to that I am opposed.

The Senate struck out the provision of the House bill in regard to taxing stocks on hand, but as a partial equivalent for the loss of eight or ten millions by that action, they provided a sliding scale of taxation for the future by levying seventy cents a gallon on all liquors after the 1st of July next to the 1st of January, 1865, and eighty cents a gallon on all after that date. The Senate also struck out that provision in the House bill taxing forty cents per gallon additional on all imported liquors, thus deciding against levying a tax of forty cents on stocks on hand, but in lieu thereof putting on the additional tax on the sliding scale on all domestic liquors distilled after the passage of the act. Such was the action of the Senate in regard to the most material portions of the House bill. The bill being returned to the House, thus amended by the Senate, we exhibit to the country the wonderful change which had been wrought in the opinions of honorable members. Nearly two thirds of the House having voted originally for the proposition to tax whisky on hand, there was now found a majority of three votes to concur in the Senate amendment striking out that tax. The House having, therefore, voted that it would not impose a tax of forty cents additional on the stock on hand, I voted to non-concur with the Senate amendment fixing the sliding scale of tax for liquor hereafter distilled. I voted in that way in the hope that if the stock on hand could not be taxed the full forty cents additional which the House had originally determined on, the sliding scale might be raised, and a less rate of tax for that on hand might be agreed upon, so that about the same amount of revenue might be derived as would have been obtained if the original House bill had become a law.

But you will see, Mr. Speaker, by the report of the conference committee, that there is not only nothing in the bill that imposes any tax whatever on the stock on hand, but the sliding scale on liquor hereafter distilled has been actually reduced from seventy and eighty cents on a gallon to *sixty-five and seventy cents on a gallon*. While the House concurred in the Senate amendment not to tax domestic liquors on hand, it refused to concur in its amendment striking out the tax on foreign liquors on hand. The House did not, therefore, settle any principle by its action on this subject, it only determined it would not levy a tax of *forty cents a gallon on domestic liquors on hand*. I will not violate any parliamentary rule or usage by referring to any action of the committee of conference, but I will state what I wish had been done by that committee. The House and Senate having both agreed they would not tax domestic liquors on hand *forty cents a gallon*, I would have been glad if the committee had imposed a tax of *twenty cents a gallon on stocks on hand*, and raised the sliding scale from seventy to eighty cents from and after next July to the 1st of next January, and one dollar a gallon after that time. Such an amendment to the bill by the committee of conference could have been made in conformity to parliamentary practice and to the usage of such committees. The bill thus amended would have yielded to a great extent the amount of revenue which the condition of the country demands from such an interest, and the burden of the taxation would fall where it belongs. I hope the House will, therefore, vote down the report of the committee, so that another committee may be appointed that will insist upon such a modification of the differences between the two Houses as will secure to the Treasury at least a portion of the immense sum to be paid by the people which otherwise would go into the pockets of the speculators. But if the House will not do this on this bill, I think gentlemen will find out the controversy on this question has but just opened. The attention of the people must be attracted to it, and when the next revenue bill comes up the whole ground must be gone over again, after we have been instructed by an enlightened public sentiment.

But, Mr. Speaker, it is not only on account of what is lost to the Treasury, and the injustice to the public which flows from permitting this stupendous private interest to go unwhipped of a just taxation, that I shall regret the refusal of Congress to impose this tax on liquors on hand. It is a fearful indication to me that in our legislation here the interests of combinations of individuals, of monopolizers, speculators, and corporations, interests which can bear taxation, are to be comparatively exempted, while the great burden of the tax is to fall upon the masses of the people who are the least able to bear its weight. Let Congress undertake to impose even the most proper taxation on any of the great interests such as I have spoken of, the representatives of those interests will swarm the city and penetrate our committee-rooms, and into our legislative halls; but the masses of the people, our own constituents, upon whom all of this tax is to fall, if these interests escape, have no outside agents here to argue their side of the case before our committees. They have confided to their Representatives in this Hall the great duty of watching their interests in all these matters so vital to them. It is a wise provision of our Constitution which declares that all bills for raising revenue must originate in the House of Representatives. As the taxes to be raised would fall on the people, it was wise to provide that their immediate Representatives, those more immediately responsible to them, should alone have the power of originating measures for taxation. Our constituents, therefore, have a right to look to us for the protection of their interests in the revenue bills we are to enact, and in this matter of imposing taxes upon them. While they are at home pursuing their ordinary avocations, in the fields and in the workshops, it is proper for them to demand of their Representatives here that they shall vigilantly guard all their interests, and permit no burdens to fall on them which ought to fall on other interests. This confidence having been reposed in me by a constituency whose interests I have never yet misrepresented, I propose to stand to the end where I have always stood on this proposition, and shall

vote against the report of the committee of conference, in order that we may have a new committee who will bring in a bill embracing the features I so much desire to see incorporated in it. I move to disagree to the report of the committee.

Mr. FERNANDO WOOD. Mr. Speaker, my colleague upon the committee of conference from Illinois [Mr. WASHBURN] has stated reasons why he did not concur in the report which was made, and it becomes my duty now to state reasons why I did concur in that report. I desire to say that I now agree fully with the gentleman from Illinois in all he has said in support of the principles of the amendment which I had the honor to offer, and which was adopted by so large a vote of the House. I believe that that amendment is right; I believe it is politic, that it is wise to tax the whisky on hand.

I regretted exceedingly that the Senate by so large a vote should differ with the House upon that point; and I regretted much more that gentleman, no doubt from proper motives, found it necessary to change their positions upon that point.

As was said by the gentleman who has just taken his seat, the principles of that amendment were ably discussed here. All the views which could possibly be advanced in favor of it were advanced; and all which could be possibly said against it was said against it. I listened attentively to the arguments upon the other side, but I heard not one that convinced me that the amendment was not just, right, and proper or that it was not in accordance with principles heretofore established by the Government to tax the stock on hand. And I am ready now to cooperate with the gentleman from Illinois, and with any other member of this House, in sustaining that view, and in incorporating it, if we can, into this bill.

But, sir, as I understand the powers and duties of conference committees, they are confined exclusively to those points about which the two Houses of Congress differ; conference committees are appointed because there are differences between the two Houses of Congress; and the jurisdiction of a committee of conference can extend only to those points of difference. If that is true they had no power to take up any other question, especially one, as in this case, upon which the two Houses had originally differed, but afterwards agreed.

The very able gentlemen upon that conference committee, gentlemen of very enlarged experience in public affairs in this country, and especially in legislation, whose opinions and experience were entitled to the highest consideration, stated that the Senate by a very nearly unanimous vote had sustained the Vice President in ruling that the report of a conference committee which contained matters not at issue was out of order and would not be received.

Mr. WASHBURN, of Illinois. Will the gentleman yield to me a moment?

Mr. FERNANDO WOOD. Certainly.

Mr. WASHBURN, of Illinois. I think I understand the argument of the gentleman from New York, and I must be permitted to differ with him in regard to the jurisdiction of the committee of conference upon this bill. It will be recollected, as I stated in the few remarks I have made, that the Senate struck out that portion of the House bill which imposed a tax on domestic liquors on hand. But the principle did not stop there; the House further in their bill imposed a tax upon foreign liquors on hand. Although we concurred with the Senate in that amendment, striking out the tax upon domestic liquors, we refused to concur with the Senate in striking out the tax upon foreign liquors. Therefore it was a balanced question in the House. We had decided neither one way nor the other, and it was not foreclosed to the committee of conference to take this whole subject under consideration.

But further than that, I differ from the principle which the gentleman has suggested. I say—and I speak from personal observation of what has been the action of these conference committees for ten or twelve years—I say the committee of conference could agree to an amendment which was germane to an amendment upon which the two Houses agreed, or germane to the bill itself. In my judgment there was no difficulty, no parliamentary law, no parliamentary usage, which

would have prevented the committee of conference, when they were considering the amendments, from considering such an amendment.

Mr. STEVENS. The gentleman will recollect—and I may mention it now that discussion is opened—that in committee the question of jurisdiction was decided adverse to the right of taking up this matter.

Mr. WASHBURN, of Illinois. I did not feel at liberty to refer to any action of the committee.

Mr. STEVENS. The committee did decide against the jurisdiction.

Mr. WASHBURN, of Illinois. My friend need not have told me that, but I appeal from the decision of that committee to the representatives of the people, who are sent here to guard the people's interest. I say that in my judgment that committee had a perfect right to make such an amendment as I have indicated, and in that I believe I could appeal with confidence to the Speaker, and I know I can appeal with confidence to our Journal clerk, (Mr. Barclay,) who has been such for twenty years, and who, I undertake to say, is the best parliamentarian in this country.

Mr. FERNANDO WOOD. The gentleman from Illinois made precisely the same speech before the committee of conference upon this question which he has made now. I was not sufficiently familiar with the rules governing the action of conference committees to have any opinion of my own as to the power of conference committees under such circumstances. But it is a sufficient answer to say that gentlemen who have been sixteen years continuously in either one or the other Houses of Congress, gentlemen who were here twenty-two years ago, holding seats in these conference committees, did differ with the gentleman from Illinois. A large majority differed with him. It was there settled that there was no power to take up, to determine, to take from, or to add to, the provisions of this revenue bill, or to treat upon any subject, if there had not been an issue between the two Houses upon the subject. In my inexperience I naturally yielded, upon this question of jurisdiction, to a majority of the committee of conference of which I had the honor to be a member.

Again, sir, as I understood my duty, it was to represent, so far as I had the power, the decision of the House of Representatives. Although the decision of this question of taxing liquors on hand was directly in opposition to my own opinion and my vote, yet looking upon my position as simply a representative upon that committee of the wishes of the House of Representatives, I had no discretion, no option, and was obliged to represent that sentiment as it was expressed in a concurrent vote with the action of the Senate.

Therefore, although I have changed no opinion as to the necessity or propriety of taxing whisky on hand, and although I am ready to vote with the gentleman from Illinois to fix this same feature upon any other bill which may be reported from the Committee of Ways and Means, I felt convinced upon this question here, signed the report, and am ready to sustain that report by my vote now.

The SPEAKER stated that, as the powers of conference committees had been under discussion in the committee which has just reported, with the right of the Presiding Officer to rule out their report, and as the gentleman from Illinois had appealed to him to state his opinion thereon, the Chair would give it if there was no objection. The conference report that was ruled out of order by the Vice President was made during the last Congress. His distinct recollection was that after settling the disagreements between the two Houses that conference committee recommended to both Houses of Congress to amend the original text, which had not been referred to them at all, and over which consequently they had no jurisdiction. The Chair believed then, as now, that the Vice President had decided correctly.

But as to the power and right of a conference committee to recommend a concurrence in pending amendments by adding amendments thereto, the Chair had no doubt whatever, especially if the proposed amendments differed in any material degree from amendments rejected by both Houses, and also related to the article or subject referred to in the disagreeing votes referred to them for adjustment.

The Chair thought it but right to state this opinion, after being publicly appealed to, that conference committees, which might be influenced in their action hereafter by the allusions to parliamentary law in to-day's debate, could clearly understand the opinion of the Chair as to their power, its extent, and its limitations.

Mr. WARD. Mr. Speaker, the gentleman from Illinois yields to me for a few minutes, and I avail myself of the courtesy thus extended with no intention of entering into a general discussion of this question. I was detained from the House by illness during a portion of the time when this subject was discussed. The bill, as reported by the Committee of Ways and Means, was prospective in its operation, except as to spirits on shipboard bound to the United States, and in bonded warehouses and public stores. The honorable members who addressed the House in behalf of the committee supported this mode of taxation as proper, just, and feasible. My colleague, [Mr. FERNANDO WOOD,] however, moved an amendment, that the increased tax of forty cents should apply to all whisky on hand for sale, with a view, as alleged, to reach speculators without reference to the injury it would inflict upon distillers, persons legitimately engaged in the trade, and consignees who had made advances upon spirits at the present rates of taxation. It is unnecessary for me to point out in detail the injury that would thus have been inflicted upon distillers and others, because the Senate, perceiving the injustice of the retroactive amendments, removed them as to domestic and foreign spirits on hand for sale. I deemed it due to the constituency I represent to oppose these changes, and as they were adopted by this House, I voted against the whole bill in that objectionable shape, although disposed to favor a liberal system of taxation in a proper form. My colleague [Mr. FERNANDO WOOD] urged his amendment as a revenue measure, necessary for the support of the Government. His amendment, and others of a like character, having been adopted, and the bill made to conform to his views, he voted against it.

I am opposed to all retroactive taxation. The persons engaged in distilling and vending spirits are disposed to submit to a liberal tax upon this article if made prospective, and would submit to even one dollar per gallon in that form if required by the necessities of the Government.

Mr. GRINNELL. I understand the gentleman from New York to say that he would be willing to vote for a tax of a dollar a gallon on whisky. I ask him, then, if he will vote against concurring in the report of the committee of conference, so that we may have the question taken as to whether we will impose a tax of one dollar a gallon or sixty cents?

Mr. WARD. While I believe my constituents would be willing to submit to a tax of a dollar a gallon on whisky, in the manner I have suggested, I prefer that my friend should let my action indicate my views when the question comes up.

As a necessary sequence to the general tenor of the amendments taxing all spirits on hand, the House negatived my proposition to exempt such as might be actually on shipboard bound to the United States, and in bonded warehouses and public stores.

The committee of conference has agreed to strike out the retroactive features of the bill, so that the increased tax will only apply to future manufactures, but have omitted to exempt goods on shipboard and in bonded warehouses and public stores, so that if a vessel arrives the day after the act is passed the importer who sent his orders abroad without anticipating the proposed increase must pay the additional tax. This is clearly unjust. It is a most obnoxious discrimination against a numerous and influential class of citizens who contribute largely to the commercial prosperity of the country, and is, I believe, without a parallel in the legislation of this country. The act of March 2, 1861, did not take effect until April 1, 1861—twenty-nine days after its passage. By its thirty-third section it excepted all goods actually on shipboard and bound to the United States within fifteen days after the passage of the act, and also provided that the increased duty should not affect goods in public stores until the 1st of April, thus affording time for withdrawal. By section five of the act of August 5, 1861, the same classes of merchandise were exempted. The act

of July 14, 1862, did not come fully into operation until the following 1st of August, and excepted from increased duty (section twenty-one) all goods in bonded warehouses on August 1, provided they were withdrawn within three months from their importation. Goods on board ship on August 1 were subject to increased duty, but as that date was seventeen days after the passage of the act, it afforded sufficient time for most of the goods, *bona fide* ordered and shipped without anticipation of increased duty, to arrive before the law was enforced.

The act now before Congress is to take effect on its passage without excepting spirits on the way to the United States, although up to this time merchandise on shipboard has always been excepted from increased duty, or a future day named when the law should take effect, allowing a reasonable time for arrivals, thus practically exempting such goods from the additional and unexpected tax. The practice has always been to consider goods thus *in transitu* as if they were on hand. The shipper cannot call the vessel back to port to discharge cargo, nor can the consignee prevent the arrival in the United States.

Domestic manufacturers will have immediate notice of the passage of the act, but American agents and consignors residing abroad in those countries whence the articles are usually sent must remain fifteen or twenty days without any opportunity of knowing the fact.

The bill as reported by the committee of conference I cannot sustain, containing as it does a feature inflicting such great injustice to commercial interests which I have the honor to represent.

Mr. STEVENS. Mr. Speaker—

Mr. KASSON. I presume the gentleman from Pennsylvania will move the previous question before he concludes his remarks.

Mr. STEVENS. That is my intention.

Mr. KASSON. Will the gentleman allow me about three minutes of his time?

Mr. STEVENS. Certainly, sir.

Mr. KASSON. I want to make a remark in connection with the proposition for another committee of conference. It seems that there has been a serious mistake either on the part of the House or on the part of the gentleman from New York, [Mr. FERNANDO WOOD,] who, in part, represented the House in the committee of conference. He declares his opinion to have been concurrent with that of others on the committee that, inasmuch as the House had voted to strike out the proposition for a tax on the stock on hand, of forty cents per gallon, additional, the committee was precluded from considering that question. On that theory the gentleman seems to have acted with what he supposes to have been the opinion of the House. It seems, however, that he concurred in reducing the sliding scale; in connection with which I venture to say that he did not represent the opinion of a majority of the House. If the House voted anything on the sliding scale it voted to reject it entirely, just as it voted to reject entirely the proposition to tax the stock on hand.

Now, the point to which I wish to call the attention of the House is the necessity for a committee of conference that shall be in full understanding with the House on the subject, so that, if the view of the gentleman from New York is correct, it should have been applied to the sliding scale, and he should not, as a representative of the House, have consented to the sliding scale. On the contrary, I hold that the House voted simply not to impose an additional tax of forty cents per gallon on the stock on hand in that general language in which it was proposed by the gentleman from New York. But this House never expressed its opinion that it would not impose an additional tax of twenty cents per gallon on the stock on hand, in barrels or casks, so as to exclude the idea of searching for it in small quantities.

And here is the great point, I submit, in which the House has not been fairly heard in the conference committee, from the fact that they, it seems, have declined to allow another form of stating the same question which came before the committee on the part of the Senate. For this reason I hope the House will reconsider the bill upon this question of a sliding scale, for the purpose of putting it more in accordance with what we know to be the opinion of the House, and also for the purpose of raising in another form the proposition

against which the House voted when the tax was to be fixed upon the stock on hand at forty cents per gallon.

Mr. STEVENS. I most earnestly hope this House will not stultify itself in any such manner. Now, sir, I can show in five minutes that the position taken by the committee of conference, and agreed to by the gentleman from New York, [Mr. FERNANDO WOOD,] is the only parliamentary rule the committee could possibly have adopted.

There was a proposition coming to this House from the Senate that upon all liquors distilled and removed previous to the 1st day of July next a tax should be laid of sixty cents per gallon. That was agreed to by the House, and the committee could not adopt an amendment requiring any other tax to be imposed on these liquors, unless it disregarded every rule which has ever governed committees of conference.

The next thing, we agreed with the Senate to strike out the principle contained in the amendment of the gentleman from New York, [Mr. FERNANDO WOOD,] taxing the domestic liquors on hand. The House agreed to that; and if we had any regard to the instructions of the House, we were bound not to put any tax upon the domestic liquors on hand, for both these points had been decided by the House and by the Senate concurrently; and no principle of parliamentary law would allow us to take into consideration any matter which had been decided by the concurrent vote of both Houses of Congress.

But then the House disagreed to the amendment of the Senate fixing the duty at seventy and eighty cents upon liquors distilled after the 1st day of July and the 1st day of January respectively. The House refused to agree to that. We could not tell why, but I venture to say that nine out of ten of the men who in this House voted against that proposition voted against it because they thought it was too high; we therefore in lowering that duty did it in obedience to what we supposed to be the sense of the House. We did not reduce it much, only five cents per gallon on one and ten cents upon the other, leaving the rates still sixty-five and seventy cents.

Now I deny that there is any practice or rule of parliamentary law by which we could possibly have taxed the stock on hand.

It is true that we refused to concur in the amendment of the Senate allowing an additional duty upon foreign liquors; but that had nothing more to do with the principle allowing it upon domestic liquors than with any other duty in the bill. It was in an entirely different part of the bill, and nowhere connected with it. Anything connected with duties upon foreign liquors was open; but as to the duty on the stock of domestic liquors on hand I deny that any fair principle of legislation would have allowed the gentleman from New York to have reinstated it, or have allowed this House to reinstate it. It would have been an assumption upon the part of the committee to reverse a decision made by the concurrent vote of both branches of Congress.

But it seems there is never to be an end of this matter in this House. Men who are on the temperance side of the question have become as much intoxicated upon this question of liquor as if they had been drinking whisky for a month. [Laughter.] They have become so giddy upon the subject as to have lost all reason, as to have forgotten, certainly, all parliamentary law. The gentleman from Illinois, with that kind of pertinacity which I very much admire when directed to a laudable object, but which sometimes degenerates into obstinacy when he is wrong—of course I do not mean in the gentleman from Illinois, but in others [laughter]—I say with that pertinacity which is so commendable tells us that he is still in favor of retroactive taxes. He is certainly in favor of retroactive discussion, for we have discussed this same subject here for days, I believe for weeks, and yet he is not satisfied with the action of the House upon it, but comes back upon it with a most retroactive vehemence. He tells us, and I hope gentlemen will not be alarmed, though I was a little alarmed when he intimated that if we pass this bill without this retroactive clause that will not be the last of it, but that he will follow it up to doomsday whenever he gets a fair chance. I would almost say that upon the next committee of conference I would agree to his proposition rather than to have it brought up upon

every bill that is to come up. But, sir, I hope that, if the House insists upon its course, even his sturdy constitution will become exhausted. [Laughter.]

Mr. WASHBURNE. There is no danger of that.

Mr. STEVENS. I hope there may be. Mr. Speaker, the gentleman states that the country loses revenue by this measure. I deny it. I say that we gain revenue by this measure over any measure adopted by this House and amended by the Senate. The committee of conference bill will produce the first year more revenue than the House bill, and every year after \$9,000,000 more than the House bill which we amended, and which the gentleman from Illinois [Mr. WASHBURNE] has advocated. Let not the gentleman, therefore, delude the country with the idea that we are throwing away revenue by this measure. We are doing no such thing; on the contrary, we are gaining revenue.

He says that he voted against the Senate amendment because it was not high enough. He wanted it to be a dollar. I do not know what motive the gentleman had for voting against it. I do not know what motives other gentlemen had, but I will venture to say that more voted against it because it was too high than that it was too low.

Mr. Speaker, it is time that we were done with this. It is time that this deleterious agitation should cease.

Gentlemen talk about speculators besieging the committee rooms. I do not know who besieged him. I think he would hold out, whoever they were. I think that he would stand out against an army of besiegers. Nobody appeared before the committee but distillers. No speculators, no man who had stock upon hand appeared before us. Seventy-two distillers, the largest in the whole country, were before the Senate committee and the House committee. They asked us to fix it, and we have. I hope the House will have done with the matter, and I therefore demand the previous question.

Mr. ODELL. I ask the gentleman from Pennsylvania to yield to me for a question.

Mr. STEVENS. I yield to the gentleman for that purpose.

Mr. ODELL. I understood my colleague [Mr. WARD] to say that the result of the adoption of the report of the committee of conference would be to tax foreign liquors on which duties had not been paid.

Mr. STEVENS. I suppose your colleague intended to say that it would put additional duty upon those imported after this time.

Mr. ODELL. He said that and the other.

Mr. STEVENS. Then he was mistaken. I renew the demand for the previous question.

The previous question was seconded, and the main question ordered.

Mr. WASHBURNE, of Illinois. What has become of my motion?

The SPEAKER. If the report of the committee of conference be rejected, the Chair will recognize the gentleman.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered. The question was taken; and it was decided in the negative—yeas 57, nays 86; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Blow, Cobb, Cole, Cravens, Henry Winter Davis, Dawson, Denison, Eldridge, English, Fenton, Finck, Griswold, Harrington, Holman, Hooper, King, Law, Leazear, Long, Marvin, McAllister, McBride, McIndoe, Middleton, William H. Miller, James R. Morris, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Orth, Patterson, Pendleton, Perry, Pomeroy, Alexander H. Rice, Robinson, Schenck, Scott, Shannon, Smithers, Stevens, Stiles, Strouse, Van Valkenburgh, Voorhes, Whaley, Wheeler, Chilton A. White, Wilder, Winfield, Fernando Wood, and Woodbridge—57.

NAYS—Messrs. Alcey, Allison, Anderson, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Boyd, Branderage, Brooks, James S. Brown, Chanler, Ambrose W. Clark, Clay, Cox, Creswell, Dawes, Deming, Dixon, Driggs, Eckley, Eden, Edgerton, Eliot, Farnsworth, Frank, Gauson, Gooch, Grider, Grinnell, Hale, Harding, Benjamin C. Harris, Herrick, Higby, Asahel W. Hubbard, John H. Hubbard, Hulburt, Hutchins, William Johnson, Julian, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, Le Blond, Loan, Longear, Mallory, McClurg, McDowell, Samuel F. Miller, Moorhead, Daniel Morris, Morrison, Amos Myers, Norton, Odell, Perlman, Pike, Pike, William H. Randall, Edward H. Rollins, Ross, Schofield, Sloan, Spalding, Starr, Stebbins, John B. Steele, Sweet, Tracy, Upson, Wadsworth, Ward, Elihu B. Washburne, William B. Washburn,

Webster, Joseph W. White, Williams, Wilson, and Windom—86.

So the report was rejected.

During the vote,

Mr. WOODBRIDGE stated that his colleague, Mr. MORRILL, was confined to his room by indisposition.

The vote was then announced as above recorded.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the report was rejected; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois, moved that the House do further insist upon its disagreement to the amendments of the Senate heretofore insisted upon, and ask for another conference on the disagreeing votes between the two Houses.

The motion was agreed to; and Messrs. WASHBURNE of Illinois, KASSON, and DAWSON were appointed managers of said conference on the part of the House.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the President of the United States, transmitting a copy of correspondence which has recently taken place between her Britannic Majesty's minister accredited to this Government, and the Secretary of State, in order that the expediency of sanctioning the acceptance by the master of the American schooner Highlander of a present of a watch which the Lords of the Committee of her Majesty's Privy Council for Trade proposed to present to him in recognition of services rendered by him to the crew of the British vessel Pearl, may be taken into consideration.

NAVAL APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the naval appropriation bill.

Pending that motion, I move that all general debate be closed on that bill in an hour and a half after the Committee of the Whole resumes its consideration, and that thereafter it be made a special order from day to day until disposed of.

Mr. COX. I have no objection to making the bill a special order, but I hope the gentleman will give two hours for general debate.

Mr. STEVENS. The reason why I mentioned one hour and a half was that the gentleman who is entitled to the floor has only half an hour unexpired, and another gentleman wants an hour.

Mr. COX. The gentleman on the floor has spoken only ten minutes, and another gentleman wants an hour.

Mr. STEVENS. I will modify my motion, and make the time two hours.

The motion, as modified, was agreed to.

The motion to suspend the rules to go into the Committee of the Whole on the state of the Union was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURNE, of Illinois, in the chair,) and proceeded to the consideration of the naval appropriation bill; on which the gentleman from Missouri [Mr. BLOW] was entitled to the floor.

Mr. BLOW. Mr. Chairman, for over two months I have listened to the speeches and debates on this floor, and observed the course of events in this House, with an interest and anxiety that have absorbed every faculty of my mind. With many sad moments, because no reflecting man can fail to see that we are trembling in the balance, I have nevertheless had that most soothing of all feelings to the public man of to-day, the consciousness that in the fearful ordeal through which our beloved country was passing, I was acting with its truest friends, and discharging important duties to the best of my humble ability.

You will bear me witness, sir, that I have seldom intruded, even for a moment, on the attention of this honorable body, content that our more experienced members should lead in debate, and anxious that all measures actually necessary for the maintenance of the best interests of our Government, its honor and character, should be adopted at the earliest moment. I might have thus quietly continued my labors; but we are the creatures of circumstances, and a single thought, one

beautiful burst of eloquence from the gentleman from Maryland, induced me to change my mind. He spoke in defense of himself and that proud old State, now marching with rapid strides to the citadel of freedom. I crave your indulgence while I allude to matters originating in the West, intimately connected with this Government, affecting its present and its future, and entitled, in my estimation, to the brief consideration which I entreat you to bestow upon them. These matters have been brought up by two occurrences in this end of the Capitol. The first was the introduction of a resolution, which the Clerk will read:

The Clerk read, as follows:

"In the House of Representatives, United States, February 1, 1864, Mr. BLAIR, of Missouri, introduced the following resolution, on which he demanded the previous question:

"Resolved, That a special committee be appointed by the Speaker of the House, to consist of five members, with authority to inquire into and report upon the practical operation and results of the act of Congress regulating commercial intercourse with the States declared to be in insurrection against the authority of the Government, and whether the regulations of the Treasury Department which purport to have been made in pursuance of said act, as carried out by the Department, comply with its design. To examine particularly and report upon the manner in which said act has been executed, and whether any frauds have been practiced on the Government by the officers or agents employed under said act, and whether any favoritism to individuals or localities has been shown in its execution; and to inquire further whether the effect of said act and of the said regulations of the Treasury Department has been to prevent supplies from reaching the rebels or to facilitate the object. That said committee have power to send for persons and papers and to employ a clerk, with the usual amount of compensation, for the purpose of reducing to writing all testimony taken by said committee."

Mr. BLOW. The second, a speech from the gentleman from Missouri against the confiscation resolution lately passed in this House, the only points in which now worth noticing, so far as Missouri is concerned, relate to the radical delegation in this House, and the radical party of the State of Missouri—the party that the gentleman himself had such an honorable part in creating, and which still holds in its ranks the men who contributed most to elevate him to the high position which he enjoyed in the past, and whose confidence was given him at a time when some of the leading conservative newspapers which now print and praise him had no words of contempt equal to their hatred and detestation of this anti-slavery leader. Yes, sir, the papers to which he so disparagingly alludes, and which he not long ago depended upon for support, are now held up to public scorn, and one, he says, was bought up by Fremont with public patronage. I have this much to say in relation to it as well as the *Westliche Post*, that the mere idea in St. Louis will be ridiculed. The fearless Democrat was never bought, or its columns sold, and although my colleague's friends abound in wealth, all of them together have not enough to purchase its principles.

Here is what my colleague says of his ancient friends and supporters, the men who have never to this hour flinched in their devotion to this Government, or been known to ask the aid of a gun or a traitor's vote, but standing on the highest ground that can be occupied by those purely and solely intent on saving this Republic, place principles far above their love for or fear of any man, be his position ever so elevated, or his power above that of emperors and autocrats:

"Of a piece with the ingenious, but rather disingenuous assault of the gentleman from Pennsylvania upon the President is an occurrence which took place in the other end of the Capitol some days since, and which I find recorded in the *Daily Globe*. A Senator from my own State [Mr. BROWN] presented what purported to be a memorial from members of the Legislature of Missouri, and a protest of four Representatives from that State, against the confirmation of General Schofield as a major general. I do not mention this circumstance to comment on the extraordinary and most unbecoming declaration contained in that protest, in which these four members claim to be the only representatives of the Union men of Missouri, for there is nothing in the character or history of either of them to warrant this arrogant assumption, but for the purpose of exposing a covert assault upon the President under the pretext of defeating the confirmation of General Schofield.

"If it had been the object to effect the latter purpose this paper would have been presented in executive session, where nominations are considered, and not in the open session of the Senate, as it purports to have been done, when no such matter can properly come before that body. The memorial and protest contained only matters which had been previously submitted to the President by a great committee of radicals which visited Washington for that purpose; and these statements had been examined into by the President, who, in his reply, plainly declared that he did not believe them to be true. Yet the President is arraigned

upon these same stale and discredited statements before the country upon the memorial of members of the Missouri Legislature and four members of this House, under the pretense of asking that General Schofield should not be confirmed, and that, too, after an agreement was had with the President that no opposition should be made to Schofield's confirmation, but that he should be on his own request relieved from the command in Missouri.

"The President, I presume, in his desire for peace among those who professed to be loyal, was willing to make this concession; but after accepting the concession, these parties flew from their agreement, under the dictation of bolder and more open enemies of the President and his Administration, who would not permit the opportunity for assailing him to pass. To show the spirit which animated this assault upon the President by his professed friends, I will read to the House a few brief extracts from the leading radical papers of Missouri.

"The *Westliche Post*, the most influential German paper in Missouri, says,

"It is scarcely necessary to repeat—apart from this serious and general danger which the reelection of Lincoln threatens us—all his special sins *ad nauseam*. We have at present nothing to do but to declare herewith, once for all, that we, supported by honest conviction of all friends of freedom in our State, cannot support Mr. Lincoln's reelection under any circumstances whatever.

"The *Missourian*, a radical paper printed at Springfield, snuffing the danger of Lincoln's nomination, says:

"The earnest radicals of the Union will never be bound by the proceedings of any but a radical national convention, and such convention will be called at an early day, in spite of all the obsolete Republican conventions that can be gathered together."

"The *Missouri Democrat*, a paper bought up by Fremont with public patronage, and which went heartily into his scheme for a western dictatorship, whines over the recent defeat of the radicals in Missouri, and says it was accomplished by three administrations combined—"one at Washington, one at Richmond, and one at Jefferson City."

"It was the spirit which animates these extracts, and which broke out in fury when it was rumored in Missouri that all opposition to the confirmation of Schofield was to be withdrawn, and he relieved from the command at his request, that drove these gentlemen from their agreement, and produced the extraordinary spectacle at the other end of the Capitol.

"I should have had more respect for those engaged in it if the assault on the President had been characterized by the same bold and open spirit as that which compelled it. I trust that the friends of Mr. Lincoln's Administration will hereafter be able to appreciate the assumptions of those who claim to be the only representatives of the Union men of Missouri, in derogation of the character of others who have sustained the policy of the Government from the beginning up to this hour."

Now, sir, before discussing this extract from the gentleman's speech I intend to dispose of this resolution, as another occasion may never offer. I first desire to call attention to the extraordinary spectacle of a gentleman claiming to be a patriot, a soldier, and a statesman, after a futile attempt in Missouri to degrade one of the purest men in this country, and one of the highest officers in a Government which he professes to love, dragging his malice after him in these Halls, and again endeavoring to cast a stain upon a record which is engraved in the hearts of a grateful people, and at the same time making slanderous charges against the friends of this Government and the friends of human liberty. And worse than either, while thus prating about suspicions, not even dreamed of by those who have faithfully devoted themselves to this Government from the commencement of the present session, he is found in the midst of his self-righteousness invoking the aid of and acting with the opposition members of this House. The men whom he has abused for years he now takes to his bosom; and with them he is at times arrayed against almost every acknowledged supporter of this Government. Every member of this House understands the injustice which can be practiced and the unkind influence which would be used by my colleague against the Secretary of the Treasury, were he placed at the head of a committee of investigation. Not that any friend of the Administration is opposed to the investigation; not at all; let it be as full as our most ardent enemy could desire, but let it also be fair; and this can easily be effected by referring the matter to an appropriate committee.

But I can fancy the feelings of my colleague just at this moment. He is congratulating himself that he has succeeded, and that I am entering upon the defense of a presidential aspirant. But this gentleman is greatly mistaken. The humblest man that serves this country in this its hour of peril is entitled to the friendship of every true patriot. I have never yet, thank God, failed to defend such a man. It is for the unselfish laborer, the faithful officer who presides over the vast machinery that almost runs this Government, that my feeble voice is raised, and I do not envy that man, be he high or low, who can find it in his heart to be unjust or ungenerous, espe-

cially in times like these, toward those upon whom a people confidently relies for the nation's honor and the nation's salvation.

The abuse of Mr. Chase, originating with my colleague and his collaborators, kept up incessantly in his St. Louis organ, and wrongfully attributed in many instances to the merchants of St. Louis, is based throughout the country upon wrongs charged by my colleague and his politico-trading friends to have been committed by the Secretary in restricting the trade of the Mississippi valley.

To show the gross injustice already done, as is thought for political effect, and the greater mischief intended, I will as briefly and rapidly as possible allude to matters in connection with these trade regulations. With a familiarity growing out of constant examinations into the regulations, earnest conversations with the President and the Secretaries, and a most ardent desire to assist in relieving the trade of the Mississippi valley, I have looked forward to relief whenever those high interests of our Government, tending to its success in suppressing the rebellion and maintaining a just consideration for its loyal people, would allow.

At the outbreak of the rebellion the regulation of trade or prevention of supplies to the insurgents was necessarily left with the military authorities, aided when practicable by the revenue officers and special agents of the Treasury Department.

A law of Congress, approved July 13, 1861, authorized the President to declare by proclamation States and parts of States where unlawful combinations existed, &c., in insurrection, and thereafter all commercial intercourse between inhabitants of such States and parts of States and citizens of the rest of the United States was prohibited, except as it might be licensed by the President to be carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury.

August 16, 1861, the President proclaimed certain States and parts of States in insurrection. Collectors and surveyors of customs at points having trade with insurrectionary districts were instructed, and a special agency of the Treasury Department was created, to supervise trade and prevent supplies to insurgents.

May 20, 1862, additional powers were conferred on the Secretary of the Treasury in relation to this matter by a supplementary act of Congress. Special instructions prescribing rules and regulations were, from time to time, issued to proper officers and agents as transactions arose requiring them, until August 28, 1862, when a code of regulations was issued. Cases of hardship on one side and of illegal trade on the other, not provided for, were constantly arising, and a code of regulations embracing new premises was provided and published March 31, 1863.

On the 11th September, 1863, a more full and complete code of regulations, with all the laws and proclamations on the subject, with the orders of the War and Navy Departments approving them, and with the license of the President and his approvals and proclamations, were published, under which commercial intercourse is now carried on.

This information is within the reach of every intelligent man in the country. It can be seen from the contents, almost at a glance, that the responsibility rests on the President, and the Secretaries of the Treasury, War, and Navy; and the statesman or general who undertakes to saddle it all upon any one of these officials, is willfully ignorant or willfully unjust; yet notwithstanding all of this, the acknowledged organ of my colleague has for months abounded in the vilest misrepresentations and abuse of the Secretary on account of his, as they assert, restrictions on trade, and since my colleague's last effort opens its batteries with an increased disregard of the truth, a recent editorial that has been brought to my attention being an improvement on others in point of decency, I propose to read it. It is from the St. Louis Daily Union of the 5th instant:

"A BOMB-SHELL IN THE CHASE CAMP.—General Blair's resolution of inquiry into the unnamable and inconceivable abominations of the trade regulations, has fallen like a live mortar-shell in the camp of Mr. Chase's friends. One would presume that they would be glad of an investigation and of the opportunity it offered of vindicating their 'monarch-minded' chief from the grave suspicions which the notorious villainies conducted under these trade regulations have brought upon him. But not so. The virtuous friends of the Secretary desire anything but an investigation. They

never dreamed of such a thing. They can bear any amount of suspicion, any amount of accusation, any amount of the gravest charges; but an investigation they pray to be delivered from."

This but feebly portrays the bitterness of the hired demagogues who daily utter their slanders through the columns of a paper owned, as is claimed, by an association of forty gentlemen. Let me state a few simple facts. Trade was prohibited by Congress, and not by the Secretary of the Treasury. He has always favored the most liberal trade compatible with prevention of supplies to the rebels; he believed that as we suppressed the insurrection and restored the authority of the Government over territory, that trade should be restored to its usual channels as nearly as practicable. At an early day he adopted the motto, "Let commerce follow the flag." I ask that this letter to the special agent containing this motto may be read, and beg you to observe that it is dated as early as May, 1861, and is a key to the entire action of the honorable Secretary.

The Clerk read, as follows:

TREASURY DEPARTMENT, May 29, 1861.

MY DEAR MR. MELLER: I am much obliged to you for yours of the 25th instant. The topics which you mention have been subjects of much and somewhat painful reflection with me. I have little doubt that the exchange of provisions and supplies, except munitions of war, and other articles usually prohibited, would be more useful than injurious. The difficulty, however, is this. The States controlled by insurrectionists, especially by insurrectionists exercising the powers of government, can hardly be regarded otherwise than as hostile communities with which the United States are for the time being at actual war. The rules applicable to the relations of war must be applied. If war existed between this country and England no trade whatever would be permitted. American property shipped to England and English property shipped to the United States would be liable to seizure. So constant experience teaches us that property shipped to the insurrectionary States is liable to seizure, and actually seized; and if the property of citizens in those States, shipped to the United States, is not seized, it is simply because the Federal Government desires to treat them as far as practicable not as enemies but as citizens. I see no way in which safe intercourse can be established between citizens of the loyal States and those under insurrectionary control. The question is not one of revenue, nor one of rights in a state of peace, but a question of supplies to enemies, and is controlled by considerations belonging to a state of war.

The best thing to be done, it seems to me, is to establish the power of the Government, in cooperation with the people of Kentucky and Western Virginia, within those limits, and to let commerce follow the flag. This policy opens Missouri, Kentucky, and Western Virginia to trade, and will extend southward as rapidly and as far as the authority of the Federal Government can be restored.

Continue your conversations with reflecting men, and let me know the result.

Yours, &c.,

S. P. CHASE,
Secretary of the Treasury.

W. P. MELLER, Esq., Special Agent, Cincinnati, Ohio.

Mr. BLOW. The regulations from time to time prescribed demonstrate his purpose to conform to this motto. Each successive code was more liberal in its provisions, and conceded more to the wants of the people than the one preceding it.

I do not believe that Secretary Chase has ever been over-confident that any great public good was being accomplished by the licenses of the President and the action of the Secretaries; but the law imposed the duty of prescribing regulations, and he had no alternative but to discharge official obligation, and he aimed to do it intelligently and with fidelity. Commercial intercourse was absolutely prohibited, except as licensed by the President and regulated by the Secretary, and to his labors and exertions and regulations, sanctioned by the President and by other Departments of the Government, insurrectionary districts, and my colleague's complaining friends, who have coined millions with their murmurs and slanders, are indebted for whatever privilege of trade, and even the supply of the necessities of living, they enjoy in the States south of Cairo. We all know—history proves it—that the prevention of unlawful traffic in time of war by civil agency is very difficult, if not impracticable. The military power is the primary agency in subduing this rebellion, and whenever a military force is present military orders are necessarily paramount.

Men with guns in their hands insure a respect and fear greater than can be inspired by men with civil commissions in their pockets. I am confident there has been no time when the Secretary of the Treasury has not desired to be relieved from all supervision over this trade, and experience has satisfied him, as well as others, that with military aid and cooperation alone can these regulations be made more effectual than any other

governmental move in accomplishing the objects desired.

If the intention of my colleague in his resolution was to expose malversation on the part of the Secretary, and/or requires that he should have made a specific charge in his resolution. For if he ever brings any charge of political favoritism, or asserts that the Secretary has perverted the power of patronage to his own political advantage or any other personal object, I feel certain that these charges will be shown to be false and absolutely baseless. It is known that Secretary Chase has appointed to offices in connection with this bureau, as important as any, those not regarded as of his own political school, and it is safe to venture the assertion, and to challenge the proof to the contrary, that in all appointments made in connection with this business, no regard has been had to the personal preferences of any, no questions been asked, no conditions imposed, expressed or implied, and no effort whatever, anywhere exerted, either in appointments or permits, to advance the political fortunes of the Secretary. I understand that no permits for trade of any character, either to sell merchandise or buy products, have been given by the Secretary directly, and I believe it. All traffic and transportation in insurrectionary States has been under regulations by which certain officers, at convenient localities, were authorized to grant permits, and all transportation prohibited except as permitted by those officers.

The regulations are general and impartial in their provisions, and it is not known by the President or Secretary, or believed by either, that there has been any corruption or unfaithfulness in their execution by the agents employed. And I assert that they are as well devised as any regulations can be for controlling commercial transactions and preventing contraband trade by civil administration amid public discords in time of war. But my colleague perhaps has never read, certainly never studied, the laws and regulations which he has so constantly denounced, little feeling at the time that every denunciation of these regulations, because solely attributed by him and his trading friends to the Secretary of the Treasury, was also a denunciation of the President of the United States, who carefully examined and approved every one of them. It is the President, equally with his Cabinet officers of the Treasury and War Departments and department commanders and generals of the divisions, that are bound to come under the investigating committee. I respectfully submit to my colleague that he should at the earliest moment pass them all over to the committee on the conduct of the war if justice to his country and not persecution of one whom he has already attempted to wrong is the impelling motive. Why, Mr. Chairman, even while I am discussing this question the regulations relieving trade in the valley in certain articles are suspended at the request of the War Department, except when the usual authority from the Treasury agent is approved by a commanding general. Telegrams and letters have come to me every few days for two weeks complaining of certain supplies being again prohibited; and though trade was entirely relieved in the States of Missouri and Kentucky before my colleague's resolution was laid over the last time he called it up, yet his complaints are so chronic that I am afraid he will not finish grumbling until we have an unrestricted free trade to San Francisco by the gold mines, over a rail not made by English neutrals, but wrought from the ores of free Missouri by radical free-soil men, and laid down by a set of Jacobins whose very names bring up visions of defeat and disaster to that gentlemen.

I have alluded to my colleague's friends in connection with these trade difficulties. Justice requires that I should state that many of them since he first commenced his assault, always unexplainable except upon the ground that it was purely political, having made fortunes, and monstrous fortunes, during the rebellion in trade, traffic, and speculations, mostly in connection with the Government, they evince a disposition to be just, I am willing to believe from a conviction that they were hasty and ungenerous. The most prominent and wealthiest of these firms, whose St. Louis partner, Captain Barton Able, has been distinguished for his intense devotion to every act of my colleague, and foremost in expressing, in every

possible way, his gratitude and admiration, concede that the trade regulations for 1863, and now existing, should be satisfactory to every honest dealer.

I will record this evidence, because it is a candid admission, and alike creditable to them and the Government:

WASHINGTON CITY, February 10, 1864.

DEAR SIR: Yours of yesterday, on the subject of the existing trade regulations on the Mississippi river, received. In reply we would respectfully state that while the merchants and business men of Memphis regard some of the regulations as burdensome and unnecessary, they are generally satisfied with them. We think with some few modifications they could be made all that any community situated as ours is ought to ask for, and without the alterations we are fully satisfied that any honest man in our community ought to be able to transact business under them with profit to himself and the Government. We have been able to do so. We paid to the Government, in the items of taxes and duties for the privilege of transacting our business for the year 1863, over one hundred thousand dollars, and would have paid cheerfully more, but the restrictions on trade during part of the year curtailed our business to some extent. Yet we never complained, believing the authorities imposing the restraints did so for the public good, which ought to be considered paramount in all cases by all good citizens.

Hoping the continued loyalty of the citizens of the city of Memphis may induce those in authority to place our city on an equality with other loyal communities, and that our trade may be only taxed as the business and commerce of all the loyal cities of the United States, we are, very respectfully, your friends,

LACEY, ABLE & CO.

Hon. H. T. Blow, House of Representatives.

But there is still higher testimony. It comes from a man whose praise is on every tongue, and the mere mention of whose name always arrests the attention of this House—I mean Major General U. S. Grant. I will read an extract from his letter July 21, 1863. Mr. Secretary Chase very much desired to modify the trade regulations upon the fall of Vicksburg. He indicated this to General Grant, and in his reply these views are expressed. I know that on a previous occasion these views have been very adroitly used against the President and the Secretary of the Treasury; but no straightforward man can fail to see in them the same idea that, if adopted early by Congress, would have absolutely prohibited all trade. And here I leave this branch of my subject with the name and fame of our highest officials. I commend them to that honor and sense of justice which has thus far distinguished the loyal population of this land; but not without saying that in my humble opinion it is the duty of every sincere lover of this Government to stand up firmly against any attempt, come from whatever source it may, to weaken and embarrass this Government by maliciously assailing those charged with its highest interests. We who so regularly witness their untiring labors can bear testimony to the fearful responsibility which rests upon the heads of the Departments and the devotion which marks their daily duties. I am proud to announce that, whatever differences of opinion others acting with me in this House may have in regard to any one of the honorable gentlemen mentioned for the Presidency, and when publicly urged in this Hall and elsewhere—urged, as I fear, to the disadvantage of our common cause—I will always be found sustaining to the best of my judgment and the fullest extent of my power the honest, overburdened public servant who makes his country and not himself the constant object of his thoughts and actions.

I do not greatly fear, Mr. Chairman, that my colleague's semi-political effort will make a breach among those who must by this time understand his peculiar fashion of deciding for the people before they speak for themselves, and in a very different way from that foretold by this prophet.

Twenty million freemen are watching with eager eyes the events which are daily transpiring in this land, confidently relying upon the wisdom and patriotism of the President, his Cabinet, our faithful armies, and the Representatives of their choice. Shall it be said of us, or of those above us, that in such a moment we turned from an imperiled country, from a people willing to assume increased burdens, a people preparing to respond to the heaviest taxes, a people who have consecrated to this Government and their devotion to human liberty the bravest sons of the nation? I say, sir, shall it be recorded of us that at such a time our thoughts were directed to a contest for coming political spoils, and under the demoralizing influence of such an unworthy prompting we were willing to imperil if not sacrifice our be-

loved country? Let members have their preferences, let them labor as they choose outside these Halls, but here let us frown down every move that is calculated to separate the firm friends of the Government, or those intrusted with these weighty responsibilities. Cabinet quarrels should not enter the two Houses. Now more than ever in the history of this nation we need unity. Now more than ever, with a burning desire for action, should men prepare to make good their oft-repeated declarations in favor of human liberty, and devote themselves to its immediate accomplishment. The power or weakness that stands in the way of this glorious achievement will be accursed of God and man.

But I am trespassing upon the patience of the House. Bear with me while I pass directly to the gentleman's attack upon the radicals of Missouri, and the radical delegation in this House. My colleagues deny that they ever made or thought of the compromise alluded to, and the House will think it strange for the gentleman, to have thus asserted that which bears upon its face the want of truth. President Lincoln did doubtless confer with our Senators in regard to General Schofield's confirmation, as the subject was to come before them. But if the gentleman who gravely makes these unfounded charges had appeared more promptly in his place, instead of lingering on his way from camp, he would have been better informed in regard to his colleagues. His allusion to the radical delegation, consisting of some seventy gentlemen from all parts of Missouri, is in very bad taste and unkind to the President, and his assertion in regard to the President's answer addressed to the chairman of that delegation, though not really replying to that chairman's appeal to the President, will be pronounced untrue by every candid man who will examine both documents. I desire to speak decidedly for myself, and indignantly repel the charge of bad faith or arrogant assumption or covert assault which my colleague prefers. He is becoming mad, sir. We have had some discussion before; it was unavoidable on my part. Old feelings and friendships and the practice of my lifetime have prevented me in these discussions from unkind, ill-natured, or unjust personal allusions. He never spared me, but my only retaliation has been when he spoke or wrote slanderously of me to make the facts as clear as mid-day to all who chose to listen or read. This I will do with these his last charges. I have referred to the fact of the gentleman's delay; I will therefore relate certain events which transpired before his arrival. When I first reached the capital, I found the public mind greatly excited in regard to Missouri affairs; our own friends were becoming deeply interested, and the sympathy for the cause of freedom in Missouri, now the cause of this Union, had produced an intense feeling against the President. This feeling manifested itself everywhere, but especially in a meeting of national men, best known to the President himself; not his enemies, but his friends, and representing the patriotism and intelligence of twenty States. I can appeal to this noble body of men for the manner and matter of my addresses before them in regard to the unhappy differences in Missouri between the radicals and the President. Shortly after, I was invited to address the Union League of this city on the Missouri question. I confidently assert that every liberal man—ay, the President himself, if he has finished the Rockville speech and can glance over mine—will testify that it is at least fair toward him, and was dictated by elevated, not low, promptings. I went further; I did talk with the President (not that I intruded on him) with regard to Missouri matters, but called by a written invitation to the White House, on business. In an interview, when he was not pressed by others, I did plead with him for justice to Missouri. I related to him facts which I believe were never known to him before. I protested against General Schofield, because he had failed to obey his—the President's—instructions; had committed outrages on Union men; had suffered wrongs to be perpetrated and go unpunished at which a rebel would blush, and which disgraced him and clouded the justice of my Government; and thus protesting, from the noblest impulses of the human heart, if the President had expected me to compromise with such a man, I would have then and there resented the foul outrage upon hospital-

ity and character, and turned with loathing from a mansion which should hold within its walls the type of a great nation's dignity and honor.

Mr. Chairman, my colleague has grossly misrepresented the President, so far as I am concerned. He had no praise, no defense for General Schofield, in replying to my heartfelt denunciations of this official who had so deeply wronged the loyal men of Missouri. But the country is entitled to a full statement of everything pertaining to Missouri, and my colleague shall have the pleasure of hearing it. I went beyond the Schofield matter, which after all is nothing in comparison with the glorious theme of Missouri freedom. I brought up the matter of emancipation in Missouri. I told the President how after all our labors, we had failed to accomplish the object of years of toil, and that the so-called ordinance of emancipation, carried through with the aid and approval of my colleague's conservative friends in fact emancipated nobody, and was a hypocritical cheat, if not an outrage. I prayed him for the sake of human liberty, for the sake of this Union, because it was just to the enslaved whom we had been so long deluding, to cast his influence on the side of those who were nobly striving in our Legislature to call a new convention, a convention, as we believed, that would express the real views of our people, and pass an honest ordinance of emancipation. One line from him saying that he desired it, and that magic key transmitted with lightning speed would have unlocked the resisting hearts and made Missouri free. The coming spring would have been bright with the hopes of our future, and the ripening crops of summer would have been tilled and gathered in earnest by men, white and black, who would have closed each day of toil with heartfelt thanks to God that the air they breathed was that of a noble State washed of its only stain. Hundreds of thousands of emigrants with their families, who have watched with interest the struggle we have made, would have cast their lot with us, and Missouri, the battle-ground of a nation's emancipation from a foul and damning sin, would have become the bright morning star, the harbinger of a more glorious Christianity and civilization.

The President would not write those magic words, and yet our condition is not hopeless. The convention bill, though not passed for an immediate call, has nevertheless become a law, and notwithstanding the blighting influence of conservatism in our State, will be held next November. Meanwhile Arkansas, Louisiana, Maryland, and Tennessee are praying and working for the immediate abolishment of slavery. Oh! sir, this is no time for hesitation, no time to be idle. We claim to be in earnest; let us see to it that we do not deceive ourselves. This year will decide our faith, our fidelity, our destiny; all depend upon the honest public sentiment and united exertions of our people. But I ask your indulgence while I refer for a moment to my colleague's position. On this vital question he has taken his stand with the conservatives, and has made a speech which is adapted to his new-found friends in Missouri, while he plants himself here on what I believe he calls the President's platform.

Another member of the gentleman's family has defined the President's policy. I hope I may be pardoned for contrasting our position on some leading points with my colleague. We contend for immediate emancipation without injustice to loyal slaveowners; he is content with the ordinance already passed, if I understand his position at this moment; if wrong in this, I would be most happy if he will correct me. The gentleman from Missouri early adopted the Jeffersonian idea in regard to emancipation and deportation. At first it was somewhere near the equator; then distinctly Central America; once I know his eyes were feebly directed to the tangles and swamps of Chiriqui; now, with the honorable Senator from Kansas, [Mr. LANE,] he has fixed upon the broad and sunny plains of Texas, and it must be said to his credit that this last proposition is the best he ever made, and has some humanity in it. We have no such theories, have indulged no such unkindness to the unfortunate blacks. We are content to let them remain where God in His providence placed them, and with a more elevated sense of justice to ameliorate their condition at once, and elevate them as speedily as possible on the soil that has been enriched by the sweat of their brows

through years of unrequited toil and crushed and bleeding hearts. Hence we are deeply interested in the bureau proposed by the emancipation committee, and in the bill emanating from the committee on the rebellious States.

We have opposed General Schofield's management of the department of the Missouri for reasons repeatedly and clearly stated to the public. He indorses the general now, though he and his friends in August, 1862, appointed me chairman of a committee authorized to present the shortcomings of General Schofield to the President and beg for his removal, and on that presentation and prayer he was removed and General Curtis appointed in his place. Subsequently, on slanders never made good against General Curtis, and from the pressure of Attorney General Bates, the President had to yield, and removed General Curtis, against whom to this hour not one single charge has ever been sustained, and singularly, as every fact will show, restored Schofield, and now asks his confirmation from the Senate.

Mr. BLAIR, of Missouri. Does the gentleman assert that I condemned General Schofield at that meeting, or that I authorized the gentleman to represent that fact to the President?

Mr. BLOW. I assert positively that the gentleman from Missouri made the motion which sent me here as the chairman of a committee to ask the President of the United States to remove General Schofield.

Mr. BLAIR, of Missouri. The gentleman is entirely mistaken. I defended General Schofield there, and offered no such resolution as the gentleman has spoken of.

Mr. BLOW. It so happened that when I returned to St. Louis and made a report of the proceedings of the committee to a meeting of the gentleman's friends, every one of those gentlemen accepted the report which I made, upon the basis I have mentioned, and a resolution was passed in that meeting, that every thing which had transpired should be kept and considered a profound secret.

But, sir, I leave the question of truthfulness and veracity between the gentleman and myself to his own friends. None of them will ever deny that there was such a meeting, that I was called there by invitation, and that I was authorized to come here, and that in that same meeting Isaac H. Surgeon and F. A. Dick were appointed to come with me for this purpose. I brought those resolutions here and submitted them to the President. These are the simple facts of the case.

Mr. BLAIR, of Missouri. All I have to say is to deny as emphatically as the gentleman states it, that I ever authorized him to represent me, or that I offered any such resolution. As a matter of fact, I state that at that meeting I defended General Schofield.

Mr. BLOW. God save me from such friends as the gentleman upon that occasion.

Mr. BLAIR, of Missouri. And God save me from such a pretended friend who would misrepresent facts in such an assemblage as this.

Mr. BLOW. Our hope and confidence rest on the justice of that honorable body. My colleague was opposed to constitutional confiscation as inexpedient; we were not. He sometimes caters to the Opposition, as already stated; we have not, thus far, departed from our faith in the Administration party in this House. We were here to vote for an unconditional Union man for Speaker; it was generally understood that the gentleman's sympathies were not so decided, nor did his organ fail in abuse of the gentleman we selected. We can excuse him for the ambition he indulged, but not for the bad taste of those attacks. Our sympathies and identifications are altogether with a different class at home. We cherish the strongest Union element, have no semi-Union friends or supporters, and have drawn, on our clear, distinct enunciation of principles, almost every soldier in the Army to our standard. We abhor indecision, scorn those who have grown rich from never-ending contracts, and despise those men in every part of the land who, living on the Government, are unceasing in their insidious attacks on its highest and best officials.

We claim to be in full sympathy with the acknowledged friends of the Government, while its greatest enemies have never coined into language a greater insult to the loyal people of this land than is contained in this extract from the Rockville

speech of Hon. Montgomery Blair, Postmaster General:

"The abolition party, while pronouncing philippics against slavery, seek to make a caste of another color by amalgamating the black element with the free white labor of our land, and so to expand far beyond the present confines of slavery the evil which makes it obnoxious to republican statesmen. And now, when the strength of the traitors who attempted to embody a power out of the interests of slavery to overthrow the Government is seen to fail, they would make the manumission of the slaves the means of infusing their blood into our whole system by blending with it 'amalgamation, equality, and fraternity.'"

"The cultivators of the soil must then become a hybrid race, and our Government a hybrid Government, ending, as all such unnatural combinations have ever done, in degraded, if not abortive generations, and in making serfdom for the inferior caste—the unmixed blood of the conquering race inevitably asserting a despotism over it."

We are almost a nation of abolitionists. This side of the House is supposed to be entirely abolition; the Army of the United States is abolitionized, and if you were to come out to-morrow in a declaration against abolition you would not have in a month a corporal's guard to fight the battles of the country. Ay more, sir; arrest this love of liberty and determination on the part of the people to make every foot of American soil free, and you lose the only hope of the oppressed nations of the world. This Republic will cease to exist. A nation of hypocrites can never find favor in the sight of a just God; and I can tell the Postmaster General that if this great rebellion is crushed and the Federal authority asserted throughout the land, it will be effected by an abolition party and an abolition army, and when effected the black race will be protected and sustained by this same class and prepared for that freedom which is now withheld from them by outrage, violence, and wrong.

There is another plain truth which might as well be recorded. The strongest supporters of this Government, from one end of the land to the other, utterly repudiate the policy defined in this Rockville speech. The people, who have urged the President forward, still demand that he and we shall deal promptly, humanely, and justly with the freedmen of the Union; that we are pledged to protect and advance, that the President himself shall lead in every move for their moral and political elevation, so that they can enjoy at once those privileges which the civilized world expect from our professions and obligations. No excuse or explanation will now be taken for delay, inactivity, or indecision. The cries, criticisms, and arguments of the Postmaster General I hope will be ejected from the Executive Mansion, nor be allowed by any inattention of the President to tarnish the heroes of the "irrepressible conflict." This I hope for as much as I do that we will never suffer any one, though he may assume, as my colleague has, to speak the sentiments of the President in regard to his repudiation of the loyal radicals of Missouri, to deceive and divide our party, or divert us from the accomplishment of those thorough measures now actually necessary to save us from the charge of insincerity that may soon be preferred.

God reigns, and this nation should tremble lest His displeasure rest upon it. To-day is the time for action; in a week or a month it may be too late; and if the justice so long withheld causes Him to withdraw His smiles, then indeed are we lost. There is an unhealthy and fictitious state of affairs in the land; our people feel prosperous; some are not only prosperous but suddenly rich. The masses seem dependent entirely on the continuance of this unreal state of affairs, and may be suddenly awakened from their delusion. The only safety is in the action of our people; the effort must be herculean, the struggle short, the result soon attained. Once start with this feeling and the national pulse will recover its tone, the love of gain and ease which has demoralized the public sentiment will yield to the spirit which actuated our fathers, and the gamblers in gold so graphically described by the gentleman from Iowa will give way to honest men engaged in legitimate trade. The immense importations now temporarily aiding our Government, but foreshadowing an impending crisis, will cease, for our statesmen will become wise, increased duties will check imports, and the protection to home manufactures thus given will fill the country with thrifty men, and pour actual capital into every spot where development is to be rewarded. Do not treat this assertion lightly. Our imports into New York since the 1st of January have been \$7,000,000

more than in the same time last year, which at the present premium on exchange and gold will require full \$11,000,000. In the same time our exports of produce have fallen off over \$8,000,000 making a difference against us in eight weeks of \$19,000,000 of gold, and this difference must be added to the constantly increasing one of the last six months. The signs of extravagance all around us indicate a crash. The error must be checked; economy in the Government and in the people must be enforced by wise legislation, or this crash will soon be upon us.

There was printed in London and Paris recently a pamphlet written by a citizen of the South, entitled, *Emancipation the Duty, Policy, and Strength of the South*. These pamphlets, as I am well assured, were sent in large numbers to Richmond, and the party acknowledging their receipt in the rebel capital for president Davis writes in reply to the suggestion of arming and emancipating the slaves, that they are not ready for it yet, though every day is bringing them nearer to the inevitable conclusion. It will not do to agitate the subject; the pamphlets sent for circulation favoring emancipation were retained, biding a little time for circulation. This comes from a reliable source, and the pause which now prevails may be broken by the announcement that the South, to gain her independence, surrenders her pride and her corner-stone, and rests on a basis which is indestructible.

Mr. Chairman, this country has the largest Army the modern world has ever seen; the finest Navy that floats; a people so generous that we vote millions where our statesmen formerly hesitated to spend thousands; and all this comes from our single purpose to have a free and united Government. Such a Government we must have. It is our only hope. Are we to be faithful to the people? Are they prepared to be faithful to themselves? If so the errors of the past must be blotted out, and then, and then only, will our country be prepared for triumph in the cause of human freedom.

My prayer is that we may have the courage and ability to act so justly that the Supreme Ruler of the universe will not abandon us.

Mr. McDOWELL. Mr. Chairman, availing myself of the wide latitude which the debate has assumed, I shall not attempt to perform the useless task of inquiring whether the present unhappy and desolating war in which our countrymen are engaged might have been averted. Nor shall I speak of the causes which produced it, further than to state the single fact that it arose out of the unwise and fanatical agitation of the subject of domestic slavery. This is the Pandora box out of which has issued all our woes.

When the present ill-fated war was inaugurated, the President assured the country that it was a war to repossess the Government of the public property, to preserve the Union, and to enforce the laws. Our generals commanding likewise proclaimed, at the head of the Army, that it was a war "for the Union." The Secretary of State officially announced to the civilized nations of the earth in a more elaborate and extended manner the same great fact; while the Congress of the nation, with almost entire unanimity, proclaimed that this was not a war of conquest or subjugation, or a war to interfere with the rights or domestic institutions of the States, but a war to preserve the Union and maintain the supremacy of the Constitution. Sir, I challenge the production of a single instance in the history of this or any other country where the people rallied with such unparalleled enthusiasm in defense of their imperiled institutions as did the people of this country after the fall of Sumter. Party names and dissensions all perished, and the heart of this great nation throbbled as one deep, unanimous, and universal whole. So intense was the public feeling, that in the short period of fifteen days nearly three hundred and fifty thousand volunteers offered their services to fill the contingent of seventy-five thousand, and more than forty million dollars were contributed by States, cities, and individuals.

Congress convened in extraordinary session on the 4th of July, and on the 6th by an almost unanimous voice voted five hundred thousand men and \$500,000,000 to arm, equip, and maintain the Army of the Union; and by the following December nearly eight hundred thousand men, a greater

number than ever marshaled beneath the victorious banners of Cæsar or Napoleon, rallied to aid the Government in vindicating the honor and integrity of the Union.

The country rejoiced at this unparalleled exhibition of devotion to the Union; and it imparted a reassured hope that our victorious legions would speedily conquer an honorable peace, and restore again our good old Union. The country likewise pointed to Missouri, to Kentucky, to Tennessee, to Arkansas, to Maryland, to Western Virginia, to the intrenchments of Henry and Donelson, to Pea Ridge, to Shiloh, to Antietam, to New Orleans, as trophies of their prowess and renown, and as achievements that will adorn the historic page in all time to come. Sir, our great triumphs on land and on sea, with the people of the North united in heart, soul, and purpose, and the South defeated, disheartened, and divided, enabled the country to quietly repose in the grand thought that speedily the rebellion would be overthrown, and the Union move onward in her career of prosperity and renown.

But, sir, these pleasing anticipations were destined not to be realized. At this stage in the mighty drama a new enemy boldly entered the arena; that same old abolition enemy that for more than a quarter of a century past has been teaching the doctrine that this Union could not endure permanently half slave and half free; that there was "an irrepressible conflict" between these once united, happy, and prosperous States; that there was a higher law than human constitutions and human enactments; that this Union ought not to be restored as it was, and that when restored all men in it must be free and equal. Acting upon the doctrines so laid down and inculcated, Congress lost no time in responding to the wildest and most visionary schemes of these radical enthusiasts, and instead of regarding the true interests of the country and the promotion of the welfare of the brave men who had imperiled their lives in defense of the Republic, these Halls became the theater where abolitionists vied with each other in their zeal for the negro; as how to feed him, clothe him, liberate him, arm him, educate him, and place him on an equality with white men.

Let it might be considered that I am exaggerating the true state of facts, let me call the attention of gentlemen for a moment to a synopsis of their legislative career:

1. By the numerous abolition harangues.
2. By the abolition of slavery in the District of Columbia.
3. The passage of a law permitting the testimony of negroes in certain cases against the whites.
4. The repeal of the law against the transportation of the mails by negroes.
5. The amendment of the Articles of War, so as to make it a high offense for an officer of the Army to return a runaway slave to his owner.
6. The refusal to make it an offense of like character for an officer to entice away a slave.
7. The passage of a law recognizing as our equals the negro Governments of Liberia and of Hayti.
8. The passage of a confiscation bill, aimed at slavery.
9. The act authorizing the President to call negroes into military service.
10. The admission of the State of Western Virginia on condition of abolishing slavery.
11. Prohibiting the existence of slavery in all the Territories of the United States.
12. The passage of a law forever prohibiting any person connected with the rebellion from holding any office of honor or profit.
13. The compensatory emancipation scheme of the President.
14. The passage of an act indemnifying the President and his subordinates against prosecutions for the commission of illegal and unconstitutional acts.

Sir, unwise, unjust, illiberal, and unconstitutional as much of this legislation was, it did not satisfy the requirements of these radical gentlemen; on the contrary it operated but as a stimulant to demand the adoption of more unreasonable and dangerous partisan measures. They now boldly announced their policy to be "tax, fight, emancipate," as the trinity of the nation's salvation. They assured the President that if he

would issue his presidential edict proclaiming the slaves in the rebellious States and districts forever free, the highways would throng with patriots more ardent and devoted than were the crusaders; that "Father Abraham" would behold the embattled hosts of abolitionism coming six hundred thousand strong to overthrow the armed legions of the rebellious South. They assured the country that it would witness an exodus of these children from the house of their bondage unparalleled since the days that Israel's dark-eyed daughters celebrated with timbrel and dance the exodus of God's chosen people in the olden time. The President, being neither a Washington in wisdom and patriotism, nor a Jackson in resolution and statesmanship, complacently yielded to the pressure, and in an evil moment hearkened to the voice of this abolition siren. In violation of the fundamental principles upon which this Government is founded, and upon which it has been so successfully administered from the days of Washington down to the days of Abraham Lincoln; in violation of his own party platform which he declared was a law unto him; in opposition to the avowed policy and object of the war; and in the exercise of an arbitrary power which no king or emperor of Europe could wield without producing revolution, save perhaps the Czar of Russia or the Sultan of Turkey, he declares by one sweep of his pen that the entire social and industrial systems of the South, as they had existed for more than a century, shall exist no longer, and that three million negro slaves shall be forever free.

And now, sir, after the observations and experiences of eighteen months, I wish gentlemen to tell me where are the grand results that were to compensate this nation for yielding to such extraordinary arbitrary power? Where have the highways thronged with the embattled hosts of abolitionism panting for revolutionary battlefields? Where are the solemnly promised six hundred thousand men? Sir, prior to the date of this proclamation volunteers to the number of nearly thirteen hundred thousand had responded to the call of the Administration. Neither Greece nor Rome in their palmiest days ever boasted such mighty armies; and the eagles of Napoleon were carried in triumph beyond the Danube and the Po, and into the very heart of the old commercial metropolis of the northern Cæsar with less than half of the mighty host that voluntarily went forth to fight in the sacred cause of the Union. The hopes of this great nation were concentrated in the stout hearts and strong arms of that million and a quarter of brave men. But the proclamation was issued, and with it came a change in the entire object and policy of the war. With it came dissensions and divisions in the North. With it came a destruction of the freedom of speech and of the press. With it came a suspension of the writ of *habeas corpus*, and a denial of the right of trial by jury. With it came military orders and invasions of free homes, arbitrary arrests, mock trials, bastilles, and exile. And with it ceased volunteering. That same Congress was compelled to go to the despotisms of the Old World and drag out from their musty records an unconstitutional conscription law, to compel our people to advocate, aid, and carry out a newly-inaugurated war policy. As a necessary consequence to that extraordinary act of the President, that old Constitution about which the people of the country had boasted so long was torn in fragments and scattered to the winds; and all power became concentrated in the hands of one man.

But, sir, if this unwise radical policy produced these disasters with us at the North, it was infinitely more disastrous in the States of the South. The President had assured us in his message that there was a majority of the people of the rebellious States in favor of the Union. I ask gentlemen on the other side of the House to tell me now where is that Union majority? Where to-day are those Union men whose hearts beat responsive to the music of the Union? Alas! the result of your proclamation and of your radical policy was to fill the defeated armies of the South and unite their people with increased hostility to the Union of their fathers. That was its effect. Sir, it seems strange that, notwithstanding the effect of that policy having been so disastrous, gentlemen are determined not to let the experience of the past be a light to guide them in their present or future course. Strange as it may seem, these

radical men pursue the same policy; and I have no doubt that the same disastrous results will follow it if persisted in. We have here in this Congress a proposition to repeal the fugitive slave law, thereby nullifying a solemn provision of the Constitution.

I ask gentlemen what will be the effect of such a policy in the State of Kentucky and the other border States? These Kentuckians have proved themselves equal to every emergency. When the country called them they responded like patriots. But they expected you would act in good faith toward them, and protect them in their property and in their rights.

But now you propose to take, by the strong arm of arbitrary power, from them their property and their rights under the Constitution and the laws. Is not that the way to render alien the hearts of these people of the border States? Is not that a sure policy to make the border States dissatisfied with the Government as administered by you? Will they not resist your course by every means known to the Constitution and the laws of the country?

We have also a proposition here to reduce the eleven rebellious States to a territorial condition, to enact laws and govern them as conquered provinces.

We have also here a proposition which, so far as this branch of Congress is concerned, has already assumed the character of law, to confiscate the real estate of the people of the South. In other words it is a proposition in direct violation of the Constitution of the United States, and renders the restoration of the Union almost hopeless if adopted and carried into execution.

We have also a proposition to establish a Bureau of Emancipation. Let me ask gentlemen on the other side why they do not cooperate with us in passing laws to feed, clothe, and pay a proper compensation to our soldiers, and to the widows and orphans this war has made? Why do they overlook all the interests of the white men of the nation and rush blindly to the negro, and think nothing and do nothing but what they fancy is for his welfare?

Sir, who is there here that believes for a single moment that Congress has the right or power to establish such a Bureau of Emancipation as is here proposed? It is nowhere named in the fundamental law, and is in direct violation of all our previous ideas of government and law.

We have also here a proposition, a plan of the President for restoration—we have the startling proposition which assails directly the only principle upon which a republican form of government can exist—we have a proposition that says one man out of ten may control and govern the affairs of the other nine. And we have here a proposition which says further that that one man shall first become an abolitionist, and swear to support the President's proclamations then issued, and all others in prospect which may be issued. He is first to turn abolitionist before the Administration will place confidence in his patriotism and place him in power.

We have a proposition also, pending in the other branch of Congress, which declares that all laws shall be repealed which make a distinction between the races—between white and black. Sir, this is the culmination of all the hopes of these radical fanatics. Here is the goal toward which they are directing all their efforts: to debase the white man to the degraded level of the African negro.

Sir, I know that gentlemen on the other side will consider me disloyal. I know they will say I am a sympathizer with the rebels; but I tell them that not only so far as I am concerned, but so far as the Democratic conservative masses of the country are concerned, they always have, from the inception of this radical policy, they do today, and they will continue in the future to enter their most solemn and earnest protest against so unwise and ruinous a policy.

I am willing that gentlemen should criticize with the utmost scrutiny the action of the Democratic party during its long and eventful career. I can justly and truthfully say, that upon all occasions, in the halls of legislation, through the press, in the forum, on the hustings, every where, at all times, in all variety of circumstances, the Democratic party has ever been true and faithful to the bond of the Union; always respecting the rights and interests of every section of the entire

country, never failing to warn their countrymen against the fatal effects of sectionalism, which for more than a quarter of a century past has been engaged in the unholy work of overthrowing the pillars of constitutional liberty. As each successive wave of fanaticism rose higher and higher, this noble old party of Jefferson and Jackson stood, like Corinth of old, a breakwater against the double tide, until at last it culminated in the election of a sectional President. Even then, sir, ambitious but for the integrity of the Union and the equal rights of the States, it called into requisition all the power and prestige of its great name to preserve the sacred compact of sovereign States out of the horrors and calamities of civil war, and to recognize peaceful channels as the only remedy of the commonwealth. With the only record that history will make of this time-honored party, born with the Constitution, that has adhered to it through all of the vicissitudes of prosperous and adverse fortune, that will live as long as constitutional liberty survives, and perish only amid the ruins of the Republic, with that record there is not a Democrat throughout this broad land but will be perfectly contented.

Sir, I do not say that this Government has not the right or power to crush armed rebellion. I say that it is the duty of this Government to do it; and I say further than that, if the party in power had kept steadily in view that original and legitimate object, the proud old flag of our country would have floated in triumph over the capital of every State in the Union. It was because its original policy was changed that this little insurrection of ninety days has swelled into the mightiest revolution recorded in the annals of time.

We are told by gentlemen upon the other side of the House that they do not want the Union as it was; that this is an abolition war. For what purpose? They tell you for the purpose of confiscation, of emancipation, of subjugation, and of extermination.

Sir, I should be glad if any gentleman who has the power sufficiently to make it appear would tell us the way in which such a contest should end. A war of subjugation! History tells us when Rome attempted to subjugate Carthage and confiscate their property, it so exasperated their people that their women tore their hair from their heads and gave it to their fathers, sons, husbands, and brothers, with which to make bowstrings to fight the gladiators of Rome. More than that. When the despots of Europe parceled out Poland like so much public plunder, and when Russia brought men from Siberia and placed them upon the confiscated estates of the Polish noblemen, she thought that she would raise up a new race of people who would be loyal to the Russian Government. How often have the streets of Warsaw been crimsoned with the blood of their people; and this very day that same Poland, downtrodden, without an army, without a navy, without munitions of war, is again appealing to the God of battles upon newly made revolutionary battle-fields to place her name on the honored roll of nations. And there is Ireland, against whom England has warred for centuries for the purpose of subjugating her people and confiscating their property, and the time never was that the very bogs of Ireland did not send forth their hardy sons of toil to resist the tyranny and oppression of the British Government.

Subjugation! Who is it you propose to subjugate? Eight million Americans, eight million men in whose veins flows the same blood that courses through our own; eight million people who drew their inspirations of liberty from the same great fountain-head whence we drew our own. Subjugate such a people! Are they less devoted to their homes and firesides than were the people of Poland and Ireland? Are they not as much devoted to liberty as any race of people who has lived in the past ages? Will they not make greater sacrifices to maintain and to preserve them? Talk about subjugation! Let me tell you that the man breathes not the vital air that will live to see the day when the lightnings of civil war will not flash through the heavens, if that be the purpose of this war. Look at it. When you have parceled out the estates of the people at the South between the people of the North and the negroes of the South, when you have driven their unoffending women and innocent children to the mountain-

fastnesses, do you suppose that they are subjugated? Why, sir, those women will whisper in the ears of their children eternal hatred to you and your Government. The fires will only be smothered, and at some unpropitious hour, as in Europe, they will burst forth anew and bring destruction upon you and the country.

There is one other question which I would like to ask of the learned and experienced gentlemen upon the other side of the House. Can they tell me whether the mission of war is to build up, to restore, to reunite? Let me rather ask you if it is not the mission of war alone to sever, to overthrow, to destroy, and annihilate? Did not the long and protracted Peloponnesian struggle of the Greeks blot out Athenian liberty? Did not the civil wars of the Caesars erect an imperial despotism upon the ruins of that proud old republic? Did Spain restore Mexico with force of arms? Did Mexico in turn restore Texas? Did Holland in 1831 restore Belgium by war? Did George III restore by force of arms these thirteen revolted American colonies? Sir, it is not the unaided mission of war to accomplish any such thing.

Let me ask gentlemen another question. Suppose you succeed in accomplishing all you desire; that these southern hosts are driven and scattered before your victorious legions like chaff before the wind; is that the end of the struggle? How will you enforce your laws upon an unwilling people scattered through their mountains, forests, and swamps? How will you enforce even the ordinary writs of courts of justice? Before you can do it you must take your sons and garrison the cities of the South. You must do that in order to hold them in subjection. And when you have done that, will they be an element of strength to the country?

I ask gentlemen to look at this in the light of history. Is Poland an element of strength to Russia? Is Hungary an element of strength to Austria? I want gentlemen to bear in mind the important lesson that all history teaches, that nations are BORN AMID THE MIGHTY THROES OF REVOLUTION! When Andrew Jackson declared this Union could not be preserved or the Constitution maintained by the mere coercive powers of the Government, he announced a fact which three years of war has only confirmed. And when Abraham Lincoln announced in his inaugural address that suppose you go to war you cannot fight always, and after much loss on both sides and no gain on either, the same identical question which caused the strife remains open for adjustment, he announced only the truth attested by all history. It was no new truth. It was but the logical deduction which the history of past ages fully confirmed.

I need not stop to speak of the loss upon both sides. I need not talk of the hecatombs of our fallen countrymen which lie scattered over a hundred battle-fields. I need not speak of the widows and the orphans, and of the immense debt which will hang like an incubus upon the energies of this people for ages to come. The horrors are enough to cause tears to flow down even Pluto's iron cheek.

What then is our true policy? I tell gentlemen the history of other nations leave us not in doubt as to this point. Before you can ever secure peace in this country you must accompany the sword with the olive-branch. You must, in addition to destroying the armed power of the rebels, build up a Union sentiment to protect that country after you have withdrawn your armies from it. Louis XI of France, by far the ablest Bourbon of them all, by a conciliatory policy united the several French dukedoms and kingdoms into one vast empire, over which Louis Napoleon presides, and at whose power even continental Europe trembles. Charles V won more by a conciliatory course than he ever achieved by the sword. Henry VII of England by conciliatory policy united and restored peace to his distracted country.

I need not go to other countries for examples in confirmation of the truth of this position. Here in our own country we have the most illustrious example of the power of a conciliatory course. When our fathers had achieved our independence, when they came to lay broad and deep the foundations of constitutional liberty, they laid the very corner-stones in the great and mighty intersectional doctrines of conciliation and concession.

Sir, I do but quote the unanimous language of

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the members of the Convention that framed the Constitution, in declaring that the Constitution was the "result of a spirit of amity and of that mutual deference and concession which the peculiarity of our political situation rendered indispensably necessary." If those great men who had endured the toils and hardships and privations incident to a long and arduous struggle for liberty found themselves constrained when they came to form a Government to adopt principles of concession, how much more indispensably necessary is it to do so now, when we, their children, have grown from three millions to thirty millions of people, with a country extending from ocean to ocean, and having vast agricultural and manufacturing interests, with our commerce whitening every sea. How can we get along without harmony and conciliation? How can we exist as a nation, except by adopting and adhering to the policy laid down by our fathers? On no other principle can a free Government exist. Any other doctrine is but the argument of kings, tyrants, and despots, and is not adapted to this land of the free.

Sir, the distinguished gentleman from New York, [Mr. FERNANDO WOOD,] in his argument a few days ago, adverted to the fact that Shay's rebellion and the whisky insurrection in Pennsylvania were instances where the constituted authorities of the country negotiated with armed traitors. In that whisky insurrection there were, at one time, more than seven thousand men in arms, including portions of the people of the great States of Pennsylvania, Maryland, and Virginia. These armed men seized on public property, plundered the mails, assaulted, maltreated Federal officers. Some were killed, many wounded. If there had been at that time presiding over the destinies of the country a Charles I or a George III or an Abraham Lincoln, he would have put his foot down firmly on these rebels, and demonstrated to the world that he was at the head of a strong Government. But, sir, the good genius of the great Washington presided over the destinies of the nation. Commissioners were appointed, negotiations were entered into, and the rebellion was ended, leaving hardly any evidence to survive it.

Again, sir, when Missouri applied for admission into the Union, the passions of the people were excited to an extraordinary degree, and it was believed by many that the Union was in imminent danger. But the fathers yet lingered among their children, and the sage of Monticello was aroused from his slumbers by the sound of the alarm bell at the hour of midnight. Conciliation was resorted to, and peace and harmony were restored to the country.

Again, in 1832, during the administration of Andrew Jackson, they got up what they called the nullification rebellion in South Carolina. The old general made the hearts of the people thrill by his memorable sentiment, "The Union must and shall be preserved." And yet it must be borne in mind that Congress modified the objectionable law; and through a conciliatory policy that rebellion was ended.

Yet again, in 1850, when the infuriated passions of our people had been lashed into a perfect tempest, when the Sumners and Searles and Chases of the North and the Jeff. Davieses and Toombses and Yanceys of the South disturbed the Halls of Congress and were unwilling to concede anything for the sake of the peace and harmony of the country, the noble Kentuckian and the giant Webster, of Massachusetts, and the great Douglas, of Illinois, stood up in the Senate, aided by the Union men of both parties; and when Clay waved aloft his magic wand of compromise, the stormy sea of human passion sank to silent rest and the glorious old ship of state sailed on in her grand career, dispensing the blessings of peace and liberty and happiness to thirty millions of the most prosperous people that the sun, in his wanderings through the heavens, ever shone upon.

Let me state, further, what every gentleman whose judgment is not warped by malice and passion knows to be true, that with a little concilia-

tion in 1860 this horrible civil war would never have been brought upon us. But for the first time in the history of the Government a sectional party got control of it, and for the first time the policy was inscribed on their banners—"No more compromises." The consequence is a land rent with civil feuds and drenched in fraternal blood.

What is the remedy for these evils? To what must we look in this hour of gloom and darkness for that aid, that safety, which will give us a restored Union, peace, and constitutional liberty? If the party in power were wise this war would end, and end in ninety days, by a conciliatory course. But if their radical policy be continued it will be a still further incentive to rebellion; and if next spring we find the rebel army better prepared to confront our own, we may ascribe it to that cause, and you will be responsible for the protraction of the struggle. If you will return to the policy of the fathers by inaugurating a conciliatory course you will have peace, union, and constitutional liberty. But I tell you that if you do not do that the great heart of this mighty nation, which will throb in November next, will banish you forever from power, and will elevate to your places men who do love peace and Union and liberty more than fratricidal war and the freedom of the negro.

Sir, the signs of the future are bright only through that view. Any other view will never end this strife. We can only end it by a return to the ancient landmarks of the fathers. That return will be made by the Democratic and conservative masses of this Union. I care not whether McClellan, Seymour, or any one else be the man, the conservative masses, burying their partisan feelings and past differences of opinion, knowing only the Union and the whole Union, will rally from hilltop and plain to restore the Government to its original condition.

Sir, lest some of my Republican friends may think that I am only in a certain contingency in favor of the Union, let me tell them that never, never shall I vote for its dismemberment. I am for the Union, and the whole Union. I am for the Constitution as it is; and I never will consent, by my voice or vote, that that Constitution shall be marred or destroyed. I regard the Constitution as the only instrumentality to save the Union. It is only by adherence to it that we can bring back the Union. I believe it is the high and holy mission of the conservative people of this country, overthrowing radicalism at the North and forever burying secessionism at the South, to restore this Union once more on the venerated foundations reared by the hands of our fathers. While life endures, we will struggle for that, and we will bequeath to our children that undying legacy.

Sir, I have said all that I had intended to say. I have spoken of the war freely and without reserve. I have spoken of it as I think becomes the representative of a constituency which loves liberty and intends, at all hazards, to maintain it. I speak in behalf of a people who will resist any act of oppression or arbitrary power, who are determined to have a free and untrammelled ballot, let the consequences to them be what they may. I speak in behalf of a people who are determined to live a free people, or perish in the glorious effort. Mr. KING obtained the floor, but yielded to Mr. STEVENS, who moved that the committee rise.

The motion was agreed to. So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 151) making appropriations for the naval service for the year ending the 30th of June, 1865, and had come to no resolution thereon.

NATIONAL ARMY.

Mr. MILLER, of New York, by unanimous consent, introduced a bill authorizing commis-

sioners to select a site for a national armory, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

CLERKS TO ASSISTANT TREASURER.

Mr. COLE, of California, by unanimous consent, introduced a bill to authorize the Assistant Treasurer at San Francisco to appoint certain clerks, and for other purposes; which was read a first and second time, and referred to the Committee of Ways and Means.

ENLISTMENTS.

Mr. BLAIR, of Missouri, by unanimous consent, introduced an act to provide for the voluntary enlistment of persons resident in certain States into regiments of those States; which was read a first and second time, and referred to the Committee on Military Affairs.

MISSOURI AND ILLINOIS LAND PAPERS.

Mr. BLAIR, of Missouri, by unanimous consent, introduced a bill in relation to the field notes, maps, records, and other papers pertaining to land titles in the office of the late surveyor general of Illinois and Missouri; which was read a first and second time, and referred to the Committee on the Judiciary.

IOWA LAND GRANTS.

Mr. WILSON, by unanimous consent, introduced a bill extending the time for the completion of certain railroads in the State of Iowa, to aid in the construction of which a grant of land was made, approved May 15, 1856; which was read a first and second time, and referred to the Committee on Public Lands.

And then, on motion of Mr. WASHBURN, of Illinois, (at half past four o'clock, p. m.,) the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, February 24, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

ENROLLED BILLS SIGNED.

The VICE PRESIDENT signed the following enrolled bill and joint resolution, which were yesterday signed by the Speaker of the House of Representatives:

A bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; and

A joint resolution (S. No. 27) relative to the transfer of persons in the military service to the naval service.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting "the copy of a correspondence which has recently taken place between her Britannic Majesty's minister accredited to this Government and the Secretary of State, in order that the expediency of sanctioning the acceptance, by the master of the American schooner Highlander, of a present of a watch which the Lords of the Committee of her Majesty's Privy Council for Trade propose to present to him in recognition of services rendered by him to the crew of the British vessel Pearl, may be taken into consideration;" which was referred to the Committee on Foreign Relations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. CONNESS presented the petition of Maria Antonés Blume, widow of James Donson, praying compensation for property alleged to have been taken in July, 1846, by order of John C. Frémont, at that time in command of United States soldiers in California; which was referred to the Committee on Claims.

He also presented the memorial of J. W. Eddy, paymaster United States Army, praying to be al-

lowed in the settlement of his accounts \$1,487 56, alleged to have been embezzled by L. St. John, a clerk in the pay department; which was referred to the Committee on Claims.

He also presented the memorial of Francisco Caseres, praying compensation for a horse alleged to have been taken from him on the 2d July, 1846, by John C. Fremont, then in command of the United States forces in Alta California; which was referred to the Committee on Claims.

Mr. DOOLITTLE presented a memorial of the Chamber of Commerce of the city of Milwaukee, Wisconsin, praying for the construction of a wagon road to Idaho, through Minnesota and Dakota, and such military protection as will afford safety to emigration and secure a more speedy transit of merchandise and the precious metals; which was referred to the Committee on Territories.

Mr. HALE presented a petition of staff officers of the Navy, praying that the retired staff officers of the Navy may be placed on an equality in regard to pay with line officers of the same rank; which was referred to the Committee on Naval Affairs.

Mr. HALE. I have a petition from contractors for the machinery of the side-wheel gunboats known as "double enders," representing that the price to be paid to them is considerably less than the actual expenses of the work, and praying that Congress will take such action upon their petition that they may have the opportunity to verify the matters and things set forth in it, and that they may have such further relief in the premises as shall be judged meet. I hardly know to what committee this petition should go, but perhaps the more appropriate reference would be to the Committee on Naval Affairs.

The petition was referred to the Committee on Naval Affairs.

Mr. GRIMES. I present the petition of John L. Campbell, a citizen of the Territory of Idaho, and formerly a citizen of the State of Iowa, representing that the Territory of Idaho is divided by a range of the Rocky mountains which renders one portion of the Territory inaccessible from the other portion; that it is composed of a territory sufficiently large to make several States as big as New York or Pennsylvania, and he prays that Congress may in its wisdom provide for a division of the Territory. The petition is accompanied by a map. I move that it be referred to the Committee on Territories.

The motion was agreed to.

Mr. GRIMES. I present the petition of John Thomas Lane, who claims that he is the discoverer and proprietor of a remedy for the prevention and cure of small-pox. He represents that his remedy has been submitted to various tests; and he asks that Congress shall provide that he shall have an opportunity of trying it upon some or all of the patients in the small-pox hospital at Kalorama. I move that the petition and papers accompanying it be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. HARLAN. I presented a few days since resolutions of the Legislature of Iowa in favor of an amendment to the pension laws, so as to allow pensions to widows of chaplains and surgeons who may die in the service. I move now that those resolutions be referred to the Committee on Pensions.

The motion was agreed to.

REPORTS FROM COMMITTEES.

Mr. TEN EYCK, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 42) to enable guardians and committees of lunatics, appointed in the several States and other countries, to act within the District of Columbia, reported it without amendment.

Mr. WILLEY, from the Committee on the District of Columbia, who were instructed by a resolution of the Senate to inquire into the expediency of further providing by law against the exclusion of colored persons from the equal enjoyment of all railroad privileges in the District of Columbia, submitted a report, and asked to be discharged from the further consideration of the subject.

The report was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a petition of copyists in the Quartermaster Gen-

eral's office, praying for an increase of compensation, asked to be discharged from its further consideration; which was agreed to.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 130) for a charter of Masonic Hall Association in Washington city, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 131) to consolidate into one district for judicial purposes the northern and southern districts of California, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 133) in relation to the pay of cadets at the Military Academy at West Point, and for other purposes; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 132) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; which was read twice by its title.

Mr. SHERMAN. I wish to state that this bill was prepared by a committee representing the various interests of the different branches of the Pacific Railroad Company. I introduce the bill at their request, without committing myself at all either to its general principles or its details. It is rather a petition presented by them in the form of a bill to be submitted to the committee for its action. I move its reference to the committee on the Pacific railroad, and I also ask that it be printed.

The VICE PRESIDENT. It will be so referred; and the order to print will be made; if there be no objection.

INTERNAL REVENUE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 122) to increase the internal revenue, and for other purposes, further insisted on its disagreement to the amendments of the Senate insisted on by the Senate, and asked for a further conference on the disagreeing votes of the two Houses, and appointed Mr. E. B. WASHBURN of Illinois, Mr. J. A. KASSON of Iowa, and Mr. J. L. DAWSON of Pennsylvania, conferees on the part of the House.

HOPKINS BATTERY.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be requested to inquire into the expediency and justice of presenting to the State of Kansas the "Hopkins battery" captured by the gallant troops from that State at the battle of Fort Wayne.

Mr. LANE, of Kansas. Accompanying the resolution there is a letter from Major General Blunt, giving the facts connected with the capture, and showing that the battery is not serviceable. I ask that that letter be printed.

The VICE PRESIDENT. That order will be made if there be no objection; and it will also be referred to the Committee on Military Affairs.

ARMY OFFICERS ON LEAVE.

Mr. TEN EYCK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of repealing or modifying the law which reduces to one half the pay and allowances of officers in the Army when absent on leave.

COTTON SPECULATIONS BY OFFICERS.

Mr. POWELL submitted the following resolution:

Resolved, That the Secretary of War be directed to transmit to the Senate the report and evidence taken by the military commission, at the head of which was Major Gen-

eral Irwin McDowell, appointed to investigate the conduct of officers of the Army, and others engaged in the military service, in cotton and other speculations.

Mr. WILSON objected to the present consideration of the resolution, and it lies over, under the rules.

BILLS BECOME LAWS.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the President of the United States had approved and signed, on the 19th instant, a joint resolution (H. R. No. 30) tendering the thanks of Congress to Major General W. T. Sherman; and, on the 22d instant, a joint resolution (H. R. No. 31) making appropriation for the payment of taxes on certain lands owned by the United States; and a bill (H. R. No. 145) for the relief of the heirs of Noah Wiswall.

PERSONAL EXPLANATION.

Mr. FESSENDEN. I desire to say a few words in explanation of some remarks that I made here on a former occasion, by the leave of the Senate.

The VICE PRESIDENT. The Senator will proceed, if there be no objection.

Mr. FESSENDEN. It may be recollected that when the deficiency bill was before the Senate there was a clause in it, as it came from the House of Representatives, making an appropriation to pay Little & Brown for certain volumes of their edition of the laws, the tenth and eleventh volumes, I think. The Committee on Finance recommended that that clause be stricken out; and being called on for an explanation, I gave to the Senate the explanation that I had received at the Department, almost in the same words, as near as I could recollect them; the facts were certainly the same. That explanation which I gave seemed to cast a reflection on the conduct of those gentlemen, Messrs. Little & Brown, with reference to the matter. It stated substantially that their dealings had been with a clerk of the Interior Department, and that it was a surprise on the Department itself, and there was no occasion to pass it, as the books were not needed and there was no claim on the Government with reference to them. I will not now repeat it. The remarks were published in the Globe and came to the view of these gentlemen. They considered them, as they do in point of fact, as making a reflection on them.

Mr. Little has handed me this morning a letter addressed to myself which he desires me to ask leave to have read in the Senate. He does not consider the question of money as so important; and I deem it due to that firm to say that it is a firm that has always maintained the highest reputation for integrity in every point of view; and I am not surprised that they should feel somewhat sensitive at the remarks that were made by me. I can only repeat what I said at the time, that I made the explanation as I received it from the Department itself. I deem it due to them to have this letter read; and I also deem it further due to them to say that I consider the letter as a vindication of them with reference to the matter. What the House may see fit to do with regard to the particular appropriation is another question. Should it come before the Senate again, it will be for us perhaps to reexamine the decision to which we came on the subject.

With this explanation, saying, as I feel it but just to say, that such is the reputation of that firm and the individuals connected with it, it is not surprising that they should feel somewhat hurt at anything which would tend to impeach their high mercantile character and standing, I desire that the letter may be read.

The VICE PRESIDENT. The letter will be read.

The Secretary read it, as follows:

WASHINGTON, February 23, 1864.

SIR: A friend has sent me a copy of the Daily Globe containing the report of remarks made by you on the 12th instant upon the proposition under consideration by the Senate to supply a deficiency for the purchase of the tenth and eleventh volumes of the Statutes at Large, published by the house of Little, Brown & Co., of Boston.

Although I have not the honor of a personal acquaintance with you, I know too well your distinguished reputation as an honorable, just, and courteous gentleman to hesitate for a moment in submitting to you an unequivocal statement of the facts to which your remarks were directed, in the firm conviction that you will perceive the injustice which you have done—unintentionally, I am sure—to my

firm, and to an innocent employé of the Government, by those remarks.

The one thousand copies of the Statutes at Large provided for by the joint resolution of May 10, 1852, (see vol. ten, p. 147,) having been found insufficient to supply the increasing demand for the public offices and officials entitled to them by law, Congress, upon the application of the Secretary of State, increased the number to two thousand copies of the tenth and eleventh volumes, by acts of March 3, 1855, (vol. ten, p. 646,) and March 3, 1859, (vol. eleven, p. 428.)

Under these acts we have printed and bound not only the two thousand copies of the tenth and eleventh volumes, but the same number of the twelfth called for by subsequent enactment, solely for the use of the Government, and holding them subject to its disposal. As provision was made for the purchase of this number, we had reason to expect them all to be taken, and the more so, since Congress has ceased to supply new members with the Statutes at Large, which was formerly done, and which practice we presumed would continue when we made the original contract.

The number of two thousand copies, then, having been fixed by law, you will perceive, sir, that neither the honorable Secretary of the Interior, his subordinates, nor myself had the power to commit any irregularities in reference to the number furnished to Government, and that the certain "odd volumes"—amounting to nearly eight hundred, as you accurately stated—being the undelivered complements of volumes ten and eleven, were, as the Secretary believed, provided for by law.

The action of Judge Usher was not, as you surmised, initiated under the suggestion of a clerk. Being myself in the city I called upon the Secretary in regard to the delivery of the volumes in question. The honorable Secretary of the Treasury was present, and might have heard, if he did not, the whole conversation. I had held no communication with any subordinate on the subject. It was only when Judge Usher desired to give his instructions that a clerk appeared at all in the transaction.

Subsequent to these instructions ordering the volumes, I learned who was the gentleman immediately charged with the details of the business, and asked him if he could give his personal attention to the prompt delivery of our boxes from the railway station to the Department. In the immense pressure of public business at the Washington railway station, such personal attention was absolutely necessary to insure not only the safety of the boxes, with their valuable contents, upon which there is no insurance from fire or rain, but also to insure the prompt delivery of the pamphlet laws, which we are under heavy penalties to deliver at a specified time. The gentleman kindly promised to give his own attention to the matter out of office hours. This was the explicit requirement I made, and which he assured me would be fulfilled, and I saw no impropriety, after he had diligently attended to my business in his unoccupied hours, engaging transportation and paying my bills, in asking his acceptance of some volumes of our own publications.

So far as his transactions with my house are concerned, that gentleman is as innocent of receiving private compensation in his official character as any person living. It is with extreme pain that I feel myself constrained to defend the house of which I am a partner from imputations of such a nature as your remarks suggest. I had hoped and believed that my firm was too well known, especially to New England men, to require such a defense.

Although our relations to the Government as the official publishers of the Statutes at Large were not of our own seeking, we have ever felt a pride and satisfaction in embodying the national legislation in a form which, for absolute accuracy and style of workmanship, is unequalled by the official statutes of any other country.

More than fifty thousand dollars have been expended in the preparation of our stereotype plates, which, in view of the extremely limited demand for the volumes from private sources, and the stoppage of the supply to members of Congress, involves a large amount of dead capital. Since our contract began for supplying the eleven thousand copies of the pamphlet edition of the acts of Congress, we have but in two instances obtained additional compensation for the vast increase in the size of the pamphlet over the average at the time of the contract. The necessary legislation of Congress during the past three years has swelled the insignificant pamphlet of former times to a volume unthought of when the contract was made. The cost of material has increased one hundred per cent., and labor more than fifty per cent., and we are sustaining losses upon the contract price of our twelfth volume, and upon the pamphlet edition; yet in no single respect is there the slightest falling off in the fidelity of our work. Under the exposition with which I have troubled you, I trust, sir, that you will review the judgment you have formed, and be convinced that my house has not departed from those old-fashioned principles of probity and integrity upon which it was established.

I have the honor to be, sir, your obedient servant,
CHARLES C. LITTLE,
Of Little, Brown & Co.

Hon. WILLIAM PITT FESSENDEN.

Mr. FESSENDEN. I will only add, Mr. President, if further explanation is needed, that Mr. Little states that ever since he has been in the habit of delivering these laws, as he is under a penalty to deliver the pamphlet laws on a certain day, and as the transportation is very uncertain, he has been obliged to employ some person here to look out for them and see that they are delivered and protected, as a little rain upon the boxes or anything of that sort might injure them. For that reason, it has been necessary for him to have a special person engaged to look out for them. While the matter was under the control of the State Department it was done by a porter there, and after it was removed by law to the Interior Department he went to that Department for the first time, and after making his arrangements he turned

to a gentleman there and inquired if he would look out for them, and he at once said that he would. As there was necessarily a great deal of trouble about it, and this business was attended to by the gentleman out of office hours, Mr. Little did not perceive any impropriety in making him a present of some of his own publications. That is all there is of that matter. The Senate will judge for itself whether the vindication of the firm is not entirely complete.

WARDEN FOR THE JAIL.

Mr. MORRILL. I move that the Senate take up the bill (S. No. 86) to authorize the appointment of a warden of the jail in the District of Columbia. It was under consideration on Thursday last, and nearly finished and passed over.

The motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. JOHNSON. I ask for the yeas and nays on the engrossment and third reading of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 13; as follows:

YEAS—Messrs. Chandler, Clark, Conness, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, Morgan, Morrill, Ramsey, Sherman, Sumner, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—23.

NAYS—Messrs. Buckalew, Carlile, Collamer, Davis, Harding, Harris, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Powell, and Ten Eyck—13.

So the bill was ordered to be engrossed for a third reading, and it was read the third time. A message was afterwards received from the House of Representatives announcing its passage by that body.

ADMISSION OF NEVADA.

Mr. WADE. I move to take up the bill to enable the people of Nevada to form a constitution and State government.

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio to postpone all other business for the purpose of taking up the bill indicated by him.

Mr. WILSON. That means morning business, does it not? At one o'clock the bill to create the rank of lieutenant general comes up by special assignment.

The VICE PRESIDENT. The bill indicated by the Senator from Ohio, if taken up, will not displace the unfinished business of yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 96) to enable the people of Nevada to form a constitution and State government and for the admission of such State into the Union on an equal footing with the original States. The bill authorizes the inhabitants of that portion of the Territory of Nevada included in the following designated boundaries to form for themselves, out of that Territory, a State government, which State, when formed, is to be admitted into the Union upon an equal footing with the original States in all respects whatsoever. The boundaries of the new State are to be as follows: commencing at a point formed by the intersection of the thirty-eighth degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along the thirty-seventh degree of north latitude to the eastern boundary line of the State of California; thence in a north-westerly direction along the eastern boundary line of the State of California to the forty-third degree of longitude west from Washington; thence north along the forty-third degree of west longitude and the eastern boundary line of the State of California to the forty-second degree of north latitude; thence due east along the forty-second degree of north latitude to a point formed by its intersection with the thirty-eighth degree of longitude west from Washington; thence due south down the thirty-eighth degree of west longitude to the place of beginning.

The bill also prescribes who shall be qualified voters, and how the convention to form its constitution shall be constituted. The convention is to meet on the first Monday in July next, and after its organization is to declare on behalf of the people of the Territory that they adopt the Constitution of the United States. Thereupon the convention will be authorized to form a con-

stitution and State government for that Territory. The constitution is to be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence; and it is required that the convention shall provide by an ordinance irrevocable without the consent of the United States and the people of the State: first, that there shall be neither slavery nor involuntary servitude in the State, otherwise than in the punishment of crimes whereof the party shall have been duly convicted; second, that perfect toleration of religious sentiment shall be secured, and no inhabitant of the State shall ever be molested in person or property on account of his or her mode of religious worship; and third, that the people inhabiting the Territory agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the Territory, and that the same shall be and remain at the sole and entire disposition of the United States; and moreover, that each and every tract of land sold by Congress or donated to actual settlers by the homestead act, or located by the bounty land warrants of soldiers which have been or may hereafter be granted, shall be and remain exempt from any tax laid by the order or under the authority of the State, whether for State, county, township, or any other purpose whatever, for the term of three years from and after the respective days of the sale, location by land warrant, or notice of settlement thereof under the homestead act; and that the lands belonging to citizens of the United States residing without that State shall never be taxed higher than the land belonging to residents thereof; and that no taxes shall be imposed by the State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

When formed, the new constitution is to be submitted to the people for their ratification or rejection at an election to be held on the second Tuesday of October next, and the vote, if a majority of legal votes shall be cast for the constitution, will be certified to the President of the United States, together with a copy of the constitution and ordinances; and thereupon it is to be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress.

The new State is to be entitled to one Representative in the House of Representatives of the United States; and the usual land grants are to be made for the support of common schools, for the erection of buildings for legislative and judicial purposes, penitentiary, and the construction of roads, ditches, canals, and a general system of irrigation. In the State of Nevada the laws of the United States, not locally inapplicable, are to have the same force and effect as elsewhere within the United States, and it is to constitute one judicial district, and be called the district of Nevada.

The VICE PRESIDENT. The bill is now before the Senate as in Committee of the Whole, but the morning hour having expired, the unfinished business of yesterday supplants it.

Mr. WADE. I move to postpone the special order, so that we may proceed with this bill and pass it at once, unless it is going to be debated. I do not suppose there will be any debate upon it.

Mr. SHERMAN. I do not think it will take any time to pass the bill in regard to General Grant. I do not believe there will be any discussion about it. I am perfectly willing to take the Senate committee's report rather than have a debate about it.

Mr. WADE. I do not suppose this bill will take a moment. These bills are not generally debated. It is precisely similar to the bill that we passed at the last session.

Mr. WILSON. I must say to the Senator from Ohio that we have given way several times in regard to the bill reviving the grade of lieutenant general, and I had it called up yesterday with a view of making it the special order. I think we can pass it in a few minutes, and then I will give way to the Senator.

Mr. WADE. But I suppose we can pass this bill in just a few minutes, and fewer still. If it leads to debate I will not resist the taking up of that bill. I ask that the special order be passed over informally in order that we may see whether this bill is going to be debated or not.

THE VICE-PRESIDENT. That will be done if there is no objection. The Chair hears no objection, and the bill is now before the Senate and open to amendment.

Mr. HARLAN. I move to strike out all after the word "United States" in the twenty-sixth line of the fourth section down to the word "and" in the thirty-fifth line, in the following words:

And moreover, that each and every tract of land sold by Congress or donated to actual settlers by the homestead act, or located by the bounty land warrants of soldiers which have been or may hereafter be granted, shall be and remain exempt from any tax laid by the order or under the authority of said State, whether for State, county, township, or any other purpose whatever, for the term of three years from and after the respective days of the sale, location by land warrant, or notice of settlement thereof under the homestead act.

Mr. WADE. I hardly think that clause should be stricken out. I believe it is in accordance with all the enabling acts that I know of that have been passed. I know my friend from Iowa thinks some of them were exempt from such a clause. This clause is inserted to prevent the State from immediately laying burdens on these lands, and causing them to be sold probably, and thereby withdrawing them from homestead settlers, &c. I do not think it would be prudent to strike it out. I do not want to debate it, but I think this is in accordance with all the bills I have examined on that subject; and all the other provisions of this bill are in accordance with the other enabling acts we have passed. Formerly there were reservations of five years instead of three, during which the lands remained exempt.

Mr. COLLAMER. They had five years to pay in.

Mr. WADE. Yes, they had five years to pay in, and they were exempted for five years. This exempts for but three years, which I think is in accordance with the modern enabling acts. The prior ones exempted for five years.

Mr. GRIMES. What new States had three?

Mr. WADE. I think those of Oregon and Kansas. I think all those enabling acts had that provision. I will not be perfectly sure about it, but I feel very confident of it. However, I am not going to debate it.

Mr. HARLAN. I am sure that the chairman of the Committee on Territories is in error, in part at least. Lands sold in Iowa were subject to taxation by the State immediately, unless they were located with land warrants by the original grantees. If the soldier himself carried his warrant to the land office and located it on a piece of land, it would be exempt from taxation, under the laws of the United States, for three years; but otherwise the lands were all taxable from the beginning. There is an eminent propriety, as it seems to me, in striking out this clause in the present instance. How does the Senator propose to support the State government in Nevada if we exempt all real estate—which will include all improvements on real estate—from taxation? In what other way can the State of Nevada, when it shall be organized, support its government? Manifestly in no way except by levying enormous taxes on personal property.

Mr. WADE. That same objection weighed with equal force against all the old enabling acts. The enabling act of Ohio reserved all lands sold by the Government from taxation for five years after actual sale; and yet it was not deemed any great burden, because the State governments, where there are very few inhabitants, do not require a great sum to keep up their organization. This exemption is only for three years. These lands are principally valuable for their mining facilities. I think that if it should be left to the State to burden them *ad libitum* to any extent they pleased, the Government would find these lands very soon withdrawn and under the control of the State. I do not think it is safe to strike out this provision. That is all I wish to say about it. I do not wish to prolong the debate.

Mr. CONNESS. I do not propose debating this matter at any length; but I wish to say a word in favor of striking out this clause. There is no similarity, I will say to the honorable chairman of the Committee on Territories, between the cases of Nevada and Ohio. In the case of Ohio or any of the States on this side of the mountains, all their acres are capable of cultivation; in the State of Nevada there are very few acres that are capable of cultivation, and this pro-

vision would simply exempt every acre in that Territory that is capable of cultivation from taxation by the State for three years.

The Senator will remember again that in our western mining States there is a very strong disposition on the part of the population (and it is universal, and the people make the laws,) against taxing mining property; that is, taxing the right to mine. The result is that it is a very difficult proposition indeed to sustain their State governments, but will become more so in regard to the State of Nevada than any other State yet created. In California, although the proposition is applicable there, we have a very large extent of rich agricultural lands and many other interests besides our mining interest; but Nevada is a mining community exclusively, and can never be anything else. It must always be fed from adjacent countries; and the small amount of land that is fit for cultivation would be exempt from taxation.

As to the proposition that the State would oppress its people by taxing unduly, I think that is sufficiently met by this reply that if the people of a State are not able to govern themselves justly, they should not have an enabling act passed, nor be created from a Territory into a State.

Mr. WADE. The Senator misapprehends this. This is to withdraw land from taxation in the hands of the General Government. I have no objection to their taxing themselves what they please, but what you want to do now is to enable them to tax everybody else that happens to own land there.

Mr. CONNESS. Not at all. I desire to enable the State government to tax as it shall see fit its own people, and I wish all its property exposed to that rule of taxation. I hope that the clause will be stricken out.

Mr. COLLAMER. I wish to inquire (I have not had time to read the bill) whether there is the usual provision in this bill that the State agrees that the lands belonging to the General Government shall not be taxed?

Mr. WADE. Yes, sir.

Mr. COLLAMER. That would cover all the lands which these people actually go on to.

Mr. CONNESS. The State will have no power to tax the Government lands.

Mr. COLLAMER. That is one of the terms and conditions of the compact. I take it it is in this bill in the usual form.

Mr. HOWE. I understand that the effect of this provision, which it is proposed to strike out, is to exempt lands from State taxation for three years after they have been sold.

Mr. WADE. And after they have been settled under the homestead law.

Mr. HOWE. Every one who has ever lived in a new State knows that one of the greatest evils it has to contend with is the fact that a great many of its lands are held by non-residents, who do not improve them, and who have nothing to tax but the lands themselves. If you exempt the lands from taxation, the burden would be very oppressive on the settlers, and of course that deficiency must be made up by taxing the property of the residents.

Mr. HARLAN. If this amendment shall be carried, the clause will then stand:

Third. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the land belonging to residents thereof; and that no taxes shall be imposed by said State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

The amendment does not propose to unsettle these provisions, but merely to permit the State to tax the lands after they pass into the hands of private citizens, nothing more.

Mr. WILKINSON. I agreed to this provision in the bill in committee, and I do not suppose it amounts to very much. The idea that operated on my mind was that in the new States, very frequently the levying of taxes upon real estate operates very hard upon that class of settlers who go into the States for agricultural purposes; and hence in many of the bills which have been heretofore passed by Congress this exemption has been made. It is not contained in the enabling act authorizing the people of Minnesota to form a

State government, but in many of the other acts the provision has been inserted as it is here. I would suggest that if the people there want to tax the land let them do so.

Mr. WADE. Very well; let the Senate vote as they please.

Mr. COLLAMER. The view of those who have heretofore acted on this question has been that the exemption at first for five years was because we sold our lands on a credit of five years. Then after that it was continued for a limited time, in some cases I think three years, really for the reason that the United States Government had land there to sell, and they could sell it better to the people who wanted to buy for the purpose of having it rise in market and holding it, if it was not liable to taxation. The object of reserving it from taxation was to enable the United States to more easily, the more readily to sell their lands, because then men taking up the land would not be subject to taxation until they sold out to actual settlers. I do not think that is applicable to this State. If I am rightly informed about it, selling United States land there will amount to very little. Therefore I do not know that it is necessary to keep this provision in.

Mr. LANE, of Kansas. As a member of the Committee on Territories I consented to allow this bill to be reported as it stands; but I hope the chairman of the committee will consent to the adoption of this amendment. This exemption was a mistake originally that crept into these bills for the benefit of speculators, and not for the benefit of the residents. I hope the amendment will be adopted.

Mr. WADE. Let the Senate decide it.

The amendment was agreed to.

Mr. DAVIS. I am opposed to this bill, sir, for two reasons. The first is that the population of this Territory does not amount to much more than half the ratio of representation. The second is that this enabling act requires a State constitution to be formed in accordance with the principles of the Declaration of Independence. That is entirely a new condition, according to my recollection of acts enabling the people of a Territory to form a State government. The interpretations which are given to that important paper are so various and so wide apart that I think it would be a very unsafe rule.

Mr. HARLAN. I move to amend the bill in the tenth section by striking out the words "have been or" in line three, and by striking out the words "prior or" in line four; so as to read:

Five per cent. of the proceeds of the sales of all public lands lying within said State, which shall be sold by the United States subsequent to the admission of said State.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. WADE. I move a verbal amendment in line fifteen of section four, to insert the word "that" after the word "first."

THE VICE-PRESIDENT. That amendment will be made if there be no objection. The Chair hears none.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

ADMISSION OF COLORADO.

Mr. WADE. I now move to take up the Colorado bill.

The motion was agreed to; and the bill (S. No. 97) to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, was considered as in Committee of the Whole.

The boundaries of the proposed State are as follows: commencing at a point formed by the intersection of the thirty-seventh degree of north latitude with the twenty-fifth degree of longitude west from Washington; extending thence due west along the thirty-seventh degree of north latitude to a point formed by its intersection with the thirty-second degree of longitude west from Washington; thence due north along the thirty-second degree of west longitude to a point formed by its intersection with the forty-first degree of north latitude; thence due east along the forty-first degree of north latitude to a point formed by its intersection with the twenty-fifth degree of longitude west from Washington; thence due

south along the twenty-fifth degree of west longitude.

Mr. WADE. This bill is precisely like the other, and perhaps the Senate by unanimous consent will dispense with reading it.

Mr. JOHNSON. Are the amendments that were incorporated in the other bill incorporated in this?

Mr. WADE. They are not; but the amendments can be offered to make it conform to the other bill.

The VICE PRESIDENT. The reading of the bill will be dispensed with if there be no objection. The Chair hears none.

Mr. HARLAN. I move to amend the bill in like manner with the preceding bill, by striking out of the fourth section all after the words "United States," in the twenty-sixth line, ending with the word "act," in the thirty-fifth line.

The VICE PRESIDENT. This being precisely the same amendment offered to the other bill, it will be regarded as adopted if there be no objection. The Chair hears none.

Mr. HARLAN. In section ten I move to strike out in line three the words "have been or," and in line four the words "prior or."

The VICE PRESIDENT. This amendment is understood to be precisely like one agreed to in the other bill, and will be regarded as adopted if there be no objection. The verbal amendment moved by the Senator from Ohio [Mr. WADE] will also be made to this bill if there be no objection.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. COLLAMER. I believe the last amendment of the Senator from Iowa was in section ten. I move to strike out that whole section.

The VICE PRESIDENT. The words proposed to be stricken out will be read.

The Secretary read section ten, as follows:

SEC. 10. And be it further enacted, That five per cent. of the proceeds of the sales of all public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State for the purpose of making and improving public roads, constructing ditches or canals, to effect a general system of irrigation of the agricultural land in the State, as the Legislature shall direct.

Mr. COLLAMER. I do not wish to detain the Senate long, but I desire to have this matter rightly understood. When we originally granted to the new States five per cent. of the proceeds of the sales of the public lands within their limits for the purpose of making improvements within the States, it was done as a remuneration for the agreement on their part not to tax the lands sold by us for five years after their sale. We granted to them in the first place three per cent., and afterwards five per cent. as a remuneration to them for the suspending of that right. That was the origin of the thing. It has undergone modification from time to time since. But inasmuch as it has been moved and approved here that the State shall have the right to tax immediately all the lands sold or taken up within the State, the giving of this five per cent. is entirely without consideration, and I therefore move to strike it out. I do not expect to succeed in this motion, because I know the power of the West is altogether potential; but I wished to state the principle as I understand it to be and let the Senate do as they please.

Mr. HOWE. I dare say the Senator from Vermont is right in stating the origin of this five per cent. payment; but I certainly have understood it very differently than he has stated it. I have understood that the five per cent. was given as a consideration, not for exempting the sold lands from taxation for five years or three years, but for exempting lands unsold from taxation forever—all your lands until they are sold; and I believe many of the enabling acts so state it.

Mr. COLLAMER. It is true that a part of the contract was that the States should not tax the United States Government lands at all. We know it was a disputed point whether they ever had such a power any way; but to remove all question, that was inserted in the acts, and that was right enough in order to remove all doubt upon the point. But the suspension of the right of taxing land actually sold for five years, was the essential consideration for the grant of the three per cent., which was the original grant, afterwards extended to five per

cent. Three per cent. was granted to the State for the purpose of making improvements within her own borders, and two per cent. reserved by the United States to be laid out by the United States in the making of improvements toward and within the State itself. That was the original agreement; that was the way the three per cent. and the two per cent. stood before. Now they take the whole five per cent., and yet tax all the lands from the moment of their sale.

The amendment was rejected.

Mr. JOHNSON. Is the bill now identical with the one just passed?

The VICE PRESIDENT. The Chair so understands.

Mr. COLLAMER. I wish to inquire of the chairman of the Committee on Territories whether he has any information as to the extent of the population of this Territory?

Mr. WADE. Nothing that I can rely upon with a very great deal of confidence. I have taken some pains to ascertain the facts from the Delegate in the other House, and from Mr. Edmunds, of the Land Office, who has some information on that subject. I understand there must be now about sixty thousand inhabitants in Colorado; some think a great deal more than that. That is the smallest number I find intimated by those who profess to know anything about it. It is a Territory which is filling up very rapidly. Judge Edmunds tells me that he has not the least doubt in the world that before they finish their arrangements and become a State, there will be sufficient population there for a Representative in Congress according to the ratio of representation fixed by the last census. That is about the information I got.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

LIEUTENANT GENERAL.

The VICE PRESIDENT. The special order of the day, which is the unfinished business of yesterday, is now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 26) reviving the grade of lieutenant general in the United States Army, the pending question being on the amendment reported from the Committee on Military Affairs and the Militia, in section one, line eleven, after the word "ability," to strike out the following words:

And who, being commissioned as lieutenant general, shall be authorized, under the direction of the President, to command the armies of the United States; and that we respectfully recommend the appointment of Major General U. S. Grant, of Illinois, for the position of lieutenant general.

Mr. GRIMES. Mr. President, I am unalterably opposed to the passage of this bill in any shape in which it can be presented to the consideration of the Senate; and I will occupy the attention of the Senate for a few minutes while I state the reasons that will govern my vote; not, however, with the most remote idea that anything I can say will prevent the passage of the bill, although I am thoroughly convinced that the best interests of the country require that it should not pass.

Mr. President, let us look for one moment at the past history of this country in connection with this subject of a lieutenant general. When in 1798 it was believed by our ancestors that war was imminent between this country and France, the whole attention of the people of this country was directed to the one subject of the selection of a man who was capable of leading our armies against the embattled hosts of that kingdom. The man who was preëminent in all the relations of life, who was regarded as the "first in war, first in peace, and first in the hearts of his countrymen"—George Washington—was the man who was selected. He was the man who had led the armies of this country through the seven years' war with Great Britain. He was the man who had for eight years administered the affairs of this Government as the Chief Executive Magistrate of the Government. He had been tried in the highest positions in which he could be placed, both in a civil and military point of view; and there was an eminent fitness and propriety in giving a new rank in a case of that kind, where you selected a man who had been the chief of our armies for seven years and had been for eight years our Chief Magistrate, to command our ar-

mies; but even the name of that man, transcendent as he was, was not sought by anybody to be incorporated into the resolution of Congress. The resolution under which George Washington was appointed, as we are informed by the contemporaneous history of the event, was passed at the instance of the then President of the United States, John Adams. Is there any parallel between that case and this? Is there any parallel between George Washington, who for fifteen years had been at the head of the Army and of the nation, and who was recommended and for whose appointment the law was passed at the instance of the then Executive, and General Grant who has been at the head of one of our armies during the last thirty months?

That war cloud, sir, passed over. We escaped the difficulties with France that were anticipated in this country, and the office of lieutenant general became obsolete. We had no war until that of 1812-14 with Great Britain. During that war we had several generals who distinguished themselves greatly in the field. We had our Browns, our Porters, our Scotts, our Ripleys, our Maccombs, our Hamptons, and our Jacksons; but no man ever thought at that time of creating the office of lieutenant general to bestow upon any one of them. No such suggestion ever emanated from any quarter, and no Congress of the United States therefore ever gave a single moment of consideration to the subject.

But, sir, there was one man who did distinguish himself greatly during that war, at Lundy's Lane and at Chippewa. He remained in the Army after the war. He afterwards greatly distinguished himself in connection with the removal of the Cherokee Indians. He distinguished himself in connection with the Patriot war, as it was called, on our northern boundary. He distinguished himself in connection with the north-eastern boundary difficulties with Great Britain. But more than all, he led our armies through a succession of triumphs achieved in Mexico, and which finally culminated in the capture of the halls of the Montezumas.

Did anybody during that war ever suggest that we should create a lieutenant generalcy for the purpose of bestowing distinction upon General Scott? No. It was never conceived of until years after the end of the Mexican war. The law itself did not pass until seven or eight years after the end of the war, and then it only conferred a brevet; and in that act which conferred the brevet no man's name was mentioned. It was never thought of making General Scott a lieutenant general even by brevet—that man who had distinguished himself at the head of our armies in our war with Great Britain in 1812-14, who had distinguished himself at the head of our armies and in a civil capacity all along between 1814 and 1846, who had distinguished himself and achieved so many victories in Mexico—until years after the Mexican war, when public sentiment had become crystallized and settled into the conviction that it was proper that some distinction should be awarded to him. I ask gentlemen who advocate the passage of this bill what analogy there is between the two cases—and those are the only two cases that exist in our history—and this case which it is proposed to make now?

One of the great arguments that was urged in the case of General Scott was that he was the only man during the war, and the only man during the twenty years preceding the war, who, on account of his distinguished service, had not been able to get any increase of either rank or pay; and it was for that consideration among others that the brevet rank was conferred upon him. So much in regard to the history of lieutenant generals.

What will be the effect of the passage of this bill if we do pass it? It will have one of three effects: either it will call General Grant from the position that he now occupies, from the field, and place him here at the head, as commander-in-chief of the armies, at Washington, and cause him to be a man of council rather than a man of action; or, second, it will make him the commander-in-chief of the armies of the United States, controlling the armies of the United States, and still exercising the local command which he now holds; or else, third, it will confer no distinction upon him other than the mere nominal rank and pay, and leave him exactly where he is, to be governed by the President of the United States as Com-

mander-in-Chief of the armies through his subordinate, General Halleck. Do you want to accomplish either one of these purposes? You must accomplish one or the other of them by the passage of this bill. Is it worth while to pass this bill for the purpose of accomplishing either of these ends?

"I do not propose to enter upon any criticism of any of the campaigns of any military officer. I do not wish to detract from, and I am not going to seek to elevate, any one of them. I am the last man who would pluck a single leaf from the victor's chaplet that adorns General Grant's brow. But if I comprehend the character of that man, he is a man for action, for field service, for active duty, and not a man for the council chamber. I am satisfied that that is the estimate which he places upon himself; and I am also satisfied that there is no man in the whole country who would deplore the passage of this bill more than General Grant himself. Why, sir, since this bill was introduced by a distinguished Representative in Congress at the other end of the Capitol, General Grant has written a letter to him, which that gentleman has seen fit to cause to be published, in which he says:

"You should recollect that I have been highly honored already by my Government, and do not ask or feel that I deserve anything more in the shape of honors or promotion. A success over the enemy is what I desire above everything else, and I desire to hold such an influence over those under my command as to enable me to use them to the best advantage to secure this end."

That letter shows that General Grant is a man of good common sense. I believe that the effect of the passage of this bill will be to undermine and counteract the influence which he is now able to exercise over the officers in the field, and that it will have a tendency to demoralize a portion of the service.

It is said that we want to pass this bill in order to get rid of the officer who exercises the duty of a commander-in-chief here at Washington. I allude to General Halleck. I believe the argument was urged by some gentleman the other day that they wanted a live general in the council chamber; they wanted a man of action; they wanted a man who would prevent the army of the Potomac oscillating back and forth between the Rappahannock and the Potomac. Sir, have you any assurance, in the first place, that General Grant will be any better counselor than you have now; and, in the second place, are you assured that the bad counsels here result from this person whom you condemn, or do they proceed from some other head? Do you condemn General Halleck for the ridiculous expedition that has recently been made into Florida, where we have for the third time captured Jacksonville, which we have twice before abandoned because it was not worth holding—an expedition which the newspaper press seem to have received instructions to praise, but which we all know has resulted in the mere capture of a rebel quartermaster's private circular containing information that we already knew, namely, that there was a great deal of destitution in the rebel army? Do you hold General Halleck responsible for that most ridiculous expedition of General Banks, in which we spent more than forty or fifty million dollars in sending nine months' men down to New Orleans, which resulted simply in the capture of Port Hudson, that would have fallen the day after Vicksburg fell if there had been no force in front of it?

Mr. President, let us be sure that we are condemning the right man when we attempt to remove by legislation one general and substitute another in his place. Understand me: I am no advocate of General Halleck. I do not stand here as his special defender. He has given me no particular cause to admire him; but I have an instinctive love of fair play, and I want to see justice done to General Halleck, as I want to see justice done to the humblest individual in the country. I think that until we have more thorough information on this subject, it is not fair, it is not magnanimous even to an enemy to condemn him as it is proposed to condemn him here.

If General Grant is not brought here and put into the council chamber, he will be retained in the field where he now is, and still, under the bill, if we pass it as it now stands, be commander-in-chief of the armies of the United States. Do you want to accomplish that result? Do you want a general in a local command on the banks of the

Mississippi river or in the mountains of Tennessee, and yet exercising a general command over all the armies of the United States? That will be the effect of the bill if you pass it.

If you do not bring him here, then, under the bill as it stands, he is to be commander-in-chief of all the armies of the United States, and remain where he is. Do you suppose it is possible that he can properly conduct the armies of the United States, that he can properly control the army of the Potomac, situated as he is at the foot of Look-out mountain? What means of information has he, what channels of communication has he by which he will be able to obtain that information that would justify him in directing the movements of an army here, or to control the movements of General Gillmore on the coast of South Carolina, or to control the action of General Banks in Louisiana?

If one or the other of those two alternatives does not follow, it follows that he will remain where he now is, but will be subject to and controlled as he now is by this very General Halleck, whom you condemn. Is that all the purpose you have in passing this bill? Is it worth while for us to establish this precedent of creating lieutenant generals for the purpose of giving General Grant an empty honor? I trow not.

Mr. President, if I had not any other objection to the passage of this bill it would be enough for me that it is going to establish a precedent which, before this session of Congress is adjourned, will be followed by Congress, and we shall have a batch of lieutenant generals added on to this one, if we create the office. Sir, do not imagine that the gentlemen who are now major generals are not tolerably ambitious, and that they are not looking forward with intentness and earnestness to our action here, not particularly because they desire General Grant promoted, but because they believe this promotion will be a precedent by which they themselves can secure the same sort of advancement that they now desire for General Grant. I am not prepared to do this. I am very well satisfied that a man can perform the duties of commanding an army just as well with the rank of major general as with the rank of lieutenant general. I believe that the pay of \$6,000, which General Grant now receives, is adequate to the rank and to the position which he holds, and that it is not necessary for me to assist in running the hands of Congress into the national Treasury for the purpose of giving him between thirteen and fourteen thousand dollars a year. I have come here this session with the determination to assist in creating no new office, and to assist in increasing the salary of no officer that now exists; and I do not propose to commence in the manner which is now proposed.

I have thus, Mr. President, very briefly stated the reasons why I shall vote against this bill in any shape in which it can be presented. I do not believe that the best interests of the country will be subserved by it. I believe we are getting along well enough as we now are; and I know that the best friends of General Grant in his army do not believe it is for the interests of General Grant or the interests of the country that this rank should be conferred upon him.

Mr. SHERMAN. Mr. President, I am surprised that the Senator from Iowa should oppose this bill in the modified form in which it is reported from the Committee on Military Affairs. I hoped there would be no further opposition to it. The amendment reported from that committee so alters the bill that its effect is simply to confer upon General Grant the rank and title of lieutenant general, but leaving him under the command of the President, and only placing him in supreme command within the department or district in which he is for the time being. I am informed by high military authority that the bill is now so framed as not to throw any impediment in the way of the proper command of the Army through any officer who may be designated by the President of the United States as chief of his staff. The present position of General Halleck is, properly speaking, not that of commander-in-chief of the Army. He is rather the chief of staff of the President of the United States, who by the Constitution is made the Commander-in-Chief. He is the adjutant general, in a particular sense, of the President of the United States. The orders of the President are issued through General

Halleck. They could be issued through a major in the Army to the highest officer in the Army. The passage of this bill will not, therefore, impede the military operations of the Government. It will not place General Grant in command of General Banks. It will not place him in command of the army of the Potomac, unless the President so requires. Nor will it prevent orders being issued through General Halleck to General Grant. It amounts only to the high compliment and honor of out-ranking all major generals within the limit of the command assigned to General Grant.

Now, the question is whether General Grant is deserving of this compliment. It was painful to me to hear the Senator from Iowa ignore the great services rendered by General Grant. He depreciates these services as compared with those rendered by General Scott. Why, sir, when General Scott commanded the Army of the United States in Mexico, there was, if I remember right, but one major general beside himself, and there were only four or five brigadier generals in the Army of the United States. The whole of the army of General Scott would scarcely form a corps in the grand army of General Grant. The Mexican war furnishes no parallel to the vast and complicated campaigns of General Grant, either in the numbers engaged, the physical difficulties overcome, or the enemy defeated.

The Senator says if we make one lieutenant general, it will be followed by others. If any officer of the Army of the United States can give us such a series of victories as General Grant has done, I am willing to make him a lieutenant general. I trust that other brave and skillful officers may be able to win such distinction. One more General Grant would utterly destroy the rebellion and bring us peace again. How gladly would our people confer these high honors if only we have the victories which lead to them.

I ask Senators, on what does this honor depend? The course of General Grant has been successful almost without exception. It has been brilliant, and may well bear comparison with the achievement of any officer in this or any war by this country. It is true his first battle of Belmont resulted in a repulse, but it was a bold attack, justified by the country, and only defeated when the enemy had brought into the field largely superior numbers. It gave heart and spirit to the country at a time of great depression, and paved the way for undoubted successes.

Then his movement up the Cumberland and Tennessee, the battles at Fort Henry and Fort Donelson, and afterwards the battle of Shiloh—these were victories of which we had no example in this war before. They were victories won at a time when the whole country was under discouragement, when the army of the Potomac had been defeated or lay slumbering under its new general. They were the first clarion notes in this war, and the victory at Fort Donelson has scarcely been exceeded since.

But look a little further. In my opinion, there is not in our history a campaign similar to that about Vicksburg. Vicksburg had been assaulted by land and by water. It had been declared to be impregnable. Our enemy so boasted and consoled themselves for many losses by their new Gibraltar. The papers that came back to us from Europe declared that Vicksburg was impregnable and no force of the United States could capture it; and yet after discouraging failure a grand campaign was planned by General Grant with his distinguished subordinates far away from Washington, without any aid or assistance whatever from Washington. Soon we hear that with the hearty and important aid of the Navy he had run the gunboats by the forts, had marched his army around on the left bank of the Mississippi, had crossed the Mississippi, and then commenced that unparalleled campaign, in which, after a series of battles, each one of which was a great victory, he finally came into the rear of Vicksburg, besieged and captured it. In these successive battles and victories he captured or destroyed an army greater than his own, divided in twain the territory occupied by the enemy, and opened to our commerce the great artery of the West. All that the most sanguine had hoped for he had accomplished. But this was not all. General Rosecrans, his equal in rank and command, had been defeated at the battle of Chickamauga, and his army

was environed with perils and difficulties. General Grant was required to reorganize this army in the presence of a superior force of the enemy. He did so. He melted into one grand army, corps and divisions which had never acted together; he retained his position, never receding, and waiting until General Sherman led to his aid, by a march almost unexampled in length and difficulty, a portion of his old army, and then he fought the battle of Chattanooga. It was a grand plan, a poetic battle, with all the surroundings and accessories which can make a battle memorable in all time. It was a battle simple in its greatness and faultless in its execution. It lifted a weight from the breast of a nation. But General Grant did not rest here. Bragg was driven out of Tennessee, but Burnside was besieged at Knoxville. Who does not remember the anxiety felt for his fate? General Grant did not rest. Without delay the column that had taken Missionary Ridge and had recently left Memphis were on their way to Knoxville, and in four days had performed much the most rapid march of the war, had relieved Burnside, and were moving back again.

For these victories and movements, almost without a parallel in any history, equal to any of Napoleon's, we cannot give General Grant a less compliment than by promoting him one degree in the scale of rank. If his successes had been doubtful, if they rested simply upon one battle, upon one campaign, or upon one victory, I should feel very reluctant to pay him this compliment; but such is not the fact. It has been a series of victories. The number of prisoners he has captured has been in excess of those captured by all the other armies in the field. I believe it is stated that he has captured some eighty thousand or ninety thousand prisoners, more than twice as many as have been captured by all our other armies. He has captured more flags, taken more guns, fought more battles, and won more victories than any other general. I ask Senators whether they will deny him, on a vote by yeas and nays, this honor, stripped of its command, and will say to him that he has not yet won the title conferred upon General Scott for his victories in Mexico. I will not record such a vote.

I repeat to the Senator from Iowa that if any other general should hereafter win equal victories, I will be willing to give him the same compliment. Though I am not in favor of increasing the pay of officers, I am willing to reward high merit and high success with high honors. Besides the love of country and the desire to do their duty, all that induces these officers to perform great and noble actions is the love of fame, an honorable ambition, which, instead of being a vice, I conceive to be a virtue. A man has a right to the honors he wins by his own courage and gallantry in battle and by victory. Military honors in all ages have been held to be the need, the reward of victory. These honors confer additional rank, and as they are the highest inducements, so they should be cheerfully given for high military service.

Mr. President, you have seventy major generals in the Army. Is there not among them some who have been designated by the public voice, and who are entitled by their services to a higher rank than the rest? General Grant is clearly one of those. This all must concede. So far as you have conferred honors, you have conferred upon seventy individuals the same rank that General Grant now holds. I ask you whether he has not, by his peculiar services, won a right to higher rank and higher honors than these officers? I think he has. To deny him this reward, after the House of Representatives have sent the proposition to us, would be doing an act of injustice to him.

Mr. President, I do not vote for this resolution for the purpose of casting any reproach upon General Halleck. I believe the Senator from Michigan said that one purpose he had in view was to relieve the Army from General Halleck.

Mr. HOWARD. I beg to disabuse the Senator from Ohio and all other persons on that subject. I made no allusion whatever to General Halleck in the few remarks which I addressed to the Senate, and I did not intend to make any allusion to him. I certainly could not have conveyed any such imputation against him, because I have always held General Halleck in the very highest esteem.

Mr. SHERMAN. I understood the Senator

from Iowa to refer to the Senator from Michigan as having made that remark.

Mr. GRIMES. I did not refer to anybody.

Mr. SHERMAN. I thought the Senator from Michigan made such a remark.

Mr. GRIMES. I did understand the Senator from Minnesota and the Senator from Michigan the other day to make such an imputation.

Mr. HOWARD. I can only say then that the Senator from Iowa entirely misunderstood me. I made no allusion whatever to General Halleck.

Mr. CONNESS. The remark fell from the Senator from Illinois, now absent, [Mr. TRUMBULL.]

Mr. GRIMES. I thought it was the Senator from Michigan.

Mr. SHERMAN. I am very glad to be corrected. Some Senator at any rate said that he desired to support this bill because it would relieve the Army from the command of General Halleck. I have no such feeling in regard to General Halleck. General Halleck is here performing an irksome duty. He has had no opportunity in his present position to gain the high honors of military fame in the field. No general can ever acquire much reputation in an office. Although he may command and direct armies and may organize all these great victories, yet, being in an office, removed from the field of active operations, the popular honors will not be conferred on him. I therefore do not wish to criticize General Halleck; he has had many difficulties to overcome.

Mr. LANE, of Kansas. Did he not have an opportunity at Corinth?

Mr. SHERMAN. He had an opportunity at Corinth, and he succeeded at Corinth. The Senator may think that he marched too slow; but that was a question of doubt and difficulty. Other officers who were advancing rapidly were blamed; and if the slightest reverse had happened to our arms under General Halleck at Corinth he would have been blamed for hasty action in marching from the base of his operations. I do not appear here to defend him or to disparage him. We are civilians. We know very little about military movements. But when any general has by his uninterrupted success in several campaigns shown us that he has military capacity and military ability, then I am willing to give him the civic honors of his country. We cannot judge here, sitting in the Senate Chamber, about the capacity of military officers in managing the details of campaigns, except by the results of their operations. We cannot criticize them. I therefore have very rarely engaged in criticism of our general officers; but when they have won success, when they have shown their skill by their success, then we ought to give to them the civic honors and civic rewards which all nations, and especially all republics, give to the soldiers who have fought their battles and won their victories.

In regard to General Halleck, I repeat that his duty is an irksome and difficult one. The officers of the regular Army think that General Halleck as a General-in-Chief is superior to any that could be selected in the Army for the particular duties intrusted to him. That, it seems, is the opinion of the President, who, notwithstanding the attacks upon General Halleck, adheres to that officer. He must have a good opinion of him. I am in no position to discredit that opinion. It is true that I have indulged in a feeling of uneasiness about the delay of the army of the Potomac and other armies; but I cannot say upon whom rests the blame. It may be upon General Halleck; it may be upon the commanding officer in the field. If I were disposed to criticize, I would say this: during the last thirty days of beautiful weather the great army of the rebellion has lain within forty miles of Washington; it is generally believed that our army is superior to theirs; but there they have lain in sight of each other. I believe this rebellion will never end until we concentrate here a sufficient army to attack and break those forces and march toward Richmond, and wherever else we can go. But whom can I blame? How can I say that the President or General Halleck or General Meade is in fault for this? If General Meade or any other officer will take that army of the Potomac, organize it effectively, defeat Lee in two or three pitched battles, march on Richmond, take Richmond, and then march on, I will, as a Senator from the State of Ohio,

freely grant him the highest honors of this Republic, as I now wish to do to General Grant. I cannot say why this is not done, nor whose the fault. I only know that the army of the Potomac is now where it was two years ago; not through any lack of courage in the brave men who are fighting in that army; but for some reason they have not won the honors of this war. But General Grant and the armies under his command have won those honors; and I think we should all frankly and generously, by a unanimous vote, tender them. Whenever the army of the Potomac shall win equal honors or gain similar successes, break down the adversaries in their front; capture their fortified places, drive the army of Lee as far back from the base of operations as General Grant drove those opposed to him, I shall then be ready to give the leaders of that army similar rewards.

Mr. JOHNSON. Mr. President, the Committee on Military Affairs, if I recollect aright, proposed to strike out of the bill that portion of it which named General Grant as the person recommended by Congress to be appointed lieutenant general, and that part which provided that he should have the command of the armies of the United States. Assuming that these amendments will receive the sanction of the Senate and that the bill can therefore only be passed so modified; it will simply be the creation of the office of a lieutenant general, naming no one, and not in any way prescribing the character of the command which he is to have.

Mr. CONNESS. Will the Senator permit me to explain?

Mr. JOHNSON. Certainly.

Mr. CONNESS. There is a printed amendment before the Senate now which I had the honor to offer which it is proposed to add in case the amendments of the Committee on Military Affairs be carried, which does characterize the command which the lieutenant general is to have, giving it its exact character.

Mr. JOHNSON. But we are first to vote on these amendments. I am not mistaken, I think, in saying that the amendments which I have just stated are the amendments recommended by the committee. Assuming, then, that those amendments will be adopted, and that no alteration will be made in the bill which will in any way affect the bill in the particulars named, it will simply be a bill providing for the creation of this grade of military appointment. Believing that to be the case, it will receive my support, and I give that support without any reference at all to the person whom the President of the United States may think proper to select. I am willing to trust to him the selection from the Army of any one whom he supposes to be more competent than any others, or as competent as any other, to fill the office of lieutenant general. In the nature of things, if it has not been disclosed already, it will be disclosed in the future that there is some officer in the military service of the United States who is entitled to and who should receive this highest rank known heretofore to the military service of the United States. But if the amendments shall not be adopted recommended by the committee, I shall be forced very unwillingly to vote against the bill as it will then stand, for as it would then stand it would, in my opinion, be a direct reflection upon the present General-in-Chief of the Army. I know that there are a great many intelligent men in the United States, but perhaps a great many more prejudiced men in the United States, who think that General Halleck is not adequate to the duties of the post that he fills. I am not one of that number. It has been my good fortune to know him intimately for the last six or seven years, to have spent months in his society, to have talked over with him all the subjects connected with the war, with the origin of the war, and to have listened to him from time to time on everything that he deemed to be necessary for the purpose of bringing the war to a successful termination; and without professing to be more of a judge than any other civilian can be, it appeared to me, forming the opinion from these facts alone, that he was as fit, if not more fit, to discharge the duties of the place that he holds than any other man who could have been selected.

I know, too, that that was the opinion of the present lieutenant general, General Scott. It was at his special instance mainly, I believe, that

he was selected for the command. He conducted the campaign at Corinth not so as entirely to satisfy the public, but he conducted it in one sense to a successful termination, and I have heard military men of high capacity, who now stand very high in the confidence of the public, say that it could not have been conducted with greater ability.

It is true, sir, and it may be owing to his physical constitution or to the education that he has received, that he may have made himself obnoxious to individual censure by not having that politeness which characterizes some men. When he means not to do a thing, he says "No." He may not say it in Chesterfieldian terms, but he has this good quality, that when he intends to act "no," he says "no," and he adheres to "no." It is the great misfortune of men in high places that they are, if they have opinions, unable to persevere in them. They are affected by the influence around them; the opinion of to-day ceases to be acted upon to-morrow by this outside influence. But I know the General-in-Chief of the armies of the United States well enough to know that all such outside influence, as mere influence, is thrown away upon him. He acts upon his own judgment, and a judgment in military matters enlightened by long and careful study, by books that have received, I believe, the commendation of most of the military men of the country; and as far, therefore, as I am advised, he is abundantly competent to discharge the duties of the post which he holds. If there have been disasters, mistakes which might have been corrected, I rather think when history comes to record the events that are occurring and have occurred around us, the cause of such disasters will be found referable to others and not to the General-in-Chief. His advice has not always been followed; he has not at times been consulted at all, and when consulted his opinion has not been followed; and I am very much inclined to think that the dissatisfaction of the country, a dissatisfaction which, as it seems to me, is well founded, at the want of success of the army of the Potomac—I mean the want of complete success—is not to be attributed to General Halleck, but to others, or to some others. There is no man in the country, and I speak that too from a personal observation, not continued through the last six or seven weeks, but from the time he assumed the command up to about six or seven weeks ago; I was in the daily habit of visiting his office, and I say from personal observation that there is no man in the country who has given his time more undividedly to the service of the country than he has, and intelligently devoted it to the service of the country.

As to the army of the Potomac, the public are dissatisfied. They have been dissatisfied with every man who has been at its head; with McClellan, with Burnside, with Hooker, and now with Meade. But the fate of that army, Mr. President, proves their undying loyalty, and it proves also their unflinching gallantry. From the time they were organized up to the present time they have lost in killed and in wounded nearly one hundred thousand men, and whenever they have met the enemy upon equal terms victory has perched upon their standard.

They have failed to drive Lee's army from Virginia, a failure in my view unaccountable, unjustifiable, inexcusable. It has for some time outnumbered Lee's army. When General McClellan conducted so successfully the campaign which terminated in the battles of South Mountain and Antietam, and it was supposed, and justly supposed as I think, that the army of Lee should have been destroyed, it was proposed by the general in command here to leave twenty thousand men upon the other side of the Potomac, sufficient to meet the whole of Lee's army if they attempted to make an assault upon the city, and to march with sixty thousand men on the other side of the river so as to cut Lee off. The advice was not followed; there was an apprehension, a feverish apprehension that the city was not safe, and, in order to place the safety of the city beyond all possible question, the movement was rejected, which must have resulted, or, to speak more guardedly, in all probability would have resulted in the capture of the entire of Lee's army.

The fact which I have just stated, Mr. President, I got from a major general in the Army—the man who proposed the movement. So, again,

at the campaign at Gettysburg, there is not a military critic in the country whose voice has been raised, or whose pen has been used, that has not spoken of that campaign, and the battles fought under the leadership of Meade, as the finest battles on record, not only as regards the unflinching heroism of your men and your officers, but the skill of the leader. He was but just placed at the head of that army; he felt the responsibility of his situation; he had lost twenty or thirty thousand men; and yet, as I understand the fact to be, he was willing to pursue the enemy, when unfortunately taking the advice of his corps commanders that proposition did not meet with their assent—I believe they were divided about it—and he failed to pursue the enemy. He was unwilling to assume the responsibility. I think he ought to have done it. I thought then, and I think now, if he had done it, we should no longer have before us the confederate army in Virginia. But the responsibility was very great. It is due to history to say that where victory would terminate at the termination of the last of those days was very uncertain; a feather almost might have changed the result; and if he had been defeated afterwards in making the second attack, with his reduced force and his men worn down by fatigue, what would have become of this District and the Government? It is not to be wondered at that an officer who though not young in years was for the first time put at the head of an army as great almost in numbers as Napoleon ever commanded should have felt that responsibility and quailed under it, quailed not from any physical fear, quailed from no unwillingness to hazard his life in carrying the flag of his country everywhere triumphant, but that he should have quailed from the crushing responsibility which would have been upon him if he had failed in that further movement, and the capital had been taken; and then the whole country would have censured him.

I rose, Mr. President, merely for the purpose of excluding any conclusion which anybody might think proper to form from any vote that I shall give on this bill, that I have not entire confidence in the ability of General Halleck, and more confidence—I speak it with no purpose of disparaging General Grant—to fill the station which he now holds than any other officer in the Army.

Mr. CONNESS. Mr. President, there appears to be a good deal of difference of opinion among Senators who have spoken in regard to this bill. The Senator from Ohio when up directed his argument in such a manner that the bill might be adopted as it came from the House of Representatives, without the amendments proposed by the Committee on Military Affairs of this body, and while presenting his views on the question went at large into the history of the campaigns of General Grant, describing his great successes, his ability as a military leader, his preëminent ability over any other man developed thus far by this war. I agree with that Senator in his review, and in the compliments and conclusions that he deduces from the history of the war thus far for General Grant; but I do not agree with him in proposing to pay an empty compliment to General Grant for these services. I do not agree with him that, while the war has developed the greatest amount of genius in him, and also found the greatest number of successes under his lead, he should simply be treated to a compliment very much the equivalent of the resolution already passed by Congress, thanking him for his eminent services, by making him now on the passage of this bill a lieutenant general without a chief command.

It has been stated in addition, and the country comprehends it, that for nearly three years past the greatest army that our country has yet put together and organized and equipped has failed of success in this war, namely, the army of the Potomac. Commander after commander has controlled its columns with only partial success and sometimes with complete defeat. Mr. President, I ask is there not cause enough in that to seek now, through all the military commanders that this war has thus far developed, for a man with sufficient genius, with sufficient military capacity, possessing at the same time the confidence of the country, to conduct, control, and direct from this time forward the fortunes of the army of the Potomac?

Is the Senator from Ohio willing merely to pass

this bill as a compliment to General Grant, giving him a mere degree more in rank, without entitling him to the command that it should give him, without giving him the power and control that the mind of the nation now looks to him as the best possessor of? I say that if the Senator from Ohio, or any other Senator, is in favor of that manner of compensation to General Grant, of that disposition of title and rank, it is less than is due, in my opinion.

Mr. FESSENDEN. Will the Senator allow me to ask him a question?

Mr. CONNESS. Certainly.

Mr. FESSENDEN. Does the Senator propose to make General Grant, as he is to be the man, lieutenant general, independent of the President?

Mr. CONNESS. I do not, sir. I am totally opposed to that, but I am in favor of making him lieutenant general and General-in-Chief of the armies of the United States under the direction of the President, and subject to removal at the pleasure of the President, recognizing in the President the constitutional Commander-in-Chief of our armies.

Mr. FESSENDEN. Then I will ask my friend another question. If we make him lieutenant general, and he is the only lieutenant general, does he not of necessity, unless the President should prohibit it in some way, become commander of the armies?

Mr. CONNESS. I answer the Senator with great candor, I think that legitimately such would be the result; but we have seen, time and again, a great deal of hair-splitting and a great deal of indecision in determining questions as those questions applied to generals in the field, and to men before the people; and I want to make the language of this bill so clear and so distinct that the President of the United States will see his duty, see what the will of Congress is, not deduce it, but have it clearly before him. I hope that the amendments proposed by the Committee on Military Affairs will be adopted, and I say before I close that unless they be adopted I shall feel compelled to vote against the bill as it stands.

Mr. HALE. I do not propose to occupy the time of the Senate long, but I want to call the attention of Senators to one objection that has been made to this bill, which strikes me as not having much force in it, and that is that it confers supreme command on the lieutenant general, under the direction of the President. If I have understood the argument raised against that provision of the bill, it is said that it is an impeachment of the constitutional prerogative of the President. I do not understand it so, and I find that Congress in its past legislation has not so understood it. I find in an act passed about two years ago in relation to the other branch of the service, the Navy, that Congress undertook to decide there directly without reference to the President who should command a first-rate vessel, who should command a second-rate, who should command a third-rate, and who a fourth-rate; and Congress provided by law that first-rates should be commanded by commodores, second-rates by captains, third-rates by commanders, and fourth-rates by lieutenant commanders. Still the President is Commander-in-Chief of the Navy as much as he is of the Army; and if you undertake to designate what shall be the peculiar command of an officer of the Navy, I do not see the slightest objection to prescribing by law what shall be the particular command of any officer in the Army. To my mind that objection is without foundation.

I shall vote, if ever I get a chance to vote on this bill, for it just as it came from the House of Representatives without any of the amendments proposed by the committee, because if I want to do a thing I wish to do it graciously and not grudgingly. If we think that General Grant has a claim upon the gratitude of the country, let us say so; and when the peculiar Representatives of the people, the members of the other House, have seen fit in the exercise of their undoubted prerogative not to dictate or control but humbly to suggest and advise who should be selected for this high office, I think they but speak the sentiment of the people, and I am willing for one to submit; and I do it without any great repugnance upon my part.

There is one reason that has been assigned by the Senator from Iowa against the passage of this bill which, instead of satisfying me that it ought

not to pass, is the strongest argument I have heard why it should pass. He says—I cannot quote his words, but I think I have the idea—that if we create this office of lieutenant general we shall have cause to repent of it before this session is over, because other generals watching carefully what we are doing will come up with their claims, and we shall have to increase the list. I pray Almighty God that the Senator spoke the truth. I hope that there are some other generals in our armies who, when they see the high reward which Congress, as the mouthpiece of the people, award to a brave and successful soldier, will be stimulated to exertion to show themselves worthy of like honor; and if it did nothing else but stimulate an honorable ambition in the minds of these other generals when they see what Congress and the people of the country have done for General Grant, it would be very beneficial if the result be to stir and excite and move them to make energetic efforts to place themselves upon the same roll of honor, so that Congress, with equal consistency, may tender them the like reward.

Mr. President, if I stood anywhere else except in this high council chamber of the nation, where every man is supposed to speak, and where I believe every man speaks, just exactly what he thinks without any sinister or covert meaning, I should think that those gentlemen who are so strenuously opposed to rendering this due honor to General Grant, were secret enemies of Mr. Lincoln by the course which they have taken toward General Grant and want to put him on the inside track for the Presidency; for, sir, let it go abroad, justly or unjustly, let the people get a suspicion that from any motives the due tribute to the gallantry and self-sacrifice and the great victories which General Grant has won is withheld, that there has been a feeling in favor of withholding from him the due reward of his merit and the prompt and generous acknowledgment of it—let that go abroad among the people, and I tell you, sir, the people will put it right; they will rally, and they will not stop until over the Senate and over Congress they have rendered the highest honors in their power to General Grant.

I do not want to do any such thing as that. I want to leave General Grant just exactly where his own merits leave him, and I desire that there should be no sinister influence created by our action, however well intended, that shall tend to give him this great advantage over his other competitors for the Presidency. Sir, there is no feeling on the earth, not even the love of woman, so powerful as the feeling of gratitude in the minds of a free people for the hero who has gone out in the hour of his country's peril, taking his life, his honor, his reputation, and everything in his hand, and standing ready between the country and her foes to do what man can do, and to sacrifice all that a patriot can sacrifice for the benefit and the salvation of his country. If there is a single lesson in the history of this country demonstrated beyond controversy and beyond contradiction it is that. What made General Jackson President of the United States? What made General Taylor President of the United States?

So far has this feeling of gratitude been carried that the people have been ready to take a general even upon trust; and they not only made General Jackson and General Taylor Presidents of the United States for the great and heroic victories which they had achieved in behalf of their country, but the feeling was pushed to such excess that they actually took General Pierce [laughter] and made him President of the United States. That same feeling is strong in the breasts of this people. They are not only a brave but a generous people. Sir, you may withhold this tribute from General Grant, you may strip the bill as it came from the House of Representatives of everything that goes to give it meaning, or force, or vitality, but I tell you that everything you do will have a tendency to endear General Grant more and more to the sympathies, the affection, and the gratitude of his country.

Mr. President, we are told that there is no precedent for this measure. That is true; there is not exactly any precedent for it; and we are in a time at this moment not to follow precedents but to make them. There is no precedent for such a gigantic rebellion as we are engaged in; there is no precedent in the history of this country or in the history of the world for the situation which

our country presents; and if we had stopped to be tied up by precedents before we entered upon a vigorous prosecution of this war, the destinies of this country would have been fixed long ago. When Fort Sumter was attacked, when the national authority was defied, the national flag trampled in the dust, and rebellion, red-handed, stood threatening the very existence of the nation, suppose that President Lincoln before he called out seventy-five thousand men to defend the country had sent for some pettifogging lawyer to hunt authorities and find out a precedent for what a President of the United States might do in such an emergency as that, and when he could not find anything in the books he had stopped and ceased and waited until Congress came together, where would the country have been?

But, sir, the President did what every man of sagacity and of patriotism would do, and what he should have done. He saw the emergencies of the country, he saw the desperate condition in which he was placed, and he took the responsibility, and without law and without authority he called these men into the field, trusting that Congress when they came together would see that the circumstances were such as to justify his action and to demand it, and with a full and generous confidence that they would sustain him. And, sir, he did right. I said he did it without law; but he did not do it without law. There was a law higher than any that Congress had made or could make, and that was "the safety of the Republic," which the old writers upon the Roman law tell us "is the supreme law." It was upon that law that he acted without looking for precedents. Sir, I shall be glad if we make a precedent here that can be followed. I shall be glad if we confer this honor upon General Grant, and stirred and stimulated by the example there comes crowding upon the area general after general bringing his laurels and the proofs of his victory, and laying them down at the feet of Congress, and asking us to do unto him as we have done unto General Grant, and the more the better, and the sooner they come the better.

Mr. President, in the tremendous emergencies of this country, such as no man could have foreseen and such as we can now hardly realize, General Grant has gone forward and with the simplicity of a Roman and the patriotism of an American he has done all that human agency could do in the perilous conditions in which he found himself; and now shall we cease to reward him, shall we cease to acknowledge everything that is due to him because we cannot find a precedent? I trust not, sir; but I trust that in the action of Congress to-day upon this matter we shall set a precedent which those who come after us will be proud to follow. But, sir, I hope that in the history of the country there never will arrive a crisis when the war through which we are now going will be looked to as a precedent. I hope such a rebellion never will exist again, and I believe it never will. I believe that if you put General Grant in a situation where he can go on and consummate what he has so well begun he will terminate this war, and terminate it so effectually that centuries will clasp before our successors will have occasion to look to our doings for precedents to guide them.

Mr. WILSON. Mr. President, I am so anxious to take the vote upon the passage of this joint resolution which is to make General Grant a lieutenant general that I reluctantly detain the Senate for a few moments. But, sir, the Senator from New Hampshire has made some suggestions that I think require a brief notice.

The Senator expresses the hope that Congress will now make a precedent, that the Congress of the United States will pass this resolution as it comes to us from the House of Representatives; a resolution that dictates to the Chief Magistrate of the Republic who shall be made lieutenant general. I hope the Senate of the United States will do no such thing. I hope, too, that we shall vote without any reference to the presidential election, or to candidates for the Presidency. For myself, sir, I take no part whatever in any of the movements here or elsewhere looking to making a President of the United States in November next. It will be time enough for us to turn our attention to that great duty when it comes upon us. Our duty now is higher and nobler.

But, sir, I trust that the Senate will pass the resolution as proposed by the Committee on Mil-

itary Affairs, to make a lieutenant general and not dictate to the President who that lieutenant general shall be. The public judgment of the country points to General Grant; the House of Representatives has expressed its wish for his appointment; and I believe the sentiment of the Senate to approach unanimity that General Grant shall be appointed. I know, sir, that the President of the United States is in favor of that appointment. It seems to me that Congress ought not to tell the President whom he shall appoint. Why should the Congress of the United States advise the President to appoint General Grant? If there be a man on earth that has been the best friend of General Grant, it is Abraham Lincoln. When the public judgment was against him, when portions of the public press denounced him, when officers filled the city with communications against him, when members of Congress shrank from his side or criticised him harshly, when the pressure was made to remove him, the President of the United States stood firmly by him, had confidence in him, carried him in triumph through, and he has nobly proved himself worthy of that confidence. I know no body of men on the earth, in Congress or out of Congress, that has a right to go to the President of the United States and advise him to appoint General Grant. General Grant's great service to the country is owing to the fact that the President stood firmly by him when so many turned their backs upon him. He who stood by him in the hours of doubt, when his fame was clouded by misrepresentations or misunderstandings, is not likely to turn his back upon him now, when he has rendered such services to his country and won such honors for himself.

Therefore, sir, it does seem to me that there is an impropriety in passing through the Congress of the United States this resolution as it comes from the House of Representatives, saying to the President that we recommend the appointment of General Grant. The President is as ready to make that appointment as Congress is to vote for this grade of lieutenant general.

Mr. President, the Senator from Maryland has expressed his confidence in General Halleck. We are living in times when men are harshly judged in every department of public life. We are passing through a civil war, and there is hardly a man in public life, civil or military, that is not subjected to the criticism, to the censure, to the rebuke, and to the denunciation of large portions of our countrymen. To General Halleck, I believe, we have done injustice, and to many other public officers we have been unjust, and that will be the judgment of the future when we have passed through these stern scenes, and the record is fully disclosed to the world. It always has been so. Through the trials of the Revolution, one portion of our countrymen were fault-finding with the other. A number of men in the Continental Congress were opposed to Washington, and they were among some of the best and noblest patriots of that age. Just so in the last war with England, men that we have almost deified since were then censured and denounced by large portions of the country. We are apt in our times to underrate the magnitude of this contest and the gravity of the events that are passing around us. We are apt to find fault with and belittle the men who are engaged in public affairs, civil and military; but when the triumph is won, and won it will be, when the record goes to the world a better age will measure these transcendent events more accurately than we are doing, and will do justice to the public men of our day, civil and military, to their capacity and to their character. I think men in civil life or military life who are earnestly striving to serve their country, although they may make mistakes and do make mistakes, may calmly trust to the judgment of the coming future.

The Senator from Iowa has spoken of the great services rendered by Washington and by General Scott, who have been made lieutenant generals. Well, sir, has not General Grant rendered transcendent services to the country? He has fought seventeen battles for the Republic and won them all; he has taken more prisoners and more cannon than ever Washington or Scott saw on all their battle-fields. He has rendered great service to the country in this great struggle, and the popular voice points to him as the man to receive this great honor. I think it has been well and nobly

earned. I have confidence in him, as I have in all men, civil and military, who know what this war is about, who understand its cause. He understood its cause, and had the sagacity to see in August last that the cause of this rebellion, slavery, was dead. He then declared that it would take a standing army, if we made peace, to support slavery; and that he was opposed, much as he wanted peace, to making any peace until this question was forever settled. It was not only the language of a great general but the language of a genuine statesman, and I honor him for it.

Now, sir, I hope that the Senate will take this resolution, amended as proposed by the Committee on Military Affairs, and pass it; that the House of Representatives will concur in the amendment; that the President of the United States will promptly nominate General Grant for this high position; that he will be promptly confirmed by the unanimous voice of the Senate; and that he will take his place under the President of the United States as the highest military officer of the Republic.

Mr. HOWE. Mr. President, I have listened to this debate through the afternoon, and I listened to a debate on the same question on one or two other occasions with an earnest and prayerful desire to ascertain, if I could, what the question in dispute is. I understand that the distinct proposition upon which we are to vote is to amend the bill by striking out certain clauses. The effect of those clauses I understand to be to recommend to the President of the United States the appointment of General Grant as lieutenant general, and to confer upon the lieutenant general made under the bill the chief command of the Army. Such I understand to be the effect of these clauses. It is moved to strike them out. Senators say it will not do to put such a recommendation in the bill; it is dictation to the President; and yet the House of Representatives, the immediate representatives of the people, by an immense majority have expressed such a wish. The people themselves throughout the whole country, in every fiber of them, have made known such a wish; and Senators say, speaking individually, that there is but one man who can fill the place, and that is General Grant. They put all these declarations in the Globe; they make them over and over again; but they say, do not put the same language in the bill, because that is dictation to the President!

I cannot so understand it for my life. When the Senator from Massachusetts, the chairman of the Military Committee, stands in his place here and calls upon the Senate to strike out this recommendation of General Grant from the bill, but still says that the country demands of the President the appointment of General Grant, I do not see why he does not dictate to the President just as much as if he said no such thing but let the question be taken on the bill as it came to us from the House of Representatives and contented himself with saying simply "ay" to the passage of that bill. I do not think that would be any more dictation than the declaration we have heard out of the mouth of almost every Senator who has spoken here.

Mr. President, I indicated the other day a purpose to vote for this bill. I want to have some reason for voting for it. As it came from the House of Representatives I thought I had a good reason. I thought that as it came from the House of Representatives the bill said to the President: "We, the representatives of the people, are willing to create anew the grade of lieutenant general, not upon condition, but for the reason that we want that authority conferred on one man who has shown himself capable of it." For that reason I was willing to go for the bill, and I do not want to go for it for any other reason; I do not want to get rid of the additional money that will go into the pocket of whoever may be named lieutenant general. There are other methods of getting rid of it. We can vote it to ourselves as we did last year, and that would suit me better, although I did not vote for that. There are other methods of getting rid of all the surplus money you have in the Treasury.

Now, when it comes to the matter of authority which this bill proposes to confer, there is none about it. It does not propose to confer any additional authority on anybody. The President without this bill can confer all the authority that this bill proposes to give to the lieutenant general upon any general officer that he pleases, and

it is conferred to-day upon one, and has been ever since this war commenced conferred upon some one. What other purpose then have we for voting for this bill if we do not couple with it a request that the authority, the rank, the pay should be conferred upon that one individual whom the Senator from Massachusetts, whom almost all Senators, whom almost all Representatives, whom almost the whole country say has shown himself to be fitted for it?

But the Senator from Maryland said that unless we adopted these amendments, the passage of the bill would be a direct reflection upon General Halleck, the present General-in-Chief of the Army. Tell me how, sir. What reflection the passage of the bill with that recommendation in it would be upon the present General-in-Chief any more than the passage of the bill without that language in it and accompanied by the speeches and declarations that have been made on the floor of the Senate and on the floor of the other House, I cannot understand for my life.

For my single self, sir, allow me to say I am not here to attack General Halleck or to attack any other general. I never have spent a day's labor since I have been a representative of the people in any such business. When any servant of the people of the United States does his duty well, I thank him. When he does not, I am sorry for it; I never felt that I could make him do his business better or come nearer to the discharge of his duty by standing here in my place and howling at him; and I have spent no part of my time in any such employment as that, and I am not here to attack General Halleck.

There is another reason, a constitutional reason, why I do not spend any portion of my time in attacking generals and Secretaries and subordinates. There is this reason why I do not attack the General-in-Chief, the general of a corps, or the general of a brigade: they are only responsible for doing the best they can, for achieving such results as they are capable of, and as the means placed in their power will enable them to achieve; and whether such a battle was lost through the fault of a brigade or of a brigadier, or such a campaign was disastrous through the fault of the General-in-Chief, or the general in command, or the Commander-in-Chief, these are questions which I seldom allow myself to reflect upon, never to discuss in the Senate or elsewhere.

I am only prepared to say that there has been one mistake made from the commencement of this war. I know of but one mistake that has been made since the commencement of this war, and that is that we have allowed about two and a half millions I think of genuine rebels and about two and a half million semi-rebels within our own territories and jurisdiction, with twenty-six million loyal people at our bidding and our command, with unlimited resources of money and of men; I say we have allowed this insignificant force of treason to lie here confronting us from May, 1861, to the present time. That is the only mistake I know of. That I am prepared to say ought not to have been and need not have been; but whether the Commander-in-Chief or General Scott or General Halleck or you and I are to be held responsible for it, I am not prepared just now to say. I do say it ought not to have been, and it need not have been. We owed it, Mr. President, to our belief, to our faith that the people are capable of self-government; we owed it to that fundamental doctrine on which our institutions stand, the doctrine of human equality, the doctrine that one man is as good as another, to have shown that twenty-six million were not merely stronger than five million but that they were capable of riding over and riding down five million at once and forever. That ought to have been done; and your flag, upheld by such vast numbers, and such vast loyalty, and such unquestionable valor, ought never to have been compelled to waver on a single field.

So, sir, you see I waive every disposition to find fault with this general or that; but I do recognize the fact which almost every one here has spoken of freely, that one general who has filled very important commands almost from the commencement of this war has been most uniformly successful; that portion of the public resources which has been placed in his hands has produced results the most beneficent and the most important. I am disposed to put the resources of the

nation into his hands, to let him marshal for a few months the people of the United States, and see what will come of that. He may fail us. He may not be equal to this vast command. I cannot say. He has been found very faithful and successful over a few things. I was disposed to vote for the bill as it came from the House of Representatives and make him ruler over a great many—the whole lot.

That is the only reason I have for voting for it, and if you strike out this recommendation I have no reason for voting for the bill, and I shall not vote for it, for then you confer upon the President simply the authority to make a lieutenant general. I do not want a lieutenant general for any purpose except to exercise this command. He can give this command to General Grant to-day, if he pleases. He does give it to General Halleck. Gentlemen assume here upon the floor that if you authorize the rank of lieutenant general to be given to any one, he will give it to General Grant. Why should he? Why should he give the chief command, with the rank of lieutenant general, to General Grant, when he gives the chief command without the rank of lieutenant general to another officer? I do not know that he would not do it; I certainly think he would do it; but I do certainly know that there is no dictation in asking him to do what we all think ought to be done, and which every one concedes he wishes to have done.

Mr. FESSENDEN. Mr. President, the condition of the Senate and the vacant seats show very well that every Senator has made up his mind pretty much on this question, and that debate is entirely useless about it; and therefore what I have to say I say merely for the purpose of defending myself against an inference that may be drawn from what has been said by the honorable Senator from New Hampshire, and intimated by some other Senators; and that is that every Senator who dares to vote for the recommendations of the Committee on Military Affairs, and the Committee on Military Affairs themselves in pressing these amendments, are guilty of a desire to detract something from the honor that is due to General Grant, and must stand before the people as being willing to withhold from him the high credit and honor that is due to him; for that is clearly the inference to be drawn from the speech of the honorable Senator from New Hampshire.

Now, sir, I propose to support by my vote the recommendations of the Committee on Military Affairs; and if these recommendations are adopted I propose to vote for the bill creating the office of lieutenant general; and I wish to say, sir, that instead of desiring to detract anything from the honor that I am willing to bestow upon General Grant, if he is to be the man—and that is taken for granted; there is no dispute about it—I do it for this, among other reasons, that I wish not to deprive him of the honor that he will receive from the nomination in case it shall be conferred upon him. I wish to add to what has been said in the Senate and in the other House in regard to him, the free selection of the Chief Magistrate and the Commander-in-Chief of the armies of the United States, of him as the man, his judgment exercised upon it without dictation and without advice, at least without any advice contained on the face of the bill.

Sir, I think it would be detracting from that honor, if it is to be conferred by the Chief Magistrate upon him, that we should undertake in the bill to advise him about what we wish, and add the weight of popular sentiment, if it is popular sentiment, to the honor which is proposed to be conferred.

Mr. HOWE. Will the Senator allow me to ask a question?

Mr. FESSENDEN. Certainly.

Mr. HOWE. The question I wish to ask is if, in the judgment of the Senator from Maine, the appointment of lieutenant general conferred by the President would be any credit to the individual if it was against the sentiment of the people of the United States?

Mr. FESSENDEN. That would very much diminish its value; but I take it everybody assumes that there is no dispute about that point here; it has been indicated in the other House; gentlemen propose to indicate it here; but it must be understood and presumed that the President of the United States, being Commander-in-Chief of the armies of the United States, ought to know

who has rendered the most distinguished services and who is the most fit man to fill this great place; and when the President of the United States, under an act of Congress leaving him free to judge and to select the individual, says that he has learned from his position that that is the man, it is a double honor to him that he is thus selected.

Now, sir, while it might have been very well for the House of Representatives in its enthusiasm to name the man, there is, in my judgment, a very great impropriety in our doing so. I have so considered it from the beginning. Sir, we are Senators—

Mr. WILSON. The Senator will allow me to suggest that the bill, when it was introduced originally and when it was reported, did not name the man.

Mr. FESSENDEN. I know that, and I was saying that while it might be excusable in the enthusiasm of the moment for the House of Representatives to do what it has done in this instance, it will not be so excusable in us. And why? For the simple reason that we are yet to act as judges on whatever nomination may be made. This office cannot be conferred until the nomination of the President shall be confirmed by us. We are to act upon it judicially. Is there any propriety in us, when we pass an act of Congress authorizing the appointment of an officer, upon whose appointment we are ourselves to act as judges, saying beforehand that we are prepared to advise that A, B, or C should be no nominated and his name sent to us for confirmation? I consider that there is a gross impropriety in our attempting to do any such thing.

Let me illustrate it by a case where I think all will see the impropriety. Suppose that we were passing an appropriation bill to-day, and in that should make an appropriation for a new minister abroad, a minister plenipotentiary to some foreign court where we have none now, and it were proposed to add to it that Congress recommend that Mr. Jones, or Mr. Smith, or somebody else be appointed to that office; no matter how distinguished the individual might be, I take it the Senate would see in an instant that it would be grossly improper and contrary to all precedent and rule for us to attempt to do such a thing. Standing, as we do, as advisers of the President after the nomination is made, it would certainly be improper for us to attempt to advise beforehand. This is the main view which I have in regard to this matter, and therefore I have been from the beginning in favor of the amendments proposed by the Committee on Military Affairs.

Now, sir, let me say a word or two more. Gentlemen have talked about an "empty honor" to General Grant. There is something in this, I take it, besides an honor to General Grant. I do not intend to vote upon the bill before the Senate merely on the ground of conferring an honor upon an individual. If I vote for it at all, as I hope I may be able to do, it will be because, among other reasons, I think the public interests require that the office be created. Why do I think so? I have come to the conclusion that it would be well to have a military man of distinguished reputation, who has the confidence of the country, in command. It is true that it may be answered that the President has the power now to create precisely such an officer; that is, to appoint somebody to command all our armies. That is true; but I may possibly be of opinion that the President does not mean to exercise that power; and I may possibly be of opinion that it is worth while to jog him a little upon that point to put somebody in command, not to be independent of him, but in the multitude of his duties to relieve him of the necessity he is now under to do the military thinking of the country as well as the civil. I may have come to the conclusion that it will do no harm to have such an officer, who, although subject to the President, liable to be removed by him, controlled by him, as he should be by the Constitution, yet may act for himself, not independently of the President, but independently until he is controlled or directed otherwise. It may be well to have some general whose mind may be called upon to overlook the whole field of operations in the whole country, and a distinguished military man for that purpose. If I have come to that conclusion, then it would inevitably follow, perhaps, that I should think it my duty to vote for the appointment of such an officer.

Is it an empty honor? My friend from California said something about his being unwilling to confer an empty honor upon General Grant. Why, sir, is it an empty honor to confer upon a man like him, distinguished as he is, who when he was originally in the Army I believe was not there long enough to get higher than the grade of lieutenant, and who has now been in service between two and three years; is it an empty honor to say that that man has so distinguished himself in the course of three years that we make him the first military officer in the country over all other major generals and all our armies, conferring upon him at the same time a pay amounting I believe in the whole to some twelve or thirteen thousand dollars a year for life—vastly better and greater, take it as a whole, than is conferred upon the President or anybody else—over all and every one so far as pecuniary recompense is concerned, and placing that man at an early age of life, too, in a position where from necessity, so long as he conducts himself well, he has the control of all the military operations of the country, unless the President for good reasons should see fit to deprive him of it?

Do gentlemen call that an empty honor? If it is, it is an empty honor that many men of the greatest attainments in any sphere of life would be very glad to attain. No, sir; this talk about an empty honor is merely that gentlemen may put into the bill, what? Nothing that adds to his power, but may say in the bill that he shall have the power. I look upon it in the first place as a new precedent, which I am never in favor of establishing unless there is a necessity for it. I appeal to my friend from California on that point, and it is the reason I asked him the questions I did. "Do you propose to make the lieutenant general, whoever he may be, independent of the President?" "No." "Do you not hold that when he is made lieutenant general he has from necessity the command of the armies of the United States, being the first officer, and having no superior?" "I do hold so." Very well, then, why do you want to say in the bill that he shall have command of the armies of the United States? Of what benefit is it? You do not want to effect anything by it. Why then embarrass it? Why not put the matter on its simple ground, such as it has been put upon before? We authorize the President of the United States to appoint, subject to our confirmation, a lieutenant general of the Army, and we know that when that power is exercised that lieutenant general will be at the head of the Army, and at the head of all the military operations of all the armies, subject merely to the constitutional Commander-in-Chief. Is not that enough? And when the President says to us, as he will say unquestionably, "I consider that General Ulysses S. Grant is the man of all others, from his great services, to be placed in this exalted position," and when we as we shall unquestionably unanimously say "ay" to that and confirm him, have we not given him a position such as any man living or who ever lived might well be proud of, without putting his name in our bill originally, and thus saying to the President, "Sir, we cannot trust you to act on this matter unless we hint to you that we want such a man appointed?"

Mr. CONNESS. Will the Senator permit me to explain? Does the Senator understand me to be in favor of the bill as it came from the House of Representatives, indicating to the President whom he shall appoint?

Mr. FESSENDEN. Not at all. I understand that the honorable Senator is not, but I understand that he is in favor of putting it on record that this lieutenant general shall have command of the armies, which is entirely unnecessary.

Mr. CONNESS. I had the honor to propose an amendment which is not under consideration now. I would not offer the amendment if these amendments proposed by the Committee on Military Affairs were voted down, not adopted. In that event I do not intend to offer my amendment; but if these amendments be adopted, then I think I can show the honorable Senator from Maine that there is some propriety in adopting my amendment, but I do not understand it now to be under consideration.

Mr. FESSENDEN. It is not under consideration now, but I was addressing myself to him and to that particular branch of the subject. It has been once substantially struck out of the bill.

Mr. CONNESS. Permit me again with the Senator's leave to say that I agree with him in nearly all that he has said, and that in calling the rank and title an empty compliment, I but in part adopted the language of the honorable Senator from Ohio, or at least took issue with that language. As I understood him to contend that it was a compliment due to General Grant, and that as a compliment we should confer it, I meant to be understood to say, and I wish the Senator from Maine to understand me as occupying that position, that I would do nothing more than has already been done by Congress in the way of offering compliment, but I would do now what is proposed in this bill with the amendments offered by the Committee on Military Affairs for its uses and benefits to the country, and not as a compliment.

Mr. FESSENDEN. What I said in reference to my honorable friend's proposed amendment was rather to save myself the trouble which I supposed I might have of saying it by and by when it was offered, and seeing if I could not convince him that all the object he desires to accomplish by it will in fact be accomplished by the bill as it stands after adopting the amendments of the Committee on Military Affairs.

Mr. CONNESS. I beg to say to the Senator that it is not my purpose to undertake to discuss my amendment when it shall be proposed. I will have it reported from the desk, and if the Senate do not consider that it is necessary to be adopted, let it be voted down.

Mr. FESSENDEN. I do not intend to extend my remarks. As I said, I rose simply to defend myself from what might be an inference drawn from the remarks of my honorable friend from New Hampshire. I cannot consent to be placed in the category before the country, because I vote for the amendments of the Committee on Military Affairs, of being disposed for a moment to detract anything from any honor that is proposed to be conferred on General Grant or any other distinguished officer before the country.

But, sir, upon all these matters we must act after all with reference to our own judgment of what is right and proper. As I have stated before in the course of my remarks, I cannot see that anything is to be added, by those parts of the bill which the committee propose to strike out, to the honor that will result to General Grant if he is to be appointed to this office; but, on the contrary, in my judgment that honor would rather be lessened by the impression that is to go abroad, that we, the Congress, deem it necessary to name the man, for fear that after all he may not be selected, that there is somebody else who stands on a par with him. Besides, I cannot deem it to be proper in any way, so far as I am concerned, to say beforehand that I will vote for the confirmation of any particular man. All things are possible; and now suppose before this nomination shall come in to us, or after it shall have come in, before we have acted upon it, some very great disaster should happen to our armies commanded by General Grant, some terrible disaster for which perhaps he might not be responsible, should we not deem it our duty in such a case to wait and inquire whether on the whole it was advisable to confirm such a nomination? Unquestionably we should. I mention this to illustrate the impropriety, in my judgment, of the Senate of the United States, being the advisers of the President, saying in any case beforehand whom they would select for an office upon the nomination to which they themselves are to act. That is the position which I assume with regard to that point.

Now, sir, in regard to General Grant himself, for fear that I may be misunderstood in any sense, I will say that, in my judgment, if I had the selection to-day I would select him unquestionably before any one in the country; he would have my vote and my voice, because I believe that of all others he has most distinguished himself. Whether it is owing to great ability or to great good fortune, I cannot say. At any rate he has been successful, and in military matters success is the great test of merit in the first instance. And in the next place, from all I have heard of him, I believe that he is a man of high moral qualities; that he not only has physical courage but moral courage; that if he had been at Antietam he would have followed the retreating army at once and demolished it; that if he had been at Gettysburg the army of Lee never would have crossed the river,

because he would not have consulted those about him and agreed with them contrary to his own opinion; he would have acted, he would have taken the responsibility. The great danger we have been in, the great trouble we have suffered in this country, in my judgment, is that a great many of our military men have asked themselves the question how misfortune was to affect them, and whether in case they did not succeed it would not ruin them individually. If they had taken their lives, and their reputations as well as their lives, in their hands, and said, "This thing ought to be done, and I will do it though I perish," we should have accomplished vastly more than we have accomplished with men who have stood waiting and inquiring, wondering whether they could succeed, and judging that if they did not succeed there would be an end of them.

Sir, in my judgment we want some man at the head of all the armies of the United States who has moral power as well as physical courage and military ability. We want somebody who will correct abuses. I believe myself that of all the men who have appeared General Grant has given the strongest indications of being that man. Still, we do not know what he may be after all. He undoubtedly is the man before the public at the present time, undoubtedly the man we should all select; but for the sake of selecting him and piling honors on him so thick that perhaps we shall be afraid to hunt for him for fear we should not find him after we have covered him over so deeply, I have no idea of breaking down what I conceive to be the true, dignified rule of action of the Senate; and that is, not to act as if we were in town meeting, and afraid we should be outvoted, but to look at things deliberately, calmly, and act with the dignity that becomes us.

Mr. HALE. I rise simply to ask for justice at the hands of the Senator who has just sat down. He commenced his speech by speaking of the impeachment of motive; and he said that it had been said directly by the Senator from New Hampshire, and intimated by others. I know the Senator is an impulsive man—

Mr. FESSENDEN. Not at all; I am the coolest man in the world.

Mr. HALE. Mr. President, I said nothing of the sort, and I not only did not say it, but I disclaimed saying it; and it seems a little ungenerous to say that while others had intimated, I had said directly that which I said I would not say.

Mr. FESSENDEN. I might have misunderstood my friend. My friend is always so very eloquent that I do get confused when he speaks, frequently. [Laughter.] No doubt about that; but I will say to him, that to reiterate, to say over and over again that he did not wish to throw any imputation upon General Grant by striking this out, he did not wish to belittle him by adopting the amendment proposed by the committee—I state substantially the idea, I cannot use the Senator's language—and then to disclaim any imputation upon anybody, (while I do not suppose for an instant he meant to impute any wrong motives,) the necessary inference would be that every man who voted to adopt the amendment of the Military Committee did so from a desire to detract something from the honors due to General Grant.

Mr. CONNESS. I understood the honorable Senator from New Hampshire to say more than that, in addition that they must be covert enemies of the President and not in favor of him. That is what I understood him to say. Was I right?

Mr. HALE. I cannot give myself the credit of being eloquent if I fail to make myself understood. I will repeat now what I did say: I said that if I was anywhere else except in this high council of the nation where it was supposed every man said what he meant, and where I believed he said exactly what he meant, I might have supposed that such and such things were intended, but under those circumstances it could not be. That is what I said.

Mr. CONNESS. I take it for granted that the honorable Senator simply meant to make the opening campaign speech of the presidential contest.

Mr. JOHNSON. Being one of those, Mr. President, who were in favor of the amendments suggested by the Military Committee, I wish to clear myself from what I certainly understood to be an imputation (although not intended because

disclaimed) that fell from the Senator from New Hampshire. I do not know what he may really think; but thinking as I do of public opinion upon all such questions I cannot help believing that the public will suppose from what the Senator said that the members of this body who vote against the bill as it came from the House of Representatives had some other purpose. The Senator told you that if he had been anywhere else where this subject was pending, and the members who might be present at any such meeting took the course taken by members of the Senate, he should have no hesitation in saying that that course had been adopted from some sinister motive. He only disclaimed the suggestion that any such idea could influence individual Senators, because they were in this body and members of this body. But he, I am sure, is not so blind to public opinion—he is always alive to it—as not at least to think it very probable that the public will believe that in such matters there is no difference between the Senate and any other citizens of the United States, no matter how assembled, and they will come to the conclusion that although the Senator disclaimed, (and we who know his frankness know that the disclaimer was made in good faith,) really did not believe in his own disclaimer.

And he went further, Mr. President, which strengthened what I suppose the public will consider an imputation on the members of the Senate who differ from him; he went further and told us that, although we adopt the amendment proposed by the Military Committee and express our willingness to pass this honor upon General Grant, until it shall be made in his view comparatively unimportant, the public will take possession of this officer in spite of the Senate and elevate him to the highest office in the gift of the people of the United States.

I only rose for the purpose of saying, Mr. President, that that imputation, as far as I am concerned, is wholly unfounded. I mean the imputation that the public will draw and that the honorable member himself would draw if he and I were disputing this matter anywhere else than in this Senate Chamber.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question is on the amendment reported from the Committee on Military Affairs to strike out all of the first section after the word "ability," in the eleventh line.

Mr. CARLILE. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILKINSON. I should like to hear the words proposed to be stricken out read.

The PRESIDING OFFICER. They will be read.

The Secretary read the words proposed to be stricken out, as follows:

And who, being commissioned as lieutenant general, shall be authorized, under the direction of the President, to command the armies of the United States; and that we respectfully recommend the appointment of Major General U. S. Grant, of Illinois, for the position of lieutenant general.

Mr. WILKINSON. Mr. President, I shall sustain this bill as it came to us from the House of Representatives. I have listened to the debate here to-day, and judging from the speeches that have been made I should infer that it was the opinion of this Senate that General Halleck should be the man to be appointed rather than General Grant. As I believe General Grant is a much better general than General Halleck, and that he would make a much better commander-in-chief of the Army, I am willing to express it in the terms in which this bill comes to us.

Sir, General Grant does not want honor conferred upon him by the President of the United States merely for the purpose of having honors conferred upon him. He has won enough of them. The glory that he has achieved in the several campaigns which he has conducted has won for General Grant greater honors than can be given to him by the passage of this bill. But, sir, I want a man at the head of our armies who will be able to insure victory, to inaugurate victory, and to bring victory with the army of the Potomac as well as with the western army.

I believe that this army of the Potomac is just as good an army as the army of the West. In some particulars, I am inclined to think it is a better army than the army of the West; but there is one particular in which it falls far short of the

army of the West. The western army has had a man at its head who has made that army a unit. There is not a traitor nor a disloyal man in it. There is not a person connected with that army from General Grant down to the boy who drives a wagon, that is not devotedly attached to this Union and in favor of striking the rebellion the hardest and heaviest blows they can hit. I do not think that is the case with the army of the Potomac. I believe that one great cause of the defeat—not the defeat, for this army has never been whipped and never can be, in my judgment—but one great cause of the want of success in this army has been that it has not had a head and a leader. It did have one for a little time, but General Halleck would not allow him long to remain in that position. Why, sir, when General Hooker was at the head of that army, leading it against General Lee at Gettysburg, he called upon the commander-in-chief, General Halleck, who, the Senator from Maryland thinks, is altogether the ablest man for this place in the United States, to give him the command of General French's corps at Harper's Ferry. It was refused him right on the eve of a battle, and then General Hooker said, "If I cannot command these men, I do not think it is best that I should lead this army into battle," whereupon he was relieved, and those men were given to General Meade in three days afterwards and joined his army and became part of the forces which he led to battle.

The honorable chairman of the Committee on Military Affairs or the Senator from Maryland or anybody else may eulogize the General-in-Chief of our Army who does these things; but, in my humble judgment, the country requires that there should be another and a better man at the head of our armies; and that is the reason why I am in favor of the bill as it came from the House of Representatives. The Senator from Massachusetts stated in his speech that great wrong and injustice had been done to General Halleck. Who ever did him wrong? What great service has he rendered the United States in this great struggle that should place him over the gallant generals who have led our men to battle and to victory? I think he has been more highly honored than any man in this nation. I think he has received greater rewards for the services he has rendered than any other man in the nation.

I do not think the Senate need hesitate in regard to expressing an opinion to the President of the United States as to what they think he ought to do. I do not think there is any indecency about this matter at all. It was but this morning that I took up a newspaper and read that General Sherman, under the direction of General Grant, had marched a force directly into the very heart of the South, and the people around here hardly knew that any such campaign was inaugurated. They have already advanced one hundred and fifty miles. Why does not the army of the Potomac advance? It is not because it is not composed of as brave men as those whom General Sherman is leading to-day into the very heart of the southern States, but it is because there is not a man here to inaugurate such campaigns and to select leaders that are competent and able to lead our troops to victory.

An allusion was made here by some Senator in the debate in regard to the failure of General Meade after he fought the battle of Gettysburg, when he marched his troops down to the Potomac river, that there was a bare possibility that General Meade might have been whipped if he had attacked General Lee at that time and at that place. Why, sir, it was no longer ago than yesterday I was sitting upon a horse with General Pleasanton when the second corps of that army was being marched in review, and General Pleasanton made this remark, and I believe it is true, "Although this army has not been always successful, it cannot be whipped;" and I do not believe it can be. The difficulty is that our generals do not have the confidence in that army that they ought to have. They are not possessed with the same patriotism that stirs the bosoms of the soldiers who are fighting in the army of the Potomac.

Mr. HALE. Why do you not speak of the army of the West?

Mr. WILKINSON. I need not speak of the army of the West because their deeds speak for them; their victories speak for them. The soldiers of the West need no eulogist in the Senate

of the United States. Let anybody who wishes to know what they have done search the record and look at the territory they have conquered, and which they hold to-day. I think it is a burning and everlasting shame that the brave soldiers from Massachusetts cannot have the same privilege and the same opportunity to win victory and glory that has been the fortune of our western troops. The reason is that they have not had a leader.

A general in the army of the Potomac told me the other day that he had a letter from General Hooker in which General Hooker gave his reasons for believing that the army of the West was a better army than the army of the Potomac; not that the troops were any better, for in very many particulars he thought they were not as good; but, said he, the army of the West is a unit; there is not a bad man in it; there is not a disloyal man in it; there is not a selfish man in it. Whenever that army moves, it moves as a solid body with one mind, with one heart, and with one impulse, to put down and to crush this rebellion. The general told me that General Hooker said in his letter that the want of that unity was the reason why the army of the Potomac had not been more successful.

Sir, there have been a great many men connected with this army of the Potomac who believe that it is very wrong to meddle with the peculiar institution of slavery, and pro-slavery Democrats and old hunker Democrats, of whom the General-in-Chief is one, have had the control of this army. They have not demoralized the soldiery because their hearts were too patriotic to be affected in that way, but they have corrupted many of the officers in that army. I want to pass this bill just as it came from the House of Representatives for the purpose of putting a man at the head of it who has the ability, who has the will, who has the power over men to strike down any man, be he a corps commander or a division commander or a brigade commander or the commander of a regiment, who does not move straight on under the command of his leader, being moved and guided by the patriotic impulse which actuates the general in command.

Mr. WILSON. The Senator from Minnesota comments upon the remark of mine that I thought the public voice of the country had done injustice to General Halleck. He calls that eulogizing General Halleck. I am not here to pronounce eulogies upon General Halleck or any other general in the service; but I repeat what I said to the Senator from Minnesota, that I think there has been injustice done by the press and by the hasty judgment of the country to General Halleck and to many other generals. General Halleck is a man of unquestioned capacity and great intelligence, and I doubt not devoted to the interests of the country. I entertain no question in regard to his talent, in regard to his intelligence, or in regard to his devotion to the country. I think there are other generals better fitted to direct and command armies in the field than General Halleck. That is my judgment. What I meant to say was simply this, that in the time in which we live, in the sharp contests we have had, in the misfortunes that have sometimes come upon us, the public press of the country, the public sentiment of the country, and the public men of the country are apt to do injustice to the actors in the scenes through which we are passing. We all see and all feel this to be so. The sharp contests of the past few years, the mighty struggles of the present, the treacheries and treasons that darken our time, tend to make us, the actors in these transcendent events, distrustful and impatient, critical and unjust.

Sir, all our misfortunes have not come upon us on account of the management of General Halleck. Misfortunes came upon us before he was placed in the position he now holds. He has made mistakes. I know he has made mistakes. The Secretary of War, with all his titanic energy and zeal for the public service, and his incorruptible integrity, with all the talent he has brought to bear to correct abuses and to make our armies what they are to-day, infinitely superior to what they were at any other period in the history of the country, has made mistakes. The nation owes a debt of gratitude to the Secretary of War; generations will pass away before it is paid; and yet the public press of the country and the public

voice of the country often cry out, "Crucify him." I know that the President of the United States, with as sincere a devotion as ever actuated a patriot in any country or in any age, has made mistakes. Who has not? Sir, we have made mistakes here in the Senate and in the House of Representatives. I have made mistakes, and I see and acknowledge them. I believe that with all our earnestness and all our devotion to the country in the great contest through which we are passing, we have not always fully comprehended our condition and realized our duty clearly. We have all of us, who have been in the service of the country, made more or less mistakes. But, sir, instead of arraigning military men or men in civil capacities, I think our duty should be to give all credit to every man who gives his heart and his hopes, all he is and all he hopes to be, to the service of the country. And, sir, if he makes mistakes, as we all have made and shall continue to make mistakes in the future, patriotism demands that we shall forget and forgive errors, and remember only the devotion to the endangered country.

Sir, we all agree who shall be lieutenant general. There is no division here among us; not a divided voice in either House of Congress. If we pass this resolution, we know who is to be sent here as lieutenant general. Nobody questions that.

The Senator from Minnesota refers to the army of the Potomac, to the mistakes made there. We know something of the errors of the past, and we know something of the bad influences that have been at work in that army. We now see clearly that the only statesmen of the war are anti-slavery men, and the only generals in this war worthy to lead men are generals who have become anti-slavery; and that will be the verdict of the future. In other times, when this contest is studied, comprehended, the judgment will be that the only men who comprehended our condition, who were the real statesmen and the true soldiers of the war, were the men who knew what the war was about, who made it, and what was the cause of it, and who were in favor of destroying the sole cause of this war among countrymen of the same tongue and race.

The Senator says that the army of the West has got clear of the doubting men. I think that the army of the West has made more rapid progress in the right direction than has the army of the Potomac. I know that many of the men who entered this contest with false views learned in the school of submission to the demands of slavery have been changed—changed almost as suddenly as St. Paul was changed. They have grown in this contest; they are now powers in the land, and I hail, welcome, and honor them. But, sir, the same is now true to a great extent with the army of the Potomac. Nearly all its officers and the great mass of its soldiers have learned what this war is about; they know who made it; they know why it was made; they know the cause of it; and they are in favor of trampling it out and stamping it out with the iron heel of war.

Sir, there is another deduction that ought to be made whenever we speak of the contests of the army of the Potomac with the army of General Lee; and that is, that the best army of the rebellion, led by their best general, has stood and now stands front to front with the army of the Potomac. The army of the Potomac has not had to deal with raw troops. They have always had to fight on the soil of Virginia or of Maryland or of Pennsylvania with the veteran army of the rebellion, the army that carries the flag of the rebellion. That is a consideration that should always be remembered if we desire to do justice to the generalship or to the valor of the army of the Potomac. I believe that army is a noble army, and that it is generally well officered. That there are some men in it unfit for high commands, I believe, and the same remark is true of the other armies. There are many generals in the service unfit to lead great armies, but good brigade, division, and corps commanders. Our armies are now generally well officered from generals down to subalterns, and the armies are in splendid condition, much superior to their condition at any other period of our history. The spring campaign is now opening; and although the rebels may have some advantages of climate and of earlier preparation, I have undoubting faith that we are to triumph, and that

the coming year is to crush out forever the military power of the rebellion.

THE VICE PRESIDENT. The question is on the adoption of the amendment reported from the Committee on Military Affairs, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 28, nays 12; as follows:

YEAS—Messrs. Clark, Collamer, Conness, Davis, Dixon, Fessenden, Foot, Foster, Grimes, Harding, Harlan, Harris, Henderson, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Powell, Ramsey, Sprague, Sumner, Ten Eyck, Van Winkle, Willey, Wilson, and Wright—28.

NAYS—Messrs. Buckalew, Carlile, Chandler, Doolittle, Hale, Howard, Howe, McDougall, Saulsbury, Sherman, Wade, and Wilkinson—12.

So the amendment was agreed to.

Mr. CONNESS. Now I desire to have the amendment I proposed read together with the section as it will stand if amended.

The Secretary read the amendment, in line seven, section one, after the words "lieutenant general," to insert the words, "who shall be commander-in-chief of the armies of the United States, under the direction of the President, and who shall remain in chief command during the pleasure of the President;" so that the section will read:

That the grade of lieutenant general be, and the same is hereby, revived in the Army of the United States; and the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a lieutenant general, who shall be commander-in-chief of the armies of the United States, under the direction of the President, and who shall remain in chief command during the pleasure of the President, to be selected; &c.

THE VICE PRESIDENT. The question is on this amendment offered by the Senator from California.

Mr. CONNESS. Let us have the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 28; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Doolittle, Hale, Howe, Ramsey, Sherman, Wade, and Wilkinson—10.

NAYS—Messrs. Carlile, Clark, Collamer, Davis, Dixon, Fessenden, Foot, Foster, Harding, Harlan, Harris, Henderson, Howard, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Powell, Saulsbury, Sumner, Ten Eyck, Van Winkle, Willey, Wilson, and Wright—28.

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed and the bill to be read a third time. It was read the third time; and on the question, "Shall the bill pass?"

Mr. HOWARD called for the yeas and nays; and they were ordered.

Mr. DAVIS. It was my purpose to have given a silent vote on the passage of this bill, and I should have done so if the yeas and nays had not been called. I shall vote against the bill, and I will in a few words state the grounds upon which I intend to do so.

If I could be made to believe that the passage of this bill and the reviving of the grade of lieutenant general would be of any service whatever to the armies of the United States in their operations, I should certainly vote in favor of it; but it strikes me that the movement is more political than military, and that the effect of it will be to produce rather confusion in the administration of our military matters than to give them simplicity and efficiency. It seems to be conceded that the President of the United States has the power, as I suppose he undoubtedly has, to order any officer whatever, of any grade, to take the active, positive command. It seems furthermore to be conceded that according to usage or law the General-in-Chief next to the President is the highest military commander. Some gentlemen suppose that if this grade of lieutenant general is established by the passage of this bill it will make whoever may become the lieutenant general the commander over the General-in-Chief. I am not prepared to say whether according to statutory law or military usage such would be the result. I am not informed in relation to military matters and the grade which different commanders assume actually and positively in the Army; but it would leave the President certainly in possession of the power, if he chose to exercise it, to decide that the present General-in-Chief should be the commander of the lieutenant general.

Some gentlemen say that the object of this bill is to quicken the President in relation to that matter, to prick him on to the appointment of some more competent man to the office of lieutenant general than the present General-in-Chief, and who may take rank and command over the General-in-Chief. In that point of view, it seems to me to be an improper sort of indirection in the proceedings of the Senate. It has not that frankness and openness which, according to my judgment, all the action of the Senate in relation to the President or in relation to the Commander-in-Chief of our armies and navies ought to have. I think if he was to act with due dignity and self-respect he would totally disregard any suggestions or monitions or intimations that the Senate might give him in relation to this matter; that if he thinks the creation of the office advisable, and that it would result to the public good and to the efficiency of the Army, he should give the measure his approbation; and after it had become the law appoint whom he pleased to fill the office of lieutenant general. Certainly he ought to do so.

But, sir, I apprehend that the creation of this office will have the effect of producing some confusion in relation to the administration of the military affairs of the country between the lieutenant general and the General-in-Chief, in which probably the President may be brought to act a part. Therefore, upon that ground I would vote against the bill.

But I intend to vote against it upon other grounds. I have a high opinion of the military capacity of General Grant, but not that exalted one which some Senators have avowed. From the time of the capture of the Post of Arkansas by his army to the present, I think all his military operations have been eminently successful, and have been characterized by ability, courage, and fortitude. Previous to that time I think his military career was a failure. But, sir, we are not through with this war yet. There is a great deal still to be done to bring it to a successful close—enough to tax, I think, all the ability of all our military commanders and all the courage and endurance of our soldiery. We are not yet out of the woods, to use a common phrase. General Grant has not achieved his whole work. He is about to enter upon a new field of operations comparatively to him, and what will be the amount and measure of his success nobody can conjecture. I believe that it will be attended with success, and probably with signal success; but I do not feel enough assurance of those results to create for him the high office of lieutenant general, which, in my judgment, ought to be instituted only after the war is over, and then as a reward to crown the services and the genius of the best general that has appeared in the course of the war.

General Grant may fail. It is possible that he may fail in the coming campaign. He may not be able to sustain that just fame which he has won since his campaign up the Arkansas river, and especially the great campaign which he made preceding the battle of Vicksburg and in the capture of that stronghold itself. I think that in that campaign and in the series of battles that preceded the surrender of Vicksburg, he displayed very great military capacity, and a stubbornness and firmness of courage and of purpose, and fortitude as a soldier and a commander, and a singleness of devotion to his field of operations and to his profession, that are in the highest degree honorable to him. I hope and believe that he will be able to sustain this just and high fame which he has won; but he may fail in doing so. He may not be able to sustain it. If so, and he should make any mistakes, or any signal failures, it would not look very apposite and becoming that he should be the recipient of this grade of lieutenant general, which in my opinion ought to be the crowning honor and glory of the first military man that the country will bring forth.

If it added anything to his capacity, to his courage and resources, to the valor and endurance of his armies, if it promised to do any good whatever, to make our military operations more effective and successful, and above all to bring them to a speedy and brilliant close—for that is the great consummation which I desire from my heart of hearts—if these fruits would in any degree be more apt to result from the creation of this office and the appointment of General Grant

to it, I should give what little influence I have to the measure; and then I would rejoice that the office had been created and that General Grant had been called upon to fill it. But, sir, believing that the passage of this bill, the creation of this office, and the installation of General Grant in it will effect nothing whatever material to the success of the operations of the Army; that the step is premature; that, in addition to that, it may result in a clashing of authority between him and the present General-in-Chief, and may also embarrass the President of the United States in some decisions of contested authority and rank between the two officers, and in other points of view, I feel constrained to vote against the bill. I have merely stated the grounds upon which I intend to give my vote, having desired that the vote should not be taken by yeas and nays, and that I might be enabled to give a silent vote upon it.

The VICE PRESIDENT. The question is on the passage of the bill.

The question being taken by yeas and nays, resulted—yeas 31, nays 6; as follows:

YEAS—Messrs. Chandler, Clark, Collamer, Conness, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—31.

NAYS—Messrs. Buckalew, Davis, Harding, Powell, Saulsbury, and Wright—6.

So the bill was passed.

ARMING OF KANSAS MILITIA.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be instructed to communicate to the Senate the reasons that have heretofore prevented the arming of the militia of the State of Kansas.

PAY OF COLORED TROOPS.

Mr. SHERMAN. I move to take up Senate bill No. 125, to encourage immigration, with a view to have it come up as the unfinished business to-morrow morning. I do not think it will take long to dispose of it.

Mr. WILSON. I wish the Senator would give way to me.

Mr. SHERMAN. If there is anything special I will do so.

Mr. WILSON. I should like to take up the joint resolution in regard to the pay of colored troops to-morrow, and dispose of it. It is very important to have action upon it.

Mr. SHERMAN. I will not interpose any objection to that, and will give way for that purpose; but I desire to call the attention of the Senate to this bill to encourage immigration. I wish to give notice that I shall call it up at an early day. I do not suppose it will take much time to dispose of it.

Mr. WILSON. I now move to take up the joint resolution to equalize the pay of troops in the United States Army.

Mr. HALE. I have no objection to having that resolution taken up and voted upon to-morrow, but I simply rise to notify the Senate that I shall deem it my duty, as soon as that resolution is disposed of, at an early hour to-morrow, to move to go into executive session. There are some matters that ought to be attended to at once in executive session.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate as in Committee of the Whole resumed the consideration of the joint resolution (S. No. 23) to equalize the pay of soldiers in the United States Army.

Mr. LANE, of Indiana. I move that the Senate do now adjourn.

MILITARY INTERFERENCE WITH ELECTIONS.

Mr. POWELL. I ask the Senator to withdraw that motion for a moment to allow me to have a bill taken up with a view of making it a special order.

Mr. LANE, of Indiana. I withdraw it.

Mr. POWELL. I move to take up the bill to prevent officers and soldiers of the Army of the United States interfering in elections in the States, for the purpose of making it the special order for some day next week. Any day next week that will suit the Senate will be satisfactory to me.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 37) to prevent officers of the

Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States.

Mr. POWELL. I now move that it be made the special order for Thursday of next week, at one o'clock.

The motion was agreed to.

Mr. LANE, of Indiana. I now renew my motion for an adjournment.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 24, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

MASONIC HALL ASSOCIATION.

Mr. BENNET, by unanimous consent, introduced a bill for a charter of a Masonic Hall Association; which was read a first and second time, and referred to the Committee for the District of Columbia.

NEW CONSULATES, ETC.

Mr. WASHBURN, of Illinois, by unanimous consent, laid before the House executive communications addressed to him in regard to an amendment to the laws on the subject of the administration of oaths to the owners of goods, wares, and merchandise liable to entry; and in regard to the establishment of new consulates in Canada; which were referred to the Committee on Commerce.

FIRE IN GLOUCESTER.

Mr. ALLEY. I ask the unanimous consent of the House to make a statement, which I know the House will be willing to hear, and on which I think they will be glad to take such action as I shall propose.

Mr. COX. What is it about? We may be involved in a protracted debate.

Mr. ALLEY. It is a matter connected with the recent fire in Gloucester, Massachusetts; and the proposition I intend to make, if the House permits its introduction, is dictated by every consideration of justice and every feeling of humanity.

Mr. FINCK. There will be no objection if we on this side of the House are allowed to record our votes against the enrollment bill.

Mr. ALLEY. If there be the slightest objection, I will withdraw the resolution when it shall have been read.

Mr. FINCK. I do not object.

Mr. ALLEY. Mr. Speaker, during the severe cold weather of the last week it will be remembered that the business portion of the town of Gloucester, in the State of Massachusetts, was almost entirely consumed by fire. The internal revenue collector of that congressional district has written to the Treasury Department to allow him to suspend the collection of the taxes for internal revenue for the present from the sufferers by that fire. It will be remembered by gentlemen of the House who have seen the account of it in the newspapers, that a great many families were turned out of doors, and such a scene of desolation and suffering has scarcely ever before been witnessed in that section of the country. The Treasury Department find that they have no power to grant the request of the collector of that district, and with its approval I submit a joint resolution for the action of the House.

The Clerk read, as follows:

Whereas the town of Gloucester, in the State of Massachusetts, has been recently visited by a terrible destructive conflagration in which almost the whole business portion of the town was destroyed: Therefore,

Resolved by the Senate and House of Representatives, &c., That the Commissioner of Internal Revenue be authorized under the instructions of the Secretary of the Treasury to suspend the collection of taxes for internal revenue from the sufferers by said fire in such manner and for such time as the Secretary of the Treasury shall think expedient and proper.

Mr. J. C. ALLEN. I do not object to the resolution; but I suggest to the gentleman from Massachusetts to amend it so as also to exempt those who have lost their stock by the severe cold weather in the West.

Mr. COX. I hope that the resolution will be referred.

Mr. KING. I object to the resolution. I ask unanimous consent to make a statement.

Mr. FARNSWORTH. I object.

Mr. FINCK. I ask unanimous consent to record my vote on the conscription bill.

Mr. SHANNON. I object.

Mr. ELIOT. I call for the regular order of business.

FREEDMEN'S AFFAIRS.

The SPEAKER. The regular order of business is called for. The call for committees for reports is in order; and under that call the House resumes the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs; on which the gentleman from Pennsylvania [Mr. Dawson] is entitled to the floor.

Mr. DAWSON. Mr. Speaker, it is now about eight years since I left these Halls. The country was then in the enjoyment of its uninterrupted career of prosperity. It seemed as though at length the problem of government had been solved, and that human wisdom had produced a system which, resting upon a basis of just and equal laws for individuals, consulted with the happiest success for the rights and interests of the political communities which composed the federation. From small beginnings three quarters of a century before we had grown to greatness. From thirteen colonies, feeble and poor at best, we had become a populous and wealthy nation, a rich and powerful empire. The great nations of the world had come to look upon us with respect, with admiration, and envy. Sectional causes of difference had indeed ruffled rather too rudely the calm surface of our prosperity; but prone to trust in that signal care of Providence which had hitherto befriended us, we dismissed lightly the apprehensions of evil which they were fitted to occasion us. We took counsel too readily of our wishes, and always rested in the conclusion that the Republic must be perpetual.

Such was the state of things at the close of my representative term in 1855. I return here in the midst of a revolution. Countrymen of the same lineage are arrayed in bloody conflict. Strange and unheard-of doctrines of government are promulgated by those in possession of authority; and powers and measures unknown to the Constitution are resorted to with desperate eagerness at the call of the novel exigencies which have arisen.

The division of the country by violence has been all along foreseen by the wise among us as the consequence of causes which might have been avoided. As it is, the future inquirer into the history of the events transpiring around us will be struck with amazement at the folly and madness which could thus permit to perish, if perish it shall, a Government so admirable after an existence but little extended beyond that prescribed by the Psalmist as the maximum of individual life. The fact of our extraordinary greatness, as compared with the brief duration of our institutions, furnishes the most conclusive attestation of their unparalleled excellence. Yet this has not sufficed, when once the demon of sectionalism has been evoked, to save this noble fabric of civilization from the ruin, it may be, which has been the common fate of nations. The wisdom and foresight of the fathers have been shamed; and together with the memory of their noble struggles, sacrifices, and sufferings in the cause of independence and freedom, their counsels and warnings have been cast to oblivion. In vain the common ties of language, manners, literature, and religion, of blood and country and glory, have raised their supplicating voice for the continuance of the Union.

Nearly three years of civil war have now discharged their relentless fury upon our unhappy country; and we are yet apparently as remote from any satisfactory adjustment of our differences as when we first flew to arms. These unlucky years have seen many of the peaceful pursuits of the country broken up, its vast resources wasted in unfruitful conflict, and the members of almost every household arrayed in the sable habiliments of grief. And still the contest rages. This ill-judged rebellion still interposes its huge and fearful proportions between the present and the return of prosperity to our country. The all-important and practical question which we have to determine is, *what is the policy which the exigency demands?* In order to a wise consultation upon this subject it is necessary to look to the past as well as the future. What is this Government,

whose existence is now in such fearful peril, and for the maintenance of which the country is yielding so lavishly of its blood and its treasure? I am convinced that it is from loose and incorrect ideas of the nature of our Government, from allowing the heats of party strife to withdraw our attention from its true character, and to confuse our sense of the duties which we owe it, that have flowed the evils from which the country is suffering. Upon a subject of such transcendent importance as this silence in a representative of the people, hesitation or concealment, would, in my judgment, be alike criminal. I shall speak, therefore, under those deep convictions of duty which the times inspire, and with that unreserved freedom and boldness which are the birthright of an American citizen.

The true character of our Government, then, will be best perceived from a glance at its formation. It is well known that the idea of a union, more or less extensive, of the British colonies, was from a very early period not an unfamiliar one with our fathers. Such a union was formed by certain of the New England colonies as early as 1643, the object being the common defense against the Indians and the Dutch of New Amsterdam. The congress which met at Albany in 1722, and included other colonies than the New England, contemplated a similar union, as did the still more important one which was called at the same place in 1754, to consult for the protection of the colonies against hostilities by the French and Indians. The projected union, however, failed through jealousies on the part of the home Government, as well as among the colonies themselves. The idea of colonial union was at length fully matured in 1774, in the first Continental Congress which met at Philadelphia, consisting of the representatives of twelve colonies. Its object, it will be remembered, was to consult for the "common welfare" against the oppressive measures and unwarrantable pretensions of the mother country. While resistance was determined upon against the claim to tax the colonies without their consent, the idea of independence had not yet found acceptance in the colonial councils. In the spirit of attachment to Great Britain, the colonies would freely have united in conceding to her the benefit of her navigation acts could she have consented to renounce the fatal claim to the right of taxation. The measures adopted by that Congress had for their object to compel her to abandon that right, and British commerce was to be renounced till she did so. Two years later, by the mad persistence of the home Government in her unjust measures, the colonies were forced into independence.

Simultaneously with that act, the Continental Congress proceeded to prepare Articles of Confederation, which should express the nature of the compact between the States, and define the powers conferred upon the Congress, as well as those reserved to the States. Notwithstanding the greatness of the common exigency, diversity of interests, local prejudices, and jealousies prevented an immediate union by Congress on such articles, and not till in March, 1781, was the ratification of these articles completed by the thirteen States.

What is especially to be noted in the whole of these proceedings is the jealous care exercised by the several colonies in asserting their individual sovereignty and in guarding it against encroachment. Thus, in the action of the various independent political communities in appointing delegates to the Continental Congress, the "sole and exclusive regulation of their own internal government, police, and concerns" was explicitly reserved. The States consented to surrender only a very partial control over the subject of trade. The Congress was invested by the articles with no control whatever over individuals.

Under these articles the United States were enabled to close the war of the Revolution, and secure our independence. But, as requisitions for delinquencies in raising revenue could only be made against the States in their corporate capacities, there was no remedy when these were withheld by the States except a resort to civil war. This was the defect of the old Confederation, as it had been of all similar establishments of ancient and modern times—of the Grecian republics, the Germanic, Hansatic, the Dutch, and the Helvetic. The immediate and pressing grievance which paralyzed the energies of the Confederate

Government was the numerous, diverse, and conflicting interests and regulations in regard to trade.

In order to secure the fruits of the Revolution it was necessary that the commerce of the country should be freed from the disadvantages under which it was placed by the discriminations imposed upon it by foreign Governments by the navigation laws which their own interests and cupidity had induced those Governments to adopt. It was not less necessary that the public faith should be preserved; that the debts contracted during the Revolution should be liquidated; and the treaty stipulations into which we had entered with European Governments strictly complied with. It was also necessary "to provide for the common defense." These were the great and pressing inducements to the formation of a new compact of Union. In it a remedy was sought also for the weakness and inefficiency of the Confederation by conferring upon the central Government still larger and better defined powers; and by distributing them through well-balanced legislative, judicial, and executive departments, to bring down those powers to operate upon individuals. In these three particulars: in the greater extent and more precise definition of the powers conveyed; in surrendering the control of the several States over the subject of commercial regulations; and in the distribution of the powers through a well-organized system, so as to act upon individuals within the sphere of those powers, consists the great and material difference of the Constitution of 1789 from the Articles of Confederation. It was these changes which converted the Government of the United States from a specious but lifeless and inefficient organization to one of vital and energetic power for great and beneficial ends. It was and is still *not less a Federal Government*. Neither in the circumstances which attended its formation and adoption, nor in the instrument itself, nor yet in the expositions of its founders, is there apparent any intention to substitute a consolidated Government in lieu of that of the compact of the States.

The Convention of 1787, which framed the Constitution, was composed of delegates from the several States, and not from the people at large. Propositions in that Convention were voted upon by the delegates, not as individuals, but by States. It was not a majority of the delegates, but a majority of the States, by which each proposition was rejected or became a part of the Constitution. As the people did not act as a whole in appointing a Convention to form a Constitution, neither did they in ratifying it; but the ratification was by conventions appointed by the people of the several States. This ratification was also made at different times; for while the Constitution was adopted September 17, 1787, the consent of Virginia, which as that of the ninth State was necessary to put it in operation, was not obtained until June 26, 1788. And though, as accepted by nine States, the new Government went into operation the 4th of March, 1789, North Carolina did not accede until the 21st of November following, more than two years after its adoption by the Convention; nor Rhode Island till May 29, 1790; nearly three years after that event; and those States, during the period of their hesitation, were treated by the legislation of the United States as foreign countries. By the seventh article of the Constitution it is declared that the ratification of the conventions of nine States "shall be sufficient for the establishment of this Constitution between the States so ratifying the same." The tenth article also declares that the "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

It thus appears, from a consideration of the circumstances under which the Constitution was produced, and from the provisions of the instrument itself, that our Government is a compact between sovereign and coequal political communities, the States composing it. Gouverneur Morris, who was the individual in the Convention upon whom devolved the task of revising the language of the instrument before its adoption by that body, also declared "that the Constitution was a compact, not between solitary individuals, but between political societies."

I have thus recurred to what are seen to be leading facts and principles in the formation of our Government. This retrospect must convince us

that it is historically true that our Government was formed by the States as parties, and not by individual citizens as members of one community. I hold it at the same time true that this Government, which is one of limited and specially defined powers, is of the same obligatory authority within the sphere of the granted powers as the State governments themselves within the sphere of the reserved powers. I see not how this can be otherwise, since both were created by the same authority—that of the individual citizens of the several States acting through their respective State organizations. The Government of the United States and those of the several States are therefore equally sovereign in their respective spheres. I therefore find no difficulty in a divided allegiance, and I hold that allegiance to bind the citizen in equal degree to the government of the State and to that of the nation, both proceeding from the same source—the people of the several States. In case of irreconcilable difference between the Federal and State Governments, there is no necessity that the parties to the compact should, each for itself, decide the dispute; for in the very instrument of compact they appointed an arbiter, the judiciary, by whose decisions they agreed to abide.

If these were still not sufficient, and the Constitution, even under the interpretation of its own functionaries, should be found in its working to bear hard upon individual States, there was still another peaceful remedy provided by the charter. This was the amendment of the charter itself. It is a consequence of these views that there is no cause which would justify withholding allegiance from the Government of the United States and resisting its authority, which might not be of sufficient magnitude and oppressive character to authorize resistance to the State governments. In other words, there is no cause resulting from the nature of the compact, or the relation of the parties, to do this as of constitutional right, but only that cause which exists in all governments, the *ultima ratio populi*, the right of the people to alter and abolish their Government when in their judgment it has proved destructive of its end. Nullification and secession are therefore, in my view, alike without warrant in the Constitution.

The South has been consistent since 1798 in adhering to the doctrine of State rights. When the Constitution first went into operation the doctrine that the Constitution was a compact between political societies or sovereignties received the consent of many of the greatest and best minds of the North. It was asserted as distinctly and emphatically by Morris, by Sherman, Johnson, and Oliver Ellsworth, afterwards Chief Justice of the United States, of the North, as it was by Madison and Jefferson. Nor did the doctrine rest merely on constitutional history and fact or abstract theory with the North. Repeatedly before this was done by any part of the South was the theory of State rights resorted to by New England as a justification for breaking up the Union. The first of these was during the administration of Washington, when the New England Representatives declared that those States would secede unless the debts of the States should be assumed by the General Government. The second was upon the occasion of the embargo act, passed December 23, 1807, as a retaliatory measure to meet the Berlin and Milan decrees of Napoleon and the British orders in council. The embargo being, in the view of the eastern States, designed as a blow at their commerce for the benefit of other sections of the country, open resistance was threatened in case the embargo was enforced. The violence of this outcry secured the repeal of the embargo in 1809. A similar disposition was manifested in New England again on the purchase of Louisiana. The proposition of a measure which has added so incalculably to the greatness and prosperity of the country was met with similar threats of dissolving the Union.

But a fourth time and with still louder and more unsatisfied clamor did New England threaten rebellion to the Government, and throw herself upon the doctrine of State sovereignty as authorizing a dissolution of the Union. This was during the Administration of Mr. Madison, and from dissatisfaction with its measures, the last of which was the declaration of war in 1812. Slavery then, as now, was held up to odium as "the rotten part of the Constitution" which must be amputated.

It mattered not then, as it has not in more recent times, that it was a part of the Constitution. This opposition took an organized form of expression in the Hartford Convention of December 15, 1814, in which Massachusetts was represented by twelve delegates, Connecticut by seven, Rhode Island by four, New Hampshire by three, and Vermont by one. A dissolution of the Union and formation of a new confederacy was the remedy to which that convention looked unless their terms should be complied with; and ulterior measures for an actual separation of the States were to be taken by a subsequent convention to be held in June following. Like South Carolina before the final act of separation, the States of Massachusetts and Connecticut sent commissioners to Washington to present their demands to the Administration. Among these was the high name of Harrison Gray Otis. The simultaneous arrival in Washington of the news of the peace of Ghent no doubt alone saved New England the honor of anticipating the southern States in separating from the Union.

It thus appears that in the heresy of secession and nullification as constitutional remedies for real or imaginary grievances, the North and the South were alike participants. While I have expressed my own disapprobation of the consequences deduced from those doctrines, it is impossible to deny that their full justification is found in the teachings and practice of the North. In my judgment both were wrong. Allegiance was in both instances equally due to the General Government within the sphere of the granted powers, as to the States within the reserved; and I do not think that in either case the grievance was sufficient to justify revolution.

As to the right of the General Government to coerce a State, in such circumstances, the preponderance of authority may be said to have been adverse. It is well known that a proposition to confer the power of coercing a State was made in the Constitutional Convention by Edmund Randolph, and was decisively rejected. It is also clear that it is not among the specially granted powers, and if it be found there at all, it is among those which are necessary to carry the granted powers into effect. It was the opinion of Johnson and Ellsworth, the delegates in the Constitutional Convention from Connecticut, and of Mr. Madison, from Virginia, that the Constitution does not attempt to coerce sovereign States in their political capacities; that the power which is to enforce the laws is to be a *legal* power, vested in the magistrates. The force to be employed is the energy of *law*, and this is to be exerted only upon individuals. Hamilton, if he did not expressly deny the existence of the power to coerce, certainly did not at least contemplate its exercise. He approved of the proceedings by Massachusetts, calling in aid the power of the General Government to suppress the Shay insurrection, but he remarked in that connection:

"But how can this force be exerted on the States collectively? It is impossible. It amounts to a declaration of war between the parties. Foreign Powers also will not be idle spectators. They will interfere; the confusion will increase, and a dissolution of the Union will ensue."

It is apparent from the history of the State rights doctrine that in framing a national Government there were many and great diversities to be reconciled between the independent States. Though speaking a common language, and possessing the common law as a common inheritance, the colonies of the different sections were marked by radical and striking peculiarities. The Puritans of New England differed not more in character from the Cavaliers of Virginia than the Huguenots of the Carolinas from the Quakers of Pennsylvania and the Roman Catholics of Maryland from the Dutch of New York. The prejudices of opinion and antipathies which the settlers brought with them from Europe were still actively cherished in their new abode. There were also wide differences of interest. The interests of the northern States were chiefly commercial, their wealth consisting in the ships engaged in the carrying trade and in the fisheries. The States of the South, whose property was more largely in slaves, were interested in planting. In forming a common Government these discordant elements had to be consulted and reconciled. To any one who has carefully studied the history of the Constitution it must be clear that if the full demands of the sections had been insisted on in the Convention that body would

have terminated without results. But the occasion was one calling loudly for compromise, and the wise heads and patriotic hearts of the men of the Revolution were there to meet it in the proper spirit. New England demanded protection for her navigation, while the South required protection for her slave property. These demands were reconciled by the South surrendering to the common Government the right to tax the ships of foreign States and to impose duties upon imports—in other words, the control of the whole subject of trade—New England conceding in return to the South the right of importing slaves for twenty years, the right to have three fifths of her slaves reckoned in the basis for representation; and the right to the surrender of her fugitive slaves. This, as characterized by Gouverneur Morris, was the "*bargain*" between the sections, and by it slavery became a part of our national Government. Had these concessions not been obtained, it is but the simple truth to say that the southern States would never have become parties to the Government.

Such, then, was the Government left us by our fathers; and whatever fault we may find with the conditions which it involves, good faith required that we should strictly adhere to them. I believe the history of our Government will bear me out in the assertion, that whatever troubles we have at any time experienced have been in consequence of the exercise of the doubtful powers, and of a departure from the spirit of the compact. I might instance that departure in the case of the establishment of the national bank, and the assumption of the State debts. It was a further step in the same direction when by the tariffs of 1816 and 1824 and 1828 duties upon imports were levied not for the clearly constitutional purpose of an economical administration of the Government, but for the avowed object of protection to home manufactures. Happy, thrice happy for the people of these States would it have been had the sectional feeling of the country limited itself to such triumphs as it might hope to achieve through the exercise of the implied powers under the Constitution.

But it manifested itself further in a dissatisfaction on the part of the North with the compromises of the Constitution in regard to slavery. There had indeed existed almost contemporaneously with the adoption of the charter a small party of abolitionists, consisting chiefly of the Quakers of New England and Pennsylvania. These parties, during Washington's administration, had memorialized Congress for the abolition of the slave trade prior to the time fixed in the Constitution, and for the abolition of slavery within the States. This cry, which originated with fanatics, was caught up by politicians for party ends, and was used with great bitterness by the northern journals to intensify the hostility which that section entertained toward the measures of Mr. Jefferson's and Mr. Madison's administrations. This spirit of hostility to slavery continued to increase, and broke out with fresh virulence on the application of Missouri for admission into the Union. It thus assumed an unprecedented importance from its connection with a contest for political power.

Shortly after, the public mails were used to distribute over the South incendiary matter calculated to stir up insurrection among the slaves. Congress was besieged for the abolition of slavery within the District of Columbia; and John Quincy Adams persistently and defiantly presented petitions praying for the dissolution of the Union. States nullified by their legislation the acts of Congress passed in pursuance of the provision in the Constitution for the rendition of "fugitives from labor." Pennsylvania thus repealed, in 1841, an act placed upon her statute-book in 1780. And when a territorial government for Oregon was to be provided, the proposition to extend the Missouri line of 36° 30' to the Pacific ocean was rejected by Congress, and the Wilmot proviso, prohibiting slavery in Oregon, adopted. California was also admitted as a State without passing through a territorial condition, and with an anti-slavery constitution. The effect was to make a discrimination between the citizens of co-equal States, which the Constitution did not contemplate. Simultaneously there appeared in New England certain new social and political theories in relation to slavery.

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That these theories were of foreign origin little doubt can be entertained. The unexpected success of our political institutions, the growing greatness of our American Republic, of our commerce, and all our industrial pursuits, had begun to affect England with fears for the permanence of her own superiority, and even for the duration of her political system. The success of so economical a Government, and one so favorable to the rights of man, seemed to be a standing reproach to the more expensive, exclusive, and unequal establishments of European absolutism. In addition to these motives, England had also a further one: we were her rebellious offspring. To see our Republic prove a failure and our federative system divided, so that one section could be fought against the other, was the aim of both her pride and power. It was therefore that the vigilant eyes of some of her political leaders soon discovered the opportunity afforded by our domestic differences for the introduction and fomentation of strife. Abolition emissaries quickly found their way to Boston. There their incendiary doctrines soon found a congenial soil. The seed "fell upon good ground and increased a hundred fold." Agitation of the slavery question in every form and upon every occasion has since that time been perseveringly maintained in the northern States, and especially in New England, in conversation, in lectures, by the press, in the pulpit, in the halls of legislation, and upon the stump, all of which tended only to one disastrous result.

Mr. Buchanan has been blamed for lack of energy in meeting the sudden crisis of the rebellion. It has been asserted that had he acted with proper promptness in garrisoning the fortifications in the six excited southern States the rebellion would have been avoided. But the truth is, there were no available troops within reach. General Scott, in his supplemental views to the War Department on the 30th October, 1860, stated that but four hundred troops were within reach for that purpose. It is evident that it was his great aim to avoid a collision, to avert civil war and save the Union, affirming the clear authority of the Government to enforce the Federal laws within a State, but finding none to beat back a seceding State into the Union. In the nullification troubles in 1832 General Jackson did not attempt to exert the coercive power until, on application to Congress, the force bill was passed. Did not Mr. Buchanan ask Congress for a similar bill, "or to authorize the employment of military force," and did not Congress fail to grant it? Agreeing with General Jackson in his views as expressed in his farewell address, in the utter inefficiency of mere force to preserve the Union, he urged, in his annual message to Congress on the 3d December, 1860, and again in his special message of January 8, 1861, the adoption of amendments to the Constitution of the same character as those subsequently proposed by Mr. Crittenden.

"*Flat justitia, ruat cælum.*"

But Congress omitted to propose amendments to the Constitution. They omitted also to pass the Crittenden resolutions having the same effect. These resolutions, it was stated by several southern Senators, one of whom was Jefferson Davis, in the Senate committee of thirteen, would have been accepted by the South as a basis of final settlement. (See Congressional Globe, second session Thirty-Sixth Congress, volume 44, part 2, pages 1390, 1391.) Had Mr. Lincoln, after his arrival in Washington, but said the word "peace," those resolutions would have been adopted and the war avoided. South Carolina would have stood alone. At this crisis it was apparent that the danger of dissolution and civil war was both real and imminent. Mr. Lincoln was unequal to the occasion. The peace conference adjourned without important action. Congress adjourned leaving everything unsettled and the whole country shaken by the most violent agitation. The collision in the harbor of Charleston was the fatal consequence.

The reader of English history need but remem-

ber how feeble was the eloquence of Chatham in arresting the progress of the war with the American colonies after it had been commenced. The same authority reminds us of the mighty efforts of Fox to avert the war with France, which ended only with the battle of Waterloo and the exile of Napoleon. Peace is the policy of all Governments, the indispensable policy of a republic, whose great basis is popular affection. With us I believe it could have been preserved without sacrifice.

In the President's proclamation which followed he called for seventy-five thousand volunteers "to defend the capital, to recapture the forts, and enforce the laws." The volunteers thus called for came forward with a promptness and alacrity which did credit to their love of country, and indicated their attachment to that constitutional Government left them by their fathers, and their resolution to repel at all hazards the sacrilegious attempt thus made upon its existence. The people were still further assured of the conservative purposes and character of the war now proposed, by the instructions issued by the State Department to our representatives at European courts, as well as in the policy announced in the President's inaugural address of the 4th March, 1861, and in his message to the special Congress which met in July following. Mr. Seward declared in these instructions that—

"Moral and physical causes have determined inflexibly the character of each one of the Territories over which the dispute has arisen, and both parties, after the election, harmoniously agreed on all the Federal laws required for their organization. The Territories will remain in all respects the same, whether the revolution shall succeed or shall fail. The condition of slavery in the several States will remain just the same whether it succeed or fail. There is not even a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail; for the rights of the States, and the condition of every human being in them will remain subject to exactly the same laws and forms of administration, whether the revolution shall succeed or fail. In the one case, the States would be federally connected with the new confederacy; in the other, they would, as now, be members of the United States; but their constitutions and laws, customs, habits, and institutions in either case will remain the same.

"It is not necessary to add to this incontestable statement the further fact that the new President, as well as the citizens through whose suffrages he has come into the Administration has always repudiated all designs whatever, and whenever imputed to him and them of disturbing the institution of slavery as it exists under the Constitution and laws. The case now would not be fully presented if I were to omit to say that any such effort on his part would be unconstitutional, and all his actions in that direction would be prevented by the proper authority, even though they were assented to by Congress and the people."

Here is the language of the President on the 4th of March, 1861:

"Apprehension seems to exist among the people of the southern States that by the accession of a Republican Administration their property and their peace and personal security are to be endangered. There has never been any reasonable cause for such apprehension. Indeed, the most ample evidence to the contrary has all the while existed and been open to their inspection. It is found in nearly all the published speeches of him who now addresses you. I do but quote from one of those speeches when I declare that 'I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so.'"

In the President's message to the special Congress which met in July 1861, Mr. Lincoln declares that "after the rebellion shall have been suppressed, the Executive deems it proper to say, it will be his purpose then, as ever, to be guided by the Constitution and laws," and that it may be expected he will adhere to the positions taken in the inaugural address. He adds:

"He desires to preserve the Government that it may be administered for all as it was administered by the men who made it. Loyal citizens everywhere have the right to claim this of their Government; and the Government has no right to withhold or neglect it. It is not perceived that, in giving it, there is any coercion, any conquest, or any subjugation in any just sense of those terms."

Well, Mr. Speaker, how long were the Administration true to these their solemn, public, and reiterated pledges? Why, sir, just until, on the faith of these solemn assurances a million men were induced to abandon the pursuits of peace, and rush into the armies of their country to fight

in the sacred cause of constitutional government. Then, when the physical arm of the Government was deemed sufficiently strong for the overthrow of the South, the mask is cast off, a new purpose and object for the war is boldly avowed and proclaimed. The hideous form and repulsive features of abolitionism were at first disguised in the deceptive and alluring garb of patriotism. It was no longer to be a war for the preservation of the Union under the Constitution, but in reality for its destruction, and in the forum of conscience as well as in that of the supreme law places the radicals in the attitude of rebellion and revolution.

Of the abolitionists as a party, nearly a quarter of a century ago the true character was happily touched off by the pencil of Henry Clay. He says:

"With them the rights of property are nothing, the deficiency of the powers of the General Government is nothing, the acknowledged and incontestable powers of the States are nothing. Civil war, a dissolution of the Union, and the overthrow of a Government in which are concentrated the proudest hopes of the civilized world, are nothing. A single idea has taken possession of their minds, and onward they pursue it, overlooking all barriers, reckless and regardless of all consequences."

This party was then small and insignificant, but its numbers have increased until we now behold it numerous and influential enough to control the administration of the Government. Their influence was first felt in interfering with the conduct of the war, and in ostracizing and excluding from command the generals who had manifested a respect for the Constitution and who had shown skill in the field. They were not satisfied with passing a bill offering protection and freedom to the slaves of rebel masters who should come within our lines, not satisfied with directing the physical power of the country to the suppression of armed resistance to the authority of the Government, but they proceeded to carry the war directly against the property, the homes, and firesides of peaceful non-combatant residents of the seceded States. This was in violation, not only of the Federal Constitution, but of every principle of public law. While the effect of this policy has been to unite the South, the proclamations of the 22d and 24th of September, 1862, and of the 1st of January, 1863, have signally failed to disturb the relation of the slave beyond the hostile presence of our armies. The President, it is true, made a timid and weak resistance to the adoption of this policy, but the abolition pressure was imperative, and at length successful.

A measure involving such an utter disregard of party pledges, such a violent casting aside of constitutional obligations, such diametrical opposition to the recognized principles and to the usages of war, and such a thorough adaptation to widen instead of healing the breach occasioned by secession, could not be expected to be received with unquestioning acquiescence on the part of the law-abiding, Constitution-loving masses of the North. Hence vast stretches of authority are usurped, the indefinite power of arrests is assumed, and the time-honored writ of *habeas corpus* is suspended.

Thus, upon the alleged ground of the insufficiency of the ordinary processes of law to restrain disloyal practices, the military power is raised into a superiority to the civil, and martial law is extended over the whole country. Persons not military are made liable to arrest without legal process, in a summary manner, upon the indefinite charge of "disloyal practices." When so arrested they are also denied the privilege of that hereditary and constitutional shield of the liberty of the citizen, the writ of *habeas corpus*. Has it, then, come to this, that in a Government of the people the people are less worthy to be trusted than their rulers? In a nation the freest and most enlightened upon earth is the citizen to be told by the petty agents of his own creation that his liberty is not safe in his keeping, and that they, through an assumed superior intelligence, must take it in special charge? Sir, what man worthy of the name of freeman will be reconciled to the loss of his priceless birthright of liberty, regulated by law, by any such tyrant's plea as that?

I believe I do not misapprehend the character of my countrymen, and that they will not and ought not thus to submit to be spoiled of their dearest right by any usurping hand. What! are the people to be deluded with the idea that their liberties are to be preserved or that the Government is to be saved in the act of their destruction? Are those sacred fireside rights which the Anglo-Saxon brought with him from his native forests in Germany, and which he has never since lived without, to be trampled in the dust on any such flimsy and specious pretext as this? And have the sad days of the Roman time under the forms of the republic come upon us so soon? Are we to be the sport of imperial rule?

Sir, our institutions of government are created and defined by law, and to the rigid observance of the law we must hold their administrators. This is our only safety, as the history of free States has always taught, because it shows that "power is ever stealing from the many to the few." It is then a new thing in our history that the ordinary processes of law are not found sufficient to secure the Government in the exercise of its legitimate and proper authority. It is not only a new thing among ourselves, but is unprecedented in the history of that people from which chiefly we derive our origin, and from which we have inherited largely our laws and free institutions. Never in the history of England, even in the most turbulent times of revolution, has it been conceded to the monarch to arrest persons not military without warrant issued upon legal charges preferred under oath. This the common-law proceeding dates back so far in England that it cannot be determined when it began. It is, however, guaranteed by Magna Charta. Charles I did, indeed, try the experiment of arbitrary arrests upon vague and indefinite charges, like those of "disloyal practices," not preferred upon oath, but upon the mere arbitrary motion of himself or members of the Privy Council. The subversion of the constitution and substitution of the will of the monarch was also attempted to be effected by the Courts of High Commission and Star Chamber, which resembled the "courts-martial or military commission" of Mr. Lincoln's proclamation, in not being governed by the common law or immemorial customs and acts of Parliament, but admitting for law the proclamations of the Executive and grounding their judgment upon them. The English nation, however, repelled the attempt with indignation; and by the celebrated Petition of Right arbitrary imprisonments and the exercise of martial law were abolished, and the obnoxious courts suppressed.

But it will be said that this proclamation of the 24th September does not contravene Magna Charta, since it is confirmed by act of Congress. The answer to this is that the act of Congress itself contravenes the provisions of the Constitution, the paramount law. When we turn to article four of the Amendments to that instrument, we are met by this stern requirement:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

Article six also requires that

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

The exercise of such arbitrary powers it was which lost Charles I of England the confidence of his subjects, and led to the establishment of new guarantees against such flagrant abuses on the part of the monarch. The practice of a similar tyranny in France, under the *lettres de cachet*, had filled the dungeons of the Bastille with innocent victims, until at the commencement of the reign of Louis XVI that hated prison was leveled to the ground in the indignant uprising of an outraged people.

What right, sir, has Congress to authorize arbitrary arrests in the face of the prohibitions of the Constitution? Are these prohibitions without meaning? or were they not on the contrary designed to meet just such exigencies as those in

which the country is now placed, when, together with the possession of the physical and political power of the country, a party finds itself under the temptation to resort to usurpation in order to maintain its ascendancy? The Administration cannot, as in England, have recourse to the omnipotence of the Legislature to justify this abuse of power. The British Parliament is possessed of a legal omnipotence from the nature of the constitution, which is that of a consolidated Government and a monarchy. Even there, however, the subject has an adequate security against any violation of those great principles of personal security, personal liberty, and private property, which constitute the so much and justly lauded privileges of Britons, because the people themselves, through their representatives in the Commons, make a preponderant power in the Parliament, and the venerable landmarks of the rights of the subject have long been held sacred from encroachment. But in this country the national Legislature has no such large and unlimited powers. A written charter confers expressly all the powers which the Congress possesses, and clearly there is no authority contained in any of its provisions to arrest any one "without probable cause," and "upon oath or affirmation." Neither will the extension by Congress of martial law over the whole country cover the case. There is the same deficiency of authority here as before. Says Chief Justice Blackstone in his Commentaries:

"Martial law, which is built upon no settled principles, but is entirely arbitrary in its decisions, is, as Sir Matthew Hale observes, in truth and reality no law, but something indulged rather than allowed as a law. The necessity of order and discipline in an army is the only thing which can give it countenance, and therefore it ought not to be permitted in time of peace, when the king's courts are open for all persons to receive justice according to the laws of the land."

Does this "necessity of order and discipline" which this distinguished authority lays down as the only admissible ground for the application of martial law apply also to *civilians outside of the Army*? Are not the courts as to them, both State and Federal, except in the States in rebellion, just as open now for the prosecution of offenses against the Government and laws of the United States as under the condition of the most profound peace? The contrary will not be asserted. There is therefore no necessity for this extraordinary stretch of authority, except in districts, if there be any such, in which the regular administration of justice by the civil tribunals is rendered impracticable by the operations of war; and this is nowhere beyond the lines of the Army, except as to persons in the military service.

The rules and articles of war and the acts of Congress for holding courts-martial (chiefly that of the 14th of April, 1814) by which the Army is governed, were framed chiefly from the English system upon the same subject. Its principles and modes of proceeding are quite different from those of the common law, and in reference to them Blackstone remarked:

"One of the greatest advantages of the English law is that not only the crimes themselves which it punishes, but also the penalties which it inflicts, are ascertained and notorious; nothing is left to arbitrary discretion; the king by his judges dispenses what the law has previously ordained; but is not himself the legislator."

The learned commentator then takes occasion to regret that in being deprived of those advantages and being subject to military law, the soldier is placed in a condition of servitude; "for," said he, "Sir Edward Coke will inform us that it is one of the genuine marks of servitude to have the law, which is our rule of action, either concealed or precarious."

Another extraordinary measure inaugurated by the proclamation, and which constitutes the climax of despotic power assumed by the Executive, is the suspension of the writ of *habeas corpus* during the existence of the rebellion. Having usurped the power of arrest "without due process of law" in the face of the express prohibitions of the Constitution, it was an offense of gigantic magnitude for the President to suspend the operation of this great and important defense of the liberties of the citizen. In those bitter and unscrupulous civil contests which were waged between the party of prerogative and that of the privileges of the people, which inflamed the heart of England in the middle of the seventeenth century, the ancient common-law right of the *habeas corpus* was disregarded by

Charles I, as well as by the Long Parliament. This was during the struggle between the Crown and the people. But after the constitution was settled as to this particular by the Petition of Right, and the 29th of Car. II, no sovereign had afterwards temerity enough to attempt an abuse of this great bulwark of English liberties. It is true that in a few instances within the history of the nation for two centuries back this great writ has been suspended by Parliament, the only power which could legally suspend it. The principal of these was during the transition from the reign of James II to that of William and Mary, in 1688. All through the American war of independence the friends and sympathizers of the American cause were bold in their condemnation of the policy and measures of the Crown, and it was held that this was but the simple exercise of the unquestioned right of the subject. Burke, Fox, and Pitt all thundered in the ears of the court their eloquent denunciations of the tyranny and injustice of Government toward their countrymen in the colonies, and no one ever proclaimed a "military necessity" of silencing them by forcible restraint of their persons.

The remarks which I have made in regard to arbitrary arrests apply with equal force to the suppression of journals which have spoken out in condemnation of these despotic acts of the Administration. Blackstone says, "the liberty of the press is indeed essential to a free State." The liberty of the press was our common-law right as British colonists, and for its protection, together with the freedom of speech and the right of peaceably assembling and petitioning the Government for a redress of grievances, the first amendment was added to the Constitution. These restraints are necessary, it is said, because by the indulgence of free discussion the arm of the Government is weakened, and its ability to carry on the war seriously impaired. But what an argument is this in a country of constitutional liberty, and where public opinion forms the substratum of all our institutions! And what an argument at a time when, above all others, free speech and a free press are most needed to point out and drive back the robbers who are daily carrying off the public treasure! It is an old precept to resist the *beginnings of evil*. It was Rousseau that said, "Liberty might be acquired, but could never be recovered."

In addition to all these aggressions the war policy of the Administration has saddled the country with a debt which at the termination of the struggle will exceed in magnitude that of Great Britain contracted in a century of foreign wars. The aggregate of the appropriations on the 4th of March, 1863, was \$2,000,277,000. The appropriations are first or last the real expenditure. The total of the English debt is a fraction less than \$4,000,000,000. The English debt bears an interest of three per cent., while the debt of the United States when consolidated will reach six per cent. This gigantic debt will tax enormously the earnings of industry for generations, while the substitution of paper money for the gold and silver currency established by the Constitution* has destroyed the relation of debtor and creditor; has

* Daniel Webster says:

"But what is meant by the 'constitutional currency,' about which so much is said? What species or forms of currency does the Constitution allow, and what does it forbid? It is plain enough that this depends on what we understand by currency. Currency, in a large and perhaps in a just sense, includes not only gold and silver and bank notes, but bills of exchange also. It may include all that adjust exchanges and settle balances in the operations of trade and business. But if we understand by currency the *legal money* of the country, and that which constitutes a lawful tender for debts, and is the statute measure of value, then, undoubtedly, nothing is included but gold and silver. Most unquestionably there is no legal tender, and there can be no legal tender, in this country, under the authority of this Government or any other, but gold and silver, either the coinage of our own mints or foreign coins, at rates regulated by Congress. This is a constitutional principle, perfectly plain, and of the very highest importance. The States are expressly prohibited from making anything but gold and silver a tender in payment of debts; and although no such express prohibition is applied to Congress, yet, as Congress has no power granted to it in this respect but to coin money and to regulate the value of foreign coins, it clearly has no power to substitute paper or anything else for coin as a tender in payment of debts and in discharge of contracts. Congress has exercised this power fully in both its branches. It has coined money, and still coins it; it has regulated the value of foreign coins, and still regulates their value. The legal tender, therefore, the constitutional standard of value, is established, and cannot be overthrown. To overthrow it would shake the whole system."—*Webster's Works*, vol. 4, pages 270, 271.

destroyed legal securities, as well as the earnings of industry in ordinary investments. It has increased largely the prices of Government supplies, thus enhancing greatly the cost of the war. It bears severely upon the investments of widows and orphans, and is sacrificing the business of the country in the general ruin of the currency. This flood of *assignats* has stimulated into still more pernicious action all that crowd of corrupt and hateful influences which follow in the wake of war as sharks in that of the pestilent ship. The miserable crowd of contractors and speculators on the sufferings of their country, like so many leeches, are sucking out the life-blood of the nation, while preaching the unquestioning support of the Administration and all its reckless and abortive measures as the true test of patriotism.

The acts of the Administration under the double influence of Republican and abolition principles are marked by singular tergiversation and inconsistency. In their Chicago platform, as in all authoritative declarations, they declared it to be their intention not to interfere with slavery in the States, and to administer the Government according to the Constitution. In the territorial governments organized shortly after Mr. Lincoln's advent to power, in New Mexico, Colorado, and Nevada, when they had the power to insert a provision for the exclusion of slavery, no such exclusion was inserted; and although the Crittenden resolutions were rejected by Congress until the first battle of Bull Run, they were passed with great unanimity after that event. Notwithstanding these facts, however, and also Mr. Lincoln's message to Congress exhorting that body to prosecute the war solely for the restoration of the Union, we soon find leaders of the party introducing into Congress bills for the conversion of rebel States into Territories, for an indiscriminate confiscation of estates, and waging the war for the liberation of the slaves. We also find Mr. Lincoln, under these influences, recommending in his annual message in December, 1862, the call of a convention to secure the emancipation of the slaves in the States; and, without waiting for such constitutional authority, under the pressure of the abolition portion of his party, proceeding to issue proclamations of emancipation. Could human weakness and inconsistency further go?

The great and paramount object of all Governments is the protection of private property. It is the great basis of all civilizations. Without its recognition and stable protection there can be no such thing even as communities. The framers of the Constitution, regarding history as philosophy teaching by example, aimed to insert in that instrument a clause which, even in the midst of the most fearful commotions and party violence, would prevent a reënactment on this continent of those barbarous confiscations which marked the civil wars of the Romans, and are a stigma upon the history of modern Europe. They therefore, in the third section of the third article, used this clear and unmistakable language, that—

"No attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained."

In disregard of this constitutional prohibition, this House passes a joint resolution explanatory of the confiscation act for the purpose of confiscating the fee and making it operative against the innocent as well as the guilty.

Mr. Speaker, I have thus endeavored to state the origin and true theory of the Government, and to assign with fidelity the causes of the present troubles. I have also noticed the measures with which the Administration has undertaken to meet the extraordinary emergency, and have pointed out their unconstitutional and pernicious character, and their utter deficiency in a true policy. Since we have thus far failed in reducing the rebellion with the unconstitutional weapons of restraints upon the liberty of the person, of speech, and of the press—of martial law, emancipation proclamations, and confiscation acts, it is fitting for us now to inquire whether the armory of Government does not furnish others of more potent energy and efficiency. There can indeed be no permanent peace upon those principles. The complete conquest and subjugation of an intelligent and high-spirited people history amply demonstrates to be a work of long duration and uncertain result. Superior resources and physical power may be sufficient to scatter military organizations, but it is quite a different thing to conquer

and to subjugate. The history of the Anglo-Saxon race is full of illustrations of this truth. The Normans conquered that race at the battle of Hastings in 1066, but after a struggle of six hundred years the Saxon element had reasserted itself, and the English constitution was restored as it was before the Conquest. A great standing army would be necessary to keep the South in subjection, and she would occupy a position to the rest of the Union such as Ireland and India occupy to England, as Hungary to Austria, and as Poland to Russia.

This war was inaugurated to put down military usurpation. The calm, just, and ever patriotic judgment of a confiding people approved and cheered it on in its progress. It was not intended to be a war against communities, individuals, or their property and rights, but a war in defense of the Constitution, the laws, and for the preservation of the Union. This is still its true and proper object, and to this, if we would look for an early and stable peace, the Administration must return. The proclamations must be withdrawn, the confiscation acts repealed, and we must get back to the resolution adopted by Congress after the first battle of Bull Run. Mark well its clear and patriotic import:

"Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

Upon the principles upon which the war is now waged, there is no rallying-point for Union sentiment in the South. It is unusual for an invading army to advance without propositions of peace. Our Army has none. Unconditional submission to an enemy whose declared purpose is the destruction of their rights of property and social system is all that is offered them. Is it surprising that Union sentiment should be crushed out, that the South should be united almost to a man, and that its resistance should be intensified and embittered with an energy derived from desperation?

Above all things, Mr. Speaker, do I desire a restoration of the Union as it was. It is the grand experiment of civil liberty. Any sacrifice, any concession, any appropriation should be made to prevent its failure. We have a great mission, and no trivial consideration of the negro, or any other, should be permitted to interrupt it. It is our mission to demonstrate the problem of self-government, and to revolutionize other Governments by the silent force of a great example. While the common law and all the privileges and advantages of civilization have been transferred to this continent, nothing but the stable continuance of our admirable system of government is needed to attract within it the people of every clime.

Never were an aggregation of free and independent political communities better circumstanced geographically for the purposes of such a Union. On a scale of magnitude far surpassing the petty States of Greece, Switzerland, and the Low Countries on the Rhine, there was, as between themselves, the happiest adaptation for a common government. Looking on the north and east to New England, there was there no conflict of pursuits with any other section. Her climate was rigorous and her soil sterile, and her only means of development were found in commerce and in manufactures. She was in a position to do the carrying trade for her neighbors, and to work up their raw material. Crossing westward into the State of New York, we find her the possessor of great and peculiar resources, and of the national metropolis, designed by nature as the commercial emporium of the continent. A little farther south was Pennsylvania, filled with iron and coal, and favored perhaps more highly than any individual State with a combination of agricultural, mineral, manufacturing, and commercial advantages. To the west, in the great valley of the Mississippi, the production of the cereals was a wonder. But none of the States thus noticed produced rice, sugar-cane, cotton, or gold. These, again, were the peculiar products of the States lying between Penn-

sylvania and the Gulf, and of those on the Pacific. There was, therefore, among the several States those elements of unity, an adaptation to supply each other's wants, and a mutual dependence. They were further tied together by great rivers reaching far into the interior, and facilitating intercourse between remote points. There were on the Atlantic slope the Hudson, the Susquehanna, the Delaware—to omit others of minor name—and there was in the heart of the continent the great inland sea of the Mississippi, flowing due south from almost the arctic circle, and stretching his long arms of the Missouri and the Ohio from the Alleghany to the Rocky mountains. The great chain of the Alleghanies, extending from the lakes to the Gulf of Mexico, seemed also designed by Providence as another physical bond of union. There was in all this evidently the most admirable foundation for union, for that very Government, indeed, adopted by our fathers, combining in itself all the advantages of a consolidated empire for all purposes of defense against foreign aggression, and containing within the State organizations every provision to meet the wants of particular localities. Experience proved its great economy and eminent benefits; and the people of every State grew warm in their attachment to it, and wished for its perpetuity. The North had profited largely by her connection with the South, and by every variety of exchange. She had profited largely by the products of slave labor. New England, with her barren soil and severe climate, had yet, by her manufacturing industry with a tariff protection, and her coastwise and foreign trade, grown rich and more populous than any other portion of the Union of the same area. She had also disproportionate power for shaping the policy of the country to her own advantage in having with a small territory a representation of singular inequality in the Senate. With a total population of 3,135,283 she speaks through the mouths of twelve Senators in the national Legislature; while the State of New York, with a population of 3,880,735, is heard only through two. In view of the superior benefits which the North has derived from the Union, it must be admitted to be the expression of a grave truth that the Cavalier held the cow while the thrifty Puritan steadily milked her.

This war will be prosecuted, and its great purpose should be peace upon the basis of the Constitution. If we fail to accomplish this, through the obstinate and misdirected policy of the Administration, we shall have no permanent Government left in the North under the present Constitution. The cohesive power which constitutes the national bond would be gone, and with it would speedily perish the national debt. In the competition for commerce resulting in a line of free ports from the capes of the Chesapeake to the Rio Grande our foreign commerce, too, would dwindle, and the revenue derived therefrom would perish. It would be impossible in congressional legislation to reconcile the commercial interests of New York and the agricultural interests of the Northwest with the manufacturing industry of New England and Pennsylvania; free trade and protection alike would be obstinately demanded. An unceasing border war would be the inheritance of the States bounded by the line of separation. It is a still graver consideration that in the event of such a calamity no man of reflection can wink so fast as not to see that a portion of the States must become reunited by the instincts of empire, as well as by every consideration of interest, of trade, commerce, and security. Cast your eye over the map of the States, and you see that all the rivers, from the Hudson to the Rio Grande, have their outlet to the ocean through the southern States. The trade of the lakes, which is alone greater than all our foreign commerce, reaches tidewater west of New England, while that of the great basin of the Mississippi, with its tributaries, comprising fifty thousand miles of boatable navigation, can find its way cheaply by the currents alone to the Gulf of Mexico. The products of this mighty valley and the cotton of the South constitute the basis of the commerce of New York. It is idle to suppose that she can exist without a union with these grand divisions.

Pennsylvania must have a market for her iron and coal, and the products of her varied industry; while the Northwest is sure to follow her destiny marked by the water-courses, as every producing

and trading people that had the power have always done from the days of the Phenicians down to the present time.

While the South has all the resources and geographical advantages which I have described, in all probability it cannot exist alone, even if successful, for any great length of time as an independent Power. A union with the northwestern and middle States would become a necessity. For the present, perhaps for a generation, the vast stake which European Governments have in the division of a Government based upon the popular will, and in the article of cotton, would secure protection to the southern confederacy. The keen eye of commercial and manufacturing capital, with the prejudice against slavery, would, however, render its life a short one. The world at large is too much interested in the growth and supply of cotton to trust, as heretofore, almost exclusively to the South for that supply in the future. European capital and enterprise, stimulated by the lessons of experience, will, within the next quarter of a century, open up commercial communications, plant settlements, and make the cotton grow in the interior of Africa, Australia, the East Indies, as well as Mexico, Central America, and the adjacent isles of the sea. When the supply is thus secured equal to the demand, independently of the South, then will the truce be at an end. An alliance, holy of political, would again send an army on the march, and the "amazona" would then become a stern reality. The policy, then, which governs the war and is carrying out the dissolution of the Union, if adhered to, is but laying the foundation for a Union in the valley of the Mississippi, as an inevitable consequence and result.

The question of slavery in the Territories led to the disturbance of a harmony which might otherwise have been perpetual. The Chicago platform inaugurated revolution. The States being sovereigns, and the public domain having been acquired by deeds of cession, by purchase, and by conquest, in the absence of a judicial decision recognizing the equal rights of the South in the Territories, upon what principle of equity or justice could that equality be denied? A legal, constitutional right, however recognized, it was well known could not have resulted in the spread of slavery; and yet a denial of it is the sad pretext of our troubles. Washington, impressed with a full knowledge of the antagonisms of society and the violence of party struggles for supremacy, at the close of his administration, still doubtful of the permanency of the experiment, warned his countrymen to a constant vigilance for its preservation. Jefferson, with that unerring sagacity which characterized his knowledge of human nature, admonished the people of the whole country that the array of parties upon a geographical line would result in the destruction of the Government.

This war cannot last forever. Sooner or later contending parties must become exhausted, the armies dwindled, credit destroyed, the land filled with graves and clothed in mourning, and an adjustment upon some terms will be the only cure for the evil. The uncompromising obstinacy of Charles I lost him his head; that of James II his crown; that of George III his colonies. Shall these States again be lost by imitating the example? Shall we not rather learn a lesson from that chapter in our history in 1812, when Mr. Clay, aided by Calhoun, pressed the war of that period upon the Administration of Mr. Madison in resistance to the British pretension to the right of search? The war lasted for three years and some months. There was great sacrifice of life and vast expenditure of money. During that period the Navy upon the waters of the Chesapeake and the Atlantic covered itself with imperishable glory, and our soldiers poured out their blood like water upon the river Raisin and the Thames, at Tippecanoe and Lundy's Lane. And yet Mr. Clay, at the head of the American commission, met the British commissioners at Ghent, and there negotiated a treaty of peace without saying one word of the matter in controversy, and which yet was deemed honorable and satisfactory. Nearly fifty years have elapsed since that period, and the right remains unadjusted to this day. In the mean time our relations with England, social and commercial, have grown more intimate and important.

Mr. Speaker, there is everywhere an anxious and earnest looking forward to a termination of this contest. I believe there is no obstacle so potent against a return to peace as that spirit which has given a new policy and a new object to the war. To refuse, because of the institution of slavery in the southern States, to adhere to the Union of our fathers is all one as if we should refuse to treat with the Ottoman Porte or the Barbary Powers because the one is the sovereign of a nation recognizing polygamy, and the other the slavery of the whites as well as the blacks. The man possessed with a single idea is of all the most unfitted for a statesman. That high character implies a condition of mind which contemplates things as they are, and which forbears the removal of a less mischief when this would be productive of a greater. He must aim in his policy at the production of the best good of society, but will carefully refrain from great, sweeping innovations, preferring to leave the correction of evils to the gentle hand of time, which, as Lord Bacon expresses it, "is the greatest innovator," well assured that no Government can be successful which does not adapt its policy to the various characters of the people to be affected by it, and to its diversities of industry and sectional interests.

Statesmen in every European Government may be impressed with the superiority of republican institutions. They would, however, be deemed infatuated to the last degree, if, taking advantage of some partial indications among the people, they should seek to bring on a crisis. They, with better judgment, adhere to the existing order of things, well knowing that changes, to be beneficial, must be permanent. It was not at a single bound that England, the freest of the monarchies, leaped from the fetters of the feudal system. That was the accomplishment only of centuries of struggles against the power of the barons, under the guidance of enlightened princes, great statesmen, and able lawyers; and after all, some of the most objectionable features of that system cling to her still. France, indeed, attempted, by a single convulsive effort, to shake from her the bondage under which she had groaned for centuries. She succeeded in obtaining a feverish interval of freedom, only to relapse into the old despotism; and now, with her journals silent and liberty prostrate, how much better is her condition than before the revolution of 1789?

It was error, maddened error, as well as treason in the South seceding as a remedy for her grievances. Great revolutions are only justified by great oppressions. The South should have remained in the Union, and fought her battle with the abolition phalanx under theegis of the Constitution. She laid the foundation of the Government and reared its superstructure, and the broad folds of its flag furnished her ample protection. She should have done this from patriotic considerations and ancestral recollections, and sternly discarded the *ignis fatuus* counsels of her Yanceys. But let New England remember that the South, in this rebellion, is but acting out doctrines once maintained in all sincerity by herself. Let her remember that southern slavery was planted by her own enterprise, her ships reaping nearly all the profits of the slave trade, which the Constitution protected till 1808. These reflections should incline us, while still prosecuting the war for the support of the Constitution and the integrity of the Union, to moderate our demands according to the standard of justice. Let us all remember that it is an easy thing to destroy, but a long and difficult one to build up. The struggle for the establishment of human rights upon a positive basis of constitutional law has been long and tedious, successful, and again doubtful.

Civilization may be said to have commenced its march on the plains of Judea, with the establishment of the Jewish theocracy. Spreading thence to India and Egypt, from the latter it was transported to Greece, where it shone brightly in its classic literature, and in its efforts toward a system of self-government. Thence it was transferred to Rome, where it beamed with renewed luster. Peculiar causes operating in Italy resulted at the same time in the Roman republic. These, the first recorded efforts for a democratic Government, possessed inherent defects, and both, at the period of the Christian era, were absorbed in the imperial despotism of Octavius Cæsar. The empire ran its career of centuries till at length the

hopes of the human race lay buried for a time in the tomb of the dark ages. They awoke again with the revival of learning in the twelfth century, and received an undying impetus in the ages of the Reformation, and of discovery which followed. With the exception of the Italian republics, which possessed no enduring vitality, and at a later day those of Holland and Switzerland, monarchy, everywhere, the world over, was the only accepted form of polity.

It was at length, after six thousand years of struggles by the race for the attainment of a perfect Government, that our wise forefathers, struck with the favorable conditions for a renewal of the experiment, resolved to attempt it on this continent. Starting with the representative feature and the free principles of the English monarchy, they searched the storehouse of free commonwealths for enduring materials for the new structure. To the selection and arrangement of the political machinery which they needed, they brought qualifications never before equaled in the framers of States. Deep insight into human nature, the profound knowledge of history and of law, and unblemished patriotism were theirs. Their perfect work stands before us; nay, it is in our keeping. Oh! let us not, let us not, I implore you, permit the grand experiment to fail through any remissness or perversity of ours.

It is indeed an easy thing to destroy; but to call into being, whether in material affairs or in those of morals and politics, great and useful works, taxes the highest faculties and resources of man. It is especially so in framing the institutions of government. For this, the learned sage and the man versed in practical affairs must join their anxious and patriotic labors. For the adoption, amid opposing interests, of any system, is needed the long and patient conference, the steady forbearance, the timely concession and compromise. The selfish principles must be held in check. A curb must be laid upon the passions. But for the destruction of the same system it is needed only that we forbear the exercise of the virtues and benevolent affections and give full sway to the selfish principles.

The temple of Diana of Ephesus was the boast of the ancient world. The treasures of kings and all the art skill of the times had been profusely lavished upon it to render it the richest and most magnificent of the structures of earth. Yet the torch of Eratosthenes, infatuated with the ambition of immortality, though it should be one of infamy, was sufficient in a few hours to lay it in ashes.

Alas! that these reflections should find so practical an application in the events of the times. We had a good Government. We possessed already what revolutionists in other Governments set out to attain, and no pretensions to statesmanship should have been admitted which sought to jar the system or break it up.

I have read of a knight of the middle ages who was the possessor of a shield of extraordinary richness and workmanship. The material was of the finest gold, and the device was emblazoned with the rarest skill of the artist. The whole was of matchless beauty. It was yet disfigured by a single blemish. In an evil hour its possessor listened to the persuasions of an artificer who proposed to remove it by again subjecting it to the heat of the furnace. The experiment was made; but the same heat which removed the stain destroyed also the image upon the shield, and the whole was reduced to a shapeless mass in the crucible. He might make a new shield of the gold, but the one so cunningly sculptured, and so highly prized, was gone, alas! forever. The people of the United States are in the position of the knight, and their priceless shield is their constitutional Government. The stain, if you will, is the institution of slavery. In the fires of civil war to which the empirical artists have resorted to remove it, it may be obliterated, but the Government itself, under the operation, will be dissolved. New Governments may indeed be formed of the materials, but that of the American fathers will be no more.

Under Democratic rule, prior to the triumph of the Chicago platform, the nation was at peace, united, prosperous, and happy. Instead of a frightful civil war, desolating the land and filling with strife and bitterness the paths which lead to our dwellings, we pointed with pride to our national power, our commerce, our manufactures, our con-

stitutional liberty; to our national monuments and works of art, which everywhere decorated the line of our progress, and were held up as the trophies of a Christian civilization.

But, alas! the change. Byron, the immortal poet, when writing his immortal verse amid the ruins of the Roman empire, said:

"Alas! the lofty city! and alas!
Alas! for Tully's voice, and Virgil's lay,
And Livy's pictured page; but these shall be
Her resurrection; all beside—decay."

In the gloom that covers the land, from the great Atlantic, where the light of the morning sun is first seen, to where his setting rays go down in the western ocean, without some patriotic sacrifice to reestablish the broken columns of a once mighty Government, the time may not be far remote when the genius of American liberty may say, Alas! for the fame of Washington and the memory of Franklin, the eloquent stories of Irving and of Prescott, the eloquence of Clay and of Webster; these may be her resurrection—all beside decay.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed an act (S. No. 51) to authorize the appointment of a warden of the jail in the District of Columbia; in which he was directed to ask the concurrence of the House.

Mr. DAVIS, of Maryland, obtained the floor.

Mr. STEVENS. I understand the morning hour has expired.

The SPEAKER. It has.

FIRE IN GLOUCESTER, MASSACHUSETTS.

Mr. ALLEY. I ask the gentleman from Pennsylvania to give way a moment that I may offer a resolution.

Mr. STEVENS. I yield for that purpose.

Mr. ALLEY. Objection has been withdrawn to the resolution I offered a short time since in reference to the fire in Gloucester, Massachusetts.

Mr. KING. I do not design to make any objection if the gentleman will allow an amendment; otherwise I shall.

The resolution was read.

Mr. MILLER, of Pennsylvania, objected.

AMBULANCE SYSTEM.

Mr. KELLOGG, of Michigan, by unanimous consent, from the Committee on Military Affairs, reported back a bill (S. No. 30) to establish a uniform system of ambulances in the Army of the United States; which was ordered to be printed, and recommitted to the Committee on Military Affairs.

WARDEN OF THE JAIL, DISTRICT OF COLUMBIA.

Mr. FENTON. I ask unanimous consent to take from the Speaker's table Senate bill No. 86, to authorize the appointment of a warden of the jail in the District of Columbia.

Mr. FINCK objected.

Mr. STEVENS. I move that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

The House accordingly proceeded to the consideration of business on the Speaker's table, when the bills thereon were taken up and disposed of as indicated below.

EXPENSES OF LEVY COURT.

An act (S. No. 81) to apportion the expenses of the levy court of the county of Washington upon the basis of population was the first bill taken from the table, read a first and second time, and referred to the Committee for the District of Columbia.

NOTARIES PUBLIC, DISTRICT OF COLUMBIA.

An act (S. No. 82) concerning notaries public of the District of Columbia was the next bill taken from the table, read a first and second time, and referred to the Committee for the District of Columbia.

WASHINGTON CITY SAVINGS BANK.

An act (S. No. 15) to incorporate the Washington City Savings Bank was the next bill taken from the table, read a first and second time, and referred to the Committee for the District of Columbia.

WASHINGTON PUBLIC SCHOOLS.

An act (S. No. 26) to provide for the public instruction of youth in the county of Washington, District of Columbia, was the next bill taken from the table, read a first and second time, and referred to the Committee for the District of Columbia.

WASHINGTON GAS-LIGHT COMPANY.

An act (S. No. 77) to amend an act incorporating the Washington Gas-Light Company was the next bill taken from the table, read a first and second time, and referred to the Committee for the District of Columbia.

PROVIDENCE HOSPITAL, DISTRICT OF COLUMBIA.

An act (S. No. 79) to incorporate the Providence hospital in the City of Washington, District of Columbia, was the next bill taken from the table, read a first and second time, and referred to the Committee for the District of Columbia.

WARDEN OF THE JAIL, DISTRICT OF COLUMBIA.

An act (S. No. 86) to authorize the appointment of a warden of the jail in the District of Columbia was the next bill taken from the table, and read a first and second time.

Mr. FENTON. I move to put that bill upon its passage now, and upon that I demand the previous question.

The bill was read.

Mr. COX. I ask the gentleman from New York not to press that bill now, but to let it be referred.

Mr. FENTON. Its passage will save a large amount of money to the Government, and I cannot withdraw my demand for the previous question.

Mr. COX. Is there an appropriation in that bill? The SPEAKER. There is not. It establishes a new office, creates a salary, but makes no appropriation.

Mr. COX. Will it be in order to move to lay the bill on the table?

The SPEAKER. It will.

Mr. COX. I make that motion.

Mr. J. C. ALLEN. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 55, nays 72; as follows:

YEAS—Messrs. James C. Allen, Ancona, Brooks, James S. Brown, Cox, Cravens, Dennison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, Hutchins, William Johnson, Kalbfleisch, King, Law, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, James K. Morris, Morrison, Noble, Pendleton, Perry, Robinson, Rogers, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Voorhees, Wadsworth, Webster, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—55.

NAYS—Messrs. Alley, Allison, Anderson, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Fenton, Frank, Gravelly, Gooch, Grinnell, Hale, Higby, Hooper, Asahel W. Hubbard, Longyear, Marvin, McClurg, McDouge, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Pomeroy, Price, Alexander H. Rice, Schenck, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, Windom, and Woodbridge—72.

So the House refused to lay the bill upon the table.

The question recurred on the demand for the previous question.

The previous question was seconded; and the main question ordered.

Mr. LAW. Is it in order to move to refer the bill to a committee?

The SPEAKER. It is not during the demand for the previous question.

The bill was read the third time.

Mr. FENTON moved the previous question on the passage of the bill.

The previous question was seconded; and the main question ordered.

Mr. J. C. ALLEN called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 56; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, William G. Brown, Ambrose W. Clark, Cobb, Cole, Dawes, Dawson, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Fenton, Frank, Gar-

field, Gooch, Grinnell, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Marvin, McClurg, McDouge, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Orth, Perham, Pike, Pomeroy, Price, Alexander H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Wilder, Wilson, Windom, and Woodbridge—76.

NAYS—Messrs. James C. Allen, Ancona, Francis P. Blair, Brooks, James S. Brown, Clay, Cox, Cravens, Dennison, Eden, Edgerton, Eldridge, English, Finck, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, William Johnson, Kalbfleisch, Law, Lazear, Long, Mallory, Marcy, McDowell, McKinney, James R. Morris, Morrison, Nelson, Noble, Pendleton, Perry, Robinson, Rogers, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Voorhees, Wadsworth, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—56.

So the bill was passed.

Mr. FENTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

USE OF THE HALL.

Mr. COX. I have been requested by a committee of citizens of this District to offer a resolution asking the use of this Hall for a meeting to consider the condition of the Indians.

The resolution was read, as follows:

Resolved, That the use of the Hall of this House be appropriated on Friday evening next for a public meeting, when addresses will be delivered by John Ross and others in regard to the condition of the Indians.

Mr. WASHBURN, of Illinois. I object.

Mr. COX. Does the gentleman from Illinois object to the color? [Laughter.]

Mr. WASHBURN, of Illinois. No, sir. I do not agree with the gentleman's views as expressed in the Buckeye Abroad. [Laughter.]

NAVAL APPROPRIATION BILL.

Mr. STEVENS. Before moving to go into Committee of the Whole on the state of the Union, I propose to extend for one hour the time fixed for general debate. The gentleman from Missouri [Mr. KING] desires to have half an hour, and my colleague from the Warren district [Mr. SCOFIELD] also desires to have the same length of time.

There was no objection.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the consideration of the naval appropriation bill, on which the gentleman from Missouri [Mr. KING] was entitled to the floor.

Mr. KING. Mr. Chairman, I regret the necessity imposed upon me of saying anything in relation to the local affairs of Missouri. I am one of those who are content with settling our difficulties among ourselves at home, before the people, who have the right to be the arbiters between us. But in order to gain some political advantages (I know not what else could have induced gentlemen to bring Missouri affairs before this House) gentlemen have seen proper to make a statement of facts here on which I take issue with them. I do so in justification of the people of Missouri, of the State militia, of the enrolled militia, of the provisional regiments of the State, and of our late lamented Governor. I am not here particularly the advocate of General Schofield. He has, in his military capacity, permitted some things to be done in Missouri to which I have objected. I do not intend on this occasion to allude to them, but will seek some other occasion.

But the honored position of the Governor of our State, and of the militia and military authorities of the State have been brought in question. By whom? In the first place, some forty or fifty members of the Legislature have thought it their duty to manifest against the Governor a spirit, if not of malignity, at least of hatred and ill-will. They have presented, rather delicately I think, a protest to the Senate of the United States against the confirmation of the nomination of General Schofield. I leave that matter to the Senate. I have nothing to say for or against it. But these

gentlemen have made in that protest one assertion to which I make exception, and of which I deny the truth. They state that the military authorities of Missouri, the Governor and General Schofield, combined together with a view to deprive the soldiers of Missouri from voting. I say that that charge is not true. Our convention passed an ordinance by which the soldiers belonging to the State could vote in any portion of the country where they might be. It was stipulated how it should be done. The returns were to be made to the county from which the soldiers came. The county clerk, according to our laws, was to examine the poll-book, and if in accordance with the law, their votes were to be counted. I know from my own experience that these poll-books were so made out that no clerk could receive them. It may be that in that way some of the soldiers may have been deprived of their votes. What had General Schofield to do with this? No more, Mr. Chairman, than you had. Yet it is one of the accusations against him.

I come now to the reasons offered by my colleagues from the St. Joseph district, [Mr. LOAN,] from the metropolitan district, [Mr. McCLURG,] from the Springfield district, [Mr. BORD,] and from the second district, [Mr. BLOW,] They have arraigned the military authority of the United States. They have even thrown out accusations against the President of the United States. I feel under many obligations to the President for opposing what I call their false clamor in reference to the people of Missouri. What have they said? In the first place it is necessary to know whether these gentlemen are capable of being the military censors of the Governor and the commander of the department of Missouri. Who are they in a military point of view? My colleague from the St. Joseph district [Mr. LOAN] reached the position of a brigadier general of our militia. He reached that position without any military merit, and left it because the Governor had no further use for him. What was his course? I would commend with sincerity to the committee on the conduct of the war that they should examine the military general orders of my colleague, and then they will be better able to determine whether he is a fit censor of the military conduct of the commanding general of the department of Missouri.

Then there is my colleague from the metropolitan district, [Mr. McCLURG.] Before I refer to him particularly, however, I must describe the different characters of our militia. We have what is called the Missouri State militia, who are really in the service of the United States. The Governor of the State saw the necessity to have troops for Missouri, and an arrangement was made by him with the President by which he was to raise ten regiments of one thousand men each, which should be mustered into the service of the United States under the agreement that they should be kept for service in Missouri, and not taken out of the State except for the purpose of defense of the State. Well, it is one of these regiments that my colleague from the metropolitan district commanded as colonel. The only time that I ever heard of that militia hanging fire was when he went in pursuit of the rebels. They took south according to their usual practice. When my colleague's eighth regiment reached the Arkansas line they stopped pursuit of the rebels, and went on a hunt for that line. [Laughter.] He said that his contract was not to go out of the State. Some of the others went a little across the Arkansas line, and they said that they would carry out the spirit of their contract. They were not going to adhere to the mere words of the agreement. My colleague found the Arkansas line, and would go no further.

Mr. McCLURG. Will my colleague yield to me?

Mr. KING. Certainly.

Mr. McCLURG. I give notice to this House that I will at the proper time meet my colleague's statements. I will only say now that they are false—every word false.

Mr. KING. Does my colleague say that nothing occurred when they reached the Arkansas line?

Mr. McCLURG. Ordinarily I have respect to gray hairs, but I pronounce the statement of the gentleman [Mr. KING] false, and I will take occasion when opportunity may offer to repel the charge more at length.

Mr. KING. Did nothing take place on the Arkansas line?

Mr. McCLURG. No, sir.

Mr. KING. I was not there, but I have heard from men who were there that the thing occurred just as I have stated it. I will state, in justice to the eighth Missouri regiment, that it was understood it was not their fault. I do not believe it was their fault. I shall show before I sit down that they were of the number who went after Shelby across the Arkansas river. My colleague, seeing that no laurels were to be won in that way, resigned his commission. So far as I know, he could not deploy into line or set a squadron.

Then, again, comes another of my colleagues from the Springfield district, [Mr. BORD,] a military man too. He set out to win laurels on the tented field; he was in command and got to be colonel—legitimately and properly no doubt. I was glad to hear when my young friend had reached such high honors, and I expected necessarily to hear that he would win very high honors; but he soon came to the conclusion that that was not the field for him to win honors and laurels in, and he resigned his position and took it into his head that he would change his position, and thereafter seek laurels in the civic and forensic forums of the country, and who doubts the wisdom of the choice of my colleague, [laughter,] seeing that such distinguished honors have been won on his present theater of action? [Renewed laughter.]

I will pass from my colleague from that district, and here I come to the second St. Louis district. And who represents that? Why, sir, I do not know exactly where to put him, [Mr. BLOW,] but I think his proper place is with the peace party. I commend him to the peace party; it is said there is one in the House here. I do not know exactly who compose it, but he certainly belongs to the peace party; for I have never seen and never heard of any demonstration made by him that showed that he ever thought this war ought to be put an end to by the clangor of arms and by fighting.

I have thus briefly reviewed the position of these four gentlemen, and now this House is well prepared to determine whether or not they are fit censors of the military operations of the department of Missouri. Why, sir, you would believe they ranked with Napoleon in military knowledge and military tactics by their being able to find fault in every turn and winding of the troubles we have had in Missouri. What do they say. Here is their letter:

"Until General Curtis assumed command of the department of the Missouri, about October, 1862, General Schofield, as district commander, had unlimited control of military affairs in Missouri, and his administration proved a most signal failure. Porter, in northeast Missouri, was allowed to collect, in the summer of 1862, a band of guerrillas numbering some five or six thousand, with which he ravaged the country and murdered the loyal citizens for a long space of time. Poindexter, in the central part of the State, north of the Missouri river, had a similar band of about sixteen hundred, with which he committed all kinds of outrages on the loyal citizens."

Now, sir, what would be inferred by gentlemen of this House? That these men had been allowed to do these things with perfect impunity. But what are the facts? I take up the case of Poindexter first. Yes, sir, Poindexter did undertake to ravage the country with twelve or fifteen hundred men he got together. They gathered together there as if by concert, and the first I knew of them they appeared in armed bodies. They came up into the district of my colleague from St. Joseph, [Mr. LOAN,] and he a brigadier general at St. Joseph. The first I heard of Poindexter was in the county below mine. In twenty hours after he was heard of there the enrolled militia of my county were in their saddles, and did not wait two weeks or a month for transportation. They started, being distant forty miles, and the Carroll county militia, in conjunction with Colonel Guitar, of the ninth militia, encountered some portion of Poindexter's men at Grand river and run some of them into the river, some they killed, and the remainder they scattered. The enemy retired due north on the railroad to Utica, nearly seventy-five miles from St. Joseph, where my colleague lives, but my colleague did not overtake them, though he had the use of a railroad at that. I understood for a week that my colleague was fixing up to go to our aid against Poindexter, but he waited too long for transportation.

Our militia run Poindexter across the road ten miles up to Spring Hill, and there they pressed him so tight that he put off in an eastern direction. Colonel Guitar was watching his movements, but my colleague fell into the rear a long way off, and afterwards Poindexter was encountered by Colonel Guitar. Our militia pressed ahead, and Poindexter's force was scattered.

Mr. LOAN. Will the gentleman allow me to ask a question?

Mr. KING. Yes, sir.

Mr. LOAN. Will the gentleman tell me who was in command of those forces from his county?

Mr. KING. Who was the head officer of the militia that followed up Poindexter I cannot tell. I can tell very clearly that my colleague was not.

Mr. LOAN. I desire to say a word in explanation of this matter.

Mr. KING. I have no objection, if it does not come out of my time.

The CHAIRMAN. It can be done only by unanimous consent. Is there any objection? The Chair hears no objection.

Mr. LOAN. I desire, Mr. Chairman, to say that when Colonel Guitar drove the rebels under Poindexter across Grand river I was then on the way, having received instructions from General Schofield the evening before. They crossed the railroad an hour after my train passed. I received the information by telegraph. At eight o'clock I was in the saddle after them, while General Guitar was resting his forces. I drove them through the Spring Hill country until the next day, when General Guitar, lying on the road as I drove them past, took up the pursuit. We were in the saddle for thirty-four hours, and I never in that time saw any of the gentleman's county militia in the command.

Mr. KING. I remember very well that the gentleman [Mr. LOAN] fell in the wake of the pursuing party after Poindexter. I remember all that. My colleague says that he was on the way when Poindexter got clear out of his reach. I believe he was. I heard he was. Our militia had driven Poindexter more than seventy-five miles. He aimed to get to Randolph county, where he lived. His forces were scattered. General Guitar kept on the right hand side of the railroad, while our militia followed them on the other side, supposing they would turn to the right. They were again encountered and again scattered. They then got into small detached parties, and got into Randolph county, where is the residence of one of my colleagues, who will bear testimony to what I say.

The Randolph militia rallied, and in a short time they picked up some two hundred of the Poindexter men—Poindexter himself among the rest. He was taken to Macon City, a military post, and on a dark and stormy night he attempted to break, and did break from the guards. They fired at him and he was wounded. But he got off and made his way back to Randolph county. Hearing that mercy had been promised to all who would surrender themselves, and his wound being bad, he came in voluntarily and surrendered himself. His band was entirely dispersed. He was taken to St. Louis, and remained in Gratiot street prison for nearly a year. He was indicted, and stands to-day indicted in the United States circuit court of St. Louis for high treason, and is now out on bail. That was the end of the Poindexter raid.

The House might have been led to believe, from what gentlemen have said, that these men were regular freebooters and were allowed to carry on their operations uninterrupted on the part of the people. Nothing of the kind. Poindexter, so far as his operations were concerned, went the way of all flesh, and has never troubled us since. That is due to our Missouri militia.

My colleague says that Porter had five thousand men assembled under his banner. Porter was a little lower down the country. There were three brothers of these Porters, active, energetic men. They had their forces in Calloway county. General Guitar, with about a thousand men, encountered Porter at Moor's Mills, in Calloway county. Porter's forces were four to one larger than those of General Guitar. It was the hardest fought battle ever fought on the north side of the Missouri river during the war. Porter was routed, and retreated northward, crossing the railroad somewhere about Macon City. Colonel

McNeil was in command with our militia down about Palmyra. He came up, took the lead in the pursuit with fresh horses, and followed Porter to the county seat of Adair county. McNeil fought with and routed Porter's forces, which then took an easterly direction toward the head of Yellow creek. There Lieutenant Colonel Woolfolk of the first Missouri State militia again encountered them, and finally these five thousand men of Porter's were dispersed and scattered to the four winds. Porter with a few of his men got across the Missouri river, started south, and got to near Rolla, where he was encountered by another portion of our State militia, and was killed; and there he was buried. Such was the end of Porter.

These gentlemen, sir, would have the commander of the department of Missouri and the militia of Missouri to be brought into disrepute because Poindexter and Porter had been allowed to ravage the country. They undertook to leave the impression that it was because there was a sort of rebel sympathy among the Missouri militia, and that they permitted this ravage of the territory of their State. I deny that they allowed these marauders any sort of mercy. They cleaned out Poindexter and Porter, as I have already shown.

There is another charge, that under the Administration the movements against the rebellion have been intrusted to the hands of those who are in sympathy with the rebellion. Let me quote the language of those gentlemen. They say:

"Under this Administration Federal guns, as a general rule, in western Missouri, and it is believed throughout the State, have been intrusted to the hands of those in sympathy with the rebellion, to the almost entire exclusion of those of known loyalty. And one of the consequences resulting therefrom was, that a band of guerrillas, some fifteen hundred in number, penetrated to the city of Boonville, the geographical center of the State, murdering the citizens, and plundering, burning, and destroying property along their route. Another was the massacre and destruction of property at Lawrence."

In reference to the Shelby raid, I have the report of General Brown. It is charged by my colleagues that the militia by their disloyal associations and organization permitted Shelby and his freebooters to ravage the country, that they were allowed to do what they pleased, with no one to interfere with them. I hold in my hand the report of General Brown. Let us see what the facts are in reference to that raid. I will not quote it all. On the 10th of October, 1863, General Brown reported that after ascertaining that Shelby had crossed the Osage and moving in a direction toward Boonville, he had him closely pressed by Lieutenant Colonel Lazear of the first M. S. M., a part of the fourth M. S. M., and portions of the fifth and ninth provisional regiments E. M. M., making in all about one thousand men. On the 11th the enemy were hotly pursued in the country between Otterville and Boonville. On the 12th it was discovered that Shelby must be in or about Boonville, and Lieutenant Houts, of the seventh M. S. M., with a small force was sent forward, who encountered the enemy's advance, killing one, and mortally wounding the commander and two others. Shelby, being hard pressed, left Boonville in a south west direction, crossing the Lamine. General Brown, crossing the same stream near the mouth of Blackwater, attacked Shelby's rearguard, forcing the enemy to make a stand, when a sharp fight commenced, and after a running fight for several miles, the enemy were forced to give battle on the Salt Fork of the Lamine. They opened with musketry and artillery. General Brown then goes on in his official report to say:

"We fought him until dark, in the midst of a drenching rain. The enemy lost sixteen killed and a number wounded. One man of Thurbur's battery killed, being the only casualty on our side."

"Here I was joined by Lieutenant Colonel Lazear's command. My united forces consisting of the seventh M. S. M., Colonel J. P. Phillips, detachments of the first M. S. M., Lieutenant Colonel Lazear, the fourth M. S. M., Major Kelly, the fifth Provisional E. M. M., Major Gentry, the ninth Provisional E. M. M., and four small guns of Thurbur's first M. S. M. battery, amounting to about sixteen hundred men."

"At three o'clock a. m. of the 13th I ordered Lieutenant Colonel Lazear to march with his command to a road to the left direct to Marshall. At daylight I marched in the enemy's trail toward the Arrow Rock and Marshall road, and thence toward Marshall. The enemy attacked Lieutenant Colonel Lazear at eight a. m. near Marshall, the latter occupying the town. I arrived on the field about half past nine o'clock. Finding the bridge and ford across the Salt Fork disputed by about a regiment of the enemy, Majors Suess and Houts, seventh M. S. M., with three companies and two pieces of

Thurbur's battery, engaged them, and covered the crossing of the main force about three quarters of a mile below, attacking the enemy on his left flank, while Major Suess, after crossing the bridge, attacked them in rear. The enemy soon gave way, and, on being hard pressed, broke in every direction, losing his best piece of artillery, a ten-pounder, the main body retreating toward Miami, Colonel Phillips, taking up the pursuit, fighting him to a point six miles south of Miami, and ten miles from Marshall. Here Colonel Phillips bivouacked during the night, following the enemy to the Missouri river, and thence south through Waverly next day, capturing all of his transportation, ambulances, five wagon loads of fixed ammunition, five hundred pounds of rifle powder, and a number of mules and horses."

"Part of the rebel force, about three hundred, under Hunter, was heard from, moving east, and I dispatched Major Houts, with two companies of the seventh M. S. M. and two companies of the forty-third E. M. M., commanded by Captain Hart, in pursuit. Major Kelly, with a battalion of the fourth M. S. M. and Gentry's battalion of the fifth Provisional E. M. M., marched toward Sedalia, arriving there on the night of the 14th. Lieutenant Colonel Lazear, of the first M. S. M., marched toward Lexington, pushing forward rapidly, and got ahead of Colonel Phillips, who gave up the pursuit (his horses being nearly worn out) to Lieutenant Colonel Lazear. Colonel Wier, of General Ewing's forces, who had moved north through Clinton, on the night of the 13th had arrived at a point ten miles south of Marshall, and on the morning of the 14th marched west, with the expectation of being able to intercept the enemy south of Lexington; shortly after relieved Lazear's troops, the former having fresh horses, and pursued the enemy west of Warrensburg."

"I returned to Sedalia on the night of the 14th, leaving two companies of the seventh M. S. M. to scout the country east and west of Marshall as far as the Missouri river for stragglers from the shattered rebel forces. On arriving at Sedalia I dispatched Colonel Hall, of the fourth M. S. M., with fresh troops in pursuit of that part of the enemy which had gone east and had crossed the Pacific railroad near Otterville, relieving Major Houts's command. Colonel Hall followed this part of the forces of the enemy across the Osage, and gave up the pursuit when he found General McNeil's troops had obtained the advance with fresh horses."

"As soon as I became satisfied that the enemy were broken up into small bodies, scouting parties were ordered to move through all parts of this district, and attack straggling bands, and secure as much abandoned property as possible. This has been successfully done."

"The enemy entered this district at Warsaw on the 8th with sixteen hundred well-armed men, soon increased to about eighteen hundred by two bands that joined him from the east. Within twenty-four hours afterwards he was attacked, and for four days a running fight was kept up until he was forced to make a stand at Marshall with the result as stated."

"When the raid began the troops of the district were stationed over a tract of country one hundred and twenty miles square, occupying thirty-seven posts. In seven days they were concentrated, and marched two hundred and eighty miles, (some of the command over three hundred,) without trains, and but a scanty subsistence, three days and nights in rain, and have killed and wounded a large number of the enemy, capturing about one hundred prisoners, with a part of his artillery and arms, and all of his trains, ambulances, and ammunition wagons. As the skirmishing and fighting extended over one hundred miles of thickly wooded country no reliable report of the exact loss of the enemy can be made."

"The loss on our side was five killed, twenty-six wounded, and eleven missing and captured, making a total of forty-two. We had seventeen horses killed, thirty-four wounded, and sixty-one broken down and abandoned on the march. Total loss of horses one hundred and twelve."

"The troops of this district deserve the especial consideration of the major general commanding, for their courage, endurance, and the cheerful manner they have done their duty. Without being invidious, I may be permitted to express my obligations to Colonel George H. Hall, Colonel John F. Phillips, Lieutenant Colonel B. Lazear, Majors Foster, Houts, Suess, Kelly, Williams, and Gentry, and Captain Thurbur, for their active cooperation, and to the members of my staff, Lieutenant Colonel T. A. Switzer, Dr. R. P. Richardson, and Lieutenant R. G. Loaming, for their assistance."

"It is with peculiar pleasure that I refer to the orderly conduct of the troops in the respect paid to the rights of the citizens, notwithstanding their privations and exposure on their fatiguing marches."

"To the citizens of Sedalia and the country generally, and to the enrolled Missouri militia who readily obeyed the call to arms, the State is in part indebted for the unsuccessful issue of the raid."

Then came General McNeil, then in command of the southwest district, the same who won his star by his gallant conduct in so signally aiding to drive Porter and his band from North Missouri. I here read from his official report, which shows he put an end to the Shelby raid, which will stand as a beacon warning against such raids in the future, especially when they will have to meet the Missouri militia.

I read from the report. General McNeil says:

"I at once addressed myself to the work of concentrating force enough for pursuit when the enemy should cross the Osage on his retreat south."

"With about two hundred and sixty men and a section of Rabb's battery I marched to Bolivar, where General Holland was in camp with part of two regiments of enrolled militia and a demi-battery under Lieutenant Stover. Leaving the general directions to observe and pursue Coffee and Hunter, if they should cross the Osage at Warsaw, I marched in the direction of Lamar, via Humansville and Stockton, to cut off Shelby, who was reported in full flight

south of Snyder, with General Ewing in pursuit. At Stockton I was joined by Major King, sixth cavalry M. S. M., with three hundred and seventy-five men of the sixth and eighth M. S. M. The force had entered Humansville from the north, in pursuit of Hunter and Coffee, four hours after I had passed through it toward the west."

"Major King attacked and drove this force through Humansville, capturing their last cannon."

"Finding that Shelby had passed through Stockton in advance of me, I marched to Greenfield and Sarcoxie via Bower's mill, and on the night of the 19th camped at Keltsville, when I soon learned of scouts of Colonel Phelps, commanding at Cassville, that the enemy had crossed the telegraph road at Cross Timbers that day about noon."

"I kept up a rapid pursuit, following the trail of our flying foe via Sugar creek and Early's ferry to Huntsville. Our advance party, entering Huntsville with a dash, took quite a number of soldiers, (of Brooks's rebel command,) with their horses and arms. I was there joined by Colonel Edwards, eighteenth Iowa infantry, with three hundred men of his regiment, and Major Hunt, first Arkansas cavalry volunteers, one hundred and seventy-five men, and two mountain howitzers. This gave me an effective force of six hundred cavalry and three hundred infantry, with four guns, two of these being 12-pounder mountain howitzers. We had here information that Shelby and Brooks had united their forces, on War Eagle creek, and that Hunter and Coffee were also there, the combined force amounting to twenty-five hundred men. We marched toward this camp to attack, but found that the enemy had gone."

"On the 24th we marched across a tremendous mountain, called Buffalo mountain, and finding the enemy in camp in a snug little valley on the other side attacked and drove him at sundown, dropping into his camp. The mountain on the other side was too steep and the passes too narrow for a night pursuit, and we had to content ourselves by waiting for the light of the morning. At early dawn we struck again into the mountains; our advance, under Major Hunt, first Arkansas cavalry, was skirmishing with the enemy all day, driving them before us. On the 25th, while engaged in an attack on the enemy's rear-guard, who were posted in a narrow pass, Lieutenant Robinson, of the first Arkansas cavalry, was mortally wounded. He was brought into camp, and died that night at ten o'clock."

"On the 27th we marched into Clarksville, and learned that Shelby had made good his escape and crossed the river, and that Brooks had gone down into the valley of the Big Piney, with instructions to pick up stragglers from the rebel army and to cut off any train that might be coming to me from Fayetteville."

"My cavalry and artillery horses were too badly used up to permit of pursuit across the river, so I turned my course toward Fort Smith."

"Although I have been disappointed in my earnest hope to attack and destroy the forces under Shelby, I am confident of having done all that man could do under the circumstances. We have driven the enemy so that he had to stick to the road, and thus prevented a widely extended pillage both in Missouri and Arkansas."

"We have taken forty-four prisoners, besides discharging as many more who were conscripts. We have killed and wounded many of his men, and driven numbers to the mountains where he will not easily get them again. The captures in horses were also large."

"My officers and men bore the fatigue and exposure of this campaign without tents and on small rations, in a manner to excite my admiration. Colonels Edwards and Cathey were earnest in their coöperations in duty. Majors King, Eno, and Hunt were always ready for any duty assigned to them. Major King deserves especial mention for his gallant attack on the enemy at Humansville on the 15th, in which he captured the last cannon the enemy brought into Missouri with him, a six-pounder brass gun. Major Hunt, with his battalion of Arkansians, were, on account of their knowledge of the country, pushed forward in the advance from Huntsville to Clarksville. This duty was promptly and cheerfully performed by the major and his gallant command, who drove the enemy from every position, killing and wounding many, and taking prisoners at every charge."

"To Captain Rabb, chief of artillery, and Lieutenant Wicker, Rabb's battery, and Johnson's section of howitzers, I am under obligations for services which mark them as true soldiers. Lieutenant Barlie, quartermaster of the sixth cavalry, Missouri State militia, acted as chief quartermaster of the expedition, and gave unqualified satisfaction. Lieutenant Sell, commissary of the same regiment, acted as chief commissary, acquitting himself with great credit."

You will see that General McNeil drove them until there was scarcely one of them left. He drove them across the Arkansas river. He took from them in the mean time the only cannon they had left. That, Mr. Chairman, is the kind of sympathy that these rebels had when they came into Missouri. It refutes the charges made against my people. Shelby is a man of observation. He is a man of intelligence. He lived in La Fayette county, on the border of Saline. Last August my colleagues, every one of them, came to Washington in conjunction with others, and made statements of the disloyal sympathies of the people of Missouri. As soon as Shelby heard that, he believed what they said to be true, and he took it into his head to gather up a band and make a raid. General Brown states that Shelby had eighteen hundred troops while he had only a thousand. Upon the statements of my colleagues Shelby took it into his head, "As there are no United States troops there, I can go in, and the militia will be 'hail fellows well met.' I have seen what their Representatives say about them."

They will mess with me; they will give me every facility to ravage the State." But he was mistaken. He found a Tartar.

This was not like the case of General Price. When he came to Lexington he had four thousand troops, one half of whom were ragged, destitute, some barefoot, some without hats or jackets. This was the kind of force he had. Yet when he came, the beau-ideal military commander of these gentlemen, General Frémont, was commanding the department of Missouri. He had twenty to thirty thousand men. Price arrived at Lexington on the 12th of September, and remained there till the 1st of October. He might have remained for two weeks longer with impunity. He started off on the right road, the Fort Scott road, making his escape from the country. It took Frémont two weeks to find which way he had gone, because he was fortifying at Jefferson City, one hundred and thirty miles east of Lexington, which fortifications are to be seen now as a monument of his folly, if they have not been removed within a few months. Even at St. Louis they were digging ditches and raising up embankments, and there those intrenchments stand today monuments of folly for fear that Price with his army would come there; and it took them about two weeks, as I know, to find out which way Price had gone. Not so with the Missouri militia. They did not wait two or three weeks to get transportation for thirty or forty miles. No, sir. As McNeil says, and as Brown says, they evinced all the alacrity which it is possible for men to do, and underwent all the privations that men could endure. Comparisons, I believe, are sometimes odious. They are not well to be made sometimes, but I necessarily make them here in order to justify the alacrity with which the Missouri militia defended themselves and their country.

We have no use to-day for any soldiers of the United States in the State of Missouri. Our own militia are sufficient. I was glad when the United States soldiers came there. We were unarmed and unorganized when they came to our assistance. I greeted them then as I would greet them to-day. Some thought they ought not to have come there; but my opinion was that they did not come an hour too soon. But times have changed since. We have now no need for them. We had then no arms. The rebels had got the start of us. While we were standing in amazement and astonishment at the boldness of their acts, they supplied themselves with arms. Somehow or other they had arms. After a while an order came that we should all be disarmed. The consequence was that we had nothing to fight with. Then began the thieving, robbing, murdering, assassinations, arson, and all kinds of offenses known to the catalogue of crime. The troubles commenced, and we appealed to our Governor for protection; and I was asked, "Why did not you fight yourselves? Why did you not defend yourselves?" "How can we do it? We have no arms; you have taken our arms away from us. Give us arms; let us feel our manhood, and we will defend ourselves." Finally the militia were enrolled, and those who sympathized with the rebels were told to step aside. Some complained that the militia were put into the service while the rebels were exempt. We did exempt them, because we did not know but what we would have to fight them. There were rebel sympathizers all around us. Since we have got our arms we ask no odds of our enemy in Missouri—the enemy of our Government and our country.

What will our Missouri militia say when they come to see the conduct of these gentlemen? What will they say? In the letter which they addressed to the President they tell him that this matter of the organization of the State militia is a subject of serious consideration, and that doubts have been expressed as to the authority of the State government to organize this militia; that they have had the opinion of the most distinguished jurists of that State that there was no authority for the Governor to have the militia enrolled in order to ascertain our strength. It would have been agreeable to me to have had the names of those distinguished jurists. I suppose I would have had to measure them by the standard of my colleagues; and if I had done that, I probably should not have been astonished at their opinion.

But who was a better jurist than Governor Gam-

ble, the head of the bar of that State, an able man who has distinguished himself in this Capitol, in the United States Supreme Court, a man distinguished everywhere as a jurist, a man who never acted upon impulse? If I were to pin my faith to any man's judicial opinion as to the power of the Governor and our State to arm the militia, I would do it on the opinion of Governor Gamble.

But with my notions, I do not want anybody to tell me we had a right to defend ourselves and aid our Government in putting down this rebellion. I know the Governor had no right to order men into service in conflict with the General Government. Claib. Jackson tried that, and he misled many a poor man; men for whom my better heart rises in pity, not in sympathy with them as rebels at all, but because under a traitor Legislature and a traitor Governor they were organized into a State guard and were drawn into the rebel ranks under false pretenses. Speeches were made all over the country, and these men were not told that they were expected to rebel against the Government. To one young man they would say, "Come and join my company." "I do not care about that." "Well, if you will not do that, you will be drafted. Join, and you shall have a hand in choosing your own officers." In that way the enthusiastic young men of the country were drawn into these traitorous—as they turned out to be—rebel companies. Before they knew it, they were in a trap. Then they were told, "You are into it now, and if you return you will be hung or shot." Thus some of the best young men in the country were driven into this rebellion. I knew at the time that the move was intended against the Government. Not so with Governor Gamble.

When these gentlemen undertake to libel the Missouri militia, I ask them to designate where that militia failed to do its duty; and when they do designate the times and places, I will engage to answer them, as I have done in the cases of Poindexter, Porter, and Shelby. There is no doubt as to the loyalty of the Missouri militia. But very great complaint is made about what is called provisional regiments. I will tell the House how that organization came about. Many men in the enrolled militia had their business to attend to, their farms, and their crops. Their lands had to be left uncultivated while they were in pursuit of Poindexter, Porter, and Shelby. There were some eighty regiments. It was found that some men could well be spared, having no business to attend to, and no families to support, and therefore it was arranged that these provisional regiments should be got up into which all the young men who chose to remain in the service might be transferred. There was nothing wrong in that. And yet it has been charged that this movement was treasonable toward the Government. It was no such thing.

I must recur again to the delegation which visited the President last August, and refer to their transduction of the Missouri militia on that occasion. This delegation in their communication to the President say:

"We desire, Mr. President, distinctly to invoke your attention to the organization by Governor Gamble of the enrolled militia of Missouri. It is a matter in which, in our judgment, the Government of the United States is concerned. We have already stated that it is the opinion of many of the ablest jurists of our State, that the organization of that militia force is without any warrant of law."

The delegation further said:

"In regard to this whole matter of the enrolled militia, we would further respectfully suggest whether it is consistent with the Constitution of the United States for such a force to be organized and kept under arms by any State authorities; and we hope it may please you, Mr. President, to cause that point to be investigated. But whether so or not, we beg leave with all respect to protest against the further continuance of that system in Missouri."

To all of which the President complimented the Missouri militia and turned a deaf ear to their importunate demands.

But, again, let us recur to what General Brown says of our militia. In a letter received a few days since, connected with some needed legislation for our militia, he says:

"I have had the honor to have had under my command during the past twenty months about an equal number of each class of these troops, and I should do great injustice to the militia if I did not bear witness to their loyalty, bravery, and efficiency in the field. They have not been outdone by their companions in arms in the other branches of the military."

Again, General Rosecrans, on taking command

of the department of Missouri, thus speaks of General Schofield:

"In relieving General Schofield, who, in assuming the arduous duties connected with the command, relinquished high prospects of a brilliant career as commander of Thomas's old division in the then opening campaign of the army of the Cumberland, I tender him my compliments for the admirable order in which I have found the official business and archives of this department, and my best wishes as well as hopes that in his new field of duty he may reap that success which his solid merits, good sense, and honest devotion to duty and his country so well deserve."

I place the opinions of these distinguished generals about our militia and the commander of our department in contrast with the great military experience of my colleagues.

Mr. SCOTFIELD. Mr. Chairman, my colleague [Mr. Dawson] who addressed the House this morning informed us that it was just eight years since he had spoken here before. I knew that, not because I have followed his personal history, but I knew it by the tenor of his speech. He must have turned down a leaf just eight years ago, and begun to-day where he left off then. The speech might have been appropriately made during the earlier years of the administration of General Pierce. I wish to remind him that the question involved in the struggle now furnishing so many sad pages for history is a question of division: "Shall the great Republic be divided into two small ones?" That is the question now before the country. Those who took the affirmative of this question, in the first place, took up arms with which to defend it. They knew they could not maintain it in debate. They knew they could never satisfy the American people that a Government always so tender of the interests of its poorest citizen, and so strong to defend him, could be as useful when divided into two nationalities not more than half as strong, territorially ill-shaped, and politically hostile. They did not try, but haughtily said to the country:

"Think of division as thou wilt,
We try the question, hilt to hilt."

They gave but one reason for it. They said that some people—I believe they said a great many people—had spoken unkindly of their system of labor. That was all. I defy any gentleman to point out any other reason given by them for the position taken. But do not misunderstand me. I do not mean to say that so large a number of gentlemen, talented as we know, honest as we formerly thought, were moved to espouse disunion from a trivial motive. Their motive was as I have stated it to be. But, in my judgment, it was very far from being a trivial one. They wished to preserve that system of labor, why? Because they had \$2,000,000,000 in it. They had more than that, for I believe they were never distinguished as an avaricious people. Their aristocracy, family pride, political power, (a great item,) their habits of life, and what is as valuable to them as anything else, their cherished vices, ease, and idleness, all were in it. Of course they wanted to preserve it. They knew, however, that the institution was founded in wrong, and could not bear to be talked against. In a free forum it must go under. Allow me to use a figure. An iceberg breaking away from the pole and floating down into warmer latitudes gradually loses its frigidity, and dissolves in the warmer elements around it. So slavery, originating in the barbaric periods of the world, and floating down to this benighted age, was beginning to melt away in the warm breath of debate. To preserve slavery, therefore, debate must cease, or slavery be taken out of hearing—silence or secession seemed their only alternative. When silence could not be obtained they chose secession.

I know some other things were said. I know they said that the North would not turn out with constitutional alacrity to catch and return their fugitive bondmen; but they, like other similar complaints, were rather incidents of the main trouble than original causes of dissatisfaction. They were thrown out only to catch the minnows found in the great ocean of northern politics. The great leaders cared nothing for this small percentage of loss, smaller than in many other kinds of investment. They cared nothing for the few leaves that were here and there detached and lost in the ordinary breeze; it was the little streams of thought that were slowly washing the soil away from the root of the tree that alarmed them. Therefore, while we of the North talked about

walling slavery in, lest freedom should be contaminated, they were considering how to wall freedom out, that slavery might remain pure. They decided upon disunion. They stated their purpose clearly, and took a name that indicated it honestly. They called themselves disunionists. They even pointed out the line where the surveyor should blaze the trees and separate the free from the slave republic. They kindly gave to the twenty or thirty millions of unmixed white population the sterile hills of New England, the bleak shores of the lakes, and the head-streams and flatboat navigation of the Mississippi. The body of the Mississippi, with its stream of commercial wealth, unfailing as its own waters, the long Atlantic and Gulf coast, the vast country lying below Pennsylvania, Ohio, and Iowa, and stretching westward without limit, embracing the soft climate and warm soil of the South—all this, said they, we will take for the master and his slave.

Thus the issue was made up on the one side. There was no alternative left for the other. Those opposed to division were compelled—you will remember how unwillingly—to take up arms and submit the cause of the Union to the chances of battle. They organized under the appropriate name of the Union party. The old flag was hoisted, the long roll beaten, and the opponents of division everywhere called upon to "fall in." Straightway, then, began some to make excuses. Says one, "I am opposed to division; but coercion is unconstitutional: I pray you have me excused." James Buchanan said that in his last annual message. Says another, "I am opposed to division, and I think coercion is constitutional; but I believe it is impracticable. I think the United States is not strong enough to put down a rebellion so extensive, and led by men of so much ability, pride, and courage. I cannot, therefore join you to try. I pray you have me excused." Says a third, "I am opposed to division, and I believe that coercion is both constitutional and practicable; but there is an easier and better way. You can compromise. They only ask you to cease talking against slavery, and if you will not agree to that I too shall ask to be excused." And so these three classes, each for a different reason, moved off by themselves, and formed the nucleus of what subsequently became a great party of neutrality, observation, and criticism. It was said the other day by the gentleman from Kentucky [Mr. SMITH] that there were but two parties in this country, patriots and traitors. I beg leave to differ from my friend. I think there are three, patriots, traitors, and neutrals. But I will not quarrel with him if he should say, as I think a high-spirited Kentuckian would, that he had more admiration for the mad courage of treason than for the mean cowardice of neutrality.

Let me pause here to answer the question sometimes yet asked, "Why did you not compromise? If they only wanted you to agree to cease talking about their system of labor, why did you not agree?" It was not lack of dough—we had, I am ashamed to acknowledge, dough enough to make a whole oven-full of compromises. It was not because the Unionists were not pliant, but because the disunion leaders were not fools. They knew that a contract for silence could never be enforced unless your republican Government was converted into an absolute monarchy. What is a republic, except the right to think and to express your thoughts by your voice and your vote? The Frenchman trades, travels, and seeks his pleasure as freely as an American. The Emperor takes no note of these. It is the free thought or the insurgent conscience that wears the imperial chain in France. These leaders knew that talk would go on in spite of contract, and therefore they did not ask and would not accept your worthless parchment. They had tried it. They had the Atherton gag and the Democratic and Whig resolutions of 1852 forbidding discussion, and the whole power of the Pierce and Buchanan Administrations to enforce their views. Former Administrations, although much devoted to the interests of slavery, found time to attend to some other matters. Polk, I think it was, explored the "Dead Sea" of the Old World, and Fillmore sounded the depths of a dead sea at home for himself and his party; but Pierce and Buchanan devoted themselves entirely to this single purpose. They put on the master's collar and wore it as a

thing of honor, and never seemed prouder than when they saw their southern friends spelling out the inscription, "This is Gerth, the bondman of Cedric the Saxon." These influences were ably wielded by an experienced corps of slave Representatives in these Halls and around this Capitol. They were men that combined the opposite qualities of gentleness and severity so fitting to a leader. They knew how to win the bold and overawe the timid. They were gentlemen among bullies and bullies among gentlemen. But with all these powers combined they could not close the mouth—will it please you any better if I say fanatical mouth?—of Wendell Phillips alone. And so they spurred you too pliant offer.

Three years have passed—years fraught, as it seems to us at a distance, with great ruin to the South, with loss and heavy sorrow, as we know, to the North. How stand the three parties now? The disunion emblem is still upborne, less firmly than at first; and the area on which its hateful shadow falls is two thirds less than in the beginning. Still it flies its signal word—"division." All the proclamations and messages of Davis, his governors and generals, all the laws and resolutions of his congress and State legislatures talk of nothing, ask for nothing but division. Will the gentleman from New York, [Mr. WOOD], who talks to us so much about peace, take notice that in all those official documents, if they can be called official, division is the only aim and end proposed?

How stands the Union party? Well, sir, our flag, I believe, is still floating, held more firmly than in the beginning, sustained by the courage—no, sir, that is not the word I mean exactly; by the patriotism of the American people—and that is not the word I want to express my particular shade of meaning; it is upheld, I believe, by a stronger sentiment than courage or patriotism—by the sense of duty and stern conscience of the American people. And if you want to find which is strongest, pride and courage on the one hand, or conscience and sense of duty on the other, read the history of the Cromwellian war, and you will learn that the proud Cavalier has to yield in the end to the conscientious Roundhead. And so it will be now. The motto of the Union party is the same as it was in the beginning. We unite the language of Jackson, "The Union it must and shall be preserved," and the language of Webster, "Liberty and Union, now and forever, one and inseparable."

But where stands the neutral party; the party of "ifs," "ands," and excuses? Have you been here for three months now, occasionally presiding over this House, and do not know that there they stand—[pointing to the Democratic side of the Hall]—as they stood three years ago, occupying the same position of bloodless neutrality? They have not changed their ground, though they give a different reason for holding it. They do not now say that coercion is unconstitutional. They do not now generally say that it is impossible, nor that anything you can give to the rebels by way of compromise will make their condition any better than it was before they rebelled. They generally concede that the rebellion must be suppressed by force of arms or the Union be divided. But they say the President is always so unfortunate as to select unconstitutional means to effect what they now see, though they did not at first, is a constitutional purpose. And so they remain spectators; spectators in a war which involves the life of this nation and the fortunes of forty millions of people whose interests are associated with it. More than that; it involves the fortunes of the oppressed and middle classes all over the world; for ours is the world's representative Republic. But to do them justice, I must say they are not indifferent spectators. There they stand, glass in hand, or "nose all spectacle bestrid," looking anxiously for some fortunate mistake in council or some cheering disaster in the field, which will fulfill their evil predictions and justify their position of neutrality before the world. Their music is a line of Yankee Doodle and a half line of Dixie, filled out with the "rub-a-dub-dub" of complaint and evil prophecy.

But, although neutral, they are not idle. They have a great deal to do. They have to see that this war is conducted with Christian tenderness on our part, though met with savage atrocity on the other. They have to see that treason-tainted, slave-earned wealth escapes confiscation, though

it impose a heavier burden on the honest earnings of loyal men. They have to see that your credit is decrased, and the taxes necessary to support it denounced, and then to complain to the country that "legal tenders" are not equal to gold. They have to see that a favorite general has an unlimited and untrammelled command, and that he is not held responsible for opportunities neglected or battles lost. They have to see that all possible, at least all constitutional objections are thrown in the way of the exercise of the elective franchise by the Union soldiers in the field; and that the freest elections are secured to the unpardonable secessionist in the rebel and border States. They have to see that practical amalgamation goes on undisturbed by any unconstitutional interference with the slave system of the South, while they falsely charge theoretical amalgamation on the virtuous people of the North. They have, too, to see that that portion of their followers who overestimate the abilities of the negro or underestimate their own, or perhaps have a proper appreciation of both, are held to party vassalage by constant dread of negro emulation. They have to see that their weaker brethren are educated into the belief that the negro is only fit for a slave and can never be anything else; and then to distress them with apprehensions that they may yet be compelled to compete with him in the industrial and professional pursuits of life, where brains, not color, will ascribe to each his just measure of success.

These are only specimens of the multitudinous labors of this neutral organization. If I were to go on with a full catalogue I would exhaust your patience and my strength. I want, however, to call the attention of the committee to one thing more.

The main allegation, the one always relied upon to justify their neutrality before the world, is that the war is conducted with a view of overthrowing slavery as well as the rebellion. If this allegation were true, what a position for a statesman to take; what a position for any man to take who expects to leave a name that will be remembered when he is gone, and a posterity condemned to bear it! It might do for James Buchanan—for God in His infinite mercy has provided that no child shall wear through life a name of such deep dishonor—but for nobody else. But, sir, it is not true in the sense in which it is alleged. It is not true that the war is carried on for the purpose of abolishing slavery. Those who believe it mistake an incident for the purpose of the war—the means employed for the end desired. You might as well say when we battered down Pulaski and Sumter that that was the object of the war.

The President's great proclamation is urged in evidence of this allegation. The President saw that Great Britain was furnishing arms to the rebels. He invited that nation to desist, and accompanied his invitation with some promises and some threats. Great Britain desisted. The President saw that the slave was furnishing the rebels with food, clothing, labor, and fortifications; and he invited the slave to desist, accompanying that invitation with no threats, but with a single promise, the promise of freedom. That is all there is in the proclamation.

Mr. WADSWORTH. The gentleman states that the object of the proclamation of emancipation was to disturb the labor which supplied the rebels with food, &c. I know that the President has given that as the object of the proclamation; but I ask the gentleman if that can be so, in view of the fact which he recollects, that the proclamation itself advises the slaves to *remain quiet and continue to labor for wages*?

Mr. SCOTFIELD. I do not now recollect the language of the proclamation, but I do not understand that he advised them to work for the rebels. The advice given was designed to avoid apprehended insurrections. The purpose of the President was to diminish the support furnished to the rebel cause by the slave. This purpose might have been strengthened in the honest heart of the President by some kinder sentiment than a cold military policy, and if so I will leave it to others to see that he is properly denounced. It is enough for me to know that it was a master-stroke of military strategy which no general has to my knowledge as yet publicly condemned. As far as possible, the slave has since brought us not only his labor, but an army of one or two hun-

dred thousand men. Who now wants this promise recalled? If not recalled, who wants it violated in the future? Who wants the colored army disbanded and sent back to their rebel masters and white men drafted in their stead? Will you of the neutral party dare to answer these questions in the affirmative? If you carry the next election will you violate the President's promise to the slave? Will you say to the negro soldier, "Leave the battle-fields of our country and seek again the cotton-fields of your rebel master. Your blood has stained, though not dishonored the one, the unpaid sweat of your brow shall hereafter moisten and enrich the other?"

Again, the President saw, or rather the people saw—for our cautious President, I am glad to say, does not attempt to do the people's thinking, and sometimes hardly keeps out of the way of the wheels of rapidly advancing popular sentiment—that every State redeemed from this un-republican system of labor was thus placed beyond confederate desire. Such a State was considered by the rebel builders unfit for an edifice whose corner-stone was slavery. They wanted no free State in their confederacy to preach anti-slavery by a prosperous example. They said this at Montgomery when they made their constitution, and have always said it since. We knew it was true if they had not said it at all. If the border States become free they do not want them in the confederacy, while without them their territory becomes so insignificant that they do not want a confederacy.

The Administration, therefore, encouraged emancipation in the loyal slave States as the best mode of bringing the war to a successful issue. Under that encouragement slavery has been abolished in the District of Columbia and three or four States. The neutrals have opposed and denounced this progress step by step. If intrusted with the power at the next election they are pledged to undo all that has been so wisely done. They will reestablish slavery in the District of Columbia, and, so far as their influence will go, in all the border States. They must, to be consistent, reenact the slave code and rebuild the slave prison, and having got all things in readiness, they must call upon their party friends, and, armed with lassoes and handcuffs, start out upon a grand hunt for the emancipated and scattered bondmen.

On the other hand, the Union party have resolved that, with the blessing of God, this country shall not only remain an undivided country, but, now that the necessities of the war and the humanity of the age require it, it shall become a free country. The shadow of your flag shall never grow less, nor shall it darken the life of the humblest man beneath it. The Union shall be restored, and the United States, the simple name that Washington gave us, shall be the name and indicate the character of this country for all time to come. And it shall be a name that the poor will love and the proud fear all over the world.

The CHAIRMAN. When the bill was last under consideration the gentleman from Illinois [Mr. J. C. ALLEN] moved to amend the clause "for pay of commission, warrant, and petty officers and seamen, including the engineer corps of the Navy, \$19,423,241," by adding thereto the following:

And that the same be paid in gold or its equivalent: *Provided*, That the relative value of any paper currency tendered shall be ascertained by the Secretary of the Treasury, and his certificate shall be conclusive evidence thereof if dated thirty days before payment is made.

The gentleman from Pennsylvania [Mr. STEVENS] moved to amend the amendment by striking out the words "gold or its equivalent," and inserting in lieu thereof "lawful money of the United States." The pending question is on the amendment to the amendment.

The amendment to the amendment was disagreed to.

Mr. ANCONA demanded tellers on the amendment.

Tellers were ordered; and Messrs. ANCONA and ORIN were appointed.

The amendment was rejected; the tellers having reported—ayes 35, noes 68.

The Clerk read, as follows:

For the construction and repair of vessels of the Navy, \$22,800,000.

Mr. RICE, of Massachusetts. Mr. Chairman, I move to increase that to \$26,300,000. It will be

found on comparing the estimates of appropriations with the sums mentioned in this bill that they are widely different. The discrepancy between the two is so great that if the amount of appropriation for the naval service for the year 1864-65 should be limited to the sums mentioned in this bill it must change the purpose of the Navy Department and impair the efficiency and extent of our naval force. I cannot suppose it is the desire of any persons to cripple any Department of the Government, least of all do I suppose that it is the desire of anybody to cripple the Army or Navy of the United States while they are engaged in waging a gigantic war.

And, sir, I understand that the Committee of Ways and Means do not intend to cut off from consideration in Congress the subject of building iron sea-going steamers, for which an appropriation was asked by the Navy Department; but that they defer the consideration of that subject for the present, intending that if Congress shall see fit to enter upon the work that an appropriation shall be made by a special bill for that purpose. The Committee on Naval Affairs have not yet had that subject under consideration, and I simply desire to say at this point that we make no controversy upon the subject of an appropriation for iron sea-going vessels at this time, but only desire to give notice that we may hereafter bring in a bill asking such an appropriation for iron sea-going steamers as shall put the Navy of the United States somewhat on a par, in respect to those vessels, with the navies of France and England.

But in addition to the abridgment of this item of the appropriation bill, there is an abridgment of the appropriation for maintaining the present naval force, and it is to that particular point I desire to call the attention of the committee, for it is to that and to that alone the amendment I have offered applies. It will be found on turning to the estimates of appropriations that the Bureau of Construction, from which the item before us emanates, asked originally for \$13,775,000 for repairs, maintenance, wear and tear, labor, and materials for five hundred and fifty-six vessels. That item, on being closely scrutinized and diminished to the utmost that the chief of the Bureau of Construction says will answer the purpose, has been reduced to \$11,500,000.

The next item is for the completion of sixteen fast steam sloops-of-war, \$7,200,000. This item is for the completion of the hulls of those sixteen vessels, for which the machinery has already been ordered, and is in process of construction. No abridgment, therefore, can be made of that item, because the hulls of the vessels will be wanted when the machinery is done.

The next item put into the original estimate was for the construction and repairs of vessels, materials, and labor for the western waters, for which item I think the Committee of Ways and Means estimated \$3,000,000. The amendment I have offered increases the amount \$1,000,000 for the purpose of furnishing those western waters with an adequate supply of ships. And I desire to say the Navy Department has informed me that is the lowest sum with which those rivers can be properly guarded.

The original estimate for the other item, namely, for blockade purposes, was \$4,000,000, and it was reduced by the Committee of Ways and Means to \$2,000,000. In the amendment I have proposed is \$1,000,000 additional for the purpose of keeping up the supply of blockade vessels. This has been ascertained to be necessary after the most careful and searching scrutiny of the actual wants of the service in that particular.

It may be said that a very large proportion of the vessels engaged in the blockade service are purchased vessels—vessels not built by the Navy Department. It became absolutely necessary that the Department should have a large number of vessels for blockading purposes, and as they found it impossible to build them, they were obliged to go into the market and purchase the best vessels they could find. Of course, vessels not built for the naval service, but for the merchant service, will depreciate more rapidly than vessels built under the auspices of the Navy Department and for the naval service.

If we take the experience of the past as a guide for the year to come, an appropriation of \$26,300,000 will be the lowest amount which the Department believes it can get along with. And

the opinion is that if that amount is appropriated there will still be as much probability that they will have to come in at the end of the year for a deficiency as that there will be any excess.

I hope, therefore, that inasmuch as the appropriation asks for nothing except for the actual wants of the service, there will be no opposition to the amendment.

Mr. STEVENS. Mr. Chairman, when the Committee of Ways and Means came to consider the naval appropriation bill it found a very large demand made in the estimates of that Department, amounting to \$142,000,000. The committee was very anxious to reduce the estimates where that could be done without injury to the public service, and had before it all the chiefs of bureaus connected with the Navy Department. After careful questioning of them, although of course each one sustained his original view, the committee was of opinion that for the coming year a considerable reduction might be made from the amounts estimated for; and in the course of the examination the committee reduced the amount \$37,000,000, believing that that reduction would not cripple the service, but only curtail some items of expense and postpone them to another time. Among these was the item for the repair and maintenance of five hundred and fifty-six vessels-of-war, \$13,775,000. It was found that this item was entirely conjectural. There were no data from which the Department could even approximate the sum that might be necessary. It was thought by the Committee of Ways and Means that that sum might well be reduced \$3,000,000 without injury to the public service, knowing that no matter how much is appropriated it has always turned out that there is a deficiency. I have never been in Congress when there was not an appropriation asked for deficiencies over the appropriations of the preceding year; and it may be possible that though the committee has attempted to restrict the outlay for the repair of vessels to \$10,000,000, it will exceed that amount. For all new constructions there are separate provisions made. The Committee of Ways and Means was of opinion, from the examination, that it was just about as competent to guess the amount that would be needed as were those who estimated for it, for they admitted that they did not know.

The next item is for sixteen screw steam sloops-of-war, \$7,600,000. These are nearly finished, and it is hoped that in the opening of the season they will be put into service. We did not cut down the appropriation asked for completing these vessels, but left that precisely as it stood. That will be adding to the five hundred and fifty-six vessels already in the service sixteen screw steam sloops-of-war.

Then there was an estimate for the purchase, construction, and repair of vessels for the western waters, which a member of the committee from that part of the country, who seemed as well acquainted with the subject as those who undertook to instruct us, was of opinion might be reduced to \$3,000,000. He thought that that was sufficient to purchase and keep in repair all the vessels necessary for the western waters. Under that view, and in that belief, the Committee of Ways and Means, with the desire to keep down the appropriations to the lowest possible amount, agreed to report an appropriation of \$3,000,000 for that purpose, in addition to the vessels that they have there now.

The next was for the purchase and charter of vessels for naval and blockading purposes, \$4,000,000. The committee was clearly of opinion that with the five hundred and fifty-six vessels now in service and the sixteen new ones just at hand there would be no necessity for the purchase of old vessels, which has been such a great mistake generally, if it was not justified by absolute necessity. The committee was unwilling to report an appropriation of \$4,000,000 for the purpose of purchasing up old vessels from A, B, C, and D.

I have no doubt they would be all honestly purchased, [laughter,] but they might be purchased by those who did not know how nearly rotten they were, and who might be so easily deceived by cousins and friends. Therefore I hope the bill will be allowed to stand as it is.

[Here he hammered fell.]

Mr. RICE, of Massachusetts. I move to amend by striking out the word "dollars" in the twelfth

line. I desire to say in reply to the chairman of the Committee of Ways and Means that I think there was a misunderstanding between some members of the Committee of Ways and Means and the chief of the bureau from whom this estimate emanated. I regret very much that the gentleman from Missouri, [Mr. Blow,] who is on the Committee of Ways and Means, is not now in his seat, as I think he has been over this part of the estimate with the chief of the bureau, and if I am not mistaken has come to the same conclusion with regard to the necessity for this appropriation.

Mr. STEVENS. I mean to say that the gentleman from Missouri was in the Committee of Ways and Means when this item was considered, and that the vote on it was unanimous.

Mr. RICE, of Massachusetts. The investigation to which I referred has taken place since that time. He has since made the investigation, and, as I understand, concurs in the propriety of this amendment.

I entirely concur with the chairman of the Committee of Ways and Means, and with every other gentleman in this House who desires to limit the amount of money appropriated by this Congress to the necessities of the country. But I entirely disagree with him and with every other gentleman in the House who supposes that the mere saving of money is true economy in times like these.

I do not want on my hands any part of the responsibility of withholding from any Department of the Government the necessary amount of means to carry on successfully this war and bring it to a triumphant close. I believe it is impossible for the Navy Department to carry on and perform the work committed to it, and for which it is held responsible, unless Congress gives to it the means which it believes to be necessary for that object. And I am quite surprised that there should be any disposition manifested here to restrict the Department in so important a branch of the public service in times like these.

Gentlemen may suppose that this war is nearly ended. Well, sir, I do not know whether it is or not. But because we do not know whether it is or not, it seems to me it would be the height of imprudence to withhold the necessary means for so important a branch of the public service as this, at least during the year to come. I believe this amount is absolutely necessary to accomplish that object. These ships-of-war are decaying, they are wearing out, and unless appropriations are made to supply deficiencies for their wearing out the Navy will be left before the close of the next year in very much the same condition in which it was at the time the war commenced.

I hope this appropriation will be made, and I believe that if the subject should be more fully investigated the necessity for it will become still more apparent. I withdraw my amendment to the amendment.

Mr. STEVENS. I object to the withdrawal of that amendment, because it is to strike out the word "dollars," and that is the principal part of the original amendment. I therefore think the gentleman from Massachusetts had better hold on to his amendment to the amendment. [Laughter.]

I want merely to say that I do not suppose there is any committee here that wishes to limit the means which should be given to the Army or the Navy. But, as I said before, after a most careful scrutiny, the Committee of Ways and Means reported \$22,000,000 instead of \$32,000,000, as asked by the Navy Department.

Mr. RICE, of Massachusetts. They do not, as I understand, ask for that amount now.

The amendment to the amendment was disagreed to.

The question being on the amendment offered by Mr. Rice,

Mr. GRINNELL called for tellers.

Tellers were ordered; and Messrs. Rice, of Massachusetts, and STEELE, of New Jersey, were appointed.

The committee divided; and the tellers reported—ayes 74, noes 36.

So the amendment was agreed to.

Mr. RICE, of Massachusetts. I will call the attention of the chairman of the Committee of Ways and Means to the appropriation on the fifth page, under the head of "steam engineering," for the purpose of asking him whether it

should not be included at this point of the bill in the general appropriations for the Navy Department. It is this:

For the purchase of nautical and astronomical instruments, books, maps, and charts; and for the repairs of instruments, and binding and backing books and charts, \$101,042.

Mr. STEVENS. I think so; and I will move, therefore, to transfer the clause referred to by the gentleman to this portion of the bill at the end of line forty-two, page 3.

The motion was agreed to.

Mr. BROOKS. Before the committee passes from the paragraph under the head of "yards and docks," I wish to call the attention of the chairman of the Committee of Ways and Means, as well as that of the Committee on Naval Affairs, to the annual report from the Bureau of Yards and Docks, in which I find this paragraph:

"I would respectfully draw your attention to the subject of purchases by Navy agents in open market of supplies for the Navy. It so happens that particular firms or parties, whether dealing in the articles required or not, often furnish these supplies, without, perhaps, offering them for general competition among dealers in the merchandise required. This I have in vain endeavored to correct when it has been noticed. I would therefore suggest that Navy agents should be compelled to establish their offices in the navy-yards where requisitions are made, where supplies are received and inspected, and where they should be paid for, and to act more under the immediate direction of commanders of stations than they are now subjected to, or else that the agencies be abolished and a commissioned paymaster be directed to perform the duties of Navy agent, upon his duty pay. I am fully aware that such a reform would meet with determined opposition, but my long experience has nevertheless prompted me to run the hazard of suggesting it for your consideration."

Now, sir, to comply with the request of the chief of the Bureau of Yards and Docks, I offer the following amendment to come in at the end of the appropriations under the head of "Yards and Docks:—"

Provided, That Navy agencies be abolished, and that commissioned paymasters be directed to perform the duties of Navy agents upon their duty pay.

Mr. STEVENS. I rise to a question of order. I think it is not in order upon a bill of this kind to insert an amendment making a new law.

Mr. BROOKS. Upon the point of order I wish to draw the attention of the committee to the fact that there is no statute law creating Navy agencies at all; you cannot find it. It is an assumption of the Executive Department without authority of law.

The CHAIRMAN. The Chair will state that if there is no law creating these agencies, this will create a law in respect to them. The Chair rules the amendment out of order.

Mr. BROOKS. This only provides the mode and manner of expending the appropriation.

The CHAIRMAN. The Chair sustains the question of order raised by the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. BROOKS. I make the amendment in another form.

Mr. STEVENS. I must object. If the gentleman will introduce a new bill containing those provisions, perhaps I shall vote for it. Let the question come up by itself, and not be brought in here to embarrass this bill.

Mr. BROOKS. I withdraw my amendment. I do not wish to appeal from the decision of the Chair. I wish merely to state that these naval supplies cost the Government millions of dollars unnecessarily by reason of the means made use of to secure them. They are the worst means which human ingenuity could devise to supply the Navy. These Navy agents have commissions, assumed without law, which they take and hold despite the Executive Department of the Government. Those commissions in some cases amount to \$100,000 and \$200,000 for a single Navy agent.

Mr. PIKE. Let me say a word.

Mr. BROOKS. Not now. One of the Navy agents in New York some years ago withheld nearly \$200,000, one \$30,000, and one \$40,000. The Navy agent under the last Administration, Mr. Sanders, withheld an indefinite sum—an amount not made known to the country, and never likely to be. It is to correct these things that I call the attention of the House to this subject. I have discharged my duty, and I have no more to say.

Mr. PIKE. A bill has been prepared to correct the present mode of purchasing naval supplies, and in good time it will be offered. When that bill comes before this House will be the

proper period for discussion, and not now when we have an entirely different bill before us.

MESSAGE FROM THE SENATE.

Here the committee informally rose, and a message was received from the Senate, by Mr. FORTNEY, its Secretary, notifying the House that that body had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (No. 96) to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; and

An act (No. 97) to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

NAVY APPROPRIATION BILL—AGAIN.

The committee resumed its session, (Mr. DAWES in the chair.)

The Clerk read, as follows:

Marine Corps.

For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, steward and nurse, and servants; for rations and clothing for officers' servants; additional rations to officers for five years' service; for undrawn clothing, and additional pay to musicians of the band, \$791,785 80.

Mr. HOLMAN. I move to add the following proviso:

Provided, That no part of this appropriation shall be applied to the payment of the bands of musicians known as "marine bands" stationed at any navy-yard of the United States.

I simply desire to say in support of that proposition that this is an addition to the expenses of the Navy that can be dispensed with. It is purely a fancy arrangement, and I think that these bands should be abolished.

Mr. PIKE. We have taken away the sailor's grog, and I hope that we will not take away his music.

The amendment was rejected.

The Clerk read, as follows:

For building marine barracks, officers' quarters, and gateway at navy-yard, Mare Island, California, \$150,761 30.

Mr. KASSON. My impression is that the Committee of Ways and Means determined to strike out one or two appropriations for Mare Island navy-yard. I call the attention of the chairman to it, to know whether I am right.

Mr. STEVENS. The committee reduced it. The sum asked was over two hundred thousand dollars.

The Clerk read, as follows:

Boston:

For additional amount for joiners' shop, additional amount for coal-house, extension of shear wharf, railroad tracks, and repairs of all kinds; and for extension of water front, by purchase of two lots adjoining navy-yard, at a price not exceeding \$135,000—\$319,500.

Mr. WASHBURNE, of Illinois. I move to strike out these words:

And for extension of water front by purchase of two lots adjoining navy-yard at a price not exceeding \$135,000.

Mr. Chairman, I have looked with a great deal of care into the report of the Secretary of the Navy and all the sources of information within my reach to know what this was. I desire to know from the chairman of the Committee of Ways and Means upon what it is founded?

Mr. STEVENS. The navy-yard at Boston, as represented by Admiral Smith, who came before the committee with plans and surveys, needs an extension of water front. He insisted that to make this yard efficient, in consideration of the increased business there, it was absolutely necessary to have this water front. He had communicated with the owners to know what they would sell for. Many of our vessels are sent to Boston for repairs, and many of them occupy this very front now. It was simply upon his statement, made not only now but formerly, that this appropriation was inserted.

Mr. HOLMAN. I desire to inquire of the gentleman from Pennsylvania whether two years ago an appropriation of \$122,000 was not made for the enlargement of this navy-yard at Boston, and whether that money was expended for that purpose?

Mr. STEVENS. In answer I will say that there was another piece of land purchased at that time. I have here a communication from the Department, which, if gentlemen desire, I will read.

Mr. WASHBURN, of Illinois. I find in the estimates which have been sent in by the Secretary of the Navy in regard to appropriations which the Department desired for this navy-yard there is no estimate whatever for the purchase of lots.

Now, sir, I do not know the fact, but I will say I believe it is of no use for any man here to undertake to strike down any appropriation. I saw the chairman of the Committee of Ways and Means himself endeavoring to resist a motion of the gentleman from Massachusetts, which added in one fell swoop three or four millions to this bill, and which was adopted in spite of the remonstrance of my distinguished friend. And I have no doubt the committee will agree with me, as well in this as in any other proposition, to save money to the public Treasury.

Now this proposition came here without a recommendation from the Secretary of the Navy, but upon a statement made to the chairman of the Committee of Ways and Means by some man in the Department that they wanted these lots; and thereupon the committee put in an appropriation of \$135,000 for that purpose. They say the price shall not exceed \$135,000; but we all know that means just that sum. And without knowing anything about the value of these lots, and without knowing that the whole thing may not be an attempt of lot speculators to sell these lots, we are asked to vote for this appropriation.

I wish to make another suggestion to the committee, which I think is important. The chairman of the Committee of Ways and Means and every gentleman familiar with the rules understand distinctly that no appropriation of this kind is in order as an amendment to an appropriation bill. Rule 120 distinctly provides that no appropriation shall be reported in such general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law. Now I undertake to say that this is just what the chairman of the Committee of Ways and Means protested against in reference to the amendment offered by the gentleman from New York. But as this has been put into the bill by the Committee of Ways and Means, and as the bill itself has been referred to this Committee of the Whole, we cannot raise the question of order upon it. But had the bill been read at the Clerk's desk—and I hope in future every bill which comes in will be read there—we might have raised the question of order, and the Speaker, under the rule I have cited, would have been obliged to rule this appropriation out. This is a provision of law in an appropriation bill. It is a new law by which Congress directs that this land shall be purchased for \$135,000, and that, too, without the Secretary of the Navy coming in here, through his report, and making estimates for that amount.

I object, therefore, to this item, in the first place because we have no sufficient information in regard to these lots to enable us to vote understandingly, and in the second place because it is a provision which, under our rules, has no business to be in the bill. It may be possible that it would be a convenience to the Navy Department to have these lots, yet I take the ground in regard to this expenditure, and every other expenditure, that I will not vote for any appropriation of this character unless I am convinced that the exigencies of the public service imperatively demand the appropriation.

Mr. PIKE. I desire to say one word in regard to this matter. The Charlestown navy-yard is very much restricted for want of dock room. The proposition here is to buy a piece of land running to a point in the rear, and embracing a water front of about two hundred and seventy-five feet. There was last year or the year before, as the gentleman from Indiana has suggested, an appropriation of \$122,000, and with that money a strip of land was bought for a similar purpose. The large number of vessels which are being repaired at that yard, besides those being built there, necessitates more dock room. And one of two things we are compelled to do: we must give them a wet dock or more water front. It is cheaper, of course, to give them more water front.

As has been suggested by the gentleman from Illinois, no recommendation was made in this case in the annual report. Very likely the reason was that, although negotiations had been going on for some time between Admiral Smith and the own-

ers of the land, the owners were not willing to sell. But I understand that since the annual report was made the owners of the land have offered it for the sum covered in the appropriation.

As to the matter of economy I will say to the gentleman from Illinois that it is much more economical for Congress to appropriate \$135,000 for Charlestown, and \$300,000, as is suggested by Admiral Smith in his report, for the Philadelphia yard, than to have to build another navy-yard at a cost of several millions. We all know that our Navy has run up from seventy-five vessels to five hundred and fifty-six vessels; and that a very large sum is now demanded for another class of vessels, an increase which, at the proper time, I shall oppose. An increase of vessels is demanded not only of another class, but also of a similar character to those already built; and it is necessary to have more room at the navy-yards. I shall therefore vote for this appropriation, as I shall for a similar appropriation for the Philadelphia navy-yard; and I shall do so on the ground of economy, so as to save the necessity of increasing the number of navy-yards.

Mr. STEVENS. I move to amend the amendment by striking out the last word, "dollars." It is true, as has just been suggested, that at the time the annual reports were made the Department was not prepared to make this recommendation, for it did not know whether the land could be got. The Committee of Ways and Means, however, did not put this item in the bill because "some fellow about the Navy Department" came and asked them to do so, but because it was recommended by the Department. The appropriation was sustained at great length and with much ability, before us, by a gentleman of the name of Admiral Smith, as honest a man as can be found anywhere or in any Department of the Government. I ask that these papers be read, in order to show how it was.

The Clerk read the following letters:

NAVY DEPARTMENT, January 7, 1864.

SIR: I have the honor to transmit herewith a copy of a communication of this date, accompanied by a sketch addressed to me by the chief of the Bureau of Yards and Docks, recommending the purchase of certain premises for the purpose of securing more water front for the Boston navy-yard, for which there is great necessity. The conditions upon which the desirable privilege can be procured are considered favorable, and I respectfully recommend the subject to the earnest consideration of the Naval Committee, and to the early action of Congress should they deem the purchase advisable.

Very respectfully, &c.,

GIDEON WELLES,
Secretary of the Navy.

Hon. A. H. RICE, Chairman Committee on Naval Affairs,
House of Representatives.

NAVY DEPARTMENT,
BUREAU OF YARDS AND DOCKS,
WASHINGTON, D. C., January 13, 1864.

DEAR SIR: In my letter of the 7th instant to the Secretary of the Navy, reporting the price of a portion of the water front near the navy-yard, Boston, I stated that the purchase should be authorized within twenty days. I have a letter this a. m. from the owners of this property stating that an extension of time may be considered until May the 1st next, as it would, I found, be impracticable to obtain an appropriation for said purchase within twenty days from the 7th instant. I do not believe this water front can be purchased at a fair price after the time (May 1) expires.

I am, respectfully, your obedient servant,

JOS. SMITH.

Hon. A. H. RICE, Chairman Committee on Naval Affairs,
Capitol, Washington.

NAVY DEPARTMENT,
BUREAU OF YARDS AND DOCKS, January 7, 1864.

SIR: After negotiating for terms on which a portion of the best water front in Boston harbor, adjoining the navy-yard, may be secured, I find that about two hundred and eighty feet on the channel as indicated within the red lines on the inclosed sketch, containing about eighty thousand feet, can be bought for the sum of one hundred and thirty-five thousand (\$135,000) dollars; provided the purchase be made forthwith, or within twenty (20) days.

I consider this purchase of the greatest importance to the Government, as all our navy-yards are so circumscribed in area and particularly in water front, that we find it impossible to provide dockage and wharfage for all the vessels of the Navy which come to the yards, especially at Boston, New York, and Philadelphia.

Under these circumstances, I beg leave to suggest that you ask an appropriation for the purpose indicated, without delay. Another opportunity will probably never again be offered to procure this desirable privilege.

Very respectfully, your obedient servant,

JOSEPH SMITH,
Chief of Bureau.

Hon. GIDEON WELLES, Secretary of the Navy.

Mr. WASHBURN, of Illinois, obtained the floor.

Mr. RICE, of Massachusetts. Will the gen-

tleman from Illinois allow another paper to be read—a letter from Commodore Stringham?

Mr. WASHBURN, of Illinois. I am willing to have them all read. Reasons are always as thick as blackberries when appropriations are wanted here.

The Clerk read, as follows:

UNITED STATES NAVY-YARD, BOSTON,
COMMANDANT'S OFFICE, January 22, 1864.

SIR: I have received your letter of the 20th instant in relation to the property of Messrs. Oakman and Eldridge, and in reply have to refer you to my communication of the 21st instant on that subject.

I consider the purchase of this property by the Government as of the utmost importance to this yard, as it contains two hundred and seventy-six feet water front of deep water, which would add greatly to our facilities for work on the repairs of vessels. I deem it so important that I would recommend its purchase at almost any price.

I am, respectfully, your obedient servant,
S. H. STRINGHAM, Commandant.

Rear Admiral JOSEPH SMITH, Chief of Bureau of Yards and Docks, Washington, D. C.

Mr. WASHBURN, of Illinois. I am not at all surprised at the case made out before the committee for the purchase of these lots, for I have never known any appropriation to be asked for that there were not reasons given for it. But the reasons given here are not such as satisfy me that it is our duty to vote this appropriation. What is there to convince this committee as to the value of this little strip of land, for which we propose to pay \$135,000; this little strip of land in Charlestown, Massachusetts? I do not believe that half the city would sell at public auction for that amount, if you take out Bunker Hill monument, which stands on precious soil. But yet, on this showing, here we are asked to vote these lot speculators the sum of \$135,000. Clever and patriotic and glorious men! In the first instance they would only give us twenty days to decide; but as the bill lingered along here they gravely send in a communication that if we will take it they will extend the time up to the 1st of May. Sir, I have no doubt they would extend the time almost indefinitely, as they well may, if they can get this sum for that little patch of property. I do not believe there is any necessity for the Government having this property at this time. I believe that we have room enough there for all the legitimate purpose of the navy-yard. I shall go against the establishment of any more of these navy-yards.

But I am rather surprised to see my friends who generally hold so tight a hand upon our appropriations coming in here and advocating this expenditure.

Sir, I say here, as I said before, that if this appropriation were necessary, it is in the wrong place. It is in this bill in violation of our rules. It should have come here as a separate measure, and should not have been made dependent upon any other thing. It was the duty of the Committee on Naval Affairs, if those lots were necessary for the use of the Government, to have obtained the information upon which the House could intelligently act; they should have brought it in here in a separate bill accompanied by a report, so that the House could know upon what they were called to act.

Mr. PIKE. If my friend will allow me, I will suggest in regard to the value of this land that Massachusetts is somewhat more restricted in her limits than Illinois, and consequently for the same quantity of land a larger price is to be expected. I think if the gentleman will look into the matter he will find that this offer is after all favorable to the Government, especially after our experience in purchasing the adjoining lots, which, after a dicker of four or five years by the Navy Department, ran up in price from \$80,000 to \$120,000.

Mr. WASHBURN, of Illinois. One word more. I wish it to be borne in mind that the gentleman from Iowa, understanding how the Government has been imposed upon in all these purchases, has introduced a bill which has passed this House, and which will pass the Senate, I have no doubt, providing for the condemnation of such property as may be necessary for the use of the Government, and paying a fair price for it instead of paying these enormous amounts to parties who have the Government in their power. If, therefore, this appropriation shall be stricken out, and these lots shall be found necessary for the Government, they can be condemned and only

a fair price paid for them under the bill of the gentleman from Iowa.

Mr. PIKE. If my friend from Illinois will allow me for a moment, I will suggest, further, that those lots have in them valuable wharves, and for that reason among others this price of \$135,000 is considered by those who understand the value of the property to be a fair price.

Mr. STEVENS withdrew his amendment.

Mr. RICE, of Massachusetts. I move to strike out the last two words, merely for the purpose of making a single remark in addition.

Mr. Chairman, there was an appropriation made some two years ago, as the gentleman from Illinois suggests, for the enlargement of the Charlestown navy-yard. But the enlargement which at that time took place was then or immediately afterwards considered insufficient. The premises then acquired have been in constant use since, and the Navy has increased, until a further enlargement has become absolutely necessary.

Gentlemen must bear in mind that the Norfolk navy-yard and the navy-yard at Pensacola have been and are now in a disabled condition, so that if the enlargements proposed at this and at the Philadelphia navy-yard should be made, the capacity of all the navy-yards in the country will still be much less in proportion to the size of the Navy now than before the rebellion commenced as compared with the size of the Navy then.

Now, sir, my friend from Illinois says it was the duty of the Committee on Naval Affairs to have informed themselves in respect to the necessity there is for this purchase. I will state to my friend that the Committee on Naval Affairs have not been derelict in their duty in that respect.

Mr. WASHBURN, of Illinois. My friend will permit me to say that my statement was also that the Committee on Naval Affairs should, if satisfied of the necessity of this enlargement, have brought in a separate bill for that purpose, accompanied by a report, so that the House could have had before them the proper information on which they could act.

Mr. RICE, of Massachusetts. I will state in answer to my friend from Illinois, that he is one of the oldest members of the House, and of course knows that the proper mode of doing business here is learned only by experience. The other purchase for the enlargement of this navy-yard, which has been commented on by him, was made precisely in the same mode in which it is proposed to make this purchase; therefore, no one objecting to the mode by which the other purchase was made, it was fair for the Committee on Naval Affairs to presume that that was the proper and legitimate mode.

Now, sir, as to the necessity there is for the purchase of this land, I will say that there is no deep water adjacent to the navy-yard at Charlestown which can be made available for the purposes of that yard, except that which it is proposed to include in this purchase. As I understand it, the owners of this land originally owned but a small portion of that which it is proposed to purchase. They purchased the balance some two years ago, and they propose now to dispose of it to the Government at precisely the price which they paid for it. All the parties conversant with the value of land in that vicinity that we have seen consider the price of this property very low; and I submit that there is not a particle of evidence before the House to show that this is not a fair price for the land, and that it would not be an economical purchase for the Government.

Mr. WASHBURN, of Illinois. What is the value of the land?

Mr. RICE, of Massachusetts. It is recommended by the commandant of the yard, Admiral Stringham; by the Chief of the Bureau of Yards and Docks, Admiral Smith; and by the Secretary of the Navy himself. I believe the price of the land is about one dollar and sixty-eight cents a foot; and, notwithstanding the gentleman from Illinois states that the patriotic city of Charlestown is not worth more than that, let me tell him that he could not get any land outside of what it is proposed to buy for anything like that sum.

Mr. WASHBURN, of Illinois. I say that there is no evidence before the committee of the value of the land.

Mr. RICE, of Massachusetts, by unanimous consent, withdrew his amendment.

Mr. HOLMAN. I move to insert "\$184,000."

Mr. WASHBURN, of Illinois. I accept that, because it makes the bill conform to the estimates.

Mr. HOOPER. I rise to oppose the amendment.

I wish to say that I am perfectly familiar with this property. I know that the navy-yard for ten years has been wishing to obtain possession of it, and has never been able to do so till this time. It is offered at a fair and reasonable price. If we do not buy it now I do not think we can get it for anything like that price hereafter. I hope therefore the amendment will not be adopted.

I believe the amount of the bill is what the Secretary estimated the property can be bought for down to the 1st of May. The gentleman from Illinois complains that this was not in the original estimates. The reason was that the negotiations had not been brought to a point where the estimates could be laid before Congress. It was not until the session commenced that the parties were willing to make an offer. This is the amount of the supplemental estimates.

Mr. WASHBURN, of Illinois, demanded tellers on his amendment.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and ENGLISH, were appointed.

The amendment was rejected; the tellers having reported—ayes 45, nays 60.

Mr. HOLMAN moved that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 151) making appropriations for the naval service for the year ending the 30th of June, 1865, and had come to no resolution thereon.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found correctly enrolled an act to appoint a warden of the jail in the District of Columbia; when the Speaker signed the same.

MEMORIALS OF COMMODORE MORRIS.

Mr. WHALEY, by unanimous consent, moved that the Committee of the Whole House be discharged from the further consideration of the bill for the relief of the sisters of the late Commodore Morris, and that it be recommitted to the Committee on Invalid Pensions.

The motion was agreed to.

And then, on motion of Mr. HOLMAN, (at five o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, February 25, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer the petition of William Rogers Hopkins, formerly assistant professor in the United States Naval Academy, in which he sets forth certain services which he rendered there for which he has received no compensation; and he also alludes to his summary dismissal from the Academy on groundless charges, on account of which he also expects certain compensation. I ask its reference to the Committee on Naval Affairs.

It was so referred.

Mr. SUMNER. I also offer the petition of citizens of Rome, Oneida county, New York, in which they ask Congress to immediately abolish slavery throughout the United States, and also to adopt measures for so amending the Constitution as forever to prohibit its existence in any portion of our common country. As this petition concerns the powers of Congress and legislation, I ask its reference to the select committee on slavery and freedmen.

It was so referred.

Mr. SUMNER also presented a petition from citizens of African descent, asking Congress to pass an act of universal emancipation, and to grant the elective franchise to colored people; which was referred to the select committee on slavery and freedmen.

Mr. POMEROY presented a petition of citizens of Kansas, praying for the establishment of a

daily mail route from Lawrence, through the towns of Black Jack and Stanton, to Ossawatimie, to connect with the present route No. 14153; and the suspension of route 14223 from Ottawa Creek to Ossawatimie; of route 14172 from Leavenworth to Pratt's Mission, Monticello, Olathe, Spring Hill, Paola, Paris, Moneka, Mound City, Mapleton, Dogtown, and Marmaton; and of route 14222, from Harrisonville to Wilmington; Kansas; which was referred to the Committee on Post Offices and Post Roads.

Mr. RAMSEY presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from Chippewa Agency, Minnesota, to Superior city, Wisconsin; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. SHERMAN presented five petitions of citizens of Cincinnati, Ohio, praying for the sale of the mineral lands of the Rocky mountain country, and that liberal aid may be given to aid in the construction of the Northern and Central Pacific railroads; which were referred to the Committee on Public Lands.

Mr. MORGAN presented the petition of F. Gustave Fincke and others, of Brooklyn, New York, praying for the passage of an act declaratory of certain terms used in the Constitution of the United States; which was referred to the Committee on the Judiciary.

He also presented a memorial of George Ticknor Curtis and others, members of the bar of New York, against the passage of any act dividing the judicial district of the southern district of New York; which was referred to the Committee on the Judiciary.

Mr. SPRAGUE presented resolutions of the Legislature of the State of Rhode Island, in favor of giving to colored troops already enlisted or who may hereafter be enlisted into the service of the United States the same pay in all respects as is given to other enlisted soldiers, and earnestly urging the immediate passage of such an act; which were ordered to lie on the table, and be printed.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas, in favor of a grant of lands to that State in lieu of the sixteenth and thirty-sixth sections of the public lands sold for the benefit of certain Indian tribes; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of Kansas, in favor of the negotiation of treaties and the enactment of laws which will enable the Government of the United States to speedily remove all Indians residing in a tribal capacity within the limits of that State to some point beyond the boundaries of the same; which were referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. POMEROY presented resolutions of the Legislature of Kansas, in favor of the negotiation of treaties and the enactment of laws which will enable the Government of the United States to speedily remove all Indians residing in a tribal capacity within the limits of that State to some point beyond its boundaries; which were referred to the Committee on Indian Affairs, and ordered to be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SAULSBURY, it was Ordered, That the report of the Secretary of War of the 16th of January, 1860, communicating the report and estimate of Captain Newton in relation to the construction of a wharf at Lewes, Delaware, be taken from the files of the Senate, and referred to the Committee on Commerce.

On motion of Mr. MORGAN, it was

Ordered, That the petition and other papers of Edward P. Vollum, assistant surgeon in the Army, praying for remuneration for losses sustained by shipwreck while traveling under orders, be taken from the files of the Senate, and referred to the Committee on Military Affairs and the Militia.

On motion of Mr. SHERMAN, it was

Ordered, That James F. Schenck have leave to withdraw his petition and other papers from the files of the Senate.

BILLS INTRODUCED.

Mr. POWELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 134) to repeal all acts or parts of acts granting allowances or bounties on the tonnage of vessels engaged in the Bank or other cod fisheries; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. McDUGALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 135) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," passed July 1, 1862; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

INTERNAL REVENUE.

Mr. FESSENDEN. There is upon the table a message from the House of Representatives asking for a second committee of conference on the internal revenue bill. I think it would be well enough to take up that matter and dispose of it.

The VICE PRESIDENT. The Chair will present to the Senate the message from the House of Representatives referred to by the Senator.

The Secretary read the message, which announced that the House of Representatives had non-concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 192) to increase the internal revenue, and for other purposes; had further insisted on their disagreement to the amendments of the Senate; had asked for a second conference on the disagreeing votes of the two Houses; and had appointed Mr. E. B. WASHBURN of Illinois, Mr. J. A. KASSON of Iowa, and Mr. J. L. DAWSON of Pennsylvania managers at the second conference on the part of the House of Representatives.

Mr. FESSENDEN. I hardly know, Mr. President, what is the proper motion to make to accomplish the object which I have in view; but it has occurred to me that a motion that the Senate recede from its vote adopting the report of the committee of conference, and agree to the further conference requested by the House of Representatives, will be in order.

The VICE PRESIDENT. The Senate may further insist, or may simply agree to the conference asked for by the other House.

Mr. FESSENDEN. My query was whether it was necessary for the Senate to recede from its vote adopting the report of the first committee of conference. That report was adopted by the Senate, went to the House of Representatives, and was there disagreed to. It occurred to me that it might be proper for us to recede from that vote.

The VICE PRESIDENT. The Senator proposes to recede from the former vote of the Senate, and to agree to the second conference.

Mr. FESSENDEN. My motion is that the Senate recede from the former vote accepting the report of the first committee of conference, and agree to the second conference asked for by the House of Representatives.

The VICE PRESIDENT. The impression of the Chair is that that should be the form of the motion. The question is, "Will the Senate recede from its former vote agreeing to the report of the first committee of conference, and agree to the second conference proposed by the House of Representatives?"

Mr. HALE. "Reconsider," not "recede."

Mr. FESSENDEN. Perhaps "reconsider" would be the proper term.

The VICE PRESIDENT. It means the same thing.

Mr. FESSENDEN. I suppose so. The motion was agreed to; and by unanimous consent the Chair was authorized to appoint the committee; and Mr. SHERMAN, Mr. CLARK, and Mr. HENDRICKS were appointed.

LAND GRANT TO A MINNESOTA RAILROAD.

Mr. RAMSEY. I move that the Senate postpone all prior orders and proceed to the consideration of the bill (S. No. 31) making a grant of lands to the Lake Superior and Mississippi Railroad Company in the State of Minnesota to aid in the construction of the railroad of said company from St. Paul to Lake Superior.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. DOOLITTLE. I ask my honorable friend from Minnesota to allow the bill to go over. My colleague [Mr. Howe] is not here, and he and I have not had an opportunity to confer in relation to this bill. There were some remonstrances presented to the Senate on the subject, but they did not go to the committee until after the committee

had reported the bill. I hope he will consent to let it lie over. He can call it up at an early day.

Mr. RAMSEY. Had we not better give it one reading at this time?

Mr. DOOLITTLE. It has already had two readings. It was read twice before it was referred.

Mr. RAMSEY. I propose to offer an amendment to it.

Mr. WILSON. On the suggestion of the Senator from Wisconsin I move to postpone the further consideration of this and all other matters in order to take up the joint resolution to equalize the pay of soldiers in the United States Army.

Mr. RAMSEY. Before that motion is entertained I should like to submit an amendment to the bill.

Mr. WILSON. Very well.

Mr. RAMSEY. I offer an amendment to the bill, which I desire to have printed. It is to strike out in the thirteenth line of the first section all after the word "Minnesota," and to insert what I send to the Chair.

The VICE PRESIDENT. The Senator's amendment will be received, and it will be in order after the amendments reported from the Committee on Public Lands shall have been first acted upon. Those amendments will be first in order.

Mr. DOOLITTLE. If the bill is to go over I should like to have that amendment printed.

The VICE PRESIDENT. The order to print will be made.

Mr. WILKINSON. I see that the colleague of the Senator from Wisconsin is now in the Chamber.

Mr. RAMSEY. As the Senator's colleague is now present, probably there will be no objection to proceeding with the bill. I think it will take but a few minutes to dispose of it.

Mr. DOOLITTLE. I will state to the Senator from Minnesota that I have not had an opportunity to consult with my colleague about this bill. It concerns railroads within our State. There have been some remonstrances sent in here on the subject which did not reach the committee in time, and were not considered, as I understand.

Mr. RAMSEY. If the bill is to be postponed I hope the Senator will consent to have it come up at an early day.

Mr. DOOLITTLE. I prefer that it should go over until we can have a consultation about it.

Mr. RAMSEY. I shall not object to that.

The VICE PRESIDENT. The bill will be passed over.

ACTING ASSISTANT PAYMASTERS.

Mr. HALE. As the morning hour is not concluded, and there are one or two bills reported from the Committee on Naval Affairs which have been neglected hitherto, I hope the Senator from Massachusetts will allow them to be taken up. I move to take up for consideration Senate bill No. 108.

The VICE PRESIDENT. Does the Senator from Massachusetts waive his motion?

Mr. WILSON. Yes, sir; I will waive it until one o'clock, when I believe the joint resolution I have indicated will come up as the unfinished business.

The motion of Mr. HALE was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 108) relating to acting assistant paymasters in the Navy, which was reported from the Committee on Naval Affairs, with an amendment to strike out all of the original bill after the enacting clause, in the following words:

That any acting assistant paymaster now in the volunteer navy service, who shall have performed his official duty with diligence and fidelity, may be transferred to the regular naval service as assistant paymaster therein, after undergoing an examination by a board of naval examiners and found to be qualified for said office: *Provided*, The age of such acting assistant paymaster shall not exceed thirty years.

And to insert in lieu thereof:

That whenever the President of the United States shall nominate any acting assistant paymaster in the volunteer naval service, on account of his faithful, diligent, and efficient discharge of duty in the volunteer service, to be an assistant paymaster in the Navy, it shall be no objection to his appointment and confirmation that he is over twenty-six years of age: *Provided*, That he be not over thirty years of age: *And provided further*, That the number of paymasters and assistant paymasters as authorized by law be not increased thereby.

The amendment was agreed to.

Mr. DIXON. With the consent of the chairman of the Committee on Naval Affairs, I will offer an amendment to this bill. If he objects to it I shall not press it; but I think it might very well be added to this bill. It is to insert as a new section:

And be it further enacted, That the students of the Naval Academy designated for examination for admission thereto shall be between the ages of fourteen and eighteen years.

Mr. GRIMES. I suggest to the Senator from Connecticut to amend his amendment so as to strike out the words "designated for examination," and to insert "when examined." They may be designated three or six months before they are examined.

Mr. DIXON. I agree to that.

The VICE PRESIDENT. The amendment will be so modified.

Mr. HALE. In regard to this amendment of the Senator from Connecticut, I have not the slightest objection to it in the world, only that it does not seem exactly congruous to the bill. However, I have no objection to it.

Mr. DIXON. It seems to me there can be no objection to it from any quarter.

Mr. JOHNSON. There is no objection to it. The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time; and passed.

Mr. HALE. The title should be amended by adding "and for other purposes."

Mr. JOHNSON. I think we had better alter the title so as to show what the amendment is. The last amendment related to midshipmen in the Naval Academy, I think.

The VICE PRESIDENT. The title will be amended so as to read, A bill relating to acting assistant paymasters in the Navy, and regulating the appointment of cadets in the Naval Academy.

PAYMASTERS' CLERKS.

Mr. HALE. I now move that the Senate proceed to the consideration of Senate bill No. 104, also reported from the Committee on Naval Affairs.

The motion was agreed to; and the bill (S. No. 104) to regulate the pay of clerks to paymasters in the Navy was read a second time and considered as in Committee of the Whole. It directs that the annual pay of clerks to paymasters in the Navy shall be as follows: Clerks to paymasters at each navy-yard, excepting Mare island, \$1,200; at Mare island, \$1,500. Clerks to inspectors of provisions and clothing at Boston, New York, Philadelphia, and Cairo, \$1,200; at other inspections, \$1,000. Clerks to paymasters or assistant paymasters of receiving ships at Boston, New York, Philadelphia, and Cairo, \$1,200; of other receiving ships, and in store vessels, \$1,000. Clerks to paymasters or assistant paymasters in vessels having complements of five hundred and over, \$1,000. In vessels having complements of three hundred and over, and less than five hundred, \$800; in other vessels, \$700; but no paymaster or assistant paymaster is to be allowed a clerk in vessels having complements of less than one hundred persons, excepting in supply steamers and storeships.

Mr. HALE. This is a bill raising salaries, which I generally oppose. I will not say a word about it, but will simply ask that the report of the committee on this subject may be read to the Senate.

The VICE PRESIDENT. It will be read.

The Secretary read the following report:

The Committee on Naval Affairs, to whom was referred the petition of John F. Denson, paymaster's clerk in the Navy, praying an increase of the compensation of paymasters' clerks in the Navy, have had the same under consideration, and report:

That, having addressed a communication on the subject to the Secretary of the Navy, the following reply has been received:

NAVY DEPARTMENT, February 2, 1864.

Sir: I have the honor to acknowledge the receipt of your letter of the 1st instant, inclosing a petition in relation to the pay of paymasters' clerks in the Navy, which has been referred to the Naval Committee of the Senate, and requesting the views of this Department touching the subject of the petition.

In reply thereto; I respectfully submit herewith a report of this date, from the chief of the Bureau of Provisions and Clothing, to whom I referred the subject, and who has cognizance more directly of matters pertaining to the duties and pay of clerks in the paymaster's branch of the service. In addition to this report, I would refer the committee to

the last annual report of this Department, as well as that of the chief of the Bureau of Provisions and Clothing, accompanying it, in which the subject of increased pay is mentioned and discussed.

Returning the petition, I am, very respectfully, &c.,
GIDEON WELLES,
Secretary of the Navy.

Hon. ALEXANDER RAMSEY,
Committee on Naval Affairs, United States Senate.

NAVY DEPARTMENT,
 BUREAU OF PROVISIONS AND CLOTHING,
 February 2, 1864.

SIR: The communication of Hon. ALEXANDER RAMSEY on behalf of the Naval Committee of the Senate, having been referred by you to this bureau for its suggestions upon the subject of the compensation of clerks to paymasters in the Navy, I have the honor to return the same with the following remarks upon the subject of the desired increase of pay:

The paymaster of a navy-yard pays the officers on duty at the station, and all other officers whose accounts are borne on his books, as well as all the mechanics and laborers of the yard, numbering from fifteen hundred to four thousand persons. His clerk should be an intelligent and thorough accountant and bookkeeper, and a man of great integrity and industry.

The inspectors in charge of provisions and clothing receive, inspect, prepare for issue, and distribute all the provisions, clothing, and small-stores used in the Navy, amounting, in the aggregate, to over six million dollars annually. These stores are inspected, packed, and prepared for sea use under his superintendence, and he acts as naval storekeeper for all articles in the paymaster's department.

He supplies all ships fitting, or refitting, at his station, and makes all shipments of provisions, clothing, and small-stores, to distant stations, preparing the invoices and other papers incident to the shipments. The returns of the receipt and expenditures of stores are to be made weekly, monthly, and quarterly, involving a great deal of labor, and requiring industry and accuracy in their preparation.

The clerks of these inspectors should be good bookkeepers, and be familiar with commercial usages; and the receipt of large amounts of stores from contractors, and by open purchases, makes it important that the clerks should be men of honesty and ability.

The paymaster of a recruiting ship takes up the accounts of all the recruits shipped at that station, as well as those of vessels coming in to repair and refit, whose crews are temporarily transferred to the receiving ship for subsistence and safe-keeping. These men are provisioned, and receive such clothing and small-stores as may be wanted for their comfort, which involves the necessity of daily issues and charges to the men constantly coming on board and leaving, and whose accounts must accompany them.

The paymaster in such a ship requires a clerk who is prompt, intelligent, and reliable, and a good bookkeeper and rapid accountant, since sudden transfers of large bodies of men are frequently made.

The clerks of paymasters of yards and of inspectors in charge of provisions, &c., now receive by law but \$750 per annum, and the clerks of paymasters of receiving ships but \$700, without rations or perquisites of any kind, while the first clerks to commandants at all yards receive \$1,200. The pay of "clerk of the yard," and the first clerk to naval storekeeper, is \$1,200 at all yards except Philadelphia and Portsmouth, where their pay is \$900. One exception to this is found in the pay to clerks at Mare Island, where their pay was fixed by law in 1862 at \$1,500 alike for clerk to commandant, for clerk of the yard, for the clerk to naval storekeeper, and for clerk to paymaster and inspector.

It is safe to add that the labor and responsibility of the clerk to paymasters and inspectors are as great as any of the foregoing.

There are, in addition to the foregoing, several classes of clerks and writers at navy-yards, whose duties are little more than those of copyists, who yet receive higher rates of compensation than paymasters' clerks. Thus, clerks to naval constructors at most navy-yards receive \$1,000 per annum; second clerks to commandants, \$950; second clerks to naval storekeepers, \$900; and writers at yards, at least \$2 50 per day, or \$782 50 per annum.

There seems to be no justice nor reason in these discriminations against the paymasters' clerks.

Much better pay is given to quartermasters' and paymasters' clerks in the Army employed in duties similar to those of clerks of paymasters and inspectors of provisions and clothing in the Navy.

At the clothing depot at the Schuylkill arsenal two clerks are paid \$1,800 each; two others, \$1,400 each; one, \$1,200; three, \$1,000 each; and three, \$900 each; and clerks to paymasters in the Army receive \$973 75 per annum, and are now petitioning for higher pay.

Inadequate as the compensation of clerks on shore is, it is still smaller at sea. Their highest pay by law is \$500 per annum, and one ration of thirty cents per day. From this small sum they must pay for their clothing, food, and all their expenses. Those who have families can spare them but a wretched pittance; and single men save but little or nothing from their pay, unless they resort to unauthorized traffic or to speculations.

The interests of Government require that the person who necessarily has constant access to large quantities of provisions, clothing, and small-stores, should be paid sufficient at least to save him from the sense of injustice which might lead him to embezzle public property, or resort to other unlawful means to increase his small salary.

The pay of clerks on sea duty is the only pay in the Navy which has not been raised since the enactment of the law of 1832. But, on the contrary, it has been diminished by the change in the rates of vessels-of-war.

Thus the law of 1842 gives to a paymaster's clerk in a line-of-battle ship \$700 per annum, and in a frigate \$500. No vessel of the former class ever goes to sea now, but the heavy steam frigates like the Wabash have taken their places.

The paymasters' clerks in such ships, though their duties are as arduous and more complicated—having on the books

the additional classes of persons necessary in steam vessels—receive but \$500 per annum and one ration per day, while the pay of paymasters' clerks in vessels with complements of less than two hundred and forty persons is only \$400 per annum and one ration.

These clerks have free access to the provisions, clothing, and small-stores on board ship. Upon their capacity, care, and honesty depends, in a great degree, the safe-keeping of the stores, and their issue without waste; and the prompt performance of the paymasters' various duties is greatly influenced by the ability and correctness of their clerks.

The pay proposed in the accompanying bill is believed to be in no instance greater than the existing compensation of other clerks of the Navy and Army having as laborious and responsible duties.

The highest pay therein asked for—with one exception at Mare Island—is that given to the lowest class of clerks in Washington, namely, \$1,200.

I have the honor to be, sir, very respectfully, your obedient servant,

F. BRIDGE, Chief of Bureau.

Hon. GIDEON WELLES, Secretary of the Navy.

The committee believe that paymasters' clerks are justly entitled to the increase of salary provided by the bill accompanying the foregoing communication, and therefore report the same to the Senate.

The bill was reported to the Senate without amendment, was ordered to be engrossed for a third reading, and was read the third time.

Mr. COLLAMER. I desire to have the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. FESSENDEN. Before the vote is taken I wish to make but a single remark to the Senate. If the Senate feel at all disposed to entertain this proposition and begin to increase salaries, they had better ask themselves where it is to end.

Mr. HALE. I feel bound to say that I should not of myself have introduced the first proposition of this kind; but since the war commenced the Senate has done very little else besides raising rank and salaries, and it seems hard that these gentlemen should receive less than half what is paid to the same class of clerks engaged in other duties. I think it is an act of great injustice to them. For instance, the clerk of a paymaster of a ship at sea receives \$500 a year and one ration a day of thirty cents, which is about \$100 more. The lowest clerk at Washington receives \$1,200, the paymasters' clerks in the Army receive nearly \$1,000, while these men receive a very small pittance. The proposition has been before the Naval Committee for years. It is recommended by the Secretary of the Navy, and by the chiefs of the bureaus, and unanimously recommended by the committee as an act of simple justice to a very deserving class of officers.

Mr. SHERMAN. I ask the Senator if they are not entitled to their share of prize money? Are they not on the ship's list, and entitled to a share of prize money?

Mr. HALE. That is a question I am not prepared to answer; but I do not think they are.

Mr. JOHNSON. Certainly they are.

Mr. GRIMES. They are entitled to draw in proportion to the salary they receive, whatever that may be. Everybody that is on board who goes to make up the complement of the ship is entitled to draw prize money in proportion to his pay; but that would not be a fair criterion by which to judge this case, because it is well known that not one man in fifty who has enlisted into the naval service of the United States has been entitled or ever will be entitled to prize money. But here is the question: What is the necessity or how urgent is the necessity for these officers, and is it not possible for the assistant paymasters themselves to perform all the duties that are required of them and of their clerks too, if they have a mind to do so? Are not the assistant paymasters on board these ships pretty much gentlemen, and do they not require these clerks of theirs to do all the duty except merely signing their names? That is the question that I would put.

Mr. CONNESS. I will state that I have received within a few days a letter from a captain of marines at Mare Island, California, in which he states that he does not for his salary receive as much as the common laborers at that yard; and yet I cannot introduce a bill here to increase his salary, because it is very well understood that the Government cannot stand any general increase. If the salaries of these clerks are to be increased, I do not see how you can refuse an increase to other classes of officers; and if this business begins, I do not see any end to it but bankruptcy.

Mr. HARLAN. Mr. President, I think the correct criterion is to give the pay which will command the talent desired. If gentlemen who are

competent refuse to serve for the salaries we are now paying, the salaries ought to be raised. I have heard, however, of none who have resigned on account of the smallness of their salary; and hence, in my opinion, the pay now given commands the talent required, and therefore an increase is not necessary.

Mr. FESSENDEN. I believe these places are very much sought for, and I believe the ordinary course is that where these paymasters have clerks, they are generally nephews, or cousins, or somebody they want to take with them for the additional pay.

Mr. GRIMES. I have no doubt that there are cases where the salaries ought to be raised. A paymaster stationed on board a large receiving ship does require a clerk; for instance, on board the receiving ship at New York, there is a vast amount of business done. So a paymaster who is the inspector at the depot at New York, or who may be the purchasing agent, requires a clerk. But it does not occur to me that it is necessary that there should be an increase of the salaries of all the clerks of the paymasters, and for the very good reason just assigned by my colleague. I have never heard of any scarcity of these clerks; I do not know that we are not able to get good clerks for the salaries we do pay. I think it very likely, however, that it might be well to increase the salary of a few of these men; but I do not think it is worth while to pass such a sweeping bill as this.

The question being taken by yeas and nays on the passage of the bill, resulted—yeas 11, nays 25; as follows:

YEAS—Messrs. Davis, Foster, Hale, Harding, Hendricks, Johnson, McDougall, Nesmith, Ramsey, Wilkinson, and Wright—11.

NAYS—Messrs. Buckalew, Carlile, Chandler, Clark, Collamer, Conness, Dixon, Doolittle, Fessenden, Foot, Grimes, Harlan, Harris, Howe, Lane of Kansas, Morgan, Pomeroy, Powell, Salsbury, Sherman, Sumner, Ten Eyck, Van Winkle, Wade, and Wilson—25.

So the bill was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (No. 26) reviving the grade of lieutenant general in the United States Army, asked a conference on the disagreeing votes of the two Houses thereon; and appointed Mr. ELIHU B. WASHBURN of Illinois, Mr. ARCHIBALD McALLISTER of Pennsylvania, and Mr. REUBEN E. FENTON of New York, managers at the same on its part.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled bill (S. No. 86) to provide for the appointment of a warden of the jail in the District of Columbia; and it was thereupon signed by the Vice President.

VOLUNTEER NAVAL APPOINTMENTS.

Mr. HALE. I now move to take up Senate bill No. 76, which is a short bill from the same committee.

The motion was agreed to; and the bill (S. No. 76) relating to appointments in the naval service was read the second time by its title, and considered as in Committee of the Whole. It provides that hereafter all appointments in the volunteer naval service of the United States shall be submitted to the Senate for confirmation, in the same way and manner as appointments in the regular Navy are required to be; and all such appointments hitherto made shall cease and determine at the expiration of sixty days from the time of the return of the vessels in which those holding them are respectively employed.

Mr. GRIMES. I move to strike out of the last clause of the bill that which declares that all persons who shall come in within sixty days shall cease to hold office unless confirmed. I wish to make it prospective merely.

The VICE PRESIDENT. The words proposed to be stricken out will be read.

The Secretary read them, as follows:

And all such appointments hitherto made shall cease and determine at the expiration of sixty days from the time of the return of the vessels in which those holding them are respectively employed.

Mr. GRIMES. I cannot see any possible ad-

vantage in passing the bill as it is reported by the Committee on Naval Affairs, unless it be to prove the truth of that passage of Scripture which declares that the first shall be last and the last shall be first. What will be the operation of it? The first clause of it says that hereafter all appointments that may be made shall be sent to the Senate and be confirmed. That nobody has any objection to. That is what the Senate agreed to a year ago, that all appointments made after that time should be sent here for confirmation. It then goes on and says that all the appointments that have hitherto been made shall cease and determine within sixty days from the time of the arrival in any American port of the ship on which the appointee now is, unless he shall be confirmed; and I believe even that latter provision is not in the bill. The result will be that the men who are now on our foreign stations, or in our ships on our coast coming in after we adjourn and not being confirmed by the Senate, will cease to hold office, and they will take rank on the Register behind those who will be confirmed by us before we adjourn at this session of Congress. That cannot be the purpose of Congress; that certainly is not the intention of the Naval Committee; that, I apprehend, would work as a great hardship upon the persons who were first appointed and who have been serving so for the last two and a half or three years.

Mr. HALE. I have no feeling on this subject—

The VICE PRESIDENT. The Senator will pardon the Chair. It is now past the morning hour, and it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. HALE. I move that the consideration of this bill be continued for the present. Let the unfinished business of yesterday be passed over informally.

The VICE PRESIDENT. That will be done if there be no objection. The Chair hears no objection.

Mr. HALE. I will only make a statement to the Senate of the reason that governed the committee. As was said by the Senator from Iowa, the same proposition was presented last year. There are now upon the list 72 lieutenants, 485 masters, 395 ensigns, 764 masters' mates, 138 assistant surgeons, 21 engineers, 111 first assistant engineers, 162 second assistant engineers, 390 third assistant engineers, 31 gunners, 16 carpenters, and 219 assistant paymasters, receiving an aggregate compensation of nearly three million dollars annually, who have been appointed in the naval service without any confirmation by the Senate. These gentlemen, who are now holding office, were appointed under this condition:

"That the temporary appointments made or which may be made by the Secretary of the Navy, of acting lieutenants, acting paymasters, acting assistant surgeons, acting masters, and masters' mates, are hereby ratified and confirmed as temporary acting appointments until the return of the vessels in which they are respectively employed, or until the suppression of the present insurrection, as may be deemed necessary; and the rate of compensation allowed the several grades specified is hereby legalized and approved."

There will be no difficulty such as is suggested by the Senator from Iowa, because this bill simply carries out the provisions of the act under which they were appointed.

Mr. GRIMES. It only carries out the first part, not the latter part. The latter part says they shall hold office until the suppression of the insurrection.

Mr. HALE. They shall hold "until the return of the vessels in which they are respectively employed, or until the suppression of the present insurrection, as may be deemed necessary."

Mr. GRIMES. You do not put that last clause in your bill—that which relates to the suppression of the rebellion.

Mr. HALE. I do not.

Mr. GRIMES. Then there is no parallel.

Mr. HALE. What the committee thought was that there would be no sort of difficulty in requiring the Secretary to send these appointments with the other appointments to the Senate upon the return of the vessels in which these officers are now acting.

Mr. GRIMES. Then they will go below the others on the Register.

Mr. HALE. The Senator from Iowa knows very well that it is competent for the Secretary—

and he frequently does it—to have them take rank back to the time of their first appointment. We have a nomination pending before the Senate at this moment of a commodore, nominated for confirmation, to take rank in July, 1862; and it will be perfectly competent to take care of that point. I have no feeling about it. If the Senate think the appointment of these officers ought to be confirmed to the Secretary of the Navy without the confirmation of the Senate I have no objection, but I think it is wrong.

Mr. GRIMES. I have no feeling about it either; and by moving to strike out this latter clause I am not deciding, and I do not intend to indicate any opinion, as to whether the nominations of these men ought to be sent here for confirmation or not. I am willing to go for the first clause of this bill, which requires that in the future they shall be sent here; but that is not the purpose of the bill, or rather it will not be the working, the practical operation, of the bill.

The first clause says that "hereafter all appointments in the volunteer naval service of the United States shall be submitted to the Senate for confirmation, in the same way and manner as appointments in the regular Navy are required to be." To that I do not object. I suppose nobody is going to object to that. I am perfectly content to sit here and pass on all these nominations—on the nominations of warrant officers, if you please, of acting masters, although it is something that has never been done before and never thought of before.

But then the bill goes on and says that "all such appointments hitherto made shall cease and determine at the expiration of sixty days from the return of the vessels in which those holding them are respectively employed." It absolutely discontinues them, absolutely turns them out. It does not say that they may be continued until the next meeting of the Senate. As I said when I first rose, it makes them the last men on the Register, it puts forward young men who have gone into the service latterly, and whom we shall confirm during this session of Congress, and it puts at the foot of the list men who have been two years or two years and a half in the service. It seems to me that a harder, a severer blow could not be struck at the volunteer naval service.

The VICE PRESIDENT. The question is on the amendment of the Senator from Iowa to strike out the words which have been read.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. JOHNSON. I ask for the reading of the bill as it now stands.

The Secretary read it, as follows:

Be it enacted, &c., That hereafter all appointments in the volunteer naval service of the United States shall be submitted to the Senate for confirmation in the same way and manner as appointments in the regular Navy are required to be.

Mr. COLLAMER. I apprehend that in the drawing of this bill the first part was drawn with a view to the latter part being kept in, that those who had been heretofore appointed should be reported here and acted upon with the new appointments. Now, with the latter part struck out, all the appointments heretofore made will remain without being acted on by the Senate.

Mr. FESSENDEN. That is intended to be so.

Mr. COLLAMER. If that is the intention, I have nothing to say.

Mr. HALE. That was not the intention of the committee; but the committee submit to the Senate. The Senate have so ruled, and it is not for us to say that the Senate have not done wisely.

Mr. JOHNSON. I ask the chairman of the Naval Committee if he has considered whether, if this bill shall be passed, the President will be at liberty to make an appointment during the recess of the Senate?

Mr. HALE. Just precisely as in the regular Navy. The action in the regular Navy is made the measure of action in the volunteer Navy in express terms.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The VICE PRESIDENT. The question is on the passage of the bill.

Mr. GRIMES. Is it too late to amend the bill?

The VICE PRESIDENT. It is not amendable without reconsidering the last vote.

Mr. GRIMES. I move to reconsider, in order to bring the bill back to the stage where it is amendable.

The VICE PRESIDENT. The Senator from Iowa moves to reconsider the vote by which the bill was ordered to be engrossed for a third reading.

The motion was agreed to.

The VICE PRESIDENT. The bill is now before the Senate, and open to amendment.

Mr. GRIMES. I propose to amend the bill by inserting as a new section:

And be it further enacted, That courts-martial shall have power to sentence officers, who shall absent themselves from their commands without leave, to be reduced to the ranks to serve three years or during the war.

This is an exact transcript of the law as it now stands in regard to the Army, and I am told by officers of the Army that it has had a most beneficial effect. I have offered it here at the instance of gentlemen who feel an interest in the Navy, and seem to think it will have a beneficial effect there.

The amendment was agreed to.

Mr. HALE. Let the bill be read as amended. The Secretary read the bill.

Mr. HALE. I ask the Senator from Iowa if he does not want to add something to show that the last section applies to officers of the Navy.

Mr. GRIMES. The word "ranks" is improperly used there; but I hardly know what to substitute for it.

Mr. HALE. I move to amend the last section by inserting the word "naval" before the word "courts-martial."

The VICE PRESIDENT. That modification will be made, if there be no objection.

Mr. GRIMES. I move to amend that section by striking out the word "ranks" and inserting "rating of ordinary seamen."

The VICE PRESIDENT. That modification will be made, if there be no objection.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended by adding the words "and to courts-martial."

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed, on the 24th instant, the following bill and joint resolution:

A bill (S. No. 36) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863; and

A joint resolution (S. No. 27) relative to the transfer of persons in the military service to the naval service.

EXCLUSION OF COLORED PERSONS.

The VICE PRESIDENT. Senate joint resolution No. 23 now comes up as the unfinished business of yesterday.

Mr. SUMNER. Before the Senate proceeds with the consideration of that resolution, with the permission of my colleague I desire to move a reconsideration of the vote of yesterday accepting the report of the Committee on the District of Columbia, to the effect that no legislation was needed in order to secure to colored citizens their rights in the railways of the District of Columbia. I make the motion to reconsider merely that I may call the attention of the chairman of the committee to that report, and ask him the reason on which it is founded.

The VICE PRESIDENT. If there be no objection, the Chair will entertain the motion. The Chair hears none. The question is on reconsidering the vote by which the Senate discharged the Committee on the District of Columbia from the consideration of the subject alluded to.

Mr. GRIMES. I think it is unnecessary to reconsider that vote in order to bring the matter again before the Committee on the District of Columbia and before the Senate, for this reason: when it was referred to the Committee on the District of Columbia the subject was taken under consideration in a very full meeting of the committee, and the charter of the company whose servants are said to have perpetrated the outrage upon the colored surgeon in the United States Army was thoroughly examined, and the conclusion reached—I believe I am correct in saying

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unanimously—by the committee that there is nothing in the charter that authorizes the company to make any distinction between persons of any lineage or color.

My friend, the Senator from West Virginia, [Mr. WILLEY,] yesterday submitted a report embodying the opinion of the committee, and I think I may say the unanimous opinion of the committee—at any rate unanimous so far as I know—to that effect, that there is nothing in the charter which authorizes any restraint or any restriction upon any person riding in the cars.

I will say a word further which I ought to say. There was some discussion here the other day in regard to the turning out of the cars of Dr. Augusta. I learn from an investigation I have made that that occurrence took place on the Fourteenth street road, where there were no cars for colored persons run. Since that time, or since the attention of the Senate was called to it by the introduction of a resolution by the Senator from Massachusetts, cars for the use of colored persons have been put upon both the Seventh street and the Fourteenth street roads; and the president of the company tells me that he has put an additional number upon the Pennsylvania avenue road.

I do not think under the circumstances that it is worth while to reconsider the vote and return the consideration of this subject to the Committee on the District of Columbia; because that committee hold that every person has a right to ride in the cars, and that a colored person has the same remedies open to him for any infringement of his rights by the company as anybody else.

Mr. SUMNER. If I can have the attention of the chairman of the committee one moment, I should like to know whether it was the understanding of the committee that the ejection of a colored person from a car was illegal.

Mr. GRIMES. As I understood it.

Mr. SUMNER. That the ejection was illegal?

Mr. GRIMES. Yes, sir.

Mr. SUMNER. If that is the opinion of the committee, of course there is no occasion for additional legislation unless it be that the question of law has been drawn into doubt. Sometimes, for instance, we have a declaratory statute where there has been a doubt thrown upon a legal right. I fear there has been a doubt thrown upon what I do not doubt is a legal right in this case. But if the committee having this matter in charge have unanimously come to the conclusion that there is no need of any further legislation in order to protect what they regard as an undoubted legal right, I am not disposed at the present moment to recommend any further proceeding; but I desire to have it understood by the railroad company, I desire that they should take notice that they violate the law, and that whenever they exclude a colored person from any one of their cars they do it in violation of law. Of course such a railroad corporation cannot be entitled to any favors hereafter from Congress. If it comes forward for any additional immunities or privileges, it cannot expect any grant of them from Congress. Would it entitle itself to any favor here, it must begin by acknowledging the rights of all persons without any distinction of color.

Mr. JOHNSON. I have no doubt the chairman of the committee is right in saying that there is in the charter no authority to discriminate between any description of persons, the black or the white; and whatever would be the case in reference to such a charter in the States where slavery exists, where to a certain extent the negro is not upon the same footing with the freeman, it certainly cannot apply to the District of Columbia, where by your legislation already passed you have placed them in all respects upon the same footing. You have emancipated all those who were slaves before, and slavery cannot exist in this District at any time in the future, at any rate without the consent of Congress. That being the case, if there is not in the charter an express authority to discriminate, if the company undertake to discriminate except for some good cause, (and you can imagine a good cause why a par-

ticular man should not be permitted to enter the cars,) they would clearly be responsible. If a man were in such a filthy condition that nobody else could sit in the cars with him, it would be proper to exclude him, and we can very well imagine that might be true of a white man as well as a black man, and the right of exclusion would also apply to a man having a cutaneous disease. It is absolutely necessary to the safety of the traveling public that there should be some police power in order to protect those who travel in the cars, because, although I am as willing as the Senator from Massachusetts (and I am sure he would not be willing to go further than I should in that particular) to protect this description of people, I certainly would not place them upon a better footing than the white man. All that he seeks is, and all that as I suppose public opinion anywhere seeks to accomplish is, to put them upon equal rights, the enjoyment of all the rights under the law which the laws may give; but he would not say that it was not in the power of the company, without being responsible in actions for damages, (a question to be passed upon hereafter if such a case should arise,) to exclude from the cars any description of person, white or black, whose presence in the cars would be attended with inconvenience, or peril to life or to health.

I rose merely for the purpose of saying, Mr. President, that as I understand the charter, and I have had occasion to look at it, it contains no provision at all by which there is in the company any power to discriminate between these two classes of people.

Mr. WILLEY. Perhaps it may be proper that I should make a remark or two in reference to the report which is the subject of discussion this morning, from the fact that I made that report, and, at the instance of the Committee on the District of Columbia, examined the statute. On examination I find what I think every Senator will find, that there is no distinction whatever, directly or by implication, against any person on account of his color; that in this respect all passengers stand upon a perfect equality; and that the remedies against the company for any failure to accommodate passengers, or any violation of the law whatever, are as free and as full and as open and applicable to persons of color as to any other persons. It seems to me there can be no dispute about the proper legal effect of the charter of the company in this respect.

The proposition before the committee was to consider whether it was necessary to make special provisions for colored persons in order to secure to them equal privileges with other members of the community. The law is as open to a colored person as it is to a white person. So far as that matter is concerned, all members of the community stand, as I conceive, upon a perfect equality. I do not suppose that was the object of the honorable Senator from Massachusetts to make a distinction in favor of colored persons over white persons; but any special enactment in regard to their privileges on this road certainly would be a distinction against white passengers, while it would not enlarge under the law, in any respect whatever, the privileges and remedies of colored persons. What, then, is the necessity for any action on this subject on the part of the Senate or on the part of Congress? The law is now full and perfect in all its provisions and adaptations to secure the colored persons in the enjoyment of the privileges of this railroad.

I will say further, Mr. President, that if the Senate or the Congress of the United States shall undertake to become the custodians of the rights and privileges of the citizens of Washington, and when any of those rights or privileges are withheld we are to take the matter in charge and prosecute the remedies for all persons who may be injured, we shall soon have our hands full of business, not of a very pleasant character, in my humble estimation. On the other hand, Congress has done all that can be done. It has amply provided by law for the enjoyment of the privileges of colored persons in a manner and to an extent

equal with that of any other person in the community. What more can be done? What more ought to be done? If they have been aggrieved, let them apply to the law and let the courts redress their grievances, in the same way that white persons would be bound to apply to the law and to the courts for a redress of their grievances.

This, I think, was the unanimous opinion of the committee. It certainly was mine, as a member of the committee. Under the instructions of the committee, I drew up the report which was submitted yesterday, and upon making which the committee was discharged by vote of the Senate from any further consideration of the subject. The committee being of this opinion, it would be useless to refer the matter back again to them, unless it is under some positive and direct instructions of the Senate, because we believe there is no distinction whatever against persons of color, but that they are free and equal in every respect in regard to these railroad privileges.

Mr. WILSON. I am very glad to hear the remarks made by the Senator from West Virginia. I think in law he is right, but in practice it is an undeniable fact that the spirit of the old law and the old practices still lingers to some extent here in the District. I am told by very respectable men here that it is with the greatest difficulty that colored men can obtain of the city authorities licenses to do their business—licenses that are freely granted to white men. If there is any embarrassment of that kind, and the city authorities do not yield to the laws and to justice, I think the legislation of Congress should force them to do so. I think they should be made to understand that there is no inequality in law in this District, and that these people have their rights, and that those rights must be acknowledged, or "somebody will be hurt."

I saw in a paper a day or two ago a statement that the same officer who was put out of the cars was turned out of the Supreme Court room in this Capitol. I should like to ask the Senator from Iowa, the chairman of the Committee on the District of Columbia, if he has any information of that kind, why this man was turned out, who turned him out, and who is responsible for it.

Mr. SAULSBURY. As this seems to be an occasion for the expression of private opinion with reference to this subject, and as other gentlemen have indulged in the expression of their private opinions, I must take occasion to say that I most heartily approve of the action of the officer on board that railroad car. I think he deserved the thanks of the community. When these negroes go about sticking their heads into railroad cars, and among white people, and into the Supreme Court room, I think an officer is perfectly right in telling them they have no business there; because it is evident that the reason they do so is simply to gain notoriety, and to see if they cannot bring themselves into conflict with the officers of the railroad cars or the officers of the Supreme Court.

Now, suppose that this negro was turned out of the Supreme Court room; what authority is there in Congress to say, by any legislation of theirs, that the thing shall not occur in the future? That court have control of their own proceedings; they have jurisdiction over their court room, and they have a perfect right to say who shall be admitted in that court room, and who shall not.

I do not like to indulge so often in remarks of this kind with reference to this class of people, but, lest it should be supposed that the opinions expressed here meet with universal approval, I feel constrained on all proper occasions to dissent from them.

Mr. GRIMES. I also saw the statement in the newspapers to which the Senator from Massachusetts has alluded, that a surgeon wearing the uniform of the United States had been turned out of the Supreme Court room, and I supposed some gentleman would put to me this inquiry, as they did the other day about his being thrown out of the cars, and I thought I would take the precaution to inform myself. I therefore wrote a note to

one of the judges to know what were the facts. In his answer he says:

"There is no rule or practice of the Supreme Court excluding any person whatever during its session. Its proceedings are in open court."

He then goes on to say:

"If the colored surgeon to whom you allude was turned out of the court room?"

And I infer from the wording of this letter that they did not know anything about it—

"It was without any authority from the court, or any member of it, and equally without our knowledge. As to the fact, I know nothing of it except from rumor."

If Dr. Augusta was turned out of the court room he was turned out by some of the bailiffs or under-officers of the United States marshal, who has the appointment, I believe, of those officers, and not by the authority of the Supreme Court.

In regard to this other matter, if we should pass any law in addition to that which we now have in regard to the railroads, we should be compelled to remit these colored men to their legal remedies where they are now. If they are turned out, as we hold the law, they can sue the railroad company for their ejection, for the trespass; and what can we do more than that if we should adopt any additional legislation? I think they stand upon stronger and better ground at present than they would by the adoption of the kind of legislation proposed.

Mr. SUMNER. After the declarations that have been made on the floor to-day, I am at least for the present satisfied, and I certainly shall not proceed any further with my motion. Let me say I was particularly grateful to the Senator from Maryland for his very explicit statement of the law on the subject. I do not doubt he is entirely right. It has always been my opinion. I am glad to have it confirmed by that distinguished Senator and lawyer. I am also grateful to the Senator from West Virginia who made the report, and who has so explicitly stated his own conviction, and as I understand him, also the unanimous opinion of the committee, to the effect that these people had legal rights precisely as white persons to the full enjoyment of all the privileges of the railway in this District. If they have such legal rights, they are at this moment unquestionably exposed to what I must call outrage. If a white person were ejected from the cars who otherwise was perfectly respectable, we should all feel that it was an outrage. Is it any less an outrage because the person ejected is simply guilty of a skin not colored like our own? For myself I confess that to my mind it is a greater outrage, because our obligations are greater in proportion to the humility and weakness of those with whom we deal.

But, sir, I have no desire to proceed any further in this question. I am for the present satisfied with the declarations that have been made. My hope, however, is that the railroad corporation will at once take notice and act according to law. I now ask permission to withdraw the motion.

The VICE PRESIDENT. The motion is withdrawn. The special order of the day, being the unfinished business of yesterday, is now before the Senate.

PAY OF COLORED TROOPS.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 23) to equalize the pay of soldiers in the United States Army; the pending question being on the amendment of Mr. COLLAMER, to add to the joint resolution the following:

All persons enlisted or mustered into the service as volunteers, under the call dated October 17, 1863, for three hundred thousand volunteers, who were at the time of enlistment actually, and for six months previous had been, resident inhabitants of the State in which they volunteered, shall receive from the United States the same amount of bounty, without regard to color: *Provided, however,* That the foregoing provision shall not extend to any State which the President, by proclamation, has declared in a state of insurrection.

Mr. WILSON. I should like to ask the Senator from Vermont how far he understands this proposition to extend. We have passed an act authorizing the enrollment and enlistment of colored persons, slave or free, in all the States; and we provide by that act—

Mr. COLLAMER. What act do you speak of?

Mr. WILSON. The enrollment act. We pro-

vide by that act that a commission shall be appointed who shall estimate the services of the slaves of loyal men in those States, and pay them a sum not exceeding \$300, and we have made it retrospective.

I understand the practice of the Government has been in Missouri, Maryland, and to a considerable extent in other sections of the country, to recognize this fact. We have raised in Maryland, I suppose, something like six or seven thousand colored soldiers.

Mr. JOHNSON. Eight thousand.

Mr. WILSON. Eight thousand, I am told by the Senator from Maryland. Governor Johnson told me a day or two ago that they had fourteen thousand in Tennessee, and we must have raised several thousand in Missouri. What I wish to understand is, whether the Senator's proposition would not cover the cases where we propose to pay the loyal masters. That is the difficulty. The provision proposed is certainly just, and it ought to be adopted so far as concerns most of the States. The Senator excludes the rebel States; but it seems to me in view of the legislation already had it would be hardly just to apply this legislation to Tennessee, or to Maryland, or Missouri, or to those States where we have already entered into obligations to pay a sum not exceeding \$300 to the loyal masters. I call the Senator's attention to this point. I am anxious to do all we can do in this direction; but at the same time I want to guard properly the Treasury.

Mr. COLLAMER. I ask the gentleman from Massachusetts if it is not the twenty-sixth section of the enrollment bill that he alludes to?

Mr. WILSON. Yes, sir.

Mr. COLLAMER. I have not that statute before me; but if it can be found, I desire that that section might be read.

The PRESIDING OFFICER. (Mr. SHERMAN in the chair.) The Chair will ascertain whether the enrollment act is in the possession of the Senate or not.

Mr. COLLAMER. I take it that the State of Tennessee would not be covered by my amendment. That was one of the States declared to be in a state of insurrection by the proclamation of the President, and of course this amendment would not reach that State.

A suggestion has been made to me by some gentlemen about the time for which these persons were actual residents and inhabitants of the State. I have provided in this amendment that these persons were residents of the State and had been such for six months prior to the time of their enlistment. I do not know but that may be too long.

I will state my object in offering this amendment. Our colored men in Vermont, Massachusetts, Connecticut, and New York were enrolled under the former enrollment act precisely like other people, were subject to draft precisely like other people, and some of them were drafted. When the President called for three hundred thousand men and informed us that if they volunteered it would clear the State or the district from the draft to the amount of the number of men that volunteered, we thought as a matter of course that it was a proposition to take the men who were subject to draft and let them volunteer instead of standing to be drafted; and inasmuch as all colored people of the proper age were subject to be drafted, there could be no reason in the world why they should not volunteer. They did volunteer in my town to the number of between forty and sixty. They received the bounties from the town and the State, from \$300 to \$500, like white people, and they received the pay of the State, seven dollars additional per month, which our State pays to all her soldiers. They supposed and expected, and everybody supposed, there was no sort of distinction about it, and that they were to receive the bounties like other people. When they came to be mustered in, as I stated the other day, while the white men were paid the Government bounty of \$300; the colored men did not receive anything. As there may be gentlemen present now who were not here at that time, I will state that they were men between the ages of twenty and forty-five years, able-bodied men, every one of whom could have earned his two dollars a day at home.

Mr. POMEROY. Did it occur lately?

Mr. COLLAMER. Yes, sir; and since I came here they have been sent off, and they must have

been sent off without their bounty. I said before, and now repeat, that every one of those men signed his name, without making his mark, to his papers of enlistment. They cannot realize, it is difficult for them to understand, how there can be such a distinction made without any possibility of reason. That those men must have that bounty is beyond all question. It must be paid. But shall the State be compelled to pay it instead of the Government of the United States paying it to the men they asked to volunteer? The Government told those men that if they did not volunteer they would be drafted; and now because they have volunteered they are going to make a distinction about paying them their bounties. If such a course should be taken by Congress, deliberately and understandingly, I do not know how I can go home and justify before my people the refusal to make this payment.

Mr. JOHNSON. On what ground did they refuse to pay them?

Mr. COLLAMER. There was an old act which authorized the President to employ colored people and pay them ten dollars a month and put them into the military service; and inasmuch as that, they said, was the only United States law expressly about paying colored men, they could not pay them any bounties. This is the way I understand it. The mustering officer said so. These colored men were enrolled with the white people under an express law of Congress in my State. They stood on the enrollment, subject in all respects like other people, and yet when we come to this point and this stage of the business the Government refuses to pay them. They went away. To be sure they went away under great disappointment, because they had relied on the additional bounty of \$300 to provide for their families while they were gone; but they said, "Well, we have come to serve the country, and we will go, trusting that the Government will do us justice at some time."

Now I ask that justice may be done them. I thought it advisable to draw the amendment in such a manner that those men who had been called out and volunteered under the call of last October for three hundred thousand men should receive the same bounty from the Government without regard to color, provided they were inhabitants of the State at the time.

If the twenty-sixth section of the enrollment act is in the possession of the Secretary, I should like to have it read.

The PRESIDING OFFICER. The Secretary will read the section indicated.

The Secretary read it, as follows:

SEC. 26. *And be it further enacted,* That all able-bodied male colored persons, between the ages of twenty and forty-five years, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States, his master shall have a certificate thereof, and thereupon such slave shall be free; and the bounty of \$100, now payable by law for each drafted man, shall be paid to the person to whom such drafted person was owing service or labor at the time of his muster into the service of the United States. The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding \$300 for each such colored volunteer, payable out of the fund derived from commutations, and every such colored volunteer on being mustered into the service shall be free. And in all cases where men of color have been heretofore enlisted or have volunteered in the military service of the United States, all the provisions of this act, so far as the payment of bounty and compensation are provided, shall be equally applicable as to those who may be hereafter recruited; but men of color, drafted or enlisted, or who may volunteer into the military service, while they shall be credited on the quotas of the several States, or subdivisions of States, wherein they are respectively drafted, enlisted, or shall volunteer, shall not be assigned as State troops, but shall be mustered into regiments or companies as United States colored volunteers.

Mr. COLLAMER. That section is rather too long, with my feeble hearing of it, for me to undertake to say now what would be its precise application in relation to my amendment. I observe that the great body of it relates to those States that have been declared in a state of insurrection. They are excepted in the proposition that I have made. It does not include those States at all. I do not see, on first impression, as it strikes me, that it makes any difference. We propose to pay these colored people as you pay other people. You pay it to their masters if they are slaves. My amendment provides merely that these col-

ored men, if they were inhabitants of their States at the time they volunteered, and had been resident there for six months, and had not been sent for and brought in from other States, shall be counted and they shall receive the same bounties as white people. That is all there is of my proposition; and I can see no reason why it should not apply. Whether it would by possibility extend over some of the ground covered by the twenty-sixth section of the enlistment act I cannot say; but my impression is that it would not.

Mr. SUMNER. So far as I understand the proposition of the Senator from Vermont, I am in favor of it. I believe I am right in saying it is a proposition on a general bill to provide for a special class of cases, and the Senator from Vermont, in explaining it, told us what first induced him to think that this special class of cases ought to be provided for. It was a hardship occurring in his own State with reference to certain persons enlisted there; and he was so much impressed with that hardship occurring in his own State that he thought he could not go back to his people again without making an effort to see that hardship redressed; and he proposes to redress it on this general bill. I am in favor of redressing it even on this general bill; but I cannot forget that only the other day, when a case of much greater hardship, striking not into one State but into several States, and indeed all over the country, was proposed to be redressed on this very bill, Senators on this floor objected to it, not because it ought not to be redressed, but because it should not be redressed on this bill; and, if I am not mistaken, the Senator from Vermont himself made that very objection.

Mr. COLLAMER. As I understand the case to which the gentleman now alludes, I think he made it very clear that the enlistment papers under which the men had been mustered into the service showed distinctly under what law they had been mustered in. I at that time insisted that it needed no law to redress that grievance; that if the enlistment papers signed by the men described the time of service and the nature of the pay, and Government mustered them in, they must pay the sum named in the enlistment paper. It will not do for the Government to say to an officer, "You have enlisted these men under such and such conditions, and have put them into their articles; you had no right to do that in relation to colored troops." What then? Dismiss them. They did not do that. They said, "You had no right to enlist them in the way you did; but we will muster them in; and yet we will not pay the sum agreed upon." That is the way I understood that case, and understanding it in that way, I said and believed that we should call on the Government to fulfill that written contract, and if it should be refused by the Government on proper attention being called to it by the proper auditing officer, then would be the time to pass a law to carry it into effect more specifically. That is the view I had of that case; but as I understand this case, there is no such condition of enlistment.

Mr. SUMNER. The difference between the two cases is that the first was stronger than the second case. The Senator has stated his position now precisely as he stated it the other day. He did say that in point of law on the statement made in the Senate the Government was bound to pay those colored troops. I never doubted that in point of law they were bound to pay those colored troops. But, sir, neither the Senator nor myself, nor the Senate alone, has the construction of the public statutes or the disposition of the public moneys. The construction of the statutes depends upon other officers of the Government. The disposition of the public moneys depends also upon other officers of the Government. The statute, by the officer who has been consulted, has been construed differently, and the officers of the Government who have the disposition of the public moneys have refused to pay those colored troops what I have no doubt in point of law they are fully entitled to; and that brings me to the precise point that their case was one of unquestionable hardship. They had, as the Senator from Vermont so ably put it, by the very terms of their enlistment entitled themselves to the full wages of thirteen dollars a month; but those wages have been refused; and now the question is, how shall they obtain their wages?

The Senator says they should look to the Gov-

ernment for the pay which belongs to them. But they have looked to the Government, and in vain. What then is left for them? To look to Congress, which after all is the great power in this country, the great regulator, the power which where one branch of the Government fails is to remedy the defect. They have looked to Congress. The subject has been debated again and again day by day; and when I had the honor of presenting it the last time—and this brings me now to the precise point to-day—it was opposed by Senators, not on the ground that the claim was not a good one, but that it should not be put on this bill.

If that objection was valid against the claim to which I refer, it is valid against the claim now presented by the Senator from Vermont. I do not think it is valid in either case. I believe that if any persons have enlisted in the national service and through any ambiguity of legislation or any misinterpretation of that legislation their rights have been drawn into question, it belongs to Congress as the conservator, as the guardian of the rights of every citizen, to see that they have the proper remedy, and Congress ought to go forward swiftly to see that they have the proper remedy especially in a case where men have already hazarded their lives and shed their blood for their country.

Feeling therefore, sir, that the two cases are entirely parallel, with this difference, that the case which I presented on a former occasion is much stronger than the case which is now presented by the Senator from Vermont, I propose an amendment to his proposition, as follows:

Provided also, That all persons whose papers of enlistment shall show that they were enlisted under the act of Congress of July, 1861, shall receive from the time of their enlistment the pay promised by that statute.

Mr. FOOT. Mr. President, I shall vote for the amendment moved by my colleague. The proposition, I think, must strike every one as eminently right and just in itself, and particularly after the explanation made by my colleague. It is simply a proposition to pay what, upon any fair interpretation, had been promised to be paid, and which in the exercise of fair dealing and good faith we cannot refuse to pay.

After the call of last October for three hundred thousand more troops, and with the view probably to facilitate the raising of the required number of men, and if possible to avoid the necessity of a further draft, it was deemed expedient by the War Department to offer a bounty of \$300 each for new recruits to all who, within a prescribed period of time, voluntarily enlisted in the military service of the country for three years; that is to say, this bounty was to be paid to all able-bodied male citizens or persons of proper age who should so enlist; or, in other words, to all accepted volunteers. This is simply a proposition to redeem that promise—a promise published and proclaimed everywhere throughout the country; in every nook and corner of the country; at the threshold of every hamlet in the country—a promise everywhere and by everybody understood as applying to and embracing all accepted volunteers, without exception of class or color—a promise everywhere and by everybody so interpreted and so relied upon, and so acted upon. Now the question is, shall we not redeem that promise?

Under that call and under this offer of bounties the Government have invited and have accepted the voluntary services of men of color, as volunteers, and have sent them to the field to aid in the suppression of this rebellion. I submit that any discrimination between these and other soldiers of the Union; between these and other volunteers enlisting under the same circumstances, at the same time, and under the same offer; any discrimination between them in respect to the payment of this bounty—paying it to one class and withholding it from the other—is alike invidious and unjust, and, I may add, in direct violation of the spirit and meaning of the offer which had been held out to them.

In my own State, as in many of the northern States, these persons of color are citizens, recognized as citizens, enjoy the civil rights and privileges and immunities of citizens; are subject and amenable to the laws as citizens; exercise the elective franchise, do military duty, are liable to enrollment and draft, and constitute a part of the State militia as citizens. In short, they owe allegiance to the Government, and, in turn, the Gov-

ernment owes protection to them, as citizens. Now when the Government calls for volunteers, when it offers bounties to volunteers, it is understood that the call and the offer have reference to and embrace all able-bodied male citizens or persons of suitable age actually enrolled and subject to draft, including black as well as white citizens. So everybody understands it. The Government has, indeed, been liberal and generous and even bountiful to those who have volunteered in its service in its defense; and it has deemed it expedient to hold out strong pecuniary inducements for voluntary enlistments, and to offer liberal bounties for volunteers, in order, as I have before remarked, to secure, as soon as practicable, the requisite number, under the call of last October for three hundred thousand men. Under this call, and under these inducements so held out, many colored persons, black men, if you please, yet strong and able-bodied men, brave and patriotic men withal, have volunteered, have been accepted, have been mustered into the service of the Government, and have actually been sent to the field. They expected, as they had every reason to expect, to receive the bounty offered by the Government to volunteers. They had no reason to suppose or to apprehend that they were not included within this offer. They certainly come within the literal terms of the order. There is nothing in the terms or in the language of the order making the offer of these bounties which indicated that any discrimination was to be made, nothing which indicated that this bounty was to be paid to the one class and not to the other, nothing which indicated that this bounty was to be paid to volunteers of light complexion only, and not to volunteers of dark complexion as well!

These men, Mr. President, entered the service in full faith and reliance on the promise of the Government in this regard—on its faithful fulfillment—and that they would receive the proffered bounty; and this was the general, I will say the universal expectation. Nobody entertained any other idea than that this bounty was to be paid to all accepted volunteers alike. If it had not been so intended, if it was not intended to include this class of persons, if it was intended that there should be any discrimination in favor of one class and against the other, it should have been so expressed, so that nobody should be deceived or misled by it. These persons should have been notified in some form, or at least had some means of information, that the order for the payment of this bounty did not mean exactly what it said; that it did not mean to include them; that it was not designed to extend the bounty to them, volunteers though they were. Common justice and fairness would seem at least to have required thus much. As it is, and if they are not to be paid this bounty, they have a right to complain, they have good cause to complain that they have not been fairly dealt with; that they have been enured into the military service of the Government by offers and promises, merely delusive, never to be fulfilled. Such an imposition certainly was never contemplated by the Government, or by any department of the Government, or by any authorized agent of the Government.

What number of volunteers of this class have entered the service under this call and under this offer I am not advised; but whatever may be the number, whether it be more or less, they take the place of and expose themselves to the dangers and accidents of war, in the stead of just so many other or white volunteers, and to whom this bounty would have been paid without a question; so that the cost to the Government cannot be any more in the one case than it would have been in the other; and the payment of this bounty cannot be withheld in the one case any more than it could have been in the other consistently with honor and good faith. The obligation is quite as imperative in the one case as it would have been in the other. It is not a mere question of expediency or of policy, resting in the judgment or the discretion of Congress or of the Government. It is much more than that. It is a question of honor, a question of honorary obligation to these volunteers. It is a question whether we will discharge an obligation to which we have already been committed by solemn pledge and by public proclamation.

Mr. President, this obligation must be discharged, this bounty must be paid, if we would

regard our own engagements, if we would keep our own promises. This pledge must be redeemed if we would maintain the national honor, if we would cherish and uphold the national faith.

I have only to remark in conclusion that as a general rule, or, more properly speaking, as a general principle of justice and of policy, all persons of the same rank employed in the military service of the country should be placed on the same footing in respect to compensation; there should be no discrimination in this regard. This is clearly the dictate both of common justice and of sound policy.

The original resolution, amended as it has been upon the motion of the Senator from Massachusetts, the chairman of the Committee on Military Affairs, recognizes and adopts this general principle. The amendment moved the other day by the honorable Senator from Pennsylvania [Mr. COWAN] in the form of a substitute to the original resolution recognizes this same principle; but neither the original resolution nor the proposed substitute reaches the case in question; and therefore there is occasion for the amendment moved by my colleague, and which I hope will be adopted.

Mr. POMEROY. I think the amendment of the Senator from Vermont [Mr. COLLAMER] is a good one. I am glad it has been introduced. I think that it is eminently just, not simply in reference to the cases alluded to by him, which this amendment will cover, but in reference to all such cases; for there are others in the country which were not alluded to particularly in the remarks of the Senator from Vermont. But without referring to my own State I am for it, because I think it perfects and improves the legislation of Congress in this regard. I think I am right in saying that the enrollment act which was passed here a few days ago had a provision in it that when a colored man is enlisted in the service of the United States voluntarily, if some man claims him as a slave that man is to get \$300; but if he is a freeman, and nobody has put a robber's hand on him, \$100 is to be paid to the man himself. Then the discrimination is only \$200. We only invest \$200 more in a man as a kind of premium for somebody to own him.

Mr. COLLAMER. There is one other feature in that bill which the Senator will pardon me for alluding to: that \$300 is to be paid out of the commutation money.

Mr. POMEROY. I think this amendment will correct that existing legislation, for I believe it is not simply retrospective, but it is prospective. It corrects that legislation for the future as well as for the past, and establishes a precedent that ought to be followed, and that I think ought to have been in the enrollment act. I cannot conceive of a greater injustice than to take a person from a state of slavery, and put the uniform of the United States upon him, and march him out into freedom and into manhood, and pay him nothing, while you pay his master \$300. Is it not to be supposed that a man assuming a new relation, that of freedom, taking care of himself, has somebody dependent upon him? Is it not a most reasonable request that if there is to be \$300 paid for him he shall have it? There is hardly any man who is not responsible for somebody in this life, and if the Government support him after his enlistment he ought at least to have the \$300 on entering upon his new relation, if not to support himself, to support somebody that may be dependent on him. I consider it an outrage to take a man and put him into the service of the United States, and if he is free, if he always has been free, to give him \$100, and if he has never been free to give him nothing. I think this amendment will correct that legislation, and in that respect I am for it, for I do not think the legislation, as it passed in the enrollment act, ought to have been supported.

Mr. WILSON. Mr. President, on the 3d of March last we passed the enrollment act that provided for the enrollment of all citizens. The Government enrolled, I think, in nearly all the loyal States, certainly in all but Kentucky and West Virginia, the free colored men fit for duty. Those free colored men were liable to draft, and in some States they were drafted. Some of them enlisted into the service before the bounties of the 17th of October were offered. They are in the service of the country, enlisted for the bounties which the local authorities paid them.

The other day we amended the enrollment act,

and we provided that colored persons, slave and free, should be enrolled and be liable to be drafted. We provided that when a colored man is drafted, if he is a slave, the \$100 bounty paid to drafted men shall go to the master. But we say to every slave in the loyal States, "If you will enlist into the service of the United States, the day you are mustered into the service you are forever a free man." That is what we say to them; and we provide for a board of examination, and to pay the master a sum not exceeding \$300. I think it a wise measure, and the Senator from Kansas will pardon me if I say that I hardly see the consistency of voting, a year ago, to pay Missouri \$20,000,000 to free her slaves, and then sticking over the payment of \$300 out of the commutation money for a soldier to fight the battles of the country. Sir, I voted for both, and I will vote for every measure that tends to break down and destroy and extirpate from the country the system of slavery; and if money is necessary to be used I will use money for that purpose, and think it a good use of money.

Sir, the Senator from Vermont proposes that colored persons who have enlisted under the call of the 17th of October, which offered a bounty of \$300—an offer that has been extended to the 1st day of March—shall have the bounty of \$300. That I understand to be the proposition, applying everywhere except to the States declared to be in insurrection. I am for that proposition. I see no reason why the colored man who follows the flag of the Republic should not receive the same pay and the same bounties from the nation, and the same bounties from the local authorities, as the white man. In the hour of battle they incur the same danger, and the blood of the one is as dear to him as is the blood of the other to him.

There is only this difficulty. By the enrollment act we have pledged ourselves to pay the loyal master in the States of Delaware, Maryland, West Virginia, Kentucky, Tennessee, and Missouri, whose slave has enlisted or shall enlist a sum not exceeding \$300. The pledge is made to them. Now, I do not want to pay this money twice, and I want this amendment so modified that it will not do so. I call the attention of the Senator from Vermont to that point. We do not differ at all in regard to the duty of Congress to provide that the free colored men of the country who have enlisted into the service under the call of the 17th of October for three hundred thousand men, and who are now serving the country, shall receive from the Federal Government the same bounty as is paid to white soldiers. I want the provision so shaped that it will not touch the cases in Delaware, Maryland, Missouri, West Virginia, Tennessee, and Kentucky, where we stand pledged to the loyal masters to pay a sum not exceeding \$300 for each of their slaves enlisted. What we want to do is to establish equality and justice by practical legislation.

Mr. POMEROY. The Senator from Massachusetts did not entirely apprehend the point that I made, or tried to make, in the dissent that I expressed from some of the provisions of the enrollment act which was passed a few days ago. I do not object to paying a bounty of \$100 to the soldier; but the point is that a discrimination is made against the man who comes out of slavery. It was no fault of his that he was in slavery; he never enslaved himself or consented to it voluntarily that I know of. What I protested against was simply the discrimination to the amount of \$200 against him because of a misfortune, a necessity over which he had no control. That is the objection which I think lies to that provision of the enrollment act to which I have objected. If this amendment will in any way remedy that, I shall most gladly vote for it.

In regard to the vote that I gave on the Missouri question, I think that when Missouri hung in the balance, we not knowing at that time whether she would be saved to the Union or was to go out, believing that the freeing of her slaves would secure her to the Union, I was willing to vote \$15,000,000, or any other reasonable sum. I did not propose to vote that money on the ground of its being a "just compensation" to the masters, for as a general thing I think that they who have had the unpaid labor of these men for a lifetime have had compensation enough; and it is time that compensation began to work the other way. I cannot for the life of me see how it is that justice

is always on the one side, and always discriminating against the oppressed and never for them. I believe it is time we learned that they have some rights which white men are bound to respect; and if misfortune or circumstances that they could not control have deprived them of their own labor for a lifetime, and we undertake to introduce them now to manhood and freedom, I ask, is it too much to set them up with \$100 bounty? Are we weighing out justice as we ought to do if we give the money to the master who has had their services for a lifetime? I think eminent justice lies in this direction.

The PRESIDING OFFICER. (Mr. NESMITH in the chair.) The question is on the amendment of the Senator from Massachusetts [Mr. SUMNER] to the amendment of the Senator from Vermont, [Mr. COLLAMER.]

Mr. WILSON. I propose to amend the amendment of the Senator from Vermont when I can do so.

The PRESIDING OFFICER. A further amendment is not now in order, the pending question being on an amendment to an amendment.

Mr. WILSON. Let the vote be taken on that.

Mr. SUMNER and Mr. LANE, of Kansas, called for the yeas and nays; and they were ordered.

Mr. JOHNSON. I believe the amendment proposed by the honorable member from Massachusetts is the same as the one voted upon a few days since.

Mr. SUMNER. Substantially the same. This is a slight change of that.

Mr. JOHNSON. But the result is the same.

Mr. SUMNER. The purport is the same. There is a little change in the language; that is all. It is that where according to the enlistment papers it appears that they have enlisted under the statute of July, 1861, they shall have the pay prescribed in that statute.

Mr. JOHNSON. I understand it.

The question being taken by yeas and nays, resulted—yeas 19, nays 18; as follows:

YEAS—Messrs. Clark, Collamer, Conness, Dixon, Doolittle, Foot, Foster, Hale, Harding, Howard, Lane of Kansas, Morgan, Morrill, Pomeroy, Sprague, Sumner, Tuck, Van Winkle, and Wilson—19.

NAYS—Messrs. Buckalew, Chandler, Davis, Grimes, Harlan, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Nesmith, Powell, Ramsey, Salsbury, Wilkinson, Willey, and Wright—18.

So the amendment to the amendment was agreed to.

Mr. WILSON. I move further to amend the amendment of the Senator from Vermont by inserting the word "free" after "all," for the reason that all slave persons who have enlisted or may enlist are already provided for by law; and this amendment as I propose to amend it will reach the case of all the free persons of color who have enlisted and who ought to have the bounty.

Mr. POMEROY. How are all slave persons provided for by law?

Mr. WILKINSON. I hope that the amendment now proposed by the Senator from Massachusetts [Mr. WILSON] will not be adopted. The other day a bill was passed here which I voted against, and in looking over the record I am very glad that I did vote against it; and that was a bill which proposed to muster slaves into the service of the United States, and to pay \$100 each for all who are drafted and \$300 each for all who volunteer, the money to go to their masters. This amendment as it was originally introduced by the Senator from Vermont, if it passed, would result in paying about six hundred dollars for every slave who should volunteer and be mustered into the service. It is now proposed by the Senator from Massachusetts to insert the word "free," so as to guard the Treasury of the United States; and the Senator says that the slave recruits are already provided for. Yes, sir, you have provided for them; you have provided that they shall enter the service of the United States; you have provided that they shall be placed upon the roll, that they shall peril their lives, that they shall be killed in battle, and you have provided to pay their masters who do not serve in the armies of the Union. That is the way you have provided for the slave soldiers. Now, sir, I wish to read an extract or two that I have cut from a paper, showing the conduct of these brave, patriotic, and devoted slaves to whom you do not propose to pay one cent of bounty.

It will be recollected by the Senate that a few days ago General Butler marched a force up to attack Richmond. He marched his men as far as Bottom's Bridge, where they met with obstacles in the way, and were compelled to retire. There were some colored troops in that expedition, most of whom had been slaves—the class of soldiers whom you propose to exclude from these bounties, and whose late masters you propose to pay. I do not believe there was a slaveholder in that expedition; but there were in it many men who had been slaves. A correspondent giving an account of the expedition says:

"As a result of this hard marching, on the first day out over two hundred had fallen out of the United States regiments from exhaustion. When our forces reached Bottom's Bridge, and discovered that their attempted surprise had been exposed, it is estimated that fully one half of the white soldiers who commenced the march had given out, and the roads back to Williamsburg were lined with stragglers. But I have the authority of a captain in one of the white regiments for the statement that not a single colored soldier fell out from illness, exhaustion, or any other cause, and when the rolls were called before the ordered retreat, every single sable son who had started on the march was present and answered to his name!"

A few days ago a large number of our soldiers escaped from Libby prison and attempted to reach our lines. Many of them were detained in Richmond, being unable to get outside of the limits of the city, and were cared for by the Union people there; and after getting out, they had to depend entirely upon the negroes for subsistence and for protection. The following interesting account is given by one of the officers who thus escaped:

"Some of Captain Phelps's party and others were pursued and fired upon. All of them kept out of the sight of whites, but trusted implicitly the blacks, and never had their trust betrayed. After the first officers had discovered themselves to the negroes and asked for food, on the Chickahominy, the negroes organized into relief squads and searched the woods for the fugitives, carrying them food from their scanty rations, and helping them in every way in their power."

Now, sir, I am opposed to this whole system of legislation. I suppose that it is the deliberate judgment of the Senate that these very men, these very slaves of Virginia, who searched the woods to pick up our escaped prisoners, should be taken up and put into our armies, and that the bounties which are provided by law should be paid over to their masters, who, I will warrant you, never offered these escaped prisoners a single potato to eat in the time of their exhaustion, and never offered them a place to sleep at night.

Mr. FOSTER. The honorable Senator will pardon me. He is mistaken in that. Some of the officers in their escape from Richmond, passing down the Peninsula, were entertained by the whites, and entertained bountifully, and provided for with everything they had, good Union men and Union women—Union women whose husbands had been shot on account of their desertion from the rebel cause.

Mr. WILKINSON. Mr. President, I am very glad to hear that there are good Union men down there; but I will venture the assertion that they were not slaveholders; or if they were slaveholders, that they would not ask the Government to pay them \$300 for the services which their slaves could render in defense of this Union. I make the statement on the authority of one of the escaped prisoners, an extract from whose letter I have read here to-day. I will just read again a single line from that letter. "All" the officers "kept out of the sight of whites, but trusted implicitly to the blacks, and never had their trust betrayed."

I have read these things for the purpose of showing the great impropriety and injustice of this kind of legislation. I never will consent, and I will raise my voice against it, and I will vote against the proposition that shall insert the word "free" into any bill which may be passed here discriminating as to the pay which this Government shall give to any of the persons who serve in the armies of the Union. Why, sir, are not the services of a slave soldier, if he perils his life, just as good as the services of a free man? If a slave regiment or a slave army can save this Constitution and Union, do we not owe those men just as deep a debt of gratitude as we owe the white soldiers or the free black soldiers? Indeed, we owe them more. If there is a class of men who, after having been ground to the earth, after having had the hard and iron heel of this nation pressing upon them, after having been lashed to slavery for years, and from their early infancy, will yet come up and serve this Government in the armies of the

Union, let us not insert in any bill which provides for paying bounties to our soldiers the word "free." No; the greater wonder is that after having been treated by this nation as they have been treated, one of them can be found to raise his arm for the defense of the Union. It is a marvel that after two years of war we have not learned a lesson, have not learned to open our eyes to the great questions of the hour and of the day.

I hope this amendment will not prevail. I do not know but that it may draw some money out of the Treasury to carry out the view I have expressed, but better far that there should be trouble in this country with regard to its Treasury, than that it should commit so great a crime as to employ men in the service of this nation, place them in the ranks, and then forever disgrace the nation by not paying them for the services which they have rendered. No nation in this enlightened age, in my humble judgment, can stand up before the public sentiment of mankind and make such a distinction as this. There is a principle, an elevated principle, involved in this proposition.

In my humble judgment the bill which was passed the other day never should have been passed. The slave owes service to this nation just as much as the freeman. Slaves are declared in the Constitution to be "persons," and the nation has just as great a claim upon an able-bodied black slave as it has upon a free white man; and having rendered this service to save the nation it is the duty of the Government to mete out exact and equal justice to this class of men, and the nation will be disgraced if it does not do it.

Mr. President, I hope that the time has gone by when we shall write the word "white" or the word "free" into any of the laws of this nation. I hope never to see a bill introduced or passed by Congress again where any distinction whatever in regard to rights shall be drawn as to any class of men in this country. And I think after one or two years more of fighting, if the two years we have already had are not sufficient, and after we shall have lost two or three hundred thousand more men, and have spent two or three thousand millions more of treasure, we shall learn the lesson that we ought to have learned a year and a half ago. I should very much rejoice if the proposition which was offered by the honorable Senator from Pennsylvania, who is not now present, [Mr. COWAN,] should pass, or something very much like it, wiping out all distinctions as to the soldiers and putting them on an equality, that every man who fights and shows his devotion to the interest of this country and to the cause of the Union shall be placed on a full and entire equality.

Mr. WILSON. I choose, Mr. President, in legislating here, not only to be guided by principles, but to be governed by the practical issues that present themselves for our solution. The Senator from Minnesota has now chosen to arraign the act against which he voted the other day. I am willing that the Senator shall defend that vote of his here and elsewhere; and I must say to him in all kindness that I think it is a vote which he will have to defend elsewhere. I am willing that he shall denounce that measure which has received the sanction of Congress and which the President of the United States has sent here to-day with his approval. That act says to every slave in the loyal States, "Enroll your name among the defenders of the Republic, and the hour you are mustered into our armies you are a free man forever more." The Government of the United States by that act for the first time in our history has declared tens of thousands of slaves in the loyal States free upon their own will to become free. It is incomparably the greatest emancipation measure that was ever passed by the Congress of the United States, and I would rather have my name to that bill which asserts the power of this nation to emancipate every slave in the country who will enroll his name among the defenders of the Union, than to any measure for which my name stands recorded in favor of the freedom of mankind. Sir, I glory in the vote, and I glory in that measure. Put it to the loyal American people, this day and this hour, and it will carry an immense majority of the friends of emancipation.

Now, sir, what are the facts in regard to the use of colored men? When the war commenced and a few men proposed to use black men in the armies

of the country, the proposition was met by a stern resistance in the Army and out of the Army; the public voice of the country was against it. But as the war went on, reason assumed its empire, prejudice began to melt away, and the necessities of the country called for the use of the colored men in the armies of the United States. Then it was that we passed through Congress, after a stern resistance and most determined opposition in both Houses, an act authorizing the President to employ colored men, and to pay them the sum of ten dollars a month.

We are now trying to right the inequality of pay. We have in the measure before us a proposition to equalize the pay, uniform, clothing, arms, equipment, organization, everything between the white and colored soldiers in the service of the United States. That is the measure before us.

Mr. WILKINSON. Except slaves.

Mr. WILSON. Slaves stand on the same footing as white men, except as to bounty. By the law a free colored man in Maryland goes to the recruiting officer, enrolls his name, and is mustered into the service, and receives ten dollars a month pay, but no bounty whatever. But under the law we passed the other day, which the Senator from Minnesota denounces, the slave enlists and receives the same pay as the freeman and his freedom. We propose in this joint resolution to increase the pay and put the colored man on the same footing as the white soldier except bounty. That we leave to be determined by the President. We have provided, however, that by enlisting he becomes a freeman, that his master has no claim upon his services in the future, and that the \$300 commutation money paid under the draft, or so much of it as a board shall determine, shall go to the master.

Mr. HOWARD. I rise merely to ask a question of the Senator from Massachusetts, and it is this in its simple form: upon what principle of law or justice is it that he gives to the owner of the slave, so called, the \$300 bounty, and not to the slave who becomes a soldier?

Mr. FESSENDEN. The slave gets his freedom.

Mr. HOWARD. I say nothing about his freedom. I ask, on what principle of law or justice is it that the Senator from Massachusetts gives to the owner of the slave \$300 bounty, and gives nothing to the slave who becomes a soldier? Where is the principle of justice or of law upon which that proposition is to be supported? I desire to hear the views of the Senator on that point, with all respect to him.

Mr. WILSON. The case is a plain one, and I think the Senator understands quite as well as I do. We find slavery existing in certain loyal States. We claim on the part of this Government that slaves owe duty to their country as well as freemen, and that the Government has a claim upon the services of slaves as well as freemen.

Mr. HOWARD. One further question, if the Senator pleases. If the Government has a claim upon the services of the slave, how is it possible that the master can have any after that claim shall have been made? How can the master assert any claim whatever after the Government has asserted its claim?

Mr. WILSON. You have a claim to the services of your minor son. That white boy owes service to his country, and he owes service to his father. You enlist him or you draft him into the military service; you use him; and he goes back to his father; and his father may claim his future services because you have not undertaken to relieve him from that claim of the father until he is twenty-one years of age.

Mr. WILKINSON. To whom do you pay the son's bounty?

Mr. WILSON. The bounty is paid to the son; but you do not relieve him from service to his father after his time is out in the Army. He goes back again to his father, and the father has a claim upon his labor and his services until he is twenty-one years of age. You do not deny the father's right; you have interrupted it, and when the interruption ceases the father resumes his right.

If you take the slave and use him until his time expires, and then let him go back to his master, he would have no claim upon the Government. I do not say that the master has any claim in justice and equity now; but we must look at the

practical facts as they exist. The master claims the services of the slave, and you step in and declare that those services are forever ended, that the slave is a freeman, that much he has secured. Then we say to the master that the \$300 commutation money paid in, or so much of it as a board shall award, he shall have in extinguishment of his claim as a consideration for the freedom that we have given to his slave.

Slavery exists in the country by local authority. Patriotism demands that we get rid of it because it stands in the way of the unity of the country and the strength, stability, and fame of the country. Congress has adopted this provision as the best under the circumstances to accomplish the desired object. I think it wise. I am willing that the Senator from Minnesota shall think otherwise; I do not rebuke him for voting against it: I hardly recognize his right to arraign me for voting for it.

There stands this great measure, the greatest anti-slavery measure ever passed by Congress. I think it will destroy slavery in any State in a hundred days after the Government shall enter upon its execution. Suppose the Government should say to the slaves in Kentucky, the only loyal State that carries the flag of slavery, "Enlist into the service of the United States those of you who are fit for military duty, and from that hour you are freemen forever," would not the result be to take the vigorous young manhood among the slaves of the State? Then what would the slave system in that State be worth?

Mr. WILKINSON. With the consent of the Senator I should like to ask him a question. If you should say to the slaves of Kentucky, "Come into the service of the United States, enlist and serve the Government in its armies, and we will not only give you freedom, but we will give you the bounty besides," would not that be at least equally anti-slavery?

Mr. WILSON. Certainly it would be equally anti-slavery, and I wish it could be so; but the Senator knows that such a measure had not the shadow of a chance to pass this Congress.

Mr. WILKINSON. The reason it cannot pass is because the honorable chairman of the Committee on Military Affairs will not bring in and sustain such a measure.

Mr. WILSON. Do I understand the Senator to refer to the measure last passed or the one pending?

Mr. WILKINSON. I refer to a bill providing for the employment of slaves and giving them the bounty which you now give to the masters. I understood the Senator to say that such a measure had no chance to pass Congress.

Mr. WILSON. Do I understand the Senator to refer to the act we have passed amendatory of the enrollment bill, by which we agreed to pay \$300 to the master, or to future legislation?

Mr. WILKINSON. Future legislation.

Mr. WILSON. If the Senator means future legislation, I am willing to follow him or coöperate with him in doing full justice to the slave who enters our armies. I am trying to secure practically all I can now secure. General Butler, to whom the Senator has referred, says he has authority to pay ten dollars, and that is as good as a larger amount. He has put four or five thousand colored persons into the service, paying them the bounty of ten dollars. He says, however, that two or three months' pay in advance would be for the benefit of the enlisted colored soldier.

Sir, we propose by the measure pending before the Senate to equalize the pay, equalize everything but the bounties, and we authorize the President to pay the sum of \$100 to colored persons where ever he shall deem it necessary. The drafted white man gets \$100 now; the drafted black man gets nothing at all by the present law. Now we propose to put them on an equality with regard to pay, and we leave it with the Government to pay \$100 bounty in sections of the country where it is necessary. We have not arrived at that condition when we can afford to squander the resources of the Government. I will go as far as the man who goes furthest in using money to exterminate the system of slavery, the cause of all our woes; but I feel to-day, as I have felt from the time the first gun was fired in this rebellion, that the only danger of the country is the want of money to carry on the war. I think we have made a great mistake that we have not increased,

and increased largely, our taxation, and I desire a system of taxation that will double or treble the taxes now put upon the country. If we had raised \$500,000,000 more than we have raised during the last two years by taxation, we should have saved more than that in the expenses of the Government and the people.

Mr. JOHNSON. I am not sure, Mr. President, that I know what is the exact question before the Senate. I understand the proposition made by the member from Vermont, because he explained it himself, and perhaps I understand the amendment suggested by the member from Massachusetts; but I rise not so much for the purpose of addressing myself to the questions which strictly arise upon either of those amendments as to say a word or two in reply to the Senator from Minnesota [Mr. WILKINSON] and the Senator from Michigan, [Mr. HOWARD], who have participated in this debate. I listen, of course, in common with all the Senate, to everything that falls from them with all deference and respect. I understood the honorable member from Minnesota to say that as far as he was informed the masters of the slaves who had been enlisted into the service of the United States have not participated at all in that service themselves.

Mr. WILKINSON. I intended to apply my remarks to the insurrectionary districts, to the States in rebellion. What I said was suggested by a report of the escape of our prisoners from Richmond, and had allusion more particularly to the white slaveholders in the rebellious States.

Mr. JOHNSON. That in some measure gets rid of what I supposed was the injustice that would have been the result of the Senator's statement unexplained. I was about to say that if I understood him correctly, (and the public may understand him as I do when his remarks are published,) I understood him to say that the masters had not shown as much loyalty as the slaves. Now, Mr. President, speaking for Maryland, I think I am at liberty to say that there is no class of our citizens more devoted to the Union, and more determined to use all their effort physical and pecuniary to extinguish this rebellion, than a great portion of the slaveholders in the State; and they have done it, too, notwithstanding influences which perhaps if they had existed in other States might have proved sufficient to weaken at least the patriotic energies that are now there exerted. The most of them have owned very many slaves; their fortune consisted in part in the possession of that property; but, notwithstanding that, they were anxious, as I have heard them say over and over again, not in individual cases, but in many cases, that if the rebellion could be extinguished and could only be extinguished by the immediate emancipation of their own slaves, no matter what might be the effect upon them of such a result, they would willingly meet the sacrifice. They are much more wedded to the Union than they are wedded to any of their mere local institutions, and especially more than they are wedded to the particular institution which now, I thank God, as they do, very many of them, is about to expire in Maryland.

The honorable member from Minnesota in order to make good his statement deemed it proper to read to the Senate certain letters which have appeared in the newspapers of the day, and as I understood him, or rather as I understood the correspondent upon whose authority he spoke, the black men in this last expedition which General Butler fondly supposed he could make in the entire ignorance of those who were to be surprised, evinced much more gallantry, much more endurance, and, as far as gallantry and endurance were concerned as evidences of patriotism, much more patriotism than the white soldiers with whom they were associated. I should like to know of the honorable member from Minnesota where those white soldiers came from?

Mr. WILKINSON. I think the Senator from Maryland mistakes entirely. There was nothing said about patriotism; it was physical endurance that was spoken of; and the reports say that while many white soldiers fell out of the ranks from exhaustion, not one black man left the ranks on that march. It was a mere question of physical endurance.

Mr. JOHNSON. That is very likely the case. Then the comparative absence of physical endurance on the part of the white in comparison with

the black soldiers who were in that expedition was, if I am correct, to be found in the ranks of soldiers not taken from the slave States. Now, I do not know what may be the physical endurance of soldiers who come from the State of Minnesota, or the State of Massachusetts, or anywhere else. I know what their gallantry is; I know what their bravery is; and I know that they are capable of achieving almost anything that any soldiery has proved itself in the past capable of achieving; but I think it by no means follows that because the institution of slavery is to be found in any one State all these qualities are not to be exhibited precisely to the same extent as they are to be found in the free States. For what is the difficulty that we are now meeting? Who are the men against whom we have been battling for three years? For the most part slaveholders, brought up with that institution around them, with all its influences upon them; but we know, and we know to our cost, that in point of endurance, as well as in point of everything else that makes men gallant and brave in the field, they are not behind our own troops—not better, I admit, but not inferior. Nobody dislikes the institution more than I do; nobody is more aware of the sad effects that it has upon people in very many particulars; but speaking upon the strength of the philosophic remark made by Mr. Burke years and years ago, when England was attempting to fasten us with what we considered slavery, there is in the institution itself an influence which makes a man cling to the freedom which he possesses with an undying grasp.

Now, sir, as to the honorable member from Michigan, I have but a word to say. He seems to think—and my friend to whom I have just referred appears to be of the same opinion—that nothing has been given to the slave. Nothing? That is astonishing to my mind. What was his condition before? That of a slave. What were the consequences of it as far as we had any reason to judge, and what would have been the consequences of it if this rebellion had succeeded, and the rebellion had succeeded in taking within its grasp all the loyal border States? Slavery for themselves and for their posterity forever. What do we tell them? "Come into the service of the United States and you shall be free, you and yours; the shackles that have bound your limbs shall fall from them; you shall stand erect in the presence of your Maker as free as any white man who treads the soil." Is that nothing?

But is that all? The moment he does it he gets the same pay with the white soldier, and you have passed a bill already that gives him not only the same pay but the same bounty in the future. Is that nothing? But the proposition of the honorable members is that you are to go back, make your legislation retroactive, pay them the bounty from the first. What is to be the result upon the Treasury? The loyal master gets his \$100 in one class of cases, and \$300 in the other, and you propose now to give to the slave from the time he enters the service of the United States \$300. What draft will that not be upon the resources of the country?

The honorable member from Minnesota has told us that it is not a question of money. It is a question of money, Mr. President. I share not in the apprehension that fills now the public mind that the war is to terminate, and disastrously for the United States, because of the failure of our financial ability. I share not in that despair, provided but only provided that Congress and the Executive husband their resources, spend nothing except what is necessary to achieve the end that we have in view. That done, economy of expenditure, fidelity in the executive department—I do not mean the higher officers—fidelity in every branch of the executive department, honesty in a word, as well as an intelligent appropriation of the finances of the country for the purposes to which they ought to be applied, and we have resources enough to carry on the war for years. The enormous debt which we have already accumulated has been owing in a great measure to the absence of these securities. I blame not the President. He was new, and almost any man would have been new, to the exigencies which surrounded him. He came from a village of comparative unimportance in the great West. His life had been spent in the honorable prosecution of his profession, within a compara-

tively narrow sphere; and when he was called here to administer this great Government at a time of imminent peril, which would have required the energies of the most firm and the wisdom of the most wise, it is not surprising that for a time, perhaps, he failed in bringing to the discharge of his duties all these qualities; and misconduct has been the result on the part of subordinates, wasteful expenditure, frauds innumerable, resulting in a loss that arithmetic can hardly calculate. But we are able to bear the burden now upon us.

It is to be hoped that the career of these men will be arrested. That it will be arrested if the President can arrest it, and the members of his Cabinet can arrest it, I have no doubt. That it will be arrested as far as depends upon them, if your military officers of high grade can arrest it, I have no doubt. That done, and Congress faithful to the discharge of its own duties in the particular of husbanding the resources of the country, and I shall be greatly mistaken (I should despair of human constitutional liberty in the future if it were otherwise) if we shall not be able to carry this war on to a triumphant termination, even if it lasts three or four years longer.

But with all the respect which I ever feel to anything that falls from any member of the Senate—for we are all embarked on the same voyage, we all have in view the same end, we differ only as to the means—with all the respect that every man should hold for the opinions of another, when his motives are identical with his own and correct, I submit to both the honorable members to whom I have particularly adverted, whether it is right, unless some great object is to be attained, looking to the accomplishment of the end which we all have in view, to saddle the Treasury with a demand upon it which will swell it to millions if their propositions are accepted.

Mr. HOWARD. I should like to have the amendment of the Senator from Massachusetts reported.

The VICE PRESIDENT. The amendment to the amendment?

Mr. HOWARD. Yes, sir.

The VICE PRESIDENT. It will be read.

The Secretary read it: to insert after the word "all," in the amendment of the Senator from Vermont, [Mr. COLLAMER,] the word "free;" so as to read, "all free persons enrolled and mustered into the service," &c.

Mr. HOWARD. I understand, Mr. President, that if this amendment shall become a law, it will be but carrying out the policy of the act which we passed a few days ago, by which the slave volunteering into the service of the United States receives nothing in the shape of bounty, and by which the drafted slave also receives nothing. If I misunderstand it, I should like to be corrected. Sir, I can vote for no such measure, because the proposition carries with it what I regard as a gross injustice and a gross illegality. I hold that what is called the slave population of the United States owe allegiance to the Government of the United States; and that so far as allegiance is concerned, they are under precisely the same obligation to maintain the Government that their so-called masters are under, and that the Constitution of the United States makes no distinction whatever in this respect between what are called masters and what are called slaves. I hold, in contradistinction from the doctrine laid down by the eminent Senator from Maryland, [Mr. JOHNSON,] that the Constitution of the United States does not recognize any property in what are called slaves. It recognizes no property in man. It does not recognize man as being a subject of property. Here is the point of departure between that Senator and myself on an abstract question of constitutional law. He holds, if I understand him rightly, that the Constitution does recognize, and in some way guaranty to the master a property in his slaves. I hold the contrary. I hold that the Constitution of the United States is an instrument for the guaranty and support of freedom to all mankind; and that whenever a person, be he black or white, or of any other complexion, comes under the immediate and exclusive influence and power of that instrument, he becomes a free person, whatever condition he may have been in previously.

This is a point in which I differ from him. It is a radical point, a point involving elementary principles, elementary principles of human right. I hold that no man ever was born to be a slave;

that all men were created equal before their Maker, and that they ought to be treated as equals before the law.

We were told the other day by the learned Senator from Maryland that the common law of England at a period later than the decision in the *Sommersett* case recognized property in man. The question arose upon the appropriate interpretation to be given to that clause in the Amendments of the Constitution which declares that private property shall not be taken without just compensation. I ventured the remark upon that occasion that when the Constitution speaks of private property it does not refer to men, be their color whatever it may, but that it refers to those articles which are recognized as fit and proper subjects of property by the common law of England; and I also ventured the assertion that by that law slavery was not recognized or tolerated within the limits of England. Upon that subject I referred to an elementary writer perfectly familiar to all lawyers, Mr. Justice Blackstone; and the Senator from Maryland seemed to take me to task—certainly in a very good-natured and courteous way, with which I find no fault—for advancing that idea; and he referred me, with an air that certainly implied that I ought to be better acquainted with my Blackstone than I appeared to be, to that great author, for the purpose of contradicting me. I will not set up my own opinions as against the learned Senator from Maryland; I am a very inconsiderable personage, and choose not to take up the cudgels against that eminent gentleman; but he must pardon me for allowing Justice Blackstone to speak for himself on this point. What does the great commentator say? He says, in the first book of his *Commentaries*:

"Upon these principles the law of England abhors and will not endure the existence of slavery within this nation; so that when an attempt was made to introduce it, by statute 1 Edw. VI. c. 3, which ordained that all idle vagabonds should be made slaves, and fed upon bread and water, or small drink and refuse meat; should wear a ring of iron round their necks, arms, or legs; and should be compelled by beating, chaining, or otherwise, to perform the work assigned them, were it never so vile; the spirit of the nation could not brook this condition, even in the most abandoned rogues; and therefore this statute was repealed in two years afterwards. And now it is laid down that a slave or negro, the instant he lands in England, becomes a free man; that is, the law will protect him in the enjoyment of his person and his property."

Mark the language, sir. "Upon these principles the law of England abhors and will not endure the existence of slavery within this nation." What then must have been the condition of a slave within the realm of England? Suppose him to have been carried from the plantations to London, or any other place within the realm, what would have been his condition? Could the master assert property in him? No, sir; the law of England, the common law to which I appeal for an interpretation of the language used in our Constitution, forbids it; it forbids all property in man, if the claim to such property involves a condition of slavery.

Again, sir, let us see what Chancellor Kent says on the same subject, how far according to him slavery is recognized by the common law. He says:

"The law of England will not endure the existence of slavery within the realm of England. The instant the slave touches the soil he becomes free, so as to be entitled to be protected in the enjoyment of his person and property, though he may still continue bound to service as a servant. There has been much dispute in the English books whether trover would lie for a negro slave; and the better opinion is that it will not lie, because the owner has not an absolute property in the negro; and by the common law it was said one man could not have a property in another, for men were not the subject of property."

And he refers to some dozen adjudicated cases arising and determined in the courts of England which establish that proposition.

But, sir, the Senator took occasion to inform us that Lord Stowell in a subsequent decision, at a period long since the establishment of our Constitution, had reversed or attempted to annul the decision of Lord Mansfield in the *Sommersett* case. So far from being correct in this remark, in reference to the decision of Lord Stowell in the case of the slave Grace, (for that I presume is the case to which the Senator referred,) the direct contrary is the truth. Lord Stowell does not make a single declaration in the course of that elaborate judicial opinion in which he attacks or dares attack the opinion of Lord Mansfield in the *Sommersett* case. He does not intimate anything to the con-

trary. All of any importance decided in that case by Lord Stowell is embraced in the marginal notes which I will take occasion to read. After recognizing in the clearest terms the great leading principle that by the common law of England within the realm of England there can be no such thing as property in slaves, the learned judge proceeds and says:

"By a residence in England the slave code is suspended, not extinguished." * * * "Slaves coming into England are free there, and cannot be sent out of the country by any process to be there executed." * * * "Slavery in the colonies is not the creature of law, but of custom, to which the maxim, *malus usus abolendus est*, is not applicable." * * *

"The law of England discourages slavery within the limits of these islands, but gives to it an almost unbounded protection in its colonies." * * *

"The statute law of this country looks on slaves in the colonies as mere goods and chattels, as subject to mortgages, &c., and has established courts of the highest jurisdiction for carrying such provisions into execution."

The case was this: the owner of the slave Grace took her from Antigua, in the West Indies, to England, where she remained with her master about a year, and then followed her master back to Antigua. The slave was imported into the port of Antigua without the payment of any duties, or without answering the charges which existed by law. The question arose upon the seizure of this slave for the payment of some duty due at the port, being in a colony where the local law declared her to be a slave, and as by that law she was treated as a slave she was regarded as such in the court of appeals of England, to which the case was carried. The whole case showed that at common law, in England, there is not and cannot be any such thing as property in slaves, in other words, property in man; while at the same time the English courts recognized the right of the colonies, which have legislative powers granted them by their charters or by act of Parliament, to establish and recognize slavery there; and that is all there is of the case.

My main proposition remains unshaken, that by the common law of England there is no such thing as slavery within the realm of England. There is no such thing as slavery in Scotland, and has not been for, I presume, a hundred years. There is no such thing as slavery in France. The moment a slave brought from the French colonies is landed upon the shores of France, he becomes *ipso facto* free. Such is also the rule, I believe, in every other civilized country in Europe.

Now, sir, I take this ground, that slavery exists solely and exclusively by force of the law of the place where it is claimed to exist; and that beyond the limits within which that law is in operation the slave becomes by the mere transit *ipso facto* free. The Constitution of the United States takes no cognizance whatever of those local laws; and so far as the black man is concerned, as he owes allegiance to the Government of the United States, and may be called upon like a white man to defend it by arms, he is, in all constitutional respects, when called upon to render military service, as free a man as you and I. The moment he is mustered into the service of the United States he becomes subject to the control of another power. He is totally emancipated and set free from the control and the will of his former so-called master, and passes to another dominion. It is a necessary legal result, unavoidable and indispensable; because the moment he enters the military service he becomes, in his capacity of a soldier, as free as you or I; as free as any other soldier, subject to obey the orders of his superiors, but possessing the right and the privilege, under the usages of war, to be elevated even to the highest command of the Army, if he deserves it.

I ask any man with a proper sense of justice in his bosom, to say nothing of the principles of universal public law, how it is possible that this man, having once taken arms to defend his country, having been subjected to military drill and discipline, can be reduced into the condition of a slave, a mere chattel, a thing to which ownership attaches? This, to my mind, is impossible. I insist upon this: that when the Government of the United States calls upon the people of the United States to render their aid in defending the country and in waging a war, the power it exercises implies no distinction between colors. It must regard all alike free and equal.

This is the ground upon which I put it: that so far as the Constitution is concerned in the carry-

ing on of a war which calls or may call upon all the able-bodied men in the country to render their personal aid in its prosecution, the black man is necessarily to be treated as a free man, as a person, and not as property, whatever may have been the light in which he was viewed in the State where he happened to be. Believing this, I believe it is but justice in us to give these black men precisely the same rewards and encouragements, be they what they may, that we extend to the white men. I will consent to make no difference, no distinction between them; because, without any disparagement to the white race, and without intending to give any offense to any individual here, I regard all men who are engaged in prosecuting the wars of the United States as companions in arms and as brethren. In this respect it is impossible that the Constitution should not regard all as equally free. The very nature of the service is totally incompatible with the idea of slavery, with the notion that one man can have a property in another.

I cannot, therefore, vote for the amendment of the Senator from Massachusetts, because it seeks to make a distinction between the soldiers of the Republic, exposed to the same perils and hardships, the same dangers of whatever description, and to the like death. It proposes to make a distinction between them which is greatly to the prejudice of the man who happens to wear a black skin, but whose valor and usefulness are regarded, even by him as equal to those of the white man.

This was one ground upon which I opposed the enrollment bill the other day, upon which the Senator from Massachusetts has made some very earnest, not to say eloquent remarks. I opposed that bill because it made, first, this distinction: it gave to the master the bounty which in justice and in honor belongs to the slave. The Senator thinks he has done enough for the black man when he has given him his freedom on being mustered into the service. I regard it as no gift; I look upon it as no gratuity to the black to give him his freedom. He becomes, under the Constitution, *ipso facto*, free the moment you put him into the military service of the United States. It is no gift to him. It is no benefit whatever to him as a man, as a person. I know that other Senators differ with me on this subject; but these are my fast, and I think well-considered convictions. You call him to aid you in your wars; your necessities remit him to the condition in which nature herself placed him. The hand of robbery becomes palsied. Freedom, his birthright, accrues to him as a responsible being, and he again enjoys what it was not yours to give, and which human force and crime have withheld. The Almighty, not you, restores to him the gift of liberty. He owes you nothing for it; no, not even gratitude.

There was another serious objection to the enrollment bill to which I have referred, which the Senator from Massachusetts did not see fit to allude to. It was this: that the money which is to be raised by commutation in the loyal States is placed in the hands of the Secretary of War, to be by him invested in the purchase (if I may be allowed that term) of black soldiers in the slaveholding States, while those States which contribute the money get no credit whatever for the contribution. It is, it seems to me, an act of injustice to those States; and with all possible respect for the Senator from Massachusetts, from whom I regret very much to differ, I think he, even in the old Bay State, will find some little embarrassment when he is called before the people to account for his vote on that bill. He may possibly succeed (for he is an ingenious gentleman) in satisfying his constituency of the propriety of that vote; but, sir, I could not undertake to defend such a vote before my constituents. They would ask me at once, "Why did you vote for a bill disposing of our money in the purchase of black troops without securing to the State of Michigan, which you represent, some little credit for the money thus paid out?" I could not answer the question. I could not answer it the other day in debate. I cannot answer it now. I shall not undertake to answer it before my constituents.

Mr. WILSON. Mr. President, the Senator from Michigan has given us his opinions; but the Senator must remember, when he declares that a slave mustered into the service of the United States becomes immediately a freeman, that such

has not been the construction of the Government of the United States nor the action of the States.

During the war of the Revolution many black men fought in the ranks of our armies; and when the war was over many of those brave black men were claimed as slaves, and were treated as slaves, and they and their posterity held as slaves.

In the war of 1812 we called slaves into the service of the United States—and Andrew Jackson called them, in an address to them, "fellow-citizens"—and after those men had helped to win the glories of New Orleans they were claimed, and they and their children held, as slaves.

It has never been asserted by the Government of the United States that a slave mustered into our service becomes free when he is mustered in until the President of the United States signed the enrollment bill. The House of Representatives in passing the bill did not assert this power. The House of Representatives provided that the colored soldier should become free, or rather that the sum of \$300 should be paid to the master on his freeing the slave who should enlist, and the sum of \$100 should be paid to the master on his freeing the slave who was drafted. In the committee of conference I took the ground that I would not consent that a man should wear the uniform of the United States for a moment as a slave. I insisted that he should be a freeman when he was mustered into the service by the authority of the Government of the United States, whether the master consented to free him or not. The committee of conference agreed to that proposition, and it has been sustained by both Houses of Congress; and now, for the first time in our history, it is asserted by this Government that when a slave is mustered into the service of the United States, that moment he is free, and free forever. I may over-estimate the importance of that declaration by the Government of the United States. I thought it was a great, high, and noble position to take, and the nation will hold it, and will stand by it.

But Senators complain that we make some consideration to the masters of the slaves. Have they forgotten that early in this war they voted \$300 for each slave to the slavemasters of the District of Columbia, when we made the capital of the Republic free? Not as a matter of strict justice, but as a matter of peace and harmony, for the repose of the country and the maintenance of kind feeling, we agreed to pay them \$300 for their slaves. They have accepted it; and I believe there are but very few among them who would restore slavery in this District if they could. Who regrets it? A year ago most of these very gentlemen voted \$20,000,000 to aid Missouri in emancipation. Do they regret that vote? They voted for the resolution that they would aid the loyal border States in emancipation. Do they regret the passage of that resolution? I do not.

Sir, I voted for all those measures in good faith, not, perhaps, as a matter of justice, for I do not recognize the right of a man to own another, but I recognize existing institutions around us as practical facts to be dealt with; and if a little money will smooth the way in this work of emancipation and of destroying slavery and bringing the people of the country together in union and harmony, brothers of a common family, I am willing to vote it. Sir, when I see an opportunity in the Congress of the United States to take one step, I will take that step. If I do not get all I want, I will take what I can get; and then I will clutch at the next opportunity and take the next step. I believe that we should act in that spirit, and for one I intend to do so.

I tell the Senator from Michigan—and I know he recognizes it as well as I do—that we never could have passed that measure through the House of Representatives declaring these slaves free on being mustered into the service, without making some consideration to those who claimed their services. This proposition came, I understand, from a distinguished gentleman from the State of Maryland, a gentleman who during the past year has rendered services to the cause of emancipation in Maryland and in the country that the loyal anti-slavery men of the country will not soon forget—I mean HENRY WINTER DAVIS. We amended it. We improved it. We did not leave it to the master to take the compensation on the freeing of his slave, but we said to the master, "Your slave is free when he is mustered into our service, and

we will tender you so much." We are masters of our own position. I think it is a great advance; not that we shall not advance further to-morrow or the next day, but it is a great advance for to-day; and I am glad I had the privilege of giving a vote to push the cause along so far.

But, sir, I suppose we shall not have a vote on this measure to-night, as I was told by the Senator from Maine, [Mr. FESSENDEN,] who has left the Chamber, that he wished to examine the subject a little further, and perhaps to make some remarks upon it. I desire now to call attention to another subject. A message has been received from the House of Representatives announcing that they have disagreed to our amendments to the bill reviving the grade of lieutenant general, and asking a conference. I desire to have that message taken up, with a view of agreeing to the conference on our part.

Mr. LANE, of Kansas. Before we dispose of the joint resolution now under consideration, I wish to offer an amendment to the amendment proposed by the Senator from Vermont, and have it printed.

Mr. WILSON. I will give way to the Senator for that purpose.

The VICE PRESIDENT. If there be no objection, the amendment will be received and ordered to be printed. The Chair hears no objection.

Mr. LANE, of Kansas. In connection with it, I should like also to have the amendments proposed by the Senator from Vermont and the Senator from Massachusetts printed.

There being no objection, the amendments were ordered to be printed.

LIEUTENANT GENERAL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 26) reviving the grade of lieutenant general in the United States Army, disagreed to by the House of Representatives.

On motion of Mr. WILSON, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House upon the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. WILSON, Mr. LANE of Indiana, and Mr. JOHNSON.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 9th instant, a copy of the proceedings of the general court-martial for the trial of Assistant Surgeon Webster; a report of the General-in-Chief of the Army on the management of general hospitals; general orders in relation to the medical department; general orders containing regulations relating to hospitals, and copies of letters conveying instructions in regard to hospitals, dated, respectively, January 28, August 5, and December 31, 1863, and January 29, 1864; which was referred to the Committee on Military Affairs and the Militia.

EXTENSION OF BOUNTIES.

Mr. WILSON. I ask leave to submit a resolution. I do not wish to have action upon it to-night; but I desire to introduce it now, and I should like to have it read so that Senators may reflect upon it by to-morrow:

Resolved, That the Committee on Military Affairs be instructed to consider the expediency of extending the provisions of the joint resolution of January 13, 1864, concerning bounties, to the 1st day of April next.

CONSOLIDATION OF SURVEYING DISTRICTS.

Mr. HARLAN. I move to postpone all prior orders, and take up Senate bill No. 117. It will take but a moment to pass it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 117) to provide for the consolidation of certain surveyor generals' districts. It directs that, until otherwise directed by law, the surveying district of public lands for the Territory of New Mexico shall be extended to embrace the Territory of Arizona; that the surveying district of public lands of Colorado shall be extended to embrace the Territory of Idaho; that the surveying district of public lands of Oregon shall be extended to embrace the Territory of Washington; that the surveying district of pub-

lic lands of Kansas and Nebraska shall be extended to embrace the Territory of Dakota; and proposes to repeal all acts and parts of acts creating the offices of surveyor generals for the Territories respectively added or attached to other surveying districts by this act; and all the books, papers, and records belonging to the surveying districts hereby discontinued and attached to the other districts, are to be transferred to and deposited in the offices of the surveyor generals to whose districts those territorial districts have been hereby attached.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PAY OF COLORED TROOPS.

Mr. WILSON. I now move to take up the joint resolution we had under consideration a short time since, to equalize the pay of soldiers, with a view of leaving it as the unfinished business.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 23) to equalize the pay of soldiers of the United States Army.

EXECUTIVE SESSION.

Mr. LANE, of Indiana. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 25, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

SOLDIERS OF WAR OF 1812.

Mr. SPALDING. I ask the unanimous consent of the House to introduce a bill granting pensions to the surviving soldiers of the war of 1812, for reference to the Committee on Invalid Pensions.

Mr. FINCK. I object.

INTERNAL REVENUE.

Mr. KALBFLEISCH, by unanimous consent, introduced a joint resolution to amend section seventy-five of an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," which was read a first and second time, and referred to the Committee of Ways and Means.

MEXICO.

Mr. DAVIS, of Maryland. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the President be requested, if not inconsistent with the public interest, to communicate to this House the correspondence on the present state of Mexico since that published by the last Congress.

Mr. FINCK. I object. I ask to make a statement.

Mr. DAVIS, of Maryland. I object.

Mr. BOYD. I ask to introduce a bill.

Mr. FINCK. I object.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced that the Senate had passed an act (H. R. No. 26) reviving the grade of lieutenant general in the United States Army, with amendments, in which the concurrence of the House was requested.

Mr. HUBBARD, of Iowa. I ask unanimous consent to introduce a bill for the purpose of reference.

Mr. FINCK. I object.

LEAVE OF ABSENCE.

Mr. WASHBURN, of Illinois. I desire to ask leave of absence for a short time.

No objection being made, leave of absence was granted.

LIEUTENANT GENERAL.

Mr. WASHBURN, of Illinois. I ask unanimous consent—and I hope the gentleman from Ohio [Mr. FINCK] will not object, as I think I have objected to nothing of his—to take from the Speaker's table the bill which just came in from the Senate, for the purpose of disagreeing to the

Senate amendments, and asking a committee of conference. It is a bill (H. R. No. 26) to revive the grade of lieutenant general in the Army of the United States.

Mr. FINCK. I object.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

FREEDMEN'S AFFAIRS.

The SPEAKER. The regular order of business is called for. The call for committees for reports is in order; and under that call the House resumes the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs, on which the gentleman from Maryland [Mr. DAVIS] is entitled to the floor.

Mr. DAVIS, of Maryland, addressed the House for an hour. [His speech will be published in the Appendix.]

Mr. KNAPP obtained the floor.

Mr. STEVENS. The morning hour has expired, and I propose to go to the business upon the Speaker's table.

The motion was agreed to.

LIEUTENANT GENERAL—AGAIN.

Mr. WASHBURN, of Illinois. I move to take up the amendments of the Senate to House bill No. 26, reviving the grade of lieutenant general in the United States Army.

Mr. COX. Does not that require a vote?

The SPEAKER. It does.

The amendments of the Senate were read.

Mr. WASHBURN, of Illinois. I move that the amendments of the Senate be non-concurred in, and that the House ask for a committee of conference on the disagreeing votes between the two Houses.

The motion was agreed to; and the Speaker appointed Messrs. WASHBURN, of Illinois, McALLISTER, and FENTON the managers of said conference on the part of the House.

Mr. STEVENS. I ask the unanimous consent of the House for leave to report appropriation bills from the Committee of Ways and Means, especially the deficiency bill, which is needed.

There was no objection.

DEFICIENCY BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported back the amendments of the Senate to House bill No. 156, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864, and for other purposes, and moved that it be referred to the Committee of the Whole on the state of the Union, and be made the special order for next Tuesday, and from day to day until disposed of.

The motion was agreed to.

Mr. BROOKS. I ask the gentleman from Pennsylvania to have the bill and Senate amendments printed; and also to have printed all of the estimates and letters from the Departments in reference to the several items of appropriations.

Mr. STEVENS. That would make a voluminous document.

Mr. BROOKS. I think not. It is information that the House and country ought to have.

Mr. STEVENS. If the House does not object I will not. They can order it if they want it.

Mr. BROOKS. I make the motion that the bill and amendments of the Senate and the estimates and other information upon which the appropriations are founded be printed for the use of the House. This bill when originally reported from the Committee of Ways and Means appropriated about seven million dollars. The amendments of the Senate add \$93,000,000 to it, making \$100,000,000 in all. It is necessary for us to know upon what those appropriations are founded.

Mr. STEVENS. The Senate added about eighty-seven million dollars.

Mr. PENDLETON. The request of the gentleman from New York is reasonable, and I hope it will be granted.

The motion was agreed to.

PERUVIAN CLAIMS.

Mr. STEVENS, from the Committee of Ways and Means, reported back Senate bill No. 65, to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863.

The bill was read through.

Mr. STEVENS. I ask the unanimous consent

of the House to put the bill on its passage. It makes an appropriation for an adjudicated case.

Mr. HOLMAN objected.

Mr. STEVENS moved that the bill be referred to the Committee of the Whole on the state of the Union, and made the special order for Wednesday next, and from day to day until disposed of.

The motion was agreed to.

WAYS AND MEANS.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill supplemental to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863; which was read a first and second time.

Mr. STEVENS. It is important that the bill should pass at an early moment, unless there is some objection to it. I ask that the bill be read, and if there is no objection I will ask to put the bill upon its passage.

The bill was read.

Mr. COX. The bill has not been printed. Does the gentleman intend to press it to a vote to-day? I have no objection to the consideration of it now if the gentleman does not intend to press it to a vote this morning.

Mr. STEVENS. If there is any difficulty about it, of course I do not ask to have a vote upon it. I will explain in a single word what the meaning of the bill is, and then gentlemen can object or not, as they see fit.

The first section merely changes the provision of the act of March, 1863, which authorizes the loan to be made payable after ten years and within forty. What is asked here is that \$200,000,000 of that loan—the same loan authorized by that act—shall be allowed to be put into the five instead of the ten years' minimum time. There is no other change in the first section. The loans which have heretofore been made, of \$500,000,000, were five-twenties. That has been a very popular loan, and it was thought it would be very likely to be taken if the same five years were inserted in the future loan of \$200,000,000.

The second section provides that where there were subscriptions made for five-twenties beyond the law which authorized the issue of \$500,000,000, and the money already paid into the Treasury before that law expired, the parties making such subscriptions shall have the right to receive five-twenties now for the money so paid. That sum amounts, I understand, to between ten and eleven million dollars. The money was paid into the Treasury, but the authority to issue the bonds having expired, the Secretary of the Treasury asks authority to issue the like kind of bonds for the amount of money already paid.

There are no other provisions in the bill.

Mr. BROOKS made an inquiry entirely inaudible to the reporter.

Mr. STEVENS. The bill does not authorize any additional loan. It only takes \$200,000,000 from the loan of 1863, which was \$900,000,000, and allows them to be issued as five-forties, instead of ten-forties.

Mr. COX. Is the ten or twelve millions proposed to be issued an increase of those already issued?

Mr. STEVENS. Yes, sir. The \$500,000,000 had all been taken before the expiration of the law, but there had been subscribed ten or eleven millions more than was authorized to be issued, and this bill gives the Secretary authority to issue an additional ten millions for the money which has been paid.

Mr. COX. Does the gentleman regard that as a matter of good faith with those who have already invested in five-twenties?

Mr. STEVENS. I do not know what faith is broken by it. I do not know that there was any understanding that no more stock than \$500,000,000 should be issued.

Mr. HOLMAN. It seems to me, considering the large amount involved in this loan, that this bill should be printed, and undergo some consideration. I shall not object to reporting the bill at this time, if the gentleman will allow the bill to be printed, and its consideration postponed, so that we can examine the matter.

Mr. STEVENS. The gentleman has a right to object.

Mr. HOLMAN. I do not object if it is the understanding that the bill be printed and postponed for consideration.

Mr. COX. I have no objection to the gentleman going on with the bill if it is not pressed to a vote to-day.

Mr. STEVENS. Let it be read a first and second time, and I will move to recommit the bill to the Committee of Ways and Means.

No objection being made, the bill was considered as read a first and second time, and recommended to the Committee of Ways and Means.

Mr. STEVENS. I now desire to go into the Committee of the Whole on the state of the Union upon the naval appropriation bill.

COMPENSATION OF INSPECTORS OF CUSTOMS.

Mr. FENTON. I ask the gentleman from Pennsylvania to allow me to report back from the Committee of Ways and Means, with a view to put it upon its passage, the bill to increase the compensation of inspectors of customs in certain ports.

Mr. WASHBURN, of Illinois. I will not object, provided the bill is to go to the Committee of the Whole on the state of the Union.

Mr. FENTON. I withdraw the request.

DISPOSITION OF CAPTURED COTTON.

Mr. KASSON, by unanimous consent, from the Committee of Ways and Means, reported back bill of the House No. 213, relative to the capture of cotton and the disposition thereof by the military forces of the United States, and moved that it be recommitted and printed.

The motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. STEVENS. I now insist on my motion. The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and resumed the consideration of the naval appropriation bill.

Mr. KASSON. I want to call the attention of the committee this morning to that feature of the bill to which I called the attention of the chairman of the Committee of Ways and Means yesterday, and in order to do that I ask the unanimous consent of the committee to go back to the item appropriating for Mare island, California.

There was no objection, and the item was read, as follows:

For building marine barracks, officers' quarters, and gateway at navy-yard, Mare island, California, \$150,781 30.

Mr. KASSON. The error arose from inadvertence in finally passing on the bill in Committee of Ways and Means. My colleagues on the committee will remember that we endeavored to apply to these items that principle of appropriation that what is necessary to be done immediately for the efficiency of the service in the present war ought to be appropriated for, and that what could be postponed without detriment to the public service ought to be postponed.

In that view, I now propose, and I believe that in doing it I am in accordance with the Committee of Ways and Means, to strike out some of the items included in this clause. Taking them in their order, as they are to be found on page 255 of the Treasury estimates, I propose to strike out the appropriation for the commandant's house, for the captain's house, for bachelors' quarters, and for the gateway.

Mr. SHANNON. What gateway is that?

Mr. KASSON. It is the main gateway of the yard, for which this estimate is thought necessary.

I will make my statement plain with the estimates before me. The estimate upon which this appropriation is made amounts to \$250,781 30, on which estimate there is applicable an existing appropriation previously made of \$100,000, thus making for all these items \$150,781 30 additional. In order to make up that amount they have embraced these several items and amounts: for men's quarters, \$139,058 44; for commandant's house, twenty-seven thousand and odd dollars; for captain's house, thirteen thousand and odd dollars; for quartermaster's house, thirteen thousand and odd dollars; for bachelors' quarters, thirty-six thousand and odd dollars; for gateway, twenty thousand and odd dollars.

Now, my object is to reduce the appropriation to the amount that may perhaps be necessary for present purposes there, which would be done by simply making provision for men's quarters;

and for the purpose of bringing the matter before the committee I will move to strike out from the one hundred and fifty-third and one hundred and fifty-fourth lines the words "officers' quarters and gateway," and to strike out from the one hundred and fifty-fifth line "\$150,781 30," and to insert in lieu thereof "\$39,058 44."

Mr. HIGBY. I would like to have the gentleman from Iowa explain what this provision in relation to a gateway is.

Mr. KASSON. I will answer the question. The chief of the bureau having charge of the subject was before the committee, and we found that this matter was simply what it purports to be, the erection of an entrance which, some of these days, will undoubtedly be magnificent, admirable, and attractive; but that it is not necessary for the purpose of the Navy at the present time, or perhaps for some years to come.

Mr. HIGBY. I wish the gentleman from Iowa to tell me where this \$30,000 is to be applied?

Mr. KASSON. We merely proposed that it should be added to the unexpended balance of \$100,000, and it would be left to be appropriated for building the marine barracks.

Mr. HIGBY. This is not to affect the appropriation for barracks?

Mr. KASSON. No, sir.

The question was taken on Mr. KASSON's amendment, and it was agreed to.

Mr. HOLMAN. I move to amend the clause in regard to the Philadelphia navy-yard, by striking out "for the purchase of two lots adjoining navy-yard, Philadelphia, extending from Front street to the commissioners' line in the Delaware river, at a price not exceeding \$90,000—\$214,945," and inserting "\$124,000;" so that it will read:

Philadelphia:

For repairs of dry-dock, pitch-house, dredging; repairs of damage to store by fire, and for repairs of all kinds, \$124,000.

That amount will cover all that is estimated for by the Department, deducting the item of \$260,000 for the dry-dock, which the Committee of Ways and Means seems to have stricken out. As a much better argument on this subject than any I can offer, I desire to submit the views of the chairman of the Committee of Ways and Means on this subject at last session.

The Clerk read, as follows:

"For dock; dredging; repairs of all kinds, and for the purchase of two lots adjoining the navy-yard, extending from Front street to the commissioner's line in the Delaware river, upon condition that a more extensive navy-yard shall not be provided for on said river, \$330,458."

Mr. STEVENS. I move to strike out all after the word "kinds," in the first line, and to insert "\$50,000;" so as to make it read, "for dock; dredging; repairs of all kinds, \$50,000."

Mr. Chairman, I know something about the two lots referred to in this clause, and I think the price fixed is about three times the amount they are worth. I do not myself think it proper to make a purchase of this kind in an appropriation bill. If the lots are to be purchased at all, there ought to be a commission appointed to examine them and determine their value. From my own knowledge of them, I think the price named here is three times what they are worth.

Mr. LOVEJOY. I would ask the gentleman whether, if these lots are not purchased, it will become any more necessary to take League Island?

Mr. STEVENS. Not at all. I suppose it has no influence on that question. I cannot vote for this purchase, because I know it would be a bad speculation."

The argument made by the chairman of the Committee of Ways and Means seems unanswerable, and I presume there will be no objection to striking out this item.

Mr. STEVENS. At the time this appropriation bill was up last year the Committee of Ways and Means had no information on the subject except what was contained in the estimate. I had been informed by some persons who I suppose did not like this negotiation that the price was too high. This year the Superintendent of Yards and Docks came again before us, after having found that it could still be got at the same price for which it was offered last year, and asked that it be added to the navy-yard. I took the pains when in Philadelphia to look into this matter. I found that it was an entirely different thing from what it had been represented to me before. Although I had taken the responsibility of moving to strike it out before, on representations which I thought were true, I found that they came from rival speculators.

The admiral convinced the Committee of Ways and Means that this piece of ground was absolutely necessary, whether League Island were accepted or not. He informed us that if League

Island were accepted it would take some eight or ten years before that place would be in a condition to be used for the purpose of repairing vessels. The Committee of Ways and Means was entirely satisfied that this proposition was right, and that the adding of this piece of ground to the navy-yard would save great expense to the Government either in getting up a new navy-yard below, on the Delaware, or sending vessels to Boston for repairs which could be done at the Philadelphia navy-yard. The Committee of Ways and Means, therefore, was of unanimous opinion that this appropriation should be made.

Mr. HOLMAN. Will the gentleman from Pennsylvania be kind enough to state whether, in the event of a naval station being established at New London or at League Island, this appropriation of \$90,000 would not be an entirely useless expenditure of money; also, what is the extent of this piece of ground for which it is proposed to pay \$90,000?

Mr. STEVENS. We asked that question of the admiral. He said he thought it would not affect the necessity for the appropriation; that if they determined upon another site for a navy-yard it would take ten years before it could be put into a condition so as to be serviceable for the purposes needed.

I will mention while I am up that the committee agreed under the recommendation of Admiral Smith to transfer the appropriation made last year of \$750,000 for a dock at the navy-yard at New York—to transfer so much as is necessary, \$260,000, for a dock or some convenience of that kind at Philadelphia, and a like amount for the New York yard, allowing the balance to go back into the Treasury. We have provided in this bill for the transfer of that appropriation, under the earnest request of those who have it in charge at the Navy Department. By this transfer some five hundred and sixty thousand dollars would go back into the Treasury. This, then, by reason of that transfer, becomes an imperative necessity. Under all of the circumstances it must be admitted that this is necessary for the repair of our vessels.

Mr. HOLMAN. I ask the gentleman what is the area of the land that it is proposed to purchase?

Mr. STEVENS. A little over one hundred feet of water front; perhaps one hundred and ten feet. I know that it is over one hundred feet.

Mr. HOLMAN. Will the gentleman let me ask him another question? Will the chairman of the Committee of Ways and Means furnish the House with the data upon which the appropriation is founded? There is no recommendation of the Secretary of the Navy. Certainly, if there is any recommendation, from the Navy Department in favor of this appropriation, it ought to be put in the possession of the House.

Mr. STEVENS. I stated before that last year the Navy Department did recommend it, but that I became possessed of information to induce me to believe it was a job, and it was rejected. The Department said that as the House had struck it out on the motion of the Committee of Ways and Means they would not renew it until we were satisfied the title could be made and the price was a proper one. Hence it was left out, and brought in afterwards by Admiral Smith in the way I have mentioned.

Mr. HOLMAN. Allow whatever recommendation was made to be laid before the House. I do not think that the House ought to appropriate so large a sum without definite information.

Mr. STEVENS. Admiral Smith was before the committee in person with maps and plans, and made a verbal statement. We did not ask him to reduce it to writing.

Mr. BRANDEGEE. I move to strike out the last word.

Mr. Chairman, I have been a little surprised, when an appropriation is proposed upon this floor in favor of Pennsylvania, to notice the want of alacrity on the part of the able delegation from that State in coming forward to its defense when it is objected to. It is certainly in extraordinary contrast to their readiness in advocating an appropriation for \$700,000 to Pennsylvania in an early part of the session. I propose now to stand up as the champion of that State, and especially of the Philadelphia navy-yard. If I understand the proposition before the House, the Committee

of Ways and Means have, in the usual way, reported an appropriation of \$90,000 for the extension or enlargement of the present navy-yard at Philadelphia. That appropriation has been approved unanimously by the Committee on Naval Affairs, who are supposed to be conversant with that special subject.

I understand it to be objected by the gentleman from Indiana, [Mr. HOLMAN,] that this thing has not been estimated for and recommended by the Navy Department. If the gentleman will turn to the report of the chief of Yards and Docks, who has these matters specially in charge, he will find the following:

"The extent of the present yard is entirely too small for the object in view, but land and good water front adjacent, sufficient to increase the yard to about double its present area, can be obtained at a fair price, say about \$300,000."

I hold in my hand a letter from the commandant of the yard, addressed to the members of Congress from Pennsylvania upon this floor at the last session of Congress, and I suppose his facts and reasons exist now as then. It is as follows:

PHILADELPHIA, June 19, 1862.

DEAR SIR: When I last wrote to you I did so through an amanuensis. I am not much better now, but must again bring to your notice the interests of our navy-yard. This new project of the Mayor and City Councils of moving the yard to League Island is all a matter of speculation with a party here to draw four or five million dollars from the Government, out of which they would make splendid fortunes, while the United States would be a loser at every turn. If the city even buys the property, and presents it to the Government, the latter would still be a loser, for it would take at least four or five years to prepare the place before an attempt could be made to use it, and this, too, at an outlay of millions; besides, the island is unfit for it, being constantly overflowed, which would render an immense expenditure necessary for filling in, wharfing, making docks, &c., &c. Now, at our present location we have most of the requisites for a very efficient navy-yard.

We have a floating dry dock, surpassed by none in the world, erected at a cost of over a million dollars, which would be entirely destroyed by this removal, and another one be necessary at the new location, costing perhaps double the sum. We have ship-houses, timber-sheds, store-houses, work-shops, steam-works, and almost all we need to make ours a first-class yard, and all those buildings built and paid for. All we want is more space, which we can have to a large extent south of us, the property—Merrick's and all—with the additional buildings necessary for our purposes, not costing one twentieth of the sum which League Island would cost. Besides, it is absolutely necessary for the protection of the Government interests that we should have and acquire the two adjoining lots at once; for, admitting the probability of removing the present yard to League Island, long before we could occupy that place the Government would lose five times the amount asked for the lots because of the unnecessary labor we have to perform in consequence of our crowded space as I endeavored to show you in my last letter. Whatever be the result of the present movement, these lots ought to be bought, in order to save more than five times their cost, and besides, end the matter as it may, the property will be increasing in value every year, and would far more than pay for itself eventually sold.

Will you give this matter your attention, and endeavor to get an appropriation for the purchase, giving us a chance to do the United States justice in our operations, and saving vast sums of money now expended for useless labor, if we had this space to operate upon?

Signed by commandant of yard or his secretary.

G. J. PENDERGRAST,
Commandant.

Therefore it comes to us recommended by the chief of the Bureau of Yards and Docks, recommended by the commandant of the yard, approved by the Committee of Ways and Means, and also recommended by the Committee on Naval Affairs. The present yard consists of only seventeen acres, the smallest navy-yard in the United States. This proposed addition will nearly double its capacity. Every gentleman must be sensible that with the addition to our Navy in the last two years, with the improvement in naval architecture which has entirely revolutionized that service in the world, there exists a very large necessity for increased naval accommodations. I do not suppose this enlargement will meet that necessity, but I do suppose that if the Government enlarges this yard, as a matter of economy, to make it useful for any purpose, it will obviate the necessity of this immense swindle which is contemplated concerning League Island, which would cost the Government untold millions of dollars. I shall vote for this proposition as a stopper to that.

MESSAGE FROM THE SENATE.

The committee informally rose; and the House received a message from the Senate, by Mr. FORNEY, their Secretary, informing the House that the Senate had rescinded its agreement to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H.

R. No. 122) to increase the internal revenue; and for other purposes, and further insisted upon its third, fifteenth, and sixteenth amendments to the said bill, disagreed to by the House of Representatives, and agreed to a further committee of conference asked for by the House of Representatives on the said bill; and had appointed Mr. SHERMAN, Mr. CLARK, and Mr. HENDRICKS as such committee on the part of the Senate.

NAVAL APPROPRIATION BILL—AGAIN.

The committee resumed its session.

Mr. HOLMAN. If the appropriation of this sum of money will, as seems to be the argument of the gentleman from Connecticut, dispense with the necessity of expending vast sums of money at New London, Connecticut, or League Island, I think this expenditure would be wisely made. But if the gentleman means that this sum of money should be appropriated for the benefit of the Philadelphia navy-yard for the mere purpose of an argument against the purchase of League Island, I should protest against such motives in legislation. The gentleman seems to apprehend that unless the Philadelphia navy-yard is enlarged "the League Island swindle"—I indulge in mere quotation—may be consummated, and if "the League Island swindle" is not consummated, then that the New London project will be adopted. That may or may not be considered the fair and legitimate inference from the gentleman's argument. I therefore freely yield to the gentleman from Connecticut to state whether he considers that this appropriation of \$90,000 for the purpose of nearly doubling, as is said by the gentleman from Pennsylvania, [Mr. STEVENS,] the capacity of the Philadelphia yard will be able to dispense with the necessity of laying out a vast sum of money in the future in establishing a navy-yard either at New London or at League Island. So far as I am concerned, representing a western constituency, among whom no money for such purposes is expended, and where the subject of economy has more weight than any local consideration, if the gentleman says that the enlargement of the Philadelphia navy-yard will dispense with the necessity of founding a navy-yard to be completed, as the gentleman from Pennsylvania says, years hence, at New London or League Island, I think the appropriation of this \$90,000 will be well made.

Mr. BRANDEGEE, by unanimous consent, withdrew his amendment.

Mr. RICE, of Massachusetts. I renew the amendment. I hope, Mr. Chairman, that this appropriation will not be hazarded by complicating it with any other scheme, whether at League Island or elsewhere.

The simple fact in regard to this matter, so far as I know—and I believe I understand it pretty well—is that the necessity for enlarging the navy-yard at Philadelphia arises from the greatly increased number of vessels in the Navy. It is precisely the same reason which requires an enlargement of the navy-yard at Boston, and which will require increased facilities for repairing ships at Norfolk, Port Royal, and Key West. The facilities which the Government at present possesses for carrying on this work are entirely too small. I had recently an opportunity of making a personal inspection of the crowded condition of the navy-yard at Philadelphia. Vessels were lying three or four deep at the wharves, and it was with the utmost difficulty that the operations of the yard could be successfully carried on.

As nearly as I can estimate it, the amount of space made by this purchase would be equivalent to an enlargement of more than half the present capacity of the yard.

Aside from immediate facilities for the repair and construction of vessels there, which are very much needed, I think that if this purchase be made the yard will be available for the number of years that must elapse before it will be possible to construct a new navy-yard at any other point, and that the value of the property will be likely to be greatly enhanced at the time the Government will have to dispose of it, instead of decreasing in value.

I hope no opposition will be made to this appropriation, because I believe that the purchase of this tract of land will be a very economical operation for the Government.

Mr. HOLMAN. I would ask the gentleman

from Massachusetts whether the enlargement of the navy-yard at Philadelphia to the extent now proposed will dispense with the necessity of building a navy-yard either at League Island or at New London, Connecticut?

Mr. RICE, of Massachusetts. I will say to my friend from Indiana that I do not think the purchase of this piece of land has any connection with the subject of building a navy-yard at League Island or anywhere else. The project of building a navy-yard at League Island is connected with the idea of constructing iron naval vessels. The idea is not to build a new navy-yard like the existing yards of the country, but a yard that shall be especially adapted to the construction of iron sea-going vessels and other vessels of a similar description, and it is not at all likely, as I said before, that the purchase of this piece of property will affect in one way or the other the establishment of a navy-yard at League Island.

Mr. HOLMAN. Do the Committee on Naval Affairs propose to report a bill for the purpose of establishing a navy-yard either at League Island or New London during the present session of Congress?

Mr. RICE, of Massachusetts. I will say, in reply to the gentleman from Indiana, that that is one of the subjects now under consideration by the Committee on Naval Affairs. Under the order of this House, that committee have had the subject under very careful and laborious consideration and investigation for several weeks, and have examined some of the spots at which it is proposed to locate this yard. They will be prepared to report as soon as they shall have possessed themselves of the facts in the case in order that they may present to the House reasons for or against. But the recommendation of this appropriation by the committee has no connection with the League Island scheme.

Mr. SPALDING. I hope the amendment of the gentleman from Indiana [Mr. HOLMAN] will not prevail. As a member of the Committee on Naval Affairs I have been very strenuous in my efforts to cut down to the lowest possible extent the appropriations for the Navy, but I am led to believe from the testimony which was adduced before the committee that the sums appropriated for the extension of the yard at Boston, and the extension of the yard at Philadelphia, are imperatively necessary to the success of our Navy at the present time. I think there is no one appropriation, no one item in this bill, more material to the best interests of the Navy than are these two. I say this without reference to League Island or any other navy-yard within the United States. I speak only in regard to the interests of the Navy as involved in this question. I think the best interests of the country require us to make this appropriation.

Mr. RICE, of Massachusetts, withdrew his amendment.

Mr. O'NEILL, of Pennsylvania. I move to amend the amendment by striking out the last word. I do not know, Mr. Chairman, that it was necessary for the gentleman from Connecticut [Mr. BRANDEGEE] to rise in his place and undertake to defend the interests of the State of Pennsylvania. I do not know that this is the time for members from Pennsylvania to be drawn into a discussion of the merits of League Island or the merits of New London as a naval station. It may do very well for the gentleman from Connecticut to endeavor to prejudice the Committee of the Whole in regard to League Island, but I do not think he has succeeded in the remarks he has made. Sir, I waited for the chairman of the Naval Committee to let us know something about the \$90,000 proposed to be appropriated here. We have heard now from the chairman; we have heard from other members of that committee. I do not think this committee is now willing to be drawn into the discussion as to where a great iron naval station should be located.

I do not know where the big swindle is of which the gentleman spoke. It may be in New London. I do not think it is in Philadelphia. I think we have presented to the Naval Committee a location for an iron naval station which is the best the country affords, and I am glad to be able to express my belief that that question will be considered fairly by the Naval Committee. When that committee shall report we will then have before us all the facts, on which we can act with intelli-

gence and authority. The members from Pennsylvania are willing, on this very small matter of an appropriation of \$90,000, to leave it to be decided by the committee which has had all the facts before it.

I think the committee has given us views on the subject which show that this appropriation should be made and this strip of land bought. The chairman of the Committee of Ways and Means has informed us that it is a mere strip of one hundred feet water front, to be added to the Philadelphia navy-yard. He tells us that it is necessary. Admiral Smith, chief of the Bureau of Yards and Docks, approves of it! Certainly he does! He may have told the gentleman from Connecticut that now was his opportunity to strike a blow at League Island by asserting that the chief of the Bureau of Yards and Docks was willing that Philadelphia should have an extension of one hundred feet to her navy-yard, provided the gentleman from Connecticut and those opposing League Island would satisfy the House that Philadelphia and Pennsylvania were getting a great boon from the Government. I am not surprised at the letter which the gentleman from Connecticut has read from the commandant of the navy-yard. That commandant is neither a Philadelphian nor a Pennsylvanian in sentiment. It would suit me if the Secretary of the Navy would have some one presiding over that yard as commandant more in unison with the feeling of Philadelphia and Pennsylvania on the subject of League Island. May I ask the gentleman whether that letter was not written by Commodore Stribling?

Mr. BRANDEGEE. No, sir.

Mr. O'NEILL, of Pennsylvania. By Commodore Pendergrast?

Mr. BRANDEGEE. Yes, sir.

Mr. O'NEILL, of Pennsylvania. Commodore Pendergrast is dead and gone. I think he died while commandant of the Philadelphia navy-yard many months ago. He has been succeeded by another commandant equally hostile to the League island project. I am not aware that either of them knew or knows anything about League island. I am sure the knowledge of these officers as to the value of this island for the purposes of a great naval station for iron vessels and armature, with their known prejudices against the location, is not to be relied on, as is the experience of those who have lived upon and near it and know its every foot of land.

I merely rose, Mr. Chairman, to say that the Pennsylvania delegation did not desire this project to be discussed upon a mere collateral appropriation, which, in the good judgment of the Naval Committee, has been recommended as necessary for the purposes of the Navy.

Mr. BRANDEGEE. I oppose the amendment. I never knew, Mr. Chairman, a gentleman preface his speech with a declaration that it was to be a short one that he did not make a long one; and I never knew anybody to commence by deprecating discussion that did not go into a discussion. The gentleman from Pennsylvania deprecates dragging this controversy before the committee, and immediately thereafter he goes at some length—certainly within the limit of his time, but filling his time—into a discussion of this swindle of the Delaware. Now, sir, this committee will bear me witness that I only introduced this question by the letter of the commandant of the Philadelphia navy-yard—the late commandant who I am now informed for the first time is dead and gone, and who it is strongly intimated died because he was not in unison with the people of Philadelphia on this question. I quoted that letter for this reason: the gentleman from Indiana [Mr. HOLMAN] stated that there was not a line or word of recommendation from any officer of the Navy Department or of the Government in favor of this appropriation, of any officer who was conversant with the subject, and I quoted that letter as the very highest authority. If anybody knew the necessities and capacity of the yard it must be the commandant.

In that letter addressed to the Pennsylvania delegation in Congress were certain charges against the League Island project. I am not the maker of the note. I do not know that I am the indorser. I gave it currency believing it to be true, and I wanted it to go before the committee and the country.

I think that the committee will bear me witness, and you, Mr. Chairman, will do me the justice to acknowledge that I put my action and vote in favor of this enlargement of the Philadelphia navy-yard upon the ground that it was recommended by the proper Department, and from the proper committee of this House.

It will be seen that this is the smallest yard in the country, comprising only seventeen acres. It was tried to its utmost capacity before the war, and tried far beyond its capacity since, so that vessels are compelled to be sent to New England and southern yards, where they could gain entrance with much more ease than at this yard. This will increase the now limited facilities of the Philadelphia navy-yard, and the land is offered at a fair price; and we are told that the Government can get back all that it will pay for it, and perhaps more, if we ever wish to sell that yard. It is upon these considerations I predicate the vote I shall give upon this appropriation.

The amendment, by unanimous consent, was withdrawn.

Mr. RANDALL, of Pennsylvania. I renew the amendment; and I do so, Mr. Chairman, for the purpose of advocating the original proposition of the Committee of Ways and Means. My action will not be controlled by the reasons which seem to govern the gentleman from Connecticut, [Mr. BRANDEGEE,] whose hostility to the establishment of an iron-clad navy-yard at League Island, in the Delaware river, and which grows out of the fear he has for his own pet project at New London, has been thrust forward in this debate without the least pretext for it. I deem, sir, that the proposed enlargement of the Philadelphia navy-yard is called for by the best interests of the Government. If at any future period a navy-yard should be constructed at League Island, as I trust that it soon will be, and it shall become necessary to sell this land, the Government will lose nothing, but, on the contrary, will be able to dispose of it at an enhanced price. The appropriation is a necessary one, and is, we are told by the Department, as economical as it could be made with a view to answer the demands of the Navy. The reasons advanced by the Committee of Ways and Means for the appropriation are plain and practical; it is founded upon the estimates and recommendations of the Department; it is needed and judicious, and I trust that it will secure the approval of the House.

Mr. STROUSE. Mr. Chairman, there need be no nervousness on the part of the member from Connecticut [Mr. BRANDEGEE] in reference to the delegation upon this floor from Pennsylvania. We are not now considering the claim of Connecticut for a new navy-yard, nor whether an iron-clad navy-yard shall be established at League Island. The gentleman has propounded the question why we do not take more interest in this matter. Sir, I beg leave to say to the House—and I will be sustained by the Representatives from Pennsylvania on both sides of the House—that we take a more enlarged view of our duties. We are not confined to the narrow limits of a State; we are here as the representatives of the whole country. While we feel State pride, as all men do, yet, sir, we act with reference to the merits or demerits of the measures presented for our consideration. Gentlemen will find that we do not advocate League Island or any other place as Pennsylvanians. We do not advocate it because it is located in Pennsylvania or near Philadelphia. I come myself from the interior of the State, and I do not advocate it because it is upon the border of Pennsylvania. We take a more enlarged view of the question; and when it comes fairly before us we will decide that which is best for the American Navy. I do not see why there is this extraordinary clamor and this nervousness because perchance the establishment of a navy-yard at League Island may be advocated here by gentlemen from Pennsylvania.

Mr. Chairman, permit me to say to the House, that if League Island has not advantages to recommend it to the favorable consideration of the House, let some other place be selected; but until it is demonstrated before the House and we are entirely convinced that League Island has not superior claims, let us pass on to the public business that demands our attention.

Mr. GRISWOLD. Mr. Chairman, as a member of the Naval Committee, I must enter my pro-

test against a discussion relative to the merits of League Island or New London, or any other location in connection with this simple question of the purchase of additional land for the enlargement of the Philadelphia navy-yard.

So far as I know, sir, the members of that committee have taken up this question upon its merits alone. They have not been influenced in their recommendation upon a simple point of this kind by the feelings or interests either of League Island or New London, of Pennsylvania or Connecticut. We have taken it up as a business matter, considering the importance of the enlargement of the navy-yard upon the grounds so well stated not only by members of the Committee of Ways and Means, but by members of the Naval Committee, and we have, as our unanimous opinion, come to the conclusion that the purchase of this little tract of land will be of great benefit to the country, inasmuch as it will nearly double the facilities of the navy-yard at Philadelphia.

I rose simply to protest as a member of the Naval Committee against this matter being involved in any degree in the consideration of the question of a future navy-yard and its location.

Mr. KELLEY. I concur, Mr. Chairman, in the propriety of the remark of the gentleman from New York, [Mr. GRISWOLD,] that we should exclude from the discussion now pending all considerations with reference to the question of a new navy-yard for iron vessels. That will be before us at an early day, when I shall be prepared to show, and think I shall be sustained by the facts of the case, where that yard should be located. But that question has no connection with the one now before the committee, and should be excluded from the discussion.

Sir, wharfage and dockage are the great wants of our Navy at this time, and I affirm without fear of contradiction that to-day, at this very hour, there are more Government vessels lying in hired docks and at hired wharves in the city of New York alone than there were in the American Navy on the day on which the rebellion broke out.

Within two weeks past a majority of the members of the Naval Committee have seen that the docks and wharves for a considerable distance south of the Philadelphia yard are rented by the Government, and that our vessels in large numbers are lying at them; so too to the north of the yard several docks and some of the finest wharves are engaged by the Government and occupied by transports and other vessels.

During the last Congress I opposed the purchase of the strip of land for the purchase of which it is now proposed to make an appropriation. I did it because I then thought a job was attempted, inasmuch as a price beyond what it was worth was asked for the land; but the proviso in this bill limits the purchase money to \$90,000, and my judgment is that it will be a bargain at a price within that sum. It has a valuable though not extensive wharf front, and it cuts off the southern boundary of the yard from the line of a street laid down on the plan of Philadelphia, and which will be opened to travel; so that should that yard be exposed for sale for commercial or general purposes its market value will be enhanced far more than \$90,000 by the Government owning the street front along its southern and longest boundary.

I hope, sir, that by the future legislation of this session a necessity will be created for the early sale of that yard, and thus the \$90,000 to be appropriated by this bill be converted into a much larger sum for the Treasury at an early day. This purchase will meet a present and pressing want of the Navy. Having opposed this purchase during the last Congress, I feel it is but justice to myself and those who remember my vote on that occasion to say that on the terms proposed by the present bill I think we could not do a more judicious thing than to provide for the purchase.

Mr. HOLMAN. Is not the amount now proposed the same that was proposed in the last Congress?

Mr. KELLEY. No, sir; the sum was then one hundred and twenty thousand dollars odd, if I remember, and that is a very material difference. I am not sure that it was not \$150,000.

Mr. HOLMAN's amendment was rejected.

Mr. HOLMAN. I move to amend by striking out the appropriation of \$30,000 for completion of extension of building at Pensacola. While I am not opposed to proper appropriations for the re-

pair and keeping in full operation of the navy-yards on the seaboard, I cannot but feel that these two appropriations for Norfolk and Pensacola of a large sum of money are of a very questionable character. One of these navy-yards is destroyed; the other, situated on the coast of Florida, cannot be made available for any general purposes.

We are keeping up and enlarging so many of these navy-yards that the expense is becoming enormous. It is well to consider the result. I have looked over the naval appropriations for some years past, including the year preceding the war, and I find that as late as 1860 the appropriation for the Navy was but \$12,000,000; in 1862 it was \$30,456,294; in 1863 it was \$42,741,336; in 1864 it was \$92,713,205. And now the Secretary of the Navy asks an appropriation of \$142,618,785. Thus from an appropriation of \$12,000,000 at the beginning of the war, with a respectable Navy then in the service, we have increased by rapid progress until \$142,000,000 are now required, a sum double the whole expenditure at the close of the last Administration; and, sir, you have no assurance that this enormous increase will not continue in the future, year after year, if the present order of things shall continue.

Now, Mr. Chairman, if there had been a corresponding benefit from this extraordinary increase of the Navy, no citizen should utter a word of complaint about it; but with all of this extraordinary outlay in the building and purchase of vessels, it seems to be a fact, a most humiliating one, that we have not a vessel engaged in our trans-Atlantic commerce that floats under the American flag. I should hope, out of a just national pride, that this was an error. Our ships are being sold to English and French owners—I say it with reluctance—that they may sail in safety under the flags of those countries; a foreign flag to protect American commerce! Quite recently apprehensions were felt that our possessions on the coast of the Pacific would not be safe from the piratical marauders which, under the patronage of Great Britain, have been sent out to burn and destroy our property on the high seas. Thus with this lavish appropriation of money, this immense Navy of six hundred ships, our commerce is crippled, virtually destroyed. Our ships are either driven from the ocean or placed under the flag of foreign nations. The insignificant navy of pirate vessels sent on to the high way of nations through the instrumentality of British cupidity, without one single harbor subject to the control of their owners, is actually employing our whole Navy, so far as employed at all. The great difficulty, sir, is, not that the Government has not been sufficiently lavish in expenditure or our Navy officers and sailors skillful and brave, but that the administration of the Navy Department has not been in proper hands. It has indeed, sir, been a failure. Such is the judgment of the country. If the President of the United States had listened to the voice of the country, the condition of the affairs of our Navy might have been greatly improved; certainly they could not have been worsened. To the want of ability, or at least of ability of the proper kind, in the head of the Navy, are to be attributed the misfortunes to our commerce, and the want of life and vigor and activity to that branch of the public service. The American Navy with a proper head, with an able chief, could not fail to be effective. Everything that is done in that Department seems to be a mistake. Up to this time, and with this extraordinary expenditure of public treasure, we have been scarcely able to blockade the ports on our coast against a people who have not a single port under their control, and who had not a vessel-of-war when the war began.

[Here the hammer fell.]

Mr. RICE, of Massachusetts. I am very much surprised that the gentleman from Indiana should make the alleged insufficiency of the Navy a reason for withholding the appropriations necessary to keep it in an efficient condition. If he will turn to the communication from the chief of the Bureau of Yards and Docks he will find that the item of \$50,000 asked for the Pensacola navy-yard is simply to keep in repair and efficiency the existing means at that yard. The necessity of doing this will become very apparent to the mind of any gentleman who will for a moment reflect that this is one of the points to which the vessels of the Gulf resort when they need repairs and supplies. I entirely sympathize with the remarks of the

gentleman in regard to the necessity of protecting American commerce. It is as much a source of disappointment and mortification to me as it can be to him or any other American, that our commerce should be to so great an extent driven from the seas, and that the carrying trade of the world should be transferred from under the American flag.

MESSAGE FROM THE SENATE.

The committee informally rose, and a message was received from the Senate, by Mr. FORNEY, its Secretary, announcing that the Senate had passed an act relating to acting assistant paymasters in the Navy; in which he was directed to ask the concurrence of the House.

NAVAL APPROPRIATION BILL—AGAIN.

The committee resumed its session.

Mr. RICE, of Massachusetts. But, Mr. Chairman, I think the gentleman from Indiana is entirely mistaken in attributing that result to any inefficiency upon the part of the Navy Department. If he will recall the increase of facilities which have been made by that Department since the rebellion commenced he will find that there is no parallel in the history of the world in the amount of labor which has been performed by that Department. There is no record in any time where the navy of any country has been increased within a space of three years from seventy-six vessels to nearly six hundred. But that, sir, is the case with the American Navy.

It seems to be a very small matter for one vessel at sea to discover another vessel at sea and capture her; but it will be apparent to any one, I presume, that it is impossible for any vessel, however swift, to capture any of these roving pirates, unless she can first come in sight of them. As far as my recollection serves me no one of our American naval vessels has yet come in sight of one of these roving cruisers, these pirates, at any point on the ocean and given battle to her.

In conversing upon this subject with an old shipmaster a few days ago, he told me he had sailed from a port in company with three or four hundred sail of vessels, and in less than five hours had been in a position where not a single sail could be seen.

Now, how perfectly absurd it is to say that it is owing to a lack of efficiency upon the part of our naval vessels that they do not catch these roving pirates, when not one of the vessels of the American Navy has come in sight of a pirate.

Of what use is the speed of a vessel flitting from one corner of the ocean to the other in pursuit of vessels that cannot be seen and the locality of which is unknown? There has been no opportunity for any one of the vessels of our Navy to engage on the high seas with one of these pirates. And one of the best arguments that can be submitted in favor of the speed and efficiency of the American Navy is the fact that these roving pirates are very careful to keep out of the way of our naval vessels. If they could compete with our Navy in speed, in power, or in general efficiency, they would be likely to seek to be brought in contact with them. But instead of that they run away from our shores. We next hear of them among the West Indies, then across the Atlantic, then, doubling the Cape of Good Hope, they fly to the East Indies and to the uttermost parts of the earth—anywhere, to escape the American Navy.

[Here the hammer fell.]

Mr. PIKE. I move to amend by striking out the last word. I merely want to say one or two words in reply to the general remarks of the gentleman from Indiana [Mr. HOLMAN] in furtherance, as they seem to have been, of the attacks which are now so common upon the head of the Navy Department. I am no special partisan, perhaps no admirer, of the head of that Department; but still, when an attack is made in an unusual way upon the head of a Department upon the occasion of an appropriation for the ordinary expenses of carrying on the war, it does seem to me to require some reply, some attention, especially coming from the source it does.

What the gentleman would have the head of the Navy Department do that he has not already done he does not inform this committee. But he would have the President act in the matter and provide us with another Secretary of the Navy. Well, suppose he had done so, what could a new man have done? What could anybody have done that

the present Secretary of the Navy has not done? He has called in aid of the Navy the best mechanical and professional talent of the country. At an early day in the war he sent out invitations to the inventors of the country to furnish plans for naval vessels, and in pursuance of that invitation plans were furnished and accepted, and vessels have been constructed, of the achievements of which the whole country is proud to-day, and those achievements have called the attention of the world to a new mode of constructing naval vessels.

The fact the gentleman from Indiana alludes to, that these vessels have not, at the same time that they were superior for defense, been able to pursue a flying enemy and overtake him in unknown seas does not militate against the skill of their construction or their efficiency and superiority, but simply illustrates the fact that the Lord, when he created the earth, made the oceans very large. [Laughter.]

I did not rise for the purpose of pursuing the general subject, but merely to ask the gentleman from Indiana what he would have had done that has not already been done? He has some idea of the subject; will he tell us what it is? In my judgment the verdict of the historian will be that the Navy Department has been well and efficiently managed, and has accomplished its full share in the work of suppressing the rebellion. If compared with the Army it certainly will suffer no discredit, for the Army will find no difficulty in finding an enemy in full force within three days' march of the capital, while the Navy has been pursuing the skulking foes in all parts of the world; and if the leading pirate has finally been cornered it is in an obscure harbor on the other side of the globe. The great job the Navy has had to do has been to find the enemy; when found they were easily disposed of. When we see what the Army has done, I think that we must give credit to the Secretary of the Navy for what he has accomplished.

Mr. HOLMAN. Mr. Chairman, it is an old maxim, that holds good in all the relations of life, that the tree is known by its fruits. At this time rebel vessels are now leaving Nassau and entering the blockaded ports upon our sea-coast almost without interruption.

The gentleman from Pennsylvania [Mr. KELLEY] in arguing another question informed us not an hour since that there are more vessels lying at hired wharves in the city of New York alone than the whole naval force of the Government at the time the war began. I do not know whether that can be explained. What are those vessels doing there? It seems strange that we should have so many vessels lying at a single port, when blockade-runners loaded with supplies and munitions of war are daily entering the principal seaport of North Carolina, and furnishing the enemy with supplies. I presume that the head of the Department is in the proper sense responsible for the efficiency of that Department. If not, who is responsible? I mention the fact that our commerce has been driven from the high seas. I mention the fact that, with a few exceptions, gallant achievements that made the American heart thrill with pride, the Navy has accomplished nothing during the war corresponding with its magnitude. I regret the fact, but it is unfortunately true. You propose to keep up that old system adopted between the North and South. You have eight navy-yards, at which we have large numbers of officers at unnecessary expense; and where they have been abandoned or destroyed, as at Norfolk and Pensacola, you propose to reestablish them.

I read with some degree of interest and care a speech delivered in the other branch of Congress comparing our Navy and our system of scattering our navy-yards along the sea-coast with those of other nations, showing the extravagance of our system. At the Norfolk navy-yard, destroyed by the rebels, and for which no recent appropriations have been made, you are proposing by this bill to appropriate for the salaries of that navy-yard alone \$22,500, and a corresponding appropriation at Pensacola of \$27,500. These expenses are multiplied in every one of our navy-yards from the Pacific coast to Maine. In this way our finances are exhausted, and the public energy is frittered away under an inefficient Department; and instead of a powerful Navy, corresponding with the expenditure, conducted with economy, we have a Navy, manned, it is true, by gallant seamen, and yet without an efficient chief, so far

as results are concerned, one that adds, at the best, nothing to our ancient fame on the high seas. In the war of 1812 the genius of the citizen who presided over the Navy Department enabled our Navy to drive English ships and English commerce from the ocean. Inspired by his spirit and energy, the gallant Perry, in a few months, organized a Navy, heaved the trees of the northern forests into ships, and swept from the great lakes of the North the gallant navy of Great Britain. Has the present head of the Navy Department, with the tremendous resources at his command, seamen as gallant as their fathers, accomplished anything in comparison with his predecessor? And yet opportunity has not been wanting. And now, with an expense running from \$12,000,000 up to \$142,000,000 in four years, with the public enemy without a navy or dock-yard or navy-yards, with a few pirate ships our commerce is destroyed upon the high seas; and, with the exception of a few remarkable and honorable instances, the achievements of the Navy have accomplished nothing. It has done nothing but blockade ports which the rebels had no power or ships to open.

It seems to me, therefore, to be proper to inquire whether these large sums of money could not be applied by competent officers so as to secure better results, that the Navy may rival your gallant Army in its achievements. But to do this, sir, the chief who presides over the Navy must be equal to the task of organizing with judgment and ability great achievements.

Mr. PIKE withdrew his amendment.

Mr. KELLEY. I renew the amendment.

Mr. Chairman, he who reads American history a few years hence will, if he be an American, be justly proud of the achievements of our Navy Department and Navy. They have performed, sir, what the world at large pronounced an impossibility when it was undertaken—established and maintained such a blockade as never before was attempted in history, and maintained it with a power that challenges comparison with the most effective blockade that history records. Look at the long line of coast under blockade. Look at the host of prizes taken by our Navy, and at their commercial value. Look at the number of the finest steamers in the world now in our Navy that are prizes taken by the Navy. Sir, there is nothing like it in history. In 1812 we were at war with a great maritime Power, and our vessels met the enemy's upon the sea and vanquished them wherever they met them. But how different has been the great duty of our Navy in this war! It has been chiefly to maintain the blockade. Small chance for honor has been afforded our gallant seamen and officers, because our enemy is not a maritime power, and has no naval force with which to meet them. But, circumscribed as its field is, the Navy has in this way achieved no small share of honor. The gentleman hails from the Northwest, and I ask him what the Navy has done near the mouth of the Mississippi, and up its waters—what part the Navy has taken in opening that great artery of western commerce, the Mississippi—what part the Navy took in restoring New Orleans to the flag of our country?

Mr. HOLMAN. The gentleman asks a question.

Mr. KELLEY. And the gentleman can answer it in the next five minutes, but not now.

Sir, read British history, read the journals of the day published during the late war and the revolutionary war, and you will find that England mourned over a list of merchantmen captured by American privateers that shamed their navy and brought it into temporary disfavor. Does not the gentleman know that Paul Jones and others commanding privateers ran into the very ports and harbors of Great Britain? There never was, I repeat, so extended a blockade as our Navy has maintained. There never was such alacrity, skill, and success exhibited by a navy in the capture of prizes as has been manifested by our Navy during this war. And what was its extent and condition when the war began? Why, it numbered but seventy-six vessels, and of those twenty-nine of the largest had been ordered by the preceding Secretary of the Navy, Isaac Toucey, to the yards and the possession of the conspiring traitors. There were but four vessels, and those the four smallest in the Navy, at the immediate command of the Department when Sumter was fired on. Our largest and best vessels were dismantled or laid up in ordinary in southern yards. The bal-

ance of our Navy was scattered upon the most remote stations in the world, upon the African coast, upon the Pacific coast, and other distant stations. There were at the disposal of the Government at that time but four small vessels, manned by two hundred and fifty men, exclusive of officers and marines, and carrying but twenty-five of the thirteen hundred and seventy-six guns then afloat, and they were the nucleus around which the Department has created a Navy of over six hundred vessels, while establishing and maintaining a blockade such as was never before even contemplated, and changing the whole system of naval warfare. We are ready now to put afloat a gun whose projectiles will pierce the iron sides of the most powerful vessels of the navies of either Great Britain or France. They can build nothing that will withstand our 20-inch gun. By the action of our Monitor near Fortress Monroe we revolutionized the naval system of the world, and yet we are to be told here upon the floor of the American Congress that we should blush for the doings of our Navy.

Why is it, it is asked, that so many vessels are laid up at rented wharves? It is because our Navy was utterly incompatible with our national character and the vast extent of our commerce. It was that we had made no provision for maintaining a Navy adequate to the maintenance of the honor of the nation or the protection of its commerce in case of war. Now is the time that we should do it. Why are vessels laid up? Why did not gentlemen on the other side give us an early passage of the bill by which soldiers could be transferred to the Navy? You were told that there were vessels lying waiting for service because the men could not be got to man them, and yet you would not pass the bill by which men could have been transferred from the Army to the Navy.

[Here the hammer fell.]

Mr. HOLMAN obtained the floor.

Mr. ODELL. Will the gentleman allow me to ask the gentleman from Pennsylvania a question?

Mr. HOLMAN. Certainly.

Mr. ODELL. I ask the gentleman from Pennsylvania whether the bill to which he refers met with any opposition on this side? On the contrary, it was passed as soon as it was returned from the Military Committee.

Mr. KELLEY. I think that the filibustering which delayed general legislation came all from that side.

Mr. HOLMAN. I oppose the amendment. I simply wish to say to the gentleman that the achievements of our arms even on the great river of the Northwest are attributable more to the Army than to the Navy. Even so far as the gunboats are concerned, he must remember that the enterprise of a gunboat fleet on the Mississippi was inaugurated by the Army, and not by the Navy; and it is not so very long since those gunboats were transferred from the Army to the Navy. Their achievements were performed in a great measure by men who left the ranks of the Army and manned the gunboats, transports, and steamers intended to run the rebel batteries on the Mississippi. Of the gallantry of these men, whether in the Navy or from the Army, of the cool and resolute courage of the citizen pilots, too much cannot be said in commendation. Their courage and constancy is the redeeming feature, however inefficient the management of the Department. Of the skill and energy of officers in active service, of the courage of their men, in the Navy as well as the Army, the whole country is justly proud. It is not this of which I complain, but of the general conduct of the Navy Department.

When the gentleman speaks of the large number of blockade runners that have been captured, he must recollect that the argument cuts both ways. It shows the little apprehension that was felt by blockade runners of being captured, and of the number that flocked upon the coast to try the venture. But when the gentleman refers to the uninterrupted achievements of our Navy, why does he not say something of that unfortunate expedition set on foot with such lavish and extraordinary expenditure to capture the hotbed and cradle of southern treason, Charleston, in the destruction of which every loyal citizen feels so intense an interest? What did your great fleet of iron-clads do there in presence of the rebel fortifications and batteries established in front of

Charleston? What was accomplished there was accomplished by your gallant Army, pressing forward under obstacles insurmountable. While the nation was led to believe from the boastful manifestoes of the Navy Department that in the course of a few days the invincible iron Navy was to batter down that stronghold of treason, watching for it day after day, week after week, month after month, the unwelcome fact came before the country that so far as the naval expedition was concerned it was a miserable failure, a tremendous error of judgment on the part of Secretary Welles, a wild and totally impracticable scheme. If there is any blushing to be done it ought to mantle the cheek of any one who defends a Department which has shown itself so unworthy the prowess, skill, courage, genius, and lavish expenditures of the American people, or defends the President of the United States for having, in defiance of the public judgment, kept that high official in a position so beyond the scope of his ability. That is the cause for blushing on the part of the Representatives of a free people, in a Congress emanating from the people, in a Government where the public voice ought to be heard and the public judgment respected.

[Here the hammer fell.]

Mr. KELLEY withdrew his amendment.

Mr. DAVIS, of Maryland. I renew it. I did not design, Mr. Chairman, to participate in this debate. I do it now with great reluctance, for I cannot say anything without hurting somebody. And yet the remarks of the gentleman who has just taken his seat [Mr. HOLMAN] do not permit me to remain silent. He says that the blush should mantle on the cheek of everybody in connection with the attack of the Navy on Charleston.

Mr. HOLMAN. I trust the gentleman will not misapprehend me. I said that the blush should kindle on the cheek of an American citizen in seeing still maintained in his position a person at the head of the Navy Department against the common judgment of the entire country.

Mr. DAVIS, of Maryland. I shall not differ with the gentleman in that judgment. It was because I knew I should have to say something that I had rather not say that I did not wish to speak upon this bill. But when the gentleman spoke of the attack upon Charleston as a miserable failure, I have to say that the charge of Balaklava was not more brilliant nor more insane. It was not a naval expedition undertaken on the judgment of naval officers, or advised by the officer in command charged with its execution. It was devised in the Department without consulting the officer who was charged with its execution, who was always ready to obey every order, however in conflict with his experienced judgment. No, sir, if there be shame and humiliation in connection with the attack upon Charleston, it is because the Department thought a cotton-spinner was better than an admiral to plan the execution, and weigh and adjust the relative powers of attack and defense. They ought to have remembered that the ablest officer of the Navy thought that no amount of heroism, no amount of impenetrability of iron-clads, no amount of daring on the part of our fleet off Charleston would enable thirty guns on iron-clads on one side to silence three hundred guns in fortifications upon the other, but that in order to make a successful attack upon Charleston it must be a combined attack by a land and naval force.

But the admiral in command of the fleet, though he was not consulted as to the plan of attack, and although the result accorded with his experience and judgment, when the order came, made the attack; and in forty minutes one half his force was disabled. He withdrew, meaning to renew the attack the next morning; but upon the reports of his captains unanimously concurring that a resumption of it must end in disaster, the attack was not renewed. The Navy Department was informed of that fact, but he was met with slurs and insults, to which the published correspondence and the Secretary's report bear testimony; and at last he was relieved under false pretenses: a better man might take his place and execute the plan in which he had failed.

Months have passed of enormous waste of gunpowder, and Charleston remains in the hands of the enemy still. Sumter, whose battery at the time of Admiral DuPont's attack was unbroken, is now a heap of ruins, and yet the Navy is no nearer Charleston. The result would have been differ-

ent if the Department had taken the advice of Admiral Du Pont and sent twenty-five thousand men to attack by way of Stono and James islands, while the fleet attacked the batteries in front.

But the men who are now in control of the Navy Department keep in retirement the most brilliant officer of the Navy since the days of Decatur, because the Department's crude experiment failed and it was advisable that the Department should not appear in fault, because it might be awkward to confess that it did not ask Du Pont's advice on the plan of the attack nor take it when it was volunteered; and when the attack which the Department devised failed, through the inherent inadequacy of the force provided, in kind and quantity, they thought the iron-clad reputation might suffer by an exposure of the real facts.

Mr. STEVENS. I believe I must oppose this amendment; but I rise more for the purpose of asking this House whether they will not go on and pass some of the appropriation bills, instead of squandering the time of the nation by irrelevant and insane speeches? We have got now five or six large appropriation bills untouched, and at the rate at which we are going on, midsummer will reach us before we shall pass them.

If gentlemen after the debate is closed will confine themselves to motions which they make, to the strict merits of their amendments, we shall be able to get through; but if they go on constantly making political harangues, which of course must be answered, we shall never be done.

The gentleman from Indiana [Mr. HOLMAN] I have no doubt remembers that "there is a time for all things," but evidently believes that all time is for his things, [great laughter,] and that is finding fault and maligning the Administration. I do implore the House to give no countenance to such a course until we have done with the appropriation bills, and then they may talk nonsense until doomsday if they wish.

Mr. DAVIS, of Maryland, withdrew his amendment.

Mr. HOLMAN. Inasmuch as I have stated my reasons for making this amendment, and I presume the committee desires to proceed with the bill, I am now willing to withdraw it.

Mr. GRISWOLD. I oppose the amendment. I do not feel called upon, Mr. Chairman, to stand up in vindication of the Navy. It is well known that I am no political sympathizer with that Department, nor do I desire to occupy the time of the House in making insane speeches which are so much discouraged by the gentleman from Pennsylvania, [Mr. STEVENS.]

I do not propose to enter into the controversy which may have sprung up between the Army and the Navy. I do not propose to say anything in regard to the contest which may have sprung up in the Department alluded to by the gentleman from Maryland [Mr. DAVIS] relative to the jealousy or rival claims of commanders in the Navy; but I do feel called upon, as one familiar with the subject, when I am told that the attack on Charleston was one of the events that should shroud the country with mortification—an assertion against the entire policy and ability of that peculiar class of vessels in that contest—I say that I feel called upon as one familiar with the subject to stand up and vindicate them.

Mr. Chairman, are gentlemen aware of the fact that that little fleet of iron-clads which made the attack upon Charleston cost not more than one of the ordinary men-of-war? Are they aware of the fact that the whole manning of that little fleet was less than is necessary for an ordinary man-of-war? Are they aware of the fact that that fleet received two thousand shots, and not one penetrated; and that not a solitary life was lost except that of the gallant Rodgers, and that was from no defect not easily remedied? Are they aware of these facts, and of the fact that this country alone has presented to the world a naval vessel that is impregnable to any projectile yet invented?

We are told, sir, of the great success of the English and French naval iron-clads, relying on four and a half inches of plate. What did we see at the navy-yard at Washington? A French plate manufactured in one of the most celebrated manufacturing in France was brought out here. It was six inches thick, and in one single shot it was shattered to atoms by one of our 15-inch guns. Why, sir, the American Navy to-day stands far

in advance of any navy in the world; and that result is owing to the iron-clads.

[Here the hammer fell.]

Mr. RICE, of Massachusetts. I do not propose to prolong this discussion, but I desire to call attention to the following memoranda prepared by the Bureau of Statistics of the Navy Department:

"The vessels which in the report of the Secretary of the Navy are called 'fast or rapid vessels,' are altogether of timber, and are particularly applicable to the present war. They vary in dimensions from two hundred and ninety to three hundred and thirty feet in length, and in beam from forty-one to forty-seven feet. Their draught of water will be from fifteen and a half to seventeen and a half feet. These vessels are intended for great speed, and have very powerful machinery; the vessels being sharp are expected to maintain a continuous speed of from fourteen to fifteen knots, and for a short run may even exceed this. The difference in the size of the vessels is mainly due to the armament, which for the smaller vessels will be six 9-inch guns and one 50-pound rifle gun. The larger vessels will have covered decks, in order to accommodate more men, who will be required for the heavier armament of eighteen 9-inch guns and two rifled guns. Particular service may occasionally require a variation in the armament.

"The steam machinery has been contracted for for all these vessels, and the Government is under obligation to furnish the vessels to those contractors that they may put up their machinery.

"Six of these vessels are building in the navy-yards, and are being hastened forward, when others of them will be immediately commenced, and the remaining vessels will be built by private parties under a public advertisement. This would have been done earlier but for the strikes of the workmen, which have scarcely yet calmed down, and the holding back of these vessels added very much in bringing the machinists' strike to a conclusion.

"The Department found its first duty in the commencement of the war to be to purchase a great number of vessels for the blockade, for the regular naval vessels then in service were more of a character to meet foreign ships-of-war in battle than to catch blockade runners; and these purchased vessels, though good for merchant work, were not so suitable for the hard usage of continual service, and they are thus depreciating rapidly every year. The number must, however, be kept up, and this is one of the reasons of the large amount of money needed to repair them; next year it will be greater still, unless their places can be supplied by new vessels.

"The next care of the Department was to build some substantial vessels of light draught of water that could run up all the rivers and bays. The small gunboats did this; and still later it has provided 'double-end side-wheel steamers,' which will no doubt answer a good purpose. They are strong and fast vessels.

"There was still wanted a fast class of vessels for offshore work, that could overhaul vessels at sea and before they came within the range of the light-draught vessels, as the blockade runners have come to using faster vessels than those with which they commenced. These are the vessels on which the Department is now engaged. They could not well have been made before, for all the machine shops have been engaged on the light-draught vessels, and on the repairs of the purchased vessels, and on the monitor vessels.

"That press is now passing by, and all these shops have the contracts for the machinery of these large, rapid vessels which taxes their ability to its full extent.

"Besides the vessels above named, which are wholly of wood, and without armor of any kind, (for they cannot carry it,) there are eight wooden vessels of monitor class building in the navy-yards, for which contracts have been made for the machinery, the armor plating, and the turrets. Four of these vessels are in length three hundred and twenty feet, and will draw twelve and a half feet water. On the outside of the hull there is a wood backing of eighteen inches thick, in which are laid bars of iron four by six inches; on the outside of these there is then placed an iron armor of four and a half inches in thickness; the deck armor is in thickness two inches.

"Each of these four vessels has two turrets, of which the thickness is twelve inches, and each revolving turret will have in it two 15-inch guns, and each vessel will thus have four guns.

"These vessels are afloat, a large portion of the armor on, and the machinery and turrets well advanced to completion. They will be able to go along the coast and will fully protect any harbor.

"The remaining four are similar, but larger vessels building in the navy-yards; they are three hundred and fifty feet long, and will draw about fourteen feet water. The turrets for these four vessels are to be fifteen inches in thickness, the deck three inches in thickness, the side armor six inches in thickness, laid on bars of iron eight inches square and four inches asunder, and these bars on a wood backing of fifteen inches thick, in addition to the thickness of the hull of the vessel; all this necessarily requiring larger vessels than those first named, and they will not cost less than \$1,250,000 each. But when made, an enemy must get out of sight to feel safe. These vessels will each have four guns of fifteen inches, or of twenty inches, as may be found best.

"The Dunderberg is building in New York under contract with Mr. W. H. Webb, and is intended by him for a sea-going steamer, to make fourteen knots at sea. This vessel is in every respect planned and arranged by Mr. Webb, the contractor, without the interference of any one else. She is built of wood, of angular sides, having an armor of three and a half inches on the hull, laid on a thickness of several feet of timber. She carries eight 11 inch guns in a house or casemate on the deck, the iron plating on the casemate being four and a half inches. On the top of this casemate or house there are to be two revolving turrets, in thickness eleven inches of iron, in each of which will be two guns of fifteen inches. This vessel is to have masts and sails for cruising. Besides this she is to have a ram or cutter of iron and wood, with which at a speed of fourteen knots

she would be dangerous to any vessel whether of iron or wood. This vessel is to draw twenty and a half feet water, and will mount twelve guns. The cost by contract will be \$1,250,000.

"The Dictator and Puritan are iron vessels building by Mr. Ericsson, having all the peculiarities of his monitor vessels, with some modifications which experience with the other vessels of this class has pointed out to him as necessary and advantageous. The monitor vessels draw about eleven feet water; these vessels will draw twenty feet. The Dictator is to have one turret and the Puritan two turrets, and in each turret there will be two guns of fifteen or of twenty inches. The thickness of the turrets was to have been twenty-four inches of iron, but the projector finds that by a different mode of construction fifteen inches will be sufficient. These vessels are intended by Mr. Ericsson as sea-going steamers, and they will be formidable vessels. Their efficiency for harbor and coast service is conceded by all, and these two large ships will test the practicability of the system of turrets for sea service, and it is by a trial of this kind only that such a question can be settled. The armor on the hull is six inches in thickness, laid on bars six inches square, and these bars rest on a wood backing of three feet in thickness.

"For such large vessels of war with armor-plating, there can be no question but that the proper material of which to build them should be iron. Iron shipbuilding is comparatively new, and it will require a little time for the Government to get into it. The British iron steam frigate Achilles, of the same size as the Warrior, has been built in Chatham dock-yard altogether by the shipwrights who built the wood vessels. The greater portion of the work is done by machinery, and a good mechanic in wood will answer just as well as an iron-worker, and all the riveting can be equally well done by them. Such, however, is represented to be the fact in the case of the Achilles.

"The smaller classes of vessels will for many reasons for a long time yet be of timber. All the stock of seasoned timber, and indeed the timber of every kind in the navy-yards, has been used, and the Government, like the merchant builders, is glad to get any kind that is to be had, and it is all green. The pressing need of the country has not justified the asking of sums of money to lay in a stock of timber to season, all the funds having been wanted to build the vessels and get them off as quickly as possible. The Department has not asked for money for this purpose, but there cannot be a more judicious and economical expenditure than in laying up a supply of seasoned timber. A neglect of this will occasion enormous sums to be expended in repairing; and this is one reason, added to that of the hard work the vessels have to undergo, of the great amount required for repairing, rapidly increasing as the vessels become older.

"The purchased vessels, of which so large a part of our blockading force is composed, were all built of unseasoned timber, for private builders cannot afford to keep it on hand, and the Navy-built vessels are in almost the same condition.

"The expense of the Navy is large, if comparison is made with former years, but in fact the Government has had to create a Navy, and, at all sacrifices, to meet the necessities of the case. This had to be done under rising prices, and they have not yet reached the maximum. Materials and labor are still steadily advancing. We have been compelled to meet a state of things wholly unlooked for. Foreign nations have been gradually building up their navies, while we into two years have had to compress what otherwise would have been the work of twenty years. A comparison with foreign navies is not quite fair to the Navy Department. In the Russian navy every available vessel was put forth by Great Britain, of which she had some four or five hundred, and with all her vast preparations in her dock-yards she had to build a great many by contract, and we all know how many American vessels were chartered as transports. She did not have to make a new navy, as we have had to do.

"It would be folly for any man to pretend to extraordinary accuracy in a naval estimate in time of war. In times of peace with comparatively few vessels it is only a nearer approximation, for in so perishable a fabric as a ship it is impossible to tell in what condition she will return to port, or how much money is to be expended on her. Experience only shows a more rapid depreciation for each year of a ship's life, that the life of a steam vessel is shorter than that of a sailing vessel; and it will doubtless be found that a steamer of wood covered with iron will be the shortest-lived of all. But now in time of war all these incidentals are vastly increased.

"For the last fourteen or fifteen years the estimates for the ship-building portion of the Navy Department have been made on the same general principles, and the introduction of a deficiency bill for this object has been rare. When the appropriation asked for has been reduced from some necessity or reason, it is believed the Department has tried to meet the case by economizing in parts that would least prejudice the interests of the Navy.

"The Department now desires nothing more than will enable it to meet and fulfill the great duty it has before it, which if curtailed too much it cannot do. It is thought that the sum of \$22,800,000 reported will not be sufficient to meet the wants of the Navy embraced in it for the coming year of the war. The wear and tear ought not to be less than \$11,500,000; the sixteen steam sloops, \$7,200,000; the western waters' navy at the minimum, \$4,000,000; the purchase and charter of vessels at \$3,000,000; and the extra labors \$600,000—making in all \$26,300,000, in place of the \$22,800,000 as reported. The sum of \$3,600,000 will also be needed for the armored vessels in construction. With this reduction to \$25,200,000 the Department may be able to meet the demands that will probably be made on it; and it is not beyond a reasonable probability that there may be even a larger sum needed than that asked for."

Mr. BROOKS. I avail myself of this opportunity to present some statistics. I may not have another opportunity. I refer to them as unanswered as against the present administration of the Navy Department.

Alphabetical list of vessels captured by rebel privateers. Reported up to January 30, 1864, with port of clearance, destination, date, place of capture, and tonnage. Prepared by Captain I. H. Upton, Secretary American Shipmasters' Association.

Vessels.	Where from.	Where to.	Date.	Captured by.	Tons.
Admiral Blake, schooner.			1862.	Steamer Alabama, off the Flores.	200
Albert Adams, brig.	Cuba.	New York.	July 3, 1861.	Steamer Sumter.	192
A. B. Thompson, ship.	Savannah.	New York.	1861.	Off Port Royal, S. C.	800
Alert, bark.	New London.	Hurd's Island.	1862.	Steamer Alabama, off the Flores.	391
Alabama, brig.	Sippican.	Atlantic Ocean.	1862.	Steamer Alabama, off the Flores.	300
Aidebanian, schooner.	New York.	Maranh.	March, 1863.	Steamer Florida.	187
Alleghanian, ship.	Baltimore.	London.	1862.	Destroyed by rebels off the Rappahannock.	1,142
Arcade, schooner.	Portland.	Guadaloupe.	January, 1861.	Steamer Sumter.	200
Ariel, steamer.	New York.	Aspinwall.	December, 1862.	Steamer Alabama.	1,235
Alvarado, bark.	Capetown.	Boston.	June, 1861.	Steamer Sumter.	289
Alfred H. Farbridge, schooner.	Gloucester.	Fishing on Banks.	June 7, 1863.	Privateer Tacony.	200
Ada, schooner.	Gloucester.	Fishing on Banks.	June 23, 1863.	Privateer Tacony.	200
Arabella, brig.	Gloucester.	Fishing on Banks.	June 7, 1863.	Privateer Tacony.	300
Archer, schooner.	Gloucester.	Fishing on Banks.	June 12, 1863.	Privateer Tacony.	200
Amazonian, bark.	New York.	Montevideo.	June 2, 1863.	Alabama, lat. 11.15, lon. 34.30.	481
Anglo-Saxon, ship.	Liverpool.	New York.			868
Alliance, schooner.	Philadelphia.	Port Royal.		Off Rio, (bonded).	190
Amanda, bark.	Manilla.	Falmouth, E.		Alabama.	585
Anna F. Schmidt, ship.	St. Thomas.	San Francisco.		Alabama, off Rio, (bonded).	784
Arabella, brig.	Aspinwall.	New York.	June 12, 1863.	Florida No. 2.	291
Atlanta, ship.	Montevideo.	Chincha Islands.		Alabama.	699
Benjamin Dunting, brig.			July 3, 1861.	Steamer Sumter.	284
B. F. Martin, brig.	Philadelphia.	Havana.	June 16, 1861.	Steamer Sumter.	293
Benjamin Tucker, ship.	New Bedford.	Whaling.	1862.	Steamer Alabama, off the Flores.	800
Bold Hunter, ship.	Dundee, Scotland.	Calcutta.	December 9, 1863.	Georgia, lat. 19 N., lon. 20.35 W.	797
Brilliant, ship.	New York.	Liverpool.	October 3, 1862.	Steamer Alabama, lat. 40, lon. 50.30.	839
Betsy Ames, brig.			1863.	Steamer Alabama.	265
Bedford Thayer, ship.	Callao.	Nantes.	1862.	Steamer Alabama.	896
Baron de Castine, brig.			1862.	Steamer Alabama, lat. 39 N., long. 69 W., (bonded).	267
Boston, tug.	London.	New Orleans.	June 9, 1863.	Rebels, at mouth of Mississippi.	100
Byzantium, ship.	Magellan.	New York.	June 16, 1863.	Privateer Tacony, lat. 41, lon. 69.10.	800
B. M. Hoxie, ship.	St. Thomas.	Cork.	June 16, 1863.	Florida, lat. 12 N., lon. 30 W.	1,387
California, bark.	New York.	Vera Cruz.	1861.	Steamer Sumter.	299
Cuba, brig.	Guadaloupe.	Cienfuegos.	July 1, 1861.	Steamer Sumter.	199
Chastain, brig.	Provincetown.	Whaling.	January 27, 1863.	Steamer Sumter, off Altavilla Rock.	903
Courser, schooner.	New York.	Glasgow.	1863.	Steamer Alabama.	200
Crenshaw, schooner.	Philadelphia.	Cardenas.	October 26, 1862.	Steamer Alabama, lat. 40 N., lon. 65 W.	278
Corrie, Ann, brig.	Callao.	England.	January 24, 1863.	Steamer Florida.	235
Cadine, ship.	New York.	San Francisco.	January 25, 1863.	Steamer Florida.	962
Commonwealth, ship.	Liverpool.	Montevideo.	1863.	Steamer Alabama, lat. 30 S., lon. 30.25 W.	1,245
Charles Hill, ship.	New York.	Portland.	April, 1863.	Steamer Alabama, lat. 7.30 N., lon. 26.20.	699
Chesapeake, steamer.	Bahia.	Baltimore.	December 7, 1863.	Rebels' Pass, 20 miles N.N.E. of Cape Cod.	460
Clarence, brig.	Yokohama, Japan.		1863.	Steamer Florida.	253
Cortest, ship.	New York.	San Francisco.		Alabama, off N. North Island.	1,098
Crown Point, ship.	Callao.	Antwerp.	1863.	Georgia, lat. 7 S., lon. 74.	1,098
City of Bath, ship.	Philadelphia.	Valparaiso.	June 25, 1863.	Georgia, lat. 21 S., lon. 29.10, (bonded).	736
Constitution, ship.	San Francisco.		April 17, 1863.	Georgia.	997
Commonwealth, bark.	Montevideo.	New York.		Florida, lat. 20 S., lon. 31 E.	300
Conrad, bark.	Remedios.	England.		Alabama.	347
D. C. Pierce, bark.	New York.	Demerara.	June, 1861.	Privateer Jeff. Davis.	396
Daniel Trowbridge, schooner.	New York.	Lisbon.	1861.	Steamer Sumter.	200
Dunkirk, brig.	New York.	Shanghai.	October, 1862.	Steamer Alabama, lat. 40.30, lon. 54.20.	298
Dorcas, schooner.	New York.	Hong Kong.	1863.	Steamer Alabama, lat. 7.35 S., lon. 31.35 W.	609
Dictator, ship.	Liverpool.	Fishing.	1863.	Georgia, lat. 25 N., lon. 21.40 W.	1,293
Elizabeth Ann, schooner.	Gloucester.	Fishing.	June 22, 1863.	Privateer Tacony.	200
Ella, schooner.	Tampico.	New York.	1861.	Privateer Jeff. Davis.	92
Emily Farnham, schooner.	Provincetown.	Whaling.	October 3, 1862.	Alabama.	120
Emily Fisher, brig.	St. Jago.	Guantanamo.	March, 1863.	Retribution.	230
Eben Dodge, bark.	New Bedford.	Whaling.	1861.	Steamer Sumter.	300
Elisabeth, schooner.	Boston.	St. Jago de Cuba.	July 13, 1861.	Privateer Jeff. Davis.	200
Enslin Duabar, bark.	New Bedford.	Whaling.	1862.	Steamer Alabama, lat. 39.50, lon. 35.20.	300
Excell, ship.	Manzanilla.	Boston.	1862.	Steamer Florida, lat. 23.50, lon. 34.17.	300
Express, ship.	Callao.	Antwerp.	January 17, 1863.	Alabama, off Rio.	1,072
Florida, schooner.	Gloucester.			Tacony, (bonded).	200
Frazer B. Cutting, ship.	Liverpool.	New York.	August 6, 1863.	Florida, lat. 41.10, lon. 44.20, (bonded).	796
W. S. Soaver, bark.	Boston.	Hong Kong.	June 22, 1863.	Georgia, (bonded).	340
Glen, bark.	Philadelphia.	Tortuga.	July, 1861.	Steamer Sumter.	287
Golden Rooster, ship.	Havana.	Cienfuegos.	July 16, 1861.	Steamer Sumter.	608
Golden Eagle, ship.	Howland's Island.	Queensdown.	1863.	Steamer Alabama, lat. 29 N., lon. 45 W.	1,273
Golden Rule, bark.	New York.	Aspinwall.	January 26, 1863.	Steamer Alabama, lat. 17.45.	250
Golden Rule, ship.	New Bedford.	Whaling.	January 21, 1863.	Alabama.	1,185
Goodspeed, bark.	Londonberry.	New York.	June 21, 1863.	Privateer Tacony.	300
Golden Rod, schooner.	Holmes's Hole.	Chesapeake Bay.			130
George Griswold, ship.	Cardiff.	Callao.	June 18, 1863.	Georgia, (bonded).	1,280
Good Hope, bark.	Boston.	Algoa Bay.	June 22, 1863.	Georgia, lat. 22.29 S., lon. 42.39 W.	436
Grenada, brig.	Nuevitas.	New York.	October 12, 1861.	Privateer schooner Saffie, lat. 31.	235
Hanover, schooner.	Boston.	Aux Cayes.	January 31, 1863.	Privateer Retribution.	200
Harriet Spaulding, bark.	New York.	Ilavre.	November 18, 1863.	Steamer Alabama.	299
Herbert, schooner.			July 18, 1861.	Privateer Winslow.	200
Henry Nutt, schooner.	Key West.	Philadelphia.	August, 1861.	Steamer Sumter.	235
Hannah Balch, brig.	Cardenas.	Boston.	July 6, 1862.		149
Hatteras, gunboat.	Galveston.	Blockade.	January 13, 1863.	Steamer Alabama, off Galveston, Texas.	800
Harvey Birch, ship.	Ilavre.	New York.	November 19, 1862.	Steamer Nashville.	800
Hendrietta, bark.	Baltimore.	Rio Janeiro.	1863.	Steamer Alabama.	437
Hansen, brig.	Nuevitas.	New York.	August 4, 1861.	Steamer Winslow.	300
Isaac Webb, ship.	Liverpool.	New York.	June 20, 1863.	Tacony, lat. 40.35, lon. 68.46, (bonded).	1,300
Ibez Snow, ship.	New York.	Montevideo.	May 25, 1863.	Alabama, lat. 12 S., lon. 24 W.	1,070
Joseph Parks, brig.	Perambuco.	New York.	December, 1861.	Steamer Sumter.	300
Joseph Maxwell, bark.	Philadelphia.	Laguaira.	June 16, 1861.	Steamer Sumter.	295
Jos. L. Gerety, schooner.	Matamoros.	New York.	December 17, 1863.	Rebels.	90
John Adams, schooner.	Provincetown.	Whaling.	May, 1861.	Calloun.	100
J. R. Watson, schooner.	New York.		July 13, 1861.		200
John Welsh, ship.	Triunfado.	Falmouth, England.	July 13, 1861.	Privateer Jeff. Davis.	275
John A. Park, ship.	New York.	Buenos Ayres.	March 2, 1863.	Steamer Alabama.	1,050
John Watt, ship.	Mautham.	Falmouth, E.	October, 1863.	Georgia, (bonded).	914
J. P. Elliott, brig.	Boston.	Cienfuegos.	January 10, 1863.	Retribution.	237
Jacob Bell, ship.	Foochow.	New York.	February 12, 1863.	Steamer Florida, lat. 24, lon. 65.	1,382
J. S. Harris, ship.	Cuba.	New York.	1861.	Steamer Sumter.	800
Joseph, brig.	Cardenas.	Philadelphia.	June 15, 1861.	Privateer Savannah.	171
Justina, bark.	Rio Janeiro.	New York.	May 25, 1863.	Steamer Alabama, lat. 12 S., lon. 35.30, (bonded).	400
Kate Stewart, schooner.	Philadelphia.		1863.	Steamer Florida, lat. 37.10, lon. 75.04, (bonded).	387
Kate Dyer, ship.	Callao.	Antwerp.	June 17, 1863.	Lapwing, (bonded).	1,278
Kate Cory, brig.	Westport.	Whaling.	1863.	Steamer Alabama.	125
Kingfisher, schooner.	Fairhaven.	Whaling.	1863.	Steamer Alabama.	125
Lafayette, bark.	New Bedford.	Whaling.	1863.	Steamer Alabama.	300
Louisa Hatch, ship.	Cardiff.	Singapore.	1863.	Steamer Alabama.	835
Louis Kitham, bark.	Cienfuegos.	Falmouth, England.	July 20, 1861.	Steamer Sumter.	463
Levi Starbuck, ship.	New Bedford.	Whaling.	November 2, 1862.	Steamer Alabama, lat. 35.30, lon. 66.	376
Lafayette, ship.	New York.	Belfast, Ireland.	October 23, 1862.	Steamer Alabama, lat. 40 N., lon. 64 W.	945
Lanplighter, bark.	New York.	Gibraltar.	October 15, 1862.	Steamer Alabama, lat. 41.30 S., lon. 59.17 W.	279
Lauretta, bark.	New York.	Messina.	October 28, 1862.	Steamer Alabama, lat. 39.45 N., lon. 68 W.	284

THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 1ST SESSION.

SATURDAY, FEBRUARY 27, 1864.

NEW SERIES.....No. 53.

STATEMENT—Continued.

Vessels.	Where from.	Where to.	Date.	Captured by.	Tons.
Living Age, ship.	Akyab	Falmouth, E.	September 13, 1863.	Tuscaloosa, lat. 24.48, lon. 2 E.	1,195
Lydia Frances, brig.			June 15, 1862.	Off Hatteras.	202
Lapwing, bark.	Boston	Batavia.	March 27, 1863.	Steamer Florida, lat. 31, lon. 63.	590
Lenox, bark.	New York.	New Orleans	June 12, 1863.	Boston, at mouth of Mississippi.	370
L. A. Macomber.	Noank	Fishing.	June 20, 1863.	Privateer Tacony	200
Marengo, schooner.	Gloucester.	Fishing.	June 22, 1863.	Privateer Tacony	200
Manchester, ship.	New York.	Liverpool.	October 11, 1862.	Steamer Alabama, lat. 41.25, lon. 55.50.	1,075
Machins, brig.			July 28, 1862.	Steamer Sumter	250
Monticello, brig.	Rio Janeiro	Baltimore	July 1, 1863.	Privateer St. Nicholas.	300
Mary E. Thompson, brig.			July 9, 1862.	Privateer Echo.	210
Mermaid, schooner.	Provincetown.	Whaling.	May, 1862.	Privateer Calhoun.	200
Mary Pierce, schooner.	Boston	Washington	July 1, 1863.	Privateer St. Nicholas.	192
Margaret, schooner.			June, 1862.	Privateer St. Nicholas.	206
Mary Goodell, schooner.			July 9, 1862.	Privateer Echo.	200
M. J. Colecord, bark.	New York.	Cape Town, C. G. H.	March 30, 1863.	Steamer Florida, lat. 28, lon. 33.	374
Morning Star, ship.	Calcutta.	London.	April 8, 1863.	Steamer Alabama, lat. 2 N.	1,105
Mary Alice, schooner.	Porto Rico.	New York.	July, 1861.	Steamer Winslow.	181
Mary Alvina, brig.	Boston.	New Orleans	1863.	Steamer Florida, lat. 34.25 N., lon. 74.23.	266
M. A. Schindler, schooner.	Port Royal.	Philadelphia.	June 12, 1863.	Steamer Florida, lat. 37.18, lon. 75.4.	299
Martha Weazell, bark.	Akyab.	Falmouth.		Steamer Alabama, False Bay, (released)	578
Nalud, brig.			July, 1861.	Steamer Sumter	300
Neapolitan, bark.	Messina.	Boston	February, 1861.	Steamer Sumter	322
N. Chase, schooner.	New York.	Antigua.	September, 1861.	Steamer Sumter	150
Nora, ship.	Liverpool.	Calcutta.	1863.	Steamer Alabama.	800
Nye, bark.	New Bedford.	Whaling.	1863.	Steamer Alabama.	300
Onmulgee, ship.	Edgartown.	Whaling.	February 21, 1863.	Steamer Alabama, off the Flores.	300
Ocean Rover, ship.	Matapoisett.	Whaling.	1863.	Steamer Alabama, off the Flores.	766
Olive Jane, bark.	Bordenax.	New York.	February 21, 1863.	Steamer Alabama.	300
Ocean Eagle.	Rockland.	New Orleans	1861.	Steamer Sumter.	290
Oseola, ship.	Shanghai.	New York.	1863.	Steamer Alabama, lat. 1.40 S., lon. 29 W.	420
Ocean Cruiser, schooner.			1862.	Steamer Alabama, off the Flores.	300
Ocean Rover, bark.			1862.	Steamer Alabama, off the Flores.	200
Panjab, ship.	New London.	Whaling.	September 8, 1863.	Alabama.	640
Parker Cook, bark.	Calcutta.	Liverpool.	March 14, 1863.	Steamer Alabama.	760
Protector, schooner.	Boston.	Aux Cayes.	November 30, 1862.	Steamer Alabama, lat. 18.30.	135
Panama, brig.	Cuba.	Philadelphia.	June, 1861.		200
Priscilla, schooner.	Provincetown.	Whaling.	May 29, 1861.	Privateer Calhoun.	153
Palmetto, schooner.	Caracas.	Baltimore.	July, 1862.	Steamer Winslow.	144
Pearl, schooner.	New York.	Porto Rico.	February 27, 1863.	Steamer Alabama.	172
Prince of Wales, ship.	Moriches, L. I.	York river.	1863.	Rebels, in York river.	183
Rufus Choate, schooner.	Calao.	Antwerp.		Georgia, (bonded).	960
Rowena, bark.	Gloucester.	Fishing.	June 22, 1863.	Privateer Tacony	200
Robert Gilfillan, schooner.	Laguayra.	Philadelphia.	June, 1861.	Privateer Jeff. Davis.	340
Ripple, schooner.	Philadelphia.	St. Domingo.	February 26, 1862.	Steamer Nashville.	240
Reiwig, schooner.	Gloucester.	Fishing.	June 22, 1863.	Privateer Tacony	200
Red Gauntlet, ship.	Provincetown.	Fishing.	July 7, 1863.	Florida.	95
S. J. Waring, schooner.	Buena Vista.	New York.	May 26, 1863.	Florida, lat. 29.23, lon. 36 W.	1,038
Starlight, schooner.	New York.	Buenos Ayres	July 15, 1863.	Privateer Jeff. Davis.	372
Star of Peace, ship.			1862.	Steamer Alabama, off the Flores.	205
Sebastieck, ship.	Calcutta.	Boston	1863.	Steamer Florida.	941
Santa Clara, brig.	Liverpool.	Charleston.	1861.	Steamer Sumter.	549
S. Gildersleeve, ship.	Porto Rico.	Boston	1861.	Steamer Sumter.	189
Sea Bird, schooner.	Sunderland.	Calcutta.	1863.	Steamer Alabama.	100
Sea Witch, schooner.	Philadelphia.	Newbern.	1863.	By rebels, at the mouth of Neuse river.	200
Shattemue, ship.	Baracoa.	New York.	1861.	By rebels, at the mouth of Neuse river.	95
Sea Lark, ship.	Liverpool.	Boston	June 24, 1863.	Privateer Tacony, lat. 43.10, lon. 68.4.	200
Sunrise, ship.	Boston	San Francisco.	May 3, 1863.	Steamer Alabama, lat. 9.35 S., lon. 31.20 W.	974
Southern Cross, ship.	New York.	Liverpool.		Florida, lat. 40 N., lon. 68 W., (bonded)	1,174
Santee, ship.	Boston	Hay Key.	June 3, 1863.	Florida, lat. 34 S., lon. 36 W.	938
Sea Bride, bark.	Akyab.	Falmouth.		Conrad, (bonded)	893
Transit, schooner.					447
T. B. Wales, ship.	New London.		July 15, 1861.	Steamer Winslow.	195
Tonawanda, ship.	Calcutta.	Boston	1863.	Steamer Alabama, lat. 28.30, lon. 58.	569
Tacony, bark.	Philadelphia.	Liverpool.	October 9, 1863.	Steamer Alabama, lat. 40.30, lon. 54.30, (bonded)	1,300
Texana, bark.	Port Royal.	Philadelphia.	June 12, 1863.	Steamer Florida, lat. 37.18, lon. 75.04.	296
Talisman, ship.	New York.	New Orleans	June 12, 1863.	Privateer Boston, at mouth of Mississippi.	588
Unpire, brig.	New York.	Shanghai.	June 5, 1863.	Alabama, lat. 14 S., lon. 34 W.	1,237
Union Jack, bark.	Laguayra.	Boston	June 16, 1863.	Privateer Tacony, lat. 37, lon. 69.57.	196
Union, schooner.	New York.	Shanghai.	May 3, 1863.	Steamer Alabama, lat. 9.40 S., lon. 32.30.	300
Virginia, bark.	Baltimore.	Jamaica.	December 5, 1862.	(Bonded)	115
Vigilant, ship.	New Bedford.	Whaling.	1863.	Steamer Alabama, lat. 39.10, lon. 31.20.	300
Varnum H. Hill, schooner.	New Bedford.	Whaling.	1863.	Steamer Alabama.	650
West Wind, bark.	Provincetown.	Cruising.	June 27, 1862.	Florida, lat. 30 N., lon. 48.50, (bonded)	90
Wave Crest, bark.	New York.	New Orleans	July, 1861.	Steamer Sumter.	429
Weather Gauge, schooner.	New York.	Cardiff.	October 7, 1862.	Steamer Alabama, lat. 40.25, lon. 54.25.	409
Washington, ship.			1862.	Steamer Alabama, off the Flores.	200
Windward, brig.	New York.	Liverpool.	January 26, 1863.	Steamer Florida.	1,655
W. McGilvery, brig.	Matanzas.	Boston	January 24, 1863.	Steamer Florida.	189
W. S. Robbins, bark.	Cardenas.	Philadelphia.	July, 1861.	Privateer Jeff. Davis.	198
Whistling Wind, bark.	Arroya.	New York.	June, 1861.	Steamer Sumter.	200
Wanderer, schooner.	Philadelphia.	New Orleans	June 6, 1863.	Privateer Coquette, lat. 33.38, lon. 71.29.	349
William B. Nash, brig.	Gloucester.	Fishing.	June 22, 1863.	Privateer Tacony	200
Winged Racer, ship.	New York.	Marsettes.	July 8, 1863.	Florida, lat. 40, lon. 70.	239
	Manila.	New York.	1863.	Alabama.	1,767

Recapitulation.

Total number of vessels, 193. Total tonnage, 69,704.

Value of vessels, at \$50 per ton, \$4,485,200. Value of cargo, at \$100 per ton, \$8,970,400. Total value, \$13,455,600.

The amendment, by unanimous consent, was withdrawn.

Mr. BLAIR, of Missouri. Mr. Chairman, it is not my purpose to criticise the figures produced by the gentleman from New York, [Mr. Brooks.] Unfortunately, the condition of things complained of could not at once be changed. It is impossible to prevent nations professing to be neutral from sending vessels to depredate upon our commerce. It was impossible, at the commencement of the war, when the Buchanan Administration had scat-

tered the naval vessels in all parts of the earth, to have as efficient a Navy as the exigency demanded.

But, sir, I have myself witnessed the efficiency of the Navy Department upon the western waters. We have seen its efficiency in preventing the iron-clads built by the confederates from coming out to sea from the Atlantic ports. I believe the nation has cause to be proud of the administration of the Navy Department.

I do not intend to reflect upon any gentleman,

much less upon any of our gallant officers. I do not intend to cast any reflection upon the officer alluded to by the gentleman from Maryland, but at the same time I think the remarks of the gentleman in regard to the management of the Navy Department were totally unwarranted. Sir, the "cotton-spinner," to whom the gentleman alludes, is well known in his profession as eminent as is the officer to whom he alludes and to whom he gives such lofty praise. He is as gallant in his bearing, has risked as much during this rebel-

lion, has been as prompt in the discharge of his duties as a functionary as any officer in the Navy, not excepting the distinguished officer alluded to by the gentleman from Maryland.

I wish, sir, to allude to another fact: the Navy Department has shrunk from no investigation. The Navy Department has not called upon its friends in this House to shield them from inquiry and investigation when it has been asked by a member of this House. When have they hesitated to put at the head of an investigation the man who demanded an investigation? Can the gentleman and his friends say as much for their favorite in the Cabinet? Did they not, in solid phalanx, vote against an investigation leveled at one officer in the Cabinet and asked for by a gentleman belonging to the Republican side of the House? And was it not intimated that the investigation was denied simply because the gentleman who moved it might, by courtesy or in some other way, be placed upon that committee?

Sir, the administration of the Navy Department shrinks from no investigation. The gentleman himself, or any other gentlemen in this House who make these railing accusations, who get up on appropriation bills and in five-minute speeches let out their gall and bitterness upon the administration of the Navy Department, are invited to investigate its affairs. The friends of the Navy will not give a single vote to shield that Department from an investigation; whereas the gentleman from Maryland and his friends stand in solid phalanx to prevent an investigation of the doings of another Cabinet officer when asked for by a member of the Republican party.

I ask the committee to look upon these facts. I desire the gentleman from Maryland to stop the utterance of his logic and his eloquence, and, if it is possible, to assail the administration of the Navy Department by facts presented through the inquiry which is now pending in both Houses of Congress. The actions of the Navy have been as heroic and their achievements as great as those of the Army. If you will look at the reports of General Grant, or General Sherman, or of any other officer acting in the West, you will find that they give the highest praise to the efficiency of the naval squadrons on the western waters.

The same is true in reference to every officer of the Army who has commanded in conjunction with the Navy upon the Atlantic sea-coast; and I defy the gentleman to search the official records of the reports of the Army officers acting in conjunction with the Navy, and lay his hand on one instance of inefficiency in the conduct of the Navy in this war.

So far as I am concerned, I have myself witnessed their action upon the Mississippi river; and although my testimony is of little value, and of no value at all in comparison with that given by the particular officers who commanded in those great expeditions, yet I am here to say that they did all that men could do under the circumstances, and that they contributed as much as the Army itself to open the Mississippi river and to achieve those great conquests which have given us the mastery of the entire West.

Mr. DAVIS, of Maryland. I have merely a word to say in reply. I am very unwilling to do injustice to any one. I moved myself one investigation of matters connected with the Navy Department, and I referred it to the regular Naval Committee. I do not suppose the gentleman referred to that investigation in the remarks he made about objections to other investigations. I was careful so to refer it because I did not wish it to appear, or to give an opportunity to say, that the investigation would be under my control or under the control of persons sympathizing with me in that particular.

With reference to the conduct of the Navy I think it deserves all the gentleman has said of it, and I believe there is no one in this House who has had a better opportunity to see its inner workings than the gentleman who alluded to it. In reference to its conduct toward the gentleman to whom I referred, I think the words I used are within what will appear to be just, if the Department will open its records and publish its own correspondence, word for word and letter for letter, with Admiral Du Pont; and if the Department will publish that correspondence, be it good or bad, be it in their favor or in his favor, I shall have no word to say.

Mr. BLAIR, of Missouri. The gentleman has a way of getting it; he can call for it by a resolution. I wish I could say the workings of the Treasury Department could be got at by that means.

Mr. DAVIS, of Maryland. The gentleman will not understand me as the defender of the Treasury Department.

Mr. BLAIR, of Missouri. The gentleman voted to shield it from inquiry.

Mr. DAVIS, of Maryland. I did not see fit to vote for the resolution.

Mr. BLAIR, of Missouri. I wish the gentleman had seen fit to behave toward the Navy Department as he did toward that. He is here to move an investigation against the Navy Department, while he shielded the Treasury Department from an investigation.

Mr. DAVIS, of Maryland. There was a marked difference in the two cases. In reference to the Navy Department the facts came immediately within my own knowledge, or from a source in which I had sufficient confidence to justify the motion. I do not know of any facts in reference to the Treasury Department, or I would move an investigation myself.

Mr. STEVENS. I rise to a point of order. This whole debate is foreign to the amendment, and I call the gentleman to order.

The amendment was withdrawn.

The Clerk proceeded with the reading of the bill. The following clause being read:

Mare island:

For continuation of grading and paving, \$10,000; scows, lighter, and stages; foundry and machinery for same; machinery for saw-mill; continuing coal-shed and wharf; steam-hammer and tools for smithery; rigging and sail-loft; repairs of all kinds; excess of expenditure on wharf; guard-house; machinery for machine shop, and gas works, \$224,595.

Mr. HIGBY said: I move to amend that clause by inserting after the word "wharf" the words "continuing sea wall." I find upon investigation, and by adding up the several items of estimates submitted to the House by the Department for the several works contained in this clause, that there is an excess of \$10,000 in the appropriation of \$224,595 which is found at the end of the clause. By looking at the estimates you will see that after striking out the three items which have been struck out by the Committee of Ways and Means, and \$10,000 out of the estimate for continuing the grading and paving, \$224,595 is appropriated for the remainder. That, according to the estimates which were made at the Department, and which I have in manuscript, gives an excess of \$10,000 for the several items therein embraced. I have moved this amendment so that while it will not increase the appropriation it will direct the way in which this \$10,000 shall be appropriated. Although the amendment does not appear in the recommendation of the Secretary of the Navy, and although it has not been acted on by the Committee of Ways and Means, there is no appropriation for that Department more necessary than this \$10,000 which is to be found in the manuscript estimates which were sent to the Department.

The island upon which this navy-yard is situated is one of those shoals which stretch along within half a mile of the mainland. It is very long and narrow, and contains several hundred acres. The sea-side, very much exposed to the action of the water, is wearing away by the surging of the sea, which has already broken in quite a distance and floated away several acres of land. It is making its way across the island to a point where the greatest expenditures have been made in erecting the most costly buildings. There is no land to spare. The object of this appropriation of \$10,000 is to build a wall to protect the sea-side from the ocean. It is for that reason that I propose to insert these words. I understand that this provision was stricken out last year by the Committee of Ways and Means. I do not know whether it has been this year, but I do not find it in the report of the Secretary of the Navy. I have examined this matter for myself by ocular demonstration. I know that the appropriation is needed, and I desire to insert these words here. It will not increase the appropriation, and I hope the amendment will pass.

Mr. STEVENS. I think the gentleman from California is wrong in supposing that the gross sum appropriated in this paragraph ought not to be changed if his amendment should be adopted.

The estimates for Mare island, which are to be found on page 208 of the estimates, foot up \$374,735. The Committee of Ways and Means, upon examination, concluded to reduce the first item for grading and paving from \$20,000 to \$10,000; and they rejected three items, for commencing a timber-shed, \$44,000, for commencing a store-house, \$56,000, and for wharf, &c., \$40,000; making altogether, with the \$10,000 reduction of which I have just spoken, \$150,000 to be deducted from the gross sum estimated for. That leaves \$224,000, the sum reported in this bill. This is therefore an addition to the sum which we reported.

The committee were of the opinion that this was no time to commence new works costing such a large amount. For the mere commencement of a timber-shed \$44,000 is asked; for the commencement of a store-house \$50,000; and for the mere commencement of a sea-wall \$40,000. The committee did not feel at liberty, in times like these, to recommend the commencement of new works, however proper they might be at other times, and which we should have to complete at an untold cost. We have therefore made this change, and it is for the House to say whether they will add an appropriation of \$10,000, which would be almost useless, which would be buried up in the ocean. I hope, therefore, that the amendment will not prevail.

Mr. HIGBY. I have mistaken the estimate of the Secretary of the Navy, if the chairman of the Committee of Ways and Means is correct. I make the estimate \$224,000 for the purposes provided for in this clause, whereas the Committee of Ways and Means make it \$234,000. Add the \$10,000 appropriated in the first two lines to the \$224,000, and it makes \$234,000. I do not see how the \$10,000 can be expended unless my amendment be adopted. It does not increase the appropriation.

Mr. STEVENS. If the gentleman will take the \$374,735, the gross amount of the estimates, and deduct from that the sums I have named which the committee omitted it will leave precisely \$224,000. Without that \$10,000 it would be only \$214,000.

Mr. HIGBY. I have subtracted from the gross amount of the estimates the items stated by the chairman of the Committee of Ways and Means, and I find the balance to be \$234,000.

Mr. COLE, of California. My colleague is entirely correct, I think, because I have gone over the figures also, and I find that after striking out the items that the committee did not allow, the balance is \$234,000. This amendment does not ask for any additional appropriation. The estimates of the Secretary show that the amounts to be expended on the different objects embraced in this clause will not exhaust the appropriation provided for, but will leave a surplus of \$10,000. The clause appropriates \$234,000, but the items on which the money is to be expended would only consume \$224,000. I have figured it up; but if there is any doubt about it, I hope the chairman of the Committee of Ways and Means will allow the clause to be passed by for the present.

Mr. HIGBY withdrew his amendment to the amendment.

Mr. STEVENS. I renew the amendment, and will merely try to explain this matter to the gentleman. The whole amount estimated for was \$334,000. The Committee of Ways and Means struck out \$44,000, \$56,000, and \$40,000. Add to this the \$10,000 struck off the other item, and it makes \$150,000 deducted from the estimate. I cannot figure it up in any other way.

Mr. COLE, of California. The amendment only proposes to add three words "continuing sea wall" to the clause. I can see no harm that that will do if there be no appropriation recommended. It does not involve the expenditure of a dollar.

Mr. STEVENS. It takes from other items of the bill, however. I withdraw the amendment to the amendment.

Mr. HIGBY. I move to amend the amendment by striking out the last word. I am not mistaken in this calculation; but I think that the chairman of the Committee of Ways and Means is mistaken. I hope that he will let this part of the bill be passed over, in order to give an opportunity to members to go to figuring. My colleague [Mr. Cole] and myself have figured it up, and

have examined the matter closely. The Committee of Ways and Means is wrong about it. The putting in the amendment proposed will make it fair and square. It will not increase the appropriation one dollar, but will make it square with the recommendation of the Secretary of the Navy. The Committee of Ways and Means should bear in mind that this \$10,000 has been made a separate item. That is where the mistake lies. If I were mistaken I would ask for an increase of \$10,000; but I am not mistaken, and I think if the chairman of the Committee of Ways and Means will examine it more closely he will find I am correct. It is better to adopt my original amendment, and have this matter thus corrected, than to find afterwards that there has been a gross blunder committed. I withdraw the amendment to the amendment.

Mr. HICKEY's amendment was agreed to.

Mr. RICE, of Massachusetts. I offer the following amendment, to come in after line two hundred and thirty:

For improvement and repairs of hospital at Memphis, \$7,000.

For improvement and repairs of hospital at New Orleans, \$3,000.

Mr. Chairman, I find no provision in this bill for the maintenance of the two hospitals to which the amendment that I offer applies. At Memphis the Government took possession in March last of the large building known as the Commercial Hotel, which at the present time contains between two hundred and two hundred and fifty patients. The amount named in this amendment is not for any new work, but simply to keep the building in the necessary repair. The same is also true, so far as the appropriation is concerned, in its application to the hospital in use in the city of New Orleans, for which no provision is elsewhere made. I will say that this appropriation is deemed to be necessary by the chief of the Bureau of Medicine and Surgery, whose letter I have, in which he says:

NAVY DEPARTMENT,
BUREAU OF MEDICINE AND SURGERY,
February 17, 1864.

SIR: Referring to our interview of this morning, I beg leave to repeat what I then had the honor to state, that the estimates for naval hospitals at Memphis, Tennessee, (\$7,000), and at New Orleans, (\$3,000), are designed to keep in repair buildings already occupied by the Navy, and to make such occasional improvements therein as the greater comfort of the sick and wounded may require.

The hospital at Memphis supersedes the one formerly located at Mound City, Illinois, the removal being made necessary by considerations of greater convenience to the Mississippi squadron. On the 15th instant it contained two hundred patients, about the daily average number since the 1st January.

The hospital at New Orleans has also been in operation for several months under the general direction of the fleet surgeon of the Western Gulf blockading squadron, which is largely made up of vessels of such limited dimensions as to afford no sort of accommodation for any one except the hearty and robust. Sick and wounded are necessarily removed from the small vessels to more proper quarters. The hospital building was transferred to us from the Army unfinished and unfurnished, and hence requires many small expenditures to insure comfort.

Very respectfully, &c., W. WHELAN.
Hon. A. H. Rice, Chairman of the Naval Committee, House of Representatives.

The question was taken on Mr. Rice's amendment, and it was agreed to.

Mr. STEVENS. The Committee of Ways and Means has directed me to offer an amendment to the clause for Mare Island, California, by striking out "piling and preparing foundation of north wing of ordnance building; and for repairs on magazine buildings and pile wharf, \$41,363," and inserting in lieu thereof "29,368," so as to make it read:

Mare Island, California:

For two small magazines at north end of the yard; enlargement of shell-house; preparing gun park; building skids, and shot beds; machinery and tools for ordnance shop, \$29,368.

The amendment was agreed to.

Mr. RICE, of Massachusetts. I move to amend by striking out of the clause "for pay of superintendents, naval constructors, and all the civil establishments of the several navy-yards and stations" the words "\$125,688." This appropriation is made upon the basis of no increase of salary," and inserting in lieu thereof the following:

And the pay of commanders and storekeepers' first clerks and the clerks of the navy-yards at Boston, New York, and Washington, namely, that of class second in the Executive Department, namely, \$1,400; and at Portsmouth, New Hampshire, Philadelphia, Norfolk, and Pensacola, the pay

of this class shall be that of first class, namely, \$1,200 per annum; and the pay of the civil engineer at the navy-yard, Mare Island, California, shall be \$3,200.

Mr. PIKE. I understand this is an amendment to increase salaries.

Mr. RICE, of Massachusetts. I will state that this amendment comes under the recommendation of the Secretary of the Navy, and that it is recommended to him by the chief of the Bureau of Yards and Docks, who has particular charge of the subject. The pay of the clerks and engineers of the Navy is fixed by law, and hence the necessity of stating the amount of the salary in the amendment. It provides only a small increase of pay for these officers at two or three points. It is recommended, as I said, by the proper bureau and by the Secretary of the Navy. It is acceptable, as I understand, to the Committee of Ways and Means, who have considered the subject, and I hope the amendment will be adopted.

Mr. PIKE. This is, as I supposed it was, a proposition for an increase of salary; and it seems to me that this moment, in the present situation of the Government, is a most inopportune time to increase the salary of anybody, at any point. For one, I am entirely opposed to any increase of this character.

Mr. HOLMAN. I rise to a point of order. I submit that as the salary of these officers is fixed by law, it cannot be changed in this way.

The CHAIRMAN. The Chair thinks the point of order comes too late.

Mr. HOLMAN. I was trying to get the Chair's attention.

The CHAIRMAN. The gentleman could have obtained the floor by rising to a question of order at any time.

The amendment was disagreed to.

Mr. STEVENS. I move to amend, in line two hundred and eighty-one, by adding:

For salary of one clerk at \$1,200, one clerk at \$1,000 per annum, at the New York navy-yard, \$2,200.

I offer the amendment by direction of the Committee of Ways and Means.

Mr. HOLMAN. I rise to a question of order. The number of clerks attached to the New York navy-yard, I understand, is now fixed by law, and new clerkships cannot be created in this way in a general appropriation bill.

Mr. STEVENS. I will merely say that at present these clerks are paid by the day, and it is a great deal better that they should have a fixed salary as they have at the Boston navy-yard.

Mr. HOLMAN. Then I change my point of order, and submit that as the salary of these clerks is now fixed by the day it cannot be changed to a yearly salary in an appropriation bill.

The CHAIRMAN. If the gentleman insists on it the Chair will have to sustain the question of order.

Mr. STEVENS. Oh, no; I do not insist on it. It is for the benefit of the Government, but if the gentleman from Indiana objects to it, let it go.

Mr. RICE, of Massachusetts. I move to amend under the head of "Naval Observatory" line two hundred and ninety-three, page 13, by striking out "four" and inserting "three," so as to make the paragraph read: "for salary of assistant astronomer, three aids, and clerk, \$8,000," and by adding at the end of the paragraph, "and \$4,000 thereof shall be equally divided among the three aids as their salary."

I will state that the amendment does not propose to increase at all the amount to be appropriated; it simply divides the salary heretofore paid to the four aids among three, who are now doing all the work, and who are now very inadequately compensated. These aids to the Observatory are gentlemen of liberal education, who, in addition to the care of the instruments connected with the Observatory, are themselves practical astronomers, who make observations, and who work out the observations made by other persons there. Their salary is \$1,000 a year, scarcely the amount which is received by mechanics or clerks who have expended no such sums of money and no such amount of time as is necessary upon the part of these gentlemen to fit them for their scientific labors. The work is now being performed by three aids, and the proposition is to put the whole work of the four upon three, and divide among them the additional salary which would accrue thereby.

The amendment was adopted.

Mr. RICE, of Massachusetts. I move to amend in line three hundred and ten, as follows:

For bounties for the destruction of the enemy's vessels, as per act of July 17, 1862, for the better government of the Navy, \$250,000.

I will simply state that this is an appropriation to carry out the provisions of an existing law.

Mr. BROOKS. What is the law?

Mr. RICE, of Massachusetts. I have cited the law in the amendment. The law of 1862 provides bounties for the destruction of the enemy's vessels, but no appropriation has been made for carrying that law into effect. A number of the enemy's vessels have been destroyed, and parties are entitled to certain bounties, but there is no appropriation for the payment of these bounties. I call the attention of the committee to the thirtieth page of the report of the Secretary of the Navy in which he refers to the subject. He says:

"The fourth section of the 'Act for the better government of the Navy,' approved July 17, 1862, provides 'that a bounty shall be paid by the United States for each person on board any ship or vessel of war belonging to an enemy at the commencement of an engagement, which shall be sunk or otherwise destroyed in such engagement by any ship or vessel belonging to the United States, or which it may be necessary to destroy in consequence of injuries sustained in action, of \$100, if the enemy's vessel was of inferior force; and of \$200 if of equal or superior force; to be divided among the officers and crew in the same manner as prize money.'"

"Since the enactment of this law there have been repeated cases in which the right to the bounty has accrued to the officers and crews of vessels of the Navy, particularly on the western waters; but there have been no appropriations to which the expenditure could properly be charged, the claims to the bounty have remained unsettled, and the just expectation of those entitled to the reward have been disappointed. The amount necessary to pay the claims which have accrued would probably not exceed \$250,000; and it is desirable that an early provision be made for the payment of this just debt. In the event of an appropriation for the purpose, a board will be appointed by the Department for the examination of the claims, or they may be ascertained in any other manner which Congress may be pleased to direct."

The amendment of Mr. Rice, of Massachusetts, was adopted.

Mr. STEVENS. The Committee of Ways and Means reported an additional section, which in some way between the Clerk and printer has been lost. It is not in the printed bill, and I now move to add it as a new section.

The Clerk read, as follows:

And be it further enacted, That for the purpose of building a floating dry-dock for monitors at the New York navy-yard, and also at the navy-yard at Philadelphia, at a price not exceeding \$360,000 each, the sum of \$520,000 be, and the same is hereby, appropriated, to be paid out of the appropriation of \$750,000 for a floating dry-dock at the navy-yard at New York, provided for by the act making appropriations for the naval service of the United States, approved March 3, 1863; and the balance of said appropriation be, and the same is hereby, repealed.

Mr. STEVENS. Mr. Chairman, as I have stated before, that was a part of the bill as it was reported by the Committee of Ways and Means, but by some mistake it did not get into the printed bill.

It can be explained in a few words. Last year, when it was supposed that very large iron-clad vessels were to be built, an appropriation was made of \$750,000 for the purpose of constructing a floating dry-dock at New York, as none in the country then in existence could take up those vessels. But those vessels were not built, and there is no appropriation reported for them in this bill.

The chief of the Bureau of Yards and Docks reported to us that there was no place at the New York navy-yard where such a dry-dock could be built, and he recommended two of inferior size to accommodate the iron-clads now building, one in New York and one in Philadelphia, at \$260,000 each. He recommended that this appropriation should be transferred for that purpose. That is all there is of the amendment.

The amendment was adopted.

Mr. STEVENS moved that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 151) making appropriations for the naval service for the year ending the 30th of June, 1865, and had directed him to report the same back to the House with sundry amendments.

Mr. STEVENS demanded the previous question.

The previous question was seconded, and the main question ordered.

The amendments of the Committee of the Whole on the state of the Union were severally read and agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

BONDED GOODS.

Mr. STEVENS. There is a bill in the Committee of the Whole on the state of the Union to extend the time for the withdrawal of goods from the public stores and bonded warehouses, which I hope the House will now take up and pass. It will not take up fifteen minutes, and will put a great deal of revenue into the Treasury. It has been reported from the Committee of Ways and Means. If there be no objection, I move that the Committee of the Whole on the state of the Union be discharged from its further consideration, and that it be now considered.

Mr. WARD. I object.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union to take it up.

Mr. WARD. I withdraw my objection to its being considered in the House, if I am allowed to offer an amendment.

Mr. STEVENS. Certainly. I now move that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill.

The motion was agreed to.

CONSCRIPTION.

Mr. SMITH. I ask the gentleman to yield to me to make a personal explanation.

Mr. STEVENS. Certainly.

Mr. SMITH. I desire to cast my vote on the conference report on the enrollment bill. When the vote was taken I was confined to my room by diptheria, and could not be present.

Mr. FINCK. I hope that same privilege will be extended to us on this side who also were absent.

Mr. SCHENCK. I understand that the gentleman from Kentucky was sick at the time, and I do not object to his recording his vote. But I do object to all others.

Mr. FINCK. Then I object to the gentleman from Kentucky voting.

Mr. WADSWORTH. I desire to know whether this subject is entertained by unanimous consent or not?

The SPEAKER. The gentleman from Kentucky [Mr. SMITH] is upon the floor and addressing the House by unanimous consent. The Chair asked if there was any objection, and there was none.

Mr. MALLORY. I wish to say to the gentleman from Ohio that when I asked to record my vote the other day I expressly said that I was called from the House by sickness, and he again renewed his objection to my recording my vote.

Mr. SCHENCK. I think the gentleman will find, by turning to the debate on that day, that he did not express himself so strongly as he now does. He spoke of his being weary and of going away.

Mr. MALLORY. The gentleman will find that I made that exact statement.

The SPEAKER. Is there any objection to the gentleman from Kentucky [Mr. SMITH] recording his vote?

Objection was made.

Mr. SMITH. I voted for that bill in all its stages up to the time I was obliged to leave the Hall. If I had been here at the time the vote was taken on the report of the committee of conference, I would have voted for it.

Mr. FINCK. I desire to state that I voted against the passage of the bill, and had I been here at the time of the vote on the adoption of the report of the conference committee, I should have voted against it.

BONDED GOODS—AGAIN.

Mr. STEVENS. I now call up the bill from which the Committee of the Whole was dis-

charged, before I was interrupted by these applications to record votes.

The bill which was taken up provides that all goods, wares, and merchandise, now in public stores or bonded warehouses, on which duties are unpaid, and which shall have been in bond more than one year, and less than three years, at the time of the passage of this act, may be entered for consumption, and the bonds canceled at any time before the 1st of June next on payment of duties and charges according to law; and repeals all acts and parts of acts inconsistent with the provisions of the bill. The act to take effect from and after its passage. It also provides that the term "license," in the first proviso to the fifteenth section of the act increasing temporarily the duties on imports, and for other purposes, approved July 14, 1862, shall be held to extend to all vessels authorized by law to engage in the coasting trade, whether sailing under registers or enrollments and licenses.

Mr. WARD. I suggest to the gentleman that he move to amend the bill by striking out "June" and inserting "September."

Mr. STEVENS. I see no objection to that, and I move to amend the bill accordingly.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. KALBFLEISCH, (at fifteen minutes past four o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, February 26, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read.

CORRECTION OF THE JOURNAL.

Mr. GRIMES. I do not know that it is a matter of any consequence, but I observe from the reading of the Journal that it does not contain any recognition of the fact that the bill (S. No. 76) relating to appointments in the naval service and the disrating of officers by court-martial was amended. The amendment is not embodied in the Journal, although I think it occurred in the Senate.

The VICE PRESIDENT. The Senator will reflect that that was the action of the Committee of the Whole. The Journal of the Senate never shows the action in committee.

Mr. GRIMES. It was not the action of the committee. The amendment was made after the bill had passed out of committee and had actually passed the Senate, because I had it reconsidered in order to get it back into the Senate so that I might amend it. I do not know that it is a matter of any consequence; but I thought perhaps it might be necessary to have some notice of the amendment on the Journal.

The VICE PRESIDENT. That being the fact, it being acted on in the Senate, it should be entered on the Journal, and if the Senator desires it the Journal will be corrected.

Mr. GRIMES. I do not know what the rule is about the making up of the Journal.

The VICE PRESIDENT. The rule is that the Journal shall show the proceedings of the Senate.

Mr. GRIMES. If it does not make any difference with the bill—

The VICE PRESIDENT. None at all.

Mr. GRIMES. Then it does not make any difference whether it appears on the Journal or not.

The Journal was approved.

PETITIONS AND MEMORIALS.

Mr. WILKINSON. I present the petition of D. M. Barney and others, contractors upon the mail route No. 10773, the route leading to California. They allege that they were engaged in carrying the mail over the southern route so called, until the 1st of July, 1861, when, in consequence of the rebellion, they were directed to carry the mail over the central route; that in consequence of the rebellion and the change of the routes by

the Government a large outlay of money has been incurred by them, and they ask that their contract may be extended for five years in consequence of these extraordinary expenditures which they have incurred. I move that the petition be referred to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. MOWARD presented the memorial of James V. Campbell and others, citizens of Detroit, Michigan, praying for the formation of a properly organized ambulance and sanitary corps for the armies of the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. RAMSEY presented a petition of citizens of Anoka county, Minnesota, praying for the establishment of a mail route from Anoka, by the way of Cedar Grove, Bethel, and Linwood, to Wyoming, in Chicago county; which was referred to the Committee on Post Offices and Post Roads.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas in favor of making only such treaties with the Indian tribes within that State as will provide for their removal therefrom, and secure to said State the right to tax such lands as may be acquired of such tribes as soon as sales of the same are made; which were referred to the Committee on Indian Affairs, and ordered to be printed.

He also presented resolutions of the Legislature of Kansas in favor of an increase of mail service on the route from Topeka to Council Grove, in that State, to six times a week; which were referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORRILL, it was

Ordered, That the bill of the Thirty-Seventh Congress, (S. No. 498,) with the report of the Committee on Foreign Relations thereon, with accompanying papers on the files of the Senate, be referred to the Committee on Foreign Relations.

REPORTS FROM COMMITTEES.

Mr. DIXON, from the Committee on Post Offices and Post Roads, to whom was referred the memorial of A. T. Spencer and G. S. Hubbard, praying for compensation for services performed in carrying the mails on their line of steamers between Chicago and the ports on Lake Superior, submitted a report, accompanied by a bill (S. No. 136) for the relief of A. T. Spencer and Gordon S. Hubbard. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. CLARK. The Committee on Claims, to whom was referred the petition of Gustavus A. Belzur, praying for compensation for losses sustained while in the discharge of his duties as sutler of the seventy-fifth regiment Pennsylvania volunteers, in consequence of the capture of his goods by the rebels between Washington, D. C., and the army of the Potomac, have directed me to report adversely against the prayer of the petition, and I ask the unanimous consent of the Senate that it may be acted upon now. I move its indefinite postponement.

The VICE PRESIDENT. The question is on discharging the committee from the further consideration of the petition.

The motion was agreed to.

Mr. HALE. The Committee on Naval Affairs, to whom was referred the memorial of John Colburn, commander in the United States Navy, protesting against the action of the late advisory board in withholding from him a recommendation for promotion to which he considers himself entitled; also the memorial of Henry French, commander United States Navy, praying that he may be restored to his rightful position in the Navy, which he alleges has been wrongfully and unjustly withheld from him by the board of officers to scrutinize the active list of the officers of the Navy; also the petition of George W. Doty, a lieutenant in the Navy, praying that some action may be taken in relation to the omission, by the late advisory board of naval officers, to recommend him for promotion; also the memorial of R. W. Meade, a commander in the United States Navy, praying for the passage of an act for the fair and impartial trial of officers to whom injustice has been done by the board under the act of July 16, 1862, with the accompanying papers; also

the memorial of Commander Edmund Lanier, United States Navy, praying for relief from the action of the late advisory board in failing to recommend him for promotion; and also the petition of Lieutenant Egbert Thompson, United States Navy, protesting against the action of the late advisory board in failing to recommend him for promotion, have had the same under consideration, and instructed me to ask to be discharged from their further consideration.

The report was agreed to.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred a bill (S. No. 17) to amend the act entitled "An act to establish and equalize the grades of line officers of the United States Navy," approved July 16, 1862, reported it with an amendment.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Laura M. Newcomb, of Providence, Rhode Island, widow of the late Commander Henry S. Newcomb, United States Navy, praying for a pension, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred a petition of citizens of Black Hawk, Iowa, praying that a pension may be granted to the widow of Captain Frederick S. Washburn equal to that of colonel, from the time of his death, submitted an adverse report; which was ordered to be printed.

BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 137) to exclude disloyal persons from the public lands of the United States; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 138) to regulate proceedings in cases between landlord and tenant in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

POSTAGE ON LETTERS.

Mr. DIXON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads be instructed to inquire whether any legislation is necessary with regard to postage upon letters sent to the President and Vice President of the United States; and that they report by bill or otherwise.

PAYMENT OF PENSIONS.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the report of the Commissioner of Pensions be referred to the Committee on Pensions; and that they be requested to inquire into and report what additional facilities, if any, are necessary to aid pension agents in order to secure the prompt payment of the claims due to pensioners.

WATERING PENNSYLVANIA AVENUE.

Mr. FOSTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the expediency of watering Pennsylvania avenue during the present session of Congress.

REMOVAL OF GENERALS.

Mr. LANE, of Indiana, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of so amending the Articles of War as to prohibit to all military commanders below the President of the United States the power of relieving from duty any general officer, except when placed in arrest upon charges filed, or when wounded, or on surgeon's certificate of disability, or upon limited leave of absence, or when captured by the enemy, leaving with the General-in-Chief and with department, corps, and division commanders the power to change the commands of their respective general officers; and to report by bill or otherwise.

REMOVAL OF GENERAL SCHOFIELD.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to furnish to the Senate copies of any protests he may have from Governors of States in the department of Missouri against the removal of Major General Schofield

from the command of that department, if, in his opinion, they can be furnished without injury to the public service.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill of the Senate (No. 94) to authorize the settlement of the accounts of Paymaster E. C. Doran.

The message also announced that the House had passed the following bills and joint resolutions; in which the concurrence of the Senate was requested:

A bill (No. 151) making appropriations for the naval service for the year ending June 30, 1865;

A bill (No. 230) to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes;

A joint resolution (No. 41) to continue the payment of bounties;

A joint resolution (No. 42) authorizing payment of prize money, due to Commander Abner Read, United States Navy, to his widow, Constance Read; and

A joint resolution (No. 43) authorizing the settlement of the accounts of J. N. Carpenter, a paymaster in the United States Navy.

PRINTING OF AN AMENDMENT.

Mr. WILSON. I desire to give notice of an amendment that I intend to offer to the joint resolution (S. No. 20) extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who entered the service of the United States prior to May 3, 1861. I ask leave to submit the proposed amendment now, with a view to have it printed.

The VICE PRESIDENT. The Senator from Massachusetts asks the unanimous consent of the Senate to introduce an amendment to a joint resolution now before the Senate for the purpose of having it printed. The Chair hears no objection, and the order to print will be made.

DISQUALIFICATION OF COLOR.

Mr. COLLAMER. I wish to call up a short bill, and I move to postpone all prior orders with a view of taking it up. It is a bill proposing to repeal the law which prohibits colored people from being employed as carriers of the mail, which was reported from the Committee on Post Offices and Post Roads with an amendment. I desire to have that bill taken up and acted upon now.

The motion was agreed to; and the bill (S. No. 62) to remove all disqualification of color in carrying the mails was considered as in Committee of the Whole. It proposes that hereafter no person, by reason of color, shall be disqualified from employment in carrying the mails.

The Committee on Post Offices and Post Roads reported the bill with the following amendment as an additional section:

SEC. 2. *And he it further enacted*, That in the courts of the United States there shall be no exclusion of any witness on account of color.

Mr. COLLAMER. I wish to say a word in relation to the amendment. In relation to the bill, it is sufficiently explicit in itself; but the committee were of the opinion that if persons of color were to be employed and rendered eligible to be employed as carriers of the mail by those who have contracted to carry the mail and who wish to employ them, it would be unsafe to commit to their hands the mail, when they could not themselves be witnesses against those who should violate that mail, steal it, rob it, commit depredations on it. Inasmuch as in many of the States persons of color cannot be witnesses in the courts, we thought it was necessary to add this section to make them witnesses in the United States courts, in order to render the bill safe to the community.

By our general law, the rules of evidence in the courts of the United States are the same as those existing in the particular State in which our courts sit; and therefore in those States where such a law exists these colored people cannot be witnesses, and hence they cannot be safely intrusted with the carrying of the mails; but it is within the power of Congress to render them competent witnesses in the United States courts, and therefore the committee reported the amendment which is the second section of the bill.

Indeed, I may say, Mr. President, that the general practice and the tendency of opinion now is to take away all disqualification of witnesses

upon any ground, and to leave their testimony to go to the jury and the court for them to weigh it and do justice. In many of our States now, even the parties to an action are competent witnesses; and no objection in point of law exists in nearly all the States on account of a man's religious sentiments. All those disqualifications have been swept away, and we think it time to do it here in relation to colored people, and to make them competent witnesses in the United States courts. The courts and the juries of course will judge of their credibility. Especially should that be done if the mail is to be committed to their hands.

Mr. LANE, of Indiana. When this proposition was before the Senate at the last session, to authorize colored persons to carry the mail, I voted against it. I shall vote against it now; but if the bill be passed, it seems to me that the amendment proposed by the committee is proper, that they shall be made witnesses in the United States courts. In many of the States colored persons are excluded from giving testimony where white persons or any other than colored persons are parties to the suit. That is the law in my own State. If this bill passes it will authorize these persons to testify in the Federal courts who are not permitted to testify in the State courts, because the Federal courts by our statutes adopt the practice of the State courts as far as practicable.

I am unwilling to pass this bill, believing that there is no necessity for it. There are plenty of white persons in the United States competent and honest and faithful who may discharge all these duties, and I see no necessity for opening the carrying of the mails to colored persons. I do not believe they will, in the ordinary course of events, prove more competent or more faithful than white persons.

It will not be supposed by any one acquainted with my record that I am not fully anti-slavery in my views, but I do believe these radical counsels against the prejudice, it may be, or against the public sentiment of the country, will produce a reaction and do great harm instead of good. Emancipation is going on well enough now, and I am willing to leave it precisely where it is, and I shall give no vote for the mere purpose of agitation, which can by possibility do no good. We have had for the last week discussions upon the subject of slavery. One question arose in reference to the railroads in your city here. I feel compelled to say that in my opinion the railroad company have adopted precisely the best and the most convenient mode for the transmission of passengers, white and black; that it is better they be kept separate. In the present condition of public opinion, and in the present legislation upon the subject, that is not only right and proper, but the best course that can be adopted, and I am unwilling to go into any of this useless agitation which can result in no possible good.

I believe it is well at this time to look to questions affecting the interests of white men as well as the interests of black men, and that the interests of both at this time are best consulted and best promoted by no legislation of this kind. I know I shall differ with most of my friends, as I did at the last session of Congress, but I shall vote against this measure, believing that no good purpose will be effected by its passage.

Mr. LANE, of Kansas. I am proud to say that I represent a State the people of which have intelligence sufficient to sift all testimony presented, and justice enough to receive the truth from the lips of individuals without reference to color. The people of Kansas have long since eradicated this much of their prejudices against the oppressed African. I hope, sir, the bill as amended by the committee will pass.

Mr. SAULSBURY. I hail as an omen of good the remarks which have fallen from the distinguished Senator from Indiana. I think they will be received by the country with pleasure, and that the remarks which have been made here this morning by that Senator will have a good effect throughout the country. I shall enter into no discussion of the merits of the bill now before the Senate; but I will simply ask this question: where is the practical good to be subserved by the passage of this bill? Has the public service suffered detriment in the past from the exclusion of negroes from carrying the mail? Has the mail been unsafely carried by reason of the exclusion of that class of persons? Is there to be any public

benefit to result from the passage of this measure? Is it a practical question, or simply a question of sentiment, a question of theory, which is now presented to the Senate?

Mr. President, nearly every morning since the commencement of this session of Congress some measure or other has been called up and seemed to have the preference, which had exclusive reference to the negroes of the country. Surely, sir, your legislation has gone far enough for so short a period of time. Surely sufficient time of this session of Congress has been devoted to the interests of that class of people, without absorbing every day during the session in the consideration of matters in which they are peculiarly interested.

I put the question to the Senate, and I put the question to the country for their consideration, what is the possible motive for the introduction of this bill and for the passage of this bill by Congress? I repeat, is any public good to result from such an enactment? Has the public service suffered detriment in the past from the exclusion of this class of persons from the carrying of the mails? Will the public service be benefited in the future by the adoption of this measure? I apprehend not, Mr. President; and when you do allow them to carry the mails, with the provision that they shall be competent witnesses in the Federal courts, those who are acquainted with that class of persons, who live in communities where they are very considerable in numbers, and have knowledge of their character, will find, I am apprehensive, that instead of the public service being benefited by such an enactment and by their having the privilege of testifying in courts of justice when your mails are robbed and destroyed, when the public service is injured in any manner in the carrying of the mails, they will be found very ready witnesses to testify that some person has waylaid them upon the road, and that some white man has done it.

I think we are legislating against reason, against our own race, by such enactments as this; and rest assured, Senators, that if it shall become the law you will find that the result which I have predicted will occur, and that when passion shall have subsided, when excitement shall have died away, when the people of this country shall again come to think soberly and reflect seriously upon the relation of races, it will be regretted by many of those who even favor it now.

Mr. POWELL. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SUMNER. Before the vote is taken, I desire for only one moment to call attention to the origin of the legislation which it is now proposed to sweep out of our statute-book. I think if the Senator from Indiana who opposes the bill under consideration were fully aware of the origin of the legislation which it seeks to remove, that we should have his vote, notwithstanding his eloquent speech.

I have before me the American State Papers, the first volume, relating to the Post Office. In that volume, on page 27, is a letter from Gideon Granger, dated March 23, 1802. He was at the time, it will be remembered, Postmaster General of the United States. This letter is addressed to the Hon. James Jackson, Senator from Georgia. It is as follows:

GENERAL POST OFFICE, March 23, 1802.

SIR: An objection exists against employing negroes, or people of color, in transporting the public mails, of a nature too delicate to ingraft into a report which may become public, yet too important to be omitted or passed over without full consideration. I therefore take the liberty of making to the committee, through you, a private representation on that subject. After the scenes which St. Domingo has exhibited to the world, we cannot be too cautious in attempting to prevent similar evils in the four southern States, where there are, particularly in the eastern and old settled parts of them, so great a proportion of blacks as to hazard the tranquility and happiness of the free citizens. Indeed, in Virginia and South Carolina (as I have been informed) plans and conspiracies have already been concerted by them, more than once, to rise in arms, and subjugate their masters.

Everything which tends to increase their knowledge of natural rights, of men and things, or that affords them an opportunity of associating, acquiring, and communicating sentiments, and of establishing a chain or line of intelligence, must increase your hazard, because it increases their means of effecting their object.

The most active and intelligent are employed as post-riders. These are the most ready to learn, and the most able to execute. By traveling from day to day, and hourly mixing with people, they must, they will acquire information. They will learn that a man's rights do not depend on

his color. They will, in time, become teachers to their brethren. They become acquainted with each other on the line. Whenever the body, or a portion of them, wish to act, they are an organized corps, circulating our intelligence openly, their own privately.

Their traveling creates no suspicion, excites no alarm. One able man among them, perceiving the value of this machine, might lay a plan which would be communicated by your post-riders from town to town, and produce a general and united operation against you. It is easier to prevent the evil than to cure it. The hazard may be small and the prospect remote, but it does not follow that at some day the event would not be certain.

With respect and esteem,

GIDEON GRANGER.

Hon. JAMES JACKSON, Senator from Georgia.

There, sir, is the origin of the offensive legislation which we now seek to remove. It grew out of a proposition to sustain slavery, communicated in private to a Senator from Georgia. The legislation is a part of that system which Congress has so long imposed upon the country under the domineering influence of slavery, and it was expressly recommended on the ground that if colored persons were allowed to carry the mails "they would learn that a man's rights do not depend on his color." It was to subvert that principle that the offensive legislation was enacted. But now, since the resurrection of our day, since liberty is at last asserting her rights in the Republic, Congress, it seems to me, can do nothing less than to go back to its original policy under Washington and the fathers of the Republic, when no such legislation existed.

I do not like to take time on a question which seems plain as justice. But out of the origin of that old legislation I derive an unanswerable argument against it. The legislation is nothing but slavery installed in an act of Congress. But even if it had not this character, it would be offensive as an injustice to the colored race. And here let me express my dissent from the Senator from Indiana, [Mr. LANE.] He thought we ought to favor the white race. But do not forget that you cannot do injustice to the colored race without injuring that white race which you desire to favor. No, sir; there can be but one rule for all, and that is the rule of justice.

This is what I have to say on the original proposition. The amendment which has been reported by the committee has of course my cordial concurrence. I have already during the present session introduced a special bill in the same sense. On a former occasion, or on several former occasions, I have tried to ingraft that proposition on other bills then pending. I am glad to meet it and welcome it on the present bill. I think the suggestion of the committee, that it is important in the support of the original measure, is one which ought not to be neglected by the Senate. The bill, therefore, in its original proposition, and also in its amendment, ought to be passed. It will add to the judgment against slavery and its abuses. And it will also add to the securities and privileges of an oppressed race. This is enough.

Mr. SAULSBURY. Mr. President, the letter just read to the Senate, a letter from a former Postmaster General of the United States, and a northern man, in my judgment is one of the most sensible letters that has ever been read in the Senate of the United States, or written by any man in the United States. It carries back the mind to the early days of the Republic, when kindly feelings existed between the people of the North and the people of the South, when there was no disposition on the part of the people of the North to excite servile insurrection in the southern States; when there was no feeling cherished that the slave might rise in arms against his master; when the scenes of San Domingo had impressed upon the minds of the people both North and South the necessity of preserving the public peace and of doing no act which could mar the harmony of the Republic. Sir, Mr. Granger, by writing that letter, showed to the country that he had a heart and a soul in his bosom, that he took no delight in scenes of blood, in servile insurrection. He knew the relations existing, and happily existing in his day, between the white race and the negro race, and as a gentleman and a Christian he wished to save his country, not only North but South, in every section of that country, from any such scenes as those to which he referred, those which had occurred in San Domingo.

It was not then supposed to be a Christian duty to incite the slave to insurrection. That feeling

which can rejoice in the effusion of innocent blood by members, although in a subordinate relation, of the same household was not then supposed to be Christian sympathy. Sir, if the spirit of the times have changed, when the historian shall write up the truthful record of the past and of the present, and shall do justice to the spirit which animated the men of the past and of the present, he will have no difficulty in saying that the men who lived in the days of Mr. Granger, who shared his feelings, were the men if whose counsels had been faithfully followed the present unhappy state of the country would not now be presented. I am glad that that letter has been read to the Senate; I am glad of the speech so appropriately made by the Senator from Indiana, because I think while the speech will be hailed by conservative men and reflecting men throughout the country with pleasure, that letter will recall to a great extent the minds of the thoughtful men of this country to the early days of the Republic, and that they will contrast in the silent quietude of home the spirit which animated the men of that day with the spirit which is animating the men of the present hour. Sir, I am glad, I repeat, that that letter has been written, and I will follow the lights of the past, the sunlight of the past, rather than the ignis fatuus of the present.

Mr. POWELL. The amendment proposed by the Committee on Post Offices and Post Roads, in my judgment, should not be adopted. That amendment proposes to allow all persons, without regard to color, to be witnesses in the courts of the United States. In many of the States negroes are not permitted to testify as witnesses against white persons. That is the law of my own State, and the law of Indiana, as was stated by the honorable Senator from that State. It is the law in all the slave States, and in many of the free States; and I can see no reason why we should, by legislation here, change the rule. I think it is better to leave it, as it has heretofore been left, to the States to prescribe who shall be witnesses. The Federal courts, by their rules, allow such persons to become witnesses in their courts as are allowed in the State courts. I think that is eminently wise and proper.

You frequently have an appeal from the decisions of the State courts to those of the courts of the United States. If you have one rule as to testimony in the State court, and another rule in the court of the United States, you see at once the confusion that will exist. You try a certain class of cases in the State courts. By the laws of the States certain persons are excluded from being witnesses in certain causes, or where the rights of certain persons are being litigated. You try the case by that rule of testimony in the State court. You take that case to the Federal courts. If you have there a different rule of testimony you see at once the endless confusion that must follow. In order to keep up harmony and good feeling between the States and the national Government it is eminently proper that the States themselves should regulate all those matters. The practice, as it has existed heretofore, of allowing the rules of the State courts to govern in the Federal courts of that locality is certainly the correct one. I therefore hope that the amendment reported from the Committee on Post Offices and Post Roads will not be adopted.

As to the general character of the bill, I know that nothing that I can say here will prevent this fanatical and radical kind of legislation; but I would ask the Senate, has there been any detriment to the public interest in consequence of negroes being excluded from carrying the mails? Certainly there has been none. If you pass this bill, it can do no good; it will not promote the public interest; it will not advance the public service; it will be distasteful to the people of some of the States. That will be the result of it, without doing any good in any event whatever. No good can possibly result to the country from it. The only result will be that Senators who entertain the views of the Senator from Massachusetts who a moment ago addressed the Senate will be able in their electioneering documents to say that such and such laws have been passed in favor of the negro, and add this to the list. It will be a gratification to that ultra-radical sentiment that in my judgment has done more than everything else to bring all the woes and ills by which we are now surrounded upon the country.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order of the day, being the unfinished business of yesterday.

Mr. SUMNER. I think we can vote on this now.

The VICE PRESIDENT. If there be no objection, the vote will be taken.

Several SENATORS. Let us vote.

Mr. HENDRICKS. I should like to hear the amendment before the Senate read.

The Secretary read it, as follows:

Sec. 2. And be it further enacted, That in the courts of the United States there shall be no exclusion of any witness on account of color.

Mr. SHERMAN. I ask if the special order is not now before the Senate?

The VICE PRESIDENT. The Chair so stated, but it was passed over informally, the Chair hearing no objection, the vote being requested by several Senators.

Mr. HENDRICKS. Mr. President, it is not my purpose to discuss the question now presented to the Senate, except to say very briefly, in the first place, that it does not properly belong to the bill to which it is proposed as an amendment. I understand it is proposed as an amendment to Senate bill No. 62, which is "a bill to remove all disqualification of color in carrying the mails." I cannot see the propriety of attaching to a bill regulating the mail service of the country a proposition to regulate the question of the competency of witnesses in courts. The one question is properly considered by the Committee on Post Offices and Post Roads; the other, before it is considered by the Senate, ought to go to the Committee on the Judiciary, and let that committee present the reasons for or against the measure. It seems to me that this consideration would be enough to induce the Senate to reject the proposition as an amendment to the bill now before the Senate.

But, sir, as an original proposition upon its own merits, I desire to say that I cannot support it. I think such a measure would not be agreeable to the State that I represent. They have decided for that State that they will not allow Indians or negroes to testify in the courts, except in cases in litigation between Indians and negroes. I do not say that the legislation of the State should be conclusive in the courts of the United States; but, sir, the circuit court of the United States in Indiana has adopted the State law on the subject of the competency of witnesses, and the mode and manner of bringing testimony before the court; and the effect of this proposition would be to change the law of the State of Indiana very materially.

I cannot see why the Senator who proposes this measure stops where he does. If it is right to bring the negro into the court that he shall testify in a case between white men, that he shall be competent to impeach the testimony of a white witness, I cannot see why the Senator should stop there, and not also make him competent as a juror in the United States court. If his intelligence and integrity are such that we may trust him as a witness, not only to overcome the testimony of the white man, but also to be called as a witness to impeach the credibility of a white man in a court of the United States, why not place him in the jury-box, and let him decide what shall be the verdict in the case between two white men? I cannot see how gentlemen can discriminate. It is a question of integrity and intelligence, they say, and that the integrity and intelligence of the negro may be trusted in opposition to the testimony of the white man. Then why shall he not take his seat among the peers of the white man, and decide as a juror the rights of the litigating parties?

I understand the position to be taken in the Senate of the United States—it has been illustrated by the debate all day yesterday—that the negro is now the peer of the white man; that he shall take his seat in the same cars; that there shall not be any police arrangement or regulation to exclude him from the cars of the white man, although there is a sufficient accommodation provided for him separately, but that he shall be forced into social equality with the white man. Now we go one step further: that he shall be heard in court as a witness against the white man, upon whose testimony the white man's rights shall be taken from him when litigated with another white man, upon whose testimony the white man shall be

convicted of the crime that is charged against him, and shall suffer the penalties of the law; and further, that he shall be heard to impeach the credibility of the white man; that the negro may be called to say that the white man is not a man of good character, and therefore ought not to be believed in court.

These all stand upon the proposition that the negro is the equal of the white man; that he is his peer. If that be so, let us have it frankly said here and said by law. If it is the opinion of the majority of this body that the negro shall not only be a witness but that he shall be a juror to decide the case, let them say so. If negroes are to control the result of verdicts by their testimony, why shall they not control the result of verdicts by their judgment as jurors? Let us have it fairly and squarely before the country, that we may know how far we are going in this direction.

Sir, I cannot consent to give a vote on this subject without saying this much. I think it is an unfortunate step. You may say here that the negro is the equal of the white man; but you cannot make him such. You may say that he shall be trusted as the white man is trusted; but you cannot give him the qualities that inspire confidence among white men toward each other. I know in reply to this it will be said, as I have heard it said on the stump very often, that we need not fear the testimony of negroes, because the fact of their position in society will be considered by the jury in weighing their testimony; but that does not answer the objection.

This is a proposition based upon the idea that the negro is the equal in law, socially and politically, of the white man. I say it is an unfortunate step. In Indiana we hold that it is the right of the State to define the status of the different classes of people in the State. This amendment proposes to interfere with that right, and to place in the courts of the United States as witnesses a class that the people of that State have said should not thus appear. It may be done; they may be forced upon society in all its relations as the equal of the white race; but that legislation will not make them equals.

For one, I do not believe they are our equals. I do not believe they are our equals in the Army, in the courts, or anywhere else; and for that reason I voted against the bill proposing that they should have the same pay in the Army as white men. Their services are not worth so much; and I care not who says to the contrary, I do not believe, nor can any weight of testimony make me believe, that the negro is the equal of the white soldiers that go from the State of Indiana. They should not be paid so much. They cannot command so much at home for their labor, because they lack those qualities that secure a high rate of compensation to the white man.

Sir, our race is honored by a history that distinguishes it. In all the pursuits of life our race has gone onward and upward. Standing alone, it has progressed for a thousand years without a step backward. In the arts, in the sciences, in literature, in law, in all the departments of art and learning, our race has gone onward and upward for a thousand years. Standing alone, the negro race has gone downward and downward for a thousand years. When brought in contact with our race, I admit it has made some steps upward; but standing alone, dependent upon its own quality and its own ability to raise itself, the tendency of the negro race has been downward. Standing alone, depending on its own ability and high qualities, the tendency of the white race for a thousand years has been upward and onward. With such facts standing before us, I am hard to be convinced that the negro is the equal of the white man; and I am not content to see a law passed by the Congress of the United States placing the negro upon a platform of equality with the white race in the courts of the country, the sanctuary of our rights.

Mr. HARLAN. I desire to inquire of the Senator from Indiana if in his opinion riding in a public conveyance with another either creates or becomes evidence of social equality between the parties? The principal objection alleged by the Senator, if I understand him, to this bill is that it will inaugurate social equality, and he enforces this conviction by alleging that Congress has heretofore enacted laws establishing equality between the colored people and white people of this

District in not prohibiting the common use of the street cars by both classes. I desire to know of the Senator from Indiana if, in his opinion, that is evidence of social equality, to be found together on a public conveyance?

Mr. HENDRICKS. Does the Senator expect an answer now?

Mr. HARLAN. If the Senator chooses to give an answer.

Mr. HENDRICKS. I do not say that it is conclusive evidence of that; but when the majority of the Senate assume that they have a right to social and political and legal equality, and hold that therefore they cannot be denied a position in the cars with the white people, although accommodations are provided otherwise for them, I say that does show what the majority desire.

Mr. HARLAN. I think the Senator's reply will not be very satisfactory to himself when he comes to consider it more coolly. He alleges that Congress has established or attempted to establish social equality between colored people and white people in this District, and states as proof that they have the legal right to ride on a public conveyance together, may be hauled from one end of the city to another by a common carrier.

Mr. HENDRICKS. As the Senator has asked me a question I suppose he will be content that I shall interrupt him one second further. I know the Senator would not desire to misrepresent any argument that I attempted to make here. I did not say, I would not be understood as saying, that the mere fact that the negroes were allowed by action of Congress to ride upon the cars with white people established their equality with the white race; but I say, as I said before, that the fact that the majority in this body require that they shall ride in the same cars; that they shall receive the same pay in the Army as the white soldiers; that they shall receive the same bounties as the white soldiers, and now that they shall be heard in the courts as witnesses, shows the purpose of the majority to place them on terms of social, political, and legal equality with the white race. I did not refer to any particular action of this body, but I referred to the general tendency of our proceedings, giving nearly all the time of the Senate to the consideration of the interests of the negro, but very little of it to the white man.

Mr. HARLAN. If I understand the Senator, then, he admits that his citation of proof is not conclusive; that if a common carrier shall receive in his wagon or rail-car or stage-coach a white man and a black man, that fact does not prove conclusively that they are socially equal.

How is it with the other proofs cited? Congress has provided for the enlistment of both white and black men as soldiers. Both classes may legally carry muskets in their country's defense. I inquire if he seriously believes that this even tends to establish social equality between the two races? The laws of Congress on this subject provide that the colored men shall serve in separate regiments from white men; but they may fight for their country like white men in distinct organizations. Is the Senator serious in alleging that this even tends to establish the social equality of the two classes?

But he alleges that they are to receive the same pay for the same kind of work. It does occur to me that when he comes to think of this subject more coolly, he will agree with me that that does not affect the social standing of either. The pay ought to have reference to the capacity of the man that labors. He ought to receive a just equivalent for the amount of service he performs, whether he stands high or low in society, socially. It is not his social position that you contract for. You contract for his labor. You contract for his physical strength to wield the sledge, or to handle the spade, or, if in the Army, to drive teams, or to handle commissary stores, or, if he be armed, to handle his musket. It is his ability to perform the service required that you contract for, and not his social standing or his social qualities. I cannot perceive that any of the proofs the Senator presents even tend to establish his conclusions.

The bill now pending provides that the testimony of colored people may be heard in the United States courts. That is another proof in the opinion of the Senator of the purpose of Congress to establish social equality between white and colored people. I appeal to the good sense of the Senator, if he

will allow me to be so familiar with him, to say to the Senate if in his opinion all men who are permitted to testify before a tribunal of justice must necessarily be regarded as socially equal. Does an examination as a witness in court affect the social position of the witness himself, or that of others, whether white or black? I think the Senator has not brought to bear on this subject his usual good sense. I suppose a man's social position depends on other considerations than riding on the same public conveyance with another, receiving the same wages for the same kind of service, either civil or military, or testifying in the courts. I suppose black men can tell the truth. Courts, I believe, resort to every means to elicit the truth bearing on cases that are litigated, both civil and criminal.

I am reminded by my colleague that it may be to the advantage of the white man as much as of the negro, that the latter should be permitted to testify in the courts. He may be the only person in any given case who has knowledge of facts that may be conclusive in settling questions of vast interest pending before civil and criminal tribunals. If he is ignorant and degraded these facts will of course militate against his credibility. That will be a proper question for the court or the jury that tries the case. But the right to introduce a colored witness may be very important to the white man, much more so than to the black man, as his interests are usually much larger than the interests of the negro.

But then the Senator argues that if you permit a colored man to testify you ought to permit him to sit as a jurymen. How so? I believe you allow females to testify before the courts. Does it follow as a logical necessity that women must be authorized to sit as jurymen? You allow minor children to testify before the courts. Does it follow as a logical sequence that every child who is competent to testify as a witness ought to be authorized to sit as a jurymen, and aid in trying cases?

I can perceive no connection between the facts alleged and the conclusion stated. The truth is they depend upon entirely different considerations. The child may at a very early period be capable of telling the truth, any rational human being may be capable of telling the truth, of stating facts that come under his observation, and yet incompetent to adjudicate a question of law or a question of fact. So in relation to the correlative questions, as the right to vote and the right to hold office. A very small proportion, comparatively, of any civil community are permitted to participate in managing its public affairs. A small proportion comparatively are permitted to vote and a very small proportion to hold office. These rights are not natural rights; they are rights that arise under the law by the common consent of the whole; and in adjusting the political rights and franchises of each class the community is supposed to be controlled by a desire to promote the interests of the whole. The right to vote, to hold office, to aid in making the laws, in adjudicating and enforcing them, is derived from the civil society of which the parties are members. They are not natural rights, as is the right to life, liberty, and the pursuit of happiness. Being made a witness is not a natural right. It may be considered a duty, when required by parties to a dispute, to testify; it may be a grievous wrong to the parties litigant not to permit them to introduce the testimony of persons conversant with the facts in controversy. But being required or not required to testify as a witness is not a question of natural right, and in no way affects the social status of any one. The natural rights of all should be protected alike by the laws. In this respect they should be perfectly equal. But when you proceed to bestow civil privileges, you must take into consideration the capacity of those who are to hold the trust.

This bill provides that the disability of colored persons to carry the mails and to testify in the courts of the United States shall be removed. Whether the bill shall become a law or not, will not affect the social equality of the two races a hair's breadth. It raises no question of equality, but it does raise a question of expediency. The mails are carried by contractors. The right to carry them is given to the lowest responsible bidder who can give the required security for a faithful performance of his contract. Now, if a colored

man should put in a bid at a lower rate than all others for carrying the United States mails, and give the requisite security, what harm could result in permitting him to execute the contract? Not the least to any mortal on earth. And if the United States mails should be robbed, or any other offense committed against the persons or property of others, in the presence of colored people, what evil could possibly result from their examination in the courts? Not the least on earth. They are now permitted to testify in nearly all the loyal States of the Union. Its propriety may therefore be considered a settled question. But if it is proper to examine them as witnesses in the State courts, it would be equally proper to permit it in the United States courts.

Mr. SAULSBURY. Mr. President, I do not wish to trouble the Senate on this question, neither do I wish to bring to the discussion any excitement nor to indulge in any prejudice against this class of people. I was born among them, and they were born on my father's premises. My earliest recollection was when a negro servant attended to my wants; and I recur to those days with a great deal of pleasure and a great deal of kindness of feeling, because in those days, before their passions became excited and false notions were put into their heads, they were a faithful and obedient class of people, well provided for, and well caring for those in whose service they were. I could go, sir, to my own humble home, and there I could find two as faithful and devoted persons of this class as live in the United States or have ever lived, who, since these days of excitement, have refused to be seduced from their homes by the golden visions which have been painted to their imaginations.

I recollect this class of people when they were in their proper state and condition, with no other feeling but that of kindness, and I believe in my heart of hearts to-day that that class of the white people of this country who care most for them, who think better of them, and who labor for their real benefit, are the slaveholders of the land and those who have been brought up amidst that institution. I do not believe, I never have believed, that all this legislation, all this excitement in the northern section of the country arises from any great regard for this class of beings, but from party considerations, because, knowing them as I do, and knowing their incapacity for the positions to which it is sought to elevate them, I believe as firmly as I live that those who are now attempting to inaugurate this modern policy will be adjudged by the faithful record of history to be the worst enemies to this class of people.

I therefore say, sir, that in troubling the Senate for a few moments longer with any remarks on this bill, I do not do it from any prejudice against this class of people, from any desire to deprive them of any right which they have or ought to have; I wish to invoke no prejudice on the part of others against them; but I think I am but discharging a duty which I owe to the whole people of this country, and especially to the white race of this country, to protest against all this kind of legislation.

Sir, under what circumstances does the amendment which is the particular question now before the Senate come before this body? The bill was simply to do away with the disability of color as to persons carrying the mail. The reason assigned by the honorable chairman of the Committee on Post Offices and Post Roads for this amendment is that if the bill is to pass, it becomes necessary in order to protect the public service to make this class of people who shall be mail carriers witnesses in the Federal courts. Does your amendment confine the reception of their testimony to cases where the public service in reference to the mail is involved? Does it say that in any case where a prosecution may be depending for robbing the mail, or by which the mail service is affected, the testimony of the mail carrier, whether he be white or whether he be black, shall be competent testimony? No, sir; but under the assumption—I will not say pretense, for I mean no discourtesy—that if you make the negro the carrier of your mails, it may become necessary in certain contingencies to have his testimony in a court of justice, you throw open all your Federal courts in reference to any branch of business that may come before them, civil suits in your district courts between A and B, white men,

and you admit any and every negro to come in as a witness and testify in favor of one of the parties and against the other. The amendment proposed, therefore, is more extensive than the reason assigned for its enactment. Whether designed or not to accomplish that purpose, it is not only to make the negro a competent witness in reference to questions where the safety of the mail or the guilt of persons injuring to any extent the public interests in that respect is involved, but it is to make him a competent witness in reference to any case that may come before the Federal courts, and that, too, without regard to the fact whether the judgment of the State where he resides is that he shall be competent or not.

Many gentlemen from the non-slaveholding States, among whom there are but very few of this class of persons; and whose acquaintance with them, with their characters, with their dispositions, with their qualities, of course cannot be so great and so accurate as that of those living in other communities, I have no doubt frequently think that objections coming from such quarters as they sometimes hear objections come from in this body and in the other House, are unreasonable, are made for partisan effect. Let me tell you, gentlemen, you yourselves in the future may see that such an idea, if entertained by you, is a delusion, and that consequences of which you never dreamed may result from the action which you here inaugurate.

Why, sir, your Federal courts have jurisdiction of the greatest criminal offenses as well as of civil issues. I admit that the slave, when left to himself, and before the abolition excitement sprung up in this country, and even before the horrid scenes of the present revolution transpired, was, in the main, faithful to his master, and that the relations existing between the faithful slave and even the respectable negro free man with the white race were friendly and kind; but amid the throes of this terrible revolution, with the exciting appeals made to that class of people, with efforts made throughout the entire North by a portion of the people to stir up servile insurrection, and to array the humbler class against the more intelligent and elevated class, you have awakened a feeling, an intense feeling, in the breasts and in the minds of many of this class of people against the white race. I stated to you, sir, nothing that was fanciful the other day, but I stated to you the solemn truth when I said that in the town in which I live, at this time, or only a few days ago, they were marching up and down our streets with horrid oaths, and in several instances snapped their pistols at white men. The military were there, your negroes protected, and your white men at their mercy.

These, sir, are some of the scenes that occur in localities with which you have no personal acquaintance, and I call upon the members of the Senate as gentlemen of intelligence and reflecting men, and I call upon the people of the vast North to wake up ere it is too late to the consequences that may result to the people of a large portion of this country from such legislation as this. Sir, there are madmen possessed of devils just as much as they were in the days of Christ, and whom the devil uses as instruments to carry out his own hellish purposes, who would stir up insurrection in communities where the races are more equal than they are in yours. I do not believe that there are many, there may be some, in this Senate who entertain such a feeling, and therefore if I speak warmly upon this subject, I speak to gentlemen whose hearts I hope are not so steeled against all the kindlier feelings of their nature as to carry on this system of legislation which may eventuate in scenes in the contemplation of which the imagination is appalled.

Sir, suppose you go even to my own State, or the State of Maryland, or the State of Kentucky, or the State of Missouri to-day, all of which are in the Union, and a respectable white man is charged in your Federal courts in cases in which they have jurisdiction of the most horrid and even capital offenses, I say to you from my knowledge of this class of beings, that it would be no difficult matter at all to get a multitude of witnesses of this class to swear away his life; and I am only afraid that there are men in this country who would be pleased at a judicial murder committed by the perjury of the meanest free negro in the land.

Mr. President, I propose not to enter into a

discussion and an argument which was not addressed to me, but it has been said by the Senator from Iowa that you employ them around this Capitol, that you employ them in many business relations of life, and therefore why not this? It is true, sir, this class of people, well-behaved and well-disposed, in a slaveholding community where the kindly feelings which result from the relation of master and slave prevail, have never been denied employment where they were faithful and wished it; and they can always have it. But because you employ them in the menial occupations of life or as workmen, and pay them to enable them to support themselves and families, it does not follow therefore that you should pursue a system of legislation which, whatever the Senator from Iowa may think or say, the public judgment of the country, as warranted by your persistent legislation on this subject, will say was designed to evidence to the people of the whole country that in your judgment there should be no distinction whatever.

My friend from Indiana has referred to the fact that you employ them in your Army, and the Senator from Iowa asks, is that any evidence of equality? It makes no difference what you secretly intend or think about it; but what is the effect upon that class of beings, and what is the effect upon the public judgment of the country? It is that the legislation was designed to bring about that state of affairs. You cannot go into any slaveholding State where you are enlisting negroes and you will see evidences every day that they so interpret your legislation. I dislike, in the Senate of the United States, to refer to private incidents; but only the other day in the capital of my own State, where this class of soldiers were being marched through the town and stationed in the town, one of them walked into the store of a respectable white man, and without provocation or insult let him know that he expected in less than three years to have a white wife. But, sir, though it may not be very dignified to detail these little incidents in the Senate of the United States, it is proper to do so in order to call the attention of Senators and of the country to the natural consequence resulting from this species of legislation, that consequence being a belief engendered in the minds of this class of people that you do mean social equality. I am proud to say that the negro did not go off unpunished for his insolence.

Mr. LANE, of Kansas. Could he find a white wife in Delaware?

Mr. SAULSBURY. I am afraid he might in Kansas, where the gentleman has figured so largely upon this social equality, provided he has followers enough to carry out his doctrines.

Mr. LANE, of Kansas. I will say to the honorable Senator, that while in Kansas we are disposed to do justice to all, we are willing, if this class of people desire it, that they shall separate from us, and our people are pretty unanimous in favor of setting apart western Texas for them.

Mr. SAULSBURY. That only shows how potential an influence the Senator from Kansas exercises in his State. It is but recently that he introduced that bill or called the attention of the people of the country or the people of Kansas to that question, and in so short a time such has been the powerful influence of the Senator from Kansas in his own State that they have unanimously adopted his views.

Mr. LANE, of Kansas. With the consent of the Senator from Delaware, I desire to state to him and to the Senate that the subject of settling the blacks in western Texas has been discussed in the State I represent, by myself and others, for more than a year.

Mr. SAULSBURY. I have lived in the State of Delaware all my life, and I have known men much abler who lived there all their lives, such men as Clayton, and I never knew that by the discussion of a question for one year, any of them could get a unanimous verdict of the people of that State in its favor.

But, Mr. President, I have said about all that I intended to say in reference to this subject. I take leave of it, earnestly as I have addressed the Senate in relation to it, with the same feeling with which I commenced, with no feeling of real passion; I have said what I have said only from a sense of public duty.

Mr. LANE, of Kansas. The question of amalgamation is a mere question of taste. There is not a white lady in Kansas who requires the elo-

quence of a Senator or a legal enactment to control her choice as to a husband. I have no fears myself that the ladies of Kansas will prefer the colored race. They are intelligent, refined, proud of their blood and race, and will select husbands therefrom. If the Senator from Delaware has such fears for his lady constituents I do not partake of them so far as my lady constituents are concerned. But let me say that this fear of amalgamation has very recently grown up in the party to which the Senator belongs. I remember well, Mr. President, when I was in the Democratic party, that I voted, for the proud position you now hold, as the nominee of that party, for a man who was at the time living with a negro wife, and who raised a large family of children by her; and I remember frequently having said during that campaign to the members of the Democratic party in my speeches, "I appeal to you, gentlemen, to vote for Colonel Richard M. Johnson as the Democratic nominee for Vice President, negro or no negro, amalgamation or no amalgamation." What, sir, the Democratic party condemning it now, when they elevated to the second position in this Government a man who was a practical amalgamationist! Such inconsistency, Mr. President, is shameful.

Mr. SAULSBURY. The Senator took occasion to interrupt me two or three times kindly, and I took it in the kindest spirit; and he will allow me to make a suggestion in regard to what he has just said. That may be evidence that the fact alluded to was not very disagreeable to him, but it proves nothing further.

Mr. LANE, of Kansas. It proves, sir, that I was in the chains of a party, and that those chains compelled me to do that which was very distasteful to me at the time. I was then and am now opposed to the amalgamation of the two races, believing, as I do, that the product is inferior to either race. It further proves that the Democratic party was at that early day in favor of practical amalgamation, else they would not have nominated and elected Colonel Richard M. Johnson as Vice President.

Mr. POWELL. I move to amend the amendment of the committee by inserting after the word "States," in the second line, the words "in all cases for robbing or violating the mails of the United States;" so as to make it read:

That in the courts of the United States, in all cases for robbing or violating the mails of the United States, there shall be no exclusion of any witness on account of color.

If this amendment shall be adopted, it will leave the amendment proposed by the Committee on Post Offices and Post Roads so as to meet the evil which they say will exist in case the bill as it was originally introduced shall become a law. If their sole object is to allow black mail carriers to be witnesses against those who violate the mail, they will effect their object by adopting the section as I propose to amend it.

Mr. CONNESS. I wish to say to the Senator from Kentucky that my object in voting for the bill is not the sole object of extending the right to testify to negroes in cases involving violations of the post office laws of the United States. Incidentally that brings the question up here, and brought it up in the committee of which I have the honor to be a member, but I desire to say to that Senator, and to the other Senators who have spoken on that side of the Chamber, that my purpose is to give a vote by which the testimony of colored men shall be received in all the courts of the United States; and I desire, without continuing the discussion, to say to those Senators that the great State of New York, the Empire State of the Union, has grown up and prospered under just such a rule as that for many a year. In the State that I have the honor in part to represent, the rule of excluding the testimony of colored people, and all persons but whites, existed until 1862. Under the rule and tyranny of a party there that too often forgot not only liberality but justice too, the testimony of colored men was excluded from the courts of that State until, over and again, robberies and murders were committed upon the highways with no means of bringing the perpetrators to justice. I desire to be plainly understood that my purpose is to receive testimony and proof from any source that is human.

Mr. JOHNSON. I rather regret that the bill itself, which was referred to the committee, was introduced. The object of the bill was simply to

authorize the Postmaster General to employ a colored person to carry the mails, if he thought proper, and it did that by repealing the prohibition in the original law. Practically, I suppose that no colored person will be employed, at any rate for years to come. I think it will be found that the Postmaster General, even if he is governed by political influences, will be very much more likely, if not certain, to employ a white man to carry the mails than a black man.

Mr. CONNESS. I have no doubt of that.

Mr. JOHNSON. I understand the Senator from California to agree with me in that particular. As far, therefore, as the main object of the bill is concerned, it will be practically of no effect; but the committee have introduced the amendment which has given rise to the discussion, and as I understood from the chairman it was introduced because the committee thought that if the mail was to be intrusted to a black man, as the mail might be robbed, and there be no witness of the fact except the mail carrier, he should be made a competent witness. But if I am right in supposing that there will be no black mail carrier, because the Postmaster General will never employ one, or will very rarely if ever employ one, then the whole effect of the bill will be to do away with the incompetency of colored men as witnesses.

Mr. COLLAMER. Carriers of the mails are never employed by the Postmaster General.

Mr. JOHNSON. Well, whoever does it.

Mr. COLLAMER. The contractors employ their own carriers.

Mr. SUMNER. If the Senator will allow me one moment, I will mention a hardship under the old legislation of Congress that has actually occurred in Boston. The postmaster has desired to employ a very estimable free colored person as a carrier of letters in the city, but he has found that he could not do it without exposing himself to a severe penalty under the act of Congress which it is now proposed to repeal.

Mr. JOHNSON. Well; there can be very few such cases, Mr. President. If they can get a white man and a respectable white man, (and I suppose respectable white men are just as easily found in Boston as respectable colored men,) the chances are but one in a hundred that they will employ a respectable black man. There may be some of these contractors who are more wedded to that particular race than others, as there are certain politicians who apparently seem more anxious to protect them than to protect others; but they are few. Practically therefore, as I think, the bill if it passes with the amendment suggested by the committee, an amendment in my view perfectly right if the bill was to be operative at all in its first section, will be to change, practically to repeal all the laws of the States in relation to the testimony of persons of color. The honorable member from California has told us that the incompetency of the black man to testify was removed in New York in 1832 or 1836, I think it was 1832, and that it has operated very beneficially. That, I think, is highly probable, and if all the negroes in Maryland were free, and especially if they had been free as long as the negroes in New York had been free, for one I should be in favor of making them competent witnesses.

I partake of the spirit which has governed the courts, not to say the legislation of various countries, that all questions depending upon human testimony should rather be questions of credibility than questions of competency. The jury are fully able, speaking generally, whether a witness, be he black or white, be he alien or citizen, be he of one party, where party spirit runs high, or of another, to decide what credit is to be attached to his testimony; and I did therefore propose, when I had the honor to be a member of our own Legislature, upon two occasions, once when a member of the Senate of the State and recently when a member of the House of Delegates of that State, and carry through each of the branches of which I happened to be a member, a law authorizing the parties to be examined. England has done that, although (for singular as it may seem, the lawyers are generally as a class against all improvements or alleged improvements, all modifications which change in any substantial particular the original law,) the whole bar of England, almost without an exception, and the whole bench of England were opposed to that change. But I

happened to be in England in 1854, and to be honored by the privilege of being on the bench with the judges of the Queen's Bench several times when parties were being examined, and I recollect that the then Chief Justice, Lord Campbell, afterwards the Chancellor, and Mr. Justice Coleridge, between whom I sat, told me that they had been very much opposed to that change of the law, but that they had become satisfied that it was a most salutary change. Truth had not only been discovered more effectually than it had been before, but truth had been discovered in cases where it could not have been discovered under the law as it originally stood, and that it had the effect not only of working out justice in trials where there was controversy, but of keeping out of court a vast variety of cases that otherwise would have come into court. When, for example, the defendant knew that the plaintiff would be a witness as against him, or the plaintiff knew that the defendant would be a witness in his own behalf and as against the plaintiff, and either felt that there was something wrong either in his defense or in his demand, he made no defense or no demand, and cases without number were kept out of court.

I should therefore be perfectly willing to do away with all these restrictions, originally more the result of prejudice or of short-sightedness than anything else; more the result of not seeing what a guard there was, as a general thing, against any mischief resulting from leaving all these matters to be passed upon by the jury, in the fact that the jury would have the privilege of passing upon them. But what I object to is—and I submit it to the Senate with all sincerity—that if we make this change at this period, make witnesses in the States where slavery exists, it will be dangerous. Perhaps the members of the Senate who come from States where there is no political difference of opinion may not appreciate this suggestion; but I think it would be exceedingly perilous to change the law at least in respect to my own State. I have no doubt the same consideration applies to other States, Kentucky and Missouri, but I speak now of my own.

It is useless to deny that there has been in Maryland, and to a certain extent there exists now, a very strong sympathy with the South, and such a sympathy as I think would induce those who entertain it to rejoice very much if this war upon the part of the United States to sustain the life of the nation should fail. These people are known for the most part, and a great many perhaps are suspected who do not entertain the sympathy. They are suspected because of their association. They are excellent men, excellent ladies; but they do either entertain that feeling or they are suspected of entertaining it; and almost every day the military are interfering—I do not complain of it, because I have no doubt they are trying to do their duty—interfering upon almost every variety of testimony, and upon the faith of such testimony they are ordering out of Maryland men and women. What I fear is, that if you do away with the prohibition which it is the object of this amendment to do away with, that scene will be very much increased. It is carrying now more or less of ruin into many a household. They are afraid even now, and they may well be afraid, perhaps, of talking except in whispers in their own houses—even now when what they do say cannot be testified to by the servants who may be colored, as for the most part they are. But do away with this restriction, and the condition of things will be infinitely worse.

If I supposed that the existence of such a law as this is could in the slightest degree increase the chances of bringing this war to a termination speedily, and to that termination which we all look upon not only with hope but with certainty, a successful termination, I would not raise my voice against this legislation or any other legislation that might have in my judgment that tendency. I submit to the Senate whether it is proper, whether it is politic, whether, if they permit me to say so, it is humane to pass a law which may cause a great deal more trouble in these States where the general feeling is that of loyalty, when no good, looking to any actual, practical, valuable result, is to be the consequence.

Let them be free, and that they are soon to be. You have made them free in a great measure, and by that I am not to be understood as thinking that

because you bring them into the Army they are free. What I have meant in relation to that subject upon former occasions is simply that after you have called upon them to serve you in the military service of your country, to achieve the safety of your nation, they have a right as against you to be free, and that it would be dishonorable if you did not see that that right was acknowledged. But they are about to be free by our own legislation; at least I think so, certainly hope so. Let them be free. Let them come, then, to be as respectable as the respectable colored gentleman to whom the Senator from Massachusetts has referred. I am not one of those who think they cannot become respectable by education; and I am very far from thinking that they are not just as likely to tell the truth as other people in the same condition of mental and moral cultivation, and that consequently when they become educated, morally and intellectually—the one will follow from the other—we shall be able to have them upon the stand, and glad to have them upon the stand, to testify to whatever may have fallen within their observation, to be believed or not as they may undergo the tests to which white men are subjected, the test of cross-examination, the test of their personal appearance, and the test of contradictory evidence.

I ask the Senate at any rate, if they will pass a bill changing the law of evidence in the States where slavery now exists and where these black persons are, they will at least confine the amendment so as to only justify him to be a witness, if a colored man, who is free as well as colored. It is an easy thing for you, gentlemen; yours are all free; and in my opinion what you are, the prosperity you have attained, is in a great measure owing to the fact that there is no slavery in your midst—an opinion which, as I said before, is not formed now for the occasion, certainly not formed with a view to jump from one party into another.

I again submit, in conclusion, that if it is to pass in any form, I think Maryland would be better pleased, the loyal men of Maryland would be better pleased, the peace of the State would be much more likely to be promoted by confining it to free blacks, and leaving the slave blacks to stand under our law as it has been from the beginning.

Mr. HALE. I move to postpone the further consideration of this bill, and that the Senate proceed to the consideration of executive business. The motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. GRIMES. Before the doors are closed, I ask the unanimous consent of the Senate to move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

COTTON SPECULATIONS BY OFFICERS.

Mr. POWELL. Before the doors are closed, I ask the unanimous consent of the Senate to take up a resolution I offered a few days ago asking for certain information from the Secretary of War.

Mr. GRIMES. Let the resolution be read.

The Secretary read it, as follows:

Resolved, That the Secretary of War be directed to transmit to the Senate the report and evidence taken by the military commission, at the head of which was Major General Irwin McDowell, appointed to investigate the conduct of officers of the Army, and others engaged in the military service, in cotton or other speculations.

The VICE PRESIDENT. Is there any objection to taking up the resolution?

Mr. GRIMES. Yes, sir; I object to taking it up.

The VICE PRESIDENT. Objection being made, the motion to take up the resolution cannot be entertained.

Mr. POWELL. I desire to ask if the Secretary has transmitted a copy of the resolution I offered some days since, touching orders given to the provost marshals, to the Department.

The VICE PRESIDENT. The Senator can inquire privately of the Secretary, but he cannot propound a question in the Senate to the Secretary of the Senate.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the

House had passed the joint resolution of the Senate (No. 19) of thanks of Congress to Commodore Cadwalader Ringgold, the officers and crew of the United States ship Sabine.

The message also announced that the House had passed the following bill and joint resolutions; in which it requested the concurrence of the Senate:

A bill (No. 261) to provide for the voluntary enlistment of any persons, residents of certain States, into the regiments of other States.

A joint resolution (No. 13) tendering the thanks of Congress to Admiral Porter; and

A joint resolution (No. 21) relative to the accounts of the petty officers, seamen, and others of the crew of the United States gunboat Cincinnati.

LIEUTENANT GENERAL.

Mr. WILSON, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 26) reviving the grade of lieutenant general in the United States Army, submitted the following report:

The committee of conference appointed to take into consideration the disagreeing votes of the two Houses on the bill (H. R. No. 26) reviving the grade of lieutenant general in the United States Army, having met, after full and free conference do recommend to their respective Houses as follows:

That the House of Representatives do recede from its disagreement to the first amendment of the Senate, and agree to the same.

That the House of Representatives do recede from its disagreement to the second amendment of the Senate, and agree to the same.

That the Senate do recede from its third amendment, and agree to the bill of the House of Representatives with the following amendments, namely: 1. After the word "ability" in the eleventh line of the first section of said bill strike out the word "and." 2. Strike out the word "shall" in the thirteenth line of said section, and insert the word "may" in lieu thereof. 3. After the word "direction" in the thirteenth line of said section insert the words, "and during the pleasure." 4. Strike out all of the said section after the word "States" in the fifteenth line thereof. And that the House of Representatives do agree to the said amendments.

HENRY WILSON,

H. S. LANE,

REVERDY JOHNSON,

Managers on the part of the Senate.

E. B. WASHBURN,

A. McALLISTER,

R. E. FENTON,

Managers on the part of the House.

The report was concurred in.

The bill as thus amended is as follows:

Be it enacted, &c., That the grade of lieutenant general be, and the same is hereby, revived in the Army of the United States; and the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a lieutenant general, to be selected from among those officers in the military service of the United States, not below the grade of major general, most distinguished for courage, skill, and ability, who, being commissioned as lieutenant general, may be authorized, under the direction and during the pleasure of the President, to command the armies of the United States.

Sec. 2. And be it further enacted, That the lieutenant general, appointed as hereinbefore provided, shall be entitled to the pay, allowances, and staff specified in the fifth section of the act approved May 28, 1793; and also the allowances described in the sixth section of the act approved August 23, 1842, granting additional rations to certain officers: *Provided*, That nothing in this bill contained shall be construed in any way to affect the rank, pay, or allowances of Winfield Scott, lieutenant general by brevet, now on the retired list of the Army.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 151) making appropriations for the naval service for the year ending June 30, 1865—to the Committee on Finance.

A joint resolution (No. 42) authorizing payment of prize money due to Commander Abner Read, United States Navy, to his widow, Constance Read—to the Committee on Naval Affairs.

A joint resolution (No. 41) to continue the payment of bounties—to the Committee on Military Affairs and the Militia.

A joint resolution (No. 43) authorizing the settlement of the accounts of J. N. Carpenter, a paymaster in the United States Navy—to the Committee on Naval Affairs.

A bill (No. 261) to provide for the voluntary enlistment of any persons, residents of certain States, into the regiments of other States—to the Committee on Military Affairs and the Militia.

A joint resolution (No. 13) tendering the thanks of Congress to Admiral Porter—to the Committee on Naval Affairs.

A joint resolution (No. 21) relative to the accounts of the petty officers, seamen, and others of the crew of the United States gunboat Cincinnati—to the Committee on Naval Affairs.

WAREHOUSING OF IMPORTED GOODS.

The bill (H. R. No. 230) to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes, was read by its title.

Mr. FESSENDEN. I ask the unanimous consent of the Senate to put that bill on its passage now.

There being no objection, the bill was read three times, and passed.

It provides that all goods, wares, and merchandise now in public stores or bonded warehouses, on which duties are unpaid, and which shall have been in bond more than one year and less than three years at the time of the passage of the act, may be entered for consumption, and the bonds canceled at any time before the 1st of June next on payment of duties and charges according to law. It also provides that the term "license," in the first proviso to the fifteenth section of the act increasing temporarily the duties on imports, and for other purposes, approved July 14, 1862, shall be held to extend to all vessels authorized by law to engage in the coasting trade, whether sailing under registers or enrollments and licenses.

On motion of Mr. WADE, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 26, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

REPORT OF CAPTAIN J. L. FISK.

Mr. WALLACE asked unanimous consent to introduce the following resolution:

Resolved, That the Secretary of War be, and is hereby, requested to furnish this House with a copy of the report of Captain J. L. Fisk relative to his late exploration to the Rocky mountains, the gold fields of Idaho, &c., now on file in the office of the Adjutant General.

Mr. WASHBURN, of Illinois. I have no objection to the resolution provided it be modified by inserting "directed" in place of "instructed."

Mr. WALLACE. I accept that modification. The resolution, as modified, was introduced, read, considered, and agreed to.

POST ROUTES IN UTAH AND IDAHO.

Mr. WALLACE, by unanimous consent, presented the memorial of the Legislature of Idaho in reference to the establishment of certain post routes in Utah and Idaho; which was referred to the Committee on the Post Office and Post Roads.

CADETS AT WEST POINT.

Mr. STROUSE, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of increasing the number of cadets at the West Point Military Academy; and to report by bill or otherwise.

PAY OF OFFICERS ABSENT ON LEAVE.

Mr. STROUSE, by unanimous consent, also introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of repealing so much of section thirty-one of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, as relates to the pay and allowance of officers absent with leave.

SOLDIERS OF THE WAR OF 1812.

Mr. SPALDING, by unanimous consent, introduced a bill granting pensions to the surviving soldiers of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

BRIGADIER GENERAL G. W. MORGAN.

On motion of Mr. COX, the following resolution, laid over from a previous day, was by unanimous consent taken up, read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to this House copies of a communication from Brigadier General G. W. Morgan to Adjutant General Thomas, dated Mount Vernon, Ohio, June 6, 1863, and the exhibits thereto attached, marked from "A" to "Q" inclu-

sive, the same being in reply to that portion of the official report of Major General Halleck, dated December 2, 1863, relative to the evacuation of Cumberland Gap.

PUBLIC LANDS IN WISCONSIN, ETC.

On motion of Mr. SLOAN, the Committee on Public Lands were discharged from the further consideration of a resolution in relation to the discontinuance of the surveyor general's office, and providing for surveys of land in Wisconsin and Iowa, and the same was referred to the Committee of Ways and Means.

MISSOURI TROOPS.

Mr. BOYD, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Whereas the State authorities of the State of Missouri have heretofore enrolled into service all persons liable to military service; and whereas they have been designated as enrolled Missouri militia and provisional militia by said State authorities; and whereas said soldiery have been turned over to and have been acting under orders of the military commandant of the department of Missouri; and whereas the four regiments of such soldiery in the fourth congressional district of said State have been in active service for more than twelve months, and have done good and gallant service; and whereas the State of Missouri has failed to provide for the payment of said soldiery, who, in a great measure, at various times, protected and saved the property of the United States, valued at millions of dollars; and whereas said soldiery have ever acted with a cheerfulness and alacrity in obedience to orders: Therefore,

Be it resolved, That the Military Committee be instructed to inquire into the justice and expediency of paying said soldiery according to their muster-in rolls the same as volunteers, and that the said soldiery be placed on same footing, as to pay, pension, bounty, &c., as United States soldiers; and report by bill or otherwise.

ADJOURNMENT OVER.

Mr. STILES. I rise to a privileged question. I move that when the House adjourns to-day it adjourn to meet on Monday next.

The SPEAKER. The Chair would state that he is informed by the chairman of the Committee of Ways and Means that he proposes to make to-morrow a day for general debate in Committee of the Whole, when no vote shall be taken.

Mr. STEVENS. I hope by unanimous consent we shall meet to-morrow and consider the President's message, with the understanding that nothing shall be done except debate, so that gentlemen who desire may speak. That will save a great deal of time.

By unanimous consent the suggestion of Mr. STEVENS was agreed to.

Mr. STILES. I withdraw my motion.

WESTERN CLAIMS.

Mr. BOYD, by unanimous consent, introduced a bill to authorize the payment of certain claims in the Western department; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. WASHBURN, of Illinois, demanded the regular order of business.

PUNISHMENT OF TRAITORS.

Mr. HIGBY. I ask the gentleman from Illinois to allow me to introduce a bill for reference.

Mr. WASHBURN, of Illinois. I understand the gentleman from California is obliged to leave the city, and hence I withdraw my call for that purpose.

Mr. HIGBY, by unanimous consent, introduced a bill to exclude traitors and alien enemies from the courts of the United States in civil cases and from the public lands; which was read a first and second time, and referred to the Committee on the Judiciary.

PAYMENT OF BOUNTIES.

Mr. SCHENCK. I ask the gentleman from Illinois [Mr. WASHBURN] to allow me to offer from the Committee on Military Affairs a joint resolution extending the time for the payment of bounties.

Mr. WADSWORTH. I object, and call for the regular order of business.

Mr. WASHBURN, of Illinois. I withdraw my call.

Mr. WADSWORTH. I do not withdraw mine.

Mr. ODELL. This bill is one of importance to the country, and it is important that it should be acted upon now. It is a bill to extend the time for the payment of bounties to veterans who recruit. The time expires on Sunday.

Mr. SCHENCK. I think this matter has not been fully understood.

Mr. FINCK. I object to the gentleman making a statement.

Mr. ASHLEY. I ask unanimous consent of the House to set apart the second Thursday and Friday of March for the consideration of territorial business after the morning hour, and that the territorial bills in committee be then made the special order.

Mr. HARDING. I object.

Mr. BLAIR, of Missouri. I understand the gentleman from Kentucky to have withdrawn his demand for the regular order of business.

The SPEAKER. The Chair does not so understand. The gentleman from Kentucky took his seat without replying to the inquiry of the Chair whether he withdrew his objection.

Mr. WADSWORTH. I have made no objection to the unanimous consent asked by the gentleman from Ohio [Mr. ASHLEY] just now.

The SPEAKER. The Chair so understands. The gentleman's colleague [Mr. HARDING] objected.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports of a private nature, commencing with the Committee on Indian Affairs.

Mr. ODELL. I understand that the gentleman from Kentucky [Mr. WADSWORTH] does not object to the reporting of the joint resolution in relation to bounties.

The SPEAKER. The gentleman from Illinois demands the regular order of business.

Mr. WASHBURN, of Illinois. I withdraw my demand for the regular order of business so that the gentleman from Ohio [Mr. SCHENCK] may report the resolution to extend the time for the payment of bounties.

Mr. HOLMAN. I call for the regular order of business.

The SPEAKER. The Chair will again state the proposition. The gentleman from Ohio [Mr. SCHENCK] asks the unanimous consent of the House to report from the Committee on Military Affairs a joint resolution to extend the time for the payment of bounties. Is there objection?

Mr. HOLMAN. I withdraw my objection.

The SPEAKER. The Chair hears no objection.

Mr. SCHENCK. I send up the joint resolution, which is a report from the Military Committee.

Mr. WADSWORTH. I have not withdrawn my objection to the reporting of that resolution by the gentleman from Ohio.

The SPEAKER. Then the Chair was misinformed.

Mr. WADSWORTH. I did not withdraw the objection.

Mr. ODELL. I believe I misled the Chair and the House. I made the statement that the gentleman withdrew his objection, as I understood him to say that he would do so if I asked him to do it; hence I made the statement.

Mr. WADSWORTH. I said I would not object to any request the gentleman from New York himself made of the House.

The SPEAKER. The Chair will state to the gentleman from Kentucky that he is under the impression that his objection comes too late, as the Chair stated distinctly and audibly, after the remark of the gentleman from New York, [Mr. ODELL], that he would again state the proposition; he did so, and no objection was made. The Chair therefore thinks the objection comes too late. The Chair desires to do justice to both sides of the House, but he stated the question distinctly, and thereupon the gentleman from Indiana, [Mr. HOLMAN], who had called for the regular order of business, rose and stated that he withdrew his objection, and the Chair heard no other objection.

Mr. WADSWORTH. I have not objected to any consent asked by the gentleman from New York, [Mr. ODELL]. I objected only to the consent asked by the gentleman from Ohio, [Mr. SCHENCK].

Mr. ODELL. That was my understanding.

The SPEAKER. The Chair stated the matter distinctly, and no objection was made. The joint resolution is before the House.

The joint resolution was read a first and second time. It provides that the bounties authorized to

be paid under existing laws and regulations and orders of the War Department to veterans re-enlisting or persons enlisting in the regular or volunteer service of the United States for three years or during the war shall continue to be paid from the 1st day of March, 1864, to the 1st day of April, anything in any law or regulation to the contrary notwithstanding; said bounties to be paid out of any money already appropriated for such purposes.

Mr. SCHENCK. I demand the previous question on the joint resolution.

Mr. COFFROTH. I would ask the gentleman to amend the joint resolution by providing that all veterans who re-enlist shall be credited to the different towns and election districts from which they come.

The SPEAKER. That amendment would not be in order pending the demand for the previous question.

Mr. SCHENCK. I withdraw the demand for the previous question simply to say to the gentleman from Pennsylvania that that is already the provision of law, and if it were repeated twenty times in this resolution it would not make it any stronger. The law requires that to be done now.

Mr. COFFROTH. The Provost Marshal General has issued an order in antagonism to what the gentleman states to be the law.

Mr. SCHENCK. Then he must be held to obey the law. That is all I can say.

Mr. RANDALL, of Pennsylvania. I desire to ask the gentleman whether any provision is made in this resolution for giving bounty to the heirs of those who lost their lives in the service prior to July, 1861.

Mr. SCHENCK. That matter is not relevant at all to this resolution. This resolution merely relates to the payment of bounties upon re-enlistment or enlistment, extending the time from March 1, when the law expires, to the 1st of April, so as to promote enlistments and prevent the necessity of a draft. I now demand the previous question.

The previous question was seconded, and the main question ordered, and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCHENCK moved the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENLISTMENTS IN SOUTHERN STATES.

Mr. BLAIR, of Missouri. I ask unanimous consent to report back from the Committee on Military Affairs a bill to provide for the voluntary enlistment of any persons, resident in certain States, into the regiments of other States.

Mr. STEVENS. Is that a private bill?

Mr. BLAIR, of Missouri. It is not.

Mr. STEVENS. Then I must object, as this is private bill day.

PRIVATE BUSINESS.

Mr. ELIOT called for the regular order of business.

The SPEAKER stated that the regular order of business was the call of committees for reports of a private character, beginning with the Committee on Indian Affairs.

CONSTANCE READ.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back, with a recommendation that it do pass, a joint resolution authorizing the payment of prize money, due to Commander Abner Read, of the United States Navy, to his widow, Constance Read.

The joint resolution was read. It authorizes the proper accounting officers to pay to Constance Read, widow of Commander Abner Read, late of the United States Navy, the share of prize money due or to become due to said Abner Read for prizes taken by the United States vessel New London while under his command in 1861.

Mr. RICE, of Massachusetts, moved the pre-

vious question on the engrossment and third reading of the joint resolution.

The previous question was seconded, and the main question ordered; and under its operation the joint resolution was engrossed and read the third time.

The question recurred on its passage; and the joint resolution was passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAYMASTER CARPENTER.

Mr. RICE, of Massachusetts, from the same committee, also reported back, with a recommendation that it do pass, a joint resolution for the relief of J. M. Carpenter; and moved the previous question on its third reading.

The joint resolution was read. It authorizes the proper accounting officers of the Treasury, in settling the accounts of J. M. Carpenter, paymaster in the United States Navy, to credit him with the sum of \$200, being the value of clothing stolen from the United States sloop Saratoga, after said vessel had been put out of commission, in Philadelphia, in July, 1863.

The previous question was seconded, and the main question ordered; and under its operation the joint resolution was engrossed, and read the third time.

The question recurred on the passage of the joint resolution; and it was passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CREW OF THE CINCINNATI.

Mr. RICE, of Massachusetts, from the same committee, also reported back, with a recommendation that it do pass, the joint resolution relative to the accounts of the petty officers, seamen, and others of the crew of the United States gunboat Cincinnati, and moved the previous question on its third reading.

The joint resolution authorizes the proper accounting officers of the Treasury, in settling the accounts of the petty officers, seamen, and others of the crew of the United States gunboat Cincinnati, to allow to each of them all back pay, and a sum not exceeding fifty dollars for the loss of clothing and other property by the sinking of said vessel on the Mississippi river, near Vicksburg, on the 27th of May, 1863.

The previous question was seconded, and the main question ordered; and under its operation the joint resolution was engrossed and read the third time.

The question recurred on the passage of the joint resolution; and it was passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CREW OF THE MONITOR.

Mr. RICE, of Massachusetts, from the same committee, also reported back the joint resolution to compensate the crew of the United States steamer Monitor for clothing lost in the public service, and asked that the committee be discharged from its further consideration, inasmuch as provision had already been made for the case by the act of Congress of March, 1863.

It was so ordered.

Mr. MILLER, of Pennsylvania. It strikes me that the law passed at the last session of Congress, to which the gentleman refers, was defective, inasmuch as it provided no means for paying the men. This resolution was introduced for the purpose of curing that defect. I think if the gentleman will compare the two he will find there is a difference.

Mr. RICE, of Massachusetts. The committee has been discharged from the further consideration of the subject, but if the House will allow me I will say to the gentleman from Pennsylvania that the resolution of March 3, 1863, authorizes the accounting officers of the Treasury, in settling the accounts of these men, to credit each of them with the amount of sixty dollars.

PAYMASTER E. C. DORAN.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back Senate bill No. 94, to authorize the settlement of the accounts of Paymaster E. C. Doran, with the recommendation that it do pass.

The bill provides that all the payments made by William H. Peters, of Virginia, to the mechanics, laborers, and other employees of the Norfolk navy-yard for wages due to them by the United States for services and labor rendered to the 20th of April, 1861, and the rolls and vouchers thereon on file in the office of the Fourth Auditor of the Treasury, shall be legalized for the benefit of Paymaster Edward C. Doran, of the United States Navy; and that the accounting officers of the Treasury shall be authorized to credit Paymaster Edward C. Doran, in the settlement of his account, with the sum of \$29,381.

Mr. RICE, of Massachusetts, demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

COMMODORE W. D. PORTER.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, moved that that committee be discharged from the further consideration of the petition of Commodore W. D. Porter, United States Navy, for bounty, the subject having been already provided for, and that it be laid upon the table.

The motion was agreed to.

THANKS TO ADMIRAL PORTER.

Mr. RICE, of Massachusetts, from the same committee, reported back House joint resolution (No. 13) extending the thanks of Congress to Admiral Porter, with the recommendation that it do pass.

The joint resolution provides that the thanks of Congress be tendered to Admiral David D. Porter, commanding the Mississippi squadron, for eminent skill, endurance, and gallantry exhibited by him and his squadron, in cooperation with the Army, in opening the Mississippi river.

Mr. FINCK. I desire to ask the chairman of the Committee on Naval Affairs a question.

Mr. RICE, of Massachusetts. I yield for that purpose.

Mr. FINCK. I introduced resolutions some weeks ago tendering the thanks of Congress to Captain Walke, United States Navy, and had them referred to the Committee on Naval Affairs, and I would be glad to know what has become of them.

Mr. RICE, of Massachusetts. The committee has not yet reached the subject. We will do so the first opportunity and report on it to the House. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

THANKS TO COMMODORE RINGGOLD.

Mr. RICE, of Massachusetts, from the same committee, reported back Senate joint resolution (No. 19) of thanks of Congress to Commodore Cadwalader Ringgold, the officers and crew of the United States ship Sabine, with the recommendation that it do pass.

The joint resolution provides that the thanks of Congress be tendered to Commodore Ringgold, the officers, petty officers, and men of the United States ship Sabine, for the daring and skill displayed in rescuing the crew of the steam transport Governor, wrecked in a gale on the 1st of November, 1861, having on board a battalion of United States marines under the command of Major John S. Reynolds, and in the search for and rescue of the United States ship Vermont, disabled in a gale

on the 26th of February 1862, with her crew and freight; and that the Secretary of the Navy be directed to communicate the resolution to Commodore Ringgold, and through him to the officers and men under his command.

Mr. RICE, of Massachusetts, demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ENLISTMENTS IN SOUTHERN STATES.

Mr. BLAIR, of Missouri, by unanimous consent, from the Committee on Military Affairs, reported back House bill No. 261, to provide for the voluntary enlistment of any persons, residents of certain States, into the regiments of other States, and demanded the previous question.

Mr. COX. I hope the gentleman will withdraw the demand for the previous question.

Mr. BLAIR, of Missouri. Certainly.

Mr. COX. If I understand the bill, it allows the recruiting agents of certain States to go into other States where the draft has not obtained.

Mr. BLAIR, of Missouri. That is the purport of it.

Mr. COX. I understand that credit is to be given to the State where the recruiting takes place. I do not know that I will object to it, but I do think notice ought to be given to the different State Executives that a system of recruiting is now going on unjust and unfair to some of the States. I have been informed by my colleague [Mr. FINCK] that two regiments recruited and called Tennessee regiments belong really to the State of Ohio, and I have a letter from an officer of the Army that the same thing is being done near this city.

Mr. DAWES. Is the bill before the House?

The SPEAKER. It is.

Mr. BLAIR, of Missouri. The evil of which the gentleman complains has nothing to do with the bill before the House. If there is any action necessary to prevent the evil of which he complains, he ought to introduce a bill. I believe the law as it now exists would amply prevent the troops of Ohio from being enlisted into the troops of another State. I believe such is the law or order of the Department at the present time. But this bill names certain States—Virginia, North Carolina, South Carolina, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas—as the States in which persons resident there may be enlisted in the regiments of other States; and it provides that those States, or the subdivisions of those States, procuring the enlistments in the States named, may have the men credited to them on the draft.

This action will be beneficial to the Union people of those rebel States, for the reason that it will enable them to support their families. The men there who want to go into our Army have no means of doing so, and if they do go in, they have no means of supporting their families. Under this bill those men can get the local and State bounties as well as those of the General Government, and that will provide a fund out of which their families can be supported, white men as well as black. They will thus cease to be a charge upon the General Government. I conclude, from every point of view, that this provision will enable us to largely increase our armies.

Mr. COX. I refer to this matter because I believe the law, as it stands at present, is sufficient to prevent such enlistments; but the trouble is, the War Department either suffers its officers or is itself engaged in taking troops from other States and putting them into regiments from States where they pay more bounties. I think perhaps it would be well in this bill to insert a provision providing that this law shall apply to no States except those enumerated in the act.

Mr. BLAIR, of Missouri. It cannot apply to any other State.

Mr. COX. There is a sort of swindling operation going on in this business. I want the information, at least, to go to the country that the

War Department is not doing right in this matter in certain States. I have a communication in my hands from which I will read:

"Agents from Troy, New York, have induced the eleventh, twelfth, seventeenth, and possibly other regular infantry regiments to reenlist, and to give the credit of their reenlistment to Rensselaer county, New York."

"The bounty offered, including the Government bounty, is \$852; local bounty paid down, \$300. The men of the eleventh and seventeenth infantry who have reenlisted have been paid. Those of the twelfth infantry are to be paid next week."

"In the regular brigade several hundred men are from Ohio—the greater part of them from the West. The exact number I would not state without examining the regimental rolls."

"Mustering officers inform me that local recruiting agents induce either regulars or volunteers from any State or county to reenlist and accept their local bounties whenever and wherever they can."

Now, no credit is given to the State from which those people come. I do not wish to embarrass the bill of the gentleman, but I desire to have notice given to the War Department that we want fair play, at least toward the States of the West who are thus treated.

Mr. BLAIR, of Missouri. I know that is the existing law at the present time, and if the Secretary of War disregards the law there is a way of making him regard it. But I do not believe the insertion of that provision in this bill is necessary. I know of thousands of men in the service in Missouri regiments who were credited to Illinois. All the members from Illinois must be familiar with the facts. At one time we were prepared to raise troops in Missouri, and because Illinois men could not get into the service in their own State they came over to Missouri and enlisted; and they were credited to Illinois.

Mr. FINCK. In connection with this discussion I desire to state to the House that the district I represent is the one to which my colleague [Mr. Cox] has referred. I have been advised by letter from that district that the seventeenth and thirty-first Ohio regiments have reenlisted and been credited to the State of Tennessee, thereby depriving that section of the State of the large number of men comprised within those two regiments.

I placed that letter in the hands of the Provost Marshal General. He promised me that he would refer the letter to the Solicitor of the War Department, and have a decision on the case. The provost marshal of the district, I am informed, does not think he is authorized to credit these men to the quota of the district without an order from the War Department. I think it would be an act of great injustice to Ohio, and especially to that portion of the State in which these men reside, and whose families are entitled to the provisions made by Ohio for the support of the families of volunteers, if they should be credited to the State of Tennessee. I have prepared a resolution on this subject, asking information from the Secretary of War, which I will, at the proper time, introduce; and I hope we shall be able to apply some remedy, if it should turn out that Ohio soldiers are being enlisted by and credited to other States. What we wish, sir, is that citizens of Ohio who are engaged in the military service of the United States shall be credited to that State; and if the present legislation does not fully effectuate that purpose, then I trust we will make suitable provision to carry out what seems to commend itself by its fairness and equality among the several States.

Mr. BLAIR, of Missouri. This matter has no application to the bill now before the House. That matter is already provided for by law; and this bill only permits the several States to recruit in the rebel States.

Mr. WADSWORTH. Mr. Speaker, I wish, with the permission of the gentleman from Missouri, to express my dissent from this bill. I have heretofore, by voice and vote, explained the position I occupy on the subject of negro enlistments. I do not now propose to say anything upon that subject. But this bill embodies a new feature. It authorizes the people of other States to recruit for their quotas in rebel States. Hitherto the legislation of the country has not gone to that extent, and I do not think it ought to go that far. These States owe military service to this Government as much as any other States, as fast as our authority is extended over them. Such of their citizens, and if you choose to include in that their negroes, as enlist in the Army of the United States ought to be credited upon the quotas of the States

to which they belong; nor ought we to tolerate this thing of States with money, States engaged in trade and commerce, with Carthaginian souls, going into other States and buying their men, instead of furnishing their own men to fill their own quotas. Those States which have no money to expend in this way must furnish their freemen. The rich man is to buy a rebel negro, to serve with the poor white man—that is the policy. We do not want States when they are called upon to furnish troops to be allowed to go to other States and there furnish their quotas upon Carthaginian principles. I prefer the white man of New England for a soldier to any negro in America; he is a nobler and better guardian of our flag and honor. The way of making war by purchasing the blood and muscle of other lands with money may succeed, but history is against it. A State that depends upon the people of other States to do its fighting in the long run will be a loser by it. States with money that are able to subsidize a people that have soldiers, or to form alliances with States that have soldiers, may triumph in a long war, and it has been done; but, sir, in that struggle for preeminence which is inevitable in an association of commonwealths like this of ours, States that depend upon the people of other States to do their fighting will at last decline and go down, and they ought to go down. If gentlemen are determined to prosecute this policy of bringing a subject race into this contest upon every principle that degrades a people, to bring them into a contest in which they have no interest in the world, on the principles of the very individuals who claim to bring them into it, at all events do not let them go to the extent of saying that the inhabitants recruited in one State shall be credited to the quota of another State.

I am prepared, sir, to give a candid and hearty support to this Government in the prosecution of the war against armed rebellion. I am prepared to see that my State does her whole duty in the contest, but I must now protest, as I have before done, against the whole policy of arming the negro and bringing him into this contest. At all events, let gentlemen be honest and candid. If they will arm the negro they are logically bound to recognize his freedom and equality. They cannot as they now do deny him all claim to recognition in this war, all claims to political recognition and social recognition, and yet call upon him to shed his blood in this war, to exchange one state of slavery for another equally odious, if not far more odious. Who could have any respect for a race of people that would freely give its blood in a contest like this to uphold the integrity and honor of the country when they are to have no part nor lot in the privileges of that country? I have been amazed at the claim set up that a slave owes military service to the Government—a Government that denies him all the rights of a citizen.

Mr. BLAIR, of Missouri. Mr. Speaker, I yielded to the gentleman for a discussion of this bill, but I must claim the floor because the gentleman is discussing a policy which has already been decided by the House. There is no new policy in this bill.

Mr. WADSWORTH. I think the gentleman is mistaken. I incidentally refer to these questions. I have not risen to discuss them. I am sorry the gentleman interrupts me—at all events in the middle of a sentence. I do not know how disagreeable the views I am presenting may be to the gentleman, when I am deprecating calling upon the African to fight for the honor of our flag and to preserve our national integrity, and yet denying him all the rights and privileges of a citizen. I would scorn to do it. When I want him to come in to help me to preserve the country, I will invite him upon terms of equality. If he is fit to fight with me he is fit to vote and hold office with me, and to enjoy all the rights of citizenship. I hope the people of Kentucky will always be ashamed to hold the negro in slavery, yet call upon him to render the highest and noblest service due to a State, basely skulking from duty themselves. Hence it is that I condemn the whole policy of arming negroes. Hence it is that I advise Kentucky, when she is called on for soldiers, to furnish free men. The people of a State who are willing to do the voting for slaves and negroes must also do the fighting for slaves and negroes, else they are degraded.

But, sir, I rose to protest against this new feat-

ure of permitting people with money in one State to go into other States and purchase soldiers instead of furnishing their own soldiers. What guarantee have we of the good behavior of States like that, if they grow rich by war, as the East is doing by this war, and be allowed to purchase soldiers of other States? Will they not grow fond of war? Will they ever want to see the war terminated? If while the war lasts they can declare dividends of ten per cent. in gold each six months on their industrial enterprises and lay by a large improvement and reserve fund, as many are now doing, and then be allowed to purchase the thews and sinews of the people of other States, will they ever want to give up war? And if war shall become a habit, will they not by and by enslave the rest of the States? The bill proposes, sir, to let some of the States keep their labor at home and grow rich and powerful by the war while other States are wasted, depopulated, and impoverished. Let us require each State to furnish its own men, whether they be black or white.

Mr. BLAIR, of Missouri. I wish to reply to some of the remarks of the gentleman from Kentucky. I do not hold with him that this is a war between certain States and certain other States. It is a war between the Government of the country and men in rebellion against it. I believe that we can as well employ a loyal man from the South in a Massachusetts regiment as to have the regiment entirely filled with Massachusetts men. I know very well from what I have seen myself that there are thousands of men in the southern States anxious and willing to go into the service of the Government; but as yet there has been no provision made by which their families can be taken care of; and if they do join the Army, they leave their families unprotected and unprovided for. These men have no bounties from the General Government, and of course have none from their States. Thousands on thousands of loyal men could be had to enter the service, if there were only bounties provided for them to support their families during their absence. I do not agree with the gentleman from Kentucky that we should not avail ourselves of the courage and vigor of those loyal men of the South to assist in fighting our battles. It is more their battle than it is that of Massachusetts. The loyal men of the South have more interest in upholding the Government than the men of the North have, for they have felt the dire effects of the war more than the people of the northern States. I do not believe that there is war between Massachusetts and South Carolina. I do not concur with the gentleman in any such sentiment, nor in any of the consequences that flow from it. That is the very doctrine that made this war—the States rights doctrine run mad.

Mr. J. C. ALLEN. I desire to make a suggestion.

Mr. BLAIR, of Missouri. I yield to the gentleman from Illinois for that purpose; but I give notice that I will move the previous question before my hour expires.

Mr. J. C. ALLEN. I simply desire to suggest to the gentleman from Missouri, whether it would not be better to let the Union men of these rebel States organize themselves there and make a nucleus around which the Union sentiment of those States might rally. Would it not be better to do that than to take away the Union men and attach them to the regiments of other States? It strikes me that the very best way to put down the rebellion is to rally the Union sentiment of the southern States, and make provision to pay bounties to these men as regular soldiers. Let us make a rallying point of the Union sentiment there, and let the people of the northern States furnish their own quotas.

Mr. BLAIR, of Missouri. I will say in reply to the gentleman from Illinois, that that can be done now, and that it has been done to some extent in North Carolina. But this is a more efficacious mode to provide for giving them larger bounties, because it adds to the bounty of the United States the local bounties. I am in favor of their getting the largest bounty, because I want their families well provided for. I renew the demand for the previous question.

Mr. GARFIELD. I ask the gentleman to yield to me for a moment.

Mr. BLAIR, of Missouri. Certainly. I withdraw the demand for the previous question.

Mr. GARFIELD. Mr. Speaker, I wish to make a statement to the House in regard to this bill. It refers to a matter of which I have practical knowledge. The only regiment of white men raised in any of the States mentioned in this resolution was raised mainly by officers under my command in the summer of 1862, and raised in three days. As my command was passing from Corinth, Mississippi, to Decatur, Alabama, I learned that in the range of the Sand mountains to the south of us, the caves and fastnesses were filled with Union men, men who had stood out against the rebellion and the conscription agents, and successfully defended themselves against every attack and attempt to force them into the rebel service. I sent Colonel Streight (now out of Libby prison, I hope,) with his command, and in three days he raised nearly four hundred men. A woman who lived in those mountains came to us to ask that these men might enlist. Women brought in husbands, sons, and brothers. One woman brought thirty-five men who immediately enlisted in the service.

I tell you that I have never seen Union men like those in the mountains stretching from the sand hills of Mississippi to Georgia, Tennessee, and Virginia. The hills swarmed with Union men, true and good; and this proposition is that those who cannot receive bounty, for whom there is no organization, where there is no arrangement by which they can receive commissions or raise regiments, that the States which have money to pay for volunteers may come and pay bounties and enlist these men, that the bounty may go to the maintenance of their families. It seems to me that there is no proposition which has yet come before the House which has had more solid sense and wise statesmanship. It provides not only that those men shall be protected and their families taken care of, but that the Union sentiment shall be strengthened and promulgated throughout the rebel States.

To the bill before the House the only objection—except the everlasting black one which comes up always when anything is offered for the good of the country and to suppress the rebellion—was that presented by the gentleman on the other side, that it would be unjust to the poorer States who cannot compete with the richer ones in getting volunteers. It does not wrong me that my neighbor is more prosperous than I. His prosperity does not make me any the less prosperous. If I do nothing for myself I will not oppose his advancement. If Massachusetts is richer than Ohio in proportion to its population I will not rail at that State for getting more Union men of the South into the Army than Ohio does. Such State jealousy is unmanly, and unworthy, a great people engaged in a great cause. I am glad that we have rich States able and willing to pay bounties to the men of Georgia and Alabama, and thus help to swell the ranks of our Army. I hope the bill will pass.

Mr. BLAIR, of Missouri. I must take the floor.

Mr. COX. I ask the gentleman to yield to me to move an amendment.

Mr. BLAIR, of Missouri. Certainly.

Mr. COX. I move to add the following:

And provided further, That when enlistments shall be made of any soldier, either in or out of any State, except those enumerated herein, full credit shall be given to the State to which the enlisted soldier belongs.

Mr. BLAIR, of Missouri, demanded the previous question.

The previous question was seconded, and the main question ordered.

The amendment was adopted.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WADSWORTH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 44; as follows:

YEAS—Messrs. Alley, Ames, Anderson, Arnold, Ashley, Bailly, John B. Baldwin, Beaman, Francis P. Blair, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Daves, Dawson, Deming, Donnelly, Driggs, Dumont, Eckley, Eliot, English, Fenton, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Highy, Hooper, John H. Hubbard, Jencks, Julian, Kelley, Francis W. Kellogg, Longyear, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Perham, Pike,

Price, William H. Randall, Alexander H. Rice, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Starr, John B. Steele, William G. Steele, Stevens, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Winfield, and Woodbridge—82.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, Chanler, Clay, Coffroth, Cox, Denison, Eden, Eldridge, Finck, Ganson, Grider, Harding, Harrington, Herrick, Hutchins, William Johnson, Kalbfleisch, Knapp, Law, Long, Mallory, Marcy, McDowell, McKinney, William H. Miller, Morrison, Nelson, Noble, Pendleton, Robinson, Ross, Stiles, Strouse, Stuart, Sweat, Thomas, Voorhees, Wadsworth, Webster, and Chilton A. White—44.

So the bill was passed.

During the vote,

Mr. MORRILL stated that his colleague, Mr. BAXTER, was detained from the House by illness.

The vote was then announced as above recorded.

Mr. BLAIR, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. DAWES. Has the morning hour expired?

The SPEAKER. It has.

Mr. DAWES. I rise to a question of privilege.

CAPTURES MADE BY ARMED VESSELS.

Mr. FENTON. Will the gentleman give way until I can ask the House to refer a bill to the Committee on Naval Affairs?

Mr. DAWES. I yield for that purpose.

Mr. FENTON, by unanimous consent, introduced a bill in relation to captures made by armed vessels in the service of the United States; which was read a first and second time, and referred to the Committee on Naval Affairs.

WAGON ROAD.

Mr. HUBBARD, of Iowa. Will the gentleman from Massachusetts yield to me a moment?

Mr. DAWES. Yes, sir.

Mr. HUBBARD, of Iowa, by unanimous consent, introduced a bill providing for the construction of a wagon road from the Missouri river to Virginia City, in the Territory of Idaho; which was read a first and second time, and referred to the Committee on Public Lands.

VETERAN VOLUNTEERS.

Mr. FINCK. I ask unanimous consent to introduce a resolution.

Mr. DAWES. I will hear it.

Mr. FINCK asked unanimous consent to introduce the following resolution:

Resolved, That the Secretary of War be directed to report to this House what number of veteran volunteers in the service of the United States have reenlisted in such service, and how many, and from what States such veterans have been reenlisted, and to what particular State or States of which they are non-residents any of such veterans have been credited, and the number thereof.

Mr. DAWES. I am afraid the result of that resolution will be to give more valuable information to the enemy than to us; and I must object, unless it is modified.

Mr. FINCK. I will state the purpose of the resolution. I desire to know the number of veterans in my own State that have reenlisted in other States.

Mr. DAWES. The information is desirable, I admit; but I do not think it proper that it should be made public. The gentleman can get that information at the War Department.

Mr. MALLORY. I hope the gentleman from Massachusetts will not object, but that the resolution be introduced, and then we can amend it.

Mr. WASHBURN, of Illinois. I suggest that the resolution be amended by inserting the words "if not incompatible with the public interest."

Mr. FINCK. I accept that modification.

Mr. MALLORY. I would like to have it amended so as to inquire under what authority and by what law this thing is done.

Mr. WASHBURN, of Illinois. I suggest that it be also modified so as to substitute the President of the United States in place of the Secretary of War; and that "requested" be substituted for "directed."

Mr. FINCK. I have no objection to that.

The resolution as modified was introduced, read, considered, and agreed to.

Mr. COX moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

VIRGINIA CONTESTED-ELECTION CASE.

Mr. DAWES. I now call up the contested-election case of Lewis McKenzie vs. R. M. Kitchen, from the seventh congressional district of Virginia. I ask that the resolutions reported from the Committee of Elections be read.

The resolutions were read, as follows:

Resolved, That Lewis McKenzie is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the seventh congressional district in Virginia.

Resolved, That R. M. Kitchen is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the seventh congressional district in Virginia.

Mr. DAWES. I suppose that under the rules, this being a report from a committee, it will be necessary, unless by unanimous consent of the House, to consider these two resolutions together. But as the two cases stand upon a different state of facts, and upon different principles, I ask the consent of the House to consider the resolutions separately, and that the House first take up the resolution in reference to Lewis McKenzie.

The SPEAKER. The gentleman can ask a separate vote upon each resolution.

Mr. DAWES. I am aware of that, but I do not desire to discuss the two resolutions together, and I do not see that any harm or prejudice can result to either party if we leave the resolution in reference to Mr. Kitchen until the one in reference to Mr. McKenzie shall be disposed of.

No objection being made, the House agreed to consider the resolutions separately.

Mr. DAWES. The resolution before the House is, that Lewis McKenzie is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the seventh congressional district in Virginia.

There are two questions involved; first, is anybody entitled to a seat from the seventh congressional district? and secondly, which of these two gentlemen, if either, is entitled to such seat?

I think, however, we can dispose of this case without settling the question whether anybody is entitled to a seat from that district. Whether Mr. McKenzie is entitled to it, if anybody, depends upon whether he has a plurality of the votes cast; and whether he has a plurality of the votes cast depends upon one of two questions; first, was the county of Berkeley in the State of Virginia or in the State of West Virginia at the time the election was held? and secondly, if we are certain that the votes which were cast in the county of Berkeley were cast according to law, or so in non-conformity with law that they must be rejected?

It is claimed by Mr. McKenzie in asserting and prosecuting his right to this seat that the county of Berkeley belonged to the State of West Virginia at the time this election was held; and if it did, he claims further that the votes cast in the county of Berkeley should be rejected here because of certain informalities connected with them. The committee were of opinion that the county of Berkeley was part of the State of Virginia and of this congressional district at the time this election was held. Whether it was or was not, depends upon certain legislation of West Virginia and of Congress.

This election is claimed to have been held in the seventh congressional district of the State of Virginia upon the last Thursday of May, 1863, the time appointed by the law of the State of Virginia for holding an election for Representatives in Congress. The State was districted according to the number of Representatives she was entitled to by the present apportionment. By an act of the Legislature of Virginia dated January 30, 1863, the counties of Alexandria, Berkeley, Frederick, Shenandoah, Jefferson, Clark, Warren, Loudoun, Fauquier, Fairfax, and Prince William, constituted the seventh congressional district of Virginia.

When a constitution was adopted by what now constitutes the State of West Virginia, there was incorporated into that constitution a clause providing for the admission into that State of three counties in addition to the forty-eight counties that now constitute the State, namely, the counties of Berkeley, Frederick, and Jefferson, provided these three counties should, by a popular vote, so decide. But when the State was admitted into the Union by an act of Congress dated December 31, 1862, the boundary lines as fixed by that act did not include either of these three counties, and neither of them, excepting the county of Berkeley,

had ever signified its assent to or desire to become a part of the State of West Virginia.

Subsequently to the passage of the act of Congress constituting the State of West Virginia, the State of Virginia enacted a law providing that the county of Berkeley alone, if it should so decide by a popular vote, might become a part of the State of West Virginia, if the State of West Virginia, after the county had so voted, should determine to receive it. The same statute provided that the county of Berkeley should, upon the last Thursday of May, 1863, by a popular vote, determine that question. This was the very day for the election of a Representative in Congress in that district. The people, therefore, of the seventh congressional district, including the county of Berkeley, were voting for a member of Congress on that day, and the county of Berkeley was voting upon the question whether it would become a part of West Virginia.

The result at the close of the polls was that the county of Berkeley had decided unanimously, or substantially so, to become a part of West Virginia, but the statute of the State of Virginia, transferring the county of Berkeley in this contingency to the State of West Virginia, embraced also one other condition precedent, namely, that the county should be so transferred to the State of West Virginia when the State of West Virginia should, by an act of its Legislature, determine to receive it as a part of that State.

The State of West Virginia did not determine to receive it as a part that State until the August subsequent to this election; so that if these two States had the power to transfer a county from the one to the other, it did not become a complete act of transfer until August, whereas this election for Representative in Congress occurred in May.

But there is another objection. It has been established by the Supreme Court of the United States, and always acted on without question—

Mr. ASHLEY. I desire to ask the gentleman if at the time this county is supposed to have been transferred from the one State to the other by the consent of the Legislatures of the two States, the consent of the Congress of the United States had been given for such transfer?

Mr. DAWES. If my friend will be patient, he will hear me on that point. I was just about saying, when I was reminded to say it by my learned friend from Ohio, that it had been the established law of the country as pronounced by the Supreme Court that no two States could change their boundary lines without the consent of Congress, and hence it required the consent of the State of West Virginia, of the State of Virginia, and of Congress to change the boundary line between those States. Congress has admitted West Virginia into the Union with a fixed boundary line. That does not include the county of Berkeley; and Congress has never consented that the county of Berkeley should be a part of West Virginia, or that the boundary line between West Virginia and old Virginia should be so changed as to include that county. This is, in the opinion of the committee, absolutely necessary; so that whatever may be the legislation of the two States on the subject, the county of Berkeley, without the consent of Congress, could never become a part of West Virginia. It is perfectly apparent that that is a necessity of the case; for if old Virginia could transfer the county of Berkeley to West Virginia it could transfer all the other counties, or could transfer itself to West Virginia and cease to exist by its own action—which is one way of committing suicide that I commend to the attention of my colleague, [Mr. BOUTWELL.] The Supreme Court has said so, and that has been always the rule acted upon. It was so in the case of the boundary line between Massachusetts and Rhode Island, and also in the case of the late change of boundary between New York and Massachusetts. All the practice has been that without the consent of Congress there can be no change in the boundary lines of States.

Therefore, sir, it cannot be questioned but that the county of Berkeley was, not only when this election was held, but is still, a part of the seventh congressional district of Virginia. The question then comes up whether there is any such informality in the votes cast in the county of Berkeley as requires that they should be rejected by the House. If not, Mr. McKenzie is in a mi-

nority of the votes. If the vote of Berkeley county be rejected, then Mr. McKenzie is in a plurality.

The objection which Mr. McKenzie raises to the vote of Berkeley county is this: By the law of Virginia it is required in a congressional election that the commissioners at the several polls in each county shall return the results of the election at their polls to the clerk of the county, who shall record the results in a book, and send certified copies thereof to the clerk of the county first named in the act constituting the district. It was requisite that the commissioners of the polls in Berkeley county should return the votes for their several precincts to the county clerk of Berkeley county, and that he should send certified copies to the county clerk of Alexandria county; but the rebellion had extinguished the county clerk of Berkeley county, and there being no county clerk there, it was an impossibility that the law could be technically complied with. The commissioners therefore certified their return directly to the county clerk of Alexandria county, and gave this certificate:

MAY 30, 1863.

The undersigned, commissioners, named in the foregoing certificate, hereby state that there is no clerk of the county court of Berkeley county, the county officers, including said clerk, elected last year having failed to qualify; that the records of the office have been removed; that the office and court-house are occupied by the United States military, and that it is impossible, therefore, to certify to the "clerk" of the said county court of Berkeley the result of the election, and consequently the law cannot be literally complied with, which requires said "clerk" to record said return in a book in his office, and to transmit a "certified" copy of such result to the clerk of "the county first named in the law."

GEORGE SHARER,
ELIAS M. PITZER,
JOHN W. FITZER.

It was not disputed before the committee that the return to the county clerk of Alexandria county, instead of to the county clerk of Berkeley county, contained the true state of the vote; or that there was actually polled in Berkeley county that number of votes; and the Committee of Elections, following all precedents governing the case, sought to find the facts—how many votes were actually cast. While the law might well impose the duty on officers, after the vote was cast, to return it in a perfect form so as to secure accuracy and to prevent fraud, it was supposed to be the duty of the committee, if there was any defect of form, to go back to the ballot-box, or to the county, and ascertain the exact number of votes cast; and, if they were honestly cast, to give them their force and effect. The result, therefore, is that Mr. Kitchen had 962 votes and Mr. McKenzie 716 votes—Mr. Kitchen having received a plurality of 246 votes. Therefore, Mr. McKenzie is not, under any circumstances, entitled to the seat. Hence the committee report this resolution that Mr. McKenzie is under no circumstances entitled to the seat.

That is all that I desire to submit. I understand that the contestant [Mr. McKenzie] desires to address the House.

Mr. McKENZIE, (contestant.) Mr. Speaker, I seem rather to be placed in the position of being between the devil and the deep sea. [Laughter.] The Committee of Elections have reported against my case, and I stand here alone. It is not the first time that I have stood alone. What I deem right I do, regardless of how many or how few are on my side.

I came here, sir, to-day to make a few remarks in advocacy of my claim as the Representative of the seventh congressional district of Virginia more from a sense of self-respect to myself and what is due to the representative branch of the Government than from any other motive. I suppose that nothing I will say will change the result to which this House will come. I do not choose, however, to let this report go before the House without in some way setting forth the reasons which induced me to contest this election.

Sir, I commenced this canvass presuming from the act of Congress approved March 3, 1863, that it was intended that Virginia should have some Representatives in this Congress. Had I been aware that the honorable chairman of the committee was going to insist with such pertinacity that the principle adopted by him in the Thirty-Seventh Congress was to be the principle of this Congress, or at least of the committee, I might as well have saved myself the time, annoyance, and expense of the last canvass and attended to my

own affairs. He seems to adhere to his principle of last Congress with as much pertinacity as ever. But the same reasons which would induce him and the House to throw out the seventh congressional district of Virginia would also induce them to throw out every district in Maryland, if the troops of the United States were not there, and every district of Pennsylvania for the same reason. If I had known that the chairman would have held with such pertinacity to the principle that no county should be considered unless with a full number of votes I might have saved myself and the House some trouble. But so it is. That portion of the seventh district within the Federal lines it seems is not to have a Representative, but is to have all the benefits of taxation without representation on this floor, while in the other branch of Congress the State can have two Senators. So far as our people are concerned, up to this time it would seem that it would have been better to have endured the evils of a military government altogether and to have let the reorganized State government of Virginia go by the board.

Let me state for the information of the House what the people of a few counties of Virginia are now enduring. They have to pay three years taxes to the State, all in a lump, and all of which go to sustain a State government, the same as if we were at peace and had entire control to the Tennessee border. Then they have to pay the internal revenue taxes to the General Government, and insurrectionary taxes. We also have living in our midst a Governor acknowledged by the Government, a loyal court, a loyal city government; and in addition to all this we have a military governor to watch over our interests, who without regard whatever to the civil authority has a provost court running, and which imposes just such fines as it chooses; so that between them all the Lord have mercy upon our poor people.

Shall that people then bear all these burdens of taxation and be denied representation upon this floor? I hope not.

Mr. Speaker, my memorial to Congress set forth the grounds as far as I understood them at the time upon which I based my claim to the seat: that Berkeley county on the day she voted for a member of Congress voted herself out of Virginia into West Virginia, and that her voting for a member at all was only an alternative vote, dependent upon that event and that alone. It is not for me to take issue with the honorable chairman of the Committee of Elections [Mr. Dawes] upon the question whether further legislation is necessary on the part of Congress or not, or whether there will ever be any further legislation. The fact stands out fully before the world that West Virginia does not think further legislation necessary, and has acted according to that opinion and admitted Berkeley county without conditions, and has not only done so but transferred her to the various judicial, senatorial, and congressional districts; and if during last October when the elections were held for Congress in West Virginia matters had not been so troublesome with the confederates she would have voted again for Congress.

But that is not all. The Tribune Almanac sets it down in the district of my friend from West Virginia, [Mr. Brown.]

The honorable chairman stated that I contested Berkeley county also on account of an alleged informality in conducting the election, and that the irregularity consisted in the fact that the commissioners of elections certified the result directly to the clerk of Alexandria county, instead of to the clerk of Berkeley county, as required by law. When I prepared my memorial to Congress before Congress met, I had not been to Berkeley county, and did not know of the state of things existing there. The law of Congress provides that members of Congress shall be elected according to the laws of the State respectively. And the difficulty is that the laws of Virginia have not been complied with. But I found I was compelled to proceed according to the act of Congress of 1851, regulating the mode in which contestants should proceed; and I found that that was nothing but a stumbling-block to me all the time.

When I called the attention of the committee to the fact that the county of Jefferson was returned as having cast thirty odd votes, the honorable chairman said he had no power to call for

the returns. Being anxious to have the returns, I applied to the secretary of the Commonwealth of Virginia, at Alexandria, and asked him if he would allow me to take those returns and bring them before the committee. I got them and carried them before the committee, but they were not signed and not sworn to, and there was nothing to show that the voters were qualified at all. There was nothing but a certificate, signed by two or three individuals, stating that thirty votes were cast. I have here the certificate in blank.

I went before the committee, but I did not want a seat in Congress if I was not entitled to it. I am not in the habit of going where I am not wanted; neither am I in the habit of troubling people about my affairs generally. I believe this is the first time I have been in this Hall since the first or second day of the session, and I have not spoken to a solitary member of this House, outside of the Committee of Elections, upon the subject of my right to a seat here. I am not a man to buttonhole members of Congress. They have enough to attend to. Let the facts come out here, and then if gentlemen can vote for me let them do so; and if they cannot in their judgment do so, let them vote against me. That is the principle upon which I have always acted, and I want others to do the same thing.

As regards this matter of Berkeley county, the gentleman says I did not pretend there was anything irregular about it. Now I did not go to Berkeley county until a few days after Congress met. And why? The law regulating elections required me to give the party claiming the seat thirty days' notice of contest. This election was held on the 23d day of May, and I was obliged to give him notice within thirty days thereafter. I did give that notice. But in the mean time the Legislature of West Virginia, sitting at Wheeling, took action in favor of Berkeley county being admitted into that State at once, and I presumed, of course, she would be turned over to one of the congressional districts of West Virginia, and I did not suppose that any gentleman would ask that West Virginia should have more than three Representatives upon this floor. I did not suppose it would be contended that Berkeley county was not in West Virginia. Berkeley county voted herself out of Virginia on the very day of this election, and it only remained for the Legislature of West Virginia to accept Berkeley county, which they did on the 7th of August, as a part of that State. They transferred her from the seventh congressional district. I have here the act of the Legislature in regard to that county. It is as follows:

"Whereas by an act of the General Assembly of the State of Virginia, entitled 'An act giving the consent of the State of Virginia to the county of Berkeley being admitted into, and becoming part of, the State of West Virginia,' passed January 31, 1863, it was, among other things, enacted that polls should be opened and held on the 4th Thursday of May then next, at the several places for holding elections in the said county, for the purpose of taking the sense of the qualified voters thereof on the question of including the said county in the State of West Virginia; and if the Governor of the State of Virginia was of opinion that the said vote had been opened and held, and the result ascertained and certified pursuant to law, he should certify the result of the same under the seal of the said State of Virginia to the Governor of this State; and if a majority of the votes given at the said polls should be in favor of the said county becoming part of this State, the same should become part of this State when admitted, with the consent of the Legislature thereof. And whereas Francis H. Pierpont, Governor of the Commonwealth of Virginia, did, on the 23d day of July, in the present year, after reciting that polls were opened in the said county on Thursday, the 28th day of May, 1863, for the purpose indicated in the above-entitled act, certify under his hand and the less seal of the said Commonwealth that, from the returns on file in the executive department thereof, a very large majority of the votes cast at the said election were in favor of the said county of Berkeley becoming part of the State of West Virginia: Therefore,

"Be it enacted by the Legislature of West Virginia: 1. The county of Berkeley, lately constituting part of the Commonwealth of Virginia, is hereby admitted into and made part of this State, and shall constitute part of the tenth senatorial district, and of the tenth judicial circuit, and shall at the election herein provided for, and at every annual State election thereafter, choose two members of the House of Delegates."

Here is another act restricting the State for Representatives in the Congress of the United States, which, among other things, provides that—

"1. The number of members to which this State is entitled in the House of Representatives of the United States shall be apportioned among the several counties of the State arranged in three districts, numbered as follows; that is to say:—
"The counties of Taylor, Marion, Monongalia, Preston, Tucker, Barbour, Upshur

Webster, Pocahontas, Randolph, Pendleton, Hardy, Hampshire, Berkeley, and Morgan, shall form the second congressional district."

Now, sir, as regards the honorable chairman of the Committee of Elections, supposing that he relied here upon the provisions of the act of Congress regulating election cases, I expected to have had the benefit of all the provisions of that law, and supposed that I was entitled to it. But, sir, it seemed to be a law for my discomfort; it seemed to be a law that was nothing but trouble, so far as I was concerned; I got no advantage of it.

Sir, in order to show the Committee of Elections what are the requirements of the laws of Virginia in each respect, I furnished the committee with law-books on the subject, and I believe no law-books have been furnished to the committee but by me.

I expected that when I wanted to procure testimony, the gentleman whose seat I was contesting would have favored me with all facilities for arriving at a correct conclusion. I went up to the county of Berkeley, but I found that such was the feeling existing against me there among his partisans that I could procure no means of obtaining testimony; but finally I found a gentleman, who is a member of the court there, who agreed to sign subpoenas that were necessary for me to obtain testimony. There was, however, no printing office in the town of Martinsburg, and I was consequently obliged to return home in order to get the subpoenas printed. I inclosed them to a gentleman in Martinsburg, with the request that he would get them signed by the magistrate and served upon the parties. But forty-eight hours afterward I received a telegraph dispatch from Martinsburg informing me that such was the feeling of the people against me about the matter, that he could neither get a magistrate to sign the papers, nor, if he could, could he find anybody to serve the process. Well, I thought that was a pretty state of affairs under a free Government, or under a kind of free Government. The people there had got the idea that I was a "Copperhead," and I was told I had better not interfere in the matter. Having no recourse left, and the law authorizing any two magistrates in the district to act, I at once took two Alexandria magistrates and proceeded to Martinsburg, issued some few subpoenas, and succeeded in obtaining the testimony of three or four parties there, and among them was a gentleman of the name of Sommerville.

Now, I understand the chairman of the Committee of Elections to say that there was no clerk of the court in the county of Berkeley. Well, I suppose, sir, that, being president of the county court of Alexandria, I am certainly qualified to know whether a deputy clerk is a county clerk. Here is the testimony of R. A. Sommerville:

"First interrogatory. Please state your name and residence."

"Answer. R. A. Sommerville. Residence, Martinsburg, Berkeley county, Virginia."

"Second interrogatory. By whom and when were you appointed deputy clerk of Berkeley county court?"

"Answer. I am one of the deputy clerks of Berkeley county court, appointed by the court at the May term, 1861, and so recorded in the journals of the court."

"Fourth interrogatory. Were you deputy clerk of the county court sitting in the May term, 1863, beginning on the second Monday of the month? If so, did the court at that session appoint commissioners to hold an election for a member of Congress and State officers?"

"Answer. I was. I cannot remember whether the commissioners of elections were appointed at the April or May term, 1863, but at one or the other."

"Fifth interrogatory. Have you been continuously, uninterruptedly, and solely deputy clerk of the county court of Berkeley county, in the State of Virginia, from March 1, 1862, up to August, 1863?"

"Answer. I was."

"Sixth interrogatory. Has Martinsburg, the county seat and court-house of the county of Berkeley, in the State of Virginia, been your permanent and well-known place of residence during the whole time that you have been clerk of the county court of the said county?"

"Answer. It is."

"Seventh interrogatory. Was it notorious and well known throughout the said county of Berkeley that you held the office of deputy clerk of the said county during the period referred to?"

"Answer. I presume that the public performance of my official duties as deputy clerk of the court made my official character as such well known throughout the county."

The deputy clerk, who is actually authorized by the laws of Virginia to act as clerk, states that he was clerk at the time of the election, and that he was clerk a month before, when the commis-

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sioners of election were appointed. Sir, there are several gentlemen upon this floor who know whether a deputy clerk is a clerk.

Now, sir, the law of Virginia, as modified by the Legislature of Wheeling, provides that the commissioners of election of each county shall make a return to the clerk of the county, whereupon the facts of said return shall be certified to the clerk of the first-named county in the district, and thirty days thereafter the election shall be declared. Instead of fulfilling the requirements of the law these commissioners in Berkeley county, taking it for granted that there was no clerk there, sent their return down to the clerk of Alexandria county, who, instead of sending it back to be duly certified by the county clerk of Berkeley county, as the law requires, thirty days thereafter declared the election. I am sorry to say that I have had to make this fight against several little county clerks, persons who are strangers to me to a great extent. I have had the clerks of the courts against me. I am sorry for it, but I have no favors to ask.

Now, sir, let me say further, that supposing I had evidence enough to obtain the seat if Virginia was entitled to Representatives, I did not examine into the character of the 700 votes cast for Mr. Kitchen in Berkeley county. How many illegal votes were polled in that county I do not know; but that there were many I do not doubt. I made no examination to any extent.

Mr. Speaker, just before this House met I saw an article in the New York Times, from a correspondent in this city, that satisfied me that I was to have difficulty. What reason the writer had for making this statement about me God only knows. The Lord have mercy upon him! I have no complaint to make about him. He has a right to make his statements, but when he does he should make true statements. I will read the correspondence:

"Of Virginia—L. H. Chandler, like Anderson of Kentucky, is for the Administration 'up to the hump.' He is a sound northern man, though the 'rib taken from his side' by marriage is of Maryland. Joseph Segar is understood to have had his support of the Administration strained to that point of tension where patriotism almost breaks; but he has been heard to say that he would vote for Caisey for Clerk. I regard him as sure to vote for the nominees of the Administration caucus. B. M. Kitchen stands squarely for emancipation. That's enough. He will go into caucus, too. So well is this known that the conspiracy against the country which seeks to replace Etheridge as Clerk, and to make an anti-war Democrat Speaker, has set up a man named McKenzie to contest Kitchen's seat, in order to exclude his vote from the organization of the House."

Mr. GRINNELL. I ask the gentleman whether he thinks it proper to allude to the New York Times in its present impaled position. [Laughter.]

Mr. McKENZIE. I hope the House will allow me to get through with my remarks.

Mr. GRINNELL. I am going to vote for the gentleman. But I understood him to be alluding to the New York Times, and I wanted to ask whether he thought it exactly right to say anything about it [holding up an illustrated paper] in its present impaled condition. [Laughter.]

Mr. DAWES. This is trifling with a serious subject. [Laughter.] I call the gentleman to order.

Mr. McKENZIE. Mr. Speaker, when I was a boy I had a cousin who lived in North Carolina. He was a preacher. It was before the days of railroads. He used to start from below Newbern and come up to Alexandria to preach the gospel. He was a Scotchman, named Colin Melvor, and he never was in a hurry. He was clerk of the synod of North Carolina. The President of the United States was nothing to the clerk of the synod of North Carolina. On his way up to Raleigh, where the synod was in session, he got bothered with the cross-roads and lost his way. He got into the woods and hallooed, "Lost! lost! lost!" An old negro coming along heard him, ran to his master, and cried out, "Massa, there's a man out in the woods who says he is lost." I feel precisely in that position. I feel that I am lost here.

Mr. Speaker, I would not have alluded to the New York Times in this connection if I did not

believe that the person who made that attack upon me was simply a partisan of somebody else. A quiet, unobtrusive citizen, I was not much of a politician. He did not know me, but was willing perhaps to injure without knowing me. But let that pass.

Mr. Speaker, I am, and have been all the time, a friend of the Government. I did all I could to prevent this unfortunate rebellion against a Government that had always been kind and paternal, particularly so to the people of the South, and under whose broad banner the South had so greatly prospered, until in an evil hour the fire-eating politicians brought on this war by firing on the flag at Sumter, and thus inaugurated civil war and its fearful consequences. Born within seven miles of this Capitol, I have not been an uninterested spectator of what has been going on here for over twenty-five years past. I have watched the progress of affairs closely. I well recollect when the collector of the port of Alexandria wrote to the Secretary of the Treasury, Hon. Thomas Ewing, of Ohio, and asked why he could not issue American protections to colored seamen, when these very protections were issued from Norfolk previous to 1800. No answer came, nor has any come yet. I well recollect that from October to April of each year, before the days of railroads, one or two vessels a month sailed from Alexandria for New Orleans with cargoes of negroes for that market; and I remember the scenes I have witnessed caused by this disgusting traffic, and the effect it had upon the public sensibility. I well recollect the poor colored seamen incarcerated in jail in Alexandria because they had no free papers, and finally sold out for jail fees, and perhaps many a one gone South into hopeless slavery. For many a one, Mr. Speaker, have I paid his jail fees and let him depart. I well recollect when Maryland passed an act providing that when free negroes were convicted of a petty offense they should, instead of being sent to the jail or penitentiary, be sold for one, two, three, or five years, and to be kept in the State; and yet there was an organized band of men in Baltimore ready at the jail door to buy them and to give the necessary bond, and then spirit them out of the State to the South, to be sold, of course, for life.

In passing through Alexandria that one morning, on going to my counting-room, I learned that some negroes had been brought through from Baltimore and confined in "Bruin's jail," now called the "slave-pen," and in putting them on the cars of the Orange road for Lynchburg, one or two of the negroes who were handcuffed had stated that they were free men and had been sold for a term of years in Maryland, but that the traders had bought them and were now carrying them South to be sold as slaves. Notwithstanding there were respectable citizens standing by, that ought to have insisted upon an investigation, for fear of doing right or of being called abolitionists they permitted them to be forced into the cars and to be whipped also. Immediately I prepared a message to the mayor of Memphis and got the mayor of the city to telegraph it at once to stop these negroes until an examination could be had. I at once wrote to Governor Hicks, of Maryland, the state of the case and the alarming increase of this traffic, and he at once took action, sent to Tennessee and had some of the negroes returned, and put a stop to some extent to these outrages.

For the colored people, Mr. Speaker, I have always had great regard. I have been their friend for many, many years. I feel for them now. In this present gigantic struggle they are bound to suffer. Whether it is wise or judicious or prudent to set them all free at once is hard to say. But I will say this: I see no remedy now, except that which has been adopted by the President to end the rebellion. The course of the slave aristocracy of the South has been such, in attempting to pull down the great temple of liberty, and to build up a "great slave monarchy," that I do not see any chance for freedom for the poor men of the South, or those who hold moderate views among the great middle class, except by getting rid of the

institution altogether. There are many of the slaveholders, however, who hold the same views that I do on this subject. For the men of moderate views, who have been waiting and hoping and praying for some means of deliverance from this tyranny of slavery, who are kind to the colored people, I trust there will be more kindness and charity than seems now to prevail. Slavery is not all the evil in the world; nor are all the evils confined to the South. Now, Mr. Speaker, I have done with this subject, and all the favor I ask of the House is that the ayes and noes may be taken on the report in my case. With the result I shall be content.

Mr. DAWES. Mr. Speaker, the contestant complains that he has not been treated exactly fair by the Committee of Elections, and I wish simply to correct that statement. The gentleman is laboring under a mistake. He said he intended to conform himself to the law of 1861, and to hold everybody else up to it. If he had himself been held strictly up to it, he would have had no place to come here and contest the seat at all. By the law of 1861 a contestant must serve his notice on the contestee within thirty days of the time that the sitting member is declared to be elected by the officer authorized so to declare. Now, Mr. Kitchen was declared by the proper officer duly elected on the 27th day of June. Notice of contest should have been served on him by the 27th of July. The evidence of the service of the notice is as follows:

Testimony of J. F. Staub.

"First interrogatory. Please state your name and residence."

"Answer. J. F. Staub; residence Martinsburg, Berkeley county, West Virginia."

"Second interrogatory. Please state whether you presented to Joseph Hoffman, Esq., a justice of the peace for Berkeley county, certain subpoenas, to be served on various citizens of Berkeley county, at the instance and request of Lewis McKenzie, of Alexandria, Virginia, as witnesses in the matter of a contest for a seat as Representative in the Congress of the United States for the seventh congressional district of Virginia, between him, the said McKenzie, and B. M. Kitchen, Esq.; and whether or not the said J. Hoffman refused to sign the same, so that they might be served; and if so, the reason of his declining."

"Answer. I received from Lewis McKenzie, through the mail for Martinsburg, two packages containing subpoenas, on Friday, the 27th November, which I presented to Mr. Hoffman on the morning of the 28th November, to sign, which he positively refused to do, on the grounds that he did not wish to compromise himself in the matter; that he did not wish to get his friends in Berkeley county down on him for it."

"Sixth interrogatory. When did you serve the notice sent you by Lewis McKenzie, dated 23d July, 1863, declaring said McKenzie's intention of contesting the right of B. M. Kitchen to a seat as a Representative of the seventh congressional district of Virginia in the Congress of the United States?"

"Answer. Ten days or two weeks afterwards; I received this the first mail that came through."

He served the notice ten days or two weeks after he received it, which must have been in August. The gentleman will therefore do the committee the justice to say that the committee did not impose upon him any arbitrary or unreasonable rule; but, on the other hand, although his own evidence showed that the notice of contest was not served within the thirty days fixed by the statute, the committee permitted him to submit his case.

Mr. McKENZIE. That matter came up before the committee. I supposed that the chairman wanted to call my attention to the fact that it was settled by the committee, and that I had only to comply with the law. The committee agreed, I think, that I had done everything I could to have notice of contest served. I had it published in the Alexandria papers. There was no chance for me I knew if I did not show that I had acted under the law. I would have been thrust out of the committee-room. The committee agreed that I had done everything to comply with the law and to serve the notice. I supposed, therefore, when I had complied with the law that I was entitled to the advantage from it.

I thank the House for its attention. I have nothing further to say.

The resolution was adopted.

Mr. DAWES moved to reconsider the vote by

which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

B. M. KITCHEN.

Mr. DAWES. I now call up the second resolution.

The Clerk read, as follows:

Resolved, That B. M. Kitchen is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the seventh congressional district in Virginia.

Mr. SMITH. I move to strike that resolution out, and to insert the following in lieu thereof:

Resolved, That B. M. Kitchen is entitled to a seat in the Thirty-Eighth Congress as a Representative from the seventh congressional district of Virginia.

Mr. DAWES. Mr. Speaker, it appeared to the Committee of Elections, and has just been decided by the House, that Mr. McKenzie was not entitled to a seat upon this floor for the reason that Mr. Kitchen had more votes than he had; still the committee came to the conclusion that Mr. Kitchen was not entitled to a seat in this House, for the reasons that I will proceed to mention.

The State was divided into districts for the election of Representatives in Congress, in conformity to the act of Congress upon that subject, by the Legislature of Virginia, on the 30th day of January, 1863, and by that act this district was composed of the counties of Alexandria, Berkeley, Frederick, Shenandoah, Jefferson, Clark, Warren, Loudoun, Fauquier, Fairfax, and Prince William. It is the district on the other side of the river, and the House cannot be ignorant of the condition of things there. The events that have transpired in that district have been of such note that they have attracted the attention of the whole country. There is, then, no dispute in reference to the condition of affairs in that district.

The question, then, is whether any district situated as this is, occupied as it has been and is now by the army of the Union and the army of the rebellion, swaying backward and forward as they have been, as was said in the other House, like a pendulum, from one end of the district to the other, the theater of conflicts and the battleground of this rebellion, soaked with the blood, in almost every part, of Union soldiers and rebel soldiers, with no portion so quiet and so free from rebels as not to rely upon the military force for its security and defense—the question is whether there can be any pretense in any mind that in such a district anybody could exercise the right of an elector, or that there could be such an election as we should consider.

In this district, and on the day the election was said to be held, four counties voted in form. In one other county two precincts voted, and in another only one precinct. In five of the counties there was no pretense of an election. In the counties where there was a partial election, the precincts not opened were closed by the armed occupation of the enemy. If we ascertain the relative strength of that portion of the district where the forms of an election were gone through with, and that where it was impossible to hold an election, we will find that there was a larger part of the territory of the district at that time, and is now, in the armed occupation of the rebels. Those counties held by the rebels and portions of others where there was a partial election constitute the largest portion of the district. If you divide the district by aggregate population, taking the counties where an election was held and where it was not held, the latter preponderate. In point of fact, there were several places where the people were restrained from voting, not by the actual presence of the enemy on the day of election, but from fear of persecution and the destruction of their property.

Dividing this district by the aggregate population, and counting all the population in those counties where an election was held on the one side, and in those counties which were in the armed occupation of the enemy, you find that while 70,341, according to the census of 1860, were in counties where elections were held, there were 77,292 in counties actually held by the armed forces of the rebels. If you ascertain a division of the entire free population, leaving out the slaves, you find that while there were 55,530 in that portion of the district where an election was held, there were 55,561 in the portion where

no election was held. If you take the free white males only, you find that there were in the portion where an election was held 25,568, and in that where there was no election 26,161. This shows, sir, if you adopt this as a rule, that the district was very nearly equally divided between the enemy and the Republic, between those who were fighting for the destruction of the Government and those who were defending it; and whether you take it by territory, by aggregate population, by free white population, or by free white male population, the preponderance in each of these divisions is slightly upon the side of the enemy.

There was, however, in that part of the district held by our troops—and it is fair that it should be taken into consideration—such a constraint, as I have already stated, upon many of the voters that personal safety required of them that they should abstain from the exercise of the elective franchise. Raids were constantly being made, even up to Fairfax Court-House and within a few miles of Alexandria; and while the committee were hearing this case, a raid was made into the county of Berkeley, and the claimant, Mr. Kitchen himself, had his house surrounded, escaping in the darkness, and was driven out from his county, finding peace and safety only in this District. The question, therefore, is fairly presented to the House to decide whether they can count as an election forms gone through with in the manner I have indicated in this district.

The committee have all along shown, I think, and I believe they feel, a desire to give representation to each one of these districts at the earliest possible moment that they can say there has been a free and fair election in the district. I do not assume to speak for any other member of the committee than myself. I have, however, seen no indication on the part of any member of the committee that does not justify me in this remark.

But, sir, it is an important question for the House to say whether they can treat as an election in this whole district, as the choice of the Union voters in all parts of this district, that which transpired, to begin with, in less than one half of the district, and under such circumstances as I have related, and when no man can say that fairly and freely, and without fear or restraint, the people even in that part of the district have gone to the polls and expressed their choice. Sir, how can we say it when a majority of the voters of the district are on the other side of our lines, and are under the armed occupation of the enemy?

Suppose Mr. Kitchen had received all the votes on this side, how can we say that those other voters who are under duress, fettered, would, if they had been permitted to vote, have acquiesced in the selection of Mr. Kitchen as their Representative? Are we to fasten upon them a Representative whom we cannot say fairly and honestly is the choice of those voters? I do not believe that there is any member of this House who does not desire that every district in this great country, from one end of it to the other, shall be represented upon this floor by the free choice of all its voters. But anxious as we may all be to welcome a Representative here from this district of Virginia, and from all other districts, to fill these vacant chairs, how can we say that this man is the choice of the people whom he claims to represent?

Just a few words more, Mr. Speaker. This gentleman received 730 of the whole 962 votes which he received in the district in the county of Berkeley. He had but 232 votes out of that county. Now, sir, both the State of Virginia and the State of West Virginia and the people of the county of Berkeley themselves, so far as it can be done, have decided that that county is and shall be in another State. As I said a little while ago, they have not carried out the legal effect of that attempt; they have not succeeded in transferring the county to West Virginia, but they have done all that it was in their power to do to attain that object. They have signified that they do not desire to be a part of that district. And outside of Berkeley county this gentleman has no support at all. Although that fact cannot affect the legal question, yet it may aid us in coming to a conclusion. Three or four men whose names figure here would be the choice, before Mr. Kitchen, of the people of the district, outside of Berkeley county. I only bring that matter before the House to aid it in throw-

ing some little light on the question of who would be the choice of the voters on the other side of the line.

But these considerations do not govern us here. We are to say whether, from all the votes legally cast here, it is evident to the House that we have before us a man who is the choice of the legal voters of the district. Although anxious to come to a different result, I for one have been unable to come to the conclusion that this man is entitled to a seat in the House. In that conclusion I believe all the members of the committee concur, with the exception of the gentleman from Kentucky, [Mr. SMITH,] who desires to be heard.

Mr. SMITH addressed the House in support of the claimant.

Before he had concluded,

A message from the Senate, by Mr. HICKEY, its Chief Clerk, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (No. 26) reviving the grade of lieutenant general in the United States Army.

Mr. WASHBURN, of Illinois. I appeal to the gentleman from Kentucky to give way for a moment to let the committee of conference on the lieutenant general bill make their report. It is a matter in which I know my friend feels a great deal of interest.

Mr. SMITH. What effect will it have upon the question now before the House?

The SPEAKER. The consideration of the subject now before the House will be resumed as soon as the report of the committee of conference shall have been disposed of. It will not interfere with the time of the gentleman from Kentucky. He will be entitled to his full hour.

Mr. SMITH. Will it take the gentleman from Illinois an hour to make his report?

Mr. WASHBURN, of Illinois. Oh, no; I do not propose to make a speech.

Mr. SMITH. I yield upon condition that nothing but the report shall be made, without any speech or comment.

The SPEAKER. The Chair is of opinion that a conference committee can interrupt a gentleman for the purpose of making their report. It is regarded by the rules as a report of the highest privilege, so much so that it can interrupt even a call of the House, and in the closing hours of a session it is necessary that it should have that privilege. Like a motion to go to business on the Speaker's table after the expiration of the morning hour, it can take a gentleman off the floor.

Mr. DAWES. I suppose it could not take the gentleman off the floor?

The SPEAKER. He will be on the floor as soon as the report is disposed of.

GRADE OF LIEUTENANT GENERAL.

Mr. WASHBURN, of Illinois. I now submit the report of the committee of conference, and ask that it be read.

The Clerk read the report, as follows:

The committee of conference appointed to take into consideration the disagreeing votes of the two Houses on the bill of the House (No. 26) reviving the grade of lieutenant general in the United States Army, having met, after full and free conference do recommend to the respective Houses as follows:

That the House of Representatives do recede from its disagreement to the first amendment of the Senate, and agree to the same.

That the House of Representatives do recede from its disagreement to the second amendment of the Senate, and agree to the same.

That the Senate do recede from its third amendment, and do agree to the bill of the House of Representatives, with the following amendments: 1. After the word "ability," in the eleventh line of the first section of said bill, strike out the word "and." 2. Strike out the word "shall" in the thirteenth line of said section, and insert the word "may" in lieu thereof. 3. After the word "direction," in the thirteenth line of said section, insert the words "and during the pleasure." 4. Strike out all of said section after the word "States" in the fifteenth line thereof. And that the House of Representatives do agree to the said several amendments.

HENRY WILSON,

H. S. LANE,

REVERDY JOHNSON,

Managers on the part of the Senate.

E. B. WASHBURN,

A. McALISTER,

R. E. FENTON,

Managers on the part of the House.

Mr. WASHBURN, of Illinois. I will state, Mr. Speaker, that this is the unanimous report of the committee of conference.

Mr. COX. Will the gentleman answer me one question?

Mr. WASHBURNE, of Illinois. I will.

Mr. COX. Does the report of the committee of conference leave out the name of General Grant?

Mr. WASHBURNE, of Illinois. It does.

Mr. COX. Then I move to lay it upon the table.

The SPEAKER. The gentleman has not the floor for that purpose. The gentleman from Illinois is entitled to the floor.

Mr. COX. Well, I will make that motion when it is in order.

Mr. WASHBURNE, of Illinois. I desire to state to the House the precise shape in which the bill now stands in connection with the motion of the gentleman from Ohio to lay the report upon the table, which would kill the bill. [Several MEMBERS. "Let the bill be read."] Well, I will send it to the Clerk's desk and let it be read first as it stood originally.

The Clerk read the bill as it passed the House.

Mr. WASHBURNE, of Illinois. The Clerk will now report the bill as it will stand if the report of the committee of conference shall be agreed to.

The bill, as agreed to by the conference committee, was read. It revives the grade of lieutenant general in the Army of the United States, and authorizes the President, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a lieutenant general, to be selected from among those officers in the military service of the United States, not below the grade of major general, most distinguished for courage, skill, and ability, who, being commissioned as lieutenant general, may be authorized, under the direction and during the pleasure of the President, to command the armies of the United States.

The second section enacts that the lieutenant general appointed, as provided, shall be entitled to the pay, allowances, and staff specified in the fifth section of the act of May 28, 1798, and to all the allowances described in the sixth section of the act approved August 23, 1842, giving additional rations to certain officers, provided that nothing in this bill shall be construed to affect in any way the rank, pay, or allowances of Winfield Scott, lieutenant general by brevet, now on the retired list of the Army.

Mr. WASHBURNE, of Illinois. Mr. Speaker, the Clerk has read the original bill, and the bill as it will be provided the report of the committee of conference be agreed to. The first amendment of the Senate was striking out the words "commander of the armies," and inserting the words "lieutenant general." The second amendment was striking out the words "during war." The third amendment was merely verbal, striking out the word "and" in the phrase "and who, being commissioned as lieutenant general," &c. The next amendment was striking out the words "and that we respectfully recommend the appointment of Major General Ulysses S. Grant, of Illinois, to the position of lieutenant general."

The Senate struck out all of that, and what I have stated in regard to the command of the Army "during war." The committee of conference agreed to concur in the amendments striking out the words "commander of the armies" and inserting "lieutenant general," and also striking out the words "during war." But the committee would not agree to the other amendment of the Senate without an amendment. Finally it was agreed to in this shape: that a lieutenant general shall be appointed from among the officers in the military service of the United States, not below the grade of major general, most distinguished for courage, skill, and ability, who, being commissioned as lieutenant general, may be authorized, under the direction and during the pleasure of the President, to command the armies of the United States. So that portion of the bill is substantially as it was when it went from the House. The Senate receded to that extent, so that the House gets substantially what it provided for in the original bill.

Mr. BROOKS. Does the bill, in point of fact, do anything more than create a lieutenant general, with salary, rations, &c., at \$13,000 a year?

Mr. WASHBURNE, of Illinois. It creates a lieutenant general, who, being commissioned as

lieutenant general, may be authorized by the President of the United States to command the armies of the United States.

Mr. J. C. ALLEN. I desire to ask my colleague whether this bill confers any additional power on the lieutenant general which General Halleck, or General Grant, or any other general does not possess to-day, so far as the command of the Army is concerned?

Mr. WASHBURNE, of Illinois. This bill revives the grade of lieutenant general, and puts General Grant at the head of the armies of the United States, provided he shall be appointed.

Mr. COX. I understood that that was struck out.

Mr. WASHBURNE, of Illinois. No, sir; the gentleman has misunderstood.

Mr. COX. Does the gentleman from Illinois say that this bill provides for the appointment of General Grant?

Mr. WASHBURNE, of Illinois. No, sir; I did not say so.

Mr. COX. It was so understood here.

Mr. WASHBURNE, of Illinois. The bill originally had a recommendation that General Grant should be appointed.

Mr. COX. And the gentleman agreed to strike that out, I believe.

Mr. WASHBURNE, of Illinois. The gentleman will permit me to explain the bill. The Senate has stricken out that portion of the House bill which contained this recommendation, on the ground that it was intrenching on their privileges—the right to confirm or reject whoever should be appointed. The committee of conference on the part of the House have unanimously agreed to the report for the reason that everything has been obtained which the original bill provided for. While they insisted that this should remain as an expression of the opinion of the House, they were willing that it should be taken out on the information that if the bill should pass, General Grant would receive the appointment of lieutenant general without delay.

Mr. COX. I call the gentleman to order. It is not in order to state what occurred in committee; nor is it in order to bring the authority of the President here to control our action. I understand the gentleman to say that the committee of conference are informed by the President that he would appoint such a man.

Mr. WASHBURNE, of Illinois. I did not make any such statement.

The SPEAKER. The deliberations of the committee cannot be stated in the House.

Mr. WASHBURNE, of Illinois. The simple question is whether the report of the committee of conference shall be agreed to by the House, and General Grant shall be made the commander of the Army to close the rebellion.

Mr. COX. The gentleman himself stated that the bill does not appoint General Grant. The gentleman is not authorized to say that the President will appoint General Grant. I will not trust the President's word on the subject.

The SPEAKER. The gentleman is not in order.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I am surprised that any gentleman should object to this in the light of recent intelligence. We hear to-day that Grant has driven Longstreet out of Tennessee. Another portion of his army he has advanced upon Dalton and taken it. Sherman has moved into Alabama and Mississippi. They are all parts of the grand programme of General Grant. Yet after this report has been agreed to unanimously by the members of the committee of the House and Senate, the gentleman from Ohio [Mr. Cox] moves that it be laid upon the table.

Mr. COX. The gentleman will allow me a word?

Mr. WASHBURNE, of Illinois. No, sir.

Mr. COX. The gentleman himself has deserted General Grant, and come here with his fusian—

The SPEAKER. The gentleman is not in order. The gentleman from Illinois refuses to yield to him.

Mr. COX. Let me ask the gentleman a question.

Mr. WASHBURNE, of Illinois. I decline to yield. I have yielded to the gentleman several times already. I have explained the provisions of the bill as it will stand if this report be adopted; and now, in compliance with my promise to the

gentleman from Kentucky [Mr. Smith] who was kind enough to yield to let this report come in, I demand the previous question.

Mr. COX. I move that the report be laid upon the table.

A MEMBER. Let us try and refuse to sustain the previous question first.

Mr. COX. I withdraw my motion.

On sustaining the call for the previous question, there were, on a division—ayes 52, noes 49.

Mr. COX demanded tellers.

Tellers were ordered; and Messrs. WASHBURNE, of Illinois, and Cox, were appointed.

The previous question was seconded; the tellers having reported—ayes 54, noes 48.

The main question was then ordered to be put.

Mr. COX moved that the report of the committee of conference be laid upon the table.

The motion was disagreed to; there being, on a division—ayes 36, noes 59.

The question recurred on concurring in the report of the committee of conference.

Mr. COX. I demand the yeas and nays on striking out General Grant's name.

Mr. WASHBURNE, of Illinois. We know where the gentleman stands in reference to General Grant.

The yeas and nays were ordered.

Mr. ROSS. I ask for a division of the question on agreeing to the report of the committee of conference.

The SPEAKER. It is not divisible. The vote must be taken on the report as a whole.

The question was taken; and it was decided in the affirmative—ayes 73, nays 47; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, Ames, Anderson, Beaman, Francis P. Blair, Jacob B. Blair, Blow, Boyd, Brandegee, Ambrose W. Clark, Cobb, Dawes, Downing, Dixon, Driggs, Eckley, Eliot, Fenton, Frank, Gorch, Grinnell, Higby, Hooper, Jenckes, William Johnson, Julian, Kasson, Kelley, Orlando Kellogg, Longyear, Marvin, McAllister, McBride, McClurg, McIndoe, Moorhead, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Patterson, Pike, William H. Randall, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Scherck, Seefeld, Sloan, Smith, Smithers, Spalding, Starr, Stebbins, John B. Steele, Stuart, Sweat, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—73.

NAYS—Messrs. Ancona, Baily, Augustus C. Baldwin, John D. Baldwin, Bliss, Boutwell, Brooks, William G. Brown, Clay, Coffroth, Cole, Cox, Dawson, Dennison, Donnelly, Edson, Eldridge, Fluck, Garfield, Grider, Hale, Harding, Harrington, Holtman, John H. Hubbard, Kalbfleisch, King, Luzzar, Mallory, McDowell, McKinney, William H. Miller, Morrison, Noble, John O'Neill, Pendleton, Ross, Scott, Shannon, Stevens, Stiles, Strouse, Wadsworth, Ward, Chilton A. White, Winfield, and Fernando Wood—47.

So the report of the committee of conference was agreed to.

During the roll-call,

Mr. STEELE, of New York, stated that his colleagues Messrs. CHANLER and POMEROY had paired off.

Mr. HOLMAN announced that his colleagues Mr. CRAVENS and Mr. ORTH had been compelled to visit their homes in Indiana, and were paired on all questions upon which they might differ in opinion.

The result of the vote having been announced as above recorded.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The SPEAKER. The gentleman from Kentucky [Mr. Smith] is now entitled to the floor upon the Virginia contested-election case, and has forty minutes of his hour still remaining.

Mr. STILES. With the permission of the gentleman from Kentucky, I will move that the House do now adjourn.

Mr. SMITH. I yield to the gentleman for that purpose.

Mr. STILES. I move an adjournment.

The SPEAKER. Before putting the motion to adjourn, the Chair will state that on to-morrow, in consequence of the unanimous order of the House, he will not entertain any motions of any character except to go into the Committee of the Whole on the state of the Union on the President's message, and when the committee rises that the House do now adjourn.

Mr. SCHENCK. Will a motion for a call of the House be in order?

THE SPEAKER. It will not.

Mr. DAWES. I hope we shall go on and finish up the Virginia election case this afternoon. Unless the gentleman from Kentucky is exhausted or desires an adjournment, I shall demand the yeas and nays on the motion to adjourn.

Mr. BLAIR, of West Virginia. He would prefer to conclude his remarks on Monday.

Mr. MALLORY. I will state to the gentleman from Massachusetts that my colleague does desire an adjournment.

Mr. DAWES. Then I have nothing further to say.

The question was taken on Mr. STILES's motion, and it was agreed to; and thereupon (at ten minutes to four o'clock, p. m.) the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, February 27, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

PRESIDENT'S ANNUAL MESSAGE.

Mr. DAWES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) the business in order being the consideration of the President's annual message, upon which the gentleman from Connecticut [Mr. BRANDEGEE] was entitled to the floor.

Mr. BRANDEGEE. Mr. Chairman, when the House was last in Committee of the Whole on the state of the Union generally, I obtained the floor for the benefit of my colleague from the Hartford district, [Mr. DEMING,] who was then temporarily absent from the committee, but who desired at an early day to submit his views upon the President's message, and upon the general policy, as I understood, of the restoration of the insurgent States. As my colleague is not at this moment prepared to go on, and as the gentleman from Kentucky [Mr. HARDING] is, I resign the floor unconditionally in favor of the gentleman from Kentucky.

RESTORATION OF THE UNION.

Mr. HARDING. Mr. Chairman, at an early day of the present session I submitted to the House this resolution:

"Resolved, That the Union has not been dissolved; and that whenever the rebellion, in any one of the seceded States, shall be put down and subdued, either by force of the Federal arms or by the voluntary submission of the people of such State to the authority of the Constitution, then such State will thereby be restored to all its rights and privileges as a State of the Union under the constitution of such State and the Constitution of the United States, including the right to regulate, order, and control its own domestic institutions according to the constitution and laws of such State, free from all congressional or executive control or dictation."

I was anxious a vote should be taken upon this resolution at the time it was presented; but the ruling majority in this House would not allow it. They seemed unwilling to take ground before the country on this important question. They would neither vote for the resolution nor take the responsibility of voting against it; and we have not been able to bring the House to a vote upon it up to the present time.

This resolution is in direct antagonism to the President's plan of "reconstruction" announced in his message and proclamation of the 8th of December, 1863. And whether the resolution takes the true ground in regard to the condition of the southern States after the rebellion shall have been subdued, depends entirely upon the correctness of its first proposition, which declares "the Union has not been dissolved." The whole controversy turns on this question. I hold that all the ordinances of secession in the southern States were absolutely null and void, and being so, did not, could not work any change in the constitutional relations of those States. The President, in his inaugural address, uses this language:

"I hold that, in contemplation of universal law and of the Constitution, the Union of these States is perpetual."
* * * * * "Continue to execute all the express provisions of our national Constitution, and the Union will endure forever; it being impossible to destroy it except by some action not provided for in the instrument itself."

* * * * * "But if destruction of the Union by one, or by a part only, of the States, be lawfully possible, the Union is less perfect than before the Constitution, having lost the vital element of perpetuity. It follows, from these views, that no State upon its own mere motion can lawfully get out of the Union; that resolves and ordinances to that effect are legally void; and that acts of violence, within any State or States, against the authority of the United States, are insurrectionary or revolutionary, according to circumstances. I therefore consider that, in view of the Constitution and the laws, the Union is unbroken."

This view of the question taken by the President seems to me entirely sound. But whether his practice now is not at open war with his own theory remains to be considered. It is certain that his view of the subject was everywhere indorsed by the Republican party. It was also indorsed everywhere by Democrats and conservatives, who still stand by and maintain it as the true ground. It follows, therefore, if the Union has been dissolved, it must have been effected, not by secession, but by a successful revolution in the South. But whoever contends for this acknowledges the independence of the South, and, to be consistent, should abandon the war. But we know the revolution is not yet a success.

The Union, then, "has not been dissolved," and these southern States, in view of constitutional law, are as clearly members of the Union to-day as at any former period. Sir, it is because these States are in the Union that their citizens owe allegiance to the Federal Government, and submission and obedience to its Constitution and laws. Citizens of these States who resist the authority of the Constitution and laws are rebels, because the States themselves are in the Union. And it is because these States are in the Union that war can be constitutionally and justifiably prosecuted against the insurgents, to compel their obedience to the Constitution and laws of the Union. Mr. Chairman, if a State is in the Union, it follows as a necessary consequence that whenever the rebellion in such State is subdued, and the insurgents brought back to their allegiance, either by force of the Federal arms or by their own voluntary submission to the authority of the Constitution, then the State is at once restored to all its rights and privileges as a State of the Union—may represent itself in Congress, and do all other acts which any sister State may lawfully do under the Constitution of the United States. This is a clear constitutional right which can be wrested from the State only by the hand of violence and usurpation. There can be no such thing as reconstruction, or the rebuilding of a Union which was never broken or dissolved.

Mr. Chairman, the Constitution knows no difference between States in the Union. It guarantees to every State in this Union a republican form of government. The same rights and powers "are reserved to the States respectively." The Constitution alike protects and guards from Federal encroachment the local institutions, laws, and constitutions of every State in the Union. It imposes the same restraints on executive power in every State. The President can no more lay his hand on the Constitution, laws, and local institutions of Louisiana than on those of Massachusetts. To do either would be a palpable violation of the Constitution and a daring act of usurpation. And, sir, is there a man here from the North who will consent to the exercise over his own State of the power claimed by the President, and then hold up his head and claim to be a free citizen of a free State?

But yet, sir, though the President and his party, as we have seen, were openly pledged before the whole country to the doctrine that "the Union was not dissolved, but was perpetual," we now find him, in his late message and proclamation, at open war with his own published theory. Now we hear only of State governments "subverted" or destroyed, of the "re-establishment" of State governments, and of "framing new State governments" in the South. What room is there "to frame and set up new State governments" if the old ones are still standing? Sir, it is manifest that the President's plan of "reconstruction" involves and goes beyond the odious doctrine of State suicide. Assuming that the State governments are subverted and destroyed, and the Union dissolved, he proceeds with his plan for "the reconstruction of the Union" by framing and setting up new State governments "in the mode prescribed" by himself. That is, by his imperial edict, he strikes down States and State govern-

ments, abrogates their constitutions and laws, makes no distinction between the loyal and disloyal, treats all as rebels, and disfranchises and strips the whole southern population of every civil and political right.

But then, as a mere act of grace and mercy, his Excellency proclaims that if one tenth of the voters in any one of the disfranchised States shall take an oath to "faithfully support, protect, and defend the Constitution of the United States, and the union of the States thereunder," and also swear that they "will in like manner abide by and faithfully support all proclamations of the President, made during the existing rebellion having reference to slaves," "and thenceforward keep and maintain said oath inviolate," then, that one tenth of the voters of the State shall be restored, not to the right of free suffrage, but to the glorious privilege of voting as he directs, and by that means "frame and set up a new State government," not one of their own choice, but a State government framed and fashioned in all things according to the pattern mapped out by the master-builder with a pencil dipped in blood.

Sir, the loyal man of the South, who has struggled hard against the rebellion, who has ever been true to his allegiance, and done nothing to forfeit any of his rights, is required to confess himself a rebel, swear to give up all claim to his slaves, and swear to support all proclamations issued, now or hereafter; in other words, he is to swear allegiance to the President. And then he is to receive amnesty or pardon for sins he never committed, and as a reward to his loyalty have conferred upon him the exalted privilege of voting as the President directs.

But, sir, there is still another difficulty in the "prescribed oath." The man who supports the Constitution of the United States must maintain the old Union formed by that Constitution; and must, of course, support and maintain the old States which compose that Union. But the man who supports the proclamation must sanction the overthrow of the State constitutions and laws of the southern States, and aid in framing and setting up new State governments—must aid in breaking up the old Union, and in building on its ruins a new and different Union, wholly unknown to the Constitution. In this, and in all other important particulars, the proclamation and the Constitution stand directly opposed to each other. So that a man can support the one only by disregarding and opposing the other. But he must swear to support both. Therefore the man who takes the "prescribed oath" is necessarily required to commit perjury, in the very act of taking it. This would have been considered a serious matter, in times past, when "oaths registered in Heaven" were revered and observed on earth—but now, doubtless many will regard the southern man who sticks about the oath he takes as not yet fit for adoption into the abolition family.

Here, then, we have the President's plan of setting up new State governments. No man is allowed a voice, whatever else he may swear, except he also swears to support the President's policy. Loyalty with an oath to support the Constitution avails nothing. The President will test the materials "so as to build only from the sound," and in his judgment it is safe to accept as sound whoever will swear to support his proclamations, "excluding all others."

Sir, let us pause for a moment and examine this test. Ten citizens in the State of Tennessee present themselves. Nine of these men are venerable for their age. They are the sons of patriots who fought the battles of the Revolution. In early childhood they imbibed and have cherished through life the deepest devotion to that old flag under which Washington and their fathers fought. They have opposed and struggled hard against the present rebellion. They fought under our flag in the war of 1812, and, at a later period, in Mexico, and bear upon their venerable persons numerous scars received in those wars; and now at the sight of that old flag they weep tears of joy. But they must be tested. They are more than willing to swear to support the Constitution and the old Union; but they cannot do violence to their conscience by swearing to support the proclamations. That is the test, and they are rejected as unsound.

The tenth man is then examined; and though not advanced in years, he was among the first to volunteer under the flag of Jeff. Davis; he is now

fresh from the confederate camps, and the loyal blood he has shed is still upon his garments; he does not hesitate at an oath, but swears to support all proclamations that have been or ever may be issued, and is therefore "accepted as sound;" and immediately the nine war-worn and scarred veterans, with their families and property, are all transferred to him to be ruled and governed by his sovereign will. They are disfranchised, silenced, and dare not utter a complaint, for the military power is at hand to arrest and imprison. Sir, this is, indeed, "putting down the President's foot;" but it is the iron tread of despotism, crushing out the last vestige of constitutional liberty where it moves, and leaving nothing but desolation in its path.

Mr. Chairman, the daring boldness with which the President announces his despotic scheme of government should arouse and alarm every friend of his country. He points out the exact character of the State governments to be set up, points out the exact number of voters, and fixes and settles the exact qualifications of these voters, one of which is, as we have seen, that they shall commit perjury in advance by swearing to support both the Constitution and the proclamations. But even then, after this high proof of loyalty to the President, he will not trust them, for he allows them to set up a State government *only* "in the mode prescribed by himself." Sir, it is all his work, and the voters are his menials to perform it for him. But when such a government is set up by one tenth of the voters, how shall it be maintained and enforced by so small a number over all the rest? The President has thought of and provided for this, for he says in his message and proclamation, when "a State government shall be, in the mode prescribed, set up, such government shall be recognized and guaranteed by the United States," and under it the State shall be protected against invasion and domestic violence. Yes, sir, military power is to be invoked. The free white laborers from the loyal States are to be conscripted, taken from their homes to the South, and there kept year after year to enforce by sword and bayonet the despotic rule of one tenth over all the rest, reducing them to the lowest condition of serfs and vassals, stripped of all the rights of self-government, and crushed to the earth. And this, sir, is the President's idea of "the home of freedom disenthralled, regenerated, enlarged, and perpetuated." But, sir, it is my idea of an odious abolition oligarchy of the most cruel and savage character. And can it be "perpetuated?" Yes, when the spirit of liberty is gone, when, by long years of oppression and cruelty, these people have lost all tradition of their descent from revolutionary sires, then it may be perpetuated. Sir, the very idea that a single man in this country should attempt this monstrous scheme of despotism is enough to fire with indignation the breast of every man in whose veins there is one drop of revolutionary blood.

Mr. Chairman, it seems to me none but the willfully blind can fail to see that this scheme, in all its features, is in direct opposition to the Constitution. Even the gentleman from Pennsylvania, [Mr. STEVENS,] not long since, in a speech in this House, declared that the President's plan of reconstruction "was wholly outside of and unknown to the Constitution." That is true, and he might have added with equal truth that it is an open and flagrant violation of the Constitution. Indeed that necessarily follows from what he did say; for it is clear that the President has no power outside of and unknown to the Constitution, but derives all his power from it, and the exercise of power not granted by the Constitution is forbidden and prohibited by it. But yet the President says in his message, "On examination of this proclamation it will appear, as is believed, that nothing is attempted beyond what is amply justified by the Constitution." And how does he attempt to sustain that bold assumption? By telling us the Constitution authorizes him "to grant pardon at his own absolute discretion, and this includes the power to grant on terms." Yes, unless the terms violate the Constitution, as they plainly do in this case. For what power has the President to confer upon a pardoned rebel the important right of voting? Can he make laws to control the rights of suffrage? It is true the President and the rebel may enter into a contract, provided it does not infringe the rights of others.

But what is the contract in this case? Plainly this: the rebel, on his part, agrees to swear allegiance to the President, support all his proclamations, and stand by him in all the elections. In consideration of which, the President, on his part, agrees to pardon the rebel and clothe him with the power of ten men at the polls and in the rule and government of the country, for he gives the rebel a voice at the polls and disfranchises and silences the voices of nine other men. And the President has the best of the bargain. He will get one vote from the rebel certain, and close the mouths of nine other men who would be just as certain to vote against him. He will therefore lose nothing in the coming election. Sir, it is strange the President should make even the remotest allusion to the Constitution in connection with this monstrous scheme of despotism.

Mr. Chairman, it is clear that the device resorted to heretofore to conceal from the public mind the enormity of other usurpations, and called "the President's war power," can give no support to this scheme. For, sir, the very moment the rebellion in any one of these States is put down and ended, that moment the President's war power, whatever it may be, is also at an end. The war must cease with the rebellion, its cause and only justification. And if the President, for abolition purposes, protracts the war after the rebellion ceases, he then wars on a people yielding obedience to the Constitution, changes places with the rebels, and becomes a revolutionist and rebel himself.

Mr. Chairman, the emancipation proclamation of January 1, 1863, was professedly issued by Mr. Lincoln on his supposed war power alone, and, as Commander-in-Chief, "upon military necessity." But when the war is over, what then? If Mr. Lincoln as Commander-in-Chief could, with the sword, strike down State governments and destroy the Union, under what power can Mr. Lincoln as President set up new State governments and build up a new Union? The war power was a discovery. It had never been supposed the President as Commander-in-Chief had any greater power than any other commander-in-chief would have. But the argument was that the power of Mr. Lincoln as Commander-in-Chief was greatly enlarged by virtue of his union with Mr. Lincoln as President, so that he could overthrow State institutions and governments, and do many acts which no mere commander-in-chief could do. But to serve the present purpose the argument must be extended. It must now be urged that the civil power of Mr. Lincoln as President has been greatly enlarged by virtue of his union with Mr. Lincoln as Commander-in-Chief, so that he can now build up new State governments and a new Union on the ruins of the old one, and do many acts which no mere President could otherwise do; and the last argument would be just as sound as the first; it does no violence to the general principle, but only extends it. True, there would seem to be danger that by this mutual impartation of powers, first, by the President, to the Commander-in-Chief to *destroy*, and then by the Commander-in-Chief to the President to *build up*, the two officials in the one, Mr. Lincoln might swallow up all power, executive, legislative, and judicial, and so put an end to the Government of our fathers. Yes, sir, and that is really what is being rapidly consummated by the Jacobins in the North, under subterfuges, like these, of the most disgraceful and shameful character.

Sir, if these States are still in the Union, the power claimed by the President over them is so monstrous and gross a violation of the plain provisions of the Constitution that leading abolitionists in this House and in the Senate are becoming ashamed to say a word in its defense. And to avoid the difficulty, and give some show of plausibility to their support of the President's scheme the key-note has been sounded in both Houses of Congress that the Union is dissolved; and the abolition cohorts are rapidly advancing to and all of them may be expected soon to occupy that ground.

The gentleman from Massachusetts [Mr. BOWWELL] in a speech not long since took the ground that all the seceded States had ceased to exist as States of the Union. What road they traveled, or how they got out of the Union, he did not seem to know, or at least did not explain; but that they were out he seemed to have no doubt. And on

that subject he advanced as good secession doctrine as any man in South Carolina could desire. The gentleman from Pennsylvania [Mr. STEVENS] has more than once declared in his place in this House that the seceded States are out of the Union, and constitute a foreign country; that the Constitution and laws and all compacts between the North and the South have been abrogated and set aside. We are thus told, after nearly three years of terrible war to save the Union, that we have no Union; it has been destroyed and has passed away. Nor have we a Constitution, for it, too, has been abrogated. Sir, if that be true, then that old flag is no longer a truthful symbol. No, let it be rent and torn, eleven of those stars blotted out, and the rest separated and left wandering and alone under clouds and darkness, and let that other symbol over your head be broken and draped in mourning.

Mr. Chairman, possibly it may serve to quiet the scruples of conscientious men, who cannot feel quite prepared to sustain these measures, in violation of the Constitution they have sworn to support, to tell them the Constitution has been abrogated, and that we have none. But how can these gentlemen forget that they themselves have no power, except that delegated by the Constitution; and that by it all powers not delegated to the United States "are reserved to the States or to the people;" and that the usurpation by Congress or any other department of the Federal Government of any of these powers, not delegated but reserved to the States, is a direct and plain violation of the oath taken to support the Constitution? And who can fail to see that when the gentleman from Pennsylvania [Mr. STEVENS] bases his support of the President's scheme on the ground that "it is wholly outside of and unknown to the Constitution," he places it on the ground of usurped power, forbidden by the Constitution—on ground where no man can touch it or lend it the least support but by a plain violation of his oath to support the Constitution?

And what, sir, does this doctrine of State suicide, of the abrogation of all compacts between the North and the South, mean? Sir, it means that secession has accomplished all its guilty authors ever claimed for it; that by secession the Union has been dissolved; that the great experiment of man's capacity for self-government is a failure; that the Government purchased with the blood of our fathers, with all its hallowed memories and bright hopes, has passed away and gone forever. Sir, it means that not a rebel in the South can ever be convicted of treason; nay, that there are no rebels there; they are all citizens of an independent foreign country and owe no allegiance to the Government of the United States; that, receiving protection under that government, they owe allegiance to it, and to yield to the claims of the United States would be an act of treason on their part; and that to resist the authority of the United States is one of the highest acts of duty and patriotism on their part, for in that way only can they escape the guilt of treason, and prove their loyalty to their own independent government.

And, sir, if this doctrine be true, then what sort of a war is this on our part? A war in which multiplied thousands of precious lives have been sacrificed; a war that has literally drenched the land in kindred blood, and filled the whole country with weeping widows and stricken orphans; a war that has swept over this country like a wild tornado, carrying waste, desolation, and wide-spread ruin in its path; a war that has accumulated a crushing public debt, under which the nation at this moment reels and staggers like a drunken man. And all for what? To break up and utterly destroy a foreign country, to rob and plunder a whole community of people; confiscate all their property and effects, seize and take possession of their lands, strip them of everything, leaving them neither clothes to wear, bread to eat, nor a roof to shelter them; and to arm and give temporary freedom to their slaves to aid you in exterminating or driving from home and country a whole race of kindred people. This done, and then the rich cotton lands are to be parceled out among northern adventurers, the negroes under the name of hirelings reenslaved and transferred to Yankee taskmasters whose avarice, as insatiable as death itself, is to be the measure of the black-man's slavery and suffering. All this, sir, is but

too fully and plainly indicated by the proclamation and the various kindred measures now maturing in this House.

And upon the grounds assumed by abolition disunionists there is not in all history a more cruel and bloody page than your present war programme with its kindred measures presents. It is utterly unjustifiable, savage, and barbarous, a burning shame and disgrace to any Christian or civilized nation. Sir, notwithstanding all the earnest efforts, entreaties, and warnings of patriots and conservative men, the party in power, moved by avarice and the fell spirit of fanaticism and sectional hate, has plunged this nation headlong into all these fearful and bloody horrors. And it is all the joint work of abolitionists and secessionists, those twin monsters in guilt and crime. Sir, amid all this wide-spread ruin, desolation, and sorrow and suffering and death; not a single pang of body or mind has been felt, not a tear has fallen, nor drop of blood been shed, nor grave made, but by the joint work of abolitionists and secessionists. They have crucified and murdered the peace and happiness and constitutional liberty of a great nation. Ocean's waters can never cleanse their blood-stained hands. Their crime has no parallel; it rises up mountain-high, covered all over and smoking with human blood.

STATE RENOVATION.

Mr. DEMING. Mr. Chairman, I was induced to seek the floor when the House was last in committee upon the present subject, because the two speeches to which I had listened upon the President's message paid but a passing glance to what is to me its most important and most memorable feature: I mean its plan of State renovation. As it is the first distinct intimation from an authoritative source that the war is not to be everlasting, and that States may yet be restored, and that the rebuilding of our dilapidated temple may yet be commenced, it deserves to be received with fuller ceremonies and with ampler honors. It is at least refreshing to those who have feared that between State secession on the one hand and State annihilation on the other, the Federal system would be ground to atoms, and not even territorial unity saved from the general wreck.

In surveying the insurgent States we see at a glance that the elements which may create and inspire a new national life, and those which may corrupt and destroy it, are now both floundering together in the great vortex of civil war, and that, unless this "tumult and confusion all embroiled" is to last forever, these elements must be summoned to separate and recombine according to their respective natures, and assert their appropriate functions, and work out energetically their inhering affinities of life unto life and death unto death. If the neutralizing of the elements of order was the only evil of this unnatural combination, it would most pathetically appeal to all that can be done by executive interposition for its correction. But when we consider that by a stern implication of law, according to its authoritative expounders, all distinction between guilt and innocence in the insurgent States is also confounded, and that the loyal within the limits of this civil war are subjected to the same pains, penalties, and forfeitures with the disloyal, a case so pitiable is stated that it should appeal to heaven and earth for relief.

It is to this precise anomaly that the President's plan addresses itself. It seeks to liberate order from this inert and paralyzing combination, to exempt innocence from being confounded with guilt, to separate loyalty from that unwholesome contact which attaches to it the contagion, and subjects it, in the eye of the law, to the punishments of crime.

The task essayed is one of infinite difficulties and embarrassments, and no plan of restoration devised by finite wisdom could approximate toward completeness at the outset, because the facts upon which it should be based are to a great extent prospective, and because it must constantly modify and change itself according to new developments as it advances into the future. The President, therefore, has wisely abstained from proposing anything but a transitional plan, adapted to the exigencies of the hour, and merely bridging the chasm between State anarchy and State restoration. It professes on its face to be temporary only, and not final or unchangeable; contenting

itself with commencing the great deliverance, and by the necessities of the case restricting itself to such initiatory modes and such tentative processes for renovating the insurgent States as our present imperfect knowledge of their condition and limited control over them permits him to employ.

In attempting to solve this most perplexing of political problems at the present stage of its evolution, no statesman who relies upon merely human observation and forethought could have adopted any different method. If you demand just now and here a thorough and perfect code and science of reconstruction, you must go to those who enjoy special revelations and inspired prevision of the future. Mere men must grope their way when dealing with what is beyond the limits of their knowledge, and it is by experimental processes alone that the race has succeeded in reaching the certainties of science and in triumphing over the obstacles and mysteries which have beset it from infancy.

While, therefore, in my judgment, the President's plan is not beyond cavil, it is as complete and comprehensive as the intricacies of the subject and its present development will permit, and it possesses also the rare merit of being just to the Government, just to the insurgent States, and just to the slave; and it is to these three characteristics that I propose to restrict my remarks at present.

1. It is just to the Government.

It surrenders no power or jurisdiction which the Government has ever claimed; it maintains every law which Congress has passed during the civil war; it abandons no executive measure which the exigencies of that war has evoked; it yields to armed enemies none of their insolent demands, and to cold friends none of their temporizing expedients. If the insurgent States return upon this plan, they will return acknowledging all the claims of the Government which they made the pretext of revolt, and abjuring the claims which they propounded as their ultimatum of peace. They will return not only repudiating the glosses which, for more than thirty years, they have attempted to foist upon the Constitution, but also their darling policy of extending and propagating slavery, to which, for a longer period, they have attempted to make it subservient. They will return swearing allegiance to an organic law which has clarified itself by blood of all taint and stench of secession, and which has demonstrated its self-existence by nearly devouring one half of its assumed creators. They will find that the fire which has swept over this District has not only burnt off slavery, but exterminated the root and seed of it in the soil itself, and that since their hegira from this Hall, the question upon which their Pryors, their Keits, their Cobbs and Barksdales have so often convulsed it has been definitely settled, and that freedom is now securely seated upon our immeasurable Territories for the illimitable future, and that the influence of despised New England has planted the seed of free republics as near the setting sun as she is herself to his rising beams, so that when her choral hymn of rejoicing liberty sweeps over the Father of Waters, it can be caught up by younger voices and pealed in one continuous and unbroken strain until it is lost in the deep-toned anthem of the vast, peaceful sea. They will find that their old feudal Bastile, strong and impregnable though it once seemed, has been undermined by our armies, and blown up and scattered into fragments by those of their own kin who preferred the destruction of slavery to the death of the nation. They will find that military necessities, which they themselves created, have placed Springfield rifles into the hands of slaves, from which the same necessities had previously struck off the fetters, and that a hundred thousand of these once groveling bondsmen, marshaled into the armies of the Union and trained in military skill and discipline, now defiantly hold the acres over which they were once tracked by blood-hounds, and domineer the plantations where they once toiled under the lash of the overseer. They will return finally with wonderfully increased respect for Uncle Sam, bowing obsequiously to him, as a respectable living thing, self-sustained, and not sustained by their sufferance, with a power and will of his own, and breath in his nostrils not breathed into it by them, with a right hand strong enough to bruise and break, and with a face that will hereafter be a terror to all his enemies.

2. The President's plan is just to the insurgent States.

And first: are those excluded from amnesty and pardon justly and rightfully excluded? This question deserves no nicety of discussion, for upon it there can be but little honest difference of opinion. The main conditions which the President imposes upon those he restores to pardon are contained in an oath, and the virtue of an oath lies in its obligatory and binding force upon the conscience. He therefore justly excludes from pardon all who have demonstrated by manifest perjury their contempt of its obligations. The forsworn judges who have surrendered honor on our decorous bench for infamy on a judgment seat reared by civil war, the forsworn officers, military and naval, who have prostituted to the rebellion the skill in arms which they acquired as wards and beneficiaries of the Government, are justly and righteously debarred from amnesty because they have not conscience or honor enough left to be grappled by an oath.

Crimes differ in degree, and the experience of mankind establishes that while some can be safely pardoned without detriment to the common weal, there are others which cannot go unpunished without its constant peril or its certain destruction. The high civil and diplomatic magnates of this most unprovoked rebellion, the military Molochs whose rank entitles them to guilty preëminence, are left to lie unshrived, unanointed, in the pit they have dug for themselves, because among the crimes pronounced inexpiable by the consenting voice of all the ages, is that of those arch-rebels and arch-traitors who instigate and lead a civil war—the sum and expressed essence of every crime. The society which tolerates such parricides cannot exist a moment in safety. Rome could enjoy no repose while Catiline lived. France was drenched in blood until Robespierre was guillotined. Davis will convulse secession as soon as he is not allowed to reign, and if its bonds had been worth stealing, Floyd would have robbed it before he did.

The miscreants who have violated the laws of war, and ostracized themselves from human sympathy by murdering and torturing disarmed and helpless prisoners of war are justly left to work out their own damnation; and why? Because to forgive a thug who maims and murders in the name of chivalry would be an outrage upon civilization.

Secondly. Are the terms imposed upon those included in the amnesty just and right?

What are these terms? There are five of them:

1. An oath to sustain the Constitution.
2. An oath to sustain the anti-slavery legislation.
3. An oath to sustain the President's proclamation.
4. Slave property is withheld in general restitution.
5. Property, where the rights of third parties have intervened, is also withheld.

The committee will observe that the first three of these conditions are in the form of an oath. Now, I agree mainly with my friend from Kentucky, [Mr. YEAMAN,] who has spoken upon this question, when he says that great quarrels are settled by the fortunes of war and by the domination of great ideas and principles, rather than by the formality of taking oaths and recording them; and that restoration is attained when the ideas and the forces of the nation have prevailed over the ideas and the forces of secession and national disintegration. It appears to me, however, that this is an explanation of the method by which social laws and influences rather than political agencies may reunite a divided society. The ideas and forces of which he speaks are embodied in human beings who at the present stage of our advance must continue to be governed and directed by political administration and its appropriate machinery. Sociology must wait for many decades before its sublime speculations can be applied to practical affairs. In political parlance, the elements which he represents as struggling for preponderance are loyalty and disloyalty. An oath of allegiance may not be an infallible mode of discriminating between those who will faithfully and sincerely support a Government and those who will desert and betray it; but who can at present propound a better test? I can conceive of a stage in our future culmination when all the masked disguises and hypocrisies of mankind will be stripped off, and their most interior motions and impulses stand revealed. I can im-

agine that the inhabitants of earth may yet become as perfect as the inhabitants of the higher spheres, who, according to clairvoyant philosophers, are incapable of deceit and cannot speak at all without speaking the truth. But in the nineteenth century, and with our present imperfect means of penetrating men's real purposes, we must rely upon the old-fashioned oath of allegiance as the best criterion of their rectitude or want of it. It is the test which has been used in Government since the morning stars sang together; it was used in the construction of our present system, and must be used in the reconstruction if we are to commence the work of renovation by separating the true from the false, the loyal from the disloyal, the wheat from the tares.

It is objected to this plan that it pardons the rebel on condition of his doing a certain thing, and requires the loyal man to do the same thing before he can participate in a State government. The Supreme Court of the United States has unanimously decided that from the 13th day of July, 1861, the date of the approval of the non-intercourse act, there has been between the Government and the confederate States a civil territorial war; and it is laid down as a principle in the same momentous decision that "the laws of war, whether the war be civil or *inter gentes*, convert every citizen of a hostile State into a public enemy and treat him accordingly." From the outbreak of this rebellion to the present hour, on the non-intercourse act, on the confiscation act, on the conscription act, on every vigorous and earnest measure of legislation the gentlemen on the other side of the House have importunately invoked the Constitution and the laws, and here they have them, in full measure and running over; law certain, but law inexorable, as it was in Shylock's case; law not according to the Solicitor of the War Department, but law according to the supreme arbiter of mooted constitutional questions. Since the adoption of the Constitution the court has devoted itself almost exclusively to the study and interpretation of its peace side, and out of it they have extracted power and authority enough for all the emergencies of peace and for all the operations and enterprises of a tranquil society. When the judges shall have given to its war side one tithe of the attention and study which they have given to its peace side, they will discover power enough for all the emergencies of war; power enough for self-defense, whether the Government it organizes is attacked in the guise of secession or of revolution; power enough to inflict full and exemplary punishment upon all who assail it, whether they are seceders, rebels, traitors, or public enemies. The decision in the prize cases is the first fruit of these new studies, covering by its vast sweep all the war legislation that has been so severely criticised and so savagely rebuked. Before the 13th of July it might or might not have been, according to the judges, a *personal* war. Before that time it might or might not have been that the only enemy the Government could recognize was the *person* engaged in the rebellion, as the opponents of the Administration have clamorously asserted, and that all others were peaceful citizens, entitled to all the rights and privileges of citizenship under the Constitution. But since the non-intercourse act no such claim can be made, for the point is authoritatively settled by the agreement of all the judges that from that time the *personal* war became a *civil territorial* war, giving to the United States full belligerent rights against all the inhabitants of the rebellious districts, and converting them all, in the eye of the law, into public enemies.

It does not by any means follow that because the rebels have forfeited all constitutional rights and constitutional guarantees, they have thereby absolved themselves from constitutional obligation. They are "none the less enemies because they are traitors," says Judge Grier, and he might have said that they have not ceased to be traitors because they are enemies. In other words, the President may elect to pursue them either as enemies or traitors, by the Constitution or by the laws of war. If he elects to pursue them as traitors, he must pursue them in accordance with the constitutional definition of treason and by the mode and with the limitations it clearly indicates in the section devoted to that crime. If he elects to pursue them as enemies, there is no limit and restraint upon his discretion but the laws of war.

The Duke of Cumberland, when in 1745 he subdued the Scotch rebels, could have tried them all at a drum-head court-martial, or handed them over to the civil tribunals to be tried according to the laws of England defining treason.

Here, then, you have it. It is "so nominated in the bond," that within that boundary "marked by a line of bayonets," every citizen, whatever his conduct, whether Union or rebel, loyal or disloyal, is a public enemy and liable to be treated as such. Now, is it not rather too late in the day to declare that all within that line do not need pardon before they can be restored to the rights of citizenship which they have forfeited as public enemies? It is not, as has been stated by some, a "superfluous boon," which the President tenders to the loyal man, nor has he adroitly blended together the conditions of pardon with qualifications for citizenship. It was with a full knowledge and understanding of the effect and operation of this decision in the prize cases, and from his conviction that a man who had never swerved from his allegiance might be caught in the meshes of this legal implication that induced the President to disregard the broad moral distinction between the two classes, and to extend his clemency to all who in legal contemplation were public enemies. In the very opening sentence of his proclamation he offers it to all who have "directly or by implication" participated in the rebellion.

Let me now for a moment examine more in detail the terms of the President's plan. In the first place he requires that all who accept his clemency shall swear "to henceforth faithfully support, protect, and defend the Constitution of the United States, and the Union thereunder." That this is a just and righteous demand from all who have "directly or by implication" participated in the rebellion, the most scrupulous and tender-hearted apologist for our "wayward sisters" will hardly venture to deny.

In the second place he requires from them an oath to abide by and support all the anti-slavery legislation of Congress during the existing rebellion, so long and so far as it is not abrogated by the national Legislature nor declared void by a decision of the Supreme Court. Now, inasmuch as by the Constitution itself the Constitution and the laws made in pursuance of it are declared to be the supreme law of the land, there is no great hardship in requiring both from the loyal and disloyal inhabitants of the insurgent States an oath to support the supreme law of the land, so long as it continues to be valid and unrevoked.

In the third place the President requires from the recipient of executive clemency an oath to sustain the proclamation emancipating slaves, so long and so far as it is not invalidated by supreme judicial decision. Whether the proclamations were constitutional or not is not here the question, for this is waived by the essential qualification of the oath, and left where it must eventually go, to our supreme judicial tribunal. If the proclamation is pronounced by the judges unconstitutional the oath is void; if constitutional, it merely binds the conscience of the affirmant to sustain the Executive of the United States, in a time of grievous national peril, in the exercise of his legitimate powers.

In the fourth place the President's plan withholds slaves in the general restitution.

And it is upon this point that in my judgment the most serious differences of opinion will arise to those who hold that rebels who adjure the Constitution and wage war for its destruction are entitled to all the rights which it guarantees, and can only be pursued by constitutional penalties; both the emancipation of slaves and the refusal to restore them will seem the greatest of enormities. To those who hold that the inhabitants of the insurgent States have forfeited all their rights under the Constitution, and are public enemies in a state of war, with no rights but such as the law of nations accords to belligerents, the condition now under consideration will be regarded only as the infliction of just and merited punishment.

Round these conflicting theories, from the firing upon Sumter to the present hour, proposition and reply, assertion and rejoinder, have raged and stormed as when—

"From peak to peak, the rattling crags among,
Leaps the live thunder."

It seems to me, however, as I have already stated, that the Supreme Court of the United States

has closed the high debate and pronounced judgment to which we are all bound deferentially to bow. The judges have unanimously agreed in affirming that a civil war between the Government and the confederate States has existed for two years and a half, and that a civil war carries with it all the legal consequences of war. Now, what are these legal consequences? They are gathered together from Vattel, Phillimore, and Wheaton, and compendiously summed up in the opinion of Justice Nelson, in the prize cases, 2 Black, 687:

"The legal consequences resulting from a state of war between two countries at this day are well understood, and will be found described in every approved work on the subject of international law. The people of the two countries become immediately the enemies of each other—all intercourse, commercial or otherwise, between them unlawful—all contracts existing at the commencement of the war suspended, and all made during its existence utterly void. The insurance of enemies' property, the drawing of bills of exchange or purchase on the enemies' country, the remission of bills or money to it are illegal and void. Existing partnerships between citizens or subjects of the two countries are dissolved, and, in fine, interdiction of trade and intercourse, direct or indirect, is absolute and complete by the mere force and effect of war itself. All the property of the people of the two countries on land or sea are subject to capture and confiscation by the adverse party as enemies' property, with certain qualifications as to respects property on land. (Brown vs. United States, 8 (ranch), 110.) All treaties between the belligerent parties are annulled. The ports of the respective countries may be blockaded, and letters of marque and reprisal granted as rights of war, and the law of prizes as defined by the law of nations comes into full and complete operation, resulting from maritime captures, *jure belli*. War also effects a change in the mutual relations of all States or countries, not directly, as in the case of the belligerents, but immediately and indirectly, though they take no part in the contest, but remain neutral."

"This great and pervading change in the existing condition of a country, and in the relations of all her citizens or subjects, external and internal, from a state of peace, is the immediate effect and result of a state of war."

If this be so, if, in the language of the court, "all the property of the people of the two countries, on land and sea, are subject to confiscation and capture by the adverse party, as enemy's property," I do not see how the conclusion can be evaded that the slave property of the insurgent States was lawful spoil and prey of war, and that the President, as Commander-in-Chief and sole judge of military necessities, was authorized in taking the services of the slaves from their masters, in the only efficacious way it could be done, by an edict of emancipation. He found back of the heavy legions of armed rebels, back of the bayonets and artillery which, at Corinth, at Murfreesboro', at Richmond, were aimed at the nation's life, back of Lee and Jackson and Beauregard and Bragg and the whole multitudinous host, four million men pressed into the hated and loathsome business of feeding, clothing, and sustaining their enemies and ours. He found in the slave the bone and sinew and muscle of the social state that was hurling upon us death and destruction, the body of the grim Colossus that was clutching the nation's throat, the forage, the subsistence, the transportation, the labor, the architect, the operative, the intrenching-tool of the foe. To the slave it was due that a remorseless conscription could skin the land of white men, and drive all, from the "whining school-boy" to the "lean and slipped pantaloons," into the fighting ranks of the rebellion. And must the Commander-in-Chief of the Federal Army withhold his hand from this immense arsenal of strength and power and victory? What! not break the bone, not sever the sinew, not rend the muscle, not seize the subsistence, the wealth, the material, not tear out the heart of the rebellion, when they were all at his mercy by the laws of war? What folly, what imbecility, what treachery to the people, what perfidy to the Government, would such a refusal imply! Military necessity! Why, at the time of the proclamation we were reeling and staggering under well-delivered and repeated blows. The elections were against us. The public sentiment of the world was cold and menacing. England stood ready to avenge the defeats and jealousies of a century by pouncing upon us in our weakness, and an alliance with the confederacy was a part of Napoleon's plan of transatlantic aggrandizement. Name the nation that was ever more severely pressed at home and abroad; name the instance in the tide of time where such a necessity was more paramount, when a measure was more unavoidable to save a realm from everlasting overthrow, on the one hand, and upon the other to secure for it a glory

unsurpassed, a progress without end, a triumph of humanity such as was never seen before.

Fortunately for the country, fortunately for the world, the President was equal to the emergency; he did not refuse: he manumitted the slaves; and in doing this but followed the example of those master States who make the laws of war and give them their authority. England has by three of her military commanders turned this formidable engine against us as an unquestioned martial right. France has freely distributed rescripts not only of emancipation but of enfranchisement, and Spain has added the weight of her authority to the same rule. When in the South American republics hostile factions have dashed together, they have had no scruple in liberating slaves as a legitimate mode of crippling an antagonist; and it will be hard to find a modern war carried on in territories of slavery in which emancipation has not been used as a legitimate belligerent right, and used without protest. As property, it was the duty of the President to confiscate them by the only effectual mode; as persons in duress, unwillingly contributing to the strength and resources of the enemy, it was his duty to break up the duress by the only effectual mode; as loyal subjects panting to rush to the defense of their imperiled country, it was his duty to remove all restraint from the free exercise of their volition by the only effectual mode; as disloyal subjects rendering voluntary service to their masters, it was his duty to take that service by the only effectual mode.

3. Just to the slave.

Shall these once slaves but now freemen be remanded back to bondage? No: "personal property once forfeited is always forfeited." No: slaves once legally free are always free. No, no; thrice no, by the ashes of our fathers, by the altar of our God! The "chosen curses" and the "hidden thunder in the stores of heaven" will forbid the rendition: a crime to them, a malediction to their masters, a shame to us, and a disgrace to the age. If these children of wrong and oppression are the lawful spoil of our victorious arms, give up to the enemy your proudest national memorials—the sword of Washington, the staff of Franklin, that time-worn but immortal parchment which first authoritatively published your independence to the world—give up to him the blood-stained flags and trophies which, upon the bristling crest of battle, our heroic defenders have wrested from his desperate grasp; give up to him this Capitol itself, and throw at his feet the President's head, before you give up the most abject of these bondsmen disinherited; for in surrendering them you will squander one of those priceless moments, big with the future, worth more than a whole generation of either bond or free, the rare and pregnant occasion placed in your hand by the fortune of war of wiping forever African slavery from the American continent.

If this deliverance is ever vouchsafed, then shall we be purged forever of the sole source of our weakness and dissension in the past; then will pass away forever the sole cloud that threatens the glory of our future; then will the American Union be transfigured into a more erect and shining presence, and tread with firm footsteps a loftier plane, and cherish nobler theories, and carry its head nearer the stars; then will it be no profanation to wed its redeemed and unpolluted name to that of immortal Liberty; then Liberty and Union will go on, hand in hand, and, under a holier inspiration and with more benign and blessed auspices, will revive their grand mission of peacefully acquiring and peacefully incorporating contiguous territories, and peacefully assimilating their inhabitants; then from the Orient to the Occident, from the flowery shores of the great southern Gulf to the frozen barriers of the great northern Bay, will they unite in spreading a civilization, not intertwined with slavery, but purged of its contamination, a civilization which means universal emancipation, universal enfranchisement, universal brotherhood; then shall we have done for the United States what Richelieu is said to have done for France:

"He fought France rent a-sunder,"

"Brawls fighting to rebellion, and weak laws
Rotting away with rust in antique sheaths
He rescued France; and trod the ashes
Of the old feudal and decrepit carcass,
Civilization, on her luminous wings,
Soared, Phoenix-like, to Jove."

Despair not, then, soldiers, statesmen, citizens, women, who are fighting energetically for a nation's life. The cloud which now shuts down before your vision will yet disclose its silver lining. Peace shall be born from war, and out of chaos order shall yet emerge. We shall dwell together in harmony, and but one nation shall inhabit our sea-girt borders. We seem sailing along the land, hearing the ripple that breaks upon the shore, where our recreated and regenerated Republic, after it has passed through this fiery furnace of war, these gates of death, shall be permanently installed. We shall yet tread its meadows and pastures green, trade in its marts, live in its palaces, worship in its temples, and legislate in its Capitol. The Providence of God moves through great cycles of time. If we could only attain a point in the future that commands a sufficiently comprehensive retrospect, all the mysteries of our historic evolution would unfold their meaning. We should learn why our journey to this "more perfect Union" was so long and wearisome; why the morn was so long in breaking; why diverse races were at the outset planted on this continent; why we struggled through Indian, Spanish, French, and English wars to political independence; why just as the new-born nation was "hardening into the bone of manhood" it was suffered to divide itself into hostile armies, that have crossed each other's track, and intersected and rushed and crashed together, as the planets would, if the forces which hold them in their orbits were once suspended; why religion and knowledge and law were too feeble to bind together repellant societies; why bigotry and intolerance were but half-crucified in our best men; why slavery was ever generated; why it did not die in the womb, and why it so long impeded the march of the American people to national unity and domestic tranquility.

Mr. BLAIR, of Missouri, addressed the committee for an hour. [His speech will be published in the Appendix.]

IMMIGRATION.

Mr. DONNELLY. Mr. Chairman, the President of the United States, in his message at the opening of this Congress, employed the following language:

"I again submit to your consideration the expediency of establishing a system for the encouragement of immigration. Although this source of national wealth is again dowling in with greater freedom than for several years before the insurrection occurred, there is still a great deficiency of laborers in every field of industry, and especially in agriculture, and in our mines, as well of iron and coal as of precious metals. While the demand for labor is thus increased here, tens of thousands of persons, destitute of remunerative occupation, are thronging on our foreign consuls and offering to emigrate to the United States, if essential but very cheap assistance can be offered them. It is easy to see that under the sharp discipline of civil war the nation is beginning a new life. This noble effort demands the aid, and ought to receive the attention and support, of the Government."

So important did this House consider the subject just referred to, that it created, by resolution, a select committee, to whom all bills and resolutions concerning immigration were to be referred.

No subject, Mr. Chairman, can more properly occupy the attention of Congress at this time than the question of foreign immigration, whether we regard the past importance of that interest to the growth and greatness of the nation, or confine our attention simply to that pressing and direct need for laborers to which the President alludes; a need so great that already, in different quarters, private enterprise has sought to remedy it, and societies have been established, in Boston and elsewhere, with a view to facilitating and encouraging immigration. And surely, if this subject possesses such importance to the nation at large, it can with the utmost propriety be urged by the representatives of the West and Northwest, regions of country which may be said to owe the greater part of their present population, wealth, and consequence to the influx of foreign immigration.

More than one half the territorial area of the United States yet remains undisposed of and in the hands of the Government—the total area in acres being 1,879,146,240; while the portion undisposed of is 964,901,625 acres, or, in round numbers, one billion acres. Hence, if we consider the mere transfer to individuals of the title to the public lands, the work of settlement is not yet half completed; but if we recollect also the extremely sparse character of the population in

extensive regions where the Government has parted with the title to its lands, we shall find that we have as yet but entered upon the threshold of a vast and almost illimitable field of development. It is estimated that the State of Massachusetts possesses 158 inhabitants to the square mile; while the northwestern States—including Michigan, Illinois, Wisconsin, Iowa, Minnesota, and Kansas—have but 10.92 inhabitants to the square mile. The difference, then, between 10.92 and 158, represents the margin of expansion yet open even in the comparatively settled portions of the country. We have now a total population of 31,445,080. Should we attain a rate of density equal to that of Europe, our total population would be 218,186,000, or seven times our present numbers!

It is therefore apparent, Mr. Chairman, while one half our territorial area yet remains undisposed of, and while our present population is capable of a seven-fold increase before reaching European density, that every means should be taken by the Government to add to the natural and ordinary growth of our population.

It is not to be forgotten, that the magnitude of our nation has alone saved us from foreign intervention in the war in which we are now engaged. Had the present terrible ordeal fallen upon us when possessed of but one tenth our present population, there can be no question that the intense hostility with which we are regarded by the ruling classes in the nations of western Europe would have dictated armed intervention and our probable overthrow. If the magnitude of our resources and the numbers of our armies appalled our enemies, it must be remembered that these were but results made possible by our vast population. Our foes shrink from a life-and-death contest with a nation which even in its torn and distracted condition was still wealthy and mighty, able to pour its armies into the field by the million, and to empty forth at the feet of the Government an incalculable store of riches; a nation which, to use the striking illustration of Mr. Ruggles, of New York, could literally, and not figuratively, gird the world with the products of one crop of its western fields alone.

Nor should it be forgotten, that in the conduct of the war itself, the possession of our vast northern population has been of the first and utmost consequence.

The war upon our part has been necessarily one of occupation as well as conquest; we have had both to take and to hold; nay, more, we have been compelled to fight around the margin of a vast circle against a foe concentrated in the midst of it, and, while subduing him in the field, shut him out from all commerce with the surrounding world. If, with all our vast preponderance of numbers, we have found the task so tedious and so difficult, it will be perceived at once that with a population no greater than that of the South it would have been a sheer impossibility. Instead of literally overrunning the South and crushing it beneath the mere weight of numbers, we should have found ourselves engaged in a war ruinously protracted, to end in all probability in the utter destruction of our Government and our institutions.

If, then, all that is dear to us as a people has depended upon this question of numbers, it becomes us to inquire how we have obtained our present vast population.

In the year 1790 we had but 3,929,000 people; in 1860 we possessed a population of 31,445,080; the difference, 27,516,080, being the sum of our growth in seventy years.

How far is this growth due to the natural increase of the population in the country in 1790? To ascertain this, it will be necessary to institute some comparison with the rates of growth of other nations.

England and Wales possessed, in 1570, a population of nearly 3,000,000; in 1861 a population of 29,227,746. In other words, the growth of England and Wales was 30 per cent. less in three hundred years than that of the United States in seventy years! But, as it may be argued that the rate of growth of all nations has increased in modern times, we will confine our comparison within a shorter period.

In 1861 the population of England and Wales was 9,156,171; in 1861 it was 29,227,746, being an increase of 121 per cent. in sixty years. Its

true that England had, during that time, sent out a considerable emigration to different parts of the world, which, from the best data attainable, I estimate at 852,011, between 1825 and 1850; but on the other hand, the census of 1851 shows that England in that year contained 519,959 natives of Ireland and 130,087 natives of Scotland, making a total of 650,046. The difference therefore between the emigration and the immigration is not great enough to materially affect the question of the rate of growth.

If we apply that ratio to our own country we find that we should to-day possess a population of 11,728,120; about one third our present population.

It must not be forgotten that England is, in point of enterprise and prosperity, second only to our own country; that her commerce radiates over the entire globe, and that the sun never sets upon her possessions. It cannot, therefore, be said that I have selected as a comparison a country unfitted for the development of population.

Let us then take another instance.

France represents a stationary population, gaining nothing by immigration, losing little by emigration, growing by the mere preponderance of the births over the deaths; and at the same time possessing since her great revolution a steadily increasing measure of prosperity, evidenced by her commercial developments, the large quantities of waste land annually brought under cultivation, and the rapid increase in her manufactures. Her growth may therefore be very fairly taken as a standard for the growth of all prosperous but isolated nations. In 1801 her population was 27,349,003; in 1861 it was 37,472,132—an increase of 37 per cent. in sixty years.

If we apply this ratio of growth to our own population, we would have at the present day, instead of 31,445,080, but 7,270,590, considerably less than the population of the western States alone, which in 1860 was 9,091,979.

Whence then comes this prodigious difference in the rate of growth, in the one case amounting to a difference of 24,174,410, in the other to a difference of 19,716,880? I answer, in a very great degree from foreign immigration. What has that foreign immigration been? Divided by decades it was as follows:

Arrived prior to.....	1820.....	126,862
" between 1820 and 1830.....		244,490
" " 1830 " 1840.....		552,000
" " 1840 " 1850.....		1,538,300
" " 1850 " 1860.....		2,707,624
Total.....		5,189,276

Thus we find that since the foundation of the Government the immigrants arriving in the United States were 1,259,449 more than the total population with which we commenced our career as a nation!

This, then, Mr. Chairman, is the explanation of the almost fabulous rate of growth we have enjoyed. This is the source of the incalculable resources we have been enabled to pour forth in the face of an astonished world. This is the womb from which have gone forth those countless hordes of armed men beneath whose tread the earth seems to tremble, and before whose faces all the foulnesses of oppression are rolling away like the mist before the coming of the morning.

Let us enlarge our hearts to a liberal conception of the great work performed by this continuous flood of immigration. Independently of the wealth brought by the immigrants into the country, in itself no inconsiderable sum, they have applied their hands to all the tasks that have been spread out before them, and have everywhere turned opportunity into realization, and crude material into wealth. If seventy-five years—the period of a human life—includes the lapse of time between the foundation of the first settlement west of Pennsylvania and to-day, when the great West numbers nearly ten million inhabitants, nearly one third the entire population of the nation, let us remember that we are to ascribe a very large part of this astounding and unparalleled result to the flood of foreign immigration which has poured steadily and continuously upon our shores since the foundation of the Government. For, Mr. Chairman, it is one of the distinguishing characteristics of that immigration, that, however much the judgment of some individuals may have been clouded, after their arrival upon our shores, as to

the true path to their own interests and the interests of the nation, they have all, as if guided by some overruling instinct, sought out for themselves homes in the free States of the North.

This fact was early recognized by the leading minds of the South, and formed the basis of a large part of their opposition to the homestead law and other kindred measures for the encouragement of immigration. Indeed, this great fact was urged by many of them as a principal reason for the reestablishment of the African slave trade. Mr. J. D. B. DeBow, the leading statistical writer of the South, in a letter to William L. Yancey, dated June 3, 1859, said:

"It is plain, and time and events have demonstrated the fact, that it is not European labor that we want, since that labor during so long a time has not taken foothold in our limits, evidencing thus an incapacity to adapt itself to our condition. Time and events have made it equally clear that such labor is beyond our reach altogether."

In a speech made by Mr. A. H. Stephens at Augusta, Georgia, in 1859, the following language was employed:

"It is as plain as anything, that unless the number of African stock be increased we have not the population, and might as well abandon the race with our brethren of the North. We cannot make States without people; rivers and mountains do not make them; and slave States cannot be made without Africans."

This tendency of the free laborers of Europe to the free States of the North is understood abroad. The London Star of December 24, 1863, in an able editorial, speaks as follows:

"They [the South] boast also of the liveliness of their contraband commerce with our ports. How is it, then, that we hear of no emigration to such comparatively unobstructed ports as Wilmington or Brownsville? The former seems to defy attempts to seal it up, and the latter was till lately easy of access by way of Matamoras. But we hear of no contraband cargoes of Irishmen or Germans. And for just the same reason that we never heard much of European emigration to the South. The slave power has never wanted any emigrants but the colored and compulsory—whom it now finds wanting in 'every essential quality of the soldier,' especially in the quality of obedience and fidelity. It has jealously monopolized the vast and fertile but degenerate soil of the South. It has accumulated landed property in the hands of an aristocracy of wealth and race. It has put every obstacle in the way of free laborers settling upon its open territories, knowing well that their vote and influence would soon kill the institution which counts the laborers as capital and pays no wages but in coarse food and hard stripes."

The annual report of the Chamber of Commerce of the city of New York for 1860—61, (page 296,) shows that during 1860, out of 108,682 immigrants arriving at that port, the enormous proportion of 97,717 were destined for the free States, and but 5,362 for the slave States, and that of these latter less than one thousand were destined for the Gulf States—those States in which slavery presented her most repulsive features. Let me call your attention, Mr. Chairman, to this disproportion: less than a thousand emigrants for the distinctively slave-labor States, and 97,717 for the distinctively free-labor States; the remainder, 4,362, for those States in which slavery and free labor were contending for supremacy.

But let us pass from a consideration of the advantages already derived from this source of national greatness, to those that rest in the immediate future.

If our age, Mr. Chairman, possesses any peculiar and distinctive significance, any distinguishing trait which marks it as a new era in the development of the human race, it is to be found in its breaking down of old prejudices and illiberality; in its opening to all men of all races and colors equal opportunities for advancement; in its scattering over new and virgin lands the pent-up and oppressed populations of the elder nations; and, in a word, in its softening the asperities and broadening the generousities of mankind. Permit me to remark, Mr. Chairman, that that party which shall aspire to continuously rule the destinies of our nation must take this lesson deeply to heart, or it will find itself unworthy its high mission. The focal-point of the age, "the half-brother of the world," as an English poet has called our country, those who would lead us must rise to the sublime height of justice to the entire human family; not only to that portion, whatever may be their color, born on our own soil, but to those vast populations of the Old World, joint heritors with ourselves of the billion acres of land still unclaimed and uninhabited.

Let it be our duty then to widen the ample throat of that fountain from which already such floods of blessings have been poured out upon our

land. Let us stimulate, facilitate, and direct that stream of immigration which, with increased volume, now crowds the seaports of England and burdens down every immigrant ship sailing for America.

In the great Northwest we have ample room and verge enough for all these coming multitudes. In Minnesota alone we possess 53,500,000 acres of land, of which only 500,000 are under cultivation. We need hands to till those remaining 53,000,000 uncultivated acres; we need a house on every "quarter section," a garden by every house, a church and a school-house in every settlement. We care not how multifarious may be the languages spoken, nor from what remote regions of the world's surface that population may be gathered together. Let them but enjoy the school-house, the church, the newspaper, and free institutions, and one generation will fuse the heterogeneous mass into a population intelligent, enterprising, patriotic, ready to spend their hearts' best blood in defense of the institutions transmitted to them by their emigrant fathers, and which have so incalculably blessed and benefited them.

Mr. Chairman, we are entering upon a new era in the history of our nation. A revolution has been developing itself before our very eyes almost unobserved by the nation.

I have called attention to the fact that but three-score years and fifteen have elapsed since the commencement of settlement west of Pennsylvania. Far up in the Northwest, on the borders of the most remote of the great lakes, there is a State, little known in Europe, not yet placed on many European maps, possessed of no world-wide fame—the State of Wisconsin. Let us extract a few facts from the statistics of that State.

In 1840 the entire wheat crop of Wisconsin was 212,000 bushels. In 1861, twenty-one years later, it was 27,316,000 bushels—three million bushels more than the entire wheat crop of Ohio, New York, and all the New England States put together!

Surely, Mr. Chairman, these figures seem to pass beyond human belief; we appear to be entering upon the region of the supernatural.

In the day of Rome's greatness it was esteemed a prodigy that Alexandria, draining "the granary of the world," should send to Rome 20,000,000 bushels of wheat annually; yet from this, I might almost call it obscure State, twenty-five years since the abode of wild beasts, its name yet a strange word in the mouth of the world, there is annually sent forth seven million bushels more than the great city of antiquity was able to furnish to the swollen population of eternal Rome.

Or, passing to the neighboring State of Illinois and to the city of Chicago, let me call attention to another fact. The entire shipments of wheat, corn, oats, and barley from Chicago in 1838 were 78 bushels; in 1862 they were 55,720,000 bushels.

Or, returning to Wisconsin, the value of the produce trade of Milwaukee in 1841 was \$2,500; in 1862 it was \$20,000,000!

Mr. Chairman, we cannot but draw deeper breaths and take in wider conceptions of the future of our land in the presence of such majestic facts. We cannot but exult that a just and merciful God has laid bare in the center of a continent these illimitable fields, and is tempting to them by the beacon of an inestimable liberty the unfortunate and oppressed of the world.

"Mankind is one,
And hath but one great heart." 'Tis thus we feel,
With a gigantic throbbing across the seas,
Each other's rights and wrongs."

Nor is the revolution to which I have alluded simply in the growth of population or of wealth. A writer in the London Quarterly Review (July, 1863) says:

"The nations of the west [of Europe] have gradually become less capable of supplying themselves with food. While thousands of mouths are added daily to the number to be fed, agriculture, with all its marvelous improvements and scientific appliances, is unable to keep pace with the progress of population." * * * "A few years ago England was able to feed her own people from the produce of her own shores. She now buys grain to the annual value of \$60,000,000. It is probable that in a few years England and France will need annually \$200,000,000 of grain."

A paper has lately been read, before the London Farmers' Club, recommending English farmers to abandon altogether the raising of grain and confine themselves to the raising of stock, on the ground that the English climate is not adapted to

the cereals, which require the hot, dry climate of the inter-continental plains.

When it is recollected that one of the leading grain houses of England (see address of Thomas Whitney, Esq., before the Chamber of Commerce, Milwaukee, page 22) estimates the amount of wheat necessary for the support of the wheat-consuming population of Europe at one billion bushels annually, it is easy to estimate the effect which this steady diminution of the amount of wheat raised in Europe must have upon those regions of our own country especially adapted for the growth of that cereal.

It cannot be lost sight of that considerations of climate, soil, and geographical location, override all the efforts of human energy and industry. New England, by the census returns of 1860, raises wheat enough to feed her own people three weeks, and New York sufficient for six months; while Pennsylvania, after feeding her own population, possesses no surplus, and Ohio but three million bushels. In ten years the wheat crop of these States has decreased 6,500,000 bushels. (See Report of Chicago Ship Canal Convention, page 86.)

Steadily the seat of empire of this wonderful cereal is being transferred northward. Gradually, imperceptibly, and by the force of powerful natural laws, new regions of country are rising into the first consequence as the bread-producing regions of the world. During the ten years in which the eastern States diminished their wheat crop 6,500,000 bushels, the Northwest increased its wheat crop 55,000,000 bushels!

In no other locality is this startling growth more strikingly displayed than in the State which I have the honor in part to represent—Minnesota. In 1858 that State was an importer, to a large extent, of flour, beef, pork, &c., to supply the wants of her own people. In 1860 her entire crop of grain and potatoes was 14,693,517 bushels; her entire crop of wheat 5,101,432 bushels, nearly five times greater than the wheat crop of all the New England States, possessing six times her population! There has never been in the history of the human family, so stupendous a rate of growth as this. In one year, from 1859 to 1860, the breadth of wheat sown in the State increased 85 per cent., and the amount of crop 114 per cent.!

Can we be blind to the great lessons taught by these facts? Can we shut our eyes to the fact that the advance of civilization and the crowding together of population turn the labor of man from agriculture to manufactures and commerce, and that these non-producers of food are steadily increasing in number both in our own country and in Europe, and that with their growth there is a corresponding increase in the number of the whole human family? Who shall feed these increasing millions? Where shall the food which is to sustain them be raised? The statistics I have given answer this question, so far as our own land is concerned.

What are the requirements for the growth of wheat? An English writer has answered the question:

"The possession of extensive fertile plains, a favorable climate, a moderate but not dense population, a convenient access to the sea, or facilities of transport by great rivers."

All these we have in the Northwest; joined to a dryness and coolness of the atmosphere, which bring to the highest physical development every form of life subjected to its operation.

There is one significant fact which stands out with great distinctness; it is this, that immigration, following its instincts, is pointing its column steadily toward the great Northwest. The ratio of increase of the whole nation from 1850 to 1860 was but 35½ per cent.; that of the West 68.25 per cent.; that of Wisconsin 150 per cent.; that of Minnesota 2,761 per cent.!

Here, then, we have the elements of this great question:

1. An increase in Europe and in our own country of the non-producers of food.
2. A decrease of the cereal crop in the now settled regions of the earth.
3. The possession in our inter-continental prairies of the greatest grain-producing region on the globe, lacking only hands to bring its incalculable riches to the light.
4. The existence in Europe of vast multitudes, enterprising, intelligent, industrious; eager to cross the Atlantic, and press forward in the footsteps of their brethren to the West and Northwest.

Shall we not lend the sanction of this Government to their migration? Shall not this Government, so greatly to be benefited by their coming, extend to them a helping hand, watch over them in their transit, care for them on their arrival, and facilitate their movements to the new lands of the West? All the evidences go to show that the immigration during the next decade will be greater than ever before known. It is not to be forgotten that the immigration between 1850 and 1860 was more than one half the total immigration since 1790.

With the blessing of Almighty God the result of this war cannot but be universal liberty and unending peace and prosperity throughout the land; and when those ends are attained the laborious populations of Europe will literally swarm to our shores.

Nor is this question without considerations which appeal directly to our selfish instincts. Hon. Robert J. Walker, in an article in the Continental Monthly, has shown that if we compute the annual immigration for the next ten years at the same rate as during the decade from 1850 to 1860, that is to say at 260,000 per annum, and estimate the value of the labor of each immigrant at thirty-three cents per day, it would give us a grand total in ten years of \$1,430,000,000.

Throw wide the doors to immigration, encourage it, facilitate it, and in twenty years the results of the labors of the immigrants and their children will add to the wealth of the country a sum sufficient to pay the entire debt created by this war.

The bill I have introduced provides for the creation of a Bureau of Immigration for three things:

1. To faithfully execute the laws heretofore enacted by Congress for the protection of immigrants crossing the ocean.
2. To facilitate their movement to their destinations after landing by furnishing them necessary information and protecting them from fraud and imposition.
3. To superintend the disbursement of any sum appropriated by Congress or by any State Legislature to encourage immigration.

The bureau when established will be able to collect information and suggest measures which may guide subsequent legislation. I have hesitated to ask that Congress should advance any large sum of money to aid immigration, although such would seem to be the view of the President. I have therefore provided that States might place in the hands of the Commissioner funds to be used for that purpose, the immigration thereby obtained to go to such State. I am quite convinced that some of our western States will take advantage of the machinery of the bureau to increase their own population, while the money advanced might be in the nature of loans to the immigrants, secured in such way as would insure its return in the majority of cases. There are in England, and I suppose in other European States, emigrant societies, in which a sufficient fund is raised by small weekly contributions to pay the passage of the members. As the funds accumulate a member is selected by election, the most industrious and honest being chosen, who is expected to return his passage-money out of his first earnings after his arrival in this country. The fund thus returned is added to the additional accumulations, and the next time pays the passage of two members, and in this manner the process is carried on until all the members are enabled to escape from the house of poverty to the land of liberty and prosperity.

It might be in the power of the Commissioner to use the machinery of these societies in such way as to obtain by small loans the most deserving immigrants with little risk of loss—a comparatively small sum thus going through many hands and assisting many hundreds of persons. All this is, however, rather in the nature of suggestions to the Commissioner when appointed than of arguments in favor of the bill itself.

The bureau should be established. An interest which adds two millions and three quarters of a million to our population in ten years deserves to have some recognized head at the seat of this Government. An interest which can in twenty years pay off the national debt by the wealth added to the nation through the work of its own hands, deserves to be fostered, tenderly cared for, stimulated, and protected by every true friend of the country.

The southern revolution withdrew from the people of the North an incubus which had controlled

and repressed them for fifty years. They are now rising for the first time to the dignity of a people whose greatness rests on the basis of free labor.

Appreciating the fact that the agriculture of the country is its first great interest, they have established a Bureau of Agriculture. Let them go one step further, and, conscious of the obligations due by a nation of immigrants, or the children of immigrants, to European immigration in the past, and mindful also of its enormous importance to the nation in the future, let them establish a Bureau of Immigration. With nearly one billion of unsettled lands on one side of the Atlantic, and with many millions of poor and oppressed people on the other, let them organize the exodus which needs must come, and build, if necessary, a bridge of gold across the chasm which divides them, that the chosen races of mankind may occupy the chosen lands of the world.

RECONSTRUCTION.

Mr. EDEN. Mr. Chairman, I propose to state some of the reasons why I dissent from the views of the President, as expressed in his recent message, and especially some reasons why I dissent from his plan for the reconstruction of the Union embraced in his proclamation of amnesty. After the very able and full discussion of the questions arising out of those remarkable documents, it would be presumptuous in me to attempt to do more than restate, perhaps in a different form, some of the arguments which have already been adduced in opposition to the positions assumed by the Executive. For three years the people of the United States have been engaged in a war which, for magnitude of the armies in the field, and lavishness in the expenditure of money, has no parallel in modern history. The avowed object in inaugurating hostilities on the part of our Government was the suppression of "certain combinations formed to oppose the execution of the laws too powerful to be overcome by the ordinary course of judicial proceeding." In theory, the sole object in bringing a military force to bear upon these combinations was to overthrow and disarm them, to the end that the laws might be enforced. The Constitution of the United States empowers Congress "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions." Another clause of the Constitution enjoins upon the President to "see that the laws are faithfully executed." The General Government under these grants of power is in duty bound to suppress insurrection. The respective spheres of legislative and executive action in relation thereto are clearly laid down and defined by the Constitution. Congress must pass all necessary laws for raising, arming, and governing the forces to be employed against the insurgents. The President must see that the laws passed in this behalf are faithfully executed; and in cases of controverted constitutional questions arising out of the laws themselves, or the manner of their enforcement, the judicial department of the Government must settle the rights of the parties affected; of the Executive as well as the citizen. Keeping these plain and simple propositions in view, we can readily determine the duties of the President of the United States in conducting our military affairs. By the same rules we can also ascertain whether or not the military orders, proclamations, or executive "plans of reconstruction" are legitimate measures for the overthrow of combinations formed to obstruct the operation of the laws.

Before speaking more directly of this "plan," let us look a little at the previous acts and conduct of the Administration in reference to the rebellion, that we may with the more accuracy determine the effects likely to follow the means proposed. I admit that when our political institutions are in peril, as they now are, it is a matter of the very first importance that the entire country should have the fullest confidence in the chief executive officer of the Government, provided he is worthy of that confidence. But I have yet to learn that in a republican Government the imbecility or corruption of the President must be palliated before the people whose servant he is and to whom he is accountable for all his acts. President Lincoln in his inaugural address said:

"I have no purpose directly or indirectly to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."

In his proclamation of April 15, 1861, calling out seventy-five thousand militia, which was the first call for troops made by him, the President used the language which I now read:

"I deem it proper to say that the first service assigned to the forces hereby called forth will probably be to repossess the forts, places, and property which have been seized from the Union; and in every event the utmost care will be observed, consistently with the objects aforesaid, to avoid any devastation of or interference with property or any disturbance of peaceful citizens in any part of the country."

Again, on the 22d day of July, 1861, immediately following the first disastrous battle of Bull Run, Congress, by an almost unanimous vote, passed what is known as the Crittenden resolution, declaring—

"That this war is not waged in any spirit of oppression, or for any purpose of conquest or subjugation or purpose of overthrowing or interfering with the rights or established institutions of these States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

The extracts which I have read from the inaugural address, the first proclamation calling out troops, and the Crittenden resolution, may, with great propriety, be denominated the first war platform of this Administration. During the first six or eight months after the commencement of hostilities we had no intimation from official sources that the war was to be diverted from its proper course in aid of the enforcement of the laws into a crusade to free the negroes, or to interfere with and overthrow the rights and established institutions of any of the States. High officials, with the oath to protect and defend the Constitution fresh on their lips, had not yet learned that there was some sort of an indefinite and undefinable "war power" to be found somewhere within the limits of a latitudinous construction of the Constitution that could release them from the obligations of that oath; that under this "war power" they might do that which they had "no lawful right to do;" that while the people are bound to obey all the laws and all the edicts and proclamations of the President, constitutional and unconstitutional, the chief Executive of the United States, rising above the ordinary level of erring mortals, had been imbued with authority from above or beneath to override and nullify constitutions and laws at his sovereign will and pleasure.

Mr. Chairman, the great mass of the people of the United States are distinguished for their love of country; are firmly attached to that form of Government instituted by the men who, fresh from the sanguinary fields of the Revolution, could yet guard the sacred cause of civil and religious liberty. To maintain the rightful authority of that Government and to preserve their liberties, having their only sure guarantee in the written Constitution under which that authority can alone be exercised, they have always been ready to make every sacrifice required of them by the dictates of the highest patriotism. Actuated by these sentiments, when this Administration demanded the purse and the sword in the sacred name of Union, they were given without stint or reservation. In return for their treasure and the blood of their sons, the people only required of their public servants that the Constitution of the United States should remain inviolate and the union of the States unbroken. With the highest professions of patriotism on the part of the President and his friends the pledge was given in the beginning of our civil war that these objects of solicitude should be carefully protected and maintained. In response to the assurance thus given, each call for troops to fill the broken and bleeding ranks of the Army was met by the swelling tide of freemen, swarming to the field of carnage and of death, their hearts being fired with a holy zeal, under the belief that the sacred cause of the Union invoked the sacrifice. Even the demands of the tax-gatherer, grasping for a portion of the frugal meal of the children of toil, have been submitted to without a murmur because these contributions to the public Treasury were to be consecrated to the sacred purpose of saving the Union. When the withering hand of arbitrary power was first stretched over the peaceful citizens of the northern States, and they were dragged from their homes the victims of personal or political malice, the fears of the people were aroused by the dark shadow of a hateful despotism whose figure was seen in the dim distance marching on with cau-

tious but unerring step, trampling down in its course every safeguard of personal liberty. The apprehensions of the people were however quieted by the assurance that these things were done for the sake of the Union.

Mr. Chairman, has this Administration faithfully executed the high trust reposed in it by the country? If it has it ought to and will receive the reward due to the faithful public servant; its errors will be forgiven and forgotten, its virtues cherished and remembered. If it has proven false to its professions, and deceived and betrayed a too confiding people, it will and should receive their condemnation. This message unfolds more fully the purposes of the executive branch of the Government than anything that has preceded it. In order that we may form a correct judgment, let us examine this document in the light of reason and of candor.

The first impression formed on reading the President's proclamation of amnesty is that the progress of putting down the rebellion has not kept pace with the too ardent expectations of the people. The very modest pretensions of the President as to the success of the means employed by him for the overthrow of the rebel power do not seem to be justified by the facts given us. True, he runs a parallel, showing the present condition of affairs, as compared with the situation eleven months prior to the date of this message, with the evident design of showing a great improvement in the prospects of the Union. When we come to examine the premises upon which he bases his favorable conclusions, we cannot but be struck with the evident satisfaction with which he refers to the success of his party as one indication of the advancement of the Union cause. Whether this success shall turn out to be an element of strength or of weakness in the pending struggle, depends on the Administration and its friends. If they continue in future the course they have followed in the past, the result of the elections in their favor will not perceptibly weaken the cause of the rebellion. Again, the success of the proclamation of emancipation, in giving practical freedom to a large number of slaves, with the ultimate prospect that the whole negro population in the States where insurrection prevails will soon be in the enjoyment of the same inestimable blessing, is cited as a notable instance of progress in suppressing the rebellion. Then, too, in the border States the people are growing restless in the cause of emancipation. Hence, the rebellion is rapidly disappearing. To a person not wholly satisfied that the President is "honest," the assignment of these causes of improvement in our condition would be apt to create at least the suspicion that he looked upon these facts more in the light of a partisan than of a patriot. They all have a direct bearing upon the future success of the Republican party. But let us go back in the history of this rebellion two years and a half, and see if, according to the President's own showing, we are not much further from reunion now than we were then. At the opening of the extra session of Congress in July, 1861, the President informed the country in his message that—

"It may well be questioned whether there is to-day a majority of the legally qualified voters of any State, except perhaps South Carolina, in favor of disunion. There is much reason to believe that the Union men are the majority in many if not in every other one of the so-called seceded States. The contrary has not been demonstrated in any one of them. It is ventured to affirm this even of Virginia and Tennessee; for the result of an election held in military camps, where the bayonets are all on one side of the question voted upon, can scarcely be considered as demonstrating popular sentiment."

This statement of the President was received by the country as true. And when we remember that until the voice of reason had been hushed by the clash of arms a large majority of the people in most of those States had, upon every opportunity, expressed themselves satisfied with the Union, we must acknowledge that the President had substantial grounds for the statement he made. Since then we have had over two years and a half of bloody war. The battles of Donelson, Shiloh, Corinth, Vicksburg, Malvern Hill, the first and second battles of Bull Run, Antietam, Fredericksburg, Chancellorsville, Gettysburg, Chickamauga, Chattanooga, and many others of less note, have been fought. The blood of the young men of the country has been poured out in reckless profusion. Many thousands of homes, the abodes of happiness, with the family circle

hitherto unbroken, have been made desolate by the cruel hand of war. The weeds of widowhood and the misery and want of orphanage meet the eye on every hand. The tax-gatherer crowds the highways of the country and the streets of the cities. His footfalls are heard in the hovels of the poor and on the marble steps of the rich. His exactions fall upon the luxurious repasts and gorgeous equipage of the millionaire and upon the frugal meal and plain dress of the humble. Even the widow's mite is required to replenish the depleted Treasury. A debt of \$2,000,000,000 has been contracted by the Government, and the foundation laid to swell that debt to double its present proportions; thus laying a burden upon future generations that will in all time to come grind the labor of this country in the dust. By looking at the condition of the tax-ridden people of Europe, we behold the picture of what our own country is soon to be.

Taxation and tyranny are synonymous terms. The sum paid by each person into the coffers of the Government is the amount charged to him for the protection he receives of the Government. When the laws of the country are honestly and fairly administered, the burdens upon the citizen will be light, and he is more than compensated by the benefits he receives. But when the Government is administered for the advantage of the few; when the people are taxed for the purpose of putting money into the pockets of the pampered partisans of an Administration, such taxation becomes wrong and oppressive. And whenever the burden thus cast upon the people is so great that some portion of the money that ought to be applied to the support of the family must go into the public Treasury, a storm of indignation will arise that will sweep from power the men who would take the bread from famishing children. No Government has a right to pursue a policy that will fix permanently upon the country a system of taxation which impoverishes labor, and introduces want and misery into the household of the honest man who by the sweat of his face earns his bread. When an extraordinary emergency arises, requiring a large expenditure of money by the Government, if the crisis be controlled by honest statesmanship, only temporary sacrifices will be required of the people, and these will be met by them cheerfully for the sake of the permanent tranquillity and happiness which are to follow. But if, in order to subdue the inflammation of the body-politic, the patient is to be reduced to a skeleton by blistering and bleeding, and the Constitution is to be shattered and destroyed by copious doses of poisonous drugs, such vicious remedies will be found to be worse than the original disease. It would be far preferable to allow the political system to fall in pieces, leaving the fragments pure and sound, than thus to corrupt and eventually destroy the whole.

Such, Mr. Chairman, is a brief outline of what we have done and suffered, giving but a glimpse of the consequences that are to follow the innovations which have been made upon our political institutions, since the President made the announcement at the threshold of the war, that there was "much reason to believe that the Union men are [were] the majority in many, if not in every other one, of the so-called seceded States." What have we gained by all these sacrifices of blood and of treasure? If the Union cause has been advanced by the means employed in any degree commensurate with these sacrifices, then indeed the country may bear with patience the more trying scenes through which we are yet to pass. In drawing my conclusions upon the subject, I shall rely wholly upon the testimony of the President himself. We have already seen, by the President's message of July, 1861, that at that time more than one half of the people in each of the rebellious States, except South Carolina, were ready to render a willing obedience to the Constitution and laws of the United States whenever the force of rebel arms to which they were subjected should be removed. Was not this a hopeful view? If proper means had been employed from that time forth, could not the rebellion have been easily and speedily suppressed? We had upon one side the regular Government, with twenty million people in the States not in insurrection. Having complete command of the ocean, the markets of the world were open to us for the purchase of everything needed in prose-

cuting the war. Our supremacy at sea also enabled us greatly to cripple our enemies in procuring supplies from foreign countries, and in preventing them from receiving such supplies. The principal wealth of the nation was to be found in the northern States. The credit of the Government being good, that wealth was at its perfect command. The hearts of the people of the States adhering to the old Union being true to the Government under which their prosperity had been so great and their liberties and happiness so secure, every man was ready to peril all to save that Government. On the other side were six million people, with a government not yet fully inaugurated, without money, without credit, without ships, scantily provided with the munitions of war, their ports closed by a blockade maintained by a sufficient force to command the respect of the civilized world; and, worse yet for them, with more than one half their own people, held in subjection by the strong arm of power, ready at any moment when that power should be broken to join hands with the armies of the Union and complete the overthrow of the rebel power by reestablishing State governments under the Federal Constitution, and thus maintaining the Union in all its original proportions.

Mr. Chairman, the rebel power being so weak as we have seen in July, 1861, ought it not ere this to have been overthrown? We had twenty-three million people on the side of the Government, three millions of whom were scattered throughout the States in revolt. Only three millions of the entire population of the country were willing adherents of the cause of the rebellion; and each one of these had a neighbor whose prayer was for the salvation of the Union, and whose eye would brighten with joy at sight of the stars and stripes waving again beneath a southern sun. How easy would it have been for our overwhelming numbers, seconded by one half the population of the insurrectionary districts, marching on in the spirit of the President's inaugural address and of the proclamation of April 15, 1861, careful "to avoid any devastation, any destruction of or interference with property, or any disturbance of peaceful citizens in any part of the country," and carrying out the policy of the Crittenden resolution, to have swept before them every vestige of armed opposition, leaving in their rear State governments upheld by Union citizens, with a majority in each to maintain such governments. Unfortunately for this country such has not been the policy pursued.

Upon the meeting of Congress in December, 1861, commenced the struggle of the radicals to force their measures upon the country. The constitutional doctrine of the inaugural address relative to slavery was spurned. Instead of the conciliatory policy of the proclamation of April 15, 1861, guaranteeing the protection of property and of peaceful citizens by our armies, a confiscation act was placed on the statute-book which, if carried out, would not only virtually destroy the institution of slavery, but beggar almost every family in the South and render their country a desolate waste. The Crittenden resolution which had received the solemn sanction of the same men at the extra session in July, 1861, was violated with impunity; and a determination was manifested by them that the local institutions of the States should not be respected, and that the war should never cease until the laws and institutions of the southern States were made to conform to the opinions of the abolitionists. The slavery question, upon which the southern people had always been more jealous of Federal interference than on any other, was brought more prominently before Congress than ever before. The partisan schemes of the Republican party, some of which were regarded as unconstitutional and ruinous to the country by nearly one half of the northern people, were pressed upon Congress and the country with intemperate zeal and a manner most offensive. Such of their schemes as they could not carry out by legislation they besought the President, under the "war power," to enforce upon the people at the point of the sword. Though sometimes repelled, by bringing "pressure" to bear upon the weak nerves of the Executive they always triumphed in the end.

Mr. Chairman, if the change of policy from conservative to radical has improved the condition of the country, the President, being responsible for

the change, will make its benefits appear in as strong a light as possible. He shall speak for himself. In his message delivered to Congress at the opening of the present session, the President says:

"The rebel borders are pressed still further back, and by the complete opening of the Mississippi the country dominated by the rebellion is divided into distinct parts, with no practical connection between them. Tennessee and Arkansas have been substantially cleared of insurgent control, and influential citizens of each, owners of slaves and advocates of slavery at the beginning of the rebellion, now declare openly for emancipation in the respective States. Of those States not included in the emancipation proclamation, Maryland and Missouri, neither of which three years ago would tolerate any restraint upon the extension of slavery into new Territories, only dispute now as to the best mode of removing it within their own limits. Of those who were slaves at the beginning of the rebellion, full one hundred thousand are now in the United States military service, about one half of which number actually bear arms in the ranks, thus giving the double advantage of taking so much labor from the insurgent cause and supplying the places which otherwise must be filled with so many white men. So far as tested, it is difficult to say they are not as good soldiers as any."

Here are the substantial fruits of all the expenditure of blood and treasure since the announcement was made by the President that in all the insurrectionary States except South Carolina a majority of the people were favorable to the Union. To him whose heart's only desire in this contest is to see the Union restored under the Constitution, with the reestablishment of the former peace, happiness, and prosperity of this country, what has been the gain of these long months of toil and suffering? True, Tennessee and Arkansas have been substantially cleared of insurgent control, and some of their citizens who were formerly furious advocates of slavery extension have doubtless been conquered by this Administration, whether by weapons manufactured by Secretary Chase or by heavier metal it is not my province to inquire. But what has become of the majority of the citizens of each of these States who in July, 1861, stood ready when the rebel power should be removed to rally around the old flag, and to again place the governments of their States in harmony with the Constitution of the United States? I think that the loss of these men, who were honestly for the Union two years ago, is not well supplied by all the negroes now in the service of the Government, with whatever aid may be received from the few white men who will swear to support all of the President's proclamations.

The coöperation of a majority of the citizens of these States in the attempt now being made to reorganize State governments would fix Tennessee and Arkansas so firmly in the Union as to place them beyond the possibility of rebel control.

The relative merit of conservatism and radicalism in their effects in restoring the Union may be easily summed up from the President's messages. In July, 1861, when the horrible phantom of this fratricidal war had barely made itself visible to the people, more than one half of the voters in each of the insurrectionary States, save one, were firmly attached to the Union. In December, 1863, after two years and a half of war, most of the time under a radical policy, the President thinks that perhaps one tenth of the population, in some of the rebel States, may be almost ready to range themselves on the side of the Union. Should the Union cause continue to recede for two years to come as it has during the two years last past, the President will be compelled to draw on his African friends for loyal men to fill the offices.

Mr. Chairman, the proclamation of amnesty accompanying the President's recent annual message is totally at variance with the Constitution of the United States. If, as all conservative men claim, the seceded States are in the Union, their ordinances of secession being null and void because repugnant to the Constitution, then clearly Mr. Lincoln has no right to prescribe terms upon which State governments shall be allowed to exist. If, on the other hand, as claimed by the distinguished gentleman from Pennsylvania, [Mr. Stevens,] the seceded States are out of the Union, and the territory within the confederate States is foreign territory, the President has no right to reorganize State governments over that territory upon any terms, because the Constitution expressly provides that "Congress may admit new States into the Union," and when States are carved out of this foreign territory they are new States. This executive plan of reconstruction, like all the outrages perpetrated by this Administration, is promulgated in the name of the Union.

The people have submitted to so many infringements of their chartered rights, because each separate act of usurpation was alleged to be necessary to the success of the Union cause, that the men in power have become bold and reckless in their assaults upon the Constitution. We have had many instances of wanton oppression of individuals by the President and others acting under his authority. The freedom of the press has been stricken down. Citizens, arrested without warrant of law, have been denied the privilege of "a speedy public trial by an impartial jury" of the country. Others have been banished from their homes for freely canvassing the conduct of men in public office. Freemen have been driven from the polls by military forces acting under the orders of the Administration, whereby men have been elected to seats on this floor in opposition to the known will of their constituents. And finally, to cap the climax of usurpation and tyranny, the President, seeking of his party a nomination for reelection, attempts to subject to his absolute control ten States, by excluding all citizens from a participation in the elections except those who have sworn base subserviency to his will.

This proposition coming on the eve of a presidential election, made by the Commander-in-Chief of the Army and Navy of the United States, who is also a candidate for President, is the most alarming and dangerous attempt that has ever been made in this country to override the will of the people. An election held under such circumstances would be worse than a mockery. Where the necessity of going through the empty forms of an election when no man is allowed to approach the polls unless he is bound by the solemnities of an oath to support the policy of one of the candidates? He cannot vote against that policy without disqualifying himself as a voter, for he is not only required to take the oath, but, if he fails to comply with it, in doing which he must support the President's policy, he is no longer a voter. Call you that an election, when each voter gives expression not to his own will but the will of the President? If the President has the right, under the power given him in the Constitution of the United States "to grant reprieves and pardons for offenses committed against the United States," to require an oath of the criminal that he will support the measures of a certain political party, may he not also exact an oath from him to support a particular candidate to carry out that policy? If the latter condition may be affixed and applied to all the citizens of ten States without reference to the guilt or innocence of the parties, why not dispense with the elections entirely, and as a condition of pardon for some real or supposed offense require the people of those States to take an oath to support and maintain the President in office for life or for another term of four years without any election at all? And if the President may require an oath from all the citizens of ten States to support his partisan policy, as a condition precedent to the exercise of the elective franchise, may he not require a similar oath of all the citizens of all the States? Your answer to this is, that they have not been guilty of treason, hence do not require executive clemency to restore them to forfeited rights. The proclamation of amnesty requires Union men who have never withdrawn their allegiance from the Government to take a felon's oath before they are permitted to exercise the privileges of American citizens. I read from the proclamation:

"Whereas it is now desired by some persons heretofore engaged in said rebellion to resume their allegiance to the United States, and to reinaugurate loyal State governments within and for their respective States: Therefore,

"I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known to all persons who have, directly or by implication, participated in the existing rebellion, except, as hereinafter excepted, that a full pardon is hereby granted to them and each of them, with restoration of all rights of property, except as to slaves, and in property cases where rights of third parties shall have intervened, and upon the condition that every such person shall take and subscribe an oath, and thenceforward keep and maintain said oath inviolate; and which oath shall be registered for permanent preservation, and shall be of the tenor and effect following, to wit:

"I, _____, do solemnly swear, in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States, and the union of the States thereunder; and that I will, in like manner, abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress, or by decision of the Supreme Court; and that I will, in like manner, abide by and faithfully support

all proclamations of the President made during the existing rebellion having reference to slaves, so long and so far as not modified and declared void by decision of the Supreme Court. So help me God!

"And I do further proclaim, declare, and make known that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican, and in nowise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or the Executive, (when the Legislature cannot be convened,) against domestic violence.'"

By reference to this proclamation it will be seen that no persons are invited "to reinaugurate loyal State governments in the States named except persons heretofore engaged in said rebellion." Hence the citizen who has always been true to the Union under the Constitution is not permitted to take part in the elections for the reorganization of State governments until he shall have acknowledged himself guilty of treason to the Government and bound himself by oath to support the partisan policy of the Administration. As this plan of reconstruction, as it is called by Mr. Lincoln, is only a scheme to force upon the country his reelection to the Presidency, the exclusion of men from the ballot-box who have not the taint of treason upon their garments, while the traitor, his hand still red with the blood of our dead soldiers, is invited, upon binding himself by oath to support the policy of the President, to deposit his vote, is significant of the position of the true Union men of the South. They are opposed to the wicked and ruinous course of the Administration. They know that the Union cannot be preserved under its radical policy. If Mr. Lincoln was the man of their choice for President they would not be crowded from the polls by men whose recent and sudden conversion from the service of Jeff. Davis to the cause of abolitionism creates a suspicion that their motives may not be pure.

With his usual propensity for joking, the President facetiously says that "when a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid, and not having since violated it, and excluding all others, shall reestablish a State government which shall be republican, and in nowise contravening said oath," the protection of the General Government is to be extended to such State government, and it is to be shielded from domestic violence. No person except Mr. Lincoln, who is in the habit of jesting about matters of the gravest importance, would pretend to call a government republican that excluded nine tenths of the people from all participation in its affairs, and permitted the other tenth to act only in obedience to the rules prescribed by one man. I always understood a republican government to be one in which the voice of a majority of the people was necessary to the election of their law-makers. I take it for granted that the General Government will have no light duty to perform in protecting such State governments as the President proposes to organize in the seceded States from domestic violence. The nine tenths whose rights of person and of property are to be at the absolute mercy of the one tenth will not rest quietly under the dominance of their mercenary and cowardly masters. The people of the loyal States will be taxed to the full extent of human endurance to enable the President's proconsuls to rule over their countrymen in the seceded States. A system of rotten-borough representation will be ingrafted upon our Constitution that will fill both Houses of Congress with political mendicants whose subservience to their master, the President, will only be equalled by their treachery to our republican institutions. The debauched minions who will come up here under this policy, the odor of treason still rank upon their garments, false to the Union and the Constitution in their hour of greatest peril, false to the cause of rebellion only when its power began

to wane, purged of their crimes against the country by pledging themselves to be equally false to constitutional liberty, will pollute with their corruptions every department of the Government. Base sycophants, basking in the sunshine of executive favor, will "crook the pregnant hinges of the knee" under the guardianship of usurped authority; "that thrift may follow fawning."

Why should such a premium be offered to men to rebel against the Government? According to this plan of reconstruction one man in South Carolina, Georgia, or Mississippi will exert as much political influence in the Government as twenty men in Illinois. The ratio of representation is based on population where all are free. In the States named more than one half the population are negroes, to be free according to this plan of reconstruction, and hence enumerated in making up the ratio of representation in Congress and the electoral college. One tenth of the voters under the election laws of the State existing at the time of secession, representing less than one twentieth of the inhabitants enumerated as a basis of congressional apportionment, elect the members of Congress and electors for President and Vice President, while in Illinois the voters represent the whole population, except a few blacks and persons convicted of certain crimes. Hence the vote of the pardoned traitor of Mississippi, who is bound by oath to support this Administration, counts as much as the united votes of twenty freemen of Illinois who are fighting the battles of their country and paying their taxes for the support of the Government. Great and loud complaints were made in times past by the party friends of the gentlemen on the other side of the House because of the three-fifths rule, as it was called, by which the non-voters of the South had a partial representation on this floor. This Republican Administration now proposes a system under which the negro population of the South will have an equal representation with the white population of the North, and, under its rules, excluding nine tenths of the voters, each person casting the negro vote of the South will be equal to ten white voters in the North!

Is this the entertainment to which the loyal people of this country were invited? Is this the Union for which so much blood and treasure have been expended? Is this the "Union as it ought to be" which has been promised, in comparison with which the "Union as it was" is a hateful thing, fit only for traitors, who refuse to hate the sworn henchmen of Lincoln, and the "peace men," who desire the reestablishment of the Union formed by Washington and Madison and their compeers?

Why is it, Mr. Chairman, that, in addition to the oath to support the Constitution of the United States, persons who have been engaged in the rebellion, desiring to avail themselves of executive clemency, must also take an oath that they "will in like manner abide by and faithfully support all proclamations of the President made during the existing rebellion, having reference to slaves?" The President says that this test is required in order "to separate the opposing elements, so as to build only from the sound." In other words, the man who thinks the "Pope's bull against the comet" is not calculated to repel its threatened approach, and prevent the reappearance of any more of its kind, is not capable of self-government; therefore, "I, Abraham Lincoln, do declare and make known that no man within my dominions, so wanting in credulity, shall be permitted, at the next election, to vote for my competitor for President. True, I will not coerce any person to take the required oath. The election shall be perfectly free. Every man who has taken an oath to support me and my policy can vote without molestation. If, in the exercise of your free will in the premises, you refuse to follow my dictation, you may perhaps be plundered by my friends; for the opposing elements have been separated, and you are of the Gentiles, you are not sound;" the reelection of Mr. Lincoln to the Presidency by such means as these would be as great an outrage upon the rights of the people of this country as was the first election of Louis Napoleon upon the rights of the people of France.

The President says that "on examination of this proclamation it will appear, as is believed, that nothing is attempted beyond what is amply justified by the Constitution." Justified by the

Constitution! How? Where? Will some one point out the clause in that instrument which authorizes the President to fix the qualification of voters, to strike down the laws and institutions of the States, to impoverish the people of one third of the Union without regard to guilt or innocence, age, sex, or condition? I challenge the champions of the Administration in this House to show by the most liberal rules of construction any warrant whatever in the Constitution for what is contemplated by this proclamation. Sir, the framers of the Constitution, instead of authorizing the President to disfranchise the people of the States for opposing emancipation, actually protected slavery by requiring the return of the fugitive from labor in case of his escape from one State to another. There is a law now upon your statute-book to carry this provision of the Constitution into effect; and the President, who is requiring the citizens of ten States to take an oath to aid him in forcing emancipation upon the people, is himself bound by oath to see that the fugitive slave law is faithfully executed. This institution is recognized by the Constitution of the United States as existing in certain States "under the laws thereof;" and the President would compel the citizens of such States to disregard those laws, when the Constitution, which he is sworn to support, requires him to respect, and in a certain contingency to support and enforce, those laws.

Mr. Chairman, the President seems to think because the power is given him to "grant reprieves and pardons for offenses against the United States," that therefore he may attach such conditions to a pardon as will not only bind the criminal to a certain course of political action, but that he has the further right to require the citizens of the State not guilty of crime to comply with the same conditions or be disfranchised. Did the framers of the Constitution ever dream that such a construction would be given to this grant of power? Was it intended that this act of executive clemency should be used as an engine to advance the personal or political ends of the President? I will not stop to inquire whether or not a conditional pardon may be granted. Nor do I question the propriety of requiring those who have actually been engaged in the rebellion to take an oath to support the Constitution before receiving pardon. I understand the reason for investing the Executive with this power is that the rules of law are necessarily inflexible, giving judgment upon the acts and motives of men and yielding nothing to circumstances of mitigation surrounding particular individuals. To afford relief in cases of peculiar hardship, the President, whose duty it is to see that the laws are executed, is permitted to temper their harsh sentences with mercy, by interposing a pardon. Such is the theory upon which this power rests. The Executive may grant the pardon, but must not attach conditions in derogation of the rights of others.

For instance, if the President pardon John Doe, who has been sentenced for the crime of treason, it would not be proper to put a condition in the pardon requiring the recipient of executive clemency to take his neighbors' property, or to trespass upon their lands, or to confederate with others and exclude them from the polls. In short, persons guilty of crime who have been relieved from its consequences by an act of clemency cannot, in accordance with our institutions or those of any other civilized nation, be set apart as the exclusive governing power of the State or nation. In some countries there is a nobility established on the basis of great service to the State, either by themselves or their ancestors; but I know of no country, in ancient or modern times, that has made crime the only passport to office and honor. Yet the President, under the pretext of pardoning all the people of ten States, many being guilty, but not one of whom stands convicted of crime against the United States, and a large portion of whom are as innocent as any gentleman on this floor, undertakes to nullify the constitutions and laws of those States; to revolutionize their social systems, and finally to disfranchise nine tenths of their people, and to bring the whole power of the Federal Government to bear to enable the one tenth to rule over the remainder. To state the proposition is sufficient to stamp it with infamy. As a specimen of cool impudence, I will read the

proclamation of Major General Banks ordering an election for State officers in Louisiana:

HEADQUARTERS DEPARTMENT OF THE GULF,
NEW ORLEANS, January 11, 1864.

To the People of Louisiana:

I. In pursuance of authority vested in me by the President of the United States, and upon consultation with many representative men of different interests, being fully assured that more than a tenth of the population desire the earliest possible restoration of Louisiana to the Union, I invite the loyal citizens of the State qualified to vote in public affairs, as hereinafter prescribed, to assemble in the election precincts designated by law, or at such places as may hereafter be established, on the 22d day of February, 1864, to cast their votes for the election of State officers herein named, namely: 1. Governor. 2. Lieutenant Governor. 3. Secretary of State. 4. Treasurer. 5. Attorney General. 6. Superintendent of Public Instruction. 7. Auditor of Public Accounts; who shall when elected, for the time being, and until others are appointed by competent authority, constitute the civil government of the State, under the constitution and laws of Louisiana, except so much of the said constitution and laws as recognize, regulate, or relate to slavery, which being inconsistent with the present condition of public affairs, and plainly inapplicable to any class of persons now existing within its limits, must be suspended, and they are therefore and hereby declared to be inoperative and void. This proceeding is not intended to ignore the right of property existing prior to the rebellion, nor to preclude the claim for compensation of loyal citizens for losses sustained by enlistments or other authorized acts of the Government.

II. The oath of allegiance prescribed by the President's proclamation, with the condition affixed to the elective franchise by the constitution of Louisiana, will constitute the qualification of voters in this election. Officers elected by them will be duly installed in their offices on the 4th day of March, 1864.

III. The registration of voters, effected under the direction of the military governor and the several Union associations, not inconsistent with the proclamation or other orders of the President, are confirmed and approved.

IV. In order that the organic law of the State may be made to conform to the will of the people, and harmonize with the spirit of the age, as well as to maintain and preserve the ancient landmarks of civil and religious liberty, an election of delegates to a convention for the revision of the constitution will be held on the first Monday of April, 1864. The basis of representation, the number of delegates, and the details of election, will be announced in subsequent orders.

V. Arrangements will be made for the early election of members of Congress for the State.

VI. The fundamental law of the State is martial law. It is competent and just for the Government to surrender to the people, at the earliest possible moment, so much of military power as may be consistent with the success of military operation; to prepare the way, by prompt and wise measures, for the full restoration of the State to the Union and its power to the people; to restore their ancient and unsurpassed prosperity; to enlarge the scope of agricultural and commercial industry, and to extend and confirm the dominion of rational liberty.

It is not within human power to accomplish these results without some sacrifice of individual prejudices and interests. Problems of state, too complicated for the human mind, have been solved by the national cannon. In great civil convulsions, the agony of strife enters the souls of the innocent as well as the guilty.

The Government is subject to the law of necessity, and must consult the condition of things rather than the preferences of men, and if so be that its purposes are just and its measures wise it has the right to demand that questions of personal interest and opinion shall be subordinate to the public good. When the national existence is at stake, and the liberties of the people in peril, faction is treason.

The methods herein proposed submit the whole question of government directly to the people—first, by the election of executive officers faithful to the Union, to be followed by a loyal representation in both Houses of Congress; and then by a convention which will confirm the action of the people, and recognize the principles of freedom in the organic law. This is the wish of the President.

The anniversary of Washington's birth is a fit day for the commencement of so grand a work. The immortal Father of his Country was never guided by a more just and benignant spirit than that of his successor in office, the President of the United States. In the hour of our trial let us heed his admonitions!

Louisiana in the opening of her history sealed the integrity of the Union by conferring upon its Government the valley of the Mississippi. In the war for independence upon the sea, she crowned a glorious struggle against the first maritime Power of the world by a victory unsurpassed in the annals of war.

Let her people now announce to the world the coming restoration of the Union, in which the ages that follow us have a deeper interest than our own, by the organization of a free government, and her name will be immortal!

N. P. BANKS,

Major General Commanding.

"In pursuance of authority vested in him by the President," this Major General proceeds to call an election for State officers of Louisiana at a time and in a manner different from those prescribed by law. He also fixes the qualifications of voters, and causes a registry to be made in opposition to the fundamental law of the State. Then with one stroke of his pen he declares that certain provisions of the constitution of Louisiana are inoperative and void. Finally, he graciously informs the people that "the immortal Father of his Country was never guided by a more just and

benignant spirit than that of his successor in office, the President of the United States." This latter statement is important in several particulars, but chiefly because it contains information that has always heretofore been carefully concealed from the people. It will doubtless be of invaluable service to the loyal people of that State in pointing out their duty in making a nomination for President, as well as in voting for the nominee! An intimation coming from such high authority will not probably be lost upon the intensely loyal patriots who will participate in organizing a State government under this proclamation.

Instructions have been sent to General Steele, in Arkansas, to pursue the same course in that State that has been adopted in Louisiana. Sir, when I see the very pillars of our Republic thus tottering to their fall under the blows of one to whom the people confided the sacred trust of guarding and protecting their rights and liberties, my mind is filled with gloom, and the future of this country, to my vision, is shrouded in mystery and darkness.

Mr. Chairman, I am a friend of the Union; my love for it is so strong that I am not willing to give up a single State. When I see a hand raised to strike down and blot out a single star from the flag of my country, whether the blow be directed by the traitor in arms or by a more insidious enemy seeking to effect the same end by undermining and subverting the Constitution, I will interpose my feeble efforts to ward off the blow. I would save the Union, because the Union is necessary to secure the prosperity, the liberties, and the happiness of the people. I do not agree with the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] that "he who now wishes to reestablish the Union as it was," and to retain "the Constitution as it is," is guilty "of attempting to enslave his fellow-men." Neither do I agree with him in that other sentiment, that "the Union as it was and the Constitution as it is is an atrocious idea; it is man-stealing." I will not take the responsibility of charging Washington and Madison and Hamilton and their compatriots with forming a Constitution with the design of enslaving their fellow-men; nor will I charge them with harboring "an atrocious idea," or with "man-stealing." In order to establish this Union they left each State to regulate for itself the status of the negro within its limits. Believing, as I do, that they acted wisely, I am willing to hasten the day of peace and reunion by following their example. If I had believed that a rigid adherence to the Constitution as it is would have entailed upon me the crime of man-stealing, or of enslaving my fellow-men, I would not have been guilty of the "atrocious" act of taking the oath as a member of this body to support that Constitution.

The gentlemen on the other side of the House say that they too are for the Union, and some of them are so exclusive in their Unionism that they are not disposed to accept the labors of gentlemen on this side in its behalf. They are for such an unconditional Union that they would not only force ten southern States out of the Union, but would also treat with scorn and contempt a million and a half of voters in the northern States! The Union was established in a spirit of conciliation and compromise. The wise men who formed our Government were quick to discern that in order to maintain republican institutions, founded on the consent of the people, the interests and prejudices of all sections of the country must be consulted, so far as might be consistent with the general purposes for which the Government was formed. The men now in power, discarding the teachings of a sound philosophy, as well as the example of the founders of the Government, undertake to restore union and harmony to a divided and distracted country by the most intolerant proscription of all who differ with them in opinion, and by demanding fealty to their own most fatal, ruinous, and extreme doctrines, as the only true standard of loyalty. Can the Union ever be restored in that way? Do not this House and the country know that persistence in such a course leads to bankruptcy, anarchy, and ultimate despotism?

If you are not for the Union as it was, what sort of Union are you for? Is it the Union as it ought to be for which you are fighting? Pray tell the

country, ye pure and unconditional Unionists, who can't endure the Union as our fathers formed it, what sort of Union you will form. Is it to be a Union without States, without *habeas corpus*, without trial by jury, without free speech or free press, without a free ballot? And if you do not all quite agree among yourselves as to what the Union ought to be, who will decide between you? Remember that "a house divided against itself cannot stand." I have no doubt but you can agree among yourselves about the irrepressible negro; but questions will force themselves upon you at some time affecting the interests of white men, and perhaps you may differ upon such questions. For instance, the President, in speaking of his plan of reconstruction, says, "On examination of this proclamation it will appear, as is believed, that nothing is attempted beyond what is amply justified by the Constitution." The distinguished gentleman from Pennsylvania, [Mr. STEVENS,] in speaking of the same plan, says:

"In details we do not quite agree, but his plan of reconstruction assumes the same general grounds. It proposes to treat the rebel territory as a conqueror alone would treat it. His plan is wholly outside of and unknown to the Constitution."

Here we find the "opposing elements" are separated, and who is to decide which is "the sound?" The President assumes that his plan is "amply justified by the Constitution." The chairman of the Committee of Ways and Means says this same plan "is wholly outside of and unknown to the Constitution." In one thing the plan proposed by the President and the one proposed by the chairman of the Committee of Ways and Means are in perfect harmony: they are both in open and flagrant violation of the Constitution.

The great difficulty with the Republican party in their pretended efforts to put down the rebellion consists in a failure on their part to comprehend what constitutes the rebellion. The negro is not the cause of the rebellion; neither is slavery. Questions arising out of slavery have been used by designing men to inflame the passions of the people with a view to precipitating them into revolution. But the doctrine promulgated a few years ago, of which I believe our present distinguished Secretary of State may claim the paternity, that there is a higher law than the Constitution, which ought to control the political conduct of the people, is the corner-stone upon which the rebellion was built. Secession is the "higher law" carried into effect upon a large scale—a most odious, ruinous, and inexcusable application of this fatal heresy. Mr. Lincoln, when he announced in his Springfield speech in 1858 "that the Union could not endure permanently part slave and part free," was educating the public mind in the rudiments of the "higher law," because the Constitution is based upon the principle that a part of the States may be slave and a part free. Old John Brown, in his attempt to excite insurrection in Virginia, was carrying out in practice the theories of the men who urged upon the country the "higher law" as a rule of conduct for the citizen. Garrison, when he enunciated the "atrocious" sentiment that the "Constitution is a league with hell and a covenant with death," was "firing the northern heart," to the end that the people might array themselves under the banner of the higher law, and in opposition to the rightful authority of the Government. The underground railroads all over the land were incorporated under the higher law. Unfortunately for the country, at a moment of excitement in the South, growing out of the election to the Presidency of an exponent of the "higher law" as taught in the North, the people of the South, many of whom had received lessons in the same pernicious school, were precipitated into revolution. The result is that the land is drenched in fraternal blood. To stay the tide of revolution now sweeping over the entire country this subtle poison must be extracted from our political system, or its effects must be neutralized and destroyed.

Mr. Chairman, no test of loyalty should be prescribed other than "obedience to the Constitution and the laws passed in pursuance thereof." If every man in the Government were true to this test, there would be no rebellion in this country. The odious and unconstitutional conscription law might be repealed. Instead of taxing their ingenuity in devising the means whereby the largest

amount of money, in the shape of taxes, can be extorted from the labor and industry of the country, members of Congress might devote their time and talents to such legislation as would add to the happiness and prosperity of the people.

"The Constitution as it is" furnishes all the safeguards necessary to the security of life, liberty, and property. "The Union as it was" gave us a character and standing among the nations of the earth sufficient to shield us from insult and injury by foreign Governments. For over seventy years the people of the United States lived and prospered within the Union, as organized under the Constitution, as no people ever prospered before. The rights of the States and the rights of the citizen were preserved in all their constitutional vigor. The legitimate authority of the General Government met with no serious opposition, either from States or individuals, because within the limited scope of that authority there was no rein given to oppression or tyranny. When the tempter came, like the serpent in the garden, and whispered into the ears of the people that the fruit forbidden by the fathers of the Government to be touched was "pleasant to the taste," and that its use would add wisdom to the understanding, like our mother Eve too many of them gave heed to the voice of the slimy reptile. Though we have not, in consequence of that disobedience, fallen from so great an estate as did our first parents, yet the result is this deplorable civil war and the probable loss of constitutional liberty. And still the expounders of the "higher law" continue to press forward in their destructive and criminal career. The man who raises his voice in behalf of the Constitution of his country does so at the risk of imprisonment or banishment at the hands of this Administration; and if he escapes the vindictive persecution of the chief Executive the entire corps of thieves and plunderers, who are fattening off the miseries of the country, through their organized and trained bands, open their batteries of slander and detraction upon him, in order to weaken or destroy his influence with the people.

Not content with all the abuse that the pensioned press and feed attorneys of the Administration are continually pouring out upon that great constitutional party founded by Jefferson, the Republican party has imported a rebel general, his hands reeking with the blood of our soldiers and his soul steeped in foul treason, to aid them in their work of slander and detraction.

This "war power" which is invoked by the Administration and its friends to justify their infringements upon the rights and liberties of the people is akin to the "higher law." The "military necessities" of the President and his subordinates, which have formed the pretexts for the various proclamations of emancipation, and for subverting the constitutions and laws of the States and tampering with their elections, spring from the same impure and corrupt fountain. All the powers of this Government are to be found in the Constitution. Military necessity is applicable only to the movements of armies in the field, and does not reach beyond their lines.

The Administration and its adherents seem to be wedded to the peculiar policy they have adopted, and the only way to effect a change is through the agency of the ballot-box. Claiming to be unconditional Union men, the party in power would not accept the Union to-day upon the simple terms of the Constitution, leaving all questions affecting the rights of person and property in the confederate States to be settled by the adjudications of the courts and the future legislation of the country. A fanatical zeal for the freedom of the black man, intensified by a stubborn resistance to every effort to make him free by those whose social and financial ruin would thereby ensue, is turned into a desperate purpose to degrade and enslave the white race whose misfortune it is to be placed among the sable objects of abolition idolatry. These men, who arrogate to themselves all the patriotism and all the religion of the country, would not stop this effusion of blood and arrest the onward course of relentless, cruel war which is now laying waste the fairest portions of our country if every rebel in the land were to lay down his arms and humbly sue for peace. The fiat has gone forth, and as long as a single slave remains in bondage this

harvest of death must go on. Regardless of all the lessons of history, in violation of the faith of the nation as pledged by the heroes and statesmen of the past, in open contempt of the solemn promises made to the people in party platforms, presidential messages, and congressional resolves, four million slaves, an inferior and degraded race, whose education and habits wholly unfit them for self-control, are to be thrown upon society to roam at will throughout the land. Yes, and the sword of the nation is to be placed in the hands of this servile race, thus opening their way to the ballot-box and to social equality with the whites. Had such a proposition been made to the American people ere the hearts of so many had become hardened by the severities of this war, no sane man would for a moment have hearkened to it. But, lest some good-meaning people may think that I do my political opponents injustice in what I have said, I will quote from the last annual message of the President. He says:

"I may add, at this point, that, while I remain in my present position, I shall not attempt to retract or modify the emancipation proclamation."

In speaking upon the same subject a few sentences preceding what I have read, the President says:

"To now abandon them would be not only to relinquish a lever of power, but would also be a cruel and astounding breach of faith."

There are no compunctions of conscience about breaking faith with white men! I charge the President of the United States with breaking faith with the people of this country by disregarding not only his pledges made in the inaugural address, in the proclamation of April 15, 1861, and in the Crittenden resolution, but also by trampling under his feet every provision of the Federal Constitution made for the protection of the liberty of the citizen. All the pledges to the negro are to be faithfully kept. In future the "free Americans of African descent" will doubtless crowd the President's levees, even in greater numbers than they did on New Year's day, not only relieving the monotony occasioned by the uniformity of color, but also giving a foreign odor to the gorgeous splendor of American royalty.

Our "freedmen" are the most fortunate people on earth. Even this Administration will keep faith with them. In the amnesty proclamation "our colored fellow-citizens" are treated with the usual affection and tenderness shown them by the President. "All who have engaged in any way in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity," are excluded from the benefits of the proclamation of amnesty. The repentant rebel, who may have murdered in cold blood the white soldier thrown into his hands by the fortunes of war, upon taking the prescribed oath is pardoned and taken into the bosom of the Republican party. But the planter within the rebel lines, who has in nowise voluntarily raised his hand against the Government, who attempts to recapture his slave which has been stolen from him and put into the Federal Army, is beyond the reach of executive clemency. He has committed the unpardonable sin. He has laid his profane hands upon what is regarded by this Administration as sacred, and must expiate his crime with his life! The mother who has given up her only son to the defense of the country has the consoling assurance that though the murderer of her boy will be restored to all his rights upon taking the prescribed oath, except the right to own the labor of his servant, yet he who has refused to extend the usages of civilized warfare to the negro shall receive no pardon.

Sir, the liberties of the people, the preservation of the State governments, and the maintenance of the Union under the Federal Constitution, are all involved in the well-defined issues of the approaching presidential election. While there are differences of opinion among Democrats and conservative men upon minor points, some believing that the evils which now afflict the country may be remedied by a vigorous prosecution of the war under the Constitution, and others favoring peace and conciliation as the only means of reuniting the broken fragments of the Union, they all are agreed in a determination to uphold the Federal

Constitution and the Union of the States in accordance therewith. Not one would favor negotiations for peace on any other basis than that of a restored Union, with the rights of the States and the liberties of the people guarded and protected by all the limitations of the Constitution upon the powers of the General Government.

The only issue, then, between the parties relative to the war is whether it shall be prosecuted under the present policy for the overthrow of the States, and to compel the entire population of the South to surrender all rights of person and property into the hands of the abolitionists, or whether, under Democratic rule, in case the southern people shall refuse to make peace and return to the Union upon fair and equitable terms under the Constitution, the war shall be waged only against those in hostility to the Government. The policy of the dominant party includes confiscation, emancipation, endless war, despotism. The policy of the Democracy embraces conciliation and compromise, along with whatever force may be necessary to the due execution of the laws, and a firm, unfaltering devotion to constitutional liberty, and a determination as immovable as the everlasting hills to maintain it.

Sir, the bloody hand of war has left its mark upon almost every house in the country. The bright sunshine of heaven beams down upon the glistening bayonets of a million men confronting each other all along the fields made desolate by terrible conflict, where but yesterday the foe crossed steel in the wager of battle. Along the banks of the great Father of Waters and those of its tributaries lie the bones of two hundred thousand of the sons of the great Northwest, who have fallen in this deplorable war. On the prairies and amid the forests of that great valley there are tens of thousands of helpless children, each of whose young lives has been made sad by the loss of a father slain upon the bloody field. And now, while the aged mother sits in restless anxiety, afraid to hear the next news from the field of carnage lest it bring the unwelcome tidings that her son has been slain, as her dim eye rests upon the one left at home to support her in her old age a new pang penetrates her heart, for he too will be taken when the remorseless wheel of fortune begins to turn for the additional five hundred thousand.

Should this Administration be continued in power for another term, the war will go on until the financial schemes of Secretary Chase shall crumble into ruin, when it will of necessity cease, leaving in its desolating course a divided country and a ruined people. On the other hand, should the Democracy succeed in the next presidential election, the Union will be restored under the Constitution in less than six months after its accession to power, as I believe without the necessity of shedding a single drop of blood. When the mass of the people of the South, suffering as they are not only from the cruel fortunes of war but also from the oppressions of their rulers, are offered peace upon the simple terms of allegiance to the Constitution and laws of the United States, and the offer has the solemn sanction of a great majority of the northern people, the leaders of the rebellion will be abandoned to their fate. We will reach forth our hands and lift up those Union men of whom the President spoke in his message at the extra session in 1861; and when they shall be enabled to stand and speak their honest sentiments without fear of rebel arms or abolition proclamations, there will be a majority of original Union men in all the States, except one, who will again organize their State governments and thus restore the Union.

Mr. BALDWIN, of Massachusetts, obtained the floor, but yielded to

Mr. STILES, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Dawes reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the President's annual message, and had come to no resolution thereon.

And then, on motion of Mr. STILES, (at forty minutes past four o'clock, p. m.), the House adjourned till Monday next at twelve o'clock, m.

IN SENATE.

MONDAY, February 29, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. POMEROY presented the petition of Henry Newman and others, praying for the establishment of a daily mail route from Lawrence via Ossawatimie to Fort Scott, Kansas; which was referred to the Committee on Post Offices and Post Roads.

Mr. CHANDLER presented resolutions of the Legislature of Michigan, in favor of an amendment to the enrollment act requiring the enrollment board to meet on certain days at the county town of each county for the purpose of hearing claims for exemption; which were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented fifteen petitions of citizens of Michigan, praying for the organization of an ambulance and sanitary corps for the armies of the United States and the enlistment of men for service therein; which were referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN presented a petition of members of the bar of the District of Columbia, praying that the salaries of the clerks of the courts of the District of Columbia may be increased; which was referred to the Committee on the District of Columbia.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas, in favor of a grant of lands to that State for the benefit of schools, agreeably to the provisions of an act approved September 4, 1841; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of Kansas, in favor of a grant of lands to aid in the construction of a railroad from Fort Leavenworth to Fort Scott; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. HARLAN presented five petitions of citizens of California, praying for the repeal of an act to grant the right of preemption to certain purchasers on the Socol Ranch, in the State of California, approved March 3, 1863; which were ordered to lie on the table, the subject having been acted upon by the Committee on Public Lands.

He also presented the petition of C. Mollohan, of Gallipolis, Ohio, praying that additional time may be given for the location of land warrants of soldiers of the war of 1812; which was referred to the Committee on Public Lands.

He also presented a letter of J. M. Edmunds, Commissioner of the General Land Office, recommending legislation directing the proper Department to cause selections of the public lands on the Pacific slope containing the timber most suitable for public uses to be reserved for the use of the Government; which was referred to the Committee on Public Lands.

REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Nancy M. Gunsally, formerly widow of Lyman M. Richmond, praying for a renewal of pension or half pay, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William Cook, of Decatur county, Indiana, praying for arrears of pension, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred a petition of citizens of Ohio, praying that a pension may be granted to Margaret M. Stafford, widow of Reuben Stafford, of Coshocot county, Ohio, who was killed while assisting the provost marshal in arresting deserters, submitted a report accompanied by a bill (S. No. 139) for the relief of Margaret M. Stafford, widow of Reuben Stafford, of Coshocot county, Ohio. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 41) to continue the payment of bounties, reported it without any recommendation.

Mr. SUMNER, from the select committee on slavery and freedmen, to whom was referred a bill (S. No. 99) to secure equality before the law in the courts of the United States, reported it without amendment; and submitted a report, which was ordered to be printed.

REPEAL OF FUGITIVE SLAVE LAW.

Mr. SUMNER. The select committee on slavery and the treatment of freedmen, to whom were referred sundry petitions praying for the repeal of all laws requiring the rendition of fugitive slaves, have had the same under consideration, and have directed me to report a bill accompanied by a report, which they ask to have printed.

The bill (S. No. 141) to repeal all laws for the rendition of fugitives from service or labor was read a first time by its title; and the report was ordered to be printed.

Mr. SUMNER. The minority of the committee propose to present their views. It is well known that by strict parliamentary law there is no such thing known as a minority report, and yet it has been according to the usage of the Senate to allow a minority to present their views to the Senate, particularly on a question of importance. The minority of the committee, as I understand, desire to present their views, and I have no doubt the Senate will receive them. I deemed it proper in committee to say to the minority that there would be no question on that point.

Mr. CONNESS submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That ten thousand extra copies of the report of the select committee on slavery and freedmen accompanying the bill to repeal all laws for the rendition of slaves be printed for the use of the Senate.

BILL INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 140) to provide for the protection of overland immigration to the States and Territories of the Pacific; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

WEA TRUST MONEY.

Mr. LANE, of Kansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to furnish to the Senate the amount of money received by the Government for the sale of the Wea trust loans in Kansas, and the manner in which said money was invested; if in State bonds, what States; and whether the interest of said State bonds has been paid, and if any of said bonds were stolen, what ones, and what provision has been made for the bonds so stolen.

J. C. G. KENNEDY.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Joseph C. G. Kennedy, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Claims, to whom was referred the petition of Joseph C. G. Kennedy, praying indemnification for damages to buildings while they were in the use of the Government, be discharged from further consideration thereof, and that said petition and claim be, and the same is hereby, referred to the Court of Claims for adjudication.

GUARDIANS AND COMMITTEES OF LUNATICS.

Mr. TEN EYCK. I move to postpone all prior orders, and take up House bill No. 42.

The motion was agreed to; and the bill (H. R. No. 42) to enable guardians and committees of lunatics appointed in the several States and other countries to act within the District of Columbia was considered as in Committee of the Whole.

It proposes to authorize any person appointed the committee of a lunatic or the guardian of a minor or lunatic by the proper authority in any State or Territory of the United States, or in any foreign country, to institute and prosecute to final judgment any suit or action in the courts of the District of Columbia as he might have done if his authority as such guardian or committee had been derived from the proper tribunals of the District; and such committee or guardian may in the same manner collect and receive any sum of money due to a lunatic or minor, and may by deed duly executed release and convey to any party entitled to the same, whether by purchase or otherwise, any lands or estates situated in the District of Columbia the property of such lunatic or minor,

or to or upon which such lunatic or minor may have a claim or mortgage, in the same manner as he might have done if his authority had been derived from the tribunals of said District; but the committee or guardian before making any conveyance of real estate or release of claim or mortgage thereon, is to file in the orphans' court of the District the official certificate of the judge of the court from which he derived his appointment, that he has given a sufficient bond to account to the minor or lunatic for all sums of money received by virtue of the authority conferred by this act. All payments heretofore made within the District of Columbia to the committee or guardian of lunatic, or the guardian of a minor duly appointed at the domicile of the lunatic or minor out of the District of Columbia, whether in the United States or a foreign country, are to be good and sufficient; but the guardian or committee is to file in the orphans' court of the District the official certificate of the judge of the court from which he derived his appointment that he has given sufficient bond to account to the minor or lunatic for all payments so made.

Mr. TEN EYCK. I move to amend the bill by striking out in the sixth line of the first section the words "or in any foreign country." The Committee on the Judiciary reported the bill without amendment, but it is thought best to strike out this provision, so as to confine the authority to persons appointed in the several States and Territories of the United States, and not extend it to those appointed in foreign countries.

The amendment was agreed to.

Mr. TEN EYCK. I move the same amendment in the second section by striking out in the fifth and sixth lines the words "whether in the United States or a foreign country."

The VICE PRESIDENT. That amendment will be made, if there be no objection. The Chair hears none.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed; and its title amended by striking out the words "and other countries."

PORT OF DELIVERY AT PARKERSBURG.

Mr. CHANDLER. I ask the Senate to take up Senate bill No. 69, to make Parkersburg, in West Virginia, a port of delivery.

The motion was agreed to; and the bill (S. No. 69) to constitute Parkersburg, in the State of West Virginia, a port of delivery was read a second time, and considered as in Committee of the Whole. It proposes to constitute Parkersburg, in the State of West Virginia, a port of delivery, within the collection district of New Orleans; and directs that there shall be appointed a surveyor of customs to reside there, who shall, in addition to his own duties, perform the duties and receive the salary and emoluments prescribed by the act of Congress, approved March 2, 1831, for importing merchandise into Pittsburg, Wheeling, and other places.

Mr. FOSTER. As this bill proposes to create new offices, and will, of course, be a further tax on the public Treasury, I should like to hear a little explanation of it from the honorable chairman of the Committee on Commerce before voting for it.

Mr. CHANDLER. It is recommended by the Secretary of the Treasury, and by the citizens both of West Virginia and Ohio. The Senators from West Virginia perhaps can explain the necessity of it more fully than I can. The citizens there desired it to be made a port of entry; but the Secretary of the Treasury requested that it should be made a port of delivery, and not a port of entry. It will add but little to the expense of the Treasury, and will be a great benefit to the citizens of West Virginia.

Mr. FOSTER. I should like to ask whether, from the examination before the committee, the chairman is prepared to say that it is necessary to pass the bill?

Mr. CHANDLER. I think it ought to pass, from the examination I have given it.

Mr. VAN WINKLE. This bill, as I understand it, is in accordance with similar provisions in reference to Wheeling and Pittsburg. It does not propose to make Parkersburg a port of entry, but a port of delivery simply. The act which is referred to in the bill provides that there shall be

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a surveyor, and that his salary shall be \$350 and fees, but that no salary shall be paid until the law actually goes into operation and goods are imported from some foreign port to Parkersburg. It would of course be idle to say that at this time, when the commerce of the Mississippi river is interrupted, and in the present state of the Gulf and Atlantic coast, this bill is immediately necessary; but the growing commerce of Parkersburg demands it as much perhaps as any other town on that river.

Parkersburg occupies a very commanding commercial position, and has been for many years, and even during this war, very rapidly increasing in population and in business. Stores are going up there all the time. During the last season seventy or eighty dwelling-houses were erected there, and some seven or eight brick stores were receiving the finishing touches when I left. Contracts have been made for additional ones to go up during the present season. Parkersburg is the export port for the petroleum oil that is produced in West Virginia. That creates a large business there. It is the terminus on the Ohio river of one branch of the Baltimore and Ohio railroad, over which the greater portion of the river transportation is carried. It is a place where a great number of steamboats are built, and where it is probable a much greater number will be built hereafter. The Little Kanawha river, which empties into the Ohio at Parkersburg, furnishes the best lumber and timber to be found in the whole Ohio region.

As it is not probable, perhaps, that the appointment will be made immediately or until the country is more quiet, or even if it was made that there would be any salary to be paid until the full resumption of business, I hope that Senators will not object to the passage of the bill. It is necessary to the increased business which we have every reason to expect at that point when the country shall become quiet. The population of Parkersburg has grown since I went there twenty-nine years ago, from four hundred to upward of four thousand including its suburbs. It is rapidly increasing not only in population but in business, and is the port of import and export for a very large section of country.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ABNER READ.

Mr. WILLEY. I am authorized by the Committee on Naval Affairs, to whom was referred House joint resolution No. 42, authorizing the payment of prize money, due to Commander Abner Read, United States Navy, to his widow, Constance Read, to ask to be discharged from its further consideration, and to ask the unanimous consent of the Senate to take up the joint resolution for present consideration. It will not take any time.

There being no objection, the joint resolution was considered as in Committee of the Whole. It proposes to authorize the proper accounting officers of the Treasury to pay to Mrs. Constance Read, widow of Commander Abner Read, late of the United States Navy, the share of prize money due or to become due to him for prizes taken by the United States vessel *New London*, while under his command, in 1861.

The joint resolution was reported to the Senate without amendment, and ordered to a third reading; it was read the third time, and passed.

ENCOURAGEMENT OF IMMIGRATION.

Mr. SHERMAN. I move to postpone all prior orders with a view to take up Senate bill No. 125. I think we can pass it in the morning hour.

The motion was agreed to; and the bill (S. No. 125) to encourage immigration was read the second time, and considered as in Committee of the Whole.

The bill provides for the appointment, by and with the advice and consent of the Senate, of an officer to be styled the Commissioner of Immigration, who shall have an office in the Department of State, and shall be under the direction of the Secretary of State, to hold his office during four

years, unless sooner removed, and to receive as an annual compensation \$2,500. To assist the Commissioner in the discharge of the duties imposed on him, the Secretary of State may, as they become necessary, assign to that officer one clerk of the first class and one clerk of the third class. To encourage, facilitate, and protect foreign immigration to and within the United States, the Commissioner is to collect from public documents and other authentic sources full and accurate information in regard to the soil, climate, mineral resources, and agricultural products, rates of wages and prices of labor in different portions of the United States, and also the means of communication, and the wants of agricultural, manufacturing, and other industrial interests of the United States, and to disseminate such information throughout Europe in a concise and popular form, from time to time, in such manner as will best conduce to the accomplishment of the objects contemplated. The information thus collected is to be printed in different languages, and, as far as practicable, by the Public Printer; but the cost of the printing authorized by the act is not, during one fiscal year, to exceed the sum of \$20,000. The Commissioner is to correspond with the various consuls at European ports, and the consuls are to aid the Commissioner in disseminating the information; and where, in the opinion of the Secretary of State, it is practicable, the consuls are to transmit a full manifest of the emigrants on board of vessels bound from the ports to which they are accredited to any port of the United States. The Commissioner, for the purpose of disseminating the information, may employ such newspapers, publishers, agencies, or transportation companies as he may deem advisable, the aggregate annual expense of which shall not exceed \$10,000.

There is also to be established at the port of New York an office to be known as the United States Emigrant Office, and, by and with the advice and consent of the Senate, a superintendent of immigration is to be appointed at an annual salary of \$2,000, who may employ a clerk of the first class. The superintendent, under the direction of the Commissioner of Immigration, is to make contracts with the different railroad and transportation companies of the United States for transportation tickets to be furnished to the immigrants, and to be paid for by them, and under rules prescribed by the Commissioner to protect the immigrants from imposition and fraud, and to furnish them such information and facilities as will enable them to proceed in the cheapest and most expeditious manner to the place of their destination, or, where this is undetermined by the immigrant, to the place where his labor will be most profitable. The superintendent of immigration is to perform such other duties as may be prescribed by the Commissioner of Immigration; but the duties imposed on him are not to be held to affect the powers and duties of the commissioners of emigration of the State of New York. The superintendent is to see that the provisions of the act, commonly known as the passenger act, are strictly complied with, and all breaches thereof punished according to law.

No person is to be qualified to fill any office under this act who shall be directly or indirectly interested in any corporation having lands for sale to immigrants, or in the carrying or transportation of immigrants either from foreign countries to the United States and its Territories, or to any part thereof, or who shall receive any fee or reward, or the promise thereof, for any service performed or any benefit rendered to any person or persons in the line of his duty. If any officer provided for by the act shall receive from any person or company any fee or reward, or promise thereof, for any services performed or any benefit rendered to any person or persons in the line of his duty, he is, upon conviction, to be fined \$1,000, or be imprisoned not to exceed three years, at the discretion of the court of competent jurisdiction, and forever after to be ineligible to hold any office of honor, trust, or profit in the United States.

The President of the United States, when in his judgment the public service requires it, may appoint a superintendent of immigration at the port of New Orleans, with the same powers, duties, and compensation as prescribed for the superintendent of immigration at the port of New York.

The Commissioner of Immigration at the commencement of each annual meeting of Congress is to submit a detailed report of the foreign immigration during the preceding year, and a detailed account of all expenditures under the act. For the purpose of carrying into effect the provisions of the act the sum of \$50,000 is hereby appropriated.

Mr. FESSENDEN. This bill is one that I hear of to-day for the first time, and I presume that is the case with the great majority of the Senate. It has not met my eye before, and it is too important to be slipped through in the morning hour without any examination of it. It establishes a new bureau, and I do not know to what expenses it may lead. I should like to have it lie over until I can have a chance to look at it and consider it.

Mr. SHERMAN. If the Senator from Maine desires that it lie over, I shall not oppose that motion. I called up this bill the other day for the purpose of explaining it, but other business intervened, and I will state now while I am up that this bill has been very carefully considered by the Committee on Agriculture, and the subject has been maturely examined. We had a great variety of projects before us. We deemed the object a very important one, and after full consideration we came to the conclusion that this was all the Government could do, and that this would be important to aid immigration and protect immigrants from fraud. Nearly all of the western States have appointed agents to encourage immigration. The controversies growing out of the clashing interests of different States are creating trouble and embarrassment in the city of New York, and this is increased by the competition of runners on board of vessels, and by the transportation companies.

The expenses of the proposed arrangement will be but trifling. The bill does not establish a new bureau as the Senator supposes. It establishes two new officers: one a superintendent of immigration in the city of New York, to see to the enforcement of the laws of the United States; the other a Commissioner of Immigration, whose office will be in Washington. The chief duty of the Commissioner will be to collect and disseminate information in different languages. It is found that many persons who desire to come to this country cannot rely upon information which is furnished to them by interested parties, and that some of the most intelligent among them are often deceived and misled. If an official document prepared from official sources could be furnished them, giving them accurate information as to the needs of labor in this country, there is no doubt it would encourage a great deal of immigration. In the western States labor is absolutely demanded; common laborers are receiving a very high price; and if it should be clearly shown to any intelligent person in Europe that it was his interest to come to America, because the prices as compared with each other are decidedly in favor of the laborer in this country, there would be a great increase in the number of immigrants.

I think while this would involve very little expense—the sum cannot exceed \$50,000 a year under the limitations of the act—it might increase the immigration into this country within a year probably to the extent of one hundred thousand able-bodied persons, and within a short time might still more increase immigration. That is the testimony of our consuls, and of intelligent persons from different countries. I have no objection, however, to the bill lying over, but I shall call it up at an early day, and I hope the Senate will then understand it, and be ready to act upon it.

The VICE PRESIDENT. It is moved that the further consideration of this bill be postponed until to-morrow.

The motion was agreed to.

PAYMENT OF BOUNTIES.

Mr. WILSON. I reported a few moments ago a joint resolution from the House of Representatives in regard to the continuation of the bounties. I think it is very important to take it up and dispose of it one way or the other, or to refer it to some committee if the Senate is not prepared to act upon it. I move to take it up for consideration.

The motion was agreed to; and the joint resolution (H. R. No. 41) to continue the payment of bounties was considered as in Committee of the Whole. It provides that the bounties authorized to be paid under existing laws, and by regulations and orders of the War Department, to veterans reënlisting or persons enlisting in the regular or volunteer service of the United States for three years or during the war, shall continue to be paid from the 1st of March to the 1st of April, 1864, anything in any law or regulation to the contrary notwithstanding.

Mr. FESSENDEN. I understood from the chairman of the Committee on Military Affairs when he made the report, that the joint resolution was reported without any recommendation by the committee. I would inquire of the chairman where the resolution came from originally, and whether it is here by recommendation of the Secretary of War or on his request, or whether any communication has been had with the Secretary of the Treasury, or in fact whether any information has been had officially from the Departments in relation to the matter. Assuredly the Senate ought to have some information to act upon when a bill is reported without any recommendation, which is substantially saying that the committee do not know anything about it. I should like to know whether they do or not.

Mr. WILSON. The joint resolution comes from the House of Representatives. It was introduced in the House as a report from the Committee on Military Affairs of that body, and passed the House by a very large majority; indeed I do not know whether there was a division upon it. The Committee on Military Affairs of the Senate instructed me to report it back to the Senate without any recommendation. I think the committee were very much divided as to its policy; a portion of the committee believing it best to pass it; another portion being opposed to continuing the bounties so long as we had the enrollment act upon the statute-book. So far as any official opinions from the Secretaries are concerned, the committee had none before them. A member of the committee, I believe, had some conversation with the Secretary of War, and he is of opinion that the Secretary desires its passage. I have had no communication with him. I went there for that purpose to-day, but he was at the President's. This is the last day that the present bounty law can be enforced.

The question is a simple one, and it is this, whether it is best to continue for another month the bounties that we are now paying. I suppose there are differences of opinion in the Senate in regard to it. I had very much the opinion that this matter, as it concerns the money, might as well go to the Committee on Finance for them to consider, for that is the only difficulty about it. There can be no doubt, I think, that we are enlisting men and shall enlist men by the 1st of April more rapidly than we can draft them during the twenty days of the month of March. We are enlisting now more than two thousand men a day in the country and mustering them into the service. I suppose we shall have after to-day to make a draft to fill up a portion of the quota under the call for five hundred thousand men; but we are enlisting men very rapidly, and some of the Governors of the States have urged very strongly that this law shall be continued. I have in my possession a very earnest letter from General Hancock expressing the opinion that the quota will be filled up by the 1st of April if the bounties be continued. I have a telegraphic dispatch from General Burnside, from Augusta, Maine, in which he says that after consulting with the authorities and with persons interested in New York and in the eastern States, he is satisfied that the continuance of the bounty system for a month longer will fill up the quota called for. It is a matter that concerns simply the question whether we can afford to pay these bounties. I suppose that we have, since the 17th October, paid

and agreed to pay for these bounties from ninety to one hundred million dollars. It must be over ninety million, for we have paid bounties, I think, to very near three hundred thousand men.

Mr. FESSENDEN. Mr. President, one thing is very obvious to me; and that is that when a proposition comes here of this description, involving two considerations, one the number of men needed and how to get them, and the other our ability to get them in a given mode, the proper course is that what is wanted, and the ability to accomplish what we want, should be ascertained by the proper executive officers in the first place, and ascertained on consultation with each other. It is not a single question; that is, alone, simply whether we desire to obtain men, and whether one particular mode is more correct and desirable than another; but it goes beyond that, and is a question of ability to accomplish the purpose in a given way; and, as I remarked, these questions should be settled to a reasonable certainty before the recommendation is made to Congress, and there should be an official recommendation with the proper information in relation to it.

I object entirely to having a bill of this importance come in here predicated upon mere telegrams from officers who are in different sections of the country, and who look only to the local intelligence which they gain, and of course know nothing of the condition of things here. If we legislate upon such grounds—and I am sorry to say we too often do—we must inevitably get ourselves into difficulty. Look at this for a moment. Here is a proposition to continue for a month the payment of these large bounties. We have already, as the chairman of the Committee on Military Affairs tells us, committed ourselves to the amount of about a hundred million dollars in that direction. If it is absolutely necessary to continue that, we must do it at all events; but I want to know the facts in relation to the matter. I want to know how we stand; Congress is entitled to know; and yet here comes in a bill of this description from the Committee on Military Affairs, with my distinguished friend from Massachusetts at the head of it, reported to the Senate without a word of recommendation or a fact upon which to ground it coming from the Departments themselves in any official or reliable form; and we are invited to act upon that idea. Now I ask him as chairman of that committee whether he thinks that is proper, and whether it is a sufficient basis of action.

Mr. WILSON. I do not think so.

Mr. FESSENDEN. Very well, sir. Because we really know nothing about it we are required to act in the dark in relation to the whole affair. We are required in point of fact to act upon our fears, upon the fear lest we may omit to do something that ought to be done; and nobody among those who ought to take the responsibility of giving us the facts and giving us the recommendations chooses to say a word to us upon the subject.

For my own part I cannot help saying to the Senate that I think this course of action is altogether unwise. We should have a recommendation from the proper quarter; we should have the facts upon which that recommendation is founded; we should have an exposition of our ability to do these things, and not a hap-hazard style of legislation in relation to such very important matters as these.

Now, sir, I think the proper motion would be under the circumstances that this joint resolution be recommitted to the Committee on Military Affairs, to recommend to us what action is proper to be taken. It is their business to do so.

The PRESIDING OFFICER. (Mr. Howe in the chair.) The hour of one o'clock has arrived, and it is the duty of the Chair to call up the unfinished business of the last sitting of the Senate.

Mr. GRIMES. I move that the regular order be suspended temporarily until this matter be disposed of.

The PRESIDING OFFICER. If there be no objection, the regular order will be laid aside.

Mr. FESSENDEN. I do not wish to move that the resolution be sent back to the committee with instructions; but I have already indicated in the remarks I have made what I think is proper to be done; that the committee—because a committee is the proper organ in the Senate in such cases—should obtain the information necessary if they have it not, inquire what the necessities

of the case are, and inquire immediately; inquire too as to whether this matter has had the proper consultation and examination; and having found what is desirable, they then can recommend action to the Senate. But if they are unable to get at the facts that it may be necessary for us to know in regard to the pecuniary branch of the question which is involved, (which of course they will not be if they inquire,) I shall have no objection that the committee to which I belong shall inquire into that matter. It would save time to have it done in the first instance. I move that the joint resolution be recommitted to the Committee on Military Affairs.

Mr. SHERMAN. I feel a little sensitive about this matter of the extension of the draft. I am one of those who occupy the unpopular position of being in favor of enforcing the draft strictly, and of thinking that our authorities were at fault in issuing the proclamation of October last. When the subject was first up I ventured the assertion that this change of policy would involve the expenditure of \$105,000,000. The chairman of the Military Committee now tells us that three hundred thousand men have been induced to enter the service by the offer of these bounties, and consequently the amount of the bounties pledged to them is about the sum I stated—\$100,000,000.

It turns out, then, that I was right in regard to that point. But the matter was referred to the Secretary of War, and he made an estimate showing that about one hundred thousand men would be enlisted under his proclamation; that he had about nine or ten million dollars accumulated from the old draft; and that the whole amount that would be required, if the payment of the bounties was continued to the 1st of March, would be about twenty million dollars. He made that estimate and sent it to the Secretary of the Treasury. The Secretary of the Treasury upon that estimate, assuming it to be true, wrote a letter to the chairman of the Finance Committee, stating that he could raise the necessary money to provide for that additional demand upon him. That letter was sent to the Finance Committee, together with the bill; and upon that estimate, which I knew to be erroneous—I knew it as well then as I know it now—we were compelled to accede to the demand of the Department, and we extended the time for paying the bounties. I am sorry that we did so. I believe it would have been better for us then to compel the enforcement of the draft. It would have brought money into the Treasury, and I believe it would have given us the same number of men.

Now it is proposed to extend this system further. If the Secretary of War will say to us that he advises it and wishes it, and will send a written communication to that effect, I shall assent to extending the draft now for thirty days or any other time that is necessary; but until that is done, I will not take the responsibility of voting to postpone the draft.

Mr. FESSENDEN. Extend the bounties, you mean.

Mr. SHERMAN. That postpones the draft. They talk about extending the time for bounties; but it means a postponement of the draft; and if this joint resolution be passed, the draft will not take place until after the time for the bounties expires, which will be in April, and it will then probably be too late to have a draft at all.

I am perfectly willing to assume the responsibilities of my position, but I think the Departments ought to assume theirs. If the Secretary of War desires the postponement of the draft and will take the responsibility of asking us formally by a written communication to postpone it, I will yield to his desire; but certainly I will not vote for a proposition of this kind unless the executive authorities will take the responsibility of recommending it.

As for the money, there is no doubt that the proclamation of October last has done very much to embarrass the operations of the Treasury. It has compelled a resort to that species of security which I hoped would never be used; that is, the legal tender interest-bearing notes. But for the postponement of the draft and the payment of these large bounties, I believe the ordinary loans made through the old channel would have been sufficient to carry on the operations of the Government, and to prevent any further inflation of our paper money. But since the draft has been

postponed, since this large bounty system has been entered into, I am willing to extend it if the authorities will say that an extension is demanded by the public interest, though in my own judgment it would have been much wiser long ago to enforce the draft. I am willing to share the responsibility with them if they will first take the responsibility and say they want it; but until then I am not willing to assume the responsibility. I know that the chairman of the Military Committee, if I understand him correctly, stated that a member of the committee went to the Secretary of War, and that in a private conversation with him the Secretary desired the passage of this resolution.

MR. WILSON. I said that I understood a member of the committee had some consultation with the Secretary of War, and he came away with the impression that the Secretary believed this was the best policy. That member is now present, the Senator from Indiana, [Mr. LANE.]

MR. SHERMAN. That is still more vague. The committee got the impression that the Secretary desired it from a conversation between the Senator from Indiana and the Secretary of War. I should like to know what is the opinion of the Secretary of War on the subject.

MR. LANE, of Indiana. I have no authority for the statement that the Secretary of War wishes the extension asked for satisfactory to myself. Although I did gather some such impression from a casual conversation with him, there was no authoritative recommendation.

If the Senator will pardon me one moment further, I will only say that I shall vote against this postponement of the draft. I believe that under the enrollment or conscription act, striking out the \$300 commutation clause, we can get soldiers enough without impoverishing the Treasury.

MR. SHERMAN. Then it is manifest that the Secretary of War has not even committed himself by a direct request to any member of the committee, and we ought not to pass this resolution.

Now, I will state, as briefly as I can, three or four leading objections to this mode of getting soldiers by the payment of money. It is unequal as between the States, giving the wealthy States the great advantage. That is one difficulty to commence with. It is unequal between different communities of the different States. Take my own State, for instance, where there are very loyal communities and communities that are not very loyal. Under the operations of the bounty system the whole burden of this war is thrown on the loyal communities, who come forward and with the large bounties given by the Government and the large bounties they raise among themselves, they raise the full quota demanded of our State. The consequence is, that in communities that are not very loyal—and we have some such in Ohio—they do not raise any troops at all, and thus avoid all the burdens, all the expense, and all the responsibilities of this war. That is unjust to the State and to the communities in the State.

There is another and still more radical objection. This system of bounties throws the whole burden of the war on the Treasury of the United States. In my judgment, the individual citizens ought to bear the burden. It would be much wiser to make me pay \$1,000 for a substitute, or \$5,000, if I am able to do it, than to make the Government pay \$500, because the Government in time of war is the poorest of all. It makes no difference to the community if an individual is compelled to pay a large amount to pay a substitute; but it does make a very great difference if the community itself has got to go into the market and hire these substitutes. Our system of bounties has thrown on the Treasury \$100,000,000 which would have been raised, by the enforcement of the conscription act, by the collection of only \$300 from each citizen who would not go into the Army.

These are radical objections against this system of bounties paid by the Government. I will not vote to extend them unless those who are responsible for the conduct of the war come to us in an official communication and ask it of us. Then I am willing to yield to them the responsibility, and acquiesce in any measures they may demand and say are necessary for the public safety.

MR. NESMITH. There is apparently some foundation for the censure of the chairman of the Committee on Finance on the Military Commit-

tee in relation to the consideration they gave this subject, and I regard it as my duty to simply state the circumstances under which it was considered. It was taken up at a late hour in the morning and very hurriedly, understanding this to be the last day that enlistments could be made under the existing law. I know that two members of the committee expressed themselves very emphatically against the proposition, and stated that they would vote against it in committee and would vote against it in the Senate. I was one of those members. I do not feel at liberty to allude to the other Senator. No Senator expressed himself as very decidedly in favor of the proposition; but inasmuch as this is the last day that bounties can be paid under the existing laws, we consented that the resolution might be reported to the Senate for their action, knowing that there was a very great division of opinion among Senators themselves in relation to the propriety of adopting any such measure.

I imagine if the resolution had been retained in the committee and undergone discussion, it might have occupied several days; and while in a full committee there might have been a majority report in favor of the proposition, I am satisfied there would have been a minority report against it. In order to save time and prevent the delay that would arise from a prolonged discussion of the question in committee and to save the writing of these reports, as I stated before, we consented that the resolution might be reported back without recommendation.

So far as my own position in connection with this subject is concerned, I am free to say that while we did not give the subject the usual consideration that questions referred to that committee receive, my own individual impressions were entirely against the resolution. I have been opposed to the payment of these extravagant bounties. In my opinion we had better rely on the conscription law which was passed by Congress and is in full operation, with all its expensive machinery for carrying it on, to obtain troops. There has been no settled policy in relation to this matter. Prior to the meeting of Congress the Department assumed the right to offer bounties, and paid the most extravagant bounties without the sanction of law. Subsequently, a resolution was passed by Congress legalizing, so far as it was in their power, the proceedings that the Department had taken in relation to bounties. We afterwards passed a law extending the time for the payment of bounties to the 1st of March; and now there is a proposition to extend it to the 1st day of April; and if we pass it, before the 1st day of April there will be a proposition to extend it to the 1st day of June, and there will be a continued extension. I am in favor of cutting the matter short here, and am opposed to the payment of all those extravagant bounties. I prefer to rely upon that system of raising soldiers which I contend is the only fair and the only prompt mode of doing it.

MR. WILSON. I think this resolution had better go to the Committee on Finance, and let the Secretaries consult in regard to it. I agree with the Senator from Maine that a proposition so important as this should have come to Congress with the views at any rate of the Secretary of War and the Secretary of the Treasury. But the Committee on Military Affairs found it on their table this morning, having come from the House of Representatives without any information whatever except what they could gather from the proceedings of the House. We have nothing of an official character from the War Department nor anything from the Treasury Department. I suppose it will certainly increase the liabilities of the Government between twenty and twenty-five million dollars, not all this year, because the Government distributes these bounties over the three years. That has been the case with the liabilities already incurred for the payment of bounties. That is the reason we are not called upon for more money, perhaps, as I think we probably shall be.

We know what men we have enlisted; and I say here to-day that under the call of the 17th of October last, and the additional call making five hundred thousand men, we have incurred an expense, I think, from ninety to one hundred million dollars. A portion of it must be paid down. The remainder is scattered over the period of three years. I suppose if the payment of these bounties is extended, and we go on raising men

at the rate we are now raising them, that we shall raise during the coming month somewhere from sixty to eighty thousand men, paying a portion of them \$400 and another portion \$300.

It is a question that Senators must consider whether we can afford to pay these bounties. I think the resolution had better go to the Committee on Finance. I would prefer that it should take that course; but I shall not shrink from any labor that may be imposed on me to ascertain what the views of the Department are.

MR. FESSENDEN, (to Mr. Wilson.) We will take it after you get through with it and give us an explanation of your part of it.

MR. CLARK. It is evidently proper that this resolution should go in the first instance to the Committee on Military Affairs, because the first question presenting itself is a military one—whether this is the proper method of raising soldiers; whether we need them to be raised in this way. If these men are not required to be raised by bounties, then it is not a question for the Finance Committee at all; but if the Military Committee or the War Department say that the best way to raise these men is by bounties, then the question comes up, and not before, can the Treasury bear it? Therefore it is a question for the Military Committee to determine, and it is peculiarly for them to determine, whether it is better to raise these men by bounties rather than by a draft.

MR. FESSENDEN. The War Department in the first instance.

MR. CLARK. The War Department is the first Department to be consulted about it. They are the Department having charge of this subject. They should consult among themselves, and they should say to the committee, if the committee choose to ask them, what is proper to be done. I am free to say, standing here before the Senate, at this time, if the Treasury was overflowing, I would not vote these large bounties without some information from the War Department as to whether this was the best method of obtaining troops.

MR. JOHNSON. Do they ask for it?

MR. CLARK. They have not asked for it. They have not even stated to any member of the committee whether they desire it. It is suggested that such a recommendation should come from the Cabinet. I have said it should come from the Department having charge of the military affairs of the country, and then if that Department should ask for advice of the other Departments it is perfectly proper that they should do so, because the Treasury should be consulted in this matter; but I think I spoke correctly enough, and that I shall be understood. We want the recommendation of the War Department as to whether, as a military necessity, this thing is advisable. I desire that the resolution should go to the Committee on Military Affairs, as the proper organ to determine the military necessity, and to inform us whether it is proper and right to vote these large bounties to those men or not.

MR. GRIMES. I am not particular as to what committee this resolution is referred, although I think it ought not to be referred to any. I think it ought to be suffered to remain on our table until we have some action of the Administration or some views from the Administration as a unit as to what they desire. It is all a mistake to suppose that there are only two Departments that are specially interested in the passage of this joint resolution. Let me tell Senators and let me warn them that within the next three months you will not have your ships-of-war manned, for the reason that under the operation of your enrollment laws and the bounties that now exist if you are going to suspend the enrollment laws, you will not be able to recuperate the energies of the Navy. Your men are all going out of the Navy now, not because they have abolished the whisky ration, not because under ordinary circumstances they might not get sufficient pay; but, first, because in the commercial marine the lowest amount that is now being paid is thirty dollars per month while we pay only eighteen dollars, and from that deduct all the expenses of the seaman, his clothing, and his small-stores; and, secondly, because all the appliances of the Administration in the shape of bounties, in the shape of conscription and enrollments, are used to fill up the Army to the utter exclusion of filling up the Navy.

Mr. President, a measure of this kind ought to come from the Administration proper. It ought to be recommended by the President of the United States after thorough and mature consideration with all the members of his Cabinet, and not upon the mere recommendation of the Secretary of War, or, even added to that, the recommendation of the Secretary of the Treasury. The whole Cabinet, the whole country is interested in the measure.

Mr. WILSON. I entirely agree with the Senator in what he has said in regard to the subject; but this joint resolution passed the House of Representatives; it came to the Committee on Military Affairs in the Senate, and the committee were in the same condition that the Senate now is.

Mr. GRIMES. I am not censuring the committee.

Mr. WILSON. I am very glad to understand that that is the case. The committee felt with this information, or rather this want of information before them, that they could not recommend the passage of this resolution.

Mr. GRIMES. I think the committee did the very thing they ought to have done. Instead of censuring the committee I commend them for the course they have taken.

Mr. WILSON. And they felt in another respect that they might be reproached by the country if they held it back beyond the time at which the payment of bounties would expire. It was therefore thought best to bring it before the Senate for their consideration. If Senators desire that it shall go back to the committee, I am willing to perform my duty in the matter.

The VICE PRESIDENT. The question is on recommitting the joint resolution to the Committee on Military Affairs and the Militia.

The motion was agreed to.

MILITARY INTERFERENCE WITH ELECTIONS.

Mr. POWELL. Some two weeks ago I submitted to the Senate a resolution, which was passed, directing the Secretary of War to transmit to the Senate the orders and instructions, if any, that he had given provost marshals in the States of Kentucky, Delaware, Missouri, and Maryland on the subject of elections. No report has been made by the Secretary of War. I think it probable his attention has not been specially called to the resolution. The bill on that subject has been made the special order for Thursday next. I therefore move that the Secretary of the Senate be directed to transmit to the Secretary of War a copy of that resolution, in order to call his attention to it.

The VICE PRESIDENT. That order will be made, if there be no objection. The Chair hears none.

DISQUALIFICATION OF COLOR.

The VICE PRESIDENT. The special order of the day, being the unfinished business of Friday, is now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 62) to remove all disqualification of color in carrying the mails, the pending question being on the amendment submitted by Mr. POWELL to the amendment reported from the Committee on Post Offices and Post Roads, after the words "States" to insert the words "in all cases for robbing or violating the mails of the United States;" so that the amendment of the committee will read:

Sec. 2. And be it further enacted, That in the courts of the United States, in all cases for robbing or violating the mails of the United States, there shall be no exclusion of any witness on account of color.

Mr. CONNESS. I see that the chairman of the Committee on Post Offices and Post Roads [Mr. COLLAMER] is not in his seat; I hope, therefore, that this bill will lie over until he is present.

Mr. SUMNER. I agree with my friend from California. The bill was originally introduced by myself, but it has been reported from the Committee on Post Offices and Post Roads, and as the chairman of that committee is now absent I think on the whole its further consideration had better be postponed until he is in his seat. I have had an impression that he proposed to make some observations upon it.

Mr. CONNESS. That is the fact, sir.

Mr. WILSON. I move that the bill be postponed until to-morrow, for the purpose of taking up another joint resolution.

The motion was agreed to.

PAY OF COLORED TROOPS.

Mr. WILSON. I now move to take up the joint resolution equalizing the pay of soldiers in the United States Army.

Mr. FESSENDEN. I have no sort of objection myself to taking up that joint resolution; on the contrary, I am inclined to favor action upon it at once; but I suggest to the Senator from Massachusetts that the pending question on that joint resolution is on an amendment moved by the Senator from Vermont, [Mr. COLLAMER,] which he deems of importance, and upon which he may have something to say. As he is not in his seat—I presume on account of illness—I suggest whether it would not be advisable to postpone it for the present.

Mr. FOOT. The question on the joint resolution proposed to be taken up by the Senator from Massachusetts is on an amendment moved by my colleague. That amendment is deemed important by him, and I believe by the Senate generally. He is not in his seat this morning—I presume from physical indisposition.

Mr. WILSON. On that suggestion I will withdraw the motion, although I am very anxious to have a vote on that proposition. It seems to me we are delaying action quite too long upon it. I withdraw that motion, and will move to take up the joint resolution introduced by the Senator from Minnesota, [Mr. WILKINSON,] extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who entered the service of the United States prior to May 3, 1861.

Mr. LANE, of Kansas. The question on the bill now before the Senate—

The VICE PRESIDENT. There is no bill now before the Senate.

Mr. LANE, of Kansas. Well, the first question on the joint resolution to equalize the pay of soldiers of the United States Army is on an amendment proposed by myself to the amendment of the Senator from Vermont, [Mr. COLLAMER,] I have some papers here from the War Department that I desire to use when that amendment to the amendment comes up, and I ask that they be printed.

The VICE PRESIDENT. The order to print will be made, if there be no objection. The Chair hears none.

BOUNTY TO VOLUNTEERS.

Mr. WILSON. I renew my motion to take up Senate joint resolution No. 20.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 20) extending the benefits of the bounty granted by the act of July 22, 1861, to certain soldiers who entered the service of the United States prior to May 3, 1861. It proposes to extend the benefits of the act to authorize the employment of volunteers to aid in enforcing the laws and protecting the public property, approved July 22, 1861, so as to be applicable to and operate for the benefit of all volunteers who were mustered into the service of the United States prior to the date of the President's proclamation of May 3, 1861, provided such volunteers shall have served the time prescribed in that act under such enlistment necessary to entitle them to the bounty therein provided for. It also proposes to extend the provisions of section six of the act of July 22, 1861, to the widows and heirs of such as have been or may be killed or die in the service.

Mr. DAVIS. I move an amendment in the form of an additional section:

Sec. 2. And be it further enacted, That in every case where heretofore any person has agreed to join and has in fact joined, or hereafter may join, the military service of the United States, and has been received into the said service by any military officer thereof, the person so joining and received into such service shall, for all purposes whatever, be deemed to have been regularly mustered into the said service in the position of officer, non-commissioned officer, or private, in which he may have served, notwithstanding he may not have been mustered in according to law and the regulations of the War Department.

I explained this proposition to the Senate at the last session, and I will just say a word now in regard to it.

In my own State there were troops that attached themselves to certain regiments. They were received into the service by the commandants of the regiments, and one regiment in particular was marched to two battle-fields and engaged in both battles before they were regularly mustered in ac-

cording to the regulations of the Department. In each of those battles some of the men were killed, some were disabled, and some were slightly wounded. One of the soldiers was in my office a few days before I left home. He had lost his right arm. The sole object of my amendment is to provide for this state of case, that where a corps in fact is mustered into the military service and is in fact accepted by a colonel commanding or other commander, and does in fact serve, it shall be considered to all purposes whatever to have been regularly mustered in, and shall receive the same pay, bounty, &c., that it would have received if the men had been regularly mustered in according to the regulations of the Department.

Mr. WILKINSON. I do not know that I should have any objection to the amendment of the Senator from Kentucky as a separate measure; but I ask him not to incur this resolution by his amendment, but to bring it up as a separate proposition. I offered this joint resolution in consequence of a decision of the paymaster's department. Since the resolution was offered I have received a letter from the Solicitor of the War Department in which he informs me that the decision he had made, and upon which decision the pay department acted, was not intended to cover such a case as this resolution was drawn to meet.

The facts are that a Minnesota regiment—and I understand there are one or two other regiments in precisely the same situation—entered the service prior to the President's proclamation calling out three years' troops. The regiment from Minnesota, for instance, was mustered in on the 29th day of April, 1861. The call for three years' men was in the beginning of May. The Secretary of War would not order them to Washington unless they would agree to go in as three years' men. They accepted that proposition and all went in as three years' men, but their muster-roll stood as they were first mustered in, dated 29th day of April. In the "memorandum index" of the pay department they refer to this decision of the Solicitor:

"A volunteer soldier enlisted prior to date of President's proclamation May 3, 1861, and of General Order No. 15, May 4, 1861, is not entitled to bounty of \$100 under the act of July 22, 1861."—Decision of Solicitor of War Department, June 15, 1863.

I understand since the little discussion that arose on the resolution when it was first introduced, that the pay department did not correctly interpret the full decision of the Solicitor of the War Department; that it only was intended to apply to the three months' men and not to men who actually enlisted for three years, although their muster-roll dated back to a period when there were no three years' men called out. This resolution only applies to three years' men or those who have served two years.

Mr. FESSENDEN. I ask the Senator from Minnesota if now, under the explanation which has been given to that decision, it is necessary to pass this resolution at all?

Mr. WILKINSON. I was going to say that I do not know whether the pay department is now governed by that decision. This memorandum index, which is issued by the pay department for the government of all paymasters in the service, seems to exclude these soldiers.

Mr. FESSENDEN. I think the resolution had better go over, because it is very general in its terms, and we do not know how far it reaches. The Senator says the Solicitor has made a new decision since this resolution was introduced, which I understand covers the case; perhaps, therefore, he does not care about its being urged now.

Mr. WILKINSON. It may go over.

Mr. WILSON. Under these circumstances, I move to postpone the further consideration of the resolution, and I will now renew the motion to take up the joint resolution equalizing the pay of soldiers. The Senator from Vermont is now present.

The motion was agreed to.

PAY OF COLORED TROOPS.

The consideration of the joint resolution (S. No. 23) to equalize the pay of soldiers in the United States Army was resumed as in Committee of the Whole, the pending question being on the amendment of Mr. WILSON to the amendment of Mr. COLLAMER. The amendment of Mr. WILSON was to insert the word "free" before the

word "persons;" so as to make the amendment of Mr. COLLAMER read as follows:

All free persons enlisted and mustered into service as volunteers under the call dated October 17, 1863, for three hundred thousand volunteers, who were at the time of enlistment actually and for six months previous had been resident inhabitants of the State in which they volunteered, shall receive from the United States the same amount of bounty, without regard to color: *Provided, however, That the foregoing provision shall not extend to any State which the President by proclamation has declared in a state of insurrection.*

Mr. LANE, of Kansas. I desire to ask the Senator from Vermont how that word "free" will affect the colored soldiers recruited by me? They had been in the State of Kansas over six months, but many of them had before been slaves. They had escaped from Missouri and from Arkansas; and before being mustered into the service most of them had been in the State of Kansas six months. If the word "free" is to cut them out, I am opposed to its insertion, and I trust the Senate will reject it. I have laid upon the table an amendment which I propose to offer at the proper time, to extend the amendment of the Senator from Vermont to those enlisted since July 1, 1862, so as to cover those whom I recruited in Kansas during that year. The authority to recruit which was given to me by the War Department authorized me to raise a brigade of infantry without reference to color.

Mr. COLLAMER. What was the date of that?

Mr. LANE, of Kansas. July 22, 1862. Under that authority in forty days, aided by my gallant constituents, I raised three regiments and six companies of white infantry and one regiment of colored infantry. What I desire to accomplish is to get a provision inserted in the bill that will give to the colored infantry raised under the same authority, for the same term and arm of the service, the same bounty that the white infantry have received. Some of them were and always had been freemen; but the larger portion of them were escaped slaves from Missouri and Arkansas, who had resided in the State of Kansas six months previous to their being mustered into the service of the United States. The letter of the Secretary of War authorized me "to proceed forthwith to raise and organize one or more brigades of volunteer infantry, to be mustered into the service of the United States for three years or during the war." Under that authority I mustered in three regiments and six companies of white and one regiment of colored troops.

Mr. COLLAMER. When I offered my amendment, I endeavored to explain to the Senate the purpose and object of it. It was thought that it might include according to its terms more than the object which I stated and which I desired to effect. It is possible that that may be so; but the pending amendment moved by the Senator from Massachusetts, [Mr. WILSON,] to insert the word "free," arises, in his view, from the last section inserted in the enrollment bill lately passed, which provides for paying for slaves; and he fears that unless the word "free" be inserted in this amendment of mine, provision will be twice made for the case of slaves.

All seem to agree in the justice of the object sought to be accomplished by my amendment; I have heard no objection to it; and yet it seems that the subject is treated very much like the Irish farrier's bill, "curing your honor's horse till he died." [Laughter.] That is the way the whole subject is treated, curing it to its death. Every man who has an ax to grind comes in, and then others who have speeches to make explaining their objections to another bill that was passed some days ago, and which they do not like, take this occasion to express their views, and so this amendment of mine becomes the stalking-horse to bear the burden of the grievances of everybody, though in no way related to the subject which I moved. I am desirous of trying once more to effect my purpose, which I take it is laudable, for I have not heard it objected to, by endeavoring to put my amendment in a briefer compass, and perhaps by that means avoid the amendments proposed to it.

Mr. President, I stated before and will very briefly repeat that in the State where I live, and in many other States, the colored people were enrolled with the white people according to law, were subject to draft, and some of them were drafted last summer. When that draft resulted as it did, falling short of the expectations which

many had formed of its results, the President issued a proclamation inviting people to volunteer instead of being drafted; for having on hand a considerable quantity of commutation money he offered a bounty of \$300 to those who would enlist instead of waiting for other drafts. Could anybody suppose that that proclamation did not extend to all people who were subject to the draft? It was saying in effect, "Come in and volunteer so as to avoid another draft." The people did volunteer instead of standing off for a draft; but, as I said before, when the officers came to muster in the volunteers, they paid the bounty to the white men and did not pay it to the black men, though those men were enrolled at home and subject to draft. What I desire is to correct that, and I have not yet heard any man say that it ought not to be corrected.

I propose now, upon more reflection, instead of using the words I originally employed in the amendment, to change them so as to say simply that the bounty shall be paid to all volunteers, under the call of October 17, 1863, who were actually enrolled and subject to draft, and leave it just there. That will cover the case which I desire to meet. Inasmuch, however, as one amendment has been added on the motion of the Senator from Massachusetts, [Mr. SUMNER,] I do not know that I am at liberty to amend the amendment, and I suppose that without common consent I am not; but to avoid the proposed amendment now moved by the Senator from Massachusetts [Mr. WILSON] to insert the word "free," I take it it will be safe enough if it is put in the shape I now propose, and that is to pay the bounty only to those who volunteered, and who if they had not volunteered would have remained liable to draft, having been actually enrolled. Those slaves for which he says provision has been made in the last section of the enrollment act lately passed will not be reached by this because they were not enrolled and subject to draft, as I understand.

The VICE PRESIDENT. It is not competent for the Senator from Vermont now to modify his amendment except by unanimous consent, the Senate having amended the amendment of the Senator subsequent to its introduction.

Mr. COLLAMER. I so understood.

The VICE PRESIDENT. It will, however, be competent for the Senator to move to amend the whole clause by striking it all out and inserting precisely what he now proposes.

Mr. COLLAMER. Very well; but that is out of order now, I believe. I must wait my day, I suppose.

Mr. FESSENDEN. I desire to say a few words in relation to this matter, rather with a view that my own position in regard to it may be understood than for any other reason, inasmuch as I feel called upon to vote sometimes against what might seem to be just in itself, taken by itself. In order that I may make myself understood, I will with the permission of the Senate say a few words with reference to the position of the bill, and I call the attention of my friend from Massachusetts [Mr. WILSON] to the subject, in order that if I in any degree misstate him he may correct me.

Some two years ago when we passed the original bill for the enlistment and employment of persons of African descent into the Army, we provided a definite, fixed sum per month for their payment. At that time, as is well known—the honorable Senator from Massachusetts knows it as well as anybody—there was a difference of opinion upon the subject. That bill, if I remember rightly, was passed at quite a late period of the session of 1862. It was my opinion at that time, whether expressed publicly or not I do not know, but certainly expressed in conversation to him and to my friend from Iowa, [Mr. GRIMES,] who, I think, did speak his sentiments as well as my own on the subject, that the black troops thus raised ought to be put upon an equality in all respects with the white; not that we were of opinion that in all cases they would earn the same pay and would deserve it, for in some cases I was of opinion then that they would not, for the simple reason that taking the slaves on the Mississippi they could live much cheaper than white soldiers, and for the further reason that the Government was doing a great deal more for their wives and children. Nevertheless I was of opinion at that time that they ought to be put upon the same

level in order that there should be no ground for any distinction by the enemy between colored troops and white troops, that it should not lie in their mouths to say that we ourselves had made a distinction, and that therefore they were at liberty to consider them upon any other footing than the regular soldiers of the United States.

My friend the chairman of the Military Committee was not of that opinion at that time, as he will remember. He thought that the amount fixed in that bill was ample; and he thought, moreover, which undoubtedly was the controlling reason in his mind, that there would be danger in making an amendment providing for giving the colored troops the same pay, as we might by so doing possibly lose the bill itself through the lapse of time. That being the opinion of the Committee on Military Affairs, we did not make any strenuous objection to the bill as it stood, and it was passed; I remaining, however, of the same opinion then as I am now.

Under that bill a very large number of men have been employed; a large number of those who were formerly slaves have been employed, and have been employed with their free consent; and in some of the free States colored men have been employed with the perfect knowledge and understanding of what the provisions of the bill were, that they were to receive ten dollars a month and no bounty. Opinions differ as to the number, but perhaps fifty or sixty thousand of them have been enlisted; most of them, the large mass, understanding perfectly the amount they were to receive, content with it, making no objection to it, for the reason undoubtedly that they understood as well as we that the differences had existed which I have stated.

It seems, however, that notwithstanding our law, under permission given by the Secretary of War to the Governor of Massachusetts, two regiments were raised in Massachusetts, and raised under enlistment papers specifying that they were to receive the same pay, &c., as other volunteers. The honorable Senator from Massachusetts [Mr. SUMNER] undertook to show that that was done legally and properly, whether permission was given or not. I think he failed to show it to the satisfaction of the Senate, and I think he was mistaken in the view he took of the law. The Governor of Massachusetts, however, gave the authority, and two regiments were thus enlisted and mustered into the service. Two other regiments were enlisted in South Carolina, called the first and second South Carolina, I think, the colonel of one of them and perhaps the other officers being from Massachusetts, and the other commanded by Colonel Montgomery. I have been furnished in a letter written to me by one of those officers with the original authority from the War Department under which as it is said those two regiments were enlisted, and I will read it to the Senate. It was addressed to General Saxton:

"You are also authorized to arm, uniform, equip, and receive into the service of the United States such number of volunteers of African descent as you may deem expedient, not exceeding five thousand, and may detail officers to instruct them in military drill, discipline, and duty, and command them.

"The persons so received into service and their officers to be entitled to and receive the same pay and rations as are allowed by law to volunteers in the service.

"EDWIN M. STANTON,
"Secretary of War."

Now, in regard to these cases, allow me to say as to the two regiments from Massachusetts, that I do not understand that under any authority given by the Secretary of War the Governor of Massachusetts was authorized to promise them any more than ten dollars a month. Nevertheless he did so, that is to say, the papers were drawn up in that form, and it was so understood. It seems to them, and justly, very hard that they cannot receive the thirteen dollars a month like other soldiers. I understand with regard to the South Carolina regiments, that for a time they were paid the thirteen dollars a month, and finally it was cut down to ten dollars a month, and that now there is some apprehension that the over payment, as it is called, of the three dollars before is to be taken from their pay which may be received after this time.

In the last case it would be more manifestly unjust that they should not be paid from the beginning the thirteen dollars a month; and as has been contended by the Senator from Vermont, if the two Massachusetts regiments were thus enlisted

as it is said, and mustered into the service under that enlistment, and no objection whatever was made to the contract thus made by them, as between them and us it is manifestly just and proper that they should be paid the thirteen dollars a month. I do not undertake to dispute that, and have not from the beginning; but they are individual cases. There may be one or two other regiments in the same category. I will say to my honorable friend from Kansas that under the circumstances of which he has spoken the Kansas regiment having been enlisted, as I understand, and mustered into service before the law of 1862 was passed, and having performed the service, are manifestly, without any law, entitled to be paid the same as other soldiers. He has no need of any amendment in regard to them, if the time of their enlistment was, as I understand it to have been, before the passage of the law of which I have been speaking.

Mr. LANE, of Kansas. I will ask the Senator from Maine what remedy these men have except by an appeal to Congress. The War Department has decided not to pay them.

Mr. FESSENDEN. I am not speaking of what the War Department has decided. They, of course, cannot go and put their hands into the Treasury; but I say they are entitled to be paid, in my judgment.

Mr. LANE, of Kansas. Then I hope the Senator will not be afraid to say so.

Mr. FESSENDEN. If the Senator will hear me through, he will find probably what I do intend to say about it. There are the two Massachusetts regiments, the two South Carolina regiments, and the Kansas regiment, entitled to claim the thirteen dollars for the whole time of their service, and there may be one or two others in the same position. Take them altogether, however, they are a very small number compared with the great mass of colored men who have been enlisted.

But now what is the remedy of my honorable friend from Massachusetts, [Mr. Wilson,] and it is this to which I wish to call his attention. He brought in a bill here providing in the first part of it that the colored soldiers hereafter enlisted into the service of the United States should be put upon the same ground in all particulars with the white soldiers. To that I expressed my immediate assent. It carried out my original idea. To be sure they made a contract, and notwithstanding they had made a contract I was perfectly willing, and so expressed myself, that they should be placed upon the same level with the white troops, because the original reason held good, and that was that I feared the effect upon them that might be produced if we made a distinction between them and our other troops. What I objected to was the other clause, which was, my friend will remember, in general terms, and embraced not only the two Massachusetts regiments and the South Carolina regiments, but embraced all the colored troops, the whole sixty thousand, whether they wanted the increase or not, whether there was any mistake about it in regard to them or not. I inquired at that time whether it was so or not, and the honorable chairman of the Military Committee said yes, it was. I called his attention and the attention of the Senate to it. I felt bound to do so, not only from my general duty as a Senator, but from the position that has been assigned me here to keep a careful watch on bills making appropriations of the public money, because I am understood to look a little at the matter of money.

My friend's remedy was a bad one. He did not choose to take up the case of his two Massachusetts regiments and the two South Carolina regiments and put them in a bill by themselves, and include with them any others who might be in the same category; but he brought in a sweeping clause to put all the colored men, the slaves on the Mississippi river, and all that large number who had been enlisted anywhere, and to go back to the date of their original enlistment, and to pay them all from the beginning thirteen dollars a month. That showed itself to the Senate to be manifestly improper. The honorable Senator's colleague [Mr. Sumner] expressed at the time of that debate his willingness to assent to the distinction to be made. He did not claim, and he said he did not claim, that all should be paid on that category; but he was willing that it should

be confined to those who were placed in those peculiar circumstances under a contract to receive a larger amount. Everybody else assented to the propriety of the suggestion. The honorable Senator himself assented to it.

The objection that I made then and that I make now is to a general clause covering such immense ground, and introduced merely with a view to provide for the few regiments that stood before us in the peculiar attitude occupied by those which I have named. Is it not so, sir? Is not that what was in the honorable Senator's mind and in the mind of his colleague? They wished to provide for individual cases. They were told in the Senate Chamber by gentlemen around me in ordinary conversation, "Bring in your bill to provide for your special cases and we will consider and pass it, but we cannot put a clause upon this bill which will cover a million or a million and a half or two million dollars, and be applicable to some forty or fifty thousand men who perfectly understood at the time of their enlistment what they were to receive, and who have never complained of it and never asked for any more." That is substantially the position in which it stood and the objection that I made, and to the correctness and propriety of which they acceded at the time.

Again the question comes up. I have received some letters, very proper letters, from officers of the South Carolina regiments explaining the position in which they stood. If that enlistment was such as is claimed under the authority given which I have read, (although there was no power to give it if it was after our law was passed,) the contract ought to be kept. It is like other cases of misapprehension, and if they enlisted under those circumstances they should receive the thirteen dollars a month. If the regiments which were enlisted in Massachusetts have been received into the service and mustered in, as they undoubtedly have been, and rendered most gallant and noble service too, although there was no original authority to promise them the thirteen dollars, it was a misapprehension in my judgment; yet having been received they should be paid according to their contract. I do not dispute that; but we have properly established the principle here that in these general bills intended to cover general grounds and provide for masses, we will not have, if it is possible to prevent it, amendments providing for individual cases. Why? Because in making those amendments we were apt to carry them a great deal further than we intended. Now let me ask the Senator from Massachusetts what would have been the effect if the Senate had acted on his bill without attention being called to it? Did he intend to pay the forty or fifty thousand men on the Mississippi, if there are as many as that, who enlisted understandingly for ten dollars a month? Yet that would have been the effect of it.

When the Senate had pretty much come to a conclusion on the subject, my honorable friend from Vermont comes up with another case. The case is a strong one. I told him at the time that I considered it so, that it ought to be provided for; but I suggested to him that even he probably did not understand how far his own amendment would extend, and this morning he comes in admitting the fact that it extended the Lord knows where, all over all the States except the rebel States, and introduced freemen and slaves and all others who came within the description in his amendment, and upon that there have been one or two more amendments placed, and the Senator from Kansas has still another. It shows the impropriety of such legislation, and that is what I object to. We never shall know where we are, we never can tell in what condition the Treasury is unless we have each of these cases examined by itself and placed upon its own footing, and not stuck on to these general bills and passed in a hurry on the explanations given by individual members, who think they have a very clear idea of it, but cannot have ideas for other people.

Now, sir, what I ask is, that this bill which provides for placing all our troops on an equality shall be passed by itself; and I am even content to go back to the 1st day of January, and place the colored troops on the same level in all particulars, if you will, as the white troops from that time, except in regard to bounty; and even as to that I am willing to pay the bounty if it is thought best by the Senate, for I do not like to have any distinctions made; and I shall not be particular

on that point. Pass the bill and settle the principle as it ought to be settled; place the colored troops on the same level with the white troops in all cases; let them receive the same pay and rations and everything else. I have been in favor of it from the beginning; and I preceded the honorable Senators from Massachusetts upon that point; and I adhere to my original position in relation to it.

What I object to is, that after you have made a contract understandingly with men, and a contract beneficial to them, with which they are contented, you shall, merely upon an idea, put your hands into the Treasury, go back to their original enlistment, and pay them money which they do not ask for, and which they ought not to receive if they have been well paid, as they have been substantially. I am opposed to it because we are in no condition to do it. We cannot afford to deal in that way with subjects relating to money. Neither is it just unless you extend it further.

I ask whether we should have had such an uproar throughout the country if this amendment had been in regard to three or four or more white regiments, to go back and pay them an additional sum from the time of their enlistment, and the principle had been objected to. It would not have excited in my judgment any remark or any feeling; and neither would this if it had not been entirely misrepresented and misunderstood from the beginning. We all know that the white troops are not all upon the same level. They have received different amounts of bounty. If I remember rightly, the pay of those who first entered the service was only eleven dollars a month. It was afterwards raised to thirteen dollars; but we have never had a proposition to go back and pay those original soldiers their thirteen dollars from the beginning. The bounties our first troops received were the merest trifle in the world; and the most of them have nearly served out their period of three years; and there has been no proposition to put them on an equality with those to whom we pay four or five hundred dollars, and to whom the towns are paying as much more. If this outcry that has been made for justice to the colored man is to prevail to the extent proposed, let us have the same kind of justice for the white man, and go back and equalize everybody from the beginning. If that were proposed generally you would perceive very soon where your Treasury would be under such circumstances.

Although I am in favor of the proposition of my honorable friend from Vermont, I hope he will withdraw his amendment and take a separate bill upon which these special cases can be put, because he has already seen that he has had proposition after proposition put upon it, and he will have, in whatever shape he chooses to place it.

Mr. COLLAMER. If it is offered as a private bill, the same amendments may be proposed.

Mr. FESSENDEN. A private bill can gather in the cases, and then they can be understood, and if it is sent to a committee they can put in that bill all the cases which need correction, and they will not be examined merely in the Senate loosely and carelessly. I wish to see this bill carry out its original idea, do that which should have been done at first, place all the soldiers of the Republic on an equality, and leave the questions which have since arisen, leave the hard cases to be taken care of on their own merits as they will be.

Sir, there is no sort of backwardness in the Senate or in the House of Representatives to do justice to our soldiers, whether colored or otherwise. There never has been the slightest hesitation in any quarter. We have not only been disposed to be just, but to be generous to them. There has been no delay that should be complained of. To be sure, letters which we receive say this thing is put off and delayed, and men are suffering. They come from men who do not understand the business of Congress. We cannot do all things in a day. They have not yet found out at the other end of the avenue that things cannot be done in five minutes here, because it very frequently happens that matters which are under consideration there for a month, and put off until the last moment before they are sent to Congress, are sent with a request that they shall be passed through immediately, for there is great haste. It must be understood that deliberative bodies necessarily require time, and that

with the amount of business that is before us we cannot even do justice instantly to any set of men. Time is necessarily required for the consideration of the measures presented to us.

I rose to make these explanations in order that the people may understand precisely the attitude of the question, and precisely the feeling that has existed in regard to it from the beginning.

Mr. SUMNER. If I can have the indulgence of the Senate for one moment, I will make a brief reply to the Senator from Maine. There is much that he has said to-day which has my concurrence; but there are some things that he has said in which I cannot concur. I do not know that the Senator remembers what fell from me in this discussion on a former occasion; but I think the Senate will bear witness that the very first words I uttered were to this effect: that there was a difference between cases under the bill; in short, that there were two classes of cases, one where the enlistments were made obviously for the pay of ten dollars a month, and another class where the enlistments were obviously made, whether rightfully or wrongfully I did not undertake to say, for the pay of thirteen dollars a month.

I called particular attention to those two classes of cases. I objected to any undertaking in a general bill to provide for the first class. I saw with the Senator what a draft it would be upon the Treasury, and I think I alluded particularly to the enlistments on a large scale made in Tennessee and generally at the Southwest; but I added that there were other enlistments in Massachusetts, there are some perhaps in Pennsylvania, certainly some in South Carolina, and I have understood since that there were at least two regiments in Louisiana, constituting a class by themselves, where the soldiers were led to believe, whether rightfully or wrongfully, that they entered into the service of the United States under the statute of 1861 for the pay of thirteen dollars a month.

I did then, sir, venture to submit that it was not becoming in the Government of the United States to keep those soldiers thus enlisted with that understanding and under that expectation, waiting for their pay. I did not think it looked well. I did not think it was just, therefore I insisted earnestly that it was the duty of the Senate to take the first occasion to remove that injustice; and therefore I was naturally grateful to my colleague that on this general bill he had endeavored to meet at least this class of cases, which it was unpardonable to neglect.

But in order to relieve the bill of all question, to put aside the difficulties alluded to by the Senator from Maine, I brought forward an amendment to the effect that all soldiers who at the time of their enlistment were led to suppose that they were enlisted under the statute of 1861 should receive the pay of thirteen dollars a month. This proposition was discussed at some length, I think during two different days, and finally, on a division, it was lost. I then renewed the proposition in still a different form, to the effect that when the enlistment papers showed that the soldiers came into the service under the statute of 1861 they should be paid what was promised them by that statute. This, again, was lost, and I believe both of those propositions were opposed by the Senator from Maine. Though different slightly in form, they were alike in substance, and were intended to provide for the same class of cases. The Secretary of War was to be satisfied that these soldiers were "led to suppose" that they were enlisted under the statute of 1861. Even if this language seemed general, it found its limitation in the reference to the discretion of the Secretary of War.

Now, sir, I do not wish to go into any old discussion, to fight old battles over again; but the Senator from Maine, merely by allusion, or parenthetically, if I may so say, has revived that discussion. He has referred to what I said on that occasion. I did say, and I have repeated it since, that, in my opinion, the United States were legally bound to pay the full sum of thirteen dollars to the soldiers referred to in those two different amendments. I went into an examination of the statutes. I listened also to the reply of the Senator on that occasion. What he said, though apt, like all that he says in any discussion into which he enters, did not seem to me to answer the argument. I have now the statute before me, and

I shall refer to it once more, simply because the Senator has to-day introduced it into the discussion.

The soldiers to whom reference was made entered into the service under an order from the War Department dated January 26, 1863, which I shall read in part:

"Ordered, That Governor Andrew of Massachusetts is authorized, until further orders, to raise such numbers of volunteer companies of artillery for duty in the forts of Massachusetts and elsewhere, and such corps of infantry for the volunteer military service, as he may find convenient, such volunteers to be enlisted for three years or until sooner discharged, and may include persons of African descent organized into separate corps."

These are the words under which these enlistments were made. The soldiers were to be "volunteer companies," "enlisted for three years or until sooner discharged;" and then it is added, "including persons of African descent organized into separate corps." Where do you find any distinction between the order to raise the volunteer corps and to raise the persons of African descent organized into separate corps? The authority is in the same order; it is in the same sentence. The two are treated together. They go side by side in the order of the Secretary. You have to step outside of the order of the Secretary in order to find anything to sustain the conclusion of the Senator. He does step outside of the order of the Secretary, and in a certain section of the statute of July 17, 1862, he thinks that he finds a limitation of their pay to ten dollars a month. If in the order of the Secretary there had been any allusion to that statute, if the pay of ten dollars a month had been specified, then the Senator from Maine would clearly be right; but there was no allusion to this statute, nor was there any specification of ten dollars a month. You are therefore left free under the general statutes of the country and the law of the land to see what pay these enlisted men are justly entitled to when enlisted as volunteers in the service of the United States under an order calling for enlistments in the volunteer service and containing no single word of limitation or exclusion, and nothing by which one portion of the order can be referred to one statute and another portion to another statute.

Now, if we go to the general statutes of the country regulating military service, we shall find that they recognize no distinction of color; that there is nothing about black or white in any statute that concerns the Army or the Navy or the volunteer service. If you wish to find that distinction, you must go to the statutes regulating the militia; but in those concerning the military, naval, and volunteer service it cannot be found. Therefore there was nothing in any previous legislation rendering the organization of colored volunteers in connection with white volunteers, and on the same footing, in any respect illegal. If there had been anything in the entire statutes rendering such an organization in any respect illegal, then again the Senator from Maine might be right in his stern conclusion; but in the absence of any such prohibition in any former legislation, I submit that he is wrong. There can be no doubt of it.

But this is not all. The very statute to which the Senator from Maine refers, and on which, as I understand, he founds his conclusion, expressly says in section twelve as follows:

"And be it further enacted, That the President be, and he is hereby, authorized to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any military or naval service for which they may be found competent, persons of African descent; and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe."

Mark those words, if you please: "Such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe." I have already shown that there is nothing in any law of the land inconsistent with the organization of colored persons as volunteers in the Army of the United States; and this brings me again to the order of the Secretary under which the organization was made. By that order in express terms they were "enrolled and organized" as volunteers in the volunteer service of the United States. The very words of the statute already quoted by the Senator from Maine were then and there executed by the President. He undertook to say how these soldiers of African descent should

be "enrolled and organized;" and he ordered that they should be "enrolled and organized," in connection with volunteer companies of artillery and corps of infantry, for the volunteer military service, as volunteers. Thus by the very terms of the order of the Department of War were these soldiers of African descent enrolled and organized as volunteers in the military service of the United States, to receive the pay of thirteen dollars per month; or, in other words, on an equal footing with their white associates in the same order.

But now, sir, it is objected that the case should be treated by itself; that we should not undertake to provide for it on this general bill. I cannot assent to any such suggestion. I am too familiar with the legislation of the country and with the course of business both in the Senate and in the other House not to know that it is the daily practice to ingraft measures which very often are not even germane upon some pending proposition, and especially to ingraft measures of special remedy when they are clearly germane to the original proposition. This is of every-day occurrence. The remedy which we propose upon this bill is germane to the original proposition. It is intrinsically just. It is wrong that it should be any longer postponed. Now is the opportunity of providing for it. Here is a bill relating to the general subject. It only remains that we should take care while providing for the general subject that this special grievance is relieved also. Failing in this, our duty will be but half done.

I fear, sir, that the objection that this is out of place may find some favor with certain persons who will find this proposition always out of place. For myself, such is its intrinsic justice that I can hardly imagine any bill on which according to the usage of the Senate it could be out of place. I hope therefore that my colleague will persevere in keeping it in its place on the original bill, and thus secure a tardy justice to those soldiers who, as it seems to me, have such painful occasion to complain of the treatment they have received.

Mr. FESSENDEN. The honorable Senator from Massachusetts has a fashion of deciding rather *ex cathedra*, it strikes me, upon what is just and what is unjust, and rather a fashion to leave us to infer that he thinks everybody who differs from him in opinion is disposed to do injustice. I will not quarrel with him about his style in reference to that matter. Every man has his own fashion of presenting his own ideas, but I address myself simply to his question of law, on which I wish to say a very few words.

The Senator is a very well read lawyer, as I have had occasion to know, and he must be aware that there is a simple rule of construction applicable to all statutes; and that is, that the last one which is passed necessarily repeals all preceding legislation that is inconsistent with it to the extent of that inconsistency. There might have been a dozen statutes before we passed the statute of July, 1862, on this subject; and yet, if there was a specific provision in that defining what should be done in a given case, whether it said anything about what preceded it or not, it repealed that which preceded it which was inconsistent with it. The Senator, I apprehend, will accede to the correctness of this proposition.

In 1862 we passed a law providing substantially and in so many words, that persons of African descent might be enrolled into regiments by themselves and mustered into the service of the United States, and that such persons should receive the pay of ten dollars a month, specifically. I say that repealed everything preceding which was inconsistent with it, so far as referred to that particular class which was thus designated. No other construction consistent with the general rules of construction on such subjects can be made.

Now, the Senator says that under the order issued by the Secretary of War to Governor Andrew he made no distinction. Sir, he was bound to make none. He says you may enlist volunteer regiments of infantry and artillery, and you may enlist colored regiments of volunteers if you please. Must he not have presumed that Governor Andrew, the chief magistrate of the Commonwealth of Massachusetts, and an eminent legal gentleman, too, must know the law, and know that if he enlisted white men they would receive the pay provided for white men, and that if he enlisted colored regiments they would receive the pay provided for colored regiments? Was he bound to sit down

and write to Governor Andrew, "You will be pleased to note that you must enlist these men according to the laws of the land?" Yet the Senator would have us infer that because he did not specifically instruct Governor Andrew as to what the law was, therefore Governor Andrew was at liberty to disregard it, and thus enlist these regiments differently from what was provided by the law.

Is that a correct rule to be applied even to the construction of orders from the War Department or any other Department? And that is my answer to all the Senator's argument on that subject. The Secretary of War was not called upon to make a distinction, because the law made the distinction, and therefore he might infer that the person to whom he gave the authority would understand the distinction and make it.

This is all unnecessary. I am not contending that these men should not be paid. I have already stated that in my judgment of the facts stated they should be paid; and I am willing to pay them if the facts are made out; I think it no more than just; but I repeat what I before said, that it is not necessary or proper when a bill is pending providing for another specific object, an important one, one that we all desire, establishing the principle, to avail yourself of that particular place not only to bring in this individual case but to cover very much more which ought not, by the consent of everybody, to come into the bill at all.

That is the position that I assumed in regard to it, and I contend that it is a correct position, and I stand to it now. I do not say that there is any rule that is opposed to the introduction of the amendment like that which was proposed by the honorable Senator, but there is danger in such legislation, which is introduced without investigation by a committee and an understanding of what it is, and put upon a general bill which has been introduced by a committee. We have all experienced the difficulties that arise from it. A committee which has thoroughly investigated the subject brings in a general bill. The committee are ready to give us the facts, to state all that we want to know; but a gentleman rises in his place and moves to put on a specific case which has been examined by no committee, of which we know nothing and can know nothing in the proper way, and under the pressure of that case we are called upon to put it on or else to be denounced as doing a gross injustice. Sir, I plant myself where I always have in reference to such questions: let every case which calls for an appropriation of money out of the Treasury to a large amount go to a committee and be investigated.

When I inquired of the honorable Senator from Massachusetts, the chairman of the Military Committee, if he knew the extent to which the original bill would go in reference to that point, I found that he did not. When I inquired of my honorable friend from Vermont—who, as a general rule, knows all about what he proposes, and of whom I might well say that what he does not know upon almost every subject is hardly worth knowing—whether he could tell the extent to which his amendment would go, he admitted that he could not, and he did not know it. It illustrates the difficulty of which I have been speaking, and the danger of making such amendments to bills designed to accomplish a general purpose, and which have been considered with that view; but we are called upon to act on individual statements with regard to which we only know that the gentleman who makes them believes them to be true. It was under that idea, as the Senator from Massachusetts [Mr. SUMNER] well knows, that when he proposed his amendment the other day allowing everybody to come in who had been induced to believe or led to suppose that he was to receive thirteen dollars a month, it received no vote but his own. The proposition was so manifestly a strange one, covering nobody could tell whom, one that it was impossible to reduce to a certainty, throwing everything open for extraneous evidence such as could not be admitted, that it received no support in the Senate.

When he made his other proposition gentlemen who voted against it told him "this is an improper place for it"—not publicly, but aside, as we are in the habit of doing—"we will vote for your proposition as a separate bill, but we cannot vote for it as an amendment on this bill." It is the ground on which friends all about me

put it, I among others. I am ready to vote for his proposition the moment he will place it in a proper position, and show me, (and it requires very little further showing, because I am pretty well satisfied about it under the position assumed by my honorable friend from Vermont,) that it ought to be adopted, and the money paid; but you see the difficulty. First comes on one idea that is a favorite one with Massachusetts; then comes another that is a favorite of Minnesota; then another that is a favorite with Kansas; then another that is a favorite with Vermont; and so we have to take them on the representation of different gentlemen with reference to their own specific cases, and embarrass our bill.

This important proposition, and it is important, I admit, of placing the colored troops on the same footing with white troops, which I have always been ready to vote for, has been kept off for weeks and embarrassed, and embarrassed, and mixed up simply because gentlemen wanted to get their individual propositions on in regard to particular cases. It illustrates the difficulty and danger that always arise from such kind of legislation. That is the position in which it is put, and the Senator from Massachusetts [Mr. SUMNER] should have said when he was explaining it that he was aware at the time that gentlemen who voted against his amendment to this bill voted against it because they did not like it as an amendment, but were ready to vote for the proposition itself in its proper place, and not leave the contrary to be inferred.

I deem this explanation proper, simply that the position of the whole matter, both with regard to the original bill and the amendment, may be definitely understood.

Mr. SUMNER. Mr. President, the Senator from Maine began his remarks with a personal allusion to myself. It was in the nature of a criticism upon what I had said and upon the way in which I had said it. This is not the first time that Senator has made such allusions, sometimes to myself and sometimes to others on this floor; but I shall not follow him in this respect. I prefer to imitate him so far as I can in that which is much more worthy of imitation.

After satisfying himself in personal allusion, the Senator then passed again to the proper discussion. He began by assuming that the statute relating to African soldiers operated in the way of a repeal of the previous legislation bearing on that subject. Sir, I deny the conclusion in point of law. From that assumption the Senator then proceeded to say that the order of the Secretary of War to Governor Andrew was to be considered as made with reference to the latter law, according to which, as he imperatively insisted, the old law was repealed. But, sir, does not the Senator see that this argument brings us round again to the question of law? This was whether, under the existing statutes of the United States, old and new, a colored person could be enlisted at thirteen dollars a month. Governor Andrew said he could. In my opinion he could; and permit me to say that nothing that fell from the Senator has touched that conclusion, neither what he has just said nor what he has said on former occasions. I stand, therefore, on the original conclusion, that under the statutes of the land and the order of the Secretary of War, Governor Andrew was justified in enrolling volunteers of African descent at the pay of thirteen dollars a month. I do not see how Senators who consider the question carefully can escape that conclusion.

Mr. HOWE. I would like to get at the facts. I want to know if these troops were not enrolled and mustered into the service of the United States after the act of 1862 was passed?

Mr. SUMNER. They were.

Mr. HOWE. And is it the conclusion of the Senator from Massachusetts, may I inquire, that in violation of that statute, which only authorizes the payment of ten dollars, the Governor of Massachusetts was authorized in the name of the Government of the United States to promise thirteen dollars?

Mr. SUMNER. Not "in violation of that statute."

Mr. FESSENDEN. In spite of that statute.

Mr. SUMNER. Nor in spite of it, as the Senator from Maine says. The question is, whether the enlistments were made under that statute or not. I insist that they were not made under that statute, but under the prior statute, and all the

facts testify to this conclusion. This is the answer to the Senator. He can accept it or not; but it is made in good faith. It is my conviction, in fact and law, that the enlistments were made under the prior statute, and that Governor Andrew at the time regarded himself as fully authorized to make them under that prior statute. Any other conclusion seems like a stultification of all concerned: of the Secretary of War whose order includes them with white volunteers; of Governor Andrew, who openly announced that they were on the same footing with white volunteers; of the colored soldiers, whose enlistment papers expressly declare that they were enlisted under the statute of 1861; and finally of the original statutes governing the military, naval, and volunteer service, which make no discrimination of color.

Mr. HOWE. Does the Senator presume that the Government assumed the obligation of paying thirteen dollars a month to these African troops before they had assumed any obligation to render any service whatever? They were mustered into the service, the Senator says, after the act of 1862 was passed. The Senator says notwithstanding that that they were enlisted before. I understood he means by that that the contract between them and the Government was made before.

Mr. SUMNER. Not at all. They were enlisted and mustered into service after the passage of the act to which the Senator refers; but they were not enlisted or mustered into the service under that act, but under prior acts allowing thirteen dollars a month as their pay. That is my answer to the Senator. I do not wish to be misunderstood. These troops came into the service under the original statute of 1861 and not under the statute to which the Senator now refers, though they were enlisted in point of time subsequent to that statute.

But from the question of law I pass to that other question which occupied the attention of the Senator from Maine, as to when and where we should meet this obligation. He says, bring in a separate bill. That was said the other day. I say, meet it whenever it presents itself. It is in itself a case of such absolute and overwhelming justice that the Senate ought not to postpone it for a single day; especially it ought not to postpone it when it has before it a bill so entirely germane as that now under discussion. If it were a bill concerning the Pacific railroad, or concerning the sale of gold, it might be questionable whether this proposition should be ingrafted upon it; but as it is a bill which proposes to put the colored troops on an equality in the national service, I say that the pending proposition is perfectly germane, and, being in itself of commanding justice, it ought not to be postponed. It is a common device of the enemies of a measure to object to it on a particular bill. For myself, I desire to have it understood that I am for this proposition on any bill and at any time.

Mr. LANE, of Kansas. The subject to which I have called the attention of the Senate has been agitated in my State for a year and more. I feel that I am discharging a duty to my constituents as well as to a gallant regiment while I persevere in asking for legislation upon the subject. The regiment raised, one of the best drilled in the Army, has done as severe and gallant service as any one. At the battle of Honey Springs, under the command of the gallant Blunt and the dashing Colonel Williams, it stood up like a wall of fire at point-blank distance against a Texas regiment and demolished that regiment, capturing those whom they did not kill. That the Senate may fully understand the question, I send this paper to the Secretary's desk that it may be read at length. It is the authority under which the regiment was raised.

The Secretary read, as follows:

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
February 20, 1864.

SIR: I am directed by the Secretary of War to inclose you herewith a copy of your appointment as commissioner for recruiting in the department of Kansas.

I have the honor to be, very respectfully, your obedient servant,

THOMAS M. VINCENT, A. A. G.

HON. J. H. LANE.
—
WAR DEPARTMENT,
WASHINGTON CITY, July 22, 1862.
SIR: You are hereby notified that you have been appointed by the Secretary of War commissioner for recruiting in the department of Kansas.

You are requested to proceed forthwith to raise and organize one or more brigades of volunteer infantry to be mustered into the service of the United States for three years or during the war.

For this purpose, full authority is hereby conferred upon you to establish camps and provide for the maintenance of discipline and the supply of the troops with the munitions of war. On your requisition the commanding general of the department will issue supplies of arms and accoutrements, clothing, camp equipage, and subsistence. Transportation for recruits and recruiting officers will be furnished on your requisition, or refunded on vouchers in the usual form accompanied by your order directing the movement.

It is recommended that the provisions of General Order No. 75, current series, be followed as far as possible in organizing companies, to the end that muster-rolls may be uniform and authentic. This is necessary in order to secure justice to the soldier and prevent confusion in accounts and loss to the Government.

In performing these duties you are authorized to visit such places within the department of Kansas as may be necessary, for which purpose transportation will be furnished you by the commanding general on your requisition, or the cost of the same will be reimbursed by the Secretary of War from the Army contingent fund.

You will be expected to report frequently to this Department the progress and prospects of the work, and to make any suggestions that may occur to you from time to time as useful in facilitating its accomplishment.

This appointment may be revoked at the pleasure of the Secretary of War.

By order of the Secretary of War:

C. P. BUCKINGHAM,
Brigadier General and A. J. G.

Official:

THOMAS M. VINCENT,
Assistant Adjutant General.

Hon. JAMES H. LANE, Kansas.

Mr. LANE, of Kansas. At the time that authority was issued the Government was as severely pressed for troops as it has ever been since that time. Under it, commencing in July, 1862, I raised about thirty-six hundred white troops and eight hundred black ones in forty days, at less than six dollars recruiting expenses to the Government. By noticing the time it will be seen that they were raised under the act of 1861. It will also be noticed that it was before the enrollment or draft. A large proportion of the men of the first colored regiment were liable to enrollment and subject to draft, but it was, I repeat, before the enrollment was authorized and before the draft was ordered. The officers of the white regiments, as well as those of the black regiment, were appointed and commissioned by the War Department on my recommendation. Recruiting officers of the colored regiment were appointed in the same way as the recruiting officers of the white regiments; they were uniformed in the same uniform, armed with the same arms, drilled by the same kind of officers, having the same kind of camp equipage, and were, in all but one respect, treated alike. On account of the prejudice of the public against the colored regiment, I was compelled to keep the first regiment out of sight, and drilled it in a retired place. With that exception they were treated alike, and were to have the same pay and bounty. The white troops were paid \$100 bounty; the black troops have received nothing in the way of bounty up to this time; indeed they did not receive their monthly pay for five months. They were mustered into the service for the same length of time, and the object that I desire to accomplish is to have the bounty that was paid to the white troops at the same time for the same service paid to the black troops. Policy and common justice demand this at your hands. Having called the attention of the Senate to the subject, I have performed my duty; it is for you to perform yours.

Mr. GRIMES. I move to recommit this joint resolution to the Committee on Military Affairs. I make the motion for the purpose and in the hope that the committee will at an early day, to-morrow, if possible, report it back as proposed by the Senator from Massachusetts, chairman of the committee, in such a shape as to put all troops of African descent in regard to pay and emoluments from the 1st day of January last on a footing of uniformity with the white soldiers. It is evident to my mind that we are doing a great injustice by the manner in which this joint resolution is being dealt with here, not only to the most of the men of that nationality who have been recruited into our service, but to those very individual cases that are alluded to by the Senator from Kansas, the Senator from Massachusetts, and other Senators, by withholding from them that justice which we ought to give to them, and which we would give to them if the proposition of the chairman of the Committee on Military Affairs were adopted.

We are not going to get this measure through Congress this session if it continues to be dealt with as it has been; for every Senator who has a pet project of his own or a private bill of his own, or a measure in regard to some particular colored regiment in his own State, attempts to adopt or to cause to be adopted some legislation peculiarly adapted to that regiment on this general proposition.

I am in favor of the proposition of the Senator from Massachusetts; I intend to vote for it when it comes here and stands on its merits; I am in favor of paying the South Carolina regiments all that anybody claims should be paid to them; but for the reasons that have been suggested by the Senator from Maine, and which have been adopted generally by the Senate hitherto, I am unwilling to incorporate these provisions upon a general bill of this description. I therefore trust it will be referred to the committee, and will be reported back at an early day simple and pure, and that we shall then adopt it at once.

Mr. SUMNER. I hope the proposition of the Senator from Iowa will be adopted, and when the bill is before the Committee on Military Affairs I hope that the question will be considered in its double aspects, first those that are general and which are particularly embodied in the bill now before the Senate, and secondly in its special aspects; I refer to those which have entered so much into the debate, and in regard to which there has been a difference of opinion; and I hope when the committee makes its report, if it finds that it is not proper to treat the subject under both aspects in one bill, that it will give us at the same time two bills, that we may know upon what we are to act, and that we may have a certain assurance that in those cases which have excited so much sympathy justice at last will be done.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the recommitment of the joint resolution to the Committee on Military Affairs.

Mr. WILSON. I shall not oppose the recommitment of the joint resolution, for the reason that while I have as much hope as most men, I am getting a little discouraged about its passage. It has been before us a long time. It has attracted a great deal of attention among the friends of the persons whom we propose to benefit. We have fixed the general pay day that is to commence in the bill at the beginning of the year. I think that is a great point, for the bill may not get through Congress for fifty or sixty days to come.

As to the amendment that has been moved by the Senator from Vermont, as he proposes to amend it to-day, it seems to me to be a very plain case and a just one. As proposed the other day it included fifteen or twenty thousand persons who have been enlisted as slaves, and who are provided for by the bill we have already passed.

As to the amendment proposed by my colleague and adopted by the Senate, it cannot reach beyond ten or twelve regiments at most. I think something ought speedily to be done in the cases of those special regiments, and I have sent word to some of those regiments that they had better make out their cases at once and send them here that we may know what their claims really are.

The Senator from Maine to-day has read us an extract from the authority given to raise troops in South Carolina from the Secretary of War. Nobody can question that those South Carolina regiments commanded by Colonel Higginson and Colonel Montgomery ought to be paid thirteen dollars a month from the beginning; and that they will be paid so I entertain not the shadow of a doubt. It may be some time before we can act on their cases, but it will come.

The Senator from Maine has referred to the time when we passed the bill authorizing the President to employ colored troops, and what his opinions were then. I have no doubt the Senator from Maine is right to-day, and has stated his correct position then. But it is well known that at that time there was a very strong opposition in the Army and out of the Army, and a very strong opposition in both Houses of Congress, to arming and employing colored troops. Those two sections were moved in the Senate. They were not reported here by the Committee on Military Affairs, but were moved by the Senator from New York, (Mr. King,) and pressed upon the Senate for several days with all the energy and petti-

nacity that distinguished that inflexible Senator. The sum was fixed at ten dollars, because it was thought to be an inducement to employ this class of troops; and some of us who were at an early day in favor of employing them wanted to use every proper instrumentality possible to authorize the President to employ them. It was thought that the ten dollars a month would apply mostly to persons who had been slaves in the rebel States, and that it would be a very fair compensation. Some of those gentlemen who went down to New Orleans who were engaged in raising colored troops there came up as late as February, 1863, seven months after this bill had passed, and proposed that we should pay about seven dollars a month to those troops down there, and should give them a bounty in land when the war should be over.

There has been a great deal said in the papers in regard to our action in the Senate on this subject. I suppose Senators here, at any rate those in favor of employing colored troops at all, are disposed to do justice. The only question is how we are to incorporate their desires into the legislation of the country. When I offered the joint resolution in a shape making it retrospective and applying to colored troops in the past, I supposed on the information I then had (and it was a very limited information) that we had perhaps forty or fifty thousand of these men enlisted. I believe to-day that we have over one hundred regiments raised and being raised, and more than eighty thousand colored troops in the service of the United States; and as a matter of justice and to fulfill what I believe to be our obligations, there are fifteen or twenty regiments that ought to have their pay at thirteen dollars a month from the time of their enlistment. I do not think that without violating our faith we can do less than go back and pay them. It is a simple question whether we had better go back and pay all these regiments. It would cost some money; but if that principle had been acquiesced in, it would at any rate have stopped a great deal of this debate. Senators, however, thought we could not afford to do that, and whatever their dispositions were in regard to doing justice to these troops, they did not wish to be prodigal in the use of the public money.

The Senator from Maine refers to letters that have been received, and to the tone of a portion of the public press of the country. The Senator knows very well that there is often a great deal of injustice done to the motives of men and their action here, and he and I and all the rest of us must bear the comments of the public press of the country, and must bear the criticisms of friends who choose to write to us frequently on imperfect telegraphic dispatches of what is said here. It is impossible for the telegraph to carry out to the country all the statements made on the floor of the Senate, and all the qualifications accompanying statements which are made here, or to carry to the people of the country an exact impression of how affairs are going on here, and often men of zeal and earnestness catch up these reports and rush into the newspapers or send their letters here censuring or criticising our action that they do not understand anything about. We cannot help this. We have got to bear it, and bear it as best we may. The Senator from Maine knows and we all know that we are not to stand or fall by any of these representations, but upon our general course of life and character. On that we shall be judged, and for one I am not at all disposed here to cower to the censure of the press or to over-value its praises.

Now, sir, I do not object to this joint resolution going back to the committee. I think perhaps we can put it in a better shape after having heard the views of Senators, and knowing something of the sentiments of the Senate, and we can bring it back again to the Senate in a form in which it can receive speedily the support of this body.

The PRESIDING OFFICER. The question is on the motion of the Senator from Iowa to recommit the joint resolution to the Committee on Military Affairs and the Militia.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that

the House had passed a bill (No. 265) supplementary to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 26) reviving the grade of lieutenant general in the United States Army.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the Vice President:

A joint resolution (S. No. 19) of thanks of Congress to Commodore Cadwalader Ringgold, the officers and crew of the United States ship Sabine;

A joint resolution (H. R. No. 42) authorizing payment of prize money, due to Commander Abner Read, United States Navy, to his widow, Constance Read;

A bill (S. No. 94) to authorize the settlement of the accounts of Paymaster E. C. Doran;

A bill (H. R. No. 26) reviving the grade of lieutenant general in the United States Army; and

A bill (H. R. No. 230) to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes.

INTERNAL REVENUE.

Mr. SHERMAN. I desire to make a privileged report from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 122) to increase the internal revenue, and for other purposes. I send it to the Secretary, and ask to have it read.

The Secretary read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 122) to increase the internal revenue, and for other purposes, having met, after full and free conference have been unable to agree.

JOHN SHERMAN,
DANIEL CLARK,
THOMAS A. HENDRICKS,
Managers on the part of the Senate.
E. B. WASHBURN,
JOHN A. KASSON,
JOHN L. DAWSON,
Managers on the part of the House.

Mr. SHERMAN. I submit the following resolution as a part of the report:

Resolved, That the Senate further insist on its amendments, disagreed to by the House, and ask another conference; and the conferees on the part of the Senate are instructed to agree to proper amendments to the amendments of the Senate disagreed to by the House, providing for a tax of twenty cents a gallon on spirits on hand.

A short explanation is necessary to show the true position of this question. The House of Representatives agreed to some of the amendments of the Senate and disagreed to others. If the Senate should adopt the proposition of the House, it would leave the bill in an incongruous and most ridiculous attitude; and yet the conferees on the part of the Senate could not agree with the House unless we were willing to yield to a tax of twenty cents upon spirits on hand. A majority of the conferees on the part of the Senate felt themselves precluded from agreeing to such an amendment on the ground that the Senate had struck out the tax on spirits on hand and the House had agreed to that amendment, thus leaving before them no tax on spirits on hand and no amendment which a majority of the conferees supposed could be amended so as to provide for taxing spirits on hand.

Under these circumstances, finding this disagreement radical, it being impossible to reconcile the dispute between the two Houses, we have reported the disagreement, with the understanding, however, that we would ask in both Houses a definite vote and instructions upon the question of whether or not we should have a tax of twenty cents on the spirits on hand. If the Senate instructs its conferees (as it undoubtedly can—I have looked at the question, and although it is very rare there is no difficulty in the way; the Senate may instruct its conferees on any point or any of its committees) to agree to a tax of twenty cents on spirits on hand, the parliamentary difficulty would be removed, and we could very easily, by proper amendments, carry out the sense of the Senate and the House of Represent-

atives. If, however, Senators have made up their minds that they will agree to no tax upon spirits on hand, it is as well to take the vote, take the sense of the Senate definitely upon instructions to the next conferees; otherwise there will be a disagreement, and the bill will be lost.

I make this explanation simply to present the question to the Senate; and I hope, therefore, that either now or else to-morrow—it is important that prompt action should be had upon it—the Senate may definitely vote upon the question of instruction, and thus take its position one way or another.

Mr. FESSENDEN. The Senate is very thin now.

Mr. SHERMAN. I do not think, myself, it ought to be called up before to-morrow, although it is very important to have the bill acted on.

Mr. FESSENDEN. Let the bill go over, then, until to-morrow.

Mr. SHERMAN. I move that it be made the special order for one o'clock to-morrow.

The motion was agreed to.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 265) supplementary to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863, was read twice by its title, and referred to the Committee on Finance.

EXECUTIVE SESSION.

Mr. LANE, of Indiana. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, February 29, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Saturday last was read and approved.

CALL OF STATES FOR BILLS.

The SPEAKER proceeded, as the business in order, to call the States for bills on leave to be referred to committees, and not to be brought back by motions to reconsider.

ARMY CHAPLAINS.

Mr. RICE, of Maine, introduced a bill to promote the efficiency of chaplains in the Army, and to define their rank, pay, and emoluments; which was read a first and second time, and referred to the Committee on Military Affairs.

PATENT EXTENSION.

Mr. NELSON introduced a joint resolution, accompanied by a memorial, authorizing the Commissioner of Patents to examine, and if on such examination it shall appear just, then to extend the patent granted to Francis N. Smith for a corn-sheller, for an additional term of seven years, for the benefit of the widow and heir of Francis N. Smith, deceased; which was read a first and second time, and referred to the Committee on Patents.

CARSON CITY BRANCH MINT.

Mr. BOUTWELL introduced a joint resolution to enable the Secretary of the Treasury to obtain the title to certain property in Carson City, in the Territory of Nevada, for the purpose of a branch mint located in said place; which was read a first and second time, and referred to the Committee on the Judiciary.

JULIA A. AMES.

Mr. BOUTWELL also introduced a bill for the relief of Julia A. Ames; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ELIZABETH P. MEANS.

Mr. BOUTWELL also introduced a bill for the relief of Elizabeth P. Means; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LIMITATION OF INDICTMENTS.

Mr. BOUTWELL also introduced a bill in relation to the computation of time within which

an indictment may be found against persons charged with crime against the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

SALARIES OF UNITED STATES JUDGES.

Mr. MOORHEAD introduced a bill to fix the salaries of the justices of the Supreme Court and certain of the judges of the district courts of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

CONFISCATED PROPERTY.

Mr. JULIAN introduced a bill to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

STEAMER LADY WALTON.

Mr. HOLMAN introduced a bill to authorize the Secretary of the Treasury to change the name of the steamer Lady Walton; which was read a first and second time, and referred to the Committee on Commerce.

SURPLUS GOLD.

Mr. WILSON introduced a bill to prevent an accumulation of surplus gold in the Treasury of the United States; which was read a first and second time, and referred to the Committee of Ways and Means.

SUSPENSION OF AN ACT.

Mr. WILSON also introduced a bill to continue the suspension of a part of the act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861; which was read a first and second time, and referred to the Committee of Ways and Means.

PAY TO SOLDIERS FOR EXTRA DUTY.

Mr. WILSON also introduced a bill to allow non-commissioned officers and soldiers pay for extra duty; which was read a first and second time, and referred to the Committee on Military Affairs.

SIOUX INDIANS.

Mr. HUBBARD, of Iowa, introduced a bill extending the superintendency of the Governor of Dakota to the Winnebago and the Sisseton and the Wahpaton bands of the Sioux or Dakota Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

WAGON ROAD IN CALIFORNIA.

Mr. COLE, of California, introduced a bill granting lands to construct a wagon road in California; which was read a first and second time, and referred to the Committee on Public Lands.

OFFICIAL COURT REPORTERS.

Mr. COLE, of California, also introduced a bill authorizing the United States courts in California to appoint reporters; which was read a first and second time, and referred to the Committee on the Judiciary.

B. C. WHITING.

Mr. COLE, of California, also introduced a joint resolution relating to the account of B. C. Whiting; which was read a first and second time, and referred to the Committee on the Judiciary.

GRANTS OF LANDS TO KANSAS.

Mr. WILDER presented concurrent resolutions of the Kansas Legislature, asking Congress for a grant of lands to build a railroad from Fort Leavenworth to Fort Scott, in the State of Kansas; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILDER also presented concurrent resolutions of the Kansas Legislature, requesting Congress to pass joint resolutions granting to the State of Kansas certain lands for the purposes specified in the constitution of the State of Kansas; which were referred to the Committee on Public Lands, and ordered to be printed.

INCREASE OF PAY.

Mr. ROSS submitted the following resolution, on which he demanded the previous question:

Resolved, That in consequence of the increased expense of living and the depreciation of the value of the national currency, it is the opinion of this House that the compen-

sation paid to the officers and soldiers of the Army and Navy of the United States be increased about thirty-three per cent., and that the Committee on Military Affairs be, and they are hereby, instructed to report to this House at an early day a bill for the purpose of carrying out the views of the House as expressed by this resolution.

Mr. STEVENS. I ask the gentleman to withdraw the demand for the previous question, and to modify the resolution so as to instruct the committee to inquire into the expediency of reporting a bill.

Mr. ROSS. I must decline, as I want to test the question.

Mr. STEVENS. I move to lay the resolution upon the table.

Mr. HOLMAN. I demand the yeas and nays.

Mr. STEVENS. I withdraw the motion to lay upon the table until I see whether the demand for the previous question is sustained.

The previous question was not seconded; there being, on a division—yeas 40, noes 60.

Mr. STEVENS. I rise to debate the resolution, and to expose this demagogism.

The SPEAKER. The resolution then goes over.

SLAVERY.

Mr. MORRISON submitted the following resolution, on which he demanded the previous question:

Resolved, That slavery legally exists in some of the States of the Union by virtue of the constitution and laws of such States, and that neither the Government of the United States, nor the people thereof, as such, are responsible therefor, nor have they any legal duty to perform in relation thereto except such as is enjoined by section two, article four, of the Federal Constitution, in these words: "No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

The previous question was not seconded; there being, on a division—yeas 41, noes 69.

Mr. ARNOLD rose to debate the resolution, and it went over.

WESTERN NAVY-YARD.

Mr. ROBINSON submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be, and he is hereby, requested to communicate to this House, if not incompatible with the public interest, a copy of Commodore Foote's report on the necessity of establishing a navy-yard and depot for naval purposes on the western waters, and the point where the same should be established, which report was addressed to Hon. John W. Noell, of the Committee on Naval Affairs, and dated February 5, 1863.

WITHDRAWAL OF PAPERS.

On motion of Mr. HARRIS, of Illinois, leave was granted to withdraw from the Committee on Military Affairs the papers relating to the claims of the members of the first regiment of cavalry of Illinois volunteers for horses lost at the battle of Lexington, Missouri; and also those in the case of Colonel Joseph Paddock for services as such and as commandant of the fifth regiment of Indiana volunteers in the war with the Indians in 1810-11, and in the war of 1812 with Great Britain.

ILLINOIS MAIL ROUTE.

Mr. HARRIS, of Illinois, submitted a resolution, which was read, considered, and agreed to, instructing the Committee on the Post Office and Post Roads to inquire into the propriety of establishing a mail route from the city of Rock Island, Illinois, through Camden Mills, Pleasant Ridge, &c., to the city of Fort Madison, Iowa.

EMPLOYMENT OF REBEL PRISONERS.

Mr. ARNOLD asked unanimous consent of the House to offer the following resolution:

Resolved, That the committee on the conduct of the war be requested to inquire into the expediency of employing the rebel prisoners on such public works as may be required, to the end that they may earn an honest livelihood while in our hands.

Mr. BLAIR, of Missouri, objected.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 26) reviving the grade of lieutenant general in the United States Army; and an act (H. R. No. 230) to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes; when the Speaker signed the same.

EVACUATION OF WINCHESTER.

Mr. JULIAN submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed, if not inconsistent with the public interest, to furnish to this House a copy of the proceedings of the court of inquiry convened under special order No. 346 of the War Department on the 7th of August, 1863, to inquire into the facts and circumstances relative to the evacuation of Winchester by the command of Major General Milroy, together with all the testimony taken before said court, its rulings on points of evidence, the notes of testimony offered and rejected, the summary of the case by the Judge Advocate General, and the decision of the President thereon.

DICTIONARY OF CONGRESS.

Mr. FARNSWORTH submitted the following resolution, upon which he demanded the previous question:

Resolved, That the resolution passed by the House on the 13th of February, 1864, which directed the Clerk of the House to pay the late librarian of the House a sum not exceeding two dollars per copy for the copyright of a work entitled A Dictionary of the United States Congress, be, and the same is hereby, repealed.

Mr. MORRILL called for tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. MORRILL and STILES were appointed.

The House divided; and the tellers reported—yeas 57, noes 52.

So the previous question was seconded.

Mr. BRANDEGEE moved to lay the resolution upon the table.

Mr. SPALDING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 58, nays 65; as follows:

YEAS—Messrs. James C. Allen, Ancona, Anderson, Baily, Augustus C. Baldwin, Francis P. Blair, Bliss, Brandegee, Brooks, Chandler, Clay, Coffroth, Cox, Deming, Dennison, Dixon, Eden, Eldridge, Finck, Ganson, Griswold, Hale, Harding, Harrington, Charles M. Harris, Herrick, Hutchins, Kernan, King, Knapp, Law, Long, Mallory, Marcy, McAllister, McDowell, William H. Miller, Moorhead, Morrison, Noble, John O'Neill, Radford, Samuel J. Randall, Rogers, Ross, Scott, Smith, Spalding, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thayer, Wadsworth, Chilton A. White, and Winfield—58.

NAYS—Messrs. Alley, Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Dawes, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Grinnell, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Marvin, McBride, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Pike, Pomeroy, Price, John H. Rice, Scofield, Shannon, Sloan, Smithers, Starr, Stevens, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, Windom, and Woodbridge—64.

So the House refused to lay the resolution upon the table.

During the roll-call,

Mr. DRIGGS stated that his colleague, Mr. LONGYEAR, was confined to his room by indisposition.

Mr. ROBINSON stated that he was paired off with Mr. GOOCH.

Mr. SWEAT. I rise to a question of order for the purpose of understanding where we stand in this matter. The resolution which this proposes to repeal was adopted some weeks ago, and I supposed that final action was had upon it, as a motion to reconsider was laid on the table.

Mr. MORRILL. Mr. Speaker, is debate in order?

The SPEAKER. It is not. The Chair is endeavoring to understand what question of order the gentleman from Maine is raising.

Mr. SWEAT. It is impossible for me to present my question of order without making a preliminary statement.

The SPEAKER. The gentleman cannot, during the roll-call, present any point of order except very briefly.

Mr. SWEAT. I wish to inquire of the Chair what vote it takes to repeal a resolution already adopted.

The SPEAKER. By all the usages with which the Chair is familiar, a majority can repeal a resolution which a majority has passed.

Mr. SWEAT. The point of order which I wished to raise was this: after the resolution had been adopted and a motion to reconsider laid on the table, making the action of the House final, and when it is well known that many members on this side of the House are absent, is it in order to introduce a resolution of this nature?

The SPEAKER. It is in order.

Mr. SWEAT. And again I wish to inquire—

The SPEAKER. The gentleman is not stating a point of order. He is debating the merits of the proposition.

Mr. SWEAT. I wish to know whether approved parliamentary rules will not interfere for the purpose of maintaining good faith and common fair dealing on the part of the House.

The SPEAKER. That is debate, and is therefore out of order.

Mr. COX. I rise preliminarily to a point of order. [Laughter.]

The SPEAKER. During a roll-call nothing can be preliminary to a point of order.

Mr. COX. I wish to inquire whether a motion to reconsider the vote by which the resolution was adopted was not made, and laid on the table?

The SPEAKER. It was.

Mr. COX. Then does not a resolution to repeal it require a two thirds vote?

The SPEAKER. It does not.

Mr. SWEAT. That was the very question I was proposing to ask.

The SPEAKER. But the gentleman was debating before he reached that point.

The result of the vote was announced as above recorded.

The question recurred on ordering the main question to be now put.

Mr. DAWSON called for the yeas and nays.

Mr. SWEAT. I wish to appeal to the mover of the resolution, and to ask him to delay action upon it until we have a full representation on this side of the House.

Mr. MORRILL. I object.

Mr. SWEAT. I move that the House do now adjourn.

Mr. ELDRIDGE. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 6, nays 110; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Chandler, Dennison, and Stiles—6.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Bliss, Blow, Boutwell, Boyd, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Coffroth, Cole, Cox, Creswell, Henry Winter Davis, Dawes, Dawson, Dixon, Donnelly, Driggs, Dumont, Eckley, Eldridge, Eliot, Farnsworth, Fenton, Finck, Frank, Ganson, Grinnell, Hale, Charles M. Harris, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Knapp, Loan, Long, Mallory, Marvin, McAllister, McBride, McIndoe, Samuel F. Miller, William H. Miller, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Norton, Charles O'Neill, John O'Neill, Patterson, Pendleton, Perham, Pike, Pomeroy, Price, Samuel J. Randall, William H. Randall, John H. Rice, Schenck, Scofield, Scott, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stebbins, John B. Steele, William G. Steele, Strouse, Stuart, Thayer, Thomas, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—110.

So the House refused to adjourn.

During the roll-call,

Mr. BRANDEGEE stated that he had been requested by his colleague, Mr. ENGLISH, to state that he had been called home suddenly on account of sickness in his family.

Mr. HOLMAN stated that Mr. MIDDLETON had been called home by the death of an old friend.

The result of the vote was announced as above recorded.

The question recurred on ordering the main question to be now put, on which the gentleman from Pennsylvania [Mr. Dawson] had demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 70, nays 52; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Grinnell, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Lovejoy, Marvin, McBride, McIndoe, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Norton, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Starr, Stevens, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—70.

NAYS—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, Francis P. Blair, Bliss, Brandegee, Brooks, William G. Brown, Chandler, Clay, Coffroth, Cox, Dawson, Dennison, Eden, Eldridge, Finck, Frank, Ganson, Grider, Harding, Harrington, Charles M. Harris, Herrick, Kernan, King, Knapp, Law, Long, Mallory, Marcy, McDowell, Nelson, Noble, John O'Neill, Radford, Rogers, Ross, Scott,

Smith, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Wadsworth, Whaley, Chilton A. White, and Winfield—52.

So the main question was ordered to be put.

The question recurred on the adoption of the resolution.

Mr. STILES demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 61; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Dawes, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fulton, Grinnell, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Lovejoy, Marvin, McBride, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Pendleton, Perham, Pike, Pomeroy, Price, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smithers, Starr, Stevens, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, Windom, and Woodbridge—71.

NAYS—Messrs. James C. Allen, Ancona, Anderson, Baily, Augustus C. Baldwin, Francis P. Blair, Bliss, Brandegee, Brooks, William G. Brown, Chanler, Clay, Coffroth, Cox, Dawson, Deming, Dennison, Dixon, Eden, Eldridge, Finck, Frank, Ganson, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Herlick, Hutchins, Kernan, Knapp, Law, Long, Mallory, Marcy, McDowell, William H. Miller, Moorhead, Morrison, Nelson, Noble, John O'Neill, William H. Randall, Rogers, Ross, Scott, Smith, Spalding, Stebbins, John B. Steele, Stiles, Strouse, Stuart, Sweat, Thayer, Wadsworth, Whaley, Chilton A. White, and Winfield—61.

So the resolution was adopted.

During the vote,

Mr. BRANDEGEE stated that Mr. Rice, of Massachusetts, was detained from the House by illness.

The vote was announced as above recorded.

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

Mr. STILES demanded the yeas and nays.

Mr. ANCONA demanded tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion to reconsider was laid upon the table.

VIRGINIA ELECTION CASE.

Mr. SMITH. I rise to a question of privilege. The question of the right of Mr. Kitchen to a seat upon this floor from the seventh congressional district of Virginia was postponed to this day. I am so indisposed that I am scarcely able to speak, and I move that it be further postponed until Friday next.

The motion was agreed to.

TREASURY DEPARTMENT REGULATIONS, ETC.

Mr. STEVENS. I ask the unanimous consent of the House to submit the following resolution:

Resolved, That the committee on the conduct of the war be instructed to inquire into and report upon the practical operation and result of the several acts of Congress touching commercial intercourse with the States declared to be in insurrection against the authority of the Government, and of the operations of the Treasury Department, established by the Secretary and approved by the President on the 31st day of March and the 11th day of September, 1863; and of the military orders which have been made from time to time touching such commercial intercourse by generals commanding departments or other officers; also to ascertain and report in what manner said acts, regulations, and orders have been executed, and especially whether any frauds have been committed, or favoritism to individuals or localities shown by the officers or agents of the Government employed under the said acts, regulations, or orders; and to inquire into all other matters touching any of the points which affect the public interest or the character of any public servant.

Mr. BLAIR, of Missouri. I object.

Mr. STEVENS moved to suspend the rules.

Mr. BLAIR, of Missouri, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. COX. Is it in order to move to insert a special committee with the gentleman from Missouri [Mr. BLAIR] as chairman, instead of the committee on the conduct of the war?

The SPEAKER. If the rules are suspended and the previous question is not called it will be in order.

The question was taken; and it was decided in the negative—yeas 74, nays 47; as follows:

YEAS—Messrs. Allison, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke,

Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Driggs, Dumont, Eckley, Eliot, Fenton, Frank, Garfield, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Lovejoy, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—74.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Francis P. Blair, Brooks, William G. Brown, Chanler, Clay, Coffroth, Cox, Dawson, Dennison, Eden, Eldridge, Finck, Ganson, Griswold, Charles M. Harris, Herlick, Holman, Kernan, King, Knapp, Law, Long, Mallory, Marcy, McDowell, Morrison, Nelson, Noble, John O'Neill, Pendleton, Radford, Samuel J. Randall, Rogers, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Sweat, Thomas, Tracy, Wadsworth, and Winfield—47.

So the rules were not suspended, two thirds not voting in favor thereof.

LOAN BILL.

Mr. STEVENS. I ask leave to report back from the Committee of Ways and Means bill of the House No. 265, supplementary to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863.

Mr. COX. I would ask the gentleman if he has authority to report this bill now under the rules of the House?

Mr. STEVENS. I propose to report it from the Committee of Ways and Means, under what I suppose to be their authority.

Mr. HOLMAN. It can only be reported, I suppose, under a suspension of the rules.

The SPEAKER. Not being a general appropriation bill, it can only be reported at this time under a suspension of the rules, if objection be made.

Mr. COX. So I supposed.

The SPEAKER. Does the gentleman from Ohio object to the reporting of the bill?

Mr. COX. I do, sir.

Mr. STEVENS. Then I move a suspension of the rules, so that the bill may be reported back and considered in the House now.

Mr. ANCONA. I ask the yeas and nays on the motion to suspend the rules.

Mr. BROOKS. If the House will allow me, I desire to say a word.

No objection was made.

Mr. BROOKS. I think the only apprehension on this side of the House is that the chairman of the Committee of Ways and Means will force this bill to an immediate vote under the previous question, without affording an opportunity for the offering of amendments. He will observe that in the last section there is no limitation on the amount of bonds to be issued.

Mr. STEVENS. The committee now report an amendment limiting the amount to \$11,000,000.

Mr. BROOKS. If the gentleman proposes to give the House proper time to consider the bill, I think there will be no objection to its being reported now.

Mr. STEVENS. I will not call the previous question until gentlemen have had an opportunity to propose amendments.

Mr. BROOKS. With that understanding, I do not think there will be any objection.

Mr. COX. I withdraw my objection.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. ANCONA] insist on his objection and his demand for the yeas and nays?

Mr. ANCONA. I do; I prefer that the bill shall not be reported now.

The yeas and nays were not ordered.

The question was taken; and (two thirds voting in favor thereof) the rules were suspended.

Mr. STEVENS, from the Committee of Ways and Means, then reported back the bill with two amendments.

The bill was read. The first section provides that in lieu of so much of the loan authorized by the act of March 3, 1863, to which this is supplementary, the Secretary of the Treasury shall be authorized to borrow, from time to time, on the credit of the United States, not exceeding \$200,000,000 during the current fiscal year, and to prepare and issue therefor coupon or registered bonds of the United States, redeemable at the pleasure of the Government after any period not less than five years, and payable at any period not more than forty years from date, and of such

denominations as may be found expedient, not less than fifty dollars, bearing interest not exceeding six per cent. a year, payable on bonds not over \$100, annually, and on all other bonds semi-annually, in coin; and he may dispose of such bonds at any time, on such terms as he may deem most advisable, for lawful money of the United States, or, at his discretion, for Treasury notes, certificates of indebtedness, or certificates of deposit, issued under any act of Congress; and all bonds issued under this act shall be exempt from taxation by or under State or municipal authority. And that the Secretary of the Treasury shall pay the necessary expenses of the preparation, issue, and disposal of such bonds out of any money in the Treasury not otherwise appropriated, but the amount so paid shall not exceed one half of one per cent. of the amount of the bonds so issued and disposed of.

The second section authorizes the Secretary of the Treasury to issue to persons who subscribed on or before the 21st of January, 1864, for bonds redeemable after five years and payable twenty years from date, and have paid into the Treasury the amount of their subscriptions, the bonds by them respectively subscribed for, notwithstanding that such subscriptions may be in excess of \$500,000,000; and the bonds so issued shall have the same force and effect as if issued under the provisions of the act to authorize the issue of United States notes, and for other purposes, approved February 26, 1862.

The Committee of Ways and Means reported an amendment to insert after the words "United States" in line nine, the words "bearing date March 1, 1864, or any subsequent period."

Mr. STEVENS. I will explain the necessity for that amendment. The Department now has a plate which, without being altered, could be used for these bonds if they were authorized to date them on the 1st of March. If that alteration is not made—and it is probable the bill will not become a law before that time—then they will have to prepare new plates.

The amendment was agreed to.

The Committee of Ways and Means reported a further amendment: in line seven of page 2, after the word "for," to insert "not exceeding \$11,000,000."

Mr. STEVENS. As the bill was originally reported it authorized the Secretary of the Treasury to issue five-twenty bonds for all which had been subscribed for previous to the expiration of the time fixed and which had been paid in, and for which the money is in the Treasury. That was thought by some gentlemen here, and very properly I believe, to be rather too indefinite, authorizing the issuing of an indefinite sum. We have ascertained that the amount is about \$10,000,000, and cannot exceed \$11,000,000, and the committee have thought it right to restrict the issuing to the amount actually on hand, not exceeding \$11,000,000.

Mr. BROOKS. Mr. Speaker, the section as it now stands contains one other objection, to which I wish the attention of the chairman of the Committee of Ways and Means. As the section now stands it creates an additional loan of \$11,000,000, while the purport of the act is only to transfer \$200,000,000 from the \$600,000,000 of the act of March 3, 1863. This is not a proper time nor a proper way in which to make a new loan; and whenever the subject of a loan comes up, there are some of us who have some remarks to make which we do not wish to make upon a bill of this character, because it might embarrass it. I hope that the chairman of the Committee of Ways and Means will consent to this amendment, after the one just reported:

Provided, That this \$11,000,000 shall be deducted from the \$200,000,000, as authorized in the first section of this act.

The act as it now stands creates an additional loan of \$11,000,000. It is that to which I object, not to the transfer of the \$200,000,000 from the \$600,000,000, for that makes no additional loan.

Mr. STEVENS. Does the gentleman move that as an amendment?

Mr. BROOKS. I do.

Mr. STEVENS. I have simply to say that that does not meet the views of the Committee of Ways and Means. The act of 1862 authorizes the loan to run for forty years. The bill under which this \$11,000,000 is proposed to be issued authorizes the loan to run for twenty

years. This does not authorize the issuing of a single bond except where the money has been actually lodged in the Treasury. I hope the amendment will not be agreed to.

Mr. BROOKS. The second section of this act authorizes the Secretary of the Treasury to issue, to persons who subscribed on or before the 21st of July, 1864, for bonds redeemable after five years and payable twenty years from date, and have paid into the Treasury the amount of their subscriptions, the bonds by them respectively subscribed for, not to exceed \$11,000,000, notwithstanding such subscription may be in excess of \$500,000,000, and it provides that the bonds so issued shall have the same force and effect as if they had been issued under the provisions of the act to authorize the issue of United States notes, and for other purposes, approved February 26, 1862. In other words, the section clothes the Secretary of the Treasury with all the powers which he had under the five-twenty act. I do not propose to change this, but only to provide that the additional \$11,000,000 shall be subtracted from the \$200,000,000 transferred. I think that if the chairman of the Committee of Ways and Means will give his attention to the second section of the act he will find that all the powers which he claims are given.

Mr. STEVENS. I cannot think the amendment judicious. Does the gentleman from New York desire to offer any other amendment?

Mr. BROOKS. I do not.

Mr. STEVENS. Then I move the previous question.

The previous question was seconded, and the main question ordered.

The question was first taken on Mr. Brooks's amendment to the amendment, and it was rejected.

The question recurred on Mr. STEVENS's amendment; and it was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under its operation the bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

USE OF THE HALL.

Mr. STEVENS. I have been requested to offer the following resolution, and I ask unanimous consent to do so:

Resolved, That the Hall of the House of Representatives be appropriated for the use of delegates and friends of the several Indian tribes, to present their condition by a statement of facts before the public, on Wednesday evening, March 9, 1864.

Mr. WASHBURN, of Illinois, objected.

Mr. STEVENS. I move to suspend the rules.

The rules were suspended, more than two thirds voting therefor, and the resolution was introduced, considered, and agreed to.

Mr. STEVENS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

IRON-CLAD ATTACK ON CHARLESTON.

Mr. BLAIR, of Missouri, asked unanimous consent to offer the following resolution:

Resolved, That the Secretary of the Navy be requested to communicate to this House the following information: all his instructions relative to the attack upon Charleston, and all his correspondence with Rear Admiral Du Pont relative to that attack previous to the 7th of April, 1863, and subsequent thereto, and all other information possessed by the Department or its bureaus growing out of that memorable contest, and all the reports of officers and others relative to iron-clad vessels and their adaptability for naval warfare. Any order of the Navy Department relative to withdrawing the iron-clads to the Mississippi or elsewhere. Also, the telegraphic order of the President, dated 13th April, 1863, directing Rear Admiral Du Pont to remain inside of the bar at Charleston and prevent the enemy from erecting batteries on Morris Island, and whether this order was acknowledged and obeyed. Also, the telegraphic order of the President, dated the 14th April, 1863, directing Rear Admiral Du Pont and General Hunter to take the batteries on Morris and Sullivan Islands, and whether said order was obeyed, or attempted to be obeyed. Also, the order of the Secretary of the Navy, dated 6th June, 1863, directing Rear Admiral Du Pont to cooperate with General Gilmore, and whether said order was obeyed, and whether General Gilmore complained of a want of cooperation on the part of

Rear Admiral Du Pont. Also, who devised the plan of attack attempted upon Fort Sumter by Rear Admiral Du Pont on the 7th April, 1863, and whether such plan was communicated to the Department previous to its being made, and whether Rear Admiral Du Pont asked for more troops previous to the 7th April, 1863, or protested to the Department against making said attack; and whether any order, previous to that date, was given to him to attack Fort Sumter, or in any manner act against his judgment in the operations before Charleston; or whether any suggestions or plans of that officer or requisitions for more ships were refused or declined by the Navy Department previous to his attack upon the defenses of Charleston; and whether the port of Charleston is absolutely closed to blockade running since the monitors went inside of the bar.

Mr. STEVENS. I object.

Mr. DAVIS, of Maryland. I hope the gentleman from Pennsylvania will withdraw that objection.

Mr. STEVENS. I cannot withdraw my objection. I do not believe these investigations of the conduct of officers at this time will do any good. This is not the time.

Mr. BLAIR, of Missouri. I will state that a resolution has been passed by this House which only partially brings out the history of these transactions, and which does great injustice to the Navy Department. I presume the gentleman from Pennsylvania does not desire to do injustice to the Department by such a one-sided publication of facts.

Mr. STEVENS. I did not know that any such resolution had been passed.

Mr. BLAIR, of Missouri. It has. The gentleman from Maryland the other day said he desired all the facts connected with this matter to come out.

Mr. STEVENS. I was sorry to hear what the gentleman from Maryland said. I think this squabbling over the conduct of particular officers is productive only of harm. I would have objected to the other resolution if I had known it.

Mr. DAVIS, of Maryland. I ask the gentleman from Missouri whether this resolution calls for all orders relative to Admiral Du Pont?

Mr. BLAIR, of Missouri. It does.

Mr. DAVIS, of Maryland. And then specifies certain particular orders?

Mr. BLAIR, of Missouri. Yes, sir.

Mr. DAVIS, of Maryland. I understand it.

Mr. STEVENS. I cannot see that this resolution will do any good.

Mr. BLAIR, of Missouri. A portion of the correspondence on the subject only has been brought out by the resolution which the House adopted. The gentleman from Maryland said the other day that he was anxious to have the whole of this correspondence. That portion of it which has been brought out by itself does great injustice to the Navy Department. The Navy Department desire to stand upon the whole record, and I hope there will be no objection to this resolution.

Mr. STEVENS. I did not know of the other resolution or I would have objected to it, and I would rather rescind that now than to pass this. I of course desire to do no injustice to the Department, and if injustice has been done by the resolution we have already passed, it may be that the passage of this one is proper.

Mr. BLAIR, of Missouri. Justice to the Department requires that both sides shall be published, as we have already called out one side.

Mr. STEVENS. Well, I will not object to this resolution; but I hope it will be the last of this character.

Mr. LOVEJOY. I think it would be much better to rescind the other resolution.

Mr. BLAIR, of Missouri. I suppose there is hardly a disposition anywhere to do great injustice to the Department.

Mr. LOVEJOY. Well, there is a time for all things, and I do not think this is the time for the introduction of such resolutions. However, I will not object to the resolution.

There being no objection, the resolution was received and adopted.

Mr. BLAIR, of Missouri, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

AMENDMENT TO THE RULES.

Mr. DUMONT submitted the following resolution:

Resolved, That the select committee to whom was referred the subject of standing rules of the House be, and

they are hereby, instructed to inquire into the expediency of providing by a standing rule for an additional standing committee, to be designated "a Committee on the National Bank," and of providing that said committee shall have charge of all proper matters growing out of the act entitled "An act to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," and of all proper matters relating to the banks organized and to be organized in pursuance of said act, and that they report by rule or otherwise.

Mr. SCHENCK. I move to amend the resolution by adding the following:

And that the committee be also instructed to inquire into the expediency of amending the 31st rule of this House by adding thereto the following:

And if any member, present within the bar of the House when a vote by yeas and nays is taken, shall neglect or refuse to answer to his name when called, he not having been previously excused by the House, and that fact shall be brought to the notice of the Speaker by any member immediately after the reading of the vote by the Clerk, the Speaker shall then direct the name of the member not voting to be called again by the Clerk, and if said member still declines to answer, the Speaker shall thereupon submit to the House for its consideration and action as a question of privilege what order shall be taken in the case of such recalcitrant member, and no other motion or business shall be entertained until the case is disposed of.

And that the committee report at as early a day as practicable by rule or otherwise.

The SPEAKER. The Chair doubts whether the amendment is germane to the original resolution. Although both propositions relate to the rules of the House, they relate to different subjects, and on the same principle that one bill cannot be offered as an amendment to another bill on a different subject, the Chair thinks the amendment is not in order.

Mr. COX. I raise that question of order.

Mr. DUMONT. I demand the previous question on my resolution.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. DUMONT moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CIRCULATION OF COUNTERFEIT MONEY.

Mr. DUMONT introduced a bill to prevent the selling and circulation of counterfeit coin, of counterfeit and altered Treasury notes, and of postage currency bills; which was read a first and second time, and referred to the Committee of Ways and Means.

AGRICULTURAL COLLEGE LANDS.

Mr. HOLMAN introduced a bill to authorize the State of Indiana to apply certain lands granted by Congress to the education of orphan-children of soldiers who died during the war; which was read a first and second time.

Mr. HOLMAN. I desire to have this bill put on its passage, unless objection be made.

The bill was read. It grants to the State of Indiana permission to apply the lands to which that State may be entitled under the act of July 2, 1862, donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, and the proceeds thereof, to the education of the orphan children of soldiers and seamen who may have died or shall hereafter die in consequence of wounds received or disease contracted in the service of the United States during the present war, under such limitations and restrictions and in such manner as the Legislature of that State may prescribe. Also extending the time for the acceptance of the benefits of said act one year from the date of the approval of this act.

Mr. HOLMAN. I will say that inasmuch as this bill affects Indiana only, I presume unless some gentleman from that State objects to it, it would not be inappropriate to put it on its passage without delay. If, however, my colleague, [Mr. JULIAN,] the chairman of the Committee on Public Lands, wishes to have the bill referred to his committee, I will not object to that disposition of the bill.

Mr. MORRILL. I desire to ask the gentleman from Indiana whether his State has given any indication that it desires these lands to be disposed of in that manner, or in any different manner from what they have already been appropriated under the law?

Mr. HOLMAN. There has been only a partial session of the Legislature of Indiana since the passage of the act of 1862, and there has therefore

been no authoritative expression of opinion on the subject. The bill I have introduced gives the State the right to apply the proceeds of the lands in question, being three hundred and ninety thousand acres, to the education of those who shall be made orphans by their fathers falling in the service of the Union during the present war.

Mr. STEVENS. Does this bill donate any new lands?

Mr. HOLMAN. No, sir; it merely provides for the disposition so far as Indiana is concerned of the lands donated by the act of July 2, 1862.

Mr. DAWES. I hope the gentleman from Indiana will not press this bill to its passage now. There is evidently some additional legislation necessary for the location of these agricultural lands by the several States. I hope, therefore, the gentleman will refer to the proper committee some general bill that shall provide for the location of these lands, and such as shall apply to all the States. I have no opposition to the gentleman's scheme so far as his State is concerned, but I think we ought to have some general legislation on the subject, and I think it had better be considered at the same time.

Mr. JULIAN. I move to refer the bill to the Committee on Public Lands.

Mr. HOLMAN. I have no objection to that reference.

The motion was agreed to.

ILLINOIS CENTRAL RAILROAD ACCOUNTS.

Mr. HOLMAN. I desire to submit a resolution which I think is privileged in its character. I ask to have it read; and if there be objection, and the Chair decides that it is not privileged, I will move to suspend the rules.

The resolution was read, as follows:

Whereas the Secretary of War was, on the 6th day of January, 1864, directed by resolution to inform this House what amount of payment had been made, if any, to the Illinois Central Railroad Company and certain other railroad companies for the transportation of "property and troops" of the United States, and the amount still claimed by such companies from the United States for such transportation; and whereas the information so required has not been furnished: Therefore,

Resolved, That the Secretary of War be directed to inform the House why the information required by said resolution has not been furnished to the House.

The SPEAKER. The gentleman has the right to introduce the resolution under the call of States.

Mr. STEVENS. That resolution calls for information from one of the Departments, and should lie over for one day.

The SPEAKER. It refers to a previous call for information, and does not, in the opinion of the Chair, come under the rule referred to by the gentleman from Pennsylvania.

Mr. STEVENS. It calls for information from a Department.

The SPEAKER. It, however, calls for no information not included in the resolution to which it refers. The Chair decides that an objection would not carry it over one day.

Mr. HOLMAN. I merely desire to say that this information was called for some two months ago. It is of a character which certainly could have been furnished in a shorter time than has already elapsed. I will state further that my object in calling for the information was to have legislative action upon it when obtained from the Secretary of War.

Mr. STEVENS. I dare say the Secretary, as soon as he is able, in the multiplicity of his business, will communicate this information. I hope the gentleman will wait a little longer. If he does not withdraw it I move that it be laid upon the table.

Mr. HOLMAN. Rather than that disposition shall be made of the resolution I withdraw it, giving notice that I will offer it again.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (H. R. No. 42) authorizing payment of prize money, due to Commander Abner Read, United States Navy, to his widow, Constance Read; when the Speaker signed the same.

AGRICULTURAL COLLEGES.

Mr. DUMONT introduced a bill to extend the time for the acceptance of the act entitled "An act donating public lands to the several States and

Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, and to amend said act; which was read a first and second time, and referred to the Committee on Agriculture.

TREASURY REGULATIONS, ETC.

Mr. GARFIELD submitted the following resolution, on which he demanded the previous question:

Resolved, That the committee on the conduct of the war be instructed to inquire into and report upon the practical operation and result of the several acts of Congress touching commercial intercourse with the States declared to be in insurrection against the authority of the Government, and of the regulations of the Treasury Department, established by the Secretary and approved by the President on the 31st day of March and the 11th day of September, 1863, and of the military orders which have been made from time to time touching such commercial intercourse by generals commanding departments or other officers; also, to ascertain and report in what manner said acts, regulations, and orders have been executed, and especially whether any frauds have been committed or favoritism to individuals or localities shown by the officers or agents of the Government employed under the said acts, regulations, or orders; and to inquire into all other matters touching any of the points which affect the public interest or the character of any public servant.

Mr. BLAIR, of Missouri. How does that resolution again get in here?

The SPEAKER. It comes in under the regular call of the States for resolutions.

The previous question was seconded, and the main question ordered.

Mr. BLAIR, of Missouri. I demand the yeas and nays. I want to see how many there are in this House who wish to whitewash Mr. Chase.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 43; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, John D. Baldwin, Baxter, Jacob B. Blair, Blow, Boutwell, Boyd, William G. Brown, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Garfield, Grinnell, Hale, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Julian, Kelley, Orlando Kellogg, Loan, Lovejoy, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Perham, Pike, Pomeroy, Price, Radford, William H. Randall, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stebbins, John B. Steele, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburne, Whaley, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—75.

NAYS—Messrs. James C. Allen, Ancona, Francis P. Blair, Bliss, Brooks, Chanler, Cox, Dennison, Eden, Eldridge, Finck, Ganson, Grider, Griswold, Harding, Harrington, Herriek, Hutchins, Keran, King, Knapp, Law, Long, Mallory, Marcy, McDowell, William H. Miller, Morrison, Nelson, Noble, John O'Neill, Pendleton, Radford, Ross, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Voorhees, Wadsworth, and Winfield—43.

So the resolution was adopted.

Mr. STEVENS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PEACE.

Mr. LONG submitted the following resolution, on which he demanded the previous question:

Whereas history teaches that there never has been a civil war that was not settled in the end by compromise, and inasmuch as no possible harm can result either to the character or dignity of the United States from an honest effort to stop the effusion of fraternal blood, and restore the Union by the return of the States in rebellion to their allegiance under the Constitution; and whereas the President, with a full knowledge of the lessons taught by history in relation to all civil wars, in his inaugural address said, "Suppose you go to war, you cannot fight always; and when, after much loss on both sides, and no gain on either, you cease fighting, the identical old questions as to terms of intercourse are again upon you;" and whereas we now have an armistice, decreed by the Almighty, and executed for the past two months by the snows and ice of winter, thereby affording time and opportunity for reflection upon the past three years of horrible, relentless, and destructive civil war with all its calamities, and a prospective view of increased horrors in the approaching conflicts; and whereas a preamble and resolutions were, on the 7th of February, instant, introduced in the house of representatives of the confederate congress at Richmond denying the statement of the President of the United States "that no propositions for peace had been made to the United States by the confederate States," and affirming that such propositions were prevented from being made by the President of the United States, in that he had refused to hear, or even to receive, two commissioners appointed to treat expressly for peace: Therefore,

Be it resolved, That the President be, and he is hereby most earnestly but respectfully, requested to appoint Franklin Pierce of New Hampshire, Millard Fillmore of New York, Thomas Ewing of Ohio, and such other persons as the President may see proper to select, as commissioners on behalf of the United States who shall be empowered to meet

a commission of like number when appointed for the same object on behalf of the confederate States, at such time and place as may be agreed upon, for the purpose of ascertaining before the renewal of hostilities shall have again commenced whether the war shall not now cease, and the Union be restored by the return of all the States to their allegiance and their rights under the Constitution.

Mr. DAWES. Is it in order to move to insert Vallandigham instead of Fillmore?

Mr. ASHLEY. Or to add the name of James Buchanan?

The SPEAKER. Not while the previous question is pending.

Mr. LOVEJOY demanded the yeas and nays. The yeas and nays were ordered.

The previous question was seconded, and the main question ordered.

The question was taken; and it was decided in the negative—yeas 22, nays 96; as follows:

YEAS—Messrs. James C. Allen, Ancona, Brooks, Cofroth, Dennison, Eden, Eldridge, Finck, Knapp, Long, McDowell, William H. Miller, Morrison, John O'Neill, Pendleton, Samuel J. Randall, Rogers, Ross, Stiles, Strouse, Voorhees, and Chilton A. White—22.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Ganson, Garfield, Grinnell, Griswold, Hale, Higby, Holman, Hooper, Hotchkiss, John H. Hubbard, Hutchins, Jencks, Julian, Kelley, Orlando Kellogg, Kernan, King, Loan, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Nelson, Norton, Charles O'Neill, Perham, Pike, Pomeroy, Price, Radford, William H. Randall, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Starr, Stebbins, John B. Steele, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburne, Whaley, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—96.

So the resolution was rejected.

Mr. GRINNELL. Many members have refused when called to answer to their names. I want the rule read and enforced by the Chair.

The SPEAKER. The rule will be read, but there is no way by which it can be enforced. That is a matter for the House.

Mr. GRINNELL. Then I do not want it read.

SUPPRESSION OF THE REBELLION.

Mr. SCHENCK. I have a resolution which I intended to offer as a substitute for the one just rejected. I offer it now as an independent proposition, and call for the previous question.

The Clerk read, as follows:

Resolved, That the present war which this Government is carrying on against armed insurrectionists and others, banded together under the name of "southern confederacy," was brought on by a wicked and wholly unjustifiable rebellion, and all those engaged in or aiding or encouraging it are public enemies, and should be treated as such.

Resolved, That this rebellion shall be effectually put down; and that, to prevent the recurrence of such rebellions in future, the causes which led to this one must be permanently removed.

Resolved, That in this struggle which is going on for the saving of our country and free Government, there is no middle ground on which any good citizen or true patriot can stand; neutrality, or indifference, or anything short of a hearty support of the Government, being a crime where the question is between loyalty and treason.

Mr. HOLMAN. I call for a division of the resolutions.

The previous question was seconded, and the main question ordered.

The first resolution was agreed to.

The second resolution was then read.

Mr. HOLMAN. I call for a division of the second resolution. The first clause of it is a separate and distinct proposition.

The SPEAKER. The resolution is susceptible of division. The Clerk will report the first clause.

The Clerk read, as follows:

Resolved, That this rebellion shall be effectually put down.

The first clause of the resolution was agreed to. The Clerk then read the second clause, as follows:

And that, to prevent the recurrence of such rebellions in future, the causes which led to this one must be permanently removed.

Mr. STEVENS. I call for the yeas and nays on agreeing to that clause of the resolution.

The yeas and nays were ordered.

Mr. COX. Would it be in order to move to insert after the words "this one" the words "abolitionism and secessionism?" [Laughter.]

Mr. KERNAN. Oh, that means the same thing.

Mr. COX. Then I will vote for the resolution with that understanding.

The SPEAKER. No amendment or debate is in order.

The question was taken; and it was decided in the affirmative—yeas 125, nays 0; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, Ames, Ancona, Anderson, Arnold, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Francis P. Blair, Jr., Jacob B. Blair, Bliss, Blow, Boutwell, Boyd, Brandegee, Brooks, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Coffroth, Cole, Cox, Creswell, Henry Winter Davis, Dawes, Dawson, Deming, Dennison, Dixon, Donnelly, Driggs, Dumont, Eckley, Eden, Eldridge, Eliot, Farnsworth, Fenton, Finck, Frank, Ganson, Grider, Griswold, Hale, Herrick, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hutchins, Jenckes, Julian, Kelley, Orlando Kellogg, Kernan, King, Knapp, Law, Loan, Long, Lovejoy, Marcy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Charles O'Neill, John O'Neill, Patterson, Perham, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, John H. Rice, Ross, Schenck, Scofield, Scott, Shannon, Sloan, Smithers, Spalding, Starr, Stebbins, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Voorhees, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—125.

NAYS—0.

So the second clause of the resolution was unanimously agreed to.

During the roll-call,

Mr. ELDRIDGE announced that his colleague, Mr. WHEELER, was detained in his room by sickness, and had been for the last two days when the House was in session.

Mr. MALLORY stated that he had paired off with Mr. WEBSTER, otherwise, looking upon abolitionism and secession as the causes of this rebellion, he should have voted "ay."

The result of the vote having been announced as above recorded, the question recurred upon agreeing to the third resolution.

Mr. SCHENCK demanded the yeas and nays, and called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. SCHENCK and ELDRIDGE were appointed.

The House divided; and the tellers reported forty-six in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 109, nays 0; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, Ames, Anderson, Arnold, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Jacob B. Blair, Boutwell, Boyd, Brandegee, Brooks, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Cox, Creswell, Henry Winter Davis, Dawes, Deming, Dennison, Dixon, Donnelly, Driggs, Dumont, Eckley, Eldridge, Eliot, Fenton, Finck, Frank, Ganson, Garfield, Grinnell, Griswold, Hale, Harrington, Higby, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hutchins, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Knapp, Loan, Lovejoy, Marvin, McBride, McClurg, McIndoe, McKinney, William H. Miller, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Charles O'Neill, John O'Neill, Patterson, Perham, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, John H. Rice, Rogers, Ross, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Starr, Stebbins, John B. Steele, William G. Steele, Strouse, Stuart, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—109.

NAYS—0.

So the third resolution was unanimously agreed to.

THE REBELLION ABOLISHED.

Mr. COX offered the following resolution; which was read, considered, and agreed to:

Resolved, That the rebellion be, and the same is hereby, abolished. [Laughter.]

NAVY-YARD FOR THE LAKES.

Mr. SPALDING offered a resolution, which was read, considered, and agreed to, instructing the Committee on Naval Affairs to inquire into the expediency of establishing a navy-yard and naval depot for the northwestern lakes at some suitable point on the southern shore of Lake Erie, and to report by bill or otherwise.

CLEMENT L. VALLANDIGHAM.

Mr. PENDLETON offered the following resolution, and moved the previous question on its adoption:

Resolved, (as the sense of this House,) That the military arrest, without civil warrant, and trial by military commission, without jury, of Clement L. Vallandigham, a citizen of Ohio, not in the land or naval forces of the United States, or the militia in active service, by order of Major General Burnside, and his subsequent banishment by order of the President, executed by military force, were acts of

mere arbitrary power, in palpable violation of the Constitution and laws of the United States.

The question being on seconding the previous question, the Speaker announced that the previous question was not seconded; there being, on division—yeas 37, nays 55.

Mr. DAVIS, of Maryland. Mr. Speaker—Mr. ANCONA. I move to lay the resolution on the table.

The SPEAKER. The gentleman from Maryland [Mr. DAVIS] rising to debate the resolution, it goes over under the rule.

Mr. DAVIS, of Maryland. I do not rise to debate the resolution. I call for tellers on seconding the previous question.

The SPEAKER. Then the motion of the gentleman from Pennsylvania [Mr. ANCONA] is in order.

Mr. GRINNELL called for the yeas and nays.

The yeas and nays were ordered.

Mr. SCHENCK. Will it be in order for me to ask gentlemen to vote down the motion to lay on the table, in order that we may vote on the question direct, as the State of Ohio did?

The SPEAKER. Debate is not in order.

The question was taken; and it was decided in the negative—yeas 33, nays 84; as follows:

YEAS—Messrs. Alley, Arnold, Baily, Baxter, Francis P. Blair, Boutwell, William G. Brown, Cobb, Cole, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Hale, Hooper, Hotchkiss, Orlando Kellogg, Morrill, Daniel Morris, Nelson, Perham, Shannon, Spalding, Stevens, Thayer, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Whaley, and Wilson—33.

NAYS—Messrs. James C. Allen, Allison, Ancona, Anderson, Augustus C. Baldwin, John D. Baldwin, Boyd, Brandegee, Brooks, Chanler, Ambrose W. Clark, Coffroth, Cox, Henry Winter Davis, Dawson, Deming, Dennison, Dixon, Donnelly, Driggs, Eden, Eldridge, Finck, Ganson, Garfield, Grinnell, Harding, Higby, Holman, Asahel W. Hubbard, John H. Hubbard, Hutchins, Jenckes, Julian, Kelley, Francis W. Kellogg, Kernan, King, Knapp, Law, Loan, Long, Mallory, McBride, McClurg, McDowell, McKinney, William H. Miller, Moorhead, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Pendleton, Pomeroy, Price, Radford, William H. Randall, John H. Rice, Rogers, Ross, Schenck, Scofield, Scott, Sloan, Smithers, Starr, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Van Valkenburgh, Wadsworth, Chilton A. White, Williams, Wilder, Windom, Winfield, and Woodbridge—84.

So the resolution was not laid on the table.

Mr. DAVIS, of Maryland. I now call for tellers on seconding the previous question.

Tellers were ordered; and Messrs. DUMONT, and O'NEILL of Ohio, were appointed.

The House divided; and the tellers reported—aye seventy-two.

So the previous question was seconded, and the main question ordered; which was on the adoption of the resolution.

Mr. SCHENCK called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 76; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Brooks, Chanler, Coffroth, Cox, Dawson, Dennison, Eden, Eldridge, Finck, Ganson, Harding, Harrington, Herrick, Holman, Hutchins, Kernan, Knapp, Law, Long, Marcy, McDowell, McKinney, William H. Miller, Morrison, Nelson, Noble, John O'Neill, Pendleton, Radford, Samuel J. Randall, Rogers, Ross, Scott, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Voorhees, Wadsworth, Chilton A. White, and Winfield—47.

NAYS—Messrs. Alley, Allison, Anderson, Arnold, Baily, John D. Baldwin, Baxter, Francis P. Blair, Blow, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eliot, Farnsworth, Frank, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Marvin, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Pomeroy, Price, William H. Randall, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smithers, Starr, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—76.

So the resolution was rejected.

During the roll-call,

Mr. MALLORY said: Mr. Speaker, if I did not consider myself paired with the gentleman from Maryland [Mr. WEBSTER] I should vote "ay."

DEBATE ON PRESIDENT'S MESSAGE.

Mr. STEVENS, by unanimous consent, moved that next Saturday be set apart for general debate in the Committee of the Whole on the state of the Union on the President's annual message, no other business to be done.

The motion was agreed to.

CAUSES OF REBELLION.

Mr. MORRIS, of New York, asked leave to offer the following resolution:

Whereas on the 29th day of February, 1864, the American Congress without one dissenting vote agreed upon one of the most important questions of the age, to wit, the necessity of the entire removal of the causes of the unhappy struggle now desolating our land: Therefore, in memory of this auspicious event,

Resolved, That this House do now adjourn.

Objection was made.

Mr. FENTON. I move that the House do now adjourn.

The motion was agreed to.

And thereupon (at twenty minutes past four o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, March 1, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. WADE presented the petition of the German Political Club of Cleveland, Ohio, praying that the conquered States engaged in the rebellion may be treated as Territories until they shall of their own accord abolish slavery, and that the provisions of the confiscation act may be strictly enforced; which was referred to the Committee on the Judiciary.

He also presented six petitions of citizens of Cincinnati, praying for the sale of the mineral lands of the Rocky mountain country; and that liberal aid may be granted in the construction of the Northern and Central Pacific railroads; which were referred to the Committee on Public Lands.

Mr. SUMNER presented a petition of citizens of Westford, Massachusetts, praying for the abolition of slavery, and that the Constitution may be so amended as forever to prohibit its existence; which was referred to the select committee on slavery and freedmen.

Mr. SUMNER. I offer the petition of citizens of Ohio, in which they say that slavery is the sum of all villainies. They pray Congress to repeal all laws requiring the rendition of slaves, and that measures may be taken by Congress so to amend the Constitution that it cannot be construed to favor slavery. As both these subjects are now before the Senate, I ask that the petition lie on the table.

It was so ordered.

Mr. MORGAN presented a memorial of the trustees of the Roosevelt hospital in the city of New York, praying that the duty or tax imposed by the act of Congress of July 1, 1862, upon legacies and upon deeds and other instruments, may be remitted so far as relates to said hospital; which was referred to the Committee on Finance.

He also presented the petition of William W. Woodworth, praying for a renewal and extension of the patent known as the "Woodworth planing machine;" which was referred to the Committee on Patents and the Patent Office.

Mr. HENDERSON presented the memorial of Horace H. Day, remonstrating against the extension of the patent of Charles Goodyear for the manufacture of India rubber; which was referred to the Committee on Patents and the Patent Office.

E. F. AND SAMUEL A. WOOD.

Mr. ANTHONY. I move that the Senate proceed to the consideration of Senate bill No. 105 for the relief of E. F. and Samuel A. Wood.

Mr. FESSENDEN. I have got some reports to make.

Mr. ANTHONY. This will lead to no debate. If the Senate will take it up, I will then give way to reports.

Mr. BUCKALEW. I desire to make a report if the Senate will allow me.

The VICE PRESIDENT. The Senator from Rhode Island moves to postpone all prior orders for the purpose of taking up the bill indicated by him.

Mr. FESSENDEN. I hope not. Senators all around me desire to make reports.

Mr. ANTHONY. I withdraw the motion.

REPORTS FROM COMMITTEES.

Mr. GRIMES. I am instructed by the Committee on the District of Columbia, to whom was referred a petition of criers and bailiffs attached

to the different courts of the District of Columbia, praying for additional compensation, and also the petition of members of the bar of the District of Columbia in favor of the same, to report them back and ask that the committee be discharged from the further consideration of the subject, provision having already been made by an act which has passed both Houses of Congress on the subject.

The motion to discharge the committee was agreed to.

Mr. GRIMES, from the Committee on the District of Columbia, to whom were referred the following bills, reported them severally without amendment, and with a recommendation that they do pass:

A bill (S. No. 126) to amend "An act to incorporate the inhabitants of the city of Washington," passed May 15, 1820;

A bill (S. No. 129) to amend "An act to authorize the corporation of Georgetown, in the District of Columbia, to lay and collect a water tax, and for other purposes," approved May 21, 1862; and

A bill (S. No. 130) for a charter of Masonic Hall Association in Washington city, District of Columbia.

Mr. HARDING, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 116) in relation to university lands in Washington Territory, reported it without amendment.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 120) to amend an act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June 30, 1834, reported it without amendment.

Mr. HENDRICKS. The Committee on Public Lands, to whom were referred resolutions of the Legislature of Kansas in favor of a grant of lands to aid in the construction of a railroad from Wyandott to connect with a railroad from the city of Leavenworth via Leavenworth and Ohio City, crossing the Osage river in the direction of Galveston bay, in Texas; and also resolutions of the Legislature of Kansas in favor of a grant of land for the construction of a railroad from the eastern line of that State via Paola and Emporia, to intersect the Atchison, Topeka, and Santa Fe railroad, have instructed me to report them back, and ask to be discharged from their further consideration, not deeming it advisable to legislate on the subject at the present time.

The motion to discharge the committee was agreed to.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the message of the President of the United States transmitting correspondence in relation to the presentation of a watch by the British Privy Council of Trade to the master of the American schooner Highlander, reported a joint resolution (S. No. 29) giving the assent of Congress to the acceptance of a watch from the British Privy Council of Trade by the master of the American schooner Highlander; which was read, and passed to a second reading.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Elizabeth Mills, widow of John Mills, praying for an increase of pension, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Ellen M. Abert, widow of Colonel J. J. Abert, late chief of the corps of topographical engineers, United States Army, praying for a pension, submitted an adverse report; which was ordered to be printed.

Mr. POWELL. I now move to take up the resolution I introduced a few days ago directing the Secretary of War to transmit to the Senate the evidence taken by the military commission, at the head of which was General McDowell, appointed to investigate the subject of cotton speculations by officers of the Army.

Mr. FESSENDEN. I must object to that until we get through with reports. I have several reports that I desire to make. When resolutions are called for the Senator can move to take up that one.

Mr. POWELL. I withdraw it for the present. The VICE PRESIDENT. Reports from committees are still in order.

Mr. FESSENDEN, from the Committee on

Finance, to whom was referred a report of the Secretary of the Interior, communicating, in obedience to law, a statement showing the balances to the credit of that Department on the 1st of July, 1862, the amounts appropriated for the year ending June 30, 1863, the amounts drawn from the said appropriations or carried to the surplus fund, and the balances remaining in the Treasury at the last-named date, asked to be discharged from its further consideration, that it lie on the table, and be printed.

The motion was agreed to.

He also, from the same committee, to whom was referred a bill (S. No. 134) to repeal all acts or parts of acts granting allowances or bounties on the tonnage of vessels engaged in the Bank or other cod fisheries, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

He also, from the same committee, to whom was referred the memorial of James A. Farrell, commissary general of ordnance of the State of New York, praying for the refunding of certain moneys paid for duties on arms purchased by the State of New York during the year 1863, asked to be discharged from its further consideration; which was agreed to.

PRINTING OF A REPORT.

On motion of Mr. NESMITH, it was

Ordered, That the report of the Secretary of War of the 25th of February, communicating a copy of the proceedings of the court-martial for the trial of Assistant Surgeon Webster, and a report of the General-in-Chief of the Army on the management of general hospitals, and copies of general orders containing instructions in relation to hospitals and the medical department, be printed.

REPEAL OF FUGITIVE SLAVE LAW.

Mr. BUCKALEW. I ask leave of the Senate to present a report from the minority of the committee on slavery and the treatment of freedmen on the subject of the repeal of the fugitive slave laws.

The VICE PRESIDENT. The Chair will receive it by the unanimous consent of the Senate.

Mr. BUCKALEW. I ask that it be printed.

Mr. SUMNER. Before that order is made, I desire to make one observation, if I can have the attention of the Senate, and it is merely with reference to the usage of the Senate. I stated yesterday that as I understood that usage there was no such thing known as a minority report; that strictly it should be entitled "views of the minority." Practically it is the same thing; but as usage has established the latter form, I think it had better be preserved on the present occasion.

Mr. BUCKALEW. I observe by reference to the Globe that the term "minority report" has been used. However, I care nothing about the word.

Mr. SUMNER. As a matter of practice I should like to refer that question to the Chair. I know that on a former occasion, when, in connection with Mr. Seward while he was a member of this body, it became my duty to make a minority report, after considerable debate it was by the direction of the Senate at the time entitled "views of the minority."

The VICE PRESIDENT. The general practice of the Senate in the recollection of the Chair is that a minority of a committee present their views and they are received by the consent of the Senate and printed. That has not, however, according to the recollection of the Chair, been uniform. There have been cases where the Senate has allowed a minority to submit a report as a report from the minority. The practice has usually been as the Chair has first suggested.

Mr. POWELL. I will move that the report be printed, and that ten thousand extra copies of the report be printed in connection with the majority report.

Mr. SUMNER. That will naturally go to the Committee on Printing.

Mr. POWELL. Only the motion to print extra copies goes to the Committee on Printing.

The VICE PRESIDENT. The motion to print the extra copies will go to the Committee on Printing. The usual number will be ordered to be printed.

EMIGRANTS TO THE PACIFIC.

Mr. NESMITH. The Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 140) to provide for the protection of

overland emigration to the States and Territories of the Pacific, have directed me to report the same back without amendment, and with a recommendation that it pass; and I move that the Senate proceed to its consideration at this time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates, for the protection of emigrants by the overland route to the States and Territories of the Pacific, the sum of \$40,000, to be expended under the direction of the Secretary of War, but \$10,000 of the appropriation are to be applied to the protection of emigrants on the route from Fort Abercrombie by Fort Benton, and the sum of \$10,000 to the protection of emigrants on the route from Niobrara, on the Missouri river, by the valley of the Niobrara and Gallatin, in Idaho.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THANKS TO REENLISTED SOLDIERS.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 35) of thanks of Congress to the volunteer soldiers who have reenlisted in the Army, to report it back without amendment, and with the recommendation that it pass; and as I think it will take but a moment to pass it, I ask that it be put on its passage now.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the joint resolution. It presents the thanks of Congress to those noble and brave men who, having already so gallantly endured the hardships and perils of war, for more than two years, in support of their country's flag, present the sublime spectacle of again voluntarily enrolling themselves in the Army of the Union for another three years' campaign, or so long as the war shall continue. The Secretary of War is directed to cause these resolutions to be read to each of the veteran regiments who have reenlisted or who shall reenlist in both the volunteer and regular forces of the United States.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

UNION PACIFIC RAILWAY.

Mr. HOWARD submitted the following resolutions; which were considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior is hereby requested to inform the Senate whether the railroad companies mentioned in the seventh and ninth sections of the act of July 1, 1862, incorporating the Union Pacific Railroad Company, have filed their assent to, or their acceptance of, the conditions of said act; and to transmit to the Senate copies of any documents in his Department purporting to be such acceptance.

Resolved, That the Secretary of the Treasury be requested to furnish to the Senate copies of any reports made to him by the Union Pacific Railroad Company, or by any of the railroad companies mentioned in the twentieth section of the act incorporating the said Union Pacific Railroad Company.

Resolved, That the President of the United States is hereby requested, if not inconsistent with the public interest, to inform the Senate whether he has, as authorized by the eighth section of the act incorporating the Union Pacific Railroad Company, fixed the point of commencement of said road on the one hundredth degree of west longitude; and if so, to set forth a description of said point; and to furnish like information touching the point of commencement on the western boundary of Iowa, of the branch road from that point to said one hundredth degree of longitude, authorized by the fourteenth section of said act.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that he had approved and signed on the 29th of February a bill (S. No. 86) to authorize the appointment of a warden of the jail in the District of Columbia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House of Representatives had passed a resolution for closing the present session of Congress by an adjournment of the two Houses on Tuesday the 31st day of May next, at twelve o'clock meridian; in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an en-

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rolled joint resolution (H. R. No. 35) of thanks of Congress to the volunteer soldiers who have reenlisted in the Army; and it was thereupon signed by the Vice President.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILSON, it was

Ordered, That the petition and other papers in the case of F. W. Lander be taken from the files of the Senate and referred to the Committee on Military Affairs and the Militia.

PUBLIC LOANS.

Mr. FESSENDEN. I am instructed by the Committee on Finance, to whom was referred the bill (H. R. No. 265) supplementary to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863, to report it back without amendment; and as the time is very pressing about it, and it can be easily understood—it is merely a slight change of the law as it at present exists with reference to the issue of bonds—I will ask that it be considered at the present time.

Mr. POWELL. I desire to ask the Senator from Maine if that bill authorizes the issue of any more five-twenty bonds?

Mr. FESSENDEN. No, sir. If the Senator will hear it read, he will see what it does authorize.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 265) supplementary to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863. It proposes to authorize the Secretary of the Treasury, in lieu of so much of the loan authorized by the act of March 3, 1863, to which this is supplementary, to borrow, from time to time, on the credit of the United States, not exceeding \$200,000,000 during the current fiscal year, and to prepare and issue therefor coupon or registered bonds of the United States, bearing date March 1, 1864, or any subsequent period, redeemable at the pleasure of the Government after any period not less than five years, and payable at any period not more than forty years from date, and of such denominations as may be found expedient, not less than fifty dollars, bearing interest not exceeding six per cent. a year, payable, on bonds not over \$100, annually, and on all other bonds semi-annually, in coin; and he may dispose of such bonds at any time, on such terms as he may deem most advisable, for lawful money of the United States, or, at his discretion, for Treasury notes, certificates of indebtedness, or certificates of deposit issued under any act of Congress; and all bonds issued under this act are to be exempt from taxation by or under State or municipal authority. The Secretary of the Treasury is to pay the necessary expenses of the preparation, issue, and disposal of such bonds, but the amount so paid is not to exceed one half of one per cent. of the amount of the bonds so issued and disposed of.

It proposes also to authorize the Secretary of the Treasury to issue, to persons who subscribed on or before the 21st of January, 1864, for bonds redeemable after five years and payable twenty years from date, and have paid into the Treasury the amount of their subscriptions, the bonds by them respectively subscribed for, not exceeding \$11,000,000, notwithstanding that such subscriptions may be in excess of \$500,000,000; and the bonds so issued are to have the same force and effect as if issued under the provisions of the act to authorize the issue of United States notes, and for other purposes, approved February 26, 1862.

Mr. FESSENDEN. I answered the question put by the Senator from Kentucky a moment ago rather hastily. The last section does specifically authorize the issue of five-twenties to the amount of about eleven million dollars, in consequence of there being subscriptions over the amount authorized by the law and the money having been paid in upon them to that amount. It will be observed also that under the bill as it stands the Secretary might have power to issue five-twenty bonds. It says that the bonds to be issued shall be payable

in not less than five and not over forty years. It varies from the original act which we passed at the last session, authorizing a large amount of what might be called ten-forties to be issued, by reducing the minimum to five years. It is not the intention, however, as I understand, of the Secretary to issue five-twenties, but a paper of different denomination, to run for not less than five but for a longer time than twenty years.

Mr. ANTHONY. I will ask the chairman of the Committee on Finance if this bill makes any other alteration whatever in the law, except reducing the lowest period in which the \$200,000,000 may be redeemed from ten to five years?

Mr. FESSENDEN. I do not see that there is any other.

Mr. ANTHONY. I thought there seemed to be a little difference from the reading of the bill. It is not stated in this bill that the ultimate redemption is to be in coin. That is stated in the original bill authorizing the loan of \$900,000,000.

Mr. FESSENDEN. This is in lieu of an amount authorized by the original bill.

Mr. ANTHONY. Then the omission of those words will not affect the payment of the principal in coin?

Mr. FESSENDEN. The attention of the committee was not called to that. I ask the Secretary to read that portion of the bill again. It is the first part of the bill.

The Secretary read, as follows:

That, in lieu of so much of the loan authorized by the act of March 3, 1863, to which this is supplementary, the Secretary of the Treasury is authorized to borrow, from time to time, on the credit of the United States, not exceeding \$200,000,000 during the current fiscal year, and to prepare and issue therefor coupon or registered bonds of the United States, bearing date March 1, 1864, or any subsequent period, redeemable at the pleasure of the Government after any period not less than five years, and payable at any period not more than forty years from date, and of such denominations as may be found expedient, not less than fifty dollars, bearing interest not exceeding six per cent. a year, payable, on bonds not over \$100, annually, and on all other bonds semi-annually, in coin; and he may dispose of such bonds at any time, on such terms as he may deem most advisable, for lawful money of the United States, or, at his discretion, for Treasury notes, certificates of indebtedness, or certificates of deposit issued under any act of Congress.

Mr. FESSENDEN. That is sufficient. It is payable in coin.

Mr. POWELL. I move to strike out the second section of the bill. The second section is in these words:

"Sec. 2. And be it further enacted, That the Secretary of the Treasury is hereby authorized to issue, to persons who subscribed on or before the 21st day of January, 1864, for bonds redeemable after five years and payable twenty years from date, and have paid into the Treasury the amount of their subscriptions, the bonds by them respectively subscribed for, not exceeding \$11,000,000, notwithstanding that such subscriptions may be in excess of \$500,000,000; and the bonds so issued shall have the same force and effect as if issued under the provisions of the act to authorize the issue of United States notes, and for other purposes, approved February 26, 1862."

By the quotations in the newspapers I see that these five-twenty bonds are selling at a premium of about seven per cent.; that is, they are worth seven per cent. more than the paper money commonly called "greenbacks." If you authorize the Secretary of the Treasury to issue to these persons \$11,000,000 of these bonds which they subscribed for after the \$500,000,000 authorized to be issued had been subscribed for, you will give to those persons about seven hundred thousand dollars; because the bonds are worth more by that amount of money than the money they have given for them. I do not think that any such law ought to pass. It will be virtually giving to those persons about seven hundred thousand dollars, or over that amount. It is manifestly unjust to the Government that it should be done.

Mr. FESSENDEN. The fact is simply as has been stated, that in the subscription for these bonds they run over the amount of \$500,000,000. The persons who made the subscriptions have paid their money to some extent—I do not know exactly what the arrangement was with reference to that—and this bill simply authorizes the performance of that contract on the part of the Gov-

ernment with those persons. To be sure those bonds have risen in value somewhat; but the Senate will judge whether justice does not require that the persons who thus subscribed, the amount being so comparatively small, should receive their bonds. They make nothing out of the Government by it at all. The Government have no more to sell, and therefore the Government loses nothing by it.

Mr. POWELL. The law authorized the issue of \$500,000,000 of five-twenty bonds, but it seems the subscriptions went some eleven millions over that amount, and this bill proposes to issue bonds to those persons who subscribed the eleven millions over the amount authorized. When those persons subscribed they knew the limitation in the law on the issue of those five-twenty bonds. The Government was not bound in any way whatever, in faith or otherwise, to issue more. Indeed, it could not issue more under the law as it then and now exists than the \$500,000,000. Now, those persons who subscribed to the amount over and above the \$500,000,000 come here and demand, or at least it is proposed to pass a law authorizing the issue of five-twenty bonds for those \$11,000,000. The Government had better pay them back their money, because these bonds to-day are worth \$700,000 more than the money they paid. If they have subscribed for bonds that cannot be issued, the Government can but give them back their money, and in that there is no breach of faith. I look upon this section as giving absolutely away, of the Government funds, \$700,000 to those persons.

Mr. FESSENDEN. I am informed the mode adopted was, that those who subscribed paid in their money absolutely. The Government have had the use of it. Now, what does the Senator propose to do? Pay back the money with interest, or pay it back without interest? Who is to perform the contract? I do not see that any harm is done, and I think justice requires that these bonds should be issued.

Mr. SHERMAN. The question has been put to me by a Senator as to how this subscription occurred. It occurred in this way: through the agency adopted by the Secretary of the Treasury fully two thousand five hundred persons, banks, corporations, bankers, &c., all over this country from California to Maine, were employed to negotiate the five-twenty loan. When the loan was about to be exhausted there was an eager demand for it, and I believe on the last day that the subscription books were open, from six to seven millions were subscribed and the money was paid in. It was impossible to tell precisely when the \$500,000,000 were exhausted, on account of the extent of the country and the magnitude of the operations. It seems that the loan was really exhausted a day or two before it was known at the Treasury Department, because these subscriptions did not come in in the ordinary course of operations for a day or two, and sometimes three or four days. In this way an excess somewhere between nine and eleven millions was subscribed over the amount authorized by law. The money was sent from all parts of the country and went into the Treasury of the United States, and has been expended. But when they came to issue these bonds it was found that the amount subscribed for was in excess of the amount authorized by law. The only question occurs, whether the money with interest shall be paid back to those persons who subscribed for the stock, or whether the additional amount shall be authorized by law.

From this statement of the proposition, I think it is manifest the Government is bound to issue to these parties these bonds. They subscribed for them in good faith, ignorant of the fact that the \$500,000,000 were exhausted. The Government could not tell exactly when to suspend the operation of this agency system scattered throughout the United States; and it is manifestly proper that the Government should furnish the bonds subscribed and paid for.

The Senator from Kentucky says it is a loss to the Government of \$700,000. He is mistaken in

that. The loss is about four hundred thousand dollars; that is, the bonds could be thrown on the market to-day and sold for about four hundred thousand dollars more than the Government realized from them; because from the 1st of November interest has been going on, and that must be deducted from the seven per cent. premium. But that is not a loss to us, as the Senator from Iowa [Mr. GRIMES] suggests to me. We received the money in December and November and expended the money, and surely we ought to furnish these parties with their securities.

Mr. HENDRICKS. I wish to inquire of the Senator from Ohio whether I understood him correctly as saying that the Treasury Department had a great number of agencies over the country for the sale of these bonds; whether there was a direct agency on the part of any bank in connection with the Treasury Department, except one particular bank; and if so, how many?

Mr. SHERMAN. I suppose the Senator is perfectly familiar with the mode in which this loan was negotiated. The Secretary of the Treasury employed one agent, and, if time were not wasted in doing so, I might explain the mode in which this agency was conducted. I am prepared to do so fully at some proper time. This agent, Jay Cooke & Co., employed all the banks and bankers and associations throughout the United States to aid them in distributing and spreading this loan over the country; and I will venture the assertion now generally, without going into particulars as I am prepared to do on a proper occasion, that this loan was negotiated for less than any similar loan was ever negotiated by any Government. The operation of spreading this loan, popularizing it throughout the United States, has been more successful than any loan that I am aware of by any Government. The plan adopted was only adopted after mature consideration and after other plans had been tried and had failed. The only agent employed by the Government was the firm of Jay Cooke & Co., bankers of Philadelphia. They employed all these other persons, about twenty-five hundred in number, scattered throughout the United States, and took all the responsibility and expense of the loan.

Mr. HENDRICKS. The answer of the Senator covers the point I wished to make. I now wish to ask him whether the money has been paid into the banks or into the Treasury?

Mr. SHERMAN. Into the Treasury. I will say that in all cases before the subscription is perfect the money is to be paid into the Treasury.

Mr. HENDRICKS. I do not think the Senator answers the question I asked. We received \$11,000,000 of an excess of subscriptions which the chairman of the committee says was paid in; I wish to know whether it was paid to the banks and is now in the vaults of the banks or whether it is in the Treasury.

Mr. SHERMAN. It is in the Treasury, every dollar of it.

Mr. HENDRICKS. I have not seen anything from the Department on the subject.

Mr. SHERMAN. Before the subscription is perfect the money must be paid into the Treasury of the United States.

Mr. HENDRICKS. Of course it was paid in when the bonds were delivered.

Mr. SHERMAN. Oh no, the bonds were not delivered for six weeks afterwards. The subscription is always paid in first at one of the fixed depositories of the Government; but the bonds are not issued sometimes until six weeks afterwards. All these five-twenty bonds under that \$500,000,000 loan are not yet issued. I believe at one time the Department was back six or eight weeks, perhaps more, in issuing these bonds; but the subscription dated from the time the money was paid into the Treasury. The Government had that money and disbursed it.

Mr. JOHNSON. If the faith of the Government is in any manner pledged to the parties who subscribed that \$11,000,000, it is very clear that the United States Government itself ought to redeem it. I understand the Senator from Ohio and the chairman of the Committee on Finance to say that the whole amount paid in on the subscription of these five-twenty bonds has actually been appropriated by the Treasury.

Mr. SHERMAN. Yes, sir; it has been appropriated by the Treasury.

Mr. JOHNSON. As it is very desirable that

these Departments should be kept strictly within the limits of their authority, I wanted to know whether the Secretary of the Treasury appropriated these \$11,000,000 knowing at the time that that sum was in excess of the amount for which he was authorized to issue the five-twenty bonds. I do not know the amount of the loan; it is very large. What is the amount, I will ask the Senator from Ohio?

Mr. SHERMAN. Five hundred millions.

Mr. JOHNSON. Five hundred millions were authorized. The Secretary of the Treasury was authorized to receive subscriptions amounting to the sum of \$500,000,000 and no more, because he had only bonds to that amount to issue to the parties that might subscribe; but instead of receiving \$500,000,000 in money he has received \$511,000,000; so that he knew, or ought to have known when he found in the Treasury \$511,000,000 subscribed in that way, that \$11,000,000 were in excess. What I suggest is—I do not make the suggestion with a view of voting against this bill—that in all these cases it is the interest of the Government and it is the duty of these Departments that they should keep themselves studiously within the law. They are involving us—this is not the first case—in responsibilities that we did not mean to incur. That was done in the case of the excess of bounties which we have been obliged to provide for; and now we are asked to authorize the issuing of bonds to the extent of \$11,000,000 on the ground that the Secretary of the Treasury has received \$11,000,000 when he ought to have known, and would have known if his attention had been called to it, that it was impossible for him to issue bonds to that amount.

The honorable member from Ohio and the chairman of the Committee on Finance say that if the money is to be returned it is to be returned with interest. That I admit. What is the difference between what will be the interest on the \$11,000,000 and the amount of premium which these bonds now command in the market? The member from Kentucky says that they are some seven or eight per cent. above par. Whatever premium these bonds command in the market which is more than the interest we should have to pay, that amount the Government loses. That is very clear. If we are obliged to pay some eleven million two or three hundred thousand dollars because two or three hundred thousand dollars is the amount of the interest on the \$11,000,000 from the time we received it up to the present time and the bonds are worth six or seven hundred thousand dollars, we lose either three or four hundred thousand dollars, and we lose it because the Treasury has not watched as it might have done the amount of these subscriptions. If we could have been involved, and if we are involved—and I am not prepared to say that we are not, as the case now stands—if we are properly involved to this amount of \$11,000,000, he might easily have involved us to the amount of one or two hundred millions more.

The difficulty suggested by the Senator from Ohio is one that applies, as I understand, exclusively to the subscriber and not to the Treasury Department. The Secretary of the Treasury employs an individual agency. Whether that employment was well advised or not I am not now prepared to say. I hope it may turn out, from the explanation which the Senator from Ohio says he is prepared at the proper time to give, that it was well advised, and that the interests of the United States were very much subserved by it; but that is not the opinion of a great many. But in consequence of employing that individual agency for the purpose of circulating the information that such an investment might be made all over the United States, it was deemed impossible for the different sub-agents who were receiving subscriptions to know whether the United States had or had not bonds equivalent to the amount of the subscription. The result therefore, so far as they were concerned, was that they could not know in advance; but when the Secretary of the Treasury used \$11,000,000 more than the \$500,000,000, then he knew or ought to have known that he was about placing on the Government an expenditure they never contemplated.

Mr. FESSENDEN. I think this is rather an unnecessary comment made by the honorable Senator from Maryland on a very simple transaction. How was it as explained by my honorable friend and colleague on the committee, the

Senator from Ohio? Why, that these agencies existed all over the country. They must necessarily exist all over the country. It was an arrangement not only that might turn out well, but it has turned out well. We have sold our bonds and have got the money. We sold them originally at par, and the credit of the Government stands high. Suppose we had sold another \$500,000,000 of them. Perhaps they would not be so high in the market; but it would be for the benefit of the Government to have the money. The fact was, as the Senator perceives, and as every Senator must perceive, it was impossible to ascertain with any degree of accuracy the exact point where to stop. From the very nature of the transaction, from the necessity of the case, it was in the hands of a great number of agents, as stated by my friend from Ohio, all over the country; and because the Secretary of the Treasury was not omniscient, because he could not foresee the instant at which this could be stopped and the exact point at which the subscription to the \$500,000,000 in all these multitudinous agencies would be full, it resulted that here are a few millions more subscribed than were called for. Under the precautions which were taken, the money subscribed must go into the Treasury, and when it goes into the Treasury it can only be taken out by an appropriation made by law, and not by the Secretary of the Treasury. He cannot put his hand into the Treasury and take it out and pay it back again without a law of Congress. It must remain there.

The Senator talks about its being expended. Perhaps it is not expended to this day. It goes into the general mass. It cannot be distinguished from the \$500,000,000 paid in on account of that loan. You cannot pick out the exact amount of money and say, "That is it, and it shall be paid back," but it is thrown into the mass in the Treasury—the Senator must understand that perfectly well—and there it must remain until we pass a law authorizing it to be taken out either to be paid back to those individuals or to be used for some other purpose. Therefore I cannot see that there is the slightest fault in the world to be imputed to the Secretary of the Treasury. He has done nothing illegal. It does not appear that he has used the money as the honorable Senator states. The money is there for aught that appears. We are not without money in our Treasury. If the Senator is keen enough and understands it well enough to lay his hand on the exact sum in the great mass that we have received and say that was the sum that should have been returned of that individual money, the position he has assumed might be a correct one. It does not appear that this money has been used or illegally spent. It does not appear that the Secretary of the Treasury has done anything wrong in relation to this matter, unless you require from him a knowledge that no man could possibly possess, and a power of foreseeing events that no man could possibly possess over so large an extent of country and in dealing in a transaction of this description.

This is the question that arises simply, if I understand it, what shall be done in this case, as these circumstances have happened, I suppose, from the very necessity of the transaction? The Senator says we lose so much money. Why, sir, that does not appear. We have got to put our stock in the market. We have yet to put the \$200,000,000 to be authorized by this bill in the market. What effect will that have on the five-twenties? It may strike them down. I am told, in point of fact, that they have fallen somewhat since this bill was introduced. A portion of this premium that was spoken of is the accumulated interest for the half year.

Mr. SHERMAN. I will mention to the Senator that the bonds were sold a day or two ago for 107, bearing interest in gold from the 1st of November last.

Mr. FESSENDEN. It will be seen, therefore, that there is no loss to the Government. Senators talk about the loss to the Government! Why, sir, in our condition, about to issue a large quantity of paper, I take it we should be very glad to lose a great deal of money in the same way; that is, to get par for our bonds, and let the people make what they can out of them. It is nothing out of our pocket. It becomes, therefore, a mere question of propriety with reference to this comparatively small sum, whether we shall fulfill the obligation, the imperfect obligation, of course, that

we are under with reference to it. I see no objection to it.

Mr. JOHNSON. What I said was in answer to one statement, and I am replied to by a different statement. I understood the Senator from Ohio and the chairman of the Committee on Finance to say that we were under an obligation to issue those bonds, because we had received the money and used it. Did the Senator mean that by using the money all he intended to say was that the money was in the Treasury to be used, or did he mean to say that, being in the Treasury, it had been taken out of the Treasury? I know as well as the Senator from Maine that no money in the Treasury can be taken out without an appropriation; but we have general appropriation bills for which the Treasury wants money, and under which the money in the Treasury properly applicable to the appropriation can be used.

Mr. FESSENDEN. Then, according to the honorable Senator's explanation, he is merely shrewdly playing upon a word which he understood from his knowledge of the business of the Treasury meant something different.

Mr. JOHNSON. I did not understand any such thing. I know very well that when money once gets into the Treasury it cannot be taken out; but when the chairman of the Committee on Finance said that this money was there and had been used, I used his language.

Mr. FESSENDEN. That remark was made by my colleague on the committee, the Senator from Ohio.

Mr. JOHNSON. You said "appropriated." I do not think that changes it much for the better. When it was stated that the money was "used" or "appropriated"—for one or both expressions were used—I took it for granted that this money had been used to meet some appropriation. I did not mean to charge the Secretary of the Treasury with taking money out of the Treasury without the authority of law. All that I meant to say was that if there were \$11,000,000 in the Treasury in excess of the \$500,000,000, he ought to have known that that \$11,000,000 did not belong to the United States, and should not have been used, if used at all.

Now, I understand the honorable chairman to say that the money has been paid in, and there it is; or, what is the same thing, there is an equal amount in the Treasury; and as it is impossible for us to distinguish the particular money paid in under this subscription from money in the Treasury derived from any other quarter, it by no means follows that this money has been used at all. If that is the fact, if the money is there to be used if he thinks proper to retain it there, then it is a question for the Senate to decide whether it is advisable to issue these bonds. It may be that the bonds will not bring as much in the market now as they did a few days since, and it may be that they will bring a great deal less in the course of a few weeks; but we are to run that risk. One thing is certain: the bonds now are at a premium of some six or seven per cent., including the back interest, and to that extent it would be better for the persons who have paid their money to receive the bonds than to receive their money with interest from the time of payment.

I know very well it was impossible for the Secretary of the Treasury, or the direct agent of the Treasury here, to tell whether the amount subscribed would be in excess of the amount authorized; but what I said was, as the Senator from Ohio said, and no doubt said truly, that all the money subscribed must go into the Treasury before any bonds were issued, then when \$511,000,000 got in the Treasury, somebody ought to have known that \$11,000,000 of that amount were to be returned unless Congress should authorize the issuing of bonds that it had not then authorized. That is all I meant to say. I did not mean to charge the Secretary of the Treasury with any impropriety in regard to it.

Mr. FESSENDEN. I wish to say a word in reply to the last remark of the Senator, that somebody ought to know: that when the Secretary perceived that \$511,000,000 were subscribed for and paid in, he knew there were \$11,000,000 in the Treasury more than he was authorized to obtain; but what could he do? The Senator does not pretend to say he was in any fault before. He could not put his hand into the Treasury and take that money out and pay it back. The Sen-

ator knows that very well. It would require a law of Congress to do that. What does he then do? He comes to Congress and states the fact, and recommends that we shall issue bonds for it. He used it. He cannot tell, as I said before, what particular, specific money was appropriated. The Senator understands that very well. He must go on using the money in the Treasury, and if there is a balance there, and it always has been there, and he is ready to pay it back if Congress says so, then he has kept it there. You cannot distinguish. That is the whole of it.

Mr. JOHNSON. I understand that.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order of the day.

Mr. FESSENDEN. I hope we shall be allowed to pass this bill.

Mr. SHERMAN. If this bill is to lead to debate, I hope we shall take up the bill which was made the special order, which will not consume much time.

Mr. FESSENDEN. Let us dispose of the bill which is before us. I think we are ready to take a vote upon it.

The VICE PRESIDENT. The special order will be passed over informally, if there be no objection. The Chair hears none; and the question is on the motion of the Senator from Kentucky to strike out the second section of the bill.

Mr. POWELL. It is very evident to my mind that we ought not to agree to this section of the bill. It is admitted on all hands that these fifty-two bonds are now at about seven per cent. premium. The interest accumulated on them would amount perhaps to about two per cent. That would leave \$550,000 that we should save by selling that amount of bonds, and paying this money back. Gentlemen speak of paying it back with or without interest. The Senator from Ohio said a moment ago that over sixty million dollars of this sum were subscribed on the last day, that is, the 1st of January; so that the interest runs for but little over a month. That would not be over \$55,000, or about that amount.

Mr. SHERMAN. I said \$6,000,000 were subscribed on the last day.

Mr. POWELL. I beg the Senator's pardon; I thought he said \$60,000,000. It is evident, however, that during the last few days a large amount was subscribed.

Mr. SHERMAN. The last three days.

Mr. POWELL. Then it will be seen that the interest to be paid runs but a little over a month.

Mr. SHERMAN. The interest runs from the 1st of November. The last bonds that were issued are dated the 1st of November, and the interest runs from that time. The value of that interest now in the market is about three and a half per cent. The advance is about three and a half per cent.

Mr. POWELL. Let me ask the Senator, do not the bond-holders get interest from the 1st of November?

Mr. SHERMAN. Certainly; but in addition to the amount of subscription, the subscriber pays the interest in gold from the 1st of November up to the time of subscription. He has already paid that into the Treasury.

Mr. POWELL. The interest that accumulates only amounts to two per cent. in gold.

Mr. SHERMAN. Two per cent. in gold, which, reduced to paper money, makes three per cent.

Mr. POWELL. At all events, taking the Senator's own admission, we should save three or four hundred thousand dollars. That, to be sure, in these times of extravagance is a very contemptible sum; but still we might as well save it to the Government and not tax the people for it, as to give it to these gentlemen.

Mr. FESSENDEN. Will the Senator allow me to ask him how we can save it?

Mr. POWELL. We can save it in this way: by paying the money back to the subscribers instead of issuing these bonds. In that way we shall save this amount of money, because the bonds are worth that amount.

Mr. FESSENDEN. Then I ask the Senator, have we the thing to sell?

Mr. POWELL. You authorize in the first section of this bill \$200,000,000 of bonds to be sold.

Mr. FESSENDEN. That is a different stock.

Mr. POWELL. You can authorize that

amount to be sold in the market if you choose. You can authorize \$11,000,000 to be sold if you choose, and raise the money in that way. You authorize \$200,000,000 to be sold in this bill, and at the option of the Secretary of the Treasury they can be made five-twenties precisely as the others are.

Mr. FESSENDEN. I will ask the Senator how he knows how much these stocks will sell for when put into the market?

Mr. POWELL. I do not know; but I know how much the stock is selling for that you propose to give these parties. We know that it is selling for seven per cent. premium. If we pass this bill we give these parties for their money an article that is worth \$700,000 more than we get. I know that much. We can authorize if we choose an additional sale of those bonds, and sell them for a premium, and you can command it in the market, in my judgment.

Mr. CONNESS. This seems a very simple proposition to my mind. The Government advertised for a loan of \$500,000,000, and they established an agency to which subscriptions should be made and to which application should be made for subscriptions. Five hundred and eleven million dollars have been subscribed; and the question is, whether we shall issue \$11,000,000 in addition to the amount authorized by law to meet the excess of subscriptions? I will not enter into a calculation as to who may lose or who may gain, or how much these parties will gain, if we issue these bonds or provide for their issuance. If they do gain, I am not unwilling to say that they deserve some gain for having come forward promptly and offered their money to the Government when the Government needed money; and therefore I see nothing wrong in the proposition. It is a simple, plain one, and one that does no wrong to the Government.

The VICE PRESIDENT. The question is on the proposed amendment to strike out the second section of the bill.

Mr. HENDRICKS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 11, nays 27; as follows:

YEAS—Messrs. Buckalew, Davis, Henderson, Hendricks, Howe, Lane of Kansas, Morgan, Powell, Sanbury, Sumner, and Wilson—11.

NAYS—Messrs. Anthony, Carlile, Chandler, Clark, Conness, Cowan, Dixon, Fessenden, Foster, Grimes, Harding, Harlan, Harris, Howard, Johnson, Lane of Indiana, Merrill, Pomeroy, Ramsey, Sherman, Sprague, Ten Eyck, Van Winkle, Wade, Wilkinson, Wiley, and Wright—27.

So the amendment was agreed to.

Mr. HENDRICKS. In the fifteenth line of the first section I move to strike out the word "six" and to insert "five," so that it will read, "bearing interest not exceeding five per cent. a year." It has been expected in the country that a five per cent. loan would be provided for; and I was surprised when the report came from the Committee on Finance providing for a six per cent. loan. The six per cent. bonds are worth in the market above par, which indicates very clearly that the Government could negotiate a loan at less than that rate of interest. It seems to me that the Government should negotiate its loans at the very lowest rate of interest possible. As compared with the debts of other Governments our debt is being contracted at a very high rate of interest, and it is to impose a very great burden on the people. If we can secure a loan at five per cent. instead of six we ought to do it. It seems to me, if the public credit is maintained as it has been for the last few months, that a loan can be secured at five per cent. With the present depreciation of the currency five per cent. payable in coin, as this bill provides, would be equal to nearly eight per cent. in currency.

My proposition is to issue these bonds at a rate of interest not to exceed five per cent. If the chairman of the Committee on Finance will say that he is satisfied such a loan cannot be negotiated, of course that would influence my judgment very much on this proposition; but until he says so, I am satisfied that such a loan can be negotiated; and if so, it ought to be done. We ought not to continue to increase our debt at the enormous rate of interest we now pay unless it be absolutely necessary. If we can secure a five per cent. loan instead of six per cent. or a higher rate, we should do it. I should like to know from the chairman of the Committee on Finance whether, in his judgment, on an examination of

the question, in view of the difference between gold and paper, and in view of the desire to make permanent investments, as shown by the anxiety to secure the last loan, we cannot make this loan at five per cent.?

Mr. FESSENDEN. I remember when I was in the minority here, and the Government was indebted something short of one hundred millions, that I made the same objection that has been made now by the honorable Senator from Indiana. Inquired why, with such enormous power as this country possessed, owing nothing or substantially nothing, the Administration should be so very anxious to fix the maximum rate of interest at six per cent.? Why not fix it at five? Why not at four? I made the inquiry; but not being very familiar with financial matters, I had perhaps no very great confidence in my own judgment with reference to it; but it seemed to me then that there might be a reason for it; and I suggested that it would be very difficult, perhaps, if the maximum were fixed, to get a loan at any rate below that; and I suppose the Senator will argue in the same way.

That was a time of peace. That was a time when we owed nothing. That was a time when our resources had not been drawn upon; but I remember very well the answer that was made. It was this: "It is unwise to fix the sum below six per cent., and say nothing more shall be given, because it may be that the Government may not be able to obtain the loan at any less rate than six per cent., and if not, they should have the power to go higher."

If that argument was good as advanced by Mr. Hunter, who was then chairman of the Committee on Finance, under such circumstances, when we were not suffering particularly, and in no immediate pressing want of money, and not carrying on a war, it would seem to be a good answer to be made now to the honorable Senator, that it is hardly worth while to say that the Government shall not borrow beyond a certain rate when we are putting a loan into the market, because it may be that we may not be able to obtain the money—and we want it from day to day, and must have it—at a less rate than the sum we fix.

The Senator will further observe that this is only a part of the loan authorized by the act passed by the last Congress, I think on the 3d March, 1863, authorizing the borrowing of \$900,000,000 for two years at a rate of interest not exceeding six per cent. This is in lieu of that. My opinion is, that in a time of war, situated as we are, compelled to have the money at some rate or other, it is unwise to say to the Secretary of the Treasury that he shall not give the ordinary current rate of interest in the market, which is six per cent. generally, and seven per cent. in New York. I understand in point of fact it is the intention and belief of the Secretary that he can obtain the loan at five per cent. I do not know how that is. I have not conversed particularly with him on the subject; but I am so informed. I hope he may be able to do so. I take it the Senator knows very well that if the Secretary can do so, he will, for nobody has been more particular and more anxious, more overcareful with regard to keeping down the rate of interest on any and all occasions than the Secretary of the Treasury has been from the beginning; and he has been very successful in relation to those matters.

Now, sir, believing and hoping that we may obtain this loan at a less rate of interest, my answer is, that I think it would be unwise in a time of war to vary from the policy established by the friends of the gentleman himself in time of peace.

Mr. HENDRICKS. The distinguished chairman of the Committee on Finance has not answered quite as satisfactorily as I hoped he would. His reference to a debate between himself and Mr. Hunter who once occupied the position in this body which he now does is not very illustrative. At the time that the former chairman of the Committee on Finance made the reply which the Senator says was made to him, the current rate of interest in the country was from seven to ten per cent. in ordinary commercial transactions. The currency was not then inflated, and there was but a slight if any difference between the value of the paper and coin currency of the country; but now in almost all commercial transactions, money being so abundant, the rate of interest payable in paper, depreciated as it is, is six per cent. In

almost all the cities money can be readily had on an interest of six per cent. per annum payable in paper. As I said before, at the time the answer was made to the Senator by Mr. Hunter, that was not the case; but loans were negotiated at from seven to nine or ten per cent.

Now, sir, the difference between paper and gold is quite thirty-three per cent.; one dollar in gold being worth \$1.59 in the paper currency of the country, and the ordinary commercial rate of interest being six per cent. payable in paper. Under these circumstances, I want to know why it is that the Secretary of the Treasury cannot negotiate this loan payable in gold at less than six per cent. If the banks of the country can use their capital at six per cent. and no greater rate of interest payable in paper, which is worth so much less than gold, why is it that the Secretary of the Treasury must pay in gold what is equal to more than nine per cent. in paper?

Mr. FESSENDEN. Will the Senator allow me to ask him a question just there?

Mr. HENDRICKS. Yes, sir.

Mr. FESSENDEN. Suppose the Secretary says that he cannot get the money for less, or cannot negotiate this loan for less than nine per cent., is the Senator prepared to answer that he shall not get it at all; that he will not authorize him to give that amount?

Mr. HENDRICKS. I do not like to argue here upon supposed cases.

Mr. FESSENDEN. The Senator's argument goes to that, because this bill does not provide that he shall pay that amount, but that he may have the power if necessary to pay it. The Senator is arguing that he shall not have the power. He will not give six per cent. He would rather go without the money.

Mr. HENDRICKS. If the Secretary of the Treasury were to say to the Senate that he could not negotiate a loan for less than nine per cent., when the ordinary interest of the country is but six per cent., payable in depreciated currency, I would say, the opinion of the Secretary of the Treasury was not entitled to the respect of the Senate. That would be my response to that proposition. But I want to ask the chairman of the Committee on Finance if the Secretary of the Treasury were to say to us that in view of the present state of the rate of interest in the country he could not probably negotiate for less than nine per cent., whether he would insert in this bill "nine" instead of "six per cent.," contrary to his own convictions.

Mr. CHANDLER. Will the Senator permit me one moment right there?

Mr. HENDRICKS. Certainly.

Mr. CHANDLER. I want to remind that Senator that during the last days of his party's occupancy of this capital, when the country was in profound peace, and to pay the ordinary peace expenses of the Government, his friends paid one per cent. a month in advance for \$3,000,000.

Mr. HENDRICKS. Mr. President, I have not designed to discuss this question as a party man, nor do I intend to be led off into a party discussion. We are now considering a question that goes to the pockets of the tax-payers of the country. If we can negotiate a loan at five per cent. instead of six per cent., it is our duty to do it. Our debt is being contracted at a higher rate of interest than perhaps the debt of any country in the world. I do not intend that it shall be considered a sufficient answer to me that any former Administration was compelled to negotiate a loan at a very high rate of interest. In reply to the Senator from Michigan, I do not recollect the circumstance to which he refers. I will not dispute it; but my reply is, that I have no knowledge of the circumstances to which he refers.

The chairman of the Committee on Finance has called attention again to the fact that this is but a limitation; it fixes the maximum of interest; and the Secretary of the Treasury may possibly negotiate it at a less rate. I will ask the Senator if he knows of any case in which a loan has been negotiated at a less rate of interest than the maximum fixed in the bill allowing the loan?

Mr. FESSENDEN. No; I do not.

Mr. HENDRICKS. The Senator says he does not. Of course he does not. I knew that would be his reply. As soon as it is fixed in the bill, it becomes the opinion of the country, and the rule in the Department, too, that that shall be the rate;

and when we say that it shall not exceed six per cent. it is the same as saying that the loan shall be negotiated at six per cent. That becomes both the maximum and the minimum.

There has been a desire to obtain the Government securities within the last few months. We have an illustration of it here in this bill. A six per cent. loan was sought after with such avidity that \$11,000,000 were subscribed for beyond the amount allowed by law, and this bill provides for that excess. There was an earnest desire to secure the loan, and that Government security is now worth in the market three or four per cent. above par.

With this prominent, striking fact before us, it seems to me remarkable that the chairman of the Committee on Finance should say to us we cannot negotiate a loan at less than six per cent. This loan is now worth at six per cent. payable in coin, nine per cent. in currency. Money is loaned in the banks and in all commercial transactions at six per cent., but the Government pays what is equivalent to nine per cent. I say we ought not to do it. If we make a loan at five per cent. payable in coin it is equal to seven or eight per cent. in the ordinary currency of the country.

I have made this proposition in good faith, not as a party man. I disclaim party considerations and influences upon a question like this. Our debt is going up to an enormous amount, and we should consider well at every step where we add one hundred or two hundred or three hundred million dollars to our already enormous debt, whether we can secure the loan at a less rate than that heretofore provided for.

Mr. FESSENDEN. The argument of the Senator amounts precisely to this, and nothing more: "I will not allow the Government to borrow any more money, whatever may be its necessities, at a greater rate than five per cent." Now, sir, this bill comes from the Secretary of the Treasury; that is to say, it is in accordance with his opinion, as I understand, of the necessities of the case. It may be inferred, therefore, that he thinks it unwise to limit the Government, and say that whatever may be our necessities he shall give but five per cent. interest. Are gentlemen prepared to say that? That is what the Senator from Indiana is aiming at. In other words, it amounts to this: "I will, notwithstanding the peculiar position of affairs in this country, tie the Government down to five per cent." Why? "Because in my opinion the money ought to be got for that, and can be got for that." That may be his opinion; but men who are quite as conversant with money affairs as he is do not feel quite so certain. They hope it may be so. Let me ask the Senator, does he believe that the Secretary of the Treasury will pay six per cent. if he can get it for five?

Mr. HENDRICKS. If the Senator will allow me I will answer him just here, and with his permission I will also answer the suggestion he made a few moments since.

He said that my argument amounted to just this: that whatever were the necessities of the country, I would not consent that the Secretary should negotiate a loan above five per cent. His bill is, that whatever be the necessities of the country, he will not allow the Secretary to negotiate a loan above six per cent. I think it can be had at five per cent. I think the condition of the currency in the country, and the avidity with which the late loan was taken, justify me in that opinion.

Now upon the other point, I should like to ask the Senator what was the inquiry he made. It has escaped my memory.

Mr. FESSENDEN. It was whether the Senator believed the Secretary of the Treasury would give six per cent. if he could get it for five.

Mr. HENDRICKS. I am glad the Senator has asked me that question. I believe if we put a six per cent. loan in this bill, the Secretary of the Treasury cannot negotiate it at less than six per cent., because that then becomes the rate in the public opinion, and the men who have money to loan will say to the Secretary, "We will let you have it at the amount of interest which the bill allows, but we will not let you have it at less." If the bill were to say five per cent., I believe the Secretary could secure it at that rate.

Mr. FESSENDEN. Does the Senator believe that the Secretary of the Treasury, if he had a

reasonable certainty that he could get this money for five per cent., would not be willing so to get it? The inference is obvious that the Secretary of the Treasury does not feel entirely satisfied that he can negotiate this loan for less than six per cent. But the Senator assumes that he can. He says substantially that he must, or he shall not give any more. That the rate is fixed at six per cent. would seem to prove satisfactorily the conviction of the Secretary that he can get it for six per cent., founded, too, on previous experience where our loans have been negotiated on such terms; or, at any rate, if he could not get it for that he might be able to sell it under par. I do not know that he would be authorized to do so, however, under this bill.

Now, let me say a word with regard to the avidity with which this five-twenty loan was taken. How long was it before it could be negotiated at all? Why, sir, it remained in the market for more than a year with but a few millions sold. It was not till the adjournment of the last session of Congress that this loan took a start, owing probably to many considerations which I will not now enumerate. From the different situation of things in the country and other considerations, the loan took a start and went on and was taken up. But does the Senator know how long that avidity will continue?

The Senator will remark that it finally took its start after lingering for more than a year, in spite of the efforts of the men with whom he acts all over the country to keep it down and to cry it down. They told the people that the Government was not entitled to any credit. I know, and I presume he knows, that the men with whom he acts through this country made a general effort to decry the credit of the Government anywhere and everywhere, and to prevent that loan being sold at all. But in spite of all their efforts, the people at last aroused and it was taken; and now the Senator makes use of that fact to convince the Senate and the country that we should not allow even the ordinary margin which has always been taken within which to procure a loan. Sir, I know that such an argument can have no effect in the Senate, whatever it may have elsewhere.

Mr. HENDRICKS. I should not have indulged in another word in this debate, for I have expressed my views on the amendment which I have offered in good faith, were it not for the last suggestion of the Senator from Maine. He has said to the Senate that the last loan was taken and public confidence grew up in respect to it notwithstanding the efforts of the men in the country with whom I act politically to beat down public confidence with regard to that loan. Sir, I have not said anything in this debate to call for any such suggestion from the Senator; and with great respect to him personally, I think that part of his argument is not worthy the position he holds in the Senate. I know of no effort on my own part and of no effort on the part of the public men with whom I act as a party man to destroy the confidence of the people in the Government securities. Public confidence in those securities depends very much on our military operations, and the confidence in that loan was inspired more by the successes of our army upon the Mississippi and the Cumberland than by any political speeches, and the Senator ought to know it. After the victories of July last, the confidence of the public in the Government securities went up, very naturally. And now as the Senator claims that the rebellion is upon its last legs, why is it that he says the confidence in the public securities is not greater to-day than it was even at that hour? As the hour approaches, in the opinion of the Senator, at which the rebellion will cease to have power to resist the authority of the Government, the confidence in the Government securities is to go down, at least not to increase. Sir, the success of our armies has given this confidence, and no efforts of political parties in the country.

I am very sorry that upon a question that affects only the tax-payers of the country, the Senator should have deemed it necessary to go into any political discussion. I do not intend to be led into it even by the chairman of the Committee on Finance.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Indiana.

The amendment was rejected.

The bill was reported to the Senate without amendment.

Mr. ANTHONY. I did not make myself understood when I called the attention of the chairman of the Committee on Finance to the difference between this bill and the act to which it is an amendment. The point was not in regard to the payment of the interest in coin; but the act to which this is an amendment, the act of March 3, 1863, states specifically that the principal is to be paid in coin. That provision is left out of this bill. In the original act it reads, "not less than ten nor more than forty years from date, in coin, of such denominations, not less than fifty dollars, as he may deem expedient." This bill says, "not less than five years, and payable at any period not more than forty years from date, and of such denominations as may be found expedient." The words "in coin," which are in the original act, are left out of this bill. I do not know that it makes any practical difference, but I think it is desirable to make this bill conform to the original act, as it may make some difference in regard to the taking of the loan, as capitalists are always very sensitive.

Mr. JOHNSON. Is this an amendment to the original bill?

Mr. ANTHONY. Yes, sir; it repeats the language of the original bill, but leaves out the words "in coin."

Mr. FESSENDEN. This is supplementary to the act of 1863 and in lieu of a portion of it. I do not think it will make any difference; but those words were not intentionally left out.

Mr. ANTHONY. Ought they not to be put in? I submit that it will be of some importance in taking the loan.

Mr. JOHNSON. I have no doubt that the true construction of the act would be, however, that the principal is to be paid in coin also. However, differences of opinion exist on that point in the country, and I suggest to the chairman that it would be better to add those words.

Mr. ANTHONY. I do not think the words about paying the principal in coin are of any consequence in either bill, but I think they ought to be alike; and the omission of those two words may make capitalists imagine that there is a difference between the two loans.

Mr. FESSENDEN. Has the Senator the original act before him?

Mr. ANTHONY. Yes, sir.

Mr. FOSTER. The expression "in coin" is in this bill in regard to the interest and not in regard to the principal.

Mr. FESSENDEN. If the Senator has any doubt about it, I shall not make any objection to the amendment.

Mr. ANTHONY. Then I move, after the word "date," in the thirteenth line of the first section, to insert the words "in coin."

Mr. FESSENDEN. I think it is unnecessary; but still I have no objection to the amendment.

The amendment was agreed to.

Mr. MORGAN. I move to strike out the second section of the bill, after the enacting clause, and to insert the following in lieu thereof:

That the Secretary of the Treasury is hereby authorized to issue bonds, redeemable after five years and payable twenty years from date, for \$11,000,000; the bonds so to be issued to be disposed of to the highest bidder or bidders, but at not less than par, after due notice thereof has been given by the Secretary of the Treasury; and the bonds so to be issued shall have the same force and effect as if issued under the provisions of the act to authorize the issue of United States notes, and for other purposes, approved February 26, 1862.

The object of the amendment is to issue a sufficient number of bonds to cover the amount of money stated by the Senator from Ohio to have been paid in excess. I have moved to strike out the second section of the bill because I am not willing that any larger amount of bonds than authorized by law should be issued at the present time unless at the present market price. That is the object of the amendment that I now offer. It may not be in all its forms correct. I have written it in some haste.

Mr. SHERMAN. I submit to the Senator from New York this practical difficulty: he desires to provide a fund from the sale of these bonds to pay back to the surplus subscribers to the five-twenty loan the amount they have paid in. I understand that is the purpose of his amendment. Now it is impossible for any one to de-

termine who are entitled to the last of the five-twenty loan. The subscriptions, as I said before, were made at twenty-five hundred different agencies at different dates. The very day the Secretary of the Treasury knew that the loan was taken he stopped, by telegraph, this whole machinery; but the loan became so valuable and so desirable the last two or three days that it was open that it was subscribed for to the excess of \$11,000,000. It is impossible for him to designate who are the subscribers of the last \$11,000,000. Shall he take the date of subscription as final and conclusive? If so, then probably on a given date there were \$6,000,000 subscribed. Part of this would come within the \$500,000,000 and a part would fall outside of the \$500,000,000. Who are within and who are without? What hour of the day shall he fix when the \$500,000,000 was exhausted? What time in the day? Six million dollars were subscribed on a given day, part of it before the loan was exhausted and a part of it afterwards. How can he designate who subscribed before and who after the time?

Take another case. A portion of this loan was subscribed in St. Louis, and a portion in Cincinnati. By the ordinary course of the mails three days were consumed before notice of that subscription and payment of the money into the sub-Treasury there came to Washington. The money would be paid into the United States depository at Cincinnati or St. Louis. It would be transmitted by ordinary course of mail to Philadelphia or to Washington, occupying three or four days' time. Will you cut off these subscribers from the benefits of the loan merely because they were at too remote distances from the Government and the Government had not notice of the amount subscribed by them? How can you do so justly? They subscribed and paid in their money in good faith. There is no loss to the Government in carrying out this contract. The Government was very anxious to make this loan. The loan hung upon the money market for six or eight months and only \$10,000,000 were subscribed. It was only after this system of private associated agencies was organized and thoroughly spread over the country that this loan became popular, and the people of the country subscribed to it. It has been said in the public prints that \$64,000,000 of this loan were taken in the State of Ohio. Whether that is correct or not I do not know. It seems to be a very large sum; but a very large amount of it was subscribed there by farmers and mechanics in small sums, from fifty to one thousand dollars.

The amendment of the Senator from New York would make it perfectly impossible to tell who was entitled to the remnant of the \$500,000,000 loan, and who fell beyond. It seems to me it is fairer and better to give to these men, who before notice was given of the expiration of this loan came forward and paid their money, the bonds in accordance with law, rather than to attempt to save a little money and retain from them what they are fairly entitled to, and thus make trouble and "confusion worse confounded." It will be impossible, as the Senator must perceive, to separate those who are entitled to this loan and who came within the \$500,000,000, and those who subscribed afterwards.

Mr. CLARK. I desire to make a suggestion to the Senate, and particularly to the Senator from New York, in regard to the faith of the Government about this loan; and I desire that Senators should keep in mind the time at which the transaction was entered into, which was, I think, some time in the month of October or November. I do not now remember the precise day when the subscription was concluded.

Mr. SHERMAN. In January.

Mr. CLARK. I think it was in January. At the time this money was subscribed for these bonds, when the Government took the money, this loan was not at par; it bore no premium. The Government had asked its citizens to subscribe for the loan, and they took the loan at par. I desire Senators to keep fully in mind that that was the time at which the obligation of the Government accrued to the men who subscribed for the fulfillment of that contract. It was in January when the money was subscribed and when the loan was not at par that the Government undertook to take the money and deliver these bonds. Now here is the point. The bond is now at a

premium. But suppose the bond had depreciated; suppose it had gone down to ninety cents; would the Government then have refunded, and said to the subscribers, "It is at your option to take the bond or not?" Certainly not. They would have insisted; they had the man's money; rightfully had his money; he had subscribed for his bond and agreed to take it, and here was his bond. We did not agree that it should be maintained at par, or he should take it if it was at par; but here is the bond; he must run the risk of the depreciation, and he must take the bond.

But, on the other hand, the bonds have appreciated. Now is it not rather a small matter for the Government to say, "It is very true when you paid your money the bonds were at par and you ran the risk of depreciation, but now it has appreciated a little and we are not going to give you the bond; we propose to place those eleven millions in the market and sell them? You shall not have the premium. We are going to give you your money and the interest back again, and we are going to keep the balance." Would that be a fair transaction among merchants? The Senator from New York is a merchant, and I ask him if that would be a fair transaction in the mercantile world? Should not the Government keep its faith?

If we had no more bonds to put upon the market, the consideration might be just whether we would be very liberal; but we have got many bonds undoubtedly to negotiate in the market. Those people who have come forward must come forward again. Is it worth while for us to say to them, "We will be niggardly with you; it is very true you came forward and subscribed for this loan when it was at par; it has appreciated a little; we will not let you have it; we will make the money out of it; you shall run the risk, but if there is any profit we will put it into our pocket?" I appeal to the Senator from New York if he would think that a very liberal or just mercantile transaction. I know the point he aims at. I know he is desirous of saving everything he can to the Government. So am I if it can fairly be done; but while we do that we must be very careful that we do not defeat the very object we aim at, and that is to get from our citizens a sufficient amount of money to answer the purposes of the Government in this great struggle.

Mr. MORGAN. I desire to say to the honorable Senator from New Hampshire that every subscriber to this loan, in whatever part of the country, was, on that last day, told that it was uncertain whether he could receive his bonds; that the money would be taken undoubtedly subject to be returned if there was an excess. I will say also to the Senator from Ohio that I never heard of a popular loan for which the bids were not in excess; but the Government always found means of returning the excess and reducing the amount to the proper sum. Very frequently in the States, when a loan of two or three millions is advertised, four or five million are bid for. Of course the actual amount required is the only amount issued. I think there will be no difficulty in this case; but still there may be. I am not aware of the difficulties raised by the Senator from Ohio.

Mr. SHERMAN. I will remark to the Senator that this is entirely different from a loan where the bids are all opened at one place, and where the lowest bidders are first taken, and so on up the scale until the loan is exhausted. Here the loan was subscribed all over the country, and the money was authorized to be deposited anywhere within the United States in the depositories of the United States, at St. Louis, Cincinnati, and various other places. It would be impossible, therefore, to tell even by telegraph precisely when the loan was exhausted. We could not ascertain when the \$500,000,000 was taken, except by a comparison with the books at the Treasury office. They could not tell it in New York, they could not tell it in Philadelphia, or anywhere, until by comparison at Washington they ascertained that the loan was taken; and that I understand was done on the 27th day of January last. Perhaps I do not give the precise date; but I think that was the date; and that very day telegraphic dispatches were sent all over the country to stop the subscriptions to this loan; but it was found that nearly ten or eleven millions were subscribed in excess, and the money was paid in.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from New York.

The amendment was rejected.

Mr. DAVIS. I will renew the proposition of the Senator from Indiana as an amendment, in line fifteen of the first section to strike out "six," and insert "five," so as to make the rate of interest five per cent. instead of six. Upon that proposition I wish to say a word. This bill authorizes the borrowing of \$200,000,000. The difference between five and six per cent. interest upon it is \$2,000,000, a sum well worth the attention of the Senate if it can be saved. Whether a financial measure of this character should contain a limit upon the rate of interest at which it should be negotiated, and what that limit should be, depends altogether upon the state of the money market.

I take it for granted that there cannot be any doubt upon this proposition, that there is a very large mass of capital in the United States seeking investment in Government securities, and at the present time that the amount which the owners of that capital thus desire to invest is largely above these \$200,000,000. I think, then, that there would be no doubt whatever that the Government would be able to negotiate the loan of these \$200,000,000 at five per cent. in the present state of the money market, unless, as in this case, the bill permits the Secretary of the Treasury to negotiate the loan at six per cent. My belief is that when a large amount of money is to be loaned, and the Government is to go into the market, in the position in which it is at present, for the purpose of borrowing, that the maximum rate of interest at which the loan is permitted to be made will in every case be found to be the minimum; and that if six per cent. is authorized by the terms of the bill to be given by the Secretary of the Treasury, he will not be able to negotiate it for a less rate of interest.

I reach that conclusion upon this reasoning: moneyed men that desire the investment of their capital will combine against the Government and against the Treasury. They will enter into a secret arrangement among themselves by which they will take the whole of the \$200,000,000 or a large proportion of it. They will make secret arrangements by which they will divide it out among themselves upon the understanding that they are to force the Secretary to give the six per cent. interest, and in that way they will be able to coerce and to control the Secretary of the Treasury to come up to that rate of interest. Why? They look into the law; they see that Congress contemplates that the Secretary may be forced to negotiate at the interest of six per cent.; they know that the Secretary will, if he cannot get it at a less rate of interest, agree to give that rate; they combine among themselves to an extent that enables them to control his action in relation to the loan and to coerce and to compel him to give the six per cent.

The gentleman from New York [Mr. MORGAN] I have no doubt is familiar with such transactions, and he knows how a combination of capital in that way will coerce the agents of the Government and the Secretary of the Treasury in negotiating large amounts upon a loan. But if the law itself contained an express and positive prohibition that the loan should not be negotiated at a greater rate than five per cent., those capitalists would at once perceive that their desire and their combination to obtain it at a greater rate of interest could not be made available, that it would not be practicable, and therefore they would refrain from entering into such a combination. But the amount of money in the country seeking investment in Government stocks being so large and the securities of the United States being so much more desirable to men who hold capital than to hold on to the greenbacks themselves, when they looked into the law and discovered that five per cent. was the maximum rate which the Secretary of the Treasury was allowed to give, they would immediately come to that rate, and take the loan at five per cent. In my judgment, if this bill is not made to assume that form, and there is not a positive and absolute restriction upon the discretion of the Secretary of the Treasury that he shall not negotiate the loan at a greater interest than five per cent., as certain as six is allowed by the terms of the bill, that will be the interest that will be agreed upon by the Secretary and capitalists, be-

cause capitalists by a strong combination will coerce and force him up to that rate of interest.

Under this view of the case, I think the amendment of the Senator from Indiana [Mr. HENDRICKS] is judicious. There might be a state of the money market in which that should not be the limit. There might be and often is a state of the money market when probably there ought to be no limit; but with the full and perfect knowledge which the Senate have of the present state of the money market and the amount of plethora in it in the form of greenbacks, the interest on this loan being bound to be paid in gold or its equivalent, it seems to me it would be unwise in the Senate of the United States not to fix the limit at five per cent. as the maximum, because I have the most perfect conviction that the loan could be obtained at that rate, and if that is not the rate established inflexibly by the bill that the loan will not be negotiated for less than six per cent.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Kentucky.

Mr. DAVIS. On that I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 6, nays 31; as follows:

YEAS—Messrs. Buckalew, Davis, Hendricks, Powell, Saulsbury, and Wright—6.

NAYS—Messrs. Anthony, Carlile, Chandler, Clark, Conness, Cowan, Dixon, Doolittle, Fessenden, Foster, Grimes, Harding, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Kansas, Morgan, Nesmith, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Willey, and Wilson—31.

So the amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

INTERNAL REVENUE.

The VICE PRESIDENT. The special order is the report of the second committee of conference on the bill (H. R. No. 122) to increase the internal revenue, and for other purposes; upon which the Senator from Ohio [Mr. SHERMAN] submitted the following resolution:

Resolved, That the Senate further insist on its amendments, disagreed to by the House, and ask another conference; and the conferees on the part of the Senate are instructed to agree to proper amendments to the amendments of the Senate disagreed to by the House, providing for a tax of twenty cents a gallon on spirits on hand.

Mr. SHERMAN. After consultation, I have concluded to withdraw the instruction asked for, with a view to let the House of Representatives act on the subject in the first instance. I simply ask that the report of the committee of conference showing the disagreement be concurred in, so that it may go to the House of Representatives for that House to take a definite position.

The VICE PRESIDENT. The Chair will inquire of the Senator what there is for the Senate to concur in?

Mr. SHERMAN. There is nothing. I withdraw the resolution containing the instructions.

The VICE PRESIDENT. It seems to the Chair that there is no question for the Senate upon the report of the committee of conference. The committee simply report the fact of their disagreement.

Mr. SHERMAN. But the bill, with the report, ought to be sent to the House of Representatives, and that House may then ask for another conference.

The VICE PRESIDENT. The Senator may submit that motion, that the report and bill be sent to the House of Representatives.

Mr. SHERMAN. I do submit that motion, that the report and bill be sent to the House of Representatives for action; and then they may ask for a further conference.

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio that the bill and report be sent to the House of Representatives.

The motion was agreed to.

E. F. AND SAMUEL A. WOOD.

Mr. ANTHONY. Now I ask the Senate to indulge me by taking up and passing bill No. 105, which I wished to get up in the morning hour. I move to take it up.

The motion was agreed to; and the bill (S. No. 105) for the relief of E. F. and Samuel A. Wood was read the second time, and considered as in

Committee of the Whole. It proposes to direct the Secretary of the Treasury to issue, or cause to be issued, executed, and delivered, to E. F. and Samuel A. Wood duplicates of the following described bonds of the United States of America, Treasury Department, for the Oregon war debt, issued under an act of Congress approved March 2, 1861, payable at any time after July 1, 1881, at the Treasury of the United States, with interest at the rate of six percent. per annum, namely: Nos. 1329 and 1334 to 1338, inclusive, for the sum of \$500 each, and No. 271 for fifty dollars, dated Washington, March 24, 1862, and Nos. 1352 to 1359, inclusive, for \$500 each; No. 665 for \$100, and No. 266 for fifty dollars, dated Washington, March 24, 1862, and No. 877 for \$100; No. 400 for fifty dollars, dated Washington, May 22, 1862, and each and severally signed L. E. Chittenden, Register of the Treasury, entered R. E., recorded J. O., with thirty-seven interest coupons attached to each of the \$500 bonds for fifteen dollars each, payable semi-annually; eighteen interest coupons attached to bond No. 665, and nineteen interest coupons attached to bond No. 877 for six dollars each; eighteen interest coupons attached to bonds Nos. 266 and 271; nineteen interest coupons attached to bond No. 400 for three dollars each, payable annually; all of which coupons are signed "G. Luff, for the Register of the Treasury;" in all nineteen Oregon war bonds, amounting to the sum of \$7,350; but before the issue of duplicate bonds E. F. and Samuel A. Wood, or either of them, must execute, or cause to be executed, and deposited with the Secretary of the Treasury, to his full acceptance and satisfaction, such bond of indemnity as is usually required by the regulations of the Treasury Department for the issue of duplicate certificates of inscribed stocks and bonds.

Mr. JOHNSON. Were the original bonds lost?

Mr. CLARK. Yes, sir.

Mr. ANTHONY. It is a case where the memorialists mailed at San Francisco for New York certain Oregon war debt bonds, and sent them by the steamer Golden Gate, which with her mails was lost. The evidence that the bonds were mailed is perfect, taken before a notary, attested by the notarial seal, and the proof of the whole transaction is complete. The bill provides that duplicates shall be issued on the memorialists filing a bond with the Secretary of the Treasury satisfactory to him, to reimburse the United States in case the originals shall ever appear. Such is the usual practice of the Department in such cases, I believe.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time, and passed.

LAND GRANT TO A MINNESOTA RAILROAD.

Mr. RAMSEY. I desire to call up Senate bill No. 31, making a grant of lands to the Lake Superior and Mississippi Railroad Company, in the State of Minnesota, to aid in the construction of the railroad of said company from St. Paul to Lake Superior, with a view of modifying an amendment which I offered several days since, and having it printed.

The motion to take up the bill was agreed to.

Mr. RAMSEY. I propose now to amend the amendment of the Committee on Public Lands in the first section by striking out after the word "Minnesota" to the end of the section, and inserting what I send to the Chair; which I desire to have printed.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The proposed amendment will be read.

Mr. HARLAN. I understand that the Senator from Minnesota merely desires to have his amendment printed, and then will permit the bill to go over.

Mr. RAMSEY. That is what I desire.

The amendment was ordered to be printed.

Mr. HENDRICKS. I understand that this is a very material amendment to the bill, changing it in important particulars. If so, it ought to go to the Committee on Public Lands.

Mr. RAMSEY. It is not material. It is a very slight alteration of the original amendment.

Mr. HARLAN. I suggest to the Senator from Indiana that when the amendment shall have been printed we can then see what it is, and if it shall be necessary to refer it he can then make the motion.

Mr. DOOLITTLE. I have no objection to the motion to print, but I want the bill then to be laid over.

The further consideration of the bill was postponed till to-morrow.

POST ROADS IN NEW JERSEY.

Mr. WILSON. I move that the bill (S. No. 102) to establish certain post roads, to regulate commerce among the States, and for other purposes, be taken from the table and referred to the Committee on Military Affairs and the Militia. It was laid upon the table on my motion.

The motion was agreed to.

MARGARET M. STAFFORD.

Mr. SHERMAN. I ask the indulgence of the Senate to pass a bill granting a pension to the widow of a man who was killed in the service of the Government, which was reported by the Committee on Pensions yesterday morning. The case is a very clear one, and I hope the bill will be passed at once. I move that Senate bill No. 139 be now taken up.

The motion was agreed to; and the bill (S. No. 139) for the relief of Margaret M. Stafford, widow of Reuben Stafford, of Coshocton county, Ohio, was read the second time. It is a direction to the Secretary of the Interior to place the name of Margaret M. Stafford, widow of Reuben Stafford, of Coshocton county, Ohio, on the pension roll, at the rate of eight dollars per month, to commence on the 26th of August, 1863, and to continue during her widowhood.

Reuben Stafford was requested by the deputy provost marshal, in accordance with instructions from the district provost marshal, under paragraph twenty-five of instructions to provost marshals, to assist in arresting a number of drafted men in Crawford township, in Coshocton county, Ohio. Stafford, while attempting to arrest two drafted men, was instantly killed by them while in the faithful discharge of his duty. The committee think that the duty in the performance of which the husband of the petitioner was killed was a part of the military service of the United States, and on that ground the bill is based.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time, and passed.

SALE OF LIQUOR TO INDIANS.

Mr. DOOLITTLE. I ask the Senate to take up and pass a bill which was reported this morning from the Committee on Indian Affairs. It will take but a moment. It has but a single object. It is simply to amend the existing law for the punishment of the offense of selling liquor to Indians, by conferring jurisdiction on the circuit as well as the district courts of the United States. The only change it makes in the existing law is to insert the two words "or circuit," so that the indictment may be in the proper district or circuit court. I move to take up the bill.

The motion was agreed to; and the bill (S. No. 120) to amend an act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June 30, 1834, was considered as in Committee of the Whole. It proposes to amend the twentieth section of the act of June 30, 1834, so as to read as follows:

Sec. 20. And be it further enacted, That if any person shall sell, exchange, give, barter, or dispose of any spirituous liquor or wine to any Indian under the charge of any Indian superintendent or Indian agent appointed by the United States, or shall introduce or attempt to introduce any spirituous liquor or wine into the Indian country, such person on conviction thereof before the proper district or circuit court of the United States shall be imprisoned for a period not exceeding two years, and shall be fined not more than \$300. *Provided, however,* That it shall be a sufficient defense to any charge of introducing or attempting to introduce liquor into the Indian country if it be proved to be done by order of the War Department or of any officer duly authorized thereto by the War Department. And if any superintendent of Indian affairs, Indian agent, or sub-agent, or commanding officer of a military post, has reason to suspect or is informed that any white person or Indian is about to introduce or has introduced any spirituous liquor or wine into the Indian country in violation of the provisions of this section, it shall be lawful for such superintendent, Indian agent, or sub-agent, or commanding officer, to cause the boats, stores, packages, wagons, sleds, and places of deposit of such person to be searched, and if any such spirituous liquor or wine is found therein, the same, together with the boats, teams, wagons, and sleds used in conveying the same, and the peltries of such person, shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited,

one half to the use of the informer, and the other half to the use of the United States, and if such person is a trader, his license shall be revoked and his bond put in suit. And it shall moreover be lawful for any person in the service of the United States or for any Indian to take and destroy any ardent spirits or wine found in the Indian country, except such as may be introduced therein by the War Department. In all cases arising under this act, Indians shall be competent witnesses.

Mr. CONNESS. In the latter part of the section, where it reads that "it shall, moreover, be lawful for any person in the service of the United States" to destroy liquor found in the Indian country, I move to amend by striking out "lawful for" and inserting "duty of," so that it shall be the duty of officers to do the thing required.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

EXECUTIVE SESSION.

Mr. SUMNER. I move to take up the bill (S. No. 53) for the relief of Henry P. Blanchard, reported from the Committee on Foreign Relations.

The motion was agreed to.

Mr. GRIMES. The Senator from Massachusetts, I apprehend, has accomplished all that he is desirous of accomplishing now; he has got the bill before the Senate. There is evidently not a quorum here, and I am unwilling to go on any longer in the transaction of public business without a quorum. I therefore move that the Senate proceed to the consideration of executive business. I think the business that will come up in executive session will be such that a majority will soon be present after the doors are closed.

Mr. SUMNER. This is a small bill which I think can be acted on in three or four minutes; it is a bill for the relief of an individual; the facts are very few, the case simple, justice clear; and there is a very brief report which the Senator can hear if he requires it.

Mr. JOHNSON. I understand the member from Iowa to propose to go into executive session and not to go on with the present bill, because there is not a quorum present; he is unwilling to do any business in open session for that reason. I want to know if there is to be any business done in executive session.

Mr. GRIMES. I think that if we go into executive session we shall soon have a quorum by sending out for members who are in the building. The bill of the Senator from Massachusetts may be a very small bill in its amount; but it may establish important principles, and I do not think it right for us to go on here in the transaction of business with not more than twenty Senators present. The bill can wait; it will come up as a matter of course in the morning.

Mr. SUMNER. Very well; I will make no further objection.

The motion of Mr. GRIMES was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 1, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

EVENING SESSIONS.

Mr. PRICE. I ask unanimous consent of the House to introduce the following resolution:

Resolved, That hereafter, for the purpose of facilitating business and effecting an adjournment as early as the first week in May, this House will hold night sessions as often as four nights in each week, commencing with Wednesday night, March 2, and will also hold sessions on every Saturday until the time of adjournment.

Mr. ELDRIDGE. I object.

EXCHANGE OF BONDS.

Mr. F. CLARKE, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means are hereby instructed to inquire into the expediency of establishing an office in the city of New York, under the direction of the United States Assistant Treasurer in that city, for the transfer of Government bonds; and also as to the expediency of authorizing the exchange of registered and coupon bonds, one for the other, as holders may desire; and report by bill or otherwise.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. NICHOLAY, his Private Secretary; also a message notifying the House that he had approved and signed, on the 27th ultimo, bills and resolutions of the following titles:

An act (H. R. No. 26) reviving the grade of lieutenant general in the United States Army;

A joint resolution (H. R. No. 42) authorizing the payment of prize money, due to Commander Abner Read, United States Navy, to his widow, Constance Read; and

An act (H. R. No. 230) to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes.

FRAUDS UPON THE REVENUE.

Mr. WASHBURN, of Illinois. I ask the unanimous consent of the House to have read for the information of the House a letter from the Secretary of the Treasury in regard to a fraud upon the revenue. I hope members will pay attention to it.

The Clerk read, as follows:

TREASURY DEPARTMENT, February 29, 1864.

SIR: It is reported to me from authentic sources that many of the vessels employed in the cod-fisheries are in the habit of procuring salt, for the purpose of curing their fish, at ports in the British provinces, thereby evading the import duty laid upon salt coming into the United States from foreign ports; and upon their return from fishing voyages the salt thus procured, being incorporated with the fish, cannot be considered a dutiable article; and they claim the allowance of bounty the same as if they had purchased their salt at United States ports.

Although the practice is plainly at variance with the spirit of the laws regulating the allowance of fishing bounties, there does not appear to be any provision of law directly forbidding it.

I have therefore the honor to submit the inclosed draft of a bill providing that no bounty shall hereafter be allowed except in case the claimant shall have furnished satisfactory proof that the foreign salt used in curing the fish, upon which the claim is based, has paid an import duty to the United States; and I request that it may be presented for the action of Congress as promptly as possible, in order that, if passed, it may become operative at the commencement of the ensuing fishing season.

I am, very respectfully, S. P. CHASE,
Secretary of the Treasury.

Hon. E. B. WASHBURN, Chairman Committee on Commerce, House of Representatives.

Mr. WASHBURN, of Illinois. If there be no objection, I will introduce a bill to prevent that fraud.

Mr. PRICE. I object.

Mr. COX. There will be no objection if the gentleman will amend the bill so as to repeal the codfish bounties altogether. We are all opposed to them.

Mr. WASHBURN, of Illinois. I offer the bill on my own responsibility. The House is in possession of the facts. It does not come from the Committee on Commerce.

Mr. PRICE. I withdraw my objection.

Mr. SWEAT. I object to it.

DUTY ON SALT.

Mr. ELIOT. I call for the regular order of business.

Mr. DRIGGS. I ask the gentleman to withdraw that call for the present. I was not present yesterday when Michigan was called for resolutions. I ask unanimous consent to offer a resolution now.

Mr. ELIOT. I withdraw it for that purpose, if there be no objection.

Mr. DRIGGS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas our home-manufactured article of salt is heavily taxed to support the Government, while the cost of manufacturing is largely increased, and the sales necessarily diminished by reason of the competition of foreign salt, which pays no more duty than was exacted before the increased tax was imposed upon the home article; and whereas we believe it to be the duty of Congress while devising ways and means to meet the extraordinary demands upon the Treasury to see that no unjust discriminations are made so that foreign manufacturers may derive a benefit from the misfortunes of our own: Therefore,

Resolved, That the Committee of Ways and Means be instructed to inquire into the justice and expediency of levying an increased duty of ten cents per bushel on all salt imported into the United States, or such other amount as they may deem just; and to report to this House by bill or otherwise.

Mr. MORRILL. I wish to state there is a misstatement in the resolution, for the duty has been increased, and is now more than ten cents a bushel. I do not object to the resolution.

ADJOURNMENT OF CONGRESS.

Mr. BRANDEGEE. I ask the unanimous consent of the House to introduce the following resolution:

Resolved by the Senate and House of Representatives, That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the 30th day of April next, at twelve o'clock meridian.

Mr. HOLMAN. I object.

The SPEAKER. It is a resolution of privilege. Mr. HOLMAN. The gentleman from Massachusetts has called for the regular order of business.

The SPEAKER. The gentleman withdrew it and this resolution intervened. It has always been looked upon as a privileged question.

Mr. HOLMAN. I move that the resolution be laid upon the table.

Mr. STEVENS. I ask the gentleman to let me say a word.

Mr. HOLMAN. Certainly. I withdraw the motion to lay upon the table for that purpose.

Mr. STEVENS. If the gentleman from Connecticut will make it May instead of April I will vote for it with pleasure.

Mr. BRANDEGEE. I accept that amendment.

Mr. STEVENS. Say the last day of May.

The SPEAKER. The last Monday of May at noon.

Mr. BRANDEGEE. I want to fix a good time and work up to it. I accept the last Monday of May at noon as the time.

The SPEAKER. It has been usual to fix on Monday. The 30th of May falls on Monday.

Mr. HOLMAN. I am opposed to fixing a day for adjournment of Congress at so early a day of the session. The effect will be to furnish a reason for passing measures of importance with little consideration. The gentleman says he wants to fix a day and to work up to it. We have seen the extraordinary haste with which appropriation bills have been sought to be forced through this House; and I am unwilling for one that this kind of argument shall be furnished for cutting off legitimate and fair consideration of matters of grave public legislation. On that account I move to lay the resolution on the table.

Mr. THAYER. I suggest to the mover of the resolution that he alter it to "Tuesday, May 31, at noon."

Mr. BRANDEGEE. I accept that suggestion. The motion to lay on the table was not agreed to.

Mr. BRANDEGEE. I demand the previous question upon the passage.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was passed.

Mr. WILSON moved to reconsider the vote last taken, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. ELIOT. I call for the regular order of business.

Mr. FENTON. Will the gentleman give way a moment that I may offer a resolution?

Mr. ELIOT. I will yield this time, but I cannot give way any more.

DUES TO DECEASED SOLDIERS.

Mr. FENTON asked unanimous consent to introduce the following resolution:

Resolved, That the Committee on Military Affairs be requested to ascertain what legislation, if any, is necessary to authorize and require the payment of the certificates, issued by the Second Auditor and Second Comptroller of the Treasury, for arrears of pay and bounty due deceased soldiers on presentation thereof to any paymaster of the Army in the city of Washington, as well as in the district where the claimant resides.

Mr. BROOKS objected.

Mr. ELIOT. I now demand the regular order of business.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced that the Senate have passed a joint resolution (H. R. No. 35) of thanks of Congress to the veteran soldiers who have re-enlisted in the Army, without amendment.

Also, that the Senate have passed an act (No. 140) to provide for the protection of the overland emigration to the States and Territories of the Pacific; in which the concurrence of the House was requested.

FREEDMEN'S AFFAIRS.

The SPEAKER. The regular order of business is the call of committees for reports, and under that call the House resumes the consideration of a bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs, upon which the gentleman from Illinois [Mr. KNAPP] is entitled to the floor.

Mr. KNAPP addressed the House in opposition to the bill. [His remarks will be published in the Appendix.]

Mr. PRICE. Mr. Speaker, when the bill for the creation of a Bureau of Freedmen's Affairs was introduced it was my intention to do as I have heretofore done since I took my seat in this House, examine the subject carefully and cast my vote as my judgment should dictate, without taking up any of the time of the House by remarks of mine. But, sir, the singular course pursued by some gentlemen on the other side has induced me to change my purpose.

This bill opens up a new field for legislation, and the subject of its provisions and the objects contemplated are such as to call for the fullest exercise of prudence and caution. I presume the people of the country for whom we are legislating expect that we are carefully and honestly examining the questions involved in the provisions of this bill, and endeavoring by a comparison of ideas to arrive at such conclusions as will be promotive of the best interests of our common country.

We find ourselves, in this trial hour of the Republic, surrounded by facts and circumstances such as our fathers dreamed not of, such as never before existed, and we are consequently without precedents to guide us; and it remains to be seen whether we are equal to the task of piloting the vessel through the storm and bringing her to a safe anchorage.

When seas are calm, and skies are clear, the veriest novice may sail the vessel safely; but when the lightnings flash and the thunders roar, and sea and sky seem to meet and tremble in each other's embrace, keeping time to the music of heaven's artillery, it is then that stout hearts and strong arms are needed to man the yards and furl the sails and guide the vessel to a secure harbor.

This wicked rebellion, forced upon us against our will, and in violation of all law, both human and divine, has upheaved and unsettled the very foundations of society, and thrown its component parts into chaotic wildness, and forced upon us the necessity of reorganization.

This requires action, effort, arduous and self-sacrificing it may and no doubt will be. But shall we therefore shun it? Shall we prove to a world of witnesses, who are anxious spectators, our degeneracy by endeavoring to avoid the responsibility thus thrust upon us? Shall we waste time by inaction, indecision, fault-finding, and charging the difficulties under which we labor to this or that cause? Or shall we not rather go to work like men to correct the evils and bring order out of confusion?

The bill before us proposes simply an organization to direct in a proper channel the physical, the bone-and-sinew energy of the black race who have been made free by the fortunes of war—only this and nothing more. The stock in trade of these people consists almost entirely of muscle; their manner of life heretofore, loaded with manacles and groaning under the lash, has not been favorable to mental development and a business education. They must have assistance now that their stock in trade may be made available; and it would seem as though the only question to be settled is not whether it shall be done, but how shall it be done?

But, sir, we are met at the very threshold of this discussion with objections, not as to the manner of doing it, but objections to doing it at all.

The gentleman from Ohio says there is no provision in the Constitution for this Bureau of Freedmen's Affairs. I grant there is no specific provision for this purpose, neither is there for saving the passengers and crew of a sinking ship, or extinguishing a conflagration, or doing a thousand other things that require to be done; and yet if the necessity existed for any or all of these, and they could not be done without congressional action, I presume we should act without any specific constitutional provision.

But, Mr. Speaker, the great, the overshadowing, the all-prevailing objection to lending a help-

ing hand to these unfortunate people to enable them to take care of themselves is, that it will involve the nation in the vortex of miscegenation, a new name, sir, for an old thing. But will the establishment of this bureau necessarily lead to this result? Does any sane man believe it? Are not the facts of history and the proofs of observation all against the conclusion? Does not the history of our own country prove, beyond successful contradiction, that the establishment of a bureau for the sale of the slave has produced the very results which the gentleman from Ohio [Mr. Cox] seems so much to dread, while in States where the negro has been free no such results have been produced?

These are facts which have passed into and become part of history, known and read of all men. Slavery, sir, negro slavery, has in the last three fourths of a century produced in this country near half a million of a mixed race; and yet, with these facts staring us in the face, and making us as a nation a hissing and a by-word, we hear no sound, no whisper of disapprobation from those who hold to the political faith of the gentleman from Ohio. As long as the negro was fettered and lashed, as long as the clank of his manacles could be heard wafted upon every breeze, ay, sir, the very breezes which caused the flag above you to curl like a wave of the ocean, so long as the slave-pen stood yawning beneath and in the very shadow of the churches of this God-given heritage of ours, so long as men and women and children of all ages, conditions, and colors, ay, sir, colors through every change and grade and hue, from jet black to Caucasian white, were exhibited and sold upon the slave auction-block, so long these gentlemen were as silent as a charnel house as to mixed races. They read "the Constitution as it is" in such an accommodating manner as to persuade themselves that "black was not black, nor yet was white so very white." But the moment the fetters are knocked off, the moment the black man begins to breathe the free air of heaven, the moment he begins to exercise some ownership over his own bones and blood and muscles, these guardians of the Constitution take the alarm. That moment this raw-head and bloody-bones of miscegenation, amalgamation, and all the other *ations* are paraded with a flourish of trumpets before this House and the country with a view, I suppose, to scare some men from their propriety.

The fulmination of the home-made thunder, the reverberations of which have been heard for many months in every part of our land, have not as yet, I believe, done much serious damage. If the gentleman from Ohio [Mr. Cox] is to be believed, the calamities which are to follow the passage of this bill are twofold: first, the negro is to be destroyed, is to die. But that no injustice may be done that gentleman, I give his own language:

"But, sir, if slavery is doomed, so, alas! is the slave. No scheme like this bill can save him. The Indian reserves, treaties, bounties, and agencies did not and does not save the red man. No Government farming system, no charitable black scheme, can wash out the color of the negro, change his inferior nature, or save him from his inevitable fate. The irrepressible conflict is not between slavery and freedom, but between black and white, and, as De Tocqueville prophesied, the black will perish."

That might be supposed to be the end of him. If he is "doomed" and he "perish," might we not reasonably expect to be rid of him for this world? But no, it seems not; for a little further on this same gentleman says to us who favor this bill, "Now you are in the millennial glory of abolition; so it will be hereafter with amalgamation."

I might hurl back with scorn and contempt the foul slander in his teeth, but I do not consider it my business to bandy epithets. I understand my business here to be of a different character, and I say to that gentleman now and here, that if he will devise a better plan for the accomplishment of the object sought than is found in the bill before the House, he can count on my vote for it. But when I asked that gentleman the other day how both these objects were to be accomplished, first, the destruction, the annihilation of the black race, and then, hereafter, the "millennial glory of amalgamation," I received for answer that "they will all run, according to the new gospel of abolition, into the white people on that (our) side of the House." This answer may be smart, may be sensible, may be courteous, gentlemanly, and statesmanlike, but I confess I lacked then, and do now, the penetration to perceive it. Ac-

cording to this new theory the negro is dead to-day and alive to-morrow; "all things by turns, and nothing long;" either dead or alive, black or yellow, to suit the wishes or the fancy of these defenders of the "Constitution as it is." These men have millions for slavery, but not one cent for freedom.

In another part of his speech the gentleman from Ohio was led into a train of thought and expression which, in my opinion, were very unfortunate for him. He quoted from his pamphlet, his text-book on that occasion, these words, "the practical recognition of the brotherhood of all the children of a common Father," and proceeded to say, "just what our miscegenetic Chaplain prays for almost every morning, and you all voted for him, even some of my friends from the border States."

Now, what is there in this that is objectionable? Is it the expression "children of a common Father?" Does that form of expression grate harshly on the highly-polished sensibilities of that gentleman? Has he never, in his reading of history, met with similar expressions and entered no protest against them? If not, allow me to read a short extract, for his benefit and the benefit of those who sympathize with him, from the words of one who in times past was good authority for Democrats, and is good authority for genuine Democrats to-day:

HEADQUARTERS SEVENTH MILITARY DISTRICT,
MOBILE, September 21, 1864.

To the Free Colored Inhabitants of Louisiana:

Through a mistaken policy you have heretofore been deprived of a participation in the glorious struggle for national rights in which our country is engaged. This no longer shall exist.

As sons of freedom you are now called upon to defend our most estimable blessing. As *Americans* your country looks with confidence to her adopted children for a valorous support as a faithful return for the advantages enjoyed under her mild and equitable Government. As fathers, husbands, and brothers, you are summoned to rally round the standard of the eagle to defend all that is dear in existence.

Your country, although calling for your exertions, does not wish you to engage in her cause without remunerating you for the services rendered. Your intelligent minds are not to be led away by false representations; your love of honor would cause you to despise the man who should attempt to deceive you. In the sincerity of a soldier and the language of truth I address you.

To every noble-hearted freeman of color volunteering to serve during the present contest with Great Britain, and no longer, there will be paid the same bounty in money and lands now received by the white soldiers of the United States. The non-commissioned officers and privates will also be entitled to the same monthly pay and daily rations and clothes furnished to any American soldier.

On enrolling yourselves in companies the major general commanding will select officers for your government from your white fellow-citizens. Your non-commissioned officers will be appointed from among yourselves.

ANDREW JACKSON.

But, sir, it may be urged by those who oppose this bill, and who are horrified at calling black men "adopted children" and "fellow-citizens," that this was an experiment of Old Hickory's, and that after trying it once he never would have indorsed the same course again. But this objection is answered and silenced by the fact that the old hero subsequently issued the following "proclamation to the free people of color:"

"Soldiers! when, on the banks of the Mobile, I called upon you to take up arms, inviting you to partake of the perils and the glory of your white fellow-citizens, I expected much from you, for I was not ignorant that you possessed qualities most formidable to an invading enemy. I knew with what fortitude you could endure hunger and thirst, and all the fatigues of a campaign. I knew well how you loved your native country, and that you had, as well as ourselves, to defend what man holds most dear, his parents, relations, wife, children, and property.

"You have done more than I expected. In addition to the previous qualities I before knew you to possess, I found, moreover, among you a noble enthusiasm which leads to the performance of great things.

"Soldiers! the President of the United States shall hear how praiseworthy was your conduct in the hour of danger, and the representatives of the American people will, I doubt not, give you the praise your exploits entitle you to. Your general anticipates them in applauding your noble ardor."

Such, Mr. Speaker, was the language of the hero of New Orleans; such the sentiment of a patriot and soldier—"adopted children," "fellow-citizens," "Americans," &c., &c. And yet I believe his Democracy was never doubted. How comes it, then, that in these last days men calling themselves Democrats are so much shocked if our Chaplain prays for the "children of a common Father?" Verily these men have the "form of Democracy without the power," the shadow without the substance.

But as another reason why this bill should not

pass, we are told that because the Indians as a race of people are passing away, so necessarily will the negro, if made free. I undertake to say there is no parallel between the two cases. The Indian is of a roving and unsettled nature, not domestic in his habits. The negro is the very reverse of this. The Indian accumulates no property, the negro does. Upon these points there is no room for conjecture; the experiment has been tried. The Indian absorbs the vices without the virtues of the white man, and is fast passing from the earth to the land of the great hereafter.

The negro has learned to live with and copy the virtues as well as the vices of the white man. He is careful, kind, and affectionate in his disposition. He seeks a fixed habitation, he accumulates property, he grows rich, he builds churches and school-houses, and he feeds, clothes, and educates his children as the white man does.

But hear the gentleman from Ohio again. He says:

"When the party in power by edict and bayonet, by sham election and juggling proclamation, drag down slavery, they drag down the very genius of our civil polity, local self-government. They strike constitutional liberty in striking at domestic slavery."

These are strange sentiments to be proclaimed in the Capitol of the nation boasting of civil and religious liberty—the Capitol whose summit is crowned by a statue representing the goddess of Liberty. According to this doctrine the "genius of our civil polity" is dependent for its existence upon human slavery. "Domestic slavery" is not only the "corner-stone" but it is the support and protection of constitutional liberty. What a paradox! What political heresy! What an insult to common sense!

But, Mr. Speaker, the action of the border States seems to trouble some of the gentlemen who oppose this bill; not only the gentleman from Ohio who wrote a book, but also the gentleman from New York of the smooth sentences and many languages, feels much aggrieved by the action of these States, and now we cannot have a discussion as to the necessity and propriety of establishing a bureau for the purpose of enabling men long bound, but now free, to take care of themselves, without lugging in a certain quantity of abuse of the border States.

I do not name this, sir, for the purpose of defending those States. No, sir; there is no need of that. This would be a work of supererogation. The border States are here in the persons of their Representatives, equal to the men of any State upon this floor, able and willing to take care of themselves; men with whom I am proud to be allowed to act; men who, when commanded to bow down and worship the image which traitors had erected, refused, bravely, boldly, nobly refused, and refused, too, in sight of the furnace of persecution heated seven times hotter than ever before, and through which they knew they must pass. They have passed. The protecting angel of liberty and patriotism was with them, shielding and protecting them, and to-day they are here without the smell of fire upon their garments. But I refer to this attack of the gentleman from Ohio upon the border States for a different purpose, namely, the corruption produced upon them by the "greenbacks." His language is:

"Judging by what we daily see here in this House, the border States, through the blandishments of power, the fear of ruin, the tyranny of the bayonet, and the corruption of greenbacks, are, I think, gradually being persuaded to yield before the genius of universal emancipation."

These greenbacks, sir, must possess very singular as well as very powerful qualities. To-day they are "trash," "rag currency," "worthless," and to-morrow they are corrupting the entire border States, and by the witchery of their power seducing the entire border line (behind which these gentlemen expected to take shelter) into the support of "universal emancipation." If they possess so much power they cannot be altogether worthless.

This bureau is to be established because the abolition of slavery has set free thousands of persons, who, having heretofore labored for others, must now be directed how they are to help themselves. The gentleman of many languages, from New York, accepts the fact that slavery is abolished, and declares his intention of abandoning a hobby so long and so successfully ridden, and to go before the country on different issues and a different platform. And here it is worth a pass-

ing notice, that when the institution is no longer likely to be of any service to this class of politicians, they are ready to acknowledge, what has all along been claimed by the most ultra abolitionists, namely, that the preaching on the Mount of Olives and on Mars Hill was calculated to abolish slavery; not suddenly, but gradually, this gentleman says. I say to him that "the times of this ignorance God winked at, but now commands all men (even Calhoun Democrats) everywhere to repent," so that a "nation may be born in a day."

I have looked through that gentleman's speech for the material out of which to manufacture this new platform, and find what I suppose to be one of the planks. I give his language:

"Before we have finished this war the debt will be \$4,000,000,000—a huge, monstrous, and crushing debt—which will inflict upon posterity, upon my children, upon your children, and their children hereafter, for hundreds of years, taxation under which they will groan as negro slaves have groaned under the white master; a tax of thirty cents on the day-laborer's dollar."

What does this mean? Has the gentleman looked into the future and fixed the time when this war is to cease? Can it not stop until the national debt reaches \$4,000,000,000? If that is so, if the fiat has gone forth from the powers at Richmond and their friends here that that is the point, then the sooner we make the debt that amount the better. Or does the gentleman wish the impression to go abroad to the country that our national debt is now about that amount? Has his fertile imagination so soon created "sixteen men in buckram?"

And then, Mr. Speaker, this debt is to burden our children and our children's children for hundreds of years, taking thirty cents out of every dollar earned by the day-laborer. I am fearful that that gentleman has cultivated his knowledge of the languages to the neglect of his knowledge of arithmetic. This thirty cents out of the day-laborer's dollar, I suppose, is to be the battle-cry of this new party, or rather an old party with a new name. The toiling millions are to be told that they will be compelled to pay thirty cents out of every dollar of their hard-earned wages. That will do. That will bring votes, if you can make them believe it. But I think the gentleman miscalculates, for while the masses may not be able to quote Latin, French, and Arabic as readily as he does, yet they know the multiplication table, and are able to detect all such shallow attempts to catch their votes.

How will this look when you apply the figures to it? If we call the population thirty millions, at an estimate of one dollar per day for one third of them and nothing for the other two thirds, then estimate the taxable property at \$20,000,000,000, and tax it one dollar on a hundred, one tenth of what Jeff. Davis does, and then take thirty cents on the dollar, as proposed by the gentleman from New York, and in four years we should pay off the entire national debt, and have \$400,000,000 over. Then what becomes of this "crushing, monstrous debt?" "for hundreds of years upon our children and our children's children?"

But the debt is not \$4,000,000,000, nor is it the half of it; and that gentleman knows this as well as any person living, and he knows also that it is not expected or intended to pay this debt all off in a few years, but merely pay the interest, and provide a small sinking fund, which can be done without affecting the day-laborer's dollar. This talk about the day-laborer's dollar is all clap-trap manufactured for the occasion. There is not a country in the world to-day where the laboring classes are so well paid as in this country, and they know it and appreciate it, the clamor of demagogues to the contrary notwithstanding.

Again, sir, there is another feature connected with this country that is cheering to the heart of every patriot. We have been engaged in a war of immense magnitude for near three years, and yet the bonds of the Government are worth more to-day than when the war began. No other country in the world ever made such an exhibit. It is worse than folly, sir, to talk of bankrupting a people whose fields teem with abundance of the necessities and comforts of life, and whose mines excel in richness those of Golconda. No, sir. Give us but a united people, standing shoulder to shoulder, not sympathizing with rebels, not making speeches which are cheered in Richmond, but honest and earnest in their efforts to suppress re-

billion and maintain the supremacy of the laws, and we need have no fear of national bankruptcy. A common-sense examination of this monster bankruptcy will find it as unsubstantial as the baseless fabric of a vision.

The objects contemplated in the bill now before us will cost something, I grant. But, sir, it is an incident to the war, and we cannot avoid it if we would. And the cost need be but trifling, and after the first year nothing. These people will rapidly learn to take care of themselves. Some of them have taken care of their masters and their masters' families for years, and consequently are now well qualified to take care of themselves, and with a very little encouragement the balance will soon learn. Besides, sir, there are some things worth more than gold, among which are "life, liberty, and the pursuit of happiness."

Is it possible, sir, that we must contend with these gentlemen at every step? First, we must have no coercion; our southern brethren must be allowed to do as they pleased. They could fire upon the old flag, the ensign of our nationality; but if we attempted to restrain them, we were charged with violating the Constitution. Second, we must be very careful to guard the property of rebels, and see to it that all their men and women property were kept at home, and when Order No. 3 was issued they were hugely pleased—an infamous order, sir, and loyal and true men all over the country wonder its author is still kept in power; an order that has cost us the lives of thousands of good and true men. Next, when necessity compelled them, they agreed the negro might dig, drive, and cook, but he must under no circumstances fight. Finally, when we have driven them from all these positions inch by inch, and we come to a point where it is necessary to set the negro to work to do something for himself and for the country, these gentlemen's hands are raised in holy horror for fear the Constitution will suffer, and the "day-laborer's dollar" be taxed. Oh, ye lovers of the people and defenders of the Constitution, ye time-servers, ye sunshine, ye holiday friends, ye criers of hosannah to-day and crucifiers to-morrow, the people, the country understand you. Your day of power has passed; your glory has departed; Ichabod is written upon your old temples, and ye may well seek for other issues and another platform to keep your devoted heads above the accumulating waves of oblivion which are about to roll over you.

But, sir, this bill will pass.

"In spite of rock or tempest's roar,
In spite of false lights on this floor,"

it will overcome the law of the land. The industrial energies of the nation will be set in motion, and good will be achieved. Yes, sir, the clouds are lifting, rebellion recedes, redemption draws nigh. The rays of glory are already brightening the horizon with their splendor, and a proper exercise of vigilance on our part will work from the important events now transpiring around us the great problem of man's political salvation.

RE-ENLISTED VETERANS.

The SPEAKER laid before the House a message from the President of the United States, in answer to a resolution of the House of Representatives of the 26th ultimo, transmitting a communication from the Secretary of War, relative to the re-enlistment of veteran volunteers.

The letter from the Secretary of War was read, stating that the transmission at the present time of the information called for, to wit, a statement of the number of volunteers re-enlisted into the United States service, how many and from what States, and to what particular State or States of which they were non-residents they were credited, would be in his opinion prejudicial to the public service.

The message and accompanying letter were laid on the table, and ordered to be printed.

ENROLLED JOINT RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled joint resolution (H. R. No. 35) of thanks of Congress to the volunteer soldiers who have re-enlisted in the Army; when the Speaker signed the same.

FREEDMEN'S AFFAIRS—AGAIN.

Mr. ELIOT took the floor.

Mr. PENDLETON. I desire to ask the gentleman from Massachusetts whether it is his in-

tention to call the previous question at the close of his remarks?

Mr. ELIOT. It is my intention to do so.

Mr. PENDLETON. I desire to occupy a few minutes on this bill before the debate closes; whether now or hereafter is immaterial to me.

Mr. ELIOT. I believe it is time that the House came to a decision as to whether it desires to have this debate longer continued. This bill stands now in the way of the action of the House on the business of all other committees. I therefore felt it to be my duty to seek the floor as soon as I could for the purpose of moving the previous question.

At the time this bill was proposed last session; there were two bills pending before the House and Senate, providing for the issuing of bonds in case the State of Missouri or the State of Maryland should enact laws of emancipation. It was believed advisable that some provision should be made, in case such legislation should take place, for the management of those bonds. The third section of this act was introduced mainly for that purpose. But all that has passed away; and many of our own friends believe that the bill, which would not be affected at all by the provisions of the third section, had better be disembarrassed of it; and if laws shall hereafter be passed concerning emancipation, it will be time enough then to declare how the bonds shall be distributed. Therefore, sir, with the authority of the committee, I move to strike out the third section of the bill. Let me say to the gentleman from Ohio, [Mr. PENDLETON,] that I can possibly accommodate him in the time which I have the right to use after the previous question is seconded; and I shall be glad to do so.

Mr. PENDLETON. That will answer my purpose entirely. I desire to occupy but a very few minutes.

Mr. ELIOT. I now move the previous question.

The previous question was seconded—there being, on a division, ayes 61, noes 46—and the main question ordered.

Mr. ELIOT. I desire to inquire of the gentleman from Ohio how much time he will be satisfied to have?

Mr. PENDLETON. I have no doubt that I can conclude in ten or fifteen minutes all that I have to say.

Mr. ELIOT. The gentleman shall have fifteen minutes.

Mr. PENDLETON. I desire to acknowledge the courtesy of the gentleman from Massachusetts. The time he has given me compels me to stick closely to the bill. I could not if I would wander into the discussion of the many topics already alluded to in the debate. I cannot waste words or even take time to elaborate any view of this bill. I must content myself with bare suggestions, leaving to the House to supply whatever in my haste I am obliged to omit.

I regret that the debate on this bill has degenerated on the part of its friends from the high position in which it was left by the honorable gentleman from Massachusetts, the chairman of the select committee, [Mr. ELIOT.] He appealed to our highest humanity. It is true he touched upon the question of power, and asserted that he found it among not only the implied but also the express grants of the Constitution, but he touched lightly upon this point, he pressed it with none of the fervor with which he advocates his well-settled convictions. He urged us to pass this bill in mercy if not in justice to a race whom he described as poor, houseless, homeless, destitute, thriftless, ignorant, whom the fortunes of war had thrown upon our care, and whom we were bound to protect while they were passing from a state of bondage to liberty, while they were becoming habituated to the difference of the cares and duties imposed by their changed condition from compulsory to compensated labor.

The gentleman from Philadelphia dragged the discussion down into the dirtiest puddle of partisan politics. He participated in the debate, and contamination was in the contact. He rehearsed his oft-repeated anathema against the Democratic party. He seeks to compensate by the intensity of his manner for the staleness of his matter. He seeks to convey the impression that new and strange tones of his voice necessarily imply new and varied thoughts. He labors under the impression common to apostates, that all its intelli-

gence, all its virtue, all its patriotism left the Democratic party when he left it. He is not more important nor yet less vain than many another man whom I have seen attached to that great party, and by the aid of its power rising to high place. Their appreciation of themselves and the party has no parallel except in that of the fly upon the coach wheel, which, clated with the smoothness and rapidity of the motion, called to the coach to be duly thankful that itself and the wheel were carrying it along so swiftly.

My colleague, [Mr. Cox,] before he had finished an analysis of the bill which he had commenced with his accustomed ability, was easily seduced by the taunts of gentlemen on the other side of the Chamber to enter upon the discussion of the old doctrine of amalgamation under the new name of miscegenation. The gentleman from New York, [Mr. Brooks,] avoiding the practical questions suggested by this bill, announced his belief that slavery is dead, and gave several reasons for believing and for saying so. Both gentlemen, however, agreed that if this bill could be so changed as that it would impose no burden on the Treasury, they would be prepared to give it a favorable consideration.

Sir, I am not willing to let the opposition to this bill rest entirely on the argument made by either of them. They have given up one of the strong points of the case.

If there is no constitutional power to pass this bill, the fact that it costs nothing makes the infraction none the less flagrant. If there is constitutional power to pass it, then there is power to incur all the expense necessary to carry it into full operation.

Nor, sir, am I quite willing to have the question embarrassed by any view we may take of the proclamation of emancipation. The effect of that proclamation, or its authority, have nothing to do with this question.

I agree with the gentleman from Maryland, [Mr. Davis,] that no lawyer whose opinion is worth having thinks it worth more than the paper on which it is written. The power of Federal armies may be brought into requisition to give it validity. Test oaths unconstitutional in themselves and extorted as a condition precedent to the enjoyment of any civil right may give it some sort of effect; but of itself it is utterly void; it is illegal; it is of no authority; it ought never to have been issued; it ought to be immediately recalled; it has never freed a single slave; it never will. But that is not the question here. It is not even remotely involved.

We have within our lines now five hundred thousand men, women, and children who are actually freed by the chances of war. The number increases daily. They consist of slaves who have run away from their rebel masters, slaves who have been run away from by their rebel masters, and slaves who have been made captives by our troops. They are all free, actually free, legally free, and will never be reenslaved.

It was in behalf of these that the gentleman from Massachusetts appealed to us. He told us they were poor; without food, except Government rations; without clothes, except Government clothing; without houses or homes, and without knowledge enough to take care of themselves and provide for their families. He did not tell us—but it is frequently alluded to in the various reports of those who have looked into this subject—that they long for the repose and quiet of their old homes and the care of their masters; that freedom has not been to them the promised boon; that even thus soon it has proven itself to be a life of torture, ending only in certain and speedy death. But he did tell us that this ignorance arose from the circumstances of their former life; that we have changed those circumstances, and that it is our duty to fit them to bear and to benefit by the change which we have wrought. Sir, the appeal of the gentleman made a deep impression upon me. But reflection has convinced me that the highest considerations of official duty and of sound policy require that we should not yield to those sympathies and pass this bill.

I stand, sir, here substantially with my friend from New York, a member of the select committee, [Mr. KALBFLEISCH,] who addressed the House so forcibly a few days ago. We have not the power; if we had, its exercise would destroy our best hopes for a restoration of our Union.

As my objections to the bill are radical, I will not be so uncandid as to dwell upon the objections to its details, faulty as I think I could show these to be. I will only pause to point you to the officers created by it: the commissioner, eight or ten assistant commissioners, and all needful superintendents and clerks to carry into operation this complicated machine wherever it may once get a foothold. I will only suggest the enormous powers you give to one or another of these officers. They shall have power to decide all questions arising under any law heretofore or hereafter to be enacted concerning persons of African descent, whether they have ever been slaves or not, and all persons who have or may become free, or in anywise entitled to their freedom. They shall have power to assign to the freedmen all lands which have been at any time abandoned, even though they may now be occupied by their owners; and to advise and aid them, *organize and direct their labor, adjust their wages, and arbitrate their quarrels.* Extraordinary power, indeed! Were such ever intrusted to man and not abused? Nor will I remind gentlemen that this very difficulty was frequently foretold, that the incapacity of the negro to take care of himself was often alluded to, and that you always ridiculed the idea. What will you do with the negro when you shall have emancipated him? was frequently asked; and as often your virtuous indignation boiled over at the bare intimation that he was not thoroughly competent to take care of himself. Is he not "a man and a brother?" "Is not his soul white if his skin is black?" "Did not one God make both white and black?" This was the answer from most of the Republicans of the last Congress. Some few took refuge, as the gentleman from Maryland did a day or two ago, in the suggestion that these troublesome questions were devices of the Democratic devil to disturb the minds and unsettle the faith and shatter the harmony of the faithful. Nevertheless these questions are now here for solution, and the care of the negro bids fair to be as troublesome in the future as his emancipation has been in the past.

Sir, we have no power to pass any bill of this kind; and the gentleman from Massachusetts [Mr. Eliot] frankly means that when he says:

"But if all proclamations were wrong and all laws were without constitutional support which have sought to liberate the slaves of enemies, still the rebellion itself has freed them, and they are subjects of our charge. We must protect them or be faithless in our office."

But if we had the power we ought not to exercise it.

I have seen the orders of General Banks at New Orleans, and of General Butler at Fortress Monroe, and the report of Mr. Mellen, the Treasury agent on the Mississippi, in relation to this very subject. I believe those orders establish as good a system as you can expect to organize under this bill. They provide for the care, training, education, wages, clothing, support, and compulsory labor of the colored people. This is done under commissioners and superintendents, who, being officers of the Army and directly amenable to those generals, will doubtless perform the duties as well as any others who might be selected. And as for those generals who are thus to supervise the arrangements, whatever higher places they may be fit for, their worst enemies would not dare to say that they have not eminent capacity to organize and control a village of contrabands and to regulate the occupation of abandoned plantations. Their scheme, then, is equal in good results to that proposed by this bill, and is far superior in this: that it is a military order; that it is limited to military occupation; it is short in duration, contracting in its tendency, and will expire soon by the very law of its being. On the other hand, the plan of the committee, large at its commencement, is in its nature progressive, expansive; begins a bureau, aspires already to be a Department, and will last as long as the Government itself.

My friend from Massachusetts [Mr. Eliot] will say that the number of these contrabands is now too large for management by these military orders. That I think is not the difficulty. But if it is, let me suggest a remedy based upon the reasonings of his speech and of these various reports. You say these contrabands are patient, docile, brave, industrious, but too ignorant to take care of themselves; that they are in our

charge; and that it is our duty to support, train, and educate them for the duties of life, and to compel them to labor as a means at once of supporting themselves and of reimbursing us. The concurrent testimony of all the reports on that subject, which the gentleman himself furnished me, is that the discipline of the military service is the very best method of imparting this education in the shortest possible time. You say that it has become the settled policy of this Government to use colored soldiers. In the loyal States you draft both the free negro and the slave. Why not, then, take these contrabands, whom you say you are bound to educate, put them into the Army, which you say is the best school, and thus, while you fulfill the duty to them, relieve your citizens at home from that ever-present, fearful foreboding which haunts the home of every family too poor in these times of high prices to lay by \$300 for each draft?

The gentleman will say, "The women and children will still remain to be cared for." True; but surely for them General Banks and General Butler and Mr. Mellen will suffice; and if not, then I answer, in the language of the gentleman from Maryland [Mr. Davis] the other day on another question, "Let the Government take charge of the charities of life, and, after deducting a proper sum from the wages of the colored soldier, appropriate a sufficient sum for the support of each needy member of a poor family whose protector is taken away," to be administered through the agency of these military authorities.

But, sir, I pass to another consideration. I am one of those who still hope for a restoration of the Union; not the unity of our territory only, but the maintenance of the Union under the Constitution. I hope that we may maintain the integrity of our system of government: the system of confederation; the system whose foundation is *State rights*. The Constitution is a compact of government made by sovereign States, which assigns to the Federal Government its powers and duties, and reserves all others to the States and people. Its foundation is that all power not granted is reserved; all duties not specifically enjoined are forbidden. The duties of the Federal Government are few and simple. They relate to foreign affairs and matters of general and universal interest. Its powers were intended to be limited also. To the States were committed all matters of local concern and the care of the rights and liberties of all their citizens. Their reserved powers were consequently very large. Our fathers thought this the very hidden secret of their system. They thought they had discovered in this the philosopher's stone of government. And so they had. It was the beauty and the pride of our system. It secured to us liberty; it secured to us prosperity; it secured to us self-government beyond the example of any people. In an evil hour it was abandoned. Since then we have had war, and misery, and tyranny; but I forbear.

I see the efforts made to reconstruct State government. They are upon a wrong basis; they ought to fail; I believe they will fail. They would be a perpetual mockery of the duty on the part of the Federal Government to guaranty a republican form of government to the States. Nevertheless they may succeed. If they do, it will be the right and the duty of each State to take care of her own poor; it is a duty she cannot shift upon another, a right she cannot surrender. It is a duty which the Federal Government has no power to perform, a right which the Federal Government has no power to accept. Build up the system proposed by this bill, and you will have established in the heart of each State that which will prove the very strongest obstacle against its return to the Union on the basis of the old Constitution. Establish it firmly, and you will have in each State a settlement of negroes superintended by your officers, more difficult of management either by the Federal Government or by the State than were the Indians in Georgia, which will either draw the Federal Government into the performance of a State duty, or will harass and annoy and embitter the officers of the State in the performance of it themselves.

I have said nothing, sir, of State institutions. They may perish. They are but for a time. Their duration depends upon many causes. But State rights belong to our Government, are an essential part of its system, are essential to liberty itself.

I am pledged to maintain them; pledged by every oath in which I swore to support the Constitution of the United States. That oath I intend to keep sacredly to the end. And because I intend to keep it, I am constrained thus to oppose this bill.

INTERNAL REVENUE.

A message was received from the Senate, by Mr. McDONALD, one of its clerks, notifying the House that that body returned House bill No. 122, to increase the internal revenue, and for other purposes, with the report of the committee on conference thereon, in which the committee were unable to agree, for the action of the House.

Mr. WASHBURN, of Illinois. I ask that by unanimous consent the House proceed to the consideration of that report.

Mr. ELIOT. I ask the gentleman to postpone it for a little while.

Mr. WASHBURN, of Illinois. I would be glad to do so, but for the circumstances under which I am placed. I am obliged to leave town at five o'clock this afternoon.

Mr. ELIOT. I do not object.

Mr. WASHBURN, of Illinois. I submit from the committee of conference the following report.

The Clerk read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 122) "to increase the internal revenue, and for other purposes," having met, after full and free conference have been unable to agree.

JOHN SHERMAN,
DANIEL CLARK,
THOMAS A. HENDRICKS,
Managers on the part of the Senate.
E. B. WASHBURN,
JOHN A. KASSON,
JOHN L. DAWSON,
Managers on the part of the House.

Mr. WASHBURN, of Illinois. Mr. Speaker, it will be seen by that report that the committee of conference has not been able to agree. While I do not state anything, of course, that occurred in the committee of conference, I will state that I think there would have been no difficulty with the managers on the part of the House in coming to an agreement on the subject. The gentleman from Pennsylvania, [Mr. DAWSON,] who represented the minority of the House, was willing, in order that the difference between the two Houses might be accommodated, to agree to the tax of twenty cents; but he wanted the tax in future to remain at sixty instead of eighty cents. This contained the difference between the two Houses.

Mr. STEVENS. He does not represent the minority of the House if he does not disagree to that.

Mr. WASHBURN, of Illinois. I believe the gentleman from the Brownsville district of Pennsylvania [Mr. DAWSON] voted with the gentleman from the Lancaster district, [Mr. STEVENS,] the chairman of the Committee of Ways and Means, on every proposition against taxing the stock on hand.

I was proceeding to say it was insisted by parties who are against any retaxation that the House had decided against the principle of taxing whisky on hand. It was insisted upon the other side that the House had not decided upon any such principle, but had only decided against taxing it forty cents a gallon. In order to test the sense of the House upon that subject, I move the following resolution in connection with the report made by the committee:

Resolved, That the House insist upon its disagreement to the Senate amendments to House bill No. 122, and that the House request of the Senate another committee of conference on the said bill; and it is hereby declared to be the judgment of this House that in an adjustment of the differences between the two Houses on the said bill there should be an additional duty of not less than twenty nor more than forty cents per gallon imposed on spirits on hand for sale.

Mr. STEVENS. I rise to a point of order. It is that that is not in order as an amendment to the report of the committee of conference. The committee can report nothing but their disagreement.

The SPEAKER. The Chair sustains the point of order, as stated by the gentleman from Pennsylvania, that the resolution is not in order as an amendment to the report of the committee; but it is in order for any member of the committee or the House to offer such a resolution; and he understands it is offered in that shape.

Mr. WASHBURN, of Illinois. I offer the resolution, and demand the previous question.

Mr. STEVENS. The committee did not offer the resolution.

The SPEAKER. The gentleman from Illinois, a member of the committee, offered it.

Mr. WASHBURN, of Illinois. I hope my friend from Pennsylvania will keep cool.

Mr. STEVENS. Of course he will.

The SPEAKER. The Chair holds that the House of Representatives has the power to instruct any committee which it authorizes to be appointed. It is a judicious check upon the power of the Speaker in appointing committees. They have a right to instruct a committee of conference, as they have a right to instruct a standing or a select committee. The gentleman from Illinois moves this himself as a resolution. It seems, however, susceptible of division, first upon asking another committee of conference, and secondly upon the instructions. As to the right to move instructions the Chair has no doubt.

Mr. STEVENS. I would ask the Chair whether he holds that an individual can offer the resolution?

The SPEAKER. The Chair so decides.

Mr. LOVEJOY. I rise to a point of order. It is that when the committee made their report they ceased to be a committee, and therefore it is not in order to instruct them.

The SPEAKER. The Chair sustains that point of order also, as stated by the gentleman raising it. But the gentleman from Illinois [Mr. WASHBURN] having been one of the conferees moves for another conference, and in addition offers a resolution instructing them, which he has the right to do.

Mr. LOVEJOY. Then two questions are involved.

The SPEAKER. There are.

Mr. LOVEJOY. I raise another point of order. It is that no committee being in existence, a resolution of that kind is not in order. If it requires unanimous consent, I object to it.

The SPEAKER. The Chair holds that it does not require unanimous consent.

Mr. LOVEJOY. What right has the gentleman to introduce it unless he has unanimous consent?

The SPEAKER. The gentleman rose as one of the late conferees and offered it, as applying to the bill on which the two Houses have thus far failed to agree.

Mr. LOVEJOY. He had ceased to be one of the conferees.

The SPEAKER. It is usual, when a conference committee reports a disagreement, to recognize one of the conferees for any motion he desires to make.

The Chair would modify his previous statement on another point. Upon reflection he does not think the resolution of instructions will be susceptible of division. It being really a commitment of a bill to a committee with proposed instructions, the rule is imperative that the vote must be taken on it as a whole.

Mr. LOVEJOY. I rise to a point of order. There is no committee to instruct.

The SPEAKER. It is an almost every-day practice to move the appointment of a select committee with instructions to them to perform certain acts.

Mr. STEVENS. Is it in order to move an amendment?

The SPEAKER. It will be if the previous question is not seconded.

Mr. STEVENS. I desire to move an amendment.

Mr. PENDLETON. I make the point of order that the gentleman from Illinois had not the floor to make a motion of that kind. A motion to raise a committee of conference is not such a privileged motion as will take precedence of other business. When the gentleman made his report he exhausted his privilege. Having exhausted that privilege, he cannot hold the floor for the purpose of putting in a motion which is not a privileged one.

The SPEAKER. The Chair overrules the point of order, and for the reason that when the conferees reported to the House they brought with their report the bill and the amendments upon which the two Houses disagreed. These are now on the Clerk's table and before the House. The Chair then recognized the gentleman from Illinois, [Mr. WASHBURN,] and the papers being

before the House, he made the motion which he did in reference to it, and in order.

Mr. PENDLETON. I move that the House recede from its disagreement to the amendments of the Senate.

Mr. WASHBURN, of Illinois. I believe the gentleman from Ohio cannot do that while I have the floor.

The SPEAKER. The Chair entertains the motion of the gentleman from Ohio as taking precedence of the motion of the gentleman from Illinois.

Mr. WASHBURN, of Illinois. The motion of the gentleman from Ohio cannot be entertained if the previous question should be sustained.

The SPEAKER. If the gentleman from Illinois will consult the gentleman whom he said the other day was "the best parliamentarian in the United States," [the Journal Clerk] in which opinion the Chair concurs, he will find that the Chair, in this ruling, is sustained.

Mr. WASHBURN, of Illinois. I shall beg leave to differ on this occasion from the "best parliamentarian in the United States." I believe I have the floor.

The SPEAKER. Not unless the gentleman withdraws the previous question.

Mr. WASHBURN, of Illinois. I will withdraw it, if I have the control of it.

The SPEAKER. Certainly the gentleman has; but the Chair will state that all motions to bring the two Houses together take precedence of motions which tend to keep them apart.

Mr. WASHBURN, of Illinois. I understand that very well, provided the motion is made when the previous question is not pending. But I do not understand that when the previous question has been demanded, another motion can be interposed. That is my understanding of the parliamentary law, although I may be mistaken.

The SPEAKER. The Chair will have the Manual read.

Mr. WASHBURN, of Illinois. I do not wish to engage in any controversy with the Chair. I am quite willing that the motion of the gentleman from Ohio shall come in, so that the House may vote understandingly on the whole question, and that we may make some disposition of it; because I take it that it is for the interest of all parties that this question should be settled, and settled speedily. I would ask the gentleman from Ohio what would be the condition of the bill if his motion should prevail?

Mr. PENDLETON. I have not the bill before me, but if I had I could soon inform the gentleman as to what the condition of the bill would be. I can only say this: that it will maintain the principle upon which this House has acted, that no tax shall be placed upon the stock on hand.

Mr. WASHBURN, of Illinois. That is the point.

Mr. STEVENS. I suppose that if the motion of the gentleman from Ohio, my colleague on the Committee of Ways and Means, shall prevail, the amendment sent to us by the Senate taxing whisky sixty-five and seventy cents a gallon after a given period will then be the law.

Mr. PENDLETON. Yes, sir.

Mr. WASHBURN, of Illinois. The House will understand that if the motion of the gentleman from Ohio prevails there is to be no tax upon the stock on hand.

Mr. PENDLETON. That is it.

Mr. WASHBURN, of Illinois. If the House are of opinion that that is right they will vote for the gentleman's motion, and there will be an end of the whole question, and the speculators and liquor-holders will go unwhipped.

Mr. PENDLETON. That is the gentleman's set speech, and we do not care about that.

Mr. WASHBURN, of Illinois. I do not propose to debate the question myself, because, if I should do so, it would not become me to demand the previous question. Every member of the House understands the question: it is whether we will permit the immense stock of liquor on hand, which would yield a large revenue, to go untaxed.

Mr. J. C. ALLEN. I rise to a question of order. I would inquire of the Speaker if it is in order for my colleague to be permitted to discuss the merits of the bill to the exclusion of every one else upon the floor?

Mr. WASHBURNE, of Illinois. I think it is, as long as I have the floor.

The SPEAKER. The Chair thinks the gentleman is in order, under the rules, for one hour.

Mr. WASHBURNE, of Illinois. I do not propose to occupy an hour. I do not wish to take up the time of the House. I merely wish to show to the House and the country what will be the effect of the adoption of the motion of the gentleman from Ohio. By my motion the whole question is left open with an instruction to your committee of conference that in the adjustment of the differences between the two Houses they may take into consideration this question of taxing the stock on hand from twenty to forty cents a gallon. That is the whole matter, and I now demand the previous question.

Mr. LOVEJOY. I hope my colleague will not insist on the previous question after discussing the matter himself.

Mr. WASHBURNE, of Illinois. I have only stated the proposition as it stands before the House.

The previous question was seconded, and the main question ordered.

The question being first upon agreeing to Mr. PENDLETON's motion that the House do recede from its disagreement to the amendments of the Senate,

Mr. PENDLETON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 78; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Bliss, Blow, Freeman Clarke, Cobb, Coffroth, Cole, Dennison, Eldridge, Fenton, Fluck, Griswold, Harrington, Holman, Hooper, Kelley, King, Knapp, Law, Lazear, Long, Lovejoy, Marcy, Marvin, McBride, McIndoe, Middleton, William H. Miller, Morrill, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Pendleton, Pomeroy, Samuel J. Randall, Schenck, Scott, Shannon, Smithers, Stevens, Stiles, Strouse, Thayer, Van Valkenburgh, Voorhees, Whaley, Chilton A. White, Wilder, and Winfield—53.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Augustus C. Baldwin, John D. Baldwin, Beaman, Jacob B. Blair, Boutwell, Boyd, Brandegee, James S. Brown, William G. Brown, Chauler, Ambrose W. Clark, Clay, Cox, Creswell, Dawes, Deming, Dixon, Donnelly, Dumont, Eckley, Eden, Eliot, Frank, Ganson, Garfield, Grider, Grinnell, Harding, Charles M. Harris, Herrick, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hutchins, Jenckes, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Morrison, Amos Myers, Norton, Perham, Pike, Price, Radford, Alexander H. Rice, John H. Rice, Ross, Scofield, Sloan, Spaulding, Starr, Stebbins, John B. Steele, William G. Steele, Stuart, Sweet, Thomas, Tracy, Wadsworth, Elihu B. Washburne, William B. Washburn, Joseph W. White, Williams, Wilson, and Windom—78.

During the roll-call,

Mr. ASHLEY stated that on the question of this bill he was paired off with Mr. MORRIS, of Ohio, who would have voted "ay," while he [Mr. ASHLEY] would have voted "no."

Mr. BAXTER stated that he was paired off on this question with Mr. BLAINE.

Mr. ANDERSON stated that his colleagues Messrs. RANDALL and SMITH were absent in consequence of sickness.

Mr. BEAMAN stated that his colleague, Mr. UPSON, was confined to his room by sickness.

The vote was announced as above recorded.

The question recurred on Mr. WASHBURNE's resolution.

Mr. J. C. ALLEN. I understood the Speaker to decide that the resolution was indivisible.

The SPEAKER. It is indivisible, being a motion to refer the bill with instructions.

Mr. J. C. ALLEN. The question that I desire to ask the Chair is this: suppose the House vote down the resolution instructing the committee, will it be then in order to move the appointment of another committee without instructions?

The SPEAKER. It would be if the motion were made before the House passes to the consideration of other business—the bill being still before the House.

Mr. J. C. ALLEN. I give notice that I will make that motion.

Mr. SCHENCK. Has the Speaker decided that the resolution cannot be divided, so as to have a vote on the appointment of the committee and a vote on the instructions?

The SPEAKER. The rule, to be found on page 49 of Barclay's Digest, is that a motion to commit with instructions is indivisible.

Mr. WASHBURNE, of Illinois. I have de-

manded the previous question, and the House is now acting under that demand, so that all this debate is out of order.

The SPEAKER. The Chair will answer all proper inquiries put to him as to parliamentary points which are not in the nature of debate.

Mr. LOVEJOY. This is not a motion to commit with instructions. It is a motion to appoint a committee. Now, cannot the House by one vote appoint a committee, and then by another vote decide whether it will instruct the committee or not? That certainly is divisible.

The SPEAKER. The rule is on page 49 of the Digest: "A division of the question is not in order on a motion to commit with instructions, or on different branches of instructions."

Mr. SCHENCK. I ask the Chair whether this is a motion to commit at all; whether it is not a motion to create a committee? Having created it, then a motion to instruct would be an entirely different thing.

The SPEAKER. The Chair has already stated that the every-day practice of the House is to authorize special committees to be appointed, with instructions to perform certain acts. The present resolution is to refer the bill and amendments to a conference committee with instructions.

Mr. SCHENCK. Then I inquire if this can be called a conference committee, when we tie the hands of our conferees?

The SPEAKER. It is in the power of the House to tie up the hands of any of its committees, otherwise the whole power would be in the hands of a Speaker in appointing the committee. The Chair would draw the attention of the House to the fact that the resolution refers the whole subject, as the Chair understands its phraseology, to the conference committee already appointed. The Chair supposes that that might not have been the intention of the mover of the resolution.

Mr. SCHENCK. Does this continue the old committee of conference?

The SPEAKER. It would seem to the Chair to effect that result.

Mr. WASHBURNE, of Illinois. I only ask that the last part of the resolution shall be before the House.

Mr. SCHENCK. Is it not a resolution to create a committee?

Mr. LOVEJOY. As this refers to the practice of the House, I wish to ask the Chair whether any such practice has prevailed?

Mr. WASHBURNE, of Illinois. I object to this constant questioning of the Chair.

The SPEAKER. The Chair has answered questions put for the purpose of obtaining information, but questions tending to debate, or in the nature of debate, the Chair cannot answer under the previous question.

Mr. J. C. ALLEN. I rise to a question of order. Under the construction which the Speaker has given to this resolution the whole subject is referred back again to a committee of conference which has already reported, and which is now, to all intents and purposes, *functus officio*. It has discharged the duty imposed upon it by the House; and, therefore, its duty having been discharged, this subject cannot be recommitted to it.

The SPEAKER. The Chair overrules the point of order, on the ground that whenever a select committee is appointed and has discharged its duties, a reference of similar matter to it by the House revives the committee. The gentleman from Illinois is aware that that is also a nearly every-day practice. The adoption of this resolution would therefore revive the committee of conference.

Mr. J. C. ALLEN. In answer to that I have to say that the conference between the two Houses ceased the moment the committee made its report. Such has been the practice universally recognized in this House, that the functions of a committee of conference ceased with their report to the House.

Mr. WASHBURNE, of Illinois. I call my colleague to order.

The SPEAKER. The Chair sustains the point of order that the committee of conference closed its labors with the rendition of its report, but the House by referring other matter to the committee revives it.

Mr. KING. I rise to a point of order. The resolution seems to contemplate referring new matter to the committee about which there is no

difference between the two Houses. I understood the Speaker to decide the other day that no point about which there was no difference or controversy between the two Houses should be considered by the committee.

Mr. WASHBURNE, of Illinois. I call the gentleman to order.

The SPEAKER. The gentleman is in order. He is stating his point of order.

Mr. KING. If this be submitted to the committee of conference it will be within the power of that committee to add twenty cents to the tax upon the stock on hand when there is no point of difference between the two Houses on the subject.

The SPEAKER. The committee can add one hundred cents tax if the matter be referred to them. It is within the power of the House to determine.

The question recurred on the resolution of Mr. WASHBURNE, of Illinois.

Mr. COX demanded the yeas and nays.

The yeas and nays were ordered.

Mr. COX. I want to ask a question for information. What will be the condition of the bill—the tax on the article manufactured—

The SPEAKER. That can only be asked by unanimous consent.

Mr. WASHBURNE, of Illinois. I object.

The question was taken; and it was decided in the affirmative—yeas 76, nays 67; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Augustus C. Baldwin, John D. Baldwin, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, James S. Brown, William G. Brown, Ambrose W. Clark, Clay, Cole, Creswell, Dawes, Dawson, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Frank, Ganson, Garfield, Grinnell, Hale, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hutchins, Jenckes, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Longyear, McAllister, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Morrison, Amos Myers, Norton, Perham, Pike, Price, Radford, Alexander H. Rice, John H. Rice, Ross, Scofield, Sloan, Spaulding, Starr, Stebbins, John B. Steele, Sweet, Thomas, Tracy, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilson, and Windom—76.

NAYS—Messrs. James C. Allen, Ancona, Baily, Francis P. Blair, Bliss, Blow, Brooks, Chauler, Freeman Clarke, Cobb, Coffroth, Cox, Dennison, Eden, Eldridge, Fenton, Fluck, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hooper, Kelley, King, Knapp, Law, Lazear, Long, Lovejoy, Mallory, Marcy, Marvin, McBride, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Morrill, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Pendleton, Pomeroy, Samuel J. Randall, Rogers, Schenck, Scott, Shannon, Smithers, Stevens, Stiles, Strouse, Stuart, Thayer, Van Valkenburgh, Voorhees, Wadsworth, Chilton A. White, Joseph W. White, Wilder, and Winfield—67.

So the resolution was adopted.

During the vote,

Mr. DAWES stated that his colleague, Mr. GOOCH, absent on the business of the House, was paired with Mr. ROBINSON.

Mr. STILES stated that his colleague, Mr. JOHNSON, was still confined to his house by sickness.

Mr. ELDRIDGE stated that his colleague, Mr. WHEELER, was detained from the House by illness.

The vote was then announced as above recorded.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois, moved that he be excused from further service on the committee of conference.

The motion was agreed to.

The SPEAKER appointed Mr. SPALDING to fill the vacancy.

FREEDMEN'S AFFAIRS—AGAIN.

The House then resumed the consideration of House bill No. 51, to establish a Bureau of Freedmen's Affairs.

Mr. ELIOT took the floor.

Mr. WADSWORTH. I appeal to the gentleman from Massachusetts to let me state my objections to the bill.

Mr. ELIOT. I cannot yield.

Mr. WADSWORTH. The demand for the previous question came unexpectedly upon me. My State has a deep interest in this matter.

Mr. KERNAN. We will not let the time occupied by the gentleman from Kentucky be taken out of the hour of the gentleman from Massachusetts.

Mr. ELIOT. How much time does the gentleman want?

Mr. WADSWORTH. Only a few moments.

Mr. ELIOT. I want a vote to-day, and I prefer to have voting rather than speaking from either side of the House. I think that the House is ready to vote, and I am willing to give up my right to close the debate for that purpose.

Mr. COX. This side of the House will give you the time taken up by the gentleman from Kentucky.

Mr. ELIOT. I will yield to the gentleman from Kentucky, if he can state what he wants in ten minutes.

Mr. WADSWORTH. I think I can.

Mr. ELIOT. Then I yield to the gentleman for that length of time.

Mr. WADSWORTH. Mr. Speaker, I am content to leave the discussion of the eleemosynary features of this bill and its details to the gentleman from Massachusetts [Mr. ELIOT] and others better acquainted with the subject and with more time to develop it.

I did not expect the previous question would be so soon moved on a bill so important as this is. I desired to be heard upon it at some length before the vote was taken. I regard it as one of the most radical and important bills introduced into this most radical Congress. I must, in view of the few moments only accorded me by the gentleman, [Mr. ELIOT,] confine my attention to what I consider the main objections to the bill; not to the expense the plan will entail upon the Treasury by the subjection of the negro population of the United States to the exclusive control and care of the Secretary of War or anything of that sort, but to its direct attack upon the rights of the States to control and legislate for their own people. I say that this bill directly claims the power of exclusive legislative control over the freemen of the States, freemen by the assumption of the friends of the bill. It has no relation to anybody but *free persons*. It does not relate to slaves, but to *free persons*.

The bill proposes to confide to a bureau in the War Office "all questions" "touching the general superintendence, disposition, and direction of all persons, being freedmen of African descent, who are or shall become free by virtue of any proclamation, law, or military order issued, enacted, or promulgated during the present rebellion, or by virtue of any act of emancipation which shall be enacted by any State for the freedom of persons held to service or labor within such State." All "military and civil officers charged with the execution of any law of the United States, or of any military order," looking to the freedom of negroes, are to report to this bureau "under such regulations and in such form" as may be prescribed by the Secretary of War. The bureau is to establish and enforce regulations for the "judicious treatment and disposition" of all such free persons, for their protection, and the protection of "the Government of the United States," and for determining "their respective rights and interests." It assumes to deliver over these free persons, inhabitants of the several States, to this bureau, with its Commissioner, superintendents, clerks, agents, &c., in number so many as the Commissioner shall deem necessary. These superintendents are to assign them lands, "to advise and aid them," "to organize and direct their labor," fix "their wages," collect and account for same "to the commissioners," not to these *free persons*. And these assistant commissioners and superintendents are to have power to adjudicate and settle "all difficulties arising between freedmen, except when resort to a provost judge or other legal tribunal becomes necessary."

Such and so monstrous are the pretensions of this bill. It aims at swallowing up people and States. Where does this Federal Legislature get the power to take possession body and soul of the *free people* of the States, and put over them overseers, clerks, and a raft of mercenary masters to fix their wages, direct their labor, adjudicate their rights without judge or jury, and regulate their whole social and political life by orders from the War Office? Can Congress thus fetter *free men*? If it has this power over one freeman it has it over all; if over a free negro then over a free white man. The usurpation is flagrant.

But this bill proposes to take from Kentucky and other States active in support of the Federal

Government the control of their own people and transfer it to this Federal body.

By the act of the extra session of the Thirty-Seventh Congress, all slaves employed by the consent of their masters in aid of the rebellion are declared free.

By the confiscation act of the last Congress, which the indefatigable gentleman from Massachusetts [Mr. ELIOT] fomented to the extent of his ability, all slaves belonging to masters in rebellion, or who in any manner have given aid and comfort to the rebellion, are to be proclaimed free. Well, sir, that would embrace a pretty large class of people in the State of Kentucky—I do not know how large, but certainly a pretty large number—and a good many in Missouri, Maryland, and West Virginia, and their slaves are claimed to be free by the friends of this bill.

This bill also embraces all who may by any State action become free hereafter. They too are to be taken into this class of freedmen, and to be placed under the control of Congress. They are to be put under a bureau which is to be controlled by the War Office, to be kept under the control of those who under the action of Congress are to have charge of them as completely as if they were slaves still. The bill proposes to remove from these States all power to control a considerable portion of their own citizens, and transfers them to this bureau. It is unconstitutional; it overthrows our form of government, and must let in a flood of mischief. The result will inevitably be a conflict between the authorities of the States affected by this usurped power and the Federal authorities. Is it to be supposed that the people of Kentucky can surrender to Congress the control of two hundred and twenty-five thousand of her people? No, sir, they will never do it to this or any other Congress so long as they are worthy of the people from whom they are descended.

Is it to be supposed that the State of Maryland, who it is said is about to emancipate her seventy or eighty thousand slaves, will consent to put them under the control of a bureau of the War Office, to be "disposed of," to be hired out, to have their suits arbitrated upon and all their motions regulated, all their rights prescribed, all their conduct controlled, by these petty, petting agents of the Secretary of War? Will the State of Maryland consent to have those who are to be *freemen* within her borders thus controlled? Will West Virginia or Delaware submit to it?

It is said that Missouri has adopted a system of prospective emancipation. Will she allow her one hundred thousand slaves when they become *free* to be placed under the control of this Federal bureau, to be placed at the disposal of the War Department with a bureau to direct their labor, to make contracts concerning their wages, to collect and disburse their earnings, arbitrate their difficulties, and take this monstrous control of her *free citizens*? Let no man believe it.

Mr. ELIOT. With the consent of the gentleman from Kentucky I merely want to call his attention to the fact that the bill does not contemplate any such effect. It does not contemplate interfering with the slaves in Kentucky, Missouri, or Maryland.

Mr. WADSWORTH. I confess that I am not able to see it in that light.

Mr. ELIOT. The gentleman may perhaps have a draft of a bill which is not the bill under consideration before the House. The last clause of the first section of the bill under consideration provides that no rules and regulations shall be made concerning persons held to labor or service in any State not now or heretofore in insurrection against the United States, nor concerning any other persons than freedmen. That relieves the bill from all the difficulties the gentleman has so far stated.

Mr. WADSWORTH. If that were so it would work a very radical change in the bill before me, I admit. The gentleman, however, is mistaken. This bill applies to such persons as are made free by any act of Congress, by any military order, or by any proclamation now or hereafter to be issued, or by any future act of State emancipation, "or who shall be otherwise entitled to their freedom." All these are to be taken from the control of the States in which they may be found and placed under this Bureau of Emancipation. Does not the act in terms embrace all free negroes in the United States now or hereafter free?

Now, sir, what is the modification to which the gentleman alludes, and the only one? It is this, at the close of the first section, namely:

"But no rules or regulations shall be made concerning persons held to service or labor in any State not now or heretofore in insurrection against the United States."

This language does not embrace persons emancipated from "service or labor" within such States, but only such as are held to service; that is, slaves. Now, the bill applies to freedmen, all freedmen in each and every State, and as soon as the slaves are freed they will pass into the bondage of this War Office bureau. The modification seems only intended to make it clear that the *slaves* of loyal States, so called, were not to be bureaued, that is all.

But, sir, I should scorn myself if I had no words for any but my own State. This bill attacks eleven States, eleven imperishable States in the Union, and which shall stay in the Union; eleven States, some of revolutionary renown, with Virginia at their head. They are, come weal or woe, now and forever in the Union, founded upon the rock of the Constitution: if the prayers and arms and blood of patriots can avail, the gates of hell shall not prevail against them. In every one of these States this bill enters to seize and fetter a large portion of the population, to subject them to the control of the Federal Congress. It is a usurpation of the right of the States to control their own free inhabitants and their slaves as well.

There are now elements at work it is said by which Arkansas is soon to resume her place as a sister in the Union, and yet under this bill she is to come back with a large portion of her people beyond her control. So with Louisiana and Tennessee. Three or four million in eleven States of the Union are by this bill to be placed in the hands of Congress to be managed and controlled in spite of the authorities of the States wherein they reside.

I ask gentlemen to look for a moment at the consequences of such a measure if it were possible to carry it out; but it will not be possible to carry it out. What State will ever permit Federal agents to manage a large portion of its people, to direct their labor, to make contracts for their wages, to collect their wages and to arbitrate their suits? Freemen as they are claimed to be, what State will ever permit such a thing? These bureaucrats, these negro-catchers, meddling with the inhabitants of States, would find their road a hard one to travel.

It is a dangerous assault upon the independence of the States. I have before me the resolutions of instruction of the State of Massachusetts to its delegation in the Convention that framed the Constitution. Who believes that State, noble in that noble era, would have ever even gone into consultation with her sister States, if any possibility had existed that her own domestic institutions and her own people were to be placed under the control of Federal power? Listen to the language of her bill of rights in 1780:

"The people of this Commonwealth have the sole and exclusive right of governing themselves as a free, sovereign, and independent State, and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right which is not, or may not hereafter be, by them expressly delegated to the United States of America in Congress assembled."

Have the people of Massachusetts the sole and exclusive right of governing themselves as a free people? When did they renounce it? This bill denies, tramples that sacred right under foot; her own offspring deny it, and do despite to her ancient spirit of freedom, for if they deny the right of Kentucky, of Virginia to govern themselves, they deny the right of all States wherever throughout the Union. It will give a large advantage to some sections of the country not embarrassed by this population to transfer the control of three or four million people from the States to Congress. I see no possible resurrection for the agricultural States in the South and West if the control of four million ignorant people be removed from those States to this Hall, to depend upon legislation which has its origin here for their future welfare. To give Massachusetts the control of three or four hundred thousand people in South Carolina is a new and short way to settle the tariff controversy. There are very many people in this country who are foolish enough to think this bloody quarrel is deeper than the negro question, older, and destined to survive it. They think

it springs from rivalry among free and aspiring Commonwealths, from a desire for political pre-eminence and commercial and manufacturing wealth. They recollect the storm of 1832. Negro was not the cause then, any more than now. Ambition, lust of power and wealth stirring the corners of the Republic fills the land with blood and tears. The policy which puts the control of three or four million men seated in southern and western States in the hands of the commercial and manufacturing parts of the country, thus removing them from the control of those among whom these dependent people must labor, live, and die, is big with the destruction of the agricultural States of the South and West.

[Here the hammer fell, the ten minutes allowed the member having expired.]

Mr. ELIOT. It was my intention to avail myself of the privilege, which the rules of the House accord me to ask the attention of the House, in closing the discussion upon this bill, to some considerations which seem to have been rendered somewhat necessary by the course the debate has taken. But there has been no such attack upon the provisions of the bill as, in my judgment, would justify me in detaining the House to so late an hour as they would be kept here were I to go on with the remarks I proposed to make. The House wants action, and I want action. All the objections which have been made to the bill to-day have been anticipated before by myself and my colleagues upon the committee, and by the gentleman who has spoken to-day. Inasmuch, therefore, as the freedmen have had to give way so long this morning to whisky, and inasmuch as gentlemen upon the other side of the House cannot complain, and will, I hope, in consideration of my withholding my speech, help me to a final action on the bill, I waive the right I have and ask the House to come to a direct vote now.

The question recurring on the motion to commit the bill and substitute to the Committee of the Whole on the state of the Union,

Mr. COX withdrew the motion.

The question recurring on the motion made by Mr. Brooks to recommit the bill with instructions.

The motion was not agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced to the House that the Senate had agreed to an act (H. R. No. 265) supplementary to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863, with an amendment, in which the concurrence of the House was requested.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

An act (No. 105) for the relief of E. F. and Samuel A. Wood;

An act (No. 120) to amend an act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June 30, 1834; and

An act (No. 139) for the relief of Margaret M. Stafford, widow of Reuben Stafford, of Coshocton county, Ohio.

Mr. HOOPER. I ask leave to take up the bill (H. R. No. 265) just returned from the Senate with an amendment, supplemental to an act entitled "An act to provide ways and means for the support of the Government," for the purpose of concurring in the amendment. The amendment supplies merely an accidental omission in the bill.

No objection being made, the bill was taken up and the amendment, which was to insert the words "in coin" at the end of line twelve, page 1, was agreed to.

FREEDMEN'S AFFAIRS—AGAIN.

The SPEAKER. The question recurs upon the adoption of the substitute for the original bill reported by the committee.

The substitute was agreed to.

Mr. MALLORY moved to lay the bill on the table, and upon that demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 62, nays 68; as follows:

YEAS—Messrs. Ancona, Baily, Augustus C. Baldwin,

Francis P. Blair, Jacob B. Blair, Brooks, James S. Brown, William G. Brown, Chanler, Clay, Coffroth, Cox, Dennison, Eden, Eldridge, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Kalbfleisch, Kernan, King, Knapp, Law, Lazear, Mallory, McAllister, McDowell, McKinney, Middleton, Morrison, Nelson, Noble, Pendleton, Radford, Samuel J. Randall, Rogers, Ross, Scott, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Thomas, Tracy, Wadsworth, Webster, Whaley, Chilton A. White, Joseph W. White, Williams, and Winfield—62.

NAYS—Messrs. Alley, Allison, Ames, Anderson, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Dawes, Deming, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Longyear, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Schenck, Shannon, Sloan, Smithers, Stevens, Thayer, Van Valkenburgh, William B. Washburn, Wilder, Wilson, Windom, and Woodbridge—68.

So the House refused to lay the bill on the table.

During the call of the roll,

Mr. BLISS stated that upon all questions on this bill he had paired off with Mr. SPALDING, who would have voted for the bill and he against it.

Mr. LAW stated that Mr. CRAVENS had been called home.

Mr. EDEN stated that Mr. ROBINSON had paired off with Mr. WASHBURN, of Illinois.

Mr. PENDLETON stated that Mr. MORRIS, of Ohio, had been called home by sickness in his family, and had paired off with Mr. ASHLEY.

Mr. HOLMAN stated that Mr. ORTH was still at home, and upon all political questions had paired off with Mr. CRAVENS.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ELIOT called for the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. MALLORY demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 67; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Cobb, Cole, Creswell, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Longyear, Lovejoy, Marvin, McClurg, McIndoe, Samuel F. Miller, Moonhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Schenck, Shannon, Sloan, Smithers, Stevens, Thayer, Van Valkenburgh, William B. Washburn, Wilder, Wilson, Windom, and Woodbridge—69.

NAYS—Messrs. Ancona, Baily, Augustus C. Baldwin, Francis P. Blair, Jacob B. Blair, Brooks, James S. Brown, William G. Brown, Chanler, Clay, Coffroth, Cox, Dawson, Dennison, Eden, Eldridge, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Kalbfleisch, Kernan, King, Knapp, Law, Long, Mallory, McAllister, McBride, McDowell, McKinney, Middleton, William H. Miller, Morrison, Nelson, Noble, Pendleton, Radford, Samuel J. Randall, Rogers, Ross, Scott, Stebbins, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Thomas, Tracy, Voorhees, Wadsworth, Webster, Whaley, Chilton A. White, Joseph W. White, Williams, and Winfield—67.

So the bill was passed.

Mr. ELIOT moved to amend the title of the bill by striking out the word "emancipation" and inserting "freedmen's affairs" in lieu thereof, and upon that motion demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. BROOKS. I move that the House do now adjourn. My object is that we may have a full vote upon this question. We cannot have it to-day.

The SPEAKER. This is merely an amendment to the title.

Mr. BROOKS. Then I do not insist on my motion.

The amendment to the title was agreed to.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

And then, on motion of Mr. STEVENS, (at twenty-five minutes after four o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, March 2, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of the 18th of January, a copy of the proceedings of the advisory board appointed under the act of July 16, 1862, entitled "An act to establish and equalize the grade of line officers of the United States Navy."

Mr. RAMSEY. I understand that is a communication in answer to a resolution I offered some time since. I move that it be printed and referred to the Committee on Naval Affairs.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. WADE presented the memorial of William Trevitt, praying for compensation for his services as consul of the United States for the port of Valparaiso, from September 30, 1859, to March 3, 1860, and to be refunded the amount paid by him for clerk hire and extra office rent; which was referred to the Committee on Foreign Relations.

Mr. COWAN presented a memorial of the board of trade of Philadelphia, praying that the provisions of the act of March 3, 1863, entitled "An act to protect liens upon vessels in certain cases, and for other purposes," may be extended so as to preserve and continue the lien of any judgment of loyal citizens of the United States upon any real estate which shall be condemned, or confiscated by virtue of any act of Congress; which was referred to the Committee on the Judiciary.

Mr. SHERMAN presented a petition of citizens of Toledo, Ohio, praying for the construction of a ship canal around the Falls of Niagara; which was referred to the Committee on Commerce.

Mr. GRIMES presented the petition of William Harding, eighty-seven years of age, blind and poor, praying for compensation for services as a soldier in the war of 1812; which was referred to the Committee on Pensions.

Mr. SUMNER presented a petition of citizens of Taunton, Massachusetts, and a petition of citizens of Concord, New Hampshire, praying for the abolition of slavery, and an amendment of the Constitution forever prohibiting its existence; which were referred to the select committee on slavery and freedmen.

Mr. CONNESS presented resolutions of the Legislature of California, in favor of a modification of the order of the President of the United States of November 18, 1862, which prohibits the exportation of ammunition and munitions of war, so that it shall not apply to the article of "blasting powder" from the port of San Francisco for mining purposes; which were ordered to lie on the table and be printed.

Mr. POMEROY presented resolutions of the Legislature of Kansas, in favor of a grant of lands to that State for the benefit of schools, in compliance with the terms of the act of September 4, 1841, distributing the proceeds of the public lands among the several States; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of Kansas, in favor of a grant of land to aid in the construction of a railroad from Fort Leavenworth to Fort Scott, in that State; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. HOWE presented a petition of citizens of Manitowoc county, Wisconsin, praying for the construction of a canal around the Falls of Niagara; which was referred to the Committee on Military Affairs and the Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. POMEROY, it was

Ordered, That the petition and other papers in the case of James Pool, praying for the reimbursement of money paid by him for supplies for the Shawnee tribe of Indians, be taken from the files of the Senate and referred to the Committee on Claims.

REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on For-

ign Relations, to whom was referred a message of the President of the United States, communicating a report from the Secretary of State and accompanying papers relative to the claim on this Government of the owners of the French ship *La Manche*, and recommending an appropriation for the satisfaction of the claim, reported a bill (S. No. 142) for the relief of the owners of the French ship *La Manche*; which was read, and passed to a second reading.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 133) in relation to the pay of cadets at the Military Academy at West Point, and for other purposes, reported it with an amendment.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a bill (H. R. No. 163) for the relief of Charles Anderson, assignee of John James, of Texas, reported it without amendment.

Mr. SHERMAN, from the Committee on Finance, to whom was referred a memorial of the National Land-Transfer Association for the State of Missouri, praying for aid to promote the emigration of skilled laborers to that State, asked to be discharged from its further consideration; which was agreed to.

PAY OF COLORED TROOPS.

Mr. WILSON. I am directed by the Committee on Military Affairs, to whom was recommended the joint resolution (S. No. 23) to equalize the pay of soldiers of the United States Army, to report back a new bill in lieu of the original joint resolution.

The bill (S. No. 145) to equalize the pay of soldiers in the United States Army was read, and passed to a second reading.

CHARLES A. PITCHER.

Mr. HENDRICKS. The Committee on Claims, to whom was referred the petition of Charles A. Pitcher, have directed me to report a joint resolution for his relief. The committee had no doubt about the right of this party to compensation; but they did not feel that Congress was competent to assess the damages, and therefore they thought the case ought to be sent to the Court of Claims. This joint resolution proposes to send the case to the Court of Claims and to give that court jurisdiction of the claim. As there can be no objection to it, I ask that the joint resolution may be put upon its passage at once.

By unanimous consent, the joint resolution (S. No. 30) for the relief of Charles A. Pitcher was read three times, and passed. It recites that on the 1st day of September, 1857, letters patent were granted to Spencer Rowe for an improvement in machines for making brooms for the term of fourteen years; that the patent was by Rowe, on the 4th of December, 1857, sold, transferred, and assigned in proper form to John Fox, and on the 2d day of April, 1861, by Fox to Charles A. Pitcher, together with all the right and claim which Fox had to any damages for any infringement of the patent before then suffered, and authorizing Pitcher to prosecute and recover for his own benefit damages for such infringement. After the assignment by Rowe to Fox had been made and recorded, and during the period of the possession of the patent-right by Fox and by Pitcher, the improvement and the machine for its use have been used in the penitentiary of the United States for the District of Columbia, whereby the United States has enjoyed large gains and profits in the employment of convict labor. The resolution therefore proposes to confer upon the Court of Claims jurisdiction to hear the claim, and to allow and adjudge, as in other cases, to Pitcher what he ought to have for the use of this improvement and machine, upon the principle, however, that punitive damages shall not be allowed against the United States.

BILLS INTRODUCED.

Mr. WADE asked; and by unanimous consent obtained, leave to introduce a bill (S. No. 143) making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law; which was read twice by its title, and referred to the Committee on Commerce.

Mr. GRIMES asked, and by unanimous con-

sent obtained, leave to introduce a bill (S. No. 144) to amend an act entitled "An act to establish and equalize the grade of line officers of the United States Navy," approved July 16, 1862; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 146) to enlarge the canals and improve the navigation of the Fox and Wisconsin rivers, from the Mississippi river to Lake Michigan, for military, naval, and commercial purposes; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill of the House (No. 265) supplementary to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863.

The message also announced that the House of Representatives had passed a bill (No. 51) to establish a Bureau of Freedmen's Affairs, in which it requested the concurrence of the Senate.

B. C. BAILEY.

Mr. CHANDLER. I move to postpone all prior orders for the purpose of taking up Senate bill No. 48, for the relief of B. C. Bailey.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to B. C. Bailey \$4,496 98, being for damages for detention and expenses incurred in the seizure of the ship *Argo* by the flag-officer of the blockading fleet, in the month of May, 1861.

Mr. FESSENDEN. Is there a report accompanying the bill?

The VICE PRESIDENT. There is a report. It will be read.

The Secretary read the report of the Committee on Commerce, from which it appears that the ship *Argo* was under a charter in 1861 to proceed to City Point, Virginia; thence to Bremen, with a cargo of tobacco on foreign account; and thence to Quebec. While loading at City Point the ports of Virginia were blockaded, allowing to owners until the 15th of May, 1861, to load and clear their vessels.

The *Argo* left City Point on the 12th of May, and was proceeding on her voyage to Bremen, and on the 14th of May, at Hampton Roads, was seized and taken possession of by the United States flag-officer of the blockading fleet, and sent to New York as prize of war.

The ship was held in custody of officers of the United States at the latter place until the 24th of May, when she was released, and afterwards returned to the custody of the captain, by order of the Secretary of the Navy, no legal proceedings having been instituted.

The owner of the ship *Argo* presents a claim against the Government for money paid in New York, the port to which she was taken, being her expenses, &c., \$2,051 60. For damages of detention eighteen days from her seizure at Hampton Roads on the 14th of May, and her discharge and departure on her voyage from New York on the 31st of that month, estimated at \$5 50 per ton per month, \$3,557 34. For damages consequent on the delay of the ship at New York, whereby she lost her return cargo at Bremen, which was to be taken on a given day, \$3,000. For extra insurance, by reason of being late at the river St. Lawrence, on her return voyage, \$800; and for loss of two anchors and one cable, \$490. The committee deem a claim for disbursements and expenses in the port of New York, the direct result of her detention by the Government, and also the damage for detention, should be paid by the Government; but claims for supposed loss of return cargo at Bremen, money paid for insurance, loss of anchors and cable, do not fall within the same principle; the contingency upon which they are based remote and uncertain, and are not such as the Government can recognize as just. The committee estimate the expenses and disbursements at New York at \$1,916 98, and damages for detention eighteen days, at four dollars per ton per month, one thousand and seventy-five tons, \$2,580.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ENCOURAGEMENT OF IMMIGRATION.

Mr. SHERMAN. I move to postpone all prior orders, with a view to take up Senate bill No. 125, which was before the Senate the other day.

Mr. SUMNER. May I ask what it is?

Mr. SHERMAN. The foreign immigration bill. I think it will take but a little while to pass it.

The motion was agreed to; and the consideration of the bill (S. No. 125) to encourage immigration was resumed as in Committee of the Whole.

Mr. SHERMAN. There are one or two verbal amendments that I desire to make. In line two of the second section I wish to strike out the word "foreign" before "immigration." It does not change the meaning.

The VICE PRESIDENT. That amendment will be made, if there be no objection.

Mr. SHERMAN. In line seventeen of the same section I move to strike out the word "one" and insert "the next," so as to read, "during the next fiscal year."

The VICE PRESIDENT. This amendment will be made, if there be no objection.

Mr. SHERMAN. In line twenty-nine of the same section I move to strike out the word "annual" and insert "during the next fiscal year."

The VICE PRESIDENT. This amendment will be made, if there be no objection.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and it was read the third time, and passed.

ARMY OF THE POTOMAC.

Mr. WILKINSON. I ask the unanimous consent of the Senate to make a personal explanation.

The VICE PRESIDENT. The Senator from Minnesota asks the consent of the Senate to submit a personal explanation. The Chair hears no objection. The Senator will proceed.

Mr. WILKINSON. I hold in my hand, Mr. President, the Boston Post of February 24, containing a speech of Governor Andrew in Faneuil Hall at the reception of the twenty-fourth Massachusetts regiment. In that speech Governor Andrew said:

"I observed with keen regret, in a congressional debate sketched in this morning's newspaper, some remarks which I might have called unpatriotic did I not believe them thoughtless, quoted from the lips of a gentleman occupying the position and who ought to say nothing unbecoming a statesman. He attempted a contrast of the soldiers of the East with the soldiers of the West. He affirmed that the eastern troops had as yet done nothing but to carry on a pendulum dance between the Potomac and the Rapidan, while they of the West had beaten rebel armies and had opened the Mississippi. I need not pause to repel the taunt against the army of the Potomac."

And in a brief editorial on the first page of that paper the following language occurs:

"EASTERN TROOPS.—We have already printed a pretty full abstract of the Governor's speech at the reception of the twenty-fourth regiment on Saturday; but in justice to eastern troops generally we feel bound to publish it in full, as reported for the Boston Journal; because it presents a manly and conclusive answer to the slur cast upon them by Senator WILKINSON of Minnesota, on the floor of the United States Senate. The Senator was sharply replied to by Mr. FESSENDEN, but not with that precision and array of facts which render Governor Andrew's remarks so triumphant a refutation of the calumny uttered upon brave and faithful men honorably serving their country. See the fourth page."

So, Mr. President, I have pretty good reason to believe that I am the Senator alluded to by the distinguished Governor of Massachusetts. His excellency, it seems, based his remarks upon what he says he observed sketched in a morning newspaper; and taking for granted that what he saw "sketched" as the report of a congressional debate, contained a full and fair statement of the debate as it took place in the Senate, he proceeded in the most formal manner, in old Faneuil Hall, the cradle of American liberty, in the presence of the brave, patriotic, war-worn veterans of Massachusetts, to arraign me for making an unpatriotic attack upon the noble citizen soldiers whom he was addressing.

Mr. President, I do not think that as a general rule it is profitable to notice here in the Senate what may be said or written of its members outside of this body; but, sir, I also think that there

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are occasions when such notice may not only be proper but necessary. The speech from which I have quoted was made upon an occasion of peculiar interest, in the presence of the authorities of the city of Boston and of the Commonwealth of Massachusetts. It was made by the Governor of that old and honored State. He was addressing war-worn veterans, whom he had two years before sent forth to the field of danger and of death, to struggle, to suffer, and to die, if need be, that their country and freedom might live. They had returned covered with glory and with honor, and the doors of old Faneuil Hall were thrown open wide to receive them. The Governor ascended the rostrum, as he said, to salute them in behalf of Massachusetts with all the honors due from the Old Bay State to those of her bravest and her best.

Before, however, his excellency had fully determined in his own mind what fitting words to employ, what line of thought to pursue, in his address to the brave sons of Massachusetts, his eyes accidentally fell upon a sketch of a debate as reported in one of the morning papers of Boston. It was a garbled report, as most of the newspaper reports of the proceedings of Congress are. I should have supposed that the honored Governor of Massachusetts was perfectly aware that very little reliance can be placed upon the correctness of the meager telegraphic reports of the proceedings of the Senate. And, sir, would it not have comforted more with the dignity of the high office which he so ably fills if his excellency had withheld his criticisms and his rebuke until he could have seen and read the official report of the debate to which he seemed so eager to except?

Mr. President, to show how imperfect was the understanding of Governor Andrew in regard to the debate which he was so ready to assail, I will read from the Globe report what I said on the occasion alluded to by him, which was in answer to some remarks of the honorable Senator from Maine, [Mr. FESSENDEN:]

"I spoke of the Army in the aggregate. I do not believe there was a braver class of men ever assembled together in an army than the private soldiers who constitute the grand army of the Potomac. It is my humble judgment that the battle of Gettysburg was the greatest and most heroic victory that ever was won on any battle-field, and it was done by the stubbornness and by the bravery of the soldiers."

Again, on the 24th of February last in another debate on this floor, I said:

"I believe that this army of the Potomac is just as good an army as the army of the West. In some particulars, I am inclined to think it is a better army than the army of the West; but there is one particular in which it falls far short of the army of the West. The western army has had a man at its head who has made that army a unit. There is not a traitor nor a disloyal man in it. There is not a person connected with that army, from General Grant down to the boy who drives a wagon, that is not devotedly attached to this Union and in favor of striking the rebellion the hardest and heaviest blows they can hit it."

Mr. President, I think this is enough to show that Governor Andrew was mistaken respecting what I said of the brave soldiers of New England. I have never entertained any prejudice against New England either as regards her soldiers or her people. I was not born in New England, but my father and mother were; and from them I derived such early impressions as true and faithful New England parents were likely to impart to their children.

But, sir, I did say that I thought the army of the Potomac as an army had not been successful. Will Governor Andrew deny that? Will Governor Andrew stand up in old Faneuil Hall and justify the slaughter of Massachusetts men at Ball's Bluff? Will he stand up before the veteran soldiers whose comrades fell at Ball's Bluff when there were twenty-five thousand men within seven miles of them, and when after Colonel Diven and Colonel Baker had been ordered over the river the men under McCall and Smith were ordered back again though they stood in supporting distance of the men who had been ordered over, and justify that transaction? Will he justify the course of McClellan, who, landing on the Peninsula with

one hundred and twenty-six thousand men, sat down before the city of Yorktown and there besieged the works occupied by only eight or ten thousand men, leaving Massachusetts soldiers to dig and to die without winning for the country or themselves that glory which their patriotism demanded, and which their courage upon every battle-field has shown they were willing and able to win? To show that this statement which I make is not overdrawn I will read from the testimony of a late Senator on this floor, Hon. Lemuel J. Bowden, a gentleman whom all here respected, and of whom all were pleased to hear the glowing and honorable eulogy which was pronounced upon him by the Senator from West Virginia, [Mr. WILLEY.] Mr. Bowden, in answer to the question, "How many troops did they have at Yorktown when McClellan landed on the Peninsula?" answered:

"Personally I do not know; but I had frequent conversations with the officers and men of the confederate army, and I think the information they gave me was correct. My impression decidedly is that the force under Magruder at the time McClellan advanced upon Yorktown was from eight to ten thousand men."

The Richmond Sentinel published a few days ago, in speaking of the advance of General Sherman, says:

"He aims to march with celerity upon Mobile, trusting that luck will crown his blundering audacity as it did Grant's at Vicksburg."

Sir, what would not this country have gained if McClellan had only had one tithe of Grant's "blundering audacity" at Yorktown!

But again, the vanguard of that army marched up to Williamsburg after the enemy had kept the grand army of the Potomac for a month or more at Yorktown and then abandoned it. After they had been followed up to Williamsburg, and attacked by General Hooker, his corps fought there all day from early dawn until five o'clock at night, with thirty-five thousand men lying idle under the direct command of the commander of the army of the Potomac, and within five miles of General Hooker. Thus that hard-fought battle resulted in nothing, although there was a force under the command of General McClellan eager for the fray, and sufficient to capture and destroy the entire army of the enemy at Williamsburg.

So, again, it went along until the battle of Fair Oaks came on. General McClellan had placed General Casey with forty-five hundred men across the Chickahominy, and had all the residue of his army on the other side of the river. A heavy rain swelled that river, and the enemy with all their force attacked the little division of General Casey. He held his ground stubbornly all day long, and at last General Sumner was enabled to cross to his relief. They attacked, repulsed, and drove back the enemy, and General Hooker marched his corps, as he swears before the committee, within three miles and a half of Richmond. He was then ordered back again to take a position far to the rear of where he advanced. Oh, for one hour then of Grant's "blundering audacity!"

Again, at Malvern Hill, after our forces, as all the reports say, had been fighting battles and winning victories every day and retreating every night, while General McClellan, the commander of this grand army of the Potomac, was lying on a gunboat in the James river, the brave officers and soldiers of that army fought and won a battle, and the enemy were driven in consternation toward Richmond. Oh, for one hour of Grant's "blundering audacity" at that time and at that place!

Again, the army of the Potomac came back to Washington. General Pope was driven with his small force to Bull Run. He had advanced with forty thousand men to meet the whole rebel force, and being overpowered he fought every day upon his retreat, until he arrived at Bull Run. He had then come within supporting distance of the grand army of the Potomac, and I think General Hooker and some others of the army of the Potomac were sent forward. General Sumner and General Franklin, with I suppose about forty thousand

men, were retained at Alexandria and at Chain bridge. There again our men were fighting the whole rebel army with about one half of this army of the Potomac. When General Pope sent in for supplies, the answer from the commander of this grand army of the Potomac was substantially this—this is the result of it—"If you will draw your men out of the fight, and send them on to guard the trains you can have provisions." Will Governor Andrew stand up in old Faneuil Hall and justify that?

But, sir, none of these things are owing to a want of patriotism or a want of bravery in the men. Notwithstanding all these discouragements, their patience has been enduring. They have fought and won, while they have been constantly warred against by those in command of them.

But, again, without wearying the Senate or occupying too much time, this army at last followed Lee to Gettysburg. I am told, and I believe it can be proven, that before the fight commenced at Gettysburg, wherein the men of New England and of all the country covered themselves with glory and with honor everlasting, the order went forth from the commander of that army to retreat; and but for the single fact that one of the corps commanders had got into a fight before the dispatch reached him, the whole army would undoubtedly have been retreating, broken, and ineffectual before the powerful forces of General Lee.

But, sir, the battle was fought and won—fought as a battle was never fought, in my judgment, in the world before. Our men fought as soldiers never fought before, and won a victory more honorable and glorious than any victory that Napoleon ever won. What then occurred? After the battle of Gettysburg that army marched down, knee-deep in mud, eager to attack Lee on the banks of the Potomac, and to annihilate him. They could have done it. They wanted to do it. They were thirsting for such a conflict, because they trusted and hoped that it would end this rebellion. They reached the banks of the Potomac, and, according to General Lee's own dispatches, he had but eight rounds of ammunition for his guns. Eight rounds of ammunition—just enough to last four minutes! Oh, for four minutes of Grant's "blundering audacity!" Who believes that Lee's army would have ever crossed the Potomac if the army of the Potomac had had such a general as Grant at its head? And then the rebellion would have ended, and the brave sons of Massachusetts would have been permitted to return to their homes and pursue the peaceful avocations of life. But, sir, it was not so.

Again last fall, just before our elections, General Meade ordered his whole force to the Rapidan and crossed it. He met General Lee in force, probably strongly intrenched; probably he met him in a position where an attack upon him might have been considered rash, and therefore he concluded to withdraw his troops, which I think probably was right; but the disgrace did not end there. He ordered his whole army of seventy-five or eighty thousand men to retreat; Lee followed him over the Rapidan, and with thirty thousand men drove him without firing a gun clear up to the old battle-ground of Bull Run. Comment is unnecessary.

I repeat that this army has not been treated as it should have been treated. It is the most astonishing thing in the world that they should have retained their courage and discipline under all these reverses, under the humiliation and disgrace of being ordered to retreat fifty miles when every soldier knew that that army had the power to fall upon and crush and annihilate the army of the enemy. I think General Meade himself knew it.

I wish to say, with regard to General Meade, that I believe he is a patriotic man. I believe he is as pure a gentleman as there is in the country. I believe he has the honor of his country at heart. I believe that he means and wishes to do his duty; but he has none of that "blundering audacity" of Grant, which will enable him to win battles and to crown his army with glory.

The army of the Potomac is not exclusively an eastern army. A Minnesota regiment fought side by side all through the campaigns of that army with the fifteenth (I think) Massachusetts regiment. I went over the battle-ground of Gettysburg with the honorable Senator from Massachusetts, the chairman of the Committee on Military Affairs, a few days after the battle, and there we saw Minnesota graves and Massachusetts graves side by side upon the line of battle. As we marched toward the intrenchments of the enemy, near to the very foot of the intrenchments, we picked up knapsacks with "fifteenth Massachusetts" written upon them. I remember well that I called the attention of the honorable Senator to it at the time, and how I thought that men who could fight as those men fought were entitled to win more glory and more renown for themselves and their country than they had been permitted to do.

Mr. President, this grand army stands to-day nearly where it stood two years ago. Did I not believe that it might have done vastly more than it has done if it had been properly directed, I would not say one word; but for the honor of those troops, for the honor of our country, for the honor of the brave men who have already fallen to enrich Virginia soil and whose blood has crimsoned almost every rivulet in that State, it is right that the blame of their not having advanced further should fall on the men on whom it should rightfully fall, and the country should know that while this army has not been as successful as the western army, it is not the sons of Massachusetts or of Ohio, or Indiana, or Michigan, or Maine who are to blame, but it is because the army has not been managed as the grand, conquering, victorious army of the West has been managed.

Mr. JOHNSON. If the honorable member had confined himself—

The VICE PRESIDENT. The Senator will allow the Chair to suggest that there is no question before the Senate.

Mr. JOHNSON. I ask the consent of the Senate to say a word or two.

The VICE PRESIDENT. The Senator will proceed if there be no objection. The Chair hears none.

Mr. JOHNSON. If the honorable member had contented himself with defending himself against the imputation which he understands has been made upon him by the Governor of Massachusetts, no Senator would have thought it his duty to say a word in reply. Having heard the honorable Senator on the occasion which gave rise to the remarks of the Governor of Massachusetts, I am satisfied that the Governor has misunderstood the course adopted by the member.

But while he deemed it necessary to protect himself against unjust imputations, I wonder it had not occurred to him that perhaps he was offending in the like way by casting imputations upon others. He has stated two things in which the country has an interest, and in regard to which we should all be advised. He has assailed two officers in whom the country heretofore have had confidence, in whom the Executive of the United States has had confidence, in one of whom the Executive still has confidence, we must suppose, for he leaves him in command.

The honorable member has told us—upon what authority I am yet to learn—that when the battle of Malvern Hill was decided upon and fought, the commander of the army was safely on board a gunboat in the river. I ask the honorable member for the authority upon which he speaks. No matter what it is, no matter what may be the quarter from which the information is derived, the fact is unquestionably otherwise. General McClellan was at Malvern Hill, assisted in selecting the site, was present when the battle was fought, not in the advance, for a general never is, but a spectator of the whole scene, and directing as far as it was proper to direct the movements of the corps engaged in that battle—a battle, too, that covered not only the army of the Potomac with glory, but added glory to the military renown of the United States.

He has also stated—and in relation to that statement likewise I think we are entitled to the authority upon which he has made it—that the commander of the same army previous to the battle of Gettysburg ordered a retreat. There is nothing on file in the Department of War, nothing has

been communicated from that Department or by the President of the United States, or by any corps commander as far as we know, that any such order was given; and, independent of any express authority to show that any such order was issued, all the circumstances prove almost the impossibility of the assertion. When General Hooker was removed from the command of the army only a few days before the battle of Gettysburg, and General Meade by the President of the United States put at its head, he marched with a celerity unexampled, and fought the battle even sooner than the public had reason to believe it could be fought with anything like safety, and every military man who has spoken on the subject, as far as I am advised, from that day to this, (unless the honorable member be an exception and he be a military man, of which I have no particular knowledge,) has spoken of that battle as one of the best that ever has been fought, both as regards the bravery of the men engaged and the skill of the leader.

Mr. President, at this period it is, and I submit it to the honorable member, exceedingly inappropriate and impolitic to be assailing the leaders of our armies. They peril life; they peril reputation. The honorable member from time to time has told us that the black soldiers who have been enlisted in the service of the United States are to be paid not only by a gift of freedom to them, but by the same pay that we give to the white soldiers, because they are periling life in defense of the country. The men who lead our armies, devoting themselves day and night to the service of their country, anxious to carry its flag wherever it can be carried successfully and to put down this rebellion, are on the floor of the Senate charged either with gross ignorance or with some crime, if ignorance be a crime, worse than ignorance.

And the honorable member tells us that this might have been done and that might have been done, and he places himself, in relation to some of the matters which he thinks could have been accomplished, upon the authority of General Hooker. I am the last man to call in question the gallantry of General Hooker and his ability to lead a corps or to lead a division, but I am yet to be advised by anything that has happened in the course of this war that he is capable of commanding the army with more skill and success than either McClellan or Meade. He was placed in the command of the army, the unrestricted command of the army, an army not in the condition in which McClellan was obliged to lead his, but an army in as fine condition as ever were placed under the command of any chief, and what was the result? A movement, however skillfully conducted in the beginning, resulting in a lamentable failure. I suppose it could not be avoided, and I repeat that I am not here for the purpose of challenging in any acrimonious spirit the skill or the gallantry of General Hooker; but it is proper to say in this connection that in the testimony which he gave before the committee on the conduct of the war, he almost said in words that if he had been in the command of the army when McClellan was, Richmond would now have been in our hands. I have no doubt he thought so; but judging of what might have been the result if he had been in command by what was the result when he got to be in command of the army, the country would have found that that would not have been the result.

Now, the honorable member assails, and not for the first time, the army of the Potomac; not upon the ground of any want of valor or of loyalty in the materials of which the army is composed, but upon the ground of the inefficiency of its officers; and he tells the Senate and tells the country that it has literally done nothing. The honorable member closes his eye to what has happened during the last two years. Done nothing? The North has been saved twice from having this battle for the safety of the nation carried on within her own limits; and upon the last occasion when Meade so gallantly and successfully commanded the army, if there had been a failure Philadelphia would have been in the possession of the enemy in less than ten days, and that done the confederacy would have been recognized.

But is that all? Maryland was invaded, Pennsylvania was invaded; the disheartened and demoralized army who fled from Virginia, dispirited and desponding, were placed by the President of

the United States under the command of General McClellan, and the result was instantaneous; demoralization ceased, order commenced, confidence in the chief began, and the confidence continued until the battles of South Mountain and Antietam, and the result of those battles was that Lee was driven across the Potomac bootless to his home and we were again saved—if not Philadelphia, Maryland was saved, Baltimore was saved. And what would have been the condition of the country if the enemy had got possession of Baltimore? What would have been the condition of this capital? What would have been the plight in which the honorable member himself, in common with his associates in this Chamber, would have found himself? Obligated to fly, fly for safety, abandon the seat of Government; and that done, it requires no prophet to say that the confederacy would have been recognized by both England and France; and that done, although I have as much confidence in the ability and power of the United States as any man living, I should almost have despaired of the fate of the nation.

When, therefore, gentlemen tell us—and the honorable member has told it more than once—that the army of the Potomac has failed, they go in opposition to the history of the day. It has not done all that was expected, but it has saved the city of Washington, it has saved the credit and honor of the Government, it has saved the North, it has saved the State from which I come.

But, sir, the army of the Potomac has not always been under the command of either McClellan, or Hooker, or Meade. McClellan, while on a march and apparently about to meet the enemy, and with every confidence existing in his own mind and in the minds of his corps officers of success, was taken from the command without a moment's notice, and the army placed under the command of General Burnside, a gallant soldier, a brave man, a patriotic man, in whose heart there exists an undying devotion to the Union; but we all know what the result was. He crossed the river which had divided the two armies, and with what a fearful loss! How did we suffer by that failure; how in our own eyes, how in the eyes of Europe! Burnside's defeat and Hooker's defeat nearly lost us the confidence which had in a great measure been before reposed in the ability of the United States by the Governments of Europe.

Mr. ANTHONY. Will the Senator allow me one moment?

Mr. JOHNSON. Certainly, sir.

Mr. ANTHONY. The report of General Burnside has not been printed; but I desire to state to the Senate and to the country my opinion, based upon some knowledge of facts, a portion of which are in the possession of Senators around me and some not, that when all the facts of that campaign are known it will be evident to every one that the movement of General Burnside was well conceived, well planned, and that its failure was owing entirely to the disobedience of officers high in command. I appeal to the chairman of the committee on the conduct of the war if that statement is not correct.

Mr. JOHNSON. That, I have no doubt, is the impression of General Burnside; and I am not here to say whether he is right or wrong about it; but then it will be recollected that General Burnside, in the estimation of the world, is no better a soldier than the corps commander with whom he finds fault.

Mr. ANTHONY. I do not stand here to assail any man; but I desire to protect, at least so far as this declaration will protect, the reputation of General Burnside; and I ask my friend from Ohio if the statement I have made is not borne out by his opinion, based upon the testimony before him.

Mr. WADE. I am very unwilling to be dragged into this debate at this time. I have very strong opinions, derived from the testimony of witnesses who ought to know the facts, upon all the points which are now raised here. I am not a military man, and it would be very presumptuous in me to volunteer an opinion on such a subject, except what is derived from officers that ought to know the facts. I do believe that the battle of Fredericksburg was lost through the disobedience of officers in high command that did not carry out the orders of General Burnside. I attribute that entire defeat to that circumstance, because I derive my information from officers high in com-

mand who were there, and they make it exceedingly plain to a man who is not a military man when they go on to explain how it was. I could give their evidence on the point; but I think it is not necessary to go into that here.

Mr. JOHNSON. I agree with the honorable member from Ohio that it is not necessary. The honorable member from Rhode Island is very much mistaken if he supposes that I intend to cast the slightest imputation on General Burnside. I have as high an opinion of General Burnside as he can have, and would be as unwilling (even if I could be induced to do it) to assail General Burnside as the honorable member from Rhode Island. I do not know who were the particular corps commanders, or whether they were corps commanders, who are said to have disobeyed the orders of General Burnside. I recollect having read a defense of himself by one of his corps commanders, General Franklin, and if his statements of fact were true, there was no disobedience of orders as far as I am capable of judging, and that is a capability no greater than the honorable Senator from Ohio claims for himself. I thought General Franklin made a very good case of it.

But I did not mean to say that there was any blame to be attached to anybody. What I protest against is that we should be found here from time to time assailing our officers. For the soul of me, I cannot imagine what good to the country is to result from it. But when the honorable member from Minnesota thinks proper to assail these several commanders, I wonder it does not occur to him that each one of them has acted but a subordinate part. Had McClellan the direction of his campaign, or the President of the United States? Was McClellan given all the troops that he thought to be necessary for the campaign, or was a portion of the troops originally promised him taken from him, and if taken from him taken by whom? By the President of the United States. Who placed Burnside in command and removed McClellan from it? The President of the United States. Who placed Hooker in command, one of the officers whom General Burnside, that stands so high in the estimation of the honorable member from Rhode Island, thought ought to be dismissed the service because, as he alleged, he had disobeyed his orders? The President of the United States. Who visited the Army from time to time for the purpose of directing its movements? The President of the United States. Where did the several commanders from time to time go when they were not visited by the President, for the purpose of getting orders? To Washington, seeking interviews with the President of the United States, and taking and following out his orders.

The honorable member from Maine [Mr. Fessenden] the other day said, and said truly, that when gentlemen charged disasters to the army of the Potomac, and, as one of them was understood, charged them to the army of the Potomac because of the inefficiency of the army itself, its rank and file, they should recollect, and he reminded the member from Minnesota to bear in mind when he drew a comparison between the eastern and western troops, that the man who managed the army of the Potomac was a western man, and that man the President of the United States.

It has become a common saying throughout the country (whether justly or not it is not for me to say) that the army of the Potomac has been successful or unsuccessful just as it has been left to the management of its leader; in proportion as it gets out of the influence of the Executive and stands upon its own resources, so is it triumphant; but immediately it comes within the hands of the President—hands I have no doubt honestly and patriotically used, but he is no more of a soldier than either of us—then from some cause or other there is disaster. What have we now, carrying distress to hundreds and hundreds of households? A loss in Florida of from ten to twelve hundred men, a defeat not disgraceful to the men concerned, but apparently disgraceful to those who planned the expedition. Who planned it? Not McClellan, not Meade, not Hooker, not Burnside, not Gillmore. Who then?

Mr. WILSON. Can the Senator tell us who did?

Mr. JOHNSON. I cannot, but I am sure who did not. We all know what the result is, and

we all deplore it. The men were gallant. Gillmore was supposed to be a successful leader. But yet there is a defeat. Who suggested the campaign, I am as ignorant as the member from Massachusetts, if he is ignorant; but the public suppose, and if they are in error that error should be corrected, that it was planned here, and charge the defeat to the Executive, whether justly or not I do not know. I do not suppose that the President of the United States would have ordered a campaign of that description unless he had been supported by high military authority; but whether he was or was not, one thing is certain, it had not the support of the officers whom the honorable member from Minnesota has thought proper to impeach.

I have said all, Mr. President, that I rose to say.

Mr. FESSENDEN. The Senator from Maryland in his remarks just now alluded to the fact that I reminded the Senator from Minnesota the other day that the President was a western man, and that he was in command of the Army. I made no imputation whatever on the President in reference to any interference or any attempt to command the Army, because I knew nothing of that. I alluded to the fact that he appointed the officers and they were under his eye, and such officers as they were he was responsible for.

Mr. JOHNSON. Certainly; so I understood.

Mr. WADE. Mr. President, I am not going to enter into this subject now, though I may at some time give my views upon it as derived from testimony. The Senator from Maryland, however, has charged the President, I think unjustly, with the responsibility of the plan of the peninsular campaign. I think that if the President's plan had been adhered to by General McClellan there would have been no particular trouble. Before the President of the United States would permit General McClellan to follow the plan of a campaign on the Peninsula, he made it a condition precedent that General McClellan should consult with all his division commanders, I believe twelve in number, and that he should have their unanimous opinion as to the number of troops it would be necessary to leave here for the defense of Washington, and that he should leave such a number as would be sufficient in the opinion of all the division commanders, and that unless he did so he was not to go.

He had not the opinion of more than eight of those commanders; and, in direct violation of the condition prescribed by the President, he went to the Peninsula without leaving here the troops that the division commanders were of opinion should be left. He had hardly reached Yorktown before he was crying out for more soldiers, though he had so many then that, I may say, he did not know what to do with them; he did not land them all. As has already been stated, he had more than one hundred and twenty thousand to encounter seven or eight thousand miserably entrenched in mud fortifications that were of no consequence; but I am not going into that.

He continued to call for troops. He called for McDowell's corps, when he knew as well as we knew here that there was a large rebel force under Jackson in front of Washington. If the President had yielded to his demands, Washington must have fallen without resistance into the hands of the enemy who had a force in front of it.

The objection of the President to permitting him to go to the Peninsula was that it would inevitably lead to a division of our army. You could not march to Richmond by way of the Peninsula without leaving the capital entirely uncovered to the rebel force that was lurking about here northwest of the city; therefore the President made that a condition, and McClellan knew it well enough when he was calling for troops. He had his selection of the troops, and he left but about fifteen thousand here when he should have left forty thousand.

I say then that it was not the fault of the President that he went to the Peninsula. He went against the President's orders and without complying with the condition on which the President permitted him to go; and therefore the President is justified. McClellan had no right to call for additional troops, and he knew it. He knew that they could not be spared to him. As a military man he could not help knowing it. What would have been our condition if the President had

yielded to his request and sent McDowell's corps to Richmond? As I said before, the capital would have been overrun without resistance. That is all I wish to say now, sir.

Mr. WILSON. I have listened to this debate with a great deal of regret. On the one side officers are criticised and censured, and on the other side the Government is held responsible for our misfortunes, and between the two it seems to me the country suffers. I doubt the wisdom of undertaking on this floor to criticise the movements of our armies in the field, or to hold the Government responsible for our defeats, unless we have conclusive evidence of the interference of the Government with the plans of Army commanders.

The Senator from Minnesota makes a personal explanation in reference to remarks made by the Governor of Massachusetts. It may be that the Governor of Massachusetts should not have said what he did say in Faneuil Hall on the evidence furnished by telegraphic dispatches; but the Senator knows full well that Governors and presses and people criticise our words and acts here, and criticise them sharply, upon evidence furnished by telegraphic dispatches. The Senator from Maine says, in an under-tone, "That ought not to be so."

Mr. FESSENDEN. I say that they ought not to do it on such dispatches. I accord them the largest liberty of criticism.

Mr. WILSON. I agree with the Senator that we ought all to be careful how we criticise any body of men or any man in the country upon the mere evidence of brief telegraphic dispatches. But, sir, all of us know that the people of this country see very little of what we do here except from brief telegraphic dispatches. Those dispatches go to the country daily. The Globe goes along in the mails afterwards, and is read by few of the people and by very few even of the conductors of the public journals. The country to-day judges of us, and of our acts and of our words, by the dispatches that go to the associated press and by the correspondence of the leading journals. It is our misfortune; we cannot help it; and it is impossible for those who send the telegraphic dispatches always to give to their readers an accurate idea of what is said and done here.

In saying this I do not wish to find fault with the reports that go out from this body by telegraph. Considering their brevity, they are as good as we have reason to expect them to be; but I say to the Senator from Minnesota we may complain of it as much as we please, the public journals of the country, the public men of the country, the people of the country will daily pass upon our words and acts here upon the telegraphic dispatches that daily go to the country, and we cannot avoid it. It seems to me, therefore, we had all of us better bear what we cannot help as best we can.

I find, sir, one thing to be true, and it has been true throughout the war, that when we win victories the victories are claimed by the officers commanding in the field, but when misfortunes and defeats come upon us, the public judgment of the country is apt to throw the blame upon the Government. I think sometimes that tendency is encouraged by defeated military men who wish, in order to relieve themselves, to put the blame upon the Government, to charge it upon the interference of the President, the Secretary of War, or General Halleck. I know that has been done in some cases where facts subsequently disclosed to the public showed that the President, the Secretary of War, and the General-in-Chief of the Army did not interfere, but that the advice they gave was not followed.

Mr. ANTHONY. Mr. President, I agree with the Senator from Maryland that nothing can be more unprofitable than to assail upon this floor the conduct of our generals. I never do it; I am not a military critic; and if I were I should not exert my powers in that way; but since this question has been raised, I think it is but simple justice to General Burnside to read a little from the testimony taken before the committee on the conduct of the war touching upon the point to which the Senator from Maryland has alluded. This is the testimony of General Meade, who commanded a division in the first Army corps under General Franklin:

"Question. What number of men did General Franklin have under him there?"

"Answer. I am not able to state positively. He had his own grand division, consisting of two corps, which I suppose amounted to very nearly forty thousand men; and he had additional troops sent to him, probably to the extent of fifteen or twenty thousand men. I should say that he had from fifty-five to sixty thousand men altogether under his command. That is as near as I can judge; I am not able to state positively.

"Question. With what number was the attack made upon the enemy's lines?

"Answer. I estimate my division in my official report to have been about forty-five hundred. The division of General Gibbon on my right might have amounted to six or seven thousand. And the portion of General Birney's division that came up in my rear might have had from four to five thousand men.

"Question. How many troops actually advanced to the attack?

"Answer. The actual attack, as contemplated, was made probably by, at the outside, ten thousand men; that is, forty-five hundred men in my division, and I think General Gibbon's was probably something over five thousand men.

"Question. What was the success of this attacking column?

"Answer. My division succeeded in driving the enemy from all their advanced works, breaking through their lines, and occupying the heights they had occupied; piercing their lines entirely, and getting into the presence of their reserves.

"Question. How strongly were you supported at the time you pierced their lines and got into the presence of their reserves?

"Answer. The division on my right—General Gibbon's division—which I had understood was to have advanced simultaneously with my own, did not advance until I was driven back. It advanced until it came within short range of the enemy, when it halted. The officers could not get the men forward to a charge, and the division was held at bay there some twenty or thirty minutes, during which time my division had gone forward. That delay enabled the enemy to concentrate their forces and attack me on my front and both flanks. I had penetrated the enemy's lines so far that I had no support on either flank, and was, therefore, forced to fall back; as I came out General Gibbon's forces advanced, and got as far probably as the railroad, which was the enemy's outer line. The enemy were posted on the ridge, and the railroad ran along at the foot of the ridge.

"Question. And you finally failed in the object of the attack?

"Answer. We were repulsed after that success.

"Question. To what do you attribute that failure and your repulse?

"Answer. It was owing to the fact that, from inferiority of numbers, we were unable to hold what I had gained.

"Question. Had you been promptly supported by all the disposable force of General Franklin, what, in your judgment, would have been the result?

"Answer. I think if we had been supported by an advance of the whole line, there is every reason to believe that we could have held the ground.

"Question. And if you had held your ground, you would have broken their line?

"Answer. Yes, sir.

"Question. And what would have been the effect of that upon the enemy?

"Answer. I should judge that the effect would have been to have produced the evacuation of the other line of their works in the rear of Fredericksburg; that is, had we driven them back on our front, the left, and held the position."

EXPEDITION TO FLORIDA.

Mr. HENDRICKS. I desire now to present a resolution which I intended to submit yesterday, but was prevented from presenting by the fact that the Senate went to other business. I desire to present it now, because the subject to which the resolution refers has been alluded to in the debate that has just closed. A very great deal of interest is felt in the country now touching the recent expedition to Florida, which in some respects, to say the least, resulted so disastrously to the Army of the country. Whether the responsibility be upon the President, the Secretary of War, the General-in-Chief, or the general who commanded the expedition in Florida, it is now important to know, because reasons are attributed to the author of the movement, whoever he may be, not calculated to promote the confidence of the country in the operations of the Government. I therefore offer this resolution:

Resolved, That the joint committee on the conduct of the war be directed to inquire into the causes of and circumstances attending the recent military expedition into Florida; with whom the expedition originated; for what purpose it was undertaken; and what were its results; and that the committee be instructed to report at as early a day as practicable.

The resolution was considered by unanimous consent, and agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had passed the bill of the Senate (No. 140) to provide for the protection of overland emigration to the States and Territories of the Pacific.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an en-

rolled bill (H. R. No. 265) supplementary to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863; and it was signed by the Vice President.

INTERNAL REVENUE.

The message also announced that the House of Representatives had passed a resolution "that the House insist on its disagreement to the Senate amendments to House bill No. 122, to increase the internal revenue and for other purposes, and that the House request of the Senate another conference between the committees of conference on the said bill; and it is hereby declared to be the judgment of this House that in the adjustment of differences between the two Houses on the said bill there should be an additional duty of not less than twenty nor more than forty cents per gallon imposed on spirits on hand for sale."

The message also announced that the House of Representatives had appointed Mr. RUFUS P. SPALDING of Ohio, Mr. JOHN A. KASSON of Iowa, and Mr. JOHN L. DAWSON, managers at the proposed conference on its part.

The VICE PRESIDENT laid before the Senate the message and resolution of the House of Representatives in regard to the bill (H. R. No. 122) to increase the internal revenue, and for other purposes.

Mr. SHERMAN. I submit the following resolution:

Resolved, That the conference requested by the House of Representatives be agreed to, and that the conferees heretofore appointed by the Senate be instructed to agree to proper amendments to the Senate amendments disagreed to by the House, providing for a tax of not exceeding twenty cents a gallon on spirits on hand for sale.

Mr. FESSENDEN. I should like to inquire of the Chair whether that is a parliamentary mode of proceeding. My understanding of a free conference is, that the persons appointed to conduct it may agree to make such an arrangement of the disagreeing votes as they think best. At any rate, I have never in parliamentary history read of an instance where a committee of conference were sent out instructed on the part of the body they represented to take a particular line of action in reference to the legislation they were to agree to. I should like to know if there is any precedent for it.

Mr. SHERMAN. I have not examined for precedents; but I think there can be no doubt of the power of the Senate to instruct its conferees on any point. It is a question of discretion. Ordinarily it would not be done; but there have been two conferences on this disagreement, which has all grown out of one difference. The House of Representatives have now expressed their opinion on that difference, and I think the Senate ought also to do so.

The identical proposition now before the Senate has never been discussed or acted upon here in the words in which it is presented, or even in substance as it is now presented. I consider it therefore important to take the sense of the Senate on the question whether they will acquiesce in a tax of twenty cents a gallon on the spirits on hand. If that is agreed to by the Senate, there will be no difficulty in bringing about an agreement on the whole bill between the two Houses; but if the Senate conferees carry out the expressed wishes of the Senate heretofore not to agree to any tax upon spirits on hand, as a matter of course there can be no agreement, and it is scarcely worth while to provide for another meeting of the conferees. I do not wish now to discuss the main question, unless other Senators do, because it is perfectly familiar.

Mr. GRIMES. Had you not better strike out the twenty cents and leave the amount of the tax open?

Mr. SHERMAN. I propose to say not exceeding twenty cents.

The VICE PRESIDENT. Does the Senator from Maine raise a question of order?

Mr. FESSENDEN. Yes, sir; I intended to raise the question in that way.

The VICE PRESIDENT. The Chair can have no doubt that the resolution proposed by the Senator from Ohio is in order. Conferences are of two characters, free and simple. A free conference is that which leaves the committee of conference entirely free to pass upon any subject where the two branches have disagreed in their

votes, not however including any action upon any subject where there has been a concurrent vote of both branches. A simple conference—perhaps it should more properly be termed a strict or a specific conference, though the parliamentary term is "simple"—is that which confines the committee of conference to the specific instructions of the body appointing it. The Chair therefore rules that the resolution is in order.

Mr. FOSTER. I wish to inquire whether the instructions which this resolution proposes to give to the committee do not introduce into the bill a feature which is new, and which changes the character of the bill as agreed to both by this and the other House?

Mr. SHERMAN. I will reply to the Senator from Connecticut that upon that question there was a difference of opinion in the committee of conference. The House of Representatives, in the bill as it was originally passed by that House, proposed to impose a tax of forty cents a gallon upon spirits on hand. The Senate struck out that tax and made various other amendments to the bill. The bill went back to the House of Representatives, and that House agreed to strike out the tax of forty cents upon spirits on hand, but disagreed to the Senate's other amendments. The conferees on the part of the House proposed to amend those Senate amendments by adding a tax of twenty cents a gallon upon spirits on hand. I do not see any parliamentary difficulty in the way of accomplishing that if the Senate are willing to acquiesce in an amendment to their amendments.

There are disagreeing votes on two amendments between the two Houses, to either of which, in my judgment, an amendment proposing a tax of twenty cents a gallon upon spirits on hand might be added according to parliamentary rules; but all difficulty on that point will be obviated by the instructions of the two Houses. The Senate might very properly object to any action by the Senate conferees which was not strictly within the parliamentary rule; but the Senate itself may, by its instructions, enlarge the power of the committee. There is no doubt about that. There is no limit to the power of the Senate over its committees. It may authorize its conferees to agree to amendments to its amendments, which might not be in order if those amendments to the amendments came directly from the conferees without the action of the Senate. That is the view all the conferees took, although they differed on the question of parliamentary law.

I say again the simple question I wish to present by this instruction is, whether the Senate is willing to acquiesce in a tax of twenty cents a gallon upon spirits on hand. That subject I do not propose to debate unless other Senators engage in it.

Mr. FOSTER. I understand then that it is as I supposed: the Senate objecting to a tax on spirits on hand as proposed by the House of Representatives, sent the bill back to the House of Representatives, and that House agreed with the Senate in striking that feature from the bill.

Mr. SHERMAN. A tax of forty cents.

Mr. FOSTER. Yes, the House of Representatives proposed a tax of forty cents; we objected to it and struck it out, and the House agreed to striking it out. So then that feature was not in the bill. We disagreed on other matters. Now it is proposed to introduce into the bill a change of a feature which has been agreed to by both Houses, which the honorable Senator and many others here on former occasions have insisted could not be done. The Senator now suggests that, although the committee cannot do it, the Senate can do it by instructing the committee, and then the committee can do it. A committee once undertook to do that and asked the Senate to ratify it, and it was claimed that they could not ratify it, that the Senate had not the power to ratify it; but now it is claimed that we can authorize a committee to do that which if they had done we could not ratify.

Mr. President, I do not believe that, and I do not believe, therefore, that the honorable Senator is right, taking into view the previous decisions of the Senate upon this principle.

Mr. SHERMAN. The Senate will allow me to make an additional statement. Growing out of the rules of the House of Representatives, when a bill goes back to the House of Representatives with amendments of the Senate it is usual to call

the previous question upon the pending amendments. That previous question extends to all the amendments. The question came up; the House of Representatives was willing to agree to strike out the tax of forty cents a gallon, and expressed that willingness by a very close vote; but it was not within its power according to the rules of the House to move to amend the Senate amendment, so that the proposition to put a tax of twenty cents a gallon on spirits on hand could not under the rules of the House be in order, and was never submitted to the House until the question was taken there yesterday on these instructions.

The Senator's reasoning might have been correct if the House of Representatives had passed upon the identical proposition now before the two Houses. Then it would not be right to go back and reconsider that question. But the House of Representatives simply agreed to the Senate's proposition to strike out the tax of forty cents upon spirits on hand. That is all they agreed to. That is all their action. By their rules they were precluded from passing upon the question of imposing a tax of twenty cents a gallon, because they could not amend the Senate's amendments in the stage in which the bill was when it came up in that House.

I think it was the misfortune of the rules of the House that they could not amend the Senate's amendment. That would have presented the question fairly; but their rules precluded that; and now the only question is whether, to avoid the defeat of this bill, we are willing to allow the question to be taken upon a tax of twenty cents a gallon on spirits on hand.

I ought to explain further that if the Senate reject this proposition, the conferees on the part of the Senate as a matter of course will be compelled to adhere to the position of the Senate. Then the only question will be, will the House of Representatives recede from its disagreement, or shall the bill be lost?

Mr. CONNESS. Permit me to ask—

Mr. SHERMAN. I shall be through in a moment.

Mr. CONNESS. I wish to ask a question right at this point.

Mr. SHERMAN. I trust the Senator will not interpose, but will allow me to conclude. If the House of Representatives recede, as a matter of course the bill will be passed precisely as it was passed by the Senate; but if the House should disagree, and should insist upon some amendment to the Senate amendments, then the bill will be lost. The effect of that the Senate will see. The Government will lose all the revenue from the enormous quantity of whisky that is now being manufactured every day, and before this subject can be brought up in a new bill, or as part of the revenue bill now pending in the other House, I may safely say that not less than two months time will be consumed, and within these two months the manufacturers of whisky can manufacture not less than twenty million gallons, yes, thirty million gallons. The effect of the long delay growing out of this disagreement between the two Houses has been to lose to the Government more, I think, than will be derived from the tax on spirits on hand.

Now my object is simply to get rid of the controversy if we can. I think a tax of twenty cents a gallon upon spirits on hand can be justified, but I do not want to enter into that argument. I think we had better acquiesce in it and advise the tax. It makes it moderate on those who hold spirits, and we want the money very much.

Mr. CONNESS. I desired to ask the Senator from Ohio whether, if we refuse to give the instructions now proposed by him, it will not be competent for the House of Representatives to reconsider the instructions that they have given to their committee, and then allow it to be a committee of free conference again. I understand the Senator to assent to that proposition.

Mr. SHERMAN. Undoubtedly.

Mr. CONNESS. Then we are not presented with the alternative alone of either giving the instructions in the shape the Senator proposes or losing the entire bill.

Mr. SHERMAN. The Senator will observe that I did not say so. I said we present the alternative of either losing the bill or the House of Representatives receding.

Mr. CONNESS. Receding from their instruc-

tions. I understand the Senator to state that the bill would be lost unless the other House receded from the former vote that they had taken—not the vote upon the instructions to the committee. But, sir, I did not rise to find an inconsistency in the Senator's statement, but to be able to show that by appointing a third committee of free conference, which I think is our proper course, the alternative will then be presented to the House of Representatives to recede from the instructions they have given to their committee and let there again be a free conference between the committees of both Houses.

I do not desire to discuss now the question of the propriety of imposing a tax of twenty cents a gallon upon the stock on hand, and yet I will say that it is my deliberate conviction that if we authorize a tax of twenty cents upon the stock on hand in the country, we shall so have to increase our collectors and assessors throughout the land that we shall excite and make an enemy of every man in the country that has a barrel of whisky on hand as to make it the most unprofitable effort to raise revenue that this Government has ever engaged in. The matter has been very fully considered by the Finance Committee of this body, and I will say that when I went into the room of that committee it appeared entirely just to my mind to apply this tax to the stock on hand; it seemed to me that no injustice could occur to any party if on a given day an equal sum was affixed as a tax on all the whisky in the country. But after a full deliberation there, not founded upon the testimony presented by interested parties, as has been stated by the press—I trust I shall be pardoned for alluding to that—but upon a full and complete investigation, as patient, I think, as ever was made, the committee were nearly unanimous in the opinion that the Government would be a loser and not a gainer by undertaking to impose a tax upon the whisky on hand.

The position of the Senate would have been accorded to by the House of Representatives but for a persistence there that I will not undertake to speak of. I am now informed, however, by intelligent and able gentlemen of that body that in their opinion the proposition of the Senate will be acquiesced in if the question be submitted again to that House. I hope, in view of the importance of the question, that the Senate will not vote to give the instructions presented and asked for by the Senator from Ohio, but that we shall refuse them and then proceed to appoint a third committee of free conference, and let the question go to the House of Representatives as to whether they will not recede from the position of instructing their committee. Though it may be legitimate and parliamentary to instruct committees of conference, it certainly is not the best course of procedure, and I hope we shall not take it.

Mr. SHERMAN. The Senator from California makes one remark which had weight with me yesterday. He says now what he has said before, that the House of Representatives would recede from its disagreement; and for the purpose of enabling that House to recede so that the bill might be passed, I yesterday withdrew this resolution of instructions, and the bill was sent to the other House unembarrassed by any action on the part of the Senate, in compliance with the suggestion of the Senator from California and other Senators. It was there taken up, and a motion was made by a colleague of mine that the House should recede from its disagreement to our amendments, and that proposition was negatived by a vote of 53 yeas to 78 nays—a majority of twenty-five against the House receding. Then the question came up on agreeing to the instructions which have been read, and the vote was 76 yeas to 67 nays.

Mr. CONNESS. A difference of nine votes.

Mr. SHERMAN. A difference of nine votes on the second question.

Mr. CONNESS. On the instructions.

Mr. SHERMAN. But there was a majority of twenty-five against receding, which in the popular branch is a very large majority. We have no means of knowing the action of the House of Representatives except through its votes. A member of that House may say to Senators that the House will do so and so, but we can only judge of the action of the House by its votes.

The question of a tax of twenty cents a gallon

upon spirits on hand has never been discussed in the Senate thoroughly. When the bill was pending, and was near its passage, the Senator from Wisconsin [Mr. DOOLITTLE] moved to recommit it to the Committee on Finance, with instructions to report a tax of twenty cents. Although I have always been in favor of putting a moderate tax upon the whisky on hand—twenty cents was about what I considered just—I voted for the motion of the Senator from Wisconsin with some doubt, because I did not wish the bill recommitted to the Committee on Finance with instructions; I preferred that it should go back to the other House. But we have never considered the question of the propriety of levying this tax, and it has never been discussed in this body.

I will say now but one word in regard to this tax. I agree with the Senator from California that a tax on the spirits on hand would be unjust, unless we proposed to raise the value of the article on hand by our legislation. By our proposed legislation we add to the value of spirits on hand forty cents a gallon; so that the price of the article on hand at the time this bill was introduced has advanced forty cents a gallon. The question occurs to me, is it not right that the Government by a system of taxation should at least share this increased value conferred by our act upon this article? I say there is no impropriety in it. The tax of forty cents on spirits on hand was unjust, because the cost of this article was very much added to by our proposed legislation; but a tax of twenty cents a gallon on spirits on hand would not be unjust, because it only divides with the holder the profit that he derives from the act of the Government.

In the argument the other day, when this subject was before the Senate, one Senator—I think it was the Senator from Maryland, [Mr. JOHNSON]—said it was unjust for the Government to levy taxation on benefits conferred by itself. Why, sir, we do it always. In every act chartering a railroad company we provide that certain special benefits shall be deducted from the damages sustained by the land owners. When we authorize a railroad company to enter on the land of an individual and to take his land, we deny to that company the right to offset general benefits, the benefits which were conferred only upon this citizen like all others; but if special benefits are conferred on the owner of the land, as by draining his swamp or by locating a town upon it, or locating improvements upon it, we authorize that benefit to be deducted from the injury. That is precisely the nature and character of this tax. We by our act confer upon the holders of this article an actual cash value of forty cents a gallon. We propose, in the form of taxation, to take, to enable us to carry on the operations of the Government, one half of that increased value.

Mr. CONNESS. Will the Senator permit me a word, to spare further discussion on this point?

Mr. SHERMAN. Certainly.

Mr. CONNESS. I admit that there is justice in the abstract proposition as now stated by the Senator from Ohio; but the fact is not as stated by the Senator from Ohio. It is not true that this commodity remains in the hands of a single party or particular parties while the advance is obtained; but, on the contrary, it is constantly changing hands. It is constantly enhancing in value under the prospect of additional taxes by us, and it is simply impossible for the Government to divide that profit with any holder. Each subsequent holder, as is suggested to me by the Senator from Kentucky, [Mr. DAVIS], pays an additional price. That is my reply to the Senator on that point.

Mr. SHERMAN. It seems to me the answer to that is obvious. The Senator says that people buy and sell this commodity pending our legislation. If they buy they take all the risk of our legislation. They have no right to assume because a bill is introduced in either House to impose a tax of forty cents a gallon on spirits in the future that that will become a law. They take that risk; and I repeat that these persons dealing in spirits will make large sums of money by our proposed taxation. Some few of them may lose the benefit of speculation; but, taking them as a whole, they will make more money by our legislation than any other class of our citizens, because we have added to the value of their article fully forty cents, and we only propose to take in

the form of taxation twenty cents. But I will not discuss this matter further. The arguments *pro* and *con.* are obvious; and I do not wish to detain the Senate.

Mr. CONNESS and Mr. CARLILE rose.

Mr. CONNESS. I desire to offer an amendment, and then I will give way to the Senator.

Mr. CARLILE. I wish also to offer an amendment.

Mr. CONNESS. I will withdraw mine if it will not suit you.

Mr. CARLILE. If it is in order I will submit a motion that the Senate agree to the amendments to the bill as made by the House after it had gone there from this body.

Mr. CONNESS. Will the Secretary read the amendment that I propose?

The Secretary read the amendment, to strike out all of the resolution after the word "resolved," and to insert:

That the Senate disagree to the resolution of the House of Representatives of yesterday's date, proposing instructions to the conferees, and ask another free conference on the disagreeing votes of the two Houses on the bill of the House No. 122, to increase the internal revenue, and for other purposes.

Mr. CONNESS. That will meet the case.

Mr. CARLILE. I should prefer the motion that I have submitted. It has been stated in this discussion that the delay already in acting upon this bill has lost to the Treasury a considerable amount that would have been placed there by taxation upon this article of whisky, if this bill had been enacted into a law when it first came to this body.

Mr. FESSENDEN. Let me say one thing to the Senator. If we agree to the bill in the shape in which it came back to us from the House, the result will be that we shall have a tax of sixty cents from now until the 1st of July, and after that time it will go back to twenty cents, and remain there.

Mr. SHERMAN. Not only that: the tax still exists on spirits imported into this country, and not on those manufactured here.

Mr. FESSENDEN. That is my construction. That is the view I take as to what the effect would probably be.

Mr. CARLILE. In answer to that it might be replied that that could be remedied by subsequent legislation; but before I would consent to do an act of injustice, as I think would be done by the Congress of the United States if they should tax the article on hand after it has paid a tax under the law as it now exists, I would allow the bill to fail entirely, and allow this question as to the tax to be placed on whisky to come up for consideration in connection with the other subjects of taxation when we consider the revenue bill. I will withdraw my motion, and allow the Senator from California to present his amendment.

Mr. CONNESS. I will simply say that I agree entirely in what was last stated by the Senator. I prefer that this bill should fail than that we should agree to the demand of the House of Representatives at the present time, and then take up the question and legislate upon it at once.

The VICE PRESIDENT. Does the Senator from Virginia withdraw his motion?

Mr. CARLILE. Yes, sir; I withdraw it to allow the amendment of the Senator from California to be presented.

Mr. FESSENDEN. I should like to hear that amendment read.

The VICE PRESIDENT. It will be again read.

The Secretary read it, as follows:

That the Senate disagree to the resolution of the House of Representatives of yesterday's date proposing instructions to the conferees, and ask another free conference on the disagreeing votes of the two Houses on the bill of the House No. 122, to increase the internal revenue, and for other purposes.

The VICE PRESIDENT. The Senator from California is understood to move to amend the proposition of the Senator from Ohio by striking out all after the word "resolved" and inserting what has been read.

Mr. HENDRICKS. I hope the Senate will not agree to the proposition of the Senator from Ohio. Such legislation as he proposes would operate very disastrously to a large interest that I am required to represent in connection with my distinguished colleague in this body. I agree with the decision of the President of the Senate that it

is competent to instruct a committee of conference on the part of the Senate; but I submit whether the particular instruction proposed in this case is within the power of the Senate. What subject goes to a committee of conference? Not the whole bill, but only the questions in difference between the two Houses. Now what are those questions? Three and only three, neither of which relates to a tax on the article manufactured in this country now on hand. There is a disagreement between the two Houses in respect to the proposed increase after July and January next. There is a disagreement between the two Houses in respect to the tax proposed to be imposed upon that in the market which has been imported from foreign countries; but there is no disagreement touching the proposition to tax whisky manufactured in the country and which is on hand.

I will ask the attention of the Senate to this fact: that the bill as it came to the Senate from the House proposed a tax upon three articles: first, whisky to be manufactured; secondly, whisky manufactured in the country and now on hand; and, thirdly, liquors imported from foreign countries and now in our markets. The House and the Senate have agreed to the tax now to be imposed at sixty cents upon the article hereafter to be manufactured. The House and the Senate have disagreed as to the tax upon the article brought into the country from foreign countries and now on hand; but the House and Senate have both agreed not to tax that which is produced in the country and now on hand. The Senate struck out this provision of the House bill:

Provided further, That all spirits on hand for sale, whether distilled prior to the date of this act or not, shall be subject to the rates of duty provided by this act from and after the 12th day of January, 1864, except that spirits which have been already taxed under the law approved July 1, 1862, shall not bear more than the additional or increased tax proposed by this act.

The Senate struck that provision out of the House bill. That amendment went to the House and the House concurred in the amendment of the Senate. The House agreed that that tax should not be imposed, and the two bodies stand concurring, not disagreeing, upon the proposition of the Senator from Ohio. I know he says that he proposes a tax of twenty cents and that this was a tax of forty cents on the article in market; but the Senate decided by its vote, on the proposition of the Senator from Wisconsin [Mr. DOOLITTLE] and on the proposition in the bill, not to tax the stock on hand at all. That was the decision of the Senate. That decision of the Senate went to the House, and the House concurred in it; but the House refused to concur in two other propositions. Now I want to know—

Mr. DOOLITTLE. I should like to ask my honorable friend if he does not know that practically the House of Representatives do not concur in that amendment, and that the vote of the House on the subject of these very instructions shows that the opinion of the House is that the tax should be levied. Therefore it is the same as if it still stood in the bill, and there was a disagreement between the House and the Senate.

Mr. HENDRICKS. I should be happy had the Senator from Wisconsin not asked me any question which would require me to explain the conduct of the House. I am sure he will find himself embarrassed if he should undertake that work. The course of the House in respect to this matter has been extremely strange, and such as not to demand of the Senate to abandon a principle that it has asserted.

Mr. DOOLITTLE. If my honorable friend will allow me, I do not think it necessary for me to say anything on the subject of the conduct of the House by way of justification or by way of impeachment, but I think it is very susceptible of explanation. The House, as I understand, by a very decided vote determined in the first instance to impose this tax upon whisky on hand when the bill originally passed. It came to the Senate. Certain amendments were made here. It went back to the House, and under the operation of their previous question, which takes everything, at a moment and with hardly any discussion, it is probable, as the gentleman states, that at first there was a concurrence.

Mr. SHERMAN. In striking out the tax of forty cents.

Mr. DOOLITTLE. Yes, sir; but subsequently there has been a determination on the part of

the House, as I understand, to insist on a tax on this liquor on hand to a certain extent, between twenty and forty cents a gallon. I will say to my honorable friends here the practical question is this: whether we shall come to it now, or kill this bill and come to it three weeks hence. That is the practical question before Congress.

Mr. LANE, of Kansas. Permit me to ask the Senator a question. Did not the very member of the House of Representatives who moved this amendment to tax the stock on hand vote against his own amendment? I understand that the distinguished member from New York who proposed it did vote against it.

Mr. DOOLITTLE. I look upon this as the practical question before Congress: Shall we kill this bill now, or shall we go into a conference with the House on this subject? If we kill it now, we shall come to this same question about three weeks hence; and in the mean time we shall lose what revenue we might otherwise have secured.

Mr. HENDRICKS. The Senator has gone beyond the point to which he called attention. He asked me if the House has not in fact insisted on this proposition to tax the article in market. I say that the Senate struck that proposition of the House from the bill. It went to the House; and if the House wished then to tax the article in market thirty cents instead of forty, it should have been done by concurring in the amendment of the Senate with an amendment, which was competent under the rules of the House.

Mr. DOOLITTLE. The Senator from Indiana is perhaps technically right, but practically upon the case as it stands now on their vote on these instructions the House have reconsidered that vote and have decided to insist upon putting the same tax on the liquor on hand. We shall have to meet the House on that question either on this bill or, by killing this bill, on a new bill. There is no doubt about that.

Mr. HENDRICKS. The Senator repeats what he said before, that the question now before the Senate is whether we will agree to what the House demands or allow the bill to be lost. I do not think that is the question. I do not think that the House is going to defeat an important measure of legislation merely because it cannot force the Senate to come to its views.

Mr. DOOLITTLE. No, sir. The Senator misunderstands if he understands that the House has undertaken to force the Senate to agree to this proposition; but I say the direct effect will be, we shall have to meet this proposition at some time; we can either meet it now on this bill, or we can kill this bill and wait and meet it on some new bill to come up some two or three weeks hence, perhaps.

Mr. HENDRICKS. Well, sir, when the new bill comes up I hope the Senate will be able to meet the question. That is all I can say to the Senator from Wisconsin on that point. The Senate has met this particular proposition. The Senator has said on a proposition offered by the Senator himself that we would not agree to a tax at the rate of twenty cents a gallon. In response to the proposition of the House the Senate has said we would not agree to a tax of forty cents. To be sure, we have not gone up from one to forty cents, giving a vote on each cent; but the Senate has distinctly informed the House that we do not agree to the proposition that the article now in market and produced in this country ought to be taxed at all. The will of the Senate on that subject has been clearly made known.

But, sir, that was not the question that I desired now to speak upon. I say that the instruction proposed by the Senator from Ohio is not proper; it cannot be given to the committee of conference. That committee has nothing to do with this bill except upon the questions of disagreement between the two Houses. In respect to the questions of disagreement, the Senate may instruct its part of the committee; but outside of the questions of disagreement the Senate cannot instruct that committee, for the reason that that is not one of the modes of legislation known to parliamentary usage. Let me ask the Senator this question: is it competent for the Senate to instruct its portion of the committee to tax cotton two cents per pound on this bill? The Senator would say no; and why? For the obvious reason that that question was not referred to the committee. The Senate may instruct the committee upon all the

questions that were referred to that committee, but not upon other questions. Can we in this mode, through a committee of conference, bring into this bill measures that we could not place in it if the bill were directly before the Senate? Let me ask Senators, if this bill were now in the Senate and we were considering it, could we now propose and could the Senate by a vote put a tax upon the article now in the market? Clearly not, for the reason that we have declined to do that, and the time for reconsideration has passed. We cannot reach that question. It is beyond the reach of the Senate, and clearly we cannot do it by instructions to the committee of conference.

But, sir, upon the question of right, I have merely one or two suggestions to make. This body ought certainly to treat with great respect the opinion of the House of Representatives, and go as far as possible to meet that House upon important matters of legislation. If the Senate agreed with the House upon the main feature of the bill and differed in respect to some matters of detail, we ought certainly to go a great way to meet that body; but if the House asks us to tax an article which we think ought not to be taxed, and we cannot agree with the House in opinion, and we say that that article ought not to be taxed, and say it by a very emphatic vote, is it right for the House to say to the Senate, "We will kill the bill if you do not come to our proposition?" Is it right for the House to say to the Senate, "We will not allow a tax to be laid on that which is to be manufactured hereafter unless you also consent to tax that which is now in market?" Is the Senate to be forced from its judgment by the threat that the bill is to be lost? I am not willing to agree to that. The Senate has said by a very large vote—I think by 29 to 14; two to one—that we would not agree to tax spirits on hand either twenty or forty cents. The House now says to us, "We will not pass the bill unless you come to our views."

But, sir, in respect to the right of the question, ought the Senate to agree to tax the article now in the market, the liquor that has already paid its tax? To illustrate that point, I will call the attention of the Senate to the last disagreement between the two Houses. It is to be found in the seventh section of the bill. The Senate struck these words out of the bill:

And that upon all such spirits imported prior to the passage of this act there shall be levied, collected, and paid an additional tax of forty cents per gallon, to be collected under the direction and according to regulations to be established by the Secretary of the Treasury.

The House refused to concur in the amendment of the Senate striking that provision from the bill. The House then insists that we shall impose a tax of forty cents upon liquor that has passed the custom-house and paid the duty in the custom-house. Is the Senate prepared to agree to that proposition? Is the Senate prepared to agree to it in respect to other matters of merchandise coming through the custom-house? After the importer has paid the duty at the custom-house, does he not suppose that the article which he then holds shall be sold free from all tax so far as the Federal Government is concerned? Has it ever been heard of in this country that the Government, after an article has paid the duty provided by law, has again taxed that same article? I think no such instance can be referred to in the history of the country. It would be astonishing if such an instance could be found.

Mr. President, as an attorney I paid ten dollars, I think last May, for the privilege of practicing law for one year. The Government received the money, and gave me a license and authority to practice for one year. Would this Congress now say that I should not practice my profession for the residue of the year unless I paid ten dollars additional? The Senate would not entertain the proposition for an hour; and why? Because I have paid the Government what she asked for the privilege. She has received the money, and said I might practice for the term of a year; and it would be a breach of faith to change the law pending the enjoyment of that right.

The manufacturer of liquor pays his license fee, and the Government says he may manufacture liquor for that consideration for the coming year. Could we change the law so as to require him at the end of six months to pay twice as much as the law when he paid his tax required him to

pay? Clearly not; and why? For the simple reason that he has paid what the Government demanded. She has received his money, and said for that he should exercise this privilege for the coming year.

Mr. COWAN. The Senator will allow me to ask him whether, if the additional imposition of ten dollars on attorneys raised the price of fees, it would not be fair that they should divide with the Government? That is the argument of the Senator from Ohio.

Mr. HENDRICKS. I do not suppose that that consideration would govern the conscience or the judgment of the Senate. I expect, if the attorneys of the country were taxed an additional ten dollars, in some way or another some unfortunate client would feel the weight of that additional charge. [Laughter.] I do not doubt that.

But the question is one of right. If we would not do it in respect to a question of that sort, how is it that we shall tax an article after it is manufactured, when the Government agreed that for manufacturing it the party should pay so much. I say it is a breach of the faith of the Government. We have said to the men who are engaged in this business, "If you pay your license fee, and in addition to that when you manufacture the whisky, you pay a tax of twenty cents a gallon upon it, you shall be at quits so far as the Government is concerned; you may go into the market and sell your liquor for what you can get." That is what the Government has said. And now, after it is manufactured, while it is still in their hands, after they have paid this tax of twenty cents, is it good faith on the part of the Government to require them to pay an additional twenty cents? I say it is not. It is a breach of faith; and in these times especially, the Government ought to be very careful to maintain good faith. When we hear rumblings of repudiation, we cannot very well afford now, if ever a nation could afford, to violate its faith. We ought to stand upon what we have agreed to. We have agreed that these people might manufacture and sell liquor and pay a license fee and a tax of twenty cents on the gallon.

Some gentlemen argue this question as though this article of commerce were altogether in the hands of speculators. I do not know that that would make any difference on the question of right if it were so; but that is not so. A very large producer of whisky in an important point in the State of Illinois, Peoria, was talking to me yesterday on this subject. He manufactures very largely. His enterprise has secured to the Government during the past year a very large revenue. He told me that he had about eight thousand barrels on hand, upon which he has paid his tax. If this bill should pass, he would be required at once to pay twenty cents per gallon more upon that liquor, which would require him to pay about eighty-nine thousand dollars more, and that, too, before he can sell. He would have to go into the market and borrow money, anticipate his sales, to pay this tax to the Government, although he has already paid for the privilege of producing it what the Government had fixed by law.

I say then, sir, that this would be a very great act of injustice toward the men who have paid this tax, and it would not pay the Government any amount of revenue for the loss she would sustain by the breach of her faith.

Mr. DOOLITTLE. Mr. President, I do not intend to go into the discussion of the question of the propriety of imposing this tax upon the liquors on hand in anything that I may say now on the pending question before the Senate. I desire to refer very briefly to some considerations that have been thrown out by the Senator from Indiana.

Mr. President, these revenue bills by the Constitution are required to originate in the House of Representatives. Why? Because the Representatives in Congress in that House are nearer the people than the representatives of the States in this body. So jealous were the men who made the Constitution of the exercise of this power of taxation over the people that by the Constitution it is required that these bills shall originate in that House; that the subject of taxation shall come from the body nearest the people, and that the men who impose the tax shall be more directly responsible to the people. Therefore, I say it is the duty of this body, while they are not to forego their convictions of the propriety of certain measures and may freely discuss them and act upon them, at least

to pay great deference to the opinion of the House of Representatives on this subject of what articles shall be subjected to taxation.

Now, sir, let us look at this case just as it stands. A bill came here from the House of Representatives imposing a tax of forty cents a gallon upon liquor on hand. The Senate, after discussion, refused to concur in that provision of the bill, and struck it out. It went back to the House of Representatives, which body agreed to that amendment; but I will assume they must have been taken by surprise, for their vote, both before and since, demonstrates that it is the clear judgment of a majority of that House that a tax should be imposed upon this liquor on hand. Such being the deliberately expressed judgment of that House, the question now is whether, because by the forms of legislation technically, they concurred in the amendment of the Senate striking out this provision of the bill, we shall insist upon the technical advantage in the form of legislation, and thereby refuse to confer with the House on this question.

Mr. COWAN. Will the Senator allow me to ask him this question? As I understand it, having been in the body at the time it was passed, the Senate sent the bill back to the House with an amendment, and the House concurred in the amendment. Then there is no disagreement upon this point. If there be any disagreement between the two Houses, wherein or where does this disagreement arise from? Who makes it?

Mr. DOOLITTLE. My honorable friend is placing himself on what I stated to be the position of himself and his friends here. He takes the technical ground that because the House by a vote concurred in the proposition of the Senate, although both before and after the House declared against it, we should refuse to go into a conference with them. That is the substance of it. I believe it is but paying a proper respect to the House for us to say we are willing to confer with it, assuming that the House is still insisting upon the propriety of levying a tax upon the liquor on hand; and that it is not dignified in us to insist upon this technical objection when the House by its subsequent vote, and the instruction it has given its committee of conference, has declared that it is in favor of still insisting upon imposing some kind of tax on the liquor on hand. Why not go into a conference with the House on the question?

It may be that the form of these instructions to compel our committee to agree with them is going further than there is any necessity for. I am not speaking of the forms of our instruction; but I want the Senate to go into a conference with the House on the ground that the House is still in substance insisting upon the right to impose this tax upon liquors on hand. I do not know that it is necessary that our committee on the part of the Senate should be instructed on the subject any further than to go into a conference with the House on the understanding that the House are still insisting on the right to tax this liquor on hand. Then the question will come up, and the bill will not be lost through any technicality, nor will any technical advantages be taken of the House by the Senate.

Mr. COWAN. The proper way would be for the House to reconsider its vote.

Mr. DOOLITTLE. Perhaps the motion was not made at the proper time.

Mr. FESSENDEN. I merely wish to say that the question suggested by my honorable friend from Wisconsin is not the question before the Senate. He says that he is willing to waive the technical objection. Well, sir, if that is all that is requested, the House should have sent us this committee with permission to insert in the bill a tax of twenty cents, and not an instruction to do it. If we appoint a committee with permission to do it, the committee of the House being instructed to do it, the Senate is at a disadvantage, because the committee on the part of the House is not at liberty to act contrary to its instructions, while our committee is at liberty to act as it pleases. Therefore we do not stand in the same light. If they had sent us simply their committee with permission on the part of the House to insert this tax of twenty cents, the question would address itself fairly to the Senate whether the Senate would give the same permission to their committee.

Mr. SHERMAN. That is the very form adopted by the House of Representatives. They do not instruct their committee.

Mr. FESSENDEN. Then I am mistaken. I would like to hear the action of the House of Representatives read.

Mr. SHERMAN. They simply say, as the judgment of the House, that such an amendment should be made, providing for that tax.

Mr. FESSENDEN. Is not that substantially the same as instructions? I think it is.

Mr. COWAN. I should like to ask the Senator from Maine for information's sake, supposing all this be done and the committee of conference report, whether that report is amendable in this body?

Mr. FESSENDEN. It is not amendable. We may reject it.

Mr. COWAN. We must reject it *in toto* or not at all?

Mr. FESSENDEN. Yes, sir.

Mr. COWAN. That strikes me as a very strong argument why we should not introduce this practice. It is the right of this body, when a measure is proposed to make amendments, to discuss them and to adopt them, according to the usual form. By adopting this most extraordinary mode of legislation, it seems to me it will be establishing a very bad practice, one that we shall hereafter regret. I think it is due to the dignity of the Senate to resent an interference of this kind. There is no disagreement here except from outside parties. If the two Houses have agreed, what right has anybody else to say they disagree and insist that we shall reconsider our action and allow them to impose upon us their particular measures?

Mr. GRIMES. I will inquire of the Senator with whom we are disagreeing?

Mr. COWAN. I have made the same inquiry myself, and I am at a loss to know with what body we are differing. It seems we have agreed with the House of Representatives—the House concurred in our action. Now, I should like to know with what body we are disagreeing. If there is a third estate to be represented here, I should like to know who it is, and where it is, and what are the relations which we hold toward it exactly. I know there are parties outside who have disagreed with both Houses; but how they expect to affect legislation through the medium of committees of conference, I cannot say.

Perhaps the Senator from Iowa can inform us who the third estate is that is dissatisfied with the action of both bodies.

Mr. GRIMES. I can only tell by the newspapers, to which the Senator has had the same access as myself. I have had no intercourse with any of those inside or outside parties.

Mr. SHERMAN. I am very sorry to see Senators rest on technicalities on a plain proposition like this. The Senator from Pennsylvania says that the House have agreed to the proposition of the Senate. That is not so. The House proposed a tax of forty cents a gallon on spirits on hand. The Senate disagreed to that. It went back to the House, and the House agreed that forty cents should not be put on spirits on hand; but at the same time—

Mr. COWAN. I will ask, if the House did not agree to the bill as returned to them by the Senate, with the exception of the differences which were referred to the committee of conference?

Mr. SHERMAN. Not at all. I explained—the Senator could not have heard me—that it was not within the power of the House under their rules, and we are bound to take notice of their rules, at that stage of the bill to make a proposition to levy a tax of twenty cents a gallon.

Mr. COWAN. Could they not disagree?

Mr. SHERMAN. They might have disagreed.

Mr. HENDRICKS. Allow me to ask the Senator a question.

Mr. SHERMAN. I would prefer that the Senator would wait until I get through; Senators are propounding questions to me on all sides.

Mr. HENDRICKS. I do not wish to reply to the Senator, and therefore I would like him to answer a question now.

Mr. SHERMAN. Well, I will answer the Senator.

Mr. HENDRICKS. Does the Senator say that an amendment to our amendment was not in order in the House according to the rules of the House?

Mr. SHERMAN. Not at that stage. I say that at that stage an amendment to our amendment was not in order, because the previous question is always called on propositions of this kind, which cuts off all amendments. We are bound to regard that. We are bound to regard the action of the other House.

Mr. FESSENDEN. Was it not the House that called the previous question?

Mr. SHERMAN. Yes, sir. Now here we are, the Senate of the United States, in the position of a technical lawyer, picking at little flaws to avoid a plain vote. I do not think it is done for that purpose; but the argument looks like an attempt to avoid a plain vote on the proposition. I would prefer to take the vote on the direct question.

Mr. FESSENDEN. I am willing to take it on that.

Mr. SHERMAN. I have no doubt the Senator is. I have no doubt every Senator has made up his mind on the merits of this matter honestly and fairly, and therefore I simply desire to present the question free from technicalities. I say there is nothing in the action of either House to prevent us from taking a fair vote on the question whether we will levy a tax of twenty cents a gallon on the spirits on hand. That is all I want.

Now in regard to another matter, the Senator from Indiana seems to think that this is a gross outrage, because, by the bill as it now stands, on spirits imported into this country, which have already paid a duty, there is an additional duty levied of forty cents a gallon. I say that is grossly unjust; that it would be wrong and outrageous for us to levy such a duty on imported liquors and not levy the same duty on domestic liquors. When spirits are brought into this country and pay the duty, they stand like any other property of similar character; and we have no right to select that particular property because it has been imported and levy a new tax upon it. The bill as it now stands does levy a tax of forty cents on imported spirits, and levies no tax on domestic spirits. That is unjust.

It is perfectly competent now as a question of parliamentary law for the Senate or the House to propose to amend the Senate amendments in that particular, in regard to the tax on imported spirits. I will first state, however, that the House levied a tax of forty cents a gallon on imported spirits, and also the same tax on domestic spirits. The Senate struck out the tax on imported spirits on hand. The House may very properly say that they will agree to a tax of twenty cents on imported spirits if the Senate will agree to a tax of twenty cents on domestic spirits. It would be perfectly right and perfectly proper to put it in that form. The committee of conference may report that amendment. But what is the condition of affairs in a committee of conference, unless you instruct the committee? Three Senators are selected from this body to represent the Senate. You cannot expect those conferees to settle the point about taxing spirits on hand unless they receive instructions from the Senate, and therefore it is important to obtain the instructions of the Senate. I was a member of one of these committees of conference, and I know we were constantly embarrassed by the vote of the Senate. I wish to stand by the action of the Senate until the Senate by a deliberate act revokes that action.

Mr. CONNESS. If it will not disturb the Senator I should like to make a suggestion to him.

Mr. SHERMAN. I will hear the Senator.

Mr. CONNESS. I was going to suggest to the Senator that so far as I am concerned I am entirely willing that this body shall vote on the plain proposition whether they will consent to a tax of twenty cents on the stock on hand.

Mr. SHERMAN. I have no doubt the Senator is prepared to vote on that question.

Mr. CONNESS. I desire to say in that connection—I will consume no time—it is a proposition that has never been before this body, never been examined or discussed. It is an important proposition, important in its consequences to us, to the Government, and to the country.

Mr. SHERMAN. The Senator from Indiana and the Senator from Pennsylvania have just argued at some length that it was not only considered here, but finally decided, and it is beyond our power and the power of the House to reconsider it. The Senator from California may settle this matter with them.

Mr. CONNESS. It was considered in an indirect manner on a motion made by the Senator from Wisconsin, but it was never discussed in this body as a proposition involving the policy connected with it. The Senator knows that.

Mr. SHERMAN. I leave that disagreement between the Senators and will let them settle it among themselves. I say myself it has never been settled beyond the power of either House. The only reason why I ask for instructions is to relieve from embarrassment the committee of conference who may go out on the part of the Senate, and it is but fair and right that the Senate should give those instructions. This complication has grown out of the action of the two Houses, and I think it is but fair that the committee of conference, when appointed, should be relieved by instruction or request in any form Senators may desire, expressing the opinion of the Senate. The proposition of the Senator from California and the proposition I have submitted will enable us to take a fair vote. If a conference is appointed without instructions, as a matter of course the conferees appointed will represent the sense of the Senate, and that would be considered as against any tax on spirits on hand. If on the other hand the instructions which I submit are adopted by a majority of the Senate, the conferees will no doubt be appointed with a view to carry out those instructions. I think the question may be fairly presented by these two propositions. If the proposition of the Senator from California prevails, then whoever is on the committee of conference will be bound to adhere to what is then considered the action of the Senate.

Mr. COWAN. The honorable Senator from Ohio talks about technicalities. He says we are standing on technicalities, sticking in the bark, caviling upon the ninth part of a hair. Sir, I do not understand this question exactly in that way. What is a technicality? A technicality is something which has been produced by the operation of a rule. Is this body to have no rules? Is it to abandon its rules and give them up whenever it suits the whim or the caprice of some third estate, some outside parties, to compel us to do so? Why, sir, the essence of everything we do is, that it is done according to rule; and when we abandon rule we abandon law, and the body will have no constitution and no guidance, and may then do anything.

But how is this question? A bill came here from the House of Representatives. We amended it, and sent it back to the House. The House agreed to that amendment. The honorable Senator says that they could not amend that amendment. Why? Because the previous question was called. Who called the previous question? The House. When the House calls the previous question, as I understand it, they mean to say, "We will not amend; we do not desire to amend;" and that is the reason that amendments are cut off. Then the two Houses concurred upon all points save three, and committees of conference were appointed to adjust those three points. What was the duty of those committees? What was the limit of their authority? To consider those points of disagreement, and those alone. They had no right to consider any other point of disagreement. That was not their function, and could not be. If they could not agree upon those points, it was their duty so to report; but it was not their duty to introduce a third element and attempt to force its passage through both bodies by rules not known to the bodies. A committee of conference, as I understand the theory of the constitution of these Houses, has no right to originate any measure. Measures must originate in one of the Houses from the regularly constituted committees. The function of the conference committee is confined solely to the subjects of disagreement, and not to other amendments which they, in their judgment, might suppose to be beneficial and for the good of the country.

Then, sir, as to the main question, it is said that by levying a tax of forty cents a gallon on whisky we thereby add forty cents a gallon to the value of the whisky; and that if we do so it is but fair that the Government shall share in that increased value. Sir, that is a most extraordinary argument in favor of a tax, and one which I think is entirely novel; at least I never remember to have heard or read of it before this debate commenced. Suppose that should not be the fact;

suppose that instead of conferring an increased value of forty cents a gallon, which we compel the holder to pay, we only conferred an increased value of thirty cents per gallon. A loss of ten cents a gallon upon whisky, if a man has any considerable quantity of it, would ruin anybody. Gentlemen who insist upon this theory should also provide in it that if the Government did not confer an increased value equal to the amount of the tax, they should compensate in some way, return the money, or perhaps a system of drawbacks would effectuate it.

But, sir, the original proposition itself is absurd, iniquitous, unjust, unfair, and unequal from beginning to end. When was it ever proposed to take the property of one man and tax it and exempt the property of another man, his next door neighbor? Not, I think, in the history of the civilized world. That is the objection to this measure. That is the place where the difficulty arises, and that is the stumbling-block which lies in the way of all measures of this kind. A invests his money in whisky; B invests his money in flour; C invests in cotton, if you please; and D invests in tobacco. Now, you select one of these commodities and impose an enormous tax upon it. What reason is given for this? It is no answer to say it is whisky; because in the eye of the law whisky is quite as lawful a commodity as tobacco, cotton, flour, or bread, if you please. Whatever may be the opinions with regard to it in a moral and religious sense, in the eye of the law it is as lawful to deal in the one commodity as in the other.

Then it resolves down simply to the question, whether you can select a certain number of people and a certain kind of property, and out of that property levy enormous taxes. The salvo proposed, the apology offered is, that we confer an additional value upon it. The holder says, "That may be, or it may not be; but my fortune is not to be hazarded by these experiments of yours in that way, especially when my next door neighbor is not subjected to the same risks. I have no right to run this hazard without having the same hazard imposed upon all my neighbors." Then, as I said a moment ago, suppose that this fact assumed here and made the basis of the argument, should not turn out to be a fact at all; then ruin ensues inevitably.

Mr. President, I am not prepared to say what would be the result of the practical operation of a bill of this kind. In my own judgment it would be utterly impracticable. I suppose no free people would submit to it for a moment. I suppose that the common sense of all civilized people would at once detect its injustice and its enormity, if I may use the phrase, and I think I may properly.

It so happens, however, in legislation of this kind, that it opens the door to speculations. It is utterly impossible to prevent that. No human foresight or wisdom can prevent it. When it is proposed to tax an article everybody knows that the tax, if imposed, will make the commodity rise, and therefore men eager for gain—and I do not know that that is a crime or an offense—invest their money in it. The object of this proposed measure is to endeavor to punish that class of men. When we proposed an additional tax of forty cents on whisky, whisky rose, because everybody wanted to have it, and everybody wanted to buy it, and a great many people did buy it. Now, the allegation is that that was wrong, wicked, a speculation, and that we must do this extraordinary thing in order to correct that evil. Sir, the attempt would be as vain as the procedure would be unjust.

This kind of speculation will occur, and occur always under like circumstances. It is as perfectly fair and as legitimate as it would be, when we were about to impose an additional tariff, for the holders of imported goods to retain them in their possession until that additional duty was levied so that they could get the additional profit. This is a perfectly analogous case. We impose a tariff, if you please, of a dollar upon a specific article; say a hat for the sake of illustration. A large number of hats are imported, and a large number of hats are on hand; and then it is in further contemplation of the legislature to levy an additional tax of a dollar on hats. Has any Government, levying an additional dollar upon imported hats, ever undertaken to go around and levy also an additional dollar on the hats on hand?

Certainly not; because the hats on hand have fallen into the general mass of property in possession, and if it is to be taxed, the taxation ought to be uniform and equal, falling on all alike, and in no other way can it be justly levied.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on agreeing to the amendment proposed by the Senator from California to the resolution offered by the Senator from Ohio.

Mr. RAMSEY. What is the amendment? I should like to hear it read.

The PRESIDING OFFICER. The amendment is to strike out all of the resolution of the Senator from Ohio after the word "resolved," and to insert:

That the Senate disagree to the resolution of the House of Representatives of yesterday's date, proposing instructions to the conferees, and ask another free conference on the disagreeing votes of the two Houses on the bill of the House No. 123, to increase the internal revenue, and for other purposes.

Mr. DOOLITTLE. Before the vote is taken on that amendment, I wish to move an amendment to it, by adding at the end the following words:

And upon the disagreeing votes upon the resolution of instruction of the House in relation to said bill.

That will enable them to confer upon the whole subject.

The PRESIDING OFFICER. The question will be on the amendment to the amendment offered by the Senator from California.

Mr. CONNESS. The matter proposed to be taken into consideration by the conference committees of the two Houses, by the proposition of the Senator from Wisconsin, is not original matter or matter that can properly go before them at all. The question that would be propounded by each to the other would be, not what points are in dispute between the two bodies, but what shall the form of legislation of each body be? We have no right to consider a proposition of that kind.

Mr. JOHNSON. I am not sure that I know what the question before the Senate is, and I rise for the purpose of making the inquiry.

The PRESIDING OFFICER. The question before the Senate is on the amendment submitted by the Senator from Wisconsin to the amendment submitted by the Senator from California.

Mr. JOHNSON. Suppose the amendment to that amendment be adopted, and the whole be adopted afterwards, what will be the power of the committee of conference? Can they report a bill taxing the whisky on hand?

The PRESIDING OFFICER. In the opinion of the Chair they might do it.

Mr. JOHNSON. Then I am opposed to it.

The PRESIDING OFFICER. It is not a question of order, however, for the Chair to decide.

Mr. CONNESS. The form of the question before the Senate at present is, first, a resolution submitted by the Senator from Ohio that the Senate appoint a committee of conference and instruct that committee to agree to a tax of twenty cents upon the stock on hand.

Mr. JOHNSON. So I understand.

Mr. CONNESS. To that I have moved an amendment striking out all of that resolution substantially and recommending that the Senate appoint a committee of free conference to consult with a like committee of the House *de novo* upon the question of disagreement between the two bodies. To that proposition the Senator from Wisconsin moves to add that that committee of free conference thus appointed shall also take into consideration whether each body will instruct its committee or not. I say that the latter is clearly not a subject for us to vote upon, because the Senate may not be called upon in this manner to determine whether they will instruct their committee to do anything. If they desire to instruct their committee they may do it, they have the power, but they are not called upon here properly to take a vote as to whether they shall do that or not.

Mr. SHERMAN. I wish to ask the Senator from Wisconsin this question: the instructions of the House are to their own conferees, and now the Senator from California asks the Senate to disagree to the instructions which the House chooses to give to its own conferees.

Mr. CONNESS. No; I beg the Senator's pardon. There is somebody at fault; and I think it is not myself. The Senator from Ohio has stated the case on the part of the House correctly;

and upon that state of facts the Senator from Ohio moves a resolution that the Senate also instruct the committee of this body to assent to the proposition of the House, to agree to a tax of twenty cents on the stock on hand.

Mr. SHERMAN. I will simply say to the Senator from California that my proposition does not relate to the instructions given to the House committee.

Mr. CONNESS. I understand that perfectly; but he asks us to give like instructions to our committee, to which I am opposed. I move to strike that out, and to appoint a new committee of free conference. If the Senate assent to that, it will go back to the House, and the question then for the House to consider will be, whether they will recede from the instructions they have given to their committee. If they recede and appoint a committee of free conference, we meet again and confer. If they do not, I suppose the bill will be lost.

Mr. SHERMAN. I will get at the question in this way. I will call for a division of the amendment of the Senator from California, and let the question first be taken upon striking out. That will raise the question directly. The Senator moves to strike out the instructions contained in my proposition.

The PRESIDING OFFICER. The Chair will inform the Senator from Ohio that a motion to strike out and to insert is not divisible.

Mr. SHERMAN. I will ask the Senator from Wisconsin whether that would not be the better way, to take the question first on the motion to strike out the instructions, and let us have a vote directly on the subject.

Mr. CONNESS. I do not know why the Senator should wish to have the question taken on his proposition first; but really I think the Senate now so fully understand it that I do not care in what form the question is presented. I am perfectly willing that the question shall be taken on the proposition of the Senator to instruct our committee, for I feel assured that the Senate will not vote for that proposition; but the proposition which is now before the Senate, the amendment submitted by the Senator from Wisconsin, seems to have been lost sight of. That, I say, is a new and novel one, unheard of by me before.

Mr. SHERMAN. I will state to the Senator from California that if my motion shall fail, I shall have no objection to voting upon his proposition, because then there will be no other course left.

Mr. DOOLITTLE. My friend from California, it seems to me, must take one of two positions: either that the resolution of the House of Representatives is before the Senate to be disagreed to or concurred in, or that it is not before the Senate at all. The Senator assumes that it is here and moves that the Senate disagree to it. Very well; what is my proposition? If we do disagree to it, it is something pending between the two Houses that I want this committee of conference to settle. If there is not any resolution here, we cannot either concur in it or disagree to it.

Mr. CONNESS. Will the Senator permit me to call his attention to the fact that I assume nothing? There is a resolution before this body submitted by the Senator from Ohio, to which I have moved an amendment.

Mr. DOOLITTLE. But in the amendment the Senator assumes to say that the Senate disagrees to a certain resolution of the House of Representatives. If that resolution is not here, we have nothing to do with it. If the resolution is here, and we disagree to it, I want the committee of conference which is to be appointed to consider that disagreement. That is my amendment. The resolution of the House of Representatives is simply that in the judgment of the House a tax should be levied upon the spirits in hand of twenty cents a gallon. The Senator from California moves that this body disagree to that resolution.

Mr. CONNESS. No.

Mr. DOOLITTLE. I so read it.

Mr. CONNESS. That is not the state of the question at all. I knew that the Senator from Wisconsin did not understand the shape in which this question was before the Senate. I have repeated to him that I do not offer any amendment to the resolution of the House of Representatives, but that I offer an amendment to the reso-

lution of the Senator from Ohio—a Senate resolution. And yet the Senator from Wisconsin iterates and reiterates that I offer an amendment to a proposition coming from the House of Representatives. I hope he will correct himself in that.

Mr. JOHNSON. I am not sure now that I understand what will be the question before the Senate if either of the propositions should be adopted. I understand that the message of the House of Representatives states that they have appointed a committee of conference and have instructed their committee to propose a tax of a certain amount on liquors on hand. If that is to be considered as in the form of a resolution proposed by the other House, it is to be disposed of by the Senate either by affirming it, acceding to it, or by rejecting it, or by modifying it.

Mr. CONNESS. Will the Senator call for the reading of the propositions as they stand before the Senate? If he does, I know he will understand precisely what they mean.

Mr. JOHNSON. I think I understand them. Now suppose, Mr. President, the amendment suggested by the Senator from California to the proposition of the Senator from Ohio is accepted by the Senate; he proposes that we should appoint what he calls a general free conference; and suppose the House of Representatives abandon the proposition which they have sent to us and accede to a free conference, what will be the power of that free conference?

Mr. CONNESS. To consider the propositions which divide both Houses.

Mr. JOHNSON. That I understand.

Mr. SHERMAN. Will the Senator from Maryland allow me to answer that question?

Mr. JOHNSON. Certainly.

Mr. SHERMAN. We have had two conferences, and there have been disagreements, and if a free conference is again ordered, according to the proposition of the Senator from California, we shall have the same dispute over again just as certain as fate. There is no doubt about it in my judgment.

Mr. JOHNSON. What I meant further to ask was whether that free conference can agree that a tax shall be levied upon the liquor on hand. I suppose they can without instructions. We have had two of them already, and the second conference have been unable to agree upon that point and only upon that point. If I was a member of that committee of conference, I should like to know, after the action of the Senate on the subject, whether the Senate would consider the committee as authorized to abandon the ground which the Senate has heretofore taken, abandon the ground which the antecedent conferences have taken, and adopt another, the one which the House of Representatives now proposes, that is to say, to levy a tax of twenty cents a gallon upon the amount of spirits on hand.

Whether the one or the other is done we shall have precisely the same question before us after that committee shall have reported as we have now; and in the mean time if we shall come finally to the determination which I think the Senate at least at present are inclined to adhere to, that no liquor on hand shall be taxed, the Government will be losing a large amount, an amount proportioned to what shall be the tax upon the quantity of liquor that may be made, and is no doubt being now rapidly made between to-day and the day when the subject shall be disposed of.

Mr. CONNESS. At the suggestion of the Senator from Maryland and also the Senator from Ohio I will withdraw my proposition, and let the vote be taken. As I before observed I have very little doubt as to what the vote of the Senate will be now upon the direct proposition of taxing the stock on hand twenty cents. Therefore at present I withdraw my amendment.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The amendment of the Senator from California being withdrawn the question recurs on the original resolution offered by the Senator from Ohio.

Mr. RAMSEY. I should like to inquire of the Senator from Ohio what amount of revenue he estimates that a tax of twenty cents a gallon on liquor on hand will produce.

Mr. SHERMAN. It is difficult for me to answer that question, because gentlemen differ so much as to the stock on hand.

Mr. RAMSEY. What is the Senator's impression from the best information the committee had before them?

Mr. SHERMAN. My impression is that the stock on hand is about forty millions. That is just about the average between the two extremes, but I cannot say that it is the exact quantity.

Mr. RAMSEY. Forty million gallons?

Mr. SHERMAN. Forty million gallons. That would yield \$8,000,000. I will not be positive about the quantity. It is estimated variously from twenty to eighty million gallons.

Mr. RAMSEY. I have been informed that large holders of liquor were willing to compromise on this tax of twenty cents. For the life of me, I cannot see why the Senate can afford to throw away this amount of revenue for the sake of accommodating speculators.

Mr. CONNESS. This last remark of the Senator from Minnesota demands notice.

Mr. RAMSEY. I mean of course speculators out of doors.

Mr. CONNESS. But there is contained in the Senator's remark the suggestion that action here by the Senate or by a Senator can be based upon the interests of what are called speculators. I undertake to say that that thing is impossible. We do not know in our legislation here who are speculators and who are not. We do not know who hold or who do not hold this property, this commodity that is to be subject to taxation. The considerations that govern my mind in this case are these: How much tax can we get? Is it worth the effort to obtain it? Shall the Government violate a great principle, upon which it has always proceeded heretofore, to obtain a comparatively small amount of money? Shall we say that our tax collectors and assessors throughout this country shall be increased perhaps five-fold to hunt up every package of this article wherever it may be found, and to make enemies for this Government wherever it is to be found at a time like this?

These are the questions, or a part of them, that affected my mind in dealing with this proposition; and I say here before I take my seat, that I would vote a great deal more readily for a tax of forty cents a gallon upon the stock on hand than for a tax of twenty cents. The more you reduce the tax the less revenue you will obtain; but the machinery, the agencies that you employ to collect it will be the same in number; the degree of enmity that you will create among the people will be the same; the fact that you will make a smuggler out of every man who holds a gallon of whisky in the country will exist, while the amount to be obtained as the result of this effort on the part of public agents will be, as a matter of course, one hundred per cent. less.

How Senators can be in favor of taxing the stock on hand at twenty cents as a mere matter of compromise, and against taxing it forty cents, I cannot understand and see, in the face of the fact that the expenses of collection will be the same, the enmity created throughout the country against our Government will be the same, while the revenue to be received will necessarily be one half the amount.

It is considerations of this kind, Mr. President, that affect my mind. I have no sympathy with either whisky or whisky dealers. It is a mere question of opinion as to whether it is wise or unwise. I have said that I believed it unwise; that is the best conclusion of my judgment; and therefore I have opposed inflicting this tax.

Mr. WILSON. Mr. President, I am disposed generally to follow the lead of committees, and I voted the other day with the Committee on Finance against taxing liquors on hand. But the House of Representatives with great persistency has insisted upon taxing liquors on hand, and I shall vote to secure a tax of twenty cents a gallon upon the whisky now on hand, and I shall do so on the principle of equity and justice.

We propose by our legislation—it is what was expected of us—to tax whisky forty cents a gallon additional. I think the tax ought to be at least a dollar a gallon, and it could be fixed at that rate without any harm to the interests of the country; but we have settled upon an increase of forty cents a gallon, and it will increase the price of the article to the people nearly or quite that amount. We put this tax, not upon whisky manufacturers, but upon the people of this country, who have to pay the tax. If there be forty million gallons on

hand and we tax it an additional forty cents a gallon, there is a tax of \$16,000,000, not to be paid by the whisky manufacturers, but by the whisky drinkers, the people of the country.

It is proposed to tax the liquor on hand twenty cents a gallon; why? If you tax it forty cents some persons who have engaged in that business or who have speculated in it will lose money. Some dealers have bought at a great advance. A tax of twenty cents per gallon on the article on hand does not add anything to the cost of it to the people; not a farthing.

It is asked, why select this article alone for taxation? If you have any other article or any number of articles upon which you propose to put a duty of thirty, forty, or fifty per cent. additional, I would tax those articles on hand. Who is harmed by it? Suppose you were to put an increased tax upon dry goods, upon tobacco, petroleum, anything and everything in the country, of forty, fifty, or one hundred per cent., you would cause a great advance in the price of the article taxed. There would be no harm at all in the present needs of this country by taxing all these articles on hand, and I would vote for such taxation most cheerfully. You need the money, the country needs the money to save itself; the mass of the people have to pay it, and it is quite as equitable and just that the Government should have part of the profit as it is that the persons who hold the articles and who are to be profited by our legislation should get it all. Sir, if I were a merchant—

Mr. COWAN. Let me ask the Senator from Massachusetts, suppose the speculator makes a very large sum, as he alleges he will in this case—

Mr. WILSON. I am not speaking of speculators.

Mr. COWAN. But in the case of a whisky dealer who gets a large profit by the rise, does not the Government get a fair share of his profit through its income tax? If he makes \$100,000, does not the Government get its share through the income tax?

Mr. WILSON. No doubt of that. Merchants do not suffer by this taxation. If I were a merchant I should regard the increase of the taxes on articles that I dealt in as an additional opportunity to make money instead of losing. I say that nineteen twentieths of the business portion of the country have made money out of this system of internal taxation. Nineteen twentieths of the manufacturers and merchants make money out of tariffs whenever you raise the duties, and out of internal duties. The price of articles of commerce must be increased by the increased taxation.

Mr. CONNESS. Will the Senator permit me? I submit to him, if he is stating the general rule correctly, whether we had not better go on and inflict a taxation of a thousand or two thousand per cent. all around, so as to make everybody very rich.

Mr. WILSON. I am speaking of reasonable taxation put upon both goods imported and goods manufactured. We propose a large duty on whisky. It will carry the price of the article up immensely; therefore we can afford to tax it on hand because we shall get a large revenue. You tax manufacturers three per cent.; suppose you add two or three per cent., the increase is very little. If it was thirty, forty, or fifty per cent. I would certainly tax the articles on hand at least during the war, but two or three per cent. makes a very small advance. Suppose you double the duties on the manufactured articles now three per cent., you will carry the goods up, we will say three per cent. or a little more than that. A tax of three per cent. on all the articles of the country amounts to something, but the difficulty of collection is increased. I do not know that I would apply this tax to articles on which we made so small an advance, but I believe our duty is to raise money by taxation, and to raise it upon such articles as will bear the taxation. I believe that a great deal of our difficulty grows out of the fact that we have not taxed enough. Instead of three per cent. taxation, it ought to be double or treble in the present exigencies of the country, for three dollars can be paid by the people now in taxation easier than one dollar can be paid immediately after this contest is over. The country never enjoyed such apparent material prosperity as now. The land is full of money, goods are going up, marked up

almost every day, and the more they advance the more eager the people are to purchase. The people now can bear taxation. If we had raised four or five hundred million dollars by taxation on our people during the past two years, we should have saved to the Government and the people hundreds of millions of dollars. We have issued paper, inflated prices, increased the expenses of the Government and the people, and put a great debt upon the country without any benefit to ourselves. Taxation would have kept down gold and checked speculation, and large taxation alone will check the wild speculation that feeds on increasing issues of paper money.

Mr. CONNESS. Will the Senator permit me?

Mr. WILSON. Certainly.

Mr. CONNESS. I understand the Senator to assert as a principle that the country is very much richer now than it was before this war began. Is that what the Senator means?

Mr. WILSON. I will tell the Senator precisely what I mean. I mean to say that in no period of the history of the United States did the people of the country, capitalists, laboring men, and business men, earn so much money, have so much money, pay their debts so promptly, pay their taxation so easily, or live—I will not say so extravagantly—but so well. You may travel the loyal States from one end to the other, you may go into your corner groceries, you may go to your dry goods dealers, and they will tell you they never sold so much for cash; that the mass of the people never earned or spent so much money, were never so well off, never paid so promptly; that they never lost so few debts. The jeweler never sold so much jewelry as now; the dry goods merchant never sold so costly goods as now; the extravagance of the people was never so great as now.

Mr. CONNESS. Will the Senator permit me to ask him briefly to state his opinion how all this prosperity has occurred, why it has occurred?

Mr. WILSON. I will tell you, sir, why and how it has occurred. The reason is that Congress has not taxed the people and raised money, and paid the expenses of the war as we went along. We have created an immense debt, filled the country and flooded the country with paper money, inflated prices, and stimulated speculation, extravagance, and luxury. And this policy has cost the people hundreds of millions more to live than it would if we had taxed them heavily, and it has cost them millions more to support the war.

Mr. CONNESS. I asked the Senator how all these riches came. He answers me that it is because the Government have not taxed enough. Then I propose to him that we tax less still, so that the country may become richer. If everybody can become rich in that way, it is clearly our duty to impose as little taxation as possible.

Mr. WILSON. I am very willing the Senator shall express these views if he entertains them. I am speaking of the stimulating effects upon all interests of this enormous issue of paper money, this creation of an immense national debt. Of the effects of this increase of debt, this issue of paper, I know something.

Mr. CONNESS. That is apparent.

Mr. WILSON. I know something of the effects of this issue of paper money, this use of the national credit upon the business of the country and the people of the country, and the Senator knows it quite as well as I do—

Mr. CONNESS. I think so, too, and better.

Mr. WILSON. I will admit that Senator's superior knowledge of all things that may arise in the Senate.

Mr. CONNESS. No; on that proposition.

Mr. WILSON. The Senator knows full well that we have in circulation a vast mass of paper money. He knows what the price of gold is. He knows why gold has gone up. He knows that it goes up under the issue of paper money and the borrowing of money to carry on the war. The position I take is that if we could have raised forty or fifty per cent. of our expenditures by taxation, the Government would have purchased its articles hundreds of millions of dollars cheaper than it has done, and the people could live hundreds of millions annually cheaper than they are doing. I would rather pay ten per cent. on an income taxation than pay thirty or forty per cent. advance in the price of all the necessities of life.

I give it as my judgment, and I believe that nineteen twentieths of the business men of the country agree in the opinion, that the Government has not taxed so strongly as it ought to have done, that we have not raised so much of our expenditures as we ought to have raised from taxation, and that the effect has been to increase paper money, to inflate prices, and put a debt on the country without any benefit to the Government or the people.

Mr. FESSENDEN. Then we cannot be growing rich.

Mr. WILSON. We are growing nominally rich. I do not mean to say that upon a gold standard we are growing rich; but that measured by your legal-tender notes we are growing rich. I mean to say further that the laboring men of the country, the mechanics, the farmers, the mass of our people, never had so much money, never earned it with so few hours of labor, never paid their debts so promptly, and never had so good credit as they have now. Everybody knows this. Go anywhere you please; go to dry goods merchants; go to the corner groceries, and ask the dealers in the luxuries or the necessities of life how they are paid, and they will tell you that they sell more to poor laboring families now than at any other period, that they pay more promptly, and that if they want credit it is given more freely than at any other period of our history. Everybody knows this to be true. It is so all over the country, and what I mean to say and all I mean to say is that we have an apparent prosperity, immense enterprise, immense industry, high prices for labor, a great deal of money in circulation. I think we ought to increase our taxation and pay at least one third of our annual expenses by taxation, foreign and domestic. That, in my judgment, is the duty we owe the country. The tendency is to expansion, inflation, speculation, and this tendency can only be checked by increasing our resources and using our credit moderately. This is clear to the comprehension of the country, and I believe the interests of the country and the reason of the people demand increased taxation. Taxation will bring down the price of gold, and tend to steady the business affairs of the country.

Mr. TEN EYCK. Mr. President, I might be disposed and even somewhat inclined to reply to the remarks of the Senator from Massachusetts on the general subject of taxation, and the propriety of changing the rule which is now advocated by some, to explain the reason of the large amount of money required, the necessity for raising money, and why I think mistakes which have been committed require that money should be raised, and to state the reasons for a change of policy. But as those remarks may as well be made upon some other occasion, and as I feel exceedingly anxious that we should have a vote on this bill, I shall cheerfully abstain from making those remarks if it is possible to get a vote on the question.

The PRESIDING OFFICER. The question is on the adoption of the resolution offered by the Senator from Ohio.

Mr. CONNESS. Upon further consideration I will submit this as a substitute for the resolution, which contains the Senator's proposition and the alternative:

The Senate do not agree to a further conference upon the House bill No. 123 in the manner proposed by the House of Representatives, but do agree to a further free conference upon the differences between the two Houses upon the said bill.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California to the resolution of the Senator from Ohio.

Mr. CONNESS. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I simply wish to say that that will only bring the action back here again.

Mr. CONNESS. Well, to facilitate the vote, I will withdraw it.

The PRESIDING OFFICER. It can be withdrawn only by unanimous consent, the yeas and nays having been ordered. Is there objection?

Mr. HENDRICKS. I think we may as well meet the question on the proposition of the Senator from California as not. It meets it squarely. The Senate just says to the House, "We will not agree to a strict conference, but we will agree to a free conference." It seems to me we can meet

it there just as well as anywhere. As the Senator from Ohio says, it will bring the question back here again. Of course it will bring it back here again if the other House do not agree to the proposition.

Mr. CONNESS. Let me say to the Senator from Indiana that my desire is twofold: to come to a vote, and not to divide gentlemen who agree on the main proposition. I hope there will be no objection to allowing me to withdraw my amendment.

Mr. HENDRICKS. Very well; I will not object if the Senator wishes to withdraw it.

The PRESIDING OFFICER. The Chair hears no objection to the withdrawal of the amendment. The question now is on the resolution offered by the Senator from Ohio.

Mr. CONNESS. On that I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 25; as follows:

YEAS—Messrs. Anthony, Chandler, Dixon, Doolittle, Foot, Foster, Grimes, Harlan, Harris, Howard, Morrill, Ramsey, Sherman, Wilkinson, and Wilson—15.

NAYS—Messrs. Buckalew, Canlie, Clark, Conness, Cowan, Davis, Fessenden, Harding, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Pomeroy, Powell, Saulsbury, Sumner, Ten Eyck, Van Winkle, Wade, Wiley, and Wright—25.

So the resolution offered by Mr. SHERMAN was rejected.

Mr. CONNESS. I now move the adoption of the first proposition that I before offered as a substitute, preceding it with the word "resolved," in this form:

Resolved, That the Senate disagree to the resolution of the House of Representatives of yesterday's date proposing instructions to the conferees, and ask another free conference on the disagreeing votes of the two Houses on the bill (H. R. No. 123) to increase the internal revenue, and for other purposes.

Mr. GRIMES. Is a motion for the indefinite postponement of the whole subject in order? It is evident that there can be no agreement between the Senate and House of Representatives on this subject, and I think therefore we had better let the matter drop, and let the House of Representatives originate a new bill to cover the whole subject.

The PRESIDING OFFICER. Does the Chair understand the Senator to make that motion?

Mr. GRIMES. I make the motion if it be in order.

The PRESIDING OFFICER. It is moved by the Senator from Iowa that the whole subject be indefinitely postponed.

Mr. FESSENDEN. I doubt very much whether that is in order. This is a report of a committee of conference, which ought to be acted upon directly.

Mr. GRIMES. I understand from gentlemen around me that my motion is in order.

The PRESIDING OFFICER. The Chair has no doubt that the motion is in order. The question is on the motion to postpone indefinitely the further consideration of the whole subject.

The motion was not agreed to.

The PRESIDING OFFICER. The question recurs on the adoption of the resolution offered by the Senator from California, [Mr. CONNESS.]

Mr. DOOLITTLE. I move to amend that by adding:

And upon the disagreeing votes upon the resolution of instructions of the House in relation to said bill.

The resolution offered by the Senator from California is that we disagree to the resolution of the House of Representatives. I desire not only that we have a free conference on the disagreeing votes on the bill, but on the disagreement upon this resolution which expresses the judgment of the House of Representatives in relation to the bill; and I want to know whether, when that House is struggling to go to a conference on that question, we are unwilling to confer with them, but will stand on a mere technicality.

Mr. CONNESS. The Senate have already decided that question.

Mr. DOOLITTLE. Allow me to reply to the honorable gentleman by saying that the Senate have not decided that question. The Senate have just voted on the question of instructing our committee to go for twenty cents taxation.

Mr. CONNESS. Well, let us come to a vote.

Mr. DOOLITTLE. The propositions are entirely distinct. This is simply a proposition of

whether we are willing to confer with the other House on that question, whether that question should be regarded as a question between the two Houses as a matter of conference—not that we instruct our committee to go for one cent taxation, but we are willing rather than have the bill lost to confer with the other House on that subject.

Mr. CARLILE. When the bill first came to the Senate from the House of Representatives this proposition to tax liquor on hand was in it. The Senate struck it out. It was entirely competent, then, for the first committee of conference to consider the question whether they would impose a tax upon liquor on hand or not, and that question was considered and the House of Representatives receded from its original proposition. This question, therefore, which is proposed to be again committed to a committee of conference, has already been committed to one and considered, and both Houses have agreed upon it. I see, then, no necessity for again submitting the same question.

Mr. HOWE. I am not going to detain the Senate; but this strikes me as a very remarkable controversy. When you wanted to increase your revenue, you consented to the principle a year or two ago that you would tax certain kinds of products, manufactured articles, and you did not exempt the article known as spirits or whisky. I do not think you ought to have excepted it; but you resolved that you would tax it as you taxed other manufactured articles, and you were guided to that conclusion by the understanding that whatever duty you put upon the article could be collected of the consumer by the producer. This very session it seems to be the judgment of both Houses of this Congress that you did not put so large a duty upon that one commodity as you ought to have put; that is to say, you did not levy so heavy a duty on that as the consumer would pay, and therefore as the producer could collect, and you propose to raise that duty.

It happens that there is a quantity more or less of that article on hand, and from the commencement of this session down to this day the two Houses have been wrangling upon the question whether you shall attempt to collect the whole or a part of that duty from that quantity of the commodity which is now on hand. It strikes me as a curious struggle. It is said that that quantity, whatever there is on hand, has been laid up by speculators; that they have obtained it in anticipation of your putting on such a tax, and that the price of the commodity in the market is going to be enhanced by your legislation, and you say that that increase ought to go into the Treasury of the United States and not into the pockets of those men who have bought the article.

Upon that point I have three things to say. The first is that you do not know that this forty cents, or this twenty cents, or this ten cents, whatever may be the amount, will be added to the value of the article in the hands of the holders. You do not know that fact, for you do not know what the holders paid for it. You know that since you commenced to talk about this legislation, they have bought for all prices, from fifty up to ninety-eight cents a gallon; and when you say that every man who holds a gallon or a barrel or a thousand barrels shall pay a given sum on that, you do not know that he will be able to sell it at an advance which will remunerate him; you do not know but that the producer can undersell him, whatever may be the additional duty that you put on.

On the other hand—and this is the second thing I want to say—you know that a great deal of this liquor cannot be sold by the holder at a remunerative price if he is made to pay twenty cents or ten cents additional tax. The man who bought in January at ninety-eight cents a gallon, if you make him pay ten cents tax, must sell at a sacrifice.

I have one more thing to say: if you mean to establish the principle that the Legislature of the United States shall hang over the trade of the United States, and in the name of taxation collect all the profits that are realized from that trade, just advertise the proposition at once and go at it.

Mr. LANE, of Kansas. I look upon it as confiscation to the extent that it goes. So much of the value of the property in the hands of loyal men is confiscated to the use of the Government.

Mr. HOWE. Of course it is in effect confis-

cation. That is the principle. You say that by your legislation an additional value is given to a certain commodity, and you say the man who happens to hold that commodity shall not realize it, but the Treasury of the United States shall. Sir, I was told yesterday that what you know as "five-twenty" bonds are worth a premium of six per cent. I do not know how the fact is. I was told it is so. You have sold \$500,000,000 of those bonds in the last year at par. The holders of those bonds by your legislation have realized \$30,000,000; they are worth that. Why do you not go to work and levy six per cent. on the holders of those bonds? You say you can get \$6,000,000, or \$12,000,000 some say, by undertaking to collect this duty from the holders of whisky. You can get \$30,000,000 if you will levy that tax upon the holders of the bonds. And there is another thing to be considered. You know who has got the bonds; you can find them; you do not know exactly where to look for the whisky. You can get hold of all the bonds; you will get hold of but a very small share of the whisky; not all you will want.

I vote against the whole enterprise. I desire to speak respectfully, but I do think we have contended over this question a great deal longer than becomes the Legislature of the United States.

Mr. SAULSBURY. I think the Senate has had enough of whisky to-day. I therefore move that we do now adjourn.

The motion was not agreed to.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

Several SENATORS. Oh, no. Let us take this vote.

The motion was not agreed to.

The VICE PRESIDENT. The question is on the amendment of the Senator from Wisconsin, [Mr. DOOLITTLE.]

The amendment was rejected; and the question recurring on the resolution of Mr. CONNESS, it was agreed to.

The Vice President was authorized to appoint the third committee of conference on the part of the Senate; and he appointed Mr. SHERMAN, Mr. CLARE, and Mr. HENDRICKS.

HOUSE BILL REFERRED.

The bill from the House of Representatives (No. 51) to establish a Bureau of Freedmen's Affairs was read twice by its title, and referred to the select committee on slavery and freedmen.

EXECUTIVE SESSION.

Mr. WILSON. I move that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 2, 1864.

The House met at twelve o'clock, m. Prayer by

the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

CHAMPLAIN CANAL.

Mr. GRISWOLD, by unanimous consent, submitted the following resolution:

Resolved, That the Committee on Roads and Canals be requested to inquire as to the importance and expediency of enlarging the Champlain canal, in the State of New York, for the passage of armed and naval vessels from the tide-waters of the Hudson river to Lake Champlain, and that they report by bill or otherwise.

Mr. GRISWOLD. I do not know, Mr. Speaker, whether Congress will deem it advisable to take definite action on projects of this character at its present session. If they should, it can, I think, be demonstrated that no one possesses stronger claims to their consideration than the one alluded to in this resolution, viewed in a military or commercial light.

The resolution was agreed to.

PROTECTION OF OVERLAND EMIGRANTS.

Mr. HUBBARD, of Iowa. I ask the unanimous consent of the House to take from the Speaker's table bill of the Senate No. 140, to provide for the protection of overland emigration to the States and Territories of the Pacific, in order that it may be acted on at once.

Mr. BROOKS. It seems to me that that bill should go to some committee.

Mr. HOLMAN. What is the amount that it appropriates?

The SPEAKER. Forty thousand dollars.

Mr. HUBBARD, of Iowa. It is very important that the bill should be passed at once, and I hope the gentleman from New York will not object.

Mr. BROOKS. If western gentlemen have had their attention drawn to this question and do not object, I will not object.

Mr. HOLMAN. I think the bill ought to be considered in Committee of the Whole on the state of the Union.

The SPEAKER. Does the gentleman object?

Mr. HOLMAN. I do not object to the bill being brought before the House.

The bill was then taken from the Speaker's table, and read a first and second time by its title.

Mr. HUBBARD, of Iowa. I now ask unanimous consent of the House to consider and pass the bill.

Mr. HOLMAN. I desire to inquire as to the amount of appropriation made for this purpose at last Congress.

Mr. HIGBY. Mr. Speaker, there is a paramount object why this bill should be acted on now, whether it take more or less time. Legislation, I presume, is made to be suited to times and circumstances. If any appropriation is to be made in this case it should be made immediately, as emigration will commence in the latter part of this month, or in the early part of next month. As to the merits of the bill I have nothing to say; but I simply mention the fact that if there is to be any such legislation it should be had now. It will be unavailing if not acted on immediately.

Mr. HOLMAN. I trust that some gentleman familiar with the subject will give information to the House as to the manner in which this money is to be expended.

Mr. HUBBARD, of Iowa. This bill proposes to make an appropriation for the protection of emigrant trains to the States and Territories of the Pacific. It is to provide military escorts for those emigrant trains crossing the plains. It is important that action shall be had on it immediately.

Mr. HOLMAN. I want to know how the money is to be expended.

Mr. HUBBARD, of Iowa. It is to be expended under direction of the Secretary of War by providing military escorts for the emigrant trains. These trains have to pass through an Indian country of six or eight hundred miles in extent. The whole route is also infested with robbers and highwaymen at the present time. A similar appropriation of \$30,000 was made at each of the last two sessions. This bill provides an additional appropriation of \$10,000 for another route. The emigrants are now getting ready to start, and it is of the utmost importance that they be protected.

Mr. ASHLEY. Will the gentleman from Iowa also state the fact that a number of emigrants from his own district have been murdered this summer?

Mr. HUBBARD, of Iowa. That is so. No less than seventeen men, with several women and children, were murdered in one company coming from the gold mines of Idaho to the States. Unless protection is afforded, hundreds of emigrants will probably be murdered on these routes.

Mr. HOLMAN. I understand that there are two regiments stationed in Utah. Cannot they be used for the purpose of furnishing, to some extent, this protection? Those troops were not, I believe, stationed there last year, but have been sent there within the last twelve months.

Mr. HUBBARD, of Iowa. These troops may be used to some extent, but there is a region of between six and eight hundred miles, between the Missouri river and Utah, on which emigrants must be protected, and also on the route to Idaho.

The SPEAKER. Is there objection to the consideration of the bill at this time?

There was no objection.

Mr. BOYD. I would inform the gentleman from Iowa that there is now a bill on this subject pending before the Committee on Military Affairs; and the committee will soon be prepared to report.

Mr. HUBBARD, of Iowa. This is a copy of that bill. I move the previous question.

The previous question was seconded, and the main question ordered; and under its operation the bill was read the third time, and passed.

Mr. HUBBARD, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. HARDING asked and obtained leave of absence for his colleague, Mr. GRIDER, called home on account of sickness in his family.

MISSOURI POLITICS.

Mr. McCLURG. I rise for the purpose of asking unanimous consent to address the House for one hour. I merely wish to reply to the personal attacks made in the speeches of my colleague from the sixth district [Mr. KING] and my colleague from the first district, [Mr. BLAIR.] I have been unable from the press of business to get the floor at an earlier day. I hope consent will be granted.

Mr. J. C. ALLEN and others objected.

PERCENTAGE ON COMMUTATIONS.

Mr. COFFROTH, by unanimous consent, offered a resolution, which was read, considered, and agreed to, requiring the Committee on Military Affairs to inquire into the expediency of presenting a bill, establishing a percentage on the amount of salaries to be paid to the collectors in the different congressional districts, for receiving commutation money under the last draft or any other draft that may hereafter occur.

INTERNAL DUTIES.

Mr. BOUTWELL, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Printing:

Resolved, That two thousand copies of the tabular statement of moneys received from internal duties, as required by the thirty-third section of the one hundred and nineteenth chapter of the statutes of 1862, be printed for the use of the Treasury Department.

CRIMES AGAINST THE UNITED STATES.

Mr. DUMONT, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Judiciary Committee be instructed to inquire whether there is any statute punishing larceny upon the property of the United States by any Federal court, when the crime is not committed on the high seas nor at places over which the United States has exclusive jurisdiction; and that they also inquire whether there is any statute whereby a person murdering a marshal or other officer of the United States in the discharge of his duty is punishable by judgment of a United States court, unless the killing is at a place over which the United States has exclusive jurisdiction; and that they report by bill or otherwise.

POLITICAL PRISONERS.

Mr. ELDRIDGE. I ask the unanimous consent of the House to submit the following resolution:

Resolved, That the President of the United States be respectfully requested, and that the Secretary of State and the Secretary of War be directed, to report and furnish to this House the names of all persons, if any there are, arrested and held in prison or confinement in any prison, fort, or other place whatsoever, for political offenses or any other alleged offense against the Government or authority of the United States, by the order, command, consent, or knowledge of them or either of them respectively, and who have not been charged, tried, or convicted before any civil or criminal (not military) court of the land, together with the charge against such person or cause for such arrest and imprisonment, if there be any, and the name of the prison, fort, or place where they are severally kept or confined. Also, whether any person or persons for any alleged like offense have been banished or sent from the United States, or from the States not in rebellion to the rebellious States, and the names, times, alleged offense or cause thereof, and whether with or without trial, and if tried, before what court.

Mr. GRINNELL. I object.

OVERLAND MAIL.

Mr. COLE, of California, by unanimous consent, presented joint resolutions of the Legislature of the State of California on the overland mail; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

DEVELOPMENT OF MINERAL RESOURCES.

Mr. JULIAN, by unanimous consent, from the Committee on Public Lands, reported back House bill No. 140, to provide for the development of the mineral resources of the United States, and of the public domain; which was ordered to be printed, and recommitted to the same committee.

INTERNATIONAL STATISTICAL CONGRESS.

Mr. STEBBINS. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of State be requested to transmit to this House, if not incompatible with the public interest, a copy of the report and accompanying documents made to the State Department by Mr. Samuel B. Ruggles, in December last, of the proceedings in the International Statistical Congress at Berlin on the subject of uniform weights, measures, and coins.

Mr. STEVENS. My impression is that that has been done already.

Mr. STEBBINS. I think the resolution which was passed related to another subject.

There was no objection, and the resolution was adopted.

CONSTANCE READ.

Mr. SLOAN. I ask unanimous consent to introduce a bill explanatory of the act authorizing the payment of prize money, due to Commander Abner Read, to his widow, Constance Read.

Mr. HOLMAN. I object.

SUSPENSION OF TAXES.

Mr. KING. I ask unanimous consent to submit the following resolution. I would like to have it adopted to-day; but if there be objection I will move that it be referred to the Committee of Ways and Means:

Resolved by the House of Representatives, (the Senate concurring therein,) That the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, suspend the collecting of taxes for internal revenue from the loyal Union citizens and sufferers in the counties of Jackson, Cass, Bates, and Vernon, in the State of Missouri, by reason of a military order forcing these citizens to abandon their homes, their property, and all their material interests, by which they are so reduced in means as to render most oppressive, if not impossible, for them to pay said taxes at present; and that said suspension be ordered for such time and under such regulations as may be prescribed by the Secretary of the Treasury.

Mr. ELIOT. I do not object if it be referred.

Mr. HARDING. I object, unless I am permitted to move an amendment to include Kentucky.

Mr. KING. I move that the resolution be referred to the Committee of Ways and Means.

Mr. HARDING. I object.

Mr. KING. I will accept the gentleman's amendment.

Mr. FARNSWORTH. I object.

NATIONAL CURRENCY.

Mr. HOLMAN. I ask unanimous consent of the House to submit the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing an act entitled "An act to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863, and to rely upon the legal-tender notes issued by the United States for the currency of the country until the specie basis shall be restored.

Mr. STEVENS. I object.

CONSTRUCTION OF FORTS.

Mr. MOORHEAD, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Claims be instructed to inquire into the expediency of reporting a bill providing for the payment of labor performed and materials used in the construction of forts, fortifications, rifle-pits, and other defenses which were constructed by the direction of the War Department and under the superintendence of the engineers and other officers of said Department; also, for the payment of damages to land used and for crops destroyed by such erections and constructions.

BOUNTIES TO FISHING VESSELS.

Mr. ELIOT asked unanimous consent to introduce the following resolution:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the allowance of bounty to certain vessels employed in the Bank and other cod-fisheries, as provided for in the act of July 29, 1813, entitled "An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries," and the act of March 3, 1819, amendatory thereof, shall not hereafter be paid to any such vessel until satisfactory proof shall have been furnished to the collector of customs charged with the payment of such bounty that the import duty imposed by law on foreign salt imported into the United States has been duly paid on all foreign salt used in curing the fish on which the claim to the allowance of bounty is based.

Mr. COX. If the gentleman will allow me to amend so as to put a bounty on cat-fish and suckers I will not object.

Mr. ELIOT. The gentleman will excuse me.

Mr. COX. Then I object to the introduction

of the resolution. Western interests are not consulted at all.

DIPLOMATIC CORRESPONDENCE.

Mr. DAVIS, of Maryland, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested, if in his opinion not inconsistent with the public interest, to communicate to this House all the diplomatic correspondence on the present state of Mexico since that published by the Thirty-Seventh Congress. Also all the dispatches of Hon. E. A. Turpin, minister to Venezuela, relating to the change in that republic from a constitutional form of government to the government of General Paez. Also all the correspondence between the Secretary and Henry T. Blow and E. D. Culver, the one late and the other present United States minister to Venezuela.

PRESQUE ISLE DISTRICT.

Mr. SCOFIELD, by unanimous consent, introduced a bill to change the name of the district and port of Presque Isle to the district and port of Erie; which was read a first and second time, and referred to the Committee on Commerce.

POST ROUTES IN KANSAS.

Mr. WILDER, by unanimous consent, introduced a concurrent resolution of the Legislature of Kansas, asking for a post route from Atchison to Topeka, in the State of Kansas; which was referred to the Committee on the Post Office and Post Roads.

Also, a concurrent resolution of the Legislature of Kansas, asking Congress to declare a post route from Rising Sun via Osawatie and Grasshopper Falls, in the State of Kansas; which was referred to the Committee on the Post Office and Post Roads.

CAVALRY ARMS FOR KANSAS.

Mr. WILDER, by unanimous consent, also presented a concurrent resolution of the Legislature of Kansas, asking Congress for two thousand stand of cavalry arms to be turned over to the Governor of Kansas; which was referred to the Committee on Military Affairs.

INDIANS IN KANSAS.

Mr. WILDER, by unanimous consent, also presented a concurrent resolution of the Legislature of Kansas, petitioning Congress to pass a law for the removal of Indians from the State of Kansas; which was referred to the Committee on Indian Affairs.

FREEDMEN'S AFFAIRS.

Mr. ELIOT. I call for the regular order of business.

The SPEAKER. The regular order of business is the motion to reconsider and lay upon the table the vote taken yesterday, by which the bill to establish a Bureau of Freedmen's Affairs was passed.

Mr. COX. I demand the yeas and nays upon the motion to lay on the table.

Mr. ELIOT. I withdraw the motion to reconsider.

Mr. COX. I renew it.

The SPEAKER. Did the gentleman from Ohio vote with the majority?

Mr. COX. I did not.

The SPEAKER. Then the gentleman cannot renew the motion.

Mr. MALLORY. Cannot the gentleman renew it by unanimous consent?

The SPEAKER. He can.

Mr. COX. I ask unanimous consent to renew the motion.

Mr. ELIOT. I object; and call for the regular order of business.

COURT OF CLAIMS.

The SPEAKER. The business next in order is the consideration of a bill (H. R. No. 66) concerning the jurisdiction of the Court of Claims, which was referred to the Committee on the Judiciary, reported back January 12, 1864, with an amendment; amendment agreed to, ordered to be printed, and the further consideration postponed to Thursday, January 21.

The bill, which was read, provides that the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States growing out of the destruction or appropriation of or damage to property by the Army or Navy, or any part of the Army or Navy, engaged in the suppression of the rebellion, from the commencement to the close thereof.

Mr. WILSON. I demand the previous question on that bill.

Mr. THOMAS. I hope the gentleman will allow me to move an amendment.

The SPEAKER. The Chair will state to the gentleman from Maryland that the bill reported by him was postponed until the same day to which this bill was postponed.

Mr. WILSON. I will hear what the gentleman from Maryland has to say.

Mr. THOMAS. I do not know what motion the gentleman from Iowa has submitted.

The SPEAKER. The gentleman from Iowa has demanded the previous question.

Mr. THOMAS. I hope the gentleman will withdraw that call for the previous question and allow me to move an amendment to the pending bill that which I now hold in my hand, and which has been printed for the information of the House.

Mr. WILSON. I wish to make an inquiry of the Speaker. Was not the bill to which the gentleman from Maryland refers reported from the Committee on the Judiciary on the same day on which this bill was reported?

The SPEAKER. It was.

Mr. WILSON. Then I will state to the gentleman from Maryland that the bill which he proposes to offer as an amendment to this bill will be the next report in order.

Mr. THOMAS. I will explain my object, if the gentleman will allow me a moment. As is very well understood by the House, the bill before us is one of vital importance to all the border States. The judges of the Court of Claims have signified, I believe, in an informal manner, that under the existing law they will take jurisdiction of claims of two several characters. One of these is a class of claims which I presume the House would not hesitate a moment to pay if the subject were brought fairly under their consideration. The class of claims to which I refer comprehends all cases where officers of the Army have taken and applied to the uses of the Army the property of persons, but have given them no certificates such as the forms and modes of proceeding of the War Department require, and that will enable them to obtain pay.

The Court of Claims have signified that they will entertain jurisdiction in all that class of claims which grow out of the occupation of the border States by our armies, of the plundering and the unauthorized depredations sometimes committed by our soldiers, and the appropriation sometimes to the uses of the Army of the property of the people of the border States.

Now, I do not think that when the House come to understand this subject they will agree to deprive the Court of Claims of all jurisdiction in both the classes of cases to which I refer without substituting for it some other tribunal, some other mode of redress to which the people may resort.

I propose, therefore, if the gentleman will withdraw his demand for the previous question, to submit the two amendments which I hold in my hand to the bill now under consideration, so that when we take from the Court of Claims the jurisdiction in these cases, we may substitute for that jurisdiction some other tribunal.

One of my amendments—and they are so framed as to enable the House to act separately upon each of them—proposes to authorize the Quartermaster General, or the Commissary General of Subsistence to take testimony in each several case of claim, and if satisfied that the property has been applied to the uses of the Government, to pass that claim over to the Third Auditor of the Treasury and direct it to be adjusted and settled. I will send my amendments to the Clerk's desk and have them read, and then, perhaps, what I have to say will be better understood.

Mr. WILSON. I do not yield for the purpose of having the amendments offered.

The SPEAKER. Does the gentleman yield for the purpose of having them read?

Mr. WILSON. Certainly. I have no objection to having them read.

The SPEAKER. The Chair will state to the gentleman from Maryland that the bill proposed by him as an amendment will come up next in order after this bill.

Mr. THOMAS. If the Chair will allow me to respond to that kind admonition I will say that I am unwilling to vote to deprive the Court of Claims of jurisdiction in these cases without sub-

stituting some other tribunal to decide upon these claims.

The amendments were read, as follows:

Sec. 2. *And be it further enacted*, That all claims for quartermaster's stores actually furnished to the Army of the United States may be submitted to the Quartermaster General of the United States, accompanied with such proofs as each claimant can present of the facts in his case; and it shall be the duty of the Quartermaster General to cause such claim to be examined, and if convinced that it is just, and that the stores have been actually received or taken for the use of said Army, then to report each case to the Third Auditor of the Treasury, with a recommendation for settlement.

Sec. 3. *And be it further enacted*, That all claims for subsistence actually furnished to said Army may be submitted to the Commissary General of Subsistence, accompanied with such proof as each claimant may have to offer; and it shall be the duty of the Commissary General of Subsistence to cause each claim to be examined, and if convinced that it is just, and that the subsistence has been received or taken actually for the use of said Army, then to report each case for payment to the Third Auditor of the Treasury with a recommendation for settlement. And the action of the Quartermaster General, and of the Commissary General of Subsistence, as the case may be, and of the accounting officers of the Treasury, shall be final and conclusive upon such claims, which may be paid either by special requisition and warrant, or by a disbursing officer of the quartermaster and subsistence departments, as the case may be, or as may in each case be most proper or convenient; and the officers paying shall be relieved from all liability for, or on account of, the property so paid for.

Sec. 4. *And be it further enacted*, That there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, one commissioner and one solicitor of claims for the district composed of the States of Maryland, Pennsylvania, and the District of Columbia; one commissioner and one solicitor for the district composed of the States of West Virginia, Ohio, and Indiana; one commissioner and one solicitor for the district composed of the States of Tennessee, Kentucky, and Illinois; and one commissioner and one solicitor for the district composed of the States of Missouri and Kansas, who shall severally hold their respective offices during the pleasure of the President, and be entitled for their services to a salary of \$— each per annum, to be paid quarterly, and such other sums as shall actually be expended or incurred by them for traveling expenses in the discharge of their duties under this act, and certified as reasonable by the Secretary of War or First Comptroller of the Treasury.

Sec. 5. *And be it further enacted*, That each of said commissioners shall appoint a clerk and marshal for his district, who shall hold their offices during the pleasure of said commissioners, and perform such duties as may be required of them under this act. The clerk shall receive a salary of \$—, and the marshal a salary of \$—, to be paid quarterly, and, in addition, the amounts they shall actually expend for traveling expenses in discharging their duties under this act, and which shall be certified as reasonable by the Secretary of War or the First Comptroller of the Treasury. And said commissioners, solicitors, clerks, and marshals shall each take and subscribe an oath to support the Constitution of the United States, and faithfully discharge the duties of their respective offices, and shall, in addition, take and subscribe the oath of allegiance required by the act of Congress passed August 6, 1861; which oaths shall be filed in the War Department.

Sec. 6. *And be it further enacted*, That said commissioners shall severally have cognizance of all claims against the United States arising in their respective districts, and which shall be presented to them by any person who, during the present rebellion, has sustained, or may sustain, damages by injury to or destruction of any property which has been or may be injured or destroyed by the use or occupation of our Army, or of any division or portion thereof: *Provided, however*, That all claims embraced in the provisions of this act not presented for adjustment and allowance within three years after the close of the present civil war or the suppression of the rebellion shall be forever barred.

Sec. 7. *And be it further enacted*, That the claimant or claimants who may present his claim under this act shall in every case make out an account against the United States, containing the items of such damages and losses, together with a statement of the circumstances attending the same, and names of the officers who commanded the troops by whom the damages or losses were occasioned, the time when, as near as may be, and place where, such losses and damages were sustained, which account shall be verified by the oath of the claimant to the effect that the account presented by him or her to said commissioner for adjudication is accurately stated; and that the prices charged are reasonable; and that the amount claimed is justly due after allowing all just credits and set-offs; that neither the whole or any part of said claim has been assigned or transferred, except as therein stated; and that he, she, or they have actually sustained the damages charged in said account as having been done to his, her, or their property by the troops of the United States, over and above the value of the portions of said property which remained after its injury or destruction; that the same damage or destruction has not been done by reason of any fraud, connivance, collusion, or procurement of the said claimant, or any other person or persons in his, her, or their behalf; and that no payment has been received by the claimant, or any person for him, for any part of said claim except as stated in said account; and that he has not given any receipt or voucher except as stated in said account, by which any officer of the United States or other person has received or can receive, as claimant believes, a credit therefor from the United States. Said claimant or claimants shall also exhibit and prove to said commissioner, his, her, or their title to the property, and the extent of their share or interest therein; and also furnish them with the names of all other persons, if there be any, who have any share or interest in said property, and their residence, as far as may be. Before presenting said claims to said commissioner the party or parties making the

same shall publish in such public newspaper as shall be designated by the commissioner, published in or near the county in which he, she, or they reside, once in each week for four consecutive weeks, a notice containing a statement of the particulars and grounds of said claim, the locality of the property injured or destroyed; and that the same will be presented to the commissioner of claims under this act for adjudication, which notice shall state under whose authority, or under what circumstances, the property for which a claim is made was damaged, lost, or destroyed. Due proof of said publication shall accompany any account or claim presented to said commissioner under this act.

Sec. 8. *And be it further enacted*, That said solicitor of claims shall represent the Government of the United States, and attend the examination of parties and witnesses in relation to any claim which may be pending before said commissioner of their respective districts, prepare interrogatories and cross-interrogatories, and superintend the taking of testimony, and render such other services as may be required of him from time to time by said commissioner.

Sec. 9. *And be it further enacted*, That any person who shall corruptly practice, or attempt to practice, any fraud against the United States in the statement or proof of any claim, or any part of any claim, against the United States under this act, shall forfeit the same to the Government; and it shall be the duty of said commissioner, in such cases, to make a special report of the facts and fraud which was practiced, or attempted to be practiced, to the Secretary of War; and in case he shall approve and concur in said report, the claimant shall be forever barred from prosecuting said claim.

Sec. 10. *And be it further enacted*, That each commissioner shall have power to issue subpoenas to require the attendance of witnesses for examination before said commissioners, which subpoenas shall have the same force as if issued by a district court of the United States, and compliance therewith may be compelled under such rules and orders as said commissioner shall prescribe, and for the purpose of compelling the attendance of such witnesses, and taking their testimony, said commissioner shall have all the power of said district court.

Sec. 11. *And be it further enacted*, That each commissioner shall adopt such rules and regulations for carrying this act into execution as the President of the United States shall approve, and publish the same for eight weeks successively in the newspapers in the several States and Territories in which the laws of the United States are published.

Sec. 12. *And be it further enacted*, That each commissioner shall have power to hold their sessions at such times and places, in their respective districts, as they shall deem proper and conducive to the public interest and convenience of claimants. They may also, in their discretion, make a personal examination of any farm, boat, plantation, building, or property in relation to which any claim for losses or damages shall have been presented. They shall also have power to examine on oath any claimant, and all other persons, in relation to said claim, who have any knowledge thereof; and shall cause the testimony so taken to be reduced to writing and signed by the person taking the same; and shall return said testimony, with their proceedings and their several opinions in writing in relation to said claims, respectively, to the Secretary of War; and it shall be his duty to lay the same before the Congress of the United States at the commencement of the session next succeeding said return, to the end that such provision may be made for the relief of the claimants as shall be deemed just and proper.

Sec. 13. *And be it further enacted*, That said commissioners shall not take cognizance of any claim against the United States for any person who has in any manner favored or supported a secession ordinance in any State, or has engaged, or shall at any time engage, in the present rebellion against the Government of the United States, or given aid and comfort to those engaged in said rebellion. And it shall be the duty of each of said commissioners to inquire into and take testimony as to the loyalty of every person who has sustained loss or damage to his or her property during the present rebellion, and who may present their claims under this act; and also as to whether the said persons in any manner favored or supported a secession ordinance in any State, or in any manner supported or favored rebellion against, or resistance to, the laws of the United States. And no person who has engaged, or shall at any time engage, in the present rebellion against the Government of the United States, or been at any time hostile to such Government, or given aid and comfort to those engaged in said rebellion, shall derive any benefit under this act.

Mr. WILSON. Mr. Speaker, I cannot give way for the gentleman from Maryland to offer the two bills that have been read as amendments. In the first place the committee authorized me to report the first bill that has been read as an amendment, (sections two and three.) That bill is the next pending report, and will come up in regular order for consideration. The other bill has not been before the Judiciary Committee. It emanates from some other quarter, and treats of matters entirely foreign to the subject-matter. I cannot consent to have the report loaded down with a proposition of this kind.

Now, Mr. Speaker, I wish the House to understand something about these claims, in order that we may protect the Government and Treasury against these enormous claims. I ask the Clerk to read the following letter from the Solicitor of the War Department, addressed to the gentleman from Illinois, [Mr. WASHBURN.]

The Clerk read, as follows:

WAR DEPARTMENT,

WASHINGTON CITY, January 15, 1864.

SIR: Your letter of the 13th instant has been received, in which you have requested me to "state, if consist-

with my views of public duty, the nature, extent, and character of the various claims which have come to my notice against the Government, growing out of the loss and destruction of property during the present rebellion; and also to make any general suggestions on the subject that may seem proper."

In reply I have the honor to state that a great variety of claims have been made against the United States, growing out of the loss or destruction of property in the southern States. Damages have been claimed by loyal citizens who have always resided in the northern States for real estate situated in the rebellious districts, and taken into possession of the Union troops for military purposes, as for quarters or for storage, or hospitals, barracks, &c.

Damages have also been asked by the same class of persons for personal property, as cotton, sugar, flour, horses, mules, wagons, agricultural implements, money of the United States, money of the confederates, hay, grain, corn, and all kinds of forage; wood for burning, and wood cut down but not removed from the spot when cut; and damages for crops trampled or eaten up by our cavalry, &c.

But by far the larger proportion of claims are made by persons residing in the disloyal districts for every species of real and personal property alleged to have been used, injured, seized, or destroyed, by our troops; fences burned, crops trampled down or consumed by the Army; horses, mules, beef cattle captured, seized, and taken away; money, furniture, and household articles lost or stolen; cotton captured, burned, used, lost, or damaged by dirt or otherwise in the use of it for military or naval forces. Every variety of personal property lawfully captured by our forces has been claimed or damages have been demanded for its use, detention, or destruction. *Rents* are continually requested for the use of real estate seized by our troops; property which has been condemned as lawful prize in our courts has been claimed, or its value in damages.

And what is singular, every claimant purports on affidavits to be a LOYAL CITIZEN, even when in some cases it is well known to the Department that the party really interested in the claim is actively engaged in rebellion at the time the claim is presented.

Respectable gentlemen, in many occasions, act as claim agents on behalf of the party interested.

Often it happens that shift is made in the title or apparent title of property in order that the party making the application may be deemed loyal. And were we to regard the evidence presented to this Department as conclusive on the question of loyalty, it would be doubtful whether there is or ever was a disloyal person in the seceded States.

Many claims have been made for property seized in attempts to violate the laws regulating the commerce with the inhabitants of the rebellious States. Few, if any, instances have occurred of claims for restoration of property seized *in transitu* on its course from Maryland, New York, or other States, to Virginia, without being accompanied by testimony of the loyalty, honesty, and high character of the claimant, even where he has been arrested and caught in the act of violating the law.

Rebel printing offices have been gutted out, secession houses have been burned, arms and munitions of war have been seized, vessels have been used, seized or captured by our forces, railroads have been taken for military use, their rolling stock has been worn out, tracks have been destroyed, bridges burnt or blown up, and every form of devastation and destruction has been inflicted on the enemy's property by our armies.

From all these injuries, the inevitable result of warlike operations, claims arise against the Government from some persons claiming to be LOYAL; even though residing in the districts at war with us. Whenever the armies move they scatter broadcast the prolific seed which will ripen into claims against the Government.

As to the character of these claims, so far as known to me, some of them have but a slight foundation in fact, many are purely fictitious, and a large proportion of them have been exorbitant and unreasonable.

Sometimes the amount of annual rent demanded for a piece of real estate is equal to half or the whole of its value. The valuation placed upon many articles has been more than ten times their real worth; and as a general statement these claims are of so gross and outrageous a character as to stamp them as fraudulent.

Although some claims of this class are fairly stated, yet it would seem as though it were thought fair game by some claimants to rob the Treasury to any practicable extent.

In answer to the inquiry as to the amount of these claims which have been or will be brought against the Government, I can only say that it is impossible to ascertain the aggregate. I believe that hundreds of millions of dollars will be required to satisfy these demands.

If it were now understood that they were allowed and promptly settled in the War Department and paid by the Treasury, I do not believe that we could carry on the war three months, for want of money or credit.

I look upon the army of claimants as really quite as formidable to the Government as the army of rebels; and if this great and impending danger is not looked in the face, and promptly and decisively met by Congress, I shall feel a diminished confidence in the ultimate preservation of our national honor.

In regard to all claims arising in the rebellious districts of the character above described, I have uniformly refused to acknowledge their legal validity, whether the claimant is loyal or otherwise. I have not felt at liberty to waive the legal right of the Government to act according to its own will and pleasure in recognizing these obligations. The question as to what shall and what shall not be conceded to persons, whether loyal or disloyal, friendly or hostile, who reside in those parts of the country now in rebellion, is a question of public policy to be settled by Congress. Congress may or may not assume such obligations. If they should amount to hundreds of millions of dollars, Congress may refuse by recognizing them to add such an amount to our national debt; but if they should be of comparatively trifling amount, a different policy might be justified.

Perhaps the time has not yet arrived when we can tell what is best to be done; for we do not know when the war

will end, what will be the amount of our debt, nor what the extent of demands upon our national resources.

It therefore seems to me that we ought not to allow any court or tribunal to pass upon this class of claims in anticipation of the action of Congress, however small the amount involved may be, and the Government ought not to commit itself through any of its legislative or executive departments or through the Court of Claims, or by any commissioners or other functionaries, to an acknowledgment of the validity of claims of persons residing or having property in rebellious districts while the war is going on.

I have the honor to be, sir, your obedient servant,
WILLIAM WHITING,
Solicitor of the War Department.
Hon. ELIHU B. WASHBURN, U. S. Ho. of Reps.

Mr. WILSON. That letter, sir, presents the views of the case that obtained when all these claimants were pressing their claims upon the War Department for adjustment. The Solicitor of that Department decided not to entertain them. Then the claimants turned their attention to the Court of Claims, and there they are seeking every avenue of approach to the public Treasury. I hold in my hand the record of one case now pending in the Court of Claims. It was sent to me by a gentleman who is acting as attorney for the claimant, in order that I might see how great would be the hardship imposed on claimants if Congress should determine to withhold this jurisdiction from the Court of Claims. It is as follows:

"The petition of Mrs. Virginia Scott to this honorable court respectfully shows:

"That she is, and always has been, loyal to the Government of the United States. That she is the owner and occupant of certain lands in Fairfax county, Virginia, which have been occupied by the forces of the United States. That she has thereby suffered damage to the extent of \$37,193 75, in the following particulars:

"Three acres and upward of wood cut down and used, of the value of \$450. Two thousand five hundred and thirty-five panels of worm-fence, of the value of \$1,826 25, carried off. Twenty acres of wheat, twenty-five tons of hay, hogs, cattle, and poultry destroyed up to July 29, 1861, amounting in value to \$1,535; and since said last mentioned time, two hundred bushels of rye, of the value of \$170. Five hundred bushels of oats, to the value of \$250. Two hundred and fifty bushels of potatoes, to the value of \$187 50. Two hundred and fifty bushels of green corn, amounting to \$975. Garden vegetables to about the value of \$100; besides much other damage to growing crops, which cannot be exactly ascertained and computed. A horse-shed, outbuildings, the underground pipes, water reservoir, and hydraulic ram, formerly attached to the mansion, taken down and carried off, to the value of \$500. One carriage horse, worth \$300. Farming utensils to the value of \$500. Injuries to the dairy, the blacksmith's shop, and the iron fence around the grounds adjacent to the mansion, to the extent of \$400. Thirty-four negroes, of whom the petitioner is the owner and entitled to their services, induced to run away by the soldiers; which services aforesaid this petitioner computes at least at \$30,000.

"And your petitioner further shows that a part of this claim, to wit, the loss accruing before July 29, 1861, aforesaid, has been submitted to the War Department by Brigadier General O. O. Howard, but that no notice has apparently been taken of it. And further, that she is the only and sole owner of this claim.

"Wherefore she asks that she may receive relief for the loss and injury aforesaid in the said sum of \$37,193 75."

Thirty thousand dollars out of the \$37,193 75 claimed is asked as compensation for negroes who ran away from the estate. And this is but one of many claims of this character being pressed on the attention of the Court. Unless we take this matter into our own hands, and withhold jurisdiction of these cases from the Court of Claims, we will find, as the Solicitor of the War Department states, that hundreds of millions of dollars will be required to satisfy these claims. It may be that many of these claims should be paid, but we cannot pay them now. They must wait. They must pass along with the events of this war, and be adjudicated and paid when we can more fully consider them and provide for their payment. We cannot do it now.

There is another feature in these cases to which I wish to call the attention of the House. When these claims are resolved into judgments by the Court of Claims, Congress has no further jurisdiction over them. If, in the case to which I have referred, the court should render a judgment to pay \$30,000 for the negroes escaped, Congress has no remedy but to direct its payment, under the seventh section of the act of March 3, 1863. After the judgment is rendered, all that is required to enable the party to get his money from the Treasury is to have a certified copy of the judgment to present to the Secretary of the Treasury. It may be said that Congress will have to make an appropriation. That is true. But we must remember that we have established this court, conferred upon it certain jurisdiction, authorized it to enter judgment, and provided that that judgment, when certified to the Treasury Department,

shall be paid. So that we will be put in the attitude of repudiation, unless we make appropriations to pay the judgments rendered by this court.

I submit to the House whether we can at this time provide for the satisfaction of these claims, leaving out of consideration the question as to whether the citizen has a right to demand satisfaction at the hands of Government. We all know that all of these cases against the Government are based on a mere matter of grace, and not as a matter of right. No citizen has the right to demand of the Government compensation for injuries growing out of acts of the war. The compensation extended by the Government to the citizen is based upon the grace of the Government, and not upon the right of the citizen.

Mr. STEVENS. Will the gentleman let me ask him a question?

Mr. WILSON. Certainly.

Mr. STEVENS. Do I understand him to say that the damages sustained by individuals from the Government itself, by the order of its generals, do not furnish a just claim against the United States?

Mr. WILSON. I should like to ask the gentleman from Pennsylvania to inform the House, if it were not for the Court of Claims how any citizen could sue the Government? If it were not for that, how could any suit be brought against the Government?

Mr. STEVENS. When damage was caused by the Government, that no remedy was granted did not affect the right of the citizen, for that exists all the time until satisfied.

Mr. WILSON. I speak of the legal right of citizens to demand legal satisfaction. I say it never did exist since the first time it was declared that the king could do no wrong.

Now, if it were not, as I have stated, for the existence of the Court of Claims, no citizen could bring a suit against the Government. It is a mere matter of grace. We must not forget, sir, that the existence of the Government is of much more importance to all of the citizens than the immediate payment of any claims of any portion of the people of the country. It is not just, it is not right that these claims should be pressed upon the Government for adjustment and payment which will deprive us of the means of carrying on the war by the payment of the Army and the other necessary expenses of the Government. It is impossible that we should do it.

I am willing that the bill reported from the Committee on the Judiciary by the gentleman from Maryland [Mr. THOMAS] shall be taken up and passed, which provides for a class of cases which should be provided for—that is, where property has been taken for the use of the Army—where material has been taken for the use of the quartermaster and the commissary departments. I have no objection to the adjustment of those claims. They can be adjusted under the bill reported by the gentleman from Maryland. Insist that the House should not take these two bills together. They have no connection with each other. One refers to the Court of Claims and the other to the commissary of subsistence.

I therefore ask the gentleman from Maryland not to oppose this bill because I have refused to let this amendment come in, but to adopt the order of the House for the consideration of the bill, when I have no doubt the House will pass it. I ask to have action on this bill at once. We must cut off this jurisdiction, and do it speedily. We must do it before these claims are passed by the court. We must do it for the purpose of protecting the Treasury and to save the Government. Regarding this as of the utmost importance, I demand the previous question on the third reading and engrossment of the bill.

Mr. THOMAS. I ask the gentleman to yield to me a moment.

Mr. WILSON. Certainly.

Mr. THOMAS. Mr. Speaker, if the chairman of the Committee on the Judiciary had given attention—perhaps it is difficult to do so—to the proposition I have submitted for the consideration of the House, he would have found it entirely unnecessary to consume the time of the House by the reading of what I must style a clamorous letter from the War Department. Why, sir, there is nothing in either of the propositions a single one of any character touching the rebellious States. Not one. The propositions I have submitted are

not my own—ill-digested as they might be if they were—but they come from the Committee on the Judiciary. They have been sanctioned by the entire committee. The other is nothing more than a report from the Committee of Claims, which a majority of that committee reported at the last session of Congress, and which received within a few votes of a majority of this House, having previously passed the Senate. As to the bill sanctioned by the Committee on the Judiciary I am glad to learn that it is the purpose of the chairman of the committee to adhere to the position taken in the committee, and vote for the bill when it comes up.

Now one single word in regard to that bill. If it were true that there was such a critical condition in the financial affairs of the Government as made it doubtful whether the Government could pay all these claims in full and still meet all the other claims pressing upon the Treasury, would it be unbecoming the Representatives of the border States to ask the Representatives of the States more remote from the theater of war to forego to a reasonable extent the receipt from the Treasury of the United States the claims of their constituents, in order that our constituents might receive part payment of theirs? If it be true that the Government of the United States is too much burdened in meeting the current expenses of the war to meet all these claims for forage, quartermaster and commissary stores which have been swept from the border States, would it be unbrotherly in us to invite gentlemen from other sections to forego in part their claims for cotton and woolen goods, arms, ammunition, and other Army supplies furnished by them, living far away from this storm of war, in order that we who have felt its heavy hand severely may partially receive our claims?

But is that true? May we not assume that the Secretary of War understands fully as well as the Solicitor of the War Department the ability of the Government to meet its engagements? And in the report of the Secretary of War made at the beginning of the present session he has particularly called the attention of Congress to the reasonableness and perfect justice of these claims, and he has frequently recommended legislation with a view to their prompt payment. I will set the information of the Secretary of War and his recommendations in the scale against those of the Solicitor of the War Department, and the opinion of the Quartermaster General against this clamorous outcry which is brought into this discussion. I repeat that we do not contemplate the payment of these claims in the insurrectionary and rebellious States.

But let us not confuse ourselves; let us see whether it is not reasonable that at least one of the amendments which I have offered should not be permitted to come before this House. What does it propose? Merely that we shall take up and dispose of the whole subject-matter of these claims against the Government at one and the same time; and that while we are restricting and removing the jurisdiction of the Court of Claims we shall substitute for that court some other tribunal. That is all. I should be very sorry to believe for a moment that the first class of claims provided for in my amendment will be ignored in this House upon any principle whatever. What is the nature of that class of claims? General McClellan, after the battle of Antietam, occupied and possessed with his army the county of Washington, in Maryland—and when I speak of my own county I presume I speak only what would be said by every Representative from the congressional districts of the border States—he occupied that section of the country for some three or four weeks. I have visited that section since. It is a most beautiful section of country, fertile, productive, and highly cultivated; is occupied by as sterling, as patriotic, and as faithful a population as exists in any section of this country, North or South.

Standing on an eminence from which I could take a view of the surrounding country four or five miles in every direction, what a revolting prospect presented itself for contemplation! Not a vestige left of all the works of a quarter of a century of diligent labor upon the part of that population; not an inclosure, scarcely a house left standing, no grain growing, the old crop all taken off, and not a living animal in view. All these

things were swept away, not by the enemy, but by your Army, and appropriated to its use to supply it with necessary subsistence. We do not complain of the matter. We know the necessity which existed. We do not complain of the conduct of the officers upon the part of the Government which makes it necessary to bring this matter up for the consideration of Congress. The supplies thus seized by our Army have not in one instance out of twenty been paid for. Why? Because the quartermasters and other officers of the Government were negligent, or careless, or incompetent, and did not give the necessary certificates such as the accounting officers here could pay; and sometimes because they have not reported to the War Department that these quartermaster and commissary stores have been taken and supplied for the use of the Army.

Now, what does my bill, sanctioned by the Secretary of War, sanctioned by the entire Judiciary Committee, propose? Simply that the Quartermaster General and the Commissary General of Subsistence shall take these cases into consideration, receive testimony in the absence of the certificate of the quartermasters—many of whom are out of the service and many dead—and when satisfied that these quartermaster and commissary stores have been taken for the use of the Army, the Quartermaster General shall refer the claim to the Third Auditor for final adjustment. That is all, and I repeat that I cannot and will not believe it until I see it that those gentlemen who happen to represent sections of this country over which the storm of war has not passed will sit here, day after day, coolly and deliberately appropriating millions upon millions of dollars, and yet refuse to those who have to share in these burdens any participation in the means and resources of the Government. I do not concur with the chairman of the Judiciary Committee in the opinion that the finances of the country are in such a condition that the payment of these claims will seriously embarrass the Government; but even if that were so, my constituents are content to wait. These are claims for property that has been taken and applied to the uses of the Government.

But, Mr. Speaker, as to the other amendment which I have offered, it is nothing more than a transcript of a bill—modified in some particulars—which was sanctioned by the Committee of Claims at the last session of Congress, which passed the Senate, and which has been sanctioned by the Committee of Claims of the present Congress. Let any gentleman read that amendment and he will find that there is not one word in it that can be construed by any man in Congress or out of Congress so as to justify its application to any claims growing up inside of the insurrectionary States. In express language it is confined to Maryland, Pennsylvania, the District of Columbia, West Virginia, Ohio, Illinois, Missouri, Kansas, Tennessee, and Kentucky. It does not contemplate either the taking of any money from the Treasury; it involves no promise to pay; it imposes no obligation; it merely authorizes the appointment of commissioners, without judicial powers at all or any authority to pay, merely to collect the facts of the cases, that they may hereafter be reported to Congress for its final action. What danger is there in that, or what apprehension can gentlemen have? These claims are some day to be voted on “yea” or “nay.” They will be persisted in until they are finally disposed of by the Representatives of the whole American people. Can we not as well meet them now as hereafter, in this initiatory measure providing that testimony shall be taken and brought before the next Congress, or before the present Congress at its next session? It will then be competent for Congress, not only to postpone the whole subject indefinitely, but to select out of these claims, with great nicety and discrimination, all these cases that they think proper and ignore the balance.

Mr. WILSON. I have yielded to the gentleman almost all of my time, and I must now claim the floor.

Mr. THOMAS. I beg the gentleman's pardon. I was not aware how rapidly time was passing; but I have had both the Solicitor of the War Department and the chairman of the Judiciary Committee to reply to.

Mr. WILSON. I think the discussion of the question which the gentleman from Maryland has

been discussing has taken the House entirely by surprise; and I am not willing that it shall be brought before the House for action now. And in order to settle this matter, members having now had abundance of time to consider it, I ask the House to sustain the previous question in order that it may be disposed of.

Mr. SCHENCK. I wish to inquire of the Chair as to what condition this bill was left in when it was last before the House?

The SPEAKER. The bill was postponed on the 12th day of January until the 21st day of January; and it now comes up for the first time in order.

Mr. SCHENCK. My recollection is that the chairman of the Committee on the Judiciary demanded the previous question and that it was seconded, and that the vote seconding it was afterwards reconsidered by a vote of this House with a view to debate and amend the bill. An amendment proposed by myself, saving the rights of claimants under contracts, was discussed; and while that amendment was pending, and while those in favor of such an amendment proposed, unless the chairman of the Committee on the Judiciary agreed to admit that amendment, to send the bill to the Committee of the Whole on the state of the Union, it was by general consent postponed.

The SPEAKER. The Chair will state the previous action of the House. The bill was reported from the Judiciary Committee on the 12th of January, and the previous question was moved and sustained. That was afterwards reconsidered by a vote of 71 to 69, which would have left the bill open to amendment, had it not been for the motion of the gentleman from Wisconsin [Mr. Brown] to refer the bill to the Committee of the Whole on the state of the Union. The pendency of that motion prevented any amendment. The gentleman from Ohio [Mr. Schenck] rose and said that he desired to offer an amendment, which was debated at some length, but was not offered in consequence of the pendency of the motion. Finally, by unanimous consent, the gentleman from Wisconsin withdrew his motion, and the bill was postponed till the 21st of January. It is now reached in regular order. The gentleman from Ohio, having reported the bill, was recognized, and therefore the amendment of the gentleman from Ohio has not yet been properly before the House.

Mr. SCHENCK. I desire to have the amendment read for information.

Mr. WILSON. I cannot consent to the amendment, and therefore I do not withdraw the previous question.

Mr. GRIDER. Will the gentleman yield to me? Mr. WILSON. I cannot.

Mr. GRIDER. Then I hope the previous question will not be sustained.

Mr. WILSON called for tellers.

Tellers were ordered; and Messrs. WILSON and THOMAS were appointed.

The House divided; and the tellers reported—ayes 40, noes 69.

So the House refused to second the previous question.

Mr. SCHENCK. I now offer this amendment: Add to the bill the words:

Except in cases sounding in contract where food, forage, or other property for the actual use of the Government has been taken and certificates or other evidence of indebtedness in writing by some officer of the United States authorized to take said property given therefor.

I desire to say that I am not unfriendly to this bill, as believing in the necessity of some such legislation. I have only sought to perfect that legislation according to my best judgment by offering the amendment of the character of that now reported, and which, when the bill was up before, I brought to the attention of the House. This bill takes away from the Court of Claims jurisdiction in all these cases arising out of claims for property taken during the war. I desire to save that jurisdiction by adding those words to the bill, so that where there is outstanding some written evidence of property having been taken, that written evidence given by some officer authorized to take the property, and that property having been used or applied for the benefit of the Government, the court may have jurisdiction. If an amendment of that kind prevail, I will have no objection to vote for the bill.

The chairman of the Judiciary Committee is entirely mistaken in supposing that such an

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amendment is offered with any view of defeating the general objects of the bill itself. To show, however, what was the disposition with which this amendment was offered before, I will now have read a portion of the debate which took place on the 12th of last month when the bill was before the House. I ask for the reading of a single paragraph showing the temper with which the amendment was offered and sustained at that time by gentlemen on both sides of the Hall, who concurred with me in the saving of so much jurisdiction as is absolutely necessary to advance the rights of the party having a just claim against the Government.

Mr. BOUTWELL. Is it in order, Mr. Speaker, to have reports of debates read here?

The SPEAKER. It can be read as part of the gentleman's remarks.

Mr. BOUTWELL. If I have the right to object, I do so.

The SPEAKER. The gentleman could object to having the proceedings of the other House read by anybody. The gentleman from Ohio has a right to have an extract from the debates of this House read as part of his speech.

The Clerk read from the report of Mr. SCHENCK's remarks in the Globe of January 13, as follows:

"But as to that wide extent of claims which will be heaped up mountain high against this Government for ground simply trodden over, for ground encamped upon, for timber incidentally destroyed, for horses let loose, for fences burned, if you open the door to cases of that kind, you will bankrupt the Treasury before you get through the war. And I say plainly and distinctly that, although I admit the justice of many of these claims, but to a much smaller amount and degree than applied for, we ought to postpone the consideration of the whole of them, and use all our means first to put down the rebellion, and pay that part of the cost of it hereafter. Believing that to be the case, I propose to limit the inquiry to matters of contract, where property has been actually taken, used, and enjoyed by the Government, and adjourn inquiry into these other questions until after the rebellion is put down."

Mr. SCHENCK. What I said then I repeat now: that, while I am unwilling to throw open the door to all these classes of claims for wrongs done, for incidental damages, I yet think we ought, so far as is proposed by this amendment, to save the jurisdiction of the Court of Claims, and let in applications of the class described and limited by the terms of this amendment.

Mr. WILSON. I now move the previous question.

Mr. WADSWORTH. I ask the gentleman from Ohio to accept a modification of his amendment. I know a great number of cases where, for want of time, the Army being in retreat or pursuit, property was taken without vouchers being given for it.

Mr. SCHENCK. I suppose the gentleman only desires to advance the public good. That is what I desire. When I proposed to introduce bills here the gentleman objected. I propose to set him an example by yielding to him.

Mr. WADSWORTH. Mr. Speaker, I am a man always "tractable to any honest reason," and the manners of which he complains I have borrowed from the gentleman from Ohio, [Mr. SCHENCK.] Late one evening he pressed an important bill through the House when almost every gentleman on this side of the House was absent, and took a gentleman off the floor to do it unexpectedly to us, and he refused, though it could not affect the result, to permit us to record our votes the next morning.

Mr. SCHENCK. I do not see any impropriety in my course when the House was left almost without a quorum by the absence especially of many of my own friends against my own remonstrance. I gave notice that I would object to any one of them casting a vote afterwards on the bill. I meant it as a warning to gentlemen on the other side. I did not want it to appear that gentlemen were here transacting public business when they were not present. If it fell upon gentlemen upon the other side it was accidental. I will say that I am going to set a good example to the gentleman. I think that he is going to amend this bill for the public good, and I am willing to hear what he has to say.

Mr. WADSWORTH. We thought the gentleman's objection to our voting was meant for us and not his friends whom it is our pleasure to watch. It is an old maxim, Save me from my friends and I will attend to my enemies. I am glad the little attention I have given the gentleman from Ohio has burnished his courtesy. I never refuse to yield the floor in debate.

I ask the gentleman to modify his amendment. I know a great many cases where quartermasters, under the directions of the general commanding in the field, have taken forage, subsistence, and many other kinds of property necessary and proper for the Army when it was in retreat or on the march without having time to give any vouchers. There were no pen and paper at hand at the time, perhaps, and there was no time if there had been to draw up a voucher. I ask the gentleman to modify his amendment so as to embrace cases of that kind. I refer to the retreat from Cumberland Gap of General George Morgan through my district. The people of that country are loyal. They brought all that they had to our Army. They brought horses, forage, and subsistence, and the quartermasters received them, and the Army used the property. In many instances they gave imperfect vouchers. In no single instance did they give a perfect voucher. In some they gave imperfect vouchers, and in most of the cases none at all. What I desire is, that this class of cases shall have the same justice as the others. I ask the gentleman to modify his amendment by saying, "or where from want of time or other cause no voucher was given."

Mr. SCHENCK. I am afraid to open the door so far. This is a question to give jurisdiction to the Court of Claims, and I prefer to confine it to those cases where there is some paper given by the proper authorities, and to leave legislation in regard to the other claims to be taken care of in another bill. I cannot accept the gentleman's proposition for that reason.

Mr. CLAY. Mr. Speaker, I wish to urge the importance of the proposition of my colleague. When Morgan went through my State on his raid, a member of this House, my colleague, [Mr. SMITH,] commanded the troops which went after him. Those troops took horses and other property, and in the hurry of passing through they could not give vouchers in all cases. In some cases vouchers were given; but in the majority of the cases none were given. I am now written to by men in my district who suffered to procure vouchers from my colleague for property taken; but he refuses upon the ground that he is out of office. My colleague himself took this property, and can testify to these facts. Yet gentlemen refuse to allow these claims to be satisfied.

There were never more just claims upon the Government. I know that some of my constituents had their property taken for the use of the Army and that the quartermasters went off without giving them any vouchers. They have never been paid a cent for their property which was taken. Will gentlemen get up and say that that class of cases shall not be paid upon the plea that the officers did not do their duty in not furnishing vouchers for property taken? I ask the gentleman from Ohio to accept the amendment of my colleague in order that that class may be embraced. They are just and equitable claims, and I trust that this House is not ready to repudiate any part of its honest debt at this early day. Why do you refuse to pay men upon the outskirts of this war, while in all other portions of the country you pay for everything you get? It seems to me these are too just claims for gentlemen to contend that they shall be laid aside to await payment at the end of the war.

Mr. THOMAS. Will the gentleman from Ohio [Mr. SCHENCK] allow me a single moment?

Mr. SCHENCK. Certainly.

Mr. THOMAS. We of the border States most cordially thank the gentleman from Ohio for the motion he has made to amend this bill. If the bill reported by the chairman of the Committee on the Judiciary be passed—which God forbid—

and the amendments I have proposed be rejected by this House, yet we will not be left altogether in an unprotected condition, because, under the amendment of the gentleman from Ohio, we will have yet open one tribunal to which our constituents may appeal for justice. But I respectfully call the attention of the gentleman from Ohio to the fact that the cases of the character which he proposes to provide for are very numerous, and range in amount from five dollars to five thousand. It will be readily perceived, therefore, that if they are to go before one tribunal, like that of the Court of Claims, there will be a physical impossibility to render judgment in all those numerous cases within any reasonable period of time.

Again, the gentleman will reflect that if the Court of Claims is to have jurisdiction of these cases, no claim agents can appear there; none can appear but educated lawyers who have some knowledge of special pleadings and of the forms of proceedings used in that court, and who generally sell their knowledge at a very large premium. The gentleman will perceive, therefore, that he will add enormously to the costs of these claimants if, instead of the ordinary channels of the Quartermaster General's office, and the office of the commissary of subsistence, these claimants have to appear before the Court of Claims.

If we who represent these claims more particularly—and I hope we have not reached that period of time in our history when we have not all a fellow-feeling, coextensive at least with the border States, and comprehending in our sympathy every man within the jurisdiction of the Government who sincerely acknowledges his loyalty—I say if we are to be denied the remedy I have proposed, the remedy offered by the gentleman from Ohio is certainly better than nothing. Under it we would get our claims through in the course of years. Those claims are probably five thousand in number, and take a wide range in amount. I hope the House will not on this occasion come to the same determination reached by the Judiciary Committee. I shall vote for the amendment of the gentleman from Ohio, but I shall vote against the bill as amended, unless we can also have the amendment I have proposed. I hope that if the House comes to the conclusion that they will repeal the law which gives jurisdiction to the Court of Claims, they will substitute for it the officers in the Treasury Department in the manner proposed by my amendment.

I conclude my remarks by asking the gentleman from Ohio to move my amendment as a part of his amendment, so as to give the House an opportunity to vote upon them all *seriatim*.

Mr. SCHENCK. I prefer not to do that, and I will state briefly why.

Mr. BOUTWELL. I ask the gentleman to allow me a few moments.

Mr. SCHENCK. I yield to the gentleman.

Mr. BOUTWELL. It seems to me that the House can come to a safe determination upon these various propositions. House bill No. 66 was reported from the Judiciary Committee, and, I believe, with unanimity. It takes from the Court of Claims jurisdiction of any claim against the United States growing out of the destruction of property, or for damages to property, by the Army or Navy. The committee thought it necessary to do this in order to save the Government from the appearance of the recognition of claims which, whether just or not, we are not in a condition to meet. We thought it necessary to relieve the Treasury from all claims actual or possible in present circumstances, growing out of the incidents of a condition of war. That is exactly what is proposed by the first part of the bill reported by the committee.

Now, the gentleman from Ohio proposes to except from that exclusion all claims for damage or destruction of property sounding in contract. I do not know how clear may be the distinction in Ohio between actions sounding in contract and in tort; but in Massachusetts, where we have, by the judgment of this side of the House, some very

good lawyers of the second class, and by the judgment of the other side of the House, lawyers of the first class, it is not settled either by the bar or the bench that it can in all cases be decided whether an action sounds in contract or tort. And hence we have a provision of law that a cause may be tried without knowing whether it be an action on contract or in tort.

Now, it is proposed to authorize the Court of Claims to investigate claims presented, and ascertain, in the first place, whether the action sounds in contract or in tort, and if it sounds in contract, to proceed to adjudicate it and tax the Treasury of the country with the amount allowed.

It happened to be my fortune to serve upon a military commission at Cairo for five or six weeks in the summer of 1862, and we had presented to us from the States of Missouri, Kentucky, and Illinois more than sixteen hundred claims against this Government.

I submit that this is not the time to leave to the Court of Claims jurisdiction in these matters. I am, therefore, in favor of the bill and opposed to the amendment of the gentleman from Ohio, [Mr. SCHENCK.]

The gentleman from Maryland [Mr. THOMAS] asks that a bill reported by him from the Judiciary Committee shall be adopted as an amendment to this bill. I think it was the understanding of the Committee on the Judiciary that the first bill, the one reported by the chairman of the committee, should be acted upon separately, and the gentleman from Maryland had assurances of the support of the committee to his bill, but not as an amendment. This being a different bill, and upon a different subject, it seemed to the committee, proper that the judgment of the House should be taken on each question as a separate proposition. While, therefore, the Committee on the Judiciary are ready to sustain the bill reported from the committee by the gentleman from Maryland, I think it ought not to be offered as an amendment to the bill reported by the chairman of the committee.

I will say further that the bill reported by the gentleman from Maryland covers all the cases that ought to be covered. If any person in this country has furnished subsistence to the Army, either to the quartermaster's department or the department of the Commissary General, he is to be paid in the ordinary way, and we go behind the ordinary vouchers. The officers of the Government are instructed by the bill, if it becomes a law, to investigate to the foundation the justice of these claims and to pay them, and the constituents of the gentleman from Maryland and the constituents of all the gentlemen from the border States will receive pay for all that they have furnished to the Army of the country, either in the commissary or in the quartermaster's department, and that is all they ought to ask.

Now, what I say is, first, that in my judgment the House should reject the amendment submitted by the gentleman from Ohio [Mr. SCHENCK] and the amendments submitted by the gentleman from Maryland, [Mr. THOMAS,] and that it should pass the bill reported by the chairman of the Committee on the Judiciary first, and then, when the bill reported from the Judiciary Committee by the gentleman from Maryland, and which he offers as an amendment to this bill, to which, in my judgment, it is not germane, comes up, we can pass that bill giving to every person who has furnished supplies to the Army compensation under the law.

Mr. WILSON. I would like to inquire of the gentleman from Ohio [Mr. SCHENCK] why persons holding such certificates as are described in his amendment cannot now receive from the Government the amounts which their certificates show to be due?

Mr. SCHENCK. There is frequently informality in the papers.

Mr. WILSON. The gentleman says then, in effect, that the evidence of the certificates is not sufficient to support the claims before the several Departments of the Government; but he proposes to refer these claims to the Court of Claims, for the purpose of having judgment rendered against the Government upon evidence which is not sufficient to support the claims before the Departments. That is the effect of it, and I therefore hope the House will not concur in the views of the gentleman from Ohio, and will vote down his amendment.

Mr. SCHENCK. I am inclined to think that I occupy a sort of golden mean between the objections made upon the one side and the other, and therefore I am perhaps nearly right.

I had not intended to be drawn into any discussion of this bill, but the inquiries that have been made by gentlemen upon the other side of the House, and the suggestions which have been made in regard to modifications of the amendment which I have offered, make it proper for me perhaps to say this much: I am as much impressed as the gentleman from Kentucky [Mr. CLAY] who last occupied the floor can be with the necessity, at some time, of considering the vast amount of just claims originating in this war upon the part of citizens against the Government. I believe, as he does and as the gentleman from Maryland does, that there are, especially in the border States, a great number of cases of much hardship, cases where property has been destroyed, where property has been necessarily taken, and families left destitute and thrown on the charities of the world, without the Government having given, as yet, any compensation.

But, without any further argument on that point, I say again that such is the present condition of the country, so far as these claims are of the character of incidental damages, so far as they are consequential to the war, so far as they are unsustained by any of that clear, decisive form of proof which makes it safe and proper to give jurisdiction of inquiry into the merits of the case to the courts of the country, I feel it necessary that jurisdiction of the cases should, for the present at least, be withheld.

The gentleman from Kentucky [Mr. CLAY] has alluded, as a reason why I should have accepted the amendment of his colleague, [Mr. WADSWORTH,] to the circumstances that attended the Morgan raid. Property was taken for which, in the hurry, no voucher of any kind was given, and yet that property was applied to the use of the Government. I know that that is not only true as to the State of Kentucky, but is also true—to some extent, but not so far—in regard to the raid which took place in my own State. Very often both parties were in such hurry that they took very little time to consider what they did or how it had been done.

I have limited my amendment to the terms in which it is worded for the reason that I wished to take care not to open the door too wide. The bill, as reported from the Judiciary Committee, takes away jurisdiction entirely from the Court of Claims. I wish to save it so far as I think it should be saved. I am not willing to open the door to the extent to which gentlemen on the other side would like me to, by modifying my amendment according to their views. But I am equally sure that I do not dangerously open the door notwithstanding what has been urged against my amendment by the gentleman from Massachusetts, [Mr. BOWWELL.] He says it is impossible to distinguish between claims sounding in contract and those which partake of the character of tort. He has not listened carefully to my amendment. The words "sounding in contract" are by no means the only limitation of the grant of jurisdiction. They are to be cases sounding in contract for food, or forage, or property actually taken for the use of the Government, and with some certificate or evidence in writing given by the officer authorized by the laws of the United States to take the property. All these limitations on the grant of jurisdiction are extended over the cases, making it very different from what it would be, and very much more limited than it would be, if it simply said that all cases sounding in contract should be considered by the court. Repeating, sir, that perhaps I have struck what is about the safest medium course to be pursued in regard to limiting the jurisdiction of the court, I renew the demand for the previous question.

Mr. BRANDEGEE called for tellers.

Tellers were not ordered.

The previous question was not seconded.

Mr. THOMAS. I now propose to amend the amendment of the gentleman from Ohio by substituting for it the proposition which I have the honor to submit to the House. I signified before that the Judiciary Committee—I hope I am not trespassing on any rule by stating what transpired in that respect—after full examination of the whole subject, came to the conclusion that it

would report a bill taking away from the Court of Claims a right to exercise jurisdiction in these cases. At the same time the Judiciary Committee sanctioned a bill authorizing the payment by the accounting officers of the Treasury of all claims growing out of the appropriation of property for the use of the Army. The two bills, therefore, proceed on an entirely different theory. The bill reported from the Judiciary Committee and the bill which I propose do not conflict. They proceed entirely on the supposition that the accounting officers of the Treasury are better qualified to adjust these cases than the Court of Claims.

Now, the amendment of the gentleman from Ohio [Mr. SCHENCK] proposes to continue the Court of Claims as the tribunal to try and determine these claims—to allow them a limited jurisdiction. He would deprive the court of jurisdiction in all cases of damage, and allow jurisdiction in all cases sounding in contract. I stand in this dilemma, and I presume that the Committee on the Judiciary will coincide with me in this. I cannot vote for the proposition of the gentleman from Ohio; for if adopted it will give an imperfect remedy for these wrongs. It will leave the jurisdiction in a tribunal incompetent to discharge it. It will confer power upon the Court of Claims to examine into all of these claims ranging, as I have said before, from five to five thousand dollars and thousands in number. They are to be brought before the Court of Claims to be disposed of one after another; and I will not be extravagant in saying that they will occupy that court for the next twenty-five years. In the mean time nearly the whole amount will be absorbed by the lawyers who are pressing the claims before this tribunal. At each new trial a new fee is to be asked. In the course of twenty-five years the Government will not be relieved, for ultimately the Government will pay every dollar of these debts—not to those who have suffered, but to the lawyers who have been presenting these claims.

It is because I am anxious to see these parties who have lost this property paid now and paid the whole amount without delay, that I am opposed to the proposition of the chairman of the Committee on the Judiciary [Mr. WILSON] even when amended as proposed by the gentleman from Ohio, [Mr. SCHENCK,] and I propose, if the House will reject that amendment, to offer a substitute upon a different theory and for a tribunal which, in my judgment—but each gentleman will judge for himself—is the very best that we can have. I propose that every claim shall be made before the Quartermaster General, and that where he discovers negligence or ignorance on the part of officers in failing to give proper vouchers he shall be at liberty to inquire into the claim, and then if satisfied that the claim is a just one for property taken for the public use he shall thereupon send it to the Third Auditor for payment. I propose, also, that the Commissary General shall take charge of all cases in his department.

I make the proposition upon the ground that these claims can be prosecuted in the quartermaster and commissary departments without much loss. There will be no lawyer required. Any claims agent is competent to press them, even though he has not been educated to the technicality of the law. His charges will be moderate. Besides all of that there will be more expedition, because we know the head of a bureau does not in practice undertake to inquire into the details of every case, but leaves that to be done by some subordinate in whom he confides, reserving to himself the final judgment. The Quartermaster General, then, we may presume, will rapidly go through with all of these cases. Some will be adopted, and others will be rejected. The party who has suffered, and not the lawyers, will be paid. It is not for the lawyers who will clamor for this and take every cent, but for the people who have been wronged, that I am advocating the measures I have presented to the House.

Again, Mr. Speaker, the amendment of the gentleman from Ohio falls short of the second proposition I propose to offer to the House. These claims are not mixed up; they are not confused; they are not conglomerated; they are luminously distributed, so that the members of the House may vote for whatever class they desire. The additional proposition I shall ask to submit contemplates not the creation of a tribunal, but of a commissioner, like a commissioner in chancery,

to cull and collate the facts. After the collection of the evidence one claim out of five hundred may not be paid. This testimony arranged in luminous order is to go before a future Congress. The probability is that the duty cannot be performed in less than two or three years. The testimony will be voluminous; and it is to be prepared and submitted to Congress for final determination at a future day.

Let me pause here to say that the majority of the House do not mean that the border States should lose both classes of claims. They are willing to delay those sounding in damages. It cannot be that the Representatives of a free people are willing that these people shall lose both classes of claims against the Government of the United States for the damage inflicted upon them.

My propositions are therefore in such form as to elicit the opinions of the House, separate and distinct, and not in a confused manner. The second and third amendments I have moved cover the first class of claims. It would be a great relief to those persons if these claims could be paid. Why, sir, it seems amazing to me that any man could find himself at the head of a regiment as a colonel and make out such papers as I have been compelled to pore over times almost without number. A large number of these claims have been certified to by a board of survey. Two or three officers have been detailed for the purpose of making the survey, and in these boards of survey they have conglomerated almost all kinds of materials. They have assessed matters of damage, and at the same time have estimated the value of property taken. Well, when such a voucher as that is presented to the Department, the Quartermaster of course ignores it, as there is a regulation of the War Department which forbids the payment of damages in any case. The officers point to the orders of the War Department which forbid the payment of vouchers for property which has been taken for the Army unless it is certified to by the officers who took the property that it was so taken, and unless the officer has also made a report of the fact to the War Department and charged himself with the property. Now, these vouchers are defective in the manner I have designated, and the remedy is in the Quartermaster General and Commissary of Subsistence, who may go beyond the certificate, and who shall not take advantage of the wrong of the Government officer. The remedy is in their taking up the subject *de novo*, and receiving evidence that the property was taken and applied to the use of the Army.

In no case and under no circumstances do I propose in any amendment to come within the purview of that letter from the Solicitor of the War Department. There is not one word in the amendment I propose which contemplates taking jurisdiction over any claim, either for property taken or damage done inside of the insurrectionary States. I contemplate no such measure. Whenever we of the border States come before Congress asking only to be paid for our property taken, and express our willingness to postpone all controversies in relation to the payment of damages done by the armies of the United States, it strikes me we present ourselves in a form and after a fashion which will meet the approbation of a large majority of the members of Congress.

I conclude by moving to strike out the amendment of the gentleman from Ohio, and substituting for it the amendment which I have indicated.

Mr. WILSON. I rise to a point of order. It is that the amendment offered by the gentleman from Maryland is not germane to the bill. The bill relates to the Court of Claims and its jurisdiction, while the amendment relates to the Quartermaster General and his duties.

The SPEAKER. The Chair will state that he would be inclined to sustain the point of order if the gentleman from Iowa had raised it in time. The gentleman from Maryland introduced his proposition and debated it at some length without objection being made, and therefore the Chair thinks it is too late to raise the question of order, although the Chair thinks the amendment is hardly germane to the bill.

Mr. KING. I desire, as a member of the Judiciary Committee, to submit a few remarks upon this subject. I fully concur in the bill reported from the Committee on the Judiciary relative to the jurisdiction of the Court of Claims, because

I can see that without this legislation very great wrong may perhaps be done to the Government. On the other hand, I see that it may so induce delay in regard to just claims for unliquidated damages to have such cases liquidated by that court, that it will almost amount to a party giving up his claim. Therefore I desire to see some more expeditious remedy established, by which parties who have just claims may have them adjudicated. But I object to the amendment offered by the gentleman from Ohio, [Mr. SCHENCK,] for the reason that in my opinion it will not embrace the hard cases which exist in the country growing out of the operations of the war. He makes the adjudication depend upon a contract, and that contract evidenced by some kind of writing by which it may be known that there was a contract existing. But there are a great many claims in which that character of evidence could not be, and cannot be, produced. And here I will ask by whose fault, by whose act or conduct, or neglect, has it become necessary that we should have any legislation upon this subject? A necessity for legislation is admitted upon all hands, and I ask—and we ought to settle the question in this House—whose fault is it that there is a necessity for legislation?

Was it the fault of the farmer that when the military authorities came along and took his corn, his bacon, his horses, his beef cattle, and his stock of every kind, the proper officer—the quartermaster or commissary—did not discharge his duty by giving him proper and legal vouchers which no one could controvert? If the officers of the Government had done their duty there would have been no occasion for these claimants to have come before the House. The officers of the Government neglected their duty. Sometimes they gave those from whom they obtained supplies a little slip of paper, which they knew very well would not operate as a voucher. But the plain, honest countryman supposed when he received a little piece of writing from a military officer that that was all that was needed to enable him to receive his pay. I have seen a number of such cases. And when these farmers who had furnished supplies went to the quartermaster's department and the commissary department they were told that, although there was no doubt they had furnished the supplies, the papers they held were not legal vouchers. I have known many such cases; and have had my pockets full of such papers, and have had to aid men in hunting up the proper officers to get the proper vouchers. I have known many men to abandon their claims, because they could not find a quartermaster or a commissary or the proper officer to furnish them with proper certificates. Why, sir, when a man gets a quartermaster's voucher all properly made out, he has to have a certain certificate put upon it, and then it has to be presented to the officer in command of the post, the department, or the regiment, as the case may be, and he must indorse his approval upon it. Now, if the officers of the Government had discharged their duty properly these people would only have had to present their vouchers to the paymaster's department, and get their money. Does it make the claim of these men any worse, or weaken the obligation of the Government to pay for property which has been furnished for the use of the Government, that some military officer of the Government, through ignorance or negligence, has not done his duty? The fault is not in the remotest degree with the men who have furnished the Government with supplies.

The claims presented under this bill will have to go through the quartermaster's department or the commissary department, or some one of the Government departments, and unless the department is satisfied that the claims are just the men will get no pay. All we want is an opportunity to present our claims. Why, sir, I know of cases in which the quartermasters, whose duty it was to give certificates to the men from whom supplies have been obtained, and without which certificates the men cannot get their pay under the present regulations, are dead or have moved away, and we do not know where they are; and yet we have positive evidence that would satisfy any court and jury in the country that the claims are just and honest. All we want is an opportunity to present them.

In reference to the other branch of the proposi-

tion of the gentleman from Maryland, there is justice in that also. I was struck with the force of a remark made by the gentleman from Pennsylvania [Mr. STEVENS] when he asked if there was not an obligation upon the part of the Government to pay damages for property destroyed or taken for the use or benefit of the Government—destroyed sometimes with a view to deprive the enemy of the power of making use of it to annoy and injure us, and bring destruction upon our forces. There is a moral and a legal obligation on the Government to do it. It is true that we may not have the means ready, but the obligation unquestionably exists, and the question is now presented to the House whether or not we will recognize the obligation of the Government by our legislation here. We do not propose any appropriation for this class of cases. It is certainly a very slow process by which to obtain our just rights, but we are willing to submit to it.

Sir, hundreds of claims are pressing themselves upon the border State members here every day. Our tables are loaded down with letters from our constituents setting forth the most outrageous wrongs that they have suffered at the hands of the Government. We do not propose to take up each case and ask appropriations which would amount to millions and millions of dollars. We do not ask any such thing, because Congress may do wrong sometimes as well as do right. Congress cannot investigate these cases.

What then do we propose? We propose that the President shall appoint a commission, with a solicitor learned in the law, who shall protect the interests of the Government, and who shall give notice to claimants to come forward and make proof of their claims. The commission shall certify all the facts connected with the claims to the Secretary of War, who will lay them before Congress. For what? There is no obligation on Congress to appropriate money to pay them. Is there anything wrong in that? Is this House afraid to leave the matter to the decision of future Congresses? The people will lose confidence in the Government if the House show any such feeling.

Then there is a provision in this bill that unless claims are presented within three years after opportunity is had for their presentation, they shall be forever barred. I do not want them to go on for an interminable length of time. Three years is long enough for these claimants to have. We want the evidence of their claims as perpetuating testimony. Let them have the means of perpetuating the testimony legally, even though the claims may not be paid for the next twenty-five years to come. The Government cannot be harmed by that. If Congress do not choose to make appropriations to pay the claims, still the testimony will stand as a perpetual memento of the claimants' rights. The loyalty of the claimants will also be inquired into and reported upon.

I know that a bill has been reported by the Committee of Claims which substantially embraces the same cases as the amendment offered by the gentleman from Maryland, [Mr. THOMAS,] and I am informed that it contains a provision by which the loyalty of the claimant is to be tested. I do not advocate the payment of disloyal men for any property which may have been destroyed, or which they may have lost through their own fault. In civil wars like this the good have to suffer with the bad. We only ask that the right of loyal men to compensation for property taken for the use of the Army may be acknowledged.

The people of the northern States have been prospering during this war, while we of the border States have been laboring under a cloud of troubles and difficulties. If I undertook to recount them they would startle gentlemen and almost make them incredulous. Let us, at least, have our just rights recognized by the Government. Let us have these commissions organized. There can be no good objection to the adoption of the amendment offered by the gentleman from Maryland. I fully concur in the propriety of taking this jurisdiction from the Court of Claims; but, at the same time I ask, on behalf of the people of my district, on behalf of the people of Missouri, that they shall have an opportunity of perpetuating the testimony of their claims. We will wait patiently if we see a disposition on the part of the Government to do justice; but we will necessarily grow impatient if, on the other hand, we see that our claims are to be ignored and disregarded.

Mr. WOODBRIDGE. Mr. Speaker, the bill reported by the Judiciary Committee is designed simply to take away from the Court of Claims jurisdiction over the class of cases affected by it. The committee had been told that the Court of Claims had assumed to act in regard to certain of these questions; and understanding that the Government itself had already established the means whereby claims of this character could be adjudicated and paid better than they could be by the court, with able lawyers and competent accountants to examine the matter, deemed it unwise to have another jurisdiction for the accomplishment of the same objects.

It is true, sir, that in point of fact the only point which the committee claimed to decide, or would be decided by the bill reported by their chairman this morning, was this: shall the Court of Claims have jurisdiction over these cases when another authority has already jurisdiction? Shall the Government employ two jurisdictions? Will the Government be safer by such a course? Will the people be safer by establishing two independent jurisdictions? The committee thought not.

Then this point arises: it is said that a large number of these claims will be thrown out by the Department, because, relying upon the strict rules of law as construed by them, requiring the papers to contain a certificate that the property was taken for the use of the Army, and requiring that certificate to be executed in a particular way, that in this way a large class of just claims for property taken legitimately for the use of the Army, and of a character which the Government ought to pay for, will be rejected on account of some informality growing out of the neglect or carelessness of the officers who had a right to take the property.

The amendment of my friend from Maryland, [Mr. THOMAS], introduced before the committee and reported this morning, was intended as a remedy for this evil which has been so much complained of, and which constitutes a real hardship. It provides that where claims are so presented for adjudication to the Department, written evidence may be presented, from persons competent to take it, and that even though it be not precisely in conformity with the regulations of the Department, if it be legal and competent evidence, showing that the property was taken under proper authority and in a legitimate way, such evidence shall be received by the Department as proof of the claim.

Then, by the adoption of the bill as presented by the gentleman from Maryland, this defect in the present law would find an adequate remedy. Under that amendment, where property has been taken for food, where it has been taken for forage, or taken for the use of the Army, it would be paid for under that law, the matter having been first adjudicated upon by the Department. In other words, if a man's corn was taken for food, or if it was taken for forage, or if his hay was taken for forage, if he presented proper and legal evidence of the fact to the Department, whether in strict accordance with the technical rules now in force or not, showing that it was properly taken for the public use, it would be paid for.

What is the objection to the amendment introduced by my friend from Ohio, [Mr. SCHENCK]? It is simply that so far as we ought to pay these claims now, it imposes no new obligation upon the Government which does not already exist. It gives the claimant no right or power or remedy that does not already exist under the law. It says that the Court of Claims, not the Auditor, who, by the experience of more than half a century has become familiar with all the circumstances under which such claims can be presented, who can act upon it intelligently, who understands precisely the principles upon which they should be allowed, shall pass upon these claims.

Now, the jurisdiction of the Court of Claims, and which may be entirely in conflict with that already existing, have no right to take and allow any claim for this property which cannot be allowed now by the quartermaster's and commissary departments, and certainly not if the bill reported by the gentleman from Maryland [Mr. THOMAS] to the committee and offered to-day as an amendment to this bill shall meet the approval of the House.

This subject of claims arising from tort, so far as this Government is concerned, is a perfect futility. There may be claims for damage which

may not come up under the rules of the Department for adjudication, however hard it may be upon the person who suffers it. But whatever a Government takes for the use of its Army, or for any necessary purpose in the prosecution of war, has always been considered in the nature of a contract. It is an implied contract. But I say the gentleman from Iowa [Mr. WILSON] is right; he is right to-day, as he would have been a hundred years ago, in saying that the "king can do no wrong." Sir, the Government here in the prosecution of this war can in law do no wrong. Whatever property the Government takes, it takes upon contract, express or implied.

But the amendment of the gentleman from Ohio [Mr. SCHENCK] extends the power. It says that property "taken for food and used, and forage with other property." Now, sir, I am not going to quarrel with my friends on the other side of the House. I am naturally as liberal as they are. I am certainly desirous that this war shall be brought to an end with the least possible loss of property and life; to an honorable end. I am desirous that every dollar the Government can properly pay and which ought to be paid shall in the end be paid. But I say if we extend this to other property which the Government has taken as a matter of necessity, such as cutting down the fences of a man's farm, forage that may be valuable, and timber for the comfort of the soldier, or to build fortifications; if we include those cases, and they are legion, too numerous to mention; I say if we undertake to pay them now, if we undertake to pass a law for that purpose, then we shall have the condition of things referred to by the Solicitor of the War Department in his letter read this morning, and the Government will be called upon to pay hundreds of millions of dollars. I say that as a matter of necessity we must restrict the payment of the claims of loyal citizens by reason of this war. The time may come, and doubtless will come, when all of these claims will be paid, when a recuperated Treasury will be able to pay them.

Let me say here that in my judgment, within ninety days after an honorable peace the securities of the Government will be sought for abroad, when we will be able to do justice to every citizen who has suffered by this war. Now we cannot do it.

Gentlemen talk about horses—that men cannot get pay for horses that have been lost. I do not understand that this is for horses or cattle that have been taken for the use of the Army, for I understand when properly presented to the Department claims for horses taken for the use of the Army, or for cattle for subsistence of the Army, are paid now.

Mr. Speaker, the simple question is this: Shall we give this jurisdiction to the Court of Claims? I have nothing to say against it. I do not know that it is not one of the most safe and useful courts established by the Government. But I do say when you open the door, when you give to them jurisdiction respecting such claims as we have under consideration, there is an opportunity for fraud which will escape their attention, but which will never escape the eagle-eye of the men used to such matters from experience for years and years, and whose sole business is to alike protect the citizen and the Government. If there were no other remedy at hand, if there were no other means by which these claims could be properly adjudicated, I might then say, go to the Court of Claims; but I do say that in the prosecution of this war where claims arise legitimately from the necessities of the case let them be presented, adjudicated, and paid at the Department which has this whole war under its eye and all the time devoting its attention to this matter. In that the Government will be the saver, and, in my judgment, the rights of the citizen will be equally protected.

Mr. GRIDER. Mr. Speaker, I wish to state the facts existing in the border States. I desire, if I can, to present as an illustration the condition of the third congressional district of Kentucky. The people of that region had been under the ban and the heel of the rebellion for at least six months when our armies were sufficiently reinforced and organized to come to their relief. They came upon forced marches, without commissary stores, and they had to depend upon the country where they were located for subsistence. The citizens of my district furnished the Army with whatever

it wanted, and many of them have imperfect vouchers and most of them none at all. The troops were in a hurry and took what they needed. The citizens brought them what they had, but in return they did not get competent papers upon which to draw remuneration from the United States Treasury.

I myself live directly upon the railroad and the turnpike where these armies pass, and in my neighborhood the Army subsisted for weeks; and I tell gentlemen that I do not know of two officers and their quartermasters and subalterns who, when they took their leave, left competent and sufficient vouchers upon which citizens who furnished supplies could receive their pay. In illustration I will give you a case. The Army moved down on the pike, upon which there were good farms, good cattle, and plenty of subsistence of every description. The Army did not stop to count or weigh the cattle, or to inquire to whom they belonged. They drove them off from the pastures along with the Army, for beef cattle. How could the citizens get vouchers for cattle so taken? A few men by persevering and following up the Army would get receipts for their cattle or anything else which had been taken, but the papers taken were not legal vouchers. They were mere receipts, and two thirds of the officers of the Army were utterly incapable of making out legal vouchers for those men.

This illustrates the necessity of a law of this character in order to give some plain, honest, and just method by which the citizen can prove, as he can prove in any other court and before any other tribunal, his just rights. That is all we ask. And then when you have given us such a law, we do not expect to get one tenth of all the damage which has been inflicted upon our country. Notwithstanding all the damage we have sustained and all the suffering we have endured, we have not complained. We have paid our taxes, and furnished our men to sustain the flag of our country, and I do not see any legal or patriotic reason why these claims, so palpably due to the men living in the border States, should be procrastinated or postponed.

A word or two more, and I am done. I want to give the House an honest history of these matters, and gentlemen here who have passed through those neighborhoods have seen evidence of the truth of what I state. It is my misfortune to represent a district which was subjected to secession raids for five or six months; it is my glory, however, to represent a people as patriotic as any under the sun. Six or seven of my counties are border counties, and have been continually harassed by rebel raids; and yet they have paid the taxes which have been imposed upon them, and have sent more men to the Army than any other counties in Kentucky. What prompted them? You will see the reason and the motive in the fact that they were upon the border, and felt that their liberties and their property and the rights of their families were jeopardized. Hence every man asked for arms, that he might defend his rights and his home.

As soon as they were recruited and raised the standard of their country and bid defiance to the enemy, that moment they were sent to the extreme South, to Shiloh, to Donelson, and Stone river, where they manifested their gallantry and shed their blood. But they left their families at home unprotected; and those families were invaded and their subsistence utterly exhausted by the raids of the rebels. Still those men left at home paid their taxes, met all requisitions of the Government, and were ruined; and yet men in this Hall talk about postponing the consideration of their claims on account of the exigencies of the times. Ah, gentlemen, the exigencies of the times have been upon us in the border States from the beginning. It is the veritable history of the times that in some of those border counties the wives and children of men in the field could not get to their homes or subsist themselves at all; and they went on to the next county, and the next county still, and also to Louisville, across the river. They did not leave their homes as a matter of choice, but in order to get something to eat and something to wear, of which, owing to the rebellion, they had been utterly deprived. What could these men do when your Army went there? The Army could get no subsistence by railroad, and when the Cumberland river was low they could get no subsistence

by steamboat. Your Army, therefore, in traveling through that country subsisted upon the country, and our citizens gladly met them and gave them all they had to give. And now gentlemen have the heartlessness to talk about procrastinating the payment of those men. Well, gentlemen, if this were not my Government, and if I were not a member of Congress, I would scorn the Government that would do such a thing.

Mr. Speaker, we cannot stand this. Did the Speaker ever preside in a case of equity in a chancery court? I tell you, gentlemen, that this matter would not bear the test there. We pay our taxes; we have furnished our quota of men; we have been at Fort Donelson, at Vicksburg; we have been at Shiloh and at Mill Springs, at Stone river and Chickamauga; everywhere Kentucky blood has been poured forth for the country; and yet gentlemen from the North are disposed now to dispute our equitable claims against the Government. You of the North have not suffered these misfortunes. We have; and yet we have met the demands of the Government upon us for troops, for arms, and for everything; we have met this crisis in a manner, considering the circumstances which have surrounded us, in which no people in the history of the world have met a similar crisis. I say that for the border States. While you of the North have received pay for everything you have furnished to the Government, and while you have done no more than we have done for its maintenance, I ask you where is the equity or justice of postponing the claims of the border States until some future period, when everybody else is paid? It is not just. Neither justice, nor equity, nor fair dealing will sanction any such action on the part of the Congress of the United States, or any other body.

Mr. Speaker, let me ask you is it the enormity of the debt which induces gentlemen to propose procrastination? Is that it? Why, gentlemen, that is an argument upon the other side of the question. If the Government owes the border States so much money, and expects them to continue to sustain the Government and to meet all its demands, ought you not to pay off your indebtedness to the people of those States, so as to enable them to stand upon an equality with the other States and to discharge their duty to the Government?

Gentlemen have intimated in their arguments that the Government will soon reach a period when this procrastination will be necessary. Well, gentlemen, if that period does come, I ask you who ought to bear that procrastination? Ought the border States? Have they not already borne the heat and burden of the day? Have they not had an enemy on both sides, or, rather, two armies upon them all the time? They have had the subsistence of two armies, one or the other, upon them all the time, and frequently both at the same time. We ask nothing for the rebels—for what has been furnished to the rebel army. We are losers to that extent; but when we feed and subsidize our own Army we do trust that our Congress will not repudiate our claims.

When Mitchell got to Bowling Green, the evening was inclement and our army occupied one side of the public square, and that night they burned down half of that side of the public square by accident. The secessionists had burned the other half of our public square before they left, and in Mumfordsville and other towns the condition of things was almost as bad. We ask nothing for all these things. All we ask is an opportunity to present our claims in due form according to law, so that we may reach the equity of the case and see whether we shall have pay for our horses, our cattle, our flour, our corn, our pork, our bacon, and all that can subsidize men or animals.

I did not wish, Mr. Speaker, under the peculiar relations which my constituents bear to the rebellion, to permit the question to pass over without announcing some of those indubitable telling facts to the House. My constituents will adhere to their banner. They will remain true and loyal Kentuckians, worthy of the history of the State, whether their claims be allowed or not. But I trust in the sense of justice of this body that those claims will be neither rejected nor postponed.

I ask attention now to the particular character of these claims. If, in the progress of our Army, a man was found wealthy enough to supply all the subsistence needed, it would be an easy thing

for him to present his claim, because the amount would be large. It would be such an amount as the officers and the claimant and Congress would take proper notice of. But here are thousands of poor people, including widows, who have at best only a pittance, and who in furnishing supplies have been compelled to give all they had, leaving themselves sometimes without means to get in another crop. They have claims for fifty, one hundred, one hundred and fifty, or two hundred dollars against the Government. How are their claims to be liquidated and paid? Can they come to Washington for that purpose? The expenses of an agent would exhaust their means; and for my part I would advise all persons rather to renounce their claims and tear up their vouchers than seek to have them allowed in that way.

Unless Congress pass a law that will meet these cases the rich claimants will be paid and the poor claimants left unpaid. Those who would be unable to prosecute their claims constitute more than two thirds of the claimants. I believe, Mr. Speaker, that this plain statement of facts will not be without its effect on the House, and I humbly trust and hope that the House will act in such a manner as to do justice to all.

Mr. DUMONT. Mr. Speaker, this is a very important measure, indeed; and I am exceedingly sorry that the propositions are not separated. If the Court of Claims has undertaken to take jurisdiction of claims growing out of this war, it affords sufficient reason why the original bill should pass. In the first place the claims are so numerous that the court could not possibly get along with its business. It would be beyond the scope of human power to adjudicate on such a vast number of claims as would be presented to the court. The windows of heaven would be opened and the fountains of the great deep broken up. Then it would rain forty days and forty nights. Why, sir, it is perfectly preposterous to talk about it. Anybody who has a just conception of this matter can see that it is physically and mentally impossible. Therefore it is that I say I wish the propositions were separated.

I am not opposed, Mr. Speaker, to the proposition offered by the gentleman from Maryland, [Mr. THOMAS], if I understand it. I am not opposed to it in the abstract, but I am opposed to it in the concrete. I am opposed to it in the attitude in which it presents itself at the present time. It is a long bill, with twenty or thirty different propositions, and yet it comes before the House simply as an amendment, without having undergone the ordeal of examination by a committee.

I have great confidence in the distinguished gentleman from Maryland, not only in his intelligence, but also in his integrity and his wish to do right in regard to this thing. Such, too, is the feeling entertained by the whole House toward that distinguished gentleman. But suppose his amendment stood here as an original bill—which it in fact is—here a single gentleman on this floor who would be willing to act upon it without its reference to a committee? How does it alter the case that it stands as a mere amendment? It gives it an advantage to which it is not entitled, and that is the only way that it alters the case. It alters it not in any proper sense of the term.

Now, a word in regard to the proposition of the chairman of the Military Committee. I acknowledge that he has had great experience in these matters. He has been connected with the military operations of the Government since the beginning of the war. For judgment there is no gentleman upon this floor in whose opinion I have greater confidence than in that of the distinguished chairman of the Military Committee. But I have no opinion whatever of this particular thing; that is, no good opinion. He wants to give jurisdiction to the Court of Claims, and the limitation which he proposes to place upon its jurisdiction is one which, in my judgment, has no correctness, no justice, no sound principle whatever. He says he would limit the jurisdiction of the court to matters growing out of contract. He would exclude from their consideration altogether everything having a foundation in tort.

Now, let us illustrate that proposition. General Morgan, the thief Morgan, the robber Morgan, the bandit Morgan, passed through our State, and also through the State of the gentleman from Ohio. He passed through counties adjacent to the Ohio

river, with the gallant troops from Kentucky and Indiana hot upon his heels. That gallant and glorious man from "the dark and bloody ground," Colonel Woodford, followed on with his troops. They were necessarily compelled to eat and drink; their horses were compelled to eat and drink; as they pursued this robber band. They were bound to have corn and forage; they were bound to have subsistence for their men. Sometimes they gave vouchers, and sometimes they did not, because they had no time for such things.

Now, I want to know if it is equitable for this Government to refuse to pay the man who gave his hay, his corn, his bacon, and his flour freely, but failed to get his vouchers, and at the same time pay his neighbor, who was so fortunate as to get a voucher.

But let us view the matter in another light. The gentleman from Ohio [Mr. SCHENCK] would exclude everything growing out of tort—everything not founded in contract. This man passed through these border counties of Indiana and Ohio, adjoining the Ohio river, as I stated, and those who were so fortunate as to get their vouchers are to get their pay before the Court of Claims. Right upon the heels of these guerrillas are our troops in pursuit. The gunboats of Uncle Sam passed up the Ohio river burning every flat-boat and every description of river craft on the Ohio that could possibly be used by the enemy to enable John Morgan to get across the river.

The little town of Vevay, in the county of Switzerland, the town in which I was born—though I have not been in it for a number of years—that town represented by the honorable gentleman now before me, had at its wharf half a dozen flat-boats, coal-boats, and other craft, laden with corn, hay, and other produce, which were reduced to ashes in the twinkling of an eye by these gunboats of Uncle Sam. They, the owners, were loyal men, who lived in that town and county, citizens of a State as loyal as any State in this Union; and what I ask, is the reason that the owner of this property, corn, hay, and potatoes, who had his property reduced to ashes on board these boats, has not as yet just a claim against the Government as if his property had been sold to the Government and he had received a voucher for it?

Then the proposition of the gentleman is simply an absurdity. But my objection to it would still apply if it were not absurd, for I am not willing to give this Court of Claims jurisdiction of this subject at all. But my objection is not a distrust of the court. I know, Mr. Speaker, there are a great many unjust claims; they are as numerous as the stars. I had a little demonstration of it one morning at the city of Nashville. An old lady owning a farm in the neighborhood of that city, who had a son in the rebel army with the commission of captain in his pocket, but who had advertised in the Nashville papers for blood-hounds to run down the Yankee soldiers, this old lady presented to me one morning a claim of \$30,000 for thirty Cashmere goats which one of my companies had eaten for breakfast, and a very poor breakfast at that. [Laughter.] Nor was it a very good day for goats either.

Now, the distinguished gentleman from Kentucky [Mr. GRAY] talks about the loyalty of his constituents, and I believe that they are about as loyal as the constituents of any gentleman now on this floor from the State of Kentucky. Gentlemen may laugh; but I intend no slur or insinuation. I have stood by Kentuckians as Kentuckians have stood by me. In days that tried men's souls, when the tomahawk and scalping-knife were felt along the northern frontier, the noble Kentuckians came to our relief, and Kentuckians and Indians stood side by side and shoulder to shoulder in these bloody strifes. They are gone, but as our fathers stood side by side so let their children stand.

Mr. Speaker, I have been in the gentleman's district, and I have been there for months. I saw the conflagration to which he has referred. He lives in or near the town of Bowling Green, in Kentucky. He says that the rebels burned one half of the town and that the Union soldiers burned the other half. Let me tell him that the latter was mainly the continuation of the conflagration begun by the rebels. The gentleman says that he represents a loyal constituency. I believe this to be true, and also have no doubt that he is himself a loyal man. But that conflagration was

caused in this wise: the rebels burned up corn that they could not carry away. It was terribly cold weather when we came into the town. The rebels left thousands of barrels of flour behind, and we found a great many of the gentleman's constituents of the copperhead persuasion ready to hide it in their cellars. It took some considerable time to resurrect it all, and the loyal people helped us do it, God bless them. If the Court of Claims shall have jurisdiction of this matter, or any other tribunal, I care not what, a great many of these people will prove that we obtained flour from them for the Army that was not paid for. We took from some ten, and from others twenty, thirty, and as high as one hundred barrels of flour which the day before had belonged to the rebel army, but which they could not take away.

Mr. GRIDER. Do I understand the gentleman from Indiana to charge the loyal men of Bowling Green with having done that, or does he confine it to the rebels of Bowling Green?

Mr. DUMONT. I believe that they were disloyal men. Some of them claimed to be loyal, but the heart of man is deceitful above all things and desperately wicked. [Laughter.] It will not do therefore to let a man decide his own case when the bridle hide of the wolf is so manifest.

I wish to make no attack upon the gentleman's constituents. I found a good deal of loyalty in his district. I found men who were willing to bare their bosoms to the shafts of the enemy to put down this unholy and damnable rebellion; and I never found kinder or better people than the loyal inhabitants of Bowling Green, but truth compels me to say some were disloyal.

Mr. Speaker, I had no desire to make a speech when I rose. I believe that the people of Kentucky ought to be paid for many things. I believe so in regard to Maryland. I believe so in regard to Western Virginia. Although I did not distinctly hear the provisions of the bill proposed by the gentleman from Maryland, [Mr. THOMAS,] I am inclined to believe that it would have my hearty support if it stood by itself. I will not support the amendment of the gentleman from Ohio, [Mr. SCHENCK,] for it is not right in the abstract or in the concrete, if for no other reason that it breaks down a court that is now useful, and it makes an unjust discrimination between claimants equally meritorious. The declaration of the gentleman [Mr. GRIDER] that Kentucky would stay in the Union paid or not, I doubt not. His eloquent tribute to the noble people of Kentucky was well merited, and I was glad to hear it as applied to the loyal.

Mr. BLAIR, of West Virginia. Mr. Speaker, I have risen to say that there is no bill which can be offered to this Congress in which my constituents are more deeply and vitally interested than the one now pending. There seem to be two objections to the amendment offered by the gentleman from Maryland, [Mr. THOMAS.] One is that the Government is not able to pay these claims—that now is not the time to settle and adjust them. One gentleman from New York the other day intimated in his speech, if he did not say in so many terms, that this Government would repudiate its debts. I had no idea there would be members of the House who would get up and say that the Government was neither able nor willing to pay its debts.

Mr. BOUTWELL. To what gentleman does the gentleman refer as having said that the Government proposed to repudiate its debts?

Mr. BLAIR, of West Virginia. The gentleman from Iowa and several other gentlemen said that the Government never could pay these debts.

Mr. WILSON. I never said the Government could not in time pay all of the debts that it should pay. But I take issue with the gentleman and those who seek to crowd these claims upon the Government. The members from the border States, as they term themselves, a term which I consider a disgrace to our politics, ask to include in these claims such as no Government upon the face of the earth has ever allowed. It is for the purpose of keeping out these claims and to prevent this robbery of the Treasury that I have supported the bill reported by me from the Committee on the Judiciary.

Mr. BLAIR, of West Virginia. Mr. Speaker, it is not the proposition of this bill, nor do the advocates of this measure propose, that you shall

pay all sorts of claims that people may make against the Government.

Mr. WILSON. The gentleman from West Virginia directed his remarks to what I said, and my remarks were based upon the character of the claims which have been presented to the War Department, and which are now pending in the Court of Claims. They involve claims for negroes as well as for all other kinds of property, and for damages of every description. I say that many of them should not be paid, that it would be a disgrace to the nation to entertain some of them, especially those for runaway negroes. I base my remarks upon facts existing, upon claims which have been presented, and now the gentleman can direct his upon the same basis.

Mr. BLAIR, of West Virginia. I have not, nor do I suppose that any gentleman who has advocated this bill has asked pay for any negroes; and I trust in God some measure may be brought before this Congress in which that subject will not be introduced. We have no negroes in West Virginia. I thank God that free soil is stamped upon her; and in her constitution she has said that she will rid herself of this exciting question.

Mr. WILSON. The negro question is involved in this bill by virtue of the claims now pending in the Court of Claims, in which compensation is asked for negroes.

Mr. BLAIR, of West Virginia. If the claims are unjust do not pay them.

Mr. WILSON. This bill is for the purpose of taking away jurisdiction in such cases and retaining it in the hands of Congress.

Mr. BLAIR, of West Virginia. If you were to pay for all the negroes, North and South, allowing me to be the appraiser, it would not cost much to pay for all of them.

Mr. WILSON. But the gentleman is not a judge of the Court of Claims.

Mr. BLAIR, of West Virginia. No, sir; I do not suppose I ever shall be.

Now, to say that you will postpone the day when you will pay these claims is virtually to say to the border States, to whom is due more than to any other people the efforts to put down this rebellion, that they never shall have any pay. I do not wonder that gentlemen who live in the New England States, and those who live in what are known as loyal States outside of the theater of the war, cannot and do not appreciate the condition of those who live in the midst of the war. Why, sir, there has never been a day from the time the Government was founded up to this hour when the North was so prosperous as now. She is actually wallowing in wealth. In order to protect them the Government does not have to station sentinels at their doors, nor in the streets of their cities and towns.

But how is it in the border States? Who could have made more sacrifices than they have to maintain this Government? Why, sir, the district I represented in the last Congress particularly, and many of the counties I now represent in this Congress, are made a barren waste on account of the desolations of this war. They have sent into the Army almost every man they had; and I am proud to say here that Western Virginia has sent more troops to this war to crush out and put down the rebellion than any other State of this Union in proportion to population. And I learn by letters received to-day that her quota under the last call made by the Chief Magistrate of the country is almost supplied, and that no draft will be required there. They have not only given their sons and their fathers to the country, they have not only watered every inch of soil in Western Virginia with their blood, but they have actually given every particle of property they possessed, so that multitudes of them are now in a suffering condition. In that State there are poor people living in the mountains, whose wants are few, and who have very few means to supply them. Rebel parties come along and steal their horses, drive away their cattle, and they sometimes have gone so far as to take the clothing from the children's backs and carry it away. Oftentimes everything in their houses is carried off by those parties. Reduced to extreme destitution, they go to work and get a barrel of corn and get it ground, and then come along Union soldiers, exhausted and half-starved, and cheerfully they divide their last morsel with them. They sometimes gave

receipts, which were almost invariably informal. Sometimes they took everything a man had and gave him no acknowledgment.

Now, it is an act of justice that we are asking at the hands of Congress—nothing more and nothing less. We do not ask you to bestow a boon upon us. We are not asking you to make us a present. I appeal to northern men, to their sense of justice, to aid us in sustaining this measure. The issue is now before this Government, and is to be decided by this House, whether or not the people of the border States who have thus been sacrificed shall have their claims paid or not, or whether they shall be forever debarred.

It seems to me, sir, that every one must see the necessity, if the Government ever intends to pay these claims, that the question should be determined now when proofs can be obtained, and we can show whether or not our claims are just. If you postpone this matter for three or five years, there are probably not one tenth of the claims which are perfectly just, and which every judge in the land would give judgment for, in which the claimants will be able at that time to furnish proof. If, then, it is the intention of Congress ever to pay us our just claims, now is the time; and you will indicate whether you mean to do it by the votes you give now. But if you postpone anybody's claims, in God's name do not postpone the claims of those who are starving, of those who have stood by you, and without whose assistance you would not perhaps have been a Union this day.

I ask the House as a matter of justice to sustain this bill. We border-State men have stood by this Government as my friend from Maryland [Mr. THOMAS] has said. We have voted millions and millions of dollars for your benefit. We do not ask you to pay unjust claims. I should be the last man to ask that a solitary rebel should be paid for any property he has lost. He does not deserve it; and we do not ask it. But it is for our own loyal men, who have been between the upper and nether millstones; who have stood by the Government in its darkest hours; who have been tried in the furnace of rebellion—it is for them that I am pleading to-day.

I trust, sir, that the House will give to this question their consideration, and will agree to the amendment of the gentleman from Maryland, [Mr. THOMAS.] In my humble opinion it does not embrace all the classes of cases which ought to be embraced; but I am satisfied with it, and I think that every gentleman from the North or from the West ought to be satisfied with it. I hope therefore, Mr. Speaker, that this bill will receive the favorable consideration of the House.

Mr. WILSON. I hope the House is now ready to take a vote on the amendment. I will not occupy any further the time of the House. I move the previous question.

Mr. WHALEY. I hope the chairman of the Judiciary Committee will not press this matter to a vote now. This is the most important question that has been before the House this session.

Mr. WILSON. I merely wish to test the sense of the House. If the House is willing to have the matter delayed, so be it; but I ask the previous question, and I call for tellers on seconding the demand.

Tellers were ordered; and Messrs. WILSON and WHALEY were appointed.

The House divided; and the tellers reported—ayes 50, noes 62.

So the House refused to second the previous question.

Mr. WHALEY obtained the floor.

Mr. ECKLEY. Will the gentleman from West Virginia give way for me to move that this bill be recommitted?

Mr. WHALEY. No, sir; I must decline to yield for any such purpose.

Mr. Speaker, I cannot believe that a majority of this House, or even those who are opposed to the amendment submitted by the gentleman from Maryland, desire to deprive the loyal citizens of the border States of their just rights, or to prevent them from having an adjudication of their claims. I cannot believe that that is the object even of those gentlemen who have opposed the amendment. I wish to call the attention of gentlemen on this floor to the facts on which these claims rest, and not only of members, but of their constituents also.

Mr. Speaker, this is an important question. It is one that involves the rights and welfare of the suffering people of the border States. Could any one have expected that such opposition would be made to an amendment so fair as that offered by my friend from Maryland? Is there any reason why there should not be at least a mode provided by which these people shall have an opportunity of having their claims fairly and honestly adjudicated? I do not refer to the claims of secessionists and traitors, but to those of loyal people who have shown their devotion to this Union and have made sacrifices for it, undergoing sufferings that are unknown to the people of the North.

I wish to call attention, further, to the fact that hundreds of thousands of dollars of these claims are due to the unconditionally loyal people of the border States, for provisions and commissary stores furnished in good faith for the use of the Army, but where the certificates given did not comply fully with the requirements of the War Department. These claims have been therefore rejected, and are now piled up by the cord in the Third Auditor's office. Is there a proposition to deprive these people of a fair chance to have their claims adjusted? If not, then let some remedy for their case be recommended to the House by the Judiciary Committee.

Mr. WILSON. I will inform the gentleman that the Judiciary Committee has reported a bill to meet the cases he speaks of, and that that bill comes up next in order. It is the first and second sections of the amendment offered by the gentleman from Maryland, [Mr. THOMAS.] I understand that another committee of the House has agreed to report, if it has not yet reported, a bill comprising the other portions of the gentleman's amendment.

Mr. BLAIR, of West Virginia. I would like to know what possible objection the gentleman from Iowa can have to this amendment.

Mr. WILSON. The objection is that the bill has no connection whatever with it. The bill relates to the jurisdiction of the Court of Claims—the amendment to the accounts of the Quartermaster General.

Mr. WHALEY. It is the duty of Congress to provide for the payment of the just claims of the loyal people of the border States. Contrast their condition with that of the people of the North. Every city, every town, every village and hamlet of the North is this day more prosperous than it ever has been since the settlement of the continent; while on the other hand, if you look to West Virginia, Kentucky, and Missouri, you will find nothing but desolation. Thousands of their population have been driven to the free States, who had happy homes three years ago, who had wealth enough for themselves and their posterity, but who are now reduced to absolute want. The loyal people of the border States have shown their loyalty in the Army and at the polls. They sent to Congress unconditional Union men, men who have stood by the Administration on this floor, who have voted for every appropriation to carry on the war. And now, when it is proposed to have these just claims honestly and fairly adjudicated, we are met with opposition from the other side of the House. If this is the policy let us know it. Let the constituents of every border State man know it. Let it go over the wires this evening that there is a majority in this House opposed to paying these loyal men or providing a way of adjudicating their claims.

Mr. ASHLEY. I now demand the previous question.

Mr. THOMAS. Will the gentleman from Ohio allow me a single moment?

Mr. ASHLEY. Certainly, sir. I withdraw the motion.

Mr. THOMAS. I simply desire to correct an error which seems to prevail in the House. I thought I had stated so as not to be misunderstood, that both sections of my amendment have undergone examination in committee. The second and third sections that I propose underwent examination in the Judiciary Committee, and were approved of. The other sections underwent examination in the Committee of Claims, and that committee has reported it to the House with some little amendments in the form of a bill. I now propose to withdraw this last part of my amendment with the permission of the House, and to substitute for it in words House bill No. 212, which

has been sanctioned and approved by the Committee of Claims.

Mr. WOODBRIDGE. Does the gentleman withdraw all of his amendment except that part which was before the Judiciary Committee?

Mr. THOMAS. The amendment is so proposed that the House is not placed in any difficulty as to voting on it. If a portion of the House be willing to take that part of it that came from the Judiciary Committee it can say so and reject the other, or *vice versa*. It is only necessary, when going to vote on my amendment, to ask a division of it.

Mr. WOODBRIDGE. Do I understand that the gentleman from Maryland proposes to have a distinct vote on each of these bills?

Mr. THOMAS. Any member upon the floor has the right to call for a division of the question. And it results as I have already attempted to explain. It gives gentlemen the privilege of deciding between these propositions. It gives them the privilege of accepting the proposition of the Committee of Claims and rejecting that of the Committee on the Judiciary, or the opposite.

The SPEAKER. Is there objection to the gentleman from Maryland presenting his amendment in the shape in which he now offers it?

Mr. WILSON. I object.

The SPEAKER. The gentleman will then have to modify his amendment still further to make it in order. Rule 48 provides that

"No bill or resolution shall, at any time, be amended by annexing thereto, or incorporating therewith, any other bill or resolution pending before the House."

The gentleman will therefore have to modify his amendment to some extent to bring it within the rule.

Mr. THOMAS. The Speaker will bear in mind that the two constitute one amendment, and they are therefore not technically a violation of the rule.

The SPEAKER. That constitutes a double violation of the rules; if two bills entire are proposed in one amendment.

Mr. THOMAS. To comply technically with the rule, I have changed one or two unimportant words, and now modify my amendment by adding at the end of the other amendment as follows:

That there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, one commissioner and one solicitor of claims for the district composed of the States of Maryland, Pennsylvania, the District of Columbia, and Virginia; one commissioner and one solicitor for the district composed of the States of West Virginia, Ohio, and Indiana; one commissioner and one solicitor for the district composed of the States of Tennessee and Kentucky; one commissioner and one solicitor for the district composed of the States of Illinois, Missouri, and Kansas; and one commissioner and one solicitor for those States not included in the foregoing districts, who shall severally hold their respective offices during the pleasure of the President, and be entitled for their services to a salary of \$2,500 each per annum, to be paid quarterly, out of any money in the Treasury not otherwise appropriated, and such other sums as shall be necessarily and unavoidably expended by them for stationery and office rent in the discharge of their duties under this act, and certified as reasonable by the Secretary of War or First Comptroller of the Treasury.

And be it further enacted, That each of said commissioners shall appoint a clerk for his district, who shall hold his office during the pleasure of said commissioner, and perform such duties as may be required of him under this act, who shall receive a salary of \$1,600; and the commissioner may from time to time employ a marshal, at a compensation of four dollars per day for the time actually employed by said marshal in subpoenaing witnesses for the United States, and for such other duties as may be required of him by the commissioner, whose salary to the clerk, and compensation to the marshal, shall be paid quarterly, out of any money in the Treasury not otherwise appropriated, on the certificate of the commissioner. And said commissioners, solicitors, clerks, and marshals shall each take and subscribe an oath to support the Constitution of the United States, and faithfully discharge the duties of their respective offices, and shall, in addition, take and subscribe the oath of allegiance required by the act of Congress passed August 6, 1861, which oaths shall be filed in the War Department.

And be it further enacted, That said commissioners shall severally have cognizance of all claims against the United States arising in their respective districts, and which shall be presented to them by any person who, during the present rebellion, has sustained, or may sustain, damages by injury to or destruction of any property which has been or may be injured or destroyed by the use or occupation of the Army of the United States, or of any division or portion thereof, or by any military authority: *Provided, however*, That all existing claims embraced in the provisions of this act not presented for adjustment within three years from the passage of this act, and all subsequent claims not presented for adjustment within three years from the time such claims may or shall accrue, shall be forever barred.

And be it further enacted, That the claimant or claimants who may present his or their claim under this act shall in every case make out an account against the United States, containing the items of such damages and losses, together

with a statement of the circumstances attending the same, and names of the officer or officers who gave the order or who commanded the troops, and the particular corps, division, brigade, regiment, or company by whom the damages or losses were occasioned, so far as within the knowledge of the claimant; the time when, as near as may be, and place where such losses and damages were sustained; which account shall be verified by the oath of the claimant to the effect that the account presented by him or her to said commissioner for adjudication is accurately stated, and is in all respects just and true, and that the prices charged are reasonable, and that the amount claimed is justly due after allowing all just credits and set-offs; that neither the whole or any part of said claim has been assigned or transferred, except as therein stated; and that he, she, or they have actually sustained the damages charged in said account as having been done to his, her, or their property by military authority, or by the troops of the United States, over and above the value of the portions of said property which remained after its injury or destruction; that the same damage or destruction has not been done by reason of any fraud, connivance, collusion, or procurement of the said claimant, or any other person or persons in his, her, or their behalf, and that no payment has been received by the claimant, or any person for him, for any part of said claim, except as stated in said account; and that he has not given any receipt or voucher, except as stated in said account, by which any officer of the United States or other person has received or can receive, as claimant believes, a credit therefor from the United States. Said claimant or claimants shall also exhibit and prove to said commissioner, his, her, or their title to the property, and the extent of their share or interest therein; and also furnish them with the names of all other persons, if there be any, who have any share or interest in said property, and their residence as far as may be.

And be it further enacted, That said solicitor of claims shall represent the Government of the United States, and attend the examination of parties and witnesses in relation to any claim which may be pending before the commissioner of their respective districts, and prepare interrogatories and cross-interrogatories when necessary, and superintend the taking of testimony, and render such other services as may be required of him from time to time by said commissioner.

And be it further enacted, That any person who shall corruptly practice, or attempt to practice, any fraud against the United States in the statement or proof of any claim, or any part of any claim, against the United States under this act, shall forfeit the same to the Government; and it shall be the duty of said commissioner in such cases to make a special report of the facts and fraud which was practiced, or attempted to be practiced, to the Secretary of War; and in case he shall approve and concur in said report, the claimant shall be forever barred from prosecuting said claim.

And be it further enacted, That each commissioner shall have power to issue subpoenas to require the attendance of witnesses upon the application of either the claimant or claimants, or of the solicitor, for examination before the said commissioner, which subpoenas shall have the same force as if issued by a district court of the United States, and compliance therewith may be compelled under such rules and orders as said commissioner shall prescribe, and for the purpose of compelling the attendance of such witnesses and taking their testimony, said commissioner shall have all the power of said district court. And the witnesses who may attend on behalf of the United States, in obedience to any subpoena issued by said commissioner, shall be entitled to the same fees for their attendance as those paid for similar services in the State courts of the respective districts, and to be paid by the United States upon the certificate of said commissioner and solicitor.

And be it further enacted, That each commissioner shall adopt such rules and regulations for carrying this act into execution as the Secretary of War shall approve, and publish the same for eight weeks successively in the newspapers in the several States and Territories in which the laws of the United States are published.

And be it further enacted, That each commissioner shall have power to hold their sessions at such times and places, in their respective districts, as they shall deem proper and conducive to the public interest and convenience of claimants. They may also, in their discretion, make a personal examination of any property in relation to which a claim for losses or damages shall have been presented. They shall also have power to examine on oath any claimant, and all other persons, in relation to said claim, who have any knowledge thereof; and shall have power to issue commissions for the examination of claimants and witnesses unable to attend before said commissioner, and in other cases in the discretion of said commissioner, and shall cause the testimony so taken to be reduced to writing, and signed by the person taking the same; and shall return said testimony, with their proceedings and their several opinions in writing in relation to said claims, respectively, to the Secretary of War; and it shall be his duty to lay the same before the Congress of the United States at the commencement of the session next succeeding said return, to the end that such provision may be made for the relief of the claimants as shall be deemed just and proper.

And be it further enacted, That said commissioners shall not take cognizance of any claim against the United States for the loss, value, or services of any slave or person of color, nor for damages or losses arising from his or her escape, capture, or detention; nor shall any person who has engaged, or shall at any time engage, in the present rebellion against the Government of the United States, or been at any time hostile to such Government, or given aid and comfort to those engaged in said rebellion, derive any benefit under this act. And it shall be the duty of each of said commissioners to inquire into and take testimony as to the loyalty of every person who has sustained loss or damage to his or her property during the present rebellion, and who may present their claims under this act; and also as to whether the said persons in any manner supported or favored rebellion against, or resistance to the laws of the United States. And no person who has engaged, or shall at any time engage in the present rebellion against the Gov-

ernment of the United States, or been at any time hostile to such Government, or given aid and comfort to those engaged in said rebellion, shall derive any benefit under this act.

Mr. ASHLEY. I now demand the previous question on the bill and amendments.

The previous question was seconded, and the main question ordered to be put.

Mr. ELDRIDGE. Is it in order for me to move to recommit the bill to the committee?

The SPEAKER. It is not.

The question being upon the amendment to the amendment, it was adopted—ayes 64, noes 46.

Mr. ELDRIDGE called for the yeas and nays on the amendment as amended.

The yeas and nays were not ordered.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate disagree to the resolution of the House of Representatives imposing instructions upon the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 122) to increase the internal revenue, and for other purposes, ask another free conference on the amendments to the said bill, and have appointed Mr. SHERMAN, Mr. CLARK, and Mr. HENDRICKS as such committee on their part.

COURT OF CLAIMS—AGAIN.

Mr. DAVIS, of Maryland. Is it in order to move to refer the whole subject to the Committee on the Judiciary?

The SPEAKER. It is not. The House is still acting under the previous question.

Mr. DAVIS, of Maryland. I move that the House do now adjourn.

Mr. MORRILL. I hope the gentleman will withdraw that motion to enable me to move that the House agree to the request of the Senate for another committee of conference on the internal revenue bill.

Mr. DAVIS, of Maryland. I insist on the motion that the House adjourn.

The motion was not agreed to; there being—ayes 60, noes 66.

Mr. THOMAS moved to reconsider the vote by which his amendment to the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

Upon the latter motion,

Mr. DAVIS, of Maryland, demanded the yeas and nays.

The yeas and nays were not ordered.

The motion to reconsider was laid on the table.

Mr. SPALDING moved that the House adjourn.

The motion was not agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, announced to the House that the Senate had passed the following joint resolution and bills; in which the concurrence of the House was requested:

Joint resolution (No. 30) for the relief of Charles A. Pitcher;

An act (No. 48) for the relief of B. C. Bailey; and

An act (No. 125) to encourage immigration.

INTERNAL REVENUE.

Mr. MORRILL. I rise to a question of privilege. I move that the House accede to the request of the Senate appointing another committee of conference on the disagreeing votes of the two Houses on the internal revenue bill.

Mr. SPALDING. I move to lay the whole report of the committee of conference on the table.

The SPEAKER. The motion is in order; but the Chair will state that its effect, if carried, will be to lay the bill on the table.

The motion was disagreed to—ayes 32, noes 64.

Mr. KASSON. Before the vote is taken on the motion of the gentleman from Vermont I ask the Speaker to state the exact condition in which the matter now comes before us. The motion has been made by the gentleman without consultation with his colleagues on the Committee of Ways and Means, and I desire now that the Chair will state what will be the effect of the motion upon the question before us, if adopted.

Mr. MORRILL. I will merely state in re-

sponse to the gentleman from Iowa that he, I suppose, in common with all the members of the House, heard the message from the Senate that they had non-concurred in the resolution yesterday passed by the House.

Mr. KASSON. The gentleman will pardon me. I could not hear that message as it was announced.

Mr. MORRILL. Well, sir, the gentleman had the same chance that I and other members of the House had to hear it. Finding that the Senate had rejected the proposition yesterday made by the House, of course it becomes necessary to act upon the request of the Senate for another committee of conference. I did nothing more than to pursue the usual course in such cases, by seizing on the earliest moment to move for such a committee.

The SPEAKER. The Chair will state the condition of the question. By a vote of 76 to 67 the House yesterday referred this matter to the same committee of conference. The vacancy occasioned on that committee by the declination of the gentleman from Illinois [Mr. WASHBURN] was filled by the gentleman from Ohio, [Mr. SPALDING.]

Mr. STEVENS. Referred to the same committee with instructions.

The SPEAKER. Yes, sir, recommitted with instructions. The Senate have sent us a resolution asking for a free conference between the two Houses, without instructions. The Senate having appointed the same managers on its part, it is due to the House to say that the Chair will appoint the same majority as yesterday of the House conferees. If the Senate had appointed different conferees the Chair would have felt it to be its duty to appoint different conferees, in case this proposition of the Senate be entertained.

Mr. KASSON. I was in the Senate when the action of the House was reported there, and I did not hear any instructions read to the Senate. I ask whether those instructions have ever been brought to the attention of the Senate?

The SPEAKER. If the House wants to reverse its action of yesterday, it will be easy for the gentleman from Vermont [Mr. MORRILL] to move instructions of a different character.

Mr. MORRILL. I do not wish to move any instructions at all. I have not made the motion to go on the committee, and I do not desire to go on it. I do not desire the committee to go trammelled, for that would be casting a slur upon the other House.

The SPEAKER. Without new instructions the Chair will be obliged to appoint the same majority of conferees. If the Senate had appointed new conferees, the Chair would have appointed new conferees.

Mr. STEVENS. The only effect of appointing the same committee is that they go without instructions and untrammelled.

The SPEAKER. Precisely. The message from the Senate is that the Senate disagree to the resolution of the House of Representatives proposing instructions to the conferees, and ask another free conference on the disagreeing votes of the two Houses on House bill No. 122, to increase the internal revenue, and for other purposes. It has appointed the same committee, Mr. SHERMAN, Mr. HENDRICKS, and Mr. CLARK. The instructions of the House were before the Senate, and they were disagreed to.

Mr. MALLORY. The Senate appointed the same committee because we had appointed the same committee of conference.

The SPEAKER. They were appointed by a vote of the House.

Mr. MORRILL's motion was agreed to.

The Speaker appointed Mr. MORRILL, Mr. KASSON, and Mr. SPALDING the committee on the part of the House.

COURT OF CLAIMS—AGAIN.

The question then recurred on the Court of Claims bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. DAVIS, of Maryland, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found

truly enrolled an act (S. No. 140) for the protection of the overland emigration to the States and Territories of the Pacific; and an act (H. R. No. 265) supplementary to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863; when the Speaker signed the same.

And then, on motion of Mr. FARNSWORTH, (at a quarter to five o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, March 3, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. POMEROY presented the petition of Samuel Strong, praying that the Secretary of the Treasury may be authorized to examine and settle his accounts as assignee of the contractors for work done on the Portsmouth, New Hampshire, custom-house; which was referred to the Committee on Claims.

Mr. WRIGHT presented a memorial of manufacturers of Newark, New Jersey, remonstrating against the extension of the India-rubber patent of Charles Goodyear; which was referred to the Committee on Patents and the Patent Office.

Mr. DOOLITTLE presented a resolution of the Legislature of Wisconsin, in favor of an extension of the time for the payment of bounties to volunteers in and for the State of Wisconsin until the 1st of April, 1864; which was ordered to lie on the table and be printed.

Mr. HARRIS presented the petition of Daniel Fitzgerald, praying for a renewal of his patent for an improvement in fire-proof chests and safes; which was referred to the Committee on Patents and the Patent Office.

Mr. COWAN presented a memorial of the Governor and members of the Senate and House of Representatives of the State of Pennsylvania, praying that the draft be postponed, and the payment of bounties continued until the 1st day of April, 1864; which was ordered to lie on the table.

Mr. SPRAGUE presented the memorial of M. C. Marin, commander in the United States Navy, praying relief from the action of the advisory board; which was referred to the Committee on Naval Affairs.

He also presented the memorial of George D. Dods, praying for a pension in lieu of his support at the Naval Asylum; which was referred to the Committee on Pensions.

He also presented a memorial of merchants and others of Providence, Rhode Island, praying that the petition of the South American Steamship Company for an appropriation for the purpose of establishing postal communication by steam vessels with the countries of South America may be granted; which was referred to the Committee on Commerce, and a motion to print the memorial was referred to the Committee on Printing.

COURT FEES IN THE DISTRICT.

Mr. GRIMES. I present the petition of the justices of the supreme court of the District of Columbia, praying for the passage of a bill to regulate the fees of the clerk's office of the supreme court of this District. The petition is accompanied by a bill. I ask that the bill may be read the first and second time, and referred with the petition to the Committee on the District of Columbia.

The VICE PRESIDENT. The petition will be referred to that committee. The Senator also asks unanimous consent to introduce at this time a bill on the same subject.

By unanimous consent, leave was granted to introduce a bill (S. No. 147) to regulate the fees of the clerk's office of the supreme court of the District of Columbia; and it was read twice by its title, and referred to the Committee on the District of Columbia.

REPORTS FROM COMMITTEES.

Mr. TEN EYCK, from the Committee on Commerce, to whom was referred a petition of seamen in the United States revenue cutter service attached to the revenue cutter Caleb Cushing, praying for remuneration for loss of property sustained by them in the destruction of that vessel by the rebels, asked to be discharged from its further consideration; which was agreed to.

PACIFIC RAILROAD.

Mr. HOWARD. The Committee on the Pacific Railroad have instructed me to move that the bill (S. No. 135) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," passed July 1, 1862, be printed. The bill has not yet been printed, and the committee desire to have it printed for their convenience in examining it.

The motion was agreed to.

Mr. HOWARD. The same committee have instructed me to report back to the Senate the bill (S. No. 11) granting public lands to the People's Pacific Railroad Company, to aid in the construction of a railroad and telegraphic line to the Pacific coast by the northern route, and to recommend that it do not pass. This recommendation, however, is founded entirely on the circumstance that the bill which I now report back is based upon a State charter granted by the State of Maine. The committee think it not right to act upon a State charter in so large a concern.

PAYMENT OF BOUNTIES.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was recommitted the joint resolution (H. R. No. 41) to continue the payment of bounties, to report it favorably and to ask for its consideration at this time. It is very important that it should be acted upon.

The VICE PRESIDENT. The Senator from Massachusetts asks the unanimous consent of the Senate to consider this resolution at the present time. Is there any objection? The Chair hears none.

Mr. SHERMAN. I would rather it should go over for the present until Senators come in. I know the Senator from Maine [Mr. Fessenden] takes a deep interest in this question, and he is not yet in his seat. I hope it will be allowed to lie on the table until he comes in.

Mr. WILSON. It can be laid aside for a few moments until Senators come in.

BILLS INTRODUCED.

Mr. TEN EYCK asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 31) authorizing the issue of a register to the steamer Mohawk; which was read twice by its title, and referred to the Committee on Commerce.

Mr. SPRAGUE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 148) to prevent frauds in the collection of the internal revenue, and to prevent smuggling; which was read twice by its title, and referred to the Committee on Finance.

REMOVAL OF INDIANS FROM KANSAS.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 32) for the removal of refugee Indians in Kansas to their homes in the Indian country; which was read twice by its title.

Mr. LANE, of Kansas. I ask that the preamble and resolution be read at length for the information of the Senate.

The Secretary read, as follows:

Whereas the Government is maintaining nine thousand two hundred refugee Indians in the State of Kansas at an outlay of \$60,000 per month; and whereas said refugees are anxious to return to their homes in the Indian country; and whereas the Secretary of War reports to Congress that he is not aware of any reason preventing their return; and whereas it is important that they be returned in time to put in a crop of this spring; Therefore,

Resolved, &c., That the President of the United States be authorized to take the necessary steps for the removal of the refugee Indians now in Kansas to their homes in the Indian country.

Mr. LANE, of Kansas. I desire to state, in connection with this matter, that the Indian bureau are anxious to return these Indians to the Indian country, but are fearful of taking the responsibility. The Interior Department and the War Department differ as to the safety of the Indians after they shall return, and it is important to get an expression of opinion from Congress on the subject. I move that the joint resolution be referred to the Committee on Indian Affairs.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the

House of Representatives had agreed to the further conference asked by the Senate upon the disagreeing votes of the two Houses upon the amendments of the Senate to the bill (H. R. No. 122) to increase the internal revenue, and for other purposes, disagreed to by the House of Representatives, and insisted upon by the Senate, and it had appointed Mr. JUSTIN S. MORRILL, of Vermont, Mr. JOHN A. KASSON, of Iowa, and Mr. RUFUS P. SPALDING, of Ohio, managers at the same on its part.

AMENDMENT OF THE CONSTITUTION.

Mr. DAVIS. A joint resolution for the amendment of the Federal Constitution was referred early in the session to the Committee on the Judiciary. That committee reported back the joint resolution with an amendment. I desire to offer an amendment to the amendment reported by the committee, and I ask that it be read and printed for the use of the Senate.

The VICE PRESIDENT. The Chair will receive it, if there be no objection. The Chair hears none. It will be read.

The Secretary read the amendment, which was to amend the amendment reported by the Committee on the Judiciary to the resolution (S. No. 16) by striking out the word "an" and by adding the letter "s" to the word amendment in the fifth line of the preamble reported by the committee, and to strike out both sections of the amendment, and in lieu thereof to insert:

First. That no negro or person whose mother or grandmother is or was a negro shall be a citizen of the United States, or be eligible to any civil or military office, or to any place of trust or profit under the United States.

Second. That the States of Maine and Massachusetts shall form and constitute one State of the United States, to be called East New England, and the States of New Hampshire, Rhode Island, Connecticut, and Vermont shall form and constitute one State of the United States, to be called West New England.

The VICE PRESIDENT. The order to print will be made, if there be no objection.

PRINTING OF A REPORT.

Mr. WILKINSON submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate three thousand copies of the report of the Committee on Military Affairs and the Militia (No. 14) in relation to interference by military authority in elections in the States.

FINAL ADJOURNMENT.

The VICE PRESIDENT. If there are no other resolutions to be introduced, the Chair will present a concurrent resolution from the House of Representatives. It will be read.

The Secretary read, as follows:

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1864.

Resolved by the Senate and House of Representatives, That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on Tuesday, the 31st day of May next, at twelve o'clock meridian.

Mr. SUMNER. I move that that resolution lie on the table.

The motion was agreed to.

FRENCH SHIP LA MANCHE.

Mr. SUMNER. I now move that the Senate proceed to the consideration of the bill (S. No. 142) for the relief of the owners of the French ship La Manche, reported from the Committee on Foreign Relations.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. For the purpose of paying the indemnity awarded to the owners of the French ship La Manche, it proposes to appropriate a sufficient amount to purchase a bill of exchange on Paris for the sum of 140,735 15-100 francs, with interest on that sum at six per cent. from February 5 last past down to the date of the bill of exchange.

Mr. GRIMES. What is that for?

Mr. SUMNER. To carry out an award that has been made with reference to the claim of the owners of the French ship La Manche, they claiming more than half a million francs, and the arbitrators allowing them 140,735 francs, on account of damages to a French ship.

Mr. GRIMES. Damages by whom?

Mr. SUMNER. Growing out of our blockade.

Mr. CLARK. Is there a report?

Mr. SUMNER. Here is a message of the

President covering all the documents in the case. The report of the Secretary of State is to this effect:

DEPARTMENT OF STATE, WASHINGTON,
February 16, 1864.

The Secretary of State has the honor to lay before the President a copy of the papers relative to the claim on this Government of the owners of the French ship La Manche, captured in August, 1862, by the United States ship-of-war Iro, and sent into Boston for adjudication, upon the supposition that she had, in violation of the blockade, sailed from a port in the possession of the insurgents. The vessel was subsequently restored, pursuant to a decree of the district court of the United States at Boston, but the owners claimed damages for the capture and detention. This claim, though unquestionably just in principle, seemed to the Secretary of State, as first presented by the French minister, to be exaggerated in amount. A proposition was consequently made to Mr. Mercier to refer the question to the sum properly due to an informal arbitration. This proposition was accepted, and the award of the arbitrators is one of the accompanying papers. From the high character of those gentlemen for integrity and intelligence, it is suggested that an appropriation of the amount found to be due may confidently be recommended to Congress.

Respectfully submitted.

WILLIAM H. SEWARD.

The President.

The document which I have in my hand contains the original claim, the correspondence between our Government and the French minister, the appointment of the arbitrators, Mr. John M. Forbes, of Boston, being selected on the part of the United States, and Mr. Isaac Thacher, a merchant of Boston, being selected on the part of the French Government, and these two arbitrators together selecting William Perkins, also of Boston, as the umpire. After considering the case carefully, they have reduced the original claim, which was 524,577 francs, to the sum mentioned in this bill.

Mr. ANTHONY. What is the amount?

Mr. SUMNER. One hundred and forty thousand seven hundred and thirty-five francs. I will read the precise terms of the award, and that will explain the peculiar language of the bill. It is as follows, dated Boston, February 5, 1864, and addressed to Mr. Seward, Secretary of State, and to Monsieur Mercier, his imperial Majesty's minister to the United States:

"GENTLEMEN: The undersigned arbitrators appointed by you, and the umpire mutually chosen by the arbitrators, for the purpose of examining and deciding upon the claims for losses, by capture and detention, of the French ship La Manche by the United States ship Iro, beg leave to report, unanimously, that they have carefully examined the only claims laid before them by his imperial Majesty's consul here, Monsieur Souchard, being those of Messrs. Le Roux Frères & Co., the owners of the La Manche, for themselves and for the officers and crew of the ship, of which copy (marked A) is herewith inclosed.

"That they have examined the papers laid before them in support of said claim, and have called such witnesses as were deemed necessary, and that they do award, as full compensation for said claims, the sum of 140,735 15-100 francs, to be paid in a banker's bill on Paris, at sixty days' sight. To which amount is to be added interest at six per cent. per annum from this date until the bill is delivered to his imperial Majesty's representative at Washington."

The appropriation, therefore, is of a sum sufficient to buy the bill specified in this award, with interest from the date of the award, February 5, 1864, down to the date of the bill.

Mr. HOWARD. I should like to inquire of the Senator from Massachusetts whether the owners of the French vessel are parties to the reference and arbitration; whether they are concluded by it?

Mr. SUMNER. I understand that they are concluded by it.

Mr. HOWARD. Does that appear in the report itself?

Mr. SUMNER. The Senator will bear in mind that the whole has proceeded on the application of the French Government; the French Government is the party, and that Government has presented the claim of the owners.

Mr. HOWARD. I understand so. Of course it presents the claim as the agent of the owners. My inquiry was whether the owners are bound by the arbitration in law.

Mr. SUMNER. Unquestionably they are.

Mr. HOWARD. So that we shall not have this claim up before us again?

Mr. FOSTER. That is the only mode in which we can recognize a claim of a foreign individual. It is never made upon us by the individual, but through his Government. We in like manner present claims against foreign Governments, though they come from private citizens.

Mr. HOWARD. That is the usual course; but it may be pursued in another course.

Mr. FOSTER. Never.

Mr. SUMNER. The Senator from Michigan will bear in mind that they have no claim in law; the only claim they can have is through the diplomatic representatives of their Government, and it is presented precisely as this was to our Government here. Of course, the satisfaction of the claim in the mode now proposed disposes of it forever.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

BRITISH PRESENT TO A SHIPMASTER.

Mr. SUMNER. I now ask the Senate to proceed to the consideration of the joint resolution (No. 29) reported from the Committee on Foreign Relations. I think it will not occupy any time.

The motion was agreed to; and the joint resolution (S. No. 29) giving the assent of Congress to the acceptance of a watch from the British Privy Council of Trade by the master of the American schooner Highlander was read a second time, and considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time, and passed.

The VICE PRESIDENT. The question is on the title of the resolution.

Mr. FOSTER. I am inclined to think that there is no necessity for this resolution. This vessel, I believe, is a private vessel, not a public vessel of the United States.

Mr. SUMNER. There is a message from the President of the United States particularly proposing it and transmitting the correspondence between the Department of State and Lord Lyons on the subject. Here is the message of the President:

To the Senate and House of Representatives:

I transmit to Congress the copy of a correspondence which has recently taken place between her Britannic Majesty's minister accredited to this Government and the Secretary of State, in order that the expediency of sanctioning the acceptance by the master of the American schooner Highlander of a present of a watch which the lords of the committee of her Majesty's Privy Council for trade propose to present to him, in recognition of services rendered by him to the crew of the British vessel Pearl, may be taken into consideration.

ABRAHAM LINCOLN.

WASHINGTON, February 22, 1864.

Then follows a letter from Lord Lyons to Mr. Seward:

WASHINGTON, February 15, 1864.

Sir: I have the honor to transmit to you herewith a copy of a dispatch addressed by order of the lords of the committee of her Majesty's Privy Council for trade to her Majesty's consul at New York, requesting him to ascertain whether there would be any objection on the part of the United States Government to the receipt by the master of the American schooner Highlander of a present of a watch which their lordships propose to present to him in recognition of services rendered by him to the crew of the British vessel Pearl.

I beg of you to be so good as to submit this matter to the proper authority for decision, and to inform me of the result, in order that it may be communicated to the Board of Trade.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

HON. WILLIAM H. SEWARD, &c., &c., &c.

Then follows a letter from the Board of Trade addressed to her Majesty's consul at New York; and next is Mr. Seward's reply under date of Washington, February 20, 1864, in which, after setting forth the application of Lord Lyons, he says:

"In reply I have the honor to state that by the Constitution of the United States, as your lordship is doubtless aware, the power to give the required permission in such cases is exclusively vested in Congress; and that a copy of your note and of its accompaniment, together with a copy of this reply, will accordingly be submitted for the consideration of that body."

These are the facts.

Mr. FOSTER. Mr. President, my impression still is that the Highlander is a private vessel, a merchant vessel of the United States, not a public vessel. That is my belief; and the difficulty as to accepting such presents only applies to persons holding an office of profit or trust under the United States. The prohibition is in the ninth section of the first article of the Constitution, and the provision is this:

"No title of nobility shall be granted by the United States:

and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State."

It is only in regard to persons who hold "an office of profit or trust under the United States." A private citizen—and the commander of a merchant vessel is but a private citizen—may receive any gift which any foreign Government may think proper to make for meritorious services, or without any other cause than their special like for the individual. I do not think there is any necessity for the joint resolution at all.

Mr. SUMNER. It can do no hurt, however.

Mr. GRIMES. I move to reconsider the vote by which the joint resolution was passed. If we embark in this kind of legislation without any necessity for it, there is no telling where it will end. I notice by the newspapers that three gentlemen in New York have just received presents and been knighted, I believe, by the King of Italy for some service they are supposed to have rendered to an Italian vessel a short time ago in the neighborhood of New York. I think it is wholly useless to take up our time or to cumber our journals or the laws with the passage of acts of this description that are wholly unnecessary. I therefore trust that we shall not set the example here now. Probably the Secretary of State, as the vessel is denominated in the dispatch from Lord Lyons "the United States vessel Highlander," without examining the Naval Register to see whether we had any such vessel, jumped to the conclusion that she was not a commercial vessel but a war vessel, and upon that hypothesis has called for legislation here in order to enable the commander of that vessel to accept this watch. Upon an examination of the Register I find that we have no such vessel and have not had any such vessel in our service, and on an examination of the Constitution by the Senator from Connecticut, it seems that there is no necessity for the passage of any such law for a commercial vessel; and I think we had better let the bill drop.

Mr. SUMNER. I am inclined to agree with the statement made by the two Senators in reference to the law, but I assume that the application of the Secretary of State, sanctioned by the President, was made with a knowledge of the facts. I assume that they knew the law also as the Senators know it.

Mr. CLARK. Will the chairman of the Committee on Foreign Relations permit me to make a suggestion, that he allow the vote to be reconsidered, and then let the resolution lie on the table?

Mr. SUMNER. I was about to come to that. I was going to say that I assumed that the Secretary of State knew the facts in the case, and also the law. It is notorious that there are merchant vessels of the United States at this moment in the service of the United States.

Mr. GRIMES. But we have the names of them. I have here the names of all vessels in the service of the United States, and there is no such vessel mentioned there.

Mr. SUMNER. It occurred to me that probably this was a merchant vessel in the service of the United States—

Mr. GRIMES. I presume that is the way the mistake originated; the Secretary of State so supposed.

Mr. SUMNER. And therefore the master was to a certain extent an officer of the United States, so that he would come under the constitutional prohibition. However, I am perfectly willing that the joint resolution should lie over.

The vote on the passage of the joint resolution was reconsidered.

Mr. CLARK. I now move that it lie on the table.

The motion was agreed to.

ENLISTMENTS IN THE ARMY.

Mr. WILSON. I now move that the Senate take up the joint resolution to continue the payment of bounties.

Mr. BROWN. If the Senator from Massachusetts will give way for a moment, I should like to ask the courtesy of the Senate to take up a bill with a view to make it a special order for some day next week.

Mr. WILSON. Very well.

Mr. BROWN. There is a bill on the table in regard to the equalization of the pay of colored troops to which an amendment was offered by the

Senator from Missouri, [Mr. HENDERSON,] and subsequently an amendment was laid on the table to be offered by myself. I desire to make some remarks on that bill. I am not able to do so today; but I should like to take it up and make it the special order for some day next week, say Tuesday, if that will meet the pleasure of the Senate.

Mr. WILSON. The bill to which the Senator refers, I think, lies on the table. It is the bill to encourage enlistments.

Mr. BROWN. Yes, sir.

Mr. WILSON. If the Senator desires to take up that bill merely with a view to assign a day on which he can address the Senate upon it, I have no objection.

The VICE PRESIDENT. The Chair will entertain the motion, if there be no objection.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes.

Mr. HENDERSON. The question now pending on that bill is on an amendment offered by myself, I believe. I desire to know if that is so.

The VICE PRESIDENT. That is the pending question.

Mr. HENDERSON. My colleague has offered an amendment to the bill, which perhaps in the present condition of the bill and amendments would not be in order. He desires to address the Senate, as I understand, upon the amendment which he has moved to have printed, and in order that he may be permitted to address the Senate upon that subject, I will withdraw the amendment that I offered to the bill for the time being.

The VICE PRESIDENT. The Senator can do that with the unanimous consent of the Senate, the yeas and nays having been ordered upon it. The Chair hears no objection, and the amendment is withdrawn.

Mr. BROWN. I now offer the amendment that was presented by me on the 10th of February last, with the exception of the last section, which is no longer necessary in consequence of other legislation. The amendment is to strike out the third section of the bill, and to insert in lieu thereof the following:

SEC. 3. *And be it further enacted*, That the proclamation of the President, of January 1, 1863, declaring all persons held as slaves within certain designated States and parts of States then in rebellion against the Government of the United States to be thereafter free, be, and the same is hereby, confirmed and made of full effect as law; and all courts of justice are required to recognize the same, and all persons declared to be free by the said proclamation, or by this act or any subsequent act of Congress, shall be entitled to sue and be sued and give evidence in all courts of justice as other citizens.

SEC. —. *And be it further enacted*, That from and after the passage of this act there shall be neither slavery nor involuntary servitude in any of the States or Territories of the United States otherwise than in punishment for crime, whereof the party shall have been duly convicted, any law, usage, custom, or claim to the contrary notwithstanding; but all persons shall be held to be born free.

I ask that the bill may be made the special order for Tuesday next at one o'clock.

The VICE PRESIDENT. The Senator from Missouri moves to postpone the further consideration of the bill till Tuesday next, and to make it the special order for that day at one o'clock.

The motion was agreed to, two thirds of the Senate concurring therein.

PAYMENT OF BOUNTIES.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 41) to continue the payment of bounties. It directs that the bounties authorized to be paid under existing laws, and by regulations and orders of the War Department, to veterans reenlisting or persons enlisting in the regular or volunteer service of the United States for three years or during the war, shall continue to be paid from March 1, 1864, to April 1, 1864, anything in any law or regulation to the contrary notwithstanding; the bounties to be paid out of any moneys already appropriated for such purposes.

Mr. WILSON. This joint resolution was recommended to the Committee on Military Affairs for the purpose of ascertaining the views of the War Department in regard to it. I send to the Chair a letter addressed to the Committee on Military Affairs by the Secretary of War, which I ask to have read.

The VICE PRESIDENT. The letter will be read.

The Secretary read it, as follows:

WAR DEPARTMENT,
WASHINGTON CITY, March 2, 1864.

SIR: Your note of this date, requesting my views regarding joint resolution No. 41 of the House of Representatives, to continue the payment of bounties, &c., has just been received, and in reply I have the honor to state:

First. That in my opinion the requisite troops can be raised more expeditiously by continuing the payment of bounties to the 1st of April than by any other means.

Second. That at present great exertions are being made in the several States to raise their quotas by volunteers, so as to avoid a draft, the people preferring that method of furnishing troops.

Third. That General Burnside, General Hancock, and State Legislatures and Executives are earnestly requesting the continuance of the bounties until the 1st of April.

Fourth. That in my opinion the joint resolution of the House is wise and judicious, and that its speedy passage by the Senate would greatly promote the public welfare, and strengthen the military force more quickly and efficiently than can be accomplished in any other mode.

Your obedient servant,

EDWIN M. STANTON,
Secretary of War.

HON. HENRY WILSON, *Chairman Committee on Military Affairs, United States Senate.*

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LAND GRANT TO A MINNESOTA RAILROAD.

MR. RAMSEY. I now move that the Senate postpone all prior orders and proceed to the consideration of Senate bill No. 31, making a grant of land to the Lake Superior and Mississippi Railroad Company.

MR. DOOLITTLE. There will not certainly be time to consider that bill in the morning hour. There are questions involved in it which will require examination and consideration. I desire, I will state to my friend from Minnesota, to have the bill recommitted to the Committee on Public Lands, for the purpose of considering the remonstrances which have been presented and the facts which will be presented to the committee bearing on the propriety of this legislation. I hope my friend from Minnesota will consent to allow this bill to go to the Committee on Public Lands to be considered there; otherwise we shall have the matter to be considered here in open Senate. I prefer that the committee should first consider it.

MR. RAMSEY. I should be very glad to accommodate the Senator from Wisconsin, but really I have several times waived the opportunity of getting up this bill. The remonstrances of the citizens of Wisconsin can be brought directly to the attention of the Senate. I think it is very unusual in the Senate to recommit a bill simply because there may be a remonstrance against it. I respectfully ask the Senate to proceed to the consideration of this bill. It need not occupy fifteen minutes of its time.

MR. DOOLITTLE. I am willing to take the sense of the Senate on the question of recommitment. If the bill is to come up for discussion, there are a great many facts connected with it that will take up some time in the Senate. The bill will certainly lead to discussion.

THE VICE PRESIDENT. The question to recommit will not arise until the bill is before the Senate. The question is on proceeding to the consideration of the bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 31) making a grant of lands to the Lake Superior and Mississippi Railroad Company, in the State of Minnesota, to aid in the construction of the railroad of said company from St. Paul to Lake Superior.

MR. DOOLITTLE. I will move that the bill be recommitted to the Committee on Public Lands for further consideration. In submitting this motion, I will state in a few words to the Senate some of the facts as they are presented to me.

The bill proposes to make a grant of lands to aid in the construction of a road from St. Paul to the head of the navigable waters upon Lake Superior at or near the city of Superior. Congress by an act in 1856 granted public lands substantially over the same route, or a route very nearly the same, from Hudson upon the St. Croix river to Lake Superior. Hudson is about fifteen or twenty miles from St. Paul. The point of reaching the lake is the same. Fifteen or twenty miles apart at the south end with two grants running to the same point on Lake Superior at the north end

would make these grants substantially grants over the same route, commencing twenty miles apart and meeting at the same point, or very nearly at the same point, upon Lake Superior.

MR. CARLILE. When was that grant made? MR. DOOLITTLE. The act passed in 1856, I think.

MR. CARLILE. Have they commenced to build the road?

MR. DOOLITTLE. On that subject I will state the facts as I understand them. Nearly twenty miles of the road have been graded; contracts are in existence for the grading of the road, and for the iron to be put upon the road. I cannot personally state these facts; but I am informed and believe that contracts are in operation which will finish nearly forty miles of the road within a year from this time. The work was commenced on the road some years ago. When the war broke out work was suspended; but it was renewed last summer, and it is now going on at an expenditure, as I understand, of about two thousand dollars a week.

I cannot assume to make a statement upon my personal knowledge of all these facts; but there are facts bearing on this question which I think should be considered by the Committee on Public Lands; and therefore, without going into a full statement of the information which I received on the subject, I hope the Senate will allow this question to go to that committee in order that all the real facts may be ascertained and submitted to the Senate.

THE VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the special order.

MR. RAMSEY. I hope the Senate will permit this matter to be disposed of now, without recommitting it to the Committee on Public Lands. Surely there can be no occasion for that. All the objections we are going to encounter from these gentlemen in Wisconsin we shall have to meet in the Senate again if the bill be recommitted. We may as well meet them now.

The Senator is mistaken in saying that this is substantially the same grant as the one to which he alludes. Sir, this has always been a favorite enterprise with the people of the State of Minnesota. As early as 1854 the Congress of the United States made a grant of land to unite the head of the navigable waters of the Mississippi river with the head of navigation upon Lake Superior. Within the State of Minnesota the distance between the heads of these two great systems of navigation is but one hundred and forty miles. Some interference with the bill occurred in the House of Representatives, and the House at once repealed the bill. The company, however, that received the grant at the time thought they had legal rights under it, and they contested those rights for several years in the courts of the United States, but finally it was determined against them. That was the reason why this particular line of road was not embraced in the land grants to Minnesota in 1857. In 1856, when the grant was made to the State of Wisconsin, this grant was still pending before the courts, and had not been passed upon, had not been approved or rejected, but was still in one sense a grant pending. Therefore that was a proper objection to the grant to Wisconsin rather than an objection to our grant. We were ahead of them in point of time.

MR. PRESIDENT, this is a matter of vital importance to us in Minnesota. We have now a surplus of wheat for transportation to the East rising three million bushels annually. The roads that carry off this wheat for us through Wisconsin, down the Mississippi river and through Illinois have not sufficient transportation, and they have increased the transit between St. Paul and Milwaukee to Chicago from twelve and a half cents in 1862 to twenty-five cents in this year. This is an oppression that our agriculture cannot endure. We are the furthest inland State of the northwestern tier of States. Surely it is of importance to the Government to give us the readiest facilities of getting to market with that large surplus of wheat without compelling us to pass through Wisconsin and Illinois. One hundred and forty miles of this land transit brings us to Lake Superior.

MR. HOWE. Will the Senator state how far it is from St. Paul to Lake Superior over the Hudson route?

MR. RAMSEY. Yes, sir, presently.

We have, then, about fifteen hundred miles of water navigation after we strike the lake. As we all know, the difference in cost in favor of that transportation is very considerable; it is but two or three cents a bushel; whereas on these lines of railroad it is from twelve to thirteen cents per ton per mile. It is to avoid that system of taxation on the part of the railroads east of us that the people of Minnesota have struggled for this road to the lake. In earlier times it was not a matter of so much consequence, because until 1858 we produced no surplus of wheat. Since then it has increased at an enormous rate. We did not ship a bushel in 1858; we now ship rising three million bushels annually. The Senator from Wisconsin [Mr. Howe] asks me the distance from St. Paul to Superior. It is about one hundred and forty miles.

MR. HOWE. How far by way of Hudson?

MR. RAMSEY. As I have always understood—and it is well known in that country; we are perfectly familiar with all this thing there—the other road is just across the line in the State of Wisconsin. Senators will recollect that. This does not come in conflict with that. We ask for no lands in his State. This is entirely a Minnesota enterprise. We only ask for the lands within our State. The distance from the town of Hudson, which is a small village of four or five hundred inhabitants on the river St. Croix, about thirty miles up from the Mississippi river, to Bayfield, which portion of the road this company have most at heart, is one hundred and eighty miles. From Lake Superior to Hudson—which road it is understood in that country the Wisconsin company never did really contemplate building—would be about the same distance as from St. Paul; but then at St. Paul you are upon the Mississippi river at the head of the actual navigation of that river. That gives the road its importance. This, then, is a work of national importance. It unites these two great systems of navigation, the lake system and the river system. But here we are met in search of this, which is no more than our due, by the opposition of enterprises in the State of Wisconsin that have already had a sufficient indulgence. As I said, they got their grant in 1856, and they have not made a mile of road, and we never hear of an intention to make a mile of road until we attempt to get what is ours.

The distance, by way either of Milwaukee or Chicago, to the East, is greater by two hundred and forty miles than it is around by the head of the lake. Then again we have one hundred miles of lake shore which we have no other way of getting to than by this road.

MR. DOOLITTLE. I do not in the slightest degree object to a railroad route from St. Paul to Lake Superior. It is between the Senator and myself a question really whether the route from St. Paul to Superior is not the better route over the very line for which a grant has already been made. Persons who are interested in this railroad company and who put their money into it state these to be the facts—I desire the committee to investigate and see if they are not—that the actual line is the best practical railroad line from St. Paul to Lake Superior, that the distance is just about the same by either route, that it is a much less expensive line, and it is claimed that a preliminary survey over both routes has been made, and that the expense of going on this route is less than on the one now proposed.

MR. PRESIDENT, it is to get these questions to the committee, that the committee may fairly examine them, that I make the motion to recommit, not that I oppose in the slightest degree the main thing for which the Senators from Minnesota struggle, and that is that there shall be a railroad route from St. Paul to Superior; but I understand that from St. Paul to this road there is a land grant over a line some fifteen or twenty miles long; I do not remember the distance, but at all events connecting with this so as to make a connected land grant route from St. Paul to Superior as it now stands. It is to have these facts examined in the committee that I make the motion to recommit, that the maps, the estimates, the surveys, and all these matters may be examined by the committee rather than to have it all come up here in the Senate and have a controversy upon facts.

MR. RAMSEY. The Senator is very kind, but this matter was very fully gone into by the committee. They had the whole subject before them

a long time, and we met the opposition of this rival interest in the committee. The interests of this rival road in Wisconsin were presented and debated in the committee.

Mr. HOWE. If the Senator will allow me, I wish to know if a representative of that company, or that district, or of the State of Wisconsin, was before the committee?

Mr. RAMSEY. The chairman of the committee will mention. The matter was fully debated there, as I understood.

Mr. HARLAN. There have been no facts or principles stated yet in the Senate that were not considered in committee when this bill was under consideration by the committee. I think, therefore, there is no necessity for recommitting it to the committee.

If the Senators from Wisconsin know of other facts that we can hereafter obtain that have not been sent to the committee, it might be a reason for a reconsideration of the subject; but the committee have carefully examined the bill and considered all the principles which he has suggested and all the facts, and have made up deliberately their report and presented it to the Senate. I think there is no necessity for recommitting the bill to that committee.

Mr. RAMSEY. Mr. President—

Mr. HOWE. With the indulgence of the Senator from Minnesota, I wish to say that the question is whether any representative of the State of Wisconsin or any representative of the interests involved in this other road was heard before the committee, not what principles or facts were before the committee.

Mr. HARLAN. There was no hearing before the committee of either of the Senators from Wisconsin, or any other person; but all the facts to which they have alluded were considered on the suggestion of members of the committee, most of whom, as the Senator is aware, are western men, and conversant with the facts and with the legislation in the case.

Mr. RAMSEY. It is within the knowledge of the Senate, I presume, that the Legislature of Minnesota has recently memorialized for this grant; that the city of St. Paul, to show entire confidence in it, and to show that it is no bogus enterprise, but that we are really and sincerely in earnest about it, has voted \$250,000 to assist in the work. The State has also given whatever of swamp lands she has received, along the line of the road, to it. We feel that our interests there would be entirely sacrificed, our agricultural interests, which are our great interests, unless we have this other outlet for our produce. I trust the Senate will proceed to the consideration of the bill.

Mr. POWELL. I desire that the special order may now be called up.

The VICE PRESIDENT. The Senator from Kentucky calls for the special order.

Mr. WILKINSON. I move to postpone the special order, and proceed with the consideration of this bill.

The VICE PRESIDENT. The Senator from Kentucky is entitled to the floor, and therefore, unless he yields it, no other Senator can interpose a motion.

Mr. POWELL. I do not yield the floor.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 41) to continue the payment of bounties; and an enrolled bill (S. No. 140) to provide for the protection of overland emigration to the States and Territories of the Pacific; and they were thereupon signed by the Vice President.

MILITARY INTERFERENCE WITH ELECTIONS.

The VICE PRESIDENT. The special order is before the Senate. It is the bill (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States. The bill is before the Senate as in Committee of the Whole. It has been reported upon adversely by the Committee on Military Affairs and the Militia.

The bill was read by the Secretary. The first section provides that it shall not be lawful for any

military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men within one mile of the place where any general or special election is held in any State of the United States of America, and that it shall not be lawful for any officer of the Army or Navy of the United States to prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State or in any manner to interfere with the freedom of any election, or with the exercise of the free right of suffrage in any State. Any officer of the Army or Navy, or other person engaged in the civil, military, or naval service of the United States who violates this section is for every such offense to be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction to pay a fine of not less than \$200, and not exceeding \$20,000, and suffer imprisonment in the penitentiary not less than two nor more than twenty years, at the discretion of the court; and any person so convicted is moreover to be disqualified from holding any office of honor, profit, or trust, under the Government of the United States. The bill is not, however, to be so construed as to prevent any officer, soldier, sailor, or marine, from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified, according to the laws of the State in which he shall offer to vote.

By the second section any officer or person in the military or naval service of the United States, who shall order or advise, or who shall directly or indirectly, by force, threat, menace, intimidation or otherwise, prevent or attempt to prevent any qualified voter of any State from freely exercising the right of suffrage at any general or special election, or who shall in like manner compel, or attempt to compel, any officer of an election in any State to receive a vote from a person not legally qualified to vote, or who shall impose or attempt to impose any rules or regulations for conducting such election different from those prescribed by law, or interfere in any manner with any officer of the election in the discharge of his duties, is for any such offense to be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction to pay a fine of not exceeding \$20,000, and suffer imprisonment in the penitentiary, not exceeding five years, at the discretion of the court, and any person so convicted is moreover to be disqualified from holding any office of honor, profit, or trust under the Government of the United States.

Mr. POWELL addressed the Senate in support of the bill, but without concluding gave way for an adjournment.

On motion of Mr. HOWE, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 3, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING. The Journal of yesterday was read and approved.

CAPTAIN J. L. FISK.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting, in compliance with resolution of the House, the report of Captain J. L. Fisk, of his late expedition to the Rocky mountains and Idaho; which was laid upon the table, and ordered to be printed.

Mr. WINDOM moved that five thousand extra copies be printed.

The SPEAKER. That will be referred to the Committee on Printing, under the rules.

COURT OF CLAIMS.

The SPEAKER. The first question is the unfinished business of yesterday, being Court of Claims bill.

Mr. WILSON moved that it be recommitted to the Committee on the Judiciary.

Mr. BLAIR, of Missouri, moved that there be a call of the House.

The motion was agreed to; there being, on a division—ayes 46, nays 42; the Speaker having

decided that it did not require a quorum to order a call of the House.

The roll of the House was then called, when the following members failed to answer to their names:

Messrs. William J. Allen, Arnold, Baxter, Blaine, Chandler, Cox, Cravens, Creswell, Thomas T. Davis, Dawson, Dennison, Donnelly, Edgewood, English, Farnsworth, Frank, Gooch, Grider, Griswold, Hall, Harding, John, Benjamin G. Harris, Charles M. Harris, Hotchkiss, John H. Hubbard, Harburt, Philip Johnson, Knapp, Law, Le Blond, Littlejohn, Long, Macey, William H. Miller, Morrison, Leonard Myers, Noble, Norton, Odell, Orth, Patterson, Perry, Radford, Samuel J. Randall, Robinson, Rogers, Edward H. Rollins, Starr, William G. Steele, Upson, Elihu B. Washburne, Wheeler, Chilton A. White, Winfield, Benjamin Wood, Fremond Wood, and Yeman.

Mr. ELIOT. How many members have answered to their names?

The SPEAKER. One hundred and twenty-five.

Mr. STILES. I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

The SPEAKER. The question recurs upon the motion to recommit this bill to the Committee on the Judiciary.

Mr. THOMAS. Upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 69, nays 61; as follows:

YEAS—Messrs. Atley, Allison, Ames, Arnold, Ashley, Beaman, Bliss, Blow, Boutwell, Brandegee, Broomall, James S. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Dawes, Dawson, Denning, Dennison, Dixon, Briggs, Dumont, Eckley, Elliot, Farnsworth, Fenton, Garfield, Higby, Hooper, John H. Hubbard, Jencks, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Longyear, Lovejoy, Marvin, McBride, McClurg, McIntosh, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Pendleton, Perham, Pike, Pomeroy, Price, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Tracy, William B. Washburn, Williams, Wilder, Wilson, and Woodbridge—69.

NAYS—Messrs. James C. Allen, Ancona, Auderson, Baily, Augustus C. Baldwin, John D. Baldwin, Francis P. Blair, Jacob B. Blair, Boyd, William G. Brown, Chandler, Clay, Coffroth, Eden, Eldridge, Finck, Ganson, Grider, Hale, Hall, Harding, Harrington, Herrick, Holman, Hutchins, William Johnson, Kalbfleisch, Kernan, King, Law, Lazear, Mallory, McAllister, McDowell, McKinney, Middleton, James R. Morris, Nelson, John O'Neill, Pruyn, Samuel J. Randall, William H. Randall, Rogers, James S. Rollins, Ross, Scott, Smith, Stebbins, John B. Steele, Stevens, Stiles, Strouse, Stuart, Thomas, Voorhees, Wadsworth, Ward, Webster, Whaley, Joseph W. White, and Windom—61.

So the bill was recommitted.

During the call,

Mr. ROGERS stated that Mr. STEELE, of New Jersey, was absent on account of sickness; that if here he would have voted in the negative.

Mr. THOMAS. Before the result is announced, I would inquire of the Chair whether the previous question was not seconded upon the passage of the bill before the House adjourned yesterday?

The SPEAKER. It was not. That is the recollection of the Chair, and he is confirmed by the Journal.

The result was then announced as above recorded.

Mr. WILSON moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CLAIMS AGAINST THE GOVERNMENT.

The SPEAKER. The next bill in order is the following bill reported from the same committee on the same day with the one just disposed of:

A bill (H. R. No. 63) supplemental to the laws relating to the War Department, and authorizing the settlement and payment of certain claims against the United States.

The bill, which was read, provides that all claims for quartermaster's stores actually furnished to the Army of the United States, may be submitted to the Quartermaster General of the United States, accompanied with such proofs as each claimant can present of the facts in his case; and it shall be the duty of the Quartermaster General to cause such claim to be examined, and if convinced that it is just, and that the stores have been actually received or taken for the use of said Army, then to report each case to the Third Auditor of the Treasury, with a recommendation for settlement. It further provides that all claims for subsistence actually furnished to the Army may be submitted to the Commissary General of Subsistence,

accompanied with such proof as each claimant may have to offer; and it shall be the duty of the Commissary General of Subsistence to cause each claim to be examined, and if convinced that it is just, and that the subsistence has been received or taken actually for the use of the Army, then to report each case for payment to the Third Auditor of the Treasury with a recommendation for settlement. And the action of the Quartermaster General and of the Commissary General of Subsistence, as the case may be, and of the accounting officers of the Treasury, shall be final and conclusive upon such claims, which may be paid either by special requisition and warrant, or by a disbursing officer of the quartermaster and subsistence departments, as the case may be, or as may in each case be most proper or convenient; and the officers paying shall be relieved from all liability for, or on account of, the property so paid for.

Mr. THOMAS. As I cannot foresee what course will be taken by the Committee on the Judiciary on the bill which has just been recommitted to it, I was about to propose to postpone the bill now under consideration to a future day, that we may await the report of the Committee on the Judiciary.

Mr. WILSON. I have an amendment to offer before that is done.

Mr. THOMAS. Before any action of the House is invited upon this bill, I desire to move a verbal amendment to correct a mistake made not only by myself, but by the entire Judiciary Committee. While the bill was before the committee we were not aware of the fact that the provisions of this bill are not confined to loyal citizens. I move to amend both sections of the bill by inserting the words "of loyal citizens" after the word "claims."

The amendment was agreed to.

Mr. WILSON moved to amend the bill by adding to the end thereof the following proviso:

Provided, That no claim shall be examined, audited, or allowed under the provisions of this act until the claimant shall have taken, subscribed, and filed with such claim the oath prescribed by an act to prescribe an oath of office, approved July 2, 1862, except so much of said oath as relates to the discharge of duties of office; and every person who shall falsely take said oath under the provisions of this act shall be liable to the penalties prescribed by the act of July 2, 1862.

Mr. THOMAS. The gentleman, as I understand, proposes in the Committee on the Judiciary to separate the bill which was a few minutes since recommitted to that committee, and to report a bill from the committee providing for the repeal of the law which gives jurisdiction to our Court of Claims in cases of this character, and to add to it sections equivalent to the bill we have now under consideration. I would therefore very much prefer for myself, individually—it is for other gentlemen to decide for their constituents—that we should not act separately upon the bill now before the House, but that we should either recommit it, as we did the other bill, to the Committee on the Judiciary, or postpone its consideration until the Committee on the Judiciary shall have acted on the subject already recommitted to it. I have stated before, and I now reiterate, that I cannot, under any circumstances, with a just regard for the rights of those I represent here, vote to deprive the Court of Claims of its jurisdiction under the existing law in all these cases, unless at the same time and in the same law the House proposes to substitute for that tribunal some other to hear and determine these matters; because, Mr. Speaker, we have a coordinate branch of the Legislature, and it might happen that the Senate would pass one bill and reject the other; and in that case we of this House, who have now a tribunal before which our constituents may present their claims and have a fair chance of trial, would be in a very awkward dilemma indeed. We should have consented to take away from the Court of Claims all power over this subject, without substituting any other tribunal whatever.

I state to the House that from the western boundary of the District of Columbia to the base of the Alleghany mountains, and all along the northern boundary of Maryland, from one end to the other, the armies of the United States, not the enemy—we are not proposing to pay for the depredations of the enemy, but the armies of the United States, the officers of the Army of the United States—have swept bare all that region

of country of all its crops on hand and almost all its live stock, and to that extent they have saved the Secretary of the Treasury the necessity of issuing a currency to pay for these supplies that must have been had elsewhere. The Representatives of those people will agree to no proceeding of this body that leaves us at the mercy of the Senate. I do not know how the Senate would act. I hope they would act mercifully. But it is our duty, as the immediate representatives of the people, not to leave it optional with the Senate to adopt the one bill and reject the other. The subjects are kindred. They belong to one and the same bill. It is only necessary to alter the caption or title of the bill originally reported, proposing to take away jurisdiction from the Court of Claims, and add one or two words to it, and then my bill belongs to it. If the chairman of the Judiciary Committee will signify now before the House that in the Judiciary Committee he proposes to connect the two bills, I shall be satisfied.

Mr. SPALDING. Will the gentleman give way to me to enable me to move to recommit the bill to the Committee on the Judiciary?

Mr. THOMAS. Not at this moment. If, I repeat, the chairman of the Committee on the Judiciary will signify a willingness on his part to couple these two measures in the Committee on the Judiciary, and report them as kindred measures to be voted on at the same time, I shall myself very cheerfully agree to send this bill where the other bill has been sent.

The SPEAKER. Before the debate progresses, the Chair will call the attention of gentlemen to the rule which prescribes that a motion to postpone admits of a very limited debate.

Mr. WILSON. I merely desire to say in reply to the question of the gentleman from Maryland, [Mr. THOMAS,] that I do not think it proper to state in the House what my action may hereafter be in the Committee on the Judiciary. I therefore, sir, and for that reason, decline to answer the gentleman's question. But I would ask the gentleman what objection he can have to having this bill acted on now?

Mr. THOMAS. I have explained that, or at least I supposed that I had superseded any necessity for such an inquiry as that. I tried to make myself understood upon that point. I explained that we are not willing to send to the Senate a bill taking away from the Court of Claims jurisdiction in these cases without substituting some other tribunal, thus leaving ourselves at the mercy of the Senate, taking away the only remedy that our people now have, without at the same time coupling it with a proposition to give them some other tribunal for the trial of their claims.

Mr. WILSON. My suggestion is that this bill shall be acted on now. I have no doubt that it can be passed, and then the gentleman's constituents will have a remedy in addition to the one they now have.

Mr. THOMAS. A man must be a very young parliamentarian indeed not to see the error of that proposition. Would we not send this bill to the Senate? Let the gentleman then delay action in this House on the other bill proposing to take away jurisdiction from the Court of Claims until the Senate has sanctioned the other measure.

Mr. WILSON. The gentleman from Maryland introduced this bill as a separate measure. He did not couple it with the bill reported from the Committee on the Judiciary.

Mr. THOMAS. I have been long enough in this House, Mr. Speaker, to ascertain, by a sort of absorption or electricity, what is going on in the mind of the gentleman in regard to this matter; and I soon found out that I would not put my foot into a trap of that character; and I warn gentlemen around me not to fall into it either. I soon discovered that if we first send one and then send another of these bills to the Senate, the Senate might think proper to reject one and to pass the other. I want to have these measures connected. I think their subjects are kindred. The question is, will you give a judicial trial to these claimants, or will you repudiate your debts? If you intend to give them a judicial trial, and if the Court of Claims be not the proper tribunal, substitute another. If the House be of opinion that in fairness there ought to be another substituted, let these measures be kept together, and let them be sent in that form to the Senate. It will then

be for the Senate to decide whether it will pass the bill in its entirety or reject it in its entirety. In the latter event the claimants will be left with the wretched chance they have in the Court of Claims.

I do not like to occupy so much of the time of the House. I thought yesterday that I had made myself thoroughly understood on this subject.

I now withdraw my proposition to postpone, and move to recommit this whole matter to the Committee on the Judiciary. Then we will be able to see what is the final disposition not only of the committee, but of the House also.

Mr. KING. I have an amendment which I desire to offer, that it may be sent with the bill to the Committee on the Judiciary.

The SPEAKER. The motion to recommit will prevent the offering of the amendment.

Mr. BOUTWELL. Mr. Speaker, I object to the recommitment of this bill. I think that if the whole matter were distinctly understood by the House, the House would concur in the opinion that the bill now before it ought to be passed now. It should be borne in mind that the bill which has just been recommitted is a combination of three bills, two of which were reported to the House from the Judiciary Committee, and one reported from the Committee of Claims. The bill now under consideration is the second of the bills reported by the Committee on the Judiciary. That committee agreed unanimously that this bill ought to pass. With the amendment suggested or moved by the chairman, the committee is ready to sustain this bill, as far as I know, in the belief that it is due to claimants against the Government that they shall have some ready, efficient, and cheap means of securing payment of their claims.

The third part of this bill, which has been recommitment to the Committee on the Judiciary, was originally reported by the Committee of Claims. It is No. 212 in the orders of the House, and is a measure originating in an investigation of which the Judiciary Committee is entirely ignorant. The Committee of Claims has reported that bill, and is undoubtedly ready to explain and defend it. But the Committee on the Judiciary neither is to-day ready to explain and defend it, nor will it be when the bill shall have been returned to this House. It would seem that, in the ordinary course of business, we should have acted on the short bill limiting the jurisdiction of the Court of Claims, and then have acted on the bill now before the House. But the gentleman from Maryland, acting, I have no doubt, under the guidance of his sense of what is proper and right, but with a degree of disingenuousness which I cannot commend here or elsewhere, did attempt in the House, and succeeded in, the combination of two bills which were distinct in themselves, which had not been considered together by the Committee on the Judiciary, which relate to different matters, and which, in my judgment, should have been kept separate. They have gone back to the Judiciary Committee coupled with the bill reported by the Committee of Claims. Now, unless the Committee on the Judiciary be expected to investigate this matter, already investigated by the Committee of Claims, it cannot be expected to report in favor of the passage of that part of the amendment offered by the gentleman from Maryland, bill No. 212.

It would seem to me, in order to relieve this House and the Committee on the Judiciary from all disagreeable entanglement, that we should act now on this bill, which provides ways and means by which a certain class of creditors can secure the adjudication and payment of their claims. The gentleman from Maryland originated that measure. The Committee on the Judiciary agreed with him that it ought to be reported and passed. We are ready to do what we can in this House to secure the passage of it; and there is no reason why a measure proposing to take from the Court of Claims certain jurisdiction should be connected with a measure to audit and pay just claims against the Government. And I take it that the other legislative branch of the Government has a right to judge of these measures separately.

Mr. Speaker, if the measure now before the House has not merit enough in itself to command the approbation of this House and the Senate, then the presumption is that it ought not to pass; and to couple it with a measure which, in the judg-

ment of anybody, has more merit, is an apparent indirection. The Committee on the Judiciary, not supposing that there was any intention to connect these two bills, expected to maintain each on its own merits. They attempted to do so. Now there is an opportunity to do that which ought to be done. It is meritorious, as I think. No. 212, which did not originate in the Committee on the Judiciary, the result of an investigation of which that committee was entirely ignorant, and coming from the Committee of Claims, it would seem that that committee, having knowledge of the facts, should have the management of their own bill; and I am opposed to the recommendation, and hope that this House will pass on this measure.

Mr. STEVENS. I must beg leave to differ entirely from the views of the gentleman from Massachusetts, [Mr. BOUTWELL.] The House has already acted on the bill from the Committee on the Judiciary, which was to take away jurisdiction from the Court of Claims, by committing to that committee two sections for the adjustment of these claims, and allowing the jurisdiction of the Court of Claims to be abolished on condition of creating other tribunals to adjust the claims of citizens who have suffered by this war. Now, while I have great doubts as to the propriety of depriving the Court of Claims—for I know of no reason why they are not to be trusted as well as any other tribunal, taking away from the House the vast labor that court was created to remove from this House—while I know of no such necessity, yet I am willing, if it is thought proper, to remove and transfer that jurisdiction somewhere else; but I am not willing to take it away unless it is coupled with an act creating another tribunal to try all questions which are legitimately triable before any of the tribunals of the country. I am not willing to try one by itself; to pass one, and then to trust to luck to have something substituted in its stead. And I cannot understand the zeal with which gentlemen, who say they are willing to pass this, are opposed to connecting them together, so that one may be dependent upon the other. I do not suspect a trick, but I may suspect an accident, and that when one is passed there will be no such thing as passing the other. Therefore until I know what the Committee on the Judiciary are to report back to me I am not willing to pass this one.

I hold it to be the duty of the Committee on the Judiciary to put into shape the instructions of the House in those two bills; not to cut them off, not to alter them, but to put them into a better shape. The House, as clearly as can be, by a considerable majority, amended the bill by two amendments; and I hold it to be unworthy of the action of the committee afterwards to ignore that action of the House and cut off these amendments.

I understand the gentleman from Maryland moves to commit.

Mr. THOMAS. I do.

Mr. STEVENS. I hope it will be done, and that we shall not spend another day upon this question. I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the bill and amendments were recommitted to the Committee on the Judiciary.

Mr. KING. I have a proposition similar to that of the gentleman from Maryland, [Mr. THOMAS,] and I ask that it may also be referred to the committee with the bill. I want to get the proposition before the committee.

No objection being made, the paper was referred as requested.

Mr. HOLMAN. I ask that an amendment I intend to offer to this bill may also be referred to the committee.

The amendment was so referred.

REPORT OF GENERAL GRANT.

Mr. WILSON, by unanimous consent, introduced the following resolution; which, under the rules, was referred to the Committee on Printing:

Resolved, That there be printed for the use of the members of this House ten thousand copies of the report of General U. S. Grant, in addition to the number heretofore printed.

INTERNAL REVENUE STATEMENT.

Mr. A. W. CLARK, from the Committee on Printing, reported back the following resolution:

Resolved, That two thousand copies of the tabular state-

ment of moneys received from internal duties, as required by the thirty-third section of the one hundred and nineteenth chapter of the Statutes of 1862, be printed for the use of the Treasury Department.

Mr. A. W. CLARK. I submit a letter to be read at the Clerk's desk.

The Clerk read, as follows:

OFFICE SUPERINTENDENT PUBLIC PRINTING,
WASHINGTON, March 2, 1864.

DEAR SIR: The House ordered six thousand copies of the report of Commissioner of Internal Revenue for the use of the House, and one thousand for the use of Internal Revenue office. The type has been distributed, and, being nearly all rule and figure, it will cost a good deal of money to reset it; and besides, such is the pressure of other work, it cannot be done for some months.

Why not give the Department another thousand from the number ordered for the House?

Yours, respectfully, JOHN D. DEFREES,
Superintendent Public Printing.

Hon. A. W. CLARK, Chairman Committee on Printing,
Washington, District of Columbia.

Mr. A. W. CLARK. I now move that there be furnished to the Internal Revenue Bureau two thousand copies of that document out of the six thousand ordered to be printed for the use of the House.

The motion was agreed to.

Mr. A. W. CLARK moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

AGRICULTURAL REPORT.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution:

Resolved, That there be printed sixty thousand additional agricultural reports for 1863—fifty thousand for the use of the House of Representatives, and ten thousand for the use of the Agricultural Department.

Mr. A. W. CLARK. The committee were induced to offer this resolution in consequence of there being one hundred thousand less copies printed last year than are ordinarily printed of that document. They did that last year knowing that the work was to be stereotyped, and with the hope that paper would be cheaper this year than when they took that action last year. Now the Committee on Printing have seen fit in consequence of the great demand for that document to introduce a resolution to print fifty thousand more for the use of the House, and ten thousand for the use of the Department. I trust the resolution will be adopted.

Mr. MORRILL. I desire to call the attention of the House for a single moment to this question of printing. I know how difficult it is to resist an appropriation of this kind. The work that is to be printed is one that is called for by our constituents more, perhaps, than any other. I fully concede its merits; and its merits this year I believe are as great as they ever have been, perhaps more. But last year we had the pressure of taxation, and the immense calls of the Treasury upon us, so that in a sane moment we went for a motion of economy. Now we are called upon to reverse our whole position upon this subject, and to pass a resolution which will call upon us for an expenditure equal to what it would have been had we ordered the printing of the whole number last year.

Mr. A. W. CLARK. The gentleman will allow me to correct him. He has stated that the number now proposed to be printed will cost as much as one hundred thousand copies would have cost last year.

Mr. MORRILL. That is my judgment, because paper is higher now than it was last year.

Mr. A. W. CLARK. The paper costs the same.

Mr. MORRILL. So far as the sixty thousand additional copies now proposed by the Committee on Printing are concerned, we are asked to back out of the position we took last year. Now I am free to say if twenty thousand copies were printed for my use in my own district, the number would not supply and satisfy the desire of my people. We cannot print so many but what we should find a large number of our constituents dissatisfied because they have not got a copy of the document. All feel an equal interest in the work; nearly all are equally worthy, and all feel equally entitled to it. But it is manifestly impossible that the Government should supply this work to this extent, and equally so for any member to make the distribution.

I call the attention of the House to the fact that

we have the largest printing establishment in the whole country and perhaps in the world, and yet we are by our lavish and extravagant use of it on the very verge of breaking it down. Why, sir, we ordered the other day ten thousand extra copies of the diplomatic correspondence of the Secretary of State—a document of unusual interest—which I understand cannot be printed for months, and may have to be sent to New York to be printed, if printed at all.

Under these circumstances the Public Printer is about to call upon us to enlarge our printing establishment, to increase the buildings, to buy more machinery; and I say to the House that it is due to ourselves and to the country that we should exercise some economy, some self-denial, on this subject of printing.

I know that we are able, under the present system of doing the work ourselves, to print a much larger amount of work than we could do under the old contract system. But what are the facts under the present system? Why, sir, last year we appropriated \$540,000, in round numbers, for the public printing office, and at the present session a bill has been reported for a deficiency of over six hundred and fifty thousand dollars; and that does not comprise all the deficiency, for since that bill was reported further deficiencies have been found and are asked for.

To be sure, we stopped the other day one small job for the printing of a dictionary of Congress; and I desire the members of the House to understand this fact, that by a law of Congress already on the statute-book, any books printed for their own use the cost must be deducted from their pay. There are other jobs coming up here in relation to the printing of books, and I regard this as the best point at which to oppose any further extravagant expenditures for printing, because I consider this the most meritorious of the whole list of documents published by Congress. If we can curtail this, we can of course stop the less worthy.

I trust that the House will not vote for any further increase of the labors of the public printing office, and will vote down this proposition. If there were reasons for economy last year, those reasons remain in full force this year. We had better save \$50,000 than add that much to our tax bills.

Mr. A. W. CLARK resumed the floor.

Mr. STEELE, of New York. Will my colleague yield to me for one moment?

Mr. A. W. CLARK. I must decline to yield just now, as I wish to correct a statement made by the gentleman from Vermont.

Mr. LOVEJOY. I would ask the gentleman to state the facts—I could not hear them when he stated them before—as to the number printed this year, and the number printed last year, and also as to the number furnished to the Department last year, and the number proposed to be furnished this year.

Mr. A. W. CLARK. In answer to the inquiries of the gentleman from Illinois, I will state that last year the committee reported in favor of printing only one hundred thousand copies of the agricultural report, whereas the House usually printed two hundred thousand copies. That was done by the committee not so much with a view of economizing on the whole amount, but at that time we knew that the work would be stereotyped, and we thought that at a later period it might be printed much more cheaply, because paper was then very high. The committee find, however, that paper remains now at much the same rate, and therefore they have seen fit to authorize me to report in favor of printing one half of the number of copies usually ordered of this document, and which were not provided for last session.

Mr. MORRILL. It will cost about thirty-five thousand dollars.

Mr. A. W. CLARK. About seventy cents a copy.

Mr. MORRILL. That will be about thirty-five thousand dollars.

Mr. A. W. CLARK. In answer to the remarks made by the gentleman from Vermont, I will state that the printing for the legislative department of the Government has been considerably curtailed; and the immense amount of the public printing is due to the fact that the printing for the Executive Departments has been largely increased owing to the war.

Mr. LOVEJOY. Will the gentleman please state how many copies of the report the Department usually has, and how many they are to have now?

Mr. A. W. CLARK. They have ordinarily had twenty-five thousand copies. They now ask for ten thousand. I will yield now for a brief period to the gentleman from New York, [Mr. STEELE.]

Mr. STEELE, of New York. Mr. Speaker, I would like to suggest to the gentleman from Vermont, [Mr. MORRILL,] who is so anxious to economize upon this matter of the public printing, the best way to do it is to strike at the root of this monstrous evil that has grown up here, which is the franking privilege. If the gentleman will introduce a bill to abolish the franking privilege he will propose economy to some purpose, and he will find at least one member upon this side of the House to go with him.

If there is anything which the people want of this enormous amount of trash which is printed here in Washington it is this agricultural report. And if the excuse for this enormous expenditure, based upon the franking privilege, is to be justified upon the idea of distributing things to the people, then I say this agricultural report, which is almost the only thing that the people do read and do ask for, is about the last place where the gentleman from Vermont should begin his very nice ideas of small economy. Therefore, sir, I hope that this report of the Committee on Printing will be adopted, and that these sixty thousand copies will be printed. That will supply to some extent the demand for this really valuable public document.

Mr. GRINNELL. Mr. Speaker, I was pleased with the remarks of the gentleman from Vermont in regard to the retrenchment of our printing bills; but I was surprised that he, as a farmer—one of the few farmers on this floor—should not be ardently in favor of furnishing the farmers of this country with that information which they desire—that contained in this agricultural report.

It is my opinion, sir, that we should rather curtail the distribution of those military reports that only tell us how battles were lost, and not how battles are won or are to be. I think it would be much more becoming of us to cut down the publication of the reports of these military candidates, these presidential candidates, and furnish the people, instead of them, with information concerning the products of mother earth, the source of all our material prosperity.

Mr. MALLORY. The gentleman from Iowa speaks of presidential candidates and military candidates. I wish to know what he means by "military candidates" in contradistinction to "presidential candidates?"

Mr. GRINNELL. I mean the military candidates for the Presidency.

Mr. MALLORY. Does the gentleman mean General Grant? His report was proposed this morning to be printed.

Mr. GRINNELL. General Grant is the candidate for military position only, indorsed by the people who are for putting down the rebellion. The candidate of the gentleman from Kentucky [Mr. MALLORY] is a man who has been dead a number of months.

Mr. MALLORY. Who is that?

Mr. GRINNELL. Why, General McClellan. [Laughter.]

Mr. MALLORY. McClellan is a live man, sir, a live man. [Laughter.]

Mr. GRINNELL. The proposition here, sir, is to expend—how much? One mill to each of the people of the loyal States, for the purpose of disseminating information upon national agriculture; about one fiftieth part of the cost of the gentleman's cigar which he smoked this morning, or of his glass of grog; untaxed grog at that. [Laughter.]

If there has been anything brought before Congress that commends itself to the judgment of those who represent farmers on this floor, it is this. We have never had so full and able an agricultural report as the one just issued. That is the unanimous verdict upon it. Let it be disseminated among the people. One tenth of the farming population of my district have gone to the war. Let us show those who have remained behind how they can best till the soil, how they can promote prosperity in the midst of our troubles.

I hope the resolution will be adopted. It is due to the farmers of the country, and myself, identified with them, a Representative of a farming constituency. I ask that this number of the report be printed. If the gentleman from Vermont desires to enforce economy, I repeat let him commence on the reports of these military gentlemen, not on the agricultural report.

Mr. STROUSE. Mr. Speaker, I propose to amend the resolution by striking out "sixty thousand copies," and inserting "one hundred thousand copies."

The SPEAKER. That motion is not in order, the floor being in possession of the gentleman from New York, [Mr. A. W. CLARK,] who yields to the gentleman from Pennsylvania.

Mr. STROUSE. Then I will speak briefly to the resolution. But if the gentleman from New York will consent to permit me to offer this amendment, I will feel obliged to him.

Mr. A. W. CLARK. Not at present.

Mr. STROUSE. I beg leave to say that I feel some surprise that there should be any opposition from any source in this House to the proposition made for the publication of sixty thousand copies of the agricultural report. If this opposition to the printing of this necessary and useful book springs from any principle of economy, it is the more surprising, and is very much, indeed, like sowing at the spigot and letting run at the bung. We have voted willingly millions on millions for all sorts of matters and things, appropriations for every Department and sub-department and subdivision of the Government.

Sir, we are asked to vote nearly \$100,000,000 to cover deficiencies, and I suppose that it will be done, because these debts must be paid.

Mr. Speaker, I agree with my friend from New York, [Mr. STEELE,] that of all the books, pamphlets, and—I may use his term—"trash" printed at Washington city for circulation, there is nothing, I do not care what other document it may be in usefulness and positive value, equal to this report of the Agricultural Department; and I may say in passing that we have never had one equal to the present book, one as well prepared, by the efficient superintendent of the Agricultural Department, Hon. Isaac Newton.

Let me remind gentlemen when they talk of taxes that the majority of the people who pay them and support this Government, that the men from whom revenue is derived, are the men for whose use and benefit these books are sought to be printed and circulated. It is the agricultural population of the country, the bone and sinew of the land, the foundation and essence of our national strength, desire and insist on having this report. We as their servants cannot resist so just a demand.

We must bear in mind that agriculture is the cause of the prosperity of both commerce and manufactures. Agriculture is the root and the trunk of the tree, while manufacture and commerce are the twigs and leaves. What is commerce without agriculture? What is manufacture without agriculture? What country can be prosperous without agriculture? We are an agricultural, manufacturing, and commercial people. The larger part of our people are agriculturists and producers, tillers of the soil, and upon this great interest every other class depends.

Notwithstanding these facts, sir, we hear gentlemen talk of the vast expense of this publication. Why deny these few thousand dollars to satisfy the rightful demands of the husbandmen, the men who really do earn their daily bread by the sweat of their brow? We want to circulate the reports from the St. Lawrence to the Rio del Norte; every man who puts seed into the ground, every man who makes two blades of grass grow where only one grew before, to have everything in the way of information that they may need. Suppose it does cost a few thousand dollars. We are daily making experiments with steamboats, and a single trial trip costs as much as all of these books. Nothing is said of that expense; but when we ask these books shall be published, we are told that we must economize. It is real economy to foster the agricultural interest, and this publication is for the most useful, the most modest, and the most worthy class of our community. These men are our constituents, upon whom we depend and upon whom the country depends. If it were not for agriculture we would crumble to pieces

like the States of ancient times, which foolishly attempted to found empires upon consumption without production.

Mr. BOUTWELL. I am reminded that in the remarks I made this morning I used the word "disingenuousness." I did not mean to assail the motives of the gentleman from Maryland, [Mr. THOMAS,] I only meant to say that I thought the gentleman ought to have informed the Committee on the Judiciary of his intention to connect the two bills.

Mr. A. W. CLARK. I renew the demand for the previous question.

Mr. WINDOM. I ask the gentleman to yield to me, so that I may move to strike out "sixty thousand," and to insert "one hundred thousand."

Mr. A. W. CLARK. I cannot yield for that purpose.

The previous question was seconded, and the main question ordered.

Mr. MORRILL demanded the yeas and nays. Mr. FARNSWORTH demanded tellers.

Tellers were not ordered.

The yeas and nays were not ordered.

The resolution was adopted.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SALE OF SURPLUS GOLD.

The SPEAKER stated that the next business in order was the gold bill, with various amendments.

FREEDMEN'S AFFAIRS.

Mr. J. C. ALLEN. I rise to correct a statement in the report of the proceedings of the House day before yesterday. I did not vote upon the bill establishing a department for taking care of the freedmen of this country, for the reason that I was paired off with my colleague, Mr. WASHBURN. It was stated in the report of the proceedings that I was paired off with Mr. ROBINSON.

SALE OF SURPLUS GOLD—AGAIN.

The House proceeded, in order, to the consideration of the joint resolution (H. R. No. 37) authorizing the Secretary of the Treasury to sell any surplus of gold in the Treasury.

Mr. STEBBINS. I desire to offer a substitute for the resolution reported from the Committee of Ways and Means.

The SPEAKER. The Chair would state that the power to offer amendments has already been exercised to the farthest capacity. There is now pending an amendment to the resolution, and an amendment to that; also a substitute for the resolution and an amendment to the substitute. That is the full extent to which amendments can be offered now.

Mr. STEBBINS. Mr. Speaker, when the proposition was introduced into this House to authorize the Secretary of the Treasury to sell the surplus gold which had accumulated and which was accumulating in the Treasury of the United States beyond the amount demanded by the wants of the Treasury and the requirements of the law, I took the occasion to declare that I could not regard the question from any other point of view than its bearing upon the great interests of the Government and of the people. I felt constrained to forget my hostility to a paper-money system, and was only willing to remember the circumstances supposed to have compelled its introduction during the period of the war. Great wars having always been carried on under such a system, judgment and experience seemed to concur that this country could not hope to be an exception to the rule. I do not, therefore, now propose to discuss the system itself, nor attempt to point out its imperfections. I desire to see nothing but the great facts that we are in the midst of a civil war; that men and money are necessary for its prosecution; that the national life must be preserved, the honor of our arms sustained, and the integrity of the laws of the United States vindicated. A financial system, the offspring of this great necessity, has grown up. It has been in operation for the past three years. It is interwoven in every part of our industrial system. We cannot abolish it if we would; we ought not to do so if we could. We must wait for peace to pre-

vail before we undertake to pull down the structure and build up another. To undermine and destroy it now is to bury the nation under its ruins.

The introduction of this perfectly legitimate and necessary bill gave rise to a very remarkable debate. The bill was opposed because it conferred fresh and enlarged powers on the Secretary of the Treasury. The injurious effects of the rapid accumulation of gold in the Treasury, as shown in its advance and price, and the consequent advance in the prices of all the necessities of life, were not denied; but these evils were not considered so important as the consequences which might flow from increasing the Secretary's powers. The Government was actually the unwilling instrument of the speculators on the sea-board, and was in the position of the capitalist who is lending money upon gold to advance its value; was hoarding gold beyond its requirements, making it daily more and more scarce in the market, was itself depreciating the currency and feeding speculation; and yet this House was disposed to consider the passage of a bill directing the sale of the surplus as on hand as the greater evil of the two. I did not so regard the subject. I felt that the national credit was endangered by this action on the gold market, and I was in favor of instructing the Secretary to sell, at his discretion, all the surplus he had, or was likely to have, over and above the requirements of his Department. I desired him to be so instructed for the purpose of regulating his powers in the direction of his country's necessities. To me his powers lay in the fact that he could hold the gold or keep it out of the market. To direct the sale of any surplus beyond the wants of the Treasury was to limit and restrict his powers.

I desired to protect the people against further expansion, to restrain the madness of speculation that was holding the nation by the throat, and to which the Government at the moment was an unwilling party; and, sir, I have not changed my opinion. Reflection has confirmed my previous judgment. But I pass from the further consideration of this part of the subject.

Each day has added to the testimony that if the importations do not suddenly diminish the price of gold will advance to much higher points; speculation receive a new impulse; prices of the necessities of life rise in a corresponding degree; and the responsibility of the whole matter rest upon Congress for declining to disembarass or relieve the Government from a position that no one in his senses ever supposed it would occupy.

The question, to my mind, is one of great national importance, second to none now influencing our action. It ought not to be regarded from a political standpoint. It shall not be, as far as I am concerned; but purely and entirely with reference to its practical bearing upon the interests of the people of the United States.

Sir, in the discussion that followed the introduction of this bill statements were made, and deductions drawn from those statements, which have passed into wide circulation. I think them calculated to swell the current of improvident speculation, weaken still more the public confidence, depreciate still more the public credit, advance still higher the price of the precious metals, increase to a still greater degree the necessities of the Government, and, just in the same proportion, add to the burdens of a people already staggering and reeling beneath the weight of great anxieties and expenses. Dark predictions were uttered of speedy national bankruptcy, and solemn warnings of national repudiation. These declarations were supported by references to the figures of our public debt. The currency was declared to be \$1,000,000,000! In my judgment, such predictions and statements cannot be made in this House or anywhere else without damage to the public credit and to private interests. Nor can they be without their effect upon the thousands of soldiers in the field, far away from their homes, in an enemy's country. They look to Congress to build up the national credit, to strengthen it if it is really endangered, to fortify it where it needs a breastwork, that they may feel secure of ample supplies of men and money until the war is successfully and honorably terminated. Sir, with all my objections to the financial system of the country, I feel it to be my duty to support that system until the war is over. I think it the

duty of every man in this House to labor with industrious zeal to inspire the public with confidence, and so enable the Government to negotiate its loans and meet with promptitude all its obligations.

But, Mr. Speaker, my main object to-day is to dissent from the statements made in that debate. as to the facts in respect to the amount and condition of the public debt; to protest against the deductions drawn from them, even if they are as represented; but more particularly to show that there is nothing up to this date in the condition of the debt or the currency which justifies a depreciation of from thirty-three and a third to forty per cent. in the latter as against gold and silver; or warrants the improvident and wicked speculations in merchandise and commodities now prevailing in the Atlantic cities to so fearful an extent. To effect this purpose I propose, in the first place, to call the attention of this House to the late report of the Secretary of the Treasury. On page 17 of the report to this Congress we find the following:

"The limit prescribed by law to the issue of United States notes has been reached, and the Secretary thinks it clearly inexpedient to increase the amount. When circulation exceeds the legitimate requirements for real payments and exchanges, no addition to its volume will increase its value. On the contrary, such addition tends inevitably to depreciation; and depreciation, if addition be continued, will find its only practical limit in the utter worthlessness of the augmented mass.

"When Congress authorized the creation of debt, to a certain extent, in the form of United States notes, and impressed on these notes the qualities of a circulating medium, its action was justified by the disappearance of coin in consequence of the suspension of specie payments; by the necessity of providing a medium in which taxes could be collected, loans received, and payments made; and by the obvious expediency of providing that medium in the form of national issues instead of resorting to the paper of banks. Under the circumstances its action was wise and necessary; but it was equally wise and necessary to limit the extent of the issues by the necessity which demanded them. They were wanted to fill the vacuum caused by the disappearance of coin and to supply the additional demands created by the increased number and variety of money payments. Congress believed that \$400,000,000 would suffice for these purposes, and therefore limited issues to that sum.

"The Secretary proposes no change of this limitation, and places no reliance, therefore, on any increase of resources from increase of circulation. Additional loans in this mode would, indeed, almost certainly prove illusory; for diminished value could hardly fail to neutralize increased amount.

"Sufficient circulation having been already provided, the Government must now borrow like any other employer of capital temporarily requiring more than income will supply, and rely for the credit which will secure advantageous loans upon good faith, industrial activity, accumulated though not immediately available capital, and satisfactory provision for punctual payment of accruing interest and ultimate reimbursement of principal."

I regard these declarations of the Secretary as conclusive as to his opinions and designs. His opinions are that sufficient circulation has been provided; that it cannot be increased except at the hazard of swift destruction to the whole system; that no change in the limitation or increase of the circulating medium, which is \$400,000,000, ought to be considered for a moment. Here is an official declaration that \$400,000,000 of currency have been supplied and are the outside limit that the Secretary will consent to issue, although the law allows \$450,000,000. Ought not the country to be satisfied with this, the assurance of the Secretary of the Treasury under his official signature? Where are we to get the facts if not from this high officer, acting under the responsibilities of his official oath? These plans of the Secretary commend themselves to my judgment as the correct steps toward a healthy and sound state of things. They are all that any Democrat, considering the condition of the country and the existence of a fearful civil war, should expect or demand. The Secretary has a right to the support of this House in his efforts thus to gravitate toward a more solid system of finance. So long as he seeks to carry out these principles I shall support them to the best of my ability, because by this course I support the best interests of commerce and all other classes and conditions of men. I support the means whereby the Government hopes to check expansion, undue prices, restrict speculation, restore confidence, and diminish the public expenses. Sir, holding these views, nothing could justify me certainly in withholding my aid from the accomplishment of this great effort to reduce the issue of paper money and to check the inflation now rushing like a whirlwind over the country, and this, unhappily, because of the too

general ignorance of our real resources, and of the exact character of the public debt.

On page 8 of the Secretary's report we find the estimated condition of the public finances up to the 1st of July, 1864, and the estimated total debt up to the 1st of July, 1865. On the 1st of July, 1864, the public debt will be \$1,686,956,641, of which \$400,000,000 is currency. On the 1st of July, 1865, it will be \$2,231,935,190, of which \$400,000,000 is still to be the currency. It follows, then, that the funded or merchantable debt will, on the 1st of July, 1864, be \$1,286,956,641, and on the 1st of July, 1865, \$1,831,935,190, without the \$400,000,000 of currency. It will be remarked that I class all but the \$400,000,000 legal tender as funded debt, and that I assume that the extreme limit of this kind of money has been reached, that it will never be exceeded; and here permit me to repeat, that I base this emphatic declaration on the language of the Secretary's report, that admits of no other interpretation. I now propose to make this clear to the House and to the country. The \$400,000,000 legal tender, drawing five per cent. interest, and now being paid out by the Secretary, redeemable in one or two years, is, like the rest of the funded debt, a merchantable article, partaking of the character of the English exchequer bill. It varies in price according to the value of money. It increases in value daily by the augmentation of interest. It may float as currency for a few days after it is issued, but presently it is absorbed; it disappears from the market. At its maturity it must be paid. It differs from the currency in so far as it is made payable at a given date, and draws interest up to a given time. The debt certificates which are paid out by the Secretary are also merchantable. They are bought and sold for money. They occupy the same relation to the capital that any promissory note occupies. They are made payable at specific times, and draw interest at six per cent. They are not currency.

The long loan of the Government is like any other funded debt; and so, Mr. Speaker, out of \$1,600,000,000 of debt created thus far, but \$400,000,000 is currency.

The national bank currency act for the creation of \$300,000,000 circulation of uniform value throughout the United States I understand as being designed to supersede the local State bank currency of the country; that it is simply the substitution of one plan for another—a plan which is regarded by the Secretary as the most suitable in time of war, calculated to strengthen the national credit, provide a means for the sale of Government debt in considerable quantities, and prepare the way for a resumption of specie payments as well as the gradual displacement of the legal tenders. It does not look to an increase of the currency. The new system comes into existence as the old system expires. There is no need, therefore, of any fresh alarm from this source. Congress may be called upon to modify the law of the last session on this subject, that the machine may work with perfect smoothness, but I think it will be demonstrated that, at the time the currency of the State banks is to cease to exist, that by enabling laws, or by other processes the banks themselves can readily pass under the new system. It therefore follows that no new device for the creation of more paper money is to be found in this bill. I am not prepared to say, in view of the fact of the introduction of the legal-tender currency during the war as an absolute necessity, and of its necessary existence to a greater or lesser degree for a time after the termination of the war, that the national bank currency act will not prove to be a wise and beneficent measure, calculated, as suggested by the Secretary, to insure an early return to specie payments, without the disorders and convulsions that have heretofore followed directly in the wake of great financial changes, and especially such a change as the substitution of specie payments for those of paper. A careful examination of this great question is certainly demanded by the best interests of the people, and I propose to give it the best attention of which I am capable before deciding upon my future course in the matter. I shall, however, examine it on its merits in connection with the probable wants of the country growing out of the war, and purely as a question of finance in which every human being in the nation is directly interested.

Mr. Speaker, the people buy the funded debt

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of the United States for income. They buy it with a full knowledge of all the circumstances under which it is created. They buy it on the credit of the nation, on its resources, on the present and prospective magnitude of its population and its productive power. They buy on the past history of the country, on its rapid growth, on its unsurpassed prospects for the future. They believe in the perpetuation of our institutions and in the preservation of our national unity. They believe in but one Government over our vast domain. They believe in the value of one million square miles of public lands west of the Missouri; in the thousands of millions of mineral wealth folded in its vast embrace. They believe in the construction of the Pacific railroad; in an exodus of millions of men to the Rocky mountains, prepared with their machinery to grind them to powder, and produce from their prolific sides huge volumes of treasure. They believe in the iron, the coal, the copper, the lead, the silver, the cinnabar, and all the valuable metals which they know to exist in unlimited quantities within that vast region of seven hundred million acres; and if they are willing to buy the funded debt of the nation on this security, how can you reconcile it that the \$400,000,000 currency, based in reality on the same security, should sell at thirty-three and a third to forty per cent. discount? "There is more in this, if our philosophy could but find it out." Let us examine some of the reasons why this confidence should exist. Sir, in the very remarkable and highly valuable report of Hon. Samuel B. Ruggles, made in September of last year, to the International Statistical Congress at Berlin, on the resources of the United States—a paper that should be circulated all over the country—I find the following valuable statistics on the subject of the increase of the population of the United States when compared with other countries:

The population of France increased thirty-seven per cent. in sixty years, from 1801 to 1861; of Prussia, seventy-nine per cent. in forty-five years, from 1816 to 1861; of England and Wales one hundred and twenty-one per cent. in sixty years, against an increase in the United States of five hundred and ninety-three per cent. in the same length of time.

The increase of the national wealth within the last ten years is thus presented in the same report: assessed value of property actually taxed in 1850, leaving out the assessed value of slaves, was \$6,174,780,000, and in 1860 \$14,223,618,068; leaving an increase in the decade of \$8,048,825,840. Mr. Ruggles thus distributes this vast increase of the national wealth: to New England \$735,754,244; the middle Atlantic or carrying and commercial States, from New York to Maryland, inclusive, \$1,834,911,579, and to the food-producing interior itself, embracing the eight great States of Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, and Missouri, \$2,810,000.

Now, sir, at this rate of increase, in 1870, six years hence, we shall have \$35,000,000,000 of national wealth, and in 1880, in only sixteen years, \$80,000,000,000.

Sir, the legal-tender currency of \$400,000,000, if divided equally among these States, to be paid by them out of this increased wealth, would have been extinguished in the first six months of the year 1860, and the balance remaining on hand of the increase of this wealth of the ten years preceding would have been the enormous sum of \$7,500,000,000.

These figures are presented, Mr. Speaker, in order to show how unimportant is this amount of currency when regarded or examined in connection with the nation's ability to pay it. And yet we are told that the country is on the verge of hopeless ruin. No, sir. Let the Secretary only adhere to the principles and to the language of his report. In the words of the poet, the nation

In this connection, or in connection with that vast section of this country which stretches away from the Missouri to the Pacific, so forcibly alluded to in the report to which I have referred, let me request my colleague from New York, who is filled with apprehension of coming woe in the shape of national ruin growing out of the creation of \$400,000,000 of paper money, to pass for a few moments from this Hall to the foot of the great marble staircase that leads to the upper story of this building. His attention will be arrested at the foot of the steps by a magnificent work of art illustrating the declaration of the distinguished Bishop Berkeley—for I believe this country is indebted to him for that brief but expressive sentence—

"Westward the course of empire takes its way."

Sir, we all know my colleague to be a man of fine imagination and of quick perceptions. As he will gaze on this effort of the gifted artist, he will in spite of himself find his heart swelling under the inspirations that will sweep unbidden over his kinder nature and his gentler judgment. Sir, he will acknowledge that in the truths of to-day the prophetic declarations of the writer of that sentence have been already realized. The course of empire has been westward. Hundreds of thousands of men have surged over to the shores of the Pacific like a flood, and now, like the tidal pulses of the sea, are rolling backward again east to the Rocky mountains to meet the still rolling western waves at the same point. On the sides of those mountains, and in the basins and valleys which they create, an empire of millions of human souls are destined ere long to concentrate their mighty energies, struggling with the sea-board for the supremacy in material wealth. Sir, they will be indorsers of this \$400,000,000. Twenty-five millions of people living to-day have made these bonds or obligations. Forty-two millions of people will guarantee them in 1870. Why, sir, that is only six years hence, and according to the census of 1860 fifty-six millions will look after the debt if it is not paid in 1880, only sixteen years hence, backed up by \$82,000,000,000 of capital or national wealth. Sir, no comment is necessary in the face of these wonderful figures!

But, Mr. Speaker, let us for the sake of argument suppose, what I will admit is hardly supposable, that this Government should, in the course of its struggles, overwhelmed with new embarrassments, find itself unable to pay its interest on its funded debt for one or more years. What would be the result? Viewed in the light of history it might bring national concern and mortification, but not national disgrace. Nor would it retard our national growth for a single hour. The soil would still produce its teeming millions of grain; the Pacific slope its immense treasures of gold and silver. The tide of population would still sweep in, in hundreds of thousands. Our industry would still flourish, our people labor, and the country, in all its greatness and its glory, still remain. Sir, we have already seen in our own brief history that which will serve as an illustration as to what may be seen again upon a larger scale.

There are two memorable instances on record which are worth more than a passing thought for the splendid lessons that they teach.

The western States, led on by a spirit of enterprise far in advance of the actual development in material wealth and in population, contracted debts for their internal improvements. In a dark financial hour they failed to pay their interest, and their obligations declined from a premium of twenty per cent. down to eighty per cent. below par. The great State of Ohio trembled to her center at the time from her apprehensions and fears. And powerful Pennsylvania with all her wealth saw her securities sixty per cent. below par. Some years elapsed before the western States responded. But, sir, they did respond, nobly responded, paid every dollar, and so vindicated the judgment of the pioneers who marked out the system of internal improvements. They vindicated the judgment of the investors in their securities who bought as

men now buy the funded debt of the United States on what they see and believe in the future of this country.

Hence, I would urge upon the Secretary of the Treasury the great importance of acting with promptitude upon the clear and comprehensive language contained in his report: to borrow in the open money market, and at the market price, every dollar hereafter demanded by the wants of the Government. I would advise a sale of the funded debt to any extent necessary; and I would urge upon this House to exhaust its ingenuity in showing the magnitude of the security offered by the nation, and the great and growing power of the Republic, in order to facilitate the Secretary in the most effective manner in all his future negotiations.

The States of Indiana and Illinois are worthy of especial mention as affording the evidence of the wonderful recuperation of our people within the State limits. It is within the recollection of many members of this House, indeed all of them, how the realization of the financial disasters that broke over those young States of the West, and swept the sensibilities of both hemispheres. Europe was largely interested in these obligations, and very large amounts of them were held in this country. These States were covered with ignominy and reproach, and they were compelled to endure the base charges of repudiation and bankruptcy. Sir, they were never for one moment bankrupt, nor did they even for one moment falter in the resolution to repair the disasters of that fearful period by an early liquidation of all their indebtedness. Sir, the example of these States to their brethren of this country will live in all coming time, and it stands out, and will ever stand out, as the most incontrovertible testimony that the nation of which they form so magnificent, so illustrious, and so distinguished a part will pay every dollar, both principal and interest, be it funded debt or legal tender—every dollar expended to perpetuate the structure of this Government in all its splendid proportions, in all its graceful outlines.

The other instance to which I would refer is the railroad crisis. Railroad stocks and bonds passed in public estimation from a high premium almost to zero. Thirty-three thousand miles had been built, costing \$1,300,000,000, or an amount equal to the present national debt; miles of railroad built by the enterprise of our people, and more than all Europe besides. Sir, when the hour came, and these securities were unsalable; when these corporations did not pay their interest, and when men who held them seemed in despair, what did it accomplish for the system itself? It did not destroy the railways; it did not diminish traffic; it did not stay the strong arm of the agriculturist; it did not retard the growth of our population. No, sir; the system was bound to live; it belonged to this, the nineteenth century; it was conceived in great foresight and wisdom, and it survived through new economies and the introduction of wiser and more prudent counsels in its management.

Who suffered by this remarkable crisis? Not the owners of the property, for they saved their money in the revival of the prices of both bonds and stock; nor the country, for it remains teeming with prosperity, productiveness, and power, stimulated and strengthened by this gigantic system of internal improvements.

Now, sir, where is the difference between the funded debt of a great community and the funded debt of a smaller community, or the debt and obligations of incorporated companies? Show me the difference in the character of the calamity that would befall the Government if we should fail to pay interest for a single year, and the calamity that befall the State of Illinois under the like circumstances or the circumstances to which I have referred.

The conclusion to be drawn from all this, Mr. Speaker, I take to be simply that the only thing which the country has to fear is the continued depreciation of the \$400,000,000 of legal tender, which the people sell at thirty-three to forty per

"Is far as the farthest from ruin;
The field seem to know what their master is doing;
And pasture and orchard and cornfield and lea
All catch the infection, as generous as he."

cent. discount under the influence of the marvelous fears generated and encouraged by those who are utterly ignorant of the power and resources of the nation. To my understanding all our troubles lie with the legal tender. It is a matter of no consequence to the people of the country as a nation as to what the funded debt may sell at in the mutations of the future. The Government has only to look after the interest upon the debt and the principal at its maturity. With the currency, which every man is bound by law to receive for his property, it is another affair. There is no time fixed for its final extinguishment, and our enemies seek to discredit and destroy it both at home and abroad. People who take it hasty to invest it in real property, while speculation lives and flourishes by holding it up to public odium and contempt. The more speculation can discredit it, the more speculation thrives.

Speculation is sleepless in its efforts to discredit it; and yet, sir, there is a way to remedy the difficulty. It is by familiarizing the people with the power, resources, and wealth of the nation; and this, in my judgment, is the duty of every Representative in this House, and of every intelligent and reflecting citizen out of it. If this \$400,000,000 of currency were secured to be paid to-morrow, if the nation could see it begin to expire by the establishment of a sinking fund of ten per cent. per annum, which would destroy it all in ten years, or if, by legislation, the Secretary was directed to burn \$100,000 of it per day until the whole \$400,000,000 were destroyed, do you imagine that you would hear anything more of a rise in gold? Sir, it would be the death of the speculators on the sea-board, and the nation would rise from its fears and apprehensions full of fresh power and energy. So small an effort as this, in my opinion, would reduce the expenses of this Government thirty-three and one third per cent. per annum. If, sir, I am right in this conclusion, why should the people be inflamed with fresh fears by the dark predictions of impending bankruptcy and ruin? And why are we not bound to present, in contradiction to statements such as I have referred to, facts that lead the mind to an entirely different judgment?

Sir, I repeat, with all the emphasis I am capable of expressing, that in advocating every measure for strengthening our financial system; by encouraging the Secretary of the Treasury to persevere in carrying out the ideas distinctly presented in his annual report; by pointing out, to the extent of my humble ability, the way to roll back the current that has set in such irresistible force against the public credit; by pointing out in even so feeble a manner the vast resources of our country, and showing that an issue of \$400,000,000 of currency, which, after all, is only a substitute for the gold and bank circulation it has displaced, I fulfill my duty as a Representative. The people, who are to be swept away in case of so fearful a calamity as national bankruptcy, will sustain me in my efforts, and will sustain all those who take the same course in the midst of the emergencies of this fearful contest.

In the course of the debate, Mr. Speaker, the distinguished gentleman from Massachusetts who advocated the proposition to empower the Secretary of the Treasury to anticipate the interest on the public debt, and so dispose of the surplus gold in the Treasury, and avoid its accumulation hereafter by the same means, declared that, disguise or conceal it as we might, the currency had depreciated to the extent indicated by the price of gold.

Sir, the quotation daily made for gold in the New York market is certainly an indication for the day of the positive depreciation of the currency. Any one who owns gold can certainly sell it at the New York quotation for paper. No one can deny the truth of this proposition; but I submit to that gentleman, and to those who concur with him in opinion, whether there are not many good grounds for the belief that there are causes operating to produce this depreciation unknown before in the history of paper money, and whether some of them may not be regarded as wholly artificial, and capable of being easily exposed and dispelled? Sir, I think there are artificial means constantly being used to influence the price of gold. These means have been employed since the suspension of specie payments. They have increased from month to month for the past year, just in proportion to the growth of specu-

lation, which to-day exceeds in volume anything ever known before in the history of civilization. It has become necessary for the safety of this huge structure of illegitimate traffic that the price of gold should continue to rise in respect to the currency; and, sir, it will not be permitted to decline if human ingenuity and human effort can prevent it. Such a state of things must give birth to every species of device, and to every kind of artificial process. They will come in the form of misrepresentations of the military situation of the country and exaggerated statements of any defeats in the field; they will be in the shape of extensive combinations for the temporary purchase of the floating gold in the market; in the false statements as to the character and condition of the public debt, and in the objects and designs of the Government; and all this is rendered more easily available by the ignorance that is permitted to prevail as to the resources and power of the nation.

To illustrate my views more fully as to "causes hitherto unknown" now operating to the prejudice of the currency, I would ask the House to regard New York city, the great commercial and financial center, connected by the electric wires with every city and every town of any importance in every State not in rebellion, away to the far off Pacific. The opinions of representative men are solemnly uttered in this House that national bankruptcy and repudiation are surging at our feet to engulf us in its formidable waves. The lightning that carries this fearful verdict to the people of the country flashes the tidings to the city of New York almost instantly from innumerable points in the shape of positive orders to buy gold, to buy merchandise, to buy commodities. Thousands of orders reach that great mart in an hour, and through all hours of the day, and hence a traffic, boundless in extent, and all in one direction, all to purchase property at the market prices, without limit, is carried on in that city by a frightened and frenzied population. Has the currency depreciated because of these transactions? Is national bankruptcy really here because of such declarations? I cannot so regard it. The truth is that this modern instrument, electricity, is playing a new and most important part in the affairs of men, and for the first time in the greatest drama in the history of civilization. It so concentrates and so intensifies the incidents of human life, so entirely controls and governs them, that those who measure the present by the past utterly fail of arriving at proper or just conclusions. Sir, I look for the moment when the people of the United States, moved by different impulses, influenced by calmer counsels, led by wiser judgments, and enlightened by the spirit of truth, will see with a clearer vision the actual condition of their country, and be overwhelmed with shame and mortification at their own folly.

Suppose, Mr. Speaker, the existence of some vast building or theater crowded with thousands of human beings, all intent upon the enjoyment of some great dramatic spectacle; and suppose that, in the midst of their engrossment of the play, in obedience to a concerted signal, a few voices should raise the appalling cry of fire, and rush through the narrow outlets toward the street. Does it need any one to foretell the fearful disasters that might follow the efforts of that frenzied multitude in their attempts to escape through the contracted and crowded corridors? Sir, hundreds might be crushed to death, while thousands were being robbed by those who had precipitated the calamity. Sir, will any one undertake to declare that the building is really on fire because of the infuriated cry of fire? I think not, sir; and yet such is the condition of the people of this country on the great question of the national currency. Hundreds have been crying fire for the past three years, while multitudes have been endeavoring to escape the fearful calamity which is said to threaten the paper system. It is to be entirely demolished, say our enemies; and while the cry continues, and every imaginable auxiliary is being used to magnetize the nation into such a belief, and while the people are rushing out of the building in mad disorder, a system of pillage is going forward that defies description, and human ingenuity is taxed to its utmost capacity to keep up the alarm, that the spoils of the enterprise may augment, and the opportunities for plunder survive a little while longer.

I regard, sir, the depreciation of the currency of the United States from thirty-three to forty per cent. discount for gold as a monstrous crime or a fearful delusion; I regard every man as guilty of crime who does anything to assist that depreciation. While the few are benefiting by it, while the capitalists are rejoicing over their advantages, the masses of our countrymen are suffering fearfully, and must continue to suffer still more, unless we awake to the magnitude of the crisis, and use the great facts that God has furnished us with to counteract the trouble and restore the public confidence in all classes of our securities.

Sir, it may be urged that the most gifted intellects and the most profound wisdom have been exerted on the side of truth for the benefit of the nation, and that no good reason can be assigned for the declaration that that which is false has been the most extensively circulated through the modern machinery of the telegraph. To that I answer, that during the whole of this war, certainly during the existence of the Thirty-Eighth Congress, the talent of this House has not been exerted on the side of those questions which are operating so powerfully on the interests of the people apart from the war. The war itself, the measures for its prosecution and final settlement, have engrossed its entire attention, while for the want of practical legislation the solid industry of the country is being subordinated by wild speculation, and the currency rotting away daily, to the almost irreparable damage of the national interests.

But, sir, I look hopefully into the future. I cannot but believe that there is a great change approaching. The Secretary of the Treasury has indicated the policy which he designs hereafter to pursue. He asks no more legal-tender money from this Congress. He marks out for himself a well-defined line in the direction of a sound and stable state of things, along which he is resolutely determined to pass. A man reads with no understanding who does not detect such a resolution in his report to this Congress. Sir, this policy will have the effect to check the speculative madness of the present hour; it will have the effect to reestablish public confidence in the power of the nation and in the soundness of its obligations; it will restore to sanity those who are mad, and bring about a reaction of public sentiment in favor of the currency which so many have been dishonoring, and which, for a time, is indispensable to the safety and life of the nation.

When this moment arrives, as arrive it assuredly will, we shall again realize the influence of electricity. The current of disorder will as suddenly subside; it will be rolled backward to its source with an impetuosity of terrible strength. The wires will again be in requisition, and flash from all parts of the United States to the great center of traffic; but conveying very different tidings from what they have so long been used as the instrument. Sir, on that day I commend New York to the especial notice of this House. With the decline in gold huge values will disappear, from thirty-three and one third to fifty per cent. in a single day, and the masses of our people begin to find the proceeds of their labor again equal to their necessities.

Sir, it is our solemn duty to assist in bringing about such a state of things. The first step we are bound to take is to relieve the Government from the fearful position of being a hoarder of gold. It cannot afford to be an instrument in the hands of its enemies, a participant in the depreciation of its currency, a party to the speculations of the seaboard. It cannot be auxiliary to that without precipitating its own ruin.

The second step should be to allay the public fears as to the value and extent of the legal-tender issue. The amount is but \$400,000,000, not \$1,000,000,000. Instead of an unlimited issue hereafter, not one dollar more is to be added; but, on the contrary, the amount in circulation is to be reduced, and a more enlarged system of taxation established. Such, from the language of the Secretary's report, is to be the future policy of the Government.

The third is to exhibit and keep before the people the absolute resources and power of the nation, and show the difference between its ability to meet the formidable emergencies of this war and the ability of other nations at other periods to meet the emergencies of their revolutionary and other contests, because of the comparison that is

constantly being instituted; to show that no parallel whatever can be drawn between the struggle on this continent and the past struggles between nations in the Old World. Comparisons are frequently instituted between the condition of the currency of the United States and that of the French assignats during the period of the Revolution. Why, sir, France issued \$3,000,000,000 of that kind of paper within about the same time that we have issued \$400,000,000, or less than five per cent. of that of France. Sir, there can be no parallel between the cases, certainly none when we regard the question in connection with the resources of the two Powers. The increase of the population of this country over that of France for the past ten decades is a plain answer to the question.

In conclusion, Mr. Speaker, we must instruct the people as to the difference between currency and funded debt, a thing that seems to be so little understood. If we keep constantly before the public view the vast security afforded for the final extinguishment of our debt, and show our abundant resources to meet the continued demands of the war for a long time to come, in case it should be necessary to continue it, there need be no fear of bankruptcy or repudiation.

I now move the previous question upon the pending amendments, with a view to offer the substitute which I have indicated, and which I offer with the consent of the Committee of Ways and Means. I ask that the substitute be read.

The proposed substitute was read, as follows:

Joint resolution to authorize the Secretary of the Treasury to sell any surplus gold.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized, first, reserving in the Treasury an amount sufficient to meet the payments in gold required by law, to sell from time to time at public auction, after having given five days' notice in the daily papers of New York, any portion of the surplus of gold in the Treasury of the United States: Provided, That the Secretary of the Treasury may, instead of such sale, apply the gold in the Treasury to the redemption in advance of the interest coupons of the United States, which by law are required to be paid in gold, whenever the amount on hand shall be sufficient to discharge the entire amount maturing and on the same day.

Mr. ELDRIDGE. I move to lay the whole subject upon the table.

Mr. FENTON. I ask the gentleman to give way a few minutes that I may submit some remarks upon this subject.

Mr. HOLMAN. I demand the yeas and nays upon the motion to lay on the table.

Mr. ELDRIDGE. I would give way to the gentleman from New York, but as I understand the previous question is called upon the subject, I feel it my duty to adhere to my motion.

The SPEAKER. The Chair would say to the gentleman from New York that he could not occupy the floor even if the gentleman from Wisconsin should withdraw his motion, as the previous question is demanded by the gentleman from New York.

Mr. FENTON. I ask my friend from New York to withdraw the demand for the previous question, and I will agree to renew it.

Mr. STEBBINS. Certainly.

Mr. ELDRIDGE. I withdraw my motion for the present.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (H. R. No. 41) to continue the payment of bounties; when the Speaker signed the same.

SALE OF SURPLUS GOLD—AGAIN.

Mr. FENTON. I know it is not in order to offer a substitute at this time, but I will send it to the Clerk's desk to be read, and give notice that I will offer it at the proper time, if the substitute already offered to the pending bill be voted down. I ask that the proposed substitute be read.

The substitute was read, as follows:

Strike out all after the enacting clause and insert the following:

SEC. 1. The Secretary of the Treasury be, and he hereby is, authorized to sell gold or other coin received in payment for United States bonds negotiated, and also to sell any foreign exchange that may be received by the agents or officers of the Treasury of the United States: *Provided, That nothing herein contained shall be construed to authorize the sale of any gold or other coin now on hand or that may be received hereafter in payment of custom-house duties.*

SEC. 2. That the Secretary of the Treasury be, and he hereby is, authorized to anticipate a payment of interest upon the public debt of the United States from time to time, either with or without a rebate of interest upon the coupons, as he may deem expedient.

Mr. BROOKS. Before the gentleman from New York proceeds I wish to understand where we are. Are we under the operation of the call for the previous question?

The SPEAKER. The gentleman withdrew his demand for the previous question in favor of his colleague, [Mr. FENTON,] who agreed to renew it.

Mr. BROOKS. Are we to understand, then, that after the two gentlemen upon the Committee of Ways and Means have expressed their sentiments, nobody else can?

The SPEAKER. The gentleman from New York [Mr. STEBBINS] called the previous question only upon the pending amendments, with a view, if they are voted down, to offer the substitute of which he has given notice. The bill will then be open to further amendment and debate.

Mr. FENTON. Mr. Speaker, I intend to discuss the general bearing of the proposition in its relations to finance and trade, and especially to reply to the statements of my colleagues, [Mr. FERNANDO WOOD and Mr. BROOKS,] who addressed the House upon this subject on the 19th of February, making it the pretext rather than the text for argument.

I read from the Congressional Globe. Mr. BROOKS said:

"Now, Mr. Speaker, if there were no other than the mere political objection, if you choose so to call it, it would be sufficient to my mind. It is the worst policy, it is the most dangerous and alarming of measures to clothe any man with enormous power over the currency of the country. The President of the United States now has in his right hand the sword, and through the Secretary of the Treasury he has in his left hand the purse; and therefore stands completely the impersonation of despotism. If he chooses to exercise that power, the Secretary of the Treasury can now create, manufacture, and dispose \$1,000,000,000 of paper money. It is now proposed to give him the whole control of the gold in the country."

The following extract is from Mr. Wood's speech of the same date:

"And that leads me, Mr. Speaker, to a consideration of the fallacious system upon which the finances of the country are now being conducted. We have had other wars in Christendom. We have had expensive wars. We have had wars costing \$100,000,000 a year. The system of finances attempted to be adopted here is not new in the history of the world. It is as old as Christendom; and whatever merit there is in the present financial system, no man now living can claim the originality of the invention."

"Sir, paper money was established originally under Charles I. Previous to his time, when a monarch found himself in a strait, his resource was not to paper money, it was to debase the coin of the country, and give an official stamp to the representative of value by depleting the intrinsic value contained in the coin itself. Charles I originated paper money. What was the consequence? Charles II, whose administration was almost as profligate as this, ended in bankruptcy, ruin, and repudiation. That was the result of the paper-money enterprise in those days, and that will be the result of the present application of the same principle."

And again:

"Three years ago next August our experiments in paper money commenced, and we have already issued \$1,000,000,000 of currency."

Mr. Speaker, the subject of finance and currency is one of great interest to the Government and people. It is not strange in this period of our history, the most remarkable in the magnitude of expenditure, that these questions should invoke grave attention and investigation. It is most fortunate that amid the events transpiring, which have no parallel in the world's history, one of our ablest and purest statesmen was called to the head of the national exchequer; and the result is that, amid difficulties the most momentous, our fiscal affairs have been conducted with unrivaled ability and success. Public confidence has been inspired and our credit has been maintained during a period of civil commotion, peril, and expenditure, hitherto unknown. An analysis of the Secretary's late report exhibits the most mature reflection and comprehensive mastery of the vast subject of finance, currency, and trade, and challenges the respect, if not the support, of every intelligent and fair mind in the country.

Mr. Speaker, I did not suppose that the paper currency of the country, necessarily disproportionate to the amount of gold and silver, could maintain during the period of so great expenditures a par value. It was impossible to avoid a depreciation of currency, and a corresponding ap-

preciation of values, equally disturbing to the laws of exchange and trade.

I need not stop to argue that there was insufficient of the precious metals for a circulating medium. In times of peace experience has shown that they are the only safe reliance as a basis for currency and banking operations. In a time of war, when the amount of money required in the affairs of the Government is so largely increased, the credit of the Government, the good faith, and confidence in its resources and stability, must to a great extent take the place of the precious metals, and form in a great degree the basis of credit and currency.

The monetary problem of the country, with an expenditure of \$800,000,000 annually, cannot be solved by any past practice or experience of our history. Nor can the financial strength of the United States be judged correctly by rules that govern the finances of Europe. 1. Because its basis is principally in the property of the country, in lands and agricultural products, whose value is not adequately represented in money, notwithstanding these products furnish an important element of trade and exchange by exportation to foreign countries. The intrinsic values of the products and sources of wealth are constantly expanding with the increase of population and the simple march of emigration to new Territories. 2. Because the labor of men employed in agriculture and the arts produces more here than in Europe. This increased production does not get its expression in money at once, and therefore it is undervalued; but it exists as *real wealth*, and constitutes a powerful reserve of resources, as this war has shown, and furnishes increased confidence in the fiscal ability of the Government to meet the present and any possible future demand upon it.

I am led to these reflections by the remarkable statements of my colleagues from New York city, [Messrs. WOOD and BROOKS,] who exhibited so much earnestness in discrediting the financial as well as the political policy of the Government, and who indulged in exaggerations of its enormous liabilities and prospective bankruptcy.

No country has such a vast extent of territory and such a rapidly increasing population, and no empire of contiguous territory possesses such a variety of climate, soil, and natural productions, whether of field, forest, or fishery, or such a wealth and diversity of annual agricultural products. We have a greater extent of mineral products than all Europe. Our coal-fields are thirty-two times greater in extent than those of England, Ireland, and Scotland. Our gold deposits, our copper, lead, and iron mines are the richest and most abundant in the world.

To give importance and additional value to all these elements of present wealth and future prosperity, we have vast amounts of cheap and fertile lands which invite occupants to our shores. We offer the largest liberty consistent with order, justice, and free government; and the result is, that the industrious poor and middle classes of Europe are coming to our country, in the midst of a civil war, in numbers that find no parallel in the history of this nation.

If we merely estimate the amount of present property brought to our shores by this flood-tide of emigration, we find it reaches hundreds of thousands of dollars annually. But if to this we add this influx of labor, at its constantly increasing ratio of value as applied to the development of these inexhaustible resources of latent, natural wealth, we see an ever-expanding basis of public credit altogether incapable of present estimation.

It therefore seems to me that the man who speaks of impending failure in our financial affairs is either grossly ignorant of the facts or mischievously designs to awaken distrust and impair public credit. I hope it is not true that a certain class of men, disappointed and exasperated at the success of the cause of the Union and the progress of liberty, seek to gratify a malignant opposition by detraction of our public men, and an attempt to depreciate our true financial strength and success.

The proof that we have a vast aggregate of real wealth derived from fresh Territories and an active population was made conclusive when the trials of this war began. Our productions then rose to their real value, and were freely distributed to other nations. Cotton and the southern

staples fell off altogether, yet the vast reserve stocks of northern products at once rose to fill their place. In 1858-59 we exported the values stated in the table herewith submitted, and, after deducting imports, had a balance in our favor in each year.

	Exports.	Imports.	Balances.
1858-59.....	\$356,789,462	\$338,765,130	\$18,024,338
1859-60.....	400,122,296	362,163,941	37,958,355
1860-61.....	410,856,818	359,775,835	60,080,983

In these three years cotton constituted a large portion of the value, and other southern staples were embraced in the exports. There was at that time no premium on gold.

Next came two years of war, in which there was no cotton exported. The undeveloped northern wealth then first rose to its true proportions:

	Exports.	Imports.	Balances.
1861-62.....	\$229,790,280	\$205,819,823	\$23,970,457
1862-63.....	331,844,247	352,933,872	78,908,375

Thus, in three years of trade, with all our staples to send abroad, we realized a total of credits amounting to the sum of \$116,063,676, a most gratifying proof of the strength of the country.

Yet, in the next two years, with war on a gigantic scale prevailing, and a total loss of what were then our chief exports, the credits arising from trade with foreign nations were \$102,878,832, a sum nearly as large in two years as was the other in three years.

Such being the material wealth of the country, its aggregates being so far beyond all European precedents, the question of debt and currency becomes more easily understood. It is, however, true beyond all question that in all measures for the preservation of financial strength by the Government the taxes perform an indispensable and very important part. So long as they yield sufficient revenue for the ordinary expenses, including interest on the public debt, the finances are in a sound condition, and even if great extraordinary expenses are incurred in a state of war, it is only necessary that the revenue should be sufficient to warrant the belief that in future all just demands will be promptly met. This must be by providing prompt payment of interest and laying aside a fund for the ultimate redemption or payment of the principal. We are now engaged in a war in which the loss of life and property exceeds that of any known in history. In addition to this, the Government expenditures are of such magnitude as to astound those who, looking only to the past in their estimate of the future, fear that no adequate provision can be made for the public service and for payment. There is a greater amount of property of undoubted intrinsic value in the loyal States alone than in any two countries of Europe; more grain, more cattle, more cultivated lands, more houses built, more railroads constructed. There is also more activity in the exchange and transfer of all these from producer to consumer. The volume of currency required is directly proportioned to both amount of property and activity of exchanges. Therefore the sum of money may be large and yet be safe. It must be large, and it must increase with the growth and the requirements of the country.

There is now of bank circulation I suppose about \$160,000,000; of United States notes, legal tender, \$447,796,212; of United States notes, old issue, \$1,323,336; of fractional currency, \$18,745,720; of one year five per cent. notes, \$5,860,000; of certificates of indebtedness, \$134,872,000; in all, \$608,600,268, (exclusive of \$160,000,000 bank circulation,) instead of \$1,000,000,000, as stated by my colleagues. And while the increase of currency for the past two or three years has been quite large, in excess of the ratio of the increase of population, it has not been so largely disproportionate to the increase in the ratio of the wealth of the country.

It is not, then, Mr. Speaker, the system of finance adopted by the Secretary of the Treasury that is defective. With the currency depreciated, or the precious metals held at a premium, we must resort to a more ample system of taxation, and more economy in expenditure as the proper correctives.

Debt is heavy or light in proportion to the resources of a State. England, with an enormous debt, has a small material estate from which to pay or sustain it, but a very profitable and active trade. We have ten times the intrinsic wealth of

England already, and shall have fifty times its wealth in another twenty years.

In regard to the comparative debt and comparative resources of England during her continental war and the United States in this great national struggle, to which my colleague [Mr. FERNANDO WOOD] referred with evident desire to disparage our own, and discriminate in favor of England, I shall draw upon Dr. Elder, of Philadelphia, for a scrap from his learned, comprehensive, and accurate work published in June last, upon the debt and resources of the United States:

"There is, indeed, a general impression that the debt of England, meaning its maximum amount in 1816, 'was forty years in growing,' while ours is the growth of two years only, and that already it is relatively as large as theirs. But the fact is that England added \$3,113,000,000 to her debt in the twenty-two years of her great French wars, and expended besides no less than \$5,471,000,000 derived from taxation, while the war expenditure of our two years is all in the form of debt except the sum of \$17,000,000 derived from taxation and other ordinary sources of revenue beyond the ordinary peace expenditure of the country. In fair comparison, therefore, the Government account should be charged with this \$17,000,000 in addition to its loans of \$899,000,000, making \$916,000,000; and England's account, in correspondence for her twenty-two years, would be her increase of debt and \$5,471,000,000 of taxes, amounting together to \$8,584,000,000, or more than nine times the equal of ours. Of the total revenue of the period our Treasury derived but 14½ per cent. from taxation. England's exchequer drew 63 per cent. of hers from that source. If the British loans had borne the proportion of ours to receipts from ordinary sources, her debt in 1816, without the current interest added, would have stood at \$10,500,000,000 instead of \$4,300,000,000; and if our debt had been kept down by a system of taxation equivalent to hers, instead of footing up \$367,000,000 it would have stood on the 1st of May last at \$350,000,000, less the accruing interest on the surplus of \$587,000,000. This should be remembered whenever a comparison of the growth and the amount of our present debt with that of England is instituted."

"So far as the national resources and our relative ability to meet our debt are concerned, these \$367,000,000 are to be regarded as undrawn revenue in the pockets of the people. This amount subtracted, along with \$10,000,000 of current interest upon the sum, would leave our debt, old and new, at \$27,000,000."

"Nor is this view of the case either illogical or unpractical. On the contrary, it is far below the true statement of our advantage, for it still leaves us fresh, untaxed, unexhausted, and almost untouched, while England was in the condition of a people taxed for twenty-two successive years, to the average amount of \$248,000,000 a year, with an interest account rising, steadily and rapidly, from \$17,250,000 at the beginning, to \$161,250,000 at the end of the term. Moreover, be it remembered that in 1816 the population of Great Britain was but 19,300,000, the total value of their property \$10,450,000,000, and their annual products worth but \$1,667,000,000; while the population of the loyal States, in 1863, is 24,000,000, the value of their property, at the market rates of 1860, \$13,395,000,000, and their products of the current year worth \$3,500,000,000; giving us the present advantage of 30 per cent. in population, 28 per cent. in property, and 110 per cent. of annual products."

"The just parallel in the statement of the respective debt accounts of the two nations would be: England borrowed, for twenty-two running years, an average of \$150,000,000 a year; we, for two years, \$185,000,000 per annum, (an equal ratio of taxation being deducted from the actual loans,) with a difference of wealth and resources in our favor more than equal to the difference against us in the amounts thus estimated."

Mr. Speaker, I have this further to remark. I have no fear that the national currency will become worthless, that the debt will be fearfully great beyond our ability to pay, or that the system of finance adopted by the Secretary will prove a disastrous failure.

The country will rise from the perils of the crisis and rejoice if the Union shall be maintained, the objects of its founders secured, and the curse of slavery, which had demoralized the people of the South and was rapidly undermining the liberties of the whole people, shall perish in the contest.

All the higher historical authorities of modern times, the Boeckes, the Grotes, the Arnolds, and the Michelets, agree in this, that slavery corrupted and devoured the ancient world.

Wailan's History of Slavery in Antiquity sets forth with remarkable clearness and accuracy the ravages of slavery and its destruction of social order in ancient times. Mr. Bancroft has an essay on the decline of the Roman empire, which, written in 1834 and describing a society which existed more than two thousand years ago, is in many particulars a curiously exact description of our slave States before the war:

"When Tiberius Sempronius Gracchus, on his way to Spain to serve in the army before Numantia, traveled through Italy, he was led to observe the impoverishment of the great body of citizens in the rural districts. Instead of little farms studding the country with their pleasant aspect, and nursing an independent race, he beheld nearly all the lands of Italy engrossed by large proprietors, and the plow was in the hands of the slave."

the inhabitants of the Roman State divided into the few wealthy nobles; the many indigent citizens; the still more numerous slaves. Reasoning correctly, he perceived that it was slavery which crowded the poor freeman out of employment and barred the way to his advancement."

Again he writes:

"The aristocracy owned the soil and its cultivators. The vast capacity for accumulation, which the laws of society secure to capital in a greater degree than to personal exertion, displays itself nowhere so clearly as in slaveholding States, where the laboring class is but a portion of the capital of the opulent. As wealth consists chiefly in land and slaves, the rates of interest are, from universally operative causes, always comparatively high: the difficulty of advancing with borrowed capital proportionally great. The small landholder finds himself unable to compete with those who are possessed of whole cohorts of bondmen; his slaves, his lands, rapidly pass, in consequence of his debts, into the hands of the more opulent. The large plantations are continually swallowing up the smaller ones; and land and slaves come to be engrossed by a few."

Our far-sighted statesmen of an early day, Jefferson, Jay, Franklin, and others, saw and proclaimed the effect of slavery upon our institutions, but their voice was not heeded. At last, not too late for freedom to triumph, comes the struggle, with the sacrifice of life, property, and the accumulation of debt. If, however, it shall result in the total destruction, the sweeping from our fair land every vestige of this corrupter of people and destroyer of nations, the horrors of the strife will be appeased, and there will be some compensation for the blood and the treasure which have been poured so freely upon the altar of our country, for her honor, unity, and safety, in the long generations of peace, prosperity, and happiness, which will follow. With the Union maintained, a people united and firmly entrenched in the highest and most perfect liberty compatible with free government, and the return to the whole people of those industries which enrich and elevate the masses of mankind, we shall be able to rise from the burden of debt, and from our vast and inexhaustible resources, with rapidly swelling revenues, attain the most ample wealth and independence that have been known to any nation of the earth, and the unfaithful and the excitors of distrust and discredit will receive the reprobation of a just and discriminating people.

I now renew the demand for the previous question on the pending amendment, as I agreed with my colleague to do.

Mr. HOLMAN. In order to have a test vote, I move to lay the bill and amendments upon the table.

The question was put; and there were, upon a division—yeas 34, noes 40; no quorum voting.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

Mr. J. C. ALLEN. Before the roll-call is commenced I desire to ask a question of the Chair. Suppose the bill and the pending amendments are laid upon the table, will the proposition of the gentleman from New York on the left, [Mr. SERRANIS,] and the proposition of the gentleman from New York on the right, [Mr. FENTON,] be before the House?

The SPEAKER. They will not unless by unanimous consent of the House or by a two-thirds vote on Monday, or when the Committee of Ways and Means have a right to report.

The question was taken; and it was decided in the negative—yeas 54, nays 73; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, Broomall, Chanler, Coffroth, Dawson, Dennison, Eden, Eldridge, Finck, Ganson, Grider, Hall, Harding, Harrington, Charles M. Harris, Herriek, Hotman, Asahel W. Hubbard, William Johnson, Kalbfleisch, Kenan, Law, Lazear, Mallory, McDowell, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Penderton, Price, Prayn, Radford, Samuel J. Randall, Rogers, James S. Rollins, Ross, Scott, Starr, Stiles, Strouse, Stuart, Thomas, Tracy, Wadworth, Ward, and Wheeler—54.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Ashley, John D. Baldwin, Bixter, Beaman, Jacob B. Blair, Blow, Boutwell, Boyd, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Daves, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Fenton, Garfield, Grinnell, Hale, Higby, Hooper, Hotchkiss, John H. Hubbard, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Loan, Longyear, Marvin, McClurg, McClodde, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Perham, Pike, Pomerooy, William H. Randall, Alexander H. Rice, John H. Rice, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Stubbins, Stevens, Thayer, Van Valkenburgh, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—73.

So the House refused to lay the bill and the amendments on the table.

During the roll-call, Mr. NORTON stated that Mr. ARNOLD had been called home on account of sickness in his family.

The result of the vote having been announced as above recorded, the question recurred on seconding the demand for the previous question upon the pending amendment.

Mr. PENDLETON. Would it be in order at this time to move the previous question upon the resolution as well as upon the pending amendment?

The SPEAKER. It would; and it would take priority of the demand for the previous question on the amendment.

Mr. PENDLETON. Then I call the previous question on the resolution and the amendments.

INTERNAL REVENUE BILL.

Mr. MORRILL. Is it in order to make a report from a committee of conference at this time?

The SPEAKER. It is.

Mr. MORRILL. Then I submit a report from the committee of conference on the internal revenue bill.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 122) to increase the internal revenue, and for other purposes, having met, after full and free conference have been unable to agree.

JOHN SHERMAN,
DANIEL CLARK,
THOMAS A. HENDRICKS,
Managers on the part of the Senate.

JUSTIN S. MORRILL,
JOHN A. KASSON,
R. P. SPALDING,
Managers on the part of the House.

The SPEAKER. The Chair would ask the gentleman from Vermont whether the Senate has yet acted on the report of the committee of conference?

Mr. MORRILL. I do not know; but the papers are in the possession of the House.

The SPEAKER. The gentleman is correct.

Mr. MORRILL. Mr. Speaker, the committee of conference, after a full and free discussion of the subject, as has been reported, has been unable to agree. The question has reached that position that it becomes necessary for the House to recede or lose the bill. It is one of so much importance that I trust the House will consider it dispassionately, and as a question interesting to the whole country. The House having made its proposition to the Senate, the Senate is, of course, at liberty to receive it, amend it, or reject it, as it pleases. Both Houses agree on the main subject of an increased tax; upon a branch of it, of minor amount, they differ. Shall we now lose the whole bill because we cannot obtain all we desire?

The Senate has been willing to dispose of this subject in any manner that the House may see fit, except that it will not adopt the principle of taxing liquors on hand. That out of the question, there will be no disagreement between the two Houses. But as both my colleagues on the committee [Messrs. KASSON and SPALDING] desire to speak on this question, I shall give them the privilege of doing so, desiring in the mean time to hold the floor. I shall make the motion, however, as I now do make it, that the House recede from its disagreement with the Senate.

Mr. KASSON. Mr. Speaker, it has been the earnest hope of the majority of the conference committee on the part of the House that the Senate would take into consideration especially the constitutional relations of the House to questions of revenue. It is the duty of the House, as the originating body, to present to Congress the subjects of taxation, the rates of taxation, and the general means by which the Government is to be sustained. It was our opinion, sir, that the House ought to have a greater degree of consideration given to its determination respecting the articles that shall be subject to taxation, by way of equalizing the burdens of taxation over the country.

It was and is the opinion of the majority of the conference committee on the part of the House that you cannot, on any principle of justice, exempt from its due share of liability this article of distilled spirits on hand. It should bear, not all, necessarily, but a portion of the tax to be assessed on the entire subject, the amount bearing a certain relation to the entire increase of value

created by the action of the Government itself in levying that tax.

In order to explain the matter fully to the House I ought to state the views pressed by the majority of the managers on our part. They were substantially and briefly these: first, that you destroy the regular, legitimate, small distilling interest of the country, or very seriously embarrass it, by refusing to put any tax at all on the stock on hand, and putting this largely increased tax on every gallon to be hereafter distilled; secondly, it was our opinion that when you raise the tax on distilled spirits, as proposed, you ought necessarily to protect the interest which you put in jeopardy by that very act itself, and to protect it at least by an approximation to the principle of justice, which would be, perhaps, to impose half the increased tax on distilled spirits held as an accumulated stock of merchandise on hand. We were willing and are willing to concede to the Senate to the extent of reducing the tax one half, in order to approximate, with a due sense of justice, what is required to sustain the relative interests of the country in regard to this subject of taxation.

Both these propositions have unfortunately failed up to this time; and, as stated by the gentleman from Vermont, the question recurs now whether the House is willing to lose this bill and take its chance of reaching a better result, on some principle of justice, in another bill, or whether we shall recede and go over entirely to the propositions of the Senate.

Before the mind of the House is made up on this subject, I call attention to the fact that the bill proposed by the Senate for a sliding scale is not satisfactory to the House, as shown by the vote upon it, and that that sliding scale is itself imperfect. Some gentlemen may have thought it too high. I consider it in one respect too low. And I call the attention particularly of gentlemen representing agricultural districts to the fact that if you refuse to tax the stock of liquor on hand, and if, in addition to that, you give no great inducements to continue the manufacture up to the 1st of January, you will seriously embarrass (so far as affected by this market) the sale of the harvests of the coming fall—all the agricultural interests that are affected by it. Every distillery demands hogs and cattle for fattening, and consumes a large amount of fuel, also furnished by the farmers.

By the decided increase of the rate of taxation after the 1st of January, you keep in operation every distillery of the country, as has been done heretofore night and day to some extent to anticipate this proposed increase of taxation. What I think, therefore, it is the duty of the House to do, if the House recedes from its disagreement as proposed by the gentleman from Vermont, [Mr. MORRILL,] is to put your tax in anticipation, on the 1st of January, higher than is proposed by the sliding scale of the Senate. You should put it at such a point as to increase the revenues for this year, for we know that the operations of our various tax bills have failed to procure the revenue anticipated and estimated for the current year. You produce both results. You increase the revenue largely by stimulating production in anticipation of the tax on the 1st of January, and also produce a special market for the products of the farmer during the fall. It is for these reasons that I think it is the duty of the House to insist on its disagreement, though it may endanger the loss of the bill. The responsibility must rest with that body which does not, like this House, represent the people, but yet controls and defeats in this manner a measure of revenue which we originate.

For myself I cannot justify myself to the people of my district and to the people of the country, when we need so many millions more than we are realizing from our present system of taxation, in exempting from taxation an interest which bears it by common consent so easily as the interest which we propose to tax.

Mr. Speaker, it is not only the opinion of the agricultural portions of the country, but of the commercial centers. They look with great surprise on the action of Congress in releasing the stock upon hand from taxation. I beg to call the attention of the House, in justification of what I say, to the expression of the public journals, in order that they may see the view taken at the

commercial centers as well as in the rural districts. I take the following from the New York Herald, from an issue of that paper shortly after the second action of the House in which they receded from their action taxing whisky on hand. It reads thus:

"THE FAVORED CLASS.—The House of Representatives has decided that the favored class, to be enriched at the expense of all other classes and the Treasury, shall be the whisky speculators. Such is the lobby power of whisky."

From the New York Tribune I might read expressions substantially the same. They are papers representing both political parties of the country, and they may be presumed to be impartial in their expression on this subject, so far as its partisan effect is concerned.

I beg to read from the great commercial papers of the Northwest. From the Chicago Times I read this:

"We repeat, 'who believes that with no new facts submitted, and with the sentiment of the country overwhelmingly the other way, the whisky vote can have been honestly run up from thirty-three to seventy-seven?' Who can doubt the character of the influences brought to bear? But then, again, who can doubt that 'loyal Union' Congressmen, 'engaged in the interests of God and humanity,' have acted honestly?"

To that the Chicago Tribune on its part says:

"We agree with the Chicago organ of the rebels that the whisky vote 'could not have been honestly run up from thirty-three to seventy-seven'; we believe that bribery ran it up; we agree with the seceder concern also that the 'sentiment of the country was overwhelmingly in favor of levying the forty cents tax on whisky in the hands of speculators.'"

Now, sir, it will not be considered for a moment that I entertain in the slightest degree any confidence in the allegation that bribery has been used in this House. I cite these articles in the papers to show that the principal commercial centers of the country, and the commercial organs at the leading commercial centers, insist that it is the duty of the House to tax this article of distilled spirits on hand.

Mr. STEVENS. If the gentleman does not indorse the slanders of those papers, why does he read them?

Mr. KASSON. I told the gentleman why I read them—not to indorse the intimations, but to show their declarations, that the action proposed by the gentleman from Vermont [Mr. MORRILL] is not in accordance with the interests or the opinions of the country; and to show further that the effect of that action will be to convince the people of the country that improper influences have been used. I do not suppose the people are fully aware, away from Washington, that there is absolute and perfect purity on the part of this Congress!

Mr. SCHENCK. I ask the gentleman to give another paragraph from the commercial centers.

Mr. KASSON. I saw that. It is a contribution and not an editorial.

Mr. SCHENCK. It is from a commercial center.

Mr. KASSON. I have shown that the leading organs of both parties at the leading commercial points of the country do not justify but condemn the course of Congress in exempting from the operation and burdens of taxation an interest so large as that of distilled spirits in question. It is for that object, and that object only, that I have cited these extracts. No gentleman has heard me make an imputation, and I make none, and I read from the papers only for the purpose I have stated. That, I trust, gentlemen will fully understand.

The question recurs whether we shall abandon the bill by insisting on our disagreement, or whether we shall recede from our disagreement and take the tax that the Senate are willing to give us on whisky.

For the reasons I have already stated, and for the further reason that when a new bill is introduced into the House you may settle that bill according to the original theory, with a higher rate of tax, and carry the tax back to the date when the bill was presented by the Committee of Ways and Means, for example to the 12th of January, a point to which the Senate might agree, I think it the duty of the House to insist upon its disagreement, and to endeavor, at least, to make this whole interest bear its fair share of the burdens of the Government in the best form in which it can be provided for in a new bill.

For these reasons, in addition to what my colleague [Mr. SPALDING] may have to say upon the

subject, I have deemed it my duty, in concurrence with him, to ask the House to insist upon its disagreement, and consequently to reject the proposition made by the gentleman from Vermont, [Mr. MORRILL.]

Mr. SPALDING. When some weeks ago the proposition came from the gentleman from New York, on the other side of the House, [Mr. FERNANDO WOOD,] to place a duty upon spirits on hand, the proposition met instantaneously my approbation, not because I had any peculiar anxiety to favor the source from whence the proposition emanated, but because I supposed it to be in itself eminently just and proper. Since then I have given this subject my best attention in listening to the many arguments which have been made upon this bill *pro* and *con*. upon this exciting subject. I have attended the committee of conference between the two Houses; and I have there heard a portion of the same arguments again; and I can say, as the conclusion of the whole matter, so far as I am concerned, that I speak under a high sense of my responsibility to this country when I advise this House to be true to itself, and adhere to the position which it has heretofore maintained upon this subject. I do this with all due respect for the other body in this Congress; but I think the best interests of this country in this great exigency require that we should render available all property which may be productive of duty; and I know of none which will bear it more easily than this liquor now on hand.

Why, Mr. Speaker, this is a revenue bill, and appropriation bills originate in this popular branch of Congress. As one feature of that revenue bill, we sought to impose a duty upon this liquor on hand. We first passed the bill. It went to the other branch of Congress. They saw proper to strike out that proposition, and the question is now whether we shall recede from the position we first assumed, or whether the Senate shall give way from their amendment striking out our proposition of taxing this property. There can be no two minds differing in this House upon the subject of the necessities of the country for all the duties that we can raise upon this article, whether it be present or prospective.

Now we are told by some that the duty proposed to be laid upon liquors on hand would raise a revenue of from four to five million dollars. I have been told by men who profess to be better versed in the matter than myself that that revenue would be nearer twenty-five or thirty millions than four or five millions. Furthermore we are told that we shall ruin the manufacturers of the article by imposing a duty on liquor on hand. Will not a fair investigation show to any sensible mind that the reverse of this in all probability will be the case? It cannot admit of a doubt that so soon as Congress shall have passed a bill imposing a duty of from fifty cents to one dollar upon all liquors to be manufactured hereafter, the liquor on hand will at once adjust its price to the taxes thus prospectively laid. Hence the holders—some call them speculators—the holders of this property which thus receives the benefit of the law which we are about to enact, putting a prospective duty upon all liquor to be manufactured, will at once have the benefit of the rise of the market; and will not many of them realize large fortunes? The distillers are to be taxed on what they manufacture hereafter; and may not many of the large manufacturers, who by the operation of this bill upon the liquors on hand realize their hundred, two hundred, or five hundred thousand dollars, think proper to say, "Let the distilleries be closed hereafter; we have realized our gain by the remission of Congress to tax this property on hand, and we will be careful how we manufacture any more to meet the increased duties to be hereafter imposed;" and hence the public will be disappointed again, as they have been heretofore, in the amount of revenue to be realized from the imposition of a tax upon the manufacture of this article.

Mr. Speaker it is said to be against public policy, if not against previous precedents, to impose a tax upon an article manufactured when that article has once been taxed in the process of manufacture. Sir, we are living in times when precedents must give way to the public interests. We are called upon every day to make appropriations here for the public benefit, and the in-

quiry comes up in tones of thunder, from whence are you to derive the means to supply all these vast appropriations? I say to this House that if you let this tax upon the whisky on hand go by, it will not be many days before you will be met with a bill emanating from the Committee of Ways and Means to tax the lands of the small farmers of the country; and in view of that, I ask gentlemen to pause before they agree to the position taken by the Senate to leave this article out of the scale of taxation.

I hope, sir, that the House will vote down the proposition to recede, and in place thereof vote to adhere to the position which they have thus far so well sustained before the country.

Mr. MORRILL resumed the floor.

Mr. SCHENCK. I ask the gentleman from Vermont to yield to me for about ten minutes.

Mr. MORRILL. I will yield the gentleman ten minutes of my time.

Mr. SCHENCK. Mr. Speaker, I intend to vote for the motion to recede on the part of the House and accept the bill of the Senate, and I propose to make a remark or two in explanation of that vote.

I am one of those among the members upon this floor who, approving the object and the general character of the bill as it was first reported from the Committee of Ways and Means, voted for the bill, voted for it in its various stages, and have continued to vote for it, believing, as I do, that it is founded upon the true principle of taxation, and that the attempt to amend it so as to extend the tax from manufactured articles not hitherto taxed to the stock on hand which has heretofore been subject to taxation, is in violation of the principles of legislation which we ought to observe.

Now, sir, I consider this as a new question, and I believe, from the remarks that my colleague [Mr. SPALDING] has just made, that perhaps I do not differ much from the gentlemen who take a different view of this subject, or at least vote upon a different side of the question, in entertaining that conclusion, for my colleague has just remarked that it is necessary not to adhere to precedents, but to put precedents out of the way in consideration of the necessities of the country. Sir, you would be abandoning precedents if you should undertake to pile tax upon tax, and thus interfere with and discourage the production of manufactures and importations into the country.

This whole matter, as it strikes my mind, is simply this, a question between raising or otherwise changing the tax which you impose upon a particular production, and applying it to that production which has not been heretofore taxed, thus keeping faith with the citizens of the country and the manufacturers of the country in regard to all taxes previously imposed, or of abandoning that faith, and, not satisfied with taxing that which may hereafter be produced, extending the tax and piling it again upon that which has previously been the subject of taxation. That is the simple proposition of the House bill, and it is because I believe that there is a violation of principle in adopting any such course that I have from the beginning sustained the Committee of Ways and Means upon this subject.

Gentlemen say you may tax and repeat your tax. I do not deny the power of Congress to do so. It is the question of the expediency and propriety of the exercise of that power, as it regards due consideration of the rights and interests of the citizens of the country, of which I speak. I know that after having once imposed an impost duty you may repeat that impost duty, though it might often be attended with some inconvenience to do so. Having imposed an excise duty, you may repeat that excise duty upon the same article; but I hold that if you do so it is in violation of the confidence which you endeavored to cultivate in the citizens, that they might understand, when they had once met their obligations to the Government, whether they had done with these obligations and stood acquitted or not.

You may reach, it is said, the stock of spirits on hand, as you can do, and you may reach it justly and without any breach of faith. You may tax the capital employed in the trade; you may impose a tax on the income; you may levy a tax for the use of the article. But I am speaking now not of any tax of that character, but of an excise

duty laid for the purpose of operating as a license for the production or manufacture of the article, or for the bringing of the article into the country. The gentleman from Iowa has said that when you impose a tax on liquors distilled in the country it operates against distillation, unless you go further and tax all that has been previously distilled and taxed.

What is there in that argument that does not apply with precisely the same force and to the same extent to any impost duty on any article brought by ships into the country? Dry goods are imported, hardware is imported. You impose upon them a duty of twenty, thirty, or forty per cent., as the case may be. The moment you increase that duty the same clamor may be raised, "Oh, the tax operates on these dry goods, on this hardware, on these articles heretofore imported, and it gives an advantage to those who have stocks on hand. You must follow those stocks into the private warehouse, into the public store, and put on the increased tax for the protection of the importer." And yet, Mr. Speaker, nobody ever thought of doing such a thing. When you have once laid an impost duty on goods brought into the country for sale, you thereby make a declaration to importers, not only at home but abroad, that they may safely trade on the faith of the United States and bring their goods here, as that is the amount of tax to be imposed upon them. If those goods are afterwards to be followed up whenever the condition of the country is supposed to require it and made to pay an increased rate of duties, who will be found to import goods into the country on the faith of laws that have no consistency, no security, no certainty, that are made to vary from time to time in this manner at the mere caprice of a majority in the legislative body?

That which is true in that regard of imported goods is no less true of goods produced in the country and paying the duties imposed on them. The payment of those duties is the license which the Government charges for the production of the particular article. This does not prevent the Government from afterwards increasing the duty. It does not prevent the Government from levying income tax on the profits of the business. It does not prevent the increase of tax on articles employed in the business. But it is a declaration to the world that so far as that particular production is concerned, you have claimed from the producer all that you require for the support of the Government, as his payment for the privilege of producing.

Now, sir, for standing by this old, well-known, established practice of the Government, for standing by this system which the gentleman from Iowa himself [Mr. KASSON] says is the precedent, gentlemen are assailed on all hands, as if, forsooth, they had proposed something new and heretofore unknown in the land. So far from being innovators, so far from proposing some new principle, so far from advancing a novelty, I claim that the Committee of Ways and Means and those members of the House who have sustained the committee, have wisely adhered to the old, fixed principles of taxation, and should not be driven from their position by any clamor, even though that clamor be about whisky.

This article of spirits seems to have inflamed the minds of gentlemen. I have sat silent all the way through; I have not opened my lips on the subject before. But I felt that I could not say less than I now do. When I see newspapers through the land, and gentlemen here—who are ashamed to indorse what the newspapers say, and yet feel it becoming the dignity of the House and of themselves to read those scurrilous articles—charging everybody who adheres to an old principle of taxation with being corrupt, with being bought up by whisky speculators, I feel it due to myself and to others occupying the same position to repel and denounce that charge as an infamous and scandalous one, unworthy of those who make it, and unworthy to be repeated here.

The SPEAKER. The time of the gentleman from Ohio has expired.

Mr. SCHENCK. I hope the gentleman will permit me to say simply this: the gentleman has referred to comments of the newspapers of the country upon this as a strange and anomalous position. The newspapers in my district have

made comments of this character. But, sir, I think the newspapers are wrong. And, whether the newspapers think me wrong or not, while acting from my sober sense of duty in this matter, so help me God, I will vote according to my convictions, whether it is in accordance with their opinions or not.

Mr. MORRILL resumed the floor.

Mr. J. C. ALLEN. I ask the gentleman from Vermont to yield to me for five minutes.

Mr. MORRILL. I have agreed to yield five minutes of my time to the gentleman from Ohio, [Mr. GARFIELD,] and I do not think I am justified in yielding further. I yield to the gentleman from Ohio.

Mr. GARFIELD. I desire to say upon this subject that I have steadily voted in favor of taxing the spirits on hand since this matter has been before the House, and I have given my reasons for thus voting.

I have said, and I repeat now, that there is no one article that will bear taxation as well as the article of spirits. I read in accounts of the system of taxation in Great Britain, where, perhaps, the tax system has been more perfectly systematized than in any other country in the world, that £65,000,000 are raised by internal taxation upon every description of property, of which £35,000,000 are raised upon four articles, one of which is spirits, another tobacco, another tea, and another sugar in its various forms. And I know that these articles will bear taxation more than all other articles. This very day, as I understand, in England a gallon of spirits pays a tax of \$3 18 in our currency. And yet there is no less manufactured and no less consumed than was consumed years ago, when the tax was much lighter.

Sir, I have steadily advocated and I still advocate a heavy tax upon this article. I wish it had been made heavier than even is proposed in this bill. But what has been the course of our legislation here? We have consistently voted to tax the stock on hand, and have pressed that proposition upon the Senate to the extent of our power. But from some cause the majority of forty with which we started out has, in the presence of various influences, dwindled down. I have never said, nor do I now say, that any man has been suborned, or that any man in this House has been bribed; and no consideration of fear of being charged with bribery would deter me from voting in this matter as I believe to be just and right.

But I call the attention of gentlemen in this House with whom I have all along acted in this matter to the condition in which the bill is now presented to us to-day. The interests of the country require that we should furnish means by which the public revenue shall be increased. The committees which we have appointed to represent the wishes of a majority of the House in our conferences with the Senate have not been able to come to any agreement with that body. The House refused to concur in the report of the first committee. The second committee failed to agree. The third committee in like manner have failed to agree, and now the question arises, shall we kill the bill by still adhering to our proposition, or shall we yield to the position of the Senate?

Mr. Speaker, I do not believe it is wise or patriotic in us to destroy the whole bill, with much that is valuable in it, because we cannot get in it all that we desire. For myself, while I do not abate one jot or tittle of my opinions as to the wisdom or propriety of taxing the stock on hand, I am now in favor of concurring in the amendments of the Senate. And I wish it to be distinctly understood that in taking that position I do it solely on the ground that if we allow the delay that will occur by killing this bill and in getting up a new bill and passing it, we shall waste more money than we should save by insisting upon our point in a new bill. I believe there is no hope of carrying our point with the Senate. They have, by a majority of more than two to one, insisted upon their original action in this respect, and it does not seem to me that, having in view the whole interests of the country, we ought longer to hold out in this issue between the two Houses. I shall therefore vote to concur in the amendments of the Senate.

Mr. MORRILL took the floor.

Mr. WOODBRIDGE. I ask the gentleman from Vermont to yield to me for a moment.

Mr. MORRILL. I would be glad to accommodate my colleague, but I have declined to yield to gentlemen on the other side of the House, and therefore am not at liberty to do so.

Mr. Speaker, this question has been so thoroughly discussed that I do not propose to discuss the merits of the proposition to any great extent. I have in the course of my experience found the members of the House on all questions of revenue, when they came to a final vote, treat them fairly; but of all questions which have been before Congress, this proposition, I confess, is the one that has generated most heat. Gentlemen seem unwilling to listen to argument or to change opinion under any circumstances or under any state of facts. They both vote and talk for victory, reckless of principle or policy.

Mr. Speaker, I desire to call the attention of the House to the condition of the bill, provided my motion to recede from our disagreement to the Senate is agreed to. If the motion prevails, it will leave a tax of sixty cents a gallon upon all manufactured from this time up to the 1st of July; after that, and up to the 1st of January, 1865, it will impose a tax of seventy cents per gallon; and it will impose a tax of eighty cents per gallon. It will be seen by this exposition of the bill that it will raise, provided our consumption is as it has been computed to be, seventy million gallons a year, \$14,000,000 per annum, after January next; more than the bill would as it was sent to the Senate from the House. We have already lost perhaps twice the amount of revenue that is the subject of dispute between the two Houses. If we had passed the bill at the time it was introduced we should have gained certainly much more than any one now proposes to collect from those who have the article on hand, and have already paid all the tax the Government has required upon it.

But, sir, this proposition of levying a tax upon the stock on hand is an experiment, at the very best. It has never been attempted before in this or in any other country. I know that it was asserted the other day that it had been done in England, but when we came to refer to the English statutes we found that the tax was upon spirits in free warehouses, which had never before been subject to tax at all. Is it not better for us that we follow the examples of taxation and the experience of our own Government, as well as that of others, rather than to try this new policy about which there are so wide differences of opinion? As I have said on a former occasion it is impracticable to enforce it. By the provision of the bill there is no limit as to the minimum quantity to be taxed. It reaches, theoretically, the smallest as well as the largest quantity on hand. Practically I think it would never touch either extreme. If this were to go into operation it would include not only what are called speculators, but the regular merchants engaged in their legitimate business. It taxes the man who is compelled to keep a stock upon hand to supply his customers. He has not bought it for the purpose of unusual speculation, but to supply the demands of his customers; and unless he can realize the amount of the tax he will be subject to great loss.

In many cases the notoriety of our intention to put a tax upon the stock on hand has increased the price, and these parties have bought at a large advance upon what they would otherwise have had to pay. If we levy this tax in many of the commercial cities of the country it would produce disastrous results upon persons who hold stocks thus accumulated. Others have bought for exportation, and the foreign demand having suddenly ceased, are thus caught with stocks on hand at high prices, for which there is now no sale. If we levy it at all, we levy such a tax upon the assumption that the party has been benefited by the rise in the price to the extent of the duty. But that cannot be true. The value will not be increased to the extent of the duty. And for this reason, that the country holds more than is wanted for consumption. Therefore we ought to have, if we intend to be just, a commissioner to go about and find the exact profit made by these so-called speculators, and grab that and no more. Some will have made something and others nothing. Some will make three, five, ten, or possibly twenty cents per gallon. There would be a manifest injustice in levying forty cents upon those who only have made three or five.

But, Mr. Speaker, I am mainly opposed to this measure because it is a new principle. If we are to adopt it in regard to this matter, why not in regard to every other article? Why should we not adopt it in regard to leather, iron, cotton, wool, and every other article which we subject to taxation?

The Senate committee were unanimous in pressing upon us—whatever their individual opinions might be with regard to taxing the stock on hand, they were unanimous in urging upon us as a duty that this bill should not be lost. I make an earnest appeal to the House that we may recede from our disagreement, and allow the bill to become a law. The Government is in need of the money. I do not think we ought to allow pride of opinion or anything else to stand here so long higgling about so small a matter, and allow so large an amount of revenue to escape. I demand the previous question.

Mr. J. C. ALLEN. I ask the gentleman from Vermont to withdraw the call for the previous question for five minutes.

Mr. MORRILL. There are so many gentlemen asking for the same thing on all sides, that I must decline to withdraw the call.

Mr. STILES. I move that the House do now adjourn.

The motion was not agreed to.

The previous question was seconded, and the main question ordered to be put.

Mr. BRANDEGEE demanded the yeas and nays upon agreeing to the motion to recede.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 71; as follows:

YEAS—Messrs. James C. Allen, Ancona, Bally, Francis P. Blair, Bliss, Blow, Broomall, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Dawson, Dennison, Fenton, Finck, Garfield, Hall, Harding, Harrington, Higby, Holman, Hooper, William Johnson, Kelley, Knapp, Law, Leazar, Loan, Mallory, Marvin, McIndoe, Middleton, William H. Miller, Morrill, James R. Morris, Leonard Myers, Nelson, Noble, Charles O'Neill, John O'Neill, Pendleton, Pomeroy, Pruyn, Samuel J. Randall, Rogers, Schenck, Scott, Shannon, Smith, Smithers, Starr, Stevens, Stiles, Strouse, Stuart, Thayer, Van Valkenburgh, Voorhees, Wheeler, Wilder, and Woodbridge—61.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Jacob B. Blair, Boutwell, Brandegee, James S. Brown, Chandler, Ambrose W. Clark, Clay, Coffroth, Dawes, Denning, Dixon, Donnelly, Eckley, Eden, Eldridge, Elliot, Frank, Ganson, Grinnell, Hale, Charles M. Harris, Herrick, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Julian, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, Longyear, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Morrison, Amos Myers, Norton, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, James S. Rollins, Ross, Seefeld, Spading, Stebbins, John B. Steele, Thomas, Tracy, Ward, Ward, William E. Washburn, Webster, Whaley, Williams, Wilson, and Windom—71.

So the motion was not agreed to.

During the call of the roll,

Mr. DRIGGS stated that he had paired off with Mr. LOVEJOY, otherwise he would have voted in the negative.

Mr. WILSON moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. GRINNELL. I move that the House insist upon its disagreement to the amendments of the Senate, and request another committee of conference.

Mr. STEVENS. I move that the House adhere to its disagreements.

The SPEAKER. The motion to insist, and ask another committee of conference, will take precedence of the motion to adhere.

Mr. GRINNELL. I make my motion, because I believe this matter can be compromised without waiting six weeks.

Mr. STEVENS. That cannot be done.

Mr. MORRILL. I call for tellers upon the motion to insist.

Tellers were not ordered.

The motion was not agreed to.

Mr. STEVENS. I now move that the House adhere to its disagreement.

The motion was agreed to.

Mr. STEVENS moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. KNAPP, (at half past four o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, March 4, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 11th of January, information relating to the arrest and imprisonment, by the military authorities in Missouri, of soldiers belonging to the ninth Minnesota regiment; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. POMEROY presented a memorial of the Council and House of Representatives of the Legislative Assembly of New Mexico in favor of a grant of lands, money, or bonds, to aid in the construction of a branch railroad and telegraph line to connect with similar lines on the western line of the State of Kansas, and running through Colorado, New Mexico, and Arizona, connecting with the Central Pacific railroad of California; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also presented resolutions of the Legislature of Kansas in favor of a grant of money or bonds to aid in the speedy construction of the Atchison, Topeka, and Santa Fe railroad; which were referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. WILKINSON presented a memorial of the Legislature of Minnesota in favor of the establishment of a mail route from the city of St. Cloud, Minnesota, via Fort Abercrombie and Bannock City, to Fort Walla-Walla, to connect with other mail routes running through Oregon and Washington Territory; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota in favor of an extension of the benefits of the pension law to the widows and orphans of those who were engaged in the service of the United States in suppressing the late raid of the Sioux Indians in that State; which was referred to the Committee on Pensions, and ordered to be printed.

Mr. HARLAN presented a petition of citizens of Iowa, praying for an extension of the act of March 3, 1857, for the relief of purchasers and locators of swamp and overflowed lands, so as to make good the titles of bona fide purchasers; which was referred to the Committee on Public Lands.

Mr. LANE, of Kansas, presented resolutions of the Legislature of Kansas in favor of a grant of lands to aid in the construction of a railroad and telegraph line from the eastern line of the State to intersect the Atchison, Topeka, and Santa Fe railroad; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. SUMNER. I offer the petition of William H. Jameson, a paymaster in the United States Army, who sets forth that he was on board the steamer Ruth at the time it was burned on the Mississippi river; that a large sum of money was lost by him at that time, and, at the same time, some of his vouchers; and he prays Congress, by a special act, to direct the Paymaster General of the United States to enter a credit in his favor for the sum for which such vouchers were lost. I ask its reference to the Committee on Claims.

It was so referred.
Mr. RAMSEY. I present the memorial of the First National Bank of St. Paul, Minnesota, representing that on the 19th day of December of last year, they transmitted a package directed to Hon. F. E. Spinner, Treasurer of the United States at Washington, containing twenty-five five-twenty bonds of the denomination of \$1,000 each, ten five-twenty United States registered certificates of \$1,000 each, bearing interest from December 2, 1863, and all of them payable to the Treasurer of the United States in trust for the First National Bank by the president of said bank; that upon each and every of said five-twenty bonds there was indorsed an assignment in the form required by the regulations of the Treasury Department. These bonds and certificates were being sent to the United States Treasurer to be deposited under the conditions of the act of February, 25, 1863, as a basis for the issue of circulating currency

notes to said bank, and they were intrusted to Franklin Steele, Esq., who was about visiting Washington, and by him were deposited in a traveling-trunk, which trunk was placed at the time of his departure upon the boot of the stage. During the night of December 21, 1863, the stage was robbed of the trunk and securities, together with certain property and money belonging to said Steele; and neither the trunk nor bonds and registered certificates, nor any part thereof, have been recovered, although every effort has been made to do so. The memorialists pray that an act may be passed for their relief, authorizing the Secretary of the Treasury to issue bonds and certificates for those stolen. I move that the memorial be referred to the Committee on Finance.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. NESMITH, it was

Ordered, That the memorial of Charles McCormick, an assistant surgeon in the Army, praying for compensation for extra services, be taken from the files of the Senate and referred to the Committee on Military Affairs and the Militia.

On motion of Mr. JOHNSON, it was

Ordered, That the petition of John Gordon, a messenger in the Post Office Department, praying for compensation for extra services performed out of office hours, be taken from the files of the Senate and referred to the Committee on Claims.

PRINTING OF BILLS.

On motion of Mr. LANE, of Kansas, it was

Ordered, That the joint resolution (S. No. 32) for the removal of the refugee Indians in Kansas to their homes in the Indian country, be printed.

On motion of Mr. WADE, it was

Ordered, That the bill (S. No. 143) making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, be printed.

BILLS BECOME LAWS.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the President of the United States had approved and signed on the 29th of February the following bills and joint resolution:

A bill (H. R. No. 26) reviving the grade of lieutenant general in the United States Army;

A bill (H. R. No. 230) to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes; and

A joint resolution (H. R. No. 42) authorizing the payment of prize money, due to Commander Abner Read, United States Navy, to his widow, Constance Read.

REPORTS FROM COMMITTEES.

Mr. LANE, of Kansas, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 119) to reorganize and promote the efficiency of the Army chaplains' department, reported adversely thereon.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 118) to promote the efficiency of chaplains in the Army of the United States, and define their rank, pay, and emoluments, reported adversely thereon.

BILLS INTRODUCED.

Mr. NESMITH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 149) granting lands to the State of Oregon to aid in the construction of a military road from Portland to Dalles City; which was read twice by its title, and referred to the Committee on Public Lands.

WILLIAM YOCOM.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate a copy of the charge or charges, the sentence or judgment, the proofs and all the papers and proceedings, including his pardon, connected with the case of William Yocom, of the State of Illinois, or of the State of Kentucky; and also if the said Yocom is now in prison; and if so, where, and for how long a term.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed, on the 3d instant, the following bills:

A bill (S. No. 94) to authorize the settlement of the accounts of Paymaster E. C. Doran; and

A bill (S. No. 140) to provide for the protec-

tion of overland emigration to the States and Territories of the Pacific.

PACIFIC RAILROAD.

Mr. POMEROY. I ask the consent of the Senate to submit an amendment to a bill which is now before the select committee on the Pacific railroad, which I desire to have printed in order that the committee may consider it in connection with the bill. It is an amendment to the bill (S. No. 132) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862. I ask that the amendment be printed and referred to the select committee on the Pacific railroad.

The VICE PRESIDENT. It will be so referred, and the order to print will be made, if there be no objection.

STATISTICAL CENSUS TABLES.

Mr. BROWN. With the permission of the Senate, I should like to call up a resolution that I offered some weeks ago, and which is now lying on the table.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. BROWN on the 17th of February:

Resolved, That the Superintendent of the Census be required to prepare for the Senate statistical tables expressing in full the population of the United States, classing according to the hydrographic divisions of North America, as arranged in the accompanying article. Also, the relative industrial occupations of the population in each hydrographic subdivision, distinguishing the rural from the town populations. Also, the agricultural, manufacturing, and commercial statistics of each, expressed in aggregate totals, specifying the population of each county or part of county, city, &c.

Mr. BROWN. I am informed that the information called for does not require a great deal of additional work, as it is partly arranged already, and certainly it will be very valuable to the country. According to the present arrangement of our statistics, and the divisions under which they are embraced, it is purely conventional. This is an effort to have a better basis laid down—one that shall conform to the great features of the country, and that shall enable us to judge with greater accuracy as to the relative proportions of population and industry. I cannot conceive that any objection can be entertained to the adoption of the resolution. I understand that there are clerks now unemployed in the office who can present this work without interfering with other business. I trust it may be adopted.

Mr. GRIMES. I should like to know of the Senator from Missouri what information he has as to the extent of this work. How large is it to be?

Mr. BROWN. Not very large. I presume it can be done by the unemployed labor of the clerks now in the office.

Mr. GRIMES. I do not know anything about it myself; but I simply judge from the reading of the resolution that it proposes a different method of republishing the same matter that has already been published, namely, the census returns. They are to be put in a different shape, I suppose, for some particular purpose which I do not understand. After they have been put into that shape, and reported to us, then comes the question of printing.

Mr. BROWN. We can determine that question when it arises.

Mr. GRIMES. I have learned that when these reports are once before us, we are always in the habit of printing them to an almost indefinite extent. I think we have been expending quite money enough in the printing of documents. I understand there is now a deficiency of \$600,000 from last year for the printing of documents which was not anticipated by Congress, and that that does not cover the amount of the deficiency. Unless there is some reason assigned by the gentleman from Missouri which has not been assigned yet, and which I do not at present comprehend, I am opposed to calling for this information.

Mr. BROWN. I will say in reply to the Senator from Iowa that I understand that the mere labor of the compilation which is here asked for can be performed by the unemployed clerks now in the office.

Mr. GRIMES. Then I will ask why those

clerks are kept so unemployed? Why are they not discharged?

Mr. BROWN. I cannot tell you that, sir; but I understand that to be the fact; at least, that is the information I have on the subject.

I will state furthermore that the same reason which applies to the preparing of statistics at all applies with still greater force to their being prepared accurately and upon some scientific basis. According to the present distribution under which the statistics are made they have a purely fictitious nomenclature that enables no one to form any true opinion as to the wealth or the industrial attitude of the different sections of the country. For instance, who can tell what the middle States mean? I cannot; nor can anybody else. We can all tell what the Mississippi valley means, what the Atlantic basin means, and what the other basin means. It is simply to conform or to make a beginning for the conformation of our future reports under that system that I desire this resolution adopted.

I will say to the Senator from Iowa that when the report comes back to us, if it is of such a character as to involve expense in the printing of it not commensurate with any benefit likely to result from it I shall be the last to press any motion to print it; but I do ask that the resolution may be entertained and passed, and that the information desired may be had.

Mr. GRIMES. I move to refer this resolution to the Committee on Finance. I understand that it has not received the consideration of any committee, and I think that a question of this importance ought to come to us with the indorsement and recommendation of a committee. I do not concur in the suggestion of the Senator from Missouri—I do not know that it was exactly his suggestion, but that might be one of the conclusions that would follow from what he said—that we should pass this resolution for the purpose of furnishing employment to present unemployed clerks of the Census Bureau; and then I am opposed to the proposition in itself, if I understand what it is.

I understand that the purpose is to have a kind of sectional census made, and we are to have some portions of the United States classified by themselves, as the New England States, or the eastern portion; another as the western portion; another as the valley of the Mississippi. I do not want to see any such returns sent to Congress or disseminated among the people. I would, if I could, impress upon the people of my State that they are a part of every portion of the Union, and also, as is suggested to me by my friend from Connecticut, [Mr. FOSTER,] that every part of the Union is a portion of them.

I am satisfied with the census report as it is; but if the Committee on Finance see fit to recommend that the officers of the Government be employed in getting up such a census report as is now proposed, I shall be satisfied, but not as at present informed.

The VICE PRESIDENT. The Senator from Iowa moves to refer the resolution to the Committee on Finance.

The motion was agreed to.

INTERNAL REVENUE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House adhered to its disagreement to the amendments of the Senate, insisted on by the Senate, to the bill (H. R. No. 122) to increase the internal revenue, and for other purposes.

Mr. SHERMAN. I desire to make a report from the committee of conference on the disagreeing votes of the two Houses upon the bill to increase the internal revenue.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 122) to increase the internal revenue, and for other purposes, having met, after full and free conference have been unable to agree.

Mr. SHERMAN. The bill was sent to the House of Representatives on the report of the committee of conference of their disagreement, and the disagreement seems to be permanent. There are but three courses now open to be pursued in order to dispose of this question. If we adhere, as I understand the House of Representatives has done, that defeats the bill, and the effect will be

as a matter of course to lose the revenue we hope to derive from the tax on manufactured spirits from this time until another bill can be originated in the House of Representatives and passed through the forms of legislation. The second course is to have another committee of conference. With the experience we have already had with three committees of conference, I am satisfied it will be idle to move for the appointment of another committee of conference. The House of Representatives seems to have taken its definite position on this question, and the Senate also the other day by its vote decided its course. It is impossible, therefore, to come to an agreement by another committee of conference; and I will now propose a method, which I do not very well like, but which I think is the best we can do, and that is that the Senate recede from its amendments which have been disagreed to by the House of Representatives. I will explain briefly and clearly the effect of this motion if it shall be agreed to.

The effect will be to immediately pass the bill. The bill will then provide for a tax, on whisky manufactured after its passage and prior to the 1st of July next of sixty cents on each and every gallon; but there will be no duty after the 1st of July, and consequently further legislation will be required to provide a tax on whisky manufactured after the 1st of July. On the other hand, if the Senate recede from these amendments to which the House of Representatives have disagreed, it leaves standing in the bill this incongruous provision which Senators should understand:

"And that upon all spirits imported prior to the passage of this act, there shall be levied, collected, and paid an additional tax of forty cents per gallon, to be collected under the direction and according to the regulations established by the Secretary of the Treasury."

If my motion be adopted, the Senate must understand that there will be no tax upon domestic spirits on hand, but this provision will be in the bill levying a tax of forty cents additional upon imported spirits on hand. This is an unjust provision; but upon reflection we deem it better, in order to secure the tax on manufactured whisky in future, in order to pass the bill, to leave this incongruity in it, in the hope that Congress will immediately repeal it; and a resolution will be introduced into the Senate, as soon as this is disposed of, with a view to repeal this incongruous provision.

I make this plain statement to the Senate as briefly as I can, in order that they may see the effect of the motion I submit that the Senate recede from the amendments which have been disagreed to by the House of Representatives, with a view to secure the passage of the bill.

The VICE PRESIDENT. The question before the Senate is on the motion of the Senator from Ohio that the Senate recede from its disagreement.

Mr. DAVIS. I will thank the Chair to state precisely what question will then be presented to the Senate.

The VICE PRESIDENT. That is the only question.

Mr. DAVIS. But what is the disagreement?

The VICE PRESIDENT. It is not for the Chair to state what the various amendments are. The Chair understood the Senator from Ohio to say that there were three points on which there was a disagreement, and he has explained them.

Mr. DAVIS. If it is not asking too much, I ask the Secretary to read the points of disagreement.

The VICE PRESIDENT. That is in order.

Mr. CLARK. If the Senator from Kentucky will allow me, I will endeavor to state what will be the provisions of the bill and the points of difference.

Mr. DAVIS. I would rather that the writing itself should explain it.

Mr. CLARK. I was going to make an explanation, because I thought you would not get it clearly from the mere reading.

Mr. DAVIS. I suppose the writing will explain it as clearly as the Senator can.

The VICE PRESIDENT. The amendments on which the two branches have disagreed will be read by the Secretary.

The SECRETARY. The amendments non-concurred in by the House of Representatives are the third, fifteenth, and sixteenth amendments of the Senate.

The third amendment is as follows:

On page 1, line ten, after the word "gallon," insert: And upon all liquors that may be distilled after the passage of this act, and sold, or removed for consumption or sale, on and after the 1st day of July next, and previous to the 1st day of January next, seventy cents on each and every gallon; and on all liquors that may be distilled after the passage of this act, and sold, or removed for consumption or sale, on and after the 1st day of January next, eighty cents on each and every gallon.

Mr. HENDRICKS. The Senate agrees with the House to strike that out.

Mr. SHERMAN. That will be the effect.

The VICE PRESIDENT. If the Senate recede.

The Secretary read the fifteenth amendment of the Senate, which was on page 10, line eight, after the word "gallon," to strike out the words, "and no lower rate of duty shall be levied or collected than upon the basis of first proof," and to insert, "all such spirits imported."

The Secretary read the sixteenth amendment, which was on page 10 to strike out all after the word "proof" in line eleven to the end of the section, as follows:

And that upon all such spirits imported prior to the passage of this act there shall be levied, collected, and paid an additional tax of forty cents per gallon, to be collected under the direction and according to the regulations established by the Secretary of the Treasury.

The VICE PRESIDENT. These are the three amendments upon which the two branches have disagreed; and the question is upon the Senate receding from these amendments.

Mr. HENDRICKS. Will the Senator from Ohio explain the second disagreement?

Mr. SHERMAN. The second amendment of the Senate disagreed to by the House of Representatives was with a view to put the same tax on imported spirits after the 1st of July as was put on domestic spirits manufactured after the 1st of July. To that amendment of the Senate the House of Representatives disagreed, and I now propose to recede from it. The effect of that will be to impose a tax of sixty cents on foreign spirits imported prior to the 1st of July, and none after that, precisely on the same footing as the domestic spirits.

I will again repeat in a few words, so that Senators may not misunderstand this matter, for it is rather peculiar, the effect of the bill, which will be simply to provide a tax on whisky to be manufactured before the 1st of July, and fix no tax on that either to be manufactured or imported after the 1st of July except the twenty cents provided by the internal revenue act; to strike out the tax on domestic spirits upon hand; and to leave in the tax upon spirits upon hand which have been imported from abroad.

Mr. POMEROY. I understand the Senator to say that what is on hand now is not taxed.

Mr. SHERMAN. Not unless it has been imported.

The VICE PRESIDENT. The question is on the motion that the Senate recede.

Mr. GRIMES. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. CLARK. I think from inquiries which are made that Senators do not fully understand how the law will be if we pass the bill in the shape now proposed. At the present time, as Senators know, there is a tax of twenty cents a gallon imposed on whisky manufactured, as it is manufactured. The House of Representatives proposed by the bill to impose a tax of sixty cents on the manufactured article to be manufactured hereafter, and also a tax of forty cents on the article which has already been manufactured and is on hand. The Senate struck out of the bill the provision for taxing spirits on hand, and when it went back to the other House that House agreed to that amendment of the Senate and left all taxation on domestic spirits upon hand out of the bill entirely; and whatever may be the action of the Senate you cannot restore any tax upon domestic spirits on hand by the action of this body. It is concluded and out of the bill.

The House of Representatives proposed to lay a tax of sixty cents a gallon upon all domestic spirits manufactured after this time. The Senate amended it so as to lay a duty of sixty cents up to the 1st of July, and from July to January seventy cents, and after the 1st of January next eighty cents, making a sliding scale. To that amendment in part the House of Representatives

disagreed. They agreed to so much of it as imposed a tax of sixty cents up to July, but they disagreed to that part proposing seventy cents between July and January, and eighty cents after the 1st of January. Now if the Senate recede, the effect will be to pass the bill with a sixty cent tax up to July, and there will be no provision for a tax after July, nor upon what is on hand. Whether you pass the bill or reject it, you get no tax upon liquor on hand, and that is the great point on which we differed.

There is a further provision in the bill. To meet the tax proposed to be put upon domestic liquors on hand, the House of Representatives imposed a tax upon foreign liquors on hand to correspond. To that the Senate disagreed, and by receding now we leave that provision in the bill. We shall still leave the tax of forty cents to be imposed upon foreign liquors on hand, subject to the regulations of the Secretary of the Treasury. Many of the members of the committee, and indeed I may say all, upon an informal consultation, think it is better that the Senate should recede and allow the bill to become a law imposing a tax on domestic liquor manufactured between now and July of sixty cents, and also a tax of forty cents upon foreign liquor upon hand, but trusting to the action of Congress to repeal the latter provision. As the bill provides that that tax is to be levied under such regulations as the Secretary of the Treasury may from time to time prescribe, before those regulations can be provided Congress may act and repeal the provision. The committee would rather do that than lose the bill.

Mr. CARLILE. Then, as I understand it, the effect of voting to recede will be to tax domestic liquors hereafter manufactured sixty cents.

Mr. CLARK. Yes, with the incongruity I have mentioned. That is the whole of the bill. The point the committee discussed is whether we had not better pass the bill and get a tax of sixty cents on the liquor hereafter made, rather than to let the bill fail, because if the bill fails and a new one is brought in, I fear that we shall have the same controversy arising between the House of Representatives and the Senate. Perhaps we had better gain one step now and get a tax of sixty cents upon the liquor on hand. That is my judgment in regard to it, and I have stated the whole effect of the bill as it will stand if the Senate recede.

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio that the Senate recede from its amendments to which the House of Representatives have disagreed.

Mr. FOOT. Before the vote is taken, I think it proper to state that my colleague's [Mr. COLAMER's] absence from attendance on the Senate is occasioned by severe indisposition.

Mr. GRIMES. I will say the same of the Senator from Maine, [Mr. FESSENDEN.] I have seen him this morning, and he is confined to his bed by sickness.

Mr. SAULSBURY. I desire to state that my colleague [Mr. RIDDLE] was called home a few days since, and has been prevented from returning by sickness.

The question being taken by yeas and nays, resulted—yeas 25, nays 11; as follows:

YEAS—Messrs. Anthony, Carlile, Clark, Cowan, Davis, Dixon, Foot, Foster, Harding, Harris, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Sherman, Sumner, Van Winkle, Wade, Wilkinson, and Wiley—25.

NAYS—Messrs. Brown, Buckalew, Chandler, Doolittle, Grimes, Harlan, Howard, Powell, Ramsey, Saulsbury, and Wilson—11.

So the motion to recede was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. FOOT, it was Ordered, That when the Senate adjourns to-day it be to meet on Monday next.

TREATY WITH OREGON INDIANS.

Mr. NESMITH. I move that the Senate proceed to the consideration of Senate bill No. 25.

Mr. GRIMES. What is it?

Mr. NESMITH. It is a bill to authorize the President to negotiate a treaty with the Klamath, Modoc, and other Indian tribes in southeastern Oregon. It is very important that there should be action upon it at once.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider

the bill, which authorizes the President to conclude a treaty with the Klamath, Modoc, and Snake Indians, in southeastern Oregon, for the purchase of the country occupied by them. It also appropriates, for the purpose of carrying out the provisions of this act, the sum of \$20,000, to be expended under direction of the Secretary of the Interior.

The bill was reported to the Senate without amendment.

Mr. FOSTER. I should like to ask the Senator from Oregon if the President now has not full power to negotiate treaties with these Indian tribes, and indeed with all foreign nations.

Mr. NESMITH. There is a law which provides that no treaty shall be negotiated with Indian tribes without the consent of Congress. I do not recollect the date of the statute, and I cannot turn to it at present; but I know that such is the law, and that the President cannot negotiate a treaty with these tribes without the authority of Congress.

I will state in regard to this particular treaty that it is important the bill should be passed now, in order that the negotiation may be made early in the spring. The importance of it is fully impressed upon the Department. These three tribes of Indians occupy what is called middle Oregon, or rather southeastern Oregon. They occupy a country about as large as what the Senator from Kentucky [Mr. Davis] would designate one of the two New England States. They occupy a country about half as large as New England. It is a country abounding in precious metals, and is the direct thoroughfare to what is known as the old Fremont claim, from the Columbia river to California. There was a great deal of travel passing through that country. The Indians have been hostile for many years, and they have now cut off all the travel by that route. By their hostility within the last two years, the Government itself has suffered a loss of some fifty or sixty thousand dollars, by reason of their breaking up the reservation of friendly Indians contiguous to them, the confederated tribes of middle Oregon living directly north of them. It is of very great importance to make this treaty, in order to open communication between Oregon and California, and to prevent the depredations of these Indians, not only upon travelers, but upon the reservations of the friendly Indians themselves, whom we are bound to protect.

There are several reports here recommending it. I will not occupy the time and attention of the Senate by reading these reports. The bill has the favorable recommendation of the Committee on Indian Affairs. If any Senator desires any further explanation of it, I am ready to give it.

Mr. FOSTER. I will ask if there is a report of the committee accompanying the bill?

Mr. NESMITH. The committee directed me to report it back, with a recommendation that it pass.

Mr. FOSTER. No written report?

Mr. NESMITH. No, sir; there was no written report.

Mr. WILSON. I think this bill had better lie over for a day or two to give us time for inquiry and reflection upon it, and I therefore move to postpone its further consideration until to-morrow.

Mr. NESMITH. I hope the Senator from Massachusetts will not insist on his motion. It is necessary that the bill should be passed now, so that it can be made available this spring. It is very important to that portion of the country.

Mr. WILSON. Does the Senator think that a postponement for a day or two will delay its passage?

Mr. NESMITH. It will delay it some time. As it must go to the House of Representatives it should be acted on here at once, if it is to be made available this spring.

Mr. DOOLITTLE. I will suggest to the Senator from Oregon, that as the morning hour has now expired, he allow this bill to go over. That will leave it the unfinished business of the morning hour, to come up to-morrow in the morning hour. If any Senator desires further information on the subject, it can then be given. I make that suggestion to him, to allow it to go over now and come up to-morrow as the unfinished business of the morning hour.

Mr. NESMITH. The Senator from Kentucky,

[Mr. POWELL,] who is entitled to the floor on the special order which comes up at one o'clock, has kindly consented that I should occupy a little portion of his time to finish this bill. If Senators insist upon it, however, I will let it go over, though I should prefer to take a vote upon it now.

The VICE PRESIDENT. The special order of the day is the unfinished business of yesterday, and the morning hour having expired, that is now before the Senate.

Mr. NESMITH. By the courtesy of the Senator from Kentucky, I have his consent to consider this bill.

The VICE PRESIDENT. The special order will be passed over informally, if there be no objection.

Mr. POWELL. I am willing to let it be informally passed over until this bill is disposed of if the Senate wish to act upon it.

The VICE PRESIDENT. Then the question is on ordering the bill to be engrossed for a third reading.

Mr. FOSTER. I certainly do not oppose this bill for any reasons that I know why it ought not to be passed; but I do ask a little delay in order that I may inform myself, and get a few more good reasons why it ought to be passed before it is acted upon. The Senator from Oregon is well informed about it, and is satisfied that it ought to pass, and is probably correct. He was imperfectly heard, however, near me, in consequence of some disturbance in the Chamber, and I did not hear all that he said. I understood him, however, to say that the President could not negotiate a treaty with these particular tribes of Indians. If that is so, of course it needs a law to authorize negotiation; but it seems to me a singular fact if it be so. I know not why the power of the Executive which is given him by the Constitution has somehow been got rid of. As I said, I know nothing about this matter, and it may be I should say nothing until I inform myself; but it came up suddenly and unexpectedly. There is no report accompanying it. I wish the Senator would consent to let it lie until to-morrow.

Mr. NESMITH. I consent.

The VICE PRESIDENT. Then the special order will be taken up, on which the Senator from Kentucky [Mr. POWELL] is entitled to the floor.

MILITARY INTERFERENCE WITH ELECTIONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States.

Mr. POWELL concluded his argument on the bill. [His speech will be published in the Appendix.]

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 4, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in answer to a resolution of the House of January 6, relative to payments made to certain railroad companies.

Mr. HOLMAN. I move that that paper be printed and referred to the Committee of Claims.

The motion was agreed to.

CODE OF NAVAL LAWS.

The SPEAKER also, by unanimous consent, laid before the House a report from the commissioner (Hon. Charles B. Sedgwick) to prepare a code of laws for the naval establishment; which was ordered to be printed, and referred to the Committee on Naval Affairs.

Mr. MOORHEAD, by unanimous consent, introduced the following resolution; which was read, considered, and referred, under the rules, to the Committee on Printing:

Resolved, That two hundred and fifty additional copies of the proposed naval code be printed for the use of the Navy Department and the commissioner of the code.

INTERNAL REVENUE BILL.

Mr. FARNSWORTH. I wish to state that yesterday I was paired off with Mr. Cox on the whisky bill. I should have voted with the majority of the House, while Mr. Cox would have voted with the minority.

Mr. J. C. ALLEN. I desire to withdraw the vote I gave yesterday upon the revenue bill. I was paired upon that bill with my colleague, [Mr. WASHBURN.] I did not think of the fact until this morning.

No objection being made, the vote was withdrawn.

Mr. BOYD. I was unintentionally absent yesterday when the vote was taken on the whisky bill. Had I been here I should have voted with the minority.

Mr. LOVEJOY. I understand I was paired yesterday by my friends with Mr. DRIGGS upon the internal revenue bill. Mr. DRIGGS is present, and we would both like to vote.

No objection being made, Mr. LOVEJOY recorded his vote in the affirmative, and

Mr. DRIGGS recorded his vote in the negative. Mr. DAVIS, of New York. I desire the consent of the House to record my vote upon the report of the committee of conference upon the internal revenue bill. I was absent from the House yesterday, as I have been for a few days past, on account of sickness.

Mr. SPALDING. I must object to all such requests.

Mr. DAVIS, of New York. If I had been present I should have voted to recede from the disagreement of the House to the amendments of the Senate.

FREEDMEN'S BUREAU.

Mr. O'NEILL, of Ohio. I ask the unanimous consent of the House to record my vote on the passage of the bill to establish a Freedmen's Bureau. I was unavoidably absent when the vote was taken.

Mr. ELIOT. I object.
Mr. O'NEILL, of Ohio. I desire to state, then, that if I had been present I should have voted in the negative.

FREE SCHOOLS IN DISTRICT OF COLUMBIA.

Mr. STEVENS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That Daniel Breed, Sayles J. Bowen, and Zenas C. Robbins, commissioners or trustees appointed by the act of 11th July, 1863, to dispose of certain taxes imposed on persons of color in the District of Columbia to establish free schools, be requested to make report to this House.

MAIL COMMUNICATION WITH BRAZIL.

Mr. ALLEY, by unanimous consent, from the Committee on the Post Office and Post Roads, reported a bill authorizing the establishment of ocean mail steamship service between the United States and Brazil; which was read a first and second time by its title, recommitted to the Committee on the Post Office and Post Roads, and ordered to be printed.

CRANDALL AND HOUGHTALING.

Mr. NORTON, by unanimous consent, introduced a bill for the relief of Edward W. Crandall and Abram Houghtaling; which was read a first and second time, and referred to the Committee on Claims.

GENERAL MEADE'S REPORT.

Mr. NORTON. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That ten thousand copies of the report of General Meade of the battle of Gettysburg and the accompanying reports of subordinate officers be printed for the use of the members of this House.

Mr. STEVENS. I must object to that.

Mr. ELIOT. I ask the unanimous consent of the House to report a private bill from the Committee on Commerce.

Mr. HOLMAN. Inasmuch as this is the regular day for calling the committees for reports of a private nature, it seems to me that it would be much better to have the regular order of business, and then the gentleman's bill will come in in its regular order.

Mr. ELIOT. If objection be made, I call for the regular order of business.

Mr. HOLMAN. I do not object. I simply call myself for the regular order of business, so that all the committees may be called.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports of a private nature.

REVOLUTIONARY PENSIONERS.

Mr. LAW. Mr. Speaker, a few days since, at a meeting of the Committee on Revolutionary Pensions, it was suggested that an inquiry should be made of the Commissioner of Pensions what number of revolutionary pensioners were then on the rolls of his office entitled to and drawing pensions from the Government; secondly, their names and age; and thirdly, in what States they were enrolled; and I was directed to make the inquiries. I accordingly wrote to the Commissioner to furnish me the list, and the paper which I hold in my hand is his answer. This paper I wish read by the Clerk, and when read, with the resolution which accompanies it, to be placed on the Journals of the House as a matter of interest to every member, and, as I have no doubt it will be, to the whole country.

How many of the patriotic and gallant men who fought the battles of our country in the war of the Revolution, who poured out their blood like water and thereby achieved our independence, do you think, Mr. Speaker, are on the rolls of the Pension Office here, and are receiving a bounty from the Government? Twelve, sir; twelve only, of all that army which the Father of our Country led to victory, now, after eighty years since the treaty of peace in 1783, are living, and it is a matter of wonder, as well as a matter of gratulation, that any are living. The youngest, who must have entered the Army probably not over twelve years of age, as he must have been but fourteen when peace was established, is ninety-four. The oldest, one hundred and five.

Mr. Speaker, one of the finest poets that ever lived in this century, and one, probably, who had few superiors at any time, (Byron,) in closing one of his stanzas at midnight, while the oil of his lamp was nearly expended, and the wick flickering in its socket, thus most beautifully and eloquently moralizes:

"How little do we know that which we are,
Or that which we may be! The eternal surge
Of time and tide rolls on, and bears afar our bubbles!
As the old burst, new emerge, lashed from the foam
Of ages; and the graves of empires heave but as
Some passing wave."

Sir, the truth, the truth of history, both as to men and nations, was never more graphically and sentimentally expressed, either in prose or verse. Let history, either ancient or modern, tell its own story, and it is but the repetition of the death of the conqueror, and the destruction of the city or empire he founded. Where is Tyre, Nineveh, Babylon? Where is Carthage? "*Delenda est*" is the epitaph on its tomb, as it may be written on that of all the others, and the stranger now works among their ruins to find some relic of their former greatness, but he labors in vain. Where is Greece, once so famous in story, and from which we have derived all our taste for the arts? Where is Rome, imperial Rome, once the mistress of the world, and now with a territory less than one of our smallest States?

And is our destiny to be theirs in less than eighty years from our formation as a Government, ay, within the lifetime of any one of these gallant and noble men whose names are enrolled on our pension list, and who were born before our present Government existed? Will they live long enough to witness our exit as well as our entrance among the nations of the world—a Republic in ruins, whose foundation was the work of their hands, and that of their gallant compeers, whose bones were scattered over every battle-field of the Revolution from Bunker Hill to the gates of Yorktown? Shall these centurial heroes, these old and infirm veterans, live to see the day when the Republic, which was cemented with their blood, is broken in pieces and drenched in gore by the fratricidal hands of their children? God forbid. But who can predict what our destiny is to be? None but Him "in whose hands are the destinies of nations as well as of men." It may be that, as a nation, we have not given to Him the glory and praise of our prosperous career, but have attributed it to ourselves, forgetting the omnipotence of that Being who reigns supreme on earth as in heaven. It may be that, like Jeshurun of old, we have "waxed fat and kicked," and are now, as a nation, being punished for our transgressions.

"He can create, and He destroy;" His purposes are not known to us, and it is well they are not.

But, Mr. Speaker, I did not rise to make a speech in presenting these papers to the House, and have probably trespassed on the patience of the House longer than I ought. But I cannot conclude without saying that my sincere wish and prayer is that this small band of revolutionary patriots, all that are left of those brave and gallant men who acquired our independence, notwithstanding their age and infirmity, before they are gathered to their fathers, may live long enough to see that Union they and their comrades fought and bled for, during a war of seven years' duration, restored in all its parts—not a star blotted out or a stripe erased from our flag, but floating proudly in the wind, as it ever should have floated, on hill-top and mountain, in cities and in plains, throughout our whole country, peace and harmony and brotherly love again uniting us, as our fathers were united, as one people in interest and fellowship, binding us together even by stronger ties than those which made us once a great, powerful, and prosperous nation.

Sir, I am no seer, prophet, or son of a prophet, but I say to you, and I say to the country, if our Union is not preserved intact, "one and indivisible," neither on this continent, nor on any other, will a republican Government be established that will last a quarter of a century; I doubt, even, whether the experiment will ever again be tried. If in this nineteenth century, with the intelligence and love of liberty which ought to influence our people, with the blood that has been shed to obtain that liberty, with the example of our fathers, with the advice of Washington, who saw and dreaded the "sectional feeling" which has increased from year to year for the last thirty years, we, forgetful of his counsels, should rashly and wickedly permit our Union to be dissolved, what hope is there in the future, what prospect of success, even should those who are to come after us, under the yoke of some military despot, endeavor to break their chains, and once more become freemen? None, none whatever. The friends of free government would stand appalled, the arm that would strike for freedom be paralyzed, despotism would triumph, and tyrants rejoice that the last hope of freedom was extinguished forever.

I now ask for the reading of the letter and the resolutions.

The Clerk read the letter of the Commissioner of Pensions, as follows:

PENSION OFFICE, February 18, 1864.

SIR: In reply to your letter of February 10, requesting me to furnish you with the names of all revolutionary pensioners, I have the honor to submit the following report, which is believed to furnish, so far as is in my power, the information desired:

James Barham, on the St. Louis, Missouri, roll, at \$32 33 per annum; born in Southampton county, Virginia, May 18, 1764; age, 99 years 9 months.

John Goodnow, on the Boston, Massachusetts, roll, at \$36 07 per annum; born in Sudbury, Middlesex county, Massachusetts, January 30, 1762; age, 102 years 14 months.

Amaziah Goodwin, on Portland, Maine, roll, at \$38 33; born in Somersworth, Strafford county, New Hampshire, February 18, 1759; age, 105 years.

William Hutchings, on Portland, Maine, roll, at \$21 66; born in York, York county, Maine, (then Massachusetts,) in the year 1764.

Adam Link, on Cleveland, Ohio, roll, at \$30 per annum; born in Washington county, Pennsylvania; age, 102 years.

Benjamin Miller, on the Albany, New York, roll, at \$24 54 per annum; born in Springfield, Massachusetts, April 4, 1764; age, 99 years 104 months.

Alexander Maroney, on the Albany, New York, roll, at eight dollars per month; born in the year 1770, enlisted at Lake George, New York; age, 94 years; enlisted by his father, as he was young.

John Pettigill, on the Albany, New York, roll, at \$50 per annum; born in Windham, Connecticut, November 30, 1766; age, 97 years 24 months.

Daniel Waldo, on the Albany, New York, roll, at \$36 per annum; born in Windham, Connecticut, September 19, 1762; age, 101 years 54 months.

Samuel Downing, (papers do not show his age,) on the Albany, New York, roll, at \$80 per annum; served in the second New Hampshire regiment.

Lemuel Cook, on Albany, New York, roll, at \$100 per annum; no age or birthplace given in papers.

Jonas Gates, on the St. Johnsbury, Vermont, roll, at eight dollars per month; papers not filed.

Respectfully, JOSEPH H. BARRETT, Commissioner.

Hon. JOHN LAW, House of Representatives.

The following letter subsequently addressed to Mr. LAW by the Commissioner of Pensions is here inserted:

PENSION OFFICE, March 2, 1864.

SIR: I have the honor to state that, from the papers on file in this office in the case of Jonas Gates, it appears that his name is borne upon the pension roll of the State of

Vermont, under the act of March 18, 1818. In his declaration made on the 28th day of December, 1820, he declares that he was then fifty-seven years of age, and in a subsequent declaration he states that he was born in the town of Barre, State of Massachusetts.

Very respectfully, yours,

JOSEPH H. BARRETT,
Commissioner.

Hon. JOHN LAW, House of Representatives.

The resolutions submitted by Mr. LAW were then read, and agreed to, as follows:

Resolved, That the thanks of this House be, and are hereby, tendered to the gallant surviving soldiers of the Revolution; twelve in number, now on the pension rolls in the office of the Commissioner of Pensions, for their services in the revolutionary war, by which our Independence was achieved and our liberty obtained, and we sincerely rejoice in the decrees of Providence which have thus far protracted their lives beyond the allotted period of man, and enabled them in their declining years to receive from the Government a sum of money as pensioners, which, if not as large as desired by them, will at least help to smooth the rugged path of life in their descent to the tomb.

Resolved, That copies of this resolution, when adopted by the House, be signed by the Speaker and certified by the Clerk, and a copy of the same be furnished to each of the revolutionary pensioners mentioned in the letter of the Commissioner of Pensions this day submitted.

RHODA WOLCOTT.

Mr. HERRICK, from the Committee on Revolutionary Pensions, reported a bill for the relief of Rhoda Wolcott, widow of Henry Wolcott; which was read a first and second time.

The bill and report were read.

Mr. HOLMAN. It seems to me that this bill is in reference to a very old transaction, and that it ought to be referred to the Committee of the Whole House on the Private Calendar.

Mr. KERNAN. It is an eminently just bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HERRICK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SARAH WHITNEY AND MARY HUGGERFORD.

Mr. EDEN, from the Committee on Revolutionary Pensions, reported a bill for the relief of Sarah Whitney and Mary Huggerford, children of Huldah Butler; which was read a first and second time.

Mr. HOLMAN. That bill makes an appropriation, and must go to the Committee of the Whole House on the Private Calendar.

Mr. EDEN. I hope that the gentleman from Indiana will not persist in his objection.

Mr. HOLMAN. I have examined this case, and think it ought to be referred.

The bill was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ESTHER P. FOX.

Mr. ROSS, from the Committee on Invalid Pensions, reported a bill granting an invalid pension to Esther P. Fox, widow of Augustus C. Fox; which was read a first and second time.

The bill and report were read.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ROSS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

GUARDIAN SOCIETY OF WASHINGTON.

Mr. RICE, of Maine. I ask unanimous consent to report back from the Committee on Public Buildings and Grounds House bill No. 255, granting certain privileges to the Guardian Society of the District of Columbia.

The SPEAKER. The bill is of a public character, and makes an appropriation, and requires unanimous consent.

Mr. ELIOT. I object.

Mr. RICE, of Maine. It is not an appropriation bill.

The SPEAKER. On examination the Chair discovers that the bill does not technically make an appropriation, but it is of a public character.

Mr. MORRIS, of Ohio. I object.

INSPECTORS OF CUSTOMS.

Mr. FENTON. I ask unanimous consent of the House to report back from the Committee of

Ways and Means House bill No. 66, to increase the compensation of inspectors of customs in certain ports.

Mr. HOLMAN. I object.

H. R. CROSBIE.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of H. R. Crosbie; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

PAYMENT OF OHIO MILITIA.

Mr. HALE, from the same committee, reported a bill to provide for the payment of the second regiment of the third brigade Ohio volunteer militia during the time they were mustered into the service of the United States; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

J. J. BULOW.

On motion of Mr. HALE, the Committee of Claims was discharged from the further consideration of the petition of the heirs of J. J. Bulow for presentation to the Court of Claims.

JOHN T. HILDRETH.

Mr. HALE, from the Committee of Claims, moved that that committee be discharged from the further consideration of the petition and papers of John T. Hildreth, and that the petitioner have leave to withdraw them.

The motion was agreed to.

GUSTAVUS A. BELZER.

Mr. HOLMAN. Mr. Speaker, I am instructed by the Committee of Claims to report back this memorial to the House, and ask to be discharged from its further consideration, and that the memorial be laid on the table.

The memorialist asks for compensation for property belonging to him as a sutler in the army of the Potomac, destroyed by the rebels, amounting in value to \$3,097. The loss of the property and the loyalty of the memorialist are clearly established; and, indeed, there is one part of the official evidence before the committee that peculiarly recommends Mr. Belzer to favor. Indorsed on a letter written by him to the President, is the following:

This man wants to work; so uncommon a want that I think it ought to be gratified. I shall be obliged to any head of a bureau or Department who can and will find work for him.

A. LINCOLN.

January 23, 1862.

Yet this peculiar and flattering commendation does not relieve the committee. If Congress shall pay for damages done and property seized by our own troops, the public burdens will be sufficient without adding the enormous destruction and capture of property made by the rebel forces. The committee have therefore been compelled to disregard the wishes of this meritorious citizen who was willing to work.

The motion was agreed to.

JOSEPH C. G. KENNEDY.

Mr. HOLMAN, from the Committee of Claims, reported a bill for the relief of Joseph C. G. Kennedy; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

REV. W. B. MATCHETT.

Mr. HOLMAN, from the same committee, also reported back, with a recommendation that it do pass, a joint resolution for the relief of Rev. W. B. Matchett, and asked that it be put upon its passage.

The joint resolution was read. It authorizes and directs the Paymaster General of the United States to pay to W. B. Matchett the amount due him as chaplain tenth regiment New York volunteers, from the time he was last paid to the time the regiment was mustered out of service.

Mr. HOLMAN. This chaplain has not been able to obtain the balance of pay due to him, on account of some irregularity in the mustering. The joint resolution ought to pass.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CITIZENS OF INDIANA AND OHIO.

Mr. HOLMAN, from the same committee, also reported back, with a recommendation that it do pass, an act for the relief of citizens of Indiana and Ohio; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

ENROLLMENT OF STEAM-TUGS.

Mr. ELIOT, from the Committee on Commerce, reported back, with a recommendation that it do pass, an act (S. No. 39) to authorize the enrollment and license of the steam-tugs B. F. Davidson and W. K. Muir, and asked that it be put upon its passage.

The bill was read the third time, and passed.

L. F. CARTEE.

Mr. HIGBY, from the Committee on Public Lands, reported back, with a recommendation that it do pass, an act (S. No. 19) for the relief of L. F. Cartee, and asked that it be put upon its passage.

The bill was read. It authorizes the Commissioner of the General Land Office to pay to L. F. Cartee \$3,033 50 for services performed in surveys of the public lands in Oregon in excess of his contract with the surveyor general of Oregon, dated October 14, 1860; but before any payment is made, the work performed by him is to be tested in the field by actual examination, under the direction of the surveyor general of Oregon, and any correction made necessary to make it conformable to the laws of the United States and the instructions governing the surveys of the public lands at his expense, and the balance only of the appropriation is to be paid him after deducting the expense of inspection and correction, and when the certificate of the surveyor general of Oregon is filed with the Commissioner of the General Land Office that the survey is complete according to the law and regulations governing public surveys.

The bill was read the third time, and passed.

Mr. HIGBY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

J. B. WOOLF AND OTHERS.

Mr. JULIAN, from the Committee on Public Lands, reported back the petition of J. B. Woolf and others, and asked to be discharged from the further consideration thereof.

It was so ordered.

MISSOURI LAND ENTRIES.

Mr. MILLER, of New York, reported back, with a recommendation that it do pass, a bill (H. R. No. 217) to confirm certain entries of land in the State of Missouri; and asked that it be put upon its passage.

The bill was read. It confirms certain entries of land in the State of Missouri heretofore made under the graduation act of August 4, 1854, in township forty-five north, range nine west, south of Missouri river, in the district of lands subject to sale at St. Louis, Missouri; provided that the act shall not apply to any entry of land on which there was an actual settler other than the purchaser at the date of such entry.

Mr. HOLMAN. I think that that bill should be referred to the Committee of the Whole House on the Private Calendar.

Mr. MILLER, of New York. I ask the gentleman to listen to the reading of the report. The bill has the unanimous indorsement of the Committee on Public Lands, as it has had of the former Commissioner. I think if the gentleman from Indiana will listen to the reading of the report, he will make no objection to the passage of the bill.

Mr. HOLMAN. I understand that this is one of the cases to confirm the title to lands entered under the graduation act of 1854. Of course I will not make any motion until I hear the report read.

The report was read, as also the following letter from a former Commissioner of the Land Office:

GENERAL LAND OFFICE, April 6, 1860.

SIR: I have the honor to return herewith the letter of James S. Laughlin et al., and the petition of William L. Jenkins and nine other citizens of Osage county, Missouri,

praying for the confirmation of certain entries made by them in township forty-five north, range nine west, south of Missouri river, under the graduation act of August 4, 1851. In reference thereto I have to state that it appears from the records of this office that said township, both north and south of the river, was offered at public sale on the 22d of November, 1819; and it further appears that through some inadvertence the fractional township south of the river was marked on the plats of the local office as being not offered, and consequently it has always been treated as not subject to private entry, and until 1856 no entries were permitted therein, except to persons claiming under the preemption act of 1841.

The letter to which the petitioners allude as the authority under which the register permitted them to make their entries at the lowest graduation rate was simply a reply to a question submitted by Alton Long, Esq., as to the time when said fractional township was offered, and stated the facts as shown by our records, and not those of the local office, which alone control or determine the condition of the land, and its liability to entry or location.

In view, however, of the fact that the register of St. Louis improperly accepted the information conveyed in this letter to a third party as conclusive, and disregarding the evidence of his own records, permitted these entries to be made; and in consideration of the circumstance that these purchasers were thereby misled and induced to make improvements upon the land as actual settlers under the graduation law in good faith, and with honest intent to comply with the requirements thereof, I would respectfully recommend that the prayer of the petitioners be granted, and a law be enacted confirming said entries under certain restrictions, as provided in the bill herewith inclosed.

Very respectfully, your obedient servant.

JOSEPH S. WILSON,
Commissioner.

Hon. JOHN S. PHELPS, House of Representatives.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

INTERNAL REVENUE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had receded from its amendments, disagreed to by the House, to the bill to increase the internal revenue.

MAILS TO FOREIGN PORTS.

Mr. ALLEY. I am directed by the Committee on the Post Office and Post Roads to report back a bill providing for carrying the mails from the United States to foreign ports, and for other purposes. It is not a private bill, but is one of great importance to the Department, and has received the unanimous approval of the committee. It is of such importance to the country and to the Department that I think it will elicit no discussion or opposition, and I hope the House will consent to put it upon its passage now.

The bill was read by its title, as follows:

A bill (H. R. No. 142) to provide for carrying the mails from the United States to foreign ports, and for other purposes.

Mr. HOLMAN. I do not desire to object, but I desire to say that this day being set apart, and being the only day allowed, for the report of private bills, it does seem to me that this class of bills should remain until the committees have been called through for reports of private bills.

Mr. ALLEY. I understand that, but this is a very important bill, and the Committee on the Post Office and Post Roads has not had any opportunity to report this session, and this is the only bill of a public nature we particularly desire to pass at the present time. I think if the gentleman will give his attention to the reading of the bill he will see its importance, and will not object.

Mr. J. C. ALLEN. I object.

SHEPHERD AND CALDWELL.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported back a bill (S. No. 110) for the relief of John H. Shepherd and Walter H. Caldwell, of Missouri.

The bill directs the Postmaster General to allow to Shepherd & Caldwell the sums of money due and unpaid and heretofore withheld by the Post Office Department, for carrying the mails, during the years 1854 and 1855, on routes 8818 and 8849 in the State of Missouri, under certain restrictions and upon certain conditions named in the bill.

Mr. HOLMAN. It seems to me that this bill ought to be considered in the Committee of the Whole House.

Mr. ALLEY. I think the report had better be

read. It is brief, and contains a statement of the facts of the case as clearly as I could make it.

The report was read.

No objection being made, the report was received.

Mr. ALLEY. I move the previous question on the third reading of the bill.

Mr. FARNSWORTH. I would inquire of the gentleman from Massachusetts how much money is involved in the bill?

Mr. ALLEY. About nineteen hundred dollars.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PETER NICOL.

On motion of Mr. ALLEY, the Committee on the Post Office and Post Roads was discharged from the further consideration of the petition of Peter Nicol, mail carrier, for an increase of compensation; and the same was laid on the table.

MAIL ROUTE IN CONNECTICUT.

On motion of Mr. ALLEY, the Committee on the Post Office and Post Roads was discharged from the further consideration of the petition of certain citizens of Connecticut, praying for a change of mail route from Sharon to Cornwall Bridge, so as to run from Amenia Union via South Amenia to Kent; and the same was laid on the table.

VIRGINIA CONTESTED-ELECTION CASE.

Mr. DAWES. Has the morning hour expired?

The SPEAKER. It has.

Mr. DAWES. I desire now to call up the contested-election case from the seventh congressional district of Virginia. The case was partially considered a few days since, but was interrupted by other business.

Mr. HALE. This being the day for the consideration of private business, I move that the House resolve itself into the Committee of the Whole House upon the Private Calendar.

The SPEAKER. The question of privilege takes precedence.

Mr. DAWES. I will say that probably the business to which the Committee of Elections invites the attention of the House will occupy but a short time. I understand that the gentleman from Kentucky, [Mr. SMITH,] who has the floor, intends to make a motion to postpone the case, and I shall make no objection to that. I call up the case now.

The SPEAKER. The gentleman from Kentucky is entitled to the floor.

Mr. SMITH. I desire to say that my health is such at this time that I am unable to go on with the argument in this case. I therefore hope the House will entertain the motion I make to postpone the case indefinitely, and I will in two or three weeks, when my health is improved, call up the case and fix a day for its consideration. I move the case be postponed.

Mr. DAWES. For how long a time?

Mr. SMITH. I will say Monday two weeks, after the morning hour.

Mr. DAWES. I hope the gentleman will let this case be postponed till a week from to-day, and then, if the circumstances are such that he does not desire it to come up, it can be further postponed.

The SPEAKER. The Chair will state that a week from to-day will not be "objection day;" to-day is.

Mr. SMITH. I will state to the chairman of the Committee of Elections that I expect to ask leave of absence for ten days in consequence of family affairs.

Mr. DAWES. I am in much the same situation as my friend from Kentucky; but I will state to him that if, when this day week comes, he is not prepared to go on with the case he will not find me opposing a further postponement. I think the case had better be postponed until this day week.

Mr. SMITH. Well, I will not object to that.

The motion to postpone for one week was agreed to.

LEAVE OF ABSENCE.

Mr. SMITH. I now ask leave of absence for ten days. My family is in such a condition that I am compelled to go home.

There being no objection, the leave of absence was granted.

ORDER OF BUSINESS.

Mr. HALE. I now move to go into Committee of the Whole on the Private Calendar.

Mr. DAWES. I hope the gentleman from Pennsylvania will not press that motion. It was the understanding that the Committee of Elections should have Fridays. Everybody knows that the committee is overburdened with business, and we have held back our reports and have not interfered with the general business of the House with the understanding that we should have as much of Fridays as was necessary. I have a single case which I wish to present to the House to-day, and I do not think it will occupy the whole day, but if Fridays are not set apart for the committee they will be under the necessity of calling up their reports on other days.

Mr. HALE. The Private Calendar is very short, and it will take but a very short time to dispose of it, as this is "objection day." We shall not probably occupy more than half an hour in considering it.

The SPEAKER. The Chair will state that there are only eight bills upon the Private Calendar.

Mr. DAWES. And is this "objection day?"

The SPEAKER. It is.

Mr. DAWES. Then I will not object to the motion of the gentleman from Pennsylvania.

Mr. LOVEJOY. I wish to make an appeal to the House. Owing to the fact that I have been sick, the business of the Committee for the District of Columbia, of which I am chairman, has accumulated, and has been much delayed. We have a few bills from the Senate which we are prepared to report, and I hope the House will allow us to report them to-day.

Mr. DAWES. If the gentleman does not desire to have immediate action upon them, I will make no objection.

Mr. LOVEJOY. I wish that some of them shall be put upon their passage. They will occupy but a very short time.

Mr. DAWES. I cannot yield for that purpose, but as this is "objection day," I will yield for the motion of the gentleman from Pennsylvania, [Mr. HALE.]

The SPEAKER. Does the gentleman yield to the gentleman from Illinois, [Mr. LOVEJOY?]

Mr. DAWES. I have no objection to his reporting any bill upon which he does not desire immediate action.

Mr. LOVEJOY. They are Senate bills, and I want them passed at once.

Mr. DAWES. I cannot yield for that purpose.

JOHN DIXON.

Mr. FARNSWORTH. I desire to make a report from the Committee on Military Affairs, upon which I do not ask action at this time.

Mr. HALE. Then I have no objection to the report being made.

Mr. FARNSWORTH then, by unanimous consent, from the Committee on Military Affairs, reported a bill for the benefit of John Dixon, of Illinois; which was read a first and second time by its title, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

DISTRICT BUSINESS.

Mr. LOVEJOY. Will the gentleman from Pennsylvania yield to me to make a report from the Committee for the District of Columbia?

Mr. HALE. I must insist on my motion.

The SPEAKER. Next Friday the call of committees for reports will commence with the Committee for the District of Columbia.

Mr. STEELE, of New York. The reports which the chairman of the Committee for the District of Columbia wishes to make are private bills, to which there will be no objection.

Mr. HALE. Then we can take them up in Committee of the Whole House. I insist on my motion.

The motion was agreed to.

The House thereupon resolved itself into the Committee of the Whole House, (Mr. J. C. AL-

LEN in the chair,) and proceeded to the consideration of the private bills upon the Calendar, as follows:

F. A. HOLDEN AND OTHERS.

A bill (H. R. No. 226) for the relief of F. A. Holden, Eli Thayer, Hannah Bexton, D. W. Frisby, and Hiram Bloss.

Mr. HOLMAN objected.

CHIPPEWA AND OTHER INDIANS.

Joint resolution (H. R. No. 38) directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians, residing in Michigan, the sum of \$190,850.

Mr. STEVENS objected.

WINNEBAGO INDIANS.

A bill (H. R. No. 194) for the benefit of half-breeds and mixed bloods of the Winnebago tribe of Indians.

Mr. MORRILL objected.

ISAAC R. DILLER.

A bill (H. R. No. 94) for the relief of Isaac R. Diller.

Mr. MILLER, of Pennsylvania, objected.

R. L. B. CLARKE.

A bill (H. R. No. 256) for the relief of R. L. B. Clarke.

Mr. STEVENS objected.

BRIGHAM YOUNG.

A bill (H. R. No. 130) to authorize the Secretary of the Interior to adjust and settle the accounts of ex-Governor Brigham Young as *ex officio* superintendent of Indian affairs for the Territory of Utah.

Mr. RICE, of Maine, objected.

ALBERT BROWN.

An act (S. No. 92) for the relief of Albert Brown.

Mr. AMES objected.

JACOB WEBER.

A bill (H. R. No. 203) for the relief of Jacob Weber.

Mr. LOVEJOY objected.

Mr. HOLMAN. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. J. C. ALLEN reported that the Committee of the Whole House had had under consideration the Private Calendar, and had come to no conclusion thereon.

MASSACHUSETTS CONTESTED ELECTION.

Mr. DAWES. I now call up the Massachusetts contested-election case.

Mr. LOVEJOY. I desire to make a report from the Committee for the District of Columbia.

Mr. HALE. I submit to the gentleman from Massachusetts that my half hour is not up yet.

Mr. DAWES. No; but the gentleman was smarter than he promised to be.

Mr. HALE. I promised to occupy only half an hour, and I have not had that length of time.

Mr. DAWES. Yet the gentleman has had time enough to go through the Calendar. He went through it in five minutes instead of half an hour.

WASHINGTON CITY SAVINGS BANK.

Mr. LOVEJOY. Will the gentleman withdraw his motion till the Committee for the District of Columbia is called?

Mr. DAWES. I withdraw it provisionally.

The SPEAKER proceeded with the call of reports of a private character.

Mr. LOVEJOY, from the Committee for the District of Columbia, reported back, with a recommendation that it do pass, an act (S. No. 15) to incorporate the Washington City Savings Bank; and asked that it be put upon its passage.

The bill was read the third time, and passed.

Mr. LOVEJOY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LEVY COURT EXPENSES.

Mr. LOVEJOY, from the same committee, also reported back Senate bill No. 81, to apportion the expenses of the levy court of the county of Washington upon the basis of population, with a recommendation that it do pass.

The bill was ordered to a third reading, and was accordingly read the third time, and passed.

Mr. LOVEJOY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MASSACHUSETTS CONTESTED ELECTION.

Mr. DAWES called up the report of the Committee of Elections in the case of John S. Sleeper, contesting the right of Alexander H. Rice to a seat in the House of Representatives as a Representative in the Thirty-Eighth Congress from the third congressional district of Massachusetts.

The resolutions reported by the committee were read, as follows:

Resolved, That John S. Sleeper is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the third congressional district of Massachusetts.

Resolved, That Alexander H. Rice is entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the third congressional district of Massachusetts.

Mr. DAWES. I would like to have gentlemen send to the document-room for the report of the Committee of Elections in this case. It is a peculiar case—not such as has heretofore come before the House—depending entirely upon the accuracy of the count of the votes, which will be better understood by gentlemen if they will refer to the report of the committee in this case.

The district is the third district of Massachusetts, composed of six wards of the city of Boston, the city of Roxbury, and the town of Brookline. The official canvass of votes shows the following result: for Mr. Rice, 8045 votes; for Mr. Sleeper, 5,020 votes; making a plurality of 25 votes for Mr. Rice. Mr. Sleeper claims that the true result should be as follows: for Mr. Sleeper, 5,049 votes; for Mr. Rice, 5,017 votes; making a plurality for Mr. Sleeper of 32 votes.

The contest does not involve the legality of any of the votes cast at this election, but simply the accuracy of the count, and the accuracy of the count in a single ward only of the city of Boston—the twelfth ward, or South Boston.

Mr. Sleeper claims that in that ward the true count should have been: for Mr. Sleeper, 890 votes; for Mr. Rice, 805 votes; making a plurality for Mr. Sleeper in that ward of 85 votes. Mr. Rice claims that the true vote in that ward was as follows: for Mr. Sleeper, 861 votes; for Mr. Rice, 833 votes; making a plurality in that ward for Mr. Sleeper of only 28 votes. It is upon this single ward of the city of Boston, and upon this single point, that the whole contest hangs.

The vote in the State of Massachusetts is by ballot. A check-list is prepared ten days beforehand. When a voter approaches the polls, his name is first found upon the check-list and checked off. He then deposits his ballot. There is nothing upon the ballot to indicate by whom a particular ballot was cast, and no means of ascertaining that fact except from the voluntary statement of the voter, or by the casual observations of bystanders.

In the cities of Massachusetts each ward constitutes an election precinct, and a poll is opened in each ward. The ward officers consist of a warden, a clerk, and five inspectors, who conduct the election. In all other respects, the ballots are cast at a ward meeting precisely as they are at town meetings in the towns of the State, and in the manner I have described.

The ward officers as well as the town officers are required at the close of the polls to announce in open ward or town meeting, before the adjournment of the meeting, the result of the ballot for whatever officer is being elected. In wards they are then required to make a certificate of the result and enter it in a record kept for that purpose, transmitting certified copies of it to the mayor and aldermen of the city, who are required in case of an election of members of Congress to examine these returns and transmit them to the Governor of the Commonwealth and the Council, who as a board of canvassers are to declare elected and give certificates to the persons appearing to them to have the highest number of votes.

Upon the night of the election, when the voting was had in the State of Massachusetts for Representatives to Congress, which was on the 4th of November, 1862, the ward officers entered upon their record, and then certified and returned to the mayor and aldermen of the city of Boston a certificate, which I will ask the Clerk to read.

The Clerk read, as follows:

City of Boston:

At a legal meeting of the inhabitants of ward No. 12, in the city of Boston, in the county of Suffolk, and Commonwealth of Massachusetts, qualified as the law directs, holden in said ward on Tuesday, the 4th day of November, in the year of our Lord 1862, for the purpose of giving in their votes for one able and discreet person, being an inhabitant of district No. 3, to represent said district in the next Congress of the United States, the whole number of votes given in as aforesaid were sorted, counted, recorded, and declaration thereof made, as by the constitution and law directed, and were for the following persons:

For Alexander H. Rice, of Boston, eight hundred and five (805) votes.

For John S. Sleeper, of Roxbury, eight hundred and ninety (890) votes.

In testimony whereof, the warden, inspectors of elections, and clerk of said ward, have hereunto set their hands, the 5th day of November, in the year of our Lord 1862.

HORATIO N. CRANE, Warden.

A. SMITH, Jr.,

FRANCIS W. HILL,

JOSEPH H. TOMBS,

Inspectors.

GEORGE W. BAIL, Clerk.

Mr. DAWES. The number of votes thus certified to have been cast in this ward is the number Mr. Sleeper claims to have been the true number.

And the mayor and aldermen certified the result in the six wards of the city falling in this district, and transmitted that certificate to the Governor and Council. I ask the Clerk to read it.

The Clerk read, as follows:

Commonwealth of Massachusetts:

At a legal meeting of the inhabitants of the city of Boston, in the county of Suffolk, and Commonwealth of Massachusetts, qualified by the constitution to vote for civil officers, holden in their several wards on the 4th day of November, being the Tuesday after the first Monday of said month, in the year of our Lord 1862, for the purpose of giving in their votes for a Representative in the congressional district No. 3 of said Commonwealth, it appears from the several returns made to the board of aldermen, and by them examined according to law, that the whole number of votes given in were sorted, counted, recorded, and declaration thereof made, as by the constitution is directed, and were for the following persons:

John S. Sleeper, of Roxbury, 3,629; Alexander H. Rice, of Boston, 3,717; Alexander H. Rice, of Roxbury, 8; Lyndander Spooner, of Boston, 1; — Rice, 1; William Whitney, 1; Henry Crocker, 1.

SAMUEL R. SPINNEY,

THOMAS P. RICH,

JOS. L. HENSHAW,

JAMES L. HANSON,

GEO. W. PARMENTER,

E. T. WILSON,

THOMAS C. AMORY, Jr.,

OTIS NORCROSS,

Aldermen of the city of Boston.

SAMUEL F. MCCLARY,

City Clerk.

Attest:

Mr. DAWES. To make up this aggregate is included the number of votes certified in the certificate just read to have been cast for Mr. Sleeper and Mr. Rice in this ward.

On the 11th day of November, seven days following, the ward officers of ward twelve made an amended or additional return to the mayor and aldermen, as follows.

The Clerk read, as follows:

City of Boston:

At a legal meeting of the inhabitants of ward No. 12, in the city of Boston, in the county of Suffolk, and Commonwealth of Massachusetts, qualified as the law directs, holden in said ward on Tuesday, the 4th day of November, in the year of our Lord 1862, for the purpose of giving in their votes for one able and discreet person, being an inhabitant of district No. 3, to represent said district in the next Congress of the United States, the whole number of votes given in as aforesaid were sorted, counted, recorded, and declaration thereof made, as by the constitution and law is directed, and were for the following persons:

To Alexander H. Rice, as per corrected return, eight hundred and thirty-three (833) votes, instead of eight hundred and five, as per original return; and for John S. Sleeper, as per corrected return, eight hundred and sixty-one (861) votes, instead of eight hundred and ninety, as per original return.

HORATIO N. CRANE, Warden.

GEORGE W. BAIL, Clerk.

In testimony whereof, the warden, inspectors of elections, and clerk of said ward have hereunto set their hands the 11th day of November, in the year of our Lord 1862.

HORATIO N. CRANE, Warden.

FRANCIS W. HILL,

ALFRED SMITH, Jr.,

THOMAS JOHNSON,

JOSEPH H. TOMBS,

C. A. CONNOR,

Inspectors.

GEORGE W. BAIL, Clerk.

SUFFOLK, ss:

CITY OF BOSTON, November 11, 1862.

Then personally appeared the within-named persons, to wit, Horatio N. Crane, warden; Francis W. Hill, Alfred Smith, Jr., Thomas Johnson, Joseph H. Tombs, and C. A. Connor, inspectors of elections, and George W. Bail, clerk, who solemnly swore that this corrected return given by them is true.

Before me,

HORACE SMITH,

Justice of the Peace.

Mr. DAWES. The difference between this certificate and the former one is to give Mr. Sleeper 861 instead of 890 votes, and Mr. Rice 833 instead of 805; that is, a difference of 29 votes less for Mr. Sleeper, and 28 votes more for Mr. Rice.

The mayor and aldermen of the city of Boston transmitted the certificate to the secretary of the Commonwealth with the following certificate.

The Clerk read, as follows:

AMENDED CERTIFICATE.

Commonwealth of Massachusetts:

At a legal meeting of the inhabitants of the city of Boston, in the county of Suffolk, qualified, as by the constitution required, to vote for representatives in the General Court, holden on the Tuesday next after the first Monday in November, being the 4th day of said month, in the year 1862, for the purpose of giving in their votes for a Representative of this Commonwealth in the Thirty-Eighth Congress of the United States, for district No. 3, all the ballots given in therefor were sorted, counted, and recorded, and declaration thereof made, as by the constitution is directed, and were for the following persons, namely:

John S. Sleeper, of Roxbury, 3,600; Alexander H. Rice, of Boston, 3,745; Alexander H. Rice, of Roxbury, 8; Lyndauer Spooner, of Boston, 1; — Rice, 1; William Whitney, 1; Henry Crocker 1; if the amended return from ward twelve, of which a copy is hereto attached and marked A, should be received as a true return of the votes cast at said election.

THOMAS P. RICH,

Chairman of the Board.

JAMES L. HANSON,

JAMES L. HENSHAW,

C. A. RICHARDS,

OTIS NORCROSS,

THOMAS C. AMORY, Jr.,

FRANCIS RICHARDS,

JOHN F. PRAY,

SAMUEL R. SPINNEY,

Aldermen of Boston.

SAMUEL F. MCCLARY,

City Clerk.

Attest:

November 12, 1862.

Mr. DAWES. The Governor and Council adopted this as the true return and correct statement of the vote cast in ward twelve of Boston, instead of the other, and as it gave Mr. Rice a majority of 25 votes, awarded him the certificate accordingly.

It is on the legality and accuracy of that proceeding this whole contest depends. If the House will indulge me, I will endeavor to present the precise point in the case. The Committee of Elections, so far as I know, without an exception, came to the conclusion that the amended return was the correct one. In respect to it Mr. Sleeper claims, first, that it is illegal because there is no law authorizing the ward officers to make an amended or additional return of this nature; that the law requires the result to be declared in open ward meeting, and this result never has been so declared, and cannot therefore be accepted as the result; and because the mayor and aldermen have never, as required by law, passed upon this amended or additional return, or determined anything one way or the other based upon it, but only transmitted the same to the Governor and Council, with a hypothetical certificate of their own, of no force in law; and secondly, that the amended return is not true.

It is necessary, therefore, Mr. Speaker, that the House should listen to an exposition of the law of Massachusetts upon the subject of an amended return, and then to evidence to ascertain whether in point of fact the amended return is true or not.

First, Mr. Sleeper claims that there is no authority of law to make such an amended return. Let the law be read before we proceed any further. Is there any law authorizing the ward officers to make an amended or additional return of the nature of the one here made? The duty of the ward officers, as well as of the mayor and aldermen in the premises, is prescribed in chapter seven, section sixteen, of the General Statutes of Massachusetts, in these words:

"The mayor and aldermen and the clerk of each city shall forthwith, after an election, examine the returns made by the returning officers of each ward in such city; and if any error appears therein, they shall forthwith notify said ward officers thereof, who shall forthwith make a new and additional return, under oath, in conformity to truth, which additional return, whether made upon notice or by such officers without notice, shall be received by the mayor and aldermen or city clerk at any time before the expiration of the day preceding that on which by law they are required to make their returns, or to declare the result of the election in said city; and all original and additional returns so made shall be examined by the mayor and aldermen, and made part of their returns of the results of such election. In counting the votes in an election no returns shall be rejected when the votes given for each candidate can be ascertained."

It is claimed by Mr. Sleeper that although that statute provides for and contemplates an amended

or new return from ward officers in certain cases, it was only designed to cover clerical errors; that when the mayor and aldermen found on looking over the returns, or when they suspected there was a clerical error in the returns, they were required to notify the ward officers that they were to correct the error, but that there was no provision of law which permits the ward officers to examine into the facts touching the real number of votes cast, or to do anything more than to correct any clerical error, such as that when they had declared the result to be 805 votes the clerk called it 806, or some such clerical error as that.

But a careful examination of the statute shows this claim entirely unfounded. In the first place it requires the ward officers to make an amended or new return in certain cases specified in the section. It is then their duty to make a new return. The return is limited by law in two ways, and two only: first, it must be made within ten days of the election; second, it must be "in conformity to truth." Those are the only limitations upon the ward officers. They shall make a new return whenever the making of a new return is necessary to certify the truth. They must make it within ten days, and the new certificate must conform to the truth, and nothing else. They must swear to it, and therefore it must be in conformity to what they believe the truth to be. And the statute is wholly silent upon the means by which they are to arrive at the truth. They are therefore at liberty to adopt any means which will lead to the truth.

My friend, Mr. Sleeper, claims that there is no express authority for them to re-examine and recount the ballots; and there is none. He claims that it follows, therefore, that they are not authorized to recount the ballots. But there is no express authority for them to adopt any method of examination to ascertain what that truth is to which their certificate must conform, and therefore, if they are not permitted to examine the ballots to ascertain that truth because there is no express provision for examining the ballots, it would follow that they are not authorized by law to pursue any method of ascertaining the truth, although the law requires of them to make a certificate in conformity to truth. Yet my friend claims that they cannot be permitted to pursue any method to ascertain what the truth is.

Well, it is evident if they are to make a new or amended return, it must be different from the first return; and that does away entirely with the claim of Mr. Sleeper upon the second ground, namely, that this result in the amended return was never proclaimed in open town meeting, because the result in the first return is the result proclaimed in open town meeting always, except whatever clerical mistake may arise in making out the certificate. Any mistake except a clerical one in the certificate would certainly involve the number proclaimed in open town meeting, and therefore the proclaimed number would be different from that made in the amended return.

Therefore, unless the amended return is to be precisely like the original—which is absurd—it would be different from that which is proclaimed in open town meeting. That disposes of Mr. Sleeper's second objection.

The third objection is that this return was, by the mayor and aldermen, transmitted to the Governor and Council without passing upon it, or deciding whether it was the true return from ward twelve or not. An examination of the statute will show that it is no part of the business of the mayor and aldermen to adjudicate upon it at all. They are required to examine it, and then transmit it to the Governor and Council, who shall take it, along with the original return, and examine and adjudicate upon all the returns, and declare him elected who, in their opinion, is elected by such returns. So that the contestant entirely mistakes the express provision of the statute, which is, not that the mayor and aldermen, but that the Governor and Council, shall pass upon the returns, and the mayor and aldermen are only the channel through which they come.

The last and most important objection which the contestant makes to this amended return is that it is not true in fact, and, if it is not, he is entitled to the seat.

It is quite apparent that it was the duty of the Committee of Elections, and that it is our duty, to ascertain, if it is in our power, what was the

actual number of legal votes cast in that ward, without regard to whether the ward officers correctly or incorrectly certified that number of legal votes after they were cast. The law of Massachusetts lays great stress upon an open declaration of the result of the election in town meeting, before the adjournment of the town meeting, and before the result can be known or there can be any temptation on the part of any candidate or his friends to tamper with the returns themselves or the number of ballots. It is a very wise provision of law, and tends greatly to protect the ballot-boxes from frauds of this kind. It is claimed by Mr. Sleeper that the announcement in open town meeting is conclusive of the election; that it is the only result that can be accepted and acted upon; that there is no power under the laws of Massachusetts to go behind the result openly declared in town meeting; and that it is not safe or proper for us to go behind that result; so that however satisfied we may be that an honest mistake has been made in counting the votes or certifying them, or in any other way, yet if that mistake has happened to be declared as the result in open town meeting, it is *res adjudicata*, and past any examination by us. But the Committee of Elections were of the opinion that no such rule exists in Massachusetts or should govern us in the House of Representatives; that while they would put great reliance on that open declaration and regard it as *prima facie* evidence of the actual result, not to be controlled by any slight or suspicious evidence, nevertheless it is controllable, and to be controlled by evidence that will not admit of any reasonable doubt, so that the truth may be arrived at satisfactorily to fair and candid minds as to the actual result of the legal vote.

Now, Mr. Speaker, how came this mistake to exist? The ward officers, seven in number, superintended the election. Two of them stood at the polls, one with the check-list in his hand, and the other with the ballot-box; and when a man's name was checked on the check-list by the one, his vote was received by the other in the ballot-box. Two or more of them in another part of the ward room, upon a raised platform, separated from the voters by a railing, sat at a table and counted from time to time the ballots thus cast.

The officers of this ward, seven in number, were as nearly divided politically as they could be; four of them at this election voted for Mr. Rice, and three of them for Mr. Sleeper, the warden and president of the board voting for Mr. Sleeper, and the clerk voting for Mr. Rice. The clerk and the warden sat at a table in the rear of the ballot-boxes and counted the votes from time to time.

It was a general election in the State of Massachusetts, and State officers as well as Representatives in Congress were voted for to the number of seventeen. They were all upon one ballot—a paper of considerable size, such as I have now in my hand. The warden and the clerk, friends of the two candidates for this office, kept count of the votes cast, and from hour to hour the result was placed upon a blackboard in the ward room, so that any person coming into the ward room could ascertain exactly how the election was progressing. These officers kept a tally. They kept upon one paper the votes as they were cast and counted for Governor and Representatives in Congress, those being the officers in reference to whom most interest was felt. That paper was called "rough count throughout the day." I have the original paper on which the count was kept. Lithographic copies are annexed to the report. I have also in my hand a photographic copy of it precisely as it appears, as it was kept that day. They also kept another paper, a lithographic copy of which is also annexed to the report, on which they recorded the votes for Representative to Congress, for councilor of the district, and for senator in district five, in which that ward was situated. I have a photographic copy of that paper. The original I have here at my desk.

If gentlemen will turn to the copies of these papers in the report they will see exactly how the count was kept, and how the mistake was made. They first put all the straight votes by themselves, tying them up in small packages and marking on the back of them the number of votes in the package and the words, "clean-taken," adding the initials of the person who counted them. The split or scratched tickets they tied up, assorted in the same way, putting on the back of the package

some mark indicating that they were not whole tickets, and the number of votes for the particular candidate whose name was scratched.

It will be observed that the first package counted for Mr. Rice contained 5 votes, the next contained 9. The 9 was placed over the 5, and the sum of them, 14, was carried to the right hand. The next package contained 60 votes. The 60 was placed over the 14 and the sum of these figures, 74, was carried forward to the right. So on through to the end.

If gentlemen will cast their eye over the second line of these figures they will see that at the beginning of the line the votes for Mr. Rice had accumulated to 334. The next package contained 39. These figures placed over the 334 made 373, which was carried to the right; 9 over that, added to it, was carried forward, 382; 187 over that, added to it, was carried forward, 569; 3 over that, added to it, was carried forward, 572; 1 over that, added to it, was carried forward, 573; 5 over that, added to it, made 578, but was carried forward as 518, the figure 7 being mistaken for the figure 1, 60 votes being thus dropped from the count.

This mistake runs through to the end, giving Mr. Rice at the end 770 votes, when in point of fact, by correct addition, it should have been 830 votes. The whole error is embraced in that point.

There is another method of proving it, but this correction of the vote will change the result and bring it out precisely as the ward officers claimed it to be in their amended return, and as the Committee of Elections found it to be.

There is a reason why I should go further in this statement. The ward officers made a return, not from that paper, but from the second paper, K, and therefore I beg the attention of the House for a moment to paper K. The results from hour to hour of the vote for Governor and Representative in Congress, placed on the blackboard, were taken from the "rough count" paper I. As they made this count and added up the votes they recounted them and set down the results on paper K, carrying them out in the same way. But the House will observe that paper I and paper K do not coincide. The people of the ward observed at the close of the polls this strange fact, that there were 60 votes less for Representative to Congress than there were for any other officer. They could not understand how that was. They inquired whether there were 60 men voting in that ward for all other officers, and omitting to vote for Representative in Congress. None of the ward officers had observed in the count any such circumstance, and no man had been found in the ward who had cast a vote for every other officer, omitting to vote for Representative in Congress. That led to inquiry and to an examination.

It will be observed also that this "rough count" I not only does not agree in its present condition with paper K, but that when you correct it, and add to it the 60 votes, the papers I and K will not even then agree. Correcting this mistake, which is perfectly clear, and restoring to Mr. Rice the 60 votes here lost to him, his vote would be by the "rough count," corrected, 830 votes, which, with the 863 votes given Mr. Sleeper by the "rough count," would make an aggregate of 1,693, one more than the lowest and nine less than the highest aggregate given among all the candidates for the other offices. But this does not agree with paper K, which was declared to be the vote on election day, and certified as such to the mayor and aldermen, for, adding this corrected vote for Mr. Rice, 830, to that put down on paper K for Mr. Sleeper, 890, and it makes an aggregate of 1,720, thirty-two votes more than the lowest and twenty-two votes more than the highest of the other aggregates.

The anxiety of the clerk growing out of the peculiarity I have just alluded to, a lack of 60 votes for member of Congress upon the blackboard, led him, upon the Sunday following, to sit down at his table and recast the votes upon paper I, to see how it was that there was a lack of 60 votes for member of Congress. He there discovered the mistake of 60 votes in paper I, as I have stated. Comparing it with paper K he also discovered that after the correction of those 60 votes paper K would not agree with it, and the two did not agree, as to Representative in Congress, with the votes for any of the other candidates on the same papers, for, by adding 60 votes to Mr. Rice's count, giving him 830 votes, the aggregate on

paper K would give 28 votes for member of Congress more than were cast for any other officer. So that it would appear that 28 voters cast their votes for member of Congress who did not vote for any other officer in that election. But they had never seen any such ballot as that, nor could any voter casting such a vote be found, and therefore he determined to reexamine the ballots themselves.

I should state in passing that at the close of the polls he tied up the bundles of votes with a string around the middle of each bundle, then tied a paper around the whole, took them to his own house, carried them to the attic, and placed them in a trunk with a spring lock with the key in the lock, and there they remained, so far as there is a particle of testimony, until the Sunday following. After discovering this discrepancy in these papers, he went and consulted with the old clerk of the ward as to what he had better do. He then returned by himself to the attic, and taking off the paper wrapper, but without untying the string around the middle of the bundle of packages or removing the packages, he examined the votes in each package, took off the number of votes for Representative in Congress on each of the packages, and then restored them to their former place in the closet. In consequence of the conviction that an error had been committed in counting, which this examination produced on his mind, he then procured a meeting of all the ward officers at his house on the following evening, when the votes were by them there recounted with great care, and the result as thus ascertained was embodied in the new or amended return, signed by all the ward officers, seven in number, four of them voting themselves for Mr. Rice, and three of them for Mr. Sleeper, sworn to by them all, forwarded to the mayor and aldermen, and by them transmitted to the Governor and Council within the time prescribed by law. In counting the votes at this time the ward officers took each of the small packages upon which the number of votes was marked, recounted it carefully, and checked the corresponding numbers upon paper K.

It will be observed that on paper K there are, among the several packages set down to Mr. Sleeper, three packages of twenty-eight votes each, and none of that number for Mr. Rice. In the recount, after all the votes in the whole bundle for Mr. Sleeper were counted and checked, there had been checked but two packages of twenty-eight votes, and there remained unchecked to any one, a package of twenty-eight votes, corresponding with what was known as the "people's ticket," or that of Mr. Sleeper's political friends, with the name of Mr. Rice printed in place of Mr. Sleeper's for Representative in Congress.

This "people's ticket" in Massachusetts was composed of all political parties opposed to the political associates of Mr. Rice. But many of those voting that ticket as to the State officers preferred Mr. Rice to Mr. Sleeper, and therefore substituted his name for that of Mr. Sleeper, voting for the other officers upon the "people's ticket."

MESSAGE FROM THE PRESIDENT.

A message from the President was received, by Mr. NICOLAY, informing the House that he did, on the 3d instant, approve a bill and joint resolutions of the following titles:

An act (H. R. No. 265) supplementary to an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863;

Joint resolution (H. R. No. 35) of thanks of Congress to the volunteer soldiers who have reenlisted in the Army; and

Joint resolution (H. R. No. 41) to continue the payment of bounties.

MASSACHUSETTS CONTESTED ELECTION—AGAIN.

Mr. DAWES. As these ballots were counted they were put up in packages; those containing straight tickets were put in packages by themselves and marked in pencil on the back "clean," with the initials of the person who counted them. But they found, as I said, three packages of twenty-eight votes counted for Mr. Sleeper, while they could find but two packages of that number with Mr. Sleeper's name on them. They found, however, one package of twenty-eight ballots containing the names of Mr. Sleeper's political associates for State officers, but with Mr. Rice's name in-

serted instead of that of Mr. Sleeper for member of Congress. Upon the back of that bundle was written the words "all alike," with the initials of the gentleman who counted the votes, the clerk of the ward. There was no place in Mr. Sleeper's count for these 28 votes. The whole vote of Mr. Sleeper, with the exception of these 28 votes, was counted, but there was no package of twenty-eight votes credited to Mr. Rice on paper K. Giving to Mr. Rice 28 votes, taking them from Mr. Sleeper, which were erroneously counted for him, restores the harmony of both papers. It brings up Mr. Rice's vote on paper K to precisely what it is on paper I, with the correction that I have already mentioned.

It is a very curious mistake, but on looking at the papers it is easily seen how it was made. I will explain it.

Mr. Speaker, there is no dispute but that the actual number of votes counted at the last count is correctly stated in the amended certificate. That this was the correct count of the ballots on the second count the Monday night after the election no one disputes; and an examination of the evidence, with a sworn return of the seven ward officers, does not leave room for doubt. The ward officers, four on one side and three on the other, swear to it; and they sat down deliberately to recount the votes, and counted them with great care. If, therefore, the ballots in the mean time had not been tampered with, the proof could not be made stronger that the true result had been reached. If those votes had not been tampered with, no proof could be stronger and clearer that the true result had been arrived at. As to whether the votes were tampered with or not will depend very much on the confidence the House has in the testimony of the man who had the keeping of those ballots: What that is I will state. The clerk testifies that at the close of the polls, as had been his custom he tied up the ballots in this package, and tied a paper around them; that he carried them to his home that night, and put them in a trunk in a closet in his attic; and that so far as he knew no mortal but himself knew where they were; that his own family consisted of a wife, confined all this time to her bed with sickness, a child born on the day of election, a nurse, and an aunt visiting the family. He swears positively that no person knew where they were but himself, so far as he knew; and that when they were taken out by the officers they were precisely in the condition in which they were when put there. He also swears that the memorandum on the back, "28 votes, all alike, taken G. W. B.," written on the package, was written on the day of election by himself, and that the mistake must have arisen in calling off the packages. That was the package having Mr. Rice's name in the place of Mr. Sleeper's. There is, however, corroborative proof found in the papers I and K themselves. By correcting the 60 votes in paper I, as before stated, and restoring to Mr. Rice the 28 votes here spoken of, the aggregate vote for Representative to Congress corresponds with those cast for the other officers, as follows: for Governor, 1,702; for Representative in Congress, 1,693; for councilor, 1,695; and for senator, 1,692. Correcting paper I, and the aggregate on paper I will be 1,694; but if that correction be applied to paper K, without also counting the 28 votes, an aggregate of 1,720 votes will be produced, just 28 votes more than the aggregate given for senator, and 27 more than that given for councilor. Therefore, unless the clerk perjured himself, there is no doubt that these votes were not tampered with, but that they were safely kept.

Now, Mr. Speaker, Mr. Sleeper does not present a particle of testimony to controvert that condition of facts. He asserts that it was possible to tamper with the ballots, and he therefore insists it is not only our right but our duty to say that that has been done. He is exceedingly severe upon this clerk; I do not know what for.

The supposition, therefore, that the ballots had been tampered with before the last count, in order to produce this result, involves not only the perjury of the clerk of the ward, but also requires that papers I and K be both forged and put in their present condition for the same purpose. But the evidence was abundant from all sides that the hourly announcements, put upon the blackboard in the ward room on election day, corresponded with paper I, and disclosed the precise discrep-

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any in the aggregate vote found on that paper; and the first return made on the night of the election was made from paper K, and corresponded with it. Besides all this, the very sight of the original papers, now with the committee, shows how preposterous is the pretense that they have been altered to produce this result. Without the correction in paper I, we must suppose that there were sixty ballots cast with no name upon them for Representative in Congress, yet no such ballot has been produced, and no person who cast such a ballot; and with that correction, but without the correction in paper K, we must conclude that twenty men voted for Mr. Sleeper for Congress, but for no one else of the candidates for the sixteen other offices voted for on the same ballot by all others; yet no such ballot has ever been seen and no such voter has ever been found. By making the correction in both papers a striking coincidence will be found, not only between the votes for candidates for Congress, but even the aggregate thus produced, and the aggregates for other offices. Restoring the 60 votes to Mr. Rice on paper I, and counting for him, instead of for Mr. Sleeper, on paper K the 28 votes for him found on the "people's ticket," and then Mr. Rice will have on paper I 830 votes, on paper K 833 votes. Mr. Sleeper will have on paper I 863 votes, and on paper K 862 votes. The aggregate of vote for Mr. Rice and Mr. Sleeper on paper I would then be 1,693, on paper K 1,695. The aggregate for other officers has been already shown to be, for senator, 1,692; for councilor, 1,695; and for Governor, 1,702.

Now, sir, I will close this lengthy and tedious exposition of the case by simply reading the conclusion of an article inserted in a Boston paper by the president of the ward officers, who himself voted for Mr. Sleeper, and which he published soon after the occurrence, that the people might know just how the matter stood. He was a friend of Mr. Sleeper, and a high-minded and honorable man. These are his concluding words:

"In conclusion, there was, and is, to my mind—and all of the inspectors concur with me in this result—an unfortunate, unintentional error on the part of our clerk, in originally giving to Mr. Sleeper these twenty-eight votes, when he should have put them to the credit of Mr. Rice."

"HORATIO N. CRANE,
"Warden of Ward Twelve."

This is under his own hand, and is testimony of which no one who examines the case and the papers can entertain a doubt. I now yield to the contestant, who, I understand, desires to address the House.

Mr. SLEEPER, (contestant.) Mr. Speaker, a majority of the Committee of Elections in the contested-election case connected with the third Massachusetts congressional district have, in accordance with their sense of justice, and after a full hearing, made a report to this House unfavorable to the claim of the contestant. This result I was not prepared to expect. I believe the decision to be an erroneous one, and not in accordance with the laws of Massachusetts, or the testimony that has been laid before Congress. I therefore feel bound by my convictions of duty to the majority of the intelligent citizens of the district in which I reside, to avail myself of the privilege of appearing before this honorable body, and in person advocating my claim.

In my remarks I shall not attempt to argue the case with my friend, the able chairman of the Committee of Elections. But having confidence in the righteousness of my cause, and also in the wisdom and integrity of the representatives of the people, I shall address myself through you, Mr. Speaker, directly to the members of this House, and endeavor to expose the mistaken conclusions of a majority of the committee by a plain narrative of the case, as established by the evidence, accompanied by such comments as are in accordance with my own interpretation of the laws of Massachusetts, after consultation with men of eminent legal ability, and my own instincts of truth, justice, and common sense.

Mr. Speaker, the outlines of this case may be given in a few words. During the political cam-

paign in Massachusetts in 1862 my name was placed before the voters of the third congressional district as a candidate for Congress, and at the annual election in that year the returns showed that I was elected by a plurality of votes. The legal documents certifying to this fact were laid before the Executive of the Commonwealth. According to the laws of Massachusetts in force at that time, and the usage for many years, the ballots were of no value after the declaration of the votes in open town meeting. No person was designated to take charge of them, no place was assigned for their deposit, and no mode was prescribed for their safe-keeping. Yet six days after the election, while abundant opportunity had been given for tampering with and changing the ballots, a recount was had in one of the wards of Boston by the ward officers, at the instigation of the clerk of the ward, who had assumed charge of the ballots, and it was found that in the bundle of votes then counted, and after they had been clandestinely examined and fingered by the clerk, according to his own confession, Mr. Rice had 28 votes more and Mr. Sleeper 28 votes less than were declared and certified to by the ward officers on the day of election. A voucher to this fact was forthwith laid before the board of aldermen of Boston, and without any further inquiry a hypothetical certificate was sent to the Governor and Council—an irregular and unprecedented proceeding on the part of the board—and without any investigation by the Executive the certificate of election to the office of member of Congress was withheld from the contestant and given to the present incumbent.

Such are the outlines of the case which is now engaging the attention of this House, and involving a principle which calls for a careful and just decision.

The provisions of the laws of Massachusetts, which in 1862 regulated the proceedings at elections, are contained in the seventh chapter of the General Statutes. Section fifteen provides as follows:

"The votes in elections for national, State, county, and district officers shall be received, sorted, and counted by the selectmen and the ward officers, and public declaration made thereof in open town and ward meeting."

Here the whole process of the election is clearly and explicitly set forth. The votes must be received, sorted, and counted, and the declaration of the vote, the crowning act, must be made in open town or ward meeting. When this is done, the votes are no longer of value. The laws of Massachusetts were at that time silent respecting them. They indicated neither directly nor indirectly the disposition which should be made of them. It was no crime to destroy them after the vote was declared. It was no felony to steal them, as they had done their work, and were of no more value than so many pieces of blank paper. The law proclaimed clearly and distinctly that the election should be decided on election day, in presence of the people, and that there should be no appeal from that decision.

The sixteenth section of the General Statutes of Massachusetts provides that—

"The mayor and aldermen and the clerk of each city shall forthwith after an election examine the returns made by the returning officers in each ward in such city, and if any error appears therein they shall forthwith notify said ward officers thereof, who shall forthwith make a new and additional return under oath, in conformity to the truth, which additional returns, whether made upon notice or by such officers without notice, shall be received by the mayor and aldermen or city clerk at any time before the expiration of the day preceding that on which by law the result of the election in said city; and all original and additional returns so made shall be examined by the mayor and aldermen, and made part of their returns of the result of such election. In counting the votes in an election no returns shall be rejected when the votes given for each candidate can be ascertained."

The language of this section is also clear and explicit. It is intended to give authority for the correction of clerical or arithmetical errors on the part of the ward officers when the return does not correspond with the declaration or the facts as they appeared on the day of election, and for that object only. For instance, if the return to the city

clerk bore on the face of it that a certain number of ballots were cast in ward twelve for Josiah Smith, when the declaration and record showed that the true name was Joseph Smith, or that a certain number of votes were cast for a candidate, when the declaration and record showed that he had not received that number of votes, the return would be set aside on discovery of the error, and a new return would be made. And this new return would not only be strictly in conformity with truth, but confirm the count, record, and declaration made on the day of election.

Such a provision is necessary for the correction of blunders of this description. But I hardly supposed that any intelligent person would seriously contend that this section of the statute authorizes a recount of the ballots in any one precinct several days after the polls have been closed; and that the result of such a recount may set aside and nullify the declaration made by the ward officers on the day of election.

I am no lawyer, but I have consulted with lawyers; and, with great respect for my worthy friend, the chairman of the Committee of Elections, and who, on legal questions, does not often run off the track, I contend that any other construction of the statutes than the one I have given is an erroneous construction, not recognized by the courts in Massachusetts, and at variance with the spirit and letter of the law.

The laws of Massachusetts in 1862 did not provide for the preservation of the ballots. In some precincts of this third district the votes were destroyed immediately after the election. This was shown by the evidence of Joshua Seaver, a highly respectable citizen of Roxbury, who had presided at the polls as a warden for fifteen successive years. According to his statement the votes in his ward were never preserved after the close of the polls. If ballots were to be used as evidence after they had been counted, declared, and the returns made, the laws of Massachusetts would never have allowed them to be destroyed.

The object of that provision in the statutes which required that in all elections a public declaration of the votes should be made in open meeting, in presence of the assembled citizens, was, beyond all question, to guard against precisely such an occurrence as took place in ward twelve, in Boston, and is the foundation of this appeal; that is, to prevent any persons, actuated by good or evil intentions, rogues or honest men, from assembling in secret conclave, at any time or times within ten days after the election, and, in the absence of any subsequent investigation of the facts, reversing the recorded doings and solemn declaration on election day. I repeat it, the very object of this clause was to prevent such an irregular, dangerous, and manifestly improper proceeding.

If a proceeding of this character were strictly in accordance with law and propriety, as is contended by the committee, it may well be asked, why was that clause introduced into the statute, which requires not only the counting, but a public declaration of the votes to be made in open meeting on the day of election? That clause, according to this new interpretation, was altogether without meaning, without object, and palpably redundant.

It is no wonder that the irregular, unauthorized, and hitherto unprecedented proceedings connected with the election of member of Congress in the third Massachusetts district in 1862 should have excited surprise and a feeling of distrust and dissatisfaction throughout the Commonwealth. The people saw that if such a course of action should be established as a precedent, the ballot-box, thrown open to pollution, would no longer be an indicator of their sovereign will. And at the very next session of the Massachusetts Legislature, a few months afterwards, important additions, not changes, but additions, were made to the laws regulating the proceedings at elections. These new provisions, repealing nothing, prescribe a mode for the preservation and safe-keeping of the ballots after an election by causing them to be sealed in an envelope in open town meeting, and, with all other documents pertaining thereto, given in

charge to the city clerk. The manner in which a recount may be had by the board of aldermen, and only by the board of aldermen, is also specified.

The enactment of this law in itself is an admission that previously no authority was given for the preservation and safe-keeping of the ballots after an election; and that a recount of votes after the dissolution of a ward meeting was also an unauthorized act. It sets the stamp of illegality on all the doings connected with this recount of votes for member of Congress in ward twelve after the election in 1862.

Mr. Speaker, according to a provision in the Federal Constitution, "each House (of Congress) shall be the judge of the elections, returns, and qualifications of its own members." Thus, in a case like this, the House of Representatives becomes a legal tribunal to try the issue. The members perform the solemn duty of judges on a question deeply affecting the rights of the people and the rights of States, and from this tribunal there is no appeal. Each member, therefore, must act on his individual responsibility, and, after a full and attentive hearing, frame his decision according to his own interpretation of the law and evidence. And if the Representatives in Congress should be convinced that the incumbent of the seat which I claim was not elected in conformity with the laws of Massachusetts, it can hardly be expected they will confirm him in the seat.

Therefore I beg that the members of this House will consider well the facts which I have stated: that the election for member of Congress in the third Massachusetts district was honestly conducted; that the votes were carefully counted, recorded, and declared in open meetings, in presence of the people; that returns in conformity with the records and declarations were made according to law, and placed in the hands of the proper officers, and by those officers the results, definitely stated and certified to by the boards of aldermen and selectmen, were transmitted to the secretary of State. These returns showed that the votes for member of Congress were: for Alexander H. Rice, 5,017; John S. Sleeper, 5,049; showing a plurality for John S. Sleeper of 32 votes.

These facts are fully proved by attested documents and oral evidence. They stand out in bold relief. They cannot be questioned or explained away.

But the Representatives in Congress, in their desire to do justice, often exercise the power with which they are vested, and look beyond State statutes, which were intended to regulate proceedings at elections. This course of action has been adopted by the Committee of Elections, and was evidently anticipated by the gentleman who now holds the disputed seat, as appears by the character of the evidence he has laid before Congress, and which bases his whole claim to the seat, not on the declarations and returns in open meeting on election day, or on any proceedings in the course of that day, but on the result of a recount of the ballots in one ward six days afterwards.

It is shown by documents in this case that, on the day after the annual election in Massachusetts in 1862, a return of votes for member of Congress was made to the city government of Boston from ward twelve, usually called South Boston. This return stated that—

"The whole number of votes given in, as aforesaid, were sorted, counted, recorded, and declaration thereof made as by the constitution and laws directed, and were for the following persons, namely: Alexander H. Rice, of Boston, 895; John S. Sleeper, of Roxbury, 890."

This return was signed by the warden, clerk, and three of the inspectors, and duly forwarded to the city clerk of Boston, and the result through him laid before the secretary of State.

It also appears that on the 11th of November, seven days afterwards, and after a recount of the votes had been had by the ward officers in ward twelve, another document was received by the city clerk and also signed and sworn to by the ward officers. In this document it was stated that—

"The whole number of votes given in on that day (the 4th of November) were sorted, counted, and declaration thereof made in open ward meeting, and were for the following persons, namely: Alexander H. Rice, 835 votes, instead of 895; John S. Sleeper, 861 votes, instead of 890."

A result untrue in fact, for no such declaration was actually made, and changing the whole character of the election for member of Congress as declared on the day of election.

This amended return was placed in the hands

of the city clerk of Boston on the 12th of November, and a special meeting of the board of aldermen was called to take action in the case on the following day. But, without entering on any investigation, the aldermen adroitly contrived to evade a decision and avoid all troublesome consequences by virtue of an "if," and threw the responsibility of receiving or rejecting this strange and unprecedented document on the Governor and Council!

The amended return was transmitted to the secretary of State, accompanied by the following "amended certificate of the result:"

Commonwealth of Massachusetts:

"At a legal meeting of the inhabitants of Boston, in the county of Suffolk, &c., for the purpose of giving in their votes for a Representative in this Commonwealth in the Thirty-Eighth Congress of the United States for district No. 3, all the ballots given in therefor were sorted, counted, and recorded, and declaration thereof made as by the constitution is directed, and were for the following persons, namely: John S. Sleeper, of Roxbury, 3,600; Alexander H. Rice, of Boston, 3,745; if the amended return from ward twelve, of which a copy is hereto attached and marked A, should be received as a true return of the votes cast at the election."

Mark the language, "if the amended return should be received as a true return;" thus guardedly avoiding the indorsement of its correctness, and expressing a strong doubt of its being received by the Executive as a true return, indicative of an expectation that it would be rejected! Nevertheless, this amended return and the amended certificate of the board of aldermen were received by the Governor and Council. Such being the case, it was a fair presumption that they would investigate the facts in order to satisfy themselves whether justice and truth required that the result of the declaration of the doings in ward twelve on election day should be reversed. Nevertheless, without any investigation, the original return from the city of Boston, containing the result of the vote for member of Congress in certain wards, as actually declared on the day of election, was set aside; the hypothetical certificate, with a palpable error clinging to it, was indorsed as a solemn truth, and the certificate of election was given to my friend, Hon. Alexander H. Rice, who was thus entitled to the seat at the opening of the session.

I contend that having received on the day of election a plurality of the votes cast in the third district for member of Congress, and this result having been submitted to the Governor and Council in strict conformity with law, I was entitled to the certificate of election. Any rumors, doubts, or facts subsequently created, connected with the doings of the ward officers, might have been a proper matter for legal investigation, subject to the decision of the House of Representatives in Congress.

I am thus, by the mistaken action of the Executive of my own State, placed in a false position, and compelled to appear in the unpopular character of a plaintiff in a case before Congress, and substantiate my claim in opposition to a gentleman deservedly respected by all who know him, a legislator of experience, chairman of an important committee, and surrounded by a large number of political and a larger number of personal friends, who, however anxious to do right, must unavoidably cherish a strong desire to retain him in the seat he now occupies. Such are the obstacles I have to encounter at the very threshold of my case—obstacles which might almost lead one to doubt the result of a claim, however just in itself.

The election in South Boston in 1862 took place on the 4th of November. The inspectors received the votes which were counted by the warden and clerk. About every hour the ballot-boxes were emptied, the votes counted, and the results for Governor and member of Congress only placed on a blackboard, and exhibited for the gratification of curiosity. This was done by the clerk of the ward, who kept a record in pencil of the announcement every hour on the blackboard. On this record, which was headed "rough count throughout the day," was subsequently put as a distinguishing mark the letter I. The votes were carefully counted and recounted during the day by the warden and clerk, and the result recorded on another paper subsequently marked with the letter K.

Toward the close of the polls a discrepancy of 60 or 70 votes suddenly occurred in the announce-

ment on the blackboard between the number of the combined votes for Governor and the number of the combined votes for member of Congress. This was an error made by George W. Bail, the clerk of the ward. The figures were compared with the record marked K, and corrected, and the final declaration made from this paper agreed with the footing and record of the count, and was believed to be correct, as the error of about 60 votes on the blackboard, or any other blunder in the figures on the paper marked I, could have had no effect on the result as declared at the polls.

All the witnesses agree that the count throughout the day was fairly and apparently correctly made, and no suspicion existed that there was any error or anything wrong in the final count and declaration.

At the close of the election, Bail, the clerk of the ward, took the different parcels of votes, placed them in two piles, lengthwise, by the side of each other, and tied them round and round with twine; and finding on the floor an old handbill, he tied that round the ends of the bundle, to prevent the votes from slipping out. In this condition he carried the votes to his house and put them in a trunk, leaving the key in the lock, and deposited the trunk in a closet in an attic chamber, neither of which, the closet or chamber, was fastened by a lock and key, or in any other way. And here the votes remained, untouched, so far as the knowledge of Bail extends, for the remainder of the week—four days—during which time he was engaged in his business as clerk of a lumber yard. Friends and neighbors were occasionally calling on him, and it was generally known that the bundle of ballots was in the house.

During these four days no one spoke to him urging or suggesting a recount of the votes; nor did he during that time suspect anything was wrong in relation to the final result. But on the Sunday following the election, five days afterwards, having some leisure time on his hands, he proceeded to examine the minutes or records of the count of votes on election day. In the course of this examination, he says he discovered an error of about sixty votes in the "rough count" marked I. On making this discovery for the second time, of an error of about 60 votes in the blackboard memorandum, he proceeded to call on Hollis R. Gray, a personal and political friend, and communicate the fact to him. After talking over the matter, these two persons concluded to call on Horace Smith, an intimate friend of both parties and an active politician. After further consultation the trio proceeded to the house of Josiah Dunham, an experienced and adroit politician. At Dunham's house the subject of a recount of votes was further discussed.

The details of the conversation among these gentlemen do not appear. Bail's memory failed him on that occasion, as on other occasions, as shown on his cross-examination, where the *non mi ricordo* tactics figure extensively. But those gentlemen approved of Bail's suggestion to have a recount of votes for member of Congress, and a recount was determined on from that moment. Bail returned home. After dinner he ascended to the attic, took from the closet the bundle of votes, and laid it on the chamber floor, and, as he says, without untying the bundle or loosening the twine, which had been more than once wound around it, he removed the handbill which was fastened around each end. In this way, he says, he got access to the packages, and by lifting the ends of the votes he was able to examine and "take" the numbers on each package for member of Congress. While doing this, he says he discovered an error or discrepancy with the record and declaration of about 28 votes, but without discovering the actual error, which was subsequently found at the time of the recount. If Bail's intention had been to enact a fraud, there was no obstacle in his way save such as conscience might interpose. He had only to take out of the bundle a package of 17 votes or upward, of the regular Democratic or People's ticket, and replace it by a package of 17 votes on which the name of Alexander H. Rice was printed for member of Congress, instead of John S. Sleeper, and indorsing in pencil the package thus surreptitiously introduced. The process was a simple one, as easy as lying, and apparently safe.

Bail's description of his mode of examining the ballots is worthy of particular attention. By re-

moving the handbill, and lifting the ends of the packages, he might possibly have seen the figures on the back of each package. But how could he ascertain that there was an error of 28 votes unless he could also distinguish the names of the candidates voted for, unless he actually discovered the error in the package of 28 votes, which was subsequently found in the bundle? According to his description of the manner in which the bundle was tied this was an impossibility! The names of the candidates for Congress were printed in the center of the tickets, and if the packages of votes were placed in two piles, by the side of each other, and tied firmly round and round the center of the bundle with a piece of twine, as Bail swears was the case, and was not loosened on this occasion, the impossibility of such a discovery must be manifest to every one.

On Sunday evening Bail, having determined to have a recount of votes, and fortified by the request of his three political friends, called upon several of the inspectors, and also the warden, to obtain their consent to the proposition. But instead of calling first on the warden, an elderly and highly respectable citizen, and consulting with him on the legality and expediency of a second counting of the votes, and frankly stating his reasons for such a proceeding, he first visited three of the inspectors, a majority of those officers comparatively young men, and whom he had reason to suppose might be guided in such matters by his opinion.

The reason which Bail gave the inspectors for a recount was, he supposes, "in consequence of the talk around." He subsequently said that "the talk around" was confined to the error on the blackboard at the close of the polls. But Bail knew that the error on the blackboard was his own particular blunder, and he could have set those rumors at rest at any moment. Connor, one of the inspectors, on the other hand, said that the "talk around" or "conversation," as he called it, was in consequence of the surprise of people that Mr. Rice did not get a larger vote. On that evening Bail said nothing to the inspectors of his new discovery connected with the blackboard memorandum; nor did he say he had examined the packages, and found an error sufficient to stultify the official declaration and return. Nevertheless he obtained the consent of three of the inspectors, and those gentlemen agreed to meet at his house on the next evening and recount the votes.

Bail next called on the warden. His interview with that officer is thus described by Mr. Crane in a communication published in the Boston Journal, and included among the printed documents:

"On Sunday the 9th of November, Mr. Bail called at my house and informed me that he had been requested to recount the votes given at the late election for member of Congress from our district, and wished me to come to his house the next evening for that purpose. Upon being asked the reason, he said there were some who thought there might be an error in the count. I declined peremptorily to entertain any such request unless it was respectfully and properly made in writing to me as warden, and giving good reasons for our recounting the votes. He replied that a majority of the inspectors had assented to the recount, and it would be done with or without my being present."

In this interview with the warden, Bail conveyed the impression that there was a demand outside for a reexamination of the votes. He did not state that this request, from three individuals only, was made during a secret consultation at his own suggestion; and he carefully concealed the fact that he had reexamined the records of figures and the bundle of votes in the course of the day. The warden very properly refused his assent to such a proceeding, and declined to attend the meeting. Afterwards, however, as he could not prevent a recount of the votes, he concluded to be present.

The next evening the warden and inspectors met at Bail's house. The clerk gave no further reasons for recounting the votes. He produced the bundle and placed it on the table, and then, to use the language of the warden, "Mr. Bail assured me on his word of honor that the bundle of votes then and there before us had not been untied, and that then in my presence they were seen for the first time since the day of election, by his untying the bundle!"

A most bold and unblushing falsehood, furnishing a skeleton-key to unfold the true character of the man! And it is singular that while the report of the Committee of Elections refers to the secret examination of the votes by the clerk that Sab-

bath afternoon—as is shown by his statements on oath—this man's solemn and deliberate and voluntary denial of that clandestine act should have altogether escaped their notice.

The warden and inspectors, confiding in the honesty of the clerk, proceeded to recount the votes. In this proceeding Bail did not participate, under pretense of being unwell. While the officers were busy at their work, he sat at the table carefully watching their progress. After a time an important error was discovered. A package of 28 votes, headed "the People's ticket," and indorsed as such, was found to be composed of votes on which the name of Alexander H. Rice was substituted in print for that of John S. Sleeper as candidate for Congress, apparently making an error in the declared result of 56 votes, and electing Mr. Rice by a plurality of 25.

At the annual election in 1862, besides the large number of "split tickets," there were three regular tickets in the field, namely, the Democratic, the People's, and the Republican. Each of these three classes of tickets differed materially in their general appearance from each other, but the names of all the candidates on the Democratic and the People's tickets were the same. Hence the conclusion was inevitable that a ticket which differed materially from either of the three regular tickets must have been a spurious ticket, and could not without inexcusable carelessness have been counted and indorsed as a regular ticket. These 28 tickets nevertheless differed in general appearance from the regular tickets which were distributed at the polls. "They were not similar in any respect to the People's or Democratic ticket," says the warden, in his printed statement, "but were dissimilar in every respect, having a vignette entirely different from any other ticket circulated at the polls on the day of election; neither was there any semblance in style, form, or print to any other ticket."

It can hardly be believed that the most incompetent officer in counting the votes on the day of election could have made such an important error as was discovered on the recount, and at a time when spurious tickets were abundant, and a deep interest was manifested in the result of the election.

A few votes of a character similar to those found in this package of twenty-eight were seen by the inspectors during the election, but none of them could say that the identical votes in this package or the package itself were ever before seen by them. The warden says: "I cannot, of my own personal knowledge, say that I ever before the evening of the second count saw those 28 votes."

The votes in the package in which the error was discovered were noticed by inspectors to have been unusually smooth and unwrinkled, a corroborative fact of no little significance. Notwithstanding this, and although it must have been manifest that a package of spurious votes could easily have been substituted between the 4th and 11th of November for a like number of genuine votes, yet no one at that time, after the solemn asseveration of the clerk, suspected the perpetration of a fraud.

A certificate was drawn up on the spot, signed and sworn to by the ward officers, and the party separated, little dreaming that Bail in the solitude of that attic chamber, on a Sabbath afternoon, with no human eye watching his proceedings, had examined those votes, and knew that before they left his hands they contained an error which he believed would change the result of the vote for member of Congress.

After the election the papers marked I and K remained in Bail's possession. Photographic copies of these papers accompany the evidence, and undoubtedly show the state in which the papers appeared when the copies were taken. They show that in several instances erasures or changes have been made in figures. Much importance is attached by the sitting member to these copies, as on the truth and validity of the papers marked I and K hangs his claim to the seat which he now occupies in Congress, a thread slender and fragile in itself, but which has been so magnified and twisted as to assume the deceptive appearance of a cable of colossal proportions; but which I trust will not prove strong enough to shake from its solid foundation and bear away into the regions of error the southern wing of the Capitol.

Mr. Speaker, it is clearly established that in the announcement on the blackboard in South

Boston at the closing of the polls there was a discrepancy of about 60 votes between the combined votes for Governor and the combined votes for member of Congress. This blunder was, of course, detected immediately and corrected. In correcting it the blackboard memorandum must have been then compared with the regular and systematic record of the count, and the mistake substantiated before it was corrected. The papers then agreed with each other, and the vote as it appeared on the paper marked K was declared in presence of the people. Before this blunder occurred there was no evidence of a discrepancy between the figures on either of those papers and the figures on the blackboard. This blunder was owing to the carelessness of the clerk in the addition of figures. Bail said so at the time. That there was any other blunder of about 60 votes at the close of the polls, on this blackboard memorandum, is an assumption too absurd and improbable to be entertained for a moment.

If an important error of 28 votes, making a difference of 56 in the result, was so clearly manifest in that paper on that Sunday morning, why was not that paper produced by Bail and exhibited at the recount? The carefully corrected record of the count was produced, but the blackboard memorandum was kept back. It was not ready for exhibition! Bail of course refrained from laying it before the ward officers; and the officers, regarding it as a piece of waste paper, expressed no wish to examine it. The other paper, marked K, was examined by the warden, and the castings of the figures found to be correct. Hence the statement of the warden, in the simplicity of his heart, that "the mistake was believed to be occasioned by an unintentional error on the part of the clerk." Nothing was elicited in the course of this recount which could have furnished Bail with a reason for suspecting an error in the blackboard memorandum or for calling on his friends for advice in consequence of an error discovered in that paper.

But a pretext was wanted, and there having been some "talk around" about the error of 60 votes on the blackboard at the close of the polls, Bail made that the pretext for calling on Mr. Gray. The language he used he would not state when on the stand, but he conveyed to Mr. Gray and Mr. Smith, gentlemen whose honesty in this matter is not called in question, the idea that on examining the figures on one of the papers he had found an error of about 60 votes, which if corrected would give the election to the Republican candidate. His statement to those gentlemen obtained easy credence. It confirmed the truth of rumors afloat; it corresponded with their own wishes, and was doubtless received without question.

And again, why should Bail have told such abominable lies to the ward officers as an inducement to those gentlemen to consent to a recount of votes, when the truth would have accomplished his object at once, when he could have taken the papers from his pocket, and furnished in a moment evidence satisfactory to them of the propriety of the measure? He could have done this without acknowledging the humiliating fact that he had the day before clandestinely fingered the bundle of ballots.

The warden and inspectors were honest men. Unconscious of guile themselves, they did not suspect it in others. An amended return was made out, but without the authority of law, and by the singular combination of proceedings, which I have described, and which I hope will never be cited as a precedent, Mr. Rice received the certificate of election. The plan was ingeniously devised and successfully executed. The papers were in Bail's possession. They could tell no tale. The votes were still in his attic. The man had done his work, and clamored for his reward. But when Bail found that the election would be contested, and the whole matter investigated before a commissioner, it became necessary so to prepare the papers and arrange the figures as to confirm his statements, and vindicate the propriety of his course in calling on his friends for advice. Something more than a pretext was now required; and Bail having been two years clerk of the ward, and familiar with votes as well as figures, was equal to the task. He framed his theory, prepared the papers, conned his lesson faithfully, and got it by heart.

These two papers, being the only memoranda of the count of votes on the day of election, were in Bail's possession not only six days before the recount, but more than four months afterwards, before they were brought forward as evidence. No one had seen them; no one had a copy of them; no one could identify them. Lithographic copies of these papers—not as they appeared at the close of the polls on the day of election, but as they appeared when produced before the commissioner as evidence—are affixed to this report from the Committee of Elections, giving an imposing appearance and a fictitious importance to that document. This trouble and expense was hardly necessary; for no one will have the hardihood to deny that those papers, after having been long retained in the hands of unscrupulous men, could exhibit any numbers of figures which might be fixed upon to secure to the sitting member a plurality of votes. No one doubts it, or ever can doubt it. It was a simple and easy act of legerdemain. Furnish but an inducement, time, and opportunity, and such deeds will be done by dishonest men every day.

While it would have been easy for Bail, or any other tolerable accountant, to make the number of votes, and the indorsements on the different packages, correspond to any figures in the papers, he could with equal ease with a lead-pencil and a piece of India rubber have changed the character of the figures in the papers from beginning to end; making them to conform to any number of votes in the aggregate, or any indorsements on the different packages. If 100 votes instead of a less number had been necessary to change the result, the figures in those papers would have been made to prove that the incumbent received precisely that number of votes, and the photographic process would have indorsed the falsehood. The man who held those papers was not the tool which knaves do work with, called a fool. He did his work well, and richly earned the promised reward from his employers residing in South Boston. And it becomes an important and interesting subject of inquiry, what was the character of this reward?

This George W. Bail, within four months after the election in 1862, received an appointment from the General Government to an office known and designated as postmaster at South Boston, and took the place of a gentleman who had held the office some years, enjoying the confidence of his fellow-citizens, and was summarily dismissed. For five months previous to the examination, Bail had been temporarily engaged as clerk and book-keeper at a lumber yard, with wages at nine dollars a week, before which he worked at his trade as a carpenter. The emoluments of the office to which he was appointed under the General Government are not less than \$900 a year! This appointment, at that particular time, caused almost as much "surprise" and "talk around" in South Boston as the declaration of the result of the election on the 4th of November. And the question was asked, "Was this appointment procured for this man at this time as a premium for inefficiency and an aptitude for making arithmetical blunders in official matters where great care and accuracy are required, or as a reward for other services?"

But I will not enlarge on this point. To mention the fact is sufficient. I am not addressing unsophisticated men, who have faith in the purity of all active politicians. Indeed, everybody knows how these matters are sometimes managed in a community where party feelings rage uncontrolled, where the political excitement is intense, and one or two unscrupulous men of great wealth and almost magic influence assume to direct and control the politics of the people, and are determined to carry their point.

If intelligent men from abroad had been in South Boston soon after Bail received his appointment, and had listened to the "talk around" of honest citizens of all political parties, they would have seen that this appointment was everywhere regarded as a deep and damning proof of the fraud which was believed by nine tenths of the inhabitants to have been perpetrated on the ballots soon after election day. Bail, in his evidence before the commissioner, exhibited a deficiency of memory, prevarications and contradictions, which cannot by the most specious explanations be reconciled with honesty. And furthermore, he convicted himself of several falsehoods, which, even

disconnected from a long chain of circumstances, cannot but destroy his credibility as a witness. Bail lied to the warden when he led him to believe that Messrs. Smith, Gray, and Dunham had of their own accord, without any suggestion or consultation with him, requested him to have a recount of votes. And Bail lied to the inspectors, each and all of them in detail, when he told them that the "talk around" or any "dissatisfaction" expressed outside was the reason why he urged a recount of votes. And Bail lied deliberately and audaciously to the warden and inspectors when he solemnly declared on his word of honor, on the evening of the 10th of November, that the votes had not been examined or seen by him until that hour, since the evening of election. These incidents, and others of a similar character, are clearly set forth in the evidence, and furnish premises from which a majority of the committee have adduced the following conclusions, namely, "that the testimony of the clerk of the board is uncontradicted, and his character appeared to be above reproach."

Mr. Speaker, I differ from a majority of the committee in their estimate of the character of this clerk of the ward. My knowledge of human nature, which from the various positions I have held in a long and particularly eventful life is extensive, leads me to believe that a man who will deliberately lie, or attempt to impose upon other men falsehood instead of truth, is not an honest man. I conscientiously believe that such a man is not to be trusted, that his character is open to reproach, that no confidence should be reposed in his statements, that he will have no scruples against changing votes or altering records to suit his purposes. Nothing but the fear of punishment or a regard for his reputation will restrain him from dishonest acts when it is for his interest to be dishonest. And if the rigid maxim of the law, "*falsus in uno, falsus in omnibus*," be justly as well as unsparingly applied to the credit of a witness who speaks with reference to any one important fact in relation to which he cannot from his personal knowledge of that fact be presumed to mistake, what an overwhelming influence this recognized principle must have to crush as with an avalanche the credibility of this clerk of the ward!

Mr. Speaker, from the remarks in which I have indulged, it will be seen that I contest this seat on no slight or unimportant grounds, each of which I contend is substantiated and sufficient to establish my claim.

In the first place, I claim that I was fairly and honestly elected to Congress, in strict accordance with the statute laws of Massachusetts.

Secondly, I claim it on the ground that abundant time and opportunity, all that could have been wished by dishonest men, were given for the perpetration of a fraud on the ballots between the day of election and the time of the recount.

And thirdly, I claim it on the ground that a fraud has actually been perpetrated by some person or persons since the day of election, by changing a package of votes and altering figures and indorsements on parcels and papers.

On the other hand, it appears by the evidence that the grounds on which the distinguished gentleman who occupies the seat which I dispute—and here I wish distinctly to state, whose whole course of action during the election in 1862, or in connection with any proceedings in this contest since, I believe to have been strictly upright and honorable—I say that the only grounds on which my friend bases his claim are the *ipse dixit* of the Governor of Massachusetts, the naked assertions of this George W. Bail, and the genuineness of all the figures which now appear on this black-board memorandum, entitled "rough count throughout the day." And let it be recollected that the genuineness and truth of this document rest on the testimony of this Bail, unsupported by any other proof whatever; while numerous facts, trumpet-tongued, cannot but destroy his credibility as a witness, and overthrow the whole weight of his testimony.

Mr. Speaker, I very well know that a man who makes a statement of a case in which he is personally interested is liable to be biased in one direction, and give a gloss to one side of a picture and a forbidding aspect to the other. All tribunals make allowance for such unconscious aberrations from the true meridian line. But in this

case there are facts which cannot be controverted; facts which, without argument or comment, furnish powerful evidence of the justice of my claim. A few of these facts I will enumerate.

The laws of Massachusetts ordain that in the election of State, county, and district officers, the votes shall be received, sorted, and counted by the ward officers, and public declaration made thereof in open town and ward meeting.

The laws of Massachusetts in 1862 did not authorize a recount of ballots after the closing of the polls. They might be and often were destroyed on the day of election.

In 1863 the Legislature of Massachusetts enacted a law providing for the preservation and safe-keeping of the ballots after an election, and prescribing the mode by which a recount could be had by the board of aldermen, and only by that board.

The annual election in the third Massachusetts congressional district in 1862 was fairly and honestly conducted in all the various precincts.

According to the original declarations and returns made to the secretary of State for Representative to Congress in that district, John S. Sleeper was elected by a plurality of votes.

In ward twelve, George W. Bail, clerk of the ward, after the closing of the polls, took charge of the ballots. They were deposited in no sealed box or envelope, but tied in a bundle with an old handbill wrapped around them, carried to Bail's house, and placed in an insecure position in the house. A recount of these ballots took place six days after the election, at Bail's suggestion, and there was then found in the bundle a package of twenty-eight votes, credited to Mr. Sleeper, which should have been credited to Mr. Rice. An amended return of this result was laid before the board of aldermen, and the board, without investigation, sent this document to the Governor and Council, accompanied by a certificate giving no definite result, in accordance with law and usage, but merely stating that "if the amended return should be received as a true return" Mr. Rice was elected, and not Mr. Sleeper. The Governor and Council received the amended return as a true return, and, without asking a question, gave the certificate of election to Hon. Alexander H. Rice. A legal investigation subsequently took place at the instance of Mr. Sleeper in strict conformity with the law of Congress adopted February, 1854.

George W. Bail, clerk of the ward, was not only contradictory and shuffling in his evidence, but in his reasons given to the warden and inspectors for a recount of votes he concealed some important facts, and was guilty of bold and deliberate falsehoods. When Bail, at the time of the recount, placed the bundle of votes on the table, he solemnly assured the warden and inspectors on his word of honor that the bundle of votes had not been untied, and that then, in their presence, they were seen for the first time by his untying the bundle. On his cross-examination on oath, some months afterwards, Bail acknowledged that he did actually on the day previous to the recount take that bundle of votes from the closet, remove the handbill which was wrapped around it, and see those votes, examine those votes, finger those votes, and copy indorsements on different packages of those votes.

The papers, being the only memoranda of the proceedings during the election, and the bundle of ballots, were in Bail's possession six days before the recount, and several months afterwards, giving him abundant time and opportunity to change the votes, alter or erase figures on the memoranda, which were kept in pencil, or substitute other papers in their stead, and fashion the result at pleasure.

At the time of the election, in 1862, Bail was clerk of a lumber yard, at wages of nine dollars a week; within four months he was appointed postmaster at South Boston, with emoluments rising nine hundred dollars a year.

Such, Mr. Speaker, are some of the facts in this case, as they stand out boldly in the testimony and on the statute-book; facts which the most specious arguments, the most subtle reasoning, or the most powerful eloquence cannot explain away. And if the members of this House will carefully consider the various points presented by the testimony, I think they will see that the conclusions of a majority of the Committee of Elections are unsound, and that by adopting them

they will not only do less than justice to the contestant, but open the road to a host of evils in the future. Let me not be misunderstood. In saying this, I mean nothing disrespectful or derogatory to the honor or intelligence of any member of the Committee of Elections, all of whom are gentlemen of high character and doubtless desirous of doing justice to all men. They probably view the subject from a stand-point far different from mine, but, nevertheless, being human beings, are liable to error.

It is manifest that in this case, which appears on the face to be merely the claim of an individual to a seat in Congress, or a contest between two individuals attached to two different political parties, important principles are at stake—principles which are closely connected with the rights of the people and the integrity of the Government; and the decision of the House of Representatives in Congress is awaited with much interest not only by the voters of the third congressional district in Massachusetts, but by all intelligent citizens in that Commonwealth.

Nor is the importance of this decision confined to Massachusetts. If the House of Representatives in Congress should sanction or encourage the doctrine that, after the return of votes made, declared, and recorded, according to the laws of the State in which the election was held, it may be disregarded, and pronounced null and void; if the House should set aside an election in consequence of a recount of votes in a single precinct several days after the result had been declared in presence of the people, and when, meanwhile, the votes had been kept in a loose and insecure position, inviting an attempt at fraud, a host of evils will inevitably follow. The House will not only sanction a course of action adverse to the spirit and the whole character of our Government, but establish a precedent which will subject future legislators to a vast increase of labor and responsibility. The declaration of no election at the polls can be relied on, as the result of a recount several days afterwards may be made by dexterous politicians to meet any case. If 28 votes are wanted 28 votes will be found. If 50 votes are wanted 50 votes will be found. If the doors of an office worth \$1,000 a year are not ready to open to receive a new incumbent, an equivalent can be found in some other way. Bribery and other influences will be freely used to set at naught the verdict of the voters. Villainy will be pitted against villainy; and the longest purse or the most powerful political influence will carry the day.

Mr. Speaker, I was led to contest this seat, not by an ambitious wish to obtain the high honor of a seat in Congress, as all who know me will bear witness, but by a sense of duty to those who advocated my election, by a feeling of self-respect, which instinctively shrinks at the idea of tamely submitting to an act of injustice; by a wish to preserve the purity of elections and plead for the sanctity of the ballot-box, the corner-stone of a republican Government, and which should be kept sacred and inviolate, and guarded from even the possibility of being polluted by prying eyes or unhallowed hands. And whatever may be the result of my appeal, I feel that I have faithfully and conscientiously performed my duty.

And I ask the Representatives in Congress—surely it is not asking too much—that in deciding this case they will bear in mind the true question at issue, and base their decision not on the comparative political or personal merits of the two individuals who are directly interested, but on the merits of the case itself, and to say who, in accordance with the laws of Massachusetts and the decrees of justice is entitled to represent in this honorable body the third Massachusetts district.

Mr. DAWES. I call the previous question upon the resolutions.

The previous question was seconded, and the main question was ordered; being first upon the following resolution reported from the Committee of Elections:

Resolved, That John S. Sleeper is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the third congressional district in Massachusetts.

The resolution was agreed to.

The question was then taken on the following resolution, and it was agreed to:

Resolved, That Alexander H. Rice is entitled to a seat in

this House as a Representative in the Thirty-Eighth Congress from the third congressional district in Massachusetts.

Mr. DAWES moved to reconsider the votes by which the two resolutions were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

USE OF THE HALL OF THE HOUSE.

Mr. STEVENS, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the use of the Hall of this House be, and the same is hereby, granted for an exhibition of the pupils of the Institution for the Deaf and Dumb, and the Blind, on Thursday evening the 10th instant.

Mr. STEVENS moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. LAW. I move that the House do now adjourn.

INSPECTORS OF CUSTOMS.

Mr. FENTON. Objection has been withdrawn to my reporting a bill which I asked leave to report this morning, and if the gentleman from Indiana will withdraw his motion to adjourn I will ask leave to report it now, and then renew the motion to adjourn.

Mr. LAW. With that understanding I withdraw my motion.

Mr. FENTON asked unanimous consent to report from the Committee of Ways and Means a bill (S. No. 66) to increase the compensation of inspectors of customs in certain ports.

Mr. SPALDING objected.

And then, on motion of Mr. FENTON, (at half past four o'clock, p. m.,) the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, March 5, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

Mr. STILES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the President's message.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the President's annual message.

STATE SOVEREIGNTY AND TREASON.

Mr. BALDWIN, of Massachusetts. Mr. Chairman, I have listened with profound interest to what has been uttered in these discussions touching the present state of the Union; and I cannot avoid believing that the work we have in hand would thrive better if there were in the country and in this House less partisan conspiracy and more friendship for the national Government. Could every man prevail on himself to seek only what is best for the nation our work would become easy. Difficulties would vanish; the way before us would brighten; troublesome questions would grow clear; and our deliberations would be regulated by a power of wisdom transcending any force of debate or sagacity in applying principles. I suppose, however, it is not reasonable to expect this, considering that a vicious old political dynasty that has long controlled the Government is now in the last agonies of dissolution, and also that a struggle with supporters of the insurgent slave power goes on at the North, while the bloody conflict with that power is maintained in the South.

In the party of the Opposition, when the conflict began at Charleston, there were men who, rising at once above all partisan considerations, gave themselves unreservedly to the duties of patriotism. Others, taking the tone of disaffection, have sought chiefly to restore the so-called Democratic party by encamping around the disconsolate wreck of its national organization and howling at "black Republicans" and "abolitionists." But in that party is a controlling class of men who make us feel that, in sympathy and purpose, they are on the side of the rebellion. These are the northern slavery extremists, who long ago, forgetting or failing to comprehend the grand

meaning of this Republic, brought themselves to act as if the slave power were really the fundamental law of the land. From the beginning they have insisted that the conspirators should be allowed to have their own way; and they now insist, substantially, that submission to the will of treason is the only desirable way to peace. They would withdraw our armies; they would send ambassadors to Richmond; they would do anything to accommodate the rebellion and save its leaders; they would lower the national Government to equality with confederate treason; they would substitute "State sovereignty" for both human rights and nationality; and they have been willing to put arms in the hands of the rebels, while seeking to restrain and weaken the Government.

The gentleman from New York, [Mr. Frazar Wood,] regarded as a representative of this class, describes the endeavor to defend the Union and crush treason by force of arms as "this hellish crusade of blood and famine," and he charges that it "was commenced without cause." Yes, he says, "without cause." This is talking as the rebel leaders talk, and it shows his relation to them. That opposition to the Government from this source, which came out so fiercely when the necessary measures against treason were first taken, only needed the atmosphere of Charleston or Richmond to become open rebellion; and its loudest fury has proceeded from those who always become honey-mouthed and overflow with "holiday and lady terms" when they talk of the southern traitors.

I propose to discuss this opposition of our northern slavery extremists, and consider particularly their disorganizing southern doctrine of State supremacy.

1. No observer of this contest has failed to see how constantly the measures of the Government against the rebellion have been met with denials of its right to use such measures, supported by appeals to what is called "State sovereignty." They have been denounced as usurpations of power that threaten extermination to "the sovereignty of the States;" it being the policy of this opposition to reduce and paralyze the authority of the national Government in all its relations to the doctrine and practice of the secessionists. The gentlemen who desire to be sent as ambassadors to Richmond are evidently ready to accept the latest form of the doctrine and make it the basis of their proposed treaty with the rebel leaders. They and their political associates have always accepted this doctrine in some form. It is presented to this House in such speeches as that of the gentleman from Pennsylvania, [Mr. Dawes,] who begins here now where he left off eight years ago. It is seldom absent from the annual resolutions of their party friends in the loyal States. A recent article in one of the chief newspaper-organs of these factionists, describes the national Government as "but the agent of the sovereign States," and goes on to declare that the aim of its party is to "maintain the sovereignty of the States," against "the encroachments of the Federal Government," which, it is charged, aspires to be something higher and more supreme than a mere agency of the States.

Sovereignty is the highest, the most absolute, and the most essential prerogative of a nation. It cannot rightfully be predicated of any political society or community that is not a nation. There cannot be, in the same nation, two sovereignties, not to speak of thirty or forty. The scope of the national Government is limited and defined by the Federal Constitution; but it includes everything necessary to the full establishment of national authority and power; and to this Government, and to this alone, belong the rights of sovereignty. The States of this Union have certain reserved prerogatives which the national sovereignty is bound to respect; but it is absurd to call them sovereignties, or to talk as if it belonged to them to assume and use the rights of sovereignty. Some other term must be employed to describe them, and it must be some term that cannot be made to deny the fact that they are only parts of a nation.

The States, whose people established this Government, never were, and never undertook to be, independent sovereignties. At first they were colonies and dependencies of Great Britain; next, by the Declaration of Independence, they became

United States of America; and both the Union and the Declaration are older than any State constitution—older than the Articles of the old Confederation. These two were the first things, all the rest being both subsequent and consequent. In the course of a debate that occurred June 29, 1787, in the Convention that framed the Federal Constitution, James Madison described, as follows, what the States were then, and what they had been previous to that time. I quote from Yates's Minutes:

"Some contend that States are sovereign, when, in fact, they are only political societies. There is a gradation of power in all societies, from the lowest corporation to the highest sovereignty. The States never possessed the essential rights of sovereignty. These were always vested in Congress. Their voting as States in Congress is no evidence of sovereignty. The State of Maryland voted by counties. Did this make the counties sovereign? The States at present are only great corporations, having the power of making by-laws, and these are effectual only if they are not contradictory to the general Confederation."

"State sovereignty" was never anything more than a dream of theorists. Under the Continental Congress, and under the old Confederation, it was sometimes heard of, but always as a pretense rather than a reality. It was asserted by a few able men when measures were taken to "form a more perfect Union." It was represented in the Convention that framed the national Constitution; and in that body its theories and propositions were discussed and rejected. Its pretensions were put aside deliberately, and with such emphasis that several of its advocates left the Convention in disgust. One of those gentlemen in the Convention who advocated extreme demands in behalf of the States was Luther Martin, of Maryland. In his address to the Legislature of that State on proceedings in the Convention he shows the determination with which the pretensions of State supremacy were refused; and Washington, in a letter to Congress, which every member of this House may read in his Manual, states as follows the reason why they were refused:

"It is obviously impracticable, in the Federal Government of these States, to secure all rights of independent sovereignty to each and yet provide for the interest and safety of all."

Such disorganizing theories could not prevail then; but this doctrine of State supremacy has since been used to disturb and destroy the nation. Under the Constitution, persistent attempts to exalt the States above the national Government have usually come from the South, where slavery has claimed to be a domestic or State institution. Nowhere else have they found much encouragement. The slave interest has, very naturally, favored the most extreme pretensions in behalf of the agencies on which it has depended for support. Its safety and the secure growth of its political power required its devotees to maintain extreme theories of State supremacy. It is a very peculiar interest, peculiarly destitute of protection in the ordinary political arrangements of Christendom, and peculiarly dependent on the States that allow it existence and shelter. It is against civilization, and has nothing to hope from the sympathy or the good will of the civilized world. Its whole influence would, of course, be directed to support any political doctrine that could be used to exalt the States, especially the slave States, and secure to them the prerogatives of independent sovereignty, in order to use these prerogatives for its own security and aggrandizement. And so it has been.

For more than thirty years previous to the outbreak of this rebellion the term "STATE RIGHTS" had been used at the South as the watchword of disaffection and conspiracy; and it was admirably fitted for such use. "RIGHTS OF THE PEOPLE" would not have served as well, would, in fact, have served to defeat rather than aid the purpose of the conspiring slavery extremists. Their aim was to deny the rights of the people and establish a slave oligarchy; and it was a clever artifice to use a loud clamor for State rights as a shield to cover the establishment of plantation despotisms in the States, and hide treasonable conspiracy against the nation; and the more so, because the fact that, under the national Constitution, certain powers are reserved to the States and to the people gave special plausibility and force to the term, even when used to indicate the most extreme and destructive theories. A careful history of this term, as used by southern politicians, with an accurate account of the different meanings they have given it and of the different uses to which

they have applied it, would give us pretty much the whole political history of that part of the country during the last half century. In 1830, Mr. Calhoun and the nullifiers meant by "State rights" the right of any southern State, especially South Carolina, to nullify the authority of the Government. In 1851, Mr. Rhett, of South Carolina, used it to mean a right of any State to break up the Union; and by virtue of the southern theory of State rights he defined treason as follows, in a speech delivered in the Senate:

"Treason against the United States is a violation of allegiance to the sovereignties who established the system of government; and those sovereignties are described in the Constitution as the States. A person levying war against them, or giving aid and comfort to their enemies, is guilty of treason; showing distinctly that treason can be committed against them, AND AGAINST THEM ONLY."

Here is a doctrine that abrogates the national Government and bids everything go down before the pretensions of State sovereignty. In 1861 this treasonable doctrine brought forth secession madness, and filled the land with the bloody horrors of rebellion; and to-day, here at the North, the seditious organ of disloyalty to which I have referred echoes Rhett's doctrine, as follows:

"While obedience is due to the governments—to the Federal no more and no less than to the State governments—allegiance is due to the States alone, to each State by the citizens thereof."

And this vile sheet, edited and published by a member of this House, goes on to warn the Administration that the northern people, in support of this "State sovereignty," will soon be "massed right in its way" with arms in their hands.

II. Let us see how this revolutionary doctrine of the southern conspirators has been used at the North to aid them in the present conflict.

1. Not many of us have forgotten what use was made of it by President Buchanan. The traitors claimed for their States a right to trample under foot the national Government and break up the Union. President Buchanan allowed them to mature their plot under his roof and in his Cabinet; and, when they began openly their work of treasonable violence, he declared officially, in a message to Congress, that no power to coerce a seceding State, or to use force against the secession treason, had "been delegated to Congress, or to any other department of the Federal Government." That is to say, State sovereignty was the paramount thing, and the national Government had no right to defend itself. What more could treason ask than to have the Union thus delivered into its hands, paralyzed, defenseless, and bound for sacrifice by this devil-spun theory of "State sovereignty?"

It is impossible to think calmly of what President Buchanan might have done, but refused to do, to baffle the conspirators and make rebellion impossible. One downright word of executive authority, one lightning stroke of executive power, would have crushed conspiracy and sent treason howling into the darkness whence it came. There was the great occasion, but the miserable man occupying the presidential chair was not equal to it.

Mr. STEVENS. Can I call the gentleman to order?

The CHAIRMAN. What is the gentleman's question of order?

Mr. STEVENS. If I can call the gentleman to order in committee, I make the point that he is calling my neighbor and constituent a miserable man. I desire to know whether that is in order. [Laughter.]

The CHAIRMAN. The gentleman from Massachusetts will proceed in order.

Mr. STUART. I would like to know whether it was not the division of the Whig party between Fremont and Fillmore that elected Mr. Buchanan, and whether those who divided the Whig party are not responsible for his election!

Mr. BALDWIN, of Massachusetts. I will say to the gentleman that, inasmuch as I did not belong to the Whig party, I do not feel authorized to answer his question.

Weak, treacherous, and, from long-settled habit, the submissive creature of these assassins of the Republic, he had become incapable of such fidelity to his oath of office. There might have been special wonder among those who knew him well if he had not thus made himself responsible for the most inexcusable outbreak of treason ever heard of below the sun. History will do him justice, and will read to those who come after

us wholesome lessons on his character; and the record of his conduct as President of the United States in the years 1860-61 may be put to good uses by those teachers of mankind who have the spiritual elevation, purity, and sweetness to draw a light of wisdom from the blackest record of infamy,

"Gather honey from the weed,
And make a moral of the devil himself."

2. The treasonable doctrine used by President Buchanan was immediately adopted by disloyalty throughout the North. It was just what the northern allies of treason wanted, and from that time to this they have used it at every point and on every occasion where it has seemed possible for it to obstruct any measure employed to "put down the rebels. Every effort of the Government to defend its own existence and beat down its assailants has been attacked with such disingenuousness and virulence as never before seemed possible to the most unscrupulous baseness of faction. Who has forgotten the howl that broke forth against President Lincoln when he issued that call for seventy-five thousand men to suppress insurrection? "What!" exclaimed our northern slavery extremists, "does he mean to coerce sovereign States? Is it his purpose to attack secessionism with force of arms? He will make havoc of State rights! It is infamous usurpation of power!" So ran and raged the turbulent stream of cursing; and it was amazing to see with what audacity of disloyal zeal northern apologists for treason sought to prevent harm to the rebellion by reducing the Government to imbecility.

The enrollment law furnished occasion for a still more striking illustration of the meaning of this factious opposition to the Government. The slavery extremists have very seldom intimated the possibility of State supremacy anywhere north of the slave line; and never unless to do so would benefit the slave interest. They have always one essential preliminary, or condition precedent, to any theory of the Constitution or of State rights they are moved to advocate. It must be a theory that will decide some question in favor of that interest, or in some way give it advantage over other interests. When slavery requires it, they support any usurpation of power against the free States. They were unscrupulous supporters of the infamous fugitive slave bill of 1850, although prominent southern men admitted that no power to enact fugitive slave laws had been delegated to Congress, while every honest advocate of strict construction denied that the Constitution authorized the Government to engage in the business of slave-hunting. They talked as if that bill were the special glory and joy of patriotism. They honored it with public meetings, processions, hymns, and hallelujahs. They actually fell into the habit of calling it "the Constitution and the laws." So, on the other hand, to break down the enrollment law, they set up a claim of sovereignty for the free States; and never was an act of Congress assailed with a more evident purpose of hostility to the Government. The whole vocabulary of vituperation was poured out upon it. It was denounced as tyrannical interference with State rights. For a time, conspiracy at the North believed it possible to stimulate opposition to this law to such fury as would break out in revolution. It produced a terrible riot in the city of New York, and caused violence and murder in several enrollment districts in different parts of the country; but this demon of faction was smitten down, baffled, and confounded by a spirit of loyalty in the people which it did not expect nor deem possible. That men who came forth from the dens of faction to foment disloyalty and revolution by accusing that law of trampling under foot State rights, and of clothing the Government with unconstitutional power, that they should sneak away from their failure into the most silent darkness, was very appropriate. That they should ever again talk as if they were patriotic, or have the hardihood to come forth again to mingle with honest people, and seek refreshment in the pure atmosphere and genial sunlight of northern skies, is one of the uncomprehended mysteries.

3. Let me point out another evil use made of this southern doctrine of State supremacy. It is brought forward to obstruct a reestablishment of the national authority in that part of the country

which armed treason has disorganized. I shall not now undertake to determine every question relating to the present political condition of that part of our country formerly known in the Republic as the State of South Carolina. Of one thing, however, I am sure: whether it be now a State without a government, a land district in need of popular sovereignty, a howling wilderness of treason, or, if gentlemen prefer, a star in eclipse, or perhaps an exploded comet, it is, unquestionably, still a part of the nation. And the full authority of the national Government should be re-established there as soon as possible, without waiting to have it voted in, and without any consultation whatever with the rebel leaders. The national Government, representing and acting for the people of the United States, has a right of sovereignty in the whole insurgent section of the country, which nothing but successful revolution can abrogate. It is, therefore, the imperative duty of the Government to take possession of South Carolina, and of every other disorganized part of the nation, by force of arms, punish treason, protect loyalty, and provide there for the reestablishment of order, and for a regular enforcement of the laws.

But right here we encounter preposterous talk of the States as mysterious, indestructible, and sovereign entities, distinct from the people, and quite superior to everything else in our political system. The State organizations are set forth as the States, and in speeches and resolutions it is maintained that these organizations in the hands of the rebels are very sacred State "sovereignities." And yet how absurd it is, under any circumstances, to talk of a State organization as a fixed, changeless, absolute something, above the people, greater than the nation, and endowed with a sort of divine right to bind and control both the people and the national Government! And how wicked to talk as if an organized league of traitors could legitimately be recognized as a State in this Union! The political organization once known as the government of the State of South Carolina transformed and outlawed itself, and became an agency of treason, no more entitled to consideration than one of those organizations of "Knights of the Golden Circle" so much used by the conspirators. And yet for this club of virulent traitors is demanded not only the constitutional deference due to the loyal people of a loyal State, but also the prerogatives of sovereignty. The national Government is told to beware of touching the holy ground of State supremacy in dealing with it, and warned off from its duty.

It is, or ought to be, a maxim that the people of a State are superior to its institutions. It is their prerogative to make and unmake institutions. In our political system the word "State" means something more than a given section of inhabited territory, something more than a constitution and code of laws written on parchments, something more than any form or degree of political organization. Judge Story, in his Commentaries on the Constitution, says the word State, "in its most enlarged sense, means the people composing a particular nation or community;" and he adds that "the State, and the people of the State, are equivalent terms."

The disorganizing theory of State supremacy and prerogative must be flung aside, if we mean to uphold the Government and save the nation. Moreover, if the national Government have any right whatever, it has a right to assert itself against conspiracy and treason; that is to say, the right of sovereignty. We need not go to books and precedents for the law on this point. It is self-evident. It mocks reason and affronts common sense to urge upon the Government the doctrines and scruples of disloyalty, and bid it crouch and crawl before treason like a shivering imbecile. Its duty to establish and maintain its authority, and to secure order and a republican form of government in each disorganized State, implies legitimate power to do so. The power is there by what James Madison called "unavoidable implication," and explained in the *Federalist* as follows:

"No axiom is more clearly established, in law or in reason, than that wherever the end is required the means are authorized; wherever a general power to do a thing is given, every particular power necessary for doing it is included."

To this right of sovereignty the conflict with

rebellion has superadded the right of war. In order to crush rebellion in the most effective manner the national Government may use either right, or it may use both together. It was decided in our courts, by Chief Justice Marshall and others of his time, and it has been reaffirmed since, that in cases of what Grotius describes as "mixed war," or war between a Government and a rebellion, the Government may have belligerent rights superadded to the right of sovereignty, and that in suppressing rebellion it may, with entire consistency, act in the two-fold capacity of sovereign and belligerent. But can it reasonably be doubted that in dealing with persons the right of war in this case must necessarily be modified and limited by that obligation of sovereignty which requires it to discriminate between loyal men and traitors? Let me explain here that by the national Government I mean all that is meant in the Constitution. The right of sovereignty belongs to the whole Government, and not to any single branch of it exclusively. The very idea of sovereignty implies not only executive power, but also the power that provides rules and regulations by which the Executive shall proceed. Hence Blackstone says:

"Sovereignty and legislature are, indeed, convertible terms; one cannot subsist without the other."

But it is not my purpose to discuss these questions. I seek only to show that the Government has no lack of legitimate power to deal with the rebellion, and also with the slave power, the baleful cause of our national trouble, as they deserve; and that it can recognize no legitimate obstruction to its operations in this southern doctrine of State supremacy.

There is very noteworthy significance in the fact that the disloyal crusade against the supremacy of the national Government is undertaken in behalf of the so-called rebel States, and not in behalf of the southern people. The organizations in the insurgent section of the country called "State governments" by the rebels are strongholds of the slave power and main defenses of its system of oligarchy. The slave interest demands reverence for them, agencies of treason though they be, and insists that it is a vested right of the rebel leaders, by whom they are controlled, to represent and bind the whole southern people. Should these foul nests of treason be crushed to pieces and swept away into the past to molder with the rubbish of the ages, the downfall of the slave power would be complete, and the southern people would hail the day of their emancipation. Power, in that section, would pass into new hands, and be used to promote interests of more importance to human welfare and prosperity. Here are the reasons why the slavery extremists everywhere interpose their doctrine of State supremacy between the Government and the rebellion. To gain peace, security, and a permanent restoration of the Union the Administration and its supporters would deal directly with the southern people, or with that portion of them who have not become traitors and public enemies. Northern friends of the rebels insist on having commissioners sent to treat with the "authorities at Richmond," or with the rebel authorities in each rebel State; that is to say, with the foremost rebel leaders; as if they had a representative right to speak for the southern people and control their political destiny. The difference is very great. Observe it carefully.

III. If anything comes out clearly, when we study these questions, it is that in this conflict the slave power or the Republic must perish. If anything has been learned from the history of our politics during the last thirty years, or if anything has been forced upon our attention by the events of the present time, it is that absolute extermination of the slave power is essential to the restoration and security of the Union. The gentleman from New York [Mr. Brooks] professes, very ungraciously, to accept the destruction of slavery as a fact accomplished. Will he do anything to make the country quite sure of this fact? Is the gentleman himself quite certain that slavery is already dead beyond hope of resurrection? At one season of the year in our northern latitude all the serpents appear to be dead; but when spring returns, with reviving influences, and the sun shines warm on the earth, the revived serpents crawl forth from their hiding-places as full of life as ever. Thus, I fear, would the slave

power revive to more than its former vigor if that gentleman's party should be allowed to assume control of the Government.

The other day the gentleman from Kentucky, [Mr. YEAMAN], in a speech that seemed to me admirable for its candor and for its loyalty to the Union, although I cannot accept all the views he advanced, spoke of slavery as a "collateral issue," raised unnecessarily and exalted to "paramount importance." He might as well describe the part of Hamlet in the play as a collateral part, raised to paramount importance by injudicious players. Dismiss the slave power from the nation, and you dismiss the rebellion itself, and bring the American people the gladdest day of hope and peace they ever knew. New life, unity, and aspiration would transfigure the whole country. Give us this great confiscation and but little more will be needed. Can any gentleman study this rebellion and believe that such infidelity to free institutions and such treasonable rancor against the Government would have been possible in this country without long training in the school of slavery? Does any gentleman believe the work of restoring the Union would be either long or difficult if the hope of restoring the political power of slavery were dead and turned to ashes, even in every northern apologist for the traitors? Treason was bred by slavery, and its only supporters are slavery extremists, North and South.

What slavery has done to destroy the nation was foreseen as possible by the earnest men who founded the Government. They held that "slavery is inconsistent with the genius of republicanism, and has a tendency to destroy those principles on which it is founded." Such opinions of the men of that time are as familiar to us as household words; but they felt sure that slavery would soon disappear. Instead of disappearing it found unexpected life and vigor in the cotton-plant; grew to be a political power; transformed communities and States; taught men to mock at the Declaration of Independence and denounce its doctrine of equality and human rights as a "self-evident lie;" organized despotism and defiance of constitutional rights in every community subject to its sway; and, finally, perfected a conspiracy to dismember and destroy the Union.

We hear men talk gravely, now and then, of having again the Union as it was; that is to say, the Union with the slave power unharmed and in its old place; and some men talk on this subject as if it were possible to turn back from these years and results of bloody treason as one turns from an hour of engrossing amusement. They have not taken pains to comprehend the relation of the present to the past and to the future. "The Constitution as it is." Yes, until the people see fit to change it in a regular and orderly manner. "The Union as it was." This is not possible.

If we could go back to the past, and have again the Union precisely as it was under the slave power for some years before the outbreak of this rebellion, what thoughtful man would desire it in preference to going forward to something better? Is another thirty years' struggle with the growing influence, audacity, violence, and political atheism of the slave power something to pray for? A struggle in which the influence of slavery shall be the paramount consideration in our politics, and the supreme influence in the Government; a struggle in which every great interest of the country must be subordinated to the clamorous schemes of filibusters and slavery propagandists; a struggle in which nothing can make itself heard save the pretensions, arrogances, barbarisms, and anathemas of slavery, and which shall inevitably lead on to another terrible outbreak of conspiracy and treason—is a return to all this, instead of deliverance from it, something to pray for?

But we could not repeat all that if we would. That volume of our history is now at the close. We are about to commence another. The contents of this new volume, unknown to us now, because we cannot lift the veil that hangs over the future, will be determined by the result of this contest, and especially by the policy that shall regulate the restoration of peace. In the near future the nation will be "all slave or all free," a malignant slave despotism shaken by anarchy or an emancipated and magnificent Republic—one of these two. The issue has been made up for us by the slave interest itself, and we have not the power to change it. Henceforth, if we have the

Republic at all, we must have it as it ought to be, as its founders meant it should be.

And so we shall have it! Darkness in this conflict will not be permitted to subdue reason and justice. Conspiracy and treason will be overthrown. The slave power and its worshipers will be crushed. The nation will triumph in this contest; and its record, in the volume of its history about to open, will become so grandly bright, and wear such splendor of true glory, that in all the nations it will be felt by those who revere freedom that the great American Republic at last fulfills the dream of its founders, and deserves recognition as the light and the hope of mankind.

AMNESTY PROCLAMATION.

Mr. BOYD. Mr. Chairman, some time since my very censorious colleague took occasion, while speaking to the confiscation bill then pending in this House, to address a portion of the concluding remarks of his speech specially and particularly to the four accredited loyal members of this House from the State of Missouri, making therein an accusation against them and his Excellency the President of the United States. First, that at the instance and suggestion of these four loyal members had an agreement with his Excellency to the effect that Brigadier General Schofield, who has been for a long time zealously courting senatorial favor, was unmercifully, unsparingly, and ungratefully abused, and his fond anticipations of the action of the United States Senate in his unmerited promotion had been blasted, and his Excellency the President of the United States entrapped by the bad faith of these four loyal members from Missouri. It is still remembered by Congressmen that my colleague did not finish his speech, but by unanimous consent of this House leave was given him to print, and it happened that the remarks alluded to are contained in that printed portion of his speech. I desire now to disabuse the minds of this House of the false impression made against me by my colleague. I would have been gratified to have done so earlier, but unfortunately in the pressure of legislation of much more important matters, after one or two ineffectual attempts to obtain the floor, I have patiently deferred to this moment, and promise to be brief and to the point, and with a few remarks only, on the amnesty proclamation, I will conclude.

Fortunately, Mr. Speaker, I am prepared with primary evidence here at this Capitol, and will not ask leave to continue my cause to subpoena witnesses—as is frequently resorted to by astute attorneys as a dilatory plea in a bad case, or when they have neither law nor equity to prosecute or defend—to prove to the satisfaction of each and every member of this House, and even to my accuser, that we four radical members of Missouri are the only true representatives of the truly loyal, Union, devoted, sacrificing citizens and soldiers of that much-abused, ever-convulsed loyal State, the State of Missouri. I have, sir, the highest grade and most convincing, conclusive evidence known to this or any other civilized court or tribunal to fasten and rivet that so-much-complained-of declaration upon my colleague as an unalterable truth. Be ye not surprised nor astounded when I tell you, sir, that his Excellency Abraham Lincoln—who is an honest man, and a man in his official capacity I swear by, and to support, to as great an extent, if not greater, than my colleague—said in my presence, and to me, and will to-day, sir, reiterate, that his great reliance in Missouri was the radical Union men, and if the throats of either the conservatives or radicals of Missouri had to be cut, the radicals should be spared. Would I be presumptuous in beseeching my amiable colleague in all kindness of feeling of heart to be a renegade, doff the conservative cloak, and fit up in the paraphernalia and habiliments of radicalism under the amnesty before it is modified or forever suspended? I would warn my colleague that should his ambition for gubernatorial honors carry him to that exalted and honorable position, he had better be a radical, yea, a Jacobin, if he thinks the President intends ever to execute his will.

Again, sir, in support of our "very extraordinary and unbecoming declaration" "that we alone represented the loyal heart of our State on this floor," will my colleague but remember the fact that the only issue in all our State elections since the decapitation of Jackson was gradual or immediate emancipation of the slave, and perpet-

ual confiscation of the real and personal property of Governor Jackson and his supporters; the conservative Claybanks for very gradual emancipation, and the radicals for immediate emancipation and confiscation? Now, sir, in these elections I assume as a fact that the radical party of Missouri never received one isolated single bushwhacking rebel vote, or constitutional Union southern sympathetic vote. I wish my colleague could say so much for his speckled progeny, and of all the men who honored him with their votes. The radical Union party of Missouri adopted the platform of the lamented Douglas, to which my friend from Kentucky alluded a day or so ago, that there now could be but two parties in this nation, Union men and traitors. The Union party of Missouri charged upon the conservative Claybanks a sympathy for rebels, because they did not advocate the immediate extinction of slavery in the State. Known then to us more clearly perhaps than to citizens of the free States that slavery in our State, protected by statute laws, was treason and rebellion, and until we removed it organized bands of rebels would make raids from their haunts and mountain-fastnesses into Union radical communities, robbing and murdering our citizens, young and old, quickly retiring or scattering to their homes, leaving a spectacle of ruined, undone, destitute women and children, all, sir, in consequence of our slave code, and still a majority party then controlling the affairs of the State would not assent to remove the war from our State by merely abolishing slavery. Who, sir, can, with such an array of historic facts, say that our declaration was extraordinary and unbecoming? Ask, sir, the Missouri volunteers, the militia of my district. Ask the wives and children of the officers and privates of my colleague's old regiment of his brigade, that I had the honor of enlisting three companies for—all ask of these gallant citizens and soldiers whether we are not correct in our declaration. Go to the ballot-box of the Missouri soldiery and find it almost unanimous for these four radicals. Sir, we might (I was about to say) have gone much further in our declaration consistent with truth and the facts before us.

Sir, I come now to that portion of the remarks accusing us of making a covert assault upon the President, with Schofield as a blind, alleging it to be an assault upon the President because the Schofield protest was presented to the Senate in open session. May I not, sir, give the history of that protest, and show how easy a member of this Congress can be mistaken, as well as how very particular members should be in making so grave and serious a charge as the one I have up to this time been a victim of, because I could not obtain the floor to disown and repel by incontrovertible evidence? That Schofield protest had its incipency at my suggestion; handed to the Vice President by me with the request that it be presented to the executive session of the Senate, and I doubt whether any Senator saw it or knew of its existence until presented in executive session of the Senate. I do not fear, sir, that any Senator will contradict this statement. May I now assert that that Schofield protest filled its intended and legitimate mission before it was brought to view by the honorable Senator from Missouri? That it did become public is true. And I can see no reason why all citizens of this country are not as much entitled to that information as they are to one of Newton's agricultural reports, with its pictures, or McClellan's report, with the letter of the President on page 43. I am not one, at any rate, to deprive them of it.

Now, sir, I cannot get my consent to believe that his Excellency ever accepted or offered to make a trade of a nature such as my colleague charges him with. I have and entertain a higher opinion of the President of this now powerful warlike nation, and the Commander-in-Chief of the Army of over, perhaps, three quarters of a million of able-bodied soldiery, than to believe him capable of such trickery. I will not charge my colleague with making a covert assault upon the President, and the four radicals of Missouri, the pitiful, miserable pretext, an assault most extraordinary and unbecoming. Sir, I am not, *in propria persona*, a party to this trade, and I merely conclude my colleague was imposed upon, as the great Benton was when he was induced to make an unwise canvass in our State for Governor,

These unfounded charges of infidelity preferred against me have not in the least lessened or estranged me from the President, for which purpose I conclude they were intended. I feel at perfect liberty to ask for favors for my constituency now, and expect to receive them, as I have heretofore done and received. Like all American citizens, I exercise my privilege and right to honestly differ with him, and I do differ widely and materially in some things, and one of which, allow me to say, is to have my colleague foreshadow his policy and defend him *à la mode* Don Quixote.

I am here, sir, by the order of a large Union majority of my district, and by their advice, my own convictions as a patriot, and devotion to my country, to support the Administration in a vigorous prosecution of this war to an honorable termination—honorable to every man, woman, and child in the nation, whether expressed or implied or not by the Constitution; if necessary ride over it in order to save and restore it in all of its beautiful parts. I am here, sir, to aid this Administration in the protection he is endeavoring to give loyal subjects everywhere and save the Government from the hands and power of the enemy; to vote the Government to the verge of bankruptcy in increased pay to all soldiers, State or national, who are fighting under the stars and stripes, if necessary. I am ready to do any act which should be done to preserve liberty and universal freedom, right or wrong. If it is revolution to do so, then, sir, I am a revolutionist; if Jacobinical, I am a Jacobin. I am here, sir, to give my humble and full influence in establishing and attaining that Missouri "cosmos," and make it national. Now, sir, what is my colleague here for? I have heard it said it was to vote against all Administration measures coming from this side of this House, to distract the Union element of this House, thereby preventing the necessary legislation for the comfort of our soldiers, and the means for the machinery of the Government so absolutely necessary to harmonize every department, acting no doubt honestly and in accordance with his superior judgment to a great extent with that side of the House who are opposing the proclamation of freedom, who are opposed to making negroes soldiers, who desire to make peace by appointing commissioners to treat with the insane confederacy and the reconstruction with political rights to traitors. I here rest this defense and exposition, knowing that a loyal constituency and a grateful people will correctly decide which of us is the Administration member.

Now, sir, my Lexington-district colleague, the member from Missouri—who was seen by this House to ever sneeze when my colleague from St. Louis took snuff—he is absent, afraid, perhaps, of the nine-gun battery commanded by a gallant Captain Dawes, and is understood to be in his case double-shot, and for prudential reasons has complied with the advice,

"He that fights and runs away,
May live to fight another day."

Without further remark to his satire and sarcasm, I will leave him in his wicked pilgrimage with the consolation to him that—

"The time has come, I knew it must,
When you and I should part;
But I ceased to believe when I ceased to trust,
And your trash did not pain my heart."

Mr. Chairman, we are aware of the fact that Virginia, Kentucky, and Missouri, by an insane act on the part of the State authorities of each of those States, revolted against this Government, and it must not be thought that we were deaf to the fact that a deep suspicion rested upon the loyalty of us throughout the free States, and in some localities and by some individuals we are yet wrongfully and ungratefully suspicious; and I am mortified, sir, that an intimation has been made on the floor of this House by my colleague from St. Louis district that our sincerity is questionable, because, sir, and only because we ardently and zealously support the Administration and are thoroughly radicalized in the free policy of this Government, and the most vigorous, unrelenting prosecution of this war to a speedy subjugation of every man, white or black, who opposes this Government. An unfortunate remark, if he, my colleague, is a friend to Missouri.

The amnesty is at least premature, if the exercise of that high prerogative of pardoning traitors, men who have without cause raised up in their

might and power to destroy the Government that gave them birth, prosperity, happiness, comfort, and privileges, such as no other people enjoyed on this earth, and men who have invaded the happy circles of every family in the nation, and shrouded the portals of each and every habitation, rich and poor; men, sir, who are lost to all sense of honor and propriety, who hold no more the obligations of an oath with their hands upon the Holy Evangelists, sacred, who are steeped in crime, and are inmates of the slimy pools of perjury; men, sir, who are fit companions for murderers and the basest felons only.

Mr. Chairman, I am opposed to the amnesty as is now promulgated, and will ever in my pilgrimage on this earth oppose such an unwise and humiliating act of the present incumbent of the presidential chair, or any other.

Mr. Chairman, the loyal people of my State, and particularly my district, have gone through the fiery ordeal. They know by the most severe experience what it is to be loyal; they have felt the pangs and torture of an exile; they have returned to their once happy homes only to find them desolated and a barren wilderness. Here and there in their once pleasant yards they see a grave or two, the last and only evidence of a wife and an only child, brought about, consummated by these bad men who are pardoned.

Mr. Chairman, I am opposed to the amnesty, because it falls too heavily and only practically falls upon loyal citizens in these loyal slave States. May I say, sir, not intending the most distant reflection, that the people I have the honor to represent in this Hall are as loyal as the people of Massachusetts or any other State in this Union? Is it possible, Mr. Chairman, that you intend to place these bad men among us with the same rights, the same legal respect, the same privileges which we have sacrificed our all to perpetuate? Are you, sir, disposed to bring about by law a humiliation to the hearts and sense of the loyal people of Missouri in this manner, degrading to us? not that we are any better than other loyal people, but a shame, a blasting, withering shame to the lowest classes of humanity. You may, sir, you have, sir, the power to enforce obedience upon our helpless loyal people. Do this act, and the poet has well said in his couplet—

"The world, old as the flood,
For ages on ages has steeped that world in blood."

Is this the reward of loyalty? Is this to conclude this war? Speak, tell me so, and I have no further bright prospects of a great and powerful Government. Tell me that this is the basis of settlement with these bad men, and I will then know that I was sadly mistaken in the high measure of American honor, of American dignity, of American gratitude, of American courage. May I warn but not threaten? This amnesty is a mistaken mercy; and instead of having a good and wholesome effect, and that, too, at the expense of dishonor to the loyal people, it will surely kindle a spirit of opposition dangerous to contemplate. You may, sir, make bandits of the best men in the Government; you may relax the now firm confidence in the stability of this Government in all of its departments; you may bring about confusion and disintegration, so much desired by the bad men and enemies of this Government; you may change the whole machinery of this Government; you may blast the fondest hopes and anticipations of the millions in every quarter of this globe for the perpetuity of this free republican Government. Mr. Chairman, time will tell that these are no idle suggestions. An error now committed is more dangerous to this Government than all the armed rebels in the army of the South. I pray, Mr. Chairman, let us avert this danger by an appeal to his Excellency to recall, revoke, or modify. The loyal people of this Government are the owners of it, and I cannot believe it disrespectful in the least degree to ask his Excellency to do so.

The practical result of this proclamation of amnesty to traitors, the full pardon and restoration to all the privileges and immunities vouchsafed to soldiers and citizens of this nation by our form of Government, will harass and disturb the public sense and mind of loyal men, and may endanger the harmony and now comparative quiet of the people. No traitor will accept of its conditions who is a fit neighbor for you or me. We will get a few of the lowest order of men, con-

victs, deserters, cowards, robbers, such as are not fit to live and poorly prepared to die. Such will comply, and none others. My opinion is that this is a war of subjugation and exile. Thousands will flee the realm, and take refuge in foreign climes, while a large remainder will live in the southern States as marked traitors without political rights, and will be content with the experimental knowledge, "the way of the transgressor is hard." Another class of them, and by no means inconsiderable and insignificant, will live for many years, even after we have routed their armies and dissipated their great bodies of soldiery, and taken possession of the country; they will live in small compact piratical bodies in the mountains and swamps of the southern States, live, sir, for years after this war is concluded, and in spite, too, of the exertions of our Federal cavalry to destroy them.

The history of the war in the Missouri department brings to light the fact that about one half of all the rebels killed and captured had in their possession the solemn oath of allegiance to the United States Government. Ought the pardoning power be extended to so greatly debased perjurers? Is it safe, is it wise, is it justice to the soldiers of our Army? This amnesty I have long since believed was pressed upon the President—mercy as a pretext—but for an entirely different purpose. It was intended to operate in the State elections this fall; loyal men of Missouri were to be chained, manacled, and imprisoned, horse and dragoon, by the pardoned traitors. Yes, sir, the very men who destroyed the gallant home-guard army of our great chieftain of the West, the dead Lyon, are to be brought home again in our midst and rivet upon us slavery with all of its accompanying evils; our freedom convention is to be defeated, and our political power crushed. This may all occur, it may all happen, the ways and means are digested, and the conspiracy exultant; it may happen, sir, but my opinion is it will be a costly happening. What, sir, traitors of Missouri to be welcomed home to partake of the hospitalities of this Government and receive benefits therefrom! They may be induced back; if in my district, we have self-respect enough yet, and the will and determination at all hazards to meet traitors who they only should be met.

Mr. VOORHEES addressed the committee for an hour. [His remarks will be published in the Appendix.]

Mr. ANDERSON next addressed the committee. [His remarks will be published in the Appendix.]

DEMOCRACY REVIEWED.

Mr. GRINNELL. Mr. Chairman, we have listened this afternoon to a very remarkable speech from the gentleman from Indiana, [Mr. VOORHEES.] I regret that he is not now in his seat, as I shall notice a few of his most extraordinary statements. One of his first utterances was that we are at the feet of a usurper. That is no small compliment to the President of the United States. He a usurper! Why, sir, we saw him, on the eastern portico of this Capitol, take the oath to support the Constitution of the United States. That was not the act of a usurper; and all his acts are in keeping with his oath, in my judgment.

The gentleman also informs us that the Republic is dying. If it be dying, I desire to ask him how? Dying, if at all, by the acts of traitors in arms at the South, and of sympathizers on this floor, and in the northern part of the country, avowed Democrats.

He passed out of his way to traduce one of the generals of the national Army. He calls him "the monster Burnside." Why has that gallant officer drawn upon his head the vials of the gentleman's wrath? Is it because General Burnside was always in the front of his army and was ever ready to fight? A friend of mine who happened to have two sons in the Army once said to me that I should not talk so much against McClellan, "for," said he, "he is a man that I love." I asked him what he had done. The reply was, "He is a friend of mine. I have had two sons under him for many months in the Army, and they have come home without a scratch, thank God." That is the condition of the General himself. As I understand, he has never been in the range of musket-ball or cannon-shot; and he is worthy of the gentleman's compliments.

The gentleman from Indiana eulogizes Clement L. Vallandigham as a Christian statesman, Clement L. Vallandigham a Christian statesman! Why, sir, did we not hear him declare on this floor during the last session of Congress that he never had voted, and that he never would vote, a dollar to carry on this war? And yet he is lauded here as a Christian and a patriot. He was placed in the right position by the Government when he was sent among his friends at the South, and perhaps he is not greatly out of his right position now among the Tories of Canada.

He further asks, Has the Administration given us domestic tranquillity? I will tell the gentleman why we have not now domestic tranquillity. It is because the Government has been engaged in fighting the armed enemy at the South and at the same time fighting the insidious enemy in the rear at home. The people understand this.

The gentleman from Indiana has alluded to another pure-minded patriot, as he calls him, Mr. Alexander Stephens, the pure-minded patriot of Georgia. I grant you, sir, that Mr. Stephens is a noble Democrat after the gentleman's pattern; and why? Mr. Stephens has declared that the foundations of the southern confederacy are different from those of any other republic, its corner-stone resting on negro slavery.

The gentleman says that peace would come if the leaders on both sides would stand aside. Do the loyal people of the country ask that? Are twenty million people to bow down before six or eight million in arms, upheld by three million slaves? And yet that is the test the gentleman invites, which allies his votes given during this session of Congress to measures which in my judgment afford the highest gratification to the traitors' conclave at Richmond.

There is here, I know, nominally, a war and peace wing to the party in opposition, and the excuses found for inaction may be represented by the pleas of the camel-bird of the desert, known as the ostrich. Ask it to carry: No, I am a bird. Bid it fly: No, I am a camel. Thus has there been an alternation of excuses here save on the question of early adjournment for dinner and large appropriations of money.

We asked for a more efficient Army bill to at once fill up our depleted regiments in the field and early bring the rebellion to a close, and you delayed it weeks by denouncing the policy of the war and the tyranny of a draft.

The confiscation bill, with tender regard for the traitors, you pronounced unconstitutional, and by your votes deliberately asserted that they who have got up this "dance of death" should not pay the piper, and that there is more justice and statesmanship in securing the estates of rebel slave-owners to their children than to put their proceeds, as a measure of safety, into the national Treasury, and of justice in giving a portion to our brave soldiery and the children of patriots made orphans in our war of defense of liberty.

To the resolutions which I had the honor to introduce asking for more vigorous efforts to enlist acclimated colored men in our Army, and spare our northern mechanics and farmers to their industrial employments and their families, you made opposition; establishing this, that your prejudice against black men is stronger than the love for your white constituency, and shows your indisposition to use that arm of our power and the policy of war which the rebels so much dread.

The proposed amendment of the Constitution to blot out slavery by law met with some favor. These and similar acts give a denial to the assumptions so often made in behalf of a neutral party, a non-intervention party, a war party, or a peace party, being neither, but embracing all that is offensive in these designations, neither cold nor hot, proposing no direct intervention for liberty is its spirit; no war but with protection to slavery a condition precedent; and peace on any terms.

The rebel cause has been discussed by the gentleman from Indiana and others, and what more than a sigh can have escaped the peace-proposing friends across the Chamber that bankruptcy has become the second peculiar institution of the South? What terms of reprobation are heard for that society which under the instruction of modern Democratic Cabinet officials has reduced stealing to one of the fine arts; dignified perjury to the rank of the learned professions; and raised assassination to the keystone in the arch of cardinal

virtues, supported by robbing of the poor and the rearing of their children for the shambles? None. The hope of the return of the traitors to the Union is found in the leniency of this Government to their institution for which they made war, and the restoration of Democracy to power is dependent either upon the defeat of our armies or the return of their allies of eleven States into the Union. Such is the party in whose golden circles are held the carnival of traitors, and so base and shameless is its political harlotry, who would not for the honor of his country rather go backward and hide its nakedness than name the party founded by Jefferson as recreant to its first principles and apostatized?

It vaunts itself, and only hopes for power by the calamities of our defenders, as hungry vultures are satiated when the long-watched and reeling brute falls to their prey. Was such the spirit of the early leaders? They were the statesmen who would not put the word slave in our Constitution; who meditated only that all our States should be free, and forbade slavery by law on the virgin soil of the Northwest. It brought us through the second long and bloody war with the mother country; it humbled the spirit of nullification, and, up to the invention of the cotton-gin and a profitable internal slave trade, it was a party of the people, a terror to official profligates, and the foe of oppression everywhere.

Later it turned to worship false gods, in declaration of war against the Seminole Indians to break up the rendezvous of escaped slaves in Florida; it made war on Mexico to extend slavery on fields unblighted by its curse; it enacted repugnant fugitive slave laws, and sought by the patronage, power, and finesse of two Administrations to force a slave constitution upon the State of Kansas; and its late disruption for slavery and the complicity of the northern wing in lending encouragement to the traitors is so clearly proven by the prediction of ex-President Pierce and promise to Jeff. Davis that the "fighting would not be along Mason and Dixon's line merely, it will be within our own borders, in our own streets, between the two classes of citizens to whom I have referred;" by the sympathy of the mayor of New York for Georgia by the detention of her arms, and the avowed opinion of Jeff. Davis that he should receive the substantial aid of twenty thousand men from that city, and the flocking of thousands of Democrats from the North to the standard of rebellion; facts taken with the declaration of General Grant that while a prisoner of war he was assured by prominent Democrats of Pennsylvania "that if the rebels would hold out a little longer they would be successful, for the Democrats of the North would arrest the war by defeating the conscription and otherwise render the Administration powerless to prosecute it," and the earnest support by this Congress of Vallandigham, the great sham hero leader, forebode, in the language of the last Richmond Examiner, trouble in the Northwest: "gracious buds of promise which with the approach of their elections may bloom and blossom into bloody fruit of revolution." Such are the hopes which Democratic dalliance and legislation, Golden Knights, and peace resolutions inspire. And is this the neutral or non-intervention party, the treachery of whose leaders has as truly passed into history as that of Judas, and whose apostasy to liberty is as shameless as that of Julian to the Christian religion? Yet before our soldiery, who know that the war has been prolonged and that thousands of lives have been offered up in sacrifice to love of slavery and of party, they fain, like Pilate, would wash their hands of guilt, when all "Neptune's ocean" could not wash their hands clean of the blood. Let me give later and specific proofs of the apostasy of the Democratic leaders; and my movement shall not be on the flank, but the center.

The gentleman from New York [Mr. FERNANDO WOOD] has addressed me his speech, and not having had an opportunity to notice it since I heard it delivered, I will make allusions to it as illustrative of the subject now under consideration. Being the member who, when many of us were school-boys, sat in this Hall, and is now the gentleman fertile in speeches, resolutions, motions, amendments, objections, and deemed an adroit leader of one wing of the party, and a presidential candidate, I commend his sentiments to those who are in doubt whether the Democratic party has

apostatized or is dead. These are some of the gushing, patriotic utterances: "No Government has pursued a foe with such unrelenting, vindictive malignity as we are now pursuing those who came into the Union with us." That is the precise sentiment of Jeff. Davis and Brother Toombs, who telegraphed to the mayor about the arms detained in New York after Georgia had gone out of the Union, resolved to fight.

Here is a question: "I ask, in the name of the American people, when shall this hellish crusade of blood and famine cease?" A most complimentary allusion to the Government seeking to restore the Union, and to the soldiery in the field, and the braves who suffered and died by thousands without a tear or a groan for their country! These sentiments fully explain the bloody mob in New York in resistance to the draft, which the rebel press declared to be worth more than a first-class victory to their cause, which was fily led by Andrews, the Virginia Democrat, who from the color of his paramour was no anti-miscegen.

By resolution the gentleman styles this "an inhuman war," and brings the high-wines of his opinions into a single sentence, thus:

"This war must cease, I care not how, or from what cause, whether by exhaustion on either side, by southern submission or success, by mediation, or by northern magnanimity, or by northern sense of self-preservation."

And this is the plump sentence and sentiment of a member of the Thirty-Eighth Congress on a war which called for the sacrifice of hecatombs of men in that struggle where "resistance to tyrants is obedience to God." Indifferent whether peace is gained by rebel submission or success; whether the country is divided, and slavery made the corner-stone of an empire; whether traitors shall pay for their own music in this dance of demons, or loyalty shall pay for all; whether history shall adjudge the Government imbecile and our Army cravens and cowards, or our veterans return with victorious banners, having doomed slavery, and founded a nation so firm, so mighty and free that Heaven shall look down to see!

Sir, these monstrous, cold-blooded expressions of indifference from a northern peace party are more effective in giving that encouragement which prolongs the war than the temporary victories gained by rebels in arms. The chief traitor, before vacating his seat in the Senate, resented the denial that in the city of New York there were ten thousand men who would take sides with the South in a war, by a declaration that there were not ten but twenty thousand who would join them. This is well authenticated, and stands with the contemporaneous circumstance that, five days after the State of Georgia had gone out of the Union, and five months after an armed preparation to resist the Government of the United States, the gentleman from New York telegraphed to Mr. Toombs this language:

"I regret to say that arms intended for and consigned to the State of Georgia have been seized by the police of this State, but that the city of New York should in no way be made responsible for the outrage. As mayor, I have no authority over the police. If I had the power I should summarily punish the authors of this illegal and unjustifiable seizure of private property."

Judging by these facts and the sympathies of semi-secession sheets in the North, and the interest which the rebels have taken in the action of the Democratic party in State elections and by a majority in this Congress, no rational man can doubt that the peace Democracy have, by cavils, party threats, resistance to the draft, and the avowed indifference expressed by the gentleman from New York, earned more than the doubtful compliment bestowed upon the late Rufus Choate for his learning and eloquence that he made it safe to murder, and of the state of the gentleman's health thieves asked before they began to steal.

The gentleman takes shelter under the great name of Chatham, the advocate of the cause of the Colonies and friend of the race. Never was there a more violent use of the honor and fame of the dead; no, not the dimmest satellite can he be to our great friend, who would break fetters and not forge them.

Edmund Burke is another patriot whose name is invoked in this well-known language:

"Let me add that I do not choose wholly to break the American spirit, because it is the spirit which has made my country."

The quotation has no significance except interpreted to mean: I do not choose wholly to

arms; the spirit of the slaveocracy-traitors in break for it is their spirit that has made my party, and it is to their votes that we must look for a restoration to power. So appreciative a peace-maker could reach the rebel capital without a flag of truce, and would be hailed by the pickets on guard as a brother. If the gentleman is to be appointed a peace commissioner, being so urgently pressed by the anti-miscegen gentleman from Ohio, (who finds himself in the Illustrated News posteriorly located to the Pegasus which his *protégé* is astride,) I shall make these a few of the conditions precedent to giving my vote for the appointment: that mausoleums for leading traitors shall not be built north of the Potomac; that New York police officers and United States marshals shall have immunity from punishment for detaining arms from Georgia rebels; and that until the scars of our soldiers are healed the funeral cortège and showy processions for pirates and military assassins shall be unattended with martial music and be kept on the by-streets.

Sir, I should not have discharged my duty as a member of this House had I forbore going to the verge of parliamentary propriety in expressing my detestation of sentiments uttered here which lead to distrust in our Army and strengthen the enemy in arms.

Our soldiers are properly sensitive, and when speakers with popular fame stigmatize their valor as "a hellish crusade," not caring whether the country is saved or lost, I will not be silent; nor can I refrain from saying that had the gentleman from New York kept his appointments in the State of Iowa the last autumn, and in the fourth district, which I am informed has furnished more than thirteen thousand brave men for our Army, exceeding the number furnished by any other congressional district, and uttered the sentiments announced in this Hall in any political gathering or on our railroads in the presence of soldiers with gaping wounds and wasted by sickness, much as they love freedom of speech and deprecate personal violence, I could only have been assured that his next political conferee would have been Charon, the ferryman, just preceding that welcome, "Hail! horrors, hail!"

Since the war with Michael and the Dragon in heaven, there never has been a contest where the character and purposes of the actors were so clearly defined as in this contest; yet here we must listen to tepid if not reasonable speech. Would such be tolerated in Richmond, where there is satanic sagacity? No; and I have authority for the opinion that such language uttered in the time of our Revolution would have branded its author as a traitor, and compelled him to seek a refuge "over the border" in that early elysium for outlaws and Tories; and had kindred language been uttered in a Roman senate, when her institutions were on trial, the speaker would have been hurled from the Tarpeian rock; but in the American Congress a characterization of our war as a "hellish crusade of blood" furnishes the latest type of peace Democracy.

Let me pass to the illustrative gentleman from Ohio, who is said to represent another wing of this party. The blood-hound leaps not more instinctively at the throat of the affrighted deer than do men reveal the hidden springs and purposes of action, having the voice of leadership and holding the reins of party guidance. And how stands the gentleman, not now the "Buckeye Abroad," but here, with almost pontifical authority, declaring that slavery is not to go into the next political canvass—as well bind *Æolus* stay the tide—and that his party is not pro-slavery?

Sir, the gentleman early in this session struck the keynote for his party by at once proclaiming his fealty to slavery and the apostasy of the Democracy. His act I might not have noticed, but that the officiating clergyman of this House was characterized as our amalgamation Chaplain; a gentleman, [Dr. CHANNING], whose name, culture, piety, professional devotion, and untiring ministrations to the sick and dying soldiers in our hospitals should have spared him an association in that political drag-net set for partisan purposes at home, and drawn with the grimaces of buffoonery in dilating on the miscogens. This significant act was the nomination and support of a Chaplain for this Congress, with attending circumstances that set forth in a strong light the apostasy of Democracy from the ancient faith. It was known that peace Demo-

crats, acting as vestrymen in the State of New York, had forbidden the reading of prayers for our soldiers in the field in several churches; that Bishop Hopkins, of Vermont, had convinced Bishop Meade, of Virginia, of the right of secession; that the Vermont bishop had written a work on slavery which was published by a Democratic association in New York for the "diffusion of political knowledge," and circulated to influence the recent elections; and that the learned and devoted Bishop Potter, of Pennsylvania, had issued a pastoral letter with the purpose of counteracting the influence of this clerical outlaw, who is the only pastor known to have a charge in the northern States who declares God to be in favor of the slavery of the negro race.

The gentleman from Ohio desired a spiritual adviser for his party, and he bestows his compliments and suffrage with a consistency more becoming his acts than his professions. He goes up to Vermont, on whose sacred soil a slave never trod, where the hills and the rivers murmur only the song of the free, and where the grand old mountains rise so near heaven that they hold their breath in refusal to reëcho the voice of a traitor, and there compliments senility and apostasy by an insult to the memory and fame of Allen and Warren and every Representative and native of that State on this floor. His candidate obtained fifty-four votes for Chaplain.

This act may have a relationship to a church movement, inaugurated by bankrupt politicians who have discovered that there is now found no existing church order that is favorable to the growth of Democracy, and not wholly "given over to believing a lie;" there is yet compunction of conscience in having revived the courage of southern brethren in arms, where the late demonstrations in favor of McClellan for the Presidency are received with favor, and congressional peace propositions occasion exultation; they seek a way to heaven by the new church without passing through purgatory.

In the official call for its founding it is declared it is "for all lovers of freedom, and for Democrats who want the Union as it was and the Constitution as it is;" and being the first instance that venality and slavery have so openly called religion to their aid, it is reserved for an eminent martyr in Ohio to be intrusted with its temporal structure; and a gentleman of this Congress having with great sagacity indicated who should be invested with the bishopric, I shall not stop to dissent from the public acclaim that it is the "Olds Coxian church," but draw from the fact and incidents of its founding an illustration in support of my position of the apostasy of modern Democracy. It is the counterpart of the southern confederacy, of which Mr. Stephens, the vice president, says, "Its foundations are laid, its cornerstone rests upon this, that slavery is the natural and normal condition of the African." "This stone, rejected by the first builders, is become the chief stone of the corner in our new edifice;" and here goes up its counterpart, a northern Democratic church. With satanic intoxication, it is conceived in effort to perpetuate the curse of Canaan, and it is fit that the indecent exposure which led to the curse should have the attendant of drunkenness and profane cursing.

Brahman and Thug worship the monsters nearest in correspondence with their lusts and crimes. And in the founding of this new Democratic church, which has no parallel in blasphemy since the proclamation of Jeff. Davis for days of fasting and prayer, all the damnable paraphernalia of slavery, "with the Union as it was," will bring into use for material foundations slave-whips, pronged collars, heavy manacles, and branding-irons; and for the superstructure refuse auction-blocks and dilapidated slave-pens could be obtained in this capital which would lend a sad but historic interest to the enterprise. For the chancel, bones of victims offered in holocaust would be most appropriately used, and the keen-visaged upholder of "king cotton" opposite to the trained bloodhounds, the urim and thummim of the new temple, would give grand effect to the altar-piece. Emblazoned pictures of martyrs of both sexes who followed in the train of St. Vallandigham and Mrs. Onderdonk in angelic vestments should fill the windows, and busts in plaster might be set in the vestibule and corners to represent the mold-divine of those political devotees to the new church

and their country who have made every sacrifice for them save by their tears, their money, and their blood.

Thus constituted, there being in all so much of the fitness of things in the poverty of the new enterprise, the non-elect chaplain, but called bishop, might dispense gratuitous service, and with kindred charity as a layman and admirer of the austere virtues of the prelate, and with a heart full of gratitude for the prospects of his Zion and clerical protégé without designation, who doubts that there would be a volunteer usher and sexton, who would involuntarily exclaim, "I had rather be a door-keeper to this new sanctuary of pure political worthiness than to dwell in the tents of abolitionists and miscegens?"

Sir, these facts, almost too base for a name, invite the satire of a Rabelais and the pen of a Swift, the literary prince and scourge of imposture and villainies; but without comment, as historical incidents they indicate as plainly the apostasy of the leaders who aspire to control the country as drifting flood-wood tells the course of the stream.

A true party in sympathy with the people, moved by common gratitude to the brave defenders of their country, would have been prompt in vindication of their rights by awarding to the citizen soldier the privilege of the elective franchise. Our volunteer army could have no interests alien to the general welfare. They were among the truest of our nobility, the pride of our Israel, and the superiors of the masses in patriotism and courage, having gone forth from the high and honorable walks of life our equals in rights as citizens, in intelligence and character as men. It ill became a great party to stand upon technicalities when the sacrifice and valor of our scarred and war-worn veterans appealed to our States for ballots to deposit in attestation of love for that home they were defending with privation, treasure, and blood.

How did the Democratic party meet this appeal, and what has been its record on this question when there was a possibility of keeping ballots from our soldiers since the rebellion began? The answers are unequivocal, furnishing the most conclusive evidence that the party leaders, who, in season and out of season, have vaunted their championship of the injured and the rights of the people, were fearful of the soldiers' verdict; and by their acts proved that they had apostatized from the early Democratic faith. Their claim, like the clear flash of the light, comes home to the mind of every legislator with many reasons for permitting our soldiers to use the representative ballot for one that could be framed for its exercise by the cooler-blooded stay-at-home citizen; and in lieu of arguments against their rights we have the jeers of the press, partisan votes in State Legislatures, the tricks of caucuses and most significant acts which I shall, as a chronicler of the time, combine to prove the recreancy of Democracy. Its base ingratitude, "sharper than a serpent's tooth," to our high-minded and sensitive volunteers, was expressed in preparation for the action of State Legislatures by the eminent literary oracle of the party in this language:

"The common soldiers have gone to the war for pay, the officers for honor and political purposes, and few, if any, moved by patriotism."

This base calumny was often repeated,

"For slander lives upon succession,
Forever housed where it gets possession,"

with modifications by a venial press, biased courts, and influenced State Legislatures of doubtful loyalty; and that there was a proper appreciation by the soldiers of the issue and the nature of partisan scruples, is evinced by the returns of the last election, which show that out of 79,000 votes cast in six States the Union party had 82,000, and Democracy 7,000, varying from seventeen per cent. for the independent military candidate for Governor without a platform in Iowa, down to a per cent. so small in Pennsylvania, where General McClellan indorsed the Democratic candidate, that it cannot easily be computed.

With brevity I will give the record of States on soldiers' voting, beginning with New York. In the Assembly of that State in 1863 there was a tie party vote without the Speaker, and when the question of soldiers voting was first raised, eminent Democrats took ground against their right in the abstract, and afterwards denied them a vote

on professed constitutional scruples. Governor Seymour, to avoid the issue, sent a warning note to the Union members, in disregard of which every member of the Union party in that Assembly voted to extend suffrage to the soldiers, and every Democrat voted against giving suffrage, and the Governor vetoed the bill.

In the State of Connecticut the Democrats of the Legislature of 1862 opposed soldiers voting, and in the Legislature of 1863, on the proposition for amending the constitution to remove all legal objection, every Democrat voted against its amendment.

The Democrats in the Legislature of the State of Pennsylvania voted against extending suffrage to the soldiers in 1863; and the present year, while every Union member of the Legislature voted for the proposition, and have gained the boon, every Democrat was silent or voted against it. In the States of Michigan, Wisconsin, Ohio, and Minnesota, where soldiers vote, the law was resisted with the same Democratic unanimity. In the State of Minnesota a notice of contest for the seat of one of the Representatives in Congress from that State was served on the ground of the illegality of the soldiers' vote. At the present session of the Legislature of the State of Ohio in contested-election cases every Democrat voted to unseat members elected by the soldiers, and a leader of the party opposed the law for the reason that "our liberties would soon be destroyed if the Army should be allowed to vote."

The State of New Jersey, being the only northern State where the peace party preponderates in the Legislature, scouts the idea of extending the elective franchise to her soldiers, and through one of her members insults our defenders by the presentation of a bill forbidding bodies of soldiers to approach within a mile of any place where an election is held in a city, or within two miles if held elsewhere. I am not advised of the action of any other State on this question save that which I in part represent—the State of Iowa. At the extra session of the Legislature in 1862 there was but feeble opposition to the soldiers voting, but almost the entire Democratic press deprecated the action of their party, and boards of supervisors in many cases refused to count the soldiers' votes, depriving Union men of the offices to which they had been elected; and against a verdict of near fourteen hundred votes the seat of a member on this floor from Iowa has, up to a very recent period, been contested on the ground of soldiers voting. To fill up the measure of political infamy the following resolution of the Democratic State central committee was adopted in 1863:

"Resolved That, as a measure of mitigating the abominable inequalities of the unconstitutional conscription act by which Democrats were sought to be forced into an abolition war which they detest, it is recommended that the ratification meetings to be held through the State on or about the 1st of August, do petition the county authorities to appropriate a sufficiency of the public money to commute the military service, or in other words purchase our freedom (as the rich are provided to do for themselves) of each poor white man who may be drafted in Iowa, and upon whose labor a family may be dependent for support."

The monstrous character and unmixed treason of this resolution is seen in the deliberate attempt to keep soldiers from the Army, that the rebels might triumph in the field, and their quiet accomplices at home triumph by the success of the Democratic party at the elections. It was nothing less than a proposition to tax the soldiers' farms at home; to detain men from coming to their rescue who were dying in the southern miasma and threatened to be overborne by the demons of secession in arms, as thousands of their comrades had been when outnumbered.

The fall of Vicksburg and Port Hudson fired anew the hearts of the people, and the sick and the wounded returning in great numbers plead for men to fill the depleted ranks; and in most of our towns there were ladies' societies formed to supply the wants of the soldiers in the hospitals and in the field, and county boards of supervisors voted freely money to soldiers' families, and so delicate were these attentions that the recipients felt no degradation in receipting for money while husband or son was in the service of his country receiving the small compensation of the common soldier. These efforts were met on the part of peace Democrats by a system of secret organizations to discourage enlistments, and while individuals and counties were exhibiting such liberality and devotion, it was reserved for the only

considerable Democratic county in the State (Dubuque) to exhibit a climacteric of baseness by a refusal to vote a dime to soldiers' families, and give their pittance only as to paupers asking for food and for clothing as protection from the rigors of a northern winter.

Such is a truthful chapter of the honors bestowed and the love shown by the Democracy for the valiant soldiers of the Republic. It has passed into history, while the undaunted Army like

"The mower moves on, though the adder may writhe,
And the copperheads curl round the blade of the scythe."

A few facts incidental will show that this former party-hold upon public confidence is not lost without reason. Democracy is now controlled mainly by caucuses and the magic touch of political wires and cumbrous machinery, which must be lubricated by some Jew broker of the house of Rothschilds. Once the editor and the press were controlling, and, by calm discussion and the announcement of principles and approved historic precedents, new leases of power were given to the party ruling so long. How changed! That great lever, the press, most effective in organizing and consolidating public opinion, has passed into other hands—one lobe of the brain of the party has been struck with paralysis. Three fourths of the issues of the press, in quarterlies, monthlies, weekly and daily sheets, are for minds that will brook no neutrality, and abhor leaders in dalliance with an oligarchy. Thus to have lost a welcome to the shop of the mechanic and the kitchen of the farmer, such as the Democratic newspaper had so long, tells at once of the rising sense of justice with the people, and furnishes a striking commentary on party servility.

In close relationship to the loss of the press, that once powerfully ally of Democracy, is its alienation of our scholars and loss of control over the academies, colleges, and universities of the Union States. The sagacity of persons and parties in countries boasting of refined civilization and candidates for popular favor holds in high estimation the mute influence from classic halls and the molding philosophy of professors, which finds power and many voices in the graduates' love for their *alma mater*. Even Philip of the bloody Inquisition asked respect as a patron of learning, and the haughty Stuarts gave pledge with conditions that Britain's halls of science should be an attraction to the world, and Jefferson, on his retirement to private life, as a crowning gift to his country, founded an institution of learning, which he fostered as the child of his old age. He left the world sharing the gratitude of millions, whose memory is hallowed to-day not more as the founder and expounder of true Democracy than as the friend of the school and the college.

Were Jefferson now to revisit the earth and seek companionship in his dear old Virginia, he would find his rudimental ethics and political science disowned, and himself without a stranger's welcome to tarry for the night. The campus he planned would be seen a pasture for worn and decrepit cavalry, the college halls vacated by conscripted students to give room to a wounded soldiery falling in a contest so unholy that there was "no attribute of the Almighty" that could take sides with them in the contest. In his own county he would mark a relapse into barbarism; and, extending a survey over all those States where floats the old flag, he could not find a prospered academy, an endowed college or university controlled by, and a faculty in sympathy with, Democracy. The school-boy's history, tracing the course of subservency and the proffers of peace to rebels in arms made in that name which is desecrated by such association, thus invites the just judgment of the founder of Democracy, which posterity will repeat:

"The curses of hate and the hisses of scorn
Shall burden the winds of the sky,
And proud o'er thy ruin forever be hurled
The laughter of triumph, the jeers of the world."

Too long have I been detained with the party and its pretensions, which I leave in the charge of its once most eminent defenders, with this declaration by the London Times:

"It has pleased the Democratic party in the North, by an amount of moral cowardice to which history furnishes no parallel, to commit political suicide."

And this by the New York Herald:

"Its decline and fall are as much a matter of history as the decline and fall of the Roman empire."

Agreeing in this, a cheering fact, that its political control is reduced to a single State where slavery is not the corner-stone, that of "Camden and Amboy;" and further, that it is doomed to that abandonment in every loyal Commonwealth to which it is now left in that once Democratic-paradise, the State of Iowa; in the truthful, laconic lamentation of a member that their party was "reduced to just two sets of four-hand eucher," less than the insignificant few required to save a city of the plain from consuming fire.

The patient so far weakened by the prescriptions of quacks, this shall be our apology for tearless quietude in this hour of its spasm and the death-rattle—*Medicamenta non agunt in cadaver*—too far gone to test the virtue of medicines.

In my few remaining moments let us turn from the perfidy of party to that power in the divine alchemy which brings compensation for man's recreancy and the dire calamity of war. It was this bloody baptism and the pall of mourning darkening the skies which led the Government to bind the star of freedom on the nation's brow, and brought us the sympathies and inspired the hopes of the true democracies of the world, and gave us the favor of the God of battles. This acceptance of the arbitrament of the sword, with untold losses, has led to the awakening of latent energy and the development of national resource and wealth before unknown. Foreign nationalities now stand in awe and dread of our colossal strength. Their landless and unemployed peoples who have heard of our free homesteads, the pure air and free schools of the prairies, the acres of coal-fields counted by millions, the mountains of iron, a varied clime, and room for the industrial employments of a hundred millions of people, give us the promise of wealth and national resource which will make our war debt as but the small dust in the balance. We have seen our nation rising into moral grandeur, her soldiers the peers of the heroes at Thermopylae, welcoming with a smile the shortening of their earthly pilgrimage, in the thought that daring to die their children should find friends, themselves a remembrance, and their country honor and renown.

The fires of patriotism are burning with unwonted glow in the hearts of millions crowding our fairs and redeeming the time by toiling ministries. Woman makes cheerfully a richer offering for her country's weal than the gold from the mountain and the ocean's pearl by the gifts of her lord and her child, and meets as ever before the full wants of her country in its peril. By divine compensation the church of God has thrown up its royal highway for conquest, where there shall be neither tyrant nor slave, in that dawning era when the science and song of the nation shall be universal liberty.

Souls are blending in fiery raptures as we weekly learn of the fall of despotism in State after State, and listen to more than a presidential proclamation of freedom, the voice of God in our war, who "has sounded forth the trumpet that shall never call retreat." It is the grand upheaving hour of the ages, when centuries take voice to teach us history and bid us rebek justice for universal man. This done, and who doubts that the issue shall be an early and honorable peace? Then the later generations will learn what we forgot, that they need no Vulcan-wrought armor in a good cause, for mightier than the shield of Achilles shall be His promised help for the right:

"As on the fiery track of freedom falls the mild baptismal rain,
And the ashes of old Evil feed the future's golden grain."

CONDUCT OF THE WAR.

Mr. HUBBARD, of Iowa. It has been asserted upon this floor and elsewhere that thousands of lives have been sacrificed, millions of treasure expended, and an immense amount of property destroyed during this war. This I admit; but when the persons who make these statements go further and state that the Administration and its friends are responsible for it; when they assert that they are the cause of all this, I meet this last statement with a flat denial. All the fearful and ruinous consequences which have been attendant upon this war are chargeable upon the guilty authors of this rebellion. They are chargeable upon the traitors who, without cause or provocation, inaugurated this, the most wicked and unprovoked rebellion of which history gives

any record, or which has ever disgraced any civilized nation on the face of the earth. They commenced this struggle to obtain for slavery the mastery over freedom, and to make the institution the corner-stone of a slave confederacy. There is no use in closing our eyes to the great fact, patent to all, that this is a contest between freedom and slavery. I take my stand on the side of freedom, and am glad to know that millions of the men of this country are standing on the same platform. I am also most happy to know that more than half a million brave men are found who are to-day fighting the battles of this bloody war for the maintenance of this Government and the freedom it secures. And they will continue the fight until the Government is maintained, and then this nation will become in fact and truth, as well as name, the land of freedom. They will continue to bear our nation's flag until it shall float in triumph over every State, over every county, town, and house, with none to oppose it in all the length and breadth of this restored, redeemed, and disenthralled Union.

The war on the part of the United States is purely and simply a war of defense—of defense against causeless aggression. This is certainly sufficient to arouse the energies and call forth the utmost efforts and sacrifices of the bravest and noblest people that ever lived on the face of the earth. On the part of the rebels this war has been carried on with an amount of vigor and obstinacy, with a degree of heroism, bravery, and self-sacrifice which would have done lasting honor to a more worthy and just cause. The resources of the rebels in men and means, in all the materials of war, have proved to be far greater than we had expected. The struggle has been more protracted, more terrible, and more destructive than in the commencement we supposed it was possible for it to be. But the courage, the devotion and patriotism of the American people have been equal to the emergency. The Government, for nearly three years, has conducted this war with a far-seeing sagacity, prudence, ability, and wise statesmanship which challenge the admiration of the world, and to which the impartial historian will do ample justice, however much political prejudices may blind the public mind at the present time. During all this time, in sunshine and darkness, the people have shown a high-toned, self-sacrificing patriotism and devotion to the country, and an aptness for military affairs which has no equal or precedent among the nations of the earth.

Notwithstanding the thousands of lives sacrificed, the hundreds of millions of treasure expended, and the vast amount of property destroyed, this contest has not been destitute of good results. These proud and defiant traitors have been humbled. It is true they have had their victories, but they have never gained one inch of ground. We have had our defeats, but our armies have never fallen back. We are to-day master of the whole course of the Mississippi; master of all the border States, Arkansas, Tennessee, and Louisiana. All that remains is to stifle the revolt in the narrow territory where it first burst forth, and back to where it has been driven in despair. It is true we have sustained reverses and disasters, yet the grand and brilliant triumphs which have been obtained by our advancing columns more than outweigh all of these reverses. Our blockades seals their ports, our flag waves in triumph upon the soil of every rebellious State. With defeated and demoralized armies, thinned by disease, death, and desertion to an extent that their merciless conscription cannot fill; with a worthless currency, credit destroyed, and their territory reduced to less than one-half of its original limits, the time cannot be far distant when complete success will crown our efforts, and the leaders of this foul and damnable rebellion will receive a traitor's doom and a felon's death.

Our advance has not been confined alone to our armies. During this three years of struggle, of mingled hope and fear, while these grand and magnificent results have been accomplished by our armies, the cause of freedom and humanity has not been standing still. We have been progressing. While contending legions have been engaged on the field of battle, the people have also been at work. A war of ideas has been in progress of vast and immeasurable importance to the future of this country and the cause of freedom.

Society has been stirred to its profoundest depths. The people have caught the inspiration of the hour. They have become convinced that slavery is a great wrong, and that it and freedom are enemies to each other. This great and important truth, which for a long time had apparently been overlooked by many, has flashed upon their visions, and, astonished at their former indifference or blindness, they have resolved and are now resolving that in this country in the future universal freedom shall become the rule and slavery the exception. It is hardly necessary for me to say that what the people have thus in their might and power resolved to do they will surely find the means to accomplish.

While this progress has been hailed with the most profound satisfaction by some, it has caused the most intense fear and alarm to others. In the destruction of slavery they see the dissipation of their political hopes and schemes of future political aggrandizement and greatness. For years slavery has been the great moving cause, the mighty influence which to a large extent has given strength and power, and which has enabled a certain party in this country to control the politics of the nation. In its destruction they see the overthrow of their most powerful ally. Hence all over this land when the strong arm of freedom in aid of this Government is stretched forth to strike the shackles from the hands and feet of slaves, you hear of opposition—of opposition to the war—of opposition to this progress of public opinion, and peace is proposed as the remedy for our national troubles. We are advised to compromise, to offer terms of conciliation to these traitors who are covered with their crimes and stained with the best blood of the nation. Such suggestions in my opinion are entitled to but little importance. These men have gone from us—repudiated their allegiance without cause or provocation. In their madness and passion they have raised the parabolic hand against the best Government the wisdom of man ever devised or the sun of heaven ever shone upon, and the nation has been shaken to its center under the terrible blows aimed against it. They have not only aimed to destroy this Republic, but upon a hundred battle-fields stained with blood and human gore they have attempted to murder its defenders.

Under these circumstances nothing but severe and well-directed blows, laid on with a firm and steady hand, will bring these hardened villains to a sense of the great wrong they are attempting to inflict upon this country and the cause of human freedom. "They are deaf to the voice of reason and the demands of justice." Any show of clemency on our part would be received by them as evidence of our weakness, and only strengthen them in their course of madness, treason, and folly. Any efforts at conciliation which we might make would be treated by them with ridicule, scorn, and contempt. Consistently with the honor and dignity of the nation we cannot offer terms of peace so long as they maintain their present hostile and defiant attitude against the Government. To do so we must virtually concede their independence, and that we are unable to cope with them in the field, and so it would be interpreted by other nations. From the commencement of this conflict the way to peace has always been open to them. It is open now upon the terms of submission. Let them lay down their arms and submit to the Government. Clemency toward the masses would then become a virtue. This they refuse to do: They demand the independence of the confederacy. Anything short of this they say they will not accept. Upon this point Alexander H. Stephens made use of the following language in July, 1863:

"As for reconstruction, such a thing is impossible, such an idea must not be tolerated for an instant. Reconstruction would not end the war, but would produce a more horrible war than that in which we are now engaged.

"The only terms on which we can obtain permanent peace is final and complete separation from the North. Rather than submit to anything short of that, let us resolve to die like men worthy of freedom."

These are their terms: to recognize this confederacy, to give up whatever they choose to take, abandon the Union men of West Virginia, Maryland, Kentucky, Missouri, Tennessee, and Louisiana, in short of the entire South, to the tender mercies of the confederate leaders; this is what they demand. Does any man think this a safe course to pursue? In all the history of the

past did any nation ever secure an honorable peace by showing her own weakness, and that she was unable to maintain herself in a just war? Are we prepared to say to the South, take back the forts which were ceded to us; wrest from us the Gulf States which were bought with a price five sixths of which was paid by our free population; partition our Territories; help yourselves to the public domain, and dedicate it to the withering and blighting curse of slavery; open and close the great Mississippi at your pleasure; do with us as you please; notwithstanding we outnumber you nearly three to one, we cannot resist you, we cannot defend ourselves? Who is ready to accept such terms, and sound the death-knell of this great Republic, so grand in its proportions, its aims and objects? I fear some such may be found, and I must invite your attention for a moment to the men who are engaged in this work of peace in the North.

Who are these men that demand peace, and are continually crying peace, peace, from the house-tops of this whole country? We sometimes in courts judge of the credibility of a witness by his character for truth and veracity. We judge in all the varied relations of life of men by the company they keep. We sometimes judge of a cause by the sort of men who advocate it. So in these times of trial and difficulty, when the life of the nation is at stake, we should judge of this cry for peace by the sort of men who are engaged in it. Are they friends or are they enemies? We should examine with some care these doctors who offer this remedy for the healing of the nation's infirmities. First among them, standing at their head, is Clement L. Vallandigham. Who is Clement L. Vallandigham? His history for the last two years all are familiar with. A convicted traitor; to-day an exile from his home and native State, in consequence of his crime against his Government in the time of its greatest danger.

In the Appendix to the Congressional Globe, on page 240, Thirty-Sixth Congress, second session, I find the following:

"And now let me add that I did say, not in Washington, not at a dinner table, not in the presence of 'fire-eaters,' but in the city of New York, in public assembly of northern men, and in a public speech at the Cooper Institute, on the 2d of November, 1860, that 'if any one or more of the States of this Union should at any time secede—for reasons of the sufficiency and justice of which, before God and the great tribunal of history, they alone may judge—much as I should deplore it, I never would as a Representative in the Congress of the United States vote one dollar of money whereby one drop of American blood should be shed in a civil war.' That sentiment, thus uttered in the presence of thousands of the merchants and solid men of the free and patriotic city of New York, was received with vehement and long-continued applause, the entire vast assemblage rising as one man, and cheering for some minutes. And I now deliberately repeat and reaffirm it, resolved, though I stand alone, though all others yield and fall away, to make it good to the last moment of my public life."

Standing upon the threshold of the fearful vortex which was about to engulf this nation in the commencement, even before the commencement, while the storm-clouds were gathering, in view of the approach of this rebellion which has shaken this Government to its center, he thus spoke. How has he spoken since? Let the sentence of that court which sent him into banishment answer. As a member of this House from the great loyal State of Ohio, while the earth trembled beneath the tread of hundreds of thousands of armed rebels, and the roar of battles that were to decide the fate of this nation was heard, how did he vote? What brave defender of this country has been sheltered, fed, or clothed by appropriations he voted for, though thousands have poured out their blood like water for the good cause, have given their lives that the nation might live, filling our land with widows and orphans? What single one of all these has been provided for by appropriations he sustained? What great measure calculated to aid the Government in its great work against traitors and treason received the sanction of his great name or the assistance of his powerful influence? The answer is short and conclusive: not one. And this man wants peace on any terms. He ought to. Peace may save him. God knows his patriotism never will.

Who stands next among these apostles of peace? The answer is upon every man's lips. We almost unconsciously and involuntarily turn toward the courtly, dignified, able, and polished gentleman from New York, the acknowledged leader of the other side of this House, and are compelled to exclaim, "Thou art the man." When this re-

billion first burst forth, in its very inception, while good men stood amazed and aghast at the coming storm, while the old ship of State was shaking and trembling at its approach, with an imbecile or something worse at the helm, the South, in anticipation of the conflict, had purchased arms. They were then in the city of New York. They were seized by the police of the State. The gentleman was applied to for aid, and what was his response? Here it is:

MILLEDGEVILLE, January 24, 1861.

To his Honor Mayor Wood:

Is it true that any arms intended for and consigned to the State of Georgia have been seized by public authorities in New York? Your answer is important to us and to New York. Answer at once.

R. TOOMBS.

To this the mayor returned the following answer: Hon. ROBERT TOOMBS, Milledgeville, Georgia:

In reply to your dispatch, I regret to say that arms intended for and consigned to the State of Georgia have been seized by the police of this State, but that the city of New York should in no way be made responsible for the outrage.

As mayor I have no authority over the police. If I had the power I should summarily punish the authors of this illegal and unjustifiable seizure of private property.

FERNANDO WOOD.

It must be remembered in this connection that Georgia adopted her secession ordinance on the 19th of January, 1861, and this dispatch bears date the 25th of the month, five days afterwards, and after it was known to the gentleman and the whole country. Yet the seizure of those arms that were to be used by the rebels against this Government for its destruction and the murder of American citizens, he denounces as an outrage, as illegal. How did it happen that the leading conspirators applied to this gentleman? It must have been because of his known friendship and sympathy. It cannot be explained upon any other hypothesis. How much of patriotism and love of country is found in this dispatch? Let the gentleman answer and the country judge. Thus in the commencement this gentleman is found in the company and in sympathy with Toombs. And where has he been found since—upon the side of his country or against it? When and where has his voice either in the halls of Congress or elsewhere been raised against traitors and treason? What aid has he given this Government in the great work it is accomplishing? It is true, he and those with whom he has acted—the whole peace party—have been engaged in a war, bitter, vindictive, and relentless, but not against traitors. Their war has been against the Administration and the friends of the Government. While these have been fighting with all of their strength and power, while they have been struggling against the hosts of treason, the gentleman and those acting with him have been making war upon them and their measures. From the commencement, with all of his power, influence, and strength, in season and out of season, upon the floor of this House and elsewhere, the gentleman has opposed every important measure made use of to suppress this ungodly rebellion.

In a speech delivered in this House on the 26th of January last I find the following remarkable and extraordinary sentiment uttered by the gentleman from New York:

"This war must cease, I care not how or from what cause, whether by exhaustion on either side, by southern submission or success, by mediation or by northern magnanimity, or by northern sense of self-preservation. The war must cease. There must be an end of it sooner or later from one cause or from another. I think all will concede this. Admitting, therefore, this conclusion, the next inquiry is how, and when? These are the proper questions for this Congress to determine. When shall this war cease?"

What are we to understand by this? Is the gentleman totally indifferent to the result of this struggle? Does he not care how it ends, whether in success or defeat? Is there a man in all the North so destitute of interest in the nation's welfare? I have quoted the gentleman's language contained in his printed speech, and will leave it for his explanation and the judgment of the country. Certainly this gentleman is a fit companion for Vallandigham, and the two are fit and estimable advocates of peace while such sentiments are thrown broadcast over the country.

Sir, I am not willing under such circumstances to follow such leaders in such a cause—one already convicted of disloyalty and the other making rapid strides, as rapid as his superabundant caution will allow him, in the same direction.

With these facts I leave the world to determine whether these men are really friends. I have shown that the terms proposed by the South we

cannot accept. Can you force others upon them except at the point of the bayonet and the cannon's mouth? It is impossible. In a late number of the *Richmond Enquirer* I find the following:

"It is all or nothing; the confederacy or the Yankee nation, one or the other, must go down, down to perdition; one or the other must forfeit its national existence, and lie at the mercy of the other."

This is the issue, the dread alternative. We must accept it. The people have already accepted it, and have decided that this fierce and wicked rebellion must and shall be put down by the force of arms; that the confederacy is the government that shall go down, down to black perdition. However the people may be divided on minor points, on this one there is great unanimity of sentiment, at least a large majority have determined that this rebellion must and shall be crushed, and this Government of ours maintained, let it cost what it may.

This is not mere impulse, but it has become a fixed and well-settled principle. They have become satisfied that unless this is accomplished not only will the Republic, founded upon the right of the people to govern themselves, be destroyed and anarchy and confusion follow, but the last hope of rational civil liberty, resting upon such right, perish from off the face of the earth. Our fathers intended that this noble structure, erected by them at such vast expense and sacrifice of life and treasure, should last forever, and be forever a free Government. They intended to secure for themselves and their posterity forever to the latest generation the perfect enjoyment of civil liberty, and at the same time make it sufficiently strong to maintain itself against all foes, whether they came from within or without. To consummate this they established State governments, sovereign in their own spheres and controlling their own local internal affairs. Over these they established a General Government which within certain distinct and definite limits should be absolutely supreme. It represents the interests of all in those matters which relate to the whole and involve the welfare of the whole. This rebellion seeks to destroy this power of the General Government. This the people have decided shall not be done. They have determined that this Government shall be maintained.

Many persons oppose this war and the policy of the Administration from an apparent distrust of its results. In case the rebellion is suppressed, how do you then propose to restore the Union? is the inquiry. Under existing circumstances, I have deprecated the discussion of this question. The rebellion yet exists in great strength and power. Powerful armies are in the field prepared to maintain the confederate flag and resist with stubborn bravery our advancing legions. The undivided energies of the whole nation should be brought against these rebels. All of our strength should be brought to the aid of our forces until this rebellion is crushed. All discussions calculated to divide and distract the friends of the Government should be discarded. But as the discussion has been commenced and will certainly be continued, and the necessity of settling some definite line of policy in relation to these States has been cast upon us by our opponents, I am not disposed to shrink from it.

It is claimed by some that the act of rebellion against the Government has converted those States into Territories, and that Congress has the power, and it is its duty to legislate and treat these States as Territories. I cannot indorse this doctrine. I find no warrant for it in the Constitution, nor in the relations of these States to the General Government. The Constitution has but very little to do with the States as such. It imposes no affirmative obligations on them. It does not depend upon them for the exercise of its powers or the execution of its laws. The people made that instrument, and all the powers contained and embraced in it came from them; therefore, as it emanated from them, there is peculiar appropriateness in its reacting back to them the source of all power in this Government. It deals with individuals almost exclusively. Under its laws are made, and every man within the scope of its authority must obey them. These laws are supreme, anything in the Constitution or laws of any State to the contrary notwithstanding. It is this feature of our present Constitution which distinguishes

it from the old Articles of Confederation. That was a Confederation of States. Congress made laws for the States to execute. States instead of individuals were dealt with, and called upon for men and money and support in all respects. The result was that they could refuse support; in fact could amend the acts of Congress at pleasure.

It was found a very weak Government, and our present Constitution was adopted to form a more perfect Union. Under its laws are made to operate on individuals, and every man must obey them. It is true the States may in this connection be recognized, but if so it is only to prohibit them from interfering with the constitutional powers of the General Government. Whenever a State comes into the Union it must be done by the consent of the General Government, and every person in that State, whatever may be his allegiance to that State or whatever obligations he may be under to obey the local law, he owes allegiance and obedience to the laws of the General Government. His allegiance to the General Government is supreme, and his duty to obey its laws paramount. His State cannot release him from such obedience. If he refuses and resists he commits a crime against the Government, and his State cannot release him from that crime nor from its just punishment. No State can release a single individual from the power or the jurisdiction of the General Government, and if one individual cannot be released one hundred cannot, nor any other number, however large. No individual can sever his connection with and allegiance to the Government of the United States, nor can he absolve himself from the obligations to obey the laws, and what one individual cannot do in this particular no number, however large, can do. There is no way in which individuals can be released from their obligations to the Government but by successful revolution. The rebel States as such are in the Union, and must there remain unless successful in their rebellion.

As it is a crime for an individual to attempt to sever his connection with the Government, if States attempt it their acts are void. States, as such, in their corporate capacity cannot commit crime. Though every individual in a State may commit treason and deserve to be hung, the State cannot be punished. These States came into the Union by the consent of the General Government, and they cannot go out without that consent. Take the case of Florida. If you will examine the acts of Congress a law will be found admitting the State into the Union; also laws establishing ports of entry, collection districts, courts of justice, and giving those courts jurisdiction, and in a great many other respects there are laws upon our statute-books recognizing this State as one of the States of this Union. They are all in full force, unimpaired, as much in force to-day as they were three years ago, so far as this Government is concerned, and they will remain in force until repealed by Congress. The confederates could not repeal them. I will not say that Congress may not repeal these laws, and under the circumstances declare those States Territories; but so long as these laws remain in force the State is in the Union, and there can be no such thing as State secession. They will by the force of these laws remain States unless successful in their rebellion.

The acts of these States against the Government are void. We are prosecuting this war on this very principle—upon the principle that the acts of this rebellion are void. We are prosecuting this war to maintain the Constitution and enforce these laws. We are prosecuting this war to retain the rebellious States in the Union and compel obedience to the constitutional authorities of the Government. We must not repudiate this high ground by declaring these States are not in the Union. To affirm that the States are Territories we do this and destroy the moral force of our position. Intimately connected with this question we are led to inquire, in what relation do these States stand to the Government? What are the rights of those in rebellion, and how shall the governments of these States be reorganized and rescued from rebel hands?

The rebel States are still in the Union, but their governments have been unlawfully seized by traitors and usurpers hostile to the Union, and therefore cannot be recognized by the United States.

As already indicated, their acts are totally void, and not a single man in all these States has been

released from his supreme allegiance. The governments of these States are suspended or in abeyance, and will thus remain until the loyal men through the aid and assistance of the General Government are enabled to hurl these usurpers from place and power, and control their governments. Then honest and faithful and true men will take the place of these usurpers; peace, with all of its blessings, will take the place of war with all of its fearful devastation; order will supersede confusion and anarchy, and the Constitution and laws will assume their rightful sway and jurisdiction.

The rebellion has assumed such proportions and magnitude that it is no longer an insurrection but a civil war. Upon this point I will refer to Mr. Lawrence's recent edition of Wheaton's International Law. In a note on page 522 I find the following:

"Publicists distinguish between popular commotion (*emotion populaire*) or tumultuous assemblage, which may be directed against the magistrates or merely against individuals; sedition, (*sedition*), applying to a formal disobedience particularly directed against the magistrates or other depositaries of public authority; and insurrection, (*soulevement*), which extends to great numbers in a city or province, so that even the sovereign is no longer obeyed; and civil war. Popular commotion, sedition, and insurrection are all State crimes, even though arising from just causes of complaint; every violent incursion being interdicted in civil society. These cases are always supposed to be susceptible of being suppressed by the sovereign; and it is usual, in doing so, to grant an amnesty in all but exceptional cases."

"A civil war is when a party arises in a State which no longer obeys the sovereign and is sufficiently strong to make head against him, or when, in a republic, the nation is divided into two opposite factions, and both sides take up arms. Usage applies the term civil war to every war between members of the same political society. If it is between a part of the citizens on the one side and the sovereign and those who obey him on the other, it is sufficient that the malcontents have some reason to take up arms in order that the disturbances should be called *civil war*, and not *rebellion*. The prince never fails to call all his subjects who openly resist him rebels; but when the latter become sufficiently strong to make head against him, to compel him to carry on war regularly against them, he must be contented with the term *civil war*. Civil war breaks the bonds of society and of the Government; it gives rise in a nation to two independent parties, who acknowledge no common judge. They are in the position of two nations who engage in disputes, and, not being able to reconcile them, have recourse to arms. The common laws of war are in civil wars to be observed on both sides. The same reasons which make them obligatory between foreign States render them more necessary in the unhappy circumstances where two exasperated parties are destroying their common country."

We need not rely upon elementary writers for law to settle this question. It has received the careful consideration of our own Supreme Court, a court distinguished for its great learning and ability, and it has settled this question beyond cavil or controversy. In a decision made in prize cases at the December term, 1862, upon this subject, they use the following language:

"This greatest of civil wars was not gradually developed by popular commotions, tumultuous assemblies, or local unorganized insurrections. However long may have been its previous conception, it nevertheless sprang forth suddenly from the parent brain, a Minerva in the full panoply of war. The President was bound to meet it in the shape it presented itself, without waiting for Congress to baptize it with a name; and no name given to it by him or them could change the fact."

"It is not the less a civil war, with belligerent parties in hostile array, because it may be called an 'insurrection' by one side, and the insurgents be considered as rebels or traitors. It is not necessary that the independence of the revolted province or State be acknowledged in order to constitute it a party belligerent in a war, according to the law of nations"—2 *Black's Reports*, p. 669.

Here these rebels are treated as enemies, enemies in war, engaged in an open war, a civil war. According to the principle enunciated in this decision these men must be treated and dealt with as warlike belligerents, and we must put them down by war prosecuted and conducted in accordance with the laws of civilized warfare. In this discussion this is a point of great importance and should not be lost sight of. They are no longer insurgents, but have raised themselves to the dignity of hostile enemies, enemies against the Government. They are not simply erring brethren, but enemies engaged in open warfare. Kindness to such would be cruelty to ourselves. The war against them must be prosecuted as other wars are prosecuted against open and avowed enemies. We do not and dare not treat them in any other manner. Prisoners captured we treat as prisoners of war, send and receive flags of truce, blockade their ports, and in all of our relations with them we act upon the principle that this is a civil war and that we are bound by the laws of war. Persons who talk otherwise and of peace, either

misunderstand or misinterpret the nature and character of this contest. We are or ought to be the friends of this Government owing it allegiance and support, and its enemies are or should be our enemies. The friends of this Government are my friends and its enemies are my enemies, is the language of the patriot. We cannot advocate the cause of our enemies without justly subjecting ourselves to the charge of sympathy with them. Enemies of the Government they are our personal enemies, and we cannot defend them without rightfully subjecting ourselves to the charge of aiding and abetting them and their cause.

Another principle was also settled in the same case to which I have referred. The court differed as to the time when the war became a civil war; a majority holding that it became such when hostilities became general, and the minority holding it became such from the 13th day of July, 1861, the date of the passage of what is generally called the "non-intercourse act." All of the judges, however, agreed that from that date the war became a civil territorial war.

What then are the rights of those engaged in the rebellion from that date? This question is fully and authoritatively settled by the same decision. It settles the principle that from that date the Government was entitled to full belligerent rights against all persons residing in the district of country declared by the President's proclamation to be in rebellion; that the laws of war, whether that war be a civil war or a war between independent nations, converts every citizen of the hostile State into a public enemy and treats him accordingly, whatever may have been his previous conduct; that we may rightfully from July 13, 1861, exercise all the rights of war against the confederacy and the citizens thereof.

Such being the law of this country as settled by our highest judicial tribunal to determine the rights of enemies, we have only to refer to the settled principles of the law of nations. Some of these are very clearly set forth in the dissenting opinion of the judges in the same case:

"A state of war instantly converts the citizens of the two countries into enemies to each other. All intercourse, commercial or otherwise, becomes unlawful. All contracts, compacts, and treaties between them are annulled. It terminates and annuls all obligations of debt unless secured by subsequent treaty of peace. A civil war works all of these consequences, except that when the rebellion is suppressed the sovereign may treat the rebels as subjects and punish them as traitors."

It must then follow that when the war became a civil territorial war, for all the purposes of the war, all of the obligations and compacts existing between the confederate States and the Government as against the citizens of those States (they being enemies) were annulled and destroyed. The moment these men became belligerents and entitled to the rights of war as against themselves they ceased to be citizens entitled to the rights of citizens. They then forfeited their rights as citizens and became entitled only to the rights of enemies in war.

This forfeiture (which at least continues during the war) does not depend upon the decision of a judicial tribunal, nor upon any act of Congress, nor proclamation of the President, but it follows as the certain and inevitable consequence of their hostile position against the Government. Nor can any act of theirs restore them to their rights as citizens. Having forfeited their rights without any fault of the Government, by their own wrongful acts, they can only be restored by the consent of the injured Government. They are enemies, and must be dealt with as such so long as the war lasts, and until pardon is extended to them by the Government, which may and should be extended to the deluded masses. Any other principle would work the greatest mischief and the most serious consequences. If a different principle were to prevail and govern them, the men engaged in this rebellion, with hands stained with the blood of murdered citizens, loyal citizens, might fill our halls of legislation, and control the legislation of the country. As enemies, the laws of war have swept away their rights as citizens, and substituted the rights of war. An enemy can have no right to take any part in our Government. That does not belong to an enemy engaged in a war against that Government. "While the laws of war destroy all claims of subjects engaged in civil war, they do not release the subject from his duties to the Government. By war the subject

loses his rights, but does not escape his obligations." Vattel says:

"A civil war breaks the bands of society and Government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. Besides, who shall judge them? Who shall pronounce on which side the right or wrong lies? On earth they have no common superior. They stand therefore in precisely the same predicament as two nations who engage in a contest, and, being unable to come to an agreement, have recourse to arms."—Vattel, page 425.

It would be folly and madness on our part to treat these traitors who have made themselves public enemies otherwise than as enemies. We cannot give them their constitutional rights as they existed before this war, and at the same time the rights of belligerents.

The two classes of right are incompatible with each other, and their rights as subjects are inconsistent with a state of war.

This position is due to no fault of ours. Though traitors, they are none the less public enemies; not foreign or alien enemies, as claimed by the able and distinguished gentleman from Pennsylvania, but public enemies who, when the rebellion is crushed, the Government may punish as traitors. They have placed themselves in this position, and while they claim all the advantages which they are entitled to receive as enemies, we must enforce against them all the disadvantages which logically pertain to such position. Based upon these principles, the President rightfully, as a war measure, issued his emancipation proclamation.

"The end of war is to obtain by force the justice which cannot be obtained otherwise, and the law of nations allows the means requisite to the end."

Allegiance and protection are inseparable. As long as the subject is true to his allegiance the Government owes him protection, whether at home or abroad; but when the subject withdraws his allegiance and support which is due from him and takes up arms to enforce such withdrawal, then the Government may rightfully withdraw its protection. The Constitution is not in conflict with these views. As public enemies the rebels are outside of the Constitution. The war must be governed by the laws of war. The Constitution furnishes no guide; it establishes no rules for the government of nations at war; it fixes no standard by which we may determine the rights of our enemies. How shall we treat these enemies? What rights are they entitled to, and what may we enforce against them? These and all similar questions are not settled by the Constitution, but by the laws of war. The Constitution does not alter the law of nations; it is not in conflict with it. It is the basis of our Government, the foundation of our national life; and as a nation we must be subject to the law of nations.

The rebel States are without governments which we can recognize, and so must as an absolute and indispensable necessity be held under military rule until the United States opens the way for their restoration. There are no loyal governments in these States, and we must abandon them to our enemies, or, for a time, as we gain possession and control, hold and govern them by military power. Reorganization is an indispensable prerequisite to the exercise of their rights and powers as States in the Union. Without this they have no appropriate medium through which these rights may be secured. With governments suspended and disorganized, the protection of these States and the persons therein must be vested in the General Government, and so must be restored under the supervision and control and under the direction and authority of the General Government. This follows from the necessity of the case. The people of these States, under the laws quoted, are all enemies, entitled only to the rights of enemies. To the Government belongs the right and the duty of saying when and how they shall become otherwise—when and how they may again be entitled to the rights of citizens. I recognize the right of the people of the rebel States to govern themselves when purged of their disloyalty; but they are now laboring under a disability, and cannot rightfully act until that disability has been removed by the Government; and

it is with the Government to say when and by what process she will remove it.

The people of the rebel States can exercise just those rights and none other which the Government may see proper to confer on them. Terms may be annexed to their pardon. It needs no argument to enforce and illustrate these principles. Necessity, absolute, overpowering, and imperative necessity, enforces them. Enemies must not be permitted, disloyal men must not be permitted, traitors against the Government, blackened with the crime of treason, must not be permitted to govern these States. The Constitution imposes the duty and obligation of guarantying to these States republican governments. This cannot be done if traitors and enemies are permitted to govern them. Some standard of loyalty must be established; some rules and regulations must be enacted under which and by which the loyal may be recognized and separated from the disloyal element, in order that pardons may be granted them and their disabilities removed. We have a new order of things. This must be met by such laws as are suited to the exigencies, and as will enable those who are willing to return to their loyalty to assume the control of their respective States. It seems to me there is no power in this Government better qualified to do all this than Congress, and to it in my opinion rightfully belongs this duty. I make no attack upon the President's amnesty proclamation. It has performed its part. It was a timely and wise measure, but will have fully performed its office when Congress legislates on the subject as is now proposed.

Slavery has shown itself the enemy of this Government, based on robbery and wrong. It has shown itself incompatible with the permanent peace, political welfare, and existence of this nation; and I have no desire to see it perpetuated.

I recognize the duty of so settling this fearful civil war as to secure the nation from a similar rebellion in the future. What slavery has done now it may do in the future if continued; and though I would not prosecute this war to destroy slavery, yet this war, brought about by the friends of the institution, is surely working its death. I favor giving it such a burial, a burial so deep and profound that it will never again be resurrected in this free land.

I indulge in no gloomy forebodings of the future. History tells us of many, very many long-continued and bitter civil wars, all of which were ended and peace restored; and so it will be with this. The war ended, slavery dead, this young nation will come out of the struggle with muscles hardened and strengthened by the fierceness of the contest; it will arise from it with energy and vigor renewed, prepared to leap into a progress far surpassing everything in our own history and the history of the world.

Mr. HOLMAN obtained the floor, but yielded to Mr. ASHLEY, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Dawes reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the President's annual message, and had come to no resolution thereon.

And then, on motion of Mr. DAWES, (at five o'clock, p. m.) the House adjourned to Monday next, at twelve o'clock, m.

IN SENATE.

MONDAY, March 7, 1864.

Prayer by the Chaplain, Rev. Dr. SUNDERLAND. The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented four petitions of citizens of Boston, and four petitions of citizens of New York, praying for an increase in the facilities for the transportation of mails, passengers, and freight between the cities of New York and Philadelphia; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented the memorial of the American Geographical and Statistical Society, praying for the opening of negotiations for a commercial treaty with the empire of Cochin-China, as conducive to the interests of American com-

merce, arts, and agriculture; which was referred to the Committee on Foreign Relations.

Mr. MORGAN. I present the memorial of Alexander T. Stewart & Co., and Ball, Black & Co.; also, the memorial of E. A. Stansbury and J. B. Varnum, jr.; also the memorial of Coffin, Lee & Co., and Ammidown, Lane & Co.; also the memorial of R. Stuart Hill and Lewis C. Popham; and also the memorial of Lowther & Brother, Lewis H. Phillips, and many other citizens of New York, praying for an increase in the facilities for the transportation of mails, passengers, and freight between the cities of New York and Philadelphia. I move that they be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. FOOT. By request, I present the petition of Eli Thayer and others, praying Congress "to confiscate utterly and without reserve the lands of rebels, and to give of the same, without other formality than occupation, one hundred and sixty acres to each private in the naval service, and to each man in the rank and file of the Union Army, and of the rebel army who will take the prescribed oath of allegiance to the United States, and that the lands thereafter remaining be open to settlement under the homestead law." I ask its reference to the select committee on slavery and freedmen.

It was so referred.

Mr. LANE, of Kansas, presented a resolution of the Legislature of Kansas, in favor of the construction of a bridge across the Republican river on the Government reservation at Fort Riley; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of Kansas, in favor of the construction of a military road from Fort Leavenworth, via Fort Riley, to Fort Larned, and an appropriation for bridging the same; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILLEY presented resolutions of the constitutional convention of West Virginia, in favor of an appropriation to aid that State in emancipating her slaves under the act of Congress approved on the 31st of December, 1862; which was referred to the select committee on slavery and freedmen.

Mr. WILSON presented four petitions of citizens of Boston, praying for an increase of the facilities for the transportation of mails, passengers, and freight between the cities of New York and Philadelphia; which were referred to the Committee on Military Affairs and the Militia.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Treasury, transmitting, in answer to a resolution of the Senate of the 1st instant, a copy of the report of the Central Pacific Railroad Company, under date of June 1, 1863; which was referred to the Committee on the Pacific Railroad.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of the Interior, transmitting, in answer to a resolution of the Senate of the 1st instant, a copy of the acceptance of the provisions of the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes" by the Central Pacific Railroad Company; which was referred to the Committee on the Pacific Railroad.

REPORTS FROM COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred a petition of citizens of Portland, Maine, praying that a pension may be granted to Jessie Gould, widow of Daniel Gould, who was accidentally shot while assisting in discharging the guns and ammunition from the schooner Archer, taken from the Tacony pirates, submitted a report, accompanied by a bill (S. No. 150) for the relief of Jessie Gould, widow of Daniel Gould, of Portland, Maine. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. WILKINSON, from the Committee on Indian Affairs, to whom was referred a bill (S. No. 59) extending the limits of the northern Indian superintendency, reported it without amendment.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print the

memorial of merchants and others, of Providence, Rhode Island, praying that the petition of the South American Steamship Company for aid in the establishment of postal communication with South America by steam vessels may be granted; reported in favor of printing the same.

The report was agreed to.

MILITARY INTERFERENCE WITH ELECTIONS.

Mr. ANTHONY. I am also instructed by the Committee on Printing, to whom was referred a resolution to print three thousand extra copies of the report of the Committee on Military Affairs and the Militia, No. 14, accompanying Senate bill No. 37, in relation to interference by military authority in elections in the States, to report the same back without amendment, and recommend its passage; and I ask for its present consideration.

Mr. POWELL. I should like to hear something about that report. I heard nothing of it before.

The VICE PRESIDENT. The resolution will be read.

The Secretary read it, as follows:

Resolved, That there be printed for the use of the Senate three thousand copies of the report of the Committee on Military Affairs and the Militia, No. 14, in relation to interference by military authority in elections in the States.

Mr. POWELL. I do not think that resolution ought to pass.

Mr. ANTHONY. Let it lie over then, sir. I understood the Senator to agree to the report.

Mr. POWELL. The Senator is mistaken. I never heard of it before, to my knowledge, and I am on that committee.

REPEAL OF FUGITIVE SLAVE LAW.

Mr. ANTHONY. The same committee, to whom was referred a resolution to print ten thousand extra copies of the report of the select committee on slavery and freedmen accompanying the bill to repeal all laws for the rendition of slaves, and also a resolution that ten thousand extra copies of the views of the minority of the same committee be printed for the use of the Senate, have directed me to report them back with an amendment as a substitute for both, and to ask its present consideration.

The VICE PRESIDENT. The substitute will be read.

The Secretary read it, as follows:

Resolved, That ten thousand extra copies of the report of the select committee on slavery and freedmen accompanying the bill to repeal all laws for the rendition of slaves, with the views of the minority of the select committee upon the same bill, be printed for the use of the Senate.

The amendment was agreed to.

The resolution, as amended, was adopted.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 151) relating to chaplains, and for other purposes; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 153) to provide for the revision and codification of the laws of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CONNESS. I ask the unanimous consent of the Senate to introduce a bill, without previous notice, to amend the act to aid in the construction of the Pacific railroad, that it may be referred to the select committee on that subject. I desire to say in connection with it that it does not entirely represent my views, but I introduce it simply that it may be referred to the committee.

There being no objection, leave was granted to introduce a bill (S. No. 152) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the fol-

lowing bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 217) to confirm certain entries of land in the State of Missouri;

A bill (No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott;

A bill (No. 291) granting an invalid pension to Esther P. Fox, widow of Augustus C. Fox; and

A joint resolution (No. 47) for the relief of Rev. W. B. Matchett.

The message further announced that the House of Representatives had passed the following bills of the Senate:

A bill (No. 15) to incorporate the Washington City Savings Bank;

A bill (No. 19) for the relief of L. F. Cartee;

A bill (No. 39) to authorize the enrollment and license of the steam-tugs B. F. Davidson and W. K. Muir;

A bill (No. 81) to apportion the expenses of the levy court in the county of Washington upon the basis of population; and

A bill (No. 110) for the relief of John H. Shepherd and Walter K. Caldwell, of Missouri.

BILL BECOME A LAW.

A message was received from the President of the United States, by Mr. NICOLAY, his Secretary, announcing that the President had this day approved and signed a joint resolution (S. No. 19) of thanks of Congress to Commodore Cadwalader Ringgold, the officers and crew of the United States ship Sabine.

CONSTITUTIONAL MAJORITIES.

Mr. SHERMAN. I offer the following resolution:

Resolved, That a quorum of the Senate consists of a majority of the Senators duly chosen and qualified.

Resolved, That if a majority of the presidential electors, duly appointed and qualified vote for one person he is the President.

Resolved, That if the election of President devolves upon the House of Representatives and the votes of a majority of the States represented in the House be cast for one person he is the President.

I ask that the resolution be referred to the Committee on the Judiciary.

The VICE PRESIDENT. Does not the Senator design this as a joint resolution?

Mr. SHERMAN. No, sir; simply as a resolution of the Senate. I will also ask that it be printed.

The VICE PRESIDENT. The order to print will be made, if there be no objection, and the resolution will be referred to the Committee on the Judiciary.

REPORT OF CAPTAIN FISK.

Mr. RAMSEY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That five thousand copies of the report of Captain James L. Fisk of his northern overland expedition from St. Paul, via Fort Abercrombie, to the gold fields of the Territory of Idaho, be printed for the use of the Senate.

Mr. HENDRICKS. I ask the attention of the Committee on Printing to that resolution. I have been annoyed almost with correspondence on that subject. If the committee could report immediately it would save much trouble in correspondence. There is a great deal of anxiety to get the information contained in that report.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills; in which the concurrence of the Senate was requested:

A bill (No. 299) to provide for carrying the mails from the United States to foreign ports, and for other purposes; and

A bill (No. 296) for the benefit of John Dickson, of Illinois.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 122) to increase the internal revenue, and for other purposes; and it was thereupon signed by the Vice President.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

TUESDAY, MARCH 8, 1864.

NEW SERIES... No. 61.

twice by their titles, and referred as indicated below:

A bill (No. 217) to confirm certain entries of land in the State of Missouri—to the Committee on Public Lands.

A bill (No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott—to the Committee on Pensions.

A bill (No. 291) granting an invalid pension to Esther P. Fox, widow of Augustus C. Fox—to the Committee on Pensions.

A joint resolution (No. 47) for the relief of Rev. W. B. Matchett—to the Committee on Military Affairs and the Militia.

A bill (No. 299) to provide for carrying the mails from the United States to foreign ports, and for other purposes—to the Committee on Post Offices and Post Roads.

A bill (No. 296) for the benefit of John Dickson, of Illinois—to the Committee on Military Affairs and the Militia.

TREATY WITH OREGON INDIANS.

The VICE PRESIDENT. If there be no further morning business, the bill (S. No. 25) to authorize the President to negotiate a treaty with the Klamath, Modoc, and other Indian tribes in southeastern Oregon, is now before the Senate as the unfinished business of the morning hour of Friday, the pending question being on ordering it to be engrossed for a third reading.

Mr. NESMITH. For the satisfaction of the Senator from Connecticut, [Mr. FOSTER,] who desired the bill to be laid over on Friday last for information, I send up a letter from the Commissioner of Indian Affairs on the subject, which I ask to have read.

The Secretary read it, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS, March 4, 1864.

Sir: I have to acknowledge the receipt of your communication of this date, inclosing Senate bill No. 25, (herewith returned,) providing for the negotiation of treaties with the Indians of southeastern Oregon, and stating that you would like my recommendations of the same.

I have no hesitation in stating that in my opinion no measure is better calculated to secure the people of Oregon against the hostilities and depredations of the Indians within their borders than is that now under consideration. Should this bill become a law, I believe it will be found practicable to negotiate treaties with all the tribes named in the bill, and through such treaties bring all the Indians now engaged in hostilities in Oregon under the control of Government upon fair and honorable terms, thus securing peace throughout the entire limits of the State.

I respectfully refer you to page 5 of the recent annual report of this office, also to papers Nos. 1 and 3 accompanying the same, which will more fully show the condition of affairs in Oregon as regards the Indians named in the bill and the urgent necessity that some measure should be adopted which will reduce them to subjection.

Very respectfully, your obedient servant.

W. P. DOLE, Commissioner.

Hon. J. W. NESMITH, United States Senator.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REPEAL OF FUGITIVE SLAVE LAW.

Mr. SUMNER. I ask the Senate to take up a bill, merely with a view to make it a special order for a future day. It is Senate bill No. 141, to repeal all laws for the rendition of fugitives from service or labor.

The VICE PRESIDENT. The Senator from Massachusetts moves to postpone all prior orders for the purpose of proceeding to the consideration of the bill indicated in his motion.

The motion was agreed to; and the Senate proceeded to consider the bill (S. No. 141) to repeal all laws for the rendition of fugitives from service or labor.

Mr. SUMNER. Now, Mr. President, I move to make that bill the special order at half past twelve o'clock on Wednesday next. I will say, in making the motion, that I do not wish to debate it; I am not aware of any Senator on this side who wishes to debate it; and I hope we may at once proceed to vote upon it, and that before the morning hour expires the Senate may be discharged satisfactorily of that question.

Mr. DAVIS. I notify the Senator he may expect to have that bill elaborately debated.

Mr. SUMNER. Very well. Then we may as well begin it early.

Mr. DAVIS. I have no objection to beginning early.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts to postpone the further consideration of the bill to, and make it the special order for, Wednesday next at half past twelve o'clock.

The motion was agreed to.

LAND GRANT TO A RAILROAD.

Mr. RAMSEY. I move to postpone all prior orders, and proceed to the consideration of Senate bill No. 31.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 31) making a grant of lands to the Lake Superior and Mississippi Railroad Company, in the State of Minnesota, to aid in the construction of the railroad of said company from St. Paul to Lake Superior; the pending question being on the motion of Mr. DOOLITTLE to recommit the bill to the Committee on Public Lands.

Mr. RAMSEY. I can only say again that I trust the Senate will not recommit this bill. I see no occasion for taking that course. We may as well dispose of it now. As the chairman of the Committee on Public Lands has stated, there are no new questions presented to the Senate that have not been presented to that committee. I trust, therefore, the Senate will proceed with its consideration, and refuse to recommit it to the committee.

If the Senate will bear with me, I will read one or two paragraphs from a memorial of the Legislature of the State of Minnesota, presented some days since, on this subject:

"That a railroad communication from the Mississippi river to the head of Lake Superior has for a long time been the subject of anxious solicitude with the people of the late Territory, and of the State of Minnesota, as rendering accessible and available to them what is obviously the natural outlet of a large portion of this State for its products to the eastern markets and shipping points on the Atlantic seaboard, and as being the most ready and only reliable means of opening up to emigration and settlement an extensive tract of country which will be traversed by such a road, and which, although possessing abundant resources, is now unproductive, and a mere wilderness.

"That the attention of Congress was directed to this important subject during the territorial existence of Minnesota, as early as 1854, during which year a grant of lands in alternate sections was made by the United States to the Territory of Minnesota, to aid in the construction of such a railroad; this grant, however, was repealed at the same session of Congress, in consequence of an unauthorized alteration in the draft of the bill, pending its passage in Congress, which caused an immediate repeal of the grant; that Minnesota was in no way implicated in this matter, and that this alteration occurred through the agency of individuals acting without the privity of the territorial government, as has always been conceded, and is clearly shown in the proceedings of Congress investigating the matter; the result to Minnesota, however, although entirely blameless, has been exceedingly disastrous, and but for the unfortunate circumstance causing the grant to be revoked, it is confidently asserted that such a road would have been, by this time, entirely completed and equipped. It is not inappropriate to state, in this connection, that at the time of the grant aforesaid, Minnesota was then in its infancy, not producing sufficient from its fertile soil for the consumption of its own inhabitants, and yielding little or nothing for export; that at a later period, and since its organization as a State, its agricultural resources have been developed in a ratio almost unparalleled, so as not only to yield abundance yearly for home consumption, but to leave a large surplus yearly of grain and other products for exportation; and that this line of communication, which at the early day referred to was of sufficient importance, by reasons of advantages merely prospective, to deserve the encouragement and liberal aid of the General Government, has now become a practical necessity to Minnesota, and its want is seriously felt as retarding her prosperity and the settlement of a large portion of her territory."

"This road, in connection with the Winona and St. Peter road, which it intersects, will on its completion drain one of the most fertile and populous portions of this State; its loss would be irreparable to Minnesota, and its final completion should be forwarded as a measure of national policy in connection with the construction of the proposed road to Lake Superior. That the completion of the rail road to Superior will stimulate the progress of the work on the line of the road located by the Southern Minnesota Railroad Company, and contribute greatly to the success of the latter, whereby ultimately a line of road will be secured, if reasonably aided, traversing the entire State of Minnesota from the great lakes to the Iowa line, in the direction

of Sioux City, and ramifying through the fertile district of southern Minnesota, connecting at Sioux City with the projected branch road through Iowa of the great national railway to the Pacific ocean."

"Your memorialists would further represent that a liberal grant of land from the General Government, upon the usual conditions and limitations, to aid in the construction of this important work should be made, not only as a measure of equity due to Minnesota in the premises, but as an act of restitution for the grant of 1854, above referred to. Such action on the part of the United States would be in strict accordance with a well-settled and obvious national policy."

I will further state, for the information of the Senate, that this grant of land will after all convey to us but about three or four hundred thousand acres of land. The greater portion of the land since 1854, when the first grant was made, has been entered and occupied in various ways on the route between St. Paul and Lake Superior, leaving at this time, with the most liberal amendment that the Senate may choose to give us by this bill, but about four hundred thousand acres, equal in money value to about two hundred thousand dollars. The road will be one hundred and forty miles long; and it cannot at this time be constructed for less than three million dollars. This, then, is the only aid we ask from the General Government, some two or three hundred thousand dollars. As I said before, the city of St. Paul has voted \$250,000.

Mr. HOWARD. Will the Senator from Minnesota allow me to ask him whether there be a charter already granted for the construction of the road, and what are the termini of the route?

Mr. RAMSEY. There is an existing charter. The termini of the route are St. Paul and the head of Lake Superior. The Legislature is now memorializing Congress for the grant. As I stated before when this question was up, one of the great evils of which the people of Minnesota complain, and of which they propose to rid themselves, is the monstrous charge for transportation for our only surplus product which we ship east, our wheat. In 1862, the freight on it from Lake Michigan, either from Milwaukee or Chicago, was twelve and a half cents a bushel. In 1863 there was a tariff placed on it of eighteen cents a bushel; and the tariff agreed upon by the transportation companies now is twenty-six cents per bushel. This increase in the rate has caused considerable agitation, as is evidenced by the following extracts from some of our papers:

"Some excitement has been recently created among wheat buyers along the river by the announcement that the steamboat and railroad lines connecting the Mississippi with Lake Michigan had entered into a combination to increase the rates of transporting wheat from Winona and other river ports to Milwaukee or Chicago to twenty-six cents per bushel. We do not know whether the statement concerning the advance is correct or not, but if it is it will be likely to raise a storm which cannot be easily allayed."

In a recent number of the Winona Republican I find this:

"THE FREIGHT QUESTION.—It appears that the subject of high freight is agitating the business men of other river towns as well as this, and that initiatory steps are being taken to remedy the matter if possible. By concerted action on the part of our grain dealers and merchants, some plan may be devised whereby this combination of the transportation companies may be broken up. Whether the plan to meet in a general convention with representatives of other towns on the river, where a union of action of all interested could be adopted, would be the best means of accomplishing the object, we would not pretend to say; but it seems necessary that action of some kind should be taken immediately. Let there be a meeting called at an early day and opinions interchanged on the subject, and some mode of procedure adopted whereby all can act in harmony, resolved to effect a reduction of the exorbitant rates adopted by the combination of railroad and steamboat companies."

"The business men of Hastings held a meeting on the 13th instant, at which time the following resolutions were adopted. Should our people desire to cooperate with them and meet in the proposed convention, a delegation to the same should be appointed soon:

"Whereas certain transportation companies have entered into a combination, and have established an exorbitant rate of freights from all points on the Mississippi river above La Crosse to Milwaukee and Chicago; Therefore,

"Resolved, That we, the shippers and other business men of the city of Hastings, protest against that combination, and the exorbitant rates of freight established thereby; and we recommend the combined action of the business men of all the towns affected by such combination, for the purpose of making some arrangement by which freights will be reduced to reasonable rates."

"Resolved, That we invite the business men of all river towns on the Mississippi river above Dubuque, on the St. Croix and Minnesota, and in the interior, to send delegates to a general convention to be held at Red Wing on the 3d day of March, 1864, for the purpose of inaugurating some measures that will secure the transportation of freight at reasonable rates.

"Resolved, That H. H. Pringle be appointed corresponding secretary, and that he be directed to correspond with the business men of said towns, and invite their cooperation in effecting the object for which said convention is called.

"W. D. French, C. H. L. Lange, William Thompson, N. C. Draper, and S. C. Renick, were appointed delegates to attend the convention at Red Wing."

As I said before, we have for exportation to the East about three million bushels of wheat. The result of this new and direct route would be a saving to the people of Minnesota and the people of the East, because the saving would be divided between them, of \$1,000,000 per annum. By the construction of these one hundred and forty miles of railroad to Lake Superior we should be enabled to take the cheap and long transit by water from thence, and in this way the saving would be effected. I hope the Senate will refuse to recommit this bill, and will proceed with its consideration.

Mr. HOWE. I very devoutly hope that the Senate will recommit this bill. I think there are very important questions which the Committee on Public Lands, from whom this bill comes, have not sufficiently considered. I think one of those questions lies in the very gateway to the consideration of this bill; and that is the question propounded by the Senator from Michigan—the question whether there is any such corporation in existence as the Lake Superior and Mississippi Railroad Company. I do not know that that question was not investigated by the committee. The chairman of the committee can state whether it was or not.

Mr. HARLAN. The statutes of Minnesota on this subject were referred to, I think. I did not personally examine the laws, and I do not know whether any member of the committee did or not; but they were satisfied that such a corporation did exist under the laws of Minnesota. I do not think any critical examination of those laws was made.

Mr. HOWE. I suppose they would have been satisfied of it by receiving a petition signed by the officers, and authenticated by the seal of a company, and I do not deny that there is a so-called corporation in the State of Minnesota professing to act under the style of the Lake Superior and Mississippi Railroad Company, but I am informed that there is no such corporation existing by law. I am told that the franchises claimed by this company to-day were granted by the Territory of Minnesota many years before the State was organized.

Mr. RAMSEY. If the Senator will allow me I will clear up all doubt on that point. The Legislature of the State of Minnesota within three weeks, in a memorial to the Congress of the United States, assert the fact; and the statutes were placed before the committee evidencing the existence of such a corporation. This is what the memorial says:

"Your memorialists would further state that this State has labored, and it is feared has so far labored in vain, to accomplish this same object; that a railroad company has been incorporated and organized under the laws of this State, under the name of the Lake Superior and Mississippi Railroad Company, empowered to construct the railroad in question."

And they memorialize Congress to concede this grant.

Mr. HOWE. I do not know how the fact is; but I am told that the Legislature of Minnesota cannot make a company; and if it cannot create such a corporation as this directly it cannot create it by confession or by *cognovit*. I am told that the constitution of Minnesota actually prohibits the creation of any special companies for this purpose. I have not the constitution before me, and I have not examined it.

Mr. HOWARD. But I understood the Senator from Wisconsin to say just now that this charter was granted originally by the territorial Legislature of Minnesota. If so, it certainly was a good charter, and good under the State constitution; they could not repeal it.

Mr. HOWE. The Senator from Michigan is entirely right in saying that if such a charter had been granted by the Territory of Minnesota it

was a good charter when it was granted. I do not affirm that it is not a good charter to-day; I simply say that I am informed that the charter had been lost by nonuser; that all the rights created under the act of incorporation had been lost prior to the organization of the State of Minnesota.

Mr. HOWARD. Let me ask the Senator from Wisconsin, then, whether this forfeiture has been judicially declared, whether any court has passed upon the question of forfeiture or non-forfeiture; for he knows very well that if no court has decided the charter to be forfeited it is still a good charter in law, although perhaps possibly subject to forfeiture.

Mr. HOWE. Mr. President, I am not informed that any court in the State of Minnesota has ever declared that charter to be forfeited. I do not suppose that any such judgment is absolutely necessary. I am informed, however, that those interested in the company were so assured that the charter was invalid that they appealed to the Legislature of Minnesota since the organization of the State and obtained the passage of an act in derogation of the Constitution of the State reviving the charter. I am informed so; I do not assert it as a fact. Whether this information was before the Committee on Public Lands I do not know.

Mr. HARLAN. The Committee on Public Lands thought they guarded this point sufficiently, so far as the United States Government is concerned, in providing that no land shall pass to the company until after twenty miles of the road shall have been completed in perfect order, and then only the adjacent sections coterminous with the completed portion of the road, so that if the company shall not build any road, they will receive no land—not an acre.

Mr. HOWE. How far it was necessary to guard the interests of the United States I do not undertake now to say, and how far the provision just stated by the honorable Senator from Iowa does guard those interests I am not now prepared to say. Against the established usage of the Congress of the United States, departed from I believe only in the instance of the grants made to the Pacific Railroad Company, which stand upon reasons peculiar to themselves, here is a bill that proposes to make a large grant of land, and a larger grant of land per mile than the Congress has ever made for any railroad purpose to a private corporation. I inform the Senate that I have information that there is no such private corporation existing under the laws of Minnesota, and it is one of the questions which I think ought to be examined either by the Committee on Public Lands or by some other committee.

Mr. WILKINSON. With the permission of the Senator, I should like to ask him a question. It is whether, if his position be correct that there is no such company legally constituted and organized in the State of Minnesota, it can take land under this grant; and if it cannot, will the Government be injured by the passage of the bill?

Mr. HOWE. No, Mr. President; if there is no such company, I do not think it will take much; but I do not think it becomes the Congress of the United States to grant land to men who simply pretend to be a corporation. Besides, I beg leave to remind my friend from Minnesota that I am not here to give information; I am here seeking for information. It is because I do not know how the facts are that I want this bill to go back to a committee which may be enabled to investigate and tell me what the facts are.

Mr. WILKINSON. I should like to ask the Senator one more question. If it shall be established by the committee that there is such a legal company, a valid organization, will he then support this measure?

Mr. HOWE. No, sir, not unless I forget myself. I can only say that in that contingency I should have one less objection in number to support the bill than I have at present; but I should still have other and insuperable objections if my information upon other points is correct.

Now I state another point upon which I want more information, and I want to get it through some committee, if any committee will take charge of the investigation; if not, I will look it up for myself. The Senator from Minnesota [Mr. Ramsey] appeals to the humane feelings of Congress to give his constituents a short and cheap outlet

for their produce. I respond with all my might. Any facility which you can reasonably furnish to that gallant little State of Minnesota to enable them to get their rich and ever-increasing products to market give in God's name, and in the name of the United States; but I respectfully submit that upon my information the bill before the Senate is not intended to give any additional facility to the State of Minnesota. The Senator has presented this question to the Senate as if without this grant Minnesota was bound to send her products for all future time, as she has for all time up to this, down the Mississippi river and over the several roads leading through southern Wisconsin and northern Illinois. I am informed that such is not the fact. I am informed that the Congress of the United States made a grant eight years ago calculated to accommodate the very trade which the Senator from Minnesota wishes to accommodate by the building of this road—a grant to build a road not over the exact track, but right along the same line where this road is to be located, having one terminus at the same point on Lake Superior, and having its other terminus within about fifteen miles of St. Paul. I am informed, I say, that such a grant was made then, and that that road is in process of construction.

Now, I need not remind the Senate what difficulties have lain in the way of building new roads since 1856. We have had one protracted season of great commercial disaster, followed by a pretty big specimen of a war, and we have not had much time to build railroads. That railroad is not completed. I have heard it said here, I think carelessly said, that it has not been commenced. That has not been said upon the authority of the committee that reported this bill. I am informed that it has been commenced. I am informed that individuals have put large sums of money into the construction of that road. I am informed that twenty miles of the road have been graded. I am informed that the ties have been purchased for forty miles of the road, and that iron enough to lay twenty miles of rail has been purchased and is to be delivered in the coming spring.

I do not state these as facts; I state them as information which I derive from sources which I credit, and as information which I want to be laid before the committee and the truth or the falsity of it to be determined. If it is disputed here, I have not the evidence at hand to verify it. If it is disputed before the committee, the committee can determine whether it is true or false.

But I submit to the Senate that there is no possible necessity, and there seems to me no sort of propriety in the Legislature of the United States endowing two railroads to run along within sixteen or twenty miles of each other. Fifteen miles of road would place St. Paul, the southern terminus of the road named in this bill, in connection with Hudson, the southern terminus of the road already endowed by the liberality of Congress. My friend, the Senator from Minnesota, [Mr. Wilkinson,] says twenty miles. I am told fifteen. Let the committee inform us what the true distance is. I put the question to the Senator from Minnesota [Mr. Ramsey] the other day, what would be the distance from St. Paul to Lake Superior by the way of Hudson. I did not get a very accurate statement. I am told that the distance between St. Paul and Lake Superior by the way of Hudson, will not exceed by a mile the distance between St. Paul and Lake Superior by the route contemplated in this bill.

Mr. RAMSEY. The distance between St. Paul and Hudson is from sixteen to twenty miles. The distance to Superior from St. Paul and from Hudson is alike.

Mr. HOWE. I am sufficiently familiar with the map to know that that answer is predicated on the assumption that St. Paul and Hudson lie upon about the same latitude or very near the same latitude; but the Senator from Minnesota knows very well that the line contemplated by this bill defects very much from a direct line and bends very much to the west. It is very much longer than a direct line, and it does not follow by any manner of means that because Hudson is fifteen or sixteen miles east of St. Paul it is therefore sixteen miles further from St. Paul to Superior by way of Hudson than it is by way of this road. There is a difference of opinion between the Senator from Minnesota and my informants as to the length of the two lines. Let this question go to a commit-

tee, and let them tell us what that difference is, if there be any difference. Do not ask the Senate to vote this large endowment upon your statement or upon mine. Give us the facts and give us the testimony which sustains those facts, and give it to us through the organism of a committee of this body, and give to that committee an opportunity which they have not yet had to know how far the vested interests of an existing enterprise are to be injured by this grant.

I think every Senator knows that if you inaugurate two railroads running within fifteen miles of each other they must necessarily be intended to accommodate the same trade to a great extent; and I think every Senator knows that they must seriously retard the success of each other. Capital will be a great deal more reluctant to invest in the road from Hudson to Superior because of the endowment of the road from St. Paul to Superior; and capital will be a great deal more reluctant to invest in the road from St. Paul to Superior because of the endowment to the road from Hudson to Superior. Get one road and then you may have another, if you find another necessary. Get one road at a time, and be content with one road at a time.

Mr. President, I hope my friends who represent Minnesota will do me the justice to acknowledge that I am advocating no narrow interest here. I simply find an enterprise already on foot, endowed by the liberality of the Congress of the United States, and through the influence of that endowment the capital of men invested in it to build a road running right through the section of country through which this road is designed to go. I say to the justice of Congress, "Keep your hands off that." The Senators from Minnesota say, "Do not do it, but on the contrary send into the market an endowment exceeding that made to the Hudson and Superior road by four sections of land to the mile; outbid in the market of the world the enterprise which you have already set on foot."

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of Friday.

Mr. WILKINSON. I move to postpone the regular order, that this bill may be proceeded with until a vote can be had.

The VICE PRESIDENT. The Senator from Minnesota moves to postpone the special order of the day, which is the unfinished business of the last adjournment, for the purpose of proceeding with the consideration of the bill now before the Senate.

The motion was agreed to.

Mr. HOWE. Mr. President, I have already occupied as much of the time of the Senate as I ought to occupy upon this motion.

Mr. GRIMES. Do these roads continue all along only fifteen miles apart?

Mr. HOWE. No, sir. The road from St. Paul to Superior defects, as I said before, to the west, as I see by the map on which it has been traced. Whether there has been an actual survey or not, I do not know. At those points where it passes to the west the most, the distance must be more than fifteen or sixteen miles, but they run along in the same region of country. I understand the northern terminus of the road mentioned here is on Lake Superior without naming the point; but I understand the purpose is to terminate it at a place called Superior, a town on Lake Superior.

Now, in anticipation of a remark which has been made aside repeatedly, that we are rather illiberal, when Congress has endowed a road running through Wisconsin, to oppose a road running through Minnesota, I beg to say that I think the State of Minnesota is, on the contrary, a little too ambitious. She has a right to ask a great deal. I am ordinarily inclined to give her everything she does ask for; but in this particular instance she not only asks that we shall agree to a grant which will kill a road already in construction through our State, but that we shall consent to the cession of a part of our State in order to give them a terminus on Lake Superior within their own State. They really ask of Wisconsin to stand silent while a grant is being made to kill this road already in construction through our own limits, and then to consent to grant to Minnesota the northern terminus of the road, the town of Superior and the adjacent country, in order that Minnesota may have the road run through her

own limits and terminate within her own limits. Sir, I conceive that this is asking a great deal of the magnanimity of Wisconsin. Wisconsin claims to be magnanimous, generous, bountiful; but she really cannot afford to sit still and be picked to pieces after that fashion. I hope some part of this demand will be surrendered by my friends from Minnesota.

Mr. JOHNSON. I understood the first objection of the honorable member from Wisconsin to the particular bill which is before us to consist in the fact, which he supposes to be true, that there is no such corporation as is proposed to be the grantee. In the first place, in answer to that objection, I will say that if it be so the grant will be void and no title to the land granted will pass out of the United States.

But I have further to say to him, if I understand the facts, that there is beyond all doubt a chartered company now in existence. The territorial government of Minnesota had a right to charter a company such as this was, and in the execution of that right they did charter this company. That charter was not so limited in point of time that it has expired by virtue of that limitation. It is now as good as it was when it was originally passed, unless it has been in some way or other judicially or legislatively decided to have been forfeited. Nothing is better known to jurisprudence than that in all such cases nonuser or misuser of a corporate franchise does not terminate the franchise. That is a question depending as between the corporation and the sovereignty granting the charter. Nobody else has a right to complain of misuser or nonuser but the party granting the franchise. That party of course is the sovereign. It is therefore perfectly well settled that in all such cases of a right to forfeit, there must be a judicial proceeding in the nature of a *quo warrantum* or *scire facias*; but until that proceeding has been instituted and prosecuted to judgment as against the corporation, the corporation remains just as vital as it was on the first day it was passed.

If I understand the facts aright, and I am sure I do, so far from there having been any such proceeding on the part of the State of Minnesota, or upon the part of the Government of the United States before the Territory became a State, to forfeit the charter, the only proceeding on the part of the State which has occurred is one which recognizes the continuing existence of the charter. They have granted to the company their swamp lands; and although the State of Minnesota, by force of their own constitution, have no authority to grant a franchise, yet if a franchise has been granted by the Territory and is in force at the time the Territory becomes a State, they have a clear right to recognize the existence of the franchise.

Mr. HOWE. Will the Senator allow me to inquire if he has had an opportunity of seeing the charter under which this company claims to act?

Mr. JOHNSON. The original charter?

Mr. HOWE. Yes, sir.

Mr. JOHNSON. I have.

Mr. HOWE. Is it a perpetual one?

Mr. JOHNSON. I think it is. I am not so sure about that. I was about to say that I had an opportunity of seeing it because I was concerned professionally in the questions which arose in relation to the validity of the grant to this company. The grant to the company which is about to be revived substantially by the present charter was held to be an ineffective grant for causes which it is not necessary here to mention, but for causes not affecting the company at all, or the integrity of the company. It was because of some proceedings which were supposed to have taken place in the House of Representatives at the time the bill was passed.

So far therefore as the particular objection that there is no such corporation as is proposed to be the grantee is concerned, a sufficient answer is to be found in what I have already said, that if there is not, no harm is done; but secondly, there is such a corporation, provided the territorial government had the authority to charter; and I do not understand that that is disputed. The only two governments which would have had a right to have that charter forfeited were the United States as long as the Territory was subject to the authority of the United States, and the State when the Territory became a State; and neither of those sovereignties interfered at all to vacate the charter.

I hold it, therefore, perfectly clear in point of law that the charter is now as operative as it was in the beginning.

Now, the honorable member says that the amount granted by this bill is a much larger one than has ever been granted before. I do not stop to inquire what would be the extent of the grant provided the lands included within the limits of the grant would all pass by force of the grant; but we have it already from the Land Office that there is only a limited portion of the lands which originally belonged to the United States within the limit of the grant, and the whole value of that portion which will be affected by the bill if it passes amounts, at the supposed value of the lands, to some two hundred thousand dollars.

Mr. HOWE. I have not seen that information. Does it come from the committee?

Mr. JOHNSON. I understood the member from Minnesota to give it.

Mr. RAMSEY. What was that?

Mr. JOHNSON. That the whole value of these lands only amounted to about two hundred thousand dollars.

Mr. RAMSEY. They are valued at two hundred thousand or two hundred and fifty thousand dollars, at the rate of fifty or seventy-five cents an acre. The lands along the line of this road having been in the market for twelve or fifteen years, the best lands have long since been entered, leaving only the inferior land remaining.

Mr. JOHNSON. So I have understood. All the valuable lands, all that would be selected by those who wanted homesteads or had preemption warrants, have been taken up, and the lands that are left are comparatively valueless. They will become valuable, no doubt, if this road is made, and for the same reason that all roads of this description add to the value of the territory through which they pass.

Now, Mr. President, if this road promises to be of value to Minnesota, it is expending very little of the public money, if it can be considered as expending any, to give two hundred or two hundred and fifty thousand dollars worth of now refuse land. If I understand it, that country, which is now for the first time agriculturally open, has proved to be one of the best growing countries that we have within our limits. Its production is extraordinary. The great difficulty is not in raising the cereals, but in getting the cereals to market. If this road, or some road of a like kind, is not made, the farmers in Minnesota, who are now rapidly being increased by immigration, will have to travel some three hundred miles further to get to New York than they would have to travel if this road should be made. But not only is the distance very much increased by the route which they are now obliged to take, but the expense is much more increased than one would suppose because of the comparative difference between the distance of the two routes. These cereals cannot be carried over the railroad for less than some twelve or thirteen cents, I suppose. They are to be carried some one hundred and forty miles if this road is made, and the rest is by water communication. The difference between the price of transportation by railroad and transportation by water is the difference between some twelve cents and two and a half cents. That of itself is a very serious item in the profit of the farmer.

Wisconsin is not much to be injured, and she has roads in plenty of her own. She can only be affected—and that I am sure would not be a motive to influence her legislation or the conduct of her representatives on this floor, because they look, as they are bound to look, to the general interests and not to the mere local interest of the State—by the trade which may be taken away from their railroads and find a vent upon this route. That is comparatively little or nothing, except to the owners of the railroads in Wisconsin. The stockholders may be benefited; but I do not say that the State is very much benefited by having run through the State two or three million bushels, or more, of cereals. Nobody gets any advantage from a transportation of that description except the several companies upon whose roads the transportation may be made.

To deny this grant for the purpose of benefiting these individual stockholders in Wisconsin alone, when to make the grant is to benefit the growing State of Minnesota, and when the road for which

the grant is to be made is entirely within the limits of Minnesota, would seem to me—I speak it with all respect—to be rather a narrow policy. I am sure the honorable Senator from Wisconsin does not think so. I am satisfied he supposes he is promoting the public good by his opposition to this grant. But I submit to him that if it was originally right—and certainly I am far from denying that it was right—as a matter of policy, that the Government should make grants to Wisconsin, and that roads should be made through Wisconsin for her benefit, it is equally right that the Government should make grants to Minnesota. She is now as it were but in her infancy, with a population, I think, of some two hundred thousand, or two hundred and fifty thousand, very rapidly accumulating. It accumulated very rapidly during the last year, and will naturally accumulate in a much larger proportion during the coming year because of the particular condition of the country and the prospect we all see is before us, and in which we cannot be disappointed, that immigration is very largely to be increased. Instead of having two hundred and fifty thousand, the amount I believe of her present population, at the next decade she may have a million. She will grow with the rapidity, and perhaps with greater rapidity than Wisconsin. It is better for us, therefore, I think, to provide in advance if we can, by granting these facilities to Minnesota, an additional inducement to those who may come within the limits of our country with a view of bettering their fortune, that they should settle in Minnesota. There will be enough for all, as I think.

I submit, therefore, Mr. President, that whether considered as a question of law, or whether considered as a mere question of policy, it is but just that we should pass this bill or some bill like it.

Mr. HOWE. I am very sorry to differ from the Senator from Maryland on this point; but I regret very much more to have him differ from me upon it. There evidently is a difference of opinion between us. Whether it is his fault or mine, I suppose remains to be settled.

Now, sir, when it is objected to the making of a grant of seven hundred thousand acres of land that there is nobody to take the grant, I do not think it is a good answer to that objection to say, if there is nobody to take it it will not go. I do not think it is a good thing for the Congress of the United States to make these grants upon the reflection that if there should be no such person in being as is named for the grantee, the lands will still belong to the Government. It is true the grantee will not get them if he does not exist; but it is true they go out of market; it is true they are withdrawn from sale and from settlement; and it is true they remain there on the hands of the United States waiting for the grantee to come into being; and you do not know how long they will wait. I do not affirm that this grantee does not exist. I say it is a matter over which I think there is grave doubt, thrown by the information I have. I ask the Committee on Public Lands what their information is upon that point, and they have not any to communicate. I ask the Senator from Maryland, who has been consulted professionally it seems by this company, what his information is on these points, and he has none distinct to communicate. Let us have some. So much upon that point.

The Senator from Maryland has surprised me by saying it is a narrow policy we defend here when we insist upon Minnesota sending her products to market over our roads and over the roads of Illinois. I thought I had advised the Senate sufficiently, when I was on the floor just now, that I insisted upon no such thing whatever. That is not the point of my objection at all. I had advised the Senate, as I thought, that no such consequence as that can follow from rejecting this grant; that if you withhold this grant there will be a road running almost over the identical line—and when you are talking about States and Territories it is sufficient to say over the same line—within two years. It is true it will run on the Wisconsin side of the boundary line instead of on the Minnesota side.

Mr. HARLAN. I know the Senator from Wisconsin will not intentionally mislead the Senate. The lines of the two roads—if he will allow me to state it—should the line of this road be located as indicated on the map, would be sixty

miles apart in the center of the two roads, and on the west termini sixteen miles. The east terminus of each road is not fixed; but on the Wisconsin road it is fixed either at Bayfield or at Superior city with a branch running to the one or the other. The distance, therefore, between these two roads, if both should be built, will be greater on the average than the distance between the roads in Iowa and the other roads in Minnesota, leaving a space of about sixty miles between the two, and making it necessary for the farmers who may live in the center between them to travel about thirty miles in order to reach either road.

Mr. HOWE. The Senator from Iowa is quite right in saying I did not mean to mislead the Senate, and I will make the same remark in reference to him. It is very probable my remarks were calculated to mislead the Senate, and I respectfully submit his own are equally calculated to mislead the Senate. The Senator is entirely correct in saying that the southern termini of the road are about fifteen or sixteen miles asunder. I think he says sixteen miles. I had been informed that it was fifteen miles. He is entirely mistaken in saying that the northern termini of our road is either Superior or Bayfield. There are two roads provided for; one terminates at Bayfield, and one terminates at Superior, and they are not in the alternative at all. Superior and Bayfield are the termini of the Wisconsin road on Lake Superior.

Mr. HARLAN. We had the maps from the Land Office before us; and the committee is fortunate enough to have an ex-Commissioner of the General Land Office as a member of the committee, and I think he was in the office when this grant was to some extent executed. One of those roads is styled a branch road. If the trunk road should be built it would run to Superior; but if they should build the main trunk to the point of junction, and then build the branch only, there would be no road, of course, to Superior. There would be a road from Hudson, on the St. Croix river, to Bayfield; so that the committee, of course, is in no doubt as to the distance between the termini of the two roads at Lake Superior. I stated the facts as clearly as I could. I regret if my statement of them was calculated to mislead anybody. I had no such intention.

Mr. HOWE. No, sir, not the slightest intention, doubtless. One of the roads, says the Senator, is called a branch road. I have no doubt that is so. I have no doubt each of them is called a branch road, sometimes one and sometimes the other. Both are branches of other roads. That is the fact about it. But there are the termini, one at Superior and the other at Bayfield. The Senator says if they do not build the Superior road they will not have any outlet at Superior. That is very true. That fact will be known in two years; for unless the road is completed within about two years from this time, this grant, which was made to the State of Wisconsin, and not to a private company, will be withdrawn from the State. Now, sir, I say this and this alone is the point of my objection, not that you furnish railroad facilities for Minnesota, but I say they have those same facilities running over this road.

The Senator reminds me that a portion of the route on the Minnesota road will be sixty miles distant from the Hudson road. That only shows that a deflection of the Minnesota route is much greater from a right line than I had supposed. The northern termini being the same, and the southern termini being within sixteen miles of each other, if they get sixty miles distant during the road there must be a great deflection somewhere.

Mr. HARLAN. It is partly on both lines.

Mr. HOWE. That may be.

Mr. HARLAN. The deflection is quite as great in the Wisconsin road as in the proposed road in Minnesota.

Mr. HOWE. Is the Senator advised upon that point, that it is as great?

Mr. HARLAN. It is so judging from the maps, as the roads are laid down in the maps sent us from the General Land Office.

Mr. WILKINSON. With the permission of the Senator from Wisconsin, I wish to state that between these two routes runs the St. Croix river. The banks of that river are very high, rugged, and steep. There are streams running into it occasionally, causing very deep ravines. These roads must go some twenty or thirty miles back

from the river toward the sources of the streams running into it in order to get a practicable route on both sides, and that causes the deflection.

Mr. HOWE. I do not object to the deflection. I think if they varied a great deal more from a right line than they do it would be vastly better for the State of Minnesota; and I believe the State of Minnesota, on the information I have, really thinks so. I think one of the objections to the line proposed is that it runs too near in a direct line; that it ought to go further to the west than it does, and it would do more for the development of the State of Minnesota. The Senator produces a map which shows that both of the lines deflect from a right line, one to the east and the other to the west; and there is not a great deal of difference in the amount of variation. I cannot calculate from the map which varies the most. But, Mr. President, the point after all is this: I do not wish this grant to be made now because it interferes with the value of the grant already made to the State of Wisconsin and because it endangers the success of that enterprise by putting a rival enterprise on foot.

The Senator from Maryland said, properly enough, that the granting of \$250,000 in land to Minnesota to build a road to enable her to get her products to Lake Superior was not doing a great deal. I admit it is not doing a great deal. I do not object to Minnesota having that value in lands, or having that quantity of lands to develop herself. But, sir, do you not see, does not the Senate see, that you take more from the value of that which you have heretofore granted to Wisconsin than you take from the United States itself? By putting this rival enterprise into the market, by setting on foot a rival road and endowing it with these lands, of course it abstracts directly and greatly from the value of that grant which you have already made to Wisconsin. You made that not to a private company, you made that to a State, and you told the State they must complete this work within ten years, which will expire in about two, or the grant reverts in the United States, so much of it as is not disposed of. As I have said before, we have had eight years of adversity and of war; and now, just as we are getting over the effects of both, and railroad enterprises begin to move, you put into the market a rival enterprise. It may strike the Senate as just. It strikes me as hard.

Mr. DOOLITTLE. Mr. President, some question has been raised as to whether under the terms of the Wisconsin grant they were bound to go to Superior. The question has been raised whether they may not build to Bayfield, which is sixty miles, or to Superior, and therefore the whole force of the argument in behalf of the Wisconsin grant is lost. By reference to the statute under which the grant was made I find the words are positive. "From thence"—speaking of this place on the St. Croix river—"to the west end of Lake Superior;" and then follow these other words, "and to Bayfield;" which is a distinct obligation upon the company to build them both; but they must build to Superior. Superior is twenty-five miles nearer the navigable waters of the Mississippi river at Hudson than Bayfield is. Is it to be supposed that any men will invest their money in the building of a railroad, when they are bound to build to connect these navigable waters, first to Bayfield to reach the same lake from the same river, when the great purpose is to connect these navigable waters that their railroad may be a profitable investment and carry the freights which pass from one navigable water to the other?

Mr. HARLAN. Does the Senator intend to say that Hudson is on the Mississippi river?

Mr. DOOLITTLE. Hudson is on the navigable waters of the Mississippi river, on the St. Croix lake. I beg Senators to give their attention to the map. I have the map before me. That is one reason why I very much desire this thing to be looked at carefully in the committee.

Mr. WILKINSON. I will correct the Senator from Wisconsin.

Mr. DOOLITTLE. I beg my honorable friend not to interrupt me. I am going to correct him.

Mr. WILKINSON. Allow me just one moment.

THE PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The Senator from Wisconsin is entitled to the floor. Does the Senator yield to the Senator from Minnesota?

Mr. DOOLITTLE. I have no objection, only I desire to make my remarks in a condensed form, and do not care about being interrupted.

Mr. WILKINSON. The town of Hudson is not on the Mississippi river. It is on the St. Croix, at the head of an enlargement of that river called St. Croix lake. It is nearly twenty miles east of the Mississippi.

Mr. DOOLITTLE. I am speaking of the navigable waters of the Mississippi. The Mississippi river at Prescott divides into two streams, one about as large as the other; the one they call the St. Croix, the other the Upper Mississippi. St. Paul is situated on the one and Hudson on the other. They are just above the dividing place, and they divide in a triangular shape at a very acute angle. Hudson is about from twelve to fifteen miles east of St. Paul; the one on the east and the other on the west branch of the Mississippi river. Of course the name of the river on which Hudson is located is the St. Croix. It is the St. Croix branch of the Mississippi river, it is true. But I was speaking of the navigable waters of the Mississippi river, and the purpose of this railroad grant is to connect the navigable waters of the lakes with the Mississippi river. That is one of the purposes certainly, and it is a great purpose, a purpose beyond any mere interest of Minnesota or Wisconsin, a purpose which is national in its character, and in which all the States of the Northwest, and I may say of the East and of the West, have an interest as a national question, independent of any development of any State or particular local interest or section.

I regret that the honorable Senator from Maryland is not in his seat, as he seems to have quite an interest in the advocacy of this matter. I desired to reply to some of the arguments made by him. He says it is a narrow policy which Wisconsin appears to advocate on the floor of the Senate in resisting this grant. I must bring before the Senate the history of the whole action of the Wisconsin delegation in this and the other House, in all that we have ever said or done in relation to Minnesota, to show that no narrow policy, certainly, has ever controlled our action, our voices, or our votes. We have always stood with Minnesota, side by side, identical in interest, bound together in commercial and friendly ties. We have taken an interest in this very question of the railroad development of Minnesota, because the development of Minnesota, the neighbor just beyond us, is the development of Wisconsin. We utterly repudiate the idea that we are controlled by a narrow policy, much less by any unfriendly feeling toward the interests or the well-being of the State of Minnesota. Why, sir, but the session before last, upon my motion, a bill was passed through the Senate granting to the State of Minnesota twenty sections per mile upon the railroad route from the west end of Lake Superior deflecting southward so as to connect with her railroad system on the grand northern route to the Pacific; and but for the fact that it met some opposition in the House, that bill, I doubt not, would have passed and have become a law—in my judgment, one of the best laws that could have been passed for the benefit either of Minnesota or of Wisconsin.

I desire now to call the attention of the Senate very briefly to some facts which have been brought to my mind since this question was last before the Senate. From St. Paul to Superior, on the navigable waters of the great lake, the distance is almost precisely the same, whether you go over the route upon which the land grant is made in Wisconsin, or whether you go upon the proposed route which is asked for in this bill. I do not think there is a difference of six miles. Any one who will examine the map, and trace upon it by the town lines the two proposed routes, will see, with regard to the connection of St. Paul with the headwaters, that it is almost impossible to determine which is the longer or the shorter line. The argument, therefore, of our friends from Minnesota is without foundation; and in desiring to have this railroad grant in Wisconsin made effectual by the building of the road, we in no way whatever damage the interests of Minnesota or the interests of St. Paul, the great commercial town of Minnesota.

My honorable friend from Minnesota has told us that the State of Minnesota are memorializing to have a railroad route from the headwaters of

Lake Superior through St. Paul to Sioux City on the Missouri, and there connecting with the great railroad route. That proposition is identical with ours, provided you are willing that Wisconsin shall have a share in it as well as Minnesota. The Legislature of Wisconsin are memorializing in the same way, that from Hudson upon the St. Croix through St. Paul to Sioux City there shall be a grant given, which is through Minnesota and through a portion of Iowa, to connect the great railroad route with this very route from Hudson to Superior, thus making the interests of Minnesota and Wisconsin identical and not conflicting with each other. In no narrow policy, but upon broad national grounds, we should thus benefit them both.

Sir, I desire to make no invidious comparisons between these two States, for we are friendly States, neighboring States; but if you look upon the map which I have before me of the amount of railroad grants that have already been given to the State of Minnesota, you will find that her whole territory is covered over with railroad grant lines. She has had up to this day more than twice as many railroad grants as the State of Wisconsin, more than two acres to our one, as any one who will examine the map before me will see. I do not object to it. I presume I voted for most of them myself. As I have already stated, I got such a bill through this body during the last Congress; and had it not been lost in the House of Representatives, as I think by some inadvertence or oversight by those who were interested in the question in not getting it through the committee of the other House, we should have had still another grant, which while it developed, it is true, the little portion of Wisconsin situated on the end of Lake Superior, by running through the very heart of Minnesota from east to west, would develop her resources and put her upon the great northern Pacific railroad line, which one day is to be built, and for which they can always command my influence and my vote.

I desire to state another fact, to which I wish to call the attention of the Senate. It is admitted that shortly after this grant to the State of Wisconsin there came on that tremendous commercial revulsion, from which they did not sufficiently recover in that section to be able to go on with the building of this road until this war began, and the eventualities of the war, the drain upon the resources and the men of that State, have prevented them from going on with the building of the road until within the last one or two years. This company with its interests and its prospective right in this grant has been transferred into the hands of men who are perfectly able and competent to build this railroad, if they desire to do so. This railroad company, or rather the men who purchased the stock and other interest of the railroad company, caused a preliminary survey to be made of both routes, the route from Hudson to Superior and the route from St. Paul over this proposed line in Minnesota, and upon that preliminary survey, it is said, it will cost \$700,000 more to build the road from St. Paul to Lake Superior than it will to build it from St. Paul, construct a bridge across the river, and meet this road at Hudson or at Stillwater, and build it to the headwaters of Lake Superior. The men who have put and are about to put their money into this enterprise were unwilling to invest in it until this preliminary survey was made, and that they became satisfied, as regarded the feasibility of the routes, that the route from St. Paul to the lake was \$700,000 cheaper than the proposed route through Minnesota. They took the road on the faith of that, and upon the survey which they had caused to be made, and have invested their money in it and are going on with the work, and by the terms of the grant of the United States it must be completed within the next two years. They hope to complete a considerable portion of it within the next year. They hope to begin at both ends of this route, both on the navigable waters of the Mississippi at St. Croix going north, and also on the navigable waters of Lake Superior at Superior.

I am informed by a gentleman connected with this road that the men who are interested in it are about to build rolling-mills at the city of Superior, in the State of Wisconsin, to make the iron. Their arrangements are made. Men of interest from Pennsylvania, from New Jersey, and from

New York are going into this to build rolling-mills at Superior that will produce fifty tons of iron per day from the mines which exist within fifteen miles of Superior, some of the best iron mines in the world. The route which they have located goes through the iron mines of Wisconsin, in Douglas county. It is also in the neighborhood of the copper mines in Wisconsin. A question was raised here the other day on the subject of those copper mines. I had not looked into that matter very much, but happening to see my old law partner from the State of Wisconsin, I learned some facts from him on the subject. He told me that about fifteen miles south of Superior a copper mine had been discovered, in which he himself had an interest, from which the percentage produced is as great as in any of the mines in the upper peninsula of Michigan.

There is one other fact which I desire to state, and to which I wish to call special attention. It will be remembered that when Mr. Rice, of Minnesota, was a member of this body, during the last session he was here, he procured the passage of a joint resolution by which the State of Minnesota was authorized to deflect from her northwestern, or what was called her Pacific railroad route at any point between St. Anthony's falls, which are about six or eight miles from St. Paul, and a point where the fourth guide meridian meets the tenth standard parallel, which I should estimate to be about one hundred and fifty miles, by looking at the map, northwest from St. Anthony's falls. At any point between those two points they were authorized to deflect the line of route on to the waters of Superior, and to appropriate so much of the grant of public lands as lay northwest of the point which I last mentioned, the meeting of the fourth meridian with the tenth parallel.

Now, Mr. President, one word in conclusion. About two years remain in which it is to be determined whether this Wisconsin grant shall be perfected by the building of the road. Will not the Senate give them those two years? If they fail to complete their road, let their grant be taken from them and let the grant go on the other side of the river; but so long as it is seen that in good faith they are attempting to build it, I ask is it wise, is it just, is it national, is it for the interest of Wisconsin or the special interest of Minnesota that you shall build or attempt to build up another and a rival line, which commencing at a point fifteen miles distant from the other will terminate at the same place on the lake? Would it be wise in any landholder thus to give away his lands? What is the ground upon which the United States makes these grants? It is upon the ground that the United States is a great landholder, and that by giving away alternate sections of its lands it can increase the value of the remainder for sale in the market. That is the main ground upon which these grants are made. I ask, would it be reasonable, or wise, or practicable for any landholder in order to improve the remainder of his land to give alternate sections of land upon two railroad lines one hundred and fifty miles in length where the termini at one end were fifteen miles apart and at the other came together, when by giving to both and making them rivals perhaps neither would be built, whereas if he gave upon one only it would secure the building of the road?

Let me put a case to my friend from Maryland. Suppose the United States owned all the land between here and Philadelphia, and the proposition was that the United States should give alternate sections of land to aid in the building of a railroad between here and Philadelphia. Suppose they make such a grant upon one route and give the company ten years in which to build the road. Would you give to another company the right to begin at Georgetown and build a railroad to Philadelphia over another route, before the ten years had expired, before the time of the men who had taken the grant, upon the faith of which they had invested their money, was expired? I do not think it would be just.

I do not think any consideration of a national character, I do not think any consideration of the real interests of Minnesota or of Wisconsin demands this additional grant. When we have made a grant to build a road from St. Paul to the headwaters of Lake Superior, it is no harm to Minnesota if the people of St. Paul and the people of Hudson shall ride in the same cars and go over the same road, when the distance is no greater,

and all the estimates are that it can be built much cheaper.

Mr. HARLAN. The concluding argument of the Senator from Wisconsin [Mr. DOOLITTLE] seems to be based on the idea that if this bill shall be passed it will deprive the Wisconsin road of its grant. It will have no such effect. He also argues that this bill should not pass because it will encourage the investment of money in two roads so near each other as to be mutually ruinous to each other. During his speech I sent to the Library for a township map of Wisconsin; and on looking at the lines of railroad through his own State as laid down on that map, I find that the greatest distance between any two parallel roads is about fifty-four miles.

Mr. DOOLITTLE. Not land-grant roads.

Mr. HARLAN. I do not know which of those lines of roads are land-grant roads; but I speak of the railroad policy of the Senator's own State. The question to be decided is whether public policy justifies the Senate in making a land grant to a road through Minnesota so near to a land-grant road in and through Wisconsin, both of which roads would connect the upper waters of the Mississippi river with Lake Superior. On examining the map the committee ascertained that the greatest distance between the two roads was about sixty miles, that at the termini on the Mississippi river and on Lake Superior they came near together, but that the average distance between the two lines would be about as great as the average distance between the parallel lines of road through Wisconsin and other States. Hence the committee did not deem this a sufficient objection, and this I believe is the only reason urged by the Senators from Wisconsin for a reference of the bill back to the committee that they may reexamine the very subject which they have examined thoroughly. If there is any reliance to be placed upon the maps issued by publishers, or those furnished the committee by the General Land Office, which are probably very nearly correct, these two lines of road, if both shall be built, cannot be considered as rival roads in any stronger sense than other railroads now built and in running order through the State of Wisconsin.

Mr. DOOLITTLE. My friend will allow me to say that I admit that fact as to the State of Wisconsin, and I admit for other States the same fact, for I have no doubt it is true, although I know better in Wisconsin than any other State, where they have run a great many railroads and run them as a network together; and I admit another thing, (and my friend may put it down as a universal fact,) that in every case where the roads run so closely together, if the stock has not been sunk altogether, more than three fourths of all the stock and all the capital that the original builders put into the railroads has been sunk, and sunk for the very reason that they are built so close together.

Mr. HARLAN. That is an argument against the whole system. If it is all wrong from the beginning, it would be well perhaps to repeal the laws making these grants and take from Wisconsin and the other States the lands they have acquired to aid in building their various roads.

Mr. DOOLITTLE. These are not land-grant roads in Wisconsin. There are but two land-grant roads in Wisconsin: the one commencing near the middle of the State, going off northwest, the end of which is this one here from Hudson to Superior; and the other land-grant road is in the northeastern part of the State. Our land-grant roads are under the act of Congress of 1856 to which I refer. If you will put your finger on the map you will see in a minute, as I read the route fixed in that act:

"For the purpose of aiding in the construction of a railroad from Madison or Columbus,"—

The Legislature fixed it at Columbus—
"by the way of Portage City,"—

Which you will find about the junction of the Wisconsin and the Fox rivers—

"to the St. Croix river or lake between townships twenty-five and thirty-one,"—

That is, at Hudson—

"and from thence to the west end of Lake Superior and to Bayfield; and also from Fond-du-lac, on Lake Winnebago, northerly to the State line."

These are all the land grants we ever had in the State of Wisconsin; and my friend from Iowa will see that they are hundreds of miles apart at

their northern termini, and probably a hundred miles apart at their southern termini, one running northeast and the other running northwest; but it is true, as my friend says, that all over the southern part of the State of Wisconsin towns and cities and interested men have got up different and rival railroad routes, and have got them so near together that the whole stock has been sunk and wiped out in a majority of them, the railroads gone into the hands of mortgagors and bond-holders, and been the great subject of litigation in our State. The stock has been pretty much entirely sunk because these railroads were located and built so near together that each has devoured the other; and that is the very ground on which, in this comparatively uninhabitable country of the great northwest of our State and the northeast of Minnesota, along up the line of the St. Croix to Douglas county, with a very sparse population as yet; I say it is impossible to suppose that two lines of railroad which begin fifteen miles apart on the waters of the Mississippi and run together to Superior can be paying roads upon the money invested. It makes them of necessity antagonistic and rival to each other, destroying the stock in each; whereas if but one is allowed to be built it may be a good investment, and accommodate the whole public.

Mr. HARLAN. I think the Senator's argument would be a good one if delivered before the Legislature of Wisconsin when charters were pending authorizing companies in Wisconsin to build the roads to which he refers. But it would be difficult to persuade the people of Wisconsin that they have too many railroads. I have shown that the parallel roads now constructed in the southern portion of Wisconsin, connecting the waters of the lakes with the waters of the Mississippi, are nearer together on an average than these two proposed lines of road. The Senator answers that by saying that his State has adopted a bad system. And out of regard for the public interests, he will protect Minnesota from this evil by withholding this proposed grant. But there may be those uncharitable enough to suppose that another reason was quite as potential. The companies that have built the roads through Wisconsin may desire to do the business for Minnesota; but as Minnesota borders on Lake Superior, it is not unreasonable, as it seemed to the committee, that she should desire to connect her system of roads with the waters of the lake through her own State, and not be subject to the tolls and taxes that might be levied on her produce as it passed through the Senator's State. It may be that within the two years next to come Wisconsin may build a railroad from Hudson to the lake, one hundred and fifty or more miles in length; but the committee were of opinion that if both roads should be built they would not be rival roads in such a sense as to justify the committee to report against this grant, that the public reasons were sufficient to justify them in reporting in favor of the grant if it were certain that the Wisconsin road would be built. It was not originally intended that that road should be a monopoly. It was not intended when the grant was made that those possessing the franchise in Wisconsin should have the exclusive right to build a railroad from the Upper Mississippi to Lake Superior. By an examination of the law, the Senate will see that it will not bear any such construction. And yet the substance of the Senator's [Mr. DOOLITTLE's] argument is that because a grant has been made for the construction of a railroad through Wisconsin from Lake Superior to the Mississippi river, therefore no other company, through any other State, should be allowed to build a road within the vicinity of that road.

I have shown that the average distance of the proposed road from the Wisconsin road is as great as the average distance of similar parallel roads leading east and west through his own State that have been built under the direction of his own Legislature. The same is true of other western States. The railroads that have been authorized, and many of them now completed, are located nearer to each other on an average than these two roads will be if both shall be constructed. Hence I see no necessity for referring this bill back to the committee. They have examined the very subject of difficulty with the Senator from Wisconsin, have made up their judgment, and reported to the Senate. There is, therefore, as it seems to

me, no reason for referring it back to the committee. If the Senate should differ with the committee in relation to the policy of the grant, that is another question.

Mr. HENDRICKS. Mr. President, I was very much embarrassed as a member of the Committee on Public Lands in deciding whether I ought to support this bill or not. The considerations that have been so forcibly urged by the Senators from the State of Wisconsin pressed themselves upon my reflections on this subject. But, sir, I became satisfied that the State of Wisconsin had had sufficient time to show the world whether she was going to build a road to Lake Superior or not. It is eight years since the grant was made to that State to build a road from a point on the St. Croix river to Superior and to Bayfield; and although one of the Senators from that State thinks that some progress has been made in the work, I have not been able to satisfy myself that any important portion of the work has yet been constructed. I appreciate the reasons why nothing has been done; but the State of Minnesota has a very large interest in this question. She is entirely an agricultural State, and my position at the head of the General Land Office for a few years enabled me to know that she is one of the richest States of the great Northwest. In a few years, her productions of wheat will not be surpassed perhaps by any State in the Union of her size; and now that her southern market is cut off, and in my opinion must remain cut off for a number of years to come, it is of the first importance that she shall have some outlet to the eastern market other than by the line of railroads by Chicago.

Mr. HOWE. Will the Senator allow me to inquire, if it is proper to give the information, whether there was or was not any evidence before the committee upon that point, as to how much had been done in the execution of this trust created in 1856?

Mr. HENDRICKS. There was some evidence upon the subject, for I had taken a good deal of interest to inform myself in regard to it. There were no witnesses, to my knowledge, before the committee; we made no investigation of that sort; but I have inquired about it since the lands were set apart to the State of Wisconsin at the General Land Office during the time I was at the head of that office, of persons likely to know, and I have been unable to ascertain that anything has been done upon that work except to transfer from one company to another the franchises that were granted by the State of Wisconsin.

I was going on to say that it is of very great importance to the young State of Minnesota that she should have some outlet to a market by the lakes. If I had full confidence that a railroad would be constructed from Hudson or any convenient point on the St. Croix river to either Superior or Bayfield within a reasonable time, I should not support this bill. I do not agree with the chairman of the committee, that it is the policy of the General Government to encourage by donations of the public lands the construction of roads running parallel or having common termini. But I do not have faith that the work through the State of Wisconsin is going to be accomplished. Some two or three years ago I met an engineer—

Mr. DOOLITTLE. My honorable friend will allow me to interrupt him. On that point I made a statement the other day—I do not know whether the Senator was in his place or not—and I stated the means of information that I had from a gentleman who is here. He states to me the fact to be, and I have every reason to believe that his statement is correct, that he has himself personally put into the work \$35,000, and he is under obligations to put in \$150,000 more, and is perfectly able to do it; that twenty miles have been graded; that the ties are out; that five hundred tons of iron have already been purchased; and that they are in process of going on and are to finish within the year a certain number of miles, the precise number I cannot now state, but I think it is some forty-five or fifty miles of the road.

These facts I should like to have presented to the committee, that they may really see whether or not there is a *bona fide* attempt to build this road; and I think if the matter was referred to the committee these facts could be ascertained. I cannot on my own responsibility and of my own

knowledge state the facts; but from correspondence which I have had with gentlemen at Hudson, who are interested in this route, I understand them to be as I have just stated. I admit that after the grant from 1856 down to this war, and for a year after it commenced, hardly anything was done upon the road; but within the last year and a half efforts have been made to construct it, and this gentleman informs me that a company is arranged and the capital agreed upon to build rolling-mills at Superior to make the iron there to put down on this very road, and that they are about to build it. This is what he states to me. I should like to have the committee examine into the facts.

Mr. HENDRICKS. In reply to the question put to me by the Senator from Wisconsin, [Mr. Howe,] I was going on to say in respect to my own information on this question, that two or three years ago I met with an engineer at the city of Indianapolis who said to me that he had been selected by the company as the engineer to locate the road from Hudson to Bayfield and to survey it, and he thought the company then taking charge of the work would be able to construct the road, and he gave me his reasons. They were quite as encouraging as the suggestions now made by the Senator from Wisconsin, [Mr. Doolittle,] that a sufficient capital, perhaps, had been subscribed; at least, that the men who were going into the work were men of capital, and would be able to construct the road. I supposed then that we should soon hear that the work was going on in good faith and rapidly; but I heard no more of it until some time afterwards the franchises were sold by that company to another. I have observed that when a privilege is granted by a State to a company and that company makes a speculation out of the privilege, and then another company does the same, you may give up all hope of the work being very soon constructed. When privileges granted by the Legislature to companies become the subject of trade and speculation, the purpose of really constructing the work is substantially abandoned.

As I said before, I do not have faith in the construction of the road through Wisconsin from Hudson to Superior. I do not think any well-informed company will construct a road from Hudson to Bayfield. In the first place, Bayfield is a point on the lake much nearer the eastern market than Superior. It is a better harbor; it remains open from three to five weeks later in the fall, and is open from three to five weeks earlier in the spring, and the harbor at Superior is so defective that one half the boats that go to the north-western end of Lake Superior cannot make an entrance. When the Senator says that the road is to be constructed not to Bayfield but to Superior, I say that it is a work we need not expect. I do not believe any company that understands its interests will construct a road to Superior. I do not understand that the road from St. Paul north through Minnesota is to go to Superior. The bill before us does not propose that it shall go to Superior, but to some point on the north-western side of Lake Superior, and of course it will be some point where there is a good harbor.

I support this bill with reluctance, as I have said, after my investigations in the committee, because it is of the first importance that the State of Minnesota should have an outlet from her capital to Lake Superior, that the waters of the Mississippi should be connected with Lake Superior. I support this bill because I have faith that the road will be constructed. The State of Minnesota has granted, as I understand and as she informs this body by her memorial, her swamp lands in that portion of the State to aid in its construction; the city of St. Paul, I understand, has agreed to subscribe \$250,000—a very large subscription—toward the prosecution of the work; and then if the company receive the support of this grant, I think that with the benefits which will be derived from it with the swamp lands, and with the subscription made by the city of St. Paul, the road will be constructed, and I think it will be constructed at a much earlier day than the road through Wisconsin. I regret to vote for a bill that conflicts at all with a measure heretofore adopted by Congress; but so important is it to have an outlet to the people of Minnesota, that I, with some reluctance, give my support to this measure.

Mr. WILKINSON. Mr. President, if I thought that the passage of this bill would materially af-

fect the State of Wisconsin, I do not know that I should urge its passage here. I do not know that it would be proper, right, or fair, that one State should ask the aid of Congress in the support of a measure which would materially affect the interests of the people of any other State. I do not believe the passage of this bill will injure the people of the State of Wisconsin. It is true it may somewhat affect the value of the railroad stock of the rival line from Hudson to Bayfield or Superior, in case that road shall be built. I hold in my hand a letter from one of the directors of that road, which I shall read, because the main point of argument urged by the honorable Senator from Wisconsin is that it is unfair to grant aid to a railroad starting from nearly the same point on the Mississippi river and terminating at nearly the same point on the lake. This is a letter from Mr. Rice, who is largely interested in property at Bayfield; I think his main real-estate interests are at Bayfield, in Wisconsin. This letter is written to a friend of mine, who is now in the city, in regard to this road.

Mr. HOWE. What is the date of the letter?

Mr. WILKINSON. St. Paul, February 7, 1864. Mr. Rice is a director of the Wisconsin company who propose to build a road from Hudson in Wisconsin to Bayfield and to Superior, or rather I should say that that is the grant; but I agree with the Senator from Indiana that the purpose is not to make a road to Superior. That is my conviction. I have thought so for a long time. It has been the general understanding in our part of the country that their road, if built, would be built to Bayfield, and not to Superior. In this letter Mr. Rice says:

"I look upon the building of a railroad from here to the head of Lake Superior as a work of great national and State importance. In a national point of view it is second to hardly any enterprise named. Our city and State would upon its completion receive new life and vigor. The road cannot be built for many years without aid from the General Government. I am now and have been always in favor of a land grant for that purpose, and I cannot see why Congress should not give land and money. It is in fact a part of the Pacific railroad, and an important part."

This letter was written in reference to the particular bill which is now before the Senate. Mr. Rice, as I have said, is one of the directors of the Wisconsin road; at least he has been until within a few days, and I presume he is now.

It has been urged by the honorable Senators from Wisconsin that the people of Minnesota will profit just as much by the construction of the Wisconsin road as they will by the building of this road. I think I can convince those Senators that that is not true. In the first place the country above Hudson toward Superior, through which the St. Croix river runs, is so rough that for fifty or sixty miles up that river, from Hudson or St. Paul, no communication can be had which would be practicable to carry the produce of the northern part of our State across to the Wisconsin road. St. Paul, it must be remembered, is one hundred or more miles south of the center of our State north and south. It is much further from there to our northern line than it is to our southern line. Consequently everything raised north of St. Paul would have to run south to St. Paul, and then cross over to Wisconsin, in order to reach the Wisconsin railroad for the lake. The argument of those Senators can only hold good as to the produce which is raised in the immediate vicinity of St. Paul, or south of it; and here I wish to state that there is a road now in progress from the western terminus of the La Crosse and Milwaukee railroad running due west across our State, nearly fifty miles of it completed, running through the richest farming portion of our State, which acts as a feeder to that great Wisconsin railroad.

I have no doubt that the building of the road which is asked for in this bill will affect somewhat the business of the road which the Senators from Wisconsin are laboring so zealously to protect; but I submit that that is hardly a broad enough gauge for a Senator in the Congress of the United States to run upon. I admit that what the Senator from Wisconsin [Mr. Doolittle] has said in regard to the Senators from his State favoring land grants in Minnesota is true. I believe those honorable Senators, as a general rule, have favored measures tending to the advancement of the State of Minnesota; but why do they oppose this proposition? Is it because some men out of Wisconsin are or pretend to be interested in a railroad charter from Hudson to Lake Su-

perior? I understand that those men represent capital in New York and in Philadelphia, and other eastern cities. I do not understand that they are Wisconsin gentlemen. I understand that they are down here now lobbying with Congress to defeat this bill; and why? Merely because one railroad corporation is to be slightly affected by it.

I do not think the honorable Senators from Wisconsin fully understand the difficulties of connecting St. Paul with Hudson by railroad. In the first place, the banks of the Mississippi river at St. Paul are, I think, about two hundred and fifty feet high. The banks of the river St. Croix at Hudson are, perhaps, equally high, and a railroad must run over the high level lands between those two rivers. To get down to the river-bed at Hudson will require a very circuitous route. I do not believe that a railroad between the two places can be built short of twenty-five miles in length, although an air line would not, perhaps, be more than sixteen miles between the two. It would be a very expensive road to build, and when built would only accommodate the country in the immediate vicinity of St. Paul, leaving all that vast region of country north of it entirely without any access either to Lake Superior or to the Mississippi river.

It is said by the Senator from Wisconsin [Mr. Doolittle] that my former colleague, Mr. Rice, procured the passage of a resolution to which the Northern Pacific railroad in Minnesota, as it is called, may swing around, divert its grant (running northward toward the Canada line) from the vicinity of Crow Wing and run to Lake Superior.

Mr. DOOLITTLE. Any point between St. Anthony's falls and Crow Wing; and I understand your Legislature has fixed a point which I believe is called Onoka—I am not familiar with the names.

Mr. WILKINSON. The precise point is immaterial so far as regards what I have to say. The Legislature did pass a law allowing that company to do that in pursuance of the joint resolution of Congress; but during the last session the president of that company visited England for the purpose of buying iron for his road, and he made a purchase, but it was upon the condition that the company should not accept that grant of Congress, and, in consequence of that, the company have not accepted it; and, therefore, so far as that is concerned, that resolution goes for nothing. It was the express condition of the English merchants who sold the iron that the road should continue on, in pursuance of the original grant from Congress, toward the Canada line.

Mr. HOWE. Who is the president of that road?

Mr. WILKINSON. Edmund Rice, Esq., the brother of the late Senator Rice.

Mr. HOWE. Residing at St. Paul?

Mr. WILKINSON. Residing at St. Paul; and the company have not accepted the privilege granted by the resolution passed by Congress to which the honorable Senator [Mr. Doolittle] referred. Hence we have no communication and no provision, as the law now stands, for any communication with Lake Superior.

I have not usually at home advocated the interests of railroad companies gotten up for purposes of speculation, and I think my colleague will bear me out in that statement. If I believed that this was a speculative concern, if it was a company organized for purposes of speculation, I would have nothing to do with it and I would not say one word about it here; but, sir, the interests of our people are deeply concerned in this matter. The people of St. Paul and the country north of it are intensely excited on this very question. They ask for this grant more earnestly than they ask for any other measure affecting their interest which is before Congress or likely to be before Congress during the present year. There is a determination on the part of our people to put their money into this road and build it. We know how difficult it is for new communities like Minnesota to furnish the means necessary to build a railroad; and as this is the shortest and quickest and easiest line of communication to the sea-board, they have asked that this grant may be made.

I suppose that for the first forty miles after leaving St. Paul the company will get no land at all, for I suppose that land was all taken up years ago. After going about forty miles, you come to a lumber country that has not thus far been

settled up very much, but there is through all that country north a series of swamps and marshes rendering the land comparatively valueless unless some communication of this kind can be obtained through it.

I have nothing to say about the propriety of Congress passing this bill, because that matter has been submitted to the appropriate committee, the Committee on Public Lands, and the propriety of this measure has been so ably defended by members of that committee that I do not think it is worth while for me to say anything about it. I must insist, however, that the argument urged by the honorable Senators from Wisconsin that their road from Hudson is just as favorable to Minnesota as this one running from St. Paul to Superior is unsound in fact, and anybody looking at the map of our State will see that it cannot be so. Besides, if we take our wheat, for instance, from St. Paul across to Hudson, there must be a reshipment at Hudson, and everybody knows that a reshipment will enhance very much the cost of transportation.

For the reasons which I have stated, I hope that this motion to recommit may not prevail, particularly when the honorable chairman of the Committee on Public Lands opposes the motion, but that a vote may be had on the bill, and that it may be promptly disposed of.

Mr. HENDRICKS. Since I took my seat, one of the Senators informs me that I was mistaken in regard to the character of the harbor at Superior; I never was there personally; but the Senator to whom I allude informs me that he was there, and that it is a very good harbor indeed. As that point is not at all material in respect to this measure, I wish to make this explanation, and to withdraw what I said before in respect to the character of that harbor.

Mr. WILKINSON. I will say a word in regard to the remark just dropped by the Senator from Indiana. I think he is partially mistaken; but at the same time I think he is correct in the statement that Bayfield is a much better harbor. It is protected by a number of islands that lie out in the lake, and I suppose it is one of the best harbors on that lake or anywhere else.

Mr. HOWE. Mr. President, if I had failed to convince myself that this bill ought to be re-committed to the Committee on Public Lands, the Senator from Minnesota, [Mr. WILKINSON,] and especially the Senator from Indiana, [Mr. HENDRICKS,] would have convinced me beyond all room for doubt. The Senator from Indiana takes precisely the view of the expediency of this kind of legislation that I have presented. He says that if there is a railroad in progress of construction, and with a fair promise of being built, between Hudson and Lake Superior, this grant ought not to be made, because it will interfere with the success of that enterprise and will endanger its success, that it is a wrong to it, and he would not favor the grant; but he assumes and he says that he could obtain no information satisfactory to him that there was any fair probability of that road being built. I put the question to him if there was any evidence before the committee on that point, and he said no. Now, let me say to the Senator that at that period of time I was precisely as ignorant on this point as any man could be; I had no information whatever in regard to it. Those represented in the Hudson and Superior road were not represented before the committee; they were not represented before this Congress. I knew nothing about it. Since that time I have received information which I do believe, which I do credit, and I am told that if this matter can be re-committed to that committee the evidence verifying the information which I have, and which I have stated to the Senate, will be produced; and then if that should turn out so, the Senator from Indiana is precluded, by his own views of propriety stated here, from supporting this bill. I ask that the bill be sent to the committee that they may be able to tell us upon testimony when it comes back here whether there is a fair probability of that road being built or not.

The Senator says that eight years have transpired; he says he appreciates the difficulties which have stood in the way of the building of the road down to this time, and notwithstanding these difficulties he thinks eight years are sufficient to have built the road. Mr. President, when you made that grant, you told the State of Wisconsin that

she might have ten years to build the road, and the ten years are not out. Upon a mere assumption, when you are told that the road is in progress of being built, upon a mere suspicion or surmise that Wisconsin will not complete the road in the other two years, are you going to forfeit the franchise and the grant? I do not think that is correct legislation.

Another reason the Senator from Indiana assigns why he distrusts the completion of the road from Hudson to Superior: he assumes that no company which understands its interests will build a road to Superior when it has the right to build a road to Bayfield, because he says Bayfield has the best harbor. Well, I put this question to the Senator from Indiana: will not a road from Hudson to Bayfield accommodate the trade of Minnesota as well as a road from Hudson to Superior, if it strikes a harbor further east and strikes a better harbor?

Mr. HENDRICKS. Certainly.

Mr. HOWE. Then if there is a probability of the road being built to Bayfield that is as good a reason against making this grant, on the Senator's own views of policy, as would be the probability of building a road from Hudson to Superior.

The Senator says that the harbor at Superior is an insufficient one, a poor one; but he partially retracts that statement. I have stated the fact to the Senate that upon my information the Minnesota road is intended to terminate at that very harbor, the harbor of Superior, and that Minnesota is struggling to get a cession of that portion of our State in order to give her a harbor within her own State. I have not heard that statement contradicted; no Senator tells me that I am misinformed on that point; and I think, therefore, the very reasons urged here by the Senator from Indiana ought to be conclusive upon the Senate in favor of the recommitment of this bill.

Now indulge me in but a single word in reply to the Senator from Minnesota [Mr. WILKINSON.] He ventures to say that our opposition to this grant runs on rather a too narrow gauge for Senators of the United States. I am obliged to say to my friend from Minnesota that he and I differ widely as to what is the proper gauge for a Senator of the United States to run upon. I concede as readily as he asserts, that a Senator ought not to run on a very narrow one, but on a broad gauge; but he and I differ materially as to what a broad gauge is.

What is the attitude of Minnesota? She comes in here and says, "We want an outlet for our products; we want to go to Lake Superior." "Very well," we say, "you have an outlet now being built for you under a grant made years ago; can you not come over it; it runs a little to the east of your line; can you not come over that?" "No; that is a narrow gauge." "Very well," we say, "you have another grant running through your own State; you have a road already built from St. Paul up to the mouth of Rum river along the valley of the Mississippi, running toward Lake Superior, and you have a right already to swing your northwest road from any point between St. Anthony and Crow Wing and run it to Lake Superior." In other words the law says to St. Paul—I do not mean the apostle, Mr. President, I mean the town of that name—"if you will consent to go to Lake Superior by way of Hudson, you can go along; the grants are already made; the roads are already being made." It says to St. Paul, "If you will consent to go to Superior, taking any point on the Mississippi above St. Anthony in your path, you can go; the rights are already conceded, the roads already being constructed," and the cars are actually running about thirty miles on that line, I am told. "No; we cannot go that way, that is a narrow gauge; put us right on this peninsula; start us from the town of St. Paul; give us a track by ourselves right along through this country," which, says the Senator from Minnesota, is a waste, a desolation, a desert uninhabited and uninhabitable, valueless, worth only fifty cents an acre—"give us a track over that; that is the broad gauge that suits us."

If that suits the idea of the Senate as to what a broad gauge is or ought to be, I acquiesce, of course, but it is not my notion. I think St. Paul, whether the apostle or the town, can afford to go to Superior by the way of the mouth of Rum river; or by the way of Hudson on the St. Croix river;

and the State of Minnesota would not be dwarfed by taking either track; but the State of Minnesota would be developed by taking it, especially by taking the western one.

Mr. WILKINSON. Mr. President, I am a little surprised that so much feeling should be manifested by the honorable Senator from Wisconsin, [Mr. Howe.] I am perfectly willing that he shall have his road if he can get it built; but the grant for it was made eight years ago, and I venture to say there has not been a cross-tie laid on that road yet, and I venture to say that there has not been one solitary mile of that road built. Does he ask us to wait eight or ten years more?

Mr. HOWE. No, sir.

Mr. WILKINSON. Does he ask us to continue to pay a tribute to railway companies of twelve cents a bushel over and above what we could get our wheat carried for a few years ago? A part of our State is now supporting the road from La Crosse to Milwaukee, one hundred and eighty miles, with our wheat that we are sending over it. I am very glad that the prosperity of Wisconsin is so great. She has nearly a million people. She has Lake Michigan on her whole eastern border. She is geographically better situated than almost any other State in this Union, certainly as well situated as any of the western States except, perhaps, Michigan; with that exception she has more natural advantages and easier communication with the sea-board than any other western State. With these natural facilities, and in view of what has been granted to that State heretofore by Congress, and her great prosperity, I am a little surprised that her Senators should exhibit so much feeling against this measure which proposes to aid a road from St. Paul one hundred and forty miles to Lake Superior.

The Senator seems to think that our interests will be greatly subserved by going over the Wisconsin road. I submit whether he will not allow the people of Minnesota to judge for themselves. If such a measure as this should come here from Wisconsin, and they were to ask for aid from Congress, I do not think I should dictate to the honorable Senators from Wisconsin what it was for the interest of the people of Wisconsin to do; but I would take the opinion of their representatives here on such a question.

I will not detain the Senate any further than to say that the people of our State have taken up this measure in sober earnest, with the intention of putting their money into this road and building it, and if Congress will aid the State by passing this bill they will be very glad of it.

Mr. DOOLITTLE. Mr. President, I shall not take up the time of the Senate. I wish to come to a vote on this question, and first to say a single word in reply to the Senator from Indiana. He seems to state that nothing has been done toward the building of the Wisconsin road; he seems to state that if he were assured that that road was about to be built in good faith, he should oppose the granting of land to another rival road substantially over the same route. Now, sir, I understand the fact to be that if the bill be committed to the committee it will appear to the satisfaction of the committee that a large amount of capital has already been invested in that road, and its resources are in such a condition as to insure its completion.

I will state another fact, which did not occur to me when he was on the floor before, and which my colleague also forgot to state; and that is that our Legislature is passing laws authorizing the various counties along the line of road from Hudson to Superior, as counties, to loan the credit of the counties in the construction of the road. That is an additional fact that I presume the committee knew nothing about.

The truth is that the question about this grant went before the committee, and the Wisconsin side of the question was never heard before the committee at all. It is true, as the members of the committee say, they knew what laws had been passed by Congress; and they had the laws before them; and they raised the same question among themselves about the propriety of this grant; but as to there being any facts before the committee as to what Wisconsin had done, or those who act under the authority of Wisconsin had done, there was no evidence whatever before the committee. I suggest is it not fair and just that the committee should hear this? The Sen-

ate, situated as we are, cannot get hold of those facts and consider them in open session as well as they can be considered in committee. Besides that, sir, I have not become so possessed of the facts myself that I can state to the Senate precisely the condition of the question. I want it to go to the committee that they may learn the precise facts, and have the evidence before the committee to know how far capital has become invested, how far vested rights may be injured by this rival grant; and this, it seems to me, is asking but little. Wisconsin does not ask anything more than it has a right to ask, that its side should be heard in the committee, and the facts really presented; and that is the question pending on this motion to recommit. I know a committee are always reluctant to have this labor imposed on them; when they have once had a question before them, they are very glad to get rid of it and have it brought before the Senate; but, after all, if there are gentlemen connected with this road who can give them direct and positive information as to the condition of its resources, how far they have proceeded in building the road and complying with the terms of the grant, it seems to me it would be very unjust not to allow them to be heard and let the facts come before the committee. All that has been considered before the committee as yet really has been the question of law, the law of the case, not the facts of the case, and it is the facts of the case that want to be considered.

One word more I desire to say to my honorable friends from Minnesota. We are as anxious as they to connect the navigable waters of Lake Superior with the navigable waters of the Mississippi by every railroad route and by every water route possible, and it is from a national interest as well as a State and local interest; but I say to my honorable friends who represent Minnesota on this floor, that the proposition introduced into this body and referred to the Committee on Military Affairs, to open a water route through the Wisconsin and Fox rivers to Green bay, is a question of more interest to Minnesota and to Iowa than all the railroads put together; because when from St. Paul the steamboats that load on the banks of the Mississippi can go themselves to the navigable waters of the lakes, when produce can be shipped to Green bay in the same steamers that go to St. Paul, as it can be by an expenditure not exceeding \$2,500,000, the producing interests of Minnesota and of northern Iowa are more interested in it than they are in all the railroads that can be built across Wisconsin, because the water will float the produce so much cheaper, and there can be no monopoly upon a water route of communication; and this very opening of a water route is what is necessary to prevent the monopolies in the railroad routes.

At the same time I do not object to your communication between St. Paul and Lake Superior, nor do I object to a communication through the State of Minnesota to Superior. The law now, under the resolution which Mr. Rice, as Senator from Minnesota, got through this body the last session he was here, authorizes the building of a railroad to Superior to connect with a route leading to St. Paul at any place between St. Anthony (which is only eight miles west of St. Paul) and Crow Wing. They can choose their own line. Go eight miles further west than St. Paul, and you have already a right to build a road and have a land grant over it. That is the law of Congress as it stands now; but will you make another railroad grant, bringing it still nearer the grant which was made to Wisconsin?

Speaking of the railroad grants to Wisconsin, I presume to say now that I was altogether mistaken when I was on the floor before in stating that Minnesota had two acres to our one. I presume, from looking over the maps, that she has had more than five acres granted by the United States to aid in the construction of railroads, to one that Wisconsin has had.

Mr. President, I hope this bill will be sent to the committee, and let all these facts be heard there. Let the committee get the definite facts, sworn testimony if you please, in relation to what has been done on this road.

Mr. RAMSEY. Mr. President, I trust Senators will recollect that the people of Minnesota who come here through their Legislature, they and their Legislature understanding all the facts, are not here asking a donation of land in the State of Wisconsin.

It is in the State of Minnesota that we ask for a grant of lands. Is it not surprising that we should meet with this opposition on the part of the State of Wisconsin, as though we were trying to invade that State and asking for her lands? Is it an unfair thing for us to ask that we may have within our own State a connection between the navigable waters of the Mississippi and the navigable waters of the lake? Is it unreasonable? Our immense system of railroads is just beginning to be developed in Minnesota, and upon various parts of it we have thirty or forty miles of railroad already completed, and the measures are in active operation for its further completion; and is it not a fair and proper thing that at this point of concentration of all these roads we should have within our own State an outlet to Lake Superior? Is it not a most unreasonable thing to attempt to deny it to us?

Mr. FOSTER. Mr. President, I confess that my impressions are in favor of the bill reported by the committee; and if it be pressed to a vote now, as at present advised I shall vote for it. But the honorable Senators from Wisconsin, both of them, urge with great earnestness that there are facts in this case which have not been presented before the committee who reported the bill, and which they have had no opportunity as yet to present. The committee are not, as, of course, no committee is, disposed to take back a bill which they think they have examined; but still, if these Senators are of opinion that they have important facts not yet presented to the committee, it seems to me but just that they shall have an opportunity to submit them. It can delay the bill but for a very short time. It will be in the power of the committee to report it again, even to-morrow. If the Senators from Wisconsin have not the facts ready, and are not prepared to furnish them to the committee within such reasonable time as the committee think they ought to do so, of course the bill can come back at once. If they present them, and if, on considering them, no alteration is produced in the opinion of the committee, they can again report the bill, and the Senate can act upon it. The delay will be very short, and it seems to me better, under the circumstances, that the bill should go back rather than be pressed to a vote now.

The Senate seems very thin, and a division may not result in the passage of the bill, even if a majority of those present are in favor of it. I suggest that it would be advisable at least to recommit the bill.

Mr. HARLAN. I wish to state that the very question about which the argument has been presented was the very first question submitted by the chairman of the Committee on Public Lands to the committee for its consideration. The first leading question submitted to the committee by the chairman was whether the existence of the grant in Wisconsin ought to weigh against a favorable report of the bill sent to the committee; and then the second question submitted by the chairman was whether the resolution to which Senators have referred, authorizing the diversion of another grant of land in Minnesota, was of sufficient importance to justify them in reporting unfavorably. The committee, after considering both of these questions in their order, decided in favor of reporting the bill favorably.

Mr. HOWE. Let me remind the Senator that at the time the committee passed upon those questions, it is very evident they passed upon them on the assumption that nothing had been done toward building the Hudson and Superior road.

Mr. HARLAN. Not that nothing had been done, but that not very much had been done. Yet, as I stated before, I think from the indications of the committee they would have reported favorably if that road had been completed and in running order. At least my vote would have been so given. I acted on the ground that the road through Wisconsin would not be built; but if it should be, nevertheless Minnesota had a right to this grant under the policy that has been adopted by Congress.

The VICE PRESIDENT. The question is on the motion to recommit the bill.

Mr. HOWE. I ask for the yeas and nays. The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 29; as follows:

YEAS—Messrs. Davis, Dixon, Doolittle, Foster, Harris, Howe, Morgan, and Sherman—8.

NAYS—Messrs. Anthony, Brown, Buckalew, Canale, Chandler, Conness, Cowan, Foot, Grimes, Harding, Harlan, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Pomeroy, Powell, Ramsey, Riddle, Sumner, Van Winkle, Wade, Wilkinson, Willey, Wilson, and Wright—29.

So the Senate refused to recommit the bill.

Mr. DOOLITTLE. I move now that the further consideration of the bill be postponed until Thursday next, in order that I may produce the facts bearing upon this question before the Senate, as I cannot get it sent to a committee.

Mr. RAMSEY. I trust the Senator for a moment at least will withdraw the motion, to enable me now to present my amendment.

Mr. DOOLITTLE. I have no objection to that, certainly.

Mr. RAMSEY. I now propose to amend the amendment of the committee in the first section by striking out all after the word "thereof," in the thirteenth line, and insert what I send to the Chair.

Mr. DOOLITTLE. As I have moved that the bill be postponed until Thursday next, let an order be made to print the amendment.

Mr. RAMSEY. It has been printed.

Mr. WILKINSON. I understand that there are some amendments which the chairman of the Committee on Public Lands will offer to the bill, and I suggest to the Senator from Wisconsin to waive this motion to postpone for the present, and let the bill be perfected.

Mr. DOOLITTLE. I may desire to offer amendments myself to the bill.

Mr. WILKINSON. The Senator can do it when the bill comes up. I hope he will allow the amendments of the chairman of the committee to be acted upon by the Senate now.

The VICE PRESIDENT. The question is on the motion of the Senator from Wisconsin to postpone the further consideration of the bill until Thursday next.

The question being put, there were, on a division—yeas 15, nays 14; not a quorum voting.

Mr. DOOLITTLE. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILKINSON. On consultation with my colleague, we waive all objection to the postponement of the bill, as that seems to be desired by some of its friends.

Mr. DOOLITTLE. If that be the case, I am willing to withdraw the call for the yeas and nays.

The VICE PRESIDENT. The fact appears by the last division that the Senate is without a quorum, and it cannot proceed with business until the fact appears that there is a quorum present. The Secretary will therefore call the roll on the motion to postpone.

The question being taken by yeas and nays, resulted—yeas 27, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Canale, Conness, Cowan, Davis, Dixon, Doolittle, Foot, Foster, Grimes, Harris, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Powell, Riddle, Sherman, Willey, Wilson, and Wright—27.

NAYS—Messrs. Chandler, Harding, Harlan, Hendricks, Nesmith, Ramsey, Sumner, Van Winkle, and Wilkinson—9.

So the motion to postpone was agreed to.

PAY OF COLORED TROOPS.

Mr. WILSON. I move to take up the bill (S. No. 145) to equalize the pay of soldiers in the United States Army.

The motion was agreed to.

Mr. WILSON. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, March 7, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of Saturday last was read and approved.

CALL OF COMMITTEES.

The SPEAKER stated the business first in order to be the call of committees for reports for reference, not to be brought up again by a motion to reconsider.

The list of committees was called over, but no reports presented.

CALL OF STATES FOR RESOLUTIONS.

The SPEAKER stated the next business in order to be the call of States in their inverted order, commencing with the State of Ohio, for resolutions and the introduction of bills.

COMMITTEE ON ENROLLED BILLS.

The SPEAKER. The Chair is informed by the Clerk that both members on the Committee on Enrolled Bills are absent from the House. The Chair asks the privilege of appointing a committee temporarily for the examination of bills.

No objection being made, the Speaker appointed Mr. PIKE and Mr. MCKINNEY.

DICTIONARY OF CONGRESS.

Mr. SPALDING submitted the following preamble and resolution, and on their adoption demanded the previous question:

Whereas doubts exist in respect to the binding force and efficacy of either of the resolutions of this House passed on the subject of the Dictionary of Congress during the present session: Therefore,

Resolved, That the resolution providing for printing said work, passed February 12, 1864, be, and the same is hereby, affirmed as the resolution of this House in all particulars, save only the price thereof, which is hereby limited to the sum of one dollar per copy.

On seconding the demand for the previous question, the vote was—ayes 34, noes 18; no quorum voting.

Mr. BEAMAN moved that there be a call of the House.

The motion was agreed to.

The roll was accordingly called over, and the following members failed to answer to their names:

Messrs. William J. Allen, Anderson, Baxter, Blaine, Clay, Cobb, Cravens, Henry Winter Davis, Dawson, Edger-ton, English, Fenton, Frank, Gooch, Grider, Griswold, Hall, Benjamin G. Harris, Higby, Holman, Hotchkiss, Jenckes, Philip Johnson, Orlando Kellogg, King, Le Blond, Littlejohn, Long, Longyear, Lovejoy, Marcy, Marvin, McAllister, McDowell, McIndoe, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Patterson, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, Edward H. Rollins, Scofield, Sloan, Stobbins, John B. Steele, William G. Steele, Strouse, Thomas, Ward, Elihu B. Washburne, Chilton A. White, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman.

The Speaker announced that one hundred and eighteen members—a quorum—had answered to their names.

Mr. STILES moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

The question recurred on seconding the demand for the previous question.

The House divided; and the vote stood—ayes 52, noes 43.

Mr. MORRILL called for tellers.

Tellers were ordered; and Messrs. MORRILL and SPALDING were appointed.

The House again divided; and the tellers reported—ayes 55, noes 40.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. MORRILL moved to lay the resolution on the table; and on that motion called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 46, nays 63; as follows:

YEAS—Messrs. Allison, Arnold, Ashley, Baxter, Beaman, Jacob B. Blair, Boutwell, Ambrose W. Clark, Freeman Clarke, Donnelly, Briggs, Dumont, Eckley, Eliot, Farnsworth, Grinnell, Holman, Asahel W. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Loan, McBride, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Orth, Perham, Pike, Price, John H. Rice, Schenck, Scofield, Shannon, Smithers, Stevens, Upson, Van Valkenburgh, William B. Washburn, Wilder, Wilson, and Windom—46.

NAYS—Messrs. James C. Allen, Alley, Ancona, Anderson, Bailly, Augustus C. Baldwin, John D. Baldwin, Francis P. Blair, Bliss, Brandegee, Brooks, Broomall, William G. Brown, Chandler, Coffroth, Cox, Creswell, Dawson, Deming, Dixon, Eden, Eldridge, Finck, Ganson, Garfield, Hall, Harding, Harrington, Charles M. Harris, Herrick, Hutchins, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Mallory, McKinney, Middleton, William H. Miller, Moorhead, Morrison, Noble, John O'Neill, Perry, Pruyn, Alexander H. Rice, James S. Rollins, Ross, Scott, Smith, Spalding, Starr, Stiles, Stuart, Sweet, Thayer, Voorhees, Wadsworth, Whaley, Joseph W. White, and Williams—63.

So the resolution was not laid on the table.

During the call of the roll,

Mr. SMITH stated that his colleague, Mr. RANDALL, was confined to his room by sickness.

Mr. VAN VALKENBURGH stated that his

colleague, Mr. FENTON, was detained from the House by indisposition.

Mr. ANCONA stated that his colleague, Mr. STROUSE, had been called home on important business.

Mr. LAW stated that his colleague, Mr. EDGERTON, was detained from the House by sickness.

Mr. WEBSTER, not being within the bar when his name was called, asked leave to vote.

Mr. MORRILL objected.

Mr. LONGYEAR, not being within the bar when his name was called, asked leave to vote.

Mr. STILES objected.

The vote was then announced as above recorded.

The question recurred on the adoption of the resolution.

Mr. MORRILL called for the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 49; as follows:

YEAS—Messrs. James C. Allen, Alley, Ancona, Anderson, Bailly, Augustus C. Baldwin, John D. Baldwin, Francis P. Blair, Bliss, Brandegee, Brooks, Broomall, William G. Brown, Chandler, Coffroth, Cox, Creswell, Dawson, Deming, Dennison, Dixon, Eden, Eldridge, Ganson, Garfield, Hall, Harding, Harrington, Charles M. Harris, Herrick, Hutchins, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Mallory, McKinney, Middleton, William H. Miller, Moorhead, Morrison, Noble, John O'Neill, Perry, Pruyn, Alexander H. Rice, James S. Rollins, Ross, Scott, Smith, Spalding, Starr, Stiles, Stuart, Sweet, Thayer, Voorhees, Wadsworth, Webster, Whaley, Joseph W. White, Williams, and Wilder—65.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, Baxter, Beaman, Jacob B. Blair, Boutwell, Ambrose W. Clark, Freeman Clarke, Dawes, Donnelly, Briggs, Dumont, Eckley, Eliot, Farnsworth, Grinnell, Holman, Hooper, Asahel W. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Loan, Longyear, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Orth, Pendleton, Perham, Pike, Price, John H. Rice, Schenck, Scofield, Shannon, Smithers, Stevens, Upson, Van Valkenburgh, William B. Washburn, Wilson, and Windom—49.

So the resolution was adopted.

Before the vote was announced;

Mr. MCBRIDE, not being within the bar when his name was called, asked leave to vote.

Mr. STILES objected.

Mr. COLE, not being within the bar when his name was called, asked leave to vote.

Mr. STILES objected.

The vote was then announced as above recorded.

Mr. SPALDING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. FARNSWORTH. I give notice that when Illinois is again called I shall introduce a resolution repealing the one just adopted.

EXCHANGE OF PRISONERS.

Mr. COX. I submit the following resolution, and demand the previous question on its passage:

Resolved, That the President communicate to this House what steps, if any, he has taken, or is now taking, for the exchange of prisoners; and that, if compatible with the public service, he communicate all unpublished correspondence in relation to such exchange.

On seconding the demand for the previous question, on a division there were—ayes 36, noes 55.

Mr. DAWES. I propose to debate the resolution.

Mr. ANCONA. I move that the resolution be laid upon the table, in order to get a vote on it.

The SPEAKER. Debate arising, the previous question not having been seconded, the resolution must lie over.

Mr. COX. I demand tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. Cox and Dawes were appointed.

Mr. COX. I will so modify my resolution that it will read, "this information shall be furnished if not incompatible with the public interest." We want to know what is going on in reference to the exchange of prisoners.

Mr. DAWES. I have entire confidence in the military arm of the Government in reference to this matter, quite as much, at least, as in our own competency.

Mr. COX. I do this on behalf of the prisoners of war and their friends at home.

Mr. DAWES. I think that the interests of the

prisoners of war are safer in the hands of the Department than in ours.

On seconding the demand for the previous question, the tellers reported—ayes forty-four.

Mr. SCOTFIELD. Does not the resolution lie over if objection be made?

The SPEAKER. It does, as it is a call on one of the Executive Departments.

Mr. STEVENS. Then I object, and it must go over.

The SPEAKER. The House is now dividing.

Mr. GRINNELL. I rise to a point of order. The resolution is objected to, and it must go over, and I ask that further division be suspended.

The SPEAKER. The Chair knows of no way by which a division of the House can be interrupted, except by unanimous consent.

The tellers reported—noes fifty-six.

So the previous question was not seconded.

Mr. DAWES. I propose to debate the resolution.

The SPEAKER. Then it goes over, under the rule.

TRIAL OF JAMES M. HUNT.

Mr. MORRIS, of Ohio, submitted the following resolution, on which he demanded the previous question:

Resolved, That the Secretary of War be requested to communicate to this House all the testimony and proceedings before a military commission which convened at Norfolk, Virginia, on the 28th day of December, 1863, for the trial of James M. Hunt, late master of transportation and superintendent of vessels in the quartermaster's department of the department of Virginia.

Mr. SCOTFIELD. I object to the resolution.

The SPEAKER. Being a call on one of the Executive Departments, it must lie over under the rule, objection being made, even after the call for the previous question.

MAIL SERVICE.

Mr. ALLEY. Has the morning hour expired?

The SPEAKER. It has.

Mr. ALLEY. I ask the unanimous consent of the House to report back from the Committee on the Post Office and Post Roads House bill No. 142, to provide for carrying the mails from the United States to foreign ports, and for other purposes. It is of great importance to the Department and the country, and will elicit, I think, little or no discussion.

Mr. LOAN. I object.

Mr. ALLEY. I move to suspend the rules for the purpose indicated.

The rules were suspended, and the report was received.

Mr. ALLEY. Mr. Speaker, the first section provides that all steamers and sailing vessels owned by citizens of the United States shall be compelled to carry the mails from any port in the United States to any foreign port, or from any foreign port to any port in the United States, for such reasonable compensation as may be allowed by law. The Committee on the Post Office and Post Roads thought this provision was just and proper, inasmuch as they receive the protection of the United States Government at a vast expense, and it is no more than what should be required of them that they should be compelled to perform this service for the Government. This is in accordance with the recommendation of the Department, and has received, I believe, the unanimous consent of the committee.

The second section provides suitable penalties for the enforcement of the provisions of the first section.

The third section authorizes the Postmaster General to make contracts to continue, not exceeding four years, for the transportation of all mailable matter other than letters, and of such letters as may be so directed, by the isthmus or the Nicaragua routes, provided the expenditure for the service shall not exceed \$160,000 per annum. And in case more than one company is engaged in rendering this service, the Postmaster General shall determine the proportion of this sum which shall be paid to each.

At the present time the Department have contracted for carrying the mails by the overland route at an annual expense of \$1,000,000. The newspaper mail and matter other than letters are conveyed by sea at a compensation, I believe, of \$160,000 per annum to the parties carrying it. That service at present is contracted for by the

contractors who carry this overland mail for \$1,000,000. The Department thought it would be better for the Government to contract directly for this sea service, which they then would have exclusive control and jurisdiction over the whole matter. I think there can be no objection to this provision.

The fourth section provides that all mailable matter which may be conveyed by mail westward beyond the western boundary of Kansas, and eastward from the eastern boundary of California, shall be subject to prepaid letter postage rates. That provision is necessary to obviate this difficulty: a great quantity of heavy mail matter is now sent by the overland mail which should go by sea. The additional proviso is to prevent re-mailing from different points in the Territories on this side, and on that side in the same manner, by which the Government would be compelled to carry a great deal of mail matter over this route by this dodge which ought to go by sea. There is, however, a provision in the proviso to that section which gives to the publishers of papers the right to send by this overland mail copies of their papers to *bona fide* subscribers between the intermediate points I have mentioned, at the usual rates.

The fifth section provides that the Postmaster General may, if he shall deem it for the public interests, enter into contracts for any period not exceeding one year, for the transportation of the mails in steamships, by sea, between any of the ports in the United States; and that the sea service already performed by his order on the Atlantic coast and Gulf of Mexico be paid for out of any moneys appropriated for the service of the Post Office Department; also for such service already performed upon the Pacific coast a sum not exceeding \$1,500, to be paid for out of any money appropriated for the service of the Post Office Department. This provision legalizes the transportation of mails by sea, which has been performed for the last year upon the Atlantic coast to New Orleans, and other places where there has been no opportunity to send the mails by land. Under the existing laws the Sixth Auditor refused to pay the bills which have been allowed by the Postmaster General for that service, upon the ground that existing laws did not provide for any such payment. In that opinion the First Comptroller accords, and there being no appeal except to Congress the Department was obliged to come here and ask additional legislation, giving the Postmaster General the power to employ this service, and instructing the Department to pay for it. That is a service which everybody will see must be performed; and no objection exists to the payment of this money upon the part of the Auditor, as I understand it, except that he believed he had no authority under the existing law to pay it.

The \$1,500 provided to be paid to the contractors for sea service upon the Pacific coast is a sum which the committee believe sufficient to pay for all the service rendered. The claim, in the first place, was for \$24,000. The Post Office Department cut it down to a much smaller sum. The Committee on Post Offices and Post Roads deemed the service of such a character that \$1,500 would be sufficient to pay for it, and they accordingly reported that sum, believing that amount to be as much as the service was worth.

Section six provides that if any person or persons shall paint, print, post, or in any other manner place upon, or attach to, any steamboat or other vessel, or any stage-coach or other vehicle, which steamboat or other vessel, or stage-coach or other vehicle, is not actually used in carrying the mails of the United States, the words "United States" mail, or any other words, letters, or characters of like import; or if any person or persons shall give notice, either by publishing in any newspaper or otherwise, that any steamboat or other vessel, or any stage-coach or other vehicle, is used in carrying the mails of the United States, when the same is not actually so used, every person so offending or willfully aiding or abetting therein, shall, on conviction thereof in any court of competent jurisdiction, be fined in any sum not less than \$100 nor more than \$500 for every such offense; one half for the use of the United States and the other half to the use of the person informing and prosecuting for the same.

This provision is necessary because a great many vessels on the western waters have been in

the habit of putting on their sides the words "United States mail." In consequence of that, they have received the large benefits growing out of the fact that the public believe that those vessels and steamers which are intrusted with the United States mails perform more regular and speedy service and are more safe than other vessels. Therefore the Government of the United States has been robbed to that extent of what we believe to be its just capital, and this provision is inserted here to obviate that difficulty and prevent these people from using the name of the Government in that way for their own private benefit. It is considered upon the western waters in some places of so much consequence that the Postmaster General has been able to get the mails carried for nothing on account of the advantages growing out of this privilege, but if the privilege is used as it has been in many quarters, why, of course, the benefit which the Government derives from that cause will be destroyed. I presume there will be no objection to this provision, and if no further explanation is required I will move the previous question.

Mr. LOAN. I ask the gentleman from Massachusetts to withdraw that demand for a moment.

Mr. ALLEY. I withdraw it for a moment to hear a suggestion from the gentleman from Missouri.

Mr. LOAN. This is a matter that interests us in the western country very much, and we desire to have a brief period of time to consider the matter. It is proposed to offer some amendments that are not now ready. It was expected that this measure would come up in the regular order of business, and not under a suspension of the rules.

There is also a provision in this bill for the payment of some private claims, and I understand that the bill, as read by the chairman of the Committee on the Post Office and Post Roads, limits the amounts to be paid to \$1,500. The copy of the bill I have does not contain that limitation.

We desire an opportunity to prepare ourselves for the consideration of this matter. It comes up in an unexpected form and at an unexpected time, when we are not prepared to meet it, and I hope, therefore, that the previous question will not be sustained at this time.

Mr. ALLEY. I would be glad to give way to the gentleman from Missouri for any amendments he may desire to offer; but this is an important bill, and one which the Post Office Department desire to have passed at an early day. It should, in fact, have been passed long ago, and I think there can be no objection to it. It is a measure which has been thoroughly matured, and which has received the approbation of the Post Office Department and the unanimous approval of the Committee on the Post Office and Post Roads.

If the gentleman wishes further legislation on the point suggested, he can have it done in a future bill. We shall be reporting other measures connected with this subject; but I do think it very important to the interests of the country, and particularly of the Pacific coast, that this bill shall be acted on at the present time. I must therefore insist upon the demand for the previous question.

Mr. BENNET. I hope the gentleman will give way to me for a moment.

Mr. ALLEY. I yield to the gentleman for a question or a suggestion.

Mr. BENNET. The gentleman says that there is a necessity for the immediate passage of this bill. I would like to ask the gentleman what is the necessity so urgent that this bill cannot be put off for a few days and acted upon hereafter when gentlemen are prepared to present their amendments?

Mr. GRINNELL. With the permission of the gentleman from Massachusetts, I will say that the Postmaster General states distinctly that without this legislation he is left at the mercy of a combination of contractors, and that it is absolutely necessary for the good of the service that this bill should pass, and pass immediately. I think that will be answer enough to the gentleman man from Colorado, without going into details.

Mr. BENNET. I wish to inquire of the gentleman from Iowa why it is that the proposal for bids on this overland route have recently been withdrawn?

Mr. GRINNELL. It is very well known that the overland service and the ocean service have been let together. It is now proposed to save

the Government a large sum of money by letting them separately. I am not called upon to go into any explanation of that service. The gentleman from Colorado ought to understand as well as myself that this measure is necessary to avoid combinations of contractors.

Mr. ALLEY. I will answer the gentleman further, that it was at the request of the Post Office Committee of the Senate that the advertisement for proposals on that route was withdrawn, because they wished to have action on this bill before proposals were received. I understand that if this bill shall be passed immediately there will be a readvertisement for these proposals; but it is impossible to fix this matter up fully until provision is made for this sea service; and while this measure was before Congress and subject to the action of Congress, it was thought advisable by the Senate committee that these advertisements should be withdrawn until this provision could be made for sea service for the newspapers and heavy mails.

While, therefore, I would be very glad to accommodate the gentleman from Colorado by deferring action upon this bill, I deem it immediate passage of too great importance. I know that the interests of the country require action upon the bill at the present time. I believe that great inconvenience would result from delaying action upon it, and all that gentlemen desire can be obtained by future legislation on other bills.

Mr. BENNET. I wish to say that this is a very important bill for the people of my Territory, for by this route alone do we get all our mail service. I have not examined the amendment proposed by the gentleman.

Mr. ALLEY. The provision in the bill is exactly as the gentleman desired it, word for word, as it was handed to me by the gentleman himself. I submitted it to the Post Office Committee, and it was unanimously approved.

The amendment was read. It provides that the fourth section shall not be held to exclude the transmission by mail of newspapers from a known office of publication to *bona fide* subscribers, not exceeding one copy to each subscriber, to and from the intermediate points between the boundaries therein named, at the usual rates.

Mr. BENNET. That is all satisfactory to me. I hope the bill will pass.

Mr. KINNEY. I ask the gentleman from Massachusetts whether that amendment is confined to newspapers alone.

Mr. ALLEY. It extends to all matter between these intermediate points. The bill has been considered very attentively by the Post Office Committee, and we have heard the suggestions of gentlemen in this House from the Pacific coast. I now move the previous question.

The previous question was seconded, and the main question ordered; and under its operation the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GUARDIANS OF LUNATICS.

Mr. WILSON asked and obtained unanimous consent to have taken from the Speaker's table House bill No. 42, to enable guardians and committees of lunatics appointed in the several States and other countries to act within the District of Columbia, with the amendments of the Senate thereto.

The amendments were read. The first amendment was to strike out the words "or in any foreign country;" the second, to strike out the words "or a foreign country;" and the third, to strike out of the title the words "and other countries."

Mr. WILSON. I move that the amendments be concurred in.

The motion was agreed to.

Mr. WILSON moved to reconsider the vote by which the Senate amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN DICKSON.

Mr. FARNSWORTH. I ask unanimous consent of the House to have the Committee of the Whole House on the Private Calendar discharged

from the further consideration of House bill No. 296, for the benefit of John Dickson, of Illinois.

There being no objection, the Committee of the Whole House was discharged from its further consideration, and the bill was brought before the House for action.

The bill directs the payment of \$21,000 to John Dickson, of Illinois, to compensate him for the damages he sustained by reason of the failure of J. W. Belger, quartermaster of United States volunteers, to receive one hundred thousand bushels of corn tendered him by said Dickson, under a contract therefor.

Mr. FARNSWORTH asked for the reading of the report.

The report from the Committee on Military Affairs was read. The committee finds that the statements contained in the letter of Mr. Dickson are true, and the bill gives him the actual difference between the contract price (seventy-five cents per bushel) agreed to be paid by the Government and price realized by Dickson for the corn when he was obliged to sell it in the market of Baltimore, namely, fifty-four cents. This is twenty-one cents per bushel—amounting to \$21,000. This does not include anything for storage, drayage, or interest.

Mr. Dickson's letter, referred to in the report, was read, as follows:

WASHINGTON, D. C., February 26, 1864.

MY DEAR SIR: Agreeable to your request I hand you the following statement:

In the month of December, 1861, I purchased of J. W. Bell, of Illinois, a contract made with him by the Government, at Baltimore, on the 28th day of November, 1861, for the delivery of one hundred thousand bushels of corn, to be delivered in Baltimore, at sixty-nine cents per bushel, and six cents per bushel for the sack—in all seventy-five cents per bushel. I agreed to pay Bell \$900 for the contract, provided the quartermaster at Baltimore would sanction the assignment of the contract by Bell to me. I deposited the money with a gentleman in Chicago. And I was to take the contract and go on to Baltimore, and if the quartermaster would acknowledge the contract and the assignment to be right and correct, then I was to telegraph the gentleman in Chicago to pay over the money to Bell. I came on to Baltimore; called upon the quartermaster, (Major Belger;) showed him the contract with the assignment by Bell. Belger assured me that it was all right, and would be carried out, and ordered my name to be put on his books in the place of Bell's; also, when he made out his report of contracts made with different parties, I was one of the contractors named; and my name and contract were sent with others to the receiver of produce at the Camden station of the Baltimore and Ohio railroad, but there was no order sent to receive the corn, and I was put off from day to day for two months, the quartermaster stating that they had no capacity to dispose of the corn, for they had such quantities on hand, and at the same time were receiving corn from other parties, at two cents per bushel more than I was to get for mine. After waiting over two months, I made a written tender of the corn to him. He then referred me to the Quartermaster General in Washington, and when I called upon him he said they had more corn on hand than he could dispose of, but wanted to know why Belger referred these things to him, as he (Belger) made the contract.

I held the corn until the month of June, 1862, paying storage. It was during this month that the Quartermaster General refused to receive the corn. Then I was compelled to sell on a low market in hot weather, receiving at an average of fifty-four cents per bushel, leaving me at a loss of twenty-one cents per bushel; besides storage and the interest of money that I had borrowed to purchase the corn and bags with. After I paid for the bags and corn, and expenses, I could not have made over one cent per bushel. However, I fulfilled my part of the contract in good faith. I never once thought but what the Government, through her agents, would do the same by me. I borrowed the money to pay for the corn and expenses, and my neighbors indorsed my notes, with the expectation that I would return the money in sixty days. I was not able to do so, owing to the Government failing to receive the corn. When I returned home I relieved my indorsers by giving trust deeds upon my property, which deeds matured several months since. I paid on them what money I received, and the time has been extended until now. I expended several thousand dollars of my own, which leaves me now more than twenty-five thousand dollars worse off than when I commenced.

JOHN DICKSON.

Mr. FARNSWORTH. The Committee on Military Affairs found that the statements contained in the letter of Mr. Dickson were true, from an inspection of all the papers and from the examination of witnesses. It is also true that the Committee on Military Affairs at the last session of Congress reported a bill in favor of this claimant to a larger amount than the one we have reported—twenty-four thousand dollars odd. It included the moneys paid for drayage, storage, &c. We have simply reported a bill to pay him the difference between the contract price of the corn and the price for which Mr. Dickson was obliged to sell it in the Baltimore market. We feel that it is an urgent case, and one appealing to our sense of justice and equity.

Mr. DRIGGS. I wish to inquire whether it is competent for us in this bill to censure the officer whose fault this was?

Mr. FARNSWORTH. Major Belger has been already dismissed the service. I move the previous question.

The previous question was seconded, and the main question ordered; and under its operation the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PAY OF CONTESTANT.

Mr. MALLORY asked unanimous consent to introduce the following resolution:

Resolved, That John S. Sleeper, of Massachusetts, be allowed the mileage and pay that he would have been entitled to if he had been a member of this Congress.

Mr. ORTH. I object.

Mr. MALLORY. I move to suspend the rules to allow me to introduce the resolution.

Mr. HOLMAN. Will not the gentleman from Kentucky allow the resolution to be referred to the Committee of Elections?

Mr. MALLORY. I really see no necessity for the reference. The House understands the resolution. I have no doubt every member of the Committee of Elections would vote for it.

Mr. HOLMAN. It has been usual to refer such resolutions to the Committee of Elections before passing them.

Mr. MALLORY. I move to suspend the rules, and I hope the House will adopt the resolution now.

The motion was not agreed to; two thirds not voting therefor.

GENERAL DEBATE FOR SATURDAYS.

Mr. STEVENS. I ask the consent of the House to move that Saturday next, and each succeeding Saturday until further ordered, be set apart for general debate, with the understanding that no vote shall be taken.

There being no objection, the motion was received and adopted.

DEFICIENCY BILL.

Mr. STEVENS. With a view of moving to go into the Committee of the Whole on the state of the Union on the deficiency bill, I move to postpone all special orders in committee which take precedence of that bill.

The motion was agreed to.

Mr. STEVENS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SCHENCK. I desire to appeal to the gentleman from Pennsylvania to allow us half an hour to go on with a call of committees for reports.

Mr. STEVENS. If committees could be regularly called for reports, I would yield.

The SPEAKER. The committees cannot be called in their regular order. If the House goes to the call of committees for reports, the gold bill will first come up. But the rules do not provide for a call of committees for reports on Monday.

Mr. SCHENCK. I hope the gentleman will at any rate allow me to report one bill from the Committee on Military Affairs, which it is important should be passed.

Mr. STEVENS. The deficiency bill must be passed. There are many hands who have already been without their pay for several months in consequence of the delay in passing this bill.

NEW MEXICO CONTESTED ELECTION.

Mr. DAWES, by unanimous consent, presented the memorial and papers of Emanuel Gallegos, contesting in this House the seat of the Delegate from New Mexico; which were referred to the Committee of Elections.

NAVAL CODE.

Mr. A. W. CLARK, by unanimous consent, from the Committee on Printing, reported the following resolution, and on its adoption demanded the previous question:

Resolved, That two hundred and fifty additional copies of the proposed naval code be printed for the use of the Navy Department and the commissioner of the code.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. McKINNEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 122) to increase the internal revenue, and for other purposes; when the Speaker signed the same.

NATIONAL ARMY.

Mr. SCHENCK, by unanimous consent, reported back House bill No. 267, authorizing commissioners to select a site for a national army, and for other purposes; which was referred to the select committee on national armories.

AARON T. DOLL.

Mr. BROWN, of West Virginia, by unanimous consent, reported from the Committee of Claims a joint resolution for the relief of Aaron T. Doll; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

THE BAINBRIDGE.

Mr. RICE, of Massachusetts, by unanimous consent, introduced a bill fixing the date of the loss of the United States brig Bainbridge, and for the relief of officers, seamen, and marines of the same, and for other purposes; which was read a first and second time, and referred to the Committee on Naval Affairs.

COMMISSIONER OF PUBLIC BUILDINGS.

Mr. LONGYEAR, by unanimous consent, introduced a bill relating to the office of Commissioner of Public Buildings; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

RITCHIE'S COMPASS.

Mr. ELIOT, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs inquire into the expediency of purchasing for the use of the United States the right to use and manufacture Ritchie's compass for iron-clad ships; with leave to report by bill or otherwise.

DEFICIENCY BILL—AGAIN.

Mr. STEVENS. I now renew my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. Before going into committee, however, I move that all general debate upon the deficiency bill be terminated in ten minutes after the House goes into committee.

Mr. BROOKS. Does the gentleman desire the debate upon the deficiency bill to be limited to five minutes?

Mr. STEVENS. Five minutes, of course, upon each amendment.

Mr. BROOKS. Is that all? Well, sir, I wish to say that this is an entirely new bill. We sent it to the Senate with only six or seven millions and it has come back to us with \$105,000,000.

Mr. STEVENS. Does the gentleman wish to debate the bill on general principles?

Mr. BROOKS. I do.

Mr. STEVENS. I move, then, that general debate be closed in one hour on the amendments of the Senate to the bill. I do not make that motion to occupy the time myself, but for the benefit of the gentleman from New York.

Mr. BROOKS. I wish to discuss the bill, and nothing else.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ASHLEY in the chair.)

The CHAIRMAN stated the first question in order to be the consideration of the amendments of the Senate to House bill No. 156, to supply

deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864.

First amendment of the Senate:

Strike out the following:

Treasury Department:

For salaries of additional clerks, messengers, and laborers in the several offices of the Treasury Department, from January 1 to June 30, 1864, namely:

In the office of the Secretary of the Treasury, one clerk of class four, one of class three, eight of class two, and four of class one, \$15,700.

In the construction branch of the Treasury, one supervising architect, one assistant architect, two clerks of class four, four of class three, two of class one, and one messenger, \$9,000.

In the First Comptroller's office, five clerks of class four, and four of class one, substituted for one of class one, \$4,800.

In the Second Comptroller's office, two clerks of class four, eight of class three, eight of class two, and fifteen of class one, \$23,200.

In the First Auditor's office, two clerks of class four, and one of class two, \$2,500.

In the Second Auditor's office, two hundred and six clerks of class one, and one clerk at \$900 per annum, \$124,050.

In the Third Auditor's office, two clerks of class four, two of class three, five of class two, twenty-four of class one, and one messenger and two laborers, \$22,250.

In the Fourth Auditor's office, five clerks of class four, nine of class three, nine of class two, thirty-five of class one, and one laborer, \$39,300.

In the Treasurer's office, four clerks of class four, two of class three, seventeen of class two, six of class one, and additional clerks, \$27,700.

In the Register's office, four clerks of class four, six of class three, six of class two, eight of class one, and one messenger, \$17,750.

In the office of the Commissioner of Customs, one clerk of class three, three of class two, and four of class one, \$5,300.

Mr. STEVENS. The Committee of Ways and Means recommend a concurrence in that amendment.

Mr. MORRILL. I hope that that amendment will not be concurred in. I understand the Third Auditor can get along with fewer clerks if he is allowed clerks of a higher class. I hope that the amendment will not be concurred in.

Mr. STEVENS. The Committee of Ways and Means have recommended a concurrence in that amendment. The same thing is provided for in another section afterwards, which is the proper place for an amendment. I am willing all of these amendments of the Senate shall be non-concurred in, and let them go to a committee of conference, which I think would be the best way. The Senate have added some eighty-seven million dollars to the bill.

The amendment was concurred in.

Second amendment:

Insert:

For supplying a deficiency in the current expenses of the branch mint at Denver for the current fiscal year, \$18,377 69.

Mr. BROOKS. I have some remarks to make on this bill, and I would as lief make them now as at any other time. If it be in order to discuss the bill before acting on the amendments of the Senate, I will proceed.

The CHAIRMAN. Debate is now in order for one hour.

Mr. BROOKS. Mr. Chairman, when the deficiency bill, then under seven millions, was before the House some time ago, I expressed my surprise at its magnitude, and referred to the estimates to show that the appropriations were far beyond what the Secretaries asked. I have none of those remarks to retract. I rise now to remind the House that the objections I then made to this bill have greater force to the extraordinary additions made to this bill as it reaches us amended, that is, added to, by the Senate. The original estimates submitted to the House for deficiencies for the fiscal year ending the 30th of June, 1864, were only \$4,180,531 13. These were made up of estimates—

For civil list, foreign intercourse, and miscellaneous.....	\$1,311,371 13
For Interior Department, (Indian).....	4,213 00
For Navy Department.....	2,855,000 00

And here I wish to call the attention of the House to the fact that though it must have been as well known then as now that the time of enlistment of a large body of our troops was about expiring, yet there was not a call for a dollar of "deficiency" from the War Department. The Secretary of War admitted, by his silence, that he had all the money he wanted. The Committee of Ways and Means, however, paid but little attention to the deficiency estimates of the Secretary of the Treasury, (\$4,180,531,) and the House of Representatives paid less, for both committee and

House shot far beyond the original. As the bill went to the Senate it appropriated \$7,469,109 65. The Senate sent it back to us with additional appropriations for deficiencies of \$98,953,608. So the deficiency bill, as added to by the Senate, stands forward with the gigantic appropriation of \$106,422,718 40. The Committee of Ways and Means have amended that bill by striking out \$151,000, and the deficiency bill, as amended by the Committee of Ways and Means, asks us to appropriate \$105,888,386 40. The table may be stated thus:

Amount contained in original (House) bill.....	\$7,469,109 65
Senate amendments thereto.....	98,953,608 75

Total.....	106,422,718 40
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Amount stricken out of original bill by Senate amendments, in which the Committee of Ways and Means recommend concurrence.....	382,832 00
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Amount Inserted by Senate, in which the Committee of Ways and Means recommend non-concurrence.....	151,500 00
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Total amount in bill as now reported.....	\$105,888,386 40
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Mr. STEVENS. The gentleman from New York will not fail to say that the Committee of Ways and Means do not ask that sum. That is the amount of the bill as returned from the Senate.

The Committee of Ways and Means ask only about eight millions. All the remainder has been sent from the Senate. I will say to the gentleman that the committee have concluded to ask the House to non-concur in all the amendments of the Senate.

Mr. BROOKS. I take the report of the action of the Committee of Ways and Means as annexed to the bill itself, in which they recommend concurrence in the first, second, fourth, fifth, sixth, six and a half, eighth, ninth, tenth, thirteenth, fourteenth, and sixteenth amendments of the Senate.

Mr. STEVENS. That is so, but at a subsequent meeting of the committee they thought it best to non-concur, if the House would agree to it.

Mr. BROOKS. I am correct, then.

Mr. STEVENS. Correct in reference to the first action of the committee.

Mr. BROOKS. I am both pleased and amazed at the change of action now first announced upon the part of the Committee of Ways and Means. I am pleased because the idea of non-concurrence shows they are appalled with the magnitude of the Senate appropriations as well as so humble a member of the House as myself. But I am more than amazed that they propose to take from this House, by the simple proposition to non-concur, the deliberate and detailed action of the House upon these enormous expenditures, and abandon the constitutional powers and functions of this House to examine in detail all these amendments of the Senate, and to throw that whole power from us into the hands of a mere committee of conference to be appointed by the Chair. To non-concur with the Senate upon this bill in its present stage is to abandon all our right, all our authority, all our duty to examine the details of expenditures proposed by the action of the Senate, and to throw the whole discussion and deliberation, which justly belong to this House, exclusively into the hands of a committee of conference.

The result of this action has recently been seen on the whisky bill. That bill was lost in this House by a large majority, defeated over and over again, the House having affirmed its intention to pass a retroactive law upon the stock of whisky on hand; yet the House was, by mere parliamentary action, by the action of a committee of conference, deprived of its legitimate power to impose a retroactive duty, as it intended, upon the stock on hand, and the Senate, by concurrence with the adhering action of the House, was enabled to pass the bill almost as originally intended by the Senate, despite all the resolves and re-resolves of the House.

I warn the House, therefore, in a bill of this enormous magnitude, disposing of over a hundred and five million dollars, not to abandon at this stage of the bill its legitimate function of examination in detail by bestowing it upon a mere committee of conference.

Mr. COLFAX, (the Speaker.) The gentleman will allow me to correct him as to a matter of fact. The reason why the bill did not have the

retroactive feature in it when it finally passed, is because the House did not appoint a committee of conference at the last, but upon the motion of the gentleman from Pennsylvania [Mr. STEVENS] adhered to its disagreement to the amendments of the Senate, and allowed the Senate to recede from its amendments, thus leaving the bill without the retroactive feature.

Of course the gentleman will be just to the Chair by saying that in each instance a majority of the members of the committee on the part of the House agreed in their votes, with the majority of the House.

Mr. BROOKS. I was far from casting any imputation whatever upon the action of the Speaker. He fairly represented on the committees of conference the majority of the House. I was but showing that though the House had determined by forty majority to have the thing its own way, and repeated that determination over and over again by ten and fifteen majority, yet by parliamentary action the determination of the House was reversed and the bill passed without this retroactive feature.

Mr. COLFAX. It was because the House refused to raise another committee of conference, but under the operation of the rules voted an adherence. The Senate then receded, and the bill passed.

Mr. STEVENS. The bill as it passed is precisely as the House agreed to it.

Mr. BROOKS. I understand all that. I comprehend the parliamentary tactics, comprehended them at the time, and if I had not intended to vote with the gentleman from Pennsylvania I should have resisted his proposition. It is because he is the old parliamentarian that he is now that he would still wish, if he could, to take from the discussion and examination of this House the details of this bill by the action of a conference committee, by transferring the forum of discussion—

Mr. DAWES. The gentleman makes a mistake. The reason why we have not a tax upon whisky on hand now is not because of parliamentary tactics. There is no trace of parliamentary tactics about it, and a reference to the facts will show it. The House put a tax on whisky on hand. The Senate struck that out as an amendment; it came back to the House, and the House concurred in that amendment; and the reason why there is no tax upon whisky on hand to-day is because the majority of the House, in its legitimate functions and in discharging its duty, without the aid or skill of my friend from Pennsylvania [Mr. STEVENS] at all, concurred in the action of the Senate. It was done by the concurrent action of the two Houses, and not by any committee of conference; and that is the reason why there is no tax on whisky on hand.

Mr. BROOKS. I comprehend all that thoroughly.

Mr. DAWES. Then the gentleman has less excuse for misstating it.

Mr. BROOKS. I comprehend it perfectly, and do not misstate it. I will not take time to discuss this matter. I simply state the fact that this House, at one time by forty-four majority, and at other times by majorities of ten and twelve, resolved and re-resolved to tax the whisky on hand, and the whisky on hand is not taxed despite the resolution of the House. The country understands that, and we will not dispute about the ways and means by which it was done. I say it was parliamentary tactics and conference committees. Other gentlemen think differently. The great facts are before us: the *modus operandi* we will not dispute about.

Mr. Chairman, whisky is an exciting and entrancing question, and I have been led altogether from the figurative speech I have on hand to the discussion of a far more exciting and thrilling topic than that of a mere bill of deficiencies. But tempting as is the theme, I must recall the attention of the House, however, to the dryer topic which we have on hand, namely, this \$105,888,386 appropriation. We have here left a few deficiencies for the fiscal year beginning July 1, 1863, and ending June 30, 1864.

I call the attention of the House first to the fact that in this deficiency bill alone there are for the War Department alone appropriations amounting to about ninety-nine millions, when at the beginning of the session, in the estimates submitted by the War Department through the Secretary of the

Treasury, not one single cent was asked for by the Secretary of War for a deficiency in his appropriations. And yet now, when all the facts relating to deficiencies must have been just as well known to the Secretary of War in the beginning of the session—and now that Secretary comes before the Senate, and through the Senate before this House, without any estimates whatever being submitted to this House, and asks an additional appropriation of over ninety-eight millions to make up a deficiency in the appropriations for the fiscal year ending June 30, 1864.

Why, sir, the whole expenses of this Government in the year 1815, during the last war with Great Britain, that contest which this then comparatively feeble nation carried on with the greatest Power upon earth, were but \$48,244,495. The expenses of the Army for that war were, in 1813, \$19,662,013 02; in 1814, \$20,350,806 86; in 1815, \$14,794,294 22; and yet the deficiency asked for by the Secretary of War for one single year amounts to four or five times the cost of any one year of the war of 1812.

The whole appropriations of this Government in 1847-48, the years of the Mexican war, were but little over sixty millions per annum. The actual expenses of the War Department were, in 1847, \$35,776,495; in 1848, \$27,838,374. And that war, which was not upon our own soil, but was costly in the transfer of troops from our own country to a foreign country; that war in which our troops, landing at Vera Cruz, passed on through the *tierra caliente*, the hot region of Mexico, to its mountains, to Churubusco and Chapultepec, on to the Garetta of Mexico; that glorious war in which we humbled Mexico and brought the Mexicans to our own terms, cost this Government but \$35,776,495, the highest sum in the year 1847; and yet here is a war deficiency bill of over ninety-eight millions for the War Department alone for one year, or over sixty-three millions beyond what the war with Mexico cost a year.

There is something wrong in all this; there must be something wrong; and hence the House should not abandon its functions, but should look into these expenditures, and see when, how, and where this money has been appropriated, and where these enormous sums of money have gone, who have had them, in what quarters they have been paid, why they are called for, and what they are to effect. Sir, if these disbursements for the War Department are to go on for three, four, or five years longer, it will be beyond the power of this country or of any other country on the face of the earth to endure them.

The Secretary of War in his estimates for the fiscal year ending June 30, 1864, (see Treasury Report, page 30,) asked for and had appropriated \$885,479,511. The Secretary of the Treasury, when he submitted that report to Congress, felt sure in his own mind that \$885,479,511 was ample and enough for all the expenditures of the War Department for the fiscal year ending June 30, 1864, and hence not a single cent additional was then called for either by the Secretary of the Treasury or by the Secretary of War himself. And yet here in February and March we propose to add to this already appropriated sum of \$885,479,511, a deficiency in this bill of \$98,500,000. What calculations are all these? Can man thus carry on war, or provide the men and means for carrying on war?

More than that. Recall a little of the past history of our legislation during this session. At an early period of the session, before the Christmas holidays, there went through this House, in twenty minutes by the clock, a deficiency of \$20,000,000 for bounties—a million a minute—uncalled for by the Secretary of War, or by the Secretary of the Treasury in his estimate. I made some quiet remarks on that occasion. I called the attention of the other side of the House to the subject, but I found that my remarks were not pleasant to the other side, and I refrained from discussing the subject at length, leaving the responsibility with those to whom it belonged.

In a few days after the Christmas holidays, the Secretary of War called upon us to change that bounty appropriation of \$20,000,000, and in a very few minutes, opposed only by an honorable gentleman from Ohio, on the other side, there went quietly through a bill for bounties, which I said then had in it \$100,000,000. Now, under the

continuance of the bounty system to April 1, that bill has in it at least \$124,000,000 to be added to the estimate of the Secretary of War. Take not my word for it. I quote from the chairman of the Military Committee in the Senate:

"I suppose that we have, since the 17th October, paid and agreed to pay for these bounties from ninety to one hundred million dollars. It must be over ninety millions, for we have paid bounties, I think, to very near three hundred thousand men."

"I suppose if the payment of these bounties is extended and we go on raising men at the rate we are now raising them, that we shall raise during the coming month somewhere from sixty to eighty thousand men, paying a portion of them \$400 and another portion \$300."

Which, counting seventy thousand men at the average of \$350 per man, will make \$24,500,000; so that if you take the actual expenditures and appropriations of the Department as now put upon paper as recorded in the Treasury report, at \$885,479,511, add to that \$98,500,000 deficiency and \$120,000,000 for bounty, there will have been appropriated for the War Department of this Government alone, for the fiscal year ending 30th June, 1864, the gigantic sum of \$1,103,979,511.

Mr. KELLOGG, of Michigan. I wish to correct the gentleman in one respect, if he will permit me.

Mr. BROOKS. Certainly.

Mr. KELLOGG, of Michigan. The payment of these bounties is extended over the whole term of enlistment, and only a small portion is to be expended this year.

Mr. BROOKS. Not a small portion—a considerable portion.

Mr. KELLOGG, of Michigan. One fourth, I think.

Mr. BROOKS. What I am speaking about is the appropriations for this year. I do not suppose that the bounties will be all expended in the year.

Mr. KELLOGG, of Michigan. About a fourth of the moneys to be expended in bounties will be expended this year.

Mr. BROOKS. More than that. But, nevertheless, it's the sum of money appropriated that I am speaking of—the appropriations of Congress for the fiscal year ending June 30, 1864. The more money that is saved the better; but all these bounties are to be paid in some time or other.

I hold in my hand a record of the expenses of the British army from 1810 to 1816, in each year—those terrible years of struggle in which the little island of Great Britain and the lesser isle of Ireland were coping against the gigantic power of Napoleon, who had taken the French armies in triumph from the sands of Egypt to the snows of Moscow—that little island which was subsidizing all the other Powers of Europe to fight her battles against that mighty Napoleon. The expenditures of the British army in the year 1810 were \$84,415,000; and in 1816, on the closing scenes of the battle of Waterloo, they were \$171,035,000. The aggregate expenditures for the seven years from 1810 to 1816 inclusive were \$906,730,000. The details were thus:

Expenditures of the British army in the years—

1810.....	\$84,415,000
1811.....	90,680,000
1812.....	119,345,000
1813.....	124,935,000
1814.....	147,345,000
1815.....	168,975,000
1816.....	171,035,000
Total.....	\$906,730,000

But, sir, for the single fiscal year of 1863-64 we, who are coping with no Napoleon, with no combination of powers for our overthrow—but when a few rebellious States, started without resources and full of all the elements of weakness, are lightly operated upon—we have appropriated more money in a single year to subdue this rebellion than was appropriated for the whole British empire in the six years from 1810 to 1816 to subdue the august Napoleon, at one time combining all the continental nations of Europe for British overthrow.

I do not allude to these things for the purpose of creating alarm or exciting the fears of the country, only to arouse the country to comprehend the magnitude of this war, and to begin now to lay the necessary taxation to support it, so that we may not in the future find ourselves unable to sustain the credit of the country. That is my object and intention in calling the attention of the House to the enormous expenditures of the War Department.

A thousand million dollars per annum, Mr. Chairman, a billion dollars—I do not know how it is with others, but I must confess that to my humble mind these sums are so appalling that I can hardly begin to comprehend their gigantic magnitude when we are called upon to transmit them to our children as a public debt. I confess that I often turn back to the olden times in the history of this Government. I was here in this House in a time when the expenditure by this Government of forty-four, forty-six or forty-eight millions was regarded as an enormous extravagance, and that was not long ago, in 1849-50, 1851-52. I recollect when the then chairman of the Ways and Means Committee, then an honorable gentleman from Alabama, well known to the present chairman of the Ways and Means Committee, educated in a country where cotton even was not raised, but in northern Alabama, where corn and wheat were the productions, and where a dollar was estimated by the price of a bushel of corn or the price of a bushel of wheat—I recollect well how appalled he was at the enormous magnitude of the expenditure by this Government of forty-four, forty-six, or forty-eight million dollars. Indeed, he had a mind so constituted that members who served with him upon the floor of the House will remember that he could not comprehend anything above half a million dollars. Whenever a sum came up in our appropriations of as much as a hundred thousand dollars he was wont to be confused, but when it ran up to half a million dollars he would often abandon his appropriation bill and exclaim, "Good God, what is the country coming to?" Why, sir, if he was here this day he would be lost in inextricable confusion by these enormous appropriations for the War Department only.

Indeed, we in the great cities who are somewhat accustomed to figures, and who represent millions, will soon be compelled, if these expenditures go on, to bring to our aid something more than mere arithmetic, the science of geometry or mensuration say, and measure a million by an inch, a billion by two inches, a trillion by three inches, a quadrillion by four inches, a quintillion by five inches, and so on, or if that does not present numeration or measurement sufficient to enable us to understand these sums we shall have to resort to the science of algebra, apply x as an unknown quantity of expenditure, and work with that. An equation may be stated thus: $AB + CD \times EF = XYZ = LMNOPQ$. [Laughter.]

Sir, it is becoming beyond the power of arithmetic or the power of simple mathematics to compute these appropriations, or to understand the loans or systems of loans on which they are being founded. The whole concern anon will be more puzzling than the consols or exchequer of the debt of England.

The estimates of the War Department for 1865 are, in round numbers, \$536,000,000. Sir, it is evident from these appropriations for 1863-64 we are now making that if this war is to continue these estimates for 1865 are not worth the paper they are written upon, for the actual expenditure of the present fiscal year for 1864 of the War Department will amount to almost if not quite a thousand million dollars—certainly, if we pay up the war warrants of the quartermasters, their certificates of obligation, and the great debts now due to the States for money and troops advanced to the Federal Government for military services rendered.

Now, Mr. Chairman, is it right, is it proper, is it a legitimate mode of coming before the country with an estimate in December of only \$4,180,581 deficiency and then before the bill is perfected require, as sanctioned by the Senate, a deficiency of \$105,000,000? I repeat, sir, is it right or just to the country thus to throw dust in their eyes? Is it not wise, is it not now our duty at the start to look this war with all its consequences fully in the face, and to provide for this enormous expenditure and these enormous appropriations the only means by which, if the war is to be persisted in, the credit of the country can be sustained, a system of taxation which shall be proportionate to our expenditure? Is it just for us to leave for posterity the full payment of these loans? Sir, under a concordant Cabinet, or any unit administration of the Government, these disorders between estimates and appropriations could not occur.

But every Secretary we see now "runs his own machine." The Secretary of State runs his, and thrusts in appropriations for lawless foreign missions; the Secretary of War runs his, and thrusts in over ninety-eight millions of deficiencies, two months after he says he has enough in the annual appropriations; the Secretary of the Navy runs his; while the Secretary of the Treasury, the victim of all, because he has to find paper money for all, runs his printing machines, and his presidential machine, one and all. Is it any wonder that under such an administration of the Government we are annually spending more money to subdue a few million starving rebels than Great Britain spent in six years to bring down the world-wandering eagles of the great Napoleon.

I availed myself of a former opportunity to denounce this whole system of deficiency bills. I showed that appropriations were made without law. I exhibited in this bill, and it is here reproduced, the creation of four hundred and forty odd clerks utterly without law. I showed the creation of a foreign mission by the Secretary of State without law.

The recklessness of law has become so rife among the Departments that even the Commissioner of Agriculture turns up in this bill in the most extraordinary demand for a deficiency. When we have deficiencies in the Departments it is not to be wondered at that the Commissioner of Agriculture comes before Congress and tells it that he has purchased things without law for which he must have an appropriation. I find in the Senate amendments the following:

To supply deficiencies in the Department of Agriculture for the current year, as follows:
For the purchase of sorghum seed, \$2,000.
For rebuilding shop in the propagating garden, \$800.
For postage, \$1,320.
For carpets, furniture, and cans for fruit, \$350.
For fuel, \$300.

This is the farcical part of the bill. I allude to it not in resistance to the purchase of these humble matters, for seed may do some good to the country, while appropriations for this war are all lost except as they may serve to restore the Union. This gentleman with the illustrious name, in a letter to the Finance Committee of the Senate, says:

"The destructive frosts of last autumn in a large part of the West rendered entirely worthless many important seeds which I have been called upon to supply, chief of which is the sorghum, now becoming one of the most important crops of the country. In several of the large States the seed was so generally destroyed that I have felt obliged at the urgent call of the farmers to send abroad for a fresh supply of pure seed."

Great sorghum-seed seller!

"An increasing belief among the people in the feasibility of producing an excellent article of silk from the silkworm, and repeated inquiries for the means of its production, have led me to order a large quantity cocoons from France, where it has proved a perfect success."

Importer of cocoons!

"An extensive failure of the corn crops, with other causes, has created a great demand for new and different varieties of wheat for both fall and spring sowing, which has been met by importations from England, Russia, and the Mediterranean, and by purchases of improved varieties of American growth."

Great wheat-seed dealer!

"The very great and increasing interest in the culture of the grape, and the consequent demand for vines, has induced a large increase in the expenses of the propagating garden."

Vines for the propagating garden! Well, well! All this in a deficiency bill. What next may we be coming to?

The Commissioner of the Department of Agriculture gives no excuse for his lawless purchase of carpet, furniture, and cans for fruit, except that he has expended the money, and wants an appropriation for it!

This is a mere farce. It is not worthy of notice, except to show that the higher officers of the Government, by the creation of foreign missions, by enormous expenditures, without law, have induced the Commissioner of Agriculture to purchase canned fruit, sorghum seed, carpet, and furniture, all in humble imitation of the higher powers that thus act without law.

But there are other appropriations in this bill which are far from being farcical, and which may be termed tragical. To these I call the attention of the House. The Quartermaster comes before the country and asks for \$25,000,000 deficiency for additional transportation for the Army for the fiscal year ending the 30th of June, 1864. The

Senate have increased that, and increased it to \$30,000,000 in the bill now before the House. The Quartermaster General says:

"This deficiency is caused by the activity of movement of the armies, the great expense of the transportation of the army operating against Vicksburg, the transfer of army corps from the army of the Potomac to the division of the Mississippi, the Texas expedition, the transportation furnished to veteran volunteers to and from their homes, furloughed or reënlising, and the purchase of transports."

But the Quartermaster General has not told the whole truth. These \$30,000,000 deficiencies have also been made necessary by the transportation of troops to influence and carry elections in the country. If we could have the details of these quartermaster expenditures the House would find that a large part of this new deficiency was created in the expense of the transportation of a regiment or two to New Hampshire a year ago to carry the election in that State. If we could have a history of the transportation of troops we would find that several regiments and portions of regiments supposed to be favorable to the dominant party were carried to and fro to vote at the expense of the Government. There has been transportation of the Army solely to execute the purposes of the party in power.

If we could have the history of the transportation of the Army, we would find that a large number of troops selected for being favorable to the Administration party were sent last October and November to New York, Pennsylvania, or to the western States, and afterwards to Maryland and Delaware to carry the elections there. There is where the deficiency of \$30,000,000 reported by the Committee of Ways and Means is mainly due. It is due to the efforts of the War Department to carry the elections of the country. There is where the money has gone. It is not for the legitimate expenditures of this war; it is not for the capture, overthrow, and destruction of the rebel army, and it is not to plant the stars and stripes upon the capitol hill of Richmond, or on the forts of Mobile and Charleston; but it is to subdue the Democracy, the conservative power of New Hampshire, Connecticut, New York, New Jersey, Pennsylvania, and of the great West; in short, to overawe by arms before the ballot-boxes the people of the country. I denounce it with all the vigor and power of which I am capable. Here and hereafter will I denounce it, and I appeal from the majority of this House to the God of heaven to put the mark of reprobation upon these wicked and criminal acts; I appeal to the genius of liberty which has so long hovered over and protected this hitherto blessed country to overthrow the party in power, that thus illegitimately perverts the valor and the generosity and the patriotism of a great people to overthrow their free institutions. I appeal to history and to posterity to brand with everlasting infamy the men who thus bring arms into elections, and who with the cartridge-box trample the ballot-box under foot. I know I shall not be heard or heeded on the floor of this House; but the brand of history and the curse of posterity will be the just doom of all these destroyers of the liberties of their country.

Mr. MORRIS, of New York. I would like to inquire of my colleague whether it would not be less expensive to let the soldiers of New York vote in the Army than to send them home?

Mr. BROOKS. I do not choose now to be drawn into that discussion.

I voted for this first deficiency bill of \$7,000,000. I voted for it not cheerfully, but because in time of war it seemed necessary to be generous, extravagant, if you please, in generosity. I have voted for all the appropriation bills which have gone from this House, but I am going to leave this bill to be voted for by such as approve these quartermaster deficiencies in it. Some time since was remarked by the gentleman from Maryland [Mr. DAVIS] in good Virgilian Latin, that the times "did not need help from this side of the House or such helpers as we are." I am disposed to accept him and his friends at his word—to let them pass this large deficiency bill. As for myself, I shall not vote a single dollar as a deficiency for transportation for the Army until this transporting of the military to carry the elections is made clear. Those who favor such an appropriation as this must and shall vote for it. As for myself I never will take the responsibility of voting for a single cent of it, and in justification of my course upon

this subject I shall appeal to the public, whom I desire to bear in mind that this House has not before it a single item of legitimate estimate for any of these deficiencies and appropriations. The Committee of Ways and Means may have had them, but the House has not got them. There has been no inquiry what the expenditures have been in New England, in the northern States, in Maryland, and in the western States; and until we have a detail of these expenditures for election purposes, if not a single other vote is given against this bill, I shall on this deficiency bill, with the greatest pleasure with which I have given any vote in my life, vote "no."

Mr. STEVENS. I believe the hour allowed for debate has expired, and I will confine my remarks to five minutes.

I am glad the gentleman from New York has taken this occasion to get out his campaign document. [Laughter.] It will save considerable time on some other occasion, and I do not know when time can be better saved. As to the gentleman appealing from the committee and from this House or a majority of it to another tribunal, well and good, if his appeal can be entertained there. I do not know whether any of us have a standing in that court, but the gentleman can try it. The gentleman will vote for no transportation of troops. Very well.

Mr. BROOKS. I did not say that.

Mr. STEVENS. Well, the gentleman will vote for none of this thirty millions for transportation. That suits very well the tactics of the gentleman's party. In the first place you vote to have no troops according to law, and in the second place you vote to keep them out of the field, and that they shall not be transported to the enemy where they can be of service. I did not expect any help from that side of the House—I mean from some of those gentlemen. I was very glad to hear this denunciation of the Committee of Ways and Means. I remember very well when my learned friend was in the House at the time the gentleman from Alabama (Mr. Houston) was chairman of the committee and introduced his most extravagant appropriation bills. I was very glad to hear him make the same speech against that gentleman which he has just made against us. It was natural enough, now that he is on the other side, that he should make the same speech against us, and it applies just as well.

Let us consider calmly these different amendments. They are very large. They amount to \$80,000,000 and upward. When the first estimates were before the committee, and they framed this bill, there had been no call for the additional five hundred thousand men. After they were called for, and this bill was sent to the Senate, new estimates were made; they were sent here, were printed in pamphlet form, and the gentleman, I presume, had them upon his table. If there are any items that are improper let us vote them down; but the idea that we are to paralyze the arm of the Government and strike down the appropriations for the half million of men now called for to meet the rebels in the spring may become that side of the House, but it would disgrace patriots.

Now, sir, excuse me for taking thus much notice of a speech which was not intended for this bill, but was intended for the time when the gentleman will meet his colleague on the stump. Let us go on and consider the amendments of the Senate. I will not ask that they shall all be rejected, as the gentleman seems to be afraid of that. I am willing that they shall be considered in detail. It will only take a few days, and as we shall certainly reject most of them the matter will go to a committee of conference, as I proposed in the first instance; but the difficulty which the gentleman will encounter is that if the House should adopt some of the amendments it will be against his theory. I am willing, however, that the House shall go on and let each amendment be considered by itself.

Before we proceed with the bill I would like the committee to reconsider its action upon the first amendment of the Senate by agreeing to take a new vote upon it. The Committee of Ways and Means have agreed to concur in it because it strikes out certain appropriations which are duplicated in another part of the bill. I hope the committee will agree to do that before proceeding further with the bill.

Mr. HOLMAN. I shall have to object to going back, and for this reason: if the amendment of the Senate, to which the gentleman refers, is agreed to, it would seem to render it necessary that a subsequent amendment increasing very largely the number of clerks and their salaries shall also be concurred in. I must, therefore, object to going back.

Mr. MORRILL. The matter can be arranged when the bill is reported to the House. It is perhaps due that I should say that the first amendment which I asked the House to non-concur in was a separate and distinct one in itself. I supposed that it embraced not only the question of striking out, but also that of inserting what the Senate proposed. I find now that it does not do that, and I have no objection to the striking out.

Mr. HOLMAN. Would not the effect of striking this out be to compel the House to insert what the Senate proposes to insert in a subsequent part of the bill?

Mr. MORRILL. No, sir. The gentleman will find the proposition to which he refers set forth in a separate section at the end of the bill. It requires a concurrence in that section in order to meet the full views of the Senate.

The CHAIRMAN. Is there any objection to going back?

Mr. HOLMAN. Yes, sir; I object for the present. I do not understand this matter exactly.

The second amendment of the Senate was then concurred in.

Third amendment:

Strike out the following paragraphs:

For compensation of return clerk from January 1 to June 30, 1864, \$600.

For compensation of the surveyor general of Illinois and Missouri, the office to be hereafter closed, \$1,663 48.

For compensation of clerks in the office of the surveyor general of California, \$1,350.

Mr. STEVENS. The Committee of Ways and Means recommend non-concurrence in that amendment.

The amendment was non-concurred in.

Fourth amendment:

On page 4 of the printed bill, after line seventy, insert the following:

To supply deficiencies in the Department of Agriculture for the current year, as follows:

For the purchase of sorghum seed, \$2,000.

For rebuilding shop in the propagating garden, \$800.

For postage, \$1,320.

For carpets, furniture, and cans for fruit, \$350.

For fuel, \$300.

Mr. STEVENS. The Committee of Ways and Means recommend concurrence in that amendment.

The amendment was concurred in.

Fifth amendment:

On page 5, after line eighty-seven, insert the following: To supply a deficiency in the appropriation for the purchase and manufacture of arms for volunteers and regulars, ordnance and ordnance stores, \$7,700,000.

To supply a deficiency in the appropriation for the manufacture of arms at the national armory, \$700,000.

To supply a deficiency in the appropriation for the Surgeon General's department, to wit:

For medical instruments and dressings, \$1,300,000.

For hospital stores, bedding, and so forth, \$1,300,000.

For hospital furniture and field equipment, \$300,000.

For books, stationery, and printing, \$35,000.

For ice, fruits, and other comforts, \$100,000.

For hospital clothing, \$40,000.

For citizen nurses, \$38,000.

For sick soldiers in private hospitals, \$17,000.

For artificial limbs for soldiers and seamen, \$16,000.

For citizen physicians and medicines furnished by them, \$185,000.

For hire of clerks and laborers in purveying depots, \$25,000.

For contingent expenses of the medical department, \$5,000.

For medicines and medical attendance for negro refugees, commonly called "contrabands," \$33,000.

For washing and washing machines for hospitals where matrons cannot be employed, \$1,000.

To supply a deficiency in the appropriation for the subsistence of the Army, to wit:

For volunteers and drafted men, \$5,825,000.

For employes, \$640,640.

For women, \$218,400.

To supply a deficiency in the appropriation for the engineer department:

For contingencies of fortifications, including fieldworks, \$500,000.

To supply a deficiency in the appropriation for the quartermaster's department, to wit:

For purchase of cavalry and artillery horses, \$17,500,000.

For regular supplies of the quartermaster's department, \$18,500,000.

For barracks, quarters, and so forth, \$3,500,000.

For transportation of the Army, \$30,000,000.

For incidental expenses of the quartermaster's department, \$2,000,000.

For transportation of officers' baggage, \$100,000.

For clothing, camp and garrison equipage, \$7,000,000.

To supply a deficiency in the appropriation for the Adjutant General's department:

For purchase of books of tactics, \$25,000.

Mr. HOLMAN. Are all those items understood to be one amendment, or are they separate amendments?

The CHAIRMAN. They are one amendment.

Mr. HOLMAN. I desire to ask some member of the Committee of Ways and Means whether this appropriation of \$33,000 for medicines and medical attendance for negro refugees commonly called "contrabands" is for attendance upon African soldiers in the service, or if it is for the benefit of the refugee contrabands now within the lines of the Government and under the control of the Government? If it is understood that this is an appropriation for the benefit of negro soldiers employed by the Government, it may be all right and proper. The objection that I make is to the propriety of appropriating this sum of money for the medical attendance of persons who are in no way in the service of the Government. I am not ready to make a motion on the subject, for I do not know exactly the purport of the appropriation.

Mr. STEVENS. If I understand the gentleman aright, the answer is that this estimate is made simply for the service of the Army.

Mr. HOLMAN. Then this is simply for the medical attendance on negro soldiers. The item is "for medicine and medical attendance for negro refugees, commonly called contrabands." Is it for the benefit of negro soldiers employed by the Government, or is it for persons not in the employment of the Government?

Mr. STEVENS. These negro refugees, as the gentleman knows, are all taken charge of and employed by the Government under act of Congress. Some of them are employed about the fortifications. Some of them are enlisted in the Army. It is for the purpose of furnishing them with medicine and medical attendance that this appropriation is made.

Mr. HOLMAN. Then I move to amend by adding the following words: "who are or shall be in the employment of the Government."

Mr. STEVENS. I think the bill is well enough as it is. I know the gentleman from Illinois wants to help it, [laughter,] but I think we will let it stand.

Mr. MALLORY. The gentleman from Pennsylvania will not accept the amendment because he knows very well that this appropriation is not for slaves or contrabands in the employment of the Government of the United States, but for those negroes who have run from their masters, and who are in camps all down the Mississippi river, supported by the Government of the United States without authority of law. I think that this appropriation is without law, and that it ought not to have its place in this bill.

Mr. STEVENS. I do not know any such thing. I do not know that a single man of them is supported without authority of law. I have no such knowledge.

Mr. MALLORY. I ask the chairman of the Committee of Ways and Means what Department of the Government has sent in estimates to the Committee of Ways and Means for these items?

Mr. STEVENS. The appropriation comes from the Senate under estimates made to the Senate, which are printed.

Mr. MALLORY. I do not think that any estimates were sent for this item to the Senate. No estimate for any such appropriation came to the Committee of Ways and Means. If there be any necessity for it, that necessity existed when the bill was before the Committee of Ways and Means for its action. And the chairman, knowing that no estimate was sent to our committee, must therefore know that no such estimate was sent to the Senate.

Mr. HOLMAN. The gentleman from Kentucky is under a misapprehension. I find in the additional estimates an item for medicine and medical attendance for negro refugees, commonly called contrabands.

Mr. MALLORY. Additional estimates sent to the Senate?

Mr. HOLMAN. Yes, sir.

Mr. MALLORY. Then I beg pardon of the chairman of the Committee of Ways and Means.

Mr. STEVENS. If the gentleman from Kentucky will look at these additional estimates, he will find an item: "for medicines and medical attendance for negro refugees, commonly called contrabands, \$33,750." The gentleman has forgotten it, I know.

Mr. MALLORY. I did not observe that any estimate was sent to the Senate for this appropriation, but I retract what I said in regard to the matter, as the gentleman has read it from the estimates sent to the Senate. But am I not still correct in saying that it is not for the benefit of colored soldiers, or of those employed in the service of the United States?

Mr. HOLMAN. The language of the item is simply: "medicine and medical attendance for negro refugees, commonly called contrabands."

Mr. MALLORY. Then it is evident that this appropriation is for the benefit of those slaves who have come into the Army of the United States, and are taken care of and supported by the Army. This is a proposition to make that legal for which there was no legal authority before.

Mr. HOLMAN. As the gentleman from Pennsylvania supposes that this appropriation is for the purpose of supplying medicine and medical attendance for negroes in the service of the Government, it is very proper for him to say so; for it surely would be a very extraordinary thing on the part of Congress to appropriate money for persons not so employed.

Mr. STEVENS. May I say to the gentleman from Indiana that if he will look at the heading of the estimate, he will find that it is for those who are put into the hospitals, so that they are so far in the military service that they have been in the service, come out, and gone into hospitals.

Mr. GANSON. Why are they called "refugees" then?

Mr. STEVENS. They are refugees. They are those who have been once slaves, but who having left or been left by their former masters have gone into the service of the United States.

Mr. MALLORY. If they are in the service of the United States, why does the gentleman from Pennsylvania insist upon calling them "refugees"?

Mr. STEVENS. I call them refugees. They are not slaves. They have been slaves, but, having gone into the service of the United States, they will not be again remanded to slavery unless by some new method of reconstruction it should be accomplished.

Mr. MALLORY. I call them slaves, because I do not recognize the validity of any proclamation freeing slaves. I therefore call them slaves.

Mr. STEVENS. I call them refugees; because, although they have been slaves, they have taken to themselves wings—

Mr. MALLORY. Say "legs;" don't say "wings." [Laughter.]

Mr. STEVENS. And flown away, and they are therefore refugees.

Mr. MALLORY. They have run away, there is no doubt about that; but they have not yet quite become angels and been endowed with wings. [Laughter.]

Mr. HOLMAN. If these people are in the employment of the Government, then the amendment I have suggested will do them no harm. If they are not, then this appropriation is not properly in this bill. I therefore insist upon my amendment, so that the House may vote intelligently upon the subject. If these persons are in the service of the United States, there is, of course, no objection to this appropriation for them; and with the appropriation so guarded, I shall give it my cordial support.

Mr. KASSON. Before the proposition of the gentleman from Indiana is put to vote I ask gentlemen upon the other side to look at it as a question of fact, which appears before the country in connection with this war.

It is well known throughout the country and in this House that many of these colored people whose masters have fled from them as our Army has advanced, and who have been left without subsistence, without support, have resorted to the vicinity of the camps occupied by the United States Army. And that fact is not only applicable to the black people, but also the white people. White people, and bitter secessionists too, have actually become refugees near the camps of the Army of the United States for the purpose of